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Thursday
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Presidential Documents

Title 3—

The President

Proclamation 6893 of May 7, 1996

Mother's Day, 1996

By the President of the United States of America

A Proclamation

America's mothers hold a special place in our hearts, providing the lessons and care that have enabled generations of children to embrace the opportunities of this great land. They embody the compassion, devotion, and energy that have always defined our national character, and their daily efforts anchor our country's commitment to the fundamental values of respect and tolerance. Mothers impart both the strength that enables us to face our challenges and the love that comforts and sustains us.

As we honor our Nation's mothers for past and present accomplishments, we recognize that mothers' roles have changed significantly in recent years. Today, mothers are CEOs and teachers, physicians and nurses, elected officials and PTA presidents, police officers and volunteers, homemakers and heads of households. Many serve on the front lines of the struggle against violence and poverty. These women—problem-solvers, caregivers, and teachers—are using their talents in every sector of our society, helping all Americans to look forward with hope and faith in the future.

Mother's Day has long been a welcome opportunity to celebrate motherhood and to remember our mothers—whether biological, foster, or adoptive. To reflect on all we have gained from our mothers' guidance and to remember their sacrifices, the Congress, by a joint resolution approved May 8, 1914 (38 Stat. 770), has designated the second Sunday in May each year as "Mother's Day" and requested the President to call for its appropriate observance.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 12, 1996, as Mother's Day. I urge all Americans to express their gratitude for the many contributions made by our mothers and to observe this day with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of May, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.

William J. Clinton

[FR Doc. 96-11790
Filed 5-8-96; 8:45 am]
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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1280

[No. LS–94–015A]

Sheep and Wool Promotion, Research, Education, and Information: Certification and Nomination Procedures for the National Sheep Promotion, Research, and Information Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule outlines the procedures for determining the eligibility of sheep producer organizations, sheep feeder organizations, and organizations of importers of sheep and sheep products to make nominations for appointment to the National Sheep Promotion, Research, and Information Board (Board), and also outlines the procedures for making such nominations to the Board as provided for in the Sheep Promotion, Research, and Information Act of 1994. The Board would administer an industry-funded promotion, research and information order authorized by the Act.

EFFECTIVE DATE: May 10, 1996.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch; Livestock and Seed Division; Agricultural Marketing Service (AMS), USDA, Room 2606–S; P.O. Box 96456; Washington, D.C. 20090–6456, telephone number 202/720–1115.

SUPPLEMENTARY INFORMATION: Prior document: Proposed Rule—Sheep and Wool Promotion, Research, Education, and Information Order (Order) published June 2, 1995, (60 FR 28747).

Regulatory Impact Analysis

Executive Orders 12866 and 12778 and the Regulatory Flexibility Act

This final rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect. This rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Act provides that any person subject to the Order may file with the Secretary a petition stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order is not in accordance with the law, and request a modification of the Order or an exemption from certain provisions or obligations of the Order. The petitioner will have the opportunity for a hearing on the petition. Thereafter the Secretary will issue a decision on the petition. The Act provides that the district court of the United States in any district in which the petitioner resides or carries on business has jurisdiction to review a ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary's decision. The petitioner must exhaust his or her administrative remedies before he or she can initiate any such proceedings in the district court.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), AMS has considered the economic impact of this final action on small entities. This rule pertains only to (1) the procedures for establishing the eligibility of organizations to nominate sheep producers, sheep feeders and importers of sheep and sheep products for appointment to the Board; and (2) the procedures for submitting such nominations. AMS has determined that this action will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information collection requirements contained herein were submitted to OMB for approval, and were assigned OMB Number 0581–0093. This action sets forth the procedures for establishing the eligibility of organizations to nominate sheep producers, sheep feeders, and importers of sheep and sheep products to the initial Board, and the procedures for submitting such nominations. The information collection required by this action and necessary for implementation of these procedures includes the following:

(1) An application for certification of organization, to be completed by eligible organizations that request certification in order to be eligible to nominate producers, feeders, or importers to the Board. The estimated number of respondents is 70 (with each organization submitting one response), and the estimated average reporting burden is 0.5 hour per response;

(2) A nomination form by which certified organizations will nominate producers, feeders, or importers for membership on the Board. The estimated number of respondents is 60 for the first year of the Order and 20 each year thereafter. Each respondent would submit one response per year, and the estimated average reporting burden is 0.5 hour per response; and

(3) An advisory committee membership background information form, to be completed by candidates nominated by certified organizations for appointment to the Board. The estimated number of respondents is 240 during the first year of the Order and 80 each year thereafter. Each respondent would submit one response per year, and the estimated average reporting burden is 0.5 hour per response.

Background

The Act (7 U.S.C. 7101–7111) provides for the establishment of a coordinated program of promotion, research, education, consumer information, industry information, and producer information designed to strengthen the sheep industry's position in the marketplace, maintain and expand existing markets and develop new markets and uses for sheep and sheep products.

The program would be funded by a mandatory assessment on domestic producers, feeders, and exporters of live sheep and greasy wool of 1 cent per pound on live sheep sold and 2 cents per pound on greasy wool sold. Importers would be assessed 1 cent per

pound on live sheep, the equivalent of 1 cent per pound of live sheep for sheep products as well as 2 cents per pound of degreased wool or the equivalent of degreased wool for wool and wool products. Imported raw wool would be exempt from assessments. Each person who processes or causes to be processed sheep and sheep products of his or her own production, and who markets the processed products, would be assessed the equivalent of 1 cent per pound of live sheep sold or 2 cents per pound of greasy wool sold. All assessments may be adjusted in accordance with the applicable provisions of the Act.

The Board would be comprised of 85 sheep producers, 10 feeders and 25 importers. The duties and responsibilities of the Board would be specified in the Order.

The Act provides that the Secretary shall certify or otherwise determine the eligibility of producer, feeder and importer organizations to nominate members to the Board to ensure that nominees represent the interests of sheep producers, sheep feeders and importers of sheep and sheep products. The Act also provides that States that are represented by only 1 producer member may have an alternate producer member appointed to the Board to ensure representation at Board meetings. Certification procedures are set forth in this final rule. The certification of sheep producer organizations will be based on a factual report containing information required by the Act, including but not limited to (1) the geographic territory covered by the active membership of the organization; (2) the nature and size of the active membership of the organization, including the proportion of the total number of active producers represented by the organization; (3) evidence of stability and permanency of the organization; (4) sources from which the operating funds of the organization are derived; (5) the functions of the organization; and (6) the ability and willingness of the organization to further the aims and objectives of the Act. A primary consideration in determining eligibility shall be whether the membership of the organization consists primarily of producers who own a substantial quantity of sheep and an interest of the organization is in the production of sheep.

The certification of feeder and importer organizations will also be based on a factual report containing information required by the Act. The criteria for determining eligibility for certification are (1) that the organization's active membership includes a significant number of feeders or importers in relation to the total membership of the organization; (2) that there is evidence of stability and permanency of the organization; and (3) that the organization has a primary and overriding interest in representing the feeder or importer segment of the sheep industry.

The Secretary will have the authority to require verification of any information submitted to determine the eligibility to nominate persons for membership on the Board.

Information obtained by the Secretary will be kept confidential, except that the Secretary can release general statements based upon data obtained from a number of organizations.

The proposed certification and nomination rule was published on June 2, 1995, in the **Federal Register** (60 FR 28747) as part of the proposed Sheep and Wool Promotion, Research, Education Information Order with a request for public comments to be submitted by July 17, 1995. The Department received four written comments concerning the proposed certification and nomination procedures from individual sheep producers and sheep feeders and an importer organization. The commenters generally supported the proposed rule with certain qualifications. One commenter specifically supported the certification and nomination process as published on June 2, 1995.

The substantive changes suggested by commenters are discussed below. Also, the Department has made other minor changes of a nonsubstantive nature for purposes of clarity and accuracy including clarification of § 1280.403 (a) and (b) by changing references to "State producer organizations" to read "sheep producer organizations." For the reader's convenience, the discussion is organized by topic heading of the final rule.

Section 1280.403 Certification of Eligibility

One commenter stated that the requirements for importer certification described in section 1280.403(c) in the proposed rule would not permit importer organizations to be certified, because most importer organizations do not include (1) * * *a significant number of importers in relation to the total membership of the organization * * * and (2) most organizations or associations, would not meet the requirement to have * * * a primary and overriding interest in representing the importer segment of the sheep industry because of the diverse nature of their membership. The commenter suggests that the requirements be clarified to permit any organization to be certified as eligible to nominate importers to the Board if it shows that its membership includes importers of sheep or sheep products who have an interest in representing the importer segment of the sheep industry. The Act establishes the criteria for certifying organizations as eligible to nominate importers to the Board. The Department will follow that criteria in certifying organizations. If the Secretary does not certify any importer organization, this final rule permits the Secretary to use alternative means to obtain importer nominations for Board appointment. Accordingly, we have not adopted this suggestion.

One commenter suggested that section 1280.403(c)(1) in the proposed Order should be clarified to ensure that only sheep industry organizations that are made up predominantly of feeders can make feeder nominations. The Act provides the criteria for the Secretary to use in determining whether sheep feeder organizations are eligible to submit nominations for appointment to the Board. The Act requires that (1) the organization's active membership include a significant number of feeders in relation to the total membership of the organization; (2) there be evidence of stability and permanency of the organization; and (3) the organization have a primary and overriding interest in representing the feeder segment of the sheep industry. The Department believes that the commenter's suggestion would require an organization to have a higher concentration of feeders than the Act requires in order to qualify for certification and that this could reduce the opportunity for some feeder organizations to be certified. Accordingly, we have not adopted this suggestion.

Section 1280.409 Initial Board Membership.

One commenter suggested that the industry representatives on the Board be elected by the members of each industry segment rather than be appointed by the Secretary, because the Secretary is unfamiliar with the abilities of individuals in the various industries. The Act requires the Secretary to appoint the Board. Furthermore, the Department believes that the certification and nomination process would give the Secretary the opportunity to appoint members who best represent each industry segment because certified organizations comprised of members of those segments will submit nominations for appointment. The commenter also suggested that the Board should be realigned based on the sheep numbers in and contributions made by each industry segment. The Act establishes the membership of the Board, which consists of 85 producers, 10 feeders and 25 importers. The Act does not authorize realignment of the Board to be based on sheep numbers or contributions made by each industry segment. Accordingly, we have not adopted these suggestions.

In summary, this final rule adopts provisions of the proposed rule with only minor changes made for purposes of clarity and accuracy.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because (1) the Act requires implementation of the Order if the Order is approved by sheep and wool industry; (2) the sheep and wool industry approved the Order in the February 6, 1996, referendum; (3) the Secretary must appoint the initial Board to administer the program. Because these rules implement the certification and nomination procedures for Board appointments, this final rule should become effective on the day following the date of publication to permit the Board to be appointed as quickly as possible. Accordingly, no useful purpose would be served in delaying the effective date. Additionally, these rules were published as part of a proposed rule in the June 2, 1995, **Federal Register** (60 FR 28747) and interested persons were afforded a 30 day comment period on the proposed certification and nomination procedures. This final rule is effective on the day following the date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1280

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Sheep and sheep products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 1280 is amended as follows:

PART 1280—SHEEP PROMOTION, RESEARCH, AND INFORMATION

1. The authority citation for Part 1280 continues to read as follows:

Authority: 7 U.S.C. 7101–7111.

2. In Part 1280, Subpart C is added to read as follows:

Subpart C—Procedures for Certification of Organizations and Nominations of Sheep Producers, Sheep Feeders and Importers of Sheep and Sheep Products for Appointment to the National Sheep Promotion, Research, and Information Board

Sec.
1280.400 General.
1280.401 Definitions.
1280.402 Administration.
1280.403 Certification of eligibility.
1280.404 Application for certification.
1280.405 Review of certification.
1280.406 Notification of certification and the listing of certified organizations.
1280.407 Solicitation of nominations for appointment to the Board.
1280.408 Nominations of members for appointment to the Board.
1280.409 Initial Board membership.
1280.410 Length of appointment to the initial Board.
1280.411 Acceptance of appointment.
1280.412 Verification.
1280.413 Confidential treatment of information.
1280.414 Paperwork Reduction Act assigned number.

Subpart C—Procedures for Certification of Organizations and Nominations of Sheep Producers, Sheep Feeders, and Importers of Sheep and Sheep Products for Appointment to the National Sheep Promotion, Research, and Information Board

§ 1280.400 General.

The Secretary shall determine which organizations are certified as eligible to nominate sheep producers and producer alternates, sheep feeders, and importers of sheep and sheep products (excluding importers that import only raw wool), for appointment to the Board. The making and receiving of the nominations shall be conducted in accordance with this subpart and the Order.

§ 1280.401 Definitions.

As used in this subpart:

(a) The term *Act* means the Sheep Promotion, Research, and Information Act of 1994, 7 U.S.C. 7101–7111, Public Law 103–407, 108 Statute 4210, enacted October 22, 1994, and any amendments thereto.

(b) The term *Board* means the National Sheep Promotion, Research, and Information Board.

(c) The term *carbonized wool* means wool that has been immersed in a bath, usually of mineral acids or acid salts, that destroys vegetable matter in the wool, but does not affect the wool fibers.

(d) The term *Department* means the U.S. Department of Agriculture.

(e) The term *feeder* means any person who feeds lambs until the lambs reach slaughter weight.

(f) The term *importer* means any person who imports sheep or sheep products into the United States.

(g) The term *Livestock and Seed Division* means the Livestock and Seed Division of the Department's Agricultural Marketing Service.

(h) The term *National feeder organization* means any organization of feeders that has been certified by the Secretary pursuant to the Act and this part as being eligible to submit nominations for membership on the Board.

(i) The term *person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(j) The term *producer* means any person, other than a feeder, who owns or acquires ownership of sheep.

(k) The term *raw wool* means greasy wool, pulled wool, degreased wool, or carbonized wool.

(l) The term *Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has been delegated, or to whom authority may be delegated to act in the Secretary's stead.

(m) The term *sheep* means ovine animals of any age, including lambs.

(n) The term *sheep products* means products produced in whole or in part from sheep, including wool and products containing wool fiber.

(o) The term *State* means each of the 50 States.

(p) The term *unit* means each State, group of States or class designation that is represented on the Board.

(q) The term *United States* means the 50 States and the District of Columbia.

(r) The term *wool* means the fiber from the fleece of a sheep.

(s) The term *wool products* means products produced, in whole or in part, from wool and products containing wool fiber.

§ 1280.402 Administration.

The Livestock and Seed Division shall have the responsibility of administering the provisions of this subpart.

§ 1280.403 Certification of eligibility.

(a) *Sheep producer organizations. Requirements for certification.* The Secretary shall certify any sheep producer organization that the Secretary determines meets the criteria established under paragraphs (a) and (b) of this section to be eligible for certification to nominate producer members and alternate producer members to the Board. Certification for sheep producer organizations shall be based upon:

(1) The geographic territory covered by the active membership of the organization;

(2) The nature and size of the active membership of the organization, including the proportion of the total number of active producers represented by the organization;

(3) Evidence of stability and permanency of the organization;

(4) Sources from which the operating funds of the organization are derived;

(5) The functions of the organization; and

(6) The ability and willingness of the organization to further the aims and objectives of the Act.

(b) *Primary considerations.* A primary consideration in determining the eligibility of a producer organization under this paragraph shall be whether:

(1) The membership of the organization consists primarily of producers who own a substantial quantity of sheep; and

(2) An interest of the organization is in the production of sheep.

(c) *Feeder and importer organizations. Requirements for certification.* The Secretary shall certify any national feeder organization and qualified importer organization that the Secretary determines meets the following criteria as eligible to nominate feeders or importers to the Board:

(1) The organization's active membership includes a significant number of feeders or importers in relation to the total membership of the organization;

(2) There is evidence of stability and permanency of the organization; and

(3) The organization has a primary and overriding interest in representing the feeder or importer segment of the sheep industry.

(d) The Secretary may also consider additional information that the Secretary deems relevant and appropriate. The Secretary's determination as to eligibility shall be final.

§ 1280.404 Application for certification.

Any organization that meets the eligibility criteria for certification specified in § 1280.403 is entitled to apply to the Secretary for certification of eligibility to nominate sheep producers, sheep feeders, or importers of sheep and sheep products for appointment to the Board. The Secretary may require third-party verification of information submitted by organizations, in determining their eligibility. To apply, an organization must submit a completed "Application for Certification of Organization" form. Copies may be obtained from the Livestock and Seed Division; AMS–USDA, Room 2606–S; P.O. Box 96456; Washington, D.C. 20090–6456. (Telephone: 202/720–1115)

§ 1280.405 Review of certification.

The Secretary may terminate or suspend certification or eligibility of any organization or association if it ceases to comply with the certification or eligibility criteria set forth in this subpart. The Secretary may require additional information in order to ascertain whether the organization may remain certified or eligible to make nominations, and may require third-party verification of information submitted by organizations in determining their eligibility to continue making nominations.

§ 1280.406 Notification of certification and the listing of certified organizations.

Organizations shall be notified in writing whether they are eligible to nominate sheep producers, feeders, or importers as members to the Board or not. A copy of the certification or eligibility determination shall be furnished to certified organizations. Copies shall also be available for inspection in the Livestock and Seed Division.

§ 1280.407 Solicitation of nominations for appointment to the Board.

In general, as soon as practicable after this subpart becomes operational, the Secretary shall solicit and obtain nominations for appointment to the initial Board from certified producer, feeder, and importer organizations.

(a) Initially established board. (1) *Producer and alternate nominations.* The Secretary shall solicit from organizations certified under § 1280.403 (a) and (b) nominations for each producer or alternate member seat on the initially established Board to which a unit is entitled. If no such organization exists, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(2) *Feeder and importer nominations.* The Secretary shall solicit, from organizations certified under § 1280.403(c), nominations for each feeder or importer member on the initially established Board to which a unit is entitled. If no such organization exists, the Secretary shall solicit nominations for appointment in such manner as the Secretary determines is appropriate.

(b) [Reserved]

§ 1280.408 Nomination of members for appointment to the Board.

(a) In general. All nominations to the Board shall be made in the following manner:

(1) *Producers.* The Secretary shall appoint sheep producer and alternate members to represent units as specified under § 1280.409 (a) and (b) of this subpart, from nominations submitted by organizations certified under § 1280.403. A certified organization may only submit nominations for producer representatives and alternates, if appropriate, from the membership of the organization for the unit in which the organization operates. To be represented on the Board, each certified organization must submit to the Secretary at least 1.5 nominations for each seat on the Board for which the unit is entitled to representation. If a unit is entitled to only one seat on the Board, the unit shall submit at least two nominations for the appointment. If a producer member and a producer alternate member are to be appointed to represent the unit, at least three nominations must be submitted for the two positions.

(2) *Feeders.* The Secretary shall appoint representatives of the feeder sheep industry to seats established under § 1280.409(c), from nominations submitted by qualified national organizations certified under § 1280.403 that represent the feeder sheep industry. To be represented on the Board, the industry shall provide at least 1.5 nominations for each appointment to the Board for which the feeder sheep industry is entitled to representation.

(3) *Importers.* The Secretary shall appoint importers to seats established under § 1280.409(d) from nominations submitted by qualified organizations certified under § 1280.403 that represent importers of sheep and sheep products. To be represented on the Board, the industry shall provide at least 1.5 nominations for each appointment to the Board for which importers are entitled to representation.

(4) After the establishment of the initial Board, the Department shall announce when a vacancy does or will exist. The Secretary will solicit nominations for subsequent appointments, and the Board will secure the nominations from certified producer organizations. Certified feeder and importer organizations shall submit the names of feeder and importer nominees directly to the Secretary. Nominations should be initiated not less than 6 months before the expiration of the terms of the members whose terms are expiring, in the manner described in this section. In the case of vacancies caused by the death, removal, resignation, or disqualification of any member of the Board, the Secretary will appoint a successor from the most recent list of nominations for the position, from nominations submitted by the Board for producers or from certified feeder or importer organizations, for feeders and importers.

(5) Where there is more than one eligible organization that represents producers in a State or unit, or represents feeders, or importers, they may caucus and jointly nominate qualified persons for each position representing that State or unit on the Board for which a producer, feeder or importer member is to be appointed. If they cannot agree on any such nominations, or if no caucus is held, each eligible producer, feeder or importer organization may submit to the Secretary nominations for each seat on the Board for which the unit is entitled to representation. If a unit is entitled to only one seat on the Board, the unit shall submit at least two nominations for the appointment to represent that unit.

(6) Nominations should be submitted in order of preference and, for the initial Board, in order of preference for staggered terms. If the Secretary rejects any nominations submitted and there are insufficient nominations submitted from which appointments can be made, the Secretary may request additional nominations under paragraphs (a), (b), or (c) of this section.

(b) *Official nomination forms.* A "Nomination for Appointment to the National Sheep Promotion, Research, and Information Board" must be used to nominate producers, feeders, or importers for appointment to the Board. An "Advisory Committee Membership Background Information" form must be completed by each nominee listed on the "Nomination for Appointment to the National Sheep Promotion, Research, and Information Board" form and must be attached to that form. Official nomination forms and additional information on nominations are available from the Marketing Programs Branch; Livestock and Seed Division; AMS–USDA, Room 2606–S; P.O. Box 96456; Washington, D.C. 20090–6456 (Telephone: 202/720–1115).

(c) The Secretary may reject any nomination submitted under paragraph (a) of this section. If there are insufficient nominations from which to appoint members to the Board because the Secretary rejected the nominations submitted by a State or unit, the State or unit shall submit additional nominations, as provided in paragraph (a) of this section.

§ 1280.409 Initial Board membership.

(a) *Base membership.* The number of producer members appointed to the Board from each State or unit shall be allocated.

Alabama 1; Alaska 1; Arizona 1; Arkansas 1; California 5; Colorado 4; Connecticut 1; Delaware 1; Florida 1; Georgia 1; Hawaii 1; Idaho 2; Illinois 1; Indiana 1; Iowa 2; Kansas 1; Kentucky 1; Louisiana 1; Maine 1; Maryland 1; Massachusetts 1; Michigan 1; Minnesota 2; Mississippi 1; Missouri 1; Montana 5; Nebraska 1; Nevada 1; New Hampshire 1; New Jersey 1; New Mexico 2; New York 1; North Carolina 1; North Dakota 2; Ohio 1; Oklahoma 1; Oregon 2; Pennsylvania 1; Rhode Island 1; South Carolina 1; South Dakota 4; Tennessee 1; Texas 10; Utah 3; Vermont 1; Virginia 1; Washington 1; West Virginia 1; Wisconsin 1; and Wyoming 5.

(b) *Alternate members.* A unit represented by only one producer member may have an alternate producer member appointed to ensure representation at meetings of the Board.

(c) *Feeders.* The feeder sheep industry shall be represented by ten members.

(d) *Importers.* Importers shall be represented by 25 members.

§ 1280.410 Length of appointment to the initial Board.

When the Secretary appoints the members to the initial Board, the Secretary shall also specify the term of office for each member. To the extent practicable, one-third of the members shall serve for one year, one-third shall serve for two years, and one-third shall serve for three years. No person may serve more than two consecutive three year terms, except that elected officers shall not be subject to the term limitation while they hold office.

§ 1280.411 Acceptance of appointment.

Producers, feeders and importers nominated to the Board must confirm in writing their intention to serve if appointed, to disclose any relationship with any organization that operates a qualified State or regional program or has a contractual relationship with the Board and to withdraw from participation in deliberations, decision-making, or voting on matters that concern such disclosed relationships.

§ 1280.412 Verification.

The Secretary shall have the right to examine at any time the books, documents, papers, records, files, and facilities of nominating units as the Secretary deems necessary to verify the information submitted and to procure such other information as may be required to determine whether the unit is eligible to nominate sheep producers, feeders, or importers for appointment to the Board.

§ 1280.413 Confidential treatment of information.

All documents submitted in accordance with this subpart shall be kept confidential by all employees of the Department. Nothing in this section shall be deemed to prohibit the disclosure of such information so furnished or acquired as the Secretary deems relevant and then only in the issuance of general statements based upon the reports of a number of persons subject to the Order or statistical data collected therefrom, when such a statement or data does not identify the information furnished by any one person.

§ 1280.414 Paperwork Reduction Act assigned number.

The control number assigned to the information collection requirements in part 1280 by OMB pursuant to the Paperwork Reduction Act of 1980 is OMB 0581–0093.

Dated: May 2, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96–11532 Filed 5–8–96; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 1280

[No. LS–95–010]

Sheep Promotion Research, and Information Program: Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements provisions of a Sheep and Wool Promotion, Research, Education, and Information Order (Order), which will establish a national, industry-funded sheep and wool promotion, research, and information program. This final rule establishes the collection and remittance process, puts into effect the reporting requirements, identifies and establishes the Harmonized Tariff Schedule (HTS) classification numbers, conversion factors, and assessment rates for imported sheep, sheep meat, wool, and wool products subject to assessment, establishes procedures for calculating, collecting, and remitting assessments on imported sheep, sheep meat, wool, and wool products and establishes the basis for excluding certain imported sheep and sheep products from assessment. Because the

Sheep Promotion, Research, and Information Act of 1994 (Act) provides that imported raw wool will be exempted from the collecting provisions, imported raw wool is not subject to assessment.

EFFECTIVE DATE: This final rule will become effective July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Division; Agricultural Marketing Service (AMS), USDA, Room 2606–S; P.O. Box 96456; Washington, DC 20090–6456, telephone number 202/720–1115.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Proposed Rule—Sheep Promotion and Research Program; Rules and Regulations—60 **Federal Register** (FR) 51737 (October 3, 1995).

Regulatory Impact Analysis

Executive Orders 12866 and 12778 and the Regulatory Flexibility Act

This final rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect. This rule will not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Act provides that any person subject to the Order may file with the Secretary a petition stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order is not in accordance with the law, and requesting a modification of the Order or an exemption from certain provisions or obligations of the Order. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Secretary will issue a decision on the petition. The Act provides that the district court of the United States in any district in which the petitioner resides or carries on business has jurisdiction to review the Secretary's decision, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary's decision. The petitioner must exhaust his or her administrative remedies before he or she can initiate any such proceeding in the district court.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), AMS has considered the economic impact of this final action on small entities. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened.

There are an estimated 87,350 domestic sheep producers and feeders and an estimated 700 remittance persons who will be subject to the rules and regulations issued pursuant to the Order. There are also an estimated 9,000 importers who will become subject to these rules and regulations. Nearly every sheep producer, feeder, and importer will be classified as a small business under the criteria established by the Small Business Administration (13 CFR § 121.601).

The Act provides for the establishment of a coordinated program of promotion and research designed to strengthen the sheep industry's position in the marketplace and to maintain and expand foreign and domestic markets and uses for sheep and sheep products. This program will be financed by assessments on domestic and imported sheep and sheep products which includes wool and wool products. Pursuant to the Act, an Order approved in referendum was published on May 2, 1996, in the **Federal Register** (XX FR XXXXX). The final Order became effective on May 3, 1996, except for provisions concerning assessments. Those Order provisions become effective July 1, 1996.

This final rule establishes the collection and remittance process, puts into effect the reporting requirements of an Order, identifies and establishes HTS classification numbers, conversion factors, and assessment rates for imported sheep and sheep products (sheep meat, wool, and wood products) subject to the assessment, establishes procedures for calculating, collecting, and remitting assessments on imported sheep, sheep meat, wool, and wool products and establishes the basis for excluding certain imported sheep and sheep products from assessment. Because the Act exempts imported raw wool from the collecting provisions, imported raw wool is not a subject to assessment.

This final rule will implement applicable Order provisions in the manner provided therein. Accordingly, the Administrator of AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), OMB has approved the information collection and recordkeeping requirements contained in Part 1280 for domestic producers, feeders, handlers, and processors of sheep and wool, and assigned control number 0581–0093.

Based on comparable research and promotion programs, it should require approximately 0.5 hours per response for producers, feeders, handlers, and persons other than the person making payment to the producer, feeder, or handler, to complete a reporting form on a monthly basis.

For importers, the Department of Agriculture (Department) intends to rely to a great extent on records maintained by the U.S. Customs Service (Customs) and by importers under Customs's requirements for its administration and enforcement of the provisions of the final regulations.

Any person subject to the assessment, collection, and remittance provisions of the Act and the Order would be expected to maintain and make available to the Secretary such books and records as necessary to carry out the provisions of the Order and these regulations. Such books and records must be maintained for at least 2 years beyond the fiscal period of their applicability.

Background

The Act (7 U.S.C. 7101–7111) enacted on October 22, 1994, authorizes the Secretary to establish a national sheep and wool promotion, research, education, and information program designed to strengthen the sheep industry's position in the marketplace, to maintain and expand existing domestic and foreign markets and uses for sheep and sheep products and to develop new markets and uses for sheep and sheep products. The program will be funded by assessments on domestic sheep producers, sheep feeders, and exporters of live sheep and greasy wool of 1 cent per pound on live sheep sold and 2 cents per pound on greasy wool sold. Importers will be assessed 1 cent per pound on live sheep imported and the equivalent of 1 cent per pound of live sheep for sheep products imported as well as 2 cents per pound of degreased wool or the equivalent of degreased wool for wool and wool products imported. Imported raw wool will be exempt from assessments. Each person who processes or causes to be processed sheep or sheep products of that person's own production and markets the processed products will be assessed the equivalent of 1 cent per pound of live sheep sold or 2 cents per pound of greasy wool sold. All assessment rates may be adjusted in accordance with applicable provisions of the Act.

The Order requires that each person who makes payment to a sheep producer, feeder, or handler of sheep or sheep products be a collecting person who collects the assessment from the producer, feeder, or handler of sheep or sheep products and passes the collected assessment on to the subsequent purchaser pursuant to the Act. Any person who buys domestic live sheep or greasy wool for processing must collect the assessment from the producer, feeder, or handler and remit it to the National Sheep Promotion, Research, and Information Board (Board). Any person who processes or causes to be processed sheep or sheep products of the person's own production and markets the processed products is required to pay an assessment and to remit that assessment to the Board. Any person who exports live sheep or greasy wool is required to pay an assessment and to remit it to the Board at the time of export. Finally, each person who imports sheep and sheep products, other than imported raw wool, is required to pay an assessment. Customs will collect the assessments on imported sheep and sheep products upon importation and forward them to AMS for disbursement to the Board.

The Order further defines a collecting person as any person who is responsible for collecting an assessment pursuant to the Act, the Order, and these regulations, including processors and any other persons who are required to remit assessments to the Board, except that a collecting person who is a market agency, i.e., commission merchant, auction market, or livestock market in the business of receiving such sheep or sheep products for sale on commission for or on behalf of a producer or feeder, shall pass the collected assessment on to the subsequent purchaser pursuant to the Act, the Order and these regulations.

For the purposes of the collection of assessments on imported sheep and sheep products by Customs, the Harmonized Tariff Schedule (HTS) classification numbers published by the United States International Trade Commission (USITC) will be used to identify imported sheep and sheep products that are subject to the assessment. The HTS classification system identifies each category of imported sheep, sheep meat, wool, and products that contain wool fiber by a 10-digit classification number and provides a brief description of the imported product that corresponds to the various classification numbers. Additionally, the HTS classification number may be further divided into multiple fiber categories for products that contain a blend of fibers.

In determining which HTS classification numbers are assessed under this final rule, the Department's primary objectives were to meet the intent of the Act by maximizing participation of imported sheep, sheep meat, wool, and wool products in the assessment collection provisions of the Act and to minimize the burden of administering those provisions. To make certain these objectives would be met, the Department reviewed 5 years, 1989–1993, of historical import data for sheep, sheep meat, wool and products containing wool fibers from the Bureau of Census of the U.S. Department of Commerce. These data are available on CD–ROM, entitled "International Harmonized System Commodity Classification by Country by Customs District." The Department analyzed the total volume of imported sheep, sheep meat, wool, and wool products subject to the assessment by identifying the HTS classification numbers and corresponding conversion factors.

The Department identified over 700 HTS classification numbers during a review of the import library published by the Department's Economic Research Service (ERS). The Department has determined that of the approximately 700 HTS classification numbers, slightly more than 600 are considered active or potentially subject to assessment. These numbers are continually updated, deleted, or expanded, thereby eliminating existing HTS categories or creating new ones. Based on the projected revenue for imported sheep and sheep products, from the slightly more than 600 active HTS classification numbers for sheep and sheep products, the Department identified in the October 3, 1995, **Federal Register** (60 FR 51737) 340 HTS classification numbers that account for over 99 percent of the total projected import revenues. Accordingly, the Department has limited the collection of assessments to this lower level, thereby not including a significant number of low-volume HTS categories.

Limiting the number of imported sheep and sheep products that would be subject to assessments would reduce the administrative cost and burden on Customs and importers, and would reduce administrative costs to the Board, while allowing the Board to collect the vast majority of potential import assessments consistent with the Act.

The USITC recently published an updated list of all of the HTS classification numbers. Some HTS classification numbers published in the October 3, 1995, proposed rule have been changed and one has been divided into two numbers. In light of the recent update, the Department has expanded the HTS classification numbers that will be subject to the assessment from 340, as initially proposed, to 341. Therefore, the following revisions to Table I, Imported Sheep and Sheep Products Assessment Table, used in the sheep and wool promotion, research and information program were necessary:

Old number	New number	Comment
5703100000	5703100020	Use same conversion factor.
	5703100080	Do.
5705002010	5705002005	Do.
6104591000	6104591005	Do.
6115199020	6115198020	Do.
6115932910	6115939010	Do.
6204693020	6204696020	Do.

Because import assessments are based on a live-weight equivalent for imported sheep meat and degreased wool, or its equivalent for wool and wool products, the Department has decided to use conversion factors developed and published by ERS to convert imported sheep products to the required live-weight equivalents, degreased wool, or degreased wool equivalents, to determine the amount of assessment due on each HTS category upon importation. These conversion factors are available for the over 700 HTS classification numbers and are updated and maintained as an import library. For sheep meat, these conversion factors take into account removal of bone, weight lost in processing or cooking, and the nonsheep components of the sheep products. For wool and products

containing wool fibers, these conversion factors take into account fiber loss during processing, fabric trim loss, and cutting loss for wool, and other non-sheep components of wool and wool products. The Department has decided to use these conversion factors for calculating the assessment because calculating carcass equivalents and wool content for each individual product before entry would be both costly and impractical.

The factors for calculating the assessment on imported sheep, sheep meat, wool, and products containing wool fiber include the (1) HTS classification number, (2) conversion factor, (3) assessment rate as established under the Act, and (4) dressing percentage. Based on a 9-year average, 1980–1989, the average dressing percentage for sheep in the United States is 50.2 percent, as published by ERS in the 1992 edition of Conversion Factors, Weights and Measures of Agricultural Commodities and Their Products.

Imported live sheep require no conversion because each animal will be assessed based on its live weight.

Examples of calculating the assessment on sheep, sheep meat, wool, and products containing wool fibers are as follows:

Example I

Live Sheep

To calculate the assessment for live sheep, an importer would multiply the total weight of imported live sheep by 1 cent per pound. The following example illustrates a typical calculation for imported live sheep:

HTS 0104100000, Live sheep:		
Live Weight		125 lbs
Assessment rate	×	$0.01/lb
Assessment		$1.25

Examples II and III

Sheep Meat

To calculate the assessment for imported sheep meat, an importer would (1) multiply the total weight of imported sheep meat by the conversion to determine the total carcass weight equivalent, then (2) divide the total carcass weight equivalent by 50.2 percent to calculate the live animal equivalent, and (3) multiply the live animal equivalent by 1 cent per pound. The following examples illustrate two typical sheep meat calculations:

1. Sheep Meat (Bone-in)

HTS 0204100000, Carcasses and half carcasses of lamb, fresh or chilled:		
Net Weight		1,000 lbs
Conversion factor	×	1.00
Carcass weight equivalent.	=	1,000 lbs
Average dressing percent.	÷	50.2
Live weight equivalent.	=	1,992.03 lbs
Assessment rate	×	$0.01 lb
Assessment		$19.92

2. Sheep Meat (Boneless)

HTS 0204232000, Boneless lamb:		
Net Weight		1,000 lbs
Conversion factor	×	1.52
Carcass weight equivalent.	=	1,520 lbs
Average dressing percent.	÷	50.2
Live weight equivalent.	=	3,027.89 lbs
Assessment rate	×	$0.01/lb.
Assessment		$30.28

Example IV

Wool Products

To calculate the assessment for imported wool and wool products, an importer would (1) multiply the total weight of wool or wool products imported under each HTS number by the corresponding conversion factor, and (2) multiply the raw clean wool content by the assessment rate. The following example illustrates a typical calculation:

HTS 6201110010, Mens' or boys' overcoats of wool or fine animal hair:		
Net Weight		2,000 lbs
Conversion factor	×	1.0199
Clean wool content	=	2,039.8 lbs
Assessment rate	×	$0.02/lb
Assessment		$40.80

A table in this regulation lists the applicable HTS classification numbers representing imported sheep, sheep meat, wool, and products containing wool fibers subject to assessment, the corresponding conversion factors and the assessment rate per pound and per kilogram for each product, except in the case of imported raw wool, which is exempt from assessment.

This final rule sets forth the collection and remittance process, puts into effect the reporting requirements, identifies and establishes the Harmonized Tariff Schedule (HTS) classification numbers, conversion factors, and assessment rates for imported sheep, sheep meat, wool, and wool products subject to assessment, establishes procedures for calculating, collecting, and remitting assessments on imported sheep, sheep meat, wool, and wool products and establishes that basis for excluding certain imported sheep and sheep products from assessment.

The proposed rule was published in the October 3, 1995, **Federal Register** (60 FR 51737) with a request for comments to be submitted by November 2, 1995. The Department received five written comments concerning the proposed rules and regulations from individual sheep producers and feeders, and producer and importer organizations. All comments were filed on time. The commenters generally supported the proposed rule with certain qualifications.

The substantive changes suggested by commenters are discussed below, together with a description of further changes made by the Department. Also, the Department has made other minor changes of a non-substantive nature for purposes of clarity and accuracy. For the reader's convenience, the discussion is organized by topic heading of the proposed rule.

§ 1280.312 Assessments on imported sheep and sheep products.

One commenter suggested that the term "raw wool" is too generalized and questioned why imported raw wool is exempt from assessment. The Act defines "raw wool" as greasy wool, pulled wool, degreased wool, or carbonized wool. Thus, the definition of raw wool in this final rule is consistent with the definition in the Act. Additionally, the Act specifically exempts imported raw wood from assessment.

One commenter questioned the proposed rule's exemption from assessment of over 300 HTS classification numbers that account for less than 1 percent of total imports. The commenter believes that all imports should be assessed and that the low volume of imports and the high cost of administering the collecting program are not sufficient reasons to exempt HTS classification numbers from assessment. This final rule identifies 341 HTS classification numbers for sheep and sheep products subject to assessments collected by Customs. The Act provides that the Secretary may issue regulations

that exclude certain *de minimis* content levels of sheep and sheep products and waive assessments. Consistent with this provision, the Department has determined that the annual volume of sheep and sheep products represented by each of the 360 HTS classification numbers that are not subject to assessment are likely to be insufficient to fully cover the collection, compliance, and administrative costs associated with these HTS classification numbers. However, the Department plans to review periodically the volume of sheep and sheep products imported under all HTS classification numbers, including those not subject to assessment, to determine which HTS classification numbers should be subject to assessment as identified in Table I in § 1280.312. Accordingly, we have not adopted this suggestion.

Two commenters suggested that § 1280.312(d) of this section be deleted because the language in the Act does not authorize an exemption from assessments for imported sheep or sheep products that are not subject to an import duty. Furthermore, the commenters believe that the Act does not provide for reimbursement of assessments collected on imports that are not subject to an import duty. Additionally, the commenters feel that Customs is directed by the Congress to collect the assessment whether or not there is an import duty. The intent of the language proposed by the Department in § 1280.312(d) was to provide for reimbursement of assessments on imported sheep and sheep products because of collection errors and in cases where assessments were collected on imported sheep and sheep products that were denied entry or were determined to be a pass-through because the imported products did not enter the stream of commerce of the United States. Upon further review of this matter, including the comments received and review of similar research and promotion programs, the Department now believes that reimbursement in such cases should be determined by the Board on a case-by-case basis. Accordingly, the Department has deleted that portion of § 1280.312(d) in this final rule, which provided for reimbursement of a assessments for duty-free products.

During the comment period on the proposed Order (60 FR 28747), some commenters expressed concern about the collection of multiple assessments on wool or wool products imported into the United States that had been previously exported to other countries for further processing (i.e., weaving, cutting and/or assembly). The commenters suggested that a drawback or refund of the assessment should be authorized if multiple assessments are collected. The Department noted in the proposed Order that it would address these concerns in this action. As previously explained, the Act requires that Customs collect an assessment on all imported sheep and sheep products. The only provisions in the Act for the exclusion of imported sheep and sheep products from assessments are (1) the provision for waiving assessments on imported sheep and sheep products that contain *de minimis* amounts of sheep and sheep products, and (2) the provision exempting imported raw wool. Accordingly, this suggestion is not adopted.

One commenter identified nine sets of HTS classification numbers and corresponding conversion factors that should be reviewed by the agency for accuracy and correction:

1. The conversion factor corresponding to HTS classification number 5703100000 was incorrect and should read 0.7933. We agree and we have determined that conversion factor 0.7993 should read 0.7933. Accordingly, we have adopted this change and it is reflected in Table I under § 1280.312.

2. The HTS classification number 5810991000 was incorrect and should read 5810990010. We reviewed the ERS import library and USITC 1995 HTS publication and determined that the HTS classification number 5810991000 was correct as published in the proposed rule. Accordingly, we have not adopted this suggestion.

3. The HTS classification number 6104591000 was incorrect and should read 6104591005. We agree and we have determined that HTS classification number 6104591000 should read 6104591005. Accordingly, we have adopted this change and it is reflected in Table I under § 1280.312.

4. The conversion factor corresponding to HTS classification number 6110909028 was incorrect and should read 0.6433. We agree and we have determined that conversion factor 0.5790 should read 0.6433. Accordingly, we have adopted this change and it is reflected in Table I under § 1280.312.

5. The HTS classification number 6115199020 was incorrect and should read 6115190020. We reviewed the ERS import library and USITC 1995 HTS publication and determined HTS classification number 6115199020 was correct as published in the proposed rule. Accordingly, we have not adopted this suggestion.

6. The conversion factor corresponding to HTS classification number 6203331050 was incorrect and should read 0.5672. We agree and we have determined that conversion factor 0.4767 should read 0.5672. Accordingly, we have adopted this change and it is reflected in Table I under § 1280.312.

7. The conversion factor corresponding to HTS classification number 6203410510 was incorrect and should read 1.0083. We agree and we have determined that conversion factor 0.9859 should read 1.0083. Accordingly, we have adopted this change and it is reflected in Table I under § 1280.312.

8. The conversion factor corresponding to HTS classification number 6203410520 was incorrect and should read 1.0083. We agree and we have determined that conversion factor 0.9859 should read 1.0083. Accordingly, we have adopted this change and it is reflected in Table I under § 1280.312.

9. The conversion factor corresponding to HTS classification number 6204693020 was incorrect and should read 0.5425. We agree and we have determined that conversion factor 0.6029 should read 0.5425. Accordingly, we have adopted this change and it is reflected in Table I under § 1280.312.

In addition, the Department found a typographical error in the dollar-per-pound assessment rate for HTS classification number 0204434000 under the heading Sheep Meat. The correct assessment rate should read 0.030279 dollars per pound, not 30.030279 dollars per pound. Accordingly, we have amended Table I under § 1280.312.

One commenter suggested that the layout of the chart is confusing and could lead to misinterpretation by those responsible for collection of the imported wool assessment. The commenter contends that the inclusion of "converted" "assessment rates" or "amounts" on the net weight of each HTS classification number implies that there is a rate of assessment other than the flat 2 cents per pound of clean weight. Additionally, the commenter suggests that the "converted" assessments be either deleted entirely from the chart or changed so as to clarify that the corresponding assessment amounts are based on net weight and are not intended as substitutes for the 2 cents per pound assessment on clean weight equivalent (degreased wool). The Act provides that importers importing sheep and wool products into the United States pay an assessment in the manner prescribed by the Order and that such assessment shall be collected by Customs. The information in Table I is based on 1 cent per pound for sheep meat and 2 cents per pound for wool and wool products. The explanation of the method of

calculation for the per-pound or per kilogram assessment amounts are described in the Supplementary Information section, which explains that the assessment rates listed in Table I for each HTS classification number for sheep meat are based on the equivalent of 1 cent per pound of live sheep and 2 cents per pound of degreased wool, or the equivalent of degreased wool for wool and wool products. Additionally, the assessment amounts listed for each HTS classification number subject to assessment will assist customs in developing its data processing program that automatically collects and records the total assessment due on imported sheep products subject to assessment. Customs has had over 10 years of experience collecting such assessments for a variety of similar commodity promotion and research programs, and is prepared to use the information contained in Table I of this final rule. Accordingly, no change is made to Table I.

One commenter suggested that the first fourteen wool and wool products HTS classification numbers and corresponding conversion factors be reviewed for accuracy. Each HTS classification number and corresponding conversion factor corresponds with a stage of processing prior to weaving. The commenter believes that the conversion factors do not accurately reflect the losses that occur at each stage of processing. Further, the commenter believes that (1) stage one, carding, has a loss of about 2 percent, (2) stage two, top production, has a loss of about 6 percent, and (3) stage three, spinning wool into yarn, has a loss of about 8 percent. Additionally, the commenter believes that the conversion factors indicate that yarn spinning losses at stage three are less than top-making losses at stage two. The same commenter also suggested that the conversion factors be reduced by 4.3 percent because the conversion factors that appear in these proposed rules and regulations (60 FR 51737) are 4.3 percent higher than those published in conjunction with the proposed referendum rule (60 FR 40313). The commenter recognizes that some of the conversion factors may have needed adjustments. However, the commenter believes that a 4.3 percent adjustment for all wool and wool products cannot be justified. Furthermore, the commenter states that there has not been an increase in the amount of wool needed to produce wool products, and even if there had been it would not be exactly 4.3 percent.

The conversion factors listed in Table I are based on information provided to ERS by the largest wool top makers in the United States. ERS used that data to make adjustments to the 1994 conversion factors for HTS numbers listed in Table I. ERS has again reviewed the 14 HTS classification numbers and corresponding conversion factors that the commenter questioned. The Department has concluded that because these 14 conversion factors reflect data obtained from the largest wool top makers in the United States, no changes will be made to them at this time. In response to the commenter's question concerning the 4.3 percent increase from the conversion factors published in the proposed referendum rules (60 FR 40313) to the conversion factors published in the proposed rules and regulations (60 FR 51737), the conversion factors in the proposed referendum rules were based on data obtained by ERS as of 1994. The representative period to determine voter eligibility and volume of production was 1994.

§ 1280.314 Remittance persons for the purposes of remitting assessments.

One commenter believes that the language in § 1280.314(b), which says that "each person processing sheep of that persons own production will also pay an assessment," means that each "person" will be a "remittance person." The commenter also questions the language on page 51737 of the proposed rule that says "there are an estimated 87,350 sheep operations and an estimated 700 remittance persons who would be subject to the rules and regulations issued pursuant to the Order.

The Act provides that any person who processes or causes to be processed sheep or sheep products of that person's own production and who markets such products must pay an assessment on the sheep and sheep products at the time of sale at a rate equivalent to the rate provided for in the Act, and must remit such assessment to the Board in a manner prescribed by the Order. Although the number of producers and remitting persons is estimated based on data available to the Department, the Department estimates that the number of producers who process and market their own products is relatively small. Several similar commodity research and promotion programs have similar provisions for persons who process and market products of their own production and, based on the Department's experience with these other programs, such persons represent only a small percentage of the total number of remitting persons. Therefore, the Department has determined that of an estimated 87,350 domestic producers and feeders, very few will be remitting persons.

One commenter suggested that we clarify that packers and exporters of lambs and/or sheep would be the only entities that would ever be required to remit the assessment to the Board on sheep and lambs sold. The Act provides that each processor who makes payment to a producer, feeder, handler, or collecting person of domestic sheep and greasy wool would collect the assessment and remit the assessment to the Board. The Act also provides that each person who processes sheep or sheep products of that person's own production and markets such processed products would be required to remit an assessment to the Board. Finally, the Act requires each person who exports live sheep or greasy wool to remit the assessment at the time of export. Accordingly, persons other than packers and exporters are remitting persons as defined by the Act. Therefore, we have not adopted this suggestion.

§ 1280.315 Remittance of assessments and submission of reports to the National Sheep Promotion, Research, and Information Board.

Two commenters suggested that the Department clarify this section so that only those persons who are responsible for remitting the assessments to the Board are also responsible for filing reports on a monthly basis. The commenters further suggest that we clarify that the collecting person is responsible for collecting the assessment to another collecting person or remitting it and either paying it to the Board. Finally, the commenter believes that producers who have paid the assessment and have evidence of payment pursuant to § 1260.316 would not be subject to further assessments even if the assessment were not finally remitted to the Board.

The Department has reviewed the Act's definitions of collecting and remitting person and the language in sections 1280.315 and 1280.316 of the proposal, and has concluded that the definitions of collecting person and remitting person are consistent with the Act and correctly identify those persons in this paragraph. However, § 1280.315(a) Reports has been changed to clarify that each person remitting the assessment is to file a report of assessments to the Board. Additionally, the Department believes that producers or feeders who present evidence of payment described in § 1280.316 should be considered as having paid any assessment required absent evidence to the contrary.

Additional Comments

One commenter believes that the assessment rate as identified under the Background section of the proposed rule is too high. The Act establishes the initial assessment rate and provides the requirements for changing the assessment rate. Thus, we have made no change in this final rule as a result of this comment.

List of Subjects in 7 CFR Part 1280

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Sheep and sheep products, Reporting and recordkeeping requirements.

For the reason set forth in the preamble, 7 CFR Part 1280 is amended as follows:

PART 1280—SHEEP PROMOTION, RESEARCH, AND INFORMATION

1. The authority citation for 7 CFR Part 1280 continues to read as follows:

Authority: 7 U.S.C. 7101–7111.

2. In Part 1280, Subpart B is added to read as follows:

Subpart B—Rules and Regulations

Definitions

Sec.

1280.301 Terms defined.

Assessments

1280.310 Assessments on domestic sheep and sheep products.
1280.311 Late payment charges.
1280.312 Assessments on imported sheep and sheep products.
1280.313 Collecting persons for purposes of collection of assessments.
1280.314 Remittance persons for purposes of remitting assessments.
1280.315 Remittance of assessments and submission of reports to the National Sheep Promotion, Research, and Information Board.
1280.316 Evidence of payment of assessments.
1280.317 Books and records.
1280.318 OMB control numbers.

Subpart B—Rules and Regulations

Definitions

§ 1280.301 Terms defined.

As used throughout this subpart, unless the context otherwise requires, terms shall have the same meaning as the definition of such terms in subpart A of this part.

Assessments

§ 1280.310 Assessments on domestic sheep and sheep products.

(a) Domestic sheep producers, sheep feeders, and exporters of live sheep and greasy wool will be assessed 1 cent per pound on live sheep sold and 2 cents per pound on greasy wool sold.

(b) Each person who processes or causes to be processed sheep or sheep products of that person's own production and markets the processed products will be assessed the equivalent of 1 cent per pound of live sheep sold or 2 cents per pound of greasy wool sold.

(c) If more than one producer, feeder, handler, or exporter shares the proceeds received for the sheep or sheep products sold, each such producer, feeder, handler, or exporter is obligated to pay that portion of the assessments that is equivalent to that producer's, feeder's, handler's, or exporter's proportionate share of the proceeds.

(d) Failure of the purchaser or collecting person to collect the assessment and pass along the assessment to the next purchaser, if necessary, and finally to the processor, as required in § 1280.313, shall not relieve the producer, feeder, or the collecting person of his or her obligation to pay the assessment to the feeder, collecting person, or processor and to remit the assessment to Board.

§ 1280.311 Late payment charges.

(a) Assessments shall be remitted to the address designated by the Board by the 15th day of the month following the month in which domestic sheep or wool was purchased for processing.

(b) Any unpaid assessments due to the Board from any person responsible for remitting the assessment shall be increased by 2 percent the day following the date such assessments were due. Any remaining amount due, which shall include any unpaid assessments and late payment charges previously owed pursuant to this paragraph, shall be increased at the same rate on the corresponding day of each month thereafter until paid. For the purposes of this paragraph, any assessment calculated after the date prescribed by this subpart because of a person's failure to submit a timely report to the Board shall be considered to have been payable by the date it would have been due if the report had been timely filed. The date of payment is determined by the postmark date on the envelope or the date of receipt by the Board, whichever is earlier. If the 15th day falls on a Sunday or a holiday, then the assessment will be due the following day.

§ 1280.312 Assessments on imported sheep and sheep products.

(a) Importers will be assessed 1 cent per pound on live sheep imported, the equivalent of 1 cent per pound of live sheep for imported sheep products, and 2 cents per pound of imported degreased wool or the equivalent of imported degreased wool for wool and wool products. Imported raw wool will be exempt from assessments.

(b) Table I, Imported Sheep and Sheep Products Assessment Table, contains the applicable HTS classification numbers of sheep, sheep meat, wool, and wool products, conversion factors and assessment rates, which is identified based on the net weight of the individual sheep product, in dollars per pound and dollars per kilograms for imported sheep, sheep products, wool, and wool products subject to the assessment. Because raw wool is exempt from the assessment collection provisions, HTS classification numbers for imported raw wool are not included in the table.

(c) In the event that any HTS classification number is changed, replaced by another number and has no impact on the physical properties or description of sheep meat, or wool and wool products, assessments will continue to be collected based on the original HTS classification number.

(d) Assessments will be collected by Customs on all imported sheep and sheep products identified by the HTS classification numbers listed in Table I upon importation.

TABLE I.—IMPORTED SHEEP AND SHEEP PRODUCTS ASSESSMENT TABLE

[Live sheep assessment]

HTS	$/lb	$/kg
0104100000	0.010000	0.022046

[Sheep meat assessment]

HTS	CF	$/lb	$/kg
0204100000	1.00	0.019920	0.043916
0204210000	1.00	0.019920	0.043916
0204222000	1.00	0.019920	0.043916
0204224000	1.00	0.019920	0.043916
0204232000	1.52	0.030279	0.066753
0204234000	1.52	0.030279	0.066753
0204300000	1.00	0.019920	0.043916
0204410000	1.00	0.019920	0.043916
0204422000	1.00	0.019920	0.043916
0204424000	1.00	0.019920	0.043916
0204432000	1.52	0.030279	0.066753
0204434000	1.52	0.030279	0.066753

[Wool and Products containing Wool Fibers]

HTS	CF	Assessment	
		S/lb	S/kg
5007106030	0.5546	0.011092	0.024454
5007906030	0.5546	0.011092	0.024454
5103100000	1.0870	0.021740	0.047929
5103200000	1.0870	0.021740	0.047929
5104000000	1.0000	0.020000	0.044092
5105100000	1.0309	0.020618	0.045454
5105210000	1.1111	0.022220	0.048991
5105290000	1.1111	0.022220	0.048991
5106100010	1.0870	0.021740	0.047929
5106100090	1.0870	0.021740	0.047929
5106200000	0.5435	0.010869	0.023962
5107100000	1.0870	0.021740	0.047929
5107200000	0.5435	0.010869	0.023962
5109102000	1.0870	0.021740	0.047929
5111113000	1.1091	0.022183	0.048904
5111117030	1.1091	0.022183	0.048904
5111117060	1.1091	0.022183	0.048904
5111191000	1.1091	0.022183	0.048904
5111192000	1.1091	0.022183	0.048904
5111196020	0.5546	0.011092	0.024454
5111196040	0.5546	0.011092	0.024454
5111196060	1.1091	0.022183	0.048904
5111196080	1.1091	0.022183	0.048904
5111200500	0.5546	0.011092	0.024454
5111209000	0.5546	0.011092	0.024454
5111300500	0.5546	0.011092	0.024454
5111309000	0.5546	0.011092	0.022454
5111903000	0.5546	0.011092	0.024454
5111909000	0.8319	0.016638	0.036679
5112111000	0.9982	0.019964	0.044013
5112112030	1.1091	0.022183	0.048904
5112112060	0.9982	0.019964	0.044013
5112192000	1.1091	0.022183	0.048904
5112199010	1.1091	0.022183	0.048904
5112199020	1.1091	0.022183	0.048904
5112199030	1.1091	0.022183	0.048904
5112199040	1.1091	0.022183	0.048904
5112199050	1.1091	0.022183	0.048904
5112199060	1.1091	0.022183	0.048904
5112201000	0.5546	0.011092	0.024454
5112203000	0.5546	0.011092	0.024454
5112301000	0.5546	0.011092	0.024454
5112303000	0.5546	0.011092	0.024454
5112903000	0.6655	0.013311	0.029345
5112904000	0.8319	0.016638	0.036679
5112909010	0.5546	0.011092	0.024454
5112909090	0.5546	0.011092	0.024454
5212231020	0.4991	0.009982	0.022007
5309292000	0.5546	0.011092	0.024454
5407920520	0.4991	0.009982	0.022007
5407921010	0.2218	0.004437	0.009782
5407921020	0.2218	0.004437	0.009782
5407931000	0.2218	0.004437	0.009782
5408310520	0.4991	0.009982	0.022007
5408321000	0.2218	0.004437	0.009782
5408341000	0.2218	0.004437	0.009782
5509520000	0.3804	0.007608	0.016773
5509610000	0.1630	0.003260	0.007187
5509910000	0.3804	0.007608	0.016773
5510200000	0.3804	0.007608	0.016773
5515130510	0.4991	0.009982	0.022007
5515130520	0.4991	0.009982	0.022007
5515131010	0.2218	0.004437	0.009782
5515131020	0.2218	0.004437	0.009782
5515220510	0.4991	0.009982	0.022007
5515221000	0.2218	0.004437	0.009782
5515920510	0.4991	0.009982	0.022007
5515920520	0.4991	0.009982	0.022007
5515921010	0.2218	0.004437	0.009782
5515921020	0.2218	0.004437	0.009782
5516311000	0.2218	0.004437	0.009782

[Wool and Products containing Wool Fibers]

HTS	CF	Assessment	
		S/lb	S/kg
5516320520	0.4991	0.009982	0.022007
5516321000	0.2218	0.004437	0.009782
5516330510	0.4991	0.009982	0.022007
5516330520	0.4991	0.009982	0.022007
5516331000	0.2218	0.004437	0.009782
5516341000	0.2218	0.004437	0.009782
5601290020	0.9428	0.018856	0.041570
5602109010	1.1091	0.022183	0.048904
5602109090	0.5546	0.011092	0.024454
5602210000	1.1091	0.022183	0.048904
5701101300	0.9783	0.019566	0.043135
5701101600	0.9783	0.019566	0.043135
5701104000	0.9783	0.019566	0.043135
5701109000	0.9783	0.019566	0.043135
5702101000	0.8315	0.016630	0.036662
5702109010	0.8315	0.016630	0.036662
5702311000	0.7853	0.015706	0.034625
5702312000	0.6467	0.012934	0.028514
5702411000	0.7853	0.015706	0.034625
5702412000	0.6929	0.013859	0.030551
5702512000	0.7853	0.015706	0.034625
5702514000	0.7853	0.015706	0.034625
5702913000	0.8315	0.016630	0.036662
5702914000	0.7853	0.015706	0.034625
5703100020	0.7933	0.015866	0.035022
5703100080	0.7933	0.015866	0.035022
5704100010	0.7466	0.014932	0.032919
5704900010	0.9332	0.018664	0.041147
5705002005	0.7466	0.014932	0.032919
5801100000	1.1091	0.022183	0.048904
5801902090	1.1091	0.022183	0.048904
5805002000	1.1091	0.022183	0.048904
5805002500	1.1091	0.022183	0.048904
5810991000	1.1091	0.022183	0.048904
5903903010	0.5546	0.011092	0.024454
6001290000	1.1322	0.022644	0.049921
6002410000	1.1322	0.022644	0.049921
6002490000	1.1322	0.022644	0.049921
6002910000	1.1322	0.022644	0.049921
6101100000	1.0533	0.021066	0.046442
6102100000	1.0533	0.021066	0.046442
6102301000	0.5266	0.010532	0.023219
6103110000	0.8806	0.017612	0.038828
6103122000	0.1887	0.003773	0.008319
6103310000	1.0293	0.020586	0.045384
6103411010	0.8615	0.017230	0.037986
6103412000	0.8615	0.017230	0.037986
6103431020	0.4923	0.009846	0.021708
6104110000	0.9007	0.018014	0.039714
6104310000	0.9007	0.018014	0.039714
6104331000	0.5147	0.010293	0.022692
6104332000	0.1287	0.002573	0.005673
6104391000	0.1287	0.002573	0.005673
6104410010	1.0064	0.020128	0.044374
6104431010	0.5032	0.010064	0.022187
6104432010	0.1258	0.002517	0.005549
6104432020	0.1258	0.002517	0.005549
6104441000	0.5032	0.010064	0.022187
6104442010	0.1258	0.002517	0.005549
6104442020	0.1258	0.002517	0.005549
6104510000	1.0411	0.020822	0.045904
6104531000	0.5206	0.010412	0.022954
6104532010	0.1301	0.002602	0.005737
6104532020	0.1301	0.002602	0.005737
6104591005	0.5206	0.010412	0.022954
6104591030	0.1301	0.002602	0.005737
6104610010	0.8256	0.016512	0.036402
6104631510	0.4718	0.009436	0.020803
6105201000	0.4617	0.009234	0.020357
6105901000	0.8080	0.016160	0.035626
6105908020	0.5420	0.010840	0.023898

[Wool and Products containing Wool Fibers]

HTS	CF	Assessment	
		S/lb	S/kg
6106201010	0.4818	0.009636	0.021243
6106201020	0.4818	0.009636	0.021243
6106901010	0.8432	0.016864	0.037178
6107992000	0.8256	0.016512	0.036402
6108992000	0.8167	0.016334	0.036010
6109901530	0.8432	0.016864	0.037178
6110101010	1.2866	0.025733	0.056730
6110101020	1.2866	0.025733	0.056730
6110101030	1.2866	0.025733	0.056730
6110101040	1.2866	0.025733	0.056730
6110101050	1.2866	0.025733	0.056730
6110101060	1.2866	0.025733	0.056730
6110102010	0.9007	0.018014	0.039714
6110102020	0.9007	0.018014	0.039714
6110102030	0.9007	0.018014	0.039714
6110102040	0.9007	0.018014	0.039714
6110102050	0.9007	0.018014	0.039714
6110102060	0.9007	0.018014	0.039714
6110102070	0.9007	0.018014	0.039714
6110102080	0.9007	0.018014	0.039714
6110301510	0.5147	0.010293	0.022692
6110301520	0.5147	0.010293	0.022692
6110301530	0.5147	0.010293	0.022692
6110301540	0.5147	0.010293	0.022692
6110301550	0.5147	0.010293	0.022692
6110301560	0.5147	0.010293	0.022692
6110303010	0.1930	0.003861	0.008512
6110303015	0.1930	0.003861	0.008512
6110303020	0.1930	0.003861	0.008512
6110303025	0.1930	0.003861	0.008512
6110303030	0.1930	0.003861	0.008512
6110303035	0.1930	0.003861	0.008512
6110303040	0.1930	0.003861	0.008512
6110303045	0.1930	0.003861	0.008512
6110303050	0.1930	0.003861	0.008512
6110303055	0.1930	0.003861	0.008512
6110909012	0.5790	0.011581	0.025531
6110909028	0.6433	0.012866	0.028364
6110909074	0.5790	0.011581	0.025531
6111100010	1.1076	0.022152	0.048836
6111100030	1.1076	0.022152	0.048836
6114100040	0.8806	0.017612	0.038828
6114100050	0.8806	0.017612	0.038828
6114100070	0.8806	0.017612	0.038828
6115198020	1.1322	0.022644	0.049921
6115910000	0.9058	0.018116	0.039939
6115939010	0.4529	0.009058	0.019968
6116109500	0.0834	0.001668	0.003677
6116910000	0.9535	0.019070	0.042042
6116936400	0.4767	0.009534	0.021019
6116937400	0.4767	0.009534	0.021019
6116938800	0.1788	0.003575	0.007882
6116939400	0.1788	0.003575	0.007882
6116999530	0.3576	0.007152	0.015768
6117101000	1.0727	0.021454	0.047298
6117102010	0.4767	0.009534	0.021019
6117809020	0.9635	0.019270	0.042483
6117809030	0.5959	0.011919	0.026276
6201110010	1.0199	0.020398	0.044970
6201110020	1.0199	0.020398	0.044970
6201122010	0.0637	0.001274	0.002809
6201133010	0.4590	0.009180	0.020238
6201134015	0.0510	0.001021	0.002250
6201134030	0.1020	0.002039	0.004495
6201134040	0.1020	0.002039	0.004495
6201199020	0.6374	0.012748	0.028104
6201911000	0.9970	0.019939	0.043958
6201912011	0.9970	0.019939	0.043958
6201912021	0.9970	0.019939	0.043958
6201932511	0.4985	0.009970	0.021980
6202110010	0.8823	0.017646	0.038901

[Wool and Products containing Wool Fibers]

HTS	CF	Assessment	
		S/lb	S/kg
6202110020	0.8823	0.017646	0.038901
6202122010	0.0630	0.001261	0.002779
6202133010	0.5804	0.011608	0.025591
6202134005	0.0645	0.001290	0.002843
6202134030	0.1290	0.002584	0.005697
6202911000	1.0083	0.020167	0.044459
6202912011	1.0083	0.020167	0.044459
6202912021	1.0083	0.020167	0.044459
6202934011	0.5672	0.011344	0.025009
6203111000	0.6302	0.012603	0.027785
6203112000	0.6302	0.012603	0.027785
6203121000	0.5672	0.011344	0.025009
6203310010	1.0713	0.021426	0.047236
6203310020	1.0713	0.021426	0.047236
6203331030	0.5672	0.011344	0.025009
6203331050	0.5672	0.011344	0.025009
6203399020	0.6302	0.012604	0.027787
6203410510	1.0083	0.020166	0.044456
6203410520	1.0083	0.020166	0.044456
6203433010	0.5425	0.010850	0.023921
6203433020	0.5425	0.010850	0.023921
6204110000	0.9453	0.018906	0.041680
6204131000	0.5672	0.011344	0.025009
6204132010	0.1891	0.003782	0.008337
6204191000	0.5672	0.011344	0.025009
6204192000	0.1891	0.003782	0.008337
6204210010	0.8823	0.017646	0.038901
6204210030	0.8823	0.017646	0.038901
6204312010	1.0713	0.021426	0.047236
6204312020	1.0713	0.021426	0.047236
6204334010	0.5042	0.010084	0.022231
6204335010	0.0630	0.001261	0.002779
6204335020	0.0630	0.001261	0.002779
6204392010	0.5042	0.010084	0.022231
6204393010	0.0630	0.001261	0.002779
6204398020	0.5672	0.011344	0.025009
6204412010	1.0475	0.020950	0.046186
6204412020	1.0475	0.020950	0.046186
6204433010	0.4930	0.009860	0.021737
6204434010	0.4930	0.009860	0.021737
6204434020	0.4930	0.009860	0.021737
6204434030	0.3081	0.006163	0.013587
6204434040	0.3081	0.006163	0.013587
6204443010	0.5042	0.010084	0.022231
6204444010	0.5042	0.010084	0.022231
6204444020	0.5042	0.010084	0.022231
6204510010	1.0318	0.020636	0.045495
6204510020	1.0318	0.020636	0.045495
6204532010	0.5159	0.010318	0.022747
6204592010	0.5159	0.010318	0.022747
6204593010	0.5159	0.010318	0.022747
6204593020	0.5159	0.010318	0.022747
6204594020	0.5804	0.011608	0.025591
6204611010	0.9645	0.019290	0.042527
6204611020	0.9645	0.019290	0.042527
6204619010	0.9645	0.019290	0.042527
6204619020	0.9645	0.019290	0.042527
6204619040	0.9645	0.019290	0.042527
6204632510	0.4822	0.009644	0.021261
6204692010	0.4822	0.009644	0.021261
6204692030	0.4822	0.009644	0.021261
6204696020	0.5425	0.010850	0.023921
6204699020	0.5426	0.010850	0.023921
6204699030	0.1808	0.003617	0.007974
6204699050	0.1808	0.003617	0.007974
6205102010	0.9645	0.019290	0.042527
6205102020	0.9645	0.019290	0.042527
6205301510	0.4822	0.009644	0.021261
6205903050	0.0603	0.001206	0.002659
6205904040	0.1206	0.002412	0.005317
6206203010	0.9645	0.019290	0.042527

[Wool and Products containing Wool Fibers]

HTS	CF	Assessment	
		$/lb	$/kg
6206203020	0.9645	0.019290	0.042527
6206402510	0.5425	0.010850	0.023921
6207992000	0.8627	0.017253	0.038036
6208920010	0.0616	0.001232	0.002716
6208920030	0.0616	0.001232	0.002716
6209100000	0.8260	0.016520	0.036420
6211310030	0.9453	0.018906	0.041680
6211310040	0.9453	0.018906	0.041680
6211310051	0.9453	0.018906	0.041680
6211330052	0.6302	0.012603	0.027785
6211410040	0.9453	0.018906	0.041680
6211410050	1.0083	0.020167	0.044459
6211410055	1.0083	0.020167	0.044459
6211410061	1.0083	0.020167	0.044459
6211430064	0.6302	0.012603	0.027785
6211430074	0.6302	0.012603	0.027785
6212900020	0.7472	0.014944	0.032946
6214102000	0.3503	0.007006	0.015446
6214200000	0.9340	0.018681	0.041184
6214300000	0.1168	0.002335	0.005149
6214400000	0.1168	0.002335	0.005149
6214900010	0.0584	0.001168	0.002575
6215900010	1.1675	0.023350	0.051478
6216008000	1.2056	0.024112	0.053157
6217109020	0.8627	0.017253	0.038036
6217109030	0.1232	0.002465	0.005434
6217909010	0.1232	0.002465	0.005434
6217909030	0.8627	0.017253	0.038036
6217909035	0.1232	0.002465	0.005434
6217909085	0.1232	0.002465	0.005434
6301200010	0.9620	0.019240	0.042417
6301200020	0.9620	0.019240	0.042417
6301900030	0.1132	0.002264	0.004992
6302390010	0.9620	0.019240	0.042417
6304193040	0.9054	0.018109	0.039923
6304910050	0.7922	0.015845	0.034931
6304991000	1.1318	0.022636	0.049902
6304991500	1.1318	0.022636	0.049902
6304996010	1.1318	0.022636	0.049902
6501009000	1.3864	0.027728	0.061129
6503009000	1.3864	0.027728	0.061129
6505903090	0.8838	0.017677	0.038970
6505904090	0.8658	0.017316	0.038174
6505906040	0.4621	0.009242	0.020375

§ 1280.313 Collecting persons for purposes of collection of assessments.

(a) Any person who is responsible for collecting an assessment pursuant to the Act and this subpart, including processors and any other persons who are required to remit assessments to the Board pursuant to this part, shall be a collecting person, except that a collecting person who is a market agency; i.e., commission merchant, auction market, or livestock market in the business of receiving such sheep or sheep products for sale on commission for or on behalf of a producer or feeder, shall pass the collected assessment on to the subsequent purchaser pursuant to the Order.

(b) Customs will collect the assessment at the time of importation from the importer or from any person acting as the principal agent, broker, or consignee for sheep, sheep products, wool, and products containing wool fiber identified by the HTS classification numbers in § 1280.312.

(c) In cases where a producer or feeder sells sheep as part of a custom slaughter operation, the producer or feeder shall be the collecting person in the same manner as if the sheep were sold for slaughter.

(d) For the purposes of this section, in the event of a producer's, feeder's, or importer's death, bankruptcy, receivership, or incapacity, the representative of such producer, feeder, or importer or the producer's, feeder's, or importer's estate, or the person acting on behalf of creditors, shall be considered the producer, feeder, or importer.

§ 1280.314 Remittance persons for purposes of remitting assessments.

(a) Each processor who makes payment to a producer, feeder, handler, or collecting person for sheep or wool purchased from the producer, feeder, handler, or collecting person shall be a remitting person and shall collect an assessment from the producer, feeder, handler, or other collecting person on sheep or wool sold by the producer, feeder, handler, or collecting person, and each such producer, feeder, handler, or collecting person shall pay such assessment to the processor and that processor shall remit the assessment to the Board;

(b) Each person who processes or causes to be processed sheep or sheep products of that person's own production, and markets such sheep or sheep products, shall pay an assessment on such sheep or sheep products at the time of sale at a rate equivalent to the rate established pursuant to § 1280.224(d), Sheep Purchases, of the Order, for live sheep or § 1280.225(d), Wool Purchases, for greasy wool, and shall remit such assessment to the Board;

(c) Each person who exports live sheep or greasy wool shall remit the assessment to the Board on such sheep or greasy wool at the time of export, at the rate established pursuant to § 1280.224(d), Sheep Purchases, of the Order, for live sheep or § 1280.225(d), Wool Purchases, for greasy wool.

§ 1280.315 Remittance of assessments and submission of reports to the National Sheep Promotion, Research, and Information Board.

Each person responsible for remitting the assessment as described in § 1280.314 shall remit the assessments and a report of assessments to the Board as follows:

(a) Reports. Each person who is responsible for remitting the assessment shall make reports on forms made available or approved by the Board. Such person shall prepare a separate report for each reporting period. Each report shall be mailed together with the applicable assessment amount to the Board pursuant to § 1280.311(a). Each completed report shall contain the following information, as applicable, including, but not limited to:

(1) Live sheep sold.

(i) The number of sheep purchased, initially transferred, or subject to the collection of assessment in any other manner, and the dates of such transactions;

(ii) The number of live sheep exported;

(iii) The amount of assessment remitted;

(iv) An explanation for the remittance of any assessment that is less than the pounds of sheep multiplied by the assessment rate; and

(v) The date an assessment was paid.

(2) Greasy wool sold.

(i) The amount of wool that is purchased, initially transferred or subject to the collection of assessment in any other manner, and the dates of such transaction;

(ii) The amount of greasy wool exported;

(iii) The amount of assessment remitted;

(iv) An explanation for the remittance of an assessment that is less than the pounds of greasy wool multiplied by the assessment rate; and

(v) The date an assessment was paid.

(b) Customs will transmit reports and assessments collected on imported sheep and sheep products to AMS according to an agreement between Customs and AMS.

§ 1280.316 Evidence of payment of assessments.

Each collecting person, except a producer or feeder who processes sheep or sheep products of the producer's or feeder's own production for sale, is required to give to the producer, feeder, handler, or collecting person from whom the collecting person collected an assessment written evidence of payment of the assessments. Such written evidence, which shall serve as a receipt, must contain the following information:

(a) Name and address of the collecting person;

(b) Name of producer or feeder who paid the assessment;

(c) Number of head of sheep sold;

(d) Total pounds of sheep or greasy wool sold;

(e) Total assessments paid by the producer or feeder; and

(f) Date an assessment was paid.

§ 1280.317 Books and records.

Any person subject to the requirements in § 1280.233, Books and Records, of the Order shall maintain and make available to the Secretary for at least 2 years beyond the fiscal period of their applicability such books and records as necessary to carry out the provision of the Order and these regulations.

§ 1280.318 OMB control numbers.

The control number assigned to the information collection requirements in Part 1280 by OMB pursuant to the Paperwork Reduction Act of 1980, (44 U.S.C. Chapter 35) is OMB number 0581–0093.

Dated: May 3, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96–11602 Filed 5–8–96; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

8 CFR Parts 3 and 242

[EOIR 102F]

RIN 1125–AA01

Executive Office for Immigration Review; Motions and Appeals in Immigration Proceedings; Correction

AGENCY: Department of Justice.

ACTION: Correction to final regulation.

SUMMARY: This document contains corrections to the final regulation, published Monday, April 29, 1996 (61 FR 18900), relating to new motions and appeals procedures in immigration proceedings.

EFFECTIVE DATE: July 1, 1996.

FOR FURTHER INFORMATION CONTACT:

Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, (703) 305–0470 (not a toll free call).

SUPPLEMENTARY INFORMATION:

Background

The final regulation that is the subject of these corrections streamlines the motions and appeals practice before the Board of Immigration Appeals and establishes a centralized procedure for filing notices of appeal, fees, fee waiver requests, and briefs directly with the Board. The new regulation also establishes time and number limitations on motions to reconsider and on motions to reopen and makes certain changes to appellate procedures to reflect the statutory directives of section 545 of the Immigration Act of 1990 (Pub. L. 101–649, 104 Stat. at 4978).

Need for Correction

As published, the final regulation contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Editorial Note: An additional correction to this document appears elsewhere in the Corrections Section of this issue.

Accordingly, the publication on April 29, 1996, of the final regulation (EOIR 102F), which was the subject of FR Doc. 96–10157 is corrected as follows:

§ 3.6(b) [Corrected]

1. On page 18907, in the second column, in § 3.6 paragraph (b), line 9, the reference to "§ 3.23(b)(4)(ii)" is corrected to read "§ 3.23(b)(4)(iii)."

§ 242.22 [Corrected]

2. On page 18909, in the third column, in § 242.22, line 6, the reference to "§ 3.23(b)(4)(ii)" is corrected to read "§ 3.23(b)(4)(iii)."

Dated: May 6, 1996.

Rosemary Hart,

Federal Register Liaison Officer.

[FR Doc. 96–11614 Filed 5–8–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–77–AD; Amendment 39–9612; AD 96–10–07]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes. This action requires inspections to detect damage of the support brackets and clamps of the transfer pipe of the tail tank, and of the transfer pipe assembly; and replacement of damaged parts, or installation of a doubler, if necessary. This amendment is prompted by reports of cracking of the support brackets in the refuel and fuel transfer lines of the tail fuel tank and damage to the nylon clamps and transfer pipe assembly; such damage is due to flexing of the brackets and subsequent contact of the transfer pipe assembly with adjacent structure. The actions specified in this AD are intended to prevent such cracking and damage, which could result in further damage to the transfer pipe assembly and possible fuel leakage.

DATES: Effective May 24, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 24, 1996.

Comments for inclusion in the Rules Docket must be received on or before July 8, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–77–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Raymond Vakili, Aerospace Engineer, Airframe Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5262; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA has received reports of cracking of the support brackets in the refuel and fuel transfer lines of the tail fuel tank on McDonnell Douglas Model MD–11 series airplanes. In addition, the nylon clamps and transfer pipe assembly have been found to be damaged. Investigation revealed that this cracking and damage was caused by flexing of the brackets during refueling and transfer operations of the tail fuel tank. When this flexing occurs, the transfer pipe assembly can sustain damage due to contact with adjacent structure. Such cracking and damage, if not corrected, would result in further damage to the fuel transfer pipe assembly and possible fuel leakage.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–28A083, dated March 13, 1996, which describes procedures for repetitive visual inspections to detect cracking, bending, or stress of the support brackets, and any damage to the clamps of the transfer pipe of the tail tank; and replacement of any damaged bracket or clamp with a serviceable part. The alert service bulletin also describes procedures for repetitive visual inspections to detect damage of the transfer pipe assembly of the tail tank; and procedures for installation of a doubler on the pipe assembly, or replacement of the pipe assembly with a serviceable assembly, if necessary.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model MD–11 series airplanes of the same type design, this AD is being issued to prevent cracking of the support brackets in the refuel and fuel transfer lines of the tail fuel tank and damage to the nylon clamps and transfer pipe assembly, which if not corrected, could result in further damage to the transfer pipe assembly and possible fuel leakage. This AD requires repetitive visual inspections for cracking, bending, or stress of the support brackets, and any damage to the clamps of the transfer pipe of the tail tank; and replacement of any damaged bracket or clamp with a serviceable part. This AD also requires repetitive visual inspections for damage of the transfer pipe assembly of the tail tank; and installation of a doubler on the pipe assembly, or replacement of the pipe assembly with a serviceable assembly, if necessary. The actions are required to be accomplished in accordance with the service bulletin described previously.

Interim Action

This AD is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Difference Between this Rule and the Relevant Service Information

Operators should note that the McDonnell Douglas alert service bulletin recommends accomplishment of the initial inspection at "the earliest practical maintenance period, but not to exceed 600 flight hours from the date of issuance of the alert service bulletin." However, the FAA has determined that, since maintenance intervals vary from operator to operator, and since the time of receipt of the alert service bulletin also may vary from operator to operator, the compliance time for this AD must be less subjective in order to ensure that the actions are accomplished by all affected operators in a timely manner. This AD requires compliance within 90 days after the effective date of the rule. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and regularly scheduled maintenance intervals for the affected airplanes. In light of all of these factors, the FAA finds that a 90-day compliance time for accomplishment of the initial inspection is appropriate in that it represents the maximum interval of time allowable for affected airplanes to continue to operate without compromising safety.

Operators also should note that the effectivity listing in the McDonnell Douglas alert service bulletin includes certain airplanes designated as "Group 2 airplanes." The initial visual inspection (required by this AD) was accomplished and a temporary doubler was installed on these airplanes during production. For these airplanes, the alert service bulletin suggests an inspection interval of 15 months for accomplishment of the visual inspection. The FAA has determined that this inspection interval for Group 2 airplanes is appropriate, and is considering additional rulemaking action to address the requirements for Group 2 airplanes. However, a 15-month compliance time for the planned requirements is sufficiently long so that notice and time for prior public comment will be practicable.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96–NM–77–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–10–07 McDonnell Douglas: Amendment 39–9612. Docket 96–NM–77–AD.

Applicability: Model MD–11 series airplanes; specified as Group 1 airplanes and listed in McDonnell Douglas Alert Service Bulletin MD–11–28A083, dated March 13, 1996; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Note 2: Airplanes specified as Group 2 airplanes and listed in McDonnell Douglas Alert Service Bulletin MD–11–28A083, dated March 13, 1996, are not subject to this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking of the support brackets in the refuel and fuel transfer lines of the tail fuel tank and damage to the nylon clamps and transfer pipe assembly, which, if not corrected, could result in further damage to the transfer pipe assembly and possible fuel leakage, accomplish the following:

(a) Within 90 days after the effective date of this AD, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD in accordance with Paragraph 3. of the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin MD–11–28A083, dated March 13, 1996.

(1) Perform a visual inspection for cracking, bending, or stress of the support brackets and damage to the nylon clamps of the transfer pipe of the tail tank, in accordance with the alert service bulletin. If any damaged bracket or clamp is detected, prior to further flight, replace it with a serviceable part in accordance with the alert service bulletin.

(2) Perform a visual inspection for chafing and/or denting of the transfer pipe assembly of the tail tank, in accordance with the alert service bulletin.

(i) *Condition 1.* If no damage to the fuel pipe assembly is detected, accomplish the requirements of either paragraph (a)(2)(i)(A) or (a)(2)(i)(B) of this AD at the times specified in that paragraph.

(A) Option 1. Thereafter, repeat the visual inspections required by paragraph (a) of this AD at intervals not to exceed 600 flight hours; or

(B) Option 2. Install a temporary doubler on the fuel pipe assembly in accordance with the alert service bulletin and, thereafter, repeat the visual inspections required by paragraph (a) of this AD at intervals not to exceed 15 months.

(ii) *Condition 2.* If damage is found that is within the limits specified by the alert service bulletin, prior to further flight, install a temporary doubler on the fuel pipe assembly. Thereafter, repeat the visual inspections required by paragraph (a) of this AD at intervals not to exceed 15 months.

(iii) *Condition 3.* If damage is found that is outside the limits specified by the alert service bulletin, prior to further flight, replace the fuel pipe assembly with a new or

serviceable assembly; and accomplish the requirements of either paragraph (a)(2)(iii)(A) or (a)(2)(iii)(C) of this AD at the time specified in that paragraph.

(A) Option 1. Thereafter, repeat the visual inspections required by paragraph (a) of this AD at intervals not to exceed 600 flight hours; or

(B) Option 2. Install a temporary doubler on the fuel pipe assembly; and repeat the visual inspections required by paragraph (a) of this AD, thereafter, at intervals not to exceed 15 months. (Replacement of the fuel pipe assembly with a serviceable pipe assembly that has been repaired by welding a doubler in the area of potential damage, does not require the installation of a temporary doubler.)

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD–11–28A083, dated March 13, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 24, 1996.

Issued in Renton, Washington, on May 1, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–11408 Filed 5–8–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–84–AD; Amendment 39–9611; AD 96–10–06]

RIN: 2120–AA64

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 737 series airplanes. This action requires repetitive inspections to detect cracks of the lower gate hinge of the forward galley service door, and replacement of any cracked hinge. This action also provides an optional terminating replacement for the repetitive inspections. This amendment is prompted by reports of fatigue cracks found in the lower gate hinge on the forward galley service door. The actions specified in this AD are intended to prevent such fatigue cracking, which could lead to the failure of the lower gate hinge on the forward galley service door and subsequent loss of cabin pressure. If the hinge fails, the hinge and its associated mechanisms and the emergency escape slide could separate from the airplane and be ingested into the engine, or could strike and damage the flight control surfaces.

DATES: Effective May 24, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 24, 1996.

Comments for inclusion in the Rules Docket must be received on or before July 8, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–84–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Roy Boffo, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2780; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received several reports of cracks found in the lower gate hinge on the forward galley service door on Boeing Model 737 series airplanes. In two of these cases, the hinge was severed completely and the lower gate separated from the airplane while in flight, which resulted in loss of cabin pressure. In one of these cases, the emergency escape slide was slowly pulled through the gate opening, and, subsequently, it separated from the airplane. These airplanes had accumulated between 13,700 and 66,000 total flight cycles. Investigation revealed that the cause of such cracking was due to fatigue. The effects of such fatigue cracking could lead to the failure of the lower gate hinge on the forward galley service door and subsequent loss of cabin pressure. If the hinge fails, the hinge and its associated mechanisms and the emergency escape slide could separate from the airplane and be ingested into the engine, or could strike and damage the flight control surfaces.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 737–52A1124, dated January 11, 1996, which describes procedures for repetitive detailed visual inspections to detect cracks of the lower gate hinge of the forward galley service door, and replacement of any cracked hinge found. The service bulletin also describes procedures for replacement of the lower gate hinge of the forward galley service door with an improved hinge, which will eliminate the need for the repetitive inspections.

Explanation of the Requirements of the AD

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 737 series airplanes of the same type design, this AD is being issued to prevent fatigue cracking and subsequent failure of the lower gate hinge on the forward galley service door. This AD requires repetitive detailed visual inspections to detect cracks of the lower gate hinge of the forward galley service door, and replacement of any cracked hinge found. This AD also provides for an optional replacement of the lower gate hinge of the forward galley service door with an improved hinge, which constitutes terminating action for the repetitive inspection requirements. The actions are required to be accomplished in accordance with the alert service bulletin described previously.

Differences Between the AD and the Relevant Service Information

Operators should note that, unlike the various recommended compliance times specified in the alert service bulletin for accomplishing the initial inspection of airplanes (specified as 1,200 flight cycles after receipt of the service bulletin for airplanes with 10,000 to 12,000 total flight cycles; 800 flight cycles after receipt for airplanes with 12,000 to 13,000 total flight cycles; and 400 flight cycles after receipt for airplanes with 13,000 or more total flight cycles), this AD requires that all airplanes be inspected within 400 flight cycles after the effective date of the AD. In consideration of not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection (3 hours), the FAA has determined that the various intervals specified in that alert service bulletin would not address the identified unsafe condition in a timely manner. In addition, the FAA has reviewed the available data and determined that the length of cracking is not necessarily related to the airplane's flight cycles, but instead is related to the number of door cycles. In light of all of these factors, the FAA finds that a 400-flight cycle compliance time for initiating the required actions is warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96–NM–84–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–10–06 Boeing: Amendment 39–9611. Docket 96–NM–84–AD.

Applicability: Model 737 series airplanes, as listed in Boeing Alert Service Bulletin 737–52A1124, dated January 11, 1996; on which the actions specified in Boeing Service Bulletin 737–52–1097, Revision 1, dated April 6, 1989, or Revision 2, dated January 11, 1990, have not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the lower gate hinge on the forward galley service door, accomplish the following:

(a) Within 400 flight cycles after the effective date of this AD, perform a detailed visual inspection to detect cracks of the lower gate hinge of the forward galley service door, in accordance with Boeing Alert Service Bulletin 737–52A1124, dated January 11, 1996.

(1) If no cracks are detected, repeat the inspection thereafter at intervals not to exceed 4,500 flight cycles.

(2) If any crack is detected, prior to further flight, replace the lower gate hinge with a new hinge, in accordance with the alert service bulletin. Accomplishment of the replacement constitutes terminating action for this AD.

(b) Replacement of the lower gate hinge of the forward galley service door with an improved hinge, in accordance with Boeing Alert Service Bulletin 737–52A1124, dated January 11, 1996, constitutes terminating action for the requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The inspection and replacement shall be done in accordance with Boeing Alert Service Bulletin 737–52A1124, dated January 11, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 24, 1996.

Issued in Renton, Washington, on May 1, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–11407 Filed 5–8–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–ANE–12; Amendment 39–9609; AD 96–10–04]

Airworthiness Directives; AlliedSignal, Inc. LTS101–600 Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to AlliedSignal, Inc. LTS101–600 series turboshaft engines, that requires installation of an improved design fuel control. This amendment is prompted by reports of fuel control bearings failing prior to the recommended overhaul period. The actions specified by this AD are intended to prevent a fuel control failure, which could result in an uncommanded increase or decrease in engine power.

DATES: Effective June 13, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 13, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from AlliedSignal Engines, 111 South 34th Street, Phoenix, AZ 85072; telephone (602) 365–2493, fax (602) 365–2210. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dave Keenan, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7139, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to AlliedSignal, Inc. Models LTS101–600A–2/A–3 turboshaft engines was published in the **Federal Register** on August 21, 1995 (60 FR 43413). That action proposed to require the installation of an improved fuel control in accordance with AlliedSignal Engines Service Bulletin (SB) No. LTS101A–73–20–0166, Revision 1, dated November 21, 1994.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter, the manufacturer, states that since the issuance of the NPRM, AlliedSignal, Inc. has revised AlliedSignal Engines SB No. LTS101A–73–20–0166 to recommend the installation of a screened pneumatic fitting on the main fuel control (MFC). The FAA concurs in part. Both revisions of the SB address the incorporation of fuel control drive (Meldin) bearings in the MFC in the same manner, which is the primary focus of this AD. The FAA has determined that installation of a screened pneumatic fitting is not necessary to prevent a MFC failure due to lack of bearing lubrication. Therefore, this final rule references both AlliedSignal Engines SB No. LTS101A–73–20–0166, Revision 1, dated November 21, 1994, and Revision 2, dated August 1, 1995, but does not require installation of a screened pneumatic fitting.

The manufacturer also states that due to the time required to publish the NPRM and receive comments, the AD will not be published prior to compliance end-date specified in the NPRM. The FAA concurs and has extended the compliance end-date in this final rule to September 1, 1996.

In addition, the FAA is considering future rulemaking to address other aircraft installations of the AlliedSignal, Inc. LT101 series engines.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 216 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 2.5 work hours per engine to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $1,000 per engine. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $248,400.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–10–04 AlliedSignal, Inc.: Amendment 39–9609. Docket 95–ANE–12.

Applicability: AlliedSignal, Inc. Models LTS101–600A–2 and A–3 turboshaft engines, installed on but not limited to Eurocopter AS350 series aircraft.

Note: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the Federal Aviation Administration (FAA). This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent a fuel control failure, which could result in an uncommanded increase or decrease in available engine power, accomplish the following:

(a) At the next replacement of an affected fuel control, prior to accumulating 300 hours time in service (TIS) after the effective date of this AD, or September 1, 1996, whichever occurs first, accomplish the following in accordance with AlliedSignal Engines Service Bulletin (SB) No. LTS101A–73–20–0166, Revision 1, dated November 21, 1994, or Revision 2, dated August 1, 1995:

(1) For AlliedSignal, Inc. Model LTS101–600A–2 engines, install an improved fuel control, P/N 4–301–098–04 with "B" or "BF" stamped on the data plate after the dash number of the AlliedSignal Aerospace Equipment Division (formerly AlliedSignal Controls and Accessories/Bendix) part number, or P/N 4–301–098–15. These improved fuel controls incorporate fuel control drive (Meldin) bearings.

(2) For AlliedSignal, Inc. Model LTS101–600A–3 engines, install an improved fuel control, P/N 4–301–288–02 with "B" or "BF" stamped on the data plate after the dash number of the AlliedSignal Aerospace Equipment Division (formerly AlliedSignal Controls and Accessories/Bendix) P/N, or P/N 4–301–288–04. These improved fuel controls incorporate fuel control drive (Meldin) bearings.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(d) The actions required by this AD shall be done in accordance with the following AlliedSignal Engines SB's:

Document No.	Pages	Revision	Date
LTS101A–73–20–0166. Total Pages: 3.	1–3	1	November 21, 1994.
LTS101A–73–20–0166. Total Pages: 6.	1–6	2	August 1, 1995.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AlliedSignal Engines, 111 South 34th Street, Phoenix, AZ 85072; telephone (602) 365–2493, fax (602) 365–2210. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(e) This amendment becomes effective on June 13, 1996.

Issued in Burlington, Massachusetts, on April 24, 1996.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–11258 Filed 5–8–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–ANE–03; Amendment 39–9583; AD 96–09–03 R3]

Airworthiness Directives; Sensenich Propeller Manufacturing Company Inc. Models M76EMM, M76EMMS, 76EM8, and 76EM8S() Metal Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to Sensenich Propeller Manufacturing Company Inc. Models M76EMM, M76EMMS, 76EM8, and 76EM8S() metal propellers, that currently restricts operators from continuously operating the propeller at engine speeds from 2,150 to 2,350 revolutions per minute (RPM) and specifies propeller inspection and rework or replacement. This amendment eliminates the requirement to add tachometer markings on aircraft with certain additional Textron Lycoming O–360 series reciprocating engines with solid crankshafts installed, and updates the referenced Sensenich Propeller Company Inc. service bulletin to the latest revision. Reworking of all affected propeller models remains a requirement of the AD, regardless of engine installation. This amendment is prompted by inquiries concerning tachometer red arc restrictions on certain Textron Lycoming O–360 series reciprocating engines with solid crankshafts. The actions specified by this AD are intended to prevent propeller blade tip fatigue failure, which can result in loss of control of the aircraft.

DATES: Effective June 13, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 13, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Sensenich Propeller Manufacturing Company Inc., 519 Airport Road, Lititz, PA 17543; telephone (717) 569–0435, fax (717) 560–3725. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Raymond J. O'Neill, Aerospace

Engineer, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 10 Fifth St., Valley Stream, NY 11581; telephone (516) 256–7505, fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by revising AD 69–09–03, Amendment 39–761 (34 FR 7371, May 7, 1969); Revision 1, Amendment 39–808 (34 FR 12563, August 1, 1969); Revision 2, Amendment 39–1102 (35 FR 17030, November 5, 1970), was published in the **Federal Register** on December 7, 1995 (60 FR 62772). The action, applicable to Sensenich Propeller Manufacturing Company Inc. Models M76EMM, M76EMMS, 76EM8, and 76EM8S() metal propellers, proposed to eliminate the requirement to add tachometer markings on aircraft with certain additional Textron Lycoming O–360 series reciprocating engines with solid crankshafts installed that restrict continuous operation between engine speeds from 2,150 to 2,350 revolutions per minute (RPM). In addition, that action proposed to update the referenced Sensenich Propeller Company Inc. service bulletin (SB) to the latest revision.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public.

In the NPRM, propeller model M76EMMS was erroneously listed as M7EMMS. This final rule lists the correct propeller model, M76EMMS.

In addition, since issuance of the NPRM, the manufacturer has advised the FAA that correct date of SB No. R–14A is July 28, 1995. This final rule shows the correct revision date.

The FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 100 propellers of the affected design that may not have been modified to the "K" standard in the worldwide fleet. The FAA estimates that 50 propellers installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 2.5 work hours per propeller to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,500. However, since this rule further restricts the applicability by exempting propellers installed on certain Textron Lycoming engine models from the tachometer restriction, there is a potential overall cost savings of $4,395,000, if all the affected Sensenich propellers are installed on the newly exempted engines.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–1102 (35 FR 17030, November 5, 1970) and by adding a new airworthiness directive, Amendment 39–9583, to read as follows:

69–09–03 R3 Sensenich Propeller Manufacturing Company Inc.: Amendment 39–9583. Docket 95–ANE–03. Revises AD 69–09–03 R2, Amendment 39–1102.

Applicability: Sensenich Propeller Manufacturing Company Inc. Models M76EMM, M76EMMS, 76EM8, and 76EM8S() metal propellers. Paragraphs (a) and (b) of this airworthiness directive (AD) do not apply to those propellers installed on the following solid crankshaft Textron Lycoming O–360 series reciprocating engines: O–360–A4A, –A4D, –A4G, –A4J, –A4K, –A4M, –A4N, –A4P, and –A5AD, or additional engines identified by suffixes having a digit "4" or higher in the second position. These propellers are installed on but not limited to the following aircraft: Piper PA–28–180, PA–28–181, American General Aircraft Holding Co. Inc. (formerly Gulfstream American) AA–5 series, Beech B23 and C23, Cessna 172Q, Avions Pierre Robin R–3000/160, and aircraft modified under various Supplemental Type Certificates (STC's).

Note: This AD applies to each propeller identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For propellers that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) to request approval from the Federal Aviation Administration (FAA). This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD.In no case does the presence of any modification, alteration, or repair remove any propeller from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously. To prevent propeller blade tip fatigue failure, which can result in loss of control of the aircraft, accomplish the following:

(a) Commencing with the next flight after the effective date of this AD, do not operate the engine in continuous operation between 2,150 and 2,350 RPM.

(b) Within the next 25 hours time in service (TIS) after the effective date of this AD, mark engine tachometer with a red arc from 2150 RPM to 2350 RPM.

(c) For propellers with 500 or more total hours TIS, or unknown TIS on the effective date of this AD, inspect and rework, within the next 50 hours TIS after the effective date of this AD, in accordance with Sensenich Propeller SB No. R–14A, dated July 28, 1995. Remove from service those propellers that do not meet the inspection and rework requirements of Sensenich Propeller SB No. R–14A, dated July 28, 1995.

(d) For propellers with less than 500 total hours TIS on the effective date of this AD, inspect, and rework or replace, as necessary, prior to accumulating 550 total hours TIS, in accordance with Sensenich Propeller SB No. R–14A, dated July 28, 1995. Remove from service those propellers that do not meet the inspection and rework requirements of Sensenich Propeller SB No. R–14A, dated July 28, 1995.

(e) Mark with a suffix letter "K" propellers that have been inspected and, reworked in accordance with Sensenich Propeller SB No. R–14A, dated July 28, 1995, and found satisfactory.

(f) An alternative method of compliance or adjustment of the initial compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, New York Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York Aircraft Certification Office.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(h) The actions required by this AD shall be done in accordance with the following Sensenich Propeller SB's:

Document No.	Pages	Revision	Date
No. R–13	A7	Original	April 11, 1969.
Total pages: 1			
No. R–14A	1	Original	July 28, 1995.
Total pages: 1.			

This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Sensenich Propeller Manufacturing Company Inc., 519 Airport Road, Lititz, PA 17543; telephone (717) 569–0435, fax (717) 560- 3725. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on June 13, 1996.

Issued in Burlington, Massachusetts, on April 22, 1996.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–11257 Filed 5–8–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 981

[Docket No. 951213299–5096–02]

RIN: 0648–AI42

Ocean Thermal Energy Conversion Licensing Program

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Final rule; removal.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is removing Part 981 from Title 15 of the Code of Federal Regulations (Part 981). Part 981 implements the Ocean Thermal Energy Conversion (OTEC) Licensing Program, which was established under the Ocean Thermal Energy Conversion Act of 1980, as amended, (OTEC Act), 42 U.S.C. 9101 *et seq.* No applications under Part 981 for licenses of commercial OTEC facilities or plantships have yet been received by NOAA, and there has been a low level of NOAA activity under the OTEC Act. During this 15 year period of time, the availability and relatively low price of fossil fuels, coupled with the risks to potential investors, has limited the interest in the commercial development of OTEC projects. Removal of Part 981 at this time will allow NOAA to evaluate the appropriateness of these, or any other, regulations at such time as interest in the commercial development of OTEC projects occurs.

EFFECTIVE DATE: June 10, 1996.

ADDRESSES: Karl Jugel, Chief, Ocean Minerals and Energy Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1305 East-West Highway, 11th Floor, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: James Lawless, Deputy Director, Office of Ocean and Coastal Resource Management, at (301) 713–3155.

SUPPLEMENTARY INFORMATION:

I. Regulatory Review

The National Oceanic and Atmospheric Administration (NOAA) is removing Part 981 of 15 CFR, pursuant to the Regulatory Reform Initiative of President Clinton and the Ocean Thermal Energy Conversion Act of 1980, as amended.

In March 1995, President Clinton issued a directive to federal agencies regarding their responsibilities under his Regulatory Reform Initiative. This initiative is part of the National Performance Review and calls for immediate, comprehensive regulatory reform. The President directed all agencies to undertake, as part of this initiative, an exhaustive review of all their regulations—with an emphasis on eliminating or modifying those that are obsolete or otherwise in need of reform.

The Ocean Thermal Energy Conversion Act of 1980, as amended, (OTEC Act), 42 U.S.C. 9101 *et seq.*, also requires that NOAA periodically review the regulations that apply to the licensing of OTEC facilities and plantships. The fundamental purpose of the review is to determine if the regulations themselves impose an adverse impact on the development and commercialization of OTEC technology.

On January 30, 1996, NOAA published a notice in the **Federal Register** in which it proposed removing Part 981 and requested all interested persons to comment on the proposal (61 FR 2969–2971). Comments were in particular invited on whether the OTEC regulations, or their removal at this time, impose an adverse impact on the development and commercialization of OTEC technology. NOAA received no comments on its proposed removal of Part 981.

II. Ocean Thermal Energy Conversion Licensing Program

The OTEC Act established a licensing and permitting system for the development of OTEC as a commercial energy technology. Part 981 implements the OTEC Licensing Program. The proposed rule preceding this rulemaking summarizes the development of Part 981 (61 FR 2969–2971). No applications under Part 981 for licenses of commercial OTEC facilities or plantships have yet been

received by NOAA, and there has been a low level of NOAA activity under the OTEC Act. During this 15 year period of time, the availability and relatively low price of fossil fuels, coupled with the risks to potential investors, has limited the interest in the commercial development of OTEC projects.

NOAA is authorized, consistent with the purposes and provisions of the OTEC Act, to amend or rescind the OTEC regulations. In particular, section 117 of the OTEC Act requires NOAA to review the regulations on a periodic basis. NOAA is authorized and directed to revise the regulation as necessary and appropriate to ensure that the regulations do not impede the development, evolution, and commercialization of OTEC technology.

Given that a commercial OTEC industry has yet to develop, Part 981 remains unused for the most part. Removal of Part 981 at this time is consistent with the purposes and provisions of the OTEC Act in that it will allow NOAA to evaluate the suitability of these regulations at such time as interest in the commercial development of OTEC projects occurs. At such time, NOAA will issue a proposed rule appropriate to the then current regulatory needs. Potential Licensees will therefore be assured that any future OTEC regulations will be up to date, and will continue to provide innovation and flexibility necessary for an emerging OTEC industry.

NOAA is mindful of its responsibility for licensing of commercial OTEC facilities and plantships under the OTEC Act, however, and will take appropriate steps to review and process an application should one be made. For particular inquiries into the licensing of OTEC projects in the interim period, NOAA will provide copies of the provisions of these OTEC regulations in response to such inquiries. Thus, NOAA will provide actual and timely notice of applicable procedures and requirements to particular individuals. *See* 5 U.S.C. 552(a). Accordingly, NOAA is removing Part 981, the OTEC regulations, from Title 15 of the CFR.

III. Miscellaneous Rulemaking Requirements

Executive Order 12612: Federalism Assessment

NOAA has concluded that this regulatory action does not have federalism implications sufficient to warrant the preparation of a Federalism Assessment under Executive Order 12612.

Executive Order 12866: Regulatory Planning and Review

This regulatory action is not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act

No licenses have been issued for OTEC projects under 15 CFR Part 981. When commercial interest in OTEC projects occurs, NOAA will issue a proposed rule appropriate to the regulatory needs at that time. For particular inquiries into the licensing of OTEC projects in the interim period, NOAA will provide actual and timely notice of applicable procedures and requirements to particular individuals. *See* 5 U.S.C. 552(a). For these reasons, the removal of Part 981 is not expected to have a significant economic impact on a substantial number of small entities, and the Assistant General Counsel for Legislation and Regulation of the Department of Commerce has so certified to the Chief Counsel for Advocacy of the Small Business Administration. As such, a Regulatory Flexibility Analysis was not prepared.

Paperwork Reduction Act

This regulatory action does not contain an information collection requirement subject to review and approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3500 *et seq.*

National Environmental Policy Act

NOAA has concluded that this regulatory action does not constitute a major federal action significantly affecting the quality of the human environment. No applications for licenses of commercial OTEC facilities or plantships have yet been received by NOAA, and Part 981 remains unused for the most part. When commercial interest in OTEC projects occurs, NOAA will issue a proposed rule appropriate to the regulatory needs at that time. For particular inquiries into the licensing of OTEC projects in the interim period, NOAA will provide actual and timely notice of applicable procedures to particular individuals. *See* 5 U.S.C. 552(a). Therefore, and environmental impact statement is not required.

Authority: Ocean Thermal Energy Conversion Act of 1980, as amended, 42 U.S.C. 9101 *et seq.*

List of Subjects in 15 CFR Part 981

Administrative practice and procedures, Energy, Environmental protection, Intergovernmental relations, Marine resources, Penalties, Reporting and recordkeeping requirements.

Dated: May 2, 1996.

David Evans,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, Chapter IX of Title 15 of the Code of Federal Regulations is amended as follows:

PART 981—OCEAN THERMAL ENERGY CONVERSION LICENSING PROGRAM—[REMOVED]

1. Under the authority of the Ocean Thermal Energy Conversion Act of 1980, Part 981 is removed.

[FR Doc. 96–11464 Filed 5–8–96; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 94P–0216]

Food Labeling: Nutrient Content Claim for "Extra"; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of March 22, 1996 (61 FR 11730). The document authorizes the use, on food labels and in food labeling, of the term "extra" as a synonym for the term "added." The document was published with some errors. This document corrects those errors.

EFFECTIVE DATE: March 22, 1996.

FOR FURTHER INFORMATION CONTACT: Joyce J. Saltsman, Center for Food Safety and Applied Nutrition (HFS–165), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5916.

In FR Doc. 96–6942, appearing on page 11730 in the **Federal Register** of Friday, March 22, 1996, the following corrections are made:

1. On page 11730, in the third column, in the first full paragraph, in the first line, the date "March 21, 1995" is corrected to read "March 21, 1994".

2. On page 11731, in the first column, under section "V. Public Comment", in the second paragraph, the fifth line, the first word, "proposal", is corrected to read "final rule."

Dated: May 1, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–11516 Filed 5–8–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Parts 510 and 522

Animal Drugs, Feeds, and Related Products; Medetomidine Hydrochloride Injection; Change of Sponsor Name

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Orion Corp. ORION–FARMOS. The NADA provides for the use of medetomidine hydrochloride injection in dogs for its sedative and analgesic properties. The regulations are also amended to reflect a change of sponsor name.

EFFECTIVE DATE: May 9, 1996.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1616.

SUPPLEMENTARY INFORMATION: Orion Corp. ORION–FARMOS, (formerly Orion Corp. FARMOS), P.O. Box 425, SF–20101 Turku, Finland, filed NADA 140–999, which provides for intravenous or intramuscular use of Domitor® (medetomidine hydrochloride) injection as a sedative and analgesic in dogs over 12 weeks of age to facilitate clinical examinations, clinical procedures, minor surgical procedures not requiring muscle relaxation, and minor dental procedures not requiring intubation. The drug product is available by prescription. The application is approved as of March 19, 1996, and the regulations are amended in part 522 (21 CFR part 522) by adding new § 522.1335 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

Additionally, the firm has informed FDA that it has changed its corporate name from Orion Corp. FARMOS to Orion Corp. ORION–FARMOS. Accordingly, the agency is also amending 21 CFR 510.600(c)(1) and (c)(2) to reflect the change of sponsor name.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(i)), this approval qualifies for 5 years of marketing exclusivity beginning March 19, 1996, because no active ingredient (including any ester or salt of the active ingredient) of the drug has been approved in any other application under section 512(b)(1) of the act.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the sponsor name "Orion Corp. FARMOS, Research and Development, Pharmaceuticals," and by adding in its place "Orion Corp. ORION–FARMOS", and in the table in paragraph (c)(2) in the entry for "052483" by removing the sponsor name "Orion Corp. FARMOS, Research and Development, Pharmaceuticals," and adding in its place "Orion Corp. ORION–FARMOS".

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

4. New § 522.1335 is added to read as follows:

§ 522.1335 Medetomidine hydrochloride injection.

(a) *Specifications.* Each milliliter of sterile aqueous solution contains 1.0 milligram of medetomidine hydrochloride.

(b) *Sponsor.* See 052483 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* 750 micrograms intravenously (IV) or 1,000 micrograms intramuscularly per square meter of body surface. The IV route is more efficacious for dental care.

(2) *Indications for use.* As a sedative and analgesic in dogs over 12 weeks of age to facilitate clinical examinations, clinical procedures, minor surgical procedures not requiring muscle relaxation, and minor dental procedures not requiring intubation. The intravenous route of administration is more efficacious for dental care.

(3) *Limitations.* Do not use in dogs with cardiac disease, respiratory disorders, liver or kidney diseases, dogs in shock, dogs which are severly debilitated, or dogs which are stressed due to extreme heat, cold, or fatigue. Allow agitated dogs to rest quietly before administration. Do not repeat dosing in dogs not responding satisfactorily to treatment. Do not use in breeding or pregnant animals. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: April 15, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96–11511 Filed 5–8–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 558

New Animal Drugs For Use In Animal Feeds; Halofuginone Hydrobromide, Bacitracin Methylene Disalicylate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Hoechst-Roussel Agri-Vet Co. The NADA provides for using approved single ingredient Type A medicated articles to make Type C medicated turkey feeds containing halofuginone hydrobromide and bacitracin methylene disalicylate.

EFFECTIVE DATE: May 9, 1996

FOR FURTHER INFORMATION CONTACT: James F. McCormack, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1607.

SUPPLEMENTARY INFORMATION: Hoechst-Roussel Agri-Vet Co., Route 202–206, P.O. Box 2500, Somerville, NJ 08876–1258, has filed NADA 140–919, which provides for use of approved Stenorol® (2.72 grams of halofuginone hydrobromide per pound of Type A article) and approved BMD® (30, 50, or 60 grams of bacitracin methylene disalicylate per pound) to make Type C medicated turkey feeds containing 1.36 to 2.72 grams per ton (g/t) halofuginone hydrobromide and 10 to 50 g/t bacitracin methylene disalicylate, for prevention of coccidiosis in growing turkeys caused by *Eimeria adenoeides, E. meleagrimitis,* and *E. gallopavonis,* and for increased rate of weight gain.

The NADA 140–919 is approved as of May 9, 1996, and the regulations are amended in § 558.265(c)(2)(ii) (21 CFR 558.265(c)(2)(ii)) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

This approval is for use of single ingredient Type A medicated articles to make Type C medicated feeds. Halofuginone hydrobromide is a Category II drug which, as provided in § 558.4, requires an approved form FDA 1900 for making a Type C medicated feed. Therefore, use of halofuginone hydrobromide and bacitracin methylene disalicylate Type A medicated articles to make a combination drug Type C medicated feed as provided in NADA 140–919 requires an approved form FDA 1900.

The agency has determined under 21 CFR 25.24(d)(1)(ii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval for use in food-producing animals qualifies for 3 years of marketing exclusivity beginning May 9, 1996, because the application contains reports of new clinical or field investigations (other than bioequivalence or residue studies) essential to the approval and conducted or sponsored by the applicant.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.265 is amended by adding new paragraph (c)(2)(ii) to read as follows:

§ 558.265 Halofuginone hydrobromide.

* * * * *

(c) * * *

(2) * * *

(ii) *Amount per ton.* Halofuginone hydrobromide 1.36 to 2.72 grams plus bacitracin methylene disalicylate 10 to 50 grams.

(A) *Indications for use.* For prevention of coccidiosis caused by *Eimeria adenoeides, E. meleagrimitis,* and *E. gallopavonis,* and for increased rate of weight gain in growing turkeys.

(B) *Limitations.* Feed continuously as sole ration. Withdraw 7 days before slaughter. Do not feed to laying chickens or water fowl. Keep out of lakes, ponds, and streams. Halofuginone is toxic to fish and aquatic life. Halofuginone is an irritant to eyes and skin. Avoid contact with skin, eyes, or clothing.

Dated: April 26, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96–11514 Filed 5–8–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 24

[T.D. ATF–371; RE: Notice Nos. 800 and 805]

RIN: 1512–AB26

Materials and Processes Authorized for the Production of Wine and for the Treatment of Juice, Wine and Distilling Material (93F–059P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule (Treasury decision).

SUMMARY: This final rule amends the wine regulations in 27 CFR Part 24 to add or modify the use of 3 wine treating processes and to add the use of 1 new wine treating material. The use of these new or modified wine treating processes and materials has been found to be acceptable in "good commercial practice" in the production, cellar treatment, and finishing of wine, pursuant to the provisions of Section 5382 of the Internal Revenue Code of 1986, since their use will not alter vinous character or pose any health, safety, or consumer deception problems.

EFFECTIVE DATE: July 8, 1996.

FOR FURTHER INFORMATION CONTACT: Robert White, Coordinator, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226 (202–927–8230).

SUPPLEMENTARY INFORMATION:

Background

Several members of the wine industry petitioned ATF for approval of the use of 3 wine treating processes and 1 wine treating material in the production, cellar treatment, and/or finishing of wine. Only one of the processes, the spinning cone column, is new and would be used to reduce the ethyl alcohol content of wine or to remove off flavors in wine. The other two processes are not new but either would be used in combination or would be used for a different purpose or at a different limitation than previously authorized. The processes to be used in combination are reverse osmosis and ion exchange and would be used to remove excess volatile acidity from wine. The process which would be used at a different limitation is ultrafiltration. And finally, the new wine treating material, urease enzyme, would be used to reduce urea in wine, thereby reducing the possibility of ethyl carbamate formation during wine storage.

Notice No. 800

On September 30, 1994, ATF published a notice of proposed rulemaking (Notice No. 800) in the **Federal Register** requesting that all interested parties submit written comments by November 29, 1994. Nine comments were received including 2 comments which requested an extension of the comment deadline. Due to the requests for an extension of the comment period, ATF published a reopening notice (Notice No. 805) in the **Federal Register** on January 18, 1995, which reopened the comment period for 60 days ending on March 20, 1995. Three comments were received in response to the reopening notice making a total of 12 comments received in response to the 2 wine treating notices.

Summary of Comments

Six of the commenters stated that they fully support the use of the spinning cone column to reduce the ethyl alcohol content of wine or to remove off flavors from wine. One of the six commenters, Mr. Vincent Indelicato of Delicato Vineyards, also asked that the spirits derived from the spinning cone column process, if at a minimum proof of 100 or above, be approved for wine spirits additions without any restrictions. Mr. Indelicato also asked that spinning cone column de-essenced juice be allowed in all standard winemaking including the fermenting of this de-essenced juice into standard wine. Five of the six commenters who addressed the use of the spinning cone column also stated that they support the additional requests made by Mr. Indelicato.

One of the six commenters mentioned above, Mr. Robert G. Kalik of the American Vintners Association (AVA), also stated that the AVA fully supports the 3 new or modified wine treating processes and the 1 new wine treating material proposed in Notice No. 800.

Another commenter, Mr. Clark Smith and Mr. Rick Jones of Vinovation, Inc., submitted a joint comment stating that Vinovation fully supports the use of reverse osmosis and ion exchange in combination in a closed system to remove excess volatile acidity from wine. They also state in a separate comment that it is their understanding that use of the spinning cone column to remove volatile acidity from wine is not very practical since such removal of volatile acidity would result in an equal proportion of ethanol being removed from the wine.

Two additional commenters in the wine industry state that they fully support the use of reverse osmosis along with ion exchange to remove excess volatile acidity in wine. Both state that wine which has undergone this treatment to remove excess volatile acidity has been greatly improved in quality. Both commenters believe that adoption of this wine treating process will represent a real benefit to the wine industry as well as to the consumer.

Two commenters to Notice No. 800 asked for an extension of the comment period to give them more time to analyze the wine treating proposals and to prepare a response. One of these commenters represents the Delegation of the European Commission (EC) and the other represents the French government.

The final comment was from the Delegation of the European Commission in response to Notice No. 805 which reopened the comment period for 60 days. This commenter states that the comment represents the views of the European Community. The commenter states that the European Community is concerned at the possibility of introduction into regular winemaking of the wine treating processes and materials mentioned in the notice of proposed rulemaking and considers that their utilization could be problematic for such wines imported into the European Union. The commenter also states that approval of such processes and materials could complicate the ongoing negotiations for an EC/US wine agreement.

The commenter states that the European Community would like to draw attention to the fact that the processes and materials described in the notice are not currently authorized by Council Regulation (EEC) No. 822/87, particularly Title II, which lays down European Community rules governing oenological practices and processes, and Annex VI, which lists the practices and processes authorized for wines marketed in the European Union; nor are these processes and materials included in the Annex to Council Regulation (EEC) No. 1873/84, which details the oenological practices authorized for wine imported into the European Union from the United States.

Moreover, the commenter states that the new materials and processes described in the notice are not included in the International Code of Oenological Practices of the International Vine and Wine Office (OIV) which is approved by the governments of the member countries of the OIV. The commenter states that except for the use of urease, these practices have not yet even been the subject of preliminary discussions nor have they been communicated to this international forum.

In conclusion, this commenter states that the European Community would suggest that utilization of the materials and processes proposed in Notice No. 800 would best be considered within the bilateral framework of the ongoing negotiations for an EC/US wine agreement and within the multilateral framework of the OIV. Consequently, this commenter states that the European Commission urges that the U.S. authorities take no action on approving these materials and processes until such consultations with the EC and OIV have taken place.

ATF Decision

After careful consideration of the comments, ATF has decided to approve the 3 wine treating processes and 1 wine treating material proposed in Notice No. 800. These 3 wine treating processes and 1 wine treating material have the support of the U.S. wine industry and have been determined to be in accordance with good commercial practice. Use of these 3 processes and 1 material will be a significant benefit to consumers and to the wine industry by enabling industry members to exercise additional quality control in the production of their wines.

ATF acknowledges that the European Community has not currently approved the use of these 3 wine treating processes and 1 wine treating material in their wines. However, we have decided to go ahead and approve these processes and materials for use by U.S. wine producers because, after careful review, we have concluded that their use complies with the statutory standard of good commercial practice.

ATF does not believe that it should prevent the use of new wine treating processes and materials that have been found to be beneficial to industry members and consumers alike, since it has determined that the wine treatments do not alter vinous character or pose any health, safety, or consumer deception problems. In addition, we feel that the ongoing wine negotiations with the European Community do not foreclose or restrict our domestic rulemaking decisions implementing statutory standards under U.S. laws.

In regard to the requests to use spirits derived from the spinning cone column process for wine spirits additions and the use of de-essenced juice derived from the spinning cone column process

in all standard winemaking, we have determined that we need more time to thoroughly analyze these requests and will address these issues at a later time.

Wine Treating Processes

Spinning Cone Column

The spinning cone column (SCC) is a gas-liquid contacting device which can process a wide range of products including slurries with very high solids contents. It is a multi-stage mass transfer device consisting of a series of alternating stationary and rotary truncated cones. During its operation the product is fed at the top of the column and then flows down the upper surface of the stationary cones under the influence of gravity and moves across the upper surface of the rotating cones in a thin film due to the applied centrifugal force. The stripping gas enters the bottom of the column and flows counter current to the liquid phase in the spaces between the fixed and rotating cones.

The SCC is used in the production of low alcohol wine, as well as to remove off flavors in wine (e.g. volatile acidity, ethyl acetate, hydrogen sulfide, etc.). In the production of low alcohol wine, the feed wine is initially run through the SCC to recover the volatile wine flavor essence. In the second stage of processing, the flavor essence reduced wine is run through the SCC to reduce the alcohol in the wine to the desired level. The essence, which has previously been removed, is then added back to the alcohol reduced wine to produce a low alcohol wine which retains its original flavor. The alcohol which has been removed from the wine can then either be used in accordance with law and regulations or be destroyed.

Treatment of wine utilizing the SCC to remove off flavors, or to reduce the alcohol content of the wine, may not alter the vinous character of the wine. Otherwise, the wine will no longer be considered standard wine.

Since the separation of alcohol from a fermented substance is considered to be a distilling process, the SCC operations cannot be conducted at winery premises but must instead take place at distilled spirits plant premises.

The SCC operations must be conducted in accordance with the following conditions:

1. The SCC removal of any alcohol from the wine will be done on DSP premises.

2. Records will be maintained for each lot of wine put through the SCC and the fractions derived from such wine showing the date, quantity, and disposition of each fraction.

3. In the production of reduced alcohol standard wines using the SCC, the same amount of essence will be added back to any lot of wine as was originally removed.

4. The destruction of any alcohol or other fractions derived from the SCC process must be in accordance with the provisions of 27 CFR 19.691.

Reverse Osmosis and Ion Exchange

In this process, reverse osmosis and ion exchange are used in combination to remove volatile acidity (VA) from bulk wine. The process combines two technologies already widely in use in the wine industry.

The process involves utilizing reverse osmosis to separate wine into various components and then using ion exchange to remove VA. The wine components, minus the VA, are then recombined in-line to form the original wine minus the VA. The whole process takes place in a closed system.

Regulations at 27 CFR 24.248 were previously broad enough to allow ion exchange to be used to remove volatile acidity from wine or from various components of wine. However, those regulations did not authorize reverse osmosis to be used for anything other than to reduce the ethyl alcohol content of wine. This regulation change will allow reverse osmosis to also be used to remove off flavors in wine which will enable it to be used as part of an overall process in a closed system to remove VA from wine.

Normally, reverse osmosis must be done on distilled spirits plant premises because it is considered a distilling process resulting in a distilled spirits by-product. However, in this case, the various components of wine will only be created temporarily in a closed system and will be immediately recombined in-line to reconstitute the original wine minus VA. Consequently, ATF has concluded that this type of reverse osmosis may be conducted on bonded winery premises since no separate distilled spirits product is created as a final product or by-product.

Accumulation of ethyl alcohol outside the closed system is not allowed. Any accumulation of an ethanol solution on winery premises may subject the proprietor to the distilled spirits tax of $13.50 per proof gallon imposed by Section 5001 of the Internal Revenue Code.

The footnote concerning processes which must be done on distilled spirits plant premises, located at the end of 27 CFR 24.248, has been revised to state that under certain limited conditions, reverse osmosis may be used on bonded winery premises if ethyl alcohol is only temporarily created within a closed system.

Ultrafiltration

Previous regulations at 27 CFR 24.248 allowed ultrafiltration to be used for various filtration purposes as long as the following conditions were met:

(a) Permeable membranes are used which are selective for molecules greater than 500 and less than 25,000 molecular weight with transmembrane pressures which do not exceed 100 pounds per square inch (psi).

(b) Use shall not alter vinous character.

This final rule amends the regulations to allow greater transmembrane pressures to be used and still be considered ultrafiltration. The revised regulations allow less than 200 psi in lieu of the current 100 psi. This more liberal pressure limitation will provide for greater throughput with no change in the vinous character of the finished wine. Without this increase in throughput, the process is not economically viable for many industry members since they can achieve the same result with other methods at a much lower cost.

The less than 200 psi pressure limitation was chosen as the upper limit in order to maintain a clear distinction between ultrafiltration and reverse osmosis in terms of pressure. The two processes are also differentiated by the fact that the membranes specified for reverse osmosis have a much smaller pore size than those used in ultrafiltration.

New Wine Treating Material

Urease Enzyme

The use of urease enzyme derived from *Lactobacillus fermentum* has been found to reduce levels of naturally occurring urea in wine thereby helping to prevent the formation of ethyl carbamate during storage.

The enzyme is derived from the nonpathogenic, nontoxicogenic bacterium *Lactobacillus fermentum*. It contains the enzyme urease (CAS Reg. No. 9002–13–5) which facilitates the hydrolysis of urea to ammonia and carbon dioxide. It is produced by a pure culture fermentation process and by using materials that are generally recognized as safe (GRAS) or are food additives that have been approved for this use by the Food and Drug Administration (FDA).

Urease enzyme from *Lactobacillus fermentum* was approved for use in wine by FDA on December 21, 1992, effective January 21, 1993. The FDA regulation cite is 21 CFR 184.1924, Urease Enzyme Derived From *Lactobacillus Fermentum*.

The enzyme is standardized with glucose syrup solids and the urease activity is adjusted to 3.5 units/mg. Urease enzyme meets the general and additional requirements for enzyme preparations in the "Food Chemicals Codex," 3rd edition (1981). In addition, the urease enzyme is used in food at levels not to exceed current good manufacturing practice as defined in 21 CFR 184.1924.

The composition of the urease enzyme preparation is as follows:

Killed whole cells of *Lactobacillus fermentum*	20–35%
Glucose Syrup Solids	65–80%

Due to the low usage level (10–200 ppm) and objective of usage, addition of glucose syrup solids in this case is not considered "sweetening" of the beverage, which is prohibited in the State of California for table wine.

The use of urease enzyme derived from *Lactobacillus fermentum* is economically self-limiting due to the high cost of the material. FDA, in their approval, did not set a specific numerical limit but rather limited its use to "good commercial practice."

Due to the recommendations from industry and from the ATF laboratory, we have established an upper limit for the use of urease enzyme in wine of 200 mg/L, provided that the enzyme is filtered prior to final packaging of the wine, as a "good commercial practice."

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation is liberalizing in nature and will allow winemakers more flexibility when producing their wines with no negative impact on small entities. Accordingly, a regulatory flexibility analysis is not required because this final rule is not expected: (1) To have secondary, or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Executive Order 12866

It has been determined that this regulation is not a significant regulatory action as defined by Executive Order 12866. Accordingly this final rule is not subject to the analysis required by this Executive Order.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information: The principal author of this document is Robert L. White, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. ATF Wine Technical Advisor Richard M. Gahagan has provided significant technical assistance in the evaluation and review of data pertinent to the preparation of this document.

List of Subjects in 27 CFR Part 24

Administrative practice and procedure, Authority delegations, Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Transportation, Warehouses, Wine and vinegar.

Authority and Issuance

27 CFR Part 24—Wine is amended as follows:

PART 24—WINE

Par. 1. The authority citation for Part 24 continues to read as follows:

Authority: 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111–5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356–5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2. Section 24.246 is amended in the table in Paragraph (b) revising the entry for enzymatic activity, and by adding the new entry, "Urease", immediately after and directly under Protease (Trypsin), to read as follows:

§ 24.246 Materials authorized for treatment of wine and juice.

* * * * *

(b) * * *

Materials and use	Reference or limitation
Enzymatic activity: Various uses as shown below	The enzyme preparation used shall be prepared from nontoxic and nonpathogenic microorganisms in accordance with good manufacturing practice and be approved for use in food by either FDA regulation or by FDA advisory opinion.
Urease: To reduce levels of naturally occurring urea in wine to help prevent the formation of ethyl carbamate.	The urease enzyme activity shall be derived from *Lactobacillus fermentum* per 21 CFR 184.1924. Use is limited to not more than 200 mg/L and must be filtered prior to final packaging of the wine.

PAR. 3. Section 24.248 is amended in the table by revising the entries for "Reverse osmosis" and "Ultrafiltration", by adding the entry for "Spinning cone column", and by revising the footnote at the end of the section to read as follows:

§ 24.248 Processes authorized for the treatment of wine, juice, and distilling material.

* * * * *

Processes	Use	Reference or limitation
.	.	.
Reverse osmosis [1]	To reduce the ethyl alcohol content of wine and to remove off flavors in wine,.	Permeable membranes which are selective for molecules not greater than 500 molecular weight with transmembrane pressures of 200 psi and greater. The addition of water other than that originally present prior to processing will render standard wine "other than standard." Use shall not alter vinous character.
Spinning cone column [1]	To reduce the ethyl alcohol content of wine and to remove off flavors in wine,.	Use shall not alter vinous character. For standard wine, the same amount of essense must be added back to any lot of wine as was originally removed.
.	.	.
Ultrafiltration	To remove proteinaceous material from wine; to reduce harsh tannic material from white wine produced from white skinned grapes; to remove pink color from blanc de noir wine; to separate red wine into low color and high color wine fractions for blending purposes.	Permeable membranes which are selective for molecules greater than 500 and less than 25,000 molecular weight with transmembrane pressures less than 200 psi. Use shall not alter vinous character. 21 CFR 175.300; 177.1520, 177.1550, 177.1630, 177.2440, 177.2600, and 177.2910.

[1] This process must be done on distilled spirits plant premises. However, reverse osmosis, under certain limited conditions, may be used on bonded winery premises if ethyl alcohol is only temporarily created within a closed system.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5381, 5382, 5385, 5386, and 5387)).

Signed: March 11, 1996.

Bradley A. Buckles,

Acting Director.

Approved: April 1, 1996.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 96–11611 Filed 5–8–96; 8:45 am]

BILLING CODE 4810–31–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL–5502–4]

Standards of Performance for New Stationary Sources; Supplemental Delegation of Authority to Mississippi

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: On March 7, 1996, the state of Mississippi, through the Department of Environmental Quality, requested that EPA delegate authority for implementation and enforcement of eight (8) ammended categories of the New Source Performance Standards (NSPS). Since EPA's review of Mississippi's pertinent laws, rules, and regulations showed them to be adequate and effective procedures for the implementation and enforcement of these Federal standards, EPA has made the delegation as requested.

EFFECTIVE DATE: The effective date of the delegation of authority is April 15, 1996.

ADDRESSES: Copies of the request for delegation of authority and EPA's letter of delegation are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 4, Air Programs Branch, 345 Courtland Street, Atlanta, Georgia 30365

Mississippi Department of Environmental Quality, Bureau of Pollution Control, Air Quality Division, P.O. Box 10385, Jackson, Mississippi 39289–0385.

Effective immediately, all requests, applications, reports and other correspondence required pursuant to the newly delegated standards should not be submitted to the Region 4 office, but should instead be submitted to the following address: Office of Pollution Control, Mississippi Department of Environmental Quality, P.O. Box 10385, Jackson, Mississippi 39289–0385.

FOR FURTHER INFORMATION CONTACT: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, United States Environmental Protection Agency, Region 4, 345 Courtland Street N.E., Atlanta, Georgia 30365, (404) 347–3555, x4216.

SUPPLEMENTARY INFORMATION: Section 301, in conjunction with Sections 110 and 111(c)(1) of the Clean Air Act as amended November 15, 1990, authorizes EPA to delegate authority to implement and enforce the standards set out in 40 CFR Part 60, (NSPS).

On November 10, 1981, EPA initially delegated the authority for implementation and enforcement of the NSPS programs to the state of Mississippi. On March 7, 1996, Mississippi requested a delegation of authority for implementation and enforcement of the following NSPS categories found in 40 CFR Part 60.

1. Subpart A—General Provisions Except § 60.8(b) (1) Thru (5); § 60.11(e) (7) and (8); § 60.13(g) (i) and (j)(2)

2. Subpart Cb—Municipal Waste Combustors Constructed On or before December 19, 1995

3. Subpart Cd—Sulfuric Acid Production Units

4. Subpart Ea—Municipal Waste Combustors Constructed After December 20, 1989 and On or Before September 20, 1994

5. Subpart Eb—Municipal Waste Combustors For Which Construction is Commenced After September 20, 1994

6. Subpart NNN—Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations

7. Subpart RRR—Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Process

8. Appendix A—Test Methods

After a thorough review of the request, the Regional Administrator determined that such a delegation was appropriate for this source category with the conditions set forth in the original delegation letter of November 30, 1981. Mississippi sources subject to the requirements of this subpart will now be under the jurisdiction of Mississippi.

Since review of the pertinent Mississippi laws, rules, and regulations showed them to be adequate for the implementation and enforcement of the aforementioned category of NSPS, the EPA hereby notifies the public that it has delegated the authority for the source category listed above on October 30, 1995. The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Authority: This notice is issued under the authority of sections 101, 111, and 301 of the Clean Air Act, as Amended (42 U.S.C. 7401, 7411, and 7601).

Dated: April 24, 1996.

A. Stanley Meiburg,

Acting Regional Administrator.

[FR Doc. 96–11478 Filed 5–8–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

46 CFR Parts 403 and 404

[OST Docket No. 50248]

RIN 2105–AC21

Great Lakes Pilotage Rate Methodology

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Department of Transportation (the Department) is responding to comments to a final rule published April 11, 1995, establishing new procedures and methodology for determining Great Lakes pilotage rates and making corresponding changes to the financial reporting requirements required of Great Lakes pilot associations. Based on these comments, the Department has made minor changes to the rule. This final rule does not change the existing Great Lakes pilotage rates and charges.

EFFECTIVE DATE: This rule is effective on June 10, 1996.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Docket Clerk, OST Docket No. 50248, U.S. Department of Transportation, 400 7th St. SW., room PL–401, Washington, DC 20590 from 9 a.m. to 5:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Scott A. Poyer, Project Manager, St. Lawrence Seaway Development Corporation, 400 Seventh St. SW, Room 5421, Washington, DC 20590, 1–800–785–2779, or Steven B. Farbman, Office of the Assistant General Counsel for Regulation and Enforcement, 400 7th St. SW., room 10424, Washington, DC 20590, (202) 366–9306.

SUPPLEMENTARY INFORMATION:

Regulatory History

On December 7, 1988, the Department of Transportation published the Great Lakes Pilotage Study Final Report (1988 DOT Pilotage Study). The study revealed weaknesses in accounting for the expenses incurred by the pilot associations and the need to formally establish the factors used in establishing pilotage rates. On April 25, 1990, the Coast Guard published a final rule (55 FR 17580) establishing improved audit requirements and general guidelines and procedures to be followed in ratemaking (CGD 92–072).

In May 1990, the Inspector General (IG) for the Department of Transportation initiated an audit of Coast Guard oversight of Great Lakes pilotage. The final report of the audit (Audit of the U.S. Coast Guard's Oversight and Management of the Great Lakes Pilotage Program), detailing further issues affecting the basis for Great Lakes pilotage rates, was issued on December 14, 1990.

On August 2, 1991, a DOT Task Force was formed to: (1) Develop an interim rate adjustment; and (2) establish a new pilotage ratemaking methodology. On June 5, 1992, an interim rate increase was published (CGD 89–104). The DOT Task Force then developed a new pilotage ratemaking methodology, which the Coast Guard published in a notice of proposed rulemaking (NPRM) (59 FR 17303) dated April 12, 1994.

THE NPRM proposed to amend the Great Lakes pilotage regulations by establishing new procedures for determining Great Lakes pilotage rates and revising the financial reporting requirements mandated for Great Lakes pilot associations (CGD 92–072). The NPRM also announced a public hearing which was held in Cleveland, OH on May 20, 1994. The comment period for the NPRM ended on July 11, 1994.

In response to the NPRM and the public hearing, the Coast Guard received 31 comments and two requests for additional public meetings to explain the proposals contained in the NPRM. In the **Federal Register** (59 FR 18774) on April 20, 1994, the Coast Guard announced that it would conduct two public meetings. The first public meeting was held in Chicago, IL on May 3, 1994. The second public meeting was held in Massena, NY on May 5, 1994.

The Coast Guard also received one request to extend the comment period for the NPRM. Because the comment period for the NPRM was 90 days, the Coast Guard and the Department determined that there was sufficient time to submit comments. Therefore, the comment period was not extended.

On April 11, 1995, the Department published a final rule with request for comments (60 FR 18366) (1995 final rule) establishing improved procedures for determining Great Lakes pilotage rates, and revised financial reporting requirements mandated for Great Lakes pilot associations. The comment period ended on May 11, 1995. Although the Coast Guard issued the NPRM under authority delegated to the Commandant by the Secretary, the Secretary issued the 1995 final rule. On December 11, 1995, the Secretary transferred authority to administer the Great Lakes Pilotage Act of 1960 (Public Law 86–555, 46 U.S.C. 9301 *et seq.*) (the Act) to the Administrator of the SLSDC. Nevertheless, the Secretary is issuing this final rule. Under 49 CFR 1.43(a), the Secretary may exercise powers and duties delegated or assigned to officials other than the Secretary.

Several commenters requested that the comment period for the rulemaking be extended. Because all late-filed comments were considered, and because this rulemaking has already been the subject of extensive public comment, the Department determined that there was sufficient time to submit comments regarding this 1995 final rule. Therefore, the comment period was not extended.

Background and Purpose

Under the Act, vessels of the United States operating on register and foreign vessels must engage a U.S. or Canadian registered pilot when traversing the waters of the Great Lakes. The Act vests the Secretary of Transportation with responsibility for setting pilotage rates. Section 9303(f) of the Act provides that the Secretary shall prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.

Currently, the navigable waters of the great Lakes are divided into eight pilotage areas. United States registered pilots, along with their Canadian counterparts, provide pilotage services in areas 1, 2, 4, 5, 6, 7, and 8. Pilotage area 3 (the Welland Canal) is currently a wholly-Canadian area where only Canadian pilots provide services. Pilotage areas 2, 4, 6, and 8 are

"undesignated waters." Pilotage areas 1, 5, and 7 are "designated waters." Pilots are required to direct the navigation of vessels in designated waters. Pilots are required to be on board and available to direct the navigation of vessels in undesignated waters. The seven U.S. pilotage areas are grouped together into three pilotage districts. District 1 consists of areas 1 and 2. District 2 consists of areas 4 and 5. District 3 consists of areas 6, 7, and 8. Each district has its own pilot association.

Section 9305 of the Act provides that the Secretary of Transportation, subject to the concurrence of the Secretary of State, may make arrangements with the appropriate agency of Canada to prescribe joint or identical rates and charges. The latest Memorandum of Arrangements between the United States and Canada, dated January 18, 1977, specifies that the Secretary of Transportation of the United States of America and the Minister of Transport of Canada will establish regulations imposing identical rates. A copy of this Memorandum of Arrangements is available in the docket and may also be obtained by writing to Scott A. Poyer, at the address listed under **FOR FURTHER INFORMATION CONTACT**, above. In the past, consultations between the United States and Canada resulted in nominally identical U.S. and Canadian rates.

However, there are differences in the cost bases and in the operating organizations of the U.S. and Canadian pilots, particularly with regard to pilot compensation. These differences need to be takes into account in reaching identical U.S. and Canadian rates. As a result, the ratemaking methodology contained in this final rule would not translate directly into new rates, but rather would form the basis for proposals to be negotiated with Canada.

Discussion of Comments and Changes

The Department received nine comments and thirteen endorsements of one of the nine comments. Comments came from one Great Lakes pilot association, three Great Lakes Registered Pilots, one professional association representing pilots, one professional association representing vessel operators and steamship agents on the Great Lakes, one labor organization, one professional auditor, and the comptroller of one Great Lakes pilot association with thirteen endorsements by individual members of that association. Some of the comments addressed issues that were not the subject of the 1995 final rule. The Department is responding only to those comments relating to this rulemaking.

Three comments were generally supportive of the 1995 final rule and characterized it as an improvement over the NPRM, but with some areas that still need improvement. These comments were made by one pilot group, one professional organization representing pilots, and one labor organization. Six comments objected to the 1995 final rule because it was considered to be confusing, not viable, or not in concurrence with the DOT IG's intentions. These comments were made by one professional organization representing vessel agents, one professional auditor, three Great Lakes Registered pilots, and one comptroller of a Great Lakes pilot association with thirteen endorsements. The Department believes most of the methodology presented in the 1995 final rule represents a workable compromise between the disparate interests involved. Therefore, the ratemaking methodology presented in the 1995 final rule is substantially retained in this final rule.

Four commenters objected to what they perceived as the 1995 final rule's "elimination of annual audits." The two types of audits discussed in the Great Lakes pilotage regulations (i.e., audits by pilot associations, and audits by the Director) are discussed in 46 CFR §§ 403.300(b) and 404.1(b). Commenters believed that the amended wording of these sections eliminated a requirement that pilot associations and/or the Director conduct annual audits of the pilot associations. Commenters believed the elimination of these annual audit requirements would weaken financial oversight of pilot associations and encourage spending abuse.

In fact, the 1995 final rule did not eliminate annual audits. Pilot associations were still required to obtain an annual audit by an independent certified public accountant.

However, the Department agrees that the wording of the audit requirements was not as clear as it could have been. To make this requirement more clear, the language of section 403.300(b) has been amended to reinforce the requirement that pilot associations be audited by an independent CPA every year, and to require that the audit results be forwarded to the Director every year. Section 404.1(b) has been amended to reinforce the requirement that the Director review the annual association audits every year, and conduct a thorough audit of pilot association expenses at a minimum of once every five years.

One commenter stated that certification of financial reports by an association officer, as required by 46 CFR § 403.300(a)(3), is redundant and "prejudicial" to the association's regular financial reporting. The Department does not understand how certification of financial documents could in any way be "prejudicial," and the commenter did not elaborate on this point. The Department agrees that there is a certain amount of redundancy in requiring an association officer such as a Treasurer, to review the work of a bookkeeper or accountant who prepares the financial reports. However, this redundancy is standard procedure in most well-managed businesses, and is an important safeguard against waste, fraud, and abuse. For these reasons, section 403.300(a)(3) is retained.

One commenter objected to section 404.5(a)(2) which requires the Director to determine the reasonableness of pilot association expenses by comparing them to comparable expenses paid by others in the maritime industry: The commenter believes that there are no industries on the Great Lakes comparable to Great Lakes pilotage, as pilotage is "vastly different" from other industries. The department disagrees. The commenter did not elaborate on how pilotage was different from all other industries. Pilots operate in the same marketplace as other maritime industries on the Great Lakes, and incur many of the same types of expenses. The Department does not believe there is any basis for the claim that pilotage expenses cannot be compared with anything else; therefore section 404.5(a)(2) is retained.

One commenter stated that the provisions of 46 CFR § 404.5(a)(5) are unclear, inappropriate, and unfair. This section requires that profits, but not losses, from non-pilotage transactions be included in ratemaking calculations. The Department designed this section as a disincentive to pilot association speculation in non-pilotage related businesses, since the Department does not consider these types of transactions to be in the public interest. As such, section 404.5(a)(5) accomplishes its intended objective, and is therefore retained.

One commenter objected to 46 CFR § 404.5(a)(8)(ii), which provides that lobbying expenses will not be allowed for ratemaking purposes. The Department has no objection to pilot associations who wish to expend money for lobbying purposes. However, it does not seem reasonable to make others, i.e., those members of the public who pay pilotage rates, pay for these expenses. Therefore, section 404.5(a)(8)(ii) is retained.

Four sets of comments from pilots and their representatives questioned the methods used to compute pilot compensation targets and pilot work hour targets, which are used to set the number of pilots for ratemaking purposes. These methods are contained in Step 2 of Appendix A to Part 404, and section 404.5(a). This section continues the Department policy of maintaining income comparability between Great Lakes Registered Pilots, and masters/chief mates on Great Lakes vessels, and the Department's pilot work hour targets of 1000 hours in designated waters and 1800 hours in undesignated waters. These policies were established as a result of the 1988 DOT Pilotage Study, which examined many alternatives and selected the master/chief mate targets and the work hour targets. Commenters believed pilots should earn more than masters/chief mates, and/or pilots should work fewer hours. Commenters proposed several alternatives including income comparability with State pilots, and inclusion of travel time in the calculation of pilot work hours. After considering all the alternatives, the Department is keeping this section of the final rule unchanged. This is fully consistent with the recommendation in the 1988 DOT Pilotage Study, which states, "The study team believes that pilot compensation should be tied to the local economy. The use of local masters and mates pay scales has the important impact of tying pilot compensation to the regional industry pay levels. Salaries of pilots, like those of teachers, physicians, lawyers, and other professionals, are tied to the fluctuations of supply and demand for their services in their particular locality. In this fashion, Great Lakes pilots share in the fortunes of the Great Lakes." Commenters offered no new information that alters this assessment. Therefore Step 2 of Appendix A to Part 404, and section 404.5(a) are retained.

One commenter objected to the Return on Investment (ROI) provisions detailed in Step 5 of Appendix A to Part 404. The commenter believed a ROI is not applicable or feasible for Great Lakes pilot associations because: (a) Pilot associations have no inventory, or investment in inventory, and accounts receivable are systematically collected within a 12 month period; (b) the value of fixed assets on the organizations' balance sheets is immaterial and all equipment is leased from related parties; (c) there is no stockholder's equity in two associations and in the third association it is not owned by all the pilots; and (d) the ROI would not have a significant impact on pilotage rates. As stated by the Department in the 1995 final rule, a return element is an important component of cost-based rate methodologies. Rates that have been set without a return element have been vulnerable to legal challenge and do not meet the goals of the investigations and audits that underlie this rulemaking. Also, in order to negotiate with the Canadians we must have rates that can withstand scrutiny as to their conformity to sound ratemaking principles. The Department believes it is only fair to allow pilots a return on the capital they invest. If, as the commenter asserts, it is true that pilot associations have little or no capital investments, then it is true that the return on these investments will be small. However, this does not invalidate the principle that pilots should receive a return on the capital they invest. Whether their capital be small or large, individuals who invest in a business have a right to expect a return on that capital. Therefore the ROI provisions of section 404.5(a)(4), step 5 of appendix A, and the formulas contained in appendix B are retained.

Two commenters believe the 1995 final rule should address the business structure of pilot associations. Currently two pilot associations are structured as partnerships and one pilot association is structured as a corporation. One commenter believes that the rule should better equalize for the differences in association structure. The other commenter recommends that the 1995 final rule require all associations to adopt the same business structure. At the present time, it is Department policy that each pilot association should be permitted to adopt the business structure that best suits its needs, and it is incumbent on each association to live with the costs and benefits inherent in its choice. This policy allows pilots the freedom to run their own businesses to the maximum extent practicable, with no discernably negative consequences for the public. The Department is not aware of any abuses of this policy at the present time. However, if it becomes necessary to reverse this policy, this matter would be the subject of a future rulemaking, subject to public input and comment.

One commenter recommends that the Great Lakes pilotage ratemaking methodology should be clear and easy to implement, and any future changes to the methodology should be made with the participation of the pilot associations and a committee of independent and professional individuals. The Department agrees. The Department has endeavored to make the ratemaking methodology contained in this rule as clear and easy as practical. In that regard, three commenters agree that the methodology contained in the 1995 final rule is an improvement over the methodology proposed in the NPRM. Any changes to the Great Lakes pilotage ratemaking methodology that may be the subject of future rulemakings will involve input and comments from the pilot associations and other members of the public.

Four commenters believe the 1995 final rule granted the Director of Great Lakes Pilotage too much authority and would allow the Director to micro-manage activities of the pilot associations of which the Director is not sufficiently knowledgeable. The Department disagrees. The incumbent Director of Great Lakes Pilotage is extremely knowledgeable of pilotage and other maritime activities. He has been involved in the performance of Great Lakes Pilotage Act functions for approximately 11 years. He is a licensed merchant mariner, and the former Head of the Navigation Department at the Maritime Institute of Technology and Graduate Studies, the advanced training facility of the International Organization of Masters, Mates and Pilots. Moreover, every previous Director of Great Lakes Pilotage has had an extensive maritime background, as well as experience in dealing with merchant mariners and pilots. The position description for the Director of Great Lakes Pilotage position requires a substantial maritime background. In addition, the remaining pilotage staff have extensive maritime backgrounds and their positions require maritime, economic, and ratesetting knowledge and experience. Therefore, the sections of the 1995 final rule related to the Director's authority and discretion are retained.

Two commenters believe the U.S. Government should cease oversight of Great Lakes Pilotage, including the ratemaking and financial oversight regulations contained in this rulemaking. The Department is making no changes pursuant to this comment. As stated earlier, the Act requires the Secretary to prescribe by regulation rates and charges for pilotage services.

Executive Order 12866

This rule is a significant regulatory action under section 3(f) of Executive Order 12866 and has been reviewed by the Office of Management and Budget under that order. It is significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979) because rulemaking affecting the setting of pilotage rates has been controversial and of significant interest to the public.

The Department expects the economic impact of this rule to be minimal. This rule does not represent a significant departure from the current ratemaking process, and there are no expected increases in costs. Therefore, a full regulatory evaluation is not necessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Department must consider whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). One commenter believes that this rule will have a significant economic impact on a substantial number of small entities. However, the commenter did not elaborate on why this impact would occur. Since this rule is not a major change from past rulemaking practices, and only three pilot associations with a total of approximately 40 members will be directly affected by this rule, this final rule should have little or no impact on small entities that pay pilotage rates or that receive income from pilotage rates. Because it expects the impact of this proposal to be minimal, the Department certifies under 5 U.S.C. 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains collection-of-information requirements. The Department has submitted the requirements to the Office of Management and Budget (OMB) for review under section 3504(h) of the paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and OMB has approved them. The part numbers are parts 401 and 403 and the corresponding OMB approval number is OMB Control Number 2115–0616.

Federalism

The Department has analyzed this final rule under the principles and criteria contained in Executive Order 12612, and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. State action addressing pilotage regulation is preempted by 46 U.S.C. 9306, which provides that a State or political subdivision of a State may not regulate or impose any requirement on pilotage on the Great Lakes.

Environment

The Department considered the environmental impact of this final rule and concluded that this rule is categorically excluded from further environmental documentation under section 2.B.2 of Commandant Instruction M16475.1B. The rule is procedural in nature because it deals exclusively with ratemaking and accounting procedures. Therefore, this is included in the categorical exclusion in subsection 2.B.2.1,—Administrative actions or procedural regulations and policies which clearly do not have any environmental impact. A Categorical Exclusion Determination has been placed in the docket.

List of Subjects in 46 CFR Parts 403 and 404

Administrative practice and procedure, Great Lakes, Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen.

For reasons set out in the preamble, the Department proposes to amend Parts 403 and 404 of Title 46 of the Code of Federal Regulations as follows:

PART 403—[AMENDED]

1. The authority citation for part 403 continues to read as follows:

Authority: 46 U.S.C. 8105, 9303, 9304; 49 CFR 1.46.

2. Section 403.300(b) is revised to read as follows:

§ 403.300 Financial reporting requirements.

* * * * *

(b) Required Reports:

(1) By April 1 of each year, each Association shall obtain an annual unqualified long form audit report for the preceding year, audited and prepared in accordance with generally accepted auditing standards by an independent certified public accountant.

(2) Each Association shall forward their annual unqualified long form audit report, and any associated settlement statements, to the Director no later than April 7 of each year.

PART 404—[AMENDED]

3. Section 404.1(b) is revised to read as follows:

Authority: 46 U.S.C. 8105, 9303, 9304, 49 CFR 1.46.

§ 404.1 General ratemaking provisions.

* * * * *

(b) Great Lakes pilotage rates shall be reviewed annually in accordance with the procedures detailed in Appendix C to this part. The Director shall review Association audit reports annually and, at a minimum, the Director shall complete a thorough audit of pilot association expenses and establish pilotage rates in accordance with the procedures detailed in § 404.10 of this part at least once every five years. An interested party or parties may also petition the Director for a review at any time. The petition must present a reasonable basis for concluding that a review may be warranted. If the Director determines, from the information contained in the petition, that the existing rates may no longer be reasonable, a full review of the pilotage rates will be conducted. If the full review shows that pilotage rates are within a reasonable range of their target, no adjustment to the rates will be initiated.

Issued at Washington, DC this 2nd day of May, 1996.

Federico Peña,

Secretary of Transportation.

[FR Doc. 96–11499 Filed 5–8–96; 8:45 am]

BILLING CODE 4910–62–P

Research and Special Programs Administration

49 CFR Parts 107, 171, 173 and 178

[Docket No. HM–207C, Amdt. Nos. 107–38, 171–141, 173–249, and 178–113]

RIN 2137–AC63

Exemption, Approval, Registration and Reporting Procedures; Miscellaneous Provisions

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: In this final rule, RSPA revises procedures for applying for exemptions and establishes procedures for applying for approvals, and registering and filing reports with RSPA. In addition, RSPA amends certain provisions, mostly procedural, in the Hazardous Materials Regulations. This rulemaking action is intended to expedite processing of applications and to promote clarity and program consistency. It is part of the President's Regulatory Reinvention Initiative to revise all agency regulations that are in need of reform.

DATES: *Effective date:* The effective date of these amendments is October 1, 1996.

Compliance date: Voluntary compliance with the regulations, as amended herein, is authorized as of July 12, 1996.

FOR FURTHER INFORMATION CONTACT: Kathleen Stokes Molinar, Office of the Chief Counsel, (202) 366–4400, or Diane LaValle, Office of Hazardous Materials Standards, (800) 467–4922, RSPA, Department of Transportation, 400 7th Street, SW, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal hazardous material transportation law (Federal hazmat law; 49 U.S.C. 5101–5127) directs the Secretary of Transportation to prescribe regulations for the safe transportation of hazardous materials in commerce. RSPA is the agency within the Department of Transportation primarily responsible for implementing the Federal hazmat law. RSPA does so through the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180). Under 49 U.S.C. 5117(a), RSPA is authorized to issue an exemption from specific requirements of the Federal hazmat law or the HMR if an applicant demonstrates that public safety will not be compromised. The procedures governing application for an exemption and the manner in which the application is processed are found at 49 CFR part 107, subpart B.

In numerous instances, the HMR require approval by, or registration with, RSPA before a person may engage in particular hazmat transportation-related activities in areas such as manufacturing and certifying hazardous material packagings, offering hazardous materials for transportation, and transporting hazardous materials. The HMR also impose reporting requirements on persons engaging in certain hazardous materials transportation activities. A significant portion of the regulated community is subject to one or more of these requirements. Procedures to be followed in seeking an approval from RSPA, registering with RSPA, or reporting to RSPA are often found in the HMR provision establishing the particular requirement, but in many cases these procedures are absent or incomplete.

This final rule revises procedures for exemptions in subpart B of part 107 and establishes procedures for approvals, registrations and reports in subpart H of part 107. Establishment of formal procedures for approval, registration, and reporting activities provides uniform and consistent guidance to all those who may be subject to these requirements in the HMR, and fosters consistency in RSPA's handling of these matters. Additionally, this final rule minimizes RSPA's need to seek additional information from applicants in order to complete the processing of these matters.

The procedures adopted in this final rule for approvals, registrations, and reports are limited in their application. Other Federal agencies (e.g., the United States Coast Guard (USCG) and the Federal Railroad Administration (FRA)) issue approvals or receive registrations or reports under the HMR. For example, under § 176.415, persons are required to obtain approvals from the USCG before loading or unloading certain explosives onto or from vessels. The procedures established in this rule apply only with respect to those matters under the HMR that are handled by RSPA. Those matters for which the HMR assign responsibility to other entities will continue to be handled according to the procedures of those entities.

II. Regulatory Reinvention Initiative

In a March 4, 1995 memorandum, the President directed Federal agencies to review all agency regulations and eliminate or revise those that are outdated or in need of reform. On April 4, 1995 (60 FR 17049), and July 28, 1995 (60 FR 38888), RSPA issued notices requesting comments on regulatory reform and announcing several public meetings nationwide to identify obsolete and burdensome regulations that can be eliminated from the HMR and techniques to improve RSPA's customer services. Some of the commenters responding to those notices and participating in the public meetings identified the exemption and approval procedures as areas in need of clarification and reform. This rule is consistent with the goals of the President to clarify and revise Federal agency regulations to relieve unnecessary regulatory burdens and to clarify regulatory requirements.

III. Summary of Comments and Regulatory Changes

On September 14, 1995, RSPA published a notice of proposed rulemaking (NPRM) under Docket HM–207C (60 FR 47723). In the NPRM, RSPA proposed to revise the exemption procedures of subpart B of part 107 and adopt new procedures in subpart H of part 107 for approvals, registration, and reporting information to RSPA.

RSPA received 16 comments to the NPRM from offerors and carriers of hazardous materials, chemical and packaging manufacturers, consulting firms, and the United States Department of Energy. Commenters were generally supportive of RSPA's effort to revise and clarify the procedures for exemptions and establish procedures for approvals, registration, and reporting. The comments and RSPA's response to them are discussed below.

Part 107

Subpart A—General Provisions

§ 107.3 Definitions.

Commenters requested clarification of the difference between approvals and exemptions and, further, requested that RSPA explain the difference between an approval and a competent authority approval. An approval is a written authorization to take some action delineated in a particular regulation (e.g., § 173.21) in the HMR and is specifically authorized in that regulation. Approvals generally are limited in scope, such as in § 178.604(b)(2) that authorizes an applicant to apply for an approval to deviate from the number of samples used in conducting a leakproofness test. Because issuance of all approvals is specifically recognized in the HMR and almost all approval documents can be made available for public review, applications are not published in the Federal Register.

Sections 171.11 and 171.12 authorize compliance with international standards (i.e., the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions) and the International Maritime Dangerous Goods Code (IMDG Code)) as an alternative to compliance with certain provisions of the HMR. For certain types of activities, both the ICAO Technical Instructions and the IMDG Code have provisions which require that the activity be approved by the competent authority of the country of origin. The Associate Administrator for Hazardous Materials Safety (Associate Administrator), RSPA, is the competent authority for the United States of America (see the definition of "competent authority" in 49 CFR § 171.8).

A competent authority approval means an approval by the competent authority which is required under the provisions of international regulations, such as the ICAO Technical Instructions or the IMDG Code. To the extent that it satisfies the requirement of the international regulations, any of the following may serve as a competent authority approval: a specific regulation of subchapter A or C, an exemption or approval issued under the provisions of subchapter A or C, or a separate document issued to one or more persons by the Associate Administrator. In other words, if an activity is authorized for international transport under the HMR,

then the HMR serves as the competent authority approval. An exemption or approval may serve as a competent authority approval provided the exemption or approval does not prohibit any international transport. To facilitate international commerce, for a function that relates only to a requirement of an international standard, and not to the HMR, the Associate Administrator may issue a competent authority approval as a separate document that is not related to either an approval or an exemption under the HMR.

An exemption allows an applicant to perform a function which is *not* authorized under the HMR and which, in fact, would be a violation of the HMR in the absence of the exemption. An exemption may involve an authorization to engage in a function for which there is no provision in the regulations. A "manufacturing exemption" is an exemption issued to a manufacturer of packagings who does not offer for transportation or transport hazardous materials in packagings subject to the exemption.

The process of applying for an exemption, as provided by the Federal hazardous materials transportation law (49 USC 5117), requires that the applicant provide documentation demonstrating that the proposed process or activity will meet a level of safety at least equivalent to that provided by the HMR or, if the regulations do not contain a specified level of safety, will be consistent with the public interest. Notice of most exemption applications is published in the **Federal Register** for public comment prior to their being granted or denied.

For clarity, RSPA is adopting definitions in § 107.3 for "approval," "competent authority approval," "exemption," and "manufacturing exemption" to differentiate between approvals and exemptions and clarify the types of exemptions and approvals that are issued.

One commenter requested that the proposed term "accident" be replaced with "incident" to avoid confusion. The commenter stated that the word "incident" is currently used in the HMR and has the same connotation as the proposed definition of accident. The commenter also stated that other modal agencies within DOT use the term "accident" to mean a collision between moving vehicles (*e.g.*, the FHWA expressly defines "accident" as a motor vehicle collision). RSPA agrees and is adopting the term "incident" to refer to an event resulting in the unintended or unanticipated release of hazardous material or an event which meets incident reporting requirements in 171.15 or 171.16.

Another commenter suggested that RSPA define the term "registration" to describe what the term includes, rather than what it does not include. The commenter recommended that the wording "'registration' does not include registration under Subpart F or G of this part" be removed. RSPA agrees that providing examples of the types of registration covered under this definition is beneficial and is adding several examples. RSPA has not granted the commenter's request to delete the language referencing specific registration requirements that are not included in the definition. RSPA believes that this exclusionary language provides as much guidance as a description of what types of "registration" are included in the definition.

No comments were received concerning other proposed definitions, and those definitions are adopted as proposed.

Subpart B—Exemptions

§ 107.101 Purpose and scope. One commenter requested that all exemptions be described as "competent authority approvals" to provide for greater acceptance outside the United States since competent authority approvals are accepted internationally. An exemption concerns a variance from the HMR and not the international regulations. As previously indicated, an exemption may be used as competent authority approval to the extent that it is suitable for international transport and satisfies the approval requirement of the applicable international regulation. However, a number of exemptions, such as those applicable to transportation by motor vehicle only, are not applicable under international regulations. Therefore, RSPA is not adopting the commenter's suggestion.

Another commenter suggested that RSPA adopt only two procedures: one for approvals and exemptions, and the other for registrations and reports. The commenter contended that the requirements, procedures, and justifications related to exemptions and approvals are sufficiently different that users of the regulations are better served by RSPA providing separate, self-contained provisions for exemptions and approvals. This commenter added that since applicants are not always sure whether to submit an application requesting an exemption, approval or registration, RSPA should be responsible for determining the appropriate action since the data required for each is the same. RSPA is not adopting the commenter's suggestion that RSPA determine the appropriate action for submitted applications because it is the applicant's responsibility to make this determination and the requirements are different. By defining the terms "exemption," "approval," and "registration," as well as clarifying the procedures for obtaining each, RSPA is assisting applicants in determining the appropriate action.

One commenter stated that the exemption procedures do not provide for carrier exemptions. The commenter requested that more general procedures be adopted for carrier exemptions because the application information differs from that required for shippers and packaging manufacturers. For consistency, RSPA utilizes the same exemption application procedure for all applicants (*e.g.*, packaging manufacturers, shippers, and carriers). In this final rule, RSPA is clarifying the types of information required of an exemption applicant (see preamble discussion under § 107.105). Additionally, RSPA is including language in the rule under the "emergency processing" provisions of § 107.117 which should assist carriers by directing an applicant to seek an emergency exemption through the modal office for the proposed initial mode of transportation.

One commenter strongly recommended that RSPA incorporate more exemptions into the HMR to allow industry more flexibility and reduce the number of exemptions. The commenter requested that RSPA explain the standards which it utilizes to determine which exemptions are incorporated into the HMR. The commenter stated that "making this information [the standards which RSPA utilizes] public would provide a clearer picture of the need for a more flexible regulatory scheme and give a benchmark on which to assess efforts to incorporate existing exemptions."

Although RSPA has no formal set of standards for selecting exemptions to be converted to regulations of general applicability, RSPA periodically reviews existing exemptions to prioritize them as to their suitability for conversion to regulations. Whether a specific exemption is a candidate for regulatory action depends on any number of factors, such as the expressed interest of the exemption holder or others, the suitability of the exemption for conversion, rulemaking activity in related areas, agency priorities, and whether the process, packaging or activity authorized by the exemption has provided a clearly demonstrated level of safety equivalent to that which is provided by the HMR.

Another commenter recommended that RSPA automatically incorporate exemptions into the HMR after the second renewal of the exemption. RSPA agrees that if an exemption of general applicability demonstrates a level of safety equivalent to the HMR, the provisions of the exemption ultimately may be suitable for incorporation into the HMR. However, RSPA is not adopting the commenter's recommendation. As previously discussed, a number of factors influence whether an exemption is proposed for conversion to a regulation.

§ 107.105 Application for exemption. Commenters supported RSPA's proposal to require that applicants submit exemption applications in duplicate, rather than triplicate. Commenters stated that this amendment would reduce the burden on applicants, and RSPA is adopting the requirement as proposed.

One commenter requested that applicants be required to submit the application information in numerical order consistent with the application procedures so that RSPA can quickly determine if any information is missing. While RSPA encourages applicants to follow the format utilized in the rule when submitting application materials, RSPA believes that its personnel can expeditiously determine the completeness of an application. Further, RSPA does not want to place another requirement on applicants; therefore, RSPA recommends but is not mandating use of this commenter's suggestion.

Another commenter suggested that proposed § 107.105 (a)(2) and (a)(4) be combined. Proposed paragraph (a)(2) requires that an applicant who is not an individual (i.e., the applicant is a corporation, partnership, or the like) designate an agent pursuant to the laws of the United States. Proposed paragraph (a)(4), however, requires a foreign applicant to designate an agent within the United States. This paragraph applies to both individuals and legal entities. To avoid confusion between an agent for a U.S. applicant that is not an individual and an agent for a foreign applicant, RSPA is keeping the two requirements as separate paragraphs (a)(2) and (a)(3), respectively, in this final rule.

One commenter suggested that RSPA require applicants to provide a Material Safety Data Sheet (MSDS) or emergency response information for hazardous materials in an application to confirm that this information is consistent with the Emergency Response Guidebook. RSPA agrees that an MSDS may contain useful information, such as hazard properties of a commodity, for inclusion in an application and this information may be needed to justify an application. RSPA believes that an MSDS is not necessary in most instances and did not propose to require MSDS' or emergency response information with exemption applications. Therefore, RSPA is not adopting the commenter's suggestion.

Several commenters expressed concern regarding what they perceive as the increased quantity and detail of information required to be included in an exemption application. Some commenters stated that supplying this information would place an undue burden on applicants and make it more difficult or even impossible to obtain an exemption or approval. Without providing any supporting statistics or financial data, one commenter stated that trying to meet some of these requirements could substantially increase the paperwork burdens for both the applicant and RSPA, and the U.S. Department of Energy (DOE) stated that the new requirements would impose severe economic impacts on applicants who use contractors because the contractors would have to perform extensive analyses and compilation of information to satisfy the new requirements.

RSPA believes that the administrative burden on applicants remains unchanged under proposed § 107.105 and under the provisions adopted in this final rule. The information and analyses set forth in this final rule for exemption applications are essentially what is required under the Federal hazmat law and what RSPA historically has requested, often during the processing of the exemption. By clearly specifying this information in the regulations, RSPA hopes to minimize delays in application processing and requests for extra submissions from applicants occasioned by RSPA's having to obtain additional information from exemption applicants at a later time. Additionally, the commenters who raised these "increased burden" arguments have not submitted supporting documentation demonstrating that exemption applicants' paperwork or economic burdens will be increased by this regulatory change. Finally, RSPA notes that an applicant is not required to submit information which is inapplicable to the exemption request or which is impracticable for the applicant to obtain. Therefore, RSPA does not believe that paperwork and economic burdens upon an exemption applicant will increase, and is adopting the regulatory change essentially as proposed.

Several commenters requested that RSPA clarify certain information required in the proposed application procedures. Specifically, one commenter recommended that RSPA consolidate and clarify the information required in proposed paragraphs (a)(14) through (a)(18). Another commenter requested clarification of what is meant in proposed § 107.105(a)(16) by "any increased risk to safety or property that may result if the exemption is granted." The commenter stated that RSPA needs to specify the extent of analysis an applicant is required to provide in the application. Another commenter requested that RSPA add language in proposed paragraphs (a)(16) and (a)(18) that applicants provide risks that "are known or could reasonably have been expected to be known" to clarify that a "full-blown" risk assessment is not intended by RSPA. Another commenter added that it is unclear whether an applicant is required to include the information in proposed paragraph (a)(18). The commenter requested that RSPA add some examples to clarify when the provision is required.)

The Federal hazmat law requires each person seeking an exemption to provide a safety analysis that justifies the exemption (49 U.S.C. 5117(b)). The information required under § 107.105 is intended to elicit the information and analyses necessary to demonstrate that the requested exemption provides an equivalent level of safety to that afforded by the HMR or, if the HMR do not establish a level of safety, is consistent with the public interest and will adequately protect against risk to life and property.

The safety analyses required to support exemptions can vary greatly. The analyses may range from simple comparative analyses relied upon by an applicant seeking an exemption which will permit minor variations in packaging, to complex risk analyses for complex packaging systems involving new technologies or materials of construction. The risks presented by new technologies and materials are often more difficult to evaluate, and may require a more extensive safety analysis.

Successful shipping experience may be useful to support a safety analysis, but does not necessarily demonstrate that a particular package or transport practice provides a level of safety equivalent to that authorized. Successful shipping experience may only indicate that a package was not subjected to a drop, impact, or fire during transportation. A safety analysis

of a package or transport practice that includes exposure to normal and accident environments is a more valid indication of the level of safety provided by the package or transport practice, than simply looking to whether a history of incidents exists. Therefore, RSPA is requiring the applicant to describe all relevant shipping and incident experience of which the applicant is aware that relates to the application. The applicant also must specify safety control measures (e.g., use of a private carrier or additional packaging) necessary to demonstrate that the proposed package or transport practice meets a level of safety equivalent to that afforded by the HMR and is in the public interest. In response to commenters' requests, RSPA is clarifying the information specified in proposed paragraphs (a)(16) through (a)(18).

Several commenters stated that certain requested information may be unavailable to the applicant. One commenter stated that some of the requested information, such as service life and performance of an alternative packaging, constitutes reasons for the exemption—to find these answers by authorizing controlled shipments under an exemption. Commenters stated that the proposed changes facilitate the ability of the Associate Administrator to reject an application not deemed complete. One commenter stated that, if an applicant cannot identify a potential failure mode and its possibility of an occurrence, the application would be deemed incomplete and could be denied.

The proposed language of § 107.105 was intended to expedite processing of exemption applications for the benefit of persons seeking exemptions. RSPA acknowledges that not all information about a proposed alternative packaging or activity is available at the time an exemption is requested. However, an exemption is granted only when an applicant has provided sufficient information to demonstrate that the requested variation from the regulatory requirement will afford a level of safety equivalent to that which is provided by the HMR. This demonstration must include information relevant to the expected service, performance and limitations of the packaging.

Commenters also stated that certain information may not be applicable to some exemptions. For example, some commenters expressed concern that the requirement to provide detailed commodity information (proposed § 107.105(a)(12)) may not be necessary or appropriate for an exemption that authorizes manufacture of a packaging. The commenters stated that lack of this information could result in the rejection of the application. Commenters requested that § 107.105 be modified to indicate that such detailed information must be included in an application only when appropriate based on the nature of the exemption being sought. In response to commenters' concerns, RSPA is requiring the applicant to provide information in the application only when it is appropriate to demonstrate that the proposal meets the statutory and regulatory standards. Therefore, this final rule indicates that an applicant need only submit information that is relevant to an application.

Other commenters expressed opposition to RSPA's proposal to extend the recommended time period for filing an exemption application from 120 days to 180 days before the requested effective date of the exemption. The commenters indicated that this extended deadline appeared to be contrary to the stated purpose of the rule—reduction of the processing time of exemption applications and renewals. Another commenter requested that RSPA also issue or deny an exemption in the same time period when a properly prepared application is submitted. RSPA's proposal was intended to parallel the Federal hazmat law requirement, 49 U.S.C. 5117, that the Secretary of Transportation issue or renew an exemption for which an application was filed, or deny such issuance or renewal, within 180 days after the first day of the month following the date of the filing of such application. RSPA understands that many parties requesting exemptions cannot anticipate their needs beyond four months. Therefore, RSPA is addressing the needs of its customers by retaining the 120-day application filing time. However, RSPA notes that 120 days is often not enough time for processing an incomplete or very complicated exemption application, and encourages parties to file an application for an exemption as early as possible.

Another commenter objected to the proposal to limit the use of manufacturing exemptions to specific plants or locations. The commenter stated that many shippers are also manufacturers and use more than one vendor to supply a packaging. The commenter requested the flexibility to use alternative suppliers of its packaging. RSPA did not propose to limit the use of manufacturing exemptions to particular plants, but to require applicants to identify the location of each facility where an exemption would be used. It was RSPA's intention to limit the application and definition of a manufacturing exemption to a manufacturer of packagings who does not offer for transportation or transport hazardous materials in the exemption packagings it produces (i.e., a business entity engaged in the manufacturing and marketing packagings for use by other entities). A person who manufacturers, marks and sells packagings under an exemption may do so at dozens of facilities without restriction; however, RSPA is retaining the requirement that applicants for manufacturing exemptions identify the location of each facility where manufacturing under an exemption will occur. The requirement does not apply to shippers who produce packagings for their own use.

Based on the foregoing, RSPA is revising the exemption application procedures essentially as proposed with modifications as described above, reformatting of the section and revising of certain provisions to make them less burdensome.

§ 107.107 Application for party status. This section is adopted essentially as proposed. Paragraph (a)(4) is revised to delete an information requirement pertaining to consent to U.S. jurisdiction. Paragraph (c) is revised to reference § 107.113 (e) and (f) for the manner by which the Associate Administrator grants or denies applications.

§ 107.109 Application for renewal. This section is adopted essentially as proposed. One commenter requested that one renewal application suffice for all parties to an exemption. A single renewal application would not provide all incident experience encountered by all parties to an exemption. Further, where there are numerous parties to an exemption and each attained party status on a different date, issuance of a blanket renewal for all parties becomes unworkable from a timing perspective. For example, persons who attained party status close to the date for the blanket renewal may find themselves immediately faced with renewal. RSPA, therefore, is not adopting this suggestion.

One commenter encouraged RSPA to extend the exemption renewal process from two years to five years to alleviate some of the administrative burdens on RSPA and the regulated industry. The commenter stated that RSPA could determine whether an exemption should continue based on any incidents that occur during the life of the exemption. Another commenter stated that an exemption period of three years may be more appropriate for the information required in the revised application procedures. Another commenter suggested that RSPA seek a legislative change that allows exemptions to remain in effect until such time as the Secretary finds that continuation is no longer in the public interest or the exemption holder withdraws the exemption. The Federal hazardous materials transportation law (49 U.S.C. 5117) currently provides that an exemption can be issued for no more than a two-year maximum period of time; therefore, RSPA lacks statutory authority to extend the two-year period. However, on March 27, 1996, a legislative proposal was sent to Congress which included a request that the two-year exemption limitation be extended to four years.

§ 107.111 Withdrawal. One commenter requested that RSPA clarify that all documents deemed confidential by the Associate Administrator in accordance with § 107.5 that are related to an active or inactive application will remain confidential. RSPA accepts the commenter's suggestion and is adding a statement in this section clarifying this point and further clarifying that the time period for which confidential treatment will be afforded comports with the guidelines of the Freedom of Information Act (5 U.S.C. 552(b)). Specifically, submissions which fall within the definition of "trade secrets" or "commercial or financial information obtained from a person and privileged or confidential" will remain confidential indefinitely, unless the party requesting the confidential treatment notifies the Associate Administrator that the confidential treatment is no longer desired.

§ 107.113 Application processing. Commenters raised concerns about the proposed language in paragraph (a) with respect to the time frame in which a determination is made concerning whether an application is complete. The commenters requested that RSPA remove the proposed wording "usually is made" and retain the current wording "will be made." One commenter stated that the requirement is reasonable since it is only a determination of the application's completeness and not a decision on its merits. RSPA agrees with the commenter and is retaining the current wording in paragraph (a) as requested.

Seven of the 15 commenters were strongly opposed to RSPA's proposal to consider the existence of pending or completed enforcement actions as a factor in determining whether an exemption applicant demonstrates fitness to conduct an activity that would be authorized under the exemption. One commenter stated that RSPA's technical experts should be able to determine the safety of the subject of a proposed exemption request without reference to enforcement actions on unrelated subjects. Another commenter stated that, historically, RSPA could deny an exemption application on any basis. The commenter stated that the proposed language could create an unnecessarily adversarial situation. One commenter stated that it objected to consideration of pending or completed enforcement actions as "*prima facie* evidence of an applicant's capability or integrity." The commenter stated that, in cases where assessed penalties were low, respondents in enforcement actions may have adopted a "no contest" posture in an enforcement action and paid a penalty, rather than expend the time and money necessary to litigate an action. If enforcement history is used against these respondents, the commenter said that a business decision to not contest the action would have more severe consequences than successful resistance to an enforcement action by a more litigious respondent. The commenter also stated that denial of an exemption or approval because of enforcement history would punish the violator twice for a violation. The commenter added that Congress, in developing the hazardous materials transportation legislation, had considered and rejected adoption of a licensing concept because existing enforcement powers are sufficiently strong to address violations, without denying authority to operate under an exemption or approval. The commenter concluded that the "enforcement history" provision should be very narrowly tailored: only prior violations which indicate flagrant disregard for HMR compliance should be considered. Another commenter suggested that only enforcement actions of a "significant nature" be considered evidence of insufficient competence or integrity.

In general, RSPA believes that consideration of completed enforcement actions and certain pending enforcement actions as evidence of an applicant's capability and integrity is a legitimate means of protecting the public. It is not punishment but recognition of relevant information. Enforcement actions may be indicative of an applicant's ability or willingness to comply with the applicable regulations. Because the Associate Administrator is considering whether to authorize compliance with specific alternatives to the HMR, the likelihood of an applicant's compliance with those alternatives is relevant to public safety.

One commenter suggested that RSPA revise paragraph (a)(5) to read "The application may be denied if the shipping and accident experience supplied by the applicant in accordance with § 107.105(a) which directly relates to the exemption being sought demonstrates that approval of the application poses a potential threat to life or property." Limiting consideration to only an applicant's shipping and accident experience which directly relates to the exemption sought fails to protect the public from applicants with poor compliance histories who seek exemptions to authorize new hazardous materials transportation activities.

One commenter stated that the rule is unclear as to whether violations that qualify for the ticketing program are considered "enforcement actions" under the proposed rule. The commenter recommended that RSPA not consider ticketed violations. RSPA will consider ticketed violations as part of an applicant's compliance history, using the criteria specified in § 107.331 to assess the weight to be given to the violation.

DOE requested clarification of the provision concerning consideration of past violations in determining an applicant's capability and integrity as it applies to government entities that use contractors. DOE also asked RSPA to clarify the terms "pending" and "complete" as used in the proposed regulation and the type of activity that warrants a determination of "lack of integrity."

For purposes of regulatory compliance, RSPA looks to the entity whose act or omission constitutes a violation of the HMR. In response to DOE's question regarding the status of an enforcement action as either "pending" or "complete," an enforcement case historically has been initiated by issuance of a Notice of Probable Violation (NOPV). However, RSPA recently established a pilot "ticketing" program permitting initiation of an enforcement case by issuance of a ticket. Thus, a case is "pending" from the date of issuance of either the NOPV or the ticket until a final order has been issued and the time for appeal has expired. If the order has been appealed in a timely manner, the case is "pending" until the RSPA Administrator (Administrator) issues an Action on Appeal. When an order has become final or when an order was appealed and the Administrator has issued an Action on Appeal, the enforcement action is considered to be "complete."

RSPA is adopting the proposed rule with several modifications. In making a determination to grant or deny a request for an exemption, RSPA will consider information submitted in the

application package, compliance history of the applicant, and other information available to the Associate Administrator.

Another commenter objected to the proposed language providing that an applicant who failed to respond within 30 days to a request for additional information would have his or her application deemed incomplete and denied. The commenter stated that, where reasonable and appropriate, an extension of time should be granted. RSPA understands the commenter's concern. Currently, if an applicant fails to respond to a request for additional information for good cause, RSPA grants a 30-day extension. To clarify this point, RSPA is adding a provision in this section and § 107.709 (approval application processing) that allows an applicant to submit a written request for a 30-day extension.

Finally, commenters stated that, while they favored initiating a rulemaking in addition to issuing an exemption, they did not agree with initiating a rulemaking in lieu of issuing an exemption. The commenters stated that the latter penalized an applicant because rulemaking usually has taken longer than processing of an exemption request. One of the commenters noted that, in its experience, RSPA staff faced with this situation would issue an exemption to the applicant, and concurrently initiate a rulemaking action, which could lead ultimately to issuance of a rule of general applicability.

RSPA has seldom issued a rulemaking in lieu of processing an exemption application, and RSPA does not intend to change that policy. However, RSPA believes that if the subject of an exemption application is so broad and of such general applicability that it should result in a rulemaking action, going forward with issuance of the exemption during the pendency of the rulemaking process may have the effect of prejudging the rulemaking. A large number of applications for similar exemptions or "party to" status may also adversely impact RSPA's programs. For these reasons, the Associate Administrator may either process the exemption application, use the application as a basis for rulemaking, or do both. When an applicant meets all other regulatory requirements and demonstrates a compelling necessity for an exemption, the Associate Administrator may issue an exemption.

§ 107.115 Priority processing. Some commenters supported RSPA's proposal to establish a new priority processing category for applications that do not qualify for emergency processing but merit more expeditious consideration than routine processing. One commenter stated that overall processing time should be reduced. However, other commenters expressed concern that the processing time of routine and priority exemption applications would be the same if each must undergo the same review process as proposed. Some commenters opposed a priority processing category because it would delay the preparation and processing of applications for exemptions as each applicant tried to demonstrate significant economic loss and RSPA evaluated each application.

One commenter requested that RSPA provide an indication of the time in which RSPA would respond to a priority exemption application. Another commenter requested that RSPA provide the Associate Administrator the flexibility to issue temporary exemptions to applicants who qualify for priority processing while the application is being processed to minimize financial burdens on the applicant. Commenters stated that cases that have the potential for severe economic harm are already handled by emergency processing.

Another commenter requested that RSPA clarify why current emergency processing should be replaced by two separate processing categories that appear to be more complex. The commenter noted that, in the NPRM, priority processing would be based on economic factors and emergency processing would be based on life and property criteria. The commenter stated that, in the current emergency processing procedures, RSPA considers either endangerment to life or property or serious economic loss. The commenter asked whether RSPA, by proposing two separate processing categories, is suggesting that it considers a health threat to be more important than economic loss, even if the health threat is remote and the economic loss is substantial.

One commenter objected to the proposed rule requiring non-government entities to meet higher standards than government entities to qualify for priority processing. Based on the comments, RSPA has determined that adding a priority processing category is not warranted. Therefore, the proposal is not adopted in this final rule.

§ 107.117 Emergency processing. Commenters favored the continued existence of an emergency processing category. One commenter stated that the current procedures require that "an applicant need only show that existing conditions necessitate the transportation of a hazardous material, or that the protection of life and property would not be possible if such material is not transported." The commenter objected to the proposed emergency processing procedures in that they require applicants to demonstrate that such processing is necessary to prevent "significant injury" to persons or property. The commenter requested that RSPA remove the term "significant" because it is subjective. The current procedures allow only applicants who can show that a life-threatening situation exists to qualify for emergency processing. In the proposed rule, RSPA responded to requests of applicants that a broader standard be utilized in determining that emergency processing is warranted. At the same time, RSPA proposed to include the term "significant" to set a reasonable limit on the expanded criteria, and believes that the term is necessary to ensure fairness to applicants awaiting routine processing by not allowing applicants to allege "minor" injuries or losses as the basis for emergency processing.

One commenter stated that, under the proposed rule, the Associate Administrator could deny priority or emergency processing if timely application could have been made. The commenter requested that RSPA allow an applicant to explain circumstances that may have contributed to the applicant not filing an application in a timely manner so that the applicant may still be considered for priority or emergency processing. RSPA contemplates that an applicant seeking emergency processing will provide evidence of circumstances that prevented the applicant from filing the application in a timely manner.

One commenter stated that it is unlikely that applicants who request emergency processing will be able to supply the information specified in proposed § 107.105(a)(17) for analyses, data, or test results. In response to comments to the proposed application procedures in § 107.105, RSPA is clarifying the extent to which applicants are required to supply analyses, data, or test results. See preamble discussion under § 107.105.

Another commenter stated that the "emergency processing" language appeared to apply only to "carrier" exemptions and questioned its applicability to exemptions issued to shippers. The commenter stated that the proposed rule directs carriers to send the exemption application to the office of the modal administration which has oversight responsibility for the carrier's mode of transportation (e.g., FHWA, the Federal Railroad Administration, etc.). The commenter stated that shippers often utilize more than one mode and therefore the proposed requirement that an application be sent to only one modal office requires "fine tuning." Any applicant, including a shipper, seeking an emergency exemption must submit the application to the specified modal contact official for the *initial* mode of transportation to be utilized.

Some commenters suggested that emergency exemption applications be submitted directly to RSPA, consistent with other exemption submissions, and not to the specific modal administration. An emergency exemption application is most expeditiously handled when submitted to the applicable modal administration, where an immediate analysis of the proposed transportation can be performed by personnel having expertise in the affected mode of transportation. This process will eliminate the need for RSPA to forward the exemption application to the affected mode for input, thus allowing for more expeditious application review and more timely and efficient customer service.

In this final rule the section is adopted essentially as proposed with editorial changes for clarity. Proposed paragraph (f) is deleted as unnecessary, and proposed paragraph (g) and (h) are redesignated as (f) and (g), respectively.

§ 107.121 Modification, suspension, or termination of exemption or grant of party status. One commenter expressed concern that the proposed rule would allow termination simply "for no other reason than if the Department wants it terminated regardless of the shipping and incident experience * * *." The commenter argued that: (1) This provision appears contrary to the performance-oriented packaging system; (2) this provision gives no regard to contracts for the supply of materials between shippers and consignees; (3) the exemption holder is placed at the mercy of RSPA personnel; (4) it is doubtful that the proposed rule comported with the intent of Congress; (5) the proposed rule does not comport with the preamble, which indicates that the purpose of the NPRM is to expedite processing of applications and promote program consistency; and (6) based on the foregoing, the proposed rule is "significant."

This rule clarifies standards for exemption modification, suspension, and termination and gives the Associate Administrator more flexibility to determine which of the three remedies is appropriate in a given situation. Presently, the Associate Administrator may modify or suspend an exemption if its provisions are violated or if new information suggests that the activity under the exemption creates a risk to life or property. The Associate Administrator may terminate an exemption if it is no longer consistent with the public interest, is no longer necessary due to a change in the regulations, or was granted on the basis of false or misleading information. The "public interest" criterion encompasses all grounds on which the Associate Administrator may terminate an exemption, but it is vague. Furthermore, the sharp distinction that the existing regulation draws between those conditions that justify modifying or suspending an exemption and those that justify terminating it handicap the Associate Administrator in taking the action that is most appropriate in a particular circumstance. For example, the current regulation may require the termination of an exemption when modification would suffice.

The Associate Administrator's decision to modify, suspend, or terminate an exemption must be based on the criteria specified in the proposed regulatory text (see 49 CFR 107.121 (a) and (b)).

In this final rule § 107.121 is adopted essentially as proposed. Paragraph (d) is added to specify conditions by which the Associate Administrator may declare a proposed action immediately effective.

§ 107.123 Reconsideration. One commenter suggested that RSPA clarify that applications denied pursuant to § 107.113(d) are eligible for reconsideration in accordance with this section. RSPA agrees that they are eligible for reconsideration, but sees no reason for a rule change. In the NPRM, RSPA specifically stated that applicants may request reconsideration of decisions made under §§ 107.113(g), 107.117(e), and 107.121(c). This section is adopted as proposed.

Subpart C—Preemption

One commenter suggested that "Associate Administrator for Hazardous Materials Safety" be revised to read "Associate Administrator" for consistency with other sections in part 107. RSPA agrees and, in the interest of achieving consistency, is modifying the language of subpart C as suggested in all general references to the Associate Administrator. Also, RSPA is making other minor modifications to the regulatory language of subpart C for clarity and consistency.

§ 107.205 Notice. One commenter recommended changing "may publish notice of an application" in paragraph (b), to "will publish notice of, including an opportunity to comment on, an application." RSPA agrees and is revising the paragraph to require publication of the notice in the **Federal Register**.

In paragraph (c) and in §§ 107.211(c), 107.217(c), and 107.223(c), RSPA is adding a sentence, "Late-filed comments are considered so far as practicable." This sentence reflects the manner in which RSPA has handled late-filed comments in preemption matters and is consistent with § 106.23 concerning the handling of late-filed comments in rulemaking actions. Because this change is merely a modification to a rule of agency procedure, public notice and an opportunity to comment on the change are not mandated by the Administrative Procedure Act.

§ 107.209 Determination. Commenters also favored revision of paragraph (c) to change "may publish" to "will publish". RSPA agrees and is making this change.

One commenter disagreed with the proposed deletion of paragraph (b) to eliminate the Associate Administrator's authority to issue a preemption determination on his or her own initiative. The commenter did not agree that the authority was eliminated by the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA). The commenter recommended adding language allowing the Associate Administrator to issue a preemption determination where he or she is directly affected by a requirement of a State or political subdivision or Indian tribe. RSPA disagrees. The pre-HMTUSA regulations authorized RSPA to issue inconsistency rulings, which were merely advisory in nature, on its own initiative. However, in enacting HMTUSA, Congress replaced these advisory inconsistency rulings with authorization to issue binding preemption determinations and, further, provided for issuance of preemption determinations only in response to applications by "directly affected" persons. See 49 U.S.C. 5125(d). In light of these statutory changes, RSPA believes that it is inappropriate for the Associate Administrator to initiate a preemption determination proceeding on his or her own initiative. Therefore, paragraph (b) is eliminated as proposed.

§ 107.211 Petition for reconsideration. RSPA proposed to amend this section by revising paragraph (a) to read "The petition must be filed within 20 days of publication of the determination in the **Federal Register**." A commenter expressed concern about this language in light of RSPA's proposal to make publication

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optional. As previously stated, RSPA will publish all preemption determinations and, therefore, this language will not be problematic. The proposal is adopted in this final rule.

§ 107.213 Judicial review. In the NPRM, RSPA proposed to add a new section to allow a party to a proceeding under § 107.203(a) to seek review by the appropriate district court of the United States of a decision of the Administrator by filing a petition with the court within 60 days after the Administrator's decision becomes final. One commenter recommended that references to the "Administrator" be changed to the "Associate Administrator." RSPA agrees with this suggestion and amends this section accordingly. The commenter also requested that RSPA specify when its decision on a petition for reconsideration of a preemption determination becomes final. The Associate Administrator's decision becomes final when it is published in the **Federal Register**. RSPA is amending this section to clarify this issue. In addition, RSPA is revising the wording "decision" to read "determination" to minimize confusion.

§ 107.217 Notice. One commenter suggested that the word "ruling" in paragraph (d) be changed to "outcome of a determination on the application." RSPA agrees with this suggestion, and is making the change accordingly.

§ 107.221 Determination. A commenter asked that, in paragraph (d), the word "may" be changed to "will" concerning publication of determinations in the **Federal Register**. RSPA agrees and is making this change.

§ 107.223 Petition for reconsideration. One commenter suggested that the term "order" be changed to "determination." For clarity and consistency, RSPA is making this change.

§ 107.227 Judicial review. RSPA is amending this section for consistency with § 107.213. See preamble discussion under § 107.213.

Subpart D—Enforcement

§ 107.305 Investigations. A commenter opposed the proposal to authorize RSPA inspectors to issue subpoenas for the production of documents or other tangible evidence because of the potential for abuse. RSPA is adopting the provision as proposed. RSPA inspectors are broadly empowered, through delegations of investigatory authority under the Federal hazmat law, 49 U.S.C. 5121, to collect evidence reasonably related to hazardous materials compliance inspections. Their use of a subpoena without involvement of RSPA's Office of the Chief Counsel will improve program efficiency by expediting the information-gathering process. The potential for inspectors to abuse this authority is minimal because the Director of the Office of Hazardous Materials Enforcement must approve the issuance of the subpoena and the recipient of the subpoena may seek review of the subpoena by RSPA's Office of the Chief Counsel under § 107.13(h).

For clarity, RSPA added the words 'also known as "hazmat inspectors" or "inspectors"' after the words "Hazardous Materials Enforcement Specialists." This addition was not proposed in the NPRM, but is added on RSPA's initiative to provide consistency between § 107.305(b) and subparagraphs (1), (2), and (3) which refer to "inspectors."

§ 107.315 Admission of violations. Paragraphs (c) and (d) are revised to delete the recommendation that payment of a civil penalty be documented by forwarding a photocopy of the respondent's electronic fund transfer receipt or check to the Office of the Chief Counsel. This administrative change, not in the NPRM, eliminates a potential paperwork burden on the regulated industry. Because this change is merely a modification to a rule of agency procedure, public notice and opportunity to comment on the change are not required by the Administrative Procedure Act.

§ 107.331 Assessment considerations. This section is adopted essentially as proposed, with a minor editorial revision.

Subpart H—Approvals, Registrations and Submissions.

§ 107.107 Purpose and scope. This section is adopted as proposed.

§ 107.705 Registration and reporting. One commenter recommended that RSPA develop a standard form in place of general procedures for registrations and reports. RSPA does not believe that a standard form is practical, considering the variation in information required for the numerous approvals, registrations, and reports that would have to be accommodated by a standard generic form.

Except as discussed in the following paragraph, this section is adopted as proposed.

§ 107.707 Applications. The proposed provisions for renewal of approvals state that RSPA will issue a written extension to operate under an expired approval until RSPA makes a final determination on the application. One commenter requested that the renewal procedures for approvals be consistent with renewal procedures for exemptions in that if an application is submitted at least 60 days prior to the expiration date, the expiration is automatically extended until RSPA makes a final determination on the application. RSPA agrees with the commenter, and is adopting the suggestion. Further, since the requirements for registration and reporting specified in the proposed § 107.705 and the requirements for an approval application specified in § 107.707 are essentially the same, RSPA is eliminating the separate language of § 107.707, and combining the "registration and reporting" requirements of § 107.707 with the "approval application" requirements § 107.705, in a section entitled "Registrations, reports, and applications for approval."

§ 107.709 Application processing. Commenters again expressed opposition to RSPA's proposal to permit the Associate Administrator to consider pending or completed enforcement actions in determining whether an approval application is processed or denied. This issue is discussed under § 107.113 and RSPA is modifying this section similarly.

§ 107.711 Withdrawal. With respect to documents submitted in conjunction with an exemption application which is later withdrawn, one commenter requested that RSPA clarify that all documents deemed confidential by the Associate Administrator in accordance with § 107.5 that are related to an active or inactive application will remain confidential. RSPA has agreed to do so, and is extending this confidential treatment to documents submitted in conjunction with an approval application. See preamble comments to 49 CFR § 107.111.

§ 107.713 Approval modification, suspension, or termination. One commenter raised the same concerns about the proposed procedures for modification, suspension, or termination of approvals as he raised regarding modification, suspension, or termination of exemptions. RSPA discussed these issues under § 107.121. Paragraph (d) is added to specify conditions by which the Associate Administrator may declare a proposed action immediately effective. Otherwise, the section is adopted as proposed.

§ 107.715 Reconsideration. Paragraph (b) is adopted as proposed.

§ 107.717 Appeal. Proposed paragraph (c) is not adopted for the same reasons as discussed under § 107.715 above. Otherwise, the section is adopted as proposed.

Part 171

§ 171.1 Purpose and scope. One commenter recommended that the wording "in commerce" be added following "hazardous materials" throughout this section for clarity and consistency with the Federal hazardous material transportation law. RSPA agrees and is modifying paragraph (a) accordingly.

Additionally, a new paragraph (d) is added, as proposed, to clarify that the requirements of subchapter C are applicable to the use of terms and symbols prescribed in this subchapter for marking, labeling, placarding, and describing hazardous materials and packagings used in their transport.

§ 171.2 General requirements. The modifications of paragraphs (a) through (d), and the addition of paragraph (h) are adopted essentially as proposed in the NPRM, with minor modifications to the regulatory language for accuracy and clarity. Identifications listed in paragraph (d) have been expanded to include most, if not all, of the identifications covered by the regulations.

§ 171.3 Hazardous waste. A commenter objected to RSPA's proposal to eliminate paragraph (c) of this section; the commenter opined that the paragraph implements a requirement of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6923(b), that all RCRA rules issued by the Environmental Protection Agency be consistent with the Federal hazmat law and the HMR. The commenter also stated that retention of this provision is necessary to inform states implementing RCRA of the necessity for consistency with the Federal hazmat law and the HMR. For preemption purposes, RSPA looks at hazardous waste issues together with issues covering all other hazardous materials. RCRA's directive that EPA's hazardous waste requirements be consistent with the Federal hazmat law does not mandate that RSPA establish a separate preemption provision for hazardous waste. Therefore, RSPA is deleting paragraph (c), including the note contained therein, as proposed.

§ 171.8 Definitions. RSPA is adopting a definition for "approval" and revising the definition for "person", as proposed. In addition, RSPA is adding a definition for "exemption" for clarity. Because this latter change is merely informative, public notice and opportunity to comment on the change are not required by the Administrative Procedure Act.

Part 172

§ 172.302 General marking requirements for bulk packagings. A commenter requested that RSPA authorize markings for small portable tanks and intermediate bulk containers (IBC's) to be only one inch high. The commenter suggested that, instead of incorporating the minimum height of exemption number markings into § 172.302(c), RSPA should cross-reference § 172.302(b), which requires exemption markings to be the same size as other required markings on bulk packagings and makes the marking size dependent upon the size and capacity of the packaging. The commenter also requested that width requirements for exemption markings be specified. RSPA is considering changes to the marking height and width requirements under a separate rulemaking action. Therefore, the proposed change in the NPRM and this commenter's suggested change regarding size of exemption markings are not adopted as part of this final rule.

Part 173

§ 173.22a Use of packagings authorized under exemptions. Proposed paragraph (c) is revised to refer to "offeror" rather than "shipper." Also, a sentence is added to clarify that a carrier shall maintain a copy of an exemption in the same manner as for a shipping paper.

Part 178

§ 178.3 *Marking of packagings.* Paragraph (d) is adopted as proposed.

IV. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not subject to review by the Office of Management and Budget. The rule is not significant according to the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

This final rule will not result in any additional costs to persons subject to the HMR. Therefore, preparation of a regulatory impact analysis or regulatory evaluation is not warranted.

B. Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"). The Federal hazardous materials transportation law (49 U.S.C. 5101–5127) contains an express preemption provision that preempts State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(i) the designation, description, and classification of hazardous material;

(ii) the packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(iii) the preparation, execution, and use of shipping documents pertaining to hazardous material and requirements respecting the number, content, and placement of such documents;

(iv) the written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(v) the design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous material.

Title 49 U.S.C. 5125(b)(2) provides that if DOT issues a regulation concerning any of the covered subjects after November 16, 1990, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. That effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. The effective date of Federal preemption for this final rule is October 1, 1996. Because RSPA lacks discretion in this area, preparation of a Federalism assessment is not warranted.

C. Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule amends existing requirements and adds new procedural provisions to clarify existing practice. The amendments contained in this rule do not impose any new requirements on persons subject to the HMR; thus, there are no direct or indirect adverse economic impacts for small units of government, businesses, or other organizations.

D. Paperwork Reduction Act

Information collection requirements applicable to applications for exemptions contained in this final rule are unchanged in substance and amount of burden from those currently approved by the Office of Management and Budget (OMB) under OMB control number 2137–0051. RSPA is requesting revision of the OMB approval to update section references in accordance with changes made in this final rule. Information collection requirements applicable to approvals are unchanged in substance and amount of burden from those previously approved under OMB control number 2137–0557. RSPA is requesting reinstatement and revision of this approval from OMB and will

display, through publication in the **Federal Register**, the control number when it is approved by OMB. Public comment on this request has been invited through publication of a **Federal Register** notice on March 5, 1996 (61 FR 8706). Under the Paperwork Reduction Act of 1995, no person is required to respond to a requirement for collection of information unless the requirement displays a valid OMB control number.

E. Regulation Identification Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 178

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR chapter I is amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1–2. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

3. In § 107.3, definitions are added in alphabetical order to read as follows:

§ 107.3 Definitions.

* * * * *

Acting knowingly means acting or failing to act while

(1) Having actual knowledge of the facts giving rise to the violation, or

(2) Having the knowledge that a reasonable person acting in the same circumstances and exercising due care would have had.

Administrator means the Administrator, Research and Special Programs Administration.

Applicant means the person in whose name an exemption, approval, registration, a renewed or modified exemption or approval, or party status to an exemption is requested to be issued.

Application means a request under subpart B of this part for an exemption, a renewal or modification of an exemption, party status to an exemption, or a request under subpart H of this part for an approval, or renewal or modification of an approval.

Approval means a written authorization, including a competent authority approval, from the Associate Administrator to perform a function for which prior authorization by the Associate Administrator is required under subchapter C of this chapter.

* * * * *

Associate Administrator means the Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration.

* * * * *

Competent Authority Approval means an approval by the competent authority which is required under the provisions of an international standard, such as the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air or the International Maritime Dangerous Goods Code. To the extent that it satisfies the requirement of the international standard, any of the following may serve as a competent authority approval: a specific regulation of this subchapter or subchapter C of this chapter, an exemption or approval issued under the provisions of this subchapter or subchapter C of this chapter, or a separate document issued to one or more persons by the Associate Administrator.

Exemption means a document issued under the authority of 49 U.S.C. 5117 by the Associate Administrator that authorizes a person to perform a function that is not otherwise authorized under this subchapter, subchapter C, or other regulations issued under 49 U.S.C. 5101–5127 (e.g., Federal Highway Administration routing).

* * * * *

Filed means received at the Research and Special Programs Administration office designated in the applicable provision or, if no office is specified, at the Office of Hazardous Materials Exemptions and Approvals (DHM–30), Research and Special Programs Administration, U.S. Department of Transportation, 400 7th Street SW., Washington DC, 20590–0001.

Holder means the person in whose name an exemption or approval has been issued.

* * * * *

Incident means an event resulting in the unintended and unanticipated release of a hazardous material or an event meeting incident reporting requirements in § 171.15 or § 171.16 of this chapter.

* * * * *

Investigation includes investigations authorized under 49 U.S.C. 5121 and inspections authorized under 49 U.S.C. 5118 and 5121.

Manufacturing exemption means an exemption from compliance with specified requirements that otherwise must be met before representing, marking, certifying (including requalifying, inspecting, and testing), selling or offering a packaging or container as meeting the requirements of subchapter C of this chapter governing its use in the transportation in commerce of a hazardous material. A manufacturing exemption is an exemption issued to a manufacturer of packagings who does not offer for transportation or transport hazardous materials in packagings subject to the exemption.

Party means a person, other than a holder, authorized to act under the terms of an exemption.

* * * * *

Registration means a written acknowledgment from the Associate Administrator that a registrant is authorized to perform a function for which registration is required under subchapter C of this chapter (e.g., registration with RSPA as a cylinder retester pursuant to 49 CFR 173.34(e)(1), or registration in accordance with 49 CFR 178.503 regarding marking of packagings). For purposes of subparts A through E, "registration" does not include registration under subpart F or G of this part.

Report means information, other than an application, registration or part thereof, required to be submitted to the Associate Administrator pursuant to this subchapter, subchapter B or subchapter C of this chapter.

* * * * *

4. In § 107.5, paragraph (a) is revised to read as follows:

§ 107.5 Request for confidential treatment.

(a) If any person filing a document with the Associate Administrator claims that some or all the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552), is information referred to in 18 U.S.C. 1905, or is otherwise exempt by law from public disclosure, and if that person requests the Associate Administrator not to disclose the information, that person shall file, together with the document, a second copy of the document with the confidential information deleted. The person shall indicate each page of the original document that is confidential or contains confidential information by marking or stamping "confidential" on each page for which a claim of confidentiality is made, and may file a statement specifying the justification for the claim of confidentiality. If the person states that the information comes within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information, that person shall include a statement as to why the information is privileged or confidential. If the person filing a document does not mark or stamp a document as confidential or submit a second copy of the document with the confidential information deleted, the Associate Administrator may assume that there is no objection to public disclosure of the document in its entirety.

* * * * *

§ 107.5 [Amended]

5. In addition, in § 107.5, in paragraph (b), the phrase "Associate Administrator for Hazardous Materials Safety" is revised to read "Associate Administrator" both places it appears.

6. Subpart B of part 107 is revised to read as follows:

Subpart B—Exemptions

Subpart B—Exemptions

107.101 Purpose and scope.
107.105 Application for exemption.
107.107 Application for party status.
107.109 Application for renewal.
107.111 Withdrawal.
107.113 Application processing and evaluation.
107.117 Emergency processing.
107.121 Modification, suspension or termination of exemption or grant of party status.
107.123 Reconsideration.
107.125 Appeal.
107.127 Availability of documents for public inspection.

* * * * *

§ 107.101 Purpose and scope.

This subpart prescribes procedures for the issuance, modification and termination of exemptions from requirements of this subchapter, subchapter C of this chapter, or regulations issued under chapter 51 of 49 U.S.C.

§ 107.105 Application for exemption.

(a) *General.* Each application for an exemption or modification of an exemption must—

(1) Be submitted in duplicate and, for timely consideration, at least 120 days before the requested effective date to: Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 7th Street, SW, Washington, DC 20590–0001. Attention: Exemptions, DHM–31;

(2) State the name, street and mailing addresses, and telephone number of the applicant; if the applicant is not an individual, state the name, street and mailing addresses, and telephone number of an individual designated as an agent of the applicant for all purposes related to the application;

(3) If the applicant is not a resident of the United States, a designation of agent for service in accordance with § 107.7 of this part; and

(4) For a manufacturing exemption, a statement of the name and street address of each facility where manufacturing under the exemption will occur.

(b) *Confidential treatment.* To request confidential treatment for information contained in the application, the applicant shall comply with § 107.5(a).

(c) *Description of exemption proposal.* The application must include the following information that is relevant to the exemption proposal:

(1) A citation of the specific regulation from which the applicant seeks relief;

(2) Specification of the proposed mode or modes of transportation;

(3) A detailed description of the proposed exemption (e.g., alternative packaging, test, procedure or activity) including, as appropriate, written descriptions, drawings, flow charts, plans and other supporting documents;

(4) A specification of the proposed duration or schedule of events for which the exemption is sought;

(5) A statement outlining the applicant's basis for seeking relief from compliance with the specified regulations and, if the exemption is requested for a fixed period, a description of how compliance will be achieved at the end of that period;

(6) If the applicant seeks emergency processing specified in § 107.117, a statement of supporting facts and reasons;

(7) Identification and description of the hazardous materials planned for transportation under the exemption;

(8) Description of each packaging, including specification or exemption number, as applicable, to be used in conjunction with the requested exemption;

(9) For alternative packagings, documentation of quality assurance controls, package design, manufacture, performance test criteria, in-service performance and service-life limitations;

(d) *Justification of exemption proposal.* The application must demonstrate that an exemption achieves a level of safety at least equal to that required by regulation, or if a required safety level does not exist, is consistent with the public interest. At a minimum, the application must provide the following:

(1) Information describing all relevant shipping and incident experience of which the applicant is aware that relates to the application;

(2) A statement identifying any increased risk to safety or property that may result if the exemption is granted, and a description of the measures to be taken to address that risk; and

(3) Either—

(i) Substantiation, with applicable analyses, data or test results, that the proposed alternative will achieve a level of safety that is at least equal to that required by the regulation from which the exemption is sought; or

(ii) If the regulations do not establish a level of safety, an analysis that identifies each hazard, potential failure mode and the probability of its occurrence, and how the risks associated with each hazard and failure mode are controlled for the duration of an activity or life-cycle of a packaging.

§ 107.107 Application for party status.

(a) Any person eligible to apply for an exemption may apply to be made party to an application or an existing exemption, other than a manufacturing exemption.

(b) Each application filed under this section must—

(1) Be submitted in duplicate to: Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 7th Street, SW, Washington, DC 20590–0001. Attention: Exemptions, DHM–31;

(2) Identify by number the exemption application or exemption to which the applicant seeks to become a party;

(3) State the name, street and mailing addresses, and telephone number of the applicant; if the applicant is not an individual, state the name, street and mailing addresses, and telephone number of an individual designated as the applicant's agent for all purposes related to the application; and

(4) If the applicant is not a resident of the United States, provide a designation of agent for service in accordance with § 107.7.

(c) The Associate Administrator grants or denies an application for party status in the manner specified in § 107.113(e) and (f) of this subpart.

(d) A party to an exemption is subject to all terms of that exemption, including the expiration date. If a party to an exemption wishes to renew party status, the exemption renewal procedures set forth in § 107.109 apply.

§ 107.109 Application for renewal.

(a) Each application for renewal of an exemption or party status to an exemption must—

(1) Be submitted in duplicate to: Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 7th Street, SW, Washington, DC 20590–0001. Attention: Exemptions, DHM–31;

(2) Identify by number the exemption for which renewal is requested;

(3) State the name, street and mailing addresses, and telephone number of the applicant; if the applicant is not an individual, state the name, street and mailing addresses, and telephone number of an individual designated as an agent of the applicant for all purposes related to the application;

(4) Include either a certification by the applicant that the original application, as it may have been updated by any application for renewal, remains accurate and complete; or include an amendment to the previously submitted application as is necessary to update and assure the accuracy and completeness of the application, with certification by the applicant that the application as amended is accurate and complete; and

(5) Include a statement describing all relevant shipping and incident experience of which the applicant is aware in connection with the exemption since its issuance or most recent renewal. If the applicant is aware of no incidents, the applicant shall so certify. When known to the applicant, the statement should indicate the approximate number of shipments made or packages shipped, as the case may be, and number of shipments or packages involved in any loss of contents, including loss by venting other than as authorized in subchapter C.

(b) If at least 60 days before an existing exemption expires the holder files an application for renewal that is complete and conforms to the requirements of this section, the exemption will not expire until final administrative action on the application for renewal has been taken.

§ 107.111 Withdrawal.

An application may be withdrawn at any time before a decision to grant or deny it is made. Withdrawal of an application does not authorize the removal of any related records from the RSPA dockets or files. Applications that are eligible for confidential treatment under § 107.5 will remain confidential after the application is withdrawn. The duration of this confidential treatment for trade secrets and commercial or financial information is indefinite, unless the party requesting the confidential treatment of the materials notifies the Associate Administrator that the confidential treatment is no longer required.

§ 107.113 Application processing and evaluation.

(a) The Associate Administrator reviews an application for exemption, modification of exemption, party to exemption, or renewal of an exemption to determine if it is complete and conforms with the requirements of this subpart. This determination will be made within 30 days of receipt of the application for exemption, modification of exemption, or party to exemption, and within 15 days of receipt of an application for renewal of an exemption. If an application is determined to be incomplete, the applicant is informed of the reasons.

(b) An application, other than a renewal, party to, or emergency exemption application, that is determined to be complete is docketed. Notice of the application is published in the **Federal Register**, and an opportunity for public comment is provided. All comments received during the comment period are considered before final action is taken on the application.

(c) No public hearing or other formal proceeding is required under this subpart before the disposition of an application. Unless emergency processing under § 107.117 is requested and granted, applications are usually processed in the order in which they are filed.

(d) During the processing and evaluation of an application, the Associate Administrator may request additional information from the applicant. If the applicant does not respond to a written request for additional information within 30 days of the date the request was received, the application may be deemed incomplete and denied. However, if the applicant responds in writing within the 30-day period requesting an additional 30 days within which it will gather the requested information, the Associate Administrator may grant the 30-day extension.

(e) The Associate Administrator may grant or deny an application, in whole or in part. In the Associate Administrator's discretion, an application may be granted subject to provisions that are appropriate to protect health, safety or property. The Associate Administrator may impose additional provisions not specified in the application or remove conditions in the application that are unnecessary.

(f) The Associate Administrator may grant an application on finding that—

(1) The application complies with this subpart;

(2) The application demonstrates that the proposed alternative will achieve a level of safety that:

(i) Is at least equal to that required by the regulation from which the exemption is sought, or

(ii) If the regulations do not establish a level of safety, is consistent with the public interest and adequately will protect against the risks to life and property inherent in the transportation of hazardous materials in commerce;

(3) The application states all material facts, and contains no materially false or materially misleading statement;

(4) The applicant meets the qualifications required by applicable regulations; and

(5) The applicant is fit to conduct the activity authorized by the exemption. This assessment may be based on information in the application, prior compliance history of the applicant, and other information available to the Associate Administrator.

(g) An applicant is notified in writing whether the application is granted or denied. A denial contains a brief statement of reasons.

(h) An exemption and any renewal thereof terminates according to its terms or, if not otherwise specified, two years after the date of issuance. A grant of party status to an exemption, unless otherwise stated, terminates on the date that the exemption expires.

(i) The Associate Administrator, on determining that an application concerns a matter of general applicability and future effect and should be the subject of rulemaking, may initiate rulemaking under part 106 of this chapter in addition to or instead of acting on the application.

(j) The Associate Administrator publishes in the **Federal Register** a list of all exemption grants, denials, and modifications and all exemption applications withdrawn under this section.

§ 107.117 Emergency processing.

(a) An application is granted emergency processing if the Associate Administrator, on the basis of the application and any inquiry undertaken, finds that—

(1) Emergency processing is necessary to prevent significant injury to persons or property (other than the hazardous material to be transported) that could not be prevented if the application were processed on a routine basis; or

(2) Emergency processing is necessary for immediate national security purposes or to prevent significant economic loss that could not be prevented if the application were processed on a routine basis.

(b) Where the significant economic loss is to the applicant, or to a party in a contractual relationship to the applicant with respect to the activity to be undertaken, the Associate Administrator may deny emergency processing if timely application could have been made.

(c) A request for emergency processing on the basis of potential economic loss must reasonably describe and estimate the potential loss.

(d) An application submitted under this section must conform to § 107.105 to the extent that the receiving U.S. Department of Transportation official deems necessary to process the application. An application on an emergency basis must be submitted to the U.S. Department of Transportation modal contact official for the initial mode of transportation to be utilized, as follows:

(1) *Certificate-Holding Aircraft:* The Federal Aviation Administration Civil Aviation Security Office that serves the place where the flight will originate or that is responsible for the aircraft operator's overall aviation security program. The nearest Civil Aviation Security Office may be located by calling the FAA Duty Officer, 202–267–3333 (any hour).

(2) *Noncertificate-Holding Aircraft (Those Which Operate Under 14 CFR Part 91):* The Federal Aviation Administration Civil Aviation Security Office that serves the place where the flight will originate. The nearest Civil Aviation Security Office may be located by calling the FAA Duty Officer, 202–267–3333 (any hour).

(3) *Motor Vehicle Transportation:* Director, Office of Motor Carrier Research and Standards, Federal Highway Administration, U.S. Department of Transportation, Washington, DC 20590–0001, 202–366–4001 (day); 202–267–2100 (night).

(4) *Rail Transportation:* Staff Director, Hazardous Materials Division, Office of Safety Assurance and Compliance, Federal Railroad Administration, U.S. Department of Transportation, Washington, DC 20590–0001, 202–366–0509 or 366–0523 (day); 202–267–2100 (night).

(5) *Water Transportation:* Chief, Hazardous Materials Standards Branch, Operating and Environmental Standards Division, United States Coast Guard, U.S. Department of Transportation, Washington, DC 20593–0001, 202–267–1577 (day); 202–267–2100 (night).

(e) On receipt of all information necessary to process the application, the receiving Department of Transportation official transmits to the Associate Administrator, by the most rapid available means of communication, an evaluation as to whether an emergency exists under § 107.117(a) and, if appropriate, recommendations as to the conditions to be included in the exemption. If the Associate Administrator determines that an emergency exists under § 107.117(a) and that, with reference to the criteria of § 107.113(f), granting of the application is in the public interest, the Associate Administrator grants the application subject to such terms as necessary and immediately notifies the applicant. If the Associate Administrator determines that an emergency does not exist or that granting of the application is not in the public interest, the applicant immediately is so notified.

(f) A determination that an emergency does not exist is not subject to reconsideration under § 107.123 of this part.

(g) Within 90 days following issuance of an emergency exemption, the Associate Administrator will publish, in the **Federal Register**, a notice of issuance with a statement of the basis for the finding of emergency and the scope and duration of the exemption.

§ 107.121 Modification, suspension or termination of exemption or grant of party status.

(a) The Associate Administrator may modify an exemption or grant of party status on finding that—

(1) Modification is necessary so that an exemption reflects current statutes and regulations; or

(2) Modification is required by changed circumstances to meet the standards of § 107.113(f).

(b) The Associate Administrator may modify, suspend or terminate an exemption or grant of party status, as appropriate, on finding that—

(1) Because of a change in circumstances, the exemption or party status no longer is needed or no longer would be granted if applied for;

(2) The application contained inaccurate or incomplete information, and the exemption or party status would not have been granted had the application been accurate and complete;

(3) The application contained deliberately inaccurate or incomplete information; or

(4) The holder or party knowingly has violated the terms of the exemption or an applicable requirement of this chapter, in a manner demonstrating the holder or party is not fit to conduct the activity authorized by the exemption.

(c) Except as provided in paragraph (d) of this section, before an exemption or grant of party status is modified, suspended or terminated, the Associate Administrator notifies the holder or party in writing of the proposed action and the reasons for it, and provides an opportunity to show cause why the proposed action should not be taken.

(1) The holder or party may file a written response that shows cause why the proposed action should not be taken within 30 days of receipt of notice of the proposed action.

(2) After considering the holder's or party's written response, or after 30 days have passed without response since receipt of the notice, the Associate Administrator notifies the holder or party in writing of the final decision with a brief statement of reasons.

(d) The Associate Administrator, if necessary to avoid a risk of significant harm to persons or property, may in the notification declare the proposed action immediately effective.

§ 107.123 Reconsideration.

(a) An applicant for exemption, an exemption holder, or an applicant for party status to an exemption may request that the Associate Administrator reconsider a decision under § 107.113(g), § 107.117(e) or § 107.121(c) of this part. The request must—

(1) Be in writing and filed within 20 days of receipt of the decision;

(2) State in detail any alleged errors of fact and law;

(3) Enclose any additional information needed to support the request to reconsider; and

(4) State in detail the modification of the final decision sought.

(b) The Associate Administrator grants or denies, in whole or in part, the relief requested and informs the requesting person in writing of the decision. If necessary to avoid a risk of significant harm to persons or property, the Associate Administrator may, in the notification, declare the action immediately effective.

§ 107.125 Appeal.

(a) A person who requested reconsideration under § 107.123 and is denied the relief requested may appeal to the Administrator. The appeal must—

(1) Be in writing and filed within 30 days of receipt of the Associate Administrator's decision on reconsideration;

(2) State in detail any alleged errors of fact and law;

(3) Enclose any additional information needed to support the appeal; and

(4) State in detail the modification of the final decision sought.

(b) The Administrator, if necessary to avoid a risk of significant harm to persons or property, may declare the Associate Administrator's action effective pending a decision on appeal.

(c) The Administrator grants or denies, in whole or in part, the relief requested and informs the appellant in writing of the decision. The Administrator's decision is the final administrative action.

§ 107.127 Availability of documents for public inspection.

(a) Documents related to an application under this subpart, including the application itself, are available for public inspection, except as specified in paragraph (b) of this section, at the Office of the Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration, Dockets Unit, U.S. Department of Transportation, 400 7th Street, SW, Washington, DC 20590–0001, Room 8421. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday, except holidays when the office is closed. Copies of available documents may be obtained as provided in part 7 of this title.

(b) Documents available for inspection do not include materials determined to be withheld from public disclosure under § 107.5 and in accordance with the applicable provisions of section 552(b) of title 5, United States Code, and part 7 of this title.

7. In § 107.201, paragraph (d) is revised to read as follows:

§ 107.201 Purpose and scope.

* * * * *

(d) Unless otherwise ordered by the Associate Administrator, an application for a preemption determination which includes an application for a waiver of preemption will be treated and processed solely as an application for a preemption determination.

8. In § 107.202, in paragraph (a), the introductory text is revised to read as follows:

§ 107.202 Standards for determining preemption.

(a) Except as provided in § 107.221 and unless otherwise authorized by Federal law, any requirement of a State or political subdivision thereof or an Indian tribe, that concerns one of the following subjects and that is not substantively the same as any provision of the Federal hazardous material transportation law, this subchapter or subchapter C that concerns that subject, is preempted:

* * * * *

§ 107.202 Amended]

9. In addition, in § 107.202, in paragraph (b)(3), the wording "49 U.S.C. 5125 (b) or (c)" is revised to read "49 U.S.C. 5125(c)".

§ 107.203 [Amended]

10. In § 107.203, the following changes are made:

a. In paragraph (a), the wording "a State, political subdivision, or Indian tribe" is revised to read "a State or political subdivision thereof or an Indian tribe" each place it appears.

b. In paragraphs (a) and (d), the phrase "for Hazardous Materials Safety" is removed immediately following "Associate Administrator" each place it appears.

11. Section 107.205 is revised to read as follows:

§ 107.205 Notice.

(a) If the applicant is other than a State, political subdivision, or Indian tribe, the applicant shall mail a copy of the application to the State, political subdivision, or Indian tribe concerned accompanied by a statement that the State, political subdivision, or Indian tribe may submit comments regarding the application to the Associate Administrator. The application filed with the Associate Administrator must include a certification that the applicant has complied with this paragraph and must include the names and addresses of each State, political subdivision, or Indian tribe official to whom a copy of the application was sent.

(b) The Associate Administrator will publish notice of, including an opportunity to comment on, an application in the **Federal Register** and may notify in writing any person readily identifiable as affected by the outcome of the determination.

(c) Each person submitting written comments to the Associate Administrator with respect to an application filed under this section shall send a copy of the comments to the applicant and certify to the Associate Administrator that he or she has complied with this requirement. The Associate Administrator may notify other persons participating in the proceeding of the comments and provide an opportunity for those other persons to respond. Late-filed comments are considered so far as practicable.

§ 107.207 [Amended]

12. In § 107.207, the following changes are made:

a. In paragraph (a), the wording "or her" is added immediately following the word "his" each place it appears.

b. In paragraphs (a) and (b), the wording "for Hazardous Materials Safety" is removed immediately following "Associate Administrator" each place it appears.

c. In paragraphs (a) and (b), the wording "or she" is added immediately following the word "he" each place it appears.

13. In § 107.209, paragraph (b) is removed, and paragraphs (c), (d), and (e) are redesignated as paragraphs (b), (c), and (d), respectively, and newly designated paragraph (c) is revised to read as follows:

§ 107.209 Determination.

* * * * *

(c) The Associate Administrator provides a copy of the determination to the applicant and to any other person who substantially participated in the proceeding or requested in comments to the docket to be notified of the determination. A copy of each determination is placed on file in the public docket. The Associate Administrator will publish the determination or notice of the determination in the **Federal Register**.

* * * * *

§ 107.209 [Amended]

14. In addition, in § 107.209, in paragraphs (a) and (b), the phrase "for Hazardous Materials Safety" is removed following "Associate Administrator" each place it appears.

15. In § 107.211, paragraph (a) is revised and a sentence is added at the end of paragraph (c) to read as follows:

§ 107.211 Petition for reconsideration.

(a) Any person aggrieved by a determination issued under § 107.209 may file a petition for reconsideration with the Associate Administrator. The petition must be filed within 20 days of publication of the determination in the **Federal Register**.

* * * * *

(c) * * * Late-filed comments are considered so far as practicable.

* * * * *

16. A new § 107.213 is added to read as follows:

§ 107.213 Judicial review.

A party to a proceeding under § 107.203(a) may seek review by the appropriate district court of the United States of a decision of the Associate Administrator by filing a petition with the court within 60 days after the Associate Administrator's determination becomes final. The determination becomes final when it is published in the **Federal Register**.

§ 107.215 [Amended]

17. In § 107.215, in paragraph (a), the phrase "for Hazardous Materials Safety" is removed immediately following "Associate Administrator" each place it appears, and the wording "State, political subdivision, or Indian tribe" is revised to read "State or political subdivision thereof or an Indian tribe."

18. In § 107.217, paragraph (d) is revised to read as follows:

§ 107.217 Notice.

* * * * *

(d) The Associate Administrator may notify any other persons who may be affected by the outcome of a determination on the application.

* * * * *

§ 107.217 [Amended]

19. In addition, in § 107.217, in paragraphs (a), (b), (c), and (e), the phrase "for Hazardous Materials Safety" is removed immediately following the wording "Associate Administrator" each place it appears, and the following sentence is added at the end of paragraph (c):

* * * * *

(c) * * * Late-filed comments are considered so far as practicable.

§ 107.219 [Amended]

20. In § 107.219, the following changes are made:

a. In paragraphs (a), (b), (c), and (d), the phrase "for Hazardous Materials Safety" is removed immediately following the wording "Associate Administrator" each place it appears.

b. In paragraphs (a) and (b), the wording "or she" is added immediately following "he," each place it appears, and the wording "or her" is added immediately following "his," each place it appears.

c. In paragraphs (c)(1) and (c)(2), the phrase "State or political subdivision" is revised to read "State or political subdivision thereof or Indian tribe" each place it appears.

21. Section 107.221 is revised to read as follows:

§ 107.221 Determination.

(a) After considering the application and other relevant information received or obtained during the proceeding, the Associate Administrator issues a determination.

(b) The Associate Administrator may issue a waiver of preemption only on finding that the requirement of the State or political subdivision thereof or Indian tribe affords the public a level of safety at least equal to that afforded by the requirements of the Federal hazardous material transportation law or the regulations issued thereunder and does not unreasonably burden commerce. In determining if the requirement of the State or political subdivision thereof or Indian tribe unreasonably burdens commerce, the Associate Administrator considers:

(1) The extent to which increased costs and impairment of efficiency result from the requirement of the State or political subdivision thereof or Indian tribe.

(2) Whether the requirement of the State or political subdivision thereof or Indian tribe has a rational basis.

(3) Whether the requirement of the State or political subdivision thereof or Indian tribe achieves its stated purpose.

(4) Whether there is need for uniformity with regard to the subject concerned and if so, whether the requirement of the State or political subdivision thereof or Indian tribe competes or conflicts with those of other States or political subdivisions thereof or Indian tribes.

(c) The determination includes a written statement setting forth relevant facts and legal bases and providing that any person aggrieved by the determination may file a petition for reconsideration with the Associate Administrator.

(d) The Associate Administrator provides a copy of the determination to the applicant and to any other person who substantially participated in the proceeding or requested in comments to the docket to be notified of the determination. A copy of the determination is placed on file in the public docket. The Associate Administrator will publish the determination or notice of the determination in the **Federal Register**.

(e) A determination under this section constitutes an administrative finding of whether a particular requirement of a State or political subdivision thereof or Indian tribe is preempted under the Federal hazardous material transportation law or any regulation issued thereunder, or whether preemption is waived.

22. In § 107.223, paragraph (a) is revised to read as follows, and the following sentence is added at the end of paragraph (c):

§ 107.223 Petition for reconsideration.

(a) Any person aggrieved by a determination under § 107.221 may file a petition for reconsideration with the Associate Administrator. The petition must be filed within 20 days of publication of the determination in the **Federal Register**.

* * * * *

(c) * * * Late-filed comments are considered so far as practicable.

23. Section 107.227 is revised to read as follows:

§ 107.227 Judicial review.

A party to a proceeding under § 107.215(a) may seek review by the appropriate district court of the United States of a decision of the Associate Administrator by filing a petition with the court within 60 days after the Associate Administrator's determination becomes final. The determination becomes final when it is published in the **Federal Register**.

§ 107.299 [Removed]

24. Section 107.299 is removed.

25. In § 107.305, paragraph (b) is revised to read as follows:

§ 107.305 Investigations.

* * * * *

(b) *Investigations and Inspections.* Investigations under 49 U.S.C. 5121(a) are conducted by personnel duly authorized for that purpose by the Associate Administrator. Inspections under 49 U.S.C. 5121(c) are conducted by Hazardous Materials Enforcement Specialists, also known as "hazmat inspectors" or "inspectors," whom the Associate Administrator has designated for that purpose.

(1) An inspector will, on request, present his or her credentials for examination, but the credentials may not be reproduced.

(2) An inspector may administer oaths and receive affirmations in any matter under investigation by the Associate Administrator.

(3) An inspector may gather information by reasonable means including, but not limited to, interviews, statements, photocopying, photography, and video- and audio-recording.

(4) With concurrence of the Director, Office of Hazardous Materials Enforcement, Research and Special Programs Administration, an inspector may issue a subpoena for the production of documentary or other tangible evidence if, on the basis of information available to the inspector, the documents and evidence materially will advance a determination of compliance with this subchapter or subchapter C. Service of a subpoena shall be in accordance with § 107.13 (c) and (d). A person to whom a subpoena is directed may seek review of the subpoena by applying to the Office of Chief Counsel in accordance with § 107.13(h). A subpoena issued under this paragraph may be enforced in accordance with § 107.13(i).

* * * * *

§ 107.315 [Amended]

26. In § 107.315, in paragraphs (c) and (d), the last sentence is removed.

27. In § 107.331, the introductory paragraph and paragraph (d) are revised to read as follows:

§ 107.331 Assessment considerations.

After finding a knowing violation under this subpart, the Office of Chief Counsel assesses a civil penalty taking the following into account:

* * * * *

(d) The respondent's prior violations;

* * * * *

28. A new subpart H of part 107 is added to read as follows:

Subpart H—Approvals, Registrations and Submissions

Sec.

107.701 Purpose and scope.
107.705 Registrations, reports, and applications for approval.
107.709 Processing of an application for approval, including an application for renewal or modification.
107.711 Withdrawal.
107.713 Approval modification, suspension or termination.
107.715 Reconsideration.
107.717 Appeal.

§ 107.701 Purpose and scope.

This subpart prescribes procedures for the issuance, modification and termination of approvals, and the submission of registrations and reports, as required by this chapter.

(b) The procedures of this subpart are in addition to any requirements in subchapter C of this chapter applicable to a specific approval, registration or report. If compliance with both a specific requirement of subchapter C of this chapter and a procedure of this subpart is not possible, the specific requirement applies.

(c) Registration under subpart F or G of this part is not subject to the procedures of this subpart.

§ 107.705 Registrations, reports, and applications for approval.

(a) A person filing a registration, report, or application for an approval, or a renewal or modification of an approval subject to the provisions of this subpart must—

(1) File the registration, report, or application with the Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 7th Street, SW, Washington, DC 20590–0001, Attention: Approvals, DHM–32;

(2) Identify the section of the chapter under which the registration, report, or application is made;

(3) If a report is required by an approval, a registration or an exemption, identify the approval, registration or exemption number;

(4) Provide the name, street, mailing address, and telephone number of the person on whose behalf the registration, report, or application is made and, if different, the person making the filing;

(5) If the person on whose behalf the filing is made is not a resident of the United States, provide a designation of agent for service in accordance with § 107.7;

(6) Provide a description of the activity for which the registration or report is required; and

(7) Provide additional information as requested by the Associate Administrator, if the Associate Administrator determines that a filing lacks pertinent information or otherwise does not comply with applicable requirements.

(b) In addition to the provisions in paragraph (a) for an approval, an application for an approval, or an application for modification or renewal of an approval, the applicant must provide—

(1) A description of the activity for which the approval is required;

(2) The proposed duration of the approval;

(3) The transport mode or modes affected, as applicable;

(4) Any additional information specified in the section containing the approval; and

(5) For an approval which provides exceptions from regulatory requirements or prohibitions—

(i) Identification of any increased risk to safety or property that may result if the approval is granted, and specification of the measures that the applicant considers necessary or appropriate to address that risk; and

(ii) Substantiation, with applicable analyses or evaluations, if appropriate, demonstrating that the proposed activity will achieve a level of safety that is at least equal to that required by the regulation.

(c) For an approval with an expiration date, each application for renewal or modification must be filed in the same manner as an original application. If a complete and conforming renewal application is filed at least 60 days before the expiration date of an approval, the Associate Administrator, on written request from the applicant, will issue a written extension to permit operation under the terms of the expired approval until a final decision on the application for renewal has been made. Operation under an expired approval is prohibited absent a written extension. This paragraph does not limit the authority of the Associate Administrator to modify, suspend or terminate an approval under § 107.713.

(d) To request confidential treatment for information contained in the application, the applicant shall comply with § 107.5(a).

§ 107.709 Processing of an application for approval, including an application for renewal or modification.

(a) No public hearing or other formal proceeding is required under this subpart before the disposition of an application.

(b) At any time during the processing of an application, the Associate Administrator may request additional information from the applicant. If the applicant does not respond to a written request for additional information within 30 days of the date the request was received, the application may be deemed incomplete and denied. However, if the applicant responds in writing within the 30-day period requesting an additional 30 days within which it will gather the requested information, the Associate Administrator may grant the 30-day extension.

(c) The Associate Administrator may grant or deny an application, in whole or in part. At the Associate Administrator's discretion, an application may be granted subject to provisions that are appropriate to protect health, safety and property. The Associate Administrator may impose additional provisions not specified in the application, or delete conditions in the application which are unnecessary.

(d) The Associate Administrator may grant an application on finding that—

(1) The application complies with this subpart;

(2) The application demonstrates that the proposed activity will achieve a level of safety that—

(i) Is at least equal to that required by the regulation, or

(ii) If the regulations do not establish a level of safety, is consistent with the public interest and adequately will protect against the risks to life and property inherent in the transportation of hazardous materials in commerce;

(3) The application states all material facts, and contains no materially false or materially misleading statement;

(4) The applicant meets the qualifications required by applicable regulations; and

(5) The applicant is fit to conduct the activity authorized by the approval, or renewal or modification of approval. This assessment may be based on information in the application, prior compliance history of the applicant, and other information available to the Associate Administrator.

(e) Unless otherwise specified in this chapter or by the Associate Administrator, an approval in which a term is not specified does not expire.

(f) The Associate Administrator notifies the applicant in writing of the decision on the application. A denial contains a brief statement of reasons.

§ 107.711 Withdrawal.

An application may be withdrawn at any time before a decision to grant or deny it is made. Withdrawal of an application does not authorize the removal of any related records from the RSPA dockets or files. Applications that are eligible for confidential treatment under § 107.5 will remain confidential after the application is withdrawn. The duration of this confidential treatment for trade secrets and commercial or financial information is indefinite, unless the party requesting the confidential treatment of the materials notifies the Associate Administrator that the confidential treatment is no longer required.

§ 107.713 Approval modification, suspension or termination.

(a) The Associate Administrator may modify an approval on finding that—

(1) Modification is necessary to conform an existing approval to relevant statutes and regulations as they may be amended from time to time; or

(2) Modification is required by changed circumstances to enable the approval to continue to meet the standards of § 107.709(d).

(b) The Associate Administrator may modify, suspend or terminate an approval, as appropriate, on finding that—

(1) Because of a change in circumstances, the approval no longer is needed or no longer would be granted if applied for;

(2) The application contained inaccurate or incomplete information, and the approval would not have been granted had the application been accurate and complete;

(3) The application contained deliberately inaccurate or incomplete information; or

(4) The holder knowingly has violated the terms of the approval or an applicable requirement of this chapter in a manner demonstrating lack of fitness to conduct the activity for which the approval is required.

(c) Except as provided in paragraph (d) of this section, before an approval is modified, suspended or terminated, the Associate Administrator notifies the holder in writing of the proposed action and the reasons for it, and provides an opportunity to show cause why the proposed action should not be taken.

(1) The holder may file a written response with the Associate Administrator within 30 days of receipt of notice of the proposed action.

(2) After considering the holder's or party's written response, or after 30 days have passed without response since receipt of the notice, the Associate Administrator notifies the holder in writing of the final decision with a brief statement of reasons.

(d) The Associate Administrator, if necessary to avoid a risk of significant harm to persons or property, may in the notification declare the proposed action immediately effective.

§ 107.715 Reconsideration.

(a) An applicant or a holder may request that the Associate Administrator reconsider a decision under § 107.709(f) or § 107.713(c). The request must:

(1) Be in writing and filed within 20 days of receipt of the decision;

(2) State in detail any alleged errors of fact and law;

(3) Enclose any additional information needed to support the request to reconsider; and

(4) State in detail the modification of the final decision sought.

(b) The Associate Administrator considers newly submitted information on a showing that the information could not reasonably have been submitted during application processing.

(c) The Associate Administrator grants or denies, in whole or in part, the relief requested and informs the requesting person in writing of the decision.

§ 107.717 Appeal.

(a) A person who requested reconsideration under § 107.715 may appeal to the Administrator the Associate Administrator's decision on the request. The appeal must:

(1) Be in writing and filed within 30 days of receipt of the Associate Administrator's decision on reconsideration;

(2) State in detail any alleged errors of fact and law;

(3) Enclose any additional information needed to support the appeal; and

(4) State in detail the modification of the final decision sought.

(b) The Administrator, if necessary to avoid a risk of significant harm to persons or property, may declare the Associate Administrator's action effective pending a decision on appeal.

(c) The Administrator grants or denies, in whole or in part, the relief requested and informs the appellant in writing of the decision on appeal. The Administrator's decision on appeal is the final administrative action.

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

29. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 171.1 [Amended]

30. In § 171.1, in the introductory text of paragraph (a), the wording "in commerce" is added immediately following the wording "materials" and preceding "by".

31. Also in § 171.1, a new paragraph (d) is added to read as follows:

§ 171.1 Purpose and scope.

* * * * *

(d) The use of terms and symbols prescribed in this subchapter for the marking, labeling, placarding and description of hazardous materials and packagings used in their transport.

32. In § 171.2, paragraphs (a), (b), (c) and (d) are revised and a new paragraph (h) is added to read as follows:

§ 171.2 General requirements.

(a) No person may offer or accept a hazardous material for transportation in commerce unless that person is registered in conformance with subpart G of part 107 of this chapter, if applicable, and the hazardous material is properly classed, described, packaged, marked, labeled, and in

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condition for shipment as required or authorized by applicable requirements of this subchapter, or an exemption, approval or registration issued under this subchapter or subchapter A of this chapter.

(b) No person may transport a hazardous material in commerce unless that person is registered in conformance with subpart G of part 107 of this chapter, if applicable, and the hazardous material is handled and transported in accordance with applicable requirements of this subchapter, or an exemption, approval or registration issued under this subchapter or subchapter A of this chapter.

(c) No person may represent, mark, certify, sell, or offer a packaging or container as meeting the requirements of this subchapter or an exemption, approval or registration issued under this subchapter or subchapter A of this chapter, governing its use in the transportation in commerce of a hazardous material, whether or not it is used or intended to be used for the transportation of a hazardous material, unless the packaging or container is manufactured, fabricated, marked, maintained, reconditioned, repaired and retested, as appropriate, in accordance with applicable requirements of this subchapter, or an exemption, approval or registration issued under this subchapter or subchapter A of this chapter.

(d) The representations, markings, and certifications subject to the prohibitions of paragraph (c) of this section include, but are not limited to—

(1) Specification identifications that include the letters "ICC," "DOT," "MC," or "UN";

(2) Exemption, approval, and registration numbers that include the letters "DOT," "EX," "M," or "R"; and

(3) Test dates associated with specification, registration, approval, retest or exemption markings indicating compliance with a test or retest requirement of this subchapter, or an exemption, an approval or a registration issued under this subchapter or subchapter A of this chapter.

* * * * *

(h) No person shall—

(1) Falsify or alter an exemption, approval, registration or other grant of authority issued under this subchapter or subchapter A of this chapter; or

(2) Offer a hazardous material for transportation or transport a hazardous material in commerce, or represent, mark, certify, or sell a packaging or container, under a false or altered exemption, approval, registration or other grant of authority issued under this subchapter or subchapter A of this chapter.

§ 171.3 [Amended]

33. In § 171.3, paragraph (c) and the Note are removed, and paragraph (d) is redesignated as paragraph (c).

34. In § 171.8, the definitions of "Approval" and "Exemption" are added in alphabetical order and the definition of "Person" is revised to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Approval means a written authorization, including a competent authority approval, from the Associate Administrator to perform a function for which prior authorization by the Associate Administrator is required under subchapter C of this chapter.

* * * * *

Exemption means a document issued under the authority of 49 U.S.C. 5117 by the Associate Administrator that authorizes a person to perform a function that is not otherwise authorized under this subchapter, subchapter C, or other regulations issued under 49 U.S.C. 5101–5127 (e.g., Federal Highway Administration routing).

* * * * *

Person means an individual, firm, copartnership, corporation, company, association, joint-stock association, including any trustee, receiver, assignee, or similar representative thereof; or government, Indian tribe, or agency or instrumentality of any government or Indian tribe when it offers hazardous material for transportation in commerce or transports hazardous material to further a commercial enterprise, but such term does not include:

(1) The United States Postal Service;

(2) For the purposes of 49 U.S.C. 5123 and 5124, any agency or instrumentality of the Federal Government.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

35. The authority citation for Part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

36. In § 173.22a, a new paragraph (c) is added to read as follows:

§ 173.22a Use of packagings authorized under exemptions.

* * * * *

(c) When an exemption issued to a person who offers a hazardous material contains requirements that apply to a carrier of the hazardous material, the offeror shall furnish a copy of the exemption to the carrier before or at the time a shipment is tendered. When the provisions of the exemption require it to be in the possession of a carrier during transportation in commerce, the carrier shall maintain the copy of the exemption in the same manner as required for a shipping paper.

PART 178—SPECIFICATIONS FOR PACKAGINGS

37. The authority citation for Part 178 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

38. In § 178.3, a new paragraph (d) is added to read as follows:

§ 178.3 Marking of packagings.

* * * * *

(d) No person may mark or otherwise certify a packaging or container as meeting the requirements of a manufacturing exemption unless that person is the holder of or a party to that exemption, an agent of the holder or party for the purpose of marking or certification, or a third party tester.

Issued in Washington, DC on May 2, 1996, under authority delegated in 49 CFR part 1.

Rose A. McMurray,

Acting Deputy Administrator, Research and Special Programs Administration.

[FR Doc. 96–11400 Filed 5–8–96; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 951227306–5306–01; I.D. 043096A]

Pacific Coast Groundfish Fishery; Closure and Trip Limit Reduction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure; fishing restrictions; request for comments.

SUMMARY: NMFS announces the closure of the open access fishery for thornyheads taken and retained north of Point Conception, CA (34°27′ N. lat.), and a further restriction to the open access fishery for sablefish taken with nontrawl gear north of the Conception subarea (36°00′ N. lat.). This action is authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. The closure and trip limit are designed to keep landings as close as possible to the 1996 open access allocations for these species.

DATES: Effective from 0001 hours (local time) May 3, 1996, until the effective date of the 1997 annual specifications and management measures for the Pacific Coast groundfish fishery, which will be published in the **Federal Register**. Comments will be accepted through May 24, 1996.

ADDRESSES: Submit comments to William Stelle, Jr., Director, Northwest Region (Regional Director), National Marine Fisheries Service, 7600 Sand Point Way NE., BIN-C15700, Seattle, WA 98115–0070; or Hilda Diaz-Soltero, Regional Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140; or Rodney McInnis at 310–980–4040.

SUPPLEMENTARY INFORMATION: Management measures for the open access fishery apply to any vessel that takes and retains groundfish and that does not have a valid limited entry permit for the Pacific coast groundfish fishery with an endorsement for the gear used to harvest the groundfish. Open access gear includes longline, trap, pot, hook and line (fixed or mobile), set net (south of 38° N. lat. only), and trawls used to target non-groundfish species (pink shrimp or prawns and, south of Pt. Arena, CA (38°57′30″ N. lat.), California halibut or sea cucumbers). The following changes to routine management measures in the open access fisheries for thornyheads and sablefish were recommended by the Pacific Fishery Management Council (Council) at its April 8–12, 1996, meeting in San Francisco, CA.

Open Access Thornyhead Fishery. Thornyheads consist of two species (shortspine and longspine thornyheads) that often are caught together. Because of difficulties in identifying and monitoring the two species separately in the open access fishery, this fishery has been managed for both species combined. Through 1995, separate open access and limited entry allocations had not been implemented for shortspine thornyheads because landings were thought to be negligible in the open access fishery. However, at its October 1995 meeting, the Council concluded that the best available information indicated that about 24 metric tons (mt) had been taken north of Pt. Conception in 1995, indicating expansion in the fishery since the 1984–88 window period used to determine open access and limited entry allocations. The Council responded by recommending that limited entry and open access allocations be implemented for shortspine thornyheads for 1996. The 1996 open access allocation for shortspine thornyheads is only 4 mt, and applies north of Pt. Conception (34°27′ N. lat.). To keep landings close to the open access allocation, a coastwide daily trip limit of 50 lb (23 kg) (round weight) was applied for both species of thornyheads combined on January 1, 1996 (61 FR 279, January 4, 1996). A daily trip limit is the maximum amount that may be taken and retained, possessed, or landed per vessel in 24 consecutive hours, starting at 0001 hours local time, and only one landing of the trip-limit species may be made in that 24–hour period. Daily trip limits may not be accumulated.

The best available information at the April 1996 Council meeting indicated that landings of thornyheads in the open access fishery had reached 18.7 mt north of Pt. Conception by the end of March 1996. Of this, about 11 mt was shortspine thornyheads taken in California, exceeding the 1996 open access allocation for shortspine thornyheads north of Pt. Conception. The Council recommended that the open access fishery for thornyheads be closed north of Pt. Conception as soon as practicable for the rest of the year. Closure means taking and retaining, possessing, or landing thornyheads caught north of Pt. Conception with any open access gear (including open access trawl gear) is prohibited, and offloading must begin before the time the fishery closes. The 50–lb (23–kg) daily trip limit on thornyheads remains in effect south of Pt. Conception because the harvest guideline does not apply in that area. This daily trip limit is believed to be too small to encourage effort shifts into the area.

Open Access Sablefish Fishery. In 1995, the daily trip limits for sablefish in the open access nontrawl fishery were 300 lb (136 kg) per day north of the Conception subarea (36°00′ N. lat.) and 350 lb (159 kg) per day in the Conception subarea (36°00′ N. lat. to the U.S.-Mexican border). The best available information at the April 1996 Council meeting indicated that 119 mt of sablefish had been taken in the open access fishery in California by the end of March and that the rate of landings would need to be reduced by 40 percent to avoid reaching the 463–mt open access allocation before the end of the year. After hearing considerable testimony that a target fishery for less than 300 lb (136 kg) of sablefish per day would result in substantial discards, or would be too low to sustain a viable fishery, the Council agreed to maintain the current daily trip limit. However, it recommended further constraining landings by adding a cumulative trip limit of 2,100 lb (952 kg) north of 36° N. lat. per vessel per month. A cumulative trip limit is the maximum amount that may be taken and retained, possessed, or landed per vessel in a specified period of time (in this case, 1 month). Landings made under the daily trip limits count toward the cumulative limit. This cumulative monthly limit would accommodate seven daily landings at 300 lb (136 kg). Any open access landings of sablefish made in May 1996 (even if made before this closure is filed with the Office of the Federal Register) will be counted toward the 2,100–lb (952–kg) cumulative limit for the month. This cumulative monthly limit does not apply to open access trawl fisheries because they target on non-groundfish species (pink shrimp, prawns, California halibut, and sea cucumbers) and are constrained by other limits.

For the above reasons, NMFS concurs with the Council's recommendations and modifies the annual management measures announced at 61 FR 279 (January 4, 1996), as amended, as follows:

1. Paragraph IV.I(1)(c)(ii) is revised to read as follows:

"(ii) A daily trip limit of 50 lb (23 kg) of thornyheads taken and retained south of Pt. Conception, CA."

2. A new paragraph IV.I(1)(e) is added to read as follows:

"(e) *Closure - thornyheads north of Pt. Conception.* The open access fishery for thornyheads (shortspine or longspine) north of Pt. Conception, CA is closed. This closure applies to thornyheads taken and retained with all open access gear. Open access gear is gear used to take and retain groundfish that does not have a valid limited entry permit for the Pacific coast groundfish fishery with an endorsement for the gear used to harvest the groundfish, including longline, trap, pot, hook-and-line (fixed or mobile), set net (south of 38° N. lat. only), and trawls used to target non-groundfish species (pink shrimp or prawns, and, south of Pt. Arena, CA (38°57′30″ N. lat.), California halibut or sea cucumbers)."

3. Paragraph IV.I.(2)(a) is revised to read as follows:

"(a) *North of 36°00′ N. lat.* The cumulative trip limit for sablefish taken and retained north of 36°00′ N. lat. is 2,100 lb (952 kg) per month. The daily trip limit for sablefish taken and retained north of 36°00′ N. lat., which

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counts toward the cumulative limit, remains at 300 lb (136 kg)."

Classification

These actions are authorized by the FMP, which governs the harvest of groundfish in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California. The determination to take these actions is based on the most recent data available. The aggregate data upon which the determinations are based are available for public inspection at the office of the Regional Director (see **ADDRESSES**) during business hours. Because of the need for immediate action to reduce the harvest of shortspine thornyheads, and because the public had an opportunity to comment on the action at the April 1996 Council meeting, NMFS has determined that good cause exists for this document to be published without affording a prior opportunity for public comment or a 30-day delayed effectiveness period. These actions are taken under the authority of 50 CFR 663.23(c)(1)(i)(E), (G), and (L), and are exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 2, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–11546 Filed 5–3–96; 4:47 pm]

BILLING CODE 3510–22–F

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50 CFR Part 672

[Docket No. 960129018–6018–01; I.D. 050396C]

Groundfish of the Gulf of Alaska; Pacific cod in the Western Regulatory Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of Pacific cod in the Western Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catches of Pacific cod in the Western Regulatory Area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the total allowable catch (TAC) of Pacific cod in this area has been reached.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), May 5, 1996, until 12 midnight A.l.t., December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii)(B), the TAC for Pacific cod in the Western Regulatory Area was established by the Final 1996 Harvest Specifications of Groundfish (61 FR 4304, February 5, 1996) as 18,850 metric tons (mt).

The Director, Alaska Region, NMFS, has determined, in accordance with § 672.20(c)(3), that the TAC for Pacific cod in the Western Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of Pacific cod in the Western Regulatory Area of the GOA be treated as prohibited species in accordance with § 672.20(e).

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 3, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–11547 Filed 5–3–96; 4:47 pm]

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50 CFR Part 672

[Docket No. 960129018–6018–01; I.D. 050396B]

Groundfish of the Gulf of Alaska; Pacific cod in the Central Regulatory Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of Pacific cod in the Central Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catches of Pacific cod in the Central Regulatory Area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the total allowable catch (TAC) of Pacific cod in this area has been reached.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), May 5, 1996, until 12 midnight A.l.t., December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii)(B), the TAC for Pacific cod in the Central Regulatory Area was established by the Final 1996 Harvest Specifications of Groundfish (61 FR 4304, February 5, 1996) as 42,900 metric tons (mt).

The Director, Alaska Region, NMFS, has determined, in accordance with § 672.20(c)(3), that the TAC for Pacific cod in the Central Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of Pacific cod in the Central Regulatory Area of the GOA be treated as prohibited species in accordance with § 672.20(e).

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 3, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–11548 Filed 5–3–96; 4:47 pm]

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Proposed Rules

Federal Register

Vol. 61, No. 91

Thursday, May 9, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 26

RIN 3150–AF12

Modifications to Fitness-For-Duty Program Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) proposes to amend its regulations to modify the current Fitness-For-Duty Program (FFD) requirements. The proposed amendments would apply to all licensees authorized to construct or operate a nuclear power reactor and all licensees authorized to possess or transport Category I nuclear material. The proposed rule is intended to ensure compatibility with changes made to the Department of Health and Human (HHS) testing guidelines, reduce unnecessary burdens, and ensure continued protection of public health and safety.

The NRC specifically requests comments on a number of issues and, in particular, as to whether the changes would provide a substantial increase in the overall protection of the public health and safety and the common defense and security, whether the rule as whole does not constitute a backfit since the rule's cumulative effect is to ease licensee burdens or leave them essentially the same, whether those subject to the rule would not object to the new requirements in view of their perception of overall benefit and, if so, whether their non-objection could be grounds for not applying the backfit rule.

DATES: The comment period expires August 7, 1996. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch.

Deliver comments to: One White Flint North, 11555 Rockville Pike, Rockville, Maryland between 7:30 am and 4:15 pm on Federal workdays.

Copies of the draft regulatory analysis, comments received, the Americans With Disabilities Act Technical Assistance Manual, HHS's Medical Review Officer Manual, and NIDA's Technical Advisory of March 11, 1991, may be examined at: the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Copies of NUREG/CR–5784, "Fitness for Duty in the Nuclear Power Industry: A Review of the First Year of Program Performance and an Update of the Technical Issues," NUREG–1385, "Fitness for Duty in the Nuclear Power Industry: Responses to Implementation Questions," and NUREG/CR–5758, "Fitness for Duty in the Nuclear Power Industry: Annual Summary of Program Performance Reports," CY 1994, Volume 5, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20402–9328. Copies are also available from the National Technical Information Service, 5282 Port Royal Road, Springfield, VA 22161. A copy is available for inspection and/or copying in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Loren L. Bush, Jr., Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415–2944.

SUPPLEMENTARY INFORMATION:

Background

The NRC is proposing to amend its regulations on "Fitness-for-Duty Programs," as part of its ongoing activities to improve its regulations.

The objective of the licensee's fitness-for-duty program is to provide reasonable assurance that nuclear power plant personnel are reliable, trustworthy, and not under the influence of any substance, legal or illegal, or mentally or physically impaired from any cause, which in any way adversely affects their ability to safely and competently perform their duties. Fitness-for-duty programs developed under the requirements of 10 CFR Part 26 are intended to create an environment which is free of drugs and the effects of such substances.

In its deliberation of the many issues associated with the rulemaking, the Commission desired that the rule ensure a proper balance between safeguarding individual rights and the Commission's responsibility to protect public health and safety. The changes proposed in this rulemaking are intended to be consistent with the Commission's original goals and to ensure there is a proper balance between the Commission's responsibility for protecting the public health and safety and its interest in protecting individual employee rights from unconstitutional invasion of their right to privacy.

The NRC has reviewed the experience gained since publication of the rule on June 7, 1989 (54 FR 24468), which was implemented by licensees January 3, 1990. NRC review included information from several sources, such as inspections, periodic reports by licensees on program performance, reports of significant FFD events, industry-sponsored meetings, initiatives by the Nuclear Management and Resources Council (NUMARC) (now the Nuclear Energy Institute) and the Substance Abuse and Mental Health Services Administration (SAMHSA) (formerly the National Institute on Drug Abuse [NIDA]) and its Drug Testing Advisory Board, and current literature. The review indicates that, although the rule is fundamentally sound and provides a means for deterrence and detection of substance abuse, some matters need to be addressed. These matters include the—

(1) Need to ensure compatibility with changes made to the HHS guidelines;

(2) Reduction of burden on licensees while fulfilling the purpose of the rule;

(3) Need for a limited number of new requirements, e.g., to further reduce the potential for subversion of the testing process and to make clear that the appeal process applies to all persons covered by the rule; and

(4) Need to clarify the Commission's original intent in several areas to reduce incorrect or inconsistent use and differing interpretations and to make a number of administrative changes.

While none of the proposed amendments represent major changes,

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they do represent modifications that would substantially reduce the cost of implementation to licensees; enhance overall program integrity, effectiveness, and efficiency; and help to ensure the continued protection of public health and safety.

Discussion

The proposed amendments take into account the experience gained in implementing the initial rule, developments in the FFD area, and actions by other Government agencies on drug testing and other FFD concerns. During implementation of new regulations, particularly regulations in rapidly evolving disciplines such as drug testing and employee reliability, a substantial number of lessons are learned from experience. The first five years of experience with the NRC's fitness-for-duty rule are no exception. A significant number of the proposed revisions are adjustments to the rule that would decrease the burden on licensees without reducing the protection of public health and safety afforded by the rule. For example, one proposed revision would allow licensees to grant unescorted access to personnel covered by another licensee's FFD program. This would facilitate interchange of employees in, for example, "peer evaluator" situations. Another proposed revision of this type would permit licensees to accept generic portions of training provided by another licensee to people covered by the rule. This revision would recognize that significant portions of all licensees' fitness-for-duty training cover the same general subjects and would facilitate more timely contractor support during outages.

While some proposed revisions would increase program efficiency, others would ensure that the Commission's FFD program more effectively achieves its objectives. For example, the Commission is proposing several revisions to the rule's drug and alcohol testing requirements that would clarify testing processes and purposes. While many of these rule changes would strengthen testing requirements, others would reduce the testing burden on licensee and contractor employees. These and other revisions would bolster the rule's protection of public safety while reducing the industry's regulatory burden where possible.

The NRC is also proposing a substantial number of revisions to respond to legal and regulatory changes that have occurred since the publication of 10 CFR Part 26. For example, the Department of Transportation (DOT) and its operating administrations (e.g., the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), and the Federal Highway Administration (FHA)) and other Federal and State agencies have expanded their drug and alcohol testing requirements during the past five years. Some of these regulatory changes have created requirements applicable to some licensee employees and contractors that duplicate the NRC's drug and alcohol testing requirements. To reduce unnecessarily duplicative burdens, the Commission is proposing to permit testing performed under these other programs to be accepted in lieu of 10 CFR Part 26 testing when individuals covered by an NRC program are also subject to another program. Another change since the publication of 10 CFR Part 26 has been the implementation of the requirements of the Americans with Disabilities Act (ADA). While the ADA specifically exempts the NRC's program from certain requirements, various proposed revisions to the regulation accommodate certain aspects of the Act. For example, the current rule requires licensees to determine whether unescorted access to protected areas and other activities specified in 10 CFR 26.2 have ever been denied to people seeking unescorted access because of substance abuse and related activities. This section would be revised to limit such inquiry to events that may have occurred during only the previous five years.

During the first years of FFD rule implementation a number of requirements have been found to be ambiguous and therefore subject to inconsistent application by licensees. These ambiguities have been costly to licensees and NRC staff as they have required a substantial number of discussions involving licensee FFD staff, attorneys, and consultants; NRC inspectors; and NRC headquarters staff. Although these ambiguities have already been clarified for many licensee programs, the NRC is proposing revisions that would clarify the Commission's intent and help ensure that the regulation is consistently implemented, inspected, and enforced throughout the industry. Increased consistency of rule application throughout the industry will benefit licensees and their employees by reducing the chances of arbitrary or discriminatory application of the rule.

Finally, there are a number of proposed revisions that would improve the clarity of the rule. For example, several terms regarding the testing process and testing results have been more carefully defined and consistently used to eliminate difficulties in interpretation.

In considering the actions to be taken, the NRC will continue to consider the proper balance between safeguarding an individual's rights and protecting public health and safety.

In proposing these FFD rule revisions, the NRC also notes that it is continuing to move toward a performance-based regulatory approach in most of its rule making. Performance-based regulations are intended to give regulated entities clear guidance as to the objective of those regulations but not to be overly prescriptive in mandating specific means by which those entities must achieve the objectives. In taking this approach, the Commission expects to promote efficiencies in nuclear facility operations while maintaining the highest standards of public health and safety. Both NRC policy and Congressional directives emphasize the need for the Commission to move toward performance-based regulation.

While some of the proposed FFD rule revisions reflect this performance-based philosophy—most notably the increased licensee discretion incorporated into § 26.80 auditing requirements—the somewhat prescriptive nature of the current 10 CFR Part 26 (particularly of Appendix A), and many of the proposed revisions, are a partial departure from that regulatory approach. The NRC believes that several characteristics of and issues associated with fitness-for-duty programs make it necessary for the Commission to continue to provide detailed directives in this particular context. A relatively more specific regulatory approach, for example, will continue to assure that state and local restrictions will not hinder the stringent drug and alcohol testing needed to assure that personnel covered by the rule will continue to safely and competently perform their duties. If the NRC's requirements are not clearly stated in the rule, some state and local laws would prohibit licensees from implementing key program elements, thus making complete achievement of the rule's performance objectives difficult or impossible. The NRC believes that it must maintain the specificity of this rule in order to clearly preempt such state and local laws that could otherwise apply to licensees' fitness-for-duty programs.

The rule's specificity also protects the rights of personnel subject to the rule's mandates. Many of the rule's detailed requirements address the need to assure that testing is performed in a highly reliable manner and that workers are not wrongly accused due to false positive test results. Many of these details address these concerns and have served to provide high confidence that false positives will not be obtained. While protecting workers against unwarranted damage to their careers in this way, these detailed requirements provide quality controls that also assure accurate, valid, and dependable test results. This, in turn, bolsters FFD program credibility and acceptance among workers. The specific provisions in the rule have assured workers who do not abuse drugs or alcohol that FFD program requirements are administered fairly and competently and that their fellow workers who do violate FFD policy will likely be detected and removed from duty.

The rule's specificity has also benefited licensees during the first five years of the rule's implementation. This specificity has, for example, helped assure that positive test results can be more easily defended when challenged in court and during unemployment proceedings. They have also provided a clear statement of the NRC's position for licensees and labor representatives to use when negotiating FFD-related issues in collective bargaining agreements. The introduction of drug testing and related fitness-for-duty program requirements into the workplace is a mandatory issue for collective bargaining under the National Labor Relations Act. A prescriptive fitness-for-duty rule enables licensees and labor representatives to more effectively achieve the NRC's program objectives by clearly showing that the NRC requires particular program elements to be implemented in specific ways.

Like the NRC, other Federal and state agencies have also found it necessary to establish specific requirements rather than adopt a more performance-based approach to assuring worker fitness. For example, the detailed nature of the NRC's FFD rule is matched by the drug use and alcohol abuse prevention rules promulgated by the DOT and its five operating administrations. The level of detail of the HHS requirements for the testing of Federal workers is also comparable to that provided by Part 26. The experience of these agencies bears out the need for relatively specific regulations in this workplace fitness context.

The NRC seeks public comment on the following issues. Public comments should be submitted to the NRC as indicated under the heading **ADDRESSES.**

1. Would any of the proposed changes, group of related requirements (e.g., modifications to prevent subversion of the testing process, further ensure the accuracy and integrity of testing, clarify actions for removal), or the rulemaking as a whole provide a substantial increase in the overall protection of the public health and safety or the common defense and security? Are the groupings and subgroupings of the changes contained in the Backfit Analysis section of this **Federal Register** notice appropriate and are the changes categorized properly? Are the changes in Group III worthwhile and necessary to better accomplish the FFD rule's objective, clarify the rule's existing requirements, and reduce ambiguities. Does the rule as a whole not constitute a backfit since the rule's cumulative effect is to ease licensee burdens or leave them essentially the same, rather than to increase them. Does anyone subject to the rule not object to the new requirements in view of their perception of an overall benefit and, if so, would their non-objection be grounds for not applying the backfit rule? Although the NRC believes that the proposed specific changes to the fitness-for-duty rule (FFD) would be the most efficient method of accomplishing the regulatory objectives of the changes, are there any viable alternative approaches that should be considered, particularly with respect to the proposed changes in Group III B? Could the rule be less specific in stating the requirements? The staff's analysis of alternative approaches such as development of a Regulatory Guide, NUREG good practices, meetings with licensees, or industry initiatives, is contained in the draft Regulatory Analysis.

2. Should the NRC revise Appendix A to 10 CFR Part 26 to incorporate revisions to the Mandatory Guidelines for Federal Workplace Drug Testing Programs recently adopted by the Department of Health and Human Services (HHS) (June 9, 1994; 59 FR 29908)? The Commission proposes adoption of the changes to the HHS guidelines. In most instances, the HHS guidelines have been adopted as published by HHS; however, in some cases modifications are proposed to allow compatibility within the framework of the original FFD rule (e.g., on-site testing provisions dictated differences in minimum specimen volume, minimum number of blind performance specimens, on-site determination of the validity of specimens). The NRC desires to be consistent with the HHS Guidelines, absent a compelling reason why a departure is necessary.

3. With respect to the discussion of the proposed changes to § 26.24, are there any alternative techniques for testing for alcohol that should be considered for adoption by the NRC?

4. During the past five years of program operations, several parties have recommended that the NRC consider obtaining certain types of information in addition to that currently required to be submitted under the provisions of § 26.71(d). They believe that the Commission could use such information to better manage its FFD program oversight responsibilities, which includes formulation of public policy. The specific additional types of information and their potential use by the NRC are described in the discussion of proposed revisions to § 26.71 but are not incorporated into the proposed changes to the text of the rule. The NRC requests public comment on whether the licensees should be required to collect, analyze, and submit to the NRC such additional types of information.

5. The NRC is proposing to add a new Section 2.7(e) to Appendix A that would require testing to determine specimen validity (i.e., detect evidence of adulteration or dilution) before performing a screening test on site (if appropriate) and at the HHS laboratory. This would be an adaptation of a change HHS made to its guidelines in June, 1994. However, not all dilute specimens are the result of attempts to avoid detection. Hence, to minimize the probability of incorrect conclusions from such events, suspect specimens, including those with abnormal specific gravity (SG) would be subject to screening and confirmation testing using the limit of detection that the laboratory is capable of performing. The Commission requests comments regarding this change, and, in addition, requests comments on three other revisions to detect evidence of adulteration or dilution that are under consideration:

a. Including Ph and/or creatinine as well as SG in the required testing to determine specimen validity;

b. Requiring tests to determine specimen validity (which might include SG, Ph, and/or creatinine) immediately after specimen collection at all sites and immediate collection of a second specimen from those individuals providing specimens with abnormal qualities; and

c. Requiring tests at one-half of the cut-off levels specified for each drug instead of at the HHS-certified laboratory's limit of detection for suspect specimens.

6. With respect to the discussion of the proposed changes to Section 2.7 of Appendix A:

a. Should the NRC require tests for agents that can be added to urine as an attempt to mask THC (marijuana) or other drugs?

b. Should the NRC raise the cutoff levels for screening and confirmation

tests for opiates to reduce the laboratory-confirmed positives for opiates that the medical review officer (MRO) determines to be negative? Given the high level of concern for safety in the nuclear industry, should the NRC retain the current levels, even if HHS should raise the levels for "demand reduction" programs covered by its Guidelines as it proposed on November 16, 1995 (60 FR 57587).

7. A key element of assuring the integrity of the testing program is the continued assurance of test accuracy through licensees' submission of blind performance test specimens to HHS-certified laboratories as required by Section 2.8(e) of Appendix A. The NRC has received a number of suggestions regarding improving these blind performance test specimen requirements. The Commission is considering each of these suggested revisions and invites public comment on the following:

a. A limited HHS survey of blind performance test specimens supplied by various vendors has indicated a wide range of drug or metabolite concentrations in spiked specimens. Should the NRC require licensees to assure that concentration ranges for blind performance test specimens be within a defined range (to be determined in consultation with HHS)?

b. Should the NRC require that providers of performance test specimens be separate and independent (no conflict of interest) from those performing the specimen collection, specimen testing, MRO, and auditing functions?

8. The NRC has received requests from several licensees and vendors to permit the on-site use of non-instrumented, qualitative immunoassay methods that involve the use of inexpensive, disposable devices. As discussed in more detail under the proposed changes to Section 2.7 of Appendix A, these screening techniques have not been validated to achieve the high levels of specificity and accuracy that are needed in FFD programs. Of concern to the Commission is that these devices may produce an unacceptably high number of false negative test results and may be easily subverted. The Commission invites public comment on the advisability of creating guidelines, quality assurance procedures, and performance standards to govern use of these devices. Alternatively, should the Commission prohibit the use of these devices until such time as HHS (or another agency) has developed guidelines, procedures, and standards. Should there be a Conforming Products List for these devices similar to that published by the National Highway Traffic Safety Administration (NHTSA) for evidential breath measurement devices? Who should administer such a program?

Groups of Interrelated Revisions

Several of the proposed rule changes should be considered as groups of interrelated revisions that, if adopted, will interact with each other and with the current rule to accomplish important FFD objectives. Foremost among these are several revisions intended to minimize subversion of the testing process. Subversion has proven to be a continuing problem that threatens the effectiveness of workplace testing programs across the country. Although a number of techniques for subverting the testing process exist, flushing (diluting the specimen by drinking copious amounts of water) appears to be the most common. The proposed rule is intended to reduce the potential for successful subversion by flushing include (1) a requirement that licensees minimize the time between notification of the person to report for a random test and the collection of the specimen and (2) a requirement to determine the validity of specimens, which would be done through testing for specific gravity (SG) and may include several other methods. Other forms of subversion include the adulteration of specimens and the submission of surrogate specimens. Reducing the time between notification and testing will also counter these subversion techniques. To further reduce the potential for subversion, the NRC proposes using a narrower temperature range than set by the HHS guidelines for determining an acceptable specimen. This would make it more difficult to submit surrogate specimens and to use some dilution techniques. The proposed rule also would revise various sections to state more clearly that any act or attempted act of subversion is to be considered a violation of FFD policy. These revisions would provide an integrated response to the problem of subversion.

The Commission also is proposing to require that dilute and other questionable specimens be tested at the lowest level of detection (LOD) that the laboratory is qualified to use. While this revision would have an anti-subversion effect, its primary purpose would be to further protect those being tested. Currently, when a testing laboratory determines that a specimen is dilute or otherwise of questionable quality, the person tested is required to produce a second specimen under the direct observation of a collection site person. Test results indicate, however, that a great majority of dilute specimens result from reasons other than drug use. Requiring level-of-detection testing would infringe less on the individual's privacy by minimizing the need to produce a second specimen under direct observation. It would protect those being tested also by providing MROs with additional useful information to enable them to make accurate determinations of whether a specimen of questionable validity has actually been adulterated or diluted.

The proposed revisions pertaining to removal from unescorted access because of FFD policy violation and subsequent return to work constitute a second important group of interrelated revisions. One revision would clarify the Commission's original intent that any violation of a licensee's FFD policy must result in immediate removal from unescorted access status upon determination of a violation. Before a person is allowed to return to work, the condition that led to removal would have to be resolved through a medical determination of fitness conducted by appropriately qualified personnel and the person would have to be tested under a proposed return-to-duty testing requirement. Another related revision would clarify the Commission's intent that persons to whom unescorted access is reinstated after a policy violation are to be subject to follow-up testing for a three-year period. These and other proposed changes are intended to provide a more complete set of requirements relating to removals and return to duty.

The NRC is also proposing a set of revisions that would address situations in which individuals subject to the rule's testing requirements are only infrequently on site. Although most licensees have appropriate provisions in this area, several licensees have gone to great expense in bringing off-site workers to the collection facility for testing immediately upon their being chosen from the random testing pool. Some off-site workers have been required to drive 2–4 hours each way, fly cross country, and/or stay overnight. Some licensees use mobile collection facilities or teams to travel to the location of the person selected for testing. One proposed revision would make clear the NRC's original intent that people need not be immediately brought to the site for testing in such situations. Another related revision would eliminate the requirement for a suitable inquiry into a person's employment status when the person returns to a site after having not been covered by an FFD program for thirty days or less. This revision would also clarify the requirements applicable to individuals who come to the site only infrequently.

A fourth group of revisions relates to testing for alcohol. Impairment caused by alcohol misuse creates a safety risk that is fundamentally similar to the risk posed by the misuse of illegal drugs. Some licensees, however, have imposed lesser sanctions for alcohol violations, an approach that is contrary to the Commission's intent. The NRC proposes to rectify this situation by explicitly requiring the same minimum sanctions for abuse of alcohol as currently exist for use of illegal drugs. Several proposed revisions would contribute to this objective. One revision would explicitly define the FFD policy violations involving alcohol. Likewise, alcohol test results between 0.02 and 0.04 percent would be forwarded to the Medical Review Officer (MRO) for back calculation to determine whether the person had an impermissibly high blood alcohol content while on duty. The requirements concerning conduct of suitable inquiries would also be revised to explicitly require that licensees determine whether persons seeking unescorted access status have ever used alcohol in a manner that resulted in on-duty impairment.

A fifth group of proposed revisions would address current ambiguities associated with the testing for the use of amphetamines. The standard for confirmatory testing for methamphetamines would be supplemented with the requirement that specimens must also contain a specific amount of amphetamine to be confirmed as positive. Multiple screening tests would be permitted to reduce the amphetamine testing problems caused by cross reactivity. A requirement that specimens confirmed positive for amphetamines must also be tested for d and l isomers is another related proposed revision. Another proposed revision would allow an extra two days for HHS-certified laboratories to report to licensees test results having suspected amphetamines. These revisions would serve to clarify and rationalize testing requirements for amphetamines.

Use of Old Test Results

The NRC also cautions licensees that test results obtained before January 3, 1990, should be considered with great care. The results may be questionable for the following reasons:

- The HHS laboratory certification program was initiated in 1988 and by the end of 1989 about 40 laboratories were certified. Many of the laboratories being used did not meet current performance standards for accuracy and reliability.
- In some cases, confirmation tests may not have been conducted.
- In many cases, there was no review by a technically qualified person, such as a MRO, to determine if legitimate uses of drugs (particularly amphetamines and opiates) were causing the results reported by the laboratories.

The NRC staff has been informed of several cases in which persons alleged they had a record of a questionably positive drug test 5 to 15 years ago, have since worked in the nuclear industry with a good work record and no positive drug tests, and are now denied employment. The Commission recognizes that positive drug test results obtained before the rule was implemented may indicate persons who have a significant past history of drug abuse but, because of the factors noted above, other available information should also be considered.

Description of Proposed Changes by Section

The following discussion describes the changes to the current FFD rule that are being proposed and the reasons for the changes.

Section 26.2 Scope

The NRC proposes to amend this section to include specified classes of personnel who administer testing programs. Although Section 2.3 of Appendix A requires that licensees carefully select and monitor persons responsible for administering the testing program based upon the highest standards of honesty and integrity, some licensees' testing programs have not included all persons originally intended to be tested. This action is taken to clarify the Commission's original intent because although these people normally work outside the protected area, their actions do have an ongoing effect on safety and would have an impact on the confidence of management and the workforce in the integrity of the program and the reliability of the results. Persons who administer testing programs are in a position to permit substance abusers to remain undetected. The persons who administer the tests could inadvertently omit testing of an employee as a result of impaired behavior on the part of the test administrator because of substance abuse or intentionally because of motives associated with substance abuse, empathy with the abuser, etc. Furthermore, the omission of test administrators from testing and other program requirements tends to undermine the credibility of licensees' FFD programs.

Several reported incidents have confirmed the need to assure that FFD program personnel meet the highest standards of honesty, integrity, reliability, and trustworthiness. For example, one licensee added collection personnel to the testing pool after investigation of an allegation determined that two specimen collectors were substance abusers. In another instance, a contracted MRO not in the testing pool was reported to be an alcoholic and an abuser of prescription drugs.

The proposed revision to § 26.2(a) would fulfill the NRC's original objective for this section and require all licensees to extend the coverage of their programs to the following three classes of FFD personnel:

- Personnel who can link test results with the person who was tested;
- Personnel making removal and return-to-work recommendations or decisions; and
- Personnel involved in the selection and notification of employees for testing and the collection of specimens.

Specimen collectors, the MRO, the FFD program manager, Employee Assistance Program (EAP) counselors, and other selected administrative staff would be examples of FFD program personnel who would be included within this clarification of the rule's scope. Testing of FFD personnel is further discussed in conjunction with Section 2.3 of Appendix A.

The NRC also proposes to amend § 26.2 to allow reduced scope programs for facilities that are in the process of being decommissioned. Because the level of risk associated with these facilities will decline during decommissioning, the revision is designed to provide the NRC with the flexibility to tailor the FFD program to site-specific factors as deemed appropriate by the NRC to protect public health and safety.

Finally, the NRC proposes to amend § 26.2 to provide that people covered by a program regulated by another Federal or state agency that meets the general performance objectives of the FFD rule need not be additionally covered by a licensee's FFD program. Duplicate testing and training requirements applicable to an appreciable number of individuals working at nuclear facilities have become an increasing problem as the Department of Transportation's drug testing requirements and new alcohol testing rule have been implemented. Differences in specific program requirements, such as the use of different cut-off levels (but which are at

least as stringent as the HHS guidelines), would be unlikely to have a significant effect on the licensee's FFD program in meeting the general performance objectives. The licensee would continue to be responsible for behavioral observation, immediate removal from duty of persons whose fitness may be questionable, and for-cause testing for a specific situation. This revision would reduce the burden on individuals covered by multiple Federal and State programs with requirements that duplicate the FFD rule.

Section 26.3 Definition

The NRC proposes that this section be modified to clarify definitions of some terms, to make terms and definitions more consistent with those used by other Federal agencies (including the Substance Abuse and Mental Health Services Administration and the Department of Transportation), to provide new definitions to support other sections of the rule, and to remove three terms, "random test," "follow-up testing," and "suitable inquiry," because they are already fully defined in the text of the rule. In addition, several terms have been moved to this section from Section 1.2 of Appendix A because they first appear in the main body of the rule.

For the most part, changes in this section are intended to eliminate differing interpretations and ambiguities in current wording. The Commission proposes three changes to the terms used for definitions of drug test results. The changes include modification to the definition of "confirmed positive test" to reflect proposed changes to terms and definitions, and the addition of the terms "laboratory confirmed positive" and "unconfirmed positive test result." "Laboratory confirmed positive" would refer to the positive outcome of a gas chromatography/mass spectrometry (GC/MS) test. These tests are reviewed by the MRO to determine if they show a violation of the FFD policy or if there is a medical explanation for the positive result. "Unconfirmed positive test result" would refer to the result of a screening test that is not negative. The original wording of the rule refers to these results in a number of ways, most often as "presumptive positives." The term "presumptive positive" and other terms used to refer to this result have been replaced with "unconfirmed positive test result" throughout the rule to increase clarity and consistency. The definition of "confirmatory test" would be revised to reflect a proposed revision made elsewhere in the rule relating to blood tests for alcohol that could be used in an appeal. The term "screening test" would replace the former terms "initial or screening test" in the interests of clarity.

The NRC proposes to add a definition of "medical determination of fitness" to support proposed changes to other sections of the regulation. This term would clarify the role of the MRO or other licensed physician in determining fitness for duty and provide a standard regarding what constitutes this determination. The focus of the medical determination would be to determine if a rule or policy violation has occurred and to evaluate the potential for on-duty impairment (e.g., of sensory, cognitive, motor and communicative skills) that would interfere with the safe performance of the individual's duties.

A new definition of "behavioral observation" is proposed that would clarify the role of supervisors in monitoring the behavior of workers under their oversight. It is the NRC's intent that all personnel having unescorted access to the protected area be subject to behavioral observation. To accomplish this goal, supervisors are expected to observe the behavior of all personnel with whom they have routine contact, not only those workers for whom they have direct supervisory responsibility. Licensees would, for example, be responsible for ensuring that contractor employees whose supervisors may remain off site be subject to behavioral oversight by licensee supervisory personnel when within the protected area. The contractor employees would, however, still be subject to behavioral observation by their own supervisors when off site. A definition for "supervisor" is proposed to clarify that supervisors include all personnel with supervisory responsibilities over workers with unescorted access, whether they are on site or off site.

The NRC proposes to add the terms "abuse of legal drugs" and "substance abuse" and definitions for these terms to clarify the intent of the rule and to support changes to management actions and sanctions regarding alcohol and other legal drugs and substance abuse.

The NRC proposes to add the term "subversion" and to define it in terms of the intentional causing of a missing or inaccurate drug or alcohol test result at any stage of the testing program, including the process of selection and notification, specimen collection, specimen analysis, testing, and reporting of test results.

Finally, the NRC proposes that the definition of "aliquot" be modified by adding language designed to make it clearer that the aliquot is a representative sample of a specimen and can be used for retesting.

Section 26.7 Communications

A new section, "Communications," similar to existing sections in other 10 CFR Parts would be added to ensure that communications with the NRC are processed properly.

Section 26.8 Information Collection Requirements: OMB Approval

The NRC proposes to delete § 26.8(c) which presents an estimate of the total time burden for this Part's recordkeeping requirements and solicits licensee comments concerning the accuracy of the estimate and ways by which the burden can be reduced. This information is not normally codified in the regulations and is being deleted to maintain consistency with other parts throughout 10 CFR Chapter I. Burden estimates and requests for public comments on the burden estimates continue to be published in the preamble of **Federal Register** Notices for NRC rulemaking in accordance with Office of Management and Budget (OMB) regulations.

Section 26.20 Written Policy and Procedures

The NRC proposes several changes to this section. One amendment would make it clear that licensees' overall description of their policy on FFD must be prepared in a summary form, which most licensees have done, and made readily available to employees covered by the rule [§ 26.20(a)]. It has been noted during inspections that a few licensees had incorporated their FFD policy into the several procedures that were not readily available to employees. The NRC's intent remains that licensees publish a statement notifying employees of the policy as is required by the Drug-Free Workplace Act of 1988.

Other amendments would clarify § 26.20 (a) and (d) to ensure that a licensee's FFD policy addresses employees' off-site involvement with illegal drugs, the abuse of legal drugs, the subversion of the testing process by adulterating or substituting specimens, the refusal to provide a specimen, and use of prescription and over-the-counter medications that may cause impairment. This revision would make explicit the need to address FFD concerns that have emerged during the first five years of program operation.

Another amendment would clarify the requirements pertaining to licensees' procedures to ensure that persons called in to perform an unscheduled working tour are fit to perform the task assigned [§ 26.20(e)]. This section currently

requires called-in employees to state whether they have consumed alcohol within the licensee's pre-duty abstinence period. The proposed revision would make it clear that this declaration of fitness includes fitness to perform tasks assigned, not just alcohol consumption. These revisions would afford employees an added safeguard in that they would have an opportunity to express their own opinion as to whether they believe themselves fit in view of fatigue, illness, use of medication or consumption of alcohol to perform assigned tasks. This requirement would also enable licensees to obtain the information over the telephone to avoid having to get that person safely home after arriving onsite unfit to work, call in another person, and avoid the potential for civil lawsuits that could arise from accidents while the called-in person is in travel.

Another amendment would remove the statement that the Commission may review the licensee's FFD policy and procedures at any time [§ 26.20(f)]. This provision is unnecessary because the Commission may always inspect the licensee's program.

A new § 26.20(f) would add a paragraph that would allow licensees to credit unescorted access status granted by other licensees. Such individuals must be covered by the random testing and behavioral observation programs of either the original licensee employer or that of the host licensee. This change would facilitate the interchange of personnel among licensees in, for example, situations where a "peer evaluator" from one licensee works with a second licensee (e.g., inspections conducted under the auspices of the Institute of Nuclear Power Operations (INPO)). It clarifies that there is no need for a licensee to audit another licensee's program before granting unescorted access to that licensee's employee.

The NRC continues to believe that an abstinence period of at least 5 hours preceding any scheduled working tour is appropriate and wishes to clarify the implications of this abstention period for employees. This requirement continues to accommodate a reasonable and moderate amount of off-duty alcohol consumption outside the abstention period. Employees do need to be aware, however, that immoderate alcohol consumption, even if it occurs before the start of the abstinence period, can later result in an FFD policy violation. If, for example, an employee were to consume a relatively large volume of alcohol six hours before starting work and, in the interim, consume a heavy meal (the consumption of food can significantly slow the metabolism of alcohol), the employee could be at risk of violating FFD policy (i.e., could have a blood alcohol content (BAC) of 0.04 percent or higher when reporting for work). Therefore, it is incumbent upon employees to exercise restraint in their alcohol consumption even outside of the 5-hour abstention period. Although moderate off-duty drinking is not prohibited by FFD policy, employees should understand heavy alcohol consumption can be an FFD concern even though it occurs before the abstinence period. The NRC is aware that some past alcohol-related violations of licensees' FFD policies have resulted from employees' lack of understanding of these issues. Communication of these matters to employees is particularly important because the proposed rule would make management sanctions mandatory for alcohol-related FFD policy violations.

Section 26.21 Policy Communications and Awareness Training

The NRC proposes to decrease the frequency of FFD policy and awareness refresher training from every 12 to every 24 months. However, the Commission expects that FFD program changes, such as would be mandated by final rulemaking, would be communicated to all affected workers before the changes are implemented. The material presented in this training is relatively straightforward and is not expected to change significantly over time. Refresher training on a nominal 24-month frequency would be sufficient to keep personnel covered by the rule aware of FFD program policy and procedures. Another proposed amendment to this section would allow licensees to accept the generic portions of training of individuals who have been subject to a Part 26 program at another site and have received initial or refresher training within the past 24 months; site-specific training would continue to be required before unescorted access may be granted. Policy communications and awareness training covers a number of common areas that are consistent across licensee programs. Because there are some differences among licensees, new personnel should be trained in those aspects of licensee programs that are particular to the site.

Section 26.22 Training of Supervisors and Escorts

The NRC proposes to amend the provision pertaining to the initial and refresher FFD training of supervisors and escorts. One amendment would clarify the NRC's intent that, except in the case of people receiving their initial supervisorial assignment, all supervisors of licensee employees and contractor personnel and all escorts must fully complete their initial FFD supervisory training before assignment to duties within the scope of Part 26. Supervisors of licensee employees receiving their initial assignment would be required to complete training as soon as feasible but would continue to have up to three months to complete initial training. Supervisors of contractor personnel receiving their initial supervisorial assignment would have only ten days to complete initial training. Given the higher rate of positive tests among contractor personnel, it is particularly important to ensure that contractor supervisors complete their training either before or very soon after they assume their duties. Although the NRC considered amending the rule to clarify requirements concerning situations in which contractor, and possibly some licensee, supervisors do not have unescorted access privileges themselves but supervise people who do have such privileges, it believes the following guidance should suffice. The NRC expects that those supervisors who do not come on site would be trained in drug recognition, behavioral observation, and procedures for initiating corrective action. The NRC also expects that, while on site, these workers are observed by someone trained in these matters.

The NRC is concerned that some licensees may have appointed people as "acting" supervisors for periods of less than three months and have given these people none of the programmatic training required by this section. The NRC believes that even "acting" supervisors must be trained in the five topics appearing in § 26.22(a) as soon as feasible.

The NRC is also proposing to allow a written examination that demonstrates an adequate knowledge of pertinent FFD issues and material to be used in lieu of refresher training for supervisors and escorts in two out of every three years. Allowing the use of a written exam would increase flexibility without compromising the integrity of FFD programs and may decrease administrative expenses. The NRC has declined to change the nominal 12-month frequency associated with this refresher training for supervisors and escorts as it proposes to do for the policy communications and awareness training required by § 26.21(b). Supervisors and escorts must, for example, be able to recognize drug use or degradation of performance of the

people working around them. Having training, or a written examination in lieu of training, at an interval of more than 12 months may not be sufficient to ensure that supervisors and escorts would remain diligent and effective in performing these functions.

Another proposed amendment would allow licensees to accept the training of people who have been subject to a Part 26 program at another site and have had initial or refresher training (or testing in lieu of refresher training) within 12 months before assignment to supervisory duties. This proposed revision would facilitate the movement of supervisory personnel among licensees and decrease licensee costs for training individuals in a number of common areas that are consistent across licensee programs. As noted previously, because there are some differences among licensees, new employees should be trained in those aspects of the licensee's program that are site specific.

As noted by the Commission's regulatory review group, behavioral observation training as described in § 26.22(a) should not focus solely on substance abuse. Instead, it should also provide managers and supervisors training in appropriate actions to take (e.g., referral to EAP) when individuals have FFD problems other than substance abuse that affect them (e.g., stress, fatigue).

Section 26.23 Contractors and Vendors

This section currently requires that personnel who have been denied access or removed from activities within the scope of Part 26 for violations of an FFD policy will not be assigned to activities within the scope of Part 26 without the knowledge and consent of the licensee. During the first five years of FFD program operations instances occurred in which personnel with a history of substance abuse known to the contractor employer were sent on site without the licensee being informed of such history. Therefore, this section is revised to make clear that persons with a known (to the contractor or vendor) history of substance abuse must not receive these assignments without the knowledge and consent of the licensee.

The NRC understands that some contractors have requested escorted access for individuals with a drug history in order to avoid informing the licensee. The Commission desires comments as to whether the rule should be revised so that this practice is no longer permitted.

Section 26.24 Chemical Testing

The NRC proposes to revise the descriptions of the four types of testing that are currently required. The proposed changes are intended to rectify inconsistent interpretations of testing requirements that have appeared across the industry during the five years of FFD program operations. In § 26.24(a)(1), chemical testing before granting unescorted access would be referred to as "preaccess testing." It continues to be the NRC's intention that any test, whether before or after the beginning of a person's term of employment with the licensee, that is performed with the intent that it may be a test as required by § 26.24(a)(1) must meet the standards set forth in Part 26 and be reported to the NRC as a preaccess test. One proposed amendment to this paragraph designed to reduce unnecessarily redundant testing of applicants for access privileges, would allow licensees to consider any drug and alcohol test meeting Part 26 standards and performed within 60 days before the granting of unescorted access to serve as a preaccess test. A test performed by another licensee or under a testing program required by the U.S. Department of Transportation are examples of tests that would qualify as preaccess tests under this proposed revision. In such circumstances, the NRC would expect that licensees would use a dependable means of confirming that the person seeking access had actually been tested. This could be accomplished by the electronic exchange of pertinent information among licensees using a computerized data base that the industry is currently considering for implementation.

As another clarification of the NRC's original intent, as described in item number 4.5 of NUREG–1385, "FFD in the Nuclear Power Industry: Responses to Implementation Questions," § 26.24(a)(1) would be amended to explicitly prohibit the granting of unescorted access until the person's negative preaccess test result has been obtained. However, another change would allow some relief from this requirement. Unescorted access could be granted before receipt of a negative test result if the person seeking access has no history indicating the use of illegal drugs or the abuse of legal drugs and has either had a negative result on a test meeting Part 26 standards performed within six months before the granting of unescorted access or been covered by a program meeting Part 26 standards for two consecutive weeks during that six-month period. This relief from the requirement to obtain a negative test result before the granting of access is based upon industry experience of the demonstrated reliability of workers who have been covered by a rigorous program in the past. In these circumstances, the NRC expects that licensees would confirm the occurrence of such tests or such coverage. These proposed revisions are intended to reiterate the importance attached to establishing an individuals' fitness status before unescorted access is granted. At the same time, these revisions would allow some efficiencies borne out by industry experience in the granting of access without compromising public health and safety. Some additional relief would be provided where the individual is transferring from another licensee. In this case, if the individual has been covered by an FFD program for 30 of the previous 60 days, no specimen need be collected and tested.

Other proposed changes to this section (§ 26.24(a)(2)) would more clearly describe the full meaning of the currently required attributes of random testing. Some licensees who randomly tested only during weekday day shifts provided predictable gaps in testing. People working during evenings and on weekends knew they would not be tested. Workers who were randomly selected for testing, but did not happen to be on site at the time scheduled for specimen collection because they normally worked off site or worked a night or weekend shift, were deleted from the list of people to be tested that day and other workers who were present substituted in their place. Thus, not all workers had an equal chance of being tested. All testing personnel and employees must be made aware that tests are truly random and unpredictable, and therefore that unannounced tests may occur during any day or night duty hours. Predictable patterns of random testing are prohibited by the rule. The proposed rule changes would create no new random testing requirements, but would instead clarify currently existing requirements that random testing be unpredictable and conducted at various times during the day. As discussed in item number 4.6 of NUREG–1385, which points out that HHS's "Medical Review Officer Manual" suggests that random sampling procedures should permit no "safe periods" for any employee: "Each work day should present each employee with a new opportunity of having to produce a sample. * * *"

A provision would be added to clarify that reasonable efforts must be made to test persons selected for random testing. For persons off site and within a reasonable traveling time and distance, the NRC expects collection of specimens be completed as promptly as notification and travel can be accomplished. For other persons selected for random testing, the NRC expects that upon their return to the site they be promptly notified and tested under the provisions of § 26.24(a)(2) and that the test would be recorded as a random test.

A proposed amendment would provide flexibility to conduct for-cause tests (§ 26.24(a)(3)) no more than 2 hours for the alcohol part of the test and 8 hours for the drug part of the test following an indicated need for testing. This change is intended to accommodate situations where no collection personnel are on site and need to be called in or the individual needs to be transported to another location for testing. While it is in the best interests of both the licensee and the worker in this situation to collect the specimens as soon as possible, as currently required, more flexibility is appropriate. A shorter time is specified for alcohol because of the more rapid metabolism of this substance.

Other additions to this section would be clarification of the conditions that initiate a for-cause test and clarification that an MRO or other licensed medical person must determine the fitness for duty of an individual tested for cause before that worker may return to duty. Although the NRC considered amending the rule to clarify requirements concerning situations in which a worker may be potentially impaired from causes that would not be detectable by drug and alcohol testing, it believes the following guidance should suffice. Although impairment caused by factors other than substance abuse is usually not a violation of the FFD rule by the worker, it is the responsibility of the licensee to assure that no impairment, regardless of cause, threatens public safety.

The NRC has received, but declined to adopt, recommendations that this section be revised to authorize licensees to administer an "alcohol-only" test in certain situations. Under this recommendation, only a breath test would be required when conditions that directly indicate alcohol use, such as alcohol on the breath, create a reasonable suspicion that the person may have misused alcohol in violation of the licensee's fitness-for-duty policy. The NRC believes that allowing an alcohol-only test in these circumstances would be inappropriate. It is preferable to perform both an alcohol test and a drug test, whether the alcohol test is positive or negative, to fully investigate the individual's fitness for duty. However, if the alcohol test is negative and the individual is determined fit by a designated licensee representative qualified to make the determination, the individual could be returned to duty pending laboratory testing of the urine specimen and receipt of urinalysis results. The Commission believes that this provides an appropriate balance between assurance of a thorough inquiry and determination of fitness and reduction of the impacts caused by time away from the work station.

The requirements pertaining to follow-up testing (§ 26.24(a)(4)) would be clarified by incorporating the provisions of § 26.27 (b) (4) to make explicit that all people to whom unescorted access is reinstated under § 26.27(b) must be subject to unannounced and unpredictable testing for at least three years following reinstatement. The duration of followup testing is supported by research which indicates that chronic abusers of alcohol and other drugs usually need several years to recover from their habits. Under these proposed amendments, licensees would be required to adopt a program that is tailored to the individual's medical history and that meets these minimum requirements. These amendments are intended to clarify the current conditions under which licensees can reinstate unescorted access following a first or second violation of an FFD policy. A proposed requirement that the testing be unpredictable is added to conform the followup testing to the existing requirements for random testing.

The NRC proposes to add a fifth type of required chemical testing referred to as "return-to-duty" testing (§ 26.24(a)(5)). In its current form, the rule does not clearly state the Commission's intent that licensees should test personnel having unescorted access when they return to work after extended absences. The NRC staff is aware that most, but not all, licensees are already testing people when they return to their sites after extended absences. The proposed new § 26.24(a)(5) would require return-to-duty testing when workers seek to regain unescorted access to protected areas in two types of circumstances. First, workers seeking to regain unescorted access after having been denied access under the provisions of § 26.27(b) would be tested and a negative result obtained before access is restored. Second, a worker who seeks to regain access at a particular licensee's plant after an absence from the possibility of being tested under that licensee's FFD program for more than 60 days would have to be tested under this requirement. Provisions are made in the rule to lessen the impact. This proposed revision is also intended to clarify expectations regarding individuals selected for random testing who are away from the site and not available for testing. The NRC staff understands that some licensees are currently calling people in for random tests from long distances (e.g., a 2- to 4-hour drive each way, cross-country flights, overnight stays). Some licensees use mobile collection facilities or teams to travel to the persons selected for testing. The NRC staff is also aware that many licensees are routinely testing people such as utility headquarters staff, contractors, and consultants who come to the site only infrequently but may have access status. The new return-to-duty testing requirements and the revisions to the pre-access and random testing requirements (§ 26.24(a) (1) and (2)) are intended to provide licensees the explicit flexibility to adjust their testing programs to eliminate unnecessarily "heroic efforts" to test.

The 60-day period was chosen in order to be consistent with the current preaccess processing standards in NUMARC 91–03, "Nuclear Power Plant Personnel Access Authorization Data Exchange Guidelines," dated October 1992. The industry guidelines provide that to be issued a badge in a situation where an individual has an existing access authorization, the individual must either be currently covered by an FFD program including random testing, or have satisfactorily completed preaccess drug and alcohol testing within 60 days before badging, and be subject to a behavioral observation program and an FFD program. The industry guidelines also provide that the individual's activities should be checked if a licensee or contractor/vendor employee had been away from a licensee, or approved contractor/vendor, behavioral observation program for more than 30 consecutive days. The industry guidelines also provide that suitable inquiry should be updated if reinstatement of access is requested for an individual who has been away from an FFD program for a period of 30 days or more.

For workers who have been absent from the possibility of being tested under the licensee's program for more than 60 days, any drug or alcohol test meeting Part 26 standards and performed within 60 days before the granting of unescorted access could serve as the return-to-duty test. The returning worker would have to obtain

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a negative test result before returning to work unless he or she has no history indicating the use of illegal drugs or the misuse or abuse of legal drugs and has either had a negative result on a test meeting Part 26 standards performed within six months before the reinstatement of unescorted access or been covered by a program meeting Part 26 standards for two consecutive weeks during that six-month period. As was adopted for preaccess testing, tests performed by another licensee or under a testing program required by the U.S. Department of Transportation are examples of tests that would qualify as return-to-duty tests under this proposed revision. In such circumstances, the NRC would expect that licensees would use a dependable means of confirming that the person seeking access had actually been tested or been covered by another program. This could be accomplished, for example, by the electronic exchange of pertinent information among licensees using a computerized data base that the industry is currently considering.

Various proposed editorial changes to § 26.24(d) would leave its requirements essentially unchanged from the amendment to this paragraph published by the NRC on August 26, 1991 (56 FR 41922).

The NRC is proposing a new paragraph (§ 26.24(e)) that would require that licensees keep to a minimum the time between notifying individuals to be tested and the actual collection of specimens. This requirement is intended to eliminate a significant vulnerability (time) in the testing process. Time is very important to persons attempting to avoid detection. Time enables them to flush themselves, obtain surrogate specimens, or obtain materials to dilute or adulterate their specimens. For example, an investigation was conducted to determine why two adjacent sites, drawing their workforce from the same geographic area, had significantly different positive rates for random tests. It was determined that different time intervals between notification and collection were the cause of the discrepancy. The licensee with the low rate had a 2-hour notification policy not vigorously enforced; the licensee with the higher rate had a 15-minute notification policy which it aggressively enforced. A DOT study showed an increase in the positive rate when there was little or no prior warning of specimen collection. Whereas "normal" random testing of motor carrier personnel was positive at a 2.5% rate, roadside stops produced at a 4.8% positive rate. In response to that experience, DOT revised its rule to require the person, upon notification, to immediately proceed to be tested. NRC inspections and surveys indicate that some licensees keep workers on the job and test them only at the end of a shift even though they have been notified that they are to be tested hours before. In other cases, licensees permit delaying tactics that result in lengthy periods between notification and testing. In both of these cases, alcohol can be metabolized below detectable levels and the person can flush himself or herself, to some degree, of drugs. Some licensees release workers for tests in a manner that allows them ample opportunity to obtain materials that might subvert the test results (e.g., adulterants or surrogate samples kept in a locker or vehicle). The NRC understands that operational necessity may prevent the tested person from reporting immediately and that being escorted between notification and test may be an unreasonable burden. However, several licensees have reduced the notification time by using the supervisor to coordinate the worker's availability for testing and withhold notification until the individual must proceed to the collection site. Licensees report that this approach does not cause any burden or inconvenience; it is merely a different way of doing things. One licensee reported that it escorted persons selected for random testing without giving them prior notice, which produced a low number of questionable specimens (NUREG/CR–5758, "Fitness for Duty in the Nuclear Power Industry: Annual Summary of Program Performance Reports," CY 1994, Volume 5, page C–5). Therefore, the Commission expects that licensees will assure that opportunities for subverting the test are eliminated as much as is practicable.

Section 26.24(e) (paragraph (f) in the proposed rule) currently requires that MROs' review of test results be completed and licensee management notified of those results within 10 days of the initial positive screening test. The intent of this requirement is to ensure that results are obtained within a reasonable time after specimen collection. Industry experience has indicated in some cases that the current requirement is impractical. In order to make this requirement more effective across the industry, the NRC is proposing to require that MROs' review of laboratory test results be completed and licensee management notified "as soon as practicable" after specimen collection and no more than 14 days after the collection of a specimen. Because many licensees conduct on-site screening tests, the "collection of a specimen" standard would establish a more consistent and controllable time line than "initial screening test." The licensees conducting initial screening tests on site would have the same amount of time to review the HHS-certified laboratories' reports as do those licensees not conducting onsite testing. Experience has shown that the majority of certified laboratories take only 1 to 3 days from receipt of a specimen to screen and confirm tests; isolated exceptions are usually caused by testing for 6-acetylmorphine (6–AM), formerly referred to as 6-monoacetylmorphine (6–MAM), and occasionally by unusual technical problems. The Commission believes that most test results should be known to an MRO within 5 to 7 days from specimen shipment to the laboratory. The Commission has no great concern where there is a legitimate technical basis for a short, reasonable delay by the laboratory, for example, where a specialized low-volume test, such as 6–AM, is done twice a week rather than every day. This revision would require, therefore, that MROs must advise licensee management of available test results and of the progress of the review if the review has not been completed within 14 days of the specimen collection. While slightly relaxing the test result reporting requirements, the NRC would still expect MRO reviews to be completed as soon as practicable, and, in accordance with a proposed clarification of Section 2.9(c) of Appendix A, that the MRO notify management immediately after the determination of a positive test result or other violation of FFD policy.

The NRC also proposes to clarify § 26.24(f) to require that the MRO must report all violations of the licensee's FFD program to management in writing and in such a manner that confidentiality is ensured. This requirement is also proposed as new paragraph (i) in Section 2.9 of Appendix A, which addresses reporting requirements and the review of test results. This provision is simply a clarification of existing practice and an adoption of a change made to the HHS guidelines in June 1994, and would not place a significant burden on licensees since it would require that only FFD program violations, rather than all test results, be reported in writing to management. Requiring that all determinations of FFD program violations be submitted in writing will assist in preventing reporting errors. Furthermore, although it is currently common practice to submit such

information in a manner that ensures confidentiality, the NRC believes that due to the sensitive nature of the information this provision should be explicitly required, as HHS does in its guidelines.

The NRC proposes to modify § 26.24(g) with several editorial changes to clarify requirements for performing screening, confirmatory, and blind performance tests at HHS-certified laboratories. These changes serve to clarify and explicitly state the currently existing practice by licensees. In addition, this paragraph and § 26.24(d) would require licensees to ensure that all collected specimens are tested and that laboratories report results for all specimen tests performed. This provision serves to clarify existing requirements, would be a companion to the change to § 26.24(f), and would be an adaptation of a change made to the HHS guidelines in June 1994, in which HHS required written reports on all specimens, both positive and negative, to ensure that all specimens had been tested and all results reviewed by the MRO.

The NRC is proposing to require that a confirmatory test for alcohol be performed if the screening test indicates a blood alcohol concentration of 0.02 percent or greater instead of 0.04 percent as currently required (§ 26.24(h)). In cases where the confirmatory test indicates a blood alcohol concentration between 0.02 percent and 0.04 percent, the result would have to be forwarded to the MRO for review and, if appropriate, back calculation (see new Section 2.9(h) of Appendix A). The purpose of this procedure would be to determine whether the tested person had a BAC of 0.04 percent or greater, indicating a violation of the FFD rule, at any time during the work shift.

Section 26.24(h) currently provides for a blood test to be administered if the tested person demands "further confirmation" of a positive confirmatory test for alcohol. The NRC is proposing to revise the regulatory language to better reflect the purpose of blood tests in that they would be used for providing additional information that could be considered during an appeal pursuant to § 26.28. Furthermore, licensees would be required to ensure that the blood specimen is drawn promptly after the confirmatory breath analysis. The result of the gas chromatography analysis of the blood specimen need not necessarily be measured against the alcohol cut-off level. Instead, the MRO should determine in these cases whether it is appropriate to extrapolate back in time to estimate the highest BAC that the worker had while on duty. In a related matter, the NRC desires data on the number of times blood specimens have been drawn and any instance where the BAC results were overturned. Approaches licensees have taken to maintain this capability and the associated costs would be useful for evaluation of possible future changes in this requirement.

In another revision to this section, the NRC is proposing a new paragraph (§ 26.24(i)) to address cases where an individual has a medical condition that makes collection of breath, blood, or urine specimens difficult or hazardous. The MRO, in consultation with the worker's treating or private physician, would be authorized to determine a method of specimen collection provided the methods chosen can achieve comparable results. The Commission anticipates that these occasions, which would include, for example, post-accident testing of an injured individual, would be extremely rare.

In connection with the blood tests which may be performed under § 26.24 (h) and (i), the NRC notes that the Occupational Safety and Health Administration (OSHA) has determined that some employees face a significant health risk as the result of occupational exposure to blood and other potentially infectious materials because the materials may contain certain bloodborne pathogens. OSHA published a final rule in the **Federal Register** on December 6, 1991 (56 FR 64004), that establishes requirements applicable to all occupational exposure to blood or other potentially infectious materials. This coverage appears to include personnel involved in the collection and handling of blood specimens collected pursuant to the NRC FFD rule. The OSHA rule requires employers that have one or more employees with this occupational exposure to take several measures to minimize the exposure. These measures include determining employees' potential exposure, establishing a written Exposure Control Plan designed to eliminate or minimize employee exposure, and taking various precautions to prevent contact with blood in the course of work. The NRC anticipates that licensees will evaluate their responsibilities under this OSHA rule.

Section 26.25 Employee Assistance Programs (EAP)

The NRC proposes to revise this section by replacing the permissive "should" with the mandatory "must" to clarify its original intent that licensees design their employee assistance programs to achieve early intervention and must provide for confidential assistance. While actually achieving early intervention in all situations where employees' problems could adversely affect on-the-job performance may not be possible, it is reasonable to expect that all licensees' EAPs be designed to achieve this goal and not include obvious impediments to early intervention. This would assure that self referrals are kept confidential and do not result in punitive action. The NRC wishes to emphasize that Employee Assistance Program staff shall inform licensee management when a person constitutes a hazard to himself or herself or others and that self-referral does not influence in any way the determination of an FFD violation.

Section 26.27 Management Actions and Sanctions To Be Imposed

The NRC proposes changes throughout this section to require the same sanctions for alcohol violations as currently exist for use of illegal drugs. Explicit sanctions were not contained in the original rule because the NRC wished to study the matter further. As a result of further study, the NRC concludes that impairment caused by alcohol abuse creates a safety risk that is fundamentally similar to the risk posed by the use of illegal drugs. Both types of abuse involve violation of explicit licensee policies, are unacceptable in the nuclear power industry, and should strongly be discouraged. Currently, licensees vary widely in their responses to alcohol abuse with sanctions ranging from a three-day suspension to termination. The FFD rule's lack of explicit minimum sanctions concerning alcohol has created problems for many licensees in negotiating and defending sanction decisions. Creating minimum sanctions for alcohol violations that are equal to those of illegal drugs will assist licensees in dealing with these situations while sending a strong message to workers about the risks involved in abusing alcohol. As discussed under the proposed changes to § 26.20, it is important for licensees to ensure that their employees understand the several factors related to alcohol consumption that could result in a violation of the licensee's FFD policy.

Section 26.27(a) would be revised to clarify certain aspects of the requirements for the written statement obtained from persons seeking unescorted access and for the conduct of suitable inquiries. In both cases, the revisions would require licensees to determine whether the person has a history of substance abuse or has previously violated a licensee FFD

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policy. These changes are being proposed with the intention of requiring the gathering of more complete information on the backgrounds of applicants for unescorted access, particularly as to potential problems with the abuse of alcohol. In addition, the history, except for removal from activities within the scope of this part due to actions taken as the result of an FFD policy, would be limited to the last 5 years. It should also be noted that the proposed revisions are intended to ensure consistency between the suitable inquiry aspects of both the access authorization rule and the FFD rule and that one suitable inquiry for each worker should be sufficient to fulfill the requirements of the two rules. As in the Access Authorization program, "best efforts" requirements of § 26.27(a)(3) are accomplished through contacts with previous employers. In addition, fitness history need not be obtained for those covered by other programs or absent for 30 days or less.

The NRC has received recommendations that a standard form be available for all licensees' use in performing suitable inquiries into individuals' backgrounds as required by this section. The NRC will defer to licensees should they wish to develop and use this type of form.

There have been a few reports of instances where a contractor or vendor employee with concurrent unescorted access to several power reactor sites had tested positive and that information was not shared with the other licensees. Although the individual was denied access by the testing licensee, the unescorted access status was continued by the other licensees. The NRC considered requiring licensees to assure that such notifications are made or to make periodic checks with other licensees and contractor employers but believes that the licensees' procedures to implement the access authorization rule (10 CFR 73.56) should facilitate the sharing of the information.

Section 26.27(b)(1) would be revised to clarify several points. Applicants would be added to the types of people to be denied unescorted access if their fitness is questionable. Violations of FFD policy, such as refusals to test or subversion of the testing process, is added as a basis for denial. The successful resolution of the impairing or questionable condition has been added as a condition to assignment of duties, and a more systematic review of the fitness of all personnel being returned to duty whose fitness had been deemed questionable would be required. This action is being taken because there have been several instances in which licensees did not remove or delayed removal of workers whose fitness was questionable and "automatically" returned workers to duty without a test or adequate determination of fitness. Companion changes are proposed for § 26.3, concerning medical determination of fitness, and § 26.24(a), regarding for-cause and return-to-duty testing.

The NRC proposes various amendments to § 26.27(b) (2) and (3) [formerly one paragraph (2)]. The first amendment would more clearly specify that confirmed positive drug and alcohol testing determinations are to be considered violations of FFD policy. Another amendment would clarify that people who are suspended because of policy violation are still to be covered by the licensee's FFD program with respect to behavioral observation, chemical testing, and sanctions for violations and that a positive test result during the assessment or treatment period would constitute a second positive test. In a related matter, the NRC expects that, in those rare cases when an individual is randomly tested before the results of a previous test are known to the individual and both results are positive, the licensee will consider whether the second test result is likely to be the result of the use indicated by the first test and, if not, declare the second test to be a second positive and take appropriate action. As amended, this paragraph would also require that a person who is reinstated following a policy violation must successfully complete a return-to-duty test and be subject to subsequent follow-up testing.

Section 26.27 (b) (4) and (5) (formerly paragraphs (3) and (4)) would be revised to fully recognize the abuse of alcohol as an FFD violation. The NRC also proposes to revise paragraph (b)(5) to more directly express its intention that a person must be determined to be fit to safely and competently perform activities under Part 26 by an appropriate licensee manager and the MRO or other qualified physician before being returned to those activities. Like other proposed amendments to this section, these amendments would be intended to elevate the importance given to licensee decisions regarding unescorted access reinstatement following FFD policy violations.

Section 26.27(c) would be clarified so that the exact act that violated the FFD policy is recorded and provided in response to an inquiry. Subversion of the testing process would be added to the examples of violations that must be recorded and provided in response to a suitable inquiry. Each of these examples of employee activity would be a violation of the licensee's FFD policy. A new provision would require that any attempt to subvert the testing process must result in denial of unescorted access for a minimum of three years which would be consistent with the sanction required by § 26.27(b)(3) for a second violation of a licensee's FFD policy. This sanction was chosen because the NRC wishes to convey the seriousness of such acts. Lastly, paragraph (c) would be revised to allow licensees to dispose of records five years following denial of any access authorization resulting from the activity. These revisions would establish a basis for consistent minimum treatment of these violations across all licensee programs for employee activities that have resulted in varying licensee response during the first five years of FFD program operation.

The NRC also proposes to revise paragraph (d) of § 26.27 to direct licensees to treat NRC contractors similarly to NRC employees if a licensee believes an NRC contractor to be under the influence of any substance or otherwise unfit for duty.

The NRC is aware that the requirements of the American with Disabilities Act of 1990 (ADA) may have implications for licensees' compliance with the requirements of § 26.27. The employment provisions of the ADA, which became effective on July 26, 1992, require employers with 25 or more employees to protect disabled persons from discrimination in the workplace. People who have previously been addicted to drugs or alcohol but who have been successfully rehabilitated, or can demonstrate a successful period of abstention or negative test results, are among those that the ADA protects. It is the NRC's understanding that a person who has casually used drugs in the past but was not addicted to those drugs cannot claim the ADA's protection. The Act specifically excludes from its protection employees or applicants who are current users of illegal drugs. The Act also specifies that covered entities may require employees to comply with the FFD regulations of the NRC to the extent such employees are covered by these regulations (Sec. 104(c)(5)(B), Pub. L. 101–336, 42 U.S.C. 12114; see also 29 CFR 1630.16(b)).

The Equal Employment Opportunity Commission has published the Americans With Disabilities Act Technical Assistance Manual which somewhat clarifies the meaning of "current use" of illegal drugs. According to the Manual, "current use" is drug use that has occurred recently enough to justify an employer's reasonable belief that involvement with drugs is an on-going problem. For purposes of taking an employment action, current drug use is to be determined on a case-by-case basis and is not limited to the day of use or recent days or weeks. Clearly, when determining whether a particular person is a current user of drugs, and therefore not eligible for ADA coverage, the required amount of time that must have elapsed since a person's last use of drugs must depend to a large extent on the nature of the particular employment context in which an employment action is being considered. This is confirmed by the Manual when it states that an employer may take an employment action against an employee with a history of illegal drug use if it can demonstrate that the individual poses a direct threat to health or safety because of the high probability that he or she would return to illegal drug use.

The NRC's policy, as reflected in 10 CFR Part 26, is that until a person can show that he or she has abstained from substance abuse for at least three years, there is a continuing probability of resumption of substance abuse that is too high, given the exceptional safety concerns of the nuclear power industry. This has been supported by medical evidence and clinical experience. Given the heightened safety concerns of the nuclear power industry, it is the NRC's view that a person is a current user and not a disabled person under the ADA because of drug or alcohol abuse until that person has demonstrated abstinence from substance abuse for a minimum of three years after a positive test. Even when considered disabled because of drug or alcohol abuse, a person covered by a program pursuant to 10 CFR Part 26 is by terms of the Americans With Disabilities Act still subject to the NRC's fitness-for-duty regulations.

Section 26.28 Appeals

The NRC is proposing amendments to the right to appeal granted by § 26.28. This section currently requires that people subject to the rule have an opportunity to appeal positive drug and alcohol test results. In keeping with revisions to several other sections that would be intended to counter testing subversion, an amendment would extend this right to appeal to all determinations of FFD violations.

The NRC proposes to clarify that the right to appeal includes applicants for unescorted access. The NRC understands that some licensees did not provide an appeals process to persons who tested positive on pre-access tests. The factors that could produce false positives among licensee employees and contractors (e.g., administrative errors, medical prescriptions) are equally likely to occur during pre-access testing of applicants for unescorted access. (Note that a change to § 26.24 will permit licensees to consider any test meeting the Part 26 standards as a pre-access test. Those standards include the appeals process under § 26.28, and apply to any test that the licensee plans to subsequently use as a pre-access test.) If applicants for unescorted access are not provided an appeals process, it is possible that some of them will be effectively barred from the industry based on test results erroneously determined as positive. Providing applicants an opportunity to appeal the validity of the test result would also enhance program credibility.

The NRC also proposes to clarify the contents and purpose of the notice to the individual determined to have violated an FFD policy, clarify that the review process must be objective and impartial, clarify that the individual may submit additional relevant information, extend appeal rights to applicants for access, and assure that relevant records are corrected if an appeal is successful. The NRC understands that, in some cases, the individual did not understand the purpose of the appeal process. The NRC also understands that, in many instances, persons responsible for the initial determination were conducting the review. The NRC believes that the effectiveness of the FFD program depends, to a large extent, on the perception by the workforce that the program is fair and worthy of their support, and that all reasonable efforts are being made to ensure that any decisions that could affect their careers are fair and based upon information that is complete and accurate and forms a sound basis for the decision. The use of even-handed, fact-finding procedures should ensure that incorrect determinations that could undermine the quality of a licensee's workforce and, thereby, be counter to the interests of safety, will not stand uncorrected.

As a related concern, the NRC has been informed that some licensees have required individuals to pay for the reanalysis of their specimen and the analysis of their split sample when pursuing appeals. Having to pay for the reanalysis can be expected to obstruct the individual's exercise of the right to appeal the licensee determination of policy violation as granted by this section. The NRC, therefore, considers requiring persons covered by the rule to pay for reamlysis of their specimen or analysis of the split sample to be inappropriate. However, requiring the person to pay after the fact should these subsequent tests also be positive would be an acceptable measure to control unwarranted appeals.

Section 26.29 Protection of Information

The NRC proposes to amend this section to clarify that contractors and vendors who legitimately seek information for unescorted access decisions by licensees are authorized to obtain this information. Contractors and vendors were unintentionally omitted from this provision in the original rule.

A second proposed amendment would allow disclosure of personal information collected in compliance with the rule to presiding officers of judicial or administrative proceedings that are initiated by the person who is the subject of the information. The purpose of this amendment would be to allow disclosure to, for example, state agencies investigating whether the firing of an employee was justified in order to determine unemployment compensation entitlements. This disclosure would be permissible as long as the subject employee initiated the proceeding.

Section 26.29(c) would be moved from current § 3.2 of Appendix A and amended to clarify that licensees must provide to the subject individual, upon written request, copies of all records pertaining to violations of FFD policy, including test results, MRO reviews, and management determinations pertaining to the individual. Some licensees have interpreted this section in ways that make it difficult for workers to obtain their records. For example, some licensees have allowed the tested persons to see the documents but have not provided them copies of the documents. This is particularly difficult in the case of contractor employees who may no longer reside in the plant area. These actions are contrary to the NRC's intent that persons covered by the rule have full and convenient access to documents pertaining to employment actions taken in response to the results of tests conducted under this rule.

Section 26.70 Inspections

The NRC is proposing to revise this section to clarify its intent that FFD service contractors must make available for inspection by duly authorized representatives of the Commission documents, records, and reports related to the FFD services they provide to licensee, contractor, or vendor FFD programs. In some instances, contracted service providers and testing laboratory

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personnel have been reluctant to provide documents to NRC inspectors.

Section 26.71 Recordkeeping Requirements

The proposed amendments to this section would clarify the NRC's intent that licensees retain relevant records pertaining to determinations of FFD policy violations, not just records of confirmed positive test results. These records are to include those related to personnel actions following policy violation determinations (such as refusals to test and subversion of the testing process) as well as those pertaining to the testing process that detects the violations. This revised wording would clarify licensees' recordkeeping responsibilities as well as ensure that people covered by the rule would have sufficient access to documentation of personnel actions that can substantially affect their work status.

The proposed amendments to this section would also reduce the reporting frequency for program performance data from semiannually to annually and add the number of subversion attempts by type to reporting requirements to support the greater emphasis on subversion elsewhere in the proposed rule. The NRC has considered, but decided not to adopt, a recommendation that utilities with more than one site submit only a single semiannual program performance report for all sites. Such consolidation of data would prevent analysis of site specific performance and NRC inquiry into obvious inconsistencies such as large numbers of positive results at one site and no positives at the second or neighboring site.

Despite obtaining the FFD programmatic performance information that has been submitted pursuant to this section for the five years of program operation, the NRC believes that additional types of information could be useful in fulfilling its responsibilities of overseeing licensees' FFD programs and formulating public policy. As noted in the introduction to this notice, several parties have recommended that the NRC consider obtaining certain types of information in addition to those currently required by this section or now being proposed for inclusion under § 26.73. Such information could include the number and nature of grievances, arbitration proceedings, and lawsuits stemming from FFD-related issues; information related to licensees' EAP programs including types of services provided, whether such services are provided by licensee or contractor personnel, employee-to-counselor ratios, the number of personnel who are admitted to EAP programs by self referral and by supervisory referral, the reported and diagnosed problems, and overall results of EAP programs; and laboratory testing results that are being provided to MROs and what problems MROs are having in interpreting test results and making judgments as to whether FFD policy violations have occurred.

Having access to this information would enable the NRC to gain a clearer and more detailed understanding of the actual operation of the programs. This information would also be useful for purposes of revising the regulation or providing guidance so that the general performance objectives stated in § 26.10 can be better achieved. The NRC, therefore, seeks public comment as to whether § 26.71(d) should be revised further to require that these types of information be collected and analyzed by licensees and submitted to the NRC. The NRC also seeks public comment as to whether the NRC should develop a management information system similar to that promulgated by DOT and its operating administrations (58 FR 68194 through 68285; December 23, 1993).

The NRC wishes to acknowledge the usefulness of lessons learned and program initiatives reported by many licensees that are summarized in NUREG/CR–5758 each year for licensees to consider and use to improve their programs and avoid common problems.

Section 26.73 Reporting Requirements

The current rule requires that licensees inform the Commission of significant FFD events and describes examples of significant events involving acts by licensed operators and supervisors that must be reported to the NRC. Item 10.1 of NUREG–1385 emphasized that the NRC expects licensees to exercise prudent judgment on whether or not unusual situations should be reported and that the significant events were not limited to the examples contained in the rule. However, the NRC understands that many significant events that would be useful for formulating public policy or that the NRC should respond to in a timely fashion have not been reported because licensee management decided not to report the event unless it was specifically required by the rule. Therefore, the NRC is clarifying that significant events are not limited to those listed and provides additional examples. One of the proposed amendments would add FFD program personnel, in keeping with clarifications to the scope of the regulation under § 26.2 (a), as a class of individuals whose improper acts would be reportable. Another proposed amendment would expand an example to include that any violation of FFD policy (e.g., possession of illegal drugs, refusal to take a test, attempt to subvert the testing process) by a supervisor, licensed operator, or FFD program personnel must be reported in contrast to the current example which describes reporting only confirmed positive test results.

Section 26.80 Audits

This section would be revised to permit licensees some discretion in conducting audits and to address a petition for rulemaking (PRM–26–1) filed on January 19, 1994. Rather than emphasizing compliance with a requirement to conduct an audit at a fixed annual frequency, licensees would be responsible for determining the appropriate frequency, scope, and depth of auditing activities within a 3-year period based upon a review of program performance indicators. These performance based audits would be conducted so that all program elements are adequately covered at least once during the 3-year period. In addition, the interval between audits of a program element would be relaxed to 36 months. The NRC is specifically interested in public comments on program performance indicators in addition to those contained in the text of the proposed amendment to the rule and whether they should be added to the rule or included in a guidance document. This relaxation of audit requirements would not be extended to contractors and vendors, whether they are implementing any portion of a licensee's program for their employees under the provisions of § 26.23, or providing contracted FFD services, such as specimen collection, testing, and MRO reviews. The amendments to this section would also clarify that licensees must continue to audit their HHS-certified laboratories on an annual basis.

The NRC recognizes that FFD is an evolving discipline and that new issues and problems will continue to arise. In some cases, turnover of FFD program personnel further exacerbates the problems. There is a frequent turnover in the contracted services, such as specimen collections, MRO reviews, and EAP services. Licensee audits have found many problems that were associated in some way with personnel changes. A proposed amendment to this section would require licensees to audit program elements that may potentially be affected by significant changes in personnel, procedures (e.g., specimen collection, testing, and MRO reviews

and reports), or equipment as soon as reasonably practicable but no later than 12 months after the changes. The purpose of these focused audits would be to assure that the change has not adversely affected the operation of the particular program element or function in question. One of the clear lessons of the early period of this rule's implementation during 1989 to 1991 was that licensees that performed early pro-active audits of their FFD programs were able to more easily and effectively correct programmatic problems and achieve effective program operations than those that waited the full nominal 12-month period before auditing their programs. Accordingly, this aspect of the performance based audit program would help ensure that whatever programmatic problems that may result from significant changes in personnel, procedures, or equipment will be detected and corrected on a timely basis.

Licensee audits of HHS-certified laboratories continue to find problems. In one case, the licensee's auditors had found sufficient problems in the first part of an audit to issue a stop-work order. The laboratory subsequently lost its HHS certification. Therefore, based on experiences gained to date, the NRC continues to believe that licensees must continue to audit at least annually the quality of contractor- or vendor-performed program elements, particularly when such activities are provided off site or are not under the direct, daily supervision of the licensee.

With respect to the petition for rulemaking, which was filed with the Commission by Virginia Power and assigned Docket No. PRM–26–1 on January 19, 1994, the petitioner requested that the Commission's regulations be amended to relax the existing mandatory audit frequency and require each licensee to audit its FFD program nominally every 24 months instead of nominally every 12 months with additional audits if performance warrants.

The petitioner requested the change based on its contention that the present requirement is resource intensive but of marginal importance to safety. The petitioner's further basis was that the industry's performance in ensuring a drug-free workplace has been very effective, the frequency and extent of auditing should be based on the need to assess performance, and that the licensees need increased flexibility to concentrate available audit resources in areas of observed weakness rather than mandatory audits of marginal safety significance. The petitioner stated that such a change would be consistent with audit requirements concerning operational safety, and that the blind performance test procedures and the quality controls required by Section 2.8 of Appendix A to 10 CFR Part 26 provide sufficient controls to ensure continued reliability and accuracy of the chemical testing. The petitioner indicated that its proposed change is not intended to preclude additional or more frequent audits if performance trends indicate additional overview is necessary.

The NRC believes that its proposed changes would go beyond that requested by the petitioner in that the interval for auditing the FFD program would be 3 years instead of 2, and the actual interval of the audits would be based more on need, as demonstrated by performance, than at a fixed interval. Therefore, adoption of the proposed change by the NRC would grant the petitioner's request with respect to audits of licensee programs. However, the NRC believes that licensees must continue to vigorously audit contractor/vendor-performed program elements, and has maintained the existing frequency of these audits.

The NRC understands that licensees have assumed that the term "audit" in Part 26 means a quality assurance (QA) audit that conforms to their normal audit program requirements and American National Standards Institute (ANSI) standards, such as ANSI N45.2, "Quality Assurance Program Requirements for Nuclear Facilities," ANSI N45.2.12, "Requirements for Auditing of Quality Assurance Programs for Nuclear Power Plants," ANSI N45.2.23, "Qualifications of Quality Assurance Program Audit Personnel for Nuclear Power Plants," and ANSI N.18.7, "Administrative Controls and Quality Assurance for the Operational Phase of Nuclear Power Plants." The NRC does not require that these audits be performed by the QA organization in accordance with the QA program commitments for the conduct of audits. As stated in the current rule, the NRC expects that these audits must be conducted by individuals who are qualified (technically competent) in the subject(s) being audited and are independent of the program (to assure objectivity and no conflict of interest). At the licensee's option, the QA organization may perform, lead, or assist in these audits.

The following discussion describes the changes to Appendix A to Part 26 that are being proposed and the reasons for the changes.

Section 1.1 Applicability

Numbering changes to this section are being proposed to ensure uniform style and format throughout the rule.

Section 1.2 Definitions

Proposed changes to this section include deletions of defined terms that are either redundant with definitions in § 26.3, were moved to § 26.3, or are clear in the context of this Appendix. A proposed revision would define "limit of detection" (LOD) which is now used in the rule. Another proposed amendment would delete the term "permanent record book." This change would make the Appendix consistent with recent amendments to the HHS guidelines and the Department of Transportation FFD regulations that eliminated the requirement for a permanent record book. Because HHS no longer requires a permanent record book, the NRC proposes to remove requirements for a permanent record book throughout the rule. The permanent record book was originally required based on the belief that such a book was necessary to ensure that critical information regarding collection and testing of each individual specimen was recorded. However, the FFD drug testing program specified in Part 26 requires that all information on individual tests be recorded on the chain-of-custody form and other forms and requires that all information related to determining violations be retained for five years. Therefore, there is no compelling need to maintain a separate longstanding record book. Eliminating this requirement reduces the regulatory burden on licensees and increases the efficiency of licensee drug testing programs (because the time taken to enter information into the record book while the testee waits is eliminated). The elimination of this requirement does not preclude licensees from making their own determination of the advantages of the use of a permanent record book and deciding to continue to maintain one. A definition of "limit of detection" has been added to support some of the several proposed changes intended to cope with subversion of the testing process and to protect individuals from incorrect allegations of such attempts.

Section 2.1 The Substances

The NRC proposes to amend this section to include return-to-duty testing and to clarify that when a licensee tests for any illegal drug during a for-cause test or analysis of a suspect specimen (currently permitted by the rule), the licensee may consider any detected

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drugs or metabolites (as currently authorized in section 2.7(d) of this Appendix for samples suspected of adulteration or dilution). The NRC deems it appropriate, in these particular instances, where reasonable suspicion of an FFD problem exists, to allow close scrutiny at the discretion of the licensee. The licensee continues to be responsible for assuring that the results establish a valid basis for any action taken.

The NRC has given consideration to adding additional substances to the panel of drugs to be tested (e.g., benzodiazopines, barbiturates, and/or LSD) but has chosen not to add substances at this time. In the interests of developing and maintaining a coherent and well-organized drug testing program, the NRC anticipates continuing to follow the lead set by HHS in its guidelines. HHS reviews the panel of drugs from time to time from a national perspective. At this time, the NRC prefers to have any new additions to the minimum required drug panel dependent on HHS first adding substances to its panel of drugs to be tested. However, should the interest of public health and safety indicate a need to add substances to the drug panel, the NRC will take appropriate, timely action. The NRC continues to expect a licensee to consider any localized patterns of substance abuse when designing its FFD program, as required by § 26.24(c).

Section 2.2 General Administration of Testing

Section 2.2(a) would be amended to clarify that licensees may dispose of chain-of-custody forms associated with FFD policy violations after 5 years and need not retain chain-of-custody forms recording no FFD violations or other anomalies after appropriate summary information has been recorded for program administration purposes. Licensees recently pointed out that current rule does not permit destruction of these records and that they have started to accumulate an appreciable volume of files. The retention of records for 5 years following termination of unescorted access would provide appropriate records for responding to background investigation inquiries while reducing the storage burden on licensees. Proposed modifications to section 2.2(d)(4) would clarify that the optional blood test for alcohol misuse is intended for use in a subsequent appeal of a confirmed positive alcohol test. By asking for a blood test, the individual is asking for information that can be used to appeal a licensee's determination of an FFD policy violation.

Section 2.3 Preventing Subversion of Testing

The proposed amendments to this section would clarify the individuals for whom appropriate background checks and psychological evaluations are required and would reduce the required frequency for those activities from every three years to every five years. These changes were made in response to licensee experience and for consistency with generally accepted security practices for reinvestigations into reliability and trustworthiness. This section also contains clarifications that would conform with proposed revisions to § 26.2 that would clarify the Commission's original intent that FFD program personnel responsible for the administration of testing would meet the highest standards for honesty and integrity and be under the drug and alcohol testing requirements of the rule. These additions specify that testing of FFD program personnel shall, to the extent practicable, be done by personnel independent of the FFD program. Rather than describe in the rule how this requirement should be implemented, the NRC recommends that the random selection process, specimen collection, and testing services could be considered for performance by licensee employees specifically qualified for these infrequent duties, persons under contract to meet this requirement, or an exchange of services arranged among sites or utilities in the same geographical area. Alternatively, if a licensee maintains FFD programs both on site and at corporate headquarters, the FFD personnel who administer the program at headquarters could administer the testing of on-site FFD personnel and vice versa.

This requirement is intended to reduce the possibility of FFD program personnel being responsible for testing themselves or their close colleagues. Unless otherwise specifically covered by the rule, personnel selected to test FFD program personnel would be independent of the administration of the FFD program to the extent practicable.

Section 2.4 Specimen Collection Procedures

The NRC proposes a number of changes in this section to increase the clarity and consistency in the wording of the rule. In addition to minor editorial changes, the NRC proposes to clarify that there is no requirement for the courier's signature to be included on the chain-of-custody form (§ 2.4(d)). Because specimens are sealed in packages that would indicate any tampering during transit to the laboratory, and couriers, express carriers, and postal service personnel do not have access to the custody and control forms, there is no need for such personnel to document the chain of custody for the package during transit. This is in keeping with standard forensic laboratory procedures and would streamline the specimen transportation process. This is also consistent with a recent revision to the HHS guidelines.

In regard to suggestions that the NRC specify actions to be taken if there is a break in the chain of custody, the NRC is aware that the Department of Transportation and HHS have published guidance that addresses the proper handling of breaches in the chain of custody in the transportation industries. The NRC believes this type of guidance is not necessary in the rule but expects that licensees would take action to discover and correct problems with the custody and control of specimens. Licensees should be aware that, when actual breaks in a specimen's chain of custody are detected and confirmed, the test result associated with that specimen must be invalidated. The NRC notes that judicial rulings indicate that minor "administrative" problems should not be considered breaks in the chain of custody. Examples include failure to include a middle initial or one digit of a social security number being incorrect, which are among the many techniques used in attempts by individuals to invalidate tests. Another "administrative" example found by the courts not to be a break in the chain is the collector and donor leaving a sealed specimen bottle unattended for approximately 1 minute with reasonable measures in place to conclude that no person had access during that period. This should not be interpreted to mean that the courts will accept sloppy collection procedures. The Commission expects that licensees will be sufficiently diligent and attentive to detail in this matter. The NRC would also note that licensees that test urine specimens for the five drugs specified in Appendix A to Part 26 at the specified concentration levels can use the OMB-approved Federal Drug Testing (chain-of-custody) Form (OMB Number 9999–0023) developed by the Department of Transportation and HHS and published in the **Federal Register** on August 19, 1994 (59 FR 42996). Licensees that test for additional drugs or use cutoff levels different than established by HHS in its laboratory certification program may not use the OMB approved form, but should use a "look alike" form.

That the collection site person shall note on the chain-of-custody form any unusual behavior or appearance of a person being tested remains a requirement of Section 2.4(g)(9). The NRC has noted and considered the privacy considerations associated with this requirement and continues to believe that the need to take note of such behavior or appearance is an appropriate part of the testing process. Clarification to Section 2.4(f) would assure that a specimen of questionable validity would constitute a reason to believe the individual may alter or substitute a specimen.

In accordance with HHS Guidelines, the NRC proposes to eliminate the directive that tested individuals be provided an opportunity to set forth on the chain-of-custody form information concerning medications taken or administered in the past 30 days (Section 2.4(g)(4)). The availability of such information does not eliminate the need to do a confirmatory test on an unconfirmed positive screen test result. This information becomes useful only at the point at which the MRO reviews a confirmed positive test result. It is at this stage, when this information can be conveyed by the tested individual directly and confidentially to the MRO, that information about medications the person may be using or has used becomes germane to determining whether a fitness-for-duty policy violation has occurred. Eliminating the opportunity for the tested individual to provide this information on the chain-of-custody form would enhance the individual's privacy interests by precluding the chance of any testing program or licensee personnel other than the MRO learning of the individual's use of medication.

The NRC proposes to amend Section 2.4(g)(10) to allow licensees to have an individual, other than a collection site person, accompany an individual into a rest room not in the designated collection site if the designated collection site is inaccessible. The NRC also proposes to amend Sections 2.4(g)(15) and 2.4(g)(24) to allow licensees to have an individual, other than a collection site person, observe the collection of a specimen whenever there is reason to believe the individual may have altered or substituted the specimen. However, the requirement that the individual be of the same gender as the employee still exists. This proposed change is based on NRC's belief that it not always possible, under all circumstances, to have a collection site person of the same gender available. These revisions are consistent with the June 1994 changes to the HHS guidelines.

The NRC proposes reducing the required urine specimen quantity from 60 milliliters (ml) to 30 ml for the primary specimen and, when split specimens are collected, to require the collection of an additional 15 ml (Section 2.4(g)(11)). This change conforms with recent revisions to the HHS guidelines. Because some licensees conduct on-site testing and test for additional drugs, they may need to collect an additional volume to meet these needs. The NRC understands that laboratories require only a few milliliters for testing and that a 30 ml sample is sufficient in volume for both immediate testing and for the retention of a second aliquot for further testing, if necessary. The NRC also understands that accurate measurement of specimen temperature is difficult with a small volume but does not believe that "partial" specimens should be disposed of and not tested. Reported experience in other industries indicates that the consumption of water by those unable to give a urine specimen should be limited to one 8-ounce glass of water every 30 minutes but not to exceed a maximum of 24 ounces. This rate would protect the health of individuals who are providing specimens and is consistent with the recent revision to the HHS guidelines.

The NRC proposes changes to the collection procedures to ensure that a urine specimen is not adulterated or diluted and to detect surrogate samples being submitted. Licensees have reported several examples of specimens being adulterated or diluted and surrogate samples being submitted. This experience is consistent with that of other workplace programs discussed at HHS's Drug Testing Advisory Board meetings. These recommended changes reflect the NRC's desire to minimize the vulnerabilities in the collection and testing of urine specimens that substance abusers have exploited. In addition to limiting the time between notification and collection recommended in § 26.24(e), the first proposed change in the collection procedure in Section 2.4(g) would provide clearer guidance that an observation of a urine specimen for color and clarity be used to identify only obvious signs of adulteration (Section 2.4(g)(14)). Urine color and clarity are affected by a wide range of physiological changes including an individual's health, level of hydration, medications, and diet. Test personnel should therefore use observation of color and clarity of the specimen only for gross signs of adulteration. These may include crystals settled in the bottom of the container, off-colors such as blue or green, and an excess of bubbles when the container is shaken. The second proposed change (Sections 2.4(g)(13) and 2.4(g)(15)) would establish a narrower temperature band for acceptable urine specimens, with a minimum temperature of not less than 34°C/94°F (now specified in whole numbers in accordance with HHS guidelines). This should make attempts to submit surrogate samples more difficult and, together with other changes, would be consistent with practices by a few licensees that have produced good results. The third proposed change would allow licensees to set their own parameters, within the range set by the rule, of the accepted urine temperature range. This increased flexibility recognizes that there are a number of acceptable options for recording temperature and that each allows different minimum and maximum acceptable readings. For example, some temperature recording devices are located in the specimen container and record a "peak" temperature immediately. The temperature that is expected to be recorded by this device is close to core body temperature—a temperature that could occasionally require a second specimen under direct observation under the current rule. The current temperature requirement is based on a method that records the temperature several minutes after the specimen leaves the body. The range of temperatures (i.e., the spread between the minimum and maximum acceptable temperatures) must be limited as specified in the rule. The type of temperature reading device, and the acceptable range of temperature for that device, must be specified in the licensee's procedures. Two other proposed changes would reduce the likelihood of undetected tampering by requiring secure sealing of specimen bottles and, in accordance with HHS guidelines, shipment in tamper evident containers.

The NRC proposes two changes in this section with regard to testing for alcohol (Section 2.4(g)(18)). First, the NRC proposes to remove the requirement that the worker undergo a second breath test for alcohol when the first test is essentially zero (less than 0.01 BAC). The licensee may, at its discretion, collect and measure the breath a second time. This change reduces the impact on individuals being tested and on the licensee by reducing the amount of time taken by the testing process. It has been determined that a second negative test result is not

technically necessary. Second, the NRC recognizes that alcohol is metabolized relatively quickly (nominally 0.015 percent BAC per hour) and proposes to make explicit that the length of time between a confirmed positive breath test for alcohol and the drawing of a blood specimen to test for purposes of appeal must be minimized. This proposed amendment would require that the interpretation of the results of such a test must consider the time elapsed between the confirmed positive breath test and the drawing of blood for use in an appeal process.

Section 2.4(g)(24) [formerly (25)] would be revised to provide flexibility in internal reporting and actions when an individual fails to cooperate.

The NRC proposes making various revisions to the requirements for specimen preparation and transportation to the HHS-certified laboratory or to the licensee's testing facility to decrease the chance that specimens will be degraded between the time they are collected and the time they are screened and confirmation tested (Section 2.4 (i)). Reports from several licensees have suggested that specimen degradation during shipment has been the cause of "false negative" test results. The NRC has been advised that specimens not kept chilled during storage or transit may have become contaminated because of the buildup of bacteria and their wastes to an extent sufficient to possibly alter laboratory test results. Information on this phenomenon is limited and there are conflicting opinions regarding the seriousness of the problem. For example, one MRO stated that 19 of 21 on-site screening test positives were not confirmed because of degradation of the samples during shipment. (See Appendix B to NUREG/CR–5784.) Also, the reasons for unsatisfactory results of blind performance tests reported by the HHS-certified laboratories are that the blind specimens degraded below the cutoff levels or that the specimen containers adsorbed some of the drugs or metabolites. Therefore, the NRC has conducted pilot tests to gain additional insight on whether specimen degradation was a problem. These pilot tests detected a significant level of cocaine metabolite deterioration when urine specimens with a high relative acidity/alkalinity (pH) level were stored at relatively high temperatures (i.e., 100°F) for 36 hours or more. A modest study by one licensee showed a definite decrease in the concentration levels of THC in specimen bottles stored at room temperature for one week (e.g., from 199 to 178 ng/mL); where the specimen was allowed to touch the inside of the cap sealer, the concentration was reduced more than one half (e.g., from 199 to 77.8 ng/mL). The NRC specifically invites comments regarding the proposed revisions concerning specimen degradation and whether rule changes should be made or the information published in report form for voluntary use. In particular, the NRC is interested in data that licensees conducting on-site testing could provide. Of specific interest would be examples of on-site unconfirmed positives that had degraded during shipment. Licensees or other parties submitting such information should include any known factors, such as temperatures and duration of exposure to the suspect condition, that may have contributed to the problem.

At this time, the NRC proposes two specific revisions intended to address this specimen degradation problem. The first revision would continue to require that urine specimens be shipped to the HHS-certified laboratory within six hours of collection or cooled to not more than six degrees centigrade pending shipment (as previously required by 2.7(c)). The second revision would require that the time between specimen shipment and receipt of the specimen at the HHS-certified laboratory not exceed 48 hours, or that the time between shipment and the screening test at the HHS-certified laboratory not exceed 72 hours.

The NRC proposes several other minor editorial revisions to Section 2.4 in response to industry experience. These revisions do not substantially alter the intent of the original rule. Changes to Section 2.4(i) would simplify the tracking system for the courier and the laboratory. The NRC proposes that collection personnel should report incidents when an individual refuses to cooperate in the testing process to an appropriate authority (Section 2.4(j)), as designated by the licensee, rather than through the MRO to appropriate management. The NRC believes the MRO need not be a key player because refusals to cooperate are administrative concerns rather than medical problems.

Section 2.6 Licensee Testing Facility Personnel

A change conforming to the HHS guidelines is proposed to assure that training of licensee testing facility managers includes maintenance of chain-of-custody.

Section 2.7 Laboratory and Testing Facility Analysis Procedures

Proposed revisions to this section further clarify wording and procedures discussed in previous sections.

The NRC proposes several changes in this section that would be consistent with the recent revisions to the HHS guidelines. The NRC proposes to reduce the screening cutoff level for marijuana from 100 nanograms per milliliter (ng/ml) to 50 ng/ml (Section 2.7(f) formerly 2.7(e)). Current testing technology is capable of supporting reliable and valid results at this level. In addition, analysis of results in nuclear industry drug testing programs shows that positive test rates (indicating increased detection) increased substantially when the screening level was lowered to 50 ng/ml from 100 ng/ml. These proposed changes would make the NRC's FFD rule consistent with the HHS Guidelines (59 FR 29908; June 9, 1994) and the cutoff levels used by all other Federal agencies. This change is needed to ensure that licensees' specimens are tested by a process certified by HHS (any cutoff level different than the HHS-certified process must be accompanied by appropriate QA measures). The NRC proposes a revision to eliminate the requirement that test results be reported in batches (Section 2.7(h)(1)). In addition to being consistent with the recent revisions to the HHS guidelines and the current general practice, this would significantly decrease the amount of time required for licensees to receive certain types of test results from the laboratory.

The NRC proposes to clarify its original intent that licensees which retain split specimens must use a different HHS-certified laboratory in cases where a split specimen is being tested for an appeal (§ 2.7(k)). The NRC was informed by HHS that requiring a different laboratory essentially guarantees a different process for preparing the specimen which would provide a high assurance of detection of any laboratory error or inaccuracy of test results. In one instance, the same laboratory that produced a positive test retested the specimen during an appeal and, using the same method, made the same mistake and produced a second false positive test. The false positive was discovered in response to repeated appeals by comparing this laboratory's results with the results reported by another laboratory. Although suspected false positives have been extremely rare, this proposed revision would further reduce the possibility for recurrence of a false positive due to a laboratory error.

The NRC is proposing a number of revisions to this section aimed at enhancing the effectiveness and reliability of licensee FFD program by requiring testing to determine the validity of specimens; this adaptation of a recent change to the HHS guidelines would detect evidence of adulteration or dilution, thereby reducing the potential for subversion of the testing process. This change would also address concerns that the rule does not require the laboratories to report the results of tests, such as pH, specific gravity (SG), and creatinine, to the extent these tests are performed. Licensees have encountered various practices, such as adulteration and dilution, by substance abusers to avoid detection and the NRC desires to minimize the vulnerabilities in the testing process that have been exploited. One of these measures would be to determine specimen validity. Licensees conducting onsite testing would be required to determine the validity of all specimens collected; this would avoid disposal of specimens that would have been determined invalid by the laboratory. The validity of the specimens would be determined through the addition of testing for specific gravity on arrival of the specimens at the licensee's onsite testing facility or the HHS-certified laboratory (Section 2.7(e)). The NRC requests comments on whether these tests for determining specimen validity should include tests for acidity/alkalinity (pH), creatinine, and other tests for adulterants and whether these tests should be conducted as part of the collection process so that a second specimen can be collected immediately and under direct observation. To protect those being tested from incorrect conclusions about the validity of a specimen, the NRC is proposing that those specimens determined to be outside of specification would be subjected to both screening and confirmation tests at the limit of detection that the laboratory is capable of performing. The NRC understands that this may not be technically feasible for specimens containing some adulterants. In those cases, the laboratory would not test to limit of detection (LOD) and would report the specimen condition. The NRC understands that some HHS-certified laboratories have an LOD much lower than the established cutoff values, while others may not be able to achieve an LOD less than 40 percent of established cut off levels. Therefore, the NRC requests comments on the desirability of requiring that tests of specimens which are outside of specifications (i.e., show evidence of adulteration or dilution) be performed at the HHS-certified laboratory's LOD and depending on licensees to select laboratories capable of achieving the lower LODs and to develop appropriate quality controls. Recognizing the ability of HHS-certified laboratories to identify drug metabolites at lower concentration levels found in dilute specimens in a forensically sound manner, the NRC believes this is an appropriate approach to reducing the potential for incorrect conclusions about the validity of a specimen.

The NRC believes that the information developed during these procedures would enable the MRO to make an accurate determination of whether a specimen of questionable validity has actually been adulterated or diluted. If the specimen has been heavily adulterated or diluted, specimen validity test results would indicate an obvious attempt to subvert the testing process. If the specimen is moderately diluted, with no drugs detected, and the worker's health habits reveal consumption of appropriate quantities of liquids, the MRO would determine no attempt to subvert the testing process. If drugs are detected, the MRO would conclude that the worker has attempted to subvert the testing process.

In keeping with this proposed change to reduce subversion of the testing process, the NRC proposes to require (in Section 2.7(d)) that the Medical Review Officer report any adulteration or dilution evidence (excluding hydration resulting from an acceptable reason) to licensee management in order to enable licensee management to more vigorously pursue subversion attempts (Section 2.7(h)(1), formerly Section 2.7(g)(1)). Hydration resulting from acceptable reasons (e.g., drinking fluids for health reasons) would be excluded because this type of hydration occurs frequently, especially in warm climates. Another revision would add urine specimens that are determined on site to be questionable for adulteration or dilution to those specimens that licensees must ship to an HHS-certified laboratory for testing (Section 2.7(d)). By a related revision, all specimens that have been adulterated or diluted, or that the licensee specifies have been associated with personnel actions for other reasons, would be subject to long-term frozen storage for at least one year by HHS-certified laboratories (Section 2.7(i)). The NRC recognizes that these changes are minor clarifications or modifications to existing requirements and understands that many licensees are currently performing these proposed actions.

The NRC proposes four changes to the requirements for testing. First, the NRC proposes that a test for d (dextro) and l (levo) isomers of methamphetamine be required for all positive tests for amphetamines (an additional two days are provided the laboratory for processing specimens suspected of containing amphetamines) (Section 2.7(g)(6)). Some legal drugs (e.g., Vicks inhaler) contain amphetamine compounds that may yield a laboratory-confirmed positive for amphetamine use. Laboratory confirmatory tests for the d and l isomers are able to differentiate between compounds and to identify those positive test results that are the result of legal use. Many licensees have already been using this test as further confirmation of positive test results for amphetamines. This proposed revision would mandate the use of this test by all licensees and be consistent with current laboratory practice described by HHS in its Technical Advisory of March 11, 1991. Second, a new Section 2.7(f)(3) would permit multiple screening tests only in certain limited situations. This would adopt with some modification a 1994 change HHS made to its guidelines which is intended to be limited to amphetamines to reduce the effect of possible cross reactivity due to structural analogs, and to unique testing problems. However, a few licensees have expressed concern when they learned their laboratory was routinely using multiple screening tests on all specimens. Multiple screening tests should not be used on a routine basis because of the increased number of false negative test results that could occur. Third, the NRC is also proposing to reduce the time that licensees must wait for laboratories to provide testing results and, thereby, enable licensees to grant unescorted access to new employees and to conclude activities related to drug testing in a more timely manner (Section 2.7(h)(1)). It is the NRC staff's understanding that most HHS certified laboratories can, and usually do, report negative results to the licensee within 24 hours of receipt of specimens. A laboratory-confirmed positive result usually requires another 24 to 48 hours. Exceptions are when a positive test result for amphetamine requires further testing for d and l isomers or an opiate positive requires further testing for 6-acetylmorphine (6-AM) at a few laboratories. The reduced period of time provided to laboratories to report results assures that licensees will receive results in a timely manner and will reduce the time that new employees will have to wait for their unescorted

access, thereby reducing costs to the licensee. Fourth, the NRC proposes to require that a methamphetamine confirmatory test result contain at least 200 ng/ml of amphetamine for the result to be reported as a laboratory positive (Section 2.7(g)). This revision would conform with a similar change made to the HHS Guidelines on June 9, 1994 (59 FR 29908). This requirement was adopted by HHS to prevent false positive methamphetamine results that can be caused by chromatographic resolution problems in the confirmatory testing process.

In a related matter, the NRC understands that a significant percentage of laboratory-confirmed positives for opiates are determined to be negative by the MROs based on use of prescription medication, poppy seed consumption, no clinical evidence, or other reasons. In several public meetings, MROs and other FFD program personnel have expressed concern that the current opiate testing levels are not properly targeting opiate abusers. The concern is that the program is not effective in deterring or detecting heroin use (the rule requires clinical signs of abuse for the MRO to determine the test result as positive, yet heroin is frequently smoked or inhaled leaving no clinical signs of abuse), and large numbers of laboratory confirmed positives for opiates are determined negative, which imposes an unnecessary burden on the MROs and costs to the licensees. Data from eight licensees summarized in Table 3.12 of NUREG/CR 5784 indicate that only 2 of 124 laboratory-confirmed opiate positives were confirmed by MROs as positive (both of these positive results were reported by one licensee). These data are consistent with anecdotal reports from HHS and DOT officials and MROs.

The NRC understands that the Department of Defense (DOD) has raised its screening test cutoff level for opiates to 2,000 ng/ml and the confirmatory test cutoff levels for morphine to 4,000 ng/ml, codeine to 2,000 ng/ml, and 6-AM (a metabolite specific for heroin) to 10 ng/ml.

The NRC is specifically interested in public comments and supporting data as to whether it should raise the cutoff levels for screening and confirmation tests for opiates. Should the NRC set its levels consistent with those set by the DOD and proposed by HHS on November 16, 1995 (60 FR 57587)? Given the level of concern for safety in the nuclear industry, should the NRC retain the current levels?

Two revisions related to the short-term refrigerated storage of specimens are also being proposed (Section 2.7(c)). This section currently requires that specimens that do not receive a screening test within seven days of arrival at the HHS-certified laboratory be chilled in secure refrigeration units. The NRC has determined through pilot experiments that at least one drug metabolite is subject to deterioration if a urine specimen containing this metabolite is allowed to stand for more than 32 hours at relatively high temperatures. The NRC has also become aware of anecdotal evidence that indicates that, when specimens are shipped or stored at warm temperatures, there is a potential for drug or metabolite deterioration such that specimens containing drugs or metabolites over the cutoff level at the time they were submitted can be found to be negative in either screening or later confirmatory tests. The NRC is, therefore, proposing to require that specimens that will not receive a screening test and, if appropriate, a confirmatory test within one day of arrival at the HHS-certified laboratory be stored in a chilled condition until tested.

The NRC proposes several modifications that would clarify or modify requirements in light of industry experience. These modifications do not significantly affect the rule's original intent and are intended to reduce unnecessary problems in the implementation of the rule. First, Sections 2.7 (f)(1) and (g)(2), formerly Sections 2.7(e)(1) and (f)(2), would be modified to clarify that licensees using lower cutoff levels are not required to perform two different tests at different cutoff levels. Instead, they are expected to use extrapolation techniques to provide the required estimates of the number of positive test results from HHS-certified laboratories that would have occurred using the NRC cutoff level. Second, the NRC proposes to delete the requirement that licensees have emergency power equipment available for refrigeration units in the event of a power outage (Section 2.7(c)). Instead, the proposed revision would require only that licensees have some kind of contingency measures available to maintain specimens in a chilled state. Third, the NRC proposes to allow routine administrative tasks now assigned to the MRO to be performed by the administrative staff of the MRO (Section 2.7(h)(2)), formerly Section 2.7(g)(2). Licensee experience has found that the duties of the MRO are extensive and that many of the duties prescribed in the rule could be performed equally well by the MRO's staff without compromising the privacy of individuals. Fourth, the NRC proposes to make explicit that licensee contracts with HHS-certified laboratories provide that the licensee and the NRC should be able to obtain from the laboratory all information and documentation that is reasonably necessary for the licensee's inspection or audit of the laboratory, including, but not limited to, copies of the laboratory's HHS certification results (Section 2.7(n), formerly Section 2.7(m)). In addition, this revision provides for reduced licensee inspection activities in those areas currently inspected under the HHS certification program. Fifth, the NRC proposes to add to Section 2.7(n) a provision that would permit, in the event that a licensee's HHS-certified laboratory loses its certification, the licensee to use for up to 3 months an HHS-certified laboratory that has been audited by another NRC licensee that shares the same drug testing and cutoff standards. In such cases, the licensee would be required to audit the newly contracted laboratory within three months. Sixth, the NRC proposes to revise Section 2.7(h)(5) (formerly Section 2.7(g)(5)) to clarify that the laboratories, which are now required to provide expert testimony covering drug test results, would retain the originals of the specimen chain-of-custody form in order to assure that evidence is available for appeals. The documents would be retained by the laboratory consistent with the proposed retention requirements in Section 2.2(a) of the Appendix. Seventh, the NRC proposes to clarify the original intent of Section 2.7(k) (formerly Section 2.7(j)) with regard to the applicability of the quantification of test results to split specimens. In a related matter, the NRC considered but decided not to adopt a change to Section 2.7(h)(3) to further clarify that the laboratory must provide quantitation of test results to the MRO when requested. Some laboratories have been reluctant to provide such requested information. Eighth, the NRC proposes to clarify that the individual must be informed of his/her option to test the split sample (Section 2.7(k)). Inspections have indicated that, for various reasons, not all individuals are so informed. Ninth, the NRC proposes to make explicit that all standards used to calibrate alcohol breath analysis equipment and equipment used at licensees' testing facilities for conducting screening tests must be current and valid for their purpose (Section 2.7(p)(2), formerly Section 2.7(o)(2)). The NRC has received comments from licensees regarding the receipt of out-of-date calibration standards for alcohol breath analysis

and regarding the inability of some screening test equipment to test at required levels. The NRC is also aware of the deliberate use of expired calibration standards.

The NRC also proposes to revise Section 2.7(k) by requiring an individual's request that his or her split specimen be tested in a timely manner. Current wording of the rule does not establish a time limit for an individual to request a test of a split specimen. The proposed revision would permit licensees to establish a definition of "timely," but it could not be restricted to less than 72 hours from the time the individual is notified of the violation. Although recently revised HHS guidelines established a maximum time limit of 72 hours, the NRC believes licensees should be provided the flexibility to determine appropriate time limits for split specimen testing requests that meet particular demands associated with the licensee's notification experience (e.g., notification of result occurring just before a long holiday period or the individual out sick). This revision would also ensure that individuals' rights are protected by establishing the minimum 72 hour period within which they may make a request for split specimen analysis.

A proposed revision to Section 2.7(p)(3) (formerly Section 2.7(o)(3)) would allow use of alcohol breath analysis equipment that conforms to the September 17, 1993, amendments to the National Highway Traffic Safety Administration's (NHTSA) Model Specifications for evidential breath testing devices originally published in 1984. While these amendments reflect new lower evaluation thresholds for devices to measure breath alcohol, licensees need not acquire new devices that meet these amended standards. Breath analysis equipment that meets the 1984 NHTSA standards will continue to be acceptable in NRC FFD programs.

The NRC considered a potential revision to test for agents used to mask the presence of THC and other drugs. An analysis of specimens producing negative screening tests to assure that they do not contain agents that mask the presence of THC and other drugs could be specified by rule. Products that can be added to urine as masking agents are currently available and tests for these products are currently used by some laboratories. Testing for these products would increase the detection of attempts at subverting the testing process. While it has decided not to propose this revision at this time, the NRC invites public comment on both the need for and the resource impact of such a requirement.

The NRC has received requests from several licensees and vendors to permit the on-site use of non-instrumented qualitative immunoassay methods that involve the use of inexpensive, disposable devices. Convenience and speed in obtaining results appear to be the main advantages of these devices. Such testing does not use laboratory analysis techniques, can be performed quickly, and can produce virtually immediate results. These compact and portable testing devices show promise as a quick and easy method for testing in certain circumstances such as physician's diagnostic needs when the presence of drugs or alcohol can affect what treatment is suitable for emergency-room patients. These testing devices may also be well adapted to some criminal justice applications, roadside testing, or testing in remote locations. They are generally able to identify the five drugs or drug metabolites of concern to the NRC.

While Part 26 does not currently preclude the use of such non-instrumented devices for screening tests, the NRC is aware that there are several technical variables involved in the use of these devices that may prevent them from achieving the high levels of specificity, accuracy, and repeatability demanded in licensees' FFD drug testing programs. Temperature and barometric pressure can alter the amount of urine being tested and the repeatability of the test. Temperature variations may affect the reactivity of the chemical reagents and indicator strips being used. These effects alter the amount of urine being tested and the repeatability of the test. The NRC's concern is whether these types of technical variations will have sufficient impact to alter the specificity, accuracy, and repeatability of the test results. The NRC is concerned that the use of such devices may lead to a number of false negative screening test results. (The concern for false positive screening test results is minimal since all positively screened specimens must be tested at an HHS-certified laboratory and any positive results from the laboratory followed by a review of the results by an MRO.) The Commission believes that the use of testing devices that might increase the number of false negative screening test results is not consistent with the goals of FFD testing or to the credibility of the program to those subject to testing.

The NRC is also concerned that there are not sufficient procedural safeguards currently in place that would ensure reliably accurate screening test results if these non-instrumented devices were to be used by licensees. There are, for example, no quality control procedures known to the Commission that could be used to validate the results produced by the use of these devices, nor is there any mechanism in place to validate industry-wide results over time. For example, accurate tests at the beginning and end of a batch of specimens tested with an instrumented test would indicate all specimens in the batch were accurately tested. On the other hand, "batch" testing with these non-instrumented devices is probably not feasible. Likewise, the potential for subversion that could be introduced by the use of these devices has not yet been adequately investigated or addressed. Requirements may need to be developed to protect an employee's right to privacy and to minimize the chances for subversion of the testing process. No procedural safeguards exist in the text of the rule or in Appendix A that would address opportunities for subversion of the testing process which may be created by the use of these new devices.

Given the uncertainties surrounding the potential use of non-instrumented testing devices, the NRC would prefer that these devices not be used for screening tests in licensees' FFD programs at this time. The NRC is aware that HHS has been mandated to investigate the accuracy and reliability of these devices. The NRC will monitor the HHS investigation and continue to pursue its own inquiry into the feasibility of the use of these devices for FFD screening tests. As part of this effort, the NRC will determine whether new guidelines, quality assurance procedures, and performance standards that would govern their use should be added to Part 26.

To aid in this effort, the NRC invites public comment on the advisability of its creating guidelines, procedures, or standards for non-instrumented testing devices. The NRC would welcome specific recommendations as to how Part 26 could be amended or other means that would address the concerns discussed above and other issues surrounding the use of such devices. Alternatively, the NRC invites public comment on the advisability of its waiting until procedures or standards governing the use of non-instrumented testing devices are developed by other agencies and then evaluating and adapting those standards to the nuclear power industry's requirements. Should there be a Conforming Products List for these devices similar to that published by the NHTSA for evidential breath measurement devices, and who should administer such a program? The NRC

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also would be interested in learning under what conditions, if any, would the use of non-instrumented drug testing devices produce cost savings as compared to licensees' current means of screening.

The NRC notes that Section 2.7(h)(4) (formerly Section 2.7(g)(4)) requires that HHS-certified laboratories transmit drug test results to MROs in a manner designed to protect the confidentiality of that information. In order to promote the efficient administration of FFD programs, it is the Commission's policy that FFD program personnel can assist MROs in the receipt and processing of the laboratory reports. While some programs have chosen to require that test results be received only by their MROs, others have allowed other program personnel under the supervision of an MRO to receive the results and forward them to the MRO. The NRC believes that both approaches are acceptable as long as the procedures for receiving and handling test results within the program are designed to preserve the confidentiality of the test results and actually accomplish that purpose. The NRC reiterates that a test result reported as a confirmed positive by an HHS-certified laboratory must not be considered a violation of a licensee's FFD policy until such result is reviewed by the MRO to determine if it constitutes evidence of such a violation. Therefore, the procedures through which the MROs receive test results from HHS-certified laboratories should contain explicit safeguards against improper disclosure of the report and premature actions such as the laboratory-confirmed test result being recorded in the employee's personnel file, an employment action being taken, or licensee management being notified of the positive result until after the MRO has determined that there is not an acceptable medical explanation for the positive result.

Section 2.8 Quality Assurance and Quality Control

A proposed revision to Section 2.8(b) would clarify that the current requirement that licensee testing facilities "process" blind performance specimens means that licensees conducting on-site testing must perform an immunoassay test on all such performance specimens before they are submitted to the HHS-certified laboratory. This revision is intended to make clearer the NRC's original intent regarding this requirement. A further revision would make explicit the requirement that licensees must evaluate the results of their HHS-certified laboratory's testing of the blind performance test specimens and a sampling of specimens screened as negative submitted by the licensee and take corrective action as appropriate.

The NRC, after consulting with SAMHSA, proposes an adaptation of recent changes to the HHS guidelines for blind performance test specimens (Section 2.8(e)). As HHS did with its guidelines, the modifications would reduce the percentage of blind performance specimens, reduce the proportion of blind performance tests relative to the total number of tests submitted, and reduce the maximum required number of blind performance test specimens. These changes are intended to ensure that the number of blind performance test specimens required to be submitted are adequate to assure quality in the testing process and particularly in the HHS-certified laboratory.

The NRC proposes to reduce the percentage of blind performance tests from 50 percent to 20 percent for the initial 90-day period and from 10 percent to 3 percent after the initial period, consistent with changes made to the HHS guidelines and the Department of Transportation's rules. The maximum number of blind performance test specimens required to be submitted both in the initial 90-day period and after is also lowered in the proposed revision. However, the NRC believes a maximum number less than that established by the HHS guidelines would assure adequate quality in the testing process. Whereas HHS lowered the maximum number of blind specimens to be submitted during the initial 90 day period from 500 samples to 200, the NRC proposes a further reduction to 100 specimens. The maximum number of specimens submitted thereafter during each quarter was reduced from 250 to 100 by HHS; NRC proposes a further reduction to 25 blind specimens per quarter.

Because the NRC permits on-site testing and very few specimens with unconfirmed positive test results would be submitted to laboratories at these sites, the NRC, in consultation with SAMHSA, proposes that there should be a minimum number of blind specimens (10 per quarter is recommended) to ensure that a sufficient number are submitted to assure the quality of the testing process.

The NRC intends that utilities with multiple collection sites submitting specimens to the same HHS-certified laboratory meet the percentage requirement for each collection site. However, a licensee may combine the number of specimens collected from its multiple sites to meet the total minimum requirement for all collection sites. That is, if one or more of the utility's collection sites and the corporate office contract with the same laboratory, they may pool their number of regular test specimens to meet requirements for the minimum number of blind performance test specimens. The NRC expects that blind specimens will be submitted to the laboratories from each collection site and that submission will be uniformly distributed throughout each quarter to correspond with the submission rate for other specimens.

The NRC also proposes to lower the percentage of blind performance test specimens which would be blank and raise the percentage which would be positive for one or more drugs (Section 2.8(e)(3)). Increasing the percentage of positive specimens would help offset the reduction in the minimum percentage requirements for blind performance test specimens and would assure that an adequate number of positive performance tests for each drug are submitted for quality control. Also, the NRC proposes that 10 percent of the positive blind specimens be appropriately adulterated or diluted and "spiked" to 60 percent of the cutoff value to challenge the laboratory's ability to determine specimen validity as proposed in Section 2.7(e) of the Appendix.

The third proposed revision would clarify that licensees must investigate any testing errors or unsatisfactory performance identified throughout the testing process or during the appeals process (new Section 2.8(f), formerly Section 2.8(e) (4), (5), and (6)). The NRC intended, in the original rule, that testing or process errors discovered in any part of the program, including the appeals process, be investigated as an unsatisfactory performance of a test. Thorough investigation and reporting of such test results will continue to assist the NRC, the licensees, HHS, and the HHS-certified laboratories in preventing future occurrences.

The NRC also proposes to clarify Section 2.8(e)(2) by modifying the reference to "the initial 90-day period of any new drug testing program" to read "the initial 90-day period of any contract with an HHS-certified laboratory." The clarification would help assure that intensified quality testing is performed during the initial phase of testing by any new laboratory, as originally intended. (See previous discussions in item number 10.5.6 of NUREG–1354 and item number 4.15 of NUREG–1385.)

The NRC proposes revising Section 2.8(e)(1) by clarifying the criteria that licensees must follow when purchasing blind quality control specimens. Currently requirements only ensure that blind quality control materials be purchased from labs certified by HHS or a HHS-recognized certification program. Due to the fact that not all suppliers of blind quality control materials adhered to uniform standards for preparation and certification, unacceptable blind quality control specimens have been used. These unacceptable blind quality control test results, e.g., false negatives or false positives, lead to increased costs and lowered efficiency because of additional tests and follow-up actions necessary to validate the results of previously tested actual specimens. More importantly, the unacceptable results may tend to cause loss of confidence in the testing process. In order to eliminate these problems, the NRC proposes to explicitly state the criteria, as HHS did in its recent revisions to its guidelines, in order to clarify for licensees the standards for blind quality control materials and make the rule consistent with existing practice.

Section 2.9 Reporting and Review of Results

The NRC proposes a number of revisions to this section to clarify the original intent of the rule.

Section 2.9(d) requires the MRO to determine if there is clinical evidence of opiate abuse before verifying a test result to be positive for that drug (meaning a clinical examination of all persons whose specimen was reported by the laboratory as positive for morphine or codeine). The NRC has become aware that some MROs believe that the opportunity for an individual to discuss a positive test result and related matters in a telephone conversation rather than at a face-to-face interview is sufficient to comply with this section. Providing the opportunity for only telephone conversations in some situations may not be adequate, particularly in cases where opiate use is in question. FFD experience demonstrates that personal, face-to-face, contact between the MRO and the subject individual can play an important part in arriving at fair and defensible judgments as to whether a violation of FFD policy has occurred. This process will be further clarified in the near future by HHS through revisions to its Medical Review Officer Manual.

The NRC proposes to clarify that the standards applied to the determination of whether clinical evidence of opiate abuse exists would include a range of evidence, including substantial evidence of lack of reliability and results inconsistent with ingestion of food or medication. Some MROs have interpreted this section of the regulation as restricting the types of evidence they should consider (Section 2.9(d)), in some cases resulting in "pro forma" rejection of all laboratory positives for opiates.

With regard to legal drugs, the NRC proposes to remove the requirement that Medical Review Officers determine whether there is clinical evidence of unauthorized use of over-the-counter and prescription drugs (Section 2.9(d)). This requirement has created difficulties for Medical Review Officers because there is little guidance that can be developed regarding what constitutes clinical signs of abuse for these substances.

The NRC notes that during the first five years of program operations, there has been programmatic inconsistency in MROs' decisions concerning the abuse of legal drugs, such as the use of drugs prescribed for one's spouse. This inconsistency has resulted in significant variance in management actions taken in response to this type of drug use. The NRC is not proposing a revision to this section. Instead, the NRC expects MROs to use prudent judgment in dealing with those situations which raise significant FFD concerns.

The NRC proposes clarifying that a medical determination of fitness be conducted (Section 2.9(g)) in the following cases: (1) Where there is a reason to believe that on-duty impairment may exist (whether or not there is an FFD policy violation), (2) in the evaluation of all for-cause tests results, (3) before making return-to-duty recommendations, (4) before granting unescorted access to the protected area when a record of a prior FFD violation exists, and (5) if a history of substance abuse is otherwise identified. The licensed physician or Medical Review Officer is to report to licensee management both determinations of FFD violations and determinations of any condition under which an individual may not be able to safely and competently perform his or her duties. These requirements are intended to increase assurance that a medical evaluation is performed for circumstances where fitness may be questionable. The NRC wishes to emphasize that the determination of an impairment problem that does not constitute an FFD violation must not result in punitive action toward the individual.

The NRC proposes to require Medical Review Officers to review BAC readings between 0.02 percent and 0.04 percent and to extrapolate the results of breath analysis for alcohol, or GC analysis of blood, back in time when appropriate (Section 2.9(h)). This would ensure that individuals who can reasonably be concluded to have had a BAC at or above 0.04 percent while on duty will be found to be in violation of the FFD policy.

The NRC proposes to revise Section 2.9(e) by clarifying what constitutes a "timely" request by an individual that an aliquot be reanalyzed. This would be an adaptation of the timeliness standard for testing split specimens recently adopted in the HHS Guidelines. However, under the HHS approach the split specimen "belongs" to the donor and the primary specimen "belongs" to the employer; therefore, the HHS guidelines are silent on timeliness for reanalysis of the primary specimen. Current wording of this paragraph in the NRC's rule requires an MRO to authorize a reanalysis of the original aliquot on the timely request of the individual tested. This ambiguity could be problematic for licensees who must determine how "timely" such a request actually is. The proposed revision would permit licensees to establish a definition of "timely", but it could not be restricted to less than 72 hours from the time the individual is notified of the violation. The NRC believes licensees should be provided the flexibility to determine appropriate time limits for requests for retesting specimens that meet particular demands associated with the notification of the worker (e.g., notification occurring just before a long holiday period or extended illness), yet this revision would also ensure that individuals' rights are protected by affording them a minimum of 72 hours within which they may make a request for reanalysis of the specimen. In addition, the NRC is allowing licensees the flexibility to dispose of test results, based on scientific insufficiency, after three years.

The NRC proposes adding a new Section 2.7(p)(6) and amending Section 2.9(b) by restricting the types of arrangements that can exist between the MRO and the HHS-certified laboratory or the operating contractor of an on-site testing facility. The NRC proposes to require that the MRO not be an employee, an agent of, or have any financial interest in the laboratory or on-site testing facility operator for which the MRO is reviewing drug testing results. Similarly, the laboratory and on-site testing facility operator shall not have any relationship with the MRO that may be construed as a conflict of interest. These restrictions are consistent with recent changes to the

HHS guidelines and the NRC believes that they will assist in eliminating any conflict of interest between the MRO and the contract laboratory and on-site testing facility operator that may affect the impartiality and objectivity of the MRO in reporting testing deficiencies or errors to licensee.

Section 3.2 Individual Access to Test and Laboratory Certification Results

The NRC proposes to delete this section and incorporate relevant portions of it as Section 26.29(c).

Section 4.1 Use of HHS-Certified Laboratories

The NRC proposes to add a caution, upon the advice of SAMHSA, that the HHS certification process applies only to the drugs and cutoff levels specified by HHS and that the defensibility of the results of tests at more stringent cutoff levels than those required under HHS guidelines, for analyses of blood specimens for alcohol, and tests for substances other than the 5 covered under HHS guidelines depends on appropriate measures by licensees to assure that the reported results are valid.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the information collection and paperwork requirements.

The proposed rule will relax existing information collection requirements and will contain new information collections. The overall effect will also reduce existing information collection requirements, and the overall public burden of this collection of information is expected to be decreased by 170 hours per year per site. These estimates for both reduction and addition to burden include the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Nuclear Regulatory Commission is seeking public comment on the potential impact of the collection of information contained in the proposed rule. Comments to the OMB on the collection of information or on the following issues must be submitted by June 10, 1996.

1. Is the proposed collection of information necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

Send comments regarding these burden estimates or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information and Records Management Branch (T–6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0146), Office of Management and Budget, Washington, DC 20503.

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed rule. The analysis examines the benefits, cost savings, and costs of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies may be obtained from Loren L. Bush, Jr., Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC, telephone (301) 415–2944.

Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act of 1980, (5 U.S.C. 605(b)), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. This proposed rule affects only the licensing and operation of nuclear power plants and activities associated with the possession or transportation of Category I material. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the size standards adopted by the NRC on April 11, 1995 (60 FR 18344—10 CFR 2.810).

Backfit Analysis

This proposed rule would modify a prior Commission position by adding new requirements and reducing other requirements. The modifications are intended to improve the effectiveness of the rule in the light of demonstrated program performance and lessons learned since the implementation of the rule and to enhance overall program integrity. Some of the modifications would be made to make the rule consistent with modifications to the national standards on drug testing promulgated by the Department of Health and Human Services. Other modifications are intended to prevent subversion of the testing process (examples include: limiting the time between notification and testing, using a narrower temperature range to make it more difficult to submit a surrogate sample), further ensure the accuracy and integrity of testing (examples include: determining specimen quality, using a narrower temperature range, and requiring timely shipping and testing of specimens to prevent degradation of specimens), clarify actions for removal and return to service, incorporate advances in technology (example: measures to eliminate "false positives" from legitimate use of amphetamines), and protect individual rights.

The proposed changes are, for the most part, minor program adjustments or clarifications and do not alter the Commission's original intent. Furthermore, the modifications would better achieve the level of assurance in the accuracy of results and the integrity of the testing process which was originally intended. The NRC believes that some of the changes are needed to minimize the vulnerabilities that are being exploited by substance abusers.

To facilitate public consideration of these proposed changes, the Commission has placed the proposed rule changes into the three groups appearing below. The first group consists of those changes intended to conform the rule to the HHS Mandatory Guidelines that have been modified since the rule was last revised. Subgroup IA lists those changes intended to make the NRC rule compatible with the HHS Guidelines as revised. Because the Commission continues to desire to permit more stringent programs than set forth in the HHS Guidelines, it was necessary to adjust some of the new HHS requirements to meet the needs of the nuclear power industry. These are listed in subgroup IB.

The second group consists of those rule changes that would reduce licensees' regulatory burden. Subgroup IIA lists those changes in this category for which the Commission was able to calculate specific monetary savings to licensees. Some of the proposed changes in the second group would provide licensees with FFD program administrative flexibility that would provide some indeterminate reduction in burden. These changes are found in subgroup IIB.

Group III contains several proposed revisions that the Commission believes to be worthwhile and necessary to better accomplish the FFD rule's objectives. Subgroup IIIA consists of those proposed revisions that are particularly important to achieving the rule's objectives. These include revisions designed to reduce the incidence of subversion of drug and alcohol testing and to enhance the rule's protection of the rights of workers subject to the rule. The proposed changes appearing in subgroup IIIB would serve to clarify the rule's existing requirements, reduce ambiguities that have often resulted in interpretative debates, and make other administrative changes. Some of the Group III changes, such as establishing a more restrictive temperature range, would result in a departure from the HHS guidelines.

Whether the proposed changes would, considered as a whole or individually, provide a substantial increase in overall protection of the public health and safety is a significant question. NRC staff is of the preliminary view that these changes, although desirable, would not provide a substantial increase. Public comment is specifically requested on this question of substantiality.

If the Commission were unable to conclude at the final rulemaking stage that these changes would provide a substantial increase in overall protection, the further question arises whether the rule should nevertheless go forward. One approach to continuation of the rulemaking would be to view the rule as a whole and to conclude, if warranted, that the rule's cumulative effect is to ease licensee burdens or leave them essentially the same, rather than to increase them. This would be consistent with an interpretation that the backfit rule does not apply to relaxations of requirements. However, the mandatory nature of the proposed rule, and effects on interested persons other than licensees, could present complicating factors. Alternatively, the question is presented whether those subject to the rule would decide not to object to the new requirements in view of a perceived overall benefit and, if so, whether non-objection could be grounds for not applying the backfit rule. The basis here would be that the backfit rule was solely directed at controlling objectionable impositions of additional requirements. Public comment on these considerations is specifically invited.

LIST OF PROPOSED CHANGES TO 10 CFR PART 26

Group I: Adoption of National Standards

A. Changes To Ensure Compatibility With the HHS Guidelines as Revised in June 1994

§ 26.24

(f) MRO to report FFD policy violation in writing.

(g) Ensure all collected specimens are tested and results are reported.

Section 1.2 of Appendix A

• Delete definition of permanent record book

Section 2.4 of Appendix A

(d) Courier signature not needed on chain-of-custody documents.

(g)(4) Eliminate requirement that tester request list of medications prior to specimen collection.

(g)(9)+(24) Eliminate the requirement for a permanent record book.

(g)(10)+(15)+(23)+(24) Allow accompaniment or observation by person of same gender, other than a collection site person.

(g)(11) Clarify fluid intake to assist in providing specimen.

(g)(13) Specify the temperature range for an acceptable urine specimen in whole numbers.

(i) Clarify requirements concerning use of second, tamper-evident shipping container.

Section 2.6 of Appendix A

• Assure training of licensee testing facility managers includes maintenance of chain of custody.

Section 2.7 of Appendix A

(f) Lower the cutoff level for marijuana screening tests from 100 ng/ml to 50 ng/ml.

(g) Modify the criteria for determining that a specimen is positive for amphetamines.

(g) Require testing for d and l isomers of amphetamines.

(h) Eliminate batch reporting of results.

(p) Laboratory shall not have a conflict of interest with licensee's MRO.

Section 2.8 of Appendix A

(e) Require blind quality control materials meet standards for preparation, certification, and stability.

Section 2.9 of Appendix A

(b) MROs shall not have a conflict of interest with certified laboratories.

Section 4.1 of Appendix A

(b) Note that licensees need to take appropriate measures when testing outside HHS certification process.

B. Changes To Conform HHS Guidelines Revisions to the Framework of the Original FFD Rule

§ 26.24

(d)(1)+(g) Require licensees to ensure that all collected specimens are tested and results reported.

Section 2.4 of Appendix A

(g)(11) Reduce required minimum quantity of each urine specimen from 60 ml to at least 30 ml (Where licensee chooses to test on site, split specimens, or to test for additional drugs, more than 30 ml will be necessary).

Section 2.7 of Appendix A

(e) Validity of specimens, i.e., tests for adulteration and dilution at HHS laboratory.

(f) Permit multiple immunoassay (screening) tests for the same drug or drug class.

(k) Clarifications to split specimen collection and dispatch procedures and laboratory selection.

(k) Minimum time for requests by individuals to have split specimen tested at another HHS laboratory.

Section 2.8 of Appendix A

(e) Reduce the maximum number and percentage of blind performance specimens to be submitted per quarter but require a minimum.

Section 2.9 of Appendix A

(e) Minimum time for request by individual for reanalysis of original specimen added.

Group II: Reduction in Burden

A. Changes With Quantitative Monetary Benefits

§ 26.2

(f) Eliminate duplicate testing under multiple programs.

§ 26.20

(f) Credit for unescorted access status granted by another licensee.

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§ 26.21

(b) Refresher training intervals extended from 1 to 2 years.

(b) Acceptance of generic portions of training provided by another licensee.

§ 26.22

(c) Acceptance of generic portions of training provided by another licensee.

§ 26.24

(a)(1) Flexibility in pre-access testing
—Tests within past 60 days may be considered pre-access tests if they meet the standards of Part 26
—Access may be granted pending test results for individuals covered by an acceptable FFD program for 2 consecutive weeks in the past 6 months
—No pre-access test for those transferring from another program who have been covered by an FFD program meeting the requirements of Part 26 for 30 of the past 60 days.

(a)(2) Persons off site and unavailable when chosen for random testing may be tested when next on site.

(a)(3) People tested for-cause for alcohol can return to duty while awaiting urinalysis results.

(a)(5) Clarify existing testing requirements for persons unavailable for testing for short periods and insure consistency with the access authorization program.

(e) Limit time between notification and specimen collection.

§ 26.27

(a) Fitness history need not be obtained for those covered by other programs or absent for 30 days or less.

§ 26.71

(d) Reduce frequency of program performance reports.

§ 26.80

(a) Change to performance based audit as the basis for reducing required frequency.

Section 2.2 of Appendix A

(a) Permit prompt destruction of chain-of-custody forms showing negative test results.

Section 2.3 of Appendix A

• Extend reinvestigation interval for FFD program personnel from 3 to 5 years.

Section 2.4 of Appendix A

(g)(18) Eliminate second breath specimen when test shows no alcohol.

Section 2.7 of Appendix A

(e) Test questionable specimens to level of detection.

(h) Permit MRO staff to perform certain support functions.

(n) Eliminate need to audit areas covered by HHS inspections.

B. Changes That Provide Greater Flexibility and Indeterminate Monetary Benefits

§ 26.2

(e) Reduce requirements during decommissioning.

§ 26.22

(c) Refresher training intervals may be extended from 12 to 36 months if written exam is given every 12 months.

§ 26.24

(a)(3) Provide flexibility in timeliness of for-cause test.

(f) MRO to complete review as soon as practicable and inform management if determination of test result is delayed more than 14 days after collection instead of completing review and notifying within 10 days after screening test.

(i) Flexibility for unusual medical conditions.

§ 26.27

(a) Certain aspects of fitness history to be limited to 5 years.

(a) Power reactor licensees usually need not obtain statements responding to activities related to possession or transport of Category I nuclear material.

(c) Allow records of FFD violations to be discarded after 5 years.

§ 26.29

(b) Permit provision of personal information for judicial or administrative proceedings initiated by the subject individual.

(b) Permit provision of personal information to contractors and vendors.

Section 2.2 of Appendix A

(a) Reduce time for retention of chain-of-custody forms showing violations.

Section 2.4 of Appendix A

(g)(13) Allow licensees to set temperature range within rule limits.

(g)(24) MRO or other designated medical person can authorize an observed collection.

(j) Flexibility on licensee internal reporting and actions when individual fails to cooperate.

Section 2.7 of Appendix A

(c) Flexibility in means of keeping specimens chilled.

(f)+(g) When licensee uses more stringent cutoff levels, tests at level set by the rule can be calculated and need not be conducted.

(h) Reduce time for laboratories to report results.

(n) Flexibility provided if lab loses certification.

(p) Flexibility to use old or new NHTSA standards for breath analysis equipment.

Section 2.8 of Appendix A

(f) Allow disposal of records of investigative findings after 3 years.

Section 2.9 of Appendix A

(d) Delete requirement for MRO determination of clinical evidence of legal drugs.

(i) Allow disposal of records of negative test results, based on scientific insufficiency, after 3 years.

Group III: Other Worthwhile Changes

A. Improvements Based on Experiences That the NRC Believes Are Needed and Proposes To Adopt

§ 26.24

(a)(5) Require return-to-duty testing after extended absences or denial of access.

(d)(1) Require onsite testers to determine validity of specimens on site.

(h) Require back calculations for BACs between 0.02 and 0.04.

§ 26.27

(b)(3)+(4) Minimum sanctions for positive test for alcohol or the use of alcohol within the protected area.

§ 26.28

• Assure that appeal rights cover all types of violations, including confirmed positive test results from applicants for unescorted access and determinations of subversion.

• Assure that relevant records are corrected if appeal is successful.

§ 26.29

(c) Assure provision of copies of records to individuals upon written request.

Section 2.4 of Appendix A

(g)(13)+(15) More restrictive temperature range for an acceptable urine specimen.

(i) Laboratory must receive specimens within 48 hours of shipment.

Section 2.7 of Appendix A

(d) Specimens questionable for adulteration or dilution at licensees' testing facilities must be shipped to HHS laboratory for testing.

(e) Require onsite testers to determine validity of specimens on site.

B. Clarifications to Existing Requirements, Changes To Reduce Interpretive Debates, and Administrative Changes Which Are Also Proposed

§ 26.2

(a) FFD program personnel to be covered by FFD rule.

§ 26.3

• To support other rule changes, revise existing definitions, create new definitions, and relocate some definitions from Section 1.2 of Appendix A.

§ 26.7

• New section ensures communications are sent to Document Control Desk.

§ 26.8

(c) Section regarding burden estimates deleted.

§ 26.20

• Minor clarifying and conforming edits (Introduction, (c), (d), (e)(2)).

(a) Offsite involvement with drugs, subversion of the testing process, and refusals to test added to policy statement.

(a) Clear and concise policy statement must be readily available.

(a) Policy must address impairment from legal drug use.

(d)(3)+(4) Policy must specify actions to be taken for subversion and refusal to provide a specimen.

(e)(1) Declaration of fitness to perform tasks assigned when contacted for call-in.

(f) Statement regarding Commission's right to review licensee policy is deleted.

§ 26.21

(a) Minor administrative and clarifying edits.

§ 26.22

(c) Supervisory training for licensee employees must be completed as soon as feasible following assignment to supervisory duty.

(c) Supervisory training for contractor employees must be completed no later than 10 days following assignment to supervisory duty.

§ 26.23

(a) Clarify that persons with a known (to the contractor or vendor) history of substance abuse must not receive assignments to the protected area without the knowledge and consent of the licensee.

§ 26.24

(a)(1) Specify that all testing prior to granting unescorted access is to be called pre-access testing.

(a)(1) Clarify that negative pre-access test result must be obtained prior to access.

(a)(2) Random testing must be conducted on weekends, backshifts, and holidays.

(a)(2) Individuals selected for random testing during an absence of 60 days or more to be tested only once to meet both random and return-to-duty testing requirements (see § 26.24 (a) (5)); tests to be reported as random.

(a)(3) Clarify conditions that initiate for-cause test.

(a)(3) Ensure removal of unfit persons and determination of fitness prior to return to duty.

(a)(4) Relocate follow-up testing requirements from § 26.27(b)(4/5) and clarify testing is to be unpredictable and tailored to medical history.

(a)(4)+(c)+(d)+(f)+(g)+(h) Minor clarifying edits.

(h) Clarify that blood testing for alcohol is for purposes of appeal.

(h) Clarify that any detectable quantity of alcohol in a blood specimen may be considered to determine FFD violation.

§ 26.25

• Clarify that EAPs must be designed to achieve early intervention and must assure confidentiality.

§ 26.27

(a)+(b) Clarifying and conforming edits.

(b)(1)+(3)+(5) Clarification of requirements with respect to access denial, removal, and return to service.

(b)(2) Conforming change regarding the threshold for alcohol policy violation.

(b)(3) People suspended must still be covered by behavioral observation, chemical testing, and sanctions for violations.

(c) Clarify that acts of subversion must be violations of policy and result in denial of unescorted access for 3 years and that the specific cause for removal must be provided in response to an inquiry.

(d) Clarify licensee handling of NRC contractors believed to be unfit.

§ 26.28

• Clarify that the appeals process must be objective and conducted by persons not associated with the FFD program.

• Clarify that an individual may submit additional relevant information

§ 26.29

(b)+(c) Clarifying and conforming edits.

§ 26.70

(a) Clarifies the records that NRC may inspect.

§ 26.71

(b)+(c) Conforming edit.

(d) Include number of subversion attempts by type in program performance reports.

§ 26.73

(a) Conforming changes.

(a) Provides additional examples of significant FFD events.

§ 26.80

(c) Conforming edit.

Section 1.1 of Appendix A

• Minor clarifying edits.

Section 1.2 of Appendix A

• Delete terms defined elsewhere in Part 26 or relocated to § 26.3.

• Add definition of limit of detection (LOD).

Section 2.1 of Appendix A

(a) Conforming editorial changes.

(b) Conforming editorial changes.

(e) Minor edit.

Section 2.2 of Appendix A

(a)+(d) Minor and conforming edits.

Section 2.3 of Appendix A

• Minor clarifying edits.

• Fitness-for-duty program personnel tested by independent personnel to the extent practicable.

Section 2.4 of Appendix A

(f) Minor clarifying changes.

(f) Current or previous specimen that fails to meet normal standards constitutes a reason to require observed testing.

(g) Minor clarifying changes.

(g)(14)+(15)+(18)+(19)+(20)+(23)+(24)+(27) Conforming and clarifying changes.

(g)(23) Require secure sealing of specimen bottle.

(h)+(i) Minor clarification of sealing and labeling requirements.

(i) Continue to require specimens to be shipped to HHS laboratory or cooled within 6 hours of collection as previously required by § 2.7 (c).

(i)+(j) Conforming changes.

Section 2.5 of Appendix A

• Minor clarifying edits.

Section 2.7 of Appendix A

(b)+(d)+(f)+(g)+(h)+(i)+(k)+(l)+(m) Minor clarifying edits.

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(c) Require chilling or testing within one day of arrival at HHS laboratory.
(d) MRO to report adulteration or dilution to management immediately.
(f)+(g) Standards for BAC established.
(h) Evidence of subversion must be reported by HHS laboratory.
(h) Laboratory retention of original chain-of-custody form.
(i) Specimens associated with subversion to be placed in long-term storage.
(j) Retesting of adulterated or diluted specimens need only confirm specimen not valid.
(m) HHS laboratories must have blood analysis capabilities.
(n) Specify that licensee contracts with HHS laboratories will assure that copies of records are available to licensees and NRC inspectors.
(p) Calibration standards (for calibrating equipment used to test for alcohol and screen for drugs) must be current and valid.
(p) Two-year retention period for laboratory procedure manuals after end of contract with licensee.
(p) Licensee to retain latest testing procedure manual until it is no longer performing onsite testing.

Section 2.8 of Appendix A

(a)+(b)+(c)+(e)+(f) Minor clarifying and conforming edits.
(b) Laboratory results on blind performance specimens must be evaluated and appropriate corrective actions taken.
(e) Change the proportion of blank and positive blind performance test specimens.
(e) Assure regularity of submission of blind test specimens.
(e) Adulterate or dilute and spike some blind performance specimens.
(e) Specify that initial 90-day period for blind performance testing rate applies to all new contracts with HHS laboratories.
(f) Investigation of testing process errors and inclusion of report of action taken.
(f) All false positive errors must be reported to NRC.

Section 2.9 of Appendix A

(a) Minor conforming edits.
(b)+(c)+(d)+(e)+(f) Clarifying and conforming changes to MRO duties for reporting and review of results.
(d) Clarification of clinical evidence of abuse.
(f)+(g) Medical determination of fitness to perform duties defined.
(h) Conforming language for extrapolation of BAC results between 0.02 and 0.04
(i) Minor clarifying edits.

Section 3.2 of Appendix A

• Section deleted and incorporated into § 26.29(c).

Section 4.1 of Appendix A

(a) SAMHSA replaces NIDA and change of room number.

List of Subjects in 10 CFR Part 26

Alcohol abuse, Alcohol testing, Appeals, Chemical testing, Drug abuse, Drug testing, Employee assistance programs, Fitness for duty, Management actions, Nuclear power reactors, Protection of information, Reporting and recordkeeping requirements, Sanctions.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 26.

PART 26—[AMENDED]

1. The authority citation for part 26 is revised to read as follows:

Authority: Secs. 53, 81, 103, 104, 107, 161, 68 Stat. 930, 935, 936, 937, 939, 948, as amended, (42 U.S.C. 2073, 2111, 2112, 2133, 2134, 2137, 2201); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846).

2. In § 26.2, paragraphs (a) and (d) are revised, and new paragraphs (e), and (f) are added to read as follows:

§ 26.2 Scope.

(a) The regulations in this part apply to licensees authorized to operate a nuclear power reactor, to possess or use formula quantities of SSNM, or to transport formula quantities of SSNM. Each licensee shall implement a fitness-for-duty program which complies with this part. The provisions of the fitness-for-duty program must apply to:
(1) All persons granted unescorted access to nuclear power plant protected areas;
(2) Licensee, vendor, or contractor personnel required to physically report to a licensee's Technical Support Center (TSC) or Emergency Operations Facility (EOF) in accordance with licensee emergency plans and procedures;
(3) SSNM licensee and transporter personnel who:
(i) Are granted unescorted access to Category IA Material;
(ii) Create or have access to procedures or records for safeguarding SSNM; and
(iii) Make measurements of Category IA Material;
(iv) Transport or escort Category IA Material; or
(v) Guard Category IA Material; and
(4) FFD program personnel who:
(i) Can link test results with the person who was tested;
(ii) Make removal and return-to-work recommendations or decisions;
(iii) Are involved in the selection and notification of employees for testing and in the collection and on-site testing of specimens.

* * * * *

(d) The regulations in this part apply to the Corporation required to obtain a certificate of compliance or an approved compliance plan under part 76 of this chapter only if the Corporation elects to engage in activities involving formula quantities of strategic special nuclear material. When applicable, the requirements apply only to the Corporation and personnel carrying out the activities specified in § 26.2(a)(3).
(e) For facilities in the process of being decommissioned, the scope of a fitness-for-duty program may be reduced to persons and specified areas as deemed appropriate by the NRC to protect public health and safety.
(f) Persons performing activities under this part who are covered by a program regulated by another Federal agency or State that meets the general performance objectives of this part need only be covered by those aspects of a licensee's fitness-for-duty program not included in the Federal agency or state program.

3. Section 26.3 is amended by removing the definitions for *follow-up testing, random test,* and *suitable inquiry,* revising *aliquot, confirmatory test,* and *confirmatory positive test,* and adding in alphabetical order the following definitions, *abuse of legal drugs, behavioral observation, blood alcohol concentration (BAC), HHS-certified laboratory, laboratory-confirmed positive, licensee's testing facility, medical determination of fitness, screening test, substance abuse, subversion and subvert the testing process, supervisor,* and *unconfirmed positive test result.*

§ 26.3 Definitions.

Abuse of legal drugs means the use of a legal drug (e.g., alcohol, prescription, over-the-counter drugs) in a manner that constitutes a health or safety hazard to the individual or to others, including on-the-job impairment. Legal or employment actions against an individual for use of legal drugs constitute evidence of the existence of a health or safety hazard.

Aliquot means a portion of a specimen used for testing. It is taken as a sample representing the whole specimen.

Behavioral observation means observation by supervisors in the course of their contacts with other personnel to detect degradations in performance, signs of impairment, or changes in behavior which may indicate the need to evaluate an individual's fitness for duty.

Blood Alcohol Concentration (BAC) means a measure of the mass of alcohol in a volume of blood.

* * * * *

Confirmatory test means a second analytical procedure to identify the presence of a specific drug or drug metabolite which is independent of the screening test and which uses a different technique and chemical principle from that of the screening test in order to ensure reliability and accuracy. [At this time, gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.) For determining blood alcohol levels, a "confirmatory test" means a second test using another breath alcohol analysis device. Additional information may be obtained by gas chromatography analysis of blood.

Confirmed positive test means a laboratory confirmed positive test result that has been verified as a violation of FFD policy by the Medical Review Officer (MRO) after evaluation. A "confirmed positive test" for alcohol is obtained as a result of a confirmation of blood alcohol levels of 0.04 percent or higher with a second breath analysis without MRO evaluation or as the result of an extrapolation back in time (back calculation) performed by the MRO.

* * * * *

HHS-certified laboratory means a urine testing laboratory that maintains certification to perform drug testing under the Department of Health and Human Services (HHS) "Mandatory Guidelines for Federal Workplace Drug Testing Programs."

* * * * *

Laboratory confirmed positive means the result of a confirmatory test that has established the presence of drugs, or drug metabolites, at a sufficient level to be an indication of prohibited drug use.

Licensee's testing facility means a drug testing facility operated by the licensee or one of its vendors or contractors to perform on site the initial testing of urine specimens.

Medical determination of fitness means the process whereby a licensed physician, who may be the MRO, qualified to make such determination examines and interviews an individual and reviews any appropriate and relevant medical records, in accordance with standard clinical procedures, in order to determine whether there are indications that the individual may be in violation of the licensee's FFD policy or is otherwise unable to safely and competently perform duties. The qualifications for making the determination are related to the fitness issues presented by the patient.

* * * * *

Screening test means an immunoassay screen for drugs or drug metabolites to eliminate "negative" urine specimens from further consideration, or the first breathalyzer test for alcohol. Initial screening may be performed at the licensee's testing facility; a second screen and confirmation testing for drugs or drug metabolites must be conducted by a HHS-certified laboratory.

Substance abuse means the use, sale, or possession of illegal drugs or the abuse of legal drugs (e.g., alcohol, prescription drugs, and over-the-counter drugs) or other substances.

Subversion and *Subvert the testing process* mean an act intended to avoid being tested or to bring about an inaccurate drug or alcohol test result for oneself or others. Acts of subversion can occur at any stage of the testing program including selection and notification of individuals for testing, specimen collection, specimen analysis, and testing result reporting processes and can include providing a surrogate urine specimen, diluting a specimen, (in vivo or in vitro) and adding an adulterant to a specimen.

* * * * *

Supervisor means any person who has the immediate oversight responsibilities to direct activities of any other person or persons within the protected area or has ongoing responsibility for the supervision of an individual with unescorted access status while that individual is not in the protected area.

* * * * *

Unconfirmed positive test result means the result of a screening test for drugs and drug metabolites that indicates the presence of some drug or drug metabolite and that has the potential to be confirmed through GC/MS testing by an HHS-certified laboratory as a laboratory confirmed positive test result, or the result of a screening test for alcohol indicating a blood alcohol content of 0.02 percent or greater.

* * * * *

4. Section 26.7 is added to read as follows:

§ 26.7 Communications.

Except where otherwise specified in this part, all communications and reports concerning the regulations in this part must be addressed to the NRC Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Copies of all communications must be sent to the appropriate regional office and resident inspector. Communications and reports may be delivered in person at the Commission's offices at 2120 L Street, NW., Washington, DC, or at 11555 Rockville Pike, One White Flint North, Rockville, Maryland.

§ 26.8 [Amended].

5. In § 26.8, paragraph (c) is removed.
6. In § 26.20, the introductory text and paragraphs (a), (c), (d), (e), introductory text, (e)(1), (e)(2), and (f) are revised to read as follows:

§ 26.20 Written policy and procedures.

Each licensee subject to this part shall establish and implement written policies and procedures designed to meet the general performance objectives and specific requirements of this part. Each licensee shall retain a copy of its latest written policy and procedures as a record until the Commission terminates the licenses for which for which the policy and procedures were developed. If any portion of the policies and procedures are superseded, the superseded material must be retained for at least three years. As a minimum, written policies and procedures must address fitness for duty through the following:
(a) An overall description of licensee policy on fitness for duty. The policy must address use of and offsite involvement with illegal drugs, abuse of legal drugs (e.g., alcohol, prescription and over-the-counter drugs), subversion of the testing process, and refusals to provide a specimen for testing. A clear and concise written statement of this policy must be prepared and be in sufficient detail to provide affected individuals with informtion on what is expected of them, and what consequences may result from lack of adherence to the policy. This statement must be readily available to all persons subject to the policy.
(1) As a minimum, the written policy must prohibit the consumption of alcohol—
(i) Within an abstinence period of at least 5 hours preceding any scheduled working tour; and
(ii) During the period of any working tour.
(2) Licensee policy should also address other factors that could affect

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fitness for duty such as mental stress, fatigue, illness, and the use of prescription and over-the-counter medications that could cause impairment.

* * * * *

(c) Procedures to be utilized in testing for drugs and alcohol, including procedures for protecting individuals providing a specimen and the integrity of the specimen, and the quality controls used to ensure the test results are valid and attributable to the correct individual.

(d) A description of immediate and follow-on actions which will be taken, and the procedures to be utilized, in those cases where persons who are employed by licensees, vendors, or contractors, and are assigned to duties within the scope of this part, are determined to have—

(1) Been involved in the use, sale, or possession of illegal drugs;

(2) Consumed alcohol during the mandatory pre-work abstinence period, while on duty, or to excess before reporting to duty as demonstrated with a test that can be used to determine blood alcohol concentration;

(3) Attempted to subvert the testing process by adulterating or diluting specimens (in vivo or in vitro), substituting specimens, or by any other means; or

(4) Refused to provide a specimen for analysis.

(e) A procedure that will ensure that persons called in to perform an unscheduled working tour are fit to perform the task assigned. As a minimum, this procedure must—

(1) Require a statement to be made by a called-in person when contacted as to whether he or she considers himself or herself fit to perform the task assigned and whether he or she has consumed alcohol within the length of time stated in the pre-duty abstinence policy;

(2) If alcohol has been consumed within this period, require a determination of fitness for duty by breath analysis or other means (collection of urine under § 26.24(a)(3) is not required); and

* * * * *

(f) Licensees seeking to grant unescorted access pursuant to 10 CFR 73.56 to personnel covered by another licensee's FFD program that complies with this part may credit that licensee's program through verification that the individual is currently and will continue to be subject to the random testing and behavioral observation programs of either his or her employer or those of the host licensee.

7. In § 26.21, the introductory text of paragraph (a) and paragraphs (a)(2) and (b) are revised to read as follows:

§ 26.21 Policy communications and awareness training.

(a) Persons assigned to activities within the scope of this part must be provided with appropriate training to ensure they understand—

* * * * *

(2) The personal and public health and safety hazards associated with the use of illegal drugs and the abuse of legal drugs including alcohol;

* * * * *

(b) Initial training in the five topics in paragraph (a) of this section must be completed before assignment to activities within the scope of this part. Refresher training in those five topics must be completed on a nominal 24 month frequency or more frequently where the need is indicated. A record of the training must be retained for a period of at least three years. Licensees may accept training of individuals who have been subject to another Part 26 program and who have had initial or refresher training within the 24 months before assignment provided that training by the accepting licensees in the site-specific topics covered by paragraphs (a)(1), (4), and (5) of this section is completed before the granting of unescorted access to the protected area.

8. In § 26.22, the introductory text of paragraph (a) and paragraphs (a)(4) and (c) are revised to read as follows:

§ 26.22 Training of supervisors and escorts.

(a) Managers and supervisors of activities within the scope of this part must be provided appropriate training to ensure they understand—

* * * * *

(4) Behavioral observation techniques for detecting degradation in performance, impairment, or changes in an individual's behavior; and

* * * * *

(c) Initial training for escorts and licensee employees' supervisors must be completed before assignment of duties within the scope of this part, except that after an initial supervisory assignment, the initial training must be completed as soon as feasible but no later than 3 months following the assignment of supervisory duties. Initial training for supervisors of contractor personnel must be completed before assignment of the supervised contractor personnel to duties within the scope of this part or within 10 days after initial supervisory assignment, whichever is later. Refresher training must be completed on a nominal 12-month frequency, or more frequently where the need is indicated. A written examination on the training material given on a nominal 12-month frequency may be used in lieu of refresher training. The written examination must require a demonstration of adequate knowledge of the areas covered in paragraph (a) of this section. Refresher training must be completed on a nominal 36-month frequency even if examinations are used to fulfill this requirement during the interim period. A record of the training or examination in lieu of training must be retained for a period of at least three years. Licensees may accept training of individuals who have been subject to a part 26 program and who have had initial or refresher training within the 12 months before assignment provided that training by the accepting licensee in the topics covered by paragraphs (a)(1), (2), and (5) of this section is completed before granting unescorted access to the protected area.

9. In § 26.23, the introductory text of paragraph (a) and paragraph (a)(2) are revised to read as follows:

§ 26.23 Contractors and vendors.

(a) All contractor and vendor personnel performing activities within the scope of this part for a licensee must be subject to either the licensee's program relating to fitness for duty, or to a program, formally reviewed and approved by the licensee, which meets the requirements of this part. Written agreements between licensees and contractors or vendors for activities within the scope of this part must be retained for the life of the contract and will clearly show that—

* * * * *

(2) Personnel with a known history of substance abuse or having been denied access or removed from activities within the scope of this part at any nuclear power plant for violations of a fitness-for-duty policy will not be assigned to work within the scope of this part without the knowledge and consent of the licensee.

* * * * *

10. In § 26.24, paragraphs (a), (c), (d)(1), the introductory text of (d)(2), (d)(2)(i) and (d)(2)(iv) are revised, paragraphs (e), (f), and (g) are redesignated as paragraphs (f), (g), and (h) and revised, and new paragraphs (e) and (i) are added to read as follows:

§ 26.24 Chemical testing.

(a) To provide a means to deter and detect substance abuse, the licensee shall implement the following chemical testing programs for persons subject to this part:

(1)(i) Preaccess testing for drugs and alcohol must be conducted within 60 days before the initial granting of unescorted access to protected areas or assignment to activities within the scope of this part unless the individual:

(A) Has been covered by a program meeting the requirements of this part for at least 30 days during the 60 days immediately previous to the granting of unescorted access; and

(B) Has no history of substance abuse.

(ii) Any negative drug and alcohol test meeting the standards of this part and performed within 60 days before granting unescorted access may serve as the preaccess test. A negative test result must be obtained before the granting of unescorted access unless the individual has no history indicating the use of illegal drugs or the abuse of legal drugs (e.g., alcohol, prescription, and over-the-counter drugs) and has either had a negative test result on a test meeting the standards of this part performed within six months before granting unescorted access or has been covered by a program meeting the standards of this part for two consecutive weeks during that period.

(2) Unannounced drug and alcohol tests must be imposed in a statistically random and unpredictable manner so that all persons in the population subject to testing have an approximately equal probability of being selected and tested. Random testing must include testing during all types of work periods, including weekends, backshifts, and holidays. The tests must be administered so that a person completing a test is immediately eligible for another unannounced test. At a minimum, tests must be administered on a nominal weekly frequency and at various times during the day. Reasonable efforts must be made to test persons selected for random testing. Persons off site when selected for testing, and not reasonably available for testing in a timely manner, must be tested upon returning to the site. For persons off site for more than sixty days, such tests will fulfill the requirement for return-to-duty testing and should be reported to the NRC as random tests. Random testing must be conducted at an annual rate equal to at least 50 percent of the workforce.

(3)(i) For-cause drug and alcohol testing must be conducted:

(A) Following any observed behavior or physical condition that creates a reasonable suspicion of possible substance abuse including attempts to subvert the testing process;

(B) After accidents involving a failure in individual performance resulting in personal injury, in a radiation exposure or release of radioactivity in excess of regulatory limits, or actual or potential substantial degradations of the level of safety of the plant if there is reasonable suspicion that the individual's performance contributed to the event; and

(C) after receiving credible information that an individual is abusing drugs or alcohol.

(ii) The individual's unescorted access status must be suspended until pronounced fit for duty based on a medical determination of fitness. If the test is based on suspected use of alcohol and the breath analysis is negative, the individual, if determined fit for duty by a medical determination of fitness, may be returned to duty pending results of urinalysis for drugs. For-cause drug and alcohol testing must be conducted as soon as practicable, but within no more than 2 hours for an alcohol test and 8 hours for specimen collection for a drug test.

(4) Follow-up testing must be conducted on an unannounced and unpredictable basis to verify continued abstention from the use of substances as covered under this part. An individual:

(i) Whose unescorted access is reinstated after a suspension under § 26.27(b)(3); or

(ii) Is granted unescorted access after removal under § 26.27(b) (3) or (4) must be subject to follow-up testing that is tailored to the individual's medical history but not less frequently than once every month for four months and at least once every three months for the next two years and eight months after unescorted access is reinstated.

(5) Return-to-duty testing must be conducted when a person seeks to regain unescorted access to protected areas of the site in question after an absence from the possibility of being tested under that site licensee's program for more than 60 days or when a person seeks to regain unescorted access after having been denied access under the provisions of § 26.27(b). Any negative drug and alcohol test meeting the standards of this part and performed within 60 days before the granting of unescorted access may serve as the return-to-duty test except in the case of those who have been denied access under the provisions of § 26.27(b). A negative test result must be obtained before the granting of unescorted access unless the individual has no history indicating the use of illegal drugs or the abuse of legal drugs (e.g., alcohol, prescription and over-the-counter drugs) and either has had a negative test result on a test meeting the standards of this part performed within six months before the reinstatement of unescorted access or has been covered by a program meeting the standards of this part for two consecutive weeks during that period.

* * * * *

(c) Licensees shall test specimens collected under each type of test listed in § 26.24(a) for all substances described in paragraph 2.1(a) of the NRC Guidelines (Appendix A to part 26). In addition, licensees may consult with local law enforcement authorities, hospitals, and drug counseling services to determine whether other substances with abuse potential are being used in the geographical locale of the facility and the local workforce. When appropriate, other substances so identified may be added to the panel of substances for testing. Appropriate cut-off limits must be established by the licensee for these substances.

(d)(1) All collected urine and blood specimens must be forwarded to a laboratory certified by the Department of Health and Human Services (HHS), except that licensees may conduct tests of aliquots to determine which specimens are negative and need no further testing, provided the licensee's staff possesses the necessary training and skills for the tasks assigned, the staff's qualifications are documented, and adequate quality controls for the testing are implemented. All such testing of specimens must include tests to ensure specimen validity as required by section 2.7(e) of Appendix A to part 26. Quality control procedures for screening tests by a licensee's testing facility must include the processing of blind performance test specimens and the submission to the HHS-certified laboratory of a sampling of specimens initially analyzed as negative. Except for the purposes discussed in § 26.24(d)(2), access to the results of the above screening tests must be limited to the licensee's testing staff, the Medical Review Officer (MRO), the Fitness-for-Duty Program Manager, and employee assistance program staff, when appropriate.

(2) An individual may not be removed or temporarily suspended from unescorted access or be subjected to other administrative action based solely on an unconfirmed positive result from any drug test, other than for marijuana (THC) or cocaine, unless other evidence indicates that the individual is impaired or might otherwise pose a safety hazard. With respect to on-site screening tests for marijuana (THC) and cocaine, licensee management may be informed and licensees may temporarily suspend individuals from unescorted access or from normal duties or take lesser

administrative actions against the individual based on an unconfirmed positive test result provided the licensee complies with the following conditions:

(i) For the drug for which action will be taken, at least 85 percent of the unconfirmed positive test results from on-site screening tests during the last 12-month data reporting period submitted to the Commission under § 26.71(d) were subsequently reported as positive by the HHS-certified laboratory as the result of a GC/MS confirmatory test.

* * * * *

(iv) No disclosure of the temporary removal or suspension of, or other administrative action against, an individual whose test is not subsequently confirmed as a violation of FFD policy may be made in response to a suitable inquiry conducted under the provisions of § 26.27(a), a background investigation conducted under the provisions of § 73.56, or to any other inquiry or investigation. For the purpose of assuring that no records have been retained, access to the system of files and records must be provided to licensee personnel conducting appeal reviews, inquiries into an allegation, or audits under the provisions of § 26.80, or to an NRC inspector or other Federal officials. The tested individual must be provided a statement that the records specified in paragraph (d)(2)(iii) of this section have not been retained and must be informed in writing that the temporary removal or suspension or other administrative action that was taken will not be disclosed and need not be disclosed by the individual in response to requests for information concerning removals, suspensions, administrative actions or history of substance abuse.

(e) The period of time allowed between the notification of the individual and the actual collection of a specimen must be kept at a minimum consistent with operational constraints. Whenever practicable, the individual should not be allowed the time or opportunity to obtain materials or take any action that would subvert the testing process or the test results.

(f) The Medical Review Officer shall complete the review of test results reported by the HHS-certified laboratory and notify licensee management as soon as practicable. The MRO shall report all determinations of violations of the licensee's FFD policy (e.g., positive test results and attempts to avoid detection) to management in writing and in a manner designed to ensure confidentiality of the information. To assure that action is taken immediately, provisions must be made to ensure that the MRO is able to contact appropriate licensee management at any time. Should the MRO's review not be completed within 14 days of the collection of a specimen, licensee management must be advised of available test results, the status of the review, the reasons for the delay, and appropriate recommendations.

(g) All testing of urine specimens for drugs, except screening tests performed by licensees under paragraph (d) of this section, must be performed in a laboratory certified by the U.S. Department of Health and Human Services (HHS) for that purpose consistent with its standards and procedures for certification. Except for suspect specimens submitted for special processing (section 2.7(d) of Appendix A to part 26), all specimens sent to HHS-certified laboratories must be subject to screening analysis by the laboratory and all specimens screened as unconfirmed positives must be subject to confirmatory testing by gas chromatography/mass spectroscopy analysis by the laboratory. Licensees shall submit blind performance test specimens to HHS-certified laboratories in accordance with the NRC Guidelines. Licensees must ensure that all collected specimens are tested and that laboratories report results for all specimens sent for testing, including blind performance test specimens.

(h) Tests for alcohol must be administered by breath analysis using breath alcohol analyses devices meeting evidential standards described in section 2.7(p)(3) of Appendix A to part 26. If the screening test shows a breath alcohol content indicating a BAC of 0.02 percent or greater, a confirmatory test for alcohol must be performed using another breath measurement instrument. A confirmatory test result showing a breath alcohol content indicating a BAC between 0.02 percent and 0.04 percent must be forwarded to the MRO for evaluation as described in section 2.9(h) of Appendix A to part 26. A confirmatory test for alcohol indicating a blood alcohol concentration (BAC) of 0.04 percent or greater must be declared a positive test. Further testing for alcohol must be administered if demanded by the individual for the purposes of obtaining additional information that could be considered during an appeal pursuant to § 26.28. Any such test must be a gas chromatography analysis of blood performed on a blood specimen drawn, with the consent of the individual, promptly after the confirmatory breath analysis. Any detectable quantity of alcohol in the blood specimen may be considered, including extrapolation back in time, to determine if a violation of the FFD policy occurred.

(i) If an individual has a medical condition that makes collection of breath, blood, or urine specimens difficult or hazardous, the MRO, in consultation with the treating or personal physician, may authorize an alternative evaluation process, tailored to the individual case, for determining whether a violation of fitness-for-duty policy has occurred, provided this process includes measures to prevent subversion and can achieve results comparable to those produced by urinalysis for illegal drugs and breath analysis for alcohol.

11. Section 26.25 is revised to read as follows:

§ 26.25 Employee assistance programs (EAP).

Each licensee subject to this part shall maintain an employee assistance program to strengthen fitness-for-duty programs by offering assessment, short-term counseling, referral services, and treatment monitoring to employees with problems that could adversely affect the performance of activities within the scope of this part. Employee assistance programs must be designed to achieve early intervention. The EAP must also provide for confidential assistance except that the employee assistance program staff shall inform licensee management when a determination has been made that any individual's condition constitutes a hazard to himself or herself or others (including those who have self-referred).

12. Section 26.27 is revised to read as follows:

§ 26.27 Management actions and sanctions to be imposed.

(a)(1)(i) Before the initial granting of activities within the scope of this part, as described in § 26.2(a), the licensee shall obtain a written statement from the individual as to whether he or she:

(A) Has in the past 5 years used, sold, or possessed any illegal drugs, or had a legal or employment action taken against him or her for alcohol or drug use;

(B) Has in the past 5 years been determined to have violated a fitness-for-duty policy, or as a result of action taken in accordance with an FFD policy been denied initial assignment to activities within the scope of this part as described in § 26.2(a), or has been subject to a plan for treating substance abuse (except for self-referral for treatment); or

(C) Has at any time as a result of action taken in accordance with an FFD policy been removed from activities within the scope of this part as described in § 26.2(a).

(ii) Power reactor licensees need not obtain statements responding to the activities listed in § 26.2(a)(3) unless the background investigation conducted in accordance with 10 CFR 73.56 indicates the person was previously employed by a licensee authorized to possess or transport Category I nuclear material.

(2) The statement must include the individual's declaration as to the specific type, duration, and resolution of any such matter.

(3) The licensee shall complete a suitable inquiry on a best-efforts basis to verify the accuracy of the individual's written statement under paragraphs (a)(1) and (a)(2) of this section. This suitable inquiry should cover at least the past 5 years but in no case less than the past 3 years.

(4) If a record of the type described in paragraphs (a) (1), (2), and (3) of this section is established which raises a concern about the person's history of alcohol or drug use, the new assignment to activities within the scope of this part or granting of unescorted access must be based upon a management and medical determination of fitness for duty and the establishment of an appropriate follow-up testing program, as specified in § 26.24(a)(4). The restrictions of paragraph (b) of this section must be observed. To meet the suitable inquiry requirement, the identity of persons denied unescorted access or removed under the provisions of this part and the circumstances for the denial or removal, including test results, will be made available in response to a licensee's, contractor's, or vendor's inquiry supported by a release signed by the individual being investigated that authorizes the disclosure of the information. A suitable inquiry need not be conducted for any period of 30 days or less that the individual was not covered by an FFD program meeting the requirements of this part.

(5) Failure by an individual to list reasons for removal or revocation of unescorted access or failure to authorize the release of information is sufficient cause for denial of unescorted access. Temporary unescorted access pursuant to 10 CFR 73.56 may not be affected by this part provided that the applicant for unescorted access passes a chemical test conducted according to the requirements of § 26.24(a)(1).

(b) Each licensee subject to this part shall, at a minimum, take the following actions. The requirements of this paragraph do not prohibit the licensee from taking more stringent action.

(1) Personnel, including applicants, who are impaired, those whose fitness may be questionable, and those determined to have violated the licensee's fitness-for-duty policy shall be immediately denied unescorted access or otherwise removed from activities within the scope of this part. These persons may be assigned to or returned to their duties only after impairing or questionable conditions are resolved and the individual is determined to be fit to safely and competently perform activities within the scope of this part by an appropriate manager and a licensed physician qualified to make the medical determination of fitness.

(2) Lacking any other evidence to indicate the use, sale, or possession of illegal drugs or use of alcohol on site, the following must be presumed to be an indication of off-site drug or alcohol use in violation of the company FFD policy:

(i) A laboratory confirmed positive test result that is verified by the MRO as a policy violation; and

(ii) A confirmatory breath test for alcohol that indicates the individual had a BAC of 0.04 percent or greater during any scheduled working tour.

(3) The first violation of the FFD policy involving a confirmed positive drug or alcohol determination must, at a minimum, result in immediate removal from activities within the scope of this part for at least 14 days and referral to the EAP for assessment and counseling during any suspension period. Plans for treatment, follow-up, and future employment, if applicable, must be developed, and any rehabilitation program deemed appropriate must be initiated during such suspension period. Although the individual must be removed from activities covered by this part, the individual must continue to be covered during any suspension period by the licensee's FFD program with respect to behavioral observation if in a work status, chemical testing, and sanctions for violations of the licensee's FFD policy. Before an individual is permitted to be returned to duty or assigned to perform activities within the scope of this part, the individual must be determined to be fit to safely and competently perform such activities by an appropriate manager and a licensed physician qualified to make the medical determination of fitness. A return-to-duty test under § 26.24(a)(5) must be conducted before the individual may be returned to duty and follow-up testing under § 26.24(a)(4) must be conducted to verify continued abstinence from the use of substances. Any subsequent violation of FFD policy, including during an assessment or treatment period, must immediately result in removal from activities described in § 26.2(a) for a minimum of 3 years from the date of removal.

(4) Any individual determined to have been involved in the sale, use, or possession of illegal drugs or the use of alcohol while, as applicable, within a protected area of any nuclear power plant, within a facility that is licensed to possess or use SSNM, or within a transporter's facility or vehicle, must immediately be removed from activities within the scope of this part as described in § 26.2(a) for a minimum of 5 years from the date of removal.

(5) Persons removed for periods of three years or more under the provisions of paragraphs (b)(2), (b)(3), (b)(4), and (c) of this section and who would have been removed under the current standards of a hiring licensee, may be granted unescorted access and assigned duties within the scope of this part by a licensee subject to this part only when the hiring licensee receives satisfactory medical assurance that the person has abstained from the use of illegal drugs or the abuse of legal drugs (e.g., alcohol, prescription and over-the-counter drugs) for at least three years. Before an individual is permitted to be returned or assigned to perform activities within the scope of this part, the individual must be determined to be fit to safely and competently perform these activities by an appropriate manager and a licensed physician qualified to make the medical determination of fitness. A return-to-duty test under § 26.24(a)(5) must be conducted before the individual may be assigned duties and follow-up testing under § 26.24(a)(4) must be conducted to verify continued abstinence from the use of substances. Any further violation of FFD policy must immediately result in permanent denial from activities described in § 26.2(a).

(6) Paragraphs (b) (2), (3), (4), and (5) of this section do not apply to valid prescriptions or over-the-counter drugs. Licensee sanctions for confirmed abuse of valid prescription and over-the-counter drugs must be sufficient to deter abuse of legally obtainable substances as a substitute for abuse of proscribed drugs.

(c) Any act or attempted act to subvert the testing process must be a violation of the licensee's FFD policy and must result in denial of unescorted access for a minimum of 3 years. A refusal to provide a specimen, effort to subvert the testing process, or resignation before removal for violation of company fitness-for-duty policy concerning drugs and alcohol must be recorded and

provided in response to a suitable inquiry. The specific cause for a removal, e.g., that a laboratory confirmed positive test result was obtained and that the individual resigned before an MRO review, must also be provided in response to a suitable inquiry. A record of these actions must be retained for five years following denial of any access authorization for the purpose of meeting the requirements of § 26.27(a).

(d) If a licensee has a reasonable belief that an NRC employee or NRC contractor may be under the influence of any substance, or otherwise unfit for duty, the licensee may not deny access but shall escort the individual. In any instance of this occurrence, the appropriate Regional Administrator must be notified immediately by telephone. During other than normal working hours, the NRC Operations Center must be notified.

13. Section 26.28 is revised to read as follows:

§ 26.28 Appeals.

Each licensee subject to this part, and each contractor or vendor implementing a fitness-for-duty program under the provisions of § 26.23, shall establish a procedure for licensee and contractor or vendor employees and applicants for unescorted access to appeal a determination of a violation of FFD policy. The procedure must provide notice to the individual of the grounds for the determination of a violation of FFD policy, and must provide an opportunity to respond and to submit additional relevant information. The procedure must provide for an objective, impartial review of the facts relating to the determination of a violation of FFD policy. The review must be conducted by persons not associated with the administration of the FFD program, as described in § 26.2(a)(4), and may include internal management. If the appeal is successful, the relevant records must be corrected. A licensee review procedure need not be provided to employees of contractors or vendors when the contractor or vendor is administering its own alcohol and drug testing.

14. In § 26.29, paragraph (b) is revised and paragraph (c) is added to read as follows:

§ 26.29 Protection of information.

* * * * *

(b) Licensees, contractors, and vendors may not disclose the personal information collected and maintained to persons other than assigned Medical Review Officers, other licensees, contractors or vendors, or their authorized representatives legitimately seeking the information as required by this part for unescorted access decisions and who have obtained a release from current or prospective employees or contractor personnel, NRC representatives, appropriate law enforcement officials under court order, the subject individual or his or her representative, or to those licensee representatives who have a need to have access to the information in performing assigned duties, including medical determinations of fitness and audits of licensee, contractor, and vendor programs, to the presiding officer in a judicial or administrative proceeding initiated by the subject individual, to persons deciding matters on review or appeal, and to other persons pursuant to court order. This section does not authorize the licensee, contractor, or vendor to withhold evidence of criminal conduct from law enforcement officials.

(c) Upon receipt of a written request by the subject individual, the licensee, contractor, or vendor possessing such records shall promptly provide copies of all records pertaining to the determination of a violation of the licensee's FFD policy, including test results, MRO reviews, and management determinations of results pertaining to the subject individual. Records relating to the results of any relevant laboratory certification review or revocation of certification proceeding shall be obtained from the relevant laboratory and provided to the subject individual upon request.

15. In § 26.70, paragraph (b)(2) is revised to read as follows:

§ 26.70 Inspections.

* * * * *

(b) * * *

(2) Duly authorized representatives of the Commission may inspect, copy, or take away copies of any licensee, contractor, or vendor documents, records, and reports related to implementation of the licensee, contractor, or vendor fitness-for-duty program under the scope of the contracted activities. This includes documents, records, and reports of FFD service contractors (e.g., contracted HHS laboratory, MRO, EAP, and specimen collection services) related to licensee, contractor, or vendor FFD programs.

16. In § 26.71, paragraphs (b), (c) and (d) are revised to read as follows:

§ 26.71 Recordkeeping requirements.

* * * * *

(b) Retain relevant records pertaining to the determination of a violation of the FFD policy and the related personnel actions for a period of at least five years;

(c) Retain records of persons made ineligible for three years or longer for assignment to activities within the scope of this part under the provisions of § 26.27(b) (3), (4), and (5) or (c), until the Commission terminates each license under which the records were created; and

(d) Collect and compile fitness-for-duty program performance data on a standard form and submit these data covering the calendar year January 1st through December 31st to the Commission by March 1st of the following year. The data for each site (corporate and other support staff locations may be separately consolidated) must include: random testing rate; drugs tested for and cut-off levels, including results of tests using lower cut-off levels and tests for other drugs; workforce populations tested; numbers of tests and results by population, and type of test (i.e., pre-access, random, for-cause, etc.); substances identified; summary of management actions; number of subversion attempts by type; and a list of events reported. The data must be analyzed and appropriate actions taken to correct program weaknesses. The data and analysis must be retained for three years. Any licensee choosing to temporarily suspend individuals under the provisions of § 26.24(d) shall report test results by process stage (i.e., on-site screening, laboratory screening, confirmatory tests, and MRO determinations) and the number of temporary suspensions or other administrative actions taken against individuals based on on-site unconfirmed screening positives for marijuana (THC) and for cocaine.

17. In § 26.73, paragraph (a) is revised to read as follows:

§ 26.73 Reporting requirements.

(a) Each licensee subject to this part shall inform the Commission of significant fitness-for-duty events including, but not limited to:

(1) Sale, distribution, use, possession, or presence of illegal drugs or use of alcohol within the protected area;

(2) Any acts by any person licensed under 10 CFR part 55 to operate a power reactor, by any supervisory personnel assigned to perform duties within the scope of this part, or by any FFD program personnel as specified in § 26.2(a)(4)—

(i) Involving the sale, use, or possession of a controlled substance;

(ii) Resulting in determinations that such an individual has violated the licensee's FFD policy;

(iii) Involving use of alcohol within the protected area; or

(iv) Resulting in a determination of unfitness for scheduled work due to the consumption of alcohol;

(3) Any act that would cast doubt on the honesty and integrity of the FFD program personnel specified in § 26.2(a)(4); and

(4) Arrest of a worker for sale, distribution, use, or possession of illegal drugs on or off site.

* * * * *

18. In § 26.80, paragraphs (a) and (c) are revised to read as follows:

§ 26.80 Audits.

(a) Each licensee subject to this part shall audit the fitness-for-duty program as needed but no less frequently than every 36 months. Licensees are responsible for determining the appropriate frequency, scope, and depth of auditing activities within the three-year period based on review of program performance indicators such as the frequency, nature, and severity of discovered problems, testing errors, personnel or procedural changes, previous audit findings, and "lessons learned." As soon as reasonably practicable, but not later than 12 months after a significant change in fitness-for-duty personnel, procedures, or equipment, licensees shall audit the particular program element(s) affected by that change to assure continued program effectiveness. Program elements which must continue to be audited nominally every 12 months include FFD program elements implemented by contractors and vendors under the provisions of § 26.23, testing performed at HHS-certified laboratories, and FFD services provided to the licensee by contractors and vendors off site or not under the direct daily supervision or observation of licensee personnel. Licensees may accept audits of contractors and vendors conducted by other licensees and need not re-audit the same contractor or vendor for the same period of time. Each sharing utility shall maintain a copy of the audit report, to include findings, recommendations, and corrective actions. Licensees retain responsibility for the effectiveness of contractor and vendor programs and the implementation of appropriate corrective action.

* * * * *

(c) The result of the audit, along with recommendations, if any, must be documented and reported to senior corporate and site management. The resolution of the audit findings and corrective actions must be documented. The documents must be retained for three years.

Appendix A to Part 26—Guidelines for Drug and Alcohol Testing Programs

19. Section 1.1 of Appendix A to part 26 is revised to read as follows:

1.1 Applicability

(a) These guidelines apply to licensees authorized to operate nuclear power reactors and licensees who are authorized to possess, use, or transport formula quantities of strategic special nuclear material (SSNM).

(b) Licensees may set more stringent cut-off levels than specified herein or test for substances other than specified herein and shall inform the Commission of such deviation within 60 days of implementing such change. Licensees may not deviate from the other provisions of these guidelines without the written approval of the Commission.

(c) Only laboratories which are HHS-certified are authorized to perform urine drug testing for NRC licensees, vendors, and licensee contractors.

20. Section 1.2 of Appendix A to part 26 is amended by removing all definitions except *chain-of-custody, collection site,* and *collection site person,* adding the definition of *limit of detection LOD,* and revising the introductory text to read as follows:

1.2 Definitions

In addition to the definitions contained in § 26.3, the following definitions apply:

* * * * *

Limit of Detection (LOD) means the lowest concentration of an analyte that an analytical procedure can reliably detect, which should be significantly lower than the established cut-off levels.

21. In section 2.1 of Appendix A to part 26, paragraphs (a), (b), and (e) are revised to read as follows:

2.1 The Substances

(a) Licensees shall, as a minimum, test for marijuana, cocaine, opiates, amphetamines, phencyclidine, and alcohol for pre-access, for-cause, random, follow-up, and return-to-duty tests.

(b) Licensees may test for any illegal drugs and may consider any detected drugs or metabolites when determining appropriate action during a for-cause test or analysis of any specimen suspected of being adulterated or diluted (in vivo or in vitro), substituted, or tampered with by any other means.

* * * * *

(e) This section does not prohibit procedures reasonably incident to analysis of a specimen for controlled substances (e.g., determination of pH or tests for specific gravity, creatinine concentration, or presence of adulterants).

22. In section 2.2 of Appendix A to part 26, paragraphs (a), the introductory text to paragraph (d), (d)(2) and (d)(4) are revised to read as follows:

2.2 General Administration of Testing

(a) Use of a chain-of-custody form. The original must accompany the specimen to the HHS-certified laboratory. A copy must accompany any split specimen. The form must be a record on which is retained identity data (or codes) on the individual providing the specimen and information on the specimen collection process and transfers of custody of the specimen. Chain-of-custody forms related to determinations of violations of the FFD policy must be retained for a period of at least five years following termination of the individual's unescorted access authorization as required by § 26.71(b), or the completion of all legal proceedings related to a positive test, whichever is later. Chain-of-custody forms recording specimens with negative test results and no FFD violations or anomalies may be destroyed after appropriate summary information has been recorded for program administration purposes.

* * * * *

(d) Written procedures, instructions, and training must be provided as follows:

* * * * *

(2) A non-medical collection site person shall receive training in compliance with this appendix and shall demonstrate proficiency in the application of this appendix before serving as a collection site person. A medical professional, technologist, or technician licensed or otherwise approved to practice in the jurisdiction in which collection occurs may serve as a collection site person if that person is provided the instructions described in section 2.2(d)(3) of this appendix and performs collections in accordance with those instructions.

* * * * *

(4) The option to provide a blood specimen for the purposes of obtaining additional information that could be considered during an appeal pursuant to § 26.28 following a positive confirmatory breath test must be specified in the written instructions provided to individuals tested.

23. Section 2.3 of Appendix A to part 26 is revised to read as follows:

2.3 Preventing Subversion of Testing

Licensees shall carefully select and monitor persons responsible for administering the testing program (e.g., collection site persons, on-site testing facility technicians, medical review officers, and those selecting and notifying personnel to be tested), based upon the highest standards for honesty and integrity, and shall implement measures to ensure that these standards are maintained. At a minimum, these measures must ensure that the integrity of such persons is not compromised or subject to efforts to compromise due to personal relationships with any individuals subject to testing. At a minimum:

(1) Supervisors, co-workers, and relatives of the individual being tested shall not perform any collection, assessment, or evaluation procedures.

(2) Appropriate background checks and psychological evaluations of the FFD program personnel specified in § 26.2(a) must be completed before assignment of tasks directly associated with the licensee's administration of the program, and must be conducted at least once every five years.

(3) Persons, specified in § 26.2(a), responsible for administering the testing program shall be subjected to a behavioral

observation program designed to assure that they continue to meet the highest standards for honesty and integrity.

(4) FFD program personnel, specified in § 26.2(a), responsible for the administration of testing must be subject to drug and alcohol testing as specified in § 26.24(a). Fitness-for-duty program personnel shall be tested by personnel independent of the administration of the FFD program to the extent practicable.

24. In section 2.4 of Appendix A to part 26, paragraphs (d), (f), the introductory text of paragraph (g), (g)(4), (5), (9) through (11), (13) through (15), (18) through (20), (23) through (25), and (27), (h), (i) and (j) are revised to read as follows:

2.4 Specimen Collection Procedures.

* * * * *

(d) "Chain-of-Custody." Licensee chain-of-custody forms must be properly executed by authorized collection site personnel upon receipt of specimens. Handling and transportation of urine and blood specimens from one authorized individual or place to another must always be accomplished through chain-of-custody procedures. The signature of the person (courier) picking up the specimen being shipped to the HHS-certified laboratory does not have to be included on the chain-of-custody form as long as specimens are sealed in tamper-evident containers and there is a tracking system that identifies the courier company conveying the specimens to the laboratory, includes a shipment billing or control number, and requires the signature of the courier. Every effort must be made to minimize the number of persons handling the specimens.

* * * * *

(f) "Privacy." Procedures for collecting urine specimens must allow individual privacy unless there is reason to believe that a particular individual may alter or substitute the specimen to be provided. For purposes of this appendix the following circumstances are the exclusive grounds constituting a reason to believe that the individual may alter or substitute a urine specimen:

(1) The individual has presented, at this or any previous collection, a urine specimen that fails to meet the standards for an acceptable specimen as provided in paragraph (g)(15) of this section, or the specimen is determined to be of questionable validity under the provisions of section 2.7 (e) of this appendix.

(2) The individual has presented a urine specimen that falls outside the normal temperature range, and the individual declines to provide a measurement of oral body temperature by sterile thermometer, as provided in paragraph (g)(15) of this section, or the oral temperature does not equal or exceed that of the specimen.

(3) The last urine specimen provided by the individual (i.e., on a previous occasion) was determined to have a specific gravity of less than 1.003 or a creatinine concentration below .2 g/L.

(4) The collection site person observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the specimen.

(5) The individual has previously been determined to have used a substance inappropriately or without medical authorization and the particular test is being conducted as a part of a rehabilitation program or on return to service after evaluation and/or treatment for a confirmed positive test result.

(g) "Integrity and Identity of Specimens." Licensees shall take precautions to ensure that a urine specimen is not adulterated, diluted, or tampered with during the collection procedure, that a surrogate specimen is not provided, that a blood specimen or breath exhalent tube cannot be substituted or tampered with, and that the information on the specimen container and in the chain-of-custody form can identify the individual from whom the specimen was collected. The following minimum precautions must be taken to ensure that authentic specimens are obtained and correctly identified:

* * * * *

(4) After the individual has been positively identified, the collection site person shall ask the individual to sign a consent-to-testing form. The individual shall not be required to list prescription medications or over-the-counter preparations that he or she can remember using.

(5) The collection site person shall ask the individual to remove any unnecessary outer garments such as a coat or jacket that might conceal items or substances that could be used to tamper with or adulterate the individual's urine specimen. The collection site person shall ensure that all personal belongings such as a purse or briefcase remain with the outer garments outside of the room in which the urine specimen is collected. The individual may retain his or her wallet.

* * * * *

(9) The collection site person shall note any unusual behavior or appearance on the chain-of-custody form.

(10) In the exceptional event that a designated collection site is inaccessible and there is an immediate requirement for urine specimen collection (e.g., an accident investigation), a public or on-site rest room may be used according to the following procedures. A collection site person of the same gender as the individual shall accompany the individual into the rest room which shall be made secure during the collection procedure. If practicable, a toilet bluing agent must be placed in the bowl and any accessible toilet tank. The collection site person shall remain in the rest room, but outside the stall, until the specimen is collected. If no bluing agent is available to deter specimen dilution, the collection site person shall instruct the individual not to flush the toilet until the specimen is delivered to the collection site person. After the collection site person has possession of the specimen, the individual will be instructed to flush the toilet and to participate with the collection site person in completing the chain-of-custody procedures. If a collection site person of the same gender is not available, the licensee shall select a same gender person to accompany the individual. This person shall be briefed on relevant collection procedures.

(11) Upon receiving a urine specimen from the individual, the collection site person shall determine that it contains a quantity of urine sufficient to meet specific licensee testing program requirements. The quantity collected must include at least 30 milliliters for the primary specimen, and a sufficient quantity for any on-site testing and testing for any additional drugs. Where collected specimens are split under the provisions of section 2.7(k) of this appendix, an additional 15 milliliters must be collected. The total to be collected should be of sufficient quantity for all analyses and reanalyses and must be predetermined by each licensee. If there is less than the required quantity of urine in the container, additional urine must be collected to reach the required quantity. Each successive void must be collected in a separate container. (The temperature of any partial specimen in its separate container must be measured in accordance with paragraph (g)(13) of this section, and the partial specimens must be inspected and sealed as described below for a full specimen. Upon obtaining the required amount, the partial specimens must be combined in one container.) The individual may be given a reasonable amount of liquid to drink for this purpose (e.g., normally, an 8 oz. glass of water every 30 minutes, but not to exceed a maximum of 24 oz.). If the individual fails for any reason to provide a sufficient quantity of urine, the collection site person shall contact the appropriate authority to obtain guidance on the action to be taken.

* * * * *

(13) Immediately after the urine specimen is collected, the collection site person shall measure the temperature of the specimen. The temperature measuring device used must accurately reflect the temperature of the specimen and not contaminate the specimen. The licensee shall determine the temperature range within which the specimen temperature must fall based on the type of temperature measuring devices used, and shall clearly specify the temperature range in its collection procedures. The temperature range of an acceptable urine specimen must be designated by the licensee and must be within a band of 3 °C/6 °F or less, with a lower limit not lower than 34 °C/94 °F. The time from urination to temperature measurement is critical and must in no case exceed 4 minutes.

(14) Immediately after a urine specimen is collected, the collection site person shall also inspect the specimen to determine its color and clarity and look for any signs of contaminants or adulteration. Any unusual findings must be noted on the chain-of-custody form.

(15) An acceptable specimen is free of any contaminants, meets the required quantity of at least 30 ml, and is within the acceptable temperature range and not less than 34 °C/94 °F.

(i) An individual may volunteer to have his or her oral temperature taken to provide evidence to counter the reason to believe the individual may have altered or substituted the specimen caused by the specimen's temperature falling outside the prescribed range.

(ii) If there is a reason to believe that the individual may have altered or substituted the specimen because one or more of the acceptance criteria is not met or there is other reason to believe that the individual is attempting to subvert the testing process, another specimen must be collected immediately under direct observation of a same gender collection site person. If a collection site person of the same gender is not available, the licensee shall select a same gender observer. The same measurements must be performed on the second specimen, and both specimens must be forwarded to the laboratory for testing.

* * * * *

(18) Alcohol breath tests must be performed by using evidential-grade equipment as specified in section 2.7(o)(3) of this appendix. The equipment must be operated in accordance with the manufacturer's instructions by individuals trained and proficient in the use of the equipment. The screening test consists of analyzing two breath specimens on the same piece of equipment. If there is reason to believe a source of alcohol in the mouth exists (e.g., breath freshener or stomach contents) and the testing device does not have built-in protection for the condition, the collection of the first screening breath specimen must be delayed 15 minutes to allow for dissipation of the material. If the analysis of the first breath specimen is essentially zero (less than 0.01 percent BAC), the test is considered negative and no further testing is required. For each individual whose first screening breath specimen is at or above 0.01 percent BAC, a second breath specimen is to be collected and compared after two minutes but no later than 10 minutes after the first specimen is collected. If the two specimens are within plus or minus 10 percent of the average of the two measurements, then the test result is considered accurate. If the tests of the two specimens are not accurate, the series of two breath tests must be repeated on another evidential-grade breath analysis device ensuring that the plus or minus 10 percent accuracy is achieved. If the result of this screening test is greater or equal to 0.02 percent BAC, a confirmatory test is to be accomplished. The confirmatory test is a repeat of the screening test procedure done on another evidential-grade breath analysis device.

(19) If the alcohol breath tests indicate that the individual is positive for a BAC at or above the 0.04 percent cut-off level or that the individual may have been positive for a BAC at or above the 0.04 percent cut-off level during any scheduled working tour (i.e., has a confirmatory test result between 0.02 percent BAC and 0.04 percent BAC), the individual may request a blood test, at his or her discretion, for the purposes of obtaining additional information that could be considered during an appeal. The blood specimen should be drawn immediately, if possible. If a blood specimen cannot be drawn immediately, the procedure for calculating a BAC level from delayed collection of breath specimens and the extrapolation of BAC results (as per section 26.24(h) and described in section 2.9(i) of this appendix) must be followed for the blood specimen. All vacuum tube and needle assemblies used for blood collection must be factory-sterilized. The collection site person shall ensure that they remain properly sealed until used. Antiseptic swabbing of the skin must be performed with a nonethanol antiseptic. Sterile procedures must be followed when drawing blood and transferring the blood to a storage container; in addition, the container must be sterile and sealed.

(20) Both the individual being tested and the collection site person shall keep urine and blood specimens in view at all times before their being sealed and labeled. If a urine specimen is split (as described in section 2.7(k)) and if any specimen is transferred to a second container, the collection site person shall request the individual to observe the splitting of the urine sample or the transfer of the specimen and the placement of the tamper-evident seal over the container caps and down the sides of the containers.

* * * * *

(23) The individual shall initial the identification labels on the specimen bottles for the purpose of certifying that it is the specimen collected from him or her. The specimen bottles must be securely sealed to prevent undetected tampering. The individual must also be asked to read and sign a statement on the chain-of-custody form certifying that the specimens identified as having been collected from him or her are in fact the specimens he or she provided.

(24) Agreement of the MRO, other designated medical professional, or a higher level supervisor of the collection site person, must be obtained in advance of each decision to obtain a urine specimen under direct observation as specified in paragraph (g)(15) of this section.

(25) The collection site person shall complete the chain-of-custody forms for both the primary specimen and the split specimen, if collected, and shall certify proper completion of the collection.

* * * * *

(27) While any part of the above chain-of-custody procedures is being performed, it is essential that the specimens and custody documents be under the control of the involved collection site person. The collection site person must not leave the collection site in the interval between presentation of the specimen by the individual and securement of the specimens with identifying labels bearing the individual's specimen identification numbers and seals initialed by the individual. If the involved collection site person leaves his or her work station momentarily, the sealed specimens and chain-of-custody forms must be taken with him or her or must be secured. If the collection site person is leaving for an extended period of time, the specimens must be packaged for transfer to the laboratory before he or she leaves the collection site.

(h) "Collection Control." To the maximum extent possible, collection site personnel must keep the individual's specimen containers within sight both before and after the individual has urinated or provided a blood specimen. After the specimen is collected and whenever urine specimens are split, they must be properly sealed and labeled to prevent undetected tampering. The collection site person shall sign or initial and date the specimen seal. A chain-of-custody form must be used for maintaining control and accountability of each specimen including split specimens from the point of collection to final disposition of the specimen. The date and purpose must be documented on the chain-of-custody form each time a specimen is handled or transferred, and every individual in the chain of custody must be identified. Every effort must be made to minimize the number of persons handling specimens.

(i) "Specimen Preparation and Transportation to Laboratory or Testing Facility." Collection site personnel shall arrange to transfer the collected specimens to the drug testing laboratory or licensee testing facility. To minimize false negative results from specimen degradation, specimens must be sent to the HHS-certified laboratory as soon as reasonably possible but in no case should the time between specimen shipment and receipt of the specimen at the HHS-certified laboratory exceed 48 hours, or the time between shipment and screening test at the HHS-certified laboratory exceed 72 hours. Collected urine specimens must be shipped to the HHS-certified laboratory, or cooled to not more than 6 degrees centigrade (42.8°F), within 6 hours of collection. Sealed and labeled specimen bottles being transferred from the collection site to the drug testing laboratory must be placed in a second, tamper-evident shipping container which must be designed to minimize the possibility of damage to the specimen during shipment (e.g., specimen boxes, padded mailers, or bulk insulated shipping containers with that capability) so that the contents of the shipping containers are no longer accessible without breaking a tamper-evident seal. The collection site personnel shall ensure that the chain-of-custody documentation is attached to each urine specimen bottle.

(j) "Failure to Cooperate." If the individual refuses to cooperate with the urine collection or breath analysis process (e.g., refusal to provide a complete specimen, complete paperwork, initial specimen), then the collection site person shall inform the appropriate authority and shall document the non-cooperation on the specimen chain-of-custody form. The failure to cooperate must be reported immediately to the Medical Review Officer, the FFD Program Manager, or to other management having a need to know, as appropriate, for further action. The provision of a blood specimen for use in an appeal of a positive breath test for alcohol must be entirely voluntary, and must be at the individual's option.

25. In section 2.5 of Appendix A to part 26, paragraph (a)(5) is revised to read as follows:

2.5 HHS-Certified Laboratory Personnel

(a) * * *

(5) This individual shall be responsible for the laboratory's having a procedure manual which is complete, up-to-date, available for personnel performing tests, and followed by those personnel. The procedure manual must be reviewed, signed, and dated by this

responsible individual whenever procedures are first placed into use or changed or when a new individual assumes responsibility for management of the laboratory. Copies of all procedures and dates on which they are in effect must be maintained. (Specific contents of the procedure manual are described in section 2.7(p) of this appendix).

* * * * *

26. In section 2.6 of Appendix A to part 26, paragraph (a) is revised to read as follows:

2.6 Licensee Testing Facility Personnel

(a) "Day-to-Day Management of Operations." Any licensee testing facility shall have an individual to be responsible for day-to-day operations and to supervise the testing technicians. This individual(s) shall have at least a bachelor's degree in the chemical or biological sciences, medical technology, or equivalent. He or she shall have training and experience in the theory and practice of the procedures used in the licensee testing facility, resulting in his or her thorough understanding of quality control practices and procedures; the review, interpretation, and reporting of test results; maintenance of chain of custody; and proper remedial actions to be taken in response to detecting aberrant test or quality control results.

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27. Section 2.7 of Appendix A to part 26, paragraphs (e) through (o) are redesignated (f) through (p), new paragraphs (e), (f)(3), (g)(6), and (p)(6) are added, and paragraphs (b)(1), (c), (d), (f)(1), (g) (1), (2), (3), and (5), (h) (1), (2), (3), (5), and (6), (i), (j), (k), (m)(2), (n), and (p) (1), (2), and (3)(ii) are revised to read as follows:

2.7 Laboratory and Testing Facility Analysis Procedures

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(b) "Receiving." (1) When a shipment of specimens is received, laboratory and the licensee's testing facility personnel shall inspect each package for evidence of possible tampering and compare information on specimen containers within each package to the information on the accompanying chain-of-custody forms. Any direct evidence of tampering or discrepancies in the information on specimen containers and the licensee's chain-of-custody forms must be reported by the HHS-certified laboratory within 24 hours to the licensee and must be noted on the laboratory's chain-of-custody form which must accompany the specimens while they are in the laboratory's possession. Indications of tampering with specimens at a testing facility operated by a licensee must be reported within 8 hours to senior licensee management.

* * * * *

(c) "Short-Term Refrigerated Storage." Specimens that do not receive a screening test and, if appropriate, a confirmatory test within one day of arrival at the HHS-certified laboratory, or are not shipped within 6 hours of collection from the licensee's collection or testing facility, as well as any retained split specimens, must be placed in secure refrigeration units or other means of securely maintaining the specimens in a chilled condition until testing or shipment. Temperatures must not exceed 6 °C/43 °F. Contingency measures must be available to maintain the specimens in a chilled state in case of prolonged power failure.

(d) "Specimen Processing." Urine specimens identified as unconfirmed positive or as questionable for adulteration or dilution by a licensee's testing facility must be shipped to an HHS-certified laboratory for testing. Laboratory facilities for drug testing will normally process urine specimens by grouping them into batches. The number of specimens in each batch may vary significantly depending on the size of the laboratory and its workload. When conducting either screening or confirmatory tests at either the licensee's testing facility or an HHS-certified laboratory, every batch must contain an appropriate number of standards for calibrating the instrumentation and a minimum of 10 percent controls. Both quality control and blind performance test specimens must appear as ordinary specimens to laboratory analysts. Special processing may be conducted to analyze specimens suspected of being adulterated or diluted (including hydration). Any evidence of adulteration or dilution, and any detected trace amounts of drugs or metabolites, must be reported to the Medical Review Officer. The Medical Review Officer shall report any adulteration or dilution evidence (excluding hydration resulting from an acceptable reason) to management immediately.

(e) "Determining Specimen Validity." Specimens must be tested at a licensee's testing facility, if the licensee conducts screening tests, and at an HHS-certified laboratory to determine their validity and to detect evidence of adulteration or dilution. At a minimum, such testing must include analysis of specific gravity (SG) before being subjected to screening testing. Devices used to determine validity of the specimen must be accurate and not contaminate the specimen. A specimen acceptable for testing using the cut-off levels in paragraphs (f)(1) and (g)(2) of this section has a specific gravity greater than 1.003 and is free of detectable adulterants. Specimens determined to be of questionable validity that show evidence of dilution must be subject to both screening and confirmation testing using the limit of detection (LOD) that the laboratory is capable of performing. If the specimen's specific gravity (SG) is less than 1.001, or if there is reason to believe that the specimen has been adulterated, the laboratory need not conduct LOD testing and must report the possibly adulterated or diluted condition to the Medical Review Officer. When the MRO cannot determine if the specimen is valid or invalid, another specimen must be collected as soon as possible under the provisions of section 2.4(f) of this appendix.

(f) " Onsite and Laboratory Screening Tests."

(1) For the analysis of urine specimens, any screening test performed by a licensee's testing facility and the screening test performed by an HHS-certified laboratory must use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution. The screening test of breath for alcohol performed at the collection site must use a breath measurement device which meets the requirements of paragraph (p)(3) of this section. The following initial cut-off levels must be used when screening specimens to determine whether they are negative for the indicated substances:

SCREENING TEST CUT-OFF LEVEL
(ng/ml)

Marijuana metabolites	50.
Cocaine metabolites	300.
Opiate metabolites[1]	300.
Phencyclidine	25.
Amphetamines	1,000.
Alcohol[2]	0.04% BAC.

[1] 25 ng/ml is immunoassay specific for free morphine.

[2] Percent, by weight, of alcohol in a person's blood shall be based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

In addition, licensees may specify more stringent cut-off levels. In such cases, the results of HHS screening tests must be reported for both levels. Only the more stringent tests need be conducted, and the results for the cut-off levels above may be calculated.

* * * * *

(3) Multiple screening tests (also known as rescreening) for the same drug class may be performed on:

(i) Unconfirmed positive specimens (e.g., an unconfirmed positive for amphetamines) only when needed to reduce the effect of possible cross reactivity due to structural analogs;

(ii) Those specimens where a valid analytical result cannot be obtained using one particular immunoassay technique due to interference in the assay (e.g., prescription medication); or

(iii) Unconfirmed positive specimens that appear to have a high concentration of drugs or metabolites to determine an appropriate dilution requirement for GC/MS confirmation analysis.

(g) "Confirmatory Test." (1) Specimens which test negative as a result of a screening test must be reported as negative to the licensee and will not be subject to any further testing unless special processing of the specimen is desired because adulteration or dilution is suspected.

(2) All urine specimens identified as unconfirmed positive on the screening test performed by a HHS-certified laboratory must be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the cut-off values listed in this paragraph for each drug, or at the cut-off values required by the licensee's unique program, where differences exist. All confirmations must be made by quantitative analysis. Concentrations which exceed the linear region of the standard curve must be documented in the laboratory record as "greater than highest standard curve value."

CONFIRMATORY TEST CUT-OFF LEVEL
(ng/ml)

Marijuana metabolite[1]	15.
Cocaine metabolite[2]	150.
Opiates:	
Morphine	300.
Codeine	300.
Phencyclidine	25.
Amphetamines:	
Amphetamine	500.
Methamphetamine[3]	500.
Alcohol[4]	40.04% BAC.

[1] 1Delta-9-tetrahydrocannabinol-9-carboxylic acid.

[2] Benzoylecgonine.

[3] Specimen must also contain amphetamine at a concentration ≥200 ng/ml.

[4] Percent, by weight, of alcohol in a person's blood shall be based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

In addition, licensees may specify more stringent cut-off levels. In such cases, the results must be reported for both levels. Only the more stringent tests need be conducted, and the results for the cut-off levels above may be calculated.

(3) The analytic procedure for analysis of blood specimens voluntarily provided by individuals testing positive for alcohol on a breath test must be gas chromatography analysis.

* * * * *

(5) Confirmatory tests for opiates must include a test for 6-acetylmorphine (A.M).

(6) Specimens that have a positive GC/MS test result for amphetamines must be tested for the d and l isomers. The results of this additional test must be reported to the MRO. Laboratory quality control and inspection criteria must be included for this additional test.

(h) "Reporting Results." (1) The HHS-certified laboratory shall report test results to the licensee's Medical Review Officer within 4 working days (6 for suspected amphetamines) after receipt of the specimen by the laboratory. Before any test result is reported, the results of screening tests, confirmatory tests, and quality control data, as applicable, must be reviewed and the test certified as an accurate report by the responsible individual at the laboratory. The report must identify the substances tested for, whether positive or negative; the cut-off(s) for each; the specimen number assigned by the licensee; any indications of tampering, adulteration, or dilution that may be present; and the drug testing laboratory specimen identification number.

(2) The HHS-certified laboratory and any licensee testing facility shall report as negative all specimens, except suspect specimens being analyzed under special processing, which are negative on the screening test or negative on the confirmatory test. Specimens testing positive on the confirmatory analysis must be reported positive for a specific substance. Except as provided in § 26.24(d), unconfirmed positive results of screening testing at the licensee's testing facility will not be reported to licensee management. The MRO's staff may perform routine administrative support functions, including receipt of test results and scheduling interviews for the MRO.

(3) The Medical Review Officer may routinely obtain from the HHS-certified laboratory, and the laboratory must provide, quantitation of test results. The Medical Review Officer may only disclose quantitation of test results for an individual to licensee management if required in an appeals process, or to the individual under the provisions of § 26.29(c). (This does not preclude the provision of program performance data under the provisions of 10 CFR 26.71(d).) Quantitation of negative tests for urine specimens shall not be disclosed, except where deemed appropriate by the Medical Review Officer for proper disposition of the results of tests of suspect specimens. Alcohol quantitation for a blood specimen must be provided to licensee management with the Medical Review Officer's evaluation.

* * * * *

(5) The laboratory shall retain the original chain-of-custody form and must send only to the Medical Review Officer certified true copies of the original chain-of-custody form and the test report. In the case of a laboratory-confirmed positive or special processing of suspect specimens, the document must be signed by the individual responsible for day-to-day management of the drug testing laboratory or the individual responsible for attesting to the validity of the test reports. Laboratories must retain these documents consistent with the requirements contained in section 2.2(a) of this appendix.

(6) The HHS-certified laboratory and the licensee's testing facility shall provide to the licensee official responsible for coordination of the fitness-for-duty program a monthly statistical summary of urinalysis and blood testing and shall not include in the summary any personal identifying information. Initial test data from the licensee's testing facility and the HHS-certified laboratory, and confirmation data from HHS-certified laboratories must be included for test results reported within that month. Normally this summary must be forwarded from HHS-certified laboratories by registered or certified mail and from the licensee's testing facility not more than 14 calendar days after the end of the month covered by the summary. The summary must contain the following information:

(i) Screening Testing:

(A) Number of specimens received;

(B) Number of specimens reported out; and

(C) Number of specimens screened positive for:

(*1*) Marijuana metabolites;

(*2*) Cocaine metabolites;

(*3*) Opiate metabolites;

(*4*) Phencyclidine;

(*5*) Amphetamines; and

(*6*) Alcohol.

* * * * *

(i) "Long-Term Storage." Long-term frozen storage (− 20 °C or less) ensures that any urine specimens that have been associated with personnel actions will be available for any necessary retest during administrative or disciplinary proceedings. Unless otherwise authorized in writing by the licensee, HHS-certified laboratories shall retain and place in properly secured long-term frozen storage for a minimum of 1 year all specimens that have been confirmed positive, or that have been adulterated or diluted. Within this 1-year period, a licensee or the NRC may request the laboratory to retain the specimen for an additional period of time. If no such request is received, the laboratory may discard the specimen after the end of 1 year. The laboratory must maintain any specimens under legal challenge for an indefinite period. Any split specimens retained by the licensee must be transferred into long-term storage upon determination by the Medical Review Officer that the specimen has a laboratory confirmed positive test.

(j) "Retesting Specimens." Because some analytes deteriorate or are lost during freezing and/or storage, quantitation for a retest is not subject to a specific cut-off requirement but must provide data sufficient to confirm the presence of the drug or metabolite. For the retesting of specimens that have been determined to have been adulterated or diluted, the retest need only confirm that the specimen is not valid.

(k) "Split Specimens." Urine specimens may be split, at the licensee's discretion, into two parts at the collection site. One half of such specimens (hereafter called the primary specimen) must be analyzed by the licensee's testing facility or the HHS-certified laboratory for the licensee's purposes as described in this appendix. The other half of the specimen (hereafter called the split specimen) may be withheld from transfer to the laboratory, sealed, and stored in a secure manner by the licensee until all processing of the primary specimen has been completed. If the primary specimen is determined to be negative and free of any evidence of subversion, the split specimen in storage may be destroyed. If the unconfirmed positive result of a screening test has been confirmed, or if the primary specimen is determined to have been subject to adulteration, dilution, or other means of testing subversion, the tested individual may request in a timely manner (as established by the licensee, but not to be restricted to less than 72 hours from the time of the individual's notification of the screening test result) that the split specimen be tested. The individual must be informed of this option. The split specimen must be forwarded on the day of the request to another HHS-certified laboratory that did not test the primary specimen. The chain-of-custody and testing procedures to which the split specimen is subject must be the same as those used to test the primary specimen and must meet the standards for retesting specimens. In other words, the quantification of the result is not subject to a specific cut-off requirement but must provide data sufficient to confirm the presence of the drug or metabolite (section 2.7(j) of this appendix). The quantitative results of any second testing process shall be made available to the Medical Review Officer and to the individual tested. Except as noted in this section, all other requirements of this appendix applicable to primary specimens shall also be applicable to split specimens.

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(m) "Laboratory Facilities."

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(2) HHS-certified laboratories must have the capability, at the same laboratory premises, of performing screening and confirmatory tests for each drug and drug metabolite for which service is offered and for blood analysis for alcohol content (BAC). Any licensee testing facilities must have the capability, at the same premises, of performing screening tests for each drug and drug metabolite for which testing is conducted. Breath tests for alcohol may be performed at the collection site.

(n) "Inspections and Audits." The NRC and any licensee utilizing an HHS-certified laboratory reserves the right to inspect or audit the laboratory at any time. Licensee contracts with HHS-certified laboratories for drug testing and analyses of blood for alcohol content (BAC), as well as contracts for collection site services, must permit the NRC and the licensee to conduct unannounced inspections and audits and to obtain all information and documentation reasonably relevant to the inspections and audits. Licensee contracts with HHS-certified laboratories must also provide the licensee and the NRC with the ability to obtain copies of any documents, including reviews and inspections pertaining to the laboratory's certification by HHS, and any other data that may be needed to assure that the laboratory is performing its testing and quality control functions properly and that laboratory staff and procedures meet applicable requirements. Annual licensee inspections and audits of HHS-certified laboratories must include review of inspection reports made under the HHS-certification program but need not duplicate areas covered by the HHS inspection. In addition, before the award of a contract, the licensee shall carry out pre-award inspections and evaluation of the procedural aspects of the laboratory's drug testing operation. If an HHS-certified laboratory loses its certification, in whole or in part, a licensee is permitted to immediately use an HHS-certified laboratory that has been audited by another NRC licensee having a compatible drug panel and cut-off standards. The licensee shall audit the newly contracted HHS-certified laboratory within three months. The NRC reserves the right to inspect a licensee's testing facility at any time.

* * * * *

(p) "Additional Requirements for HHS-Certified Laboratories and Licensees' Testing Facilities."

(1) "Procedure manual." Each laboratory and licensee's testing facility shall have a procedure manual which includes the principles of each test, preparation of reagents, standards and controls, calibration procedures, derivation of results, linearity of methods, sensitivity of the methods, cut-off values, mechanisms for reporting results, controls, criteria for unacceptable specimens and results, remedial actions to be taken when the test systems are outside of acceptable limits, reagents and expiration dates, and references. Copies of all procedures and dates on which they are in effect must be maintained as part of the manual. Each HHS-certified laboratory shall retain a copy of its latest procedure manual as a record until at least 2 years after it is no longer under contract to an NRC licensee to test specimens of urine for drugs. Each licensee shall retain a copy of its latest procedure manual as a record until it is no longer conducting on-site testing of specimens of urine for drugs. Superseded material must be retained for at least three years.

(2) "Standards and controls." HHS-certified laboratory standards shall be prepared with pure drug standards which are properly labeled as to content and concentration. The standards must be labeled with the following dates: when received; when prepared or opened; when placed in service; and expiration date. All standards used to calibrate alcohol breath analysis equipment and equipment used at licensees' testing facilities for conducting screening tests must be current and valid for their purpose.

(3) "Instruments and equipment."

* * * * *

(ii) Alcohol breath analysis equipment must be an evidential-grade breath alcohol analysis device of a brand and model that conforms to National Highway Traffic Safety Administration (NHTSA) standards (49 FR 48855; December 14, 1984 or 58 FR 48705; September 17, 1993) and to any applicable State statutes.

* * * * *

(6) "Restrictions." The laboratory shall not enter into any relationship with a licensee's MRO that may be construed as a potential conflict of interest or derive any financial benefit by having a licensee use a specific MRO.

28. In section 2.8 of Appendix A to part 26, paragraphs (a), (b), (c), and (e) are revised, and new paragraph (f) is added to read as follows:

2.8 Quality Assurance and Quality Control

(a) "General." HHS-certified laboratories and the licensee's testing facility shall have a quality assurance program which encompasses all aspects of the testing process including, but not limited to, specimen acquisition, chain of custody, security, reporting of results, screening and confirmatory testing, and validation of analytical procedures. Quality assurance procedures must be designed, implemented, and reviewed to monitor the conduct of each step of the process of testing for drugs.

(b) "Licensee's Testing Facility Quality Control Requirements for Screening Tests." Because all unconfirmed positive licensee facility screening tests for drugs are forwarded to an HHS-certified laboratory for screening and confirmatory testing when appropriate, the NRC does not require licensees to assess their testing facility's false positive rates for drugs. To ensure that the rate of false negative tests is kept to the minimum that the immunoassay technology supports, licensees shall perform an immunoassay test on all blind performance test specimens and submit these and a sampling of specimens screened as negative from every test run to the HHS-certified laboratory. The results reported by the certified laboratory must be evaluated and appropriate corrective actions taken. The manufacturer-required performance tests of the breath analysis equipment used by the licensee must be conducted as set forth in the manufacturer's specifications.

(c) "Laboratory Quality Control Requirements for Screening Tests at HHS-Certified Laboratories." (1) Each analytical run of specimens to be screened must include:

(i) Urine specimens certified to contain no drug;

(ii) Urine specimens fortified with known standards; and

(iii) Positive controls with the drug or metabolite at or near the threshold (cut-off).

(2) In addition, with each batch of specimens, a sufficient number of standards must be included to ensure and document the linearity of the assay method over time in the concentration area of the cut-off. After acceptable values are obtained for the known standards, those values will be used to calculate specimen data. Implementation of procedures to ensure that carryover does not contaminate the testing of an individual's specimen must be documented. A minimum of 10 percent of all test specimens must be quality control specimens. Laboratory quality control specimens prepared from spiked urine specimens of determined concentration, must be included in the run and should appear as normal specimens to laboratory analysts. One percent of each run, with a minimum of at least one specimen, must be the laboratory's own quality control specimens.

* * * * *

(e) "Licensee Blind Performance Test Procedures." (1) Licensees shall only purchase blind quality control materials that:

(i) Have been certified by immunoassay and GC/MS; and

(ii) Have stability data which verify performance of those materials over time.

(2) During the initial 90-day period of any contract with an HHS-certified laboratory (not including rewritten or renewed contracts), each licensee shall submit blind performance test specimens to the laboratory within the amount of at least 20 percent of the total number of specimens submitted (up to a maximum of 100 specimens) or 30 blind performance test specimens, whichever is greater. Following the initial 90-day period, a minimum of 3 percent of all specimens (to a maximum of 25) or 10 blind performance test specimens, whichever is greater, must be submitted per quarter. Licensees should make an attempt to submit blind performance test specimens during the initial 90-day period and per quarter thereafter at a frequency that corresponds with the submission frequency for other specimens.

(3) Approximately 50 percent of the blind performance test specimens must be blank (i.e., certified to contain no drug) and the remaining specimens must be positive for one or more drugs per specimen in a distribution such that all the drugs for which the licensee is testing are included in approximately equal frequencies of challenge. The positive specimens must be spiked only with those drugs for which the licensee is testing. In addition, 10 percent of the positive blind specimens must be

appropriately adulterated or diluted and "spiked" to 60 percent of the cut-off value to challenge the laboratory's ability to determine specimen validity, as required by section 2.7 (e) of this appendix.

(f) "Investigation of Errors and Other Matters."

(1) The licensee shall investigate any testing errors or unsatisfactory performance discovered in blind performance testing, in the testing of actual specimens, or through the processing of appeals and MRO reviews, as well as any other errors or matters that could reflect adversely on the integrity of the testing process. The investigation must determine relevant facts and identify the root cause(s) of the testing or process error when possible. The licensee and the laboratory shall take action to correct the cause of any errors or the unsatisfactory performance that are within their control. A record must be made and retained for a minimum of three years of the investigative findings and the corrective action taken, and, where applicable, that record must be dated and signed by the individuals responsible for the day-to-day management and operation of the HHS-certified laboratory. The licensee shall submit to the NRC a report of any incident and action taken or planned within 30 days of completion of the investigation. The NRC shall ensure notification of the finding to HHS.

(2) Should a false positive error occur on a blind performance test specimen or on a regular test specimen, the licensee shall promptly notify the NRC. The licensee shall require the laboratory to take corrective action to minimize the occurrence of the particular error in the future. If there is reason to believe the error could have been systematic, the licensee may also require review and reanalysis of previously run specimens.

(3) Should a false positive error be determined to be technical or methodological, the licensee shall instruct the laboratory to submit to it all quality control data from the batch of specimens which included any false positive specimen. In addition, the licensee shall require the laboratory to retest all specimens analyzed positive for that drug or metabolite from the time of final resolution of the error back to the time of the last satisfactory performance test cycle. This retesting must be documented by a statement signed by the individual responsible for day-to-day management of the laboratory's substance testing program. The licensee and the NRC may require an on-site review of the laboratory which may be conducted unannounced during any hours of operation of the laboratory. Based on information provided by the NRC, HHS has the option of revoking or suspending the laboratory's certification or recommending that no further action be taken if the case is one of less serious error in which corrective action has already been taken, thus reasonably assuring that the error will not occur again.

29. Section 2.9 of Appendix A to part 26 is revised to read as follows:

2.9 Reporting and Review of Results

(a) "Medical Review Officer shall review results." An essential part of a licensee's testing program is the final review of results. A laboratory confirmed positive test result does not automatically identify a nuclear power plant worker as having used substances in violation of the NRC's regulations or the licensee's company policies. An individual with a detailed knowledge of possible alternate medical explanations is essential to the review of results. This review must be performed by the Medical Review Officer before the transmission of results to licensee management officials.

(b) "Medical Review Officer—qualifications and responsibilities." The Medical Review Officer shall be a licensed physician with knowledge of substance abuse disorders. The MRO may be a licensee or contract employee. However, the MRO shall not be an employee or agent of or have any financial interest in a laboratory or a contracted operator of an on-site testing facility whose drug testing results the MRO is reviewing for the licensee. Additionally, the MRO shall not derive any financial benefit by having the licensee use a specific drug testing laboratory or on-site testing facility operating contractor or have any agreement with such parties that may be construed as a potential conflict of interest. The role of the Medical Review Officer is to review and interpret laboratory confirmed positive test results obtained through the licensee's testing program and to identify evidence of subversion of the testing process. The MRO is also responsible for identifying issues associated with the collection and testing of specimens, and advising and assisting management in the planning and oversight of the overall FFD program. In carrying out this responsibility, the Medical Review Officer shall examine alternate medical explanations for any laboratory confirmed positive test result (this does not include confirmation of blood alcohol levels obtained through the use of a breath alcohol analysis device). This action could include conducting a medical interview with the individual, review of the individual's medical history, or review of any other relevant biomedical factors. The Medical Review Officer shall review all medical records made available by the tested individual when a laboratory confirmed positive test could have resulted from legally prescribed medication. The Medical Review Officer shall not consider the results of tests that are not obtained or processed in accordance with this appendix, although he or she may consider the results of tests on split specimens in making his or her determination, as long as those split specimens have been stored and tested in accordance with the procedures described in this appendix.

(c) "MRO Verification of Positive Test Results." Before making a final decision to verify a laboratory confirmed positive test result, the Medical Review Officer shall give the individual an opportunity to discuss the test result with him or her. Following verification of a laboratory confirmed positive test result as a violation of FFD policy, the Medical Review Officer shall, as provided in the licensee's policy, immediately notify the applicable employee assistance program and the licensee's management official empowered to recommend or take administrative action (or the official's designated agent). Unconfirmed test results must not be reported except as provided by § 26.24(d).

(d) "Verification for opiates." Before the Medical Review Officer verifies a laboratory confirmed positive result as a violation of FFD policy and the licensee takes action for opiates, he or she shall determine that there is reasonable and substantial clinical evidence—in addition to the urine test—of unauthorized use of any opium, opiate, or opium derivative (e.g., morphine/codeine). Clinical evidence may include substantial evidence of a significant lack of reliability or trustworthiness on the part of the worker. Clinical signs of abuse include recent needle tracks or test results that are inconsistent with the ingestion of food or medication including prescription medications containing opiates (e.g., 6–AM test); clinical signs of abuse also include behavioral and psychological signs of acute opiate intoxication or withdrawal. This requirement does not apply if the GC/MS confirmation testing for opiates confirms the presence of 6-acetylmorphine.

(e) "Reanalysis authorized." Should any question arise as to the accuracy or validity of a laboratory confirmed positive test result, only the Medical Review Officer is authorized to order a reanalysis of the original specimen and such retests are authorized only at laboratories certified by HHS. The Medical Review Officer shall authorize a reanalysis of the original aliquot on timely request (as established by the licensee, but not to be restricted to less than 72 hours from the time of the individual's notification of the laboratory confirmed positive test result) of the individual tested, and shall also authorize an analysis of any split specimen stored by or for the licensee under the provisions of section 2.7(k) of this appendix.

(f) "Results consistent with responsible substance use." If the Medical Review Officer determines that there is a legitimate medical explanation for the laboratory confirmed positive test result, and that the use of the substance identified through testing was in the manner and at the dosage prescribed, and the results do not reflect a lack of reliability or trustworthiness, then there has not been a violation of licensee policy. The Medical Review Officer shall report the test result to the licensee as negative. The Medical Review Officer shall further evaluate the result and medical explanation to determine if there is a potential risk to public health and safety of the individual being impaired on duty from the substance or from the medical condition. If the MRO determines that such a risk exists, he or she shall conduct a medical determination of fitness.

(g) "Medical determination of fitness." (1) Occasions when a medical determination of fitness, as defined in § 26.3, must be conducted include, but are not limited to, the following:

(i) When an alternative medical explanation explains the test result but there is a basis for believing impairment on duty could exist, as described in paragraph (f) of this section;

(ii) In the evaluation of all for-cause test results;

(iii) Before making return-to-duty recommendations subsequent to a worker's removal from duty in accordance with § 26.27(b) or the licensee's fitness-for-duty policy;

(iv) Before an individual being granted unescorted access when a statement from an individual obtained pursuant to § 26.27(a) shows a history of substance abuse or record of prior fitness-for-duty violations; and

(v) If a history of substance abuse is otherwise identified.

(2)(i) If the licensed physician or MRO determines that there is neither conclusive evidence of a policy violation nor a significant basis for concern that the individual may be impaired while on duty, then he or she shall report the result as negative.

(ii) If the licensed physician or MRO determines that there is not conclusive evidence of a policy violation but that there is a significant basis for concern that the individual may be impaired while on duty, then he or she shall report the result as not representing an FFD violation but as a condition under which the individual may not be able to safely and competently perform duties. Because these results should not constitute a violation of the licensee's policy or the NRC rule, punitive actions under the rule should not be taken based upon the results. However, the licensed physician, MRO, or the licensee management personnel who are empowered to take appropriate actions shall initiate actions to ensure that any possible limiting condition does not represent a threat to workplace or public health and safety. When deemed appropriate, the matter may also be referred to the EAP.

(h) Breath alcohol content indicating a blood alcohol concentration between 0.02 percent and 0.04 percent must be reported to the MRO for review and evaluation. The MRO shall determine whether it is appropriate to extrapolate back in time to estimate the highest BAC that the worker had while on duty with the assumption that no alcohol was consumed while on duty. In these cases, the MRO will calculate a range of possible peak BACs that could have existed while the worker was on duty and make a determination whether the result is a confirmed positive test for alcohol. A similar extrapolation process must be conducted for the results of an analysis of a blood specimen for alcohol, as provided by § 26.24(h).

(i) "Result scientifically insufficient." Additionally, the Medical Review Officer, based on review of inspection reports, quality control data, multiple specimens, and other pertinent results, may determine that the result is scientifically insufficient for further action and declare the test specimen negative. In this situation, the Medical Review Officer may request reanalysis of the original specimen before making this decision. The Medical Review Officer may request that reanalysis be performed by the same laboratory, or that an aliquot of the original specimen be sent for reanalysis to an alternate laboratory which is certified in accordance with the HHS Guidelines. The licensee's testing facility and the HHS-certified laboratory shall assist in this review process as requested by the Medical Review Officer by making available the individual(s) responsible for day-to-day management of the licensee's test facility, of the HHS-certified laboratory or other individuals who are forensic toxicologists or who have equivalent forensic experience in urine drug testing, to provide specific consultation as required by the licensee. The licensee shall maintain for a minimum of three years, records that summarize any negative findings based on scientific insufficiency and shall make them available to the NRC on request, but shall not include any personal identifying information in such reports.

Appendix A [Amended]

30. Section 3.2 of Appendix A is removed.

31. In section 4.1 of Appendix A to part 26 is revised to read as follows:

4.1 Use of HHS-Certified Laboratories

(a) Licensees subject to this part and their contractors shall use only laboratories certified under the HHS "Mandatory Guidelines for Federal Workplace Drug Testing Programs", Subpart C—"Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," (53 FR 11970, 11986–11989) dated April 11, 1988, and subsequent amendments thereto for screening and confirmatory testing except for screening tests at a licensee's testing facility conducted in accordance with § 26.24(d). Information concerning the current certification status of laboratories is available from: The Division of Workplace Programs, Substance Abuse and Mental Health Services Administration, Room 13–A–54, 5600 Fishers Lane, Rockville, Maryland 20857.

(b) Licensees or their contractors may use only HHS-certified laboratories that agree to follow the same rigorous chemical testing, quality control, and chain-of-custody procedures when testing for more stringent cut-off levels as may be specified by licensees for the classes of drugs identified in this part, for analysis of blood specimens for alcohol, and for any other substances included in licensees' drug panels. Because the HHS-certification process does not apply to these matters, the defensibility of such tests depends on appropriate measures by licensees to assure the reported test results are valid.

(c) All contracts related to this part between licensees and their contractors and HHS-certified laboratories must require implementation of all obligations of this appendix applicable to HHS-certified laboratories.

Dated at Rockville, Maryland, this 29th day of April, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–11046 Filed 5–8–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–CE–16–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Britten-Norman Ltd. (formerly Britten-Norman) BN–2A and BN2A MK. 111 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 75–26–15, which currently requires repetitively inspecting the aileron mass balance clamp unit attachment for looseness on Pilatus Britten-Norman Ltd. (Pilatus Britten-Norman) BN–2A and BN2A MK. 111 series airplanes, and modifying the aileron and mass balance clamp unit if any looseness is found. The Federal Aviation Administration's policy on aging commuter-class aircraft is to eliminate or, in certain instances, reduce the number of certain repetitive short-interval inspections when improved parts or modifications are available. The proposed action would retain the repetitive inspections required by AD 75–26–15, and would require modifying the aileron and mass balance unit (at a certain time) as terminating action for the repetitive inspections. The actions specified in the proposed AD are intended to prevent failure of the aileron mass balance attachment, which could result in loss of control of the airplane.

DATES: Comments must be received on or before July 19, 1996.

ADDRESSES: Submit comments on the proposal in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–CE–16–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone 44–1983 872511; facsimile 44–1983 873246. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Ms. Dorenda Baker, Program Officer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (32 2) 508.2715; facsimile (32 2) 230.6899; or Mr. Jeffrey Morfitt, Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA- public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 96–CE–16–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–CE–16–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has determined that reliance on critical repetitive inspections on aging commuter-class airplanes carries an unnecessary safety risk when a design change exists that could eliminate or, in certain instances, reduce the number of those critical inspections. In determining what inspections are critical, the FAA considers (1) the safety consequences if the known problem is not detected during the inspection; (2) the probability of the problem not being detected during the inspection; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

These factors have led the FAA to establish an aging commuter-class aircraft policy that requires incorporating a known design change when it could replace a critical repetitive inspection. With this policy in mind, the FAA conducted a review of existing AD's that apply to Pilatus Britten-Norman BN–2A and BN2A MK. 111 series airplanes. Assisting the FAA in this review were (1) Pilatus Britten-Norman; (2) the Regional Airlines Association (RAA); and (3) several operators of the affected airplanes.

From this review, the FAA has identified AD 75–26–15, Amendment 39–2464, as one that should be superseded with a new AD that would require incorporating a modification that would eliminate the need for short-interval and critical repetitive inspections. AD 75–26–15 currently requires repetitively inspecting the attachment of the aileron mass balance clamp unit for looseness on Pilatus Britten-Norman BN–2A and BN2A MK. 111 series airplanes, and modifying any aileron and mass balance clamp unit where looseness is found. Accomplishment of the inspections and modification required by AD 75–26–15 is in accordance with Britten-Norman Service Bulletin No. BN–2/SB.67, Issue 1, dated October 24, 1973.

Based on its aging commuter-class aircraft policy and after reviewing all available information, the FAA has determined that AD action should be taken to eliminate the repetitive short-interval inspections required by AD 75–26–15, and to prevent failure of the aileron mass balance attachment, which could result in loss of control of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other Pilatus Britten-Norman BN–2A and BN2A MK. 111 series airplanes of the same type design, the proposed AD would supersede AD75–26–15 with a new AD that would (1) retain the requirements of repetitively inspecting the aileron mass balance clamp unit attachment for looseness and modifying any aileron and mass balance unit immediately where looseness is found; and (2) require modifying the aileron and mass balance unit (at a certain time) if not previously required. The modification would terminate the need for the repetitive inspections of the aileron and mass balance unit attachment. Accomplishment of the proposed actions would continue to be in accordance with Britten-Norman Service Bulletin No. BN–2/SB.67, Issue 1, dated October 24, 1973.

The FAA estimates that 109 airplanes in the U.S. registry would be affected by the proposed AD, that would take approximately 10 workhours (inspection: 1 workhour; modification: 9 workhours) per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $160 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $82,840. This figure only takes into account the cost of the proposed initial inspection and proposed inspection-terminating modification and does not take into account the cost of the proposed repetitive inspections. The FAA has no way of determining the number of repetitive inspections each of the owners/operators would incur over the life of the affected airplanes.

This figure is also based on the assumption that none of the affected airplane owners/operators have accomplished the proposed modification. This action would eliminate the repetitive inspections required by AD 75–26–15. The FAA has no way of determining the operational levels of each individual operator of the affected airplanes, and subsequently cannot determine the repetitive inspection costs that would be eliminated by the proposed action. The FAA estimates these costs to be substantial over the long term.

Pilatus Britten-Norman does not know the number of parts distributed to the affected airplane owners/operators. Numerous sets of parts were sent out to the owners/operators of the affected airplanes, but over the years Pilatus Britten-Norman has not retained these records. The company believes that most of the affected airplanes already have the proposed inspection-terminating modification incorporated.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. Of the approximately 109 airplanes in the U.S. registry that would be affected by the proposed AD, the FAA has determined that approximately 25 percent are operated in scheduled passenger service by 11 different operators. A significant number of the remaining 75percent are operated in

other forms of air transportation such as air cargo and air taxi.

The proposed action would allow 1,000 hours TIS after the effective date of the AD before mandatory accomplishment of the design modification. The average utilization of the fleet for those airplanes in commercial commuter service is approximately 25 to 50 hours TIS per week. Based on these figures, operators of commuter-class airplanes involved in commercial operation would have to accomplish the proposed modification within 5 to 10 calendar months after the proposed AD would become effective. For private owners, who typically operate between 100 to 200 hours TIS per year, this would allow 5 to 10 years before the proposed modification would be mandatory. The time it would take those in air cargo/air taxi operations before the proposed action would be mandatory is unknown because of the wide variation between each airplane used in this service. The exact numbers would fall somewhere between the average for commuter operators and private operators.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a"significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 75–26–15, Amendment 39–2464, and by adding a new AD to read as follows:

Pilatus Britten-Norman Ltd.: Docket No. 96–CE–16–AD. Supersedes AD 75–26–15, Amendment 39–2464.

Applicability: Models BN–2, BN–2A, BN–2A–6, BN–2A–8, BN–2A–2, BN–2A–9, BN–2A–3, BN–2A–20; BN–2A–21, BN–2A–26, BN–2A–27, BN2A MK. 111, BN2A MK. 111–2, and BN2A MK. 111–3 airplanes (all serial numbers), certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent failure of the aileron mass balance attachment, which could result in loss of control of the airplane, accomplish the following:

(a) Prior to the first flight of each day after the effective date of this AD (see NOTE 2 of this AD), inspect the attachment of the aileron mass balance clamp unit for looseness in accordance with the "Inspection" section of Britten-Norman Service Bulletin (SB) No. BN–2/SB.67, Issue 1, dated October 24, 1973.

Note 2: The "prior to first flight of each day after the effective date of this AD" compliance time required by paragraph (a) of this AD is exactly the same as required by AD 75–26–15 (superseded by this AD).

(b) If a loose attachment of the aileron mass balance clamp unit is found during any of the inspections required by this AD, prior to further flight, modify the aileron and mass balance clamp unit in accordance with the "b. Sequence of Operations" section of Britten-Norman SB No. BN–2/SB.67, Issue 1, dated October 24, 1973.

(c) Within the next 1,000 hours time-in-service after the effective date of this AD, unless already accomplished as specified and required by paragraph (b) of this AD, modify the aileron and mass balance clamp unit in accordance with the "b. Sequence of Operations" section of Britten-Norman SB No. BN–2/SB.67, Issue 1, dated October 24, 1973.

(d) Accomplishing the modification required by paragraph (b) or (c) of this AD is considered terminating action for the repetitive inspection requirement of this AD.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office (ACO), Europe, Africa, Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels ACO.

Note 4: Alternative methods of compliance approved in accordance with AD 75–26–15 (superseded by this action) are not considered approved as alternative methods of compliance with this AD.

(g) All persons affected by this directive may obtain copies of the document referred to herein upon request to Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(h) This amendment supersedes AD 75–26–15, Amendment 39–2464.

Issued in Kansas City, Missouri, on May 2, 1996.

Bobby W. Sexton,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–11533 Filed 5–8–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 121

Federal Railroad Administration

49 CFR Part 219

Federal Highway Administration

49 CFR Part 382

Federal Transit Administration

49 CFR Part 653 and 654

[OST Docket No. OST–96–1333 , Notice 96–14]

RIN 2105–AC50

Amendments to Pre-Employment Alcohol Testing Requirements

AGENCIES: Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration, Federal Transit Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This NPRM proposes provisions that would implement a recent statutory change to the pre-employment alcohol testing provisions of the Omnibus Transportation Employee Testing Act of 1991. The proposal would harmonize the regulations with the statute by making pre-employment testing voluntary for employers.

DATES: Comments should be received by July 8, 1996. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Comments should be sent, preferably in triplicate, to Docket Clerk, Docket No. OST–96–1333., Department of Transportation, 400 7th Street, S.W., Room PL-400, Washington, D.C., 20590. Comments will be available for inspection at this address from 9:00 a.m. to 5:00 p.m., Monday through Friday. Commenters who wish the receipt of their comments to be acknowledged should include a stamped, self-addressed postcard with their comments. The Docket Clerk will date-stamp the postcard and mail it back to the commenter. We note that, because this is a multi-modal rulemaking, we are, for convenience, designating a docket in the Office of the Secretary to receive comments for all concerned operating administrations.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Room 10424, (202-366-9306); 400 7th Street, S.W., Washington D.C., 20590.

SUPPLEMENTARY INFORMATION: In its April 5, 1995, decision in *American Trucking Associations, Inc.* v. *FHWA*, the U.S. Court of Appeals for the Fourth Circuit vacated the FHWA's pre-employment alcohol testing rule and remanded it to the agency for further rulemaking consistent with its opinion. The rule implemented the Omnibus Transportation Employee Testing Act of 1991, which required pre-employment testing "for use, in violation of law or Federal regulation, of alcohol or a controlled substance." The rule required trucking companies to administer pre-employment tests to a new driver. The test could occur at any time up to the performance of the driver's first safety-sensitive activity. This decision did not vacate the pre-employment alcohol testing regulations of the other modes, which were not before the court, but these regulations were based on parallel statutory language, and the rationale of the court's decision applied to them as well.

Because the Court's decision vacated FHWA's pre-employment alcohol testing rule and created substantial uncertainty about the legal validity of the other operating administrations' rules, the Department took action in May 1995 to suspend all four pre-employment alcohol testing rules. As announced by Secretary of Transportation Federico Peña *before* the Court's decision was issued, the Department had decided to transmit a bill to Congress that would make pre-employment alcohol testing discretionary with employers. The Department's proposed legislation was adopted by Congress as § 342 of the National Highway Systems Act of 1995. Section 342 amends the provisions of the Omnibus Transportation Employee Testing Act of 1991 to repeal the requirement that employers conduct pre-employment alcohol testing. In place of the repealed requirement, Congress added a sentence that states "The [Secretary of Transportation's] regulations shall permit such motor carriers to conduct preemployment testing of such employees for the use of alcohol." (§ 342(c); the language of the provisions for the aviation, transit, and railroad industries is parallel.)

To implement this statutory change, the Department's four operating administrations involved—the Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration, and Federal Transit Administration—are proposing to remove their existing (but suspended) pre-employment alcohol testing mandates and substitute a provision that would explicitly authorize, but not require, employers to conduct such testing as part of their DOT-based drug and alcohol testing program. This means that an employer has discretion to conduct preemployment alcohol testing under color of Federal statutory and regulatory authority.

An employer's choice to exercise the option to test under Federal authority would have a number of implications. First, the employer would have to comply with Part 40 procedures for the tests. Second, the employer would have to apply preemployment alcohol testing to all safety-sensitive employees covered by DOT drug and alcohol testing regulations. Third, the employer and employees would necessarily accept the consequences of positive tests under DOT regulations. Fourth, the pre-emption provisions of the Department's regulations would apply to pre-employment alcohol testing under the proposed rules.

Each of the four modal amendments embodies these points. There are some drafting differences among the four provisions, reflecting the differences in the underlying modal provisions. It should also be noted that the language of the modal provisions is intended to permit the testing to take place after a conditional offer of employment, earlier in the hiring process, or after a final commitment but before the first performance of safety-sensitive functions (e.g., before the first time a new driver takes a transit bus out on a route). These three provisions also encompass situations in which an individual who has been working for the employer in another capacity transfers to duties involving the performance of safety-sensitive functions.

It is possible, of course, for an employer to conduct pre-employment alcohol tests under its own authority, with no reference to DOT rules, procedures, or authority. In this case, of course, the exercise of the employer's authority is fully subject to any state laws that may constrain the employer's discretion. If the employer chooses to conduct pre-employment testing under the DOT rules, however, the employer commits itself to conducting the tests in full compliance with those rules.

The Department supported the legislation that became § 342 in the belief that a Federal mandate for pre-employment alcohol testing was not necessary. However, employers may determine that pre-employment alcohol testing is a useful part of their substance abuse prevention policies (e.g., as a means of emphasizing to new employees the employer's commitment to an alcohol abuse-free workplace). The Department believes that the proposed rule will facilitate the efforts of

employers who choose to include this element in their programs.

Regulatory Process Matters

The proposed rule is considered to be a nonsignificant rulemaking under DOT Regulatory Policies and Procedures, 44 FR 11034. It also is a nonsignificant rule for purposes of Executive Order 12886. The Department certifies, under the Regulatory Flexibility Act, that the NPRM, if adopted, would not have a significant economic effect on a substantial number of small entities. The NPRM would not impose any costs or burdens on regulated entities, since it makes pre-employment alcohol testing completely voluntary. The rule has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

FAA

List of Subjects in 14 CFR Part 121

Air carriers, Aircraft, Aircraft pilots, Airmen, Airplanes, Air transportation, Aviation safety, Drug abuse, Drugs, Narcotics, Pilots, Safety, Transportation.

For the reasons set out in the preamble, the Federal Aviation Administration proposes to amend 14 CFR part 121, as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. The authority citation for part 121 would continue to read as follows:

Authority: 49 U.S.C. 106(g), 400113, 40119, 44101, 44701-44702, 44705, 44709-44711, 44713, 44716-44717, 44722, 44901, 44903-44904, 44912, 46105.

2. In Appendix J, Sec. III, the heading of Sec. III and subsection A are proposed to be revised to read as follows:

Appendix J to Part 121—Alcohol Misuse Prevention Program

* * * * *

III. Types of Alcohol Tests

A. Pre-employment

1. As part of its alcohol misuse program under this part, an employer is permitted, but not required, to conduct pre-employment testing for the use of alcohol. If the employer chooses to conduct such testing under this section, the requirements of paragraphs (2)–(4) of this section apply.

2. The employer shall administer pre-employment alcohol tests to each employee prior to the first time the employee performs safety-sensitive functions for the employer.

3. The employer shall conduct the tests using the procedures of 49 CFR part 40.

4. The employer shall not allow a covered employee to perform safety-sensitive functions, unless the result of the employee's test indicates an alcohol concentration of less than 0.04. If a pre-employment alcohol test result under this section indicates an alcohol concentration of 0.02 or greater but less than 0.04, the provisions of Paragraph F of Section V of this appendix apply.

Issued this 2nd day of May, 1996, at Washington, D.C.

David R. Hinson,

Administrator, Federal Aviation Administration.

FRA

List of Subjects in 49 CFR Part 219

Alcohol and drug abuse, Railroad safety, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, FRA proposes to amend 49 CFR Part 219, as follows:

PART 219—CONTROL OF ALCOHOL AND DRUG USE

1. The authority for part 219 would continue to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20111, 20112, 20113, 20140, 21301, 21304; Pub. L. 103-272 (July 5, 1994); and 49 CFR 1.49(m).

2. In § 219.501, paragraphs (a) and (b) are revised to read as follows:

§ 219.501 Pre-employment tests.

(a) Beginning on January 1, 1995, prior to the first time a covered employee performs covered service for a railroad, the employee shall undergo testing for drugs. No railroad shall allow a covered employee to perform covered service, unless an employee has been administered a test for drugs with a result that did not indicate the misuse of controlled substances. This requirement shall apply to final applicants for employment and to employees seeking transfer for the first time from non-covered service to duties involving covered service.

(b) As part of its alcohol misuse program under this Part, a railroad is permitted, but not required, to conduct pre-employment testing for the use of alcohol. If a railroad chooses to conduct such testing under this section, the requirements of paragraphs (b) (1) and (2) apply.

(1) No railroad shall allow a covered employee to perform covered service, unless an employee has been administered a test for alcohol with a result indicating an alcohol concentration less than .04. This requirement shall apply to final applicants for employment and to employees seeking transfer for the first time from non-covered service to duties involving covered service.

(2) If the test is result is .02 or greater but less than .04, the applicant or employee shall not perform safety-sensitive functions for the railroad, and the railroad shall not permit the applicant or employee to perform such functions, until the applicant's alcohol concentration measures less than .02.

* * * * *

Issued this 2nd day of May, 1996, at Washington, D.C.

Jolene M. Molitoris,

Administrator, Federal Railroad Administration.

FHWA

List of Subjects in 49 CFR Part 382

Alcohol and drug abuse, Highway safety, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the FHWA proposes to amend 49 CFR part 382, as follows:

PART 382—CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING

1. The authority for part 382 would continue to read as follows:

Authority: 49 U.S.C. 31306; 49 U.S.C. app. 31201 et. seq.; 49 U.S.C. 31502; 49 CFR 1.48

2. In section 382.301, paragraphs (a) and (b) are revised to read as follows:

§ 382.301 Pre-employment testing.

(a) Prior to the first time a driver performs safety-sensitive functions for an employer, the driver shall undergo testing for controlled substances. No employer shall allow a driver to perform safety-sensitive functions unless the driver has received a controlled substances test result from the medical review officer indicating a verified negative test result.

(b) As part of its alcohol misuse program under this part, an employer is permitted, but not required, to conduct pre-employment testing for the use of alcohol. If the employer chooses to conduct such testing under this section, the requirements of paragraphs (b) (1) through (4) apply.

(1) The employer shall administer a pre-employment alcohol test to each driver prior to the first time any driver performs a safety-sensitive function for the employer, unless —

(i) The driver has undergone an alcohol test permitted or required by this part or the alcohol misuse rule of another DOT agency under part 40 of this title within the previous six months, with a result indicating an alcohol concentration of less than 0.04; and

(ii) The employer ensures that no prior employer of the driver of whom the employer has knowledge has records of a violation of this part or the alcohol misuse rule of another DOT agency within the previous six months.

(2) Except as provided in paragraphs (b)(i)(1) and (ii) of this section, the employer shall not allow a driver to perform a safety-sensitive function unless the driver has been administered an alcohol test with a result indicating an alcohol concentration of less than 0.04.

(3) If a pre-employment alcohol test result under this section indicates an alcohol concentration of 0.02 or greater but less than 0.04, the provisions of § 382.505 apply.

(4) The employer shall conduct the tests using the procedures of 49 CFR part 40.

* * * * *

3. In § 382.301(d)(1) introductory text, the words "(1) (i) and (ii)" are added after the words "paragraph (b)".

Issued this 2nd day of May, 1996, at Washington, D.C.

Rodney Slater,

Administrator, Federal Highway Administration.

FTA

List of Subjects

49 CFR Part 653

Drug testing, Grant programs-transportation, Mass transportation, Reporting and recordkeeping requirements, Safety, Transportation.

49 CFR Part 654

Alcohol testing, Grant programs-transportation, Mass transportation, Reporting and recordkeeping requirements, Safety, Transportation.

For the reasons set out in the preamble, the Federal Transit Administration proposes to amend 49 CFR Part 654, as follows:

PART 654—PREVENTION OF ALCOHOL MISUSE IN TRANSIT OPERATIONS.

1. The authority for Part 654 would continue to read as follows:

Authority: 49 U.S.C. 5331; 49 CFR 1.51

2. Section 654.31 is proposed to be revised to read as follows:

§ 654.31 Pre-employment testing.

(a) As part of its alcohol misuse program under this part, an employer is permitted, but not required, to conduct pre-employment testing for the use of alcohol. If the employer chooses to conduct such testing under this section, the requirements of paragraphs (b) through (d) apply.

(b) The employer shall administer a pre-employment alcohol test before the first time any covered employee performs a safety-sensitive function for the employer.

(c) The employer shall conduct the tests using the procedures of 49 CFR Part 40.

(d) The employer shall not allow a covered employee to perform safety-sensitive functions, unless the result of the employee's test indicates an alcohol concentration of less than 0.04. If a pre-employment alcohol test result under this section indicates an alcohol concentration of 0.02 or greater but less than 0.04, the provisions of § 654.65 apply.

Issued this 2nd day of May, 1996, at Washington, D.C.

Gordon J. Linton,

Administrator, Federal Transit Administration.

[FR Doc. 96–11432 Filed 5–8–96; 8:45 am]

BILLING CODE 4910–62–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 80

[CI Docket No. 95–55, FCC 96–194]

Inspection of Radio Installations on Large Cargo and Small Passenger Ships

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has adopted a *Notice of Proposed Rule Making* (NPRM) which proposes rules to require that large cargo and small passenger vessels arrange for an inspection of such ships by an FCC-licensed technician. The Commission adopted this NPRM to incorporate changes to the Communications Act related to the inspection of ships and to explore ways to improve the Commission's ship inspection process. The intended effect of these proposed rules is to increase the availability of competent, private sector inspectors to conduct inspections of cargo vessels and small passenger vessels required to be inspected by the Commission without adversely affecting safety and, thus, provide greater convenience for the maritime industry.

DATES: Comments must be filed on or before May 24, 1996, and reply comments must be filed on or before June 3, 1996. Written comments by the public and federal agencies on the proposed and/or modified information collections are due by May 24, 1996. Written comments by OMB on the proposed and/or modified information collections on or before July 8, 1996.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 - 17th Street, N.W., Washington, DC 20503 or via the Internet to fain—t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: George R. Dillon of the Compliance and Information Bureau at (202) 418–1100. For additional information concerning the information collections contained in this NPRM contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, CI Docket No. 95–55, FCC 96–194, adopted April 25, 1996, and released, April 26, 1996. The full text of this *Notice of Proposed Rule Making* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239) 1919 M Street, NW, Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street NW, Washington, DC 20037, telephone (202) 857–3800.

Summary of Notice of Proposed Rule Making

This *Notice of Proposed Rule Making* (NPRM) was initiated to incorporate changes to the Communications Act related to the inspection of ships, to explore ways to improve the Commission's ship inspection process, to reduce administrative burdens on the public and the Commission, and to ensure that vessel safety is not adversely affected. Currently, the Commission inspects the radio installations of approximately 1,110 vessels each year subject to the Communications Act or the Safety Convention. The proposed rules will replace the requirement that the Commission inspect such ships with a requirement that ship owners or operators arrange for an inspection by an FCC-licensed technician.

2. Privatization will result in the following benefits:

(a) It will increase the number of experienced entities available to inspect the radio stations of ships.

(b) Privatization will permit ship owners and operators to arrange for inspections at any time or place.

(c) Our proposal for privatization should not adversely affect safety, we are proposing rules that will require two separate certifications that the ship has passed the safety inspection. Additionally, we are coordinating this item with the U. S. Coast Guard.

(d) It will also decrease administrative burdens on the Commission by shifting the responsibility to arrange ship inspections from the Commission to ship owners or operators.

3. The Communications Act requires that the Commission must inspect the radio installation of large cargo ships and certain passenger ships of the United States at least once a year to ensure that the radio installation is in compliance with the requirements of the Communications Act. Additionally, the Communications Act requires that the Commission must inspect the radio installation of small passenger vessels as necessary to ensure compliance with the radio installation requirements of the Communications Act. Currently, the Commission inspects small passenger vessels once every five years.

4. The Safety Convention, to which the United States is signatory and which applies to large cargo ships and certain passenger vessels, also requires an annual inspection. The Safety Convention, however, permits an Administration to *entrust the inspections to either surveyors nominated for the purpose or to organizations recognized by it.* The United States can, therefore, have either Commission inspectors or other entities conduct the radio station inspections of vessels for compliance with the Safety Convention.

5. The purpose of these inspections is to ensure that passengers and crew members of certain U. S. ships have access to distress communications in an emergency. The 1996 Act adopted the statutory changes in this area requested by the Commission in 1995. In part, these changes permit the Commission to designate entities to perform the inspections required by the Communications Act. We are proposing a significant change to the current rules and procedures regarding safety inspections and request comment on these proposals.

Paperwork Reduction Act

This NPRM contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB notification of action is due July 8, 1996. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0362.

Title: 80.401 Station documents required.

Form No.: N/A.

Type of Review: Revision of existing collection.

Respondents: Large businesses and small businesses.

Number of Respondents: 11,318.

Estimated Time Per Response: 4.48 hours.

Total Annual Burden: 44,478 hours.

Estimated costs per respondent: There are no separate costs.

Needs and Uses: The NPRM proposes to revise the Commission's Rules regarding the inspection of ships for compliance with the Telecommunications Act of 1996 and the International Convention for the Safety of Life at Sea, 1974 (Safety Convention). The NPRM will streamline ship inspection procedures for the maritime services and preserve maritime safety. The information collected will be used to provide a written record of the inspections of radio equipment used to provide distress and safety communications capability during an emergency. Because the safety of ship's crew and passengers during a disaster could be jeopardized if radio communications were not available, the Commission is proposing that the inspecting technician and the ship's owner, operator or captain each certify in the ship's station log that the vessel has passed a safety inspection.

Initial Regulatory Flexibility Analysis

6. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals contained in this NPRM. We request written public comment on the IRFA, which follows. Comments must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines provided in paragraph 19 of the NPRM. The Secretary shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Public Law 96–354, 94 Stat. 1164, 5 U.S.C. 601–612 (1981).

A. Reason for Action

7. The Commission proposes to require that ships subject to the Communications Act or the Safety Convention must have the required inspection conducted by an FCC-licensed technician.

B. Objectives

8. We seek to promote efficiency in the Commission's service to the public and to encourage the use of private sector organizations to take over government operations wherever possible.

C. Legal Basis

9. The proposed action is authorized under Sections 4(i) and 303(r) of the Communications Act, 47 U.S.C. 154(i) and 303(r), and the Safety Convention Chapter I, Regulation 6(a).

D. Reporting, Recordkeeping and Other Compliance Requirements

10. Our proposed amendments to 47 CFR 80.802, 80.851, 80.903 and 80.1067 would require owners and operators of vessels subject to the Communications Act to use an FCC-licensed technician to meet a current inspection requirement.

E. Federal Rules Which Overlap, Duplicate or Conflict with These Rules

11. None.

F. Description, Potential Impact, and Small Entities Involved

12. Use of the private sector to inspect vessels subject to the Communications Act or the Safety Convention would allow better service to the owners and operators of such vessels, many of which are small businesses, and more efficient use of scarce government resources. It would additionally encourage the creation of jobs to inspect approximately 1,110 vessels each year.

G. Any Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives

13. None.

List of Subjects

47 CFR Part 0

Organization and functions (Government agencies)

47 CFR Part 80

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–11612 Filed 5–8–96; 8:45 am]

BILLING CODE 4712–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1300

[STB Ex Parte No. 528]

Disclosure, Publication, and Notice of Change of Rates and Other Service Terms for Rail Common Carriage

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The ICC Termination Act of 1995 (ICCTA) eliminated the tariff requirements formerly applicable to rail carriers, but imposed in lieu thereof certain obligations to disclose common carriage rates and service terms as well as a requirement for advance notice of increases in such rates or changes in service terms. The ICCTA requires the Board to promulgate regulations to administer these new obligations by June 29, 1996. The Board proposes to add a new part 1300 to its regulations for that purpose as set forth below.

DATES: Comments are due on June 10, 1996.

ADDRESSES: Send comments (an original and 10 copies) referring to STB Ex Parte No. 528 to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Ave., N.W., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: The Board's decision discussing this proposal is available to all persons for a charge by phoning DC NEWS & DATA, INC., at (202) 289–4357.

Request for Comments

We invite comments on all aspects of the proposed regulations. Comments (an original and 10 copies) must be in writing, and are due on June 10, 1996.

Small Entities

The Board certifies that this rule, if adopted, would not have a significant economic effect on a substantial number of small entities. Although many railroads and shippers are small entities, the Board believes that the costs of compliance would be minimal. The proposed rules should result in easier access to rail rate and service information, and to that extent, our proposed action should benefit small entities.

The Board seeks comment on whether there would be effects on small entities that should be considered.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1300

Agricultural products, Disclosure requirement, Fertilizer, Notice requirement, Publication requirement, Rail carriers.

Decided: May 2, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations, is proposed to be amended as follows:

SUBCHAPTER D—CARRIER RATES AND SERVICE TERMS

1. The heading for Subchapter D is revised as set forth above.

2. The undesignated center headings for parts 1300–1319, parts 1320–1329, and parts 1330–1339 are removed.

3. A new part 1300 is added to read as follows:

PART 1300—DISCLOSURE, PUBLICATION, AND NOTICE OF CHANGE OF RATES AND OTHER SERVICE TERMS FOR RAIL COMMON CARRIAGE

Sec.

1300.1 Scope; definitions.
1300.2 Disclosure requirement for existing rates.
1300.3 Response to request for establishment of a new rate.
1300.4 Notice requirement.
1300.5 Additional publication requirement for agricultural products and fertilizer.

Authority: 49 U.S.C. 721(a) and 11101(f).

§ 1300.1 Scope; Definitions.

(a) The provisions of this part address the requirements imposed on rail carriers by 49 U.S.C. 11101(b), 11101(c), 11101(d) and 11101(f).

(b) Except as otherwise provided in this section, the provisions of this part apply to any common carriage transportation or service provided by a rail carrier subject to the jurisdiction of the Surface Transportation Board under 49 U.S.C. 10501.

(c) The provisions of this part do not apply to any transportation or service provided by a rail carrier under a contract authorized under 49 U.S.C. 10709 or former 49 U.S.C. 10713.

(d) The provisions of this part do not apply to any transportation or service provided by a rail carrier to the extent that such transportation or service is exempted from rate notice and disclosure requirements pursuant to an exemption issued under 49 U.S.C. 10502 or former 49 U.S.C. 10505.

(e) For the purposes of this part, *service terms* means all classifications, rules, and practices that affect the rates, charges, or level of service for rail transportation.

§ 1300.2 Disclosure requirement for existing rates.

(a) A rail carrier must disclose to any person, upon formal request, the specific rate(s) requested (or the basis for calculating the specific rate(s)), as well as all charges and service terms that may be applicable to transportation covered by that rate(s).

(b) The information provided by a rail carrier under this section must be provided immediately. Such information may be provided either in writing or in electronic form as agreed to by the parties.

§ 1300.3 Response to request for establishment of a new rate.

Where a shipper or a prospective shipper requests that the carrier establish a rate in the absence of an appropriate applicable rate for particular transportation, the carrier must promptly establish and provide to the requestor, in writing or in electronic form as agreed to by the parties, an appropriate rate and applicable service terms. The response should be provided as soon as reasonably possible, but no later than 10 business days from receipt of the request. If a carrier determines that additional information is required from the requester before a rate or term can be established, the carrier must so notify the requester as soon as possible,

but no later than 10 business days after receipt of the request. Once the additional information is received, the carrier must set the rate and related service terms, and relay them to the requester, within 10 business days.

§ 1300.4 Notice requirement.

(a) A rail carrier may not increase any rates or charges, or change any service terms (except for changes that are equivalent to rate reductions), unless 20 days have expired after written or electronic notice has been provided to all persons who, within the previous 12 months:

(1) Have formally requested under section 11101(b) the affected rates or service terms; or

(2) Have made a shipment that was subject to the affected rates or terms; or

(3) Have made arrangements with the carrier for a future shipment that would be subject to the affected rates or terms.

(b) The notice required by this section may be in writing or in electronic form, as agreed to by the parties.

(c) For purposes of this section, a mailed notice is deemed "provided" on the date such notice is postmarked.

(d) The notice required by this section must clearly identify the increases in rates or charges or the changes in service terms.

§ 1300.5 Additional publication requirement for agricultural products and fertilizer.

(a) With respect to transportation of agricultural products (including grain, as defined in 7 U.S.C. 75, and all products thereof) and fertilizer, a rail carrier shall publish, make available, and retain for public inspection its currently effective rates, schedules of rates, charges, and other service terms, and any scheduled changes to such rates, charges, and service terms. This requirement is in addition to the requirements imposed by §§ 1300.2, 1300.3, and 1300.4 of this part.

(b) The information published under this section must include an accurate description of the services offered to the public; must provide the specific applicable rates (or the basis for calculating the specific applicable rates), charges, and service terms; and must be arranged in a way that allows for the determination of the exact rate, charges, and service terms applicable to any given shipment (or to any given group of shipments). Increases, reductions and other changes must be symbolized or highlighted in some way to facilitate ready identification of the changes and the nature of those changes.

(c) A rail carrier must make the information available at its offices. Access to the information at such offices must be provided to any person, without charge, during normal business hours.

(d) A rail carrier must also make the required publications available to all persons (hereinafter referred to as subscribers) who have subscribed to a publication service operated either by the rail carrier itself or by an agent acting at the rail carrier's direction. Such publications may be made available either in printed or in electronic form as agreed to by the parties. Any scheduled changes must be published in a manner that provides timely notice to subscribers. A rail carrier may impose reasonable charges for such publications. Publications may be limited to the specific information requested by the subscriber, and charges for such limited publications should be set accordingly.

[FR Doc. 96–11601 Filed 5–8–96; 8:45 am]
BILLING CODE 7035–01–P

Notices

Federal Register
Vol. 61, No. 91
Thursday, May 9, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 3, 1996.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 *and* to Department Clearance Officer, USDA, OIRM, Ag Box 7630, Washington, D.C. 20250–7630. Copies of the submission(s) may be obtained by calling (202) 720–6204 or (202) 720–6746.

Title: International Carriage of Perishable Foodstuffs (ATP).

Summary: This information collection is used by USDA to certify, upon request from U.S. manufacturers and their European customers, that U.S. built refrigerated trailers are properly insulated and capable of maintaining, prescribed temperatures for the carriage of frozen food and chilled products.

Need and Use of the Information: This information is needed so that USDA can properly certify refrigerated trailers in accordance with U.S. Treaty obligations.

Description of Respondents: Business or other for-profit; Federal Government.

Number of Respondents: 5.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 73.

Title: 7 CFR 719 Eminent Domain Acquisitions: Reallocating Allocations, Quotas, and Acreage Bases.

Summary: The Agricultural Adjustment Act of 1938, as amended, provides for pooling allotments for any commodity for any land from which the owner is displaced because of acquisition of the land by any Federal, State, or local agency having right of eminent domain.

Need and Use of the Information: The forms ASCS–177 and ASCS–178 are used to establish the record of the producer's pooled allotments or bases, and to request a transfer of the pooled allotments or bases to other owned land.

Description of Respondents: Farms.

Number of Respondents: 3,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 3,000.

Larry Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 96–11531 Filed 5–8–96; 8:45 am]
BILLING CODE 3410–01–M

Grain Inspection, Packers and Stockyards Administration

Opportunity to Comment on the Applicants for the Lubbock (TX) Region

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA is asking for comments on the applicants for designation to provide official services in the Lubbock, Texas, region currently assigned to Amarillo Grain Exchange, Inc. (Amarillo).

DATE: Comments must be postmarked, or sent by telecopier (FAX) or electronic mail by June 7, 1996.

ADDRESSES: Comments must be submitted in writing to Janet M. Hart, Chief, Review Branch, Compliance Division, GIPSA, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. SprintMail users may respond to [A:ATTMAIL,O:USDA,ID:A36JHART]. ATTMAIL and FTS2000MAIL users may respond to !A36JHART. Telecopier (FAX) users may send comments to the automatic telecopier machine at 202–690–2755, attention: Janet M. Hart. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the March 13, 1996, **Federal Register** (61 FR 10313), GIPSA announced that Amarillo had asked that their designation be amended to remove the Lubbock region consisting of the Texas counties of Andrews, Borden, Cochran, Crosby, Dawson, Dickens, El Paso, Gaines, Garza, Hockley, Howard, Kent, Lubbock, Lynn, Martin, Mitchell, Scurry, Terry, and Yoakum Counties, Texas, and the parts of Hale and Lamb Counties, Texas, assigned to Amarillo. GIPSA also asked persons interested in providing official services in the Lubbock, Texas, region to submit an application for designation. Applications were due by April 10, 1996. Farwell and Plainview, the only applicants, each applied for designation to serve mutually exclusive parts of the Lubbock area. Farwell applied for the Texas counties of Cochran, Hockley, and that part of Lamb county not already assigned to them. Plainview applied for that portion of Hale county not currently assigned to them, and the entire counties of Andrews, Borden, Crosby, Dawson, Dickens, Gaines, Garza, Howard, Kent, Lubbock, Lynn, Scurry, Martin, Mitchell, Terry, and Yoakum.

The counties that Farwell and Plainview applied for comprise all of the Lubbock region except for El Paso county. Accordingly, if Amarillo's designation is amended, there would be no official agency designated to serve El Paso county, Texas. Persons needing official services in El Paso county would have to contact the GIPSA Wichita Field Office to obtain official services.

GIPSA, in the March 13, 1996 **Federal Register**, also asked for comments on the need for official services in the Lubbock area. Although there were no comments, GIPSA, based on all the information available, including discussions with some grain companies in the Lubbock area, believes that there

is sufficient need for service to designate the applicants.

GIPSA is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants and the need for official services. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of these applicants and the need for official services. All comments must be submitted to the Compliance Division at the above address.

Comments and other available information will be considered in making a final decision. GIPSA will publish notice of the final decision in the **Federal Register**, and GIPSA will send the applicants wriften notification of the decision.

AUTHORITY: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: April 29, 1996

Neil E. Porter

Director, Compliance Division

[FR Doc. 96–11468 Filed 5–8–96; 8:45 am]

BILLING CODE 3410–EN–F

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Iowa Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Iowa Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 1:00 p.m. on June 7, 1996, at the Hotel Fort Des Moines, 10th and Walnut Streets, Des Moines, Iowa 50309. The purpose of the meeting is to plan for future activities and provide orientation for new members.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 1, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–11544 Filed 5–8–96; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Mississippi Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Mississippi Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 8:00 p.m. on June 20, 1996, at the Holiday Inn, 6563 U.S. Highway 49 North, Hattiesburg, Mississippi 39401. The purpose of the meeting is to plan for future activities and provide orientation for new members.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 1, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–11545 Filed 5–8–96; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Bureau of the Census

Census Advisory Committees of the African American Population, American Indian and Alaska Native Populations, Asian and Pacific Islander Populations, and Hispanic Population; Notice of Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2, and after consultation with the General Services Administration, the Secretary of Commerce has determined that the renewal of the Census Advisory Committees of the African American Population, American Indian and Alaska Native Populations, Asian and Pacific Islander Populations, and Hispanic Population is in the public interest in connection with the performance of duties imposed on the Department by law.

These committees primarily will provide an organized and continuing channel of communication to the Bureau of the Census on its efforts to reduce the differentials in the counts of these populations during the 2000 census and to identify ways the resulting census data can be disseminated with maximum usefulness to these populations and other users.

The committees will draw on past experience with the 1990 census process and procedures, results of evaluations and research studies, and the expertise and insight of its members to provide advice and recommendations during the research and development phase of various topics, and provide advice and recommendations during the design, planning, and implementation phases of the 2000 census. During the research and development phase, these committees will provide advice on topics such as special methods for enumerating their populations and the race and ethnicity questions.

These committees will function solely as an advisory body and will comply fully with the provisions of the Federal Advisory Committee Act. Each committee shall consist of nine members to be appointed by and serve at the discretion of the Secretary of Commerce.

The committees shall report to the Director, Bureau of the Census. The Designated Federal Official for the Advisory Committees shall be the Associate Director for Decennial Census at the Bureau of the Census.

The Department of Commerce will file copies of the committees' renewal charters with appropriate committees in Congress.

You may address inquiries or comments to Maxine Anderson-Brown, Committee Liaison Officer, Bureau of the Census, Room 3039, FB 3, Washington, D.C. 20233, telephone (301) 457–2308,—TDD (301) 457–2540.

Dated: May 3, 1996.

Martha Farnsworth Riche,

Director, Bureau of the Census.

[FR Doc. 96–11530 Filed 5–8–96; 8:45 am]

BILLING CODE 3510–07–P

Foreign-Trade Zones Board

Order No. 820

Expansion of Foreign-Trade Zone 26 Atlanta, Georgia

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the Georgia Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 26, for authority to expand its general-purpose zone in the Atlanta, Georgia, area was filed by the Board on September 22, 1995 (FTZ Docket 55–95, 60 FR 51772, 10/3/95); and,

Whereas, notice inviting public comment was given in **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 26 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 29th day of April 1996.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–11631 Filed 5–8–96; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 819]

Expansion of Foreign-Trade Zone 12 McAllen, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the McAllen Economic Development Corporation, grantee of Foreign-Trade Zone 12, for authority to expand its general-purpose zone in the McAllen, Texas, area was filed by the Board on September 11, 1995 (FTZ Docket 52–95, 60 FR 48502, 9/19/95); and,

Whereas, notice inviting public comment was given in the **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, Therefore, the Board hereby orders:

The application to expand FTZ 12 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 29th day of April 1996.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration Alternate Chairman Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–11632 Filed 5–8–96; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 35–96]

Foreign-Trade Zone 185—Culpeper County, Virginia Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Culpeper County Chamber of Commerce, Inc., grantee of Foreign-Trade Zone 185, requesting authority to expand its zone in Culpeper County, Virginia, within the Front Royal Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 26, 1996.

FTZ 185 was approved on May 22, 1992 (Board Order 578, 57 FR 23385, 6/3/82). The zone project currently consists of a site at the Montanus Trade Center (80 acres), located on Route 29 at Route 666 in Culpeper County.

The applicant is now requesting authority to expand the general-purpose zone to include an additional site at the Culpeper County Industrial Airpark (104 acres) located adjacent to the Culpeper County Airport, Route 29 North within the City of Elkwood, Virginia, eight miles north of the town limits of the Town of Culpeper. The Airpark is owned and operated by the County as an economic development project, with certain parcels having been sold to individual companies.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment (original and 3 copies) is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 23, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 23, 1996.).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Culpeper County Chamber of Commerce, 133 West Davis Street, Culpeper, Virginia 22701

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW Washington, DC 20230

Dated: May 2, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–11630 Filed 5–8–96; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 818]

Expansion of Foreign-Trade Zone 41 and Approval of Manufacturing Activity (Children's Books) Within Foreign-Trade Zone 41, Milwaukee, Wisconsin Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the Foreign-Trade Zone of Wisconsin, Ltd., grantee of FTZ 41, requesting authority to expand its general-purpose zone to include an additional site in Sturtevant, Wisconsin, and requesting authority on behalf of Publications International Ltd. to manufacture (assemble) children's books under zone procedures within FTZ 41, was filed by the Board on April 3, 1995 (FTZ Docket 13–95, 60 FR 18580);

Whereas, notice inviting public comment was given in the **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied and that the proposal would be in the public interest if the authority for the book manufacturing activity is subject to a time limit;

Now, therefore, the Board hereby orders:

The application is approved, subject to the FTZ Act and the FTZ Board's

regulations, including Section 400.28, and further subject to a 3-year time limit for the book manufacturing activity that begins on the date of activation, subject to extension upon review.

Signed at Washington, DC, this 29th day of April 1996.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–11633 Filed 5–08–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–588–838]

Notice of Final Determination of Sales at Less Than Fair Value: Clad Steel Plate From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 9, 1996.

FOR FURTHER INFORMATION CONTACT: Ellen Grebasch, Dorothy Tomaszewski, or Erik Warga, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Room 3099, Washington, D.C. 20230; telephone: (202) 482–3773, (202) 482–0631, or (202) 482–0922, respectively.

THE APPLICABLE STATUTE: Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA).

FINAL DETERMINATION: As explained in the memoranda from the Assistant Secretary for Import Administration dated November 22, 1995, and January 11, 1996, the Department of Commerce (the Department) has exercised its discretion to toll all deadlines for the duration of the partial shutdowns of the Federal Government from November 15 through November 21, 1995, and December 16, 1995, through January 6, 1996. Thus, all deadlines in this investigation have been extended by 28 days, *i.e.*, one day for each day (or partial day) the Department was closed. As such, the deadline for this final determination is no later than May 2, 1996.

We determine that clad steel plate from Japan is being sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

There has been no activity regarding this case, since the February 22, 1996, preliminary determination. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Clad Steel Plate from Japan* February 22, 1996, (61 FR 7469, February 28, 1996).

Scope of the Investigation

The scope of this investigation is all clad [1] steel plate of a width of 600 millimeters ("mm") or more and a composite thickness of 4.5 mm or more. Clad steel plate is a rectangular finished steel mill product consisting of a layer of cladding material (usually stainless steel or nickel) which is metallurgically bonded to a base or backing of ferrous metal (usually carbon or low alloy steel) where the latter predominates by weight.

Stainless clad steel plate is manufactured to American Society for Testing and Materials ("ASTM") specifications A263 (400 series stainless types) and A264 (300 series stainless types). Nickel and nickel-base alloy clad steel plate is manufactured to ASTM specification A265. These specifications are illustrative but not necessarily all-inclusive. Clad steel plate within the scope of this investigation is classifiable under the Harmonized Tariff Schedule of the United States ("HTSUS") 7210.90.10.00. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is September 1, 1994, through August 31, 1995.

[1] Cladding is the association of layers of metals of different colors or natures by molecular interpenetration of the surfaces in contact. This limited diffusion is characteristic of clad products and differentiates them from products metalized in other manners (e.g., by normal electroplating). The various cladding processes include pouring molten cladding metal onto the basic metal followed by rolling; simple hot-rolling of the cladding metal to ensure efficient welding to the basic metal; any other method of deposition or superimposing of the cladding metal followed by any mechanical or thermal process to ensure welding (e.g., electro-cladding), in which the cladding metal (nickel, chromium, etc.) is applied to the basic metal by electroplating, molecular interpenetration of the surfaces in contact then being obtained by heat treatment at the appropriate temperature with subsequent cold-rolling. See Harmonized Commodity Description and Coding System Explanatory Notes, Chapter 72, General Note (IV) (C)(2)(e).

Facts Available

For reasons discussed in the preliminary determination, the Department, pursuant to section 776 of the Act, has used the facts available. For a discussion of the reasons for application of the facts available, and the selection of the petition margin as the facts available, see the preliminary determination.

The Department has not received any comments since the preliminary determination on its application of facts available. In accordance with section 776(c) of the Act, the Department attempted to corroborate the petition information by comparing the petition information on export price to U.S. Customs data and Japanese export statistics. Both of these sources record prices based on the HTSUS subheading 7210.90.10.00, and support the prices contained in the petition. (See memorandum dated February 16, 1996.)

Because Lukens Steel Company (the petitioner) based the normal value calculation on constructed value in the petition, we were able to examine the supporting documentation regarding the valuation of variable costs for labor, electricity, natural gas, and other factors (principally backing steel and insert metal costs) in Japan and because that supporting information was from independent, public sources, we found that those costs have probative value.

Fair Value Comparisons

As noted above, as in our preliminary determination, this final determination has been made using the margin in the petition as the facts avialable.

All-Others Rate

Under section 735(c)(5) of the Act, the "all-others rate" will normally be a weighted average of the weighted-average dumping margins established for all exporters and producers, but will exclude any zero or *de minimis* margins, or any margins based entirely on the facts available. However, this provision also states that if there are no margins other than those that are zero, *de minimis*, or based entirely on the facts available, the Department may use other reasonable methods to calculate the all-others rate, including a weighted-average of such margins. In this case, the only margin on the record is the facts available margin of 118.53 percent that the Department assigned to JSW. Therefore, the Department determines the all-others rate to be 118.53 percent as well.

Continuation of Suspension of Liquidation

In accordance with section 735(c) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of Clad Plate Steel from Japan that are entered, or withdrawn from warehouse for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the export price as shown below. The suspension of liquidation instructions will remain in effect until further notice.

The dumping margins are as follows:

Exporter/Manufacturer	Margin Percentage
The Japan Steel Company	118.53
All Others	118.53

The all others rate applies to all entries of subject merchandise.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will within 45 days determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Paul L. Joffe

Acting Assistant Secretary for Import Administration.

Dated: May 2, 1996.

[FR Doc. 96–11629 Filed 5–08–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–549–502]

Certain Welded Carbon Steel Pipes and Tubes From Thailand: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review; Welded Carbon Steel Pipes and Tubes From Thailand.

SUMMARY: In response to a request by Allied Tube & Conduit Corporation, Sawhill Tubular Division of Armco, Inc., American Tube Company, Inc., Laclede Steel Company, Sharon Tube Company, Wheatland Tube Company, and Eagle Pipe Company, petitioners, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain welded carbon steel pipe and tube from Thailand. This review covers the following manufacturers/exporters of the subject merchandise to the United States: Saha Thai Steel Pipe Company, Ltd., SAF Steel Pipe Export Company, and Pacific Pipe Company. The period of review (POR) is March 1, 1994 through February 28, 1995.

We have preliminarily determined that respondents sold subject merchandise at less than normal value (NV) during the POR. If these preliminary results are adopted in our final results, we will instruct U.S. Customs to assess antidumping duties equal to the differences between the export price and NV.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding should also submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument.

EFFECTIVE DATE: May 9, 1996.

FOR FURTHER INFORMATION CONTACT: James Rice or Jean Kemp, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482–1374 or (202) 482–4037, respectively.

APPLICABLE STATUTE: Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

On March 11, 1986, the Department published in the **Federal Register** an antidumping duty order on welded carbon steel pipes and tubes from Thailand (51 FR 8341). On March 7, 1995, the Department published a notice of opportunity to request an administrative review of this order covering the period March 1, 1994 through February 28, 1995 (60 FR 12540).

In accordance with 19 CFR 353.22(a)(1) (1995), petitioners requested that we conduct a review of Saha Thai and Pacific Pipe Co. In addition, Saha Thai Steel Pipe Company, Ltd. and SAF Corporation requested an administrative review of its sales. We published a notice of initiation of this antidumping duty administrative review on April 14, 1995 (60 FR 19017). On November 7, 1995, the Department published in the **Federal Register** its notice extending the deadline in this review (60 FR 56142).

Scope of the Review

The products covered by this administrative review are certain welded carbon steel pipes and tubes from Thailand. The subject merchandise has an outside diameter of 0.375 inches or more, but not exceeding 16 inches. These products, which are commonly referred to in the industry as "standard pipe" or "structural tubing," are hereinafter designated as "pipe and tube." The merchandise is classifiable under the Harmonized Tariff Schedule (HTS) item numbers 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085 and 7306.30.5090. Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of the order is dispositive.

Verification

As provided in section 782(i) of the Tariff Act, we verified information provided by Saha Thai and SAF, respondents, by using standard verification procedures, including onsite inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent, covered by the description in the Scope of the Review section, above, and sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product

comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in the Department's June 21, 1995 antidumping questionnaire and additional specifications listed in our January 11, 1996 supplemental questionnaire. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents and verified by the Department.

Fair Value Comparisons

To determine whether sales of pipe and tube by respondents to the United States were made at less than fair value, we compared the EP to the normal value (NV), as described in the "Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2), we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Export Price

We used EP, in accordance with subsections 772 (a) and (c) of the Act, because the subject merchandise was sold through an affiliated export company (SAF), to the first unaffiliated purchaser in the United States prior to importation and CEP was not otherwise warranted based on the facts of record. Respondents claimed that most U.S. sales should be considered constructed export price (CEP) because they were first sold in the U.S. to affiliated distributors. However, although the Department has preliminarily determined that Saha Thai and SAT are affiliated, we disagree that Saha Thai/SAT is affiliated with the U.S. distributors. For further information on this decision, please see the memorandum from Edward C. Yang to Roland L. MacDonald dated April 29, 1996.

We calculated EP based on packed prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price for foreign inland freight, foreign brokerage and handling, and international freight. We added duty drawback to the starting price.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the combined volume of Saha Thai and SAT home market sales of the foreign like product to the combined volume of their U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Since respondents' aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. Therefore, we have based NV on home market sales.

We based NV on sales to unaffiliated customers in the home market. Where appropriate, we deducted discounts, inland freight, and home market packing. We added U.S. packing in accordance with section 773(a)(6).

We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In accordance with the Department's practice, where the difference in merchandise adjustment for any product comparison exceeded 20 percent, we based normal value on CV.

Price to CV Comparisons

Where we compared CV to EP, we deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific indirect selling expenses.

Cost of Production Analysis

Based on the fact that the Department had disregarded sales in the previous review because they were made below the cost of production (COP), the Department found reasonable grounds in this review, in accordance with section 773(b)(2)(A)(ii) of the Act, to believe or suspect that respondents made sales in the home market at prices below the cost of producing the merchandise. As a result, the Department initiated an investigation to determine whether the respondents made home market sales during the POR at prices below their COP within the meaning of section 773(b) of the Act.

Before making any fair value comparisons, we conducted the COP analysis described below.

A. Calculation of COP

We calculated the COP based on the sum of respondents' cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general, and administrative expenses (SG&A) and packing costs in accordance with section 773(b)(3) of the Act. We verified the respondents' reported COP values.

B. Test of Home Market Prices

We used the respondents' weighted-average COP for the POR. We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at below-cost prices within an extended period of time in substantial quantities, and whether they were at prices which permit recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, rebates, and direct selling expenses.

C. Results of COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of respondents' sales of a given product were sold at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POR were sold at prices less than the COP, we disregarded the below-cost sales because we determined that the below-cost sales were made within an extended period of time in "substantial quantities" in accordance with section 773(b)(2)(B) and (C) of the Act, and because we determined that the below-cost sales of the product were at prices which would not permit recovery of all costs within a reasonable period of time where an individual sale price was below the weighted-average COP of the product, as defined in section 773(b)(2)(D) of the Act. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product, and calculated NV based on CV, in accordance with section 773(b)(1) of the Act.

D. Calculation of CV

In accordance with section 773(e) of the Act, we calculated CV based on the sum of respondents' cost of materials, fabrication, selling, general, and administrative expenses, U.S. packing costs, interest expenses and home market profit as reported in the sales databases. In accordance with sections 773(e)(2)(A), we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For four models sold in the United States, we were unable to access values for home market indirect selling expenses and profit in the data base. For these missing values, we assigned values of the average of home market selling expenses and profit reported for other home market products. Otherwise, we relied on the respondents' reported CV amounts, as verified by the Department. For selling expenses, we used the weighted-average home market direct and indirect selling expenses.

Currency Conversion

For purposes of the preliminary results, in accordance with section 773(A)(a), we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. Section 773A(a) directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars.

Non-Shipper

Pacific Pipe stated that it did not have shipments during the POR, and we confirmed this with the United States Customs Service. Therefore, we are treating Pacific Pipe as a non-shipper for this review.

Preliminary Results of the Review

As a result of our comparison of USP and NV, we preliminarily determine that the following weighted-average dumping margin exists:

Manufacturer/Exporter	Period	Margin
Saha Thai	3/1/94- 2/28/95	1.07%
Pacific Pipe Co.	3/1/94–2/28/95	(1)

(1) No sales during review period.

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter. Case briefs and/or other written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. The Department will publish the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and NV may vary from the percentage stated above. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon the publication of the final results of these administrative reviews for all shipments of welded carbon steel pipes and tubes from Thailand entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) The cash deposit rate for the reviewed companies will be that established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 15.67 percent, the "All Others" rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of review are published pursuant to section 751(a)(1) of the Act and 19 CFR 353.22.

Dated: April 29, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–11634 Filed 5–8–96; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 050296A]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit 1001 (P606) and receipt of a notification of withdrawal of a request for a permit (P45V).

SUMMARY: Notice is hereby given that NMFS has issued a permit that authorizes a take of an Endangered Species Act-listed species for the purpose of scientific research/monitoring, subject to certain conditions set forth therein, to the Contra Costa Water District at Concord, CA (CCWD) and has received a notification of withdrawal of a request for a scientific research/enhancement permit from the U.S. Fish and Wildlife Service at Sacramento, CA (FWS).

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301-713-1401); and

Environmental and Technical Services Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

SUPPLEMENTARY INFORMATION: The permit was issued under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–222).

Notice was published on February 23, 1996 (61 FR 6975) that an application had been filed by CCWD (P606) for a scientific research/monitoring permit. Permit 1001 was issued to CCWD on April 26, 1996. Permit 1001 authorizes CCWD a take of juvenile, endangered, Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*) associated with monitoring the Mallard Slough pumping facility for the presence of ESA-listed species in compliance with the California ESA requirements provided by the California Department of Fish and Game. The monitoring results will indicate the relative abundance of sensitive fish species and allow CCWD to modify the operation of the Mallard Slough facility as necessary to minimize potential entrainment losses. Permit 1001 expires on July 31, 2001.

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Notice was published on November 27, 1995 (60 FR 58334) that an application had been filed by FWS (P45V) for a scientific research/enhancement permit. FWS applied for a scientific research/enhancement permit to continue their authorization to take adult and juvenile, endangered, Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*) associated with supplementation hatchery programs and a captive broodstock program, currently authorized under permit 747. Permit 747, issued to FWS on August 8, 1991, was to expire on December 31, 1995 but was extended by two amendments (61 FR 346, January 4, 1996; 61 FR 16898, April 18, 1996) to expire on November 30, 1996. Due to continued technical concerns with hybridization and imprinting problems, NMFS was unable to complete the necessary actions required to issue a new scientific research/enhancement permit to replace permit 747.

The amendments also established a moratorium on the collection of adult ESA-listed fish for broodstock in 1996 to avoid compromising the genetic integrity of the winter-run chinook salmon population due to the hybridization problems and to avoid a significant drain on the 1996 spawning population if juveniles continue to imprint exclusively on Battle Creek, where FWS's Coleman National Fish Hatchery is located, rather than returning to the mainstem Sacramento River as intended.

NMFS has received notification that FWS would like to withdraw their request for a scientific research/enhancement permit. Prior to the expiration of permit 747, FWS will submit a new scientific research/enhancement permit application that will fully discuss the operational procedures to be implemented to correct the hybridization and imprinting problems.

Issuance of the permit, as required by the ESA, was based on a finding that the permit: (1) Was requested in good faith, (2) will not operate to the disadvantage of the ESA-listed species that is the subject of the permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA and the NMFS regulations governing ESA-listed species permits.

Dated: May 2, 1996.

Margaret Lorenz,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–11549 Filed 5–8–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 042596B]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Issuance of modification to permit no. 778 (P772#59).

SUMMARY: Notice is hereby given that on [leave blank for date stamp] Permit No. 778, issued to The National Marine Fisheries Service, Southwest Fisheries Science Center, La Jolla, CA 92038, was modified.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Suite 13130 Silver Spring, MD 20910 (301/713–2289);

Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (310/980–4001); and

Coordinator, Pacific Area Office, Southwest Region, National Marine Fisheries Service, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808/973–2987).

SUPPLEMENTARY INFORMATION: The subject modification has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of Sections 216.33(d) and (3) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the provisions of Section 222.25 of the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR Part 222).

The permittee is authorized to increase the number of seals authorized to be retagged under the permit from 250 to 500. This modification involves no increase in the originally authorized take of 1200 monk seals.

Dated: April 29, 1996.

Ann D. Terbush,

Chief, Permits & Documentation Division, Office of Protected Resources.

[FR Doc. 96–11557 Filed 5–8–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 042496B]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification no. 2 to scientific research permit No. 840 (P531D).

SUMMARY: Notice is hereby given that a request for modification of scientific research permit No. 840 submitted by Mr. Craig Matkin, North Gulf Oceanic Society, Merimac Drive, Mile 10.5 East Road, Homer, AK 99603, has been granted.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Suite 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221).

SUPPLEMENTARY INFORMATION: On February 20, 1996, notice was published in the Federal Register (61 FR 6353) that a modification of permit No. 840, issued May 25, 1993 (59 FR 31370), had been requested by the above-named individual. The requested modification has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the provisions of §§ 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 840 authorizes biopsy sampling and photo-identification and behavioral studies of killer whales in Prince William Sound and adjacent waters. It has been modified to expand the research to include all Alaska waters.

Dated: April 26, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–11558 Filed 5–8–96; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Proposed Amendments to Chicago Mercantile Exchange Rules 151—Electronic Trading Hours (ETH) Permit Program, and 575—CME/MATIF Cross-Exchange Trading

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed amendments to Chicago Mercantile Exchange rules giving commodity trading advisors access to GLOBEX terminals.

SUMMARY: The Chicago Mercantile Exchange ("CME") has submitted proposed rule amendments which would institute a six-month pilot program to permit commodity trading advisors ("CTAs") to obtain GLOBEX terminals to trade for their proprietary accounts and the accounts that they manage. Acting pursuant to the authority delegated by Commission Regulation 140.96, the Division of Trading and Markets has determined to publish the CME's proposal for public comment. The Division believes that publication of the CME's proposal is in the public interest and will assist the Commission in considering the views of interested persons.

DATES: Comments must be received on or before May 30, 1996.

FOR FURTHER INFORMATION CONTACT: France M.T. Maca, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street NW, Washington DC 20581. Telephone: (202) 418–5482.

SUPPLEMENTARY INFORMATION:

I. Description of Proposed Rule Amendments

By letter dated April 15, 1996, the CME submitted proposed amendments to CME Rules 151 and 575 pursuant to Section 5a(a)(12) of the Commodity Exchange Act ("Act") and Commission Regulation 1.41(c). Revised proposed amendments were submitted by letter dated April 25, 1996.

On June 25, 1992, the CME began offering its contracts for trading through Globex. Pursuant to CME Rule 151, individuals may obtain an Electronic Trading Hours ("ETH") permit authorizing them to trade CME contracts for their own account on a GLOBEX terminal without having to become CME members.[1] Under the proposed amendments, CTA firms also could obtain an ETH permit.[2] CTAs holding an ETH permit would be authorized to trade for both their proprietary accounts and the accounts they manage.[3] The proposed amendments make clear that a CTA firm's ETH permit could be transferred among the CTA's employees with the approval of the CME Membership Committee and board of directors, and that all employees of the permit holder who enter orders on GLOBEX terminals would be subject to applicable CME rules.

Rule 575.B currently allows CME members to obtain cross-exchange access to contracts listed on GLOBEX by MATIF, the French futures exchange. The proposed amendments would extend this privilege to all "individuals and firms with access to GLOBEX terminals for trading CME contracts," thus including ETH permit holders.

II. Request for Comments

Comment is requested on any aspect of the Proposal that members of the public believe may raise issues under the Act or Commission regulations.

Copies of the submission and related material are available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st. Street NW, Washington, DC 20581. Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 418–5100. Some materials may be subject to confidential treatment pursuant to 17 CFR 145.5 or 145.9.

Any person interested in submitting written data, views, or arguments on the proposal should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street NW, Washington, DC 20581, by the specified date.

Issued in Washington, DC, on May 3, 1996.

Alan L. Seifert,

Deputy Director.

[FR Doc. 96–11605 Filed 5–8–96; 8:45 am]

BILLING CODE 6351–01–F

[1] While not required to become CME members, persons applying for an ETH permit must go through a process identical to the membership approval process, and, upon issuance, become subject to applicable CME rules. There are currently ten ETH permit holders.

[2] The submission dated April 15 would have required CTAs applying for ETH permits to be registered as such with the National Futures Association ("NFA"). The submission dated April 25 deletes the registration requirement "to allow foreign CTAs who are not required to register with the NFA to obtain access to GLOBEX terminals." The submission states that the proposed amendments would not affect any CTA registration requirement.

[3] Individuals would continue to be limited to trading solely for their own accounts.

Advisory Committee on CFTC–State Cooperation; Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, § 10(a), that the Commodity Futures Trading Commission's Advisory Committee on CFTC–State Cooperation will conduct a public meeting on May 21, 1996 in the first floor hearing room (Room 1000) of the Commission's Washington, D.C. Headquarters, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. The meeting will begin at 9:00 a.m. and last until 12:00 noon. The agenda will consist of the following:

Agenda

A. Part 1

1. Opening Remarks—Acting Chairman John E. Tull, CFTC; Barbara Pedersen Holum, Commissioner, CFTC and Chairman, Advisory Committee on CFTC–State Cooperation.

2. Recently appointed CFTC Director of Enforcement, Geoffrey Aronow, will discuss recent enforcement actions and the future direction for the division.

3. Discussion regarding Telemarketing Scams and the CFTC crackdown on the publishers of commodity newsletters which, although unregistered, are providing investment advice.

4. Discussion of the possibilities for use and abuse of futures trading and the Internet.

B. Part 2

5. Discussion regarding Derivatives and Fraud: What recent high profile cases show about derivatives and what can be done about it.

6. Discussion of other questions of concern to Advisory Committee members.

The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advise and recommendations on matters of joint concern to the States and the Commission arising under the Commodity Exchange Act, as amended. The purposes and objectives of the Advisory Committee on CFTC–State Cooperation are more fully set forth in the Tenth Renewal Charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Barbara Pedersen Holum, is empowered to conduct the meeting in a fashion that will, in her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: The Advisory Committee on CFTC–State Cooperation c/o Commissioner Barbara Pedersen Holum, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, before the meeting. Members of the public who wish to make oral statements should also inform Commission Holum in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, D.C. on May 3, 1996.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–11604 Filed 5–8–96; 8:45 am]

BILLING CODE 6361–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing; Meeting

ACTION: Notice.

Pursuant to Public Law 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 8:30 a.m. to 4:30 p.m. on June 20, 1996, and from 8:30 a.m. to 4:30 p.m. on June 21, 1996. The meeting will be held at the Historic Inns of Annapolis, 58 State Circle, Annapolis, Maryland 21401. The purpose of the meeting is to review planned changes and progress in developing paper-and-pencil and computerized enlistment tests, Department of Defense's Student Testing Program, and renorming of the tests. Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. Jane M. Arabian, Assistant Director, Accession Policy, Office of the Assistant Secretary of Defense (Force Management Policy), Room 2B271, The Pentagon, Washington, DC 20301–4000, telephone (703) 697–9271, no later than June 3, 1996.

Dated: May 3, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–11539 Filed 5–8–96; 8:45 am]

BILLING CODE 5000–04–M

National Security Education Board Meeting

AGENCY: Office of the Assistant Secretary of Defense, Strategy and Requirements.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of a forthcoming meeting of the National Security Education Board. The purpose of the meeting is to review and make recommendations to the Secretary of Defense concerning requirements established by the David L. Boren National Security Education Act, Title VII of Public Law 102–183, as amended.

DATES: May 20, 1996.

ADDRESSES: The Crystal City Marriott Hotel, 1999 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Dr. Edmond J. Collier, Deputy Director, National Security Education Program, 1101 Wilson Boulevard, Suite 1210, Rosslyn, Virginia 22209–2248; (703) 696–1991. Electronic mail address: collier@nsep.policy.osd.mil

SUPPLEMENTARY INFORMATION: The Board meeting is open to the public.

Dated: May 3, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–11540 Filed 5–8–96; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Corps of Engineers

Coastal Engineering Research Board (CERB)

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting.

Name of Committee: Coastal Engineering Research Board (CERB).

Dates of Meeting: June 11–12, 1936

Place: U.S. Grant Hotel, San Diego, California

Time: 8:00 a.m. to 4:30 p.m. (June 11, 1996); 8:00 a.m. to 4:00 p.m. (June 12, 1996).

FOR FURTHER INFORMATION CONTACT: Inquiries and notice of intent to attend the meeting may be addressed to Colonel Bruce K. Howard, Executive Secretary, Coastal Engineering Research Board, U.S. Army Engineer Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, Mississippi 39180–6119.

SUPPLEMENTARY INFORMATION:

Theme: The Direction of Coastal Engineering in the Corps and the Resulting Impact on Research and Development (R&D).

Proposed Agenda: The session on June 11 will consist of a review of CERB business, presentations on the Marine Board Report and a review of the Report to OMB on Shore Protection, and presentations pertaining to the theme, such as the Corps' direction, coastal engineering R&D, judicial impacts, Ports of Los Angeles and Long Beach, the dredging industry, academia, and private industry.

On the morning of June 12, there will be presentations from four action groups formed from the CERB Task Force. The reports consist of the Strategic Plan, the Technical Advisory Committee, the Public Affairs (PAO) Plan, and Critical Linkages. These presentations will be followed by panel presentations concerning California activities, specifically presentations on the Coast of California Study, cooperative agreement, SANDAG, California Coastal Commission, and the Navy Project. The after session will consist of a projects overview and will also include recommendations by members of the Board.

This meeting is open to the public; participation by the public is scheduled for 2:30 p.m. on June 12.

The entire meeting is open to the public subject to the following:

1. Since seating capacity of the meeting room is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements.

2. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may by submitted prior to the meeting or up to 30 days after the meeting.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–11555 Filed 5–8–96; 8:45 am]

BILLING CODE 3710–FU–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 8, 1996.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 3, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of the Under Secretary

Type of Review: NEW.

Title: Evaluation of School-to-Work Implementation—Survey of Local Partnerships and 18–Month Student Follow-up.

Frequency: Annually.

Affected Public: Individuals or households; State, local or Tribal Government, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 7,896.

Burden Hours: 9,477.

Abstract: The School-to-Work (STW) Act of 1994 directs the Secretaries of Education and Labor to evaluate progress made by States and local communities in establishing systems to promote effective school-to-work transitions. Information will be collected through surveys of local STW partnerships, case studies and surveys of high school seniors. This submission seeks clearance for surveys of local STW partnerships and an 18-month follow-up student survey. Data collected will be used in reports to Congress and to others interested in school-to-work programs.

Office of Elementary and Secondary Education

Type of Review: NEW.

Title: Application for Grants Under the Innovative Programs Section of the Magnet Schools Assistance Program.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs and LEAs.

Annual Reporting and Recordkeeping Burden:

Responses: 150.

Burden Hours: 3,600.

Abstract: The application is used by local educational agencies to apply for funds to administer innovative programs under the Magnet Schools Program. The proposed projects must involve strategies other than magnet schools, be organized around a special emphasis, theme, or concept, and involve parent and community input.

[FR Doc. 96–11563 Filed 5–8–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–220–000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 3, 1996.

Take notice that on April 30, 1996, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets:

Twenty-Seventh Revised Sheet No. 20A
Original Sheet No. 98I

The proposed effective date of the tariff sheets is May 30, 1996.

Algonquin states that the purpose of this filing is to (i) recover upstream transition costs of $13,828.61 billed to Algonquin by Texas Eastern Transmission Corporation (Texas Eastern) and (ii) to flow through a $7.46 refund of Account Nos. 191 and 186 as proposed by National Fuel Gas Supply Corporation.

Algonquin requests that the Commission grant any waiver that may be necessary to place these tariff sheets into effect on the date requested.

Algonquin states that copies of this filing were mailed to all customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11569 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–1145–000]

Alternate Power Source Inc., Notice of Issuance of Order

May 3, 1996.

On February 23, 1996, as supplemented March 20, 1996, Alternate Power Source Inc. (APSI) submitted for filing a rate schedule under which APSI will engage in wholesale electric power and energy transactions as a marketer. APSI also requested waiver of various Commission regulations. In particular, APSI requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by APSI.

On April 30, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by APSI should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, APSI is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of APSI's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 30, 1996.

Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E. Washington, D.C. 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11570 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–1195–000]

ANP Energy Direct Company; Notice of Issuance of Order

May 3, 1996.

On February 27, 1996, ANP Energy Direct Company (ANP) submitted for filing a rate schedule under which ANP will engage in wholesale electric power and energy transactions as a marketer. ANP also requested waiver of various Commission regulations. In particular, ANP requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by ANP.

On May 1, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by ANP should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, ANP is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of ANP's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 31, 1996.

Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, D.C. 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11571 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–372–000]

ANR Pipeline Company; Notice of Request Under Blanket Authorization

May 3, 1996.

Take notice that on April 30, 1996, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP96–372–000 a request pursuant to Section 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to add and operate a new delivery point under ANR's blanket certificate issued in Docket No. CP82–480–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

ANR proposes to construct and operate a new delivery point that will serve as a interconnection between ANR and Continental Natural Gas Inc. (CNG) for the delivery of natural gas to CNG in Harper County, Oklahoma. The facility will consist of a tap, approximately 100 feet of 12-inch pipeline, and an electronic measurement system. The cost of the proposed facility will be approximately $167,000 and will have a maximum capacity of 30,000 Mcf per day.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11572 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–59–000]

Arkansas Western Pipeline Company; Notice of Compliance Filing

May 3, 1996.

Take notice that on April 29, 1996, Arkansas Western Pipeline Company (AW Pipeline), pursuant to 18 CFR 154.111, tendered a new tariff sheet containing an index of firm customers (Original Sheet No. 89) and First Revised Sheet No. 1 (Table of Contents).

AW Pipeline states that a copy of this filing is served upon the Arkansas Public Service Commission and the Missouri Public Service Commission upon all intervenors in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11573 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF88–218–004]

Burney Forest Products, a Joint Venture; Notice of Application for Commission Recertification of Qualifying Status of a Small Power Production Facility

May 3, 1996.

On April 30, 1996, Burney Forest Products, a Joint Venture (Burney Forest) of 35586–B, Highway 299 East, Burney, California 96013, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the biomass-fueled small power production facility is located in Shasta County, California. The Commission previously certified the capacity of the facility to be 24.0 MW. The facility consists of two wood-fired boilers and a condensing steam turbine generator. According to the applicant, the instant application for recertification was submitted solely to report a change in ownership of the facility. Applicant has also concurrently filed with the Commission in Docket No. EL96–51–000, a petition for a declaratory order requesting a determination of the appropriate methodology for calculating the maximum net capacity of the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed within 30 days after the date of publication of this notice in the Federal Register and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11567 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–215–000]

Florida Gas Transmission Co., Notice of Proposed Changes in FERC Gas Tariff

April 30, 1996.

Take notice that on April 25, 1996, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 the following tariff sheets to become effective June 1, 1996.

Original Sheet No. 129C
Original Sheet No. 129D
Second Revised Sheet No. 184B

FGT states that its currently effective FERC Gas Tariff does not contain provisions for resolution of Unscheduled Deliveries from FGT's system. The Unscheduled Delivery provisions as proposed herein are very similar to the Unauthorized Gas provisions as contained in Section 12.D of FGT's General Terms & Conditions (GT&C). However, whereas the Unauthorized Gas provisions apply exclusively to points of receipt, the proposed Unscheduled Delivery provisions apply exclusively to points of delivery in FGT's Western Division. Unscheduled Delivery provisions are not necessary in FGT's Market Area because all Market Area delivery points are covered by Delivery Point Operator Accounts. Furthermore, pipeline interconnects are excluded because most are covered by operational balancing agreements or other arrangements with the interconnecting pipelines which are not subject to FGT's Tariff.

Unscheduled Deliveries are defined in the proposed tariff provisions are volumes delivered at non-pipeline interconnect points for which there is no volume scheduled by any shipper. Additionally, as required by Commission orders concerning FGT's Unauthorized Gas Provisions, the proposed Unscheduled Delivery provisions shall not apply at any point at which there is a volume scheduled and shall not encompass imbalance volumes. Further, the proposed provisions provided that parties responsible for Unscheduled Deliveries which occurred prior to the proposed effective date of these provisions, will be provided the opportunity to balance by scheduling deliveries to FGT prior to being settled on a cash basis.

Similar to the Unauthorized Gas provisions, FGT is proposing that upon becoming aware of Unscheduled Deliveries, FGT will post on its Electronic Bulletin Board (EBB) for a period of thirty (30) days the volume, production month delivered and the point of delivery of such volumes. Shippers who respond during the thirty (30) day period will have thirty (30) days to schedule such volumes. Unscheduled Deliveries prior to the effectiveness of these provisions will be afforded a sixty (60) days posting period and shippers will have thirty (30) days to schedule such volumes. Unscheduled Deliveries neither claimed nor scheduled will be billed to the party physically the Unscheduled Deliveries at a rate of 120% of the St. Helena Parish Index plus a transportation rate described below.

FGT shall invoice a maximum of 12,000 MMBtu at the 120% Index rate during a twelve (12) month calender period at any single delivery point. Volumes in excess of the maximum will be billed at a rate of 150% of the St. Helena Index. FGT has included the maximum provision to discourage potential "gaming" of Unscheduled Deliveries. Unscheduled Deliveries settled on a cash basis will be billed a transportation rate including surcharges based on a point of receipt at FGT milepost zero under Rate Schedule FTS–1 for service in FGT's Western Division. The non-transportation revenues resulting from the resolution of Unscheduled Deliveries will be accounted for pursuant to Section 19.1 of FGT's GT&C.

Any person desiring to be heard or to protect said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First street, NE, Washington, DC, 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11574 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

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[Docket No. CP96–347–000]

Granite State Gas Transmission, Inc.; Notice of Application

April 30, 1996.

Take notice that on April 23, 1996, Granite State Gas Transmission, Inc. (Granite State), filed in Docket No. CP96–347–000, an application pursuant to Section 7(b) of the Natural Gas Act requesting authorization for the abandonment of: (1) approximately 15.26 miles of 6-inch pipeline located between Exeter, New Hampshire and Haverhill, Massachusetts; and (2) a compressor station located in Plaistow, New Hampshire, comprised of two 375 HP Ingersoll-Rand reciprocating engines, valves, station piping and appurtenant equipment, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

According to Granite State, the proposed interstate pipeline that the Portland Natural Gas Transmission System (PNGTS) plans to construct and operate in its pending application before the Commission, Docket No. CP96–249–000, involves a routing south from Portland to Haverhill which closely parallels Granite State's existing pipeline. From Exeter south to Haverhill, the routing of the PNGTS is alongside Granite State's existing pipeline. Granite State says that it owns and operates parallel 6- and 10-inch pipelines for a distance of approximately 15.26 miles. Granite State requests authority to abandon its 6-inch pipeline in order to make way for and provide space for the location of the new PNGTS 20-inch line, which will allow the PNGTS pipeline to be laid in the existing right-of-way, alongside Granite State's 10-inch pipeline.

According to Granite State, the abandoned 6-inch line will be removed from its existing location and disposed off by PNGTS at no cost to Granite State. At the time the 6-inch is removed, PNGTS will reimburse Granite State for the undepreciated cost, which as of December 31, 1995 was $44,099.00. Granite State says it will convey to PNGTS the right to use the right-of-way occupied by the 6-inch line at a price to be negotiated later. The actual abandonment and removal of the 6-inch line and the compressor station will not occur until the construction of the PNGTS 20-inch pipeline begins in the Exeter to Haverhill area, sometime during the 1998 construction season. Granite State further requests that a Commission order approving the requested abandonment be issued contemporaneously with a Commission ordered issuing a certificate to PNGTS in Docket No. CP96–249–000. According to Granite State, there will be no loss of service or decrease in service to any of its customers as a result of the proposed abandonments.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 21, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonments are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provide for, unless otherwise advised, it will be unnecessary for Granite State to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–11575 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–217–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

April 30, 1996.

Take notice that on April 26, 1996, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective June 1, 1996:

Second Revised Sheet No. 1
First Revised Sheet No. 2
First Revised Sheet No. 9
First Revised Sheet No. 10
First Revised Sheet No. 13
First Revised Sheet No. 14
First Revised Sheet No. 16
First Revised Sheet No. 21
First Revised Sheet No. 22
First Revised Sheet No. 29
First Revised Sheet No. 30
First Revised Sheet No. 31
First Revised Sheet No. 32
First Revised Sheet No. 33
First Revised Sheet No. 34
Original Sheet No. 34A
First Revised Sheet No. 35
First Revised Sheet No. 40
Original Sheet No. 40A
Original Sheet No. 40B
First Revised Sheet No. 42
First Revised Sheet No. 43
First Revised Sheet No. 44
First Revised Sheet No. 45
First Revised Sheet No. 50B
First Revised Sheet No. 50C
First Revised Sheet No. 51
First Revised Sheet No. 52
First Revised Sheet No. 53
First Revised Sheet No. 56
First Revised Sheet No. 57
Original Sheet No. 57A
First Revised Sheet No. 58
First Revised Sheet No. 59
First Revised Sheet No. 61
First Revised Sheet No. 62
First Revised Sheet No. 63
Second Revised Sheet No. 64
Second Revised Sheet No. 65
Second Revised Sheet No. 67
First Revised Sheet No. 68
First Revised Sheet No. 70
Original Sheets No. 84 through 89

Great Lakes also tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, the following tariff sheet to become effective June 1, 1996:

Forty-Second Revised Sheet No. 1

Great Lakes states that the above-referenced tariff sheets are being filed to implement procedural and operational changes deemed necessary in the competitive post-Order No. 636 environment. Great Lakes further states that all of the proposed changes are being made in an effort to provide shippers with greater ease and flexibility in obtaining service, while preserving the operational integrity of Great Lakes' system. None of the proposed changes will affect any of Great Lakes' currently effective rates and charges, it is stated.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 and Section 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Commission's Public Reference Room.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 96–11576 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–1139–000]

KinEr-G Power Marketing Inc.; Notice of Issuance of Order

May 3, 1996.

On February 22, 1996, as amended March 29, 1996, KinEr-G Power Marketing Inc. (KPMI) submitted for filing a rate schedule under which KPMI will engage in wholesale electric power and energy transactions as a marketer. KPMI also requested waiver of various Commission regulations. In particular, KPMI requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by KPMI.

On April 30, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by KPMI should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, KPMI is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of KPMI's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 30, 1996.

Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street NE., Washington, D.C. 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11577 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–125–001]

Midwestern Gas Transmission Company; Notice of Cashout Report

May 3, 1996.

Take notice that on April 29, 1996, Midwestern Gas Transmission Company (Midwestern) tendered for filing its cashout report for the September 1993 through August 1994 period.

Midwestern states that the cashout report reflects a total cashout loss during this period of $89,438.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 first Street, N.E., Washington, D.C. 20426, in accordance with 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 10, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11578 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–4–16–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

May 3, 1996.

Take notice that on April 30, 1996, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Seventh Revised Sheet No. 5A, with a proposed effective date of May 1, 1996.

National states that under Article II, Section 2, of the approved settlement in the above-captioned proceedings, National is required to recalculate monthly the maximum Interruptible Gathering (IG) rate and charge that rate on the first day of the following month if the result is an IG rate more than 2 cents above the then-effective IG rate. The recalculation produced an IG rate of 23 cents per dth—more than 2 cents above the effective IG rate of 16 cents per dth.

National further states that pursuant to Article II, Section 4, National is required to file a revised tariff sheet in a Compliance Filing each time the effective IG rate is revised within 30 days of the effective date of the revised IG rate.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11579 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–216–000]

New England Power Company, et al.; Notice of Complaint

May 3, 1996.

Take notice that on April 25, 1996, New England Power Company (New England) filed a complaint against Algonquin Gas Transmission Company (Algonquin). New England states that Algonquin currently designs its rates for New England under Rate Schedule X–38 on an incremental basis.

New England states that the incremental pricing is wrong for X–38. The facilities underlying Rate Schedule X–38 are an integrated part of Algonquin's system and provide significant, demonstrable benefits to all customers on the system. The only just

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and reasonable rate design for X–38 is roll-in Algonquin's other transportation services.

New England states that the proper rate design does not differ whether the X–38 facilities are evaluated under the Battle Creek test—the test in effect when New England made substantial financial commitments in contracting for X–38 service—or under the Commission's recent Pricing Policy Statement.

New England requests that the Commission direct Algonquin to restate its X–38 rates on a rolled-in basis. New England asserts that if the Commission does not summarily require Algonquin to roll-in X–38, it should set this matter for an expedited hearing. New England states that at present, New England pays unreasonable rates while other customers free-ride on the system-wide benefits provided by X–38. Because New England is raising this roll-in issue under Section 5 of the Natural Gas Act, relief may be prospective only.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before May 31, 1996. Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint shall be due on or before May 31, 1996.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11580 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–359–000]

NorAm Gas Transmission Co.; Notice of Application

May 3, 1996.

Take notice that on April 29, 1996, NorAm Gas Transmission Company (NGT), 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP96–359–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation agreement with Reynolds Metals Company (Reynolds), which was authorized in Docket No. G–18190,[1] as well as certain inactive facilities located in Saline County, Arkansas, all as more fully set forth in the application on file with the Commission and open to public inspection.

NGT proposes to abandon a transportation agreement with Reynolds, dated March 12, 1959, on file as NGT's Rate Schedule XT–17. The transportation agreement for Rate Schedule XT–17 provides that NGT transports natural gas to four plants owned by Reynolds located in Arkansas, the Rolling Mills-North, Gum Springs, Jones Mills and Hurricane Creek plants. NGT states that transportation under Rate Schedule XT–17 has been replaced by a Part 284 transportation agreement pursuant to NGT's tariff and that the replaced agreement has been terminated pursuant to a mutual written agreement of the parties. NGT states that the Reynolds Hurricane Creek plant has been shut down and NGT no longer provides service to this plant. NGT proposes to abandon the inactive facilities previously used to deliver gas to the Hurricane Creek plant. These inactive facilities consists of one 4-inch tap, two 6-inch turbine meters, two meter tubes and two 2-inch regulators. All other existing facilities used to deliver gas to Reynolds' active plants will remain in service.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1996, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for NGT to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11581 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT96–13–000]

NorAm Gas Transmission Co.; Notice of Proposed Change in FERC Gas Tariff

May 3, 1996.

Take notice that on April 30, 1996, NorAM Gas Transmission Company (NorAM) tendered for filing the following tariff sheets to its FERC Gas Tariff, Fourth Revised Volume No. 1:

Second Revised Sheet No. 239
Original Sheet No. 239A.

NorAM states that this filing is being made pursuant to Order Nos. 566, *et seq.*, and Section 250.16(b) of the Commission's Regulations (18 CFR 250.16(b)) to update the subject tariff sheets.

NorAM states that a copy of this filing has been served upon NorAm's jurisdictional customers and state commissions.

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11582 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–343–016]

NorAm Gas Transmission Co.; Notice of Refund Report

April 30, 1996.

Take notice that on April 25, 1996, NorAm Gas Transmission Company (NGT) tendered for filing a Refund Report related to the refunds issued pursuant to Article VIII of its Rate Case Settlement in Docket No. RP94–343.

NGT states that the refunds were made in the form of credits to customers' bills during the month of March 1996, and that the detail computations were included with each customer's bill. NGT further states that the report reflects the amounts of refunds, including interest computed in accordance with the Commission's regulations, made to each customer.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR, 385.211). All such protests should be filed on or before May 7, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11583 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–1207–000]

Southern California Edison Co.; Notice of Filing

May 1, 1996.

Take notice that on March 29, 1996, Southern California Water Company tendered for filing a Certificate of Concurrence in the above-referenced docket.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests must be filed on or before May 13, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11584 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–219–000]

Southern Natural Gas Co., Notice of GSR Revised Tariff Sheets

May 3, 1996.

Take notice that on April 30, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets with the proposed effective date of May 1, 1996:

Tariff Sheets Applicable to Contesting Parties:

Ninth Revised Sheet No. 14
Thirty-First Revised Sheet No. 15
Ninth Revised Sheet No. 16
Thirty-First Revised Sheet No. 17
Twentieth Revised Sheet No. 29
Twentieth Revised Sheet No. 30
Twentieth Revised Sheet No. 31

Southern submits the revised tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1, to reflect a slight increase of $.004 in its FT/FT–NN GSR Surcharge, resulting from the addition of a credit for interim FT services and a decrease in GSR billing units effective May 1, 1996.

Southern states that copies of the filing were served upon all parties listed on the official service list compiled by the Secretary in these proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Southern's filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11585 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP92–184–014]

Texas Eastern Transmission Corp.; Notice of Petition To Amend

April 30, 1996.

Take notice that on April 24, 1996, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP92–184–014, a petition to amend the existing authorizations issued July 16, 1993, and June 6, 1995, in Docket Nos. CP92–184–000 *et al.* pursuant to Section 7(c) of the Natural Gas Act, to provide for relocation and installation of certain facilities which are necessary in conjunction with the eastern Pennsylvania portion of Texas Eastern's Integrated Transportation Project (ITP) replacement and expansion, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued July 16, 1993, as amended by order issued June 6, 1995, Texas Eastern was authorized to construct and operate various pipeline, pipeline looping, pipeline replacement and compression facilities in order to implement a new firm incremental transportation service for various customers. The project, known as the ITP project, involved construction of facilities to provide 201,000 Dekatherms per day (Dthd) of incremental capacity on the Texas Eastern system. ITP is a four-year project which includes construction of 89 miles of pipeline in 23 discrete segments in four states, the addition of over 48,000 horsepower of compression and other modifications at ten existing compressor stations, and the addition of certain new metering and regulating stations and other related facilities.

One segment of the authorized ITP project is the installation in 1996 of 1.7 miles of 36-inch pipeline to replace existing 20-inch pipeline between Eagle, Pennsylvania and Lambertsville, New Jersey in Bucks County, Pennsylvania (Eagle Replacement). The eastern terminus of the replacement facilities would be at approximately Milepost 1419.98 on Texas Eastern's system. Texas Eastern asserts that the Eagle Replacement requires installation of certain above-ground appurtenant facilities at the eastern end of the

[1] *See* 22 FPC 158 (1959).

replacement. Texas Eastern explains that the subject filing was made in compliance with an April 8, 1996, letter from the Director of the Office of Pipeline Regulation finding that the appurtenant above-ground Eagle Replacement facilities contemplated by Texas Eastern require additional certificate authorization. These appurtenant facilities are the subject of this petition to amend. However, Texas Eastern states that it reserves its right to apply to the Commission for rehearing and to petition for judicial review of the Commission's decision. In addition Texas Eastern states that its requested authorizations are without prejudice to Texas Eastern's right to seek clarification or rehearing of the April 8, 1996, letter or any subsequent Commission action in this proceeding.

Texas Eastern requests authority to relocate and install pressure regulating, valving, and 20-inch launcher facilities at the east end of its authorized ITP Eagle facilities at approximately Milepost 1419.98. It is stated that these facilities are currently located at the end of the 1995 Eagle replacement facilities at Milepost 1418.27. Texas Eastern asserts that industry operating requirements and standard practices associated with pipeline operations and maintenance considerations mandate the construction of these appurtenances, which includes valves, pressure regulation devices, and launchers and receivers used for maintenance and inspection activities, consistent with the United States Department of Transportation (DOT) regulations.

Texas Eastern also proposes to install a 36-inch receiver facility at the end point of the 1966 Eagle Replacement in addition to the relocated 20-inch launcher. It is stated that the 36-inch receiver facility would be permanent because Texas Eastern currently has no facility expansion on file with the Commission which would require expansion of the Eagle 36-inch replacement facilities. Texas Eastern asserts that these launcher and receiving facilities are necessary to accommodate the passage of instrumented internal inspection devices and cleaning devices, i.e., pigs, necessary to operate and maintain the pipeline. Texas Eastern further asserts that the launchers and receivers proposed are also consistent with DOT regulations. Texas Eastern notes that portions of the launcher and receiver barrels would be above ground level and the remainder would be below ground. Texas Eastern also proposes to install any necessary related appurtenant facilities, such as fences and markers, which are reasonably required for access, installation, operation, and maintenance, as well as efficient and economical operation of the transmission facilities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 21, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this petition if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the amended petition is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Eastern to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11586 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–60–000]

Texas Eastern Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

May 3, 1996.

Take notice that on April 30, 1996, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets to become effective May 30, 1996:

First Revised Sheet No. 13
First Revised Sheet No. 14
First Revised Sheet No. 15
First Revised Sheet No. 16
First Revised Sheet No. 17
First Revised Sheet No. 18
First Revised Sheet No. 19
First Revised Sheet No. 20

Texas Eastern states that the purpose of the filing is to update the system maps to reflect its current principal pipeline facilities and the points at which service is rendered, as required by Section 154.106 of the Commission's Regulations.

Texas Eastern states that copies of the filing were served on firm customers of Texas Eastern and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11687 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–218–000]

Texas Eastern Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

May 3, 1996.

Take notice that on April 29, 1996, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the tariff sheets listed on Appendix A, with a proposed effective date of May 29, 1996.

Texas Eastern states that the purpose of this filing is to provide Texas Eastern's firm customers under Rates Schedules CDS, FT–1, LLFT and SCT with a customized reservation rate that will allow them maximum flexibility in dealing with differing market conditions throughout the contract year. The Customized Reservation Pattern ™ ("CRP") election will allow a firm customer to shift non-tracked reservation charges from the April to October period into the preceding November to March period. By customizing reservation charges during the contract year, this rate methodology will lift ceiling prices for capacity release and further the goal enunciated by the Commission in Order No. 635 and its Rate Design Policy Statement of allocating capacity to those shippers who value it the most.

Texas Eastern states that copies of the filing were served on the firm customers of Texas Eastern and interested State commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

Appendix A—Sixth Revised Volume No. 1

Proposed To Be Effective May 29, 1996

Sheet Nos. 78–97
Sheet Nos. 98–125
First Revised Sheet No. 202
Original Sheet No. 202A
First Revised Sheet No. 204
Original Sheet No. 204A
Sixth Revised Sheet No. 211
Original Sheet No. 211A
First Revised Sheet No. 214
Original Sheet No. 214A
First Revised Sheet No. 224
First Revised Sheet No. 225
First Revised Sheet No. 227
First Revised Sheet No. 229
Original Sheet No. 229A
First Revised Sheet No. 250
First Revised Sheet No. 252
Original Sheet No. 252A
Sixth Revised Sheet No. 463
Original Sheet No. 711
Sheet Nos. 712–715
Original Sheet No. 726
Sheet Nos. 727–730
Original Sheet No. 741
Sheet Nos. 742–745
Original Sheet No. 766C.1

[FR Doc. 96–11588 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–371–000]

Transwestern Pipeline Co.; Notice of Application for Abandonment

May 3, 1996.

Take notice that on April 30, 1996, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, Houston, Texas 77002, filed an application pursuant to Section 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations for an order authorizing the abandonment and removal of Transwestern's Santa Fe Bilbrey Compressor Unit and Transwestern's Texaco Bilbrey Compressor Unit, both of which are located on Transwestern's Monument Lateral in Lea County, New Mexico. The application is on file with the Commission and open to public inspection.

Transwestern states the following:

Its Santa Fe Bilbrey Compressor Unit is a 1,000 horsepower rental field compressor unit which was installed in 1994 pursuant to Section 157.208 of the Commission's regulations. Its Texaco Bilbrey Compressor Unit is a 750 horsepower rental unit which was installed in 1994. The production from behind the Santa Fe Bilbrey Compressor Unit and Texaco Bilbrey Compressor Unit never achieved the projected level, when combined, only average approximately 5 MMcf/day. The existing facilities are thus oversized for this minimal volume. It is therefore uneconomic for Transwestern to continue paying the approximately $30,000 per month rental payment and Transwestern has notified Santa Fe and Texaco that it is requesting Commission authority to abandon the compressors. Santa Fe and Texaco have agreed to provide their own compression to the extent and in the event they desire to continue transporting production from their Bilbrey wells on Transwestern's Monument Lateral. The requested abandonment is thus in the public convenience and necessity as it will save Transwestern money, not impact services provided by Transwestern, and if Santa Fe and Texaco install their own compression, enable production from the Bilbrey wells to continue to be transported on Transwestern's Monument Lateral.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a motion to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transwestern to appear or to be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11589 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–281–000]

West Texas Gas, Inc.; Notice of Petition for Declaratory Order of Gathering Status

April 30, 1996.

Take notice that on March 25, 1996, West Texas Gas, Inc. (WTG) petitioned the Commission, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, to issue an order declaring that certain pipeline facilities, for which Northern Natural Gas Company (Northern) has sought approval to abandon, by sale to WTG, in Docket No. CP96–215–000, are gathering facilities, exempt from the Commission's jurisdiction under Section 1(b) of the Natural Gas Act (NGA), all as more fully set forth in this request which is on file with the Commission and open to public inspection.

WTG and Northern have entered into a Conveyance, Assignment and Bill of Sale, dated December 29, 1995, under

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which Northern is to transfer to WTG certain facilities, with appurtenances, located in Irion and Reagan Counties, Texas, and certain small volume measuring stations, with appurtenances, located in various counties in Texas. The facilities to be transferred include pipeline, valves, and measuring and regulating equipment and contain no compressors. WTG plans, after consummating the acquisition, to use the subject facilities to deliver gas from its Big Lake Processing Plant in Reagan County to the Rocker B–2 Plant for further processing.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 21, 1996, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this petition if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the request should be granted. If a motion for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for WTG to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11590 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

Federal Energy Regulatory Commission

[Docket No. ER90–168–027, et al.]

National Gas & Electric L.P., et al.; Electric Rate and Corporate Regulation Filings

May 1, 1996.

Take notice that the following filings have been made with the Commission:

1. National Gas & Electric L.P., J. Aron & Company, Petroleum Source & Systems Group, Inc., K Power Company, Power Clearinghouse Inc., Amoco Power Marketing Corporation, J.D. Loock & Associates

[Docket Nos. ER90–168–027, ER95–34–007, ER95–266–005, ER95–792–003, ER95–914–004, ER95–1359–003, and ER95–1826–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On April 23, 1996, National Gas & Electric L.P. filed certain information as required by the Commission's March 20, 1990, order in Docket No. ER90–168–000.

On April 23, 1996, J. Aron & Company filed certain information as required by the Commission's March 1, 1995, order in Docket No. ER95–34–000.

On April 15, 1996, Petroleum Source & Systems Group, Inc. filed certain information as required by the Commission's January 18, 1995, order in Docket No. ER95–266–000.

On April 15, 1996, K Power Company filed certain information as required by the Commission's June 19, 1995, order in Docket No. ER95–792–000.

On April 16, 1996, Power Clearinghouse Inc. filed certain information as required by the Commission's May 11, 1995, order in Docket No. ER95–914–000.

On April 16, 1996, Amoco Power Marketing Corporation filed certain information as required by the Commission's November 29, 1995, order in Docket No. ER95–1359–000.

On April 18, 1996, J.D. Loock & Associates filed certain information as required by the Commission's October 27, 1995, order in Docket No. ER95–1826–000.

2. PECO Energy Company

[Docket No. ER95–805–000]

Take notice that on April 16, 1996, PECO Energy Company tendered for filing a Notice of Withdrawal in the above-referenced docket.

Comment date: May 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Mississippi Power Company

[Docket No. ER96–1281–000]

Take notice that on April 25, 1996, Mississippi Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: May 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. New England Power Pool

[Docket No. ER96–1649–000]

Take notice that on April 26, 1996, the New England Power Pool Executive Committee filed a signature page to the NEPOOL Agreement dated September 1, 1971, as amended, signed by LG&E Marketing Inc. (LG&E). The New England Power Pool Agreement, as amended, has been designated NEPOOL FPC No. 2.

The Executive Committee states that acceptance of the signature page would permit LG&E to join the over 90 Participants already in the Pool. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make LG&E a Participant in the Pool. NEPOOL requests an effective date of June 1, 1996 for commencement of participation in the Pool by LG&E.

Comment date: May 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Pool

[Docket No. ER96–1650–000]

Take notice that on April 26, 1996, the New England Power Pool Executive Committee filed a signature page to the NEPOOL Agreement dated September 1, 1971, as amended, signed by Louis Dreyfus Electric Power, Inc. (Louis Dreyfus). The New England Power Pool Agreement, as amended, has been designated NEPOOL FPC No. 2.

The Executive Committee states that acceptance of the signature page would permit Louis Dreyfus to join the over 90 Participants already in the Pool. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make Louis Dreyfus a Participant in the Pool. NEPOOL requests an effective date of June 1, 1996 for commencement of participation in the Pool by Louis Dreyfus.

Comment date: May 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. New England Power Pool

[Docket No. ER96–1651–000]

Take notice that on April 26, 1996, the New England Power Pool Executive Committee filed a signature page to the NEPOOL Agreement dated September 1, 1971, as amended, signed by KCS Power Marketing, Inc. (KCS). The New England Power Pool Agreement, as amended, has been designated NEPOOL FPC No. 2.

The Executive Committee states that acceptance of the signature page would permit KCS to join the over 90 Participants already in the Pool. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make KCS a Participant in the Pool. NEPOOL requests an effective date of June 1, 1996 for commencement of participation in the Pool by KCS.

Comment date: May 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Cinergy Services, Inc.

[Docket No. ER96–1652–000]

Take notice that on April 26, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Power Sales Standard Tariff (the Tariff) entered into between Cinergy and the Long Island Lighting Company.

Cinergy and the Long Island Lighting Company are requesting an effective date of April 29, 1996.

Comment date: May 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Wisconsin Public Service Corporation

[Docket No. ER96–1653–000]

Take notice that on April 26, 1996, Wisconsin Public Service Corporation, tendered for filing an executed agreement with Marquette Board of Light & Power, under its CS–1 Coordination Sales Tariff.

Comment date: May 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Louisville Gas and Electric Company

[Docket No. ER96–1654–000]

Take notice that on April 26, 1996, Louisville Gas and Electric Company (LG&E), tendered for filing a Purchase and Sales Agreement between LG&E and Delhi Energy Services under Rate Schedule GSS - Generation Sales Service.

A copy of the filing has been mailed to the Kentucky Public Service Commission.

Comment date: May 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Southwestern Public Service Company

[Docket No. ER96–1655–000]

Take notice that on April 26, 1996, Southwestern Public Service Company submitted an executed service agreement under its point-to-point transmission tariff with Central and South West Services, Inc.

Comment date: May 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Kentucky Utilities Company

[Docket No. ER96–1656–000]

Take notice that on April 26, 1996, Kentucky Utilities Company (KU), tendered for filing service agreements between KU and Entergy Services, Inc. and KU and Southern Company Services, Inc. under its TS Tariff. KU requests effective dates of April 23, 1996, and April 3, 1996, respectively.

Comment date: May 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Central Hudson Gas and Electric

[Docket No. ER96–1657–000 Corporation]

Take notice that on April 26, 1996, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR, a Service Agreement between CHG&E and Global Petroleum Corporation. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1662. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: May 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11568 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER96–96–001, et al.]

Nevada Power Company, et al.; Electric Rate and Corporate Regulation Filings

May 3, 1996.

Take notice that the following filings have been made with the Commission:

1. Nevada Power Company

[Docket No. ER96–96–001]

Take notice that on April 15, 1996, Nevada Power Company tendered for filing a supplemental compliance filing in the above-referenced docket.

Comment date: May 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. North American Energy Conservation, Eastern Power Distribution, Inc., Western Power Services, Inc., IGI Resources, Inc., Sonat Power Marketing, Inc., Industrial Energy Applications, Inc.,

[Docket Nos. ER94–152–009, ER94–964–009, ER95–748–004, ER95–1034–003, ER95–1050–003, ER95–1465–002, (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On April 29, 1996, North American Energy Conservation filed certain information as required by the Commission's February 10, 1994, order in Docket No. ER94–152–000.

On April 29, 1996, Eastern Power Distribution, Inc. filed certain information as required by the Commission's April 5, 1994, order in Docket No. ER94–964–000.

On April 29, 1996, Western Power Services, Inc. filed certain information as required by the Commission's May 16, 1995, order in Docket No. ER95–748–000.

On April 26, 1996, IGI Resources, Inc. filed certain information as required by the Commission's July 11, 1995, order in Docket No. ER95–1034–000.

On April 29, 1996, Sonat Power Marketing filed certain information as required by the Commission's August 18, 1995, order in Docket No. ER95–1050–000.

On April 22, 1996, Industrial Energy Applications, Inc. filed certain information as required by the Commission's September 28, 1995, order in Docket No. ER95–1465–000.

3. NorAm Energy Services, Inc., Coastal Electric Services Co., The Power Company of America, L.P., CL Power Sales One, L.L.C., Jpower Inc., Mid American Natural Resources, Inc., Enerserve, L.C.

[Docket Nos. ER94–1247–008, ER94–1450–010, ER95–111–006, ER95–892–004, ER95–1421–003, ER95–1423–001, ER96–182–002 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On April 29, 1996, NorAm Energy Services, Inc. filed certain information as required by the Commission's July 25, 1994, order in Docket No. ER94–1247–000.

On April 29, 1996, Coastal Electric Services Company filed certain information as required by the Commission's September 29, 1994, order in Docket No. ER94–1450–000.

On April 29, 1996, The Power Company of America, L.P. filed certain information as required by the Commission's December 30, 1994, order in Docket No. ER95–111–000.

On April 25, 1996, CL Power Sales One, L.L.C. filed certain information as required by the Commission's June 8, 1995, order in Docket No. ER95–892–000.

On April 23, 1996, Jpower Inc. filed certain information as required by the Commission's August 25, 1995, order in Docket No. ER95–1421–000.

On January 25, 1996, Mid American Natural Resources, Inc. filed certain information as required by the Commission's August 25, 1995, order in Docket No. ER95–1423–000.

On April 29, 1996, Enerserve, L.C. filed certain information as required by the Commission's December 28, 1995, order in Docket No. ER96–182–000.

4. Valero Power Services Co., Illinova Power Marketing, Inc., Delhi Energy Services, Inc., IGI Resources, Inc., Hinson Power Company, Energy Online, Inc., Bonneville Fuels Management Corp.

[Docket Nos. ER94–1394–007, ER94–1475–004, ER95–940–004, ER95–1034–003, ER95–1314–004, ER96–138–001, ER96–659–001, (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On April 24, 1996, Valero Power Services Co. filed certain information as required by the Commission's August 24, 1994, order in Docket No. ER94–1394–000.

On April 29, 1996, Illinova Power Marketing, Inc. filed certain information as required by the Commission's May 18, 1995, order in Docket No. ER94–1475–000.

On April 29, 1996, Delhi Energy Services, Inc. filed certain information as required by the Commission's June 1, 1995, order in Docket No. ER95–940–000.

On April 26, 1996, IGI Resources, Inc. filed certain information as required by the Commission's July 11, 1995, order in Docket No. ER95–1034–000.

On April 29, 1996, Hinson Power Company filed certain information as required by the Commission's August 29, 1995, order in Docket No. ER95–1314–000.

On April 26, 1996, Energy Online, Inc. filed certain information as required by the Commission's January 5, 1996, order in Docket No. ER95–138–000.

On April 26, 1996, Bonneville Fuels Management Corp. filed certain information as required by the Commission's February 8, 1996, order in Docket No. ER96–659–000.

5. PECO Energy Company

[Docket No. ER96–640–001]

Take notice that on April 11, 1996, PECO Energy Company tendered for filing market based sales tariffs and supporting Code of Conduct.

Comment date: May 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy Power, Inc.

[Docket No. ER96–1092–000]

Take notice that on April 24, 1996, Entergy Power, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: May 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. South Carolina Electric & Gas Company)

[Docket No. ER96–1328–000]

Take notice that on April 22, 1996, South Carolina Electric & Gas Company tendered for filing an amendment in the above-referenced docket.

Comment date: May 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Cook Inlet Energy Supply

[Docket No. ER96–1410–000]

Take notice that on April 29, 1996, Cook Inlet Energy Supply filed an amendment to their filing in Docket No. ER96–1410–000.

Comment date: May 24, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. San Diego Gas & Electric Company)

[Docket No. ER96–1643–000]

Take notice that on April 25, 1996, San Diego Gas & Electric Company tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 77 between SDG&E and the United States Department of Energy, acting and through the Bonneville Power Administration.

Comment date: May 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Rainbow Energy Marketing Corp.

[Docket No. ER96–1645–000]

Take notice that on April 25, 1996, Rainbow Energy Marketing Corp. tendered for filing a letter on behalf of the Western Systems Power Pool (WSPP) approving its application for membership in WSPP.

Comment date: May 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11615 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 10228–007 Kentucky]

Cannelton Hydroelectric Project LP; Notice of Availability of Draft Environmental Assessment

April 30, 1996.

A draft environmental assessment (DEA) is available for public review. The DEA is for an application to amend the Cannelton Hydroelectric Project. The licensee proposes to eliminate the powerhouse by adding 240 small generating units that would be located upstream of the tainter gates within the dam's tainter gate bays and to change the approved transmission line. The DEA finds that approval of the application would not constitute a major federal action significantly affecting the quality of the human environment. The Cannelton Hydroelectric Project is located on the Ohio River in Hancock County, Kentucky.

The DEA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the DEA can be viewed in the Public Reference Branch, Room 2A, of the Commission's offices at 888 First Street NE., Washington, D.C. 20426.

Please submit any comments within 40 days from the date of this notice. Any comments, conclusions, or recommendations that draw upon studies, reports, or other working papers of substance should be supported by appropriate documentation.

Comments should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426. Please affix Project No. 10228–007 to all comments. For further information, please contact the project manager, Ms. Rebecca Martin, at (202) 219–2650.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11591 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 1927–008]

PacifiCorp; Notice of Intent To Prepare an Environmental Impact Statement (EIS), Conduct Public Scoping Meetings and a Site Visit

April 30, 1996.

The Federal Energy Regulatory Commission (FERC) is reviewing an application to relicense and continue operating the North Umpqua Hydroelectric Project, FERC Project No. 1927–008. The project is on the North Umpqua River in Douglas County, Oregon. This project would primarily involve federal lands managed by the Umpqua National Forest, but also involves some lands managed by the Bureau of Land Management (BLM).

Relicensing this project could constitute a major federal action significantly affecting the quality of the human environment. Therefore, the FERC intends to prepare an Environmental Impact Statement (EIS) on the project in accordance with the National Environmental Policy Act of 1969, and the Commission's regulations. The EIS will objectively consider both site-specific and cumulative environmental impacts of the project and responsible alternatives, and will include an economic, financial, and engineering analysis. The Umpqua National Forest will be a cooperating agency on the EIS.

A Draft EIS (DEIS) will be circulated for review and comment by all interested parties, and FERC will hold a public meeting on the DEIS. FERC staff will consider and respond to comments received on the DEIS in the Final EIS. The FERC staff's conclusions and recommendations will then be presented for the consideration of the Commission in reaching its final licensing decision. The Umpqua National Forest will use the information in the EIS to make its decision on issuing mandatory section 4(e) conditions for the project under the Federal Power Act and their section 7(a) determination under the Wild and Scenic Rivers Act.

Scoping: Concerned citizens, special interest groups, local governments, state and federal agencies, and any other interested parties are invited to comment on the scope of the environmental issues that should be analyzed in the EIS. Scoping will help ensure that all significant issues related to this proposal are addressed in the EIS.

The FERC will conduct two scoping meetings on June 6, 1996. A scoping meeting oriented towards the agencies will begin at 9:00 am on June 6th at the Umpqua National Forest office located at 2900 NW Stewart Parkway, Roseburg, Oregon. Those wishing to attend this meeting should contact Jim Wieman, District Ranger at (503) 942–5591 by May 31st.

A scoping meeting oriented towards the public will begin at 7:00 pm on June 6th at the Douglas County Fairground Complex Community Building located at 2110 S.W. Frear Street, Roseburg, Oregon. (The public and the agencies may attend either or both meetings, however.)

Objectives: At the scoping meetings, FERC staff will (1) identify preliminary environmental issues related to the proposed project; (2) attempt to identify preliminary resource issues that are not important and do not require detailed analysis; (3) identify reasonable alternatives to be addressed in the EIS; (4) solicit from the meeting participants all available information, especially quantified data, on the resource issues; and (5) encourage statements from experts and the public on issues that should be analyzed in the EIS, including points of views in opposition to, or in support of, the staff's preliminary views.

Procedures: The meetings will be recorded by a court reporter and all statements (oral and written) will become a part of the official record of the Commission proceedings for the North Umpqua Project relicense. Individuals presenting statements at the meetings will be asked to clearly identify themselves for the record.

To help focus discussions at the scoping meeting, the FERC will mail a Scoping Document, outlining subject areas to be addressed in the EIS, to agencies and interested individuals on the project mailing list. Copies of the scoping document will also be available at the scoping meetings.

Persons choosing not to speak at the meetings, but who have views on the issues or information relevant to the issues, may submit written statements for inclusion in the public record at the meetings. In addition, written scoping comments may be filed with the Office of the Secretary, Dockets Room 1A, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426 until July 12, 1996. All written correspondence should clearly show the following caption on the first page: North Umpqua Hydroelectric Project, FERC No. 1927–008.

Intervenors—those on the Commission's service list for this proceeding (parties)—are reminded of the Commission's Rules of Practice and Procedures, requiring parties filing documents with the Commission, to serve a copy of the document on each

person whose name appears on the official service list. Further, if a party or intercedar files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Site Visit: A project tour is planned for June 4th and 5th. Those who wish to attend contact David Schwall of PacifiCorp at (503) 464–5345 by May 31st to sign up and receive further information and directions. Attendees will meet at the North Umpqua Forest Office located at 2900 Stewart Parkway at 8:00 am.

For Further Information Contact: Vince Yearick, FERC–OHL (202) 219–3073.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11592 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 10813–011]

City of Summerville; Notice of Availability of Draft Environmental Assessment

April 30, 1996.

A draft environmental assessment (DEA) is available for public review. The DEA is for an application to amend the Summerville Hydroelectric Project. The application is to (1) substitute two turbine/generator units for the four units in the license; (2) revise the project boundary to include 9.6 miles of new transmission line in place of the licensed 8-mile transmission line; and (3) delete license article 303. The proposed amendment would not affect project capacity. The licensee requested the amendment because the original proposal was not economically feasible. The DEA finds that approval of the application would not constitute a major federal action significantly affecting the quality of the human environment. The Summerville Hydroelectric Project is located on the Gauley River in Nicholas County, West Virginia.

The DEA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the DEA can be viewed at the Commission's Reference and Information Center, 888 First Street NE., Washington, D.C. 20426. Copies can also be obtained by calling the project manager listed below.

Please submit any comments within 20 days from the date of this notice. Any comments, conclusions, or recommendations that draw upon studies, reports or other working papers of substance should be supported by appropriate documentation.

Comments should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426. Please affix Project No. 10813–011 to all comments. For further information, please contact the project manager, Heather Campbell, at (202) 219–3097.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11593 Filed 5–8–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5502–3]

Responsiveness Summary to Comments on Proposed De Minimis Settlements, Peerless Industrial Paint Coatings Site, St. Louis, MO

AGENCY: Environmental Protection Agency.

ACTION: Publication of the summary of comments on proposed *de minimis* settlements, Peerless Industrial Paint Coatings Site, St. Louis, Missouri.

SUMMARY: The United States Environmental Protection Agency (EPA) has proposed *de minimis* settlements with four potentially responsible parties (PRPs) at the Peerless Industrial Paint Coatings Site in St. Louis, Missouri. These settlements have been proposed pursuant to Section 122(g)(1)(B) of the Comprehensive Environmental, Response, Compensation and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9622(g)(1)(B) (CERCLA). The comment period for the proposed *de minimis* settlements was open from December 13, 1995 to January 12, 1996. EPA received one comment during the comment period from Boise Cascade Corporation. In addition, EPA received a telephone call and a letter from Boise Cascade Corporation on or about November 16 and November 20, 1995. In its comment letter of January 8, 1996, Boise Cascade Corporation first questions EPA's decision not to inform it and other potentially responsible parties (PRPs) of the negotiation of the *de minimis* settlements until after the settlements were reached. Secondly, it questions the identity of other parties EPA considered to be eligible for a *de minimis* settlements and why any other settlements with *de minimis* parties were not negotiated. Thirdly, it objects to the *de minimis* settlements because it does not know the basis that EPA used for determining which PRPs were eligible for the *de minimis* settlements, the method for accounting for the orphan share, nor the premiums paid by the *de minimis* parties.

EPA's Response to Boise Cascade Corporation's Comments: No New information Was Provided

To address Boise Cascade Corporation's first comment, Section 122(i)(1) of CERCLA provides that a public comment period shall be provided in the **Federal Register** for any settlements reached pursuant to Section 122(g) of CERCLA. There is no statutory requirement that PRPs be notified in advance of the published notice in the **Federal Register** nor be a participant in EPA's negotiations of *de minimis* settlements, to which they are not a party. After negotiations with the *de minimis* parties are concluded, the public comment period provided by Section 122(i)(1) of CERCLA is the process for EPA to receive comments.

To address the second and third comments, Section 122(g)(1)(A) of CERCLA allows *de minimis* settlements to be offered if the settlements involve a minor portion of the response costs at the Site and the amount and toxicity of the hazardous substances contributed to the Site by the party are minimal. EPA made a settlement offer to those *de minimis* parties that generated 1.665% or less of the hazardous substances that were removed from the Site. The calculation was based upon documentation developed during the removal action which attributed waste by each contributor. The toxicity of all the hazardous substances found at the Site was relatively the same; the hazardous substances at the Site demonstrated the characteristic of ignitability. The information described herein that Boise Cascade Corporation seeks regarding the identity of *de minimis* parties, information determining the eligibility of *de minimis* parties, and premiums paid is public information; Boise Cascade Corporation could have requested such information prior to making its comment.

To address the remaining issues raised in the third comment, EPA has not determined that an orphan share exists. EPA would account for the orphan share during the allocation pilot process that this Site is scheduled to undergo as part of EPA's administrative reforms. The *de minimis* settlements agreements reveal the premiums paid; a premium was calculated on the basis of anticipated future costs and the *de minimis* parties' contribution of hazardous substances that were removed from the Site. Due to exceptional circumstances, liability of parties and future costs were readily and fairly identifiable.

Boise Cascade Corporation has offered no new information in its comments to cause EPA to alter its decision to enter into the proposed *de minimis* settlements.

Dated: April 29, 1996.

William Rice,

Regional Administrator.

[FR Doc. 96–11479 Filed 5–8–96; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–44625; FRL–5365–4]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of data from a test designed to determine the presence of polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans in chloranil (CAS No. 118–75–2). These data were submitted pursuant to a final test rule issued by EPA under section 4 of the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551; e-mail:TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a) within 15 days after these data are received by EPA.

I. Test Data Submissions

Test data were submitted by Chugai Boyeki (America) Corporation for their chloranil pursuant to a TSCA section 4 test rule at 40 CFR Part 766 and were received by EPA on March 26, 1996. The submission includes a final report entitled "Analysis of Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans in Chloranil." The testing was conducted to determine the presence of polychlorinated dibenzo-p-dioxins and dibenzofurans in chloranil, a chemical used in the production of pigments and dyes, and as a binding agent in the production of tires. EPA promulgated this test rule because of concern that certain organic chemicals may be contaminated by polyhalogenated dibenzo-p-dioxins and/or polyhalogenated dibenzofurans and may present an unreasonable risk of injury to human health or the environment.

EPA has initiated its review and evaluation process for this data submission. At this time, the Agency is unable to provide any determination as to the completeness of the submission.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS–44625). This record includes a copy of the study reported in this notice. The record is available for inspection from 12 noon to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. B–607 Northeast Mall, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

List of Subjects

Environmental protection, Test data.

Dated: April 29, 1996.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 96–11618 Filed 5–8–96; 8:45 am]

BILLING CODE 6560–50

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by FCC For Extension Under Delegated Authority 5 CFR Part 1320 authority, comments requested

May 1, 1996.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. The FCC is reviewing the following information collection requirements for possible 3-year extension under delegated authority 5 CFR 1320, authority delegated to the Commission by the Office of Management and Budget (OMB).

DATES: Written comments should be submitted on or before July 8, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0576.

Title: Application for Renewal of Amateur Radio Station License.

Form No.: FCC 610R.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals.

Number of Respondents: 2,000.

Estimated Time Per Response: 5 minutes.

Total Annual Burden: 168 hours.

Needs and Uses: Amateur Radio Service licensees are required to apply for renewal of their radio station license every ten years. In lieu of filing a "long" form (FCC 610), the Commission allows this "short" form renewal to be filed. This form is computer generated and sent to licensees near the end of their ten year license term. They can renew simply by signing and returning the application as opposed to answering several questions on the "long" form. Commission personnel will use this data to determine eligibility for radio station renewal authorization and to issue a license. Data is also used by

compliance personnel in conjunction with field engineers for enforcement and interference resolution purposes. The data collected is required by the Communications Act of 1934, as amended, and International Treaties.

A space for the applicant to provide an Internet address is being added to the form. This will provide an additional option of reaching the applicant should the FGC have any questions concerning the application.

OMB Approval Number: 3060–0079.

Title: Application for An Amateur Club, Races or Military Recreation Station License.

Form No.: FCC 610B.

Type of Review: Extension of a currently approved collection.

Respondents: Not-for-profit institutions.

Number of Respondents: 2,000.

Estimated Time Per Response: 5 minutes.

Total Annual Burden: 168 hours.

Needs and Uses: FCC Rules require applicants to file FCC Form 610B for new, modified, or renewed Amateur Club, Radio Amateur Civil Emergency Service (RACES), or Military Recreation station licenses. The data is used by Call Sign Administrators and Commission staff to determine if the applicant is eligible for Amateur Club, RACES, or Military Recreation Station License. The information is used in issuing authorizations of service and is vital to maintain an acceptable database.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–11523 Filed 5–8–96; 8:45 am]

BILLING CODE 6712–01–F

Notice of Public Information Collections being Reviewed by the Federal Communications Commission; Comments Requested

May 1, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 8, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0069.

Title: Application for Commercial Radio Operator License.

Form No.: FCC 756.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals.

Number of Respondents: 19,000.

Estimated Time Per Response: 20 minutes.

Total Annual Burden: 6,270 hours.

Needs and Uses: This collection of information is necessary to establish the identity of persons applying for radio operator licenses. The Commission is authorized under Section 303(l)(1) of the Communications Act of 1934, as amended, to issue radio operator licenses to those persons found to be qualified. To properly identify those qualified persons, it is necessary to collect the full name and date of birth for each applicant. Collection of photographs of applicants for radiotelegraph licenses is in accordance with Paragraph 3870 of Article 55 of the International Radio Regulations. The information and photographs are required since they appear on the license authorization.

The form is being revised to allow a purpose of application block for modification. Modification is to be checked only if adding the Ship Radar Endorsement and/or Six Months Service Endorsement to their existing license. Applicants previously applied as purpose "New" to add these endorsements. In addition, a space for the applicant to provide an Internet address is being added to the form. This will provide an additional option of reaching the applicant should the FCC have any questions concerning the application. These changes do not change the number of respondents or the burden time.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–11524 Filed 5–8–96; 8:45 am]

BILLING CODE 6712–01–F

Notice of Public Information Collections Being Reviewed by FCC For Extension Under Delegated Authority 5 CFR 1320 authority, Comments Requested

May 2, 1996.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. The FCC is reviewing the following information collection requirements for possible 3-year extension under delegated authority 5 CFR 1320, authority delegated to the Commission by the Office of Management and Budget (OMB).

DATES: Written comments should be submitted on or before July 8, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0053.

Title: Application for Consent to Transfer of Control of Corporation Holding Station License.

Form No.: FCC 703.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other For-Profit;Not-for-Profit Institutions.

Number of Respondents: 907.

Estimated Time Per Response: 36 minutes.

Total Annual Burden: 544 hours.

Needs and Uses: This collection of information is used to determine eligibility for licenses. Without this information, violations of ownership regulations could occur. FCC Rules require that applicants in the Private Land Mobile, General Mobile, Private Operational Fixed Microwave, Marine, Aviation and Experimental Radio Services submit FCC 703 whenever it is proposed to change, as by transfer of stock ownership, the control of a station.

The form is required by the Communications Act of 1934, as amended; International Radio Regulations, General Secretariat of International Telecommunications Union and FCC Rules - 47 CFR Parts 1.922, 1.924, 5.55, 80.19, 87.21, 87.31, 90.119, 94.27 and 95.111.

A space for the applicant to provide an Internet address is being added to the form. This will provide an additional option of reaching the applicant should the FCC have any questions concerning the application.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–11527 Filed 5–8–96; 8:45 am]

BILLING CODE 6712–01–F

Notice of Public Information Collections Submitted to OMB for Review and Approval

May 1, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 10, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, NW., Washington, DC 20503 or fain_t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0686.

Title: Streamlining the International Section 214 Authorization Process and Tariff Requirements.

Form Number: N/A.

Type of Review: Revision of existing collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: This collections includes a number of rule sections, the number of respondents varies depending on the rule section. The total number of respondents for all the sections is estimated at 560.

Estimated Time Per Response: The time per response varies depending on the requirement from 1.4 hours per respondent to 30 hours per respondent.

Needs and Uses: This collection consolidates two existing collections 3060–0689 "Foreign Carrier Entry Order and 3060–0686 Streamlining the International Section 214 Authorization Process and Tariffing Requirements". This information collection is necessary to determine the qualifications of applicants to provide common carrier international telecommunications service, including applicants that are affiliated with foreign carriers and to determine whether and under what conditions the authorizations are in the public interest, convenience, and necessity. It is also necessary for the Commission to maintain effective oversight over U.S. carriers that are affiliated with, or involved in certain co-marketing or similar arrangements with, foreign carriers that have market power.

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 96–11525 Filed 5–8–96; 8:45 am]

BILLING CODE 6712–01–F

Notice of Public Information Collections Submitted to OMB for Review and Approval

April 30, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility;

(b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 10, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, NW., Washington, DC 20503 or fain_t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0571.

Title: Determination of Maximum Initial Permitted Rates for Regulated Cable Programming Services and Equipment.

Form Number: FCC Form 393.

Type of Review: Revision of existing collection.

Respondents: Businesses or other for-profit entities; state, local and tribal governments.

Number of Respondents: 120 (80 cable operators + 40 LFAs).

Estimated Time Per Response: 1–40 hours. FCC Form 393 has an estimated average burden of 40 hours for cable operators to complete. Cable operators who contract out the burden of filing will take 1 hour to coordinate information with those contractors. In addition, there is an estimated average burden of 15 hours for each FCC Form 393 filing that LFAs must review.

Total Annual Burden: 3,020 hours (2,420 for operators + 600 for LFAs). For cable operators: we estimate approximately 80 FCC Form 393 filings will be made this year, 50% with the Commission and 50% with LFAs. We estimate that 25% of cable operators will contract out the burden of filing and that it will take 1 hour to coordinate information with those contractors. The remaining 75% of operators will employ in house staff to complete the application. 20 filings (25% contracted out) x 1 hour = 20 hours. 60 filings (75% in house) x 40 hours = 2,400 hours. Total burden for operators = 2,420 hours.

For LFAs: we estimate 40 (50%) of remaining FCC Form 393 filings will be reviewed by LFAs. This third party disclosure was not previously reported by the Commission. 40 FCC Form 393s reviewed by LFAs at 15 hours each = 600 hours.

In the prior Federal Register notice soliciting public comment for this collection, the Commission initially estimated a total burden of 12,000 hours (300 annual filings @ 40 hours each). Based on current information, we further reduce the estimated number of annual FCC Form 393 filings to now be 80 per year, with 50% of filings being reviewed by LFAs. The burden for LFA review of FCC Form 393s @ 15 hours per review was not reported in the prior Federal Register summary soliciting initial public comment.

Costs for respondents: $80,160. Printing and postage costs are estimated at $2 per Form 393 filing. 80 annual filings x $2 = $160. We estimate assistance will be performed by outside accounting/legal assistance at an average of $100/hour for 25% of the Form 393 filings. $100/hour x 20 filings (25% of Form 393 filings) x 40 hours = $80,000. Total annual cost for respondents = $160 + $80,000 = $80,160.

In the prior Federal Register notice soliciting public comment for this collection, the Commission did not report costs to respondents for complying with this information collection. We now report the various costs for printing, postage and contracting out for legal/accounting assistance in completing FCC Form 393 filings.

Needs and Uses: The data are used by FCC staff and LFAs to determine whether cable rates in effect prior to May 15, 1994 for basic service, cable programming service and associated equipment are reasonable under FCC regulations. Cable operators use FCC Form 393 to submit their basic rate schedule to LFAs certified prior to May 15, 1994 or the FCC (in situations where the FCC has assumed jurisdiction). Cable operators also file FCC Form 393 with the FCC when responding to a complaint filed with the Commission about cable programming service rates and associated equipment in effect prior to May 15, 1994. FCC Form 393 is a one-time only filing requirement for operators. Local franchise authority ("LFA") certifications to regulate rates are not granted retroactively. Rate complaints are also not permitted to retroactively challenge rates in effect prior to May 15, 1994; therefore, no future entities will be impacted by this filing requirement. In fact, the Form 393 filing process is nearly exhausted. The only remaining entities impacted by this requirement are those initially required to file but have not yet done so, and those who filed incorrect or incomplete FCC Form 393s.

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 96–11526 Filed 5–8–96; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE AND TIME: Tuesday, May 14, 1996 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Thursday, May 16, 1996 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor.)

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes
Advisory Opinion 1996–12: Arthur Block on behalf of the Lenora B. Fulani for president '96 Committee
Advisory Opinion 1996–15: Marilyn Hughes, State of Oklahoma Ethics Commission
Administrative Matters

PERSON TO CONTACT FOR INFORMATION:
Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 96–11807 Filed 5–7–96; 2:55 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 96-8893) published on page15946 of the issue for April 10,.1996.

Under the Federal Reserve Bank of Cleveland heading, the entry for Croghan Bancshares, Inc., Fremont, Ohio, is revised to read as follows:

1. Croghan Bancshares, Inc., Fremont, Ohio; to acquire 100 percent of the voting shares of Union Bancshares Corp., Bellevue, Ohio, and thereby indirectly acquire Union Bank and Savings Company, Bellevue, Ohio.

Board of Governors of the Federal Reserve System, May 3, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–11561 Filed 5–8–96; 8:45 am]

BILLING CODE 6210–01–F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 3, 1996.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Horizon Bancorp, Inc., Beckley, West Virginia; to merge with Twentieth Bancorp, Inc., Huntington, West Virginia, and thereby indirectly acquire The Twentieth Street Bank, Huntington, West Virginia.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Perryton Bancshares, Inc., Perryton, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Perryton National Bank, Perryton, Texas.

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. First Savings Bank of Washington Bancorp, Inc., Walla Walla, Washington; to acquire 100 percent of the voting shares of Inland Empire Bank, Hermiston, Oregon.

2. InterWest Bancorp. Inc., Oak Harbor, Washington; to merge with Central Bancorporation, Wenatchee, Washington, and thereby indirectly acquire Central Washington Bank, Wenatchee, Washington, and North Central Washington Bank, Omak, Washington.

Board of Governors of the Federal Reserve System, May 3, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–11562 Filed 5–8–96; 8:45 am]

BILLING CODE 6210–01–F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act; including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 23, 1996.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. The Bank of Nova Scotia, Toronto, Ontario, Canada; to engage *de novo* through its subsidiary, Scotia Capital Markets (USA) Inc., New York, New York, in certain foreign exchange advisory and transaction services and in futures commission merchant activities.

pursuant to §§ 225.25 (b)(17) and (18) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 3, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–11560 Filed 5–8–96; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD SUNSHINE ACT MEETING

TIME AND DATE: 8:00 a.m., May 20, 1996.

PLACE: 4th Floor, Conference Room, 1250 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. National Finance Center record keeping.
2. Congressional/agency/participant liaison.
3. Benefits administration.
4. Investments.
5. Participant communications.
6. Approval of the minutes of the last meeting.
7. Thrift Savings Plan activity report by the Executive Director.
8. Review of selection criteria for software vendor.
9. Approval of the update of the FY 1996 budget and FY 1997 estimates.
10. Investment policy review.
11. Status of audit recommendations.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs (202) 942–1640.

Dated: May 6, 1996.

Roger W. Mehle, Executive Director,

Federal Retirement Thrift Investment Board.

[FR Doc. 96–11710 Filed 5–7–96; 12:29 pm]

BILLING CODE 6760–01–M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

Notice of Intent To Prepare Environmental Impact Statement for the Consolidated Law Federal Office Building, Portland, OR

SUMMARY: The General Services Administration (GSA) hereby gives notice it intends to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act of 1969 (NEPA), as amended for the Consolidated Law Federal Office Building, in Portland, Multnomah County, Oregon. The EIS would evaluate the proposed project, other reasonable alternatives, and the no action alternative identified during the scoping process. Scoping would be accomplished through written correspondence, through a public scoping meeting, and through individual meetings with interested persons, groups, organizations, and federal, state, and local agencies.

ADDRESSES: Written comments on the scope of alternatives and potential impacts should be sent to GSA's environmental contractor, Herrera Environmental Consultants, at the following address: 2200 Sixth Avenue, Suite 601, Seattle, Washington, 98121.

DATES: Written comments should be sent to Herrera Environmental Consultants by May 25, 1996. Comments will also be accepted at a public scoping meeting from 4:30 p.m. to 7:30 p.m. on May 7, 1996 and May 8, 1996 at the location indicated below.

PUBLIC SCOPING MEETING: Comments and suggestions will be solicited at a public scoping meeting to be held at: Edith Green-Wendell Wyatt Federal Building, 1220 SW 3rd Avenue, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Ms. Donna M. Meyer, Regional Environmental Program Officer, General Services Administration, (206) 931–7675 or Ms. Nona Diediker at Herrera Environmental Consultants, 2200 Sixth Avenue, Suite 601, Seattle, Washington, 98121, (206) 441–9080.

SUPPLEMENTARY INFORMATION: The General Services Administration, assisted by the environmental contractor, is considering preparation of a federal NEPA Environmental Impact Statement on a proposal to design and construct a new Consolidated Law Federal Office Building in Portland, Oregon. The scoping process would determine the level of effort, the scope of issues to be addressed in the environmental document, and identify the significant issues related to the proposed project. Scoping will be conducted consistent with the Council on Environmental Quality's (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508). GSA will serve as the lead agency for the preparation of the EIS pursuant to Section 1501.5(a) of the regulations.

Scoping

GSA invites interested individuals, organizations, and federal, state, and local agencies to participate in defining the reasonable alternatives to be evaluated in the EIS, and in identifying any significant physical, biological, or socioeconomic environmental issues related to the alternatives. Scoping comments can be made verbally at the public scoping meeting, or in writing (see **DATES** and **ADDRESSES** section above for location and time of meeting). During scoping, comments should focus on identifying specific impacts to be evaluated and suggesting alternatives that minimize adverse impacts while achieving similar objectives. Comments may also identify issues which are not significant or which have been covered by prior environmental review. Scoping should be limited to commenting on the project alternatives. There will be opportunity to comment on preferences during the Draft EIS comment review phase.

Additional Information

A project information newsletter will be available at the public scoping meeting or can be obtained by contacting Nona Diediker at Herrera Environmental Consultants. The newsletter will describe in more detail the proposed project, alternatives, and the EIS process.

Mailing List

If you wish to be placed on our mailing list to receive further and future information as the EIS process develops, contact Herrera Environmental Consultants at the address or phone listed above.

Project Purpose, Historical Background, and Project Description

The House and Senate Subcommittees on Treasury, Postal Service, and General Government have determined a need exists for a facility to serve as a detention center for prisoners appearing before the Federal courts and for the consolidation of Federal law enforcement agencies in Portland, Oregon. The committees have directed the General Services Administration to undertake the necessary studies to address this requirement. Detention facilities in Portland for federal prisoners awaiting a trial and sentencing are limited. Federal law enforcement officials are forced to move federal prisoners back and forth from the federal prison in Sheridan, Oregon and other county holding facilities in Oregon and Washington. This situation often leads to many security and logistical problems.

The proposal to design and construct a 350,000 occupiable square foot office, court and 300-bed facility to consolidate federal law enforcement agencies and provide detention capabilities would aid in alleviating security and logistic problems by establishing an adjacency relationship to the new U.S. Courthouse. Site alternatives are presently under investigation and a delineated area has been identified as follows: SW Taylor Street on the north, SW 1st Avenue on the east, SW Madison Street on the south, and SW 4th Avenue on the west.

Alternatives

The EIS would consider several action alternatives and a no action alternative. The facility would be located adjacent to the new U.S. Courthouse located at 1030 SW 3rd Avenue. Alternatives to be considered include:

1. Design and construction on a full block site bounded by SW Taylor Street on the north, SW 2nd Avenue on the east, SW Salmon Street on the south, and SW 3rd Avenue on the west;
2. Design and construction on a full block site bounded by SW Taylor Street on the north, SW 3rd Avenue on the east, SW Salmon Street on the south, and SW 4th Avenue on the west;
3. Design and construction on a full block site bounded by SW Main Street on the north, SW 1st Avenue on the east, SW Madison Street on the south, and SW 2nd Avenue on the west;
4. Acquisition then alternation of a leased building bounded by SW Taylor Street on the north, SW 1st Avenue on the east, SW Madison Street on the south, and SW 4th Avenue on the west, and,
5. No action.

Probable Effects

GSA will evaluate physical, biological and socioeconomic environmental impacts of the alternatives in the EIS. Potential impacts include, but are not limited to, changes in physiography; impacts to groundwater; changes to vegetation and wildlife; changes in open space and visual characteristics; impacts to air quality and noise, utilities, and transportation; changes in the social environment; and impacts to zoning and historical/cultural resources. The impacts will be evaluated both for the construction period and during the operation of the facility. Measures to mitigate any significant adverse impacts will be addressed.

Procedures

The EIS will be prepared based on the outcome of the scoping phase, A Draft EIS will be made available for public and agency comments, with a public hearing held to receive comments regarding the Draft EIS. Upon completion of the public review process, a Final EIS would be prepared to address issues raised during the Draft EIS and the public hearing.

Dated: April 26, 1996.

Richard J. Moen,

Legal Counsel, Region 10.

[FR Doc. 96–11542 Filed 5–8–96; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–10]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639–7090.

The following requests have been submitted for review since the last publication date on January 23, 1996.

Proposed Projects

1. Variability of Respiratory Tract Dust Deposition in Workers—New—Adverse respiratory health effects in workers exposed to hazardous airborne materials can be prevented by reducing the concentration of the implicated agents below a threshold level. However, the actual "safe" work site concentration is determined by the airborne particulates that are actually deposited and retained in the worker's respiratory tract. The proportion deposited is in turn affected by the volume and flow rates of the worker's breathing patterns.

The goals of this investigation are to: (1) Develop a database of information related to workers' ventilatory patterns during performance of elemental industrial and commercial job activities, as well as specific dust-exposed work activities; (2) define expected variation in particle size dependent respiratory tract dust deposition related to breathing patterns representative of different job tasks; (3) investigate residual intersubject variability in respiratory tract dust deposition with explanatory variables such as height, gender, age smoking status, effective airway diameter, nasal geometry, and preexisting respiratory tract abnormalities.

This investigation should improve the understanding of the actual deposition of toxic substances in the lungs and help to validate or modify the existing models of human aerosol depoaition.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hours)
Phase I:			
Screening	13	1	1
Deposition	13	1	3
Physio Mon:			
Screening	16	1	2
Work tasks	16	1	4
Phase II:			
Screening	276	1	2
Work tasks	276	1	4
Phase III:			
Screening	66	1	1
Physiol	66	1	2
Deposition	66	1	1

The total annual burden is 2068. Send comments to Desk Officer, CDC; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503.

2. Evaluation of the Efficacy of Back Belts for the Prevention of Low Back Injury—New—This study will provide information concerning the efficacy of a back supporting belt in preventing first and recurrent low back injuries. The research will be conducted with a major retail merchandise company, using selected company workers (those with highest lifting exposures) in selected

stores. NIOSH will obtain much higher quality information on the value of back belts in prevention of injuries in the workplace than is currently available, and the Institute will be able to make scientifically justified recommendations regarding their use of personal protective equipment to industry and the public.

Workers will respond to questions concerning job history, physical activity, smoking history, history of injury and back pain, psychosocial variables in the workplace, tasks performed on the job. Only data necessary for the purposes of this study will be collected, and the questionnaires will be group administered at the workplace.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hours)
Telephone			
Interview I	2700	4	0.42
Interview II	2700	3	.42
Interview III	2250	2	.42
Interview IV	350	1	.42

The total burden hours is 9975. Send comments to Desk Officer, CDC; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503.

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–11597 Filed 5–8–96; 8:45 am]

BILLING CODE 4163–18–P

[INFO–96–16]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. Importation and Shipment of Etiologic Agents—(0920–0199)—Revision—The Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132) authorizes the Secretary of Health and Human Services (HHS) to regulate the transfer of certain infectious agents harmful to humans. The Centers for Disease Control and Prevention (CDC) is the agency within the Department responsible for promulgating regulations. CDC is proposing a rule designed to ensure that select infectious agents are not shipped to parties not equipped to handle them appropriately, or who do not have legitimate reasons to use them and to implement a system whereby scientists and researchers involved in legitimate research may continue transferring and receiving these agents without undue burdens. Respondents include laboratory facilities such as those operated by government agencies, universities, research institutions, and commercial entities.

Those facilities requesting select infectious agents listed in the regulation must register with the Secretary of HHS, or with registering entities authorized by the Secretary, as capable and equipped to handle the select infectious agents in accordance with guidelines developed by CDC, the National Institutes for Health (NIH) and the Department of Defense.

Once registered, facilities must complete a federally-developed form, CDC Form EA–101, for each transfer of the agent. Information on this form will include the name of the requestor and requesting facility, the name of the transferor and transferring facility, the name of the responsible facility official for the transferor and requestor, the requesting facility's registration number, the transferring facility's registration number, the name of the agent(s) being shipped, and the proposed use of the agent. The package is being revised to include burden for laboratories to register with the Secretary. The total cost to respondents is estimated at $14,490.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hours)	Total Burden (in hrs.)
Laboratory	100	16	.36	576
Shippers	20	45	.97	873
Total				1,449

2. 1997 National Health Interview Survey, Basic Module—(0920–0214)—Revision—The annual National Health Interview Survey (NHIS) is a basic source of general statistics on the health of the U.S. population. Due to the integration of health surveys in the Department of Health and Human Services, the NHIS also has become the sampling frame and first stage of data collection for other major surveys, including the Medical Expenditure Panel Survey, the National Survey of Family Growth, and the National Health and Nutrition Examination Survey. By linking to the NHIS, the analysis potential of these surveys increases. The NHIS has long been used by government, university, and private researchers to evaluate both general health and specific issues, such as cancer, AIDS, and childhood immunizations. Journalists use its data to inform the general public. It will continue to be a leading source of data for the Congressionally-mandated "Health US" and related publications, as well as the single most important source of statistics to track progress toward the National Health Promotion and Disease Prevention Objectives, "Healthy People 2,000."

Because of survey integration and changes in the health and health care of the U.S. population, demands on the NHIS have changed and increased, leading to a major redesign which was tested and partially implemented in 1996. Improved information technology was included, especially computer assisted personal interviewing (CAPI). This clearance is for the first full year of data collection using the redesigned NHIS data system. This data collection, planned for January-December 1997, will result in publication of new national estimates of health statistics and release of public use micro data files. The new data system is expected to be in the field for at least 10 years. The total cost to respondents is estimated at $697,500.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hrs.)	Total Burden (in hrs.)
Family	42,000	1	0.5	21,000
Sample adult	42,000	1	0.5	21,000
Sample child	18,000	1	0.25	4,500
Total				46,500

3. National Coal Workers' Autopsy Study Consent Release and History Form—(0920–0021)—Revision—Under the Federal Coal Mine Health & Safety Act of 1977, PL91–173 (amended the Federal Coal Mine & Safety Act of 1969), the Public Health Service has developed a nationwide autopsy program (NCWAS) for underground coal miners. The Consent Release and History Form is primarily used to obtain written authorization from the next-of-kin to perform an autopsy on the deceased miner. The study is a service program to aid surviving relatives in establishing eligibility for black lung compensation. Because a basic reason for the post-mortem exam is research (both epidemiological and clinical), included are a minimum of essential information regarding the deceased miner, his occupational history, and his smoking history. The data collected will be used by the staff at NIOSH for research purposes in defining the diagnostic criteria for coal workers' pneumoconiosis (black lung) and will be correlated with pathologic changes and x-ray findings. The total cost to respondents is estimated at $1,250.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hrs.)	Total Burden (in hrs.)
Pathologist.				
Invoice	300	1	.05	25
Report	300	1	.05	25
Next-of-Kin	300	1	.15	75
Total				125

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–11598 Filed 5–8–96; 8:45 am]

BILLING CODE 4163–18–P

Administration for Children and Families

New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: April 1996

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: This notice lists new proposals for welfare reform and combined welfare reform/Medicaid demonstration projects submitted to the Department of Health and Human Services for the month of April, 1996. It includes both those proposals being considered under the standard waiver process and those being considered under the 30 day process. Federal approval for the proposals has been requested pursuant to section 1115 of the Social Security Act. This notice also lists proposals that were previously submitted and are still pending a decision and projects that have been approved since April 1, 1995. The Health Care Financing Administration is publishing a separate notice for Medicaid only demonstration projects.

Comments: We will accept written comments on these proposals. We will, if feasible, acknowledge receipt of all comments, but we will not provide written responses to comments. We will, however, neither approve nor disapprove new proposals under the standard application process for at least 30 days after the date of this notice to allow time to receive and consider comments. Direct comments as indicated below.

ADDRESSES: For specific information or questions on the content of a project contact the State contact listed for that project.

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Comments on a proposal or requests for copies of a proposal should be addressed to: Howard Rolston, Administration for Children and Families, 370 L'Enfant Promenade, S.W., Aerospace Building, 7th Floor West, Washington DC 20447. FAX: (202) 205–3598 PHONE: (202) 401–9220.

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 1115 of the Social Security Act (the Act), the Secretary of Health and Human Services (HHS) may approve research and demonstration project proposals with a broad range of policy objectives.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. On September 27, 1994, we published a notice in the **Federal Register** (59 FR 49249) that specified (1) the principles that we ordinarily will consider when approving or disapproving demonstration projects under the authority in section 1115(a) of the Act; (2) the procedures we expect States to use in involving the public in the development of proposed demonstration projects under section 1115; and (3) the procedures we ordinarily will follow in reviewing demonstration proposals. We are committed to a thorough and expeditious review of State requests to conduct such demonstrations.

On August 16, 1995, the Secretary published a notice in the **Federal Register** (60 FR 42574) exercising her discretion to request proposals testing welfare reform strategies in five areas. Since such projects can only incorporate provisions included in that announcement, they are not subject to the Federal notice procedures. The Secretary proposed a 30 day approval process for those provisions. As previously noted, this notice lists all new or pending welfare reform demonstration proposals under section 1115. Where possible, we have identified the proposals being considered under the 30 day process. However, the Secretary reserves the right to exercise her discretion to consider any proposal under the 30 day process if it meets the criteria in the five specified areas and the State requests it or concurs.

II. Listing of New and Pending Proposals for the Month of April, 1996

As part of our procedures, we are publishing a monthly notice in the **Federal Register** of all new and pending proposals. This notice contains proposals for the month of April, 1996.

Project Title: California—Work Pays Demonstration Project (Amendment).

Description: Would amend Work Pays Demonstration Project by adding provisions to: reduce benefit levels by 10% (but retaining the need level); reduce benefits an additional 15% after 6 months on assistance for cases with an able-bodied adult; time-limit assistance to able-bodied adults to 24 months, and not increase benefits for children conceived while receiving AFDC.

Date Received: 3/14/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Glen Brooks, (916) 657–3291.

Project Title: California—Work Pays Demonstration Project (Amendment).

Description: Would amend the Work Pays Demonstration Project by adding provisions to not increasing AFDC benefits to families for additional children conceived while receiving AFDC.

Date Received: 11/9/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Bruce Wagstaff, (916) 657–2367.

Project Title: California—Assistance payments Demonstration Project/ California Work Pays Demonstration Project (Amendment).

Description: Would amend the Assistance Payments Demonstration Project/California Work Pays Demonstration Project by adding provisions to California to allow two additional AFDC benefit reductions: (1) reduce the Maximum Aid Payment (MAP) by 4.9 percent across-the-board statewide; and (2) divide California counties into two regions based on housing costs, and reduce both the Need Standard and the MAP in the region with the lower costs. In addition, the State is requesting blanket authority for future reductions in AFDC payment levels in conjunction with welfare reform state law changes.

Date Received: 3/13/96.

Type: AFDC/Medicaid.

Current Status: Pending.

Contact Person: Bruce Wagstaff, (916) 657–2367.

Project Title: California—Assistance Payments Demonstration Project/ California Work Pays Demonstration Project (Amendment).

Description: Would amend the Assistance Payments Demonstration Project/California Work Pays Demonstration Project by adding provisions to allow one additional provision: income of a senior parent living in the same household with a minor parent with a dependent child will not be deemed to the minor parent's child.

Date Received: 3/13/96.

Type: AFDC.

Current Status: Pending.

Contact Person: Bruce Wagstaff, (916) 657–2367.

Project Title: Florida—Family Responsibility Act.

Description: Statewide, would require dependent children and caretaker relatives under age 18 to remain in school; pay half the AFDC benefit increment for the first child conceived by an AFDC recipient and provide no cash benefits for a second or subsequent child; exclude from the AFDC budget child support payments for children subject to the family cap; require AFDC recipients not participating in JOBS or actively seeking employment to engage in 20 hours per week of community employment or work experience.

Date Received: 10/4/95.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Sallie P. Linton, (904) 921–5572.

Project Title: Georgia—Jobs First Project.

Description: In ten pilot counties, would replace AFDC payment with paid employment; extend transitional Medicaid to 24 months; eliminate 100 hour employment rule for eligibility determination in AFDC—UP cases.

Date Received: 7/5/94.

Type: AFDC.

Current Status: Pending (not previously published).

Contact Person: Nancy Meszaros, (404) 657–3608.

Project Title: Hawaii—Families Are Better Together.

Description: Statewide, would eliminate 100-hour, attachment to the work force, 30 day unemployment and principal wage earner criteria for AFDC–UP families.

Date Received: 5/22/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Patricia Murakami, (808) 586–5230.

Project Title: Illinois—Six Month Paternity Establishment Demonstration.

Description: In 20 counties, would require the establishment of paternity, unless good cause exists, within 6 months of application or redetermination as a condition of AFDC and Medicaid eligibility for both mother and child; would deny Medicaid to children age 7 and under, exclude children from filing rules, and exempt Department from making protective payments to eligible children, when custodial parent has not cooperated in establishing paternity; delegate the establishment of paternity in uncontested cases to caseworkers who perform assistance payment or social service functions under title IV–A or XX.

Date Received: 7/18/95.

Type: AFDC/Medicaid.

Current Status: Pending.

Contact Person: Karan D. Maxson, (217) 785–3300.

Project Title: Indiana—Impacting Families Welfare Reform Demonstration—Amendments.

Description: Statewide, proposes expansions and amendments to current demonstration to impose a lifetime 24-month limit on cash assistance and categorical Medicaid eligibility (12 months for resident alien); allow 1 month AFDC credit (to a maximum of 24 at any one time) for each 6 consecutive months full-time employment; count each month of AFDC receipt from another state within the previous 3 years as 1 month against the lifetime limit; restrict permissible "specified relatives" for AFDC children and minor parents; extend AFDC, Medicaid, and food stamp fraud disqualification penalties; establish 3 unexcused absences per year as the statewide definition of unacceptable school attendance; provide a voucher equal to 50% of assistance amount for family cap child for goods and services related to child care; divert AFDC grants to subsidize child care costs; establish an option for an employed AFDC recipient to receive guaranteed child care or an AFDC payment equal to the family's benefit before employment; require a child's mother to establish paternity as a condition of eligibility for the child and the caretaker; establish additional conditions of eligibility for AFDC; impose penalties for illegal drug use; base CWEP hours on the combined value of AFDC and Medicaid assistance; make JOBS volunteers subject to the same sanctions as mandatory participants; continue eligibility for AFDC recipients until countable income reaches 100% of the federal poverty guidelines; expand voluntary quit definition and penalties; impose income limits on transitional Medicaid and child care and limit each to 12 months in a person's lifetime; with some exceptions, deny Medicaid under all coverage provisions to those determined ineligible as a result of AFDC welfare reform provisions; restrict Medicaid payments made to employees with employer's health care benefits to the lesser of the employee's insurance premium or the amount the state would otherwise pay; and require minor parents to live with a legally responsible adult and count the income and resources of non-parent adults.

Additional provisions: Food Stamp recipients could be required to participate CWEP and job search; increase AFDC and Food Stamp penalties for non-compliance with CWEP and job search; require cooperation with child support as condition of eligibility for Food Stamps.

Date Received: 12/14/95; Amendment received 2/6/96.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: James H. Hmurovich, (317) 232–4704.

Project Title: Kansas—Actively Creating Tomorrow for Families Demonstration.

Description: Amended pending demonstration to provide that the demonstration would: replace $30 and 1/3 income disregard with continuous 40% disregard; disregard lump sum income, income and resources of children in school and interest income; count income and resources of adults, and at State option children, who receive SSI; exempt one vehicle without regard for equity value; eliminate 100-hour rule and work history requirements for UP cases; expand AFDC eligibility to pregnant women in 1st and 2nd trimesters; eliminate eight week job search limitation; allow alcohol and drug screening and treatment as a JOBS activity; eliminate the 20-hour work requirement limit for parents with children under 6; delay the effective date of changes in household composition; make work requirements in the AFDC and Food Stamp programs more uniform; and increase sanctions for not cooperating with child support enforcement activities and violations of employment and JOBS requirements.

Date Received: 7/26/94; amendment received 4/30/96.

Type: Combined AFDC/Medicaid.

Current Status: New (Amendment).

Contact Person: Diane Dystra, (913) 296–3028.

Project Title: Maine—Welfare to Work Program.

Description: Statewide, would require caretaker relatives to sign a family contract; require participation in parenting classes and health care services; provide one-time vendor payments in lieu of AFDC for the purpose of obtaining/retaining employment; provide voucher payments to both married and unmarried minor parents; limit JOBS exemptions; expand eligibility for Transitional Medicaid and Child Care and replace sliding-scale fees with flat-rate fees; reduce Transitional Medicaid reporting requirements; disregard entire value of one vehicle; and apply any federal savings to the JOBS program services. In selected sites, implement ASPIRE-Plus, a subsidized employment program, would cash out food stamps, divert AFDC benefits and pass through all child support collected to families who participate in ASPIRE-Plus.

Date Received: 9/20/95.

Type: AFDC/Medicaid.

Current Status: Pending.

Contact Person: Susan Dustin, (207) 287–3104.

Project Title: Maryland.

Description: Statewide, would expand, with some modifications, previously approved Family Investment Program (FIP) pilot county provisions to be statewide and introduce new provisions: replace the current $90 and $30-and-one-third exclusions with a flat 20% earned income deduction, 50% for self-employed earned income; limit the child care disregard to $175 in all cases; allow case managers to set AFDC certification periods up to 1 year and require eligibility to be re-established before the end of each certification period; modify JOBS exemption requirements; allow $2,000 in countable resources and exclude one vehicle per household, life insurance, and certain real property; count stepparent income only if it is more than 50% of the poverty level; allow non-custodial parents and stepparents to participate in JOBS; provide welfare avoidance grants of up to 3 months benefit amount (up to 12 months in special circumstances); allow IV-A child care funds in lieu of AFDC for families diverted from cash assistance; impose immediate full-family sanctions for fraud and for failure to cooperate with JOBS or child support enforcement requirements; reduce the adverse notification period to 5 days; eliminate the $50 child support pass-through; allow only 1 assistance unit per family or payee; eliminate deprivation as an eligibility factor; change treatment of lump sums; eliminate JOBS assessment and employability plans; and modify JOBS program requirements.

Date Received: 4/26/96.

Type: AFDC.

Current Status: New.

Contact Person: Kathy Cook, (410) 767–7055.

Project Title: Michigan—To Strengthen Michigan Families Demonstration Project (Amendment).

Description: Statewide, would require minor parents to live with their parent or other suitable adult; and require minor parents who have not graduated

from high school to attend school as a condition of family eligibility.

Date Received: 4/26/96.

Type: AFDC.

Current Status: New.

Contact Person: Dan Cleary, (517) 335–0015.

Project Title: Minnesota Family Investment Program (MFIP) (Amendment)

Description: Would amend MFIP by adding Ramsey County as an MFIP site. MFIP provisions include: a consolidation of AFDC, Food Stamps, and the State's Family General Assistance program into one cash grant, with a single set of rules and procedures; eligibility based on net income only; an asset limit of $2,000, with an exemption for vehicles with a combined equity value of up to $4,500; elimination of the 100-hour and work history rules for two-parent families; a benefit equal to the maximum grant increased by 20 percent, minus net income (net income excludes 38 percent of gross earnings), but benefits may not exceed the maximum grant level, which equals the combined value of AFDC and Food Stamps; child care is paid directly to the child care provider, up to the county maximum rate; a 10 percent grant reduction for non-compliant parents; mandatory participation in MFIP employment and training services for non-exempt, long-term recipients. MFIP operates in seven counties and the amendment would add Ramsey County.

Date Received: 3/29/96.

Type: AFDC.

Current Status: Pending.

Contact Person: Chuck Johnson (612) 297–4727.

Project Title: Minnesota—Work First Program.

Description: In pilot counties, would provide vendor payments in lieu of regular AFDC benefits for applicants' rent and utilities for up to six months; sanction for at least six months job-ready applicants who fail to comply with job search and other applicants who fail to participate in JOBS orientation; and require part-time CWEP of unemployed, nonexempt job-ready individuals who fail to participate in job search for 32 hours/week or who after eight weeks of job search are not employed for at least 32 hours/week or not self-employed with a net income equal to the family's AFDC benefit. Individuals who refuse to participate in CWEP or are terminated from a CWEP job would incur a whole family sanction and become ineligible for AFDC for at least six months. Non-job-ready participants would be assigned appropriate education and training. Post-placement services would be provided for up to 180 days and Transitional Child Care and Medicaid without regard to AFDC receipt in 3 of the 6 months preceding ineligibility.

Date Received: 4/4/96.

Type: AFDC/Medicaid.

Current Status: New.

Contact Person: Gus Avenido, (612) 296–1884.

Project Title: Minnesota—AFDC Barrier Removal Project.

Description: Statewide, would expand AFDC-UP eligibility; treat minor parents living with a caretaker parent on AFDC as a separate filing unit and disregard the caretaker parents' earned income up to 200 percent of the federal poverty guideline; disregard earned income of dependent children who are at least half-time students as well as all their savings deposited into an individual development account; increase the auto-equity limit to $4,500; cease recovering overpayments (once every two years per case) due to an individual's new employment resulting in ineligibility; and determine AFDC benefit amount for a family in which all members have resided in the State for less than 12 months based on the payment standard of the state of immediate prior residence if less than Minnesota's.

Date Received: 4/4/96.

Type: AFDC.

Current Status: New.

Contact Person: Ann Sessoms, (612) 296–0978.

Project Title: New Hampshire—Earned Income Disregard Demonstration Project.

Description: AFDC applicants and recipients would have the first $200 plus 1/2 the remaining earned income disregarded.

Date Received: 9/20/93.

Type: AFDC.

Current Status: Pending.

Contact Person: Avis L. Crane, (603) 271–4255.

Project Title: New Hampshire—New Hampshire Employment Program and Family Assistance Program.

Description: Statewide, would replace AFDC with Employment Program administered by both Employment Security Agency and Family Assistance Program; require job search and other employment-related activities for first 26 weeks of receipt followed by work-related activities for 26 weeks; eliminate JOBS target group funding requirement and change JOBS reporting requirements; require recipients attending post-secondary or part-time vocational training to participate in work-related activities; eliminate JOBS services priority for volunteers; establish limits for provision of transportation and other JOBS services based on activity and local conditions; eliminate remoteness as exemption from JOBS; require non-custodial parents to participate in JOBS; increase earned income disregard to 50%; eliminate AFDC–UP eligibility requirements; allow transitional case management for up to one year; raise resource limit to $2,000 and exclude one vehicle and life insurance policies; pass through child support directly to family; take SSI income into account in determining eligibility/payment; eliminate conciliation and apply JOBS sanction of 50% of AFDC benefits for three months followed by no payment for three months, allowing option to increase initial sanction up to 100%; exempt pregnant women from JOBS only during third trimester; for minor parents cases, include in assistance unit any parent or sibling living in the home; eliminate gross income test; disregard educational grants; allow emergency assistance for families with employment-related barriers; allow State to eliminate the certificate option for child care and development block grant funds and use of these funds for capital improvement; eliminate ceiling on At Risk Child Care funds; provide that FFP for AFDC not be reduced during life of demonstration; fund computer system modifications at 80% FFP; require pregnant recipients to cooperate with child support; require that AFDC apply for Medicaid as a unit and not individually; eliminate requirement of receipt of AFDC for 3 of last 6 months in order to receive transitional Medicaid; and allow State to require that some individuals be assigned to a managed care program; substitute outcome measures for JOBS participation rates; change participation requirements for parents with children under 6, UP recipients and minors; establish a medical deduction; increase the sanction for non-cooperation with child support; exempt individuals with significant employment barriers from JOBS; treat lump sum income and all real property, except a home, as a resource; and use 20% of gross earned income as a Medicaid disregard. Also contains various Food Stamp waivers.

Date Received: 9/18/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Marianne Broshek, (603) 271–4442.

Project Title: New Hampshire—New Hampshire Employment Program.

Description: In three pilot sites, would require work after 6 months of AFDC receipt; eliminate the exemption from JOBS for women in the second trimester of pregnancy; eliminate the JOBS exemption for caretaker of a child under 3 but not less than 1 year of age; replace the earned income disregard of $90 and $30 and ⅓ with a 50% disregard which is not time-limited; raise the resource limit for recipients to $2,000; disregard full value of one vehicle per adult for applicants and recipients; apply a full family sanction voluntarily quitting a job or refusing to accept a job; apply a sanction of reducing the payment standard by 30% for one month for failure to comply with JOBS in the first instance, by 60% in the second instance for one month, and in the third instance apply a full-family sanction for three months or until compliance; and require non-custodial parents to participate in JOBS.

Date Received: 10/6/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Marianne Broshek, (603) 271–4442.

Project Title: Oklahoma—Welfare Self-Sufficiency Initiative.

Description: In four pilots conducted in five counties each, would (1) extend transitional child care to up to 24 months; (2) require that all children through age 18 be immunized and require that responsible adults with preschool age children participate in parent education or enroll the children in Head Start or other preschool program; (3) not increase AFDC benefits after birth of additional children, but provide voucher payment for the increment of cash benefits that would have been received until the child is two years old; and (4) pay lesser of AFDC benefit for previous state of residence or Oklahoma's for 12 months for new residents.

Date Received: 10/27/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Raymond Haddock, (405) 521–3076.

Project Title: Pennsylvania—School Attendance Improvement Program.

Description: In 7 sites, would require school attendance as condition of eligibility.

Date Received: 9/12/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Patricia H. O'Neal, (717) 787–4081.

Project Title: Pennsylvania—Savings for Education Program.

Description: Statewide, would exempt as resources college savings bonds and funds in savings accounts earmarked for vocational or secondary education and disregard interest income earned from such accounts.

Date Received: 12/29/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Patricia H. O'Neal, (717) 787–4081.

Project Title: South Carolina—Family Independence Program.

Description: Statewide, would, with exceptions, time limit AFDC benefits to families with able bodied adults to 24 months out of 120 months, not to exceed 60 months in a lifetime; eliminate increase in AFDC benefit resulting from birth of children 10 or more months after the family begins AFDC receipt, but provide benefits to such children in the form of vouchers for goods and services permitting child's mother to participate in education, training, and employment-related activities; eliminate deprivation requirements, principal earner provisions, work history requirements, and 100-hour rule for AFDC-UP; increase AFDC resource limit to $2,500 and disregard as resources one vehicle with a market value up to $10,000, the balance in an Individual Development Account (IDA) up to $10,000, and the cash value of life insurance; disregard from income up to $10,000 in lump sum payments deposited in an IDA within 30 days of receipt, earned income of children attending school, and interest and dividend income up to $400; require participation in a family skills training program; require certain AFDC recipients to submit to random drug tests and/or participate in alcohol or drug treatment; require children to attend school; increase amount of child support passed through to AFDC recipients; require more extensive information for child support enforcement purposes; modify JOBS exemptions and good cause criteria, and increase sanctions for non-compliance; make job search a condition of eligibility; allow non-custodial parents of AFDC children to participate in JOBS; pay transitional grant equaling 3 percent of the maximum family grant following employment; and provide transitional grant Medicaid and child care for 12 months from the date of employment for cases previously closed due to time limit.

Date Received: 6/12/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Linda Martin (804) 737–6010.

Project Title: Tennessee—Families First.

Description: Statewide, would impose 18 month time limit with 60 month lifetime limit on cash assistance for non-exempt families (extensions available under certain circumstances); require full-time (40 hours) work or combination of work and other activities such as education, training, or job search, unless exempt; eliminate many JOBS exemptions including lowering youngest-child exemption to those with a child less than 16 weeks of age; remove limits on periods of job search; impose a family cap with no increase in benefits for additional children; require unmarried teen parents without high school diploma or GED to participate in education or other approved activity; deny AFDC for three months if recipients voluntarily quit job or if applicant voluntarily quits employment within two months of AFDC application; impose whole family sanction for noncompliance with employment, training or work preparation activities; impose sanctions without a prior conciliation period; provide transitional child care and transitional Medicaid for 18 months and without regard to months of AFDC receipt; change earned income disregards; eliminate the 100-hour rule, work history and quarters of work requirements when AFDC recipient marries and disregard new stepparent's income up to set limit; hold harmless child support arrearages owed by the new husband/wife to his/her child in the new family unit as long as the parent continues to reside in the home; require that applicants and recipients sign Personal Responsibility Plan as condition of eligibility and assure that children attend school, receive regular immunizations and health checks, and the caretaker cooperates with child support enforcement; impose significant sanction for failure of children to attend school or obtain immunizations; impose whole family sanction for failure to cooperate with child support enforcement; deny AFDC for 10 years for those convicted of fraudulently receiving benefits from two states simultaneously; allow low-income entrepreneurs to establish special accounts up to $5,000; conform AFDC and Food Stamp rules by increasing resource limit to $2,000 and counting lump sum income as a resource in the month received and after, if retained; and increase auto limit to $4,600. In 12 counties allow individual development accounts up to $5,000 and in 1 county operate a Responsible Fatherhood Demonstration Pilot using IV–D funds.

Date Received: 5/1/96.

Type: Combined AFDC/Medicaid.

Current Status: New.

Contact Person: Glenda Shearon, (615) 313–5652.

Project Title: Utah—Single-Parent Employment Demonstration (Amendments).

Description: Would amend the current Single Parent Employment Demonstration (SPED), requiring preschool children to be immunized and other children to attend school; considering as a single filing unit each family with a child in common, including all children in the household related to either parent; permitting parents removed from the grant due to non-cooperation or fraud to remain eligible for JOBS services, including support services; and allowing a "best estimate" of earnings in lieu of actual earnings so long as estimate is within $100 of actual earnings. These amendments would initially be limited to the Kearns office and later expanded to other SPED sites.

Date Received: 2/7/96.

Type: AFDC.

Current Status: Pending.

Contact Person: Bill Biggs, (801) 538–4337.

III. Listing of Approved Proposals Since April 1, 1995

Project Title: Iowa—Family Investment Plan (Amendments).

Contact Person: Ann Weibers, (515) 281–7714.

IV. Requests for Copies of a Proposal

Requests for copies of an AFDC or combined AFDC/Medicaid proposal should be directed to the Administration for Children and Families (ACF) at the address listed above. Questions concerning the content of a proposal should be directed to the State contact listed for the proposal.

(Catalog of Federal Domestic Assistance Program, No. 93562; Assistance Payments—Research.)

Dated: May 6, 1996.

Howard Rolston,

Director, Office of Planning, Research and Evaluation.

[FR Doc. 96–11628 Filed 5–8–96; 8:45 am]

BILLING CODE 4184–01–P

Food and Drug Administration

[Docket No. 96N–0115]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting and recordkeeping requirements for firms that process acidified foods and thermally processed low-acid foods in hermetically sealed containers.

DATES: Submit written comments on the collection of information by July 8, 1996.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Charity B. Smith, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–1686.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c). To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Food Canning Establishment Registration, Process Filing and Recordkeeping for Acidified Foods and Thermally Processed Low-Acid Foods in Hermetically Sealed Containers (21 CFR 108.25(c)(1) and (c)(2), (d), (e), (g); 108.35(c)(1), (c)(2), (d), (e), (f), (h); 113.60(c); 113.83; 113.87; 113.89; 113.100; 114.80(b); 114.89; 114.100(a) through (d)) (OMB Control Number 0910–0037—Extension).

Under the Federal Food, Drug, and Cosmetic Act (the act), FDA is authorized to prevent the interstate distribution of food products that may be injurious to health or that are otherwise adulterated, as defined in section 402 of the act (21 U.S.C. 342). Under the authority granted to FDA by section 404 of the act (21 U.S.C. 344), FDA regulations require registration of food processing establishments, filing of process or other data, and maintenance of processing and production records for acidified foods and thermally processed low-acid foods in hermetically sealed containers. These requirements are intended to ensure safe manufacturing, processing, and packing procedures and to permit FDA to verify that these procedures are being followed. Improperly processed low-acid foods present life-threatening hazards if contaminated with foodborne microorganisms, especially *Clostridium botulinum*. The spores of *Clostridium botulinum* must be destroyed or inhibited to avoid production of the deadly toxin that causes botulism. This is accomplished with good manufacturing procedures, which must include the use of adequate heat processes or other means of preservation.

To protect the public health, FDA regulations require that each firm that manufactures, processes, or packs acidified foods or thermally processed low-acid foods in hermetically sealed containers for introduction into interstate commerce register the establishment with the Food and Drug Administration using Form FDA 2541 (21 CFR 108.25(c)(1) and 108.35(c)(2)). In addition to registering the plant, each firm is required to provide data on the processes used to produce these foods, using Form FDA 2541a for all methods except aseptic processing, or Form FDA 2541c for aseptic processing of low-acid foods in hermetically sealed containers (21 CFR 108.25(c)(2), 108.35(c)(2)). Plant registration and process filing may be accomplished simultaneously. Process data must be filed prior to packing any new product, and operating processes and procedures must be posted near the processing equipment or made available to the operator (§ 113.87(a)).

Regulations in parts 108, 113, and 114 (21 CFR parts 108, 113, and 114) require firms to maintain records showing adherence to the substantive requirements of the regulations. These records must be made available to FDA on request. Firms are also required to document corrective actions when process controls and procedures do not fall within specified limits (§§ 113.89, 114.89, and 114.100(c)); to report any instance of potential health-endangering spoilage, process deviation, or contamination with microorganisms where any lot of the food has entered distribution in commerce (§§ 108.25(d) and 108.35(d) and (e)); and to develop and keep on file plans for recalling products that may endanger the public health (§§ 108.25(e) and 108.35(f)). To permit lots to be traced after distribution, acidified foods and thermally processed low-acid foods in hermetically sealed containers must be marked with an identifying code (§§ 113.60(c) (thermally processed foods), 114.80(b) (acidified foods)).

FDA estimates the burden of complying with the information collection provisions of the agency's regulations for acidified foods and thermally processed low-acid foods in hermetically sealed containers as follows:

Estimated Annual Reporting Burden

Form No.	CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours Per Response	Total Hours
Form FDA 2541 (Registration)	108.25(c)(1) and 108.35(c)(1)	500	1	300	.17	51
Form FDA 2541a (Process Filing)	108.25(c)(2) and 108.35(c)(2)	1,000	6.5	6,500	.333	2,165
Form FDA 2541c (Process Filing)	108.35(c)(2)	1,000	.50	500	.75	375
	113.60(c)	?	?	?	?	?
	114.80(b)	?	?	?	?	?

Where question marks appear in the burden estimates, FDA does not have current information available. Public comments will be greatly appreciated.

Estimated Annual Recordkeeping Burden

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours Per Recordkeeper	Total Hours
21 CFR Parts 108, 113, 114	5,388	1	5,388	250	1,347,000

There are no capital or operating and maintenance costs associated with this collection.

The reporting burden for §§ 108.25(d) and 108.35(d) and (e) isinsignificant because notification of spoilage, process deviation, or contamination of product in distribution occurs less than once a year. Most firms discover these problems before the product is distributed and, therefore, are not required to report the occurrence. To avoid double-counting, estimates for §§ 108.25(g) and 108.35(h) have not been included because they merely cross-reference recordkeeping requirements contained in parts 113 and 114.

Dated: May 1, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–11515 Filed 5–8–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96F–0138]

Bio-Cide International, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Bio-Cide International, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of acidified sodium chlorite solutions in processing water and ice which directly contact seafood such as finfish, shellfish, and crustaceans for the control of naturally occurring spoilage microorganisms to increase shelf life and to enhance seafood product freshness.

DATES: Written comments on the petitioner's environmental assessment by June 10, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, 202–418–3074.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 6A4499) has been filed by Bio-Cide International, Inc., 2845 Broce Dr., Norman, OK 73072. The petition proposes to amend the food additive regulations in part 173 Secondary Direct Food Additives Permitted in Food for Human Consumption (21 CFR part 173) to provide for the safe use of acidified sodium chlorite solutions in processing water and ice which directly contact seafood such as finfish, shellfish, and crustaceans for the control of naturally occurring spoilage microorganisms to increase shelf life and to enhance

seafood product freshness.The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before June 10, 1996, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m. Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: April 22, 1996.

George H. Pauli,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–11512 Filed 5–8–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 92F–0219]

Transcommerz AG; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 2B4325), filed by Transcommerz AG, proposing that the food additive regulations be amended to provide for the safe use of α-hydro-ω-hydroxypoly-(oxytetramethylene), diphenylmethane diisocyanate, 1,4-butanediol, ethylenediamine, 1,3-benzenedimethanamine, diethanolamine, and 1,3,5-tris(4-*tert*-butyl-3-hyroxy-2,6-dimethylbenzyl)-1,3,5-triazine-2,4,6-(1H,3H,5H)trione as components of a polyurethane elastomer; and dimethyl-polysiloxane, α-(ρ-nonylphenyl)-ω-hydroxypoly(oxyethylene), and parrafin oil as components of sizing and finishing oils for the polyurethane elastomer in food-contact articles used in the processing and packaging of food, including meat and poultry. Transcommerz AG has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: April 23, 1996.

Eugene C. Coleman,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–11513 Filed 5–8–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95S–0181]

U.S.–European Union Mutual Recognition Agreement Activities; Pharmaceutical GMP's and Medical Devices; Establishment of a Public Docket

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the establishment of a public docket through which it will make available information concerning its participation in bilateral Mutual Recognition Agreement (MRA) talks in the areas of pharmaceutical GMP's and medical devices being led by the Office of the U.S. Trade Representative (USTR) and the Department of Commerce (DOC) and by representatives of the European Commission.

ADDRESSES: Documents concerning FDA's bilateral MRA talks are available for public examination in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Walter M. Batts, Office of International Affairs (HFY–50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4480.

SUPPLEMENTARY INFORMATION: The U.S. Government, led by USTR and DOC, is engaged in formal talks with the European Union (EU), led by Directorate-General I (External Relations) of the European Commission. The EU initiated these talks to facilitate access to foreign markets for their products and to facilitate access to the EU market for foreign products. The EU indicated that the latter purpose was in response to concerns raised by foreign countries, including the United States, that the "Single Internal Market by 1992" program would result in a "fortress Europe" that would disadvantage foreign firms. The EU is also pursuing separate MRA talks with other countries, including Canada, Australia, and Japan.

As a result of an EU request to identify products to be covered by the MRA talks and their proposal that pharmaceuticals and medical devices be included, the U.S. Government with support by the industry agreed that pharmaceuticals, GMP's, and medical devices should be among those areas included in the talks. FDA's discussions with the EU cover GMP's for human and animal drugs, human biologicals, and medical devices.

In 1989, prior to the initiation of the MRA talks by Directorate-General I, USTR, and DOC, FDA and Directorate-General III (Industrial Affairs) of the European Commission decided to begin discussions that may lead to an agreement in the pharmaceutical good manufacturing practices (GMP's) and medical devices area. FDA's primary motivation in seeking such an agreement was at that time, and still is, a desire to most effectively utilize limited resources. FDA recognized the value of pursuing such agreements with selected foreign regulatory bodies in its 1992 "Report of the Task Force on International Harmonization." The task force concluded that the development of memoranda of understanding (MOU's) is an effective means of facilitating international harmonization; of ensuring the safety, efficacy, and/or quality of products that are offered for import into the United States; and of efficiently using agency inspectional resources. The task force, however, cautioned that the negotiation of MOU's must be with foreign regulatory agencies that have appropriate authority and expertise to ensure the proper implementation of any MOU that may be agreed upon. A properly conceived and executed agreement with the European Commission would permit the use of EU Member State government inspectional information to assist FDA in its regulatory decisionmaking and could help to set priorities for foreign inspection or import surveillance programs. Early initiatives to pursue an MOU with the European Commission did not receive high priority by either side. Recently the MRA talks have served as a catalyst for reinvigorating these discussions.

The talks have been led by USTR and DOC with the Directorate-General I as their counterpart office in the European Commission. There have been six rounds of talks to date, beginning in April 1994. The most recent round of talks was held in Washington, DC, from November 13 through 15, 1995. FDA has participated in each round of discussions.

To provide an opportunity for public input into the pharmaceutical GMP discussions with the European Commission and the Member States, FDA hosted a public exchange meeting on March 31, 1995. The meeting was attended by approximately 40 persons representing the drug and biologics industries, consultants, and other organizations. Attendees expressed support for, as well as concerns regarding, the proposed agreement.

A delegation of FDA officials attended a pharmaceutical GMP workshop hosted by the European Commission in Brussels from April 3 to 5, 1995. The purpose of the meeting was to exchange information on inspection programs in the United States and the EU, and how each of the EU Member States carries out its role. The Canadian Health Protection Branch also attended the meeting and made a presentation on their pharmaceutical GMP program. At the conclusion of the workshop it was agreed that further cooperative efforts are needed before we could develop an MRA or MOU. Such efforts could include exchange of inspection reports, joint inspections, joint training of inspectors, and development of a joint inventory of facilities requiring inspection.

Also, following the conclusion of the workshop, industry representatives from the EU and the United States were invited to express their views. Both sides expressed support for an agreement. The U.S. pharmaceutical industry generally expressed the desire for a harmonized approach. The EU pharmaceutical industry expressed a desire for an approach that provided for mutual recognition of the current systems.

On May 1, 1995, a delegation of FDA officials also participated in meetings with EU officials and notified body representatives to allow both sides to better understand their respective medical device regulatory regimes. In addition to useful exchange of information and "confidence building," the meetings helped to clarify several technical issues related to an MRA on medical devices.

Through this notice, FDA is establishing a public docket in order to make available at a convenient location certain information concerning its participation in these bilateral MRA talks. Information currently contained in this public docket includes the following:

Minutes of the FDA-sponsored public exchange meeting held on March 31, 1995.

Agenda of FDA-sponsored public exchange meeting held on March 31, 1995.

Statements of participants presented at the FDA-sponsored public exchange meeting held on March 31, 1995.

Summary of the April 3 through 5, 1995, Pharmaceutical GMP Workshop in Brussels.

Summary of the July 10 through 12, 1995, MRA talks in Brussels concerning pharmaceutical GMP's.

FDA summary of November 13 through 15, 1995, round of negotiations.

Presentation of Walter Batts entitled "Mutual Recognition Agreement Negotiations with EU re: Pharmaceutical GMP's-FDA's Perspective," February 13, 1996.

Dated: May 1, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–11517 Filed 5–8–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[MB–093–N]

Medicaid Program; Limitations on Aggregate Payments to Disproportionate Share Hospitals: Federal Fiscal Year 1996

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the preliminary Federal fiscal year (FFY) 1996 national target and individual State allotments for Medicaid payment adjustments made to hospitals that serve a disproportionate number of Medicaid recipients and low-income patients with special needs. We are publishing this notice in accordance with the provisions of section 1923(f)(1)(C) of the Social Security Act and implementing regulations at 42 CFR 447.297 through 447.299. The preliminary FFY 1996 State disproportionate share hospital (DSH) allotments published in this notice will be superseded by final FFY 1996 DSH allotments to be published in the **Federal Register** subsequent to the publication of this notice.

EFFECTIVE DATE: The preliminary DSH payment adjustment expenditure limits included in this notice apply to Medicaid DSH payment adjustments that are applicable to FFY 1996.

FOR FURTHER INFORMATION CONTACT: Richard Strauss, (410) 786–2019.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1902(a)(13)(A) of the Social Security Act (the Act) requires States to ensure that their Medicaid payment rates include payment adjustments for Medicaid-participating hospitals that serve a large number of Medicaid recipients and other low-income individuals with special needs (referred to as disproportionate share hospitals (DSHs)). The payment adjustments are calculated on the basis of formulas specified in section 1923 of the Act.

Section 1923(f) of the Act and implementing Medicaid regulations at 42 CFR 447.297 through 447.299 require us to estimate and publish in the **Federal Register** the national target and each State's allotment for DSH payments for each Federal fiscal year (FFY). The implementing regulations provide that the national aggregate DSH limit for a FFY specified in the Act is a target rather than an absolute cap when determining the amount that can be allocated for DSH payments. The national DSH target is 12 percent of the total amount of medical assistance

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expenditures (excluding total administrative costs) that are projected to be made under approved Medicaid State plans during the FFY. (Note: Whenever the phrases "total medical assistance expenditures" or "total administrative costs" are used in this notice, they mean both the State and Federal share of expenditures or costs.)

In addition to the national DSH target, there is a specific State DSH limit for each State for each FFY. The State DSH limit is a specified amount of DSH payment adjustments applicable to a FFY above which FFP will not be available. This is called the "State DSH allotment".

Each State's DSH allotment for FFY 1996 is calculated by first determining whether the State is a "high-DSH State," or a "low-DSH State." This is determined by using the State's "base allotment." A State's base allotment is the greater of the following amounts: (1) the total amount of the State's actual and projected DSH payment adjustments made under the State's approved State plan applicable to FFY 1992, as adjusted by HCFA; or (2) $1,000,000.

A State whose base allotment exceeds 12 percent of the State's total medical assistance expenditures (excluding administrative costs) projected to be made in FFY 1996 is referred to as a "high-DSH State." The FFY 1996 State DSH allotment for a high-DSH State is limited to the State's base allotment.

A State whose base allotment is equal to or less than 12 percent of the State's total medical assistance expenditures (excluding administrative costs) projected to be made in FFY 1996 is referred to as a "low-DSH State." The FFY 1996 State DSH allotment for a low-DSH State is equal to the State's DSH allotment for FFY 1995 increased by growth amounts and supplemental amounts, if any. However, the FFY 1996 DSH allotment for a low-DSH State cannot exceed 12 percent of the State's total medical assistance expenditures for FFY 1996 (excluding administrative costs).

A State that is classified as a high-DSH State for one year, because its base allotment exceeds 12 percent of its total medical assistance expenditures for that year, may not continue to meet the high-DSH State definition in other years. That is, if the State's base allotment for another year is equal to or less than 12 percent of its total medical assistance for that year, the State would be classified as a low-DSH State for that year. As a low-DSH State, the State could potentially receive growth for that year.

The growth amount for FFY 1996 is equal to the projected percentage increase (the growth factor) in a low-DSH State's total Medicaid program expenditures between FFY 1995 and FFY 1996 multiplied by the State's final DSH allotment for FFY 1995. Because the national DSH limit is considered a target, low-DSH States whose programs grow from one year to the next can receive a growth amount that would not be permitted if the national limit was viewed as an absolute cap.

There is no growth factor and no growth amount for any low-DSH State whose Medicaid program does not grow (that is, stayed the same or declined) between FFY 1995 and FFY 1996. Furthermore, because a low-DSH State's FFY 1996 DSH allotment cannot exceed 12 percent of the State's total medical assistance expenditures, it is possible for its FFY 1996 DSH allotment to be lower than its FFY 1995 DSH allotment. For example, this occurs when the State experiences a decrease in its program expenditures between FFY 1995 and FFY 1996 and its 1995 FFY DSH allotment is greater than 12 percent of the total projected medical assistance expenditures for the current FFY. This is the case for the State of Rhode Island for FFY 1996.

There is no supplemental amount available for redistribution for FFY 1996. The supplemental amount, if any, is equal to a low-DSH State's proportional share of a pool of funds (the redistribution pool). The redistribution pool is equal to the national 12-percent DSH target reduced by the total of the base allotments for high-DSH States, the total of the State DSH allotments for the previous FFY for low-DSH States, and the total of the low-DSH State growth amounts. Since the sum of these amounts is above the projected FFY 1996 national 12-percent DSH target, there is no redistribution pool and, therefore, no supplemental amounts for FFY 1996.

As prescribed in the law and regulations, no State's DSH allotment will be below a minimum of $1,000,000.

As an exception to the above requirements, under section 1923(f)(1)(A)(i)(II) of the Act and regulations at 42 CFR 447.296(b)(5) and 447.298(f), a State may make DSH payments for a FFY in accordance with the minimum payment adjustments required by Medicare methodology described in section 1923(c)(1) of the Act. The State of Nebraska's preliminary State DSH allotment has been determined in accordance with this exception.

We are publishing in this notice the preliminary FFY 1996 national DSH target and State DSH allotments based on the best available data we received from the States' August 1995 submissions of the Medicaid budget report (Form HCFA–37), as adjusted by HCFA. We intend to publish the final FFY 1996 DSH allotments in the **Federal Register** subsequent to the publication of this notice.

The final allotments are calculated using actual Medicaid expenditures for FFY 1995 as reported to HCFA on States' quarterly expenditure reports (Form HCFA–64) for FFY 1995 and estimates of Medicaid expenditures for FFY 1996 as reported to HCFA on States' Form HCFA–37 February 1996 submissions.

II. Calculations of the Preliminary FFY 1996 DSH Limits

The total of the preliminary State DSH allotments for FFY 1996 is equal to the sum of the base allotments for all high-DSH States, the FFY 1995 State DSH allotments for all low-DSH States, and the growth amounts for all low-DSH States. A State-by-State breakdown is presented in section III of this notice.

We classified States as high-DSH or low-DSH States. If a State's base allotment exceeded 12 percent of its total unadjusted medical assistance expenditures (excluding administrative costs) projected to be made under the State's approved plan under title XIX of the Act in FFY 1996, we classified that State as a "high-DSH" State. If a State's base allotment was 12 percent or less of its total unadjusted medical assistance expenditures projected to be made under the State's approved plan under title XIX of the Act in FFY 1996, we classified that State as a "low-DSH" State. Based on this classification, there are 36 low-DSH States and 14 high-DSH States for FFY 1996.

Using the most recent data from the States' August 1995 budget projections (Form HCFA–37), we estimate the States' FFY 1996 national total medical assistance expenditures to be $160,184,881,000. Thus, the overall preliminary national FFY 1996 DSH expenditure target is $19,222,186,000 (12 percent of $160,184,881,000).

In the preliminary FFY 1996 State DSH allotments, we provide a total of $519,764,000 ($310,963,000 Federal share) in growth amounts for the 36 low-DSH States. The growth factor percentage for each of the low-DSH States was determined by calculating the Medicaid program growth percentage for each low-DSH State between FFY 1995 and FFY 1996. To compute this percentage, we first ascertained each low-DSH State's total FFY 1995 medical assistance and administrative expenditures as reported on the State's August 15, 1995, submission of the Medicaid Budget Report (Form HCFA–37) through the "cutoff" date of September 8, 1995. The cutoff date is the date through which the August 1995 Medicaid budget report submission estimates are accepted and applied in preparing the States' Medicaid grant award for the upcoming quarter (October through December 1995). Next, we compared those estimates to each low-DSH State's total estimated unadjusted FFY 1996 medical assistance and administrative expenditures as reported to HCFA on the States' August 1995 Form HCFA–37 submission.

The growth factor percentage was multiplied by the low-DSH States' final FFY 1995 DSH allotment amount to establish the States' preliminary growth amount for FFY 1996.

Since the sum of the total of the base allotments for high-DSH States, the total of the State DSH allotments for the previous FFY for low-DSH States, and the growth for low- DSH States ($19,602,716,000) is greater than the preliminary FFY 1996 national target ($19,222,186,000), there is no preliminary FFY 1996 redistribution pool.

The low-DSH States' growth amount was then added to the low-DSH States' final FFY 1995 DSH allotment amount to establish the preliminary total low-DSH State DSH allotment for FFY 1996. If a State's growth amount, when added to its final FFY 1995 DSH allotment amount, exceeds 12 percent of its FFY 1996 estimated medical assistance expenditures, the State only receives a partial growth amount that, when added to its final FFY 1995 allotment, limits its total State DSH allotment for FFY 1996 to 12 percent of its estimated FFY 1996 medical assistance expenditures. For this reason, six of the low-DSH States received partial growth amounts.

As explained above, Rhode Island's preliminary FFY 1996 DSH allotment is lower than its final FFY 1995 DSH allotment. Also, in accordance with the minimum payment adjustments required by Medicare methodology, Nebraska's FFY 1996 State DSH allotment is $11,000,000.

In summary, the total of all preliminary State DSH allotments for FFY 1996 is $19,602,716,000 ($11,137,851,000 Federal share). This total is composed of the prior FFY's final State DSH allotments ($19,084,239,000) plus growth amounts for all low-DSH States ($519,764,000), minus the amount of reduction in Rhode Island's FFY 1996 DSH allotment ($1,286,000), plus supplemental amounts for low-DSH States ($0). The total of all preliminary FFY 1996 State DSH allotments is 12.2 percent of the total medical assistance expenditures (excluding administrative costs) projected to be made by these States in FFY 1996. The total of all preliminary DSH allotments for FFY 1996 is $380,531,000 over the FFY 1996 national target amount of $19,222,186,000.

Each State should monitor and make any necessary adjustments to its DSH spending during FFY 1996 to ensure that its actual FFY 1996 DSH payment adjustment expenditures do not exceed its preliminary State DSH allotment for FFY 1996 published in this notice. As the ongoing reconciliation between actual FFY 1996 DSH payment adjustment expenditures and the FFY 1996 DSH allotments takes place, each State should amend its plan as may be necessary to make any adjustments to its FFY 1996 DSH payment adjustment expenditure patterns so that the State will not exceed its FFY 1996 DSH allotment.

The FFY 1996 reconciliation of DSH allotments to actual expenditures will take place on an ongoing basis as States file expenditure reports with HCFA for DSH payment adjustment expenditures applicable to FFY 1996. Additional DSH payment adjustment expenditures made in succeeding FFYs that are applicable to FFY 1996 will continue to be reconciled with each State's FFY 1996 DSH allotment as additional expenditure reports are submitted to ensure that the FFY 1996 DSH allotment is not exceeded. As a result, any DSH payment adjustment expenditures for FFY 1996 in excess of the FFY 1996 DSH allotment will be disallowed; and therefore, subject to the normal Medicaid disallowance procedures.

III. Preliminary FFY 1996 DSH Allotments Under Public Law 102–234

Key to Chart:

Column/Description

Column A = Name of State

Column B = Final FFY 1995 DSH Allotments for All States. For a high-DSH State, this is the State's base allotment, which is the greater of the State's FFY 1992 allowable DSH payment adjustment expenditures applicable to FFY 1992, or $1,000,000. For a low-DSH State, this is equal to the final DSH allotment for FFY 1995, which was published in the **Federal Register** on September 8, 1995.

Column C = Growth Amounts for Low-DSH States. This is an increase in a low-DSH State's final FFY 1995 DSH allotment to the extent that the State's Medicaid program grew between FFY 1995 and FFY 1996.

Column D = Preliminary FFY 1996 State DSH Allotments. For high-DSH States, this is equal to the base allotment from column B. For low-DSH States, this is equal to the final State DSH allotments for FFY 1995 from column B plus the growth amounts from column C.

Column E = High- or Low- DSH State Designation for FFY 1996. "High" indicates the State is a high-DSH State and "Low" indicates the State is a low-DSH State.

IV. Regulatory Impact Statement

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (R.A.) (5 U.S.C. 601 through 612), unless we certify that a notice would not have a significant economic impact on a substantial number of small entities. For purposes of an R.A., States and individuals are not considered small entities. However, providers are considered small entities. Additionally, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a notice may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the R.A. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This notice sets forth no changes in our regulations; rather, it reflects the DSH allotments for each State as determined in accordance with §§ 447.297 through 447.299.

We have discussed the method of calculating the preliminary FFY 1996 national aggregate DSH target and the preliminary FFY 1996 individual State DSH allotments in the previous sections of this notice. These calculations should have a positive impact on payments to DSHs. Allotments will not be reduced for high-DSH States since we interpret the 12-percent limit as a target. Low-DSH States will get their prior FFY DSH allotments plus their growth amounts.

In accordance with the provisions of Executive Order 12886, this notice was reviewed by the Office of Management and Budget.

(No. 93.778, Medical Assistance Program)

Dated: February 21, 1996.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: April 5, 1996.

Donna E. Shalala,

Secretary.

[FR Doc. 96–11627 Filed 5–8–96; 8:45 am]

BILLING CODE 4120–01–P

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Projects

Organ Procurement and Transplantation Network (OPTN) Data System

(OMB No. 0915–0157)—Extension and Revision—The data collection system of the OPTN and Scientific Registry provides for collection of data on organ transplantation, including heart, kidney, liver, heart-lung, pancreas and small intestine transplants. The OPTN data collection is required under Section 372 of the Public Health Service Act and includes data on pre-transplant activities. This includes cadaveric and live donor characteristics, and histocompatibility testing that is used in the matching of donor organs with recipients. Section 373 of the Public Health Service Act requires the Scientific Registry to collect, analyze and report on clinical and scientific data of importance to post-transplant graft and patient function. This involves a routine, periodic, submission of data for each organ transplant patient at the time of transplant, one-year (or six months for heart transplant patients), and annually post-transplant until graft failure or patient death.

Information and data collected by the OPTN and Scientific Registry are used primarily to analyze policies for the allocation of donor organs, and to assess the clinical outcomes of transplantation. The data are also used by the committees and Board of Directors of the OPTN for developing and reviewing policies related to allocation, patient listing criteria, optimal organ preservation times, and infectious disease screening.

Respondents include organ procurement organizations (for cadaveric donor data), histocompatibility laboratories (for tissue typing data), and transplant hospitals (for pre- and post-transplant data on recipients). The data are used to issue two key reports—the Annual Data Report and the Report of Patient and Graft Survival Rates (issued biennially).

HRSA proposes to make only minor changes to the data elements to obtain more detailed information on transplant patients and their post-clinical course. For example, additional categories will be added to several items on the forms. HRSA invites comments on these and other possible changes to the OPTN and Scientific Registry datasets.

The estimated annual response burden is as follows:

Form Type	Number of respondents	No. of responses per respondent	Total responses	Hours per response	Total burden hours
1. Cadaver Donor Registration/Referral	69	217	15,000	[1] 0.2	3,000
2. Living Donor Registration	69	54	3,700	0.2	740
3. Donor Histocompatibility	51	196	10,000	0.1	1,000
4. Potential Recipient Form	69	275	19,000	0.1	1,900
5. Recipient Histocompatibility	51	392	20,000	0.1	2,000
6. Transplant Candidate Registration	69	638	44,000	0.1	4,400
7. Thoracic Registration	166	21	3,500	0.3	1,050
8. Thoracic Follow-Up	166	101	16,800	0.3	5,040
9. Kidney Registration	248	49	12,200	0.3	3,660
10. Kidney Follow-Up	248	399	111,000	[2] 0.2	22,200
11. Liver Registration	119	34	4,000	0.4	1,600
12. Liver Follow-Up	119	176	21,000	0.4	8,400
13. Pancreas Registration	120	8	1,000	0.2	200
14. Pancreas Follow-Up	120	34	4,100	0.2	820
15. Intestine Registration	26	4	100	0.2	20
16. Intestine Follow-Up	26	8	200	0.2	40
Total	799	357	285,800	20	56,070

[1] It is estimated that 15,000 of these forms will be completed each year but approximately 9,500 will be referrals only. For those patients, only the first page of the form and one question on the second page will be completed. The average completion time for all 14,000 forms is 0.2 hours.

[2] Includes an estimated 20,000 kidney transplant patients, transplanted prior to the initiation of the data system, October 1, 1987.

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: May 3, 1996.

J. Henry Montes,

Associate Administrator for Policy Coordination.

[FR Doc. 96–11599 Filed 5–8–96; 8:45 am]

BILLING CODE 4160–15–P

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Health Professions Student Loan (HPSL) Program and Nursing Student Loan (NSL) Program Administrative Requirements (Regulations and Policy) (0915–0047)—Extension and Revision

The regulations for the Health Professions Student Loan (HPSL) Program and Nursing Student Loan (NSL) Program contain a number of reporting and recordkeeping requirements for schools and loan applicants. The requirements are essential for assuring that borrowers are aware of their rights and responsibilities, that schools know the history and status of each loan account, that schools pursue aggressive collection efforts to reduce default rates, and that they maintain adequate records for audit and assessment purposes. For consistency with the current regulations which were amended recently (published in 61 FR 6118 on 2/16/96), minor changes have been made to the requirements included in this request for OMB approval.

Schools are free to use information technology to manage the information required by the regulations. The estimated burden is as follows:

RECORDKEEPING REQUIREMENTS

Reg./section requirement	No. of recordkeepers	Hours per year	Total burden hours
HPSL Program:			
57.206(b)(2) Documentation of Cost of Attendance	290	1.17	339
57.208(a) Promissory Note	290	1.25	363
57.210(b)(1)(i) Documentation of Entrance Interview	290	1.25	363
57.210(b)(1)(ii) Documentation of Exit Interview	313	.33	103
57.215(a) & (d) Program Records	313	10	3,130
57.215(b) Student Records	313	10	3,130
57.215(c) Repayment Records	313	18.75	5,869
HPSL Subtotal	313	42.48	13,297
NSL Program:			
57.306(b)(2)(ii) Documentation of Cost of Attendance	435	.3	131
57.308(a) Promissory Note	435	.5	218
57.310(b)(1)(i) Documentation of Entrance Interview	435	.5	218
57.310(b)(1)(ii) Documentation of Exit Interview	909	.17	155
57.315(a)(1) & (a)(4) Program Records	909	5.0	4,545
57.315(a)(2) Student Records	909	1.0	909
57.315(a)(3) Repayment Records	909	2.5	2,273
NSL Subtotal	909	9.29	8,449

REPORTING REQUIREMENTS

Reg./sect. requirement	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hour burden
HPSL Program:					
57.205(a)(2) Excess Cash	[Burden included under 0915–0044 and 0915–0046]				
57.206(a)(3) Student Financial Aid Transcript	5,000	1	5,000	.25	1,250
57.208(c) Loan Information Disclosure	290	72.41	21,000	.083	1,743
57.210(a)(3) Deferment Eligibility	[Burden included under 0915–0044]				
57.210(b)(1)(i) Entrance Interview	290	72.41	21,000	.167	3,507
57.210(b)(1)(ii) Exit Interview	313	15.97	5,000	.483	2,415
57.210(b)(1)(iii) Notification of Repayment	313	35.14	11,000	.167	1,837
57.210(b)(1)(iv) Notification During Deferment	313	28.75	9,000	.083	747
57.210(b)(1)(vi) Notification of Delinquent Accounts	313	15.97	5,000	.167	835
57.210(b)(1)(x) Credit Bureau Notification	313	12.78	4,000	.6	2,400
57.210(b)(4)(i) Write-off of Uncollectible Loans	26	1.8	48	.5	24
57.211(a) Disability Cancellation	16	1	16	.75	12
57.215(a) Reports	[Burden included under 0915–0044]				
57.215a(2) Admin. Hearings	0	0	0	0	0
57.216a(d) Admin. Hearings	0	0	0	0	0
HPSL Subtotal	5,313	15.26	81,064	.182	14,770

REPORTING REQUIREMENTS—Continued

Reg./sect. requirement	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hour burden
NSL Program:		[Burden included under 0915–0044 and 0915–0046]			
57.305(a)(2) Excess Cash	3,000	1	3,000	.25	750
57.306(a)(2) Student Financial Aid Transcript	435	27.59	12,000	.167	2,004
57.310(b)(1)(i) Entrance Interview	909	4.4	4,000	.483	1,932
57.310(b)(1)(ii) Exit Interview	909	7.37	6,700	.167	1,119
57.310(b)(1)(iii) Notification of Repayment	909	.77	700	.083	58
57.310(b)(1)(iv) Notification During Deferment	909	5.5	5,000	.167	835
57.310(b)(1)(vi) Notification of Delinquent Accounts	909	9.9	9,000	.6	5,400
57.310(b)(1)(x) Credit Bureau Notification	45	2.13	96	.5	48
57.310(b)(4)(i) Write-off of Uncollectible Loans	14	1	14	.75	11
57.311(a) Disability Cancellation		[Inactive provision]			
57.312(a)(3) Evidence of Educational Loans		[Burden included under 0915–0044]			
57.315(a)(1) Reports	0	0	0	0	0
57.315(a)(1)(ii) Admin. Hearings	0	0	0	0	0
57.316a(d) Admin. Hearings					
NSL Subtotal	3,909	10.36	40,510	.30	12,157

Estimated total annual burden: 48,673 hours.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Virginia Huth, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: May 3, 1996.

J. Henry Montes,

Associate Administrator for Policy Coordination.

[FR Doc. 96–11600 Filed 5–8–96; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Notice of Proposed Information Collection for Public Comment

[Docket No. FR–3917–N–73]

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: July 8, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451—7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Donald Kline, Single Family Operations Division, telephone number (202) 708–0614, ext. 3511 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Mortgage Record Change.

OMB Control Number: 2502–0422.

Description of the need for the information and proposed use: The Mortgage Record Change Form HUD–92080 is used by mortgagees to comply with HUD requirements for reporting the sale of mortgage between investors, 24.4031, and/or transfer of the mortgage servicing responsibility, 24 CFR 203.502, as appropriate.

The information required is used to update HUD's Single Family Insurance System and other related systems. Current data is necessary to establish mortgage premium liability, forward annual premium mortgage data to the appropriate mortgagee/servicer, and maintain premium receivable and program data regarding investors/servicer activity. Without the required data the premium collection/monitoring function would be severely impeded and program data would be unreliable. Annual expected amount due Regular Monthly Insurance Premiums (Section 530) is 3.23 billion and 1.85 billion for Risk-base premium. This information is essential for the Risk-base program, as HUD does case level accounting in recording premiums payments by mortgagees.

Agency form numbers: HUD–92080.

Members of affected public: Mortgagees.

An estimate of the total numbers of hours needed to prepare the information collection is 222,600 (burden of one tenth hour per response based on actual time required to complete form), the number of respondents is approximately 9,100, frequency of response is daily as required, and the volume of response per respondent 20–20,000 annually depending on size of their FHA portfolio.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 29, 1996.

Stephanie A. Smith,

Acting General Deputy, A/S Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96–11552 Filed 5–8–96; 8:45 am]

BILLING CODE 4210–27–M

[Docket No. FR–3917–N–76]

Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: July 8, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451—7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Betty Belin, Telephone number (202) 708–0614 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Multifamily Coinsurance claims Package (f).

OMB Control Number: 2502–0420.

Description of the need for the information and proposed use: Under Statute 12 USC 1715z–9 and Title II, Section 244 of the National Housing Act authorizes the Secretary of HUD to coinsure eligible multifamily mortgages against default. In addition to complying with statutory requirements, the information collected is used by HUD to determine the claim amount due the mortgagee. The main purpose for the forms is for lenders to file a claim for insurance benefits.

Agency form numbers: HUD 27008, 27009B, 27009D, 27009F.

Members of affected public: Mortgagees participating in Section 223(f).

An estimation of the total numbers of hours needed to prepare the information collection is 5, the number of respondents is 5, frequency of response is 1, and the hours of response is 5.

Status of the proposed information collection: Reinstatement with change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 2, 1996.

Nicolas P. Retsinas,

A/S Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96–11553 Filed 5–8–96; 8:45 am]

BILLING CODE 4210–27–M

[Docket No. FR–3917–N–75]

Government National Mortgage Association; Notice of Proposed Information Collection for Public Comment

AGENCY: Government National Mortgage Association, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: July 8, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Sonya K. Suarez, Government National Mortgage Association, Office of Program, Policy, Procedure, and Risk Management, Department of Housing and Urban Development, 451—7th Street, SW, Room 6222, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Sonya K. Suarez, on (202) 708–2884 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Schedule of Pooled Mortgages.

OMB Control Number: 2503–0010.

Description of the need for the information and proposed use: The form provides a means of identifying specific single family, multifamily, and manufactured housing mortgages in the pool and assures that all required mortgage and related documents have, in fact, been delivered to a document custodian. This information is necessary to assure Ginnie Mae's interest in the pooled mortgages in the event of a default

Agency form numbers: HUD form 11706.

Members of affected public: Business or other for-profit and the Federal Government.

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Estimation of the total numbers of hours needed to prepare the information collection including the number of respondents, frequency of response, and hours of response:

HUD FORM 11706

No. of respondents		Frequency of responses		Total annual responses		Hour per response burden		Total hours
650	×	18	=	11,700	×	.25	=	2,925

Status of the proposed information collection: Extension of currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 26, 1996.

William E. Dobrzykowski,

Acting Executive Vice President, Government National Mortgage Association.

[FR Doc. 96–11554 Filed 5–8–96; 8:45 am]

BILLING CODE 4210–01–M

Office of Administration; Submission for OMB Review: Comment Request

[Docket No. FR 3919–N–03]

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: June 10, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (3) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 24, 1996.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Divsion.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Public/Private Partnerships for Mixed-Finance Development for Public Housing Units; Project Proposal and Legal Authority for Public Housing Development (FR–3919).

Office: Public and Indian Housing.

OMB Control Number: 2577–0033.

Description of the Need for the Information and Its Proposed Use: The forms will provide the Department with sufficient information to determine relative funding priorities for localities, PHA eligibility to participate in the program, and whether project proposals meet the program requirements. PHAs must also provide information that must be met by the partnership before HUD will approve a proposal for mixed-finance development.

Form number: HUD–52470, 52471, 52472, 9009, 52483A, 52651A, 52485, 51971–I, and 52482.

Respondents: State, Local, or Tribal Government and Business or Other For-Profit.

Frequency of Submission: Recordkeeping and Annually.

Reporting Burden:	No. of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application	35		1		84.5		2,960
Information Collections	382		Varies		Varies		5,545
Recordkeeping	382		1		1		382

Total Estimated Burden Hours: 8,887.

Status: Revision.

Contact: Bill Flood, HUD, (202) 708–1640, ext. 4185; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: April 24, 1996.

[FR Doc. 96–11550 Filed 5–8–96; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–010–5101–00–K012, WYW–128830]

Notice of Availability of the Record of Decision for the Express Pipeline Project

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The Wyoming State Director of the Bureau of Land Management (BLM) has issued a Record of Decision (ROD) stating the BLM's intent to grant a right-of-way (ROW) and associated temporary use permits across public lands to Express Pipeline Inc., for the construction, operation, and maintenance of a 24-inch buried crude oil pipeline from the Port of Wildhorse on the U.S.-Canada border to Casper, Wyoming.

ADDRESSES: Copies of the ROD may be reviewed at the following locations: Lewistown District BLM Office, 80 Airport Road, (contact Robert Padilla, Realty Specialist), Lewistown, Montana; Worland District BLM Office, 101 South 23rd Street, (Don Ogaard, BLM Project Manager) Worland, Wyoming; Casper District BLM Office, 1701 East "E" Street, (Pat Moore, Realty Specialist), Caper, Wyoming; Montana State Department of Environmental Quality (DEQ) (Art Compton) 1520 East 6th Avenue, Helena, Montana, and county and city libraries along the proposed pipeline route.

FOR FURTHER INFORMATION CONTACT: A copy of the ROD may be obtained from the Bureau of Land Management, Worland District Office, Attn: Don Ogaard, BLM Project Manager, P.O. Box 119, Worland, Wyoming 82401–0119, telephone (307) 347–5160.

SUPPLEMENTARY INFORMATION: Express Pipeline, Inc. proposes to construct, operate, and maintain a 24-inch pipeline from Wild Horse (located on the border between Montana and Canada) to Casper, Wyoming, to transport Canadian crude oil. On February 23, 1996, the final Environmental Impact Statement for the project was issued a 30-day public review period. The ROD was signed by the Wyoming State Director on April 15, 1996. The BLM intends to issue a ROW grant and associated temporary use permits for the 97 miles of public land that would be crossed on the 515-mile route.

Construction activities would be subject to a timing restriction designed to protect big game winter range and other wildlife habitat. The decision does not affect any state or private lands crossed by the proposed route, and does not create any right or easement nor establish eminent domain, across such lands. The BLM will not issue a Notice to Proceed with construction of the public lands segments of the ROW until an acceptable Plan of Development, containing the detailed construction standards, reclamation measures, and emergency contingency plans, has been submitted by Express Pipeline, Inc. and approved by the BLM.

APPEALS: This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4, Subpart E. If you wish to appeal, a Notice of Appeal must be filed in the Wyoming State BLM Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003–1828, within 30 days from the date of publication of this notice in the **Federal Register**. The Notice of Appeal shall state clearly and concisely why you think the decision is in error. A copy of the Notice of Appeal must be served, within 15 days, on the Regional Solicitor, Rocky Mountain Region; U.S. Department of the Interior; 755 Parfet Street, Suite 151; Lakewood, Colorado 80215. Within 30 days of the Notice of Appeal, the appellant must file a Statement of Reasons for the appeal. Appellants wishing a stay of the decision must file a Petition for Stay, pursuant to 43 CFR Part 4, Subpart B, and 43 CFR 2884.1, with the Notice of Appeal.

Dated: May 3, 1996.

Alan R. Pierson,

Wyoming State Director.

[FR Doc. 96–11596 Filed 5–8–96; 8:45 am]

BILLING CODE 4310–22–M

Bureau of Land Management

[MT–960–1990–00] Resource Advisory Council Meeting, Butte, MT

AGENCY: Butte District Office, Bureau of Land Management.

ACTION: Notice of Butte District Resource Advisory Council Meeting, Butte, Montana.

SUMMARY: The Council will convene at 9 a.m. on May 22, 1996, and will continue through May 23, 1996, if all business is not completed on the 22nd. This is a regularly scheduled meeting; issues to be discussed will be Access (RS2477 and 393 Plan), Permit Security and Livestock Grazing (other than cattle). The meeting will be held in the District Office Conference Room at 106 N. Parkmont.

The meeting is open to the public and written comments may be given to the Council. Oral comments may be presented to the Council at 11 a.m. The time allotted for oral comment may be limited, depending on the number of persons wishing to be heard. Individuals who plan to attend and need further information about the meeting; or need special assistance, such as sign language or other reasonable accommodations, should contact the Butte District, 106 North Parkmont (P.O. Box 3388), Butte Montana 59702; telephone 406–494–5059.

FOR FURTHER INFORMATION CONTACT: Jim Owings at the above address or telephone number.

James R. Owings,

District Manager.

[FR Doc. 96–11543 Filed 5–8–96; 8:45 am]

BILLING CODE 4310–GG–P

INTERNATIONAL TRADE COMMISSION

Investigations Relating to Potential Breaches of Administrative Protective Orders, Sanctions Imposed for Actual Violations

AGENCY: U.S. International Trade Commission.

ACTION: Summary of Commission practice relating to administrative protective orders.

SUMMARY: This notice provides a summary by the International Trade Commission (Commission) of its investigations of (1) breaches of administrative protective orders (APOs) issued in connection with investigations under Title VII, and (2) certain violations of the Commission's rules.

This notice is intended to inform the public of the Commission's experience with APO breaches. The Commission also intends that this notice will educate and alert representatives of parties to Commission proceedings as to some specific types of APO breaches encountered by the Commission. This notice is illustrative only and does not limit the Commission's rules or

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standard APO. The notice does not provide an exclusive list of conduct that will be deemed to be a breach of the Commission's APOs, and does not indicate how the Commission will rule in future cases.

FOR FURTHER INFORMATION CONTACT: Cynthia P. Johnson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3098.

SUPPLEMENTARY INFORMATION: The discussion below illustrates APO breach investigations that the Commission has completed including a description of actions taken in response to breaches. The discussion covers breach investigations completed during 1995 with respect to antidumping and countervailing duty cases. Also discussed are the Commission's investigations completed during 1995 of possible violations of Commission rule 207.3, commonly known as the "24-hour rule."

The Commission periodically reports a summary of its actions in response to violations of Commission APOs in an effort to educate those obtaining access to business proprietary information (BPI) under an APO of the common problems encountered in handling BPI and confidential business information (CBI). This is the sixth notice of its kind, the previous ones having been published at 56 Fed. Reg. 4846 (Feb. 6, 1991), 57 Fed. Reg. 12335 (Apr. 9, 1992), 58 Fed. Reg. 21991 (Apr. 26, 1993), 59 Fed. Reg. 16834 (Apr. 8, 1994), and 60 Fed. Reg. 24880 (May 10, 1995). The Commission intends to publish summaries at least annually, and more frequently as appropriate.

As part of the effort to educate practitioners about APO practice, the Commission's Secretary issued in September 1991 *An Introduction to Administrative Protective Order Practice in Antidumping and Countervailing Duty Investigations.* A revision to the handbook is currently pending and is expected to be issued shortly. This document is available upon request from the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202–205–2000.

I. Title VII Administrative Protective Orders

A. In General

APOs are issued in Commission investigations under Title VII of the Tariff Act of 1930 to provide certain party representatives access to BPI under conditions designed to protect the confidentiality of such information. The Commission is required to disclose under APO BPI collected by the Commission to authorized representatives of interested parties who are parties to such investigations. 19 U.S.C. 1677f. The Commission has implemented procedures governing this disclosure, which is accomplished under an APO issued by the Secretary to the Commission. 19 C.F.R. § 207.7. An important provision of the Commission's rules relating to APOs is the "24-hour rule" that provides parties with an extra day in which to file the public version of certain submissions containing BPI. 19 C.F.R. § 207.3. The 24-hour rule, which permits correction of the bracketing of BPI during that extra day, was intended to reduce the incidence of APO breaches caused by inadequate bracketing and improper placement of BPI. The Commission urges parties to make use of the rule.

The Commission Secretary provides BPI only to "authorized applicants" who agree to be bound by the terms and conditions of an APO. The Commission has revised its standard APO forms for antidumping and countervailing duty investigations to reflect recent regulatory changes and Commission practice. The Commission has also created a new APO form for use in section 201 investigations. The standard APO form for antidumping and countervailing duty investigations issued by the Commission in 1995 required the applicant to swear that he or she would:

(1) Not divulge any of the BPI obtained under the APO and not otherwise available to him, to any person other than

(i) Personnel of the Commission concerned with the investigation,

(ii) The person or agency from whom the BPI was obtained,

(iii) A person whose application for disclosure of BPI under the APO has been granted by the Secretary, and

(iv) Other persons, such as paralegals and clerical staff, who (a) are employed or supervised by and under the direction and control of the authorized applicant or another authorized applicant in the same firm whose application has been granted; (b) have a need thereof in connection with the investigation; (c) are not involved in competitive decisionmaking for an interested party which is a party to the investigation; and (d) have submitted to the Secretary a signed Acknowledgment for Clerical Personnel (the authorized applicant shall also sign such acknowledgment and will be deemed responsible for such persons' compliance with the APO);

(2) Use such BPI solely for the purposes of the above-captioned Commission investigation or for judicial or binational panel review of such Commission investigation;

(3) Not consult with any person not described in paragraph (1) concerning BPI disclosed under the APO without first having received the written consent of the Secretary and the party or the attorney of the party from whom such BPI was obtained;

(4) Whenever materials (e.g., documents, computer disks, etc.) containing such BPI are not being used, store such material in a locked file cabinet, vault, safe, or other suitable container (N.B.: storage of BPI on so-called hard disk computer media is to be avoided, because mere erasure of data from such media may not irrecoverably destroy the BPI and may result in violation of paragraph C of the APO);

(5) Serve all materials containing BPI disclosed under the APO as directed by the Secretary and pursuant to section 207.7(f) of the Commission's rules;

(6) Transmit each document containing BPI disclosed under the APO:

(i) with a cover sheet identifying the document as containing BPI,

(ii) with all BPI enclosed in brackets and each page warning that the document contains BPI,

(iii) if the document is to be filed by a deadline, with each page marked "Bracketing of BPI not final for one business day after date of filing," and

(iv) if by mail, within two envelopes, the inner one sealed and marked "Business Proprietary Information— To be opened only by [name of recipient]", and the outer one sealed and not marked as containing BPI;

(7) Comply with the provisions of the APO and section 207.7 of the Commission's rules;

(8) Make true and accurate representations in the authorized applicant's application and promptly notify the Secretary of any changes that occur after the submission of the application and that affect the representations made in the application (e.g., change in personnel assigned to the investigation);

(9) Report promptly and confirm in writing to the Secretary any possible breach of the APO; and

(10) Acknowledge that breach of the APO may subject the authorized applicant and other persons to such sanctions as the Commission deems appropriate, including the administrative sanctions set out in the APO. Breach of the protective order may subject an applicant to:

(1) Disbarment from practice in any capacity before the Commission along with such person's partners, associates, employer, and employees, for up to seven years following publication of a determination that the order has been breached;

(2) Referral to the United States Attorney;

(3) In the case of an attorney, accountant, or other professional, referral to the ethics panel of the appropriate professional association; and

(4) Such other administrative sanctions as the Commission determines to be appropriate, including public release of or striking from the record any information or briefs submitted by, or on behalf of, the offender or the party represented by the offender, and denial of further access to business proprietary information in the current or any future investigations before the Commission. In addition, the Commission may take actions other than sanctions, such as the issuance of letters of warning.

Commission employees are not signatories to the Commission's APOs and do not obtain access to BPI through the APO procedure. Consequently, they are not subject to the APOs' requirements with respect to the handling of BPI. However, Commission employees are subject to strict statutory and regulatory constraints concerning BPI, and face potentially severe penalties for noncompliance. *See* 18 U.S.C. § 1905; Title 5, U.S. Code; and Commission personnel policies implementing the statutes. Although the Privacy Act (5 U.S.C. § 552a) limits the Commission's authority to disclose any personnel action against agency employees, this should not lead the public to conclude that no such actions have been taken.

B. Investigations of Alleged APO Breaches

In an antidumping or countervailing duty investigation, the investigation of an alleged APO breach generally proceeds as follows. The Secretary, acting under delegated authority, issues to the alleged breacher a letter of inquiry to ascertain the alleged breacher's views on whether a breach has occurred. If, based on the response made to such a letter of inquiry, the Commission determines that a breach has occurred, the Commission often issues a second letter asking the breacher to address the questions of mitigating circumstances and possible sanctions or other actions. The Commission then determines what action to take in response to the breach. However, in some cases, the Commission has determined that although a breach has occurred sanctions are not warranted, and therefore has found it unnecessary to issue a second letter concerning what sanctions might be appropriate. The Commission retains sole authority to make final determinations regarding the existence of a breach and the appropriate action to be taken if a breach has occurred.

The records of Commission investigations of alleged APO breaches in antidumping and countervailing duty cases are not publicly available and are exempt from disclosure under the Freedom of Information Act, 5 U.S.C. § 552. Section 135(b) of the Customs and Trade Act of 1990, 19 U.S.C. § 1677f(g).

The breach most frequently investigated by the Commission involves the APO's prohibition on the dissemination of BPI to unauthorized persons. Such dissemination usually occurs as the result of failure to delete BPI from public versions of documents filed with the Commission or of transmission of proprietary versions of documents to unauthorized recipients. Other breaches have involved: the failure to properly bracket BPI in proprietary documents filed with the Commission; the failure to immediately report known violations of an APO; and the failure to adequately supervise non-legal personnel in the handling of BPI in certain circumstances.

Sanctions for APO violations serve two basic interests: (a) preserving the confidence of submitters of BPI in the Commission as a reliable protector of BPI, and (b) disciplining breachers and deterring future violations. As the Conference Report to the Omnibus Trade and Competitiveness Act of 1988 observed, "the effective enforcement of limited disclosure under administrative protective order depends in part on the extent to which private parties have confidence that there are effective sanctions against violation." H.R. Conf. Rep. No. 576, 100th Cong., 1st Sess. 623 (1988).

The Commission has worked to develop consistent jurisprudence, not only in determining whether a breach has occurred, but also in selecting an appropriate response. In determining the appropriate response, the Commission generally considers mitigating factors such as whether the breach was unintentional, lack of prior breaches committed by the breaching party, the corrective measures taken by the breaching party, the promptness with which the breaching party reported the violation to the Commission, and any relevant circumstances peculiar to the situation. The Commission also considers aggravating circumstances, especially whether persons not under the APO actually read the BPI.

We note that Commission rules permit economists or consultants to obtain access to BPI under the APO under the direction and control of an attorney under the APO, or upon their own responsibility if the economist or consultant appears regularly before the Commission and represents an interested party who is a party to the investigation. *See* 19 C.F.R. §§ 207.7(a)(3) (B) and (C). We caution that economists or consultants who obtain access to BPI under the APO under the direction and control of an attorney nonetheless remain individually responsible for complying with the APO. In appropriate circumstances, for example, an economist under the direction and control of an attorney may be held responsible for a breach of the APO by failing to redact APO information from a document that is subsequently filed with the Commission and served as a public document. This is so even though the attorney exercising direction or control over the economist or consultant may also be held responsible for the breach of the APO.

C. Specific Investigations in Which Breaches Were Found

The following case studies are presented to educate users about the types of APO breaches found by the Commission and the sanctions imposed and other actions taken by the Commission. In addition, the case studies discuss the factors considered by the Commission as mitigating the sanctions imposed in particular instances. The Commission has not included some of the specific facts in the descriptions of investigations where disclosure could reveal the identity of a particular breacher. Thus, in some cases, apparent inconsistencies in the facts set forth in this notice result from the Commission's inability to disclose particular facts more fully.

Case 1: Several economic consultants misdelivered materials containing BPI to persons who were not signatories to the APO. The materials were returned unopened. The Commission found that a breach had occurred, but determined not to sanction the economists. Instead, the Commission issued a warning letter to the economist who instructed another to compile and distribute the materials, and to the person who actually prepared the materials. A third person, who became involved only after the misdeliveries were discovered, was not found to have breached the APO. Mitigating factors included the fact the breach was unintentional, the persons involved had not been previously found to have breached an APO, that the

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persons involved took immediate action to remedy it by retrieving all copies, that the Commission was immediately informed of the incident, and that the firm in question made changes in-house to prevent a recurrence.

Case 2: Counsel for a party to the investigation failed to bracket certain BPI in the confidential version of an attachment to a submission and also failed to redact BPI data from the public version of the submission. The attachment, prepared by an outside consultant who was a signatory to the APO, contained unbracketed proprietary data in the confidential version and unredacted BPI in the public version of the brief. Upon learning of the error, counsel notified the Secretary's office, and arranged for the persons receiving the unbracketed BPI to either destroy or return the documents in question. All copies of the defective briefs were either returned or destroyed. The Commission found the person who was responsible for preparation of the final document to have breached the APO. The Commission determined not to sanction the attorney, but rather sent a warning letter. Mitigating factors included the fact that the breach was inadvertent, the person involved had not been associated with any other APO breach inquiry, and actions were taken immediately to mitigate any harm resulting from the breach. Moreover, the version of the brief involved containing the BPI had not been reviewed by anyone not on the administrative protective order. The consultant was found not to have breached the APO because it was not the consultant's responsibility to prepare the public version of the document. Similarly, a colleague of the attorney was found not to have been involved in the preparation of the public version of the document, and therefore was not found responsible for the breach.

Case 3: Several economic consultants filed and served a public version of a document that contained BPI in a footnote in the document. Commission staff discovered the breach. Although the public version of the document had been placed in the Commission public files, it had not been reviewed by a member of the public before discovery of the breach. The Commission determined that a breach had occurred, and held the individuals responsible for preparing the public version of the submission and reviewing it for BPI responsible for the breach. The Commission did not sanction the individuals, however, but instead sent warning letters. Mitigating factors included the fact that the breach was inadvertent, none of the individuals charged with the breach had breached an APO previously, and the individuals took immediate actions to mitigate any harm arising from the breach in the investigation, once they were informed that it had occurred. The Commission also considered the fact that although the information was received by a person not on the APO, the recipient did not review the information, and it was returned unread. The clerk who prepared the document was not held responsible for the breach, since the individual's activities appeared to be clerical in nature, and did not appear to involve reviewing the document to ensure that all BPI had been deleted. Additionally, a consultant whose name appeared on the document was not held responsible for the breach since the individual was not involved in preparing the public version of the document or in reviewing the document for BPI.

Case 4: An attorney failed to update the APO service list and as a result, improperly served copies of the confidential version of a submission on persons no longer subject to the APO. The Commission determined that the person responsible for improperly serving the APO version of the submission had breached the APO. The Commission decided not to sanction the attorney, but instead sent a warning letter. Mitigating factors included the fact that the breach was inadvertent, that the individual responsible for the breach had not previously breached an APO, and that immediate action was taken to mitigate any harm arising from the breach. Finally, although the document containing BPI was received by non-APO signatories, the Commission investigation revealed that the document was not actually viewed by anyone not on the APO. Two other attorneys who were involved in the Commission investigation were found not to be responsible for the breach.

Case 5: An attorney filed and served a public version of a document in which the attorney failed to properly redact information in brackets. The Commission determined that the attorney had breached the protective order. The Commission did not sanction the attorney, but instead issued a warning letter. Mitigating circumstances included the fact that the breach was inadvertent, the individual had not previously breached an APO, and the individual discovered the breach and took immediate actions to mitigate any harm arising from the breach. Additionally, the document was not actually reviewed by anyone not on the APO.

Case 6: Counsel filed a public version of a document and inadvertently filed with the Commission the master copy of the public version consisting of confidential pages with removable (and not always opaque) redaction tape covering the BPI. Commission staff discovered the defect in the filing and notified counsel prior to placement of the document in the public file. The Commission found an attorney and legal secretary responsible for the breach. The Commission determined to hold the legal secretary responsible for the breach because that individual was directly responsible for placing the copies of the public version of the documents into the envelopes that were delivered to the Commission. The Commission did not sanction the secretary, but instead issued a warning letter. In deciding not to sanction the secretary, the Commission took into account the fact that the breach was inadvertent, no BPI was disclosed to any party not under an APO, and it was the individual's first breach. The Commission also determined that the attorney responsible for overall supervision of the non-attorney staff, and who signed the public version of the brief that was filed, had breached the APO. The Commission sent a private letter of reprimand to the attorney because it was the individual's second breach of an APO in a relatively short period of time. A colleague was found not to have breached the APO since the individual was not in the office the day that the breach occurred.

Case 7: Counsel for a party to the investigation filed and served a public version of a document in which counsel failed to properly bracket and redact BPI that appeared in a footnote. Upon learning of the error, counsel immediately arranged for the individuals under the APO receiving the unbracketed BPI to delete the information before forwarding the document to any person not on the APO. Counsel also notified the Commission and filed replacement pages correcting the error. The Commission determined that a breach had occurred and held the individuals responsible for preparation and review of the document for confidential information responsible for the breach. The Commission did not sanction the individuals, but instead issued warning letters. Mitigating factors included the fact that the breach was inadvertent, the individuals had not previously breached an APO, and immediate actions were taken to mitigate any harm arising from the breach. Further, the version of the document containing the BPI was not viewed by anyone not on the APO.

Case 3: Counsel for a party in an investigation filed a public version of the brief during the 24-hour period. Due to the number of bracketing changes, counsel refiled an entire confidential brief rather than replacement pages. In addition to changing brackets, counsel included a table of contents, which was not filed with the original confidential brief. Counsel's letter of transmittal made no mention of the change, nor did counsel seek permission to file the table of contents. The Commission found that the 24-hour rule had been violated. The Commission did not sanction counsel, but instead issued a warning letter. The Commission considered the fact that the addition of a table of contents to counsel's submission was only a minor change, which was technical in nature and seemingly inadvertent, and neither added new information nor altered the substance of the information provided. Counsel was reminded, however, that the 24-hour rule cannot be used to cure defects in original filings.

Case 4: Counsel for a party to the investigation filed a public version of a brief during the 24-hour period which contained additional words. Counsel also filed replacement pages for the confidential version of the document which contained the same changes. While counsel did point out the change in its cover letter, counsel did not seek leave of the Commission to make the change. The Commission determined that counsel had violated the 24-hour rule. The Commission issued a warning letter to the attorney who signed the cover letter and who admitted responsibility for the preparation of the letter and changes to the document. In determining not to sanction the individual, the Commission considered the fact that the change was only a minor technical correction which did not add any new information or alter the substance of the information provided. Additionally, the Commission considered the fact that counsel, in its letter, notified the Commission of the change and its location, and therefore it did not appear that counsel was attempting to circumvent rule 207.3(c).

Case 5: Counsel for a party in the investigation filed an errata sheet in response to a Commission ruling regarding BPI, attempting to delete a word and replace it with a phrase. The submission was rejected for filing by the Secretary and was stricken from the record. The Commission determined that the 24-hour rule was violated but that no further action was necessary.

D. Investigations Involving the "24-hour Rule"

During 1995, the Commission completed five investigations of apparent violations of the 24-hour rule, set forth in 19 C.F.R. § 207.3. All of these apparent violations of the Commission's rules involved changes to a document other than bracketing and deletion of BPI. The rule specifically states that changes other than bracketing and deletion of BPI are not permitted. Practitioners should be aware that there is no express provision in the Commission rules that allows a party to make corrections, other than bracketing corrections, to a submission. If a party wishes to make changes to a document other than bracketing, such as typographical changes or other corrections, it must ask for an extension of time to file an amended document pursuant to rule 201.14(b)(2).

Case 1: Counsel filed a letter with the Commission enclosing replacement pages for the confidential version of their submission and noting numerous typographical errors in their submission. Counsel added the changes to the public version of their submission during the 24-hour period allowed to correct bracketing. Only one of the changes involved bracketing or deletion of business proprietary information. Counsel did not request leave of the Commission to make the non-bracketing changes. The Commission determined that the 24-hour rule had been violated. Counsel was not sanctioned, but instead all of the signatories on the document were issued warning letters. The Commission considered the fact that counsel notified the Commission of the changes in their cover letter and replacement page; the changes were relatively minor; and the attorneys involved had no previous record of violations of the 24-hour rule.

Case 2: Counsel filed a public version of a document which contained numerous changes to the wording in an exhibit from the confidential version filed the previous day. Counsel explained that the reason for the change was that a prior electronic draft of the document was inadvertently used to prepare the public version. The Commission determined not to sanction counsel, but instead issued warning letters to lead counsel and the person who transmitted the corrected pages. In deciding to issue a warning instead of a sanction, the Commission considered the fact that the changes were relatively minor, technical in nature and seemingly inadvertent.

Issued: May 1, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–11520 Filed 5–8–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 731–TA–744 (Preliminary)]

Certain Brake Drums and Rotors From China

Determinations

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from China of certain brake drums that are alleged to be sold in the United States at less than fair value (LTFV).[3] The Commission also determines,[4] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of certain brake rotors that are alleged to be sold in the United States at LTFV. Both certain brake drums and brake rotors are provided for in subheading 8708.39.50 of the Harmonized Tariff Schedule of the United States.[5]

Background

On March 7, 1996, a petition was filed with the Commission and the Department of Commerce by the Coalition for the Preservation of American Brake Drum and Rotor

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Chairman Peter S. Watson not participating.

[3] Commissioner Carol T. Crawford finds that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of certain brake drums that are alleged to be sold in the United States at LTFV.

[4] Chairman Peter S. Watson not participating.

[5] Certain brake drums and certain brake rotors are made of gray cast iron, may be finished, semifinished, or unfinished, and range in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The subject products are for certain motor vehicles (namely, automobiles, all-terrain vehicles, vans and recreational vehicles under "one ton and a half," and light trucks designated as "one ton and a half"), and do not contain in the casting a logo of an original equipment manufacturer that produces vehicles sold in the United States. Brake drums and brake rotors covered in these investigations are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake drums and rotors that are made of gray cast iron which contain a steel plate, but otherwise meet the above criteria.

Aftermarket Manufacturers,[6] alleging that industries in the United States are materially injured or threatened with material injury by reason of LTFV imports of certain brake drums and rotors from China. Accordingly, effective March 7, 1996, the Commission instituted antidumping investigation No. 731–TA–744 (Preliminary). Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 15, 1996 (61 FR 10788). The conference was held in Washington, DC, on March 28, 1996, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in this investigation to the Secretary of Commerce on April 22, 1996. The views of the Commission are contained in USITC Publication 2957 (April 1996), entitled "Certain Brake Drums and Rotors from China: Investigation No.731–TA–744 (Preliminary)."

By order of the Commission.

Issued: May 1, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–11521 Filed 5–8–96; 8:45 am]

BILLING CODE 7020–02–P

[Inv. No. 337–TA–374]

Certain Electrical Connectors and Products Containing Same; Notice of Issuance of Limited Exclusion Order and Cease and Desist Order and Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a limited exclusion order and a cease and desist order to domestic respondent Foxconn International, Inc. ("Foxconn") in the above-captioned investigation and terminated the investigation.

FOR FURTHER INFORMATION CONTACT: Jay H. Reiziss, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–3116.

SUPPLEMENTARY INFORMATION: This investigation was initiated by the Commission on May 5, 1995, based on a complaint, as supplemented, and a motion for temporary relief filed by AMP Incorporated and The Whitaker Corporation (collectively "complainants"). The following firms were named as respondents: Berg Electronics, Inc ("Berg"); Hon Hai Precision Industry Co., Ltd. ("Hon Hai"); Foxconn International ("Foxconn"); and Tekcon Electronics Corp ("Tekcon"). The complaint alleged that respondents have violated 19 U.S.C. § 1337 of the Tariff Act of 1930 ("section 337") by importing and selling certain electrical connectors that infringe claims 17, 18, 20, 21, and 23 of complainants' U.S. Letters Patent 5,383,792 (the "'792 patent").

On February 9, 1996 the presiding administrative law judge (ALJ) issued his initial determination (ID) terminating the investigation under Commission rule 210.17 as to the sole remaining respondent, Hon Hai Precision, Ltd. ("Hon Hai"), based on a violation of section 337 (in light of Hon Hai's failure to respond to a motion for summary determination). Specifically, the ALJ made the adverse determination that Hon Hai is in violation of section 337, finding that (1) Hon Hai manufactures electrical connectors which infringe claims 17, 18, 20, 21, and 23 of the patent in issue; (2) Hon Hai imports into the United States, sells for importation, or sells within the United States after importation such connectors; and (3) a domestic industry exists with respect to the articles protected by the patent in issue. In that ID, the ALJ also found that, pursuant to Commission rule 210.16(c), since Foxconn was found to be in default, Foxconn is presumed to violate section 337 by importing into the United States, selling for importation, or selling within the United States after importation certain electrical connectors that infringe claims 17, 18, 20, 21 or 23 of the patent in issue. On February 9, 1996, the ALJ also issued a recommended determination addressing the appropriate form of remedy and the appropriate bond.

On March 13, 1996, the Commission issued notice of its determination not to review the ALJ's final ID, thereby finding a violation of section 337, and requested written submissions on the issues of remedy, the public interest, and bonding. 61 Fed. Reg. 11221 (March 19, 1996). Submissions were received from complainants and the Commission investigative attorney. Respondents Hon Hai and Foxconn did not file submissions.

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission made its determinations on the issues of remedy, the public interest, and bonding. The Commission determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed importation of infringing electrical connectors and motherboards containing such electrical connectors manufactured and/or imported by Hon Hai or Foxconn. In addition, the Commission issued a cease and desist order directed to domestic respondent Foxconn requiring that firm to cease and desist from the following activities in the United States: importing, selling, marketing, distributing, offering for sale, or otherwise transferring (except for exportation) in the United States infringing imported electrical connectors and motherboards containing such electrical connectors.

The Commission also determined that the public interest factors enumerated in 19 U.S.C. 1337 (d) and (f) do not preclude the issuance of the limited exclusion order and cease and desist order, and that the bond during the Presidential review period shall be in the amount of twenty (20) percent of the entered value of the imported electrical connectors and $0.20 per imported electrical connector on motherboards containing such connectors. Finally, because the Commission has terminated this investigation, the Commission determined to deny as moot counsel for complainants' motion for withdrawal of appearance in this investigation.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and section 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.50).

Copies of the Commission's remedial orders, the Commission opinion in support thereof, and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

[6] The members of the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers consist of Brake Parts, Inc., McHenry, IL; Kinetic Parts Manufacturing, Inc., Harbor City, CA; Iroquois Tool Systems, Inc., North East, PA; and Wagner Brake Corp., St. Louis, MO.

By order of the Commission.

Issued: May 3, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–11518 Filed 5–8–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 701–TA–367 (Preliminary)]

Certain Laminated Hardwood Flooring From Canada

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines[2], pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Canada of certain laminated hardwood flooring, provided for in subheading 4421.90.98 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of Canada.

Background

On March 7, 1996, a petition was filed with the Commission and the Department of Commerce by the Ad Hoc Committee on Laminated Hardwood Trailer Flooring (Anderson-Tully Co. (Tully), Memphis, TN; Cloud Corp. (Cloud), Harrison, AK; Havco Wood Products, Inc. (Havco), Cape Girardeau, MO; Industrial Hardwoods Products Inc. (IHP), Redwing, MN; and Lewisohn Sales Co. Inc. (Lewisohn), North Bergen, NJ), alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of laminated hardwood flooring from Canada. Accordingly, effective March 7, 1996, the Commission instituted countervailing duty investigation No. 701–TA–367 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 20, 1996 (61 FR 11430). The conference was held in Washington, DC, on March 28, 1996, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on April 22, 1996. The views of the Commission are contained in USITC Publication 2956 (April 1996), entitled "Certain Laminated Hardwood Flooring from Canada: Investigation No. 701–TA–367 (Preliminary)."

By order of the Commission.

Issued: April 30, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–11522 Filed 5–8–96; 8:45 am]

BILLING CODE 7020–02–U

Submission for OMB Review; Comment Request

AGENCY: United States International Trade Commission.

ACTION: Agency proposal for the collection of information submitted to the Office of Management and Budget (OMB) for review; comment request.

SUMMARY: In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to OMB for review. The proposed information collection is a "generic clearance" under which the Commission can issue questionnaires for the following types of statutory investigations: countervailing duty, antidumping, escape clause, NAFTA safeguard, market disruption, and "interference with programs of the USDA." Comments concerning the proposed information collection are requested in accordance with 5 CFR 1320.5(a)(1)(iv) and 1320.10(a). Any comments should be specific, indicating which part of the questionnaires or study plan are objectionable, describing the problem in detail, and including specific revisions or language changes.

DATES: To be assured of consideration, comments should be submitted to OMB on or before June 10, 1996.

ADDRESSES: Comments about the proposal should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Attention: Victoria Baecher-Wassmer, Desk Officer for U.S. International Trade Commission. Copies of any comments should be provided to Robert Rogowsky (United States International Trade Commission, 500 E Street, S.W., Washington, DC 20436).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed collection of information and supporting documentation may be obtained from Debra Baker, (USITC, tel. no. 202–205–3180).

SUPPLEMENTARY INFORMATION:

(1) The proposed information collection consists of three forms, namely the *Sample Producers', Sample Importers', and Sample Purchasers' questionnaires*. Each "sample" is an aggregate of the information that is likely to be collected in a series of questionnaires issued under the generic clearance.

(2) The types of items contained within the sample questionnaires are largely determined by statute. Actual questions formulated for use in a specific investigation depend upon such factors as the nature of the industry, the relevant issues, the ability of respondents to supply the data, and the availability of data from secondary sources.

(3) The data collected through the questionnaires issued under the generic clearance are consolidated and form much of the statistical base for the Commission's determinations in its statutory investigations. Affirmative Commission determinations in countervailing duty and antidumping investigations result in the imposition of additional duties on imports entering the United States. The data developed in escape-clause, market disruption, and interference-with-USDA-program investigations (if the Commission finds affirmatively) are used by the President/U.S. Trade Representative to determine the type of relief, if any, to be provided to domestic industries.

(4) Likely respondents consist of businesses or farms that produce, import, or purchase products under investigation. Estimated reporting burden that will result from the collection of information is presented below.

	Producers	Importers	Purchasers
Estimated average burden (hours) per response	36.4	37.2	22.0
Proposed frequency of response	1	1	1

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Chairman Peter Watson and Vice Chairman Janet Nuzum dissenting.

	Producers	Importers	Purchasers
Estimated number of respondents	940	980	880
Estimated total annual burden (hours)	34,200	36,450	19,350

No recordkeeping burden is known to result from the proposed collection of information.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on 202–205–1810.

Issued: May 2, 1996.

By order of the Commission.

Donna R. Koehnke

Secretary.

[FR Doc. 96–11519 Filed 5–8–96; 8:45 am]

BILLING CODE 7020–02–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (96–048]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that ARCO Chemical Company, of Newtown Square, Pennsylvania, has applied for an exclusive license to practice the inventions described and claimed in NASA Case No. ARC–12,069–1, "Environmentally-Friendly Deicing Fluid"; NASA Case No. ARC–12,069–2, "Environmentally-Friendly Deicing Fluid", and NASA Case No. ARC–12,069–3, Anti-Icing or Deicing Fluid"; which are all assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Mr. Ken Warsh, Patent Counsel, Ames Research Center.

DATES: Responses to this notice must be received by July 8, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Warsh, Patent Counsel, Ames Research Center, Mail Code 202A–3, Moffett Field, CA 94035; telephone (415) 604–1592.

Dated: April 30, 1996.

Edward A. Frankle,

General Counsel.

[FR Doc. 96–11541 Filed 5–8–96; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–1201; License No. SNM–1168; EAs 95–236 and 95–215]

B&W Fuel Company d/b/a Framatome Cogema Fuels; Order Imposing Civil Monetary Penalty

I

B&W Fuel Company (Licensee) is the holder of Special Nuclear Material License No. SNM–1168 issued by the Nuclear Regulatory Commission (NRC or Commission) in September 1969. The license authorizes the Licensee to possess and use special nuclear material in accordance with the conditions specified therein. The license was last renewed on September 24, 1990, and is due to expire on September 30, 2000.

II

Inspections of the Licensee's activities were conducted during the period of June 12 through October 6, 1995. The results of these inspections indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated January 30, 1996. The Notice states the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations.

The Licensee responded to the Notice in a letter dated February 23, 1996. In its response, the Licensee admitted Violations B, and C, and questioned the regulatory basis for Violation A. In addition, the Licensee requested the NRC to reconsider both the severity level of the violations and the proposed civil penalty based on the stated minimal safety significance of the violations and the Licensee's corrective action.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violations occurred as stated and that the penalty proposed for the violations designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The Licensee pay a civil penalty in the amount of $12,500 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to Mr. James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region II, 101 Marietta Street, N.W., Suite 2900, Atlanta, Georgia 30323.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) whether the Licensee was in violation of the Commission's requirements as set forth in Violation A of the Notice referenced in Section II above; and

(b) whether on the basis of Violation A, and the additional violations admitted by the Licensee, this Order should be sustained.

Dated at Rockville, Maryland this 29th day of April 1996.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

Appendix—Evaluations and Conclusion

On January 30, 1996, the NRC issued to B&W Fuel Company, aka Framatome Cogema Fuels, (Licensee or B&W Fuel) a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) for three violations identified during NRC inspections conducted during the period of June 12 through October 6, 1995. In its response dated February 23, 1996, the Licensee admitted Violations B and C, and questioned the regulatory basis for Violation A. In addition, the licensee requested the NRC to reconsider both the severity level of the violations and the proposed civil penalty based on the stated minimal safety significance of the violations and the Licensee's corrective action. The NRC's evaluation and conclusion regarding the Licensee's request are as follows:

Restatement of Violation A

10 CFR 71.12(c)(2) requires, in part, that the licensee comply with the terms and conditions of the Certificate of Compliance and the applicable requirements of Subparts A, G, and H of 10 CFR Part 71.[1]

Effective April 25, 1983, to September 11, 1992, Condition 5(a)(3) of Certificate of Compliance No. 6294 specifies that the packaging is constructed in accordance with Babcock & Wilcox Company Drawing Nos. MS–135E and MS–82B.

Effective September 11, 1992, through August 4, 1995, Condition 5(a)(3) of Certificate of Compliance No. 9251 specifies that the packaging is constructed in accordance with B&W Fuel Company Drawing Nos. 1215598B and 1215599E.

Contrary to the above:

1. From August 1983 through July 10, 1995, the licensee made multiple shipments using UNC–2901 and/or BW–2901 shipping packages which were not constructed by B&W Fuel in accordance with, and did not conform to, Certificate of Compliance Nos. 6294 and 9251. Specifically, the dimensions of the inner cavity exceeded the dimensions on drawings Nos. MS–135E, MS–82B, 1215598B, and 1215599E.

2. From August 1983 through May 22, 1995, the licensee made multiple shipments using UNC–2901 and/or BW–2901 shipping packages which were not constructed by B&W Fuel in accordance with, and did not conform to, Certificate of Compliance Nos. 6294 and 9251. Specifically, the hole locations in the closure lids were outside the specifications of drawings Nos. MS–135E, MS–82B, 1215598B, and 1215599E.

The Licensee's Challenge of the Basis of Violation A

The Licensee maintained that its Quality Assurance Plan (QAP) for shipping containers allows and requires B&W Fuel to disposition all deviations concerning container design. The Licensee stated that "A full reading of 71.12(c)(2) (emphasis added for clarity) is as follows: 'The general license applies only to a licensee who: (2) Complies with the terms and conditions of the license, certificate, or other approval, as applicable and the applicable requirements of Subparts A, G, and H of this part; and'."

The Licensee added that the NRC's approval of the B&W Fuel's QAP submitted under Subpart H indicates that B&W Fuel is authorized and is expected to act as specified in the "B&W Fuel Company Radioactive Material Shipping Container Quality Assurance Plan" which, the Licensee believes, constitutes the "other approval as applicable" discussed in 10 CFR 71.12(c)(2). The Licensee noted that B&W Fuel acted entirely in accordance with its approved QAP which allows and requires B&W Fuel to disposition all deviations to the container design basis. Therefore, the Licensee stated, the Notice does not appear to recognize that there is another document, submitted and approved by the NRC under Subpart H, which guided B&W Fuel's actions in dispositioning BW–2901 shipping container defects. B&W Fuel added that it has "acted in good faith with the understanding that the differences in interpretation of Part 71 between the NRC and the licensees would be addressed and resolved in an industry forum."

In addition, the Licensee argued that when "the current Part 71 was invoked, most fissile material container users adopted quality programs which mirror 10 CFR 50 requirements." The Licensee stated that 10 CFR 71.131 clearly anticipates that deviations to the COC [Certificate of Compliance] may be found during use, and it does not require that the licensee cease to use the packaging. It does require, under subpart H, that the safety significance be determined prior to further use and that the conditions be reported to the NRC. The Licensee stated that "NRC's approval of our Quality Plan caused FCF [Framatome Cogema Fuels, formerly B&W Fuel] to handle shipping containers in the same manner that we handle design deviations under our Part 50 Program."

NRC Evaluation

10 CFR 71.12(a) states that "a general license is hereby issued to any licensee of the Commission to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the NRC." As a condition of satisfying 10 CFR 71.12(a), 10 CFR 71.12(c)(2) provides that the general license applies only to a licensee who "complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of Subparts A, G, and H of this part."

The "other approval" cited in both 10 CFR 71.12(a) and 10 CFR 71.12(c)(2) does not refer to Quality Assurance Program approval; rather, the words "other approval" refer to forms of package approvals other than Certificates of Compliance. Examples of "other approval" would be letter amendments, amendments to facility licenses, and specific licenses for transportation. Furthermore, the regulations pertaining to quality control, set forth in Subpart H of Part 71, do not permit Licensees to use packages which do not comply with the conditions of the Certificate of Compliance. Section 71.105 specifically provides that Licensees must implement quality control which "assures conformance to the approved design of each individual package used for the shipment of radioactive material." The regulations in Subpart H of Part 71 do not sanction the use of containers which do not comply with the regulatory requirements. Therefore, B&W Fuel, aka Framatome Cogema Fuels, has incorrectly interpreted the meaning of "other approval" as used in 10 CFR 71.12.

With regard to the Licensee's argument regarding 10 CFR Part 50 requirements, the NRC notes that such argument is irrelevant because the requirements in 10 CFR Part 50 differ from those in 10 CFR Part 71. The Licensee's handling of shipping containers in the same manner that it handles design deviations under Part 50 is not authorized under 10 CFR 71.

The NRC concludes that Violation A occurred as stated.

Summary of Licensee's Request for Mitigation and Reconsideration of Severity Level

The Licensee offered several arguments in support of its request for mitigation of the proposed penalty. Below is a summary listing of the Licensee's arguments that are related to its request for mitigation, some of which have been consolidated. The NRC's evaluation follows each argument.

1. The Licensee disagreed with the NRC's characterization of the violations. Specifically, B&W Fuel stated that it believes that, taken by themselves, none of the violations would constitute a Severity Level III violation; therefore, taken together B&W Fuel cannot tell what part of the civil penalty is applicable to each part.

NRC Evaluation

The purpose of aggregating violations as stated in Section IV.A of the Enforcement Policy (NUREG–1600) is to focus the Licensee's attention on the fundamental underlying causes and to reflect that several violations with a common cause may be more significant collectively than individually and may, therefore, warrant a more substantial enforcement action. As stated in the Enforcement Manual, NUREG/BR–0195 at Section 3.5.2, a group of Severity Level IV violations may be evaluated in the aggregate and assigned a single, increased severity

[1] During the period January 1, 1978 through September 6, 1983, this requirement was contained in 10 CFR 71.12(b)(1)(ii) and required compliance with applicable requirements in 10 CFR Part 71.

level, thereby representing a Severity Level III problem, if the violations reflect the same underlying cause or programmatic deficiency, or the violations contributed to or were unavoidable consequences of the underlying problem. In this case, the violations are related, and the lack of attention and carelessness toward licensed activities were the underlying causes of the three violations. Therefore, in accordance with the Enforcement Policy, the NRC aggregated the violations into a Severity Level III problem for which a $12,500 civil penalty was assessed.

As to the apportionment of the civil penalty, the violations individually would be characterized at Severity Level IV and, therefore, would not be subject to individual penalties. The regulatory significance of this Severity Level III problem is the collectiveness of the problem. Therefore, the penalty has not been allocated for each violation. Consequently, the civil penalty applies to the problem as a whole.

2. The Licensee argued that none of the violations "has real safety significance." B&W Fuel stated that its safety analysis of the BW–2901 package, which was performed after deviations were found and prior to further use, was more than adequate. B&W Fuel added that the NRC does not have a basis in the regulations for requiring the use of incredible assumptions, such as an optimized volume fraction, in post accident assumptions.

The Licensee contended that the NRC staff's new assumptions imposed during the review of B&W Fuel's submittal under 10 CFR 71.95 make the analysis appear inadequate and that this is not the case. The Licensee stated that it considers some of the required assumptions to be not credible and therefore beyond the requirement of 10 CFR 71.55(b)(1) and (2), and that the NRC ultimately agreed with B&W Fuel's analysis and authorized it to use the containers with the deviations present.

NRC Evaluation

Safety significance, from an enforcement prospective, involves consideration of: (1) actual safety consequence; (2) potential safety consequence; and (3) regulatory significance. Violation A is of concern because of the potential criticality consequence of B&W Fuel's use of shipping packages that were not constructed as required and for which an adequate safety evaluation had not been performed. Violation B is of concern because the violation continued for over two years which demonstrates a lack of management oversight (i.e., B&W Fuel failed to identify the violation, although the cylinders were readily visible during that time). Violation C is of concern because, in each example of the violation, the NRC relied upon inaccurate information submitted by the Licensee to make a regulatory decision.

While the actual safety consequences of the violations fortunately turned out to be minimal in this case, the regulatory concerns are significant due to B&W Fuel's lack of attention to licensed activities. Specifically, the lack of attention to regulated activities was not isolated, but spanned several areas including licensing, transportation, quality assurance, and material control and accountability, and directly resulted in the three violations described in the Notice. Therefore, the NRC concludes that, taken collectively, the violations represent a significant regulatory concern.

The NRC disagrees with the Licensee's statements regarding the adequacy of its safety analysis. When B&W Fuel evaluated the safety significance of the larger containment vessel, the Licensee incorrectly considered the wooden boards (i.e., box) to be structural components that would confine the fissile material under accident conditions. This is not consistent with the safety basis of the package or previous B&W Fuel analyses. The NRC did not, and does not, agree with B&W Fuel's safety assessment dated July 7, 1995. Furthermore, the NRC did not authorize the Licensee to use the BW–2901 shipping packages with the deviations present unless certain conditions were met; specifically, installation of borated aluminum poison plates, or restricting shipments to large size pellets with a stainless steel separator plate. In view of the above, the NRC concludes that the Licensee's safety analysis of the BW–2901 shipping package was inadequate.

3. The Licensee stated that it does not understand why the NRC did not give B&W Fuel credit for its corrective actions or the cost of meeting the requirements imposed by the NRC assumptions in the analysis for the BW–2901 shipping containers. The Licensee argues that it has been very proactive in this case and took action which prevented any reduction in the protection of the public's health and safety. Specifically, when NRC management indicated that it considered that B&W Fuel's action was outside the NRC's interpretation of Part 71, B&W Fuel immediately stopped using the containers and submitted a request for modification of the COC.

The Licensee claimed that, despite its belief it acted entirely in accordance with its approved QAP, B&W Fuel agreed to comply with the NRC position on 10 CFR 71.12(c)(2) and did so voluntarily on July 20, 1995. B&W Fuel stated that it has operated in accordance with NRC's wishes and is not using the provisions of its QAP, which allows the Licensee to use containers with deviations that are shown by analysis to have no safety significance. The Licensee asserted that corrective action was taken to prevent recurrence in 1990 with a re-design of the procedures which govern shipping container manufacture and use, and that these procedures were demonstrated to be effective during the procurement of new Model 51032 containers in 1993. The Licensee, therefore, disagreed with the NRC's statement in the Notice that "absent NRC action, FCF would have continued to use nonconforming packages without NRC approval and without performing an adequate safety analysis."

NRC Evaluation

NRC did not give B&W Fuel credit for corrective actions because the NRC had to take action to focus the Licensee's evaluative and corrective process to obtain comprehensive corrective action. Specifically, for Violation A: (1) as noted in Section 2 of this Appendix, B&W Fuel's safety analysis of the BW–2901 shipping package was inadequate; and (2) the Licensee continued to use nonconforming packages after performing its analysis until the NRC staff informed B&W Fuel staff that it was not authorized to do so.

B&W Fuel was initially informed by the NRC staff via telephone on May 24, 1995, as a result of identification of the bolt hole discrepancies, that it was not authorized to use packaging that does not meet the drawings listed in the COC. In the telephone conversation, B&W Fuel was requested to submit revised pages to the safety analysis report to clarify that packages must conform to the drawings specified in the Certificate of Compliance.

By letter dated May 24, 1995, B&W Fuel submitted revised pages for the BW–2901 safety analysis report. The revised acceptance tests included the following statements: "Containers will be fabricated only in accordance with the designed drawings referenced in the Certificate of Compliance. The approved Quality Assurance Manual will be used to ensure compliance. Any changes in the drawings shall be submitted to NRC for approval." Based on this, NRC staff understood that B&W Fuel would not use packaging that deviated from the drawings referenced in the Certificate of Compliance, without prior NRC approval.

Contrary to the communications, and based on its erroneous interpretation of the use of its QAP, B&W Fuel used the BW–2901 packaging that did not conform to the drawings following identification of the inner dimensional discrepancies until July 20, 1995, when the NRC staff reiterated the regulatory requirements to the Licensee. While the NRC acknowledges that B&W Fuel ultimately agreed to stop using the BW–2901 shipping package, the Licensee, absent NRC involvement, would have continued to use the nonconforming packages. Therefore, the NRC concludes that its statement in the Notice was appropriate.

With regard to Violations B, the Licensee did not provide additional corrective actions which were not already considered after the November 21, 1995 predecisional enforcement conference. As stated in the Notice, although the initial corrective actions for Violation B were appropriate, the adequacy of the long term corrective action is yet to be demonstrated. The corrective actions for violation C were adequate.

Therefore, the NRC concludes that, in accordance with Section VI.B.2 of the Enforcement Policy, credit for the Licensee's corrective action is not warranted.

NRC Conclusion

The NRC has concluded that the violations in the Notice were correctly categorized as a Severity Level III problem, and that the Licensee did not provide an adequate basis for mitigation of the civil penalty. Consequently, the proposed civil penalty in the amount of $12,500 should be imposed.

[FR Doc. 96–11606 Filed 5–8–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–440]

The Cleveland Electric Illuminating Company, et al.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–58 issued to The Cleveland Electric Illuminating Company, et al. (the licensee), for operation of the Perry Nuclear Power Plant, Unit No. 1 located in Lake County, Ohio.

The proposed amendment would correct minor technical and administrative errors in the Improved Technical Specifications (ITS) prior to ITS implementation.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Eight of the proposed changes are administrative in nature and either correct errors or incorporate into the improved Technical Specifications a change which was approved by the NRC under Amendment 70 for the current Technical Specifications. Changing the classification of the Backup Hydrogen Purge System isolation valves from drywell isolation valves to primary containment isolation valves results in the same actions being taken in the event one of these valves is declared inoperable. However, the Completion Times are more restrictive for inoperable primary containment isolation valves than for inoperable drywell isolation valves. The proposed changes to the diesel generator fuel oil day tank minimum volumes provide more stringent requirements for operation of the facility to increase the reliability of the diesel generator fuel oil transfer pump operation. The more stringent requirements continue to ensure that the safety analysis and licensing basis are maintained. The proposed change to Specification 5.7.3 clarifies continuously guarding a high radiation area is an option, not a requirement. The proposed changes have been reviewed and determined to have no affect on accident conditions or assumptions.

Based on the above, the proposed changes do not significantly increase the probability or consequences of any accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

As stated above eight of the proposed changes are administrative in nature and do not increase the possibility of any new or different kind of accident. Changing the classification of the Backup Hydrogen Purge System isolation valves from drywell isolation valves to primary containment isolation valves results in the same actions being taken in the event one of these valves is declared inoperable. However, the Completion Times are more restrictive for inoperable primary containment isolation valves than for inoperable drywell isolation valves. The proposed changes to the diesel generator fuel oil day tank minimum volumes do not involve installation of new or different equipment nor do they change the methods governing normal plant operations. These changes are also consistent with assumptions made in the safety analysis and licensing basis. Clarifying the controls of high radiation areas will not impact existing or introduce any new accident precursors. The proposed changes do not create the possibility of a new or different kind of accident since they do not affect the reactor coolant pressure boundary or reactivity controls. Consequently, no new failure modes are introduced as a result of the proposed changes.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The margin of safety is unchanged because the proposed administrative changes do not affect any design basis or accident assumptions. Changing the classification of the Backup Hydrogen Purge System isolation valves from drywell isolation valves to primary containment isolation valves results in the same actions being taken in the event one of these valves is declared inoperable. However, the Completion Times are more restrictive for inoperable primary containment isolation valves than for inoperable drywell isolation valves. The imposition of more restrictive requirements for the diesel generator fuel oil day tank minimum volumes results from the implementation of the Bases for the Technical Specification Surveillance Requirement. Clarifying the controls of high radiation areas is consistent with ALARA practices.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in preventing startup of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 10, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the

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proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, Ohio. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1-(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Gail H. Marcus: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jay E. Silberg, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 26, 1996, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, Ohio.

Dated at Rockville, Maryland, this 3rd day of May 1996.

For the Nuclear Regulatory Commission.

Jon B. Hopkins, Sr.,

Project Manager, Project Directorate III–3, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–11603 Filed 5–8–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 21936; 811–4502]

Pierre Funding Corporation; Notice of Application

May 2, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Pierre Funding Corporation.

RELEVANT ACT SECTION: Order requested under Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring it has ceased to be an investment company.

FILING DATE: The application was filed on December 18, 1995, and was amended on April 30, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 27, 1996, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 805 Third Avenue, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Sarah A. Wagman, Staff Attorney, at (202) 942–0654, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a New York corporation, registered as a closed-end investment company under the Act by filing with the SEC a notification of registration on Form N–8A on November 26, 1985. On July 25, 1986, applicant filed a registration statement on Form N–5, which became effective in December, 1986. In June, 1987, applicant issued shares of its common stock through a public offering. There has been no other public offering of applicant's securities, and applicant presently does not intend to make any other public offering of its securities. Applicant is licensed and regulated as a Specialized Small Business Investment Company by the United States Small Business Administration ("SBA") under the Small Business Investment Company Act of 1958 ("SBICA").

2. Applicant states that there are 22 beneficial holders of its shares. As of November 30, 1995, applicant also had outstanding SBA-guaranteed debentures in an aggregate principal amount of approximately $4.1 million. These Debentures are not convertible into, exchangeable for, or accompanied by, any equity security. Applicant's common stock is not traded on an active market.

3. As of November 30, 1995, applicant had assets aggregating $11,335,023. Of that amount, $10,894,910 is attributable to applicant's loan portfolio, $85,813 is attributable to real estate acquired in foreclosure of delinquent loans, $40,906 is cash, $195,317 is accrued interest, and $118,077 represents the value of other assets. Applicant's liabilities consisted of approximately $4.1 million in SBA debentures, $250,000 in deferred income, and $1.7 million in other liabilities. As of November 30, 1995, shareholders' equity consisted of approximately $5.4 million in paid-in capital.

4. Applicant presently is not a party to any litigation or administrative proceeding.

Applicant's Legal Analysis

1. Section 8(f) of the Act provides that whenever the SEC, upon application or its own motion, finds that a registered investment company has ceased to be an investment company, the SEC shall so declare by order. The registration of the investment company ceases to be in effect upon the taking effect of the order.

2. Section 3(c)(1) of the Act provides that an issuer is not an investment company within the meaning of the Act if (a) its outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons, and (b) it is not making and does not presently propose to make a public offering of securities.

3. Rule 3c–3 under the Act provides that, for purposes of section 3(c)(1), the holders of any debt securities offered and sold by a small business investment company licensed under the SBICA shall be deemed to be one person if the securities are (a) not convertible into, exchangeable for, or accompanied by any equity security and (b) guaranteed as to timely payment of principal and interest by the SBA and backed by the full faith and credit of the United States. Applicant believes that the holders of its debentures are considered one person under the provisions of rule 3c–3.

4. Applicant believes that, pursuant to section 3(c)(1), it is no longer an investment company as defined in section 3 because, for purposes of the Act, only 23 persons are beneficial holders of its securities: 22 persons hold its common stock, and one holds debentures. Applicant is not making and does not presently propose to make a public offering of its securities. Accordingly, applicant requests that the SEC issue an order under section 8(f) declaring that it has ceased to be an investment company.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–11538 Filed 5–8–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37165; File No. SR–Amex–96–15]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Listing of Hybrid Securities

May 3, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 26, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend Section 107A of the Amex *Company Guide* to conform the Exchange's listing criteria for hybrid securities to those of the New York Stock Exchange ("NYSE").

The text of the proposed rule change is available at the Exchange and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In March 1990, the Commission approved the adoption of Section 107 of the Amex *Company Guide* containing guidelines for listing securities that have features common to both equity and debt securities, yet do not fit within the traditional definitions of such securities.[2] Sometimes referred to as "hybrids," these securities can take a variety of forms. For example, the Exchange has listed under Section 107 a zero coupon intermediate term note, which at maturity returns the face amount of the note plus a percentage of the appreciation, if any, in a well known index such as the S&P 500, or a debt security with a relatively high fixed return, but whose value at maturity is linked to the performance of an unrelated common stock.

Section 107A currently specifies the minimum issuer qualifications, the minimum public distribution and aggregate market value of the security and other criteria to assist the Exchange in its case by case review and determination of the suitability of each security prior to its approval for listing.

The Exchange now proposes to conform its listing criteria for hybrid securities to those of the NYSE by eliminating the current requirements of Section 107A that require a certain minimum redemption price and only allow cash settlement of covered instruments if settled in U.S. dollars.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b) in particular in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest in that it conforms the Exchange's listing standards for hybrid securities to those of the NYSE.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[2] See Securities Exchange Act Release No. 27753 (Mar. 1, 1990), 55 FR 8626 (Mar. 8, 1990).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for 30 days from April 26, 1996, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(e)(6) thereunder.[4]

The Commission notes that although it is reasonable for the Exchange to remove the affected provisions as mandatory listing standards,[5] proposals that deviate from these standards might raise novel or significant regulatory issues that would require a proposed rule change to list the product.[6]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–96–15 and should be submitted by May 30, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–11624 Filed 5–8–96; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(e)(6).

[5] The affected provisions currently prevent the listing of (1) any cash settled product settled in any currency other than U.S. dollars or (2) any product that had a mandatory redemption price of less than three dollars.

[6] See Securities Exchange Act Release No. 27753 (Mar. 1, 1990), 55 FR 8626 (Mar. 8, 1990) (order approving File No. SR–Amex–89–29). For example, a stock index-linked note that was payable in a foreign currency would raise important regulatory issues among which might include the need to address appropriate product term and risk disclosure, customer suitability, and settlement procedures. Accordingly, the Commission expects the Amex to consult with it on the need to file a Section 19(b) rule change to list a product with such terms under the Rule 107A listing standards.

[7] 17 CFR 200.30–3(a)(12).

[Release No. 34–37163; File No. SR–NASD–96–09]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Distribution of Interim Reports to Beneficial Owners and the Use of New Technology to Communicate Such Information to Shareholders

May 2, 1996.

On March 13, 1996, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder.[2] The rule change amends Part II of Schedule D to the NASD By-Laws ("Schedule D") [3] by adding precatory language recommending that Nasdaq issuers distribute interim reports to both shareholders of record and beneficial shareholders [4] to shareholders if they distribute such reports to shareholders of record [5] and encouraging issuers to utilize communications technology to communicate to shareholders in a timely manner.

Notice of the proposed rule change, together with the substance of the proposal, was provided by issuance of a Commission release (Securities Exchange Act Release No. 37010, March 21, 1996) and by publication in the **Federal Register** (61 FR 13909, March 28, 1996). No comment letters were received. This order approves the proposed rule change.

The rule change approved today adds new Section 1(d) to Part II of Schedule D recommending that Nasdaq issuers distribute interim reports to both shareholders of record and beneficial shareholders if they distribute such reports to shareholders of record. The rule change also adds new Section 2(f) of Part II to Schedule D regarding the qualification requirements for issuers of non-Canadian foreign securities and American Depositary Receipts that are included in The Nasdaq Stock Market. Such issuers also are recommended to distribute interim reports to both shareholders of record and beneficial shareholders if they distribute such reports to shareholders of record. The rule change will apply to both the Nasdaq National Market and The Nasdaq SmallCap Market tiers of The Nasdaq Stock Market.

The rule change is the product of a review by various industry groups, including the American Society of Corporate Secretaries and the Securities Industry Association, of listed [6] companies' dissemination of interim earnings reports to shareholders. The industry groups have been attempting to achieve some uniformity among listed companies in the handling of interim earning reports. Presently, some listed companies distribute interim reports to both record and beneficial shareholders, some listed companies send interim reports to shareholders of record only, and some do not send interim reports to any shareholders. The portion of the proposed rule change recommending that Nasdaq issuers distribute interim reports to both shareholders of record and beneficial shareholders to shareholders if they distribute such reports to shareholders of record is consistent with voluntary provisions adopted by the New York Stock Exchange and the American Stock Exchange [7] and, therefore, would provide uniformity among these markets regarding the handling of listed company interim earnings reports.

New Sections 1(d) and 2(f) to Part II of Schedule D also encourage Nasdaq issuers to consider additional technological methods to communicate such information to shareholders in a timely and less costly manner as such technology becomes available. This provision is intended to encourage Nasdaq issuers to utilize new communications technology available to many but not all beneficial shareholders. The NASD stated in its filing that Nasdaq issuers should consider this provision of the rule change as a supplement to the first provision of the proposed rule change recommending that Nasdaq issuers distribute interim reports to both shareholders of record and beneficial shareholders to shareholders if they distribute such reports to shareholders of record.

The rule change is precatory and does not impose new requirements on issuers. Nasdaq issuers that distribute interim reports to shareholders of record only would not be subject to Nasdaq actions for non-compliance with Nasdaq listing requirements.

The Commission finds that the rule change is consistent with the provisions of Section 15A(b)(6) of the Act. The rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest by, among other things, encouraging Nasdaq issuers to distribute interim reports to both shareholders of record and beneficial shareholders to shareholders if they distribute such reports to shareholders of record. This provision of the proposed rule change is consistent with provisions adopted by the New York Stock Exchange and the American Stock Exchange [8] and, therefore, will provide uniformity among these markets regarding the handling of listed company interim earnings reports. The rule change also encourages Nasdaq issuers to consider new technological means to communicate the information contained in their interim reports to shareholders in a timely and less costly manner. These provisions are intended to enhance shareholder communications in The Nasdaq Stock Market.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR–NASD–96–09 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–11536 Filed 5–7–96; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *NASD Manual*, Schedules to the By-Laws, Schedule D, Part II (CCH) ¶¶ 1803–06A.

[4] Interim reports are reports that are voluntarily distributed by an issuer as part of its shareholder relations activities and do not include quarterly financial reports required to be filed with the Commission pursuant to Sections 13(a) and 15(d) of the Act, 15 U.S.C. 78m(a), 78o(d).

[5] See supra note 5.

[6] The substance of this portion of the proposed rule change has been adopted by the New York Stock Exchange and American Stock Exchange. See NYSE Company Manual Rule 203.02 and American Stock Exchange Company Guide Section 623.

[7] See supra note 5.

[8] The securities of Nasdaq issuers are "included in" The Nasdaq Stock Market; they are not "listed on" the Nasdaq Stock Market. However, for purposes of this filing, the term "listed" will apply to Nasdaq, as well as exchange-listed securities.

[Release No. 34–37162; File No. SR–NSCC–96–01]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving a Proposed Rule Change Establishing Standard Prices for Transfers of Non-Continuous Net Settlement Assets through the Automated Customer Account Transfer Service

May 2, 1996.

On January 5, 1996, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–NSCC–96–01) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] to establish standard prices for certain assets transferred through NSCC's Automated Customer Account Transfer ("ACAT") service. On February 8 and 20, 1996, NSCC filed amendments to the proposed rule change.[2] Notice of the proposal was published on March 6, 1996, in the **Federal Register** to solicit comments on the proposed rule change.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

NSCC's proposed rule change modifies NSCC's rules to coincide with its practice of establishing systemized, standard default prices based on asset type for assets which are not eligible for NSCC's Continuous Net Settlement ("CNS") [4] system and which are

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letters from Julie Beyers, Associate Counsel, NSCC, to Christine Sibille, Division of Market Regulation, Commission (February 7 and 15, 1996).

[3] Securities Exchange Act Release No. 36907 (February 29, 1996), 61 FR 8997.

[4] A CNS security is a cleared security eligible for transfer on the books of each qualified securities depository (e.g., The Depository Trust Company, or the Philadelphia Depository Trust Company), and

Continued

submitted by members for transfer through NSCC's ACAT service.[5] Through its ACAT service, NSCC provides an automated and standardized service for the transfer of assets in a customer account from one brokerage firm to another.

When a customer wants to transfer her account to a new broker-dealer ("receiving broker-dealer"), the receiving broker-dealer submits through NSCC a transfer initiation request form to the broker-dealer holding the customer's assets ("delivering broker-dealer"). Within three business days, the delivering broker-dealer must submit to NSCC a list of the customer's assets it holds. The list must include prices assigned to the assets not eligible for CNS. Unless there are discrepancies between the receiving broker-dealer's list of the customer's assets and the delivering broker-dealer's list, transfer of the account generally takes place four business days later.

On settlement date, NSCC automatically debits the delivering broker's settlement account at NSCC with the market value of the assets being transferred through the ACAT service and credits the receiving broker's settlement account with the same amount. The resulting settlement obligations appear on the members' initial settlement statements issued in the afternoon. When the assets which are not CNS eligible assets are delivered through NSCC's envelope delivery service, NSCC credits the delivering broker's settlement account with the value of those assets and debits a corresponding amount from the receiving broker's settlement account. Because assets delivered through NSCC's envelope delivery service must be submitted by 11:30 a.m., the delivering broker's initial settlement statement will reflect both the debit from the initial ACAT request and the corresponding credit from the delivery of assets resulting in no change to such member's overall settlement obligations. If the assets are not delivered, the delivering broker's settlement bank would be debited the assigned value of the assets at the end-of-day settlement. These funds will be credited to the delivering broker when it delivers the customer's assets.

CNS assets submitted for transfer through the ACAT system are systematically priced. Because assets not eligible for CNS (*e.g.*, limited partnerships, mortgaged backed securities, zero coupon bonds, foreign securities, U.S. government and U.S. agency securities, and thinly traded municipal bonds) typically do not have a system price, NSCC must assign an asset value to any such assets submitted for transfer through the ACAT service. NSCC ascribes assets not eligible for CNS a value by using a pricing service.[6] If there is no price available from a pricing service, NSCC assigns a value based on the higher of (i) the price submitted by the delivering broker or (ii) the price indicated by an industry defined default price matrix.[7] The default price matrix employs security category indicators and specifies a default price for each identified security category. For example, domestic stocks are valued at $1.00 per share and domestic corporate bonds and municipal bonds are valued at $85 per $100 principle amount. Once the default value is established, changes by participants are not permitted.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Sections 17A(b)(3) (A) and (F).[8] Sections 17A(b)(3) (A) and (F) require that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to foster cooperation and coordination with person engaged in the clearance and settlement of securities transactions. The Commission believes that NSCC's rule change meets these standards because establishment of systemized standard default prices for assets not eligible for CNS which are transferred through the ACAT service provides an incentive for broker-dealers holding customer assets to promptly deliver such securities. The proposed rule change also should foster cooperation and coordination between brokerage firms and NSCC by establishing a standard method by which such assets are priced in the ACAT service. This method of pricing should decrease discrepancies with respect to asset valuation and should reduce the delivering broker's exposure from overvaluation of assets and the receiving broker's exposure from undervaluation of assets.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with Sections 17A(b)(3) (A) and (F) of the Act and the rules and regulations thereunder.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–96–01) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–11537 Filed 5–8–96; 8:45 am]

BILLING CODE 8010–01–M

identified as such on a list of such securities at NSCC.

[5] For a complete description of the ACAT service, refer to NSCC Rule 50 and to Securities Exchange Act Release No. 34879 (October 21, 1994), 59 FR 54229 [File No. SR–NSCC–94–13] (order approving a proposed rule change modifying the ACAT service).

[6] NSCC will use the following pricing services (listed in order of preference). Equities: The New York Stock Exchange, the American Stock Exchange, NASDAQ, Vancouver Stock Exchange, average OTC comparison system price, Interactive Data Financial Times information, previous day's system price, or last available price in system. Bonds: Average Price in the Bond Comparison System for trades compared on T or T+1, average price in the Bond Comparison System for trades compared on T+2, average price in the Bond Comparison System for trades compared on T+3 or older, Interactive Data Financial Times information, previous day's system price, last available price in system, or for municipal bonds only the price obtained from J.J. Kenny S&P if the last available system price is five days old or older.

[7] The default matrix was developed in conjunction with the New York Stock Exchange, the Securities Industry Association Account Transfer Division, and the National Association of Securities Dealers.

[8] 15 U.S.C. 78q-1(b)(3) (A) and (F) (1988).

[9] 17 CFR 200.30-3(a)(12) (1995).

[File No. 500–1]

Lanstar Semiconductor, Inc.; Order Directing Suspension of Trading

May 3, 1996.

It appears to the Securities and Exchange Commission that there is a lack of adequate current information concerning the securities of Lanstar Semiconductor, Inc., a Utah corporation with executive offices in Arlington, Texas, and that questions have been raised regarding the adequacy and accuracy of publicly disseminated information concerning, among other things, unusual market activity and the tradeability of shares.

Therefore, it is Ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of Lanstar Semiconductor, Inc., over-the-counter or otherwise, is suspended for the period from 9:30 a.m. (EDT) on May 6, 1996, through 11:59 p.m. (EDT) on May 17, 1996.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–11623 Filed 5–8–96; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2851]

Kentucky; Declaration of Disaster Loan Area

Madison County and the contiguous counties of Clark, Estill, Fayette, Garrard, Jackson, Jessamine, and Rockcastle in the State of Kentucky constitute a disaster area as a result of damages caused by high winds and tornadoes which occurred on April 20, 1996. Applications for loans for physical damage may be filed until the close of business on July 1, 1996 and for economic injury until the close of business on January 30, 1997 at the address listed below:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308

or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	7.250
Homeowners Without Credit Available Elsewhere	3.625
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury.	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 285112, and for economic injury the number is 883900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: April 30, 1996.

John T. Spotila,

Acting Administrator.

[FR Doc. 96–11610 Filed 5–8–96; 8:45 am]

BILLING CODE 8025–01–P

Portland District Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration, Portland District Advisory Council will hold a public meeting on Thursday, May 30, 1996 from 1:00 p.m. to 4:30 p.m. and Friday, May 31, 1996 from 8:00 a.m. to 12:00 noon at the Newport Shilo Inn, 536 SW Elizabeth, Newport, Oregon to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. John L. Gilman, District Director, U.S. Small Business Administration, 222 S.W. Columbia, Suite 500, Portland, OR 97201–6695, (503) 326–5221.

Dated: May 3, 1996.

Bill Combs,

Associate Administrator for Office of Communication and Public Liaison.

[FR Doc. 96–11609 Filed 5–8–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. MC–96–13]

Commercial Driver's License Program; Temporary Waiver for Trekking International Overland Expedition

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of final disposition.

SUMMARY: Trekking International requested relief from the requirements of the commercial driver's license(CDL) regulations (49 CFR Part 383) for drivers participating in the Overland Expedition.

The FHWA has decided that it is not contrary to the public interest and will not diminish the safe operation of commercial motor vehicles (CMVs) to grant a waiver from the CDL testing and licensing standards to drivers participating in the Overland Expedition. The effect of this action is to allow four Iveco 330.30 ANW 6x6 trucks being driven by six foreign licensed employees of the petitioner to continue driving their trucks from Rome, Italy to New York City, New York. The approved waiver is temporary and subject to certain conditions.

EFFECTIVE DATE: May 9, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Redmond, Office of Motor Carrier Research and Standards, (202) 366–4001, or Mr. Raymond W. Cuprill, Office of the Chief Counsel, HCC–20, (202) 366–0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The Commercial Driver's License (CDL) regulations, issued pursuant to the Commercial Motor Vehicle Safety Act of 1986 (Title XII, Pub. L. 99-570, 100 Stat. 3207) (49 U.S.C. 31301 *et seq.*), are found at 49 CFR Part 383 (1995). Section 383.23 of the regulations sets forth the general rule that no person shall operate a commercial motor vehicle (CMV) unless such person: (1) has taken and passed a knowledge test and, if applicable, a driving test, which meets Federal standards, and (2) possesses a CDL, which is evidence of having passed the required tests. These Federal standards ensure that drivers of a CMV: (1) have a single driver's license and a single driving record, (2) are tested for the knowledge and skills needed to drive a vehicle representative of the vehicle that they will be licensed to drive, and (3) are disqualified from driving a CMV when convicted of certain criminal or traffic violations.

The term "commercial motor vehicle" is defined to include, a motor vehicle:

(1) With a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating (GVWR) of more than 10,000 pounds; or

(2) With a GVWR of 26,001 or more pounds; or

(3) Designed to transport 16 or more passengers, including the driver; or

(4) Used in the transportation of quantities of hazardous materials which require the vehicle to be placarded under the Hazardous Materials Transportation Regulations (49 CFR part 172, subpart F). 49 CFR 383.5 (1995).

CDL Waivers

Section 12012 of the Commercial Motor Vehicle Safety Act of 1985 (the Act) authorizes the Secretary of Transportation to waive any class of drivers or vehicles from any or all of the provisions of the Act or the implementing regulations if the Secretary determines that the waiver is not contrary to the public interest and does not diminish the safe operation of commercial motor vehicles. The regulatory procedures governing the issuance of waivers are found at 49 CFR 383.7 (1995).

Petition

Trekking International of Milan, Italy, through its North American coordinator, Circumpolar Expeditions of Anchorage, Alaska, has petitioned the FHWA to grant a CDL waiver to drivers involved

in the Overland Expedition. The goal of the Overland Expedition is to drive four (4) Iveco 330.30 ANW 6x6 trucks 15,000 miles from Rome, Italy, to New York City, New York. Once the Expedition is completed, the trucks will be shipped back to Italy. The petitioner expects the vehicles to be shipped on or before June 1, 1996.

Docket Comments

In response to the notice published in the **Federal Register** on March 29, 1996 (62 FR 14193), the FHWA received two responses to the docket.

The Tennessee Public Service Commission (TPSC) wrote in support of granting the waiver. The TPSC stated that "[b]ased upon the notice in the **Federal Register**, I can find no substantive reason to believe that the issuance of a CDL waiver will cause any risk to the motoring public given the familiarity of the drivers with the vehicles and the drivers holding international commercial driver licenses."

The other commenter, Advocates for Highway and Auto Safety (AHAS), wrote in opposition to granting the waiver. The AHAS stated that evidence was not presented to indicate that the waiver is in the public interest. They further stated that unlike other waivers that have been granted, this waiver does not encourage employment in the United States (U.S.) for drivers who would otherwise be unable to continue driving.

In regard to safety, AHAS stated that the FHWA did not substantiate that the waiver will not diminish safety. They further stated that the notice does not provide specific information on the driving experience, competence and safety record of these drivers; any indication that the drivers are familiar with our roadways; any comparative analysis of the differences between Italian and U.S. commercial vehicle safety laws and regulations; and any justification for not hiring U.S. drivers with valid CDLs to operate the vehicles in the U.S.

The AHAS also asserts that the period for public comment violated the Administrative Procedure Act because at least 15 days were not provided. The AHAS stated that the FHWA did not offer an explanation as to why there was a delay in publishing the notice and did not justify the reason for the short comment period. If the waiver is granted, the AHAS also stated that it should be limited to the time period actually needed and requested.

FHWA Response to the Comments

The FHWA has determined that it would not diminish the safe operation of CMVs to waive drivers of Trekking International of Milan, Italy involved in the Overland Expedition, from the CDL requirements, subject to certain conditions. The requested waiver would be temporary and only be applicable to those foreign employees driving the four vehicles that are participating in the Expedition. These employees are professional operators of commercial motor vehicles. They have valid Italian commercial driver's licenses to operate vehicles in 5 vehicle classes. The Italian licensing process includes knowledge and skills testing based on the recommendations of the European Community, where there is a 21 years of age requirement to operate heavy trucks. Each of the drivers have 15 to 20 years of driving experience.

In response to the AHAS concern about the FHWA not conducting a comparative analysis between the Italian and U.S. CMV safety laws and regulations, there was only a need to compare the licensing requirements since Trekking International has agreed to comply with all other applicable Federal Motor Carrier Safety Regulations (FMCSRs), including financial responsibility, vehicle marking, driver physical qualification, vehicle inspection, and hours of service requirements. In addition, since this waiver is limited to the six drivers named in the petition and is not a reciprocal agreement with the Italian government on commercial driver licensing, a comprehensive analysis of all safety laws and regulations was not warranted. The FHWA did, however, obtain documentation of Italian CMV driver licensing requirements to ensure these drivers met licensing standards similar to U.S. CMV drivers.

The FHWA has further determined that it is not contrary to the public interest to grant this waiver. While AHAS claims there is no public interest in granting the waiver, it does not offer any substantial reasons why the granting of the waiver would be contrary to the public interest. The FHWA agrees with AHAS that U.S. drivers with valid CDLs could be hired to operate these vehicles in the U.S., but that was not what was requested in the petition. Based on the fact that these are European vehicles, it is in the public interest to allow these Italian drivers who are very familiar with operating these vehicles and have over 15,000 miles of experience driving them in this expedition, in all kinds of road and weather conditions, across Europe and Asia before entering the U.S., to continue driving them in the U.S. to complete the trip.

AHAS has objected to the short comment period provided in the FHWA's March 29 notice, asserting that a 10-day comment period violates the Administrative Procedure Act. The Administrative Procedure Act does not specify a minimum period for comment; nor does 49 U.S.C. 31135 which authorizes the agency to waive its regulations after notice and opportunity for comment. While the FHWA typically provides more time for public comment on proposals similar to his one, the standard for determining how much time should be provided for public comment is what is reasonable in view of the facts.

In this instance, the FHWA believes that ten days is reasonable. While the original petition for waiver was submitted on January 24, 1996, the FHWA required the petitioner to submit further information in support of its petition before deciding whether the petition warranted further consideration. The further information submitted by the petitioner is summarized in the notice published on March 29.

The FHWA believes that the ten-day comment period in this case was adequate to alert interested parties to respond to the request for waiver, and that the notice provided adequate information to enable interested parties, such as AHAS, to respond to the notice. To further delay acting on this petition would make it impossible for the petitioner to do what it plans, or would increase its costs, without creating a public benefit.

AHAS also objected to the waiver being granted for a longer period than is actually needed or requested. The FHWA does not agree with this objection. While the petitioner expects to complete the trip to New York by the end of April, the FHWA believes that granting an additional month to provide for weather, vehicle repair, or other unforseen delays is a reasonable action.

Waiver Conditions

The waiver from the CDL requirements is granted, subject to the following conditions:

(1) Drivers covered—this waiver applies only to the following Italian drivers employed by the petitioner while participating in the Overland Expedition and holding a valid Italian commercial driver's license to operate the vehicles listed in condition #3:

Name	License No.	Issued	Classification
Gregorio Camevale	1300267	8/7/95	ABCDE
Carlo Marocco	1291175	9/4/95	ABCDE
Erhard Mayer	A26095	8/28/95	ABCDE
Vicenzo Leone	1291174	9/11/95	ABCDE
Emilio Altamore	1247556	9/4/95	ABCDE
Francesco Miranda	1247557	9/4/95	ABCDE

(2) Duration—the waiver is only valid through June 1, 1996;

(3) Vehicles—the waiver is limited to the operation of the four vehicles participating in the Overland Expedition and identified with the following vehicle identification numbers and license plates:

a. WJMH3GMSM09015805 (plate no. A658095)
b. WJMH3GMSM09015766 (plate no. A658096)
c. WJMH3GMSM09015814 (plate no. A658097)
d. WJMH3GMSM09015669 (plate no. A658098)

(4) Compliance with FMCSRs—drivers covered by the waiver are required to comply with other applicable requirements of the Federal Motor Carrier Safety Regulations, including financial responsibility, vehicle marking, driver physical. qualification, vehicle inspection, and hours of service requirements.

Authority: Title XII of Pub. L. 99–570; 100 Stat. 3207; 49 U.S.C. 31301 *et seq.*; 49 U.S.C. 31315; 49 CFR 1.48; 49 CFR 383.7; 23 U.S.C. 315.

Issued on: April 30, 1996.

Rodney E. Slater,

Federal Highway Administration.

[FR Doc. 96–11372 Filed 5–8–96; 8:45 am]

BILLING CODE 4910–22–P

Research and Special Programs Administration

Office of Hazardous Materials Safety; Delays in Processing of Exemption Applications

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), RSPA is publishing the following list of exemption applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: J. Suzanne Hedgepeth, Director, Office of Hazardous Materials, Exemptions and Approvals, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4535.

Key to "Reasons for Delay"

1. Awaiting additional information from applicant.
2. Extensive public comment under review.
3. Application is technically very complex and is of significant impact or precedent-setting and requires extensive analysis.
4. Staff review delayed by other priority issues or volume of exemption applications.

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NEW EXEMPTION APPLICATIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
10581–N	Luxfer UK Limited, Nottingham, England	4	7/01/1996
10664–N	EFIC Corporation, San Jose, CA	3, 4	6/30/1996
10740–N	CSXT/BIDS, Philadelphia, PA	4	6/01/1996
10915–N	Luxfer USA Limited, Riverside, CA	3, 4	6/30/1996
10945–N	Structural Composites Industries, Pomona, CA	3, 4	6/30/1996
10997–N	HR Textron, Inc. Pacoima, CA	3, 4	6/30/1996
11085–N	Union Tank Car Company, East Chicago, IN		
11098–N	Alcan Smelters and Chemicals Ltd., Montreal, CN	3	5/15/1996
11157–N	Northwest Ohio Towing & Recovery, Beaverdam, OH	1, 4	5/30/1996
11193–N	U.S. Department of Defense, Falls Church, VA	4	6/30/1996
11194–N	Pressure Technology, Inc., Hanover, MD	3, 4	6/30/1996
11249–N	UOP, Shreveport, LA	4	6/15/1996
11302–N	Stolt Tank Containers Limited, Hull, North Humberside, EN	1	5/31/1996
11307–N	Jacx Enterprises, Highlands, TX	4	6/15/1996
11315–N	Southern Pacific Lines, Houston, TX	4	6/15/1996
11322–N	Hydra Rig, Inc., Ft. Worth, TX	1	5/31/1996
11375–N	Oceaneering Space Systems, Houston, TX	1, 4	6/30/1996
11396–N	Laidlaw Environmental Services, LaPorte, TX	4	6/30/1996
11401–N	Hewlett Packard Co., Santa Clara, CA	4	6/30/1996
11409–N	Pure Solve, Inc., Irving, TX	4	5/31/1996
11411–N	National Propane Gas Association, Arlington, VA	4	6/30/1996
11413–N	Dow Chemical, NA, Midland, MI	4	7/15/1996
11424–N	Midwest Corporate Air, Inc., Bellefontaine, OH	4	6/15/1996
11426–N	Laidlaw Environmental Services, LaPorte, TX	4	5/15/1996
11427–N	Georgia Gulf Corp., Palquemine, LA	4	7/15/1996
11442–N	Union Tank Car Co., East Chicago, IN	4	6/30/1996
11443–N	Hercules Inc., Wilmington, DE	4	6/30/1996
11450–N	Coast Gas Inc., Bakersfield, CA	1	5/31/1996
11465–N	Monsanto, Co., St. Louis, MO	4	6/30/1996
11470–N	North East Chemical Corp., Cleveland, OH	4	6/30/1996
11487–N	Whittaker Electronic Systems, Simi Valley, CA	4	5/31/1996
11491–N	P.M. Industrial Gas Ltd., Georgetown	1	5/31/1996
11503–N	The American Waterways Operators, Seattle, WA	4	6/30/1996
11505–N	Manchester Tank, Brentwood, TN	4	6/30/1996
11511–N	Brenner Tank Inc., Fond du Lac, WI	4	6/30/1996
11522–N	The American Waterways Operators, Seattle, WA	1, 4	6/30/1996
11523–N	Bio-Lab, Inc., Conyers, GA	4	5/31/1996
11526–N	BOC Gases, Murray Hill, NJ	1, 4	7/31/1996
11527–N	Technical Service Co., Long Beach, CA	4	7/31/1996
11529–N	Matheson Gas Products, Secaucus, NJ	4	7/31/1996
11530–N	Department of Energy, Washington, DC	4	5/24/1996
11531–N	Grand Aire Express, Inc., Monroe, MI	4	5/31/1996
11537–N	Babson Bros. Co., Romeoville, IL	4	7/31/1996
11538–N	Process Engineering, Plaistow, NH	4	5/31/1996
11540–N	Convenience Products, Fenton, MO	4	7/01/1996
11541–N	Kaiser Compositek Brea, CA	3, 4	6/30/1996
11542–N	Sunrise Supply Enterprises, Ltd., Albuquerque, NM	4	5/30/1996
11546–N	Trinity River Authority of Texas, Grand Prairie, TX	4	6/30/1996

MODIFICATIONS TO EXEMPTIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
4354–M	PPG Industries, Inc., Pittsburgh, PA	4	5/31/1996
6922–M	Halocarbon Products Corp., N. Augusta, SC	1, 4	5/31/1996
7835–M	BOC Gases, Murray Hill, NH	4	6/30/1996
8131–M	NASA, Washington, DC	4	6/30/1996
9001–M	Chesterfield Cylinders Limited, Chesterfield, Derbyshire, EN	4	5/31/1996
9164–M	Fabricated Metals, Inc., San Leandro, CA	4	6/30/1996
9184–M	The Carbide/Graphite Group, Inc., Louisville, KY	4	6/30/1996
9909–M	Taylor-Wharton, Harrisburg, PA	4	6/30/1996
10094–M	Air Products & Chemicals, Inc., Allentown, PA	4	7/20/1996
10997–M	HR Textron Inc., Paçoima, CA	3, 4	6/30/1996
11055–M	Rollis Chempak Inc., Wilmington, DE	4	6/30/1996
11321–M	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE	4	5/31/1996

PARTIES TO EXEMPTION APPLICATIONS WITH MODIFICATION

Application No.	Applicant	Reason for delay	Estimated date of completion
10288–PM	Chevron Chemical Company, Houston, TX		
11249–PM	Ashland Chemical Company, Columbus, OH	4	7/01/1996

Meaning of Application Number Suffixes
N—New application
M—Modification request
PM—Party to application with modification request

Issued in Washington, DC, on May 3, 1996.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 96–11608 Filed 5–8–96; 8:45 am]

BILLING CODE 4910–60–M

Surface Transportation Board [1]

[STB Finance Docket No. 32931]

CSX Transportation, Inc.—Trackage Rights Exemption—East Cooper and Berkeley Railroad Company

CSX Transportation, Inc. (CSXT) has filed a verified notice under 49 CFR 1180.2(d)(7) to acquire overhead trackage rights from East Cooper and Berkeley Railroad (ECBR) between milepost 0.00 at State Junction, SC, to milepost 14.8 thence over newly constructed trackage [2] for a distance of approximately 2.2 miles to the property line of Nucor Corporation (Nucor), for a total distance of approximately 17 miles in Berkeley County, SC.

The trackage rights became effective on May 2, 1996.

The notice states that the CSXT's use of the ECBR track will enable CSXT to provide direct linehaul service to Nucor and any satellite industries that might be constructed adjacent to the Nucor mill. This direct access will enable CSXT to offer intermodal competition for shipments to and from the Nucor mill and any satellite industries.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 354 I.C.C. 732 (1978) and 360 I.C.C. 653 (1980).

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Any pleadings must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: John W. Humes, Jr., Senior Counsel, CSX Transportation, Inc., 500 Water Street, J–150, Jacksonville, FL 32202.

Decided: May 3, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–11621 Filed 5–8–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board [1]

[STB Finance Docket No. 32906]

San Joaquin Valley Railroad Co.—Corporate Family Transaction Exemption—Port Railroads, Inc.

San Joaquin Valley Railroad Co. (SJVR) and Port Railroads, Inc. (PRI), common carriers by railroad,[2] have jointly filed a verified notice of exemption whereby SJVR will acquire by assignment of lease [3] all of the railroad properties which PRI acquired by lease from Southern Pacific.[4]

- The transaction was expected to be consummated on April 24, 1996.

The unification of SJVR and PRI's railroad operations will permit the consolidation of their separately maintained books and records, the elimination of duplicating administrative costs and the achievement otherwise of greater efficiencies and economies in the rendition of the railroads' transportation services.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in significant changes in railroad operations. In addition, while the parties do not specifically say it, the transaction would apparently not result in a change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32906, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Fritz R. Kahn, Esq., Suite 750 West, 1100 New York Avenue, N.W., Washington, DC 20005–3934.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323.

[2] *See East Cooper and Berkeley Railroad—Construction and Operation Exemption—in Berkeley County, SC*, Finance Docket No. 32704, (ICC served Dec. 13, 1995).

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323–24.

[2] SJVR and PRI are Class III railroads which are wholly owned subsidiary corporations of Kyle Railways, Inc.

[3] Notice of PRI's lease and operation exemption of these lines was given in *Port Railroads, Inc.—Lease and Operation Exemption—Southern Pacific Transportation Company*, Finance Docket No. 32457, (ICC served Mar. 14, 1994).

[4] SJVR and PRI state at p. 1 of their Assignment of Lease Agreement that "such assignment requires the consent of Southern Pacific."

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Decided: May 3, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–11622 Filed 5–8–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 30, 1996.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Departmental Office/Office of Foreign Assets Control

OMB Number: 1505–0156.

Form Number: None.

Type of Review: Extension.

Title: Terrorism Sanctions Regulations.

Description: The President issued Executive Order 12947, declaring a national emergency with respect to "grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process." The Executive Order invoked the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), and requires the promulgation of regulations.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Response: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 500 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–11564 Filed 5–8–96; 8:45 am]

BILLING CODE 4810–25–P

Submission for OMB review; comment request

May 2, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

U.S. Customs Service (CUS)

OMB Number: 1515–0062.

Form Number: CF 1301.

Type of Review: Extension.

Title: General Declaration.

Description: The form is used to record necessary information for the identification of vessels arriving from foreign ports into the United States. It also serves to record a vessel's itinerary and provides a detail description of a vessel's cargo and other manifest information. The information recorded is used for national statistics by the Bureau of the Census and other agencies.

Respondents: Business or other for-profit, Federal Government.

Estimated Number of Respondents: 8,000.

Estimated Burden Hours Per Respondent: 5 minutes.

Frequency of Response: Other (each transaction).

Estimated Total Reporting Burden: 17,326 hours.

OMB Number: 1515–0145.

Form Number: None.

Type of Review: Extension.

Title: Cargo Container and Road Vehicle Certification for Transport Under Customs Seal.

Description: This information is used in a voluntary program to receive internationally recognized Customs certification that intermodal Containers/Road Vehicles meet construction requirements of international Customs conventions. Such certification facilitates international trade by reducing intermediate international controls.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 22.

Estimated Burden Hours Per Respondent: 2 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 3,124 hours.

OMB Number: 1515–0186.

Form Number: None.

Type of Review: Extension.

Title: Air Waybill.

Description: Use of an Air Waybill in lieu of a Customs form to report arrival of freight and transportation in-bond of freight to the port of destination.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 60.

Estimated Burden Hours Per Recordkeeper: 2 minutes.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 1,030 hours.

Clearance Officer: J. Edgar Nichols, (202) 927–1426 U.S. Customs Service, Printing and Records Management Branch, Room 6216, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 96–11565 Filed 5–8–96; 8:45 am]

BILLING CODE 4820–02–U

Submission for OMB Review; Comment Request

April 24, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to conduct the focus group interviews described below by the May 1996 start-up date, the Department of Treasury is requesting Office of Management and Budget (OMB) review and approve this information collection by May 1, 1996. To obtain a copy of this survey, please contact the IRS Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1432.

Project Number: PC:V 96–016–G.

Type of Review: Revision.

Title: 1. Tax Forms and Publications 1996 1040 Forms and Condensed Instructions Focus Group Interviews; and 2. Tax Filing Behavior Focus Group Interviews.

Description: 1. The Internal Revenue Service's Tax Forms and Publications Division has developed a new experimental version of the line-by-line instructions for Form 1040, *U.S. Individual Income Tax Return.* The draft instructions are about 25% shorter than the current instructions, but contain all the information needed by most taxpayers whose tax situation remains fairly stable from year to year. IRS will use this series of focus groups to obtain reactions, comments and suggestions to these new instructions from Form 1040 filers who prepare their own returns.

2. The Internal Revenue Service (IRS) recently found that there is a significant increase in the usage of return preparation software within the professional accounting community. The IRS is interested in exploring if similar changes are occurring in individual taxpayer filing behavior and patterns. IRS will conduct this series of focus groups to obtain feedback from these taxpayers on (a) current filing practices, (b) changes to filing practices over the past few years, and (c) future filing practices. Information gathered in these focus groups will help IRS adapt their products and services to meet taxpayers changing needs.

Respondents: Individuals or households

Estimated Number of Respondents: 150

Estimated Burden Hours Per Respondent:

Screening participants—54 hours each.

Interview sessions plus travel—270 hours each.

Frequency of Response: Other.

Estimated Total Reporting Burden: 648 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 96–11566 Filed 5–8–96; 8:45 am]

BILLING CODE 4830–01–P

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 822]

Commerce in Explosives; List of Explosive Materials

Pursuant to the provisions of section 841(d) of Title 18, United States Code, and 27 CFR 55.23, the Director, Bureau of Alcohol, Tobacco, and Firearms, must publish and revise at least annually in the **Federal Register** a list of explosives determined to be within the coverage of 18 U.S.C. Chapter 40, Importation, Manufacture, Distribution and Storage of Explosive Materials. This chapter covers not only explosives, but also blasting agents and detonators, all of which are defined as explosive materials in section 841(c) of Title 18, United States Code. Accordingly, the following is the 1996 List of Explosive Materials subject to regulation under 18 U.S.C. Chapter 40, which includes both the list of explosives (including detonators) required to be published in the **Federal Register** and blasting agents. The list is intended to also include any and all mixtures containing any of the materials in the list. Materials constituting blasting agents are marked by an asterisk. While the list is comprehensive, it is *not* all inclusive. The fact that an explosive material may not be on the list does not mean that it is not within the coverage of the law if it otherwise meets the statutory definitions in section 841 of Title 18, United States Code. Explosive materials are listed alphabetically by their common names followed by chemical names and synonyms in brackets. This revised list supersedes the List of Explosive Materials dated April 15, 1995, (FR) and will be effective as of the date of publication in the **Federal Register**.

List of Explosive Materials

A

Acetylides of heavy metals.
Aluminum containing polymeric propellant.
Aluminum ophorite explosive.
Amatex.
Amatol.
Ammonal.
Ammonium nitrate explosive mixtures (cap sensitive).
*Ammonium nitrate explosive mixtures (non cap sensitive).
Aromatic nitro-compound explosive mixtures.
Ammonium perchlorate explosive mixtures.
Ammonium perchlorate composite propellant.
Ammonium picrate [picrate of ammonia, Explosive D].
Ammonium salt lattice with isomorphously substituted inorganic salts.
*ANFO [ammonium nitrate-fuel oil].

B

Baratol.
Baronol.
BEAF [1, 2-bis (2, 2-difluoro-2-nitroacetoxyethane)].
Black powder.
Black powder based explosive mixtures.
*Blasting agents, nitro-carbo-nitrates, including non cap sensitive slurry and water-gel explosives.
Blasting caps.
Blasting gelatin.
Blasting powder.
BTNEC [bis (trinitroethyl) carbonate].
Bulk salutes.
BTNEN [bis (trinitroethyl) nitramine].
BTTN [1,2,4 butanetriol trinitrate].
Butyl tetryl.

C

Calcium nitrate explosive mixture.
Cellulose hexanitrate explosive mixture.
Chlorate explosive mixtures.
Composition A and variations.
Composition B and variations.
Composition C and variations.
Copper acetylide.
Cyanuric triazide.
Cyclotrimethylenetrinitramine [RDX].
Cyclotetramethylenetetranitramine [HMX].
Cyclonite [RDX].
Cyclotol.

D

DATB [diaminotrinitrobenzene].
DDNP [diazodinitrophenol].
DEGDN [diethyleneglycol dinitrate].
Detonating cord.
Detonators.
Dimethylol dimethyl methane dinitrate composition.
Dinitroethyleneurea.
Dinitroglycerine [glycerol dinitrate].
Dinitrophenol.
Dinitrophenolates.
Dinitrophenyl hydrazine.
Dinitroresorcinol.
Dinitrotoluene-sodium nitrate explosive mixtures.
DIPAM.
Dipicryl sulfone.
Dipicrylamine.
Display fireworks.

DNDP [dinitropentano nitrile].
DNPA [2,2-dinitropropyl acrylate].
Dynamite.

E

EDDN [ethylene diamine dinitrate].
EDNA.
Ednatol.
EDNP [ethyl 4,4-dinitropentanoate].
Erythritol tetranitrate explosives.
Esters of nitro-substituted alcohols.
EGDN [ethylene glycol dinitrate].
Ethyl-tetryl.
Explosive conitrates.
Explosive gelatins.
Explosive mixtures containing oxygen releasing inorganic salts and hydrocarbons.
Explosive mixtures containing oxygen releasing inorganic salts and nitro bodies.
Explosive mixtures containing oxygen releasing inorganic salts and water insoluble fuels.
Explosive mixtures containing oxygen releasing inorganic salts and water soluble fuels.
Explosive mixtures containing sensitized nitromethane.
Explosive mixtures containing tetranitromethane (nitroform).
Explosive nitro compounds of aromatic hydrocarbons.
Explosive organic nitrate mixtures.
Explosive liquids.
Explosive powders.

F

Flash powder.
Fulminate of mercury.
Fulminate of silver.
Fulminating gold.
Fulminating mercury.
Fulminating platinum.
Fulminating silver.

G

Gelatinized nitrocellulose.
Gem-dinitro aliphatic explosive mixtures.
Guanyl nitrosamino guanyl tetrazene.
Guanyl nitrosamino guanylidene hydrazine.
Guncotton

H

Heavy metal azides.
Hexanite.
Hexanitrodiphenylamine.
Hexanitrostilbene.
Hexogen (RDX).
Hexogene or octogene and a nitrated N-methylaniline.
Hexolites.
HMX [cyclo-1,3,5,7-tetramethylene 2,4,6,8-tetranitramine; Octogen].
Hydrazinium nitrate/hydrazine/aluminum explosive system.
Hydrazoic acid.

I

Igniter cord.
Igniters.
Initiating tube systems.

K

KDNBF [potassium dinitrobenzo-furoxane].

L

Lead azide.
Lead mannite.
Lead mononitroresorcinate.
Lead picrate.
Lead salts, explosive.
Lead styphnate [styphnate of lead, lead trinitroresorcinate].
Liquid nitrated polyol and trimethylolethane.
Liquid oxygen explosives.

M

Magnesium ophorite explosives.
Mannitol hexanitrate.
MDNP [methyl 4,4-dinitropentanoate].
MEAN [monoethanolamine nitrate].
Mercuric fulminate.
Mercury oxalate.
Mercury tartrate.
Metriol trinitrate.
Minol-2 [40% TNT, 40% ammonium nitrate, 20% aluminum].
MMAN [monomethylamine nitrate]; methylamine nitrate.
Mononitrotoluene-nitroglycerin mixture.
Monopropellants.

N

NIBTN [nitroisobutametriol trinitrate].
Nitrate sensitized with gelled nitroparaffin.
Nitrated carbohydrate explosive.
Nitrated glucoside explosive.
Nitrated polyhydric alcohol explosives.
Nitrates of soda explosive mixtures.
Nitric acid and a nitro aromatic compound explosive.
Nitric acid and carboxylic fuel explosive.
Nitric acid explosive mixtures.
Nitro aromatic explosive mixtures.
Nitro compounds of furane explosive mixtures.
Nitrocellulose explosive.
Nitroderivative of urea explosive mixture.
Nitrogelatin explosive.
Nitrogen trichloride.
Nitrogen tri-iodide.
Nitroglycerine [NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine].
Nitroglycide.
Nitroglycol (ethylene glycol dinitrate, EGDN).
Nitroguanidine explosives.
Nitroparaffins Explosive Grade and ammonium nitrate mixtures.
Nitronium perchlorate propellant mixtures.
Nitrostarch.
Nitro-substituted carboxylic acids.
Nitrourea.

O

Octogen [HMX].
Octol [75 percent HMX, 25 percent TNT].
Organic amine nitrates.
Organic nitramines.

P

PBX [RDX and plasticizer].
Pellet powder.
Penthrinite composition.
Pentolite.
Perchlorate explosive mixtures.
Peroxide based explosive mixtures.
PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate].
Picramic acid and its salts.
Picramide.
Picrate of potassium explosive mixtures.
Picratol.
Picric acid (manufactured as an explosive).
Picryl chloride.
Picryl fluoride.
PLX [95% nitromethane, 5% ethylenediamine].
Polynitro aliphatic compounds.
Polyolpolynitrate-nitrocellulose explosive gels.
Potassium chlorate and lead sulfocyanate explosive.
Potassium nitrate explosive mixtures.
Potassium nitroaminotetrazole.
Pyrotechnic compositions.
PYX [2,6-bis(picrylamino))-3,5-dinitropyridine.

R

RDX [cyclonite, hexogen, T4, cyclo-1,3,5,-timethylene-2,4,6,-trinitramine; hexahydro-1,3,5-trinitro-S-triazine].

S

Safety fuse.
Salutes, (bulk).
Salts of organic amino sulfonic acid explosive mixture.
Silver acetylide.
Silver azide.
Silver fulminate.
Silver oxalate explosive mixtures.
Silver styphnate.
Silver tartrate explosive mixtures.
Silver tetrazene.
Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel and sensitizer (cap sensitive).
Smokeless powder.
Sodatol.
Sodium amatol.
Sodium azide explosive mixture.
Sodium dinitro-ortho-cresolate.
Sodium nitrate-potassium nitrate explosive mixture.
Sodium picramate.
Special fireworks.
Squibs.
Styphnic acid explosives.

T

Tacot [tetranitro-2,3,5,6-dibenzo-1,3a,4,6a tetrazapentalene].
TATB [triaminotrinitrobenzene].
TEGDN [triethylene glycol dinitrate].
Tetrazene [tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl tetrazene hydrate].
Tetranitrocarbazole.
Tetryl [2,4,6 tetranitro-N-methylaniline].
Tetrytol.
Thickened inorganic oxidizer salt slurried explosive mixture.
TMETN (trimethylolethane trinitrate).
TNEF [trinitroethyl formal].
TNEOC [trinitroethylorthocarbonate].
TNEOF [trinitroethylorthoformate].
TNT [trinitrotoluene, trotyl, trilite, triton].
Torpex.
Tridite.
Trimethylol ethyl methane trinitrate composition.
Trimethylolthane trinitrate-nitrocellulose.
Trimonite.
Trinitroanisole.
Trinitrobenzene.
Trinitrobenzoic acid.
Trinitrocresol.
Trinitro-meta-cresol.
Trinitronaphthalene.
Trinitrophenetol.
Trinitrophloroglucinol.
Trinitroresorcinol.
Tritonal.

U

Urea nitrate.

W

Water bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates (cap sensitive).
Water-in-oil emulsion explosive compositions.

X

Xanthamonas hydrophilic colloid explosive mixture.

Internal Revenue Service

Proposed Collection; Comment Request for Form 3975

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 3975, Tax Practitioner Annual Mailing List Application and Order Blank.

DATES: Written comments should be received on or before July 8, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Linda Deel, Specialist, Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–8310).

Approved: April 30, 1996.

John W. Magaw,

Director.

[FR Doc. 96–11613 Filed 5–8–96; 8:45 am]

BILLING CODE 4810–31–P

SUPPLEMENTARY INFORMATION:

Title: Form 3975, Tax Practitioner Annual Mailing Application and Order Blank.

OMB Number: 1545–0351.

Form Number: Form 3975.

Abstract: Form 3975 allows a tax practitioner a systematic way to remain on the Tax Practitioner Mailing File and to order copies of tax materials.

Current Actions: Form 3975A was obsoleted because it was a duplication of items that could be ordered using Form 3975.

Type of Review: Revision.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 320,000.

Estimated Time Per Respondent: 3 minutes.

Estimated Total Annual Burden Hours: 16,000 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Approved: May 3, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–11638 Filed 5–8–96; 8:45 am]

BILLING CODE 4830–01–U

Corrections

Federal Register
Vol. 61, No. 91
Thursday, May 9, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF JUSTICE

8 CFR Parts 3 and 242

[EOIR No. 102F; AG Order No. 2020–96]
RIN 1125–AA01

Executive Office for Immigration Review; Motions and Appeals in Immigration Proceedings

Correction

Editorial Note: This correction replaces the document published at 61 FR 19976, May 3, 1996. An additional correction to this document appears elsewhere in the Rules Section of this issue.

In rule document 96–10157 beginning on page 18900 in the issue of Monday, April 29, 1996, make the following corrections:

§ 3.23 [Corrected]

1. On page 18908, in the first column, in § 3.23(b)(3), the first sentence should read "A motion to reconsider must be filed within 30 days after the date on which the decision for which reconsideration is being sought was rendered, or on or before July 31, 1996, whichever is later.".

§ 3.31 [Corrected]

2. On the same page, in the third column, in § 3.31(b), in the sixth line, "§ 3.8(a)(c)" should read "§ 3.8(a) and (c)".

§ 242.19 [Corrected]

3. On page 18909, in the third column, in § 242.19, in amendatory instruction 24, in the fourth line, "(6)" should read "(b)".

BILLING CODE 1505–01–D

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–060]
RIN 1218–AA71

Personal Protective Equipment for General Industry

Correction

In rule document 96–10433 beginning on page 19547 in the issue of Thursday, May 2, 1996, make the following correction:

§ 1910.136 [Corrected]

On page 19548, in the third column, in the amendatory instruction to § 1910.136(a), in the second line from the top, "used" should read "uses".

BILLING CODE 1505–01–D

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Single-Employer Plans; Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Amendments Adopting Additional PBGC Rates

Correction

In rule document 95–20141 beginning on page 42037 in the issue of Tuesday, August 15, 1995, make the following correction:

Appendix B to Part 2619 [Corrected]

On page 42039, in Appendix B to Part 2619, the table at the top of the page should read "Table II".

BILLING CODE 1505–01–D

federal register

Thursday
May 9, 1996

Part II

Department of Education

Office of Special Education and Rehabilitative Services

Inviting Applications for New Awards for Fiscal Year 1996, and Final Priorities; Notices

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DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

AGENCY: DOE.

ACTION: Notice inviting applications for new awards for fiscal year 1996.

SUMMARY: This notice provides closing dates and other information regarding the transmittal of applications for fiscal year 1996 competitions under two programs authorized by the Individuals with Disabilities Education Act.

This notice supports the National Education Goals by improving understanding of how to enable children and youth with disabilities to reach higher levels of academic achievement. [CFDA No. 84.029A]

Training Personnel for the Education of Individuals With Disabilities Program

Purpose of Program: The purpose of Training Personnel for the Education of Individuals with Disabilities Program—Grants for Personnel Training is to increase the quantity and improve the quality of personnel available to serve infants, toddlers, children and youth with disabilities.

Eligible Applicants: Eligible applicants are institutions of higher education, and appropriate nonprofit agencies.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Part 318.

Priority

Absolute Priority 1—Preparation of Special Education, Related Services, and Early Intervention Personnel To Serve Infants, Toddlers, Children, and Youth With Low-Incidence Disabilities (84.029A)

The priority for Preparation of Special Education, Related Services, and Early Intervention Personnel to Serve Infants, Toddlers, Children, and Youth with Low-Incidence Disabilities in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Applications Available: May 10, 1996.

Deadline for Transmittal of Applications: June 19, 1996.

Deadline for Intergovernmental Review: August 19, 1996.

Estimated Average Size of Award: $150,000.

Estimated Number of Awards: 47.

Estimated Range of Awards: $100,000 to $200,000.

Project Period: Up to 36 months.

Available Funds: In fiscal year 1996, approximately $7,000,000 will be available to support an estimated 47 projects (grant awards) under this absolute priority (competition) for the first 12 months (year) of the projects. The total average award is estimated at approximately $150,000. Multi-year projects will be level funded unless there are increases in costs attributable to significant changes in activity level, and funds are available.

For Applications and General Information Contact: Ernestine Jefferson, U.S. Department of Education, 600 Independence Avenue, S.W., Switzer Building, Room 3072, Washington, DC 20202–2651. Telephone: (202) 205–8761. FAX: (202) 205–9070. Internet: Ernestine__Jefferson@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953. Applications are available in alternative formats upon request.

For Technical Information Contact: Verna Hart, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3519, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–5392. FAX: (202) 205–9070. Internet: Verna__Hart@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–7381.

Program Authority: 20 U.S.C. 1431. [CFDA No. 84.237T]

Program for Children and Youth With Serious Emotional Disturbance

Purpose of Program: To support projects designed to improve special education and related services to children and youth with serious emotional disturbance. Types of projects that may be supported under the program include, but are not limited to, research, development, and demonstration projects. Funds may also be used to develop and demonstrate approaches to assist and prevent children with emotional and behavioral problems from developing serious emotional disturbance.

Eligible Applicants: Institutions of higher education, State educational agencies, local educational agencies, and other appropriate public and nonprofit private institutions or agencies.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Part 328.

Note: The regulations in 34 CFR Part 86 apply to institutions of higher education only.

Priority

Absolute Priority—Center To Promote Collaboration and Communication of Effective Practices for Children With, or At Risk of Developing, Serious Emotional Disturbance (SED) (84.237T)

The priority Center to Promote Collaboration and Communication of Effective Practices for Children with, or At Risk of Developing, Serious Emotional Disturbance (SED) in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Applications Available: May 10, 1996.

Deadline for Transmittal of Applications: June 19, 1996.

Deadline for Intergovernmental Review: August 19, 1996.

Estimated Average Size of Award: $500,000.

Estimated Number of Awards: 1.

Project Period: Up to 60 months.

Available Funds: In fiscal year 1996, approximately $500,000 will be available to support one project (award) for the first 12 months (year) of the project. It is anticipated that the project will be level funded in years two through five, unless there are increases in costs attributable to significant changes in activity level, and funds are available.

For Applications and General Information Contact: Claudette Carey, U.S. Department of Education, 600 Independence Avenue, S.W., room 3525, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–9864. FAX: (202) 20508105. Internet: Claudette__Carey@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953. Applications are available in alternative formats upon request.

For Technical Information Contact: Tom V. Hanley, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3526, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8110. FAX: (202) 205–8105. Internet: Tom__Hanley@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Note: The Department of Education is not bound by any estimates in this notice.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases); or on the World Wide Web at http://www.ed.gov/money.html However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 1426.

Dated: May 3, 1996.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–11472 Filed 5–8–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

AGENCY: Department of Education.

ACTION: Notice of final priorities.

SUMMARY: The Secretary announces final priorities for two programs administered by the Office of Special Education and Rehabilitative Services (OSERS) under the Individuals with Disabilities Education Act. The Secretary may use these priorities in Fiscal Year 1996 and subsequent years. The Secretary takes this action to focus Federal assistance on identified needs to improve results for children with disabilities. These final priorities are intended to ensure wide and effective use of program funds.

EFFECTIVE DATE: These priorities take effect on June 10, 1996.

FOR FURTHER INFORMATION CONTACT: The name, address, and telephone number of the person at the Department to contact for information on each specific final priority is listed under that priority.

SUPPLEMENTARY INFORMATION: This notice contains three final priorities under two programs authorized by the Individuals with Disabilities Education Act, as follows: Training Personnel for the Education of Individuals with Disabilities Program (two final priorities); and the Program for Children and Youth with Serious Emotional Disturbance (one final priority). The purpose of each program is stated separately under the title of that program.

On February 21, 1996, the Secretary published a notice of proposed priorities for these programs in the **Federal Register** (61 FR 6754–6758).

These final priorities support the National Education Goals by improving understanding of how to enable children and youth with disabilities to reach higher levels of academic achievement.

The publication of these priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements. Funding of particular projects depends on the availability of funds, and the quality of the applications received. Further, FY 1996 priorities could be affected by enactment of legislation reauthorizing these programs.

Note: This notice of final priorities does not solicit applications. A notice inviting applications under these competitions is published in a separate notice in this issue of the **Federal Register**.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priority, fifty-six parties submitted comments. An analysis of the comments and of the changes in the proposed priorities follows. Technical and other minor changes—as well as suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Priority—Preparation of Special Education, Related Services, and Early Intervention Personnel To Serve Infants, Toddlers, Children, and Youth With Low-Incidence Disabilities

Comment: Forty-two commenters expressed concern about the severe shortage of personnel specifically prepared to work with children and youth who are deaf-blind. The commenters felt that the priority should place more emphasis on preparing personnel to work with children and youth with deaf-blindness by specifically identifying deaf-blindness as a low-incidence disability. Identification of deaf-blindness, the commenters note, is necessary to preserve the uniqueness of this disability and to address the lack of qualified personnel who have the specialized skills to effectively work with deaf-blind children.

Discussion: The proposed priority defined the term "low-incidence disability" to include a "visual or hearing impairment, or simultaneous visual and hearing impairments." The proposed definition did not specifically identify deaf-blindness as a low incidence disability, although deaf-blindness clearly satisfies the definition. The Secretary agrees with the commenters that there is a need to train additional personnel to work with the deaf-blind and notes that the Office of Special Education Programs currently funds seven programs that prepare personnel to work with this population. Projects proposing to prepare special education, related service, and early intervention personnel to work with children who are deaf-blind are eligible to receive an award under the final priority and are encouraged to apply.

Changes: The proposed priority has been amended to clarify that children with deaf-blindness would be considered individuals with "low-incidence" disabilities.

Comment: Four commenters expressed concern that there is a shortage of teachers of blind and visually impaired children. The commenters recommended that the Department establish a separate priority for the training of personnel to work with blind and visually impaired children since training programs for teachers of the visually impaired are highly specialized and rigorous.

Discussion: The Secretary agrees that there is a shortage of teachers of the visually impaired and blind. The Secretary emphasizes that the final priority, like the proposed priority, authorizes funding of projects designed to train teachers to work with the blind and visually impaired.

Changes: None.

Comment: Five commenters questioned the collaborative, multi-disciplinary aspects of the priority. Two commenters expressed concern that the priority required projects to demonstrate collaboration between their project and other departments and suggested that such collaboration is beyond the capability of most programs. In particular, one commenter stated that the complexity and intensity of training programs that prepare individuals to work with the visually impaired would make collaboration between these and other programs (e.g., nursing, physical therapy, occupational therapy, and psychology) impossible. Other commenters mentioned the difficulty of an over-crowded curriculum and a lack of time and personnel as additional reasons for opposing the development of collaboration among programs. However, one commenter recommended that projects demonstrate partnerships with rehabilitation programs, independent living centers, employers, and other community resources that become critical as youth with low-incidence disabilities transition to employment.

Discussion: The priority encourages, but does not require, collaboration

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among several institutions and between training institutions and public schools. The priority also encourages, but does not require, projects that foster successful coordination between special education and regular education professional development programs in order to address the needs of children with low-incidence disabilities in inclusive settings. The Secretary is sympathetic to the level and diversity of knowledge needed to work with many of the low-incidence populations. However, students with low-incidence disabilities may experience multiple problems that need to be addressed through services in several disciplines (e.g., occupational, physical and speech therapy, social work, psychology). Special education, related service, and early intervention personnel that work with low-incidence populations, therefore, must possess sufficient knowledge of other disciplines to communicate with professionals in those areas, to function as a team member when assessing the students, and to cooperate knowledgeably when developing individualized education plans (IEPs). Multi-disciplinary training projects are encouraged for purposes of assisting students with low-incidence disabilities in reaching their maximum potential. Personnel trained under the priority, however, are not expected to become fully knowledgeable in other disciplines.

The Secretary realizes that the appropriateness of any collaboration and coordination is dependent upon the objectives of a particular project. Potential variation among projects is the reason that the collaboration and coordination is encouraged, not required.

Changes: None.

Comment: Some commenters requested that certain occupations be identified in the priority as types of careers to which training projects could be directed. Commenters suggested that transition staff, direct care professionals, case managers, orientation and mobility instructors, interveners and paraprofessionals be specifically mentioned in the priority.

Discussion: The priority provides support for related services personnel who provide developmental, corrective, and other supportive services that assist children with low-incidence disabilities to benefit from special education. Transition staff, direct care professionals, case managers, orientation and mobility instructors, interveners and paraprofessionals are considered related service personnel under the priority. Because the population of individuals with low-incidence disabilities requires multiple services, it would be difficult to provide an exhaustive list of all types of related service personnel that can be trained under this priority. Also, any list of related service personnel could be viewed as overly prescriptive. The Secretary prefers to allow individual projects the latitude to propose and justify their particular project concentration.

Changes: None.

Comment: One commenter requested clarification of the language in the priority that authorizes training of related service personnel through "comprehensive programs" or "specialty components of programs that emphasize children with low-incidence disabilities within a broader discipline."

Discussion: Comprehensive programs are those that are dedicated to the total area of preparation. Examples include, but are not limited to, programs that prepare psychologists to work with school-age children with disabilities, or physical therapy programs that prepare therapists to function within school settings. A specialty component of a program is a segment of a broader program devoted to a low-incidence disability. Examples include, but are not limited to, programs that prepare school psychologists to work with children who have traumatic brain injury or physical therapists to work with children birth to age three. Both types of preparation programs may be supported under this priority. The Secretary intends to include this clarifying information in the application package for the competition.

Changes: None.

Comment: One commenter described the potential difficulty in using the State Comprehensive System of Personnel Development (CSPD) to substantiate a State's need for trained personnel to serve children with low-incidence disabilities and asked if other means might be used to document State needs.

Discussion: The Secretary believes that the CSPD should be used to support the need for qualified personnel. However, the Secretary also recognizes that projects may have to supplement, where appropriate, information provided in a particular State's CSPD. In the past, if a State's CSPD did not support its need for qualified personnel, other sources of data have been accepted for purposes of documenting need. The Secretary agrees that applicants should continue to have the option to use documentation in addition to the CSPD to demonstrate the lack of qualified personnel in a particular State. Regardless of the documentation used, it remains the responsibility of the applicant to describe, support, and justify the personnel needs addressed by a particular project.

Changes: The priority has been amended to allow projects to use documentation in addition to the CSPD to show how their proposed activities address the need for trained personnel in a particular State.

Comment: One commenter asked that the priority emphasize the need to train males for careers in special education in light of the shortage of males who pursue such training.

Discussion: The Secretary recognizes that the majority of personnel serving the needs of children and youth with low-incidence disabilities are female. However, the general shortage of qualified personnel able to serve the low-incidence population justifies the need for preparing all potential candidates, both male and female.

Changes: None.

Comment: Two commenters questioned the approximate percentages of available funds to be awarded to the three components in the priority—55 percent for careers in special education, 30 percent for careers in related services, and 15 percent for careers in early intervention. One commenter sought a decrease in the percentage of funds allocated to the preparation of special educators, while another commenter recommended decreasing the percentage of funds reserved for special education and related services training projects in order to support a separate allocation for preparation of individuals who work with the visually impaired.

Discussion: The priority combines elements of three previous competitions that were funded separately and are now being combined to target the needs of the low-incidence population. The percentages in the priority are approximates and have been developed in consideration of past levels of support for the different competitions. Funding of particular projects depends on the availability of funds, the quality of the applications received, and the results of the peer review process. However, the Secretary notes that the amount of proposed funding for this competition currently surpasses the total amount of past awards for the three separate competitions.

Changes: None.

Comment: One commenter requested the priority be limited to special education personnel and specifically questioned the appropriatness of related service and early intervention specialists to work with the low-incidence population. The commenter asserted that narrowly prepared related service personnel may not find employment because children with low-incidence disabilities are often widely dispersed among geographical locations. As a result, such programs may experience logistical difficulties and may be uneconomical.

Discussion: The Secretary is aware of the logistical and economic difficulties associated with serving infants, toddlers, children and youth with low-incidence disabilities in rural and isolated areas, as well as in public school settings. The Secretary is also aware of many instances in which several children with low-incidence disabilities are educated within a single location. Regardless of setting, however, special educators, related service and early intervention personnel must be prepared appropriately to meet the needs of children with low-incidence disabilities. The Secretary encourages programs preparing personnel to include information and experience with low-incidence disabilities so that graduates of their programs are able to serve their customers in their areas of expertise no matter where they are found, as single students in an isolated setting or as one of a group found in aggregate settings. Federal support of these programs is intended to reduce the need for special educators, related service and early intervention personnel to learn on the job, which could otherwise be detrimental to students.

Change: None.

Priority—Center To Promote Collaboration and Communication of Effective Practices for Children With, or At Risk of Developing, Serious Emotional Disturbance (SED)

Comment: One commenter wrote that the allocation of funds under this priority would be more effective if provided directly to States with flexibility on how these funds are used. The commenter felt this would allow each State to address issues relating to the education of students with emotional disabilities specific to the needs of that State as identified by school districts and other agencies.

Discussion: One of the purposes of the Program for Children and Youth with Serious Emotional Disturbance is, "To provide information and training for those involved with, or who could be involved with children and youth with serious emotional disturbance" (34 CFR 328.1(b)(2)). The proposed Center is targeted toward the information aspect of this purpose as stated in the program regulations. There are other purposes of the Program, and some of those are also targeted by the priority, but to a lesser extent.

Given the limited resources, the Department believes that it would be most efficient, and have the greatest impact, to concentrate the funds rather than to distribute the resources in significantly smaller portions to the States. Particularly, the Secretary feels that in the area of information development and transfer, multiple smaller efforts by the States would generate more duplication and redundancy, and would have less overall impact and efficiency than one Center.

Changes: None.

Training Personnel for the Education of Individuals With Disabilities Program

Purpose of Program: The purpose of Grants for Personnel Training is to increase the quantity and improve the quality of personnel available to serve infants, toddlers, children, and youth with disabilities.

Priorities: Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet any one of the following priorities. The Secretary will fund under these competitions only applications that meet any one of these absolute priorities:

Absolute Priority 1—Preparation of Special Education, Related Services, and Early Intervention Personnel To Serve Infants, Toddlers, Children, and Youth with Low-Incidence Disabilities

Background

The national demand for educational, related services, and early intervention personnel to serve infants, toddlers, children and youth with low-incidence disabilities exceeds available supply. However, because of the small number of these personnel needed in each State, institutions of higher education and individual States are reluctant to support the needed professional development programs. Of the programs that are available, not all are producing graduates with the prerequisite skills needed to meet the needs of the low-incidence disability population. Federal support is required to ensure an adequate supply of personnel to serve children with low-incidence disabilities and to improve the quality of appropriate training programs so that graduates possess necessary prerequisite skills.

Priority: The Secretary establishes an absolute priority to support projects that increase the number and quality of personnel to serve children with low-incidence disabilities. This priority supports projects that provide preservice preparation of special educators, early intervention personnel, and related services personnel at the associate, baccalaureate, master's, or specialist level.

The term "low-incidence disability" means a visual or hearing impairment, or simultaneous visual and hearing impairments (including deaf-blindness), significant mental retardation, or an impairment such as severe and multiple disabilities, severe orthopedic disabilities, autism, and traumatic brain injury, for which a small number of highly skilled and knowledgeable personnel are needed.

Applicants may propose to prepare one or more of the following types of personnel:

(1) Special educators including early childhood, speech and language, adapted physical education, and assistive technology personnel;

(2) Related services personnel who provide developmental, corrective, and other supportive services that assist children with low-incidence disabilities to benefit from special education. Both comprehensive programs and specialty components within a broader discipline that prepares personnel for work with the low-incidence population may be supported; or,

(3) Early intervention personnel who serve children birth through age 2 with disabilities and their families. Early intervention personnel include persons prepared to provide training for, or be consultants to, service providers and case managers.

The Secretary particularly encourages projects that address the needs of more than one State, provide multi-disciplinary training, and include collaboration among several institutions and between training institutions and public schools. In addition, projects that foster successful coordination between special education and regular education professional development programs to meet the needs of children with low-incidence disabilities in inclusive settings are encouraged.

Projects must:

(a) Show how their proposed activities address the demands for trained personnel to serve children with low-incidence disabilities in the State or States whose needs the project is expected to meet. The extent of the need for trained personnel in a particular State must be supported by the State's Comprehensive System of Personnel Development (CSPD), or the CSPD supplemented by other additional relevant sources which the applicant demonstrates to be reliable and accurate.

(b) Prepare personnel to address the specialized needs of children with low-

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incidence disabilities from different cultural and language backgrounds;

(c) Incorporate best practices in the design of the program and the curricula;

(d) Incorporate curricula that focus on improving results for children with low-incidence disabilities;

(e) Promote high expectations for students with low-incidence disabilities and foster access to the general curriculum in the regular classroom, wherever appropriate; and

(f) Develop linkages with Education Department technical assistance providers to communicate information on program models used and program effectiveness.

Under this absolute priority, the Secretary plans to award approximately:

- 55 percent of the available funds for projects that support careers in special education, including early childhood educators;
- 30 percent of the available funds for projects that support careers in related services; and
- 15 percent of the available funds for projects that support careers in early intervention.

For Further Information Contact: Verna Hart, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3519, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–5392. FAX: (202) 205–9070. Internet: Verna__Hart@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–7381.

Absolute Priority 2—Preparation of Personnel To Serve Children and Youth with High-Incidence Disabilities

Background

In many States, there are insufficient numbers of personnel available to meet the needs of children with high-incidence disabilities. In addition, the quality of personnel preparation programs needs to be improved so that professionals will be better prepared to help children with high-incidence disabilities reach their individual developmental goals and meet challenging standards.

Priority: The Secretary establishes an absolute priority to support projects that increase the number and quality of personnel to serve children ages 3 through 21 with high-incidence disabilities such as mild or moderate mental retardation, speech or language impairments, emotional disturbance, or specific learning disabilities. This priority supports projects that provide preservice preparation of special educators, including early childhood educators and related services personnel.

A preservice program is defined as one that leads toward a degree, certification, or professional standard, and may be supported at the associate, baccalaureate, master's or specialist level. A preservice program may include the preparation of currently employed personnel who are seeking additional degrees, certifications, or endorsements.

Applicants may propose to prepare one or more of the following types of personnel:

(1) Special educators including speech and language, adapted physical education, and adaptive technology personnel;

(2) Related services personnel who provide developmental, corrective, and other supportive services that assist children with high-incidence disabilities to benefit from special education; and

(3) Early childhood special education or related services personnel who address the needs of children age three through five with high-incidence disabilities and their families.

The Secretary particularly encourages projects that foster successful coordination between special education and regular education professional development programs to meet the needs of children with high-incidence disabilities in inclusive settings.

Projects must:

(a) Show through letters of acknowledgement from States or other documentation that the proposed professional development activities support the Comprehensive Systems of Personnel Development of the State or States where personnel prepared by the project are expected to be employed;

(b) Show through letters of acknowledgement from States or other documentation that the proposed personnel preparation meets the standards for employment in the State or States where personnel prepared by the project are expected to be employed;

(c) Prepare personnel to address the needs of children with high-incidence disabilities from different cultural and language backgrounds;

(d) Incorporate best practices in the design of the program and curricula;

(e) Incorporate curricula that focus on improving results for children with high-incidence disabilities;

(f) Promote high expectations for children with high-incidence disabilities and foster access to the general curriculum in the regular classroom, wherever appropriate; and,

(g) Develop linkages with Education Department technical assistance providers to communicate information on program models used and program effectiveness.

Under this absolute priority, the Secretary plans to award approximately:

- 55 percent of the available funds for projects that support careers in special education;
- 30 percent of the available funds for projects that support careers in related services; and,
- 15 percent of the available funds for projects that support careers in early childhood education.

For Further Information Contact: Martha Bokee, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3078, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–5509. FAX: (202) 205–9070. Internet: Marth__a Bokee@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–7381.

Program Authority: 20 U.S.C. 1431.

Program for Children and Youth With Serious Emotional Disturbance

Purpose of Program: To support projects designed to improve special education and related services to children and youth with serious emotional disturbance. Types of projects that may be supported under the program include, but are not limited to, research, development, and demonstration projects. Funds may also be used to develop and demonstrate approaches to assist and prevent children with emotional and behavioral problems from developing serious emotional disturbance.

Priority: Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary will fund under this competition only an application that meets this absolute priority:

Absolute Priority—Center To Promote Collaboration and Communication of Effective Practices for Children With, or At Risk of Developing, Serious Emotional Disturbance (SED)

Background

"Collaboration" is one of the seven strategic targets identified in the National Agenda for Achieving Better Results for Children and Youth with SED, developed by the Office of Special Education Programs (OSEP) with extensive participation by a variety of individuals and organizations. Collaboration is critically important, at Federal, State, and local levels: "To promote systems change resulting in the development of coherent services built around the individual needs of children and youth with and at risk of developing SED." In the past, there has been too little interaction between agencies and service providers, e.g., education, mental health, child welfare, and juvenile justice. Lack of coordination between and across agencies has had a negative impact on children and families. The new direction, demonstrated in many of the projects currently funded by OSEP and other agencies, is toward more "seamless" and "wrap-around" service delivery models built around the needs of students, families, and communities—systems that coordinate services, articulate responsibilities, and provide system-wide and agency-level accountability.

Many of these new model programs are only in their infancy, but are already documenting their effectiveness. It is essential that mechanisms be put in place to foster the identification, development, and exchange of information about these innovative projects—to communicate their findings and approaches nationally to other communities and agencies that are seeking solutions to the needs of children with mental health problems and their families.

Priority: The Secretary establishes an absolute priority to support one cooperative agreement for a center to promote Federal, State, and local interagency collaboration and facilitate the identification, development, and exchange of information on effective practices to improve services for children with SED and for children with emotional and behavioral problems who are at risk of developing SED. The center must coordinate and collaborate with related centers and activities across agencies, including but not limited to: OSEP's ongoing activities to validate and communicate the SED National Agenda; other OSEP and Department-supported technical assistance and information exchange activities; and the two rehabilitation research and training centers (RRTCs) on children's mental health jointly funded by the National Institute on Disability and Rehabilitation Research (NIDRR) and the Center for Mental Health Services (CMHS). The center must provide and support information identification, development, and exchange for Federal, State, and community-based projects and programs providing services for children with or at risk of SED in accordance with a plan that describes the centers schedule.

The center must:

(1) Establish working relationships with Federal, State, and local programs and projects to identify and develop useful and usable information for, and to foster the exchange of usable and useful information with—

(a) Federal, State, and community-based programs and projects to assist them in their efforts; and

(b) Broader audiences of individuals and organizations including parents and family members of children with or at risk of serious emotional disturbance.

(2) Ensure and facilitate access, including electronic and telecommunication access, to information on SED, including information on projects funded by the Office of Special Education and Rehabilitation Services; other offices in the Department of Education; the Departments of Health and Human Services, Labor, and Justice; and other sources such as foundations and associations, as appropriate.

(3) Evaluate the impact of information identification, development, and exchange activities.

It is anticipated that initial information exchanges will rely heavily upon information already produced by programs and projects, but that additional information will be synthesized and developed by the center based on findings from the available research and information/findings provided to the center by programs and projects.

The center must also ensure that the targets and cross-cutting themes of OSEP's National Agenda for Achieving Better Results for Children and Youth with SED are addressed in the center's information activities. Four areas of particular interest that must be addressed in information activities are: (1) Early identification, intervention, and prevention; (2) behavior management, conflict resolution, and other approaches to creating more productive and safe educational environments for all students; (3) personnel preparation; and (4) evaluation of community-based (local) program and service effectiveness.

Under this priority, the Secretary intends to award one cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the center for the fourth and fifth years of the project period, the Secretary will consider, in addition to the requirements of 34 CFR 75.253(a), the factors noted below, and the recommendation of a review team consisting of three experts selected by the Secretary. The services of the review team, including a two-day visit to the center, are to be performed during the last half of the center's second year and must be included in that year's evaluation required under 34 CFR 75.590. In its budget for the second year, the center must set aside funds to cover the costs of the review team. These funds are estimated to be approximately $4,000.

The Secretary will also consider the following:

(a) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the center; and

(b) The degree to which the center's evaluation methods and information activities demonstrate the potential for advancing significant new knowledge.

The Secretary particularly encourages applicants for this cooperative agreement to incorporate technologically innovative approaches in all aspects of center activities, to improve their efficiency and impact.

The project must budget for two trips annually to Washington, D.C., for: (1) A two-day Research Project Directors' meeting; and (2) another meeting, in the first quarter of each project year, to meet and review project plans and accomplishments with the OSEP project officer and other OSEP and other agency staff to share information on the project.

For Further Information Contact: Tom V. Hanley, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3526, Switzer Building, Washington, D.C. 20202–2641. Telephone: (202) 205–8110. FAX: (202) 205–8105. Internet: Tom__Hanley@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Program Authority: 20 U.S.C. 1426.

Dated: May 3, 1996.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

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Part III

Department of Justice

Office of Justice Programs

Program Plans for Fiscal Year 1996; Notice

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP NO. 1079]

ZRIN 1121–ZA33

Program Plans for Fiscal Year 1996

AGENCY: Department of Justice, Office of Justice Programs.

ACTION: Notice of program plans.

DATES: See specific Program Plan.

ADDRESSES: All questions concerning these Program Plans should be addressed to the appropriate Bureau or Office at 633 Indiana Avenue, NW., Washington, DC 20531.

SUPPLEMENTARY INFORMATION:

Preface: OJP Bureaus' Fiscal Year 1996 Program Plans

The Fiscal Year 1996 Program Plans for the United States Department of Justice, Office of Justice Programs (OJP) Bureaus—the National Institute of Justice, Bureau of Justice Assistance, Office of Juvenile Justice and Delinquency Prevention, and Office for Victims of Crime—represent a continuation of our concerted effort to work in partnership with law enforcement and criminal justice agencies across the nation to break the cycle of drugs and violence and eliminate the consequences of crime. This represents, as well, the second year that OJP will have published all its discretionary Program Plans together in the **Federal Register**.

Because of scarce resources at every level of government today, the OJP Program Plans emphasize increasing the collaboration across Federal, State, and local agencies; leveraging resources with other Federal agencies, foundations, and the private sector; identifying specific needs, priorities, and gaps in the system; and implementing innovative strategies that demonstrate concrete results while at the same time being cost-effective. Because many of today's crime problems require solutions that extend beyond traditional criminal justice boundaries, new systemwide responses are encouraged and comprehensive community efforts are highlighted.

This is particularly important in strengthening our response to escalating youth violence—especially gang activity—and juvenile victimization. Building on the development of the OJJDP Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders and the National Juvenile Justice Action Plan released by the Attorney General this Spring, the FY 1996 plan supports a balanced approach to aggressively addressing juvenile delinquency and violence through graduated sanctions, improving the juvenile justice system's ability to respond, and preventing the onset of delinquency. Initiatives to address violent, serious, and chronic juvenile offenders are highlighted. Major new program areas focus on the development of one-stop, community-based intake, assessment, referral, and program service centers; supporting the linkages between community and law enforcement responses to youth gun violence and gang activity; and improving the dependency and criminal court systems and the community's response to child abuse and neglect—factors studies show perpetuate violence in future generations.

The OJP Program Plans also support community-based initiatives that recognize the lead role that communities must play in violence prevention and the strong coordinated, multidisciplinary approach required to combat crime in our neighborhoods. For example, using a planning grant approach which emphasizes the importance of first developing community mobilization strategies in key segments of the criminal justice system, BJA's Comprehensive Communities Program—which is being continued in FY 1996—encourages a jurisdiction-wide approach that includes community policing, the establishment of drug courts, expedited prosecution and diversion, gang prevention and intervention, dispute and conflict resolution, and alternatives to incarceration.

Building on the achievements of past efforts and guided by extensive input from its constituent groups, the OVC programming looks to communities to establish integrated, inclusive environments where comprehensive services are provided for crime victims in a single location. The plan offers communities the information, training, tools, and technical assistance needed to create supportive, multidisciplinary facilities especially designed for victims.

Underlying all the Program Plans is the importance of understanding "what works" and "best practices" so that jurisdictions can learn from one another and not have to constantly "reinvent the wheel." In this regard, the NIJ plan continues its long-range emphasis on developing knowledge and Federal leadership that will assist jurisdictions in advancing six important goals: reduce violent crime, reduce drug- and alcohol-related crime, reduce the consequences of crime, improve crime prevention, improve law enforcement and justice systems, and develop new technologies.

One opportunity we have to work together to make our communities safer is through the training and technical assistance available from OJP. As we endeavor to determine "what works"—through research, evaluation, and demonstration grants—communities are encouraged to request technical assistance and training to replicate successful demonstration programs and implement "best practices."

We will be issuing separate solicitations for Crime Act programs in the areas of Violence Against Women, Drug Courts, Corrections Facilities Construction, Residential Substance Abuse, and the National Criminal History Improvement Program. For information about these programs—as well as about the application process for the programs described here—you can call the DOJ Response Center at 1–800–421–6770.

I hope that the OJP Program Plans that follow are responsive to the most significant needs in the criminal justice field; they represent our best thinking on how the Federal government can make a solid contribution to the problems of crime and violence-facing this country.

Laurie Robinson,

Assistant Attorney General, Office of Justice Programs.

Bureau of Justice Assistance

FY 1996 Discretionary Grant Program Plan

Dear Colleague:

I am pleased to present the Bureau of Justice Assistance (BJA) Discretionary Program Plan for Fiscal Year (FY) 1996. Through the Byrne Discretionary Grant Program, BJA provides leadership for the prevention and control of crime and violence and for criminal justice system improvement at the State and local levels. BJA also develops and tests new approaches in criminal justice and crime control, and encourages replication of effective programs and practices by States and local agencies.

Our mission is to provide leadership and assistance in support of local criminal justice strategies to achieve strong neighborhoods and safe communities. Accordingly, this year we will intensify our focus on the tasks of helping to make communities safe, building strong crime-resistant neighborhoods, increasing citizen involvement in their communities, and improving the effectiveness of the criminal justice system. We are guided in the achievement of our mission by a very specific set of programmatic goals. BJA's programmatic goals are:

- To promote effective innovative crime control and prevention strategies.
- To demonstrate and promote replication of effective crime control programs that support public-private partnerships, planning, and criminal justice system improvement.
- To leverage and efficiently administer available resources.
- To provide a dynamic work environment that fosters and encourages excellence, innovation, and responsiveness.

The resultant FY 1996 BJA Discretionary Grant Program Plan addresses many of the most pressing challenges facing the Nation's criminal justice system. For example, the Program Plan addresses the issue of youth violence through programs that support drug education, prevention, and treatment; build skills in conflict resolution; intervene to reduce criminal use of guns and gang involvement; and provide alternative correctional sanctions for first-time nonviolent offenders. Additionally, the unique needs of the elderly are recognized through programs that promote safety and independence for the elderly, enhance resource availability through productive public and private partnerships, and provide protection against health care fraud.

Byrne discretionary grant awards support demonstration projects, national-scope programs, training and technical assistance, and other innovative programs that fill the gaps in the criminal justice system to make it stronger and more comprehensive. Towards this end, substantial BJA discretionary funds will be used to continue strengthening community-based initiatives, such as the Comprehensive Communities Program and, within Native American communities, the Tribal Strategies Against Violence Program. Similarly, the BJA Comprehensive Homicide Initiative emphasizes the importance of multiagency coordination—at all levels of government—in addressing prevention, intervention, enforcement, and prosecution.

In summary, the BJA FY 1996 Discretionary Program Plan will target funds, training, and technical assistance in support of effective and innovative programs that show the greatest potential for addressing the Nation's criminal justice challenges. I welcome your comments and your partnership.

Nancy E. Gist,

Director, Bureau of Justice Assistance.

Introduction

The Bureau of Justice Assistance (BJA) of the U.S. Department of Justice supports States and local communities in addressing problems of crime and violence. During Fiscal Year (FY) 1996, BJA is placing emphasis on implementing comprehensive approaches to crime, neighborhood-based programs with active citizen involvement, violence prevention and control initiatives, and programs that not only improve the functioning of the criminal justice system, but also focus on enhancing the system's ability to remove serious and violent offenders from our communities.

This FY 1996 Discretionary Grant Program Plan provides summaries of these programs, which are funded under the Edward Byrne Memorial State and Local Law Enforcement Assistance (Byrne) Discretionary Grant Program. In addition, it describes planned activities for the Regional Information Sharing Systems Program and the National White-Collar Crime Center, which also are administered by BJA, and joint efforts with other Federal agencies.

Program Goals

The FY 1996 Discretionary Grant Program Plan addresses BJA's two goals in assisting State and local units of government: (1) Reduce and prevent crime and violence; and (2) Improve the functioning of the criminal justice system. To facilitate achievement of these goals, enhanced coordination and cooperation of Federal, State, and local efforts will be emphasized. Objectives for each of the goals are outlined below, followed by BJA's programmatic priorities and framework and program summaries that describe how the goals will be achieved.

Goal 1—Reduce and Prevent Crime and Violence

Objectives:

- Encourage the development and implementation of comprehensive strategies to reduce and prevent crime and violence.
- Encourage the active participation of community organizations and citizens in efforts to prevent crime, drug use, and violence.
- Provide national-scope training and technical assistance in support of efforts to prevent crime, drug use, and violence.
- Provide young people with legitimate opportunities and activities that serve as alternatives to crime and involvement with gangs.
- Reduce the availability of illegal weapons; and develop programs to address violence in our communities, homes, schools, and workplaces.

Goal 2—Improve the Functioning of the Criminal Justice System

Objectives:

- Enhance the capacity of law enforcement agencies to reduce crime—especially drug trafficking, drug sales, and violence.
- Improve the effectiveness and efficiency of all aspects of the adjudication process.
- Assist States in freeing prison space for serious and violent offenders through the design, development, and implementation of effective correctional options for nonviolent offenders.
- Enhance the ability of State and local agencies, in conjunction with the Immigration and Naturalization Service (INS), to apprehend and deport criminal aliens.
- Evaluate the effectiveness of funded programs, disseminate program results, and enhance the ability of criminal justice agencies to use new information technologies.

How Program Priorities Are Established

Priorities for the FY 1996 Discretionary Grant Program reflect a balance of congressional mandates, Administration priorities, and needs expressed by State and local criminal justice practitioners. The two overarching goals listed above are derived directly from the authorizing legislation for the Byrne Discretionary Grant Program. Priorities for a number of specific programs to address those goals are mandated by Congress through the earmarking of the Byrne Discretionary Grant Program appropriation.

During the recent Byrne Program planning process, BJA solicited input on priorities from national organizations representing State and local governments, criminal justice agencies, and community groups. Input was also requested from the State agencies that administer the Byrne Formula Grant Program. This year, BJA has instituted a continuing practice of convening a number of focused program-planning workshops, or focus groups. These focus groups, structured around a specific criminal justice issue, are comprised of interdisciplinary policymakers and practitioners from all levels of government. They serve as a forum to discuss needs, identify emerging issues, and propose innovative programmatic solutions.

Types of Programs To Be Funded

BJA is authorized by Congress to award grants to public and private agencies and organizations for national-scope, demonstration, training, and technical assistance programs in support of States and local jurisdictions. National-scope programs provide a service or product of benefit throughout the country or across multiple States, or address issues of national concern. Demonstration programs develop, test, evaluate, and document new programs and practices. Training for State and local criminal justice practitioners and other professionals provides state-of-the-art information on effective programs and practices. Technical assistance is provided to sites participating in demonstration programs or, depending on available resources, is provided to help an individual

jurisdiction implement a program or practice or address a specific issue.

How Discretionary Grants Will Be Made

This year, the majority of the discretionary grant funding is being awarded on a noncompetitive basis. The following factors limit the number of competitive programs:

Congressional Earmarks—Each year Congress directs BJA to award a portion of the appropriated Byrne Program funds to specified programs and/or organizations. In FY 1996, the Conference Report of the Appropriations Committee directed the funding for $45.6 million of the $60 million likely to be appropriated for general discretionary programs, such as the Weed and Seed Program, the National Citizens' Crime Prevention Campaign, the Drug Abuse Resistance Education (D.A.R.E.) Program, and the Washington, D.C., Metropolitan Area Drug Enforcement Task Force.

Continuation and Implementation Grants—Many of BJA's programs require several years of implementation to accomplish their goals. Demonstration sites, which are generally identified through a competitive selection process, may require 2 to 3 years of funding to fully develop, implement, and evaluate a program. In addition, BJA has funded several initial planning efforts, with implementation funding provided in subsequent years.

Limited Competition—When specific program criteria or objectives are applicable only to a narrowly defined group of potential applicants, a limited competition may be held. Program criteria and objectives typically are defined by specific jurisdictional demographic variables or by a specific crime problem.

Sole Source Selection—In some cases, only one organization or agency has the capability, expertise, or constituents to adequately administer a program that BJA deems essential to implement. For example, an association representing a constituency that BJA wants to reach through technical assistance or training also may be the best organization to implement that program. In other cases, BJA may make an award on a noncompetitive basis to an agency that has developed an innovative program and has the expertise to implement it.

Framework for Programming

Guiding Principles

Three principles underpin the design of BJA's FY 1996 Discretionary Grant Program Plan—comprehensiveness, addressing unmet needs, and leveraging resources. These principles are embodied in each of the four programmatic themes, and reflect our intent to make the most effective and efficient use of limited Federal criminal justice program resources.

Comprehensiveness

Crime prevention and control initiatives are most effective when they relate directly to a comprehensive strategy. Such a strategy provides the context or anchor for addressing locally determined priorities; describes in detail how programs implemented by government agencies, other service providers, and residents mutually support one another in focusing on these priorities; and serves as the means for developing future partnerships among a wide variety of public and private resources. For these reasons, we have looked at ways of developing and, in some cases, reconfiguring programs to ensure that they are comprehensive in nature and promote partnerships that support local strategic planning and implementation.

Explicit in any successful State or local crime prevention and control strategy is the engagement of the ultimate beneficiaries—the community residents. Therefore, community-based strategies, and resulting initiatives, must focus on neighborhood problems by involving community leaders and residents in the planning and delivery of services. Among the programs we are supporting, the Comprehensive Communities Program, the National Citizens' Crime Prevention Campaign, and the Tribal Strategies Against Violence Program all support partnerships with Federal, State, and local governments, private organizations, and foundations that develop and achieve solutions addressing a multitude of problems concerning crime and quality of life.

Some comprehensive program approaches are problem specific. For example, the Comprehensive Gang Initiative demonstrates a model approach to gang issues that carefully balances consideration of prevention, intervention, and suppression strategies. The model is designed to bring together cooperative and coordinated efforts by the police, other criminal justice agencies, human services providers, community agencies, and residents.

Other programs, such as the Community-Based Prosecution Initiative, are not problem specific, but bring together the community, the prosecutor's office, and the local courts in problem solving, speedier access to justice, and facilitation of offender reintegration back into neighborhoods.

Addressing Unmet Needs

In carrying out its mission, BJA recognizes that the dollars available for Byrne Program discretionary funding represent a very small fraction of the overall resources available for criminal justice programming (less than one percent). To ensure that taxpayers receive the greatest return possible on the investment of these limited funds, we have focused on programs that complement previous or ongoing efforts, and we have made every attempt to avoid duplicating the efforts of other Federal agencies.

BJA provides balance in its approach, and emphasizes the involvement of key stakeholders in the development of new initiatives. In FY 1996, an important priority will be to address unmet needs by demonstrating or supporting programs designed to correct current deficiencies in the delivery of criminal justice services—deficiencies that threaten to compromise the effectiveness of the criminal justice system. Examples of these initiatives include:

The Community Prosecution and Community Probation Program, which will explore a range of innovations to improve access to criminal justice services at the community level.

The Training in Anti-Drug Activities and Cultural Differences Involving Illegal Aliens Initiative and the Criminal Alien Identification and Intervention Program, which provide training and technical support to State and local criminal justice agencies dealing with issues of criminal and illegal aliens.

The Comprehensive Homicide Initiative, which focuses on a holistic approach to homicide that integrates prevention, intervention, and enforcement measures through public agencies, private organizations, and the community.

The DNA Resource Unit, which will provide technical assistance to prosecutors in the understanding and use of DNA typing technology in the prosecution of cases.

The Assessment and Enhancement of Indigent Defense Initiative, which will explore methods for improving the overall effectiveness of the adjudication process.

The Correctional Options Program, which has provided a broad range of programming for provision of treatment services and alternatives to incarceration for nonviolent offenders. BJA's emphasis in FY 1996 will be to support a national dissemination and technical assistance initiative that will inform key decisionmakers at the State and local levels of the lessons that BJA has learned about the planning, development, implementation, and evaluation of successful Correctional Options projects.

Leveraging Resources

BJA has a responsibility to ensure that programs are cost effective; that, where appropriate, costs are shared among entities receiving benefits from BJA-supported programs; and that there is a strong likelihood effective programs will be maintained beyond the point where Federal funds are no longer provided. Thus, BJA strongly encourages prospective applicants to consider all potential resources when developing program proposals and applying for Byrne Program grant funds.

Although Discretionary Grant Program funds may be used to pay up to 100 percent of total project costs under an initial grant award, BJA has instituted a policy of giving favorable consideration to proposals in which an applicant agency or jurisdiction has also committed its own resources in furtherance of program objectives. The applicant's resources could consist of funding derived from local appropriations or from other sources, public or private. Contributed resources may also be "in kind," including dedicated personnel, facilities, supplies, or equipment. Volunteer efforts are also taken into consideration.

Successful leveraging of resources is illustrated in the following two examples. In BJA's Organized Crime Narcotics task force program, the participating agencies support all regular personnel costs and most infrastructure costs, and Byrne Discretionary Grant funds support limited overtime costs, investigative support costs, and some confidential expenditures. Alternatively, BJA has provided a grant to the Foundation for Advancements in Science and Education (FASE) to produce a film addressing the issue of date and spousal violence. BJA agreed to provide funding support on the condition that FASE match the grant amount with funds from other sources. Faced with this challenge, FASE was able to more than match the grant with funds from public and private sources.

To further facilitate a strong partnership with its grantees, and to increase the number of new initiatives, BJA has instituted a policy of providing a declining share of total costs for many projects where continuation funding is considered. In addition to making BJA funding resources more widely available for additional program opportunities, this policy requires a demonstration of commitment from applicants, enhancing the likelihood of program institutionalization. Thus, in FY 1996 and beyond, second-year awards will be made for a maximum of 75 percent of total project costs, and third-year awards will be made for up to 50 percent of total project costs.

Programmatic Themes

Program themes frame our guiding principles and provide the operational context through which BJA implements its national-scope, demonstration, training, and technical assistance programs. The themes result from priorities articulated by the Attorney General; our program experiences and lessons learned from demonstration and evaluation of crime prevention and control efforts; and the information provided by States in their Byrne Formula Grant Program strategies.

Public—Private Partnerships in Support of Local Strategies

Developing and sustaining partnerships is essential, especially when addressing crime issues through comprehensive strategies. Competing demands on resources, development of new skills and approaches to problem solving, emergence of private foundations focusing on public safety issues, and the direct participation of the community itself are influencing the way in which government operates.

Partnerships among public agencies and between those agencies and private organizations are becoming a vital theme in delivering comprehensive services that address the quality of life in our communities. Effective partnerships begin with all participants engaged in strategy development, and carry through to the end goal of service delivery and evaluation.

BJA continues to stress the importance of public-private partnerships at the Federal, State, and local levels in its program development efforts. State and local officials are encouraged to collaborate to ensure that local, comprehensive crime prevention and control strategies are integrated into State planning efforts. This relationship helps to ensure that Byrne Formula Grant funds, other Federal resources, and State-appropriated monies are channeled in a coordinated manner in support of local comprehensive initiatives. Evidence of these partnerships, through memoranda of understanding, commitment of resources, and shared responsibility for developing and implementing strategies to make our communities safe, will be a determining factor in BJA's commitment of resources.

Many of the programs to be implemented in FY 1996 will build upon partnerships developed in previous years. As some of these efforts reach the final stages of demonstration, and as Federal financial support is phased out, the strength of local partnership arrangements will be even more critical to ensure institutionalization. For example, BJA soon will be completing the Children-At-Risk Program, which is supported by BJA and a national public-private partnership consisting of the Center for Addiction and Substance Abuse (CASA) and six private foundations that focus on youth intervention. This effort, equally supported by the U.S. Department of Justice and the private sector, reflects the commitment of over $7.5 million since FY 1992.

Other programs, such as the Comprehensive Communities Program (CCP) and Pulling America's Communities Together (PACT) have experienced enormous success in building partnerships. In Denver, the Alliance for the Prevention of Violence, a collaborative of charitable organizations that serves Colorado, has integrated the PACT/CCP effort into its philanthropic considerations. The East Bay Corridor CCP initiative, a program that unites 18 cities in two counties in anticrime initiatives, joins the public agencies from those jurisdictions with the East Bay Community Foundation, a local funding collaborative, to focus on youth crime in the Corridor.

Enhancement of Public Confidence in the Criminal Justice System

In recent years there has been a perception of growing erosion of public confidence in the criminal justice system and the services it provides. Many factors have contributed to this concern—including public outrage resulting from isolated criminal incidents, such as crimes that have been committed by ex-offenders on parole; use of excessive force by law enforcement; urban disorders; and an emphasis in newspaper and television news reports on sensationalizing incidents of violent crime.

BJA supports programs that promote balance and fairness in law enforcement and the criminal justice system. By supporting programs that feature community participation as a cornerstone, BJA seeks to educate and actively engage citizens, thereby improving public confidence in the criminal justice system.

Through its law enforcement programs, BJA provides a solid foundation for enabling jurisdictions to ensure public safety and further

promote public confidence. Such programs expand coordination with antiviolence task forces, provide assistance to State and local criminal justice agencies, and support communities in the control and prevention of street crime.

A National Sentencing Symposium will be co-sponsored by BJA, the National Institute of Justice (NIJ), and the State Justice Institute (SJI). This collaborative initiative will address the public's lack of confidence in the system, examine the strengths and shortcomings of current sentencing policies and address the importance of accountability and the need to alleviate sentencing disparities.

Through the Community Prosecution Program, BJA will demonstrate community engagement with prosecutors' offices and the local courts in problem solving, providing speedier access to justice, and facilitating the reintegration of offenders back into neighborhoods. This program will promote a positive image of the criminal justice system, allay public fear, and improve neighborhood and community involvement with criminal justice professionals.

Alternatives to incarceration for nonviolent offenders is another important programmatic area. Often, nonviolent offenders who could be punished more effectively through a less expensive alternative are sentenced to incarceration. A recent analysis of the annual needs assessments that are conducted through the Byrne Formula Grant Program indicated that the two areas of greatest need at the State and local levels are alternatives to incarceration and offender treatment services.

In FY 1996, BJA will support a national dissemination and technical assistance initiative to inform key decisionmakers at the State and local levels about the lessons learned in the planning, development, implementation, and evaluation of successful, cost-effective, Correctional Options projects for nonviolent offenders. These programs maintain public safety and, at the same time, hold offenders accountable.

Criminal Justice System Response to Violence—Particularly Youth Violence

Although 1994 Uniform Crime Reporting (UCR) data show that violent crime dropped 4 percent and property crime dropped 3 percent, citizens across the country believe otherwise. Whereas violent crime rates for older adults have remained steady or declined, the public believes that violence is on the increase. This belief is reflected in the 1993 U.S. Department of Justice (DOJ) National Crime Victimization Survey, which marked a significant increase of 25 percent in the violent victimizations of black males aged 12 to 24. The Bureau of Justice Statistics (BJS) reported in its Selected Findings: Violent Crime that young people aged 16 to 24 consistently have the highest violent crime rates. When gang affiliation is considered, these youth-based crime statistics increase at crisis proportions.

Other national-scope surveys indicate the following:

- Elected officials in almost 400 cities believe that youth crime and violence has escalated.
- Throughout the year, 4 million women are physically abused by their husbands or boyfriends.
- The annual number of child abuse cases is growing.
- Drug use, especially marijuana, is on the increase among students.
- A child dies from gunfire every 98 minutes.

To deter this violence, BJA is working with representatives of Federal, State, tribal, and local governments and community leaders to enhance their current criminal justice planning processes to better implement comprehensive, systemwide strategic interventions at the neighborhood level. When properly applied, this holistic approach, which is supported with FY 1996 crime prevention funding, is cost effective, provides focus for the delivery of services (e.g., law enforcement, social, and education services), involves citizens as partners, and assists youth in making responsible decisions to develop healthier and safer lifestyles.

Evaluation and Assessment Efforts

Critical to gauging the success of the investment of taxpayer dollars is the support of evaluation efforts that measure what works and what doesn't work in crime control and prevention and in criminal justice system improvement. This information can be disseminated to the State and local levels, where decisions about replication of program successes are made.

Because we believe that it also is critical to reinforce with the States the role that evaluation must play in any grant program, and to help States build the capacity to measure the impact of programs that they fund, we are continuing our State and local capacity-building initiative with the assistance of NIJ. If the States are to serve as laboratories for evaluation and assessment, they must institutionalize performance measurement, monitoring, and reporting mechanisms. BJA's evaluation capacity-building initiative supports these efforts.

In partnership with NIJ, we are designing a challenge program whereby States will be invited to partner with a local research/evaluation institution such as a university, select a promising program for rigorous evaluation that otherwise might not be evaluated, and propose a research design.

The principles and programmatic themes are cross-cutting, and together form the framework for the BJA program. This framework has evolved from our programmatic experience and will help chart our direction for future programming efforts. While the individual program summaries are presented by "discipline," each program also represents one or more principle and theme.

Program Summaries

Comprehensive Programs

Comprehensive Communities Program

Grantee: 16 sites nationwide

The Comprehensive Communities Program (CCP) is demonstrating an innovative, comprehensive, and integrated multiagency approach to comprehensive violent crime control and community mobilization in 16 jurisdictions across the country.

There is perhaps no more urgent domestic problem facing our country than violence. The only way to make progress against this epidemic is to marshal the coordinated efforts of communities; the private sector; and Federal, State, and local governments. CCP seeks to catalyze the development of such partnerships.

Two key principles underlie this initiative. First, communities must play the lead role in fostering violence prevention partnerships. Second, State and local jurisdictions must establish strong coordinated and multidisciplinary approaches. Under the Comprehensive Communities Program, communities faced with high rates of drug abuse and violent crime develop a comprehensive strategy for crime and drug control that requires police and other city agencies to work in partnership with the community to address crime- and violence-related problems and the environment that fosters them.

CCP goals are:

- To suppress violence and restore the sense of community wellness necessary to effectively recapture the security of our neighborhoods.
- To focus on community problems and concerns by initiating comprehensive planning and improved intergovernmental and community relationships.

CCP objectives are:

- To develop a comprehensive, multiagency strategy within each community to identify the causes and origins of violence and to control and prevent violent crime and drug-related crime.
- To include in each strategy a jurisdictionwide commitment to community policing and other efforts that encourage citizens to take an active role in problem solving.
- To coordinate existing Federal, State, local, and private agency resources and concentrate these resources to maximize their impact on reducing violent crime and drug-related crime in the program communities.

The Comprehensive Communities Program has been administered in two phases. During Phase I, between April and September 1994, planning grants enabled the 16 jurisdictions to develop their crime control and community mobilization strategies. Phase II, from October 1, 1994, to September 30, 1996, provided initial funds to the 16 jurisdictions to begin implementing these strategies. The strategies require criminal justice agencies, other governmental organizations, and the private sector to work in partnership with the community. Each strategy includes a jurisdictionwide commitment to community policing, coordination among public and private agencies (e.g., social services and public health agencies), and efforts that encourage citizens to take an active role in problem solving. In addition to the community policing and community mobilization components, most of the strategies include application of drug courts, expedited prosecution and diversion, gang prevention and intervention, dispute and conflict resolution, and alternatives to incarceration.

Each of the sites is encouraged to coordinate with and complement other comprehensive Federal, State, and local efforts. For example, the CCP strategies for Atlanta, Denver, Omaha, and Washington, D.C., are tailored specifically to support the Pulling America's Communities Together (PACT) Initiative in those jurisdictions. Also, many of the sites are participating in the Empowerment Zone/Enterprise Community Initiative; the CCP strategy can represent a viable crime-control component for that initiative. In addition, several of the sites have included in their local strategies enhancements to or expansion of Weed and Seed efforts in selected target neighborhoods.

Due to the broad nature of CCP and the decision to draw from multiple and independent initiatives, technical assistance and training in support of CCP is being provided through several sources, as follows:

Criminal Justice Associates (CJA) coordinates overall technical assistance and training delivery under the program and prepares program documents (i.e., the implementation manual, fact sheets, and program status reports). At the project level, CJA focuses on site needs relating to project management and alternatives to incarceration.

The National Crime Prevention Council (NCPC) provides program-level assistance in preparing documents (i.e., coordination in developing the implementation manual and distributing newsletters). NCPC focuses on site needs relating to community mobilization and engagement, dispute and conflict resolution, and resource development.

The Police Executive Research Forum (PERF) focuses on comprehensive gang initiatives in 11 of the 16 CCP sites.

The American Prosecutors Research Institute (APRI) focuses on site needs as they relate to community prosecution and prosecution and diversion.

In FY 1996, funds will be made available to a number of the demonstration sites to continue operations into FY 1997. Technical assistance will be provided through existing and continuation grants among the cadre of current providers.

Crime Prevention

National Citizens' Crime Prevention Campaign

Grantee: National Crime Prevention Council; Washington, DC

The National Citizens' Crime Prevention Campaign focuses on helping individuals, community and civic organizations, and Federal, State, and local government agencies build better, safer, and more caring communities. FY 1996 activities will enable the Campaign to continue its work on crime and violence prevention and drug demand reduction. Work elements will address the production and dissemination of air and print ads using McGruff the Crime Dog and nephew Scruff public service announcements (in English and Spanish) that target both youth and their caretakers; the development and reproduction of an array of crime and drug abuse prevention support materials; and the provision of national, State, and local technical assistance and training workshops in topical areas ranging from planning and managing crime prevention to comprehensive planning development.

Boys & Girls Clubs of America

Grantee: Boys & Girls Clubs of America; Atlanta, GA

BJA will continue to provide Federal resources to the Boys & Girls Clubs of America for the establishment and enhancement of Boys & Girls Clubs in public housing and other community settings where there is a concentration of poverty, crime, and violence. FY 1996 activities will emphasize the partnering of BJA and Boys & Girls Clubs of America staff to identify local recipient sites in up to 30 communities across the country; the continued support of jurisdictions participating in the BJA-sponsored Comprehensive Communities Program; the incorporation of conflict resolution, mentoring, and parental outreach and training into the local programming of clubs receiving Federal enhancement awards; and the establishment of a national Native American advisory board that will meet regularly to assess and provide program recommendations for clubs established on Indian reservations.

Drug Abuse Resistance Education

Grantee: D.A.R.E. America; Inglewood, CA

In FY 1996, BJA will continue its work with D.A.R.E. America to support the provision of Drug Abuse Resistance Education (D.A.R.E.) technical assistance and training to local and State law enforcement officers and the accreditation of State D.A.R.E. Training Centers. These initiatives will be accomplished through provision of resources for the five D.A.R.E. Regional Training Centers (RTCs) administered by the Arizona Department of Public Safety, the City of Los Angeles Police Department, the Illinois State Police, the North Carolina Bureau of Investigation, and the Virginia State Police. Specifically, D.A.R.E. America and the RTCs will provide D.A.R.E. Officer Training for new D.A.R.E. officers; D.A.R.E. In-service Training for experienced D.A.R.E. officers; Mentor Officer Training; D.A.R.E. Parent Program Training for instructors who use the D.A.R.E. curriculum to work with and train parents; D.A.R.E. junior and senior high school student training; program development; assessments of State D.A.R.E. Training Centers; accreditation of law enforcement agencies as D.A.R.E. Training Centers; and technical assistance for local agencies replicating the D.A.R.E. Program.

National Night Out

Grantee: National Association of Town Watch; Wynnewood, PA

This year-long program involves the continuing participation of more than 28 million people, including law enforcement personnel; individuals from other units of government, business, education, and community organizations; citizens; and youth in over 8,800 communities in all 50 States, U.S. territories, and U.S. military bases around the world. Administered by the National Association of Town Watch, Inc. (NATW), FY 1996 support will enable NATW to continue providing information, educational materials, and technical assistance for the development of cost-effective police—community partnership efforts that work toward reducing crime, violence, and substance abuse at the national, State, local, and neighborhood levels.

Tribal Strategies Against Violence Program

Grantees: Assiniboine and Sioux Tribes; Poplar, MT and Rosebud Sioux Tribe; Rosebud, SD

Tribal Strategies Against Violence is a Federal—tribal partnership initiative designed to empower Native American communities through the development and implementation of reservationwide strategies to reduce crime, violence, and drug abuse. Primary program focus is on the formation of a centralized planning team comprised of service providers, whose goal it is to develop short-term and long-term strategies that encompass community policing and prosecution, domestic abuse, juvenile delinquency, and prevention education. FY 1996 program activities will extend the program beyond the initial project sites on the Fort Peck, Montana, and Rosebud, South Dakota, Reservations. BJA, through a limited competitive process, will work with the Office of Justice Programs (OJP) American Indian and Alaskan Native Desk and the Bureau of Indian Affairs (BIA), U.S. Department of Interior, to identify up to four regional sites across the country. Reservations selected for program participation will be representative of the Northwest, South-Southwest, Midwest-Great Lakes, and East regions.

Law Enforcement

Washington, D.C., Metropolitan Area Drug Enforcement Task Force

Grantee: Arlington County Police Department; Arlington, VA

The Washington, D.C., Metropolitan Area Drug Enforcement Task Force will continue to (1) provide a visible law enforcement presence; (2) disrupt major links between drug suppliers, distributors, and users; (3) initiate enforcement action against property owners who knowingly allow their property to be used in the distribution of illicit drugs; (4) develop comprehensive intelligence systems; and (5) coordinate with appropriate agencies regarding illegal firearms used by drug organizations.

Gang Organized Crime Narcotics Violence Enforcement Program

Grantees: Bernalillo County Prosecutor's Office; Bernalillo County, NM and Multnomah County Prosecutor's Office; Multnomah County, OR

This program will continue to assist local law enforcement and prosecution agencies in addressing the growing problem of gang-related violence, with a special focus on drugs and firearms. Two sites will be funded to continue gathering intelligence and to develop investigative and prosecutorial strategies designed to weaken the structure and activities of violent gangs.

Prison Gang Intelligence Program

Grantee: Midstates Organized Crime Information Center; Springfield, MO

The Prison Gang Intelligence Program will be continued in FY 1996 to implement a nationwide capability of collecting, analyzing, and sharing information on prison gangs, gang members, and prison gang activities. The program also will provide liaison and coordination activities to corrections agencies and law enforcement agencies in data collection and dissemination efforts.

The purpose of the Prison Gang Intelligence Program is to provide for the establishment of a system to gather, store, and disseminate intelligence information on prison gang members and prison gang activities on a nationwide basis. This system will provide valuable support and assistance in the investigation and prosecution of gang-related criminal activity. It will create a central repository of prison gang information, formalize data collection methods, and standardize gang validation criteria. It will create a mechanism whereby State and local corrections and law enforcement agencies can share information and be provided analytical products that document prison gang developments and trends. A prison gang technical assistance capability will also be established.

The program goal is to facilitate, through BJA's Regional Information Sharing System (RISS) projects, the collection, exchange, and analysis of information related to prison gangs, gang members, and prison gang activities; and to provide liaison and training activities to law enforcement, prosecution, and corrections agencies nationwide.

Center for Task Force Training

Grantee: Institute for Intergovernmental Research; Tallahassee, FL

The Center for Task Force Training project will continue to help State and local agencies address criminal justice management issues and to provide dedicated training and technical assistance in support of the two Gang Organized Crime Narcotics Violence Enforcement Program sites, State and locally funded multiagency task forces, and other task forces supported by Byrne Formula Grant Program funds. The project will be expanded in FY 1996 to include a specialized training program that addresses multiagency antiterrorism preparedness. The Domestic Terrorism Training Program, which currently is under development with the Federal Bureau of Investigation (FBI), will develop, test, and evaluate the law enforcement antiterrorism training curriculum; identify and document the technical assistance needs of law enforcement agencies in the area of antiterrorism planning and prevention, and plan the methods of delivery; and focus on the multiagency/multijurisdictional aspects of the law enforcement response to acts of domestic terrorism.

Firearms Trafficking Program

Grantee: Multiple sites nationwide

The Firearms Trafficking Program will continue to help State and local governments reduce incidents of violence by reducing the availability of and illegal trafficking in firearms. This program contains several component programs that BJA has found to be effective or promising:

The Firearms Licensee Compliance Program. This component enhances the ability of State and local law enforcement agencies to conduct more complete and comprehensive background investigations on applicants for new or renewed Federal Firearms Licenses.

The Firearms Investigative Task Force Program. This component is designed to identify, target, investigate, and prosecute individuals and dismantle organizations involved in the unlawful use, sale, or acquisition of firearms in violation of Federal and/or State firearms laws.

The Innovative Firearms Program. This component assists State and local jurisdictions in developing and implementing innovative or enhanced projects designed to control illicit firearms trafficking.

Technical Assistance and Training to Rural Areas

Grantee: Rural Justice Center, University of Arkansas; Little Rock, AR

In FY 1996, BJA will continue to provide technical assistance and training to rural areas through the Rural Justice Center of the Criminal Justice Institute of the University of Arkansas, Little Rock. This program assists rural areas in the development of approaches and strategies that address the rising rates of crime, drug abuse, and violence, through the provision of technical assistance and training related to such issues as prevention, intervention, law enforcement, prosecution, courts, corrections, and treatment.

Training in Anti-Drug Activities and Cultural Differences Involving Illegal Aliens

Grantee: International Association of Chiefs of Police; Alexandria, VA

This program will be continued. Through a collaborative effort between the International Association of Chiefs of Police (IACP) and the Immigration and Naturalization Service (INS), the project will continue to present to local law enforcement officers a series of training seminars that will enable them to more effectively investigate crimes involving illegal aliens.

Criminal Alien Identification and Intervention Program

Grantees: Institute for Intergovernmental Research; Tallahassee, FL and National Criminal Justice Association; Washington, DC

In FY 1996, BJA will continue to fund technical assistance and support services to five demonstration sites funded in prior years. The Criminal Alien Identification and Intervention Program is designed to enable the earliest possible identification, through the Immigration and Naturalization Service (INS) Law Enforcement Support Center (LESC), of aliens arrested for felony offenses. Five States that have documented the largest alien populations in their correctional systems are continuing demonstration efforts in FY 1996 with projects funded in prior years.

The Criminal Alien Identification and Intervention Program also is designed to encourage States to modify statutes and policies and implement innovative techniques that intervene in the criminal justice process to expeditiously and fairly adjudicate illegal aliens arrested or convicted of felonies; and facilitate appropriate detainment and deportation of these aliens.

Supporting the demonstration sites and the program are two technical assistance efforts. The Institute for Intergovernmental Research provides onsite assistance to the States in preparing operational assessments, identifying promising approaches, and facilitating the testing of LESC. The National Criminal Justice Association (NCJA) provides research and technical assistance for the States, for enhancement of statutes and policies within the States.

In FY 1994 and FY 1995, participating States implemented Phases I through III of the program by establishing statewide criminal alien working groups represented by key State and local officials; conducting an intensive assessment of the current processes by which the State identifies and handles illegal aliens entering the criminal justice system; and documenting promising approaches to enhance the identification and intervention of these illegal aliens. Work will continue in the demonstration States, using prior year grant awards to implement and demonstrate promising approaches.

Comprehensive Homicide Initiative

Grantee: City of Richmond; Richmond, VA and City of Richmond; Richmond, CA

The Comprehensive Homicide Initiative is designed to effectively combat homicide and increase homicide clearance rates through the development and demonstration of a multifaceted approach that can be fully documented and ultimately replicated in other jurisdictions. This initiative addresses the underlying causes of homicide, including gang violence, domestic violence, violence associated with drug activity, and gun availability.

The goals of the program are to reduce homicide rates and improve homicide clearance rates, including "cold case" homicides; develop *innovative* strategies and processes that have a high probability for improving the prevention, intervention, enforcement, and prosecution of homicide cases that are replicable in other jurisdictions; and document local efforts to enhance replicability of successful components of the program to other jurisdictions.

The Cities of Richmond, Virginia, and Richmond, California, each have received funding to implement the recommendations of the International Association of Chiefs of Police (IACP) Murder Summit Report. These cities were selected due to their high or increasing homicide rates, geographical diversity, and participation in other comprehensive criminal justice initiatives that will provide a good base from which to move forward.

This comprehensive program requires coordination at the Federal, State, and local levels. Each city's plan must demonstrate coordination and cooperation among public agencies; private organizations; and municipal, county, State, and Federal agencies. The plan must demonstrate that this initiative will be integrated with other U.S. Department of Justice (DOJ)-funded programs in the local jurisdiction, such as the Comprehensive Communities Program; Weed and Seed; the Federal Bureau of Investigation (FBI) Safe Streets Program; and programs funded by the Office of Community Oriented Policing Services, the Drug Enforcement Administration, and the Office of Juvenile Justice and Delinquency Prevention. In addition, the program must involve coordination with the relevant U.S. Attorney's Office. Coordination with Housing and Urban Development and the Bureau of Alcohol, Tobacco and Firearms should also be included if relevant to the jurisdiction's program efforts. BJA has been working with each of the jurisdictions since November 1995. In each city, BJA held an onsite meeting that served as an initial opportunity to convene the representatives of the State and local agencies and representatives from Federal agencies with ongoing programs.

Clandestine Laboratory Strategy Training Program

Grantee: Circle Solutions, Inc.; Vienna, VA

In FY 1996, BJA will continue support to the Clandestine Laboratory Strategy Training Program. The program is based on the collective experiences and best practices of the BJA Model Clandestine Laboratory Enforcement Program demonstration sites and the BJA/Drug Enforcement Administration (DEA) Clandestine Laboratory Clean-Up Program. The program represents a significant investment and effort on the part of BJA to develop an effective method for combating clandestine drug laboratories in the United States. The training delivery system and followup technical support activities provided will ensure that the training reaches the audience for which it is intended in an efficient and cost effective manner.

The Clandestine Laboratory Strategy Training Program assists State and local policymakers and practitioners responsible for law enforcement resource allocation decisions in

developing policies, procedures, and programs related to the hazardous chemical problems associated with clandestine laboratories. The program provides a foundation from which a comprehensive, multiagency response can be developed at the State and regional levels. Beginning in FY 1994, Circle Solutions, Inc., building upon a successful developmental and piloting effort, implemented a program to provide training and followup technical assistance to State and local criminal justice agencies and other public safety agencies nationwide.

Assistance to Local Law Enforcement Agencies Significantly Impacted by the 1996 Olympic Games

Grantee: Georgia Criminal Justice Coordinating Council, Office of the Governor; Atlanta, GA

The purpose of this program is to assist local jurisdictions significantly impacted by the public safety demands of the 1996 Olympic Games in Georgia. The program was funded to satisfy a congressional earmark. Current projections indicate that involved local jurisdictions may incur in excess of 400,000 hours of unfunded overtime costs as a result of the public safety requirements for Olympic venues throughout the metropolitan Atlanta area and in sites outside Atlanta. This grant will help defray the costs of approximately 155,000 hours of anticipated overtime requirements of involved jurisdictions.

Regional Information Sharing System

Grantee: 6 sites nationwide

The Regional Information Sharing System (RISS) Program supports Federal, State, and local law enforcement efforts to combat criminal activity that extends across jurisdictional boundaries. Six regional RISS projects provide a broad range of intelligence exchange and related investigative support services to member criminal investigative agencies nationwide. The projects focus primarily on narcotics trafficking, violent crime, criminal gang activity, and organized crime.

In FY 1996, the RISS Program will complete electronic connectivity among all projects, as well as other systems, to better facilitate the collection, dissemination and analysis of criminal intelligence. Also in FY 1996, the RISS projects will work with the National Major Gang Task Force to encourage the sharing and dissemination of gang intelligence information between the law enforcement and corrections communities.

National White-Collar Crime Center

Grantee: West Virginia Office of the State Auditor; Charleston, WV

The National White-Collar Crime Center provides a national support system for the prevention, investigation, and prosecution of multijurisdictional economic crimes. These white-collar crimes include investment fraud, telemarketing fraud, boiler room operations, securities fraud, commodities fraud, and advanced-fee loan schemes. The Center's mission includes providing investigative support services to assist in the fight against economic crime, operating a national training and research institute focusing on economic crime issues, and developing the Center as a national resource in combating economic crime.

Adjudication

National Symposium on Sentencing

A national symposium on sentencing to be presented by BJA, the State Justice Institute, and the National Institute of Justice, will enable judges, legislators, prosecutors, defense counsel, corrections officials, police, and community representatives to discuss and share experiences and perspectives on current sentencing policy.

Trial Court Performance Standards and Measurement System: Coordination Efforts

Grantee: National Center for State Courts; Williamsburg, VA

After 8 years of development and testing, the Trial Court Performance Standards and Measurement System (TCPSM) has been completed and is in the process of being adopted by numerous jurisdictions. For example, the Judicial Council of California has adopted TCPSM as part of a new Standard of Judicial Administration. One of the most significant events in judicial administration in the last 10 years, TCPSM comprises a set of 22 standards and 68 individual measures for assessing trial court performance. States urgently need technical assistance to enable them to implement the system. The National Center for State Courts will provide that assistance to State and local courts. BJA also will be working with State agencies to explore the possibility of using block grants to assist State trial courts in fully reviewing, adapting where appropriate, and implementing TCPSM throughout the State.

Community Prosecution and Community Probation

Grantee: American Prosecutors Research Institute; Alexandria, VA

The Community Prosecution and Community Probation program consists of the following four components:

Technical Assistance and Training

In FY 1993 and FY 1994, the American Prosecutors Research Institute (APRI) convened two focus groups of experienced prosecutors who defined community prosecution and identified its key components. This information provided BJA and APRI with the framework to provide both intensive and general technical assistance and to produce several publications on the subject. In FY 1994 and FY 1995, APRI conducted two extremely well-received technical assistance conferences attended by over 75 prosecutors' offices.

In FY 1996, APRI will continue its technical assistance by matching prosecutors with community prosecution expertise with jurisdictions now planning or implementing community prosecution strategies. To further inform prosecutors on issues involving the planning, implementation, and operation of a community prosecution program, APRI will convene a series of regional planning workshops, an invitational symposium, and a national conference. In addition, APRI will provide intensive technical assistance and conduct studies of three demonstration sites, at least one of which will implement a community prosecution program in a jurisdiction where a community policing program already exists. APRI will compare, contrast, and analyze each demonstration site and disseminate a report on the results. APRI will assist in the National Institute of Justice (NIJ) evaluation of BJA's Community Prosecution demonstration projects.

Demonstration Projects

BJA will provide limited funds to up to three prosecutors' offices to implement the current strategies discussed in the APRI Community Prosecution Implementation Manual and supporting documents. These offices will be invited by BJA to submit an application for funding. Preference will be given to offices capable of committing an equal amount of resources to the project.

Community Probation

A significant segment of the Community Prosecution and Community Probation Program will be devoted to community probation. BJA will choose up to three demonstration sites where APRI, or a consultant working with APRI, will develop model community probation programs. These models will build upon recent BJA accomplishments in its Community Policing and Community-Focused Courts programs and involve partnerships with the police, the judiciary, probation officials, public defenders, and the community. Preference will be given to applicants who commit local resources to the project.

Community-Focused Courts

The National Center for State Courts (NCSC) in Williamsburg, Virginia, will provide technical assistance to courts interested in implementing recommendations from both the community-focused court's agenda currently under development by NCSC and a consortium of court and community organizations. This followup program will explore innovative technologies, such as the Internet and videoconferencing, in offering assistance; and it will provide onsite assistance as needed. NCSC will develop an evaluation instrument for use by local universities to evaluate the efforts of the community courts. The program will complement ongoing BJA efforts in the community prosecution area and support existing local and State partnership programs.

Models of Court-Based Services to Children and Their Families

Grantee: National Center for State Courts; Williamsburg, VA

As an outcome to the Office of Justice Programs (OJP) task force on Childhood Victimization, BJA and the National Center for State Courts (NCSC) will expand their current program "Models of Court-Based Services to Children and Their Families." Funded by BJA and the Office of Juvenile Justice and Delinquency Prevention, the program's purposes are to identify, document, evaluate, and further develop effective court-based service delivery to children and their families. The major goal is to improve collaboration among State trial, juvenile, and family courts and public health, mental health, and social services. NCSC will study and help two to three additional sites in the identification and coordination of cases involving child abuse and neglect and domestic violence. As part of the new effort, NCSC is looking at current sites supported by private funding organizations (i.e., the Kellogg Foundation, the Casey Foundation, and the Edna McConnell Clark Foundation) to determine if the projects can be augmented with a stronger court focus.

Assessment and Enhancement of Indigent Defense Services

Grantee: National Legal Aid and Defender Association; Washington, DC

In FY 1994, BJA awarded the National Legal Aid and Defender Association a grant to reestablish a national scope program to improve the defense component of the criminal justice system by providing State and local organizations that represent indigent defenders with quality training and technical assistance services.

This program expands on training events to enhance the quality of indigent defense providers' representation of drug and violent crime defendants both to obtain the best results for their clients and to reduce recidivism. This program will also support the expansion of the National Clearinghouse for Defense Services. The Clearinghouse is designed to respond to inquiries from defenders, State officials, the judiciary, and the general public about the delivery of defense services and substantive criminal defense issues. The Clearinghouse compiles, assesses, and disseminates information on proven programs and on trends and innovative strategies employed by indigent defense services throughout the country. A Clearinghouse Directory will be available that includes a listing of the files maintained and a summary of the services available through the Clearinghouse.

Statewide training programs that focus on defense issues, the development and use of diversion programs, and sentencing alternatives to incarceration will be expanded. In addition to covering traditional legal defense of a drug case, a training manual presents a distinctive approach to the defense of drug cases by integrating and emphasizing concrete strategies for treatment, intervention, and prevention; the manual will integrate guidelines for effective representation. This program will document the training practices used in drug and violent crime cases.

Prosecutor's Pre-Charging Diversion Program

Grantee: Office of the Prosecuting Attorney, Sixth Judicial District Pulaski County; Little Rock, AK

This program expands a citywide pilot project designed to reduce the recidivism rate for youthful offenders. An alternative to formal adjudication in juvenile court, this program serves as an opportunity for youthful offenders to receive constructive restitution and interact with community members. Youth violence is addressed through an interagency partnership that suspends traditional barriers in the community and creates a less threatening environment. By offering programs, opportunities, and services to at-risk youth, this now countywide strategy will document how neighborhood organizations and community groups are working to halt the rising rate of juvenile crime.

Health Care Fraud Investigation and Prosecution Training and Technical Assistance

Grantee: National Association of Attorneys General; Washington, DC

The continuation of this project will enable the National Association of Attorneys General (NAAG) to continue providing national scope training and technical assistance services to State attorneys general and to other State and local agencies involved in detecting, investigating, and prosecuting intrastate health care fraud. NAAG will work with the three BJA-funded demonstration sites to develop prototype strategies for State attorneys general conducting health care fraud prosecutions—including health care consumer fraud, Medicaid fraud, and fraud against traditional insurance companies and health maintenance organizations (HMO's).

NAAG will continue working closely with State attorneys general and district attorneys to provide cost-effective training programs for prosecutors and investigators and to develop innovative prosecution strategies. Special emphasis will be given to assisting the demonstration site units in the Maryland, Minnesota, and Wisconsin Attorneys' General offices. In conjunction with an advisory group comprised of Federal, State, and local prosecutors, the project will identify demonstrably successful initiatives, and disseminate this information via a bimonthly newsletter. The project also will develop and publish a health care fraud practice manual for State prosecutors and develop a clearinghouse of materials relating to the prevention, detection, and prosecution of health care fraud.

DNA Legal Assistance Unit

Grantee: American Prosecutors Research Institute; Alexandria, VA

Beginning in FY 1995 with substantial support from BJA, the American Prosecutors Research Institute (APRI) DNA Legal Assistance Unit has been providing direct support to America's prosecutors in the understanding and use of DNA typing technology to

investigate and prosecute serious cases such as capital murder, homicide, sexual assault, and child abuse. APRI has accomplished this task by providing technical assistance, publications, and training. Technical assistance activities include formulation of a comprehensive guide for direct and cross examination in DNA cases; development of a curriculum for training DNA analysts and examiners on the proper presentation of DNA evidence, emphasizing testimony and etiquette; and publication on a semiannual basis of The Silent Witness, a newsletter that bridges the gap between prosecutors and DNA laboratories. Technical assistance activities will be provided on a limited basis and will include responding to telephone requests, providing general and specific case information packets, and updating the Unit's extensive files of legal and scientific information.

Adjudication Focus Group

In March 1996, BJA conducted an adjudication focus group whose primary purpose was to identify and deliberate issues and problems within the adjudicative process of State and local criminal justice systems. This focus group did generate and discuss innovative programs and new approaches related to improving the adjudicative process. Criminal justice researchers and writers, Byrne Formula Grant Program State administrators, representatives from State and local prosecutor and public defender offices, justices and judges, parole and probation officers, and the funding community all contributed to increasing the quality and quantity of future BJA adjudication training, technical assistance, and demonstration programs.

Later this year, BJA expects to issue one or more Requests for Proposal soliciting proposals from State and local adjudication components and/or private nonprofit organizations to implement one or more program ideas promulgated by this focus group.

Corrections

Correctional Options—National Dissemination

The 1990 Amendments to the Crime Control Act provided BJA with the statutory authority to establish a comprehensive assistance program to develop "correctional options" at the State and local levels. In exercising this authority, BJA awards demonstration grants, provides technical assistance, and evaluates the results of intervention projects for youthful offenders likely to become career criminals.

BJA's correctional options projects assist offenders in pursuing a lawful and productive transition to the community following release by providing security, discipline, and comprehensive services, including diagnosis, counseling, substance abuse treatment, education, job training, and placement assistance while under correctional supervision; and linkage to similar services in the community. These projects also provide work opportunities to promote the development of industrial and service skills.

The expected results of the correctional options projects include reduced criminal recidivism of offenders who receive alternative punishments and, in the longer term, reduced costs in correctional services and facilities.

For the purposes of this program, the term "correctional options" includes community-based incarceration, weekend incarceration, correctional boot camps, transitional programs, aftercare services, day reporting, structured fines, electronic monitoring, intensive probation, and other innovative sanctions designed to have maximum impact on offenders capable of being managed in an environment other than a traditional correctional facility.

During a 4-year period, from FY 1992 through FY 1995, BJA awarded more than $40 million in Correctional Options Discretionary Program grants to public agencies and private nonprofit organizations. These grants were awarded to support the planning, development, implementation, and evaluation of demonstration projects to test a broad range of alternatives to traditional modes of incarceration. All BJA correctional options demonstration projects have four basic goals: reduced incarceration costs, relief of prison and jail crowding, reduced recidivism rates for youthful offenders, and advancement in correctional practices.

BJA has worked closely with State and local criminal justice professionals in project planning, design, and operation; coordination of technical assistance and evaluation services; monitoring of operations and outcomes; and facilitation of project refinement and improvements. A critical factor in measuring the outcomes of these projects has been the degree to which demonstration sites have been successful in selecting offenders who would have been incarcerated had the correctional options projects not existed.

Preliminary findings from the evaluation of these projects indicate that offenders admitted to these programs pose considerable challenges to treatment efforts because of their young age, lack of education, poor job skills, low rates of employment, lack of social stability, history of drug abuse, and extensive record of prior arrests and convictions.

However, these projects are successful in delivering badly needed services to a high-risk offender population, offering far more services and supervision than normally are provided for similarly situated offenders who are in prison or who are assigned to probation or parole.

States like Florida, Maryland, New Hampshire, and Vermont have succeeded in reaching their goal of cost effectiveness by targeting offenders who otherwise would have spent a considerable amount of time in custody.

Model Correctional Options Projects

The following projects have been selected as BJA correctional options models and will serve as resource sites for a National Correctional Options Dissemination, Training, and Technical Assistance Program:

Washington State Reintegration of Youthful Offenders
Maricopa County (AZ) Youthful Offenders Project
Bradenton (FL) Correctional Treatment Facility Drug Punishment Program
Maryland Community Supervision and Transitional Services
New Hampshire Intensive Correctional Services
Vermont Restorative Justice Services
Connecticut Female Addictive Services—Fresh Start
California Youth Authority Project LEAD
Riverside County (CA) Twin Pines Academy

Focus Group: Linking Byrne Formula and Discretionary Grant Programs

A recent analysis of the annual needs assessments conducted through the Byrne Formula Grant Program indicated that the two areas of greatest need at the State and local levels are alternatives to incarceration and offender treatment services.

In December 1995, BJA convened a focus group meeting with representatives from a number of successful State and local correctional options projects and from the State Administrative Agency for the Byrne Formula Grant Program in these same jurisdictions. The purpose was to obtain ideas and insights regarding the development of a Correctional Options Dissemination Program for the FY 1996 Byrne Discretionary Program Plan; as well as potential funding through the Byrne Formula Grant Program and other public and private funding sources to support State and local correctional options.

The FY 1996 National Technical Assistance and Dissemination Initiative for Correctional Options will build on the input from the planning meeting and will encourage States to support new correctional options projects with Byrne formula grants and to use these Byrne formula funds to leverage additional funding sources.

FY 1996 Awards

Technical Assistance, Dissemination, and Training To Promote Correctional Options

Grantee: Criminal Justice Associates; Philadelphia, PA

This continuation of the current award will support the technical assistance needs of the ongoing correctional options projects: the 9 demonstration projects that were awarded on September 30, 1995; the 10 projects that BJA considers models; and the FY 1994 awards to Wilmington, Delaware, and Washington, D.C.

The continuation award will also support a national dissemination and technical assistance initiative that builds upon the lessons learned through the BJA Correctional Options Program regarding project planning, development, implementation, and evaluation. The initiative will support efforts to use Byrne Formula Grant Program funds and other public and private funding sources to support the implementation of Correctional Options projects at the State and local levels. The grantee will work closely with the program evaluator and will assist in the dissemination of information to key decisionmakers who can influence the development and funding of correctional options at the State and local levels. The award also will support the involvement of a consortium of service providers.

Impact Evaluation of 10 Demonstration Sites

Grantee: The National Council on Crime and Delinquency; Washington, DC

This is a 15-month continuation award focusing on outcome measures and publications regarding the cost effectiveness of selected correctional options projects, as compared with traditional incarceration. The evaluation will be interactive with both the demonstration sites and the technical assistance providers, it will include feasibility assessment activities to determine the evaluability of project design and, as appropriate, technical advice on project adjustments to improve operations and outcomes.

In addition to the dissemination of correctional options, BJA will continue to expand its support for programs that demonstrate productive work and employment preparedness services for prison and jail inmates, offenders participating in community-based correctional options programs, and ex-offenders.

Prison Industry Enhancement Technical Assistance

Grantee: Correctional Industries Association; Philadelphia, PA

This continuation award will enable BJA to maintain the current level of effort regarding Prison Industry Enhancement (PIE) technical assistance, training, and annual program audits. In addition, the award will support the development of revised PIE regulations and guidelines, extension of single PIE certification authority to encompass all State prisons and local jails, two annual meetings, and the development of marketing plans to promote expansion in the number of active PIE projects.

Jail Work and Industries

Grantee: Community Resource Services; Gaithersburg, MD

This continuation award will enable BJA to continue providing technical assistance and program planning support to reduce inmate idleness through the development of productive work opportunities in local jails, including Prison Industry Enhancement (PIE)-certified private sector employment.

Project Return

Grantee: Tulane University; New Orleans, LA

With strong support from the New Orleans Business Council, Project Return provides employment readiness training and support services to ex-offenders. Drug and alcohol counseling, remedial education, life skills training, vocational training, job placement services, and family counseling are provided to 200 participants per year.

Opportunity To Succeed Program: Center on Addiction and Substance Abuse

Grantee: Columbia University; New York, NY

The Opportunity to Succeed (OPTS) program provides intensive services for addicted ex-offenders who received drug treatment while incarcerated and are returning on probation or parole to their communities in Kansas City, St. Louis, Tampa, Oakland, and New York City. The program goal is to sustain treatment gains and achieve a positive reintegration into the community by providing substance abuse treatment, case management, employment, and training, housing, family intervention, health services, and mental health services. Services are structured, coordinated, and monitored by case managers working for community based organizations.

Evaluation, Systems Improvement, and Information Dissemination

The Denial of Federal Benefits Program

Contractor: Network Systems Integration; Washington, DC

The Denial of Federal Benefits Program was established to implement Section 5301 of the Anti-Drug Abuse Act of 1988 (Subpart G of Public Law 100–690). This law offers an option to judges in both Federal and State courts to deny Federal benefits to persons convicted of trafficking in or possession of drugs. It also provides for the mandatory denial of Federal benefits to individuals with three or more convictions for trafficking offenses. In February 1993, additional duties were assigned to the Denial of Federal Benefits Program in connection with the implementation of the National Defense Authorization Act of 1993. This law provides for a point of contact—i.e., a clearinghouse—from which defense contractors may learn whether an individual has been disqualified from defense contract participation as a result of a procurement fraud conviction.

The goals of the program are to provide a sentencing option for Federal and State judges to deny a Federal benefit to a drug offender, a mechanism to report such a denial of Federal benefits, and a method to inform Federal agencies of individuals sentenced to a denial of Federal benefits. The program objectives are to enhance the use of denial of Federal benefits as a sanction in sentencing offenders convicted of a drug offense and to enhance BJA's capabilities to more accurately and efficiently collect offender data and improve processing of this data from Federal and State sources.

The Denial of Federal Benefits Program's current operations include an information dissemination component, a systems management component, and a program management and coordination component.

Testing of Nebraska's Victim Services Needs Assessment Instrument

Grantee: Nebraska Commission on Law Enforcement and Criminal Justice; Lincoln, NE

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The purpose of the Victim Services Needs Assessment instrument is to assist the Nebraska Commission on Law Enforcement and Criminal Justice in assessing whether crime victim assistance funds are being utilized in the best way possible to address the needs of crime victims. The goals in testing the instrument are to assess the effectiveness and efficiency of existing services and to identify and formally document services not currently available but needed by victims of crime in Nebraska.

The instrument consists of three sections. Section 1, the Nebraska Victimization Survey, is a statewide victimization instrument designed to determine geographical service gaps and awareness of crime victim services and evaluate attitudes toward crime and the criminal justice system. The second section, the Inventory of Victim Assistance Programs In Nebraska, is completed by victim assistance agencies and identifies how the agency is funded, who represents its client base, what services are provided, and what services are needed. Section 3, the Victim Assistance Client Survey, is given to the crime victim and identifies the types of services provided by the agency; the level of satisfaction with services provided; the types of services the victim felt were needed but were not provided; and if the victims used other agencies for services.

The instrument is service specific; it is designated to be used by States and local agencies. Once the instrument is tested and finalized, it will be made available to other States for their use. The Office of Victims of Crime will oversee instrument refinement.

An Initiative To Develop Model Internet Applications for State and Local Criminal Justice Agencies

Grantee: Illinois Criminal Justice Information Authority; Chicago, IL

This initiative is being developed by the Illinois Criminal Justice Information Authority (ICJIA) and the University of Illinois at Chicago. The purpose is to develop model Internet applications that will allow State and local criminal justice agency users to access information about programs and resources that are available to combat crime and violence. The goals of the initiative are to develop model Internet applications in the State and local criminal justice community for the electronic sharing and publishing of criminal justice data and information.

The initiative involves information technology, data and statistics, program development, and research and evaluation. ICJIA enlisted BJA, the National Institute of Justice (NIJ), and the Bureau of Justice Statistics (BJS) to review and collaborate on the proposal and determine its utility to State and local criminal justice agencies. To ensure that the ICJIA's work is responsive to the needs of State and local agencies across the country, SEARCH Group, Inc., the National Criminal Justice Association, Justice Research Statistics Association, BJA, NIJ, and BJS all will consult on this initiative.

U.S. Department of Justice Response Center and BJA Clearinghouse

Contractor: Aspen Systems, Inc.

The BJA Clearinghouse continues to serve as an information and dissemination source for the criminal justice field. BJA also supports the U.S. Department of Justice (DOJ) Response Center, which provides timely and accurate information on DOJ initiatives.

Report Publication and Dissemination

This initiative enables BJA to produce and disseminate information to the criminal justice field about state-of-the-art programs and activities, and to improve the criminal justice system through development of publications and other media materials.

State and Local Training and Technical Assistance Program

Contractor: Community Research Associates; Nashville, TN

The purpose of the BJA State and Local Training and Technical Assistance Program is to provide training and technical assistance to States, units of local government, and recognized Native American Indian Tribes in the development and implementation of comprehensive systemwide strategies for preventing and combating drug-related and violent crime, and in the improvement of the function of State and local criminal justice systems. Although developed primarily to support BJA's Formula Grant Program, training and technical assistance can also be extended to BJA discretionary grantees and, in certain instances, to other facets of the U.S. Department of Justice (e.g., in response to requests from U.S. Attorneys).

Evaluation Program

The goal of BJA's Evaluation component is to identify criminal justice programs of proven effectiveness and to disseminate information about these programs, so that other jurisdictions throughout the country can replicate them. Results of BJA program evaluations guide the formulation of policy and programs within Federal, State, and local criminal justice agencies. BJA coordinates the development of evaluation guidelines with the National Institute of Justice (NIJ). In addition, NIJ conducts comprehensive evaluations of selected programs receiving discretionary and formula grant funds from BJA.

Each applicant for State Byrne Formula Grant Program funds is required to include in its project plan an evaluation component that meets the BJA/NIJ evaluation guidelines. Each State is required to provide BJA with an annual report that includes a summary of its grant activities and an assessment of the impact of these programs on the needs identified in its statewide drug and violent crime control strategy. Applicants for Byrne Discretionary Grant Program funding are required to include an evaluation component in their applications and agree to conduct required evaluations according to procedures and terms established by BJA.

SEARCH National Training and Technical Assistance Program

Grantee: SEARCH Group, Inc. (National Consortium for Justice Information and Statistics); Sacramento, CA

The SEARCH National Training and Technical Assistance Program, created in 1986, offers assistance to criminal justice agencies across the country in the development, improvement, acquisition, and/or integration of their computer systems (e.g., records and case management, computer-aided dispatch, and criminal history records systems). SEARCH provides onsite, no-cost training and technical assistance to justice agencies. It also offers services at the National Criminal Justice Computer Laboratory and Training Center located in Sacramento, California.

Public Safety Support Services: National Training and Technical Assistance for Law Enforcement Line of Duty Deaths

Grantee: Concerns of Police Survivors, Inc.; Camdenton, MO

The Public Safety Officers' Benefits Act (42 U.S.C. 3796 et seq.) authorizes the Director of BJA to support national programs that assist families of public safety officers killed in the line of duty. Since 1984, Concerns of Police Survivors, Inc. (COPS) has implemented programs to provide psychological support and practical guidance to law enforcement agencies and families that have lost an officer in the line of duty.

BJA has identified the need to: update research on law enforcement agencies' readiness to handle line-of-duty deaths; provide training and technical assistance to better prepare law enforcement agencies to intervene effectively with families and coworkers of officers killed in the line of duty; and increase dissemination of information about the services and benefits available to the families of fallen officers and about the resources available to assist agencies.

BJA will survey law enforcement agencies regarding their written policies and procedures on responding to line-of-duty deaths. In addition, input and reaction will be sought from surviving family members concerning the treatment accorded them by the deceased family member's agency. The survey will provide some measure of the impact BJA and other organizations have had over the past 11 years in improving agency response to line-of-duty deaths.

National Institute of Justice Research Plan 1995–1996

For substantive questions regarding specific Goals, please contact the appropriate Program Manager. Names and telephone numbers of all Program Managers are listed at the end of each Goal. For general NIJ information, contact Carrie Smith, at (202) 616–3233.

For information about the Violent Crime Control and Law Enforcement Act of 1994 (Crime Law), contact the Department of Justice Response Center, at (202) 307–1743 or (800) 421–6770.

To inquire about NIJ receipt of applications, contact Louise Loften, at (202) 307–2965.

For document publication information, contact Mary Graham, at (202) 514–6207. For general information about NIJ programs and funding opportunities, and application procedures; for requests for reprints, literature, final reports, funded grants on related topics, etc.; for names of researchers or practitioners working on related topics, contact the National Criminal Justice Reference Service (NCJRS), at (800) 851–3420.

The NIJ 1995–96 Research Plan is also available electronically via the National Criminal Justice Reference Service Bulletin Board System. You can access the Bulletin Board through the Internet (telnet to ncjrsbbs.aspensys.com or gopher to ncjrs.aspensys.com 71) or through a modem (set at 9600 baud and 8–N–1; dial 301–738–8895). The NIJ Research Plan is listed under the "National Institute of Justice Information" menu.

For Internet access information, e-mail lively@justice.usdoj.gov.

National Institute of Justice Staff

Jeremy Travis, Director

Office of the Director

Margaret Battle
Chriss Wetherington
Christy Visher

Planning and Management Division

Carol Petrie, Director
Sheila Parker-Darby
Denise Gadson
Carrie Smith

Office of Research and Evaluation

Sally T. Hillsman, Director
Louise Lofton
Evelyn Washington

Criminal Behavior

Edwin W. Zedlewski, Acting Director
Bernie Auchter
Laurie Bright
Thomas Feucht
Helen Girma
Voncile Gowdy
Ginger Kyle
Pamela Lattimore
Jordan Leiter
Angela Moore
Jack Riley
James Trudeau

Crime Control and Prevention

Winnie Reed, Acting Director
Julianna Banks
Stephanie Bourque
Steven Edwards
Stephen Holmes
Eric Jefferis
Robert Kaminski
Robert Langworthy
Nancy Lavigne
Richard Lewis
Phyllis McDonald
Lois Mock
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Jeffrey Ross
Richard Titus

Office of Science and Technology

David G. Boyd, Director
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Kevin Jackson
Richard M. Rau
Robert Tolle

Office of Communication and Research Utilization

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Eugene Hebert
G. Martin Lively
Daniel Tompkins

Research Applications and Training Division

John Spevacek, Acting Director
Cheryl Crawford
Marilyn Moses
Carolyn Peake
Samuel McQuade
John Thomas

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Introduction

The National Institute of Justice (NIJ) is the research and development agency of the U.S. Department of Justice. Created in 1968 by Congress pursuant to the Omnibus Crime Control and Safe Streets Act, the Institute is authorized to:

Sponsor research and development to improve and strengthen the Nation's system of justice with a balanced program of basic and applied research.

Evaluate the effectiveness of criminal justice and law enforcement programs and identify those that merit application elsewhere.

Support technological advances applicable to criminal justice.

Test and demonstrate new and improved approaches to strengthen the justice system.

Disseminate information from research, development, demonstrations, and evaluations.

This Plan signals the new administrative direction that NIJ will follow to achieve its research and evaluation goals. Conceptually, the Plan is the basis of NIJ's pyramid of research. It will be supplemented over the coming months by a series of solicitations on topics that speak to current or persistent policy concerns that warrant research investments. By their nature, those solicitations will represent a somewhat more focused part of this pyramid. Intramural studies are at the apex of the research pyramid. Questions with strong policy orientation or immediate concern may best be addressed by NIJ staff who can interact directly with the policymakers asking the questions.

Readers of prior NIJ Plans will find that this Plan has been substantially shortened. Much of the traditional background text has been discarded; suggested research topics have been reduced from paragraphs to phrases. This change in style, however, implies no change in the kinds of research being sought. NIJ believes that this abbreviated format is more consistent with the spirit and intent of the Plan as a vehicle to encourage the field to submit original ideas on a wide range of research issues.

Focused solicitations will appear intermittently over the next year. These will address more specific topics for which special funding is available. Certain activities funded under the Violent Crime Control and Law Enforcement Act of 1994 (Crime Law) will be focal points—specifically, community policing, violence against women, boot camps, and drug courts—as will evaluations of selected Bureau of Justice Assistance programs. NIJ will also initiate solicitations in collaborative arrangements with other Federal agencies, as well as for topics that NIJ believes merit special attention for the development of knowledge. These solicitations will be announced through the **Federal Register** and other NIJ communications channels including the Internet (the Department of Justice and NCJRS Online) and special mailings. Interested applicants should telephone the National Criminal Justice Reference Service (NCJRS) at 800–851–3420 or e-mail askncjrs@ncjrs.aspensys.com for pending releases and dates of announcement.

Partnerships are another new priority for the Institute. NIJ believes that many of today's crime problems require solutions that extend beyond criminal justice boundaries. The Institute has been active in discussions with other Federal agencies and private foundations and has established a variety of collaborative relationships. Some of these will manifest themselves in the form of special solicitations on specific topics or programs. Others will simply encourage collaborative or interdisciplinary research and offer the prospect of joint funding. Still others will result in the development of shared research agendas. NIJ encourages researchers from all disciplines to explore the opportunities for collaborative efforts presented in this Plan and subsequent announcements, and to propose arrangements that they are able to construct beyond those mentioned. NIJ particularly encourages coordination of research applications with submissions in other OJP agency Plans.

An organizational change has also occurred. The factors that distinguish "research" from "evaluation" are subtle and secondary to the substance of the issues. Therefore, the Institute has merged these functions into a single Office of Research and Evaluation that will review submissions for both areas. The Plan invites proposals for a range of funding amounts. It includes a category of small grants (less than $50,000) across all goals and subjects. Readers should consult the administrative sections of the Research Plan for additional information on the differences in application requirements.

Six Strategic Long-Range Goals

In FY 1993, the Institute set forth six long-range goals as the focus of NIJ research, evaluation, and development in the coming years. The creation of this long-range agenda was well received; a large number of research and evaluation proposals were submitted, providing an interdisciplinary framework for 1994.

In this 1995–96 Research Plan, the Institute specifies the research, evaluation, and technology projects that NIJ anticipates supporting under each goal. The numeric order of the goals does not indicate levels of priority for the Institute.

Many of the special grant programs for individuals—such as the Data Resources Program, various Fellowship programs, the NIJ Internship Program—are now described in a separate publication, which will be announced in the **Federal Register**.

NIJ solicits research and evaluations to develop knowledge that will further these long-range goals:

I. Reduce violent crime.

II. Reduce drug- and alcohol-related crime.

III. Reduce the consequences of crime.

IV. Improve the effectiveness of crime prevention programs.

V. Improve law enforcement and the criminal justice system.

VI. Develop new technology for law enforcement and the criminal justice system.

Studies that involve the use of randomized experimental designs are encouraged, as are multiple strategies for data collection, and well-controlled, quasi-experimental designs and equivalent comparison group designs. Qualitative studies, including ethnographic data collection, are also encouraged.

Research Collaborations

NIJ encourages joint research and evaluation projects with other Federal agencies and private foundations interested in crime and criminal justice issues. Applicants may wish to consider whether their proposed project might lend itself to joint funding with another agency or foundation. Applicants interested in exploring possible partnerships should contact the potential partner agency directly, or the relevant NIJ program manager, to discuss specific topics for possible collaborative projects. NIJ has entered into memorandums of agreement or is in other ways collaborating with the Departments of Defense, Education, Energy, Health and Human Services, Housing and Urban Development, and Treasury. Agencies and foundations that have indicated a desire to collaborate with NIJ on projects of mutual interest, or are currently involved in joint research efforts with NIJ, include:

Agencies

Advanced Research Projects Agency (DOD)
Bureau of Alcohol, Tobacco, and Firearms
Bureau of Justice Assistance
Centers for Disease Control and Prevention
Center for Mental Health Services
Center for Substance Abuse Treatment
Corrections Program Office (OJP)
Drug Courts Program Office (OJP)
National Aeronautics and Space Administration
National Institute of Mental Health
National Institute on Alcohol Abuse and Alcoholism
National Institute of Corrections
National Institute on Drug Abuse
National Science Foundation
Office of Community-Oriented Policing Services (DOJ)
Office of Juvenile Justice and Delinquency Prevention
Office of Assistant Secretary for Planning and Evaluation (HUD)
Office of National Drug Control Policy
Office for Victims of Crime
State Justice Institute
Violence Against Women Program Office (OJP)

Foundations

The Annie E. Casey Foundation
The Carnegie Corporation of New York
The Ford Foundation
The Daniel and Florence Guggenheim Foundation
The J.C. Kellogg Foundation
The John D. and Catherine T. MacArthur Foundation
The Pew Charitable Trusts
The Prudential Foundation
The Ronald McDonald Foundation
The Rockefeller Foundation

The Institute cannot guarantee that joint funding for research and evaluation projects will be forthcoming from these sources. Applicants should consider whether their proposals are in accord with the goals of these agencies and private foundations.

Specific information about applying for Institute grants is contained in the section "Administrative Guidelines."

Goal I: Reduce Violent Crime

Purpose

The purpose of this solicitation is to encourage research and evaluation projects spanning six broad areas: family violence, violence against women, homicide, firearms and violence, gangs, and juvenile violence. Through this solicitation the National Institute of Justice (NIJ) expects to support research that will improve the criminal justice knowledge base on crimes and criminal behavior that increasingly concern the public.

Background

Violent crime is a leading concern among the American public today. According to the National Crime Victimization Survey (NCVS), in 1992 there were 6.6 million violent victimizations in the United States—including 141,000 rapes, 1.2 million robberies, and 5.3 million assaults. The violent crime rate is steadily increasing, especially among juveniles, and in 1992 was the highest ever recorded for blacks; homicide is now the leading cause of death for young black males.

Handguns are a major factor in the increasing violence, especially in the commission of homicide. Of the 23,760 murders reported to the FBI in 1992, handguns were used in 55 percent. One of the most critical issues in any consideration of ways to reduce violence and its consequences is the role firearms play in contributing to violent crime, serious injury, and death. The NCVS estimates the rate of nonfatal handgun victimizations in 1992 at 4.5 crimes per 1,000 persons aged 12 or older—the highest such figure on record. Findings from an NIJ and Office of Juvenile Justice and Delinquency Prevention (OJJDP) study of incarcerated juveniles and inner-city high school students showed that 83 percent of inmates and 22 percent of students had possessed guns, with 55 percent and 12 percent respectively having carried guns all or most of the time.

Between 1988 and 1992, arrests of juveniles for violent crimes increased by 47 percent—more than double the increase for persons 18 years of age or older. Over the same period, juvenile arrests for homicide increased by 51 percent and statistics on weapons law violations indicate that juvenile use of guns has increased dramatically.

Spousal abuse commonly comes to mind when violence against women is discussed, but violence against women is much broader. According to the NCVS, more than 2.5 million women experience violence each year; nearly two in three female victims of violence were related to or knew their attacker; about a third were injured as a result of the crime; nearly half the victims of rape believed the offender to have been under the influence of drugs or alcohol at the time of the attack. The issue has emerged as a topic of national interest and led to the inclusion of the Violence Against Women Act (VAWA) in the 1994 Crime Law.

The Crime Law contains many other provisions directed toward the prevention, control, and reduction of violent crimes—enhancements for law enforcement, correctional facilities, and drug treatment options; restrictions on firearms; provisions to deal with juvenile crime and gangs; and increases in the programs and research about family violence as well as violence against women.

Through this general solicitation NIJ encourages studies that will address these areas of broad general concern and that examine the specific priorities identified in the 1994 Crime Law, particularly with regard to violence among juveniles and the illegal possession and use of firearms. The Institute is especially interested in filling critical gaps in current knowledge and identifying and evaluating existing programs of crime prevention and control.

Research Areas of Interest

Listed below are examples of research areas that could advance criminal justice knowledge and practice under Goal I of the NIJ Research Plan. Individuals are encouraged to suggest their own topics of interest. Research is encouraged in, but not limited to, the following areas:

Studies of Offenders and Offenses. Criminal careers of offenders who engage in violent crime, including risk and protective factors, and initiation, frequency, and termination patterns. Studies of specific offenses and offenders, including robbery, sexual assault, child sexual assault, stalking, and homicide. Offender perceptions of criminal justice response to violent offenders. Juvenile violence, including escalation patterns, racial conflicts, and influence of peers and gangs. Family violence involving intimate partners, spouses, children, and elders.

Violent Situations. Role of gangs and group offending in criminal violence. Studies of patterns in violent events, including triggering events, situational elements, and predisposing influences. Protective factors in neighborhoods and communities at high risk of violence. Violence in specific situations and locations including schools, families, recreational settings, and the workplace.

Firearms Violence. Adult and juvenile patterns of gun availability, sources of guns, and use in violent crime. Role of illegal markets in weapons on patterns of firearms violence, especially among juveniles. Impact of firearms laws on gun crimes, substitution of other weapons, and offense patterns. Feasibility studies of innovative firearms regulations.

Responses to Violent Offenders. Differentiating system responses to violence from responses to other crimes. Violence prevention. Evaluation of innovative programs and practices. Evidentiary concerns, including uncooperative witnesses. Management of violent offenders on probation and parole including risk assessment, treatment programs, and community supervision.

Family Violence. Improving the criminal justice (police, prosecution, courts) response to family violence. Interdisciplinary research on the origins of spouse assault. Child homicide and fatality review teams. Links between partner abuse and child abuse. Evaluation of innovative programs and practices for responding to elder abuse. Effectiveness of stalking legislation. In addition to family violence research, NIJ also will issue a special solicitation in 1996 requesting evaluations and research of selected topics covered under the Violence Against Women Act.

Contact

Applicants are encouraged to contact NIJ Program Managers to discuss topic viability, data availability, or proposal content before submitting proposals. To obtain specific information on the programs described under this goal, potential applicants may contact:

Bernard Auchter, (202) 307–0154, for family violence and violence against women. Lois Mock, (202) 307–0693, for firearms violence. Winifred Reed, (202) 307–2952, for gangs. James Trudeau, (202) 307–1355, for studies of offenders and offenses, violent situations, and responses to violent offenders.

Goal II: Reduce Drug- and Alcohol-Related Crime

Purpose

The purpose of this solicitation is to encourage research and evaluation

projects that will improve the criminal justice knowledge base about crimes and criminal behavior involving the use of drugs and alcohol. Through this solicitation NIJ seeks to clarify further the relationship between substance abuse and crime and to reduce drug- and alcohol-related crime.

Background

Substance abuse and drug-related crimes continue to affect the lives of countless Americans residing in both urban and rural neighborhoods across the Nation. NIJ's Drug Use Forecasting (DUF) data show an increase in marijuana use and relatively stable but high levels of major addictive substance use among booked arrestees in the 23 urban areas monitored by DUF. Recent data from the Drug Abuse Warning Network (DAWN) indicate that the use of heroin and cocaine is on the rise. Efforts to prevent and reduce drug-related crime, and thereby improve the quality of life in these areas, continue to occupy the criminal justice community.

Alcohol is used by both offenders and victims in a significant proportion of violent events, with documented connections between both situational and chronic drinking and aggressive or violent behavior. The National Academy of Sciences Panel on the Understanding and Control of Violent Behavior has called for more research into the role of alcohol in promoting violent events, particularly since little is known about how alcohol and violence may reinforce one another or how the alcohol-violence relationship may vary depending on type of violence.

The criminal justice system is the largest single source of external pressure influencing abusers who otherwise would not enter substance abuse treatment programs. Half or more of the admissions to community-based residential and outpatient substance abuse treatment programs are offenders on probation or parole. Criminal justice referral to treatment relieves courts and prisons of overcrowding and reduces the high cost of continued incarceration, while providing an added degree of supervision beyond what probation or parole offices may be able to afford. When successful, treatment further reduces criminal justice costs by breaking the pattern of recidivism that brings typical substance abusers back into the criminal justice system again and again.

Research on criminal justice-involved populations suggests that substance abuse treatment can be effective in reducing substance abuse and criminal activity while the client is in treatment and for some time thereafter. As substance abuse programs are implemented, it is important to provide critical feedback on how they are working and for whom they are most effective. It is also important to determine how best to provide treatment—through public criminal justice agencies or through private treatment agencies under contract.

Substance abuse prevention programs continue to proliferate in response to public concerns. Comprehensive substance abuse programs for youths can promote anti-drug social norms and thereby reduce or prevent the use of cigarettes, alcohol, marijuana, heroin, and cocaine. NIJ seeks to evaluate comprehensive community-based substance abuse programs that develop partnerships among criminal justice and schools, health centers, families, peers, and media. NIJ's Drug Use Forecasting (DUF) program gathers offense and drug use information from samples of adult and juvenile arrestees at 23 sites nationwide, providing access to a national sample of arrestees within hours of arrest. Along with a brief, voluntary interview, urine specimens are obtained to test for evidence of recent use of drugs. For 7 years, data from NIJ's DUF program have traced the trends in drug use among persons arrested for a wide range of offenses. In 1995, NIJ began soliciting proposals that capitalized and expanded upon the research potential provided through the DUF program's quarterly collection of interviews and urine specimens from samples of adult and juvenile arrestees brought to jails in 23 cities nationwide.

Researchers are encouraged to develop proposals that present innovative ways of utilizing the DUF program as a research "platform" for pursuing a wide range of hypotheses related to drug use and criminal activity. For instance, in collaboration with existing DUF sites, the basic data collection protocol could be supplemented with additional interview assessments or bio-assays. NIJ is also interested in proposals that examine specific research questions by applying the DUF protocol to targeted samples of arrestees such as those in suburban or rural jails, or those arrested for specific offenses.

Research Areas of Interest

Listed below are examples of research areas that could advance criminal justice knowledge and practices under Goal II of the NIJ Research Plan. Individuals are encouraged to suggest their own topics of interest. Research is encouraged in, but not limited to, the following areas:

Substance Abuse and Criminal Behavior. Relationships between drugs, alcohol, and violence, including the individual and environmental circumstances. Relationship between substance abuse and related criminal behavior of all types, including family violence. Understanding substance abuse careers and how they track with criminal careers over time. Inventory of the validity, scope, and gaps in current substance abuse data sets.

Substance Abusing Offenders and the Criminal Justice System. Impact of pretrial services, adjudication, sentencing, and corrections (including community corrections) programs. Effect of strategies implemented in one segment of the system on the rest of the system. Offender attitudes, perceptions, and experiences as they move through particular components/programs. Effective use of a series of graduated sanctions for noncompliance behaviors.

Substance Abuse Prevention. Cost benefit analyses. Impact of criminal justice-based strategies on later substance abuse and other related criminal behavior. Development and identification of demand-reduction strategies and programs for high-risk populations.

Treatment and Aftercare Evaluations. Assessment of treatment drop-outs. Determination of the optimal mix of various treatment and after-care components for various criminal justice populations.

Drug Use Forecasting (DUF) Research Platform Initiatives. Expansion of adult and juvenile research protocols to address additional research questions such as drug market analysis, drug treatment history of arrestees, the onset of drug use among arrestees, the relationship between drug acquisition and other criminal activities, and the role of alcohol and drug consumption in the commission of crimes.

Drug Enforcement. Research on the effectiveness of interdiction efforts and control strategies such as increased penalties for drug trafficking in prisons and drug dealing in drug-free school zones.

Contact

Applicants are encouraged to contact NIJ Program Managers to discuss topic viability, data availability, or proposal content before submitting proposals. To obtain specific information on the programs described under this goal, potential applicants may contact: Laurie Bright, (202) 616–3624, for substance abuse research and evaluations related to the criminal justice system. Thomas E. Feucht, (202) 307–2949, for substance abuse research related to DUF research platform initiatives. James Trudeau, (202) 307–1355, for substance abuse research related to criminal behavior.

Goal III: Reduce The Consequences of Crime

Purpose

The purpose of this solicitation is to encourage research and evaluation projects that explore the causes of victimizations, their consequences in injury, fear, property damage, and other forms of cost; and the institutional responses of criminal justice agencies to victims. In addition to individual victims, the Institute is interested in the ways that households, organizations, and communities become victims, and how victimizations harm and otherwise alter daily functioning. NIJ is also interested in how victim service institutions can best serve victims to reduce the harm done. The goals of the research solicited are to understand how natural circumstances can lead to victimizations, as well as the nature and extent of harm caused by crime, and to use these findings to reduce both victimization risk and severity.

Background

The extent of criminal victimization within the United States is disturbing: In 1992, approximately 1 in every 4 households was victimized by 1 or more crimes, and 1 in 20 had at least one member age 12 or older who was the victim of a violent crime. Violent crime victimization rates, after declining through most of the 1980's, have again begun to increase, most notably among blacks and persons ages 12–24.

National public opinion surveys consistently indicate that crime has displaced other issues as the Nation's most serious concern. In a 1994 New York Times/CBS News nationwide telephone poll, 23 percent of respondents listed crime as "the most important problem facing this country today," and 40 percent said they live within a mile of an area where they would be afraid to walk alone at night. The harm of victimization includes injury, dollar loss, and a pervasive sense of insecurity that disrupts and truncates the victim's daily activities and satisfactions. This harm also touches those close to or acquainted with the victim. The victim's needs are imperfectly understood by researchers and practitioners and are inadequately responded to by available programs of assistance. The victim's dealings with the criminal justice system often compound the damage rather than serving to restore the victim and create a sense of justice.

We are limited in our understanding of the antecedents and causes of victimization. "Routine activities" research—that includes the victim along with the offender, environment, and "guardians" has the potential to improve the validity and effectiveness of crime prevention programs. Such research might examine specific types of victims, specific activity domains, or specific locations. A special emphasis might be topics suggested by the Violence Against Women Act, which is discussed in Goal I.

The effects of crime reach far beyond their impact on individuals and households, extending into businesses, public housing areas, neighborhoods, and ultimately into entire communities. Within the community, violent crime, gangs and the threat they pose, vandalism, drugs, and disorder may cause businesses to close or relocate, reduce employment and shopping opportunities, and decrease property values. Where this grim process is not interrupted, urban neighborhoods and communities decay, investments dwindle or disappear, and law-abiding residents and their organizations move out.

Crimes against business range from the armed robbery of a neighborhood grocery to the electronic swindle of an international corporation and include such offenses as the theft of cash or property (by customers, employees, and suppliers), burglary, vandalism, billing scams, embezzlement, extortion, computer hacking, hijacking of shipments, kidnaping, arson, and theft of intellectual property. The cost of crime to business is, of course, ultimately borne by consumers, employees, and residents of areas that experience a decline because of crime's effect on local business.

Through this general solicitation NIJ encourages studies that will address these critical areas of citizen concern. The Institute is particularly interested in research that advances our knowledge of the extent and consequences of criminal victimization in the following areas: assessing the harm caused by victimization, improving the delivery of services to victims and their treatment by the criminal justice system, increasing our understanding of the causes and means of prevention of victimization, improving data about the victimization of businesses, and the effects of crime and victimization on the delivery of services in affected areas.

Research Areas of Interest

Listed below are examples of research topics that will advance criminal justice knowledge of the extent, causes, and consequences of criminal victimization under Goal III of the NIJ Research Plan. Individuals are encouraged to suggest their own topics of interest. Research is encouraged in, but not limited to, the following areas:

Assessing Victim Needs. Diagnostic instruments for use by victim services providers that would assist staff intake assessment of victim harm and required services. Victim-based evaluations of services.

Program Evaluations. Evaluations of victim services programs in such areas as restorative justice, use of computers by victim services, incorporation of victim services in community policing, programs tailored to victims with special needs, including child victims, and local program compliance with victim services mandated by State legislation.

Criminal Justice System Response to Victims. How treatment of victims and witnesses by the criminal justice system affects the public's willingness to cooperate with the system at all stages of its processes.

Victimization Patterns. How routine activities, behavior, perceptions, and knowledge interact with situational variables and offender behavior to increase or lower the risk of victimization. Knowledge that can contribute to reducing the level of victimization.

Impact of Crime on Business. The quality of data on the costs of victimization of business, its customers, suppliers, and employees, and the community. Priorities for new data collection and the utility of the data for combating crimes against business.

Impact of Crime on Service Delivery. Effects of fear of crime and victimization on the ability of communities, public agencies, and nonprofit organizations to provide services and meet the needs of residents of affected neighborhoods.

Contact

Applicants are encouraged to contact NIJ Program Managers to discuss topic viability, data availability, or proposal content before submitting proposals. To obtain specific information on the programs described under this goal, potential applicants may contact Richard Titus, at (202) 307–0695.

Goal IV: Improve the Effectiveness of Crime Prevention Programs

Purpose

The purpose of this solicitation is to encourage research and evaluation projects that will increase the safety of individuals within families, and in schools, businesses, workplaces, and

community environments; that will advance the knowledge of criminal justice practitioners and help prevent crime and criminal behavior, and develop and improve crime prevention programs. NIJ seeks research and evaluations aimed at preventing involvement in crime, and individual, community, and workplace efforts to improve safety and security.

Background

Crime prevention takes many forms. NIJ research in crime prevention continues to focus on potential offenders, potential victims, and particular locations and emphasizes both individual and community responses to crimes that occur in various settings. There is a need to examine how certain characteristics of neighborhoods, households, schools, businesses, public housing developments, parks and other public areas promote or constrain criminal activity. It is equally important to study populations that may be especially vulnerable, or invulnerable, to crime in those locations. It is also important to examine crime prevention programs and strategies in the context of the communities and jurisdictions in which they are found.

Crime prevention can and should focus on deterring potential offenders by formulating strategies directed at high-risk groups that are likely to become involved with the criminal justice system. NIJ research emphasizes prevention strategies that may influence the attitudes and behaviors of persons living in high-risk environments by addressing their needs in a comprehensive manner and by promoting positive and constructive forms of behavior. This approach to crime prevention requires the coordination of mutually reinforcing efforts that involve the family, school, and community as crime prevention agents. Research has shown that efforts to assist youths at risk are more likely to be effective when they start early and provide forms of intervention based on an understanding of the developmental processes that influence the attitudes and behavior of youths over time.

Crime prevention programs can also focus on potential victims of crime and ways to prevent their victimization. A major issue in prevention research is how to influence the behavior of individuals, households, organizations, and community groups. Lessons learned in studies of citizen patrols, changes in physical design, the relationship between fear and physical signs of disorder, and the redeployment of police officers, have all been incorporated in national crime prevention campaigns and in the development of programs and strategies designed to reduce crime victimization. Citizens and community groups can accept and respond to the challenge of shared responsibility for community security. Diverse crime prevention efforts undertaken include means of preventing victimization as well as ways of addressing the personal and social needs of victims resulting from crime and drug abuse. In addition, citizen and community anti-crime efforts are more likely to be effective when they are part of a comprehensive approach to neighborhood problem solving that involves citizens in a partnership with police and other municipal agencies.

We have learned that crime can be reduced through the proper design and effective use of environmental crime prevention methods in commercial sites, public and private housing, recreational areas, and transportation systems. Research has underscored the importance of incorporating environmental strategies as key components of community crime prevention programs.

One possible way to protect people from crime is to develop a more thorough understanding of such factors about offenders as how they select their victims and targets; their modus operandi during the commission of an offense, including any involvement with co-offenders; their methods of disposing of noncash proceeds from crime; their perceptions of the opportunity structure of different locations, environments, and situations; and their perceptions of the criminal justice system's effectiveness in apprehending and prosecuting them.

Research Areas of Interest

Listed below are examples of research areas that could advance crime prevention knowledge and practice under Goal IV of the NIJ Research Plan. Individuals are encouraged to suggest their own topics of interest. Research is encouraged in, but not limited to, the following areas:

Crime Prevention Programs for High-Risk Youths. (In coordination with the Office of Juvenile Justice and Delinquency Prevention). Development of methods that foster positive and constructive forms of behavior. Focus on resilient youth and families. Interaction between community, family and individual factors in promoting positive behavior.

Developing Community-Based Crime Prevention Partnerships. Identification of factors that enhance or diminish partnerships. Development and testing of strategies to revitalize and reclaim high-crime areas. Ways to organize community resources in an integrated manner. How to develop useful problem-solving strategies.

Location-Specific Crime Prevention Programs. Schools and routes to and from school. Public housing. Commercial settings. Parks and recreation facilities. Parking lots. Use of traffic barriers for crime and drug prevention. Understanding the actions and responses of potential victims and offenders in these and other settings. (See Goal III: "Routine Activities and Victimization" for a description of victim-related research using the routine activities approach). Focus on environmental and design features. Focus on a comprehensive approach.

Crimes and Offender Behavior. Offender daily activity patterns. Offense selection and planning. Target and victim selection. Modus operandi during the commission of an offense including co-offending. Disposition of noncash proceeds from crime. Offender perception of criminal justice system effectiveness. Disruption of stolen property markets.

Crime By and Related to Illegal Aliens. Recruitment, transportation, and smuggling of illegal aliens into the United States. Provision of false documentation to illegals. Employers' role in committing crimes related to hiring illegals and fostering crime among illegal aliens.

Contact

Applicants are encouraged to contact NIJ Program Managers to discuss topic viability, data availability, or proposal content before submitting proposals. For specific information on the programs described under this goal, potential applicants may contact:

Rosemary Murphy, (202) 307–2959, for school-based prevention programs, crime prevention in public housing, crime prevention partnerships and prevention for high-risk youths.

Richard Titus, (202) 307–0695 for location specific prevention (except schools and public housing), crimes and offender behavior, and crime by and related to illegal aliens.

Goal V: Improve Law Enforcement and the Criminal Justice System

Purpose

The purpose of this solicitation is to encourage efforts in research and evaluation that will advance criminal justice knowledge in the areas of policing, prosecution, defense, adjudication, and corrections. The primary focus of research and evaluation under this goal is improvement of the efficiency, effectiveness, and fairness of the system. Certain types of cases, however, take priority. These involve violent juvenile and adult offenders, drug and alcohol abusers, and family violence offenders. Also of interest are the consequences of decisions and practices in one part of the system on other criminal justice agencies and on related social service agencies. Through this solicitation, NIJ also seeks a greater understanding of the relationship among the offender, victim, and the criminal justice system. All issues surrounding the case are of interest, but projects that focus on an issue from the perspective of the various participants—prosecutor, defender, judge, legislator—are encouraged.

Background

Each part of the criminal justice system faces new challenges. Juvenile arrests for violent crimes increased by 47 percent between 1988 and 1992; juvenile arrests for homicide increased by 51 percent during the same period. FBI data indicate that juvenile use of guns has risen dramatically. Prosecutors nationwide note that youthful offenders are being brought to their offices in increasing numbers.

The Nation's prison and jail population reached 1 million in the past year, with more than 5 million persons under some form of correctional supervision. Data from jails and prisons show a high incidence of substance abuse disorders among inmates. Approximately 70 percent of jail detainees have a history of substance abuse; 56 percent were under the influence of drugs or alcohol at the time of arrest.

A significant proportion of inmates with drug abuse problems have a high prevalence of other disorders. About 75 percent of inmates with mental disorders, for example, are also substance abusers. Other inmates abuse both drugs and alcohol. Few programs exist for such inmates who have special needs. In most State prison systems, for example, inmates may receive services from either mental health or substance abuse programs but not from programs designed to treat those with both conditions.

The 1994 Crime Law encourages innovations to improve criminal justice effectiveness in many of these areas, including community policing; prison construction and construction of alternative facilities such as boot camps for nonviolent offenders; and drug courts that combine court-supervised abstinence with outpatient treatment and sanctions for those who fail to comply. NIJ expects to issue separate solicitations for research in these areas in 1996.

White-collar and organized crime pose a serious threat to the stable and orderly functioning of society. These complex and sophisticated crimes threaten our economic stability, corrupt legitimate institutions, and undermine the public respect for government and law.

Research is also needed on the consequences of the decisionmaking process within the criminal justice system. Much criminal justice research has been specific to a single criminal justice agency, such as the decisions of police in using deadly force, charging decisions and plea bargaining practices of prosecutors and use by judges of intermediate sanctions. However, such studies rarely focus on the relationship among police, defense attorneys, public prosecutors, and judges in plea or sentence bargaining.

Moreover, much research on criminal justice evaluates effectiveness in terms of standards internal to a particular agency rather than the consequences that decisions and practices in one part of the system have for other components in the system or on system processes. There are studies of jail and prison overcrowding and of early release as a result of judicially mandated standards for maintaining correctional facilities, but little is known about their consequences for the criminal careers of offenders who have been released early. Likewise, there is little research on the effect of sentence length or a given type of sentence for any given offense.

Relatively little is known about how different kinds of crime are detected and selected by social service and other agents and the processes by which they are referred to law enforcement. NIJ seeks research addressing these broader issues.

Research Areas of Interest

Listed below are examples of research topics that could advance criminal justice knowledge under Goal V of the NIJ Research Plan. Individuals are encouraged to suggest their own topics of interest. Research is encouraged in, but not limited to, the following areas:

Law Enforcement

Note: NIJ is accepting applications for policing research during the June and December, 1996 review cycles. The Institute expects to issue a special policing solicitation in FY 1996. Law enforcement research and evaluation proposals received for the June review will be considered together with proposals submitted to the special policing solicitation.

Prosecution, Defense, and Adjudication

Issues at the Pretrial Stage. Effective release and detention decisions, charging decisions, and diversion decisions. Effective responses to witness intimidation. Impact of variations in discovery policy.

New Approaches. Specialized courts, e.g. domestic violence, firearms offenses. Community courts. Restorative justice. Community-based prosecution and defense services.

Drug Courts. Note: NIJ is not receiving applications for research on drug courts under the June and December 1995 deadlines. Instead, researchers should await the special solicitation to be issued in 1995, as noted above.

Juvenile Justice. (In coordination with the Office of Juvenile Justice and Delinquency Prevention.) Juvenile case processing, emphasizing waiver to adult courts. Diversion to noncriminal justice programs. Postarrest preconviction programs for chronic, serious juvenile offenders.

Community and Institutional Corrections

Sanctions and Punishments. Operating community-based sanctions as a system. Prosecutors' role in intermediate sanctions. Innovative programs in domestic violence, child abuse, firearms.

Meeting Offender Needs. Offenders with mental health and drug addiction conditions. Creating parity in services for incarcerated women. Coordinating transitional care and community reintegration.

Preserving Safety. Planning and managing "super" maximum security prisons. Managing juvenile offenders in adult facilities. Correctional officer health and safety risks.

Managing Change. Understanding the impacts of prison expansion. Correctional management of changing inmate populations. Inmate and correctional officers' safety. Managing offenders in the community.

Systemwide Issues

Consequences of Decisions on System Responses. The impact that reforms or major resources changes in one part of the system may have on another. Perceived fairness of the criminal justice system, particularly in minority communities, and appropriate responses by criminal justice professionals.

Sentencing. Costs and benefits of various State sentencing reforms. Impact of sentencing policy changes on prosecution, defense, and the courts, e.g. "truth in sentencing" and "three strikes" legislation, abolition of parole,

mandatory minimums, enhanced sentencing schemes for juvenile offenders.

Illegal Aliens. U.S. policy toward arrested illegal aliens. Impact on local criminal justice system. Links with immigration. Management of foreign language populations in correctional settings.

White-Collar and Organized Crime. For White-Collar Crime, research on the prevention and control of health care fraud, insider insurance fraud, and environmental crime, including regulatory issues, detention, investigation, and prosecution. For Organized Crime, research on the criminal justice response to international organized crime networks and enterprise, and organized crime corruption of legitimate industries and markets.

Contact

Applicants are encouraged to contact NIJ Program Managers to discuss topic viability, data availability, or proposal content before submitting proposals. To obtain specific information on the programs described under this goal, potential applicants may contact:

Lois Mock, (202) 307–0693, and Winifred Reed, (202) 307–2952, for policing.

Jordan Leiter, (202) 616–9487, for prosecution and adjudication.

Voncile Gowdy, (202) 307–2951, for corrections and sanctions.

Jack Riley, (202) 616–9030, for illegal aliens and the criminal justice system.

Lois Mock, (202) 307–0693, for white-collar and organized crime.

Goal VI: Develop New Technology for Law Enforcement and the Criminal Justice System

Purpose

The purpose of this solicitation is to encourage technological development projects that will improve the operational efficiency of the criminal justice system. Through this solicitation NIJ expects to support research that will enhance the safety and effectiveness of law enforcement and correctional officers and other officers of the court.

Background

Science and technology programs cut across the entire range of criminal justice issues and goals at NIJ; programs already in progress or in the early stages of planning and development promise to provide significant benefits in the 21st century. The Institute's science and technology mission is accomplished through three major program areas: the collection and dissemination of technical information, the development of standards and operation of an equipment testing program, and a research and development grants program.

To strengthen the collection and dissemination of technology information, NIJ is developing the capabilities of the National Law Enforcement and Corrections Technology Center (NLECTC) (the former Technology Assessment Program Information Center) and establishing regional law enforcement technology centers. The purpose of these centers is to provide criminal justice professionals with information on available technology, guidelines and standards for these technologies, and technical assistance in implementing them. These centers will be linked through a Technology Information Network (TIN) to provide Federal, State and local agencies with objective, reliable, and timely information on technologies and equipment, such as who are the producers and users; where high-cost, seldom-used equipment can be borrowed for temporary or emergency situations; what the current equipment standards are; tests and evaluations; and what safety, health, or procedure bulletins have been issued. The TIN will also link the centers with the current Regional Information Sharing Service (RISS) that will then create an overall law enforcement technology exchange network. NIJ has also established an Office of Law Enforcement Technology Commercialization (OLETC) to help bring technology to the market place for criminal justice procurement.

One of the most significant developments of NIJ's criminal justice technology and standards program was the development of soft body armor for police officers and standards governing its manufacture and sale. NIJ has also developed standards for vehicle tracking devices, security systems for doors and windows, breath alcohol testing, autoloading pistols, mobile antennas, and other equipment. The Institute is currently completing the development of performance standards for two DNA testing procedures: Restriction Fragment Length Polymorphism (RFLP) and Polymerase Chain Reaction (PCR). The standards program is funded by NIJ through the Office of Law Enforcement Standards (OLES) at the National Institute of Standards and Technology (NIST).

NIJ's research and development efforts have also been significant and broad in scope in other areas. In the area of forensic science, NIJ has supported a wide range of research on fingerprints, blood and semen, DNA, trace evidence, bite marks, and forged or altered documents. Further research is needed, particularly in DNA testing, weapons identification, fingerprinting, and trace evidence. Progress is also being made to develop alternatives to lethal force. When confronted with the need to use force, officers are limited to the use of firearms, batons, physical "hands-on" restraint, or, more recently, chemical agents such as pepper spray. To provide alternatives, NIJ initiated a Less-Than-Lethal technology program to develop innovative, nonlethal measures suitable for use in situations involving fleeing suspects, domestic disturbances, barricades, issuing search warrants, drug raids, prison or jail disturbances, etc.

This announcement also supports research recommendations of the Department of Justice (DOJ) and the Department of Defense (DOD) under a Memorandum of Understanding (MOU) for interagency collaboration in developing and sharing dual-use technologies for law enforcement agencies and military operations other than war. Congress has appropriated fiscal year 1995 funds for this program through the Defense Authorization Bill. The day-to-day management of the program is carried out at the DOD Advanced Research Projects Agency (DARPA) under a Joint Program Steering Group (JPSG) with equal numbers of program managers from the Defense and Justice Departments.

In soliciting research and development topics, NIJ principally focuses on technologies and studies that will support the needs of State and local criminal justice agencies. The Institute's science and technology research also addresses the legal and social issues related to the employment of new technologies in order to ensure that they will be acceptable to the agency and the community.

Research Areas of Interest

Listed below are examples of research areas under Goal VI of the NIJ Research Plan where new or improved technologies could enhance the efficacy of the criminal justice system and reduce the level of injuries and death during policing and correctional operations. Individuals are encouraged to suggest their own topics of interest. Projects should be directed toward the production of affordable and practical equipment or systems that will have reasonably wide application to Federal, State, and local agencies. Research is encouraged in, but not limited to, the following areas:

Forensic Sciences. Identification and development of evidence in DNA/serology, finger-prints, trace evidence, pathology, entomology, odontology, toxicology, questioned documents, and weapons identification.

Less-Than-Lethal Technology. Reduction in the incidence of injuries and death to officers and the public during confrontations, especially those requiring the use of force, arrest of suspects, transport of suspects or prisoners, pursuit of fleeing suspects on foot or in vehicles, and control of violent individuals or crowds in the streets or in prisons and jails. Enhancement of officer safety. Field evaluations of new less-than-lethal technology.

Science and Technology. Virtual reality technology for officer training; command and control operations; providing improved courtroom security; improving the efficiency of probation and parole operations; identifying concealed weapons; monitoring the status, health, and location of officers or prisoners; and detecting and disabling explosives. Technology useful in the detection and apprehension of persons engaged in computer crime.

Drug Testing. Developing or adapting analytic techniques for extracting drug-related material from hair and urine and other body fluids. Comparative efficiencies and relative costs as well as the utility of the testing techniques in various criminal justice settings.

Contact

Applicants are encouraged to contact NIJ Program Managers to discuss topic viability, data availability, or proposal content before submitting proposals. To obtain specific information on the programs described under this goal, potential applicants may contact:

Richard M. Rau, Ph.D., (202) 307–0648, for the Forensic Sciences Program and the Drug Testing Program.

Raymond L. Downs, Ph.D., (202) 307–0646, for the Less-Than-Lethal Program and the Science and Technology Program.

Kevin Jackson, (202) 307–2956, for the Standards Development and Testing Program and the Law Enforcement Technology Centers.

DOD/DOJ Memorandum of Understanding.

Peter Nacci, (703) 351–8608, for information on the law enforcement aspects of the DOJ/DOD MOU.

Dave Fields, Ph.D., (703) 696–2330, for information on the Military Operations Other Than War aspects of the DOJ/DOD MOU.

General Law Enforcement Technology Information

Marc Caplan, National Law Enforcement and Corrections Technology Center, (800) 248–2742, for information on specific law enforcement technologies that are under development or in production, technologies in use by law enforcement agencies, soft-body armor and other equipment standards, equipment testing and results, and other such nongrant-related questions.

Administrative Guidelines

In this section applicants will find recommendations to grant writers, requirements for grant recipients, general application information, and a reiteration of the 1995–1996 grant application deadlines.

Application Information

Please see "Requirements for Award Recipients" below for general application and eligibility requirements and selection criteria. Proposals not conforming to these application procedures will not be considered.

Award Period. NIJ limits its grants and cooperative agreements to a maximum period of 24 months.

Due Date. Ten (10) copies of fully executed proposals should be sent to: [Name and Number of Specific Goal], National Institute of Justice, 633 Indiana Avenue N.W., Washington, DC 20531.

Completed proposals must be received at the National Institute of Justice by the close of business on June 17 and December 16, 1996. Extensions of these deadlines will not be permitted.

Contact. Applicants are encouraged to contact NIJ Program Managers in the appropriate goal areas to discuss topic viability, data availability, or proposal content before submitting proposals.

Recommendations to Grant Writers

Over the past 4 years, Institute staff have reviewed approximately 1,500 grant applications. On the basis of those reviews and inquiries from applicants, the Institute offers the following recommendations to help potential applicants present workable, understandable proposals. Many of these recommendations were adopted from materials provided to NIJ by the State Justice Institute, especially for applicants new to NIJ. Others reflect standard NIJ requirements.

The author(s) of the proposal should be clearly identified. Proposals that are incorrectly collated, incomplete, or handwritten will be judged as submitted or, at NIJ's discretion, will be returned without a deadline extension. No additions to the original submission are allowed. The Institute suggests that applicants make certain that they address the questions, issues, and requirements set forth below when preparing an application.

1. What is the subject or problem you wish to address? Describe the subject or problem and how it affects the criminal justice system and the public. Discuss how your approach will improve the situation or advance the state of the art of knowledge or state of the science and explain why it is the most appropriate approach to take. Give appropriate citations to the scientific literature. The source of statistics or research findings cited to support a statement or position should be included in a reference list.

2. What do you want to do? Explain the goal(s) of the project in simple, straightforward terms. The goals should describe the intended consequences or expected overall effect of the proposed project, rather than the tasks or activities to be conducted. To the greatest extent possible, applicants should avoid a specialized vocabulary that is not readily understood by the general public. Technical jargon does not enhance an application.

3. How will you do it? Describe the methodology carefully so that what you propose to do and how you would do it is clear. All proposed tasks should be set forth so that a reviewer can see a logical progression of tasks and relate those tasks directly to the accomplishment of the project's goal(s). When in doubt about whether to provide a more detailed explanation or to assume a particular level of knowledge or expertise on the part of the reviewers, err on the side of caution and provide the additional information. A description of project tasks also will help identify necessary budget items. All staff positions and project costs should relate directly to the tasks described. The Institute encourages applicants to attach letters of cooperation and support from agencies that will be involved in or directly affected by the proposed project.

4. What should you include in a grant application for a program evaluation? An evaluation should determine whether the proposed program, training, procedure, service, or technology accomplished the objectives it was designed to meet. Applicants seeking support for a proposed evaluation should describe the criteria that will be used to evaluate the project's effectiveness and identify program elements that will require further modification. The description in the application should include how the evaluation will be conducted, when it will occur during the project period,

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who will conduct it, and what specific measures will be used. In most instances, the evaluation should be conducted by persons not connected with the implementation of the procedure, training, service, or technique, or the administration of the project.

5. How will others learn about your findings? Include a plan to disseminate the results of the research, evaluation, technology, or demonstration beyond the jurisdictions and individuals directly affected by the project. The plan should identify the specific methods that will be used to inform the field about the project such as the publication of journal articles or the distribution of key materials. Expectations regarding products are discussed more fully in the following section, "Requirements for Award Recipients." A statement that a report or research findings "will be made available to" the field is not sufficient. The specific means of distribution or dissemination as well as the types of recipients should be identified. Reproduction and dissemination costs are allowable budget items. Applicants must concisely describe the interim and final products and address each product's purpose, audience, and usefulness to the field. This discussion should identify the principal criminal justice constituency or type of agency for which each product is intended and describe how the constituent group or agency would be expected to use the product or report. Successful proposals will clearly identify the nature of the grant products that can reasonably be expected if the project is funded. In addition, a schedule of delivery dates of all products should be delineated.

6. What are the specific costs involved? The budget application should be presented clearly. Major budget categories such as personnel, benefits, travel, supplies, equipment, and indirect costs should be identified separately. The components of "Other" or "Miscellaneous" items should be specified in the application budget narrative and should not include set-asides for undefined contingencies.

7. How much detail should be included in the budget narrative? The budget narrative should list all planned expenditures and detail the salaries, materials, and cost assumptions used to estimate project costs. The narrative and cost estimates should be presented under the following standard budget categories: personnel, fringe benefits, travel, equipment, supplies, contracts, other, and indirect costs. For multiyear projects, applicants must include the full amount of NIJ funding for the entire life of the project. This amount should be reflected in item 15g on Form 424 and line 6k on 424A. When appropriate, grant applications should include justification of consultants and a full explanation of daily rates for any consultants proposed. To avoid common shortcomings of application budget narratives, include the following information:

Personnel estimates that accurately provide the amount of time to be spent by personnel involved with the project and the total associated costs, including current salaries for the designated personnel (e.g., Project Director, 50 percent of 1 year's annual salary of $50,000 = $25,000). If salary costs are computed using an hourly or daily rate, the annual salary and number of hours or days in a work year should be shown.

Estimates for supplies and expenses supported by a complete description of the supplies to be used, nature and extent of printing to be done, anticipated telephone charges, and other common expenditures, with the basis for computing the estimates included (e.g., 100 reports × 75 pages each × $0.05/page = $375.00). Supply and expense estimates offered simply as "based on experience" are not sufficient.

8. What travel regulations apply to the budget estimates? Transportation costs and per diem rates must comply with the policies of the applicant organization, and a copy of the applicant's travel policy should be submitted as an appendix to the application. If the applicant does not have a travel policy established in writing, then travel rates must be consistent with those established by the Federal Government. The budget narrative should state which regulations are in force for the project and should include the estimated fare, the number of persons traveling, the number of trips to be taken, and the length of stay. The estimated costs of travel, lodging, ground transportation, and other subsistence should be listed separately. When combined, the subtotals for these categories should equal the estimate listed on the budget form.

9. Which forms should be used? A copy of Standard Form (SF) 424, Application for Federal Assistance, plus instructions, appears in the back of this book. Please follow the instructions carefully and include all parts and pages. In addition to SF 424, recent requirements involve certification regarding (1) lobbying; (2) debarment, suspension, and other responsibility matters; and (3) drug-free workplace requirements. The certification form that is attached to SF 424 should be signed by the appropriate official and included in the grant application.

10. What technical materials are required to be included in the application?

A one-page abstract of the full proposal, highlighting the project's purpose, methods, activities, and when known, the location(s) of field research.

A program narrative, which is the technical portion of the proposal. It should include a clear, concise statement of the problem, goals, and objectives of the project and related questions to be explored. A discussion of the relationship of the proposed work to the existing literature is expected.

A statement of the project's anticipated contribution to criminal justice policy and practice. It is important that applicants briefly cite those particular issues and concerns of present-day criminal justice policy that stimulate the proposed line of inquiry and suggest what their own investigation would contribute to current knowledge.

A detailed statement of the proposed research or study design and analytical methodologies. The proposed data sources, data collection strategies, variables and issues to be examined, and procedures of analysis to be employed should be delineated carefully and completely. When appropriate, experimental designs are encouraged because of their potential relevance to policymaking and the strength of the evidence they can produce.

The organization and management plan to conduct the study. A list of major milestones of events, activities, and products and a timetable for completion that indicates the time commitments to individual project tasks should be included. All grant activities, including writing of the final report, should be completed within the duration of the award period.

The applicant's curriculum vitae should summarize education, research experience, and bibliographic information related to the proposed work.

11. Use of grant funds. Grant funds may be used to purchase or lease equipment essential to accomplishing the objectives of the project. The budget narrative must list such equipment and explain why the equipment is necessary. Funds may not be used for operating programs, writing texts or handbooks, training, etc.

12. To what extent may indirect costs be included in the budget estimates? It is the policy of the Institute that all costs should be budgeted directly; however, if an applicant has an indirect cost rate that has been approved by a Federal agency within the past 2 years, an indirect cost recovery estimate may be included in the budget. A copy of the approved rate agreement should be submitted as an appendix to the application. If an applicant does not have an approved rate agreement, the applicant should contact the Office of the Comptroller, Office of Justice Programs, (202) 307–0604, to obtain information about preparing an indirect cost rate proposal.

13. What, if any, matching funds are required? Units of State and local governments (not including publicly supported institutions of higher education) are encouraged to contribute a match (cash, noncash, or both) of requested funds. Other applicants also are encouraged to seek matching contributions from other Federal agencies or private foundations to assist in meeting the costs of the project.

14. Should other funding sources be listed? Applicants are expected to identify all other Federal, local, or private sources of support, including other NIJ programs, to which this or a closely related proposal has been or will be submitted. This information permits NIJ to consider the joint funding potential and limits the possibility of inadvertent duplicate funding. Applicants may submit more than one proposal to NIJ, but the same proposal cannot be submitted in more than one program area.

15. What are the deadlines? June 15 and December 15, 1995, and June 17 and December 16, 1996.

16. Is there a page limit? The Institute has established a limit of 30 double-spaced 12-point font pages for all normal grant applications. This page limit does not include references, budget narrative, curriculum vitae, or necessary appendices. Applications for small grants ($1,000–$50,000) are limited to 15 double-spaced pages. Applicants are cautioned that obvious attempts to stretch interpretations of these limits will disqualify proposals from review.

17. What is the page order? The following order is mandatory. Omission can result in rejection of the application:

1. SF 424.
2. Budget narrative.
3. Assurances and Certifications, etc.
4. Negotiated rate agreement.
5. Names and affiliations of all key persons from applicant and subcontractor(s), advisors, consultants, and Advisory Board members. Include the name of the Principal Investigator, title, organizational affiliation (if any), department (if institution of higher education), address, phone, and fax.
6. Abstract.
7. Table of Contents.
8. Program narrative.
9. References.
10. Resumés of key personnel.

18. What does the review process entail? After all applications for a competition are received, NIJ will convene a series of peer review panels of criminal justice professionals and researchers. NIJ will assign proposals to peer panels that it deems most appropriate. Panel members read each proposal and meet to assess the technical merits and policy relevance of the proposed research. Panel assessments of the proposals, together with assessments by NIJ staff, are submitted to the Director, who has sole and final authority over approval and awards. The review normally takes 60 to 90 days, depending on the number of applications received. Each applicant receives written comments from the peer review panel concerning the strengths and weaknesses of the proposal. These comments may include suggestions for how a revised or subsequent application to NIJ might be improved.

19. What are the criteria for an award? The essential question asked of each applicant is, "If this study were successful, how would criminal justice policies or operations be improved?" Four criteria are applied in the evaluation process:

Impact of the proposed project.

Feasibility of the approach to the issue, including technical merit and practical considerations.

Originality of the approach, including creativity of the proposal and capability of the research staff.

Economy of the approach. Applicants bear the responsibility of demonstrating to the panel that the proposed study addresses the critical issues of the topic area and that the study findings could ultimately contribute to a practical application in law enforcement or criminal justice. Reviewers will assess applicants' awareness of related research or studies and their ability to direct the research or study toward answering questions of policy or improving the state of criminal justice operations.

Technical merit is judged by the likelihood that the study design will produce convincing findings. Reviewers take into account the logic and timing of the research or study plan, the validity and reliability of measures proposed, the appropriateness of statistical methods to be used, and each applicant's awareness of factors that might dilute the credibility of the findings. Impact is judged by the scope of the proposed approach and by the utility of the proposed products. Reviewers consider each applicant's understanding of the process of innovation in the targeted criminal justice agency or setting and knowledge of prior uses of criminal justice research by the proposed criminal justice constituency. Appropriateness of products in terms of proposed content and format is also considered.

Applicants' qualifications are evaluated both in terms of the depth of experience and the relevance of that experience to the proposed research or study. Costs are evaluated in terms of the reasonableness of each item and the utility of the project to the Institute's program.

20. Are there any other considerations in selecting applications for an award? Projects should have a national impact or have potential relevance to a number of jurisdictions. Because of the broad national mandate of the National Institute of Justice, projects that address the unique concerns of a single jurisdiction should be fully justified. Projects that intend to provide services in addition to performing research are eligible for support, but only for the resources necessary to conduct the research tasks outlined in the proposal. The applicant's performance on previous or current NIJ grants will also be taken into consideration in making funding decisions.

21. Who is eligible to apply? NIJ awards grants to, or enters into cooperative agreements with, educational institutions, nonprofit organizations, public agencies, individuals, and profitmaking organizations that are willing to waive their fees. Where appropriate, special eligibility criteria are indicated in the separate solicitations.

22. Does NIJ accept resubmission of proposals? The Institute will accept resubmission of a previously submitted proposal. The applicant should indicate for Question 8, Form 424, that the application is a revision. The applicant should include this information in the abstract. Finally, the applicant should prepare a one-page response to the earlier panel review (to follow the abstract) including (1) the title, submission date, and NIJ-assigned application number of the previous proposal and (2) a brief summary of responses to the review and/or revisions to the proposal.

NIJ Policy Regarding Unsolicited Proposals

It is NIJ's policy to submit all unsolicited proposals to peer review. NIJ's peer review process takes place in

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periodic cycles; unsolicited proposals received will be included in the next available review cycle. NIJ will offer the applicant the option of revising the proposal in accordance with the program goals established in the Plan or, alternatively, submitting the original proposal to the peer panel it deems most appropriate.

Requirements for Award Recipients

Required Products

Each project is expected to generate tangible products of maximum benefit to criminal justice professionals, researchers, and policymakers. In particular, NIJ strongly encourages documents that provide information of practical utility to law enforcement officials; prosecutors; judges; corrections officers; victims services providers; and Federal, State, county, and local elected officials. Products should include:

A summary of approximately 2,500 words highlighting the findings of the research and the policy issues those findings will inform. The material should be written in a style that will be accessible to policy officials and practitioners and suitable for possible publication as an NIJ Research in Brief. An NIJ editorial style guide is sent to each project director at the time of the award.

A full technical report, including a discussion of the research question, review of the literature, description of project methodology, detailed review of project findings, and conclusions and policy recommendations.

Clean copies of all automated data sets developed during the research and full documentation prepared in accordance with the instructions in the NIJ Data Resources Manual.

Brief project summaries for NIJ use in preparing annual reports to the President and the Congress. As appropriate, additional products such as case studies and interim and final reports (e.g., articles, manuals, or training materials) may be specified in the proposal or negotiated at the time of the award.

Public Release of Automated Data Sets

NIJ is committed to ensuring the public availability of research data and to this end established its Data Resources Program in 1984. All NIJ award recipients who collect data are required to submit a machine-readable copy of the data and appropriate documentation to NIJ prior to the conclusion of the project. The data and materials are reviewed for completeness. NIJ staff then create machine-readable data sets, prepare users' guides, and distribute data and documentation to other researchers in the field. A variety of formats are acceptable; however, the data and materials must conform with requirements detailed in Depositing Data With the Data Resources Program of the National Institute of Justice: A Handbook. A copy of this handbook is sent to each project director at the time of the award. For further information about NIJ's Data Resources Program, contact Dr. Pamela Lattimore, (202) 307–2961.

Standards of Performance by Recipients

NIJ expects individuals and institutions receiving its support to work diligently and professionally toward completing a high-quality research or study product. Besides this general expectation, the Institute imposes specific requirements to ensure that proper financial and administrative controls are applied to the project. Financial and general reporting requirements are detailed in Financial and Administrative Guide for Grants, a publication of the Office of Justice Programs. This guideline manual is sent to recipient institutions with the award documents. Project directors and recipient financial administrators should pay particular attention to the regulations in this document.

Program Monitoring

Award recipients and Principal Investigators assume certain responsibilities as part of their participation in government-sponsored research and evaluation. NIJ's monitoring activities are intended to help grantees meet these responsibilities. They are based on good communication and open dialogue, with collegiality and mutual respect. Some of the elements of this dialogue are:

Communication with NIJ in the early stages of the grant, as the elements of the proposal's design and methodology are developed and operationalized.

Timely communication with NIJ regarding any developments that might affect the project's compliance with the schedules, milestones, and products set forth in the proposal. (See statement on Timeliness, below).

Communication with other NIJ grantees conducting related research projects. An annual "cluster conference" should be anticipated and should be budgeted for by applicants at a cost of $1,000 for each year of the grant.

Providing NIJ on request with brief descriptions of the project in interim stages at such time as the Institute may need this information to meet its reporting requirements to the Congress. NIJ will give as much advance notification of these requests as possible, but will expect a timely response from grantees when requests are made. NIJ is prepared to receive such communication through electronic media.

Providing NIJ with copies of presentations made at conferences, meetings, and elsewhere based in whole or in part on the work of the project. Providing NIJ with prepublication copies of articles based on the project appearing in professional journals or the media, either during the life of the grant or after.

Other reporting requirements (Progress Reports, Final Reports, and other grant products) are spelled out elsewhere in this section of the Research Plan. Financial reporting requirements will be described in the grant award documents received by successful applicants.

Communications

NIJ Program Managers should be kept informed of research progress. Written progress reports are required on a quarterly basis. All awards use standard quarterly reporting periods (January 1 through March 31, April 1 through June 30, and so forth) regardless of the project's start date. Progress reports will inform the monitor which tasks have been completed and whether significant delays or departures from the original workplan are expected.

Timeliness

Grantees are expected to complete award products within the timeframes that have been agreed upon by NIJ and the grantee. The Institute recognizes that there are legitimate reasons for project extensions. However, NIJ does not consider the assumption of additional research projects that impinge upon previous time commitments as legitimate reasons for delay. Projects with unreasonable delays can be terminated administratively. In this situation, any funds remaining are withdrawn. Future applications from either the project director or the recipient institution are subject to strict scrutiny and may be denied support based on past failure to meet minimum standards.

Publications

The Institute encourages grantees to prepare their work for NIJ publication. In cases where grantees disseminate their findings through a variety of media, such as professional journals, books, and conferences, copies of such publications should be sent to the Program Manager as they become available, even if they appear well after a project's expiration. NIJ imposes no restriction on such publications other than the following acknowledgment and disclaimer: This research was supported by grant number _____ from the National Institute of Justice. Points of view are those of the author(s) and do not necessarily represent the position of the U.S. Department of Justice.

Data Confidentiality and Human Subjects Protection

Research that examines individual traits and experiences plays a vital part in expanding our knowledge about criminal behavior. It is essential, however, that researchers protect subjects from needless risk of harm or embarrassment and proceed with their willing and informed cooperation. NIJ requires that investigators protect information identifiable to research participants. When information is safeguarded, it is protected by statute from being used in legal proceedings: "[S]uch information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings" (42 United States Code 3789g).

Applicants should file their plans to protect sensitive information as part of their proposal. Necessary safeguards are detailed in 28 Code of Federal Regulations (CFR), Part 22. A short "how-to" guideline for developing a privacy and confidentiality plan can be obtained from NIJ program managers.

In addition, the U.S. Department of Justice has adopted Human Subjects policies similar to those established by the U.S. Department of Health and Human Services. In general, these policies exempt most NIJ-supported research from Institutional Review Board (IRB) review. However, the Institute may find in certain instances that subjects or subject matters may require IRB review. These exceptions will be decided on an individual basis during application review. Researchers are encouraged to review 28 CFR Part 46.101 to determine their individual project requirements.

Office of Juvenile Justice and Delinquency Prevention

Comprehensive Program Plan for Fiscal Year 1996 OJJDP Program Objectives

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) seeks to focus its assistance on the development and implementation of programs with the greatest potential for reducing juvenile delinquency and improving the juvenile justice system by establishing partnerships with State, Native American, Native Alaskan, and local governments and public and private organizations. To that end, OJJDP has set three goals that constitute the major elements of a sound policy for juvenile justice and delinquency prevention:

- To promote delinquency prevention and early intervention efforts that reduce the flow of juvenile offenders into the juvenile justice system, the numbers of serious and violent offenders, and the development of chronic delinquent careers.
- To improve the juvenile justice system and the response of the system to juvenile delinquents, status offenders, and dependent, neglected, and abused children.
- To preserve the public safety in a manner that serves the appropriate development and best use of secure detention and corrections options, while at the same time fostering the use of community-based programs for juvenile offenders.

Underlying each of the three goals is the overarching premise that achievement of these goals is vital to protecting the long-term safety of the public from increased juvenile delinquency and violence. In pursuing these goals, we divide our programs into the key categories you will find in the program plan: public safety and law enforcement; strengthening the juvenile justice system; delinquency prevention and intervention; and child abuse, neglect, and dependency proceedings. The following discussion, however, addresses the broader goals of OJJDP.

Delinquency Prevention and Early Intervention

A primary goal of OJJDP is to identify and promote programs that prevent or reduce the occurrence of juvenile offenses, both criminal and non-criminal, and to intervene immediately and effectively when delinquent or status offense conduct first occurs. A sound policy for juvenile delinquency prevention seeks to strengthen the most powerful contributing factor to socially acceptable behavior—a productive place for young people in a law-abiding society.

Delinquency prevention programs can operate on a broad scale, providing for positive youth development, or can target juveniles identified as being at high risk for delinquency, with programs designed to reduce future juvenile offending. OJJDP prevention programs take a risk-focused delinquency prevention approach based on public health and social development models.

Early interventions are designed to provide services to juveniles whose non-criminal misbehavior indicates that they are on a delinquent pathway, or for first time non-violent delinquent offenders or non-serious repeat offenders who do not respond to initial system intervention. These interventions are generally non-punitive but serve to hold a juvenile accountable while providing services tailored to the individual needs of the juvenile and the juvenile's family. They are designed to both deter future misconduct and ameliorate risk or enhance protective factors.

Improvement of the Juvenile Justice System

A second goal of OJJDP is to promote improvements in the juvenile justice system and facilitate the most effective allocation of system resources. This goal is necessary for holding juveniles who commit crimes accountable for their conduct, particularly serious and violent offenders who sometimes slip through the cracks of the system or are inappropriately diverted. This includes assisting law enforcement officers in their efforts to prevent and control delinquency and the victimization of children through community policing programs and coordination and collaboration with other system components and with child caring systems. It involves helping juvenile and family courts, and the prosecutors and public defenders who practice in those courts, to provide a system of justice that maintains due process protections. It requires trying innovative programs and carefully evaluating those programs to determine what works and what does not work. It includes a commitment to involving crime victims in the juvenile justice system and ensuring that their rights are considered.

In this regard, OJJDP will continue to work closely with the Office for Victims of Crime to further cooperative programming, including the provision of services to juveniles who are crime victims or when the provision of victims services improves the operation of the juvenile justice system. Improving the juvenile justice system also calls for building an appropriate juvenile detention and corrections capacity and for intensified efforts to use juvenile detention and correctional facilities when necessary and under conditions that maximize public safety, while providing effective rehabilitation

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services. It requires encouraging states to carefully consider the use of expanded transfer authority that sends the most serious, violent, and intractable juvenile offenders to the criminal justice system, while preserving individualized justice. It necessitates conducting research and gathering statistical information in order to understand how the juvenile justice system works in serving children and families. And finally, the system can only be improved if information and knowledge is communicated, understood, and applied for the purpose of juvenile justice system improvement.

Corrections, Detention and Community-Based Alternatives

A third OJJDP goal is to maintain the public safety through a balanced use of secure detention and corrections, and community-based alternatives. This involves identifying and promoting effective community-based programs and services for juveniles who have formal contact with the juvenile justice system, and emphasizing options that maintain the safety of the public, are appropriately restrictive, and promote and preserve positive ties with the child's family, school, and community. Communities cannot afford to place responsibility for juvenile delinquency entirely on publicly operated juvenile justice system programs. A sound policy for combating juvenile delinquency and reducing the threat of youth violence makes maximum use of a full range of public and private programs and services, most of which operate in the juvenile's home community, including those provided by the health and mental health, child welfare, social service, and educational systems.

Coordination of the development of community-based programs and services with the development and use of a secure detention and correctional system capability for those juveniles who require a secure option is cost effective, will protect the public, reduce facility crowding, and result in better services for both institutionalized juveniles and those who can be served while remaining in their community environment.

Summary of Public Comments on the Proposed Comprehensive Plan for Fiscal Year 1996

OJJDP published its Proposed Comprehensive Plan for Fiscal Year (FY) 1996 in the **Federal Register** (Vol. 61, No. 34) on February 20, 1996, for a 45-day public comment period. OJJDP received 46 letters commenting on the proposed plan. All comments have been considered in the development of the Final Comprehensive Plan for FY 1996.

The majority of the letters provided positive comments about the overall plan and its programs. The following is a summary of the substantive comments received and OJJDP's responses to the comments. Unless otherwise indicated, each comment was made by a single respondent.

Comment: Seven respondents expressed strong support for the overall plan. One writer asserted that data projections for juvenile crime for the next 15 years make a compelling case for full funding of all OJJDP programs. Another commended OJJDP for the broad-based and forward-thinking programming in the plan. A third comment indicated that the proposed programs will strengthen law enforcement prevention efforts and have an impact on juvenile crime. One respondent highly endorsed the existing OJJDP program and the proposed plan but also recommended that funds be earmarked for imaginative, innovative, and creative programs with imagineering concepts to maximize program benefits. One comment described the plan as a comprehensive, balanced approach to juvenile delinquency and delinquency prevention. Another supported OJJDP's purpose to provide a comprehensive, coordinated approach to prevent and control juvenile crime and improve the juvenile justice system. The final comment called OJJDP's priorities essential for addressing the increasing complexity of issues facing the juvenile justice system.

Response: OJJDP appreciates the support expressed by these and other respondents.

Comment: Five letters contained criticism of the overall plan. Three of these cited the lack of specific funding information as a major flaw. One of those letters also noted that the majority of funding is already committed, mostly to long-time recipients, and that the plan contains a large number of social service programs with no proven effectiveness in reducing or preventing delinquency. This writer recommended eliminating or reducing 10 programs and suggested that OJJDP reissue the plan to solicit a program to develop a comprehensive drug prevention curriculum for students. Another respondent also expressed concern about the large number of initiatives and activities with predetermined recipients. Citing the JJDP Act competition requirement (Section 262(d)(1)(B)), the writer asked about criteria for waiving the competitive process. One respondent found that the plan was not sufficiently comprehensive and called for programs to teach correct principles and moral responsibility, particularly in the family unit and in the schools.

Response: Proposed funding levels were not included in the plan due to the uncertainty of FY 1996 appropriations. The proposed plan was premised on FY 1996 funding being at or near FY 1995 levels. Continuation commitments, coupled with a variety of proven or ongoing projects, many of which are technical assistance and training initiatives that have a national impact and level funding, preclude wholesale funding of new programs in FY 1996. All new programs will be competitively funded with no waivers of the competition requirement contemplated.

Comment: One comment on the discretionary grant continuation policy suggested that OJJDP should emphasize funding innovative programs along with the continuation of programs. The writer noted that each year it appears that limited funds are available for new programs.

Response: The plan includes several new and innovative programs coupled with a focus on program evaluation. Innovative research and evaluation programs will be eligible to compete under an expanded field-initiated research program in FY 1996.

Comment: A Native American respondent stated that the plan should specifically name Indian Nations as partners.

Response: The cited language in the plan is amended to read: "establishing partnerships with State, Native American, Native Alaskan, and local governments and public and private organizations."

Comment: OJJDP received three comments on the goals listed in the plan. One respondent suggested that the first goal could be strengthened by calling specifically for better character development in the home and in schools. The writer stated that the second goal does not convey the idea that the primary effort should be character corrections, in the corrections system, to shrink the number of offenders. The second respondent expressed support for the three goals and described how the Judicial Branch of the Navajo Nation is working toward those same goals, with early intervention being of particular importance. The third letter expressed support for the goals and indicated that their achievement is vital to public safety.

Response: Both prevention and treatment programs seek to improve character and instill positive values in

juveniles. OJJDP has long supported family strengthening programs, many of which feature character development objectives.

Comment: Six respondents commented on the field-initiated research program. All were generally supportive, and five made substantive comments. One suggested specific topics: measuring effectiveness of intervention with young prostitutes; drug treatment approaches, educational/literacy project effectiveness; and what works with the multiproblem young criminal. One respondent, noting the call for improving data collaboration efforts, suggested that a portion of the research be applied to projects that would seek to standardize court reports, thus increasing the juvenile justice system's ability to access and share appropriate information with child protective services and mental health agencies. Another writer who supported the research initiative expressed interest in two priority research topics: (1) youth gangs in residential facilities and (2) mental health issues, with emphasis on eliminating posttraumatic stress disorder in youthful offenders and breaking the cycle of violence. One respondent was pleased with the program but expressed concern that the priority areas did not specifically include adolescent sexual offenders. A Native American respondent pointed out several research needs in the Native American community, including technical assistance and program support to acquire a workable data base, share information, and analyze that information for policy development and planning. This respondent suggested that OJJDP should directly fund or devote staff or contract expertise to relevant studies and should encourage its staff and consultants to network with Indian Nation programs to undertake the studies that policy development requires.

Response: While the plan suggests priority research topics, OJJDP will take into careful consideration each of the topics suggested by these respondents. The adolescent sex offender is a topic of particular interest to OJJDP. Several OJJDP studies related to the juvenile sexual offender are nearing completion, and it is anticipated that study findings will suggest future research directions. While Native American research needs have not been specifically mentioned, OJJDP welcomes applications from the Native American community that identify these needs and propose studies that will meet them. OJJDP is also working closely with the Native American desk within the Office of Justice Programs to obtain feedback on its Native American programs, including the new 1996 Native American training and technical assistance program.

Comment: In a comment related to the national juvenile court data archives, a respondent suggested that funds be set aside for States to develop statewide juvenile information systems and to explore issues such as minority overrepresentation, use of legal counsel, and gender implications.

Response: OJJDP obtains invaluable information from State information systems. Such systems are used to analyze both juvenile court and juvenile corrections activity. The Office understands that the development and maintenance of such systems are expensive and time consuming. Many States do not have the resources available to fully implement information systems that can contribute to a national information system. In the past, the Office has supported the development and improvement of State systems through programs such as the National Juvenile Court Data Archive and the Juveniles Taken Into Custody program. Each includes a technical assistance component that aids States in determining appropriate information systems and information collection methods.

The Office recognizes the need for further development of State information systems. Areas other than corrections and courts also require attention. OJJDP will examine more carefully the role of the Office through the development of a long-term information systems development plan. This plan will examine national information needs and make specific recommendations for meeting these needs. As part of this plan, OJJDP will examine what assistance can be provided to the States as they develop and refine their information systems and how these systems can also help to meet overarching national information needs.

Comment: One respondent objected to funding the National Conference of State Legislatures, suggesting that OJJDP promote State Agencies as the appropriate entities to provide technical assistance to State legislatures.

Response: In funding the National Conference of State Legislatures (NCSL) in FY 1995, OJJDP concluded that the organization was uniquely qualified to provide pertinent and timely information to State legislators and their staff. NCSL looks to traditional Federal, State, and local juvenile justice agencies for information, packaging the data to meet the specific needs of State lawmakers. In addition, as a membership organization, NCSL has a number of information tools, such as professional publications and conferences, designed to reach State legislators.

Comment: One comment addressed telecommunications assistance, noting the very positive response in the writer's State to OJJDP's teleconference series. The respondent made two suggestions: (1) Provide special allocations to States to facilitate downlinking of teleconferences and (2) focus more on the use of new technology such as the interactive video disc (IVD).

Response: OJJDP appreciates hearing of the value of its satellite teleconference series. In the coming year, OJJDP and its telecommunications grantee, Eastern Kentucky University (EKU), will explore the use of other technologies, including IVD, for information dissemination and training purposes. To date, OJJDP has not been apprised of problems viewers may have had in affording or accessing downlink sites. In fact, EKU has acted as coordinator to help interested individuals and organizations locate sites in the community and to join groups of persons living in their same geographical area to sponsor and attend teleconferences.

Comment: A respondent called for more emphasis on private sector involvement and media support in the area of public safety and law enforcement.

Response: Combating Violence and Delinquency: The National Juvenile Justice Action Plan, recently released by the Coordinating Council on Juvenile Justice and Delinquency Prevention, has as one of its eight primary objectives to reduce youth violence: "Implement an aggressive public outreach campaign on effective strategies to combat youth violence." The Coordinating Council is chaired by the Attorney General, co-chaired by the Administrator of OJJDP, and includes nine Federal agency and nine practitioner members. The Council developed the Action Plan as a rallying point to mobilize individuals and organizations across the country toward eight objectives that, together, provide a comprehensive—tough but smart—response to the crisis of youth violence and victimization. The role of the private sector and the media in implementing the Action Plan will be critical in its success.

Comment: OJJDP received four comments strongly supporting the Kids and Guns initiative. One recommended that OJJDP should clarify the proposed plan to allow State agencies to apply if they can demonstrate that the proposed

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program would be community-based. One respondent urged substantial funding for competitive, comprehensive, communitywide demonstration projects that focus on the reduction and prevention of gun violence. Another comment praised the support for linkages between community and law enforcement responses to youth gun violence. A fourth respondent suggested that gun violence prevention programs must take into account public safety and perception and cause students to take responsibility for their actions and the actions of their peers while at the same time working with the community to ensure the healthy development of each child. The writer also stressed that youth gun violence reduction programs must be tailored to the needs of each community.

Response: The final Kids and Guns initiative program description incorporates each of these comments. The solicitation will allow State agencies to apply if they can demonstrate strong existing linkages to a community-based organization and if the proposed programs will be community-based.

Comment: Two respondents urged that recipients of OJJDP funds should be required to have "zero tolerance" for street gangs, charging that present policies appear to facilitate or foster the gang problem in some cases where funding has put active gang members on the Federal payroll.

Response: OJJDP's policy supports the elimination of crime and violence by criminal street gangs and would, therefore, not provide funding to any recipient that does not attempt to intervene with such gangs and their activities in such a way as to achieve this policy objective. OJJDP believes that the elimination of crime and violence can best be achieved through the mobilization of communities to prevent the formation of gangs and through collaboration between all elements of the system to eliminate gang crime and violence through intervention and suppression. OJJDP's program model does not legitimize criminal street gang membership or condone gang membership by youth.

Comment: OJJDP received four letters in support of community assessment centers. One respondent praised the centers as a valuable tool to service the front end of the juvenile justice system and raised four specific issues for consideration in competitive solicitations: replication (funding for new assessment centers), expansion (funding for existing centers to expand into areas not presently covered), technical assistance for communities that want to develop a community assessment center, and research/evaluation (funding for a research effort to study the effectiveness of assessment centers and answer policy questions raised in OJJDP's concept paper on assessment centers). Another writer called the development of one-stop, community-based intake, assessment, and case referral centers a step in the right direction. A third respondent described a proposed center that would eventually result in the creation of alternatives to detention and enhanced ability to put together a graduated sanctions approach. The fourth respondent called community assessment centers an additional option for the juvenile court system in sentencing adolescents and stated that the centers could provide short-term diagnostic residential placement and allow school systems to avoid the expense of long-term out-of-district placement.

Response: OJJDP agrees that community assessment centers are a promising approach to improving the multisystem responses to all types of youth at risk and delinquent youth. Community assessment centers can help communities in providing better assessments of a child's needs, designing a potentially more effective treatment plan, and creating a centralized location for information related to the child and the intended intervention, fostering a more effective and efficient case management service system.

As indicated in the proposed plan, an initial fact-finding phase is currently underway, including assessment center site visits in order to identify variations in the assessment center approach and to better understand the needs of the juvenile justice system in this area. Although a specific determination with regard to the elements of a program model has not yet been made, OJJDP plans to issue an assessment center solicitation within a short period of time. It is too early to say whether postadjudication diagnostic placements or school alternatives to out-of-district placements would be viable elements of an assessment center model.

Comment: Two writers commented in the area of training and technical assistance programs. One respondent suggested that OJJDP include funds and technical assistance to nontechnical staff who support very difficult youth and families and that these funds be available directly to grantees through the grant application process so they may seek help from within their local communities. Another writer referred to a growing need for training in cultural differences for law enforcement and juvenile justice practitioners.

Response: OJJDP agrees that training and technical assistance provided from a national level cannot fully meet the full spectrum of local needs. Funds are also provided to support training and technical assistance through the Formula Grants Program administered by States. Comprehensive State plans are required to support the development of an adequate research, training, and evaluation capacity. Further, 2 percent of Part B funds are set aside for technical assistance, most of which is delivered at the local level.

OJJDP agrees that there are training needs in cultural diversity. The Office has supported the development and nationwide implementation of a training of trainers curriculum in this area.

Comment: OJJDP received 10 comments concerning gender-specific programming for female juvenile offenders. Nine comments supported second-year funding for a Cook County, Illinois, program for female juvenile offenders. The 10th respondent requested information about possible funding for a program to promote self-esteem and offer alternatives to gangs to teenage girls in lower income areas.

Response: OJJDP provided a grant in FY 1995 to the Cook County Temporary Juvenile Detention Center for a 1-year developmental project under a competitive grant program. There was no commitment for subsequent year funding. OJJDP has also funded the PACE Center for Girls, which operates in seven sites throughout the State of Florida. PACE offers a continuum of services that are specially designed to meet the needs of at-risk teenage girls. In addition, OJJDP has targeted significant resources over the next 5 years to programs for at-risk girls and female juvenile offenders through funding of six sites under the SafeFutures Program.

There is no program funded to specifically promote self-esteem in girls from lower income areas. As noted above, OJJDP is funding the PACE Center for girls, which provides teenage girls, including those from lower income areas with both academic education courses and self-esteem programs.

In FY 1996, OJJDP will competitively fund a training and technical assistance program to help communities provide improved gender-specific services for at-risk and delinquent girls. OJJDP believes that this approach will take the lessons learned from prior funding and existing research and produce a national impact that continuation funding of a single project could not achieve.

Comment: OJJDP received four comments on the proposed Native American technical assistance program. One writer recommended that OJJDP focus the expertise requirements of the solicitation on Indian juvenile justice and make the selection process for the technical assistance provider competitive. Another respondent stated that OJJDP should fund National Indian Justice Center training programs, pointing out that Indian students need tuition, travel, and lodging funds for these programs. The third respondent identified the need for trained workers for family building and for reestablishment of youth groups. The fourth writer expressed interest in technical assistance to replicate successful efforts by Native American tribes.

Response: OJJDP's solicitation for a technical assistance provider for Native American programs is focused on juvenile justice system theory, practice, and law in the context of Native American culture, traditions, and tribal law. The Native American technical assistance program will be awarded through a competitive selection process. OJJDP is aware of the work of the National Indian Justice Center, the technical assistance provider for OJJDP's Native American Community-Based Alternatives Program. OJJDP encourages the National Indian Justice Center and other Native American service providers to apply for funding under the Native American technical assistance program. The solicitation to be issued by OJJDP for the technical assistance provider for the Native American community will include the transfer of knowledge and technologies that have proven successful in Native American communities.

Comment: One commenter expressed the hope that the James E. Gould Memorial Program was not a duplication of the American Correctional Association's Accreditation of Correctional Officers, Caseworkers and Detention Staff Program.

Response: The James E. Gould Memorial Program is a competitive assistance award to provide technical assistance to juvenile correctional and detention facilities. Under the grant, the American Correctional Association (ACA) provides technical assistance and training on myriad issues for juvenile correctional and detention facilities. The accreditation program of the ACA is an entirely different, independent effort that is not funded by OJJDP.

Comment: One respondent questioned whether a greater emphasis on transfer of juveniles to criminal court represents an improvement to the juvenile justice system, suggesting that transfer deemphasizes the juvenile justice system and amounts to an abandonment of individualized justice. The writer indicated that rates of serious and violent juvenile crime have increased with the greater use of transfers in some areas. OJJDP was urged to place more emphasis on innovative approaches to serious and violent juvenile offenders, such as the New Mexico plan, the blended jurisdiction approach of Minnesota, and the serious juvenile offender statute as developed and implemented in Virginia.

Response: OJJDP is committed to both protecting the public and separating certain serious, violent, and chronic juvenile offenders from those juveniles who can benefit from treatment and rehabilitation resources and programs that are available in the juvenile justice system. Transfer to the criminal court of those targeted juvenile offenders who have demonstrated through their behavior that they do not belong in the juvenile justice system (nature of offense or nonamenability to juvenile justice treatment) enables the juvenile justice system to focus its efforts and resources on the much larger group of high-risk juveniles, first-time less serious and violent or repeat offenders who can benefit from a wide range of effective intervention strategies. The Coordinating Council's National Juvenile Justice Action Plan supports individualized case reviews and proposes a two-tier system of extended jurisdiction in the juvenile court for serious, violent, and chronic juvenile offenders and consideration of innovative blended sentencing options for juvenile offenders under criminal court jurisdiction. This system would permit the transfer of some juvenile offenders, taking into account age, presenting offense, and offense history, and allow greater prosecutorial discretion for the older, more serious, and violent juvenile offender.

Comment: One writer stated that training for juvenile court judges under the current plan is commendable and needed but recommended that training focus more on the core requirements of the JJDP Act and issues surrounding State compliance.

Response: The judicial training program funded by OJJDP to the National Council of Juvenile and Family Court Judges (NCJFCJ) has addressed, to a major degree in past years, the core requirements of the Act and other related topics in comprehensive curriculums for juvenile and family court judges, probation officers, and others working in juvenile courtservices. However, OJJDP will consult with the NCJFCJ to determine whether the issues surrounding State compliance need to be reassessed in an upcoming training needs assessment.

Comment: A respondent suggested modified language to describe the Juvenile Justice Prosecution Unit.

Response: OJJDP accepts the recommended changes but notes that they do not materially revise the original project description.

Comment: Two respondents supported funding for the Sauk Centre Correctional Facility.

Response: OJJDP appreciates the letters of support for the Sauk Centre Correctional Facility in Minnesota. In 1994, the Centre was selected as one of three sites in the Nation to participate in the OJJDP-sponsored Correctional Education program. The Centre has participated in OJJDP-sponsored training and technical assistance and has developed plans for making education and learning a major component of its treatment program. The entire staff at the facility will be trained to use interactive teaching methods to work with the youth.

Comment: One respondent strongly suggested that OJJDP add a component that would research and recommend solutions to the nationwide critical shortage of secure juvenile housing space.

Response: OJJDP conducts the biennial Census of Public and Private Juvenile Detention, Correctional, and Shelter Facilities. This census collects information on the capacity of each facility, the number of juveniles housed there, and the security level of the facility. The information permits analysis of population levels compared to capacity. By computing population-to-capacity ratios, the Office can provide a greater understanding of crowding in all types of juvenile facilities. OJJDP is examining its data collection and reporting with regard to juvenile custody. As part of these developments, OJJDP will consider various measures of crowding. In the context of OJJDP's overall statistics development, the Office will also examine how best to disseminate information and research on capacity issues for both secure and nonsecure facilities. Issues around solutions to the problem of crowding will be considered in these activities.

Comment: One respondent asked that OJJDP include comprehensive day programs for adolescents and young adults with the dual classification of developmental disability and sexual offender/reactor. The writer pointed out that a structured day program can be an

extremely cost-effective alternative to residential treatment with outcomes of reintegration into the community, as opposed to isolation from the community.

Response: OJJDP agrees with the commentator about the importance of day programs. OJJDP is supporting replication of the Bethesda Day Treatment program in 10 sites in FY 1996, including the six SafeFutures sites. Bethesda Day is an intensive program that involves an alternative school and afterschool programs for high-risk and delinquent youth. A careful assessment process and a comprehensive case management system, in addition to extensive family involvement, make this a very successful model program. OJJDP will explore with Bethesda Day Treatment the application of the model to the dual-classification juvenile. In addition, each SafeFutures site has mental health service funds that can be used for this purpose.

Comment: Two respondents indicated a need to address the impact of mandatory provisions related to juvenile incarceration, such as limitations on holding time and the prohibition against juvenile and adult facilities being run by one person. One of the comments indicated that the mandatory provisions related to time, staff, and facility site and sound are sometimes unrealistic.

Response: The core requirements of OJJDP's Part B Formula Grants Program are under continuing review and evaluation to determine their efficacy and impact. OJJDP will continue to work with State and local governments to insure that these requirements work to protect juvenile offenders while continuing to provide law enforcement and human service agencies with sufficient flexibility.

Comment: One comment expressed interest in funding assistance for two alternative programs: Teen Court and House Arrest.

Response: OJJDP recognizes that teen court programs serve multiple purposes in helping to address problem behavior when youth are charged with alcohol use and other misdemeanor offenses. Teen courts are seen as an effective intervention in many jurisdictions where enforcement of such offenses is considered difficult or a low priority. Teen courts are included in OJJDP's Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders as a graduated sanction for jurisdictions to use in helping to send the message to youth that the community does not condone law-breaking behaviors. OJJDP views the teen court program as an excellent vehicle to help youth realize that they are accountable for their actions; to educate them on the impact of their actions, either positive or negative, on others in the community; and to offer a hands-on juvenile justice system experience for both the youthful offender and youth who volunteer for the program. To provide assistance to jurisdictions interested in establishing or enhancing a teen court program as an alternative response to juvenile crime, OJJDP has collaborated with the Department of Transportation on the soon-to-be-released publication entitled Peer Justice and Youth Empowerment: An Implementation Guide for Teen Court Programs.

OJJDP is committed to enhancing services for those juveniles who can benefit from treatment and rehabilitation in the juvenile justice system as well as protecting the public. One of the most recent and popular innovations has been the use of electronic monitoring, which provides an effective tool for the supervision of selected pre- and postadjudicated offender populations who remain in the community. OJJDP currently has an initiative to develop a set of guidelines and research protocols to assist juvenile justice program administrators and policymakers in the self-evaluation of their electronic monitoring programs.

Comment: OJJDP received four comments that supported the importance of delinquency prevention and early intervention, one writer calling it the most cost-effective means of dealing with future delinquency. One of the respondents also suggested that early intervention efforts might be strengthened by calling specifically for better character development in the home and in the schools. Another writer indicated that it is essential for OJJDP to maintain a holistic approach and continue to emphasize healthy youth development through prevention and remediation. The fourth comment expressed approval of the recognition of prosecutors as an integral part of prevention programming.

Response: OJJDP agrees with the suggestion that delinquency prevention and early intervention are critical components of a continuum-of-care system. Delinquency prevention and early intervention are key components of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. The Comprehensive Strategy supports a holistic approach, emphasizing healthy youth development. One of the major themes of the Strategy is to ameliorate the impact of risk factors that interfere with healthy youth development. This year OJJDP released a report, Delinquency Prevention Works, which explains the importance of delinquency prevention and includes information about successful delinquency prevention models. The OJJDP-funded Program of Research on the Causes and Correlates of Delinquency is documenting that research-based, risk-focused prevention is the most cost-effective method for dealing with juvenile delinquency. Three of OJJDP's new initiatives support the principles of delinquency prevention: the development of Assessment Centers and the Child Abuse and Neglect and the Field-Initiated Research Programs.

The evaluation of the SafeFutures Program should provide important information on the value of comprehensive delinquency prevention and early intervention programming. OJJDP is working with a variety of agencies in the area of delinquency prevention, including the Center for Mental Health Services, the Center for Substance Abuse Prevention, and the Center for Substance Abuse Treatment, all part of the U.S. Department of Health and Human Services. OJJDP is also working with the health, child welfare, and education systems through several interagency workgroups and jointly funded programs.

OJJDP considers prosecutors to be an integral component of prevention and early intervention strategies and will continue working with prosecutors through the National District Attorneys Association.

Comment: In the area of training in risk-focused prevention strategies, one respondent suggested that consideration be given to matching future funds with U.S. Department of Housing and Urban Development State Block Grants in Economic Development Initiatives, Enterprise Zones, Neighborhood Development, and Community Adjustment Planning.

Response: OJJDP and the U.S. Department of Housing and Urban Development (HUD) are strengthening linkages between their respective programs in regard to risk-focused prevention strategies. Through an interagency agreement, HUD is working as a partner with OJJDP to provide training and technical assistance in public housing sites under OJJDP's SafeFutures Program. Both HUD and OJJDP, as well as Education, Labor, Treasury, and other divisions and bureaus within the Department of Justice, are members of the Youth Gang Consortium. Initiated in December 1995, the Consortium is facilitating coordination of gang program development, information exchange,

and service delivery nationwide. OJJDP is currently working directly with Empowerment Zones, Enterprise Communities, and Enhanced Enterprise Communities (EZ/EC/EEC's) under several major initiatives. Four of the six SafeFutures sites are located in EC/EEC's and are receiving hands-on technical assistance and training in risk-focused prevention. Seventeen EZ/EC/EEC's are receiving training in implementing a comprehensive youth-focused community policing strategy in their communities under a joint program with the Office of Community Oriented Policing and Community Relations Service. Other EZ/EC/EEC initiatives will come online in FY 1996, including Youth Out of the Education Mainstream, a joint program of the Departments of Justice and Education.

Comment: Two respondents expressed concern that the proposed plan did not include mental health needs of youth in the juvenile justice system and asked that some discretionary funds be set aside for mental health programs. One of the writers stressed that all components of the juvenile justice system must work together and also work with the private sector, teaching hospitals, and family members to minimize further mental health problems for at-risk youth and at the same time protect the public.

Response: OJJDP has provided leadership in addressing mental health issues in the juvenile justice system. In 1995, OJJDP supported a mental health conference, "Caring for Every Youth's Mental Health: An Issue Inseparable From Youth Crime," and jointly sponsored the "Early Intervention Childhood System of Care Conference" in Atlanta, Georgia. With the Department of Education, OJJDP also cosponsored a 1996 conference, "Making Collaboration Work for Children, School, Families, and Community," which included a range of mental health issues.

The State Challenge Grant Program includes a provision for the support of mental health programs. To date, 13 States have selected this area as one of their challenge activities. In addition, OJJDP is working with the Center for Mental Health Services to determine innovative ways in which to collaborate in the development and implementation of mental health programs for juveniles in the juvenile justice system.

Finally, mental health is a key component of OJJDP's SafeFutures Program. The six sites have each been allocated $150,000 per year to address the mental health needs of juveniles in the juvenile justice system, with a focus on services for juveniles with learning disabilities, mental disorders, and juvenile sex offenses.

Comment: One respondent stressed that substance abuse is a critical issue with almost all juvenile offenders.

Response: OJJDP concurs with this observation. In FY 1996, OJJDP will continue four major drug- and alcohol-related programs, will work with the American Probation and Parole Association, and will collaborate with the Office of National Drug Control Policy in expanding related programs in FY 1997.

Comment: Two writers commented on OJJDP's training and technical assistance for family strengthening services. One urged that available funds for new programs be allocated to prevention and to strengthening families. Another respondent faulted the proposed plan for not addressing the need to teach moral responsibility in the family unit.

Response: The Office acknowledges the value of prevention and the importance of the family's role in delinquency prevention. The training and technical assistance program endeavors to strengthen families by assisting communities to enhance the range of available family support services and programs. OJJDP believes that each community knows best the types of services that need to be made available to its families. Consequently, this program seeks to increase the capacity of communities to identify and implement programs that meet the diverse needs of its families.

Comment: Addressing the proposed program to establish a community-based approach to combating child victimization, one writer commended OJJDP for targeting child victims as a priority area and for providing assistance to create a better system to protect children and support professionals who work with these families. The letter also contained three suggestions. First, spread the net as wide as possible, instead of narrowly restricting what type of entities may apply. Second, provide a "big tent," by not overly restricting what other initiatives must be in place unless directly related and necessary for a child welfare reform effort. Third, do not require match to be in dollars, but instead accept in-kind match.

Response: The three points the author raises are valid suggestions that the Office will take into consideration in developing the competitive solicitation for this program.

Comment: Three respondents praised OJJDP's emphasis on collaboration. Two of these comments also raised specific issues. One pointed out areas where enhanced collaboration would be beneficial: adoption opportunities, maternal and child health programs (including teen pregnancy prevention), family preservation, runaway/homeless youth, information management, data collection, and evaluation. The other respondent noted that, although collaboration was identified as an important part of the plan, no reference was made to the parties that are minimally expected to be involved in collaborative efforts.

Response: The introduction to the program plan, and many of the program descriptions in the plan, refer to OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders and the Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. These documents provide a context for OJJDP's plan, including Title V prevention grants and other programs outside the scope of the plan. The Guide provides communities with a framework for preventing delinquency, intervening in early delinquent behavior, and responding to serious, violent, and chronic offending. A key aspect of this framework and the Title V training includes a step-by step process for convening key leaders in a community to be a part of a collaborative process. Although adoption, runaway/homeless services, information managers, data collectors, and evaluators are not explicitly stated as required participants in such a collaborative process, there is no reason why they would not be included. In various programs, OJJDP provides specific guidance as to the type of groups that should be involved in the program. However, in view of varied local needs, priorities, resources, and existing planning and service delivery systems, OJJDP does not see a need to go beyond providing general guidance on the range of participants.

Introduction to Fiscal Year 1996 Program Plan

Intolerably high rates of juvenile violence and delinquency, victimization, school drop out, teen pregnancy, illegal drug use, and child abuse and neglect are plaguing our country. In jurisdictions across the Nation, over-burdened juvenile justice and dependency court systems are being held accountable for redressing the results of unstable families lacking parenting skills, communities with inadequate health and mental health support networks, fragmented social service delivery systems, a shortage of constructive activities for young people, and easy access to guns and drugs. They lack the resources necessary to respond

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to serious, violent, and chronic delinquency, to hold juveniles accountable, and to turn back the tide of increasing violent delinquency by providing early intervention services for at-risk juveniles and their families.

The OJJDP fiscal year 1996 Comprehensive Plan seeks to support programming that is built on sound research and strengthens collaborations needed to empower the juvenile justice and dependency court systems to work effectively with communities in preventing and controlling delinquency and reducing juvenile victimization.

In 1993, OJJDP published a Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders (Comprehensive Strategy). Designed to provide a response to the social crisis we are facing, the Comprehensive Strategy utilizes statistics, research, and program evaluations as the basis for a set of sound principles for establishing a continuum of care for our children. The Comprehensive Strategy emphasizes the importance of local planning teams assessing the factors which put youth at risk for delinquency, determining available resources, and putting in place prevention programs that either reduce those risk factors or provide protective factors that buffer juveniles from the impact of risk factors. The Comprehensive Strategy also stresses the importance of early intervention for juveniles whose behavior puts them on one or more pathways to delinquency and of having a system of graduated sanctions that can ensure immediate and appropriate accountability and treatment for juvenile offenders.

During FY 1995 OJJDP published a Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders (Guide). The Guide provides information on the process of identifying risk and protective factors in the community and offers detailed information about programs known to prevent delinquency or reduce recidivism. By providing a foundation and framework for each community's individualized strategy, the Guide can serve as a powerful tool for States, cities, counties, and neighborhoods that are mobilizing to address the problem of juvenile violence and delinquency.

The Comprehensive Strategy also served as the foundation for the development of the National Juvenile Justice Action Plan (Action Plan), recently published by the Coordinating Council on Juvenile Justice and Delinquency Prevention in March. The Action Plan provides an additional resource to communities that seek to balance vigorous enforcement of the law and prevention services in order to reduce juvenile delinquency and violence. The Action Plan prioritizes Federal activities and resources under eight critical objectives, each of which needs to be addressed in order to effectively combat delinquency and violence. The Action Plan describes grants, training, technical assistance, information dissemination, and research and evaluation activities that will assist jurisdictions to: (1) strengthen their juvenile justice systems; (2) prosecute certain serious, violent and chronic juvenile offenders in the criminal justice system; (3) target youth gun, gang, and drug violence through comprehensive policing and prevention techniques; (4) create positive opportunities for youth; (5) break the cycle of violence by addressing child victimization, abuse, and neglect; (6) mobilize communities into effective partnerships for change; (7) conduct research and evaluate programs; and (8) develop a public education campaign in order to both get the message out about successes in addressing juvenile delinquency and violence and rebuild confidence in every community's ability to impact this serious problem. These are the activities that the research, as well as numerous expert commissions on at-risk children, youth, families, and communities, indicates are necessary to make a lasting difference. It is these activities, coupled with the Comprehensive Strategy implementation, that form the basis of OJJDP's 1996 Program Plan.

The Program Plan supports a balanced approach to aggressively addressing juvenile delinquency and violence through graduated sanctions, improving the juvenile justice system's ability to respond, and preventing the onset of delinquency. It takes into account the short term need to ensure public safety and the long term imperative of supporting children's development into healthy, productive citizens through a range of prevention, early intervention, and graduated sanctions programs.

Three major new program areas were identified through a process of engaging OJJDP staff, other Federal agencies, and juvenile justice practitioners in an examination of existing programs, research findings, and the needs of the field. They are: (1) Developing one-stop, community-based intake, assessment, and case referral centers and programs for juveniles who may require services or juvenile justice system interventions; (2) supporting the linkage between community and law enforcement responses to youth gun violence; and (3) improving the dependency and criminal court system's and the community's response to child abuse and neglect. In addition, a range of research and evaluation projects that will expand our knowledge about juvenile offenders, the effectiveness of prevention, intervention, and treatment programs, and the operation of the juvenile justice system have been identified for FY 1996 funding.

Enhanced program support in the area of disproportionate minority confinement, gender-specific services, and technical assistance to Native American Tribes, would also be provided. Combined with OJJDP programs being continued in FY 1996, these new demonstration and support programs form a continuum of programming that supports the objectives of the Action Plan and mirrors the foundation and framework of the Comprehensive Strategy.

These continuation activities and programs and the new FY 1996 programs are at the heart of OJJDP's categorical funding efforts. For example, while focusing on the development of assessment centers as a new area of programming, OJJDP will continue to offer training seminars in the Comprehensive Strategy and look to the SafeFutures program to implement the Comprehensive Strategy model under existing grants and contracts. Combined, these activities provide a holistic approach to prevention and early intervention programs while enhancing the juvenile justice system's capacity to provide immediate and appropriate accountability and treatment for juvenile offenders.

OJJDP's Part D Gang Program will continue to support a range of comprehensive prevention, intervention, and suppression activities at the local level, evaluate those activities, and inform communities about the nature and extent of gang activities and effective and innovative programs through OJJDP's National Youth Gang Center. Similarly, the demonstration program focusing on juvenile gun violence will complement existing law enforcement and prosecutorial training programs by supporting grassroots community organization's efforts to address juvenile access to, carriage, and use of guns. This programming will build upon OJJDP's youth-focused community policing, mentoring, and conflict resolution initiatives, as well as programming in the area of drug abuse prevention, such as funding to the Congress of National Black Churches and the National Center for Neighborhood Enterprise for local church and neighborhood-based drug abuse prevention programs.

In support of the need to break the cycle of violence, OJJDP's new demonstration program to improve linkages between the dependency and criminal court systems, child welfare and social service providers, and family strengthening programs will complement ongoing support of Court Appointed Special Advocates, Child Advocacy Centers, and prosecutor and judicial training in the dependency field, funded under the Victims of Child Abuse Act of 1990, as amended.

The Plan's research and evaluation programming will support many of the above activities by filling in critical gaps in our knowledge about the level and seriousness of juvenile crime and victimization, its causes and correlates, and effective programs in preventing delinquency and violence. At the same time, OJJDP's research efforts will also be geared toward efforts that monitor and evaluate the ways juveniles are treated by the juvenile and criminal justice systems and any trends in this response, particularly as they relate to juvenile violence and its impact.

OJJDP is also utilizing its national perspective to disseminate information to those at the grassroots level—practitioners, policy makers, community leaders, and service providers who are directly responsible for planning and implementing policies and programs that impact on juvenile crime and violence.

OJJDP will continue to fund longitudinal research on the causes and correlates of delinquency, the findings of which are shared regularly with the field through OJJDP publications, utilize state-of-the-art technology to develop and disseminate an interactive CD-ROM on programs that work to prevent delinquency and reduce recidivism, air national satellite teleconferences on key topics of relevance to practitioners, and publish new reports and documents on timely topics such as school-based conflict resolution, curfews, the Federal Educational Records Privacy Act, confidentiality of juvenile court records, innovative sentencing options, and strategies to reduce youth gun violence.

The various contracts, grants, cooperative agreements, and interagency fund transfers described in the Program Plan form a continuum of activity designed to address the crisis of youth violence and delinquency in our Nation. In isolation, this programming can do little. However, the emphasis of OJJDP's programming is on collaboration. It is through collaboration that Federal, State, and local agencies; Native American Tribes; national organizations; private philanthropies; the corporate and business sector; health; mental health and social service agencies; schools; youth; families; and clergy can come together to form partnerships and leverage additional resources, identify needs and priorities, and implement innovative strategies. Together, we can make a difference.

Fiscal Year 1996 Programs

The following are brief summaries of each of the new and continuation programs for FY 1996. As indicated above, the program categories are public safety and law enforcement; strengthening the juvenile justice system; delinquency prevention and intervention; and child abuse, neglect, and dependency courts. However, because many programs have significant elements of more than one of these program categories, or generally support all of OJJDP's programs, they are listed in an initial program category called "Overarching Programs". The specific program priorities within each category are subject to change with regard to their priority status, sites for implementation, and other descriptive data and information based on the review and comment process, grantee performance, application quality, fund availability, and other factors.

A number of programs contained in this document have been identified for funding by Congress with regard to the grantee(s), the amount of funds, or both. Such programs are indicated by an asterisk (*). The 1996 Appropriations Act Conference Report for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Programs identified six programs for OJJDP to examine and fund if warranted. One of these programs is included in the Plan for continuation funding. The remaining five will receive careful consideration for funding in FY 1996.

Fiscal Year 1996 Program Listing

Overarching

Program of Research on the Causes and Correlates of Delinquency
Field-Initiated Research
Evaluation of SafeFutures
OJJDP Management Evaluation Contract
Juvenile Justice Statistics and Systems Development
Research Program on Juveniles Taken into Custody—NCCD
Juveniles Taken into Custody—Interagency Agreement
Children in Custody—Census
Juvenile Justice Data Resources
National Juvenile Court Data Archive*
National Juvenile Justice and Delinquency Prevention Training and Technical Assistance Center
Technical Assistance for State Legislatures
OJJDP Technical Assistance Support Contract—JJRC
Juvenile Justice Clearinghouse
Telecommunications Assistance
Coalition for Juvenile Justice
Insular Area Support*

Public Safety and Law Enforcement

Kids and Guns: Reducing Youth Gun Violence
Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program
Targeted Outreach with a Gang Prevention and Intervention Component (Boys and Girls Clubs)
National Youth Gang Center
Child-Centered Community-Oriented Policing
Law Enforcement Training and Technical Assistance Program
Violence Studies*
Hate Crimes

Strengthening the Juvenile Justice System

Development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders
Serious, Violent, and Chronic Juvenile Offender Treatment Program
Community Assessment Centers
Juvenile Restitution: A Balanced Approach
Training and Technical Assistance Program to Promote Gender-Specific Programming for Female Juvenile Offenders
Technical Assistance to Native American Programs
National Indicators of Juvenile Violence and Delinquent Behavior and Related Risk Factors
Evaluation of the Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression
Evaluation of Intensive Community-Based Aftercare Demonstration and Technical Assistance Program
Juvenile Mentoring Program (JUMP) Evaluation
Juvenile Transfers to Criminal Court Studies
Technical Assistance to Juvenile Courts*
Juvenile Court Judges Training*
The Juvenile Justice Prosecution Unit
Due Process Advocacy Program Development
Intensive Community-Based Aftercare Demonstration and Technical Assistance Program
Training and Technical Assistance for National Innovations to Reduce Disproportionate Minority

Confinement (The Deborah Wysinger Memorial Program)
Juvenile Probation Survey Research
Improvements in Correctional Education for Juvenile Offenders
Performance-Based Standards for Juvenile Detention and Corrections Facilities
Technical Assistance to Juvenile Corrections and Detention (The James E. Gould Memorial Program)
Training for Juvenile Corrections and Detention Staff
Training for Line Staff in Juvenile Detention and Corrections
Training and Technical Support for State and Local Jurisdictional Teams to Focus on Juvenile Corrections and Detention Overcrowding
National Program Directory

Delinquency Prevention and Intervention

Training In Risk-Focused Prevention Strategies
Youth-Centered Conflict Resolution
Pathways to Success
Teens, Crime, and the Community: Teens in Action in the 90s*
Law-Related Education
Cities in Schools—Federal Interagency Partnership
Race Against Drugs
The Congress of National Black Churches: National Anti-Drug Abuse/Violence Campaign (NADVC)
Community Anti-Drug Abuse Technical Assistance Voucher Project
Training and Technical Assistance for Family Strengthening Services
Henry Ford Health System*
Jackie Robinson Center*

Child Abuse and Neglect and Dependency Courts

A Community-Based Approach to Combating Child Victimization
Permanent Families for Abused and Neglected Children*
Parents Anonymous, Inc.*
Lowcountry Children's Center, Inc.*

Overarching

Program of Research on the Causes and Correlates of Delinquency

Three projects sites comprise the Program of Research on the Causes and Correlates of Delinquency: The University of Colorado at Boulder, the University of Pittsburgh, and the State University of New York at Albany. The main purpose of FY 1996 funding will be to support additional data analyses in support of OJJDP program development. Results from this program have been used extensively in the development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders and other program initiatives.

OJJDP began funding this program in 1986 and has invested approximately $10 million to date. The program has addressed many issues of juvenile violence and delinquency. These include developing and testing causal models for chronic violent offending and examining interrelationships among gang involvement, drug selling, and gun ownership/use. To date, the Program has produced a massive amount of information on the causes and correlates of delinquent behavior.

Although there is great commonality across the projects, each has unique design features. Additionally, each project has disseminated the results of its research through a variety of publications, reports, and presentations.

With FY 1996 funding, each site of the Causes and Correlates Program will be provided additional funds to further analyze the longitudinal data. New publications, including two joint publications, will be developed in FY 1996 and both the role of mental health in delinquency and pathways to delinquency will be the subject of further analyses.

This program will be implemented by the current grantees, Institute of Behavioral Science, University of Colorado at Boulder; Western Psychiatric Institute and Clinic, University of Pittsburgh; and Hindelang Criminal Justice Research Center, State University of New York at Albany. No additional applications will be solicited in FY 1996.

Field-Initiated Research

Through the FY 1996 Field-Initiated Research program, OJJDP will solicit innovative programs that address critical research and evaluation needs of the juvenile justice field. Priority research topics include: youth gangs in residential facilities; mental health issues; waiver and transfer to the juvenile justice system; reporting of child victimization; improving data collaboration efforts between juvenile justice, child welfare, child protective services, and mental health; institutional crowding; and topics related to OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. In addition to research topics, this program will also entertain proposals from State and local agencies wishing to conduct evaluations of programs initiated with OJJDP Formula, Title V, and discretionary funds that appear to be having significant impact and offer a possibility for national replication.

OJJDP will issue a competitive solicitation for this initiative in FY 1996.

Evaluation of SafeFutures

With FY 1995 funds, OJJDP funded six communities under the SafeFutures: Partnerships to Reduce Youth Violence and Delinquency Program. The program sites are: Contra Costa County, California; Fort Belknap Indian Community, Montana; Boston, Massachusetts; St. Louis, Missouri; Seattle, Washington; and Imperial County, California. The SafeFutures Program provides support for a comprehensive prevention, intervention, and treatment program to meet the needs of at-risk juveniles and their families.

Approximately $8 million will be made available for annual awards over a 5-year project period to support the efforts of these jurisdictions to enhance existing partnerships, integrate juvenile justice and social services, and provide a continuum of care that is designed to reduce the number of serious, violent, and chronic juvenile offenders.

The Urban Institute received a competitive 3-year Phase I cooperative agreement award with FY 1995 funds to provide a national evaluation of the SafeFutures program. The evaluation will consist of both process and impact components for each funded site. The evaluation process includes an examination of planning procedures and the extent to which each site's implementation plan is consistent with the principles of a continuum of care/graduated sanctions model. The evaluation will identify the obstacles and key factors contributing to the successful implementation of the SafeFutures continuum of care model. The evaluator is responsible for developing a cross-site monograph documenting the process of program implementation for use by other communities that want to develop and implement a comprehensive community-based strategy to address serious, violent, and chronic delinquency.

A FY 1996 supplemental award will be made to the current grantee, the Urban Institute, to complete first year funding. No additional applications will be solicited in FY 1996.

OJJDP Management Evaluation Contract

The purpose of this contract, competitively awarded in FY 1995 to Caliber Associates, is to provide to OJJDP an expert resource capable of performing independent, management-oriented evaluations of selected OJJDP programs. These evaluations are designed to determine the effectiveness and efficiency of either individual projects or groups of projects. The contractor also assists OJJDP in determining how to make the best use of limited evaluation resources and how best to design and implement evaluations. Work plans that have been requested or will be requested from the contractor in FY 1996 include: continuing the evaluation of three OJJDP-funded bootcamps; continuing to support the evaluation of Title V delinquency prevention programs at the local level; preparation of OJJDP's Title V Program report to Congress; providing assistance to OJJDP program development working groups; assisting OJJDP in the creation of an "evaluation partnership for juvenile justice" designed to improve the number and quality of evaluations conducted by Formula Grants Program grantees, other Federal agencies, private foundations that fund evaluations, and State and local governments; and conducting other short- or long-term evaluations as required. The contract will be performed by the current contractor, Caliber Associates. No additional applications will be solicited in FY 1996.

Juvenile Justice Statistics and Systems Development

The Juvenile Justice Statistics and Systems Development (SSD) Program was competitively awarded to the National Center for Juvenile Justice (NCJJ) in FY 1990 to improve national, State, and local statistics on juveniles as victims and offenders. The project has focused on three major functions: (1) Assessment of how current information needs are being met with existing data collection efforts and recommending options for improving national level statistics; (2) analyzing data and disseminating information gathered from existing Federal statistical series and national studies. Based on this work, OJJDP released the first "Juvenile Offenders and Victims: A National Report" in September 1995; and (3) provision of training and technical assistance for local agencies in developing or enhancing management information systems. A training curriculum, "Improving Information for Rational Decision making in Juvenile Justice," was drafted for pilot testing.

In this final phase of the SSD project, NCJJ will complete a long-term plan for improving national statistics on juveniles as victims and offenders, including constructing core data elements for a national reporting program for juveniles waived or transferred to criminal court, an implementation plan for integrating data collection on juveniles by juvenile justice, mental health, and child welfare agencies, and a report on standardized measures and instruments for self-reported delinquency surveys. The project will also make recommendations to fill information gaps in the areas of juvenile probation, juvenile court and law enforcement responses to juvenile delinquency, violent delinquency, and child abuse and neglect. In addition, the SSD Project will provide an update of Juvenile Offenders and Victims: A National Report, and work with the Office of Justice Programs, Crime Statistics Working Group and other Federal interagency working groups on statistics. The project will be implemented by the current grantee, NCJJ. No additional applications will be solicited in FY 1996.

Research Program on Juveniles Taken Into Custody—NCCD

The Research Program on Juveniles Taken into Custody was designed and implemented in FY 1989 in response to a growing need for comprehensive juvenile custody data. The project now has the participation of all State juvenile corrections agencies. Each year the project produces a report on juveniles taken into custody. In FY 1996, the National Council on Crime and Delinquency (NCCD) will continue to refine the State Juvenile Correctional System Reporting Program. It is anticipated that individual-level data for 1996 will be representative of more than 85 percent of the at-risk juvenile population. In addition, NCCD will prepare reports, including the annual Juveniles Taken Into Custody report, providing a detailed summary and analysis of the most recent data regarding: (1) The number and characteristics of juveniles taken into custody; (2) the rate at which juveniles are taken into custody; and (3) the trends demonstrated by the data.

This program will be implemented by the current grantee, NCCD. No additional applications will be solicited in FY 1996.

Juveniles Taken Into Custody (JTIC)—Interagency Agreement

OJJDP will continue its program to improve the collection of juvenile custody data through an interagency agreement with the Bureau of the Census. This agreement provides for the collection and processing of individual-level data on juveniles under State correctional custody. The Census Bureau and OJJDP have developed close working relationships with State juvenile corrections agencies. Through these relationships, OJJDP has developed a program to collect data on each juvenile in State custody and the Census Bureau has developed an understanding of the State date that allows for "translation" of State information to a national format. Each year since 1990, the Census Bureau has collected this information and processed it for analysis by the National Council on Crime and Delinquency (NCCD).

The resulting analyses are published in OJJDP's annual Juveniles Taken Into Custody report, which is disseminated to practitioners and planners, and are used to meet statutory information requirements in OJJDP's Annual Report to the President and Congress.

The program will be implemented in FY 1996 by the Bureau of the Census under an interagency agreement.

Children in Custody—Census

Under this ongoing collaborative program between OJJDP and the U.S. Bureau of the Census, OJJDP will transfer funds to the Census Bureau to complete the 1995 biennial census of public and private juvenile detention, correctional, and shelter facilities. The census describes juvenile custody facilities in terms of their resident population, programs, and physical characteristics. It also provides data on trends in the use of juvenile custody facilities for delinquent juveniles and status offenders. These data are analyzed and included in OJJDP's annual Juveniles Taken Into Custody report and other statistical reports.

The Census Bureau's Center for Survey Methods Research will also continue to develop and test a roster-based data collection system designed to enhance information collected on juveniles in custody beginning with the 1997 biennial census. Finally, the Bureau's Governments Division will continue its efforts to develop a complete directory of juvenile justice facilities and programs. This directory will serve as the frame for conducting the 1997 census and other future surveys. It will contain basic information on each facility that is necessary for creating representative samples. It will also contain basic administrative information to be used in conducting the census.

The program will be implemented by the U.S. Bureau of the Census under an existing interagency agreement.

Juvenile Justice Data Resources

OJJDP has entered into an agreement with the Inter-University Consortium for Political and Social Research (ICPSR) at the University of Michigan to make OJJDP data sets routinely available to researchers. Under this agreement, ICPSR assures the technical integrity

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and develops a universal format for the data. The codebooks, along with the data, provide clear guidance for additional analyses. Once prepared, ICPSR provides access to these data sets to member institutions and the public. Among the data sets previously processed and available through ICPSR are the Children in Custody Census (1971–1991); the Conditions of Confinement Study; and the National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children (NISMART).

This program will be implemented under an interagency agreement with ICPSR. No additional applications will be solicited in FY 1996.

National Juvenile Court Data Archive*

The National Juvenile Court Data Archive collects, processes, analyzes, and disseminates automated data and published reports from the Nation's juvenile courts. The Archive's reports examine referrals, offenses, intake, and dispositions, in addition to providing specialized topics such as minorities in juvenile courts and information on specific offense categories. The Archive also provides assistance to jurisdictions in analyzing their juvenile court data. In 1995, this project produced a bulletin, Offenders in Juvenile Court 1992, and a report, Juvenile Court Statistics 1992, along with a number of OJJDP Fact Sheets and special analyses.

In FY 1996, the Archive will enhance the collection, reporting, and analysis of more detailed data on detention, dispositions, risk factors, and treatment data using offender-based data sets from a sample of juvenile courts.

The project will be implemented by the current grantee, the National Center for Juvenile Justice. No additional applications will be solicited in FY 1996.

National Juvenile Justice and Delinquency Prevention Training and Technical Assistance Center

The National Juvenile Justice and Delinquency Prevention Training and Technical Assistance Center (NTTAC) was competitively funded in FY 1995 for a 3-year project period to develop a national training and technical assistance clearinghouse, inventory juvenile justice training/technical assistance resources, and establish a data base with respect to these resources.

In FY 1995, work involved organization and staffing of the Center, providing an orientation for OJJDP training and technical assistance providers regarding their role in the Center's activities, and initial data base development.

In FY 1996, NTTAC will conduct needs assessments, support training/technical assistance program development, promote collaboration between OJJDP training/technical assistance providers, develop training/technical assistance materials, and promote evaluation of OJJDP-supported training and technical assistance. In addition, NTTAC will prepare program materials and implement specialized training, including training-of-trainers programs, and develop standards and procedures for academic/professional accreditation/certification of OJJDP training and trainers. NTTAC provides a single, central source for information pertaining to the availability of OJJDP supported training/technical assistance programs and will publish and maintain an up-to-date catalog of such programs.

This project will be implemented by the current grantee, Community Research Associates. No additional applications will be solicited in FY 1996.

Technical Assistance for State Legislatures

State legislatures are being pressed to respond to public fear of juvenile crime and a loss of confidence in the capability of the juvenile justice system to respond effectively. For the most part, State legislatures have had insufficient information to properly address juvenile justice issues. In FY 1995, OJJDP awarded a two-year grant to the National Conference of State Legislators (NCSL) to provide relevant, timely information on comprehensive approaches in juvenile justice that are geared to the legislative environment. In FY 1995, NCSL convened a Leadership Forum with invited legislators; convened several focus groups; and established an information clearinghouse function. In FY 1996, OJJDP will award second-year funding to the NCSL to further identify, analyze, and disseminate information to help State legislatures make more informed decisions about legislation affecting the juvenile justice system. A complementary task will involve supporting increased communication between State legislators and State and local leaders who influence decision making regarding juvenile justice issues. NCSL will provide technical assistance to four States, will continue outreach activities, and maintain its clearinghouse function.

The project will be implemented by the current grantee, NCSL. No additional applications will be solicited in FY 1996.

OJJDP Technical Assistance Support Contract: Juvenile Justice Resource Center

This 3-year contract, competitively awarded in FY 1994, provides technical assistance and support to OJJDP, its grantees, and the Coordinating Council on Juvenile Justice and Delinquency Prevention in the areas of program development, evaluation, training, and research. This program support contract will be supplemented in FY 1996. The contract will be implemented by the current contractor, Aspen Systems Corporation. No additional applications will be solicited in FY 1996.

Juvenile Justice Clearinghouse

A component of the National Criminal Justice Reference Service (NCJRS), the Juvenile Justice Clearinghouse (JJC) is OJJDP's central source for the collection, synthesis, and dissemination of information on all aspects of juvenile justice, including research and evaluation findings: State and local juvenile delinquency prevention and treatment programs and plans; availability of resources; training and educational programs; and statistics. JJC serves the entire juvenile justice community, including researchers, law enforcement officials, judges, prosecutors, probation and corrections staff, youth-service personnel, legislators, the media, and the public.

Among its many support services, JJC offers toll-free telephone access to information: prepares specialized responses to information requests; produces, warehouses, and distributes OJJDP publications; exhibits at national conferences; maintains a comprehensive juvenile justice library and database; and administers several electronic information resources. Recognizing the critical need to inform juvenile justice practitioners and policy makers on promising program approaches, JJC continually develops and recommends new products and strategies to communicate more effectively the research findings and program activities of OJJDP and the field. The entire NCJRS, of which the OJJDP-funded JJC is a part, is administered by the National Institute of Justice under a competitively awarded contract. The project will be implemented by the current grantee, Aspen Systems Corporation. No additional applications will be solicited in FY 1996.

Telecommunications Assistance

Developments in information technology and distance training can expand and enhance OJJDP's capacity to disseminate information and provide training and technical assistance. These technologies have the following advantages when used properly: increased access to information and training for persons in the juvenile justice system; reduced travel costs to conferences; and reduced time attending meetings requiring one or more nights away from one's home or office. Additionally, the successful use of "live" satellite teleconferences by OJJDP during the past year has generated an enthusiastic response from the field.

During the past twelve months the grantee has produced four live satellite teleconferences on the following topics: Community Collaboration for Delinquency Prevention; Model Juvenile Correctional Programs for Serious, Violent, Chronic Offenders; Youth Focused Community Policing; and Juvenile Boot Camps.

OJJDP will continue the competitive cooperative agreement award to Eastern Kentucky University in 1994 to provide program support and technical assistance for a variety of information technologies, including audio-graphics, satellite teleconferences, and fiber optics. The grantee will also continue to provide limited technical assistance to other grantees interested in using this technology and explore linkages with key constituent groups to advance mutual goals and objectives. This project will be implemented by the current grantee, Eastern Kentucky University. No additional applications will be solicited in FY 1996.

Coalition for Juvenile Justice

The Coalition for Juvenile Justice supports and facilitates the purposes and functions of each State's Juvenile Justice State Advisory Group (SAG). The Coalition, acting as a statutorily authorized, duly chartered Federal advisory committee, reviews Federal policies and practices regarding juvenile justice and delinquency prevention, and prepares and submits an annual report and recommendations to the President, Congress, and the Administrator of OJJDP. The Coalition also serves as an information center for the SAGs and conducts an annual conference to provide training for SAG members. The program will be implemented by the current grantee, the Coalition for Juvenile Justice. No additional applications will be solicited in FY 1996.

Insular Area Support*

The purpose of this program is to provide supplemental financial support to the U.S. Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (Palau), and the Commonwealth of the Northern Mariana Islands. Funds are available to address the special needs and problems of juvenile delinquency in these insular areas, as specified by Section 261(e) of the JJDP Act, as amended, 42 U.S.C. 5665(e).

Public Safety and Law Enforcement

Kids and Guns: Reducing Youth Gun Violence

This project is intended to enhance the effectiveness of comprehensive youth gun violence reduction efforts by supporting innovative local community-generated strategies. Under a competitive announcement, OJJDP will fund community-based organizations, local units of government, and State agencies if they can demonstrate that the program will be community-based, to strengthen their linkages to broader youth gun violence reduction efforts.

Applicants will be encouraged to: be creative in designing initiatives for the prevention, intervention, and reduction of youth gun violence in targeted neighborhoods; coordinate their efforts with other community-based law enforcement initiatives, youth-serving organizations, crime victim organizations, and the juvenile justice system; and collaborate with these agencies to evaluate program effectiveness. Applicants will also be required to show that their proposed initiative reflects current youth gun violence research and a local assessment of youth access to guns, why young people carry guns, and why they use them.

OJJDP will support an independent evaluation of this project that focuses on collecting and analyzing data on the program implementation process. The evaluator will design an impact evaluation in collaboration with OJJDP and an approved advisory board.

The Reducing Youth Gun Violence project will be competitively funded in up to three sites with a 2-year project period. The evaluation will be competitively funded under a cooperative agreement to a single grantee for a 3-year project period.

Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program

This program supports the implementation of a comprehensive gang program model in five jurisdictions. The program was competitively awarded with FY 1994 funds under a 3-year project period. The demonstration sites implementing the model, developed with OJJDP funding support by the University of Chicago, are: Mesa, Arizona; Tucson, Arizona; Riverside, California; Bloomington, Illinois; and San Antonio, Texas. Implementation of the comprehensive gang program model requires the mobilization of the community to address gang-related violence by making available social interventions, providing social/academic/vocational and other types of opportunities, supporting gang suppression through law enforcement, prosecution and other community control mechanisms, and supporting organizational change and development in community agencies to more effectively address gang violence prone youth.

During the past year, the demonstration sites began an ongoing problem assessment process to identify the full nature and extent of the gang problem in the community and its potential causes. The assessment process will also help communities to understand what may cause gang violence in their community and to identify benchmarks by which program success may be measured. The demonstration sites also participated in training and technical assistance activities, including two cluster conferences sponsored by OJJDP. In addition, the demonstration sites began strategy implementation and service provision and made progress in community mobilization, either through existing planning structures or by creating new structures.

In FY 1996, demonstration sites will receive second year funding to continue implementation of the model program and build upon the sustained mobilization, planning and assessment processes. Additionally, the demonstration sites will continue to target youth prone to gang violence through continuing implementation of the program model and work with the independent evaluator of this demonstration program. No additional applications will be solicited in FY 1996.

Targeted Outreach With a Gang Prevention and Intervention Component (Boys and Girls Clubs)

This program is designed to enable local Boys and Girls Clubs to prevent youth from entering gangs and to intervene with gang members in the early stages of gang involvement to divert them from gang activities into more constructive programs. In FY 1996, Boys and Girls Clubs of America would provide training and technical assistance to existing gang prevention and intervention sites and expand the gang prevention and intervention program to 30 additional Boys and Girls

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Clubs, including those in SafeFutures sites. This program will be implemented by the current grantee, the Boys and Girls Clubs of America. No additional applications will be solicited in FY 1996.

National Youth Gang Center

The proliferation of gang problems ranging from large inner cities to smaller cities, suburbs, and even rural areas over the past two decades led to the development by OJJDP of a comprehensive, coordinated response to America's gang problem. This response involves five program components, one of which is the implementation and operation of the National Youth Gang Center (NYGC). The NYGC was competitively funded with FY 1994 funds for a three-year project period. The purpose of the NYGC is to expand and maintain the body of critical knowledge about youth gangs and effective responses to them. NYGC assists State and local jurisdictions in the collection, analysis, and exchange of information on gang-related demographics, legislation, research, and promising program strategies. The Center also coordinates activities of the OJJDP Gang Consortium—a group of Federal agencies, gang program representatives, and service providers. Other major tasks include statistical data collection and analysis on gangs, analysis of gang legislation, gang literature review, identification of promising gang program strategies, and gang consortium coordination activities.

Fiscal Year 1996 funds will support second year funding of the NYGC cooperative agreement to the current grantee, the Institute for Intergovernmental Research. No additional applications will be solicited in FY 1996.

Child Centered Community-Oriented Policing

In FY 1993, OJJDP provided support to the New Haven, Connecticut Police Department and the Yale University Child Development Center to document a child-centered, community-oriented policing model being implemented in New Haven, Connecticut. The basic elements of the model are a 10-week training course in child development for all new police officers and child development fellowships for all community-based district commanders who direct neighborhood police teams. The fellowships provide 4 to 6 hours of training each week over a 3-month period at Yale's Child Study Center. The program also includes: (1) a 24-hour consultation from a clinical professional and a police supervisor to patrol officers who assist children who have been exposed to violence; (2) weekly case conferences with police officers, educators, and child study center staff; and (3) open police stations, located in neighborhoods and accessible to residents for police and related services, community liaison, and neighborhood foot patrols.

In FY 1994, BJA community policing funds helped support the first year of a 3-year training and technical assistance grant to replicate the program nationwide. These funds supported the development of criteria for a request for proposals, protocols for consultation, train-the-trainer sessions for New Haven police and clinical faculty, and the development of a multi-model strategy for data collection and program evaluation. Fiscal Year 1995 OJJDP funds supported continuation of the project's expansion in up to four replication sites.

Fiscal year 1996 funds will support the implementation of the five-phase replication protocol in the four selected sites, replication site data collection and analysis activities, and development of a detailed casebook about the model and program.

This project will be implemented by the current grantee, the Yale University School of Medicine. No additional applications will be solicited in FY 1996.

Law Enforcement Training and Technical Assistance Program

This continuation award will supplement the 3-year law enforcement and technical assistance support contract, competitively awarded in FY 1994 to Fox Valley Technical College in Appleton, Wisconsin. Fiscal year 1996 funds will be used to continue to provide services under the nationwide training and technical assistance program designed to improve law enforcement's capability to respond to juvenile delinquency, to contribute to delinquency prevention, and to address issues of missing and exploited children and child abuse and neglect. Technical assistance under this contract is provided in response to a wide variety of requests from Federal, State, county, and local agencies with responsibility for the prevention and control of juvenile delinquency and juvenile victimization. The contract supports continuation of the Gang, Gun, and Drug Policy Training Program, the Police Operations Leading to Improved Children and Youth Services series of training programs, a Native American Law Enforcement Training Program, and a variety of other law enforcement training programs offered by OJJDP.

This contract will be implemented by the current contractor, Fox Valley Technical College. No additional applications will be solicited for award of FY 1996 funds.

Violence Studies*

The 1992 Amendments to the JJDP Act required OJJDP to fund two-year studies on violence in three urban and one rural jurisdiction. Building on the results of OJJDP's Program of Research on the Causes and Correlates of Delinquency, these studies were to examine the incidence of violence committed by or against juveniles in urban and rural areas of the United States. In FY 1994, OJJDP initiated this program by supporting studies of homicides by and of youth in Milwaukee, Wisconsin and a cross-site study in rural areas in South Carolina, Georgia, and Florida. The grantees are the University of Wisconsin and the University of South Carolina. In FY 1995, OJJDP provided funding for the second year of these studies and initiated two new violence studies in Los Angeles, California, and Washington, D.C. The grantees are the University of Southern California and the Institute for Law and Justice.

These four studies will provide valuable information regarding community violence patterns, with a particular focus on homicide and firearm use involving juveniles. They will also improve the juvenile justice system by identifying strategic law enforcement responses to juvenile violence and by identifying diversion, prevention, and control programs that ameliorate juvenile violence.

During FY 1996, the University of Wisconsin and the University of South Carolina will analyze their data and issue their findings with prior year funds. The University of Southern California will receive FY 1996 funds to identify violence prevention programs and conduct a household survey and interview adolescents and their care givers in Los Angeles County. The Institute for Law and Justice will receive FY 1996 funds to collect and analyze aggregate data from various juvenile justice providers and from a series of interviews with agency staff serving adjudicated juveniles. This will be followed by analysis and the preparation of a comprehensive report.

The program will be continued by the current project grantees. No additional applications will be solicited in FY 1996.

Hate Crimes

In FY 1993, OJJDP competitively awarded a grant to Education

Development Center, Inc. (EDC), to assess existing curriculum materials and develop a multi-purpose curriculum for use in educational and institutional settings. In FYs 1994 and 1995, EDC developed a multi-purpose curriculum for hate crime prevention in school and other classroom settings and the curriculum was pilot tested in the eighth grade of the Collins Middle School in Salem, Massachusetts. Information received in the pilot test was evaluated and the curriculum redesigned. EDC then tested the curriculum in additional sites in New York and Florida to ensure that it was geographically and demographically representative. In consultation with the Office for Victims of Crime, EDC also developed a dissemination strategy for the curriculum and other products, including a judge's guide on sanctions for juveniles who commit hate crimes.

In FY 1996, EDC will identify school districts and juvenile justice agencies across the country who are interested in receiving training in the curriculum. EDC will also provide training to education and juvenile justice personnel in order to foster adoption of the curriculum. The project will be implemented by the current grantee, EDC. No additional applications will be solicited in FY 1996.

Strengthening the Juvenile Justice System

Development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders

The National Council on Crime and Delinquency, in collaboration with Developmental Research and Programs, Inc., has completed Phase I and II of a collaborative effort to support development and implementation of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. Phase I involved assessing existing and previously researched programs in order to identify effective and promising programs that can be used in implementing the Comprehensive Strategy. In Phase II, a series of reports were combined into a Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. Phase II also included convening of a forum, "Guaranteeing Safe Passage: A National Forum on Youth Violence," and holding two regional training seminars for key leaders on implementing the Comprehensive Strategy.

In FY 1996, Phase III of the project will be funded to provide: targeted dissemination of the Comprehensive Strategy at national conferences; intensive training for selected States to implement the Comprehensive Strategy in up to six local jurisdictions; individualized technical assistance for the five Serious, Violent, and Chronic Juvenile Offender Program sites and the six SafeFutures sites; technical assistance to a limited number of individual jurisdictions interested in implementing the Comprehensive Strategy; and continued development of Comprehensive Strategy implementation materials.

The program will be implemented by the current grantees, the National Council on Crime and Delinquency and Developmental Research and Programs, Inc., under third-year funding of this 3-year program. No additional applications will be solicited in FY 1996.

Serious, Violent, and Chronic Juvenile Offender Treatment Program

The Serious, Violent, and Chronic Juvenile Offender Treatment Program is designed to assist local jurisdictions in the development and implementation of a comprehensive strategy for the intervention, treatment, and rehabilitation of juvenile offenders. The program is an extension of an initial effort, funded by OJJDP in 1993, entitled "Accountability-Based Community Intervention (ABC) Program." Under the ABC initiative, Pittsburgh, Pennsylvania and Washington, D.C. were competitively funded to plan and implement a comprehensive graduated sanctions strategy.

In FY 1994, under a competitive announcement, OJJDP awarded funds under the Serious, Violent, and Chronic Offender Treatment Program to three additional jurisdictions (Boston, Massachusetts; Richmond, Virginia; and Jefferson Parish, Louisiana) to develop and implement a graduated sanctions plan. The plan's basic elements include: (1) Assess the existing continuum of secure and nonsecure intervention, treatment, and rehabilitation services in each jurisdiction; (2) define the juvenile offender population; (3) develop and implement a program strategy; (4) develop and implement an evaluation; (5) integrate private nonprofit, community-based organizations into the provision of offender services; (6) incorporate an aftercare program as an integral component of all residential placements; (7) develop a resource plan to enlist the financial and technical support of other Federal, State, and local agencies, private foundations, or other funding sources; and (8) develop a victim assistance component using local organizations.

In FY 1995, the ABC Program jurisdictions completed program funding and in FY 1996, each of the three FY 1994 grantees will receive awards to continue implementation activities. No additional applications will be solicited in FY 1996.

Community Assessment Centers

In FY 1996, OJJDP will identify jurisdictions that have developed assessment programs for juveniles and established linkages to integrated service delivery systems through the use of assessment centers. The concept of community assessment centers, reflecting the use of community input in a center's development and operations, offers many advantages, including comprehensive needs assessments of at-risk, dependent, or delinquent youth; improved access to integrated services; the promotion of alternatives to incarceration; and an enhanced ability to monitor racial and gender disparities in juvenile justice processing through automated information systems. OJJDP will examine current efforts across the Nation in order to identify replicable components or models that meet, or could be adapted to meet, the following goals:

- Ensuring positive outcomes for youth through the provision of comprehensive, community-based assessments that result in the development of an integrated treatment plan while avoiding unnecessary detention.
- Promoting and increasing the use of alternatives to detention and a system of graduated sanctions for delinquent offenders.
- Providing for more accurate and timely monitoring of the processing of at-risk, dependent, or delinquent juveniles to ensure fair and equitable treatment and outcomes in all phases of the juvenile justice system.
- Enhancing access to data or records across disciplines and integrating assessment, case management, and community-based services through the use of automated information systems, consistent with the principles of confidentiality.

If it is determined through this initial survey that a replicable model exists or can be developed, OJJDP will issue a competitive solicitation, late in FY 1996, for the replication or development of the model, including an evaluation component.

Juvenile Restitution: A Balanced Approach

OJJDP will continue support of the juvenile restitution training and technical assistance program in FY

1996. The project design is based on practitioner recommendations regarding program needs and on how best to integrate and institutionalize restitution and community service as key components of juvenile justice dispositions. In 1992, a working group was convened to help map out a plan for optimum development of the components of restitution programs. Plan components include community service, victim reparation, victim-offender mediation, offender employment and supervision, employment development, and other program elements designed to establish restitution as an important element to improving the juvenile justice system. This project is guided by balanced and restorative justice principles, which include the need to provide a balance of community protection, offender competency development, and accountability in programs for sanctioning and controlling juvenile offenders.

In FY 1995, the project assisted three local jurisdictions to implement the "balanced approach," participated in presenting regional "round tables" for States interested in adopting the balanced and restorative justice model, and provided ad hoc technical assistance. In FY 1996 the project will continue this work and also develop guideline materials on the balanced and restorative justice program.

This project will be implemented by the current grantee, Florida Atlantic University. No additional applications will be solicited in FY 1996.

Training and Technical Assistance Program to Promote Gender-Specific Programming for Female Juvenile Offenders

The 1992 Amendments to the JJDP Act, Public Law 102–586, 106 Stat. 4982, addressed for the first time the issue of gender specific services. The Amendments required States participating in OJJDP's State Formula Grants Program to conduct an analysis of gender-specific services for the prevention and treatment of juvenile delinquency, including the types of services available, the need for such services, and a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency.

In FY 1995, the OJJDP Gender Specific Services Program effort focused on providing training and technical assistance directly to States and on providing and promoting the establishment of State level gender-specific programs. Training and technical assistance have been provided to a broad spectrum of policymakers and service providers regarding services for juvenile female offenders.

In addition, OJJDP, in conjunction with the American Correctional Association (ACA), sponsored a National Juvenile Female Offender Conference. The purpose of the Conference was to provide juvenile corrections agency staff with an increased awareness of the unique problems and rehabilitative needs of female offenders and improve skills in working effectively with these offenders. Innovative juvenile female corrections programs were presented, including new approaches and strategies for operating facility-based programs for female offenders.

OJJDP also awarded discretionary grants to implement programs for female juvenile offenders and at-risk girls. Under the competitive Program to Promote Alternative Programs for Juvenile Female Offenders, OJJDP funded programs in Washington, D.C. and Chicago, Illinois. In addition, OJJDP has funded expansion of the Practical and Cultural Education Center for Girls, Inc. (P.A.C.E.) Program in Miami, Florida. Also, in order to provide the field with information regarding existent projects and current research, OJJDP funded Girls, Incorporated to conduct a national gender-specific services forum, which will be held during FY 1996. Finally, OJJDP's six SafeFutures Program sites will implement components designed to establish services for at-risk and delinquent girls.

In FY 1996, OJJDP will award a competitive grant to support a training and technical assistance program designed to build upon the work of these multiple efforts. It will transfer lessons learned, stimulate formulation of State and local policies based upon research findings and statistical trend data, and assist community-based youth serving agencies and juvenile detention and correctional programs to initiate, refine, and expand gender-specific programming that utilizes the strengths and capabilities unique to females.

In FY 1996, one two-year project period award will be made based upon a competitive solicitation.

Technical Assistance to Native American Programs

Native American programs for juveniles are facing increasing pressures because of the increasing numbers of youth who are involved in drug abuse, gang activity, and delinquency. Many reservations are experiencing the problems that plague communities nationwide: gang activity; violent crime; use of weapons; and increasing drug and alcohol abuse.

From FYs 1992 to 1995, OJJDP funded four Native American sites to support the development of programs to impact these problems. These sites are Gila River, Pueblo Jemez, the Navajo Nation, and the Red Lake Band of Chippewas. Each of these sites has been implementing programs specifically designed to meet the needs of the tribe. In Gila River an alternative school has been developed and implemented. The Navajo Nation has expanded the Peace Maker program to accommodate additional delinquent offenders and this approach has been adapted to the Red Lake and Pueblo Jemez communities. Additional programming, such as job skills development, has also been developed in some of the sites to meet the needs of their youth.

Although these programs have been successful, there is a need at these sites to expand programming options such as gang prevention and intervention programs. Other Native American Tribes have similar problems and needs, as do programs for Native Americans in many major metropolitan areas.

OJJDP will fund a national technical assistance program to support the development of additional programming for the four sites that OJJDP currently funds and to extend programming support to Tribes and urban tribal programs across the country. OJJDP will fund a technical assistance provider to provide direct technical assistance and to coordinate the delivery of technical assistance by other experts. This will be a three-year technical assistance program.

National Indicators of Juvenile Violent and Delinquent Behavior and Related Risk Factors

The difficulty of using juvenile arrests as a reliable measure of the level and nature of juvenile crime is well known. While juvenile arrest statistics have been useful as a barometer of juvenile involvement in crime, there are many critical dimensions in measuring this phenomenon that cannot be captured by any method other than direct measures of self-reported delinquency. The Department of Labor's Bureau of Labor Statistics is launching a 12,000-subject survey of 12—17-year-old juveniles that provides an opportunity to supplement the data collection by asking relevant questions about delinquency, guns, and violence. This longitudinal survey also provides an unprecedented opportunity to determine the generalizability of the findings from OJJDP's Program of Research on the Causes and Correlates of Delinquency across a broad range of juvenile populations. A transfer of funds will be made to the Department of Labor.

Evaluation of the Comprehensive Community-Wide Approach to Gang Prevention, Intervention and Suppression Program

The University of Chicago, School of Social Services Administration, received a competitive cooperative agreement award in FY 1994. This four-year project period award supports an evaluation of OJJDP's Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program. The evaluation will assist the five program sites in establishing realistic and measurable objectives, to document program implementation, and to measure the impact of a variety of gang program strategies. It will also provide interim feedback to the program implementors. The five sites are Bloomington, Illinois; Mesa, Arizona; Tucson, Arizona; Riverside, California; and San Antonio, Texas.

In FY 1996, the grantee will: design and implement organizational surveys and youth interviews; develop and implement program tracking and worker questionnaires and interviews; gather and track aggregate level offense/offender client data from police, prosecutor, probation, school, and social service program sources; develop and implement uniform individual level criminal justice data collection efforts; consult with local evaluators on development and implementation of local site parent/community resident surveys; and coordinate ongoing efforts with local researchers conducting special surveys of gang youth in the program.

This project will be continued by the current grantee, the University of Chicago, School of Social Services Administration. No additional applications will be solicited in FY 1996.

Evaluation of Intensive Community-Based Aftercare Demonstration and Technical Assistance Program

The National Council on Crime and Delinquency (NCCD) received a 3-year competitive FY 1994 grant to conduct a process evaluation and design an impact evaluation of the Intensive Community-Based Aftercare Demonstration and Technical Assistance Program at sites in Colorado, New Jersey, Nevada, and Virginia. NCCD's initial award funded the design and implementation of the process evaluation, the design of an impact evaluation, and start-up data collection. A report on the process evaluation will be submitted in the spring of 1996. Fiscal Year 1996 funding will enable NCCD to begin the impact evaluation. Because of the excellent progress made during the first two years on the process evaluation, OJJDP will extend this program for three additional years to allow sufficient time for completion of an impact evaluation.

The project will be implemented by the current grantee, NCCD. No additional applications will be solicited in FY 1996.

Juvenile Mentoring Program (JUMP) Evaluation

The Juvenile Mentoring Program (JUMP) was funded at 41 sites by OJJDP in FY 1995. In compliance with Part G, Section 288H of the JJDP Act, all JUMP sites are participating in a national evaluation designed to determine the success and effectiveness of JUMP in reducing delinquency and gang participation, improving academic performance, and reducing the dropout rate. Each program participant has been provided with a JUMP Evaluation Workbook containing data collection instruments and instructions on their use. It provides for the collection of data on delinquency, school performance, family functioning, and project operations. Grantees are responsible for collecting and analyzing site data and preparing periodic evaluation reports for OJJDP.

The evaluation grantee will be expected to: assist the sites in implementing the JUMP Evaluation Workbook; provide other evaluation technical assistance to the funded sites; and complete a cross-site evaluation of results from the 41 sites at the end of the JUMP program grants. A draft report to Congress will be prepared based on the cross-site evaluation.

One two-year cooperative agreement will be competitively awarded to carry out this program.

Juvenile Transfers to Criminal Court Studies

States are increasingly enacting juvenile code revisions broadening judicial waiver authority, providing prosecutor direct file authority, and mandating transfer of older, more violent juveniles to criminal court. Many States are also developing innovative procedures, such as blending traditional features of juvenile and criminal justice sentencing practices, through statutes that categorize juvenile offenders into different classes according to the seriousness of the offense, designating juvenile or criminal court for each class, or providing judges with discretion to make these judgments at sentencing. Studies of the impact of criminal court prosecution of juveniles have yielded mixed conclusions. Solid research on the intended and unintended consequences of transfer of juveniles to criminal court will enable policy makers and legislatures to develop statutory provisions and policies and improve judicial and prosecutorial waiver and transfer decisions.

To address this shortage of research programs, OJJDP competitively funded two juvenile waiver and transfer research projects in FY 1995. The first, awarded to the National Center for Juvenile Justice, compares juvenile and criminal court handling of juveniles in four States that authorize judicial waiver of serious and violent juvenile offenders and mandate criminal court handling for specified categories of juvenile offenders. The second study, awarded to the Florida Juvenile Justice Advisory Board, evaluates Florida's system of blending the option of criminal and juvenile justice system sentencing to handle serious or violent juvenile offenders. Additional funding is planned in FY 1996 to enable the projects to collect case specific information on sentence completion and recidivism data to provide a more definitive assessment of the impact of criminal versus juvenile justice system handling of serious and violent offender cases.

The projects will be implemented by the current grantees, the National Center for Juvenile Justice and the Florida Juvenile Justice Advisory Board. No additional applications will be solicited in FY 1996.

Technical Assistance to Juvenile Courts*

The National Center for Juvenile Justice (NCJJ), the research division of the National Council of Juvenile and Family Court Judges, provides technical assistance under this grant for juvenile court practitioners. The focus of the technical assistance is on court administration and management, program development, and special legal issues. During FY 1995, NCJJ responded to over 830 requests for technical assistance.

In FY 1996, special emphasis will be placed on appropriate sanctions for handling serious, violent, and chronic juvenile offenders and other emerging issues confronting the juvenile court, such as the increased use of waivers and transfers. The program will be implemented by the current grantee, NCJJ. No additional applications will be solicited in FY 1996.

Juvenile Court Judges Training*

The primary focus of this project in FY 1996 will be to continue and refine the training and technical assistance program offered by the National Council of Juvenile and Family Court Judges. The objectives of the training are to supplement law school curriculums by providing basic training to new juvenile court judges and to and provide experienced judges with state-of-the-art training on developments in juvenile and family case law and effective dispositional options. Emphasis is also placed on alcohol and substance abuse, child abuse and neglect, gangs and violence, disproportionate incarceration of minority youth, and intermediate sanctions. Training is also provided to other court personnel, including juvenile probation officers, aftercare workers, and child protection and community treatment providers. In FY 1995, over 13,000 judges and court personnel received training through some 80 different programs. In addition, over 800 training related technical assistance requests were completed.

The project will be implemented by the current grantee, the National Council of Juvenile and Family Court Judges. No additional applications will be solicited in FY 1996.

The Juvenile Justice Prosecution Unit

OJJDP has historically supported prosecutor training activities through the National District Attorneys' Association (NDAA). To continue that work, OJJDP awarded a 3-year project period grant in FY 1995 to the American Prosecutor Research Institute (APRI) which is the research and technical affiliate of NDAA, to establish a Juvenile Justice Prosecution Unit (JJPU). The JJPU implements workshops on juvenile justice related policy, leadership, and management for chief prosecutors and unit chiefs; provides background information to prosecutors on juvenile justice issues and programs; provides training; and provides technical assistance to prosecutors.

The project is based on planning and input by prosecutors familiar with juvenile justice needs. The project draws on the expertise of working groups of elected or appointed prosecutors and juvenile unit chiefs to support project staff in providing technical assistance, juvenile justice-related research and program information to practitioners nationwide, and training. Start up activities focused on the collection of information through a questionnaire that was sent to every prosecutors' office regarding juvenile programs. APRI also sponsored a National Invitational Symposium on Juvenile Justice which provided a forum for prosecutors to exchange ideas, programs, issues, legislation, and practices in juvenile justice. APRI will conduct three workshops for elected and appointed prosecutors and juvenile unit chiefs to help improve prosecutor involvement in the prosecution and prevention of juvenile delinquency.

The project will be implemented by the current grantee, APRI. No additional applications will be solicited in FY 1996.

Due Process Advocacy Program Development

In FY 1993, OJJDP funded the American Bar Association (ABA), in partnership with the Juvenile Law Center (JLC) of Philadelphia, Pennsylvania, and the Youth Law Center (YLC) of San Francisco, California, to develop strategies to improve due process and the quality of legal representation. The goals of the program are to increase juvenile offenders' access to legal services and to improve the quality of preadjudication, adjudication, and dispositional advocacy for juvenile offenders. The strategies developed will be made available to State and local bar associations and other relevant organizations so that they can develop approaches to increase the availability and quality of counsel for juveniles.

In FYs 1994 and 1995, the ABA, JLC, and YLC conducted an assessment of the current state of the art with regard to legal services, training, and education. This survey included a review of literature, case law, State statutes, and a survey of public defenders, court appointed lawyers, law school clinical programs, and judges. A report, entitled "A Call for Justice, An assessment of the Access to Counsel and Quality of Representation in Delinquency Proceedings" was developed and published by the ABA. It has been widely distributed to State and local bar associations, Chairs of State Juvenile Justice Advisory Committees, participants in the ABA survey, the National Association of Child Advocates, and others.

In FY 1996, training is scheduled to begin with the first training being provided to the States of Tennessee, Maryland, and Virginia. The structure and scope of the training will be tailored to fit the needs of each site. A training manual, under development, will cover training on key issues such as detention, transfer or waiver, and dispositions. It is designed to fill gaps in existing training programs. The ABA and its partners will also establish networks with public defenders offices, children's law centers, and others through the HANDSNET system and mailings that provide program updates.

This program will be implemented by the current grantee, ABA. No additional applications will be solicited in FY 1996.

Intensive Community-Based Aftercare Demonstration and Technical Assistance Program

This initiative is designed to support implementation, training and technical assistance, and evaluation of an intensive community-based aftercare model in four jurisdictions that were competitively selected to participate in this demonstration program. The overall goal of this intensive aftercare model is to identify and assist high-risk juvenile offenders to make a gradual transition from secure confinement back into the community. The Intensive Aftercare Program (IAP) model can be viewed as having three distinct, yet overlapping segments: (1) pre-release and preparatory planning activities during incarceration; (2) structured transitioning involving the participation of institutional and aftercare staffs both prior to and following community reentry; and (3) long-term reintegrative activities to insure adequate service delivery and the required level of social control.

In FY 1994, The Johns Hopkins University received a grant to test an intensive community-based aftercare model in four demonstration sites: Denver (Metro), Colorado; Clark County (Las Vegas), Nevada; Camden and Newark, New Jersey; and Norfolk, Virginia. Each of the four sites received additional funds to support program implementation in FY 1995. The Johns Hopkins University contracts with California State University at Sacramento to assist in the implementation process by providing training and technical assistance and by making funds available through contracts to each of the four demonstration sites. Each of the sites have developed risk assessment instruments for use in selecting specific youth who need this type of intensive aftercare intervention, hired and trained staff in the intensive aftercare model, identified existing and needed community support (intervention) services, and identified data necessary for an accurate evaluation of the intensive community-based aftercare program. In addition, each of the sites has begun random assignment of clients to the program. The Johns Hopkins University and its sub-contractor, California State University at Sacramento, have provided continuous training and technical assistance to both administrators/managers and line staff in the intensive community-based aftercare sites. Staff have been trained in the theoretical underpinnings of the IAP model as well as in the practical applications of the model, such as techniques for identifying juveniles appropriate for the program. Training and technical assistance in this model have also been available to other States and OJJDP grantees on a limited basis.

In FY 1996, the sites will continue to implement and test the aftercare model. An independent evaluation contractor is performing a process evaluation and has designed an impact evaluation to be implemented under a separate grant.

The Johns Hopkins University will provide continuing training and technical assistance to the four selected sites and will initiate aftercare technical assistance services to jurisdictions participating in the OJJDP/Department of the Interior Youth Environmental Services (YES) Program and to OJJDP's six SafeFutures Program sites. This funding supports the third budget period of a 3-year project period.

This project will be implemented by the current grantee, The Johns Hopkins University. No additional applications will be solicited in FY 1996.

Training and Technical Assistance for National Innovations to Reduce Disproportionate Minority Confinement (The Deborah Wysinger Memorial Program)

National data and studies have shown that minority children are over represented in juvenile and criminal justice facilities across the country. Accordingly, Congress, in the 1988 reauthorization of the JJDP Act, amended the Formula Grants Program State plan requirements to include addressing disproportionate confinement of minority juveniles. This is accomplished by gathering data, analyzing it to determine the extent to which minority juveniles are disproportionately confined, and designing strategies to address this issue. A Special Emphasis discretionary grant program was developed to demonstrate model approaches to addressing disproportionate minority confinement (DMC) in five State pilot sites (Arizona, Florida, Iowa, North Carolina, and Oregon). Funds were also awarded to a national contractor to provide technical assistance to assist both the pilot sites and other States, to evaluate their efforts, and share relevant information.

In FYs 1994 and 1995, OJJDP made additional Special Emphasis discretionary funds available to non-pilot States that had completed data gathering and assessment in order to provide initial funding for innovative projects designed to address DMC.

These efforts to impact DMC have yielded an important lesson: that systemic, broad-based interventions are necessary to reduce DMC. OJJDP recognizes the need to foster the development and documentation of effective strategies using training, technical assistance, information dissemination, provision of practical and targeted resource tools, and public education. In order to further these strategies, OJJDP proposes to competitively solicit innovative proposals to implement a 3-year national training, technical assistance, and information dissemination initiative focused on the disproportionate confinement of minority youth. The selected grantee will: (1) review and synthesize current State and local practices and policies designed to reduce DMC; (2) develop and deliver training to juvenile justice specialists, SAG Chairs, and selected grantees to inform them of DMC requirements, best practices and issues; (3) assist key OJJDP grantees to incorporate DMC issues, practices and policies into their training and education programs (key grantees are those training and technical assistance providers working with police, the courts and juvenile detention staff, SafeFutures sites, Title V, and some State Challenge Program grant recipients); (4) assist the eight current DMC grantees to manage and institutionalize their programs; (5) support the Formula Grants Program technical assistance contractor and OJJDP staff in reviewing State DMC plans; and (6) develop and carry out a national dissemination and public education program on DMC and help States and localities develop similar local education programs.

The selected DMC grantee will coordinate with OJJDP's National Training and Technical Assistance Center and other OJJDP contractors to identify OJJDP program areas where DMC policies and practices can be integrated into ongoing program activities. The DMC grantee and the National Training and Technical Assistance Center will also collaborate in the development of toolkits and resource products—screening tools, assessment, and training components—to be used by jurisdictions at each stage of their DMC data gathering, assessment and program response cycle. Other resource products will include educational curricula, technical assistance protocols for working with courts, police, intake services, probation and prosecutor's offices, assessment and screening tools, and planning and analysis tools for juvenile justice specialists.

OJJDP will competitively award a single grant to implement a 3-year national training, technical assistance, and information dissemination initiative focused on the disproportionate confinement of minority youth.

Juvenile Probation Survey Research

Juvenile probation is one of the most critical areas of the juvenile justice system. However, there is presently very little information available on juveniles on probation. We do not know how many juveniles are on probation, their demographic characteristics, their offenses, or the conditions of their probation, including length, residential confinement, electronic monitoring, restitution, etc. This project will conduct survey research and develop a questionnaire to collect this important information. As States operate their juvenile probation systems in very different manners, this project will also examine how these differences affect the information collected.

OJJDP plans to undertake a 2-year project to complete this research through an interagency agreement with the Bureau of the Census.

Improvements in Correctional Education for Juvenile Offenders

The Improvements in Correctional Education for Juvenile Offenders Program, a program development and demonstration initiative, was awarded to the National Organization for Social Responsibility (NOSR) in FY 1992. It is being implemented in three phases: identification, assessment, and testing and dissemination. The purpose of the Program is to assist juvenile corrections administrators in planning and implementing improved educational services for detained and incarcerated juvenile offenders.

During the 3-year project period, the grantee implemented the first two phases of the program. An extensive literature search of effective education practices was undertaken and a report on effective practices in juvenile corrections education was published and a training and technical assistance manual were published. In addition, three State juvenile corrections facilities were selected as model sites for testing effective educational practices. The sites are: Adobe Mountain School, Arizona; Lookout Mountain Youth Center, Colorado; and Sauk Centre, Minnesota.

In FY 1995, NOSR received funding to implement Phase III, testing and

dissemination. The three model test sites are receiving site specific technical assistance in the assessment of their educational programs and in the development and implementation of effective educational practices, including reintegration of appropriate juveniles back into the mainstream education system.

Fiscal Year 1996 funds will be used to assist each site to enhance its curriculum and implementation strategy to better address the needs of the juveniles they serve.

The project will be implemented by the current grantee, NOSR. No additional applications will be solicited in FY 1996.

Performance-Based Standards for Juvenile Detention and Correctional Facilities

There is a need to increase the accountability of detention and correctional agencies, facilities, and staff in performing their basic functions. The development of performance-based standards has emerged as a primary strategy for improving conditions of confinement. This program supports the development and implementation of performance-based standards for juvenile detention and corrections. The performance measures and standards being developed will address both services and the quality of life for confined juveniles. They will reflect the consensus of a broadly representative group of national organizations on the mission, goals, and objectives of juvenile detention and corrections. OJJDP plans to promote nationwide adoption and implementation of the measures and standards through a future training and technical assistance program.

In FY 1995, OJJDP awarded a competitive 18-month cooperative agreement to the Council of Juvenile Corrections Administrators (CJCA) to develop national performance-based standards for juvenile detention and correctional facilities. A National Consortium of major professional and advocacy organizations is providing technical advice and support in all aspects of the development and implementation of the standards. The project will focus on standards in the areas of: safety; security; order; programming/treatment/education; health; and justice.

During FY 1996, the working groups will complete the drafting of performance criteria and measures, as well as assessment tools for monitoring performance in all substantive areas. In addition, all materials will be field tested and revised as needed. A plan for implementation will also be submitted.

By 1997, initial performance standards and a measurement system will be developed along with specific plans for an 18-month period of intensive demonstration and testing of the performance-based standards and their impact on juvenile corrections and detention programming.

The program will be implemented by the current grantee, CJCA. No additional applications will be solicited in FY 1996.

Technical Assistance to Juvenile Corrections and Detention (The James E. Gould Memorial Program)

The primary purpose of the Technical Assistance to Juvenile Corrections and Detention project is to provide specialized technical assistance to juvenile corrections, detention, and community residential service providers. The grantee, the American Correctional Association (ACA), also plans and convenes an annual Juvenile Corrections and Detention Forum. The Forum provides an opportunity for juvenile corrections and detention leaders to meet and discuss issues, problems, and solutions to emerging corrections and detention problems. The ACA also provides workshops and conferences on current and emerging national issues in the field of juvenile corrections and detention and offers technical assistance through document dissemination. OJJDP awarded a FY 1995 competitive grant to ACA to provide these services over a three-year project period. The project will be implemented by the current grantee, ACA. No additional applications will be solicited in FY 1996.

Training for Juvenile Corrections and Detention Staff

In FY 1996, OJJDP will continue to support the development and implementation of a comprehensive training program for juvenile corrections and detention management staff through an interagency agreement with the National Institute of Corrections (NIC). The program is designed to offer a core curriculum for juvenile corrections and detention administrators and mid-level management personnel in such areas as leadership development, management, training of trainers, legal issues, cultural diversity, the role of the victim in juvenile corrections, juvenile programming for specialized needs of offenders, and managing the violent or disruptive offender. The training is conducted at the NIC Academy and regionally. This program is a continuation activity, initiated in FY 1991 under an interagency agreement with NIC that was renewed in FY 1994. No additional applications will be solicited in FY 1996.

Training for Line Staff in Juvenile Detention and Corrections

In FY 1994, the National Juvenile Detention Association (NJDA) was awarded a competitive three-year project period grant to establish a training program to meet the needs of the more than 38,000 line staff of juvenile detention and corrections facilities. In the first year under the grant, NJDA revised and updated a 40-hour Detention Careworker curriculum, developed a 24-hour Train-the-Trainer for the Detention Careworker curriculum, conducted 16 separate trainings and developed new lesson plans in 7 substantive areas, conducted a national training needs assessment for juvenile corrections careworkers, and provided technical assistance to 37 agencies and training to 887 line staff.

In FY 1996, NJDA will continue to offer training to practitioners, develop new curriculums around emerging issues, and complete the development and testing of a 40-hour basic careworker curriculum for juvenile corrections line staff. Additionally, NJDA will deliver selected training programs for juvenile detention and corrections line staff on a number of topical issues.

This project will be implemented by the current grantee, NJDA. No additional applications will be solicited in FY 1996.

Training and Technical Support for State and Local Jurisdictional Teams To Focus on Juvenile Corrections and Detention Overcrowding

The Conditions of Confinement: Juvenile Detention and Correctional Facilities Research Report (1994), completed by Abt Associates under an OJJDP grant, identified overcrowding as the most urgent problem facing juvenile corrections and detention facilities. Overcrowding in juvenile facilities is a function of decisions and policies made at the State, county, and city levels. The trend in a number of jurisdictions toward an increased use of detention and commitment to State facilities has been reversed when key decision makers, such as the chief judge, chief of police, director of the local detention facility, head of the State juvenile correctional agency, and others who affect the flow of juveniles through the system, agree to make decisions collaboratively and to modify practices and policies. In some instances modification has occurred in response to court orders. Compliance with court orders is improved with the support of enhanced interagency communication and planning among those agencies affecting the flow of juveniles through the system.

In addressing the problems of overcrowded facilities, OJJDP considered the recommendations of the Conditions of Confinement study regarding overcrowding, the data on over representation of minority youth in confinement, and other information that suggests crowding in juvenile facilities must be reduced. Policy makers can do this by increasing capacity, where necessary, or by taking other steps to control crowding. This project, competitively awarded to the National Juvenile Detention Association (NJDA) in FY 1994 for a three-year project period, provides training and technical assistance materials for use by State and local jurisdictional teams. In FY 1995, the project collected information on strategies that are used or could be used to control crowding, and prepared training and technical assistance materials. Based on the demonstrated need for assistance and related criteria, NJDA will select three jurisdictions in FY 1996 for onsite development, implementation, and testing of crowding reduction procedures, and will provide regional training on these procedures to other jurisdictions.

A FY 1996 continuation award will be made to the current grantee, the National Juvenile Detention Association. No additional applications will be solicited in FY 1996.

National Program Directory

In FY 1995, OJJDP initiated the development of a National Program Directory, a national list of all juvenile justice offices, facilities, and programs in the United States, through the Bureau of the Census. The Census Bureau developed a directory format for juvenile detention and correctional facilities, which would contain the addresses and phone numbers of localities, names and titles of directors, and important classification information, classify facilities by the agency or firm that operates them, and list the functions of the facility. This structure was developed specifically to provide OJJDP with the ability to conduct surveys and censuses of juvenile custody facilities. The effort placed into developing this structure would also translate to other areas, such as a list of juvenile probation offices.

Beyond developing the computer structure, this project will develop, in FY 1996, the actual sampling frame or address list. The development of complete frames for any segment of the juvenile justice system requires many different approaches. The Census Bureau will use contacts with professional organizations to compile a preliminary list of juvenile facilities, courts, probation offices, and programs. The Census Bureau will then seek contacts in each State for further clarification of the lists, following up until a complete list of all programs of interest has been compiled. This program will be funded through an interagency agreement with the Census Bureau. No additional applications will be solicited in FY 1996.

Delinquency Prevention and Intervention

Training in Risk-Focused Prevention Strategies

OJJDP will provide additional training in FY 1996 to communities interested in developing a risk-focused delinquency prevention strategy. This training supports OJJDP's Title V Delinquency Prevention Incentive Grants Program, codified at 42 U.S.C. § 5781–5785, by providing the knowledge and skills necessary for State, local, and private agency officials and citizens to identify and address risk factors that lead to violent and delinquent behavior in children. In FYs 1994 and 1995, this training was offered to all States, territories, and the District of Columbia that received discretionary grants from OJJDP to implement the Title V Program.

OJJDP awarded a new contract with FY 1995 funds to perform ongoing tasks and provide prevention training in the following areas: (1) orientation on risk and resiliency-focused prevention theories and strategies for local community leaders; (2) the identification, assessment and addressing of risk factors; (3) —training of trainers— in selected States to provide a statewide capacity to train communities in risk-focused prevention; and (4) development of training curriculums and materials to increase the capacity of States and localities to conduct risk-focused prevention training. These services will be provided through second year funding of a competitive contract awarded to Developmental Research and Programs, Inc. No additional applications will be solicited in FY 1996.

Youth-Centered Conflict Resolution

Increasing levels of juvenile violence have become a national concern. Violence in and around school campuses and conflict among juveniles both in schools and neighborhoods have become extremely problematic for school administrators, teachers, parents, community leaders, and the public. While experts may debate the merits and impact of the varied contributing factors, most would agree that school curriculums do not provide for the systematic teaching of problem- and conflict-resolving skills.

To address this issue, OJJDP awarded a competitive grant in FY 1995 to the Illinois Institute for Dispute Resolution to develop, in concert with other established conflict resolution organizations, a national strategy for broad-based education and training in the use of conflict resolution skills. In support of this task, the grantee is to conduct four regional conferences based on a joint publication being developed by the Departments of Justice and Education. The grantee will also provide technical assistance and disseminate information about conflict resolution programs. The project will be continued by the current grantee, the Illinois Institute for Dispute Resolution. No additional applications will be solicited in FY 1996.

Pathways to Success

This project is a collaborative effort among OJJDP, the Bureau of Justice Assistance (BJA), and the National Endowment for the Arts. The Pathways to Success Program promotes vocational skills, entrepreneurial initiatives, recreation, and arts education during afterschool, weekend, and summer hours by making a variety of opportunities available to at-risk youth.

Through a competitive process, five sites were funded in FY 1995, the first year of a 2-year project period. The selected programs are located in: Newport County, Rhode Island; New York, New York; Anchorage, Alaska; Washington, D.C.; and Miami, Florida.

The SOS Playbacks: Arts-Based Delinquency Based Juvenile Delinquency Prevention Program, located in Newport County, Rhode Island, provides an afterschool arts program for students aged 13–18 from local public housing developments. Students in the program participate in peer-to-peer support and education through the mediums of visual arts, dance, and drama.

Project CLEAR, located in New York City, provides extended day programs to students in two elementary schools that have a high percentage of students who live in low-income areas and have limited English proficiency. Services include academic tutoring, arts in education instruction, physical recreation, and group counseling services. Two hundred students in

grades 1–6 are served annually. Saturday programs for targeted youth and their families and evening programs for parents are also provided.

The Anchorage School District and the out-North Theater in Anchorage, Alaska have collaborated to provide afterschool and summer theater programs for students aged 12–14 from low income areas in Anchorage. Students involved in this program will produce and perform in plays they have written that reflect their personal life experiences.

The District of Columbia Courts Elementary Baseball Program provides combined recreational activities, tutoring activities, one-to-one mentoring, and parent workshops for students aged 6–10 who are enrolled in Garrett Elementary School in Washington, D.C. This school is located in one of the highest crime areas in Washington, D.C. The central activity of this program is interleague baseball games. Team participation is contingent upon student participation in tutoring and other activities.

The Aspira "Youth Sanctuary" Program, located in Dade County, Florida, addresses delinquency and other behavioral problems of Latino youth aged 10–16 who reside in migrant camps. This program teaches art, including community mural projects, folklore dance incorporating Latino dancing, and provides recreation opportunities for targeted students afterschool, on weekends, and during the summer months. Parent training workshops and parent support are key activities in this program.

This Program will be implemented in FY 1996 by the current project grantees. No additional applications will be solicited in FY 1996.

Teens, Crime, and the Community: Teens in Action in the 90s*

This continuation program is conducted by the National Crime Prevention Council (NCPC) in partnership with the National Institute for Citizen Education in the Law (NICEL). Teens in Action in the 90s is a special application of the Teens, Crime, and Community (TCC) program that operates on the premise that teens, who are disproportionately the victims of crimes, can contribute to improving their schools and communities through a broad array of activities.

During FY 1995, the TCC Program expanded to more than 100 new sites, primarily through five regional expansion centers located in New England, the Mid-Atlantic States, the Mid-South, the Deep South, and the Pacific Northwest Coast. These TCC projects utilized Boys and Girls Clubs of America and their affiliates in six localities to become partners in TCC efforts in these cities.

More than 4,000 teachers, social service providers, juvenile justice professionals, law enforcement officers, and other community leaders participated in intensive training to help sites implement the TCC curriculum in their communities. Over 1,000 individuals benefited from technical assistance, materials, and consultation regarding TCC in areas of program implementation, fund development, and networking opportunities.

In FY 1996, NCPC and NICEL will implement the National Teens, Crime, and the Community Program in additional locations across the country. In addition, TCC will seek to implement projects in the six SafeFutures Program sites.

This program will be implemented by the current grantee, NCPC. No additional applications will be solicited in FY 1996.

Law-Related Education (LRE)

The national Law-Related Education (LRE) Program "Youth for Justice" includes five coordinated LRE projects and programs operating in 48 States and 4 non-State jurisdictions.

The program's purpose is to provide training and technical assistance to State and local school jurisdictions that will result in the institutionalization of quality LRE programs for at-risk juveniles. The focus of the program during FY 1996 will be to continue linking LRE to violence reduction and to involve program participants in finding solutions to juvenile violence. The major compenents of the program are coordination and management, training and technical assistance, assistance to local program sites, public information, and program development and assessment.

This program will be implemented by the current grantees, the American Bar Association, the Center for Civic Education, the Constitutional Rights Foundation, the National Institute for Citizen Education in the Law, and the Phi Alpha Delta Legal Fraternity. No additional applications will be solicited in FY 1996.

Cities in Schools' Federal Interagency Partnership

This program is a continuation of a national school dropout prevention model developed and implemented by Cities in Schools, Inc. The Cities in Schools (CIS) Program provides training and technical assistance to States and local communities, enabling them to adapt and implement the CIS model. The model brings social, employment, mental health, drug prevention, entrepreneurship, and other resources to high-risk youth and their families in the school setting. Where CIS State organizations are established, they assume primary responsibility for local program replication during the Federal interagency partnership.

The Federal Interagency Partnership program is based on a program strategy that is designed to enhance CIS, Inc.'s capability to provide training and technical assistance, introduce selected initiatives to CIS youth at the local level, disseminate information, and network with Federal agencies on behalf of State and local CIS programs.

Fiscal year 1995 accomplishments include the following: establishment of 15 student-run entrepreneurship programs; establishment of a consulting program consisting of a pool of CIS State and local program directors and other experts to support the expanded technical assistance needs of the CIS network of State and local programs; production and distribution of two publications, a catalogue of program resources, and a history of the CIS program; a three-day training session featuring presentations from Federal agencies on the financial and programmatic resources available through their Departments; and a catalogue of State and local programs in the areas of family strengthening and parent participation, working with adjudicated or incarcerated youth, violence prevention, prevention of AIDS and sexually transmitted diseases, and conflict resolution.

The Cities in Schools Federal Interagency Partnership program is jointly funded by OJJDP and the Departments of Health and Human Services and Commerce under an OJJDP grant. The project will be implemented by the current grantee, Cities in Schools, Inc. No additional applications will be solicited in FY 1996.

Race Against Drugs

The Race Against Drugs (RAD) Program is a unique drug awareness, education, and prevention campaign designed to help young people understand the dangers of drugs and live a non-impaired lifestyle. With help and assistance from 23 motor sports organizations, the cooperation of the Federal Bureau of Investigation, the Drug Enforcement Administration, the U.S. Navy, and other government agencies, the National Child Safety Council, and a variety of corporate sponsors, RAD has become an exciting and innovative addition to drug abuse prevention programs. RAD activities now include national drug awareness and prevention activities at schools, malls, and motor sport events; television and public service announcements, posters, and signage on T-shirts, hats, decals, etc.; and specialized programs like the "Adopt-A-School Essay and Scholarship" and "Winner's Circle" programs. Curriculum materials include the Be A Winner Action Book for 6–8th graders, a RAD Adult Guide, and a RAD coloring book for K–4th graders.

In FY 1995 the program was funded to develop additional and updated curriculum materials, reach additional program sites, and demonstrate the Winner's Circle Program in Seattle, Washington. It was funded jointly by the Bureau of Justice Assistance and OJJDP with the Center for Substance Abuse Prevention (CSAP) providing extensive printing and clearinghouse support.

In FY 1996, OJJDP will continue funding to assist RAD to expand program operations to reach 500,000 youth at 300 RAD events annually, conduct 20 adopt-a-school programs in conjunction with major racing events, develop mobile educational exhibits and a variety of new educational materials, and conduct a program evaluation. OJJDP anticipates that the program will operate with private direct funding and in-kind support at the end of the project period.

The program will be implemented by the current grantee, the National Child Safety Council. No additional applications will be solicited in FY 1996.

The Congress of National Black Churches: National Anti-Drug Abuse/ Violence Campaign (NADVC)

OJJDP will continue to fund the Congress of National Black Churches' (CNBC) national public awareness and mobilization strategy to address the problem of juvenile drug abuse and violence in targeted communities. The goal of the CNBC national strategy is to summon, focus, and coordinate the leadership of the black religious community, in cooperation with the Department of Justice and other Federal agencies and organizations, to mobilize groups of community residents to combat juvenile drug abuse and drug-related violence.

The campaign now operates in 37 city alliances, having grown from 5 original target cities. The smallest of these alliances consists of 6 churches and the largest has 135 churches. The NADVC program involves approximately 2,220 clergy and affects 1.5 million youth and the adults who influence their lives.

NADVC also provides technical support to four statewide religious coalitions.

As a result of NADVC's technical assistance and training workshops, project sites have been able to leverage approximately $1.5 million in private and government funding.

NADVC has contributed to the planning and presentation of numerous technical assistance and training conferences on violence and substance abuse prevention and produced a National Training and Site Development Guide and a video to assist sites implementing the NADVC model.

The Program will be expanded in FY 1996 to address family violence intervention issues and target up to 6 additional cities, for a total of 43 cities. Consideration will be given to SafeFutures sites when selecting the new sites. This program will be implemented by the current grantee, CNBC. No additional applications will be solicited in FY 1996.

Community Anti-Drug-Abuse Technical Assistance Voucher Project

The National Center for Neighborhood Enterprise (NCNE) has extended its outreach to community-based grassroots organizations around the country that are working effectively to solve the problems of juvenile drug abuse. This project has three goals: (1) to allow various neighborhood groups to inexpensively purchase needed services through the use of technical assistance vouchers disbursed by NCNE; (2) to demonstrate the cost-effective use of vouchers to help neighborhood groups secure technical assistance for anti-drug-abuse projects to serve high-risk youth; and (3) to extend OJJDP funded technical assistance to groups that are often excluded because they lack the administrative sophistication, technical and grantsmanship skills, and resources to participate in traditional competitive grant programs.

The Technical Assistance Voucher Project builds upon the strengths and problem solving capacity existing in low-income communities nationwide and provides much needed technical and monetary resources to grassroots organizations that are operating youth anti-drug programs and activities for high risk youth.

The program awards 15–25 vouchers, ranging from $1,000 to $10,000 annually. Eligible organizations must have: proven effectiveness in serving a specific constituency; a small operating budget ($150,000 maximum); 501(c)(3) tax exempt status; and a program that targets high-risk youth and/or juvenile offenders; and leadership that is indigenous to the community. Vouchers can be used for planning, proposal writing, program promotion, legal assistance, financial management, and other activities. This project will be implemented by the current grantee, NCNE. No additional applications will be solicited in FY 1996.

Training and Technical Assistance for Family Strengthening Services

Prevention, early intervention, and effective crisis intervention are critical elements in a community's family support system. In many communities, one or more of these elements may be missing or programs may not be coordinated. In addition, technical assistance and training have not generally been available to community organizations and agencies providing family strengthening services. In response, OJJDP awarded a three-year competitive grant in FY 1995 to the University of Utah's Department of Health and Education to provide training and technical assistance to communities interested in establishing or enhancing a continuum of family-strengthening efforts, including parent training. Grant activities include a literature review, national search, rating, and selection of family strengthening models, development and implementation of a marketing and dissemination strategy, and the selection of sites to receive intensive technical assistance. The grantee will also convene two regional conferences, produce user and training-of-trainers guides, and distribute videos of several family-strengthening workshops.

This program will be implemented by the current grantee, the University of Utah's Department of Health and Education. No additional applications will be solicited in FY 1996.

Henry Ford Health System*

In FY 1995, the Henry Ford Health System (HFHS) initiated a two-year program in Detroit, Michigan called "Reducing Youth Violence Through School-Based Initiatives." The program serves seven elementary schools and two middle schools that feed into a Detroit high school. Primary Program activities are to identify juveniles at high risk, assess the needs of target youth, identify resources available in the community to serve those needs, coordinate community resources to create comprehensive programs, and evaluate the efficacy of the program. Participants include teachers, family members, community programs and agencies, as well as student and health center staff. This project will be implemented by the current grantee,

HFHS. No additional applications will be solicited in FY 1996.

Jackie Robinson Center*

This three-year project, initially funded in FY 1994, supports expansion of the Brooklyn USA Athletic Association, Inc.'s Jackie Robinson Centers for Physical Culture (JRC), which provide a comprehensive youth development and delinquency and crime prevention program. Presently, there are 18 school and 3 replication sites in operation serving in-school youth between the ages of 8 and 18. JRC's services are designed to prevent New York City youth from becoming involved in street gangs, violence, or drug and alcohol abuse, and to alert, educate, and inform youth and their parents about these issues. Activities conducted by JRC include development of positive peer groups, youth leadership, social and personal skills training, academic tutoring, sports, cultural activities, rap and discussion groups, individual counseling, parent education and involvement, community events, on-site crisis intervention, referral to treatment, physical/medical examinations, social service referral, and college and job placement assistance. JRC has increased its recruitment and registration from 750 to 6,600 students. Students in each of the 18 sites participated in a minimum of 3 special events during the year.

In FY 1996, JRC will develop a data bank system to monitor the in-school progress of participating students through indicators such as attendance, academic, and behavioral records. This project will be implemented by the current grantee, the Brooklyn USA Athletic Association, Inc. No additional applications will be solicited in FY 1996.

Child Abuse and Neglect and Dependency Courts

A Community-Based Approach to Combating Child Victimization

Statistics on child abuse and neglect are alarming. In 1994 alone, an estimated 3.1 million abused or neglected children were reported to public welfare agencies. More than 1 million of these cases were substantiated. Each year, an estimated 2,000 children—most under 4 years old—die at the hands of parents or caretakers.

Research demonstrating a link between child victimization and later involvement in violent delinquency suggests the efficacy of preventing child abuse and neglect and treating the victims of abuse as a means of reducing later violent and delinquent behavior.

To break the cycle of childhood victimization and violent delinquency, OJJDP plans to enter into a joint solicitation with other bureaus of the Office of Justice Programs, in cooperation with other Federal agencies, to foster comprehensive, community-based, interagency and multi disciplinary approaches to the prevention, identification, intervention, and treatment of child abuse and neglect.

It is anticipated that two to five demonstration projects will be competitively awarded in FY 1996 as part of a 5-year project period. Sites will be required to address each of the following program areas: (1) data collection and evaluation; (2) system reform and accountability; (3) training and technical support to practitioners; (4) provision of a continuum of services to protect children and support families; and (5) prevention education and public information.

Training and technical assistance will be made available to selected sites in a number of areas, including system reform, practitioner training, victim advocacy, team-building and interagency collaboration, family-strengthening services assessment and implementation, and diversity/cultural awareness training.

Applicants will be expected to demonstrate an ability to leverage other available sources of funds and document a readiness to engage in reform of child protection systems, progress in assessing and addressing child abuse and neglect, and broad community representation, commitment, and participation.

Permanent Families for Abused and Neglected Children*

This is a national project to prevent unnecessary foster care placement of abused and neglected children, to reunify the families of children in care, and to ensure permanent adoptive homes when reunification is impossible. The purpose is to ensure that foster care is used only as a last resort and as a temporary solution. Accordingly, the project is designed to ensure that government's responsibility to children in foster care is acknowledged by the appropriate disciplines. Project activities include national training programs for judges, social service personnel, citizen volunteers, and others under the Reasonable Efforts Provision of the Social Security Act, as amended, 42 U.S.C. § 671(a)(15), training in selected States, and implementation of a model guide for risk assessment.

The project is implemented by the National Council of Juvenile and Family Court Judges (NCJFCJ) . NCJFCJ provides support services to coordinate programs, trains judges in the Court Appointed Special Advocate (CASA) program, and implements the Model Court Program in additional jurisdictions.

In FY 1996, a new program to divert families from the court system through arbitration under court supervision will be developed in three model courts using other funding sources. However, the program will be incorporated into NCJFCJ's permanency planning training.

The Permanent Families for Abused and Neglected Children Program will be implemented by the current grantee, NCJFCJ. No additional applications will be solicited in FY 1996.

Parents Anonymous, Inc.*

Parents Anonymous, Inc. (PA) establishes groups and adjunct programs that respond to the needs of families through a mutual support model of parents and professionals sharing their expertise and their belief in each individual's ability to grow and change in ways that create caring and safe environments for themselves and their children. In FY 1994, OJJDP began supporting PA's Juvenile Justice Project to enhance PA's mission to prevent child abuse and neglect by developing a new capability within the PA network to address the needs of high-risk, inner-city populations, with an emphasis on minority parents.

As a result of OJJDP funding, PA has: developed 31 new groups in 11 states; produced and disseminated the booklet, I Am A Parents Anonymous Parent, in Spanish; convened a National Leadership Conference in Washington, D.C. in February 1995 which focused on outreach, recruitment and services for families of color and collaboration with juvenile justice agencies; convened an Executive Directors' Leadership Conference in Claremont, California, in November 1995; conducted written surveys, focus groups, and intensive telephone interviews to gather "best practices" data; produced and disseminated 12,000 copies of an expanded Innovations PA newsletter; and produced and disseminated 15,000 copies of The Parent Networker, a new semi-annual publication focused on issues of diversity.

In FY 1996, PA will convene at least two regional trainings focused on working with families of color in high-risk settings, produce and disseminate two technical assistance bulletins, one on parent involvement as it relates to communities and families of color, and the other on strategies for providing PA programs for incarcerated parents, conduct two teleconference trainings, provide training and technical assistance to implement PA services in up to six SafeFutures Program sites, expand the number of PA affiliates working with the Juvenile Justice Project, and publish and disseminate a "PA Best Practices" manual.

The project will be implemented by the current grantee, PA. No additional applications will be solicited in FY 1996.

Lowcountry Children's Center, Inc.*

OJJDP will continue to fund Lowcountry Children's Center, Inc. (LCC) of Charleston, South Carolina in its expansion and coordination of the services required to create a model multi disciplinary, crisis intervention program for child victims of sexual assault and their families. LCC's goals are to: (1) continue their existing multi disciplinary services; (2) enhance support and coordination between law enforcement and the Solicitor's (prosecutors) office in cases concerning allegations of child physical and sexual assault; (3) provide medical examination in a timely manner; and (4) collect and analyze data regarding the demographics of child victims and their families and the characteristics of the perpetrator, the sexual assault, and the community response. In 1995, as a result of this multi disciplinary approach, LCC has exceeded its initial projections regarding the number of individual children who have been assessed and the number of clinical treatment units provided to these children and their families (as of December 31, 1995). LCC provided physical examinations for 194 children alleged to be victims of sexual abuse in a child-oriented environment and in a timely manner.

This project will be continued by the current grantee, LCC, Inc. No additional applications will be solicited in FY 1996.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

Office for Victims of Crime Fiscal Year 1996 Discretionary Program Plan

Victim Services 2000: A Vision for the 21st Century

Introduction

The Office for Victims of Crime (OVC) is pleased to announce its Discretionary Program Plan for Fiscal Year 1996 (FY96). OVC was created to help ensure justice and healing for our nation's crime victims. It carries out this broad mandate by funding crucial victim services, supporting training for the diverse professionals who work with crime victims, and developing programs to enhance victims' rights and services.

OVC administers two formula and many discretionary grant programs designed to benefit victims. These programs are funded by the Crime Victims Fund, which is derived from the fines, penalty assessments, and bail forfeitures of Federal criminal offenders—not from tax dollars. In FY96, OVC has approximately $220 million to support critical services to crime victims, national-scope training and technical assistance, and demonstration programs. Under the Victims of Crime Act (VOCA), 97 percent of this money is allocated to States for the funding of victim assistance and compensation programs. Three percent of the Fund's annual collections must be spent for discretionary programs, and under the Children's Justice Act, $1.5 million is allocated for programs to improve the handling of child abuse cases in Indian Country.

This year's planned scope of activities to benefit crime victims is OVC's most comprehensive to date and includes the office's first major demonstration project. Spurred on by the fast approaching millennium, OVC seeks to create a blueprint for communities to build integrated, inclusive environments where service providers work together in one location to care for crime victims. It plans to offer communities the information, training, tools, and technical assistance that they need to create supportive, multi-disciplinary facilities designed especially for victims. Appropriate to this goal, the theme of the program plan is "Victim Services 2000: A Vision for the 21st Century."

Last year, OVC launched several major programs:

- The National Crime Victims Agenda, a project to (1) serve as a guide for long-term action to improve victims' rights and services in future years, and (2) update the 1982 President's Task Force Report on Victims of Crime by describing the progress on victims' issues during the past fourteen years;
- The publication of bulletins describing promising practices that are currently used by diverse victim service providers, including law enforcement, prosecution, medical, and corrections personnel;
- Projects to expand the capacity of the Federal criminal justice system and Indian Country to respond to crime victims; and
- The National Victim Assistance Academy, which offers comprehensive, cutting edge training presented by leaders in the field to victim service providers.

Building on the achievements of past efforts and guided by extensive input from its numerous constituent groups, OVC will fund the following major FY96 initiatives:

- The completion of the National Crime Victims Agenda project and the publication of a long-term action plan for supporting crime victims;
- Victim Services 2000, a strategy to support communities in implementing comprehensive, collaborative services for all crime victims in a victim-centered environment that integrates many of the promising practices identified by FY95 grantees;
- An expanded National Victim Assistance Academy, simultaneously conducted at three sites through an interactive video hook-up, which will provide intensive education and training for policy makers and practitioners, as well as a training of trainers seminar to build expertise and promote leadership in the victim services field;
- The new Training and Technical Assistance Center, which will funnel resources to local, State, tribal, and Federal agencies to strengthen their capacity to serve crime victims;
- A major effort to improve the response of communities and the juvenile justice system to victims of juvenile offenders and gang violence; and
- A comprehensive plan to expand victim-witness training in the Federal system, including funding of full-time trainers for U.S. Attorneys' Offices and the Federal Bureau of Investigation (FBI), demonstration projects to improve services to white-collar crime and bank robbery victims, and major new initiatives in Indian Country to improve the handling of child abuse and domestic violence cases.

Many programs in OVC's FY96 plan grew out of dozens of meetings with constituent groups around the country and were developed in partnership with other agencies. These include other bureaus in the Office of Justice Programs (OJP); Department of Justice (DOJ) offices, including the Executive Office for U.S. Attorneys, the Violence Against Women Office, and the Office for Policy Development; as well as other Federal agencies. For example, the TRIAD Program, which is a partnership between older Americans and law enforcement personnel to improve services to elderly crime victims, has been supported by OVC, the Bureau of

Justice Assistance (BJA), and the Administration on Aging at the Department of Health and Human Services. TRIAD was developed by the American Association of Retired Persons, the International Association of Chiefs of Police, and the National Sheriffs' Association and has established over 260 local programs nationwide.

Among the many other examples of collaboration is the Attorney General's Indian Country Justice Initiative, which funds comprehensive services for two Indian tribes. It is a cooperative effort between the Administrative Office of the U.S. Courts, the Department of the Interior, and various DOJ components, including the Criminal Division, the Office of Tribal Justice, the Office of Policy Development, and OVC, as well as other OJP bureaus.

In this plan, the discretionary programs are separated into five major categories: The Vision, Voices from the Field, Building Vital Capacity in Victim Services, VOCA Enhancements, and Victim Assistance in Indian Country.

- The first category—"The Vision"—exemplifies the overall theme and includes the National Crime Victims Agenda project, the demonstration initiative Victim Services 2000, and the National Victim Assistance Academy. Other programs in this section are designed to fill gaps in existing services and gather information on promising practices that have not yet been identified and examined.
- Programs included under the heading "Voices from the Field" offer resources to fund projects that are generated from the field and will have a national impact on improving services to crime victims. They may include demonstration projects, training efforts, and materials such as films, curricula, brochures, and interactive training packages.
- The third category—"Building Vital Capacity in Victim Services"—includes other programs designed to expand the ability of local, State, and Federal agencies to serve crime victims. Examples of these programs are the Trainers Bureau, which provides national experts to local communities and agencies, and the Community Crisis Response Program, which makes teams of trained crisis responders immediately available to assist communities in the wake of major violent incidents.
- Programs under "VOCA Enhancements" direct discretionary funds to improve the effectiveness of State victim compensation and assistance programs, which receive the vast majority of Crime Victims Fund monies each year. A mentoring program and training conferences are included.
- Finally, "Victim Assistance in Indian Country" (VAIC) encompasses a host of programs designed to meet the needs of tribal communities in working with crime victims and enhancing system capacities. One major project supports over 30 direct service programs on Indian reservations. Another, the Children's Justice Act Discretionary Grant Program for Native Americans, makes direct grants to tribes to improve their response to child abuse cases and supports the development of related training materials.

Within each of the five categories, programs are designated as competitive or non-competitive. Competitive programs are those for which OVC is inviting proposals. Non-competitive programs include most of the programs directed to support enhancements of services to Federal crime victims, many continuations of current grants, collaborative efforts in which OVC will participate but not award a new grant, and specific programmatic activities that OVC will conduct internally.

This plan is a summary of the projects OVC plans to support during the coming funding cycle. The competitive projects are open to public and private not-for-profit organizations. Recent legislation has provided OVC with the authority to fund demonstration projects, but OVC is not authorized to support research, evaluation, or prevention activities. Most competitive programs, unless clearly designated for local, State, or regional purposes, must be national in scope. Anticipated funding levels, which are listed for some programs for FY97 and future years, are not guaranteed but are contingent upon the amount of funding that becomes available in those years for discretionary purposes.

Application Process

A Program Announcement and Application Kit, which will be available beginning May 20, 1996 will serve as a request for proposals. It will contain detailed descriptions of competitive programs and complete forms and instructions for developing an application. To receive a Program Announcement and Application Kit, please call 202/307–5983 or write to: Office for Victims of Crime, 1301 Pennsylvania Avenue, Suite 200, NW, Washington, D.C. 20531.

Competitive Programs. The Program Announcement and Application Kit will describe for each competitive program: the purpose of the program, background, goal, program strategy, eligibility requirements, award period, award amount, and application due date. Application due dates will vary for different programs. A panel of experts will be established for most competitive program areas to review and rank the applications. Awards will be made to organizations and agencies offering the greatest potential for achieving the programs' goals on the basis of information provided in the applicants' proposals and assessments of past performance on OVC/OJP grants. Funding decisions will be made by the Director of OVC. All applications for competitive programs are due July 15, 1996 except for the Field Generated/National Impact Projects and the Action Partnerships with Professional Organizations. Applications for these two projects are due September 1, 1996.

Non-Competitive Programs. OVC staff will contact applicants for non-competitive programs to discuss application requirements and due dates.

Solicitation of Concept Papers. OVC invites eligible public and private not-for-profit agencies to submit concept papers for potential funding in FY97. Agencies submitting outstanding concept papers will be invited to submit complete proposals for funding consideration. Concept papers will be accepted on two dates: October 1, 1996 and February 1, 1997.

We hope that the following program plan will generate creative and comprehensive proposals from diverse applicants and will nurture improved and expanded services needed to ensure justice and healing for all crime victims.

Aileen Adams,

Director, Office for Victims of Crime.

Summary of Competitive Projects

To facilitate applications, competitive projects which are described in various places throughout the program plan are together below:

1. Victim Services 2000 ($200,000 in FY96 and substantial continuation of funding in FY97–2000)
2. Victims of Gang Violence ($125,000 in FY96 and in FY97)
3. Juvenile Court Response to Victims of Juvenile Offenders ($150,000 in FY96 and in FY97)
4. School Demonstration Projects to Assist Victims and Witnesses ($200,000 in FY97)
5. Sexual Victimization of Youth Symposium ($50,000 in FY96)
6. Assisting Disabled Victims of Crime Symposium ($50,000 in FY96)
7. Victim Assistance for Stalking Victims ($75,000 in FY96 and in FY97)
8. Cultural Considerations in Assisting Victims of Sexual and Physical Violence ($75,000 in FY96 and in FY97)
9. Restitution: Promising Practices ($100,000 in FY96)
10. Sexual Assault Curriculum and Training Project ($100,000 in FY96 and in FY97)
11. Field Generated National Impact Projects ($550,000 in FY96 and in FY97)
12. Concept Papers for FY97 ($600,000 in FY97)
13. State and Regional Conference Support Initiative ($75,000 in FY96)
14. Innovative Federal Victim and Witness Practices ($100,000 in FY96)
15. Capacity Building Technical Assistance (up to $10,000 per site in FY96)
16. Action Partnerships with Professional Organizations ($120,000 in FY97)
17. Resource Materials for Victim Organizations ($125,000 in FY96)
18. OVC "Help" Series ($30,000 in FY97)
19. Regional Technical Assistance Meetings for State VOCA Administrators ($25,000 in FY97)
20. Children's Advocacy Centers in Indian Country ($50,000 in FY96)
21. Topic-Specific Monographs ($75,000 in FY96)

I. The Vision

A. Comprehensive Initiatives

1. The National Crime Victims Agenda ($125,000)—Non-Competitive

The National Crime Victims Agenda report will be published in 1996. The report will focus on promising practices in a variety of disciplines and crime victim categories, and will encourage reforms that build on the recommendations presented in the 1982 Final Report of the President's Task Force on Victims of Crime. A funding priority for OVC in 1997 is to support programs that implement key recommendations of the Agenda report.

2. Victim Services 2000 ($200,000 in FY96 and Substantial Continuation of Funding in FY97–2000)—Competitive

Victim Services 2000 will support the development of a comprehensive victim service system in at least two select communities—one in an urban setting and the other in a rural area. The purpose of this initiative is to support comprehensive, collaborative services for all crime victims in a victim-centered environment. Demonstration sites will involve victim service practitioners, criminal justice and local emergency response personnel, support groups, medical and mental health providers, clergy, schools, youth, and youth workers as active participants in the planning and implementation of their programs. Sites also will be encouraged to develop linkages with the media, professional educators, legislators and other elected leaders, community leaders, the private sector, professional associations, and others to improve services to victims. The integration of recently developed technologies, special service settings, community-based programs, appropriate State and local laws, interagency linkages, and an internal assessment process will be critical to the success of these Victim Services 2000 laboratories, which will function as training sites for other communities.

The initiative will require three phases: community planning and model development, component implementation, and training and information dissemination. During the first phase, sites will conduct a collaborative needs assessment and planning process, creating a model for a comprehensive victim service environment in their communities and a detailed plan for implementing the model. In subsequent years, they will implement the plan by enhancing existing services, filling service gaps, and integrating new promising programs and strategies into their system of services. Once the demonstration sites are fully implemented, they will assume two additional functions: to serve as a training laboratory for victim service personnel from other communities and to produce information useful to others wishing to replicate or adapt their model.

The solicitation for the initiative will be directed toward communities that have already made substantial progress in developing a comprehensive and coordinated system of victim services. Applicants are expected to collaborate with other relevant public and private agencies that serve crime victims locally and document these relationships through written interagency agreements and commitments to share resources. First year funding will be in the amount of $100,000 for each site. Based upon grantee performance and availability of future funds, substantial funding for four subsequent years is anticipated.

3. National Victim Assistance Academy

In 1995, OVC initiated the National Victim Assistance Academy, the first course of its kind to train victim practitioners and policy makers. The Academy offered basic and advanced interdisciplinary victim assistance training to students from across the country. In 1996, OVC will expand the effort by weaving cutting edge and tested training materials into a program that encourages excellence in leadership and in daily practice. The Academy will offer specialized training topics, basic and advanced instruction, and a train the trainer series to meet the needs of victim service providers and criminal justice personnel at local, tribal, State, and Federal levels. In addition, OVC will conduct a program assessment and then craft a plan for building a comprehensive, multi-faceted Academy that coordinates the best adult education training technologies with OVC's resources and current training programs.

National Victim Assistance Academy Programs ($207,000)—Non-Competitive. OVC will provide second year funding for a five-day national victim assistance seminar for 120 victim service providers from the Federal, State, tribal, and local levels. The seminar will originate from a university campus located in Washington, D.C., and the instruction will be simultaneously broadcast to two additional campuses—one located in Kansas and the other in California. Each site will accommodate 40 students. In addition, the seminar faculty will conduct a two and one half day Train the Trainers program in Washington, D.C. for 30 victim service professionals who may serve as future seminar faculty in OVC or State sponsored victim service provider courses.

Train the Trainer Seminar Series ($450,000)—Non-Competitive. Another major component of the Academy is a train the trainer seminar series. Each year, several topics are identified for which there is an evident shortage of qualified trainers to address the needs of the field. For FY96, four topics have been identified to offer in this series: Hate/Bias Crime, Victim Assistance in Community Corrections, Responding to Staff Victimization in Correctional Agencies, and Death Notification. The Train the Trainer Seminar Series is described in greater detail below under "Building Vital Capacity in Victim Services, Comprehensive Initiatives."

Victim Assistance Training Strategies ($25,000)—Non-Competitive. This project will assess the various strategies used by OVC to offer training to the field, and lay the framework for an expanded Academy which will include many of those strategies as Academy components. This project is described below under "Building Vital Capacity in Victim Services, Non-Competitive Projects."

4. Comprehensive Initiative To Improve Services to Victims of Gang and Other Juvenile Violence

In FY96, OVC will launch a multi-faceted initiative to address the serious and growing problem of gang violence and its devastating impact on individuals and communities. The initiative includes the following component projects:

Victims of Gang Violence ($125,000 in FY96 and in FY97)—Competitive. This project will develop technical assistance materials to help victim service providers better serve victims of gang-related crime. Due to the fear of retaliation, revenge, and intimidation that commonly accompany gang violence, crime victims or their survivors are often afraid to exercise certain basic rights such as appearing in court, making an impact statement, pursuing restitution, or participating in other case events. In addition, these victims are often blamed for the violence or dismissed as contributing to the crime. This project will identify and document the successful ways agencies and communities are serving these victims and their families and describe practical applications for criminal justice and victim services staff. A package of technical assistance materials will be developed.

Simultaneously, the grantee will work with the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) demonstration sites, which are currently implementing that office's Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program, and assist them in developing policies, procedures, and services that address the needs of the victims of gang violence. It is anticipated that this assistance process will aid the grantee in developing the technical assistance package and also provide ample opportunity for pilot-testing the materials.

Juvenile Court Response to Victims of Juvenile Offenders ($150,000 in FY96 and in FY97)—Competitive. In 1995, OVC funded three regional forums to assess the needs of victims of juvenile offenders and to propose action steps to address these needs. Although the recommendations generated by these forums are not yet available, information learned in the assessment phase of the project can serve as a starting point for focusing additional resources on areas of identified need. One such area is information and education on victim-related issues for juvenile court personnel and probation staff.

The recipient of this grant will conduct a nationwide survey of practices and programs of juvenile courts that address the needs of crime victims. From information gathered by the survey and through a general search for additional promising practices, the grantee will develop a training and technical assistance package. The package should cover such topics as victims' legal and procedural rights, victim impact statements, restitution orders, and other programs and services that target victims of juvenile offenders for services or involve them in the court process. While the package will be directed primarily toward an audience of juvenile court personnel and probation staff, it also should provide useful information for victim service providers who work with victims of juvenile offenders. A training event will pilot-test the materials.

In FY97, court jurisdictions will be invited to submit applications to receive intensive training and technical assistance from the grantee. Applicants with extensive prior experience in providing judicial education and training are encouraged to apply for this grant.

Symposium on Gang Violence ($25,000)—Non-Competitive. Together with OJJDP, OVC will co-sponsor a one-day meeting of gang violence victims and victim service providers in conjunction with a larger conference on gang violence being held in June 1996. Participants will explore the strategies that seem to work in their communities, the current connections that exist among organizations serving victims of gang violence, the value in bringing these groups together, and the role that government can play in helping to reduce gang violence. Funding will cover expenses for victims of gang violence and for service providers to attend a planning session and the gang violence conference.

School Demonstration Projects to Assist Victims and Witnesses ($200,000 In FY97)—Competitive. OVC plans to dedicate $200,000 to support two demonstration programs located in schools to assist pre-teen and teenage victims and witnesses of gang violence and other juvenile crimes. The purpose of these projects is to establish comprehensive programs for these young victims which can be replicated in additional communities. To be eligible for the project, a school should have or be willing to offer the following resources: an acceptable course of study on victim issues, which includes material on the impact of crime, presented in part by victims themselves; training on peer support, crisis response, and mediation techniques; individual and group counseling services; avenues for parental involvement; liaison with local advocacy programs to support youth who must deal with the court system; and support services for victimized teachers.

Teleconference for Teachers on Staff Victimization. In FY97, OVC anticipates funding a teleconference for teachers on the topic of staff victimization, that is, victimization in the school and elsewhere that occurs as a consequence of their professional role.

B. Competitive Projects

1. Issue Symposia ($100,000)

OVC will fund two two-day symposia in the amount of $50,000 each on important and emerging topics in the victims field. As a substantive understanding of each topic is critical to the success of this program, it is likely that separate awards will be made to applicant organizations displaying the greatest depth of knowledge and experience in each area. The purpose of the symposia is to stimulate discussion on specific victim-related issues and to generate recommendations and action plans for addressing the issues effectively. Between 15 and 20 experts in a given topic area will be invited to attend each event. The symposium facilitator will survey the field for promising and model practices, relevant research and/or evaluation findings, and available statistics, and will provide this material to participants in advance of the event. The agenda will include expert presentations, round-table discussions, and the development of an action plan for the field that outlines specific steps for outreach, training and technical assistance, and public education. Specific recommendations for practitioners also will be generated where appropriate. For each event, the facilitator will report on the group's findings, recommendations, and action plan. These highlights will be summarized in a short monograph suitable for publication as an OVC bulletin. The symposia topics are:

Sexual Victimization of Youth. National-scope studies such as Rape in America have documented the prevalence of sexual violence in the lives of youth. Failure to intervene during these formative years can lead to long lasting mental health problems and vulnerability to further victimization. Nonetheless, adolescent and pre-adolescent victims of sexual violence remain a population underserved by victim assistance professionals. The symposium "Sexual Victimization of Youth" will focus on effective means of reaching and assisting young victims.

Assisting Disabled Victims of Crime. Persons with physical and developmental disabilities face increased vulnerability to crime victimization, and at the same time, remain a population acutely underserved by victim assistance providers. Passage of the Americans with Disabilities Act has heightened the visibility of the issue and prompted thought about how service providers can best extend the reach of their services to disabled victims. "Assisting Disabled Victims of Crime" will explore issues of service accessibility and appropriateness, as well as legal considerations arising from the law.

2. Victim Assistance for Stalking Victims ($75,000 in FY96 and in FY97)

Although almost every State has passed anti-stalking legislation and developed a model code, communities are challenged with enforcing the new laws. This project will build upon the model anti-stalking code and recommendations developed by the National Criminal Justice Association under grants from OVC, the National Institute of Justice (NIJ), and BJA. The project will support a survey of promising practices for effectively managing stalking cases in the criminal justice system, with particular attention to protection and support for victims. The grant recipient will produce a compendium of promising practices in States and localities, with an in-depth focus on the case management systems implemented at three model sites. The grantee will examine strategies for coordination between victim assistance providers and members of the criminal justice system, including law enforcement, prosecutors, and judges. The grantee also will document innovative laws and policies, relevant and reliable case law, and the use of technology (e.g., special monitoring equipment) to protect victims. The grantee's final compendium will describe key elements of a model system response to stalking victims. Grant activities will cover two years with $75,000 available in FY96 and an additional $75,000 available for training and technical assistance in FY97.

3. Cultural Considerations in Assisting Victims of Sexual and Physical Violence ($75,000 in FY96 and in FY97)

Female victims of sexual and physical violence come from many cultural and ethnic backgrounds. The diversity of this population presents victim advocates and criminal justice professionals with unique challenges in outreach and service delivery. Language barriers, cultural stigmas attached to being sexually victimized or battered, and lack of awareness of the availability of services often deprive women and their children of critical victim assistance services and criminal justice protections. This program will train domestic violence and sexual assault victim advocates, law enforcement, and attorneys to be more responsive to the female victims of diverse cultural and ethnic backgrounds. A major portion of the training will be devoted to implementation of the Violence Against Women provisions of the Violent Crime Control and Law Enforcement Act of 1994.

4. Restitution: Promising Practices ($100,000)

Restitution is a direct and positive way to hold offenders accountable for the harm caused by their offenses. With widespread support from many victims and members of the general public, restitution has increasingly become mandatory for offenders in both juvenile and adult courts at the local, State, and Federal levels. Yet many jurisdictions find that orders of restitution are extremely difficult to enforce. Barriers to enforcement include inadequate administrative policies and practices, as well as the indigence of some offenders. This project, jointly sponsored by OVC and BJA, will identify promising approaches used in the criminal and juvenile justice systems to establish and enforce orders of restitution and to ensure that victims receive the payments due them. Such approaches might include the use of efficient, simple-to-use software programs to track and manage restitution orders; procedures for assessing victim losses to determine appropriate amounts of restitution to order; and strategies for collecting restitution payments. The grantee will produce a compendium of promising practices and accompanying training and technical assistance materials to assist jurisdictions that wish to implement them. In addition, limited technical assistance will be provided to sites seeking to improve their capacity to carry out court-ordered restitution.

5. Sexual Assault Curriculum and Training Project ($100,000 in FY96 and in FY97)

OVC will fund a three phased project to develop comprehensive training for rape crisis counselors and victim advocates who are responsible for providing services and securing rights for adult victims of sexual assault. In phase one of the project, the grantee will conduct an extensive literature search and review and develop a comprehensive training curriculum and train the trainer guidebook for program managers and statewide coalition leaders. The curriculum will present effective service delivery strategies, including crisis counseling, support groups, criminal justice advocacy, outreach, and referral services. Since the curriculum and guidebook will build upon existing training curricula and will include standard core elements, these products can be developed concurrently with the literature review. Phase two of the project will focus on the delivery of training to service providers and victim advocates at national, regional, and statewide training events. In the final phase of the project, it is anticipated that the grantee will present the training as part of the train the trainer component of the OVC National Victim Assistance Academy. In addition, the grantee will assess the training and make recommendations for modifications and further dissemination of materials. Highlights of the training program will be summarized in a short monograph suitable for publication as an OVC bulletin. Continuation funding in FY98 will be considered, depending upon the success of the project.

C. Non-Competitive Projects

1. Law School Clinics as Resources Against Family Violence ($25,000)

In collaboration with the Violence Against Women Grants Office and the American Bar Association, OVC will support regional training conferences focusing on community responses to family violence. The target audience of the conference series consists of victim advocates and law school clinic personnel. The purpose of the grant is to encourage law school clinics to develop or enhance clinical programs that address family violence issues and to facilitate a recognition among victim advocates of law schools as valuable resources. The grantee will develop a monograph describing innovative services for family violence victims which will be disseminated to law schools nationwide.

2. Teleconference on Staff Victimization in Correctional Facilities ($50,000)

A two-hour teleconference on staff victimization in juvenile and adult correctional facilities will be conducted in collaboration with the National Institute of Corrections (NIC) and OJJDP. The teleconference, transmitted via satellite, will allow participants to view the event "live" on a television or a large projection screen and ask questions of the experts by telephone during the program. OVC, OJJDP, and NIC staff will jointly plan the teleconference agenda. They will competitively contract for both the

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production of short videotaped segments to highlight key elements of the topic and the "uplink" transmission of the event. Sites will register to serve as host sites, and each will designate a contact person to coordinate the teleconference, duplicate camera-ready materials for the participants, and submit participant evaluations to OVC.

3. Domestic Violence Against Women Technical Assistance Program

Last year, OVC provided seed money so that customized, multi-disciplinary training could be provided to jurisdictions seeking to create a coordinated response to family violence. In 1996, OVC will continue to work with the Violence Against Women Grants Office to provide Services*Training*Officers*Prosecutors (STOP) grantees technical assistance, including site visits for family violence teams to observe innovative programs in operation.

4. Safe Kids/Safe Streets: Community Based Approaches To Intervening in Child Abuse and Neglect ($100,000 in FY97)

OVC will join with other OJP Bureaus to support the Child Safe Project, which will coordinate Federal, State, and local resources into a comprehensive prevention and intervention program for child victims and their families. This OJP-wide program will create systemic reforms to improve services for abused children; provide training and technical assistance support to practitioners who serve child victims and their families; strengthen a continuum of family support services to assure that assessment, counseling, and victim assistance services are available; assure the uniformity of evaluation protocols across sites; and provide prevention education and public information. OVC will provide selected grantees with training, technical assistance, and training materials on improving services for child victims. Assistance will focus on expanding the availability of medical services to sexually and physically abused children and mentoring or training programs for communities wishing to establish a Children's Advocacy Center. New technologies, use of specially trained nurse practitioners, and coordination with facilities that are providing quality forensic examinations and other medical services to child victims are some of the approaches that will be utilized to improve medical services for young victims.

5. Child Sexual Exploitation: Improving Investigations and Protecting Victims ($189,000)

OVC and OJJDP will jointly support the continuation of a project that has developed a model for linking criminal justice personnel across jurisdictional boundaries and sources of victim assistance when sexually exploited children or youth are identified. During this phase, the grantee will: develop a "promising practices" report to document varying approaches to multi-jurisdictional collaboration; organize a conference, in conjunction with the 1997 National Symposium on Child Sexual Abuse, to bring together existing multi-jurisdictional teams; and develop a videotape and users' guide to showcase models for multi-jurisdictional collaboration.

6. FBI Victim-Witness Programs ($100,000)

OVC will provide up to $100,000 to support one demonstration victim-witness program in an FBI field office or resident agency. OVC will work with the FBI's Victim-Witness Assistance Program to announce the availability of the funding to field agencies. Applicant sites will submit a proposed implementation plan and budget. The selected project will identify, implement, and document promising practices for working with crime victims. Information about the results of this demonstration program will be distributed to other FBI field offices for possible replication. OVC will provide funding for one year, with a possible second year renewal.

7. U.S. Attorney Victim-Witness Program ($150,000)

OVC and BJA will provide joint second year funding to support a demonstration victim-witness assistance program in the Eastern District of Wisconsin U.S. Attorney's Office. The purpose of the program is to improve the capability of U.S. Attorneys' Offices to respond to the rights and needs of Federal crime victims. Funds provide for the hiring of a victim-witness counselor advocate, a community drug victim specialist, and a victim-witness paralegal assistant. OVC and the U.S. Attorney's Office will compile the program's promising practices and disseminate them to other U.S. Attorneys— Offices for replication.

8. National Symposium on Child Sexual Abuse ($37,000)

OVC will support the participation of teams of Federal criminal justice personnel nominated by the U.S. Attorneys' Offices to attend the National Symposium on Child Sexual Abuse. OVC will also sponsor workshops specific to the unique dynamics attendant to Federal sexual abuse cases.

9. White-Collar Crime Victim Advocate Pilot Project ($100,000)

OVC will support a pilot project in the Northern District of California U.S. Attorney's Office to improve services for white-collar crime victims. The project will identify, implement, and document promising practices for working with white-collar crime victims. Funds will be used to hire a white-collar crime victim advocate who will aid in identifying and recovering assets for victims. The advocate will work under the direction of the Chief of the Economic Crimes Division and will work closely with other components including the Asset Forfeiture Division, criminal investigators, the Financial Litigation Unit, U.S. Marshals, and the Victim-Witness Coordinator. Funds will also provide for computer support and travel. As part of the project, a representative of the U.S. Attorney's Office will participate in an ad-hoc working group which will: (1) Identify and assess materials and practices that could benefit white-collar crime victims; (2) produce a resource kit that includes a victim pamphlet, victim handbook, and videotape; and (3) create a Victim-Witness Coordinator guide to assisting white-collar crime victims. Information about the results of this demonstration program will be distributed to other U.S. Attorneys— Offices for possible replication.

10. U.S. Parole Commission Interagency Agreement ($54,000)

Through an interagency agreement with the U.S. Parole Commission, OVC will fund a Victim-Witness Coordinator position to provide services for victims and witnesses with respect to attendance at Federal parole revocation hearings and notification of the results of those hearings. The Victim-Witness Coordinator also will coordinate with the Federal Bureau of Prisons when offenders are returned to prison to ensure that victims of the original Federal offenses are notified of the offenders' return to prison, any subsequent parole considerations, and the offenders' eventual release. At the end of the first year of this project, the Parole Commission will conduct an evaluation of the effort, including a review of case files for victim and witness appearance rates, and will survey victims, witnesses, and parole staff through questionnaires or phone interviews. The results of this review and survey may provide information that can be used in State systems. The project might also document promising practices for Federal cases in which post-release supervision is provided by United States Probation Officers and in revocation proceedings conducted by the Federal Courts.

11. Children's Advocacy Center Pilot Project ($95,000)

Through funds provided to the U.S. Attorney's Office in the District of Columbia, OVC will support the establishment of a Children's Advocacy Center demonstration site for Federal prosecutors and other agencies. The Center will showcase interagency services in a child-oriented environment. The multi-disciplinary Center will reduce the trauma to children by implementing a joint interview/assessment process among key agencies, thus minimizing the number of interviews. Program materials such as forms, letters, memoranda of agreement, policies, procedures, brochures, and informational materials for child victims and their families will be compiled and shared with other sites wishing to replicate or develop similar services for child victims.

12. International Victim Assistance Summit ($15,000)

OVC will provide funding to assist the National Organization for Victim Assistance in organizing and implementing a summit on international victim assistance issues involving expert leaders from around the world.

II. Voices From the Field

A. Comprehensive Initiatives

1. Field Generated National Impact Projects ($550,000 in FY96 and in FY97)—Competitive

This program is designed to give the field wide latitude in making proposals to improve practices and enhance crime victims' access to rights and services. OVC invites the submission of proposals for training and technical assistance projects that: (1) Address an area of ongoing or emerging need; (2) are national in scope or will have a national impact; and (3) will provide products or materials that may be easily adapted, replicated, and disseminated to practitioners in the field. Proposals must be congruent with OVC's discretionary funding authority to support demonstration, training, and technical assistance projects that improve the response to and services for crime victims. Activities outside the scope of OVC's funding authority include prevention, treatment for perpetrators, research, evaluation, and other activities not directly linked to assisting crime victims. Proposed projects may range from $50,000 to $100,000. Consideration will be given to projects that warrant multi-year funding based on project design. However, each phase should be capable of standing alone. Examples of the kinds of activities that can be supported include, but are not limited to:

- One to two day symposia on promising practices in a given topic area. Products will include an inventory of practices and programs; a list of expert trainers/practitioners; and symposia proceedings, and suggested strategies for action.
- Training programs for trainers and practitioners in a given program area. Train the trainer programs using existing and demonstrated successful curricula as well as the development of new training materials are encouraged. Products will include a survey of promising practices for new programs or an update of the curricula for existing programs; development and pilot-testing of training curricula and participant manuals; and plans to train with or directly disseminate the training products.
- Compendia of promising practices and program guidelines. Products will include a survey of the field; inventory and identification of promising approaches; identification of core programmatic elements and development of model programs or practices briefs; and publication of a short bulletin.
- Training videotapes with instructional booklets, for use by a trainer or as stand-alone training aids.
- Innovative applications of technology, such as interactive computerized training materials, or instruction and guidance in using other emerging technologies to inform, assist, or improve services to crime victims.
- Demonstration projects built on existing innovative programs that can serve as learning laboratories or production of information that enables others to replicate promising policies, practices, or entire programs.

Examples of topics might include, but are not limited to: victim notification systems; training programs for judges, prosecutors, and law enforcement officers; train the trainer programs using curricula which have been demonstrated to be successful; victim assistance programs tailored to meet the unique needs of campus, white-collar crime, and bank robbery victims; and assistance practices that are responsive to "hidden" or underserved victim populations.

Applicants for train the trainer projects must include the curriculum they intend to use. Proposals involving collaboration between public, not-for-profit, and private sector organizations are encouraged.

OVC also is seeking to stimulate a response to crime victims from diverse fields such as the religious community, private non-profit agencies that link with the corporate community to address victim issues (such as workplace violence), and partnerships between organizations that result in expanded services for crime victims. In order to draw diverse skill, experience, and knowledge from the range of organizations that address crime victim issues, no more than two proposals or more than $150,000 will be considered for award to any single victim organization in a single year.

B. Competitive Programs

1. Solicitation of Concept Papers for FY97 ($600,000)

Innovative Training, Technical Assistance and Demonstration Projects

In FY96, OVC anticipates funding five or six of the highest ranking applications submitted under "Field Generated National Impact Projects," which is described above. OVC is also inviting the submission of concept papers on victim-related topics. OVC will review and rank the papers, and invite the highest ranking applicants to submit full proposals for FY97 funding consideration. Concept papers will enable OVC to explore new ideas without burdening prospective applicants, and also permit OVC to project more accurately the nature and amount of future grant awards. To be considered for funding, concept papers must address program areas within OVC's funding authority. Please see "Field Generated National Impact Projects" above. The examples provided, which illustrate permissible activities, are not intended to limit innovative ideas or approaches; the examples should not be construed as the only areas of interest or topics that will be funded. OVC's Program Announcement and Application Kit will give further guidance on preparing and submitting concept papers, which are due October 1, 1996 or February 1, 1997 for two cycles of review and funding.

Special Focus: Assisting the Victims of Crime in the Adjudicative and Administrative Aspects of Criminal, Civil, and Tribal Courts

OVC recognizes the central role courts play in ensuring the delivery of justice, enhancing victims' perceptions that

justice has been done, and improving their sense of safety and redress. In recent years, court personnel—judges, court administrators, and clerks of court—have increasingly developed innovative strategies for assisting the victims of crime in both adjudicative and administrative aspects of criminal, civil, tribal, and juvenile courts. OVC seeks concept papers from courts, court-related organizations, and other agencies with relevant expertise to support activities that enhance or demonstrate innovations in courts' responses to and activities with victims of crime, and that can be replicated in other jurisdictions. Such court activities can involve, but are not limited to: (1) The development and delivery of education and training or curricula development for court personnel, victim advocates, and victims, with particular emphasis on increasing coordination with the prosecutor and other components of the criminal justice system; (2) activities to improve victims' access to justice, including the access of those proceeding *pro se* in related civil/domestic relations matters; (3) diagnostic services and referrals to appropriate community services; (4) programs to increase the safety of victims and witnesses in cases of stalking, threats, and intimidation and to reduce their exposure to the offender and the offender's supporters throughout the trial period; and (5) programs that ensure victims are kept informed of, prepared for, and have the opportunity to be heard at the various stages of the court process. Other issues of particular interest that proposed projects might address are: the impact of the media in high profile cases; gaining acceptance and understanding of the role of victim advocates in the judicial system; and procedures that limit the trauma of testimony by making accommodations to victims with special needs, such as children and the disabled.

2. State and Regional Conference Support Initiative ($75,000)

In FY96, OVC will continue its successful Conference Support Training Initiative. This comprehensive, multi-disciplinary approach to training has provided an opportunity for nearly 10,000 victim assistance providers, crime victims, law enforcement officials, prosecutors, and allied professionals to attend cost-effective-State, regional, and national victim assistance conferences. Over the past three years, OVC has co-sponsored 35 State and regional victim assistance conferences, as well as tracks of victim assistance training at four national conferences of allied professions. Through this initiative, OVC will continue to fund State and regional training events. Priority funding consideration will be given to States that have not previously participated in this project. A portion of the training workshops must be devoted to Federal crime victim issues. These issues may include bank robbery, bias/hate crimes, white-collar crime, and crimes occurring on Federal lands or in Indian Country.

3. Innovative Federal Victim and Witness Practices ($100,000)

OVC will entertain proposals for identifying promising practices in addressing Federal victim and witness-related issues.

C. Non-Competitive Projects

1. Federal Crime Victim Assistance Fund ($75,000)

Through an interagency agreement with the Executive Office of U.S. Attorneys, OVC will provide financial assistance to victims of Federal crime when other resources are not available. OVC will respond to requests from individual U.S. Attorneys' Offices for assistance in meeting the direct and immediate needs of Federal crime victims.

2. District Specific Training ($80,000)

OVC will provide funding to Federal Districts to support training conferences and seminars addressing Federal victims' rights issues and compliance with the *Attorney General Guidelines for Victim and Witness Assistance*. The purpose of this program is to allow U.S. Attorneys' Offices to sponsor training events that meet local or regional needs.

3. Oklahoma City Federal Victim Assistance Program ($100,000 in FY96 and in FY97)

Through an interagency agreement with the Executive Office of U.S. Attorneys, OVC will make funding available to aid victims of the Alfred P. Murrah Federal building bombing. OVC will respond to requests from the U.S. Attorney's Office in the Western District of Oklahoma for financial assistance to support transportation to the trial in Denver, Colorado, for temporary shelter, and for crisis counseling. OVC will make an additional $100,000 available for this program in FY97.

III. Building Vital Capacity in Victim Services

A. Comprehensive Initiatives

1. OVC Resource Center ($350,000)—Non-Competitive

The OVC Resource Center is a national clearinghouse of information concerning victim and witness assistance programs, victim compensation programs, and organizations from the private sector that assist victims and witnesses. It serves a broad constituency of individuals and organizations with professional, academic, and advocacy-related interests in the welfare of crime victims, including victim service providers, law enforcement agencies, clergy, prosecutors, health care practitioners, legislators, researchers, and victims. Key projects anticipated during FY96 include the establishment and distribution of an OVC newsletter, the development of new Internet/World Wide Web-based resources, and extensive conference activity. This initiative is supported jointly by OVC and BJA.

2. Training and Technical Assistance Center

In recent years, OVC has developed several new mechanisms to direct training and technical assistance toward building the capacities of victim service agencies, frequently in response to requests from individual agencies for help in dealing with specific topics or problems. The OVC Training and Technical Assistance Center will offer a centralized access point for information about OVC's training and technical assistance resources. It will develop and disseminate training and technical assistance materials on topics of interest to the field, and mobilize specialized teams to address these topics and other identified areas of need. The Center also will assess and evaluate the training and technical assistance provided by Center components to ensure that high standards of quality are maintained. During FY96, OVC will publish a Request for Proposal (RFP) to contract services for FY97–2000.

The Training and Technical Assistance Center will include:

Capacity Building Technical Assistance—Competitive. OVC is launching a technical assistance program designed to strengthen community-based statewide and national victim assistance organizations, coalitions, and support groups. There are currently over 8,000 local victim service programs, hundreds of statewide coalitions, and nearly a dozen national victim organizations that have worked to make the criminal justice and social service systems more responsive to the needs and rights of crime victims. Although their accomplishments have been impressive, many grassroots, volunteer-powered agencies need organizational development assistance in order to ensure their continuation and nurture future growth. Through this program, such agencies may request the assistance of an expert or team of experts who can assess their current operations and advise them on strengthening their organizational structure and funding base, suggest strategies for networking and outreach, support their capacity to seed new chapters or services, and provide leadership and board development training. Interested organizations may apply to OVC for Capacity Building Technical Assistance, following application guidelines which will be described in the Program Announcement and Application Kit. The five top-ranking applicants will receive up to $10,000 in intensive, individualized technical assistance. This project will be coordinated with OVC's organizational development resource kit described below under the heading, "Resource Materials for Victim Organizations."

Trainers Bureau ($165,000 in FY96)—Non-Competitive. The Trainers Bureau is a mechanism for supporting cost-effective training and technical assistance to victim assistance programs and other agencies that deal with crime victims. Since its creation in 1994, the program has responded to more than 80 requests for a broad range of assistance. During FY96, OVC will publish a Request for Proposal (RFP) to contract services for FY97–2000. It is anticipated that this program will continue without interruption, and public and private not-for-profit agencies can continue to request assistance by contacting OVC for application instructions. BJA is collaborating with OVC in supporting this program.

The Trainer's Bureau also will support a conference for OVC's discretionary grantees that provides information on the best strategies for developing and conducting effective training events, incorporates new technologies, involves OVC grantees in summarizing their projects and accomplishments, and focuses on OVC staff and grantee reciprocal responsibilities. The purpose is to share information about all projects, promote networking, and provide a forum to discuss future activities that will improve the quality of OVC training and technical assistance products and services.

Community Crisis Response (CCR) ($25,000)—Non-Competitive. Through CCR, which was formerly called Immediate Response to Emerging Issues (IREP), OVC will continue to provide rapid response to requests for emergency training or technical assistance from communities and Federal, State, and local agencies responding to a major crisis involving multiple victims. Communities and agencies can continue to request assistance by contacting OVC for application instructions.

Victim Assistance Partnerships and Strategies for the 1996 Olympics—Non-Competitive. OVC will provide support to public and private partnerships in Atlanta, Georgia and surrounding communities to assist them in addressing the increased and special needs of people victimized during the 1996 Olympic Games. The designated lead local agency will convene a planning committee of Federal, State, and local officials and victim advocates to develop a crisis response plan and protocols and to facilitate memoranda of understanding among the relevant agencies to carry out the plan.

Conference and Meeting Support ($80,000)—Non-Competitive. This program will support logistics, planning, and travel-related costs for OVC-sponsored conferences and meetings. These events are likely to include:

- Focus groups that highlight major emerging issues. One topic OVC anticipates exploring through a focus group is victim assistance from the religious community. Since many victims and survivors seek counsel and support from their religious leaders, members of the clergy have a tremendous potential to assist crime victims. This focus group will recruit participants from the widest possible diversity of religious training institutions. A project advisory committee will be identified from staff of seminaries, bible colleges, rabbinical schools, and clerical training institutions, as well as from religious leaders who are involved in victim issues and victim advocates. Additional focus groups on other topics also may be convened.
- Meetings with OVC's various constituent groups, including State VOCA grantees.
- Support for Regional Coordination Initiative activities.
- Funding for unanticipated conferences and events that OVC may wish to conduct in the course of the year.

3. Regional Coordination Initiative—Non-Competitive

This initiative is designed to promote networking and collaboration among victim service professionals on a regional basis. It mobilizes teams of Regional Field Coordinators (RFCs), selected from experienced victim service providers, to develop and implement regional training and technical assistance projects on victims issues. Each of four regional teams plans and organizes a training or technical assistance activity that their group will sponsor during the year. Activities are selected based upon input gathered from victim service providers and allied professionals throughout each region. Funding for team activities will be provided through the Training and Technical Assistance Center.

4. Train the Trainer Seminar Series ($450,000)—Non-Competitive

Hate/Bias Crime ($150,000 in FY96 and in FY97)
Victim Assistance in Community Corrections ($100,000)
Responding to Staff Victimization in Correctional Agencies ($100,000)
Death Notification ($100,000)

OVC will sponsor a series of training for trainers seminars using curricula on topics of special interest that have already been developed through previous OVC grants. Between two and four seminars will be offered on each topic.

Using the curricula they have already developed, pilot-tested, and delivered, the Education Development Center will offer training on Hate/Bias Crime; the American Probation and Parole Association will present seminars on Victim Assistance in Community Corrections; the National Victim Center will offer training on Responding to Staff Victimization in Correctional Agencies; and Mothers Against Drunk Driving will provide seminars on Death Notification. Respective grantees will: (1) Update the existing training package to produce comprehensive and user-friendly instructor and participant training manuals; (2) develop a plan for recruiting "strategically-placed" individuals and supporting their attendance through scholarships at a training seminar; (3) produce a plan and instruments for assessing the impact of the training; (4) conduct train the trainer seminars; and (5) prepare a final report that presents the project assessment and makes recommendations for further improvements or training.

Since the focus of the project is to integrate the training information into policies and procedures, the recruitment

process is crucial to the project's success. Grantees should therefore present a plan to attract certified trainers or individuals who are strategically located within a national, State, or local training academy or other system. Participating trainees must commit to disseminating the information through in-service training in their organizations, at State or local training academies, or via other means that channel the information to allied professionals in community, State, or national arenas.

5. TRIAD/Elder Abuse ($50,000 in FY96 and $200,000 in FY97)—Non-Competitive

In 1994, OVC entered into a partnership with BJA and the Administration on Aging at the Department of Health and Human Services to support regional TRIAD conferences. These training conferences have stimulated the growth of over 260 TRIAD programs in 44 States around the country. TRIAD is a joint effort of the American Association of Retired Persons, International Association of Chiefs of Police, and National Sheriffs' Association to build a coordinated service response to elderly crime victims. This successful training will be continued in FY96 and FY97.

6. Reproduction and Distribution of Training Materials for Federal Personnel ($80,000)—Non-Competitive

OVC will set aside funding for the reproduction and dissemination of various training manuals and informational materials, including monographs, videos, and the Attorney General Guidelines for Victim and Witness Assistance.

7. Automated Victim Assistance Case-Tracking/Notification System ($100,000)—Non-Competitive

OVC will support the development, testing, and use of a specialized computer program that tracks victim, defendant, case, and service agency information. The system would be designed to: send victims timely notification of case proceedings and dispositions; provide victim service referrals; generate victim-related statistics; and ensure compliance with the Attorney General Guidelines for Victim and Witness Assistance. OVC will reimburse the Executive Office of U.S. Attorneys for expenses incurred by their Management Information Systems and/or by U.S. Attorneys' Offices.

B. Competitive Programs

1. Action Partnerships With Professional Organizations ($120,000 in FY97—Amounts up to $15,000 per Grant Will Be Awarded Depending on the Activities Pursued by Applicant Organizations)

OVC seeks to join with national professional and membership organizations to support projects that provide information and training to their membership for the purpose of improving their response to crime victims. OVC is seeking proposals that specify techniques by which applicant organizations will disseminate the information to their membership and encourage its understanding, use, and integration into the daily practice of those who work with crime victims. Organizations of medical, mental health, legal, and criminal justice personnel, as well as the clergy and other allied professionals, are invited to propose one or more of the following activities: (1) Training tracks or a series of workshops at national conferences; (2) and sharing information through periodicals, special monographs or descriptions of model practices, "codes of ethics," membership mailings, teleconferences, videotapes, new communication technologies, and other avenues for reaching the range of professionals who assist crime victims. OVC is particularly interested in projects that result not only in information dissemination but in increased interaction between the membership of two or more groups. This project is a new component of OVC's Training and Technical Assistance Center.

2. Resource Materials for Victim Organizations ($125,000)

This project will support the development of a training and resource kit designed to strengthen community-based statewide and national victim organizations, coalitions, and support groups. Family members of homicide victims and survivors of other violent crimes often turn to self-help organizations for critical and long-term support services, including peer support, criminal justice advocacy, and referrals. Self-help groups, typically staffed primarily or even solely by volunteers—many of whom are survivors—have continual and pressing needs for training and technical assistance on a variety of topics.

The resource kit will be used to provide training and technical assistance that strengthens community-based statewide and national victim assistance organizations, coalitions, and support groups. The kit will cover such topics as: advocacy within the criminal and juvenile justice systems; working in the legislative, political, and media arenas; fund-raising and management techniques for volunteer organizations; strategies for networking; ways to strengthen organizational structure; techniques for leadership and board development; and outreach to underserved and minority populations. The grantee will identify an advisory committee of representatives of the major support groups for family members of homicide victims and survivors of other violent crimes, who will help shape the contents of the kit. The materials will be pilot-tested in several different settings. After they have been revised, they will be printed and disseminated to groups nationwide. OVC anticipates funding a second phase of this project which will provide funding to several support groups to use the training and resource kit with paid and volunteer staff members.

3. OVC "Help" Series ($30,000 in FY97)

OVC will fund the development of a packet of crime-specific brochures that succinctly capture the best known information on a variety of crime-related topics and identify national resources and 800 numbers. The packet will complement the OVC Resource Center display; accompany responses to victims' letters, as appropriate; and serve as general public awareness material. Individual brochures will address the topics of sexual assault, domestic violence, stalking, drunk driving, and child abuse, with an edition specially tailored for children (ages 6–11 and 12–16 years).

C. Non-Competitive Projects

1. Regional Seminars for Establishing Community and Institutional Crisis Response Teams ($100,000 in FY97)

OVC will provide continuation funding to organize, conduct, and assess a series of three regional training seminars on establishing community and institutional crisis response teams. The regional training will assist participants in preparing a community or institutional crisis response plan that is flexible enough to appropriately address many possible crime-related crises. The plan must address both chronic crises, such as multiple victimizations on one college campus, and acute crises, such as hostage situations. The training also will assist in identifying key professionals to serve on the crisis response team.

2. Victim Assistance Training Strategies ($25,000)

As presented in 1995, the National Victim Assistance Academy consisted of a one week (40 hour), intensive block of training provided to approximately 40 victim service providers. In an effort to ensure that OVC is pursuing the most effective approach to building a training academy, this project will assess the basic elements of an effective academy, including: relevant target population, training practices and methodologies, technological pathways, and the relation of the academy to existing or potential State and national accreditation processes for victim service personnel. Options in all of these areas will be examined, as well as their respective cost implications. With input from OVC on the office's current training priorities and issues related to content, training sites, and number of participants, a recommendation report will be produced that can guide the process of building a multi-faceted Victim Assistance Academy that will enhance the quality of victim services in future years.

3. Resources for National Crime Victims Rights Week, 1997 ($30,000)

Each year since 1982, National Crime Victims Rights Week (NCVRW) has been formally designated and commemorated at the Federal level during the month of April. NCVRW provides the nation the opportunity to acknowledge the plight of crime victims and to recognize the numerous reforms that have been instituted to advance their rights and respond to their unique needs. This project will support collaborative efforts between OVC and victim service organizations to make materials available to victims service providers, advocates, elected leaders, and the general public to assist in the commemoration of the national event.

4. Children's Advocacy Center Mentoring Program ($50,000)

Children's Advocacy Centers (CAC) are assisting communities across the country in improving the handling of child victim cases by creating special child-friendly environments, adjusting criminal justice procedures to the needs and abilities of children, and adopting multi-disciplinary approaches. In FY95, OVC joined with OJJDP and the National Children's Advocacy Network to produce a video illustrating "best medical practices" for medical examinations; to conduct a conference to facilitate shared resources between CACs and family violence programs; and to support a specialized training track on family violence at the National Symposium on Child Sexual Abuse. In FY96, OVC will continue this joint effort with OJJDP by supporting a mentoring program that enables communities to connect with existing CACs and receive ongoing assistance in establishing or improving CACs or multi-disciplinary teams in their own communities.

5. Battered Women's Justice Project ($90,000)

In FY95, OVC funded the Battered Women's Justice Project to analyze the Full-Faith and Credit provisions of the Violence Against Women Act and provide: (1) An in-depth State-by-State analysis of enforcement efforts; and (2) training and technical support for State and Federal prosecutors to implement these provisions. OVC is working closely with the Violence Against Women Office and the Violence Against Women Grants Office on this program and plans to continue this jointly funded effort in FY96.

6. Domestic Violence In Kentucky: Model Law Enforcement Response ($20,000)

OVC has worked closely with the Community Oriented Policing Services Office (COPS) and the Violence Against Women Grants Office to establish a demonstration program in Kentucky to implement the Full-Faith and Credit provisions of the Violence Against Women Act. This program is both an intra-state and inter-state enforcement effort.

7. Office of Legal Education Victim Rights and Legal Issues Instructor ($100,000)

OVC will support an attorney instructor who will draft litigation series chapters and course material and present classroom instruction on Federal victims' rights legislation, case law and policy, and prosecutors' duties and responsibilities to Federal crime victims. OVC will make funding available through an interagency agreement with the Executive Office of U.S. Attorneys.

8. Federal Prosecutor and Victim-Witness Coordinator Travel ($200,000)

OVC will provide funding to allow victim-witness coordinators and prosecutors from U.S. Attorneys' Offices to attend various training conferences. These funds, to be made available through an interagency agreement with the Executive Office of U.S. Attorneys, will cover travel-related expenses.

9. Federal Law Enforcement Training Center ($125,000)

OVC will continue to support victim assistance training to law enforcement officers from over 70 Federal agencies. This agreement will provide funding for a trainer to present both basic and advanced courses at the Federal Law Enforcement Training Center.

10. FBI Agreement ($273,000)

Through an interagency agreement with the FBI, OVC will support skill development training of Victim-Witness Coordinators at the investigative level. The agreement will provide for training for FBI Victim-Witness Coordinators and fund a full-time trainer at the FBI Academy.

11. Federal Interagency Agreements ($100,000)

OVC will make funding available to various Federal agencies to enhance their capacities for responding to victim and witness needs. OVC will use funds to support requests for training or production and distribution of informational materials.

12. Federal Travel ($130,000)

OVC will provide funding to allow non-U.S. Attorney Federal criminal justice personnel to both attend and train at OVC-sponsored training sessions.

13. Developing and Marketing of Products ($50,000 in FY96 and $110,000 in FY97)

OVC is developing a minimum of 35 monographs and publications to disseminate descriptions of promising practices, that is, innovative and outstanding service strategies and programs that address the needs of crime victims. In addition, OVC will update the civil legal remedies bulletin, which informs victims of ways to pursue recovery and justice through civil procedures. The updated version will address current State laws and improved procedures and practices. Other products that will be reproduced and disseminated include the National Bias Crimes Training Guides, elder abuse training materials, and a guidebook for communities on responding to sexual abuse.

IV. VOCA Enhancements

A. Non-Competitive Programs

1. National Technical Assistance Conference for State VOCA Victim Compensation and Victim Assistance Administrators ($100,000)

In FY96, OVC will provide funding to expand and enhance its support of

national-scope training and technical assistance for State VOCA victim compensation and assistance administrators. Grant awards will be made to the National Organization for Victim Assistance (NOVA) and the National Association of Crime Victim Compensation Boards (NACVCB) jointly to plan and conduct a national training and technical assistance meeting. The meeting will bring VOCA victim compensation and assistance administrators together to receive guidance and technical assistance to advance their administration of the Federal VOCA grant programs. The grantees will work together to develop the conference agenda, identify presenters, and manage other conference activities. A major purpose of the grant is to foster ongoing collaboration and coordination among compensation and assistance programs. Compensation and assistance administrators throughout the country will be consulted by the grantees concerning conference dates, presenters, and agenda.

2. Mentor Program for State VOCA Victim Compensation and Assistance Programs ($50,000)

OVC will continue support for a newly established mentoring program to provide for on-site, expert assistance for State VOCA victim compensation and assistance programs. Participating "mentors" are drawn from a pool of VOCA administrators who have demonstrated proficiency in a range of program management and operational areas. Technical assistance is customized to meet the specific needs of VOCA victim compensation and assistance administrators. OVC will make $50,000 available to continue in this effort. Approved on-site assistance will be short-term, generally lasting between one and three days.

B. Competitive Program

1. Regional Technical Assistance Meetings for State VOCA Administrators ($25,000 in FY97)

In FY97, OVC will continue to support regional training and technical assistance meetings for State VOCA compensation and assistance administrators. The purpose of this initiative is to fund a number of regional State VOCA administrators' meetings to address training and information needs. These meetings may focus exclusively on victim assistance or victim compensation, or on a combination of the two. Federal funds will be used to support coordination, materials, meeting space, consultants, and other costs associated with planning, delivering, and assessing each meeting.

V. Victim Assistance in Indian Country

A. Comprehensive Initiatives

1. Victim Assistance in Indian Country Promising Practices ($25,000)—Non-Competitive

OVC will provide funding to the National Institute of Justice to assess the efficacy of VAIC programs.

B. Competitive Programs

1. Children's Advocacy Centers in Indian Country ($50,000)

OVC will provide funding to assist two tribes in establishing Children's Advocacy Centers to serve as demonstration sites. In creating child-focused, multi-disciplinary settings, the centers will allow for a coordinated strategy to meet the needs of child victims and the criminal justice system. OVC will make funding available through OJJDP under a cooperative agreement with regional Children's Advocacy Centers.

2. Topic-Specific Monographs ($75,000)

OVC will make funds available for the development of bulletins, fact sheets, and monographs on issues relevant to Native American child victims. Topics will include jurisdictional issues, child interviewing techniques, reporting procedures, child protection teams, psychological evaluations, cultural sensitivity, and tribal-Federal coordination.

C. Non-Competitive Programs

1. Victim Assistance in Indian Country ($767,000)

OVC will make funding available to 18 States to support on-reservation victim assistance programs in Indian country. OVC currently funds 32 such programs, enabling tribal communities under Federal jurisdiction to establish domestic violence shelters, crisis counseling programs, court advocacy networks, and other victim services.

2. Children's Justice Act Discretionary Grant Program for Native Americans ($717,000)

OVC will provide third year funding to continue projects designed to improve the investigation and prosecution of child physical and sexual abuse cases in tribal communities. The programs have helped to establish special tribal child abuse prosecution units, develop interdisciplinary child abuse protocols, revise tribal legal codes, sponsor training, and support a variety of other initiatives designed to aid in the handling of child abuse cases.

3. Training and Technical Assistance for Children's Justice Act Grantees ($200,000)

OVC will award continued funding to the National Indian Justice Center (NIJC) to provide training and technical assistance to tribes and tribal organizations in improving the handling of child physical and sexual abuse cases. NIJC will assess the needs of new Children's Justice Act grantees; develop plans to meet those needs; provide on-site and telephonic technical assistance to both new and continuation grantees; and produce a monograph which describes promising practices that have been implemented to assist child victims in Indian Country.

4. Tribal Court Appointed Special Advocate Programs ($50,000)

OVC will support the continuation of Court Appointed Special Advocate (CASA) programs in Indian Country. The programs will enable tribal court systems to assign advocates to represent the best interests of Native American children. Funding will be made available through OJJDP under a cooperative agreement with the National CASA Association.

5. Attorney General's Indian Country Justice Initiative ($273,000)

OVC will make funding available to support the Attorney General's Indian Country Justice Initiative at the Pueblo of Laguna in New Mexico and the Northern Cheyenne Tribe in Montana. This interagency initiative, which funds comprehensive services for two Indian tribes, is a collaborative effort between the Administrative Office of the U.S. Courts, the Department of the Interior, and various DOJ components, including the Criminal Division, the Office of Tribal Justice, the Office of Policy Development, and OVC, as well as other OJP bureaus. OVC will support Children's Justice Act and CASA projects, as well as victim-witness programs, at each site. OVC will work closely with the DOJ Criminal Division to implement these projects.

6. Tribal and Federal Judges Training ($50,000)

Through an interagency agreement with the Federal Judicial Center and DOJ's Office of Policy Development, OVC will support a program to educate tribal and Federal judges on the handling of child sexual abuse cases in Indian country. The program will provide legal education on Federal procedural law involving the Federal Rules of Evidence, the Federal Rules of Criminal Procedures, and the Major Crimes Act; issues of prosecutorial discretion; and relevant tribal law regarding child sexual abuse. Funding also will support the development of a program manual for tribal and Federal judges.

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Part IV

Department of Transportation

Maritime Administration

46 CFR Part 298
Obligation Guarantees—Program Administration; Final Rule

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 298

[Docket No. R–154]

RIN 2133–AB14

Obligation Guarantees—Program Administration

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: The Maritime Administration ("MARAD") is issuing this final rule which amends certain provisions of the existing regulations implementing Title XI of the Merchant Marine Act, 1936, as amended ("Act"). This rule is intended to improve administration of the Title XI program. MARAD administers financial assistance under Title XI of the Act in the form of obligation guarantees for all types of vessel construction and shipyard modernization and improvement, except for fishing vessels. The part of the Title XI program related to fishing vessels is administered by the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce, ("NOAA"), pursuant to NOAA regulations, which appear at 50 CFR part 253.

EFFECTIVE DATE: This final rule is effective on May 9, 1996.

FOR FURTHER INFORMATION CONTACT: David A. Lippold, Senior Financial Analyst, Division of Capital Assets Management, Office of Ship Financing, Maritime Administration, Room 8122, 400 Seventh Street SW., Washington, DC 20590. Telephone 202–366–1907.

SUPPLEMENTARY INFORMATION: Title XI of the Act, 46 App. U.S.C. 1271 *et seq.*, authorizes the Secretary of Transportation ("Secretary") to provide guarantees of debt ("obligation guarantees") issued for the purpose of financing or refinancing the construction, reconstruction or reconditioning of vessels in United States shipyards for U.S. citizen owners. Applications for obligation guarantees are made to MARAD acting under authority delegated by the Secretary to the Maritime Administrator ("Administrator"). Prior to execution of a guarantee, MARAD must, among other things, make a determination of economic soundness of the project, and the financial and operating capability of the applicant. Prior to amendment by Public Law 103–160, guarantees could be issued only for debt issued by United States citizens. The Title XI program enables applicants to obtain long-term financing on terms and conditions and at interest rates comparable to those available to large financially sound corporations. Funds secured by the obligation guarantees are borrowed in the private sector.

Background

On November 30, 1993, the "National Defense Authorization Act for Fiscal Year 1994" ("Authorization Act"), Pub. L. 103–160, was enacted. Subtitle D of Title XIII of the Authorization Act, cited as the "National Shipbuilding and Shipyard Conversion Act of 1993" ("Shipbuilding Act"), expanded the Title XI program by authorizing the Secretary to guarantee obligations issued to finance the construction, reconstruction, or reconditioning of eligible export vessels and for shipyard modernization and improvement. The Shipbuilding Act establishes "a National Shipbuilding Initiative (NSI) program to be carried out to support the industrial base for national security objectives by assisting in the reestablishment of the United States shipbuilding industry as a self-sufficient internationally competitive industry."

On March 31, 1994, MARAD published in the **Federal Register** an interim final rule, effective on publication, which amended its regulations implementing Title XI in order to carry out the provisions of Subtitle D of Public Law 103–160, expanding the authorization for obligation guarantees to finance the construction, reconstruction, and reconditioning of eligible export vessels and shipyard modernization and improvement. A final rule was published on September 16, 1994. The final rule stated that MARAD would publish at a later date a separate notice of proposed rulemaking to improve administration of the entire Title XI program.

MARAD initiated a review of the administration of its Title XI program regulations with the objective of implementing President Clinton's ongoing Regulatory Reform Initiative and to reaffirm and implement the principles of Executive Order 12866—Regulatory Planning and Review (September 30, 1993). This rulemaking significantly shortens the time for processing applications for guarantees and reduces the economic burden on applicants in complying with MARAD requirements for the submission of information. Accordingly, it is expected to encourage the construction, reconstruction and/or reconditioning of vessels in United States shipyards and the modernization and improvement of general shipyard facilities located in the United States.

NPRM

MARAD published a notice of proposed rulemaking (NPRM) on April 26, 1995, in the **Federal Register** (60 FR 20592) and is now issuing this final rule concerning program administration. This rule reflects consideration of all comments received in response to the NPRM and the interim final rule. Consideration has been given in the final rule to all concerns addressed relative to the Title XI program.

In the interim final rule issued to implement the expanded authorization in Public Law 103–160 for issuing Obligation Guarantees, MARAD requested and received public comments on two additional issues, applicable to the entire Title XI program, namely: (1) The issuance by the Secretary of a Letter of Interest prior to an applicant's submission of a complete application and the subsequent issuance, if any, of a Letter Commitment, and (2) the establishment of a deadline, such as 60 days, by which the Secretary would act on a Title XI application considered complete by the Secretary. In the final rule of September 16, 1994, MARAD determined that these two issues would be addressed in the subsequent NPRM concerning program administration because they apply to both the export and domestic programs. The reason is that this would allow MARAD to consider the issues for both the domestic and export programs at the same time. MARAD advised that commenters need not resubmit their views on Letters of Interest and the 60 day processing period in response to the new NPRM. The discussion of the rulemaking text below differentiates between comments received in response to the interim final rule and the NPRM on these two specific areas.

These regulations do not require more extensive paperwork or reporting requirements than exist under the present Title XI regulations. Exemptions provided herein should substantially lessen the aggregate reporting burden.

In order to alleviate a potential source of confusion in the discussion of the regulations by section, when one particular section pertains to more than one issue, the discussion and MARAD's subsequent response is divided into individual issues related to the content of that section.

Discussion of Rulemaking Text

The discussion that follows summarizes the comments submitted to MARAD by 23 commenters on the NPRM and the commenters on the interim final rule, notes where changes have been made to the Title XI regulations and the rationale therefor, and, where relevant, states why particular recommendations/suggestions have not been adopted. It is noted that where the first letter of one or more words is capitalized, that term is defined in § 298.2. In addition to soliciting comments on specific amendments to the Title XI regulations proposed in the NPRM, MARAD solicited industry and other public comments on three additional issues in general. The first issue is the retention in § 298.13 of the waiver requirement for foreign components and services to be included in Actual Cost. MARAD expressed concern about the potential adverse effect of eliminating the waiver requirement on the U.S. supplier base, which MARAD recognizes as critical to the national defense and economy. MARAD stated that it is attempting to create an environment where both the shipbuilding and ship supply industries have the opportunity to be competitive based on fair pricing, quality, and timeliness. All comments received in this area are in the discussion of § 298.13.

The second issue on which MARAD solicited public comments is construction period financing. As the Secretary may approve Guarantees with respect to obligations to be issued for the applicable period of construction, reconstruction, or reconditioning, MARAD invited comments on available forms of security, in addition to surety bonds, that could protect MARAD's interests as a lender, how progress should be monitored, what new procedures/methodologies should be developed to improve the previously utilized progress payment system, and if payment of interest on the obligations should be made on a more frequent basis (i.e., weekly, monthly or quarterly) than that outlined in § 298.22, *Amortization of Obligations*. In addition, comments were solicited as to how the Title XI applicant will verify/certify to MARAD that certain costs have been paid prior to disbursement of Title XI funds from the escrow account, for example, the use of an agent on MARAD's behalf to verify that certain costs have been paid. All comments received in this area are discussed in § 298.21 below.

Finally, MARAD also requested comments concerning the standard application Form MA–163 referenced in § 298.3, *Applications*, and the required documentation outlined in subpart D of this part 298. All comments received in these areas are discussed under § 298.3 or subpart D of this part.

Discussion of Regulations by Section.

Note: Paragraph references are as designated or redesignated in the notice of proposed rulemaking.

Section 298.2 Definitions

(b), Actual Cost. One commenter suggested the inclusion of Guarantee Fees as an item in the definition of Actual Cost.

MARAD Response: The present definition of "Actual Cost" refers to § 298.21(b) which is being amended in the final rule to clearly state that "Guarantee Fees determined in accordance with the provisions of section 1104(e) of the Act shall be included in the items of Actual Cost." Hence, adoption of the NPRM as a final rule will effectively accomplish the commenter's suggestion without the necessity to change the definition of Actual Cost.

(f), Depreciated Actual Cost. One commenter suggested the inclusion of Guarantee Fees as an item in the definition of Depreciated Actual Cost.

MARAD Response: The same response as to the preceding comment applies.

(l) Guarantee Fee. One commenter suggested deletion of the reference to interest accrual on the Guarantee Fee.

MARAD Response: The definition of "Guarantee Fee" does not include a reference to interest accrual and, therefore, is not being amended.

(o) Letter of Interest. While no commenter suggested a change to the proposed definition of a Letter of Interest, comments were received regarding the Letter of Interest concept and content.

MARAD Response: MARAD's response to the comments are outlined below in the discussion regarding § 298.3(f). In view of the fact that MARAD is deleting § 298.3(f) in its entirety, this definition will not be included in the Title XI regulations.

(y) Related Party. One commenter suggested that the definition of Related Party should be revised to be consistent with the existing definition in generally accepted accounting principles (GAAP).

MARAD Response: The intent behind replacing the terms "Affiliate" and "Affiliated" with the term "Related Party" was to be consistent with a terminology change in GAAP as promulgated by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants. Although the commenter has provided the present GAAP definition for Related Party, MARAD has determined that it would be inappropriate to incorporate the precise GAAP definition as it exists today in the Title XI regulations due to the frequent modifications to GAAP definitions. It should be noted, however, that MARAD's regulations are to be construed in a manner consistent with GAAP, unless the regulations expressly deviate from GAAP.

(cc) Vessel. The definition of Vessel was not modified in the NPRM. However, three of the four commenters supported MARAD's announcement of a change in policy to expressly include passenger vessels engaged in commercial common carriage, in particular ferries, as eligible for the Title XI program. One commenter also was in favor of an expansion of Title XI financing to the "cruise to nowhere" segment and gaming vessels, as the commenter believes that the passenger vessel segment of the U.S. flag merchant marine will make the most gains in the next decade. One commenter does not believe that the change in policy on passenger vessels should include ferries and/or gambling vessels on U.S. rivers because use of scarce Title XI resources for these vessels would not promote the Act's objective of ocean-going vessels or vessels capable of serving as a military auxiliary.

MARAD Response: MARAD does not believe that a regulatory change to this definition is necessary. It is MARAD's position that the expansion of Title XI financing in the passenger vessel market generally will aid in the development and maintenance of an adequate and well-balanced U.S. merchant marine and will promote U.S. commerce. As to the concern expressed about MARAD's scarce Title XI resources, MARAD retains informal discretion under the Act and formal discretion under § 298.3(e) (priorities), in appropriate circumstances, to limit allocation of its Title XI resources to ensure optimal use of MARAD's appropriated funds in terms of promoting the objectives of the Act.

Section 298.3 Applications

Section 298.3 (a). This section specifies the format for submitting and amending applications for Title XI financing. As mentioned above, MARAD specifically solicited comments on the current standard application Form MA 163 and any proposed amendments to the form and standard documentation, particularly with regard to export vessels and shipyard modernization.

One commenter stated that inadequate time was given to review and comment on the application form; however, as a general comment, the form needs to be revised to be consistent with the recent changes in law for

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shipyard modernization and Eligible Export Vessels. Another commenter stated that the application form is overly complicated and greatly increases transaction costs and discourages applicants. The commenter suggested the establishment of an advisory committee composed of representatives from MARAD, the maritime bar, investment and commercial banking industry, shipbuilding industry and the shipowning and operating industry to review and assist in revisions.

A final commenter believes that the administration of the program will be improved by including a list of all documents required to be submitted with an application, i.e., any demise charters, time charters in excess of six months, contracts of affreightment, drilling contracts or other contractual arrangements (§ 298.3) and legal opinions ensuring the enforceability of the mortgage or security interest for Eligible Export Vessels (§ 298.31(a) (2) and (3)).

MARAD Response: In view of the time required to determine appropriate changes and to obtain approval from the Office of Management and Budget for a revised form, MARAD has decided to defer consideration of this matter in order to avoid delay in promulgating this rule. MARAD supports the suggestion that a non-Governmental authority establish a working group composed of representatives from MARAD, the maritime bar, investment and commercial banking industry, shipbuilding industry and the shipowning and operating industry to review and assist in revisions to the form.

MARAD agrees with the comment that the administration of the Title XI program will be improved by including with the application form a list of all documents required to be submitted with the application. MARAD will prepare such a list of documents, which list shall be provided with the standard application form.

In addition, MARAD has determined that the document required to be filed with the Secretary of the Senate and the Clerk of the House of Representatives by the Lobbying Disclosure Act of 1995, Pub. L. 104–65, must be filed as part of a formal Title XI application, together with the declaration required to be filed by 31 U.S.C. 1352. MARAD will still require similar forms at Closing. Finally, as part of the application process MARAD may request that the applicant submit information to assist MARAD in the preparation of a National Environmental Policy Act analysis.

The instructions regarding the filing of a Title XI application on Form MA–163 require that 12 complete sets (of which three must be duly executed and certified by the applicant), including schedules and exhibits as required, must be filed with MARAD. MARAD has reviewed its internal requirements for processing applications and has reduced the required number of application sets to ten. Only two of the sets must be duly executed and certified by the applicant. In addition, MARAD has examined the possibility of allowing Title XI applicants to submit their Title XI applications on computer disk to be accompanied by two hard sets of the application duly executed and certified by the applicant. Upon request a list of the computer software which can be utilized for disk submission of the application will be made available by the Office of Ship Financing.

Section 298.3(b)(1). In response to the 1994 interim final rule, most commenters thought that the 60-day processing period for completed applications was reasonable, appropriate, and adequate. Some commenters suggested a shorter period of 30 days as conforming more closely to purported international commercial norms. Some shipyards were concerned that the 60-day turnaround is noncompetitive in the international market because a "complete" application may in itself take more than 60 days to draft. They suggested that guidelines would be necessary to define the procedures for submitting a complete application. Some suggested that, for a pre-approved ship design, MARAD should be able to issue Letter Commitments within 30 days, and further suggested that MARAD review its application requirements to ensure that it is not requiring burdensome information. One commenter suggested that a deadline for processing completed applications is an unnecessary requirement.

The April 1995 NPRM reiterated the 60 day guideline and also proposed a 15-day deadline, after notification by MARAD, by which an applicant must correct deficiencies in the application or face possible termination of the application. In response to the NPRM, most commenters supported MARAD's efforts to shorten the time for processing guarantee applications. Several commenters suggested that to be world competitive, a 60-day turnaround, from when the application is submitted to the Closing, is necessary. Some commenters were concerned about the proposed reduced amount of time the applicant has to correct deficiencies in the application. One stated that placing a 15-day limit on correcting deficiencies would place an undue hardship on the applicant as well as make it impossible to meet the deadline where deficiencies involve engineering or architectural items and, therefore, suggested a minimum of 60 days to correct deficiencies. One commenter noted that the requirement makes no distinction as to the nature, complexity, or availability of the requested information.

Several commenters suggested that termination of an application should occur only when it is the applicant's failure to complete the application that results in inaction and that failure to supply the deficient information should result in suspension of the application process, rather than termination. Several commenters stated that if an application is resubmitted, no new filing fee should be assessed unless the application is for a substantially different project. Finally, one commenter indicated that having to start over will actually result in prejudice to MARAD's consideration of a subsequent application.

MARAD Response: Prior to the issuance of the NPRM, this section indicated that the period between the filing of the application and the anticipated date by which a Letter Commitment is issued was six months and that the period for completing an application and the Secretary taking action on a completed application is within one year. The NPRM proposed significant modifications to the Title XI regulations in this section in order to provide for expeditious processing of each Title XI application, resulting in lower administrative costs and a more timely response to the applicant.

The 60-day processing period for completed applications is a general guideline for processing Title XI applications. If possible, MARAD will process completed Title XI applications on a more expedited basis than 60 days in order to enable applicants to more quickly respond to market opportunities.

As to some shipyard concerns regarding the drafting of a "complete" application, the time that it takes to draft a Title XI application is not factored into the 60-day processing period. MARAD is on public record as encouraging Title XI applicants to have at least one pre-application meeting with MARAD personnel to, among other things, determine what essential pieces of information about the applicant and its proposal must be included in the application. As each application is project specific, the information necessary for submitting a complete application for a given project will be discussed at the pre-application meeting(s). If applicants follow MARAD's suggestion to have pre-application meetings, the application drafting time should be significantly reduced.

The suggestion that MARAD issue a Letter Commitment in the case of pre-approved ship designs within 30 days is rejected because MARAD still has to review the application for economic soundness and review of a company's financial position. In most cases, this could not be completed in the proposed 30-day period. With regard to the suggestion that MARAD review its application requirements to ensure that it is not requiring burdensome information, MARAD is undertaking this review.

Finally, one commenter's suggestion that a deadline for processing completed applications is an unnecessary requirement is rejected because MARAD believes that it is critical to an orderly and expeditious process to have a specific indication as to the period for such process.

Several commenters expressed concerns about the reduced amount of time (from the previous period of nine months) the applicant has to correct deficiencies in the application. In response, MARAD notes that failure by the applicant to correct deficiencies within 15 days does not result in automatic termination of the application. The regulation provides that the *Secretary* may terminate processing of the application without prejudice. MARAD thus has the flexibility to extend the deadline, if appropriate, taking into consideration the nature, complexity, or availability of the requested information.

MARAD does not believe it necessary to amend the language in this paragraph to provide that, in lieu of terminating an application without prejudice, MARAD may elect to suspend processing of an application for any number of contingencies. MARAD may use its discretion to do whatever is appropriate in processing applications.

The position of several commenters that, if an application is terminated, no new filing fee should be assessed unless a subsequent application is for a substantially different project, is justifiable and is being adopted.

In view of the foregoing, MARAD sees no reason to change the present wording of § 298.3(b)(1), with the exception of one item. The paragraph is being amended to clarify that if an application is terminated by MARAD without prejudice, no new filing fee will be assessed for a subsequent application for a similar project that is filed within one year of the termination date. If a subsequent application is for a substantially different project as determined by MARAD on a case-by-case basis a new filing fee will be assessed.

Section 298.3(c). The NPRM proposed requiring each Title XI application to be accompanied by a filing fee in the amount of one quarter of the investigation fee amount, calculated pursuant to the formula outlined in § 298.15, but in no event less than $1,000.

Several commenters do not support raising the $1,000 filing fee, arguing that preparing a Title XI application shows seriousness. Other commenters object to raising the filing fee to the amount proposed in the NPRM, but believe a modest fee increase is appropriate. One commenter believes that a multiple vessel application should not result in a substantially greater fee than a single vessel application of the same type because the amount of analysis involved is not significantly more. Therefore, the commenter believes that the filing fee should be capped at $25,000 to discourage frivolous applications. Another commenter supports capping the filing fee at a maximum of $10,000. A $10,000 non-refundable maximum filing fee will ensure the seriousness of the applicant and provides the government with a substantial and immediate contribution toward the cost of processing the application. At the same time, the commenter states that a $10,000 cap will not result in applicants undertaking substantial economic risk simply to file an application.

One commenter states that the proposed filing fee increase would act as a major disincentive to program participation by portions of the maritime community the program is designed to serve, bearing most heavily on those least able to afford its terms. The increased fee would create a severe disincentive and is not only onerous in the extreme for any large project but also discriminatory against larger projects which tend to bring greater benefits to the country. Such a fee level, in the case of large projects, bears no relationship to a greater cost to MARAD of processing a given application up to the point of approval and receipt of the investigation fee.

Another commenter believes that if the proposed NPRM modifications are adopted, either the Letter of Interest procedure will in effect become the application procedure, with prospective applicants submitting applications complete in all respects (except for signatures and payment of the application fee) or the number of Title XI applications will decline dramatically. The commenter states that MARAD cannot adequately review a Title XI application in a ten-day time frame set out for Letters of Interest, and many applicants, particularly for Eligible Export Vessels, will not pay thousands of dollars to find out if MARAD might approve their application.

MARAD Response: MARAD has reconsidered its proposed amendment and has decided to further amend this paragraph by requiring each Title XI application to be accompanied by a filing fee in the amount of $5,000. Since the filing fee is deducted from the investigation fee, which is paid at the end of the application process, there will be no net increase in cost to the applicant. However, the increase in the initial filing fee will enable the Government to recover more of its administrative costs for application processing at the beginning of the application period. The instructions for filing Form MA–163 will be modified to reflect the increased fee.

Section 298.3(f). In response to the 1994 interim final rule, almost all of the 28 commenters responded favorably to the proposal that the Secretary exercise discretion to issue a Letter of Interest prior to the applicant's submission of a complete application. Commenters noted that the procedure could be particularly useful if the shipbuilder could use the document as a marketing document to compete effectively against foreign yards. Some suggested that if MARAD were also to preapprove ship designs, Letters of Interest would be very effective indicators of MARAD's interest in a proposed financing. One commenter suggested that Letters of Interest could be used by applicants to forecast the cost of a transaction and the expertise that will be needed to complete a proposed transaction.

Commenters proposed that requests for Letters of Interest should contain information about (1) the type and design of the Vessel to be financed and its intended trade, (2) the approximate cost of the Vessel and its proposed builder, (3) the amount of the requested Guarantee, (4) recent financial information on the prospective shipowner or bareboat charterer, (5) a description of the collateral to secure the Secretary's Guarantee, and (6) identification of the country in which the Vessel would be owned and documented. A commenter recommended that there be no charge or fee for the issuance of a Letter of Interest, that the letter be issued prior to the filing of an application, and that the letter be issued within ten days of the request.

Several commenters raised two concerns about Letters of Interest. First,

they argued that requests for such letters must be treated confidentially because a request for a letter may come during the negotiating process and the subject shipyard would not want its competitors to be aware of the negotiations or potential prices. A second concern raised was that the formalization of a Letter of Interest procedure could slow down the expeditious approval by MARAD of loan guarantee applications by effectively duplicating the formal application process. It was suggested by one commenter that MARAD could substitute preapplication meetings for the Letter of Interest. Additional concern was expressed that the conditions contained in the Letter of Interest should not be deemed by the agency to be binding if the applicant later demonstrates that it can meet alternative, but equivalent conditions.

MARAD Response: MARAD noted in its comments above to § 298.2(o) its deletion of the Letter of Interest definition. Initially, MARAD intended its Letters of Interest to parallel those of the Export-Import Bank of the United States. However, MARAD has, with the passage of time, significantly diluted the content of its Letter of Interest to the point where the letter is in the nature of a letter of eligibility. MARAD found it necessary to amend the letters because, in certain instances, they had been held forth to outside institutions as representing some sort of commitment to a project by MARAD. Currently, the letters describe only the general eligibility of a project and advise that, as such, they do not and should not be construed as approval of the project by MARAD or the terms that would be applicable to the project. The letters state that approval of any project would be based on MARAD's determination that the project meets all statutory, regulatory and financial requirements. The letters further state that, although a project may be deemed eligible for Title XI financing, issuance of the letter does not give any assurances that MARAD would be interested in proceeding with, or that funds would be available for, the type of project should an application be filed. Therefore, MARAD believes that to continue to call these letters "Letters of Interest" is inaccurate. MARAD will continue to issue letters of eligibility to indicate the general eligibility of a project for Title XI financing. However, it will no longer issue any document referred to as a Letter of Interest. MARAD believes that the letter of eligibility concept does not have to be formalized in the Title XI regulations and, therefore, paragraph (f) is being deleted in its entirety.

MARAD does not agree with the commenters' concern that letters of eligibility be treated on a confidential basis. As a general matter, all letters of eligibility including all formal actions taken by MARAD, including the issuance of a letter of eligibility, must be disclosed to the public. However, if the request for a letter of eligibility, including attachments thereto, contains information which the submitter considers to be trade secrets or commercial or financial information and privileged or confidential, or otherwise exempt from disclosure under the Freedom of Information Act (FOIA) (5 U.S.C. 552), the submitter shall assert a claim of exemption at the time of filing a letter of eligibility request. The same requirement shall apply to any amendment to the request. The procedures outlined in paragraph (d) of this section shall apply with respect to the assertion and review of FOIA exemption claims. Due to the nature of a request for a letter of eligibility, MARAD does not agree with the comment that the letter of eligibility procedure would slow down the expeditious approval by MARAD of Title XI applications. Finally, MARAD believes to be unfounded the comment that MARAD could substitute pre-application meetings for the letter of eligibility as the two concepts are unrelated. The purpose of a pre-application meeting is to exchange information and the purpose of a letter of eligibility is to identify the general eligibility of a project.

Section 298.10 Citizenship.

This section sets forth the citizenship requirements for Title XI applicants and certain other parties that must establish U.S. citizenship prior to acquiring a legal or beneficial interest in a Vessel financed under Title XI of the Act. The exceptions to this requirement are Eligible Export Vessels and General Shipyard Facilities.

Section 298.10(a). MARAD received four comments on this issue. One commenter merely pointed out a typographical mistake. The other three commenters supported the elimination of the citizenship requirement for all Title XI financed U.S.-flag vessels and stated that the only requirement should be the vessel documentation requirements administered by the U.S. Coast Guard. One of the three commenters, with known foreign involvement, is interested in converting semi-submersible drilling rigs into floating production systems (FPS) for use in the oil and gas industry in the Gulf of Mexico area. Therefore, their view is that Title XI financing should be available to "transnational ship-owning corporations." Another commenter supported the elimination of the citizenship requirement because their desire is "to see that the potential beneficiaries of the Title XI program are as broad as possible * * *" A comment from a law firm stated that sections 1103(a) and 1104(a)(1) were amended by the Shipbuilding Act to eliminate Section 2 citizenship requirements for Title XI financed U.S.-flag vessels and that MARAD is misreading the U.S. citizenship requirements set forth in the defined term "vessel" at section 1101(b). Their view is that the U.S. citizenship requirement in this section is not all inclusive and applies only to certain types of vessels. One of the four commenters also stated that the citizenship of a preferred mortgagee is "immaterial" and MARAD should not be concerned with the citizenship of third party mortgagees.

MARAD Response: The U.S. ownership requirement for U.S.-flag vessels financed with Title XI has been consistently required throughout the life of the Title XI program. It was required for the predecessor federal ship mortgage insurance program, 52 Stat. 969 (See H.R. Rep. No. 2168, 75th. Cong., 3d Sess. 29), retained in the Federal Ship Loan Guarantee Program, enacted in 1972, 60 Stat. 909, and left unchanged by enactment of the Shipbuilding Act in which Title XI loan Guarantees were extended to Eligible Export Vessels, which could be owned by either U.S. citizens or non-U.S. citizens, but retained the limiting definition of vessels for non-export purposes. Therefore, by law, U.S.-flag Vessels receiving Title XI financing must be owned by U.S. citizens.

With respect to the comment regarding citizenship of mortgagees, MARAD does not require, under the Title XI financing program, evidence of the mortgagee's U.S. citizenship. MARAD only requires confirmation that the mortgagee complies with the statutory requirements established for mortgagees. Accordingly, MARAD will not amend the regulation.

Section 298.11 Vessel requirements

Section 298.11(a). Concerning paragraph (a), *United States Construction,* one commenter suggested that the structure of creating three separate classes of Vessels is confusing and unnecessary. To the extent a higher standard is required for operation in the coastwise trade, it should be sufficient simply to say that the Vessel shall be built to whatever standard is necessary

to entitle it to be eligible for such trade. There should be no distinction between U.S.-flag and Eligible Export Vessels. The standard for U.S. shipyard involvement for Eligible Export Vessels is the standard which should apply to all Vessels subject to specific trade requirements. The commenter therefore recommends that for all Vessels MARAD adopt the definition in § 298.11(a)(3), which provides that the Vessel is considered to be of U.S. construction if assembled in a United States shipyard. A second commenter states that since the Organization for Economic Cooperation and Development Shipbuilding Agreement recognizes the U.S. right to maintain the Jones Act, it is appropriate for the rule to make a distinction between Jones Act and non-Jones Act Vessels so that any prospective change to the guarantee period will not apply to Jones Act Vessels.

MARAD Response: Upon further review, MARAD agrees with one of the commenters that the creation of three separate categories of Vessels is unnecessary. As the proposed categories were squarely in line with the standards enunciated by the United States Coast Guard, MARAD believes it is appropriate instead to amend paragraph (a) of the regulation to simply state that for U.S.-flag Vessels, the Vessels shall be built to whatever standard is necessary to enable them to be eligible for their specific trade requirement. Accordingly, the regulation is being amended to provide that a Vessel, including an Eligible Export Vessel, financed by an Obligation Guarantee is considered to be of United States construction if the Vessel is assembled in a shipyard geographically located in the United States. In addition, § 298.32(a)(6) is being amended to reflect the above.

Section 298.11(c). Concerning paragraph (c), *Class, condition and operation,* two commenters supported MARAD's proposed amendment regarding Quality Systems Certificate Scheme (QSCS) issued by qualified International Association of Classification

Societies (IACS) members as meeting acceptable standards for such a society to participate in the Eligible Export Vessel program.

MARAD Response: By requiring solely ISO–9000 registration, the current Title XI regulations do not allow members of IACS who are QSCS qualified members that are not ISO–9000 registered to participate in the Title XI Eligible Export Vessel program. Initially, there was a thought that merely agreeing to a QSCS standard would screen out marginally qualified classification societies. However, requiring the ISO–9000 standard would currently screen out the American Bureau of Shipping and other highly qualified classification societies whose inspection and classification activities are recognized worldwide. Paragraph (c) has been amended to permit QSCS qualified IACS members who have been recognized by the United States Coast Guard as meeting acceptable standards for such a society to participate in the Eligible Export Vessel program. That recognition shall include, at a minimum, recognition that the society meets the requirements of IMO Resolution A.739(18).

Section 298.11(e). Concerning paragraph (e), *Metric Usage,* one commenter states that it is not clear what is meant in the regulation by the statement that the "preferred system" is the metric system. If some preference is to be given to application of the metric system, the consequences of such preference should be spelled out.

MARAD Response: DOT Order 1020.1D "Department of Transportation Transition to the Metric System" established Departmental policy for transition to the metric system in accordance with the Metric Conversion Act of 1975, as amended by Section 5164 of the Omnibus Trade and Competitiveness Act of 1988, Pub. L. 100–418 (Omnibus Act). Section 5164 of the Omnibus Act declares that it is the policy of the United States to designate the metric system of measurement as the preferred system of weights and measures for U.S. trade and commerce. Section 5164(b)(2) requires each Federal agency to use the metric system of measurement in its procurement, grants, or other business-related activities. Therefore, the Title XI regulations have been amended to indicate that the preferred system of measurement and weights for vessels and advanced and modern shipbuilding technology is the metric system as a matter of policy. However, no preference/priority is given to processing applications where the metric system of weights and measures is utilized. The priorities given to Title XI applications are outlined in § 298.3(e) and select criteria for evaluating Title XI applications is set forth in § 298.17.

Section 298.12 Applicant and Operator's Qualifications

Section 298.12(b)(2). This section outlines identifying information required to be submitted if the applicant is a partnership, joint venture, association, or unincorporated company.

MARAD Response: Although no comments were received regarding the change to this paragraph as outlined in the NPRM, MARAD has decided to add a new paragraph (b)(2)(vi) requiring the submission of information regarding financial, management and/or equity transactions which could have a significant impact on the ability of the applicant to meet the Title XI requirements.

Section 298.12(f)(1). One commenter stated it is unclear which individuals need to be named in this section which requires that the background of "all senior supervisory personnel" be submitted. To the extent that advanced shipbuilding technology is the subject of the application, it should be sufficient to submit the background of the people who will be directly responsible for the installation or operation of the facility or method. Additionally, one commenter suggested that the word "personnel" should be stricken from the proposed insert—"by all senior supervisory"—because the word "personnel" already follows each place that the phrase is inserted.

MARAD Response: MARAD agrees that the word "personnel" should be stricken from the proposed amendment to that paragraph. MARAD sees no reason to change the present wording of paragraph (f)(1) regarding the background of all senior supervisory personnel for Advanced Shipbuilding Technology. It is a sufficiently clear standard to apply to particular circumstances.

Section 298.13 Financial Requirements

Section 298.13(a)(2)(i). One issue on which MARAD solicited public comments in the NPRM is the retention in section 298.13 of the waiver requirement for foreign components and services to be included in Actual Cost, which waiver shall not be granted for foreign components of the hull and superstructure. MARAD indicated its concern about the potential adverse effect on the U.S. supplier base, which MARAD recognizes as critical to the national defense and economy. In the NPRM, MARAD stated that it is attempting to create an environment where both the shipbuilding and ship supply industries have the opportunity to be competitive based on fair pricing, quality, and timeliness.

A broad spectrum of comments were received on this issue. Some commenters supported the retention of the current waiver requirement for foreign components and services. One commenter submits that the retention of the waiver provision is the most

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prudent path for applicants to follow and outweighs any speculative adverse impact that retention of the waiver might have on the U.S. supplier base. There are instances in which a foreign component or service is necessary for the construction, reconstruction, or conversion of a vessel, and the applicant should not be penalized in such instances. Additionally, the commenter states that removal of the waiver might place a U.S. supplier who competes with foreign suppliers in a position to demand what might amount to monopolistic prices; the supplier who normally competes in the world market would be given dominant market power if the applicant were required to purchase supplies from such a U.S. supplier in order to obtain financing for the cost of such supplies. The commenter states that removal of the waiver provision has the potential to hinder, rather than enhance, the creation of a competitive domestic ship supply industry based on fair pricing, quality and timeliness. In addition, the commenter submits that it should be made clear that, in addition to the hull and superstructure, each additional foreign component or service for which a waiver is not granted, and thus which is not included in Actual Cost, can be regarded as owner-furnished equipment that may be used in satisfying the applicant's equity requirements. Finally, that commenter proposes adding the following underscored language to § 298.13(a)(2)(1): "Although excluded from Actual Cost, foreign components of the hull and superstructure *and other foreign components and foreign services for which a waiver has not been granted* can be regarded as owner-furnished equipment that may be used in satisfying the applicant's equity requirements * * *."

Another commenter states that the term "component" should be defined in order to eliminate the possibility that raw materials, such as steel, might be considered to be a component and required to be of U.S. origin. It is important to retain the ability to waive the requirement for U.S. components, MARAD needs the flexibility and it is too hard to predict technological changes that may be beneficial to a vessel that may be obtained only through a foreign source or to compensate for shortages in the U.S. supply of components affecting delivery schedules. Another commenter notes that the regulations are not specific as to what items are to be considered as components of the "hull and superstructure."

Other commenters supported the introduction of a more restrictive waiver requirement by recommending that waivers "ordinarily be granted only where the applicant has demonstrated that the item involved: (a) Is not manufactured by a U.S. domestic source, or if a service, is not available from such a source; (b) is not available from a U.S. domestic source in a timely fashion; or (c) is not available from a U.S. domestic source at a competitive price." Along the same line, another commenter states that the regulations need to be amended to provide for standards and procedures for granting waivers, such that applicants will be required to demonstrate in a clear and convincing way that no U.S. product is available and that sufficient and effective steps have been taken to search the U.S. industrial base.

Finally, some commenters opposed the requirement for a foreign component waiver for non-hull and superstructure items. One commenter states that the requirement to seek a waiver for each of a myriad of items would be a crippling obstacle to achieving competitiveness and the NPRM gives no indication as to grounds for a waiver. The commenter states that protection of the U.S. supplier base will not promote competition. Where U.S. suppliers are capable and cost-competitive, the commenter expects U.S. suppliers to be used. However, the commenter supports the requirement that only hull and superstructure components fabricated in the U.S. should be included in Actual Cost and that no waiver should be granted. The commenter does not believe that inclusion of foreign hull and superstructure components should disqualify the entire vessel from Title XI financing and does not see any significant benefit to allowing foreign hull and superstructure components to be included as part of the equity contribution. Finally, the commenter states that it is unclear in the example given in the NPRM how foreign hull and superstructure components will be considered as part of the equity contribution. Nonetheless, the regulations should specifically state that large items of foreign hull and superstructure components excluded from actual cost may be financed externally, such as in a foreign jurisdiction that is willing to provide export financing.

Another commenter opposing the requirement for a foreign component waiver for non-hull and superstructure items states that restrictions on the use and financing of foreign equipment will severely limit U.S. shipyards' ability to become globally competitive. The commenter adds that it is not reasonable to assume that these restrictions will result in the domestic manufacture of items. U.S. yards need to have the same access to the global supplier base as do other yards so that they can obtain the low prices and technologically advanced designs necessary to secure orders. Restricting U.S. shipyards from procuring foreign source machinery, equipment, or hull and superstructure material which has been manufactured in a foreign facility is not the way to make them competitive on the international market.

Another commenter respects MARAD's good faith desire to try to protect U.S. suppliers, but opposes the actual cost disqualification for all foreign components and services. The commenter states that the NPRM's articulated policy goal is contrary to the spirit of GATT, to the policy of the President and the USTR, and to Congressional intent. In order to get export shipbuilding orders, there must be freedom to respond to the commercial dictates of international customers. The commenter adds that U.S. suppliers are done no favors by adopting protectionist principles which can prevent U.S. shipyards from obtaining export orders. The commenter states that a "Buy America" program should not be adopted until choice availability and price parity from within the domestic U.S. is fully equal to that internationally available. If the above arguments are rejected, the commenter argues that the hull and superstructure metals components are the only items for which no waiver should be granted.

A final commenter adds that exclusion of foreign components of the hull and superstructure and a waiver for other foreign components or services is redundant in the case of coastwise-eligible U.S.-flag Vessels since other U.S. laws require that such Vessels be built in the United States (which term includes fabrication of all *major* components of the hull and superstructure in the U.S.). The commenter states that the regulations omit the word *major* thereby arguably setting up an even higher standard than that required to document Vessels under the U.S. flag for coastwise trade. The commenter recommends that MARAD limit its requirements under Title XI in the case of non-coastwise U.S.-flag Vessels and foreign-flag Vessels to assembly in a shipyard in the United States. The commenter states that MARAD should encourage U.S. shipyards to compete internationally and not limit its own program in a way that makes it less attractive than competing programs being offered by foreign countries. In addition, the commenter states that the waiver

requirement is totally unwarranted in light of earlier removal of the "Buy America" requirements. Placing additional requirements of this type is the kind of unnecessary government regulation that the Administration promised to eliminate in its October 1993 shipbuilding initiative report.

MARAD Response: MARAD reiterates its concern about the potential adverse effect on the U.S. supplier base of elimination of the waiver requirement for foreign components and services to be included in the Actual Cost determination. MARAD is attempting to create an environment where both the shipbuilding and ship supply industries have the opportunity to be competitive based on fair pricing, quality and timeliness. In view of the foregoing comments, MARAD has decided to retain the waiver requirement and to establish a standard for granting a waiver. The standard would be the certification by the applicant, to be reviewed by MARAD, that a foreign item or service is not available in the U.S. on a timely or price-competitive basis, or is not of sufficient quality. Paragraph (a)(2)(i) is being modified accordingly.

In addition, MARAD agrees with one of the commenters that the omission of the word "*major*" from defining the components of the hull and superstructure which must be fabricated in the U.S. establishes a higher standard than that required to document vessels under the U.S. flag for coastwise trade. Accordingly, the appropriate clarification is being made to paragraph (a)(2)(i).

Section 298.13(a)(4). One commenter states that provision should be made to accept financial information provided in the normal accounting system used by the applicant, provided that it is an accepted accounting system in the applicant's country of origin and further, provided that the applicant submits some reconciliation of the major differences between the accounting system employed and GAAP. The commenter adds that the Securities and Exchange Commission accepts this approach. One other commenter recommends that if U.S. GAAP is to be required of all applicants or other entities significantly involved with the financing, that requirement should be reflected in the regulations.

MARAD Response: MARAD recognizes that a requirement to meet U.S. generally accepted accounting standards may be unduly burdensome in the case of Eligible Export Vessels. Accordingly, in the interim final rule published in the **Federal Register** on March 31, 1994, MARAD amended § 298.42 of the Title XI regulations to provide that, in the case of such vessels, the company accounts shall be audited at least annually and the Secretary *may* require that the financial statements be in accordance with generally accepted accounting principles by accountants, as otherwise described in § 298.42, or certified by independent public accountants licensed to practice by the regulatory authority or other political subdivision of a foreign country, provided such accountants are satisfactory to the Secretary. In order to be consistent with § 298.42, MARAD agrees that provision should be made for MARAD to accept financial information from Eligible Export Vessel applicants provided in the normal accounting system used by the applicant, provided that it is an accepted accounting system in the applicant's country of origin and, further, provided that the applicant provides a reconciliation of the major differences between the accounting system employed and GAAP. This approach would parallel that accepted by the Securities and Exchange Commission. MARAD has added new language to this paragraph to accommodate the commenter's concerns and to make this paragraph consistent with § 298.42.

Section 298.13(b). This paragraph sets forth financial definitions for §§ 298.13, 298.35 and 298.42 of the Title XI regulations. One commenter is confused as to how the NPRM amended this section to be consistent with 46 CFR part 232, as no proposed amendments to part 232 could be found. The commenter added that, for the definitions of working capital, equity and long-term debt, the NPRM deleted references to GAAP, which revisions are not supported by the commenter.

MARAD Response: The commenter appears to have misinterpreted the proposed amendment to this section of the Title XI regulations. The NPRM amended certain paragraphs of this section to make them consistent with 46 CFR § 232, which was most recently amended by MARAD with the publication of a notice in the **Federal Register** on December 9, 1993. There is no indication in the discussion section of the NPRM that amendments to part 232 were also being proposed, which is the reason the commenter could not find any proposed amendments to part 232.

With regard to the commenter's statement that the NPRM deleted references to GAAP in the definitions of working capital, equity and long-term debt, it is important to note that 46 CFR § 232.2(a), which is separate from the Title XI regulations, requires that all contractors shall conform their accounting policies to GAAP (promulgated by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants). Although the NPRM deletes references to GAAP in these Title XI regulations, working capital, equity and long-term debt definitions must conform to GAAP as such terms are defined in 46 CFR 232.2(a). Hence, MARAD sees no reason to change the present wording of paragraph (b).

Sections 298.13 (d) and (e). These sections outline the primary and special requirements required at the Closing. Comments were received from only one commenter on these paragraphs. The commenter states that the maximum debt to equity rate of 2:1 is unrealistic and should be revised upwards. The commenter considers the ratio unrealistic because a company could have a large asset requisition and yet still be strong enough to pay back its loan. Furthermore, since banks allow a ratio of 3:1 in certain cases, MARAD regulations are more burdensome. In addition, the commenter states that the working capital ratio is obsolete and should be replaced by a cash flow ratio for asset-based companies. A minimum ratio of 1.25:1 is recommended by the commenter in keeping with current banking requirements.

MARAD Response: MARAD does not agree that a debt to equity ratio of 2:1 and a positive working capital ratio are either unrealistic or obsolete standards, and is not amending these requirements. However, MARAD recognizes that these standards may not be appropriate in certain cases and does not apply them in every case. Financial requirements are determined on a case-by-case basis and are dependent upon numerous financial and economic factors. Pursuant to paragraph (h) of this section, the Secretary may waive or modify the financial terms or requirements otherwise applicable under this section, upon determining that there is adequate security for the Guarantees. Should an applicant have sufficient financial resources to justify a different ratio, the Secretary already has the authority to modify the financial requirements.

Section 298.14 Economic Soundness

Section 298.14. One commenter stated that in evaluating the income stream for a one vessel project, MARAD should consider the assets of the entire company which back up the loan, including other vessels' income. In addition, loans should provide for repayment without the imposition of pre-payment penalties kicking in.

MARAD Response: Paragraph (a)(1)(iii) of this section states that in making a finding of economic soundness MARAD shall consider all relevant factors, including, but not limited to, the projected revenues and expenses associated with employment of the vessel. Whether the project is a one Vessel project or a multi-Vessel project, MARAD believes that it is only reasonable to require that the projected cash flow and net income of the project support the Title XI debt service requirements. Therefore, MARAD declines to amend the requirement.

As to the comment that loans should provide for repayment without pre-payment penalties kicking in, payment terms, conditions, and penalties, if any, are determined prior to the issuance of the Obligations and are subject to negotiation. For MARAD to require that no pre-payment penalties will kick in if a loan should be prepaid is inappropriate and MARAD sees no reason to take such a position as the issue of pre-payment penalties must be negotiated between the Obligor and the Obligee(s).

Although no comments were specifically received regarding paragraphs (b)(3) and (b)(4), MARAD has re-evaluated this requirement and has determined that the IRR calculation is not necessary and is deleting the appropriate paragraphs. The IRR calculation regulation was originally intended to provide specific, clear procedures that would produce more accurate and complete information for selecting successful applicants. However, on August 6, 1992, MARAD issued a final rule which shifted the burden for computation of the IRR from the applicant to MARAD.

This section already outlines relevant factors that are considered by MARAD in making the economic soundness finding for a project. MARAD can make an economic soundness finding for a particular project based on the revenue, cost data, cash flows and other data already required to be submitted by all applicants. In view of the foregoing, the IRR calculation is not necessary to make a finding of economic soundness.

Section 298.18 Financing Advanced or Modern Shipbuilding Technology

Section 298.18(a). This paragraph states that the Secretary will approve Guarantees to finance Advanced or Modern Shipbuilding Technology only upon a finding by the Secretary that the Guarantees will aid in the transition from naval shipbuilding to commercial ship construction for domestic and export sales, encourage shipyard modernization, and support increased productivity.

MARAD Response: Although no comments were received on this paragraph, MARAD has reevaluated the requirement for this finding as part of its overall concern to reduce regulatory burden. This finding is not a statutory requirement; it was incorporated in the Title XI regulations on March 31, 1994, with the publication of the interim final rule which became final on September 16, 1994. Subtitle D of the Authorization Act includes a similar requirement for eligible export vessels which does not apply to shipyard modernization and improvement.

In view of the fact that: (1) There is no statutory requirement for the Secretary to include the provision in paragraph (a) of this section; (2) Section 298.17 of the regulations already provides that, in evaluating project applications, the Secretary shall also consider whether, in the case of an Eligible Shipyard, the application provides for the capability of the shipyard to engage in naval vessel construction in time of war or national emergency; (3) paragraph (b) of this section states that the Secretary shall not approve applications for Advanced or Modern Shipbuilding Technology which, after taking into consideration certain factors, would preclude approval of another application which would result in a more desirable use of appropriated funds; and (4) § 298.3(e) states that priority will be given to applications from General Shipyard Facilities that have engaged in naval Vessel construction and that have pilot programs for shipyard modernization and Vessel construction, with respect to funds appropriated to the Secretary of Defense, it is now MARAD's position that General Shipyard Facilities applying for Guarantees to finance Advanced or Modern Shipbuilding Technology need not satisfy a mandatory requirement as to prior naval shipbuilding. The language in the paragraph is being amended accordingly.

Section 298.20 Term, Redemption and Interest Rate.

Section 298.20. One commenter stated that where charter rates are very low, financial assistance could be provided to an operator such as an extension of the Title XI maturity from 20 years to 25 years or a moratorium of the principal payments for a certain period of time to enable an owner to keep a ship out of lay-up.

MARAD Response: This section outlines Obligation criteria with respect to term limitations, required redemptions and interest rate. Title XI Obligations shall not have a maturity which exceeds the anticipated physical and economic life of the asset being financed and, with respect to vessels, no more than twenty-five years from certain dates. MARAD already has the authority to defer principal payments, if warranted. Further, to protect, preserve or improve the collateral held as security by MARAD to secure Title XI debt, § 298.28 provides MARAD discretion to make, or commit to make, an advance or payment of funds for Vessel-related expenses or fees.

Section 298.21 Limits

Section 298.21(c). One commenter supports inclusion of Guarantee Fees as an item of Actual Cost in addition to certain broker commissions and underwriting fees for export vessels.

MARAD Response: MARAD agrees with the comment that if Guarantee Fees are to be paid up front and are eligible to be financed with Title XI, then Guarantee Fees should be included as an item of Actual Cost. No further changes to paragraph (c) are necessary. With regard to broker commissions and underwriting fees for Eligible Export Vessels, paragraph (c)(4) does not allow "fees, commissions or charges for granting or arranging for financing", and paragraph (c)(6) does not allow "underwriting or trustee's fees" to be included in Actual Cost. Recognizing the importance that the payment of commissions plays in the export market, MARAD will allow commissions to be included in the foreign equipment and services amount of the Actual Cost of the project, provided: (1) A majority of the work done by the parties receiving the commissions is in the form of design and engineering work, and (2) the commissions represent a small amount of the total contract price. As the commissions represent a portion of the total shipyard contract price, therefore, there is no need to amend paragraphs (c)(4) and (c)(6). A new sentence is being added to paragraph (b) which states that commissions may be included in the amount of the Actual Cost of a project, subject to the foregoing provisions.

Section 298.21(d). As mentioned previously in the preamble, the NPRM solicited public comments regarding the guarantee of construction period financing, as authorized by the Title XI regulations. MARAD specifically invited comments on available forms of security, in addition to surety bonds, that could protect MARAD's interests as a lender, how progress should be monitored, what new procedures/methodologies should be developed to improve the progress payment system, and if payment of interest on the obligations should be made on a more frequent basis (i.e., weekly, monthly or quarterly) than that outlined in § 298.22, *Amortization of Obligations*. In addition, MARAD solicited comments on how the Title XI applicant will verify/certify to MARAD that certain costs have been paid prior to disbursement of Title XI funds from the escrow account, including, for example, the use of an agent on MARAD's behalf to verify that certain costs have been paid.

On the payment of interest issue, one commenter states that the question of whether interest should be paid more frequently has no bearing on construction risk. A requirement for more frequent payment than would be required after delivery would make issuance of long-term bonds during the construction period more awkward. Another commenter adds that interest during the construction period should be paid semi-annually. Finally, one commenter recommended that interest be collected monthly in arrears.

On the agent issue, one commenter states that the use of an agent is an unnecessary complication. Actual Cost is readily determined by inspection of invoice payments. The issue is really whether progress payment criteria established in the contract have been met. The commenter adds that MARAD should adopt a system with only four or five progress payments that are keyed to readily ascertained events, such as keel laying or start of fabrication. MARAD should avoid any elaborate audit procedures for costs incurred by the shipyard since the cost basis for the project is a fixed price. A second commenter states that the use of an agent by MARAD for certification of completion and payment of costs is similar to the "privatization" going on in many agencies and departments today and supports the concept. A final commenter adds that progress could be monitored by an approved agent and the shipyard and owner should have flexibility to develop procedures/methodologies. The commenter adds that the applicant could verify/certify certain costs paid prior to disbursement using an agent on behalf of MARAD.

Finally, one commenter suggests that the words "or Advanced Shipbuilding Technology or Modern Shipbuilding Technology" should not be inserted as proposed in § 298.21(d) because they are already in the current regulations.

MARAD Response: MARAD disagrees with the comment that the words "or Advanced Shipbuilding Technology or Modern Shipbuilding Technology" should not be inserted in § 298.21(d) because the words are already in the current regulations. Although § 298.21 (b) has already been amended to reflect the expansion of the Title XI program for financing Advanced Shipbuilding Technology and/or Modern Shipbuilding Technology, it is necessary that the applicant submit to MARAD documents substantiating all claimed costs eligible under that section prior to payment from the Escrow Fund or Construction Fund and prior to the final Actual Cost determination for the Advanced Shipbuilding Technology and/or Modern Shipbuilding Technology.

On the payment of interest issue, MARAD agrees that the frequency of making interest payments has no bearing on construction risk, and a requirement for a more frequent payment than would be required after delivery would make issuance of long-term bonds during the construction period more difficult. In view of the foregoing, MARAD does not believe that interest on Obligations should be paid on a more frequent basis than that outlined in § 298.22, which, in most cases, is semi-annually.

On the agent issue, MARAD disagrees with the comment that the use of an agent is an unnecessary complication. Provided that the methodology for substantiation of Actual Cost is determined prior to the establishment of an Escrow Fund or Construction Fund, using an agent on behalf of MARAD to verify/certify certain costs paid prior to disbursement can improve the administration of the Title XI program. MARAD believes that it is important to maintain flexibility in the procedures/methodologies for agent certification, and therefore declines to adopt by regulation a progress payment schedule based on specified milestones as such a payment schedule keyed to definitive events is already permissible.

Hence, MARAD will not amend the text of paragraph (d) as proposed in the NPRM.

Section 298.28 Advances

Concerning paragraph (a), one commenter suggested that the fourth sentence should be removed because the net result of the proposed inserts and deletions render the fourth sentence meaningless.

MARAD Response: MARAD agrees and the fourth sentence is being deleted.

Section 298.32 Required Provisions in Documentation

Section 298.32 (b). Pursuant to this section, the Obligor shall assign certain rights and shall covenant certain items as required by the Secretary.

Paragraph (b)(4) requires covenants relating to the annual filing of satisfactory evidence of continuing U.S. citizenship, in accordance with 46 CFR part 355, with the exception of Eligible Export Vessels and shipyards with Advanced or Modern Shipbuilding Technology projects. One commenter states that this requirement is inappropriate for those classes of Vessels which must be documented under the laws of the U.S. but are not required by Section 1101(b) of the Act to be owned by Section 2 citizens. Since, the Coast Guard is the agency charged with enforcing the documentation laws of the U.S. and its regulations at 46 CFR 67.163 require an annual report of eligibility for such documentation from the owners of all documented Vessels, the commenter writes that no useful purpose is served by requiring owners of cargo and passenger Vessels, tugs and towboats and barges and dredges to file affidavits pursuant to Part 355.

MARAD Response: Until the Act is further amended, MARAD will retain the regulation regarding the filing of affidavits pursuant to 46 CFR part 355.

Paragraph (b)(6) requires covenants to maintain marine and war risk hull and machinery insurance on the Vessel in an amount equal to 110 percent of the outstanding Obligations or up to the full commercial value of the Vessel, whichever is greater. One commenter recommends that making the required insurance co-extensive with the Guarantee amount (as MARAD only guarantees up to 87½ percent of the Actual Cost of the Vessel) would ensure that MARAD is "made whole" in the event of a disaster, while not creating an unnecessary financial burden for the owners. In addition, the commenter recommends that war risk coverage should not be required for vessels operating in U.S. waters.

MARAD Response: War risk insurance covers other perils besides war, such as strikes, riots and civil commotions. MARAD has not required war risk insurance for inland Vessels, Great Lakes Vessels, or Vessels operating solely in the intercoastal waterway because they are in a protected environment from risks of war. Vessels operating in domestic coastal trades and Jones Act offshore trades, including Puerto Rico and Hawaii, are required to have war risk insurance because these vessels are often out of protected U.S. territorial waters and in international waters, where they might encounter a hostile vessel or plane. For example, in the

early 1960s a U.S.-flag vessel, the FLORIDIAN was attacked by a Cuban fighter plane in international waters off the coast of Florida. Another U.S.-flag vessel, operating in the U.S. coastwise trade during that timeframe, the MARINE SULFUR QUEEN, vanished without a trace or established cause somewhere off the Florida coast on a voyage from the U.S. Gulf Coast to the U.S. East Coast. In addition, there is the possibility of minor regional flare ups where there might be the possibility of extending hostilities into international waters where U.S.-flag vessels are transiting. Accordingly, MARAD has only agreed to waive the war risk insurance requirement for vessels operating solely on or in inland protected waters. Finally, war risk insurance is relatively inexpensive, with coverage for a $10 million vessel costing $2,500 per year.

With regard to the comments received on the covenants to maintain marine and war risk hull and machinery insurance on the Vessel in an amount equal to 110 percent of the outstanding Obligations or up to the full commercial value of the Vessel, whichever is greater, MARAD has considered the commenter's request to reduce the amount of coverage to equal the outstanding Obligations on a Vessel. In view of the fact that: (1) Any payoff by MARAD pursuant to its Guarantee would include interest accruals on the outstanding Obligations, and (2) the potential for a dispute with other parties over the insurance proceeds is reduced if the Vessel is insured in an amount equal to 110 percent of the outstanding Obligations or up to the full commercial value of the Vessel, whichever is greater, MARAD does not agree with the commenter that the amount of insurance coverage should equal the amount of the outstanding Obligations. Hence, MARAD sees no reason to change the present wording of paragraph (b).

Section 298.33 Escrow Fund

Section 298.33 One commenter states that, in the requirement that a satisfactory certification as to the percentage of completion of the Vessel be made in conjunction with distributions from the Escrow Fund, the upfront payment of the Guarantee Fee as an item of Actual Cost needs to be factored into the percentage of completion.

MARAD Response: Paragraph (e) of this section outlines the necessary requirements for disbursing funds from the Escrow Fund. As the upfront Guarantee Fee will be included in the Actual Cost of a project and will be factored into the percentage of completion determination referenced in subparagraph (3), MARAD is not amending the present wording of this section.

Section 298.35 Reserve Fund and Financial Agreement

Section 298.35. The purpose of this section is to outline the requirements in a Title XI Reserve Fund and Financial Agreement (RFFA), which a company must enter into at the first Closing at which Obligations are issued. As mentioned previously, MARAD specifically solicited comments in the NPRM on any proposed amendments to the standard documentation, particularly with regard to Eligible Export Vessels and shipyard modernization.

Several commenters stated that inadequate time was given to review and comment on the RFFA; a reduction in all documentation, not just the RFFA, is badly needed but is too complex an issue to be dealt with now. The Title XI documentation is overly complicated and greatly increases transaction costs and discourages applicants according to these commenters. As a general comment, the documentation needs to be revised to be consistent with the recent changes in law for shipyard modernization and Eligible Export Vessels. One commenter suggests the establishment of an advisory committee composed of representatives from MARAD, the maritime bar, investment and commercial banking industry, shipbuilding industry and the shipowning and operating industry to review and assist in documentation revisions.

MARAD Response: As noted in § 298.3(a) above, MARAD has decided to defer consideration of this matter in order to avoid delay in issuance of this rule. MARAD supports the suggestion that a forum be established by a non-Governmental authority composed of representatives from MARAD, the maritime bar, investment and commercial banking industry, shipbuilding industry and the shipowning and operating industry to review and assist in revisions to the Title XI documents.

Section 298.36 Annual Guarantee Fee

Section 298.36. Most commenters oppose the lump sum prepayment of the annual Guarantee Fee, especially without the right of reimbursement in the event of prepayment. If the non-refundable-if-prepaid aspect were removed, then some of the commenters would support the lump sum payment of the annual Guarantee Fee. One commenter opposes the increase and prepayment of the Guarantee Fee unless it results in an increase in guarantee authority, as is provided in a current legislative proposal. Several commenters believe that the lump sum payment of the Guarantee Fee would force an applicant to incur increased project costs beyond those which would otherwise be due, making it more economical to build in other countries and resulting in MARAD and the applicant forfeiting currently existing program flexibility. One commenter states that the annual nature of the fee allows MARAD a second look at project exposure and provides an incentive for the prepayment of principal, as a means of reducing the applicant's real project financing costs. The commenter concludes by stating that the proposed change appears to be clearly outside the scope of the Title XI program.

Another commenter stated that there is no indication as to the discount rate to be used in calculating the present value of the lump sum Guarantee Fee. The commenter proposes that a discount rate equal to the coupon rate (expected to be carried for the guaranteed bonds issued for the project) be applied to calculate the guarantee fee due at the time of the date of the security agreement. The commenter adds that it should be made clear that no additional Guarantee Fee is required in the event of a refinancing.

Finally, a commenter argues that the calculation of the annual Guarantee Fee schedule should be based on the company's overall rating, i.e., whether the company is governed by the Section 12 or Section 13 covenants of its Title XI Reserve Fund and Financial Agreement, rather than a debt to equity ratio. The commenter recommends a 50 basis points fee for Section 13 governed companies and a 75 basis points fee for Section 12 governed companies.

MARAD Response: Section 1104(A)(e) of the Act, 46 App. U.S.C. 1274, provides that the Secretary is authorized to fix the Guarantee Fee for an Obligation and that all fees shall be computed and shall be payable to the Secretary under such regulations as prescribed by the Secretary. MARAD has exercised its authority to require the lump sum payment of the annual Guarantee Fee, especially without the right of reimbursement in the event of prepayment, to ensure that the Government will retain the full amount of the Guarantee Fee should the Obligations be retired prior to maturity, i.e., if a default occurs on the Obligations or the Obligations are prepaid. The regulatory change which indicates a modification in agency policy is within the scope of the Title XI program. In addition, the lump sum Guarantee Fee payment would create an incentive for applicants to enhance the financial structure of their transactions in order to merit eligibility for the lowest possible Guarantee Fee rate, and therefore, reduce the risk associated with the project.

Contrary to the comments of one party, the lump sum payment of the annual Guarantee Fee would not result in an increase in the Title XI guarantee authority. The lump sum payment was part of a legislative proposal previously submitted to Congress which increased the Guarantee Fees charged for a Commitment. As the language increasing the Guarantee Fees charged has been deleted from the legislation, the lump sum payment of the Guarantee Fee will not lower the subsidy rate MARAD is required to calculate according to the Credit Reform Act of 1990. Therefore, the commenter is incorrect in stating that receipt of the guarantee fee up front will result in an increase of the amount of available Title XI funding without increasing appropriations.

The belief of several commenters that the lump sum payment of the Guarantee Fee would force an applicant to incur increased project costs beyond those which would otherwise be due is not true. It is estimated that the following amounts are similar: (1) The full payment of the first year's annual Guarantee Fee at the Closing as required prior to this final rule, and (2) the equity portion, or a minimum of 12½ percent of the lump sum payment being financed. With these similarities, the lump sum payment of the Guarantee Fee, and the potential of financing up to a maximum of 87½ percent of this amount, it is incorrect to assume the lump sum payment of the Guarantee Fee would force an applicant to incur increased project costs beyond those which would otherwise be due.

The comment that there is no indication in the NPRM as to the discount rate to be used in calculating the present value of the lump sum Guarantee Fee is also incorrect. The NPRM revised paragraph (e) of this section and stated, among other things, that in "determining the amount of the Guarantee Fee to be paid, MARAD will use a discount rate based on information contained in the Department of Commerce's Economic Bulletin Board quarterly rates." MARAD agrees with the comment that where bonds are issued in more than one series, the Guarantee Fee should be payable only to the extent of the total amount of obligations issued. The third sentence of the paragraph is deleted to coordinate the payment of the fee with § 298.36(b), which sets forth the method of calculating the fee.

Finally, MARAD disagrees with the comment that the calculation of the annual Guarantee Fee schedule should be based on the company's overall rating, i.e., whether the company is governed by the Section 12 or Section 13 covenants of its Title XI Reserve Fund and Financial Agreement, rather than a debt to equity ratio. The extent to which a company is leveraged is a reasonable basis for assessing risk insofar as determining the appropriate guarantee fee. In addition, the commenter proposes a fee range of ½ percent to ¾ percent; but this does not take into account the full Guarantee Fee range outlined in the statute of ¼ percent to ½ percent for undelivered vessels and ½ percent to 1 percent for delivered vessels.

Section 298.40 Defaults

Paragraphs (b) and (d) of *§ 298.40*, Defaults, provide that if a demand for payment of the Guarantees is made, the Secretary shall make payment of the unpaid principal amount of Obligations and unpaid interest accrued and accruing thereon up to, but not including, the date of payment. One commenter suggested that the mandatory requirement for MARAD to pay off 100% of the outstanding debt in the case of a defaulting owner should be changed to provide an option for an assumption of the Obligations rather than an early payoff.

MARAD Response: In view of the fact that the Act provides that in the event of a default, the Secretary may assume the Obligor's rights and duties under the Title XI Obligation and agreements and may make any payments in default, MARAD is modifying paragraphs (b) and (d) accordingly.

Other Comments

In addition to the above comments received in response to the NPRM, several commenters provided comments which are not within the scope of this rulemaking. One commenter suggested that: (1) MARAD should consider making the Depository Trust Company (DTC) eligible as a Depository (there would be more competition and therefore better interest rates), (2) MARAD should be more adaptable to new financing techniques as they arise, and (3) Title XI Closings should take place at regional offices rather than in Washington. One other commenter expressed opposition to proposed legislation which increases the Guarantee Fee 50 percent.

MARAD Response: Any proposed legislation is not within the scope of this rulemaking. As to the other comments, MARAD has the flexibility under its existing regulations to consider a DTC as a Depository, to adapt to new financing techniques, and to allow Closings at regional offices if appropriate. As a result, no change in Section 298 is necessary.

The NPRM proposed removing and reserving § 298.25, financing repayment of construction-differential subsidy. Section 298.25 is removed but has not been reserved. As a result, § 298.26 through 298.28 have been redesignated sections 298.25 through 298.27.

In addition to the above, minor administrative changes have been made to §§ 298.3(e), 298.13(e)(1)(i), 298.13(e)(1)(i)(A), 298.14(a)(2)(i)(B), 298.14(a)(2)(iii)(G), 298.14(b)(1)(ii), and 298.32(a)(3).

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and Other Requirements of Law

This rulemaking has been reviewed under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and it has been determined that this is not an economically significant regulatory action. However, since this rule would further the implementation of the National Shipbuilding Initiative program established under Subtitle D of Title XIII, Pub. L. 103–160, to support the industrial base and national security objectives by assisting in the reestablishment of a United States shipbuilding industry as a self-sufficient internationally competitive industry, and is of great interest to the U.S. maritime industry, it has been determined to be a significant rule under the Department's Regulatory Policies and Procedures. Accordingly, it is considered to be a significant regulatory action under E.O. 12866 and has been reviewed by the Office of Management and Budget. Because the economic impact should be minimal, further regulatory evaluation is not necessary. These amendments are intended only to simplify and clarify the procedural requirements for obtaining Guarantees, principally to expedite the process for MARAD's review of applications. Its purpose is to encourage the construction of ships in U.S. shipyards both for the domestic and the Eligible Export Vessel programs and the modernization and improvement of U.S. general shipyard facilities.

MARAD is publishing this final rule to carry out the Secretary's

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responsibilities under Title XI and to improve program administration.

Federalism

MARAD has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612 and has determined that these regulations do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

MARAD certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment

MARAD has considered the environmental impact of this rulemaking and has concluded that an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This rulemaking contains reporting requirements that have previously been approved by the Office of Management and Budget (Approval No. 2133–0018). Use of the present Maritime Administration Title XI Obligation Guarantees form will be continued pending revision and issuance of new forms, which must be approved by the Office of Management and Budget.

List of Subjects in 46 CFR Part 298

Loan programs-Transportation, Maritime carriers, and Mortgages.

Accordingly, 46 CFR part 298 is revised as follows:

PART 298—OBLIGATION GUARANTEES

Subpart A—Introduction

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298.1 Purpose.
298.2 Definitions.
298.3 Applications.

Subpart B—Eligibility

298.10 Citizenship.
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298.12 Applicant and operator's qualifications.
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298.15 Investigation fee.
298.16 Substitution of participants.
298.17 Evaluation of applications.
298.18 Financing Advanced or Modern Shipbuilding Technology.
298.19 Financing Eligible Export Vessels.

Subpart C—Guarantees

298.20 Term, redemptions and interest rate.
298.21 Limits.
298.22 Amortization of Obligations.
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298.26 Lease payments.
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Subpart D—Documentation

298.30 Nature and content of Obligations.
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298.32 Required provisions in documentation.
298.33 Escrow fund.
298.34 Construction fund.
298.35 Reserve Fund and Financial Agreement.
298.36 Annual Guarantee Fee.
298.37 Examination and audit.
298.38 Partnership agreements.
298.39 Exemptions.

Subpart E—Defaults and Remedies, Reporting Requirements, Applicability of Regulations

298.40 Defaults.
298.41 Remedies after default.
298.42 Reporting requirements-financial statements.
298.43 Applicability of the regulations.

Subpart F—Administration [Reserved]

Authority: 46 App. U.S.C. 1114(b), 1271 *et seq.*; 49 CFR 1.66.

Subpart A—Introduction

§ 298.1 Purpose.

This part prescribes regulations implementing the provisions of Title XI of the Merchant Marine Act, 1936, as amended, governing Federal ship financing assistance (46 App. U.S.C. 1271 *et seq.*).

§ 298.2 Definitions.

For the purpose of this part:

(a) *Act* means the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1101 through 1294).

(b) *Actual Cost of a Vessel or Advanced or Modern Shipbuilding Technology* means, as of any specified date, the aggregate, as determined by the Secretary, of all amounts paid by or for the account of the Obligor on or before that date and all amounts which the Obligor is then obligated to pay from time to time thereafter, for the construction, reconstruction or reconditioning of such Vessel or Advanced or Modern Shipbuilding Technology (described in § 298.21(b)).

(c) *Advanced Shipbuilding Technology* means:

(1) Numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving shipbuilding and related industrial production which advance the state-of-the-art; and

(2) Novel techniques and processes designed to improve shipbuilding quality, productivity, and practice, and to promote sustainable development, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, design for recyclability or parts reuse, inventory management, upgraded worker skills, and communications with customers and suppliers.

(d) *Closing* means a meeting of various participants or their representatives in a Title XI financing, at which a commitment to issue Guarantees is executed, or at which all or part of the Obligations are authenticated and issued and the proceeds are made available for a purpose set forth in section 1104(a) of the Act, or at which a Vessel is delivered and a Mortgage is executed as security to the Secretary.

(e) *Depository* means a bank or other financial institution organized and doing business under the laws of the United States, any State or territory thereof, the District of Columbia or the Commonwealth of Puerto Rico that is authorized under such laws to exercise corporate trust powers, is a member of the Federal Deposit Insurance Corporation, and accepts deposits for purposes of implementing the program authorized by Title XI of the Act; but in the case of an Eligible Export Vessel can also mean, with the specific approval of the Secretary, foreign branches, but not the foreign subsidiaries, of such United States financial institutions.

(f) *Depreciated Actual Cost of a Vessel or Advanced or Modern Shipbuilding Technology* means the Actual Cost of the Vessel or Advanced or Modern Shipbuilding Technology, as defined in paragraph (b) of this section (less a residual value of 2½ percent of United States shipyard construction cost or, in the case of Advanced or Modern Shipbuilding Technology, a residual value as appropriate), depreciated on a straightline basis over the useful life of the Vessel or Advanced or Modern Shipbuilding Technology as determined by the Secretary, not to exceed twenty-five years from the date the Vessel or Advanced or Modern Shipbuilding Technology was delivered by the shipbuilder or manufacturer or, if the Vessel or Advanced or Modern Shipbuilding Technology has been reconstructed or reconditioned, the Actual Cost of the Vessel or Advanced or Modern Shipbuilding Technology depreciated on a straightline basis from the date the Vessel or Advanced or Modern Shipbuilding Technology was delivered by the shipbuilder or manufacturer to the date of such reconstruction or reconditioning, on the basis of the original useful life of the Vessel or Advanced or Modern Shipbuilding Technology, and from the date of said reconstruction or reconditioning on a straightline basis and on the basis of a useful life of the Vessel or Advanced or Modern Shipbuilding Technology determined by the Secretary, plus all amounts paid or obligated to be paid for the reconstruction or reconditioning, depreciated on a straightline basis and on the basis of a useful life of the Vessel or Advanced or Modern Shipbuilding Technology determined by the Secretary.

(g) *Documentation* means all or part of the agreements relating to an entire Title XI financing which must be furnished to the Secretary, irrespective of whether the Secretary is a party to each agreement.

(h) *Eligible Export Vessel* means a Vessel constructed, reconstructed, or reconditioned in the United States for use in world-wide trade which will, upon delivery or redelivery, be placed under or continued to be documented under the laws of a country other than the United States.

(i) *Eligible Shipyard* means a private shipyard located in the United States.

(j) *General Shipyard Facility* means:

(1) For operations on land, any structure or appurtenance thereto designed for the construction, repair, rehabilitation, refurbishment, or rebuilding of any Vessel, including graving docks, building ways, ship lifts, wharves and pier cranes; the land necessary for any structures or appurtenances; and equipment necessary for the performance of any function referred to in this paragraph; and

(2) For operations other than on land, any Vessel, floating drydock, or barge built in the United States, within the meaning of § 298.11(a), and used for, or a type that is usually used for, activities referred to in paragraph (k) of this section.

(k) *Guarantee* means the contractual commitment of the United States of America, represented by the Secretary, endorsed on each Obligation, to make payment to the Obligee or an agent, upon demand, of the unpaid interest on, and the unpaid balance of the principal of such Obligation, including interest accruing between the date of default (described in § 298.40 of this part) and the date of payment.

(l) *Guarantee Fee* means the annual fee payable to the Secretary in consideration for the continuing Guarantees.

(m) *Indenture Trustee* means a bank with corporate trust powers, or a trust company, with a combined capital and surplus of at least $3,000,000, which is located in and organized and doing business under the laws of the United States, any State or territory thereof, the District of Columbia or the Commonwealth of Puerto Rico, which has duties under the terms of a Trust Indenture, entered into with the Obligor, providing for the issuance and registration of the ownership and transfer of Obligations, the disbursement of funds held in trust by the Indenture Trustee for the redemption and payment of interest and principal with respect to Obligations, demands by the Indenture Trustee for payment under the Guarantees in the event of default and the remittance of payments received to the Obligees. Pursuant to a specific authorization of the Secretary, the Indenture Trustee may also authenticate the Guarantees.

(n) *Letter Commitment* means a letter from the Secretary to an applicant for Guarantees, setting forth specific determinations made by the Secretary with respect to the applicant's proposed project, as required by the Act and regulations of this part, and stating the Secretary's commitment to execute Guarantees, subject to compliance by the applicant with any conditions specified therein.

(o) *Maritime Administration* means that agency created within the Department of Transportation by Reorganization Plan No. 21 of 1950 (64 Stat. 1273), amended by Reorganization Plan No. 7 of 1961 (75 Stat. 840), as amended by Pub. L. 91–469 (84 Stat. 1036).

(p) *Modern Shipbuilding Technology* means a technology to be introduced into the shipyard that is comprised of the best available proven technology, techniques, and processes appropriate to advancing the state-of-the-art of the applicant shipyard, or exceeds the best available processes of American shipbuilding, and that will enhance its productivity and make it more competitive internationally.

(q) *Mortgage* means a first Preferred Mortgage on any Vessel or a first mortgage with respect to Advanced Shipbuilding Technology or with respect to Modern Shipbuilding Technology.

(r) *Obligation* means any note, bond, debenture, or other evidence of indebtedness, as defined in section 1101(c) of the Act, issued for one of the purposes specified in section 1104(a) of the Act.

(s) *Obligee* means the holder of an Obligation.

(t) *Obligor* means any party primarily liable for payment of principal of or interest on any Obligation.

(u) *Paying Agent* means any Person appointed by the Obligor to pay the principal of or interest on the Obligations on behalf of the Obligor.

(v) *Person* means any individual, estate, foundation, corporation, partnership, limited partnership, joint venture, association, joint-stock company, trust, unincorporated organization or other acceptable legal business entity, government, or any agency or political subdivision thereof.

(w) *Preferred Mortgage* means:

(1) In the case of a mortgage on a Vessel documented under United States law, whenever made, a mortgage that—

(i) Includes the whole of a Vessel;

(ii) Is filed in substantial compliance with 46 U.S.C. 31321;

(iii) Covers a documented Vessel or a Vessel for which an application for documentation has been filed that is in substantial compliance with the requirements of 46 U.S.C. Ch. 121 and the regulations prescribed under that Chapter by the United States Coast Guard; and

(iv) Has as the mortgagee—

(A) A State;

(B) The United States Government;

(C) A Federally insured depository institution, unless disapproved by the Secretary for that Vessel;

(D) An individual who is a citizen of the United States;

(E) A Person qualifying as a citizen of the United States pursuant to a provision of 46 App. U.S.C. 802; or

(F) A Person approved by the Secretary pursuant to regulations at 46 CFR 221.23(d); and

(2) In the case of a mortgage on an Eligible Export Vessel, whenever made, a mortgage that—

(i) Constitutes a mortgage that is established as security on an Eligible Export Vessel under the laws of a foreign country;

(ii) Was executed under the laws of that foreign country and under which laws the ownership of the Vessel is documented;

(iii) Is registered under the laws of that foreign country in a public register at the port of registry of the Vessel or at a central office;

(iv) Otherwise satisfies the requirements of 46 U.S.C. 31301(6)(B) to constitute a Preferred Mortgage; and

(v) Has the Secretary as the mortgagee, or such other mortgagee as is permitted by the applicable foreign law and approved by the Secretary.

(x) *Related Party* means as that term is defined by generally accepted

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accounting principles outlined in paragraph 24 of Statement of Financial Accounting Standards No. 57, *Related Party Disclosures.*

(y) *Secretary* means the Secretary of Transportation, acting by and through the Maritime Administrator, Department of Transportation, the Maritime Administrator or any official of the Maritime Administration to whom is duly delegated the authority, from time to time, to perform the functions of the Secretary of Transportation or the Maritime Administrator, Department of Transportation.

(z) *Secretary's Note* means a promissory note from the Obligor to the Secretary in an amount equal to the aggregate amount of the Obligations, which is issued simultaneously with the Guarantees.

(aa) *Security Agreement* means the primary contract between the Obligor and the Secretary, providing for the transfer to the Secretary by the Obligor of all right, title and interest of the Obligor in certain described property (including rights under contracts in existence or to be entered into), and containing other provisions relating to representations and responsibilities of the Obligor to the Secretary as security for the issuance of Guarantees.

(bb) *Vessel* means all types of vessels, whether in existence or under construction, including passenger, cargo and combination passenger-cargo carrying vessels, tankers, towboats, barges and dredges which are or will be documented under the laws of the United States, floating drydocks which have a capacity of at least thirty-five thousand or more lifting tons and a beam of one hundred and twenty-five feet or more between the wing walls and oceanographic research or instruction or pollution treatment, abatement or control vessels, which are owned by citizens of the United States; except that an Eligible Export Vessel shall not be documented under the laws of the United States.

§ 298.3 Applications.

(a) *Content and amendment.* Each application for a commitment to execute Guarantees shall be made on Form MA 163 to the Secretary, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590, and be certified in the manner prescribed on said form. All required information, including copies of any demise charters, time charters in excess of six months, contracts of affreightment, drilling contracts or other contractual arrangements with respect to the Vessel or Vessels, shall be presented on the form or in exhibits and schedules submitted with the application. In addition, the Declaration of Lobbying form as required by 31 U.S.C. 1352 shall be filed with the initial application, as part of the formal submission. Each exhibit and schedule shall contain a statement, on the first page thereof, clearly identifying the document as an attachment to an application for Obligation Guarantees, stating the name of the applicant and the date of the application. Any amendment of data contained in the application filed shall be marked "Amendment," and shall contain a statement on the first page thereof, clearly identifying the document as an amendment to an application for Obligation Guarantees, stating the name of the applicant and the date of application. The certification required on Form MA 163 shall be affixed to each amendment.

(b)(1) *Time requirements for application.* Each application shall be submitted to the Secretary at least four months prior to the anticipated date by which the applicant requires a Letter Commitment. The Secretary may consider applications with less notice prior to the anticipated date by which the applicant requires a Letter Commitment, upon written documentation that extenuating circumstances exist. During the first 15 calendar day period after submission, the Secretary will perform a preliminary review of the application for adequacy and completeness. If the application is found to be incomplete, or if additional data is required, the Secretary will notify the applicant promptly in writing and the applicant will have 15 calendar days to correct deficiencies from the date of each request for additional information. If the applicant has not corrected the deficiencies, or made substantial progress toward correcting them, within this 15 calendar day period, then the Secretary may terminate the processing of the application without prejudice. Once the Title XI application is considered complete by the Secretary, the Secretary will act on the application within a period of 60 calendar days, unless for good cause the Secretary deems it necessary to extend such period. If an application is not completed by the applicant and acted upon by the Secretary within four months from the submission date, unless such time period is extended by the Secretary, the Secretary will notify the applicant in writing that processing of the application is terminated and that the applicant may reapply at a later date. If an application is terminated by MARAD without prejudice, no new filing fee will be assessed for a subsequent application for a similar project that is filed within one year of the termination date. If a subsequent application is for a substantially different project as determined by MARAD on a case-by-case basis a new filing fee will be assessed.

(2) *Time requirements for documentation.* An applicant to whom a Letter Commitment has been issued shall submit four sets of the documentation to the Secretary for review. The documentation shall be submitted to the Secretary for review at least six weeks prior to the anticipated closing to afford the Secretary time to complete an adequate review of the documentation. The applicant shall utilize the standard form of documentation which will be provided by the Secretary.

(3) *Processing applications.* In processing applications, the Secretary shall consider the different degrees of risk involved with different applications.

(4) *Additional assurances.* For those applications not involving well established firms with strong financial qualifications and strong market shares, seeking financing guarantees for replacement vessels in an established market, in which projected demand exceeds supply, the Secretary may require additional assurances prior to approval, such as firm charter commitments, parent company guarantees, greater equity participation, private financing participation, security interest on other property and similar arrangements.

(c) *Filing Fee.* Each application must be accompanied by a filing fee in the amount of $5,000, which will be non-refundable, irrespective of whether the Secretary subsequently issues a Letter Commitment.

(d) *Confidential Information.* If the application, including attachments thereto, contains information which the applicant considers to be trade secrets or commercial or financial information and privileged or confidential, or otherwise exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552), the applicant shall assert a claim of exemption at the time of application. The same requirement shall apply to any amendment to the application. If no claim of exemption is made when the application or amendment is filed, the Maritime Administration shall not oppose any request subsequently made for disclosure, pursuant to the Freedom of Information Act (FOIA), of any information contained in the application. The following procedures shall apply with respect to the assertion and review of FOIA exemption claims:

(1) Form and bases for claim. Any claim of exemption shall be made in a memorandum or letter contained in a sealed envelope marked "Confidential Information," addressed to the Secretary, Maritime Administration, and shall be subscribed by the applicant, or with respect to a corporate applicant, by a responsible corporate officer of the applicant. The applicant shall specifically and separately designate each part of the application, including attachments or amendments thereto, to which exemption from disclosure is claimed by noting "Confidential Information" thereon, and shall place each page in the sealed envelope. The applicant shall state in the memorandum or letter the bases, in detail, for each assertion of exemption, including but not limited to statutory and decisional authority.

(2) The Secretary, Maritime Administration, shall make a determination as to any claim of exemption at the time a request is made for the information pursuant to the Freedom of Information Act. If the Secretary, Maritime Administration makes a determination unfavorable to the applicant as to any item of information in the application or amendment, the applicant will be advised that the Maritime Administration will not honor the request for confidentiality at the time of any request for production of information made pursuant to the Freedom of Information Act by third parties.

(e) *Priority.* The Maritime Administration shall give priority for processing applications to vessels capable of serving as a naval and military auxiliary in time of war or national emergency, and requests for financing construction of equipment or vessels less than one year old as opposed to the financing of existing equipment or vessels that are one year old or older. Any applications involving the purchase of vessels currently financed under Title XI will also receive priority consideration for purposes of processing the assumption of the obligations as will applications from those willing to take guarantees for less than the normal term for that class of vessel. In regard to shipyards, priority will be given to applications from General Shipyard Facilities that have engaged in naval Vessel construction and that have pilot projects for shipyard modernization and Vessel construction, with respect only to funds appropriated to the Secretary of Defense, pursuant to provision of section 1359(a) of Pub. L. 103–160, 107 Stat. 1547. With regard to Eligible Export Vessels, the Secretary may not issue a commitment to guarantee Obligations for an Eligible Export Vessel unless the Secretary determines, in the sole discretion of the Secretary, that the issuance of a commitment to guarantee obligations for an Eligible Export Vessel will result in the denial of an economically sound application to issue a commitment to guarantee Obligations for vessels documented under the laws of the United States operating in the domestic or foreign commerce of the United States, after considering:

(1) The status of pending applications for commitments to guarantee obligations for vessels documented under the laws of the United States and operating or to be operated in the domestic or foreign commerce of the United States;

(2) The economic soundness of the applications referred to in paragraph (e)(1) of this section; and

(3) The amount of guarantee authority available.

(Approved by the Office of Management and Budget under control number 2133–0018)

Subpart B—Eligibility

§ 298.10 Citizenship.

(a) *Applicability.* Prior to acquiring a legal or beneficial interest in a Vessel financed under Title XI of the Act, except as provided in paragraph (e) of this section, the applicant and any other Person (including, but not limited to shipowners and, if applicable, owner trustees, equity participants and bareboat-charterers) shall establish their United States citizenship within the meaning of Section 2 of the Shipping Act, 1916, as amended, ("1916 Act") (46 App. U.S.C. 802) and MARAD's regulation at 46 CFR 221.3(c). All persons holding a Preferred Mortgage on the Vessel who do not qualify as citizens of the United States shall submit on the date of the Closing evidence that they qualify for the MARAD approval granted pursuant to 46 CFR 221.23, or that they have received approval pursuant to 46 CFR 221.25. The Secretary will not approve an application providing for ownership of such Vessel by, or bareboat chartering of such Vessel to, a non-U.S. citizen. Citizenship may also be required of any Person who is deemed by the Secretary to be an operator of the Vessel or who has authority to direct the operation of the Vessel on behalf of the shipowner. Certain chartering arrangements, including time chartering and contracts of affreightment, have been given general approval by the Secretary pursuant to Sections 9, 37, and 41 of the 1916 Act. See part 221 of title 46 for more details on these approvals and other approvals granted concerning chartering and mortgaging of U.S. documented Vessels.

(b) *Prior to Letter Commitment.* The applicant and any Person identified in paragraph (a) of this section, who is required to establish United States citizenship shall, prior to the issuance of the Letter Commitment, establish United States citizenship in form and manner prescribed in 46 CFR part 355.

(c) *After Letter Commitment.* Any Person who has become identified with the project, for a reason indicated in paragraph (a) of this section, and who has not previously established United States citizenship within the prior twelve calendar months, promptly shall establish its United States citizenship in the form and manner prescribed in 46 CFR part 355.

(d) *Supplemental proof.* Unless otherwise waived by the Secretary for good cause, at least 10 days prior to every Closing, all Persons identified with the project who have previously established United States citizenship in accordance with paragraphs (a) and (c) of this section shall submit pro forma Supplemental Affidavits of Citizenship which have previously been approved as to form and substance by the Secretary, and on the date of such Closing such Persons shall submit to the Secretary three executed copies of such Supplemental Affidavits of Citizenship evidencing the continuing United States citizenship of such Persons bearing the date of such Closing.

(e) *Exemption.* With regard to Eligible Export Vessels and Eligible Shipyards, the applicant and any other Person, (including, but not limited to settlors, owner trustees, owner participants and bareboat charterers) shall be exempted from complying with the provisions of paragraphs (a) through (d) of this section.

§ 298.11 Vessel requirements.

Each Vessel to be constructed, reconstructed or reconditioned and financed by issuance of Guarantees shall meet the following criteria:

(a) *United States Construction.* A Vessel, including an Eligible Export Vessel, financed by an Obligation Guarantee is considered to be of United States construction if the Vessel is assembled in a shipyard geographically located within the United States. A U.S.-flag Vessel must meet the applicable United States Coast Guard requirements. An Eligible Export Vessel must meet the applicable laws, rules,

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and regulations of its country of documentation, all applicable treaties, conventions on international agreements to which that country is a signatory, and the laws of the ports it serves. An Eligible Export Vessel shall be constructed in accordance with the requirements of the International Maritime Organization.

(b) *Actual Cost.* The applicant's estimated Actual Cost as described in § 298.21(b), must be approved by the Secretary for the construction, reconstruction, reconditioning of a Vessel as a condition for issuance of the Letter Commitment. The Secretary may require the applicant to have the shipyard that has contracted to build the vessel to submit additional technical data, backup cost details, and other evidence if the Secretary has insufficient data. The estimated cost of the Vessel may include escalation for the anticipated construction period of the Vessel, as described in § 298.21(e).

(c) *Class condition and operation.* The Vessel shall be constructed, maintained, and operated so as to meet the highest classification, certification, rating, and inspection standards for Vessels of the same age and type imposed by the American Bureau of Shipping (ABS), or other such standards as may be approved by the United States Coast Guard, or in the case of an Eligible Export Vessel, such standards as may be imposed by a member of the International Association of Classification Societies (IACS) classification societies to be ISO 9000 series registered or Quality Systems Certificate Scheme qualified IACS members who have been recognized by the United States Coast Guard as meeting acceptable standards with such recognition including, at a minimum, that the society meets the requirements of IMO Resolution A.739(18) with appropriate certificates required at delivery, so long as the home country of that IACS member accords equal reciprocity, as determined by the Secretary, to United States classification societies. A Vessel, except an Eligible Export Vessel, shall comply with all applicable laws, rules, and regulations as to condition and operation, including, but not limited to, those administered by the United States Coast Guard, Environmental Protection Agency, Federal Communications Commission, Public Health Service, or their respective successor agencies, and all applicable treaties and conventions to which the United States is a signatory, including, but not limited to, the International Convention for Safety of Life at Sea. An Eligible Export Vessel shall be documented in a country that is party to the International Convention for Safety of Life at Sea, or other treaty, convention, or international agreement governing vessel inspection to which the United States is a signatory, and shall comply with the applicable laws, rules, and regulations of its country of documentation, all applicable treaties, conventions on international agreements to which that country is a signatory, and the laws of the ports it serves. An Eligible Export Vessel shall be constructed in accordance with the requirements of the International Maritime Organization.

(d) *Reconstruction or reconditioning.* Repairs necessary for the Vessel to meet the classification standards approved by the Secretary, or any regulatory body, or because of previous inadequate maintenance and repair, shall not constitute reconstruction or reconditioning within the meaning of this paragraph. An applicant for Guarantees secured by a Vessel to be reconstructed or reconditioned shall make the Vessel available at a time and place acceptable to the Secretary for a condition survey to be conducted by representatives of the Secretary. The applicant shall pay the cost of the condition survey. The scope and extent of the condition survey shall not be less effective than that required by the last ABS special survey completed (if the Vessel is classified), next due or overdue, whichever date is nearest in accordance with the Vessel's age. The Vessel shall meet the standard of the survey necessary for retention of class (if the Vessel is classified), and the operating records of the Vessel shall reflect normal operation of the Vessel's main propulsion and other machinery and equipment, consistent with accepted commercial experience and practice.

(e) *Metric Usage.* The preferred system of measurement and weights for Vessels and Advanced and Modern Shipbuilding Technology shall be the metric system.

§ 298.12 Applicant and operator's qualifications.

(a) *Operator's qualifications.* No Letter Commitment shall be issued by the Secretary without a prior determination that the applicant, bareboat charterer, or other Person identified in the application as the operator of the Vessel, possesses the necessary experience, ability and other qualifications to properly operate and maintain the Vessel or Vessels which serve as security for the Guarantees, and otherwise to comply with all requirements of this part.

(b) *Identity and ownership of applicant.* In order to assess the likelihood that the project will be successful, the Secretary needs information about the applicant and the proposed project. To permit this assessment, each applicant shall provide the following information in its application for Title XI guarantees.

(1) *Incorporated companies.* If the applicant is an incorporated company, it shall submit the following identifying information:

(i) Exact name of applicant and tax identification number of a U.S. corporation, or if appropriate, international identification number of the applicant;

(ii) State or country in which incorporated and date of incorporation; and

(iii) Address of principal executive offices and of important branch offices, if any.

(2) *Partnerships, joint-ventures, associations, unincorporated companies.* If the applicant is a partnership, joint-venture, association, or unincorporated company, it shall submit the following identifying information:

(i) Name of partnership, association, or unincorporated company, and tax identification number, or if appropriate, international identification number of applicant;

(ii) Business address;

(iii) Date of organization;

(iv) Name of partners (general and special) of the partnership or trustee and holders of beneficial interest in the association or company;

(v) Certified copy of Partnership or Joint Venture Agreement, as amended; and

(vi) A detailed statement regarding financial, management and/or equity transactions which could have a significant impact on the ability of the applicant to meet the requirements placed on the applicant under its financing.

(3) *Other entities.* For any entity that does not fit the descriptions in paragraphs (b)(1) through (b)(3) of this section, MARAD will specify the information that the entity shall submit regarding its identity and ownership.

(c) *Applicants: Business and affiliations.* The applicant shall include:

(1) A brief description of the principal business activities during the past 5 years of applicant and of any predecessor of the applicant. If any change in the principal business activities is presently contemplated (whether in connection with the work to be financed by the guarantees applied for, or otherwise), applicant shall give a brief statement of the nature and circumstances thereof;

(2) A list of all companies or persons (hereinafter referred to as related companies) that directly or indirectly, through one or more intermediaries, control, are controlled by, or are under common control with, the applicant. Also indicate the nature of the business transacted by each, the relationships between the companies named, and the nature and extent of the control. This information may be furnished in the form of a chart. Specify whether any related companies have previously applied for or received any Title XI assistance;

(3) A statement of whether or not during the past 5 years the applicant, or any predecessor or related company, has been in bankruptcy or in reorganization under the Federal Bankruptcy Act or in any other insolvency or reorganization proceedings under either domestic or foreign statutes, and whether or not any substantial property of the applicant or a predecessor or related company has been acquired in any such proceedings or has been subject to foreclosure or receivership during such period, and details of all such occurrences; and

(4) A statement of whether or not the applicant or any predecessor or related company is now, or during the past 5 years has been, in default under any agreement or undertaking:

(i) With others, the United States or a country other than the United States; or

(ii) Guaranteed or insured by the United States or a country other than the United States.

(d) *Management of applicant.* The applicant shall include:

(1) A brief description of the principal business activities during the past 5 years of each director and each principal executive officer of the applicant; and

(2) The name and address of each organization engaged in business activities related to those carried on or to be carried on by the applicant with which any person named in answer to paragraph (d)(1) of this section has any present business connection, the name of each such person and, briefly, the nature of such connection.

(e) *Applicant's property and activity.* The applicant shall provide:

(1) A brief description of the general character and location of the principal properties of the applicant employed in its business, other than vessels, describing encumbrances, if any;

(2) A statement with respect to each vessel owned by the applicant, or operated by it under charter, stating name, gross tonnage, net tonnage, deadweight tonnage, age, type, speed, registry, cargo capacity and number and type of cargo units (container, trailer, etc.); and

(3) A summary statement which addresses the services, routes, or line (including ports served) on which the applicant operates any of the vessels owned or chartered by it. Also, a schedule and tonnage of cargo carried by the applicant during the two preceding years, the units carried (containers, barges, passengers, etc.) and the cargo capacity utilization factor experienced.

(f) *Operating ability.* (1) In the case of an applicant for a vessel financing Guarantee, the applicant shall submit a detailed statement showing its ability to successfully operate the Vessel(s), including name, education, background of, and licenses held by all senior supervisory personnel concerned with the physical operation of the ships owned by the applicant or proposed for construction. If not now an operator of Vessel(s), the applicant shall indicate a proposed organizational structure of key operating personnel or the name of the proposed operating agent. If now the owner and/or operator of ships, the applicant shall furnish data as to union affiliations and existing contracts necessary to the management and operation of the Vessel(s) covering such items as bunkers, repairs, stores and stevedoring, and names of companies (domestic and foreign) for which the company acts as agent. If a company other than the applicant is designated to operate the Vessel(s), then the above information shall be provided for that company, together with a copy of the proposed operating agreement(s).

(2) In the case of an Eligible Shipyard which is an applicant for a Guarantee for Advanced or Modern Shipbuilding Technology, a detailed statement shall be submitted evidencing its ability to successfully construct/reconstruct vessel(s), including name, education, background of, and licenses, if any, held by all senior supervisory personnel in the shipyard concerned with the physical operation of the shipyard, union affiliations and existing contracts necessary to the management and operation of the shipyard.

§ 298.13 Financial requirements.

(a)(1) *In general.* To be eligible for guarantees, the applicant and/or the parent organization (when applicable), and any other participants in the project having a significant financial or contractual relationship with the applicant shall submit information, respectively, on their financial condition. This information shall be submitted at the time of the application and supplemented as subsequently required by the Secretary. In addition, the applicant shall submit information satisfactory to the Secretary that financial resources are available to support the project which is the subject of the Title XI application.

(2) *Cost of the project.* Applicant shall submit the following cost information with respect to the project:

(i) In the case of an applicant for Vessel financing Guarantees, a detailed statement of the estimated Actual Cost of construction, reconstruction or reconditioning of the Vessel(s) including those items which would normally be capitalized as Vessel construction costs. Net interest during construction is the total estimated construction period interest on non-equity funds less estimated earnings from the escrow fund, if such fund is to be established prior to Vessel(s) delivery. Each item of foreign components and services shall be excluded from Actual Cost, unless a waiver is specifically granted for the item, which waiver shall not be granted for major foreign components of the hull and superstructure. The standard for granting a waiver is certification by the applicant, to be reviewed by the Secretary, that a foreign item or service is not available in the United States on a timely or price-competitive basis, or is not of sufficient quality. Although excluded from Actual Cost, foreign components of the hull and superstructure can be regarded as owner-furnished equipment that may be used in satisfying the applicant's equity requirements imposed by paragraph (a)(3) of this section. An illustration of how the cost of foreign components of the hull and superstructure may be used to satisfy an applicant's equity requirements is outlined below. If any of the costs have been incurred by written contracts such as the shipyard contract, management or operating agreement, signed copies should be forwarded with the application. The applicant may be required to have the contracting shipyard submit back-up cost details and technical data. This information shall be submitted in the format as prescribed by the Title XI application procedures.

ILLUSTRATION—COST OF FOREIGN COMPONENTS SATISFYING EQUITY REQUIREMENTS.

Assuming that the total project cost is $100 million, of which the cost of major foreign components in the hull and superstructure total $20 million, and that the Title XI applicant has requested financing for 87½ percent of the cost of the project, the following is a demonstration of how the value of the major foreign components in the

hull and superstructure may be used in meeting the equity requirements of § 298.13 (a)(3):

Cost of Foreign Components Excluded from Actual Cost

Cost of Project ..... $100.0 million
Cost of Major Foreign Components in Hull and Superstructure ..... $20.0 million
Total Actual Cost of Project..... $80.0 million
Required Equity (12½ percent)..... $10.0 million
Total Project Cost Financed w/Title XI (87½ percent) .....$70.0 million

The $10 million in required equity may be satisfied by the owner's contribution of the foreign components of hull and superstructure to the project.

(ii) In the case of Advanced or Modern Shipbuilding Technology, a detailed statement of the actual cost of such technology, including those items which would normally be capitalizable. If any of the costs have been incurred by written contracts, signed copies shall be forwarded with the application. The applicant may be required to have manufacturers submit back-up cost details and technical data. This information shall be submitted in the format prescribed by the Title XI application procedures.

(iii) A detailed statement showing the actual cost of any shore facilities, cargo containers, etc., required to be purchased in conjunction with the project.

(iv) A detailed statement showing any other costs associated with the project which were not included in paragraphs (a)(2) (i) through (iii) of this section, such as: Legal and accounting fees, printing costs, guarantee fees, vessel insurance, underwriting fees, fee to a Related Party, etc.

(v) If the project involves refinancing, the exhibit entitled Request for Actual Cost Approval and Reimbursement, its summary sheet and supplemental schedules shall be submitted at the time of filing the application.

(3) *Financing.* The applicant shall describe, in detail, how the costs of the project (sums referred to in paragraph (a)(2) of this section) are to be funded and the timing of such funding. The applicant shall include any vessel trade-ins, related or third party financings, etc. The applicant shall also provide the proposed terms and conditions of all private funding, from both equity and debt sources and clearly identify all parties involved. If the applicant intends to utilize co-financing (involving a blend of Title XI and private financing for the debt portion), the terms and conditions of such financing shall be subject to approval by the Secretary. The applicant shall demonstrate with financial statements that at least 12½ percent of the construction or reconstruction costs of the Vessel(s) or the cost of the Advanced Shipbuilding Technology or Modern Shipbuilding Technology will be in the form of equity and not additional debt, except to the extent allowed by paragraph (g) of this section. The applicant shall disclose all of the Vessel(s), Advanced Shipbuilding Technology or Modern Shipbuilding Technology financing in the format prescribed by the Title XI application procedures. If the applicant uses co-financing (involving a blend of Title XI and private financing for the debt portion of the project), the ability of the co-financiers to exercise their rights against collateral shared with the Secretary for any transaction shall be subject to the approval of the Secretary.

(4) *Financial Information.* The applicant shall submit the following additional financial statements with respect to both the proposed Title XI project and the overall operations of the applicant, prepared in accordance with 46 CFR part 232 and including notes to explain the basis used for arriving at the figures (in the case of Eligible Export Vessels, the Secretary may accept financial information provided in the normal accounting system used by the applicant provided that it is an accepted accounting system in the applicant's country of origin and, further, provided that the applicant provides a reconciliation of the major differences between the accounting system employed and U.S. generally accepted accounting principles):

(i) The three most recent audited financial statements of the applicant, its parent, if any, and other significant participants. If the applicant is a new entity or is to be funded from or guaranteed by external source(s), it shall provide the audited financial statements of the funding source(s);

(ii) A pro forma balance sheet of the applicant as of the estimated date of execution of the Guarantees reflecting the assumption of the Title XI Obligations;

(iii) A schedule of amortization of all existing debt (Title XI or otherwise) of the applicant for the period in which the Guarantees are to be outstanding; and

(iv) A Sources and Uses Statement for the first full year of operations and the following five years, including a clear source of funding for the payment of all debt when due.

(b) *Financial definitions.* For the purpose of this section and §§ 298.35 and 298.42 of this part:

(1) *Company* means any Person subject to financial requirements imposed under paragraphs (d) and (e) of this section and paragraphs (b) and (c) of § 298.35, as well as the reporting requirements imposed by § 298.42.

(2) *Working Capital* means the difference between current assets and current liabilities, adjusted as follows:

(i) Current assets shall exclude:

(A) Amounts in or required to be set aside in any Title XI Reserve Fund, pursuant to § 298.35(e) or Capital Construction Fund Security Amount prescribed by § 298.35(f), (excluding that portion of such fund which is available for the payment of current liabilities) that is being maintained pursuant to an agreement covering a Vessel owned or leased by the company, or in another similar fund required under any other mortgage, indenture or other agreement to which the company is a party; and

(B) Any receivables from a Related Party or from any stockholder, director, officer or employee (or their family) of the company or of a Related Party other than current receivables arising out of the ordinary course of business and not outstanding for more than 60 days.

(ii) Current liabilities shall include the current portion of charter hire and other lease obligations not already included as a current liability.

(3) *Equity (net worth)* shall be exclusive of:

(i) Any receivables from a Related Party or from any stockholder, director, officer or employee (or their family) of the company or of a Related Party other than current receivables arising out of the ordinary course of business and not outstanding for more than 60 days, and

(ii) Any increment resulting from the reappraisal of assets.

(4) *Long Term Debt* shall exclude the balance of Escrow Fund deposits attributable to the principal of Obligations sold, where deposits are required in accordance with § 298.33. However, there shall be included any guarantee or other liability for the debt of any other Person.

(5) *Capitalizable Cost* means the aggregate of the Actual Cost of the Vessel or Advanced or Modern Shipbuilding Technology and those other items which customarily would be capitalized as Vessel costs or Advanced or Modern Shipbuilding Technology costs under generally accepted accounting principles and those other items which customarily would be capitalized as Vessel costs under generally accepted accounting principles.

(6) *Depreciated Capitalizable Cost* means the Capitalizable Cost of a Vessel or Advanced or Modern Shipbuilding Technology, depreciated on a straight line basis over the same useful life as determined by the Secretary for Actual Cost, and depreciated as required by § 298.21(g).

(c) *Applicability.* The financial resources shall be adequate to meet the Equity requirements in the project and existing Working Capital requirements, as set forth in paragraphs (d) and (e) of this section.

(1) The various financial requirements shall be met by the owner of the Vessel or Vessels or Advanced or Modern Shipbuilding Technology to be security to the Secretary for the Guarantees, except that if the owner is not the operator, the overall financial requirements shall be allocated among the owner, the operator and other parties as determined by the Secretary.

(2) The Company shall satisfy the applicable financial requirements, in addition to any other financial requirements already imposed or which may be imposed upon it in connection with other Vessels financed under the Title XI program or in connection with other Advanced or Modern Shipbuilding Technology financed under the Title XI program.

(3) A determination as to whether the Company has satisfied all financial requirements shall be based on the assumption that the projected financing has been completed. Accordingly, a pro forma balance sheet shall be submitted at the time of the application, reflecting any adjustment made pursuant to paragraph (d)(1)(i) of this section, and a revised pro forma balance sheet, reflecting the completion of the projected financing, shall be submitted at least five business days before the first Closing at which the Obligations are issued.

(d) *Primary financial requirements at Closing.* Where the primary minimum financing requirements at Closing are satisfied, the financial convenants in § 298.35(b) are applicable. Primary financial requirements can apply to one or more Companies, and are determined as follows:

(1) *Owner as operator.* Where the owner is to be the Vessel operator, minimum requirements at Closing usually are as follows:

(i) *Working Capital.* The Company's Working Capital shall not be less than one dollar. This Working Capital requirement is based on the premise that the Company engages in a service-type activity with only normal Vessel inventory. If Working Capital includes other inventory, in addition to such normal Vessel inventory, the Secretary may adjust the requirement as considered appropriate. Also, if the Secretary determines that the Company's Working Capital includes amounts receivable that it reasonably could not expect to collect within one year, the Secretary may make adjustments to the Working Capital requirements.

(ii) *Equity (net worth).* The Company's Equity shall be the greater of:

(A) 50 percent of its Long Term Debt or

(B) 90 percent of its Equity as shown on the last audited balance sheet, dated not earlier than six months before the date of issuance of the Letter Commitment.

(2) *Lessee or charterer as operator.* Where a lessee or charterer is to be the Vessel operator, minimum requirements at Closing usually are as follows:

(i) *Working Capital.* The operator's Working Capital requirement shall be the same as that which would have otherwise been imposed on the owner as operator under paragraph (d)(1)(i) of this section and based on the same premise stated therein.

(ii) *Long Term Debt.* The operator's Long Term Debt shall not be greater than twice its Equity.

(iii) *Equity (net worth).* Different Equity requirements shall be imposed on the owner and operator of the Vessel, respectively, as follows:

(A) The owner's Equity shall at least be equal to the difference between the Capitalizable Cost or Depreciated Capitalizable Cost of the Vessel (whichever is applicable) and the total amount of the Guarantees.

(B) The operator's Equity shall be the same as that which would have otherwise been required of the owner as operator under paragraph (d)(1)(ii) of this section.

(3) *Owner as General Shipyard Facility.* Where the owner of Advanced or Modern Shipbuilding Technology is a General Shipyard Facility, minimum requirements at Closing will be the same as those set forth in paragraph (d)(1) of this section for an owner as operator.

(e) *Special financial requirements at closing.* If the proposed project involves a leverage lessor, parent company or "hell or high water" charterer committed to financing the debt service for the term of the Guarantees and who meets the primary financial requirement at closing, then with respect to the applicant, the eligibility for Guarantees may be based upon satisfaction of special financial requirements, in which the financial covenants imposed and the requirements for maintenance of a Title XI Reserve Fund shall be as provided for in § 298.35(c) of this part. Special financial requirements are as follows:

(1) Owner as operator. Where the owner is the Vessel operator, the special requirements at Closing are as follows:

(i) *Working Capital.* The Company's Working Capital, which may be adjusted by the Secretary in accordance with the provisions set forth in paragraph (d)(1)(i) of this section, shall be an amount at least equal to the sum of the following:

(A) The first year's debt service relating to the Vessel to be financed upon delivery (redelivery in the case of a reconstructed or reconditioned Vessel), or the first year's debt service relating to the Vessel to be financed or refinanced after delivery. With respect to a reconstructed or reconditioned Vessel, the estimated Capitalizable Cost or Depreciated Capitalizable Cost, whichever is applicable (depending upon when financing occurs), shall be that related only to the cost of work performed in the reconstruction or reconditioning;

(B) One year's premium for vessel insurance including Hull, Machinery, Protection and Indemnity, and War Risk coverage; and

(C) One year's Guarantee Fee.

(ii) *Equity (net worth).* The Company's Equity shall be at least equal to 90 percent of the Equity as shown on the last audited balance sheet dated not earlier than six months before the issuance of the Letter Commitment, but not less than the sum of the following:

(A) The difference between:

(*1*) The estimated Capitalizable Cost of a new Vessel to be financed upon delivery, the estimated Capitalizable Cost of the work to be performed in reconstructing or reconditioning a Vessel, the Depreciated Capitalizable Cost of an existing Vessel to be refinanced or the Depreciated Capitalizable Cost of a new Vessel to be financed after delivery, and

(*2*) The amount of the Guarantees; and

(B) The amount of Working Capital as determined in accordance with the provisions of paragraph (e)(1)(i) of this section.

(2) *Lessee or charterer as operator.* Where the lessee or charterer is the Vessel operator, the special financial requirements at Closing are as follows:

(i) *Working Capital.* The Company shall have Working Capital in an amount determined in accordance with the provisions of paragraph (e)(1)(i) of this section, applicable as if the owner were the operator.

(ii) *Equity (net worth).* Different Equity requirements shall be imposed on the operator and the owner, respectively as follows:

(A) The operator shall have Equity at least equal to 90 percent of the Equity

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shown on the last audited balance sheet dated not earlier than six months before the issuance of the Letter Commitment, but no less than its Working Capital requirement.

(B) The owner shall have Equity in an amount determined in accordance with the provisions of paragraph (e)(1)(ii)(A) of this section.

(3) *Owner as General Shipyard Facility.* Where the owner of Advanced or Modern Shipbuilding Technology is a General Shipyard Facility, special financial requirements at Closing will be the same as those outlined in paragraph (e)(1) of this section for an owner as operator insofar as they apply to such technology.

(f) *Adjustments to financial requirements at Closing.* If the owner, although not operating a Vessel, assumes any of the operating responsibilities, the Secretary may adjust the respective Working Capital and Equity requirements of the owner and operator, otherwise applicable under paragraphs (d) and (e) of this section, by increasing the requirements of the owner and decreasing those of the operator by the same amount.

(g) *Subordinated debt considered to be Equity.* With the consent of the Secretary, part of the Equity requirements applicable under paragraphs (a)(3), (d) and (e) of this section may be satisfied by debt, fully subordinated as to the payment of principal and interest on the Secretary's Note and any claims secured as provided for in the Security Agreement or the Mortgage. Repayment of subordinated debt may be made only from funds available for payment of dividends or for other distributions, in accordance with requirements of the Reserve Fund and Financial Agreement (described in § 298.35 of this part). Such subordinated debt shall not be secured by any interest in property that is security for Guarantees or mortgage insurance under Title XI, unless the Obligor and the lender enter into a written agreement, satisfactory to the Secretary, providing, among other things, that if any Title XI financing or advance by the Secretary to the Obligor shall occur in the future, such security interest of the lender shall become subordinated to any indebtedness incurred by the Obligor and to any security interest obtained by the Secretary in that property or other property, with respect to the subsequent indebtedness.

(h) *Modified requirements.* The Secretary may waive or modify the financial terms or requirements otherwise applicable under §§ 298.13, 298.35 and 298.42, upon determining that there is adequate security for the Guarantees. The Secretary may impose similar financial requirements on any Person providing other security for the Guarantees.

§ 298.14 Economic soundness.

(a) *Economic Evaluation.* No Letter Commitment for guarantees shall be given by the Secretary without a finding that the proposed project, with respect to which the Vessel(s) or Advanced or Modern Shipbuilding Technology to be financed or refinanced under Title XI, will be economically sound.

(1) *Basic feasibility factors.* In making the economic soundness findings the Secretary shall consider all relevant factors, including, but not limited to:

(i) The need in the particular segment of the maritime industry for new or additional capacity, including any impact on existing equipment for which a guarantee under this title is in effect;

(ii) The market potential for the employment of the Vessel or utilization of the Advanced Shipbuilding Technology or Modern Shipbuilding Technology of a General Shipyard Facility over the life of the guarantee;

(iii) Projected revenues and expenses associated with employment of the Vessel or utilization of the Advanced Shipbuilding Technology or Modern Shipbuilding Technology of a General Shipyard Facility;

(iv) Any charters, contracts of affreightment, transportation agreements, or similar agreements or undertakings relevant to the employment of the Vessel or utilization of the Advanced Shipbuilding Technology or Modern Shipbuilding Technology of a General Shipyard Facility;

(v) For inland waterways, the need for technical improvements including but not limited to increased fuel efficiency, or improved safety; and

(vi) Other relevant criteria.

(2) *Project Feasibility.* The applicant shall state in detail the purpose for the obligations to be guaranteed and shall supplement the application by exhibits deemed to be necessary. The applicant shall submit the following information to demonstrate the economic feasibility of the project over the Guarantee period.

(i) *Relevant market.* A written narrative of the market (or potential market) for the project including full details on the following, as applicable:

(A) Nature and amount of cargo/passengers available for carriage and applicant's projected share (provide also the number of units; i.e., containers, trailers, etc.);

(B) Services or routes in which the Vessel(s) will be employed, including an itinerary of ports served, with the arrival and departure times, sea time, port time, hours working or idle in port, off hire days and reserve or contingency time, proposed number of annual sailings and number of annual working days for the Vessel(s) or, with respect to Advanced or Modern Shipbuilding Technology, how the equipment will be employed;

(C) Suitability of the Vessel(s) or Advanced or Modern Shipbuilding Technology for their anticipated use;

(D) Significant factors influencing the applicant's expectations for the future market for the Vessel(s) or Advanced or Modern Shipbuilding Technology, for example, competition, government regulations, alternative uses, and charter rates; and

(E) Particulars of any charters, contracts of affreightment, transportation agreements, etc. The narrative should be supplemented by providing copies of any marketing studies and/or supporting information (for instance, existing or proposed charters, contracts of affreightment, transportation agreements, and letters of intent from prospective customers).

(F) The potential for purchasing existing equipment of a reasonable condition and age from another source, including information regarding—

(*1*) Market assessment concerning the availability and cost of existing equipment that may be an alternative to new construction or the new technology;

(*2*) The cost of modification, reconditioning or reconstruction of existing equipment to make it suitable for intended use; and

(*3*) Descriptions of any bids or offers which the company had made to purchase existing equipment, especially Vessels which currently are financed with Title XI Obligations including date of offer, Vessels and amount of offer.

(ii) *Revenues.* A detailed statement of the revenues expected to be earned from the project based upon the information in paragraph (a)(2) of this section. The revenues shall be based on a realistic estimate of the Vessel(s) or the new technology utilization rate at a breakeven rate for the project. A justification for the utilization rate shall be supplied and should indicate the number of days per year allowed for maintenance, drydocking, inspection, etc.

(iii) *Expenses.* A detailed statement of estimated daily vessel expense or expenses associated with Advanced or Modern Shipbuilding Technology, including the following (where applicable):

(A) Wages, including staffing (submit itemized staffing schedule and wages, identifying the seamen's unions involved), and aggregated as to straight time, overtime and fringe benefits;

(B) Subsistence cost (indicate cost per person per day);

(C) Fuel cost (specify purchase ports), including estimated fuel consumption at design speed loaded and in port;

(D) Cost of stores, supplies and equipment, segregated as to Deck, Engine and Stewards Departments;

(E) Maintenance and repair cost at midlife of ship (specify in years) segregated as to voyage repairs, special surveys, drydocking and tailshaft removal, annual survey and structural renewals;

(F) Insurance costs, Hull and Machinery, Protection and Indemnity, War Risk and other (an insurance broker's estimate based upon current premium rates, if available, is considered preferable); and

(G) Other expenses directly allocable to the asset (indicate items included).

(iv) *Estimated voyage expense:* These items shall include:

(A) Port expense segregated by port as to agency fees, wharfage and dockage and other port expenses;

(B) Cargo expense, segregated as to stevedoring and other cargo expense (show average cost per ton for loading and discharging for each port or geographic area);

(C) Brokerage expense, segregated as to freight and passenger; and

(D) Other voyage expense segregated as to canal tolls and other expense (indicate items included).

(v) *Owner's expenses annually.* These expenses shall be segregated as to:

(A) Interest and amortized principal on mortgage indebtedness;

(B) Estimated government Guarantee Fee; and

(C) Salaries and other administrative expenses (indicate basis of allocations).

(b) *Objective Criteria.* The Secretary shall make a finding of economic soundness with respect to each proposed project based on an assessment of the entire project. In order to be considered for approval, a project must meet the following criteria as determined by the Secretary:

(1) The projected long-term demand (equal to length of financing being requested) for the particular Vessel(s) or new technology to be financed must exceed the supply of similar Vessels or new technology in the applicable markets, based on the Secretary's assessment of existing equipment, similar Vessels or new technology under construction and the projected need for new equipment in that particular segment of the maritime industry. Such an assessment shall be determined by the Secretary's analysis of the following three elements:

(i) Conformity of the company's projections with supply and demand analyses prepared by the Maritime Administration;

(ii) Availability of charters, letters of intent, outstanding contractual commitments, contracts of affreightment, transportation agreements or similar agreements or undertakings; and

(iii) The applicant's existing market share compared with the market share necessary to meet projected revenues.

(2) A projected cash flow and net income, supported by the findings of paragraph (b)(1) of this section, that is sufficient to meet the projected Title XI debt service requirements and any other debt obligations of the company.

§ 298.15 Investigation fee.

(a) *In general.* Prior to the issuance of the Letter Commitment the applicant shall pay an Investigation Fee, computed as hereinafter provided, to the Secretary in the amount stated in the Letter Commitment. This fee is imposed to pay for the investigation of the project described in the application and the participants in the project, the appraisal of properties offered as security, Vessel inspection during construction, reconstruction or reconditioning (where applicable) and other administrative expenses. If, for any reason, the Secretary shall subsequently disapprove the application, one-half of the Investigation Fees shall be due and payable.

(b) *Base Fee.* The investigation fee shall be one-half of one percent on obligations to be issued up to and including $10,000,000 and ⅛ of one percent on all obligations to be issued in excess of $10,000,000. The $1,000 filing fee previously paid upon filing the original application (described in § 298.3 of this part) shall be credited against the investigation fee.

§ 298.16 Substitution of participants.

(a) Application may be made to the Maritime Administration for permission to substitute participants to a Mortgage and/or Security Agreement in a financing that is receiving assistance authorized by Title XI of the Act, both prior and subsequent to amendment by Pub. L. 92–507. A non-refundable fee shall be imposed, payable at the time of application. This fee shall be in addition to the Annual Guarantee Fee or annual premium charge for Mortgage insurance, whichever is applicable.

(b) A $3,000 fee shall be required to defray all costs of processing and reviewing a joint application by a mortgagor and/or Obligor and a proposed transferee of a Vessel or Advanced or Modern Shipbuilding Technology, which is security for Title XI debt, if the proposed transferee is to assume the Mortgage and/or the Security Agreement.

§ 298.17 Evaluation of applications.

(a) In evaluating project applications, the Secretary shall also consider whether the application provides for:

(1) The capability of the Vessel(s) serving as a naval and military auxiliary in time of war or national emergency.

(2) The financing of the Vessel(s) within one year after delivery.

(3) The acquisition of Vessel(s) currently financed under Title XI by assumption of the total obligation(s).

(4) The Guarantees extend for less than the normal term for that class of vessel.

(5) In the case of an Eligible Shipyard, the capability of the shipyard to engage in naval vessel construction in time of war or national emergency.

(6) In the case of Advanced or Modern Shipbuilding Technology, the Guarantees extend for less than the technological life of the asset.

(b) In determining the amount of equity which must be provided by the applicant, the Secretary shall consider, among other things, the following:

(1) The financial strength of the company;

(*2*) Adequacy of collateral; and

(3) The term of the Guarantees.

§ 298.18 Financing Advanced or Modern Shipbuilding Technology.

(a) *Initial criteria.* The Secretary may approve Guarantees issued to finance Advanced or Modern Shipbuilding Technology at a General Shipyard Facility. The Secretary will approve such Guarantees after consideration of the following factors: whether the Guarantees will aid in the transition from naval shipbuilding to commercial ship construction for domestic and export sales, will encourage shipyard modernization, and/or will support increased productivity. The applicant shall provide a detailed statement with the Guarantee application which will provide the basis for such consideration by the Secretary.

(b) *Other conditions.* Applications for loan guarantees under this section shall not be approved unless the Secretary determines that the following requirements have been met:

(1) The term for such Guarantees will not exceed the reasonable economic

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useful life of the collective assets which comprise this technology, as determined by the Secretary;

(2) There is sufficient collateral to secure the Guarantee; and

(3) Approval of the application will not preclude approval of any other pending application for Advanced or Modern Shipbuilding Technology Guarantees which, in the sole opinion of the Secretary, would result in a more desirable use of appropriated funds. The Secretary's opinion will take into consideration such factors as the types of vessels which will be built by the shipyard, the productivity increases which will be achieved, the geographic location of the shipyard, the long-term viability of the shipyard, the soundness of the financial transaction, any financial impact on other Title XI transactions, and the furtherance of the goals of the Shipbuilding Act.

§ 298.19 Financing Eligible Export Vessels.

(a) *Transmittal to Secretary of Defense.* Upon receiving an application for a loan Guarantee for an Eligible Export Vessel, the Secretary shall promptly provide to the Secretary of Defense notice of the receipt of the application. During the 30-day period beginning on the date on which the Secretary of Defense receives such notice, the Secretary of Defense may disapprove the loan guarantee based on the assessment of the Secretary of Defense of the potential use of the Vessel in a manner that may cause harm to United States national security interests. The Secretary of Defense may not disapprove a loan Guarantee under this section solely on the basis of the type of vessel to be constructed with the loan Guarantee. The authority of the Secretary of Defense to disapprove a loan Guarantee under this section may not be delegated to any official other than a civilian officer of the Department of Defense appointed by the President, by and with the advice and consent of the Senate. The Secretary of Transportation may not make a loan guarantee disapproved by the Secretary of Defense.

(b) *Determinations by the Secretary.* (1) If the loan Guarantee commitment cost of any such Vessel is made available from funds transferred from the Secretary of Defense pursuant to section 108 of the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. 103–160, 107 Stat. 1547), the Vessel must be of at least 5,000 gross tons and found by the Secretary to be commercially marketable on the international market. Vessels of less than 5,000 gross tons can receive Guarantees with funds appropriated to the Department of Transportation.

(2) Such Guarantees shall not be approved unless:

(i) The Secretary finds that the construction, reconstruction or reconditioning of the Vessel will aid in the transition of United States shipyards to commercial activities or will preserve shipbuilding assets that would be essential in time of war or national emergency; and

(ii) The owner of the Vessel agrees with the Secretary that the Vessel shall not be transferred to any country designated by the Secretary of Defense as a country whose interests are hostile to the interests of the United States.

(3) The Secretary may approve Guarantees issued to finance Eligible Export Vessels. Such Guarantee shall not be approved unless the Secretary determines that the countries in which the shipowner, its charterers, guarantors, or other financial interests supporting the transaction, if any, have their chief executive offices or have located a substantial portion of their assets, present an acceptable financial or legal risk to MARAD's collateral interests. The Secretary's determination shall be based on confidential risk assessments provided by the Export-Import Bank of the United States and country risk analyses provided by the Inter-Agency Country Risk Assessment System and shall take into account any other factors related to the loan guarantee transaction deemed pertinent by the Secretary.

Subpart C—Guarantees

§ 298.20 Term, redemptions and interest rate.

(a) *In general.* To be eligible for Guarantees, Obligations shall have a maturity date satisfactory to the Secretary, not exceeding the anticipated physical and economic life of the Vessel or Vessels or Advanced or Modern Shipbuilding Technology. Such maturity date may be less than but in no event more than:

(1) Twenty-five years from the date of delivery from the shipbuilder of a single new Vessel which is to be security for Guarantees;

(2) Twenty-five years from the date of delivery from the shipyard of the last of multiple Vessels which are to be security for the Guarantees;

(3) The later of twenty-five years from the date of original delivery of a reconstructed or reconditioned Vessel which is to be security for the Guarantees, or at the expiration of the remaining useful life of the Vessel, as determined by the Secretary; and

(4) The technological life of the Advanced or Modern Shipbuilding Technology.

(b) *Required redemptions.* Where multiple Vessels or multiple Advanced Shipbuilding Technology or Modern Shipbuilding Technology assets are to be used as security for the Guarantees, as set forth in paragraph (a) of this section, the Secretary may require payments of principal prior to maturity (redemptions) with respect to all related Obligations, as may be deemed necessary to maintain adequate security for the Guarantees.

(c) *Interest rate.* The interest rate of each Obligation must be determined by the Secretary to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary.

§ 298.21 Limits.

(a) *Actual Cost basis.* The amount of Obligations to be issued shall be satisfactory to the Secretary based upon the economic soundness of the transaction. Such amount may be less than but in no event more than 75 percent or 87½ percent, whichever is applicable under the provisions of section 1104A(b)(2) or section 1104B(b)(2) of the Act, of the Actual Cost of the Vessel or Vessels or Advanced Shipbuilding Technology or Modern Shipbuilding Technology asset(s). If minimum horsepower of the main engine is a requirement for Guarantees up to 87½ percent of the Actual Cost, the standard with respect to such horsepower shall be continuous rated horsepower. Where existing debt is being refinanced, pursuant to section 1103A(a)(5) of the Act, the amount of new Obligations issued in respect to such existing debt may not exceed the lesser of:

(1) The amount of outstanding debt being refinanced (whether or not receiving assistance under Title XI); or

(2) Seventy-five or 87½ percent whichever is applicable, of the Depreciated Actual Cost of the Vessel or Advanced Shipbuilding Technology or Modern Shipbuilding Technology with respect to which the new Obligations are being issued.

(b) *Actual Cost items.* Actual Cost is comprised essentially of those items which would customarily be capitalized as Vessel or Advanced Shipbuilding Technology or Modern Shipbuilding Technology construction costs such as designing, engineering, constructing (including performance bond premiums approved by the Secretary), inspecting, outfitting and equipping. There shall be included those cost items usually specified in Vessel or Advanced Shipbuilding Technology or Modern Shipbuilding Technology construction contracts, e.g., changes and extras, cost of owner furnished equipment, shoreside spare parts and commitment fees and interest on the Obligations or other borrowings during the construction period (excluding interest paid on subordinated debt considered to be Equity, and incurred during the construction period), and less income realized from investment of Escrow Fund deposits during the construction period. Recognizing the importance that the payment of commissions plays in the export market, commissions (which represent a portion of the total shipyard contract price) may be included in the foreign equipment and services amount of the Actual Cost of an export project, provided:

A majority of the work done by the parties receiving the commissions is in the form of design and engineering work, and

The commissions represent a small amount of the total contract price. In addition, Guarantee Fees determined in accordance with the provisions of section 1104(e) of the Act shall be included in the items of Actual Cost. In approving Actual Cost the Secretary will consider all pertinent factors.

(c) *Items excludible from Actual Cost.* Actual Cost shall not include any other costs such as the following:

(1) Legal fees or expenses;

(2) Accounting fees or expenses;

(3) Commitment fees or interest other than those specifically allowed;

(4) Fees, commissions or charges for granting or arranging for financing;

(5) Fees or charges for preparing, printing and filing an application for Title XI Guarantees and supporting documents, for services rendered to obtain approval of the application and for preparing, printing and processing documents relating to the application for Guarantees;

(6) Underwriting or trustee's fees;

(7) Federal documentary tax stamps;

(8) Investigation Fee determined in accordance with section 1104(f) of the Act and § 298.15 of this part;

(9) Predelivery Vessel operating expenses, Vessel insurance premiums and other items which may not be properly capitalized by the owner as costs of the Vessel under generally accepted accounting principles;

(10) The cost of the condition survey required by § 298.11(d) of this part and all work necessary to meet the standards set forth therein;

(11) The cost to the Shipowner of a Vessel which is to be reconstructed or reconditioned, e.g., cost of acquisition or repair work;

(12) Generally not include any amount payable to the shipyard for early delivery of the Vessel;

(13) Generally not include any amount payable to the manufacturer of the Advanced Shipbuilding Technology or Modern Shipbuilding Technology for early delivery of the equipment to the General Shipyard Facility;

(14) Predelivery Advanced Shipbuilding Technology or Modern Shipbuilding Technology expenses which may not be properly capitalized by the General Shipyard Facility as costs of the technology under Generally Accepted Accounting Principles; and

(15) The cost of major foreign components and other foreign components for which there is no waiver and their assembly when comprising any part of the hull and superstructure of a Vessel.

(d) *Substantiation of Actual Cost.* Prior to payment from the Escrow Fund or Construction Fund (described in §§ 298.33 and 298.34 of this part), and prior to the final Actual Cost determination for each Vessel or Advanced Shipbuilding Technology or Modern Shipbuilding Technology, the applicant shall submit to the Secretary documents substantiating all claimed costs eligible under § 298.21(b) or, alternatively, appropriate certification of such costs by an agent approved by the Secretary. These documents may include but need not be limited to copies of invoices, change orders, subcontracts, and where required by the Secretary, statements from independent certified or independent licensed public accountants that the costs for which payment or reimbursement is sought were actually paid or are payable with respect to the construction of a Vessel or Advanced Shipbuilding Technology or Modern Shipbuilding Technology. These documents must be summarized, indexed and arranged according to cost categories, pursuant to directions contained in forms prescribed by the Secretary.

(e) *Escalation as part of Actual Cost.* Escalation clauses in construction contracts shall be subject to approval by the Secretary. After a review of the base contract price and the escalation clauses, the Secretary shall, in order to estimate the Actual Cost amount to be stated in the Letter Commitment, add to the approved base contract price the amount of estimated escalation as approved by the Secretary. The Secretary must subsequently approve the amount of escalation claimed by the applicant as Actual Cost.

(f) *Moneys received in respect of construction.* If the Obligor or any Person acting in behalf of the Obligor shall from time to time receive moneys due in respect to construction of a Vessel or Advanced Shipbuilding Technology or Modern Shipbuilding Technology (described in the Security Agreement) from the shipbuilder, guarantors, sureties or other Persons, the Obligor shall give written notice of such fact to the Secretary. So long as the Guarantees have not been paid by the Secretary, the Obligor or other recipient shall promptly make deposit of these moneys in a Depository with a written notice that the Depository shall hold such moneys on deposit until it receives written instructions from the Secretary as to their disposition. The Secretary shall determine the extent to which Actual Cost is to be reduced with respect to these moneys. In no event shall Actual Cost be reduced with respect to payments by the shipyard to a Vessel or Advanced Shipbuilding Technology or Modern Shipbuilding Technology owner of liquidated damages for late delivery of the Vessel or Advanced Shipbuilding Technology or Modern Shipbuilding Technology. If the Secretary shall have paid the Guarantees, the Obligor or other recipient shall promptly pay these moneys including any liquidated damages to the Secretary for deposit into the Federal Ship Financing Fund.

(g) *Depreciated Actual Cost.* After a Vessel or Advanced Shipbuilding Technology or Modern Shipbuilding Technology has been delivered or redelivered (in the case of reconstruction or reconditioning), the limitation on the amount of Guarantees shall be 75 or 87½ percent, whichever is applicable, of the Depreciated Actual Cost of the Vessel or Advanced Shipbuilding Technology or Modern Shipbuilding Technology.

§ 298.22 Amortization of Obligations.

Generally after Vessel or Advanced Shipbuilding Technology or Modern Shipbuilding Technology delivery, and until maturity of the Obligations, the Obligor shall be required by provision of the Trust Indenture or other part of the Documentation to make periodic payment of interest on and principal of the Obligations. Usually, the payment of principal (amortization) shall be made semi-annually, but in no event, less frequently than on an annual basis, and in either case shall be in equal parts (straightline basis), unless the Secretary consents to the periodic payment of a constant aggregate amount, comprised of both interest and principal components which are variable in

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amount (level debt basis). No other proposed method of amortization will be allowed which would reduce the amount of periodic amortization below that determined under the straightline or level debt basis at any time prior to maturity of the Obligations, except where:

(a) The Obligor can demonstrate to the satisfaction of the Secretary that there will be adequate funds to discharge the Obligations at maturity;

(b) The Obligor establishes a fund acceptable to the Secretary in which the Obligor deposits an equal annual amount necessary to redeem the outstanding Obligations at maturity; or

(c) With regard to Eligible Export Vessels, in accordance with such other terms as the Secretary determines to be more favorable and to be compatible with export credit terms offered by foreign governments for the sale of vessels built in foreign shipyards.

§ 298.23 Refinancing.

The Secretary may approve guarantees with respect to Obligations to be secured by one or more Vessels or Advanced or Modern Shipbuilding Technology and issued to refinance existing debt, whether or not covered by mortgage insurance or Guarantees, so long as the existing debt has been issued for one of the purposes set forth in Sections 1104(a) (1) through (4) of the Act. Section 1104(a)(1) of the Act requires that, if the existing indebtedness was incurred more than one year after the delivery or redelivery of the related Vessel or Advanced or Modern Shipbuilding Technology, the proceeds of such Obligations shall be applied to the construction, reconstruction or reconditioning of other Vessels or Advanced or Modern Shipbuilding Technology or for facilities or equipment pertaining to marine operation (described in § 298.24 of this part). The Secretary may permit the refinancing of existing debt but only if any security lien on the Vessel(s) or Advanced or Modern Shipbuilding Technology is discharged immediately prior to the placing of any Mortgage thereon by the Secretary. The applicant shall satisfy all the eligibility requirements set forth in subpart B of this part, including economic soundness, as may be necessary. Refinancing of Title XI debt only shall be permitted for Advanced or Modern Shipbuilding Technology.

§ 298.24 Financing facilities and equipment related to marine operations.

The Secretary may approve Guarantees secured by one or more Vessels and issued to finance the construction, reconstruction, or reconditioning of facilities or equipment pertaining to marine operations. Such facilities or equipment shall be of a specialized nature, used principally for servicing vessels and in handling waterborne cargo in the close proximity of the berthing area, excluding over-the-road equipment (other than chassis and containers), permanent or semipermanent structures and real estate.

§ 298.25 Excess interest or other consideration.

The Secretary shall not execute Guarantees if any agreement in the Documentation directly or indirectly provides for:

(a) The payment to an Obligee of interest, or other compensation for services which have not been performed, in a manner that such compensation or payment is being provided as interest in excess of the rate approved by the Secretary; or

(b) Grants of security to an Obligee in addition to the Guarantees.

§ 298.26 Lease payments.

If payment of principal and interest on Obligations would in any way be dependent upon the lease or charter hire payments for a Vessel or Advanced Shipbuilding Technology or Modern Shipbuilding Technology that is security for the Obligations, the amount and conditions of lease or charter payments shall be subject to the Secretary's approval.

§ 298.27 Advances.

(a) *In general.* In accordance with the provisions of section 207 and Title XI of the Act, the Secretary shall have the discretion to make or commit to make an advance or payment of funds to, or on behalf of the owner, or operator or directly to any other person or entity for items, including, but not limited to, principal, interest, insurance and other vessel-related expenses or fees. Such advances or payments shall be made only to protect, preserve or improve the collateral held as security by the Secretary to secure Title XI debt. The applicant making the request for an advance shall demonstrate (with market and cash flow analysis and other projections) that its problems are of a short term duration (less than two years); with the help of an advance(s), the applicant would be assisted over its temporary difficulties; and there is adequate collateral for the advance.

(b) *Filing requirements.* Any company that desires to request an advance or other payment, or a commitment to make an advance or other payment from the Secretary for the purposes stated in § 298.27 of this part, shall apply for such assistance as far in advance as is reasonably possible. A request for an advance for principal and interest payments shall be received by the Secretary at least 30 days prior to the initial payment date. A request for an advance of insurance payments shall be received by the Secretary at least 30 days prior to a renewal or termination date. The Secretary may consider requests for assistance with less notice, upon written documentation of extenuating circumstances. Any requests for assistance must be accompanied by supporting data with respect to the need for the advance, that financing assistance has been sought from other sources, that the company is taking and has taken measures to alleviate its situation, financial projections, proposed term of the repayment, current and projected market conditions, information on other available collateral, liens and other creditor information, and any other information which may be requested by the Secretary.

Subpart D—Documentation

§ 298.30 Nature and content of Obligations.

An Obligation, whether issued in the form of a note, bond of any type, or other debt instrument, when engraved, printed or lithographed on a single sheet of paper shall include on its face the name of the Obligor, the principal sum, the rate of interest, the date of maturity, and the Guarantee of the United States, authenticated by the Indenture Trustee. If the Obligation is typewritten, printed or reproduced by other means on several pages of paper, the Guarantee of the United States and the authentication certificate of the Indenture Trustee may appear at the end of the typewritten Obligation. The instrument which is evidence of indebtedness shall also contain all information necessary to apprise the Obligees of their rights and responsibilities with respect thereto, including, but not limited to, time and manner for payment of principal and interest, redemptions, default procedure and notification (in case of registered Obligations) of sale or other transfer of the instruments.

§ 298.31 Mortgage.

(a) *In general.* (1) Under normal circumstances, a Guarantee shall not be endorsed on any Obligation until the Secretary receives satisfactory evidence of a Mortgage in one or more Vessels or a Mortgage or other security interest in the Advanced Shipbuilding Technology or Modern Shipbuilding Technology (the "Technologies"), in favor of the Secretary. During construction of a new Vessel or any of the Technologies, a security interest may be perfected by a filing under the Uniform Commercial Code.

(2) In order to ensure that the Secretary's Mortgages or other security interests are valid and enforceable, the Secretary shall require that the Obligor obtain legal opinions, in form and substance satisfactory to the Secretary, from independent, outside legal counsel satisfactory to the Secretary, including foreign independent outside legal Counsel with respect to Eligible Export Vessels, which opinions shall state, among other things, that the Mortgage or other security interest(s) are valid and enforceable:

(i) In the country in which the Vessel is documented (or, in the case of a security interest, in jurisdictions acceptable to the Secretary);

(ii) In the United States; and

(iii) For vessels operating on specified trade routes, in the country or countries involved in this service, unless the Secretary determines that those destinations are too numerous, in which case, the Secretary will instead require an opinion of foreign validity and enforceability in the Vessel's primary port of operation.

(3) In the case where a Mortgage or security interest on the financed assets may not be available or enforceable, the Secretary shall require alternative forms of security.

(4) The Security Agreement shall provide that upon delivery of a new Vessel or upon final installation of the Technologies, or at the time Guarantees are issued with respect to an existing Vessel or the Technologies, a Mortgage on the Vessel and a Mortgage or other security interest on the Technologies shall be executed in favor of the Secretary, unless the Secretary determines that a Mortgage or a security interest is not required in accordance with the preceding sentence.

(5) The Mortgage shall be filed with the United States Coast Guard at the Vessel's port of record, or with the proper foreign authorities with respect to an Eligible Export Vessel, and with respect to assets of a General Shipyard Facility a Mortgage and security interest shall be filed with the proper authorities within the appropriate state and shall be delivered to the Secretary after being recorded.

(b) *Mortgage secured by multiple Vessels.* When two or more Vessels are to be security for Guarantees, the Security Agreement may provide that one Mortgage relating to all the Vessels (Fleet Mortgage) shall be executed, perfected and delivered to the Secretary by the Obligor. If the Fleet Mortgage relates to undelivered Vessels, the Fleet Mortgage shall be executed upon delivery of the first vessel. At the time of each subsequent Vessel delivery, the Obligor shall execute a supplement to the Fleet Mortgage which makes that Vessel subject to the Secretary's Mortgage lien. The Fleet Mortgage shall provide that payment by the Obligor of the entire amount of Obligations covered or to be covered by Guarantees shall be required to discharge the Fleet Mortgage, regardless of the amount of the Secretary's Note or Notes issued and outstanding at the time of execution and delivery of the Fleet Mortgage or the number of Vessels covered by the Fleet Mortgage. The discharge date of the Fleet Mortgage shall be the maturity date of the Secretary's Note. The Secretary may require, as authorized by section 1104(c)(2) of the Act, such payments of principal prior to maturity (redemptions), with respect to all related Obligations, as deemed necessary to maintain adequate security for the Guarantees. Each Fleet Mortgage shall provide that in the event of constructive total loss, requisition of title or sale of any Vessel covered by the Fleet Mortgage, indebtedness represented by the Obligations shall be paid, unless the Secretary shall otherwise determine that there remains adequate security for the Guarantees, and the Vessel shall be discharged from the Mortgage lien.

(c) *Adequacy of collateral.* Under normal circumstances, a First Preferred Mortgage on the Vessel(s) or Advanced or Modern Shipbuilding Technology will be adequate security for the Guarantees. If, however, the Secretary determines that the Mortgage on the Vessel(s) or Advanced or Modern Shipbuilding Technology is not sufficient to provide adequate security, the Secretary, as a condition to approving the Letter Commitment or processing the application may require additional collateral, such as a mortgage(s) on other vessel(s) or Advanced or Modern Shipbuilding Technology or on other assets, special escrow funds, pledges of stock, charters, contracts, notes, letters of credit, accounts receivable assignments, and guarantees.

§ 298.32 Required provisions in documentation.

(a) *Performance under shipyard and related contracts.* Generally, shipyard and related contracts shall contain provisions for:

(1) Furnishing by the shipyard or manufacturer of the Advanced Shipbuilding Technology or Modern Shipbuilding Technology of satisfactory insurance and a satisfactory performance bond where Obligations are issued during the construction period, except that if the shipyard or manufacturer of the Advanced Shipbuilding Technology or Modern Shipbuilding Technology demonstrates to the satisfaction of the Secretary that it has sufficient financial resources and operational capacity to complete the project, posting of a bond will not be required;

(2) Allowing access to the Vessel or Advanced or Modern Shipbuilding Technology, as well as all related work projects being performed by the contractor and subcontractors, to a representative of the Secretary, at all reasonable times, to inspect performance of the work and to observe trials and other tests for the purpose of determining that the Vessel or Advanced or Modern Shipbuilding Technology is being constructed, reconstructed or reconditioned in accordance with contract plans and specifications approved by the Secretary;

(3) Submitting to the Secretary, upon request, one set of shipyard plans, in form and substance satisfactory to the Secretary, for the Vessel or Advanced or Modern Shipbuilding Technology as built;

(4) Making periodic payments for the work in accordance with an agreed schedule, submitted by the shipyard in a form acceptable to the Secretary, based on percentage of completion, after such percentage and satisfactory performance are certified by the Obligor, shipyard and a representative of the Secretary as to each payment;

(5) Prohibiting the use of proceeds from the sale of Obligations for the payment of work performed outside the shipyard, unless the Secretary consents in writing to such use; and

(6) Requiring that all components of the hull and superstructure of a U.S.-documented Vessel and an Eligible Export Vessel shall be assembled in the United States. If obligations will not be issued during the period of construction of a Vessel, shipyard-related contracts shall generally include the provisions specified in paragraphs (a)(2) and (a)(3) of this section and this paragraph (a)(6).

(b) *Assignments and general covenants from Obligor to Secretary.* The Obligor shall assign rights and shall covenant with the Secretary, as required by the Secretary, including, but not limited to, the following:

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(1) Assignment of all or part of the right, title and interest under the construction contract and related contracts, except those rights expressly reserved therein by the Obligor relating to such things as patent infringement and liquidated damages;

(2) Assignment of rights to receive all moneys which from time to time become due with respect to Vessel or Advanced or Modern Shipbuilding Technology construction;

(3) Assignment, where applicable, of all or a part of the bareboat charter, time charter, contracts of affreightment or other agreements relating to the use of the Vessel or Advanced or Modern Shipbuilding Technology and all hire payable to the Obligor, and delivery to the Secretary of required consents by appropriate parties to any such assignments;

(4) Covenants relating to the annual filing of satisfactory evidence of continuing United States citizenship, in accordance with 46 CFR part 355, with the exception of Eligible Export Vessels and shipyards with Advanced or Modern Shipbuilding Technology projects; warranty of Vessel or Advanced or Modern Shipbuilding Technology title free from all liens other than those specifically excepted; maintaining United States documentation of the Vessel or documentation under the laws of a country other than the United States with regard to an Eligible Export Vessel; compliance with the provisions of 46 U.S.C. 31301–31343, except that Eligible Export Vessels shall comply with the definition of a "preferred mortgage" in 46 U.S.C. 31301(6)(B), requiring, among other things, that the Mortgage shall comply with the mortgage laws of the foreign country where the Vessel is documented and shall have been registered under those laws in a public register; Notice of Mortgage, payment of all taxes (except if being contested in good faith); annual financial statements audited by independent certified or independent licensed public accountant.

(5) Covenants to keep records of construction costs paid by or for the Obligor's account and to furnish the Secretary with a detailed statement of those costs, distinguishing between:

(i) Items paid or obligated to be paid, attested to by independent certified public accountants unless otherwise verified by the Secretary; and

(ii) Costs of American and foreign materials (including services) in the hull and superstructure.

(6) Covenants to maintain Marine and War Risk Hull and Machinery insurance on the Vessel or Eligible Export Vessel in an amount equal to 110% of the outstanding Obligations or up to the full commercial value of the Vessel or Eligible Export Vessel, whichever is greater; Marine and War Risk Protection and Indemnity insurance; Interim War Risk Binders for Hull and Machinery, and Protection and Indemnity coverages underwritten by the Maritime Administration as authorized by Title XII of the Act; and such additional insurance as may be required by the Secretary. All insurance required to be maintained shall be placed with the United States Government and American and/or British (and/or other foreign, if permitted by the Secretary by prior written notice) insurance companies, underwriters' associations or underwriting funds approved by the Secretary through marine insurance brokers and/or underwriting agents approved by the Secretary. All insurance required to be maintained shall be placed under the latest (at the time of issue) forms of American Institute of Marine Underwriters policies approved by the Secretary and/or under such other forms of policies which the Secretary may approve in writing and/or policies issued by or for the Maritime Administration insuring the Vessel or Eligible Export Vessel against the usual risks provided for under such forms, including such amounts of increase value other forms of "total loss only" insurance permitted by the Hull and Machinery insurance policies;

(7) Collateralize other debt due to the Secretary under other Title XI financings;

(8) Covenants to maintain shipyard insurance on the Advanced Shipbuilding Technology or Modern Shipbuilding Technology in an amount equal to 110% of the outstanding Obligations or up to the full commercial value of the technology, whichever is greater, and such additional insurance as may be required by the Secretary; and

(9) Covenants to maintain additional types of insurance as may be required by the Secretary with respect to Eligible Export Vessels, i.e. political risk insurance, to cover such items as the political, financial, and/or economic risk in a foreign country.

§ 298.33 Escrow fund.

(a) *Circumstances requiring deposits.* The Obligor may be required to establish a fund with the Secretary (Escrow Fund) in accordance with section 1108(a) of the Act and the Security Agreement. The deposit with the Secretary shall be in cash or Federal Reserve Bank funds.

(b) *Principal Deposit-Single Vessel or Advanced or Modern Shipbuilding Technology.* If a single Vessel or Advanced or Modern Shipbuilding Technology is security for the Guarantees, the deposit of principal shall be calculated by subtracting from the aggregate principal amount of the Obligations sold, 75 or 87½ percent (whichever is applicable under section 1104(b)(2) of the Act) of the amount of Actual Cost or Depreciated Actual Cost determined by the Secretary to have been paid, as of the date of the deposit, by or for the account of the Obligor for construction, reconstruction or reconditioning of the Vessel or Advanced or Modern Shipbuilding Technology. In the event that Obligations are issued and sold on a date subsequent to the initial issuance and sale of Obligations, a deposit shall be calculated in the same manner as for the first sale of Obligations.

(c) *Principal deposit—multiple Vessels or Advanced or Modern Shipbuilding Technology.* If multiple Vessels or Advanced or Modern Shipbuilding Technology are security for the Guarantees, with the Secretary's approval, the Obligor may calculate the aggregate deposit of principal amount in the Escrow Fund by computing on an individual Vessel or Advanced or Modern Shipbuilding Technology basis by prorating the proceeds of the sale of Obligations, within the meaning of the proviso in section 1108(a) of the Act, based on the ratio of the Vessel's Actual Cost or Depreciated Actual Cost, to the total Actual Cost and Depreciated Actual Cost of all Vessels or Advanced or Modern Shipbuilding Technology which are security for the Guarantees less 75 or 87½ percent (whichever is applicable under section 1104(b)(2) of the Act) of the amount of Actual Cost or Depreciated Actual Cost determined by the Secretary to have been paid, as of the date of deposit, by or for the account of the Obligor for the construction, reconstruction or reconditioning of the Vessel or Advanced or Modern Shipbuilding Technology for which the deposit is being computed or by allocating portions of the proceeds (up to 75 or 87½ percent, whichever is applicable under section 1104(b) of the Act) from the sale of the Obligations to specific Vessels or Advanced or Modern Shipbuilding Technology and computing the deposit based on the Actual Cost or Depreciated Actual Cost of such Vessels or Advanced or Modern Shipbuilding Technology paid, as of the date of deposit, by or for the account of the Obligor. In the event that Obligations are issued and sold on a date subsequent to the initial issuance and sale of Obligations, a deposit shall be calculated in the same manner as for the first sale of Obligations. The foregoing allocations are for the purpose of calculating the deposits only and are not applicable or controlling with respect to disbursements from the Escrow Fund.

(d) *Interest deposit.* Interest on the aggregate principal amount deposited pursuant to paragraphs (b) and (c) of this section, shall be computed at the same rate borne by the Obligations, for one interest payment period, unless the Secretary shall find the existence of adequate consideration or accept other consideration in lieu of the interest deposit. If the Obligations issued and sold bear more than one rate of interest, the amount of interest required to be deposited shall be based upon the weighted average of such interest rates. The calculation of the amount of interest to be deposited shall take into account the principal and interest, if any, remaining on deposit in the Escrow Fund.

(e) *Disbursements prior to Termination Date.* Unless the Guarantees shall become payable prior to the Termination Date (described in paragraph (h) of this section) of the Escrow Fund, the Secretary shall, subject to the satisfaction of any applicable conditions contained in the Security Agreement, and within a reasonable time after written request from the Obligor, make disbursements from the fund directly to the Indenture Trustee or any Paying Agent for the payment of interest on the Obligations, for periods prior to Vessel or Advanced or Modern Shipbuilding Technology delivery or redelivery, and to the shipbuilder, the Obligor or to any other Person entitled thereto, with respect to costs included in Actual Cost. Also, the Secretary may disburse to the Obligor, upon request made at least 10 business days prior to, and no later than 30 days after the date on which the payment of interest on the Obligations is due, any excess, as determined by the Secretary, of required interest on deposit in the Escrow Fund on the date of disbursement. However, no payment or reimbursement shall be made from the Escrow Fund to any Person until:

(1) The Construction Fund (described in § 298.34 of this part), where provided for in the Security Agreement, has been exhausted;

(2) At least 12½ or 25 percent (whichever is applicable) of the Actual Cost or Depreciated Actual Cost of the Vessel or Advanced or Modern Shipbuilding Technology for which the disbursement is requested has been paid by or for the account of the Obligor from sources other than the proceeds of the Obligations, except that where the Obligor is required to pay in 25 percent of the Actual Cost or Depreciated Actual Cost, and demonstrates to the Secretary's satisfaction the ability to pay in such 25 percent, after the Obligor has paid the first 12½ percent of the Actual Cost or Depreciated Actual Cost, the Obligor may be permitted to withdraw moneys from the Escrow Fund, for payment of the next 37½ percent of such Actual Cost or Depreciated Actual Cost, and withdraw the remainder of the Escrow Fund moneys after paying in the next 12½ percent of Actual Cost or Depreciated Actual Cost; and

(3) The Secretary has approved the Actual Cost items and has determined that the amounts for which reimbursement is requested have been paid and that there has been satisfactory certification as to the percentage of completion of the Vessel or Vessels or Advanced or Modern Shipbuilding Technology, at least equal to that amount of Actual Cost paid, except where the Secretary has specifically consented to an alternative procedure.

(f) *Where Guarantees become payable.* If, prior to the Termination Date of the Escrow Fund, the Guarantees shall become payable by the Secretary, all amounts in the Escrow Fund at such time (including interest and realized income which have not yet been paid to the Obligor) shall be paid into the Federal Ship Financing Fund, created by section 1102 of the Act, and be credited against any amounts due or to become due to the Secretary from the Obligor with respect to all Guarantees, and to the extent not so required, be paid to the Obligor.

(g) *Requisition of title, termination of construction contract or total loss of Vessel or Advanced or Modern Shipbuilding Technology.* In the event of requisition of title to or seizure or forfeiture of the Vessel or Advanced or Modern Shipbuilding Technology, termination of the construction contract (unless the Obligor and the Secretary elect to have the Vessel or Advanced or Modern Shipbuilding Technology completed) or the construction-differential subsidy contract (where applicable), or the actual or constructive total loss of the Vessel or Advanced or Modern Shipbuilding Technology, all moneys remaining on deposit in the Escrow Fund may be disbursed by the Secretary for any of the following purposes:

(1) Redemption or payment of Obligations and accrued interest thereon to the date of redemption or payment, in accordance with the applicable provisions of the Documentation relating to such redemption or payment, where there is no existing default;

(2) Payment to the Obligor, if all outstanding Obligations are retired and paid other than by payment of the Guarantees, and all amounts payable to the Secretary and secured by the Mortgage have been paid; and

(3) Payment in accordance with the priorities set forth in § 298.41 of this part, if a default has occurred and if the Secretary shall have paid the Guarantees.

(h) *Disbursement upon Termination Date.* The Escrow Fund shall terminate on a date agreed upon by the Obligor and the Secretary as set forth in the Security Agreement (Termination Date). If on such Termination Date the full amount of Actual Cost of the Vessel or Advanced or Modern Shipbuilding Technology has not been paid by or for the account of the Obligor, or is not then due and payable, the Obligor and the Secretary may extend the Termination Date by agreement. When the Secretary makes a final determination of Actual Cost at the written request of the Obligor, or at the instance of the Secretary if the Termination Date has occurred without such a request, the Termination Date shall be deemed to be the date of such final determination of Actual Cost. If payments under the Guarantees have not become due prior to the Termination Date, then on or immediately after said Termination Date, any balance in the Escrow Fund shall be disbursed by the Secretary in the following manner:

(1) Where the principal amount of the Obligations issued less the principal amount of Obligations which have been retired or paid on or before such Termination Date, and not availed of as a credit against any mandatory redemptions otherwise required to be made on or before such Termination Date, shall be in excess of 75 or 87½ percent (whichever is applicable) of the Actual Cost or Depreciated Actual Cost of the Vessel or Advanced or Modern Shipbuilding Technology as finally determined by the Secretary as of the Termination Date, the Secretary shall pay such excess to the Indenture Trustee in accordance with the provisions of the Documentation relating to such payment. A written notice from the Secretary and the Obligor shall accompany such payment, stating the Termination Date and directing the Indenture Trustee to redeem an equal amount of Obligations;

(2) From the balance remaining after the deduction of the principal amount of the Obligations to be redeemed, an amount equal to interest accrued to the

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date fixed for redemption of the principal amount of Obligations to be redeemed shall be simultaneously paid from the Escrow Fund by the Secretary to the Indenture Trustee to be applied to the payment of interest to the date to be fixed for redemption. In the event the balance remaining in the Escrow Fund, after giving effect to paragraph (h)(1) of this section, is insufficient to pay the interest accrued to the date fixed for redemption, such balance shall be paid from the Escrow Fund to the Indenture Trustee and the Obligor shall simultaneously deposit with the Indenture Trustee an amount equal to the difference between the balance being paid to the Indenture Trustee from the Escrow Fund and the total amount required for the payment of accrued interest; and

(3) Any balance of the Escrow Fund shall be paid to the Obligor.

(i) *Investment and liquidation of the Escrow Fund.* The Secretary may invest and reinvest deposits to the Escrow Fund in securities which are obligations of the United States and with maturities such that sufficient cash will be reasonably available to the Escrow Fund as required to make periodic authorized disbursements. The Secretary shall deposit the Escrow Fund into a special Treasury Department account with instructions, pursuant to an agreement with the Obligor, for the investment, reinvestment and liquidation of the Escrow Fund.

(j) *Income Earned on the Escrow Fund.* If the Guarantees shall not have become due, after receiving notice that the Treasury Department has deposited income earned on the Escrow Fund into the special account, the Secretary shall direct the payment of such income to the Obligor. Income shall include the excess of the cash received from the sale of securities or the payment of securities at maturity (less any losses from the sale of securities not made up by payments by the Obligor pursuant to provisions of the Security Agreement) over the cost thereof, and interest received with respect to the securities.

(k) *Redeposit.* If, at any time, the Secretary shall have determined that there has been an improper disbursement from the Escrow Fund, the Secretary shall give written notice to the Obligor of the amount improperly disbursed, the amount to be redeposited into the Escrow Fund on account thereof and the reasons for such determination. The Obligor shall thereafter promptly redeposit such amount into the Escrow Fund.

§ 298.34 Construction fund.

(a) *Deposit.* Where the Security Agreement provides for an Escrow Fund deposit, usually a provision shall also be included therein for establishing Construction Fund deposits. Under the terms of this provision, at the time of each sale of Obligations the Obligor shall deposit with a Depository, in a special account subject to the joint control of the Obligor and the Secretary, cash equal to the principal amount of the Obligations issued at such time less the sum of the aggregate principal amount then required to be in the Escrow Fund and the amount in excess of 12½ or 25 percent of Actual Cost or Depreciated Actual Cost, as applicable (whichever is payable under § 298.33(e) of this part) which the Secretary determines has been paid by or for the account of the Obligor. The balance of the proceeds from the sale of the Obligations, after depositing the amounts required to be deposited in the Escrow Fund and/or the Construction Fund, shall be retained by the Obligor.

(b) *Withdrawals.* The Secretary shall, subject to the satisfaction of any applicable conditions contained in the Security Agreement, periodically approve disbursements from the Construction Fund directly to the Indenture Trustee or any Paying Agent for the payment of interest on the Obligations, for periods prior to Vessel or Advanced or Modern Shipbuilding Technology delivery, and to the shipbuilder, the Obligor, or to any other Person entitled thereto with respect to costs included in Actual Cost. The Secretary shall not authorize any disbursement from the Construction Fund unless payments have been made by or for the account of the Obligor from sources other than the Obligations, in accordance with the requirements of paragraphs (e) (2) and (3) of § 298.33.

(c) *Redeposit.* If, at any time, the Secretary shall have determined that there has been an improper disbursement from the Construction Fund, the Secretary shall give written notice to the Obligor of the amount improperly disbursed, the amount to be redeposited into the Construction Fund on account thereof and the reasons for such determination. The Obligor shall thereafter promptly redeposit such amount into the Construction Fund.

§ 298.35 Reserve Fund and Financial Agreement.

(a) *Purpose.* In order to provide further security to the Secretary and to insure payment of the interest and principal due on the Obligations, the Company shall be required to enter into a Title XI Reserve Fund and Financial Agreement (Agreement) at the first Closing at which Obligations are issued. The Secretary may waive or modify provisions of the Agreement based on an evaluation of the aggregate security for the Guarantees.

(b) *Financial Covenants for Companies meeting primary financial requirements.* Covenants shall be imposed on the Company which is subject to compliance with the primary financial requirements at Closing, set forth in § 298.13(d), as follows:

(1) *Continuous covenants.* So long as Guarantees are in effect the Company shall not, without the prior written consent of the Secretary, undertake any actions prohibited by the Documentation, which actions include but are not limited to those of the following nature:

(i) Enter into a service, management or operating agreement with respect to a Vessel or Advanced or Modern Shipbuilding Technology financed with the assistance of Title XI Guarantees;

(ii) Sell, transfer or demise charter the Vessel or transfer the Vessel to a Related Party under any form of charter or contract,

(iii) Sell or transfer a substantial part of its assets, enter into a merger or consolidation, engage in new business activities not directly connected with marine operations or guarantee (or otherwise be liable for) debts of other Persons.

(iv) Pay any dividend except as may be permitted by paragraph (b)(1)(iv) (A) or (B) of this section. If the Company is party to an operating-differential subsidy contract, the payment of dividends is subject to the provisions of § 298.35(g).

(v) Sell, transfer, or lease any Modern or Advanced Shipbuilding Technology financed with the assistance of Title XI guarantees or transfer such technology to a Related Party under any form of contract.

(A) From retained earnings in an amount specified in paragraph (b)(1)(iv)(C) of this section providing that the year in which the dividend is paid there is no operating loss in the current fiscal year to the date of the payment of the dividend and

(*1*) There was no operating loss in the immediate preceding three fiscal years, or

(*2*) There was a one year operating loss during the immediate preceding three fiscal years and

(*i*) Such loss was not in the immediate preceding fiscal year, and

(*ii*) There was positive net income for the three year period.

(B) If dividends are not payable under paragraph (b)(1)(iv)(A) of this section, a dividend can be paid in an amount equal to the total operating net income for the immediate preceding three fiscal year period provided that

(*1*) There were no two successive years of losses,

(*2*) In the year in which the dividend is paid there is no operating loss in such fiscal year to the date of payment of the dividend, and

(*3*) The dividend paid would not exceed an amount specified in paragraph (b)(1)(iv)(C) of this section.

(C) Dividends may be paid from earnings of prior years in an aggregate amount equal to:

(*1*) 40 percent of the Company's total net income after tax for each of the prior years, less any dividends that were paid in such years; or

(*2*) The aggregate of the Company's total net income after tax for such prior years, providing that after the payment of such dividend, the Company's long term debt does not exceed its net worth. In computing net income extraordinary gains, such as gains from the sale of assets, etc., shall be excluded.

(2) *Additional Covenants which may become applicable.* If the Company shall at any time no longer satisfy the primary financial requirements, or such condition would occur after giving effect to any of the proposed transactions set forth below, the Company shall not, without the prior written consent of the Secretary, undertake any actions prohibited by the Documentation, which actions include but are not limited to those of the following nature:

(i) Withdraw or redeem capital, covert capital into debt, make distributions, or pay any dividends, provided, however, if the Company is subject to an operating-differential subsidy contract, the dividend restriction shall be governed by § 298.35(g);

(ii) Make loans, advances, investments in or repayments of existing debts to a Related Party, stockholders, officers or directors;

(iii) Incur indebtedness or become subject to any liens (except if necessary in the ordinary course of existing business); acquire fixed assets or become liable (directly or indirectly) under charters or leases (having a term of six months or more) for the payment of charter hire or rent on all such charters or leases which have annual payments aggregating in excess of an amount specified by the Secretary in the Agreement;

(iv) Pay salaries in excess of amounts specified in the Agreement, pay subordinated indebtedness or make loans; or

(v) Invest in sequrities other than those that qualify as eligible investments under the Agreement.

(c) *Financial Covenants for Companies meeting the special financial requirements.* Covenants shall be imposed on the Company which is subject to the special financial requirements at Closing, set forth in § 298.13(e), as follows:

(1) *Continuous covenants.* So long as the Guarantees are in effect the Company shall not, without the prior written consent of the Secretary, undertake any actions, prohibited by the Documentation, which actions include but are not limited to those of the following nature.

(i) Enter into a service, management or operating agreement for a Vessel or Advanced or Modern Shipbuilding Technology financed with the assistance of Title XI Guarantees;

(ii) Sell, transfer or demise charter the Vessel or transfer the Vessel to a Related Party under any form of Charter or Contract.

(iii) Sell or transfer a substantial part of its assets, enter into a merger or consolidation, engage in any new business activities not directly connected with marine operations or guarantee (or otherwise become liable for) debts of other Persons;

(iv) Incur indebtedness or become subject to any liens (except if necessary in the ordinary course of existing business); acquire fixed assets or become liable (directly or indirectly) under charters or leases (having a term of six months or more) for the payment of charter hire or rent on all such charters or leases which have annual payments aggregating in excess of an amount specified for the Secretary in the Agreement;

(v) Make any loans or invest in any securities other than Eligible Investments for Title XI Reserve Fund;

(vi) Pay any subordinated indebtedness other than in accordance with a subordination agreement approved by the Secretary; or

(vii) Sell, transfer, or lease any Advanced or Modern Shipbuilding Technology financed with the assistance of Title XI guarantees or transfer such technology to a Related Party under any form of contract.

(2) *Additional covenants which may become applicable.* If the Company shall at any time no longer satisfy the special financial requirement (after including the annual financial liability relating to the Obligations as a current liability in computing Working Capital), or such condition would occur after giving effect to any proposed transaction set forth below, the Company shall not, without the prior written consent of the Secretary, undertake any actions prohibited by the Documentation, which actions include but are not limited to those of the following nature:

(i) Withdraw or redeem capital, convert capital into debt, make distributions, or pay any dividend, provided however, if the Company is subject to an operating-differential subsidy contract, the dividend restriction shall be governed by § 298.35(g);

(ii) Make loans, advances, investments or prepayments of existing debts to a Related Party, stockholders, officers or directors, or invest in the securities of any Related Party; or

(iii) Pay salaries in excess of amounts specified in the Agreement.

(3) Covenants where Company's financial condition improves to meet primary financial requirements. Whenever the Company, based on a review of its financial position, determines that it meets the primary financial requirements set forth in § 298.13(d), it may inform the Secretary of this fact, and submit such financial statements and all additional information which the Secretary shall consider necessary to verify compliance with such financial requirements. With the consent of the Secretary, the Company may elect thereafter to be subject to covenants applicable to a Company which had satisfied the primary financial requirements at Closing.

(d) *Title XI Reserve Fund Net Income.* The Agreement shall provide that within 105 days after the end of its accounting year, the Company shall compute its net income attributable to the operation of one or more Vessels that were constructed, reconstructed, reconditioned or refinanced with Title XI financing assistance (Title XI Reserve Fund Net Income). The computation utilizes a ratio expressed as a percentage, and applies this percentage to the Company's total net income after taxes. The numerator of the ratio shall be the total original capitalized cost of all Company Vessels (whether leased or owned) which were constructed, reconstructed, reconditioned or refinanced with the assistance of Guarantees. The denominator shall be the total original capitalized cost of all the Company's fixed assets. In the case of Advanced or Modern Shipbuilding Technology, the Agreement shall provide that within 105 days after the end of its accounting year, the Company shall submit its audited financial statements showing its net cash flow in a manner acceptable to the Secretary, in lieu of any other computation of Reserve

Fund Net Income specified herein for Vessels. The net income after taxes, computed in accordance with generally accepted accounting principles, shall be adjusted as follows:

(1) The depreciation expense applicable to the accounting year shall be added back.

(2) There shall be subtracted:

(i) An amount equal to the principal amount of debt required to be paid or redeemed, and actually paid or redeemed by the Company (other than from the Title XI Reserve Fund) during the year; and

(ii) The principal amount of Obligations retired or paid (as defined in the Security Agreement), prepaid or redeemed, in excess of the required redemptions or payments which may be used by the Company as a credit against future required redemptions or other required payments with respect to the Obligations.

(e) *Deposits.* Unless the Company, as of the close of its accounting year, was subject to and in compliance with the primary financial requirements set forth in § 298.13(d), the Company shall make one or more deposits to a special joint depository account with the Secretary (the Title XI Reserve Fund) to be established pursuant to an agreement in writing (Depository Agreement) at the time the first deposit is required to be made. The amount of deposit as to any year, or period less than a full year, where applicable, shall be determined as follows:

(1) If the Company is the owner of the Vessel or Advanced or Modern Shipbuilding Technology, an amount (pro rated for a period of less than a full year) that is equal to 10 percent of the Company's aggregate original equity investment in the Vessel or Vessels or Advanced or Modern Shipbuilding Technology shall be deducted from Title XI Reserve Fund Net Income.

(2) Fifty percent of the Title XI Reserve Fund Net Income adjusted where applicable, in accordance with paragraph (e)(1) of this section shall be deposited into the Title XI Reserve Fund.

(3) There shall also be deposited any additional amounts that may be required, pursuant to provisions of the Security Agreement or any other agreement in the documentation to which the Company is a party.

(4) Irrespective of the Company's deposit requirement, as stated in preceding paragraphs (e) (1) through (3) of this section, the Company shall not be required to make any deposits into the Title XI Reserve Fund if any of the following events shall have occurred:

(i) The Company shall have discharged the Obligations and related Secretary's Note and shall have paid other sums secured under the Security Agreement and Preferred Mortgage;

(ii) All Guarantees with respect to outstanding Obligations shall have terminated pursuant to the provisions of the Security Agreements, other than by reason of payment of the Guarantees; or

(iii) The amount in the Title XI Reserve Fund, (including any securities at market value), is equal to, or in excess of 50 percent of the principal amount of outstanding Obligations.

(5) In the case of Advanced or Modern Shipbuilding Technology, unless the shipyard as of the close of its accounting year was subject to and in compliance with the primary financial requirements, the shipyard shall make a deposit at two percent of its net cash flow, as defined by GAAP, and as shown on its audited financial statements.

(f) *Fund in lieu of Title XI Reserve Fund.* If the Company has established a Capital Construction Fund (CCF), pursuant to section 607 of the Act, whether interim or permanent, at any time when a deposit would otherwise be required to be made into the Title XI Reserve Fund, and the Company elects to make such deposits to the CCF, the Company shall enter into an agreement, satisfactory to the Secretary, providing that all such deposits of assets therein shall be security (CCF Security Amount) to the United States in lieu of the Title XI Reserve Fund. The deposit requirements of the Title XI Reserve Fund and Financial Agreement shall be deemed satisfied by deposits of equal amounts in the CCF, and withdrawal of the CCF Security Amount shall be subject to the Secretary's prior written consent. If, for any reason, the CCF terminates prior to the payment of the Obligations, the Secretary's Note and all other amounts due under or secured by the Security Agreement or Mortgage, the CCF Security Amount shall be deposited or redeposited in the Title XI Reserve Fund.

(g) *Dividend restrictions applicable to companies who are parties to an operating-differential subsidy contract.* [Reserved]

§ 298.36 Annual Guarantee Fee.

(a) *Rates in general.* For annual periods, beginning with the date of the Security Agreement and prior to the delivery date of a Vessel or Advanced or Modern Shipbuilding Technology, the Secretary shall charge the Obligor an annual fee (Guarantee Fee) at a rate of not less than ¼ of 1 percent and not more than ½ of 1 percent of the excess of the average principal amount of the Obligations estimated to be outstanding during the annual period covered by said Guarantee Fee over the average principal amount, if any, on deposit in the Escrow Fund during said annual period (Average Principal Amount of Obligations Outstanding). For annual periods beginning with the delivery date of a Vessel or Advanced or Modern Shipbuilding Technology, the Guarantee Fee shall be imposed at an annual rate of not less than ½ of 1 percent and not more than 1 percent of the Average Principal Amount of Obligations Outstanding during the annual period covered by the Guarantee Fee. The Obligor shall be responsible for payment of the Guarantee Fee.

(b) *Rate calculation.* The Guarantee Fee rate generally shall vary inversely with the ratio of Equity to Long Term Debt of the Person considered by the Secretary to be the primary source of credit in the transaction (Credit Source), e.g., the long term time charterer (where the charter hire represents the source of payment of interest and principal with respect to the Obligations), the guarantor of the Obligations, Obligor or the bareboat charterer. Where the ratio of Equity to Long Term Debt (Variable Rate) is used, the Secretary may make such adjustments to the computation of Equity and Long Term Debt considered necessary to reflect more accurately the financial condition of the Credit Source. The determination of Equity and Long Term Debt shall be based on information contained in forms or statements on file with the Secretary prior to the date on which the Guarantee Fee is to be paid. With the consent of the Secretary, there shall be included in equity, but excluded from Long Term Debt, any subordinated indebtedness representing loans to the credit source, evidence of which has been delivered to the Secretary. The Secretary may establish a fixed rate or other method of calculation of the Guarantee Fee, upon an evaluation of the aggregate security for the Guarantees.

(c) *Variable Rate prior to Vessel or Advanced or Modern Shipbuilding Technology delivery.* For annual periods beginning prior to the delivery date of a Vessel or Advanced or Modern Shipbuilding Technology being constructed, reconstructed, or reconditioned, the Guarantee Fee shall be determined as follows:

(1) If the Equity is less than 15 percent of the Long Term Debt, the annual Guarantee Fee rate shall be ½ of 1 percent of the Average Principal Amount of Obligations Outstanding during the annual period covered by the Guarantee Fee.

(2) If the Equity is at least 15 percent of the Long Term Debt, but less than the Long Term Debt, the annual Guarantee Fee rate shall be ⅜ of 1 percent of the Average Principal Amount of Obligations Outstanding during the annual period covered by the Guarantee Fee.

(3) If the Equity is equal to or exceeds the Long Term Debt, the annual Guarantee Fee rate shall be ¼ of 1 percent of the Average Principal Amount of Obligations Outstanding during the annual period covered by the Guarantee Fee.

(d) *Variable Rate after Vessel or Advanced or Modern Shipbuilding Technology delivery.* For annual periods beginning on or after the Vessel or Advanced or Modern Shipbuilding Technology delivery date, the Guarantee Fee shall be determined as follows:

(1) If the Equity is less than 15 percent of the Long Term Debt, the annual Guarantee Fee rate shall be 1 percent of the Average Principal Amount of Obligations Outstanding during the annual period covered by the Guarantee Fee.

(2) If the Equity is at least 15 percent of the Long Term Debt but less than 60 percent of the Long Term Debt, the annual Guarantee Fee rate shall be ¾ of 1 percent of the Average Principal Amount of Obligations Outstanding during the annual period covered by the Guarantee Fee.

(3) If the Equity is at least 60 percent of the Long Term Debt, but less than the Long Term Debt, the annual Guarantee Fee rate shall be ⅝ of 1 percent of the Average Principal Amount of Obligations Outstanding during the annual period covered by the Guarantee Fee.

(4) If the Equity shall equal or exceed the Long Term Debt, the Guarantee Fee rate shall be ½ of 1 percent of the Average Principal Amount of Obligations Outstanding during the annual period covered by the Guarantee Fee.

(e) *Payment of Guarantee Fee.* The Guarantee Fee covering the full period of the stated maturity of the Obligations commencing with the date of the Security Agreement shall be paid to the Secretary concurrently with the execution and delivery of said Agreement. The project's entire Guarantee Fee payment shall be made by the Obligor to the Secretary in an amount equal to the sum of the present value of the separate products obtained by applying the Guarantee Fee rate to the projected amount of the Obligations Outstanding for each year of the stated maturity of the Obligations. In calculating the present value used in determining the amount of the Guarantee Fee to be paid, MARAD will use a discount rate based on information contained in the Department of Commerce's Economic Bulletin Board quarterly rates. Under no circumstances will the Secretary refund the Guarantee Fee to the Obligor. A Guarantee Fee paid pursuant to this section may be included in Actual Cost and is eligible to be financed.

(f) *Proration of Guarantee Fee.* The Guarantee Fee shall be prorated where a Vessel delivery is scheduled to occur during the annual period with respect to which payment of said Guarantee Fee is being made, as follows:

(1) *Undelivered Vessel.* If the Guarantee Fee relates to an undelivered Vessel, the predelivery rate is applicable to the Average Principal Amount of Obligations Outstanding for the period from the date of the Security Agreement to the delivery date, and the delivered Vessel rate is applicable for the balance of the annual period in which the delivery occurs.

(2) *Multiple Vessels.* If the Guarantee Fee relates to more than one Vessel, the amount of outstanding Obligations shall be allocated to each Vessel in the manner prescribed in § 298.33(d), and an amount shall be determined for each Vessel by using the rate that is applicable under paragraph (c) or (d) of this section and the proration as set forth above. The Guarantee Fee shall be the aggregate of the amounts calculated for each Vessel.

§ 298.37 Examination and audit.

The Secretary shall have the right to examine and audit the books, records (including original logs, cargo manifests and similar records) and books of account, which pertain directly to the project, of the Obligor, bareboat charterer, time charterer or any other Person who has control of or a financial interest in a Vessel or Advanced or Modern Shipbuilding Technology, as well as records of a Related Party and domestic agents connected with such Persons, and shall have full, free and complete access thereto at all reasonable times. Also, the Secretary shall have full, free and complete access at all reasonable times to each Vessel or Advanced or Modern Shipbuilding Technology with respect to which Guarantees or an insurance contract is in force. When a Vessel is in port or undergoing repairs, the Secretary may make photostatic or other copies of any books, records and other relevant documents or papers being examined or audited. Adequate office space and other facilities reasonably required by any representatives of the Secretary engaged in an examination, audit or inspection shall be furnished without charge by the Person in control of the premises where the examination or audit is being conducted.

§ 298.38 Partnership agreements.

Partnership agreements shall be in form and substance satisfactory to the Secretary prior to any Guarantee closing, especially relating, but not limited to, four basis areas:

(a) Duration of the partnership,

(b) adequate partnership funding requirements and mechanisms,

(c) dissolution of the partnership and the withdrawal of a general partner and

(d) the termination, amendment, or other modification of the partnership agreement without the prior written consent of the Secretary.

§ 298.39 Exemptions.

The Secretary may exempt an applicant from any requirement of this Part not required by law, in exceptional cases, on written findings that:

(a) The case materially involves factors not considered in the promulgation of this part;

(b) (1) a national emergency makes it necessary to approve the exemption or

(2) the financial liability of the United States will be substantially relieved;

(c) the exemption will not substantially affect effective regulation of the Title XI program, consistent with the objectives of this part; and

(d) exemption will not be unjustly discriminatory. In the case of Eligible Export Vessels, the Secretary may also exempt an applicant from any requirement of this part not required by law if the Secretary makes a written determination that such exemption would assist in creating financing terms that would be compatible with export credit terms for the sale of vessels built in shipyards other than those in the United States.

Subpart E—Defaults and Remedies, Reporting Requirements, Applicability of Regulations

§ 298.40 Defaults.

(a) *In General.* Provisions concerning the existence and declaration of a default and demand for payment of the Obligations (described in paragraphs (b) and (c) of this section) shall be included in the Security Agreement and in other parts of the Documentation.

(b) *Payment Default.* In the case of any default in the payment of principal or interest with respect to the Obligations (provided that the Secretary shall not have, upon such terms as may be provided in the Obligation or related

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agreements, prior to that demand, assumed the obligor's rights and duties under the Obligation and agreements and shall have made any payments in default), the following procedures shall be applicable:

(1) No demand shall be made for payment under the Guarantees unless the default shall have continued for 30 days (Payment Default).

(2) After the expiration of said 30-day period, demand for payment of all amounts due under the Guarantees must be made no later than 60 days thereafter.

(3) After demand for payment is made by or on behalf of the Obligees, the Secretary shall make payment under the Guarantees, except if the Secretary determines that a Payment Default has not occurred or that such Payment Default has been remedied prior to demand being made.

(c) *Security Default.* If a default occurs under the Security Agreement which is other than a Payment Default (Security Default), the Secretary, as provided in section 1105(b) of the Act, shall have the sole discretion to declare such default a Security Default and may notify the Obligee or agent of the Obligee of such Security Default, stating that demand for payment under the Guarantees must be made no later than 60 days after the date of such notification.

(d) *Payment of Guarantees.* If demand for payment of the Guarantees is made, the Secretary shall, no later than 30 days after the date of such demand (provided that the Secretary shall not have, upon such terms as may be provided in the Obligations or related agreements, prior to that demand, assumed the Obligor's rights and duties under the Obligation and agreements and shall have made any payments in default), make payment to the Obligees, Indenture Trustee or any other agent of the unpaid principal amount of Obligations and unpaid interest accrued and accruing thereon up to, but not including, the date of payment.

§ 298.41 Remedies after default.

(a) *In general.* Provisions governing remedies after a default, which relate to rights and duties of the Obligor, the Secretary and other Persons (where appropriate), shall be included in the Security Agreement or in other parts of the Documentation.

(b) *Action by Secretary.* After a default has occurred and is continuing and before making payment required under the Guarantees, the Secretary may take the Vessel or Advanced or Modern Shipbuilding Technology and hold, lease, charter, operate or use the Vessel or Advanced or Modern Shipbuilding Technology, accounting only for the net profits to the Obligor. After making payment required under the Guarantees, the Secretary may initiate or otherwise participate in legal proceedings of every type, or take any other action considered appropriate, to protect rights and interests granted to the Secretary by sections 1105(c), 1105(e) and 1108(b) of the Act, the Security Agreement or other applicable provisions of law and of the Documentation.

(c) *Security proceeds to Secretary.* The Secretary's interest in proceeds realized from the disposition of or collection with respect to security granted to the Secretary in consideration for the Guarantees (except all proceeds from the sale, requisition, charter or other disposition of property purchased by the Secretary at a foreclosure or other public sale, which proceeds shall belong to and vest exclusively in the Secretary), shall be an amount equal to, but not in excess of, the sum of (in order of priority of application of the proceeds):

(1) Guarantee Fees, if any, due the Secretary under the Security Agreements;

(2) All moneys due and unpaid and secured by the Mortgage or Security Agreement;

(3) All advances, including interest thereon, by the Secretary, pursuant to the Security Agreement and all reasonable charges and expenses of the Secretary;

(4) The accrued and unpaid interest on the Secretary's Note;

(5) The accrued and unpaid balance of the principal of the Secretary's Note; and

(6) To the extent of any collaterization by the Obligor of other debt due to the Secretary from the Obligor under other Title XI financings, such other Title XI debt.

(d) *Security proceeds to Obligor.* The Obligor shall be entitled to the proceeds from the sale or other disposition of security, described in paragraph (c) of this section, if and to the extent that the proceeds realized are in excess of the amounts described in paragraphs (c) (1) through (6) of this section.

§ 298.42 Reporting requirements—financial statements.

The financial statements of the Company shall be audited at least annually, in accordance with generally accepted auditing standards, by independent certified public accountants licensed to practice by the regulatory authority of a State or other political subdivision of the United States or, licensed public accountants licensed to practice by the regulatory authority or other political subdivision of the United States on or before December 31, 1970. In the case of Eligible Export Vessels, the accounts of the Company shall be audited at least annually, and the Secretary may require that the financial statements be in accordance with generally accepted accounting principles, by accountants as described in the first sentence of this section or by independent public accountants licensed to practice by the regulatory authority or other political subdivision of a foreign country, provided such accountants are satisfactory to the Secretary. The accountants performing such audits may be the regular auditors of the Company.

(a) *Reports of Company and other Persons.* Except as otherwise required by the Secretary, the Company shall file a semiannual financial report and an annual financial report, prepared in accordance with generally accepted accounting principles, with the Maritime Administration as specified in the Documentation. Included shall be the balance sheet and a statement of paid-in-capital and retained earnings at the close of the required reporting period, a statement of income for the period and any other statement that the Secretary shall consider necessary to accurately reflect the Company's financial condition and the results of its operations. By letter to the Company, the Secretary shall specify the form required for reporting and the number of copies to be submitted. The Secretary may, by notice to the Company, also require the Company to submit financial statements of any other Person, directly or indirectly participating in the project, if the financial condition of that Person affects the Secretary's security for the Guarantees. The required financial report for the annual period shall be due within 105 days after the close of each fiscal year of the Company, commencing with the first fiscal year ending after the date of the Security Agreement. The required semiannual report shall be due within 105 days after each semiannual period, commencing with the first semiannual period ending after the date of the Security Agreement. The annual report shall be accompanied by the public accountant's report based on an audit of the company's financial statements. An audit by the public accountants of the financial statements contained in the company's semiannual report may be required by the Secretary. Certification of the semiannual report by the accountants may be required by the Secretary. Where independent certification is not required, a responsible corporate officer shall attach a certification that such report is based on the accounting records and, to the best of that officer's knowledge and belief, is accurate and complete.

(b) *Leveraged lease financing.* If the method of financing involved is a leveraged lease financing, or a trust is the owner of the Vessels, the requirements for annual and semiannual accounting reports of the Obligor may be modified accordingly by the Secretary.

(c) The Company shall furnish, along with its semi-annual report, a letter of confirmation issued by its insurance underwriter(s) or broker(s) that the Company has paid premiums on insurance applicable to the preservation, protection and operation of the asset, which information shall state the term for which the insurance is in force.

§ 298.43 Applicability of the regulations.

The regulations in this part shall be in effect as to all Letter Commitments, commitments to guarantee Obligations and Guarantees of Obligations made, issued or entered into after the effective date hereof pursuant to section 1104(a) of the Act, and all mortgages and loans covered thereby. These regulations supersede those issued under part 298 of this title (43 FR 60912) as of the effective date hereof, but shall not affect any Letter Commitments, commitment for Guarantees, Guarantees or contracts of insurance in existence on the effective date of these regulations. The regulations in this part may be amended, but said amendments shall have no effect upon any existing Letter Commitments, guarantees, insurance contracts, commitments for Guarantees or Documentation.

Subpart F—Administration [Reserved]

Dated: May 2, 1996.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 96–11289 Filed 5–8–96; 8:45 am]

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Part V

Department of Housing and Urban Development

Community Development Block Grant Program for Indian Tribes and Alaska Native Villages, Fiscal Year 1996; Funding Availability; Notice

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4017–N–01]

Office of the Assistant Secretary for Public and Indian Housing; Community Development Block Grant Program for Indian Tribes and Alaska Native Villages; Fiscal Year 1996; Notice of Funding Availability

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability for Fiscal Year 1996.

SUMMARY: This Notice of Funding Availability (NOFA) announces HUD's funding for the Community Development Block Grant Program for Indian Tribes and Alaska Native Villages (hereafter referred to as the ICDBG Program) for Fiscal Year 1996. In the body of this document is information concerning the following:

(a) The purpose of the NOFA and information regarding eligibility and available amounts;

(b) A list of steps involved and a checklist of the exhibits required in the application process, including where and how to apply and what to submit;

(c) A description of application processing, including the selection process and the selection criteria.

DATE: Applications must be received by the appropriate Area ONAP of the HUD Office of Native American Programs (ONAP) no later than 3:00 p.m. July 23, 1996.

Application materials will be available from each Area ONAP. General program questions may be directed to the Area ONAP serving your area or by contacting Robert Barth, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, P.O. Box 36003, 450 Golden Gate Ave. San Francisco, CA 94102. Telephone (415) 436–8121. The TTY number is (415) 436–6594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Requirements

The information collection requirements contained in this Notice have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0191. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

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I. Purpose and Substantive Description

(a) Authority. Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); 24 CFR Part 953.

(b) HUD Reform Act—Documentation, Access, and Disclosure

1. Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

2. Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR part 12 subpart C, and the notice published in the **Federal Register** on January 16, 1992 [57 FR 1942], for further information on these disclosure requirements.)

(c) Funding. Amendments to Title I of the Housing and Community Development Act of 1974 have required that the allocation for Indian Tribes be awarded on a competitive basis in accordance with selection criteria contained in a regulation promulgated by the Secretary after notice and public comment. All grant funds awarded in accordance with this NOFA are subject to the requirements of 24 CFR part 953.

This notice announces the availability of $50,000,000.

1. Allocations. The requirements for allocating funds to Area ONAPs responsible for program administration are found at 24 CFR 953.101. Following these requirements, the allocations for FY 1996 are as follows:

Eastern/Woodlands	$3,876,700
Southern Plains	9,174,300
Northern Plains	7,736,100
Southwest	21,111,100
Northwest	2,956,500
Alaska	4,143,300
Total	49,000,000

As indicated in Section I(b)3 below, $1,000,000 will be retained to fund imminent threat grants.

2. Grant Ceilings. The authority to establish grant ceilings is found at 24 CFR 953.100(b)(1). Grant ceilings are established for FY 1996 funding at the following levels:

Area ONAPs	Population	Ceiling
Eastern/Woodlands.	All	$300,000
Southern Plains.	All	750,000
Northern Plains.	All	800,000
Southwest	50,001+	5,000,000
	10,501–50,000	2,500,000
	9,001–10,500	2,000,000
	7,501–9,000	1,500,000
	6,001–7,500	1,000,000
	4,501–6,000	750,000
	3,001–4,500	650,000
	1,501–3,000	550,000
	1–1,500	450,000
Northwest	All	320,000
Alaska	All	500,000

3. *Imminent Threats.* The criteria for grants to alleviate or remove imminent threats to health or safety that require an immediate solution are described at 24 CFR part 953, subpart E. In accordance with the provisions of that subpart, $1,000,000 will be retained to meet the funding needs of imminent threat applications submitted to any of the Area ONAPs. The grant ceiling for imminent threat applications for FY 1996 is $350,000. This ceiling is established pursuant to the provisions of § 953.400(c).

If, in response to a request for assistance, an Area ONAP issues a letter to proceed under the authority of § 953.401(a), an application must be submitted to and approved by the Area ONAP before a grant agreement may be executed. This application must consist of the following components:

—Standard Form 424—Application for Federal Assistance
—Brief description of the proposed project
—Form HUD–4123—Cost Summary
—Form HUD–4125—Implementation Schedule
—Form HUD–2880—Applicant/Recipient Disclosure/Update Report
—Form HUD–4126—Certifications
—Drug-free workplace certification (24 CFR part 24, Appendix C).

(d) Eligible Activities. Activities that are eligible for ICDBG funds are identified at 24 CFR part 953 subpart C.

(e) Applicant Eligibility. To apply for funding in a given fiscal year, an applicant must be eligible as an Indian Tribe or Alaska Native Village (or as a tribal organization) by the application submission date.

Tribal organizations are permitted to submit applications under 24 CFR 953.5(b) on behalf of eligible tribes or villages when one or more eligible tribe(s) or village(s) authorize the organization to do so under concurring resolutions. As is stated in this regulatory section, the tribal organization must itself be eligible under Title I of the Indian Self-Determination and Education Assistance Act.

If a tribe or tribal organization claims that it is a successor to an eligible entity, the Area ONAP must review the documentation to determine whether it is in fact the successor entity.

Due to the unique structure of tribal entities eligible to submit ICDBG applications in Alaska, and as only one ICDBG application may be submitted for each area within the jurisdiction of an entity eligible under 24 CFR 953.5, a Tribal Organization which submits an application for activities in the jurisdiction of one or more eligible tribes or villages must include a concurring resolution from each such tribe or village authorizing the submittal of the application. Each such resolution must also indicate that the tribe or village does not itself intend to submit an ICDBG application for that funding round. The hierarchy for funding priority continues to be the IRA Council, the Traditional Village Council, the Village Corporation and the Regional Corporation.

On February 16, 1995, the Bureau of Indian Affairs (BIA) published a **Federal Register** Notice entitled "Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs." This Notice provides a listing of Indian Tribal Entities in Alaska found to be Indian Tribes as the term is defined and used in 25 CFR 83. Additionally, pursuant to Title I of the Indian Self Determination and Education Assistance Act, ANCSA Village Corporations and Regional Corporations are also considered tribes and therefore eligible applicants for the ICDBG program.

Any questions regarding eligibility determinations and related documentation requirements for entities in Alaska should be referred to the Alaska Area ONAP prior to the deadline for submitting an application. (See 24 CFR 953.5 for a complete description of eligible applicants.)

II. Application Process and Submission Requirements

(a) Application Process

1. An application package may be obtained from the Area ONAP in the following geographic locations:

Eastern/Woodlands Office of Native American Programs, Community Development and Tribal Relations (CD & TR) Staff, 77 West Jackson Blvd., Chicago, Illinois 60604; Telephone: (312) 886–6488 (all States east of the Mississippi River, plus Iowa and Minnesota)

Southern Plains Office of Native American Programs, CD & TR Staff, Suite 400, 500 W. Main Street, Oklahoma City, OK 73102–3202; Telephone: (405) 553–7525. (Louisiana, Kansas, Oklahoma, and Texas, except West Texas)

Northern Plains Office of Native American Programs, CD & TR Staff, First Interstate Tower North, 833 17th Street, Denver, CO 80202–3607; Telephone: (303) 672–5457 (Colorado, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming)

Southwest Office of Native American Programs, CD & TR Staff, Two Arizona Center, Suite 1650, 400 N. Fifth Street, Phoenix, Arizona 85004–2361; Telephone: (602) 379–4197 (Arizona and Southern California)

Southwest Office of Native American Programs, CD & TR Staff, San Francisco Team Philip Burton Federal Bldg. and U.S. Courthouse, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102–3448; Telephone: (415) 436–8121 (Northern California and Nevada)

Southwest Office of Native American Programs, CD & TR Specialist, Albuquerque Plaza, 201 3rd Street N.W., Suite 1830, Albuquerque, NM 87102–3368; Telephone: (505) 766–1372 (New Mexico and West Texas)

Northwest Office of Native American Programs, CD & TR Staff, Federal Office Building, 909 First Avenue, Suite 200, Seattle, WA 98104–1000; Telephone: (206) 220–5271 (Idaho, Oregon, Washington)

Alaska Office of Native American Programs, CD & TR Staff, 949 E. 36th Avenue, Suite 401, Anchorage, AK 99508–4135; Telephone: (907) 271–4603 (Alaska)

2. Completed applications must be submitted to the appropriate Area ONAP, listed above, from which application information and packages were obtained. The TTY number is (202)

708–9300. (This is not a toll-free number.)

3. Applications must be received by the appropriate Area ONAP no later than 3:00 P.M. on the deadline date, July 23, 1996.

(b) Application Submission Requirements and Checklist

1. General. An applicant shall submit only one application. The ICDBG grant amount requested shall not total more than the grant ceiling. An application may include an unlimited number of eligible projects, e.g., housing or public facilities. Each project within an application will be rated separately.

2. Demographic data. Applicants may submit data that are unpublished and not generally available in order to meet the requirements of this section. The applicant must certify that:

A. Generally available, published data are substantially inaccurate or incomplete;

B. Data provided have been collected systematically and are statistically reliable;

C. Data are, to the greatest extent feasible, independently verifiable; and

D. Data differentiate between reservation and BIA service area populations, when applicable.

3. Publication of community development statement. Applicants shall prepare and publish or post the community development statement portion of their application according to the citizen participation requirements of § 953.604.

4. Application Submission. The application shall include:

A. Standard Form 424—Application for Federal Assistance;

B. Community Development Statement which includes:

(1) Components that address the relevant selection criteria;

(2) A brief description or an updated description of community development needs;

(3) A brief description of projects proposed to address needs, including scope, magnitude, and method of implementing the project.

(4) A schedule for implementing the project (form HUD–4125 Implementation Schedule);

(5) Cost information for each separate project, including specific activity costs, administration, planning, and technical assistance, total HUD share (form HUD–4123 Cost Summary);

C. Certifications—form HUD 4126;

D. Drug-free Workplace Certification (24 CFR part 24, Appendix C);

E. Applicant/Recipient Disclosure/ Update Report—form HUD 2880, as required under subpart C of 24 CFR part 12, Accountability in the Provision of HUD Assistance;

F. A map showing project location, if appropriate;

G. If the proposed project will result in displacement or temporary relocation, a statement that identifies:

(1) The number of persons (families, individuals, businesses and nonprofit organizations) occupying the property on the date of the submission of the application (or date of initial site control, if later);

(2) The number to be displaced or temporarily relocated;

(3) The estimated cost of relocation payments and other services;

(4) The source of funds for relocation; and,

(5) The organization that will carry out the relocation activities;

H. If applicable, evidence of the disclosure required by 24 CFR 953.606(e).

III. Application Screening and Review Process

(a) Screening for Acceptance. Each Area ONAP will screen applications for single purpose grants. Applications failing this screening shall be rejected and returned to the applicants unrated. Area ONAPs will accept applications if all the criteria listed below as items 1. through 6. are met:

1. The application is received by the appropriate Area ONAP no later than 3:00 P.M. on the deadline date;

2. The applicant is eligible;

3. The proposed activities are eligible;

4. The application contains substantially all the components specified in Section II(b)(4) of this notice;

5. At least 70% of the grant funds are to be used for activities that benefit low and moderate income persons, in accordance with the requirements of § 953.201(a); and,

6. The application is for an amount which does not exceed the grant ceilings that are established by the NOFA.

(b) Application Review Process.

1. Threshold review. The Area ONAP will review each application that passes the screening process to ensure that each applicant and each proposed project meets the applicable threshold requirements set forth in 24 CFR 953.302, as implemented by this NOFA. *If an applicant fails to meet any of the applicant-specific thresholds, its application cannot be accepted for rating and ranking. Project(s) that do not meet the community development appropriateness or applicable project-specific thresholds will not be considered for funding.*

2. All projects that meet the acceptance criteria and threshold requirements will be reviewed and rated by an Area ONAP rating team of at least three voting members. The Area ONAP will examine each project to determine in which one of the rating categories set forth in 24 CFR 953.305 the project most appropriately belongs. The project will be rated on the basis of the criteria identified in the rating category component to which the project has been assigned. The total points for a rating component are 100, which is the maximum any project can receive.

3. Public service projects. Due to the statutory 15 percent cap on public services activities, applicants may not receive single purpose grants solely to fund public services activities. However, any application may contain a public services component for up to 15 percent of the total grant. This component may be unrelated to the other project(s) included in the application. If an application does not receive full funding, the public services allocation will be proportionately reduced to comprise no more than 15 percent of the total grant award.

4. Corrections to deficient applications and supplemental information. The Area ONAP will not accept unsolicited information regarding the application after the application deadline has passed. The Area ONAP will notify applicants in writing of technical deficiencies in applications and permit them to be corrected. A technical deficiency is an error or oversight which, if corrected, would not alter, in either a positive or negative fashion, the review and rating of the application. Examples of technical deficiencies would be a failure to submit proper certifications or failure to submit an application containing an original signature by an authorized official. The Area ONAP also may, at its discretion, request supplemental information to resolve inconsistencies or ambiguities in the application or information that may help clarify an application that, in the Area ONAP's view, contains information that is inconsistent with known facts or data.

Applicants will have 14 calendar days from the date of HUD's correspondence to reply and correct the technical deficiency or provide the requested supplemental information. If the technical deficiency is not corrected within this time period, the Area ONAP will reject the application as incomplete. If the supplemental information is not provided in this time period and, as a consequence, the Area ONAP determines that the applicant has failed to establish compliance with the requirements of 24 CFR 953, the application will be returned, unrated.

No information submitted after the application due date can enhance a project's rating, and a new project may not be substituted for one included in the application.

5. Final ranking. All projects will be ranked against each other according to the point totals they receive, regardless of the rating category or component under which the points were awarded. Projects will be selected for funding based on this final ranking, to the extent that funds are available. Individual grant amounts will be determined in a manner consistent with the considerations set forth in 24 CFR 953.100(b)(2).

If the Area ONAP determines that an insufficient amount of money is available to adequately fund a project, it may decline to fund that project and fund the next highest ranking project or projects for which adequate funds are available. The Area ONAP may select, in rank order, additional projects for funding if one of the higher ranking projects is not funded, or if additional funds become available.

6. *Tiebreakers.* When rating results in a tie among projects and insufficient resources remain to fund all tied projects, Area ONAPs shall approve projects that can be fully funded over those that cannot be fully funded. When that does not resolve the tie, the following factors will be used in the order listed to resolve the tie:

A. Eastern/Woodlands Office

(1) The applicant with the fewest active grants.

(2) The applicant that has not received an ICDBG grant over the longest period of time.

(3) The project that would benefit the highest percentage of low and moderate income persons.

B. Southern Plains Office

(1) The applicant that has not received an ICDBG grant over the longest period of time over the last 8 years.

(2) The applicant with the fewest active grants.

(3) The project that would benefit the highest percentage of low and moderate income persons.

C. Northern Plains and Southwest Offices

(1) The applicant that has not received an ICDBG grant over the longest period of time.

(2) The applicant with the fewest active grants.

(3) The project that would benefit the highest percentage of low and moderate income persons.

D. Northwest Office

(1) The applicant that has not received an ICDBG grant over the longest period of time.

(2) The applicant that has received the fewest ICDBG dollars since the inception of the program.

(3) The project that would benefit the highest percentage of low and moderate income persons.

E. Alaska Office

(1) The applicant that has not received an ICDBG grant over the longest period of time.

(2) The project that would benefit the highest percentage of low and moderate income persons.

(3) The project that would benefit the most low and moderate income persons.

(c) *Pre-award requirements.*

1. Successful applicants may be required to provide supporting documentation concerning the management, maintenance, operation, or financing of proposed projects before a grant agreement can be executed. Applicants will normally be given no less than thirty (30) calendar days to respond to such requirements. In the event that no response or an insufficient response is made within the prescribed time period, the Area ONAP may determine that the applicant has not met the requirements and the grant offer may be withdrawn. The Area ONAPs shall require supporting documentation in those instances where:

A. Specific questions remain concerning the scope, magnitude, timing, or method of implementing the project; or

B. The applicant has not provided information verifying the commitment of other resources required to complete, operate, or maintain the proposed project.

2. New projects may not be substituted for those originally proposed in the application.

3. If the required conditions are not met within the prescribed time, HUD may unilaterally rescind the grant award.

4. Grant amounts allocated for applicants unable to meet pre-award requirements will be awarded in accordance with Part V. of this NOFA.

IV. General Threshold Requirements and Definitions

(a) *General Thresholds.* Two types of general thresholds are set forth in 24 CFR 953.301(a): those that relate to applicants, and those that address the overall community development appropriateness of the project(s) included in the application. Project-specific thresholds will be addressed within the pertinent project selection criteria categories in section V(b) below.

Applicant thresholds focus on the administrative capacity of the applicant to undertake the proposed project, on its past performance in the ICDBG program, and in its provision of housing assistance to low and moderate income tribal members. In order to rate and rank a project contained in an application that has passed the screening tests outlined in Section III of this NOFA, Area ONAPs must determine that the proposed project meets the community development appropriateness thresholds, i.e., the project has costs that are reasonable; the project is appropriate for the intended use; and the project is usable or achievable in a timely manner, generally within two years of grant award.

1. Applicant-Specific Thresholds—Capacity and Performance

A. Capacity. The Area ONAP will assume, absent evidence to the contrary, that the applicant possesses, or can obtain the managerial, technical or administrative capability necessary to carry out the proposed project. The application should address who will administer the project and how the applicant plans to handle the technical aspects of executing the project. If the Area ONAP determines, based on substantial evidence, that the applicant does not have or cannot obtain the capacity to undertake the proposed project, the application will not receive further consideration.

B. Performance.

(1) Community development. If an applicant has previously participated in the ICDBG Program, the Area ONAP shall determine whether the applicant has performed adequately in grant administration and management. The applicant is presumed to be performing adequately unless the Area ONAP makes a performance determination to the contrary during periodic evaluations. Where an applicant was found to be performing inadequately, the Area ONAP shall determine whether the applicant has corrected the deficiency or is following a schedule to correct performance to which the applicant and the Area ONAP have agreed. In cases of previously documented deficient performance, the Area ONAP must determine that the applicant has taken appropriate corrective action to improve its performance prior to the application due date. *The Area ONAP will inform in writing any potential applicant which has been determined not to meet this performance threshold no later than 30*

days prior to the application due date. If the performance threshold is not met as of the application submission deadline, an application will not be accepted for rating and ranking.

(2) Housing assistance. The applicant is presumed not to have taken actions to impede the provision of housing assistance for low and moderate income members of the tribe or village. Any action taken by the applicant to prevent or obstruct the provision or operation of assisted housing for low and moderate income persons shall be evaluated in terms of whether it constitutes inadequate performance by the applicant. If an applicant has established or joined an Indian Housing Authority (IHA), and this IHA has obtained housing assistance from HUD, the applicant's compliance with the obligations and responsibilities to the IHA set forth in the tribal ordinance which was the basis for the establishment or joining of the IHA will be a performance consideration.

An applicant will not be held accountable for the poor performance of its IHA unless this inadequate performance is found to be a direct result of the applicant's action or inaction. If this is true, the application will be removed from further consideration. Applicants which are members of "umbrella" IHAs will be judged only on their individual performance and will not be held accountable for the poor performance of other tribes that are members of the IHA.

If an applicant has received ICDBG funds for the provision of new housing through a subrecipient, the Area ONAP will consider the following in making its determination regarding housing assistance performance:

a. Whether the proposed units were constructed;

b. Whether housing assistance was provided to the beneficiaries identified in the funded application, and if not, why not;

c. Whether the applicant followed the provisions of its housing plan and procedures; and,

d. Whether there were sustained complaints from tribal members regarding provision and/or distribution of ICDBG housing assistance.

The Area ONAP will inform in writing any potential applicant which has been determined not to meet the housing assistance performance threshold no later than 30 days prior to the application deadline.

(3) Audits. This threshold requires the applicant to meet the following performance criteria:

a. The applicant cannot have an outstanding ICDBG obligation to HUD or a ICDBG program that is in arrears, or it must have agreed to a repayment schedule. An applicant that has an outstanding ICDBG obligation that is in arrears, or one that has not agreed to a repayment schedule, will be disqualified from the current competition and from subsequent competitions until the obligations are current. If a grantee that was current at the time of application submission becomes delinquent during the review period, the application may be rejected.

b. The applicant cannot have an overdue or unsatisfactory response to an audit finding. If there is an overdue or unsatisfactory response to an audit finding, the applicant will be disqualified from current and subsequent competition until the applicant has taken final action necessary to close the audit finding. The Area ONAP administrator may provide exceptions to this disqualification in cases where the applicant has made a good faith effort to clear the audit finding. An exception may be granted when funds are due HUD or an ICDBG program as a result of a finding only when a satisfactory arrangement for repayment of the debt has been made and payments are current.

2. Community Development Appropriateness. The following criteria must be met by each project:

A. Costs are reasonable. The project must be described in sufficient detail so that the Area ONAP can determine:

(1) That costs are reasonable; and,

(2) That the funds requested from the ICDBG program and all other sources are adequate to complete the proposed activity(ies) described in the application;

B. The project is appropriate for the intended use; and,

C. The project is usable or achievable in a timely manner, generally within a two year period. The timetable for project implementation and completion must be set forth on the form HUD 4125—Implementation Schedule included in the application. A period of more than two years is acceptable in certain circumstances, if it is established that such circumstances are beyond the applicant's control.

(b) General Definitions.

Adopt. To approve by formal tribal resolution.

Assure. To comply with a specific NOFA requirement. The applicant should state its compliance or its intent to comply in its application.

Document. To supply supporting written information and/or data in the application which satisfies the NOFA requirement.

Leverage. Resources the grantee will use in conjunction with ICDBG funds to achieve the objectives of the project. Resources include, but are not limited to: tribal trust funds, loans from individuals or organizations, state or Federal loans or guarantees, other grants, as well as noncash contributions and donated services.

Documentation requirements for point award. For the applicant's own resources, a council resolution which identifies and commits the resources must be included in the application. For resources to be provided by another entity, written verification of an application or request for the leveraged resources must be included in the application. In addition, for grants or other contributed resources from a public agency, foundation, or other private party, a written commitment which may be contingent on approval of the ICDBG award must be received by the Area ONAP no later than 30 days after the application deadline. This commitment must specifically identify or indicate: the dollar amount committed (or dollar value of the noncash resource and the basis for the valuation); that the resources are currently available or will be available when necessary for successful project implementation; and, the project.

If the nature of the funding cycle of the contributing entity precludes such an entity from making a firm funding commitment in this timeframe, such resources will be considered in the award of points if the entity provides a written statement indicating that the application or request for assistance has been received from the ICDBG applicant and stating the date by which its funding determination will be made; this date cannot be more than six months from the anticipated date of grant approval notification by HUD. (If the proposed project rates high enough for funding consideration, a special condition will be established in the grant agreement for the project.)

This condition will indicate that if a firm funding commitment for the leveraged resources is not provided within six months of the date of grant approval, the grant funds approved will be recaptured by HUD and will be used in accordance with the requirements of § 953.102. This statement must be received by the Area ONAP no later than *30 days* after the application deadline. If the commitment or statement is not received in the required timeframe or if the required information is not included, points will not be awarded for the proposed contribution.

If the proposed project still rates high enough to be approved, a pre-award condition will be established which will require the applicant to provide evidence of firmly committed resources to cover the entire non-ICDBG project cost. If this condition is not met, the grant will not be awarded.

In addition to the above requirements for point award, special documentation must be included in the application for certain contributions. The contribution of goods and services will be considered for point award if the applicable requirements listed above are met; if the items or services are demonstrated and determined necessary to the actual development of the project; and comparable cost and/or time estimates are submitted which support the donation.

To be considered for point award land to be contributed will only be considered when its use and area are integral to the development of the project. In addition, the value of the land must be verified by any of the following means or methods and this documentation must be included in the application:

—A site specific appraisal no more than two years old;

—An appraisal of a near-by comparable site also no more than two years old;

—A reasonable extrapolation of land value based on current area realtors value guides.

Project Cost. The total cost to implement the project. Project cost includes both ICDBG and non ICDBG funds and resources.

Section 8 standards. Housing quality standards contained in the Section 8 Tenant-Based Assistance: Unified Rule for Tenant-Based Assistance Under the Section 8 Rental Certificate Program and the Section 8 Rental Voucher Program (24 CFR 982.401).

Standard Housing/Standard Condition. Housing which meets the housing quality standards (HQS) adopted by the applicant. The adopted standards must provide for the following:

—That the house is safe, in a physically sound condition with all systems performing their intended design functions;

—A livable home environment;

—An energy efficient building and systems which incorporate energy conservation measures;

—Adequate space and privacy for all intended household members.

The HQS adopted by the applicant must be at least as stringent as the Section 8 standards unless the Area ONAP approves less stringent standards based on a determination that local conditions make the use of Section 8 standards infeasible. Applicants may submit their request for the approval of standards less stringent than Section 8 standards prior to the application due date. If the request is submitted with the application, applicants should not assume automatic approval by the Area ONAP.

Tribe. Indian Tribe, band, group or nation, including Alaska Indians, Aleuts, Eskimos, Alaska Native Villages, ANCSA Village Corporations and Regional Corporations.

V. Project Specific Thresholds and Selection Criteria

(a) Summary of Selection System Criteria and Point Awards

	Maximum points
1. Housing:	
A. Rehabilitation:	
(1) Project Need and Design:	
a. Percent of funds for standard rehab	20
b. Applicant's selection criteria	10
c. Housing survey	15
(2) Planning and Implementation:	
a. Rehabilitation policies:	
(i) Rehabilitation standards	5
(ii) Selection criteria	10
(iii) Project implementation policies and procedures	10
b. Post rehab maintenance	5
c. Cost estimates	15
d. Cost effectiveness	5
(3) Leveraging	5
Total points	100
B. Land to Support New Housing:	
(1) Project Need	40
(2) Planning and Implementation:	
a. Suitability of the land	20
b. Housing resources	10
c. Supportive services	5
d. Commitment of households	5
e. Land to trust status	5
f. Infrastructure commitment	10
g. Land meets need and is reasonably priced	5
Total points	100
C. New Housing Construction:	
1. Project Need and Design:	
a. IHA member/assistance	15
b. Housing policies and plan	20
c. Beneficiary identification	10
2. Planning and Implementation:	
a. Occupancy standards	10
b. Site acceptability	15
c. Energy conservation design	5
d. Housing survey	10

	Maximum points
e. Cost effectiveness	5
3. Leveraging	10
Total points	100
2. Community Facilities:	
A. Infrastructure:	
(1) Project Need and Design:	
a. Meets an essential need	20
b. Benefits the neediest	15
c. Provides infrastructure/health and safety	25
(2) Planning and Implementation:	
a. Maintenance and operation plan	15
b. Appropriate and effective design scale and cost	15
(3) Leveraging	10
Total points	100
B. Buildings:	
(1) Project Need and Design:	
a. Meets an essential need	20
b. Benefits the neediest	10
c. Provides building/health and safety	25
d. Multi-use/multi-benefit	5
(2) Planning and Implementation:	
a. Maintenance and operation plan	15
b. Appropriate and effective design scale and cost	15
(3) Leveraging	10
Total points	100
C. Economic Development:	
(1) Organization	8
(2) Project Success:	
a. Market analysis	15
b. Management capacity	15
c. Financial analysis	15
(3) Leveraging	12
(4) Jobs:	
a. ICDBG cost/job	15
b. Quality of jobs/training	5
(5) Additional considerations:	15
Total points	100

(b) Project Specific Thresholds and Selection Criteria

1. Housing Category Projects

A. Specific threshold for housing category projects.

The applicant shall provide an assurance that households that have been evicted from HUD assisted housing within the past five years will not be assisted by the proposed project except in emergency situations. The Area ONAP Administrator will review each emergency situation proposed by an applicant on a case-by-case basis to determine whether an exception is warranted.

B. Rehabilitation

(1) Thresholds

a. All applicants for housing rehabilitation grants shall adopt rehabilitation standards and rehabilitation policies, prior to submitting an application. *These standards and policies must be submitted with the application.*

b. The applicant shall provide an assurance that:

(i) Any house to be rehabilitated will be the permanent non-seasonal residence of the occupants; the residents will live in the unit at least nine months per year.

(ii) Houses designated for eventual replacement will only receive repairs essential for the health and safety of the occupants.

(iii) Project funds will be used to rehabilitate HUD assisted houses only when the tenant/homeowner's payments are current or the tenant/homeowner is current in a repayment agreement that is subject to approval by the Area ONAP. In emergency situations the Area ONAP administrator may grant exceptions to this requirement on a case-by-case basis.

(iv) Houses that have received comprehensive rehabilitation assistance from any ICDBG or other Federal grant program within the past 8 years will not be assisted with ICDBG funds to make the same repairs if the repairs are needed as a result of abuse or neglect.

(2) *Grant Limits*

Rehabilitation grant limits for each Area ONAP jurisdiction are as follows:

a. Eastern/Woodlands—$15,000
b. Southern Plains—$20,000
c. Northern Plains—$33,500
d. Southwest—$35,000
e. Northwest—$20,000
f. Alaska—Lesser of $45/sq.ft. or $35,000

(3) Selection Criteria

a. Project Need and Design (45 points)

(i) The percentage of ICDBG funds committed to bring the houses to be assisted up to a standard condition as defined by the applicant. Administrative, planning, and technical assistance expenditures are excluded in computing the percentage of ICDBG funds committed to bring the houses up to a standard condition. The percentage of ICDBG funds not used to bring the houses up to a standard condition must be used for emergency repairs, demolition of substandard units or another purpose closely related to the housing rehabilitation project.

Percentage of ICDBG funds committed to bring houses to be assisted up to a standard condition:

91–100%—20 points
81–90.9%—15 points
80.9 and less—0 points

(ii) The applicant's selection criteria which are included in the application give first priority to the neediest households. "Neediest" is defined as households whose houses are in the greatest disrepair (but still suitable for rehabilitation treatment) in the project area, or very low-income households.

Yes—10 points

No—0 points

(iii) Documentation of project need with a housing survey of all of the houses to be rehabilitated with ICDBG funds. This survey should include standard housing data on each house surveyed (e.g., age, size, type, number of rooms, number of habitable rooms, number of bedrooms/sleeping rooms, type of heating). The survey should indicate the deficiencies for each house. *A definition of "suitable for rehabilitation" must be included.* At a minimum, this definition must not include houses that need only minor repairs, or houses that need such major repairs that rehabilitation is structurally or financially infeasible.

The application contains all the required survey data and the required definition of "suitable for rehabilitation." (15 points)

The application does not contain the required definition of "suitable for rehabilitation" and/or all the survey data, but does contain sufficient data to enable the project to proceed effectively. (10 points)

The application does not contain survey data or the survey data it does contain is not sufficient to enable the project to proceed effectively. (0 points)

b. Planning and Implementation (50 points)

(i) Rehabilitation Policies and Procedures including:

a. Adopted rehabilitation standards. The rehabilitation standards adopted by the applicant will ensure that after rehabilitation the houses assisted will be in a standard condition.

Yes—5 points

No—0 points

b. Rehabilitation selection policies and procedures. The rehabilitation selection policies and procedures contained in the application include:

—Property selection standards;
—Cost limits;
—Type of financing (e.g., loan or grant);
—Homeowner costs and responsibilities;
—Procedures for selecting households to be assisted; and,
—Income verification procedures.

The application contains all the rehabilitation selection policies and procedures listed above. (10 points)

The application does not contain all the rehabilitation selection policies and procedures listed above, but contains sufficient data to enable the project to proceed effectively or the application contains all the rehabilitation selection policies and procedures listed above, but in insufficient detail. (5 points)

The application does not contain the rehabilitation selection policies and procedures listed above or if it does contain policies and procedures, they are not sufficient to enable the project to proceed effectively. (0 points)

c. Project implementation policies and procedures. These policies and procedures must include a description of the following items:

—The qualifications which will be required of the inspector;
—The inspection procedures to be used;
—The procedures to be used to select the contractor or contractors;
—The manner in which the households to be assisted will be involved in the rehabilitation process;
—How disputes between the households to be assisted, the contractors and the applicant will be resolved; and, if applicable,
—The repayment provisions which will be required if sale of the assisted house occurs prior to 5 years after the rehabilitation work has been completed.

The application contains all the policies and procedures listed above, and they will enable the project to be effectively implemented. (10 points)

The application contains some but not all of the policies and procedures listed above and these policies and procedures are sufficient for the project to proceed effectively. (5 points)

The application does not contain the policies and procedures listed above. (0 points)

(ii) Post rehabilitation maintenance policies that address counseling and training assisted households on maintenance. The policies included in the application contain a well-planned counseling and training program. Training will be provided for assisted households, and provision is made for households unable to do their own maintenance (e.g., elderly and persons with disabilities). The policies include follow-up inspections after rehabilitation is completed to ensure the house is being maintained. (5 points)

The policies contain a well-planned home maintenance training and counseling program but fail to adequately address all of the items listed above. (3 points)

The application does not contain a well-planned home maintenance training and counseling program. (0 points)

(iii) Quality of cost estimates. Cost estimates have been prepared by a qualified individual. (Qualifications of the estimator must be included in the application.) Costs of rehabilitation are documented on a per house basis and are supported by a work write-up for each house to be assisted. The work write-ups are based upon making those repairs necessary to bring the houses to a standard condition in a manner consistent with adopted construction codes and requirements. The write-ups must be submitted with the application. If national standards, e.g., the Uniform Building Code, have been locally adopted as the construction codes and requirements, they must be referenced. If locally developed and adopted codes and requirements are used, they must be submitted. (15 points)

Cost estimates have been prepared for each house to be rehabilitated to determine the total rehabilitation cost. The cost estimates are included in the application. Costs to rehabilitate each house are documented by a deficiency list. (12 points)

Cost estimates have been prepared and are included in the application but the estimates are based on surveys and not on individual house deficiency lists. (5 points)

Cost estimates are not included in the application *or* the basis for the cost estimates included is inappropriate or not provided. (0 points)

(iv) Cost effectiveness of the rehabilitation program. This is a measure of how efficiently and effectively funds will be used under the proposed program. Applicants must demonstrate how the proposed rehabilitation will bring the houses to be assisted to a standard condition in an efficient and cost effective manner.

Rehabilitation project is cost effective. (5 points)

Rehabilitation project is not cost effective. (0 points)

c. Leveraging. (5 points)

Points under this component will be awarded in a manner consistent with the definition of "Leverage' included in this NOFA and the following breakdown:

Non-ICDBG percentage of project cost	Points
25 and over	5
20–24.9	4
15–19.9	3
10–14.9	2
5–9.9	1
0–4.9	0

C. Land to Support New Housing

(1) Thresholds

a. The application contains information and documentation which establishes that there is a reasonable ratio between the number of net usable acres to be acquired and the number of low and moderate income households with documented housing needs.

b. Housing assistance needs must be clearly demonstrated and documented with either a survey that identifies the households to be served, their size, income levels and the condition of current housing or an IHA approved waiting list. *The survey or waiting list must be submitted with the application.*

(2) Selection Criteria

a. Project Need and Design. (40 Points)

Information included in the application establishes that:

The applicant has no suitable land for the construction of new housing and the necessary infrastructure and amenities for this housing. (40 points); or,

The applicant has land suitable for housing construction and needed infrastructure and amenities, but the land is officially dedicated to another purpose. (30 points); or,

The applicant will be acquiring land for housing construction and the construction of needed infrastructure and amenities for both new and existing housing. (25 points); or,

The applicant will be acquiring land for the construction of amenities for existing housing. (15 points); or,

The reason for the land acquisition does not meet any of the criteria listed above. (0 points)

b. *Planning and Implementation.* (60 points)

(i) Suitability of land to be acquired. A preliminary investigation has been conducted by a qualified entity independent of the applicant. Based on this investigation *(which must be submitted with the application)*, the land appears to meet all applicable requirements:

—Soil conditions appear to be suitable for individual and/or community septic systems or other acceptable methods for waste water collection and treatment have been identified.
—The land has adequate:
—Availability of drinking water;
—Access to utilities;
—Vehicular access;
—Drainage;
—The land appears to comply with environmental requirements. Future development costs are expected to be consistent with other subdivision development costs in the area (subdivision development costs include the costs of the land, housing construction, water and sewer, electrical service, roads, and drainage facilities if required).

Yes—20 points
No—0 points

(ii) Housing resources.

Evidence of a conditional commitment for at least 25 percent of the housing units to be built on the land proposed for acquisition or evidence that an approvable application for these units has been submitted has been included in the application. (10 points)

The evidence required for the award of 10 points has not been included in the application. (0 points)

(iii) Availability/accessibility of supportive services and employment opportunities. Documentation is provided in the application to indicate that upon completion of construction of the housing to be built on the land to be acquired, fire and police protection will be available to the site and medical and social services, schools, shopping, and employment opportunities will be accessible from the site according to the community's established norms.

Yes—5 points
No—0 points

(iv) Commitment that households will move into the new housing. Documented commitment from households that they will move into the new housing to be built on the land to be acquired is included in the application.

Yes—5 points
No—0 points

(v) Land can be taken into trust and provisions have been made for taxes and fees. There must be a written assurance from the BIA that the land will be taken into trust. The applicant must demonstrate the financial capability and commitment to pay the property taxes and fees on the land for any period of time during which it anticipates it will own the property in fee. This commitment must be in the form of a resolution by the governing body of the applicant which indicates that the applicant will pay or guarantee that all taxes and fees on the land will be paid.

Documentation from the BIA that land can be taken into trust and the required governing body resolution are included in the application. (5 points)

Either the assurance or the resolution (or both) are missing from the application or they are inadequate. (0 points)

(vi) A plan or commitment for any infrastructure needed to support the housing to be built on the land to be acquired. The plan or commitment must address water, waste water collection and treatment, electricity, roads, and drainage facilities necessary to support the housing to be developed.

Financial commitments for all necessary infrastructure have been included in the application or documentation is included which demonstrates that all necessary infrastructure is in place. (10 points)

A plan for the provision of all necessary infrastructure is included in the application but all financial commitments required to implement the plan have not been submitted. (5 points)

Neither a financial commitment or plan are included in the application. (0 points)

(vii) The extent to which the site proposed for acquisition meets the housing needs of the applicant and is reasonably priced. The application includes documentation which indicates that the applicant has examined and assessed the appropriateness of alternative sites and which demonstrates that the site proposed for acquisition best meets the documented housing needs of tribal households. The application must include comparable sales data which shows that the cost of the land proposed for acquisition is reasonable.

Yes—5 points
No—0 points

D. New Housing Construction

The following thresholds and selection criteria apply to new housing construction to be implemented through a Community-Based Development Organization (CBDO) as provided for under 24 CFR 570.204. *Please note that all households to be assisted under a new housing construction project must be of low or moderate income status.*

(1) Thresholds

a. New housing construction can only be implemented through a Community-Based Development Organization (CBDO). Eligible CBDOs are described in 24 CFR 570.204(c). The applicant must provide an assurance that it understands this requirement.

b. *Documentation which supports the following determinations must be included in the application:*

—No other housing is available in the immediate reservation area that is suitable for the households to be assisted;
—No other funding sources can meet the needs of the household(s) to be served.
—The house occupied by the household to be assisted is not in standard condition and rehabilitation is not economically feasible, or the household is currently in an overcrowded house [sharing house with another household(s)], or the household to be assisted has no current residence.

c. All applicants for new housing construction projects shall adopt construction standards and construction policies prior to submitting an application. Applicants must identify the building code to be used when constructing the houses and must document that this code has been adopted. The building code may be a tribal building code or a nationally recognized model code. If it is a tribal code it must regulate all of the areas and sub-areas identified in 24 CFR 200.925(b), and it must be reviewed and approved by the Area ONAP. If the code is recognized nationally, it must be the latest edition of one of the codes incorporated by reference in 24 CFR 200.925(c).

d. The applicant must provide an assurance that any house to be constructed will be the permanent non-seasonal residence of the household to be assisted; this household must live in the house at least nine months per year.

(2) Selection Criteria

a. Project Need and Design (45 points)

(i) The application includes documentation which establishes that the applicant either is not served by an Indian Housing Authority(IHA), or if it is a member of an umbrella IHA, this IHA has not provided assistance to the applicant in a substantial period of time, or the IHA serving the applicant has not received HUD Public and Indian Housing new construction assistance in a substantial period of time due to limited HUD appropriations. The period of time during which the IHA serving the applicant has not received funding for inadequate or poor performance by the applicant does not count towards the period of time that no assistance has been provided by HUD.

No assistance from IHA for 10 years or longer. (15 points)

No assistance from IHA for 6–9 years, 11 months. (10 points)

No assistance from IHA for 0–5 years, 11 months. (0 points)

(ii) Adopted housing construction policies and plan. The plan must include a description of the proposed CBDO and its relationship (or proposed relationship) to the applicant. In addition, the policies and plan must include:

—A selection system that gives priority to the neediest households. Neediest shall be defined as households whose current residences are in the greatest disrepair, or very low-income households, or households without permanent housing.
—A system effectively addressing long-term maintenance of the constructed houses.
—Estimated costs and identification of the entity responsible for paying utilities, fire hazard insurance and other normal maintenance costs.
—Policies governing ownership of the houses, including the status of the land.
—Description of a comprehensive plan or approach being implemented by the tribe to meet the housing needs of its members.
—Policies governing disposition or conversion to non-dwelling uses of substandard houses that will be vacated when a replacement house is provided.

The policies and plan include all of the information listed above. (20 points)

The policies and plan do not include all of the information listed above, but do include sufficient information to allow the project to proceed effectively or, all of the information is included, but in insufficient detail. (10 points)

The information included in the application is not sufficient to meet the requirements for the award of 10 points. (0 points)

(iii) Beneficiary identification. Households to be assisted are identified in the application and their income eligibility and household size are documented. (10 points)

Households to be assisted are not identified or, if identified, their income eligibility and household size are not documented. (0 points)

b. Planning and Implementation (45 points)

(i) Occupancy Standards. The proposed housing will be designed and built according to adopted reasonable standards that govern the size of the housing in relation to the size of the occupying household (minimum and maximum number of persons allowed for the number of sleeping rooms); the minimum and maximum square footage allowed for major living spaces (bedrooms, living room, kitchen and dining room). The standards must be submitted with the application.

Applicant has adopted reasonable occupancy standards which are included in the application. (10 points)

Applicant has not adopted reasonable occupancy standards or the standards were not included in the application. (0 points)

(ii) Site Acceptability.

The applicant (or the proposed beneficiary household) has control of the land upon which the houses will be built. The application includes documentation that all housing sites are in trust or documentation from the BIA that the sites will be taken into trust within one year of the date of the ICDBG approval notification. If the sites are not in trust by the date of ICDBG approval notification, documentation that they are in trust must be provided to the Area ONAP before ICDBG funds may be obligated for construction.

A preliminary investigation of the site(s) has been conducted by a qualified entity independent of the applicant. Based on this investigation (which must be included in the application) the site(s) appear to meet all applicable requirements:

—Soil conditions appear to be suitable for individual or community septic systems or other acceptable methods for waste water collection and treatment have been identified;
—Each site has adequate:
—Availability of drinking water
—Access to utilities
—Vehicular access
—Drainage;
—Each site appears to comply with environmental requirements.

Yes—15 points
No—0 points

(iii) Energy Conservation Design. The application includes documentation which demonstrates that the proposed houses have been designed in a manner which will ensure that energy use will be no greater than that for comparable houses in the same general geographic area that have been constructed in accordance with applicable state energy conservation standards for residential construction. Any special design features, materials, or construction techniques which enhance energy conservation must be described.

Yes—5 points
No—0 points

(iv) Housing Survey.

The applicant has completed a survey of housing conditions and housing needs of its tribal members. This survey was completed within the twelve month period prior to the application submission deadline (or if an earlier survey, it was updated during this time period). The survey must be submitted

with the application. The following descriptive data is included for each household surveyed.

—Size of the household, inc. age and gender of any children
—Is the household occupying permanent housing or is it homeless?
—Annual household income
—Owner or renter
—Number of habitable rooms and number of sleeping rooms
Physical condition of the house—standard/substandard

If substandard, is it suitable for rehabilitation? *A definition of "suitable for rehabilitation" must be included.*

—Number of distinct households occupying the house/degree of overcrowding
—If there is a need for a replacement house, what are the housing preferences of the household, e.g. ownership or rental; location; manufactured or stick-built

An acceptable survey was submitted. (10 points)

The survey submitted was not acceptable or no survey was submitted. (0 points)

(v) Cost effectiveness of new housing construction.

This is a measure of how efficiently and effectively funds will be used under the proposed program. Applicants must demonstrate how the proposed housing activities will be accomplished in an efficient and cost effective manner. The applicant has demonstrated that the proposed activities are cost effective. (5 points)

The applicant has not demonstrated that the proposed activities are cost effective. (0 points)

c. Leveraging. (10 points)

Points under this component will be awarded in a manner consistent with the definition of "Leverage" included in this NOFA and the following breakdown:

Non–ICDBG percentage of project cost	Points
25 and over	10
20–24.9	8
15–19.9	6
10–14.9	4
5–9.9	2
0–4.9	0

2. Community Facilities

A. Infrastructure

(1) Selection Criteria

a. Project Need and Design. (60 points)

(i) The application includes documentation which demonstrates that the proposed project meets an essential community development need by fulfilling a function that is critical to the continued existence or orderly development of the community.

The proposed project will fulfill a function which is critical to the continued existence or orderly development of the community. (20 points)

The proposed project will fulfill a function which is not critical to the continued existence or orderly development of the community. (0 points)

(ii) The proposed project benefits the neediest segment of the population, as identified below. Applications must include information which demonstrates that income data was collected in a statistically reliable and independently verifiable manner and that:

85 percent or more of the beneficiaries are low and moderate income. (15 points)

Between 75–84.9 percent of the beneficiaries are low and moderate income. (10 points)

Between 55–74.9 percent of the beneficiaries are low and moderate income. (5 points)

Less than 55 percent of the beneficiaries are low and moderate income. (0 points)

(iii) The application includes documentation which demonstrates that the proposed project will provide infrastructure that does not currently exist for the area to be served *or* it will eliminate or substantially reduce a health or safety threat or problem *or* it will replace existing infrastructure that no longer functions adequately to meet current needs.

The infrastructure does not exist *or* the existing infrastructure no longer functions *or* the existing infrastructure does not contribute to the elimination of, or causes, a verified health or safety threat or problem. (25 points)

The existing infrastructure no longer functions adequately to meet current needs *or* is unreliable. (20 points)

The proposed project will replace or supplement existing infrastructure which is adequate for current needs but which will not meet acknowledged future needs. (12 points)

The proposed project will replace or supplement existing infrastructure which is adequate to meet current needs and future needs have not been acknowledged or documented. (0 points)

If the project is intended to address a health or safety threat or problem, the applicant must provide documentation consisting of a signed study or letter from a qualified independent authority which verifies that:

—A threat to health or safety (or a health or safety problem) exists which has caused or has the potential to cause serious illness, injury, disease, or death; and,
—The threat or problem can be completely or substantially eliminated if the proposed project is undertaken.

b. Planning and Implementation (30 points)

(i) A viable plan for maintenance and operation. If the applicant is to assume responsibility for maintenance and operation of the proposed facility, the applicant must adopt a maintenance and operation plan which addresses maintenance, repair and replacement of items not covered by insurance, and which clearly identifies operating responsibilities and resources. This plan and the adopting resolution must be included in the application. The plan must identify a funding source to ensure that the facility will be properly maintained and operated. The resolution adopting the plan must identify the total annual dollar amount the applicant will commit.

If an entity other than the applicant commits to pay for maintenance and operation, a letter of commitment which identifies the responsibilities the entity will assume and which documents its financial ability to assume these responsibilities must be included in the application; submission of a maintenance and operation plan is not required. Points will only be awarded if the Area ONAP is able to determine that the entity is financially able to assume the costs of maintenance and operation.

An acceptable maintenance and operation plan and adopting resolution (or letter of commitment) are included in the application. (15 points)

The plan, resolution or the commitment letter have not been included in the application or if included they are not acceptable. (0 points)

c. An appropriate and effective design, scale and cost. The application includes information which demonstrates that the proposed project is the most appropriate and cost effective approach to address the identified need. This information demonstrates that the use of existing facilities and resources, and alternatives, including method of implementation and cost, have been considered. If only one approach is feasible (there are no alternatives to the proposed project), the application must include an explanation.

The required information is included in the application. (15 points)

The required information is not included in the application or, if included, it is unacceptable. (0 points)

d. Leveraging. (10 points) Points under this component will be awarded in a manner consistent with the definition of "Leverage" included in this NOFA and the following breakdown:

Non–ICDBG percentage of project cost	Points
25 and over	10
20–24.9	8
15–19.9	6
10–14.9	4
5–9.9	2
0–4.9	0

B. Buildings

(1) Threshold. An applicant proposing a facility which would provide health care services funded by the Indian Health Service (IHS) must assure that the facility meets all applicable IHS facility requirements. It is recognized that tribes that are contracting services from the IHS may establish other facility standards. These tribes must assure that these standards at least compare to nationally accepted minimum standards.

(2) Selection Criteria.

a. Project Need and Design. (60 points)

(i) The application includes documentation that the proposed building meets an essential community development need by providing space so that a service or function which is critical to the continued existence or orderly development of the community can be provided.

The proposed building will provide space for a service or function which is essential to the continued existence or orderly development of the community. (20 points)

The proposed building will provide space for a service or function which is not critical to the continued existence or orderly development of the community. (0 points)

(ii) The proposed project benefits the neediest segment of the population, as identified below. Applications must include information which demonstrates that income data was collected in a statistically reliable and independently verifiable manner and that:

85 percent or more of the beneficiaries are low and moderate income. (10 points)

Between 75–84.9 percent of the beneficiaries are low and moderate income. (8 points)

Between 55–74.9 percent of the beneficiaries are low and moderate income. (5 points)

Less than 55 percent of the beneficiaries are low and moderate income. (0 points)

(iii) The application includes documentation which demonstrates that the proposed building will be used to provide services or functions which are not provided to service area beneficiaries *or* it will replace a building which does not meet health or safety standards which is currently being used to provide the service or function *or* it will replace a building which is no longer able to provide the space or amenities to meet the current need for the services or functions.

The services or functions to be provided in the proposed building do not exist for the service area population *or* the building currently being used does not meet health or safety standards. (25 points)

The building to be replaced by the proposed building is not able to provide the space or amenities for the services or functions so that current needs cannot be entirely met. (20 points)

The building to be replaced is able to provide adequate space and current needs are being met but it cannot provide space for acknowledged future needs. (10 points)

The proposed building is not necessary since current needs and acknowledged future needs can be met through the use of existing facilities. (0 points)

If the proposed building is intended to replace an existing building which does not meet health or safety standards, the application must include documentation consisting of a signed letter from a qualified independent authority which specifically identifies the standard or standards which are not being met by the existing building.

(iv) Provides multiple uses or multiple benefits, or has services available 24 hours a day. The application must show that the proposed building will house more than one broad category of activity or that services would be provided out of the building 24 hours a day. A written commitment for the use of the space must be included in the application. "Broad category" means a single activity or group of activities which serves a particular group of beneficiaries (e.g., senior citizens) or meets a particular need (e.g., literacy). No one category of activity will occupy more than 75 percent of the available space for more than 75 percent of the time. Multipurpose buildings do not automatically meet these criteria, nor do buildings that provide a variety of activities for one client group.

The proposed building will provide multiple uses or benefits or will have services available 24 hours/day and a commitment for the use of the space is included in the application. (5 points)

The proposed building will not provide multiple benefits or services or will not have services available 24 hours a day *or* the application does not include a commitment for the use of the space. (0 points)

b. Planning and Implementation. (30 points)

(i) A viable plan for maintenance and operation. If the applicant is to assume responsibility for the maintenance and operation of the proposed building, the applicant must adopt a maintenance and operation plan which addresses maintenance, repair and replacement of items not covered by insurance, and which clearly identifies operating responsibilities and resources. This plan and the adopting resolution must be included in the application. The plan must identify a funding source to ensure that the building will be properly maintained and operated. The resolution adopting the plan must identify the total annual dollar amount the applicant will commit.

If an entity other than the applicant commits to pay for maintenance and operation, a letter of commitment which identifies the responsibilities the entity will assume and which documents its financial ability to meet these responsibilities must be included in the application; submission of a maintenance and operation plan is not required. Points will only be awarded if the Area ONAP is able to determine that the entity is financially able to assume the costs of maintenance and operation.

An acceptable maintenance and operation plan and adopting resolution (or letter of commitment) are included in the application. (15 points)

The plan, resolution or the commitment letter have not been included in the application, or if included, they are not acceptable. (0 points)

(ii) An appropriate and effective design, scale and cost. The application includes information which demonstrates that the proposed building is the most appropriate and cost effective approach to address the identified need(s). This information demonstrates that the use of existing facilities and resources and alternatives, including method of implementation and cost, have been considered. If only one approach is feasible (there are no alternatives to the proposed building),

the application must include an explanation.

The required information is included in the application. (15 points)

The required information is not included in the application or, if included, it is unacceptable. (0 points)

c. Leveraging. (10 points)

Points under this component will be awarded based on the definition of "Leverage" included in this NOFA and the following breakdown:

Non-ICDBG percentage of project cost	Points
25 or more	10
20–24.9	8
15–19.9	6
10–14.9	4
5–9.9	2
0–4.9	0

3. Economic Development

A. Thresholds

(1) Economic development assistance may be provided only when a financial analysis is done which shows public benefit commensurate with the assistance to the business can reasonably be expected to result from the assisted project, and the project has a reasonable chance of success. The applicant shall demonstrate the need for grant assistance by providing documentation to support a determination that the assistance is appropriate to implement an economic development project.

(2) All economic development projects must meet one of the national objectives. A general claim of cash flow or benefit to the tribe as a whole does not demonstrate benefit to low and moderate income persons.

B. Selection Criteria

(1) Organization. (8 points)

The application contains information and documentation which addresses all of the following three elements:

—The applicant (or entity to be assisted) has an established organization system for operation of a business, (e.g., adopted tribal ordinances, articles of incorporation, Board of Directors in place, tribal department).

—Formal provisions exist for separation of government functions from business operating decisions. An operating plan has been established and is submitted.

—The Board of Directors consists of persons who have prior business experience. A staffing plan has been developed and is submitted.

(Maximum: 8 Points)

The application contains all of the first element listed above, and some of the items in the second and third elements *OR*, the application contains all of the elements listed above, but in insufficient detail. The business should be able to operate effectively. (Moderate: 5 Points)

The application does not meet the criteria for the award of moderate points. (Unsatisfactory: 0 Points)

(2) Project Success. (45 points)

The project will be rated on the adequacy and quality of the information included in the application which addresses the following criteria: ANY PROJECT NOT RECEIVING AT LEAST MODERATE POINTS IN EACH OF THE FOLLOWING THREE RATING FACTORS WILL NOT BE CONSIDERED FOR FUNDING.

a. Market analysis

A feasibility/market analysis, generally not older than two years, which identifies the market and demonstrates that the proposed activities are highly likely to capture a fair share of the market. *The analysis must be submitted with the application.* (Maximum: 15 points)

A feasibility/market analysis which identifies the market and demonstrates that the proposed activities are reasonably likely to capture a fair share of the market. *The analysis must be submitted with the application.* (Moderate: 10 points)

The submission does not meet the criteria for the award of moderate points. (Unsatisfactory: 0 points)

b. Management capacity.

A management team with qualifying specialized training or technical/managerial experience in the operation of a similar business has been identified. *Job descriptions of key management positions as well as resumes showing qualifying specialized technical/managerial training or experience of the identified management team must be submitted with the application.* (Maximum: 15 points)

A management team with qualifying general business training or experience will be hired if the grant is approved. *Job descriptions of key management positions must be submitted with the application.* (Moderate: 12 points)

The submission does not meet the criteria for the award of 12 points. (Unsatisfactory: 0 points)

c. Financial Analysis of the Business

The financial viability of a project will be determined by an analysis of financial and other project related information. For all proposed projects, the following must be submitted:

(i) A detailed cost summary for the project;

(ii) Evidence of funding sources;

(iii) Five year operating or cash flow financial projections. If the project involves the expansion of an existing business, financial statements for the most recent three year period for the business must also be submitted with the application (financial statements include the balance sheet, income statement and statement of retained earnings). For start-up businesses that will not be owned by the grantee, current financial or net worth statements of principal business owners or officers must also be submitted with the application.

The information derived from the analysis will be reviewed and compared to local or national industry standards to assess reasonableness of development costs, financial need, profitability, and risk as factors in determining overall financial viability. In determining whether a project is financially viable, the Area ONAP will also consider current and projected market conditions and profitability measures such as cash flow return on equity, cash flow return on total assets and the ratio of net profit before taxes to total assets. Sources of industry standards include Marshall and Swift Publication Company, Robert Morris Associates, Dun and Bradstreet, the Chamber of Commerce, etc. Local standards may also be used. If one of these standards is cited by the applicant, the appropriate data must be submitted with the application. Based on the analysis:

The project has an excellent chance of achieving financial success. (Maximum: 15 points)

The project has an average chance of achieving financial success. (Moderate: 8 points)

The project has a minimal prospect of achieving financial success. (Unsatisfactory: 0 points)

(3) Leveraging.

Points under this component will be awarded in a manner consistent with the definition of "Leverage" included in this NOFA and the following breakdown:

Non-ICDBG percentage of project cost	Points
30% or more	12
20–29.9%	8
10–19.9%	4
Less than 10%	0

(4) Permanent Full-Time Equivalent Job Creation and Training. (20 points)

The total number of permanent full-time equivalent jobs expected to be created and/or retained as a result of the project as well as a summary of job descriptions. Retained jobs will not be counted unless clear evidence is provided that these jobs would be lost without the project. The number and kind(s) of jobs expected to be available to low and moderate income persons must be identified.

a. ICDBG cost per job

$30,000 or less—15 points
$30,001–40,000—12 points
$40,001–45,000—8 points
$45,001+—0 points

b. Quality of jobs and/or training targeted to low and moderate income persons.

—The jobs offer wages and benefits comparable to area wages and benefits for similar jobs, provide opportunity for advancement, and teach a transferable skill; *or*

—The employer commits to provide training opportunities. A description of the planned training program must be submitted with the application

Yes—5 points
No—0 points

(5) Additional Considerations. (15 points) A project must meet three of the following criteria to receive 15 points. (15 points)

—Use, improve or expand members' special skills. Special skills are those that members have developed through education, training or traditional cultural experiences.

Yes—5 points
No 0 points

—Provide spin-off benefits beyond the initial economic development benefits to employees or to the community

Yes—5 points
No—0 points

—Provide special opportunities for residents of Federally-assisted housing

Yes—5 points
No—0 points

—Provide benefits to other businesses owned by Indians or Alaska natives

Yes—5 points
No—0 points

—Loan Repayment/Reuse of ICDBG funds. If the business is not tribally owned, at least 50% of the ICDBG assistance to the business will be repaid to the grantee within a 10 year period. If the business is tribally owned, the tribe agrees (by submission of a tribal resolution) within a 10 year period to use funds equal to 50% of the ICDBG assistance for eligible activities that meet a national objective. These funds should come from the profits of the tribally owned business

Yes—5 points
No—0 points

VI. Procedural Error and Appeals

With respect to any claims of procedural error that may be made by unsuccessful applicants, please note that a procedural error is, by definition, an error in process. An example is a point calculation error which would, if corrected, raise the total point award for a project over the cut-off point for funding. Rating panel judgements made within the provisions of this NOFA and the program regulations (24 CFR 953) are not subject to claims of procedural error. If an Area ONAP makes a procedural error in the application review and rating process which, when corrected, would result in the award of sufficient points to warrant the funding of an otherwise approvable project, the Area ONAP may fund that project in the next funding round without further competition. All appeals must be submitted to the appropriate Area ONAP within 90 days after the applicant is notified in writing of a funding decision.

VII. Other Matters

(a) Environmental Statement. A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, S.W., Washington, D.C. 20410.

(b) Recipient Compliance with Environmental Requirements. Prior to any commitment of project funds and before any request for release of funds, a recipient must comply with the environmental requirements identified in 24 CFR 953.605.

(c) Federalism Executive Order. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this NOFA will not have substantial, direct effects on states, on their political subdivisions, or on their relationship with the Federal Government, or on the distribution of power and responsibilities between them and other levels of government. While the NOFA will provide financial assistance to Indian tribes and Alaska native villages, none of its provisions will have an effect on the relationship between the Federal Government and the states or their political subdivisions.

(d) Family Executive Order. The General Counsel, as the Designated Official for Executive Order 12606, The Family, has determined that the policies announced in this NOFA would not have the potential for significant impact on family formation, maintenance and general well-being and thus not subject to review under the Order.

(e) Prohibition of Advance Disclosure of Funding Decisions. HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, codified as 24 CFR Part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of the applications and in the making of funding decisions are limited by Part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Area ONAP Counsel, or Headquarters counsel for the program to which the question pertains.

(f) Economic Opportunities for Low and Very Low Income Persons. All applicants are herein notified that the provisions of section 3 of the Housing and Urban Development Act of 1968, as amended, and the regulations in 24 CFR part 135 are applicable to funding awards made under this NOFA. One of the purposes of the assistance is to give to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns. Tribes that receive HUD assistance described in this part shall comply with the procedures and requirements of this part to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-determination and Education Assistance Act (25 U.S.C. 450e(b)).

Authority: Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.); sec. 7(d) of the Department of Housing and Urban

Development Act (42 U.S.C. 3535(d)); 24 CFR 953.

Dated: April 23, 1996.

Michael B. Janis,

General Deputy, Assistant Secretary for Public and Indian Housing.

[FR Doc. 96–11509 Filed 5–8–96; 8:45 am]

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federal register

Thursday
May 9, 1996

Part VI

Securities and Exchange Commission

17 CFR Parts 230, 240 and 249

Relief From Reporting by Small Issuers; Exemption for Certain California Limited Issues; Final Rules

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34–37157; File No. S7–16–95]

RIN 3235–AG48

Relief From Reporting by Small Issuers

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is announcing the adoption of revisions to Rules 12g–1, 12g–4 and 12h–3 under the Securities Exchange Act of 1934, which will increase the number of issuers not subject to the registration and reporting requirements of the Exchange Act, by increasing the total assets threshold from $5 million to $10 million.

EFFECTIVE DATE: The rule amendments will be effective on May 9, 1996.

FOR FURTHER INFORMATION CONTACT: Richard K. Wulff, Office of Small Business Policy, Division of Corporation Finance at (202) 942–2950 or James R. Budge, Office of Disclosure Policy, Division of Corporation Finance, at (202) 942–2910.

SUPPLEMENTARY INFORMATION: On June 27, 1995,[1] the Commission published for comment proposed amendments to Rules 12g–1, 12g–4 and 12h–3[2] under the Securities Exchange Act of 1934.[3] These proposals were designed to increase the number of issuers classified as exempt from the registration and reporting provisions of the Exchange Act by changing the total asset threshold from $5 million to $10 million. Conforming changes also were proposed to be made to Form 15.[4] Having considered the comments received, the Commission is adopting the revisions as proposed.[5]

I. Discussion

Under the current rules, an issuer that has 500 or more record holders of a class of equity securities and total assets of $5 million or more must register its securities under the Exchange Act.[6] Issuers that must register are required to comply with the periodic reporting and other provisions applicable to public companies contained in the Exchange Act.[7] The asset threshold was originally set at $1 million in Section 12(g). Pursuant to its authority under Section 12(h) of the Exchange Act,[8] the Commission has increased the amount on two occasions: from $1 million to $3 million in 1982,[9] and from $3 million to the current $5 million in 1986.[10]

The proposal to increase the asset threshold to $10 million was designed, in part, to increase the utility of the Commission's small offering exemptions, such as Regulation A, a principal benefit of which is that companies conducting such offerings do not automatically become subject to Exchange Act reporting. The Commission has long recognized that the cost of compliance with Exchange Act reporting requirements is relatively greater for smaller companies than for larger ones.[11] The amendments adopted today are designed to strike the appropriate balance between such costs and investors' needs for the information required in Exchange Act reports. Commenters generally agreed that this change would be beneficial for smaller companies and would be consistent with investor protection. In light of the foregoing, the Commission finds that the increase in the asset threshold is not inconsistent with the public interest or the protection of investors and is adopting the rule changes as proposed.

Under today's revision to Rule 12g–1, an issuer now will not be required to register under Section 12(g) until it has 500 or more record holders of a class of equity securities and total assets of $10 million or more.[12] This revision does not change existing requirements that securities traded on national exchanges[13] or the National Association of Securities Dealers Automated Quotation System ("Nasdaq")[14] be registered pursuant to Section 12 of the Exchange Act. In addition, a company that conducts a public offering registered under the Securities Act of 1933 ("Securities Act")[15] will continue to be subject to reporting pursuant to Section 15(d) of the Exchange Act unless the company becomes eligible to suspend such reporting. The revisions also raise the asset threshold for termination of Section 12(g) registration and suspension of Section 15(d) reporting from $5 million to $10 million, but do not change the other tests for such termination and suspension.[16] Finally, the description of Form 15 is being amended to indicate that the total assets criterion is $10 million. These new thresholds should make the exemptive, termination and suspension provisions more useful to small businesses and lower their costs of compliance with the federal securities laws.

There are approximately 650 issuers with between $5 million and $10 million in total assets that report with the Commission. Had the new asset threshold previously been in effect, these companies would not have been required to register and report with the Commission, unless they had voluntarily decided to do so, either because their securities are traded on a national securities exchange or Nasdaq, or because they chose to conduct a Securities Act registered offering. Of these 650, approximately 540 are traded on an exchange or Nasdaq, and approximately 110 are not.

Today's rule changes affect the asset threshold for entering and exiting reporting, but do not affect the other criteria under the rules for determining when a company may cease reporting. Consequently, the effect on currently reporting companies is modest, with approximately 10 companies becoming eligible to cease reporting at this time;[17] about another 20 companies could terminate their reporting obligations if they decided to delist their securities from an exchange or Nasdaq.

While the number of companies that would be able to stop reporting is relatively small, the rule should provide significant benefits for small, growing companies. These companies will have more flexibility to raise equity capital and grow before becoming subject to the Commission's reporting requirements.

II. Regulatory Flexibility Act Definitions

The Commission proposed to modify the definitions of "small entity" for purposes of the Regulatory Flexibility Act by raising the total assets level to $10 million.[18] In the intervening period since the proposals were published, Congress has enacted amendments to the Regulatory Flexibility Act.[19] The Commission has determined not to adopt these proposed rule revisions at this time, but will give them further consideration once it has had an opportunity to evaluate fully these recent statutory changes.

III. Effective Date

The Commission has determined to make the rule changes effective on May 9, 1996, the date of publication in the **Federal Register**. Early effectiveness is appropriate under the Administrative Procedure Act inasmuch as the raising of these thresholds "grants or recognizes an exemption"[20] from registration and reporting requirements to a larger class of companies than existed under previous requirements.

IV. Future Initiatives

Some commenters recommended further revision of the reporting thresholds. For example, one commenter suggested the adoption of an exemption for small business issuers whose public float or trading activity is so low as to show insufficient market interest. Another recommended eliminating the shareholder numerical test from the various rules. The Commission has considered these suggestions and has determined to evaluate them further in connection with future initiatives undertaken by the Commission as it implements recommendations of the reports of the Task Force on Disclosure Simplification,[21] and the Advisory Committee on the Capital Formation and Regulatory Processes.[22] The work of both of these groups has been dedicated to reassessing and reforming the federal securities disclosure regime where necessary and appropriate in the public interest and consistent with investor protection.

V. Cost-Benefit Analysis

The Commission solicited comment to assist in its evaluation of the costs and benefits that might result from the possible increase in the assets threshold. Several commenters, while not addressing the solicitation of comment specifically, supported the proposal as part of the Commission's efforts to reduce both the regulatory burden and the costs of raising capital and compliance for small issuers. The Commission continues to believe that as a result of this action, compliance burdens will be decreased without significant impact upon the needs of investors, as it stated in the proposing release. As required by Section 23(a) of the Exchange Act, the Commission has specifically considered the impact these rulemaking actions would have on competition and has concluded that they would not impose a significant burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

VI. Final Regulatory Flexibility Analysis

The Commission has prepared a final regulatory flexibility analysis in accordance with 5 U.S.C. 603 regarding the changes to Exchange Act Rules 12g–1, 12g–4, and 12h–3 and the description of Form 15. A summary of the corresponding Initial Regulatory Flexibility Analysis was included in the Proposing Release. A copy of the final regulatory flexibility analysis may be obtained by contacting James R. Budge, Division of Corporation Finance, U.S. Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549 at (202) 942–2910.

VII. Statutory Basis

The amendments to the Commission's rules and form are being adopted by the Commission pursuant to Sections 12, 13, 15 and 23(a) of the Securities Exchange Act.

List of Subjects in 17 CFR Parts 240 and 249

Reporting and recordkeeping requirements, Securities.

Text of the Amendments

Accordingly, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78w, 78x, 78*ll*(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. The authority citation for Part 249 continues to read, in part, as follows:

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[1] Release No. 33–7186 (June 27, 1995) [60 FR 35642] ("Proposing Release"). The comment letters received are available for inspection and copying at the Commission's public reference room, 450 Fifth Street, N.W., Washington, D.C. 20549. Please refer to File Number S7–16–95.

[2] 17 CFR 240.12g–1, 240.12g–4 and 240.12h–3.

[3] 15 U.S.C. 78a *et seq.*

[4] 17 CFR 249.323. Form 15 is filed by an issuer to notify the Commission that it is terminating its registration under Section 12(g) of the Exchange Act [15 U.S.C. 78*l*(g)] or suspending its reporting under Section 15(d) [15 U.S.C. 78o(d)].

[5] As explained more fully below, the proposed changes to certain of the Commission's definitions of a "small entity" for purposes of the Regulatory Flexibility Act [5 U.S.C. 601–612] have not been adopted.

[6] *See* Exchange Act Section 12(g) and Rule 12g–1.

[7] *E.g.*, the proxy requirements of Section 14 [15 U.S.C. 78n] and the short-swing profit provisions of Section 16 of the Exchange Act [15 U.S.C. 78p].

In addition, any entity, including an issuer, must register under the Exchange Act as a transfer agent if it performs the function of a transfer agent with respect to any security which is registered under Section 12 of the Exchange Act or which would be required to be registered except for the exemptions provided by subsection 12(g)(2)(B) or (g)(2)(G). 15 U.S.C. 78q–1(c)(1). As a result of the revisions adopted in this release, the number of entities, including issuers, that can perform transfer agent functions without registration with the Commission may increase.

[8] 15 U.S.C. 78*l*(h).

[9] Release No. 34–18647 (April 15, 1982) [47 FR 17046].

[10] Release No. 34–23406 (July 8, 1986) [51 FR 25360].

[11] See Release No. 33–6605 (September 30, 1985) [50 FR 41162].

[12] This modification to Rule 12g–1 retains the standard with respect to foreign private issuers, which provides that if a foreign private issuer has securities quoted in an automated interdealer quotation system it remains subject to registration under Section 12(g).

[13] Securities traded on a national securities exchange must be registered under the Exchange Act pursuant to Section 12(b) [15 U.S.C. 78*l*(b)] of that Act.

[14] Pursuant to Schedule D to the NASD's By-Laws, securities traded on the Nasdaq system must be registered pursuant to Section 12 of the Exchange Act, CCH NASD Manual para. 1803.

[15] 15 U.S.C. 77a *et seq.*

[16] Rules 12g–4 and 12h–3 currently allow for termination of registration of a class of securities under Section 12(g) and suspension of the duty to file reports under Section 15(d) when the class of securities is held of record by less than 300 persons, or by less than 500 persons where the total assets of the issuer have not exceeded $5 million on the last day of each of the issuer's three most recent fiscal years. Also, the Section 15(d) reporting obligation cannot be suspended under Rule 12h–3 for a fiscal year in which a Securities Act registration statement relating to the class of securities becomes effective. The revisions amend Rules 12g–4 and 12h–3 to change the asset test from $5 million to $10 million.

[17] These issuers would be able to terminate their registration because they have:

—Assets between $5 and $10 million;

—No securities traded on an exchange or Nasdaq;

—No current 15(d) reporting obligation arising from registering a securities offering in the last year;

—In each of the last three fiscal years, assets not exceeding $10 million; and

—Between 300 and 500 shareholders.

[18] The definitions are found at 17 CFR 230.157, 17 CFR 240.0–10, and 17 CFR 260.0–7.

[19] See the Small Business Regulatory Fairness Act of 1996, Pub. L. 104–121, 110 Stat. 847 (1996), signed by the President on March 29, 1996.

[20] 5 U.S.C. 553(d)(1).

[21] The Task Force on Disclosure Simplification was organized in August 1995 to review forms and rules relating to capital-raising transactions, periodic reporting pursuant to the Exchange Act, proxy solicitations, and tender offers and beneficial ownership reports under the Williams Act. Its goal was to identify where the disclosure process could be simplified and, consistent with investor protection, to make regulation of capital formation more efficient. Following a seven-month review, the Task Force completed its report, including a number of recommendations, which the Commission authorized for publication on March 5, 1996. This report is available for inspection and copying at the Commission's public reference room. It also is available through the Commission's Internet web site [http://www.sec.gov].

[22] The Securities and Exchange Commission Advisory Committee on the Capital Formation and Regulatory Processes was established in February 1995. See Release No. 33–7135 (February 17, 1995) [60 FR 9415]. The objective of the Committee is to assist the Commission in evaluating the efficiency of the regulatory process relating to public offerings of securities, secondary market trading and corporate reporting. The Committee's focus has been the development of a company registration system for adoption by the Commission, which would allow eligible companies to offer and sell securities relying on a more company-focused, as opposed to transaction-focused, system. The Committee plans to issue a report containing its recommendations in the near future.

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted;

* * * * *

3. 17 CFR Parts 240 and 249 are amended by removing the reference to "$5 million" and adding in its place "$10 million" in the following sections:

(a) 17 CFR 240.12g–1
(b) 17 CFR 240.12g–4(a)(1)(ii)
(c) 17 CFR 240.12g–4(a)(2)(ii)
(d) 17 CFR 240.12h–3(b)(1)(ii)
(e) 17 CFR 240.12h–3(b)(2)(ii)
(f) 17 CFR 249.323(a)

Dated: May 1, 1996.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–11625 Filed 5–9–96; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33–7285; File No. S7–15–95]

RIN 3235–AG51

Exemption for Certain California Limited Issues

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: In order to reduce regulatory burdens associated with certain offers and sales of securities, the Securities and Exchange Commission ("Commission") today is adopting a new exemption from its registration requirements for limited offerings of up to $5 million that are exempt from qualification under a 1994 California state securities law.

EFFECTIVE DATE: The effective date of Rule 1001 and the amendment to Rule 144 will be effective June 10, 1996.

FOR FURTHER INFORMATION CONTACT: Richard K. Wulff, Office of Small Business Policy, Division of Corporation Finance, at (202) 942–2950 or James R. Budge, Office of Disclosure Policy, Division of Corporation Finance, at (202) 942–2910, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today is adopting, as proposed, new Rule 1001 [1] under Section 3(b) [2] of the Securities Act of 1933 ("Securities Act"). [3] The new rule exempts from the registration requirements of the Securities Act offers and sales up to $5 million that are exempt from state qualification under paragraph (n) of Section 25102 of the California Corporations Code. [4] Securities Act Rule 144 [5] also has been amended to include securities issued in reliance upon Rule 1001 in the definition of "restricted securities."

I. Introduction

In June 1995, pursuant to its authority to provide exemptions for small offerings under Section 3(b) of the Securities Act, the Commission proposed a new rule [6] designed to assist small businesses' capital raising ability by creating a federal exemption for offerings of up to $5 million [7] that meet the qualifications of a California exemption. The California law provides an exemption from state law registration for offerings made to specified classes of qualified purchasers that are similar, but not the same as, accredited investors under Regulation D. [8] Certain methods of general solicitation are permitted under the California law.

The Commission received ten comment letters, which generally were supportive of the proposals. [9] The Commission believes that the California exemption has the potential to facilitate small business capital raising. It is anticipated that the new rule will result in compliance cost savings for small businesses and others because qualifying issuers will be exempt from both state qualification and federal registration. At the same time, the exemption assures adequate protections to investors. Therefore, the Commission is exercising its exemptive authority in Section 3(b) to provide a parallel federal exemption for the California exemption by adopting new Rule 1001.

II. The California Exemption

On September 26, 1994, an exemption from the issuer transactions qualification provisions of the California Corporations Code became effective. [10] The provision was specifically designed "to facilitate the ability of small companies to raise capital to finance their growth." [11]

The exemption generally is limited to issuers that are California corporations or any other form of business entity organized in that state, including partnerships and trusts. In addition; non-California organized businesses may use the exemption if they can attribute more than 50 percent of property, payroll and sales to California and if more than 50 percent of outstanding voting securities of the issuer are held of record by persons having addresses in California. It is not available for offerings relating to a rollup transaction, nor may it be used by "blind pool" issuers or investment companies subject to the Investment Company Act of 1940 (the "Investment Company Act"). [12]

Sales under the exemption must be effected only to qualified purchasers who buy for investment purposes and not for redistribution. A qualified purchaser is defined as:

- Designated professional or institutional purchasers or persons affiliated with the issuer; [13]
- Certain relatives residing with qualified purchasers;
- Promoters;
- Any person purchasing more than $150,000 of securities in the offering; [14]
- Entities whose equity owners are limited to officers, directors and any affiliate of the issuer;
- Reporting companies under the Securities Exchange Act of 1934 (the "Exchange Act"), [15] if the transaction involves the acquisition of all of an issuer's capital stock for investment;
- A natural person whose net worth exceeds $500,000, or a natural person whose net worth exceeds $250,000 if such purchaser's annual income exceeds $100,000—in either case the transaction must involve:

(a) Only a one-class voting stock (or preferred establishing the same voting rights),

(b) An amount limited to no more than 10 percent of the purchaser's net worth, and

(c) A purchaser able to protect his or her own interests (alone or with the help of a professional advisor); [16]

- Pension and profit sharing trusts, as well as 401(k) plans [17] and Individual Retirement Accounts of individual qualified purchasers.

Issuers must provide certain purchasers who are natural persons [18] a disclosure document as specified in Rule 502 of Regulation D [19] five days prior to any sale or commitment to purchase.

Offers, oral or written, are generally limited to qualified purchasers. However, the law does permit general announcements of a proposed offering to be widely published and circulated, so long as they contain only specified information. [20] This general announcement process is modeled on the "test the waters" concept being used by several of the states [21] and by the Commission in connection with Regulation A.

A notice must be filed with the California Corporations Commissioner at the initial offer of securities or with the publication of a general announcement of proposed offering, whichever comes first, accompanied by a $600 filing fee. A second filing is required within 10 business days after the close or abandonment of the offering, and in no case later than 210 days after the filing of the initial notice.

III. Regulation CE and Rule 1001

A. Need for a New Exemption

The California exemption combines a form of general solicitation using a "test the waters" concept with a qualified purchaser concept derived in part from the Uniform Limited Offering Exemption ("ULOE"), [22] an official policy guideline of the North American Securities Administrators Association, Inc. ("NASAA") [23] that was adopted in coordination with the Commission's adoption of Regulation D. [24] California's exemption does not fit well within any current federal exemption, other than Rule 504, [25] which is limited to $1 million, or potentially the intrastate offering exemption. [26] Rules 505 and 506 of Regulation D prohibit general solicitations; moreover, California's definition of qualified purchasers is broader than Regulation D's. The intrastate offering exemption is available only for those offerings by issuers incorporated and doing business in California.

The Commission does not believe that these differences need to be an impediment to the ability of small businesses to take full advantage of the California exemption. While the qualified purchaser definition differs somewhat from the accredited investor definition for individuals, the California law includes additional suitability standards. Moreover, the general announcement of proposed offering is subject to significant limitation, thereby protecting against abuse of the procedure. The provisions of the California law are consistent with investor protection and the public interest, and therefore warrant the Commission's full exercise of its exemptive authority under Section 3(b).

B. The Exemption

New Rule 1001 provides that offers and sales of securities, in amounts of up to $5 million, that are exempt from registration under the California securities law pursuant to paragraph (n) of section 25102 of the California Corporations Code [27] are exempt from the registration requirements of Section 5 of the Securities Act, pursuant to Section 3(b) of that Act. [28] All issuers that qualify for the state exemption can rely on the Rule 1001 exemption. [29] Issuers should look to the state of California for interpretations relating to who qualifies for the exemption, since any person who lawfully relies on the state exemption also could rely on its federal counterpart. Commenters who spoke to the issue supported the Commission's proposal not to impose additional qualifying standards.

As in the proposal, the final rule does not require issuers to notify the Commission when they rely on the California exemption in view of the notification provisions of the California law.

C. Computation of $5 million amount

Rule 1001 exempts offerings up to $5 million, the maximum allowed under Section 3(b). [30] The $5 million limit will apply on an offering-by-offering basis. [31]

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[1] The rule is being added as Regulation CE (for coordinated exemptions), 17 CFR 230.1001, rather than as Regulation CA, as proposed.

[2] 15 U.S.C. 77c(b).

[3] 15 U.S.C. 77a *et seq.*

[4] Cal. Corporations Code Section 25102(n).

[5] 17 CFR 230.144.

[6] Release No. 33–7185 (June 27, 1995) [60 FR 35638] ("proposing release").

[7] This is the maximum dollar amount permitted under the Commission's Section 3(b) exemptive authority.

[8] 17 CFR 230.501–230.508.

[9] The letters and comment summary are available for inspection and copying in the Commission's public reference room. Refer to File No. S7–15–95.

[10] Chapter 828, Statutes of 1994 (Senate Bill 1951—Killea), adding subdivision (n) to Corporations Code Section 25102.

[11] Section 3, Senate Bill 1951.

[12] 15 U.S.C. 80a-1 *et seq.*

[13] Officers and directors of corporate issuers (or persons performing similar duties); general partners and trustees, where the issuer is a partnership or a trust; small business investment companies; business development companies subject to the Investment Company Act; private venture capital companies exempted from the Investment Advisers Act of 1940 [15 U.S.C. 80b–1 *et seq.*]; entities comprised of accredited investors; banks; savings and loan associations; insurance companies; Investment Company Act companies; non-issuer pension or profit-sharing trusts; and, organizations (corporations, business trusts or partnerships) described in Section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)] with assets of more than $5 million. Individuals with a net worth of $1 million or annual income of more than $200,000 also are qualified purchasers under the California exemption. All these persons would qualify as "accredited investors" under Rule 501(a) [17 CFR 230.501(a)].

[14] These persons must also satisfy one of the following additional suitability standards: (1) They must have, alone or with the assistance of a professional advisor, the capacity to protect their own interests; (2) they must have the ability to bear the economic risk of the investment; or (3) the investment must not exceed 10 percent of the person's net worth. These criteria also apply to individuals who have a net worth of over $1 million or annual income exceeding $200,000.

[15] 15 U.S.C. 78a *et seq.*

[16] This provision states that each such natural person, by reason of his or her business or financial experience, or the business or financial experience of his or her professional advisor (who is unaffiliated with and who is not compensated, directly or indirectly, by the issuer), can be reasonably assumed to have the capacity to protect his or her interests in connection with the transaction. The California Department of Corporations has indicated that qualified investors under this rubric must have business or financial experience or rely on a professional advisor. Release No. 94–C (September 27, 1994).

[17] 26 U.S.C 401(k).

[18] This delivery requirement is limited to those natural persons designated as qualified purchasers because their net worth exceeds $500,000, or whose net worth exceeds $250,000 where there is an annual income of $100,000.

[19] 17 CFR 230.502(b)(2).

[20] The California provision limits the content of the general announcement to the following items: the issuer's identity; the full title of the securities being offered; the suitability standards of prospective investors; a statement that no money is being sought or will be accepted, that an indication of interest involves no commitment to purchase and that under certain circumstances a disclosure document will be provided prior to purchase; and the name, address and telephone number of a person who can provide further information about the offering. Only the following additional information may be included at the issuer's option: a brief description of the business, its geographical location and the offering price or method of determination.

[21] *See* CCH NASAA Reports § 7036. Arizona, Colorado, Kansas, Massachusetts, Oregon, Pennsylvania, Vermont, Virginia and Washington currently are participating in a pilot program in this regard, and Indiana has proposed entering this pilot program as well.

[22] *See* CCH NASAA Reports § 6201.

[23] NASAA is an association of securities commissioners from each of the 50 states, the District of Columbia, Puerto Rico, Mexico and several of the Canadian provinces.

[24] State statutes and rules based on NASAA's ULOE exempt offers or sales of securities made in compliance with Rules 501–503, 505 and/or 506 of Regulation D [17 CFR 230.501–230.503, 230.505 and 230.506 respectively], including the prohibition of general solicitations found in Rule 502(c).

[25] 17 CFR 230.504.

[26] Securities Act Section 3(a)(11) [15 U.S.C. 77c(a)(11)] and Rule 147 [17 CFR 230.147].

[27] One commenter expressed the view that the Commission should key the exemption to section 25102(n) as it existed at the time it originally became effective. The Commission has determined to adopt Rule 1001 as proposed in order to allow California flexibility to address concerns relating to its exemption without fear of losing the federal counterpart. Nevertheless, the Commission will monitor future changes to the California exemption to assure that the investor protections are not diminished in a fashion that would warrant modification of the federal exemption.

[28] Rule 1001(a). While the transactions would not be subject to registration under Section 5, the antifraud provisions of the federal securities laws would continue to be applicable to all exempt transactions. See preliminary note 1 to Rule 1001. Rule 1001 would provide an exemption only for the transactions in which the securities are offered or sold by the issuer; it is not an exemption for the securities themselves.

[29] As noted above, California law precludes reliance on the exemption in connection with investment company, blind pool or roll-up offerings; thus, the Rule 1001 exemption also would be unavailable in those cases.

[30] Where a transaction involves non-cash consideration, the amount of the offering would be calculated as provided under California law.

[31] Standard integration analysis concepts would apply. See Release No. 33–4552 (November 7, 1962)

[Continued]

Commenters supported this approach, which differs from that applied in other Section 3(b) rules, where an annual dollar limit for the aggregate of various Section 3(b) offers has been used.[32]

D. Resale limitations

The new exemption provides that purchasers in the exempt transaction receive "restricted securities."[33] Consequently, purchasers must either register subsequent resales of the securities or have an exemption for such sales. Categorizing the securities offered and sold pursuant to Rule 1001 as "restricted" is consistent with the California exemption, since the latter requires an investment intent on the part of purchasers in the offering, and such shares could not be resold under California law without qualification or some other exemption under such law. In addition, the treatment is consistent with other federal exemptions, the availability of which depends on the sophistication, wealth or institutional character of the investor.[34]

IV. Other Matters Addressed in the Proposing Release

A. Exemptions for Other States

The Commission proposed to provide the same exemption for each state that enacts a transaction exemption incorporating the same standards used by California. To date, the Commission has not received any request from a state other than California seeking its own exemption. The Commission reiterates its desire to cooperate with the states and repeats its position that it will create an exemption for any state that adopts an exemption incorporating the same standards used by California. Separate consideration for a federal exemption will be given to states that adopt other similar exemptions that protect the public interest.[35]

B. General Solicitation under Regulation D and ULOE

While not included as a rule proposal, the Commission indicated in the proposing release that it was considering whether amendments to Regulation D should be proposed that would facilitate better use of the exemptions by revising or eliminating the prohibition against general solicitation for Rule 505 and 506 offerings. This question was prompted in part by the approach in the California exemption that allows a form of general solicitation followed by sales only to qualified purchasers. Comment also was sought as to whether the Commission should consult with the states and NASAA about modifying ULOE, which also prohibits general solicitations in these offerings.

A number of commenters supported relaxing the general solicitation prohibition, believing that it would enhance the utility of Rule 505 and 506 offerings. The Commission has determined to proceed with adoption of the California exemption at this time while deferring action on the general solicitation question with respect to other exemptions, since Section 3(b) does not prohibit general solicitation for offerings exempt thereunder. However, these comments will be considered in connection with future initiatives undertaken by the Commission as it evaluates the reports of the Task Force on Disclosure Simplification[36] and the Advisory Committee on the Capital Formation and Regulatory Processes.[37] The work of both of these groups has been dedicated to reassessing and reforming the federal securities disclosure regime where necessary and appropriate in the public interest and consistent with investor protection.

V. Cost-Benefit Analysis

The Commission solicited comments to aid in its evaluation of the costs and benefits that would result from the proposed exemption. It was expected that compliance burdens would decrease with respect to issuers who qualify for the proposed exemption, inasmuch as they would be able to raise up to $5 million in capital without the burden and expense of compliance with the registration and reporting requirements of the federal securities laws. Commenters supported that view, indicating that the exemption would be beneficial to small business by reducing their capital raising expenses without reducing investor protection. Consequently, the Commission has determined to adopt the rule as proposed.

VI. Final Regulatory Flexibility Analysis

A final regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604 concerning the adoption of Rule 1001 exemption and the amendment to Rule 144. A copy of the analysis may be obtained by contacting James R. Budge, Office of Disclosure Policy, Division of Corporation Finance, at (202) 942–2910, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

VII. Statutory Basis for the Rules

Regulation CE, Rule 1001 and the amendment to Rule 144 are adopted pursuant to Sections 3(b) and 19 of the Securities Act.

List of Subjects in 17 CFR Part 230

Registration requirements, Securities.

Text of the Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 79t, 80a-8, 89a-29, 80a-30, and 80a-37, unless otherwise noted.

* * * * *

[27 FR 11316]. These concepts are currently under review in connection with the work of the Task Force on Disclosure Simplification and the Advisory Committee on the Capital Formation and Regulatory Processes. See notes 37 and 37, below.

[32] See, *e.g.*, Rule 251(b) [17 CFR 230.251(b)], Rule 504(b)(2) [17 CFR 230.504(b)(2)] and Rule 505(b)(2)(i) [17 CFR 230.505(b)(2)(i)].

[33] Rule 1001(c) and amendment to Rule 144.

[34] See, *e.g.*, Section 4(6) of the Exchange Act [15 U.S.C. 78d(6)] and Securities Act Rule 506.

[35] Three commenters supported this approach. Two commenters, however, believed that the Commission should not proceed on a state-by-state basis; rather, it should take a broader approach by creating a federal exemption that the individual states could then use to fashion their own coordinated exemptions. The Commission will consider this suggestion, together with others put forward by commenters with respect to facilitating small business capital formation, in connection with future rulemaking projects.

[36] The Task Force on Disclosure Simplification was organized in August 1995 to review forms and rules relating to capital-raising transactions, periodic reporting pursuant to the Exchange Act, proxy solicitations, and tender offers and beneficial ownership reports under the Williams Act. Its goal was to identify where the disclosure process could be simplified and, consistent with investor protection, to make regulation of capital formation more efficient. Following a seven-month review, the Task Force completed its report, including a number of recommendations, which the Commission authorized for publication on March 5, 1996. This report is available for inspection and copying at the Commission's public reference room. It also is available through the Commission's Internet web site [http://www.sec.gov].

[37] The Securities and Exchange Commission Advisory Committee on the Capital Formation and Regulatory Processes was established in February 1995. See Release No. 33–7135 (February 17, 1995) [60 FR 9415]. The objective of the Committee is to assist the Commission in evaluating the efficiency of the regulatory process relating to public offerings of securities, secondary market trading and corporate reporting. The Committee's focus has been the development of a company registration system for adoption by the Commission, which would allow eligible companies to offer and sell securities relying on a more company-focused, as opposed to transaction-focused, system. The Committee plans to issue a report containing its recommendations in the near future.

2. By amending § 230.144 by removing the period at the end of paragraph (a)(3)(iv) and adding "; or" in its place and by adding paragraph (a)(3)(v), to read as follows:

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

* * * * *

(a) * * *

(3) * * *

(v) Securities acquired from the issuer that are subject to the resale limitations of Regulation CE (§ 230.1001).

* * * * *

3. By adding a new undesignated center heading and § 230.1001, to read as follows:

Regulation CE—Coordinated Exemptions for Certain Issues of Securities Exempt Under State Law

§ 230.1001 Exemption for transactions exempt from qualification under § 25102(n) of the California Corporations Code.

Preliminary Notes: (1) Nothing in this section is intended to be or should be construed as in any way relieving issuers or persons acting on behalf of issuers from providing disclosure to prospective investors necessary to satisfy the antifraud provisions of the federal securities laws. This section only provides an exemption from the registration requirements of the Securities Act of 1933 ("the Act") [15 U.S.C. 77a *et seq.*].

(2) Nothing in this section obviates the need to comply with any applicable state law relating to the offer and sales of securities.

(3) Attempted compliance with this section does not act as an exclusive election; the issuer also can claim the availability of any other applicable exemption.

(4) This exemption is not available to any issuer for any transaction which, while in technical compliance with the provision of this section, is part of a plan or scheme to evade the registration provisions of the Act. In such cases, registration under the Act is required.

(a) *Exemption.* Offers and sales of securities that satisfy the conditions of paragraph (n) of § 25102 of the California Corporations Code, and paragraph (b) of this section, shall be exempt from the provisions of Section 5 of the Securities Act of 1933 by virtue of Section 3(b) of that Act.

(b) *Limitation on and computation of offering price.* The sum of all cash and other consideration to be received for the securities shall not exceed $5,000,000, less the aggregate offering price for all other securities sold in the same offering of securities, whether pursuant to this or another exemption.

(c) *Resale limitations.* Securities issued pursuant to this § 230.1001 are deemed to be "restricted securities" as defined in Securities Act Rule 144 [§ 230.144]. Resales of such securities must be made in compliance with the registration requirements of the Act or an exemption therefrom.

Dated: May 1, 1996.

By the Commission.

Jonathan G. Katz,

Secretary.

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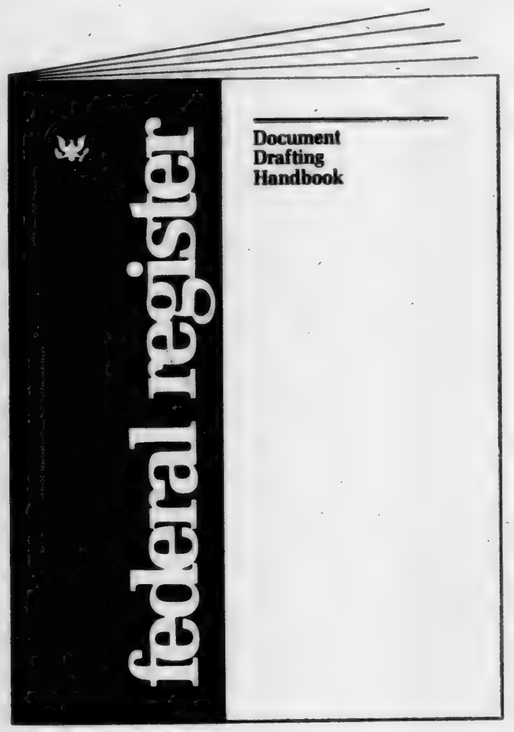
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Rules and Regulations

Federal Register
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Friday, May 10, 1996

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Rural Housing and Comunity Development Service

Rural Business and Cooperative Development Service

Rural Utilities Service

Farm Service Agency

7 CFR Parts 1841, 1843, 1845, 1903, 1945, 1980, and 2054

RIN 0560–AE72

Deletion of Obsolete CFR Sections Pertaining to Farm Service Agency (Formerly Farmers Home Administration) Programs

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: This final rule removes, as unnecessary, regulations pertaining to: the Emergency Livestock and Economic Emergency loan programs; the Agricultural Resource Conservation Demonstration Program (ARCDP); the employment, pay, and functions of Farmers Home Administration (FmHA) county or area committees; and voluntary debt adjustment. This action is being taken as part of the National Performance Review program to eliminate excess regulations and to improve the quality of those that remain in effect.

EFFECTIVE DATE: June 3, 1996.

FOR FURTHER INFORMATION CONTACT: Steven R. Bazzell, Senior Loan Officer, Farm Service Agency, United States Department of Agriculture, Farm Credit Programs Loan Making Division, Ag Box Code 0522, Room 5438–S, 14th & Independence Avenue, SW, Washington, DC 20250–0522; Telephone: 202–720–3889; or Facsimile: 202–690–1117; E-mail: sbazzell@WDC.FSA.USDA.GOV.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget did not review this rule because it was determined to be "not significant" for the purposes of Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule since the Farm Service Agency (FSA) is not required by 5 U.S.C. 553, or any other provision of law, to publish a notice of proposed rulemaking to effect these administrative changes.

Environmental Evaluation

This action will not have a significant impact on the quality of the environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is required.

Executive Order 12778

This rule was reviewed in accordance with Executive Order 12778. The provisions of the rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Executive Order 12372

For reasons set forth in the Notice to 7 CFR, part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities within in this rule are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Paperwork Reduction Act

This final rule does not impose any new information or recordkeeping requirements on the public. The Agency will update the data documenting the burden on the public at its regularly scheduled paperwork burden submissions to OMB.

Background

This final rule removes obsolete regulations concerning former Farmers Home Administration (FmHA) Farmer Programs loans. Under the Department of Agriculture Reorganization Act of 1994 (Pub.L. 103–354) (1944 Act), FmHA programs were transferred to other USDA agencies. FmHA Farmer Programs now are being administered as Farm Credit Programs by the Farm Service Agency (FSA). The Emergency Livestock (EL) program regulations under CFR parts 1841, 1843, 1845 and 1980, subpart C are removed because the Emergency Livestock Credit Act of 1974 (Pub.L. 93–357), as amended, expired on September 30, 1979. The Economic Emergency (EE) program regulations at 7 CFR part 1945, subpart C and part 1980, subpart F are removed because the Emergency Agricultural Credit Adjustment Act of 1978 (Pub.L. 95–334), was repealed by section 1851 of the Food, Agriculture, Conservation and Trade Act of 1990 (Pub. L. 101–624). FSA also is deleting the regulations for administering the Agricultural Resource Conservation Demonstration Program (ARCDP), 7 CFR part 1980 subpart J, because the Department of Agriculture Reorganization Act of 1994 transferred the responsibility for administering the ARCDP from the former FmHA to the Natural Resources Conservation Service, USDA. Regulations concerning the employment, pay, and functions of former FmHA county committees at 7 CFR part 2054, subpart W also will be eliminated because § 227 of the 1994 Act abolished FmHA county committees. FSA is examining the role that the county or area county committees of the former Agricultural Stabilization and Conservation Service, now part of FSA, can play in the agricultural credit area and may promulgate regulations concerning this. Finally, regulations concerning voluntary debt adjustment at 7 CFR part 1903, subpart A, are removed because they are duplicative of comprehensive loan servicing regulations under 7 CFR part 1951.

List of Subjects

7 CFR Part 1841

Agricultural Credit, Loan Guarantees, Loan Liquidation, Loan Servicing, Transfers and Assumptions.

7 CFR Part 1843

Agricultural Credit, Loan Liquidation, Loan Making, Loan Servicing.

7 CFR Part 1845

Agricultural Credit, Emergency Assistance, Guaranteed Loans, Livestock.

7 CFR Part 1903

Agricultural Credit, Debt Adjustment, Loan Servicing.

7 CFR Part 1945

Agricultural Credit, Economic Emergency, Emergency Assistance.

7 CFR Part 1980

Agricultural Credit, Agricultural Resource Conservation Demonstration Program.

7 CFR Part 2054

County Committee Function, Elections, Employment.

For the reasons set out in the preamble, CFR Chapter XVIII is amended as follows:

PARTS 1841, 1843, 1845, 1903, AND 2054—[REMOVED]

1. Parts 1841, 1843, 1845, 1903, and 2054 are removed.

PART 1945—[AMENDED]

2. Part 1945 is amended by removing subpart C (§§ 1945.101–1945.150).

PART 1980—[AMENDED]

3. Part 1980 is amended by removing subpart C (§§ 1980.201–1980.294 and Appendix A), subpart F (§§ 1980.501–1980.600 and Appendices A and B), and subpart J (§§ 1980.901 through 1980.1000 and Appendices A through D).

Signed at Washington, D.C. on April 24, 1996.

Eugene Moos,

Under Secretary for Farm and Foreign Agricultural Services.

[FR Doc. 96–11467 Filed 5–9–96; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 25

[Docket No. 96–08]

RIN 1557–AB51

FEDERAL RESERVE SYSTEM

12 CFR Part 228

[Regulation BB; Docket No. R–0822]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 345

RIN 3064–AB27

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563e

[Docket No. 96–32]

RIN 1550–AA96

Community Reinvestment Act Regulations

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision, Treasury (OTS).

ACTION: Joint final rule; correcting amendment.

SUMMARY: The OCC, Board, FDIC, and OTS (collectively, the agencies) are correcting their joint final rule concerning the Community Reinvestment Act (CRA), which was published on May 4, 1995, and amended by a subsequent joint final rule published on December 20, 1995. This document corrects a cross-reference to Small Business Administration regulations, which were recently amended. This correcting amendment makes no substantive change in the requirements of the current regulations.

EFFECTIVE DATE: May 10, 1996.

FOR FURTHER INFORMATION CONTACT:

OCC: Bert A. Otto, Acting Deputy Comptroller for Compliance, (202) 874–5216; or Matthew Roberts, Director, Community and Consumer Law Division, (202) 874–5750, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

BOARD: Glenn E. Loney, Associate Director, Division of Consumer and Community Affairs, (202) 452–3585; Robert deV. Frierson, Assistant General Counsel, Legal Division, (202) 452–3711; or Leonard N. Chanin, Managing Counsel, Division of Consumer and Community Affairs, (202) 452–3667, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

FDIC: Bobbie Jean Norris, Chief, Fair Lending Section, Division of Compliance and Consumer Affairs, (202) 942–3090; Robert W. Mooney, Fair Lending Specialist, Division of Compliance and Consumer Affairs, (202) 942–3092; or Ann Hume Loikow, Counsel, Regulation and Legislation Section, Legal Division, (202) 898–3796, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Timothy R. Burniston, Director, Compliance Policy, (202) 906–5629; Theresa A. Stark, Project Manager, Compliance Policy, (202) 906–7054; or John Flannery, Attorney, Regulations and Legislation Division, Chief Counsel's Office, (202) 906–7293, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Introduction

The agencies jointly are amending their regulations implementing the CRA (12 U.S.C. 2901 *et seq.*). This joint final rule makes a technical correction to the agencies' joint CRA regulations, 12 CFR parts 25, 228, 345, and 563e. Those regulations establish the framework and criteria by which the agencies assess an institution's record of helping to meet the credit needs of its community, including low- and moderate-income neighborhoods, consistent with safe and sound operations, and provide that the agencies will take those assessments into account in reviewing certain applications.

Background

Last year, the agencies revised their CRA regulations. They adopted a joint final rule, which was published on May 4, 1995 (60 FR 22156). The agencies published a correction and clarification to the joint final rule on December 20, 1995 (60 FR 66048).

Need for Correction to the Final Rule

The agencies' joint final rule, as amended, defines "community development" to mean activities that promote economic development by financing businesses or farms that meet the size eligibility standards of 13 CFR 121.802(a) (2) and (3). These size eligibility standards refer to the Small Business Administration's size limitations for Development Company and Small Business Investment Company (SBIC) programs. *See* 60 FR 22159 (May 4, 1995) and 60 FR 66049 (Dec. 20, 1995).

On January 31, 1996, the Small Business Administration amended its regulations. *See* 61 FR 3280. Effective March 1, 1996, the size limitations for Development Company and SBIC programs are described at 13 CFR 121.301 (b) and (c). 61 FR 3294. Therefore, it is necessary to amend the agencies' CRA regulations to reflect this change.

The agencies are amending their regulations to mention by name the SBA's Development Company and SBIC programs, as well as to refer readers to 13 CFR 121.301. The agencies believe that reference both to the programs by name and to the SBA's regulation by section will more clearly describe the size standards to which the agencies are referring while continuing to direct interested parties to the size standards' general location in the SBA's regulations.

The agencies find that notice and public procedure concerning this correcting amendment are impracticable, unnecessary, and contrary to the public interest under 5 U.S.C. 553(b)(B). The agencies make this finding because these correcting amendments involve only technical corrections to the agencies' CRA regulations and make no substantive changes to the agencies' CRA regulations.

In addition, under 5 U.S.C. 553(d)(3), the agencies have determined to make this correcting amendment effective with less than 30 days prior publication. The agencies find that there is good cause for shortened notice due to the minor nature of the changes. Furthermore, the SBA's amended regulation became effective March 1, 1996 (61 FR 3280), thereby making the current cross-references in the agencies' CRA regulations erroneous as of that date.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OCC, Board, FDIC, and OTS hereby certify that this joint final rule will not have a significant economic impact on a substantial number of small entities. The agencies expect that this joint final rule will not have significant secondary or incidental effects on a substantial number of small entities, or create any additional burden on small entities. This joint final rule merely makes a technical correction to a cross-reference in the rules already adopted by the agencies and will not increase burden on institutions. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act of 1995

There are no collection of information requirements in this joint final rule.

Executive Order 12866

OCC and OTS: The OCC and the OTS have determined that this joint final rule is not a significant regulatory action as defined in Executive Order 12866.

Unfunded Mandates Reform Act of 1995

OCC and OTS: Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, 109 Stat. 48 (1995) (Unfunded Mandates Act), requires that covered agencies prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires covered agencies to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. As discussed in the preamble, this joint final rule amends the agencies' CRA regulations by making one technical correction. Therefore, the OCC and the OTS have determined that this joint final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, the OCC and the OTS have not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

List of Subjects

12 CFR Part 25

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements.

12 CFR Part 228

Banks, banking, Community development, Credit, Federal Reserve System, Investments, Reporting and recordkeeping requirements.

12 CFR Part 345

Banks, banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

12 CFR Part 563e

Community development, Credit, Investments, Reporting and recordkeeping requirements, Savings associations.

Office of the Comptroller of the Currency

12 CFR CHAPTER I

For the reasons discussed in the joint preamble, 12 CFR part 25 is amended as follows:

PART 25—[AMENDED]

1. The authority citation for part 25 continues to read as follows:

Authority: 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1814, 1816, 1828(c), and 2901 through 2907.

§ 25.12 [Amended]

2. In § 25.12(h)(3), the cross reference "13 CFR 121.802(a)(2) and (3)" is revised to read "the Small Business Administration's Development Company or Small Business Investment Company programs (13 CFR 121.301)".

Dated: April 2, 1996.

Eugene A. Ludwig,

Comptroller of the Currency.

Federal Reserve System

12 CFR CHAPTER II

For the reasons discussed in the joint preamble, 12 CFR part 228 is amended as follows:

PART 228—[AMENDED]

1. The authority citation for part 228 continues to read as follows:

Authority: 12 U.S.C. 321, 325, 1828(c), 1842, 1843, 1844, and 2901 *et seq.*

§ 228.12 [Amended]

2. In § 228.12(h)(3), the cross reference "13 CFR 121.802(a) (2) and (3)" is revised to read "the Small Business Administration's Development Company or Small Business Investment Company programs (13 CFR 121.301)".

By order of the Board of Governors of the Federal Reserve System, March 20, 1996.

William W. Wiles,

Secretary of the Board.

Federal Deposit Insurance Corporation

12 CFR CHAPTER III

For the reasons discussed in the joint preamble, 12 CFR part 345 is amended as follows:

PART 345—[AMENDED]

1. The authority citation for part 345 continues to read as follows:

Authority: 12 U.S.C. 1814–1817, 1819–1820, 1828, 1831u and 2901–2907, 3103–3104, and 3108(a).

§ 345.12 [Amended]

2. In § 345.12(h)(3), the cross reference "13 CFR 121.802(a) (2) and (3)" is revised to read "the Small Business Administration's Development Company or Small Business Investment Company programs (13 CFR 121.301)".

By order of the Board of Directors of the Federal Deposit Insurance Corporation.

Dated: April 3, 1996.

Jerry L. Langley,

Executive Secretary.

Office of Thrift Supervision

12 CFR CHAPTER V

For the reasons discussed in the joint preamble, 12 CFR part 563e is amended as follows:

PART 563e—[AMENDED]

1. The authority citation for part 563e continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1467a, 1814, 1816, 1828(c), and 2901 through 2907.

§ 563e.12 [Amended]

2. In § 563e.12(g)(3), the cross reference "13 CFR 121.802(a) (2) and (3)" is revised to read "the Small Business Administration's Development Company or Small Business Investment Company programs (13 CFR 121.301)."

Dated: April 5, 1996.

By the Office of Thrift Supervision.

Jonathan L. Fiechter,

Acting Director.

[FR Doc. 96–11454 Filed 5–9–96; 8:45 am]

BILLING CODE 4810–33–P, 6210–01–P, 6714–01–P, 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ANM–5]

Establishment of Class E Airspace; Camp Guernsey, Wyoming

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes the Camp Guernsey, Wyoming, Class E airspace to accommodate a new instrument approach procedure at Camp Guernsey Airport, Camp Guernsey, Wyoming. The area will be depicted on aeronautical charts for pilot reference.

EFFECTIVE DATE: 0901 UTC, June 20, 1996.

FOR FURTHER INFORMATION CONTACT: James Riley, ANM–532.2, Federal Aviation Administration, Docket NO. 96–ANM–5, 1601 Lind Avenue S.W., Rentor, Washington, 98055–4056; telephone number: (206) 227–2537.

SUPPLEMENTARY INFORMATION:

History

On February 29, 1996, the FAA proposed to amend part 71 of Federal Aviation Regulations (14 CFR part 71) by establishing the Camp Guernsey, Wyoming, Class E airspace designation (61 FR 7757). Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace is published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of Federal Aviation Regulations establishes Class E airspace at Camp Guernsey, Wyoming. The FAA has determined that his proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, 14 CFR part 71 is amended as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM WY E5 Camp Guernsey, WY [New]

Camp Guernsey Airport, WY
(Lat. 42°15'35" N, long. 104°43'42" W)

That airspace extending upward from 700 feet above the surface within a 6.7 mile radius of the Camp Guernsey Airport, and within 6.4 miles each side of the 141° bearing from the Camp Guernsey Airport, extending from the 6.7-mile radius to 17.8 miles southeast of the Camp Guernsey Airport.

* * * * *

Issued in Seattle, Washington, on April 18, 1996.

Richard E. Prang,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 96–11729 Filed 5–9–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–ANM–002]

Establishment of Class E Airspace; John Day, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action established the John Day, Oregon, Class E airspace to accommodate a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to the John Day State Airport.

EFFECTIVE DATE: 0901 UTC, August 15, 1996.

FOR FURTHER INFORMATION CONTACT: James C. Frala, Operations Branch, ANM–532.4, Federal Aviation Administration, Docket No. 96–ANM–002, 1601 Lind Avenue, SW, Renton, Washington 98055–4056; telephone number: (202) 227–2535.

SUPPLEMENTARY INFORMATION:

History

On March 18, 1996, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at John Day, Oregon, to accommodate a new GPS SIAP to the John Day State Airport (61 FR 10910). Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of Federal Aviation Regulations establishes Class E airspace at John Day, Oregon. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the FAA amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

ANM–OR E5 John Day, OR

John Day State Airport, OR
(Lat 44°24'14"N, long. 118°57'49"W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the John Day State Airport; that airspace extending upward from 1,200 feet above the surface within a 9-mile radius of the John Day State Airport, and that airspace within 4 miles either side of a line bearing 076° true from the John Day State Airport, extending from the 9-mile radius to a point 38 miles northeast of the airport, and within an area bounded on the northwest by V357, on the northeast by V4, on the southeast of V269, and on the southwest by V500; excluding that airspace within Federal Airways.

* * * * *

Issued in Seattle, Washington, on May 1, 1996.

Richard E. Prang,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 96–11728 Filed 5–9–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 95–AWP–13]

Establishment of Class E Airspace; Hollister, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class E airspace area at Hollister, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 31 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Hollister Municipal Airport, Hollister, CA.

EFFECTIVE DATE: 0901 UTC August 15, 1996.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

History

On January 8, 1996, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing a Class E airspace area at Hollister, CA (61 FR 549). On March 11, 1996, the FAA issued a supplemental notice to amend this proposal to establish a Class E airspace area at Hollister, (61 FR 9655). This action will provide adequate controlled airspace to accommodate a GPS SIAP to RWY 31 at Hollister Municipal Airport, Hollister, CA.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposals to the FAA. No comments to the proposals were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The E airspace designation listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes a Class E airspace area at Hollister, CA. The development of a GPS SIAP to RWY 31 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for aircraft executing the GPS RWY 31 SIAP at Hollister Municipal Airport, Hollister, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

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Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Hollister, CA [New]

Hollister Municipal Airport, CA
(Lat. 36°53'36"N, long. 121°24'37"W)

That airspace extending upward from 700 feet above the surface within a 4.2-mile radius of the Hollister Municipal Airport and within 2 miles each side of the 142° bearing from the Hollister Municipal Airport, extending from the 4.2-mile radius to 10 miles southeast of the Hollister Municipal Airport and within 2 miles each side of the 320° bearing from the Hollister Municipal Airport extending from the 4.2-mile radius to 5.4 miles northwest of the Hollister Municipal Airport.

* * * * *

Issued in Los Angeles, California, on April 23, 1996.

Harvey R. Riebel,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 96–11727 Filed 5–9–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8669]

RIN 1545–AR18

Computation of Combined Taxable Income Under The Profit Split Method When the Possession Product is a Component Product or an End-Product Form for Purposes of the Possessions Credit Under Section 936

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the computation of combined taxable income under the profit split method. These regulations amend the current regulations and provide revised rules for taxpayers to compute combined taxable income under the profit split method when the possession product chosen for purposes of section 936(h)(5) of the Internal Revenue Code is a component product or an end-product form. These regulations are necessary to provide guidance to taxpayers electing the profit split method of computing taxable income under section 936(h)(5).

DATES: These regulations are effective May 10, 1996. See Supplementary Information for applicability dates.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman, 202–622–3870 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 12, 1994, the IRS published a notice of proposed rulemaking in the **Federal Register** (INTL–0068–92, 59 FR 1690, 1994–1 C.B. 820) relating to the computation of combined taxable income under the profit split method under section 936(h)(5) (relating to the possessions credit for U.S. companies doing qualified business in Puerto Rico and certain U.S. possessions). A number of written public comments were received concerning the proposed regulations and a public hearing was held on July 11, 1994. After consideration of all the comments, the proposed regulations are adopted as revised by this Treasury decision. The revisions are discussed below.

Discussion

The proposed regulations would amend § 1.936–6(b)(1), Q&A 12. Under the proposed regulations, combined taxable income for a taxpayer that elects the profit split method for a possession product that is either a component product or an end-product form would be determined by multiplying the combined taxable income of the integrated product that includes the possession product by a production cost ratio. In the case of a component product, the combined taxable income of the integrated product would be multiplied by a ratio the numerator of which is the production costs of the component product and the denominator of which is the production costs of the integrated product. The combined taxable income of an end-product form would be determined in a similar manner using the production costs of the end-product form. The regulations were proposed to be effective for taxable years beginning after 1993.

Taxpayers have argued that the regulations should not be adopted as proposed because they would violate the arm's length standard under section 482 and that a necessary consequence of the abandonment of the arm's length standard would be distortions in taxpayers' income. That is, income would be computed inconsistently for related versus unrelated party sales of the same product, under the same terms and in the same market.

The proposed regulations did not apply the arm's length standard to component products and end-product forms under the profit-split method because application of section 482 in this context is inconsistent with the statutory framework. The effect of the profit split method when applied to possession products is to minimize disputes between taxpayers and the IRS because, unlike section 482 methods, there is no need to perform functional analyses to allocate income among the parties. Because Congress eliminated the section 482 analysis from the profit split method, the proposed regulations did not reinject this analysis into the area of intermediate products.

In response to taxpayer comments, however, the IRS and Treasury are providing an election to taxpayers that sell the same possession product in both component form and integrated form if the transactions meet certain section 482 standards. This method is both simple to apply and produces consistent results with respect to related and unrelated party transactions. Under this method, the combined taxable income from covered sales of the component product shall be determined by using the same per unit combined taxable income as is derived from uncontrolled sales of the product as an integrated product. Taxpayers may elect to compute the combined taxable income for an end-product form in a similar manner if all excluded components are manufactured by a member of the affiliated group that includes the possession corporation and also sold by the group separately in uncontrolled transactions. In that case, the combined taxable income of the end-product form will be computed by reducing the combined taxable income of the integrated product that includes the end-product form by the combined taxable income of the excluded components determined under the rules of section 936 as if the excluded components were possession products. In order to make the election, the uncontrolled sales must meet the comparability standards of the fourth sentence of § 1.482–3(b)(2)(ii)(A), which requires that the uncontrolled and controlled transactions have no differences or minor differences for which adjustment can be made. However, under a no loss limitation, in no case can the taxpayer use as its per unit combined taxable income for a component product or an end-product form an amount that exceeds the per unit combined taxable income of the integrated product that includes the component product or end-product form.

In 1993, Congress adopted limitations on the amount of the section 936 credit; the taxpayer may be subject to an activity based limitation or may elect a percentage limitation. The election for the percentage limitation had to be made for the first taxable year beginning after December 31, 1993. Taxpayers commented that the proposed regulations created uncertainty with respect to the consequences of making the percentage limitation election and, therefore, the period for making the election should be extended until after the regulations are finalized. This comment is adopted. Taxpayers that have not elected the percentage limitation under section 936(a)(1) for the first taxable year beginning after December 31, 1993, may so elect if the taxpayer has elected the profit split method and the computation of combined taxable income is affected by § 1.936–6(b)(1) Q&A 12.

With respect to the proposed effective date, taxpayers commented that the regulations should not be applied retroactively. One of the justifications for the proposed rule was that it would simplify the computation of combined taxable income and applying the regulation retroactively would not simplify the computation because it would require filing amended returns. This comment is adopted in part. The regulation is effective for taxable years ending 30 days after May 10, 1996. If however, the election under paragraph (v) of A. 12 of § 1.936–6(b)(1) is made, this election must be made for the taxpayer's first taxable year beginning after December 31, 1993, and if not made effective for that year, the election cannot be made for any later taxable year.

The last sentence of paragraph (vi) of A. 13 of § 1.936–6(b)(1) in the proposed regulations provided that, for purposes of determining the estimated tax liability of an affiliate of the possessions corporation with respect to income allocated to it from the possessions corporation, the income would be deemed received on the last day of the taxable year of each such affiliate in which or with which the taxable year of the possessions corporation ended. This rule is limited to taxable years beginning prior to January 1, 1995. For taxable years beginning after December 31, 1994, quarterly estimated tax payments will be required as provided under section 711 of the Uruguay Round Agreements, Public Law 103–465 (1994), page 230, and any administrative guidance issued by the IRS thereunder. See Rev. Proc. 95–23 (1995–1 C.B. 693).

Accordingly, the proposed regulations are finalized as proposed except with respect to the changes discussed above and the necessary conforming changes.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that this regulation does not have a significant impact on a substantial number of small entities. Thus, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply to these regulations, and therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Jacob Feldman and Mary Gillmarten of the Office of Associate Chief Counsel (International), IRS. Other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 1.936–6, paragraph (b)(1) is amended by:

1. Revising *Q. 10.*
2. Amending *A. 10* by:

a. Redesignating the text of *A. 10* as paragraph *A. 10*(i).

b. Removing the last two sentences of newly designated *A. 10*(i).

c. Adding paragraphs *A. 10* (ii) through (v).

3. Revising the first sentence of *A. 11.*
4. Revising *Q&A. 12.*
5. Revising *A. 13.*

The revisions and addition read as follows:

§ 1.936–6 Intangible property income when an election out is made; cost sharing and profit split options; covered intangibles.

* * * * *

(b) * * *

(1) * * *

Q. 10: If the possessions corporation is entitled to use the profit split method in the situation described in *Q. 9* (leasing units of the possession product or use of such units in the taxpayer's own trade or business), how should it compute combined taxable income with respect to such units?

A. 10: (i) * * *

(ii) If the possession product is a component product or an end-product form, the combined taxable income with respect to the possession product shall be determined under *Q&A. 12* of this paragraph (b)(1).

(iii) For purposes of determining the basis of a component product or an end-product form, the deemed sales price of such product must be determined. The deemed sales price of the component product shall be determined by multiplying the deemed sales price of the integrated product that includes the component product by a ratio, the numerator of which is the production costs of the component product and the denominator of which is the production costs of the integrated product that includes the component product. The deemed sales price of an end-product form shall be determined by multiplying the deemed sales price of the integrated product that includes the end-product form by a ratio, the numerator of which is the production costs of the end-product form and the denominator of which is the production costs of the integrated product that includes the end-product form. For the definition of production costs, see *Q&A. 12* of this paragraph (b)(1).

(iv)(A) If combined taxable income is determined under paragraph (v) of *A. 12* of this paragraph (b)(1), in the case of a component product, the deemed sales price shall be determined by using the actual sales price of that product when sold as an integrated product (as adjusted under the rules of the fourth sentence of § 1.482–3(b)(2)(ii)(A)).

(B) If combined taxable income is determined under paragraph (v) of *A. 12* of this paragraph (b)(1), in the case of an end-product form, the deemed sales price shall be determined by subtracting from the deemed sales price of the integrated product that includes the end-product form (e.g., the leased property) the actual sales price of the excluded component when sold as an

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integrated product to an unrelated person (as adjusted under the rules of the fourth sentence of § 1.482–3(b)(2)(ii)(A)).

(v) The full amount of income received under the lease shall be treated as income of (and be taxed to) the U.S. affiliate and not the possessions corporation.

* * * * *

A. 11: The U.S. affiliate shall be treated, for purposes of computing its basis in such units, as if it had repurchased such units immediately following the deemed sale and at the deemed sales price as provided in *Q&A. 10* of this paragraph (b)(1). * * *

Q. 12: If the possession product is a component product or an end-product form, how is the combined taxable income for such product to be determined?

A. 12: (i) Except as provided in paragraph (v) of this *A. 12*, combined taxable income for a component product or an end-product form is computed under the production cost ratio (PCR) method.

(ii) Under the PCR method, the combined taxable income for a component product will be the same proportion of the combined taxable income for the integrated product that includes the component product that the production costs attributable to the component product bear to the total production costs (including costs incurred by the U.S. affiliates) for the integrated product that includes the component product. Production costs will be the sum of the direct and indirect production costs as defined under § 1.936–5(b)(4) except that the costs will not include any costs of materials. If the possession product is a component product that is transformed into an integrated product in whole or in part by a contract manufacturer outside of the possession, within the meaning of § 1.936–5(c), the denominator of the PCR shall be computed by including the same amount paid to the contract manufacturer, less the costs of materials of the contract manufacturer, as is taken into account for purposes of the significant business presence test under § 1.936–5(c) *Q&A. 5.*

(iii) Under the PCR method the combined taxable income for an end-product form will be the same proportion of the combined taxable income for the integrated product that includes the end-product form that the production costs attributable to the end-product form bear to the total production costs (including costs incurred by the U.S. affiliates) for the integrated product that includes the end-product form. Production costs will be the sum of the direct and indirect production costs as defined under § 1.936–5(b)(4) except that the costs will not include any costs of materials. If the possession product is an end-product form and an excluded component is contract manufactured outside of the possession, within the meaning of § 1.936–5(c), the denominator shall be computed by including the same amount paid to the contract manufacturer, less cost of materials of the contract manufacturer, as is also taken into account for purposes of the significant business presence test under § 1.936–5(c) *Q&A. 5.*

(iv) This paragraph (iv) of *A. 12* illustrates the computation of combined taxable income for a component product or end-product form under the PCR method. S, a possessions corporation, is engaged in the manufacture of microprocessors. S obtains a component from a U.S. affiliate, O. S sells its production to another U.S. affiliate, P, which incorporates the microprocessors into central processing units (CPUs). P transfers the CPUs to a U.S. affiliate, Q, which incorporates the CPUs into computers for sale to unrelated persons. S chooses to define the possession product as the CPUs. The combined taxable income for the sale of the possession product on the basis of the given production, sales, and cost data is computed as follows:

Production costs (excluding costs of materials):	
1. O's costs for the component	100
2. S's costs for the microprocessors	500
3. P's costs for the CPU's (the possession product)	200
4. Q's costs for the computers	400
5. Total production costs for the computer (Add lines 1 through 4)	1,200
6. Combined production costs for the CPU (the possession product) (Add lines 1 through 3)	800
7. Ratio of production costs for the CPUs (the possession product) to the production costs for the computer	0.667
Determination of combined taxable income for computers:	
Sales:	
8. Total possession sales of computers to unrelated customers and foreign affiliates	7,500
Total costs of O, S, P, and Q incurred in production of a computer:	
9. Production costs (enter from line 5)	1,200
10. Material costs	100
11. Total costs (line 9 plus line 10)	1,300
12. Combined gross income from sale of computers (line 8 minus line 11)	6,200
Expenses of the affiliated group (other than foreign affiliates) allocable and apportionable to the computers or any component thereof under the rules of §§ 1.861–8 through 1.861–14T and 1.936–6 (b)(1), Q&A. 1:	
13. Expenses (other than research expenses)	980
Research expenses of the affiliated group allocable and apportionable to the computers:	
14. Total sales in the 3-digit SIC Code	12,500
15. Possession sales of the computers (enter from line 8)	7,500
16. Cost sharing fraction (divide line 15 by line 14)	0.6
17. Research expenses incurred by the affiliated group in 3-digit SIC Code multiplied by 120 percent	700
18. Cost sharing amount (multiply line 16 by line 17)	420
19. Research of the affiliated group (other than foreign affiliates) allocable and apportionable under §§ 1.861–17 and 1.861–14T(e)(2) to the computers	300
20. Enter the greater of line 18 or line 19	420
Computation of combined taxable income of the computer and the CPU:	
21. Combined taxable income attributable to the computer (line 12 minus line 13 and line 20)	4,800
22. Combined taxable income attributable to CPUs (multiply line 21 by line 7) (production cost ratio)	3,200
Share of combined taxable income apportioned to U.S. affiliate(s) of S:	1,600
24. Adjustments for research expenses (line 18 minus line 19 multiplied by line 7)	80
25. Adjusted combined taxable income (line 22 plus line 24)	3,280
26. Share of combined taxable income apportioned to affiliates of S (line 25 minus line 23)	1,680

(v)(A) If a possession product is sold by a taxpayer or its affiliate to unrelated persons in covered sales both as an integrated product and as a component product and the conditions of paragraph (v)(C) of this *A. 12* are satisfied, the taxpayer may elect to determine the combined taxable income derived from covered sales of the component product under this paragraph (v). In that case, the combined taxable income derived from covered sales of the component product shall be determined by using the same per unit combined taxable income as is derived from covered sales of the product as an integrated product, but subject to the limitation of paragraph (v)(D) of this *A. 12*.

(B) In the case of a possession product that is an end-product form, if all of the excluded components are also separately sold by the taxpayer or its affiliate to unrelated persons in uncontrolled transactions and the conditions of paragraph (v)(C) of this *A. 12* are satisfied, the taxpayer may elect to determine the combined taxable income of such end-product form under this paragraph (v). In that case, the combined taxable income derived from covered sales of the end-product form shall be determined by reducing the per unit combined taxable income from the integrated product that includes the end-product form by the per unit combined taxable income for excluded components determined under the rules of this paragraph (v), but subject to the limitation of paragraph (v)(D) of this *A. 12*. For this purpose, combined taxable income of the excluded components must be determined under section 936 as if the excluded components were possession products.

(C) In the case of component products, this paragraph (v) applies only if the sales price of the possession product sold in covered sales as an integrated product (i.e., in uncontrolled transactions) would be the most direct and reliable measure of an arm's length price within the meaning of the fourth sentence of § 1.482–3(b)(2)(ii)(A) for the component product. For purposes of applying the fourth sentence of § 1.482–3(b)(2)(ii)(A), the sale of the integrated product that includes the component product is treated as being immediately preceded by a sale of the component (i.e. without further processing) in a controlled transaction. In the case of end-product forms, this paragraph (v) applies only if the sales price of excluded components separately sold in uncontrolled transactions would be the most direct and reliable measure of an arm's length price within the meaning of the fourth sentence of § 1.482–3(b)(2)(ii)(A) for all excluded components of an integrated product that includes an end-product form. For purposes of applying the fourth sentence of § 1.482–3(b)(2)(ii)(A), the sale of the integrated product that includes excluded components is treated as being immediately preceded by a sale of the excluded components (i.e. without further processing) in a controlled transaction. Under the fourth sentence of § 1.482–3(b)(2)(ii)(A), the uncontrolled transactions referred to in this paragraph (v)(C) must have no differences with the controlled transactions that would affect price, or have only minor differences that have a definite and reasonably ascertainable effect on price and for which appropriate adjustments are made (resulting in appropriate adjustments to the computation of combined taxable income). If such adjustments cannot be made, or if there are more than minor differences between the controlled and uncontrolled transactions, the method provided by this paragraph (v)(C) cannot be used. Thus, for example, these uncontrolled transactions must involve substantially identical property in the same or a substantially identical geographic market, and must be substantially identical to the controlled transaction in terms of their volumes, contractual terms, and market level. See § 1.482–3(b)(2)(ii)(B).

(D) In no case can the per unit combined taxable income as determined under paragraph (v)(A) or (B) of this *A. 12* be greater than the per unit combined taxable income of the integrated product that includes the component product or end-product form.

(E) The provisions of this paragraph (v) are illustrated by the following example. Taxpayer manufactures product A in a U.S. possession. Some portion of product A is sold to unrelated persons as an integrated product and the remainder is sold to related persons for transformation into product AB. The combined taxable income of integrated product A is $400 per unit and the combined taxable income of product AB is $300 per unit. The production cost ratio with respect to product A when sold as a component of product AB, is 2/3. Unless the taxpayer elects and satisfies the conditions of this paragraph (v), the combined taxable income with respect to A will be $200 per unit (combined taxable income for AB of $300 × the production cost ratio of 2/3). If, however, the comparability standards of paragraph (v)(C) of this *A. 12* are met, the taxpayer may elect to determine combined taxable income of product A when sold as a component of product AB using the same per unit combined taxable income as product A when sold as an integrated product. However, the per unit combined taxable income from sales of product A as a component product may not exceed the per unit combined taxable income on the sale of product AB. Therefore, the combined taxable income of component product A may not exceed $300 per unit.

(vi) Taxpayers that have not elected the percentage limitation under section 936(a)(1) for the first taxable year beginning after December 31, 1993, may do so if the taxpayer has elected the profit split method and computation of combined taxable income is affected by *Q&A.12* of this paragraph (b)(1).

(vii) The rules of *Q&A. 12* of this paragraph (b)(1) apply for taxable years ending 30 days after May 10, 1996. If, however, the election under paragraph (v) of *A. 12* of § 1.936–6(b)(1) is made, this election must be made for the taxpayer's first taxable year beginning after December 31, 1993, and if not made effective for that year, the election cannot be made for any later taxable year. A successor corporation that makes the same or substantially similar products as its predecessor corporation cannot make an election under paragraph (v) of A.12 of § 1.936–6(b)(1) unless the election was made by its predecessor corporation for its first taxable year beginning after December 31, 1993.

* * * * *

A. 13: (i) The income shall be allocated to affiliates in the following order, but no allocations will be made to affiliates described in a later category if there are any affiliates in a prior category—

(A) First, to U.S. affiliates (other than tax exempt affiliates) within the group (as determined under section 482) that derive income with respect to the product produced in whole or in part in the possession;

(B) Second, to U.S. affiliates (other than tax exempt affiliates) that derive income from the active conduct of a trade or business in the same product area as the possession product;

(C) Third, to other U.S. affiliates (other than tax-exempt affiliates);

(D) Fourth, to foreign affiliates that derive income from the active conduct of a U.S. trade or business in the same product area as the possession product (or, if the foreign members are resident in a country with which the U.S. has an income tax convention, then to those foreign members that have a permanent establishment in the United States that derives income in the same product area as the possession product); and

(E) Fifth, to all other affiliates.

(ii) The allocations made under paragraph (i)(A) of this *A. 13* shall be

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made on the basis of the relative gross income derived by each such affiliate with respect to the product produced in whole or in part in the possession. For this purpose, gross income must be determined consistently for each affiliate and consistently from year to year.

(iii) The allocations made under paragraphs (i)(B) and (i)(D) of this *A. 13* shall be made on the basis of the relative gross income derived by each such affiliate from the active conduct of the trade or business in the same product area.

(iv) The allocations made under paragraphs (i)(C) and (i)(E) of this *A. 13* shall be made on the basis of the relative total gross income of each such affiliate before allocating income under this section.

(v) Income allocated to affiliates shall be treated as U.S. source and section 863(b) does not apply for this purpose.

(vi) For purposes of determining an affiliate's estimated tax liability for income thus allocated for taxable years beginning prior to January 1, 1995, the income shall be deemed to be received on the last day of the taxable year of each such affiliate in which or with which the taxable year of the possessions corporation ends. For taxable years beginning after December 31, 1994, quarterly estimated tax payments will be required as provided under section 711 of the Uruguay Round Agreements, Public Law 103–465 (1994), page 230, and any administrative guidance issued by the Internal Revenue Service thereunder.

* * * * *

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: April 4, 1996.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 96–11639 Filed 5–9–96; 8:45 am]

BILLING CODE 4830–01–U

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Orange County (NC) Human Relations Commission and Palm Beach County (FL) Office of Equal Opportunity; Designation as Fair Employment Practices Agencies

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges within their jurisdictions. Publication of this amendment effectuates the designation of the Orange County (NC) Human Relations Commission and the Palm Beach County (FL) Office of Equal Opportunity.

EFFECTIVE DATE: May 10, 1996.

FOR FURTHER INFORMATION CONTACT:

Boyce Nolan, Equal Employment Opportunity Commission, Office of Program Operations, Charge Resolution Review Program, 1801 L Street, N.W., Washington, D.C. 20507, Telephone (202) 663–4856.

SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

Accordingly, title 29, chapter XIV, part 1601 of the Code of Federal Regulations is amended as follows:

PART 1601—PROCEDURAL REGULATIONS

1. The authority citation for part 1601 continues to read as follows:

Authority: 42 U.S.C. 2000e to 2000e–17; 42 U.S.C. 12111 to 12117.

2. Section 1601.74(a) is amended by adding in alphabetical order the following agencies:

§ 1601.74 Designated and notice agencies.

(a) * * *

Orange County (NC) Human Relations Commission

* * * * *

Palm Beach County (FL) Office of Equal Opportunity

* * * * *

Signed at Washington, D.C. this 2nd day of May, 1996.

For the Commission.

Gilbert F. Casellas,

Chairman.

[FR Doc. 96–11745 Filed 5–9–96; 8:45 am]

BILLING CODE 6750–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–5503–3]

Hazardous Air Pollutants: Amendment to Regulations Governing Equivalent Emission Limitations by Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On May 20, 1994, the Agency promulgated a rule in the **Federal Register** governing the establishment of equivalent emission limitations by permit, pursuant to section 112(j) of the Clean Air Act (Act). After the effective date of a Title V permit program in a State, each owner or operator of a major source in a source category for which the EPA was scheduled to, but failed to promulgate a section 112(d) emission standard will be required to obtain an equivalent emission limitation by permit. The permit application must be submitted to the Title V permitting authority 18 months after the EPA's missed promulgation date. This action amends the original Regulations Governing Equivalent Emission Limitations by Permit rule. This amendment delays the section 112(j) permit application deadline for all 4-year source categories listed in the regulatory schedule by 180 days until November 15, 1996. This action is needed to alleviate unnecessary paperwork for both major source owners or operators and permitting agencies.

EFFECTIVE DATE: May 10, 1996.

ADDRESSES: *Docket.* All information used in the development of this final action is contained in the preamble below. However, Docket No. A–93–32, containing the supporting information for the original Regulations Governing Equivalent Emission Limitations by Permit rule is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday at the Air and Radiation Docket and Information Center (6102), Room M–1500, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; telephone (202) 260–7548, fax (202) 260–4000. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. James Szykman or Mr. Anthony Wayne, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–2452 (Szykman) or (919) 541–5439 (Wayne).

SUPPLEMENTARY INFORMATION: In the Proposed Rules Section of this **Federal Register**, EPA is proposing a rule that is identical to this direct final rule. If significant, adverse comments are timely received on the proposed rule, the direct final rule will be withdrawn, and all such comments will be addressed in a subsequent final rule based on the proposed rule. If no significant, adverse comments are timely received on the proposed final rule, then the direct final rule remains effective upon publication, and no further action is contemplated on the parallel proposal published today.

The information presented in this preamble is organized as follows:

I. Background
II. Summary of Rule Change and Rationale
  A. Permit Application Deadline
  B. Effective Date
  C. Judicial Review
III. Administrative Requirements
  A. Docket
  B. Regulatory Impact Analysis
  C. Impact on Reporting Requirements
  D. Impact on Small Entities
  E. Reduction of Governmental Burden
  F. Environmental Justice
  G. Unfunded Mandates

I. Background

Section 112(e) of the Clean Air Act (the Act) requires the Agency to publish a schedule for promulgating regulations establishing hazardous air pollutants (HAP) emission standards for all source categories listed pursuant to Section 112 of the Act. The Act further directs that this regulatory schedule require the promulgation of emission standards for at least 40 source categories by 1992, for at least 25 percent of the listed categories by 1994, for at least 50 percent of the listed categories by 1997, and all remaining categories by the year 2000. These are commonly referred to as the 2-year, 4-year, 7-year, and the 10-year maximum achievable control technology (MACT) standards, respectively. This regulatory schedule was published by EPA on December 3, 1993 (58 FR 64931).

If EPA should fail to promulgate a MACT standard for a listed source category by 18 months after the date in the regulatory schedule, section 112(j) of the Act requires owners or operators of major sources within that source category to obtain a Title V permit, if the major source is located in a State with an approved Title V permit program. This permit will require compliance with an emission limitation equivalent to that which the major source would have been subject to had EPA promulgated a timely MACT standard for that source category.

On May 20, 1994, EPA issued a final rule for implementing section 112(j) (59 FR 26429). This rule requires major source owners or operators to submit a permit application by the date 18 months after a missed date on the regulatory schedule. In accordance with this regulation, the deadlines for submittal of permit applications are as follows:

Emission standard	Regulatory schedule	112(j) permit application deadline
4-year	11/15/94	5/15/96
7-year	11/15/97	5/15/99
10-year	11/15/00	5/15/02

II. Summary of Rule Change and Rationale

A. Permit Application Deadline

To date, EPA has promulgated several 4-year MACT standards and intends to promulgate MACT standards for all of the remaining 4-year source categories within the 18-month period following the date in the regulatory schedule. All of the remaining 4-year source categories for which MACT standards must be promulgated have court-ordered deadlines with the latest deadline coinciding with the section 112(j) permit application deadline of May 15, 1996.

In order for owners or operators of major sources to submit a timely permit application in the event that EPA would fail to promulgate a 4-year emission standard, applicants would have to begin preparation of these applications immediately. If EPA promulgates standards in accordance with the court-ordered schedule, this would result in an unnecessary burden for both the owners or operators and the Title V permitting agencies.

The EPA believes that ample authority for this rule revision exists under the *de minimis* doctrine. That doctrine allows EPA to promulgate a rule that avoids a statutory requirement if (1) following that requirement would yield an environmental benefit of trivial or no value, and (2) the statutory scheme is not so rigid as to preclude this result. *Alabama Power Co. v. Costle*, 636 F.2d 323, 360–61 (D.C. Cir 1979). The EPA believes both tests are met here. Regarding the first point, it should be intuitively apparent that requiring sources to complete applications for a case-by-case determination is pointless when it is very likely that EPA will promulgate the MACT standard within a timeframe that renders the entire case-by-case exercise moot. This is precisely the case with regard to the pending 4-year MACT standards, all of which are under a court-ordered deadline for issuance close to the date applications are due. Regarding the second test, the language of section 112(j)(2), requiring that applications be submitted on a date "beginning" 18 months after a deadline has been missed, and the clear intent of the statute that case-by-case determinations should be made where they will serve as a substitute for the pending MACT standard, together suggest a level of flexibility in the statutory scheme sufficient to allow resort to the *de minimis* rationale.

The EPA is amending the definition of "Section 112(j) deadline" in § 63.51 of the final rule to delay the section 112(j) permit application deadline for all 4-year source categories by 180 days until November 15, 1996. The EPA believes that this new application deadline will allow sufficient time to promulgate the remaining 4-year emission standards and is consistent with the intent of section 112(j). If EPA does promulgate the emission standards before this time, permit applications or reopenings will be governed by Title V requirements.

B. Effective Date

The EPA is publishing this rule as a final rule, and it is effective immediately upon publication. The Agency believes that this action is supported by the "good cause" exception in the Administrative Procedures Act, which permits an agency for "good cause" to proceed directly to a final rule where issuing a proposed rule would be "impracticable, unnecessary, or contrary to the public interest" [5 U.S.C. 553(b)(B)] and for "good cause found" [5 U.S.C. 553(d)] to dispense with the general requirement that a rule be published 30 days before its effective date. The EPA believes that good cause exists here to issue a final, immediately effective rule because of the nearness of the May 15, 1996, permit application deadline (for major sources in the 4-year source category) specified in the May 20, 1994 (59 FR 26429) final rule. If the changes in this rulemaking were only being proposed, then the May 15, 1996, deadline would still be in effect and this would negate the intent of this change to the rule to delay the permit application deadline until November 15, 1996, for sources in the 4-year source category. Furthermore, EPA views this action to delay the permit application deadline as noncontroversial.

C. Judicial Review

Under Section 307(b)(1) of the Act, judicial review of the actions taken by this final rule is available only by the filing of a petition for review in the U.S.

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Court of Appeals for the District of Columbia Circuit within 60 days of publication of this action. Under Section 307(b)(2) of the Act, the requirements that are the subject of this final rule may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

III. Administrative Requirements

A. Docket

The docket for this regulatory action is A–93–32, the same docket as the original final rule, and a copy of today's amendment to the final rule will be included in the docket. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of the original rulemaking. The principal purposes of the docket are:

(1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the rulemaking process, and

(2) To serve as the record in case of judicial review. The docket is available for public inspection at EPA's Air and Radiation Docket and Information Center, which is listed under the ADDRESSES section of this document.

B. Regulatory Impact Analysis

This rule was classified "non-significant" under Executive Order 12866 and therefore was not reviewed by the Office of Management and Budget.

C. Impact on Reporting Requirements

The information collection requirements of the previously promulgated rule for Regulations Governing Equivalent Emission Limitations by Permit were submitted to and approved by the Office of Management and Budget. A copy of this Information Collection Request (ICR) document (OMB control number 2060–0266) may be obtained from Sandy Farmer, OPPE Regulatory Information Division (2136), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, or by calling (202) 260–2740. Today's change to the final rule to delay the deadline for submittal of section 112(j) permit applications does not affect the information collection burden estimates made previously. Therefore, the ICR has not been revised.

D. Impact on Small Entities

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Because this rulemaking imposes no economic impacts, adverse or otherwise, a Regulatory Flexibility Analysis has not been prepared.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small business entities.

E. Reduction of Governmental Burden

Executive Order 12875 ("Enhancing the Intergovernmental Partnership") is designed to reduce the burden to State, local, and Tribal governments of the cumulative effect of unfunded Federal mandates. The Order recognizes the need for these entities to be free from unnecessary Federal regulation to enhance their ability to address problems they face and provides for Federal agencies to grant waivers to these entities from discretionary Federal requirements. The Order applies to any regulation that is not required by statute and that creates a mandate upon a State, local, or Tribal government. The EPA anticipates that there will be no additional cost burden imposed on State, local, and Tribal governments as a result of today's action. Indeed, the purpose of the action is to reduce unnecessary burden on permitting agencies.

F. Environmental Justice

Executive Order 12898 requires that each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. Today's action will help ensure timely compliance and the application of consistent regulatory requirements by allowing the section 112(d) MACT standards to become effective without triggering an unnecessary section 112(j) process. Therefore, no adverse human health or environmental effects are anticipated as a result of today's action.

G. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practices and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 3, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR Part 63 is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 63.51, the definition of "*Section 112(j) deadline*" is revised to read as follows:

§ 63.51 Definitions.

* * * * *

Section 112(j) deadline means the date 18 months, after the date by which a relevant standard is scheduled to be promulgated under this part, except for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1994, the section 112(j) deadline is November 15, 1996.

* * * * *

[FR Doc. 96–11737 Filed 5–9–96; 8:45 am]

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40 CFR Part 81

[AZR91–0003; FRL–5503–7]

Clean Air Act Reclassification; Arizona-Phoenix Nonattainment Area; PM_{10}

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this document EPA is making a final finding that the Phoenix Planning Area (PPA) has not attained the PM_{10} (particulate matter 10 microns or less in aerodynamic diameter) national ambient air quality standards (NAAQS) by the applicable attainment date in the Clean Air Act (CAA) for moderate PM_{10} nonattainment areas, December 31, 1994. This finding is based on EPA's review of PM_{10} ambient air quality data. As a result of this finding, the PPA is reclassified as a serious PM_{10} nonattainment area by operation of law. The intended effect of the reclassification is to allow the State 18 months from the effective date of this action to submit a new State Implementation Plan (SIP) demonstrating attainment of the PM_{10} NAAQS by December 31, 2001, the CAA attainment date for serious areas.

EFFECTIVE DATE: This action is effective on June 10, 1996.

FOR FURTHER INFORMATION CONTACT: Wallace Woo, Chief, Plans Development Section (A–2–2), Air Planning Branch, Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1207.

SUPPLEMENTARY INFORMATION:

I. Background

A. CAA Requirements and EPA Actions Concerning Designation and Classification

On November 15, 1990, the date of enactment of the 1990 Clean Air Act Amendments (CAA), PM_{10} areas meeting the qualifications of section 107(d)(4)(B) of the Act were designated nonattainment by operation of law. Once an area is designated nonattainment, section 188 of the Act outlines the process for classification of the area and establishes the area's attainment date. Pursuant to section 188(a), all PM_{10} nonattainment areas were initially classified as moderate by operation of law upon designation as nonattainment. These nonattainment designations and moderate area classifications were codified in 40 CFR part 81 in a **Federal Register** notice published on November 6, 1991 (56 FR 56694).

Under section 188(c)(1) of the CAA, the attainment deadline for all PM_{10} nonattainment areas originally classified as moderate was no later than December 31, 1994. Under section 188(d), EPA may, upon application by a state, extend the attainment deadline if the state has complied with all requirements and commitments pertaining to the area in the applicable implementation plan. In addition, in order to qualify for an extension there must have been no more than one exceedance of the 24 hour national ambient air quality standard (NAAQS) in the area in the year preceding the extension year, and the annual mean concentration of PM_{10} in the area for such year must be less than or equal to the standard. Under this provision, EPA may grant up to two one year extensions if these conditions have been met.

B. Reclassification as Serious Nonattainment

EPA has the responsibility, pursuant to sections 179(c) and 188(b)(2) of the CAA, of determining within six months of the applicable attainment date, whether PM_{10} nonattainment areas have attained the NAAQS. Section 179(c)(1) of the Act provides that these determinations are to be based upon an area's air quality as of the attainment date, and section 188(b)(2) is consistent with this requirement. EPA makes the determinations of whether an area's air quality is meeting the PM_{10} NAAQS based upon air quality data gathered at monitoring sites in the nonattainment area and entered into the Aerometric Information Retrieval System (AIRS). These data are reviewed to determine the area's air quality status in accordance with EPA guidance at 40 CFR part 50, Appendix K.

Pursuant to Appendix K, attainment of the annual PM_{10} standard is achieved when the annual arithmetic mean PM_{10} concentration is equal to or less than 50 $\mu g/m^3$. The annual average is determined by first calculating the average PM_{10} concentration for each calendar quarter. The annual average is then calculated by averaging the four calendar quarter averages. Attainment of the 24 hour standard is determined by calculating the expected number of exceedances of the 150 $\mu g/m^3$ limit per year. The 24 hour standard is attained when the expected number of exceedances is 1.0 or less. A total of three consecutive years of clean air quality data is generally necessary to show attainment of the 24 hour and annual standards for PM_{10}. A complete year of air quality data, as referred to in 40 CFR part 50, Appendix K, is comprised of all four calendar quarters with each quarter containing data from at least 75 percent of the scheduled sampling days.

Under section 188(b)(2)(A) of the CAA, a moderate PM_{10} nonattainment area must be reclassified as serious by operation of law after the statutory attainment date if the Administrator finds that the area has failed to attain the NAAQS. Pursuant to section 188(b)(2)(B), EPA must publish a notice in the **Federal Register** identifying those areas that failed to attain the standard and the resulting reclassification.

C. Effect of Reclassification

PM_{10} nonattainment areas reclassified as serious under section 188(b)(2) of the CAA are required to submit, within 18 months of the area's reclassification, SIP revisions providing for the implementation of best available control measures (BACM) no later than four years from the date of reclassification. The SIP also must contain a demonstration that the implementation of BACM will provide for attainment of the PM_{10} NAAQS no later than December 31, 2001. EPA has provided specific guidance on developing serious area PM_{10} SIP revisions in an addendum to the General Preamble to Title I of the Clean Air Act. See 59 FR 41998 (August 16, 1994).

D. Proposed Finding of Failure to Attain

On June 7, 1995 EPA proposed to find that the Phoenix Planning Area (PPA) had failed to attain the PM_{10} NAAQS by the applicable attainment date. 60 FR 30046. This proposed finding was based on PM_{10} monitoring data collected by Maricopa County during the years 1992 through 1994. The air quality monitoring data for the PPA showed three violations of the 24 hour PM_{10} NAAQS in 1992 and violations of the annual PM_{10} NAAQS in 1992 and 1993. The air quality monitoring data are discussed in detail in the Notice of Proposed Rulemaking (NPRM). 60 FR 30046, 30047. The following table summarizes the data on which EPA has based its finding of failure to attain:

Site	24 hour exceedances		Annual exceedances	
	Conc.	Date	1992	1993
4732 S. Central, Phoenix	171 $\mu g/m^3$	11/20/92		
	158 $\mu g/m^3$	12/2/92		
1475 E. Pecos, Chandler	156 $\mu g/m^3$	11/20/92	56 $\mu g/m^3$	58 $\mu g/m^3$

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On October 20, 1995, the State requested, under section 188(d) of the CAA, that EPA extend the attainment deadline for the PPA from December 31, 1994 to December 31, 1995. This request was based on the lack of recorded exceedances of the PM_{10} NAAQS in 1994. In 1995, however, the PPA recorded two exceedances of the 24 hour NAAQS. On June 28, 1995 a concentration of 160 $\mu g/m^3$ was recorded at the Chandler monitoring site, and on July 30, 1995 a concentration of 252 $\mu g/m^3$ was recorded, also at the Chandler monitoring site. Additionally, the annual average concentration at the Chandler site in 1995 was 57.9 $\mu g/m^3$. Thus, while the State technically qualified for a one year attainment date extension, the 1995 violations effectively moot this request because the area cannot qualify for a second extension. Therefore, EPA does not intend to act on the State's extension request.

II. Response to Comments on Proposed Finding

During the public comment period on EPA's proposed finding, the Agency received comment letters from: one State legislator; the Arizona Department of Environmental Quality (ADEQ); the Arizona Department of Transportation (ADOT); the Arizona Motor Transport Association; the Maricopa Association of Governments (MAG); and the Maricopa County Board of Supervisors. The issues raised in these comment letters are summarized below and are followed by EPA's responses.

A. Economic Impacts of EPA's Finding

Comment: EPA's determination in the proposed rulemaking that a finding of failure to attain the PM_{10} standard is not subject to certain requirements in Executive Order (E.O.) 12866 or the Unfunded Mandates Reform Act is incorrect, as is EPA's certification that this action does not have a significant impact on small entities.

Response: Under E.O. 12866, 58 FR 51735 (October 4, 1993), EPA is required to determine whether regulatory actions are significant and therefore should be subject to Office of Management and Budget (OMB) review, economic analysis, and the requirements of the E.O. The E.O. defines a "significant regulatory action" as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may "have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities."

Sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), 2 U.S.C. §§ 1501–1571, requires EPA to assess whether various actions undertaken in association with proposed or final regulations include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local or tribal governments in the aggregate.

Under the Regulatory Flexibility Act, 5 U.S.C. § 601 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C §§ 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Under section 188(b)(2) of the CAA, EPA findings of failure to attain are based upon air quality considerations, and reclassification of nonattainment areas must occur by operation of law in light of certain air quality conditions. Such findings and reclassification do not, in-and-of-themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements for the differently classified areas are clearly defined, and because those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, findings of failure to attain and reclassification cannot be said to impose a materially adverse impact on State, local, or tribal governments or communities.

This conclusion does not in any way reflect a determination regarding estimated or actual impacts of a reclassification on Arizona's economy. It is important to understand that the sole regulatory action that EPA is taking under the CAA involves only a factual finding of whether the Phoenix area attained the PM_{10} standards by December 31, 1994, the statutory attainment date for moderate areas. If EPA finds that the area has failed to attain by the deadline, then the area is reclassified as serious, not by EPA, but by operation of law. A finding by EPA that an area has failed to timely attain the PM_{10} standards is based on air quality monitoring data collected by Maricopa County and ADEQ from 1992 through 1994. The statute does not require any action on EPA's part, since the CAA specifies automatic reclassification of an area as a result of a finding that the area has not attained the PM–10 standards. See section 188(b)(2). Because EPA's role in making such a finding is essentially ministerial, the Agency has concluded that it does not impose any new requirements or mandates on any sector of the State economy.

For the above reasons, EPA has determined that the finding of failure to attain being made today would result in none of the effects identified in section 3(f) of E.O. 12866 and is therefore not a significant regulatory action, as defined in the E.O. Similarly, EPA has concluded that the finding of failure to attain does not constitute a Federal mandate within the meaning of the Unfunded Mandates Act. Furthermore, the Agency has certified that the redesignation of the attainment status of an area under section 107(d) of the CAA does not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. See 46 FR 8709 (January 27, 1981). Because the regulatory impact of reclassification under section 188(b) of the CAA is no different substantively from that associated with designations, such actions are also not expected to have significant impacts on small entities.

EPA wishes to emphasize, however, that the reclassification of the Phoenix area is only the first step in developing a strategy to bring ambient concentrations of PM_{10} in the area to healthful levels. As with the State's moderate area SIP, which EPA approved on April 10, 1995 (60 FR 18010), development of a control strategy for the State's serious area SIP will involve an assessment of the economic feasibility of implementing any particular control measure. If Arizona determines that a measure cannot be implemented because it is not economically feasible, the State need only provide EPA with a reasoned justification for that determination. EPA believes there will be sufficient opportunity for ADEQ and other State agencies, local planning agencies, the general public, and the regulated community to assess the economic impacts of control measure implementation while they develop the serious area SIP.

B. State Monitoring and Modeling Study

Comment: ADEQ claims that reclassification is not necessary because the State and local governments have undertaken a study to better characterize the sources contributing to the nonattainment problem in the PPA.

The study will enable the State to define the control measures necessary to attain and maintain the PM_{10} NAAQS. As a result the PPA will be able to demonstrate attainment by implementing reasonably available control measures (RACM) rather than BACM.

Response: EPA acknowledges the difficulties in assessing the contributions from various sources to total PM_{10} concentrations and fully supports the State's efforts to accurately identify those sources which have caused the PPA to be in nonattainment of the standards. Nonetheless, section 188(b)(2) of the CAA does not afford EPA any discretion in determining whether the area has in fact attained the PM_{10} NAAQS by the statutorily mandated attainment date. EPA regulations generally require three years of ambient monitoring data in order to assess an area's attainment status. See 40 CFR part 50, Appendix K. As discussed in section I.D. of this notice, based on air quality data collected during the years 1992 through 1994, EPA has determined that the PPA has not attained the PM_{10} NAAQS.

Moreover, the State recently reported two additional violations of the PM_{10} NAAQS at the Chandler monitoring site in 1995. While for the purposes of this rulemaking EPA is only considering air quality data from 1992 through 1994, these 1995 violations further support EPA's determination that PPA has failed to attain the PM_{10} standard.

C. EPA's Current Review of the PM_{10} NAAQS

Comment: Reclassification of the PPA is untimely in light of the pending revision of the PM NAAQS. State and local agencies will have to spend considerable resources to develop a plan for a standard that may no longer be in effect.

Response: Section 109(d)(1) of the Clean Air Act requires that "not later than December 31, 1980, and at five-year intervals thereafter" EPA review and revise, if warranted, air quality criteria and national ambient air quality standards. EPA is currently under court order to complete its review of the particulate matter NAAQS by June 28, 1997.

This review may or may not result in a replacement and/or revision of the PM_{10} NAAQS. The Agency is currently considering the addition of a new PM NAAQS that targets fine particulate matter, such as particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers. However, the Agency is also considering retaining a PM_{10} standard. Although the PM NAAQS review process is incomplete at this time, recent epidemiologic studies show consistent positive associations of ambient PM exposure with adverse health effects, including mortality and morbidity. Given the significant health effects associated with PM, vigorous enforcement of the current PM_{10} requirements is critical to ensure protection of the public health. Until a revision of the NAAQS occurs, the current NAAQS and the requirements relating to them remain in force. In the event that a new NAAQS is promulgated, a transition policy that addresses current requirements and ensures protection of the public health will be developed.

D. Air Quality Monitoring

Comment: There should be a more detailed review of the circumstances surrounding the location of the two monitoring sites which recorded exceedances to insure that the locations are not anomalies improperly reflecting local conditions. It would not be appropriate to impose a classification upon the entire region due to what may be anomalies for just two sites out of nine.

Response: In order to meet Federal monitoring regulations, agencies which operate air monitoring networks are required to design these networks in order to meet certain monitoring objectives. These objectives are to determine: 1) the highest concentrations expected to occur in the area covered by the network; 2) representative concentrations in areas of high population density; 3) the impact on ambient pollution levels of significant sources or source categories; and 4) general background concentration levels. See 40 CFR part 58, Appendix D.

Both the South Phoenix and Chandler sites are located in order to measure PM_{10} concentrations in areas of high population density. The Maricopa County Environmental Services Department (MCESD) and ADEQ, the agencies responsible for operating the pollutant monitoring network in the PPA, conduct an annual review of the monitoring network as required by Federal regulations. See 40 CFR part 58.26 and 40 CFR part 58, Appendix F. EPA believes the South Phoenix and Chandler monitoring stations are correctly sited and meet all applicable Federal requirements.

Comment: According to section 2.11 of the Quality Assurance Handbook for Air Pollution Control, PM_{10} monitors have a precision error of ±10% when addressing the PM_{10} 24 hour NAAQS. Therefore, two of the recorded violations, with readings below 165 $\mu g/m3$, could be within the NAAQS when this error variation is accounted for.

Response: EPA's quality assurance procedures establish minimum acceptable operating limits for PM_{10} sampling equipment. The ±10% to which the commenter refers is not directly related to the final PM_{10} ambient concentration, but rather to the air flow rate through the PM_{10} sampler. The ambient concentration is calculated from the particle mass collected on a filter medium, the volume of air pulled through the filter, and the amount of time the sampler is operated. The ±10% to which the commenter refers is the acceptable range of deviation for the air flow rate through the sampler. Nevertheless, EPA recognizes the validity of the commenter's concern regarding the ±10% threshold. However, this 10% threshold is not an allowance or a leeway to adjust data, rather it is a limit which if exceeded alerts the field or laboratory monitoring personnel to a possible sample validity problem. Readings beyond the 10% threshold can mean heavy filter loading or decreases in the sampler flow rate. Air flow rates beyond this 10% threshold may necessitate invalidating all samples collected since the last sampler calibration. See Quality Assurance Handbook for Air Pollution Control, section 2.11.3.4, Sample Validation and Documentation.

Comment: According to EPA's Exceptional Event Guideline, high winds are defined as an hourly speed of greater than or equal to 30 mph or gusts equal to or greater than 40 mph with little or no precipitation. The western regional climate center in Reno, Nevada reported that November 20, 1992 was the windiest day of the quarter in the PPA with wind speeds up to 40 mph and no precipitation. Therefore the exceedance recorded on that date (156 $\mu g/m3$) should be classified as an exceptional event. Furthermore, all of the PM_{10} NAAQS violations in the PPA were impacted by short term construction activities. The Exceptional Event Guideline states that construction and demolition activities are exceptional events.

Response: EPA has established criteria and procedures to identify or "flag" data which may be affected by "exceptional events" in its "Guideline on the Identification and Use of Air Quality Data Affected by Exceptional Events," July 1986 (Guideline). Under the flagging system, state and local air pollution control agencies are responsible for initially identifying and documenting data influenced by exceptional events. These agencies are expected to develop the appropriate

background information necessary to support a decision to flag an individual piece of data. The agencies must then submit the information to EPA for concurrence. Flagging a piece of data or data set does not exclude that data from being used for nonattainment designations or classifications. The actual exclusion would only be allowed if, as a result of a public review process, the responsible government agency, in this case EPA, determines that the data are inappropriate for use in a specific regulatory activity. Neither the MCESD nor ADEQ requested that these data be flagged as exceptional events, nor were these data proposed to be excluded from any specific regulatory action.

Notwithstanding the fact that the State did not initiate the flagging process, EPA would have evaluated whether the exceedances in question were affected by exceptional events had the commenter provided documentation demonstrating that they qualified as such. There are basically two issues which must be addressed in order to determine whether an exceedance of the NAAQS was due to an exceptional event. First, there must be a link between a specific PM_{10} generating activity (e.g., forest or structural fire, construction/demolition activity) and the suspect data. Second, there must be a determination that the activity is not likely to recur.

Regarding high winds, the commenter only referenced part of the definition in the Guideline of a high-wind event. The definition in full is "hourly windspeed of greater than or equal to 30 mph or gusts equal to or greater than 40 mph, with [little or] no precipitation. The high wind condition with [little or] no precipitation and dry soil must be associated with a significant contribution (estimated to be > 85% by weight) of crustal material on the PM sampling medium." The commenter did not provide any supporting information on the type of particulate matter which contributed to the PM_{10} exceedance on November 20, 1992. Furthermore, no information was provided to show that this wind event was itself exceptional, i.e. that it was not expected to recur.

As to construction activities, the commenter again only sites a portion of the definition of construction/demolition activities that would qualify as exceptional events. The Guideline states that construction/demolition activities that last for only a short period of time, are within a reasonable distance of the monitoring site and that are implementing all reasonable control measures may be flagged as exceptional events. Flagged data should be limited to sites that are classified as micro- or middle-scale and downwind with respect to the construction activity. The Chandler monitoring site is classified as a neighborhood scale site. See 40 CFR part 58, Appendix D for an explanation of the difference in spatial scales. As with the high wind claim, the commenter also did not address the likelihood of the construction activity's recurrence. In the State's approved moderate area PM_{10} SIP, construction activities are recognized as controllable sources of PM_{10} and are now regulated under Maricopa County Rule 310.

To summarize, the commenter did not provide any supporting information or data showing that the high winds or construction activities did, in fact, have a direct causal link to the PM_{10} NAAQS exceedances or, if so, the magnitude of the contribution from these sources. The commenter simply asserted that the high winds and construction activities occurred. Furthermore, the commenter did not address the likelihood of the recurrence of these conditions. In fact, the SIP development process is intended to prevent exceedances from anthropogenic activities such as construction by providing for planning by the State and local community to help ensure such activities adequately mitigate their contribution to PM_{10} air quality problems.

Comment: The two locations where violations were recorded are only two of nine SLAMS sites and data from the seven clean sites should also be considered in deciding whether the PPA should be reclassified. The recorded violations are only 14%, 5%, and 4% over the PM_{10} NAAQS and these values are not "seriously" in excess of the PM_{10} NAAQS.

Response: Maricopa County's nine station network is only a representative sample of the PPA's air quality. These nine stations cover 2,920 square miles. Monitoring is only conducted on a one in every six day schedule. Therefore, for every one sample taken, there are five days for which the air quality is unknown. If there were other sites set up to represent conditions similar to those of the violating sites, it is possible that more violations would have been recorded.

Pursuant to 40 CFR, part 50, Appendix K, an exceedance is defined as a value which is measured above the level of the 24 hour standard after rounding to the nearest 10 $\mu g/m^3$ (i.e. values ending in 5 or greater are rounded up). Therefore, had the highest recorded values in the 1992 to 1994 period been 154 $\mu g/m^3$ or less, the concentrations would not have been considered exceedances of the NAAQS. However, the PM_{10} concentrations recorded in the Phoenix area, 156 $\mu g/m^3$, 158 $\mu g/m^3$, and 171 $\mu g/m^3$, are above that level and are therefore considered exceedances.

Further, the claim that the exceedances were not "seriously in excess" of the NAAQS is without validity. The PM_{10} NAAQS are set at a level required to protect public health. The standards are designated levels, not ranges, of PM_{10} above which the air quality is considered unhealthy. The reclassification of the PPA is based on the fact that violations of the standards have occurred, and continue to occur, rather than on the severity of the violations.

E. National PM_{10} Standard

Comment: EPA should not apply a nationwide PM_{10} standard to an arid Southwest region such as the PPA.

Response: Section 109 of the CAA requires EPA to promulgate primary and secondary NAAQS for certain types of air pollutants. These standards are based on criteria which reflect current scientific knowledge of the effect of these pollutants on public health and welfare.

On July 1, 1987 EPA promulgated the NAAQS for PM_{10}. 52 FR 24663 (July 1, 1987). While the types of sources and the ability to control them differ from one area of the country to another, the human health effects of PM_{10} pollution are the same whether one resides in New York City or Phoenix. Therefore, in order to protect human health, the standards must be the same nationwide.

However, unlike the NAAQS, the SIP development process is intended to address variability in source types. While the CAA does impose certain minimum control requirements, ultimately it is up to the state and the affected local communities to choose the particular control measures that best address their unique air pollution problem. In developing the control measures, a state may consider the economic and technological feasibility of implementing a particular control measure.

III. Today's Final Action

EPA is today taking final action to find that the PPA did not attain the PM_{10} NAAQS by December 31, 1994, the CAA attainment date for moderate PM_{10} nonattainment areas. As a result of this final finding, the PPA is reclassified by operation of law as a serious PM_{10} nonattainment area.

IV. Executive Order (EO) 12866

Under E.O. 12866, 58 FR 51735 (October 4, 1993), EPA is required to determine whether regulatory actions are significant and therefore should be subject to OMB review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may "have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities."

The Agency has determined that the finding of failure to attain finalized today would result in none of the effects identified in section 3(f). Under section 188(b)(2) of the CAA, findings of failure to attain and reclassification of nonattainment areas are based upon air quality considerations and must occur by operation of law in light of certain air quality conditions. They do not, in-and-of-themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, findings of failure to attain and reclassification cannot be said to impose a materially adverse impact on State, local, or tribal governments or communities.

V. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. § 601 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C §§ 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

As discussed in sections II.A. and IV of this notice, findings of failure to attain and reclassification of nonattainment areas under section 188(b)(2) of the CAA do not in-and-of-themselves create any new requirements. Therefore, I certify that today's final action does not have a significant impact on small entities.

VI. Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must assess whether various actions undertaken in association with proposed or final regulations include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local or tribal governments in the aggregate.

EPA believes, as discussed above, that the finding of failure to attain and reclassification of the Phoenix Planning Area are factual determinations based upon air quality considerations and must occur by operation of law and, hence, do not impose any federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter.

Dated: April 29, 1996.

Felicia Marcus,

Regional Administrator.

40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7407, 7501–7515, 7601.

2. Section 81.303 is amended by revising the table for Arizona—PM–10, to read as follows:

§ 81.303 Arizona.

* * * * *

ARIZONA—PM–10

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Cochise County:				
Paul Spur/Douglas planning area	11/15/90	Nonattainment	11/15/90	Moderate.
Township 23 South, Range 25 East (T23S, R25E):				
T23S,R26E				
T23S, R27E				
T23S, R28E				
T24S, R25E				
T24S, R26E				
T24S, R27E				
T24S, R28E				
Santa Cruz County:				
Nogales planning area	11/15/90	Nonattainment	11/15/90	Moderate.
The portions of the following Townships which are within the State of Arizona and lie east of 111° longitude:				
T23S, R13E				
T23S, R14E				
T24S, R13E				
T24S, R14E				
Rillito planning area	11/15/90	Nonattainment	11/15/90	Moderate.

ARIZONA—PM–10—Continued

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Townships:				
T11S, R9E				
T11S, R10E				
T11S, R11E				
T11S, R12E				
T12S, R8E				
T12S, R9E				
T12S, R10E				
T12S, R11E				
T12S, R12E				
Pima County				
Ajo planning area	11/15/90	Nonattainment	11/15/90	Moderate.
Township T12S, R6W, and the following sections of Township T12S, R5W:				
a. Sections 6–8				
b. Sections 17–20, and				
c. Sections 29–32				
Maricopa and Pinal Counties				
Phoenix planning area	11/15/90	Nonattainment	6/10/96	Serious.
The rectangle determined by, and including—				
T6N, R3W				
T6N, R7E				
T2S, R3W				
T2S, R7E				
T1N, R8E				
Yuma County:				
Yuma planning area	11/15/90	Nonattainment	11/15/90	Moderate.
Townships:				
T7S-R21W, R22W;				
T8S-R21W, R22W, R23W, R24W				
T9S-R21W, R22W, R23W, R24W, R25W;				
T10S-R21W, R22W, R23W, R24W, R25W				
Pinal and Gila Counties:				
Hayden/Miami planning area	11/15/90	Nonattainment	11/15/90	Moderate.
Townships: T4S, R16E T5S. R16E T6S, R16E plus the portion of Township T3S, R16E that does not lie on the San Carlos Indian Reservation, and the rectangle formed by, and including, Townships				
T1N, R13E				
T1N, R15E				
T6S, R13E				
T6S, R15E				
Gila County (part):				
Payson: T10N, Sections 1–3, 10–15, 22–27, and 34–36 of R9E; T11N, Sections 1–3, 10–15, 22- 27, and 34–36 of R9E; T10–11N, R10E; T10N, Sections 4–9, 16–21, and 28–33 of R11E; T11N, Sections 4–9, 16–21, and 28–33 of R11E..	1/20/94	Nonattainment	1/20/94	Moderate.
Mohave County (part):				
Bullhead City: T21N, R20–21W, excluding Lake Mead National Recreation Area; T20N, R20- 22W; T19N, R21–22W excluding Fort Mohave Indian Reservation..	1/20/94	Nonattainment	1/20/90	Moderate.
Rest of State	11/15/90	Unclassifiable.		

* * * * *

[FR Doc. 96–11736 Filed 5–9–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[PP 9F3714/R2214; FRL–5354–1]

RIN 2070–AB78

Fenoxaprop-Ethyl; Extension of Study Due Date and Time-Limited Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends the time-limited tolerances for fenoxaprop-ethyl from April 12, 1996 to November 1, 1997. This time extension was requested by AgrEvo USA Company to coordinate a delay in initiation of a repeat oncogenicity study required to change the interim (time-limited) tolerances, required for the use of fenoxaprop-ethyl in the culture of wheat, to permanent tolerances. The originial petitioner was Hoechst Celanese Corp. of North Somerville, NJ 08876. In 1994 Hoechst Celanese Corp. and NOR-AM Chemical formed a partnership Company, AgrEvo USA Company; and AgrEvo USA Company became the registrant of fenoxaprop-ethyl pesticide products.

EFFECTIVE DATE: May 10, 1996.

ADDRESSES: Written objections and hearing requests, identified by the docket number [PP 9F3714/R2214] may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. In person, bring copies of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (tolerance Fees) P.O. Box 360277M, Pittsburgh, PA 15251.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 9F3714/R2214]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne Miller (PM 23), Registration Division (7505C), Office of Pesticide Programs, U. S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (Telephone No. (703–305–6226), e-mail: miller.joannie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Interim tolerances that expire April 12, 1996 were established for residues of fenoxaprop-ethyl on August 15, 1991. The petitioner, Hoechst Celanese Corp., agreed to submitting a repeat mouse oncogenicity study within 4 years from the date of registration of fenoxaprop-ethyl pesticide products for use in the culture of wheat. The due date for the study data became April 12, 1996, 4 years and 8 months from the date of first registration of fenoxaprop-ethyl in the culture of wheat. The added 8 months were to allow adequate time for the Agency's review of the study. The initiation of the mouse oncogenicity study was delayed due to the Agency's requirement for a repeat range finding study. The time line for submitting the study was extended to November 1, 1996 to coordinate it with the time required for reviewing the range finding study. Considering the time required to review the study, the present action extends the time-limited tolerances to November 1, 1997. The time alloted for Agency review of the study is presently 12 months. There is no information and experience with the pesticide that indicate that this action would pose significant risk to public health.

A "Notice of Filing" a request to amend pesticide petition (PP) 9F3714 by proposing to amend 40 CFR 180.430 to extend the time-limited tolerances for residues of the herbicide Fenoxyaprop-ethyl was published on in the **Federal Register** on April 3, 1996 (61 FR 14772–14773) (FRL–5358–4). There were no substantive responses to the notice. Only a typographical error was noted from the public. That error is corrected in the present Final rule.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

EPA has established a record for this rulemaking under docket number [PP 9F3714/R2214] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:
opp-docket@epamail.epa.gov .

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating

serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 29, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR, chapter I, part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.430 by revising paragraph (b) to read as follows:

§ 180.430 Fenoxaprop-ethyl; tolerances for residues.

* * * * *

(b) Time-limited tolerances, to expire November 1, 1997, are established for the combined residues of the herbicide fenoxaprop-ethyl [(±) ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoate] and its metabolites [2-[4-[(6-chloro-2-benzoxazoly)oxy]phenoxy]propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one], each expressed as fenoxaprop-ethyl, in or on the following raw agricultural commodities:

Commodities	Parts per million
Cattle, fat	0.05
Cattle, meat	0.05
Cattle, mbyp	0.05
Goats, fat	0.05
Goats, meat	0.05
Goats, mbyp	0.05
Hogs, fat	0.05
Hogs, meat	0.05
Hogs, mbyp	0.05
Horses, fat	0.05
Horses, meat	0.05
Horses, mbyp	0.05
Milk	0.02
Sheep, fat	0.05
Sheep, meat	0.05
Sheep, mbyp	0.05
Wheat, grain	0.05
Wheat, straw	0.05

[FR Doc. 96–11338 Filed 5–09–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 22 and 90

[WT Docket No. 96–18; PP Docket No. 93–253; FCC 96–183]

Future Development of Paging Systems and Implementation of Section 309(j) of the Communications Act; Competitive Bidding

AGENCY: Federal Communications Commission.

ACTION: Interim measure; modification.

SUMMARY: In this *First Report and Order* in WT Docket No. 96–18 and PP Docket No. 93–253, the Commission modifies the interim measures imposed in the *Notice of Proposed Rulemaking (NPRM)* in this docket. In the *NPRM*, the Commission addressed how paging applications should be treated during the pendency of this rulemaking, and imposed an across-the-board freeze on new applications for paging licenses with an exception for Common Carrier Paging (CCP) and Private Carrier Paging (PCP) licensees with nationwide exclusivity. The Commission is modifying the interim freeze imposed in the *NPRM* by allowing all incumbent paging licensees subject to the interim freeze to apply for additional transmission sites on the same channel, on a primary basis, within 65 kilometers (40 miles) of an operating transmission site. An application must be accompanied by a certification that the applicant is an incumbent paging licensee, and the proposed site is within 65 kilometers (40 miles) of an authorized transmission site that was licensed to the same applicant on the same channel on or before February 8, 1996 and which is operational as of the date the application for the additional transmitter site is filed. All applications filed by CCP incumbent licensees and 929 MHz PCP incumbent licensees on exclusive channels will be put on Public Notice to allow for competing applications to be filed.

The Commission resumes processing all pending non-mutually exclusive applications that were filed by incumbents with the Commission on or before February 8, 1996. The February 8, 1996 freeze interrupted the 30 or 60 day filing window in some cases. Therefore, the Wireless Telecommunications Bureau will release a Public Notice with attached copies of the prior Public Notices containing the pending paging applications. All pending applications filed by incumbents on or before February 8, 1996 that were not on Public Notice for the required 30 or 60 days, will be deemed to continue to be on Public Notice for the remaining amount of time until the required 30 or 60 day window for filing competing applications expires.

The Commission's objective in modifying the interim freeze is to allow the incumbent paging licensees the flexibility needed to expand paging systems to continue to serve their customers and convert to flexible wide-area synchronous protocol technology during the interim period, while preventing an increase in telecommunications investment fraud.

EFFECTIVE DATE: May 10, 1996.

FOR FURTHER INFORMATION CONTACT: Mika Savir, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418–0620.

SUPPLEMENTARY INFORMATION: This *First Report and Order* in WT Docket No. 96–18 and PP Docket No. 93–253, adopted April 22, 1996, and released April 23, 1996, is available for inspection and copying during normal business hours in the FCC Reference Center, Room 230, 1919 M Street N.W., Washington D.C. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, N.W., Suite 140, Washington D.C. 20037, (202) 857–3800)). Synopsis of *First Report and Order:*

I. Background

1. In this docket, the Commission is examining the paging regulations in light of the statutory objective of regulatory symmetry for all Commercial Mobile Radio Services (CMRS) established in the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103–66 (1993 Budget Act). The 1993 Budget Act amended the Communications Act to divide all mobile services into two categories, CMRS and private mobile radio service (PMRS), and mandated that substantially similar mobile services receive comparable regulatory treatment. In the *CMRS Third Report and Order*, Implementation of Sections 3(n) and 332 of the Communications Act, GN Docket No. 93–252, *Third Report and Order*, 59 FR 59945 (November 21, 1994) (*CMRS Third Report and Order*), the Commission concluded that CCP and PCP are substantially similar services and should be subject to comparable regulation. Under Section 6002(c)(2)(B) of the 1993 Budget Act, reclassified PCP licensees retain their PMRS status on a grandfathered basis until three years after the date of enactment of the legislation which occurred on August 10, 1993. PMRS paging services, as well as CMRS paging services, are subject to the interim and final measures in this proceeding.

2. In the *NPRM*, Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems and Implementation of Section 309(j) of the Communications Act—Competitive Bidding, WT Docket No. 96–18, *Notice of Proposed Rulemaking*, 61 FR 06199 (February 16, 1996) (*NPRM*), the Commission proposed a transition to geographic market area licensing for all paging services. In the *NPRM*, the Commission also proposed to adopt competitive bidding rules for mutually exclusive paging applications. Additionally, the Commission suspended acceptance of new applications for paging channels, as of February 8, 1996. The Commission allowed incumbents to make minor modifications to their existing systems, so long as the modifications did not increase their composite interference contour. The Commission also allowed all licensees with nationwide exclusivity to continue to add sites without restrictions.

3. The Commission received comments and reply comments on the interim proposals. Based on the arguments raised by the commenters, the Commission concludes that partially lifting the interim freeze for incumbent licensees would be in the public interest.

II. First Report and Order

A. Interim Freeze

4. In the *NPRM*, the Commission requested comment on an expedited basis on whether, during the pendency of this proceeding, incumbents should be allowed to file new applications to expand or modify their existing systems in a way that would expand their existing interference contours, with such modifications receiving only secondary site authorization. The Commission also requested comment from interested parties on other alternatives for allowing expansion or modification of existing sites during the interim period. Commenters offered numerous suggestions for partially lifting the freeze. The Commission concurs with the commenters that partially lifting the interim freeze is necessary to allow incumbents flexibility in serving their customers and upgrading their equipment, and that these additions or modifications should be given primary, not secondary, status.

5. Commenters all generally oppose the interim freeze, particularly for incumbent licensees. Most of the commenters also oppose secondary site licensing, on the grounds that it would discourage investment, encourage speculation, and could result in future loss of service to the public. Several commenters propose that as an interim measure incumbent licensees be permitted to add sites to within 40 miles of an operating site. Commenters also offer other suggestions such as that incumbents be allowed to add sites if the service area of the new site overlaps with existing authorized sites by a minimum of 50 percent, or that they be allowed to expand their systems as long as the expansions do not interfere with other current adjacent licensees.

6. Commenters also argue that the freeze gives undue advantage to nationwide carriers, while decreasing the ability of the remainder of the industry to compete. One commenter noted that the paging freeze gives a competitive edge to Personal Communications Services (PCS). Several commenters observed that the paging industry is converting to a flexible wide-area synchronous protocol which requires additional sites.

7. A group of paging carriers and paging equipment manufacturers, the Coalition for a Competitive Paging Industry (Coalition), filed an Emergency Petition for immediate lifting of the freeze. The Commission incorporates the Petition into the record of this proceeding. The Coalition also filed reply comments on the interim licensing issue, which make many of the same arguments set forth in the Petition. To the extent that the Commission grants limited relief from the freeze for incumbent licensees, the Petition is granted. In all other respects, the Commission denies the Petition. The Coalition argues that the freeze is unlawful, arbitrary and capricious, and an abuse of discretion on the grounds that: (1) There is insufficient spectrum available on currently allocated paging channels to accommodate additional systems; (2) paging carriers who are upgrading their technology are prevented by the freeze from filing the modification applications required to implement their networks; and (3) the Commission has discriminated against carriers serving local and regional markets by exempting nationwide carriers from the freeze. The Coalition also filed an *ex parte* letter proposing that: (1) The Commission accept applications filed by incumbents to expand or modify existing systems; (2) applications would be subject to Public Notice and competing applications if required under the rules in effect as of February 7, 1996; (3) requests for exclusivity on 929 MHz channels would be granted in appropriate cases under the rules in effect on February 7, 1996; and (4) mutually exclusive applications would not be processed until the conclusion of the rulemaking unless the parties could agree to eliminate mutual exclusivity through agreement.

8. The Federal Trade Commission (FTC) filed comments to, *inter alia*, explain the extent of the telecommunications investment fraud associated with paging licenses. According to the FTC, the investment fraud is of two basic types: (1) License "application mills" that sell application preparation services for acquisition of wireless licenses for a fee of several thousand dollars per license; and (2) "build-out" schemes, in which investors are sold interests in limited liability companies or partnerships that claim they will acquire licenses and build and operate telecommunications systems. Both of these schemes are carried out by telemarketers calling unsophisticated consumers and deceiving them about the profitability of the licenses, and the consumers generally lose their entire investment. In January 1996, the FTC filed six actions as part of "Project Roadblock" against the telemarketers who sold application preparation and acquisition services for paging licenses. The FTC observes that in the Commission's database of pending 931 MHz applications, over 72 percent of the applicants are individuals, rather than businesses. The FTC also notes that 92 percent of license holders on 929 MHz channels are individuals. According to the FTC, the high percentage of individual applicants strongly suggests that many of these individuals are victims of the

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application mills. The FTC observes that telemarketing fraud has caused the Commission to process thousands of license applications for consumers who will never provide telecommunications services to the public, and contributes substantially to the backlog of pending applications and the quantity of mutually exclusive applications. According to the FTC, the freeze against accepting new applications has a strong deterrent effect on application mill fraud.

9. The Commission explains that it rejects the arguments of the Coalition and other commenters that the freeze is unlawful because it was not based on prior notice and comment. The Commission notes that the suspension of acceptance of applications is a procedural action that does not require notice and comment under the Administrative Procedure Act (APA). Additionally, the Commission notes that it has imposed similar freezes without prior notice and comment in other rulemaking proceedings when there was a proposal to make the transition to geographic area licensing and auction rules.

10. The Commission also rejects the arguments of commenters that imposing a freeze was arbitrary or an abuse of the Commission's discretion. The freeze remains essential to ensure that the goals of the rulemaking are not compromised. The primary argument raised by commenters against the freeze is that there is limited "white space" to be auctioned; however this contention is undermined by the commenters' argument that the freeze is causing severe economic harm. If there were in fact little or no white space left to be licensed, maintaining the freeze would have minimal impact. The Commission notes that while paging channels are heavily encumbered, there is some available spectrum that is of considerable value to applicants.

11. The Commission also states that the freeze is necessary to combat telemarketing schemes involving paging application fraud. The FTC estimates that fraudulent investment schemes centered on acquiring FCC licenses for wireless technologies have been the most prevalent telemarketing investment scams of the 1990s, costing consumers hundreds of millions of dollars. If the freeze were to be lifted, it could inadvertently encourage a resumption of fraudulent activity by application mills seeking to induce unsophisticated investors into filing applications. The Commission also stated a concern that the proposal to use auctions in this service may stimulate speculative activity by parties seeking to warehouse free spectrum.

12. The Commission notes that the commenters have raised valid reasons to support partially lifting the freeze for the remainder of the interim period: the paging industry needs flexibility to make modifications and additions to systems to continue to serve their customers; licensees are in the process of converting to flexible wide-area synchronous protocol technology to increase data delivery speeds and therefore require additional base stations to maintain the existing service area; and the nationwide carriers may have a competitive advantage over the non-nationwide incumbent licensees in the local and regional markets. The Commission concludes that the interim freeze should be partially lifted for incumbent paging licensees.

13. As of May 10, 1996, the Commission is modifying the interim freeze imposed in the *NPRM*, by allowing all incumbent paging licensees subject to the interim freeze to apply for additional transmission sites on the same channel, on a primary basis, within 65 kilometers (40 miles) of an operating transmission site. An application will be accepted only if it is accompanied by a certification that (1) the applicant is an incumbent paging licensee, and (2) the proposed site is within 65 kilometers (40 miles) of an authorized transmission site that was licensed to the same applicant on the same channel on or before February 8, 1996 and which is operational as of the date the application for the additional transmitter site is filed. The applications from incumbent paging licensees on a non-nationwide CCP channel and incumbent paging licensees on an exclusive PCP channel will be placed on public notice and subject to competing applications within the applicable filing window.

14. The Commission states that while it will accept initial applications as described above only from incumbents, but it will not limit eligibility to file competing applications once the incumbent's initial application is filed. If no competing application is filed, the incumbent's initial application can be granted. If a competing application is filed, both applications will be treated as mutually exclusive and will be held in abeyance until the conclusion of this proceeding.

B. Interference Contour

15. In the *NPRM*, the Commission stated that incumbent licensees on all bands except the nationwide channels could add sites to existing systems, or modify existing sites during the pendency of this rulemaking proceeding, if the addition or modification does not expand the interference contour of the incumbent's existing system. The Commission stated in a footnote that for such purposes, the interference contour would be based on a median field strength of 21 dBμV/m, and referenced the proposed mathematical formulas for calculating the service and interfering contours for paging systems.

16. The Commission's reference to the proposed formula to calculate the interference contour during the interim period caused some confusion among the commenters. The commenters object to the proposed formula to calculate the interference contour during the interim period because it would shrink their current interference contour. The commenters also contend that this proposal was unlawful because it was retroactive and was not subject to the required notice and comment procedures.

17. The Commission clarifies that it is not applying the proposed interference contour formula on a retroactive basis to any current sites. For purposes of interim licensing, incumbents may use the interference contour defined under the current rules to determine whether internal sites may be added or modified. The Commission notes that this will allow 939 MHz licensees to make internal system changes so long as they do not expand the composite circular interference contour of their existing stations as defined in Section 22.537(f) of the rules. The Commission also clarifies that the tables in Section 22.537(f) may be used on an interim basis by licensees on 929 MHz exclusive channels to determine where stations may be added.

C. Exempt Services

18. Commenters have asked the Commission to clarify that the freeze does not apply to Basic Exchange Telecommunications Radio Systems (BETRS), Special Emergency Radio Service (SERS), and two-way mobile telephone service on the two-way channels listed in Section 22.561 and these rural telephone channels should be exempt from the freeze. The Commission observes that this proceeding was initiated to examine the paging regulations in light of the statutory objective of regulatory symmetry for all CMRS established in the 1993 Budget Act. BETRS are licensed under the Rural Radiotelephone Service, which is a fixed service, not a mobile service, and by definition is not CMRS. Implementation of Sections 3(n) and 332 of the Communications Act, GN Docket No. 93–252, *Second Report and Order*, 59 FR 18493 (April 19, 1994) (*CMRS Second Report and Order*). Therefore, BETRS are not subject to the interim paging freeze. Similarly, conventional Rural Radiotelephone Service provided on the channels listed in Sections 22.561 and 22.563 is not a mobile service, and is not subject to the interim freeze in this proceeding. The Commission is also exempting SERS from the interim freeze.

D. Processing of Pending Applications

19. In this *First Report and Order*, the Commission establishes consistent procedures for processing applications filed on or before February 8, 1996. Pursuant to Sections 22.120(d) and 22.127, applications for 150 MHz and 450 MHz channels are placed on Public Notice for 30 days, and applications for 931 MHz channels are on Public Notice for 60 days to allow other applicants to file competing applications. All applications that were filed with the Commission on or before February 8, 1996 have been on Public Notice; however, the February 8, 1996 interim freeze interrupted the 30 or 60 day filing window in some cases. After the release of this *First Report and Order*, the Wireless Telecommunications Bureau will release a Public Notice with attached copies of the prior Public Notices containing the pending paging applications. Once the Public Notice is released, all pending applications filed by incumbents that were not on Public Notice for the required 30 or 60 days will be deemed to be on Public Notice for the remaining amount of time until the required 30 or 60 day period for filing competing applications expires. The Commission will not issue an additional Public Notice for these pending CCP applications. Upon expiration of the remaining filing period for these pending CCP applications filed by incumbents, the applications that are not mutually exclusive will be processed.

20. All 929 MHz PCP exclusive applications filed by incumbents which were processed through the frequency coordinator, and filed with the Commission on or before February 8, 1996, and are not mutually exclusive, will be processed. Applications for PCP channels submitted by incumbents to the frequency coordinator but not filed with the Commission prior to February 8, 1996, may be resubmitted to the frequency coordinator, and then may be filed with the Commission, provided that the applicant certifies that the applicant is an incumbent licensee with an operating system.

E. Canadian and Mexican Coordination During the Interim Period

The Commission states that in cases where coordination must be obtained in Canadian or Mexican border areas, licensees must continue to file applications with the Commission to allow for such coordination under the interim licensing procedures.

III. Conclusion

22. The Commission concludes that the revisions to the interim measures adopted in this *First Report and Order* will enable paging licensees to continue expansion of their systems and enhance the quality of service to the public while this proceeding is pending. At the same time, the limitations on new applications during the interim period will prevent spectrum warehousing and deter application fraud. The Commission emphasizes that the measures set forth in this *First Report and Order* are interim measures only, and that the long-term proposals for geographic licensing of paging channels will be determined in the future.

IV. Procedural Matters and Ordering Clauses

A. Regulatory Flexibility Analysis

As required by Section 604 of the Regulatory Flexibility Act, the Commission has prepared a Final Regulatory Flexibility Analysis for the Interim Measures in the *First Report and Order* of the expected impact on small entities of the modification of the interim measures.

Statement of the Need for and Objectives of Measures: In the *First Report and Order*, the Commission is modifying the interim measures, specifically, the interim freeze on new paging applications imposed in the *Notice of Proposed Rulemaking*, to permit incumbent paging licensees to apply for additional licenses to add transmission sites to existing paging systems on the same channel as the existing systems, provided that the additional transmission site is within 65 kilometers (40 miles) from an operating transmission site in the applicant's system. This modification of the interim measure will allow paging companies additional flexibility to expand their systems during the interim period.

Summary of Significant Issues Raised by Comments to the Initial Regulatory Flexibility Analysis (IRFA): There were no comments to the IRFA regarding the interim measures.

All significant alternatives are discussed in the *First Report and Order.*

B. Paperwork Reduction Act

This *First Report and Order* contains a new information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, has submitted this to Office of Management and Budget (OMB) for emergency approval under the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission has requested OMB approval by April 29, 1996.

Further Information: For additional information concerning the information collections contained in this *First Report and Order*, contact Dorothy Conway at (202) 418–0217 or via the Internet at dconway@fcc.gov.

Supplementary Information:

Title: Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems and Implementation of Section 309(j) of the Communications Act—Competitive Bidding.

Type of Review: New Collection.

Respondents: Common Carrier Paging licensees and Private Carrier Paging licensees filing applications for additional transmission sites.

Number of Respondents: Approximately 2000.

Estimated Time Per Response: Approximately 0.08 hours for each respondent to read and sign the certification.

Total Annual Burden: A burden of approximately 160 hours.

Needs and Uses: On February 8, 1996, the Commission adopted a *Notice of Proposed Rule Making (NPRM)* that examines ways to establish a comprehensive and consistent regulatory scheme that will simplify and streamline licensing procedures and provide a flexible operating environment for both common carrier and private paging services. The *NPRM* imposed an interim across-the-board freeze on new paging applications.

On April 22, 1996, the Commission adopted the *First Report and Order* that modified the interim freeze imposed in the *NPRM* to allow the incumbents in the paging industry the flexibility needed to serve the public, and upgrade to more spectrally efficient equipment. The *First Report and Order* allows incumbent common carrier paging and private carrier paging licensees to expand their current paging systems by applying for additional transmission sites on the same channel within 65 kilometers (40 miles) from their existing operating transmission sites. This modification of the interim measures is limited to incumbent licensees. Paging applicants must certify in writing that: (1) The applicant is an incumbent

paging licensee, and (2) the proposed site is within 65 kilometers (40 miles) of an authorized transmission site that was licensed to the same applicant on the same channel on or before February 8, 1996 and which is operational as of the date the application for the additional transmitter site is filed. This modification of the interim measures is effective May 10, 1996.

C. Ex Parte Rules—Non-Restricted Proceeding

Ex parte presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules, 47 CFR 1.1202, 1.1203, 1.1206(a).

D. Authority

The above action is authorized under the Communications Act, §§ 4(i), 303(r), 309(c), 309(j), and 332, 47 U.S.C. 154(i), 303(r), 309(c), 309(j), and 332, as amended.

E. Ordering Clauses

It is Ordered that, pursuant to the authority of sections 4(i), 303(r), 309(c), 309(j), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), 309(c), 309(j), and 332, this *First Report and Order* is adopted and the interim freeze set forth in the *Notice of Proposed Rulemaking* in this docket is modified, effective May 10, 1996 as set forth herein.

It is further ordered that the Emergency Petition for Immediate Withdrawal of Freeze filed by the Coalition for a Competitive Paging Industry on February 28, 1996, is granted to the extent discussed herein, and denied in all other respects.

List of Subjects

47 CFR Part 22

Communication common carriers, Reporting and recordkeeping requirements.

47 CFR Part 90

Common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–11643 Filed 5–9–96; 8:45 am]

BILLING CODE 6712–01–P

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47 CFR Part 73

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 4 FCC Rcd 2413 (1989), and the *Amendment of the Commission's Rules to permit FM Channel and Class Modifications [Upgrades] by Applications*, 8 FCC Rcd 4735 (1993).

EFFECTIVE DATE: May 10, 1996.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, adopted April 26, 1996, and released May 6, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by removing Channel 233A and adding Channel 233C3 at West Helena.

3. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 276A and adding Channel 276B1 at Oakhurst, by removing Channel 286A and adding Channel 286B1 at Pacific Grove, and by removing Channel 239A and adding Channel 242A at Twentynine Palms.

4. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by removing Channel 284A and adding Channel 284C3 at Fort Scott.

5. Section 73.202(b), the Table of FM Allotments under Maine, is amended by removing Channel 249A and adding Channel 249B.

6. Section 73.202(b), the Table of FM Allotments under Montana, is amended by removing Channel 233C and adding Channel 233C1 at Great Falls and by removing Channel 257C and adding Channel 257A at Red Lodge.

7. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by removing Channel 249A and adding Channel 249C1 at Holdrege.

8. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by removing Channel 266C3 and adding Channel 266A at White Rock.

9. Section 73.202(b), the Table of FM Allotments under South Carolina, is amended by removing Channel 232A and adding Channel 232C3 at Goose Creek.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–11763 Filed 5–9–96; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 95–153; RM–8702]

Radio Broadcasting Services; Tillamook, OR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Brian Lord, allots Channel 231A to Tillamook, OR, as the community's second local FM transmission service. *See* 60 FR 55358, October 31, 1995. Channel 231A can be allotted to Tillamook in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.8 kilometers (3.6 miles) west, at coordinates 45–27–27 North Latitude; 123–55–00 West Longitude, to avoid a short-spacing to Station KPDQ-FM, Channel 229C, Portland, Oregon. Canadian concurrence in the allotment has been received since Tillamook is located within 320 kilometers (200 miles) of the U.S.-Canadian border. With this action, this proceeding is terminated.

DATES: Effective June 17, 1996. The window period for filing applications will open on June 17, 1996, and close on July 18, 1996.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95–153, adopted April 16, 1996, and released May 3, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by adding Channel 231A at Tillamook.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–11762 Filed 5–9–96; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 95–162; RM–8714]

Radio Broadcasting Services; Wellsville, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Erin Communications, Inc., substitutes Channel 278A for Channel 228A at Wellsville, NY, and modifies Station WJQZ(FM)'s license to specify operation on the alternate Class A channel. *See* 60 FR 55821, November 3, 1995. The substitution of channels could allow Station WJQZ(FM) to improve its facilities from its present 3 kW to 6 kW. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 17, 1996.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95–162, adopted April 16, 1996, and released May 3, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by removing Channel 228A and adding Channel 278A at Wellsville.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–11761 Filed 5–9–96; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 97

[PR Docket No. 93–305; FCC 96–184]

Implementation of a Vanity Call Sign System

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action revises the amateur service rules to make clear that a renewal application, filed at the address specified by the Commission on the same date as the license expiration, is timely. Also, an application for a vanity call sign, filed at the address specified in the Wireless Telecommunications Bureau Fee Filing Guide on the same date as the license expiration, is timely. The rule amendments are necessary so that licensees will know that they have continuing authority to operate, pending action on their applications. The effect of this action is to assure licensees that their operating authority is continued until the final disposition of the applications.

EFFECTIVE DATE: June 10, 1996.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Federal Communications Commission, Washington, D. C. 20554, (202) 418–0690.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Memorandum Opinion and Order*, adopted April 23 , 1996, and released May 3, 1996. The complete text of this Commission action, including the rule amendments, is available for inspection and copying at the Federal Communications Commission, Room 246, 1919 M Street, N. W., Washington, D. C. The complete text of this *Second Memorandum Opinion and Order* may also be obtained from the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, telephone (202) 857–3800.

Summary of Second Memorandum Opinion and Order

1. By this action, we are amending the amateur service rules to state that an application for license renewal, received at the address specified by the Commission on the same date as the license expiration, is timely.

2. Also, by this action, we are amending the amateur service rules to state that an application for a vanity call sign, received at the address specified in the Wireless Telecommunications Bureau Fee Filing Guide on the same date as the license expiration, is timely.

3. These amendments will assure licensees that they have continuing authority to operate until there is a final disposition of the application.

4. The amended rules are set forth below, effective June 10, 1996.

5. This *Second Memorandum Opinion and Order* and the rule amendments are issued under the authority contained in 47 U.S.C. 154(i) and 303(r).

List of Subjects in 47 CFR Part 97

Call signs, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Final Rules

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 97—AMATEUR RADIO SERVICE

1. The authority citation for Part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended: 47 U.S.C. §§ 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

2. Section 97.21 is amended by revising the last sentence of paragraphs (a)(3)(i) and (a)(3)(ii) to read as follows:

§ 97.21 Application for a modified or renewed license.

(a) * * *

(3) * * *

(i) * * * When the application for renewal of the license has been received by the FCC at 1270 Fairfield Road, Gettysburg, PA 17325–7245 on or before the license expiration date, the license operating authority is continued until the final disposition of the application.

(ii) * * * When the application has been received at the proper address specified in the Wireless Telecommunications Bureau Fee Filing Guide on or before the license expiration date, the license operating authority is continued until final disposition of the application.

* * * * *

[FR Doc. 96–11644 Filed 5–9–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Parts 18 and 90

[OST Docket No. OST–96–1343]

RIN 2105–AC44

Audits of State and Local Governments

ACTION: Final rule.

SUMMARY: In connection with the President's Regulatory Reform Initiative, the Department of Transportation (DOT) is reviewing all of its existing regulations. As a result of the review we have identified 49 CFR part 90 as an unnecessary regulation that should be removed. The rule essentially repeats verbatim the requirements of Office Management and Budget (OMB) Circular A–128, Audits of State and Local Governments. The rule is being replaced by minor amendments to 49 CFR part 18, to reference Federal audit requirements in OMB circulars.

DATES: This regulation is effective June 10, 1996.

FOR FURTHER INFORMATION CONTACT: Robert G. Taylor, U.S. Department of Transportation, Office of Acquisition and Grant Management, M–62, 400 Seventh Street, S.W., Room 9401, Washington, D.C. 20590, (202) 366–4289.

SUPPLEMENTARY INFORMATION:

Background

Audit requirements for State and local grantees are based on the Single Audit Act of 1984 (31 U.S.C. 7501–7507). These requirements have been implemented in OMB Circular A–128, Audits of State and Local Governments (50 FR 19114–19119). These audit requirements have been implemented in DOT in 49 CFR part 18 and in 49 CFR part 90, Audits of State and Local Governments. Part 90 is merely a republication of OMB Circular A–128. The Department has determined that part 90 is unnecessary, and has decided to rescind part 90 and add a reference to OMB Circular A–128 in Section 26, Non-Federal Audits, of part 18.

This action represents no change in DOT audit policy, but makes implementation of OMB Circular A–128 consistent with the manner other OMB management circulars are implemented. A copy of OMB Circular A–128 can be obtained from the information contact above.

A reference to OMB Circular A–133, "Audits of Institutions of Higher Education and Other Nonprofit Institutions," has also been added to Section 26 of part 18 to inform subrecipients of State or local governments who are institutions of higher education or other nonprofit organizations of the audit requirements imposed on them. This requirement is contained in 49 CFR part 19, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

Regulatory Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The Department of Transportation has determined that this rulemaking is not a significant regulatory action within the meaning of Executive Order 12866, nor a significant regulation under the Department's Regulatory Policies and Procedures. The action is a reissuance of current requirements. Because of this, the Department certifies that this regulatory action is nonsignificant under the Department of Transportation's Regulatory Policies and Procedures.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. 605(b)) requires that, for each rule with a "significant economic impact on a substantial number of small entities," an analysis be prepared describing the rule's impact on small entities and identifying any significant alternatives to the rule that would minimize the economic impact on small entities. We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they do not affect the amount of funds provided in the covered programs, but rather reissue administrative and procedural requirements.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. The rules primarily apply to State and local governments, but this is merely a reissuance of current requirements. Accordingly, the Department certifies that this action does not have sufficient Federalism implications to warrant a full Federalism Assessment under the principles and criteria contained in Executive Order 12612.

Paperwork Reduction Act

There are no additional collection of information requirements in this final rule.

Justification to Issue Final Rule

Under the Administrative Procedure Act, to issue a final rule without an NPRM, it is necessary to make a finding that issuing an NPRM would be impractical, unnecessary, or contrary to the public interest. This action involves no substantive change in policy, but makes implementation of OMB Circular A–128 consistent with implementation of other OMB Circulars. Instead of a rule that republished OMB Circular A–128, we are incorporating the Circular by reference. Since an NPRM would not result in the receipt of useful information, its issuance is unnecessary. The action is in the public interest because, in accordance with the President's regulatory reinvention efforts, we are eliminating a duplicative regulation.

List of Subjects

49 CFR Part 18

Accounting, Contract programs, Grant programs, Grants administration, Intergovernmental relations, Reporting and recordkeeping requirements.List of

49 CFR Part 90

Audits, Grant programs, Grants administration.

Issued this 1st day of May 1996 at Washington, D.C.

Federico Peña,

Secretary of Transportation.

Accordingly, for the reasons set forth above, Subpart A of Title 49 of the Code of Federal Regulations is amended as set forth below.

PART 18—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for Part 18 continues to read as follows:

Authority: 49 USC 322(a).

2. Section 18.26 is amended by adding paragraphs (d) and (e) to read as follows:

§ 18.26 Non-Federal Audits.

* * * * *

(d) Governmental recipients and subrecipients are subject to the Single Audit Act of 1984 (31 U.S.C. 7501–7507), and OMB Circular A–128, "Audits of State and Local Governments."

(e) Subrecipients of Federal assistance that are institutions of higher education or other nonprofit organizations are subject to OMB Circular A–133, Revised, "Audits of Institutions of Higher Education and Other Non-Profit Institutions." State and local governments may choose to apply the provisions of OMB Circular A–128 to certain public hospitals and institutions of higher education.

PART 90—[REMOVED]

3. Part 90 is hereby removed.

[FR Doc. 96–11607 Filed 5–9–96; 8:45 am]

BILLING CODE 4910–62–P

Surface Transportation Board

49 CFR Parts 1164 and 1311

[STB Ex Parte No. 545]

Removal of Obsolete Regulations Concerning Owner-Operators

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (the Board) is removing from the Code of Federal Regulations obsolete regulations concerning owner-operators.

EFFECTIVE DATE: May 10, 1996.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–7513. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (ICCTA) abolished the Interstate Commerce Commission (ICC) and established the Board within the Department of Transportation. Section 204(a) of ICCTA provides that "[t]he Board shall promptly rescind all regulations established by the [ICC] that are based on provisions of law repealed and not substantively reenacted by this Act."

Generally, prior to enactment of the Motor Carrier Act of 1980 (MCA–80), motor common and contract carriers needed licenses from the ICC (certificates for common carriers, permits for contract carriers) in order to operate. These licenses were based on public convenience and necessity and fitness standards. Motor common and contract carriers could only charge rates that were filed with the ICC in tariffs or schedules.

The regulations involved here relaxed these regulatory requirements for owner-operators transporting food. The part 1164 regulations were based on former 49 U.S.C. 10922(b)(4)(E), 10923(b)(5)(A), and 11145(c). The part 1311 regulations were based on former 49 U.S.C. 10762(a)(1) and 10762(g), as well as former sections 10922(b)(4)(E) and 10923(b)(5)(A). Under the Trucking Industry Regulatory Reform Act (TIRRA), Title II of the Hazardous Materials Transportation Act Amendments of 1994, Pub. L. No. 103–311 (August 26, 1994), and the ICCTA, these statutory provisions were repealed, and we are accordingly removing the obsolete part 1164 and part 1311 regulations.

PART 1164—LICENSING

Sections 5(a)(3) and 10(a)(2) of the MCA–80 provided exceptions for owner-operators to the licensing provisions then generally applicable for obtaining certificates and permits. These sections of the MCA–80 were codified, as here relevant, at former 49 U.S.C. 10922(b)(4)(E) and 49 U.S.C. 10923(b)(5)(A). Owner-operators were allowed to obtain operating authority from the ICC to transport food and certain other commodities[1] through a fitness-only application procedure.[2] The ICC issued regulations implementing the new statute in *Owner-Operator Food Transportation*, 132 M.C.C. 521 (1981) *(Owner-Operator)*.[3]

TIRRA again amended former sections 10922 and 10923. Sections 207 and 208 of TIRRA eliminated the provisions of 49 U.S.C. 10922(b)(4)(E) and 49 U.S.C. 10923(b)(5)(A) and also modified other parts of sections 10922 and 10923 to apply the fitness-only standard to all non-household goods motor property common and contract carrier applicants. *See Revised MC-Licensing Appl. Forms and Regs.*, 10 I.C.C.2d 386, 387 (1994).[4] Thus, since the passage of TIRRA, owner operators have been able to obtain authority to transport food products under that standard regardless of the annual tonnage and ownership of the vehicle.[5]

Because former sections 10922(b)(E)(5), 10923(b)(5)(A), and 11145(c) have been eliminated, we will remove the obsolete regulations at 49 CFR part 1164.

PART 1311—RATE FILINGS

Section 5(a) of the MCA–80 modified for owner-operators the requirement to file tariffs and schedules: former 49 U.S.C. 10762 was amended by the addition of a new subsection (g) mandating the streamlining of rate filing requirements of motor carriers holding authority issued under former section 10922(b)(4)(E) and 10923(b)(5)(a). Also, former section 10762(a)(1) was amended

[1] These commodities were food and other edible products included for human consumption (excluding alcoholic beverages and drugs), agricultural limestone, and fertilizers and other soil conditioners. For brevity, these commodities will be referred to as food products.

[2] The statute limited this provision to transportation by the owner of the vehicle, except in emergency situations, and to situations in which the annual tonnage of food products transported did not exceed the annual tonnage of exempt commodities transported. Former 49 U.S.C. 11145(c) required the ICC to "streamline" the annual method of reporting tonnage.

[3] These regulations were originally found in 49 CFR part 1138, but they were redesignated at 49 CFR part 1164 on November 1, 1982 (47 FR 49534). They defined the term "emergency situations" and promulgated an annual reporting requirement to certify compliance with the statute's annual tonnage limitation.

[4] Effective January 1, 1995, the ICC was to issue authorities to carriers upon finding that the applicant was in compliance with (1) ICC regulations and safety requirements; (2) DOT safety fitness requirements; and (3) minimum financial responsibility requirements established by the ICC pursuant to 49 U.S.C. 10927.

[5] Truck licensing was again changed under the ICCTA. Permanent licensing for motor carriers of property was eliminated. 49 U.S.C. 13902. Now, motor carriers are registered for a term determined by the Secretary of Transportation based on fitness standards (safety and insurance) similar to those in TIRRA. A two-year transition period is established to allow motor common and contract carriers to be issued certificates and permits under the TIRRA framework. 49 U.S.C. 13902(d). Although ICCTA eliminates the distinction between motor common and contract carriage, each carrier can be separately registered during the transition period.

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to require the filing of only minimum rates for owner-operator transportation of food products. In *Owner-Operator, supra*, the ICC adopted regulations at 49 CFR part 1311 that permitted owner-operators of food products to file, in lieu of tariffs or schedules, a letter statement containing the transportation services performed and the minimum rates.[6]

Section 206 of TIRRA further amended former section 10762(a)(1) by removing the tariff filing requirement for individually (as distinguished from collectively) set rates of motor common carriers of property (other than household goods and carriers involved with water carriers in the noncontiguous domestic trade). Motor contract carriers were no longer required to file actual or minimum rates.[7]

The ICCTA further modified the rate filing requirements. Former section 10762(g) was removed. Now, under 49 U.S.C. 13702, motor carriers only need to file a tariff with the Board for transportation in noncontiguous domestic trade (with certain exceptions).

Because the statutory bases for the part 1311 regulations have been repealed, we are eliminating these obsolete rules.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

[6] The ICC later eliminated by exemption the requirement that motor contract carriers file a schedule of rates. *Exemption—Mtr. Contr. Car.—Tariff Filing Requirements*, 133 M.C.C. 150 (1983), *aff'd sub nom. Central & Southern Motor Freight Ass'n* v. *United States*, 757 F.2d 301 (D.C. Cir. 1985), *cert. denied*, 474 U.S. 1019 (1985).

[7] Although sections 207 and 208 of TIRRA eliminated former sections 10922(b)(4)(E) and 10923(b)(5)(A), TIRRA did not remove former section 10762(g), the provision for streamlined rate filing for owner-operator transportation of food products.

List of Subjects

49 CFR Part 1164

Foods, Freight, Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 1311

Foods, Freight, Motor carriers.

Decided: April 24, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,
Secretary.

PARTS 1164 AND 1311—[REMOVED]

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is amended by removing parts 1164 and 1311.

[FR Doc. 96–11742 Filed 5–9–96; 8:45 am]
BILLING CODE 4915–00–P

Proposed Rules

Federal Register
Vol. 61, No. 92
Friday, May 10, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 95–053–1]

Horses Imported Into the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the horse importation regulations to clarify the information required on the application for a permit to import horses into the United States and to clarify health certificate requirements for imported horses that transit another country en route to the United States. We believe that these proposed actions are necessary to ensure that importers of horses provide adequate and accurate information on import permit applications and to ensure that horses are properly handled from the time the horses leave their farm of origin until the horses arrive in the United States. These proposed amendments appear necessary to ensure the continued protection of the health of horses in the United States.

DATES: Consideration will be given only to comments received on or before July 9, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95–053–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 95–053–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Joyce Bowling, Staff Veterinarian, Import/Export Animals, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231, (301) 734–8170.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92 (referred to below as "the regulations") govern the importation into the United States of specified animals, including horses, to prevent the introduction of various animal diseases into the United States.

Under § 92.304, importers must apply for a permit to import horses into the United States. The regulations state that importers must provide certain information, including the route of travel, for horses being imported into the United States, and the required information must appear on the application for an import permit.

Under § 92.314, horses imported into the United States must be accompanied by a health certificate completed by a salaried veterinary officer of the national government of the country of origin indicating the horses' freedom from communicable diseases such as contagious equine metritis and African horse-sickness. Additionally, § 92.314 requires that "a horse presented for importation from a country where it has been for less than 60 days shall be accompanied by a like certificate similarly issued by a salaried veterinary officer of the national government of each country in which the horse has been during the 60 days immediately preceding shipment from the last country from which it is shipped to the United States."

We are proposing to amend the regulations by adding definitions of the terms "country of origin" and "country of transit" and by adding an explanation of the words "route of travel."

We propose to define "country of origin" as the "country in which the horse was born, was raised, and remained until shipment to the United States, or the country into which the horse was legally imported and has remained for a period of not less than 60 days prior to shipment to the United States." In cases of horses legally imported into their country of origin, we have determined that a 60-day residency requirement would maintain consistency with other requirements in the regulations. We would define "country of origin" in the regulations because, in the past, there has been some confusion on the part of importers concerning the meaning of the term "country of origin," especially when a horse is moved to another country for shipment to the United States. In limited cases, the country from which the horse was directly shipped to the United States was mistakenly identified as the country of origin on the horse's import permit. We also propose to define "country of transit" as a "country through which a horse travels en route from the country of origin to the United States." A complete list of the countries of transit should appear in the "route of travel" section of the import permit application, but, on occasion, importers have mistakenly omitted countries through which a shipment of horses traveled en route to the United States.

In addition, we propose to specify that "route of travel" must include a list of all of the countries that the horse will transit en route to the United States, all of the modes of transportation that will be used to move the horse from the country of origin to the port of entry in the United States, and all of the locations where the horse will be offloaded prior to arrival at the U.S. port of entry. In the past, in addition to neglecting to list all of the countries of transit, some importers have mistakenly omitted information on the modes of transportation used to transport a shipment of horses and locations where the shipment of horses will be offloaded. Because different countries have different disease statuses, and the risk of the horses' exposure to disease increases when shipped by ground transportation and when offloaded at some locations within countries of transit, a complete assessment of the import risk associated with a particular shipment of horses is only possible when all of the essential information is available on the import permit application.

We believe that by defining the terms "country of origin" and "country of transit" and by clarifying the words "route of travel," importers would know exactly what information needs to be provided on the application for an import permit. This action would improve compliance with the regulations and continue to ensure that

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horses intended for importation into the United States do not pose a disease risk to the domestic horse population.

We are also proposing to clarify the regulations concerning locations for offloading. Currently, the regulations do not specify appropriate locations where horses may be offloaded in countries of transit. We are proposing to require that if, during shipment to the United States, a horse is offloaded in a country of transit, then that horse must be offloaded in a facility that is capable of being cleaned and disinfected and that is approved by the country of transit's Ministry of Agriculture for the offloading of in-transit horses. We are also proposing to specify that while the horse is offloaded in the facility, the horse must be kept separate from all other horses. This action would reduce the risk that horses intended for importation into the United States would come into contact with other horses of unknown disease status en route to the United States.

Additionally, we are proposing to clarify the requirements concerning health certificates from countries of transit. We propose to amend § 92.314 to ensure that the regulations clearly state that if, during shipment to the United States, a horse is offloaded in a country of transit, then that horse must undergo a veterinary inspection and obtain a health certificate from a salaried veterinary officer of the national government of the country of transit in which the horse is offloaded. If a horse is offloaded in more than one country of transit, then that horse would be required to undergo a veterinary inspection and obtain a health certificate from a salaried veterinary officer of the national government in every country of transit in which the horse is offloaded. This clarification of the requirements would ensure that any communicable diseases in horses intended for importation into the United States are diagnosed as early as possible and that appropriate action is taken to prevent those diseases from being carried into the United States.

We propose that, after performing the veterinary inspection, the veterinary officer of a country of transit must complete a form that describes the horse being shipped, certifies that a health inspection has been performed on that horse, and assures that the horse is free from evidence of communicable diseases. We are proposing that the certification read, "The animals described on this form have been given a careful veterinary inspection and found to be free from evidence of communicable disease and, in my opinion, are fit to travel." The veterinarian would sign this certificate to attest to the fact that the horse has been inspected, determined to be free of evidence of communicable diseases, and judged to be in a condition that would indicate that the animal would be in the same health upon arrival at its destination in the United States as when inspected in the country of transit. This inspection and certification would ensure that horses imported into the United States present a minimal disease risk to the U.S. horse population.

In addition, we propose to specify that the veterinary inspection must be performed in the country of transit no earlier than 24 hours before the horse is reloaded on a transport vehicle for shipment to the United States. We are proposing a 24-hour time limit in order to provide flexibility in the timing of the veterinary inspection while ensuring that the inspection takes place as close to the time of the horse's departure from a country of transit as possible.

If a horse intended for importation into the United States travels through any countries other than its country of origin and the United States but is not offloaded in a country of transit, we propose that the owner of the horse, or the owner's representative, must sign a certification statement prior to the horse's shipment from the country of origin that certifies that the horse will be shipped directly to the United States. We are proposing that the certification read, "The horse will be sent directly from the premises of origin to the premises of destination without coming into contact with other equine animals not accompanied by an official health certificate, in vehicles cleaned and disinfected in advance with a disinfectant officially recognized in the country of origin." This statement would have to be presented upon the horse's arrival in the United States. If, however, for reasons beyond the importer's or shipper's control, the horse experiences an unscheduled offloading in a country of transit, then the horse would have to undergo a veterinary inspection and obtain a health certificate from a salaried veterinary officer of the national government of the country of transit.

Miscellaneous

We are proposing to make other minor, nonsubstantive changes to § 92.304, such as correcting punctuation. Additionally, we are proposing to amend §§ 92.304 and 92.314 by adding a reference to the end of each section for the Office of Management and Budget control number assigned to approved information collection and recordkeeping requirements.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We are proposing to clarify the information required on the application for a permit to import horses into the United States and to clarify health certificate requirements for imported horses that transit another country en route to the United States.

As this proposal simply clarifies the regulations and as most horses arrive in the United States with proper documentation, we do not expect a significant number of importers to be affected by this action. For importers not currently in compliance with the regulations, any cost incurred in complying with the regulations should be offset by the costs currently incurred by importers when a shipment of horses arrives in the United States without proper documentation. Currently, when a horse arrives in the United States without proper documentation, that horse remains in quarantine until the proper documents are produced, or the horse is refused entry if the proper documents are not produced. Therefore, the importer incurs additional user fee costs while the horse is held in quarantine, or the importer incurs the cost of shipping the horse back to the country of origin. Therefore, we have determined that the effect on any U.S. entities, large or small, would be insignificant.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 95–053–1. Please send a copy of your comments to: (1) Docket No. 95–053–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would require that, upon arrival in the United States, horses travelling through countries of transit en route to the United States be accompanied by either a certification signed by the horses' owner verifying that the horses were not offloaded in any countries of transit or a certification signed by a veterinary officer of the country of transit in which the horses were offloaded that attests to the horses' freedom from evidence of communicable disease when the horse was offloaded and a veterinary inspection was performed in the country of transit. This proposed rule would therefore introduce two new information collection requirements that would enable us to ensure that horses destined for the United States are healthy when they leave their country of origin, remain healthy during their journey, and pose a minimal health risk to the U.S. horse population upon arriving in the United States. We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection. We need this outside input to help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 5 minutes per response.

Respondents: Veterinarians and horse owners.

Estimated number of respondents: 250.

Estimated number of responses per respondent: 1.

Estimated Total Annual Burden on Respondents: 21 hours.

Copies of this information collection can be obtained from the Department of Agriculture, Clearance Officer, OIRM, Ag. Box 7630, Washington, DC 20250.

List of Subjects in 9 CFR Part 92

Animal disease, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 92 would be amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for part 92 would continue to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 92.300 would be amended by adding definitions for *Country of origin* and *Country of transit,* in alphabetical order, to read as follows:

§ 92.300 Definitions.

* * * * *

Country of origin. The country in which a horse was born, was raised, and remained until importation to the United States, or the country into which the horse was legally imported and remained for a period of not less than 60 days prior to shipment to the United States.

Country of transit. A country through which a horse travels en route from the country of origin to the United States.

* * * * *

3. Section 92.304 would be amended as follows:

a. In paragraph (a)(1)(i), by revising the second sentence to read as set forth below.

b. At the end of the section, by adding the following: "(Approved by the Office of Management and Budget under control number 0579–0040)".

§ 92.304 Import permits for horses from countries affected with CEM, and for horse specimens for diagnostic purposes;[12] and reservation fees for space at quarantine facilities maintained by APHIS.

(a) * * *

(1)(i) * * * The application must specify the name and address of the importer; the species, breed, number or quantity of horses or horse test specimens to be imported; the purpose of the importation; individual horse identification which includes a description of the horse, name, age, markings, if any, registration number, if any, and tattoo or eartag; the country of origin; the name and address of the exporter; the port of embarkation in the foreign country; the route of travel from the country of origin to the United States, including the country of origin, all countries of transit, all modes of transportation, all locations, if any, where the horses will be offloaded, and the port of entry in the United States; the proposed date of arrival of the horses or horse test specimens to be imported; and the name of the person to whom the horses or horse test specimens will be delivered and the location of the place in the United States to which delivery will be made from the port of entry. * * *

* * * * *

4. Section 92.314 would be amended as follows:

a. By designating the existing text as paragraph (a) and by adding a paragraph heading to read "*General requirements.*"

b. In newly designated paragraph (a), the proviso beginning with "*And provided, further*" and the text following it is removed and new text is added in its place to read as set forth below.

c. By adding a new paragraph (b) to read as set forth below.

d. At the end of the section, by adding an OMB control number to read as set forth below.

§ 92.314 Horses, certification, and accompanying equipment.

(a) * * * *And provided, further,* That upon inspecting horses at the port of entry and before permitting them to leave the port of entry, the inspector may require their disinfection and the disinfection of their accompanying equipment as a precautionary measure against the introduction of foot-and-mouth disease or any other disease dangerous to the livestock of the United States.

[12] See footnote 7 to subpart C.

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(b) *Special requirements for horses traveling through countries of transit.* In addition to meeting all of the applicable requirements of this subpart, horses shipped to the United States through a country or countries of transit must meet the following conditions:

(1) If a horse intended for importation into the United States will travel through a country or countries of transit but will not be offloaded in the country or countries of transit, then, prior to the horse's shipment from the country of origin, the owner of the horse, or the owner's representative, must certify that the horse will be shipped directly to the United States. The certification must read as follows: "The horse will be sent directly from the premises of origin to the premises of destination without coming into contact with other equine animals not accompanied by an official health certificate, in vehicles cleaned and disinfected in advance with a disinfectant officially recognized in the country of origin." This certification must be signed by the owner of the horse or the owner's representative, and the signed certification must be presented to an inspector at the port of entry in the United States. If, after the certification is signed, an unscheduled offloading of a shipment of horses occurs in a country of transit, then the horses must meet all of the requirements of paragraphs (b)(2) and (b)(3) of this section.

(2) If a horse intended for importation into the United States will travel through a country or countries of transit and will be offloaded in the country or countries of transit, then the horse must be offloaded in a facility that is capable of being cleaned and disinfected and that is approved by the country of transit's Ministry of Agriculture for the offloading of in-transit horses. Within the facility, the horse must be kept separate from all other horses. All horses offloaded in a country or countries of transit must undergo a veterinary inspection and receive a health certificate from a salaried veterinary officer of the national government of each country of transit in which the horse is offloaded. The veterinary inspection must be performed no earlier than 24 hours before the horse is reloaded on a transport vehicle for shipment. If, after performing the inspection, the salaried veterinary officer of the national government of the country of transit finds the horse intended for importation into the United States to be free of evidence of communicable diseases and fit to travel, the veterinary officer must complete the form shown in paragraph (b)(3) of this section.

(3) A completed certificate of inspection, as shown below, must accompany any horse offloaded in a country of transit to the U.S. port of arrival and be produced for the inspector at the port of arrival upon the horse's arrival in the United States.

Certification of Inspection of Import Animals

1. Permit No. _____
2. Consignor's Name (Last name, first name, middle initial or business name) _____
3. Consignor's Street Address (Mailing address) _____
4. Consignor's City/Town _____
5. Consignor's Country _____
6. Consignee's Name (Last name, first name, middle initial or business name) _____
7. Consignee's City/Town _____
8. Consignor's State _____
9. Species of Animals Certified for Import _____
10. Country of Origin _____
11. Breed of Animals Certified for Import _____
12. Number of Animals Inspected _____
13. Country of Transit/City in Which Inspection Occurred _____
14. Date of Arrival in and Date of Departure from Country of Transit _____
15. Name of Veterinarian Performing Inspection in Country of Transit _____

The animals described on this form have been given a careful veterinary inspection and found to be free from evidence of communicable disease and, in my opinion, fit to travel.

16. Signature of Veterinarian Performing Inspection in Country of Transit _____
17. Date Issued _____
18. Seal _____
19. Remarks _____

(Approved by the Office of Management and Budget under control number 0579–0040)

Done in Washington, DC, this 3rd day of May 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–11635 Filed 5–9–96; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Chapter 1

[Docket No. 96N–0094]

Uniform Compliance Date for Food Labeling Regulations; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the **Federal Register** of April 15, 1996 (61 FR 16422). The document proposed to establish January 1, 1998, as its new uniform compliance date for all food labeling regulations that are issued after the publication of a final rule based on the proposal and before January 1, 1997. The document was published with an editorial error. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFS–150), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4561.

In FR Doc. 96–9319, appearing on page 16422 in the **Federal Register** of Monday, April 15, 1996, the following correction is made:

1. On page 16422, in the first column, after the "**DATES**" caption, a new caption is added to read as follows: "**ADDRESSES:** Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857."

Dated: May 6, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–11788 Filed 5–9–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 328

[Docket No. 95N–0341]

Over-the-Counter Drug Products Intended for Oral Ingestion that Contain Alcohol; Proposed Amendment of Final Rule

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking that would amend the regulations for over-the-counter (OTC) drug products intended for oral ingestion that contain alcohol as an inactive ingredient by exempting ipecac syrup from the maximum concentration limits of 0.5 percent alcohol or less when used by children under 6 years of age. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Submit written comments by June 10, 1996; written comments on the agency's economic impact determination by June 10, 1996. The agency is proposing that any final rule based on this proposal become effective on the date of its publication in the **Federal Register**.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–105), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2304.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 13, 1995 (60 FR 13590), the agency issued a final rule establishing in § 328.10 (21 CFR 328.10) maximum concentration limits for alcohol (ethyl alcohol) as an inactive ingredient in OTC drug products intended for oral ingestion. The maximum concentration limit was set at 0.5 percent for any OTC drug product labeled for use by children under 6 years of age, and 5 percent for any OTC drug product labeled for use by children 6 to under 12 years of age. The final rule did not discuss ipecac syrup, an OTC drug product used to cause vomiting when poisoning occurs.

The United States Pharmacopeia (USP) 23d Revision states that alcohol is contained in ipecac syrup in concentrations between 1.0 and 2.5 percent (Ref. 1). Alcohol is used in the preparation of the syrup to ensure the complete extraction of alkaloids as their amine salts from ipecac powder and to reject extraneous material when ipecac syrup is prepared by percolation (Ref. 2).

Under § 201.308(c) (21 CFR 201.308(c)), OTC marketing of ipecac syrup is limited to a 1-fluid-ounce (30 milliliters (mL)) package. The product's labeling must contain a statement conspicuously boxed and in red letters that states: "For emergency use to cause vomiting in poisoning. Before using, call physician, the Poison Control Center, or hospital emergency room immediately for advice." The labeling also must state: "Usual dosage: 1 tablespoon (15 milliliters) in persons over 1 year of age."

As part of the rulemaking for OTC poison treatment drug products (50 FR 2244, January 15, 1985), the agency proposed a dose of 1 tablespoonful (15 mL or 1/2 bottle) of ipecac syrup for children 1 to under 12 years of age. The agency also proposed a dose of 1 teaspoonful (5 mL) for children 6 months to under 1 year of age, and that ipecac syrup not be given to children under 6 months of age unless directed by a health professional. The agency will finalize these directions for use in a future issue of the **Federal Register**.

References

(1) United States Pharmacopeia 23d Revision National Formulary 18, United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 834–835, 1994.

(2) "Solutions Using Mixed Solvent Systems: Spirits, Elixirs, and Extracted Products," in *Sprowls' American Pharmacy*, 7th ed., J. B. Lipincott Co., Philadelphia, pp. 100–101, 1974.

II. The Agency's Proposed Amendment

The agency is proposing to exempt ipecac syrup from the requirements of § 328.10(d), which limit alcohol content to 0.5 percent or less in OTC drug products intended for oral ingestion for use by children 6 years of age or less.

Ipecac syrup is indicated for use in potential life-threatening emergencies with directions for use calling for a one-time treatment dose of 15 mL for children 1 to under 12 years of age. Ipecac syrup is usually used under the advice of a health professional, and it is not indicated for repeated or routine use. Because the maximum amount of ipecac syrup per packaged container does not exceed 30 mL, the maximum quantity of alcohol at a 2.5 percent concentration contained in 30 mL of ipecac syrup is 0.75 mL. If a child under 6 years old swallowed the entire contents of a 30 mL container of ipecac syrup, the ingested amount of alcohol (0.75 mL) is insignificant. In addition, the alcohol and the ipecac syrup are generally vomited together with other stomach contents. The agency concludes that the benefit of ipecac syrup as an emetic outweighs any risk of adverse effects from ingestion of 0.75 mL of alcohol. Accordingly, the agency is proposing to add a new paragraph to § 328.10 to state: "Ipecac syrup is exempt from the provisions of paragraph (d) of this section." This means that ipecac syrup may contain more than 0.5 percent alcohol even though labeled for use by children under 6 years of age. The agency is designating this new paragraph as paragraph (f) and redesignating current paragraph (f) as paragraph (g).

III. Analysis of Impacts

The agency has examined the economic consequences of this proposed rulemaking in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. Executive Order 12291 has been superseded by Executive Order 12866. FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and, thus, is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. This proposal has no effect on the OTC marketing of ipecac syrup drug products. Therefore, the agency certifies that this proposal, if implemented, will not have a significant economic impact on a substantial number of small entities.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC drug products intended for oral ingestion that contain alcohol as an inactive ingredient. Comments regarding the impact of this rulemaking on OTC drug products intended for oral ingestion that contain alcohol as an inactive ingredient should be accompanied by appropriate documentation.

IV. Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is not of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Request for Comments

Interested persons may, on or before June 10, 1996, submit to the Dockets Management Branch (address above) written comments or objections on the proposed regulation. Written comments on the agency's economic impact determination may be submitted on or before June 10, 1996. Three copies of all comments or objections are to be submitted, except that individuals may submit one copy. Comments or

objections are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. The agency has determined that comments or objections should be submitted within 30 days because this proposal has no effect on currently marketed products.

List of Subjects in 21 CFR Part 328

Drugs, Labeling, Alcohol.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 328 be amended as follows:

PART 328—OVER-THE-COUNTER DRUG PRODUCTS INTENDED FOR ORAL INGESTION THAT CONTAIN ALCOHOL

1. The authority citation for 21 CFR part 328 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 371).

2. Section 328.10 is amended by redesignating paragraph (f) as paragraph (g) and by adding new paragraph (f) to read as follows:

§ 328.10 Alcohol.

* * * * *

(f) Ipecac syrup is exempt from the provisions of paragraph (d) of this section.

* * * * *

Dated: May 1, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–11640 Filed 5–9–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3500

[Docket No. FR–3780–N–07]

RIN 2502–AG40

Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Mortgage Broker Fee Disclosure Rule: Notice of Meeting of Negotiated Rulemaking Advisory Committee

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of committee meeting.

SUMMARY: The Department has established a Negotiated Rulemaking Advisory Committee to address certain issues concerning indirect payments to mortgage brokers and certain other mortgage originators (retail lenders) and volume-based compensation. The committee, which consists of representatives with a definable stake in the outcome of a proposed rule, has convened on 5 prior occasions in the past 5 months. This notice announces the time and place for the next meeting. This meeting is open to the public.

DATES: The sixth meeting of the committee will be held on May 20–21, 1996. On Monday, May 20, the meeting will start at 9:00 a.m. and will end at 5:00 p.m., and on Tuesday, May 21, the meeting will start at 9:00 a.m. and run until approximately 4:00 p.m.

ADDRESSES: The next meeting of the committee will be held in the Headquarters of the American Association of Retired Persons, 601 "E" Street, NW., Room 120, Floor 2–B, Washington, DC.

FOR FURTHER INFORMATION CONTACT: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, 451 7th Street, SW., Room 5241, Washington, DC 20410–8000); telephone number: (202) 708–4560 (this is not a toll-free number); e-mail through Internet at david—r.—williamson@hud.gov. For hearing- and speech-impaired persons, this number may be accessed via TDD by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On December 8, 1995 (60 FR 63008), HUD published a notice announcing the establishment and first meeting of the Negotiated Rulemaking Advisory Committee on Mortgage Broker Disclosures, to discuss and negotiate a proposed rule on the treatment under RESPA, including disclosure requirements, of payments to retail lenders and of volume-based compensation to mortgage brokers. The committee convened in Washington, DC, on December 13–14, 1995; January 18–19, 1996; February 22–23, 1996; March 18–19, 1996; and April 8–9, 1996. The committee expects that the upcoming meeting on May 20–21 will be the last meeting for this rulemaking effort.

This meeting is open to the public, with limited seating available on a first-come, first-served basis.

Authority: 42 U.S.C. 1437g, 3535(d).

Dated: May 3, 1996.

James E. Schoenberger,

Associate General Deputy Assistant Secretary for Housing Federal Housing Commissioner.

[FR Doc. 96–11648 Filed 5–9–96; 8:45 am]

BILLING CODE 4210–27–U

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 525

RIN 1076–AD67

Request for Comments on Establishing Departmental Procedures To Authorize Class III Gaming on Indian Lands When a State Raises an Eleventh Amendment Defense To Suit Under the Indian Gaming Regulatory Act

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Department of the Interior seeks comments on its authority under the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. Section 2710, to promulgate "procedures" to authorize Class III gaming on Indian lands when a State raises an Eleventh Amendment defense to an action brought against it pursuant to Section 11 of the Act, 25 U.S.C. Section 2710(d)(7), and on other related matters. This advance notice is the result of the Supreme Court decision in *Seminole Tribe of Florida* v. *State of Florida*, 116 S.Ct. 1114 (1996).

DATES: Written public comment is invited and will be considered in the development of a proposed rule. Comments on this advance notice of proposed rulemaking must be received no later than July 1, 1996, to be considered.

ADDRESSES: Any comments concerning this notice, including sections regarding conformance with statutory and regulatory authorities, may be sent to: George Skibine, Director, Indian Gaming Management Staff, 1849 C Street, N.W., MS–2070 MIB, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: George Skibine, Director, Indian Gaming Management Staff, (202) 219–4066.

SUPPLEMENTARY INFORMATION:

Background

Congress enacted IGRA to provide a statutory basis for the operation and regulation of Indian gaming and to protect Indian gaming as a means of generating revenue for tribal governments. 25 U.S.C. Section 2702;

Seminole, at 1119. Since its passage in 1988, more than 140 compacts in more than 20 States have been successfully negotiated, entered into by States and Tribes and approved by the Secretary. Today, Indian gaming is a successful industry generating significant governmental revenue for Indian tribes, which provides funding for essential government services such as roads, schools, and hospitals. Prior to enactment of IGRA, States generally were precluded from any regulation of gaming on Indian reservations. See *California* v. *Cabazon Band of Mission Indians*, 480 U.S. 202 (1987). IGRA, by offering States an opportunity to participate with Indian tribes in developing regulations for Indian gaming, "extends to States a power withheld from them by the Constitution." *Seminole*, at 1124.

IGRA requires an Indian Tribe that wants to conduct casino type ("Class III") gaming on its Indian lands to negotiate a "compact" of terms and conditions for such gaming with the State in which the Indian lands are located. IGRA also provides that if the State fails to bargain, or to do so in good faith, the Tribe may sue the State in Federal court to enforce the remedial provisions provided by the statute. Under these provisions, if a court found a State not to be bargaining in good faith, it would "order the State and the Indian Tribe to conclude such a compact within a 60-day period." 25 U.S.C. Section 2710(d)(7)(B)(iii). If thereafter a State and Tribe fail to conclude a compact within this 60-day period, they "shall each submit to a mediator appointed by the court a proposed compact that represents their last best offer for a compact." *Id.* Section 2710(d)(7)(B)(iv). The mediator shall then "select from the two proposed compacts the one which best comports with the terms of this Act and any other applicable Federal law and with the findings and order of the court," id., and submit his or her selection to the State and Tribe, *id.* Section 2710(d)(7)(B)(v). If, within 60 days from the mediator's submission of his or her selection, the State consents to a proposed compact, such a compact authorizes Indian gaming pursuant to IGRA. *Id.*

Section 2710(d)(7)(B)(vi). If the State does not consent to a compact within 60 days of the mediator's submission, the Secretary of the Interior shall:

prescribe, in consultation with the Indian tribe, procedures—

(I) which are consistent with the proposed compact selected by the mediator under [25 U.S.C. Section 2710(d)(7)(B)(iv)], the provisions of [the Act] and the relevant provisions of the laws of the State, and

(II) under which class III gaming may be conducted on the indian lands over which the Indian tribe has jurisdiction.

25 U.S.C. Section 2710(d)(7)(B)(vii). In practice, only a handful of cases have required resort to IGRA's judicial enforcement mechanism.

In *Seminole Tribe of Florida* v. *Florida*, the Supreme Court affirmed a decision by the Eleventh Circuit Court of Appeals holding that Congress may not abrogate State Eleventh Amendment immunity under the Indian Commerce Clause. The decision raises questions about the process now to be followed by Tribes who cannot secure State cooperation in the compacting process.

The Supreme Court's *Seminole* decision does not affect the validity of existing class III gaming compacts, but it does require the United States to consider the effect of a State's refusal to engage in remedial litigation designed to oversee the compacting process. In its decision below, the Eleventh Circuit suggested that the compacting process could proceed as prescribed by IGRA (including litigation) so long as a State did not assert its Eleventh Amendment immunity. In light of IGRA's severability clause, the Eleventh Circuit further expressed the view that if a State pleads an Eleventh Amendment defense and the suit is dismissed, the Tribe may then notify the Secretary and the Secretary may prescribe the terms of the particular compact. The Supreme Court expressly declined to consider the validity of this part of the Eleventh Circuit's opinion, and Florida's cross-petition for review of this issue was denied by the Supreme Court. By contrast, the Ninth Circuit, in its pre-*Seminole* decision rejecting an Eleventh Amendment challenge, *Spokane Tribe of Indians* v. *Washington*, 28 F.3d 991 (9th Cir. 1994), expressed disagreement with the Eleventh Circuit's views on that issue. *Id.* at 997.

In these circumstances, and because of the importance of the issues to the Tribes, the States, and the general public, the Department seeks comments regarding the manner in which the compacting provisions of IGRA may operate following the Supreme Court's *Seminole Tribe* decision.

Subject Matter of Potential Rulemaking

The Department seeks comments on the following specific issues, and on other issues directly related to the subject matter of this notice.

(1) The effect of the Supreme Court's decision in *Seminole Tribe* on the operation of other provisions in 25 U.S.C. Section 2710(d)(7) when a State does not waive its Eleventh Amendment immunity to suit;

(2) Whether, and under what circumstances, the Secretary of the Interior is empowered to prescribe "procedures" for the conduct of Class III gaming when a State interposes an Eleventh Amendment defense to an action pursuant to 25 U.S.C. Section 2710(d)(7)(B);

(3) What is an appropriate administrative process for the development of Secretarial procedures;

(4) What procedures should be followed if a State interposes an Eleventh Amendment defense to an action filed under 25 U.S.C. Section 2710(d)(7)(B);

(5) What procedures can be, and should be, utilized for determining legal issues that may be in dispute, such as the "scope of gaming" permitted under State law. The scope of gaming issue arises when a State takes the position that it is not required to bargain with a Tribe with respect to certain Class III games because IGRA does not authorize such games on the ground that such games are not permitted by the State "for any purpose by any person," *see* 25 U.S.C. Section 2710(d)(1)(B)1; and

(6) How any procedures promulgated by the Secretary may, and should, provide for appropriate regulation of Indian gaming.

Public Review

Comments on this notice may be submitted in writing to the address identified at the beginning of this rulemaking by July 1, 1996. Comments received by that date will be considered in the development of any proposed rule.

Executive Order 12866

This advance notice of proposed rulemaking has been reviewed by the Office of Management and Budget under Executive Order 12866.

Drafting Information

This Notice was drafted by the Office of the Solicitor, 1849 C Street, N.W., Washington, D.C., 20240.

Dated: April 30, 1996.

Ada E. Deer,

Assistant Secretary, Indian Affairs.

[FR Doc. 96–11287 Filed 5–9–96; 8:45 am]

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DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

28 CFR Part 100

RIN 1105–AA39

Implementation of Section 109 of the Communications Assistance for Law Enforcement Act

AGENCY: Federal Bureau of Investigation, DOJ.

ACTION: Proposed rule.

SUMMARY: This rule establishes the procedures whereby telecommunications carriers can recover the costs associated with complying with the Communications Assistance for Law Enforcement Act (CALEA), which requires telecommunications carriers to ensure law enforcement's ability, pursuant to court order or other lawful authorization, to intercept communications notwithstanding advanced telecommunications technologies.

DATES: Written comments must be received on or before July 9, 1996.

ADDRESSES: Comments should be submitted in triplicate to the Telecommunications Contracts and Audit Unit, Federal Bureau of Investigation, P.O. Box 221286, Chantilly, VA 22022–1286, Attention: CALEA FR Representative, telephone number (703) 814–4900.

FOR FURTHER INFORMATION CONTACT: Walter V: Meslar, Unit Chief, Telecommunications Contracts and Audit Unit, Federal Bureau of Investigation, P.O. Box 221286, Chantilly, VA 22022–1286, telephone number (703) 814–4900.

SUPPLEMENTARY INFORMATION: Recent and continuing advances in telecommunications technology and the introduction of new digitally-based services and features have, in some instances, impaired the ability of federal, state, and local law enforcement agencies to fully and properly conduct various types of court-authorized electronic surveillance. Therefore, on October 25, 1994, the President signed into law the Communications Assistance for Law Enforcement Act (CALEA) (Public Law 103–414, 47 U.S.C. 1001–1010). This law requires telecommunications carriers, as defined in CALEA, to ensure law enforcement's ability, pursuant to court order or other lawful authorization, to intercept communications notwithstanding advanced telecommunications technologies.

Under CALEA, certain implementation responsibilities are conferred upon the Attorney General; the Attorney General has, in turn, delegated responsibilities set forth in CALEA to the Director, FBI, or his designee, pursuant to 28 CFR 0.85(o). The Director, FBI, has designated personnel in the Engineering Section of the Information Resources Division and the Property Procurement and Management Section of the Finance Division to carry out these responsibilities.

Definition of "Telecommunications Carrier"

CALEA defines a "telecommunications carrier" as any "person or entity engaged in the transmission or switching of wire or electronic communications as a common carrier for hire" (section 102(8)(A)), and includes any "person or entity engaged in providing commercial mobile service, (as defined in section 332(d) of the Communication Act of 1934, as amended (47 U.S.C. 332(d))" (section 102(8)(B)). This definition includes, but is not limited to, local exchange and interexchange carriers; competitive access providers; resellers, cable operators, utilities, and shared tenant services providers, to the extent that they offer telecommunications services as common carriers for hire; cellular telephone companies; personal communications services (PCS) providers; satellite-based mobile communications providers; specialized mobile radio services (SMRS) providers and enhanced SMRS providers; and paging service providers.

The Federal Communications Commission (FCC) may determine that a person or entity who is not a common carrier is subject to CALEA if that person or entity provides wire or electronic communication service and the FCC concludes that such service is a replacement for a substantial portion of the local telephone exchange service and that it is in the public interest to deem such a person or entity to be a telecommunications carrier for purposes of CALEA.

The definition does not include (1) persons or entities insofar as they are engaged in providing information services such as electronic publishing and messaging services; and (2) any class or category of telecommunications carriers that the FCC exempts by rule after consultation with the Attorney General.

Capability Requirements

CALEA requires telecommunications carriers to ensure that, within four years of the date of enactment, their systems have the capability to meet the Assistance Capability Requirements as described in section 103 of CALEA. These requirements are that a telecommunications carrier shall ensure that its equipment, facilities, or services that provide a customer or subscriber with the ability to originate, terminate, or direct communications are capable of—

(1) expeditiously isolating and enabling the government, pursuant to a court order or other lawful authorization, to intercept, to the exclusion of any other communications, all wire and electronic communications carried by the carrier within a service area to or from equipment, facilities, or services of a subscriber of such carrier concurrently with their transmission to or from the subscriber's equipment, facility, or service, or at such later time as may be acceptable to the government;

(2) expeditiously isolating and enabling the government, pursuant to a court order or other lawful authorization, to access call-identifying information that is reasonably available to the carrier—(A) before, during, or immediately after the transmission of a wire or electronic communications (or at such later time as may be acceptable to the government); and (B) in a manner that allows it to be associated with the communication to which it pertains, except that, with regard to information acquired solely pursuant to the authority for pen registers and trap and trace devices (as defined in section 3127 of Title 18, United States Code), such call-identifying information shall not include any information that may disclose the physical location of the subscriber (except to the extent that the location may be determined from the telephone number);

(3) delivering intercepted communications and call-identifying information to the government, pursuant to a court order or lawful authorization, in a format such that they may be transmitted by means of equipment, facilities, or services procured by the government to a location other than the premises of the carrier; and

(4) facilitating authorized communication interceptions and access to call-identifying information unobtrusively and with a minimum of interference with any subscriber's telecommunications service and in a manner that protects—(A) the privacy and security of communications and call-identifying information not authorized to be intercepted; and (B) information regarding the government's interception of communications and access to call-identifying information.

Under section 107(a)(2) of CALEA, a carrier will be deemed to be in compliance if it adheres to publicly available technical requirements, feature descriptions, or standards adopted by an industry association or standard-setting organization relevant to CALEA. Telecommunications carriers may also develop their own solutions. In any case, carriers must meet the requirements set forth in Section 103 of CALEA. If no technical requirements or standards are issued, or if they are challenged as being deficient, upon petition, the FCC has authority to develop them through a rule making.

Capacity Requirements

Section 104 of CALEA requires that the Attorney General, after seeking public notice and comment, establish and publish:

(1) Notice of the actual number of communications interceptions, pen registers, and trap and trace devices representing a portion of the maximum capacity required to accommodate all of the communication interceptions, pen registers, and trap and trace devices that the Attorney General estimates that the government agencies authorized to conduct electronic surveillance may conduct and use simultaneously by the date 4 years after the date of enactment of CALEA, and

(2) Notice of the maximum capacity required to accommodate all of the communication interceptions, pen registers, and trap and trace devices that the Attorney General estimates that the government agencies authorized to conduct electronic surveillance may conduct and use simultaneously after the date that is 4 years after the date of enactment of CALEA.

On October 16, 1995 the FBI proposed for comment those notices (60 FR 53643), and on November 9, 1995 the comment period was extended until January 16, 1996.

Section 104 of CALEA also provides that within 180 days after the publication of the final notice of capacity requirements, a telecommunications carrier shall submit to the Attorney General a statement identifying any of the systems or services that do not have the capacity to accommodate simultaneously the number of interceptions, pen registers, and trap and trace devices set forth in that notice. The FBI intends to use those statements as a basis from which to solicit cooperative agreements to reimburse carriers for reasonable costs of modifications performed to comply with CALEA capability and capacity requirements, based on available funding.

Industry Implementation

Industry's compliance with the requirements set forth in section 103 of CALEA is affected by a number of interrelated factors, including whether the Attorney General is required to, and has agreed to, pay for needed modifications, and whether the equipment, facility, or service was installed or deployed on or before January 1, 1995.

In the case of equipment, facilities, and services installed or deployed after January 1, 1995, compliance is dependant upon whether the necessary modifications are reasonably achievable as determined by the FCC using criteria set forth in CALEA. These criteria are as follows:

(1) The effect on public safety and national security.

(2) The effect on rates for basic residential telephone service.

(3) The need to protect the privacy and security of communications not authorized to be intercepted.

(4) The need to achieve the capability assistance requirements of section 103 of CALEA by cost effective methods.

(5) The effect on the nature and cost of the equipment, facility or service at issue.

(6) The effect on the operation of the equipment, facility, or service at issue.

(7) The policy of the United States to encourage the provision of new technologies and services to the public.

(8) The financial resources of the telecommunications carrier.

(9) The effect on competition in the provision of telecommunications services.

(10) The extent to which the design and development of the equipment, facility, or service was initiated before January 1, 1995.

(11) Such other factors as the FCC determines are appropriate.

Telecommunications carriers also may petition regulatory authorities to adjust charges, practices, classifications, and regulations to recover costs expended for making needed modifications to equipment, facilities, or services pursuant to the assistance capability requirements of CALEA section 103. CALEA also includes provisions for exemption, extension of the compliance date, consultation with industry, and systems security. Noncompliance may lead to civil actions by the Attorney General and the imposition of civil fines. In addition, it requires telecommunications transmission and switching equipment manufacturers, as well as providers of telecommunications support services, to cooperate with telecommunications carriers in achieving the required capacities and capabilities.

Section 109 of CALEA, Payment of Costs of Telecommunications Carriers to Comply with Capability Requirements, authorizes the Attorney General, subject to the availability of appropriations, to agree to pay telecommunications carriers for: (1) all reasonable costs directly associated with the modifications performed by carriers in connection with equipment, facilities, and services installed or deployed on or before January 1, 1995, to establish the capabilities necessary to comply with section 103 of CALEA; (2) additional reasonable costs directly associated with making the assistance capability requirements found in section 103 of CALEA reasonably achievable with respect to equipment, facilities, or services installed or deployed after January 1, 1995, in accordance with the procedures established in CALEA section 109(b); and, (3) reasonable costs directly associated with modifications of any of a carrier's systems or services, as identified in the Carrier Statement required by CALEA section 104(d), which do not have the capacity to accommodate simultaneously the number of interceptions, pen registers, and trap and trace devices set forth in the Capacity Notice(s) published in accordance with CALEA section 104.

CALEA section 109(e), Cost Control Regulations, authorizes the Attorney General, after notice and comment, to establish regulations necessary to effectuate timely and cost-efficient payment to telecommunications carriers under CALEA, under 18 U.S.C. chapters 119 and 121 and under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 *et seq.*).

CALEA directs the Attorney General to consult with the FCC prior to the establishment of regulations that will allow for cost recovery by telecommunications carriers of reasonable costs incurred for compliancy.

Regulations shall minimize the cost to the Federal Government and permit recovery by telecommunications carriers of the direct costs of developing necessary modifications for CALEA compliance, including providing the capabilities requested, providing capacities requested, the costs of training personnel in the use of such capabilities and capacities, and the direct costs of deploying or installing such capabilities and capacities.

In the case of any modification that may be used for any purpose other than lawfully authorized electronic surveillance by a law enforcement agency of a government, CALEA permits

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the recovery of only the incremental cost of making the modification suitable for such law enforcement purposes.

Establishment of Cost Recovery Rules and Procedures

The regulations proposed herein are intended to ensure that each carrier's practices used in estimating costs are consistent with the current cost accumulating and reporting procedures utilized by the carrier for the preparation of its financial statements. Further, these regulations establish that not all expenses reportable in accordance with generally accepted accounting principles will be eligible for reimbursement. Consistency in the application of cost accounting practices is necessary to enhance the likelihood that comparable transactions are treated alike. Consistent application of internal cost accounting practices will facilitate the preparation of reliable cost estimates and allow comparison with the costs of performance. Such comparisons provide an important basis for financial control over costs and aid in establishing accountability for cost in the manner agreed to by both parties.

These regulations also ensure that each cost is allocated only once and on only one basis to a cost group. The criteria for determining the allocation of costs to a cost group should be the same for all similar groupings.

The following proposed cost recovery rules will be incorporated in any cooperative agreement established under section 109 of CALEA and entered into between the carriers and the FBI. Subsequent to the submission to the FBI of the Carrier Statements, as required under section 104(d) of CALEA, the FBI will directly solicit cooperative agreements from the carriers based upon available funding. A separate **Federal Register** notice concerning carrier statements will be published soon. These rules were developed to establish the procedures whereby carriers may seek reimbursement under section 109(a) and 104(e) of CALEA. Cost recovery under section 109(b)(2) of CALEA will be determined pursuant to the procedures set forth in section 109(b)(1) of CALEA in accordance with these cost recovery rules as promulgated. To the extent possible, these rules will allow carriers to utilize their existing accounting procedures to record the costs of bringing equipment, facilities, and services into compliance with CALEA.

Applicable Administrative Procedures and Executive Orders

Regulatory Flexibility Act

As required by section 603 of the Regulatory Flexibility Act, the FBI has prepared this Initial Regulatory Flexibility Analysis (IRFA) section to ascertain the expected impact on small entities of the regulations proposed in this document. The FBI is obligated to implement the mandate of Congress as set out in CALEA. Therefore, these regulations were developed to establish the mechanism whereby telecommunications carriers can recover the costs associated with complying with CALEA. The FBI seek to subject all carriers to the same regulatory policy (proposed herein), while allowing carriers to utilize their existing accounting systems in the reimbursement process. Pursuant to the goal of imposing the least burden on carriers while also fulfilling the obligation to adhere to Government fiscal accountability requirements, the proposed regulations specify reporting objectives rather than specifying the manner in which these records must be kept. The FBI estimates that approximately three thousand (3,000) telecommunications carriers may be affected by these rules. While most carriers are not large in terms of capitalization, most are dominant within their markets, so they are not considered "small" for the purposes of the Regulatory Flexibility Act. Although it is not anticipated that any small carriers will be adversely affected, these proposed rules have been written to allow any such carriers to seek reimbursement in an equitable manner. Therefore, these regulations seek to allow these carriers to use their current recordkeeping procedures, along with the existing skill levels on their staffs. As mandated by section 603(c) of the Regulatory Flexibility Act, consideration was given to alternative forms of compliance requirements for the small entities affected by these proposed rules. However, the FBI determined that these alternatives were not viable in that they would require the carriers to alter their internal accounting methodologies, would not take into account carrier individuality with respect to directly allocable costs or would violate CALEA's mandate to reimburse carriers' reasonable costs, while maintaining Government fiscal accountability requirements. This Proposed Rule solicits comments on both the proposed regulations and their possible impact on small entities. The FBI will send a copy of these proposed rules, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* There are no federal rules that overlap, duplicate or conflict with these rules.

Executive Order 12612

These regulations will not have substantial direct effects on the States, on the relationship between the national Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12866

The FBI has examined these proposed regulations in light of Executive Order 12866 and has found that they constitute a significant regulatory action under sections 3(f)(1) and 3(f)(4). Pursuant to Executive Order 12866, 28 CFR part 100 is the draft text of the regulatory actions that are required under CALEA. These proposed regulations promulgate procedures whereby carriers may seek reimbursement for their efforts to assist law enforcement in preserving electronic surveillance capabilities as mandated by CALEA, which authorizes appropriations of $500 million for carrier reimbursement. These regulations have been developed in order to effect the least burden on the administrative staffs of both the carriers and the Government while maintaining the Government's obligation to adhere to its fiscal accountability requirements. In order to accomplish this goal, the proposed regulations specify reporting objectives rather than specifying the manner in which these records must be kept. As mandated by Executive Order 12866, consideration was given to potentially effective and feasible alternatives to the proposed regulations. However, the FBI determined that alternative requirements were not viable in that they would require the carriers to alter their internal accounting methodologies, would not take into account carrier individuality with respect to directly allocable costs and violate CALEA's mandate to maintain Government fiscal accountability standards in the reimbursement process.

Unfunded Mandates Reform Act of 1995

As required by Title II of the Unfunded Mandates Reform Act of 1995, this section assesses the effects of the proposed regulations on State, local and tribal governments and the private sector. These regulations are required under section 109(e) of CALEA. No unfunded mandate is imposed upon State, and local or tribal governments by these regulations. Therefore, sections 203 and 204 of the Unfunded Mandates Reform Act do not apply to these proposed rules. However, the FBI has determined that these proposed rules are subject to sections 201, 202, and 205 of the Unfunded Mandates Reform Act. While the telecommunications industry is primarily affected by these proposed rules, all reasonable costs, as shall be defined in 28 CFR part 100, incurred by the private sector will be subject to reimbursement from the $500 million authorized to be appropriated by Congress under CALEA section 110. Furthermore, CALEA sections 109 and 104 specifically establish the conditions whereby a telecommunications carrier may be deemed in compliance with regard to the equipment, facilities or services covered in these proposed regulations should the Government not agree to reimburse the carrier for the compliance effort. Accurate estimates of the effects on the national economy of this part, which is proposed so that carriers may seek reimbursement for their efforts to assist law enforcement in preserving electronic surveillance capabilities as mandated by CALEA, are not feasible. As mandated by section 205 of the Unfunded Mandates Reform Act, consideration was given to potentially effective and feasible alternates to the proposed rules. However, the FBI determined that alternative requirements were not viable in that they would require the carriers to alter their internal accounting methodologies, would not take into account carrier individuality with respect to directly allocable costs and violated CALEA's mandate to maintain Government fiscal accountability standards in the reimbursement process.

Information Collection Under Review

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days from the date listed at the top of this page in the **Federal Register**. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

This collection covers:

(1) Type of Information Collection: NEW COLLECTION: Quantitative and qualitative data necessary to evaluate cooperative agreement proposals and subsequent requests for reimbursement.

(2) The title of the information collection: "Telecommunications Carrier Reimbursement Cost Estimate" and "Telecommunications Carrier Reimbursement Request for Payment."

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collections: No form number; sponsored by the FBI, United States Department of Justice.

(4) Who will be asked or required to respond, as well as a brief abstract; BUSINESS OR OTHER FOR PROFIT: Telecommunications carriers will respond. This data collection will be necessary to evaluate cooperative agreement proposals and subsequent requests for reimbursement under CALEA. This information will be used to determine whether agreement prices are fair and reasonable and to make recommendations to agreement officers for approval or disapproval of the carrier's request.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: The FBI estimates that approximately three thousand (3,000) telecommunications carriers, with approximately twenty-three thousand (23,000) unique switches, that, over a five (5) year period, may be affected by these rules. The time required to read and prepare information for one switch is estimated at four (4) hours per response.

By publication of this notice, written comments and suggestions from the public and affected agencies concerning the proposed collection of information was requested. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology (i.e., permitting electronic submission of responses).

Comments or suggestions regarding the items contained in this information collections request should be directed to Mr. Porter F. Dunn, Telecommunications Contracts and Audit Unit, Federal Bureau of Investigation, P.O. Box 221286, Chantilly, VA 22022–1286, telephone number (703) 814–4902.

List of Subjects in 28 CFR Part 100

Accounting, Law enforcement—wiretapping and electronic surveillance, Reporting and recordkeeping requirements, Telecommunications.

Dated: May 6, 1996.

Louis Freeh,

Director, Federal Bureau of Investigation, Department of Justice.

For the reasons set out in the preamble, 28 CFR part 100 is proposed to be added as follows:

PART 100—COST RECOVERY REGULATIONS, COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT OF 1994

Sec.
100.9 General.
100.10 Definitions.
100.11 Allowable costs.
100.12 Reasonable costs.
100.13 Directly assignable costs.
100.14 Directly allocable costs.
100.15 Disallowed costs.
100.16 Cost estimate submission.
100.17 Request for payment.
100.18 Audit.
100.19 Reduction for defective cost data.
100.20 Accounting for unallowable costs.
100.21 Confidentiality of trade secrets/proprietary information.

Authority: 47 U.S.C. 1001–1010; 28 CFR 0.85(o).

§ 100.9 General.

These Cost Recovery Regulations were developed to define allowable costs and establish reimbursement procedures in accordance with section 109(e) of Communications Assistance for Law Enforcement Act (CALEA) (Public Law 103–414, 47 U.S.C. 1001–1010). Reimbursement of costs is subject to the availability of funds and agreement, prior to the incurrence of costs, by the Attorney General or designee to reimburse costs.

§ 100.10 Definitions.

(a) *Allocable* means chargeable to two or more costs objectives.

(b) *Business unit* means any segment of an organization for which cost data are routinely accumulated by the carrier for tracking and measurement purposes.

(c) *Cost objective* means a function, organizational subdivision, contract, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalization projects, etc.

(d) *Cost pool* means groupings of incurred costs identified with two or more cost objectives, but not identified specifically with any final cost objective.

(e) *Directly allocable costs* means any costs that are directly chargeable to two or more cost objectives.

(f) *Directly assignable cost* means any cost that can wholly be attributed to a cost objective.

(g) *Directly associated cost* means any directly assignable cost or directly allocable cost which is generated solely as a result of incurring another cost, and which would not have been incurred had the said cost not been incurred.

(h) *Final cost objective* means a cost objective that has allocated to it, both assignable and allocable costs and, in the carrier's accumulation system, is one of the final accumulation points.

(i) *Installed or deployed* means that, on a specific switching system, equipment, facilities, or services are operable and available for use by the carrier's customers.

(j) *Plant nonspecific costs* means costs related to property held for future telecommunications use, along with the associated provisioning expenses, network operations expenses, and depreciation and amortization expenses. These costs shall also include the costs of supervising and office support of these activities.

(k) *Plant specific costs* means costs related to specific kinds of telecommunications plants. These costs shall include the costs of inspecting, testing and reporting on the condition of telecommunications plant to determine the need for repairs, replacements, rearranges and changes; performing routine work to prevent trouble except replacing items of plant other than retirement units; rearranging and changing the location of plant not retired; repairing material for reuse; restoring the condition of plant damaged by storms, floods, fire, or other casualties (other than the cost of replacing retirement units); inspecting after repairs have been made; and receiving training to perform these kinds of work. Also included are the costs of direct supervision (immediate or first-level) and office support of this work.

(l) *Trade secrets/proprietary information* means information which is in the possession of a carrier but not generally available to the public, which that carrier desires to protect against unrestricted disclosure or competitive use, and which is clearly identified as such at the time of its disclosure to the government.

§ 100.11 Allowable costs.

(a) Costs that are eligible for reimbursement under section 109(e) CALEA are:

(1) All reasonable plant specific costs directly associated with the modifications performed by carriers in connection with equipment, facilities, and services installed or deployed on or before January 1, 1995, to establish the capabilities necessary to comply with section 103 of CALEA, until the equipment, facility, or service is replaced or significantly upgraded or otherwise undergoes major modifications;

(2) Additional reasonable plant specific costs directly associated with making the assistance capability requirements found in section 103 of CALEA reasonably achievable with respect to equipment, facilities, or services installed or deployed after January 1, 1995, in accordance with the procedures established in CALEA section 109(b); and

(3) Reasonable plant specific costs directly associated with modifications to any of a carrier's systems or services, as identified in the Carrier Statement required by CALEA section 104(d), that do not have the capacity to accommodate simultaneously the number of interceptions, pen registers, and trap and trace devices set forth in the Capacity Notice(s) published in accordance with CALEA section 104.

(b) Allowable plant specific costs shall include:

(1) The costs of installation, inspection, and testing of the telecommunications plant, and inspection after modifications have been made; and

(2) The costs of direct first-line supervision and office support for this work for plant specific expenses.

(c) In the case of any modification that may be used for any purpose other than lawfully authorized electronic surveillance by a government law enforcement agency, this part permits recovery of only the incremental cost of making the modification suitable for such law enforcement purposes.

(d) Reasonable costs that are directly associated with the modifications performed by a carrier as described in § 100.11(a) are recoverable. These allowable costs are limited to direct and directly allocable costs incurred by the business units whose efforts are expended on the implementation of CALEA requirements.

§ 100.12 Reasonable costs.

(a) A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person in the conduct of competitive business. Reasonableness of specific costs must be examined with particular care in connection with the carrier or its separate divisions that may not be subject to effective competitive restraints.

(1) No presumption of reasonableness shall be attached to the incurrence of costs by a carrier.

(2) The burden of proof shall be upon the carrier to justify that such cost is reasonable under this part.

(b) Reasonableness depends upon considerations and circumstances, including, but not limited to:

(1) Whether a cost is of the type generally recognized as ordinary and necessary for the conduct of the carrier's business or the performance of this obligation; or

(2) Whether it is a generally accepted sound business practice, arm's-length bargaining or the result of Federal or State laws and/or regulations.

(c) It is the carrier's responsibility to inform the Government of any deviation from the carrier's established practices.

§ 100.13 Directly assignable costs.

(a) An allowable directly assignable cost is any plant specific cost that can be definitively linked with the performance of bringing equipment, facilities or services into compliance with CALEA as described in § 100.11(a).

(1) A direct cost which has been incurred for the same purpose in like circumstances and which has been included in any allocable cost pool to be assigned to that or any other final cost objective shall not be assigned to the CALEA compliance effort (or any portion thereof).

(2) Costs identified specifically with the work performed are direct costs to be charged directly to the CALEA compliance effort. All costs specifically identified with other projects, business units, or cost objectives of the carrier as direct costs shall not be charged to the CALEA compliance effort, directly or indirectly.

(3) The burden of proof shall be upon the carrier to justify that such cost is a direct cost under this part.

(b) For reasons of practicality, any directly assignable cost of minor dollar amount may be treated as a directly allocable cost if the accounting treatment is consistently applied within the carrier's accounting system and the application produces substantially the same results as treating the cost as a directly assignable cost.

§ 100.14 Directly allocable costs.

(a) A cost is directly allocable to the CALEA compliance effort if:

(1) It is plant specific cost incurred specifically to meet the requirements of CALEA sections 103 and 104; or

(2) It benefits both the CALEA compliance effort and other work, and can be distributed to them in reasonable proportion to the benefits received.

(b) The burden of proof shall be upon the carrier to justify that such cost is an allocable cost under this part.

(c) An allocable cost shall not be assigned to the CALEA compliance effort if other costs incurred for the same purpose in like circumstances have been included as a direct cost of that, or any other, cost objective.

(d) The accumulation of allocable costs shall be as follows:

(1) Allocable costs shall be accumulated by logical groupings with due consideration of the reason for incurring such costs.

(i) Each grouping should be determined so as to permit distribution of the grouping on the basis of the benefits accruing to the multiple cost objectives.

(ii) Similarly, the particular case may require subdivision of these groupings (e.g., building occupancy costs might be separable from those of personnel administration within the engineering group).

(2) Such allocation necessitates selecting a distribution base common to all cost objectives to which the grouping is to be allocated. The base should be selected so as to permit allocation of the grouping on the basis of the benefits accruing to the multiple objectives.

(3) When substantially the same results can be achieved through less precise methods, the number and composition of cost groupings should be governed by practical considerations and should not unduly complicate the allocation.

(4) Once a methodology for determining an appropriate base for distributing allocable costs has been accepted by the FBI, it shall not be modified without written approval of the FBI. All items properly includable in an allocable cost base should bear a pro rata share of allocable costs irrespective of their acceptance as reimbursable under this part.

(5) The carrier's method of allocating allocable costs shall be in accordance with the accounting principles used by the carrier in the preparation of their externally audited financial statements and consistently applied, to the extent that the expenses are allowable under these regulations. The method may require further examination when:

(i) Substantial differences occur between the cost patterns of work under CALERA compliance effort and the carrier's other work;

(ii) Significant changes occur in the nature of the business, the extent of subcontracting, fixed-asset improvement programs, inventories, the volume of sales and production, manufacturing processes, the carrier's products, or other relevant circumstances; or

(iii) Allocable cost groupings developed for a carrier's primary location are applied to off-site locations. Separate cost groupings for costs allocable to off-site location may be necessary to permit equitable distribution of costs on the basis of the benefits accruing to the multiple cost objectives.

(6) The base period for allocating allocable costs is the cost accounting period during which such costs are incurred and accumulated for distribution to work performed in that period. The base period for allocating allocable costs will normally be the carrier's fiscal year. A shorter period may be appropriated when performance involves only a minor portion of the fiscal year, or when it is general practice to use a shorter period. When the compliance effort is performed over an extended period, as many base periods shall be used as are required to accurately represent the period of performance.

§ 100.15 Disallowed costs.

(a) General and Administrative (G&A) costs are disallowed. G&A costs include, but are not limited to, any management, financial, and other expenditures which are incurred by or allocated to a business unit and which are for the general management and administration of the business unit as a whole. These include, but are not limited to:

(1) Accounting and Finance, External Relations, Human Resources, Information Management, Legal, Procurement; and

(2) Other general administrative activities such as library services, food services, archives, and general security investigation services.

(b) Customer Service costs are disallowed. These costs include, but are not limited to, any Marketing, Sales, Product Management, and Advertising expenses.

(c) Plant nonspecific costs are disallowed. These include, but are not limited to, expenses related to property held for future telecommunications use, provisioning expenses, network operations expenses, and depreciation and amortization expenses. Any plant nonspecific supervision and office support costs are also disallowed.

(d) Cost that have already been recovered from any governmental or nongovernmental entity are disallowed.

(e) Costs that cannot be either directly assigned or directly allocated are disallowed.

(f) Additional costs that are incurred due to the carrier's failure to complete the CALEA compliance effort in the agreed upon time frame are disallowed.

(g) Costs associated with modifications of any equipment, facility or service installed or deployed after January 1, 1995 which are deemed reasonably achievable by the Federal Communications Commission under section 109(b) of CALEA are disallowed.

§ 100.16 Cost estimate submission.

(a) The carrier shall provide sufficient cost data at the time of proposal submission to allow adequate analysis and evaluation of the estimated costs. The FBI reserves the right to request additional cost data from carriers in order to ensure compliance with this part.

(b) The requirement for submission of cost data is met if, as determined by the FBI, all cost data reasonably available to the carrier are either submitted or identified in writing by the time of agreement.

(c) If cost data and information to explain the estimating process are required by the FBI and the carrier refuses to provide necessary data, or the FBI determines that the data provided are so deficient as to preclude adequate analysis and evaluation, the FBI will attempt to secure the data and/or elicit corrective action. If the carrier persists in refusing to provide the needed data or to take corrective action, the FBI will refer the action to higher authority, including details of the attempts made to resolve the matter, and a statement of noncompliance with CALEA will be issued.

(d) Instructions for submission of the cost data for the estimate are as follows:

(1) The carrier shall submit to the FBI estimated and/or incurred costs by line item with supporting information, adequately cross-referenced, suitable for detailed analysis.

(2) A cost element breakdown as described in § 100.16(h) shall be attached for each proposed line item and must reflect any specific requirements established by the FBI.

(3) Supporting breakdowns shall be furnished for each cost element, consistent with the carrier's cost accounting system.

(4) When more than one line item is proposed, summary total amounts covering all line items shall be furnished for each cost element.

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(5) Depending on the carrier's accounting system, the carrier shall provide breakdownS for the following categories of cost elements, as applicable:

(i) *Materials.* Provide a consolidated cost summary of individual material quantities included in the various tasks, orders, or agreement line items being proposed and the basis upon which they were developed (vendor quotes, invoice prices, etc.). Include raw materials, parts, software, components, and assemblies. For all items proposed, identify the item, source, quantity, and cost.

(ii) *Direct labor.* Provide a time-phased (e.g., monthly, quarterly) breakdown of labor hours, rates, and costs by appropriate category, and furnish the methodologies used in developing estimates.

(iii) *Allocable direct costs.* Indicate how allocable costs are computed and applied, including cost breakdowns, and showing trends and budgetary data, to provide a basis for evaluating the reasonableness of proposed rates. Indicate the rates used and provide an appropriate explanation.

(iv) *Subcontracting costs.* For any subcontractor costs submitted for reimbursement, the carrier is responsible for ensuring that documentation requirements set forth herein are passed on to any and all subcontractors utilized in the carrier's efforts to meet CALEA requirements.

(v) *Other costs.* List all other costs not otherwise included in the categories described above (e.g., special tooling, travel, computer and consultant services) and provide bases for costs.

(e) As part of the specific information required, the carrier shall submit with its cost estimate and clearly identify as such, costs that are verifiable and factual. In addition, the carrier shall submit information reasonably required to explain its estimating process, including:

(1) The judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data; and

(2) The nature and amount of any contingencies included in the proposed estimate.

(f) There is a clear distinction between submitting cost data and merely making available books, records, and other documents without identification. The requirement for submission of cost data is met when all accurate cost data reasonably available to the carrier have been submitted, either actually or by specific identification, to the FBI. As later information comes into the carrier's possession, it must be promptly submitted to the FBI. The requirement for submission of cost data continues up to the time of final reimbursement.

(g) In submitting its estimate, the carrier must include an index, appropriately referenced, of all the cost data and information accompanying or identified in the estimated. In addition, any future additions and/or revisions, up to the date of agreement on the costs, must be annotated in a supplemental index.

(h) Headings for submission are as follows:

(1) Total Project Cost: Summary.

(i) Cost Elements (Enter appropriate cost elements.).

(ii) Proposed Cost Estimate—Total Cost (enter those necessary and reasonable costs that in the carrier's judgment will properly be incurred in efficient completion of CALEA requirements. When any of the costs in this have already been incurred (e.g., under a letter contract), describe them on an attached support schedule.).

(iii) Proposed Cost Estimate—Unit Cost (Enter the unit costs for each cost element.).

(iv) Supporting Material (Identify the attachment in which the information supporting the specific cost element may be found. Attach separate pages as necessary.).

(2) Total Project Costs: Detail (at Switch Level, Research & Development, or Project level, as appropriate).

(i) Cost Elements (Enter appropriate cost elements.).

(ii) Proposed Cost Estimate—Total Cost (enter those necessary and reasonable costs that in the carrier's judgment will properly be incurred in efficient completion of CALEA requirements. When any of the costs in this have already been incurred (e.g., under a letter contract), describe them on an attached supporting schedule.).

(iii) Proposed Cost Estimate—Unit Cost (Enter the unit costs for each element.).

(iv) Supporting Material (Identify the attachment in which the information supporting the specific cost element may be found. Attach separate pages as necessary.).

§ 100.17 Request for payment.

(a) The carrier shall provide sufficient supporting documentation at the time of submission of request for payment to allow adequate analysis and evaluation of the incurred costs. The FBI reserves the right to request additional cost data from carriers in order to ensure compliance with this part.

(b) Instructions for submission of the supporting documentation for the request for payment are as follows:

(1) The carrier shall submit to the FBI incurred costs by line item with supporting information, adequately cross-referenced, suitable for detailed analysis.

(2) A cost element breakdown § 100.17(f) shall be attached for each agreed upon line item and must reflect any specific requirements established by the FBI.

(3) Supporting breakdowns shall be furnished for each cost element, consistent with the carrier's cost accounting system.

(c) When more than one line item has been agreed upon, summary total amounts covering all line items shall be furnished for each cost element. If agreement has been reached with FBI representatives on use of forward costing rates/factors, identify the agreement, include a copy, and describe its nature. Depending on the carrier's accounting system, breakdowns shall be provided to the FBI for the following categories of cost elements, as applicable:

(1) *Materials.* Provide a consolidated cost summary of individual material quantities included in the various tasks, orders, or agreement line items and the basis upon which they were determined (vendor invoices, time sheets, payroll records, etc.). Include raw materials, parts, software, components, and assemblies. For all reimbursable items, identify the item, source, quantity, and cost.

(2) *Direct labor.* Provide time sheets and labor rate justification for all direct labor charged to this agreement. Include a breakdown of labor hours, rates, and cost by appropriate category, and furnish the methodologies used in identifying these costs.

(3) *Allocable direct costs.* Indicate how allocable costs are computed and applied, including cost breakdowns, comparing estimates to actual data as a basis for evaluating the reasonableness of actual costs.

(4) *Subcontracting costs.* For any subcontractor costs submitted for reimbursement, along with a copy of the invoice, the carrier must provide documentation that costs incurred are just and reasonable.

(5) *Other costs.* List all other costs not otherwise included in the categories described above (e.g., special tooling, travel, computer and consultant services) and provide documentation of these costs.

(d) There is a clear distinction between submitting cost data and merely making available books, records, and other documents without identification.

(1) The requirement for submission of cost data is met when all accurate cost data reasonably available to the carrier have been submitted, either actually or by specific identification, to the FBI.

(2) As later information comes into the carrier's possession, it must be promptly submitted to the FBI.

(3) The requirement for submission of cost data continues up to the time of final reimbursement.

(e) In submitting its invoice, the carrier must include an index, appropriately referenced, of all the cost data and information accompanying or identified in the estimate. With any future additions and/or revisions to an estimate, the carrier must provide a supplemental index, up to the date of the agreement on the costs.

(f) Headings for submission are as follows:

(1) Total Project Cost: Summary.

(i) Cost Elements (Enter appropriate cost elements.).

(ii) Actual Costs Incurred—Total Cost (Enter those necessary and reasonable costs that were incurred in the efficient completion of CALEA requirements.).

(iii) Actual Costs Incurred—Unit Cost (Enter the unit costs for each cost element.).

(iv) Supporting Material (Identify the attachment in which the information supporting the specific cost element may be found. Attach separate pages as necessary.).

(2) Total Project Costs: Detail (at Switch Level, Research & Development, or Project level, as appropriate).

(i) Cost Elements (Enter appropriate cost elements.).

(ii) Actual Costs Incurred—Total Cost (Enter those necessary and reasonable costs that were incurred in the efficient completion of CALEA requirements.).

(iii) Actual Costs Incurred—Unit Cost (Enter the unit costs for each cost element.).

(iv) Supporting Material (Identify the attachment in which the information supporting the specific cost element may be found. Attach separate pages as necessary.).

§ 100.18 Audit.

(a) *General.* In order to evaluate the accuracy, completeness, and currency of the cost data, the FBI or other representatives of the Government shall have the right to examine and audit all of the carrier's supporting materials.

(1) These materials include, but are not limited to books, records, documents, and other data, regardless of form (e.g., machine readable media such as disk, tape) or type (e.g., data bases, applications software, data base management software, utilities), including computations and projections related to proposing, negotiating, costing, or performing CALEA compliance efforts or modifications.

(2) The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost data submitted, along with the computations and projections used.

(b) *Audits of request for payment.* The carrier shall maintain and the FBI or representatives of the Government shall have the right to examine and audit supporting materials.

(1) These materials include, but are not limited to, books, records, documents, and other evidence and accounting procedures and practices, regardless of form (e.g., machine readable media such as disk, tape) or type (e.g., data bases, applications software, data based management software, utilities), sufficient to reflect properly all costs claimed to have been incurred, or anticipated to be incurred, in performing the CALEA compliance effort.

(2) This right of examination shall include inspection at all reasonable times of the carrier's plants, or parts of them, engaged in performing the effort.

(c) *Reports.* If the carrier is required to furnish cost, funding, or performance reports, the FBI or representatives of the Government shall have the right to examine and audit books, records, other documents, and supporting materials, for the purpose of evaluating the effectiveness of the carrier's policies and procedures to produce data compatible with the objectives of these reports and the data reported.

(d) *Availability.* The carrier shall make available at its office at all reasonable times the costs and support material described herein, for examination, audit, or reproduction, until five (5) years after final reimbursement payment. In addition,

(1) If the CALEA compliance effort is completely or partially terminated, the records relating to the work terminated shall be made available for five (5) years after any resulting final termination settlement; and

(2) Records relating to appeals, litigation or the settlement of claims arising under or relating to the CALEA compliance effort shall be made available until such appeals, litigation, or claims are disposed of.

(e) *Subcontractors.* The carrier shall ensure that all terms and conditions herein are incorporated in any agreement with a subcontractor that may be utilized by the carrier to perform any or all portions of this agreement.

§ 100.19 Reduction for defective cost data.

(a) The cost shall be reduced accordingly and the agreement shall be modified to reflect the reduction if any cost estimate negotiated in connection with the CALEA compliance effort, or any cost reimbursable under the effort, or any data modification is increased by any significant amount because:

(1) The carrier or a subcontractor furnished cost data that were not complete, accurate, and current;

(2) A subcontractor or prospective subcontractor furnished the carrier cost data that were not complete, accurate, and current; or

(3) Any of these parties furnished data of any description that were not accurate.

(b) Any reduction in the negotiated cost under § 100.19(a) due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount by which either the actual subcontract or the actual cost to the carrier, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the carrier, provided that the actual subcontract cost was not itself affected by defective cost data.

(c) If the FBI determines under § 100.19(a) that a cost reduction should be made, the carrier shall not raise the following matters as a defense:

(1) The carrier or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the costs of the agreement would not have been modified even if accurate, complete, and current cost data had been submitted;

(2) The FBI should have known that the cost data at issue were defective even though the carrier or subcontractor took no affirmative action to bring the character of the data to the attention of the FBI;

(3) The carrier or subcontractor did not submit accurate cost data. Except as prohibited, an offset in an amount determined appropriate by the FBI based upon the facts shall be allowed against the cost reimbursement of an agreement amount reduction if the carrier certifies to the FBI that, to the best of the carrier's knowledge and belief, the carrier is entitled to the offset in the amount requested and the carrier proves that the cost data were available before the date of agreement on the cost of the agreement (or cost of the modification) and that the data were not submitted before such date. An offset shall not be allowed if the understated data were known by the carrier to be understated when the agreement was signed; or the Government proves that

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the facts demonstrate that the agreement amount would not have increased even if the available data had been submitted before the date of agreement on cost; or

(4) In the event of an overpayment, the carrier shall be liable to and shall pay the United States at that time such overpayment as was made, with simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the carrier to the date the Government is repaid by the carrier at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2).

§ 100.20 Accounting for unallowable costs.

To ensure that the Government does not reimburse carriers for unallowable costs, the following provisions are included:

(a) Costs that are expressly unallowable or mutually agreed to be unallowable, including mutually agreed to be unallowable directly associated costs, shall be identified and excluded from any billing, claim, or proposal applicable to reimbursement under CALEA. When an unallowable cost is incurred, its directly associated costs are also unallowable.

(b) The detail and depth of records required as backup support for cost estimates, billings, or claims shall be those which are adequate to establish and maintain visibility of identified unallowable costs, including their directly associated costs. Unallowable costs involved in determining rates used for standard costs, or for allocable cost proposals or billing, need be identified only at the time rates are proposed, established, revised, or adjusted. These requirements may be satisfied by any form of cost identification which is adequate for purposes of cost determination and verification.

§ 100.21 Confidentiality of trade secrets/ proprietary information.

With respect to any information provided to the FBI under this part that is identified as company proprietary information, it shall be treated as privileged and confidential. It shall not be disclosed outside the government for any reason inclusive of Freedom of Information requests, without the prior written approval of the company. Information provided will be used exclusively for the implementation of CALEA. This restriction does not limit the government's right to use the information provided if obtained from any other source without limitation.

[FR Doc. 96–11724 Filed 5–9–96; 8:45 am]

BILLING CODE 4410–02–M

POSTAL SERVICE

39 CFR Part 233

Addition of Commercial Espionage to Mail Cover Regulations

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule will amend the United States Postal Service's mail cover regulations to add commercial espionage by foreign sources as a criminal activity for which national security mail covers may be authorized. This change is effected by expanding the definition of "protection of the national security" found at 39 CFR 233.3(c)(9) to include commercial espionage.

DATES: Comments must be received on or before June 10, 1996.

ADDRESSES: Written comments should be mailed or delivered to Counsel, Postal Inspection Service, 475 L'Enfant Plaza SW, Room 3411, Washington, DC 20260–2181.

FOR FURTHER INFORMATION CONTACT: Henry J. Bauman, Counsel, Postal Inspection Service, (202) 268–4415.

SUPPLEMENTARY INFORMATION: Postal Service regulations on mail covers are published in Title 39 of the Code of Federal Regulations (CFR) at § 233. Paragraph (c)(9) of § 233.3 currently defines "protection of the national security" as "actual or potential threats to the security of the United States of America by a foreign power or its agents." This definition will be expanded to include commercial espionage.

Commercial espionage by foreign sources has become an increasing threat to the economic well-being and ability of the United States to compete in the international market. For the purposes of this proposed revision, "commercial espionage" is defined as either "economic espionage" or "industrial espionage." According to the Federal Bureau of Investigation (FBI) white paper, FBI Strategy to Address the Problem of Economic Espionage and Industrial Espionage (Washington, DC: FBI Headquarters, undated), "economic espionage" is "government-directed, sponsored, or coordinated intelligence activity, which may or may not constitute violation of the law, conducted for the purpose of enhancing that country's or another country's economic competitiveness by the use of the information by the foreign government or by providing it to a foreign business entity thereby giving that entity a competitive advantage in the marketplace." "Industrial espionage" is defined by the FBI as "individual or private business entity sponsorship or coordination of intelligence activity conducted for the purpose of enhancing a private business and its competitive advantage in the marketplace, which is a violation of law."

Revising the Postal Service's national security mail cover regulations to include commercial espionage will enhance the ability of law enforcement to protect national security.

List of Subjects in 39 CFR Part 233

Administrative practice and procedures, Banks and banking, Credit, Crime, Law Enforcement, Postal Service, Privacy, Seizure and forfeiture.

Accordingly, 39 CFR 233 is proposed to be amended as set forth below.

PART 233—INSPECTION SERVICE/ INSPECTOR GENERAL AUTHORITY

1. The authority citation for part 233 continues to read as follows:

Authority: 39 U.S.C. 101, 401, 402, 403, 404, 406, 410, 411, 3005(e)(1); 12 U.S.C. 3401–3422; 18 U.S.C. 981, 1956, 1957, 2254, 3061; 21 U.S.C. 881; Inspector General Act of 1978, as amended (Pub. L. No. 95–452, as amended), 5 U.S.C. App.3.

2. Paragraph (c)(9) of § 233.3 is revised to read as follows:

§ 233.3 Mail covers.

* * * * *

(c) * * *

(9) *Protection of the national security* means to protect the United States from any of the following actual or potential threats to its security by a foreign power or its agents:

(i) An attack or other grave, hostile act;

(ii) Sabotage, or international terrorism; or

(iii) Clandestine intelligence activities, including commercial espionage.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 96–11768 Filed 5–9–96; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL102–1–6693; FRL–5503–8]

Approval and Promulgation of Air Quality Implementation Plans; Illinois: Motor Vehicle Inspection and Maintenance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve portions and to conditionally approve other portions of a vehicle inspection and maintenance (I/M) State Implementation Plan (SIP) revision submitted by the State of Illinois on June 29, 1995, based on the State's April 22, 1996, letter of commitment to submit certain items within one year of the final conditional approval. This revision provides for the adoption and implementation of an enhanced I/M program in both the Chicago severe ozone nonattainment area and the East St. Louis moderate ozone nonattainment area. Both areas are required to attain the National Ambient Air Quality Standards (NAAQS) as specified under the Clean Air Act (Act) by 2007 and 1996 respectively. Illinois indicates that the implementation of this important program in the two areas stated above, will reduce vehicle emissions which contribute to the formation of urban smog in Illinois by more than 38 tons per day. In support of the proposed conditional approval of the SIP revision, the State has submitted the State's Request-For-Proposals as supplemental information to the SIP. In addition, the State has committed in an April 22, 1996, letter to submit to EPA as supplemental information in support of the SIP, the State's final I/M contract and any rules necessary to address the requirements identified in the analysis section of this document.

DATES: Comments must be received on or before June 10, 1996.

ADDRESSES: Copies of Illinois' I/M SIP submittal, EPA's proposals and rulemakings, and other documents pertinent to this proposed notice are available at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, Air Programs Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments on this proposed rule should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6061.

Anyone wishing to come to Region 5 offices should first contact Francisco J. Acevedo.

SUPPLEMENTARY INFORMATION:

I. Introduction

Motor vehicles are significant contributors of volatile organic compounds (VOC), carbon monoxide (CO), and nitrogen oxide (NO_x) emissions. The motor vehicle inspection and maintenance program is an effective means of reducing these emissions. Despite improvements in emission control technology in past years, mobile sources in urban areas continue to remain responsible for roughly half of the emissions of VOC causing ozone, and most of the emissions of CO. They also emit substantial amounts of nitrogen oxides and air toxics. This is because the number of vehicle miles traveled has doubled in the last 20 years to 2 trillion miles per year, offsetting much of the technological progress in vehicle emission control over the same period. Projections indicate that the steady growth in vehicle miles will continue.

Under the Act, the EPA is pursuing a three-point strategy to achieve emission reductions from motor vehicles. The development and commercialization of cleaner vehicles and cleaner fuels represent the first two elements of the strategy. These developments will take many years before cleaner vehicles and fuels dominate the fleet and favorably impact the environment. This document deals with the third element of the strategy, inspection and maintenance, which is aimed at the reduction of emissions from the existing fleet by ensuring that vehicles are maintained to meet the emission standards established by EPA. Properly functioning emission controls are necessary to keep pollution levels low. The driving public is often unable to detect a malfunction of the emission control system. While some minor malfunctions can increase emissions significantly, they do not affect drivability and may go unnoticed for a long period of time. Effective I/M programs can identify excessive emissions and assure repairs. The EPA projects that sophisticated I/M programs such as the one being proposed in this rulemaking in Illinois will identify emission related problems and prompt the vehicle owner to obtain timely repairs thus reducing emissions.

The Act requires that polluted cities adopt either a "basic" or "enhanced" I/M program, depending on the severity of the pollution and the population of the area. Moderate ozone nonattainment areas, plus marginal ozone areas with existing or previously required I/M programs in Census-defined urbanized areas, fall under the "basic" I/M requirements. Basic and enhanced I/M programs both achieve their objective by identifying vehicles that have high emissions as a result of one or more malfunctions, and requiring them to be repaired. An "enhanced" I/M program covers more vehicles in operation in the fleet, employs inspection methods which are better at finding high emitting vehicles, and has additional features to better assure that all vehicles are tested properly and effectively repaired. The Act directed EPA to establish a minimum performance standard for enhanced I/M programs. The standard is based on the performance achievable by annual inspections in a centralized test program. States have flexibility to design their own programs if they can show that their program is as effective as the model program used in the performance standard. Naturally, the more effective the program the more credit a State will get towards the emission reduction requirement. An effective program will help to offset emissions associated with growth in vehicle use and allow for industrial and/or commercial growth.

The EPA and the States have learned a great deal about what makes an I/M program effective since the Clean Air Act of 1977 first required I/M programs for polluted areas. There are three major keys to an effective program:

(1) Given the advanced state of current vehicle design and anticipated technology changes, the ability to accurately fail problem vehicles and pass clean ones requires improved test equipment and test procedures;

(2) Comprehensive quality control and aggressive enforcement are essential to assuring the testing is done properly;

(3) Skillful diagnostics and capable mechanics are important to assure that failed cars are fixed properly.

These three factors are missing in most older I/M programs. Specifically, the idle and 2500 RPM/idle short tests and anti-tamper inspections used in current I/M programs are not as effective in identifying and reducing in-use emissions from the types of vehicles in the current and future fleet. Also, covert audits by EPA and State agencies

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typically discover improper inspection and testing 50 percent of the time in test-and-repair stations indicating poor quality control. Experience has shown that quality control at high-volume test only stations is usually much better. And, finally, diagnostics and mechanics training are often poor or nonexistent.

On November 5, 1992 (57 FR 52950), EPA established a high-tech emission test for high-tech cars. This I/M test, known as the IM240 test, is so effective that biennial test programs yield almost the same emission reduction benefits as annual programs. The test can also accurately measure NO_X emissions where NO_X is important to address an ozone problem. The addition of the pressure and purge test increases the benefit even more and results in lower testing costs and consumer time demands. The pressure test is designed to find leaks in the fuel system, and the purge test evaluates the functionality of the vapor control system. In addition, EPA published changes to the I/M rule in the **Federal Register** on October 18, 1995, (60 FR 48029) in order to provide greater flexibility to States required to implement I/M programs.

II. Background

The State of Illinois currently contains two ozone nonattainment areas which are required to implement I/M programs in accordance with the Act. The Chicago severe-17 ozone nonattainment area contains the Chicago, Aurora, Crystal Lake, Elgin, Joliet, and Round Lake Beach-McHenry urbanized areas. The Federal I/M rule requires the Chicago urbanized area to implement an enhanced I/M program. Since the I/M rule does not require enhanced I/M programs in severe urbanized areas with a Census population of less than 200,000, the remaining five cities in the Chicago nonattainment area will be required to implement only a basic I/M program based on their 1990 Census-defined urbanized area populations. The East St. Louis moderate ozone nonattainment area contains the Illinois portion of the St. Louis and Alton urbanized areas. Both areas are required to implement a Basic I/M program in the nonattainment area. On June 29, 1995, IEPA submitted to EPA a SIP revision for the implementation of an enhanced I/M program to cover both the Chicago and the East St. Louis nonattainment areas. This submittal includes the Vehicle Emissions Inspection Law of 1995 (625 ILCS 5/13B), P.A. 88–533, which became effective January 18, 1994. That statute provides authority for IEPA to implement an enhanced I/M program and meet EPA's requirements for such a program. P.A. 88–533 mandates enhanced I/M testing for the Metro-East area and certain portions of the Chicago nonattainment area. In addition, the Illinois submittal includes I/M regulations (R94–19 and R94–20) adopted on December 1, 1994, by the Illinois Pollution Control Board (Board), which include emissions standards based upon EPA's preferred IM240 loaded mode exhaust emissions standard. On December 23, 1994, the amended rule for R94–20 was published in the Illinois State Register and its effective date was December 12, 1994. On December 30, 1994, the amended rule R94–19 was published in the Illinois Register and had an effective date of December 14, 1994. On April 22, 1996, IEPA submitted the State's I/M Request-For-Proposal as part of the Illinois SIP submittal.

Under the Environmental Protection Act [415 ILCS 5 (1992)], the Board has the authority to adopt air pollution regulations for the State of Illinois. The adopted regulations and the legislation submitted by Illinois changes the existing program from a basic I/M program to a fully enhanced I/M program in both of Illinois' ozone nonattainment areas. EPA summarizes the requirements of the Federal I/M regulations, as found in 40 CFR 51.350–51.373, and its analysis of the state submittal below. Parties desiring additional details on the Federal I/M regulation are referred to the November 5, 1992, **Federal Register** notice (57 FR 52950), or 40 CFR 51.350–51.373.

III. EPA's Analysis of the Illinois, Enhanced I/M Program

As discussed above, section 182 of the Act requires that States adopt and implement updated regulations for I/M programs in moderate and above ozone nonattainment areas. The following sections of this notice summarize the requirements of the Federal I/M regulations and address whether the elements of the State's submittal comply with the Federal rule.

Applicability 40 CFR 51.350

Section 182(c)(3) of the Act and 40 CFR 51.350(a) require States which contain areas classified as serious or worse ozone nonattainment and containing metropolitan statistical areas (MSAs) with a population of 200,000 or more to implement an enhanced I/M program. As noted above, the State of Illinois contains the Aurora, Chicago, Crystal Lake, Elgin, Joliet, and Round Lake beach-McHenry urbanized areas in its Chicago Severe-17 ozone nonattainment area, but the Chicago urbanized area is the only area which contains a population of more than 200,000, based on 1990 Census data. The remaining urbanized areas in the Chicago nonattainment area with populations less than 200,000 are required to implement a basic I/M program. In addition, section 182(b)(4) of the Act and 40 CFR part 51.530(a) require States with moderate ozone nonattainment areas containing 1990 census-defined urbanized areas to implement a basic I/M program. The State of Illinois contains the East St. Louis moderate nonattainment area where this requirement applies.

The Illinois submittal contains the legal authority and regulations necessary for IEPA to establish the program boundaries and operate an enhanced I/M program in ozone nonattainment areas stated above. P.A. 88–533 specifies the geographic boundaries of the program in both ozone nonattainment areas. The program boundaries described in the Illinois submittal meet the Federal I/M requirements under Sec. 51.350 and are approvable. The Federal I/M regulation requires that the State I/M program must operate until it is no longer necessary. EPA has determined that a SIP which does not terminate prior to the attainment deadline for each applicable area (i.e. 2007 for the Chicago severe-17 ozone nonattainment area, and 1996 for the Metro-East moderate ozone nonattainment area) satisfies this requirement. The State I/M submittal does not contain a termination provision and is therefore approvable. EPA proposes to approve this section of the Illinois submittal.

Enhanced I/M Performance Standard 40 CFR 51.351

The enhanced I/M program must be designed and implemented to meet or exceed a minimum performance standard, expressed in area-wide average grams per mile (gpm), for emission levels of certain pollutants. The performance standard shall be established using local characteristics, such as vehicle mix and local fuel controls, and the following model I/M program parameters: network type, start date, test frequency, model year coverage, vehicle type coverage, exhaust emission test type, emission standards, emission control device, evaporative system function checks, stringency, waiver rate, compliance rate and evaluation date. The emission levels achieved by the State's program design shall be calculated using the most current version, at the time of submittal, of the EPA mobile source emission factor model. At the time of the Illinois submittal, the most current version was

MOBILE5a. Areas shall meet or exceed the performance standard for the pollutants which cause them to be subject to I/M requirements. In the case of ozone nonattainment areas, the performance standard must be met for both nitrogen oxides (NO_X) and volatile organic compounds (VOCs). Urban Airshed Modeling (UAM) has been conducted in both the Chicago and St. Louis regions. In the Chicago area, the UAM has demonstrated that control of NO_X within the nonattainment area is counterproductive in controlling ambient ozone. IEPA has petitioned for, and has received from EPA, a waiver from Clean Air Act NO_X control requirements, including the requirement to meet the NO_X enhanced I/M performance standard. EPA is currently in the process of evaluating the UAM data and an IEPA NO_X waiver request for the St. Louis region. NO_X testing will be restricted to tests conducted for program evaluation purposes in accordance with 40 CFR Part 51.353(c).

The June 30, 1995, Illinois submittal includes three alternative enhanced program options based on the use of either ASM5015, ASM2, or IM240 networks. All three options use the following program design parameters: Centralized test only network; 1986 start date; biennial frequency; 1968 and newer model year coverage; Vehicle type include LDGV, LDGT1, LDGT2 and HDGV; IM240 for 1981 and newer vehicles, and idle for 1968–1980 LDGV's and LDGT's and 1968 and later HDGV's; purge test on 1981 and newer LDGV's and LDGT's undergoing either ASM or IM240; pressure test of gas cap; stringency rate of 20 percent for 1980 and older vehicles; waiver rate of 3 percent and a 96 percent compliance rate.

The Illinois program design parameters meet the Federal I/M regulations and are approvable. The emission levels achieved by the State, for each area, were modeled using MOBILE5a. The modeling demonstration was performed correctly, using local characteristics where available, and it demonstrated that the program design will meet the enhanced I/M performance standard, expressed in grams per mile, for VOCs and NO_X for each milestone and for the attainment deadline. The modeling demonstration submitted by the State is approvable. EPA proposes to approve this section of the submittal.

Network Type and Program Evaluation 40 CFR 51.353

Enhanced I/M programs shall be operated in a centralized test only format, unless the State can demonstrate that a decentralized program is equally effective in achieving the enhanced I/M performance standard. The enhanced program shall include an ongoing evaluation to quantify the emission reduction benefits of the program and to determine if the program is meeting the requirements of the Act and the Federal I/M regulations. The SIP shall include details on the program evaluation and a schedule for submittal of biennial evaluation reports, data from a State monitored or administered mass emission test of at least 0.1 percent of the vehicles subject to inspection each year, description of the sampling methodology, the data collection and analysis system and the legal authority enabling the evaluation program.

The State legislative authority and the State I/M regulations provide for a centralized, test-only network. Illinois' centralized, test only network type is approvable. The submittal does not, however, include provisions for on-going program evaluation to satisfy all of the requirements of 40 CFR part 51.353. Specifically, the State must submit schedules for program evaluations and methodologies by which this biennial program evaluation will be carried out, as required by 40 CFR part 51.353. EPA proposes to conditionally approve this section of the Illinois enhanced I/M SIP based on the April 22, 1996, letter and phone conversation record committing to submit to EPA as supplemental information in support of the SIP the necessary documentation within one year of the final conditional approval. In addition, the State has committed to submit to EPA biennial program evaluation reports meeting the requirements of 40 CFR part 51.353 starting at the end of the program's first biennial cycle.

Adequate Tools and Resources 40 CFR 51.354

The Federal I/M regulation requires States to demonstrate that adequate funding of the program is available. A portion of the test fee or a separately assessed per year vehicle fee shall be collected, placed in a dedicated fund and used to finance the program. Alternative funding approaches are acceptable if it is demonstrated that the funding can be maintained. Reliance on funding from a State or local General Fund is not acceptable unless doing otherwise would be a violation of the State's constitution. The SIP shall include a detailed budget plan which describes the source of funds for personnel, program administration, program enforcement and purchase of equipment. The SIP shall also detail the number of personnel dedicated to the quality assurance program, data analysis, program administration, enforcement, public education and assistance and other necessary functions. A.P. 88–533 prevents the IEPA from charging motor vehicle owners for inspections required under this law. Instead, A.P. 88–533 states that the Vehicle Inspection Fund, which was a fund created in the State treasury for the purpose of receiving money from the Motor Fuel Tax and other sources, shall be used for the payment of the cost of the program, including reimbursement of those agencies of the State that incur expenses in the administration and enforcement of the program. EPA proposes to approve this section of the Illinois submittal.

Test Frequency and Convenience 40 CFR 51.355

The enhanced I/M performance standard assumes an annual test frequency; however, other schedules may be approved if the performance standard is achieved. The SIP shall describe the test year selection scheme and shall include the legal authority, regulations or contract provisions necessary to implement and enforce the test frequency requirement. The program shall be designed to provide convenient service to motorists by ensuring short waiting times, short driving distances and regular testing hours. The Illinois enhanced I/M law of 1995 provides the legal authority to implement and enforce biennial test frequency for all subject vehicles. New vehicles are exempt from testing for two years, requiring the vehicle to be initially tested in the second calendar year after the vehicle model year. Based on the performance standard modeling provided by the State, the enhanced I/M program meets the performance standard accounting for biennial test frequency. P.A. 88–533 also requires that the program be designed so that covered vehicle owners reside within 12 miles of an official inspection station. In addition, the law requires the program to be designed in such a way that sufficient inspection capacity at the station is so that the usual wait before the start of an inspection does not exceed twenty minutes. The test frequency and convenience section is approvable and EPA is proposing to approve.

Vehicle Coverage 40 CFR 51.356

The performance standard for enhanced I/M programs assumes coverage of all 1968 and newer model year light duty vehicles and light duty trucks up to 8,500 pounds gross vehicle

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weight rating (GVWR), and includes vehicles operating on all fuel types. Other levels of coverage may be approved if the necessary emission reductions are achieved. Vehicles registered or required to be registered within the I/M program area boundaries, and fleets primarily operated within the I/M program area boundaries belonging to the covered model years and vehicle classes comprise the subject vehicles. Fleets may be officially inspected outside the normal I/M program test facilities, if such alternatives are approved by the program administration, but shall be subject to the same test requirements using the same quality control standards as non-fleet vehicles and shall be inspected in independent, test-only facilities, according to the requirements of 40 CFR part 51.353(a).

The Federal I/M regulation requires that the SIP shall include the legal authority or rule necessary to implement and enforce the vehicle coverage requirement, a detailed description of the number and types of vehicles to be covered by the program and a plan for how those vehicles are to be identified, including vehicles that are routinely operated in the area but may not be registered in the area, and a description of any special exemptions, including the percentage and number of vehicles to be impacted by the exemption.

The Illinois Vehicle Inspection Law of 1995 requires coverage of all 1968 and newer vehicles registered or required to be registered in the I/M program area, except those vehicles which run on diesel or exclusively by electricity. The modeling demonstration submitted with the SIP narrows the vehicle coverage to LDGV, LDGT1, and LDGT2. The Illinois legislation provides the legal authority to implement and enforce the vehicle coverage. This level of coverage is approvable because it provides the necessary emission reductions. The modeling demonstration does contain estimates of the number of registered vehicles in the area. However, the State's June 29, 1995, SIP submittal does not adequately address fleet testing requirements. Existing legislation allows for the self testing of fleets, but the submittal fails to address the specific requirements involved in fleet testing. The State also did not provide a description of the impact vehicle exemptions will have on the subject fleet. The modeling demonstration submitted by the State does not account for these exemptions in the emission reduction analysis. The State must describe the extent of the exemption's impact, in accordance with 40 CFR part 51.356, in order for EPA to fully approve this section of the State submittal. EPA proposes to conditionally approve this section based on the April 22, 1996, letter to EPA committing to address the requirements of 40 CFR 51.356 with regard to fleets, within one year of the final conditional approval.

Test Procedures and Standards 40 CFR 51.357

Written test procedures and pass/fail standards are required to be established and followed for each model year and vehicle type included in the program. Federal test procedures and standards are found in 40 CFR 51.357 and in the EPA document entitled "High-Tech I/M Test Procedures, Equipment Standards, Quality Control Requirements, and Equipment Specifications", EPA–AA–EPSD–IM–93–1, finalized in April, 1994. A.P. 88–533 provides the State the authority to establish test procedures according to the needs of the program. The Illinois submittal also includes I/M regulations (R94–19 and R94–20) adopted on December 1, 1994, by the Illinois Pollution Control Board (Board) which include emissions standards based upon EPA's preferred IM240 loaded mode exhaust emissions standard. IEPA has asked I/M contract bidders to address in detail the requirements of this section in its Request-For-Proposal (RFP). EPA proposes to conditionally approve this section of the SIP based on the State's commitment to submit to EPA as supplemental information in support of the SIP its final signed I/M contract addressing the requirements of 40 CFR part 51.357 within one year of EPA's final conditional approval.

Test Equipment 40 CFR 51.358

The Federal regulation requires computerized test systems for performing any measurement on subject vehicles. The Federal I/M regulations requires that the State SIP submittal include written technical specifications for all test equipment used in the program. The specifications shall describe the emission analysis process, the necessary test equipment, the required features and written acceptance testing criteria and procedures.

A.P. 88–533 provides the general authority for the State to establish the designation of official test equipment and testing procedures. The Illinois submittal also includes I/M regulations (R94–19 and R94–20) which include emissions standards based upon EPA's preferred IM240 loaded mode exhaust emissions standard. IEPA has addressed the requirements of this section in its RFP released February 29, 1996. EPA proposes to conditionally approve this section of the SIP based on the State's April 22, 1996, commitment to submit to EPA as supplemental information in support of the SIP its final signed contract addressing the requirements of 40 CFR part 51.358 within one year of EPA's final conditional approval.

Quality Control 40 CFR 51.359

Quality control measures shall ensure that emission measurement equipment are calibrated and maintained properly, and that inspection, calibration records and control charts are accurately created, recorded and maintained. The Illinois submittal contains general legal authority in A.P. 88–533 which requires IEPA to establish an enhanced program containing procedures to assure the correct operation, maintenance and calibration of test equipment, and also procedures for certifying test results and for reporting and maintaining relevant data and records. Illinois' RFP requires bidders as part of their Technical proposal to submit a Quality Assurance Plan which addresses the requirements of this section. EPA proposes to conditionally approve this section of the SIP based on the State's April 22, 1996 commitment to submit to EPA as supplemental information in support of the SIP its final signed contract and the contractor's Quality Assurance Plan addressing the quality control requirements of 40 CFR part 51.359 within one year of EPA's final conditional approval.

Waivers and Compliance Via Diagnostic Inspection 40 CFR 51.360

The Federal I/M regulation allows for the issuance of a waiver, which is a form of compliance with the program requirements that allows a motorist to comply without meeting the applicable test standards, as long as prescribed criteria are met. For enhanced I/M programs, an expenditure of at least $450 in repairs, adjusted annually to reflect the change in the Consumer Price Index (CPI) as of 1989, is required in order to qualify for a waiver. Waivers can only be issued after a vehicle has failed a retest performed after all qualifying repairs have been made. Any available warranty coverage must be used to obtain repairs before expenditures can be counted toward the cost limit. Tampering related repairs shall not be applied toward the cost limit. Repairs must be appropriate to the cause of the failure. Repairs for 1980 and newer model year vehicles must be performed by a recognized repair technician. The Federal regulation allows for compliance via a diagnostic inspection after failing a retest on emissions and requires quality control of waiver issuance. The SIP must set a maximum waiver rate and must describe corrective action that must be taken if the waiver rate exceeds that committed to in the SIP.

The Illinois SIP submittal contains the necessary authority in A.P. 88–533 to issue waivers, set and adjust cost limits, and administer and enforce the waiver system. The Illinois law requires that IEPA certify whether a vehicle that has failed a vehicle emission retest qualifies for a waiver of the emission inspection standards if the following criteria are met: The vehicle has received all repairs and adjustments for which it is eligible under any emission performance warranty provided under section 207 of the Act; IEPA determines by normal inspection procedures that the vehicle's emission control devices are present and appear to be properly connected and operating; consistent with 40 CFR 51.360 for vehicles required to be tested under the Illinois law, a minimum expenditure of $450 in emission-related repairs exclusive of tampering-related repairs have been made; repairs for vehicles of model year 1981 and later are conducted by a recognized repair technician; evidence of repair is presented consisting of either signed and dated receipts identifying the vehicle and describing the work performed and amount charged for eligible emission-related repairs, or an affidavit executed by the person performing the eligible emission related repairs; and that the repairs have resulted in an improvement in vehicle emissions as determined by comparison of initial and final retest results.

The State of Illinois has chosen not to allow compliance via a complete documented physical and functional diagnosis and inspection which shows that no additional emission-related repairs are needed. The State has set a maximum waiver rate of 3 percent for both pre-1981 and for 1981 and later vehicles. Illinois used MOBILE5a and assumed a maximum waiver rate of 3 percent for 1980 and older model year vehicles and 3 percent for 1981 and newer vehicles. In the event the actual waiver rate exceeds the planned maximum used for estimating the emission reduction benefit, the State will need to remodel to assess the emission reduction benefits based on the actual waiver rate. This section is approvable and EPA is proposing to approve.

Motorist Compliance Enforcement 40 CFR 51.361

The Federal regulations require the use of registration denial to ensure compliance with the requirements of the I/M program unless an exception for use of an alternative is approved. Registration denial enforcement consists of rejecting an application for initial registration or registration for a used vehicle unless the vehicle has complied with the I/M requirements prior to the granting of the application. The SIP shall provide information concerning the enforcement process, legal authority to implement and enforce the program, a commitment to a compliance rate to be used for modeling purposes and to be maintained in practice. The Illinois SIP contains an alternative compliance system to that of registration denial. The Illinois compliance approach uses computer matching of vehicle registration records and inspection records to identify violations. The Illinois Secretary of State (SOS) is required under A.P. 88–533 to suspend either the driving privileges or the vehicle registration, or both, of any vehicle owner who has not complied with the requirements of A.P. 88–533. A suspension under this requirement would not be terminated until proof of compliance has been submitted to the SOS. In the I/M SIP, Illinois commits to the level of motorist enforcement necessary to ensure a compliance rate of no less than 96 percent among subject vehicles in the program area. If it is determined as part of the required program evaluation that the I/M program is not meeting the compliance rate, Illinois will need to investigate the problem and institute changes to improve the compliance rates. EPA proposes to approve this section of the Illinois SIP.

Motorist Compliance Enforcement Program Oversight 40 CFR 51.362

The Federal I/M regulation requires that the enforcement program shall be audited regularly and shall follow effective program management practices, including adjustments to improve operation when necessary. The SIP shall include quality control and quality assurance procedures to be used to insure the effective overall performance of the enforcement system. An information management system shall be established which will characterize, evaluate and enforce the program. The legal authority for the implementation of an I/M program is found in A.P. 88–53. This statute provides the authority necessary to develop and implement the enforcement program oversight element of the I/M program. EPA proposes to conditionally approve this portion of the State's submittal based on the April 22, 1996, letter to EPA committing to addressing the requirements of 40 CFR part 51.362 within one year of the conditional approval.

Quality Assurance 40 CFR 51.363

An ongoing quality assurance program shall be implemented to discover, correct and prevent fraud, waste, and abuse in the program. The program shall include covert and overt performance audits of the inspectors, audits of station and inspector records, equipment audits, and formal training of all state I/M enforcement officials and auditors. A description of the quality assurance program which includes written procedure manuals on the above discussed items must be submitted as part of the SIP. The Illinois submittal contains only a general provision under P.A. 88–533 which requires that the State I/M program provide for procedures to assure the correct operation, maintenance, and calibration of test equipment. Illinois' RFP requires bidders as part of their Technical proposal to submit a Quality Assurance Plan which addresses the requirements of this section. EPA proposes to conditionally approve this section of the SIP based on the State's April 22, 1996 commitment to submit to EPA as supplemental information in support of the SIP its final signed contract and the contractor's Quality Assurance Plan addressing the quality assurance requirements of 40 CFR part 51.363 within one year of EPA's final conditional approval.

Enforcement Against Contractors, Stations and Inspectors 40 CFR 51.364

Enforcement against licensed stations or contractors and inspectors shall include swift, sure, consistent penalties for violation of program requirements. The Federal I/M regulation requires the establishment of minimum penalties for violations of program rules and procedures which can be imposed against stations, contractors and inspectors. The legal authority for establishing and imposing penalties, civil fines, licence suspensions and revocations must be included in the SIP. State quality assurance officials shall have the authority to temporarily suspend station and/or inspector licenses immediately upon finding a violation that directly affects emission reduction benefits. The SIP shall describe the administrative and judicial procedures and responsibilities relevant to the enforcement process. The Illinois

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submittal includes the legal authority to establish and impose penalties against station, contractors, and inspectors. In addition, the RFP contains detailed provisions addressing the requirements of this section, including specific monetary penalties established for violation of program rules and procedures. The provisions found in the RFP will be enforceable once a final I/M contract is developed and signed. EPA proposes to conditionally approve this section of the SIP based on the State's April 22, 1996 commitment to submit to EPA as supplemental information in support of the SIP its final signed contract and any necessary administrative rules addressing the requirements of 40 CFR part 51.364 within one year of EPA's final conditional approval.

Data Collection 40 CFR 51.365

In order to manage, evaluate and enforce the program requirements an effective I/M program requires accurate data collection. The Federal I/M regulation requires data to be gathered on each individual test conducted and on the results of the quality control checks of test equipment required under 40 CFR part 51.359. The Illinois submittal contains a general provision under P.A. 88–533 which requires that the State I/M program provide for procedures for certifying test results and for reporting and maintaining relevant data and records. In addition, the RFP requires that the contractor submit to IEPA, on a monthly basis, a file containing detailed data for each vehicle test transaction conducted. The data collection requirements specified in the RFP meet those specified in 40 CFR part 51.365. Once the final I/M contract is submitted to EPA as supplemental information in support of the SIP this section of the I/M SIP can be fully approved. At this time, EPA proposes to conditionally approve this section of the SIP based on the State's April 22, 1996 commitment to submit to EPA as supplemental information in support of the SIP its final signed contract addressing the data collection requirements of 40 CFR part 51.365 within one year of EPA's final conditional approval.

Data Analysis and Reporting 40 CFR 51.366

Data analysis and reporting are required in order to monitor and evaluate the program by the State and EPA. The Federal I/M rule requires annual reports to be submitted to EPA that provide information and statistics and summarize activities performed for each of the following programs: Testing, quality assurance, quality control and enforcement. These reports are to be submitted by July of each year and shall provide statistics for the period of January to December of the previous year. A biennial report shall be submitted to EPA that addresses changes in the program design, regulations, legal authority, program procedures, any weaknesses in the program found during the previous two year period and how these problems will be or were corrected. The Illinois RFP contains the necessary provisions addressing the requirements of this section. However, in order to receive full approval, the State must submit its final, signed contract as supplemental information in support of the SIP addressing the requirements of 40 CFR part 51.366 to EPA within one year of EPA's final conditional approval. EPA proposes to conditionally approve this section of the SIP based on the State's April 22, 1996 commitment to submit to EPA as supplemental information in support of the SIP its final signed contract addressing the data analysis and reporting requirements of 40 CFR part 51.366 within the time frame specified above.

Inspector Training and Licensing or Certification 40 CFR 51.367

The Federal I/M regulation requires all inspectors to be formally trained and licensed or certified to conduct inspections. The Illinois P.A. 88–533 requires all inspectors to be certified by IEPA after successfully completing a course of training and successfully passing a written test. The RFP requires Bidders to include in their Technical Proposal a detailed Management Plan for the implementation and operation of the contracted elements of the Illinois enhanced I/M program. The Management Plan must include as part of its elements, a description of the Personnel Training and Certification Program as described in the RFP. The RFP requires the Contractor to establish and operate an on-going program to train and certify contractor and IEPA personnel. EPA proposes to conditionally approve this section of the SIP based on the State's April 22, 1996 commitment to submit to EPA as supplemental information in support of the SIP its final signed contract and the contractor's Management Plan addressing the requirements of 40 CFR part 51.367 within one year of EPA's final conditional approval.

Public Information and Consumer Protection 40 CFR 51.368

The Federal I/M regulation requires the SIP to include a public information and consumer protection programs. The submittal needs to include a public information program, which educates the public on I/M, State, and Federal regulations, air quality, the contribution of motor vehicles to the air pollution problem, and other items as describe in the Federal rule. A consumer protection program, which includes provisions for a challenge mechanism, protection of whistle blowers and assistance to motorists in obtaining warranty covered repair, will also need to be addressed. The Illinois submittal contains the legal authority establishing grievance procedures for consumers to use, but it does not address the rest of the requirements stated above for this section. In order to receive full approval, the State has committed in IEPA's April 22, 1996, letter to submit the remaining provisions of the public information program within one year from EPA's final conditional approval. EPA proposes to conditionally approve this portion of the SIP based on the State's commitment to address the requirements of this section within the time frame stated above.

Improving Repair Effectiveness 40 CFR 51.369

Effective repairs are the key to achieving program goals. The Federal regulation requires states to take steps to ensure that the capability exists in the repair industry to repair vehicles. The SIP must include a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements required in the Federal regulation and a description of the repair technician training resources available in the community. The Illinois submittal does not contain any provisions addressing the requirements of this section, however the State has submitted a commitment to address the requirements of this section, including the submittal of a description of available technician training resources, within one year of EPA's final conditional approval. EPA is proposing to conditionally approve this portion of the State submittal based on the State's commitment to submit the necessary documentation to EPA in the time frame stated above.

Compliance With Recall Notices 40 CFR 51.370

States are required to establish a method to ensure that vehicles subject to enhanced I/M and that are included in either a voluntary emissions recall as defined at 40 CFR 85.1902(d), or in a remedial plan determination made pursuant to section 207(c) of the Act, receive the required repairs prior to completing the emission test or renewing the vehicle registration. The Illinois P.A. 88–533 provides the legal authority to require owners to comply with emission related recalls before completing the emission test. The Illinois RFP requires that the contractor provide and maintain as part of the data handling system a means to identify vehicles with unresolved emissions recalls based upon the data provided by EPA. At a minimum, the Contractor and IEPA will have the capability to store, retrieve, and update recall data that consists of the VIN, the numbers of the recall campaign, and the date that the repairs were performed. The system is to be capable of interactively updating vehicle and/or recall database records based upon information supplied by vehicle owners indicating that required repairs have been made. The system will also be capable of updating appropriate records based upon updated data provided by EPA. EPA proposes to approve this section of the SIP based on the State's April 22, 1996 commitment to submit to EPA as supplemental information in support of the SIP its final signed contract addressing the annual reporting requirements of 40 CFR part 51.370 within one year of EPA's final conditional approval.

On-Road Testing 40 CFR 51.371

On-road testing is required in enhanced I/M areas. The use of either remote sensing devices (RSD) or roadside pullovers including tailpipe emission testing can be used to meet the Federal regulations. The program must include on-road testing of 0.5 percent of the subject fleet or 20,000 vehicles, whichever is less, in the nonattainment area or the I/M program area. Motorists that have passed an emission test and are found to be high emitters as a result of a on-road test shall be required to pass an out-of-cycle test. The Illinois P.A. 88–533 requires on-road testing through the use of remote sensing devices. The SIP submittal requires the use of RSD to test at least 0.5 percent of the subject fleet ppr year in the I/M program area. The RFP requires that the Contractor develop and maintain written on-road inspection procedures to be approved by IEPA. In addition, the Contractor is to provide and maintain as part of the system on-road testing information containing vehicle and test results obtained from the on-road testing program. The Contractor will be responsible for evaluating all on-road emission data, including linking emissions data with vehicle database records. EPA proposes to conditionally approve this section of the SIP based on the State's April 22, 1996 commitment to submit to EPA as supplemental information in support of the SIP its final signed contract addressing the on-road testing specifications of 40 CFR part 51.371 within one year of EPA's final conditional approval.

Proposed Action

EPA is proposing to approve portions and conditionally approve other portions of this revision to the Illinois SIP for an enhanced I/M program, as cited above. If Illinois fails to timely submit the materials discussed above within one year of EPA's final conditional approval, the final conditional approval will automatically convert to a disapproval.

I. Basis for Conditional Approval

The EPA believes conditional approval is appropriate in this case because the State has the necessary legal authority for an enhanced I/M program and needs only to award the I/M contract and amend current administrative rules to address a number of enhanced I/M program requirements. As a condition of EPA's proposed conditional approval, the State must submit a final signed I/M contract as supplemental information in support of the SIP and any additional material necessary to address the deficiencies identified in this document to EPA no later than one year after EPA's final conditional approval. On April 22, 1996, the IEPA submitted a letter committing to this. In the letter IEPA commits to provide EPA the signed enhanced I/M contract, in addition to provide appropriate analyses, calculations, and rules as discussed in a conference call on April 9, 1996 between IEPA and EPA. The telephone conversation record of this call will be included as part of the Illinois SIP.

II. Statement of Approvability

Under the authority of the Governor of Illinois, the IEPA submitted a SIP revision to satisfy the requirements of the I/M regulation to the EPA on June 29, 1995. EPA found the Illinois SIP complete in a letter dated June 30, 1995. The EPA has reviewed this submittal and is proposing to approve portions and proposing to conditionally approve other portions of it pursuant to Section 110(k) of the Act, on the condition that the portions of the I/M program noted above are adopted and/or submitted on the schedules noted in this proposed rulemaking. If EPA takes final conditional approval on the commitment, the State must meet its commitment to submit the final I/M contract and all other supporting documentation within one year of the conditional approval. Once the EPA has conditionally approved this committal, if the State fails to submit any necessary rules and/or documentation to EPA, final conditional approval will automatically convert to a disapproval. EPA will notify the State by letter to this effect. Once the SIP has been disapproved, these commitments will no longer be a part of the approved nonattainment area SIPs. The EPA subsequently will publish a notice to this effect in the notice section of the **Federal Register** indicating that the commitment or commitments have been disapproved and removed from the SIP. If the State adopts and submits the final rule amendments and the final I/M contract, as supplemental information in support of the SIP, to EPA within the applicable time frame, the conditionally approved commitments will remain part of the SIP until the EPA takes final action approving or disapproving the new submittal. If the EPA approves the subsequent submittal, those newly approved rules and/or documentation will become part of the SIP.

If after considering the comments on the proposal, the EPA issues a final disapproval or if the conditional approval portions are converted to a disapproval, the sanctions clock under section 179(a) will begin. If the State does not submit and EPA does not approve the rule on which any disapproval is based within 18 months of the disapproval, the EPA must impose one of the sanctions under section 179(b)-highway funding restrictions or the offset sanction. In addition, any final disapproval would start the 24 month clock for the imposition of a section 110(c) Federal Implementation Plan. Finally, under section 110(m) the EPA has discretionary authority to impose sanctions at any time after a final disapproval.

Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under 110 and subchapter I, Part D of the CAA do not

create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") (signed into law on March 22, 1995) requires that the EPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the EPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the EPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The EPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the EPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this proposed rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less then $100 million in any one year, the EPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the EPA is not required to develop a plan with regard to small governments. It imposes no additional requirements. The Office of Management and Budget has exempted this action rule from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Nitrogen Oxide, Ozone, Volatile Organic Compound.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 29, 1996.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 96–11758 Filed 5–9–96; 8:45 am]

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40 CFR Part 52

[WI67–01–7276; FRL–5501–5]

Approval and Promulgation of Implementation Plan; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes approval of a revision to the Wisconsin State Implementation Plan (SIP) to meet the requirements of the EPA transportation conformity rule set forth at 40 CFR part 51 subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. The transportation conformity SIP revision will enable the State of Wisconsin to implement and enforce the Federal transportation conformity requirements at the State or local level in accordance with 40 CFR 51.396(b). This notice of approval is limited only to 40 CFR part 51, subpart T (transportation conformity). SIP revisions submitted under 40 CFR part 51, subpart W, relating to conformity of general Federal actions, will be addressed in a separate EPA notice. This notice provides the rationale for the proposed approval and other information.

DATES: Comments on this proposed action must be received by June 10, 1996.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development section, Air Programs Branch (AR–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. Copies of the SIP revision, public comments and EPA's responses are available for inspection at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Michael Leslie at (312) 353–6680 before visiting the Region 5 Office.)

A copy of this SIP revision is available for inspection at the following location: Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), room M1500, United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: Michael G. Leslie, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 353–6680.

SUPPLEMENTARY INFORMATION:

I. Background

Section 176(c) of the Clean Air Act (CAA), 42 U.S.C. § 7506(c), provides that no Federal department, agency, or instrumentality shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to a SIP which has been approved or promulgated pursuant to the CAA. Conformity is defined as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards and achieving expeditious attainment of such standards, and that such activities will not: (1) Cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

Section 176(c)(4)(A) of the CAA requires EPA to promulgate criteria and procedures for determining conformity of all Federal actions (transportation and general) to applicable SIPs. The EPA published the final transportation conformity rules in the November 24, 1993, **Federal Register** and codified them at 40 CFR part 51 subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. The conformity rules require States and local agencies to adopt and submit to the EPA a transportation conformity SIP revision not later than November 24, 1994. This notice does not address the conformity requirements applicable to general Federal actions which are set forth at 40 CFR part 51 subpart W. The EPA will take action on SIP revisions relating to those requirements in a separate notice.

II. Evaluation of the State's Submittal

Pursuant to the requirements under section 176(c)(4)(C) of the CAA, the Wisconsin Department of Natural Resources (WDNR) submitted a SIP revision to the EPA on November 23, 1994, and supplemented this submittal on June 14, 1995. In its submittal, the State included provisions required by the EPA transportation conformity rule (40 CFR part 51, subpart T), and Memoranda of Agreements (MOA) between the affected agencies.

Transportation conformity is required for all areas which are designated nonattainment or maintenance for any transportation related criteria pollutants. The State of Wisconsin currently has 11 counties designated as nonattainment for ozone. The areas for which transportation conformity determinations are required and which are included as part of Wisconsin's submittal include the following nonurbanized counties: Door, Keewaunee, and Manitowoc. The urbanized areas include: Milwaukee-Racine Consolidated Metropolitan Statistical Area (MSA) (Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha Counties), and Sheboygan MSA (Sheboygan County).

The WDNR held a public hearing on its transportation conformity submittal on January 11 and 12, 1995. Minor modifications were made in response to the comments and addressed in the final submittal.

The consultation section of the EPA transportation conformity rule (40 CFR 51.402) requires that the SIP revision include procedures for interagency consultation among the Federal, State, and local agencies and for resolution of conflicts in accordance with the criteria set forth in 40 CFR 51.402. Specifically, the SIP revision must include processes and procedures to be undertaken by Metropolitan Planning Organizations (MPO), State departments of transportation, and the United States Department of Transportation (USDOT) with State and local air quality agencies and EPA before making a conformity determination, and by State and local air quality agencies and EPA with MPOs, State departments of transportation, and USDOT in developing applicable SIPs.

In order to satisfy these requirements, the WDNR developed an ad hoc multi-agency committee, which included representatives from the WDNR, Wisconsin Department of Transportation (WDOT), USDOT, and MPOs. This group developed the final consultation rule by integrating the requirements of 40 CFR 51.402 and 23 CFR part 450 with the local procedures and processes. Wisconsin's final consultation rule outlines the roles and responsibilities of each of the affected agencies for the process for determining conformity. The consultation rule further outline the procedures for conflict resolution in the transportation conformity process, for implementation of the public participation process, and for the submission of documentation relating to a conformity determination. The conformity SIP revision submitted by Wisconsin has adequately addressed all provisions of 40 CFR 51.402 and thus meets the EPA SIP requirements.

Section 51.396(c) of the transportation conformity rule states that to be approvable by the EPA, the SIP revision submitted to EPA must address all requirements of the transportation conformity rule in a manner which gives them full legal effect. In particular, the revision must incorporate the provisions of the following sections of the rule in verbatim form, except insofar as needed to give effect to a stated intent in the revision to establish criteria and procedure more stringent than the requirements stated in these sections: 51.392, 51.394, 51.398, 51.400, 51.404, 51.410, 51.412, 51.414, 51.416, 51.418, 51.420, 51.422, 51.424, 51.426, 51.428, 51.430, 51.432, 51.434, 51.436, 51.438, 51.440, 51.442, 51.444, 51.446, 51.448, 51.450, 51.460, and 51.462. The State of Wisconsin submittal incorporated all of the above sections in verbatim form, except for §§ 51.424, 51.434, 51.442, 51.444, and 51.446. The omitted sections apply only to criteria and procedures for localized Carbon Monoxide hot spots, Particulate Matter areas, and Nitrogen Dioxide areas. Noting this, these sections of the transportation conformity rule are not applicable to the State of Wisconsin, which contains nonattainment areas for ozone.

On August 7, 1995, EPA finalized an amendment to section 51.448. It should be noted that additional sections of the conformity rule are scheduled to be amended. The EPA cannot approve sections into the SIP where inconsistencies exist between the submittal and the final rule. After EPA further amends the conformity rule, the State of Wisconsin will be required to update the SIP to address the rule changes.

The WDNR and the WDOT concluded that this SIP revision in the form of a MOA will be enforceable through section 144.31(1)(e) and section 144.371, Wis. Stats. The MOA, which is a binding agreement among the affected agencies, outlined each agency's roles and responsibilities in the transportation conformity process. A total of three MOA were included in the SIP revision; two MOAs between the local MPO, MDOT and MDNR for the two metropolitan areas, and one MOA between WDOT and WDNR for the remaining rural areas.

Section 85.02, Wis. Stats. requires all agencies involved in transportation related activities to follow the recommendations of the WDOT. The WDOT has the authority over the approval of all Transportation Improvement Programs (TIP) and the approval of Federal and State funds for transportation projects, programs, or plans. The WDOT will not approve any MPO TIP that contains a nonconforming project in the State TIP. Furthermore, the WDOT will not approve Federal or State funding for any nonconforming projects, programs, or plans and may withhold moneys for failure to follow conformity procedures.

Section 30.12(4), Wis. Stats., gives the transportation conformity agreements between WDNR and WDOT full legal effect in Wisconsin. This law requires WDOT to follow its agreement with WDNR or be subject to the prohibitions or permit or approval requirements under sections 29.29, 30.11, 30.12, 30.123, 30.195, 30.20, 59.971, 61.351, 62.231, 87.30 and chapters 144 and 147, Wis. Stats.

Section 1.11, Wis. Stats., the Wisconsin Environmental Policy Act, may be enforced by citizens with regard to activities of WDNR and WDOT.

III. EPA Action

The EPA is proposing approval the transportation conformity SIP revision for the State of Wisconsin. The EPA has evaluated this SIP revision and has determined that the State has fully adopted the provisions of the Federal transportation conformity rules in accordance with 40 CFR part 51 subpart T. The appropriate public participation and comprehensive interagency consultations have been undertaken during development and adoption of this SIP revision.

IV. Miscellaneous

A. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors

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and in relation to relevant statutory and regulatory requirements.

B. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976).

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

D. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 9, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Transportation conformity, Transportation-air quality planning, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 26, 1996.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 96–11759 Filed 5–9–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 63

[AD–FRL–5503–2]

Hazardous Air Pollutants: Amendment to Regulations Governing Equivalent Emission Limitations by Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On May 20, 1994, the Agency promulgated a rule in the **Federal Register** (59 FR 26429) governing the establishment of equivalent emission limitations by permit, pursuant to section 112(j) of the Clean Air Act (Act). After the effective date of a Title V permit program in a State, each owner or operator of a major source in a source category for which the EPA was scheduled to, but failed to promulgate a section 112(d) emission standard will be required to obtain an equivalent emission limitation by permit. The permit application must be submitted to the Title V permitting authority 18 months after the EPA's missed promulgation date. This action proposes to amend the original Regulations Governing Equivalent Emission Limitations by Permit rule to delay the section 112(j) permit application deadline for all 4-year source categories listed in the regulatory schedule by 180 days until November 15, 1996. This action is needed to alleviate unnecessary paperwork for both major source owners or operators and permitting agencies. Because the changes are merely to delay the permit application deadline for all 4 year source categories, the EPA does not anticipate receiving adverse comments. Consequently the revisions are also being issued as a direct final rule in the final rules section of this **Federal Register**. If no significant adverse comments are timely received, no further action will be taken with respect to this proposal, and the direct final rule will become final on the date provided in that action.

DATES: *Comments.* Comments must be received on or before June 10, 1996, unless a hearing is requested by May 20, 1996. If a hearing is requested, written comments must be received by June 24, 1996.

Public Hearing. Anyone requesting a public hearing must contact the EPA no later than May 20, 1996. If a hearing is held, it will take place on May 28, 1996, beginning at 10:00 a.m.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket No. A–93–32 (see docket section below), Room M–1500, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. The EPA requests that a separate copy also be sent to the contact person listed below.

Public Hearing. If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Yvonne Chandler, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541–5627.

Docket. Docket No. A–93–32, containing the supporting information for the original Regulations Governing Equivalent Emission Limitations by Permit rule is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, at the EPA's Air and Radiation Docket and Information Center (6102), 401 M Street, S.W., Washington, D.C. 20460, or by calling (202) 260–7548. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. James Szykman or Mr. Anthony Wayne, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–2452 (Szykman) or (919) 541–5439 (Wayne).

SUPPLEMENTARY INFORMATION: If no significant, adverse comments are timely received, no further activity is contemplated in relation to this proposed rule, and the direct final rule in the final rules section of this **Federal Register** will automatically go into effect on the date specified in that rule. If significant adverse comments are timely received, the direct final rule will be withdrawn, and all public comment received will be addressed in a subsequent final rule. Because the EPA will not institute a second comment period on this proposed rule, any parties interested in commenting should do so during this comment period.

For further supplemental information, the detailed rationale, and the rule provisions, see the information provided in the direct final rule in the final rules section of this **Federal Register**.

Administrative

A. Regulatory Impact Analysis

This rule was classified "non-significant" under Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget.

B. Impact on Reporting Requirements

The information collection requirements of the previously promulgated rule for Regulations Governing Equivalent Emission Limitations by Permit were submitted to and approved by the Office of Management and Budget. A copy of this Information Collection Request (ICR) document (OMB control number 2060–0266) may be obtained from Sandy Farmer, OPPE Regulatory Information Division (2136), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, or by calling (202) 260–2740. Today's proposed revisions to the deadline for submittal of section 112(j) permit applications does not affect the information collection burden estimates made previously. Therefore, the ICR has not been revised.

C. Impact on Small Entities

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Because this proposed rulemaking imposes no economic impacts, adverse or otherwise, a Regulatory Flexibility Analysis has not been prepared.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small business entities.

D. Reduction of Governmental Burden

Executive Order 12875 ("Enhancing the Intergovernmental Partnership") is designed to reduce the burden to State, local, and Tribal governments of the cumulative effect of unfunded Federal mandates. The Order recognizes the need for these entities to be free from unnecessary Federal regulation to enhance their ability to address problems they face and provides for Federal agencies to grant waivers to these entities from discretionary Federal requirements. The Order applies to any regulation that is not required by statute and that creates a mandate upon a State, local, or Tribal government. The EPA anticipates that there will be no additional cost burden imposed on State, local, and Tribal governments as a result of today's action. Indeed, the purpose of the action is to reduce unnecessary burden on permitting agencies.

E. Environmental Justice

Executive Order 12898 requires that each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. Today's action will help ensure timely compliance and the application of consistent regulatory requirements by allowing the section 112(d) MACT standards to become effective without triggering an unnecessary section 112(j) process. Therefore, no adverse human health or environmental effects are anticipated as a result of today's action.

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the action proposed today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practices and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 3, 1996.

Carol M. Browner,

Administrator.

[FR Doc. 96–11738 Filed 5–9–96; 8:45 am]

BILLING CODE 6560–60–P

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40 CFR Part 81

[AZR92–0004; FRL–5503–6]

Clean Air Act Reclassification; Arizona-Phoenix Nonattainment Area; Carbon Monoxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to find that the Phoenix, Arizona carbon monoxide (CO) nonattainment area has not attained the CO national ambient air quality standard (NAAQS) by the Clean Air Act (CAA) mandated attainment date for moderate nonattainment areas, December 31, 1995. This proposed finding is based on EPA's review of monitored air quality data for compliance with the CO NAAQS. If EPA takes final action on this proposed finding, the Phoenix CO nonattainment area will be reclassified by operation of law as a serious nonattainment area. The intended effect of such a

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reclassification would be to allow the State additional time to submit a new State implementation plan (SIP) providing for attainment of the CO NAAQS by no later than December 31, 2000, the CAA attainment deadline for serious CO areas.

DATES: Written comments on this proposal must be received by June 10, 1996.

ADDRESSES: Written comments should be sent to: Wallace Woo, Chief, Plans Development Section, A–2–2, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105.

The rulemaking docket for this notice, Docket No. 96–AZ–PL–002, may be inspected and copied at the following location between 8 a.m. and 4:30 p.m. on weekdays. A reasonable fee may be charged for copying parts of the docket.

U.S. Environmental Protection Agency, Region 9, Air and Toxics Division, Plans Development Section, A–2–2, 75 Hawthorne Street, San Francisco, California 94105.

Copies of the docket are also available at the State office listed below: Arizona Department of Environmental Quality, Library, 3033 North Central Avenue, Phoenix, Arizona 85012.

FOR FURTHER INFORMATION CONTACT: Jerry Wamsley, A–2–2, Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1226.

SUPPLEMENTARY INFORMATION:

I. Background

A. CAA Requirements and EPA Actions Concerning Designation and Classifications

The Clean Air Act Amendments of 1990 (CAA) were enacted on November 15, 1990. Under section 107(d)(1)(C) of the CAA, each carbon monoxide (CO) area designated nonattainment prior to enactment of the 1990 Amendments, such as the Phoenix area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments. Under section 186(a) of the Act, each CO area designated nonattainment under section 107(d) was also classified by operation of law as either "moderate" or "serious" depending on the severity of the area's air quality problem. CO areas with design values between 9.1 and 16.4 parts per million (ppm), such as the Phoenix area, were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR part 81. See 56 FR 56694 (November 6, 1991).

States containing areas that were classified as moderate nonattainment by operation of law under section 107(d) were required to submit State implementation plans (SIPs) designed to attain the CO national ambient air quality standard (NAAQS) as expeditiously as practicable but no later than December 31, 1995.[1]

B. Reclassification to a Serious Nonattainment Area

EPA has the responsibility, pursuant to sections 179(c) and 186(b)(2) of the CAA, of determining, within six months of the applicable attainment date whether the Phoenix area has attained the CO NAAQS. Under section 186(b)(2)(A), if EPA finds that the area has not attained the CO NAAQS, it is reclassified as serious by operation of law. Pursuant to section 186(b)(2)(B) of the Act, EPA must publish a notice in the **Federal Register** identifying areas which failed to attain the standard and therefore must be reclassified as serious by operation of law.

EPA makes attainment determinations for CO nonattainment areas based upon whether an area has two years (or eight consecutive quarters) of clean air quality data.[2] Section 179(c)(1) of the Act states that the attainment determination must be based upon an area's "air quality as of the attainment date." Consequently, EPA will determine whether an area's air quality has met the CO NAAQS by December 31, 1995 based upon the most recent two years of air quality data entered into the Aerometric Information Retrieval System (AIRS) data base.

EPA determines a CO nonattainment area's air quality status in accordance with 40 CFR part 50.8 and EPA policy.[3] EPA has promulgated two NAAQS for CO: an 8-hour average concentration and a 1-hour average concentration. Because there were no violations of the 1-hour standard in the Phoenix area in 1994 and 1995, this notice addresses only the air quality status of the Phoenix area with respect to the 8-hour standard. The 8-hour CO NAAQS requires that not more than one non-overlapping 8-hour average per year per monitoring site can exceed 9.0 ppm (values below 9.5 are rounded down to 9.0 and they are not considered exceedances). The second exceedance of the 8-hour CO NAAQS at a given monitoring site within the same year constitutes a violation of the CO NAAQS.

C. Attainment Date Extensions

If a state does not have the two consecutive years of clean data necessary to show attainment of the NAAQS, it may apply, under section 186(a)(4) of the CAA, for a one year attainment date extension. EPA may, in its discretion, grant such an extension if the state has: (1) Complied with the requirements and commitments pertaining to the applicable implementation plan for the area, and (2) the area has measured no more than one exceedance of the CO NAAQS at any monitoring site in the nonattainment area in the year preceding the extension year. Under section 186(a)(4), EPA may grant up to two such extensions if these conditions have been met.

II. Today's Action

By today's action, EPA is proposing to find that the Phoenix CO nonattainment area has failed to demonstrate attainment of the CO NAAQS by December 31, 1995. This proposed finding is based upon air quality data showing violations of the CO NAAQS during 1994 and 1995.

A. Ambient Air Monitoring Data

The following table lists each of the monitoring sites in the Phoenix CO nonattainment area where the 8-hour CO NAAQS has been exceeded during 1994 and 1995.

[1] The moderate area SIP requirements are set forth in section 187(a) of the Act and differ depending on whether the area's design value is below or above 12.7 ppm. The Phoenix area has a design value below 12.7 ppm. 40 CFR part 81.303.

[2] See generally memorandum from Sally L. Shaver, Director, Air Quality Strategies and Standards Division, EPA, to Regional Air Office Directors, entitled "Criteria for Granting Attainment Date Extensions, Making Attainment Determinations, and Determinations of Failure to Attain the NAAQS for Moderate CO Nonattainment Areas," October 23, 1995 (Shaver memorandum).

[3] See memorandum from William G. Laxton, Director Technical Support Division, entitled "Ozone and Carbon Monoxide Design Value Calculations", June 18, 1990. See also Shaver memorandum.

EXCEEDANCES OF 8-HOUR CO NAAQS FOR PHOENIX NONATTAINMENT AREA

Monitoring site	1994		1995	
	Concentration	Date	Concentration	Date
3847 W. Earll Drive	9.6 ppm	12/3	None recorded.	
	10.0 ppm	12/17		
1845 E. Roosevelt Street	9.7 ppm	12/17	None recorded.	
2710 N.W. Grand Avenue			None recorded	
			9.89 ppm	11/23
			10.23 ppm	12/2
			9.5 ppm	12/3
3315 W. Indian School Road	9.7 ppm	12/2	10.1 ppm	12/2
	10.4 ppm	12/3	9.5 ppm	12/3
	10.5 ppm	12/17		

1. 1994 Data

In a March 1995 letter to EPA,[4] Arizona requested that the 1994 exceedances of the CO NAAQS at the West Indian School Road monitoring site be "flagged" as affected by "exceptional events" as those terms are defined in EPA guidance.[5] In the same letter, the State requested that the December 17, 1994 exceedance at the West Earll Drive monitoring site be invalidated because that monitor had failed an audit. In response, EPA requested more information to evaluate the exceptional event claims at the West Indian School Road monitoring site and disapproved the State's request to invalidate the December 17, 1994 exceedance at the West Earll Drive monitoring site.[6]

In response to EPA's request for more information, on March 25, 1996, the Arizona Department of Environmental Quality (ADEQ) submitted to EPA additional documentation, prepared by the Maricopa Association of Governments (MAG), on the West Indian School Road exceedances.[7] On April 12, 1996, EPA responded to ADEQ's submittal by concluding that MAG's claims that these 1994 exceedances were affected by exceptional events (unusual traffic conditions and air stagnation conditions) were not supported by the submitted documentation. EPA stated that minor traffic accidents are common in any metropolitan area and that air stagnation conditions routinely occur during the CO season in the Phoenix area. See letter from David P. Howekamp, EPA, to Russell Rhoades, ADEQ, April 12, 1996.

Furthermore, as demonstrated in the table above, even if the West Indian School Road exceedances were deemed to be exceptional events and ultimately rejected for use in the Phoenix area's attainment status determination, there would still be two exceedances in 1994 at West Earll Drive since EPA disapproved the State's request to invalidate the December 17, 1994 exceedance. As discussed in section I.B. of this notice, the second exceedance at a given monitoring site in the same year constitutes a violation. Therefore, based on the 1994 data alone, EPA has concluded that the Phoenix area cannot be deemed to have attained the CO NAAQS by December 31, 1995.

2. 1995 Data

As demonstrated by the above table, the monitoring data indicate that Phoenix area recorded violations of the CO NAAQS in 1995 at Grand Avenue (three exceedances) and West Indian School Road (two exceedances). To date, the State has made no claims to EPA that the exceedances recorded at these monitoring sites are invalid for the purpose of determining the area's attainment status. However, EPA is aware that there have been ongoing communications between ADEQ and MAG regarding potential exceptional events claims for all except one of these exceedances (December 3, 1995 at West Indian School Road).[8] MAG has recommended that ADEQ flag all 1995 exceedances at Grand Avenue and the December 2, 1995 exceedance at West Indian School Road as being affected by traffic accidents, freeway ramp closures, meteorological considerations, and other events. In response, ADEQ stated that in order to meet EPA's Exceptional Event Guideline, MAG would have to submit appropriate documentation demonstrating a causal relationship between the events and measured air quality, and referred MAG to EPA's November 27, 1995 letter on the appropriate documentation regarding traffic accidents. EPA concurs with ADEQ's assessment and refers the reader for further detail to the correspondence between MAG and ADEQ.

Based on the MAG/ADEQ correspondence, EPA believes that the 1995 exceedances are valid for use in determining the attainment status of the Phoenix area. EPA is therefore proposing to find, based on the 1994 and 1995 CO violations discussed above, that the area did not attain the CO NAAQS by December 31, 1995. Similarly, because of the 1995 violations, EPA does not believe that the area could qualify for a one year extension of the attainment deadline.[9]

[4] See letter from Edward Z. Fox, Director, Arizona Department of Environmental Quality to David P. Howekamp, Director, Air & Toxics Division, EPA, Region IX, March 31, 1995.

[5] EPA has established criteria and procedures to identify or flag data which may be affected by exceptional events (e.g., structural fires or industrial accidents) in its "Guideline on the Identification and Use of Air Quality Data Affected by Exceptional Events," July 1986. Under the flagging system, state and local air pollution control agencies are responsible for initially identifying and documenting data influenced by exceptional events. These agencies are expected to develop the appropriate background information necessary to support a decision to flag an individual piece of data. The agencies must then submit the information to EPA for concurrence. Flagging a piece of data or data set does not exclude that data from being used for nonattainment designations or classifications. The actual exclusion would only be allowed if, as a result of a public review process, the responsible government agency, in this case EPA, determines that the data are inappropriate for use in a specific regulatory activity.

[6] See letter from David P. Howekamp, Director, EPA, to Russell F. Rhoades, Director, Arizona Department of Environmental Quality, November 27, 1995.

[7] See letter from Russell F. Rhoades, ADEQ, to David Howekamp, EPA, March 25, 1996.

[8] See e.g., letter from Roger A. Herzog, MAG, to Russell F. Rhoades, ADEQ, February 22, 1996; letter from Nancy Wrona, ADEQ, to John DeBolske, MAG, March 29, 1996.

[9] On March 11, 1996, MAG requested that ADEQ flag as affected by exceptional events (unusual traffic conditions and meteorological considerations) CO NAAQS exceedances on January 10 and 13, 1996 at Grand Avenue. See letter from Roger A. Herzog, MAG, to Russell F. Rhoades, ADEQ, March 11, 1996, attached to letter from Russell F. Rhoades to David Howekamp, March 25, 1996. In its March 25, 1996 letter to EPA, ADEQ submitted documentation from MAG in support of these claims. These 1996 exceedances, while lending additional support to EPA's proposed

Continued

B. SIP Requirements for Serious CO Areas

CO nonattainment areas reclassified as serious under section 186(b)(2) of the CAA are required to submit, within 18 months of the area's reclassification, SIP revisions demonstrating attainment of the CO NAAQS as expeditiously as practicable but no later than December 31, 2000. The serious CO area planning requirements are set forth in section 187(b) of the CAA. EPA has issued two general guidance documents related to the planning requirements for CO SIPs. The first is the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" that sets forth EPA's preliminary views on how the Agency intends to act on SIPs submitted under Title I of the Act. See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). The second general guidance document for CO SIPs issued by EPA is the "Technical Support Document to Aid the States with the Development of Carbon Monoxide State Implementation Plans," July 1992.

If the Phoenix area is reclassified to serious, the State would have to submit a SIP revision to EPA that, in addition to the attainment demonstration, includes: (1) a forecast of vehicle miles travelled (VMT) for each year before the attainment year and provisions for annual updates of these forecasts; (2) adopted contingency measures; and (3) adopted transportation control measures and strategies to offset any growth in CO emissions from growth in VMT or number of vehicle trips. See CAA sections 187(a)(7), 187(a)(2)(A), 187(a)(3), 187(b)(2), and 187(b)(1). Upon reclassification, contingency measures in the moderate area plan for the Phoenix area must be implemented.

III. Executive Order (EO) 12866

Under E.O. 12866, 58 FR 51735 (October 4, 1993), EPA is required to determine whether regulatory actions are significant and therefore should be subject to OMB review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may "have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities."

The Agency has determined that the finding of failure to attain proposed today would result in none of the effects identified in section 3(f). Under section 186(b)(2) of the CAA, findings of failure to attain and reclassification of nonattainment areas are based upon air quality considerations and must occur by operation of law in light of certain air quality conditions. They do not, in-and-of-themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, findings of failure to attain and reclassification cannot be said to impose a materially adverse impact on State, local, or tribal governments or communities.

IV. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

As discussed in section III of this notice, findings of failure to attain and reclassification of nonattainment areas under section 186(b)(2) of the CAA do not in-and-of-themselves create any new requirements. Therefore, I certify that today's proposed action does not have a significant impact on small entities.

Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must assess whether various actions undertaken in association with proposed or final regulations include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local or tribal governments in the aggregate.

Clean Air Act Reclassification; Arizona-Phoenix; Carbon Monoxide 14

EPA believes, as discussed above, that the proposed finding of failure to attain and reclassification of the Phoenix nonattainment area are factual determinations based upon air quality considerations and must occur by operation of law and, hence, do not impose any Federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Carbon monoxide.

Authority: 42 U.S.C. sections 7401–7671q.

Dated: April 29, 1996.

Felicia Marcus,

Regional Administrator.

[FR Doc. 96–11739 Filed 5–9–96; 8:45 am]

BILLING CODE 6560–50–P

finding of failure to attain based on the 1994 and 1995 data, are relevant to today's proposal in only one respect. If EPA were to conclude that the Phoenix area qualified for a one year extension of the attainment date, the 1996 exceedances, if validated as a NAAQS violation, would prevent the area from obtaining a second one year extension. As stated above, EPA does not believe the Phoenix area can qualify for the first extension. Moreover, EPA does not believe that the 1996 exceedances were affected by exceptional events. See letter from David P. Howekamp, EPA to Russell Rhoades, ADEQ, April 12, 1996. Therefore, the 1996 data are not addressed further in this notice.

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40 CFR Parts 148, 261, 268, 271

[FRL–5503–4]

RIN 2050–AE05

Land Disposal Restrictions Phase IV Proposed Rule—Issues Associated With Clean Water Act Treatment Equivalency, and Treatment Standards for Wood Preserving Wastes and Toxicity Characteristic Metal Wastes; Notice of Data Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability.

SUMMARY: Since publication of the Land Disposal Restrictions (LDR) Phase IV proposal (60 FR 43654, August 22, 1995), EPA has received additional information which will be considered in developing its final rule. The public has 30 days from publication of this notice to comment on that additional information. Readers should note that only comments about the new information discussed in this notice will be considered during the comment period; issues proposed in the August 22, 1995 Phase IV rule, and in the Phase IV Supplemental Proposal on mineral processing wastes (61 FR 2338, January 25, 1996), that are not discussed in this Notice of Data Availability, are not open for further comment.

DATES: Comments are due by June 10, 1996.

ADDRESSES: To submit comments, the public must send an original and two copies to Docket Number F–96–P42A–FFFFF, located at the RCRA Docket. The mailing address is: RCRA Information Center, U.S. Environmental Protection Agency (5305W), 401 M. Street, SW, Washington, D.C. 20460. RCRA Information Center is located at 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RCRA Information Center is open for public inspection and copying of supporting information for RCRA rules from 9:00 am to 4:00 pm Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information or to order paper copies of this **Federal Register** document, call the RCRA Hotline. Callers within the Washington, Metropolitan Area must dial 703–412–9810 or TDD 703–412–3323 (hearing impaired). Long-distance callers may call 1–800–424–9346 or TDD 1–800–553–7672. The RCRA Hotline is open Monday-Friday, 9:00 a.m. to 6:00 p.m., Eastern Standard Time. For other information on this notice, contact Sue Slotnick (5302W), Office of Solid Waste, 401 M Street, SW, Washington, DC 20460, phone (703) 308–8462.

SUPPLEMENTARY INFORMATION:

Paperless Office Effort

EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (TEXT) format or a word processing format that can be converted to ASCII (TEXT). It is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter. This expedited procedure is in conjunction with the Agency "Paperless Office" campaign. For further information on the submission of diskettes, contact Sue Slotnick of the Waste Treatment Branch at (703) 308–8462.

This **Federal Register** notice is available on the Internet System through EPA Public Access Server at gopher.epa.gov.or through WWW.epa.gov. For the text of the notice, choose: Rules, Regulations, and Legislation; the FR-Waste; finally, Year/Month/Day.

Notice of Data Availability

On August 22, 1995, EPA proposed the LDR Phase IV rule (60 FR 43654), containing proposed treatment standards for newly listed and characteristic wastes, among other issues. In a supplemental proposal (61 FR 2338, January 25, 1996), EPA proposed treatment standards and changes to the definition of solid waste for mineral processing wastes. The two proposals will form the basis for a single rule due to be promulgated later this year, referred to as the Phase IV final rule. Today's Notice of Data Availability pertains primarily to the original Phase IV proposal of August 22, 1995. Also, some possible changes discussed in this notice could affect the Universal Treatment Standards for metals in general, and could affect the current treatment standard for F024. Finally, additional comments on capacity for treating mineral processing wastes are solicited.

Since publication of the Phase IV proposal, EPA has received comments and data, available in RCRA docket number F–95–PH4P–FFFFF, on many issues, including the following:

(1) Treatment standards for toxicity characteristic (TC) metal wastes;

(2) Treatment standards for wood preserving wastes;

(3) Solid waste exclusion for recycled wood preserving wastewaters; and,

(4) Capacity issues.

These issues, and a discussion of the data the Agency has received on each issue, are presented below.

(1) Treatment Standards for Toxicity Characteristic (TC) Metal Wastes

a. Lead-Bearing Smelter Wastes

Comments were received from several trade organizations (see comments from Swidler & Berlin for the Association of Battery Recyclers, PH4P–00038; Battery Council International, PH4P–00045; Collier, Shannon, Rill & Scott, PH4P–00077; and, Resource Consultants, PH4P–00078.A), expressing concern about the proposed application of Universal Treatment Standard to metal TC wastes generated from the recycling of lead-acid batteries (lead slags and sludges containing lead).

The Resource Consultants comment contained limited data which included concentrations of lead, selenium, and barium in untreated and treated (stabilized) secondary lead smelter slag and soils. These data may indicate that their stabilized lead smelter slag cannot achieve the Universal Treatment Standard limits. In addition, limited data were submitted to show how these lead wastes differ in composition from K061. These data will be further assessed by the Agency to determine whether they may be used to revise the treatment standards for these constituents, or to identify particular treatability groups for which revised treatment standards may be promulgated. The Agency is also reviewing data submitted by the Exide Corporation on HTMR for the treatment of lead slags.

In addition, the Agency is reviewing information from East Penn Manufacturing Company, Inc., that seems to indicate that slag can be returned to the furnace until the metals are no longer present at hazardous concentrations. (If slag is reclaimed, it is not a solid waste during the reclamation process because it is a "byproduct" under 40 CFR 261.2(c). If the resulting discarded slag is below the toxicity characteristic levels, the slag is not a hazardous waste and so would not be subject to the LDRs.)

EPA also at this time wishes to clarify an issue raised with respect to the applicability of the Land Disposal Restriction Standards to slags resulting from smelting of lead acid batteries. The LDR standard for lead acid batteries is specified as RLEAD, or recovery of lead. (See 40 CFR Section 268.42.) Once the batteries are smelted, the LDR requirements have been satisfied, and therefore the slag resulting from this smelting need not be treated further. The standards proposed under Phase IV (i.e., compliance with UTS) would not apply to this slag, even if the slag exhibits a characteristic of hazardous waste. (However, if the slag exhibits a characteristic of hazardous waste, it must of course be managed under all other applicable, i.e., non-LDR, hazardous waste requirements.) EPA notes also that if a secondary smelter accepts materials other than lead acid batteries, then LDR requirements could apply to the slag, as with any other waste. The Agency understands, however, that secondary lead smelters routinely accept some materials closely related to lead acid batteries. EPA does not think that LDR status of the slags should be affected by these additional, but closely related lead-bearing items, i.e., the slag would remain exempt from LDR requirements. The Agency requests comment on this issue. EPA dealt with a very similar issue in the Boiler and Industrial Furnace (BIF) regulations (see 56 FR 42517, August 27, 1991). In that rule, the Agency published a list of

materials that secondary lead smelters may process and still remain exempt from the BIF regulations, codified at 40 CFR Part 266, Appendix XI. The Agency requests comment on using this same list for purposes of defining those materials secondary smelters may accept without changing the LDR status of their resulting slags.

b. Lead-Bearing Foundry Wastes

The metal foundry industry generates emission control dust and foundry sand containing cadmium, chronium, lead and selenium. The American Foundryman's Society submitted comments to the Phase IV Rule stating that foundry sand is different from K061 and that HTMR is not demonstrated or available, and stabilization has not been demonstrated as meeting Universal Treatment Standards for foundry sands. The comments referred the Agency to data which the Agency is now reviewing.

c. Treatment Standard for D011 Silver TC Wastes

EPA is considering alternative options for the treatment standard for D011. In comments to the Phase IV rule, the Silver Coalition and the Eastman Kodak Company each stated that silver should be removed from the Toxicity Characteristic list of constituents, based on low risk, or at least EPA should not promulgate a treatment standard for silver below the TC level of 5.0 mg/l. The regulation of silver as a TC metal is indeed a subject of concern for EPA. While human health effects are not major, concern about aquatic toxicity remains. The Agency is not yet prepared to make a decision on the removal of silver from the TC list (at 40 CFR 261.24). However, given the low risk to human health, EPA is considering two possibilities for the treatment standard, in addition to the proposed treatment standards of 0.43 mg/l for wastewaters and 0.30 mg/l TCLP for nonwastewaters. One new option is to revise the Universal Treatment Standard for silver at a higher value, e.g. the TC regulatory level of 5.0 mg/l. This change would affect all wastes subject to UTS. The second option is to set the standard for D011 at the higher level, maintaining the current Universal Treatment Standard levels for all other wastes containing silver as a regulated constituent. Comments are requested on these two new options.

(2) Treatment Standards for Wood Preserving Waste F032, and Potentially, F024

EPA proposed in the Phase IV proposal to require wood preserving waste F032 to meet the Universal Treatment Standard for a specific list of hazardous constituents (see 60 FR 43680; August 22, 1995, and its Correction Notice, 60 FR 546451, October 25, 1995). The F032 constituents include dioxin and furan (D/F) constituents (Id. at 43681). Most comments on the proposed treatment standards for F032 centered on the need to establish numeric limits for D/F as a means to ensure proper treatment. As described below, EPA also received new data. The Agency requests comment on the new data, and on options presented below. Also, commenters should note that a change in the proposed treatment standard for F032 may dictate changes in the F024 (a group of chlorinated aliphatic wastes) treatment standard (see 55 FR 22580–22581, June 1, 1990), as discussed below.

The Penta Task Force's comment (which also included a characterization study from Vulcan Chemicals) and the comment from the American Wood Preserving Institute (AWPI) expressed concerns that promulgation of concentration limits for D/F hazardous constituents in F032 may discourage commercial incineration facilities from treating this waste. As a result of this concern, commenters have asked EPA to consider alternatives to setting D/F concentration limits in its final rule. The Agency is considering options that would provide F032 generators flexibility, provided that adequate treatment of the waste is still ensured. Comments are requested on the options and information discussed below. Under all the options discussed below, the treater would still have to measure compliance with the proposed Universal Treatment Standard levels for the non-D/F constituents in the waste.

New Option: Alternative Treatment Standard

This option calls for EPA to establish an alternative treatment standard that sets incineration as a treatment method for D/F constituents, in lieu of actually measuring the D/F concentrations in the treated residues. F032 wastes treated via incineration would have met the treatment standard for D/F, and disposal would be allowed so long as the Universal Treatment Standard limits promulgated for other organic constituents were also met. Under this option, Treatment Standard levels for each D/F constituent would still be codified so that compliance with these levels can be monitored in cases when F032 is treated by nonincineration technologies.

This option, suggested by the Penta Task Force and AWPI, is patterned after a treatment standard promulgated for F024. The commenters believe that the concentrations of D/F in untreated F032 are similar to those found in untreated F024, therefore, these two wastes can be adequately regulated in a similar manner.

a. Preliminary Review of Vulcan's Characterization Study.

Vulcan Chemical submitted a characterization study in an attachment to the Penta Task Force's comment. This commenter pointed out that the commercial grade tolerances of pentachlorophenol (PCP) allowed domestically have D/F levels well below than those EPA reported in the Listing Background Document for F032, F034, and F035. The commenters also submitted data on D/F measured in several F032 waste streams from six wood preserving plants (see comment number PH4P–00032.J). EPA is currently reviewing these characterization data, however, they appear to support Vulcan and AWPI's claim that D/F concentrations in F032 have been reduced in commercial oils and subsequently, in F032 wastes.

The new F032 characterization data do not appear to support a determination that F032 and F024 are exactly alike. F024 has the following D/F maximum concentrations: up to 2 ppb for penta-PCDD, 10 ppb for hexa-PCDD, 10 ppb of tetra-PCDF, 30 ppb for penta-PCDF, 50 ppb for hexa-PCDF, and tetra-PCDD was not detected above 1 ppb. It appears that F032 may have concentrations of D/F of up to 4.3 ppb for tetra-PCDD, 590 ppb for hexa-PCDD, 78 ppb for penta-PCDF(estimated), 1,500 ppb for hexa-PCDF, and penta-CDD was not detected. Based on these data, it appears that the maximum concentrations of penta-PCDD, tetra-PCDF, and penta-PCDF in F032 are within the same or lower order of magnitude as those in F024. In contrast, tetra-PCDD and hexa-PCDF maximum concentrations in F032 diverge by two orders of magnitude with those in F024. Also, hexa-PCDD maximum concentrations in F032 may exceed by one order of magnitude those found in F024. However, neither of these wastes were identified as 'acutely toxic' in 40 CFR 261, Subpart D, so in this sense they are in a similar class.

b. Feasibility of setting "INCIN" or "CMBST" as an Alternative Treatment Standard

In spite of some differences between these two wastes, EPA believes that a treatment standard allowing incineration (or 'combustion,' see discussion below) as an alternative

standard for D/F in F032 may be technically feasible. One reason is that incineration is BDAT for dioxin-containing wastes. EPA also believes that incineration, and in fact, combustion technologies generally, are among the least matrix-dependant technologies capable of treating the diverse range of residues that comprise F032. Various types of incineration have been demonstrated to treat high and low level D/F constituents below detection limits in incineration residues.

Suboptions under consideration. EPA has identified, however, three regulatory suboptions for the implementation of Vulcan's proposed alternative treatment method. Each suboption is discussed below. The Agency notes that suboptions 2 and 3 would also change the F024 treatment standard. Also, suboptions 2 and 3 are not mutually exclusive, and both could be selected by the Agency.

Suboption 1: Apply existing F024 alternative combustion treatment standard to F032.

The treatment standard for F024 was originally limited to incineration units. In the Phase III final rule (April 8, 1996), EPA amended the incineration treatment standard (see 40 CFR 268.42, Table 1, 'INCIN') to include additional combustion devices (see 'CMBST' in the Phase III final rule). EPA believes that well-operated and well-designed combustion units can meet the treatment standard for F024 and F032. Setting CMBST as the treatment standard for D/F in F032 would allow wider access to a variety of combustion practices.

Suboption 2: Establish F032's and revise F024's CMBST alternative standard to require the combustion unit to achieve a dioxin emission standard. One concern with the CMBST treatment standard is that D/F can be reformed in the post-combustion zone if favorable conditions exist. Thus, controls may be needed to minimize the potential for forming and emitting D/F emissions into the atmosphere, and to minimize the potential for such products of incomplete combustion to be adsorbed onto wastes. The Agency is concerned that until combustion units are regulated under the proposed MACT standards discussed below, a simple CMBST standard for either F024 or F032 could actually lead to increased air emissions of D/F, or increased concentrations adsorbed onto combustion wastes, if these F024 and F032 wastes were combusted in units that foster the formation of D/F. (It also must be remembered that treatment standards that result in unsafe cross-media transfers of pollutants do not satisfy the requirements of RCRA section 3004(m)). See *Chemical Waste Management* v. *EPA*, 976 F. 2d 2, 17 (D.C. Cir. 1992).) Studies (see discussion below) show that effective controls to inhibit D/F formation may include one or more of the following: (1) rapid quench of combustion gases; (2) air pollution control device's inlet temperatures of less than 400 F for the flue gas; (3) good combustion practices (e.g. like higher temperatures, proper mixing in the combustion zone, and appropriate chemical residence time); and, finally, (4) activated carbon injection scrubbing, if dioxin emissions remain high.

Based on studies conducted at various domestic incineration units such as light weight aggregate kilns and cement kilns, EPA has proposed regulations that set a maximum toxicity equivalent (TEQ) D/F emission standard of 0.20 ng/DSCF (corrected to 7% O_2) for combustion units burning RCRA hazardous wastes. (See Proposed Rule (signed March 20, 1996)—Revised Technical Standards Waste Combustion Facilities (http://www.epa.gov/epaoswer/combust.html.) EPA's studies show that at least 50% of the facilities tested for the proposed combustion rule meet this MACT limit. EPA is requesting comments on whether this D/F emission standard should also be codified as a requirement of a CMBST alternative treatment standard. [For background information regarding the development and implementation of such an air emission standard, see the following documents: (1) Proposed Rule (signed March 20, 1996)—Revised Technical Standards Waste Combustion Facilities http://www.epa.gov/epaoswer/combust.html); (2) Draft Technical Support Document for HWC MACT Standards, Volume III: Selection of MACT Standards and Technologies,(see pages 5–1 through 5–6); (3) Combustion Emission Technical Resource Document (CETRED) (see pages A–54 through A–56) (OSW: EPA 530–R–94–014, May 1994); and, (4) Performance of activated carbon injection on dioxin/furan and mercury emissions, February 23, 1996, memorandum from Shiva Garg of EPA's OSW to DOCKET # F–96–RCSP–FFFFF.] Compliance would have to be documented at least every 18 months.

Under this suboption, any RCRA permitted or interim status combustion device capable of demonstrating achievability in meeting the dioxin (TEQ) air emission discharge limit would be allowed to combust F032 and F024. Should EPA ultimately select a standard other than 0.2 ng/DSCF, the Agency would of course revisit the LDR standard for F024 and F032.

Suboption 3: Revise F024's CMBST alternative standard (and set F032's standard) to limit the combustion of F024 and F032 to combustion devices that have been permitted. A final option would be to limit combustion of F024 and F032 to combustion devices (i.e., incinerators, boilers, and industrial furnaces) that have been evaluated as part of the RCRA permitting process, including potential evaluation under the omnibus permitting authority set out in RCRA section 3005(c)(3). This could involve a site-specific evaluation of whether permit conditions more stringent than those required by the regulations are necessary to assure that the facility's combustion practices are sufficiently controlled to be protective of human health and the environment. Since only permitted facilities are subject to omnibus evaluation, this option would necessarily limit the eligible combustion devices to those that have received permits.

A complete list of related references is available in the RCRA docket for this notice. It is called 'Reference List for F032.'

(3) Solid Waste Exclusion of Recycled Wood Preserving Wastewaters

In the Phase IV proposal, EPA announced that it would consider granting a conditional exclusion from the definition of solid waste for recycled process wastewaters used in the wood preserving industry, provided that the Agency received adequate information to grant such an exclusion. The proposal solicited this information, and specified that it would have to be sufficient to make an industry-wide determination that the reclamation operation was an essential part of production, and that the secondary materials being reclaimed were not likely to be a part of the waste disposal problem.

In response to this solicitation for information, comments were submitted from the American Wood Preservers Institute (AWPI), the State of Oregon Department of Environmental Quality, Universal Forest Products, Inc., Remediation Technologies, Inc., J.H. Baxter & Company, the Environmental Defense Fund (EDF), Beazer East, Inc., and Covington & Burling, pertaining to a possible solid waste exclusion for recycled wood preserving wastewaters. EPA will review this information to determine whether this information is adequate.

Specifically, EPA will be reviewing these comments to evaluate the extent to which they establish that the reclamation of production wastewaters

from the wood preserving industry meet the variance criteria found in 40 CFR 260.31(b). As was stated in the Phase IV proposal, if these criteria can be demonstrated on an industry-wide basis, the Agency may grant a conditional exclusion from the definition of solid waste for reclaimed production wastewaters from the wood preserving industry. The comments from AWPI address each of the 40 CFR 261.31(b) criteria in some detail. EPA will also review other comments, such as those submitted by EDF, that question the basis and desirability of granting the variance on an industry-wide basis. EPA solicits replies to these particular comments.

EPA has also added to the docket a bill being considered by Congress that would exempt from regulation wastewaters provided the materials are "contained, collected, and reused in an on-site production process that prevents releases to the environment." In discussions of this issue, representatives of the American Wood Preservers Association stated that they were not seeking to eliminate the existing Subpart W standards for drip pads used to collect and manage drippage from wood preserving. EPA solicits comments on whether the record supports a national exclusion from the definition of solid waste for recycled process wastewaters from wood preserving operations that are returned to the process from which they originated, with the condition that drippage from the wood is collected and managed on drip pads that are in compliance with Subpart W drip pad standards and that there is no release of the wastewaters to the environment.

(4) Capacity Issues

a. Request for More Information on Amounts of TC Metal Wastes and TC-contaminated Soil

EPA has received comments on the Phase IV proposed rule stating that application of Universal Treatment Standards to TC metal wastes will significantly increase the demand for, and costs of, treatment. As stated in the Supplemental Proposal on mineral processing wastes, EPA has limited information on quantities of TC metal wastes with which to analyze available treatment capacity. Comments also indicated that there may be TC metal-contaminated soil that would require treatment to meet LDR treatment standards. These commenters argue that there will be a need for a capacity variance for TC metal-contaminated soils. Commenters submitted very little data, however, to support their arguments. EPA requests data to potentially support capacity variances for TC metal wastes and TC metal-contaminated soils.

Furthermore, as stated in the Supplemental proposal, EPA solicits information on quantities of characteristic mineral processing wastes, in order to determine whether adequate capacity exists to treat these wastes (61 FR 2360). Because data do not exist to support a capacity variance at this time, EPA is once again urging commenters to provide information on the quantities, characteristics, and management of the newly identified mineral processing wastes.

b. Potential Capacity Variance for FMC Corporation

Representatives of FMC Corporation met with EPA to present their argument that they need a two-year national capacity variance for three large volume TC metal wastewater streams (Medusa Scrubber Blowdown, Anderson Filter Media Rinsate, and Furnace Building Washdown) that are generated at its Pocatello, Idaho facility. (A memorandum summarizing this meeting is part of the record for this rulemaking.) FMC believes that these three wastewaters pose unique treatability problems because of elemental phosphorous contamination and naturally occurring radioactive material. They argue that the logistics and costs to ship these wastestreams off-site for treatment are impractical and prohibitive. FMC also stated that a survey of off-site treatment facilities shows that no permitted TSDF can currently handle these wastestreams. As such, FMC believes it will need a two-year national capacity variance to develop and construct treatment capacity for these wastewater streams and thus comply with Phase IV. FMC intends to submit detailed documentation supporting its claim for a two-year national capacity variance. If it is submitted in a timely fashion, EPA will make it available to the public during the comment period for this notice, and will potentially use this information in determining whether a capacity variance is needed.

Summary

In conclusion, the Agency is making available to the public new data it has received since the Phase IV proposal (or alerting the public to data it expects to receive immediately). Comments are requested on the data and their possible use, as discussed in this notice. In addition, the Agency is requesting data on TC metal wastes, TC metal-contaminated soil, and mineral processing wastes and contaminated soils, that could be used to determine the need for capacity variances, since the Agency currently lacks such data.

Dated: May 3, 1996.

Michael Shapiro,

Director, Office of Solid Waste.

[FR Doc. 96–11740 Filed 5–9–96; 8:45 am]

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40 CFR Part 300

[FRL–5502–2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete the Marathon Battery Company site from the National Priorities List: Request for Comments.

SUMMARY: The Environmental Protection Agency (EPA) Region II announces its intent to delete the Marathon Battery Company site from the National Priorities List (NPL) and requests public comment on this action. The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of New York have determined that no further cleanup by responsible parties is appropriate under CERCLA. Moreover, EPA and the State have determined that CERCLA activities conducted at the Marathon Battery Company site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the deletion of the Marathon Battery Company site from the NPL may be submitted on or before June 7, 1996.

ADDRESSES: Comments concerning the deletion of the Marathon Battery Company site from the NPL may be submitted to: Pamela Tames, P.E., Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 20th floor, New York, NY 10007–1866.

Comprehensive information on the Marathon Battery Company site is contained in the EPA Region II public docket, which is located at EPA's Region II office (the 18th floor), and is available for viewing, by appointment only, from 9:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays. For further information, or to request an appointment to review the public docket, please contact Ms. Tames at (212) 637–4255.

Background information from the Regional public docket is also available for viewing at the Marathon Battery Company site's Administrative Record repository located at: Julia Butterfield Memorial Library, Morris Avenue, Cold Spring, NY 10516.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

EPA Region II announces its intent to delete the Marathon Battery Company site from the NPL and requests public comment on this action. The NPL is Appendix B to the NCP, which EPA promulgated pursuant to Section 105 of CERCLA, as amended. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions (RAs) financed by the Hazardous Substances Superfund Response Trust Fund (the "Fund"). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed RAs, if conditions at such site warrant action.

EPA will accept comments concerning the Marathon Battery Company site for thirty (30) days after publication of this notice in the **Federal Register** (until June 7, 1996).

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses how the Marathon Battery Company site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR Section 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA, in consultation with the State, will consider whether any of the following criteria have been met:

1. That responsible or other persons have implemented all appropriate response actions required; or
2. All appropriate Fund-financed responses under CERCLA have been implemented, and no further cleanup by responsible parties is appropriate; or
3. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking remedial measures is not appropriate.

III. Deletion Procedures

The NCP provides that EPA shall not delete a site from the NPL until the State in which the release was located has concurred, and the public has been afforded an opportunity to comment on the proposed deletion. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts. The NPL is designed primarily for informational purposes and to assist agency management.

The following procedures were used for the intended deletion of the Marathon Battery Company site:

1. EPA Region II has recommended deletion and has prepared the relevant documents.
2. The State of New York has concurred with the deletion decision.
3. Concurrent with this Notice of Intent to Delete, a notice has been published in local newspapers and has been distributed to appropriate federal, state and local officials, and other interested parties. This notice announces a thirty (30)-day public comment period on the deletion package starting on May 8, 1996 and concluding on June 7, 1996.
4. The Region has made all relevant documents available in the regional office and the local site information repository.

EPA Region II will accept and evaluate public comments and prepare a Responsiveness Summary, which will address the comments received, before a final decision is made. The Agency believes that deletion procedures should focus on notice and comment at the local level. Comments from the local community may be most pertinent to deletion decisions. If, after consideration of these comments, EPA decides to proceed with deletion, the EPA Regional Administrator will place a Notice of Deletion in the **Federal Register**. The NPL will reflect any deletions in the next update. Public notices and copies of the Responsiveness Summary will be made available to the public by EPA Region II.

IV. Basis for Intended Site Deletion

Site History and Background

The Marathon Battery Company site, located in the Village of Cold Spring, Putnam County, New York, includes a former nickel-cadmium battery manufacturing facility, the Hudson River in the vicinity of the Cold Spring pier, and a series of river backwater areas known as East Foundry Cove, East Foundry Cove Marsh, Constitution Marsh, and West Foundry Cove. Before the site was remediated, a battery plant and an underground asphalt- and clay-lined vault containing spoils from dredging activities in the cove, were located on the facility's grounds. Twenty-nine houses, located on Constitution Drive, are in the vicinity of the site.

Nickel-cadmium batteries were manufactured at the plant from 1952–1979. The plant's wastewater treatment system originally consisted of a lift station and piping for transfer of all process wastewater into the Cold Spring sewer system for discharge directly into the Hudson River at the Cold Spring pier. In addition, a by-pass valve was installed so that when the lift station was shut down or overloaded, a direct gravity discharge could be made into the Kemble Avenue storm sewer for discharge into Foundry Cove.

In the early 1970s, studies conducted by New York University, EPA, and the New York State Department of Environmental Conservation (NYSDEC) showed high levels of cadmium contamination in Foundry Cove sediments. Samples of vegetation and various species of fish, muskrat, turtle eggs, and green heron revealed high concentrations of cadmium, as well.

In 1972, the U.S. Department of Justice signed a Consent Agreement requiring the present and past owners/operators to remove as much cadmium from the outfall area and channel leading into the cove as was economically, technically, and ecologically feasible. The dredge spoils were entombed in the above-described vault. The dredging, however, was not totally successful. Post-dredging monitoring continued to detect elevated cadmium concentrations in the cove's sediments, flora, and fauna. Tidal action slowly flushed some of the remaining cadmium deposits from the cove into the Hudson River and into Constitution Marsh, a National Audubon Society sanctuary.

In October 1981, the Marathon Battery Company site was included on the NPL. In August 1983, EPA and the State of New York signed a Cooperative Agreement to undertake a remedial investigation and feasibility study (RI/FS) at the Marathon Battery Company site. The results of the RI sediment sampling program indicated widespread heavy metal contamination of the sediments and marsh soils of Foundry

Cove. The highest level of contamination occurred in East Foundry Cove Marsh in close proximity to the Kemble Avenue outfall. This area, characterized by a layer of greenish-white sediment spanning an approximately 50 by 100 foot area, showed concentrations as high as 171,000, 156,000, and 6,700 milligrams/kilogram (mg/kg) for cadmium, nickel, and cobalt, respectively. Cadmium levels as high as 2,200 mg/kg were found in the Hudson River in the vicinity of the Cold Spring pier.

Samples from the former battery facility indicated contamination as high as 120,000 mg/kg cadmium and 130,000 mg/kg nickel in the rafters, and up to 600 mg/kg cadmium on the surrounding grounds. Cadmium concentrations up to 67 mg/kg were found in soils in the adjacent residential yards.

In March 1986, NYSDEC requested that EPA assume the lead role for this project. EPA's contractor completed a supplemental RI/FS for the East Foundry Cove Marsh/Constitution Marsh portion of the site (Area I) in August 1986.

On September 30, 1986, a Record of Decision (ROD) was signed for Area I, calling for the dredging of the contaminated sediments exceeding 100 mg/kg, placement of a clay cap and soil cover on the excavated marsh areas, restoration of the marsh, chemical fixation of the excavated sediments, followed by their off-site disposal. Long-term monitoring was selected for Constitution Marsh.

Supplemental RI activities for the former battery facility (Area II) were completed in April 1988. A ROD for this operable unit was signed on September 30, 1988. The selected remedy included decontamination of the interior of the former battery plant building and its contents, excavation and chemical fixation of the dredge spoils vault, excavation and chemical fixation of the cadmium-contaminated soils on the plant grounds and adjacent properties which exceeded 20 mg/kg (determined by a risk assessment), enhanced volatilization of the volatile organic compound (VOC)-contaminated soils, and off-site disposal of the contaminated dust and fixated soils. Long-term monitoring was selected for the VOC-contaminated ground water underlying the site. (A search for VOC-contaminated soils on the plant grounds during the design failed to find a source area. Therefore, the enhanced volatilization component of the selected remedy was not designed. The subsequent demolition of the building revealed elevated levels of VOCs in some sections of the sealed process trenches and an ejector pit. The contents of the process trench and ejector pit were sent to an off-site facility for treatment/disposal.)

An RI/FS for the East Foundry Cove, West Foundry Cove, and Hudson River in the vicinity of the Cold Spring pier portion of the site (Area III) was completed in June 1989. The Area III ROD was signed on September 26, 1989. The selected remedy called for dredging one foot of contaminated sediments to achieve a 95% removal rate from East Foundry Cove and the Hudson River in the vicinity of the Village of the Cold Spring pier, followed by chemical fixation and off-site disposal. Long-term monitoring was selected for West Foundry Cove, a depositional area.

A consolidated design for Areas I, II (the dredge spoils vault and the plant grounds), and III was completed in May 1992.

Following the completion of field investigations to more fully delineate the areas of the adjacent residential properties that required remediation, in May 1992, this portion of the Area II remediation effort commenced. When the remedial action was completed in March 1993, approximately 1,600 cubic yards of contaminated soil had been excavated and removed.

On March 26, 1989, EPA issued a Unilateral Administrative Order (UAO) to Marathon Battery Company, Gould Inc., and Merchandise Dynamics, the property owner, requiring them to decontaminate the interior of the 114,000-square foot former battery plant (which at the time was an abandoned book repository) and its contents, to recycle the decontaminated books, and to properly dispose of contaminated materials. Following the performance of a pilot-scale study conducted by Marathon Battery Company's and Gould Inc.'s contractor to evaluate decontamination techniques, the facility, as well as 4,170 pallets containing approximately 2.5 million books were decontaminated. Twelve of seventy-six rolloffs containing debris from the building were determined to contain hazardous debris and were disposed of at Chemical Waste Management's hazardous landfill in Model City, New York. The remaining rolloffs were sent to Waste Management's Modern Landfill in York, Pennsylvania. While the book and building decontamination work was completed in December 1991, due to the limited production rate of available book recycling companies, the recycling of the books continued until March 1993.

A Consent Decree, in which Gould Inc. agreed to perform the remedial action and the remaining PRPs, Marathon Battery Company and the U.S. Army, agreed to a cash settlement, was entered with the Southern District Court on April 1, 1993. Gould Inc., as the Settling Work Defendant, chose Sevenson Environmental Services as its contractor. The U.S. Army Corps of Engineers (USACE) performed oversight of the work effort.

Full-scale dredging of East Foundry Cove Marsh and East Foundry Cove and the excavation of the plant grounds began in September 1993. The treated sediments and soils were stockpiled on the treatment area for curing and post-treatment testing prior to off-site disposal at City Management Landfill in Michigan. All treated materials were subjected to the Toxicity Characteristics Leaching Procedure as required by EPA and the Extraction Procedure Toxicity Test as required by the State of Michigan.

Dredging in the Hudson River in the vicinity of the Cold Spring pier was completed in early July 1994 and dredging of East Foundry Cove continued until February 1994. All dredged areas underwent post-remedial sampling and were surveyed to determine whether the proper concentration or dredging depth was achieved. With regard to East Foundry Cove Marsh, post-excavation cadmium levels in the sediments did not exceed the 100 mg/kg action level, averaging 11.75 mg/kg.

In the Hudson River and East Foundry Cove, an average of 10 mg/kg of cadmium remained, which was consistent with the ROD requirement that at least one foot of sediment and 95% of the contamination be removed.

The collection of ice and snow on the former battery facility's roof during the winter of 1993–1994 resulted in the collapse of a 10,000 square foot section of the roof, thereby exposing a portion of the concrete foundation to the outside elements. This particular portion of the foundation contained numerous trenches which were used for waste disposal during the manufacture of nickel-cadmium batteries. Sample analyses revealed that elevated levels of cadmium and nickel remained encased in the rubble-filled and cemented-over trenches. Due to EPA's concern that continued exposure to the elements and freeze/thaw cycles could cause the concrete floor and/or trenches' cement caps to heave and crack, possibly resulting in a release of contaminated dust, the PRPs agreed to demolish the building and remove the foundation and process trenches. Demolition of the former battery facility began in September 1994 and was completed in January 1995.

Following the demolition of the former battery facility, it was discovered that a cadmium nitrate tank located on a pedestal immediately adjacent to the plant had leaked onto the underlying soil prior to the closing of the plant in 1979. In an attempt to remove this cadmium-contaminated soil, a twenty-by sixty-foot area was excavated to a depth of approximately twenty feet (approximately two feet above the ground-water table). While post-excavation sampling of this area showed that some cadmium contamination remained in the saturated soils at levels above the 20 mg/kg action level, and low levels of cadmium were present in the ground water, it was determined that excavating an additional four feet of contaminated soil (two feet below the water table), placing two feet of limestone at the bottom of the excavation (to keep the cadmium insoluble), and backfilling the excavation with clean fill would be protective of public health and the environment.

At the completion of the marsh remediation and restoration activities in April 1995, the marsh was planted with cattails, bull rush, arrow arrum, and upland shrubs in specified areas.

The plant grounds were regraded and reseeded in July 1995. Fourteen monitoring wells remain in place on the plant grounds for the long-term monitoring of the ground water for VOCs and cadmium.

In all, 189,265 tons of treated soils and sediments were transported off-site (via 1,979 railcars) to City Management Landfill in Michigan. Chemical Waste Management's hazardous waste landfill in Model City, New York received 906 tons of hazardous materials.

A Remedial Action Report associated with the remediation of the adjacent properties was approved on September 28, 1993. A Remedial Action Report associated with the East Foundry Cove, East Foundry Cove Marsh, Hudson River in the vicinity of the Cold Spring pier, the former battery facility, and plant grounds portions of the site was approved on September 18, 1995. A Superfund Site Close-Out Report was approved on September 28, 1995.

Summary of Operation and Maintenance and Five-Year Review Requirements

The cattails, bull rush, and arrow arrum, as well as the upland shrubs, are being monitored on a regular basis by the warden of the adjacent National Audubon sanctuary, Constitution Marsh.

The Settling Defendants have agreed to monitor the site for up to thirty years, commencing with the first inspection/monitoring event that occurred on October 27, 1995.

The long-term monitoring program consists of monitoring the groundwater, East and West Foundry Cove sediments and surface water and biological sampling and analysis quarterly the first year, semi-annually during years two through five, and annually thereafter for a total of thirty years.

Site inspections are to be coincident with the monitoring events. The inspections will include visual observations of the marsh soil cover and erosion controls, groundwater monitoring wells, and general site conditions. Maintenance, if required, will consist of correcting observed deficiencies (e.g., repairing ground water monitoring wells) The fourteen groundwater monitoring wells that comprise the groundwater monitoring program will be inspected to ensure their integrity. They will be repaired should they become damaged, or replaced should they become non-functional.

So that EPA can evaluate the remedy's effectiveness, following each inspection/sampling event, Gould Inc. is to submit to EPA a monitoring and inspection program report, summarizing the inspection and sampling results, and describing any corrective maintenance actions that were taken. In addition, a review of the long-term monitoring and inspection program reports will be performed five years after the completion of the RA to assure that the remedy remains effective in protecting human health and the environment.

There are no operational requirements related to the implemented remedy.

Summary of How the Deletion Criteria Has Been Met

Based upon the results of RA sample analyses, survey results, and site inspections, the site meets the requirements set forth in the RODs. All contaminated soils and sediments above the specific action levels set for each operable unit were excavated and/or dredged from those areas, treated and disposed of off-site. East Foundry Cove Marsh and the plant grounds have been regraded with clean fill and restored. An Explanation of Significant Differences, dated May 1995, was issued by EPA to address the pedestal area on the plant grounds which exceeds the action level at a depth of 20 feet. However, EPA believes the placement of two feet of limestone at the bottom of the excavation to keep the cadmium insoluble, and the backfilling of the excavation with clean fill is protective of public health and the environment.

EPA and the State have determined that the response actions undertaken at the Marathon Battery Company site are protective of human health and the environment.

In accordance with 40 CFR § 300.425 (e), sites may be deleted from the NPL where no further response is appropriate. EPA, in consultation with the State, has determined that all appropriate responses under CERCLA have been implemented and that no further cleanup by responsible parties is appropriate. Having met the deletion criteria, EPA proposes to delete the Marathon Battery Company site from the NPL.

The State has advised EPA that, upon deletion of the Marathon Battery Company site from the NPL, it proposes to change the classification of the site on its Registry of Inactive Hazardous Waste Sites from a Class 2 (a site where the disposal of a consequential quantity of hazardous waste has been confirmed and presents a significant threat to the environment or health) to a Class 4 (a site that has been properly closed, but requires continued operation, maintenance, and/or monitoring).

Dated: April 12, 1996.

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 96–11481 Filed 5–9–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–103; RM–8794]

Radio Broadcasting Services; Smith, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Donegal Enterprises, Inc., seeking the allotment of Channel 271C3 to Smith, Nevada, as the community's first local aural service. Channel 271C3 can be allotted to Smith in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.9 kilometers (2.4 miles) east, at coordinates 38–47–53 NL; 119–16–55 WL, to avoid a short-spacing to Station KSSJ, Channel 270B, Shingle Springs, CA.

DATES: Comments must be filed on or before June 27, 1996, and reply comments on or before July 12, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Patrick A. Mulreany, President, Donegal Enterprises, Inc., P.O. Box 123, Smith, Nevada 89430 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–103, adopted April 22, 1996, and released May 6, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–11760 Filed 5–9–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD20

Endangered and Threatened Wildlife and Plants; Proposed Special Rule for the Conservation of the Northern Spotted Owl on Non-Federal Lands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed special rule; additional information.

SUMMARY: On February 23, 1996, the Service issued a Draft Environmental Alternatives Analysis (EAA) for the proposed special section 4(d)rule for the conservation of the northern spotted owl on non-Federal lands in California and Washington. The proposed special rule was published in the **Federal Register** on February 17, 1995 (60 FR 9484). The comment period for the draft EAA and the proposed rule was recently extended, (61 FR 15452, April 8, 1996) and is scheduled to end for both documents on June 3, 1996.

The comment period was extended, in part, to allow the public the opportunity to review a proposal by the State of Washington Forest Practices Board that would address impacts of forest practices to the northern spotted owl. The state has asked the Service to consider their proposed state rule as a possible alternative to the current special rule proposed by the Service. The Service seeks additional comments from the interested public, agencies, and interest groups on the Draft EAA, the proposed special rule, and on the State of Washington's proposed state rule as a possible alternative to the rule currently proposed by the Fish and Wildlife. The purpose of this document is to provide a summary of Washington's proposed rule, and a comparison of that rule with the Service's proposed special rule.

DATES: The comment period for written comments closes June 3, 1996.

ADDRESSES: Comments and materials concerning the Draft Environmental Alternatives Analysis, the proposed rule and the potential use of the Washington Forest Practices Board proposed rule as an additional alternative should be sent to Mr. Michael J. Spear, Regional Director, Region 1, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181. The complete file for this proposed rule will be available for public inspection, by appointment during normal business hours, at the U.S. Fish and Wildlife Service, Office of Technical Support for Forest Resources, 333 S.W. 1st Avenue, 4th Floor, Portland, Oregon 97204, (503/326–6218).

FOR FURTHER INFORMATION CONTACT: Mr. Curt Smitch, Assistant Regional Director, Region 1, U.S. Fish and Wildlife Service, 3704 Griffin Lane S.E., Suite 102, Olympia, Washington 98501, (206/534–9330); or Ron Crete, Office of Technical Support for Forest Resources, 333 S.W. 1st Avenue, Portland, Oregon 97232–4181, (503/326–6218).

SUPPLEMENTARY INFORMATION: The Service published its proposed rule under section 4(d) of the Endangered Species Act on February 17, 1995 (60 FR 9484), followed by the release of the draft Environmental Alternatives Analysis (EAA) which describes and analyzes the potential environmental effects of the proposed special rule and six alternatives for the conservation of the northern spotted owl on non-Federal lands in Washington and California.

The State of Washington's Forest Practices Board (Board) began work in 1993 to develop a rule to address the impacts of forest practices on northern spotted owls in that state. Following the publication of the Service's proposed rule, the Board accelerated work on the current version of the proposed state rule. The northern spotted owl is listed as endangered by the Washington Fish and Wildlife Commission. The state's proposed rule is similar in many ways to the Service's proposed 4(d) rule, although there are some differences. The state has asked the Service to consider the state's proposed rule as an alternative to the Service's current proposed rule.

The rule proposed by the Washington Forest Practices Board would classify forest practices in spotted owl habitat as "Class IV-Special". Class IV-Special designation includes forest practices within critical wildlife habitats (state) of species listed as threatened or endangered under either the Federal Endangered Species Act or state law, and requires that certain forest practices proposed to occur in these habitat areas be evaluated relative to their potential to have substantial impacts to the environment. Such forest practices may include timber harvesting, road construction and aerial spraying of pesticides, and are subject to environmental review under the State Environmental Policy Act (SEPA).

A review under SEPA involves a detailed analysis of a proposed action to determine if it will have a significant impact on the environment. Should a finding of significance be made, then an Environmental Impact Statement (EIS) must be prepared before the Department of Natural Resources (DNR) can act on a forest practice application. Under SEPA, the forest practice may be conditioned or denied, if necessary, to mitigate specific adverse environmental impacts.

The Board's goal in developing its proposed rule was to "prepare a rule that captures all forest practices that have potential for a substantial adverse impact on the environment. In the case of the owl, any forest practice that damages the long-term viability of the northern spotted owl in Washington State (WDNR 1996)." The Board also adopted five objectives to support the proposed rule (WDNR 1996):

(1) Define a level of [owl conservation] contribution from nonfederal lands that is essential to complement the federal recovery and conservation strategy for the northern spotted owl population in Washington State.

(2) Identify those landscapes that are essential to complement the federal conservation and recovery strategy. Identify whether their primary function is for dispersal or population maintenance.

(3) Maximize the use of local planning to promote flexibility. To do this, provide as specific criteria as possible for different levels of planning.

(4) Minimize conflicts between federal and state standards.

(5) Minimize economic impacts.

Generally, the Board's proposed rule involves ten spotted owl special emphasis areas (SOSEAs) that are made up of all or parts of 13 landscapes identified in the Spotted Owl Scientific Advisory Group (SAG) Report (Hanson et al. 1993). The proposed state rule assigns specific owl conservation functions or goals to the SOSEAs, includes a small parcel exemption, disturbance restrictions, and provides provisions for optional landowner conservation planning. Within the SOSEAs, areas are designated for either dispersal or demographic support, or a combination of both. Figure 1 shows the location of the SOSEAs.

Within all the SOSEAs, except the one for the Entiat area, the proposed state rule would designate harvesting, road construction or aerial application of pesticides on suitable spotted owl habitat inside owl nesting circles (site centers) with less than specified amounts of suitable habitat as Class IV-Special activities, triggering a review under SEPA. Within the Entiat SOSEA, the SEPA trigger would only apply on suitable habitat inside owl circles and inside the areas designated for demographic support. The specified amounts of suitable habitat include 5,863 acres within a 2.7 mile circle for the Hoh- Clearwater/Coastal Link SOSEA, and 2,605 acres within a 1.8 mile circle for all other SOSEAs.

Both inside and outside SOSEAs, harvesting, road construction or aerial application of pesticides between March 1 and August 31, on the 70 acres of highest quality suitable owl habitat surrounding the site center, would be Class IV-Special actions.

The proposed state rule provides several exemptions to the SEPA trigger within the SOSEAs: an approved landowner option plan (LOP); an approved habitat conservation plan (HCP) from the Fish and Wildlife Service; pre-listing agreements or habitat management plan accompanied by a "no-take" letter from the Fish and Wildlife Service; and the provisions of a final 4(d) rule adopted by the Fish and Wildlife Service. A small parcel exemption is provided if a landowner owns 500 acres or less within the SOSEA and the proposed forest practice is not within 0.7 mile of a northern spotted owl site center.

The planning components of the proposed state rule include the LOP and the cooperative habitat enhancement agreement (CHEA). The details of the LOP process have not been finalized, and may be added to the rule at a later date. The CHEA option is available to landowners not currently impacted by owls, and is intended to preclude early harvesting based on fear of regulatory impact and to provide additional owl habitat. Under the provisions of Washington's proposed rule, if habitat is allowed to be harvested within an owl circle through one of the planning options (LOP, CHEA or HCP), the harvested habitat will continue to be counted in the calculation of suitable habitat from the date of plan approval and forward, even after harvest has occurred. The state's intent with this provision is to prevent the transfer of responsibility for maintenance of habitat from one landowner within an owl circle to another.

This state proposal also includes disturbance restrictions inside SOSEAs during nesting season that apply within .25 mile of a site center between March 1 and August 31, unless affected owls are not actively nesting.

It is important to note that the Service's proposed special 4(d) rule is based on avoidance of incidental take prohibitions for the owl. The State's proposed rule is based on the avoidance of triggering the requirements of a review under Washington's SEPA rather than on avoidance of incidental take prohibitions.

A tabular comparison of the Washington proposed rule and the Service's proposed 4(d) rule is provided in Table 1.

TABLE 1

Rule provision	Washington proposed rule	Service proposed rule
1. Landscapes	10 SOSEAs: Columbia Gorge*	6 SEAs: Columbia River Gorge/White Salmon.
	Entiat* (Special SEPA trigger)	(Not proposed).
	Finney Block	Finney Block.
	I–90 West	I–90 Corridor (includes I–90E, I–90W, Taneum, Easton, Blewett).
	I–90 East* (includes Teanaway, Taneum, Easton)	
	Mineral Block/Link	Mineral Block (includes Mineral Link).
	Siouxon*	Siouxon Creek (included in other SEA) (included in other SEA).
	White Salmon*	
	North Blewett	
	Hoh-Clearwater/Coastal Link	Hoh-Clearwater.
	* Means modified from original SAG boundaries	SEAs may provide dispersal, demographic or combination support, to be decided on a case by case basis, except in areas surrounded by or located in matrix or AMA lands, except if sites are centered on reserve or withdrawn areas.
	Note: SOSEA goals/functions are identified on Figure 1	
2. Owl Circle Dimensions:		

TABLE 1—Continued

Rule provision	Washington proposed rule	Service proposed rule
Inside SOSEAs	All SOSEAs: All habitats within 0.7 miles/1,000 acres retained. Hoh-Clearwater SOSEA: 5,863 acres of suitable owl habitat within median owl home range circle (2.7 mile radius) must be retained. All other SOSEAs: 2,605 acres of suitable owl habitat within median owl home range circle (1.8 mile radius) must be retained	Dimensions are discussed in the preamble to the proposed 4(d) rule and the DEAA. Median annual home range, approximately the same size as state proposal. At least 40 percent suitable owl habitat within owl median home range must be retained.
Outside SOSEAs	The 70 acres highest quality habitat around the site center must be retained from March 1 through Aug. 31.	The 70 acres of highest quality habitat closest to an owl site center must be retained.
3. SEPA Trigger:		
Within important Landscapes.	Within SOSEA boundaries harvesting, road construction or aerial application of pesticides on suitable habitat inside owl circles (except within the Entiat SOSEA where the trigger applies only on suitable habitat inside owl circles and inside the areas indicated for demographic support.).	Federal permit requirement, no NEPA trigger exists.
Outside Important Landscapes.	Outside of a SOSEA: harvesting, road construction, or aerial application of pesticides between March 1 and August 31, on the 70 acres of highest quality suitable habitat	
Exemptions to SEPA	—Under an approved Landowner Option Plan —HCP approved by USFWS —Prelisting agreements or habitat management plan accompanied by a "no-take" letter from the USFWS —4(d) rule adopted by the USFWS —Small parcel exemption	
4. Prohibited Activities:		
Within Important Landscapes.	The SEPA triggers in the state proposal require SEPA review, they do not prohibit activities.	Under the ESA, "incidental take" is generally prohibited and is only allowed under limited circumstances. Timber harvest activities are prohibited in SEAs if they result in the incidental take of a spotted owl (a significant likelihood if suitable habitat drops below 40 percent within the median annual owl home range.) Alternative proscription allows harvesting on non-Federal lands surrounded by or located in Federal matrix or AMA lands if the Federal matrix or AMA prescriptions and restrictions are followed.
Outside Important Landscapes.	(No equivalent)	Timber harvest actions are prohibited if they result in retention of less than 70 acres of highest quality suitable habitat closest to the site center or impact the sites centered inside Federal Reserves, Administratively withdrawn lands or Congressionally reserved lands (no seasonal restrictions). Incidental take of owls is not authorized for owls whose site center is located within or along the boundary of a Federal reserve or Administratively withdrawn lands or Congressionally reserved lands (except on the Olympic Peninsula), or along or within the boundary of an SEA.
Exemptions to Prohibitions.	(No equivalent)	Harvest is allowed: —With an approved HCP; —With an approved Local Option Plan; —With a Spotted Owl Habitat Enhancement Agreement.
5. Planning Components Needed to Authorize Incidental Take:.	Establishes a process for the development of the Landowner Option Plan (LOP):. —Description of area; —Identifies elements that are to be included in a LOP: —Goals and objectives —Planning area description —Physical features —Current spotted owl habitat status —Current owl status —Management proposals and operation plans —Projected spotted owl habitats —Training —Monitoring —Reporting	Habitat Conservation Plan (HCP) required for owners of more than 5,000 acres. HCPs must include:

TABLE 1—Continued

Rule provision	Washington proposed rule	Service proposed rule
	—Plan modification —Plan duration —Approval process —Enforcement process	
	(No equivalent)	Proposes a Local Option Conservation Plan (Short-Form HCP) for Owners of 80–5,000 acres. Basic criteria generally same as for regular HCP although the application process will be streamlined. Proposes similar Habitat Enhancement Agreement process.
	Establishes a process for the development of Cooperative Habitat Enhancement Agreements. Identified elements: —Description of agreement area —Current owl habitat status —Management proposals —Projected habitat development —Agreement modification —Agreement duration —Approval process —Enforcement process Agreement to be approved by DNR in consultation with Washington Department of Fish and Wildlife, others..	
6. Disturbance	Road construction within SOSEA boundary restricted within .25 miles of site center between March 1 and August 31, unless owls are not actively nesting. Felling and bucking within SOSEA boundary restricted within .25 miles of site center between March 1 and August 31, unless owls are not actively nesting. Cable yarding within a SOSEA boundary restricted within .25 miles of site center between March 1 and August 31, unless owls are not actively nesting.. Helicopter yarding within SOSEA boundary restricted within .25 miles of site center between March 1 and August 31, unless the owls are not actively nesting.. Tractor and wheel skidding systems operations of heavy equipment within a SOSEA boundary restricted within .25 miles of site center between March 1 and August 31, unless the owls are not actively nesting.. Slash disposal or prescribed burning within a SOSEA boundary restricted within .25 miles of site center between March 1 and August 31, unless the owls are not actively nesting..	(No equivalent proposal).
7. Small Landowner Exemption.	Provides for small parcel exemption: —If a landowner owns or controls 500 acres or less within the SOSEA; and —The forest practice is not within .7 mile of a site center	Owners of not more than 80 acres of forest land not restricted as long as harvest does not destroy or degrade the 70 acres of suitable habitat closest to the owl site center.

The Service is in the process of analyzing the state's proposed rule as a possible alternative to the Service's proposed 4(d) rule published February 17, 1995. The state's comment period for their proposed rule has expired, however, the Service is interested in receiving comment from the interested public regarding the advisability of adapting some or all of the Washington state rule in any final 4(d) rule that the Service may publish. To receive an actual copy of the State of Washington proposed rule and the state's Supplemental Draft Environmental Impact Statement, write to Washington State Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504–7012, Attn: Judith Holter.

The Service's Draft EAA, including all maps, tables, charts, and graphs, remains available on the Internet's World Wide Web at http://www.r1.fws.gov/4deaa/welcome.html.

References Cited

Hanson, E., Hays, D., Hicks, L., Young, L., and J. Buchanan. 1993. Spotted owl habitat in Washington: a report to the Washington Forest Practices Board. Washington Forest Practices Board Spotted Owl Advisory Group. Olympia, Washington.

WDNR. 1996. Supplemental draft environmental impact statement and appendices on forest practices rule proposals for the northern spotted owl. Washington Forest Practices Board, Washington Department of Natural Resources. Olympia, Washington.

Dated: April 30, 1996.

Thomas Dwyer,

Acting Regional Director, U.S. Fish and Wildlife Service Region 1, Portland, Oregon

BILLING CODE 4310-55-P

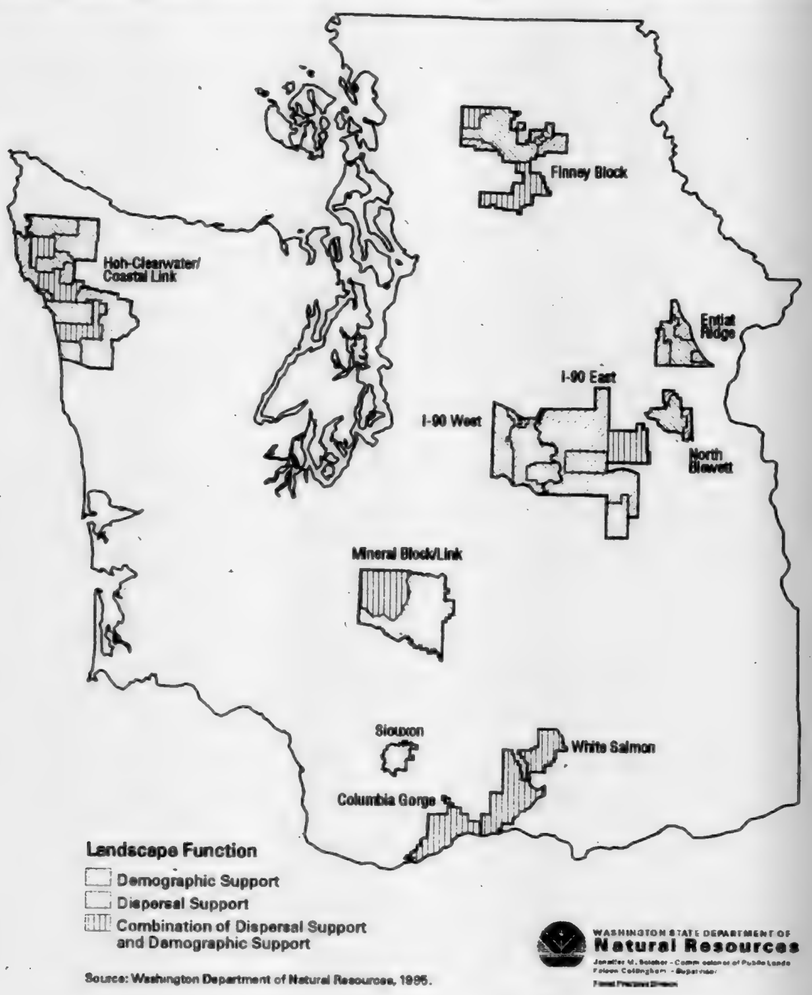


Figure 1. Spotted Owl Special Emphasis Areas (SOSEAS).

[FR Doc. 96–11213 Filed 5–9–96; 8:45 am]
BILLING CODE 4310–55–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

[I.D. 042996G]

New England Fishery Management Council; Public Hearing

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public hearing; request for comments.

SUMMARY: The New England Fishery Management Council (Council) will hold a public hearing to seek input on Amendment 5 to the Atlantic Sea Scallop Fishery Management Plan (FMP). Amendment 5 would close an area to some fishing activities over an 18-month period to allow an experiment and demonstration project involving sea scallop research, resource enhancement, and aquaculture.

DATES: Written comments must be received on or before June 4, 1996. The hearing will be held on Friday, May 17, 1996, at 1 p.m.

ADDRESSES: Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1097. Copies of proposed Amendment 5 will be available at the hearing, but may be obtained in advance by calling or writing the Council office.

The hearing will take place at the University of Massachusetts Cranberry Experiment Station, Glen Charlie Road, Wareham, MA; telephone: (508) 295–2212.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council, (671) 231–0422.

SUPPLEMENTARY INFORMATION: Fishermen and any other interested members of the public are encouraged to attend this hearing to review a proposal to amend the FMP. Amendment 5 would establish a temporary experimental use area in Federal waters approximately 12 miles (22.22 km) southwest of Martha's Vineyard. During the 18-month-long project, the area would be used to determine whether it is feasible to enhance wild stocks through bottom seeding, and to study the interactions of the harvesting gear, sea scallops and their habitat, open-ocean pen engineering, and the growth rates of transferred juvenile brood stock in both pen culture and open bottom culture.

Otter trawling, mid-water trawling and the use of other mobile gear, shellfish dredging and gillnetting would be prohibited within the 9 square-mile (23.31 square-km) site. Other fishing gear such as lobster traps and longline gear would be controlled but allowed within the area and the operation of hand gear would not be restricted. If the project is approved, the Council will amend the FMP accordingly.

Discussion of this issue will be included on the agenda at the Council's June 5–6, 1996, meeting at the King's Grant Inn, Danvers, MA. There will be an opportunity for public comment at that time.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Douglas G. Marshall (see **ADDRESSES**) at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 6, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–11772 Filed 5–9–96; 8:45 am]
BILLING CODE 3510–22–F

50 CFR Part 673

[Docket No. 960502124–6124–01; I.D. 042396B]

RIN 0648–AF81

Scallop Fishery off Alaska; Federal Management Regime

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; proposed 1996 scallop harvest specifications; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 1 to the Fishery Management Plan for the Scallop Fishery off Alaska (FMP). Amendment 1 would establish a Federal management regime for the scallop fishery in Federal waters off Alaska. The management measures proposed under Amendment 1 include: Gear and efficiency restrictions, scallop registration areas and districts, procedures for specifying total allowable catch (TAC) and crab bycatch limits (CBLs), time and area closures, inseason management authority, fishing seasons, and observer coverage requirements. This action is necessary to further the conservation and management objectives of the FMP and the Magnuson Fishery Conservation and Management Act (Magnuson Act).

DATES: Comments must be received by June 21, 1996.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel. Copies of the proposed FMP amendment and the Environmental Assessment/ Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The scallop fishery in the exclusive economic zone (Federal waters) off Alaska is managed under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Act. The FMP was approved by NMFS on July 26, 1995. The only management measure currently authorized under the FMP is an interim closure of Federal waters off Alaska to fishing for scallops for 1 year, or until an amendment to the FMP is prepared that would provide for a managed fishery in Federal waters. The interim closure will expire on August 28, 1996. Regulations implementing the FMP are set out at 50 CFR part 673. General regulations that also affect fishing in Federal waters are set out at 50 CFR part 620. The history of the scallop fishery off Alaska, as well as the events leading up to the interim closure of Federal waters are described in the FMP and in the preambles to the proposed and final rules implementing the FMP (60 FR 24822, May 10, 1995, and 60 FR 42070, August 15, 1995, respectively).

In June 1995, the Council adopted Amendment 1 to the FMP, which would authorize Federal management measures to replace the interim closure of Federal waters to fishing for scallops. The Council's preferred alternative for Amendment 1 was to incorporate certain State of Alaska (State) management measures into the Federal regulations and implement a vessel moratorium based on criteria adopted in April 1994 and reaffirmed in January 1995. Eighteen vessels would qualify under the moratorium. The Council subsequently separated the moratorium from Amendment 1 and will propose a vessel moratorium as Amendment 2. Such action was taken to prevent moratorium issues from delaying the reopening of the fishery.

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At its January 1993 meeting, the Council determined that unrestricted access to the scallop fishery may be harmful to the resource and result in a net loss to the Nation. The Council announced a control date of January 20, 1993, to place the industry on notice that a moratorium for this fishery may be implemented and any person or fishing vessel that entered the scallop fisheries in Federal waters off Alaska would not be assured of future access to those fishery resources if a moratorium is implemented. This control date was again reaffirmed at the Council's June 1993 and June 1995 meetings. The January 20, 1993, control date, which was published in the Council's newsletter, means that fishermen and/or vessels not participating in the fishery by that date may not be guaranteed future access to the fishery. NMFS notifies current and future participants in the scallop fisheries that landings made after January 20, 1993, may not count toward allocations of catch under future Federal management and may not be guaranteed future access to the scallop fishery.

The regulations proposed under Amendment 1 were developed in coordination with the Council and the State, and are designed to complement current State management of the scallop fishery. These proposed regulations would not preclude the State from imposing additional regulations on State registered vessels fishing in Federal waters, so long as State regulations are consistent with the FMP and its implementing regulations. The following explains each aspect of the proposed rule.

Gear and Efficiency Restrictions

The primary purpose for restrictions on fishing gear and processing efficiency is to prevent overfishing of undersize scallops. Restrictions on the ring size of scallop dredges are designed to prevent the harvest of juvenile scallops. Limits on dredge widths, crew size, and automatic shucking machines are designed to discourage vessels from targeting on juvenile scallops. The amount of scallops that can be processed on board vessels depends on how fast the scallops can be sorted and shucked. Because larger scallops are worth more per meat, and take the same amount of processing time as small scallops, a limited crew size and a ban on automatic shucking machines would provide an economic incentive for vessels to target larger sized, higher yield, mature scallops. Efficiency limits would also tend to allocate the resource evenly among vessels, regardless of an individual vessel's potential harvesting capacity.

The following gear and efficiency restrictions are proposed:

1. The inside ring diameter on all dredges used or carried by a vessel fishing for weathervane scallops (*Patinopectin caurinus*) must be 4 inches (10.16 cm) or larger.

2. The inside ring diameter on all dredges used or carried by a vessel fishing for scallops other than weathervane scallops must be 3 inches (7.62 cm) or larger.

3. No person may use chafing gear or other devices that decrease the legal inside ring diameter of a scallop dredge.

4. Except as provided in item 5 below, no more than two scallop dredges may be operated at one time from a vessel, and the opening of a scallop dredge must be equal to or less than 15 ft (4.57 m) wide.

5. In the Kamishak, Southern, and Central Districts of Scallop Registration Area H, no more than one scallop dredge may be operated at one time from a vessel, and the opening of a dredge may not be more than 6 ft (1.83 m) in width.

6. Scallops must be shucked by hand only. A shucking machine must not be on board a vessel that is fishing for scallops or that has scallops on board.

7. No vessel fishing for scallops in Federal waters may have aboard more than 12 persons, exclusive of the Alaska Department of Fish and Game (ADF&G) or NMFS observers.

Registration Areas

The management area covered under the FMP comprises the Federal waters off Alaska south of the Bering Strait. The cooperative State-Federal management approach outlined in the FMP requires that ADF&G and NMFS use the same registration areas to manage the scallop fishery. This proposed rule would establish nine scallop registration areas composed of the Federal waters and adjacent State waters described in each area. The nine scallop registration areas correspond to the Southeastern, Yakutat, Prince William Sound, Cook Inlet, Kodiak, Alaska Peninsula, Dutch Harbor, Adak, and Bering Sea portions of the State. These scallop registration areas are identical to the nine State scallop registration areas described in State regulations at 5 AAC 38.076(b). The Yakutat, Cook Inlet, and Kodiak scallop registration areas would be subdivided into districts to allow for more precise management of scallop resources in these areas.

Optimum Yield and Overfishing

The FMP establishes the Optimum Yield (OY) for the scallop fishery as a numeric range based on the long-term productivity of the scallop resource and is derived from historical catches since 1978. At present, the FMP establishes an OY for the scallop fishery in Federal waters as a range from zero to 1.1 million lb (0–499.0 mt) of shucked scallop meat. Because NMFS and the State have agreed to manage the scallop fishery within each registration area as a unit throughout Federal and State waters, Amendment 1 also would raise the upper end of the OY range to 1.8 million lb (816.5 mt) to reflect historical catches in State waters.

Under the FMP, overfishing for scallops is defined as landings that exceed OY. Overfishing could be defined as a fishing mortality rate for scallops, based on existing life history data, but the lack of stock assessment information (surveys, population age or size structure) limits the use of a mortality rate-based overfishing definition at this time. Therefore, Amendment 1 does not propose to change the definition of "overfishing" contained in the FMP. As data collected from the fishery and/or assessment surveys of the scallop resource are analyzed, the definition of "overfishing" for scallops could be changed to a fishing mortality rate basis.

Harvest Limits

The management measures proposed by this rule would allow NMFS to specify annual scallop TACs and CBLs. In registration areas where the scallop fishery has occurred traditionally, and where ADF&G has established Guideline Harvest Levels (GHLs), NMFS would establish annual TACs equal to a specified total weight of shucked scallop meat. These areas include all or parts of Scallop Registration Areas A (Southeastern), D (Yakutat), E (Prince William Sound), H (Cook Inlet), K (Kodiak), and O (Dutch Harbor). In areas where bycatch of crab is a concern, NMFS would specify annual CBLs for red king crab and Tanner crab species. These areas include all or parts of Scallop Registration Areas K (Kodiak), M (Alaska Peninsula), O (Dutch Harbor), Q (Bering Sea), and R (Adak). In areas where an adequate historic scallop catch record does not exist (areas M, Q, and R), TACs would not be specified numerically. Instead, annual TACs in those areas would simply be equal to the total weight of shucked scallop meat that could be harvested under the specified CBLs, the sum of which cannot exceed a level equal to the upper

end of the OY range minus the sum of the TACs in Registration Areas A, D, E, H, K, and O. The total amount of scallops harvested under these CBLs is expected to be within conservation limits and the total scallop harvest off Alaska cannot exceed the upper end of the OY range of 1.8 million lb (816.5 mt). The CBLs are expected to limit total catch to a fraction of what would be available under a TAC specified for scallops while continuing to allow the fishing fleet adequate opportunity to explore and harvest scallop stocks while protecting the crab resource.

Annual TACs and CBLs may be adjusted based on a review of the biological condition of each scallop or crab bycatch species or socioeconomic considerations that are consistent with the goals and objectives of the FMP. Biological assessments will include, where practicable, updated estimates of maximum sustainable yield and acceptable biological catch; historical catch trends and current catch statistics; assessments of alternative harvesting strategies; and relevant information related to changes in scallop markets.

In Scallop Registration Area Q (Bering Sea), the Council recommended that the annual red king crab bycatch limit be set within a range of 500 to 3,000 crab. The Council also recommended that bycatch limits for Tanner crab be specified annually based on a percentage of the best available estimate of crab abundance, which is derived each year from NMFS survey data. The Council approved the following percentages for Tanner crab species: *Chionoecetes opilio*, 0.003176 percent and *Chionoecetes bairdi*, 0.13542 percent which would equate to about 275,000 opilio and 257,000 bairdi crab based on the 1995 NMFS crab survey data.

Procedure for Specifying TACs and CBLs

Amendment 1 proposes an annual process whereby the Council would announce the State's most recent recommendations for scallop TACs and CBLs and the bases for the recommendations to the public and provide copies of the information upon request. Copies of the annual Stock Assessment and Fishery Evaluation (SAFE) report would also be made available at this time. The Council would notify the public of its intent to develop final recommendations at a subsequent Council meeting (usually April) and solicit public comment both before and during that meeting. After considering the SAFE report, public comments, and other relevant information, the Council would submit its TAC and CBL recommendations along with the rationale and supporting information to NMFS for review and implementation. As soon as practicable, after receiving recommendations from the Council and ADF&G, NMFS would publish in the **Federal Register** annual specifications of TAC and CBLs for the following fishing year. To accommodate the annual specification process, the scallop fishing year would be a 12-month period starting July 1 and ending June 30 of the following year.

Time and Area Closures

Specific Federal waters are proposed to be closed to fishing for scallops to prevent dredging in biologically critical habitat areas. These include locations of high bycatch of crab, nursery areas for young fish and shellfish, and walrus rookeries. Under this proposed rule, all Federal waters that are currently closed to trawling for groundfish with nonpelagic trawl gear for the purpose of habitat protection, limiting crab bycatch or protecting walrus rookeries and Stellar sea lion areas would also be closed to dredging for scallops. These areas are described at § 672.24 (d) and (e); § 675.22 (a), (b), and (f); and § 675.24(g). These Federal closures would not preclude the State from closing additional areas within State or Federal waters to scallop fishing by State-registered vessels.

Inseason Management Authority

This management measure would allow NMFS to make inseason adjustments such as the closure, extension, opening or reopening of a season in all or part of the Federal waters of a scallop registration area; and the adjustment of TACs or CBLs. Any inseason adjustment would be made in accordance with the procedures for inseason adjustments in the groundfish fisheries off Alaska set out at § 672.22.

Fishing Seasons

Under this rule, fishing seasons in Federal waters would be established that complement the fishing seasons currently established by the State for each scallop registration area. The State established fishing seasons in coordination with industry to focus the scallop fishery during time periods when the quality of scallop meats is highest and the bycatch of molting crab is lowest. Fishing for scallops in the Federal waters off Alaska would be authorized from 0001 hours, A.l.t., July 1, through 2400 hours, A.l.t., June 30 of the following year, except as follows: (1) In Scallop Registration Areas A, D, and E, the fishing season would run from 1200 hours, A.l.t., January 10 through 2400 hours, A.l.t., June 30; (2) in Scallop Registration Areas K, M, O, Q, and R, the fishing season would run from 1200 hours, A.l.t., July 1 through 1200 hours, A.l.t., February 15 of the following year; and (3) in the Kamishak District of Scallop Registration Area H, the fishing season would run from 1200 hours, A.l.t., August 15 through 1200 hours, A.l.t., October 31.

Observer Coverage Requirements

Except for vessels under 80 ft (24.4 m) length overall fishing in Registration Area H (Cook Inlet), all vessels fishing for scallops would be required to carry a NMFS or ADF&G-certified scallop observer at all times. Operators of vessels required to carry an observer would be required to meet all of the safety and conduct requirements currently in place for the groundfish fisheries off Alaska set out at § 677.10 (c) and (g).

Proposed Total Allowable Catch Specifications

Table 1 shows proposed TACs for the period [insert effective date of the final rule] through June 30, 1997. These proposed TACs reflect the most recent GHLs established by the State. In the absence of surveys, the State established the upper GHL for the Yakutat, Kodiak, and Dutch Harbor Registration Areas as the average of the historic catch from 1969 to 1994 minus years when no fishery and "fishing-up effect" occurs. The term "fishing-up effect" is used to describe the initial exploitation phase of a new fishery or removal of accumulated stock. The recent development of scallop fisheries in Prince William Sound and Cook Inlet necessitates use of methods other than averaging historic catch data for estimating TACs. The proposed TACs for the Prince William Sound and Cook Inlet Registration Areas are based on estimates of exploitable biomass, a 10 percent harvest rate and a conversion factor of 10 percent average meat weight to total animal weight. Exploitable biomass for Prince William Sound is calculated using area swept methods with information from fishermen on bed size, average towing speed, and pounds per tow. Exploitable biomass for the Kamishak District in Cook Inlet is also calculated using areas swept methods, however, input data are from an ADF&G survey conducted in 1984.

Registration areas exhibiting sporadic catch and effort preclude estimation of TACs by the above methods. To allow exploratory fishing in these registration areas, the State established conservative CBLs under which some exploratory scallop fishing may occur but at levels that are not likely to overharvest the

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scallop stocks in those areas. Similarly, the Council recommended a conservation approach. In registration areas for which no specified numerical amount is provided for the TAC in Table 1, the TAC would equal the total weight of shucked scallop meats that can be harvested under the CBLs specified for those areas. In no case would the total amount harvested in all areas result in a harvest that would exceed the upper end of the OY range.

The only known commercially viable scallop beds in Southeast Alaska are found in the Fairweather Grounds in District 16. For purposes of scallop management, this district has been shifted from the Registration Area A (Southeastern) to the adjacent Registration Area D (Yakutat). Because there are no other known commercially viable scallop beds in Registration Area A, the TAC for this area is set at zero. Vessel operators wishing to explore for new scallop beds in this area would apply for an experimental fishing permit under § 672.6 of this part.

Under Amendment 1, scallops may be taken in Registration Areas D (Yakutat) and E (Prince William Sound) from 1200 hours, A.l.t., January 10 through 2400 hours, A.l.t., June 30. Should NMFS approve Amendment 1 to the scallop FMP, the TACs and CBLs for these registration areas would become available January 10, 1997.

TABLE 1.—SCALLOP TAC AMOUNTS FOR THE PERIOD [INSERT EFFECTIVE DATE OF FINAL RULE] THROUGH JUNE 30, 1997 IN POUNDS OF SHUCKED SCALLOP MEATS BY SCALLOP REGISTRATION AREA AND DISTRICT

[Kilograms in parentheses][1]

Scallop registration area	TAC
Registration Area A (Southeastern)	Zero.
Registration Area D (Yakutat):	
District 16	35,000 (15,880 kg).
All other districts	250,000 (113,430 kg).
Registration Area E (Prince William Sound)	50,000 (22,686 kg).
Registration Area H (Cook Inlet):	
Kamishak District	20,000 (9,074 kg).
Registration Area K (Kodiak)	400,000 (181,488 kg).
Registration Area O (Dutch Harbor)	170,000 (77,132 kg).

[1] Scallop TAC amounts for Registration Areas M, Q, R and all other districts in Registration Area H (other than the Kamishak District) equal the total weight of shucked scallop meat taken under the CBLs established for those areas in Table 2, not to exceed a total of 875,000 lb (396.9 mt).

Proposed Crab Bycatch Limits

Table 2 shows proposed CBLs for the period [insert effective date of final rule] through June 30, 1997. These proposed CBLS reflect the most recent CBLs established by the State. In Registration areas or districts where red king crab or tanner crab abundance is sufficient to support a commercial crab fishery, the State established CBLs for the scallop fishery at 1 percent of the most recent estimate of red king crab or Tanner crab abundance. In registration areas or districts where red king crab or tanner crab abundance is insufficient to support a commercial fishery, the State established CBLs at 0.5 percent of the most recent estimate of red king crab or Tanner crab abundance.

In the Bering Sea Registration Area, the Council recommended that the annual red king crab CBL be set within a range of 500 to 3,000 crab. Because red king crab abundance in the Bering Sea is at an all time low, NMFS proposes a CBL at the lower end of the Council's range, or 500 crab. Proposed Tanner Crab CBLs for the Bering Sea Registration Area are based on percentages of total crab abundance approved by the Council.

TABLE 2.—CRAB BYCATCH LIMITS FOR THE PERIOD [INSERT EFFECTIVE DATE OF FINAL RULE] THROUGH JUNE 30, 1997 IN NUMBERS OF CRABS BY SCALLOP REGISTRATION AREA AND DISTRICT

Scallop registration area	Red king	C. bairdi	C. opilio
Area E (Prince William Sound)	.....	630	.....
Area H (Cook Inlet):			
Kamishak District	40	15,900	.....
Outer/Eastern Districts	95	2,170	.....
Area K (Kodiak):			
Shelikof District	22	16,100	.....
Northeast District	66	130,000	.....
Area M (Alaska Peninsula)	435	22,800	.....
Area O (Dutch Harbor)	10	10,700	.....
Area Q (Bering Sea)	500	257,000	275,000
Area R (Adak)	50	10,000	.....

Classification

Section 304(a)(1)(D) of the Magnuson Act requires NMFS publish proposed regulations within 15 days of receipt of an FMP amendment and regulations from a Council. At this time NMFS has not determined that the FMP amendment that this rule would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

An RIR was prepared for this proposed rule that describes the management background, the purpose and need for action, the management action alternatives, and the social impacts of the alternatives. The RIR also estimates the total number of small entities affected by this action and analyzes the economic impact on those small entities. Copies of the RIR can be obtained from NMFS (see **ADDRESSES**).

The Council has prepared an IRFA as part of the RIR, which describes the impact this proposed rule would have on small entities, if adopted. The analysis shows that the economic effects of this proposed rule to the regulated community would be significant and positive in that it would repeal the closure of Federal waters to fishing for scallops. In 1994, 86 percent of the scallops harvested off Alaska were taken from Federal waters and 11 of the 16 vessels harvesting scallops participated in no other fishery. A copy of this analysis is available from the Council (see **ADDRESSES**).

List of Subjects in 50 CFR Part 673

Fisheries.

Dated: May 6, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 673 is proposed to be amended as follows:

PART 673—SCALLOP FISHERY OFF ALASKA

1. Part 673 is revised to read as follows:

Sec.
673.1 Purpose and scope.
673.2 Definitions.
673.3 Prohibitions.
673.4 Gear limitations.
673.5 Registration areas.
673.6 General limitations.
673.7 Inseason adjustments.
673.8 Seasons.
673.9 Observer requirements.

Authority: 16 U.S.C. 1801 *et seq.*

§ 673.1 Purpose and scope.

(a) These regulations implement the Fishery Management Plan for the Scallop Fishery off Alaska (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Act.

(b) Regulations in this part govern commercial fishing for scallops in the Federal waters off Alaska.

(c) State of Alaska laws that are consistent with the regulations in this part are not preempted for vessels registered under the laws of the State fishing for scallops in the Federal waters off Alaska.

§ 673.2 Definitions.

In addition to the definitions in the Magnuson Act and in §§ 620.2 and 672.2 of this chapter, the terms used in this part have the following meanings:

CBL means crab bycatch limit.

Scallop(s) means any scallop species of the family Pectinidae, including without limitation weathervane scallops (*Patinopectin caurinus*).

Scallop dredge means gear consisting of a mouth frame attached to a holding bag constructed of metal rings or any other modification to this design that can be or is used in the harvest of scallops, or the taking of scallops by means of such gear.

Shucking machine means any mechanical device that automatically removes the meat or the adductor muscle from the shell.

§ 673.3 Prohibitions.

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to violate any provision of this part.

§ 673.4 Gear limitations.

(a) The inside ring diameter on all dredges used or carried by a vessel fishing for weathervane scallops (*Patinopectin caurinus*) must be 4 inches (10.16 cm) or larger.

(b) The inside ring diameter on all dredges used or carried by a vessel fishing for scallops other than weathervane scallops must be 3 inches (7.62 cm) or larger.

(c) No person may use chafing gear or other devices that decrease the legal inside ring diameter of a scallop dredge.

(d) Except as provided in paragraph (e) of this section, no more than two scallop dredges may be operated at one time from a vessel, and the opening of a scallop dredge must be equal to or less than 15 ft (4.57 m) wide.

(e) In the Kamishak, Southern, and Central Districts of Scallop Registration Area H defined under § 673.5, no more than one scallop dredge may be operated at one time from a vessel, and the opening of a dredge may not be more than 6 ft (1.83 m) in width.

(f) Scallops must be shucked by hand only. A shucking machine must not be on board a vessel that is fishing for scallops or that has scallops on board.

(g) No vessel fishing for scallops in Federal waters may have aboard more than 12 persons, exclusive of ADF&G or NMFS observers.

§ 673.5 Registration areas.

For the purpose of managing the scallop fishery, the Federal waters off Alaska and adjacent State waters are divided into nine scallop registration areas. Three scallop registration areas are further subdivided into districts. The scallop registration areas and districts are defined as follows:

(a) *Registration Area A* (Southeastern) has as its southern boundary the international boundary at Dixon Entrance, and as its northern boundary Loran-C line 7960–Y–29590, which intersects the western tip of Cape Fairweather at 58°47′58″ N. lat., 137°56′30″ W. long., except for ADF&G District 16 defined under paragraph (b) of this section.

(b) *Registration Area D* (Yakutat) has as its western boundary the longitude of Cape Suckling (143°53′ W. long.), and as its southern boundary Loran-C line 7960–Y–29590, which intersects the western tip of Cape Fairweather at 58°47′58″ N. lat., 137°56′30″ W. long., and ADF&G District 16 defined as all waters north of a line projecting west from the southernmost tip of Cape Spencer and south of a line projecting southwest from the westernmost tip of Cape Fairweather.

(c) *Registration Area E* (Prince William Sound) has as its western boundary the longitude of Cape Fairfield (148°50′ W. long.), and its eastern boundary the longitude of Cape Suckling (143°53′ W. long.).

(d) *Registration Area H* (Cook Inlet) has as its eastern boundary the longitude of Cape Fairfield (148°50′ W. long.) and its southern boundary the latitude of Cape Douglas (58°52′ N. lat.).

(1) *Northern District:* North of a line extending from Boulder Point at 60 46′23″ N. lat., to Shell Platform C, then to a point on the west shore at 60°46′23″ N. lat.

(2) *Central District:* All waters between a line extending from Boulder Point at 60°46′23″ N. lat., to Shell Platform C, to a point on the west shore at 60°46′23″ N. lat., and the latitude of Anchor Point Light (59°46′12″ N. lat.).

(3) *Southern District:* All waters enclosed by a line from Anchor Point Light west to 59°46′12″ N. lat., 152°20′ W. long., then south to 59°03′25″ N. lat., 152°20′ W. long., then in a northeasterly direction to the tip of Cape Elizabeth at 59°09′30″ N. lat., 151°53′ W. long., then from the tip of Cape Elizabeth to the tip of Point Adam at 59°15′20″ N. lat., 151°58′30″ W. long.

(4) *Kamishak Bay District:* All waters enclosed by a line from 59°46′12″ N. lat., 153°00′30″ W. long., then east to 59°46′12″ N. lat., 152°20′ W. long., then south to 59°03′25″ N. lat., 152°20′ W. long., then southwesterly to Cape Douglas (58°52′ N. lat.). The seaward boundary of the Kamishak Bay District is 3 nautical miles seaward from the shoreline between a point on the west shore of Cook Inlet at 59°46′12″ N. lat., 153°00′30″ W. long., and Cape Douglas at 58°52′ N. lat., 153°15′ W. long., including a line three nautical miles

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seaward from the shorelines of Augustine Island and Shaw Island, and including the line demarking all state waters shown on NOAA chart 16640, 21st Ed., May 5, 1990.

(5) *Barren Island District*: All waters enclosed by a line from Cape Douglas (58°52′ N. lat.) to the tip of Cape Elizabeth at 59°09′30″ N. lat., 151°53′ W. long., then south to 58°52′ N. lat., 151°53′ W. long., then west to Cape Douglas.

(6) *Outer District*: All waters enclosed by a line from the tip of Point Adam to the tip of Cape Elizabeth, then south to 58°52′ N. lat., 151°53′ W. long., then east to the longitude of Aligo Point (149°44′33″ W. long.), then north to the tip of Aligo Point.

(7) *Eastern District*: All waters east of the longitude of Aligo Point (149°44′33″ W. long.), west of the longitude of Cape Fairfield (148°50′ W. long.), and north of 58°52′ N. lat.

(e) *Registration Area K* (Kodiak) has as its northern boundary the latitude of Cape Douglas (58°52′ N lat.), and as its western boundary the longitude of Cape Kumlik (157°27′ W. long.).

(1) *Northeast District*: All waters northeast of a line extending 168° from the easternmost tip of Cape Barnabas, east of a line from the northernmost tip of Inner Point to the southernmost tip of Afognak Point, east of 152°30′ W. long. in Shuyak Strait, and east of the longitude of the northernmost tip of Shuyak Island (152°20′ W. long.).

(2) *Southeast District*: All waters southwest of a line extending 168° from the easternmost tip of Cape Barnabas and east of a line extending 222° from the southernmost tip of Cape Trinity.

(3) *Southwest District*: All waters west of a line extending 222° from the southernmost tip of Cape Trinity, south of a line from the westernmost tip of Cape Ikolik to the southernmost tip of Cape Kilokak and east of the longitude of Cape Kilokak (156°19′ W. long.).

(4) *Semidi Island District*: All waters west of the longitude of Cape Kilokak at 156°19′ W. long. and east of the longitude of Cape Kumlik at 157°27′ W. long.

(5) *Shelikof District*: All waters north of a line from the westernmost tip of Cape Ikolik to the southernmost tip of Cape Kilokak, west of a line from the northernmost tip of Inner Point to the southernmost tip of Afognak Point, west of 152°30′ W. long., in Shuyak Strait, and west of the longitude of the northernmost tip of Shuyak Island (152°20′ W. long.).

(f) *Registration Area M* (Alaska Peninsula) has as its eastern boundary the longitude of Cape Kumlik (157°27′ W. long.), and its western boundary the longitude of Scotch Cap Light. The registration area also includes all waters of Bechevin Bay and Isanotski Strait south of a line from the easternmost tip of Chunak Point to the westernmost tip of Cape Krenitzen.

(g) *Registration Area O* (Dutch Harbor) has as its northern boundary the latitude of Cape Sarichef (54°36′ N. lat.), as its eastern boundary the longitude of Scotch Cap Light, and as its western boundary 171°W. long., excluding the waters of Statistical Area Q.

(h) *Registration Area Q* (Bering Sea) has as its southern boundary a line from Cape Sarichef (54°36′ N. lat.), to 54°36′ N. lat., 171°W. long., to 55°30′ N. lat., 171°W. long., to 55°30′ N. lat., 173°30′ E. long., as its northern boundary the latitude of Point Hope (68°21′ N. lat.).

(i) *Registration Area R* (Adak) has as its eastern boundary 171° W. long., and as its northern boundary 55°30′ N. lat.

§ 673.6 General limitations.

(a) *Harvest limits*—(1) *General.* NMFS will establish total allowable catch (TAC) amounts and CBLs for the scallop fishery off Alaska according to the procedures described under this section. The total annual TAC amount for scallops off Alaska will be established within the OY range of 0–1.8 million lb (0–815.5 mt) of shucked scallop meats.

(2) *Annual TACs.* (i) The annual TACs for scallops in Registration Areas A, D, E, H, K, and O will be established as a weight in pounds of shucked scallop meats based on a review of the following:

(A) Assessments of the biological condition of each scallop species. Assessments will include, where practicable, updated estimates of MSY and ABC; historical catch trends and current catch statistics, reviews of alternative harvesting strategies; and relevant information relating to changes in scallop markets.

(B) Socioeconomic considerations that are consistent with the goals and objectives of the FMP.

(ii) The annual TACs in Registration Areas M, Q, and R will equal the weight in pounds of shucked scallop meats harvested under CBLs specified for these areas under paragraph (3) of this section. The sum of TACs in Registration Areas M, Q, and R may not exceed an amount equal to the upper end of the OY range minus the sum of the TACs in Registration Areas A, D, E, H, K, and O.

(iii) Annual scallop TACs will be specified for the 12-month time period extending from July 1 through June 30 of the following year. An annual TAC amount is available for harvest only for the registration area or district specified, only during the applicable season set out in § 673.8, and only if no closure or other restriction or limitation is applicable.

(3) *Crab bycatch limits.* (i) CBLs may be specified for red king crab and Tanner crab species for any registration area or district.

(ii) Except as provided under paragraph (a)(3)(iii) of this section, annual CBLs will be based on the biological condition of each crab species, historical bycatch rates in the scallop fishery, and other socioeconomic considerations that are consistent with the goals and objectives of the FMP.

(iii) Annual CBLs in Registration Area Q will equal the following amounts:

(A) The CBL for red king crab caught while conducting any fishery for scallops will be specified within the range of 500 to 3,000 crab based on the considerations listed in paragraph (a)(3)(ii) of this section.

(B) The CBL for *Chionoecetes opilio* Tanner crab caught while conducting any fishery for scallops is 0.003176 percent of the best available estimate of *C. opilio* abundance in Registration Area Q.

(C) The CBL for *Chionoecetes bairdi* Tanner crab caught while conducting any fishery for scallops is 0.13542 percent of the best available estimate of *C. bairdi* abundance in Registration Area Q.

(iv) Annual CBLs will be specified for the 12-month time period from July 1 through June 30 of the following year. An annual CBL may be utilized only for the registration area or district specified, only if any applicable TAC amount is available for harvest, only during the applicable season set out in § 673.8, and only if no closure or other limitation or restriction is applicable.

(b) *Specifications.* The following procedure is established for specifying TAC amounts and CBLs:

(1) On an annual basis, prior to the April Council meeting, the Council will distribute a summary of the State's most recent TAC and CBL recommendations and supporting documentation to the public through its mailing list, as well as provide copies of the recommendations, documentation, and the annual Stock Assessment and Fishery Evaluation (SAFE) report to the public upon request. The Council will notify the public of its intent to develop final recommendations at the April Council meeting and solicit public comment both before and during the April Council meeting.

(2) Following the April Council meeting, the Council will submit its TAC and CBL recommendations along with rationale and supporting information to NMFS for review and implementation.

(3) As soon as practicable after receiving recommendations from the Council, NMFS will publish in the **Federal Register** annual specifications of TAC amounts and CBLs for the succeeding 12-month period extending from July 1 through June 30 of the following year.

(c) *Notices of closure.* (1) If the Director, Alaska Region, NMFS, determines that a TAC or CBL specified under paragraphs (a) and (b) of this section has been or will be reached, NMFS will publish notification in the **Federal Register** prohibiting the taking and retention of scallops in the Federal waters of the registration area or district where the notification is applicable.

(2) It is unlawful for any person to conduct any fishing for scallops contrary to the notification of closure issued pursuant to this paragraph.

(d) *Closed areas.* It is unlawful for any person to dredge for scallops in any Federal waters off Alaska that are closed to fishing with trawl gear or non pelagic trawl gear under §§ 672.24(d), 672.24(e), 675.22(a) 675.22(b), 674.22(f), and 675.24(g) of this chapter.

§ 673.7 Inseason adjustments.

(a) Inseason adjustments may be issued by NMFS to implement the closure, extension, opening, or reopening of a season in all or part of a scallop registration area; and the adjustment of TAC amounts or CBLs.

(b) Determinations for any inseason adjustment authorized under paragraph (a) of this section must be consistent with §§ 672.22 (a) and (b) of this chapter.

(c) Procedures for making inseason adjustments are specified at § 672.22(c) of this chapter.

(d) It is unlawful for any person to conduct any fishing for scallops contrary to an inseason adjustment issued pursuant to this section.

§ 673.8 Seasons.

(a) Fishing for scallops in the Federal waters off Alaska is authorized from 0001 hours, A.l.t., July 1, through 2400 hours, A.l.t., June 30, subject to the other provisions of this part, except as provided in paragraphs (b) through (d).

(b) Scallops may only be taken in the Federal waters of Scallop Registration Areas A, D, and E from 1200 hours, A.l.t., January 10 through 2400 hours, A.l.t., June 30, subject to the other provisions of this part.

(c) Scallops may only be taken in the Federal waters of Scallop Registration Areas K, M, O, Q, and R from 1200 hours, A.l.t., July 1 through 1200 hours, A.l.t., February 15 of the following year, subject to the other provisions of this part.

(d) Scallops may only be taken in the Federal waters of the Kamishak District of Scallop Registration Area H from 1200 hours, A.l.t., August 15 through 1200 hours, A.l.t., October 31, subject to the other provisions of this part.

§ 673.9 Observer requirements.

(a) Except as provided in paragraph (c) of this section, vessels must carry a NMFS-certified or ADF&G-certified scallop observer at all times while fishing for scallops in Federal waters.

(b) An operator of a vessel required to carry an observer must meet all of the requirements specified at §§ 677.10(c) and 677.10(g) of this chapter.

(c) Vessels less than 80 ft (24.4 m) length overall are exempt from the requirements of this section while fishing for scallops in the Federal waters of Registration Area H.

[FR Doc. 96–11773 Filed 5–07–96; 3:34 pm]
BILLING CODE 3510–22–W

Notices

Federal Register
Vol. 61, No. 92
Friday, May 10, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Legal Notice, Comment and Appeal of Decisions for Pacific Northwest Region, Oregon and Washington

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all ranger districts, forests, and the Regional Office of the Pacific Northwest Region to publish legal notice of all decisions subject to appeal under 36 CFR Parts 215 and 217 and to publish notice for public comment and notice of decisions subject to the provisions of 36 CFR Part 215. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish the legal notice for public comment or decision. This allows the public to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeal process.

DATES: Publication of legal notices in the listed newspapers will begin with proposals for public comment or decisions subject to appeal that are made on or after April 30, 1996. The list of newspapers will remain in effect until another notice is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jim L. Schuler, Regional Appeals Coordinator, Pacific Northwest Region, P.O. Box 3623, Portland, Oregon 97208–3623, phone: (503) 326–2322.

SUPPLEMENTARY INFORMATION: Responsible Officials in the Pacific Northwest Region will give legal notice of decisions that may be subject to appeal under 36 CFR Part 215 and 217 in the following newspapers which are listed by Forest Service administrative units. Where more than one newspaper is listed for any unit, the first newspaper listed is the principal newspaper, which shall be used to constitute legal evidence that the agency has given timely and constructive notice for comment and for decisions that may be subject to administrative appeal. The timeframe for appeal shall be based on the date of publication of a notice of decision in the principal newspaper.

The newspapers to be used are as follows:

Pacific Northwest Regional Office

Pacific Northwest Regional Forester decisions on Oregon National Forests:
The Oregonian, Portland, Oregon
Pacific Northwest Regional Forester decisions on Washington, National Forests:
The Seattle Post-Intelligencer, Seattle, Washington
Columbia Gorge National Scenic Area Manager decisions:
The Oregonian, Portland, Oregon

Oregon National Forests

Deschutes National Forest

Deschutes Forest Supervisors decisions:
The Bulletin, Bend, Oregon
Bend District Ranger decisions:
The Bulletin, Bend, Oregon
Crescent District Ranger decisions:
The Bulletin, Bend, Oregon
Fort Rock District Ranger decisions:
The Bulletin, Bend, Oregon
Sister District Ranger decisions:
Sisters Nugget, Sisters, Oregon
Bend Pine Nursery Managers decisions:
The Bulletin, Bend, Oregon
Redmond Air Center Managers decisions:
The Bulletin, Bend, Oregon

Fremont National Forest

Fremont Forest Supervisor decisions:
Herald and News, Klamath Falls, Oregon
Newspapers providing additional notice of Forest Supervisor decisions:
Lake County Examiner, Lakeview, Oregon
The Bulletin, Bend, Oregon
Bly District Ranger decisions:
Herald and News, Klamath Falls, Oregon
Lakeview District Ranger decisions:
Lake County Examiner, Lakeview, Oregon
Paisley District Ranger decisions:
Lake County Examiner, Lakeview, Oregon
Silver Lake District Ranger decisions:
Herald and News, Klamath Falls, Oregon
Newspaper providing additional notice of Silver Lake decisions:
The Bulletin, Bend, Oregon

Malheur National Forest

Malheur Forest Supervisor decisions:
Blue Mountain Eagle, John Day, Oregon
Bear Valley District Ranger decisions:
Blue Mountain Eagle, John Day, Oregon
Burns District Ranger decisions:
Burns Times Herald, Burns, Oregon
Long Creek District Ranger decisions:
Blue Mountain Eagle, John Day, Oregon
Prairie City District Ranger decisions:
Blue Mountain Eagle, John Day, Oregon

Mt Hood National Forest

Mt Hood Forest Supervisor decisions:
The Oregonian, Portland, Oregon
Barlow District Ranger decisions:
The Oregonian, Portland, Oregon
Bear Springs District Ranger decisions:
The Oregonian, Portland, Oregon
Clackamas District Ranger decisions:
The Oregonian, Portland, Oregon
Columbia Gorge District Ranger decisions:
The Oregonian, Portland, Oregon
Estacada District Ranger decisions:
The Oregonian, Portland, Oregon
Hood River District Ranger decisions:
The Oregonian, Portland, Oregon
Zigzag District Ranger decisions:
The Oregonian, Portland, Oregon

Ochoco National Forest

Ochoco Forest Supervisor decisions:
The Bulletin, Bend, Oregon
Newspapers providing additional notice of Forest Supervisor decisions:
Burns Times/Herald, Burns, Oregon
Central Oregonian, Prineville, Oregon
Big Summit District Ranger decisions:
The Bulletin, Bend, Oregon
Crooked River National Grassland District Ranger decisions:
The Bulletin, Bend, Oregon
Newspapers providing additional notice of Grassland decisions:
Madras Pioneer, Madras, Oregon
Paulina District Ranger decisions:
The Bulletin, Bend, Oregon
Newspapers providing additional notice of Paulina decisions:
Blue Mountain Eagle, John Day, Oregon
Prineville District Ranger decisions:
The Bulletin, Bend, Oregon
Newspapers providing additional notice of Prineville decisions:
Central Oregonian, Prineville, Oregon
Snow Mountain District Ranger decisions:
The Bulletin, Bend, Oregon
Newspapers providing additional notice of Snow Mountain decisions:
Burns Times/Herald, Burns, Oregon

Rogue River National Forest

Rogue River Forest Supervisor decisions:
Mail Tribune, Medford, Oregon
Applegate District Ranger decisions:
Mail Tribune, Medford, Oregon
Ashland District Ranger decisions:
Mail Tribune, Medford, Oregon
Butte Falls District Ranger decisions:
Mail Tribune, Medford, Oregon
J. Herbert Stone Nursery Managers decisions:
Mail Tribune, Medford, Oregon
Prospect District Ranger decisions:
Mail Tribune, Medford, Oregon

Siskiyou National Forest

Siskiyou Forest Supervisor decisions:
Grants Pass Courier, Grants Pass, Oregon
Chetco District Ranger decisions:
Curry Coastal Pilot, Brookings, Oregon
Galice District Ranger decisions:
Grants Pass Courier, Grants Pass, Oregon
Gold Beach District Ranger decisions:
Curry County Reporter, Gold Beach, Oregon
Illinois Valley District Ranger decisions:
Grants Pass Courier, Grants Pass, Oregon
Powers District Ranger decisions:
The World, Coos Bay, Oregon
Newspaper providing additional notice of Powers decisions:
Curry County Reporter, Gold Beach, Oregon

Siuslaw National Forest

Siuslaw Forest Supervisor decisions:
Corvallis Gazette-Times, Corvallis, Oregon
Alsea District Ranger decisions:
Corvallis Gazette-Times, Corvallis, Oregon
Hebo District Ranger decisions:
Headlight Herald, Tillamook, Oregon
Mapleton District Ranger decisions:
Siuslaw News, Florence, Oregon
Oregon Dunes National Recreation Area Manager decisions:
The World, Coos Bay, Oregon
Waldport District Ranger decisions:
Newport News times, Newport, Oregon

Umatilla National Forest

Umatilla Forest Supervisor decisions:
East Oregonian, Pendleton, Oregon
Heppner District Ranger decisions:
East Oregonian, Pendleton, Oregon
North Fork John Day District Ranger decisions:
East Oregonian, Pendleton, Oregon
Pomeroy District Ranger decisions:
East Oregonian Pendleton, Oregon
Walla Walla District Ranger decisions:
East Oregonian Pendleton, Oregon

Umpqua National Forest

Umpqua Forest Supervisor decisions:
The News-Review, Roseburg, Oregon
Cottage Grove District Ranger decisions:
The News-Review, Roseburg, Oregon
Diamond Lake District Ranger decisions:
The News-Review, Roseburg, Oregon
North Umpqua District Ranger decisions:
The News-Review, Roseburg, Oregon
Tiller District Ranger decisions:
The News-Review, Roseburg, Oregon
Dorena Tree Improvement Center Manager decisions:
The News-Review, Roseburg, Oregon

Wallowa-Whitman National Forest

Wallowa-Whitman Forest Supervisor decisions:
Baker City Herald, Baker City, Oregon
Baker District Ranger decisions:
Baker City Herald, Baker City, Oregon
Eagle Cap District Ranger decisions:
Wallowa County Chieftain, Enterprise, Oregon
Hells Canyon National Recreation Area Ranger decisions:
Occurring in Oregon—
Wallowa County Chieftain, Enterprise, Oregon
Occurring in Idaho—
Lewiston Morning Tribune, Lewiston, Idaho
La Grande District Ranger decisions:
The Observer, La Grande, Oregon
Pine District Ranger decisions:
Baker City Herald, Baker City, Oregon
Unity District Ranger decisions:
Baker City Herald, Baker City, Oregon
Wallowa Valley District Ranger decisions:
Wallowa County Chieftain, Enterprise, Oregon

Willamette National Forest

Willamette Forest Supervisor decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Forest Supervisor decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Hearld, Albany, Oregon
Blue River District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Blue River decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon
Detroit District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Detroit decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon
Lowell District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Lowell decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon
McKenzie District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of McKenzie decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon
Oakridge District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Oakridge decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon
Rigdon District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Rigdon decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon
Sweet Home District Ranger decisions:
Register-Guard, Eugene, Oregon
Newspapers providing additional notice of Sweet Home decisions:
Salem Statesman-Journal, Salem, Oregon
Albany Democrat Herald, Albany, Oregon

Winema National Forest

Winema Forest Supervisor decisions:
Herald and News, Klamath Falls, Oregon
Chemult District Ranger decisions:
Herald and News, Klamath Falls, Oregon
Chiloquin District Ranger decisions:
Herald and News, Klamath Falls, Oregon
Klamath District Ranger decisions:

Herald and News, Klamath Falls, Oregon

Washington National Forests

Colville National Forest

Colville Forest Supervisor decisions:
Statesman-Examiner, Colville, Washington
Colville District Ranger decisions:
Statesman-Examiner, Colville, Washington
Kettle Falls District Ranger decisions:
Statesman-Examiner, Colville, Washington
Newport District Ranger decisions:
Newport Miner, Newport, Washington
Republic District Ranger decisions:
Republic News Miner, Republic, Washington
Sullivan Lake District Ranger decisions:
Newport Miner, Newport, Washington

Gifford Pinchot National Forest

Gifford Pinchot Forest Supervisor decisions:
Columbian, Vancouver, Washington
Mount St. Helens National Volcanic Monument Manager decisions:
Columbian, Vancouver, Washington
Mt. Adams District Ranger decisions:
Enterprise, White Salmon, Washington
Packwood District Ranger decisions:
Chronicle, Chehalis, Washington
Randle District Ranger decisions:
Chronicle, Chehalis, Washington
Wind River District Ranger decisions:
Columbian, Vancouver, Washington

Mt. Baker-Snoqualmie National Forest

Mt. Baker-Snoqualmie Forest Supervisor decisions:
Seattle Post-Intelligencer, Seattle, Washington
Darrington District Ranger decisions:
Everett Herald, Everett, Washington
Mt. Baker District Ranger decisions:
Skagit Valley Herald, Mt. Vernon, Washington
North Bend District Ranger decisions:
Valley Record, North Bend, Washington
Skykomish District Ranger decisions:
Everett Herald, Everett, Washington
White River District Ranger decisions:
Enumclaw Courier Herald, Enumclaw, Washington

Okanagon National Forest

Okanagon Forest Supervisor decisions:
The Wenatchee World, Wenatchee, Washington
Tonasket District Ranger decisions:
The Gazette-Tribune, Oroville, Washington
Twisp District Ranger decisions:
Methow Valley News, Twisp, Washington
Winthrop District Ranger decisions:
Methow Valley News, Twisp, Washington

Olympic National Forest

Olympic Forest Supervisor decisions:
The Olympian, Olympia, Washington
Newspapers providing additional notice of Forest Supervisor decisions:
Mason County Journal, Shelton, Washington
Daily World, Aberdeen, Washington
Peninsula Daily News, Port Angeles, Washington
Bremerton Sun, Bremerton, Washington
Hood Canal District Ranger decisions:
Mason County Journal, Shelton, Washington
Quilcene District Ranger decisions:
Peninsula Daily News, Port Angeles, Washington
Newspaper providing additional notice of Quilcene decisions:
Bremerton Sun, Bremerton, Washington
Quinault District Ranger decisions:
The Daily World, Aberdeen, Washington
Soleduck District Ranger decisions:
The Forks Forum, Forks, Washington

Wenatchee National Forest

Wenatchee Forest Supervisor decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice of Forest Supervisor decisions:
The Yakima Herald-Republic, Yakima, Washington
Chelan District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice of Chelan decisions:
The Yakima Herald-Republic, Yakima, Washington
Cle Elum District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice of Cle Elum decisions:
The Yakima Herald-Republic, Yakima, Washington
Entiat District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice of Entiat decisions:
The Yakima Herald-Republic, Yakima, Washington
Lake Wenatchee District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice of Lake Wenatchee decisions:
The Yakima Herald-Republic, Yakima, Washington
Leavenworth District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice of Leavenworth decisions:
The Yakima Herald-Republic, Yakima, Washington
Naches District Ranger decisions:
The Wenatchee World, Wenatchee, Washington
Newspaper providing additional notice of Naches decisions:
The Yakima Herald-Republic, Yakima, Washington

Dated: May 3, 1996.

Richard A. Ferraro,

Deputy Regional Forester.

[FR Doc. 96–11709 Filed 5–9–96; 8:45 am]

BILLING CODE 3410–11–M

Newpapers To Be Used for Publication of Legal Notice of Appealable Decisions and Publication of Notice on Proposed Actions for Southern Region; Alabama, Kentucky, Georgia, Tennessee, Florida, Louisiana, Mississippi, Virginia, West Virginia, Arkansas, Oklahoma, North Carolina, South Carolina, Texas, Puerto Rico

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: Deciding Officers in the Southern Region will publish notice of decisions subject to administrative appeal under 36 CFR parts 215 and 217 in the legal notice section of the newspapers listed in the Supplementary Information section of this notice. As provided in 36 CFR 215.5(a) and 36 CFR 217.5(d), the public shall be advised, through **Federal Register** notice, of the principal newspaper to be utilized for publishing legal notices of decisions. Newspaper publication of notices of decisions is in addition to direct notice of decisions to those who have requested notice in writing and to those known to be interested in or affected by a specific decision.

In addition, the Responsible Officials in the Southern Region will also publish notice of proposed actions under 36 CFR 215 in the newspapers that are listed in the Supplementary Information section of this notice. As provided in 36 CFR 215.5(a), the public shall be advised, through **Federal Register** notice, of the principal newspapers to be utilized for publishing notices on proposed actions.

DATES: Use of these newspapers for purposes of publishing legal notices of decisions subject to appeal under 36 CFR Parts 215 and 217, and notices of proposed actions under 36 CFR part 215 shall begin on or after the date of this publication.

FOR FURTHER INFORMATION CONTACT: Jean Paul Kruglewicz, Regional Appeals Coordinator, Southern Region, Planning and Budget, 1720 Peachtree Road NW, Atlanta, Georgia 30367–9102, Phone: 404–347–4867.

SUPPLEMENTARY INFORMATION: Deciding Officers in the Southern Region will give legal notice of decisions subject to appeal under 36 CFR part 217 and Responsible Official in the Southern Region will give notice of decisions subject to appeal under 36 CFR Part 215 in the following newspapers which are listed by Forest Service administrative unit. Responsible Officials in the Southern Region will also give notice of proposed actions under 36 CFR part 215 in the following principal newspapers which are listed by Forest Service administrative unit. The timeframe for comment on a proposed action shall be based on the date of publication of the notice of the proposed action in the principal newspaper. The timeframe for appeal shall be based on the date of publication of the legal notice of the decision in the principal newspaper for both 36 CFR 215 and 217.

Where more than one newspaper is listed for any unit, the first newspaper listed is the principal newspaper that will be utilized for publishing the legal notices of decisions. Additional newspapers listed for a particular unit are those newspapers the Deciding Officer expects to use for purposes of providing additional notice. The following newspapers will be used to provide notice.

Southern Region

Regional Forester Decisions:
Affecting National Forest System lands in more than one state of the 13 states of the Southern Region and the Commonwealth of Puerto Rico.
Atlanta Journal, published daily in Atlanta, GA
Affecting National Forest System lands in only one state of the 13 states of the Southern Region and the Commonwealth of Puerto Rico or one Ranger District will appear in the principal newspaper elected by the National Forest(s) of that state or Ranger District.

National Forests in Alabama, Alabama

Forest Supervisor Decisions:
Montgomery Advertiser, published daily in Montgomery, AL
District Ranger Decisions:
Bankhead Ranger District: *Northwest Alabamian*, published weekly (Monday & Thursday) in Haleyville, AL
Conecuh Ranger District: *The Andalusia Star*, published daily (Tuesday through Saturday) in Andalusia, AL
Oakmulgee Ranger District, *The Tuscaloosa News*, published daily in Tuscaloosa, AL
Shoal Creek Ranger District: *The Anniston Star*, published daily in Anniston, AL
Talladega Ranger District: *The Daily Home*, published daily in Talladega, AL
Tuskegee Ranger District: *Tuskegee News*, published weekly (Thursday) in Tuskegee, AL

Caribbean National Forest, Puerto Rico

Forest Supervisor Decisions:
El Nuevo Dia, published daily in Spanish in San Juan, PR
San Juan Star, published daily in San Juan, PR
District Ranger Decisions:
El Horizonte, published weekly (Wednesday) in Fajardo, PR

Chattahoochee-Oconee National Forest, Georgia

Forest Supervisor Decisions:
The Times, published daily in Gainesville, GA
District Ranger Decisions:
Armuchee Ranger District: *Walker County Messenger*, published bi-weekly (Wednesday & Friday) in LaFayette, GA
Toccoa Ranger District: *The News Observer* published weekly (Wednesday) in Blue Ridge, GA
Brasstown Ranger District: *North Georgia News*, published weekly (Wednesday) in Blairsville, GA
Tallulah Ranger District: *Clayton Tribune*, published weekly (Thursday) in Clayton, GA
Chattooga Ranger District: *Northeast Georgian*, published weekly (Tuesday) in Cornelia, GA
Toccoa Record, published weekly (Thursday) in Toccoa, GA
White County News, published weekly (Thursday) in Cleveland, GA
Cohutta Ranger District: *Chatsworth Times*, published weekly (Wednesday) in Chatsworth, GA
Oconee Ranger District: *Monticello News*, published weekly (Thursday) in Monticello, GA

Cherokee National Forest, Tennessee

Forest Supervisor Decisions:
Knoxville News Sentinel, published daily in Knoxville, TN (covering McMinn, Monroe, and Polk Counties)
Johnson City Press, published daily in Johnson City, TN (covering Carter, Cocke, Greene, Johnson, Sullivan, Unicoi and Washington Counties)
District Ranger Decisions:
Ocoee Ranger District: *Polk County News*, published weekly (Wednesday) in Benton, TN
Hiwassee Ranger District: *Daily Post-Athenian*, published daily (Monday–Friday) in Athens, TN
Tellico Ranger District: *Monroe County Advocate*, published weekly (Thursday) in Sweetwater, TN
Nolichucky Ranger District: *Greeneville Sun*, published daily (Monday–Saturday) in Greeneville, TN
Unaka Ranger District: *Johnson City Press*, published daily in Johnson City, TN
Watauga Ranger District: *Elizabethton Star*, published daily (Sunday–Friday) in Elizabethton, TN

Daniel Boone National Forest, Kentucky

Forest Supervisor Decisions:
Lexington Herald-Leader, published daily in Lexington, KY
District Ranger Decisions:
Morehead Ranger District: *Morehead News*, published bi-weekly (Tuesday and Friday) in Morehead, KY
Stanton Ranger District: *The Clay City Times*, published weekly (Thursday) in Stanton, KY
Berea Ranger District: *Jackson County Sun*, published weekly (Thursday) in McKee, KY
London Ranger District: *The Sentinel-Echo*, published tri-weekly (Monday, Wednesday, and Friday) in London, KY
Somerset Ranger District: *Commonwealth-Journal*, published daily (Sunday through Friday) in Somerset, KY
Stearns Ranger District: *McCreary County Record*, published weekly (Tuesday) in Whitley City, KY
Redbird Ranger District: *Manchester Enterprise*, published weekly (Thursday) in Manchester, KY

National Forests in Florida, Florida

Forest Supervisor Decisions:
The Tallahassee Democrat, published daily in Tallahassee, FL
District Ranger Decisions:
Apalachicola Ranger District: *The Liberty Journal*, published weekly (Wednesday) in Bristol, FL
Lake George Ranger District: *The Ocala Star Banner*, published daily in Ocala, FL
Osceola Ranger District: *The Lake City*

Reporter, published daily (Monday–Saturday) in Lake City, FL
Seminole Ranger District: *The Daily Commercial*, published daily in Leesburg, FL
Wakulla Ranger District: *The Tallahassee Democrat*, published daily in Tallahassee, FL

Francis Marion & Sumter National Forest, South Carolina

Forest Supervisor Decisions:
The State, published daily in Columbia, SC
District Ranger Decisions:
Enoree Ranger District: *Newberry Observer*, published tri-weekly (Monday, Wednesday, and Friday) Newberry, SC
Andrew Pickens Ranger District: *Seneca Journal and Tribune*, published bi-weekly (Wednesday and Friday) in Seneca, SC
Long Cane Ranger District: *The State*, published daily in Columbia, SC
Wambaw Ranger District: *News and Courier*, published daily in Charleston, SC
Witherbee Ranger District: *News and Courier*, published daily in Charleston, SC

George Washington and Jefferson National Forests, Virginia

Forest Supervisor Decisions:
Roanoke Times, published daily in Roanoke, VA
District Ranger Decisions:
Lee Ranger District: *Shenandoah Valley Herald*, published weekly (Wednesday) in Woodstock, VA
Warm Springs Ranger District: *The Recorder*, published weekly (Thursday) in Monterey, VA
Pedlar Ranger District: *News-Gazette*, published weekly (Wednesday) in Lexington, VA
James River Ranger District: *Virginian Review*, published daily (except Sunday) in Covington, VA
Deerfield Ranger District: *Daily News Leader*, published daily in Staunton, VA
Dry River Ranger District: *Daily News Record*, published daily (except Sunday)in Harrisonburg, VA
Blacksburg Ranger District: *Roanoke Times*, published daily in Roanoke, VA
Monroe Watchman, published weekly (Thursday) in Union, WV (only for those decisions in West VA—notice will be published in the *Roanoke Times* and *Monroe Watchman*.)
Glenwood Ranger District: *Roanoke Times*, published daily in Roanoke, VA
New Castle Ranger District: *Roanoke Times*, published daily in Roanoke, VA
Monroe Watchman, published weekly (Thursday) in Union, WV (only for those decisions in West VA—notice will be published in the *Roanoke Times* and *Monroe Watchman*.)
Mount Rogers National Recreation Area: *Bristol Herald Courier*, published daily in Bristol, VA
Clinch Range District: *Kingsport-Times News*, published daily in Kingsport, TN
Wythe Ranger District: *Southwest Virginia Enterprise*, published bi-weekly (Wednesday and Saturday) in Wytheville, VA

Kisatchie National Forest, Louisiana

Forset Supervisor Decisions:
Alexandria Daily Town Talk, published daily in Alexandria, LA
District Ranger Decisions:
Caney Ranger District: *Minden Press Herald*, published daily in Minden, LA
Homer Guardian Journal, published weekly (Wednesday) in Homer, LA
Catahoula Ranger District: *Alexandria Daily Town Talk*, published daily in Alexandria, LA
Colfax Chronicle, published weekly (Wednesday) in Colfax, LA
Evangeline Ranger District: *Alexandria Daily Town Talk*, published daily in Alexandria, LA
Kisatchie Ranger District: *Natchitoches Times*, published daily (Tuesday—Friday and on Sunday) in Natchitoches, LA
Vernon Ranger District: *Leesville Leader*, published daily in Leesville, LA
Winn Ranger District: *Winn Parish Enterprise*, published weekly (Wednesday) in Winnfield, LA

National Forests in Mississippi, Mississippi

Forest Supervisor Decisions:
Clarion-Ledger, published daily in Jackson, MS
District Ranger Decisions:
Bienville Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Biloxi Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Black Creek Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Bude Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Chickasawhay Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Delta Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Holly Springs Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Homochitto Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Strong River Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Tombigbee Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Ashe-Erambert Project: *Clarion-Ledger*, published daily in Jackson, MS

National Forests in North Carolina, North Carolina

Forest Supervisor Decisions:
The Asheville Citizen-Times, published daily in Asheville, NC
District Ranger Decisions:
Cheoah Ranger District: *Graham Star*, published weekly (Thursday) in Robbinsville, NC
Croatan Ranger District: *The Sun Journal*, published weekly (Sunday through Friday) in New Bern, NC
French Broad Ranger District: *The Asheville Citizen-Times*, published daily in Asheville, NC
Grandfather Ranger District: *McDowell News*, published daily in Marion, NC
Highlands Ranger District: *The Highlander*, published weekly (May–Oct Tues & Fri; Oct–April Tues only) in Highlands, NC
The Crossroads Chronicle, published weekly (May–Oct Tues & Fri; Oct–April Tues only) in Cashiers, NC
The Sylva Herald, published weekly on Thursday in Sylva, NC
Pisgah Ranger District: *The Asheville Citizen-Times*, published daily in Asheville, NC
Toecane Ranger District: *The Asheville Citizen-Times*, published daily in Asheville, NC
Tusquitee Ranger District: *Cherokee Scout*, published weekly (Wednesday) in Murphy, NC
Uwharrie Ranger District: *Montgomery Herald*, published weekly (Wednesday) in Troy, NC
Wayha Ranger District: *The Franklin Press*, published bi-weekly (Wednesday and Friday) in Franklin, NC

Ouachita National Forest, Arkansas, Oklahoma

Forest Supervisor Decisions:
Arkansas Democrat-Gazette, published daily in Little Rock, AR
District Ranger Decisions:
Caddo Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Cold Springs Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Fourche Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Jessieville Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Mena Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Oden Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Poteau Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Winona Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Womble Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Choctaw Ranger District: *Tulsa World*, published daily in Tulsa, OK
Kiamichi Ranger District: *Tulsa World*, published daily in Tulsa, OK
Tiak Ranger District: *Tulsa World*, published daily in Tulsa, OK

Ozark-St. Francis National Forest: Arkansas

Forest Supervisor Decisions:
The Courier, published daily (Sunday through Friday) in Russellville, AR
District Ranger Decisions:
Sylamore Ranger District: *Stone County Leader*, published weekly (Tuesday) in Mountain View, AR
Buffalo Ranger District: *Newton County Times*, published weekly (Thursday) in Jasper, AR
Bayou Ranger District: *The Courier*, published daily (Sunday through Friday) in Russellville, AR
Pleasant Hill Ranger District: *Johnson County Graphic*, published weekly (Wednesday) in Clarksville, AR
Boston Mountain Ranger District: *Southwest Times Record*, published daily in Fort Smith, AR
Magazine Ranger District: *Southwest Times Record*, published daily in Forth Smith, AR
St. Francis Ranger District: *The Daily World*, published daily (Sunday through Friday) in Helena, AR

National Forest and Grasslands in Texas, Texas

Forest Supervisor Decisions:
The Lufkin Daily News, published daily in Lufkin, TX
District Ranger Decisions:
Angelina National Forest: *The Lufkin Daily News*, published daily in Lufkin, TX
Davy Crockett National Forest: *The Lufkin Daily News*, published daily in Lufkin, TX
Sabine National Forest: *The Lufkin Daily News*, published daily in Lufkin, TX
Sam Houston National Forest: *The Courier*, published daily in Conroe, TX
Caddo & LBJ National Grasslands: *Denton Record-Chronicle*, published daily in Denton, TX

Dated: May 3, 1996.

Bruce L. Jewel,

Acting Regional Forester.

[FR Doc. 96–11708 Filed 5–9–96; 8:45 am]

BILLING CODE 3410–11–M

Grain Inspection, Packers and Stockyards Administration

Posting of Stockyards

Pursuant to the authority provided under section 302 of the Packers and Stockyards Act (7 U.S.C. 202), it was ascertained that the livestock markets named below were stockyards as defined by section 302(a). Notice was given to the stockyard owners and to the public as required by section 302(b), by posting notices at the stockyards on the dates specified below, that the stockyards were subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

Facility No., name, and location of stockyard	Date of posting
AR–170—Cattlemen's Livestock, Auction, Inc., Harrison, Arkansas.	March 7, 1996.
MI–150—Stockbridge Horse Auction, Stockbridge, Michigan.	March 15, 1996.
TX–344—Sonora Livestock Auction, Inc., South Sonora, Texas.	March 8, 1996.

Done at Washington, D.C. this 2nd day of May 1996.

Daniel L. Van Ackeren,

Director, Livestock Marketing Division, Packers and Stockyards Programs.

[FR Doc. 96–11647 Filed 5–9–96; 8:45 am]

BILLING CODE 3410–KD–P

Proposed Posting of Stockyard

The Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock market named below is a stockyard as defined in Section 302 of the Packers and Stockyards Act (7 U.S.C. 202), and should be made subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

OH–151—Producers Livestock Association, Gallipolis, Ohio

Pursuant to the authority under Section 302 of the Packers and Stockyards Act, notice is hereby given that it is proposed to designate the stockyard named above as a posted stockyard subject to the provisions of said Act.

Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Livestock Marketing Division, Grain Inspection, Packers and Stockyards Administration, Room 3408–South Building, U. S. Department of Agriculture, Washington, D.C. 20250 by May 21, 1996.

All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director of the Livestock Marketing Division during normal business hours.

Done at Washington, D.C. this 6th day of May 1996.

Daniel L. Van Ackeren,

Director, Livestock Marketing Division, Packers and Stockyards Programs.

[FR Doc. 96–11646 Filed 5–9–96; 8:45 am]

BILLING CODE 3410–KD–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: May 14, 1996; 9:00 a.m.

PLACE: Cohen Building, 330 Independence Avenue, S.W., First Floor Auditorium, Washington, D.C. 20547.

OPEN MEETING: The members of the Broadcasting Board of Governors will meet in open session to exchange views with employees of the International Broadcasting Bureau, USIA, and the public on the policies and activities of U.S. international broadcasting. An open dialogue is welcome. Any members of the public wishing to attend should contact the IBB Office of External Affairs at (202) 619–2538.

CLOSED MEETING: At 11:00 a.m., The members of the Broadcasting Board of Governors (BBG) will meet in closed session in room 3709 to address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in

the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b. (c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b (c)(9)(B)). In addition, part of the discussion will relate solely to the internal personnel issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6)).

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Barbara Floyd at (202) 401–3736.

Dated: May 8, 1996.

David W. Burke,

Chairman.

[FR Doc. 96–11925 Filed 5–8–96; 1:14 pm]

BILLING CODE 8155–01–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the procurement list.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: June 10, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On March 15 and 22, 1996, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (61 F.R. 10733 and 11811) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Janitorial/Custodial

Portsmouth Naval Shipyard, Buildings H–29 and 86, Kittery, Maine

Naval Undersea Warfare Center, Buildings 1319 and 1320, Newport, Rhode Island

Medical Transcription

U.S. Naval Hospital, North Charleston, South Carolina

Parts Sorting

Oklahoma City Air Logistics Center, Tinker Air Force Base, Oklahoma

Switchboard Operation

Department of Veterans Affairs Medical Center, Buffalo, New York

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 96–11769 Filed 5–9–96; 8:45 am]

BILLING CODE 6353–01–P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 10, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Recycling Service

Basewide, Dobbins Air Reserve Base, Georgia

NPA: Georgia Diversified Industries, Inc., Cartersville, Georgia

Switchboard Operation

Oklahoma City Air Logistics Center, Tinker Air Force Base, Oklahoma

NPA: The Oklahoma League for the Blind, Oklahoma City, Oklahoma

Beverly L. Milkman,

Executive Director.

[FR Doc. 96–11771 Filed 5–9–96; 8:45 am]

BILLING CODE 6353–01–P

Proposed Additions to the Procurement List; Correction

In the document appearing on page 18571, F.R. Doc. 96–10409, in the issue of April 26, 1996, in the first column, under the Trousers, Wet Weather, it should read (Remaining 50% of the Government's requirement) rather than (Remaining 25% of the Government's requirement).

Beverly L. Milkman,

Executive Director.

[FR Doc. 96–11770 Filed 5–9–96; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force Academy Board of Visitors; Meeting

Pursuant to Section 9355, Title 10 United States Code, the Air Force Academy Board of Visitors will meet at the U.S. Air Force Academy, Colorado, 12–14 July 1996. The purpose of the meeting is to consider morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy.

A portion of the meeting will be open to the public on the morning of 13 July 1996. Other portions of the meeting will be closed to the public to discuss matters listed in the subsections (2), (4), and (6) of section 552b(c), Title 5, United States Code. These closed sessions will included attendance at cadet training programs and discussions with cadets, military staff, and faculty officers involving personal information and opinion, the disclosure of which would result in a clearly unwarranted invasion of personal privacy. Closed sessions will also include executive sessions involving discussions of personal information, including financial information, and information relating solely to internal personnel rules and practices of the Board of Visitors and the Academy. Meeting sessions will be held to various facilities throughout the cadet area.

For further information contact my Project Officers, Capt Timothy D. Miller or Ms. Deborah Mercurio, 2304 Cadet Drive, Suite 350, USAF Academy CO 80840–5002, DSN 259–3450 or 719–472–3450.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–11664 Filed 5–9–96; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Notice of Availability of Technology for Non-Exclusive, Exclusive or Partially Exclusive Licensing

AGENCY: U.S. Army Research Laboratory, Physical Sciences Directorate, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, Section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Public Law 99–502) and section 207 of title 35, United States Code, announcement is made of the availability of the following technology for licensing. The Department of the Army as represented by the Army Research Laboratory, Physical Sciences Directorate wishes to license the technology described below in a non-exclusive, exclusive or partially exclusive manner to any part interested in manufacturing, using, and/or selling devices or processes covered by this technology. This technology has been assigned to the United States of America as represented by the Secretary of the Army, Washington, DC.

FOR FURTHER INFORMATION CONTACT: For additional information regarding this notice please contact Mr. William H. Anderson, Intellectual Property Law Division, Attention: AMSEL–LG–L, Ft. Monmouth, New Jersey 07703 or telephone (908) 532–4112.

SUPPLEMENTARY INFORMATION: The Electro-chemical Capacitor technology involves the preparation of electrode materials and the assembly of other components together to provide energy with a power higher than that of batteries.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–11712 Filed 5–9–96; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers

Available Surplus Real Property at Fort Chaffee Military Reservation, Located in Fort Smith, Sebastian County, AR

AGENCY: U.S. Army Corps of Engineers, Little Rock District.

ACTION: Notice.

SUMMARY: This notice identifies the surplus real property located at Fort Chaffee Military Reservation, Arkansas. Fort Chaffee is located 15 miles from Interstate 40 and is 15 miles east of Fort Smith, Arkansas. A municipal airport and rail network are in close proximity.

FOR FURTHER INFORMATION CONTACT: For additional information regarding particular properties identified in this Notice (i.e., acreage, floor plans, existing sanitary facilities, exact street address), contact Ms. Peggy Boismier, Army Corps of Engineers, 700 West Capitol, Room 6317, Little Rock, Arkansas 72201–3221 (telephone (501) 324–5716, fax (501) 324–7166) or Mr. Warren Johnson, Base Transition Coordinator, HQ USAG, ATTN: ATZR–ZC, Fort Chaffee, Arkansas 72905–5000 (telephone (501) 484–2083, fax (501) 484–2055).

SUPPLEMENTARY INFORMATION: This surplus property is available under the provisions of the Federal Property and Administrative Services Act of 1949 and the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421). Notices of interest should be forwarded to the Fort Chaffee Redevelopment Authority (FCRA), W.R. Harper, Sebastian County Judge, County Courthouse, 35 South 6th Street, Fort Smith, Arkansas 72901, (501) 783–6139, or by fax at (501) 784–1550.

The surplus real property at Fort Chaffee contains 6,206 acres and includes 515 buildings totaling 1,881,670 square feet. Present use of the buildings includes administrative, supply, vehicle maintenance, warehouse/storage, dining, hospital/ward and barracks

The effective date of the Determination of Surplus is April 5, 1996.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–11711 Filed 5–9–96; 8:45 am]

BILLING CODE 3710–DL–M

Notice of Availability of Surplus Land and Buildings in Accordance With Public Law 103–421 Located at Fort Ritchie Military Reservation, Cascade, MD

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: This notice identifies the surplus real property located at the Fort Ritchie Military Reservation, Cascade, MD. The property is located in Washington County, Northeast of Hagerstown in the community of Cascade, MD at the intersection of routes 550 to 491.

FOR FURTHER INFORMATION CONTACT: For more information regarding the particular property identified in this Notice (i.e., acreage, floor plans, existing sanitary facilities, exact location), contact Mr. Gerry Bresee, Real Estate Division, Army Corps of Engineers, P.O. Box 1715, Baltimore, MD 21203

(telephone 410–962–5173, fax 410–962–0866).

SUPPLEMENTARY INFORMATION: This surplus is available under the provisions of the Federal Property and Administrative Services Act of 1945 and the Base Closure Community Redevelopment and Homeless Assistance Act of 1994. Notices of interest should be forwarded to Mr. Robert Sweeney, Executive Director, Ft. Ritchie Local Redevelopment Authority, P.O. Box 699, Cascade, MD 21719, telephone (301) 241–4050, fax (301) 241–4141.

The surplus real property totals approximately 635.65 acres and contains 252 buildings totaling 1,384,000 square feet of space. Current range of uses include administrative, residential, retail, open recreation and special purpose space. Future uses may include generally the same types of uses.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–11713 Filed 5–9–96; 8:45 am]

BILLING CODE 3710–41–M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Storm Damage Reduction and Beach Erosion Control Project on Brigantine Island, Atlantic County, NJ

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The action being taken is an evaluation of the alternatives for storm damage reduction and the control of further erosion on Brigantine Island, New Jersey. The purpose of any consequent work would be to provide shore property protection and to stabilize the shoreline at the predetermined width.

FOR FURTHER INFORMATION CONTACT: Questions regarding the DEIS should be addressed to Ms. Beth Brandreth, (215) 656–6558, U.S. Army Corps of Engineers, CENAP–PL–E, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107–3390.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

a. The draft document evaluates a study area approximately 7 miles in length, extending from Brigantine Inlet to Absecon Inlet. The study area encompasses Brigantine Island, which contains the City of Brigantine and the North Brigantine State Nature Area. The beaches along this island have been subject to erosion by storms, tidal inundation, and wave action. One potential offshore sand borrow source, located in the vicinity of Brigantine Inlet, will be investigated in this study.

b. The authorities for the proposed project are the resolutions adopted by the Committee on Public Works and Transportation of the U.S. House of Representatives and the Committee on Environmental and Public Works of the U.S. Senate in December 1987.

2. Alternatives

In addition to the no action alternative, the alternatives considered for storm damage reduction and erosion control will fall into structural and non-structural categories. The structural measures to correct the beach erosion include bulkheads, seawalls, revetments, offshore breakwaters, groins, beach nourishment, perched beach, submerged reef with beachfill, and offshore submerged feeder berms. Non-structural measures include flood insurance, developmental regulations, and evacuation.

3. Scoping

a. Numerous studies and reports addressing beach erosion along the New Jersey Coast were conducted by the Corps of Engineers. The most recent study for this area is a Reconnaissance Report: Brigantine Inlet to Great Egg Harbor Inlet Reconnaissance Study (February 1992), which identified a number of problem areas where erosion was negatively impacting the adjacent shorelines. This study identified Brigantine Island as one of the primary areas to be recommended for further study in the feasibility phase.

b. The scoping process is on-going and has involved preliminary coordination with Federal, State, and local agencies. Participation of the general public and other interested parties and organizations will be invited by means of a public notice.

c. The significant issues and concerns that have been identified include the impacts of the project on aquatic biota, water quality, intertidal habitat, shallow water habitat, and cultural resources.

4. Availability

It is estimated that the DEIS will be made available to the public in October 1997.

Robert L. Callegari,

Chief, Planning Division.

[FR Doc. 96–11714 Filed 5–9–96; 8:45 am]

BILLING CODE 3710–GR–M

Department of the Navy

Notice of Closed Meeting of Board of Visitors to the United States Naval Academy

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Board of Visitors to the United States Naval Academy will meet on May 13, 1996, at Alumni Hall, United States Naval Academy, Annapolis, MD, at 8:30 a.m. The meetings will be closed to the public.

The purpose of the meeting is to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical requirements, fiscal affairs, and academic methods of the Naval Academy. During the meeting these inquiries will relate to the internal personnel rules and practices of the Academy, may involve review of on-going criminal investigations, and include discussions of personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy if the meeting was open to the public. Accordingly, the Secretary of the Navy has determined in writing that this meeting shall be closed to the public because the meeting will be concerned with matters as outlined in sections 552b(c) (2), (5), (6), (7), and (9) of Title 5, United States Code.

For further information concerning this meeting contact: Lieutenant Commander Adam S. Levitt, U.S. Navy, Secretary to the Board of Visitors, Office of the Superintendent, United States Naval Academy, Annapolis, MD 21402–5000, Telephone Number: (410) 293–1503.

Dated: May 1, 1996.

M.A. Waters,

LCDR, JAGC, USN, Alternate Federal Register Liaison Officer.

[FR Doc. 96–11805 Filed 5–9–96; 8:45 am]

BILLING CODE 3810–FF–P

Notice of Open Meeting of Board of Advisors to the President, Naval War College, Newport, Rhode Island

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is given that the Board of Advisors to the President, Naval War College, will meet on 29 and 30 May 1996 in Room 210, Conolly Hall, Naval War College, 686 Cushing Road, Newport, Rhode Island. The meeting will commence at 8:30 a.m. on 29 May and terminate at approximately 12:00 p.m. on 30 May. The purpose of the meeting is to elicit the advice of the Board on educational, doctrinal, and research policies and programs. The agenda will consist of presentations and discussions on the curriculum, programs and plans of the College, and is open to the public. For further information contact: Mrs. Mary E. Estabrooks, Assistant to the Dean of Academics, Naval War College, 686 Cushing Road, Newport, RI 02841–1207. Telephone Number (401) 841–3589.

Dated: May 1, 1996.

M.A. Waters,

LCDR, JAGC, USN, Alternate Federal Register Liaison Officer.

[FR Doc. 96–11806 Filed 5–9–96; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.004C]

Desegregation of Public Education—State Educational Agency Desegregation Program; Notice of Cancellation of New Awards for Fiscal Year (FY) 1996

SUMMARY: On December 20, 1995, the Department of Education published a notice in the **Federal Register** (60 FR 65644) inviting applications for new awards for FY 1996 for the Desegregation of Public Education—State Educational Agency Program. On March 27, 1996, a notice was published in the **Federal Register** (61 FR 13485) extending the closing date for receipt of applications to May 9, 1996. The purpose of this notice is to advise potential applicants that this competition has been cancelled due to lack of funds.

FOR FURTHER INFORMATION CONTACT: Adell S. Washington, U.S. Department of Education, 600 Independence Avenue SW., Suite 4500 Portals, Washington, DC 20202–6140. Telephone (202) 260–2495. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases); or on the World Wide Web at (http://www.ed.gov/money.html). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 42 U.S.C. 2000c–1–9

Dated: May 6, 1996.

Gerald N. Tirozzi,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 96–11735 Filed 5–9–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG96–52–000]

ANP Operations Company; Notice of Application for Commission Determination of Exempt Wholesale Generator Status

May 6, 1996.

On May 2, 1996, ANP Operations Company ("Applicant"), a Delaware corporation, whose address is 10000 Memorial Drive, Suite 500, Houston, Texas 77024, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant intends to operate an approximate 149 MW gas-fired, dispatchable, combined-cycle, independent power production facility located near Milford, Massachusetts (the "Facility"). The Facility is owned by Milford Power Limited Partnership ("Owner") who sells electric power from the Facility at wholesale.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before May 23, 1996 and must be served on the applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11676 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–221–000]

ANR Pipeline Company; Notice of Annual System Cashout Report

May 6, 1996.

Take notice that on May 1, 1996, ANR Pipeline Company (ANR) tendered for filing its annual report of the net revenues attributable to the operation of its cashout program.

ANR states that this filing is ANR's second annual System Cashout Report since the implementation of Order No. 636, and covers the period January 1, 1995 to December 31, 1995. The Net Cashout Activity for the twelve month period ending December 31, 1995 is ($386.833). As provided in Section 15.5(b) of ANR's General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1, this amount will be carried forward and applied to the next succeeding redetermination of Net Cashout Activity for the calendar year ended December 31, 1996.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Section 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11677 Filed 5–9–96' 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–222–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

May 6, 1996.

Take notice that on May 1, 1996, Columbia Gas Transmission Corporation (Columbia) tendered the filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective June 1, 1996.

Original Sheet No. 99E
Original Sheet No. 99F

Columbia states that the instant filing is being submitted pursuant to Article VII, Section C, Accrued-But-Not-Paid Gas Costs, of the "Customer Settlement" in Docket No. GP94–02, et al., approved by the Commission on June 15, 1995 (71 FERC ¶ 61,337 (1955)). The Customer Settlement became effective on November 28, 1995, when the Bankruptcy Court's November 1, 1995, order approving Columbia's Plan of Reorganization became final. Under the terms of Article VII, Section C, Columbia is entitled to recover amounts for Accrued-But-Not-Paid Gas Costs. As directed by Article VII, Section C, the tariff sheets contained herein are being filed in accordance with Section 39 of the General Terms and Conditions of the Tariff, to direct bill the Accrued-But-Not-Paid Gas Costs that have been paid subsequent to November 28, 1995. The instant filing reflects Accrued-But-Not-Paid Gas Costs in the amount of $1,388,133.11 plus applicable FERC interest of $16,383.33. This is Columbia's second filing pursuant to Article VII, Section C, and Columbia reserves the right to make the appropriate additional filings pursuant to that provision. The allocation factors on Appendix F of the Customer Settlement were used as prescribed by Article VII, Section C.

Columbia also agrees to make available for this filing the data that it was required to provide in its April 11, 1996 compliance filing in Docket No. RP96–140 pursuant to a protective agreement.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11678 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–9–23–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 6, 1996.

Take notice that on May 1, 1996 Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, certain substitute revised tariff sheets in the above captioned docket, with a proposed effective date of February 1, 1996.

ESNG states that the revised tariff sheets included herein are being filed pursuant to Section 24 of the General Terms and Conditions of the ESNG's Gas Tariff to reflect changes in ESNG's jurisdictional storage rates. ESNG states that the instant filing is being made to "track" changes in Columbia Gas Transmission Corporation's (Columbia) storage service rates. Upon the recent close of ESNG's February, 1996 monthly accounting cycle it became apparent that ESNG had inadvertently failed to track the proper storage service rates from Columbia for February, 1996. The substitute tariff sheets included herein are being filed to correct this error.

As background to the instant filing, on August 1, 1995 Columbia filed a Section 4 general rate case in Docket No. RP95–408–000, et al. Columbia filed to have rates effective September 1, 1995, but the Commission, by letter order dated August 31, 1995, suspended rates for five months making the effective date February 1, 1996. Columbia subsequently filed, on December 29, 1995, tariff sheets to "track" when it filed its scheduled quarterly PGA and storage tracker filing on January 3, 1996.

Furthermore, ESNG states it has not billed its storage customers and will not until it receives the Commission's authorization as requested herein.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR Section 385.211 and Section 385.214). All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11679 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–10–23–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 6, 1996.

Take notice that on May 1, 1996, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, certain revised tariff sheets in the above captioned docket, with proposed effective dates of April 1, 1996 and May 1, 1996, respectively.

ESNG states that the purpose of the instant filing is to track rate changes attributable to (a) storage service purchased from Transcontinental Gas Pipe Line (Transco) under Transco's Rate Schedules GSS and LSS the costs of which are included in the rates and charges payable under ESNG's Rate Schedules GSS and LSS effective beginning April 1, 1996 and (b) storage service purchased from Columbia Gas Transmission (Columbia) under Columbia's Rate Schedules SST and FSS the costs of which are included in the rates and charges payable under ESNG's Rate Schedules CWS and CFSS effective April 1, 1996 and May 1, 1996. This tracking filing is being made pursuant to Section 24 of the General Terms and Conditions of ESNG's FERC Gas Tariff to reflect changes in ESNG's jurisdictional rates.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 325.211 and 325.214). All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11680 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QT96–61–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 6, 1996.

Take notice that on May 1, 1996, El Paso Natural Gas Company (El Paso), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective June 1, 1996.

Third Revised Sheet No. 1
Second Revised Sheet No. 500

El Paso states that tendered tariff sheets proposed to become effective June 1, 1996, revise the Index of Customers contained in Volume No. 1–A to comply with Section 154.111 of the Commission's Regulations. El Paso proposes to remove the Index of Customers in its Volume No. 1–A Tariff, since it is has posted an Index of Customers on its electronic bulletin board, pursuant to Section 286.106(c) of the Commission's Regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11681 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–397–000]

Equitrans, L.P.; Notice of Application

May 6, 1996.

Take notice that on May 1, 1996, Equitrans, L.P. (Equitrans), 3500 Park Lane, Pittsburgh, Pennsylvania 15275, filed in Docket No. CP96–397–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon an exchange service with Columbia Gas Transmission Corporation (Columbia), all as more fully set forth in the application on file with the Commission and open to public inspection.

Equitrans proposes to abandon an exchange service with Columbia under its Rate Schedule X–99 which provided for the exchange in Upshur and Wetzel Counties, West Virginia.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 28, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Equitrans to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11682 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 10873–002 North Carolina]

Fall Line Hydro Company, Inc.; Notice of Withdrawal of Application for License

May 6, 1996.

Take notice that the Fall Line Hydro Company, Inc., applicant for the Cullasaja River Project No. 10873, located on the Cullasaja River, Macon County, North Carolina, has requested that its application for license be withdrawn. The applicant states that the project would be uneconomical due to the uncertainty that deregulation of the electrical utility industry has created.

The applicant filed the request on April 22, 1996, and the withdrawal of the license application for Project No. 10873 will become effective 15 days after the filing date of the request for withdrawal, unless that day is a Saturday, Sunday or holiday, in which case the application shall remain pending through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11683 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–230–000]

Florida Gas Transmission Company; Notice of Transition Cost Recovery Report

May 6, 1996.

Take notice that on May 2, 1996, Florida Gas Transmission Company (FGT) tendered for filing a Transition Cost Recovery Report pursuant to Section 24 of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1.

FGT states that the Transition Cost Recovery Report filed summarizes the activity which has occurred in its TCR Account and Order 636 Account through April, 1996 and includes $4,171,777.79 of recoverable 636 transition costs not previously reported. Because the currently effective TCR and 636 reservation charge and TCR usage surcharge rates are at the maximum levels permitted by FGT's tariff, no tariff

revisions are required as a result of this filing.

FGT states that copies of the report were mailed to all customers serviced under the rate schedules affected by the report and the interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 in accordance with sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11684 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–369–000]

Florida Gas Transmission Company; Notice of Application

May 6, 1996.

Take notice that on April 30, 1996, Florida Gas Transmission Company (Florida Gas), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP96–369–000, an application pursuant to Section 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations. Florida Gas seeks an order authorizing the abandonment of its transportation service with Washington Gas Company (Washington Gas), known as Rate Schedule X–7. Florida Gas's request is more fully set forth in the application, which is on file with the Commission and open to public inspection.

Florida Gas says that in letter agreement dated December 17, 1984, it and Washington Gas have agreed to terminate the transportation service effective December 31, 1984. The transportation service had been rendered by Florida Gas under a transportation service agreement dated June 24, 1975, see Docket No. CP76–71, 56 FPC 463 (1976). This service agreement was designated as Rate Schedule X–7 in Florida Gas's Original Volume No. 3 of its FERC Gas Tariff. Florida Gas says that the proposed abandonment will not result in the abandonment of facilities nor will it result in the abandonment of service to any other customers of Florida Gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, or if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Florida Gas to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11685 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–229–000]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

May 6, 1996.

Take notice that on May 2, 1996, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective June 1, 1996:

Title Page
Fourth Revised Sheet No. 1
Third Revised Sheet No. 1412
First Revised Sheet No. 1704
First Revised Sheet No. 1705
Second Revised Sheet No. 1706
First Revised Sheet No. 1709
Second Revised Sheet No. 1710
Second Revised Sheet No. 1907
Fourth Revised Sheet No. 2705
Second Revised Sheet No. 2707
Fourth Revised Sheet No. 2706
First Revised Sheet No. 3300
First Revised Sheet No. 4010

Koch states that the above listed tariff sheets are being filed to bring Koch's tariff in compliance with Order No. 582. The tariff modifications include a statement with respect to Koch's order of discounts, information about reports required by the Commission, and other minor modifications such as deletion of cites to the Commission's regulations where these cites are now different as a result of Order No. 582.

Koch also states that the revised tariff sheets are being served upon all its customers, State Commissions, and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's regulations. All such motions or protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a Motion to Intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11686 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–228–000]

Mobile Bay Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

May 6, 1996.

Take notice than on May 2, 1996, Mobile Bay Pipeline Company (MBPC) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective June 1, 1996:

Title Page

Third Revised Sheet No. 4
First Revised Sheet No. 23
First Revised Sheet No. 49
First Revised Sheet No. 129
First Revised Sheet No. 184
First Revised Sheet No. 272

MBPC states that the tariff sheets listed above are being filed to bring MBPC's tariff in compliance with the Order No. 582. MBPC also states that the tariff modifications include MBPC's conversion to thermal rather than volumetric units, a tariff statement describing its lateral line policy, and revising the cites to the Commission's regulations where these cites are now different as a result of Order No. 582.

MBPC also states that the revised tariff sheets are being served upon all its customers, State Commissions, and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a Motion to Intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11688 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–326–009 and RP95–242–009]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

May 6, 1996.

Take notice that on May 1, 1996, Natural Gas Pipeline Company of America (Natural) tendered for filing proposed changes in its FERC Gas Tariff, Sixth Revised Volume No. 1 and Second Revised Volume No. 2, to become effective June 1, 1996.

Natural states that the purpose of this filing is to remove from its rates the cost of service effect of $8,468,644 of deferred take-or-pay costs. Such costs will be fully amortized by May 31, 1996, pursuant to the settlement approved July 25, 1991 in Docket Nos. RP91–22–000, *et al.*

Natural requests waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets submitted to become effective June 1, 1996.

Natural states that copies of the filing are being mailed to all parties on the restricted service list in the referenced dockets.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11689 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–225–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

May 6, 1996.

Take notice that on May 1, 1996, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Sixth Revised Sheet No. 22, to be effective June 1, 1996.

Natural states that the filing is submitted pursuant to Section 21 of the General Terms and Conditions of Natural's FERC Gas Tariff, Sixth Revised Volume No. 1 (Section 21), as the sixth semiannual limited rate filing under Section 4 of the Natural Gas Act and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission) promulgated thereunder. The rate adjustments filed for are designed to recover Account No. 858 stranded costs incurred by Natural under contracts for transportation capacity on other pipelines. Costs for any Account No. 858 contracts specifically excluded under Section 21 are not reflected in this filing.

Natural requested specific waivers of Section 21 and the Commission's Regulations, including the requirements of Section 154.63, to the extent necessary to permit the tariff sheet to become effective June 1, 1996.

Natural states that copies of the filing are being mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11690 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–45–003]

Northern Border Pipeline Company; Notice of Compliance Filing

May 6, 1996.

Take notice that on May 2, 1996, Northern Border Pipeline Company (Northern Border) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective June 1, 1996:

Substitute Second Revised Sheet No. 106
Substitute Second Revised Sheet No. 117

Northern Border asserts that the purpose of this filing is to comply with the Commission's order issued December 29, 1995, in Docket No. RP96–45–000. On November 16, 1995, Northern Border filed proposed tariff sheets, pursuant to Natural Gas Act, Section 4, in Docket No. RP96–45–000 and reserved the right to file a later motion to place the proposed tariff sheets into effect at the end of a suspension period ordered by the Commission. On December 29, 1995, the Commission issued an order in Docket No. RP96–45–000 accepting and suspending certain filed tariff sheets for the maximum allowable period of five months to take effect, subject to refund, on June 1, 1996. Northern Border Pipeline Company, 73 FERC ¶ 61,399 (1995).

Accordingly, with this filing Northern Border moves to effectuate the tariff sheets accepted by the Commission in its December 29, 1995 order.

Northern states that copies of this filing have been served upon all parties in this proceeding and upon all of Northern Border's contracted shippers and affected state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and available for public inspection in the Public Reference Room.

Linwood A. Watson,

Acting Secretary.

[FR Doc. 96–11691 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–223–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

May 6, 1996.

Take notice that on May 1, 1996, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A attached to the filing, proposed to be effective June 1, 1996.

Panhandle asserts that the purpose of this filing is to reinstate the Take-or-Pay Volumetric Surcharge pursuant to Section 18.10(g) of the General Terms and Conditions of Panhandle's tariff.

Panhandle states that the purpose of this filing is to establish a 0.10¢ per Dt. Reconciliation Amount Recovery Period volumetric surcharge in accordance with the provisions of section 18.10(g) of Panhandle's FERC Gas Tariff, First Revised Volume No. 1, to become effective June 1, 1996.

Panhandle states that a copy of this filing is being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lindwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11692 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–224–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

May 6, 1996.

Take notice that on May 1, 1996, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A attached to the filing, proposed to be effective June 1, 1996.

Panhandle states that the purpose of this filing is to provide Panhandle's firm shippers under Rate Schedules FT, EFT and LFT with a customized reservation rate that will allow them maximum flexibility in dealing with market conditions throughout the contract year. The Customized Reservation Pattern (CRP) election will allow a firm shipper to shift, during each twelve month period commencing November 1, up to 80% of the reservation charge obligation for the April to October period into the preceding November to March period. By permitting a shipper to customize its cost-based reservation charges, CRP will raise or lower the maximum monthly charge to better reflect conditions in its own markets and to the secondary market for capacity release. This will further the Commission's goals of allocating capacity to those shippers who value it most and permit shippers to contract for services at rates which are designed to market gas and services competitively.

Panhandle states that a copy of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11693 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. DI96–5–000]

Rochester Gas and Electric Corp.; Notice Granting Extension of Time

May 6, 1996.

On March 4, 1996, the Commission issued a notice of the Petition for Declaratory Order filed by Rochester Gas and Electric Corporation for its Station 160 Hydroelectric Project located on the Genesee River in Livingston County, New York. The notice established April 22, 1996, as the deadline for filing comments in the proceeding.[1] A motion for an extension of time to file comments has been filed by Rochester Gas and Electric Corporation. For good cause shown, the April 22, 1996 deadline for filing comments in this proceeding is extended until May 20, 1996.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11722 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EC96–21–000]

SEMASS Partnership; Notice of Filing

May 6, 1996.

Take notice that on April 30, 1996, SEMASS Partnership (SEMASS) filed an application seeking authorization under Section 203 of the Federal Power Act to transfer control of jurisdictional facilities in connection with the proposed sale by certain partners of SEMASS of eighty percent (80%) of the partnership interests in SEMASS to American Ref-Fuel Company of SEMASS, L.P.

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[1] 61 FR 10576, Mar. 14, 1996.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 15, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11694 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–224–016]

Southern Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

May 6, 1996.

Take notice that on April 30, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to become effective May 1, 1996:

Fourth Revised Sheet No. 2
Third Revised Sheet No. 37
First Revised Sheet No. 39
Original Sheet No. 39a
First Revised Sheet No. 48
Second Revised Sheet No. 51
Original Sheet No. 51a
Third Revised Sheet No. 124
First Revised Sheet No. 127
Original Sheet No. 127a
First Revised Sheet No. 130
Original Sheet No. 130a
Original Sheet No. 212e–212g
First Revised Sheet No. 297
Original Sheet No. 297a
First Revised Sheet No. 315
Original Sheet No. 315a

Southern states that the purpose of this filing is to implement Tariff revisions proposed by Southern in its Stipulation and Agreement filed on March 15, 1995, in Docket Nos. RP89–224, et al., and approved by the Commission in its order issued on September 29, 1995.

Under the Stipulation and Agreement, Southern is required to implement these provisions on the first day of the month after the Commission issues an order on rehearing in Docket Nos. RP89–224, et al. On April 11, 1996, the Commission issued the final order on rehearing.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures (18 CFR Section 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11695 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–227–000]

Tennessee Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

May 6, 1996.

Take notice that on May 1, 1996, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet, with a proposed effective date of June 1, 1996:

First Revised Sheet No. 654

Tennessee states that the filing is intended to revise the pro forma Blanket Authorization Agreement in Tennessee's tariff to add a space for inserting the Blanket Agent's billing address.

Tennessee states that a copy of the filing has been served upon each of Tennessee's jurisdictional customers and all affected state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11696 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–181–001]

Trunkline Gas Company; Notice of Compliance Filing

May 6, 1996.

Take notice that on May 1, 1996, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, proposed to be effective April 20, 1996:

Sub Original Sheet No. 34B
Sub Original Sheet No. 45B
Sub Original Sheet No. 51B

Trunkline states that the purpose of this filing is to comply with Ordering Paragraph (B) of the Commission's April 19, 1996, Order in Docket No. RP96–181–000 to limit the applicability of the CRP mechanism to the primary market.

Trunkline states that a copy of this filing is being served on all affected customers, applicable state regulatory agencies and parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11697 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. OR96–13–000]

Ultramar Inc. v. Gaviota Terminal Company; Notice of Complaint

May 6, 1996.

Take notice that on April 30, 1996, Ultramar Inc. (Ultramar) filed a complaint pursuant to Sections 9, 13(1), and 15(1) of the Interstate Commerce Act (ICA), Section 1803 of the Energy Policy Act of 1992, and Rule 206 of the

Commission's Rules of Practice and Procedure against Gaviota terminal Company (Gaviota).

Ultramar alleges that Gaviota has (1) collected transportation charges before February 1, 1994, without filing a tariff with the Commission, (2) that the rates Gaviota collected thereafter were unjust, unreasonable, and discriminatory, and (3) that rates Gaviota collected since September 1, 1995, were in excess of the applicable indexed ceiling rates under Order Nos. 561 and 561–A without an adequate showing that such rates are justified by a substantial divergence between actual costs and the index ceiling. Ultramar seeks the refund of all unlawful charges collected by Gaviota and the establishment of lawful rates which are just, reasonable and non-discriminatory. This includes all funds in excess of variable and operating costs for the period for which no tariffs were filed.

Any person desiring to be heard or to protest the instant complaint should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 30, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint shall be due on or before May 30, 1996.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11698 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–3–119–000]

Young Gas Storage Company, Ltd.; Notice of Filing

May 6, 1996.

Take notice that on May 1, 1996, Young Gas Storage Company, Ltd. (Young) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet, with a proposed effective date of June 1, 1996:

Fourth Revised Sheet No. 5

Young states that the purpose of its filing is to reflect an increase in the fuel reimbursement percentage based on actual experience and a two estimate from 2.0% to 2.6% effective June 1, 1996.

Young states that copies of this filing have been served on Young's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.214 and 385.211). All such petitions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11699 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–226–000]

Young Storage Company, Ltd.; Notice of Proposed Changes in FERC Gas Tariff

May 6, 1996.

Take notice that on May 1, 1996, Young Storage Company, Ltd. (Young), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, revised tariff sheets included as Appendix 1 to the filing, to be effective June 1, 1996.

Young states that the purpose of the filing is to comply with Commission Order No. 582 issued September 28, 1995 in Docket No. RM95–3–000. Order No. 582 requires a pipeline that is on a volumetric basis to convert to a thermal basis within one year of implementation. Young states that it is therefore converting its existing volumetric tariff to a thermal tariff using a conversion factor of 1077 Btu for each Mcf. Young states that there will be no change in revenues under the proposed revisions.

Young requests any waiver necessary of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective June 1, 1996, the start of the injection season.

Young states that copies of the filing are being mailed to all holders of its tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR Section 385.211 and Section 385.214). All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11700 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EC96–20–000, et al.]

Hermiston Generating Company, L.P., et al.; Electric Rate and Corporate Regulation Filings

May 3, 1996.

Take notice that the following filings have been made with the Commission.

1. Hermiston Generating Company, L.P.

[Docket No. EC96–20–000]

Take notice that on April 26, 1996, Hermiston Generating Company, L.P. (Hermiston), tendered for filing an application for approval of the sale of certain described public utility facilities pursuant to an Option Agreement between Hermiston and PacifiCorp related to the acquisition by PacifiCorp of a fifty percent undivided interest in a 474 MW electric and steam generating plant, and other assets, located in Hermiston, Oregon. Hermiston has further requested confirmation that there is no need for the Commission to re-examine Hermiston's rates as a result of the proposed ownership changes. Hermiston has requested that the Commission act on an expedited basis.

Comment date: May 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Central Hudson Gas and Electric Corporation

[Docket No. ER96–1658–000]

Take notice that on April 26, 1996, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR, a Service Agreement between CHG&E and NorAm Energy Services. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1662. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: May 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Virginia Electric and Power Company

[Docket No. ER96–1659–000]

Take notice that on April 26, 1996, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement between Cleveland Electric Illuminating Company and Virginia Power, dated February 21, 1996, under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994. Under the tendered Service Agreement Virginia Power agrees to provide services to Cleveland Electric Illuminating Company under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, the North Carolina Utilities Commission, and the Ohio Public Utilities Commission.

Comment date: May 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Virginia Electric and Power Company

[Docket No. ER96–1660–000]

Take notice that on April 26, 1996, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement between Toledo Edison Company and Virginia Power, dated February 21, 1996, under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994. Under the tendered Service Agreement Virginia Power agrees to provide services to Toledo Edison Company under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, the North Carolina Utilities Commission, and the Ohio Public Utilities Commission.

Comment date: May 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Atlantic City Electric Company

[Docket No. ER96–1661–000]

Take notice that on April 26, 1996, Atlantic City Electric Company (ACE), tendered for filing an Agreement for Import Capability Transactions between ACE and Pennsylvania Power and Light Company. ACE requests that the Agreement be accepted to become effective April 27, 1996.

Copies of the filing were served on the New Jersey Board of Regulatory Commissioners.

Comment date: May 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Industrial Energy Applications, Inc.

[Docket No. ER96–1662–000]

Take notice that on April 26, 1996, Industrial Energy Applications, Inc. (IEA) submitted for filing a letter of acceptance from the Western Systems Power Pool (WSPP) indicating that IEA had been conditionally accepted for membership in WSPP. IEA requests that the Commission amend the WSPP Agreement to include IEA as a member.

IEA requests an effective date of May 1, 1996, for the proposed amendment and requests waiver or the Commission's notice requirements for good cause shown.

Copies of the filing were served upon counsel for WSPP and upon the WSPP Executive Committee.

Comment date: May 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. MidAmerican Energy Company

[Docket No. ER96–1664–000]

Take notice that on April 29, 1996, MidAmerican Energy Company (MidAmerican), 106 East Second Street, Davenport, Iowa 52801, filed with the Commission a Report of Transactions under Rate Schedule For Power Sales (FERC Electric Tariff, Original Volume No. 5) for the Reporting Period of April 1, 1996 to April 15, 1996. This Report summarizes the rates and other terms of transactions with Purchasers who have entered into Service Agreements with MidAmerican under the Tariff or are eligible to purchase under the Tariff pursuant to interchange agreements with MidAmerican.

The Report of Transactions summarizes transactions which have been conducted within the 30 days prior to the filing pursuant to a previously filed service agreement or interchange agreement. Therefore, this filing is made within the 30-day period allowed by the Commission in *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139 (1993), *reh'g*, 65 FERC ¶ 61,081 (October 19, 1993).

Comment date: May 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. MidAmerican Energy Company

[Docket No. ER96–1665–000]

Take notice that on April 29, 1996, MidAmerican Energy Company (MidAmerican), 106 East Second Street, Davenport, Iowa 52801, filed with the Commission Service Agreements with Tennessee Power Company (Tennessee Power) dated April 22, 1996, and Jpower Inc. (Jpower) dated April 22, 1996, entered into pursuant to MidAmerican's Rate Schedule for Power Sales, FERC Electric Tariff, Original Volume No. 5.

MidAmerican requests an effective date of April 22, 1996, for the Agreement with Tennessee Power and April 22, 1996 for the Agreement with Jpower, and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on Tennessee Power, Jpower, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: May 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11674 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–P

Notice of Environmental Compliance and Applicant Environmental Report Preparation Training Courses

May 6, 1996.

The Office of Pipeline Regulation (OPR) staff is conducting three sessions of its environmental compliance training course and the course on preparing the applicant's environmental report.

These courses are a result of the positive response to our outreach training courses held from 1992 through 1995. We encourage interested organizations and the public to take advantage of the courses to gain an understanding of the requirements and objectives of the Commission in ensuring compliance with all environmental certificate conditions and meeting its responsibilities under the National Environmental Policy Act and other laws and regulations.

Environmental Report Preparation Course

The environmental report preparation course presentation and the manual focus primarily on Section 7 filings. However, the course manual will address the following topics:

A. What types of projects require environmental filings.
   1. Natural Gas Act section 7
   2. Natural Gas Policy Act filings
   3. Section 2.55 replacements
B. What filings are required of each type of filing.
C. What to include in each filing.
D. Potential time saving procedures.
   1. Applicant-prepared DEA
   2. Third-party EA or EIS

The staff intends the manual to be a cookbook for preparing environmental filings under section 7 of the Natural Gas Act.

If you have specific questions related to the subject matter of this course, or if you would like the course to address a particular item, please call Mr. John Leiss at (202) 208–1106.

The one-day environmental report preparation course will be held on the dates and at the locations shown below. Attendees must call the numbers listed for the hotels by the reservation deadline and identify themselves as FERC seminar attendees to receive the discounted group rate. Hotel information for Houston and Denver will be available after May 15 through the telephone number given below under Preregistration.

Session and Location: June 25, Dupont Plaza Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 20036, (202) 483–6000; July 30, Houston; August 13, Denver.

Hotel Reservation Deadline: June 10.

Environmental Compliance Training Course

The two-day environmental compliance training course will include the following topics:

A. Postcertificate clearance filings;
B. Environmental inspection as it relates to:
   1. Right-of-way preparation;
   2. Temporary erosion control;
   3. Cultural resources/Paleontology;
   4. Waterbody crossings;
   5. Wetland construction;
   6. Residential area construction;
   7. Right-of-way restoration; and
   8. techniques for environmental compliance.

The environmental compliance training course will be held on the dates and at the locations shown below. Attendees must call the numbers listed for the hotels by the reservation deadline and identify themselves as FERC seminar attendees to receive the discounted group rate. Hotel information for Houston and Denver will be available after May 15 through the telephone number given below under Preregistration.

Session and Location: June 26–27, Dupont Plaza Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 20036, (202) 483–6000; July 31–August/1, Houston; August 14–15, Denver.

Hotel Reservation Deadline: June 10.

Preregistration

The OPR staff and Foster Wheeler Environmental Corporation, the Commission's environmental support contractor for natural gas projects, will conduct the training. There is no fee for the courses, but you must preregister because space is limited.

If you would like to attend either of these courses, please call the telephone number listed below to obtain a preregistration form.[1] Note: If you plan to attend both the environmental report preparation session and the subsequent environmental compliance training session, you must preregister separately for each (only one form is needed). Attendance will be limited to the first 150 people to preregister in each course. Call or FAX requests for preregistration forms to: Ms. Sarah Adam, Foster Wheeler Environmental Corporation, 470 Atlantic Avenue, Boston, MA 02210, Telephone: (617) 542–8805, FAX: (617) 695–1587.

You will receive confirmation of preregistration and additional information before the training course(s).

Additional training will be offered in the future. Please indicate whether you would like these courses to be offered again, or if you are interested in any other courses with different topics or audiences. Please indicate your preferences for location and time of year. Suggestions on format are welcome.

Linwood A. Watson, Jr.,

Acting Secretary.

BILLING CODE 6717–01–M

[1] The preregistration forms referenced in this notice are not being printed in the **Federal Register**. Copies of the forms were sent to those receiving this notice in the mail.

Preregistration Form for the Federal Energy Regulatory Commission's Natural Gas Pipeline Environmental Compliance Training and Environmental Report Preparation Courses

WASHINGTON, D.C., JUNE 25-27, 1996

Contact Name:_____

Position/Title:_____

Affiliation:_____

Mailing Address:_____

_____

Phone Number:_____ **FAX Number:**_____

Please note: You must preregister for *each* course you wish to attend.

I would like to preregister the following people for the ***1-day Environmental Report Preparation Course*** on JUNE 25, 1996, in WASHINGTON, D.C. (PLEASE PRINT NAMES NEATLY):

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Attach separate sheet if necessary.

I would like to preregister the following people for the ***2-day Environmental Compliance Training Course*** on JUNE 26 - 27, 1996, in WASHINGTON, D.C. (PLEASE PRINT NAMES NEATLY):

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Attach separate sheet if necessary.

RETURN TO:
Sarah Adam
Foster Wheeler Environmental Corporation
470 Atlantic Avenue
Boston, MA 02210
FAX: (617) 695-1587
Office:(617) 542-8805 or (617) 451-9942

Preregistration Form for the Federal Energy Regulatory Commission's Natural Gas Pipeline Environmental Compliance Training and Environmental Report Preparation Courses

HOUSTON, JULY 30 - AUGUST 1, 1996

Contact Name:_____

Position/Title:_____

Affiliation:_____

Mailing Address:_____

_____

Phone Number:_____ **FAX Number:**_____

Please note: You must preregister for *each* course you wish to attend.

I would like to preregister the following people for the ***1-day Environmental Report Preparation Course*** on JULY 30, 1996, in HOUSTON (PLEASE PRINT NAMES NEATLY):

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Attach separate sheet if necessary.

I would like to preregister the following people for the ***2-day Environmental Compliance Training Course*** on JULY 31 - AUGUST 1, 1996, in HOUSTON (PLEASE PRINT NAMES NEATLY):

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Attach separate sheet if necessary.

RETURN TO:
Sarah Adam
Foster Wheeler Environmental Corporation
470 Atlantic Avenue
Boston, MA 02210
FAX: (617) 695-1587
Office:(617) 542-8805 or (617) 451-9942

Preregistration Form for the Federal Energy Regulatory Commission's Natural Gas Pipeline Environmental Compliance Training and Environmental Report Preparation Courses

DENVER, AUGUST 13 - 15, 1996

Contact Name:_____

Position/Title:_____

Affiliation:_____

Mailing Address:_____

_____

Phone Number:_____ **FAX Number:**_____

Please note: You must preregister for *each* course you wish to attend.

I would like to preregister the following people for the ***1-day Environmental Report Preparation Course*** on AUGUST 13, 1996, in DENVER (PLEASE PRINT NAMES NEATLY):

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Attach separate sheet if necessary.

I would like to preregister the following people for the ***2-day Environmental Compliance Training Course*** on AUGUST 14 - 15, 1996, in DENVER (PLEASE PRINT NAMES NEATLY):

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Attach separate sheet if necessary.

RETURN TO:
Sarah Adam
Foster Wheeler Environmental Corporation
470 Atlantic Avenue
Boston, MA 02210
FAX: (617) 695-1587
Office:(617) 542-8805 or (617) 451-9942

[FR Doc. 96–11701 Filed 5–9–96; 8:45 am]
BILLING CODE 6717–01–C

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Notice of Revised Exhibit J

May 6, 1996.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Revised Exhibit J.

b. *Project No.:* 2299–037.

c. *Date Filed:* October 30, 1995.

d. *Applicant:* Turlock Irrigation District.

e. *Name of Project:* Don Pedro Project.

f. *Location:* On Tuolumne River, La Grange City, Tuolumne County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. Sec. 791(a)–825(r).

h. *Applicant Contact:* Mr. Paul D. Elias, General Manager, Turlock Irrigation District, P.O. Box 949, Turlock, CA 95381 (209) 883–8211.

i. *FERC Contact:* Anum Purchiaroni, (202) 219–3297.

j. *Comment Date:* June 24, 1996.

k. *Description of Project:* The licensee filed a revised exhibit J to reflect changes to two of the project's transmission lines; the East and West lines. Under the license, the East and West lines extended from the Don Pedro switchyard to Turlock Irrigation District's Geer Substation. In 1983, the licensee constructed a new substation (named Hawkins) between Don Pedro Project and Geer Substation. The licensee reconfigured the East line by constructing 2 miles of new line connecting it to the Hawkins Substation, and removed the West line from service. The total length of the East line is 23 miles, which is 8 miles shorter than authorized by the license. The new substation and reconfigured transmission line, which were constructed without prior Commission authorization, affected properties owned by the licensee.

1. This notice also consists of the following standard paragraphs: B, C2, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C2. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of the particular application to which the filing refers. Any of these documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of a notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11675 Filed 5–9–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5502–9]

Agency Information Collection Activities Up for Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) listed below is coming up for renewal. Before submitting the renewal package to the Office of Management and Budget (OMB), the Environmental Protection Agency (EPA or the Agency) is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before July 9, 1996.

ADDRESSES: Phaseout Manager, Stratospheric Protection Division, U.S. EPA (6205J), 401 M Street, S.W., Washington, D.C. 20460. Materials relevant to this proposed rulemaking are contained in Public Docket No. A–92–13. This docket is located in Room M–1500, Waterside Mall (Ground Floor), U.S. EPA, 401 M Street, S.W., Washington, D.C. 20460. Dockets may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Tom Land, Stratospheric Protection Division, U.S. EPA (6205J), 401 M Street, S.W., Washington, D.C. 20460, (202) 233–9185, phone: (202) 233–9185, fax: (202) 233–9637. For questions only, you may use the electronic address: land.tom@epamail.epa.gov. All comments must be sent to the docket.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities affected by this action are companies that produce, import, export, transform, and destroy controlled ozone-depleting substances, as well as suppliers of laboratory ozone-depleting chemicals and companies deemed to have an essential use of these chemicals beyond the phaseout.

Title: "Recordkeeping and Periodic Reporting of the Production, Import, Export, Recycling, Destruction, Transhipment and Feedstock Use of Ozone-depleting Substances." OMB Control Number: 2060–0170. EPA Control Number: 1617.06. Expiration Date: September 30, 1996.

Abstract: EPA accelerated the phaseout of controlled class I ozone-depleting substances under Section 606 of the Clean Air Act Amendments of 1990 (CAA) in regulations published on December 10, 1993, in the **Federal Register** (58 FR 65018) and codified in 40 CFR Subpart B (§ 82.1 *et seq.*) These regulations were amended in the **Federal Register** on May 10, 1995, (60 FR 24970) in order to ensure an orderly phaseout and account for exempted production and consumption. Under the Montreal Protocol and Title VI of the CAA, consumption is defined as production plus imports minus exports. The ICR renewal indicates changes in reporting requirements resulting from the phaseout. The reasons information is collected, the way information is used, and whether the requirements are mandatory, voluntary, or required to obtain a benefit, are described below. The ICR renewal will not include any burden for third-party or public disclosures not previously reviewed and approved by OMB.

EPA monitors production, import, export, transformation, destruction of controlled substances and special exemptions beyond the phaseout of class I controlled substances through reporting requirements published in regulations. These reporting requirements are designed to:

(1) Satisfy U.S. obligations under the international treaty, the Montreal Protocol on Substances that Deplete the Ozone Layer;

(2) Fulfill statutory obligations under Section 603(b) of Title VI of the CAA;

(3) Report to Congress on the production, use and consumption of class I and class II controlled substances as statutorily required in Section 603(d) of the CAA;

(4) Address Federal and industry concerns regarding illegal imports of newly produced and previously used controlled substances that are undercutting U.S. markets.

The information submitted to EPA is maintained in a Tracking System that allows the Agency:

(1) to maintain control over total production and consumption of controlled substances to satisfy conditions of the CAA and fulfill U.S. obligations under the Protocol,

(2) to monitor compliance with limits and restrictions on production, imports, exports and specific exemptions to the phaseout for individual U.S. companies

(3) to enforce against illegal importers and other violations related to the control of class I and class II controlled substances.

The Montreal Protocol and Title VI of the CAA establish limits on total U.S. production, import and export of class I and class I controlled substances. As of January 1, 1996, the U.S. is obligated under the Protocol to cease production and import of class I controlled substances (except methyl bromide) with exemptions for essential-uses, transformation, destruction and previously used material. The Protocol also establishes a limit on total consumption of class II controlled substances beginning in 1996. The CAA has its own limits on production and consumption of controlled substances that EPA must enforce using the information submitted.

To ensure U.S. compliance with the limits and restrictions established by the Protocol and the CAA, the regulation establishes controls on individual companies. The limits and restrictions for individual U.S. companies are monitored by EPA through the reporting requirements established in the regulation. The information provided is entered into EPA's Stratospheric Protection Tracking System. The Tracking System allows EPA to conduct compliance monitoring for individual companies, as well as compliance monitoring for the U.S. with respect to Protocol obligations and statutory requirements under the CAA.

EPA uses the information to direct special attention to illegal activities associated with the import of both newly produced and previously used controlled substances. Illegal imports and the avoidance of the tax on these chemicals make them more available, reduce the incentive to shift to alternatives, and penalize companies who are complying with U.S. laws. EPA is an active part of the Federal inter-agency taskforce conducting nation-wide enforcement actions. The information provided to EPA in response to the accelerated phaseout regulations often form the basis for cases.

The regulation outlines both recordkeeping and reporting requirements. EPA has produced a new Guidance Document that explains the simplifications and changes in post-phaseout reporting and includes the revised forms. In conjunction with the new Guidance Document, EPA is developing a new industry electronic version of the reporting/tracking system for industry reporting. EPA is also initiating a review of all reporting requirements under the Montreal Protocol and plans on leading an international effort to simplify them to reduce U.S. burden and burden for reporting companies.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR Part 9.

Burden Statement: The burden hours shown represent the hours in the information collection request (ICR) renewal. The renewal significantly reduces overall burden hours due to the transition to the post-phaseout period. The annual burden hours prior to the phaseout were estimated to be 34,110 hours. Today's ICR renewal estimates annual burden hours to be 10,532 hours.

The following is a Table summarizing the burden hours for compiling information and submitting it to EPA Headquarters:

Collection activity	Number of respondents	Responses/ respondent	Total responses	Hours per response	Total hours
Producer's Report	8	4	32	16	512
Importer's Report	6	4	24	16	384
Notification of Trade	2	1	2	2	4
Export Report	10	1	10	120	1200
Lab Certification	1000	1	1000	1	1000
Class II Report	14	4	56	16	896
Transformation and Destruction	15	1	15	120	1800
Essential Use and	12	4	48	32	1536
Lab Suppliers	25	4	100	32	3200
Total burden hrs					10532

This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any

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previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Send comments regarding these matters, or any other aspects of the information collection, including suggestions for reducing the burden, to the address listed above under **ADDRESS** near the top of this Notice.

Dated: April 30, 1996.

Paul M. Stolpman,

Director, Office of Atmospheric Programs.

[FR Doc. 96–11755 Filed 5–9–96; 8:45 am]

BILLING CODE 6560–60–P

[FRL–5502–8]

Air Pollution Control; Proposed Actions on Clean Air Act Grants to the South Coast Air Quality Management District; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed determinations with request for comments and notice of opportunity for public hearing.

SUMMARY: The U.S. EPA has made two proposed determinations that reductions in expenditures of non-Federal funds for the South Coast Air Quality Management District (SCAQMD) in Diamond Bar, California are a result of non-selective reductions in expenditures. These determinations, when final, will permit the SCAQMD to keep the financial assistance awarded to it by EPA for FY–95, and to be awarded financial assistance for FY–96 by EPA, under section 105(c) of the Clean Air Act (CAA).

DATES: Comments and/or requests for a public hearing must be received by EPA at the address stated below by June 10, 1996.

ADDRESSES: All comments and/or requests for a public hearing should be mailed to: Douglas K. McDaniel, Air Grants Section (A–2–3), Air and Toxics Division, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901; FAX (415) 744–1076.

FOR FURTHER INFORMATION CONTACT: Douglas K. McDaniel, Air Grants Section (A–2–3), Air and Toxics Division, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901 at (415) 744–1246.

SUPPLEMENTARY INFORMATION: Under the authority of Section 105 of the CAA, EPA provides financial assistance (grants) to the SCAQMD, whose jurisdiction includes Los Angeles and Orange Counties in southern California, to aid in the operation of its air pollution control programs. In FY–95, EPA awarded the SCAQMD $7,454,238, which represented approximately 7.8% of the SCAQMD's budget.

Section 105(c)(1) of the CAA, 42 U.S.C. 7405(c)(1), provides that "[n]o agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for recurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year. In order for [EPA] to award grants under this section in a timely manner each fiscal year, [EPA] shall compare an agency's prospective expenditure level to that of its second preceding year." EPA may still award financial assistance to an agency not meeting this requirement, however, if EPA, "after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a non-selective reduction in the expenditures in the programs of all Executive branch agencies of the applicable unit of Government." CAA § 105(c)(2). These statutory requirements are repeated in EPA's implementing regulations at 40 CFR 35.210(a).

In its FY–95 § 105 application, which EPA reviewed in early 1995, the SCAQMD projected expenditures of non-Federal funds for recurrent expenditures (or its maintenance of effort (MOE)) of $82,811,585. This MOE would have been sufficient to meet the MOE requirements of the CAA, i.e. it would have been equal to or greater than the MOE for the previous year (FY–94). In January of 1996, however, the SCAQMD submitted to EPA final documentation which shows that its actual FY–95 MOE was $78,479,091. This amount represents a shortfall of $2,026,404 from the MOE of $80,505,495 for the preceding fiscal year (FY–94). In order for the SCAQMD to be eligible to keep its FY–95 grant, EPA must make a determination under § 105(c)(2).

Furthermore, in its FY–96 § 105 grant application the SCAQMD projected MOE of $78,452,571. This amount represents a shortfall of $26,520 from the actual FY–95 MOE of $78,479,091. In order for the SCAQMD to be eligible to be awarded its FY–96 grant, EPA must make a determination under § 105(c)(2).

The SCAQMD is a single-purpose agency whose primary source of funding is emission fee revenue. It is the "unit of Government" for § 105(c)(2) purposes. The SCAQMD submitted documentation to EPA which shows that over the last three years emission reductions brought on by a combination of economic recession and more restrictive emission rules have reduced fee revenues from stationary sources from a high of $74,433,331 in 1990–1991 to $52,282,026 in 1994–1995. The SCAQMD projects this revenue loss to continue through FY–96. As a result, the SCAQMD has instituted hiring/salary freezes, furloughs, and layoffs, has reduced its equipment purchases and contract expenditures, and has instituted new programs to reduce costs such as permit streamlining, computer-assisted permit processing, and privatization efforts.

Therefore, the SCAQMD's MOE reductions resulted from a loss of fee revenues due to circumstances beyond its control. EPA proposes to determine that the SCAQMD's lower FY–95 and FY–96 MOE levels meet the § 105(c)(2) criteria as resulting from a non-selective reduction of expenditures. Pursuant to 40 CFR 35.210, these determinations will allow the SCAQMD to keep the funds received from EPA for FY–95 and be awarded financial assistance for FY–96.

This notice constitutes a request for public comment and an opportunity for public hearing as required by the Clean Air Act. All written comments received by June 10, 1996 on this proposal will be considered. EPA will conduct a public hearing on this proposal only if a written request for such is received by EPA at the address above by June 10, 1996.

If no written request for a hearing is received, EPA will proceed to both final determinations. While notice of the final determinations will not be published in the **Federal Register**, copies of the determinations can be obtained by sending a written request to Douglas McDaniel at the above address.

Dated: May 2, 1996.

David P. Howekamp,

Director, Air and Toxics Division, U.S. EPA, Region 9.

[FR Doc. 96–11753 Filed 5–9–96; 8:45 am]

BILLING CODE 6560–60–P

[FRL–5503–5]

Acid Rain Provisions

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA today announces the allocation of allowances to small diesel refineries for desulfurization of fuel during 1995. The eligibility for and calculation of allowances to small diesel refineries is in accordance with section 410(h) of the Clean Air Act, implemented at 40 CFR 73 subpart G.

FOR FURTHER INFORMATION CONTACT: Kenon Smith, EPA Acid Rain Division (6204J), 401 M St., SW, Washington DC; telephone (202) 233–9164.

SUPPLEMENTARY INFORMATION: EPA's Acid Rain Program was established by Title IV of the Clean Air Act Amendments of 1990 (CAAA) to reduce acid rain in the continental United States. The Acid Rain Program will achieve a 50 percent reduction in sulfur dioxide (SO_2) emissions from utility units. The SO_2 reduction program is a flexible market-based approach to environmental management. As part of this approach, EPA allocates "allowances" to affected utility units. Each allowance is a limited authorization to emit up to one ton of SO_2. At the end of each calendar year, each unit must hold allowances in an amount equal to or greater than its SO_2 emissions for the year. Allowances may be bought, sold, or transferred between utilities and other interested parties. Those utility units whose annual emissions are likely to exceed their allocations may install control technologies or switch to cleaner fuels to reduce SO_2 emissions or buy additional allowances.

Section 410(h) of the Clean Air Act provides allowances for small diesel refineries that desulfurize diesel fuel from October 1, 1993 through December 31, 1999. Small refineries are not otherwise affected by the Acid Rain Program and do not need the allowances to comply with any provision of the Clean Air Act. Thus, the allowances serve as a financial benefit to small diesel refineries desulfurizing diesel fuel.

The following table lists the allowances allocated to eligible small diesel refineries for desulfurization in 1995. A total of 29,411 allowances are allocated to 19 refiners. These allowances have a compliance year of 1996.

Refiner	Refinery name or location	Allocation
Big West Oil.	Flying J, Utah	1,277
Cenex	Laurel, Montana	1,500
Crysen	Woods Cross, Utah	806
Frontier	Cheyenne, Wyoming	1,500
Gary Williams.	Bloomfield*	867
Giant	Bloomfield*	271
	Ciniza, New Mexico	1,500
Holly	Lea, New Mexico	1,500
	Navajo, New Mexico	1,500
	Montana	358
Hunt	Tuscaloosa, Alabama	1,500
Kern	Bakersfield, California	1,500
La Gloria	Tyler, Texas	1,500
Lion	El Dorado, Arkansas	1,500
Paramount	Paramount,California	1,500
Pennzoil	Atlas	1,500
	Products	512
Powerine	Santa Fe Springs	1,479
Pride	Abilene, Texas	1,316
Sinclair	Little America, Wyoming.	1,439
	Sinclair, Wyoming	1,500
	Tulsa, Oklahoma	1,500
U.S. Oil & Refining.	Tacoma, Washington	932
Witco	Golden Bear, California.	101
Wyoming Refining.	New Castle, Wyoming	553

*Gary Williams sold the Bloomfield refinery to Giant on October 4, 1995. Gary Williams is allocated allowances for production through October 3 and Giant is credited with production from October 4 through December 31.

Requests for allowances for desulfurization during 1996 are due no later than April 1, 1997. Allowances allocated in 1997 will have a compliance year of 1997.

Dated: May 3, 1996.

Brian J. McLean,

Director, Acid Rain Division.

[FR Doc. 96–11752 Filed 5–9–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5503–1]

Establishment of Federal Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2, the Office of Research and Development (ORD) at the U.S. Environmental Protection Agency (EPA) is establishing a Federal Advisory Committee (Board of Scientific Counselors) to provide expert scientific and engineering advice on the operation of its research program.

The primary functions of the Board of Scientific Counselors (BOSC) are to: Evaluate science and engineering research programs, laboratories, and research-management practices of ORD and recommend actions to improve their quality and/or strengthen their relevance to the mission of the EPA, and evaluate and provide advice concerning the utilization of peer review within ORD to sustain and enhance the quality of science in EPA.

Members of the BOSC will be appointed by the EPA's Deputy Administrator from a list of nominations supplied by the Assistant Administrator for Research and Development. ORD received nominations from its National Centers and Laboratories of highly qualified experts in the science and engineering community. The selected individuals recommended by the AA/ORD represent a cross-section of distinquished individuals with expertise in environmental science and technology. The Committee is necessary and in the public interest.

The first meeting of the BOSC will be in mid-June 1996.

FOR FURTHER INFORMATION CONTACT: Shirley R. Hamilton, Designated Federal Official, U.S. Environmental Protection Agency, Office of Research and Development, NCERQA (MC 8701), 401 M Street, SW, Washington, DC 20460, 202–260–0468.

Dated: April 30, 1996.

Robert J. Huggett,

Assistant Administrator for Research and Development.

[FR Doc. 96–11754 Filed 5–9–96; 8:45 am]

BILLING CODE 6560–50–P

[OPPTS–00183; FRL–5362–5]

Grants to Develop and Carry Out Authorized State Accreditation and Certification Programs for Lead-Based Paint Professionals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of funds availability; solicitation of applications for financial assistance.

SUMMARY: This notice announces EPA's intent to enter into cooperative agreements with states and territories and federally recognized Indian governing bodies which provide financial assistance for purposes of developing and carrying out authorized accreditation and certification programs for professionals engaged in lead-based paint activities pursuant to the Toxic Substances Control Act (TSCA), as amended by section 404(g) of the Residential Lead-Based Paint Hazard Reduction Act of 1992. The notice describes eligible activities, application procedures and requirements, and funding criteria. EPA anticipates that up to $12,500,000 will be available during federal fiscal year 1996 (FY96) for awards to eligible recipients. There are no matching share requirements for this assistance. This is the third year that funding is being made available for these grants. Subject to future budget

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limitations, EPA plans to provide this support on a continuing multi-year or program basis. All cooperative agreements will be administered by the appropriate EPA regional office.

DATES: In order to be considered for funding during the FY96 award cycle, all applications must be received by the appropriate EPA regional office on or before June 10, 1996. EPA will make its award decisions and execute its FY96 cooperative agreements by September 30, 1996.

FOR FURTHER INFORMATION CONTACT: For general information, contact: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551, e-mail: TSCA-Hotline@epamail.epa.gov. For technical information, contact the appropriate Regional Primary Lead Contact person listed in Unit V. of this notice.

SUPPLEMENTARY INFORMATION: TSCA section 404(g) authorizes EPA to award non-matching grants to states, territories, and federally-recognized Indian governing bodies to develop and carry out authorized programs for the training of individuals engaged in lead-based paint activities, the accreditation of training programs for these individuals, and the certification of contractors engaged in lead-based paint activities. To achieve authorization under Title IV of TSCA, programs must: (1) Be as protective of human health and the environment as the federal program established under TSCA section 402 or 406, or both, and (2) provide adequate enforcement. For states and territories that fail to obtain authorization within 2 years following promulgation of TSCA section 402 or 406 regulations, EPA must, by such date, administer and enforce a program for TSCA section 402 or 406.

Pursuant to Title IV of TSCA, EPA encourages states, territories, and federally-recognized Indian governing bodies to seek authorization of their own training, accreditation, and certification programs for lead-based paint activities. EPA therefore recommends that eligible parties seek funding through the TSCA section 404(g) assistance program, which is now being implemented to help achieve these ends. EPA further recommends that eligible parties plan to utilize this grant support in a way that complements any related financial assistance they may receive from other federal sources. EPA will, however, seek to ensure that all federally-funded lead activities are undertaken in a coordinated fashion.

EPA will work with prospective applicants to develop cooperative agreements which promote a variety of objectives deemed critical to the success of its national lead program. These include: (1) Permitting flexible approaches to reducing lead hazards, (2) developing a nationwide pool of qualified lead abatement professionals, (3) encouraging pollution prevention in lead-based paint activities, (4) promoting environmental justice in the reduction of lead exposures and the prevention of lead poisoning, (5) fostering the establishment of comprehensive and integrated lead management programs by states, territories and Indian governing bodies, and (6) promoting reciprocity among authorized programs in the training and certification of lead abatement professionals.

I. Eligibility

All states are eligible to apply for and receive assistance under section 404(g) of TSCA. The term "state," for purposes of eligibility, refers broadly to any state of the United States, the District of Columbia, any federally-recognized Indian governing body, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

II. Authority

The "TSCA Title IV State Lead Grants Program" is a financial assistance program administered by EPA under authority of TSCA section 404(g). Each of EPA's 10 regional administrators will be delegated the authority to enter into cooperative agreements with eligible "states." However, because EPA's authority to award 404(g) funding to Indian governing bodies is contingent upon final promulgation of the forthcoming regulations mandated under sections 402 and 404 of TSCA, EPA plans to award all funds to Indian governing bodies under authority of TSCA section 10(a) during this award cycle (FY96). Further, all references in this notice to Indian governing bodies being treated as states is contingent upon EPA's final promulgation of the regulations mandated under TSCA sections 402 and 404.

EPA recognizes that when TSCA Title IV was enacted on October 28, 1992, states had widely varying capabilities for addressing lead hazards. Individual states currently fall within one of three broad categories of program development: (1) States without lead programs, (2) states with programs that qualify for authorization that may need assistance in carrying out these programs, and (3) states with lead programs that will require modification before qualifying for authorization. Each state's need for assistance will vary, in part, according to the level of lead program development the state has attained. The type of program activity a given state seeks to pursue may also vary in a corresponding manner.

Although EPA generally supports all state activities aimed at developing or carrying out authorized state lead programs, the Agency does recognize certain priorities. Because few states presently have adequate lead program capabilities, as measured against TSCA sections 402 and 406, EPA's highest priority will be to support the development of new state programs. A second priority will be to support the continued implementation of authorized state programs. A third priority will be to support the implementation of existing state programs which do not presently qualify for authorization but which are otherwise willing to work toward timely authorization. Although these priorities do not constitute the Agency's criteria for award determinations, EPA will consider these items in its cooperative agreement negotiations with applicants.

EPA has established three general funding categories that reflect the different status, or levels, of state lead program development. They are not mutually exclusive, and it is permissible for a state's work plan to combine elements from two or more categories. Numerous examples of activities considered to be eligible for funding are described in a separate EPA publication entitled "State and Tribal Cooperative Agreement Guidance for FY 1996" (spring 1996). Copies of the grant guidance may be obtained through any of EPA's ten regional offices at the addresses listed under Unit V. of this notice. It is important to note, however, that the examples presented in the guidance are not exhaustive, and applicants are not limited in their proposals to the listed tasks. Individual state program innovations are eligible and encouraged, so long as the proposed tasks relate to the purposes set forth in TSCA section 404(g) and fit within one or more of the three general funding categories.

III. Selection Criteria

During the FY96 award cycle, EPA expects between $9,000,000 and $12,500,000 to be available for distribution to eligible applicants. The Agency will use a two-tiered system to allocate these funds. This system is aimed at achieving the broadest possible state participation, while at the same time, targeting areas with the greatest potential lead hazard and risk. It accomplishes this by providing for a tier-one distribution of "base funding," followed by a tier-two distribution of "formula funding," where additional funds are distributed based upon the relative lead burden estimated to exist within a state. Applicants with funding requirements exceeding the base allotments will be considered for receiving this apportioned additional funding based on two factors: the relative "lead burden" allocation and the applicant's demonstration of the State's progress in authorizing a training, accreditation, and certification program for lead-based paint activities.

Each state and the District of Columbia (excluding territories and federally-recognized Indian governing bodies) that submits a qualifying proposal will be entitled to a base funding allotment of $100,000. In addition, base funding of up to $50,000 will be reserved for each of the four "territories" (used generically in this context) that have been administratively assigned to an EPA regional office and that have historically participated in EPA toxics cooperative agreement programs. These "base" territories include the U.S. Virgin Islands (Region 2), the Commonwealth of Puerto Rico (Region 2), Guam (Region 9), and American Samoa (Region 9). The two remaining "non-base" territories, the Canal Zone and the Northern Mariana Islands, are also eligible to apply for funding up to $50,000 apiece, but are not considered in determining the base funding allotments. Base allotments are primarily intended to ensure that those states and base territories wishing to pursue authorization under TSCA section 404 will be guaranteed a minimum level of funding for this purpose. Any unsubscribed base funding will be added to the formula funds pool.

Once base funding allotments have been reserved for all eligible applicants, remaining funds will be treated as "formula funds." Before applying the lead burden formula, however, EPA will set-aside an amount not to exceed $1,500,000 for Federally recognized Indian governing bodies. Indian governing body will be given funding based upon tribal population and if an Indian governing body received funding in the FY 1994 and/or FY 1995 grant process, they will be supported to the same extent in FY96 process. EPA cannot reliably predict the level of participation from Indian governing bodies and non-base territories; therefore, where these eligible parties do apply for funds, they will be assigned to an appropriate regional office for administrative oversight, and that regional office will become responsible for determining the appropriate level of funding. These parties, however, will not receive a formula ranking, and will not be eligible to compete for additional formula allocations based upon lead burden calculations.

As a third step, states and base territories with funding requirements exceeding their base allotments can be given apportioned additional sums based upon their relative lead burden and the progress they have made toward establishing a training, certification, and accreditation program. In calculating lead burden for the formula rankings, EPA used readily available data derived from the 1990 Census of Population and Housing, together with other data from the U.S. Department of Housing and Urban Development (HUD). The formula uses four factors to generate an estimate of the potential lead problem, or "lead burden," in each state. Two of these factors, the number of housing units with lead-based paint and the number of children under age 7, express the potential magnitude of the lead problem. The remaining two factors, the fraction of young children in poverty and the fraction of low-income housing units with lead-based paint, express the potential severity of the problem.

In determining formula rankings, each state and base territory is scored independently for each factor, and the four individual factor scores for the state or base territory are then summed to obtain an overall score for that state or base territory (a combined factor score). The combined factor scores of all states and base territories applying for formula funds (or amounts in excess of their base allotment) are then summed, and the percentage of the total sum represented by the individual state's or base territory's score is then identified. When the total formula funding available is then multiplied by the percentage score of an individual state or territory, the state's or base territory's ceiling formula allotment can be obtained. For example, assume that $12,500,000 are available and: (1) All 50 states but none of the base territories apply for formula allotments, (2) state X has a percentage score of 2 percent, and (3) a total of $4,000,000 in formula funding is available. In determining how much money to allot to state X, EPA would multiply $4,000,000 by .02. The product, $80,000, represents the maximum additional funding that could be awarded to state X to supplement its base allocation. State X would then qualify for up to $180,000 in total funding for the fiscal year ($100,000 in base funding + $80,000 in formula funding).

In general, the maximum, or ceiling, formula allotments will fluctuate inversely with the number of applicants. The greater the number of applicants, the lower the ceiling will tend to be, and vice versa. Formula allotments will be determined only after the annual application deadline has passed and EPA has full knowledge of the total amount of funds requested. If one or more states or base territories request formula fund amounts below their ceiling allotments, residual formula funds will be available. Where this situation develops, if there are still other states or base territories with unfunded needs, the formula will be run again. This procedure can be repeated until all formula funds have been fully allotted.

IV. Submission Requirements

To be considered for funding, each application must include, at a minimum, the following forms and certifications which are contained in EPA's "Application Kit for Assistance": (1) Standard Form 424 (Application for Federal Assistance), (2) EPA Form 5700–48 (Procurement Certification), (3) Drug-Free Workplace Certification, (4) Debarment and Suspension Certification, (5) Disclosure of Lobbying Activities, and (6) a return mailing address. In addition to these standard forms, each application must also include a work program, a detailed line-item budget with sufficient information to clearly justify costs, a list of work products or deliverables, and a schedule for their completion. Work programs are to be negotiated between applicants and their EPA regional offices to ensure that both EPA and state priorities can be addressed. In addition, any application from a state, territory or Indian governing body without an authorized program must demonstrate how the proposed activities will lead to that state's pursuit of authorization. Finally, any applicant proposing the collection of environmentally related measurements or data generation must adequately address the requirements of 40 CFR 31.45 relating to quality assurance/quality control. These requirements are more specifically outlined in the "Guidance Document for the Preparation of Quality Assurance Project Plans" (May 1993) published by EPA's Office of Pollution Prevention and Toxics. This document, as well as the application kits referred to above, may be obtained from EPA's regional offices.

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V. Application Procedures and Schedule

Applications must be submitted to the appropriate EPA regional office in duplicate; one copy to the regional lead program branch and the other to the regional grants management branch. Early consultations are recommended between prospective applicants and their EPA regional offices. Because TSCA Title IV cooperative agreements will be administered at the regional level, these consultations can be critical to the ultimate success of a state's project or program.

For more information about this financial assistance program, or for technical assistance in preparing an application for funding, interested parties should contact the Regional Primary Lead Contact person in the appropriate EPA regional office. The mailing addresses and contact telephone numbers for these offices are listed below.

Region I: (Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont), JFK Federal Building, One Congress St., Boston, MA 02203. Telephone: (617) 565–3836 (Jim Bryson)
Region II: (New York, New Jersey, Puerto Rico, Virgin Islands), Building 5, SDPTSB, 2890 Woodbridge Ave., Edison, NJ 08837–3679. Telephone: (908) 321–6671 (Lou Bevilacqua)
Region III: (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia), 841 Chestnut Bldg., Philadelphia, PA 19107. Telephone: (215) 597–2450 (Gerallyn Valls)
Region IV: (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), 345 Courtland St., NE, Atlanta, GA 30365. Telephone: (404) 347–3555, ext. 6916 (Roseanne Rudd)
Region V: (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), SP–14J, 77 W. Jackson St., Chicago, IL 60604. Telephone: (312) 886–7836 (David Turpin)
Region VI: (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), 12th Floor, Suite 2000, 1445 Ross Ave., Dallas, TX 75202. Telephone: (214) 665–7577 (Jeff Robinson)
Region VII: (Iowa, Kansas, Missouri, Nebraska), TOPE/TSC, 726 Minnesota Ave., Kansas City, KS 66101. Telephone: (913) 551–7518 (Mazzie Talley)
Region VIII: (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), 999 18th St., Suite 500, Denver, CO 80202. Telephone: (303) 312–6021 (David Combs)
Region IX: (Arizona, California, Hawaii, Nevada, American Samoa, Guam), 75 Hawthorne St., San Francisco, CA 94105. Telephone: (415) 744–1129 (Larry Biland)
Region X: (Alaska, Idaho, Oregon, Washington), Toxics Section, 1200 Sixth Ave., Seattle, WA 98101. Telephone: (206) 553–1985 (Barbara Ross)

The deadline for EPA's receipt of final FY96 applications is June 10, 1996. Once the application deadline has passed, EPA will process the formula funding calculations and determine the initial formula ceiling allocations. Final negotiations for the award of cooperative agreements can then proceed, but all FY96 agreements must be executed no later than September 30, 1996.

List of Subjects

Environmental protection, Grants, Lead, Training and accreditation.

Dated: May 2, 1996,

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 96–11782 Filed 5–9–96; 8:45 am]
BILLING CODE 6560–50–F

[OPP–30396B; FRL–5367–1]

Lakeshore Enterprises; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications to register the pesticide products Green Screen Bags and Green Screen Powder, containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Julie Fry, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8673; e-mail: fry.julie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of November 1, 1995 (60 FR 55577), which announced that Lakeshore Enterprises 2804 Benzie Highway, Benzonia, MI 49616, had submitted applications to register the products Green Screen Bags and Green Screen Powder (File Symbols 69090–R and 69090–E), containing the active ingredient meat meal at 99 percent. The company later published a notice in the **Federal Register** of February 7, 1996 (61 FR 4662) amending the active ingredient for both products to include red pepper at 1 percent, active ingredients not included in any previously registered products.

The applications were approved on March 19, 1995, as Green Screen Bags (EPA Reg. No. 69090–1) and Green Screen Powder (EPA Reg. No. 69090–2) for agricultural, vegetable, ornamental, turf, tree, vine, and other terrestrial crop uses.

The Agency has considered all required data on risks associated with the proposed use of meat meal and red pepper, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health safety determinations which show that use of meat meal and red pepper when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

More detailed information on these registrations is contained in an EPA Pesticide Fact Sheet on meat meal and red pepper.

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1132, CM #2, Arlington, VA 22202 (703–305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: April 25, 1996.

Flora Chow,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 96–11619 Filed 5–9–96; 8:45 am]
BILLING CODE 6560–50–F

[OPP–181011; FRL–5367–2]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to 11 States listed below. A quarantine exemption was granted to the United States Department of Agriculture. These exemptions, issued during the month of March 1996, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. EPA has denied specific exemption requests. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific and quarantine exemption for its effective date.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, CS 1B1, 2800 Jefferson Davis Highway, Arlington, VA (703–308–8417); e-mail: group.ermus@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arizona Department of Agriculture for the use of imidacloprid on spinach to control aphids; March 15, 1996, to April 15, 1996. Arizona had initiated a crisis exemption for this use. (Margarita Collantes)
2. California Department of Pesticide Regulation for the use of imidacloprid on spinach to control aphids; March 15, 1996, to March 30, 1996. California had initiated a crisis exemption for this use. (Margarita Collantes)
3. California Department of Pesticide Regulation for the use of maneb on walnuts to control bacterial blight; March 15, 1996, to June 15, 1996. (Dave Deegan)
4. California Department of Pesticide Regulation for the use of methyl bromide on sweet potatoes to control nematodes; March 16, 1996, to March 15, 1997. (Libby Pemberton)
5. California Department of Pesticide Regulation for the use of cymoxanil on tomatoes to control late blight; March 14, 1996, to March 14, 1997. (Libby Pemberton)
6. Delaware Department of Agriculture for the use of metolachlor on spinach to control weeds; March 26, 1996, to January 31, 1997. (Margarita Collantes)
7. Florida Department of Agriculture and Consumer Services for the use of dimethomorph on tomatoes to control late blight; March 14, 1996, to March 13, 1997. (Libby Pemberton)
8. Florida Department of Agriculture and Consumer Services for the use of propamocarb hydrochloride on tomatoes to control late blight; March 14, 1996, to March 13, 1997. (Libby Pemberton)
9. Minnesota Department of Agriculture for the use of sodium bentazon on peas to control canada thistle; March 14, 1996, to July 15, 1996. (Andrea Beard)
10. Oregon Department of Agriculture for the use of ethoprop on hops to control garden symphlans; March 15, 1996, to May 30, 1996. (Margarita Collantes)
11. South Carolina Department of Fertilizer and Pesticide Control for the use of Pirate on cotton to control beet armyworms; March 15, 1996, to September 30, 1996. (Margarita Collantes)
12. Texas Department of Agriculture for the use of carbofuran on cotton to control cotton aphids; March 15, 1996, to September 15, 1996. (Dave Deegan)
13. Texas Department of Agriculture for the use of Pirate on cotton to control beet armyworms; March 1, 1996, to September 30, 1996. (Margarita Collantes)
14. Virginia Department of Agriculture and Consumer Services for the use of imidacloprid on spinach to control aphids; March 15, 1996, to October 31, 1996. (Margarita Collantes)
15. Washington Department of Agriculture for the use of chlorpyrifos on grapes to control mealybugs and cutworms; March 13, 1996, to August 15, 1996. (Andrea Beard)
16. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of mancozeb on ginseng to control stem and leaf blight; March 6, 1996, to August 31, 1996. A notice published in the **Federal Register** of March 6, 1996 (61 FR 8933). For the previous 3 years an emergency exemption has been requested and, a complete application for registration of this use has not been submitted to the Agency. In addition, this emergency exemption has been subject to Special Review. However, without the use of mancozeb significant economic losses would occur. (Margarita Collantes)

EPA has granted a quarantine exemption to the United States Department of Agriculture for the use of methyl bromide on various imported commodities to control various foreign pests at United States ports of entry; March 4, 1996, to March 3, 1999. USDA had initiated crisis exemptions for this use. (Libby Pemberton)

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: May 1, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–11620 Filed 5–9–96; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:00 a.m. on Tuesday, May 7, 1996, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Joseph N. Neely (Appointive), concurred in by Director Eugene A. Ludwig (Comptroller of the Currency), Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of

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the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsection (c)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: May 7, 1996.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 96–11920 Filed 5–8–96; 12:34 pm]

BILLING CODE 6714–01–M

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 9:00 a.m. on Tuesday, May 14, 1996, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by an officer of the Corporation pursuant to authority delegated by the Board of Directors.

Memorandum re: 1995 Year-End Financial Management Report.

Memorandum re: Corporate Investment Portfolio Status Report.

Memorandum re: First Quarter 1996 Financial Statements.

Memorandum and resolution re: Final amendments to Part 336 of the Corporation's rules and regulations, entitled "Employee Responsibilities and Conduct."

Memorandum and resolution re: Rescission of the Corporation's Statement of Policy and Guidelines for Investments in "Leeway Securities," and its Guidelines for Implementing a Policy of Capital Forbearance.

Discussion Agenda

Memorandum and resolution re: Notice regarding Bank Insurance Fund Semiannual Assessment Rates.

Memorandum and resolution re: Notice regarding Savings Association Insurance Fund Semiannual Assessment Rates.

Memorandum and resolution re: Advance notice of proposed rulemaking on possible revisions to Part 330 of the Corporation's rules and regulations, entitled "Deposit Insurance Coverage," which seeks comment on whether the deposit insurance rules should be simplified and, if so, how.

Memorandum and resolution re: Advance notice of proposed rulemaking which seeks comment on certain issues relating to the recordkeeping and confirmation requirements for securities transactions currently set forth in Part 344 of the Corporation's rules and regulations, entitled "Recordkeeping and Confirmation Requirements for Securities Transactions."

Memorandum and resolution re: Joint Policy Statement on Interest Rate Risk which identifies the key elements of sound interest rate risk management and describes prudent principles and practices for each of those elements.

Memorandum re: Proposed memorandum of Understanding between the FDIC and FICO Regarding the Collection of Assessments.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2449 (Voice); (202) 416–2004 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Jerry L. Langley, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: May 7, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–11921 Filed 5–8–96; 12:34 pm]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Board of Visitors for the National Fire Academy

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10 (a) (2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, FEMA announces the following committee meeting:

Name: Board of Visitors for the National Fire Academy.

Dates of Meeting: June 27–29, 1996.

Place: Building G Conference Room, National Emergency Training Center, Emmitsburg, Maryland.

Time: June 27, 1996, 8:30 a.m.–5:00 p.m. June 28, 1996, 8:30 a.m.–9:00 p.m. June 29, 1996, 8:30 a.m.–5:00 p.m.

Proposed Agenda: June 27–29: Conduct the On Campus Program Survey and Review the Fiscal Year 1996 and 1997 Budgets.

Supplementary Information: The meeting will be open to the public with seating available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, National Fire Academy, U.S. Fire Administration, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1117, on or before June 10, 1996.

Minutes of the meeting will be prepared and will be available for public viewing in the Office of the Administrator, U.S. Fire Administration, Federal Emergency Management Agency, Emmitsburg, MD 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: April 12, 1996.

Carrye B. Brown,

U.S. Fire Administrator.

[FR Doc. 96–11743 Filed 5–9–96; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 24, 1996.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Ken Bass, McAlester, Oklahoma; to acquire a total of 10 percent; Gary Fugitt, McAlester, Oklahoma, to acquire a total of 50 percent; and Jerry Fugitt, McAlester, Oklahoma, to acquire a total of 40 percent, of the voting shares of Wilburton State Bancshares, Inc., Wilburton, Oklahoma, and thereby indirectly acquire Wilburton State Bank, Wilburton, Oklahoma.

Board of Governors of the Federal Reserve System, May 6, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–11717 Filed 5–9–96; 8:45 am]

BILLING CODE 6210–01–F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 4, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Carroll County Bancshares, Inc., Carroll, Iowa; to acquire 100 percent of the voting shares of Nevada Community Bancsahres, Inc., Nevada, Iowa, and thereby indirectly acquire Community Bank, Nevada, Iowa (in organization).

In connection with this application, Nevada Community Bancshares, Inc., Nevada, Iowa, has applied to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank, Nevada, Iowa (in organization).

2. UnionBancorp, Inc., Streator, Illinois; to acquire 100 percent of the voting shares of Prairie Bancorp, Inc., Princeton, Illinois, and thereby indirectly acquire Farmers State Bank of Ferris, Ferris, Illinois; Hanover State Bank, Hanover, Illinois; Bank of Ladd, Ladd, Illinois; First National Bank of Manlius, Manlius, Illinois; Tampico National Bank, Tampico, Illinois; Tiskilwa State Bank, Tiskilwa, Illinois; and and Country Bancshares, Inc., Hull, Illinois, and thereby indirectly acquire Omni Bank, Macomb, Illinois.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. State National Bancshares, Inc., Lubbock, Texas, and State National Bancshares of Delaware, Dover, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of State National Bancshares of Delaware, Dover, Delaware, and State National Bank of West Texas, Lubbock, Texas, a *de novo* bank.

Board of Governors of the Federal Reserve System, May 6, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–11718 Filed 5–9–96; 8:45 am]

BILLING CODE 6210–01–F

MTB Bank; De Novo Corporation to do Business Under Section 25A of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under Section 25A of the Federal Reserve Act (Edge Corporation) 12 U.S.C. § 611 *et seq.* The Edge Corporation will operate as a subsidiary of the applicant, MTB Bank, New York, New York. The factors that are to be considered in acting on the application are set forth in the Board's Regulation K (12 CFR 211.4).

The application may be inspected at the Federal Reserve Bank of New York or at the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Comments regarding the application must be received by the Reserve Bank indicated or at the offices of the Board of Governors no later than June 7, 1996.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. MTB Bank, New York, New York; to establish MTB International Investment Corporation, New York, New York, a *de novo* Edge Corporation pursuant to Section 25A of the Federal Reserve Act.

Board of Governors of the Federal Reserve System, May 6, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–11719 Filed 5–9–96; 8:45 am]

BILLING CODE 6210–01–F

Government in the Sunshine; Meeting Notice

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, May 15, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda: Because of their routine nature, no discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Publication for comment of proposed amendments to the Federal Reserve Board's risk-based capital guidelines concerning treatment of collateral transactions.

2. Publication for comment of proposed technical and clarifying amendments to Regulation CC (Availability of Funds and Collection of Checks).

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3. Publication for comment of proposed amendments to Regulation Z (Truth in Lending) concerning lenders' liability for disclosure errors in real estate-secured loans and new disclosure rules for debt cancellation contracts.

4. Any items carried forward from a previously announced meeting.

Discussion Agenda: Please note that no discussion items are scheduled for this meeting.

Note: If an item is moved from the Summary Agenda to the Discussion Agenda, discussion of the item will be recorded. Cassettes will then be available for listening in the Board's Freedom of Information Office, and copies can be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: May 8, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–11869 Filed 5–8–96; 12:28 pm]

BILLING CODE 6210–01–P

Government in the Sunshine; Meeting Notice

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: Approximately 10:15 a.m., Wednesday, May 15, 1996, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 8, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–11870 Filed 5–8–96; 12:28 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions, and Delegations of Authority

Under the authority of Section 6 of Reorganization Plan No. 1 of 1953 and Section 2 of Reorganization Plan No. 3 of 1966, and pursuant to the authorities vested in me as Secretary of Health and Human Services, I hereby make the following changes within the Department of Health and Human Services that affects the U.S. Public Health Service. This Notice amends Part A, Office of the Secretary, Chapter AC, Office of Public Health and Science, as last amended at 60 FR 56605–06. The change is to include the Regional Health Administrator (Regions I–X) and associated staff as part of the Public Health Service. The change follows:

Delete paragraph "VI. Continuation of the Public Health Service," in its entirety and replace with the following:

VI. Continuation of the Public Health Service. The newly established Operating Divisions, the Office of Public Health and Science, and the Regional Health Administrator (Regions I–X) and associated staff shall constitute the Public Health Service.

Dated: April 30, 1996.

Donna E. Shalala,

Secretary.

[FR Doc. 96–11703 Filed 5–9–96; 8:45 am]

BILLING CODE 4150–04–M

Centers for Disease Control and Prevention

[Announcement Number 617]

National Institute for Occupational Safety and Health; Occupational Radiation and Energy-Related Health Research Grants; Notice of Availability of Funds for Fiscal Year 1996

Introduction

The Centers for Disease Control and Prevention (CDC), National Institute for Occupational Safety and Health (NIOSH), announces that applications are being accepted for research projects relating to occupational safety and health concerns associated with occupational exposures to radiation and other hazardous agents at nuclear facilities and in other energy-related industries. Studies in the nuclear power industry and deliberate exposure of human subjects in radiation experiments are outside the scope of this announcement.

CDC is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2000," a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering a copy of "Healthy People 2000," see the section "Where to Obtain Additional Information.")

Authority

This program is authorized under the Public Health Service Act, as amended, Section 301(a) (42 U.S.C. 241(a)); the Occupational Safety and Health Act of 1970, Section 20 (a) (29 U.S.C. 669(a)). The applicable program regulations include 42 CFR Parts 52 and 74.

Eligible Applicants

Eligible applicants include domestic and foreign non-profit and for-profit organizations, universities, colleges, research institutions, and other public and private organizations, including State and local governments and small, minority and/or woman-owned businesses.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Availability of Funds

Approximately $500,000 is available in fiscal year (FY) 1996 to fund approximately 3 to 5 research project grants. The amount of funding available may vary and is subject to change. Awards will range from $25,000 to $200,000 in total costs (direct and indirect) per year. Awards are expected to begin on or about September 1, 1996. Awards will be made for a 12-month budget period within a project period not to exceed 3 years. Continuation awards within the project period will be made on the basis of satisfactory progress and availability of funds.

Purpose

NIOSH will support hypothesis-testing research projects to identify and investigate the relationships between health outcomes and occupational exposure to radiation and other hazardous agents, epidemiologic methods research relevant to energy-related occupational health research, and research related to assessing occupational exposures.

Programmatic Interest

The focus of grants should emphasize field research in the following topical areas: (1) Retrospective exposure assessment, (2) radiation measurement issues, (3) non-cancer morbidity and mortality outcomes, (4) meta-analysis and combined analysis methodologies, (5) uncertainty analysis, and (6) studies of current workers.

(1) Retrospective Exposure Assessment

Epidemiologic studies of occupational cohorts frequently involve, and can generally benefit from, retrospective exposure assessment to provide estimates of exposure or categorize groups of workers by common exposure. Exposure assessment in energy-related occupational epidemiology requires evaluating exposures to various hazards including ionizing and non-ionizing radiation, metals, acids, and solvents. Grant opportunities encompass the fields of industrial hygiene and retrospective exposure assessment of health physics dosimetry. Research areas of general interest include investigations of: Methods to use limited data to best advantage, how to treat censored data in retrospective exposure assessment, uncertainty analysis techniques for industrial hygiene exposure data and health physics dosimetry, sampling strategy design to yield a representative understanding of exposed groups, decision logic to select and use the most appropriate exposure metric for epidemiologic and risk assessment use, and, development approaches of "Homogeneous Exposed Groupings" and the advantages and limitations for epidemiologic use. Research opportunities of specific interest include: reconstruction and dose adjustment of historic film badges; exposure assessment for acid mists, carcinogenic solvents, exotic metals, and leukemogens; assessment of electromagnetic field exposure; and evaluation of biomarkers of exposure.

(2) Radiation Measurement Issues

This topic will focus on the applicability and utility of both internal and external radiation dose data in epidemiologic research. Examples of such issues include how to use nondetectable values, missing dose data in historical radiation exposure measurements, and the accuracy of historical external dosimetry techniques (film and pocket dosimeters). Additional issues of interest include the use, utility and limitations of internal dosimetry data (historical bioassay and radiochemistry techniques) in epidemiologic studies.

(3) Non-Cancer Morbidity and Mortality Outcomes

The majority of analytical epidemiologic research of health effects of energy-related occupational and environmental exposures has focused historically on the assessment of the association between cancer mortality and exposure to ionizing radiation. Although the importance of this research should not be underestimated, it is essential that other potential adverse health effects, as well as other possible energy-related exposures, be thoroughly evaluated as well. Among these are the possible effects of radiation on the reproductive, neurologic, and immune systems. Chemical exposures highly prevalent in Department of Energy facilities, such as exposures to beryllium and mercury, have also been associated with a variety of disease outcomes, particularly respiratory and neurologic in nature.

(4) Meta-Analysis and Combined Analysis Methodologies

Many of the cohorts at nuclear facilities are not individually large enough to detect statistically significant increases in mortality or incidence for rare cancer types. Methods and analyses for combining data across studies, whether in summary form or as individual data, are valuable to the NIOSH research effort involving energy-related health research.

(5) Uncertainty Analysis

Measures of occupational exposure are inherently uncertain. Even when measures of external radiation exposure are generally available, the models used to estimate organ dose, shallow versus deep dose, neutron dose, etc., are subject to error. Measures of dose derived from biological monitoring of urine, feces, blood, etc., are even less precise. Methods for assessing the degree of error in various estimates of exposure to both ionizing radiation as well as other toxic agents (chemicals, EMF, etc.) are desirable.

(6) Studies of Current Workers

Much of the epidemiologic research on nuclear workers conducted at nuclear facilities and other sites has emphasized retrospective studies. More recently new activities involve environmental restoration, waste management and other work that is not related to the design and production of nuclear weapons. Workers are being exposed to radiation and other hazardous agents under conditions and in processes not previously encountered. Hypothesis-testing research in the areas of exposure assessment, epidemiologic and related studies are needed to evaluate these new conditions and processes and the impact on worker health.

Women and Minority Inclusion Policy

It is the policy of the CDC to ensure that women and racial and ethnic groups will be included in CDC supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian, Alaskan Native, Asian, Pacific Islander, Black and Hispanic. Applicants shall ensure that women and racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is not feasible, this situation must be explained as part of the application. In conducting the review of applications for scientific merit, review groups will evaluate proposed plans for inclusion of minorities and both sexes as part of the scientific assessment and assigned score. This policy does not apply to research studies when the investigator cannot control the race, ethnicity and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, Friday, September 15, 1995, pages 47947–47951.

Evaluation Criteria

Upon receipt, applications will be reviewed by CDC for completeness and responsiveness. Applications determined to be incomplete or unresponsive to this announcement will be returned to the applicant without further consideration. If the proposed project involves organizations or persons other than those affiliated with the applicant organization, letters of support and/or cooperation must be included.

Applications that are complete and responsive to the announcement will be evaluated for scientific and technical merit by an appropriate peer review group convened by CDC in accordance with the review criteria stated below. As part of the initial merit review, a process may be used by the initial review group

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in which applications will be determined to be competitive or non-competitive based on their scientific merit relative to other applications received in response to this announcement. Applications judged to be competitive will be discussed and assigned a priority score. Applications determined to be non-competitive will be withdrawn from further consideration and the principal investigator/program director and the official signing for the applicant organization will be promptly notified.

Review criteria for this announcement are as follows:

—Scientific, technical, or medical significance and originality of proposed research;
—Appropriateness and adequacy of the experimental approach and methodology proposed to carry out the research;
—Qualifications and research experience of the Principal Investigator and staff, particularly but not exclusively in the area of the proposed research;
—Availability of resources necessary to perform the research;
—Adequacy of plans to include both sexes and minorities and their subgroups as appropriate for the scientific goals of the research. Plans for the recruitment and retention of subjects will also be evaluated.

The review group will critically examine the submitted budget and will recommend an appropriate budget and period of support for each scored application.

In the secondary (programmatic importance) review, the following factors will be considered:

1. Results of the initial review;
2. Magnitude of the problem in terms of numbers of workers affected;
3. Severity of the disease or injury in the worker population; and
4. Usefulness to applied technical knowledge in the identification, evaluation, and/or control of occupational safety and health hazards.

Applicants will compete for available funds with all other approved applications. The following will be considered in making funding decisions:

1. Quality of the proposed project as determined by peer review;
2. Availability of funds; and
3. Program balance among research areas of the announcement.

Executive Order 12372 Review

Applications are not subject to the review requirements of Executive Order 12372, entitled Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirement

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.262.

Other Requirements

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations (45 CFR Part 46) regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

Confidentiality Agreement

To comply with the routine uses allowing access to Department of Energy (DOE) Privacy Act systems of records, grantees who will be accessing DOE records to conduct epidemiologic studies and/or other public health activities on behalf of NIOSH will be asked to sign a written statement that documents data security procedures to be maintained by the grantee and an agreement to comply with the privacy and confidentiality requirements of the Privacy Act routine uses and the Memorandum of Understanding between the Department of Energy and the Department of Health and Human Services.

Application Submission and Deadlines

A. Preapplication Letter of Intent

Although not a prerequisite of application, a non-binding letter of intent-to-apply is requested from potential applicants. The letter should be submitted to the Grants Management Officer (whose address is reflected in section B, "Applications"). It should be postmarked no later than June 10, 1996. The letter should identify the announcement number, name of principal investigator, and specify the priority area to be addressed by the proposed project. The letter of intent does not influence review or funding decisions, but it will enable CDC to plan the review more efficiently, and will ensure that each applicant receives timely and relevant information prior to application submission.

B. Applications

Applicants should use Form PHS–398 (OMB Number 0925–0001) and adhere to the ERRATA Instruction Sheet for Form PHS–398 contained in the Grant Application Kit. Please submit an original and five copies on or before July 10, 1996 to: Ron Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, (CDC), 255 East Paces Ferry Road, NE., Room 300, MS–E13, Atlanta, GA 30305.

C. Deadlines

1. Applications shall be considered as meeting a deadline if they are either:

A. Received at the above address on or before the deadline date, or

B. Sent on or before the deadline date to the above address, and received in time for the review process. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailings.

2. Applications which do not meet the criteria above are considered late applications and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked your name, address, and phone number and will need to refer to Announcement 617. In addition, this announcement is also available through the CDC Home Page on the Internet. The address for the CDC Home Page is http://www.cdc.gov. You will receive a complete program description, information on application procedures, and application forms. If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Georgia Jang, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., MS–E13, Atlanta, GA 30305, telephone (404) 842–6796; fax: 404–842–6513; internet: glj2@opspgo1.em.cdc.gov. Programmatic technical assistance may be obtained from Roy M. Fleming, Sc.D., Associate Director for Grants, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Building 1, Room 3053, MS–D30, Atlanta, GA 30333, telephone: 404–639–3343; fax: 404–639–4616; internet: rmf2@niood1.em.cdc.gov.

Please Refer to Announcement Number 617 When Requesting Information and Submitting an Application

Potential applicants may obtain a copy of "Healthy People 2000" (Full Report, Stock No. 017–001–00474–0) or "Healthy People 2000" (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: May 2, 1996.

Donald L. Holderman,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–11670 Filed 5–9–96; 8:45 am]

BILLING CODE 4163–19–P

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Welfare Reform Demonstration: Special Application Form.

OMB No.: 0970–0134.

Description: The form will be used by State welfare agencies to apply for federal waivers under the 30-day waiver approval process proposed by the President in his July 31, 1995, speech to the National Governors' Association. Under the process, requests for waivers of federal law for welfare demonstration projects falling within any of five broad policy areas will be approved by the federal government within 30 days of receipt of this request.

Respondents: State governments.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Form	54	1	.75	40.5

Estimated Total Annual Burden Hours: 40.5.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Dated: April 19, 1996.

Roberta Katson,

Director, Office of Information Resource Management Services.

[FR Doc. 96–11702 Filed, 5–9–96; 8:45 am]

BILLING CODE 4184–01–M

Food and Drug Administration

[Docket No. 96F–0136]

Johnson Matthey Chemicals; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Johnson Matthey Chemicals has filed a petition proposing that the food additive regulations be amended to provide for the safe use of silver chloride-coated titanium dioxide as a preservative in polymeric coatings for polyolefin films intended for use in contact with food.

DATES: Written comments on petitioner's environmental assessment by June 10, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 6B4503) has been filed on behalf of Johnson Matthey Chemicals, c/o Technical Assessment Systems, Inc., The Flour Mill, 1000 Potomac St. NW., Washington, DC 20007. The petition proposes to amend the food additive regulations in § 175.320 *Resinous and polymeric coatings for polyolefin films* (21 CFR 175.320) to provide for the safe use of silver chloride-coated titanium dioxide as a preservative in polymeric coatings for polyolefin films intended for use in contact with food.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before June 10, 1996, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register.** If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

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Dated: April 23, 1996.

Eugene C. Coleman,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–11789 Filed 5–9–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[R–66]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Reinstatement, without change, of previously approved collection for which approval has expired; *Title of Information Collection:* Hospice Core Service: Nursing Information Collection; *Form No.:* HCFA–R–66; *Use:* Hospice applying for a waiver to the nursing core services requirements must submit documentation to HCFA supporting their request. *Frequency:* Other, one time only; *Affected Public:* Business or other for-profits and Not-for-profit institutes; *Number of Respondents:* 1; *Total Annual Responses:* 1; *Total Annual Hours Requested:* 1.

To request copies of the proposed paperwork collections referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: May 2, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–11651 Filed 5–9–96; 8:45 am]

BILLING CODE 4120–03–P

National Institutes of Health

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review Small Business Innovation Research.
Name of SEP: Biological and Physiological Sciences.
Date: May 14–15, 1996.
Time: 9:00 a.m.
Place: Savory Suites Hotel, Washington, DC.
Contact Person: Dr. Anita Sostek, Scientific Review Administrator, 6701 Rockledge Drive, Room 5202, Bethesda, Maryland 20892, (301) 435–1260.

Name of SEP: Biological and Physiological Sciences.
Date: May 15, 1996.
Time: 11:00 a.m.
Place: Savoy Suites Hotel, Washington, DC.
Contact Person: Dr. Anita Sostek, Scientific Review Administrator, 6701 Rockledge Drive, Room 5202, Bethesda, Maryland 20892, (301) 435–1260.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Chemistry and Related Sciences.
Date: June 16–18, 1996.
Time: 8:00 a.m.
Place: Bethesda Hyatt, Bethesda, MD.
Contact Person: Dr. Marjam Behar, Scientific Review Administrator, 6701 Rockledge Drive, Room 5218, Bethesda, Maryland 20892, (301) 435–1180.

Name of SEP: Clinical Sciences.
Date: July 17, 1996.
Time: 8:00 a.m.
Place: Double Tree Hotel, Rockville, MD.
Contact Person: Dr. Gertrude McFarland, Scientific Review Administrator, 6701 Rockledge Drive, Room 4110, Bethesda, Maryland 20892, (301) 435–1284.

Purpose/Agenda: To review individual grant applications.
Name of SEP: Behavioral and Neurosciences.
Date: May 17, 1996.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 5172, Telephone Conference.
Contact Person: Dr. Leonard Jakubczak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5172, Bethesda, Maryland 20892, (301) 435–1247.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Chemistry and Related Sciences.
Date: June 17, 1996.
Time: 8:00 a.m.
Place: Bethesda Hyatt, Bethesda, MD.
Contact Person: Dr. Marjam Behar, Scientific Review Administrator, 6701 Rockledge Drive, Room 5218, Bethesda, Maryland 20892, (301) 435–1180.

Name of SEP: Biological and Physiological Sciences.
Date: June 19–21, 1996.
Time: 8:30 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Lynwood Jones, Scientific Review Administrator, 6701 Rockledge Drive, Room 4192, Bethesda, Maryland 20892, (301) 435–1153.

Name of SEP: Behavioral and Neurosciences.
Date: June 26–28, 1996.
Time: 8:00 a.m.
Place: The Jefferson Hotel, Washington, DC.
Contact Person: Dr. David Simpson, Scientific Review Administrator, 6701 Rockledge Drive, Room 5192, Bethesda, Maryland 20892, (301) 435–1278.

Name of SEP: Micobiological and Immunological Sciences.
Date: July 11–12, 1996.
Time: 8:00 a.m.
Place: Holiday Inn, Bethesda, MD.
Contact Person: Dr. Jean Hickman, Scientific Review Administrator, 6701 Rockledge Drive, Room 4178, Bethesda, Maryland 20892, (301) 435–1146.

The meetings will be closed in accordance with the provisions set fort in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: May 3, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–11642 Filed 5–9–96; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the following meetings of the SAMHSA Special Emphasis Panel II in May.

A summary of the meetings may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA Office of Extramural Activities Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301) 443–4783.

Substantive program information may be obtained from the individual named as Contact for each meeting listed below.

The first meeting will include the review, discussion and evaluation of individual grant applications. This discussion could reveal personal information concerning individuals associated with the applications. Accordingly, the meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.
Meeting Date: May 7, 1996.
Place: Room 12C–26—Telephone Conference, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852.
Open: May 7, 1996, 12:30 p.m.–1 p.m.
Closed: May 7, 1996, 1:00 p.m.–4:00 p.m.
Contact: Wendy B. Davis, Room 17–89, Parklawn Building, Telephone: (301) 443–9912 and FAX: (301) 443–3437.

The other meetings will include the review, discussion and evaluation of individual contract proposals. These discussions could reveal personal information concerning individuals associated with the proposals and confidential and financial information about an individual's proposal. The discussion may also reveal information about procurement activities exempt from disclosure by statute and trade secrets and commercial or financial information obtained from a person and privileged and confidential. Accordingly, the meetings are concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b (c) (3), (4), and (6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.
Meeting Date: May 8, 1996.
Place: Parklawn Building—Conference Room "N", 5600 Fishers Lane, Rockville, Maryland 20852.
Closed: May 8, 1996, 10:00 a.m.–12:00 Noon.
Contact: Constance M. Burtoff, Room 17–89, Parklawn Building, Telephone: (301) 443–0411 and FAX: (301) 443–3437.
Committee Name: SAMHSA Special Emphasis Panel II.
Meeting Dates: May 14, 1996.
Place: Parklawn Building—Conference Room "C", 5600 Fishers Lane, Rockville, MD 20852.
Closed: May 14, 1996, 10:00 a.m.—12:00 Noon.
Contact: Ferdinand W. Hui, Ph.D., Room 17–89, Parklawn Building, Telephone: (301) 443–9912 and FAX: (301) 443–3437.

This notice is being published less than 15 days prior to the meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: May 6, 1996.

Jeri Lipov,

Committee Management Officer SAMHSA.

[FR Doc. 96–11715 Filed 5–9–96; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3778–N–84]

Office of the Assistant Secretary for Community Planning and Development; Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: May 10, 1996.

FOR FURTHER INFORMATION CONTACT:

Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: May 3, 1996.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 96–11551 Filed 5–9–96; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Klamath River Basin Fisheries Task Force Meeting

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath River Basin Fisheries Task Force, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*) The meeting is open to the public.

DATES: The Klamath River Basin Fisheries Task Force will meet on June 4, 1996 from 9:00 a.m. to 5:30 p.m. and on June 5, 1996 from 8:00 a.m. to 3:00 p.m.

PLACE: The meeting will be held at the Humboldt State University, Department of Natural Resources, Natural Resources Building, Room No. 101, Arcata, California 95521.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 12006 (1215 South Main), Yreka, California 96097–1006, telephone (916) 842–5763.

SUPPLEMENTARY INFORMATION: The principal agenda items at this meeting will be to review the draft request for proposals to conduct a mid-point program review of the Klamath River Fishery Restoration Program; a decision on adopting a draft Upper Basin Amendment to the Long Range Plan for the Klamath River Basin Conservation Area Fisheries Restoration (KR) Program; a decision on revising the Request for KR Program Proposals and proposal ranking procedures; and a discussion on recommendations to improve hatchery management to minimize hatchery versus wild salmon and steelhead interactions.

For background information on the Klamath River Basin Fisheries Task Force, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

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Dated: May 3, 1996.
Thomas Dwyer,
Regional Director.
[FR Doc. 96–11707 Filed 5–9–96; 8:45 am]
BILLING CODE 4310–55–P

Bureau of Land Management

[AK–962–1410–00–P]

Alaska; Notice for Publication; AA–6747–A; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Alaska Peninsula Corporation, Successor In Interest to Qinuyang Limited, for approximately 12.13 acres. The lands involved are located within Sec. 15, T. 17 S., R. 47 W., Seward Meridian, in the vicinity of South Naknek, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until June 10, 1996 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Terrie D. Evarts,
Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.
[FR Doc. 96–11706 Filed 5–9–96; 8:45 am]
BILLING CODE 4310–JA–P

[AK–(962)–1410–00–P]

Notice for Publication; F–19155–22; Alaska Native Claims Selection

On July 20, 1983, a Decision to Issue Conveyance (DIC) was issued to Doyon, Limited and published in the **Federal Register** (48 FR 33753, July 25, 1983). The DIC was modified in part on August 10, 1984, and published in the **Federal Register** (49 FR 32468, August 14, 1984).

The DIC of July 20, 1983, is hereby modified by adding a rejection in part of State selection application F–026787 and by adding right-of-way grant F–91558.

A notice of the modified DIC will be published once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Copies of the modified DIC may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government, or regional corporation, shall have until June 10, 1996, to file an appeal on the issue in the modified DIC.

However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Except as modified by this decision, the decision of July 20, 1983, as modified on August 10, 1984, stands as written.

Elizabeth Sherwood,
Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.
[FR Doc. 96–11594 Filed 5–9–96; 8:45 am]
BILLING CODE 4310–JA–P

[CO–933–96–1320–01; COC 59432]

Colorado; Notice of Invitation for Coal Exploration License Application, Cottonwood Land Company

Pursuant to the Mineral Leasing Act of February 25, 1920, as amended, and to Title 43, Code of Federal Regulations, Subpart 3410, members of the public are hereby invited to participate with Cottonwood Land Company in a program for the exploration of unleased coal deposits owned by the United States of America in the following described lands located in Moffatt and Routt Counties, Colorado:

T. 5 N., R. 88 W., 6th P.M.
Sec. 4, SE¼NW¼, and SW¼;
Sec. 5, lots 5 to 9, inclusive, SW¼NE¼, SE¼NE¼, E½SW¼, SW¼SW¼, and SE¼;
Sec. Tract 37, SW¼NW¼;
Sec. 6, lots 8 to 23, inclusive;
Tract 37, SE¼NE¼, and E½SE¼;
Tract 38, E½SW¼, and W½SE¼;
Sec. 7, lots 5 to 11, inclusive, lots 13, and 17, S½NE¼, SE½NW¼, and SE¼;
Tract 39, lots 12, 14 to 16, inclusive;
Sec. 8, all;
Sec. 9, NE¼NW¼, W½W½, and SE¼SW¼;
Sec. 17, N½N½, S½NW¼, and S½SW¼;
Sec. 18, lots 5, 12, 13, 16, and 17, N½NE¼, and SW¼NE¼;
Tract 39, lots 6, and 8;
Tract 40, lots 7, 9 to 11, inclusive, 14, and 15;
Sec. 19, lots 7, 8, 13, and 14;
Sec. 20, NW¼, SW¼NE¼, and NW¼SE¼;
Sec. 30, lots 7, 8, 13, and 14.
T. 5 N., R. 89 W., 6th P.M.
Sec. 1, lot 8;
Tract 37, lots 5 to 7, inclusive, and 9 to 20, inclusive;
Sec. 2, Tract 37, lots 14, 19, 20, and 21;
Tract 39, lots 5 to 8, inclusive, 11 to 13, inclusive, and 15 to 17, inclusive;
Tract 42, lots 9, 10, and 18;
Sec. 3, lots 9, 10, 13, 15, and 19 to 24, inclusive;
Tract 42, lots 5 to 8, inclusive, 11, 12, 14, 16 to 18, inclusive, 25, and 27;
Tract 45, lot 26;
Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 5, lots 5 to 18, inclusive;
Tract 43, E½SE¼;
Tract 44, lot 19;
Sec. 6, lots 1, 2, 4, 6, 7, S½NE¼, E½SW¼, and SE¼;
Sec. 7, lots 1 to 4, inclusive, E½, and E½W½;
Sec. 8, lots 2 to 5, inclusive, 8, 9, 11 to 17, inclusive, and E½NE¼;
Tract 43, E½NE¼;
Tract 44, lots 1, 6, 7, and 10;
Sec. 9, lots 1 to 13, inclusive;
Sec. 10, lots 2 to 15, inclusive;
Tract 45, lot 1;
Sec. 11, lots 6, 8, 10, and 14 to 19, inclusive;
Tract 37, lots 1 to 5, inclusive, 7, 9, 11, 12, and 20;
Tract 47, lots 13, and 21;
Sec. 12, lots 4 to 6, inclusive, and 9 to 11, inclusive;
Tract 37, lots 1 to 3, inclusive;
Tract 47, lots 7, and 8;
Sec. 13, lots 1 to 3, inclusive, and 5 to 17, inclusive;
Tract 47, lot 4;
Sec. 14, lots 2, 3, and 5 to 17, inclusive;
Tract 47, lot 1;
Tract 52, lot 4, and 10;
Sec. 15, lots 1 to 16, inclusive;
Sec. 16, lots 1 to 10, inclusive;
Sec. 17, all;
Sec. 20, all;
Sec. 21, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, all;
Sec. 34, N½NE¼;

Sec. 35, N½N½;
Sec. 36, NE¼, and N½NW¼.
T. 5 N., R. 90 W., 6th P.M.
Sec. 1, lots 5, 6, 11 to 14, inclusive, 19, and 20;
T. 6 N., R. 88 W., 6th P.M.
Sec. 31, lots 3, 4 E½SW¼, and SE¼;
Sec. 32, all;
Sec. 33, N½, and N½S½;
Sec. 34, E½NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 35, S½NW¼, SW¼, W½SE¼, and NE¼SE¼;
T. 6 N., R. 89 W., 6th P.M.
Sec. 19, lots 10, and 11;
Sec. 26, lots 9 to 16, inclusive;
Sec. 27, lots 9, 10, 15, and 16;
Sec. 28, lots 6 to 8, inclusive, and 11;
Sec. 29, lots 13 to 16, inclusive;
Sec. 31, lots 5, 6, and 11;
Sec. 32, lots 3, and 4;
Sec. 33, lots 1 to 12, inclusive, and SW¼;
Sec. 34, lots 1 to 16, inclusive;
Sec. 35, lots 1 to 16, inclusive.

The area described contains approximately 24,668.41 acres.

The application for coal exploration license is available for public inspection during normal business hours under serial number COC 59432 at the Bureau of Land Management (BLM), Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215, and at the BLM Little Snake Resource Area Office, 1280 Industrial Avenue, Craig, Colorado 81625.

Written Notice of Intent to Participate should be addressed to the attention of the following persons and must be received by them within 30 days after publication of the Notice of Invitation in the **Federal Register**:

Karen Purvis, CO–933, Solid Minerals Team, Resource Services, Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215

and

Cottonwood Land Company, Richard D. Tifft, III, P.O. Box 881007, Steamboat Springs, Colorado 80488.

Any party electing to participate in this program must share all costs on a pro rata basis with the applicant and with any other party or parties who elect to participate.

Dated: May 2, 1996.

Karen Purvis,
Solid Minerals Team Resource Services.
[FR Doc. 96–11661 Filed 5–9–96; 8:45 am]
BILLING CODE 4310–JB–M

[UT–060–05–3800–006, UTU–72499]

Notice of Availability of Draft Environmental Impact Statement for SUMMO USA Corporation, Lisbon Valley Open Pit Copper Mine in San Juan County, UT

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Notice of Availability and Public Comment Period for a Draft Environmental Impact Statement prepared for SUMMO USA Corporation's Lisbon Valley Open Pit Copper Mine in San Juan County, Utah.

SUMMARY: Pursuant to Section 202 of the National Environmental Policy Act of 1969, a Draft Environmental Impact Statement (DEIS) has been prepared, under third party contract, by the Bureau of Land Management (BLM), Moab Field Office. The DEIS has been prepared to analyze impacts and alternatives for SUMMO USA Corporation's proposed Lisbon Valley Open Pit Copper Mine. The proposed project would be located on approximately 1000 acres of federal, state, and private lands located in San Juan County, Utah.

Copies of the DEIS can be obtained from the Moab Field Office at 82 East Dogwood Avenue, Moab, Utah, or by calling (801) 259–6111 and requesting a copy of the document. Additionally, copies of the DEIS will be distributed to all attendees at the public scoping meetings, and individuals, agencies or companies that have previously submitted comments or requested to be placed on the mailing list to receive a copy of the DEIS.

DATES: Written comments on the DEIS will be accepted for a period of 45 days following **Federal Register** publication of the Notice of Availability by the Environmental Protection Agency. The anticipated date of EPA **Federal Register** publication is May 24, 1996. Comments must therefore be submitted or postmarked no later than July 8, 1996 in order to be considered. Oral and/or written comments may also be presented at a public meeting to be held at the Moab Field Office conference room, at the above listed address, beginning at 7:00 PM, on June 12, 1996.

ADDRESSES: Written comments on the DEIS document should be addressed to: Kate Kitchell, Moab Field Office Manager, Bureau of Land Management, 82 East Dogwood Avenue, Moab, Utah 84532.

FOR FURTHER INFORMATION CONTACT: Lynn Jackson, Project Coordinator, Moab Field Office, Bureau of Land Management, 82 East Dogwood Avenue, Moab, Utah, 84532, (801) 259–6111.

SUPPLEMENTARY INFORMATION: The DEIS analyzes a proposal by SUMMO USA Corporation of Denver, Colorado, to develop an open pit cooper mining and heap leaching operation on approximately 1000 acres of private fee lands, state leases and unpatented mining claims in south Lisbon Valley, located approximately 18 miles southeast of LaSal, Utah, in San Juan County, Utah.

The copper ore would be mined by conventional open pit mining methods utilizing drilling, blasting and ripping of the ore and associated overburden. The overburden would be removed and stockpiled and the ore would be loaded with front end loaders onto haul trucks. The ore would be trucked to a centralized pad area, utilizing 15,000 feet of haul roads, where it would be crushed and stacked. The copper would then be recovered by a heap leaching method, utilizing low concentrations of sulfuric acid. The leached copper solution would be further refined by standard solvent extraction and electrowinning processes.

The facilities are designed to mine an average of 16,500 tons of ore per day, to produce 17,000 tons of 99.99% pure copper cathodes per year. SUMMO would employ up to 105 people at one time over the life of the project. The construction workforce would be approximately 80 people. The project is currently projected to have a 10 year mining life. Processing would continue after mining ceases for an additional year. To the extent possible, reclamation would occur simultaneously with mining. Final closure and reclamation activities would take approximately 5 years.

The DEIS analyzes environmental impacts from SUMMO's proposal, along with four alternatives designed to mitigate environmental impacts associated with this project, as identified during the scoping process. These alternatives are: (1) No Action (2) Open Pit Backfilling (3) Facility Layout, and (4) Waste Rock Selective Handling. BLM's Preferred Alternative is the Facility Layout Alternative, which in essence would allow the project to proceed with modifications to the layout of waste rock dumps to minimize impacts to soils, sedimentation and visual resources. This preferred alternative may be modified in the Final EIS dependent on comments received during the public comment period.

Dated: May 3, 1996.
Brad Palmer,
Acting Moab Field Office Manager.
[FR Doc. 96–11663 Filed 5–9–96; 8:45 am]
BILLING CODE 4310–DQ–M

[CA–026–1020–00]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Susanville Resource Advisory Council, Susanville, California.

ACTION: Notice of meeting.

SUMMARY: The Bureau of Land Management's Susanville Resource Advisory Council will hold a business meeting and field tour on Friday and Saturday, May 31 and June 1, 1996. The May 31 meeting begins at 10 a.m. at the Likely Fire Hall, Likely, CA. Public comments will be taken at 10:30 a.m. A tour of the Cedar Creek Watershed Restoration Project will follow. The Saturday, June 1 meeting begins at 9 a.m., also at the Likely Fire Hall. During the meeting, the Advisory Council will continue work on development of standards for healthy rangelands and guidelines for livestock grazing.

Summary minutes of the meeting will be maintained in the BLM's Eagle Lake Resource Area Office, 2950 Riverside Drive, Susanville, CA, and will be available for public inspection and reproduction within 30 days following the meeting.

Linda D. Hansen,
Eagle Lake Resource Area Manager.
[FR Doc. 96–11704 Filed 5–9–96; 8:45 am]
BILLING CODE 4310–40–P

[CA–990–0777–68]

Relocation/Change of Address/Office Closure; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: On June 6, 1996, the Bureau of Land Management's (BLM) California State Office will move to a new location. This notice provides information regarding that move.

EFFECTIVE DATE: May 10, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Lou West, BLM California State Office (CA–912), 2800 Cottage Way, Room E–2845, Sacramento, California 95825–1889; telephone number 916–979–2835.

SUPPLEMENTARY INFORMATION: Beginning on June 6, 1996, BLM's California State Office will be moving to a new location. The move will affect the following activities or considerations as follows:

(A). Public Access to Records

During the period of May 30 through June 17, 1996, none of the records maintained by that office will be available for public inspection. However, the Public Room will remain open during the move to provide the following limited services: (1) Provide general or recreational information, (2) Distribute forms for the mining claim maintenance fee/waiver filing, (3) Process maintenance fees for existing mining claims, (4) Process new mining claim locations, and (5) Sell maps. It is anticipated that the entire office will be operational, at the new location, on June 17, 1996.

(B). New Street Address and New Mailing Address

2135 Butano Drive, Sacramento, California 95825–0451.

Please address all correspondence to the new address after June 17, 1996.

(C). Telephone Numbers

Existing telephone numbers will remain unchanged after the move.

Dated: May 3, 1996.
Ronald R. Fox,
Deputy State Director, Administration.
[FR Doc. 96–11662 Filed 5–9–96; 8:45 am]
BILLING CODE 4310–JE–P

[AK–040–1430–00; AA–77796]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Alaska

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice.

SUMMARY: The following public lands in the Matanuska-Susitna Borough, Alaska have been examined and found suitable for lease or conveyance to the Veterans of Foreign Wars Mt. McKinley Post No. 3836 under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The Veterans of Foreign Wars proposes to use the lands for a recreational park.

Seward Meridian

T. 26 N., R. 5 W.,
Sec. 25, Lot 10, the eastern 132 feet.
Containing 1.0 acre more or less.

FOR FURTHER INFORMATION CONTACT: Martin Hansen, Anchorage District Office, 6881 Abbott Loop Road, Anchorage, Alaska, 907–267–1216.

SUPPLEMENTARY INFORMATION: The lands are outside the Bureau of Land Management's Southwest Management Framework Plan. A plan amendment to cover the area is being prepared.

The lease/patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. Those rights for a sewer line granted to the Matanuska-Susitna Borough by right-of-way AA–57699.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance or classification of the lands to the District manager, Anchorage District Office, 6881 Abbott Loop Road, Anchorage, Alaska 99507.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a recreational park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a recreation park.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Dated: May 1, 1996.
Mike Zaidlicz,
Acting District Manager.
[FR Doc. 96–11705 Filed 5–9–96; 8:45 am]
BILLING CODE 4310–JA–P

[NM–010–06–1220–00/G010–G6–0202]

Establishment of Supplementary Rules for Designated Recreation Sites, Special Recreation Management Areas, and Other Public Lands in the Albuquerque District, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Final Supplementary Rules.

SUMMARY: Supplementary rulemaking is provided for under Title 43 CFR, Subpart 8365. These rules are needed for managing actions, activities, and use on public lands, including those lands that have been acquired by or conveyed to the BLM. These rules also provide for the protection of persons and resources in the interest and spirit of cooperation with local, state and other federal agencies. Except as otherwise provided by federal law or regulations, state and local laws and ordinances apply and will be enforced by the appropriate state and local authorities.

This notice supersedes previous notices published in the **Federal Register** (August 17, 1989, Vol. 54, No. 158; and correction to Supplementary Rules No. 2, February 1, 1991, Vol. 56, No. 28) that established supplementary rules for designated recreation sites, special recreation management areas and other public lands in the Albuquerque District, New Mexico.

Proposed supplementary rules to 43 CFR Subparts 8365.1 and 8365.2 for the BLM, Albuquerque District, were published in the **Federal Register** on August 2, 1995 (Vol. 60, No. 148, pp. 39413–39416), for public comment and review. For a period of 30 days, the public was invited to submit comments on the proposed supplementary rules. Six sets of comments were submitted. Comments were received from four individuals, the Adobe Whitewater Club, and the Open Space Committee for the Village of Placitas. In addition to these respondents, individuals within the agency also commented. Comments ranged from general support of the rules in terms of managing public safety and resource protection, to the disagreement with specific rules. Two comments were on issues beyond the scope of the proposed rules; they refer to activities on nonfederal lands over which the BLM has no jurisdiction. All relevant comments received before this publication have been given special consideration during preparation of these final rules.

A summary follows of the comments received and the BLM's responses to those comments that are relevant to the activities covered by the proposed rules.

One respondent urged the BLM not to ban public nudity, but to allow clothing-optional use. The rule stands as written. In the areas closed to public nudity, visitor use is concentrated because of available recreation opportunities and facilities. Nudity at such locations creates controversy and conflicts among users. In the interest of maintaining order, the banning of nudity at the identified location will remain. In other areas, nudity is allowed as long as individuals exercise discretion in this activity.

One family submitted a comment offering general support for the rules in terms of public safety and resource protection. However, they wish to see signs about dangerous conditions posted to warn visitors. They do not want other families to have the same heartbreaking experience of losing a family member that they did. Signing and other actions that will be taken to implement these rules are administrative functions separate from these rules. This comment has been accepted for administrative action, but it is not something that can be acted on under this regulatory authority.

This comment also encouraged the BLM to take another look at the rules that provide for cooperation with other state and federal agencies in protecting persons and resources. In the process of reviewing this comment, the BLM has added another rule to address violations of state resource laws [refer below to the fourth rule under the Property and Resources section that supplements CFR 43 8365.1]. This rule enhances interagency cooperation and eliminates the often-lengthy detention of a violator while awaiting arrival of a state officer.

One commentor wants canoes and kayaks exempt from carrying patching and repair equipment and a spare paddle because some of these craft are decked, making it difficult to carry such items. This suggestion has been considered in this final rulemaking for the river segment between Taos Junction and the Taos County Line. Roads parallel this segment and provide a way for boaters to quit and leave the river in case of equipment malfunction or hypothermia, for example. The final rules have been amended to allow the Authorized Officer to stipulate the appropriate equipment as a condition of issuing a recreation use permit for a particular river segment.

Two commentors feel the proposed rules are imposing a discriminatory limitation by restricting their non-commercial boating access to and from the river to only designated sites, while not restricting other river recreation users to such sites. The commentors feel this access limitation could create an unnecessary safety risk to those individuals who have equipment malfunctions or insufficient skills to boat from one designated site to the next during periods of high water. The commentors were also concerned that designated access points would hinder "location boaters," i.e., those who wish to practice on one feature of the river, rather than run an entire segment. However, the BLM does not prohibit boating visitors from exiting the river for safety or emergency reasons such as equipment malfunction or the onset of hypothermia.

The Area Manager retains the right to regulate public use and access where necessary to protect and enhance the resource values of the river shoreline. Such access limitations may also be modified from time to time as a result of changing resource conditions. Designated access locations and limitations are developed with public input, except when closures or limitations must be put in place because use is causing or will cause considerable adverse effects on resources. This comment, which included a list of desirable access sites, has been forwarded to the Area Manager in the Taos Resource Area for consideration in resource management planning efforts involving use of rivers in the Resource Area.

The rule as written has been determined to be excessively restrictive and has been amended. At this time because of problems with congestion from vehicles and user conflicts, the limitation of boat launching and takeout to designated sites will only apply to the Orilla Verde Recreation Area in the segment of the Rio Grande between Taos Junction and the Taos County Line. The requirement for non-commercial boaters to register for each day or multi-day trip has also been dropped.

A commentor also urges the BLM to restrict the area around Manby Hot Springs to day use. This person, who owns property just above Manby Hot Springs, has been experiencing trespass by overnight campers. The rule prohibiting overnight camping at Manby Hot Springs will not change. Trespassing on private lands is a matter beyond the BLM's jurisdiction; complaints of such activities must be handled by local law enforcement agencies.

The Open Space Committee of Placitas identified lands they wish to have closed to target practice and the discharge of firearms. (Some of those identified lands are not under the jurisdiction of the BLM, so the agency cannot impose its supplementary rules on them.) On those public lands identified by the committee, the proposed prohibition on the discharge of firearms (within 150 yards of dwellings, buildings and occupied areas, or in a manner that exposes a person to injury) remains in the final rules for public health and safety reasons. The specific concern of the committee is being addressed under a separate closure authority in another subpart of the Code of Federal Regulations.

Review of the restriction on the discharge of firearms has resulted in the amendment of the sixth prohibition, rule 2 in the Public Health and Safety section of 8365.1. The phrase "in any manner or place" was stricken from the rules and replaced with "recklessly and carelessly." As the proposed rule was written, it would have made criminal any person who unknowingly caused damage or injury even if s/he took all reasonable precautions.

Another comment brought to our attention was that the original rule did not address the parking of motorcycles at any approved location within a developed recreation site or area. The third rule under the Occupancy and Use section of 8365.2 has been amended to allow for up to five motorcycles to park at any one approved site. Also, the BLM's patrol of the Tent Rocks has brought to our attention the need to apply an additional rule for resource protection. Campfires within this area have created unacceptable resource conditions, so a rule has now been added to prohibit such use.

In consideration of the comments received, the supplementary rules for the Albuquerque District read as follows.

Definitions: As used in these supplementary rules, the term:

—*Abandonment* means the voluntary relinquishment of control of property for longer than a period specified with no intent to retain possession.

—*Administrative activities* are those activities conducted under the authority of the BLM in accordance with applicable laws, regulations and policies.

—*Authorized Officer* means any employee of the BLM who has been delegated the authority to perform the duties discussed in 43 CFR, Part 8360.

—*Boat launching/taking out* means the transfer of a boat from or to a vehicle or trailer, to or from the water to begin or end a floatboat trip.

—*Campfire* means a controlled fire occurring outdoors for cooking, branding, personal warmth, lighting, ceremonial or aesthetic purposes.

—*Camping* means the erecting of a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material for use, or the parking of a motor vehicle, motor home or trailer for the apparent purpose of overnight occupancy. Occupying a developed campsite or an approved location within developed recreation areas and sites during the established night period of 10 p.m. to 6 a.m. will be considered overnight camping for fee collection and enforcement purposes.

—*Developed recreation sites and areas* are those that contain structures or capital improvements primarily used for recreation purposes by the public. Development may vary from limited improvements for protecting the resources and the safety of users, to distinctly defined sites where developed facilities are provided for concentrated public recreation use. Such sites meet criteria of the Land and Water Conservation Fund Act of 1965 (as amended) for fee collection sites.

—*Disorderly conduct* is engaging in fighting; addressing any offensive, derisive, or annoying communication to any other person who is lawfully present when such communication has a direct tendency to cause acts of violence by the person to whom, individually, the remark is addressed; or making statements or other actions directed toward inciting or producing imminent lawless action and likely to incite or produce such action.

—*Historic or prehistoric structure or ruin site* is any location that meets the standards for inclusion on the National Register of Historic Places as defined in 36 CFR 60.4, without regard to whether the site has been nominated or accepted.

—*Occupancy* means the taking or holding possession of a campsite or residence on public land.

—*Pet* means a dog, cat or any animal that has been domesticated.

—*Public lands* are any lands, interest in lands, or related waters owned by the United States and administered by the BLM. Related waters are those that lie directly over or adjacent to public lands and that require some management control to protect federally administered resources, or to provide for enhanced visitor safety and other recreation experiences.

—*Public nudity* means appearing nude on public lands when such activity is within view of unaffiliated persons. Nudity is defined as the failure to cover the rectal area, pubic area, or genitals. A female is also nude if she fails to cover at least the areola portions of both breasts. Each such covering must be fully opaque. No person under the age of 10 years shall be considered publicly nude.

—*Reasonable quantities* are: for piñon nuts, 25 pounds per year; for seeds, 1 cubic foot per year per species; for other edible plants or plant parts, only the amount that can be personally consumed on site; for woody material, only enough to burn in authorized campfires; for plant materials (or plant parts), 1 cubic foot per species per year; and for specimens and samples of rocks and minerals, small amounts of non-renewable resources used for hobby purposes, not to exceed 250 pounds per year and not to include common mineral materials.

—*Special Recreation Management Area (SRMA)* means an area where special or more intensive types of resource and user management are needed.

—*Stove fire* means a fire built inside an enclosed stove or grill, a portable brazier, or a pressurized liquid or gas stove, including spaceheating devices.

—*Vehicle* means any motorized or mechanized device, not including bicycles or wheelchairs, that is propelled or pulled by any living or other energy source, and is capable of travel by any means over ground or water.

—*Weapon* means a firearm, compressed gas or spring-powered pistol or rifle, bow and arrow, crossbow, blowgun, speargun, slingshot, irritant gas device, explosive device, or any other implement designed to discharge missiles or projectiles; hand-thrown spear, edged weapon, nun-chuck, club, billy-club, or any device modified for use or designed for use as a striking instrument; to include any weapon the possession of which is prohibited under New Mexico law.

Supplementary Rules—All Public Lands

In addition to regulations contained in 43 CFR 8365.1, the following supplementary rules apply to all public lands in the Albuquerque District, including those lands acquired by or conveyed to the BLM, and related waters. Unless authorized by written permission, no person shall:

Sanitation

• Construct or maintain any pit toilet facility, other than shallow holes or trench toilets developed for use by backcountry visitors for stays lasting 14 days or less. All holes, trenches or pits must be a minimum of 100 feet from any permanent water source.

• Dump or dispose of sewage or sewage treatment chemicals from self-contained or containerized toilets except at facilities provided for that purpose.

Occupancy and Use

• Camp or occupy any site on public lands for a period longer than 14 days within any period of 28 consecutive days. Exceptions, which will be posted, include areas closed to camping and areas or sites with other designated camping stay limits. The 28-day period begins when a camper initially occupies a specific location on public land. The 14-day limit may be reached either through a number of separate visits or through 14 days of continuous occupation. After the 14th day of occupation, campers must move beyond a 25-mile radius from the previous location, and must not return to a location within this radius for 30 days or longer.

• Park any motor vehicle for longer than 30 minutes or camp within 300 yards of any spring, manmade water hole, water well, or watering tank used by wildlife or domestic stock.

• Park or leave a vehicle, or camp at trailheads in violation of posted instructions.

• Dispose of any burning or smoldering material except at sites or facilities provided for that purpose.

• Violate the terms, stipulations, or conditions of any permit or use authorization.

• Fail to show a permit or use authorization to any Bureau of Land Management employee upon request.

• Camp or occupy, or build any fire on or in any historic or prehistoric structure or ruin site.

Vehicles

• Operate an off-road vehicle without full-time use of an approved spark arrester and muffler.

• Operate, park or leave a motorized vehicle in violation of posted restrictions or in such a manner or location as to:

1. Create a safety hazard,
2. Interfere with other authorized users or uses,
3. Obstruct or impede normal or emergency traffic movement,
4. Interfere with or impede administrative activities,
5. Interfere with the parking of other vehicles,
6. Park more than 300 feet from an existing or designated route, subject to any superseding requirements for such use along designated or existing routes, or

• Operate a vehicle in violation of state motor vehicle laws or regulations.

Public Health and Safety

• Possess or use fireworks.

• Sell or make a gift of an alcoholic beverage to a person under 21 years of age.

• Possess an alcoholic beverage if under 21 years of age.

• Ignite or burn any material containing or producing toxic or hazardous material.

• Carry concealed weapons in violation of state law.

• Discharge a firearm or any other implement capable of taking human life, causing injury, or damaging property:

1. In or within 150 yards of a residence, building, campsite, developed recreation site, or occupied area, or

2. On, from or across a developed road; from within a fenced right-of-way; within 40 feet of a road if no fence exists; across a body of water adjacent thereto; or recklessly or carelessly; whereby any person or property is exposed to injury or damage as a result of such discharge.

• Conduct themselves in a disorderly fashion.

• Fail to prevent a pet from harassing, molesting, injuring, or killing humans, domesticated animals, wildlife or livestock.

• Failure to comply with all applicable State of New Mexico regulations for boating safety, equipment, and registration.

• Entering a cave without each person wearing a safety helmet (hard hat) with chin strap and carrying at least three sources of light.

• Possess glass containers where prohibited.

Property and Resources

• Cut, remove, or transport woody materials, including (but not limited to):

1. Any type or variety of vegetation,
2. Fuelwood or firewood (either green or standing deadwood), and
3. Live plants, except as authorized by 43 CFR 8365.1–5 (b) and (c) [which allow the collection of commonly available renewable resources such as flowers, berries, nuts, seeds, cones and leaves; and the collection of forest products for use in campfires on the public lands].

• Remove or transport any mineral resources, including but not limited to rock, sand, gravel, other mineral materials, or decorative landscaping materials on or from public lands without written consent, proof of purchase, or a valid permit.

• Annoy or disturb bats, raptors, reptiles or other protected species, including nesting sites or areas.

• Violate any state laws or regulations concerning conservation or protection of natural resources or the environment, including but not limited to those resources relating to air and water quality, and the protection of fish, wildlife and plants.

Supplementary Rules—Developed Recreation Sites/Areas, Special Recreation Management Areas

In addition to the regulations contained in 43 CFR 8356.1, 8365.2 and those listed above, the following rules will be applied in accordance with 43 CFR 8365.2. Unless authorized by written permit, no person shall:

Occupancy and Use

• Reserve camping space, except at group facilities. Camping space is available on a first-come, first-served basis.

• Camp at one area or site within a developed campground for longer than 7 days in any 28-consecutive-day period unless extended by the authorized officer. After the 7th day, campers must move to a public land site at least 25 miles from the previous location, and must not return to the previous location for 30 days or longer.

• Park more than two 4-wheeled motorized vehicles or five 2- or 3-wheeled motorized vehicles and/or cause an approved site to be used by more than 15 individuals, unless the site is posted otherwise or designated for group use. (Groups exceeding these limits may occupy additional sites and/or additional designated parking areas.)

• Camp or occupy, between 10 pm and 6 am, the Black Rock Spring, County Line, John Dunn Bridge, Lover's Lane, Manby Hot Springs, Quartzite, La Ventana Natural Arch, Tent Rocks, Bluewater Canyon, Cañon Tapia, Guadalupe Ruin and Community, and Ward Ranch Recreation Areas/Sites; Wild Rivers Recreation Area's Bear Crossing and Chawalauna Overlooks; or Orilla Verde Recreation Area's Gauging Station picnic site.

• Engage in noncommercial floatboating without, at a minimum, the following items for each person, boat or group:

1. An approved U.S. Coast Guard Type I, III or V life preserver for each individual, which must be worn at all times while on the rivers;
2. A first aid kit for each group; and
3. Other items that are required to secure a permit for use of a river

segment (including but not limited to fire pans, patching and repair equipment, bailing buckets, extra oars or paddles, air pumps, throw ropes and human waste containers).

• Build, tend, or use a campfire except in a stove, grill, fireplace or ring provided for such purpose in developed recreations areas or sites.

• Build, tend, or use a campfire in the Tent Rocks Recreation Area.

• Ride a horse or bicycle in areas or on trails posted as closed to such use.

• Launch or take out boats, except for emergencies, at any site in the Orilla Verde Recreation Area not designated for such use.

Vehicles

• Use a motorized craft, including inboard or outboard motors, jet skis, personal watercraft or hovercraft on the Rio Grande Wild and Scenic River, and the Lower Gorge Special Recreation Management area between the County Line Recreation Site and the Velarde Diversion Dam; and on the Rio Chama Wild and Scenic River.

• Operate non-street-legal motorized vehicles within the boundaries of all recreation areas or sites.

• Operate motor vehicles within the Ignacio Chavez Grant or Elk Springs during seasonal closures.

• Operate motor vehicles within the San Ysidro Trails Limited Area except as authorized by special use permit.

• Park a vehicle other than in areas established for such use; or further than 25 feet from designated roads, subject to any superseding requirements of such use along wilderness area boundaries, or to restrictions that may be in place along designated roads.

Property and Resources

• Cut or gather green trees or their parts, or remove down or standing dead wood for any purpose, including use in campfires.

• Climb or walk on the "Tent Rock Formation" in the Tent Rocks Recreation Area.

• Participate in technical rock climbing within the La Ventana Natural Arch area.

• Use mechanized equipment or create bank disturbance in association with recreational gold panning. (Panning with hand tools below the water line is allowed.)

Public Health, Safety and Comfort

• Fail to immediately remove, and dispose of in a sanitary manner, all pet fecal material, trash, garbage or waste created.

• Bring a pet on any nature or interpretive trails, caves, and freshwater springs that are signed as prohibited to pets. Animals trained to assist handicapped persons are exempt from this rule.

• Fail to maintain quiet between the hours of 10 pm to 6 am, or other hours as posted. During this period no person shall create noise that disturbs other visitors.

• Post or distribute any signs, posters, printed material or commercial advertisements without written approval by the Authorized Officer.

• Use, display or carry weapons within developed campsites or picnic areas.

• Bring equine stock, llamas, cattle or other livestock within campgrounds or picnic areas unless facilities have been specifically provided for such use.

• Discharge firearms or other weapons, or hunt or trap within a developed recreation area, or within ½ mile of a developed recreation site.

• Be publicly nude at Wild Rivers, Orilla Verde or Santa Cruz Lake Recreation Areas; Lower Gorge Special Recreation Management Area; or John Dunn Bridge Recreation Site.

• Shower or bathe at any improved or developed water source, outdoor hydrant pump, faucet or fountain, or restroom water faucet unless such water source is designated for that purpose.

List of Developed Recreation Sites/ Areas and Special Recreation Management Areas in

Rio Puerco Resource Area

1. Tent Rocks
   T. 16 N., R. 5 E., secs. 3, 4, 5
   T. 17 N., R. 5 E., secs. 27–34
2. El Malpais National Conservation Area
   a. La Ventana Natural Arch Special Management Area
   T. 8 N., R. 10 W., secs. 33, 34
   T. 7 N., R. 10 W., secs. 3, 4
   b. South Narrows Recreation Area
   T. 7 N., R. 10 W., sec. 17
   c. El Malpais Ranger Station
   T. 9 N., R. 9 W., sec. 32
3. Elk Springs
   T. 18 N., R. 1 W., secs. 1–4
   T. 19 N., R. 1 W., secs. 10, 11, 14, 15, 21–23, 26–29, 33–35
4. Pronoun Cave Complex
   T. 6 N., R. 5 W., secs. 10, 14
5. Guadalupe Ruin and Community
   T. 15 N., R. 3 W., secs. 14, 15, 22, 23
6. Cañon Tapia (applies only to lands within the canyon)
   T. 15 N., R. 3 W., sec. 20, 21, 22, 29, 31
7. Ignacio Chavez Grant
   T. 15 N., R. 3 W.
   T. 15 N., R. 4 W.
   T. 15 N., R. 5 W.
   T. 15 N., R. 6 W.
   T. 16 N., R. 4 W., secs. 19, 20, 21, 22, 27, 28, 29, 30
   T. 16 N., R. 5 W., secs. 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30
   T. 16 N., R. 6 W.
8. San Ysidro Trials Area
   T. 15 N., R. 1 E., secs. 3, 4, 9, 10
   T. 16 N., R. 1 E.
9. Bluewater Canyon
   a. Canyon Entrance
   T. 12 N., R. 11 W., sec. 5
   b. Lands Within Canyon
   T. 12 N., R. 11 W., secs. 5, 6

Taos Resource Area

1. Lower Gorge Special Recreation Management Area
   T. 26 N., R. 11 E., sec. 31, river section to
   T. 23 N., R. 9 E., sec. 34, including:
   a. Quartzite Recreation Site
   T. 24 N., R. 11 E., sec. 32
   b. County Line Recreation Site
   T. 23 N., R. 11 E., secs. 14, 15
   c. Lover's Lane Recreation Site
   T. 23 N., R. 10 E., sec. 20
2. Orilla Verde Recreation Area
   T. 24 N., R. 11 E., secs. 2, 10, 11, 14–16, 20–22, 28, 29
3. Rio Chama Wild and Scenic River
   T. 24 N., R. 2 E., sec. 1; T. 24 N., R. 3 E., secs. 5, 6, 8–10, 13–15; T. 25 N., R. 2 E., secs. 2, 3, 11, 13, 14, 23, 24, 25, 36; T. 25 N., R. 3 E., sec. 31; T. 26 N., R. 2 E., secs. 3, 4, 9, 10, 15, 16, 21, 22, 26, 27, 34; T. 27 N., R. 2 E., secs. 9, 10, 15, 16, 21, 22, 27, 28, 33, 34
   a. Ward Ranch Recreation Site
   T. 27 N., R. 2 E., sec. 27
4. Rio Grande Wild and Scenic River
   T. 23 N., R. 10 E., secs. 1, 11–16, 22; T. 23 N., R. 11 E., secs. 5–7; T. 24 N., R. 11 E., secs. 2, 10. 11, 15, 16, 20, 21, 28, 29, 31–33; T. 25 N., R. 11 E., secs. 1, 12, 13, 23–26, 35, 36; T. 26 N., R. 11 E., secs. 1, 12–14, 23–26, 35, 36; T. 27 N., R. 11 E., sec. 36; T. 27 N., R. 12 E., secs. 5, 7, 8, 17–19, 30, 31; T. 28 N., R. 12 E., secs. 5–10, 16–20, 29–30; T. 29 N., R. 12 E., secs. 4, 5, 8, 9, 16, 17, 20, 29–32; T. 30 N., R. 12 E., secs. 6, 7, 17–20, 29, 30, 32; T. 31 N., R. 11 E., secs. 1, 2, 11, 14, 23–26; T. 31 N., R. 12 E., secs. 30, 31; and T. 32 N., R. 11 E., secs. 24, 25, 36.
   a. John Dunn Bridge Recreation Site
   T. 27 N., R. 12 E., sec. 31
   b. Manby Hot Springs Recreation Site
   T. 26 N., R. 11 E., sec. 12
   c. Black Rock Spring Recreation Site
   T. 26 N., R. 11 E., sec. 1
5. Santa Cruz Lake Recreation Area
   T. 20 N., R. 10 E., secs. 7, 18
6. Wild Rivers Recreation Area
   T. 29 N., R. 12 E., secs. 16, 17, 20, 29, 31, 32
   T. 28 N., R. 12 E., secs. 4, 5, 6, 8, 9, 16, 17

DATES: The rules are effective on May 10, 1996.

ADDRESSES: Any inquires or suggestions should be addressed to District Manager, BLM, Albuquerque District Office, 435 Montaño Rd. NE, Albuquerque, New Mexico 87107–4935.

FOR FURTHER INFORMATION CONTACT: John Bristol, Resource Program Manager, BLM, Albuquerque District Office, 435 Montaño Rd. NE, Albuquerque, New Mexico 87107–4935, Telephone (505)761–8755.

SUPPLEMENTARY INFORMATION: The New Mexico State Director is establishing these supplementary rules for the Albuquerque District, which are needed to protect persons, property and public lands and resources currently under the BLM's administration. These rules also apply to those lands acquired for inclusion within the administrative jurisdiction of the BLM, as provided for in 43 CFR 8365.1–6. These supplementary rules apply to all persons using public lands. Violations of these rules are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Exceptions to these supplementary rules may be allowed by the Authorized Officer under the limits and restrictions of applicable federal and state laws. People granted use exemptions must possess written authorization from the BLM office that has jurisdiction over the area. Users must further comply with the zoning and permitting rules or regulatory requirements of other agencies, where these apply.

So the BLM Albuquerque District can implement these final rules before the beginning of the 1996 summer use season, which starts on Memorial Day weekend, they must be effective on the date of publication. In accordance with the Administrative Procedure Act (5 U.S.C. 531 *et seq.*), the BLM has determined that delaying implementation of these rules for 30 days could impair the protection of persons, property and public lands and resources under the agency's administration. The 30-day delay would be contrary to the public interest and the intended purpose of the rules. The BLM has given interested parties an opportunity to participate in the rulemaking, and has considered public comments in preparing the final rules. Therefore, under the "good cause" exception of the Administrative Procedure Act (5 U.S.C. 553(d)(3)) and as discussed above, the BLM has determined that these final rules are excepted from the 30-day delay of their effective date, and are effective on May 10, 1996.

Dated: April 24, 1996.

Lynn Engdahl,

Acting State Director, New Mexico.

[FR Doc. 96–10984 Filed 5–9–96; 8:45 am]

BILLING CODE 4310–29–P

[CA–019–96–1220–24–1A]

Availability of Final Clear Creek Management Area Resource Management Plan Amendment and Environmental Impact Statement

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Availability.

SUMMARY: Pursuant to 40 CFR 1501.7 and 43 CFR 1610.2(c), a final Resource Management Plan Amendment/ Environmental Impact Statement (RMP Amendment/EIS) has been prepared by the Hollister Resource Area. The final RMP Amendment/EIS describes and analyzes alternative management scenarios for about 50,000 acres of public lands in the Clear Creek Management Area. These lands are located in south San Benito County in central California.

Decisions relating to the management of the Clear Creek Management Area generated by this planning process will supersede those currently in the Hollister RMP. Copies of the final RMP Amendment/EIS can be obtained or reviewed at the Hollister Resource Area Office, 20 Hamilton Court, Hollister, CA 95023. Since the number of copies available is limited, the Hollister Office has also mailed copies to 27 public libraries in the following locations: Antioch, Fresno, Davis, Gilroy, Fairfield, Hanford, Hayward, Livermore, Madera, Menlo Park, Modesto, Monterey, Oroville, Sacramento, San Francisco, San Jose, San Mateo, San Rafael, Santa Clara, Santa Cruz, Seaside, Sunnyvale, Tracy, Vallejo, Visalia and Yuba City. Public review copies are also available at:

(1) California State Office, 2800 Cottage Way, Sacramento, CA 95825
(2) Bakersfield District Office, 3801 Pegasus Avenue, Bakersfield, CA 93308

Background information and maps used in developing the final RMP Amendment and EIS can be reviewed at the Hollister Resource Area Office.

DATES: The public protest period will run for 30 days after the Environmental Protection Agency (EPA) publishes its notice of availability of this EIS. The publishing date will most likely be May 3, 1996. The public should confirm this date and the end of the protest period by reviewing the EPA **Federal Register** notice. Protests must be postmarked within 30 days after the EPA has published its notice of availability. Protests must minimally contain the following information: (1) the name, mailing address, telephone number, and interest of the person filing the protest; (2) a statement of the issue or issues being protested; (3) a statement of the part or parts being protested, citing pages, paragraphs, maps, etc. of the RMP Amendment where practical; (4) a copy of all documents addressing the issue(s) for the record; (5) a concise statement of why you believe the BLM State Director's decision is incorrect.

ADDRESSES: Protests should be addressed to: Bureau of Land Management, Division of Planning and Environmental Coordination, 1849 "C" Street NW, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: The following issues were analyzed and addressed during this planning process: Airborne asbestos emissions, public health risks to environmental asbestos exposure; watershed and riparian resources, endangered and other special status plants and animals, and recreational use. A draft EIS was issued in November of 1993. Six alternatives for management were reviewed in the draft. Alternative 4 of the Draft EIS, which proposed limiting motorcycle use to the Clear Creek watershed while allowing dispersed 4-wheel drive vehicle use in the backcountry, was the BLM proposed alternative. The San Benito Mountain Natural Area was to be expanded to 4,082 acres. Camping would have been eliminated inside the asbestos zone, with the exception of the staging areas. A public wash rack would be constructed, and dust-suppression would be implemented over about 30 miles of main routes. Approximately fifty San Benito evening primrose habitat areas would be protected.

Over 600 comment letters were received from the public and affected agencies. During review of these comments and after reanalysis of Alternative #4, the BLM made several revisions which are published in the Final EIS. Additional impact analysis was incorporated in the biological resource sections. Text in the watershed and soils, human health and recreation sections was modified, expanded and clarified. Additional measures common to all alternatives were drafted, covering education, research, and adherence to best management guidelines for projects affecting watershed stability. Under all alternatives, the 16 known populations of San Benito evening primrose on public land would be protected.

Five of the six alternatives remained unchanged, and one was changed. Alternative I remained the "No Action" alternative, whereby management would remain at current levels. Fifteen San Benito evening primrose habitat areas would be protected. Alternative 2 (entitled "Continued Implementation of

the Existing Management Plan") remained that of implementing the existing (1986) management plan but accelerating completion to a five-year schedule. Approximately fifty San Benito evening primrose habitat areas would be protected.

Alternative 3 was modified and is now the BLM-preferred alternative. Under this alternative (entitled "Dispersed OHV Use"), most of the Clear Creek Management Area would be managed under a "Limited Use" designation for off-highway vehicles (OHVs). BLM would, over the next five years, implement a designated route system of about 270 miles. The final mileage available would be dependent on a variety of factors, including protection of T&E plants, maintenance costs, recreation and administrative access requirements, and compliance. Additionally, alternative 3 would limit unrestricted OHV play on "barren" hillslopes to a number of designated play areas. In the transition period, about 207 acres of unrestricted play areas on "barren" hillslopes would be available, (down from about 2,800 available now). This acreage could be adjusted up or down depending on resource inventories. Camping would continue to be allowed at the six Staging Areas and at Oak Flat Campground. Backcountry camping would be allowed in designated areas. The San Benito Mountain Natural Area would be expanded to approximately 4,082 acres (this proposal was unchanged from the draft alternative 3), to include a cross-section of unique ecotones associated with the San Benito Mountain forest. A public wash rack would be constructed and about 30 miles of main routes could be dust-suppressed. Approximately fifty San Benito evening primrose habitat areas would be protected.

Alternative 4, entitled "Restricted OHV use" remains the same as the draft, and is described above in the discussion of the draft EIS. Alternative 5 ("OHV Closure"), closed the CCMA to motorcycles and restricted 4-wheeled vehicles to the main County road system (about 30 miles). Camping would be limited to Oak Flat Campground only. The San Benito Mountain Natural Area would be expanded to 4,082 acres. Approximately fifty-eight San Benito evening primrose habitat areas would be protected. Alternative 6, ("Enhancement of Natural Values") would allow vehicle use as under Alternative 5, but would expand the San Benito Mountain Natural Area to include the entire serpentine outcropping (about 30,000 acres). Approximately fifty-eight San Benito evening primrose habitat areas would be protected.

Public participation has occurred throughout the planning process and is encouraged. Anyone wishing additional information may contact the Hollister Resource Area Office, located at 20 Hamilton Court, Hollister, CA 95023 (phone: 408–637–8183).

Dated: May 3, 1996.

Robert E. Beehler,

Hollister Area Manager.

[FR Doc. 96–11659 Filed 5–9–96; 8:45 am]

BILLING CODE 4310–40–P

[CA–019–96–1220–24–1A]

Availability of Proposal To Expand Boundaries of an Existing Area of Critical Environmental Concern (ACEC) in the Clear Creek Management Area, To Rename the San Benito Mountain Outstanding Natural Area To the San Benito Mountain Research Natural Area; Availability of Completion of Previous Planning Decision To Reincorporate 380-Acre San Benito Mountain Natural Area Extension

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to 43 CFR 1610. 2 (c) and 43 CFR 1610.7(1)(b), a final Resource Management Plan Amendment/Environmental Impact Statement (RMP Amendment/EIS) has been prepared by the Hollister Resource Area. The final RMP Amendment/EIS describes and analyzes alternative management scenarios for about 50,000 acres of public lands in the Clear Creek Management Area. These lands are located in south San Benito and Fresno Counties in central California. This **Federal Register** notice provides notice about decisions and/or proposed actions regarding two existing designations within the Clear Creek Management Area. The first notice is with regard to the Serpentine Area of Critical Environmental Concern (ACEC), and the second is with regard to the San Benito Mountain Outstanding Natural Area.

(1) Serpentine Area of Critical Environmental Concern. One of the decisions proposed in the Final EIS and RMP Amendment is to expand the existing Serpentine ACEC. The 23,834-acre ACEC was originally designated in 1984 through the public planning process. The Serpentine ACEC was designated because soils in the area contain natural asbestos and there are health issues associated with recreating in the area. It was also designated an ACEC because the vegetative communities associated with serpentine soils are quite unusual.

The Serpentine ACEC boundary was reviewed in 1992 during the EIS process, and adjustments were made based upon soil surveys. The map provided with the final EIS reflects the new known boundaries of the serpentine mass on public land. The adjustments result in a proposed addition of about 10%, or about 2,500 acres, to the geologic boundary line. The changes can be viewed in the "Errata Sheet" map included in the Final EIS, or can be reviewed at the locations listed below. The legal description will be published with the Record of Decision for the Final EIS.

(2) San Benito Mountain Natural Area: Given the heavy emphasis of research suggested for this area, the BLM is proposing to change the name of the Natural Area to the "San Benito Mountain Research Natural Area". Management of the Natural Area would remain as described in the Final EIS, and the name change would be consistent with the proposed primary use of the area. Finally, to formalize and complete the designation process for this Natural Area, the public is hereby notified that a 380-acre extension approved for re-incorporation under previous planning efforts is now formally re-incorporated into the San Benito Mountain Natural Area. The legal description of this extension is:

Mount Diablo Meridian, California

T. 18S R. 12E
Sec. 14, N½SW¼, SW¼SW¼, N½SE¼ SW¼, and NW¼SE¼;
T. 18S R. 12E
Sec. 15, NW¼NE¼, and E½E½;

In the original 1971 **Federal Register** notices, the legal description had a typographical error and one omission; both of these have been corrected. Additional copies of maps of both areas and background information can be obtained or reviewed at the Hollister Resource Area Office, 20 Hamilton Court, Hollister, CA 95023. Copies of the Final EIS and maps are available at 27 public libraries in the following locations: Antioch, Fresno, Davis, Gilroy, Fairfield, Hanford, Hayward, Livermore, Madera, Menlo Park, Modesto, Monterey, Oroville, Sacramento, San Francisco, San Jose, San Mateo, San Rafael, Santa Clara, Santa Cruz, Seaside, Sunnyvale, Tracy, Vallejo, Visalia and Yuba City. Public review copies are also available at:

(1) California State Office, 2800 Cottage Way, Sacramento, CA 95825.
(2) Bakersfield District Office, 3801 Pegasus Avenue, Bakersfield, CA 93308

DATES: The public has no later than July 9, 1996 to comment on the proposed expansion of the Serpentine ACEC and the propdsed name change for the San Benito Mountain Natural Area.

ADDRESSES: Comments should addressed to: Bureau of Land Management, Hollister Resource Area Office, 20 Hamilton Court, Hollister, CA 95023. Attn: Robert E. Beehler, Area Manager.

SUPPLEMENTARY INFORMATION: (1) Serpentine ACEC: Mining plans of operation must be filed for claims inside an ACEC—thus anyone proposing to operate on a valid claim within the expansion area would need to comply with this regulation. Management of the expansion areas would be the same as within the previous boundaries.

(2) San Benito Mountain Natural Area: The San Benito Mountain Natural Area was designated in 1971. It was designated as an "Outstanding" Natural Area, one of the two possible types of Natural Area classifications. The other type of natural area classification is a "Research" Natural Area. The original designation was 1,880 acres (August, 1971 36FR16122). In September 1971, 380 acres were withdrawn from the designation because of unresolved mining issues (36FR19177). In 1984, with the development of the Hollister Resource Management Plan, the decision was made to re-incorporate those 380 acres as Natural Area, because the mining claim issue had been resolved. Although this decision was analyzed in the public planning process and ultimately approved, the legal boundaries were never published in the **Federal Register**. Historic planning maps and documents for the Natural Area and the extension show that there was one portion of the extension which was not described in the **Federal Register** notice. This portion is in Section 15 and covers a 20-acre segment in the north half of the south-east quarter of the south-west quarter. It is included in this notice. Additionally, a typographical error in the **Federal Register** notices showed the whole western quarter of Section 15 being included. This should have been the eastern quarter of the section. This has been corrected as well.

Public participation has occurred throughout the planning process and is encouraged. Anyone wishing additional information may contact the Hollister Resource Area Office at the address shown above, or call 408– 637–8183.

Dated: May 3, 1996.

Robert E. Beehler,

Hollister Area Manager.

[FR Doc. 96–11660 Filed 5–9–96; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[WY–989–1050–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Wyoming

T. 52 N., R. 64 W., accepted April 23, 1996
T. 12 N., R. 114 W., accepted April 23, 1996
T. 13 N., R. 114 W., accepted April 23, 1996
T. 13 N., R. 115 W., accepted April 23, 1996
T. 44 N., R. 118 W., accepted May 1, 1996

Sixth Principal Meridian, Nebraska

T. 26 N., R. 9 E., accepted March 22, 1996
T. 27 N., R. 8 E., accepted April 23, 1996

If protests against a survey, as shown on any of the above plats, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protest(s) and or appeal(s).

These plans will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest a survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest prior to thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestants shall file such a statement with the State Department within thirty (30) calendar days after the notice of protest was filed.

The above-listed plats represent dependent resurveys, subdivision of sections.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, P.O. Box 1828, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

Dated: May 2, 1996.

Jerry L. Messick,

Acting Chief, Cadastral Survey Group.

[FR Doc. 96–11658 Filed 5–9–96; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Prince William Sound in the Possession of the Burke Museum, University of Washington, Seattle, WA

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and associated funerary objects in the possession of the Burke Museum, University of Washington, Seattle, WA.

A detailed assessment of the human remains was made by the Burke Museum professional staff in consultation with representatives of the Chugach Alaska Corporation, a Native Alaskan Regional Corporation.

In 1902, human remains representing two individuals were removed from an island cave known as "Billy's Hole" in Prince William Sound, Alaska, by Edmond S. Meany and donated to the Burke Museum. No known individuals were identified. The thirteen associated funerary objects include two grave boards, two paddles, a canoe prow, a canoe section, and wooden sticks.

Prior to 1909, a pair of haliotis shell earring were collected by George T. Emmons and accessioned by the Burke Museum in 1909. Accession records indicate these earrings were removed from a "mummy cave on an island in Prince William Sound (Alaska)."

Archeological and ethnographic evidence from the islands of Prince William Sound, including manner of internment, continuity of technology, and cultural items indicate continuous occupation by the same communities from the precontact period to the present. Oral tradition presented by the representatives of the Chugach Alaska Corporation also supports Chugach occupation of this area throughout this period.

Based on the above mentioned information, officials of the Burke Museum have determined that,

pursuant to 43 CFR 10.2 (d)(1), the human remains from Billy's Hole listed above represent the physical remains of two individuals of Native American ancestry. Officials of the Burke Museum have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the thirteen objects from Billy's Hole listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Officials of the Burke Museum have determined that, pursuant to 25 U.S.C. 3001(3)(B), these two cultural items from a mummy cave in Prince William Sound, AK are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed form a specific burial site of an Native American individual. Lastly, officials of the Burke Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains, associated funerary objects, and unassociated funerary objects and the Chugach Alaska Corporation.

This notice has been sent to officials of the Chugach Alaska Corporation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Dr. James Nason, Chair of the Repatriation Committee, Burke Museum, Box 353010, University of Washington, Seattle, WA 98195; telephone: (206) 543–9680, before June 10, 1996. Repatriation of the human remains and associated funerary objects, and unassociated funerary objects to the Chugach Alaska Corporation may begin after that date if no additional claimants come forward.

Dated: May 7, 1996

Veletta Canouts

Acting Departmental Consulting Archeologist
Deputy Chief, Archeology & Ethnography Program

[FR Doc. 96–11793 Filed 5–9–96; 8:45 am]

BILLING CODE 4310–70–F

Notice of Inventory Completion for Native American Human Remains from Minnesota in the Possession of the Minnesota Historical Society, St. Paul, MN

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains in the possession of the Minnesota Historical Society, St. Paul, MN.

A detailed assessment of the human remains was made by Minnesota Historical Society professional staff and Hamline University osteologists in consultation with representatives of the Iowa Tribe of Oklahoma and the Iowa Tribe of Kansas and Nebraska.

In the late 19th century, human remains representing one individual were recovered from the Kitchen Midden site near Cannon Junction, MN. No known individuals were identified. Ceramics found in the feature included examples of Sorg Middle Woodland phase pottery (200 B.C.—ca 300 A.D.). Silvernale phase pottery (1100 A.D.—1300 A.D.) were also observed. The Minnesota Outline of Historic Contexts for the Prehistoric Period tentatively suggests that the Silvernale Phase of the Oneota culture from the vicinity of Red Wing, MN, may represent ancestral Iowa. Geographical location of the site is consistent with the historically documented territory of the Iowa.

In 1979, human remains representing one individual were recovered during legally authorized excavations as part of the Minnesota Statewide Archaeological survey from the Yucatan Village site (21–HU–26) a contact habitation site in the vicinity of Houston MN. No known individuals were identified. The Yucatan Village Site is identified as being occupied during the Orr Phase (1300 A.D. to 1800 A.D.) of the Oneota in the State Site File. Dale R. Henning makes the statement, "* * *assignment of Ioway to Orr phase can be made fairly definitely." Geographic location of the site is consistent with the historically documented territory of the Iowa.

In 1980, human remains representing one individual were recovered during legally authorized excavations as part of the Minnesota Statewide Archaeological survey from Kandiyohi County Park #2 site (21–KH–23) a late precontact habitation site near Willmar, MN. No known individuals were identified. The site is listed as Woodland (ca 500 B.C.—1650 A.D.) in the State Site File. Shell-tempered pottery with a handle fragment and a triangular stone Projectile point were also found at site 21–KH–23, suggesting a more specific occupation of the Orr Phase (1300 A.D.—1800 A.D.) or Ogechie Phase (1400 A.D.—1750 A.D.) of the late Woodland in the State Site File. Dale R. Henning makes the statement, "* * *assignment of Ioway to Orr phase can be made fairly definitely." Geographic location of the site is consistent with the historically documented territory of the Iowa.

Based on the above mentioned information, officials of the Minnesota Historical Society have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of three individuals of Native American ancestry. Officials of the Minnesota Historical Society have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Iowa Tribe of Oklahoma and the Iowa Tribe of Kansas and Nebraska.

This notice has been sent to officials of the Iowa Tribe of Oklahoma and the Iowa Tribe of Kansas and Nebraska. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Marcia G. Anderson, Head of Museum Collections/Chief Curator, Minnesota Historical Society, 345 Kellogg Boulevard West, St. Paul, MN 55102–1906, telephone (612) 296–0150, before June 10, 1996. Repatriation of the human remains and associated funerary objects to the Iowa Tribe of Oklahoma and the Iowa Tribe of Kansas and Nebraska may begin after that date if no additional claimants come forward.

Dated: May 7, 1996

Veletta Canouts

Acting, Departmental Consulting Archeologist
Deputy Chief, Archeology and Ethnography Program

[FR Doc. 96–11792 Filed 5–9–96; 8:45 am]

BILLING CODE 4310–70–F

Notice of Intent to Repatriate a Cultural Item in the Possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3005 (a)(2), of the intent to repatriate a cultural item in the possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA, which meets the definition of "sacred object" and "object of cultural patrimony".

The Beaver bundle consists of a painted elk skin outer wrapping, with an inner wrapping of bison hide, containing nineteen bird skins or body parts, and a composite consisting of two bird skins; four squirrel, two beaver, four muskrat skins; one mink, one weasel and one fawn skin; also contained are six tied bladder bags, four sticks, a buffalo rib, and a badger skin fur bag containing a bladder bag, tobacco, a bone awl and a beaded fur charm. An auxiliary bundle holds two skin bags containing red and black paint, a skin bag with a buffalo rock, eleven hide rattles, a rectangle of painted rawhide, one rattle of elk hooves, eight sticks, and two braids of sweet grass. Accessories include a pipe stem with a red bayeta case and red bayeta outer wrapping, and a section of wooden broomstick.

The Beaver bundle was obtained by Frank Red Crow in 1942, who sold it to Madge Hardin Walters collecting on behalf of the Denver Art Museum. In 1952 the Denver Art Museum transferred ownership to the Peabody Museum of Archaeology and Ethnology.

Evidence provided by representatives of the Blackfeet Nation acting on behalf of the Blackfeet Confederacy (including the Piegan and Blood First Nations of Canada) shows that the Beaver Bundle is urgently needed for the continued practice of traditional Blackfeet religion by present-day adherents.

Representatives of the Blackfeet Nation further state that this item has ongoing traditional and cultural importance to the Confederacy and could not have been conveyed or otherwise alienated by any individual tribal member.

Authorities of the United States Fish and Wildlife Service and State Fish and Wildlife Agencies have been contacted regarding applicability of Federal and State wildlife legislation and have concurred in the conclusion that there are no prohibitions on the transfer of the bundle.

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 25 U.S.C. 3001 (3)(C), this cultural item is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Peabody Museum of Archaeology and Ethnology also have determined that, pursuant to 25 U.S.C. 3001 (3)(D), this cultural item has ongoing historical, traditional, and cultural importance central to the culture itself, and could not have been alienated, appropriated, or conveyed by any individual. Further, Peabody Museum of Archaeology and Ethnology officials have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these items and the Blackfeet Nation.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with this object should contact Mrs. Barbara Isaac, Assistant Director, Peabody Museum of Archaeology and Ethnology, 11 Divinity Avenue, Cambridge, MA 02138, telephone: (617) 495-2254 before June 10, 1996. Repatriation of the object to the Blackfeet Nation may begin after that date if no additional claimants come forward.

Dated: May 6, 1996

Francis P. McManamon

Departmental Consulting Archeologist
Chief, Archeology & Ethnography Program

[FR Doc. 96–11791 Filed 5–9–96; 8:45 am]

BILLING CODE 4310–70–F

Notice of Intent to Repatriate Cultural Items in the Possession of the Arizona State Museum, University of Arizona, Tucson, AZ

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3005 (a)(2), of the intent to repatriate cultural items in the possession of the Arizona State Museum, University of Arizona, Tucson, AZ, which meet the definition of "object of cultural patrimony" under Section 2 of the Act.

The items are a set of San Carlos Apache *Gaan* material consisting of four *Dilzini Gaan* masks, one Clown mask, nine accompanying wands and one associated bull-roarer. All these items are made of painted wood and cloth and were acquired by the Museum in 1985. The material to be repatriated comprises accession number 85–40.

The cultural affiliation of the items is clearly San Carlos Apache as documented in museum records and verified by the San Carlos Apache Tribe. The Tribe has documented that these items have ongoing traditional and cultural importance to the tribe and could not have been conveyed by any individual tribal member.

Based on the above mentioned information, officials of the Arizona State Museum have determined that, pursuant to 25 U.S.C. 3001 (3)(D), these cultural items have ongoing historical, traditional, and cultural importance central to the San Carlos Apache tribe, and could not have been alienated, appropriated, or conveyed by any individual. Arizona State Museum officials have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these items and the San Carlos Apache Tribe.

This notice has been sent to officials of the San Carlos Apache Tribe, the Camp Verde Yavapai-Apache Community, the Fort McDowell Mohave-Apache Community, the Payson Tonto Apache Tribe, and the White Mountain Apache Tribe. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Jan Bell, Curator of Collections, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 621–4609 before June 10, 1996. Repatriation of these objects to the San Carlos Apache Tribe may begin after that date if no additional claimants come forward.

Dated: May 1, 1996

Francis P. McManamon

Departmental Consulting Archeologist
Chief, Archeology and Ethnography Program

[FR Doc. 96–11645 Filed 5–9–96; 8:45 am]

BILLING CODE 4310–70–F

Bureau of Reclamation

Bay-Delta Advisory Council Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council (BDAC) will meet to discuss several issues including: refinement of the CALFED Bay-Delta Program Draft Alternatives to address the problems of the Bay-Delta system; financial strategy for implementation of the long-term solutions; ecosystem restoration of the Bay-Delta system; issues related to water use efficiency; and other key issues. This meeting is open to the public. Interested persons may make oral statements to the BDAC or many file written statements for consideration.

DATES: The Bay-Delta Advisory Council meeting will be held from 10:00 am to 5:00 pm on Wednesday, May 29, 1996.

ADDRESSES: The Bay-Delta Advisory Council will meet at the Sacramento Convention Center, 1400 J Street, Sacramento, CA.

CONTACT PERSON FOR MORE INFORMATION: Sharon Gross, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office

at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance they Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The CALFED Bay-Delta Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA) as the Bay-Delta Advisory Council (BDAC) to advise CALFED on the program mission, problems to be addressed, and objectives for the CALFED Bay-Delta Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff.

Minutes of the meeting will be maintained by the CALFED Bay-Delta Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: May 3, 1996.

Roger Patterson,

Regional Director, Mid-Pacific Region.

[FR Doc. 96–11783 Filed 5–9–96; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF JUSTICE

Notice of Consent Decrees in Comprehensive Environmental Response, Compensation and Liability Act Action; Alco et al.

Notice is hereby given that two consent decrees in *United States et al.* v. *ALCOA et al.*, Civil Action No. 89–7421, were lodged with the United States District Court for the Eastern District of Pennsylvania on April 24, 1996.

On October 16, 1989, the United States filed a complaint against 18 generator and owner/operator defendants under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9607(a), for response costs incurred and to be incurred by the United States at the Moyer Landfill Superfund Site in Collegeville, Pennsylvania (the "Site"). The Commonwealth of Pennsylvania ("Commonwealth") joined the action as plaintiff seeking reimbursement of its response costs incurred and to be incurred at the Site. One of the proposed consent decrees resolves the liability of Alco Industries, Cabot Corporation, and Richardson-Vicks, subject to reopeners for new information and new site conditions, and cost overruns above $55 million, for a payment of $11.5 million in reimbursement of response costs to the United States and the Commonwealth. The other proposed consent decree resolves the liability of William M. Wilson's Sons, Inc., Waste Conversion, Inc., Hatfield Packing Company, Moyer Packing Company, Superior Tube Company, W.R. Grace & Co., Union Carbide Corporation, Henkel Corporation, Ford Electronics and Refrigeration Corporation and Zenith Electronics Corporation, subject to reopeners for new information and new site conditions, and cost overruns above $60 million, for payments totalling $9,558,551 in reimbursement of response costs to the United States and the Commonwealth. Under both decrees the United States receives 84% and the Commonwealth receives 16% of the payments. The Consent Decree includes covenants not to sue under Sections 106 and 107 of CERCLA and under Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6973.

The Department of Justice will accept written comments relating to these proposed Consent Decrees for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044 and refer to *United States et al.* v. *ALCOA et al.*, DOJ No. 90–11–3–145. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA.

Copies of the proposed Consent Decrees may be examined at the Office of the United States Attorney, Eastern District of Pennsylvania, 615 Chestnut Street, Suite 1300, Philadelphia, PA 19106; Region III Office of the Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 ((202) 624–0892). A copy of the proposed decrees may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W. 4th Floor, Washington, D.C. 20005. When requesting a copy of the proposed Consent Decrees, please enclose a check payable to the "Consent Decree Library" in the following amounts:

$7.50 for the 1st decree described above.

$10.00 for the 2nd decree described above.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 96–11653 Filed 5–9–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Department of Justice policy, 28 C.F.R. 50.7, notice is hereby given that a Consent Decree in *United States* v. *Martin H. Frimberger, et al.*, Civil No. 3:90CV136 (DJS) (D. Conn.), was lodged with the United District Court for the District of Connecticut on March 29, 1996.

The proposed Consent Decree concerns alleged violations of sections 301(a) and 404 of the Clean Water Act, 33 U.S.C. 1311(a) and 1344. Defendant Martin H. Frimberger placed fill material and structures in navigable waters of the United States along the shoreline of the property at 207 Ayers Road, Old Saybrook, Connecticut, without a permit as required by 33 U.S.C. 1344. Defendants Maia and Kathryn Chiat, successors in title to the property, will perform certain removal and restoration work and will apply to the Army Corps of Engineers for a permit to maintain the fill remaining after the restoration work is completed.

The United States Attorney's Office will receive written comments relating to the proposed Consent Decree for a period of 30 days from the date of publication of this notice. Comments should be addressed to John B. Hughes, Esq., Assistant U.S. Attorney, District of Connecticut, P.O. Box 1824, New Haven, Connecticut 06508, and should refer to *United States* v. *Martin H. Frimberger, Citicorp Mortgage, Inc. and Maia and Kathryn Chiat*, Civil No. 3:90CV136 (DJS) (D. Conn.).

The Complaint and proposed Consent Decree in this case may be examined at the Clerk's Office, United States District Court for the District of Connecticut, 450 Main Street, Hartford, Connecticut 06103.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environmental & Natural Resources Division.

[FR Doc. 96–11655 Filed 5–9–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Department of Justice policy, 28 C.F.R. 50.7, notice is hereby given that a proposed Final (Consent) Judgment in *United States* v. *Seminole Fertilizer Corp.*, Case No. 96–735–CIV–T–24B (M.D. Fla.), was lodged with the United States District Court for the Middle District of Florida on April 15, 1996.

The proposed Final (Consent) Judgment concerns alleged violations of section 301(a) and 404 of the Clean Water Act, 33 U.S.C. 1311(a) and 1344. Specifically, Defendant Seminole Fertilizer Corporation exceeded the terms of a permit issued by the Corps of Engineers under Clean Water Act section 404 in connection with Seminole's phosphate mining operations. As a result of the alleged violation, fill material was unlawfully discharged into approximately 15.0 unpermitted acres of wetlands. The proposed Final (Consent) Judgment would require Seminole Fertilizer Corporation to complete an on-site mitigation project and to pay a $40,000 civil penalty.

The United States Attorney's Office will receive written comments relating to the proposed Final (Consent) Judgment for a period of 30 days from the date of publication of this notice. Comments should be addressed to Michael A. Cauley, Assistant U.S. Attorney, Middle District of Florida, 500 Zack Street, Room 400, Tampa, FL 33602, and should refer to *United States* v. *Seminole Fertilizer Corp.*, Case No. 96–735–CIV–T–24B (M.D. Fla.).

The Complaint and proposed Final (Consent) Judgment in this case may be examined at the Clerk's Office, United States District Court for the Middle District of Florida, 611 North Florida Avenue, Tampa, Florida 33602.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environmental & Natural Resources Division.

[FR Doc. 96–11656 Filed 5–9–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Department of Justice policy, 28 C.F.R. § 50.7, notice is hereby given that a consent decree in *United States of America* v. *Robert V. Spiller*, CV–96–1010 (W.D. La.), was lodged with the United States District Court for the Western District of Louisiana on April 23, 1996. The proposed decree concerns alleged violations of the Clean Water Act, 33 U.S.C. § 1311, as a result of the discharge of fill materials onto approximately 7.2 acres of wetlands by Roger V. Spiller ("Spiller"), near New Iberia, Louisiana.

The Consent Decree provides for the payment of a $2,000.00 civil penalty to the United States and requires partial restoration of the violation site in accord with a partial restoration plan approved by the United States Environmental Protection Agency ("EPA").

The Department of Justice will receive written comments relating to the consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Attention: John A. Sheehan, Environmental Defense Section, P.O. Box 23986, Washington, D.C. 20026–3986, and should refer to *United States* v. *Spiller*, DJ Reference No. 90–5–1–1–4132.

The proposed consent decree may be examined at the Offices of the United States Attorney for the Western District of Louisiana, 600 Jefferson Street, Suite 1000, Lafayette, Louisiana 70501; the offices of Region VI of the United States Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $7.75 for a copy of the consent decree with attachments.

Letitia J. Grisaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division, United States Department of Justice.

[FR Doc. 96–11654 Filed 5–9–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

United States of America v. Woman's Hospital Foundation & Woman's Physician Health Organization; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and a Competitive Impact Statement have been filed with the United States District Court for the Middle District of Louisiana in *United States of America* v. *Woman's Hospital Foundation & Woman's Physician Health Organization*, Civil No. 96–389–BM2.

The complaint alleges that defendants entered into an agreement that unreasonably restrained competition among physicians in the Baton Rouge, Louisiana area, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The complaint also alleges that Woman's Hospital Foundation willfully attempted to maintain and maintained its monopoly in inpatient obstetrical services in the Baton Rouge, Louisiana area, in violation of Section 2 of the Sherman Act, 15 U.S.C. 2.

The proposed Final Judgment, agreed to by the defendants, prohibits defendants' unlawful agreement and the additional acts of Woman's Hospital Foundation that gave rise to the violations of Section 2.

Public comment on the proposed Final Judgment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to Gail Kursh, Chief; Health Care Task Force; United States Department of Justice; Antitrust Division; 325 7th Street, NW.; Room

400; Washington, DC, 20530 (telephone: 202/307–5799).

Rebecca P. Dick,

Deputy Director, Office of Operations, Antitrust Division, U.S. Department of Justice.

United States District Court for the Middle District of Louisiana

In the matter of: United States of America, plaintiff, vs. Woman's Hospital Foundation and Woman's Physician Health Organization, Defendants. Civil Action No: 96–389–B–M2; Filed: April 23, 1996.

Stipulation

The parties, by their attorneys, stipulate that:

1. The Court has jurisdiction over the subject matter of this action and over each party, and venue is proper in the Middle District of Louisiana.

2. The Court may file and enter a Final Judgment in the attached form upon the Court's motion or the motion of a party, after compliance with the Antitrust Procedures and Penalties Act (15 U.S.C. 16), without further notice to any party or other proceedings, if plaintiff has not withdrawn its consent, which it may do before the entry of the proposed Final Judgment by serving notice on defendants and filing that notice with the Court.

3. Defendants are bound by the provisions of the proposed Final Judgment before its approval by the Court and will take the following actions pursuant to this Stipulation:

a. Notify in writing, within 20 days of the filing of this Stipulation, each physician who has participated in Woman's Physician Hospital Organization (WPHO) that he or she is free at all times to communicate, negotiate, and contract independently from WPHO with any payer on any terms;

b. While forming or employing a messenger model or forming a qualified managed care plan before entry of the proposed Final Judgment: (1) provide a copy of the proposed Final Judgment to each owner or member of the organization forming the messenger or qualified managed care plan and to each physician potentially participating in the messenger model, and (2) require, as a condition precedent to each physician's ownership, membership or participation, the physician to affirm in writing that he or she has read and understands the proposed Final Judgment and agrees to be bound by it;

c. Notify in writing, within 20 days of the filing of this Stipulation, each payer with which WPHO then has a contract that the payer may cancel or renegotiate the contract and that each physician who has participated in WPHO is free at all times to communicate, negotiate, and contract on any terms with such payer independently from, and without consultation with, WPHO;

d. Notify in writing, before entry of the proposed Final Judgment, each payer when it initially discusses (i) using the services of a messenger that would be subject to the proposed Final Judgment or (ii) contracting with a qualified managed care plan that would be subject to the proposed Final Judgment, that each participating physician is free at all times to communicate, negotiate, and contract with such payer independently on any terms, without consultation with the messenger or qualified managed care plan; and

e. Distribute a copy of the proposed Final Judgment to all directors and officers of defendants within 20 days of the filing of this Stipulation.

4. Within 30 days after the filing of this Stipulation, each defendant shall provide to plaintiff a certified statement describing the notifications and distributions of the Final Judgment it made under paragraph 3 of this Stipulation.

5. Each defendant shall give plaintiff at least 30-days notice of any proposed (a) dissolution of that defendant, (b) sale or assignment of claims or assets of that defendant resulting in a successor person, or (c) change in corporate structure of that defendant that might affect its compliance obligations under the proposed Final Judgment.

6. If plaintiff withdraws its consent, or if the Court does not enter the proposed Final Judgment under the terms of the Stipulation, this Stipulation shall be of no effect whatsoever, and the making of this Stipulation shall be without prejudice to any party in this or in any other proceeding.

FOR PLAINTIFF UNITED STATES OF AMERICA:

Anne K. Bingaman,
Assistant Attorney General.

Joel I. Klein,
Deputy Assistant Attorney General.

Rebecca P. Dick,
Deputy Director, Office of Operations.

Gail Kursh,
Chief, Health Care Task Force.

Mark J. Botti, Steven Kramer, Pamela C. Girardi,
Attorneys, U.S. Department of Justice, Antitrust Division, Health Care Task Force, Room 450, Liberty Place Bldg., 325 7th Street, NW., Washington, DC 20530, (202) 307–0827.

FOR DEFENDANT WOMAN'S HOSPITAL FOUNDATION:

John J. Miles, Bruce R. Stewart, *Ober, Kaler, Grimes & Shriver, Fifth Floor, 1401 H Street, NW., Washington, DC 20005, (202) 326–5008.*

FOR DEFENDANT WOMAN'S PHYSICIAN HEALTH ORGANIZATION:

Toby G. Singer,
Jones, Day, Reavis & Pogue, 1450 G Street, NW., Washington, DC 20005, (202) 879–4654.

John J. Miles.

United States District Court for the Middle District of Louisiana

In the matter of: United States of America, Plaintiff, vs. Woman's Hospital Foundation and Woman's Physician Health Organization, Defendants. Civil Action No: 96–389–B–M2; Filed: April 23, 1996.

Final Judgment

Plaintiff, the United States of America, having filed its Complaint on April 23, 1996, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or an admission by any party regarding any issue of fact or law;

NOW, THEREFORE, before the taking of any testimony, and without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is hereby ORDERED, ADJUDGED, AND DECREED:

I

Jurisdiction

This Court has jurisdiction over the subject matter and each of the parties to this action. The Complaint states claims upon which relief may be granted against the defendants under Sections 1 and 2 of the Sherman Act, 15 U.S.C. 1 and 2.

II

Definitions

As used in this Final Judgment:

(A) "Competing physicians" means solo practitioners or separate physician practice groups in the same relevant physician market.

(B) "Consenting physician" means physicians who have agreed, through implementation of Section V(B), to be bound by this Final Judgment.

(C) "Messenger model" means the use of an agent or third party ("the messenger") to convey to payers any information obtained from participating physicians about the prices or other competitively sensitive terms and conditions each physician is willing to accept from any payer, and to convey to physicians any contract offer made by a payer, where:

(1) Pursuant to Section V(B), participating physicians have received actual notice of this Final Judgment and agreed in writing to be bound by it;

(2) The messenger informs each payer at the outset of the messenger's involvement with the payer that the payer may refuse to respond to offers conveyed by the messenger or may terminate involvement with the messenger at any time and that participating physicians are free at all times to communicate, negotiate and contract on any terms with the payer independently from, and without consultation with, the messenger;

(3) The messenger informs each participating physician when the physician first authorizes the messenger to carry messages to and from the physician and annually thereafter that the physician is free at all times to communicate, negotiate and contract on any terms with any payer independently from, and without consultation with, the messenger;

(4) The messenger does not communicate to participating physicians regarding, or comment on, a payer's refusal to use or decision to discontinue using the messenger's services, other than to inform participating physicians that a payer has decided not to use the messenger's services;

(5) The messenger conveys to participating physicians each and every offer that a payer delivers to the messenger unless (a) the offer is the payer's first offer and lacks material terms such that it could not be considered a bona fide offer, or (b) the messenger applies preexisting objective criteria, not involving prices or other competitively sensitive terms and conditions, in a nondiscriminatory manner (for example, refusing to convey offers of payers that refuse to pay a fee for conveying the offer, offers for plans that do not cover a certain minimum number of people, or offers made after the agent or messenger has conveyed a stated maximum number of offers for a given time period);

(6) All communications by the messenger to participating physicians (other than communications to physicians in their capacity as directors or officers of an organization employing the messenger model) regarding fees, payers and contracts are in writing or recorded, except that the messenger may communicate orally on these subjects when the communication pertains to ministerial matters or when an individual physician initiates the communication and a written record of the date of, participants to and subject matter of the conversation is kept by the messenger;

(7) Each participating physician agrees with the messenger not to discuss with competing physicians information on fees, contract terms and conditions, contract offers, or reactions to contract offers;

(8) Each competing, participating physician makes a separate, independent, and unilateral decision to accept or reject a payer's offer;

(9) Information on prices or other terms and conditions conveyed to payers is obtained by the messenger separately from each competing, participating physician;

(10) The messenger does not negotiate collectively for participating physicians, disseminate to any physician the messenger's or any other physician's views or intentions as to an offer, or otherwise serve to facilitate any agreement among competing physicians on prices or other terms and conditions;

(11) The messenger does not enter into contracts with payers unless, in executing contracts on behalf of any competing, participating physician, it acts consistently with the foregoing requirements of this Section II(C), no contract grants it the authority to cancel the contract prior to the stated term of the contract, and each competing physician makes separate, independent and unilateral decisions whether to cancel or renew contracts; and,

(12) The messenger maintains all documents received or created by it, relating to contracting, fees or physician participation, other than invoices, receipts and personnel records, for the duration of this Final Judgment.

As long as the messenger acts consistently with the foregoing, it may:

(1) Convey to a participating physician objective information about proposed contract terms, including comparisons with terms offered by other payers;

(2) Solicit clarifications from a payer of proposed contract terms, or engage in discussions with a payer regarding contract terms other than prices and other competitively sensitive terms and conditions;

(3) Convey to a participating physician any response made by a payer to information conveyed or clarifications sought;

(4) Convey to a payer the acceptance or rejection by a participating physician of any contract offer made by the payer; and,

(5) At the request of the payer, provide the individual response, information, or views of each participating provider concerning any contract offer made by such payer.

(D) "Participating physicians" means those physicians who own an interest in or authorize a qualified managed care plan to negotiate or contract on their behalf with payers, or who authorize a messenger to carry offers, acceptances and other messages between themselves and payers.

(E) "Person" means any natural person, corporation, firm, company, sole proprietorship, partnership, joint venture, association, institute, governmental unit, or other legal entity.

(F) "Pre-existing physician practice group" mean a physician practice group existing as of the date of the filing of the Complaint in this section. A pre-existing physician practice group may add any physician to the group after the filing of the Compliant, without losing the status of "pre-existing" under this definition for any relevant physician market, provided the physician was not offering services in the relevant physician market before joining the group and would not have entered that market but for the group's efforts to recruit the physician.

(G) "Qualified managed care plan" means an organization that is owned, in whole or in part, by either or both of the defendants, offers a provider panel and satisfies each of the following criteria:

(1) Its owners or not-for-profit members ("members") who compete with other owners or members or with subcontracting physicians participating in the plan, (a) share substantial financial risk for the payment of services provided pursuant to contracts negotiated or executed by it and (b) in combination with the owners and members of all other physician networks in which Woman's Hospital, WPHO or any of them own an interest constitute no more than 30% of the physicians in any relevant physician market, except that it may include any single physician, or any single preexisting physician practice group for each relevant physician market, so long as Woman's Hospital, WPHO and they do not own an interest in another physician network;

(2) Its participating physicians include no more than 30% of the physicians in any relevant physician market unless, for those subcontracting physicians whose participation increases the panel beyond 30%, (a) there is a sufficient divergence of economic interest between such subcontracting physicians and the plan's owners or members to cause the owners or members to bargain down the fees of the subcontracting physicians because the extent of the owners' or members' profits under each payer contract depends directly on the fees

negotiated with the subcontracting physicians, (b) the contractual relationship between owners or members and such subcontracting physicians precludes a higher rate for subcontracting physicians resulting in the same or higher profits for owners or members, (c) the plan does not directly pass through to a payer liability for making payments to such subcontracting physicians, (d) a most-favored-nations clause or any similar term does not apply to the relationship between the plan and such subcontracting doctors, and (e) the plan does not compensate such subcontracting physicians in a manner that substantially replicates ownership in the organization;

(3) It does not facilitate agreements between competing physicians concerning charges, or other terms and conditions, relating to payers not contracting with the organization;

(4) Pursuant to Section V(B), its owners or members have received actual notice of this Final Judgment and agreed in writing to be bound by it; and

(5) It is not operated with the purpose or effect of maintaining or increasing physician fees.

The organization may at any given time exceed the 30% limitation as a result of any physician exiting any relevant physician market or the addition of any physician not previously offering services in a relevant physician market who would not have entered that market but for the organization's efforts to recruit the physician into the market; however, the organization may not exceed the 30% limitation by any greater degree than is directly caused by such exit or entry.

(H) "Relevant market" means, unless defendants obtain plaintiff's prior written approval of a different definition, physicians who regularly practice (a) in obstetrics or gynecology in the Baton Rouge area, or (b) services other than obstetric or gynecologic, in any other relevant market, as defined by federal antitrust principles.

(I) "Substantial financial risk" means financial risk achieved through capitation or the creation of significant financial incentives for the group to achieve specified cost-containment goals, such as withholding from all members a substantial amount of the compensation due to them, with distribution of that amount to the members or owners only if the cost-containment goals are met.

(J) "Woman's Hospital" means Woman's Hospital Foundation, each of its divisions, parents, subsidiaries, and affiliates, each other person directly or indirectly, wholly or in part, owned or controlled by it, and each partnership or joint venture to which any of them is a party, each of the foregoing person's successors, and all of their directors, officers, and employees.

(K) "WPHO" means Woman's Physician Health Organization, each of its successors, divisions, parents, subsidiaries, and affiliates, each other person directly or indirectly, wholly or in part, owned or controlled by it, and each partnership or joint venture to which any of them is a party, and all of their directors, officers, and employees.

III

Applicability

This Final Judgment applies to Woman's Hospital and WPHO, to all consenting physicians, and to all other persons who receive actual notice of this Final Judgment by personal service or otherwise and then act or participate in active concert with any or all of the defendants.

IV

Injunctive Relief

(A) Woman's Hospital and WPHO are enjoined from:

(1) Directly or through any agent, organization or other third party, expressing views on, or conveying information on, competing physicians' prices or other terms and conditions, or negotiating on behalf of competing physicians;

(2) Owning an interest in, contracting with, or controlling one or more organizations, including WPHO, in which individually or cumulatively participating physicians constitute more than 30% of the physicians in any relevant market;

(3) Owning an interest or participating in any organization that directly, or through any agent, organization or other third party, sets, expresses views on, or conveys information on prices or other terms and conditions for competing physicians' services, or negotiates for competing physicians unless the organization complies with paragraphs (2) through (6) of this Section IV(A) as if those paragraphs applied to that organization;

(4) Precluding or discouraging any physician from negotiating or contracting with any payer;

(5) Providing disincentives for, or agreeing with, any physician not to deal with competitors of Woman's Hospital or WPHO, provided that nothing in this Final Judgment prohibits Woman's Hospital from entering into exclusive contracts for anesthesiology, radiology, pathology, neonatalogy, and perinatalogy services to the extent reasonably necessary to assure quality of care at the Hospital;

(6) Disclosing to any physician any financial or other competitively sensitive business information about any competing physician, except as is reasonably necessary for the operation of a qualified managed care plan for which defendants have received prior written approval from the Department of Justice, provided that nothing in this Final Judgment shall prohibit the disclosure of information already generally available to the medical community or the public.

(B) Each consenting physician is enjoined from:

(1) Owning an interest or participating in any organization, connected in any way with Woman's Hospital or WPHO, that directly, or through any agent, organization or other third party, sets, expresses views on, or conveys information on prices or other terms and conditions, or negotiates on behalf of competing physicians, unless the organization complies with Section IV(A) of this Final Judgment as if that Section applied to that organization; and

(2) participating in or facilitating any agreement among competing physicians on fees or other terms and conditions for physician services, including the willingness of physicians to contract on any terms with particular payers or to use facilities competing with Woman's Hospital's facilities, unless the competing physicians share substantial financial risk and the agreement is ancillary to the shared risk; provided that nothing in this paragraph IV(B)(2) applies to the participation of competing physicians in any managed care plan or network of such a plan not owned or controlled by Woman's Hospital or WPHO.

(C) Woman's Hospital is enjoined from agreeing with any person affiliated directly or indirectly with any potential or actual competing facility to allocate or divide the market for, or set the price for, any service, including offering lower rates for inpatient services to any payer on the condition that the payer or any person affiliated with the payer not offer inpatient obstetrical services.

(D) Nothing in this Final Judgment prohibits the defendants or the consenting physicians from

(1) Forming, operating, owning an interest in, or participating in (a) a messenger model, or (b) a qualified managed care plan if defendants obtain prior written approval from the Department of Justice, which will not be withheld unreasonably; or

(2) Engaging in activity delineating in the attached Safety Zones of Statements

5 and 6 of the 1994 Statements of Enforcement Policy and Analytical Principles Relating to Health Care and Antitrust.

V

Additional Provisions

Woman's Hospital and WPHO shall:

(A) Notify in writing each WPHO participating physician, within ten days of entry of this Final Judgment (unless such notification has already been given) and annually thereafter during the term of this Final Judgment, that the physician is free at all times to communicate, negotiate or contract on any terms with any payer independently from, and without consultation with, WPHO;

(B) While forming or employing a messenger model or forming a qualified managed care plan, (1) provide a copy of the Final Judgment to each owner or member of the organization forming the messenger or qualified managed care plan and to each physician applying for participation in the messenger model, and (2) require, as a condition precedent to the physician's ownership or membership in the organization, or participation in a messenger model, the physician to affirm in writing that the physician has read and understands this Final Judgment and agrees to be bound by this Final Judgment;

(C) Notify in writing, within ten days of entry of this Final Judgment (unless such notification has already been given), each payer with which WPHO then has a contract that the payer may cancel the entire contract and that each physician who has participated in WPHO is free at all times to communicate, negotiate, and contract on any terms with such payer independently from, and without consultation with, WPHO;

(D) Notify in writing, within ten days of entry of this Final Judgment (unless such notification has already been given) each payer with which WPHO then has a contract, and during the term of this Final Judgment, each payer when it initially discusses using the services of a messenger subject to this Final Judgment or contracting with a qualified managed care plan subject to this Final Judgment, that each participating physician is free to communicate, negotiate or contract with such payer on any terms independently from, and without consultation with, the messenger or qualified managed care plan; and

(E) Notify, as applicable, the plaintiff at least 30 days prior to any proposed (1) dissolution of a defendant, (2) sale or assignment of claims or assets of a defendant resulting in a successor person, or (3) change in corporate structure of a defendant that may affect compliance obligations arising out of this Final Judgment.

VI

Compliance Program

Each defendant shall maintain a judgment compliance program, which shall include:

(A) Distributing within 60 days from the entry of this Final Judgment, a copy of the Final Judgment and Competitive Impact Statement to all directors and officers;

(B) Distributing in a timely manner a copy of the Final Judgment and Competitive Impact Statement to any person who succeeds to a position described in Paragraph VI(A);

(C) Briefing annually in writing or orally those persons designated in Paragraphs VI (A) and (B) on the meaning and requirements of this Final Judgment and the antitrust laws, including penalties for violation thereof;

(D) Obtaining from those persons designated in Paragraphs VI (A) and (B) annual written certifications that they (1) have read, understand, and agree to abide by this Final Judgment, (2) understand that their noncompliance with this Final Judgment may result in conviction for criminal contempt of court and imprisonment and/or fine, and (3) have reported violations, if any, of the this Final Judgment of which they are aware to counsel for the respective defendant; and

(E) Maintaining for inspection by plaintiff a record of recipients to whom this Final Judgment and Competitive Impact Statement have been distributed and from whom annual written certifications regarding this Final Judgment have been received.

VII

Certifications

(A) Within 75 days after entry of this Final Judgment, each defendant shall certify to plaintiff that it has given the notifications required by Section V and made the distribution of the Final Judgment and Competitive Impact Statement as required by Paragraph VI (A); and

(B) For 10 years after the entry of this Final Judgment, on or before its anniversary date, each defendant shall certify annually to plaintiff whether it has complied with the provisions of Sections V and VI applicable to it.

VIII

Plaintiff's Access

For the sole purpose of determining or securing compliance with this Final Judgment, and subject to any recognized privilege, authorized representatives of the United States Department of Justice, upon written request of the Assistant Attorney General in charge of the Antitrust Division, shall on reasonable notice be permitted:

(A) Access during regular business hours of any defendant to inspect and copy all records and documents in the possession or under the control of that defendant relating to any matters contained in this Final Judgment;

(B) To interview officers, directors, employees, and agents of any defendant, who may have counsel present, concerning such matters; and

(C) To obtain written reports from any defendant, under oath if requested, relating to any matters contained in this Final Judgment.

IX

Jurisdiction Retained

This Court retains jurisdiction to enable any of the parties to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

X

Expiration of Final Judgment

This Final Judgment shall expire ten (10) years from the date of entry.

XI

Public Interest Determination

Entry of this Final Judgment is in the public interest.

Dated: _____.

_____

United States District Judge

United States District Court for the Middle District of Louisiana

In the matter of: United States of America, Plaintiff, vs. Woman's Hospital Foundation and Woman's Physician Health Organization, Defendants. Civil Action No: 96–389–BMZ.

Amended Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) ("APPA"), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

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Nature and Purpose of the Proceeding

On April 23, 1996, the United States filed a civil antitrust complaint alleging that defendant Woman's Health Foundation ("WHF"), which owns and operates Woman's Hospital, and defendant Woman's Physician Health Organization ("WPHO"); with others not named as defendants, entered into an agreement and took other actions, the purpose and effect of which were, among other things, to reduce competition among obstetrician/gynecologists ("OB/GYNs") and other doctors and prevent or delay the continued development of managed care in Baton Rouge, Louisiana ("Baton Rouge"), and to maintain willfully Woman's Hospital's monopoly in inpatient obstetric care, in violation of Sections 1 and 2 of the Sherman Act, 15 U.S.C. 1, 2. The Complaint seeks injunctive relief to enjoin continuance and recurrence of these violations.

The United States filed with the Complaint a proposed Final Judgment intended to resolve this matter. Entry of the proposed Final Judgment will terminate this action, except that the Court will retain jurisdiction over the matter to interpret, enforce, or modify the judgment, or punish violations of its provisions.

Plaintiff and both defendants have stipulated that the Court may enter the proposed Final Judgment after compliance with the APPA, unless prior to entry plaintiff has withdrawn its consent. The proposed Final Judgment provides that its entry does not constitute any evidence against, or admission by, any party concerning any issue of fact or law.

The present proceeding is designed to ensure full compliance with the public notice and other requirements of the APPA. In the Stipulation to the proposed Final Judgment, defendants have also agreed to be bound by the provisions of the proposed Final Judgment pending its entry by the Court and to take certain corrective actions.

II

Practices Giving Rise to the Alleged Violations

Woman's Hospital is the dominant provider of private inpatient obstetrical care in Baton Rouge. In the late 1980's, competition among doctors for participation in managed care plans created the opportunity for the entry of other Baton Rouge area hospitals into the market for inpatient obstetrical care. In 1991, General Health, Inc. ("General Health") announced that it would build a hospital (the "Health Center") with 5 to 6 dedicated OB/GYN beds. Woman's Hospital was particularly threatened by General Health's Center because General Health also owned Gulf South Health Plans, Inc. ("Gulf South"), the largest managed care plan in Baton Rouge. Once General Health's new facility achieved full-service status, Gulf South would have substantially more negotiating leverage with Woman's Hospital because Gulf South could employ the Health Center as a preferred hospital over Woman's Hospital in Gulf South's network.

Women's Hospital entered into negotiations with General Health and offered to continue contracting with Gulf South if General Health would agree to stay out of the obstetrical business in Baton Rouge for the next 5 to 7 years. Woman's Hospital eventually retreated from this attempt to foreclose the Health Center from offering inpatient obstetrical services and took alternative steps to achieve the same result.

Managed care plans could not use the Health Center's availability to obtain significant price concessions from Woman's Hospital, if Woman's Hospital could disrupt the competitive forces that would prompt the OB/GYNs on its medical staff to admit patients to the Health Center. Accordingly, in 1993, Woman's Hospital formed defendant WPHO, a physician-hospital organization, whose purpose at the time of formation was to establish a minimum physician fee schedule and serve as a joint bargaining agent on behalf of Woman's Hospital and these OB/GYNs. Woman's Hospital hoped to assure the continued "loyalty" of its OB/GYNs through WPHO.

WPHO developed a minimum fee schedule that listed fees for OB/GYNs that were substantially higher than the fees managed care plans were then paying OB/GYNs under individual contracts. Approximately 90% of the OB/GYNs delivering privately insured babies in the Baton Rouge area committed to WPHO after reviewing this fee schedule.

WPHO then signed contracts with a number of managed care plans, two of which were attempting to set up operations in the Baton Rouge area. Each of these new plans first attempted to contract directly with OB/GYNs independently of WPHO but was unsuccessful. In addition, Gulf South was forced to accept OB/GYNs on its panel with whom it had not previously contracted and to accept the WPHO fee schedule for all OB/GYNs in WPHO, which was significantly higher than the fee schedule Gulf South had previously applied to its participating physicians.

Based on the facts described above and those set forth more fully in the Complaint, the Complaint alleges that the defendants (1) entered into a contract, combination, or conspiracy that eliminated competition among physicians and reduced or limited the development of managed care plans in violation of Section 1 of the Sherman Act, 15 U.S.C. 1; and defendant Woman's Hospital (2) attempted to maintain its monopoly in inpatient obstetrical services, with the specific intent to do so, and (3) willfully maintained its monopoly in inpatient obstetrical services in violation of Section 2 of the Sherman Act, 15 U.S.C. 2.

III

Explanation of the Proposed Final Judgment

The proposed Final Judgment is intended to restore to Baton Rouge consumers of obstetrical services the benefits of competition among obstetrical providers that defendants have eliminated or prevented. At the same time, the proposed Final Judgment takes into account any benefits to consumers that Woman's Hospital and Woman's medical staff may offer through collective marketing of their services by permitting such collective action that is unlikely to reduce competition among the physicians or prevent competition between Woman's Hospital and other hospitals.

A. Scope of the Proposed Final Judgment

Section III of the proposed Final Judgment provides that the Final Judgment shall apply to defendants, to all "consenting physicians," and to all other persons who receive actual notice of the proposed Final Judgment by personal service or otherwise and then participate in active concert with any defendant. The proposed Final Judgment applies to Woman's Hospital, WPHO, and all "consenting physicians" defined as physicians who remain or become owners or participants in physician networks owned or operated by Woman's Hospital or WPHO.

B. Prohibitions and Obligations

Sections IV and V of the proposed Final Judgment contain the substantive provisions of the Judgment.

In Section IV(A), Woman's Hospital and WPHO are enjoined from setting, negotiating, or expressing views on, prices or other competitive terms and conditions, for competing physicians.

Women's Hospital and WPHO are further enjoined from owning an interest in, contracting, with, or controlling any organization in which participating physicians constitute more than 30% of the physicians in any relevant market. Section IV(D), however, permits Woman's Hospital and WPHO to use a messenger model, and, provided they obtain the prior written approval of the Department of Justice, to form and operate a Qualified Managed Care Plan ("QMCP")—as defined in the proposed Final Judgment and discussed below. Section IV(A) also prohibits Woman's Hospital and WPHO from precluding or discouraging any physician from contracting with any payer, or providing incentives for, or agreeing with, any physician not to deal with competitors of Woman's Hospital or WPHO. Nothing in Section IV(A), however, prohibits Woman's Hospital from entering into exclusive contracts for anesthesiology, radiology, pathology, neonatalogy, and perinatalogy services to the extent reasonably necessary to assure quality of care at the Hospital.

In addition, Section IV(A) enjoins Woman's Hospital and WPHO from disclosing to any physician financial or other competitively sensitive business information about any competing physicians. An exception permits disclosure of such information if reasonably necessary for the operation of an approved QMCP, or if the information is already generally available to the medical community or the public. Section IV(C) also permits the exchange of information pursuant to the Antitrust Safety Zones delineated in Statements 5 and 6 of the 1994 Statements of Enforcement Policy and Analytical Principles Relating to Health Care and Antitrust ("Health Care Policy Statements").[1]

Section IV(B) enjoins each "consenting physician" from owning an interest or participating in any organization, connected in any way with Woman's Hospital or WPHO, that directly or through any agent, organization or other third party, sets, expresses views on, or conveys information on prices or other terms and conditions, or negotiatees for competing physicians, unless that organization complies with Section IV(A). Section IV(B) further enjoins "consenting physicians" from participating in or facilitating any agreement among competing physicians on fees or other terms and conditions for physician services, including the willingness of physicians to contract on any terms with particular payers, or to use facilities competing with Woman's Hospital's facilities, unless the competing physicians share substantial financial risk and and the agreement is ancillary to the shared risk. However, noting in Section IV(B) applies to the participation of competing physicians in any managed care plan or network of such plan not owned or controlled by Woman's Hospital or WPHO.

Section IV(C) enjoins Woman's Hospital from agreeing with any person affiliated directly or indirectly with any potential or actual competing facility or allocate or divide the market, or set the price, for any service, including offering lower rates for inpatient services to any payer on the condition that the payer or any person affiliated with the payer not offer inpatient obstetrical services.

Section V of the proposed Final Judgment contains additional provisions regarding Woman's Hospital and WPHO. Section V(A) requires Woman's Hospital and WPHO to notify in writing participating physicians annually that they are free to communicate, negotiate or contract on any terms with any payer independently from, and without consultation with, WPHO. Similarly, Sections V(C) and V(D) require Women's Hospital and WPHO to notify in writing each payer with whom WPHO has a contract, and during the term of the Final Judgment, each payer when it initially discusses using the services of a messenger or contracting with a QMCP subject to this Final Judgment, that each participating physician is free to communicate, negotiate or contract with such payer on any terms independently from, and without consultation with, WPHO, the messenger, or the QMCP.

Under Section V(B), Woman's Hospital and WPHO are required to, while forming or employing a messenger model or forming a QMCP, (1) provide a copy of the Final Judgment to each owner or member of the organization forming the messenger or QMCP and to each physician applying for participation in the messenger model, and (2) require as a condition precedent to the physician's ownership or membership in the organization, or participation in a messenger model, the physician to affirm in writing that the physician has read and understands the Final Judgment and agrees to be bound by it.

Section V(E) provides that each defendant must notify the Antitrust Division of the United States Department of Justice of any proposed change in corporate structure at least 30 days before that change to the extent the change may affect compliance obligations arising out of the proposed Final Judgment.

Section VI of the proposed Final Judgment requires defendants to implement a judgment compliance program. Section VI(A) requires that within 60 days of entry of the Final Judgment, defendants must provide a copy of the proposed Final Judgment and the Competitive Impact Statement to all directors and officers. Sections VI (B) and (C) require defendants to provide a copy of the proposed Final Judgment and Competitive Impact Statement to persons who assume those positions in the future and to brief such persons annually on the meaning and requirements of the proposed Final Judgment and the antitrust laws, including penalties for violating them. Section VI(D) requires defendants to maintain records of such persons' annual written certifications indicating that they (1) have read, understand, and agree to abide by the terms of the proposed Final Judgment, (2) understand that their noncompliance with the proposed Final Judgment may result in conviction for criminal contempt of court, and imprisonment, and/or fine, and (3) have reported any violation of the proposed Final Judgment of which they are aware to counsel for defendants. Section VI(E) requires defendants to maintain for inspection by the Antitrust Division a record of recipients to whom the proposed Final Judgment and Competitive Impact Statement have been distributed and from whom annual written certifications regarding the proposed Final Judgment have been received.

The proposed Final Judgment also contains provisions in Section VII requiring defendants to certify their compliance with specified obligations of Section VI(A) of the proposed Final Judgment. Section VIII of the proposed Final Judgment sets forth a series of measures by which the Antitrust Division may have access to information needed to determine or secure defendants' compliance with the proposed Final Judgment.

Finally, Section X states that the Judgment expires ten years from the date of entry.

C. Effect of the Proposed Final Judgment on Competition

The proposed Final Judgment remedies, and prevents recurrence of, violations of Sections 1 and 2 of the Sherman Act. Defendant Woman's Hospital violated Section 2 by attempting to maintain and maintaining its monopoly in inpatient obstetrical services. Woman's Hospital and WPHO

[1] 4 Trade Reg. Rep. (CCH) ¶ 13,152 at 20,782, 20,784.

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violated Section 1 by entering into an agreement with OB/GYNs on Woman's Hospital's medical staff that unreasonably restrained competition among the OB/GYNs and prevented significant competition from developing in the market for inpatient obstetrical services.

1. Competition for Inpatient Obstetric Services

Woman's Hospital violated Section 2 by depriving Baton Rouge health care consumers of the significant benefits from competition for inpatient obstetric business between Woman's Hospital and General Health's Health Center. Some competition started to develop with the entry of General Health and another Baton Rouge hospital, causing Woman's Hospital to waive direct payments by women who expressed a desire to deliver at one of the competing facilities. Woman's Hospital, in the minutes of the first meeting of its Strategic Planning Committee in 1994, articulated its concern that competition from General Health might cause more significant competition in the form of "deep discounting" of the rates charged to managed care plans for deliveries.

In response to that concern, Woman's Hospital tried to prevent the development of competing obstetric facilities in Baton Rouge. Woman's Hospital attempted first to prevent General Health from entering the market by offering to continue contracting with Gulf South, General Health's wholly owned managed care plan, if General Health did not enter the market. Though General Health ultimately did not accept Woman's Hospital's offer, Woman's Hospital could realistically seek the same type of agreement in the future. Woman's Hospital and General Health have an ongoing relationship through Woman's participation in the Gulf South provider network and both Woman's Hospital and General Health might find it in their mutual self interest to eliminate competition in inpatient obstetrics. Accordingly, Section IV(C) of the proposed Final Judgment prohibits Woman's Hospital from pursuing this type of anticompetitive conduct in the future.

Woman's Hospital succeeded in preventing the development of inpatient obstetrical competition through the formation of WPHO. By organizing WPHO, Woman's Hospital created a vehicle for the OB/GYNs on its medical staff to wield market power. Creation of market power for such a group of physicians would not normally further a hospital's interests and could, in some circumstances, work against its interests. Accordingly, Woman's Hospital would not have organized the physicians toward this end, absent Woman's interest in preventing the development of inpatient obstetrical competition.

Woman's Hospital's organization of WPHO furthered this interest of Woman's Hospital by substantially limiting the ability of managed care plans to steer patients to General Health's facility. Managed care plans had successfully selectively contracted with OB/GYNs in the competitive market that existed before the formation of WPHO. The formation of WPHO deprived plans of the opportunity to use competition among the OB/GYNs to induce the OB/GYNs to admit patients to General Health's facility. The proposed Final Judgment, as discussed in the next section, restores the competitive market by preventing price fixing by physicians or their exercise of market power.

2. Competition Among OB/GYNs and Other Physicians

The agreement among Woman's Hospital, WPHO and the WPHO OB/GYNs unreasonably restrained competition among the OB/GYNs and competition among hospitals for inpatient obstetrical business. The agreement constitutes a *per se* violation of Section 1 because of its naked purpose and effect of reducing price competition among the OB/GYNs. The agreement's reduction of competition among the OB/GYNs and among hospitals, without any substantial offsetting benefit, establishes a violation of Section 1 under the rule of reason, as well.

a. The Contract, Combination or Conspiracy in Restraint of Trade

The full scope of the unlawful conspiracy charged in this case is not confined to the four corners of the documents incorporating WPHO or signed by Woman's Hospital and members of its medical staff. Rather, the facts alleged in the Complaint establish a broader understanding among competing OB/GYNs to restrain price competition among themselves by contracting either through WPHO at or above the minimum WPHO fee schedule or individually on the same basis.[2]

Woman's Hospital orchestrated the formation of WPHO through a number of general meetings with its medical staff, including the OB/GYNs. The Hospital solicited the OB/GYNs' preliminary commitment to WPHO and their final agreement to the fee schedule through memoranda addressed to all members of the medical staff.

The proposal to form WPHO necessarily carried with it the understanding that a substantial percentage, if not all, of the OB/GYNs would present a united front to managed care plans and other payers on terms established through WPHO. Each OB/GYN's agreement to permit WPHO to negotiate on that doctor's behalf would have been useless at best, or actually harmful, to the doctor without an understanding that most would not contract independently of WPHO at rates below WPHO's minimum fee schedule. WPHO was proposing a broader panel and higher fees than managed care plans had already obtained through individual contracts with OB/GYNs. Neither Woman's Hospital nor the OB/GYNs could realistically have believed that the plans would have agreed with WPHO to increase fees to OB/GYNs and include additional OB/GYNs in their panels absent an understanding that the physicians would not continue to contract individually at competitive rates.

Participating OB/GYNs had substantial reasons to expect that WPHO would further their understanding to eliminate price competition. Their interest in not competing with each other was aligned with Woman's Hospital's interest in not competing with the Health Center. Woman's Hospital and the OB/GYNs appointed 12 of the 14 Directors to WPHO's Board of Directors, thus assuring that WPHO would pursue higher OB/GYN fees and resist contractual terms that could induce the OB/GYNs to make use of General Health's new inpatient obstetric facility.

Knowing that concerted action was contemplated and invited, each OB/GYN gave adherence to WPHO and participated in it. Each OB/GYN was well aware that others were asked to participate; each knew that cooperation was essential to successful operation of WPHO; each knew that WPHO, if successful, would result in an elimination of competition among OB/GYNs; and knowing that, each committed to WPHO and authorized WPHO to contract on their behalf.[3] In short, an agreement among OB/GYNs to restrain price competition among themselves is shown by the nature of the market for OB/GYNs' services existing before formation of WPHO, the purposes for which WPHO was formed, and the manner in which it was formed. *See Interstate Circuit, Inc.* v. *United States*, 306 U.S. 208, 226–27 (1939); *In re Chain Pharmacy Ass'n of New York, Inc.*, No. 9227, slip op. at 70–71 (FTC Initial Decision, filed May 17, 1991).

The agreement among Woman's Hospital, WPHO, and the WPHO OB/GYNs to limit price competition among OB/GYNs was *per se* unlawful.[4] WPHO did not develop utilization review standards, and the agreement to limit price competition was not reasonably necessary to further any efforts by WPHO to encourage physicians to practice more cost-effectively. No legitimate argument exists, in this case, therefore, that the collective pricing of OB/GYNs' services here was ancillary to any procompetitive activity.

Defendants and WPHO physicians collectively obtained higher fees for OB/GYNs, deprived managed care plans of the ability to selectively contract with OB/GYNs, and prevented the development of competition for inpatient obstetrical services. These anticompetitive effects were not offset by any procompetitive effect. Thus, even under a rule of reason analysis, defendants violated Section 1 of the Sherman Act.

As discussed above, Sections IV (A) and (B) of the proposed Final Judgment prevent the continuation or recurrence of defendants' price fixing activity and exercise of market power by enjoining Woman's Hospital and WPHO from, directly or indirectly, negotiating or setting prices or other competitive terms and conditions for competing physicians and from disclosing financial or other competitively sensitive information about competing physicians. The requirements of the proposed Final Judgment should restore and protect competition among physicians and permit the development of competition for inpatient obstetrical services in Baton Rouge.

b. Permitted Conduct

Section IV(D) of the Judgment describes two circumstances in which WPHO or similar organizations subject to the Judgment may participate in the contracting activities of competing physicians: first, by using a "messenger model," a term defined in the proposed Final Judgment; second, by obtaining approval from the Department of Justice to own and operate a QMCP.

i. The Messenger Model

The proposed Final Judgment permits WPHO to use an agent or third party to facilitate the transfer of information concerning prices and other competitively sensitive information between individual physicians and purchasers of physician services.[5] Appropriately designed and administered, such messenger models rarely present substantial competitive concerns and indeed have the potential to reduce the transaction costs of negotiations between health plans and numerous physicians.

The proposed Final Judgment makes clear that the critical feature of a properly devised and operated messenger model is the individual providers make their own separate decisions about whether to accept or reject a purchaser's proposal, independent of other physicians' decisions and without any influence by the messenger (Section II(C)) The messenger may not, under the proposed Judgment, coordinate individual providers' responses to a particular proposal, disseminate to physicians the messenger's or other physicians' views or intentions concerning the proposal, act as an agent for collective negotiation and agreement, or otherwise serve to facilitate collusive behavior.[6] The proper role of messenger is simply to facilitate the transfer of information between purchasers of physician services and individual physicians or physician group practices and not to coordinate or otherwise influence the physicians' decision-making processes.[7]

ii. The Qualified Managed Care Plan

The proposed Final Judgment provides defendants with the opportunity to seek approval from the Department of Justice to operate a QMCP. The requirement of prior approval by the Department was necessary for several reasons. First, because a QMCP, in contrast with a messenger model, allows for some collective decision-making among competitors, the Department must look carefully at the potential for a QMCP to result in anticompetitive behavior. In this case, the Department was particularly concerned that past behavior indicated a potential for physician boycott of new entrants into the inpatient obstetrics market. Indeed, managed care plans have been deprived of benefits of competition in the market for inpatient obstetrical services because OB/GYNs have refused to deliver at the Health Center. In addition, the Department perceived there to be a greater potential for abuse of a QMCP operated by a single specialty with very closely aligned interests. Finally, there was no indication that the operation of a QMCP by defendants in this case would have any pro-competitive benefits. Specifically, Woman's Hospital and WPHO did not indicate that their motivation for operating a QMCP was to offer their community a locally owned and operated managed care plan, a factor that has been an important consideration for the Department in permitting the operation of QMCPs in other communities.[8] In reviewing a request from defendants for approval to operate a QMCP, the Department will consider the totality of circumstances in light of the concerns discussed above. The proposed Final Judgment provides that the Department's approval will not

[2] The existence of this agreement made it unnecessary for the Department to resolve whether physician representation on the board of WPHO, physician influence over Woman's Hospital, or other factors established that competing doctors controlled the establishment of their fees through WPHO and thus established an agreement among those competitors.

[3] WPHO strengthened the ability of the OB/GYNs to police the agreement among themselves. There was little likelihood that any substantial number of the approximately 43 OB/GYNs who joined WPHO could secretly break ranks. Woman's Hospital's monopoly in inpatient obstetrics assured Woman's Hospital knowledge of the identity of managed care plans operating in Baton Rouge and of the OB/GYNs in the networks of those plans. WPHO would thus readily detect any OB/GYN who contracted outside of WPHO at lower rates. Under these circumstances, the agreement of the OB/GYNs did, and was likely to, lead to real anticompetitive harm.

[4] The agreement does not escape condemnation simply because WPHO appointed a consultant and a committee of nonphysicians to determine the fee schedule. The procedure employed by WPHO here is sharply distinguishable from a properly structured messenger model, discussed *infra* and permitted under the proposed Final Judgment. Here, a single agent was used precisely to fix fees to be charged to managed care plans by all of WPHO's member doctors, not simply to convey information.

[5] "Other competitively sensitive terms and conditions" includes, for example, contractual terms concerning utilization review and quality assurance issues.

[6] For example, it would be a violation of the proposed Final Judgment if the messenger were to select a fee for a particular procedure from a range of fees previously authorized by the individual physician, or if the messenger were to convey collective price offers from physicians to purchasers or negotiate collective agreements with purchasers on behalf of physicians. This would be so even if individual physicians were given the opportunity to "opt in" or to "opt out" of any agreement. In each instance, it would in fact be the messenger, not the individual physician, who would be making the critical decision, and the purchaser would be faced with the prospect of a collective response.

[7] For Example, the messenger may convey to a physician objective or empirical information about proposed contract terms, convey to a purchaser any individual physician's acceptance or rejection of a contract offer, canvass member physicians for the rates at which each would be willing to contract even before a purchaser's offer is made, and charge a reasonable, non-discriminatory fee for messenger services. The proposal Final Judgment gives guidelines for these and other activities that a messenger may undertake without violating the Final Judgment. (Section II(C)).

[8] *See United States* v. *Health Care Partners, Inc.*, 60 Fed. Reg. 52014 (October 4, 1995) (Competitive Impact Statement); *United States* v. *Health Choice of Missouri, Inc.*, 60 Fed. Reg. 51808 (October 3, 1995) (Competitive Impact Statement).

be withheld unreasonably. (Section IV(D)(I)).

To comply with the requirements of a QMCP set forth in the proposed Final Judgment, (1) the owners or members of WPHO (to the extent they compete with other owners or members or compete with physicians on their provider panels) must share substantial financial risk, and constitute no more than 30% of the physicians in any relevant market;[9] *and* (2) to the extent WPHO has a provider panel that exceeds this limit in any relevant market, there must be a divergence of economic interest between the owners and the subcontracting physicians, such that the owners have the incentive to bargain down the fees of the subcontracting physicians.[10] (Section II(G) (1) and (2)) In addition, a QMCP cannot facilitate agreements between competing physicians concerning charges, or other terms and conditions relating to payers not contracting with the organization, and cannot be operated with the purpose or effect of maintaining or increasing physician fees. (Section II(G) (3) and (5)) The requirements of a QMCP are necessary to avoid the creation of a physician cartel while at the same time allowing payers access to provider-controlled plans.

3. Applicability to Consenting Physicians

The proposed Final Judgment applies not only to named defendants Woman's Hospital and WPHO, but also to all "consenting physicians" defined as physicians who continue as owners or participants in physician networks owned or operated by Woman's Hospital or WPHO. Consenting physicians are required to affirm in writing that the physician has read and understands the Final Judgment and agrees to be bound by it. (Section IV(B)).

Application of the proposed Final Judgment to consenting physicians will help prevent recurrence of the violations alleged in the Complaint. Those violations could not have occurred without the willing participation of physicians who, in addition to Woman's Hospital, were the intended beneficiaries of those violations. Physicians could abuse the messenger model and the QMCP in ways that might not violate the Final Judgment but would at the same time achieve the anticompetitive results addressed by the Final Judgment. The "consenting physicians" provisions should reduce this risk.

IV

Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment would be a full trial on the merits of the case. In the view of the Department of Justice, such a trial would involve substantial costs to the United States and defendants and is not warranted because the proposed Final Judgment provides all of the relief necessary to remedy the violations of the Sherman Act alleged in the Complaint.

V

Remedies Available to Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and a reasonable attorney's fee. Entry of the proposed Final Judgment will neither impair nor assist in the bringing of such actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent lawsuits that may be brought against one or more defendants in this matter.

VI

Procedures Available for Modification of the Proposed Final Judgment

As provided by Sections 2 (b) and (d) of the APPA, 15 U.S.C. 16 (b) and (d), any person believing that the proposed Final Judgment should be modified may submit written comments to Gail Kursh, Chief; Health Care Task Force; United States Department of Justice; Antitrust Division; 325 7th Street, NW., Room 400; Washington, DC 20530, within the 60-day period provided by the Act. Comments received, and the Government's responses to them, will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free, pursuant to Paragraph 2 of the Stipulation, to withdraw its consent to the proposed Final Judgment at any time before its entry, if the Department should determine that some modification of the Final Judgment is necessary for the public interest. Moreover, the proposed Final Judgment provides in Section IX that the Court will retain jurisdiction over this action, and that the parties may apply to the Court for such orders as may be necessary or appropriate for the modification, interpretation, or enforcement of the proposed Final Judgment.

VII

Determinative Documents

No materials and documents of the type described in Section 2(b) of the APPA, 15 U.S.C. 16(b), were considered in formulating the proposed Final Judgment. Consequently, none are filed herewith.

Dated: April 23, 1996.

Respectfully submitted,

Mark J. Botti,
Steven Kramer,
Pamela C. Girardi,
Attorneys, Antitrust Division, U.S. Dept. of Justice, 325 7th Street, N.W., Room 450, Washington, D.C. 20530, (202) 307–0827.

L.J. Hymel,
United States Attorney.

By:

John J. Gaupp,
LBN# 14976, Assistant United States Attorney, 777 Florida St., Suite 208, Baton Rouge, LA 70801, (504) 389–0443, Local Counsel.

[FR Doc. 96–11796 Filed 5–9–96; 8:45 am]
BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Telecommunications Information Distribution Research Consortium

Notice is hereby given that, on January 29, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), the Advanced Telecommunications information Distribution Research Consortium ("ATIRP Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are the United States of America, represented by U.S. Army Research Laboratories ("ARL"), Adelphi, MD; Sanders, a Lockheed Martin Company, Nashua, NH; Bell Communications Research, Inc., Morristown, NJ; City University of New York, City College, New York, NY; University of Delaware, Newark, DE; GTE Laboratories, Inc., Waltham, MA; Howard University, Washington, DC; University of Maryland, College Park, MD; Massachusetts Institute of Technology, Cambridge, MA; Morgan State University, Baltimore, MD; and Motorola, Inc., Scottsdale, AZ.

The nature of the ATIRP Consortium is to conduct research in the area of telecommunications and information distribution for a limited duration to gain further knowledge and understanding of emerging technologies. Through its partnerships, the Consortium will forge cooperative relationships with the customer community to develop innovative ideas and applications for new telecommunications and information distribution technologies.

Constance K. Robinson,
Director of Operations, Antitrust Division.

[FR Doc. 96–11652 Filed 5–9–96; 8:45 am]
BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances Notice of Registration; Norac Co., Inc.

By Notice dated October 16, 1995, and published in the **Federal Register** on October 23, 1995, (60 FR 54387), Norac Company, Inc., 405 S. Motor Avenue, Azusa, California 91702, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of tetrahydrocannabinols (7370), a basic class of controlled substance listed in Schedule I.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Norac Company, Inc. to manufacture the listed controlled substance is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: April 12, 1996.

Gene R. Haislip,
Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–11665 Filed 5–9–96; 8:45 am]
BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 6, 1996.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). A copy of this individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5095). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration.

Title: Job Search Assistance Demonstration Followup Interview.

Frequency: One-time survey.

Affected Public: Individuals or households.

Number of Respondents: 4,500.

Estimated Time Per Respondent: 30 minutes.

Total Burden Hours: 2,250.

Total Annualized capital/startup costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Description: The information collected in this questionnaire is necessary for the evaluation of the Job Search Assistance (JSA) demonstration, a Congressionally mandated demonstration and evaluation. The questionnaire collects information on employment and training services received and labor market experiences of unemployment insurance claimants selected for the demonstration.

Theresa M. O'Malley,
Acting Departmental Clearance Officer.

[FR Doc. 96–11765 Filed 5–9–96; 8:45 am]
BILLING CODE 4510–30–M

Office of the Assistant Secretary for Administration and Management

National Skill Standards Board; Notice of Open Meeting

AGENCY: Office of the Assistant Secretary for Administration and Management, Labor.

ACTION: Notice of open meeting.

SUMMARY: The National Skill Students Board was established by an Act of Congress, the Goals 2000: Educate America Act of 1994, Title V, Pub L. 103–227. The 27-member National Skill Standards Board will serve as a catalyst and be responsible for the development and implementation of a national system of voluntary skill standards and certification through voluntary partnerships which have the full and balanced participation of business, industry, labor, education and other key groups.

Time and Place: The meeting will be held from 8:00 a.m. to appproximately 11:30 a.m. on Friday, May 31, 1996, in the Mt. Vernon Salon A & B, 2nd Floor of the Madison Hotel at 15th & M Streets N.W, Washington, D.C.

[9] The financial risk-sharing requirement of a QMCP ensures that the physician owners in the venture share a clear economic incentive to achieve substantial cost savings and provide better services at lower prices to consumers. The 30% limitation is designed to ensure that there are available sufficient remaining physicians in the market with the incentive to contract with competing managed care plans or to form their own plans. These limitations are particularly critical in this case in view of defendants' prior conduct in forming negotiating groups with nearly every OB/GYN practicing at private hospitals in Baton Rouge and obtaining higher prices for these doctors.

[10] The QMCP's subcontracting requirements are designed to permit physician panels above the 30% limit, but with sufficient safeguards to avoid the risk of competitive harm. Specifically, the owners of a QMCP must bear significant financial risk for the payments to, and utilization practices of, the panel physicians in excess of the 30% limitation. In this way, a QMCP must operate with the same incentives as a nonprovider-controlled plan to bargain down the fees of the subcontracting physicians, and the risk of it using the subcontracts as a mechanism for increasing fees for physician services is substantially reduced.

Agenda: The agenda for the Board Meeting will include discussion of: Reports about NSSB focus groups and public hearings, and a panel discussion of the Palisades Education Summit.

Public Participation: The meeting from 8:00 a.m. to 11:30 a.m., is open to the public. Seating is limited and will be available on a first-come, first-served basis. Seats will be reserved for the media. Disabled individuals should contact Claire Grenewald at (202) 254–8628, if special accommodations are needed.

For Further Information Contact: Sally Conway, NSSB Outreach Director, at (202) 254–8628.

Signed at Washington, D.C., this 6th day of May 1996.

Judy Gray,

Executive Director, National Skill Standards Board.

[FR Doc. 96–11767 Filed 5–9–96; 8:45 am]

BILLING CODE 4510–23–M

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed revision collection of OFCCP Recordkeeping/Reporting: Construction.

A copy of the proposed information collection request can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before July 15, 1996. The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
* Enhance the quality, utility and clarity of the information to be collected; and
* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 219–7601 (this is not a toll-free number), fax 202–219–6592.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Federal Contract Compliance Programs enforces E.O. 11246, which prohibits employment discrimination because of race, color, religion, sex, or national origin, and requires affirmative action to ensure that persons are treated without regard to these prohibited factors. The Order applies to Federal contractors and subcontractors and to federally assisted construction contractors who have contracts exceeding $10,000. In addition, OFCCP enforces Section 503 of the Rehabilitation Act of 1973 which applies to Federal contractors and subcontractors with a contract exceeding $10,000, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, which applies to Federal contractors and subcontractors with a contract of $10,000 or more.

II. Current Actions

The Department of Labor seeks to revise this information collection. This revision is the result of the Program's decision to eliminate the routine submission of Form CC–257, which collects race and gender information on construction employees, classified by trade. The program has also reevaluated the burden effect of existing recordkeeping responsibilities, which results in a small increase in recordkeeping hours.

Type of Review: Revision.

Agency: Employment Standards Administration.

Title: OFCCP Recordkeeping/Reporting: Construction.

OMB Number: 1215–0163.

Affected Public: Businesses or other for-profit; Not-for-Profit Institutions, Small businesses or organizations.

Total Recordkeepers: 100,000.

Total Reporting Responses: 1,303.

Respondents	Average hours per response	Frequency	Total responses	Subtotal hours
Recordkeeping:				
100,000	48	Rcdkpg	100,000	4,800,000
(2,061 of above, Affirmative Action Plan)	15.107	Rcdkpg	2,061	31,136
Reporting:				
(1,283 of above, Compliance Reviews)	3	Annually	1,283	3,849
5 (Hometown Plans)	.42	Quarterly	20	8

Total Hours: 4,834,993.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $7.00.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 6, 1996.

Cecily A. Rayburn,

Director, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 96–11764 Filed 5–9–96; 8:45 am]

BILLING CODE 4510–27–M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 96–34; Exemption Application No. D–09880, et al.]

Grant of Individual Exemptions; General Electric

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

General Electric Pension Trust (the Trust), Located in Fairfield, Connecticut

[Prohibited Transaction Exemption 96–34; Application No. D–09880]

Exemption

The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply effective August 3, 1994, to the past and continued lease (the Lease) by the Trust of office space in a commercial office building located at 201 Mission Street in San Francisco, California (the Property), to GE Capital Aviation Services, Inc. (GE Aviation), a party in interest with respect to employee benefit plans participating in the Trust, provided the following conditions are met:

(a) All terms and conditions of the Lease are at least as favorable to the Trust as those which the Trust could have obtained in an arm's-length transaction with an unrelated party at the time the Lease was executed;

(b) The rent paid by GE Aviation to the Trust under the Lease is not less than the fair market rental value of the office space, as established by an independent qualified real estate appraiser;

(c) David P. Rhoades (Mr. Rhoades), acting as a qualified, independent fiduciary for the Trust (the Independent Fiduciary), reviewed all terms and conditions of the Lease prior to the transaction, as well as any subsequent modifications to the Lease, and determined that such terms and conditions would be in the best interests of the Trust at the time of the transaction; and

(d) The Independent Fiduciary represents the interests of the Trust for all purposes under the Lease as a qualified, independent fiduciary for the Trust, monitors the performance of the parties under the terms and conditions of the Lease and the exemption, and takes whatever action is necessary to safeguard the interests of the Trust throughout the duration of the Lease.

EFFECTIVE DATE: The exemption is effective for the period from August 3, 1994, until the scheduled termination date of the Lease, as it may be renewed or extended by the parties subject to the review and approval of the Independent Fiduciary, or, if earlier, the date the Lease is actually terminated by the parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 15, 1995, at 60 FR 31512.

NOTICE TO INTERESTED PERSONS: The applicant represents that it was unable to notify interested persons within the time period specified in the **Federal Register** notice published on June 15, 1995. However, pursuant to an agreement between the applicant and the Department, the Trust notified all interested persons (including active employees, former employees and retirees of General Electric Company (GE) and its affiliates) no later than March 11, 1996.[1] Interested persons were advised that they had until April 10, 1996 to comment and/or request a hearing on the proposed exemption.

WRITTEN COMMENTS AND MODIFICATIONS: By letter dated November 27, 1995, the applicant submitted the following comments and requests for modifications regarding the notice of proposed exemption (the Proposal).

The Effective Date paragraph in the Proposal states that the exemption, if granted, will be effective until the scheduled termination date of the Lease (i.e. September 16, 1999) or, if earlier, the date the Lease is actually terminated by the parties.

The applicant states that Paragraph 10 of the Summary of Facts and Representations in the Proposal (the Summary) contemplates that Mr. Rhoades, as the independent fiduciary acting for the Trust (i.e. the Independent Fiduciary), will oversee, review and approve any renewals or extensions of the Lease, if such renewals or extensions are in the best interests of the Trust. The applicant states further that Condition (c) of the Proposal indicates that the Independent Fiduciary will be responsible for reviewing any subsequent modifications to the Lease and determining that such

[1] The applicant represents that notice of the proposed exemption was provided to the active employees of GE and its affiliates who are participants and beneficiaries of the plans participating in the Trust by posting a notice (along with a copy of the proposed exemption as published in the **Federal Register**) at GE locations, in areas that are customarily used for notices to employees with regard to employee benefits or labor relations matters, on or before March 11, 1996. Former employees and retirees, along with other employees, were notified by means of publication of a notice in the 1994 Summary Annual Reports which were distributed to such persons during September and October 1995 via first class mail.

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modifications would be in the best interests of the Trust.

The applicant represents that it is likely that the parties will negotiate whether to renew or extend the Lease at its termination, and such a renewal or extension may be in the best interests of the Trust depending on the then-current real estate market. Therefore, the Trust requests that the exemption be effective until the termination of the Lease, as it may be renewed or extended by the parties subject to the review and approval of the Independent Fiduciary.

The applicant represents further that if Mr. Rhoades, the current Independent Fiduciary, is no longer able to serve in that capacity, the Trust would retain a replacement Independent Fiduciary with the same qualifications as Mr. Rhoades and his firm. The replacement Independent Fiduciary would be required to make the same representations made by Mr. Rhoades regarding experience, independence from the GE and its affiliates, and understanding the duties, liabilities and responsibilities such person would have as a fiduciary under the Act. In addition, the replacement Independent Fiduciary would be required to enter into the same form of Independent Fiduciary Agreement used by Mr. Rhoades.

In response to the applicant's comments, the Department has modified the Effective Date paragraph in the Proposal by inserting, after the reference to the scheduled termination date of the Lease, the phrase "... as it may be renewed or extended by the parties subject to the review and approval of the Independent Fiduciary". The Department has also modified Conditions (c) and (d) of the Proposal by inserting "Independent Fiduciary" as a capitalized term in reference to Mr. Rhoades, which is meant to incorporate the applicant's concerns regarding the possibility of a replacement for Mr. Rhoades in the future.

The Department received two comment letters and various telephone calls from employees of GE who did not fully understand the Proposal's effect on benefits provided to participants and beneficiaries of the GE Pension Plan and other plans in the GE Trust (the GE Plans). In this regard, the applicant states that a special telephone line was established by GE to respond to such inquiries by participants and beneficiaries of the GE Plans. The applicant represents that GE received over 150 telephone calls in response to the Proposal and that additional information was provided to interested persons when requested.

The Department also received two comment letters from interested persons who oppose the granting of an exemption. One of the commenters objects to the transaction because the commenter believes that the Lease involves "....the risking of GE Pension funds to be used in lieu of operating capital from the various GE businesses" and exposes the GE Trust to "high risks". The other commenter does not approve of the Proposal but did not express any reasons for objecting to the transaction and could not be reached for further comments.

The applicant has responded to these comments by letter dated April 24, 1996. The applicant represents that the subject transaction does not involve the use of assets of the GE Pension Plan in lieu of operating capital of GE. Rather, the applicant states that the transaction involves the lease of space in an office building currently owned by the Trust to a GE subsidiary (i.e. GE Aviation) at terms equivalent to an arm's-length transaction, as reviewed and approved by a qualified independent fiduciary. The applicant notes that if the GE subsidiary had not entered into the Lease, the office space likely would have remained vacant for a longer period, resulting in loss of income to the Trust (including the GE Pension Plan). Therefore, the applicant maintains that the transaction is in the best interests of the Trust and does not in any way expose the Trust to higher risks than it would have been exposed to absent this transaction. The applicant concludes that there are sufficient safeguards in place to protect the interests of the Trust and its participants and beneficiaries.

No other comments, and no requests for a hearing, were received by the Department from interested persons.

Therefore, the Department has determined to grant the proposed exemption as modified herein.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

NBD Bancorp, Located in Detroit, Michigan

[Prohibited Transaction Exemption 96–35 Exemption Application No. D–09986]

Exemption

The restrictions of sections 406(b)(2) of the Act shall not apply to the merger of the INB Principal Stability Fund (the PS Fund) into the NBD Stable Asset Income Fund (the SAI Fund);[2] provided the following requirements are satisfied:

(1) On the date the merger is executed, the assets in the PS Fund and the assets in the SAI Fund will be valued in the same manner, under identical guidelines, by the same individuals;

(2) Upon completion of the merger of the PS Fund into the SAI Fund, the aggregate fair market value of the interests of the employee benefit plans (the Plans) participating in the SAI Fund immediately following the merger, together with any cash received in lieu of fractional units, equals the aggregate fair market value of each participating Plans' interest in such Funds immediately before the merger;

(3) The assets of each of the participating Plans are invested in the same type of investments both before and after the proposed merger;

(4) Neither NBD Bancorp nor any of its affiliates receives fees or commissions in connection with the merger;

(5) The Plans will pay no sales commissions or fees, as a result of the transaction; and

(6) A fiduciary who is acting on behalf of each affected Plan and who is independent of and unrelated to NBD Bancorp and any of its affiliates receives advance written notice of the merger of the PS Fund into the SAI Fund.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice of Proposed Exemption published on March 5, 1996, at 61 FR 8670.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 219–8883 (This is not a toll-free number.)

Spreckels Industries, Inc. Employee Stock Ownership Plan (the ESOP); Spreckels Industries, Inc. Incentive Savings Plan for Union Hourly Employees (the Hourly Plan); and

Spreckels Industries, Inc. Employees' Incentive Savings Plan (the Incentive Plan; Collectively, the Plans), Located in Pleasanton, California

[Prohibited Transaction Exemption 96–36, Exemption Application Nos. D–09999 through D–10001]

Exemption

The restrictions of sections 406(a)(1)(A), 406(a)(1)(E), 406(a)(2), 407(a), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the

[2] For purposes of this exemption, the PS Fund and the SAI Fund described herein are collectively referred to as the Funds.

application of section 4975 of the Code, by reason of section 4975(c)(1) (A) and (E) of the Code, shall not apply to the acquisition, holding or exercise by the Plans of certain warrants (the Warrants) for the purchase of Class A new common stock (the New Common Stock) of Spreckels Industries, Inc. (the Employer), a party in interest with respect to the Plans; provided that the following conditions are satisfied:

(a) An independent fiduciary (the I/F) will manage the Warrants and monitor the value of the Warrants at all times and will be empowered to assign, transfer, sell, and exercise the Warrants in order to serve the best interest of the Plans and their participants and beneficiaries;

(b) The fair market value of the Warrants will at no time exceed twenty-five percent (25%) of the value of the total assets of the Hourly Plan or the Incentive Plan;

(c) The Warrants that the Plans will acquire resulted from a bankruptcy proceeding, in which all holders of the Class A old common stock in Spreckels Industries, Inc. were treated in a like manner, including the Plans;

(d) The Plans will not incur any expenses or fees in connection with the proposed transactions;

(e) Any assignment, sale, or other transfer of the Warrants will not involve a party in interest with respect to the Plans, as defined in section 3(14) of the Act, unless such transfer is to the Employer, pursuant to an exercise of the Warrants; and

(f) The I/F will determine the fair market value of the Warrants upon acquisition by the Plans, and an independent qualified appraiser will determine the fair market value of the Warrants on a periodic basis (but not less frequently than annually).

Written Comments

In the Notice of Proposed Exemption (the Notice), the Department of Labor (the Department) invited all interested persons to submit written comments and requests for a hearing on the proposed exemption within forty-five (45) days of the date of the publication of the Notice in the **Federal Register** on January 31, 1996. All comments and requests for hearing were due by March 18, 1996.

During the comment period, the Department received no requests for hearing. However, the Department did receive a comment letter from the applicant, dated April 8, 1996, which informed the Department of changes in the facts as represented in the proposed exemption. In this regard, the Employer has engaged Consulting Fiduciaries, Inc. (CFI) to replace L. Scott Maclise (Mr. Maclise), a registered investment advisor with Linsco/Private Ledger Financial Services, who was appointed to serve as the I/F on behalf of the Plans for the purposes of the exemption. In the comment letter, the Employer requested concurrence from the Department that the exemption would be granted notwithstanding the replacement of Mr. Maclise as the I/F for the Plans.

Attached to the comment letter, the applicant included: (1) A copy of a letter, dated April 2, 1996, which details the agreement between the Employer and CFI concerning the engagement of CFI to provide certain services as independent fiduciary on behalf of the Plans; and (2) a letter, dated April 2, 1996, from CFI to the Department in which CFI made certain representations. In this regard, CFI has accepted appointment as I/F on behalf of the Plans for the purposes of the transactions which are the subject of this exemption and, except in the event of discharge or resignation as described in the agreement with the Employer, will serve throughout the duration of the transactions.

CFI represents that it is qualified to serve as I/F, in that it is a registered investment adviser under the Investment Advisers Act of 1940 and provides professional, independent fiduciary decision making, consultation, and alternative dispute resolution services to plans, plan sponsors, trustees, and investment advisers. Further, CFI is experienced in representing clients as a fiduciary in stock transactions.

CFI represents that it has the power to negotiate and act independently of the Employer and its officers, directors, shareholders, agents and representatives with respect to the transactions which are the subject of this exemption. In this regard, CFI is not affiliated with the Employer and the income CFI receives from the Employer is expected to represent less than one percent (1%) on an annualized basis of its income over the life of its engagement as I/F.

CFI represents that it understands its duties as I/F under the Act and the Code and will assume all duties, responsibilities, and obligations imposed on it as I/F of the Plans in connection with the transactions which are the subject of this exemption. In this regard, CFI represents that it will take whatever acts are necessary to review, analyze, negotiate, monitor, and approve or disapprove the transactions and will be responsible for the Plans' acquisition and holding of the Warrants. Bearing in mind its fiduciary duties under the Act, CFI represents that it will determine whether the transactions: (a) Are prudent and for the exclusive purpose of providing benefits to participants; (b) are fair to the Plans from a financial point of view; and (c) are in accordance with the terms and conditions as set forth in the Notice.

CFI will decide on behalf of the Plans (a) whether or not the Plans should acquire and hold the Warrants; and (b) when, if at all, the Warrants should be exercised to acquire New Common Stock or sold and the proceeds used to acquire such stock. With respect to the acquisition of the Warrants, CFI represents that it will conduct due diligence to evaluate whether the Plans should enter into the transactions which are the subject of this exemption. CFI represents that it bears full power to manage and monitor the value of the Warrants at all times. In this regard, CFI represents that it will determine the fair market value of the Warrants upon acquisition by the Plans.

With respect to the holding of the Warrants by the Plans, CFI represents that such holding will not impair the diversification, prudence, or liquidity of the Plans. In this regard, CFI represents that it will be responsible, as appropriate, for insuring that the Warrants will be appraised on a periodic basis (but not less frequently than annually).

CFI represents that it is empowered to assign, transfer, sell, and exercise the Warrants in order to serve the best interests of participants and beneficiaries of the Plan. In this regard, CFI represents that it will not in any way transfer, assign, or sell the Warrants to a "party in interest" within the meaning of section 3(14) of the Act or section 4975(e)(2) of the Code, unless such a transfer is to the Employer pursuant to an exercise of such Warrants.

After giving full consideration to the entire record, including the written comment from the applicant, the Department has decided to grant the exemption, as described and concurred in above. In this regard, the comment letter submitted by the applicant to the Department has been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

For a more complete statement of the facts and representations supporting the

Department's decision to grant this exemption refer to the Notice published on January 31, 1996 at 61 FR 3470.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 219–8883 (This is not a toll-free number.)

Budge Clinic Profit Sharing Plan and Trust (the Plan), Located in Logan, Utah

[Prohibited Transaction Exemption 96–37; Exemption Application No. D–10142]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of certain improved real property located in Logan, Utah (the Property) by the Plan to IHC Health Services, Inc., a party in interest with respect to the Plan; provided that the following conditions are satisfied:

(A) All terms and conditions of the transaction are no less favorable to the Plan than those which the Plan could obtain in an arm's-length transaction with an unrelated party;

(B) The Plan receives a cash purchase price for the Property which is no less than the fair market value of the Property as of the sale date; and

(C) The Plan does not incur any expenses or suffer any loss with respect to the transaction.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption published on March 12, 1996 at 61 FR 10015.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 6th day of May, 1996.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 96–11744 Filed 5–9–96; 8:45 am]

BILLING CODE 4510–29–P

Office of the Assistant Secretary for Veterans' Employment and Training

Secretary of Labor's Advisory Committee for Veterans' Employment and Training; Notice of Meeting

The Secretary's Advisory Committee for Veterans' Employment and Training was established under Section 4110 of title 38, United States Code, to bring to the attention of the Secretary, problems and issues relating to veterans' employment and training.

Notice is hereby given that the Secretary of Labor's Advisory Committee for Veterans' Employment and Training will meet on Thursday June 6, 1996 at the Disabled American Veterans National Service and Legislative Headquarters 807 Maine Avenue, S.W., Washington, D.C. 20024 at 9:00 a.m. to 4:00 p.m. and Friday June 7, 1996 in the Department of Labor Secretary's Conference Room, S–2508, 200 Constitution Avenue, N.W., Washington, D.C. at 8:30 a.m. to noon.

Written comments are welcome and may be submitted by addressing them to: Mr. Thomas S. Keefe, Special Assistant, Office of the Assistant Secretary for Veterans' Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S1315, Washington, D.C. 20210.

The primary items on the agenda are:

- Adoption of minutes of the previous meeting.
- Budget briefing—FY 1996 & 1997.
- Pending legislation (S 1711).
- National Skills Board briefing.
- Veterans Preference Issues.
- Office of the DOL Inspector General briefing on OFCCP.
- WREI video.
- Planning session of a fall Veterans Employment Forum.

The meeting is open to the public.

Persons with disabilities, needing special accommodations, should contact Thomas S. Keefe at telephone number 202–219–9116 no later than Friday, May 31.

Signed at Washington, D.C. this 3rd day of May, 1996.

Preston M. Taylor Jr.,

Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 96–11766 Filed 5–9–96; 8:45 am]

BILLING CODE 4510–79–M

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

TIME AND DATE: The Provision for the Delivery of Legal Services Committee of the Legal Services Corporation's Board of Directors will meet on May 19, 1996. The meeting will begin at 2:00 p.m. and continue until conclusion of the committee's agenda.

LOCATION: Legal Services Corporation, 750 First Street NE, 11th Floor, Washington, DC 20002, (202) 336–8800.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Consider and act on recommendtion for Board action on a suggested list of priorities that grantee boards may use in setting local priorities.
3. Report by the OIG on its plans for implementation of Section 509 of Pub. L. 104–134 (H.R. 3019).
4. Report by the Directors of OPEAR and OPS on the Corporation's implementation of competitive grantmaking in '96 and plans for '97, and other initiatives.
5. Provide direction to staff with respect to publication of a draft revised Accounting Guide for Recipients and Auditors in the **Federal Register** for public comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel, (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Barbara Asante, at (202) 336–8800.

Dated: May 7, 1996.

Victor M. Fortuno,

General Counsel.

[FR Doc. 96–11809 Filed 5–8–96; 12:28 pm]

BILLING CODE 7050–01–P

Sunshine Act Meeting

TIME AND DATE: The Finance Committee of the Legal Services Corporation's Board of Directors will meet on May 19, 1996. The meeting will begin at 2:00 p.m. and continue until conclusion of the committee's agenda.

LOCATION: Legal Services Corporation, 750 First Street NE, 11th Floor, Washington, DC 20002, (202) 336–8800.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Receive report of Thompson, Cobb, Bazilio & Associates, Certified Public Accountants, on their audit of the Corporation's FY '95 financial statements.
3. Consider and adopt a proposed revised Consolidated Operating Budget for FY '96, implementing Pub. L. 104–134 (H.R. 3019), to recommend to the Board for its adoption.
4. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel, (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Barbara Asante, at (202) 336–8800.

Dated: May 7, 1996.

Victor M. Fortuno,

General Counsel.

[FR Doc. 96–11810 Filed 5–8–96; 12:28 pm]

BILLING CODE 7050–01–P

Sunshine Act Meeting

TIME AND DATE: The Operations and Regulations Committee of the Legal Services Corporation's Board of Directors will meet on May 19, 1996. The meeting will begin at 2:00 p.m. and continue until conclusion of the committee's agenda.

LOCATION: Legal Services Corporation, 750 First Street NE, 11th Floor, Washington, DC 20002, (202) 336–8800.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Consider and act on staff and OPM recommendations relating to internal personnel policies of the Corporation.
3. Consider and act on measures or steps necessary for the implementation of new restrictions and requirements imposed by Pub. L. 104–134 (H.R. 3019) and the provision of guidance to the public as to those restrictions and requirements.
4. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel, (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Barbara Asante, at (202) 336–8800.

Dated: May 7, 1996.

Victor M. Fortuno.

General Counsel.

[FR Doc. 96–11811 Filed 5–8–96; 12:28 pm]

BILLING CODE 7050–01–P

Sunshine Act Meeting

TIME AND DATE: The Legal Services Corporation Board of Directors will meet on May 20, 1996. The meeting will begin at 9:00 a.m. and continue until conclusion of the Board's agenda.

LOCATION: Legal Services Corporation, 750 First Street NE, 11th Floor, Washington, DC 20002, (202) 336–8800.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a unanimous vote of the Board of Directors to hold an executive session. At the closed session, the Board may be briefed by management on internal operational and personnel matters and by the Corporation's Inspector General on activities of the Office of Inspector General. In addition, the General Counsel will report to the Board on litigation to which the Corporation is or may become a party and the Board may act on the matters reported. The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. section 552b(c) (10)] and the corresponding regulation of the Legal Services Corporation [45 C.F.R. section 1622.5(h)].[1] A copy of the General Counsel's Certification, that the closing is authorized by law, will be posted for public inspection at the Corporation's headquarters, located at 750 First Street NE, Washington, DC 20002, in its 11th floor reception area, and will also be available upon request.

[1] Briefings do not constitute "meetings," as defined by the Government in the Sunshine Act. Notice of briefings is here provided as a courtesy to the public.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of Agenda.
2. Approval of Minutes of February 24, 1996, meeting.
3. Approval of February 24, 1996, executive session minutes.
4. Approval of Minutes of March 20, 1996, meeting.
5. Receive report of Thompson, Cobb, Bazilio & Associates, Certified Public Accountants, on their audit of the Corporation's FY '95 financial statements.
6. Chairman's and Members' Reports.
7. President's Report.
8. Inspector General's Report.
9. Consider and act on Board's Operations and Regulations Committee Report.
   a. Internal personnel policies of the Corporation.
   b. Implementation of Pub. L. 104–134 (H.R. 3019) and provision of guidance thereon.
10. Consider and act on the report of the Board's Finance Committee, including the adoption of a Consolidated Operating Budget.
11. Consider and act on the report of the Board's Committee on the Provision for the Delivery of Legal Services, including the adoption of a suggested list of priorities that grantees' boards may use in setting local priorities.
12. Consider and act on proposed Report of the Board of Directors to accompany the Inspector General's Semi-annual Report to the Congress for the period of October 1, 1995–March 31, 1996.

Closed Session

13. Inspector General's briefing of the Board on activities of LSC's Office of Inspector General.
14. Management's briefing of the Board on internal operations and personnel matters.
15. Consider and act on the General Counsel's report on potential and pending litigation involving the Corporation and on a request for indemnification filed in connection with a pending lawsuit.

Open Session

16. Public comment.
17. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel, (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting should contact Barbara Asante, at (202) 336–8800.

Dated: May 7, 1996.
Victor M. Fortuno,
General Counsel.
[FR Doc. 96–11812 Filed 5–8–96; 12:28 pm]
BILLING CODE 7555–01–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Cooperative Agreement for a Theater Residency Program for Playwrights

AGENCY: National Endowment for the Arts.

ACTION: Notice of availability.

SUMMARY: The National Endowment for the Arts requests proposals leading to the award of a Cooperative Agreement for the development, implementation, administration, and evaluation of a playwrights' theater residency program. Under the Cooperative Agreement, a minimum of 10 playwrights will be awarded $25,000 each for residencies at theater institutions. The residency stipends will recognize significant accomplishment or promise and will allow playwrights to fulfill self-defined artistic and community-based goals. those interested in receiving the Solicitation should reference Program Solicitation PS 96–05 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 96–05 is scheduled for release approximately May 24, 1996 with proposals due on June 24, 1996.

ADDRESSES: Requests for the Solicitation should be addressed to National Endowment for the Arts, Grants & Contracts Office, Room 618, 1100 Pennsylvania Ave., NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: William I. Hummel, Grants and Contracts Office, National Endowment for the Arts, 1100 Pennsylvania Ave., NW, Washington, DC 20506 (202/682–5482).

William I. Hummel,
Coordinator, Cooperative Agreements and Contracts.
[FR Doc. 96–11650 Filed 5–9–96; 8:45 am]
BILLING CODE 7537–01–M

National Endowment for the Arts; International Advisory Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the International Advisory Panel (Federal Advisory Committee on International Exhibitions Section) to the National Council on the Arts will meet on May 31, 1996 from 10:00 a.m. to 3:30 p.m. in Room 716, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of application evaluation, under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Panel Coordinator, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5691.

Dated: May 6, 1996.
Kathy Plowitz-Worden,
Panel Coordinator, Office of Guidelines and Panel Operations, National Endowment for the Arts.
[FR Doc. 96–11723 Filed 5–9–96; 8:45 am]
BILLING CODE 7537–01–M

NATIONAL COMMUNICATIONS SYSTEM

National Security Telecommunications Advisory Committee

AGENCY: National Communications System (NCS).

ACTION: Notice of meeting.

SUMMARY: The President's National Security Telecommunications Advisory Committee will hold a meeting to exchange facts and information on the threats to the nation's information infrastructure to include a brief from the National Security Agency. This special meeting will be held Thursday, May 23, 1996, from 9:00 a.m. to 12:00 p.m. at 4301 North Fairfax Drive, Room 272, Arlington, VA 22203. The agenda is as follows:

—Call to Order/Welcoming Remarks
—Threat Briefing
—Discussion
—Closing Remarks/Adjournment

Due to the classification of the information to be discussed, this meeting will be closed to the public in the interest of national security.

FOR FURTHER INFORMATION CONTACT: Telephone (703) 607–6221 or write the Manager, National Communications System, 701 South Court House Rd., Arlington, VA 22204–2198.

Dennis Bodson,
Chief, Technology and Standards.
[FR Doc. 96–11795 Filed 5–9–96; 8:45 am]
BILLING CODE 5000–03–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Special Emphasis Panel in biological Sciences (#1754).
Date and Time: May 30–31, 1996; 9:00 a.m.–5:30 p.m.
Type of Meeting: Closed.
Contact Person: Carol Colby, Program Officer for Behavioral Neuroscience in the Division of Integrative Biology and Neuroscience, Room 685, National Science Foundation 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1416.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate Collaborative Research in Neuroscience, Computer and Mathematical Sciences and Engineering (CRI) proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 5522b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 6, 1996.
M. Rebecca Winkler,
Committee Management Officer.
[FR. Doc. 96–11666 Filed 5–9–96; 8:45 am]
BILLING CODE 7555–01–M

Special Emphasis Panel in Electrical and Communication Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name and Committee Code: Special Emphasis Panel in Electrical and Communications Systems (1196).
Date and Time: May 28, 1996: 8:00 a.m. to 6:00 p.m.
Place: Room 365, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.
Type of Meeting: Closed.
Contact Person: Dr. Paul Werbos, Program Director, Neuroengineering, Division of Electrical and Communications System, Room 675, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.
Telephone: (703) 306–1340.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate ARI proposals that were submitted to the Division of Electrical and Communication Systems as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: May 6, 1996.
M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 96–11667 Filed 5–9–96; 8:45 am]
BILLING CODE 7555–01–M

National Science Foundation

Special Emphasis Panel in Science Resources Studies; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Science Resources Studies (#1211).
Date and Time: May 30, 1996–9:00 a.m. to 4:00 p.m.; May 31, 1996–9:00 a.m. to 12:00 p.m.
Place: Room 340, 4201 Wilson Blvd., Arlington, Virginia.
Type of Meeting: Partially Open.
Contact Person: Ann Lanier, Project Director, Survey of Academic Research Facilities, Division of Science Resources Studies, National Science Foundation, Room 965, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1774, ext. 6910.
Purpose of Meeting: To review and comment on the content, structure, and layout of the biennial report to Congress, Scientific and Engineering Research Facilities at Universities and Colleges: 1996
Agenda: May 30—Review and comment on the DRAFT data tables for the report and review and comment on the body of the report. May 31—Review and comment on the DRAFT of the body of the report.
Reason for Closing: The closed portion of the meeting on May 30th will disclose data from individual institutions that is privileged or confidential. These matters are within exemption (4) of 5 U.S.C. 552b(c) of the Government in the Sunshine Act.

Dated: May 6, 1996.
M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 96–11668 Filed 5–9–96; 8:45 am]
BILLING CODE 7555–01–M

OFFICE OF PERSONNEL MANAGEMENT

[RI 30–9]

Proposed Collection; Comment Request for Reclearance of Information Collection

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management intends to submit to the Office of Management and Budget a request for reclearance of the following information collection. RI 30–9, Reinstatement of Disability Annuity Previously Terminated Because of Restoration to Earning Capacity, informs disability annuitants of their right to request restoration under title 5, U.S.C., Section 8337. It also specifies the conditions to be met and the documentation required for a person to request reinstatement.

Approximately 200 forms are completed annually. The form takes approximately 60 minutes to respond, including a medical examination. The annual estimated burden is 200 hours. Burden may vary depending on the time required for a medical examination.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@mail.opm.gov

DATES: Comments on this proposal should be received on or before July 9, 1996.

ADDRESSES: Send or deliver comments to—Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

U.S. Office of Personnel Management.
Lorraine A. Green,
Deputy Director.
[FR Doc. 96–11750 Filed 5–9–96; 8:45 am]
BILLING CODE 6325–01–M

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, June 13, 1996
Thursday, June 27, 1996
Thursday, July 25, 1996
Thursday, August 8, 1996
Thursday, August 22, 1996
Thursday, September 12, 1996

The meetings will start at 10:45 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal blue-collar employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chair to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on

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these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5559, 1900 E Street, NW., Washington, DC 20415 (202) 606–1500.

Dated: May 3, 1996.

Phyllis G. Foley,

Chair, Federal Prevailing Rate Advisory Committee.

[FR Doc. 96–11749 Filed 5–9–96; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26514]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

May 3, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 28, 1996, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Louisiana Power & Light Company (70–8487)

Louisiana Power & Light Company ("LP&L" or "Company"), 639 Loyola Avenue, New Orleans, Louisiana 70113, an electric public-utility subsidiary company of Entergy Corporation, a registered holding company, has filed a post-effective amendment to its application-declaration under section 6(a), 7, 9(a) and 10 of the Act and rule 54 thereunder.

By order dated October 3, 1995 (HCAR No. 26387) ("Order"), the Commission authorized, among other things, LP&L to issue and sell, through December 31, 1997: (1) Directly or indirectly through a subsidiary, not more than $610 million principal amount of its first mortgage bonds ("Bonds"), debentures ("Debentures") and preferred securities of a subsidiary of LP&L to be issued in one or more new series; and (2) collateral bonds in a total aggregate principal amount of $75 million to secure certain tax-exempt bonds.

LP&L now proposes to issue and sell the Debentures either unsecured or secured by certain LP&L assets, junior and subordinate to the first lien ("Junior Lien") of its Mortgage and Deed of Trust dated April 1, 1944, to Bank of Montreal Trust Company ("Mortgage"). In addition, LP&L proposes that the Debentures may be secured by a pledge of first mortgage bonds issued under the Mortgage.

The Debentures will be issued under either LP&L's Debenture Indenture, Indenture for Debt Securities or its Subordinated Debenture Indenture, (each, a "Debenture Indenture"), as may be supplemented from time to time. Debentures issued under the form of the Debenture Indenture initially will be secured obligations of the Company, entitled to the Junior Lien on the Company's assets. In connection with the issuance of Debentures secured by the Junior Lien under such Debenture Indenture, the Company may provide security for the holders of such Debentures in the form of first mortgage bonds issued under the Mortgage as it may be supplemented. Such first mortgage bonds would be issued on the basis of unfunded net property additions and/or previously-retired first mortgage bonds and delivered to the trustee under such Debenture Indenture. The first mortgage bonds could be issued in an amount equal to the principal amount of such Debentures and bear interest at a rate of interest equivalent to the rate of interest on such Debentures or bear no interest. These first mortgage bonds would be separate and apart from the Bonds (proposed to be issued and sold in an aggregate principal amount of not more than $610 million).

The Company's Amended and Restated Articles of Incorporation ("Charter") provide, for the benefit of holders of preferred securities, restrictions on the amount of unsecured indebtedness issued by the Company. As a result of these restrictions, the Company proposes to issue Debentures secured by either the Junior Lien or a pledge of first mortgage bonds in order that any such Debentures so issued would not constitute unsecured debt for purposes of the Charter.

The Debenture Indenture under which the Company may issue Debentures secured by the Junior Lien and/or such first mortgage bonds provides for the amendment and restatement of such Debenture Indenture in its entirety, without the consent of the holders of the Debentures outstanding thereunder, to remove the Junior Lien and to release any such collateral first mortgage bonds such that the Debentures would become entirely unsecured obligations of the Company. Such an amendment eliminating the Junior Lien would be subject to the following conditions: (1) No event of default has occurred and is continuing under the Debenture Indenture; and (2)(a) the Company's Charter has been duly amended to eliminate the restrictions on the issuance of unsecured indebtedness, (b) all preferred securities issued by the Company and outstanding are paid, retired or redeemed, or (c) holders of such preferred securities consent to amend the Company's Charter for the purpose of eliminating such restrictions.

The Order also authorized LP&L to enter into arrangements to finance or refinance pollution control facilities ("Facilities") through the issuance of tax-exempt revenue bonds up to an aggregate principal amount of $65 million, including the possible issuance of an irrevocable letter of credit from a bank ("Bank") and/or pledge of one or more series of first mortgage bonds up to an aggregate principal amount of $75 million to be used as collateral for the tax-exempt revenue bonds. As an alternative to the security provided by the Bank, in order to obtain a more favorable rating on tax-exempt bonds and consequently improve the marketability thereof, the Company may (a) determine to provide an insurance policy for the payment of the principal of and/or interest and/or premium on one or more series of tax-exempt bonds, and/or (b) provide security for holders of tax-exempt bonds and/or the Bank equivalent to the security accorded to (i) holders of first mortgage bonds outstanding under the Company's Mortgage by obtaining the authentication of and pledging one or more new series of first mortgage bonds ("Collateral Bonds") under the Mortgage as it may be supplemented or (ii)

holders of Debentures outstanding under the Debenture Indenture that are secured by the Junior Lien by obtaining the authentication of and pledging one or more series of Debentures (the "Collateral Debentures") under the Debenture Indenture.

The Collateral Bonds would be issued on the basis of unfunded net property additions and/or previously-retired first mortgage bonds; Collateral Debentures would be issued pursuant to the terms of a Debenture Indenture. The Collateral Bonds or Collateral Debentures would be delivered to the trustee under the Indenture and/or to the Bank to evidence and secure the Company's obligation to pay the purchase price of the Facilities and the Company's obligation to reimburse the Bank under any reimbursement agreement.

The Collateral Bonds or Collateral Debentures could be issued in several ways. First, if tax-exempt bonds bear a fixed interest rate, the Collateral Bonds or Collateral Debentures could be issued in an amount equal to the principal amount of such tax-exempt bonds and bear interest at a rate equal to the rate of interest on such tax-exempt bonds. Secondly, the Collateral Bonds or Collateral Debentures could be issued in an amount equivalent to the principal amount of such tax-exempt bonds plus an amount equal to interest on the Bonds for a specified period. In such case, the Collateral Bonds or Collateral Debentures would bear no interest. Thirdly, the Collateral Bonds or Collateral Debentures could be issued in an amount equivalent to the principal amount of such tax-exempt bonds or in such amount plus an amount equal to interest on those Bonds for a specified period, but carry a fixed interest rate that would be lower than the fixed interest rate of the tax-exempt bonds. Fourthly, the Collateral Bonds or Collateral Debentures could be issued in a principal amount equivalent to the principal amount of tax-exempt bonds at an adjustable rate of interest, varying with such tax-exempt bonds but having a "cap" (not greater than 15%) above which the interest on Collateral Bonds or Collateral Debentures could not rise.

Each series of the Collateral Bonds or Collateral Debentures that bear interest would bear interest at a fixed interest rate or initial adjustable interest rate not to exceed 15%. The maximum aggregate principal amount of Collateral Bonds and Collateral Debentures that would be issued is $75 million. The terms of the Collateral Bonds or Collateral Debentures relating to maturity, interest payment dates, if any, redemption provisions and acceleration will correspond to the terms of the related tax-exempt bonds. Upon issuance, the terms of each series of the Collateral Bonds or Collateral Debentures will not vary during the life of such series except for the interest rate of any such series that bears interest at an adjustable rate.

Northern States Power Company and Wisconsin Energy Corporation, et al. (70–8833)

Northern States Power Company ("NSP"), 414 Nicollet Mall, Minneapolis, Minnesota 55401, a combination electric and gas public utility company incorporated in Minnesota and an exempt public utility holding company its combination electric and gas public utility subsidiary company incorporated in Wisconsin, Northern States Power Company ("NSP–W"), 100 North Barstow Street, Eau Claire, Wisconsin 54703, and its nonutility subsidiary company, Northern Power Wisconsin Corporation incorporated in Wisconsin ("New NSP"),[1] 414 Nicollet Mall, Minneapolis, Minnesota, and Wisconsin Energy Corporation ("WEC"), an exempt public utility holding company incorporated in Wisconsin, and its combination electric and gas public utility subsidiary company incorporated in Wisconsin, Wisconsin Electric Power Company ("WEPCO"), both located at 231 West Michigan Street, Milwaukee, Wisconsin 53203 (together, "Applicants"), have filed jointly an application-declaration under sections 2(b), 3(a)(2), 4, 5, 6(a), 7, 8, 9, 10, 11, 12(b), 13(b), 32 and 33 of the Act and rules 42, 43, 45, 81, 83, 87, 88, 90 and 91 thereunder.

The Applicants proposed to combine NSP and WEC ("Transaction") under the Agreement and Plan of Merger, dated April 28, 1995 and amended and restated on July 26, 1995 ("Merger Agreement"). The Merger Agreement is among NSP, WEC, New NSP and WEC Sub Corp. ("WEC" Sub").[2] Generally, the Merger Agreement contemplates: (1) the acquisition by WEC of all of the issued and outstanding common stock of NSP; and (2) the acquisition by WEPCO of substantially all of the assets of NSP–W. Following the Transaction, WEC will be renamed Primergy Corporation ("Primergy") and will register with the Commission under section 5 of the Act.

Applicants and Background

NSP is engaged primarily in the generation, transmission and distribution of electricity throughout a 30,000 square mile service area. NSP provides electric utility service in South Dakota and electric and gas utility service in Minnesota and North Dakota. NSP purchases, distributed and sells natural gas to retail customers, and transports customer-owned gas, in approximately 100 communities in this area. Of the more than 2.5 million people served by NSP, the majority are concentrated in the Minneapolis-St. Paul metropolitan area. As of December 31, 1995, NSP provided electric utility service to approximately 1,100,000 customers and gas utility service to approximately 330,000 customers.

NSP has seven direct wholly owned subsidiaries that are engaged in nonutility businesses. These subsidiaries are: (1) Viking Gas Transmission Company, a natural gas transmission company operating in Minnesota, Wisconsin and North Dakota; (2) Cenerprise, Inc., a natural gas and eclectic power marketing and brokering company which also provides energy conservation and management services and energy products and services and which has several energy related businesses; (3) Eloigne Company, affordable housing investment and development company which has investments in a variety of low-income housing and other projects; (4) First Midwest Auto Park, Inc., a company which owns and operates a parking garage located next to NSP's headquarters; (5) Cormorant Corporation, a company which engages in oil, gas, coal lignite and uranium exploration and the acquisition of fuel resources; (6) United Power & Land Company, a company which owns and hold, and sometimes leases, real property which is generally surrounding or adjacent to property owned and used by NSP in its regulated operations; and (7) NRG Energy, Inc., a company that develops, builds, acquires, owns and operates several non-regulated energy related businesses, owns and operates certain resource recovery businesses and steam and chilled water businesses, and through subsidiaries and affiliates, is involved in a variety of independent power projects, energy-related services and fuel enhancement and related projects and other nonutility businesses both domestic and international.

NSP–W is engaged in the generation, transmission, and distribution of electricity to: (1) Approximately 208,000 retail customers in an area of approximately 18,900 square miles in northwestern Wisconsin; (2) approximately 9,100 retail customers in an area of approximately 300 square miles in the western portion of the

[1] New NSP has no operations and exists solely to facilitate the proposed combination.

[2] WEC Sub is a Wisconsin corporation that has no operations and exists solely to facilitate the proposed combination and will not exist legally at the time of consummation of the Transaction.

Upper Peninsula of Michigan; and (3) to 10 wholesale customers in the same general area. NSP–W purchases, distributes and sells to retail customers or transports customer-owned natural gas in the same service territory to approximately 68,200 customers in Wisconsin and 4,700 customers in Michigan.

NSP–W has two wholly owned subsidiaries. These subsidiaries are Clearwater Investment, Inc., an affordable housing investment and development company which has investments in a variety of low-income housing and other projects, and NSP Lands, Inc., a company which is currently developing for sale land owned by NSP–W. It also has a 78% owned subsidiary, Chippewa & Flambeau Improvement Company, a company which builds, maintains and operates dams and reservoirs on the Chippewa and Flambeau Rivers in Wisconsin.

NSP common stock is listed on the New York Stock Exchange, Inc. ("NYSE") and the Chicago and Pacific Stock Exchanges. As of December 31, 1995, there were 68,175,934 shares of NSP common stock and 2,400,000 shares of NSP cumulative preferred stock outstanding. NSP–W does not have any preferred stock outstanding and all of its common stock is owned by NSP. On a consolidated basis, for the year ended December 31, 1995, NSP's operating revenues were approximately $3.146 billion, of which approximately $2.401 billion were derived from electric operations, approximately $414 million from gas operations and approximately $331 million from other operations,. Also for the year ended December 31, 1995, approximately 10.2% of NSP's consolidated operating revenues were derived from nonutility businesses. In 1995, NSP–W provided approximately 15.1% of NSP's consolidated operating revenues. Consolidated assets of NSP and its subsidiaries as of December 31, 1995 were approximately $6.229 billion, consisting of $3.681 billion in net electric utility property, plant and equipment ($3.135 billion for NSP and $546 million for NSP–W); $376 million in net gas utility property, plant and equipment ($320 million for NSP and $56 million for NSP–W); and $2.172 billion in other corporate assets.

WEC, which will change its name to primer Corporation at the time of the consummation of the Transaction, has one public utility subsidiary, WEPCO. WEPCO is engaged in the business of generating, transmitting, distributing and selling electric energy to approximately 955,616 customers as of December 31, 1995. Its service area spans approximately 12,000 square miles in southeastern, including the Milwaukee area, central and northern Wisconsin and in the Upper Peninsula of Michigan and includes a population estimated at over 2,200,000. WEPCO also purchases, distributes and sells to retail customers and transports customer-owned natural gas to approximately 357,030 customers as of December 31, 1995 in three distinct service areas in Wisconsin: west and south of the City of Milwaukee, the Appleton area and the Prairie du Chien area. The gas service territory, which has an estimated population of over 1,100,000, is largely within the electric service area of WEPCO. WEPCO also distributes and sells steam supplied by its Valley Power Plant to approximately 473 space heating and processing customers (as of December 31, 1995) in downtown and near southside Milwaukee.

WEC's common stock ("Commor Stock") is listed on the NYSE. As of December 31, 1995, there were 110,819,337 shares of WEC Common Stock outstanding. WEC has no shares of preferred stock outstanding. All of WEPCO's common stock is owned by WEC. As of December 31, 1995, there were 304,508 shares of WEPCO preferred stock outstanding. WEPCO's outstanding preferred stock will not be affected by the Transaction. On a consolidated basis, for the year ended December 31, 1995, WEPC's operating revenues were approximately $1.779 billion, of which approximately $1.437 billion were derived from electric operations, approximately $318 million from gas operations, approximately $15 million from steam operations and approximately $9 million from other operations. Operating revenues from WEC's nonutility subsidiaries were approximately one-half of 1% of WEC's consolidated total operating revenues for the year ended December 31, 1995. Consolidated assets of WEC and its subsidiaries as of December 31, 1995, were approximately $4.561 billion, consisting of $3.907 billion in net electric utility property, plant and equipment, $387 million in net gas utility property, plant and equipment, $25 million in net steam utility property, plant and equipment and $242 million in nonutility assets.

WEC has seven wholly owned nonutility subsidiaries devoted primarily to stimulating economic growth in WEPCO's service area and to capitalizing on diversified investment opportunities, all of which have been formed under and pursuant to the requirements and policies of the Wisconsin Holding Company Act. These subsidiaries are: (1) Badger Service Company, a company which holds coal rights in Indiana; (2) Minergy Corp., a company engaged in the business of developing and marketing proprietary technologies designed to convert high volume industrial and municipal wastes into value-added products and which will build and operate a paper-sludge recycling facility; (3) WEC Generation International Inc., a company which will investigate investment opportunities and which has two, currently inactive, international subsidiaries; (4) Wisconsin Michigan Investment Corporation, a company which engages in investment and financing activities which include advances to affiliated companies and investments in financial instruments and partnerships developing affordable housing and other businesses; (5) WISPARK Corporation, a real estate development company which engages in all aspects of real estate development and which holds investment and ownership positions in a variety of real estate projects; (6) WISVEST Corporation, a company which invests in energy-related activities and holds investments in several energy-related companies; and (7) WITECH Corporation, a company which provides venture capital and holds equity and other positions in a variety of businesses. In addition, WEC holds a 50% interest in Custometrics LLC, a joint venture which will provide systems solutions relating to billing and other aspects of the customer service segment of the energy services industry.

Summary of Merger Related Transactions

In addition to the Transaction itself and as described more fully below as needed, the Applicants propose: (1) to form under rule 88 of the Act a new service company through Primergy's acquisition of all of the common stock of Primergy Services, Inc. ("Primergy Services") and may form, in the same way, one or more other service companies ("Additional Service Companies"),[3] and to enter into service agreements; (2) to form a new holding company subsidiary ("Primergy Hold"), if needed, to hold, all or some of Primergy's interests in certain of its nonutility investments in existence prior to the Transaction;[4] (3) that Primergy will acquire all of the outstanding voting securities of certain NSP nonutility subsidiaries or, if Primergy Hold is not formed, all of the outstanding voting securities of all of NSP's direct nonutility subsidiaries; (4) that Primergy will retain the gas properties of NSP and WEPCO and continue their operation as combination gas and electric utilities; (5) that Primergy will retain the nonutility businesses and affiliates of NSP and WEC; (6) that Primergy will issue and/or acquire in the open market up to 18.2 million shares of its common stock ("Primergy Common Stock") for five years from the date of an order in this matter in connection with its shareholder dividend reinvestment and stock purchase plan and its stock incentive plan; (7) to provide services at market rates, pursuant to an exemption from the at-cost standard contained in section 13(b) of the Act and provided for in rules 90 and 91, in connection with: (a) certain affiliated qualifying facilities ("QFs"), independent power projects ("IPPs"), exempt wholesale generators (EWG"), foreign utility companies ("FUCOs") and with other associated entities presently existing or to be formed after the Transaction that derive no part of their income from the generation, transmission or distribution of electric energy for sale or the distribution of natural gas at retail in the United States ("Primergy Exempt Associate Companies"), which services may be provided by Primergy Services, the Additional Service Companies, the Primergy Exempt Associate Companies and other NSP associates and affiliates[5]; and (b) transactions approved by any state public utility regulatory agency, the Federal Energy Regulatory Commission or transactions otherwise exempted from section 13(b) requirements; (8) that all existing intra-system debt, guarantees of debt and other intrasystem transactions among NSP and WEC and their respective associated and affiliated companies be approved by the Commission[6]; and (9) that the Commission issue an order temporarily exempting New NSP from the registration requirements of section 5 of the Act for the limited time in which New NSP owns NSP–W.

[3] Primergy Services will be incorporated in Wisconsin to serve as the service company for the Primergy system. The Additional Service Companies would be known as Primergy Generation Corporation ("Primergy GC") and Primergy Nuclear Corporation ("Primergy NC"). Primergy GC would be responsible for the operation, maintenance, repair, rehabilitation and replacement of all nonnuclear generation and steam and/or chilled water system facilities owned or operated by the system. Primergy NC would be responsible for the operation, maintenance, repair, rehabilitation and replacement of all nuclear generation facilities owned or operated by the system. The authorized capital stock of Primergy Services and any Additional Service Companies would consist of 1,000 shares of common stock, par value $.01 per share.

[4] Applicants also seek approval with regard to the issuance, sale and acquisition of the capital stock of certain of the Primergy system's approximately 16 nonutility subsidiaries in connection with the possible formation of Primergy Hold and the requisite authority to realign the nonutility companies as first-tier subsidiaries of Primergy. The authorized capital stock of Primergy Hold will consist of 1,000 shares of common stock, par value $.01 per share. Upon consummation of the Transaction, all issued and outstanding shares of Primergy Holding will be held by Primergy. If Primergy Hold is not formed, the direct nonutility subsidiaries of NSP and WEC will become direct subsidiaries of Primergy. See, SEC File No. 70–8833, Form U–1 ("Application-Declaration"), Exhibits E–1I and 13 (Primergy corporate charts with and without Primergy Hold).

[5] See, *Entergy Corporation*, Holding Co. Act Release No. 26322 (June 30, 1995).

[6] Application-Declaration at 101–03.

The Transaction

The Transaction will be accomplished through a three-stage process. In the first state, NSP will reincorporate in Wisconsin by merging into New NSP. Immediately prior to this merger, and for state public utility regulatory purposes, NSP–W will transfer the gas utility assets necessary to furnish gas utility services to the communities of LaCrosse and Hudson, Wisconsin to New NSP ("Designated Gas Utility Assets"). In the second stage, WEC Sub will merge with and into New NSP, with New NSP left as the surviving corporation. In the third stage, NSP–W will merge into WEPCO and ownership of all other NSP subsidiaries will be transferred from NSP to Primergy. WEPCO will be then renamed Wisconsin Energy Company. Following the Transaction Primergy proposes to realign certain nonutility subsidiaries and to acquire all of the capital stock of Primergy Hold, if it is deemed necessary. Primergy Hold will serve as a holding company acquiring the capital stock of certain nonutility subsidiaries of NSP and WEC.

Specifically, the Merger Agreement provides for: (1) The merger of NSP with and into New NSP ("Reincorporation Merger") pursuant to which (a) each issued and outstanding share of common stock, par value $2.50 per share, of NSP ("NSP Common Stock"), except shares held by NSP shareholders who perfect dissenters' rights ("NSP Dissenting Shares"), will be canceled and converted into one share of common stock, par value $2.50 per share, of New NSP ("New NSP Common Stock"), and (b) each issued and outstanding share of cumulative preferred stock, par value $100.00 per share, of NSP ("NSP Preferred Stock"), except NSP Dissenting Shares, will be cancelled and converted into one share of cumulative preferred stock, par value $100.00 per share, of New NSP ("New NSP Preferred Stock") with terms, including dividend rates and general voting rights, and designations under New NSP's Articles of Incorporation identical to those of the canceled shares of NSP Preferred Stock under NSP's existing Restated Articles of Incorporation; and (2) the merger of WEC Sub with and into New NSP ("NSP Merger," together with the Reincorporation Merger, the "Mergers") pursuant to which (a) each issued and outstanding share of New NSP Common Stock will be canceled and converted into 1.626 ("Ratio") shares of common stock, par value $.01 per share, of Primergy Common Stock and (b) each issued and outstanding share of New NSP Preferred Stock will remain outstanding and shall be unchanged thereby, except for any shares of New NSP Common Stock and New NSP Preferred Stock owned directly or indirectly by New NSP or WEC, which will be canceled and will not be converted or remain outstanding.

Each issued and outstanding share, par value $.01 per share, of WEC Common Stock will remain outstanding and unchanged, as one share of Primergy Common Stock. Based upon the capitalization of NSP and WEC on April 28, 1995 (the date the Merger Agreement was initially signed), and the Ratio, holders of NSP Common Stock and WEC Common Stock would each have held 50% of the aggregate number of shares of Primergy Common Stock that would have been outstanding if the Mergers had been consummated as of such date. The Applicants state that the proposed Transaction qualifies for treatment as a pooling of interests for federal income tax purposes.

Upon completion of the Transaction, Primergy will own two combination electric and gas utility companies, NSP and WEPCO. NSP will continue to operate and own the same utility facilities at the same locations outside Wisconsin as prior to the Transaction, along with the Designated Gas Utility Assets formerly owned by NSP–W. WEPCO will own and operate the same utility facilities at the same locations as prior to the Transaction, along with the balance of the gas and electric utility assets of NSP–W. The Merger Agreement provides that Primergy's principal corporate offices will be in Minneapolis, Minnesota. NSP and WEC will retain offices in Minneapolis and Milwaukee respectively as their regional headquarters. Primergy's board of directors will consist of a total of 12 directors, 6 of whom will be designated by NSP and 6 of whom will be designated by WEC.

Services

The Applicants further request the authority to form Primergy Services and the Additional Service Companies and for them to perform services. Primergy Services and the Additional Services Companies may provide services for NSP and WEPCO, and Primergy Services may provide services for any Additional Service Companies pursuant to a service agreement and for the nonutility subsidiaries of the Primergy system pursuant to a nonutility service agreement. Such services may include any of the following: administrative, management and support services, including services relating to information systems, meters and transportation, electric and gas system maintenance, marketing and customer relations, transmission and distribution, engineering and construction, power engineering and construction, human resources, materials management, facilities, accounting, power planning, public affairs, legal, rates, finance, rights of way, internal auditing, environmental affairs, fuels, investor relations, strategic and operations planning, and general administrative and executive management services. It is anticipated that such service companies will be staffed primarily by transferring personnel from the current employee rosters of NSP, WEPCO, and their subsidiaries.

Primergy and the Additional Service Companies will record transactions using the existing data capture and accounting systems of each company. Costs will be accumulated in accounts of each service company and directly assigned, distributed and allocated to the appropriate company pursuant to the Service Agreement.

The Applicants state that the accounting and cost allocation methods and procedures of all such service companies which are formed, including Primergy Services, will comply with the Commission's standards for service companies in registered holding company systems, and that the billing systems of all such service companies, including Primergy Services, will use the Commission's "Uniform System of Accounts for Mutual Service Companies and Subsidiary Service Companies." Except as permitted under the Act or by the Commission, all services provided by such service companies to affiliated companies will be on an "at cost" basis as determined by rules 90 and 91 of the Act.

Primergy and the Additional Service Companies request that the Commission grant an exemption from the provisions of rules 90 and 91 under section 13(b) of the Act for the following transactions: (1) Services provided for EWGs, FUCOs and associate companies that derive no part of their income, directly or indirectly, from the generation, transmission or distribution of electric energy for sale, or the distribution of natural gas at retail, in the United States; and (2) services provided to an associated EWG, QF or IPP, provided that the purchaser of the electricity is not an associate company of Primergy. No services will be provided at market-based rates to an EWG, QF or IPP selling electricity to NSP or WEPCO, unless authorized by the Act or the Commission.

The Applicants request further that the Commission permit the various subsidiaries and affiliates that are providing currently services, including operation and maintenance, and selling goods to EWGs and QFs or to entities that will qualify as EWGs, FUCOs or QFs following the Transaction to continue such transactions without compliance with the at-cost provisions of section 13(b) and the rules thereunder. In addition, the Applicants request an exception regarding NSP's affiliated companies, Landfill Power LLC and Minnesota Methane LLC, that own portions of QF facilities that sell power to NSP under Public Utility Regulatory Policies Act contracts approved by the Minnesota Public Utility Commission ("MPUC").[7]

The Applicants request further that the Commission exempt from the at-cost standards various existing contracts, which have been approved by the MPUC or the Public Service Commission of Wisconsin, among NSP and WEC affiliates that are not EWGs or QFs or entities that will become EWGs, FUCOs or QFs following the Transaction.[8] Finally, a section 13(b) exemption is requested regarding NRG Energy, Inc.'s ("NRG") management and administrative services to be provided to O'Brien Environmental Services, Inc., which was partially acquired by NRG pursuant to a reorganization plan. The services have been approved by the bankruptcy court as part of the reorganization plan.

EUA Energy Investment Corporation (70–8837)

EUA Energy Investment Corporation ("EEIC"), P.O. Box 2333, Boston, Massachusetts 02107, a nonutility subsidiary company of Eastern Utilities Associates, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a) and 10 of the Act and rules 45, 53 and 54 thereunder.

By orders dated December 4, 1987 and January 11, 1988 (HCAR Nos. 24525 and 24515A, respectively ("Orders"), EEIC was authorized, among other things, to conduct energy and energy conservation research and to invest, directly or indirectly in such activities.

Pursuant to the Orders, EEIC now proposes to invest through December 31, 1998, approximately $4 million to acquire approximately 1,052,630 shares of common stock of Separation Technologies, Inc. ("STI"), at a purchase price of $3.80 per share, pursuant to the terms of a stock purchase agreement ("Agreement"). STI is engaged in the research, development, design, sale, installation, construction and servicing of solid and liquid materials separation systems and facilities including, without limitation, a system for economically separating unburned carbon from coal (or fly) ash produced by utility generating plants.

EEIC will invest in STI by acquiring shares of: (1) STI's authorized but unissued common stock; and (2) a to-be-formed class of nonvoting common stock which, in all respects other than voting rights, would be identical to STI's currently authorized common stock.[9]

EEIC also requests authorization to make project financing available up to an aggregate principal amount of $15 million for the installation and construction of STI fly ash separation projects. The Agreement contains provisions granting EEIC and exclusive right of first negotiation with respect to financing all fly ash separation projects designed, sold, constructed and/or installed by STI during the eighteen month period immediately following the execution of the Agreement, excepting only financing for: (1) STI's Colbert Station project located in Alabama; and (2) any host utility financed projects.

EEIC proposes to provide such financing by entering into joint arrangements with STI at locations where STI equipment will be installed. EEIC's investment in these utility locations is anticipated to range between $0.5 and $2.5 million per installation. EEIC's investments in such future projects with STI may take the form of, without limitation, joint ventures, general partnerships, limited partnerships, teaming agreements, royalties or other revenue sharing, special purpose entities, loans and equity participations.

STI has its own employees, and no employees of the EUA system retail electric utilities will be assigned to perform services for STI. EEIC does not anticipate the need to hire any additional personnel in connection with EEIC's investment in STI or the exercise of its financing rights under the Agreement.

[7] *Entergy Corporation, supra.*

[8] Application-Declaration, Annex H.

[9] As a result of the acquisition, EEIC anticipates that it will own approximately 20 percent of STI's issued and outstanding capital stock. However, EEIC states that it will only acquire a number of shares representing up to 9.9 percent of the then outstanding voting common stock of STI. In the event of an initial public offering of STI common stock, any share of nonvoting common stock acquired by EEIC would automatically convert to share of voting common stock.

Entergy Corporation (70–8839)

Entergy Corporation ("Entergy" or "Company"), 639 Loyola Avenue, New Orleans, Louisiana 70113, a registered holding company, has filed an application-declaration under sections 6(a) and 7 of the Act and rule 54 thereunder.

Entergy proposes to issue and sell through December 31, 2000, up to ten million additional shares of its authorized but unissued common stock, par value $.01 per share ("Common Stock") pursuant to a new Dividend Reinvestment and Stock Purchase Plan "Plan").

The Common Stock will offered by all holders of shares of Common Stock and other interested investors (each a "Participant") pursuant to the Plan whereby Participants voluntarily may elect to: (1) automatically reinvest dividends received on all of their shares of Common Stock; or (2) automatically reinvest dividends received on less than all of their shares of Common Stock and continue to receive cash dividends on their remaining shares; and/or (3) invest in additional shares of Common Stock by making optional cash investments of not less than $100 nor more than $3,000 per month, with certain exceptions. Interested investors that are not shareholders may make optional cash investments in the Common Stock, but will be subject to an initial minimum investment of $1,000 and, subject to certain exceptions, a maximum of $3,000 for that month.

The shares of Common Stock purchased on behalf of the Participants to fulfill the requirements of the Plan will be in the Company's discretion, either previously issued shares purchased on the open market or in privately negotiated transactions or newly issued shares purchased directly from the Company. The decision whether to allow the Plan to purchase new but unissued shares or shares on the open market may be made by the Company only once in any three-month period.

Under the Plan, the purchase price of newly issued shares will be the weighted average of the daily high and low sales prices of the Common Stock on the New York Stock Exchange ("NYSE") during the pricing period, which consists of the twelve trading days immediately preceding the investment date. The purchase price for shares purchased on the open market will be the weighted average price paid by the Plan including brokerage fees and commissions.

Optional cash investments in excess of $3,000 per month may be made pursuant to a waiver granted at the discretion of the Company ("Request for Waiver"). The Company has sole discretion as to whether to grant any Request for Waiver. In deciding whether to grant a Request for Waiver, the Company may consider relevant factors including, but not limited to, whether the Plan has been acquiring newly issued shares from the Company or acquiring shares in the open market or in privately negotiated transactions from third parties, the Company's need for additional capital, the attractiveness of obtaining such additional capital through a sale of Common Stock as compared to the sources of other funds, the purchase price likely to apply to a sale of the Common Stock, the Participants submitting the requests, the extent and nature of such Participants' prior participation in the Plan, the number of shares of Common Stock held of record by such Participants and the amount of their proposed investments, and the aggregate amount of optional cash investments in excess of the allowable maximum that have been submitted by all Participants. If Requests for Waiver are submitted at any time for an aggregate investment amount in excess of the amount, if any, that the Company is then willing to accept, the Company may grant such Requests for Waiver in the order of receipt, pro rata or by any other method the Company determines is appropriate.

The Company may also establish, for each monthly pricing period under the Plan, a minimum price ("Threshold Price") applicable to the purchase of shares directly from the Company pursuant to a Request for Waiver. If established for any pricing period, the Threshold Price will be the minimum dollar amount that the average of the high and low sales prices of the Common Stock on the NYSE for each trading day of the relevant pricing period must equal or exceed. In the event the Threshold Price is not satisfied or no trades are made on the NYSE for any trading day in the pricing period, then that trading day and all trading prices for that day will be excluded in the determination of the purchase price. Additionally, for each trading day of the pricing period excluded from the pricing period, one-twelfth of the total amount of the optional cash investment of each Participant made pursuant to a Request for Waiver will be returned to that Participant without interest.

For those purchases of Common Stock made pursuant to a Request for Waiver, the Company, at least three business days prior to the first day of the applicable pricing period, may also establish a discount from the purchase price applicable to those optional cash investments ("Waiver Discount"). The Waiver Discount may be between 0% and 3% and may vary each month, but once established will apply uniformly to all optional cash investments made for that month pursuant to a Request for Waiver. The Waiver Discount will be established at the Company's total discretion after a review of current market conditions, the level of participation in the Plan and current and projected capital needs. The Company has no present plans to establish either a discount or minimum price for optional cash investments of $3,000 or less or for dividend reinvestments, but reserves the right under the Plan to do so in the future.

The Plan will be administered by Mellon Bank, N.A. or such successor administrator as Entergy may designate ("Administrator"). The Administrator will act as agent for Participants, keep records of the accounts of Participants, send regular account statements to Participants, and perform other duties relating to the Plan. Shares purchased for each Participant under the Plan will be held by and registered in the name of the Administrator or its nominee on behalf of the Participants, unless and until a Participant requests that stock certificates be issued. No service fee will be paid by Participants for shares purchased directly from the Company, but Participants will pay certain administrative fees and/or commissions on all other transactions made pursuant to the Plan.

A Participant retains all voting rights relating to shares purchased under the Plan and credited to his account, and such shares will be voted in accordance with his instructions. A Participant may withdraw from the Plan at any time upon written notice. In addition, without withdrawing from the Plan, a Participant is entitled to demand and receive a certificate representing any number of whole shares of Common Stock credited to his account. Entergy reserves the right to suspend, modify

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(subject to any requisite Commission approval) or terminate the Plan at any time.

National Fuel Gas Company (70–8841)

National Fuel Gas Company ("NFG"), 10 Lafayette Square, Buffalo, New York 14203, a registered public utility holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(c) of the Act and rules 42 and 46 thereunder.

NFG proposes to implement a sharedholder rights plan to discourage unwanted takeover bids. The Board of Directors of NFG ("Board") proposes to declare a dividend distribution of one right ("Right") for each outstanding share of common stock of NFG ("Common Stock"), $1.00 per value, to shareholders of record at the close of business on a record date yet to be established ("Record Date"). Each Right would entitle the registered holder to purchase from NFG one-half of one share of Common Stock at a price of $130 per share, subject to adjustment ("Purchase Price").

Until the earliest to occur of (i) ten days following the date ("Share Acquisition Date") of the public announcement that a person or affiliated group ("Acquiring Person") has acquired, or obtained the right to acquire, beneficial ownership of Common Stock or other voting securities ("Voting Stock") that have 10% or more of the voting power of the outstanding shares of Voting Stock or (ii) ten days following the commencement or announcement of an intention to make a tender offer, or exchange offer, the consummation of which would result in such person acquiring, or obtaining the right to acquire, beneficial ownership of Voting Stock having 10% or more of the voting power of the outstanding shares of Voting Stock (the earlier of such dates being called the "Distribution Date"), the Rights will be evidenced, with respect to any shares of Common Stock outstanding as of the Record Date, by the Common Stock certificates representing those outstanding shares. Until the Distribution Date, the Rights will be transferable only with the Common Stock, and new Common Stock certificates issued after the Record Date will contain a notation incorporating the Agreement by reference. As soon as practicable following the Distribution Date, separate certificates evidencing the Rights ("Rights Certificates") will be mailed to holders of record of Common Stock as of the close of business on the Distribution Date and such separate Right Certificates alone will evidence the Rights.

The Rights are not exercisable until the Distribution Date. As in the case with most right plans which are in place, the Rights will expire at the close of business on the tenth anniversary of the Record Date, unless earlier redeemed or exchanged by NFG as described below.

Subject to redemption or exchange of the Rights, at any time following the Distribution Date, each holder of a Right will have the right to receive, upon exercise, Common Stock (or, in certain circumstances, cash, property or other securities of NFG) having a value to two times Purchase Price of the Right then in effect. However, all Rights that are, or under certain circumstances were, beneficially owned by any Acquiring Person will be null and void.

In the vent that, at any time following the Share Acquisition Date, (i) NFG is acquired in a merger or other business combination transaction, or (ii) 50% or more of NFG's assets or earning power are sold or transferred, each holder of a Right shall thereafter have the right to receive, upon exercise, common stock of the acquiring company having a value equal to two times the Purchase Price of the Right then in effect.

The Purchase Price payable, and the number of shares of Common Stock (or other securities, as the case may be) issuable upon exercise of the Rights are subject to adjustment from time to time to prevent dilution (i) in the event of a stock dividend on, or a subdivision, combination or reclassification of, the Common Stock, (ii) upon the grant to holders of the Common Stock of certain rights or warrants to subscribe for or purchase shares of the Common Stock or convertible securities at less than the then current market price of the Common Stock or (iii) upon the distribution to holders of the Common Stock of evidences of indebtedness or assets (excluding regular periodic cash dividends or dividends payable in Common Stock) or of subscription rights or warrants (other than those referred to above). Prior to the Distribution Date, the Board may make such other equitable adjustments as it deems appropriate in the circumstances in addition to or in lieu of any adjustment otherwise required by the foregoing.

With certain exceptions, no adjustment in the Purchase price will be required until the earlier of (i) three years from the date of the event giving rise to such adjustment or (ii) the time at which cumulative adjustments require an adjustment of at least 1% in such Purchase Price. No fractional shares of Common Stock will be issued and, in lieu thereof, an adjustment in cash will be made based on the market price of the Common Stock on the last trading date prior to the date of exercise.

At any time prior to 5:00 p.m. Buffalo, New York time on the tenth day following the Share Acquisition Date, NFG may redeem the Rights in whole, but not in part, at a price of $0.01 per Right ("Redemption Price"), payable in cash or stock. Under certain circumstances set forth in the Agreement, the decision to redeem shall require the concurrence of a majority of the Independence Directors. An "Independent Director" means any member of the Board who was a member of the Board prior to the date of the Agreement, and any person who is subsequently elected to the Board if such person is recommended or approved by a majority of the Independent Directors, but shall not include an Acquiring Person or any representative thereof. Immediately upon the action of the Board electing to redeem the Rights, NFG shall make announcement thereof and the only right of the holders of Rights will be to receive the Redemption Price.

At any time after a person becomes an Acquiring Person, the Board may exchange the Rights (other than Rights owned by an Acquiring Person, which become void), in whole or in part, at an exchange ratio of one share of Common Stock and/or other securities, cash or other assets deemed to have the same value as one share of Common Stock, per Right, subject to adjustment.

Until a Right is exercised or exchanged for Common Stock, the Rights, as such, will not grant the holders thereof rights as a stockholder of NFG. While the distribution of the Rights will not be taxable to stockholders or to NFG, stockholders may, depending upon the circumstances, recognize taxable income in the event that the Rights become exercisable for Common Stock of NFG (or other consideration) or for the stock of the Acquiring Person.

Any of the provisions of the Agreement may be amended by the Board without the consent of the holders of the Rights prior to the Distribution Date. Thereafter, the Agreement may be amended by the Board in order to cure any ambiguity, defect or inconsistency, or to make changes which do not adversely affect the interests of holders of Rights (excluding the interest of any Acquiring Person); provided, however, that no supplement or amendment may be made on or after the Distribution Date which changes those provisions relating to the principal economic terms of the Rights. The Board may also, with the concurrence of a majority of the Independent Directors, extend the redemption period for up to an additional 20 days.

Entergy Corporation, et al. (70–8845)

Entergy Corporation ("Entergy"), 639 Loyola Avenue, New Orleans, Louisiana 70113, a registered public utility holding company, and its wholly owned subsidiary company Entergy Power, Inc. ("EPI"), 900 South Shackleford Road, Little Rock, Arkansas 72211, (both, "Declarants"), have filed a declaration under section 12(c) of the Act and rule 46 thereunder.

EPI proposes to make one or more cash payments in an aggregate amount not to exceed $55 million to Entergy from time to time through December 31, 1998 out of EPI's unearned surplus. As of December 31, 1995, EPI had approximately $249,950,000 of capital or unearned surplus and cash and cash equivalents of approximately $59,482,000. The cash equivalents of EPI include temporary cash investments of $59,225,000, which derive from capital contributions made by Entergy to EPI in July and December 1995. Declarants state that these liquid assets are far in excess of any foreseeable capital needs of EPI. Therefore, EPI proposes to return all or most of these assets to Entergy, EPI's sole shareholder, through the proposed cash payments.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–11669 Filed 5–9–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21937; 812–9854]

Van Kampen American Capital Comstock Fund, et al.; Notice of Application

May 3, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Van Kampen American Capital Comstock Fund ("Comstock Fund"), Van Kampen American Capital Enterprise Fund ("Enterprise Fund"), Van Kampen American Capital Equity Income Fund ("Equity Income Fund"), Van Kampen American Capital Growth and Income Fund ("Growth and Income Fund"), Van Kampen American Capital Life Investment Trust on behalf of its series Common Stock Fund and Multiple Strategy Fund ("Life Trust"), Van Kampen American Capital Pace Fund ("Pace Fund"), Common Sense Trust ("Common Sense Trust") on behalf of its series: Common Sense Growth Fund, Common Sense Growth and Income Fund, Common Sense II Growth Fund, Common Sense II Growth and Income Fund, Common Sense II International Equity Fund, Smith Barney/Travelers Series Fund, Inc. ("Smith Barney Fund") on behalf of its series American Capital Enterprise Portfolio, Van Kampen American Capital Equity Trust ("Equity Trust") on behalf of its series: Van Kampen American Capital Growth Fund, Van Kampen American Capital Prospector Fund, Van Kampen American Capital Value Fund (collectively, the "Public Funds"); Van Kampen American Capital Small Capitalization Fund ("Small Cap Fund"); and Van Kampen American Capital Asset Management, Inc. ("VKACAM") and Van Kampen American Capital Investment Advisory Corp. ("Advisory Corp.," together with VKACAM, the "Advisers"),

RELEVANT ACT SECTIONS: Order requested under section 6(c) granting and exemption from section 12(d)(1), and under sections 6(c) and 17(b) granting an exemption from section 17(a).

SUMMARY OF APPLICATION: Applicants request an order amending a prior order that permits the Small Cap Fund to serve exclusively as an investment vehicle through which certain Public Funds may invest a portion of their assets in a portfolio of small capitalization stocks. The requested order would add certain parties as applicants and revise the conditions to the requested relief.

FILING DATES: The application was filed on November 17, 1995. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 28, 1996, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Person who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: Comstock Fund, Enterprise Fund, Equity Income Fund, Growth and Income Fund, Life Trust, Peace Fund, Small Cap Fund, VKACAM, and Common Sense Trust, 2800 Post Oak Boulevard, Houston, Texas 77056; Smith Barney Fund, 388 Greenwich Street, New York, New York 10013; and Equity Trust and Advisory Corp., One Parkview Plaza, Oakbrook Terrace, Illinois 60181.

FOR FURTHER INFORMATION CONTRACT: Sarah A. Wagman, Staff Attorney, at (202) 942–0654, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1 The Small Cap Fund is an open-end management investment company for which VKACAM serves as investment adviser. The Small Cap Fund invests at least 80% of its assets in equity securities of companies with a market capitalization less than that of the largest 500 publicly-traded companies. Although the Small Cap Fund is registered under the Act, it does not intend to make a public offering of its shares, and has not registered its shares under the Securities Act of 1933.

2. VKACAM will not charge any advisory fee for managing the Small Cap Fund, and there is no sales load or other charges associated with distribution of the Small Cap Fund's shares. The Small Cap Fund will bear the other expenses it incurs, and such expenses thus will be borne indirectly by the public Funds that invest in the Small Cap Fund.

3. The Public Funds are open-end management investment companies for which Advisory Corp. or VKACAM serves as investment companies for which Advisory Corp. or VKACAM serves as investment adviser with investment discretion over the entire portfolio. Advisory Corp. and VKACAM are both wholly-owned subsidiaries of Van Kampen American Capital, Inc. In addition to the funds named in the application, the Public Funds may include any open-end management investment company or portfolio thereof for which Advisory Corp. or VKACAM may in the future become investment

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adviser with investment discretion over the entire investment portfolio.[1]

4. Limited investment in the small capitalization sector of the securities markets is an appropriate part of the investment strategy of each of the Public Funds. Under a prior order,[2] certain of the Public Funds may achieve this aspect of their investment strategy by investing in the Small Cap Fund.

The requested order would amend the prior order by adding certain parties as applicants and revising the conditions to the requested relief.

5. The Advisers believe that providing the Public Funds with a single investment vehicle to invest in a broadly diversified portfolio of small capitalization stocks will provide the Public Funds with the most effective exposure to the performance of that sector of the stock market while at the same time minimizing costs. The Small Cap Fund will hold a larger number of small capitalization issues, and thus be more diversified, than would a Public Fund if it were investing directly in small capitalization stocks. The Advisers expect that the Small Cap Fund's diversification will benefit both the Small Cap Fund and the Public Funds by providing greater price stability and lower volatility.

6. Each Public Fund may have, in addition to its holdings in the Small Cap Fund, some direct investments in small capitalization stocks. The advisers have adopted procedures to avoid the unnecessary expense that could occur if the Small Cap Fund were to sell a particular stock at the same time a Public Fund were to purchase it, or vice versa. The Small Cap Fund will circulate among the portfolio managers of the Public Funds a list of stocks it intends to purchase or sell. If any Public Fund's portfolio manager wishes to buy or sell a stock on the list, the Small Cap Fund will effect the transaction directly with that Public Fund. The value of the stock will be the current market price, determined in accordance with rule 17a–7. Payment will be made by simultaneous transfer of cash or, if the Public Fund wishes to alter its investment in the Small Cap Fund, or Small Cap Fund shares with an equal value. In cases where the payment for the subject stock is Small Cap Fund shares rather than cash, the transactions will comply with the provisions of rule 17a–7(a) through (f) in all respects other than the requirement that purchases and sales be made only for cash consideration.

7. The Advisers believe that they will be able to coordinate purchases and redemptions of Small Cap Fund shares in virtually all instances. There may be occasions, however, when a single Public Fund purchases or redeems an unusually large number of Small Cap Fund shares. Such a large transaction could cause the Small Cap Fund, and thus the Public Funds not involved in the transaction, to bear significant incremental trading costs associated with the acquisition or disposition of small capitalization stocks. Accordingly, if a Public Fund plans to make an unusually large purchase or redemption of Small Cap Fund shares, the Advisers in their sole discretion may cause the transaction to be executed in kind. In the case of a purchase, the Public Fund would acquire small capitalization stocks and exchange them for Small Cap Fund shares. For a redemption, the Small Cap Fund would deliver small capitalization stocks to the Public Fund, which the Public Fund could then sell. These redemptions will be made on a *pro rata* basis, whereby the redeeming Public Fund will receive its proportionate share of each portfolio security. Such in-kind transactions will comply with rule 17a–7(a) through (f) except that the consideration for the small capitalization stocks will be Small Cap Fund shares rather than cash.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company representing more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets or, together with the securities of other investment companies, more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end management investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Applicants request an exemption from section 12(d)(1) because, among other holdings, the Public Funds will own 100% of the stock of the Small Cap Fund, and a Public Fund's investment in the Small Cap fund may represent more than 5% of that Public Fund's total assets. Section 6(c) of the Act provides that the SEC may exempt persons or transactions if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants request an order under section 6(c) exempting them from section 12(d)(1) (A) and (B) to permit the Public Funds to invest in shares of the Small Cap Fund in excess of the percentage limitations of section 12(d)(1).

3. Applicants believe that the proposed arrangement does not implicate the concerns underlying section 12(d)(1). For instance, because the Advisers are under common control, there will be no incentive for any Public Fund to assert undue control over the Small Cap Fund. Applicants believe that the proposed arrangement will not result in disruptive redemptions because the Advisers will coordinate the Public Funds' purchases and sales of Small Cap Fund shares to minimize the cash flow into or out of the Small Cap Fund. In addition, the Small Cap fund will not cause investors in the Public Funds to bear two layers of fees. The Small Cap Fund will pay no advisory fee, and its shares will not be subject to any sales load. Accordingly, applicants believe that the proposed arrangement meets the standards of section 6(c).

4. Applicants also request an exemption from section 17(a) of the Act, which prohibits certain purchases and sales of securities between investment companies and their affiliated persons, as defined in section 2(a)(3) of the Act. The Public Funds and the Small Cap Fund may be deemed to be under common control because each Public Fund is advised by the Advisers, and the Advisers are under the common control of Van Kampen American Capital, Inc. Each of the Public Funds and the Small Cap Fund would therefore be an affiliated person of each other within the meaning of section 2(a)(3). Thus, purchases or sales of securities between the Small Cap Fund and a Public Fund may be prohibited by section 17(a).

5. Section 17(b) of the Act provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) The terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act. Applicants request an exemption under sections 6(c) and 17(b) to permit the Public Funds to purchase shares of the Small Cap Fund, and the Small Cap Fund to redeem such shares.[3] Applicants believe that the proposed transactions meet the standards of sections 6(c) and 17(b).

Applicants' Conditions

Applicants agree that any order of the SEC granting the requested relief shall be subject to the following conditions:

1. The Public Funds and the Small Cap Fund will be part of the same "group of investment companies," as defined in rule 11a–3 under the Act.

2. The Small Cap Fund shall not acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

3. A majority of the trustees of the Public Funds will not be "interested persons," as defined in section 2(a)(19) of the Act.

4. VKACAM will not charge any advisory fee for managing the Small cap Fund.

5. Any sales charges or service fees charged with respect to securities of the Public Funds, when aggregated with any sales charges or service fees paid by the Public Funds with respect to securities of the Small Cap Fund, shall not exceed the limits set forth in Article II, section 26, of the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

6. Applicants agree to provide the following information, in electronic format, to the Chief Financial Analyst of the SEC's Division of Investment Management: monthly average total assets for each Public Fund's portfolio and the Small Cap Fund's portfolio; monthly purchases and redemptions (other than by exchange) for each Public Fund's portfolio and the Small Cap Fund's portfolio; annual expense ratios for each Public Fund's portfolio and the Small Cap fund's portfolio; and a description of any vote taken by the shareholders of the Small Cap Fund, including a statement of the percentage of votes cast for and against the proposal by the Public funds and by any other shareholders of the Small Cap Fund if any. Such information will be provided as soon as reasonably practicable following each fiscal year-end of each of the Public Funds (unless the Chief Financial Analyst shall notify applicants in writing that such information need no longer be submitted).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–11671 Filed 5–9–96; 8:45 am]

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[1] The Public Funds may also include other existing open-end investment management companies advised by VKACAM or Advisory Corp. that currently do not intend to rely on the requested order, but may do so in the future in accordance with the terms and conditions thereto.

[2] Investment Company Act Release Nos. 19660 (Aug. 26, 1993) (notice) and 19730 (Sept. 21, 1993) (order).

[3] Section 17(b) applies to a specific proposed transaction, rather than an ongoing series of future transactions. See Keystone Custodian Funds, 21 S.E.C. 295, 298–99 (1945). Section 6(c), along with section 17(b), is frequently used to grant relief from section 17(a) to permit an ongoing series of transactions.

[Release No. 34–37169; File No. SR–NASD–96–15]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Schedule A to the By-Laws To Amend the Allowable Exclusions and Deductions From the Definition of Gross Revenue for Member Assessment Purposes

May 6, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 4, 1996, the National Association of Securities Dealers ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Following is the text of the proposed rule change. Proposed new language is italicized; deletions are in brackets.

NASD By-Laws

Schedule A

* * * * *

Section 5 Gross Revenue for Assessment Purposes

(a) Gross revenue is defined for assessment purposes as total income as reported on FOCUS form Part II or IIA with the following exclusions:

[•] *(1)* Other income unrelated to the securities business;

[•] [Interest and dividends;]

[•] *(2)* Commodities income;

[•] *(3)* Advisory fees, investment management fees and finders' fees not directly involving the offering of securities; proxy fees; vault service fees; safekeeping fees; transfer fees; and fees for financial advisory services for municipalities;

[•] *(4)* Commissions derived from transactions executed on a registered national securities exchange or a foreign securities exchange (Note 1);

[•] *(5)* Profits or losses derived from transactions of which both the purchase and sale are executed on a registered national securities exchange, including arbitrage (Note 1); and

[•] *(6)* Profits and losses derived from transactions in certifications of deposit and commercial paper, which is defined to include drafts, bills of exchange, and bankers acceptances.

(b) In addition, members may deduct:

[•] *(1)* Any commissions, concessions or other allowances paid to another member in connection with the execution or clearance of transactions included in reported revenue. For example, a member acting as a clearing agent for another member shall deduct net amounts allowed to the non-clearing member; [and]

[•] *(2)* 25% of gross wrap fees charged to and received from customers and paid or allocated to investment managers or advisors[.]; *and*

[•] *(3) Interest and dividend expense but not in excess of related interest and dividend revenue or, alternatively, the member may deduct 40% of interest earned by the member on customer securities accounts; provided, however in addition the member may deduct the first $50,000 of net interest and dividend revenue.*

Note 1: Income not subject to exclusion for members for whom the NASD is the designated examining authority.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1)

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Gross revenue is defined for member assessment purposes under Section 5 of Schedule A to the NASD By-Laws ("Section 5") as total income reported on FOCUS form Part II or IIA. Members, however, are allowed certain exclusions. Income derived from interest and dividends is currently an allowable exclusion under Section 5.

The NASD surveyed members' FOCUS filings for 1994 and conducted discussions with a number of member firm representatives, from which the NASD determined that, along with the normal interest income from customer margin accounts and interest and dividends from trading and investment positions, a significant portion of interest revenue for certain members is associated with the member's trading strategies involving, for example, repurchase, reverse repurchase, and stock loan/borrow transactions, which are considered over-the-counter revenues from the securities business.

The NASD is proposing to amend Section 5 of Schedule A by deleting a provision which currently allows a member to exclude its interest and dividends from gross revenue for assessment purposes. The proposed rule change, however, would add a new provision to allow a member to deduct from gross revenue for assessment purposes either: (i) its interest and dividend expenses but not in excess of related interest and dividend revenue; or, alternatively, (ii) 40% of interest earned by the member on customer securities accounts. The first deduction is intended to allow the member to subtract directly-related expenses from interest and dividend revenue to be included in the definition of gross revenue. The alternative deduction is intended to eliminate the potential for inequitable allocation of assessments on those members whose interest and dividend revenue is obtained without significant expenses related to trading strategies, (*e.g.*, if a member derives interest revenue primarily from margin accounts and finances this lending through its own capital). It would also be consistent with the assessment of interest and dividend revenue by the Securities Investor Protection Corporation ("SIPC"), which permits an alternative offset to gross interest and dividend revenue consisting of 40% of interest earned on customer securities accounts. The proposed rule change, in addition, would allow a member to deduct from its gross revenue the first $50,000 of net interest and dividend revenue in order to continue to encourage the accumulation of net capital, particularly by smaller members.

Based on NASD data, the NASD estimates that the proposed rule change, if adopted for 1995, would have generated assessment revenue of $3 million based on the budgeted level of assessment revenue of $39 million for that year.

The proposed rule change would also amend Section 5 to provide alphabetical references to its two primary subsections and by replacing all bullets referencing its secondary subsections with numerical references.

The NASD is proposing that the proposed rule change take effect for the 1996 assessment based on revenues generated in calendar year 1995.

2. Statutory Basis

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act[2] which requires that the rules of the association provide for the equitable allocation of reasonable dues, fees and other charges among members in that the proposed rule change would recognize interest and dividend revenue as a part of a member's gross revenue for assessment purposes, while recognizing that expenses incurred in connection with such interest and dividend revenue should be allowed to be deducted from such revenue (*e.g.* as part of "matched transactions"). It would also allow members whose business incurs less direct expense in connection with interest and dividend revenue to alternatively deduct 40% of interest earned by the member on customer securities accounts. It would, in addition, allow members to deduct from their gross revenue the first $50,000 of net interest and dividend revenue for assessment purposes in order to continue to encourage the accumulation of net capital. The proposed rule change also would be consistent with the SIPC's assessment of such revenue.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD published for comment in Notice to Members 95–94 (October 27, 1995) ("NTM 95–94") a proposal to include net interest and dividends in the definition of gross revenue for assessment purposes under Section 5.[3] One commentor argued that the proposed rule change contained in NTM 95–94 discriminates against fixed income firms which finance mostly liquid collateral (*i.e.*, governments and mortgages) and will make the small, match-book spreads of these firms even smaller, thereby forcing certain firms to move their match-book business and proprietary trading accounts to a non-regulated entity. The commentor also argued that the proposed rule change would be unfair to small members whose ratio of "other qualified revenue" to "revenue from sales of shares" may be higher than large companies. The NASD modified the proposed rule change published for comment to address such concerns by allowing a member to choose from one of two alternative deductions relating to its interest and dividend revenue and, in addition, to deduct from its gross revenue the first $50,000 of net interest and dividend revenue.

Based on the foregoing, the NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Twenty comment letters were received in response to NTM 95–94.[4] Of the twenty commentors, four commentors supported but expressed certain concerns, and sixteen opposed the proposed rule change. The commentors are referenced by the number attached to their comment letter in the list of comment letters attached at Exhibit 3.

1. Definition of Non-Securities Business Revenue

Commentors (Nos. 1, 4, 11, 13, and 14) argue that dividends from a member's pure investment account are not revenue generated from the securities business but the fruit of hard work from previous years. The NASD believes that a member's proprietary investment account is retained business capital maintained to generate gross revenue for the member's securities business. Such proprietary accounts play an integral part in the member's securities business and are subject to NASD regulatory oversight. Revenue from such proprietary accounts are part of the member's securities business and, therefore, are appropriate for inclusion in the definition of gross revenue for assessment purposes.

One insurance commentor (No. 12) argues that it should only be assessed for interest and dividend revenue relating to the interest and dividends attributable to the capital necessary to operate its securities business. The NASD's position is that an insurance company's interest and dividend revenue from its insurance business will not be included in the definition of gross revenue for assessment purposes.

2. Effect on Net Capital

Commentors (Nos. 1, 3, 4, 11 and 20) argue that the NTM 95–94 proposal would discourage members from accumulating passive investments that increase the firm's net capital and protect public investors. The NASD amended the proposed rule change contained in NTM 95–94 to address such concerns by allowing a member to deduct from its gross revenue the first $50,000 of net interest and dividend revenue in addition to allowing the member to deduct one of two other alternative deductions provided by the proposed rule change.

3. Equitable Allocation of Dues, Fees and Assessments

NTM 95–94 stated that the proposed rule change was partially intended to fund the increased costs associated with implementing the recommendations of the Rudman Committee. Commentors (Nos. 1, 10, 12 and 19) argue that the proposed rule change inequitably allocates the regulatory costs resulting from the Rudman Committee recommendations to firms with significant passive investments which are not used by such firms in their securities business. One commentor recommends that, in order to equitably allocate such Rudman Committee related-costs, the NASD should determine the interest assessment on a firm-by-firm basis by considering such factors as the firm's standing with the NASD, the historical audit performance, the risks and liquidity associated with a firm's trading and collateral positions, whether or not a firm has significant customer or institutional business, and the firm's credit and risk management policies.

The NASD notes that the proposed rule change is only partially intended to fund certain Rudman recommendations and its overall intent is to fund the NASD's broader regulatory budget requirements. The NASD believes that using gross revenue for assessment purposes has historically provided for the equitable allocation of reasonable assessments among members. The proposed rule change's inclusion of interest and dividends from retained capital and certain trading situations in the definition of gross revenue is appropriate because the NASD is required to oversee the related-securities activity. The proposed rule change, therefore, is part of the same assessment approach that has historically been followed by the NASD and the securities industry. The proposed rule change, as already noted, would also be consistent with current SIPC assessment provisions. The NASD, therefore, believes that the members' arguments for changing the basis of such assessments are not justified.

4. Discrimination Against Certain Members

As previously noted, one commentor (No. 10) argues that the proposed rule change contained in NTM 95–94 discriminates against fixed income firms which finance mostly liquid collateral (*i.e.*, governments and mortgages) and will make the small, match-book spreads of these firms even smaller, thereby forcing certain firms to move their match-book business and proprietary trading accounts to a non-regulated entity. The commentor also argues that it would be unfair to small members whose ratio of "other qualified revenue" to "revenue from sales of shares" is higher than large companies. The NASD has modified the proposed rule change published for comment to address such concerns by allowing a member to deduct from its gross revenue the first $50,000 of net interest and dividend revenue in addition to allowing the member to deduct one of two other alternative deductions provided by the proposed rule change.

The NASD further believes that a member could not use a non-regulated entity to handle its U.S. match-book business because this would subject such an entity to registration as a broker/dealer under Section 15 of the Act. This would also be true for the handling of the member's proprietary trading accounts.

5. Clearing Capital

Commentors (No. 6, 8, and 15) expressed concerns regarding potential assessments on their clearing capital. Two commentors (6 and 8) argue that members that put up clearing capital to be in business should not be assessed on the interest on this capital, or alternatively assessed only on yearly income above some amount, perhaps $100,000. One commentor (No. 15) only supports the proposed rule change because it believes its security deposits with clearing brokers would be exempt. It is the position of the NASD that a member's clearing capital serves the function of capital in any business, *i.e.*, to run the business and increase gross revenue for the business. Further, the requirements for clearing capital are subject to NASD regulatory oversight and, therefore, justified for inclusion in gross revenue for assessment purposes. The NASD, however, has amended the proposed rule change contained in NTM 95–94 to allow a member to deduct from its gross revenue the first $50,000 of net interest and dividend revenue in order to address the concerns of smaller members regarding this matter.

6. NASD Assessment Discounts

One Commentor (No. 19) argues that the NASD currently "discounts" member assessments, presumably because the current system, without change, already provides more funds than is necessary for operations. The commentor, therefore, argues that the NASD does not need a new funding category. The NASD believes that its practice of discounting member assessments provides the NASD with the flexibility to equitably return to its members a portion of assessments during business cycles wherein the aggregate gross revenue of the securities industry is normal or better, while ensuring the NASD with sufficient funds to meet the regulatory mandates of the Act during business cycles in which gross revenue of the securities industry has significantly decreased. This practice of discounting member assessments has proven to be an effective funding method for oversight of the securities industry and, therefore, has proven itself to be an important part of the investor protections provided by the NASD to the securities markets. In addition, the NASD's definition of gross revenue for assessment purposes should equitably include all categories of revenue from a member's securities business. The NASD believes that the inclusion of net interest and dividend revenue from the member's retained capital and trading strategies, in the definition of gross revenue for assessment purposes, is appropriate in assessing all gross revenue from the securities business regulated by the NASD.

7. NASD SIPC Rationale

One commentor (No. 19) argues that the administrative and compliance activity of the NASD is separated too far in its nature from the insurance activity of the SIPC to provide a compelling argument that NASD's fund raising be consistent with SIPC. The NASD notes

[2] 15 U.S.C. 78o–3.

[3] A copy of NTM 95–54 was submitted as Exhibit 2 to the NASD's proposal and is available for inspection and copying in the Commission's Public Reference Room.

[4] Copies of the comment letters were submitted as Exhibit 3 to the NASD's proposal and are available for inspection and copying in the Commission's Public Reference Room.

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that in further conforming its assessment policy to SIPC's, the Association is not intending to imply that its business is equivalent to SIPC's, but rather that the proposed rule change is based on assessment policy that has already been found to be an equitable allocation of reasonable assessments among members of the securities industry.

8. Net Interest Revenue Derived From Exchange-Listed Securities

One commentor (No. 7) states that a substantial amount of its net interest revenue is derived from margin loans secured by exchange-listed securities and securities lending activities involving exchange-listed securities. The commentor notes that Schedule A, Section 5 of the NASD By-Laws excludes income from the sale of exchange-listed securities, and therefore, argues that net interest revenue from such exchange listed securities should also be excluded. The commentor also notes that it would be extremely difficult, if not impossible, to break out net interest revenue as to its source of origin, *i.e.*, exchange versus non-exchange securities. The NASD believes that interest derived from margin loans and securities lending activities, involving exchange-listed securities or customer accounts including such securities, does not itself represent an exchange transaction but rather a regulated over-the-counter transaction. Such non-exchange activity is significantly different than the current Section 5 exclusion from gross revenue regarding member commissions, trading or investment gains derived from transactions executed on a registered national securities exchange or a foreign securities exchange. The NASD also acknowledges and agrees with the impracticality of segregating such income between exchange and non-exchange business.

9. Request for NASD Audited Annual Financial Income Statement and Balance Sheet/Simplified Revenues Assessment

Two commentors (Nos. 2 and 5) argue that the NASD should provide a detailed accounting to demonstrate the need for additional revenues. One commentor (No. 2) argues for an audited annual financial income statement and balance sheet of the NASD corporate body to erase misperceptions that a surplus may already exist. The NASD, in response to the first comment, notes that an audited financial accounting of the association's activities is provided annually to the membership and the interested public in the organization's annual report. With respect to the second comment, the NASD maintains a level of working capital and equity which is prudent in its business judgment in order to ensure that the NASD is able to fulfill its regulatory mandates.

One commentor (No. 2) argues that if the need for additional assessment revenues exists, then the additional revenues can be obtained "by simply increasing the current assessment by 7.7%." The NASD believes it is more appropriate and equitable to include interest and dividends revenue in gross revenue as provided by the proposed rule change before increasing the assessment percentage on gross revenue for all members. The NASD believes that the proposed rule change enhances the equitable allocation of assessments by adding certain interest and dividend revenue derived from retained capital and certain trading practices to the definition of gross revenue for assessment purposes.

A commentor (No. 5) argues that if the need for additional revenue is shown to be temporary, then the assessment should be temporary. The NASD does not intend the proposed rule change to be temporary and notes that the purpose of the proposed rule change is to meet ongoing budgetary requirements.

10. Member Vote

One commenter (No. 1) argues that the inclusion of any new revenue category should be subject to membership vote. The NASD notes that Article VI, Section1 of the By-Laws permits the Board of Governors to make changes in member assessments without recourse to the membership for approval. This provision of the By-Laws was adopted by the Board of Governors and approved by the Commission as an appropriate regulatory function of the NASD under the Act. The proposed rule change is, however, subject to publication for comment by the SEC and the SEC will exercise its independent review function in determining whether to approve or disapprove the proposed rule change.

11. Other Comments

Four commentors (Nos. 9, 16, 17, and 18) supported the proposed rule change contained in NTW 95–94 as providing more consistent treatment of net interest and dividend revenue. The commentors argue, however, that since additional revenue will be received by the NASD under the proposed rule change, an offset should take place through a reduction in other member charges. They argue that the proposed rule change comes at a time when firms are looking to eliminate costs, increase efficiency and protect capital. Another commentor (No. 3) argues that the NASD should attempt to meet its budgetary challenges as its membership is doing, *i.e.*, investigating more efficient ways of accomplishing objectives and cutting costs. The NASD concurs with the latter commentor and continues to address budgetary challenges by increasing the efficiency of oversight of the broker/dealer industry. However, increased efficiencies of NASD operations alone, as suggested by the former commentors, do not meet the budgetary challenges required to fund the commitment of greater resources to the NASD's broker/dealer regulation activities in compliance with the regulatory mandate of the Act, as amended.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying to the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by May 31, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–11747 Filed 5–9–96; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice No. 2375]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea Working Group on Fire Protection; Notice of Meeting

The U.S. Safety of Life at Sea (SOLAS) Working Group on Fire Protection will conduct an open meeting on May 29, 1996, at 9:30 AM, in Room 4315, at U.S. Coast guard Headquarters, 2100 Second Street SW., Washington, DC 20593. The purpose of the meeting will be to prepare for discussions anticipated to take place at the Forty-first Session of the International Maritime Organization's Subcommittee on Fire Protection, scheduled for September 30, 1996.

The meeting will focus on proposed amendments to the 1974 SOLAS Convention for the fire safety of commercial vessels. Specific discussion areas include: the new mandatory Fire Test Procedures Code, proposed restructuring of Chapter II–2, halon fire extinguishing systems, emergency escape breathing devices, fire-retardant materials for fishing vessel lifeboats, criteria for maximum fire loads, fire safety measures for deep fat cooking equipment, interpretations to SOLAS 74, role of the human element in maritime casualties, safety of passenger submersible craft, recognition of test laboratories, fixed fire detection and alarm systems for new and existing cargo ships, and shipboard safety emergency plans.

Interested members of the public are encouraged to attend. For further information regarding the meeting of the SOLAS Working Group on Fire Protection contact Mr. Jack Booth at (202) 267–2997.

Dated: May 1, 1996.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 96–11804 Filed 5–9–96; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Department of Transportation (DOT), Federal Aviation Administration.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The FAA requested and received an emergency clearance through June 30, 1996 under OMB control number 2120–0595. This request is for the three year clearance. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted by June 7, 1996.

FOR FURTHER INFORMATION CONTACT: FAA Hotline number (202) 267–7029, or the Internet Home Page: http://www.faa.gov/asu/asu100/acq-reform/acq__home.htm.

SUPPLEMENTARY INFORMATION:

Title: Federal Aviation Administration Acquisition Management System (FAAMS).

Abstract: This document contains policy guidance that implements the FY 1996 Transportation Appropriation Bill, that gave FAA an exemption from acquisition laws and provided authority to create a flexible, more cost effective system. Guidance is focused on the acquisition management system, the life cycle acquisition process, the procurement system and process, and an acquisition work force learning system Acquisitions are handled by integrated product teams who provide support through all stages of the process.

Need: Pursuant to section 348 of Public Law 104–50, the FAA hereby develops and implements a new acquisition management system that addresses the unique needs of the agency. This document establishes the policies, guiding principles, and internal procedures for FAA's new acquisition system.

Respondents: The respondents are individuals and businesses who do or wish to do business under contract with the FAA. We estimate approximately 3,300 respondents.

Frequency: The frequency is on occasion and monthly with an estimated 1 to 12 responses per respondent.

Burden: The estimated burden is 333,292 hours annually. Comments on this collection should be submitted to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., Washington, DC 20503, Attention: Desk Officer for FAA.

Issued in Washington, D.C. on May 7, 1996.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 96–11787 Filed 5–9–96; 8:45 am]

BILLING CODE 4910–13–P

Coast Guard

[CGD 96–019]

Waterfront Facilities; Marine Transportation Related Pipeline Testing

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: The Coast Guard is conducting a study to evaluate several alternative methods, in addition to those presently approved, for testing marine transfer pipelines on facilities capable of transferring oil or hazardous material, in bulk, to or from a vessel with a capacity of 250 barrels or more. These methods may provide suitable alternatives for facility operators while maintaining an equivalent level of safety.

DATES: Comments must be received on or before July 9, 1996.

ADDRESSES: Comments may be mailed to Commandant (G–MCO–3), Port and Facilities Compliance Branch, 2100 Second Street, SW, Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) David Deaver, Port and Facilities Compliance Branch, Commandant (G–MCO–3), room 1104, (202) 267–0502, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The Coast Guard is responsible for ensuring compliance for marine transportation related (MTR) facilities, including requirements for transfer pipeline systems. The scope of this study concerns possible testing alternatives for the transfer pipeline system from the dock loading arm or manifold of the Coast Guard inspected MTR facility up to the first valve encountered after the pipe enters the Spill Prevention Control and Countermeasure (SPCC) area or the first valve encountered after the pipe enters the secondary containment

around the bulk storage tank for facilities not protected by SPCC plans.

Present regulations require that transfer pipelines be hydrostatically tested at 1.5 times the maximum allowable working pressure (MAWP) on an annual basis. In August of 1994, the Coast Guard also established guidelines for conducting pneumatic pressure testing as an alternative method. In addition, the Coast Guard has become aware of other, non-destructive testing methods, including acoustic and ultrasonic methods through several alternative requests submitted by industry and discussions with the Office of Pipeline Safety.

The Coast Guard is evaluating these other testing options to assess their suitability as alternative pipeline testing methods for facility operators while maintaining an equivalent level of safety. To accomplish this, Coast Guard is seeking comments on the following issues pertaining to the use of alternative methods for ensuring pipeline safety: (1) Whether using methods other than pressure testing would provide the same or greater level of confidence for ensuring that a pipeline meets safety standards; (2) Whether companies would apply to use other programs, to include using methods such as ultrasonic and acoustic testing, as alternatives to pressure testing; and, (3) Whether use of alternative testing methods would be physically practical and less costly than current requirements. In addition to these, the Coast Guard encourages the submission of comments regarding any other aspects of its pipeline inspection policy.

Dated: May 6, 1996.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Marine Safety And Environmental Protection.

[FR Doc. 96–11775 Filed 5–9–96; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

[Docket No. 28567]

A Call for the Development of Prototype(s) for a Global Analysis and Information Network (GAIN)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice; request for comments.

SUMMARY: David Hinson, Administrator of the Federal Aviation Administration (FAA), stresses that Zero Accidents is the only acceptable safety goal for the aviation industry and the FAA. This notice offers some ideas for the elements needed to establish an early warning capability for existing and emerging safety concerns that would move the aviation industry towards Zero Accidents, and challenges the aviation industry to participate in developing that capability. Because of an emerging combination of improved cooperation between airline management, labor, and various governments, advancements in information technologies, and the political environment in several countries, the international aviation industry has an unprecedented opportunity, by sharing and analyzing aviation safety information, to reach Zero Accidents.

This notice (a) solicits comments on the Global Analysis and Information Network (GAIN) concept and implementation strategy for collecting and analyzing aviation safety data, and (b) invites participation in the development of proof-of-concept prototypes. All interested parties, whether or not in the aviation community, are invited to comment on the ideas presented, offer alternative solutions, indicate interest in helping to develop a GAIN prototype or the overall system itself, and comment about how government aviation safety agencies can best help the industry reach Zero Accidents.

DATES: Comments in response to this call for action must be received by June 14, 1996.

ADDRESSES: It is requested that *all* comments be submitted via the Internet by sending an e-mail message with your comments (plain text preferred, no graphics please) to: concept__paper@asyweb01.nasdac.faa.gov.

Please include your name and organization. Comments must also be mailed in hard-copy (two copies) via regular mail to: Federal Aviation Administration, 800 Independence Ave., SW., Office of Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 28567, Washington, DC 20591.

All comments must be marked: "Docket No. 28567." Commenters wishing the FAA to acknowledge receipt of their comments must include a pre-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 28567." The postcard will be date stamped and mailed to the commenter.

Comments submitted about this Notice may be examined at the FAA at the above address in room 915G on weekdays, except on Federal holidays, between 8:30 a.m. and 5:00 p.m. In addition, commenters will be able to review all other comments by Internet. Your submission should not contain any proprietary or other information that you do not want to be made available to the public.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Fluet, Manager, Safety Analysis Division, Office of Aviation Safety, ASY–200, Federal Aviation Administration, 400 7th Street, SW., Washington, DC 20590, telephone 202–267–GAIN (202–267–4246).

SUPPLEMENTARY INFORMATION: The aviation industry has made remarkable progress in reducing aviation accident rates. With today's volume of flights, the industry would have suffered *more than 10,000 fatalities* last year worldwide if the accident rate had not improved so dramatically since 1960. Because of this major decline in the accident rate, the industry now suffers an average of *less than 800 fatalities* worldwide per year. However, the rate has remained stubbornly consistent for about the last 10 years; and at today's accident rate, forecast growth in air transportation demand will lead to *more than 4,500 fatalities* worldwide per year by 2025—clearly an unacceptable result.

Sound methods for certifying the safety of new aviation products and procedures, as well as surveillance activities that help to ensure safe operation and maintenance of these products and procedures, have contributed significantly to the current safety levels of the aviation industry. Within the framework of these regulatory methods, technological advances in engine performance and reliability, airframes and materials, air traffic control, cockpit automation, and simulator training have contributed to the safety of the aviation system. Compliance inspections, accident and incident investigations, special studies, and program evaluations are the fundamental methods of continuing surveillance in the operating environment, and safety has improved significantly over the years in part because of the lessons learned by using these methods to understand the mistakes and oversights of the past.

Yet all too often, the industry has not been able to use data about accidents, incidents and other system anomalies to become aware of existing or emerging safety problems in time to take preventive measures. Just as traditional product design and manufacturing methods eventually gave way to new, improved principles and methods, a new safety information paradigm, with much greater sensitivity to anomalies in daily aviation system operations, could help the industry reach Zero Accidents. Just as aviation product improvements

of the past have been fostered by technological advances, improvements in aviation safety monitoring and alerting will become possible as a result of major advances in information management technology.

An Outline of a New Safety Monitoring Paradigm

The industry must develop a significantly improved operational early warning capability that is sensitive enough to detect and alert the aviation community to existing and emerging problems. A major aspect of this capability is the *sharing of safety information*, both *within* categories in the industry, e.g., carriers must share with other carriers and manufacturers with other manufacturers; and *across* categories, e.g., labor, management, carriers, manufacturers, air traffic controllers, airport operators, and others must share with each other. Creating useful information, however, generally requires the collection of large amounts of data, and it also involves the careful analysis of that data. Rarely would there be any need or desire to share any raw data, but the sharing of the *analysis* of the data—the information—could be mutually beneficial. Gathering and analyzing large amounts of qualitative and quantitative aviation safety data to better understand routine system operations is the foundation of the Global Analysis and Information Network (GAIN) concept.

The GAIN system would be more sensitive to conditions that signal increased safety risks because it would contain information about normal aviation system operations. The statistical baseline for normal aviation operations, constructed with digital flight and ATC radar data, among other major and currently untapped sources, would be the plumb line from which deviations are measured. The importance of obtaining information about a far greater percentage of aircraft operations has been illustrated repeatedly by all-too-typical accident investigation findings of earlier flights that experienced problems similar to the accident aircraft. A truly effective early warning capability would involve significant improvements in information feedback and analysis for aviation operations. At a minimum, the GAIN concept would add the following new elements to the existing monitoring systems to improve sensitivity:

—New data sources *that would improve risk assessment and provide a baseline for normal flight operations, thus improving the chances of early anomaly detection.*

—New and innovative data management and analytical techniques and methodologies *that quickly reveal obscure and/or infrequent data patterns and associations.*

—New methods to *disseminate the findings quickly and globally to all who could use them to improve aviation safety.*

Analytical Strategies and Automated Tools

The proposed analysis process would be based upon new sources of information and new information technology capabilities. First, information from voluntary reporting programs (such as the confidential Aviation Safety Reporting System (ASRS), or the Air Safety Reports (ASR) used by certain airlines) and mandatory incident reporting systems (such as the Pilot Deviation or Runway Incursion data bases) would be subjected to a range of analysis tools. These include advanced data pattern searches—which can be performed autonomously on the data by "intelligent agent" automation tools to discover patterns or associations, finding the "needle in the haystack." "Intelligent agent" software would aid analysts in discovering thematic associations in text data bases, and data visualization tools would show the analyst associations in data base elements. Application of such data mining analysis tools would provide a more focused understanding of operational safety concerns much sooner than current analysis techniques. The data management and analysis take place in a "data warehouse" where operational data are extracted from existing systems and, through a series of steps that standardize and improve the quality of the data, the data are transformed into a data base designed for targeted analysis. Within a "data warehouse" environment, safety analysts can employ various data mining strategies.

Once existing or emerging safety concerns are identified, hypotheses that are developed to explain them can be tested using empirical digital flight data, ATC radar data, or other appropriate data sources. A focus on remedial measures would at times result from an analysis of digital flight data or ATC automated data, both vast sources of empirical data.

As a result of new information technologies, we have the capability, for the first time, to monitor and analyze the parameters of safe and normal flight. Until very recently, it has been very difficult to obtain accurate and reliable information on normal flight operations. Now, thanks to new computer technologies, we can use flight data recorder and radar information to generate large amounts of very accurate and detailed information about flight performance. For example, the Boeing 777 records information on 700 flight parameters 8 times a second. Several countries, mostly in Europe, have programs in which a carrier or civil aviation agency routinely monitors and analyzes operational data captured on flight data recorders.

Statistical analysis of digital data or ATC automated data from normal flights would yield a baseline of routine operations that can be used to detect variations from norms. In addition, baseline statistics would help safety analysts quantify operating risks within, as well as beyond, the envelope of normal operations. By collecting and analyzing information primarily about what went wrong, we are missing the opportunity to learn what was done right to avoid an accident or incident in earlier situations. The likelihood of detecting problems and developing remedies is significantly greater from studying large numbers of normal daily operations than from relying primarily upon a far smaller number of periodic inspections or accident and incident investigations.

Analysis of digital flight data can provide several types of information, including aircraft path analysis, derivation of environmental conditions, aircraft configuration time histories, aerodynamic coefficients (analysis of coefficients can reveal degradation in aerodynamic performance), engine performance, aircraft attitude, automated flight control modes and status, warning parameters, takeoff and landing distances, and flight loads. Digital flight data can be used to detect single anomalies—alerting operators when criteria values for selected parameters have been exceeded or when particular events occur. Such data also can be used to develop descriptive statistics across fleets, to detect deviations from statistical norms in the aviation system, or to measure the effects of design, procedure, or equipment changes.

ATC automated data could be used to analyze airplane motion and relative position, important factors in analyzing issues such as wake vortex and environmental effects. An analysis of air traffic control automated data for normal operations could provide insight into methods for improving ATC system operations or potential problem areas. Flight data anomalies from accidents could be compared to similar anomalies of flights that did not crash to learn what was done differently to avoid an

accident. These findings might suggest guidelines on pilot training or aircraft design. The same autonomous "intelligent agent" analysis techniques used to find patterns in data from incident reporting also can be applied to digital flight data and ATC radar data—or information derived from this data such as paths, flight loads, or aerodynamic coefficients—to determine if any otherwise unobserved associations exist within the data.

Human Factors Analysis

This analytical process and the new sources of data under consideration could significantly improve our ability to describe what is happening in the aviation system, and a comparable human factors analysis capability must also be developed. Without a reliable human factors analysis tool that addresses the underlying causes or factors associated with emerging safety concerns, remedial measures may only be temporary "band aids." An effective human performance analysis capability developed for use on digital flight data or ATC automated data—augmented by feedback from voluntary disclosure systems—is an essential part of an early warning system.

A Proposed Architecture for Sharing

As noted above, for a number of reasons, not the least of which is the very large quantity of data, there will probably be little or no sharing of raw data, but only of information from the analysis of data. Moreover, because of improved networking technologies and capabilities, information would not necessarily all be sent to a massive computer at one location, but would probably be available to different users to different extents by networking—sometimes known as a "virtual database." For example, this networking capability makes it possible for each carrier, manufacturer, or union to have separate GAIN-type systems, or they could do it collectively with one or more others or through trade associations, or any combination of them, and the information sharing could occur over the network to the extent desired or permitted by the owner of each system.

The information that results from GAIN analyses would ideally be available immediately to all recipients who could use it to improve aviation safety. The dissemination of vital information can be accomplished with existing infrastructure—using the Internet, for example, if adequate safeguards can be provided to protect the security and confidentiality concerns of the information providers regarding identified or identifiable data. The GAIN network would have to accommodate different requirements in a user-friendly way, and be able to notify automatically all appropriate recipients about potential problems without requiring them to know to query the system.

Examples of Proactive Use of Aviation Safety Data

There are several examples in various countries that demonstrate how effectively proactive safety measures can be implemented as a result of industry/labor/government partnership sharing of such information. When one air carrier's data indicated that pilots were frequently disregarding their Ground Proximity Warning System (GPWS), the carrier discovered that the frequent disregard was due to a high false alarm rate, and further analysis of the data provided the basis for developing a software remedy. As a result, that GPWS system was improved (to the benefit of *all* carriers that used it), the false alarm rate dropped, and pilots ignored the warning much less.

Similarly, a carrier that was experiencing frequent altitude capture excursions and deviations in one of its aircraft types found from the data that the problem was a combination of inadequate pilot training and poor altitude capture logic. Analysis of the data provided the basis for improving both the training and the logic. Again, the logic fix benefited *all* users of that autopilot around the world, not just the carrier that discovered the problem.

Other examples include improvements to training programs and/or operations manuals as a result of high pitch angle takeoffs, more rapid that desirable takeoff rotation rates, inadvertent flap/slat retraction out of the proper speed range, and unstabilized approaches; design fixes for equipment that did not perform as designed or anticipated (e.g., an aircraft that was developing cracks from hard landings at less than the 2 g cutoff beyond which inspection was mandated); and improvements in airport signs and markings to help pilots more accurately follow their taxi clearances.

Also important, of course, is that without the data, it is very difficult for carriers, manufacturers, or governments to *evaluate* whether new programs and other fixes are having the desired result.

Concept Implementation Issues

Collection and Analysis of Aviation Safety Data

In *developing* an analytical process for an early warning capability that would monitor the system and alert the aviation community to existing and emerging safety concerns, please consider what data requirements, analysis methods, and information dissemination methods you would propose. In relation to the analytical process, please consider and comment on issues such as the following:

— What aviation safety data and information are needed to support your analysis plan and what, of those needs, is not now being collected?
—Should large quantities of data be collected on a wide range of safety issues, or less data on fewer targeted safety issues?
—To what extent is standardization of the data collection or of analysis techniques necessary? How should the necessary standardization be accomplished?
—How could existing data, such as information from voluntary reporting and correction, ASRS, AQP, FOQA, and other such programs, be analyzed better to provide meaningful and useful information?
—What could industry and government do to improve existing means for data collection?
—Are incentives needed to stimulate the submission of information that is not derived from accidents or incidents, as opposed to merely removing the disincentives, in order to encourage reporting?
—To what extent can international information sharing occur with a "virtual database" instead of a physically centralized data base?
—What techniques and capabilities are you aware of in the aviation industry or in other industries to analyze data effectively and generate statistically significant results, with predictive value, from large quantities of data describing normal operations?
—What analytical techniques and capabilities are you aware of in the aviation industry or in other industries to respond effectively to the myriad of human factors issues that arise in operational monitoring analysis?

Dissemination of Aviation Safety Information

—To what extent are security measures needed, and what security measures are available, to protect information confidentiality while still assuring that it reaches all in the industry who could use it to improve aviation safety?
—What alerting methods are available to ensure that information is automatically distributed to all recipients who could use it to improve aviation safety without their having to know to ask?

General

—Will an analysis and dissemination system such as GAIN help the aviation industry reach Zero Accidents?
—Are there better ways to help the industry reach Zero Accidents?
—What concerns, if any, do you have about the existence of an analysis and dissemination system such as GAIN?
—What should the relationship be between government regulators and GAIN for it to be most effective?
—Although commercial aviation is the initial target for this effort, how can other sectors of the aviation industry, including the military, help with this initial effort?
—How can the program be expanded to include input from, and the development of remedies in relation to information provided by, manufacturing personnel, mechanics, flight attendants, dispatchers, ramp personnel, and other aviation industry professionals whose input could help with the proactive effort?

Considerations for Developing Prototypes

General

Ultimately GAIN could develop into a comprehensive international network of systems for analysis and sharing of aviation safety information. However, that development would have to occur incrementally, starting with one or more prototypes of various pieces of the network. Among the areas that should be evaluated from prototype development are: international data standardization, data collection protocols, analytical methods, data sharing, alerting mechanisms, and the potential value of emerging technologies. By prototyping key elements of GAIN, it will be possible to obtain operational proof of the most significant new capabilities being incorporated in this early warning system. With a minimal initial commitment of resources, risks and costs would be reduced, while allowing the overall operational feasibility of the concept to be assessed. It would help define obstacles and issues associated with the development of GAIN, and provide valuable information for future implementation planning. Because more types of data, more types of analyses, and more users should not generally be added unless experience demonstrates that such additions would be useful, prototypes would help to provide the experience to determine the desirability of such additions.

Ownership

For several reasons, the elements of the GAIN network should probably not be owned or operated by the FAA or the aviation regulatory agency of any other country. Instead, they should probably be owned by those members of the international aviation industry that benefit economically from its successful performance, analogous to existing collectively-owned, non-profit joint ventures in the aviation industry that provide services for the owners' mutual benefit. There are several reasons for pursuing this type of ownership. First, GAIN would probably enjoy better acceptance by the industry if it is not viewed as a government effort to gather information for enforcement purposes or to protect its own manufacturers and carriers in an international marketplace. Second, private ownership, as compared with governmental ownership, would facilitate protecting sensitive information from public disclosure. Third, the funding of GAIN should not depend upon the fiscal situation in any one country.

Last, but not least, GAIN's existence would be most assured, and it would perform most effectively and efficiently, if it were owned jointly by those who have a direct economic interest in its success—namely, the insurers, manufacturers, carriers, pilots, mechanics, controllers, and airport operators that make up the industry. Either GAIN *will* improve aviation safety and substantially reduce costs for the entire industry—because prevention costs less than accidents—in which event industry will want to own and operate it; or it will not accomplish these goals, in which event a better way must be developed to reach Zero Accidents.

In determining how GAIN might be owned and structured, we invite your comment about:

—What types of prototypes could best demonstrate the concept at the lowest cost, given existing data collection and analysis techniques and capabilities?
—What entities could help develop prototype projects, how much would they cost, and what sources of funding are available?
—What role can you play in the prototyping effort and subsequent efforts to develop an operational GAIN?

The Role of the FAA

The FAA is already engaged in several activities to demonstrate, in relatively small scale, the utility of safety data collection and analysis, but the GAIN network and its prototypes would probably not be FAA systems. The FAA's Office of System Safety could help facilitate the creation of GAIN by informing potential participants about the concept, and by bringing potential participants together, but the FAA will not own or operate GAIN, and will probably not fund its development. Instead, the FAA would be one of many users of the analytical results and supporting data from GAIN.

Given the numerous proactive accident prevention activities that are already underway in various countries, it is likely that the aviation industry would eventually develop an international cooperative data sharing system, such as the GAIN network, on its own. The problem has been that it is difficult for any one profession, manufacturer, or airline to develop a program that systematically facilitates international sharing of information to the benefit of the entire international aviation community. Thus, in addition to facilitating this development by demonstrating its intent to cooperate more with industry to reach Zero Accidents, the FAA can play a major role in accelerating the progress of private industry by bringing together the entities that can help to develop GAIN prototypes—preferably by building as much as possible upon the systems that are already in place rather than starting anew—and by helping to assure that the prototypes are sufficiently standardized and consistent to work together in the more comprehensive GAIN network as it ultimately develops.

Conclusion: A Call To Action

Please let us know of your ideas regarding the development of a GAIN network, particularly regarding how you can become involved, either in a GAIN prototype or in the more comprehensive permanent effort. This is not an invitation for bids or a request for proposals, but we are soliciting indications of interest, as well as input regarding the viability of this or any other concept to help the industry reach Zero Accidents.

You are encouraged to review the comments (Commenters will be able to review all other comments by Internet) and be creative about how you, individually or together with other commenters, can begin the development of GAIN prototypes. If warranted by the nature and extent of the comments, the FAA will host a conference to bring interested parties together to discuss refinements of the GAIN concept and the development of prototypes.

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Issued in Washington, D.C., on May 7, 1996.

Christopher A. Hart,

Assistant Administrator for System Safety, Federal Aviation Administration.

[FR Doc. 96–11725 Filed 5–9–96; 8:45 am]

BILLING CODE 4910–13–P

Notice of Intent To Rule on Application to Use the Revenue From a Passenger Facility Charge (PFC) at Detroit Metropolitan Wayne County Airport and Willow Run Airport, Detroit, Michigan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Detroit Metropolitan Wayne County Airport and Willow Run Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before June 10, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Robert C. Braun, Director of Airports of the Detroit Metropolitan Wayne County Airport at the following address: Detroit Metropolitan Wayne County Airport, Mezzanine, L.C. Smith Terminal, Detroit, MI 48242.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Detroit Metropolitan Wayne County Airport under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Leonard Mizerowski, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (313–487–7277). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Detroit Metropolitan Wayne County Airport and Willow Run Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 15, 1996, the FAA determined that the application to use the revenue from a PFC submitted by Detroit Metropolitan Wayne County Airport substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 8, 1996.

The following is a brief overview of the application.

PFC Application No.: 96–02–C–00–DTW.

Level of the PFC: $3.00.

Actual charge effective date: January 1, 1993.

Estimated charge expiration date: June 21, 2009.

Total approved net PFC revenue: $640,707,000.00.

Brief description of proposed project(s):

Detroit Metropolitan Wayne County Airport

Land Acquisition and Preliminary Design for Fourth Parallel Runway.

Willow Run Airport

Perimeter Property Fencing and Removal of Airport Hazards Class or classes of air carriers which the public agency has requested not be required to collect PFCs: FAR Part 158.23 air taxi/commercial operators (ATCOs) filing from 1800–31 and enplaning fewer than 500 passengers per year at the airport.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Detroit Metropolitan Wayne County Airport.

Issued in Des Plaines, Illinois, on May 3, 1996.

Benito DeLeon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 96–11730 Filed 5–9–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application to Use the Revenue From a Passenger Facility Charge (PFC) at Ford Airport, Iron Mountain, Michigan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Ford Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before June 10, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. William H. Marchetti, Airport Manager, of the Dickinson County Board of Commissioners, at the following address: County Courthouse 701 Stevenson Avenue, P.O. Box 609, Iron Mountain, MI 49802.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Dickinson County Board of Commissioners, under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Gilbert, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (313–487–7281). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Ford Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 23, 1996, the FAA determined that the application to use the revenue from a PFC submitted by the Dickinson County Board of Commissioners was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 9, 1996.

The following is a brief overview of the application.

PFC Application No.: 96–02–U–00–IMT.

Level of the PFC: $3.00.

Actual charge effective date: June 1, 1995.

Estimated charge expiration date: December 31, 1998.

Total approved net PFC revenue: $215,820.00.

Brief description of proposed projects: Install sanitary sewer; rehabilitate Runway 1/19, including HIRL and signs; install PAPI and REIL's (Runway 19); construct and light Taxiway "H", GA apron and GA access road.

Class of classes or air carriers which the public agency has requested not be required to collect PFCs: Not applicable.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Dickinson County Board of Commissioners.

Issued in Des Plaines, Illinois, on May 3, 1996.

Benito DeLeon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 96–11731 Filed 5–9–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Marquette County Airport, Marquette, Michigan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Marquette County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before June 10, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, MI 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Harold R. Pawley, Airport Manager, of the Marquette County Airport at the following address: Marquette County Airport, 198–B Airport Road, Negaunee, MI 49866–9669.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Marquette County Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Gilbert, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (313–487–7281). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Marquette County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 23, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by Marquette County Airport was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 9, 1996.

The following is a brief overview of the application.

PFC Application No.: 96–03–C–00–MQT.

Level of the proposed PFC: $3.00.

Proposed charge effective date: July 1, 1996.

Proposed charge expiration date: September 1, 1996.

Total estimated PFC revenue: $32,500.00.

Brief description of proposed project(s): Purchase snow removal equipment.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: Air taxis and charters.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the County of Marquette, Michigan.

Issued in Des Plaines, Illinois, on May 3, 1996.

Benito DeLeon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 96–11732 Filed 5–9–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Supplemental Environmental Impact Statement: Lane County, Oregon

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent to supplement a final environmental impact statement.

SUMMARY: The FHWA is issuing this notice to advise all concerned that a supplement to the final environmental impact statement will be prepared for the West 11th Street-Garfield Street, Florence-Eugene Highway (known locally as the West Eugene Parkway) in Lane County, Oregon.

FOR FURTHER INFORMATION CONTACT: Elton Chang, Environmental Engineer, Federal Highway Administration, 530 Center Street N.E., Room 100, Salem, Oregon, 97301, Telephone: (503) 399–5749, Fax (503) 399–5838.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oregon Department of Transportation and the City of Eugene Public Works Department will prepare a supplement to the final environmental impact statement (FEIS) on the proposal to construct an approximately 9.3 kilometers (5.8 miles) east-west thoroughfare as an extension of the 6th and 7th couplet on a new alignment in the City of Eugene. The original FEIS (FHWA–OR–85–05–F) for this roadway was approved on November 20, 1989 and the Record of Decision (ROD) signed on April 4, 1990. The final EIS followed a draft EIS dated October 3, 1985 and a supplemental draft EIS dated June 5, 1986. All three environmental documents were reviewed by the public and interested agencies. The new roadway would start in the east at Garfield Street and the 6th and 7th Streets couplet near Highway 99W and terminate in the west with a connection to Route 126 approximately 1.1 kilometers (0.7 miles) west of the Oak Hill railroad overpass in Lane County, Oregon. In general, the new roadway would have four 3.6-meter (12-foot) wide travel lanes and a parkway-type design that would include a 4.3-meter (14-foot) wide landscaped median with 1.2-meter (4-foot) inside shoulders for both roadways, and 2.4-meter (8-foot) wide shoulder/bike lanes on the

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outside of the travel lanes. This roadway is an important linkage between Highway 126 in the west and I–105/I–5 in east Eugene. The need for an east-west limited access thoroughfare has been documented in land use and transportation plans since 1959 to serve the existing and projected traffic demand resulting from the growth projected in the industrial development of west Eugene. In addition, the parkway would serve the growth in residential development in the Bethel-Danebo Neighborhood to the north of the proposed roadway. Since the approval of the final EIS and the selection of Alternative 3 (Modified) for design and the signing of the ROD in 1990, additional coordination and consultation have been done with environmental agencies to avoid and minimize project impacts to rare, threatened and endangered species and their habitats found in the project area. As a result of this consultation, a design modification has been proposed for the western 5.2 kilometers (3.25 miles) of the adopted project (slightly east of Terry Street to Highway 126). The approved design for the West Eugene Parkway (WEP) that was south of and parallel to the Southern Pacific railroad line is proposed to be shifted north of and parallel to the railroad. Initial analysis (October 1994) of the northern design option has found that there would be less direct impacts on the Willamette Valley wet prairie wetlands, a rare habitat type, and the direct impacts to the Western pond turtles, a sensitive species, would be eliminated.

In addition, recent traffic analysis from the City of Eugene has shown that projected traffic for local streets, Highway 99W and the eastern portion of the WEP can best be served by a minor design modification in the intersection with Highway 99W and the approved project. The northbound 99W connection to the westbound new WEP is now proposed to be made by an elevated structure rather than at grade to maintain an acceptable level-of-service. These two minor design modifications are being proposed to the approved project to further reduce the impacts found in the final EIS. The impacts of the modifications will be examined in greater detail in the proposed supplemental EIS.

Newsletters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. Two public meetings will be held in Eugene during May/June, 1996 to identify issues that should be addressed and an additional meeting will be held during the summer to describe preliminary findings of the technical studies. In addition, a public hearing will be held following the distribution of the draft supplemental EIS for public and agency review. Public notice will be given of the times and places of all meetings and hearings. No formal scoping meeting will be held. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the supplemental EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal Programs and activities apply to this program.)

Issued on: May 1, 1996.

Elton Chang,

Environmental Engineer, Federal Highway Administration.

[FR Doc. 96–11657 Filed 5–9–96; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

[NHTSA Docket No. 96–042–No1]

Motor Vehicle Occupant Safety Survey (II)

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice and request for comments on data collection.

SUMMARY: NHTSA's purpose in conducting this survey is to assist the Agency in fulfilling its Congressional mandate to reduce the injuries, fatalities, and economic loss resulting from motor vehicle crashes. There is overwhelming evidence that the regular and proper use of safety devices such as safety belts, child safety seats, and helmets is effective in reducing injuries and fatalities in vehicle crashes. It is, therefore, important that effective strategies be developed to promote the use of such devices. To understand how best to encourage use of these safety devices, NHTSA needs up-to-date information on the patterns of their use and reasons for non-use by the public. By collecting these data, NHTSA will be able to determine where its efforts should be targeted and where new strategies may be needed.

DATES: Written comments must be submitted on or before June 28, 1996.

ADDRESSES: Direct all written comments to National Highway Traffic Safety Administration, Docket Section, Room 5111, Docket # 96–042–No1, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Block, Contracting Officer's Technical Representative, Office of Program Development and Evaluation (NTS–31), National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Room 6240, Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Highway Traffic Safety Administration (NHTSA) was established to reduce the mounting number of deaths, injuries and economic losses resulting from motor vehicle crashes on the Nation's highways. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle standards and traffic safety programs.

During the late 1960s and early 1970s, more than 50,000 persons were killed each year in motor vehicle crashes in the United States. Diverse approaches were taken to address the problem. Vehicle safety designs and features were improved; restraint devices were improved; safety behaviors were mandated in state legislation (including safety belt use, child safety seat use, and motorcycle helmet use); alcohol-related legislation was enacted; this legislation was enforced; public information and education activities were widely implemented; and roadways were improved.

As a result of these interventions and improvements, crash fatalities dropped significantly. By 1994, total fatalities had fallen to 40,676, representing a 20% decline from 1966. In addition, the resident population and the number of vehicle miles traveled increased greatly over the past 25 years. When fatality rates are computed per 100,000 population, the rate for 1994 (15.62) was more than 40 percent lower than the 1966 rate (26.02). In sum, heightened highway safety activity conducted over the past two decades corresponds with major strides in reducing traffic fatalities.

Remaining barriers to safety will be more resistant to programmatic influences now that the easy gains have already been accomplished. Up-to-date information is essential to plot the direction of future activity that will achieve the more difficult gains in the coming years.

In order to collect the critical information needed by NHTSA to develop and implement effective countermeasures that meet the Agency's mandate to improve highway traffic safety, NHTSA conducted its first Motor Vehicle Occupant Safety Survey in 1994. The survey included questions related to safety belts, child safety seats, airbags, bicyclist safety, pedestrian safety, motorcyclist safety, and Emergency Medical Services. It also contained small segments on alcohol use and on speeding.

The proposed survey is the second Motor Vehicle Occupant Safety Survey. The survey will collect data on topics included in the first (1994) survey and will monitor changes over time in the use of occupant protection measures and in attitudes related to vehicle occupant safety. It is important that NHTSA monitor these changes so that the Agency can determine the effects of its efforts to promote the use of safety devices and to identify areas where its efforts should be targeted and where new strategies may be needed. NHTSA is also exploring some additional topics related to issues identified since the previous survey, particularly regarding airbags and children, that have important public safety implications.

II. Method of Data Collection

The survey will be conducted by telephone among a national probability sample of 8,000 adults (age 16 and older). Participation by respondents is voluntary. NHTSA's information needs require safety belt and child safety seat sections too large to merge into a single survey instrument without producing an inordinate burden on respondents. Rather than reduce these sections, the survey instrument will be divided into two series of modules. Each module will be administered to one-half the total number of subjects to be interviewed. Module Series #1 of the questionnaire will focus on safety belts and include smaller sections on airbags, motorcyclist safety, general driving (including speed), and crash experience. Module Series #2 will focus on child safety seats, accompanied by smaller sections on bicyclist safety and Emergency Medical Services. Both series will contain sections on drinking and driving because of the extensive impact of alcohol on the highway safety problem. Some basic safety belt questions contained in Module Series #1 will be duplicated on Module Series #2. (Some topics may be changed from one series to the other in the final questionnaires.)

The interviewers will use computer-assisted telephone interviewing to reduce interview length and minimize recording errors. A Spanish-language translation and bilingual interviewers will be used to minimize language barriers to participation. The survey will be anonymous and confidential.

III. Use of Findings

The findings of this study will assist NHTSA in addressing the problem of motor vehicle occupant safety and in formulating programs and recommendations to Congress. NHTSA will use the findings to: (a) Identify areas to target current programs and activities to achieve the greatest benefit; (b) develop new programs and initiatives aimed at increasing the use of occupant safety devices by the general public; and (c) provide informational support to States and localities in their traffic safety efforts. The findings will also be used directly by State and local highway safety and law enforcement agencies in the development and implementation of effective countermeasures to prevent injuries and fatalities to vehicle occupants.

IV. Data

OMB Number: None
Form Number: None
Type of Review: Regular Submission
Affected Public: The population of the United States age 16 and older living in households with telephones.
Estimated Number of Respondents: 8000
Estimated Time Per Respondent: 20 minutes
Estimated Total Burden: 2667 hours
Estimated Total Cost: $46.97 per survey respondent

V. Requests for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including the hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for approval by the Office of Management and Budget (OMB) of this information collection. Copies of all comments will be placed in Docket 96–042, Notice 1, in the NHTSA Docket Section in Room 5109, Nassif Building, 400 7th Street, S.W., Washington, D.C. 20590, and will become a matter of public record.

James H. Hedlund,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 96–11748 Filed 5–9–96; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 96–14; Notice 2]

Decision That Nonconforming 1992 Through 1996 Mercedes-Benz Gelaendewagen Type 463 Long Wheel Base V–8 Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1992 through 1996 Mercedes-Benz Gelaendewagen Type 463 Long Wheel Base V–8 multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1992 through 1996 Mercedes-Benz Gelaendewagen Type 463 Long Wheel Base V–8 MPVs not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

DATES: The decision is effective May 10, 1996.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all

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applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.—certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) (formerly section 108(c)(3)(A)(i)(II) of the Act, 15 U.S.C. 1397(c)(3)(A)(i)(II)) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Europa International, Inc. of Santa Fe, New Mexico (Registered Importer No. R–91–002) petitioned NHTSA to decide whether 1992 through 1996 Mercedes-Benz Gelaendewagen Type 463 Long Wheel Base V–8 MPVs are eligible for importation into the United States. NHTSA published notice of the petition on February 21, 1996 (61 FR 6684) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VCP–13 is the vehicle eligibility number assigned to vehicles admissible under this determination.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 1992 through 1996 Mercedes-Benz Gelaendewagen Type 463 Long Wheel Base V–8 MPVs are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(B) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 7, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–11784 Filed 5–9–96; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 96–045; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1992 Jeep Cherokee Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1992 Jeep Cherokee multipurpose passenger vehicles (MPVs) manufactured for the Venezuelan market are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1992 Jeep Cherokee that was manufactured for the Venezuelan market and not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 10, 1996.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania ("Champagne") (Registered Importer 90–009) has petitioned NHTSA to decide whether 1992 Jeep Cherokee MPVs manufactured for the Venezuelan market are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1992 Jeep Cherokee that was manufactured for sale in the United States and certified by its manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1992 Jeep Cherokee to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S. certified 1992 Jeep Cherokee, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1992 Jeep Cherokee is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence * * *.*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that the non-U.S. certified 1992 Jeep Cherokee complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked "Brake" for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamp assemblies; (b) installation of U.S.-model front and rear sidemarker/reflector assemblies; (c) installation of U.S.-model taillamp assemblies.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the convex passenger side rearview mirror.

Standard No. 114 *Theft Protection:* installation of a warning buzzer microswitch and a warning buzzer in the steering lock assembly.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. *118 Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a U.S.-model seat belt in the driver's position, or a belt webbing actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch actuated seat belt warning lamp and buzzer. The petitioner states that the vehicle is equipped with a lap and shoulder restraint that adjusts by means of an automatic retractor and releases by means of a single push button at each front designated seating position, and with a lap and shoulder restraint that releases by means of a single push button at each rear outboard seating positions.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 7, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96–11785 Filed 5–9–96; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 96–39; Notice 1]

Notice of Tentative Decision That Certain Nonconforming Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Request for comments on tentative decision that certain nonconforming vehicles are eligible for importation.

SUMMARY: This notice requests comments on a tentative decision by the National Highway Traffic Safety Administration (NHTSA) that certain motor vehicles that are certified as complying with Canadian Motor Vehicle Safety Standard No. 208, *Occupant Restraint Systems*, but do not comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection*, are nevertheless eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturers as complying with the safety standards, and (2) they are capable of being readily altered to conform to FMVSS No. 208.

DATES: The closing date for comments on this tentative decision is June 10, 1996.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. § 1381 *et seq.*) (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards (FMVSS) shall be refused admission into the United States unless NHTSA has decided, either pursuant to a petition from the manufacturer or registered importer or on its own initiative, that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

On August 13, 1990, NHTSA published a **Federal Register** notice at 55 FR 32988 announcing that it had made a final determination on its own initiative that certain motor vehicles that are certified by their original manufacturer as complying with all applicable Canadian motor vehicle safety standards (CMVSS) are eligible for importation into the United States under the precursor to 49 U.S.C. § 30141(a)(1)(A). As identified in the notice, the Canadian-certified vehicles determined to be eligible for importation include:

All passenger cars manufactured on or after September 1, 1989 which are equipped by their original manufacturer with an automatic restraint system that complies with Federal Motor Vehicle Safety Standard

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(FMVSS) No. 208, *Occupant Crash Protection.*

The notice explained that NHTSA had examined the CMVSS and found that, in most essential respects, they are identical to the FMVSS, and that the most significant difference between the two sets of standards concerned occupant protection requirements. NHTSA noted that CMVSS No. 208, *Occupant Restraint Systems,* does not require a passenger car to be equipped with automatic restraints, in contrast to FMVSS No. 208, *Occupant Crash Protection,* which requires automatic restraints in front designated seating positions for all passenger cars manufactured on and after September 1, 1989. Owing to this difference, and the agency's uncertainty that Canadian-certified vehicles could be retrofitted with automatic restraint systems, NHTSA limited its eligibility determination to passenger cars manufactured before September 1, 1989, or those manufactured on or after that date that are equipped by their original manufacturer with an automatic restraint system that complies with FMVSS No. 208.

The notice observed that in the absence of a determination by NHTSA on its own initiative, any manufacturer or registered importer could petition the agency to determine whether a vehicle requiring the installation of an automatic restraint system to comply with FMVSS No. 208 was eligible for importation into the United States. In the ensuing years, NHTSA has received, and granted, a number of petitions from registered importers seeking import eligibility decisions on vehicles requiring the installation or replacement of automatic restraint systems to comply with FMVSS No. 208. These petitions were granted on the basis of information demonstrating that automatic restraints could be installed in the subject vehicles without the need for significant structural modifications that would render those vehicles incapable of being readily altered to conform to the standards, and therefore ineligible for importation under the criteria specified in 49 U.S.C. § 30141(a)(1)(A).

Through its monitoring of vehicle imports, NHTSA has identified the vehicles listed in the annex to this notice as ones that have been recently imported into the United States from Canada that do not meet the requirements of FMVSS No. 208 because they lack an automatic restraint system at both outboard front seating positions. These vehicles are certified by their original manufacturers as complying with all applicable CMVSS. In order to develop a realistic enforcement policy concerning these vehicles, and to determine whether to allow future importations of similar vehicles, NHTSA is soliciting comments through this notice on whether the vehicles listed in the annex are capable of being readily altered to comply with FMVSS No. 208.

Tentative Decisions

Pending its review of any comments submitted in response to this notice, NHTSA hereby tentatively decides that each of the passenger cars listed in the annex to this notice is substantially similar to a passenger car originally manufactured for sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Vehicle Eligibility Number

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. If these tentative decisions are ultimately made final, all passenger cars listed in the annex to this notice will be eligible for entry into the United States under Vehicle Eligibility No. VSA–1.

Comments

Section 30141(b) of Title 49, U.S. Code requires NHTSA to provide a minimum period for public notice and comment on decisions made on its own initiative consistent with ensuring expeditious, but full consideration and avoiding delay by any person. NHTSA believes that a minimum comment period of 30 days is appropriate for this purpose. Interested persons are invited to submit comments on the tentative decisions described above. It is requested, but not required, that five copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of NHTSA's final decision will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegation of authority at 49 CFR 1.50.

Issued on: May 7, 1996.

Ricardo Martinez,

Administrator.

Annex

Vehicles Covered by Tentative Decision

The following passenger cars, certified by their original manufacturer as complying with all applicable Canadian Motor Vehicle Safety Standards:

1994 and 1995 Chrysler LeBaron
1994 and 1995 Dodge Spirit
1994 and 1995 Dodge Shadow
1994 and 1995 Dodge Viper
1994 and 1995 Plymouth Acclaim
1994 and 1995 Plymouth Sundance
1995 Mazda Protégé

[FR Doc. 96–11786 Filed 5–9–96; 8:45 am]

BILLING CODE 4910–59–P

Surface Transportation Board [1]

[STB Finance Docket No. 32879]

Nebraska Central Railroad Company—Lease and Operation Exemption—Lines of Union Pacific Railroad Company

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Exemption.

SUMMARY: The Board, under 49 U.S.C. 10502, exempts from the prior approval requirements of 49 U.S.C. 10902 the lease and operation by Nebraska Central Railroad Company of three branch lines of Union Pacific Railroad Company consisting of: (1) a line of railroad extending from milepost 83.3 to milepost 80.0 (approximately 3.3 miles); (2) a line of railroad extending from milepost 46.1 to milepost 43.44 (approximately 2.7 miles); and (3) the Norfolk Branch extending from milepost 0.0 to milepost 46.1 (approximately 1.5 miles),[2] in Norfolk, NE.

DATES: This exemption is effective on May 10, 1996. Petitions to stay must be filed by May 16, 1996. Petitions to reopen must be filed by June 3, 1996.

ADDRESSES: Send pleadings, referring to STB Finance Docket No. 32879, to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch,

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10902.

[2] The mileposts here describe locations on separate branch lines. Thus, the mileage between these two points is actually about 1.5 miles, and not 46.1 miles.

1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) Robert A. Wimbish, Suite 420, 1920 N Street, N.W., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–7513. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: April 22, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–11741 Filed 5–9–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

[Treasury Directive Number 12–70]

Delegation of Authority of Functions and Establishment of Responsibilities Relating to the Institute of American Indian Arts

May 3, 1996.

1. *Purpose.* This Directive delegates authority and establishes responsibilities for functions relating to the Institute of American Indian and Alaska Native Culture and Arts Development's (referred to as the "Institute of American Indian Arts" or the "Institute") two trust funds: the Program Enhancement Endowment and the Capital Improvement Endowment.

2. *Scope.* This Directive applies to the Office of the Assistant Secretary for Management & CFO, Office of Inspector General (OIG), Office of the Commissioner of Internal Revenue (IRS), Office of the Commissioner, Financial Management Service (FMS), and Office of the Deputy CFO.

3. *Background.* Treasury Order (TO) 102–11 delegates the authority vested in the Secretary of the Treasury by 20 U.S.C. 4425 for the Institute of American Indian and Alaska Native Culture and Arts Development to the Assistant Secretary for Management & CFO and to the Inspector General.

a. The Institute, a Government-controlled corporation and not an agency of the United States, was established by Congress in October 1986 by Public Law (Pub. L.) 99–498. It submits an annual report to Congress, submits its budget directly to Congress, and receives appropriations (20 U.S.C. 4451) to meet normal operating expenses. It is designated as its own certifying agency for funds appropriated to it (20 U.S.C. 4451)(a)(4)). Pub. L. 101–644, 104 Stat. 4669, dated November 29, 1990, enacted an amended 20 U.S.C. 4425, "Endowment Programs," expanding the role of the Secretary of the Treasury in the Institute. This amendment established the Program Enhancement Endowment and the Capital Improvement Endowment trust funds. Statutory amendments (Pub. L. 101–644, Title V, § 505, dated November 29, 1990) and 20 U.S.C. 4416(f) further established a Federal matching contribution for private contributions to the trust funds, such that the Program Enhancement Endowment and the Capital Improvement Endowment may accept, in addition to cash contributions, "noncash, in-kind contributions of real or personal property" which may be converted to cash. Federal matching contributions are limited by the annual appropriation for matching purposes.

b. The statute requires the Secretary of the Treasury to:

(1) establish procedures for appraisal of noncash donations to the Institute;

(2) transfer to the Institute funds constituting the Federal capital contribution to the Program Enhancement and Capital Endowment trust funds established by § 4425(a) and § 4416(f) equal to the amount the Institute demonstrates it has received as private contributions (either cash or noncash). It is Treasury's responsibility to establish appropriate procedures concerning cash contributions and how the Institute will "demonstrate" receipt; and

(3) review and approve the governing provisions of the trust funds established under § 4425, including the recordkeeping requirements, as will allow for the Secretary of the Treasury to audit and monitor the activities of the trust funds covered in 20 U.S.C. 4425(c)(3).

4. *Delegations.* The authority delegated to the Assistant Secretary for Management & CFO by TO 102–11 is redelegated as follows.

a. *The Deputy CFO* is delegated the authority contained in 20 U.S.C. 4425 to perform the functions vested in the Secretary by that section, as redelegated under TO 102–11, subject to the delegations in paragraphs 4.b. and 4.c.

b. *The Commissioner of Internal Revenue* is delegated the authority to:

(1) amend the procedures for appraising contributions to the Institute established in accordance with 20 U.S.C. 4425(a)(3); and

(2) assist the General Services Administration (GSA) in reviewing such appraisals.

c. *The Commissioner, Financial Management Service,* is delegated the authority to:

(1) establish and maintain necessary Government account symbols for the Institute's appropriated amounts;

(2) make payment transfers of Federal funds to the Institute pursuant to, and in accordance with, the provisions of 20 U.S.C. 4451, 4425(a)(4) and (b)(5); and

(3) complete all necessary Federal transfer and reporting forms related to the Institute's appropriated amounts.

5. *Responsibilities.*

a. *The Inspector General (IG)* shall perform an annual financial statement audit of the Program Enhancement Endowment and the Capital Improvement Endowment trust funds. The IG shall conduct these audits in-house or through a contractual arrangement.

b. *The Deputy CFO* shall:

(1) review and ensure that the recordkeeping procedures for the trust funds, the Program Enhancement Endowment and the Capital Improvement Endowment, are adequate to protect the financial interest of the United States for the:

(a) investment of Federal funds received by the trust funds; and

(b) expenditure of accumulated interest for the trust funds; and

(2) monitor the activities of the trust funds by reviewing the quarterly unaudited financial statements for the trust funds.

c. *The Commissioner of Internal Revenue* shall perform the duties stated in paragraph 4.b. and as specified in the Memorandum of Understanding (MOU) dated February 3, 1995, between GSA, the Institute and the Department of the Treasury.

d. *The Commissioner, Financial Management Service,* shall perform the duties stated in paragraph 4.c. and as specified in the MOU dated February 3, 1995, between GSA, the Institute and the Department of the Treasury.

6. *Authorities.*

a. TO 102–11, "Delegation—Institute of American Indian Arts," dated March 17, 1992.

b. 20 U.S.C. 4425, "Endowment Programs."

c. 20 U.S.C. 4451, "Authorization of Appropriations."

d. 20 U.S.C. 4416(f), "Applicability"

7. *Cancellation.* Treasury Directive 12–70, "Delegation of Authority of

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Functions and Establishment of Responsibilities Relating to the Institute of American Indian Arts," dated November 25, 1992, is superseded.

8. *Expiration Date.* This Directive expires three years from the date of issuance unless superseded or cancelled prior to that date.

9. *Office of Primary Interest.* Office of the Deputy CFO, Office of the Assistant Secretary for Management & CFO.

George Muñoz,

Assistant Secretary for Management & CFO.

[FR Doc. 96–11672 Filed 5–9–96; 8:45 am]

BILLING CODE 4810–25–P

[Treasury Order Number 102–17]

Delegation of Authority Concerning the Personnel Security Program

May 2, 1996.

By virtue of the authority vested in the Secretary of the Treasury, including the authority vested by 31 U.S.C. 321(d), it is ordered that:

1. The Department shall maintain a personnel security program to fulfill the responsibilities imposed by 5 U.S.C. 7531–7533; Executive Order (E.O.) 12968, "Access to Classified Information," dated August 2, 1995; E.O. 10450, "Security Requirements for Government Employees," dated April 27, 1953, as amended; and any other applicable authorities. The program shall be applicable throughout the Department.

2. The Assistant Secretary for Management & CFO is delegated the authority of the Secretary to exercise and perform all duties, rights, powers, and obligations under the above-referenced authorities. This delegation includes making all determinations and appointments and issuing any regulations required to implement the Department's personnel security program, except for any matter in which, by law, executive order, or regulation of outside agencies, the personal decision of the head of the agency or principal deputy is required.

3. The Assistant Secretary for Management & CFO is designated pursuant to Section 6.1 of E.O. 12968 as the Senior Agency Official to direct and administer the Department's personnel security program.

4. The responsibilities of the Special Assistant to the Secretary (National Security) continue uninterrupted and are not affected by this Order.

5. The authority delegated by this Order may be redelegated.

Robert E. Rubin,

Secretary of the Treasury.

[FR Doc. 96–11673 Filed 5–9–96; 8:45 am]

BILLING CODE 4810–25–P

Customs Service

Announcement of National Customs Automation Program Test Regarding Reconciliation

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces Customs plan to conduct a voluntary prototype test regarding reconciliation. This reconciliation test will cover entries to which antidumping and countervailing duties apply. This notice invites public comments concerning any aspect of the planned test, informs interested members of the public of the eligibility requirements for voluntary participation in the testing of this prototype, and describes the basis on which Customs will select participants.

EFFECTIVE DATES: The test of this prototype will commence no earlier than July 9, 1996. This test will end when liquidation or reliquidation of all Reconciliations has become final. Comments concerning the methodology of this prototype must be received on or before June 10, 1996. To participate in this prototype test, the necessary information, as outlined in this notice, must be filed with Customs on or before June 10, 1996.

ADDRESSES: Written comments regarding this notice, and information submitted to be considered for voluntary participation in this prototype should be addressed to Reconciliation Prototype Team, U.S. Customs Service, 1301 Constitution Avenue, N.W., Room 1322, Washington, D.C. 20229–0001.

FOR FURTHER INFORMATION CONTACT: For questions on reconciliation: Rychelle Ingram (202) 927–1131.

For questions on Antidumping and Countervailing duties: Frank Crowe (202) 927–0402.

SUPPLEMENTARY INFORMATION:

Background

Title VI of the North American Free Trade Agreement Implementation Act (the Act), Public Law 103–182, 107 Stat. 2057 (December 8, 1993), contains provisions pertaining to Customs Modernization (107 Stat. 2170). Subtitle B of Title VI establishes the National Customs Automation Program (NCAP)—an automated and electronic system for the processing of commercial importations. Section 637 of the Act amends Section 484 of the Tariff Act of 1930 by establishing a new subsection (b) entitled "Reconciliation." Reconciliation is a planned component of the NCAP. Section 631 authorizes tests of planned NCAP components. Section 101.9(b) of the Customs Regulations (19 CFR 101.9(b)), implements the testing of NCAP components. See T.D. 95–21 (60 FR 14211, March 16, 1995). This test is established pursuant to those regulations.

Previous NCAP initiatives include Customs prototype of remote location filing (60 FR 17605), and the announcement of a reconciliation prototype for related party importers making upward adjustments to the price of imported merchandise, pursuant to 26 U.S.C. 482. (60 FR 46141 and 60 FR 64470.)

I. Description of Proposed Test

The Concept of Reconciliation

Reconciliation will allow an importer to provide Customs with information (other than that related to the admissibility of merchandise), which is not available at the time of entry summary filing, at a subsequent time. A notice of intention to file a Reconciliation ("Notice of Intent") permits the liquidation of an entry as to all issues other than those which are transferred to the Reconciliation. By filing a Notice of Intent, an importer is requesting that a certain issue be separated from the entry. The importer voluntarily requests and accepts that the issue identified in the Notice of Intent remains open and outstanding and is transferred to the Reconciliation. In this prototype, the issue of liability for antidumping and countervailing duties (AD/CVD) will be transferred to the Reconciliation. This permits Customs to liquidate the underlying entry as to the other issues, e.g., classification, but the issue of liability for AD/CVD is held open at the request of the importer, and is transferred to the Reconciliation.

Upon liquidation of the entry, any decision by Customs entering into that liquidation, e.g., classification, may be protested pursuant to 19 U.S.C. 1514. When the outstanding information, e.g., final antidumping duty owed as per the assessed rate, is later furnished in the Reconciliation, the Reconciliation may be liquidated. The Reconciliation will operate as an entry for purposes of liquidation and protest of the issue in the Reconciliation. The liquidation of the Reconciliation may be protested but

the protest may only pertain to elements contained in the liquidated Reconciliation, i.e., the protest may not re-visit elements previously liquidated in the entry.

The Reconciliation shall be filed within 90 days of posting of liquidation instructions by the Customs Service. Customs posting of the liquidation instructions will serve as the notice to the importer by the Customs Service that a period of review for antidumping or countervailing duty purposes has been completed. Consequently, because the Reconciliation is filed after the suspension of liquidation has been lifted, the liquidation of the Reconciliation is subject to 19 U.S.C. 1504(a), but not subject to 19 U.S.C. 1504(d).

Description of the Reconciliation Prototype

This prototype will commence no sooner than July 9, 1996. Customs would like to afford the opportunity to participate to all those who volunteer for this test. However, the number of participants may be limited in view of the fact that this prototype will be conducted with minimal computer changes, requiring Customs to manually intervene in tracking and processing. While all interested parties are encouraged to apply for participation, Customs, in conjunction with the Department of Commerce (DOC), will specifically be targeting those AD/CVD cases for which liquidation instructions will be issued in the short term. All procedures and processes will be closely coordinated with the selected, and affected parties. The purpose of this prototype is to test such operational issues as establishment of the Notice of Intent, liquidation of the underlying entry summaries, and processing and liquidation of the Reconciliation.

This prototype will cover entries to which antidumping and countervailing duties apply. As required by Section 637 of the Act, Customs has coordinated with the DOC in the development of this test, and will continue to consult with the DOC throughout the test.

There are several reasons Customs has selected AD/CVD for this reconciliation prototype. First, this test can be initiated prior to having full computer mainframe programming, partially due to the fact that drawback cannot be claimed on AD/CVD duties. In addition, Customs will no longer have to suspend liquidation as to all issues affecting the entry until final instructions have been issued for all AD/CVD cases on the entry. Faster processing of refunds will result in a cash-flow benefit to importers. Should the AD/CVD assessment result in an increase due Customs, faster processing will enable the government to collect duties more timely. As intended by the Act, liquidation of the non-reconciliation issues on the subject entries will result in a reduction of contingent liabilities for the importer. Finally, this prototype will result in a workload savings for the government. Of all entries currently being withheld from liquidation, 75% are suspended for pending AD/CVD cases. Reconciliation provides Customs with the authority to liquidate the underlying entries as to all issues other than the liability for the AD/CVD case, which is identified by the importer in the Notice of Intent, and at his request, transferred to the Reconciliation. By submitting a Notice of Intent, an importer is requesting that the issue of liability for AD/CVD remain open and be transferred to the Reconciliation.

There are various situations which lend themselves to this prototype, including (1) entries having one AD/CVD case, for which the importer wants to reduce its contingent liabilities and leave only the AD/CVD case open on the Reconciliation, and (2) entries having multiple AD/CVD cases, one or more of which has been terminated, or one or more of which has had liquidation instructions issued. Also, parties who have drawback claims against import entries that are suspended for AD/CVD will expedite the liquidation of their drawback entries if they use this prototype to transfer the AD/CVD issue off the import entries.

The following is an example of a situation which would benefit from this prototype. Importer X has 800 entries filed in the port of Cleveland, all of which have merchandise which is subject to three antidumping cases. The DOC has previously provided Customs with liquidation instructions on two of the cases, each having an assessed rate lower than the deposit rate. As a result, Customs owes importer X refunds based on the results of the two cases. However, the 800 entries presently must continue to be suspended from liquidation, pending instructions on the third case. No money is refunded until the entries can be liquidated. In the case of a separate Notice of Intent being filed for each of the three cases, Customs is capable of isolating each case on a single Reconciliation and liquidating the underlying entries as to the other issues. As the DOC provides instructions, each case can be liquidated individually. In this example, this prototype provides for more efficient processing by Customs and quicker refunds to the importer. Additionally, Customs would issue one check for each Reconciliation, as opposed to the current obligation of issuing 800 separate checks.

Customs posting of the AD/CVD liquidation instructions on the Customs Electronic Bulletin Board and the Administrative Message System will initiate the 90 days in which the participant has to file the Reconciliation. Customs posting of the liquidation instructions will serve as the notice to the importer by the Customs Service that a period of review for antidumping or countervailing duty purposes has been completed. The publication in the **Federal Register** by the International Trade Administration (DOC) does not constitute Commerce's instructions to Customs to liquidate, and as such, will NOT trigger the 90 day period for submission of the Reconciliation.

Prerequisites for Reconciliation Under this Prototype

The following are the prerequisites for this prototype covering AD/CVD transactions:

A. *Common Elements:* Each Reconciliation under this prototype will be limited to entries filed by one importer and one filer, and in one port location. Importers who file entries at more than one port may participate if the other prerequisites are met; however, they will have to file one Notice of Intent/Reconciliation for each port. Each Reconciliation is limited to one Antidumping or Countervailing duty case (the individual ten digit case number), and will cover only one manufacturer/shipper/grower. Each Reconciliation will cover only one review period, as defined in 19 CFR 353.22 and 19 CFR 355.22.

B. *Bonding:* Adequate bonding will be required for each Reconciliation. Since there is no additional liability created on the Reconciliation, the bond filed on the underlying entries will in most cases be used to cover the Reconciliation. However, Customs will analyze each participant's individual situation, and take action to ensure sufficient bond coverage exists. While Customs prefers to have one common set of legally responsible parties for each Reconciliation, importers with entries filed within one review period which were secured by more than one surety will not be excluded from participation in this prototype.

C. *Eligible Entries:* The following types of entries will be eligible for this prototype: (1) Entry type 03—Antidumping and Countervailing duty consumption entries, (2) Entry type 06—Foreign trade zone consumption entries, and (3) Entry type 07—Quota/Visa and

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Antidumping/Countervailing duty consumption entries.

Customs is developing a system to accommodate the details involved on Reconciliations covering warehouse withdrawals. Importers interested in filing a Reconciliation on warehouse withdrawals (Entry type 34—Antidumping/Countervailing duty warehouse withdrawal, and Entry type 38—Quota/Visa and Antidumping/Countervailing duty warehouse withdrawal) are encouraged to submit comments and apply for participation, if interested.

D. *Time frame:* Those entries filed via ABI between *February 1, 1990* and the start of this test will be considered eligible for this prototype. (Entries filed prior to February 1, 1990 are not eligible for this test because prior to such date, Customs did not track AD/CVD case information by entry summary line within the Automated Commercial System.)

E. *Notice of Intent/Reconciliation:* Once a participant is selected, a Notice of Intent must be filed. The Notice of Intent is irrevocable. The Notice of Intent must contain the Reconciliation number and the common elements of the Reconciliation, (i.e., importer/filer/AD–CVD case/review period/manufacturer/Port).

The Reconciliation will be due within 90 days of Customs' posting of the liquidation instructions. For AD/CVD cases which have had liquidation instructions previously posted by Customs, the filing of the Notice of Intent will trigger the 90 days for submission of the Reconciliation. For purposes of this prototype, the Reconciliation will be submitted to Customs in an ASCII text, tab-delimited file format, both on hard copy and diskette, and will contain the following information *for each entry line subject to the Reconciliation:*

(1) Entry number;
(2) Date of entry;
(3) Date of export from foreign country (if Reconciliation pertains to CVD case);
(4) Entered value;
(5) AD/CVD duty deposited (Indicate "B" if bonded);
(6) Amount of supplemental AD/CVD duty payment(s), if any;
(7) Date(s) of supplemental payment(s), if any;
(8) Total quantity (only if liquidation instructions provide specific rate of duty);
(9) AD/CVD duty due as per assessed rate; and
(10) Net difference in duty.

Participants will be provided with a sample Reconciliation.

F. *Liquidation:* Importers who chose to participate in this prototype will recognize that the liquidation of the underlying entries pertains only to those issues not identified by the importer on the Notice of Intent. Upon liquidation of the underlying entries, any decisions of the Customs Service entering into that liquidation can be protested pursuant to 19 U.S.C. 1514. The liquidation of the Reconciliation will be posted to the Bulletin Notice of Liquidation. The liquidation of the Reconciliation may also be protested, but the protest may only pertain to elements contained in the liquidated Reconciliation, i.e. the protest may not re-visit elements previously liquidated in the entry.

Under this prototype, once the participant files the Notice of Intent, the referenced entries will be liquidated as to all issues other than that identified in the Notice of Intent, barring any outstanding non-reconciliation issue. The AD/CVD liability issue is transferred to the Reconciliation. The liquidation of tariff classification/rate of duty and/or the appraised value under 19 U.S.C. 1401a shall not preclude the assessment on the Reconciliation of AD/CVD duties according to the instructions issued by the DOC to Customs.

Regulatory Provisions Suspended

Section 113.62 of the Customs Regulations (19 CFR 113.62), pertaining to basic importation and entry bond conditions, will be suspended during this prototype test. Certain provisions in Part 159 of the Customs Regulations (19 CFR Part 159), pertaining to liquidation of duties, will also be suspended during this prototype test.

II. Eligibility Criteria

The following requirements must be met to be considered for selection in this prototype:

(1) All entries and entry summaries subject to the Reconciliation must have been filed via ABI on or after February 1, 1990 and before the start of this test.

(2) There can be no more than 1,000 entries subject to a single Reconciliation.

(3) Adequate bond coverage must exist for the Reconciliation.

(4) Participants may not be the subject of a current audit or investigation by the Customs Service. Closed audits/investigations will not necessarily preclude an importer from participating. However, the findings will be taken into consideration, as will the importer's demonstrated efforts to correct past problems.

(5) Participants must be willing and able to supply the information identified above in the Reconciliation in the specified text, tab-delimited file format.

(6) Participants must agree to participate in the evaluation of this test.

Note that participation in this test will not constitute confidential information and that lists of participants will be made available on the Customs Electronic Bulletin Board and the Administrative Message System.

Reconciliation Prototype Application

This notice requests importers, or brokers or attorneys on behalf of importers, to voluntarily apply for participation in this prototype by submitting to the Reconciliation Prototype Team, U.S. Customs Service, 1301 Constitution Avenue, N.W., Room 1322, Washington, D.C. 20229–0001, on or before the date set forth in the effective date paragraph at the beginning of this notice, the following information:

(1) Importer name and IR number;
(2) Broker name and filer code;
(3) Surety name(s) and surety code(s);
(4) Bond coverage, i.e., whether a continuous bond and/or single entry bonds were used for coverage on the subject entries;
(5) Supplier name, address, and manufacturer's number;
(6) AD/CVD case number at the 10 digit level and the review period being reconciled;
(7) Commodities covered under the Reconciliation;
(8) Port(s) at which entries have been filed and at which the Notice(s) of Intent will be filed;
(9) Number of entries covered under the Reconciliation;
(10) Any supplemental payments made on the subject entries;
(11) Main contact person and telephone number for participation questions; and
(12) Any comments on prototype participation.

By applying to participate in this test, the importer is agreeing to participate pursuant to the terms of the test as defined in this notice.

Basis for Participant Selection

Eligible importers or importers with brokers will be considered for selection as participants in this prototype. Selection will be based on electronic capabilities and volume of entries within the designated criteria. In addition, Customs will work with the DOC to identify those cases which lend themselves to this prototype. The amount and timing of supplemental payments made for an AD/CVD case may have impact on participant selection. Customs is looking for a variety of circumstances and participants in this prototype; however, a limited number of participants will be selected. This prototype will be limited to 25 Reconciliations, due to the minimal automated programming available to support this test. We stress that those applicants not selected for participation, and any interested parties, are invited to comment on the design, conduct, and evaluation of this prototype. Participants selected will be notified in writing. The list of participants will be made available on the Customs Electronic Bulletin Board and the Administrative Message System.

III. Test Evaluation Criteria

Once participants are selected, Customs and the participants will meet to review all public comments received concerning any aspect of the test program or procedures, finalize procedures in light of those comments, form problem-solving teams, and establish baseline measures and evaluation methods and criteria. Interim evaluations of the prototype will be published on the Customs Electronic Bulletin Board, and the results of the final prototype evaluation will be published in the **Federal Register** as required by 19 CFR 101.9(b). The following evaluation methods and criteria have been suggested:

1. Baseline measurements to be established through dataqueries and questionnaires;
2. Reports to be run through use of dataquery throughout the prototype; and
3. Questionnaires from both trade and Customs participants to be used before, during, and after the prototype period.

Preliminary suggestions for evaluation criteria are workload impact (workload shifts, cycle time, etc.), cost savings (staff, interest, issuance of fewer checks or bills, tracking refunds or bills, reduction in contingent liabilities, etc.), policy and procedural accommodation, trade compliance impact, problem solving and system efficiency.

Customs will request that test participants be active in the evaluation, identifying costs and savings experienced in this prototype.

Customs intends to conduct several prototypes of the reconciliation component of the NCAP. These tests will determine the system and operational design of reconciliation which will allow all filers to participate in this type of entry process at a national level. At this time, how the final reconciliation program will operate is unknown. Prototype participants must recognize that these are true prototypes to test the benefits and potential problems of reconciliation for Customs, the trade community, and other parties impacted by this program. It is important to note that time and money spent on these prototypes may not carry forward to the final program.

The next reconciliation prototype is tentatively scheduled to commence no sooner than January, 1997. This subsequent prototype will continue to address operational impact and procedures, and begin addressing additional systemic needs. This prototype is intended to include AD/CVD, as well as other issues which lend themselves to processing by reconciliation. The experience gained from the reconciliation prototype for AD/CVD transactions will be incorporated into subsequent prototypes.

Dated: May 6, 1996.

Samuel H. Banks,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 96–11734 Filed 5–9–96; 8:45 am]

BILLING CODE 4820–02–P

[T.D. 96–38]

Tuna Fish—Tariff-Rate Quota

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of the quota quantity for tuna for Calendar Year 1996.

SUMMARY: This document sets forth the tariff-rate quota for the Calendar Year 1996, on tuna classifiable under item 1604.14.20, Harmonized Tariff Schedule of the United States.

EFFECTIVE DATES: The 1996 tariff-rate quota is applicable to tuna fish entered, or withdrawn from warehouse, for consumption during the period January 1 through December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Karen L. Cooper, Chief, Quota Branch, Technical Programs Division, Trade Compliance Team, Office of Field Operations, U.S. Customs Service, Washington, D.C. 20229, (202) 927–5401.

Background

Each year the tariff-rate quota for tuna fish described in item 1604.14.20, Harmonized Tariff Schedule of the United States (HTSUS), is based on the United States canned tuna production for the preceding calendar year. This document sets forth the tariff-rate quota for the Calendar Year 1996. It has now been determined that 36,300,379 kilograms of tuna may be entered for consumption or withdrawn from warehouse for consumption during the Calendar Year 1996, at the rate of 6 percent ad valorem under item 1604.14.20, HTSUS. Any such tuna which is entered, or withdrawn from warehouse, for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 percent ad valorem under item 1604.14.30 HTSUS. (OFO–TC:T:Q)

Dated: May 6, 1996.

Michael H. Lane,

Acting Commissioner.

[FR Doc. 96–11733 Filed 5–9–96; 8:45 am]

BILLING CODE 4820–02–P

Fiscal Service

[Dept. Circ. 570, 1995 Rev., Supp. No. 12]

Surety Companies Acceptable on Federal Bonds; Capitol Reinsurance Company

A Certificate of Authority as an acceptable reinsurer on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1995 Revision, on page 34450 to reflect this addition:

Capitol Reinsurance Company. BUSINESS ADDRESS: 1325 Avenue of the Americas, New York, NY 10019. PHONE: (212) 974–0100. UNDERWRITING LIMITATION *b/*: $27,928,000. INCORPORATED IN: Maryland.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations.

Copies of the Circular may be obtained by calling the U.S. Department of the Treasury, Financial Management Service, computerized public bulletin board system (FMS Inside Line) at (202) 874–6817/7034/6953/6872 or by purchasing a hard copy from the Government Printing Office (GPO), Washington, DC, telephone (202) 512–0132. When ordering the Circular from GPO, use the following stock number: 048–000–00489–0.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782, telephone (202) 874–6507.

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Dated: April 18, 1996.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 96–11751 Filed 5–9–96; 8:45 am]

BILLING CODE 4810–35–M

UNITED STATES ENRICHMENT CORPORATION

Sunshine Act Meeting

AGENCY: United States Enrichment Corporation, Board of Directors.

TIME AND DATE: 8:00 a.m., Tuesday, May 14, 1996.

PLACE: USEC Corporate Headquarters, 6903 Rockledge Drive, Bethesda, Maryland 20817.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

- Review of commercial, financial and internal personnel issues of the Corporation.

CONTACT PERSON FOR MORE INFORMATION: Barbara Arnold 301–564–3354.

Dated: May 7, 1996.

William H. Timbers, Jr.,

President and Chief Executive Officer.

[FR Doc. 96–11890 Filed 5–8–96; 12:28 pm]

BILLING CODE 8720–01–M

federal register

Friday
May 10, 1996

Part II

Department of Energy

Federal Energy Regulatory Commission

18 CFR Parts 35, 37 and 385

Electric Utilities (Federal Power Act); Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities; Final Rules and Proposed Rule

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35 and 385

[Docket Nos. RM95–8–000 and RM94–7–001; Order No. 888]

Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities

Issued April 24, 1996.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing a Final Rule requiring all public utilities that own, control or operate facilities used for transmitting electric energy in interstate commerce to have on file open access non-discriminatory transmission tariffs that contain minimum terms and conditions of non-discriminatory service. The Final Rule also permits public utilities and transmitting utilities to seek recovery of legitimate, prudent and verifiable stranded costs associated with providing open access and Federal Power Act section 211 transmission services. The Commission's goal is to remove impediments to competition in the wholesale bulk power marketplace and to bring more efficient, lower cost power to the Nation's electricity consumers.

EFFECTIVE DATE: This Final Rule will become effective on July 9, 1996.

FOR FURTHER INFORMATION CONTACT:

David D. Withnell (Legal Information—Docket No. RM95–8–000), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 208–2063

Deborah B. Leahy (Legal Information—Docket No. RM94–7–001), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 208–2039

Michael A. Coleman (Technical Information), Office of Electric Power Regulation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 208–1236.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397 if dialing locally, or 1–800–856–3920 if dialing long distance. CIPS is also available through the Fed World system (by modem or Internet). To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this order will be available on CIPS indefinitely in ASCII and WordPerfect 5.1 format. The complete text on diskette in Wordperfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in the Public Reference Room at 888 First Street NE., Washington, DC 20426.

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Statement of Commissioner Hoecker
Statement of Commissioner Massey

I. Introduction/Summary

Today the Commission issues three final, interrelated rules designed to remove impediments to competition in the wholesale bulk power marketplace and to bring more efficient, lower cost power to the Nation's electricity consumers.[1] The legal and policy cornerstone of these rules is to remedy undue discrimination in access to the monopoly owned transmission wires that control whether and to whom electricity can be transported in interstate commerce. A second critical aspect of the rules is to address recovery of the transition costs of moving from a monopoly-regulated regime to one in which all sellers can compete on a fair basis and in which electricity is more competitively priced.

In the year since the proposed rules were issued,[2] the pace of competitive changes in the electric utility industry has accelerated. By March of last year, 38 public utilities had filed wholesale open access transmission tariffs with the Commission. Today, prodded by such competitive changes and encouraged by our proposed rules, 106 of the approximately 166 public utilities that own, control, or operate[3] transmission facilities used in interstate commerce have filed some form of wholesale open access tariff. In addition, since the time the proposed rules were issued, numerous state regulatory commissions have adopted or are actively evaluating retail customer choice programs or other utility restructuring alternatives. These events have been spurred by continuing pressures in the marketplace for changes in the way electricity is bought, sold, and transported. Increasingly, customers are demanding the benefits of competition in the growing electricity commodity market.

The Commission estimates the potential quantitative benefits from the Final Rule will be approximately $3.8 to $5.4 billion per year of cost savings, in addition to the non-quantifiable benefits that include better use of existing assets and institutions, new market mechanisms, technical innovation, and less rate distortion. The continuing competitive changes in the industry and the prospect of these benefits to customers make it imperative that this Commission take the necessary steps within its jurisdiction to ensure that all wholesale buyers and sellers of electric energy can obtain non-discriminatory transmission access, that the transition to competition is orderly and fair, and that the integrity and reliability of our electricity infrastructure is maintained.

In this Rule, the Commission seeks to remedy both existing and future undue discrimination in the industry and realize the significant customer benefits that will come with open access. Indeed, it is our statutory obligation under sections 205 and 206 of the Federal Power Act (FPA) to remedy undue discrimination.

To do so, we must eliminate the remaining patchwork of closed and open jurisdictional transmission systems and ensure that all these systems, including those that already provide some form of open access, cannot use monopoly power over transmission to unduly discriminate against others. If we do not take this step now, the result will be benefits to some customers at the expense of others. We have learned from our experience in the natural gas area the importance of addressing competitive transition issues early and with as much certainty to market participants as possible.

Accordingly, in this proceeding and in the accompanying proceeding on OASIS, the Commission, pursuant to its authorities under sections 205 and 206 of the FPA:

- Requires all public utilities that own, control or operate facilities used for transmitting electric energy in interstate commerce
- To file open access non-discriminatory transmission tariffs that contain minimum terms and conditions of non-discriminatory service;
- To take transmission service (including ancillary services) for their own new wholesale sales and purchases of electric energy under the open access tariffs;
- To develop and maintain a same-time information system that will give existing and potential transmission users the same access to transmission information that the public utility enjoys, and further requires public utilities to separate transmission from generation marketing functions and communications;
- Clarifies Federal/state jurisdiction over transmission in interstate commerce and local distribution and provides for deference to certain state recommendations; and
- Permits public utilities and transmitting utilities to seek recovery of legitimate, prudent and verifiable stranded costs associated with providing open access and FPA section 211 transmission services.

Open Access

The Final Rule requires public utilities to file a single open access tariff that offers both network, load-based service and point-to-point, contract-based service. The Rule contains a pro forma tariff that reflects modifications to the NOPR's proposed terms and conditions and also permits variations for regional practices. All public utilities subject to the Rule, including those that already have tariffs on file, will be required to make section 206 compliance filings to meet the new pro forma tariff non-price minimum terms and conditions of non-discriminatory transmission. Utilities may propose their own rates in a section 205 compliance filing.

The Rule provides that public utilities may seek a waiver of some or all of the requirements of the Final Rule. In addition, non-public utilities may seek a waiver of the tariff reciprocity provisions.

The Final Rule does not generically abrogate existing requirements contracts, but will permit customers and public utilities to seek modification, or termination, of certain existing requirements contracts on a case-by-case basis. As to coordination arrangements and contracts, the Rule finds that these arrangements and contracts may need to be modified to remove unduly discriminatory transmission access and/or pricing provisions. Such arrangements and agreements include power pool agreements, public utility

[1] These rules are the rules on open access and stranded costs in the above dockets (FERC Stats. & Regs. ¶ 31,036), and an accompanying rule on Open Access Same-Time Information System and Standards of Conduct (OASIS Final Rule) (FERC Stats. & Regs. ¶ 31,037) being issued contemporaneously. The Commission also is issuing contemporaneously a notice of proposed rulemaking on capacity reservation open access transmission tariffs in Docket No. RM96–11–000, FERC Stats. & Regs. ¶ 32,517. These final rules and proposed rule are being published concurrently in the **Federal Register**.

[2] On March 29, 1995, the Commission issued two notices of proposed rulemaking concerning open access transmission and stranded cost recovery. Promoting Wholesale Competition Through Open-Access Non-Discriminatory Transmission Service by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Notice of Proposed Rulemaking and Supplemental Notice of Proposed Rulemaking, 60 FR 17662 (April 7, 1995), FERC Stats. & Regs. ¶ 32,514 (1995). On December 13, 1995, the Commission issued a notice of proposed rulemaking on information systems. Real-Time Information Networks and Standards of Conduct, Notice of Proposed Rulemaking, 60 FR 66182 (December 21, 1995), FERC Stats. & Regs. ¶ 32,516 (1995).

[3] The Commission's notice of proposed rulemaking in the above dockets proposed to apply the proposed requirements to public utilities that own and/or control facilities used for the transmission of electric energy in interstate commerce. "Own and/or control" is intended to include public utilities that "operate" facilities used for the transmission of electric energy in interstate commerce. However, we have modified the Final Rule regulatory text to remove any ambiguity.

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holding company agreements, and certain bilateral coordination agreements. The Rule provides guidance and timelines for modifying unduly discriminatory coordination arrangements and contracts, and specifies when the members of such arrangements must begin to conduct trade with each other using the same open access tariff offered to others. The Rule also provides guidance regarding the formation of independent system operators (ISOs).

The Rule does not require any form of corporate restructuring, but will accommodate voluntary restructuring that is consistent with the Rule's open access and comparability policies.

As discussed in the NOPR, not all owners or controllers of interstate transmission facilities are subject to the Commission's jurisdiction under sections 205 and 206 of the FPA and therefore are not subject to this Rule's open access requirements. Therefore, the Final Rule retains the proposed reciprocity provision in the pro forma tariff. Without such a provision, non-open access utilities could take advantage of the competitive opportunities of open access, while at the same time offering inferior access, or no access at all, over their own facilities. Thus, open access utilities would be unfairly burdened. We note that some non-jurisdictional utilities have expressed an interest in a mechanism for obtaining a Commission determination that their transmission tariffs satisfy the reciprocity provisions in the pro forma tariffs, and we provide such a mechanism in the Rule.

The Final Rule does not generically provide for market-based generation rates. Although the Rule codifies the Commission's prior decision that there is no generation dominance in new generating capacity, intervenors in cases may raise generation dominance issues related to new capacity. In addition, to obtain market-based rates for existing generation, we will continue to require public utilities to show, on a case-by-case basis, that there is no generation dominance in existing capacity. Further, in all market-based rate cases, we will continue to look at whether an applicant and its affiliates could erect other barriers to entry and whether there may be problems due to affiliate abuse or reciprocal dealing.

Finally, contemporaneously with this Rule the Commission issues an NOPR on capacity reservation tariffs as an alternative, and perhaps superior, means of remedying undue discrimination.

Transmission/Local Distribution

The Rule clarifies the Commission's interpretation of the Federal/state jurisdictional boundaries over transmission and local distribution. While we reaffirm our conclusion that this Commission has exclusive jurisdiction over the rates, terms, and conditions of unbundled retail transmission in interstate commerce by public utilities, we nevertheless recognize the very legitimate concerns of state regulatory authorities as they contemplate direct retail access or other state restructuring programs. Accordingly, we specify circumstances under which we will give deference to state recommendations. Although jurisdictional boundaries may shift as a result of restructuring programs in wholesale and retail markets, we do not believe this will change fundamental state regulatory authorities, including authority to regulate the vast majority of generation asset costs, the siting of generation and transmission facilities, and decisions regarding retail service territories. We intend to be respectful of state objectives so long as they do not balkanize interstate transmission of power or conflict with our interstate open access policies.

Stranded Costs

With regard to stranded costs, the Final Rule adopts the Commission's supplemental proposal. It will permit utilities to seek extra-contractual recovery of stranded costs associated with a limited set of existing (executed on or before July 11, 1994) wholesale requirements contracts and provides that the Commission will be the primary forum for utilities to seek recovery of stranded costs associated with retail-turned-wholesale transmission customers. It also will allow utilities to seek recovery of stranded costs caused by retail wheeling only in circumstances in which the state regulatory authority does not have authority to address retail stranded costs at the time the retail wheeling is required. The Rule retains the revenues lost approach for calculating stranded costs and provides a formula for calculating such costs.

Environmental Issues

The Commission has prepared a Final Environmental Impact Statement (FEIS) evaluating the possible environmental consequences of changes in the bulk power marketplace expected to occur as a result of the open access requirements of this Final Rule. The FEIS focuses, as do most commenters, on possible increases in emissions of nitrogen oxides (NO_X) from certain fossil-fuel fired generators, which could affect air quality in the producing region and in areas to which these emissions may be carried.

In response to comments on the Draft EIS, the Commission performed numerous additional studies. The FEIS finds that the relative future competitiveness of coal and natural gas generation is the key variable affecting the impact of the Final Rule. If competitive conditions favor natural gas, the Rule is likely to lead to environmental benefits. Both EPA and the Commission staff believe this projected scenario is the more likely one. If competitive conditions favor coal, the Rule may lead to small negative environmental impacts. However, even using the most extreme, unlikely assumptions about the future of the industry, the negative consequences are not likely to occur until after the turn of the century. Because the impacts will remain modest at least until 2010, there is no need for an interim mitigation program. In addition, even if the data showed more significant negative consequences requiring mitigation, the Commission does not have the statutory authority under the Federal Power Act or the expertise to address this possible far-term problem. The Commission believes, however, that there is time for federal and state air quality authorities to address any potential adverse impact as part of a comprehensive NO_X regulatory program under the Clean Air Act.[4]

Despite our conclusions regarding the lack of environmental impacts expected to result from the Rule, the Commission has examined a wide variety of proposals for mitigating possible adverse effects. We share the view of most commenters that the preferred approach for mitigating increased NO_X emissions generally is a NO_X cap and trading regulatory program comparable to that developed by Congress to address sulfur dioxide emissions in the Clean Air Act Amendments of 1990.[5] The Commission has examined various means of establishing such a program, including use of existing federal authorities under the Clean Air Act, cooperative efforts by state and federal air quality regulators, and development of a new emissions regulatory program administered by the Commission under the Federal Power Act. The Commission has concluded that a NO_X regulatory program could best be developed and administered under the Clean Air Act, in cooperation with interested states, and offers to lend Commission support to that effort should it become necessary.

[4] 42 U.S.C. 7401, *et seq.*

[5] 42 U.S.C.A. 7651b–e.

Conclusion

The Commission believes that the Final Rule will remedy undue discrimination in transmission services in interstate commerce and provide an orderly and fair transition to competitive bulk power markets.

II. Public Reporting Burden

The Open Access Final Rule and the Stranded Cost Final Rule specify filing requirements to be followed by public utilities that own, control or operate transmission facilities in interstate commerce in making non-discriminatory open access tariff filings and filings to recover legitimate, prudent and verifiable stranded costs. The information collection requirements of the final rules are attributable to FERC–516 "Electric Rate Filings." The current total annual reporting burden for FERC–516 is 828,300 hours.

A. Docket No. RM95–8–000 (Open Access Final Rule)

The Open Access Final Rule requires public utilities filing non-discriminatory open access tariffs to provide certain information to the Commission. The Commission estimated that the public reporting burden for the information collection would average 300 hours per response. This estimate included time for reviewing the requirements of the Commission's regulations, searching existing data sources, gathering and maintaining the necessary data, completing and reviewing the collection of information, and filing the revised information. No comments on the burden estimate were received. Because the Final Rule adopts essentially the same information requirements that are contained in the proposed rule, we believe that the average filing burden is same for the Final Rule.

In the proposed rule, the Commission noted that there are approximately 328 public utilities, including marketers and wholesale generation entities. We initially estimated that 137 public utilities own, control or operate facilities used for the transmission of electric energy in interstate commerce, and would be subject to the filing requirements of the proposed rule. Upon further review, the Commission believes that approximately 166 public utilities will respond to the information collection. Accordingly, the public reporting burden is estimated to be 49,800 hours.

B. Docket No. RM94–7–001 (Stranded Cost Final Rule)

In the supplemental notice of proposed rulemaking, the Commission estimated that the information requirements of the proposed rule would not differ substantially from those contained in the initial proposed rule. In that notice, the Commission estimated that the public reporting burden for the information requirements contained in the proposed rule would be 50 hours per response with 10 responses annually. No comments on this filing burden were received. The information requirements adopted in the Stranded Cost Final Rule are not substantially different from those in the proposed rule. Therefore, the Commission concludes that there will be no additional public filing burden associated with the Stranded Cost Final Rule.

III. Background

In the NOPR, we set out a detailed statement of the events leading up to this rulemaking. We repeat that background here, updated to reflect what has happened since March 1995, and discuss why it is necessary to undertake regulatory reform in the electric industry at this time. We do so to provide the necessary backdrop to our action in adopting this Rule.

A. Structure of the Electric Industry at Enactment of Federal Power Act

The Federal Power Act was enacted in an age of mostly self-sufficient, vertically integrated electric utilities, in which generation, transmission, and distribution facilities were owned by a single entity and sold as part of a bundled service (delivered electric energy) to wholesale and retail customers. Most electric utilities built their own power plants and transmission systems, entered into interconnection and coordination arrangements with neighboring utilities, and entered into long-term contracts to make wholesale requirements sales (bundled sales of generation and transmission) to municipal, cooperative, and other investor-owned utilities (IOUs) connected to each utility's transmission system. Each system covered limited service areas. This structure of separate systems arose naturally due primarily to the cost and technological limitations on the distance over which electricity could be transmitted.

Through much of the 1960s, utilities were able to avoid price increases, but still achieve increased profits, because of substantial increases in scale economies, technological improvements, and only moderate increases in input prices.[6] Thus, there was no pressure on regulatory commissions to use regulation to affect the structure of the industry.[7]

B. Significant Changes in the Electric Industry

In the late 1960s and throughout the 1970s, a number of significant events occurred in the electric industry that changed the perceptions of utilities and began a shift to a more competitive marketplace for wholesale power.[8] This was the beginning of periods of rapid inflation, higher nominal interest rates, and higher electricity rates.[9] During this time, consumers became concerned about higher electricity rates and questioned any price increases filed by utilities.[10]

During this same time frame, the construction of nuclear and other capital-intensive baseload facilities—actively encouraged by federal and some state governments—contributed to the continuing cost increases and uncertainties in the industry.[11] These investments were made based on the assumptions that there would be steady increases in the demand for electricity and continued large increases in the price of oil.[12] However, due to conservation and economic downturns, the expected demand increases did not materialize. Load growth virtually disappeared in some areas, and many utilities unexpectedly found themselves with excess capacity.[13] In addition, by the 1980s, the oil cartel collapsed, with a resulting glut of low-priced oil.[14] At the same time, inflation substantially increased the costs of these large

[6] Paul L. Joskow, Inflation and Environmental Concern: Structural Change in the Process of Public Utility Regulation, 17 J. Law & Econ. 291, 312 (1974); *see also* Charles F. Phillips, Jr., *The Regulation of Public Utilities* 11 (1988).

[7] *See* Joskow, *supra* at 312; *see also* Phillips, *supra* at 12.

[8] *See* Joskow, *supra* at 312; *see also* Phillips, *supra* at 12–13.

[9] *See* Joskow, *supra* at 312–13; *see also* Phillips, *supra* at 13. The Arab oil embargo resulted in significantly higher oil prices through the 1970s. *See* Richard J. Pierce, Jr., The Regulatory Treatment of Mistakes in Retrospect: Canceled Plants and Excess Capacity, 132 U. Pa. L. Rev. 497, 501 (1984).

[10] *See* Joskow, *supra* at 313; *see also* Phillips, *supra* at 13.

[11] *See generally* Jersey Central Power & Light Company v. FERC, 810 F.2d 1168, 1171 (D.C. Cir. 1987).

[12] *Id.*

[13] *See* Pierce, *supra* at 503. By 1983, the Department of Energy had estimated that the sunk costs for canceled nuclear plants alone amounted to $10 billion. *Id.* at 498.

[14] *Id.*

baseload generating plants.[15] Surging interest rates further increased the cost of the capital needed to finance and capitalize these projects and completion schedules were significantly extended by, in part, more stringent safety and environmental requirements.[16]

As a result, expensive large baseload plants for which there was little or no demand, came onto the market or were in the process of being constructed. Accordingly, between 1970 and 1985, average residential electricity prices more than tripled in nominal terms, and increased by 25% after adjusting for general inflation.[17] Moreover, average electricity prices for industrial customers more than quadrupled in nominal terms over the same period and increased 86% after adjusting for inflation.[18] The rapidly increasing rates for electric power during this period, together with the opportunities provided by the Public Utility Regulatory Policies Act of 1978 (PURPA) (discussed *infra*), also prompted some industrial customers to bypass utilities by constructing their own generation facilities. This further exacerbated rate increases for remaining customers—primarily residential and commercial customers.

Consumers responded to these "rate shocks" by exerting pressure on regulatory bodies to investigate the prudence of management decisions to build generating plants, especially when construction resulted in cost overruns, excess capacity, or both. Between 1985 and 1992, writeoffs of nuclear power plants totalled $22.4 billion.[19] These writeoffs significantly reduced the earnings of the affected utilities.[20] Delays in obtaining rate increases to reflect the effects of inflation further reduced investor returns. Thus, many utilities became reluctant to commit capital to long-term construction decisions involving large scale generating plants.[21]

In addition to economic changes in the industry, significant technological changes in both generation and transmission have occurred since 1935. Through the 1960s, bigger was cheaper in the generation sector and the industry was able to capitalize on economies of scale to produce power at lower per-unit costs from larger and larger plants.[22] As a result, large utility companies that could finance and manage construction projects of larger scale had a price advantage over smaller utility companies and customers who might otherwise have considered building their own generating units. Scale economies encouraged power generation by large vertically-integrated utility companies that also transmitted and distributed power. Beginning in the 1970s, however, additional economies of scale in generation were no longer being achieved.[23] A significant factor was that larger generation units were found to need relatively greater maintenance and experience longer downtimes.[24] The electric industry faced the situation "where the price of each incremental unit of electric power exceeded the average cost."[25] Bigger was no longer better.

Further dictating against larger generation units were advances in technologies that allowed scale economies to be exploited by smaller size units, thereby allowing smaller new plants to be brought on line at costs below those of the large plants of the 1970s and earlier. Such new technologies include combined cycle units and conventional steam units that use circulating fluidized bed boilers.[26]

The combined cycle generating plants generally use natural gas as their primary fuel. This technology has been made possible by the development of more efficient gas turbines, shorter construction lead times, lower capital costs, increased reliability, and relatively minimal environmental impacts.[27] Similarly, the circulating fluidized bed combustion boilers, fueled by coal and other conventional fuels, provide a more efficient and less polluting resource.

Today, "the optimum size (of generation plants) has shifted from (more than 500 MW) (10-year lead time) to smaller units (one-year lead time) (in the 50- to 150–MW range)."[28] Indeed, smaller and more efficient gas-fired combined-cycle generation facilities can produce power on the grid at a cost ranging from 5 cents per kWh to less than 3 cents per kWh.[29] This is significantly less than the costs for large plants constructed and installed by utilities over the last decade, which were typically in the range of 4 to 7 cents per kWh for coal plants and 9 to 15 cents for nuclear plants.[30] Significant changes have also occurred in the transmission sector of the industry. Technological advances in transmission have made possible the economic transmission of electric power over long distances at higher voltages.[31] This has made it technically feasible for utilities with lower cost generation sources to reach previously isolated systems where customers had been captive to higher cost generation. In addition, the nature and magnitude of coordination transactions [32] have changed dramatically since enactment of the FPA, allowing increased coordinated operations and reduced reserve margins. Substantial amounts of electricity now move between regions, as well as between utilities in the same region. Physically isolated systems have become a thing of the past.

C. The Public Utility Regulatory Policies Act and the Growth of Competition

In enacting PURPA,[33] Congress recognized that the rising costs and decreasing efficiencies of utility-owned generating facilities were increasing rates and harming the economy as a whole.[34] To lessen dependence on expensive foreign oil, avoid repetition of the 1977 natural gas shortage, and control consumer costs, Congress sought to encourage electric utilities to conserve oil and natural gas.[35] In particular, Congress sanctioned the development of alternative generation sources designated as "qualifying facilities" (QFs) as a means of reducing the demand for traditional fossil fuels.[36] PURPA required utilities to purchase power from QFs at a price not to exceed the utility's avoided costs and to sell backup power to QFs.[37]

PURPA specifically set forth limitations on who, and what, could qualify as QFs. In addition to technological and size criteria, PURPA set limits on who could own QFs.[38] Notwithstanding these limitations, QFs proliferated. In 1989, there were 576 QF facilities. By 1993, there were more than 1,200 such facilities.[39] For the same time period, installed QF capacity increased from 27,429 megawatts to 47,774 megawatts.[40] The rapid expansion and performance of the QF industry demonstrated that traditional, vertically integrated public utilities need not be the only sources of reliable power.

During this period, the profile of generation investment began to change, and a market for non-traditional power supply beyond the purchases required by PURPA began to emerge. QFs were limited to cogenerators and small power producers.[41]

However, other non-traditional power producers who could not meet the QF criteria began to build new capacity to compete in bulk power markets, without such PURPA benefits as the mandatory purchase requirements. These producers, known as independent power producers (IPPs), were predominantly single-asset generation companies that did not own any transmission or distribution facilities. While traditional utilities were generally reluctant at that time to invest in new generating facilities under cost of service regulation, utilities increasingly became interested in participating in this new generation sector. They organized affiliated power producers (APPs), with assets not included in utility rate base, and sought to sell power in their own service territories and the territories of other utilities. At the same time, power marketers arose. These entities—owning no transmission or generation—buy and sell power.[42]

There were two major impediments to the development of IPPs and APPs. First, the ownership restrictions of the Public Utility Holding Company Act (PUHCA)[43] severely inhibited these new entities from entering the generation business.[44] Second, these entities needed transmission service in order to compete in electricity markets.

While the Commission had no authority to remove PUHCA restrictions,[45] it encouraged the development of IPPs and APPs, as well as emerging power marketers, by authorizing market-based rates for their power sales on a case-by-case basis and by encouraging more widely available transmission access. From 1989 through 1993, facilities owned by IPPs and other non-traditional generators (other than QFs) increased from 249 to 634 and their installed capacity increased from 9,216 megawatts to 13,004 megawatts.[46] Indeed, "[i]n 1992, for the first time, generating capacity added by independent producers exceeded capacity added by utilities."[47]

Market-based rates helped to develop competitive bulk power markets. A generating utility allowed to sell its power at market-based rates could move more quickly to take advantage of short-term or even long-term market opportunities than those laboring under traditional cost-of-service tariffs, which entail procedural delays in achieving tariff approvals and changes.

In approving these market-based rates, the Commission required, *inter alia*, that the seller and any of its affiliates lack market power or mitigate any market

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[15] *See* Bernard S. Black & Richard J. Pierce, Jr., The Choice Between Markets and Central Planning in Regulating the U.S. Electricity Industry, 93 Col. L. Rev. 1339, 1346 (1993) ("Actual costs of nuclear power plants vastly exceeded estimates, sometimes by as much as 1000%.").

[16] *See* Phillips, *supra* at 13. Fossil fuel-fired plants became subject to increased regulation as a result of the Clean Air Act of 1970, and its 1977 amendments. 42 U.S.C. 7401–7642. In 1971, nuclear plant licensing became subject to the environmental impact statement requirements of the National Environmental Policy Act of 1969. 42 U.S.C. 4332. Following the 1979 accident at the Three Mile Island nuclear plant, nuclear plants also became subject to additional safety regulations, resulting in higher costs. *See* Energy Information Administration, *The Changing Structure of the Electric Power Industry 1970–1991* (March 1993) 35. Between 1976 and 1980, most states and many localities instituted laws governing power plant siting.

[17] Based on retail prices reported in Energy Information Administration (EIA), Monthly Energy Review, January 1995, Table 9.9 (Prices adjusted for inflation using the GDP Deflator (1987 = 100)).

[18] *Id.*

[19] *See* Black & Pierce, *supra* at 1346 (These writeoffs were "about 17% of the book value of total 1992 utility investment.").

[20] *Id.*

[21] *Id.* ("The high perceived risk of future disallowances reversed utilities' incentives to overinvest, and made utilities extremely reluctant to build new power plants.").

[22] *See* Preston Michie, Billing Credits for Conservation, Renewable, and Other Electric Power Resources: an Alternative to Marginal-Cost-Based Power Rates in the Pacific Northwest, 13 Environmental Law 963, 964–65 (1983).

[23] *Id.* at 965.

[24] Energy Information Administration, *The Changing Structure of the Electric Power Industry 1970–1991* (March 1993) 37 ("As larger units were constructed, however, utilities discovered that downtime was as much as 5 times greater for units larger than 600 megawatts than for units in the 100-megawatt range.")

[25] *Id.*; *see also* George A. Perrault, Downsizing Generation: Utility Plans for the 1990s, Pub. Util. Fort. 15–16 (Sept. 27, 1990) ("The large base-load generating units that form the backbone of utility systems are almost totally absent from capacity plans for the 1990s.").

[26] "From 1982 through 1991, the average capacity of fluidized-bed units increased rapidly to 72 megawatts for 4 units in 1991. The average capacity for the 19 units planned to begin operating in 1992 through 1995 increases to 83 megawatts." Energy Information Administration, *The Changing Structure of the Electric Power Industry 1970–1991* (March 1993) 38.

[27] *See* Charles E. Bayless, Less is More: Why Gas Turbines Will Transform Electric Utilities, Pub. Util. Fort. (Dec. 1, 1994) 21.

[28] *Id.* at 24. *See also* Wallace E. Brand, Is Bigger Better? Market Power in Bulk Power Supply: From FDR to NOPR, Pub. Util. Fort. (Feb. 15, 1996) 23 at 25 (while the optimal baseload unit size is about 500 MW for coal-fired steam turbines, the optimal size for gas fired combined-cycle units is about 150 to 200 MW).

[29] FERC staff calculations based in part on combined-cycle plant cost data reported in 1994 FERC Form No. 1 for a sample of units placed in service during 1990–94. Costs vary with regional fuel and construction costs, among other reasons.

[30] Coal and Nuclear plant cost data reported in 1994 FERC Form No. 1 and the EIA report, *Electric Plant Cost and Power Production Expenses 1991*, 1993 DOE/EIA–0455(91), for plants placed in service during 1986–94; *see also* The 1994 Electric Executives' Forum, Bakke (President and CEO of the AES Corporation), Pub. Util. Fort. (June 1, 1994) 45 ("New generation can be built at about 3 cents per kilowatt-hour (U.S. average). Old generation costs about twice that * * *").

[31] *See* Black & Pierce, *supra* at 1345 (In the late 1960s and 1970s, improved transmission efficiency and development of regional transmission networks "made it possible to build power plants up to 1000 miles from power users.").

[32] Coordination transactions are voluntary sales or exchanges of specialized electricity services that allow buyers to realize cost savings or reliability gains that are not attainable if they rely solely on their own resources. For sellers, these transactions provide opportunities to earn additional revenue, and to lower customer rates, from capacity that is temporarily excess to native load capacity requirements.

[33] Pub. L. No. 95–617, 92 Stat. 3117 (codified in U.S.C. sections 15, 16, 26, 30, 42, and 43).

[34] See generally FERC v. Mississippi, 456 U.S. 742, 745–46 (1982).

[35] The Power Plant and Industrial Fuel Use Act of 1978, Pub. L. No. 95–617, 92 Stat. 3117 (codified in U.S.C. sections 15, 16, 26, 30, 42, and 43).

[36] QFs include certain cogenerators and small power producers. PURPA also added sections 210, 211, and 212 to the FPA, providing the Commission with authority to approve applications for interconnections and, in limited circumstances, wheeling. However, under section 211, as enacted in PURPA, the Commission could approve an application for wheeling only if it found, *inter alia*, that the order "would reasonably preserve existing competitive relationships." Because of this and other limitations in sections 211 and 212 as originally enacted, the provision was virtually ineffective. Only one section 211 order was ever issued pursuant to the original provision, and it was pursuant to a settlement. *See* Public Service Company of Oklahoma, 38 FERC ¶ 61,050 (1987). As discussed *infra*, section 211 was subsequently revised by the Energy Policy Act of 1992.

[37] 456 U.S. at 750. Congress recognized that encouragement was needed in part because utilities had been reluctant to purchase electric power from, and sell power to, nonutility generators. *Id.* at 750–51.

[38] For example, PURPA provided that a cogeneration facility or small power production facility could not be owned by a person primarily engaged in the generation or sale of electric power (other than from cogeneration or small power production facilities). *See* 16 U.S.C.

[39] Energy Information Administration, *Electric Power Annual 1993* (December 1994) 124 (Table 77).

[40] *Id.* EIA data for 1989 through 1991 was for facilities of 5 megawatts or more and for 1992 and 1993 was for facilities of 1 megawatt or more. A comparison with Table 74 on page 121 for the years 1992 and 1993 reveals that this mixing of data bases is likely of minimal effect.

[41] Generally, the law has imposed an 80 MW cap on small power producers. A limited exception enacted in 1990 permitted small power facilities that could exceed 80 MW and still qualify as QFs under PURPA. This exception was limited to certain solar, wind, waste, and geothermal small power production facilities and only covered applications for certification of facilities as qualifying small power production facilities that were submitted no later than December 31, 1994 and for which construction commences no later than December 31, 1999. *See* Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990, Pub. L. No. 101–575, 104 Stat. 2834 (1990), *amended*, Pub. L. No. 102–46, 105 Stat. 249 (1991).

[42] The first power marketer in the electric industry was Citizens Energy Corporation. *See* Citizens Energy Corporation, 35 FERC ¶ 61,198 (1986). Power marketers take title to electric energy. Power brokers, on the other hand, do not take title and are limited to a matchmaking role.

[43] 15 U.S.C. 79 *et seq.*

[44] As discussed *infra*, Congress eventually provided a means to avoid the PUHCA restrictions by creating exempt wholesale generators (EWGs) in the Energy Policy Act.

[45] The industry was successful to some extent in developing ownership structures that permitted such investment. *See, e.g.*, Commonwealth Atlantic Limited Partnership, 51 FERC ¶ 61,368 at 62,240 and n.20 (1990).

[46] Energy Information Administration, *Electric Power Annual 1993* (December 1994) 124 (Table 77).

[47] Black & Pierce, *supra* at 1349 n.25.

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power that they may have possessed.[48] The major concern of the Commission was whether the seller or its affiliates could limit competition and thereby drive up prices. A key inquiry became whether the seller or its affiliates owned or controlled transmission facilities in the relevant service area and therefore, by denying access or imposing discriminatory terms or conditions on transmission service, could foreclose other generators from competing.[49] As we have previously explained:

> The most likely route to market power in today's electric utility industry lies through ownership or control of transmission facilities. Usually, the source of market power is dominant or exclusive *ownership* of the facilities. However, market power also may be gained without ownership. Contracts can confer the same rights of control. Entities with contractual control over transmission facilities can withhold supply and extract monopoly prices just as effectively as those who control facilities through ownership.[50]

As entry into wholesale power generation markets increased, the ability of customers to gain access to the transmission services necessary to reach competing suppliers became increasingly important.[51] In addition, beginning in the late 1980s, in order to mitigate their market power to meet Commission conditions, public utilities seeking Commission approval of mergers or consolidations under section 203 of the FPA or Commission authorization for blanket approval of market-based rates for generation services under section 205 of the FPA, filed "open access" transmission tariffs of general applicability.[52] The Commission applied its market rate analysis to IOUs, as well as IPPs, APPs, and marketers, and allowed IOUs to sell at market-based rates only if they opened their transmission systems to competitors.[53] The Commission also approved proposed mergers on the condition that the merging companies remedy anticompetitive effects potentially caused by the merger by filing "open access" tariffs. These early "open access" tariffs required only that the companies provide point-to-point transmission services, which is a much narrower requirement than that being imposed in this Rule and did not require transmission owners to provide to others the same quality of service that they themselves enjoyed.

Following PURPA, the economic and technological changes in the transmission and generation sectors helped give impetus to the many new entrants in the generating markets who could sell electric energy profitably with smaller scale technology at a lower price than many utilities selling from their existing generation facilities at rates reflecting cost. However, it became increasingly clear that the potential consumer benefits that could be derived from these technological advances could be realized only if more efficient generating plants could obtain access to the regional transmission grids. Because many traditional vertically integrated utilities still did not provide open access to third parties and still favored their own generation if and when they provided transmission access to third parties, barriers continued to exist to cheaper, more efficient generation sources.

D. The Energy Policy Act

In response to the competitive developments following PURPA, and the fact that PUHCA and lack of transmission access remained major barriers to new generators, Congress enacted Title VII of the Energy Policy Act of 1992 (Energy Policy Act).[54] A goal of the Energy Policy Act was to promote greater competition in bulk power markets by encouraging new generation entrants, known as exempt wholesale generators (EWGs), and by expanding the Commission's authority under sections 211 and 212 of the FPA to approve applications for transmission services.[55]

An EWG is defined as

> Any person determined by the Federal Energy Regulatory Commission to be engaged directly, or indirectly through one or more affiliates as defined in [PUHCA] section 2(a)(11)(B), and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale.[56]

If the Commission, upon an application, determines that a person is an EWG, that person will be exempt from PUHCA.[57] This provision removed a significant impediment to the development of IPPs and APPs by allowing them to develop projects as EWGs free from the strictures of PUHCA or the QF PURPA limitations.

While sections 211 and 212, as enacted by PURPA, were intended to provide greater access to the transmission grid, the limitations placed on these sections made them unusable in virtually all circumstances.[58] However, as amended by the Energy Policy Act, these sections now give the Commission broader authority to order transmitting utilities to provide wholesale transmission services, upon application, to any electric utility, Federal power marketing agency, or any other person generating electric energy for sale for resale.

The Energy Policy Act also added section 213 to the FPA. Section 213(a) requires a transmitting utility that does not agree to provide wholesale transmission service in accordance with a good faith request to provide a written explanation of its proposed rates, terms, and conditions and its analysis of any

[48] *See, e.g.*, Ocean State Power, 44 FERC ¶ 61,261 (1988); Commonwealth Atlantic Limited Partnership, 51 FERC ¶ 61,368 (1990); Citizens Power & Light Company, 48 FERC ¶ 61,210 (1989); Orange and Rockland Utilities, Inc., 42 FERC ¶ 61,012 (1988); Doswell Limited Partnership, 50 FERC ¶ 61,251 (1990) (*Doswell*); and Dartmouth Power Associates Limited Partnership, 53 FERC ¶ 61,117 (1990).

[49] *See, e.g., Doswell*, 50 FERC at 61,757.

[50] Citizens Power & Light Corporation, 48 FERC ¶ 61,210 at 61,777 (1989) (emphasis in original); *see also* Utah Power & Light Company, PacifiCorp and PC/UP&L Merging Corporation, 45 FERC ¶ 61,095 at 61,287–89 (1988), *order on reh'g*, 47 FERC ¶ 61,209, *order on reh'g*, 48 FERC ¶ 61,035 (1989), *remanded in part sub nom.* Environmental Action, Inc. v. FERC, 939 F.2d 1057 (D.C. Cir. 1991), *order on remand*, 57 FERC ¶ 61,363 (1991).

[51] In earlier years, a few customers were able to obtain access as a result of litigation, beginning with the Supreme Court's decision in *Otter Tail Power Company v. United States*, 410 U.S. 366 (1973). Additionally, some customers gained access by virtue of Nuclear Regulatory Commission license conditions and voluntary preference power transmission arrangements associated with federal power marketing agencies. *See, e.g.*, Consumers Power Company, 6 NRC 887, 1036–44 (1977) and The Toledo Edison Company and Cleveland Electric Illuminating Company, 10 NRC 265, 327–34 (1979). *See* Florida Municipal Power Agency v. Florida Power and Light Company, 839 F. Supp. 1563 (M.D. Fla. 1993). *See also* Electricity Transmission: Realities, Theory and Policy Alternatives, The Transmission Task Force Report to the Commission, October 1989, 197.

[52] *See, e.g.*, Public Service Company of Colorado, 59 FERC ¶ 61,311 (1992), *reh'g denied*, 62 FERC ¶ 61,013 (1993); Utah Power & Light Company, *et al.*, Opinion No. 318, 45 FERC ¶ 61,095 (1988), *order on reh'g*, Opinion No. 318–A, 47 FERC ¶ 61,209 (1989), *order on reh'g*, Opinion No. 318–B, 48 FERC ¶ 61,035 (1989), *aff'd in relevant part sub nom.* Environmental Action Inc. v. FERC, 939 F.2d 1057 (D.C. Cir. 1991); Northeast Utilities Service Company (Public Service Company of New Hampshire), Opinion No. 364–A, 58 FERC ¶ 61,070, *reh'g denied*, Opinion No. 364–B, 59 FERC ¶ 61,042, *order granting motion to vacate and dismissing request for rehearing*, 59 FERC ¶ 61,089 (1992), *affirmed in relevant part sub nom.* Northeast Utilities Service Company v. FERC, 993 F.2d 937 (1st Cir. 1993).

[53] *See, e.g.*, Public Service of Indiana, Inc., 51 FERC ¶ 61,367 (1990), *reh'g denied*, 52 FERC ¶ 61,260 (1990), *appeal dismissed sub nom.* Northern Indiana Public Service Company v. FERC, 954 F.2d 736 (D.C.Cir. 1992).

[54] Pub. L. No. 102–486, 106 Stat. 2776 (1992), codified at, among other places, 15 U.S.C. 79z–5a and 16 U.S.C. 796 (22–25), 824j–l.

[55] *See* El Paso Electric Company and Central and South West Services Inc., 68 FERC ¶ 61,181 at 61,914 (1994) *(CSW); see also* Paul Kemezis, FERC's Competitive Muscle: The Comparability Standard, Electrical World 45 (Jan. 1995) ("In EPAct, Congress made it clear that the electric-power industry was to move toward a fully competitive market system, but left most of the implementation to FERC.").

[56] 15 U.S.C. 79z–5a.

[57] 15 U.S.C. 79z–5a(e).

[58] *See supra* note 36.

physical or other constraints.[59] Section 213(b) required the Commission to enact a rule requiring transmitting utilities to submit annual information concerning potentially available transmission capacity and known constraints.[60]

E. The Present Competitive Environment

Following the Energy Policy Act, the Commission established rules: (1) For certain generators to obtain EWG status and thus an exemption from PUHCA;[61] and (2) that required transmission information availability. The Commission also pursued a number of initiatives aimed at fostering the development of more competitive bulk power markets, including aggressive implementation of section 211, a new look at undue discrimination under the FPA, easing of market entry for sellers of generation from new facilities, and initiation of a number of industry-wide reforms. As stated by the Commission, in recognition of the Congressional goal in the Energy Policy Act of creating competitive bulk power markets:

> Our goal is to facilitate the development of competitively priced generation supply options, and to ensure that wholesale purchasers of electric energy can reach alternative power suppliers and vice versa.[62]

1. Use of Sections 211 and 212 to Obtain Transmission Access

The Commission has aggressively implemented sections 211 and 212 of the FPA, as amended by the Energy Policy Act, in order to promote competitive markets.[63] When wheeling requests under sections 211 and 212 have been made, the Commission has required wheeling in almost all of the requests it has processed. To date, the Commission has issued orders (proposed or final) requiring wheeling in 12 of the 14 cases it has acted on.[64]

As a general matter, section 211 has permitted some inroads to be made by customers in obtaining transmission service from public utilities that historically have declined to provide access to their systems, or have offered service only on a discriminatory basis. Under section 211, the Commission has granted requests for the broader type of service that most utilities historically have refused to provide—network service. Although transmission owners have provided limited amounts of unbundled point-to-point transmission service, third-party customers have not been able to obtain the flexibility of service that transmission owners enjoy.

In *Florida Municipal*, a section 211 case, the Commission ordered "network," rather than the narrower "point-to-point," service.[65] Network service permits the applicant to fully integrate load and resources on an instantaneous basis in a manner similar to the transmission owner's integration of its own load and resources. At the same time, the Commission made the generic finding that the availability of transmission service will enhance competition in the market for power supplies and lead to lower costs for consumers. The Commission explained that as long as the transmitting utility is fully and fairly compensated and there is no unreasonable impairment of reliability, transmission service is in the public interest.[66]

As discussed *infra*, based on the mounting competitive pressures in the industry and rapidly evolving markets, we have concluded that section 211 alone is not enough to eliminate undue discrimination. The comments received on the proposed rules, discussed in detail *infra*, confirm this conclusion. The significant time delays involved in filing an individual service request for bilateral service under section 211 place the customer at a severe disadvantage compared to the transmission owner and can result in discriminatory treatment in the use of the transmission system. It is an inadequate procedural substitute for readily available service under a filed non-discriminatory open access tariff. As the Commission noted in *Hermiston Generating Company*, "[t]he ability to spend time and resources litigating the rates, terms and conditions of transmission access is not equivalent to an enforceable voluntary offer to provide comparable service under known rates, terms and conditions."[67]

2. Commission's Comparability Standard

In the Spring of 1994, the Commission began to address the problem of the disparity in transmission service that utilities provided to third parties in comparison to their own uses of the transmission system. In the seminal case in this area, *American Electric Power Service Corporation* (*AEP*), the company voluntarily proposed a tariff of general applicability that would offer firm, point-to-point transmission service for a minimum of one month.[68] The Commission accepted the proposed transmission tariff for filing and suspended its effectiveness for one day, subject to refund.[69] Rehearing requests challenged the Commission's summary approval of the restriction of service to point-to-point as being discriminatory and anticompetitive.[70] The rehearing

[59] *See* Policy Statement Regarding Good Faith Requests for Transmission Services and Responses by Transmitting Utilities Under Sections 211(a) and 213(a) of the Federal Power Act, as Amended and Added by the Energy Policy Act of 1992, 58 FR 38964 (July 21, 1993), FERC Stats. & Regs., Regulations Preambles ¶ 30,975 (1993) (Policy Statement Regarding Good Faith Requests for Transmission Services).

[60] *See* New Reporting Requirements Implementing Section 213(b) of the Federal Power Act and Supporting Expanded Regulatory Responsibilities Under the Energy Policy Act of 1992, and Conforming and Other Changes to Form No. FERC–714, 58 FR 52420 (October 8, 1993), FERC Stats. & Regs., Regulations Preambles ¶ 30,980 (Order No. 558), *reh'g denied*, Order No. 558–A, 65 FERC ¶ 61,324 (1993), *regulations modified*, 59 FR 15333 (April 1, 1994), FERC Stats. & Regs., Regulations Preambles ¶ 30,993.

[61] *See* Order No. 550, Filing Requirements and Ministerial Procedures for Persons Seeking Exempt Wholesale Generator Status, 58 FR 8897 (February 18, 1993), FERC Stats. & Regs., Regulations Preambles ¶ 30,964, *order on reh'g*, Order No. 550–A, 58 FR 21250 (April 20, 1993), FERC Stats. & Regs., Regulations Preambles ¶ 30,969 (1993). As recognized by Congress and the Commission, availability of transmission information is critical in developing competitive markets. *See supra* notes 59 and 60. This opened the "black box" of information that previously was available only to transmission owners.

[62] *See* Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Notice of Proposed Rulemaking, 59 FR 35274 (July 11, 1994), FERC Stats. & Regs., Proposed Regulations ¶ 32,507 at 32,866 (Stranded Cost NOPR); American Electric Power Service Corporation, 67 FERC ¶ 61,168, *clarified*, 67 FERC ¶ 61,317 (1994).

[63] 16 U.S.C.A. 824j–824k (West 1985 and Supp. 1994).

[64] *See, e.g.*, final orders issued in City of Bedford, 68 FERC ¶ 61,003 (1994), *reh'g denied*, 73 FERC ¶ 61,322 (1995); Florida Municipal Power Agency v. Florida Power & Light Company, 67 FERC ¶ 61,167 (1994), *order on reh'g*, 74 FERC ¶ 61,006 (1996); Minnesota Municipal Power Agency, 68 FERC ¶ 61,060 (1994); and Tex-La Electric Cooperative of Texas, 69 FERC ¶ 61,269 (1994); *see also* Appendix A.

[65] *See* Florida Municipal Power Agency v. Florida Power & Light Company, 65 FERC ¶ 61,125, *reh'g dismissed*, 65 FERC ¶ 61,372 (1993), *final order*, 67 FERC ¶ 61,167 (1994), *order on reh'g*, 74 FERC ¶ 61,006 (1996). The Commission has "characterized point-to-point service as involving designated points of entry into and exit from the transmitting utility's system, with a designated amount of transfer capability at each point." El Paso Electric Company v. Southwestern Public Service Company, 68 FERC ¶ 61,182 at 61,926 n.9 (1994) (*citing* Entergy Services, Inc., 58 FERC ¶ 61,234 at 61,768 (1993), *reh'g dismissed*, 68 FERC ¶ 61,399 (1994)). Network service allows more flexibility by allowing a transmission customer to use the entire transmission network to provide generation service for specified resources and specified loads without having to pay multiple charges for each resource-load pairing.

[66] *Florida Municipal*, 67 FERC at 61,477.

[67] 69 FERC ¶ 61,035 at 61,165 (1994), *reh'g denied*, 72 FERC ¶ 61,071 (1995); *see also* Southwest Regional Transmission Association, 69 FERC ¶ 61,100 at 61,398 (1994), *order on compliance filing*, 73 FERC ¶ 61,147 (1995) (*SWRTA*).

[68] 64 FERC ¶ 61,279 (1993), *reh'g granted*, 67 FERC ¶ 61,168, *clarified*, 67 FERC ¶ 61,317 (1994).

[69] The Commission explained that AEP could limit the service it was offering because it was "providing the service voluntarily under a tariff of general applicability." 64 FERC at 62,978.

[70] *AEP*, 67 FERC at 61,489.

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requests argued that the tariff should be expanded to include network services such as those used by the transmission owner. On rehearing, the Commission announced a new standard for evaluating claims of undue discrimination.

The Commission found that a voluntarily offered, new open access transmission tariff that did not provide for services comparable to those that the transmission owner provided itself was unduly discriminatory and anticompetitive.[71] In reaching that conclusion, the Commission broadened its undue discrimination analysis (which traditionally had focused on the rates, terms, and conditions faced by similarly situated third-party customers) to include a focus on the rates, terms, and conditions of a utility's own uses of the transmission system:

(A)n open access tariff that is not unduly discriminatory or anticompetitive should offer third parties access on the same or comparable basis, and under the same or comparable terms and conditions, as the transmission provider's uses of its system.[72]

Refocusing the analysis was necessitated by the changing conditions in the electric utility industry, including the emergence of non-traditional suppliers and greater competition in bulk power markets. Because a transmission provider may use its system in different ways (*e.g.*, to integrate load and resources when serving retail native load, to make off-system sales or purchases, or to serve wholesale requirements customers), the Commission set for hearing the factual issues associated with identifying those uses, as well as any potential impediments or consequences to providing comparable services to third parties.[73]

After *AEP*, the Commission applied this comparability standard to a proposed open access transmission tariff that was filed by Kansas City Power & Light Company (KCP&L) in support of a proposal to sell generation at market-based rates.[74] The Commission explained that, in light of *AEP*, the utility's proposed open access transmission tariff (which provided only for point-to-point service) did not adequately mitigate its transmission market power so as to justify allowing the requested market-based rates. KCP&L could charge market-based rates for sales only if it modified its proposed transmission tariff to reflect the *AEP* comparability standard.

Since then, the Commission has required comparable service in a variety of contexts, and has set for hearing the factual issues associated with comparable service. For example, the Commission found that market power can be adequately mitigated only if a merged company offers transmission services in accordance with the *AEP* comparability standard.[75] The Commission further held that, even if a merger does not result in an increase in market power, the merger would not be consistent with the public interest under section 203 of the FPA unless the merged company offers comparable transmission services, as defined in *AEP*.[76] The Commission therefore announced a transmission comparability requirement for all new mergers:

Given the transition of the electric utility industry as a whole, we conclude that, absent other compelling public interest considerations, coordination in the public interest can best be secured only if merging utilities offer comparable transmission services.[77]

In *Heartland Energy Services, Inc.*,[78] the Commission applied its comparability standard to an affiliated electric power marketer seeking blanket authorization to sell electricity at market-based rates. The Commission explained that

For all future cases involving blanket approval of market-based rates an offer of comparable transmission services will be required before the Commission will be able to find that transmission market power has been adequately mitigated. In the context of an affiliated power marketer, this means that all of its affiliated utilities must have a comparable transmission tariff on file.[79]

The Commission also denied a request by a company affiliated with a transmission-owning utility seeking permission to sell power at market-based rates to a particular customer. The denial was without prejudice to refiling such a request in a new section 205 proceeding, but only after the affiliated transmission-owning utility filed a comparable transmission service tariff.[80] The Commission added that it

Will require comparability in any situation in which a seller seeking market-based rates is affiliated with an owner or controller of transmission facilities.[81]

The Commission has also stated that "it will henceforth apply the transmission comparability standard announced in the *AEP* case to all transmitting utility members of an RTG."[82]

The Commission further declared that comparable services must be provided through "open access" tariffs rather than only on a contract-by-contract basis:

(T)ariffs are essential to the provision of comparable services. Tariffs set out the services that are available and the terms and conditions under which those services will be made available * * *. (In contrast), a negotiation process creates uncertainty and imposes on customers delay and other transaction costs that the transmitting utility members of an RTG do not incur when using the transmission for their own benefit. Moreover, the ability to execute separate transmission agreements with different but similarly situated customers is the ability to unduly discriminate among them. A tariff ensures against such discrimination in the RTG.[83]

[71] With respect to anticompetitive effects, the Commission explained that it has "adhered to the Supreme Court's determination that the Commission's 'important and broad regulatory power * * * carries with it the responsibility to consider, in appropriate circumstances, the anticompetitive effects of regulated aspects of interstate utility operations pursuant to sections 202 and 203, and under like directives contained in sections 205, 206 and 207.' Gulf States Utilities Company v. FPC, 411 U.S. 747, 758–59 (1972)." *Id.* at 61,490 (footnote omitted). The Commission reaffirmed that it would examine how best to fulfill this responsibility, as well as its responsibility to prevent undue discrimination, in light of the changing conditions in the electric utility industry. *Id*

[72] *Id.* at 61,490.

[73] *Id.* at 61,490–91.

[74] *See* Kansas City Power & Light Company, 67 FERC ¶ 61,183 (1994), *reh'g pending*.

[75] *E.g.*, *CSW*, *supra*, 68 FERC at 61,914.

[76] *Id.*

[77] *Id.* at 61,915 (footnote omitted).

[78] 68 FERC ¶ 61,223 (1994).

[79] Id. at 62,060. In InterCoast Power Marketing Company, 68 FERC ¶ 61,248, *clarified*, 66 FERC ¶ 61,324 (1994), the Commission rejected an affiliated marketer's proposal to sell at market rates without its affiliate utility offering comparable transmission services. The Commission stated that the only way to ensure that InterCoast does not have transmission market power is to require its affiliated public utility to offer comparable transmission services. *See also* LG&E Power Marketing Inc., 68 FERC ¶ 61,247 at 62,120–21 (1994). The Commission added that this is consistent with encouraging competitive bulk power markets as envisioned by the Energy Policy Act of 1992. *Id.* at 62,132.

[80] *See* Hermiston Generating Company, 69 FERC ¶ 61,035 at 61,104 (1994), *reh'g pending*. The Commission subsequently accepted the rates on a cost basis. *See* Letter Order dated November 10, 1994.

[81] *Id.* at 61,165.

[82] *See SWRTA*, 69 FERC at 61,397; *see also* PacifiCorp, the California Municipal Utilities Association, and the Independent Energy Producers (on behalf of Western Regional Transmission Association), 69 FERC ¶ 61,099, *order on reh'g*, 69 FERC ¶ 61,352 (1994), *order on compliance filing*, 71 FERC ¶ 61,158 (1995) (*WRTA*). An RTG is a regional transmission group. It is defined as "a voluntary organization of transmission owners, transmission users, and other entities interested in coordinating transmission planning (and expansion), operation and use on a regional (and inter-regional." Policy Statement Regarding Regional Transmission Groups, 58 FR 41626 (August 5, 1993), FERC Stats. & Regs., Regulations Preambles ¶ 30,976 at 30,870 n. 4 (RTG Policy Statement).

[83] *SWRTA*, 69 FERC at 61,398.

Thus, the Commission required the RTGs to amend their bylaws to commit all transmitting utility members to offer comparable transmission services to other RTG members pursuant to a transmission tariff or tariffs.

As discussed below, since the *AEP* comparability standard was announced, the Commission has set for hearing 44 open access tariffs to determine what constitutes comparable service. This number includes tariffs filed subsequent to the Open Access NOPR. All tariffs have now been made subject to the outcome of the Final Rule.

3. Lack of Market Power in New Generation

In 1994 in the *KCP&L* case, discussed in the prior section, the Commission continued to recognize that transmission remains a natural monopoly. However, it found that, in light of the industry and statutory changes that now allow ease of market entry, no wholesale seller of generation has market power in generation from *new* facilities.[84] In particular, the Commission explained that it had previously noted in *Entergy Services, Inc.* that

There was significant evidence that non-traditional power project developers, including qualifying facilities and independent power projects, are becoming viable competitors in long-run markets.[85]

The Commission further explained that since *Entergy*, Congress had enacted the Energy Policy Act, which had lowered barriers to the entry of new suppliers by creating a new class of power suppliers—EWGs—that are exempt from the provisions of PUHCA.[86] The Commission concluded that, in considering market-based rate proposals for generation sales, it need only focus on market power in transmission, generation market power in short-run markets, and other barriers to entry.[87]

4. Further Commission Action Addressing a More Competitive Electric Industry

To address the fact that the electric industry is becoming more competitive, and to remove barriers that might inhibit a more competitive industry, the Commission has initiated a number of proceedings: (1) Stranded Cost NOPR,[88] (2) Transmission Pricing Policy Statement,[89] (3) Pooling Notice of Inquiry,[90] (4) Regional Transmission Group (RTG) Policy Statement,[91] and (5) Notice of Inquiry on Merger Policy.[92]

In the Stranded Cost NOPR the Commission recognized that the trend toward greater transmission access and the transition to a fully competitive bulk power market could cause some utilities to incur stranded costs as wholesale requirements customers (or retail customers) use their supplier's transmission to purchase power elsewhere. As the Commission noted, a utility may have built facilities or entered into long-term fuel or purchased power supply contracts with the reasonable expectation that its customers would renew their contracts and would pay their share of long-term investments and other incurred costs. If the customer obtains another power supplier, the utility may have stranded costs. If the utility cannot locate an alternative buyer or somehow mitigate the stranded costs, the Commission explained that "the costs must be recovered from either the departing customer or the remaining customers or borne by the utility's shareholders."[93] Accordingly, the Commission proposed to establish provisions concerning the recovery of wholesale and retail stranded costs by public utilities and transmitting utilities.

In the Transmission Pricing Policy Statement, the Commission announced a new policy providing greater flexibility in the pricing of transmission services provided by public utilities and transmitting utilities. The Commission traditionally had allowed only postage-stamp, contract-path pricing.[94] Under the new policy, we will permit a variety of proposals, including distance sensitive and flow-based pricing, which may be more suitable for competitive wholesale power markets.[95] The Commission explained that this "(g)reater pricing flexibility is appropriate in light of the significant competitive changes occurring in wholesale generation markets, and in light of our expanded wheeling authority under the Energy Policy Act of 1992."[96] However, the Commission explained that any new transmission pricing proposal must meet the Commission's *AEP* comparability standard. The Commission further explained that comparability of service applies to price as well as to terms and conditions.[97]

The Commission issued the Pooling Notice of Inquiry to receive comments on traditional power pools and on alternative power pooling institutions that are being explored in today's more competitive environment. The Commission expressed concern that

(G)iven the ongoing changes in the competitive environment of the electric utility industry—in particular, the potential for substantially increased access to transmission—we must consider whether we are appropriately balancing our dual objectives of promoting coordination and competition.[98]

Accordingly, the Commission explained that it wished to look at alternative power pooling institutions and to re-examine the role of more traditional power pools in today's environment of increased competition. In particular the Commission expressed its intent to ensure that its policies "are consistent with the development of a competitive bulk power market."[99]

In the RTG Policy Statement, the Commission announced a policy encouraging the development of RTGs. The Commission explained that a primary purpose of RTGs is to facilitate transmission access for potential users and voluntarily resolve disputes over such service. The Commission has approved the formation of three

[84] *KCP&L*, 67 FERC ¶ 61,183 (1994).

[85] *Id.* at 61,557 (citing Entergy Services, Inc., 58 FERC ¶ 61,234 at 61,756 and nn. 63 and 65 (*Entergy*)).

[86] *Id.* The Commission added that "after examining generation dominance in many different cases over the years, we have yet to find an instance of generation dominance in long-run bulk power markets." *Id.*

[87] *Id.*

[88] FERC Stats. & Regs. ¶ 32,507 (1994).

[89] Inquiry Concerning the Commission's Pricing Policy for Transmission Services Provided by Public Utilities Under the Federal Power Act, 59 FR 55031 (November 3, 1994), FERC Stats. & Regs., Regulations Preambles ¶ 31,005 (Transmission Pricing Policy Statement).

[90] Inquiry Concerning Alternative Power Pooling Institutions Under the Federal Power Act, 59 FR 54851 (October 26, 1994), FERC Stats. & Regs., Notices ¶ 35,529 (1995) (Pooling Notice of Inquiry).

[91] FERC Stats. & Regs. ¶ 30,976 (RTG Policy Statement).

[92] FERC Stats. & Regs. ¶ 35,531 (1996).

[93] FERC Stats. & Regs. ¶ 32,507 at 32,864.

[94] Most transmission contracts set a single price for energy flow over a utility's transmission system. This single-price policy is called "postage stamp" pricing because the rate does not depend on how far the power moves within a company's transmission system. If power flows through several companies, traditional industry practice is to specify that power flows along a "contract path" consisting of the transmission-owning utilities between the ultimate receipt and delivery points. *See* Indiana Michigan Power Company, 64 FERC ¶ 61,184 at 62,545 (1993).

[95] Unlike with postage stamp pricing, with distance-sensitive pricing the cost of moving power through a company depends on how far the power moves within the company. In contrast to contract path pricing, flow-based pricing establishes a price based on the costs of the various parallel paths actually used when the power flows. Because flow-based pricing can account for all parallel paths used by the transaction, all transmission owners with facilities on any of the parallel paths could be compensated for the transaction.

[96] FERC Stats. & Regs. ¶ 31,005 at 31,136.

[97] *Id.* at 31,142.

[98] FERC Stats. & Regs. ¶ 35,529 at 35,715.

[99] *Id.* at 35,714. As explained below, the Commission held technical conferences on issues surrounding power pools and competition.

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RTGs.[100] One of the conditions is that each RTG member must offer comparable transmission services by tariff to other RTG members.

In the merger NOI, the Commission indicated that it will review whether its criteria and policy for evaluating mergers need to be modified in light of the changing circumstances occurring in the electric industry.

In addition to the Commission's actions, a number of states have initiated proceedings concerning retail wheeling or proposed legislation for retail wheeling, that is, for ultimate consumers to choose their supplier of power, or other restructuring proposals.[101]

5. Events Since Issuance of Open Access NOPR

Since issuance of the Open Access NOPR, public utilities have filed, in some form or another, 47 open access tariffs. In acting on those filings, the Commission has made all of the non-rate terms and conditions of those proposed tariffs subject to the outcome of this Final Rule.[102]

Over the last year, the Commission also has received and analyzed more than 20,000 pages of comments that were received from over 400 commenters, as well as additional information provided by industry participants at a number of Commission-initiated technical conferences.[103] Those technical conferences addressed several issues—ancillary services, pro forma tariffs, power pools, and ISOs—and provided significant input to the Commission's formulation of this Final Rule.

F. Need for Reform

The many changes discussed above have converged to create a situation in which new generating capacity can be built and operated at prices substantially lower than many utilities' embedded costs of generation. As discussed above, new generation facilities can produce power on the grid at a cost of less than 3 cents per kWh to 5 cents per kWh, yet the costs for large plants constructed and installed over the last decade were typically in the range of 4 to 7 cents per kWh for coal plants and 9 to 15 cents for nuclear plants.

Non-traditional generators are taking advantage of this opportunity to compete. Indeed, the non-traditional generators' share of total U.S. electricity generation increased from 4 percent in 1985 to 10 percent in 1993.[104] Much of this increased share of generation is the result of competitive bidding for new generation resources that has occurred in 37 states. Since 1984, almost 4,000 projects, representing over 400,000 MW, have been offered in response to requests. Over 350 projects have been selected to supply 20,000 MW, and, of these, 126 are now online producing almost 7,800 MW of power.[105]

In addition, the cost of utility-generated electricity differs widely across the major regions of the United States. Average utility rates range from 3 to 5 cents in the Northwest to 9 to 11 cents in California. Electricity consumers are demanding access to lower cost supplies available in other regions of the United States, and access to the newer, lower cost generation resources. Therefore, it is important that the non-traditional generators of cheaper power be able to gain access to the transmission grid on a non-discriminatory open access basis.

The Commission's goal is to ensure that customers have the benefits of competitively priced generation. However, we must do so without abandoning our traditional obligation to ensure that utilities have a fair opportunity to recover prudently incurred costs and that they maintain power supply reliability. As well, the benefits of competition should not come at the expense of other customers. The Commission believes that requiring utilities to provide non-discriminatory open access transmission tariffs, while simultaneously resolving the extremely difficult issue of recovery of transition costs (discussed *infra*), is the key to reconciling these competing demands.

Non-discriminatory open access to transmission services is critical to the full development of competitive wholesale generation markets and the lower consumer prices achievable through such competition.[106] Transmitting utilities own the transportation system over which bulk power competition occurs and transmission service continues to be a natural monopoly. Denials of access (whether they are blatant or subtle), and the potential for future denials of access, require the Commission to revisit and reform its regulation of transmission in interstate commerce. As discussed in detail in Section IV.B., such action is required by the FPA's mandate that the Commission remedy undue discrimination.

Since the time the NOPR issued, the Commission staff has completed an FEIS that provides a quantitative estimate of some of the cost savings expected from this Rule: approximately $3.8 to $5.4 billion per year. Other non-quantifiable benefits are also expected from this Rule and include: (1) Better use of existing assets and institutions; (2) new market mechanisms; (3) technical innovation; and (4) less rate distortion. These potential benefits to the Nation's electricity consumers and the economy as a whole confirm the need to take generic action to remove barriers to competition. In what follows, we set out the changes necessary to remedy undue discrimination and to ensure a fair transition to a more competitive regulatory regime.

IV. Discussion

A. Scope of the Rule

1. Introduction

The Commission has determined that non-discriminatory open access transmission services (including access to transmission information) and stranded cost recovery are the most critical components of a successful transition to competitive wholesale electricity markets. These issues are the focal point of this Rule, the accompanying rule on open access same-time information systems, and the accompanying proposed rule on capacity reservation tariffs.

[100] *See WRTA* and *SWRTA, supra*, and Northwest Regional Transmission Association, 71 FERC ¶61,397 (1995).

[101] At least 12 states have retail wheeling proposals, legislation, or pilot programs underway—Alabama, California, Connecticut, Illinois, Massachusetts, Michigan, New Hampshire, New York, Ohio, Rhode Island, Vermont, and Wisconsin. At least 14 other states are investigating retail wheeling. Currently, according to a report of the NARUC-affiliated National Council on competition and the Electric Industry, 41 States are actively involved in investigating whether and how to restructure their respective electric power markets. Of this total, 29 State regulatory authorities * * * have initiated investigations. In addition, five State legislatures are involved in similar investigations, while seven other States have joint regulatory/legislative proceedings underway.

Testimony of the Honorable Cheryl L. Parrino, Chair of the Wisconsin Public Service Commission, on behalf of the National Association of Regulatory Utility Commissioners, before the United States Senate Committee on Energy and Natural Resources (March 6, 1996).

[102] *See* American Electric Power Service Corporation, *et al.*, 72 FERC ¶61,287 at 61,238 (1995).

[103] Attached to this Final Rule as Appendix B is a list of commenters and the abbreviations used to designate them, including those commenters that filed late.

[104] Energy Information Administration, *Performance Issues for a Changing Electric Power Industry* (January 1995) 10 and (Figure 5).

[105] Current Competition, November 1994, Vol. 5, No. 8, at 8.

[106] As discussed above, a significant number of public utilities still do not have any form of an "open access" tariff on file with the Commission and no public utility has on file a non-discriminatory open access tariff as defined by this Rule.

In undertaking these initiatives, however, we are mindful that they are part of a broader picture of evolving issues affecting the electric industry and that other Commission policies will play an important role in ensuring the full development of competitive markets. Among the many issues that are important to competitive bulk power markets are: independent system operators (ISOs); regional transmission groups; generation market power; utility merger policy; and the development of innovative transmission pricing alternatives, such as flow-based, distance-sensitive transmission pricing methodologies that reflect incremental costs. In particular, we believe that ISOs have great potential to assist us and the industry to help provide regional efficiencies, to facilitate economically efficient pricing, and, especially in the context of power pools, to remedy undue discrimination and mitigate market power. Although we discuss some of these issues in this Rule, we will further develop our policies in other proceedings as well to accommodate and encourage more efficient market structures.

We now address the comments received on the scope of the proposed rulemaking.

2. Functional Unbundling

In the NOPR, the Commission preliminarily found that functional unbundling of wholesale generation and transmission services is necessary to implement non-discriminatory open access transmission.[107] At the same time, the Commission explained that the proposed rule would accommodate, but not require, corporate unbundling (which could include selling generation or transmission assets to a non-affiliate (divestiture) or the less aggressive step of establishing separate corporate affiliates to manage a utility's transmission and generation assets). However, we invited comments on functional unbundling and asked whether it is a strong enough measure to ensure non-discriminatory open access transmission without some form of corporate restructuring.

Comments

Commenters take both sides on whether functional unbundling is sufficient to assure non-discriminatory open access transmission or whether a stronger measure, such as corporate unbundling, is needed.

[107] FERC Stats. & Regs. ¶32,514 at 33,080.

Supporting Functional Unbundling

Various commenters, including utilities and state commissions, generally support functional unbundling as sufficient to assure non-discriminatory open access transmission and oppose requiring corporate unbundling or divestiture.[108] Several commenters state that functional unbundling will remedy discrimination without creating the inefficiencies and additional costs that corporate restructuring would create.[109]

A number of other commenters argue that the Commission has no authority under the FPA to require divestiture of transmission assets.[110] Several of these commenters assert that, even if the Commission has the authority, the electric industry, unlike the natural gas industry, is not ready for mandated corporate unbundling because electric utilities still serve a high percentage of retail customers and own large amounts of the generating capacity. They assert that transmission system operation requires the operator to have control over much of the generating capacity.

Various other commenters also support functional unbundling, but believe that safeguards are needed to make it work.[111] Power Marketing Association, for example, suggests a number of safeguards: adoption of cost allocation mechanisms to ensure that utilities do not shift costs from generation to transmission; random audits of utility books; a requirement that each utility file a code of conduct that provides for maximum separation of generation and transmission functions; and active oversight and complaint procedures with strong penalties for abuse. OK Com and GA Com believe that functional unbundling along with the safeguard of the Commission's complaint process will provide sufficient incentive for non-discriminatory open access transmission.

[108] *E.g.*, Ohio Edison, UtiliCorp, Pennsylvania P&L, Atlantic City, Montana Power, IL Com, Seattle, OK Com, TX Industrials, MidAmerican, Southwestern, Southern, DOD, Public Service Co of CO, SC Public Service Authority, Florida Power Corp, DOE, WP&L, Com Ed, SBA, Consumers Power, CA Com, UT Com, Houston L&P, KCPL, EEI.

[109] *E.g.*, Florida Power Corp, El Paso, PSNM, and SC Public Service Authority.

[110] *E.g.*, Southwestern, PECO, El Paso, Florida Power Corp, NSP, Public Service E&G, MidAmerican.

[111] *E.g.*, NRECA, IN Com, Power Marketing Association, TDU Systems, NorAm, Turlock, Texaco, Utility Shareholders, NSP, El Paso, Utility Investors Analysts, PECO, Florida Power Corp, UT Com, Sierra, Carolina P&L, SoCal Gas, OK Com, FL Com, Southern.

Supporting Corporate Unbundling

A number of commenters see weaknesses in functional unbundling and argue that some form of corporate unbundling is necessary to assure non-discriminatory open access transmission.[112] American Forest & Paper says that there is affiliate abuse in the gas industry and argues that the electric industry presents even more serious potential for abuse because it is still dominated by vertically integrated utilities.[113] UAMPS asserts that functional unbundling is insufficient because the utility will still favor itself on issues related to transmission planning, capital investment, and operation and maintenance and replacement costs.

NIEP argues that divestiture of generation assets from transmission and distribution is the preferred mechanism for mitigating market power. It further suggests that if corporate divestiture is not feasible the Commission should

Seek to achieve "virtual divestiture" by requiring that the utility generation function be separated from transmission and distribution functions in a separate corporate affiliate, or business unit, and that affiliate transaction rules be established to guard against possible abuses.[114]

It maintains that the Commission has broad authority to protect against undue discrimination and anticompetitive behavior and can order divestiture if such action is required to remedy such behavior.[115]

FTC and DOJ argue that operational unbundling, an example of which is the formation of an independent system operator (ISO), likely would be more effective than functional unbundling and less costly than industry-wide divestiture.[116] FTC describes operational unbundling as "structural institutional arrangements, short of divestiture, that would separate operation of the transmission grid and access to it from economic interests in generation." It gives as an example the California proposal under which utilities would continue to own transmission lines, but an independent system operator would have operational control. DOJ also suggests "a separate authority" to

[112] *E.g.*, American Forest & Power, American National Power, ND Com, IL Com, UAMPS, NIEP, APPA, Public Power Council, Municipal Energy Agency Nebraska, Missouri Basin MPA, Texaco, Direct Services Industries, Calpine, CCEM, Wisconsin Coalition, VT DPS.

[113] *See also* American National Power, ND Com, Calpine.

[114] NIEP Initial Comments at 4.

[115] *See also* Municipal Energy Agency Nebraska, Direct Services Industries.

[116] Others oppose operational unbundling. *See, e.g.*, Carolina P&L, Salt River.

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manage the grid and access to the grid, joint ventures, and voluntary pooling arrangements. These commenters argue that operational unbundling would be easier to enforce than functional unbundling.

DOE states that separation of the control of transmission from vertically-integrated companies does not necessarily require a poolco or any particular market mechanism. It suggests the possibility of an ISO that is functionally separate from any buyer or seller of generation, but would not perform all the functions of a poolco.

United Illuminating supports "operational unbundling" that would either (1) eliminate vertical integration and divestiture of transmission assets, leading to the formation of a regional transmission company, or (2) develop a regional contractual approach to transmission services that eliminates the transmission owner's market power and fairly allocates support of the transmission facilities between native load and third-party users of the system.

Commission Conclusion

We conclude that functional unbundling of wholesale services is necessary to implement non-discriminatory open access transmission and that corporate unbundling should not now be required. As we explained in the NOPR, functional unbundling means three things:

(1) A public utility must take transmission services (including ancillary services) for all of its new wholesale sales and purchases of energy under the same tariff of general applicability as do others;

(2) A public utility must state separate rates for wholesale generation, transmission, and ancillary services;

(3) A public utility must rely on the same electronic information network that its transmission customers rely on to obtain information about its transmission system when buying or selling power.

We believe that these requirements are necessary to ensure that public utilities provide non-discriminatory service.[117] These requirements also will give public utilities an incentive to file fair and efficient rates, terms, and conditions, since they will be subject to those same rates, terms, and conditions.

However, we recognize that additional safeguards are necessary to protect against market power abuses. Functional unbundling will work only if a strong code of conduct (including a requirement to separate employees involved in transmission functions from those involved in wholesale power merchant functions) is in place. In the RINs NOPR, the Commission proposed a code of conduct that would apply to all public utility transmission providers. As the Commission explained,

> [T]his code of conduct would require, among other matters, a separation of the utilities' transmission system operations and wholesale marketing functions, and would define permissible and impermissible contacts between employees that conduct wholesale generation marketing functions and employees that handle transmission system operations and reliability in the system control center or at other facilities or locations.[118]

Adoption of this code of conduct, discussed in detail in the accompanying final rule on OASIS,[119] is needed to ensure that the transmission owner's wholesale marketing personnel and the transmission customer's marketing personnel have comparable access to information about the transmission system.

As noted by OK Com and GA Com, a further safeguard—section 206—is available if a public utility seeks to circumvent the functional unbundling requirements. Under section 206, any person is free to file a complaint with the Commission detailing any alleged misbehavior on the part of the public utility or its affiliates concerning matters subject to our jurisdiction under the FPA. Similarly, the Commission may, on its own motion, initiate a proceeding to investigate the practices of the public utility and its affiliates.

We believe that functional unbundling, coupled with these safeguards, is a reasonable and workable means of assuring that non-discriminatory open access transmission occurs. In the absence of evidence that functional unbundling will not work, we are not prepared to adopt a more intrusive and potentially more costly mechanism—corporate unbundling—at this time.

Several commenters discuss the need to encourage or even to require ISOs in the context of functional unbundling. We believe that ISOs have the potential to provide significant benefits (*e.g.*, to help provide regional efficiencies, to facilitate economically efficient pricing, and, especially in the context of power pools, to remedy undue discrimination and mitigate market power) and will further our goal of achieving a workably competitive market. As we learned at our technical conference on power pools, many utilities are examining ISOs and corporate unbundling in various shapes and forms, particularly in the context of power pools. We discuss ISOs extensively in our section on power pools where we believe they will have an important role to play. However, in the context of individual utility transactions, we believe that the less intrusive functional unbundling approach outlined above is all that we must require at this time. Nevertheless, we see many benefits in ISOs, and encourage utilities to consider ISOs as a tool to meet the demands of the competitive marketplace.

As a further precaution against discriminatory behavior, we will continue to monitor electricity markets to ensure that functional unbundling adequately protects transmission customers. At the same time, we will analyze all alternative proposals, including formation of ISOs, and, if it becomes apparent that functional unbundling is inadequate or unworkable in assuring non-discriminatory open access transmission, we will reevaluate our position and decide whether other mechanisms, such as ISOs, should be required.

Finally, while we are not now requiring any form of corporate unbundling, we again encourage utilities to explore whether corporate unbundling or other restructuring mechanisms may be appropriate in particular circumstances. Thus, we intend to accommodate other mechanisms that public utilities may submit, including voluntary corporate restructurings (*e.g.*, ISOs, separate corporate divisions, divestiture, poolcos), to ensure that open access transmission occurs on a non-discriminatory basis. We also will continue to monitor—and stand ready to work with parties engaging in—innovative restructuring proposals occurring around the country.

3. Market-Based Rates

a. Market-Based Rates for New Generation

In the NOPR, the Commission proposed to codify its determination in *Kansas City Power & Light Company*[120] that the generation dominance standard for market-based sales from new capacity be dropped.[121] The proposed new section 35.27 would provide:

> Notwithstanding any other requirements, any public utility seeking authorization to engage in sales for resale of electric energy at market-based rates shall not be required to demonstrate any lack of market power in generation with respect to sales from capacity first placed in service on or after June 10, 1996.[122]

However, this proposal would not affect the Commission's continuing authority to look at whether an applicant and its affiliates could erect other barriers to entry and whether there may be affiliate abuse or reciprocal dealing.[123]

Comments

A number of commenters support the Commission's determination in *KCP&L*[124] and several of them explicitly support the Commission's proposed codification.[125] EEI asserts that more than 50 percent of new generation is from non-utility sources and that recent competitive solicitations for new capacity have been greatly over-subscribed. Entergy argues that there is no evidence in any proceeding thus far of a market power problem in long-run markets.

Other commenters, however, oppose codifying *KCP&L*.[126] They believe that market power in long-run markets exists for both new and old generation due to, for example, constraints on interface capabilities and unduly long notice periods for replacement of purchases. They argue that there is not enough of a distinction between new and old generation to treat them differently. TDU Systems also notes that the Commission in *KCP&L* did not take into account the differences between firm and non-firm bulk power. NIEP and ELCON conclude that the Commission erroneously found in *KCP&L* that no wholesale seller of generation has market power in generation from new facilities. NIEP asserts that in each service area there is usually only one wholesale buyer—the utility—who also is virtually always a wholesale seller of generation. Under these circumstances, NIEP argues that there cannot be arm's-length bargaining. Environmental Action complains that the Commission's proposal to codify *KCP&L* ignores significant factors that impede entry to generation markets, such as utility resistance to purchased power, state government-created barriers to non-utility generation, pancaking of rates under the contract path approach, sunk investment, and scale economies.

Commission Conclusion

In reviewing applications to sell at market-based rates, whether from new (unbuilt) capacity or existing capacity, we require that the seller (and each of its affiliates) must not have, or must have mitigated, market power in generation and transmission and not control other barriers to entry. In order to demonstrate the requisite absence or mitigation of transmission market power, a transmission-owning public utility seeking to sell at market-based rates must have on file with the Commission an open access transmission tariff for the provision of comparable service. In addition, the Commission considers whether there is evidence of affiliate abuse or reciprocal dealing.[127]

In *KCP&L*, we stated that "in light of industry and statutory changes which allow ease of market entry, we therefore will no longer require rate applicants to submit evidence of generation dominance in long-run bulk power markets."[128] We further explained that we had examined "generation dominance in many different cases over the years" and had "yet to find an instance of generation dominance in long-run bulk power markets."[129] Commenters have criticized our findings in *KCP&L*, but no commenter has provided any evidence of generation dominance in long-run bulk power markets. Moreover, we have seen no such evidence in any of the market-based rate cases we have considered since *KCP&L*. Based on the comments received, we will codify the Commission's determination in *KCP&L* that the generation dominance standard for market-based sales from new capacity should be dropped. Because the Commission's findings in *KCP&L* applied to long-run markets, we will revise proposed § 35.27 to apply to sales from capacity for which construction has commenced on or after the effective date of this Rule.[130]

The Commission wishes to clarify that dropping the generation dominance standard for new capacity does not affect the demonstration that an applicant must make in order to qualify for market-based rates for sales from its existing generating capacity. In other words, the fact that an applicant need not demonstrate its lack of generation dominance with respect to new capacity cannot be used to "bootstrap" the authorization of market-based rates for its existing capacity. Moreover, our evaluation of market-based rates for existing capacity will include consideration of new capacity.

In addition, the fact that we are codifying *KCP&L* does not mean that we will ignore specific evidence presented by an intervenor that a seller requesting market-based rates for sales from new generation nevertheless possesses generation dominance. For example, if the evidence indicated that the new generator, due to its proximity to an existing transmission constraint, could significantly influence the ability to move power across the constraint, we would consider such evidence in determining whether to grant the applicant's request.[131] If such evidence is presented, the Commission will evaluate whether the evidence disproves the premise that the seller lacks generation dominance with respect to its *new capacity*.

If the applicant has existing generation, the sales from which are authorized to be made on a market basis, the Commission would consider whether the new generation (when added to the existing generation with market-based authority) results in the applicant having generation dominance. On the other hand, if the applicant has existing generation, the sales from which are subject to cost-of-service regulation, the Commission would not include this generation in its analysis of the applicant's request for market-based rates for its new generation. The question of whether or not the applicant lacks generation dominance with respect to its existing capacity is relevant only if, and when, the seller applies to the Commission for authority to make wholesale sales for its existing capacity at market-based rates.

If evidence regarding an applicant's generation dominance with respect to

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[117] When and how functional unbundling is to be achieved for requirements transactions and for various types of coordination arrangements, including power pools, is discussed at Sections IV.A.5 and IV.F. Functional unbundling of ancillary services is discussed in Section IV.D.

[118] Real-Time Information Networks and Standards of Conduct, Notice of Proposed Rulemaking, 60 FR 66182 (December 21, 1995), FERC Stats. & Regs., Proposed Regulations ¶ 32,516 at 33,170 (1995).

[119] The final rule on information systems no longer uses the terminology RINs. The new terminology used is OASIS—Open Access Same-time Information System—which we will use in this Final Rule.

[120] 67 FERC ¶ 61,183 at 61,557 (1994), *reh'g pending (KCP&L)*.

[121] FERC Stats. & Regs. ¶ 32,514 at 33,050.

[122] *Id.* at 33,154.

[123] 67 FERC at 61,557.

[124] *E.g.*, Entergy, EEI, Atlantic City, Duke Centerior, Houston L&P, Montana-Dakota Utilities, Canadian Petroleum Producers, DOE, Florida Power Corp, PSNM.

[125] *E.g.*, EEI, Centerior, Houston L&P, NYSEG.

[126] *E.g.*, TDU Systems, ELCON, NRECA, Environmental Action, NIEP, APPA, Power Marketing Association, BGA.

[127] *See, e.g.*, MidAmerican Energy Company, 74 FERC ¶ 61,211 (1996).

[128] *KCP&L*, 67 FERC at 61,557. *See also* discussion in proposed rule, FERC Stats. & Regs. at 33,067–68.

[129] *Id.*

[130] The NOPR's proposed language that a public utility would not have to demonstrate a lack of market power in generation for sales from capacity first placed in service on or after the date 30 days after the final rule is published in the **Federal Register** does not properly reflect the finding in *KCP&L*. Because *KCP&L* addressed *new* or *unbuilt* generation, the proposed language is being revised as indicated above and as set forth in the regulatory text included with this Final Rule.

[131] *Cf.* Wisconsin Electric Power Company, et al., 74 FERC ¶ 61,069 at 61,193 (1996).

its new capacity is submitted, the applicant would be required to provide a satisfactory rebuttal.

b. Market-Based Rates for Existing Generation

In the NOPR, the Commission explained that increased competition resulting from open access transmission may reduce or even eliminate generation-related market power in the short-run market (sales from existing capacity).[132] Because market power has been the primary concern of the Commission in analyzing requests for market-based rates for such sales, we sought comments on the effect of industry-wide non-discriminatory open access on our criteria for authorizing power sales at market-based rates. The Commission also sought comments on whether the generation dominance standard should be dropped for market-based sales from existing capacity.

Comments

Many commenters support, but many also oppose, market-based rates for existing generation without a case-specific analysis of generation dominance.

Supporting Market-Based Rates for Existing Generation

Many commenters (primarily IOUs and a number of state commissions) assert that existing generators will not possess market power after implementation of non-discriminatory open access transmission and that market-based rates should be permitted generically for sales from existing generation.[133]

EEI asserts that market power concerns generally would be transitory, limited to the time needed to build new facilities. Thus, it recommends that all markets be declared competitive by a date certain and that market-based rates then be allowed, with customers permitted to file complaints. Florida Power Corp believes that existing procedures under sections 205 and 206 will adequately protect consumers. Other commenters also urge the Commission to eliminate its generation dominance standard, but assert that the Commission should allow a showing of market dominance in a complaint or show cause proceeding.[134] CT DPUC notes that the Commission should be able to rely on rules of conduct, market mechanisms, and monitoring to curb any market power that may exist.

Utilities For Improved Transition argues that if utilities cannot get market-based rates, the new players in the market will have an unfair advantage, since they do not have to carry the traditional utilities' burden of older, less efficient plants.

Entergy proposes a screening test that would permit the Commission to "deregulate" wholesale sales to certain short-run markets. CINergy recommends that after industry-wide open access tariffs become effective, the Commission adopt a rebuttable presumption that all markets are workably competitive; that presumption could be rebutted in a section 206 proceeding.[135]

UtiliCorp, while it believes that market power will probably be fully mitigated by open access, also argues that the Commission should examine generation dominance on a region-by-region basis.[136] Montana-Dakota Utilities argues that the Commission should allow all suppliers in a power pool or RTG to have market-based rates after a Commission finding that there is sufficient generation competition within the region.

Duke states that it would be highly inconsistent for the Commission to require open access, but not allow utilities to compete in the market. It further states that the relevant market should be determined using standard antitrust techniques; the Commission should examine the options available to customers and determine whether the utility possesses monopoly power in a relevant market.

Opposing Market-Based Rates for Existing Generation

Many commenters are concerned that even with open access tariffs certain generators will be able to exercise market dominance.[137] For example, NARUC argues that utilities retain market power through their ownership of existing generation and transmission facilities, favorable long-term contracts for fuel and other inputs, and access to superior generation sites.[138] NRECA believes that the universe of generation providers is still too narrow to assume a competitive market and that other factors, such as transmission constraints and pancaking of rates, will inhibit the development of competitive markets.[139] FTC says that, although comparable transmission access could broaden the relevant geographic market for generation, the Commission should not assume that there will be no market power. It says that the Commission must continue to evaluate each case.[140] TDU Systems argues that the Commission cannot move to market-based rates without a Congressional determination that deregulation of wholesale electric rates should be implemented. It further asserts that the Commission does not have a factual basis for a reasoned conclusion that regulated utilities do not have market dominance—full open access is only a goal at this time, and the success of open access will depend upon the transmission rate structures the Commission approves.

LEPA raises concerns that the small bulk power suppliers, QFs, co-generators, EWGs, IPPs, and marketers (who provide non-requirements power) may not be able to bring competition to the wholesale market. LEPA concludes that "barriers will exist unless buyers have full access to requirements power itself, rather than just to the chance to acquire the individual components of requirements power."[141] TDU Systems raises concerns about the limited number of generation providers and the effect of possible future mergers. It also argues that pancaked rates raise the cost of transmission to third parties, thereby restricting the geographic scope of markets. As a result, TDU Systems asserts that individual generators in highly concentrated regions will still be able to exert market power. OH Com expresses concerns that restrictions on siting of generation and transmission will favor nearby generators. SC Public Service Authority argues that if the Commission allows utilities to recover stranded costs their market power will not be mitigated, since customers will

[132] FERC Stats. & Regs. ¶ 32,514 at 33,093–94.

[133] *E.g.*, EEI, CINergy, Central Illinois Public Service, Citizens Utilities, Com Ed, Ohio Edison, Allegheny, Southern, Portland, NRRI, Pennsylvania P&L, PECO, Dayton P&L, Utilities For Improved Transition, Centerior, Houston L&P, Duke, ConEd, IPALCO, Salt River, PJM, NU, NYSEG, Oklahoma G&E, PA Com, OK Com, CT DPUC, CA Com, MT Com.

[134] *E.g.*, Consumers Power, Portland, Dayton P&L, CSW.

[135] *See also* Citizens Utilities.

[136] *See also* CSW, Industrial Energy Applications, Public Service Co of CO, Coalition for Economic Competition.

[137] *E.g.*, NRECA, TDU Systems, MT Com, SMUD, NEPCO, Orange & Rockland, El Paso, American Forest & Paper, NIPSCO, AEC & SMEPA, OH Com, IL Com, IN Com, Legal Environmental Assistance, LG&E, Cajun, Industrial Energy Applications, LEPA, MA DPU, MI Com, FTC, Minnesota P&L, SC Public Service Authority, WP&L, NARUC, Canadian Petroleum Producers, DOD, CCEM, Environmental Action, American Wind, Cajun, NIEP, EGA, TAPS, ELCON, Consolidated Natural Gas.

[138] *See also* NIEP, Pacificorp, CA Energy Com.

[139] *See also* MT Com, TDU Systems, Soyland.

[140] *See also* AEC & SMEPA, NIPSCO, El Paso (discusses a particular transmission constraint that it states limits its access to suppliers).

NRECA is also concerned that mergers may create a handful of "mega-public utilities" that may affect a regional generation market and that the Commission should apply more traditional antitrust principles in analyzing the impacts of mergers.

[141] LEPA Initial Comments Affidavit of William G. Shepherd at 4.

have to pay exit fees to switch suppliers.[142]

CCEM notes that in Order No. 636 gas pipelines were not allowed market-based rates for merchant sales until after transmission had been completely unbundled and non-discriminatory open access had been fully implemented.

DOE and DOJ assert that open access should not be assumed to mitigate market power sufficiently to justify deregulation of existing generation—structural changes, such as control of the regional grid by an independent entity, are required. DOE requests that the Commission continue to look for affiliate abuse when reviewing market-based rates for new generation. Similarly, EPA is concerned that even with open access, individual generators may still exert market power by their domination of a particular geographic market. It is also concerned that low-cost plants that are subject to weaker environmental standards could have a market advantage. NEPOOL Review Committee requests that the Commission not approve any market prices "where the market into which the seller proposes to sell is not effectively competitive due to the absence of regional transmission products and prices."[143]

Commission Conclusion

While the Commission expects this Rule to facilitate the development of competitive bulk power markets, we find that there is not enough evidence on the record to make a generic determination about whether market power may exist for sales from existing generation. We continue to have concerns about how to define the relevant markets and believe that a more rigorous analysis is needed than can be achieved with the limited market data that is now available. We will continue our case-by-case approach that allows market-based rates based on an analysis of generation market power in first tier and second tier markets.[144] In particular cases, however, the effect of the mandatory open access prescribed by this Final Rule may lead to the consideration of geographic markets for the applicant's generation products that are broader in scope than the first-tier and second-tier markets currently considered.[145] By the same token, in some cases, evidence of the effects of transmission constraints may circumscribe the scope of the relevant geographic market for the applicant's generation products.

While we will continue to apply the first-tier/second-tier analysis, we will allow applicants and intervenors to challenge the presumption implicit in the Commission's practice that the relevant geographic market is bounded by the second-tier utilities. Thus, for instance, applicants may present evidence that the relevant market is in fact broader than the first or second tier. In support of such a contention, an applicant would need to show more than the existence of open access. For example, an applicant might attempt to demonstrate the lack of significant transmission constraints in the more broadly defined market and that cumulative transmission rates would not significantly affect the ability of more distant suppliers to compete in the relevant market. Similarly, an intervenor may present evidence that, due to the existence of significant transmission constraints within the first- and second-tier markets, the relevant market is in fact more limited in scope.[146]

Finally, we will maintain our current practice of allowing market-based rates for existing generation to go into effect subject to refund. To the extent that either the applicant or intervenors in individual cases offer specific evidence that the relevant geographic market ought to be defined differently than under the existing test, we will examine such arguments through formal or paper hearings.

Because our goal is to develop more competitive bulk power markets, we will continue to monitor markets to assess the competitiveness of the market in existing generation, and we will modify our market rate criteria if and when appropriate. However, any changes we might make to our analysis for authorizing market-based rates in the future will not upset transactions entered into pursuant to existing market-based rate authority. The policies we put in place today to develop a smoothly functioning transmission access regime will provide useful experience and information for assessing the effects of generation concentration.

4. Merger Policy

In the NOPR, the Commission did not address possible ramifications of the NOPR with regard to its existing merger policy.

Comments

A number of commenters suggest that the Commission should reevaluate its merger policy in light of the NOPR.[147] They further suggest a number of changes that they believe need to be made to the Commission's existing merger policy.

Most commenters raising this issue express concerns that mergers will lessen competition and hinder achievement of competitive bulk power markets.[148] For example, NRECA indicates that the Commission's merger policy is at a crossroads. It believes that it is essential for the Commission to reevaluate its merger policy in concert with the proposed rulemakings.[149] Similarly, TAPS recommends that the Commission reevaluate its merger criteria to ensure that in a more competitive era, mergers are found to be consistent with the public interest only if they are pro-competitive. Several commenters argue that the Commission should continue to conduct a case-by-case investigation of the product and geographic markets that will be affected by a proposed merger.[150]

A number of commenters also suggest certain changes that they would like to see in the Commission's merger policy.[151] APPA recommends that, at a minimum, all merger approvals considered by the Commission should be conditioned on: (1) Filing an open access transmission tariff, (2) demonstrating no market power in generation or ancillary services, and (3) granting all existing requirements customers of the merged entity the right to convert existing contracts to rights to equivalent transmission capacity. Several commenters suggest adopting the U.S. Department of Justice Merger

[142] *See also* DOD and WP&L. IL Com suggests that the Commission allow market-based rates to a utility on the condition that the utility forego stranded cost recovery.

[143] NEPOOL Review Committee Initial Comments at 28.

[144] *See, e.g.*, Southwestern Public Service Company, 72 FERC ¶ 61,208 at 61,996 (1995).

[145] The Commission's practice is to define the relevant markets as those utilities directly interconnected to the applicant (first-tier markets). For each first-tier market, we consider all utilities interconnected to the first-tier utility and all utilities interconnected to the applicant as competitors in that relevant market. Thus, the competitors include the second-tier utilities directly interconnected to the relevant market and those other first-tier utilities that can reach the market by virtue of the applicant's open access transmission tariff. *See, e.g.*, Kansas City Power & Light Company, 67 FERC ¶ 61,103 at 61,556; and Heartland Energy Services, Inc., 68 FERC ¶ 61,223 at 62,061.

[146] *See* Wisconsin Public Service Corporation, 75 FERC ¶ 61, _____, slip op. at 6–7 (1996).

[147] *E.g.*, NRECA, TAPS, Wisconsin Coalition, APPA.

[148] *E.g.*, Wisconsin, Rosebud, NRECA, IN Com, Wisconsin Coalition, NIEP, Minnesota P&L, APPA.

[149] *See also* APPA.

[150] *E.g.*, Wisconsin Coalition, MMWEC.

[151] *E.g.*, APPA, Wisconsin Coalition, Minnesota P&L, IN Com.

Guidelines in analyzing merger proposals.[152]

Environmental Action and others contend that merging utilities must be required to demonstrate real net benefits to retail and wholesale customers that could not otherwise be achieved but for the proposed merger.[153]

Commenters also argue that the Commission should use its merger conditioning authority to order divestiture of transmission and generation when required to ensure competition.[154] Environmental Action and NEPOOL Review Committee suggest conditioning merger applications on the existence of regional transmission pricing arrangements to mitigate any generation market power gained by the merging entities.

Commission Conclusion

The Commission appreciates the concerns and suggestions raised with respect to our merger policy. However, since the time the NOPR was issued (and comments received thereon), we issued a Notice of Inquiry on the Commission's merger policy in Docket No. RM96–6–000.[155] There we indicated that we will review whether our criteria and policies for evaluating mergers need to be modified in light of the changing circumstances, including this final rule, that are occurring in the electric industry. The NOI proceeding will permit us to consider comments from *all* interested participants and, at the same time, allow us to review our merger criteria and policies in light of this final rule. We are committed to reviewing our merger policy in a timely manner in the ongoing NOI proceeding.[156]

5. Contract Reform

In the NOPR, the Commission explained that it believed that it could remedy unduly discriminatory practices and achieve more competitive bulk power markets without abrogating existing wholesale power supply contracts that bundle generation and transmission services and existing wholesale transmission contracts.[157] Thus, we proposed to apply the functional unbundling requirement only to transmission services under new requirements contracts, new coordination contracts, and new transactions under existing coordination contracts. However, the Commission did invite comment on whether it would be contrary to the public interest to allow all or some of the above types of existing contracts to remain in effect.

Comments

Requirements and Transmission Contracts

Many of the commenters (including utility customers and third-party power suppliers) addressing this issue oppose abrogating existing contracts on a generic basis.[158] A number of the commenters contend that existing contracts should be retained because they are the result of mutually beneficial bargaining.[159] SMUD and TANC are concerned that existing contracts providing for transmission service that is superior to the pro forma tariffs not be abrogated.[160] Ohio Edison argues that existing contracts have contributed to the emergence of competition, meet the specific needs of the parties, have been approved by the Commission, and have not been found to be unduly discriminatory or violative of the public interest, and that their preservation is consistent with the Energy Policy Act, most notably amended section 211 of the FPA. PacifiCorp and AEP express concern that contract abrogation would create competitive instability. American Forest & Paper argues that the Commission cannot refuse to honor existing contracts if it expects a competitive bulk power market to emerge.

Numerous commenters further argue that contract abrogation requires a fact-based, contract-specific evaluation, and they oppose any generic declaration that existing contracts are contrary to the public interest.[161] Some suggest that generic contract abrogation cannot be justified under the public interest standard.[162]

Missouri Basin MPA argues that the Commission should allow abrogation of existing wholesale power and transmission arrangements if the customer can demonstrate the undue competitive disadvantage caused by the arrangement.

A few commenters support some form of generic contract abrogation.[163] CCEM asserts that existing wholesale requirements customers must be given the right to convert to transmission service under non-discriminatory open access tariffs.[164] CCEM notes that this is the same relief from undue discrimination that the Commission afforded to pipeline customers in Order Nos. 436 and 500.[165] CCEM emphasizes that here, in contrast to what occurred in the gas industry, "[c]onversion rights should be understood as the logical *quid pro quo* for introducing extra-contractual stranded-cost recovery rights into the wholesale requirements contracts of electric utilities."[166] NRECA asserts that it would be unduly discriminatory to allow new transmission customers to use the open access transmission tariffs, but not allow existing customers the same access.[167]

TAPS says that if those who now have discriminatory contracts are forced to live with those contracts, a fully competitive market will be delayed considerably.[168] Moreover, TAPS argues, the Commission has a statutory duty to remedy the undue discrimination that it is only now recognizing. Even if the Commission will not abrogate these contracts across the board, TAPS asserts that we should use our section 206 authority to do so on a contract-by-contract basis.

San Francisco requests that the Commission clarify that a holder of capacity rights under an existing contract can extend contractual rights to transmission access at least coterminous with the life of the project and under a roll-over or renewal contract on the same basis as provided in the existing contract. Anoka EC proposes that when a wholesale purchaser's contract expires, it should have a right of first refusal to contract for the transmission capacity to which it previously had a right. Knoxville urges the Commission to require renegotiation of the notice and/or term of all existing contracts for which the voluntary termination period exceeds the time frame for implementation of the final rule.

NEPCO suggests that we require existing power contracts that allow rate changes to be separated into their generation and transmission components, without otherwise disturbing their terms; this would allow comparisons between the transmission service the utility provides to its power customers and the service it offers to others.[169]

Coordination Agreements

CINergy argues that coordination agreements should not be excluded from the comparability standard and that the Commission should use its authority under section 206 to require amendments to such agreements, just as it did in Order 636 in requiring unbundling of pipeline supply contracts. CINergy suggests that public utilities should be given up to three years to file the amendments to avoid hardship on the industry and the Commission's staff. CINergy further asserts that future transactions conducted under coordination agreements should be unbundled and the transmission component subjected to the comparable transmission service requirement.

Others argue that purchases under existing coordination agreements made on behalf of retail native load should not be unbundled.[170] NY Com and IL Com recommend that proposed § 35.28(c) be modified to state that the functional unbundling requirement "exclude(s) those wholesale purchases made by the utility to serve existing or expected native retail load."

Utilities For Improved Transition disagrees with the idea that new transactions under existing coordination agreements should be subject to the rule.[171] It argues that the sanctity of coordination contracts should be the same as for other contracts. Coordination contracts are not simply agreements to agree in the future, according to Utilities For Improved Transition; they set forth terms and rates and merely leave the timing of transactions to be resolved in the future. Moreover, it argues that the Commission has given no reason to abandon its practice of encouraging coordination sales by allowing price flexibility.

Commission Conclusion

Requirements and Transmission Contracts

We do not believe it is appropriate to order generic abrogation of existing requirements and transmission contracts. While the Commission did generically find it appropriate to modify natural gas contracts to complete the move to a competitive commodity market in natural gas, we face a different situation here. At the time the Commission addressed this situation in the natural gas industry, it was faced with shrinking natural gas markets, statutory escalations in natural gas ceiling prices under the Natural Gas Policy Act, and increased production of gas.[172] In other words, there was a market failure in the industry that required the extraordinary measure of generically allowing all customers to break their contracts with pipelines.

In contrast, there is no such market failure in the electric industry. Although changes in the industry have been and continue to be dramatic, we do not believe they compel generic abrogation of requirements and transmission contracts.[173]

While we have concluded that current conditions in the wholesale power market do not warrant the generic modification of requirements contracts, we conclude nonetheless that the modification of certain requirements contracts on a case-by-case basis may be appropriate. We conclude further that, even if customers under such contracts are bound by so-called *Mobile-Sierra* clauses, they nonetheless ought to have the opportunity to demonstrate that their contracts no longer are just and reasonable.

The Commission finds that it would be against the public interest to permit a *Mobile-Sierra* clause in an existing wholesale requirements contract to preclude the parties to such a contract from the opportunity to realize the benefits of the competitive wholesale power markets. For purposes of this finding, the Commission defines existing requirements contracts as contracts executed on or before July 11, 1994.[174] By operation of this finding, a party to a requirements contract containing a *Mobile-Sierra* clause no longer will have the burden of establishing independently that it is in the public interest to permit the modification of such contract. The party, however, still will have the burden of establishing that such contract no longer is just and reasonable and therefore ought to be modified.

This finding complements the Commission's finding that, notwithstanding a *Mobile-Sierra* clause in an existing requirements contract, it is in the public interest to permit amendments to add stranded cost provisions to such contracts if the public utility proposing the amendment can meet the evidentiary requirements of this Rule.[175] The Commission's complementary *Mobile-Sierra* findings are not mutually exclusive. Any contract modification approved under this Section shall provide for the utility's recovery of any costs stranded consistent with the contract modification. The stranded costs must be prudently incurred, legitimate and verifiable, as provided in Section IV.J. Further, the Commission has concluded that if a customer is permitted to argue for modification of existing contracts that are less favorable to it than other generation alternatives, then the utility should be able to seek modification of contracts that may be beneficial to the customer.

The Commission believes that the most productive way to analyze contract modification issues is to consider simultaneously both the selling public utility's claims, if any, that it had a reasonable expectation of continuing to serve the customer beyond the term of the contract and the customer's claim, if any, that the contract no longer is just and reasonable and therefore ought to be modified. Thus, if the selling public utility intends to claim stranded costs, it must present that claim in any section 206 proceeding brought by the customer to shorten or terminate the contract. Similarly, if the customer intends to claim that the notice or termination provision of its existing requirements contract is unjust and unreasonable, it must present that claim in any proceeding brought by the selling public utility to seek recovery of stranded

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[152] *E.g.*, Wisconsin Coalition.

[153] *E.g.*, TAPS, Wisconsin Coalition.

[154] *E.g.*, NIEP, Wisconsin Coalition, TAPS, Environmental Action.

[155] FERC Stats. & Regs. ¶ 35,531 (1996).

[156] Our decision to review our merger policy in a separate NOI proceeding is not intended to affect a utility's business decision of whether a merger may be in the economic interest of its ratepayers and stockholders. The NOI proceeding will not prevent us from reviewing merger applications in as timely a manner as possible.

[157] FERC Stats. & Regs. ¶ 32,514 at 33,093.

[158] *E.g.*, Dayton P&L, NSP, Montaup, Southwestern, Ohio Edison, Consumers Power, Allegheny, Public Generating Pool, NEPCO, Pennsylvania P&L, Southwest TDU Group, Arizona, DOD, El Paso, Florida Power Corp, AEC & SMEPA, Atlantic City, Texaco, Tampa, CSW, Central Illinois Public Service, CA Cogen, ConEd, GA Com, Consolidated Natural Gas, Ohio Valley, Pacific Northwest Coop, Salt River, Oglethorpe, Minnesota P&L, NYSEG, Brazos, Southern, Washington Water Power, CINergy, SoCal Edison, Hoosier EC.

[159] *E.g.*, AEC & SMEPA, Cajun, Carolina P&L, NSP, Pennsylvania P&L, UNITIL, Southwestern, CSW.

[160] *See also* Dairyland, DE Muni, Arkansas Cities, Ohio Valley.

[161] *E.g.*, AEP, Associated EC, DOD, El Paso, NEPCO, Ohio Edison, PSNM, Southwest TDU Group, Utilities For Improved Transition, NYSEG, Citizens Utilities, NM Com, EGA. *See also* NRECA, TDU Systems, Blue Ridge, CCEM, Industrial Energy Applications, APPA, Cajun, Springfield, DE Muni, Missouri Basin MPA, TANC, Wolverine Coop Members, FL Com, Citizens Utilities, Soyland (support contract abrogation on a case-by-case basis).

[162] *E.g.*, Utilities For Improved Transition, NSP, Southwestern, DE Muni.

[163] *E.g.*, NRECA, CCEM, ELCON, DE Muni, Oglethorpe. Portland maintains that it would be in the public interest to abrogate existing contracts completely, but recommends that such action be taken only on a case-by-case basis.

[164] *See also* VT DPS, NYMEX.

[165] *See also* VT DPS, Portland.

[166] CCEM Initial Comments at 26. *See also* ELCON, VT DPS, Blue Ridge, NYMEX, OK Com, Missouri Basin MPA, Texas-New Mexico, TDU Systems.

[167] *See also* TDU Systems, Texas-New Mexico, TAPS, Wisconsin Municipals.

[168] *See also* NorAm. UtiliCorp argues that existing contracts should not be allowed to extend indefinitely (as through "evergreen" clauses) without adopting comparability. *See also* Texaco, Wisconsin Municipals, Phelps Dodge.

[169] *See also* Industrial Energy Applications.

[170] *E.g.*, Con Ed, Detroit Edison, IL Com.

[171] *See also* Utility Workers Union, VEPCO.

[172] *See* Pierce, Richard J., *Reconstituting the Natural Gas Industry from Wellhead to Burnertip*, 9 Energy L.J. 1 (1988).

[173] In addition, we do not believe that unfavorable requirements contracts will derail the attainment of competitive wholesale power markets. Indeed, many of the commenters support this position and seek to retain their existing requirements contracts.

[174] This is consistent with the definition of existing requirements contracts we have used for purposes of stranded cost recovery.

[175] *See* Section IV.J.5.

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costs. This will promote administrative efficiency and will permit the Commission to consider how the contracting parties' claims bear on one another.

The Commission does not take contract modification lightly. Whether a utility is seeking a contract amendment to permit stranded cost recovery based on expectations beyond the stated term of the contract, or a customer is seeking to shorten or eliminate the term of an existing contract, we believe that each has a heavy burden in demonstrating that the contract ought to be modified. Still, we believe that given the industry circumstances now facing us, both selling utilities and their customers ought to have an opportunity to make the case that their existing requirements contracts ought to be modified. By providing both buyers and sellers this opportunity, the Commission attempts to strike a reasonable balance of the interests of all market participants. The Commission expects that many of the arguments presented by buyers and sellers in such proceedings will be fact specific.

We note that because we are not abrogating existing requirements and transmission contracts generically and because the functional unbundling requirement of the Final Rule applies only to new wholesale services, the terms and conditions of the Final Rule pro forma tariff do not apply to service under existing requirements contracts. However, if a customer's existing bundled service (transmission and generation) contract or transmission-only contract expires, and the customer takes any new transmission service from its former supplier, the terms and conditions of the Final Rule tariff would then apply to the transmission service that the customer receives.

A further issue concerning firm contract customers is their right to transmission capacity (and the rate for such capacity) when their contracts expire by their own terms or become subject to renewal or rollover. We have concluded that *all* firm transmission customers (requirements and transmission-only), upon the expiration of their contracts or at the time their contracts become subject to renewal or rollover, should have the right to continue to take transmission service from their existing transmission provider. The limitations are that the underlying contract must have been for a term of one-year or more and the existing customer must agree to match the rate offered by another potential customer, up to the transmission provider's maximum filed transmission rate at that time, and to accept a contract term at least as long as that offered by the potential customer.[176] This means that there is no right to grandfather the historical price of the transmission service. Thus, if not enough capacity is available to meet all requests for service, the right of first refusal gives the capacity to the existing customer who had contractually been using the capacity on a long-term, firm basis, assuming that it meets the conditions set forth above. Moreover, this limited right of first refusal is not a one-time right of first refusal for contracts existing as of the date of the final rule, but is an ongoing right that may be exercised at the end of all firm contract (including all future unbundled transmission contracts) terms. A customer converting existing bundled service to the Final Rule pro forma tariff would not have a reservation priority for capacity expansions, unless the existing contract provides for future transmission to the customer that requires capacity expansion.[177]

Finally, with respect to all existing requirements contracts and tariffs that provide for bundled rates, we will require all public utilities to make informational filings setting forth the unbundled power and transmission rates reflected in those contracts and tariffs. These informational rates must be submitted to the Commission within 60 days of publication of the Final Rule in the **Federal Register** and must also be included as a line item on all bills submitted to wholesale customers in the third month following the effective date of this final rule. The unbundled informational rates will permit wholesale customers to compare rates in anticipation of their contracts expiring so that they can evaluate alternative contracts.

Coordination Agreements

The situation as to coordination agreements requires a slightly different approach.[178] While we also believe that as a general matter it is important not to generically abrogate any coordination agreements, this is particularly true for non-economy energy coordination agreements that may reflect complementary long-term obligations among the parties. This type of agreement presents special problems and, as discussed below, we will not generically require this type of coordination agreement to be modified.[179]

Hundreds of coordination agreements exist in the industry today. Many are open-ended agreements that permit new transactions to occur well into the future. Because these contracts may not expire of their own terms in a reasonable time, they may present a larger and more enduring obstacle to non-discriminatory open access and more competitive bulk power markets. Thus, to assure that non-discriminatory open access becomes a reality in the relatively near future, we will partially modify existing economy energy coordination agreements. We will condition future sales and purchase transactions under existing economy energy coordination agreements[180] to require that the transmission service associated with those transactions be provided pursuant to this Rule's requirements of non-discriminatory open access, no later than December 31, 1996.[181] We also will require that for new economy energy coordination agreements[182] where the transmission owner uses its transmission system to make economy energy sales or purchases, the transmission owner must take such service under its own transmission tariff as of the date trading begins under the agreement.[183]

[176] This right of first refusal exists whether or not the customer buys power from the historical utility supplier or another power supplier. If the customer chooses a new power supplier and this substantially changes the location or direction of its power flows, the customer's right to continue taking transmission service from its existing transmission provider may be affected by transmission constraints associated with the change.

[177] The above discussion on a right of first refusal addresses firm contract customers. However, the same logic applies to retail customers.

[178] For purposes of this discussion, we define coordination agreements as all power sales agreements, except requirements service agreements. In addition, for purposes of implementing the non-discriminatory, open access requirements of the Final Rule, we are dividing bilateral coordination agreements into two general categories: (1) *Economy energy coordination agreements* are contracts and service schedules thereunder that provide for trading of electric energy on an "if, as, and when available" basis, but do not require either the seller or buyer to engage in a particular transaction; and (2) *non-economy energy coordination agreements* are any non-requirements service agreements, except economy energy coordination agreements.

[179] The requirements for power pools and other multilateral arrangements are discussed in detail in Section IV.F.

[180] Those executed prior to 60 days after publication of the Open Access Rule in the **Federal Register**.

[181] The requirement to unbundle future transactions under existing economy energy coordination agreements means that if the transmission owner uses its transmission system to make economy energy coordination sales or purchases, it must take service for these transactions under its own transmission tariff after December 31, 1996.

[182] Those executed 60 days after publication of the Open Access Rule in the **Federal Register**.

[183] Accordingly, transmission service needed for sales or purchases under *all* new economy energy coordination agreements will be pursuant to the Final Rule pro forma tariff.

Finally, we will treat non-economy energy coordination agreements differently. We will not require their modification. However, this does not insulate such agreements from complaints that transmission service provided under such agreements be provided pursuant to the Final Rule pro forma tariff.

With respect to coordination pricing practices, we conclude that non-discriminatory open access consistent with the requirements of this Rule is necessary if we are to allow utilities to continue to use market-driven pricing, such as split-the-savings pricing, for coordination sales. Absent such non-discriminatory open access, a utility would be able to deny access to others so as to obtain a higher price for its own power sales.

6. Flow-Based Contracting and Pricing

In the NOPR, the Commission discussed the procedures to be used in establishing Stage One rates. These Stage One rates were proposed as an administrative convenience. The proposal merely followed the long-established practice of establishing rates on the basis of contract path pricing.[184] The Commission made no determination with respect to the appropriateness of flow-based pricing or contracting for other purposes.[185]

Comments

Most of the commenters addressing this issue recommend that industry or the Commission—either in this rule or ultimately—dispense with the traditional contract path basis for pricing and contracting. Most commenters also recommend that the Commission adopt or encourage a regional approach to the solution of transmission pricing problems, though they differ markedly in how to account for flows.[186]

Transmission customers generally seek to rid themselves of "pancaked" transmission rates that are associated with the traditional approach to transmission pricing.[187] They propose the development of regionwide transmission rates, perhaps determined on a pool or RTG basis. Most, however, do not discuss how to account for unscheduled flows.[188]

Many transmission providers, some regulatory authorities, and some individuals strongly support flow-based pricing. Most of these commenters recognize a need for a regional approach to resolve transmission pricing concerns.[189] However, many of them also appear to accept contract pricing in the near term because of the need to implement open access quickly.[190] NERC recommends that the Commission maintain an open position on the transfer scheduling process and supports changes in the process to reflect actual power flows. EEI suggests that the Commission should be willing to deviate from a contract path approach, since competition may be accompanied by greater unscheduled flows and contract pricing is not well equipped to deal with such flows. However, EEI concludes that a single approach to pricing will not be appropriate for all systems.

Other commenters, however, do raise concerns with respect to flow-based pricing. AEC & SMEPA considers flow-based pricing to be flawed because that method makes an individual customer responsible for load flow effects caused by a third party's development of the third-party's transmission system over which the customer and its transmission provider had no control. Dayton P&L fears that competition would be lessened under flow-based pricing because utilities with large transmission systems would dominate the market.

Several commenters oppose Southern's and United Illuminating's flow-based proposals, arguing that the methodologies are based on estimates of actual flows or a set of conditions with limited applicability. Various commenters also believe that a single rate is flawed and could cause just as many problems as contract path pricing.[191]

Most commenters appear to believe that the Commission endorsed contract path pricing in the NOPR. Hogan expresses concern that many industry participants' understanding of the pro forma tariffs is based on the fiction of the contract path. The MT Dept of Environmental Quality believes that despite the Commission's pledge to consider innovative pricing proposals,[192] such proposals will receive heavy scrutiny, while conventional contract path pricing proposals will receive nearly automatic approval. Dominion is concerned that relying on the initiative of individual transmission owners to develop flow-based pricing will yield slow and patchy results.

Commission Conclusion

We will not, at this time, require that flow-based pricing and contracting be used in the electric industry. In reaching this conclusion, we recognize that there may be difficulties in using a traditional contract path approach in a non-discriminatory open access transmission environment, as described by Hogan and others. At the same time, however, contract path pricing and contracting is the longstanding approach used in the electric industry and it is the approach familiar to all participants in the industry. To require now a dramatic overhaul of the traditional approach—such as a shift to some form of flow-based pricing and contracting—could severely slow, if not derailed for some time, the move to open access and more competitive wholesale bulk power markets. In addition, we believe it is premature for the Commission to impose generically a new pricing regime without the benefit of any experience with such pricing. We welcome new and innovative proposals, but we will not impose them in this Rule.

While we are not requiring the use of any form of flow-based pricing, we recognize that some versions of flow-based pricing could have benefits. For example, some versions of flow-based pricing could more accurately reflect and price the actual power flows on transmission systems and thus could produce efficiency gains, better generation siting decisions, and benefits for customers and utilities alike. Other versions could more accurately assign capacity rights in accordance with a party's contribution to capacity costs.

These potential benefits, however, will not simply come about in the abstract. Flow-based pricing methodologies that will achieve the benefits sought by most of the

[184] A contract path is simply a path that can be designated to form a single continuous electrical path between the parties to an agreement. Because of the laws of physics, it is unlikely that the actual power flow will follow that contract path.

[185] Flow-based pricing or contracting would be designed to account for the actual power flows on a transmission system. It would take into account the "unscheduled flows" that occur under a contract path regime.

[186] *E.g.*, APPA, TAPS, NY Energy Buyers, Arcadia, Brownsville, Detroit Edison Customers, AMP-Ohio, Michigan Systems.

[187] *E.g.*, AMP-Ohio, NRECA, APPA, Detroit Edison Wholesale Customers, MMWEC, Missouri Basin MPA, Air Liquide, American Wind Energy, Associated Power, CCEM.

[188] Some commenters propose the development of a regional rate on a postage stamp basis, without regard to distance travelled or the actual path of power flows. *E.g.*, Air Liquide, American National Power, CA Energy Co. Several commenters do, however, propose ways to account for unscheduled flows. *E.g.*, American Forest & Paper, DE Muni, Lower Colorado River Authority.

[189] *E.g.*, CSW, EDS Utilities, Dominion, CINergy, KS Com, CT DPUC, Com Ed, Hogan.

[190] NYMEX favors contract path pricing because of its familiarity and believes that the issue should primarily be resolved by the transmitting utilities. AEP believes that the primary responsibility lies with industry to develop alternative pricing structures.

[191] *E.g.*, NU, NEPCO, BECO, Florida Power Corp.

[192] *See* FERC Stats. & Regs. ¶ 31,005.

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participants in the industry are in a development stage and require further work and refinement to address some of the difficulties associated with flow-based approaches. Concurrent work on OASIS and resolving available transmission capability issues may help resolve flow-based issues. However, as demonstrated by the paucity of possible methodologies presented in the comments, developing workable methodologies will be difficult. As we explained in our Transmission Pricing Policy Statement, we are receptive to proposals for alternative rate methodologies, such as distance-sensitive and flow-based pricing, as long as the proposals are well supported. However, we have yet to receive a formal rate application for a flow-based pricing methodology that has been tested enough that it can be required on a generic basis. Thus, we have decided to go forward to achieve open access and more competitive wholesale bulk power markets without waiting for the development of a generic flow-based pricing methodology.

We wish to emphasize further that in taking this approach we are not endorsing the traditional contract path approach as the *only* available approach. We continue to approve contract path pricing because it is the long-established pricing method that comes to us in rate filings by the electric industry, is administratively convenient and feasible, and thus is a practical way to move forward now. We remain open to alternative methodologies, but need to see better developed approaches from the industry before we can consider generic adoption of alternative pricing.

We also believe the adoption of flow-based pricing will be more practical on a regional, instead of individual utility, basis. Some forms of flow-based pricing may even require a regional approach. To this extent, regional ISOs could be a valuable mechanism for implementing such pricing reforms.

B. Legal Authority

The Commission reaffirms its conclusion in the NOPR that we have the authority under the FPA to order wholesale transmission services in interstate commerce to remedy undue discrimination by public utilities. We analyze below the relevant cases examining our wheeling authority, then discuss and respond to the legal arguments raised by the commenters.

1. Bases for Legal Authority

a. Undue Discrimination/ Anticompetitive Effects

In upholding the Commission's order requiring non-discriminatory open access in the natural gas industry, the court in *Associated Gas Distributors* v. *FERC* stated that the Natural Gas Act "fairly bristles" with concern for undue discrimination.[193] The same is true of the FPA. The Commission has a mandate under sections 205 and 206 of the FPA to ensure that, with respect to any transmission in interstate commerce or any sale of electric energy for resale in interstate commerce by a public utility, no person is subject to any undue prejudice or disadvantage. We must determine whether any rule, regulation, practice or contract affecting rates for such transmission or sale for resale is unduly discriminatory or preferential, and must prevent those contracts and practices that do not meet this standard. As discussed below, *AGD* demonstrates that our remedial power is very broad and includes the ability to order industry-wide non-discriminatory open access[194] as a remedy for undue discrimination. The *AGD* court reached this decision even in the face of prior cases that acknowledged that Congress did not mandate common carriage or explicitly empower the Commission to order direct access for either gas transporters or electric utilities. Moreover, the Commission's power under the FPA "clearly carries with it the responsibility to consider, in appropriate circumstances, the anticompetitive effects of regulated aspects of interstate utility operations pursuant to (FPA) sections 202 and 203, and under like directives contained in sections 205, 206, and 207."[195]

Therefore, based on the mandates of sections 205 and 206 of the FPA and the case law interpreting the Commission's authority over transmission in interstate commerce, we conclude that we have ample legal authority—indeed, a responsibility—under section 206 of the FPA to order the filing of non-discriminatory open access transmission tariffs if we find such order necessary as a remedy for undue discrimination or anticompetitive effects.[196] We discuss below the primary court decisions that touch on our wheeling authority under sections 205 and 206.

The Commission's authority to order access as a remedy for undue discrimination under the Natural Gas Act (NGA) was upheld and discussed in detail in *AGD*. In *AGD*, the court upheld in relevant part the Commission's Order No. 436.[197] That order found the prevailing natural gas company practices to be "unduly discriminatory" within the meaning of section 5 of the NGA (the parallel to section 206 of the FPA) and held that if pipelines wanted blanket certification for their transportation services, they must commit to transport gas for others on a non-discriminatory basis; in other words, they must provide non-discriminatory open access.

In upholding the Commission's authority to require open access, the court first noted that the opponents' arguments against such authority must proceed "uphill." The statute contains no language forbidding the Commission to impose common carrier status on pipelines, let alone forbidding the Commission to impose "a specific duty that happens to be a typical or even core component of such status." The court found that the legislative history cited by the opponents came nowhere near overcoming this statutory silence. Rather, the legislative history supported only the proposition that Congress itself declined to impose common carrier status.[198] Emphasizing Congress' deep concern with undue discrimination, the court found that the Commission had ample authority to "stamp out" such discrimination:

> The issue seems to come down to this: Although Congress explicitly gave the Commission the power and the duty to achieve one of the prime goals of common carriage regulation (the eradication of undue discrimination), the Commission's attempted exercise of that power is invalid because Congress in 1906 and 1914 and 1935 and 1938 itself refrained from affixing common carrier status directly onto the pipelines and from authorizing the Commission to do so.

[193] Associated Gas Distributors v. FERC, 824 F.2d 981, 998 (D.C. Cir. 1987), *cert. denied*, 485 U.S. 1006 (1988) (*AGD*).

[194] We use the term "open access" to refer to a public utility's obligation to put a tariff on file offering service to eligible customers. Access is not open to all. Specifically, the tariff is not an offer to serve retail customers if state law does not permit retail wheeling.

[195] Gulf States Utilities Company v. FPC, 411 U.S. 747, 758–59 (1973).

[196] In most situations, discrimination that precludes transmission access or gives inferior access will have at least potential anticompetitive effects because it limits access to generation markets and thereby limits competition in generation. Similarly, it is probable that any transmission provision that has anticompetitive effects would also be found to be unduly discriminatory or preferential because the anticompetitive provision would most likely favor the transmission owner *vis-a-vis* others.

[197] Order No. 436, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, FERC Stats. & Regs., Regulations Preambles ¶ 30,665 (1985).

[198] *AGD, supra*, 824 F.2d at 997.

And this proposition is said to control no matter how sound the Order may be as a response to the facts before the Commission. We think this turns statutory construction upside down, letting the failure to grant a general power prevail over the affirmative grant of a specific one.[199]

The *AGD* court found that court decisions under the FPA did not support the view that the Commission's authority to "stamp out" undue discrimination is hamstrung by an inability to require non-discriminatory open access as a remedy. These decisions are discussed below.

One of the earliest cases on wheeling is *Otter Tail Power Company* v. *United States (Otter Tail)*.[200] In that case, the Supreme Court rejected the argument that the District Court, in a civil antitrust suit, could not order wheeling because to do so would conflict with the FPC's purported wheeling authority.[201] The Court explained that Congress had decided not to impose a common carrier obligation on the electric power industry and noted that the Commission was not at that time expressly granted power to order wheeling.[202] In effect, it concluded that because Congress did not include common carrier provisions in the FPA, the Commission must not have any express authority to order wheeling that would preclude the District Court from imposing a wheeling remedy. Nowhere, however, did the Court say that the Commission lacked authority under section 206 to remedy undue discrimination. Indeed, that was simply not a matter before the Court or of any consequence to its decision.

In the FPA, while Congress elected not to impose common carrier status on the electric power industry, it tempered that determination by explicitly providing the Commission with the authority to eradicate undue discrimination—one of the goals of common carriage regulation.[203] By providing this broad authority to the Commission, it assured itself that in preserving "the voluntary action of the utilities" it was not allowing this voluntary action to be unfettered. It would be far-reaching indeed to conclude that *Otter Tail*, which was a civil antitrust suit that raised issues entirely unrelated to our authority under section 206, is an impediment to our achieving one of the primary goals of the FPA—eradicating undue discrimination in transmission in interstate commerce in the electric power industry.

In *Richmond Power & Light Company* v. *FERC* (*Richmond*),[204] the FPC, in reaction to the 1973 oil embargo, was attempting to reduce dependence on oil. The FPC requested that utilities with excess capacity wheel power to the New England Power Pool (NEPOOL). In response, several suppliers and transmission owners filed rate schedules with the FPC that provided for voluntary wheeling. Richmond Power & Light Company (Richmond) objected to these filings, claiming that they were unreasonable because they did not guarantee transmission access. The FPC refused to compel the utilities to wheel Richmond's power, stating that it did not have the authority to order a public utility to act as a common carrier.

The D.C. Circuit upheld the Commission. It acknowledged that Richmond's argument was persuasive in some respects, but stated that any conditions the Commission might impose could not contravene the FPA. The court examined the legislative history of the FPA and stated that "[i]f Congress had intended that utilities could inadvertently bootstrap themselves into common-carrier status by filing rates for voluntary service, it would not have bothered to reject mandatory wheeling * * *."[205]

However, the D.C. Circuit in no way indicated that the Commission was foreclosed from ordering transmission as a remedy for undue discrimination. Richmond also had argued that the alleged refusal of the American Electric Power Company (AEP) and its affiliate, Indiana & Michigan Electric Company (Indiana), to wheel Richmond's excess energy was unlawful discrimination because AEP and Indiana wheeled higher-priced electricity from other AEP affiliates. The court acknowledged that Richmond's claim of unlawful discrimination was theoretically valid, but found that Richmond had failed to prove its case. It noted that if Richmond had argued that the rates were unjustifiably discriminatory, or that Indiana's failure to use its transmission capability fully or to purchase less expensive electricity for wheeling resulted in unnecessarily high rates, a different case would be before the court.[206] The case thus does not in any way limit the Commission's authority to remedy undue discrimination.

In *Central Iowa Power Cooperative* v. *FERC*,[207] the FPC[208] reviewed the terms of the Mid-Continent Area Power Pool (MAPP) Agreement under its section 205 and 206 authority. The agreement contained two membership limitations. First, the agreement established two classes of membership, with one class being entitled to more privileges than the other. Second, the agreement excluded non-generating distribution systems from pool services. The FPC found the first limitation on membership—the two-class system—to be unduly discriminatory and not reasonably related to MAPP's objectives. The FPC conditioned approval of the agreement under section 206 on the removal of the unduly discriminatory provision. The FPC found that the second limitation, the exclusion of non-generating distribution systems, was not anticompetitive and did not render the agreement inconsistent with the public interest.

On appeal, the D.C. Circuit affirmed the FPC's decision. The court found that the FPC did have authority to order changes in the scope of the MAPP agreement, *if* the agreement was unjust, unreasonable, unduly discriminatory or preferential under section 206 of the FPA. The court stated:

> The Commission had authority, * * * under section 206 of the Act, * * * to order changes in the limited scope of the Agreement, including the addition of pool services, if, in the absence of such modifications, the Agreement presented "any rule, regulation, practice or contract (that was) unjust, unreasonable, unduly discriminatory or preferential."[209]

However, the court agreed with the FPC's conclusion that the limited scope of MAPP was not unjust, unreasonable, or unduly discriminatory. The court recognized that a pool was not invalid under section 206 merely because a more comprehensive arrangement was possible.

The D.C. Circuit upheld the Commission's refusal to eliminate the second limitation on membership by ordering MAPP participants to wheel to non-generating electric systems.[210] However, neither the Commission nor the court was presented with the argument that wheeling was necessary as a remedy for undue discrimination.

[199] *Id.* at 998.

[200] 410 U.S. 366 (1974).

[201] 410 U.S. at 375–76.

[202] *Id.* at 374–76.

[203] *See AGD*, 824 F.2d at 998.

[204] 574 F.2d 610 (D.C. Cir. 1978).

[205] *Id.* at 620.

[206] *Id.* at 623, nn.53 and 57.

[207] 606 F.2d 1156 (D.C. Cir. 1979).

[208] While *Central Iowa* was pending, certain of the functions of the FPC were transferred to the FERC under the DOE Organization Act. Accordingly, the FERC was substituted for the FPC as the respondent in the case.

[209] 606 F.2d at 1168.

[210] *Id.* at 1169; *see also* Municipalities of Groton v. FERC, 587 F.2d 1296 (D.C. Cir. 1978).

In *Florida Power & Light Company* v. *FERC (Florida)*,[211] the Commission ordered Florida Power & Light Company (FP&L) to file a tariff setting forth FP&L's policy relating to the availability of transmission service.[212] FP&L objected to including such a policy statement in its tariff and argued that the filing of such a policy would convert FP&L into a common carrier by obligating it to offer service to all customers.[213] There was no finding that the action ordered was necessary to remedy undue discrimination.

The Fifth Circuit Court of Appeals agreed with FP&L that the mandatory filing of the policy statement would require FP&L to provide transmission service beyond its voluntary commitment because such a requirement would change its duties and liabilities.[214] The Commission order would impose common carrier status on FP&L, the court found.[215] The court noted that the Commission did not rely on a finding of anticompetitive behavior and therefore the court did not address the Commission's power to remedy antitrust violations.[216]

The *AGD* court explicitly rejected the claim that the above line of cases establishes that the Commission lacks authority to require non-discriminatory open access.[217] Opponents of the Commission's order argued in *AGD* that *Richmond* and *Florida*, *supra*, stand for the proposition that the Commission cannot indirectly do what it allegedly cannot do directly, that is, impose common carriage. The *AGD* court rejected these arguments, stating that the petitioners read the electric cases far too broadly:

> (n)either *Richmond* nor *Florida* comes anywhere near stating that the Commission is barred from imposing an open-access condition in all circumstances.[218]

The court noted that the *Florida* case had expressly left open the question of whether the Commission would be entitled to use an open access condition as a remedy for anticompetitive conduct, and that in *Richmond* the D.C. Circuit had said little more than that unwillingness to transmit for all could not be automatically deemed undue discrimination. The court also noted the *Central Iowa* case, *supra*, in which it had upheld a Commission order that found a power pooling agreement discriminatory on its face because the agreement gave one class of membership privileged status over another. The court stated that the *Central Iowa* case "upholds the power of the Commission to subject approval of a set of voluntary transactions to a condition that providers open up the class of permissible users."[219] The court added that it refused to "turn statutory construction upside down" by letting Congress' failure to grant a general power of common carriage prevail over the affirmative grant of the specific power to eradicate undue discrimination.[220]

We conclude that *AGD*'s analysis of undue discrimination under sections 4 and 5 of the Natural Gas Act is equally applicable to an undue discrimination analysis under sections 205 and 206 of the FPA. The Commission and courts have long recognized that the NGA was patterned after the FPA and that the two statutes should be interpreted in the same manner.[221] Thus, we conclude that we have the authority to remedy undue discrimination and anticompetitive effects by requiring all public utilities that own, control or operate transmission facilities to file non-discriminatory open access transmission tariffs.

b. Section 211 of the Federal Power Act

In concluding that we must invoke our section 206 authority to remedy undue discrimination and anticompetitive effects in the electric industry, we have carefully considered the goals of Title VII of the Energy Policy Act, and whether section 211 of the FPA, by itself, is sufficient to remedy undue discrimination in public utility transmission services. Title VII of the Energy Policy Act, which amended section 211 of the FPA to give the Commission broader authority to order wheeling in the public interest on a case-by-case basis, reflects the intent of Congress to encourage competitive wholesale electric markets. Section 211 provides a means for wholesale power sellers and buyers to obtain transmission services necessary to compete in, or to reach, competitive markets, and is a valuable tool to encourage competitive markets. However, in amending section 211, Congress left unaltered the authorities and obligations of the Commission under sections 205 and 206 (similar to our authorities and obligations under sections 4 and 5 of the NGA) to remedy undue discrimination. In addition, as discussed below, reliance on section 211 alone in some circumstances can result in the perpetuation of, rather than the elimination of, undue discrimination and anticompetitive effects.

First, there are inherent delays in the procedures for obtaining service under section 211. However, for competitive reasons, many transactions must be negotiated relatively quickly. Many competitive opportunities will be lost by the time the Commission can issue a final order under section 211. Case-by-case section 211 proceedings are not a substitute for tariffs of general applicability that permit timely, non-discriminatory access on request.

Second, discrimination is inherent in the current industry environment in which some customers and sellers are served by open access systems, and others have to rely on negotiated bilateral arrangements or the mandatory section 211 process. The end result is discrimination in the ability to obtain transmission services, as well as in the quality and prices of the services. This national patchwork of open and closed transmission systems, with disparate terms and conditions of service, cannot be cured effectively through section 211.

The Commission believes that its actions under sections 205 and 206 will complement the section 211 procedures

[211] 660 F.2d 668 (5th Cir. 1981), *cert. denied sub nom.* Fort Pierce Utilities Authority v. FERC, 459 U.S. 1156 (1983).

[212] FP&L provided transmission service when four conditions were met: (1) The specific potential seller and buyer were contractually identified; (2) the magnitude, time and duration of the transaction were specified prior to the commencement of the transmission; (3) it could be determined that the transmission capacity would be available for the term of the contract; and (4) the rate was sufficient to cover FP&L's costs.

[213] All utilities requesting wheeling services, subject to availability, would be entitled to receive transmission service under the filed terms. Any changes to a filed rate must be filed with the Commission. This is the so-called "filed rate doctrine." *See* Northwestern Public Service Company v. Montana-Dakota Utilities Company, 101 F.2d 19, 22 (8th Cir. 1960), *aff'd*, 341 U.S. 246 (1951).

[214] Under the filed rate doctrine, a refusal to wheel would be unduly discriminatory under section 206 of the FPA. As the court acknowledged, a customer refused service could petition the Commission to find that FP&L's policy of availability was unduly discriminatory under section 206(a) of the FPA. The court said that in the absence of a tariff on file, a utility refused wheeling services would be unable to claim discrimination under section 206(a) of the FPA. 660 F.2d at 675 (expressing "serious doubts that such a petition would be successful in the absence of a tariff").

[215] *Id.* at 676.

[216] *Id.* at 678.

[217] The *AGD* court did not address New York State Electric & Gas Corporation v. FERC, 638 F.2d 386 (2d Cir. 1980), *cert. denied*, 454 U.S. 821 (1981) (*NYSEG*), presumably because that case did not concern whether the Commission could order wheeling as a remedy for undue discrimination.

[218] 824 F.2d at 999.

[219] *Id.* at 999.

[220] *Id.* at 1006.

[221] *See, e.g.*, FPC v. Sierra Pacific Power Company, 350 U.S. 348, 353 (1956); Arkansas Louisiana Gas Company v. Hall, 453 U.S. 571, 577 n.7 (1981); and Kentucky Utilities Company v. FERC, 760 F.2d 1321, 1325 n.6 (D.C. Cir. 1985). Section 206 of the FPA was recently revised and now differs from section 5 of the NGA, but not in a manner significant to our discussion here. *See* 16 U.S.C. 824e (b) and (c).

to achieve both the Energy Policy Act's goals of creating more competitive bulk power markets and lower rates for consumers and the Federal Power Act's explicit direction in section 205(b) that no public utility shall, with respect to any transmission in interstate commerce, grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage.

2. Response to Commenters Opposing Our Legal Authority

a. Authority to Order Open Access Tariffs

Comments

Initial Comments Supporting Commission Authority

A number of commenters support or state that they do not oppose the Commission's authority to order open access tariffs.[222] NIEP and CCEM explain that the *AGD* decision supports the Commission's action in this proceeding. ELCON asserts that the Commission's "extensive treatment of the relevant case law demonstrating FERC's authority to remedy this discrimination is legally sound." UtiliCorp argues that section 211 supports, rather than undermines, the Commission's authority for the NOPR because it reflects Congress's intention to encourage more competitive bulk power markets.

Initial Comments Opposing Commission Authority

Other commenters assert that the Commission has improperly relied on sections 205 and 206 of the FPA to require open access.[223] They argue, for instance, that *Otter Tail* should be read as a broad constraint on the Commission's authority to order wheeling for *any* purpose and that the *AGD* decision does not undermine that holding or the cases following *Otter Tail*.[224] In support, some of these commenters discuss *Richmond Power & Light*, *New York State Electric & Gas Corporation*, and *Florida Power & Light Company*, the same cases discussed by the Commission in the NOPR.[225]

For example, EEI highlights the *AGD* court's discussion noting the difference between the legislative history of the NGA and that of the FPA, which the court stated was not as strong as that of the NGA. Moreover, EEI argues that the court found that section 7 of the NGA provided support for the Commission's actions in Order No. 436 and that such section 7 conditioning authority is lacking under the FPA. Allegheny notes that *AGD* did not overrule *Otter Tail*. Dayton P&L states that, in the gas case, the Commission was responding to voluntary filings by pipelines. It also says that before the NOPR, the Commission itself saw its authority as more limited. SCE&G points to differences between Commission jurisdiction over public utilities and gas pipelines and criticizes the Commission's alleged assumption that the circumstances involved in the gas and electric industries are virtually identical.

PA Com argues that the attempt to analogize to the NGA and the cases that refer to that Act is inconsistent with the technical and engineering realities of the electric transmission grid and that extensive comparisons between the natural gas industry and the electric industry are misleading.[226]

FL Com argues that, in relying on sections 205 and 206 to establish generic open access transmission tariffs for *all* public utilities, the Commission violates the court's decision in *Cajun Electric Power Cooperative* v. *FERC*, 28 F.3d 173 at 179 (D.C. Cir. 1994), where, FL Com argues, the court refused to allow the Commission to use a non-evidentiary ruling when there were material facts at issue.

Reply Comments

CCEM responds that EEI and others confuse the obligations of a common carrier with the duty of public utilities not to unduly discriminate. It says that *AGD* supports the Commission's authority because the legislative history of the FPA and the NGA are similar with respect to common carriage. According to CCEM, early versions of both statutes would have made the regulated industries operate as common carriers (citing *Otter Tail*, the legislative history of the FPA, the legislative history of the Public Utility Holding Company Act, and the legislative history of the Mineral Leasing Act), but that Congress chose not to impose the common carrier obligations.

CCEM also says that the duties the Commission imposed on the gas industry and those in the NOPR are not common carriage in any event. According to CCEM, a common carrier must carry all goods offered (citing *Am. Trucking Assoc.* v. *Atchison, T. & S.F. Ry. Co.*, 387 U.S. 397, 406 (1967)). Finally, CCEM cites *Stephenson* v. *Binford*, 287 U.S. 251, 265–66 (1932), where the Supreme Court held that obligations that are typical of common carriers can be imposed on contract motor carriers.

CCEM further disagrees with EEI's argument that the enactment of section 211 was a disavowal of any other Commission authority to order transmission.

ELCON also disagrees with EEI's claim that the Energy Policy Act undermines the Commission's pre-existing section 205 and 206 authority. It states that the savings clause in section 212(e) of the FPA, as amended, explicitly expresses Congress' intention not to undermine the Commission's pre-existing authority and that the legislative history contains nothing to suggest otherwise.

Similarly, in response to those who argue that section 211 is the only source of authority for the Commission to order transmission, NIEP argues that sections 211 and 212 serve purposes different from section 206. It says that the Commission's authority to order transmission in the "public interest" under sections 211 and 212 is not synonymous with its authority to order transmission as a remedy for undue discrimination under section 206; the two standards are complementary but distinct:

> Although broadly applicable, the Commission's ability to order wheeling under sections 211 and 212 is carefully limited by a number of procedural provisions. Foremost among these is the requirement that the wheeling may be ordered only upon a specific application for transmission services. FERC's authority to act in the public interest is thus confined to the individual case.
>
> By contrast, FERC's remedial powers under Section 206 can be exercised upon a finding of unjust, unreasonable or unduly discriminatory or preferential practices. Once that finding has been made, however, the form and substance of the remedy is left entirely to the FERC's discretion. If FERC deems it necessary, FERC may adopt generally applicable rules or practices as a countermeasure to discriminatory acts, including ordering utilities to file generally applicable transmission tariffs.[227]

NIEP also points out that the legislative history does not address the Commission's authority to order transmission as a remedy for undue discrimination. It challenges the

[222] NIEP, ELCON, CINergy, UtiliCorp, TAPS, SBA, Entergy, NY Energy Buyers, Sierra.

[223] *E.g.*, EEI, Atlantic City, Allegheny, VA Com, PA Com, Ohio Edison, Southern, Utilities For Improved Transition, Dayton P&L, SCE&G, Centerior, BG&E, Central Hudson, NY Com, Salt River, Carolina P&L, Union Electric, VEPCO, Utility Workers Union.

[224] EEI, VA Com, Union Electric.

[225] *E.g.*, EEI, VA Com, NY Com, PA Com, Salt River, Southern, Dayton P&L, Detroit Edison, BG&E.

[226] *See also* NY Com (NGA has no parallel provision to section 211 of the FPA), Salt River.

[227] NIEP Reply Comments at 8.

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interpretation of the legislative history advanced by some commenters.[228]

Next, NIEP defends the Commission's proposed findings that there is generally undue discrimination in the provision of transmission service. It notes that when an agency acts on an industry-wide basis, the agency does not have to make a finding as to each particular case.

Finally, NIEP responds to those who argue that *AGD* is not on point. It notes that the *AGD* court discussed electric cases and emphasizes the court's statement that the NGA "fairly bristles with concern for undue discrimination"—a statement that is equally true of the FPA.

TDU Systems responds to the argument that *Otter Tail* is a broad constraint on the Commission's authority to order transmission.[229] At issue in that case, it argues, was the reach of the Sherman Act, not of FPA sections 205 and 206. Similarly, it argues, the *Florida Power* case is not on point, and the court there specifically said that it was not deciding whether the Commission could have ordered wheeling as a remedy for anticompetitive activities. Moreover, TDU Systems asserts that EEI's use of a quote from a single Senator should carry no weight, since it is a well-established principle of statutory construction that such statements have little value. Finally, it points out that the *AGD* court itself did not view *Otter Tail* or other electric precedent as forbidding the Commission to order wheeling as a remedy for undue discrimination.

Entergy asserts that Congress's refusal to require utilities to provide transmission as common carriers or whenever it is in the public interest was merely a decision not to give the Commission general authority to order wheeling, without regard to undue discrimination. Thus, the *Otter Tail* language concerning the absence of a common carrier requirement does not demonstrate that Congress meant to limit the Commission's authority to remedy undue discrimination.

ELCON disputes EEI's reading of *NYSEG*, noting that the *NYSEG* court explicitly stated:

> Nor do we suggest that the Commission is powerless to review a wheeling agreement under section 206 without following the requirements of sections 211 and 212.[230]

TAPS discusses numerous cases, including the primary cases relied upon by the Commission, and disposes of *NYSEG* by stating that it is no longer good law, if it ever was.

Commission Conclusion

There can be no question that the Commission has the authority to remedy undue discrimination. Sections 205 and 206 of the FPA mandate that we ensure that, with respect to any transmission in interstate commerce or any sale of electric energy for resale in interstate commerce by a public utility, no person is subject to any undue prejudice or disadvantage. Under these sections, we must determine whether *any* rule, regulation, practice, or contract affecting rates for such transmission or sale for resale is unduly discriminatory or preferential, and we must disapprove those contracts and practices that do not meet this standard. Our discretion is at its zenith in fashioning remedies for undue discrimination.[231]

Some commenters, however, challenge our authority to order industry-wide non-discriminatory open access as a remedy for the undue discrimination we have found in the industry. As summarized above, they essentially assert that we are prohibited by court precedent, the legislative history of the FPA, and sections 211 and 212 of the FPA from ordering wheeling as a remedy for undue discrimination. We disagree and conclude that we have the authority—indeed, a responsibility—to require non-discriminatory open access transmission as a remedy for undue discrimination.

AGD and Legislative History

The court decision in *Associated Gas Distributors* v. *FERC* provides powerful support for our ability to order industry-wide non-discriminatory open access transmission in the electric industry as a remedy for undue discrimination. As discussed in detail above, *AGD*, which is the only decision to have addressed the Commission's authority to remedy undue discrimination by requiring open access, upheld our authority under section 5 of the NGA (the parallel to section 206 of the FPA) to require open access in the natural gas industry. The rationale supplied by the *AGD* court applies equally to the FPA and our responsibility to eliminate undue discrimination in the electric industry.

Those who challenge the Commission's legal authority to remedy undue discrimination face the same difficulty that parties faced in seeking to overturn open access in the natural gas industry—they "can point to no language in the (FPA) barring the Commission from imposing common carrier status on (public utilities), and certainly none barring it from imposing upon the (public utilities) a specific duty that happens to be a typical or even core component of such status."[232] Instead, as was unsuccessfully attempted in the *AGD* proceeding, they seek to overcome the statutory silence primarily by means of legislative history. However, as the *AGD* court explained, legislative history is not even relevant, because

> courts have no authority to enforce principles gleaned solely from legislative history that has no statutory reference point.[233]

Here, as the court found with respect to the NGA, the legislative history of the FPA "provides strong support only for the point that Congress declined *itself* to impose *common carrier status* on (public utilities) * * * It affords weak—almost invisible—support for the idea that the Commission could under no circumstances whatsoever impose obligations encompassing the core of a common carriage duty."[234]

Commenters focus on the following statement in the *AGD* decision to support the argument that, because Congress did not expressly reject common carriage under the NGA, but did reject it under the FPA, a different outcome in this proceeding is required:

> we note that the legislative history of the two acts is, on this point, materially different. In its deliberations on the bill that ultimately emerged as the Federal Power Act, Congress considered and rejected a provision that would have "empowered the Federal Power Commission to order wheeling if it found such action to be 'necessary or desirable in the public interest.'" (citing *Otter Tail*) (quoting S. 1725, 74th Cong., 1st Sess.). The evidence as to the NGA (surveyed above) is less direct: it consists exclusively of various occasions on which Congress did not adopt proposals actually making the natural gas pipelines into common carriers.[235]

[228] NIEP explains that

> (W)hile much has been made of the Senate report accompanying S.2114, which subsequently became part of PURPA in 1978, that report does not illustrate an intent to limit FERC's authority to remedy undue discrimination under section 206. That report characterizes the Supreme Court's decision in *Otter Tail* as holding that "the Federal Power Act leaves open a gap in its failure to assign the FPC general authority to order wheeling *in this situation* * * *." The "situation" to which the Report refers is not discrimination, however. Instead, the statement appears to make reference to circumstances in which general public interest concerns, such as reliability, efficiency and competition, are at stake. Thus, Senate Report 2114 is simply not a limitation on the Commission's remedial powers under Sections 206.

NIEP Reply Comments at 8–9 (citations omitted).

[229] See also Entergy.

[230] ELCON Initial Comments at 7 (quoting *NYSEG* at 403).

[231] *See, e.g.*, Niagara Mohawk Power Corporation v. *FPC*, 379 F.2d 153, 159 (D.C. Cir. 1967).

[232] *AGD*, 824 F.2d at 997.

[233] *Id.* (quoting *IBEW, Local No. 474* v. *NLRB*, 814 F.2d 697, 712 (D.C. Cir. 1987) (emphasis deleted by court from original)).

[234] *Id.* (emphasis added).

[235] *Id.* at 998–99.

The above statement, however, does not preclude the *AGD* court's decision on our broad authority to remedy undue discrimination in the gas industry from applying equally in the electric industry. Clearly, the court did not say that. As discussed below, we believe the statement focuses on a distinction in the legislative histories that is not meaningful.

First, whether or not a material difference exists in the respective legislative histories of the NGA and FPA, the fact remains that the crucial findings of the *AGD* court were that: (1) "Congress declined *itself* to impose *common carrier* status" (emphasis added) and (2) there is no "support for the idea that the Commission could under no circumstances whatsoever impose obligations encompassing the core of a common carriage duty."[236] These findings apply equally to the FPA. Simply stated, statutory silence cannot be overcome by means of legislative history—even if the legislative history in fact indicated that Congress "rejected" legislative imposition of common carrier status under the FPA, but "did not adopt" it under the NGA. In either event, nothing in the statute or legislative history suggests that Congress concluded that the Commission could under no circumstances impose open access as a remedy to undue discrimination.

Moreover, the legislative history of the bills containing the FPA and the NGA, taken as a whole, suggests that the distinction drawn in *AGD* between the legislative histories of the NGA and the FPA is not meaningful. The legislation that was to become the FPA originally included provisions regulating both electric power and natural gas. As originally proposed, the legislation contained *identical* common carriage language for both public utilities and natural gas pipelines.

With respect to the FPA, the Supreme Court explained in *Otter Tail* that

> (a)s originally conceived, Part II would have included a "common carrier" provision making it "the duty of every public utility to * * * transmit energy for any person upon reasonable request * * *." In addition, it would have empowered the Federal Power Commission to order wheeling if it found such action to be "necessary or desirable in the public interest." H.R. 5423, 74th Cong., 1st Sess.; S. 1725, 74th Cong. 1st Sess. These provisions were eliminated to preserve "the voluntary action of the utilities." S.Rep. No. 621, 74th Cong., 1st Sess., 19.[237]

The language paraphrased by the Supreme Court was from Title II of the initial bill proposing the Public Utility Holding Company Act. The entire sections from which the paraphrased language came are as follows:

> SEC. 202. (a) It shall be *the duty of every public utility to* furnish energy to, exchange energy with, and *transmit energy for any person upon reasonable request* therefor; and to furnish and maintain such services and facilities as shall promote the safety, comfort, and convenience of all its customers, employees, and the public, and shall be in all respects adequate, efficient, and reasonable.
> * * *
> SEC. 203. (b) Whenever the Commission after notice and opportunity for hearing finds such action *necessary or desirable in the public interest*, it may by order direct a public utility to make additions, extensions, repairs, or improvements to or changes in its facilities, to establish physical connection with the facilities of one or more other persons, to permit the use of its facilities by one or more other persons, or to utilize the facilities of, sell energy to, purchase energy from, transmit energy for, or exchange energy with, one or more other persons. Where any such order affects two or more persons, the Commission may prescribe the terms and conditions of the arrangement to be made between such persons, including the apportionment of cost between them and the compensation or reimbursement reasonably due to any of them.[238]

This initial bill proposing the Public Utility Holding Company Act also included a Title III that was intended to regulate the transmission and sale of natural gas. Sections 303(a) and 304 of Title III included the *identical* common carrier language paraphrased by the Supreme Court and included in sections 202(a) and 203(b) of Title II.[239] After further deliberations, Congress rejected the above-quoted language in Title II and eventually adopted a Title II that did not include any common carrier language. On the other hand, Title III (addressing regulation of natural gas) was not reported out of committee, but reemerged in the next year.[240] The bill that reemerged did not contain the common carrier language that was in the original Title III. However, as Congress had just debated the common carrier issue in enacting electric power regulation, it is not surprising that Congress did not engage in debating the very same issue in enacting natural gas regulation.

Because of the timing of the legislation involving the FPA and the NGA and the logical nexus between the two acts, we conclude that there is in fact no material difference as to this issue in the legislative histories of the two acts. Both initially included identical common carrier language, and the language was removed from both. As to both acts, Congress chose not to impose common carrier obligations on the electric or natural gas industries, but gave the Commission the authority and responsibility to eliminate undue discrimination in both industries. Consequently, as open access was found to be a proper remedy for undue discrimination in the natural gas industry, it is also a proper remedy for undue discrimination in the electric industry.

As the *AGD* court noted with respect to the Commission's powers and duties under the NGA, Congress explicitly gave the Commission the authority to eradicate undue discrimination under the FPA. That explicit power and duty provided by Congress cannot be invalidated solely on the ground that Congress chose not to impose statutory common carrier status on public utilities or did not explicitly authorize the Commission to do so.[241] As the *AGD* court explained, this would "turn [] statutory construction upside down, letting the failure to grant a general power prevail over the affirmative grant of a specific one."[242]

Other Case Law

A number of commenters argue that the Commission misinterpreted the other cases discussed in the NOPR with respect to our authority to order non-discriminatory open access transmission. We disagree. As demonstrated above, not one of the cases put forth by commenters holds that we cannot remedy undue discrimination by requiring public

[236] *Id.* at 997. We also note that the contract carriage obligation we are imposing is easily distinguished from the common carrier obligation Congress chose not to adopt. As discussed *infra*, the common carrier provisions rejected by Congress would have required transmission for "any person" upon reasonable request. This would have included retail purchasers.

[237] *Otter Tail*, 410 U.S. at 374.

[238] H.R. 5423, 74th Cong., 1st Sess., 32 (emphasis added).

[239] *Id.* at 44.

[240] In the debate on the subsequent bill to regulate natural gas, Congressman Cole explained:

> Mr. Chairman, the House should realize that the measure we are dealing with today is of extreme importance, more so than the attendance and the time taken in the discussion would seem to indicate. It is the culmination of one of the most far-reaching, intensive studies of the Federal Trade Commission I assume that that Commission ever conducted, and last year found a place in not identical language but very similar in the Rayburn bill, the famous holding-company bill, as part 3 thereof. Our committee eliminated part 3, as members will recall, and saved it for a separate measure reported out as it was last year, which was not considered by the House, but is here today in improved form.

81 Cong. Rec. H6724 (daily ed. July 1, 1937).

[241] *AGD*, 824 F.2d at 998.

[242] *Id.*

utilities to provide non-discriminatory open access transmission.[243]

AGD is the *only* case in which a court specifically addressed our authority to order open access transmission as a remedy for undue discrimination. Its favorable finding with respect to our action under section 5 of the NGA directly supports our ordering non-discriminatory open access transmission under section 206 of the FPA.

Authority to Act by Rule

We disagree with those commenters that assert that we may find and remedy undue discrimination only through case-by-case adjudications and are prohibited from making a generic determination of undue discrimination through a rulemaking. First, there is no question that it is within our discretion whether we act through rule or through case-by-case adjudications.[244] The *AGD* court specifically rejected a similar argument that the Commission erred in requiring open access transportation tariffs without first finding that each individual pipeline's rates were unlawful. The *AGD* court held that "(t)he Commission is not required to make individual findings if it exercises its § 5 authority by means of a generic rule."[245]

We have identified a fundamental generic problem in the electric industry: owners, controllers and operators of monopoly transmission facilities that also own power generation facilities have the incentive to engage, and have engaged, in unduly discriminatory practices in the provision of transmission services by denying to third parties transmission services that are comparable to the transmission services that they are providing, or are capable of providing, for their own power sales and purchases. These practices drive up the price of electricity and hurt consumers. Furthermore, the incentive to engage in such practices is increasing significantly as competitive pressures grow in the industry. It is within our discretion to conclude that a generic rulemaking, not case-by-case adjudications, is the most efficient approach to take to resolve the industry-wide problem facing us.

b. Undue Discrimination/ Anticompetitive Effects

Initial Comments

A number of commenters allege that the Commission has failed to meet its burden of proving industry-wide discrimination.[246] They assert that the Commission has provided only a few unsubstantiated allegations of discrimination, which do not represent the current conditions in the electric industry, or that the Commission has not shown that all electric utilities have unduly discriminated. Some attack the NOPR's incorporation by reference of the unsubstantiated allegations of discrimination set forth in a petition for rulemaking filed on February 16, 1995 by the Coalition for a Competitive Electric Market (CCEM).[247]

EEI argues that the allegations of discrimination in the NOPR must be considered in light of the fact that: (1) All tariffs currently on file have been found by the Commission not to be discriminatory; (2) more than 30 utilities have voluntarily filed open access tariffs, which belies any assertion of widespread discrimination in the industry; and (3) transmission disputes are rare, with only 19 section 211 proceedings having been filed in the last three years.[248] EEI concludes that the Commission's allegations of discrimination do not rise to the level of "extreme circumstances" found by the court in the natural gas industry in *AGD*.

EEI adds that the Commission's proposal to act under section 206 is itself discriminatory because it applies only to public utilities and does not reach all transmission-owning utilities.[249] If reciprocity is designed to resolve this problem, EEI believes that reciprocity should also be "effective for public utilities." Furthermore, EEI argues that the failure of a public utility to provide to others a service that it does not provide itself is not evidence of discrimination, and that inclusion of such a provision actually results in preferential treatment for transmission users.

NE Public Power District alleges that the NOPR does not contain a single reference to any actual discrimination or anticompetitive conduct by any publicly owned utility.

Salt River asserts that the Commission is required to consider all elements of an antitrust analysis before reaching a conclusion that market power exists in the transmission system and that we have failed to do so.[250] It concludes that the NOPR "constitutes an attempt to legislate a remedy for an evil that has not been, and cannot be, lawfully found to exist on a wholesale basis among utilities that own and operate integrated generation and transmission systems."[251]

PA Com argues that the Commission's request for examples of discriminatory behavior is a "tacit admission as to the paucity of evidence of discriminatory practices by transmission owning utilities." NY Com argues that the "Commission's lack of a record basis for its proposed findings is legally suspect because courts in two cases have held that the Commission cannot proceed with open access transmission tariffs absent record findings of specific anticompetitive conduct."[252]

Finally, EEI claims that even if the Commission has proven its allegations of discrimination, we have failed to meet the requirements of section 206 of the FPA.[253] According to EEI, the Commission cannot find, without an adjudicatory hearing, that the rates on file are unlawful and order replacement rates.[254] The Commission's proposed procedure would unlawfully place the burden of justifying existing rates on the utilities.

Reply Comments

A number of commenters provide instances of discriminatory behavior they have faced over the years. NCMPA describes difficulties it has faced in dealing with CP&L, including a situation where CP&L allegedly impeded NCMPA's use of transmission access through CP&L's control of dispatching.[255]

AMP-Ohio alleges that Toledo Edison refused to transmit emergency power on a buy-sell basis to certain AMP-Ohio members even though Toledo Edison's system was not constrained. Instead, AMP-Ohio alleges, Toledo Edison bought the power and resold it to AMP-Ohio at a higher rate.

[243] See FERC Stats. & Regs. at 33,053–56. We further note that the *AGD* court did not discuss the *NYSEG* decision at all. Indeed, the *NYSEG* case did not involve any allegations of undue discrimination and any discussion of section 206 by the court was dictum.

[244] *See, e.g.*, NLRB v. Bell Aerospace Company, 416 U.S. 267, 293 (1974) (citing SEC v. Chenery Corporation, 332 U.S. 194, 202–03 (1947). *See also* Heckler v. Campbell, 461 U.S. 458, 467 (1983) (even where enabling statute requires a hearing to be held, agency may rely on its rulemaking authority); Panhandle Eastern Pipeline Company v. FERC, 907 F.2d 185, 187–88 (D.C. Cir. 1990). Under section 403 of the DOE Act, 42 U.S.C. 7173, the Commission is authorized at its discretion to initiate rulemaking proceedings.

[245] *AGD*, 824 F.2d at 1008.

[246] *E.g.*, EEI, Ohio Edison, PA Com, BG&E, NY Com, Minnesota P&L, Carolina P&L.

[247] *E.g.*, EEI, BG&E.

[248] *See also* Ohio Edison.

[249] *See also* SCE&G.

[250] Salt River Initial Comments at 5–6 (referencing an attached legal memorandum of Donald A. Kaplan).

[251] Salt River Initial Comments at 6.

[252] NY Com Initial Comments at 16–18 (discussing *FPL* and *Cajun*).

[253] *See also* Southern.

[254] *See also* Southern.

[255] We note that CP&L raised legal objections to our authority to implement this rule.

APPA challenges EEI's claim that there is no substantial evidence of undue discrimination in transmission. It suggests that nineteen instances of transmission disputes being filed since the Energy Policy Act was enacted is ample evidence of undue discrimination. Moreover, according to APPA, reported abuses are only the tip of the iceberg.

CCEM responds to the argument raised by EEI and others that there is no showing of extreme circumstances of discrimination in the electric industry such as the *AGD* court noted in the gas industry. It says that these circumstances are present and gives numerous examples; it does not identify the specific utilities because "it is the experience of * * * (our) members that nearly all transmission owners retaliate * * *" against anyone who complains. Moreover, in answer to EEI's statement that transmission disputes are rare, CCEM states that since most of the competition is in the short-term market, it has not been worthwhile to file complaints. The examples provided by CCEM include: (1) Refusal by a California public utility to offer firm service; (2) refusal by control area utilities in Texas to offer ancillary services to a power marketer, with the result that one of the utilities won the bid, even though it did not have the lowest price; (3) non-utilities in ERCOT being unable to compete to meet short-term requests for economy energy because they were required to schedule by noon of the preceding day, while utilities did not subject themselves to such a scheduling requirement; (4) power pool or control area information requirements, particularly in the northwest part of WSPP, that force non-utilities to reveal commercially sensitive information; the transportation operator has then revealed the information to its own or its affiliate's sales arm, which "steals" the deal; (5) a northeast power pool that refused to wheel out even though capacity was available on the grounds that sending power out of the pool would drive up prices in the pool (hoarding); (6) a power marketer that asked a utility to provide transmission, whereupon the utility bought up certain transmission capacity necessary for the marketer to reach its buyer, thus blocking the path—this was possible because the utility was able to locate the purchaser based on commercially sensitive information the marketer had to give the utility when the marketer asked for transmission; (7) a common contracting practice among utilities restricting the use of interconnections to themselves, particularly in the Southwest Power Pool, MAPP, and MAIN; (8) utilities overstating the cost of improvements (gold-plating) and thus discouraging service. CCEM also responds to each of EEI's criticisms of CCEM's examples of undue discrimination submitted in its February 16, 1995 petition and argues that its examples of undue discrimination are unrebutted.

Brownsville asserts that

> while PUB [Brownsville] must pay multiple distance-based and pancaked transmission rates to engage in transactions with the non-ERCOT universe, El Paso Electric would have *received* transmission payments from its merger partners while gaining *free* transmission access to buy and sell within ERCOT. CSW presently walls other ERCOT utilities off from participation in the Western Systems Power Pool, while its ERCOT subsidiaries, CPL and WTU, share in the benefits of their non-ERCOT affiliates' WSPP memberships via the preferential terms of the CSW Operating Agreement. CSW treats its own inter-affiliate central dispatch as having a higher priority than third-party economy energy transactions, with the result that CPL not infrequently crowds PUB out of the economy market.[256]

Wisconsin Municipals states that its members have been fighting transmission battles for years and sets forth five examples of the sort of difficulties it has experienced in attempting to obtain transmission rights. For example, it explains that Wisconsin public utilities have resisted an effort by the state commission to achieve comparability of use of transmission. Wisconsin Municipals also explains a situation where "if WPPI continued to purchase its power from WPSC, it would pay WPSC $843,840 annually for transmission service: if it purchases power off system from WP&L (one of WPSC's competitors), WPPI would pay WPSC $1,774,224 for transmission service to the exact same load."

TAPS sets forth additional examples of undue discrimination, including refusals to wheel even in the face of Nuclear Regulatory Commission (NRC) nuclear license conditions requiring wheeling, and Northeast Utilities' refusal to provide transmission to a QF even though it had indicated to the Commission that it would provide such transmission in order to obtain Commission approval of its proposed merger with Public Service Company of New Hampshire.

NIEP sets forth ten examples of undue discrimination that its members have experienced in seeking access to transmission service at reasonable terms and conditions.

Some commenters challenge these claims of undue discrimination. For example, Carolina P&L responds to NCMPA #1's example of obstruction by Duke in accommodating energy sales from the jointly owned Catawba Plant. Carolina P&L explains that NCMPA #1's proposal "would require Duke to provide its own generation resources on behalf of NCMPA #1 in order to support a bulk power sale when NCMPA #1's own resource capacity and energy are not sufficient for the sale." Carolina P&L argues that this is backstanding that goes beyond the scope of any ancillary service the Commission has proposed and would be entirely inappropriate "to compel the Transmission Provider to sell power to its Transmission Customer for resale on the bulk power market."

Duke also responds to NCMPA #1's claim of discrimination and asserts that NCMPA #1's claim is not relevant to the NOPR proceeding, but is a specific contractual claim that should be pursued pursuant to the terms of its contract.

Commission Conclusion

We conclude that unduly discriminatory and anticompetitive practices exist today in the electric industry and, more importantly, that such practices will increase as competitive pressures continue to grow in the industry, unless the Commission acts now to prevent such practices.[257] It is in the economic self-interest of transmission monopolists, particularly those with high-cost generation assets, to deny transmission or to offer transmission on a basis that is inferior to that which they provide themselves. The inherent characteristics of monopolists make it inevitable that they will act in their own self-interest to the detriment of others by refusing transmission and/or providing inferior transmission to competitors in the bulk power markets to favor their own generation, and it is our duty to eradicate unduly discriminatory practices. As the *AGD* court stated: "Agencies do not need to conduct experiments in order to rely on the prediction that an unsupported stone will fall."[258]

We set forth examples in the NOPR of undue discrimination that we believe are occurring in the electric industry and invited commenters to identify any discrimination that they may have experienced. In response, commenters

[256] Brownsville Reply Comments at 2–3 (emphasis in original).

[257] While many public utilities have filed some form of open access tariff (often in response to our proposed rule), we believe that many of the remaining utilities will not voluntarily open their systems absent a final rule. *See also* note 286.

[258] *AGD*, 824 F.2d at 1008.

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presented numerous additional examples of undue discrimination, which are summarized above, and we set forth below further examples of undue discrimination that have been raised in cases before the Commission.

Many of the examples of discriminatory behavior that have been brought to our attention do not name the specific utilities involved, and many are allegations that are not proven. However, we do not believe that this undermines our finding of unduly discriminatory practices by transmission owners and controllers. We believe that it is only natural that potential transmission customers with an interest in participating in electric markets will be reluctant to name names for fear of being shut out of those markets. CCEM, which identified a wide array of discriminatory behavior its members have experienced, explained that

> (w)e do not identify the specific utilities in each example because it is the experience of CCEM members that nearly all transmission owners retaliate by cutting off all communications with anyone that challenges or complains about the rates, terms or conditions at which the owner offers access to its system. Inasmuch as most of the competitive commerce in electric power today is in short-term markets, it is typically not worth the effort of CCEM members or other transmission-dependent entities to file a complaint with the Commission's enforcement staff or in the courts in connection with a transmission owner's discriminatory practices. The deal is lost well before a complaint can be processed and ruled upon.[259]

Other examples of discriminatory behavior have also been raised in proceedings before the Commission. As we explained in detail in the NOPR, transmission-owning utilities have discriminated against others seeking transmission access in a variety of ways, most often subtly and indirectly.[260] For example, delaying tactics have been used to frustrate access. The history of Pacific Gas and Electric Company's (PG&E) attempt to avoid its commitments made to the California owners of the California-Oregon Transmission Project (COTP) is a prime example. The owners had originally planned the COTP to have its southern terminus at the Midway station with Southern California Edison. PG&E convinced them to terminate the project instead at PG&E's Tesla station and indicated that PG&E would provide transmission service the rest of the way south to Midway. PG&E promised this service in 1989 (in Principles). PG&E spent the next four years filing substitute provisions for what it had promised in the Principles.[261] Additional allegations of discriminatory behavior are set forth in Appendix C, which includes allegations made under oath in proceedings at the Commission and allegations made in pleadings and other documents before the Commission.

In addition, to date, the Commission has received 28 section 211 transmission requests.[262] Applicants submit section 211 transmission requests when the transmission provider refuses to provide the requested transmission service. For example, American Municipal Power-Ohio, Inc. (AMP-Ohio) requested Ohio Edison Company (Ohio Edison) to establish additional delivery points to certain of AMP-Ohio's members and to permit the addition of delivery points in the future upon AMP-Ohio's request. Ohio Edison refused AMP-Ohio's request, claiming that it was not a proper request under section 211 because it already provided wholesale transmission to the municipal utilities at issue. In a proposed order, the Commission disagreed with Ohio Edison and ordered Ohio Edison to provide the requested additional delivery points and to entertain future requests by AMP-Ohio for specific delivery points.[263]

Many of the examples of discriminatory actions we are seeing in the electric industry are similar to those we saw in the gas industry. Given our experience, we find that these examples of discriminatory actions are credible and well-founded. Thus, we conclude that there is more than sufficient reason to believe that transmission monopolists currently engage in unduly discriminatory practices, and that they will continue to engage in unduly discriminatory practices, unless we fashion a remedy to eliminate their ability and incentive to do so. In light of the competitive changes occurring in today's electric industry, we believe that the only effective remedy is non-discriminatory open access transmission, including functional unbundling and OASIS requirements, and that it is within our statutory authority to order that remedy.

Further, we disagree with the argument that we are limited to applying a traditional antitrust analysis in determining whether market power exists in the transmission system. While we must take antitrust concerns into consideration in exercising our responsibilities under the FPA, we are not an antitrust court, and our responsibilities are not those of the Department of Justice.[264] We have analyzed the incentives and practices of monopoly transmission owners and controllers in light of the statutory standards and directives of the FPA and, based on our findings, have properly concluded that there is a generic problem that must be remedied.

The Commission also recognizes, as some commenters suggest, that we have, in the past, permitted utilities to file tariffs containing restrictions on transmission service that we are now finding to be unduly discriminatory in this rule and that we found unduly discriminatory in cases since our decision in *AEP*. However, it is entirely appropriate, and indeed necessary, that our application of the FPA's undue discrimination standard evolve over time and adapt to the changing circumstances in the industry. Our prior willingness to tolerate the use of monopoly power over transmission to maintain and aggregate the utility's market power over generation occurred in the context of an industry structured largely as vertically integrated regulated monopolies that supplied all facets of utility service—power supply, transmission, and distribution—as a single monopoly service. Competition generally was not meaningfully available as a means to discipline prices and consumer interests were best served by improving efficiencies of the integrated utilities, subject to cost-based regulation.

Today, the circumstances of the industry are radically different. As explained in detail in Section III, a series of significant economic, regulatory, and technical changes in the power industry has introduced the promise of competitively priced power supplies. The profile of electric power suppliers has expanded to include not just the power supply arms of traditional utilities, but also independent power suppliers, affiliated utility power suppliers selling into territories of other franchise utilities,

[259] CCEM Initial Comments at 18–19. *See also* NIEP Reply Comments at 13 n.31.

[260] FERC Stats. & Regs. at 33,072.

[261] *See* Pacific Gas and Electric Company, 65 FERC ¶ 61,312 at 62,428–30 and n.22, *remanded on other grounds*, Pacific Gas & Electric Company v. FERC, No. 94–70037 (9th Cir. June 23, 1994)(unpublished opinion), *order on remand*, 69 FERC 61,006 (1994).

[262] A list of section 211 applications and the status of each is attached as Appendix A.

[263] American Municipal Power-Ohio, Inc. v. Ohio Edison Company, 74 FERC ¶ 61,086 (1996).

[264] *See, e.g.*, Gulf States Utilities Company v. FPC, 411 U.S. 747, 758–60 (1973); FPC v. Conway Corporation, 426 U.S. 271, 279 (1976); Northern Natural Gas Company v. FPC, 399 F.2d 953, 960 (D.C. Cir. 1968).

and power marketers.[265] This offers the promise of an increasingly competitive commodity market in electric power, in which significant benefits to consumers can be achieved. In the context of an emerging competitive market in generation, discriminatory practices that once did not constitute *undue* discrimination must be reviewed to determine whether they are being used to prevent the benefits of competition in generation from being achieved. Here we find conclusively that they are, and use our remedial authority to ensure that they can no longer occur.[266]

c. Section 211

Comments

Various commenters contend that the enactment of section 211 in essence either removed any authority the Commission might have had under sections 205 and 206 or demonstrates that Congress did not believe the Commission could order wheeling under those provisions.

These commenters assert that the legislative history of the FPA indicates that Congress specifically rejected giving the Commission authority to order wheeling under any circumstances.[267] They further contend that the legislative history of section 211 demonstrates that Congress viewed the authority it granted in section 211 as a strictly limited and entirely new authority for the Commission.[268] Specifically, EEI states that the legislative history of the Energy Policy Act confirms that the expanded authority provided under section 211 was not intended to grant the Commission blanket authority to order wheeling, even as a remedy for anticompetitive conduct. Similarly, Utilities For Improved Transition argues that the legislative history shows that Congress specifically intended to preclude the Commission from ordering tariffs of general applicability under any circumstances. In addition, EEI points to testimony provided by a Commission staff witness before the Subcommittee on Energy and Power of the House Committee on Energy and Commerce in which EEI claims that "she suggested that an affirmative statement that the Commission had the power to require wheeling on its own motion should be included, possibly in section 211." EEI maintains that such suggestion was rejected by Congress in favor of allowing the Commission to order wheeling only upon application.

Detroit Edison, asserting that *Cajun* stands for the proposition that the agency must follow Congressionally mandated procedures, claims that the Commission can order transmission only after going through the procedures of section 211. Detroit Edison also argues that the Commission should incorporate into the final rule the various safeguards of section 211, such as the requirement that the utility receive prior notice, the requirement that transmission service be in the public interest, and the requirement that existing service not be displaced. FL Com further asserts that it was Congressional intent in the Energy Policy Act for wheeling to be ordered on a case-by-case basis pursuant to section 211.[269]

EEI argues that the enactment of section 211 eliminated any authority the Commission had under sections 205 and 206 to order wheeling as a remedy for undue discrimination. It alleges that the Commission failed to discuss the *NYSEG* case concerning the relationship between section 211 and sections 205 and 206 in any meaningful way. According to EEI, the *NYSEG* court concluded that section 211 "was the only appropriate vehicle under which the Commission could order NYSEG to wheel power for the municipality."[270] EEI further resorts to canons of statutory construction to conclude that "section 211 must be given effect as the more specific provision and must be interpreted to limit the scope of sections 205 and 206."[271] In addition, EEI asserts that "Congress had an opportunity to reject the *NYSEG* court's interpretation of the scope of sections 205, 206 and 211, but instead amended section 211 in a manner that is consistent with the view that mandatory wheeling is to be governed exclusively by section 211." Dayton P&L raises similar arguments. It notes the savings provision in section 212(e), but says that Congress "would have been more specific if it understood that the Commission already had the authority to order wheeling under FPA sections 205 and 206. * * *"[272]

Associated EC argues that the NOPR appears to exceed the Commission's authority in that it proposes that "wholesale *buyers* and sellers have 'equal access to the transmission grid.'" It asserts that "Section 211(a), however, makes mandatory transmission service available only to '[a]ny electric utility, Federal power marketing agency or any other person generating electric energy for sale for resale.'"[273]

NE Public Power District argues that sections 211 and 212 of the FPA appear clearly to contemplate a case-by-case approach.[274] NE Public Power District adds that if the Commission believes sections 211 and 212 are inconsistent with the public interest, it can ask Congress to modify those provisions. Allegheny adds that the Commission can order wheeling only under sections 211 and 212 on a company-specific basis and can use sections 205 and 206 only to evaluate the reasonableness of terms and conditions of voluntarily filed agreements or tariffs by public utilities.

Utilities For Improved Transition also claims that sections 211 and 212 override any authority the Commission might have had under sections 205 and

[265] We note that there are now 14 power marketers that are affiliated with public utilities.

[266] We take note of EEI's comments that, at the time of the comments, 30 utilities had filed open access tariffs. They argue, therefore, that the rule is unnecessary. Since their comment was filed, the number of utilities filing some form of an open access tariff has risen to 106. However, while some of these tariffs are based on the NOPR pro forma tariffs, many of these tariffs fall significantly short of the tariff requirements of both the NOPR and this Rule. Even if the tariffs met these requirements, the Rule is still needed to complete the task of eliminating undue discrimination by all public utilities and assuring, to the extent possible, a nationwide open access transmission grid. Indeed, a number of these tariffs were filed for the purposes of securing authority to market power *competitively*. This underscores markedly our fundamental conclusion that prior practices of using monopoly power over transmission to preserve market power over electricity sales has no place in today's industry and must be eliminated to get the benefits of competition to the customers we are required to protect under the FPA.

[267] *E.g.*, EEI, VA Com, Ohio Edison Southern, Utilities For Improved Transition, BG&E.

[268] *See also* NM Com.

[269] *See also* Salt River. Moreover, FL Com states that the Commission should modify its hearing process to better accommodate state PUC participation by: (1) Holding hearings in the affected state; (2) teleconferencing; (3) making free transcripts available to states; and (4) substantially deferring to a state when the state commission has held a hearing on an issue in the case.

[270] EEI quoted the following language from *NYSEG*:

> Nor do we suggest that the Commission is powerless to review a wheeling agreement under section 206 without following the requirements of sections 211 and 212. If, after a hearing as required by section 206, the Commission determines that a particular rate, charge or condition is unreasonable, it can order a modification. But where, as here, the modification amounts to an order requiring wheeling, it must be preceded also by determination in accordance with sections 211 and 212. Simply put, we will not allow the Commission to do indirectly without compliance with the statutory prerequisites, what it could not do directly without such compliance. (citing *Richmond Power & Light*).

[271] *See also* VA Com.

[272] *See also* Carolina P&L.

[273] This argument is puzzling. First, section 211 does not control to whom access must be provided under sections 205 and 206. However, even if it did, Associated EC appears to misconstrue eligibility under section 211. An electric utility as defined in the FPA is any person or State agency (including any municipality) which sells electric energy. The definition does not say that electric energy must be re-sold at wholesale. Thus, an electric utility could be a wholesale *buyer* of transmission used to transmit energy for sale at either wholesale or retail.

[274] *See also* Allegheny.

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206 to order industry-wide open access. It cites the savings clause in section 212(e) of the FPA as limiting the Commission's authority to order transmission.[275] Utilities For Improved Transition argues at some length that the NOPR does not meet the procedural and substantive standards of sections 211 and 212. It goes on to cite various passages from the legislative history of the Energy Policy Act as supporting the view that Congress intended to eliminate the Commission's authority to order industry-wide open access as a remedy for undue discrimination. According to Utilities For Improved Transition, these passages "unmistakably show a clear legislative intent to preclude the mandatory transmission that the Commission attempts here * * *."

Commission Conclusion

We disagree with those commenters that argue that the Energy Policy Act either eliminates our authority under section 206 to remedy undue discrimination by requiring non-discriminatory open access transmission or demonstrates that we never had any such authority. Nothing in sections 211 and 212 or in the legislative history of these sections indicates that Congress intended to eliminate the Commission's other, broader authorities under the FPA. Indeed, section 212(e) specifically provides:

SAVINGS PROVISIONS.—(1) No provision of section 210, 211, 214, or this section shall be treated as requiring any person to utilize the authority of any such section in lieu of any other authority of law. Except as provided in section 210, 211, 214, or this section, *such sections shall not be construed as limiting or impairing any authority of the Commission under any other provision of law.*[276]

Utilities For Improved Transition's argument that the "Except as provided" clause limits or impairs the Commission's authority to order transmission service under sections 205 and 206 would make the savings provision meaningless. Moreover, such a reading would be entirely at odds with the underlying purposes of the Energy Policy Act. It would be ironic indeed to interpret the Energy Policy Act as eliminating our long-standing, broad authority to remedy undue discrimination, given the pro-competitive purpose of the statute.

The legislative history also provides no support for the arguments that sections 211 and 212 remove or prove the non-existence of the Commission's authority to remedy undue discrimination by requiring non-discriminatory open access transmission. In fact, virtually every bit of legislative history raised by commenters opposing the NOPR consists of various statements by Senator Wallop, an opponent of expanding transmission access under sections 211 and 212.[277] Such legislative history provides no insight into the meaning of a statute and is given little or no weight by the courts.[278]

The only other legislative history that commenters put forth is the testimony of a Commission staff witness, in 1992 hearings before the Subcommittee on Energy and Power of the House Committee on Energy and Commerce. According to EEI, the witness indicated that an affirmative statement that the Commission could require wheeling on its own motion "would be needed [in the Energy Policy Act] if Congress intends for the Commission to be able to deal with transmission on its own motion and thereby go further than simply dealing with industry proposals." EEI claims that this statement demonstrates that the expanded authority in the Energy Policy Act "was not intended to grant the Commission blanket authority to order wheeling, even as a remedy for anticompetitive conduct."

EEI's argument is misleading and disingenuous. It takes the witness's statements out of context, ignoring attendant testimony that "there are strong legal arguments that the Commission's obligation to protect against undue discrimination carries with it the authority to impose transmission requirements as a remedy for undue preference or discrimination," and the extensive legal argument, included in her testimony, in favor of that position—an argument that closely parallels the legal argument the Commission is relying on in this proceeding.[279] Indeed, in the face of such explicit testimony from the staff of the agency required to implement the statute, had Congress intended to limit the Commission's remedial authority under section 206 when it amended section 211, we believe it would have explicitly done so in the language of the statute itself, or at least have indicated its intent to do so in the Conference Report on the Energy Policy Act.[280]

C. Comparability

1. Eligibility to Receive Non-Discriminatory Open Access Transmission

In the NOPR, the Commission proposed to define who is eligible to receive service under a non-discriminatory open access tariff as follows:

A non-discriminatory open-access tariff must be available to any entity that can request transmission services under section 211.[281]

The Commission further explained that "[u]nder section 211, any electric utility, Federal power marketing agency, or any other person generating electric energy for sale for resale may request transmission services under section 211."[282]

[275] It states that

Section 212(e), however, provides that Sections 211 and 212 limit or impair the Commission's authority under "other provisions of law" (a phrase including, obviously, Sections 205 and 206). On the face of the statute—we say again for emphasis: *on the face of the statute*—the Commission therefore does not have the authority to order transmission service outside the provisions of Sections 211 and 212.

Utilities For Improved Transition Initial Comments at 51 (emphasis in original).

[276] 16 U.S.C 824k (emphasis added).

[277] In discussing the electricity provisions of the Energy Policy Act, Senator Wallop declared:

It would be a mistake to take the presence of transmission access provisions in the Conference Report as a sign of change in position on my part or that of the Senate. I would have strongly preferred PUHCA reform without any transmission access provisions, as was the Senate position. However, in order to obtain the very significant benefits of PUHCA reform contained in the Senate bill, it was necessary to accept some of the House transmission access provisions.

138 Cong. Rec. S17615 (daily ed. October 8, 1992).

[278] *See, e.g.*, Shell Oil Company v. Iowa Department of Revenue, 488 U.S. 19, 29 (1988) (*Shell*). In *Shell*, the Court declared:

This Court does not usually accord much weight to the statements of a bill's opponents. "[T]he fears and doubts of the opposition are no authoritative guide to the construction of legislation." *Gulf Offshore Co.* v. *Mobil Oil Corp.*, 453 U.S. 473, 483 (1981) (quoting *Schwegmann Bros.* v. *Calvert Distillers Corp.*, 341 U.S. 384, 394 (1951).

See also Sutherland Statutory Construction § 48.16 at 366.

[279] Hearings on H.R. 1301, H.R. 1543, and H.R. 2224 before the Subcommittee on Energy and Power of the House Committee on Energy and Commerce, 102d Cong., 1st Sess. (May 1, 2 and June 26, 1991). Statement of Cynthia A. Marlette, Associate General Counsel, Federal Energy Regulatory Commission, Report No. 102–60 at 60 and 61–70. *See also id.* at 106 ("I believe that we have substantial authority under the existing case law to mandate access where necessary to remedy anticompetitive effects.").

[280] At the time Congress enacted amendments to FPA section 211, it was well aware that the Commission had unexplored authorities under sections 205 and 206 of the FPA to compel wheeling. The only explicit limitations it chose to impose on the Commission's wheeling authorities were those contained in sections 212(g) and (h), which provide that no order "under this Act" may be inconsistent with any State law governing retail marketing areas of electric utilities (section 212(g)), or be conditioned upon or require the transmission of electric energy directly to an ultimate consumer (section 212(h)).

[281] FERC Stats. & Regs. ¶ 32,514 at 33,083 (footnote omitted).

[282] *Id.* at 33,083 n.195.

Comments

PSNM believes that the NOPR properly defined customer eligibility. NIEP, on the other hand, believes that the proposed definition is too limited. It argues that the Commission should require public utilities to make transmission service available to all entities engaged in wholesale purchases or sales of power, not just to those "generating" power. Utility Working Group requests that the Commission clarify that eligibility is dependent not only on being the type of entity set forth in section 211, but on meeting the requirements of section 212(h) (Prohibition on Mandatory Retail Wheeling and Sham Wholesale Transactions) as well.[283]

We also received several comments related to the applicability of the rule to foreign entities. Canada states that the requirements for comparability and reciprocity should be implemented in a flexible manner to permit Canadian utilities to have fair and competitive access in the U.S. electricity market. Maritime requests that the Commission require Canadian utilities who wish to participate in the U.S. market to offer other utilities the same privileges they receive in the United States. Southwestern argues that transmission *to* a foreign country is in interstate commerce and that a utility should therefore accommodate this type of transmission request under its open access tariff. El Paso argues that the Commission does not have the authority to condition access to foreign countries, but states that if the Commission nevertheless exercises such authority it should do so on a case-by-case basis. Destec asserts that

the posturing of Ontario Hydro before U.S. regulators pleading for open access and non-discriminatory transmission treatment—even for extra-territorial entities, should be met with a strong reply that such provisions should also be afforded transmission dependent entities on the Canadian side of the border. Ontario Hydro's aggressive pursuit of U.S. market opportunities while simultaneously blocking competitors through the control of their transmission assets can not be ignored.

Commission Conclusion

In the Final Rule pro forma tariff the Commission has modified the definition of "eligible customer" to address concerns that in some respects the NOPR definition was too limited and in other respects it was too broad. This includes amended language to clarify that any entity engaged in wholesale purchases or sales of energy, not just those "generating" electric power, is eligible. It also includes clarification that entities that would violate section 212(h) of the FPA (prohibition on Commission-mandated wheeling directly to an ultimate consumer and sham wholesale transactions) are not eligible. The language also has been modified to provide that foreign entities that otherwise meet the eligibility criteria may obtain transmission services. Further, it has been modified to provide for service to retail customers in circumstances that do not violate FPA section 212(h).[284]

Persons that would be eligible section 211 applicants also would be eligible under the open access tariffs. Section 211 applicants may be any electric utility, Federal power marketing agency, or any other person generating electric energy for sale for resale.

Section 3(22) of the FPA, as amended by the Energy Policy Act, defines "electric utility" to mean

any person or State agency (including any municipality) which sells electric energy; such term includes the Tennessee Valley Authority, but does not include any Federal power marketing agency.

Thus, as we have previously noted, municipal utilities are electric utilities simply by the terms of the statute.[285] In addition, we have also found that cooperatives and marketers are electric utilities as defined in the FPA.[286] Other entities that fall within the definition include IOUs, IPPs, APPs, and QFs that sell electric energy.

We do not believe that entities that engage solely in brokering should be eligible. Such brokers do not take title to electricity and therefore do not engage in the sale of electric energy; nor do they generate electric energy for sale for resale.[287] Although such brokers are not eligible under the tariffs, they will be able to arrange deals because they will have access to the OASIS of all public utilities and will be able to solicit information from the relevant transmission service providers under the terms of the applicable tariffs.

We clarify that foreign entities that otherwise meet the eligibility criteria must be eligible to receive service under the non-discriminatory open access transmission tariffs.[288] We are making this determination pursuant to our authority under section 206 of the FPA to remedy undue discrimination. As we explained in the NOPR, market power through the control of transmission can be used discriminatorily to block competition. Customers in the United States should not be denied access to cheaper supplies of electric energy, whether such electric energy is from a domestic source or a foreign source. By making non-discriminatory access available to foreign entities that otherwise meet the eligibility criteria, we are assuring that customers in the United States have access to as many potential suppliers as possible. This should result in increased competition and lead to customers paying the lowest possible prices for their electric energy needs. To the extent that such an entity obtains access, however, we emphasize that it would be subject to all of the terms and conditions of the applicable open access tariff, including the *requirement* that it provide reciprocal service.

Finally, we have reconsidered our NOPR position that would have limited eligibility to wholesale transmission customers. As we explained in the NOPR, the Commission's jurisdiction extends to *all* unbundled transmission in interstate commerce by public utilities. It is irrelevant to the Commission's jurisdiction whether the customer receiving the unbundled transmission service in interstate commerce is a wholesale or retail customer. Thus, if a public utility voluntarily offers unbundled retail access in interstate commerce or a state retail access program results in unbundled retail access in interstate commerce by a public utility, the affected retail customer *must* obtain its unbundled transmission service under a non-discriminatory transmission tariff on file with the Commission. Though the Commission may approve a separate retail transmission tariff when some variation is necessary or appropriate to meet local concerns,[289] we generally see no reason why retail transmission tariffs necessarily must be different from wholesale transmission tariffs. For that reason, we anticipate that in many

[283] Section 212(h) (Prohibition on Mandatory Retail Wheeling and Sham Wholesale Transactions).

[284] We emphasize that *any* transmission customer must follow prudent utility practices so as to assure reliability.

[285] New Reporting Requirement Implementing Section 213(b) of the Federal Power Act and Supporting Expanded Regulatory Responsibility Under the Energy Policy Act of 1992, and conforming and Other Changes to Form No. FERC–714, Order No. 558–A, 65 FERC ¶ 61,324 at 62,451 n.12 (1993).

[286] Order No. 550, FERC Stats. & Regs. ¶ 30,980 at 30,895–96, *reh'g denied*, 65 FERC ¶ 61,324 (1993) (cooperatives are electric utilities); *AES Power, Inc.*, 69 FERC ¶ 61,345 at 62,297 (1995) (power marketer is an electric utility, *i.e.*, a person "which sells electric energy").

[287] *See, e.g.*, Citizens Energy Corporation, 35 FERC ¶ 61,198 at 61,452–53 (1986).

[288] In making this determination, we are not deciding whether these entities are eligible entities under section 211(a) of the FPA.

[289] *See* Section IV.I.

circumstances the same open access tariff that serves wholesale customers will be equally appropriate for retail transmission customers. Therefore, unless the Commission has specifically permitted a separate retail tariff, eligible customers under the Final Rule pro forma tariff must include unbundled retail customers.[290] We discuss this further in Section IV.I.

While the rates, terms, and conditions of all unbundled transmission service will be subject to a Commission-authorized tariff, we will, in appropriate circumstances, give deference to state recommendations regarding rates, terms, and conditions for retail transmission service or regarding the proper transmission cost allocation to be used between retail and wholesale customers when state recommendations are consistent with our open access policies. This is also discussed further in Section IV.I.

Moreover, we are mindful of the fact that we are precluded under section 212(h) from ordering or conditioning an order on a requirement to provide wheeling directly to an ultimate consumer or sham wholesale wheeling. We therefore clarify that our decision to eliminate the wholesale customer eligibility requirement does not constitute a requirement that a utility provide retail transmission service. Rather, we make clear that if a utility chooses, or a state lawfully requires, unbundled retail transmission service, such service should occur under this tariff unless we specifically approve other terms.

2. Service That Must be Provided by Transmission Provider

In the NOPR, the Commission proposed that a public utility must offer to provide any point-to-point or network transmission service whether or not the utility provides itself that service:

> The Commission therefore proposes that all public utilities must offer both firm and non-firm point-to-point transmission service and firm network transmission service on a non-discriminatory open access basis in accord with the proposed rule and the attached appendix tariffs. The Commission believes that a utility's tariff must offer to provide any point-to-point transmission service and network transmission service that customers need, even though the utility may not provide itself the specific service requested.[291]

Comments

EGA and SMUD agree that a transmission owner should offer any transmission service it is able to provide, even if it does not use the service itself.

Public Generating Pool, an association of consumer-owned electric utilities, appears concerned that the Commission may interpret comparability broadly to require a utility to offer the same service provided by another utility or to offer service generally available in a region. Thus, it recommends that a third party seeking more service than a utility provides itself be required to resort to the section 211 process.

Commission Conclusion

Initially, we note that, with the possible exception of small utilities (which may qualify for a waiver, *see infra*), we have seen no evidence that public utilities are incapable of reasonably providing the services required in the Final Rule pro forma tariff. Nor have we seen evidence that utilities able to provide these services to themselves are choosing to forego such services. In short, we are not convinced that there is an appreciable difference, if any, among the services required in the pro forma tariff, the services utilities are able to provide, and the services they actually provide themselves.

To the extent these services do differ, however, we explicitly adopt the proposal set forth in the NOPR. Thus, a public utility must offer transmission services that it is reasonably capable of providing, not just those services that it is currently providing to itself or others. Because a public utility that is reasonably capable of providing transmission services may provide itself such services at any time it finds those services desirable, it is irrelevant that it may not be using or providing that service today. Moreover, a public utility must offer these transmission services whether or not other utilities may be able to offer the same services and whether or not such services are generally available in the region (waiver of these requirements for small utilities is discussed in Section IV.K.2.).[292] However, if a customer seeks a customized service not offered in an open access tariff, a customer may, barring successful negotiation for such service, file a section 211 application.

3. Who Must Provide Non-Discriminatory Open Access Transmission

In the NOPR, the Commission proposed to require all "public utilities" owning and/or controlling facilities used for transmitting electric energy in interstate commerce to file open access transmission tariffs.[293] We explained that we could not require all "transmitting utilities" to file open access tariffs under sections 205 and 206 because we do not have jurisdiction over non-public utilities under these sections.

Comments

Several commenters argue that the open access requirement must be applied to non-jurisdictional utilities that own interstate transmission facilities.[294] Power Marketing Association recognizes that this raises difficult legal issues and suggests that the Commission support legislation to expand the Commission's authority over non-jurisdictional utilities. Minnesota P&L argues that if the requirement is not applied to all entities that own transmission, jurisdictional and non-jurisdictional entities owning joint transmission facilities will be competitively disadvantaged due to unequal pricing. Union Electric argues that unless the requirement is extended to the 56 non-jurisdictional entities operating control areas, discrimination in the wholesale power markets will increase.

A number of municipal commenters assert that the NOPR overlooks transmission assets jointly owned by jurisdictional and non-jurisdictional utilities.[295] They argue that agreements regarding use of these assets often contain provisions prohibiting third-party power transfers. They further argue that such provisions should be nullified, and the joint owners should be required to develop equitable methodologies to allocate wheeling revenues among themselves.

Several cooperatives urge the Commission to clarify that contracts among their constituent cooperatives are not subject to any unbundling of existing contracts.

Commission Conclusion

Our authority under sections 205 and 206 of the FPA permits us to require only public utilities to file open access tariffs as a remedy for undue discrimination. We have no authority

[290] The Commission has no authority to order retail transmission directly to an ultimate consumer or to order "sham" wholesale transmission. *See* FPA section 212(h). However, if such access occurs voluntarily or as a result of a state program, the rates, terms, and conditions of the access are within our exclusive jurisdiction if the service is provided by a public utility.

[291] FERC Stats. & Regs. ¶ 32,514 at 33,079.

[292] Requirements for ancillary services are discussed in Section IV.D.

[293] FERC Stats. & Regs. ¶ 32,514 at 33,049.

[294] *E.g.*, Minnesota P&L, Power Marketing Association.

[295] *E.g.*, Springfield.

under those sections of the FPA to require non-public utilities to file tariffs with the Commission.

However, we are concerned that if non-public utilities do not provide access, there will remain a patchwork of "open" and "closed" transmission systems and the potential for distortions in wholesale bulk power markets. We believe that certain mechanisms exist that will help to alleviate these problems.

First, as we explained in the NOPR, broad application of section 211 will provide wider access to bulk power markets.[296] Under section 211, eligible entities may seek transmission service from "transmitting utilities," which section 3(23) of the FPA defines as "any electric utility, qualifying cogeneration facility, qualifying small power production facility, or Federal power marketing agency which owns or operates electric power transmission facilities which are used for the sale of electric energy at wholesale." We believe that section 211 provides us with authority to require the same *quality* of transmission service as sections 205 and 206, though the procedural path is more cumbersome. Thus, section 211 provides access to transmission systems owned or operated by non-public utilities.[297]

Second, as we explained in the NOPR, our reciprocity requirement is designed to provide the widest possible use of the nationwide transmission grid:

> The purpose of this provision is to ensure that a public utility offering transmission access to others can obtain similar service from its transmission customers. It is important that public utilities that are required to have on file tariffs be able to obtain service from transmitting utilities that are not public utilities, such as municipal power authorities or the federal power marketing administrations that receive transmission service under a public utility's tariff.[298]

Finally, again as we explained in the NOPR, the formation of RTGs should speed the development of competitive markets and involve more non-public utilities in the provision of non-discriminatory open access transmission.[299] In approving RTGs, our policy has been to require all members, whether or not they are public utilities, to offer comparable transmission services at least to other members.

We recognize that these solutions are not perfect. However, given the difficulties inherent in the statutory scheme, we believe they will go a long way toward effectuating transmission access by non-public utilities.

One further issue involving non-public utilities concerns jointly owned transmission facilities. We will not allow public utilities that jointly own interstate transmission facilities with non-jurisdictional entities to escape the requirements of open access. We will require each public utility that owns interstate transmission facilities jointly with a non-jurisdictional entity to offer service over its share of the joint facilities, even if the joint ownership contract prohibits service to third parties. We urge such public utilities to seek mutually agreeable revisions to their agreements to permit third-party access over all, or at least their share, of the facilities. For those joint ownership arrangements that include restrictions on the usage of jointly owned transmission facilities by third parties, we will require the public utilities, in a section 206 compliance filing, to file with the Commission, by December 31, 1996, a proposed revision (mutually agreeable or unilateral) to its contract with the non-jurisdictional owner(s). This revision must be designed at a minimum to permit third parties to use the public utility's share of the joint facilities in accordance with this Rule and must provide for any needed cost allocation procedures between the public utility and the non-jurisdictional owner(s).

4. Reservation of Transmission Capacity by Transmission Customers

In the NOPR, the Commission set forth the information that a requester of transmission service would have to submit with a service request. We recognized that there may have to be a limit, for competitive reasons, on the information required, but also recognized the need to assure that no customer would reserve scarce capacity and then hold it without using it.[300] To avoid forcing transmission customers to reveal unnecessary details of their purchase or sales transactions, the Commission discussed several less restrictive options: (1) Allow the transmission provider to use or sell the capacity while it is unused, (2) have a pool that clears the short-term market, and (3) require the customer to begin using the capacity within some specified period or lose its reservation rights. The Commission requested comments on these and other possible approaches.

Comments

Unused or Unneeded Transmission Capacity

Many commenters recommend a use-it-or-lose-it rule (*i.e.*, a transmission customer must use its reserved transmission capacity or lose its rights to that capacity).[301] Several commenters also recommend a number of restrictions on capacity reservations to reduce incentives to hoard or to cherry-pick (request to reserve firm capacity only during peak hours of peak seasons) existing transmission capacity. These include: (1) Allow requesters to reserve a place in the queue with a right of first refusal over later competing requests; (2) impose a take-or-pay charge on reservations and deny reservation holders the right to revenue sharing if they do not schedule or assign their rights; (3) limit the time period for reservations; (4) limit how far in advance reservations may be made for both non-firm and firm services; (5) maintain a price cap on the resale of transmission; (6) require multi-year reservations to be for sequential periods; and (7) require a nonrefundable fee for advance reservations of service.[302] Southwestern suggests that transmission tariffs include a provision that prevents transmission customers and the transmission provider from reserving and tying up firm transmission capacity for speculative wholesale transactions.[303]

On the other hand, PSNM believes that a use-it-or-lose-it approach is inappropriate because any prudent utility that has reserved capacity would seek to sell the service it is not using so as to recover some portion of its fixed costs. Wisconsin P&L argues that a use-it-or-lose-it approach would not work, would be difficult to administer, and may be anticompetitive.[304] Central Illinois Public Service asserts that a reservation holder has little incentive to hoard capacity because other customers can use the capacity on a non-firm basis during times when a reservation holder does not schedule power. It warns that

[296] FERC Stats. & Regs. ¶ 32,514 at 33,050 and 33,092–93.

[297] As discussed in the NOPR, sections 211 and 212 require that applicants specify only rates, terms, and conditions of service, not specify transactions. Thus, applicants can file requests for tariffs to accommodate future, currently unspecified transactions, similar to the open access tariffs required by this Rule.

[298] FERC Stats. & Regs. ¶ 32,514 at 33,089.

[299] *Id.* at 33,095.

[300] *Id.* at 33,090.

[301] *E.g.*, Consumers Power, Northern States Power, PacifiCorp, Oklahoma G&E, Allegheny Power, ELCON, Public Service Co of CO.

[302] *E.g.*, Northern States Power, VEPCO, Utilities For Improved Transition, PacifiCorp, Arizona Public Service, Dairyland, Montaup, Illinois Power, South Carolina E&G, Florida Power Corp, KU.

[303] *See also* NRECA.

[304] Wisconsin P&L notes, however, that a possible exception exists where a user could block the efficient transfer of power and then market its own power at a premium price.

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giving the transmission operator the ability to schedule unused capacity may result in undue influence and the exercise of market power. CA Energy Com maintains that, while reassignment would help prevent hoarding, it would not assure efficient use of the full transmission network.

Use of Pooling Arrangements To Prevent Improper Reservations

Allegheny Power contends that a pooling arrangement could provide an incentive to hoarders to release capacity during a shortage. It suggests that capacity could be auctioned within a pool of available capacity. However, it acknowledges that an auction would be tantamount to allowing the network owner to sell transmission service at unregulated rates.

PacifiCorp does not believe that a pooling arrangement would prevent capacity hoarding unless nonsequential reservations are prohibited. ELCON contends that a use-it-or-lose-it rule would be fairer and more effective than pooling.

Commission Conclusion

Upon further consideration, we conclude that firm transmission customers, including network customers, should not lose their rights to firm capacity simply because they do not use that capacity for certain periods of time. Firm transmission customers that have reserved capacity and paid a reservation charge generally do not use the entire amount of reserved capacity at all times. This does not mean, however, that they must permanently return the unused amount to the utility. In the absence of evidence of hoarding or other anticompetitive practices, we will not limit the amount of transmission capacity that a customer may reserve. Firm transmission customers are in the best position to know the levels of electric energy they will be transmitting and the level of flexibility they need in carrying out their transmission activities. Indeed, when they are not using their reserved capacity, firm transmission customers remain obligated to pay the utility a reservation charge that covers all of the utility's fixed costs associated with the reserved capacity.[305]

Moreover, the possibility that a customer will reserve capacity and then hold it without using or reassigning it is mitigated because the utility is free to schedule and sell any unscheduled firm point-to-point transmission capacity on a non-firm basis to any entity eligible to receive such service under the utility's tariff. We also note that it is in the economic self interest of reservation holders to make available unused capacity to the market.[306]

We recognize that situations could arise in which a customer unlawfully withholds capacity. That is, a transmission customer could retain capacity in a way that could have an anticompetitive effect. For example, a transmission customer may reserve certain capacity simply to prevent everyone else from using it and to make its own generation the only alternative available to the market. However, as described above, we believe that the incentives are such that parties are more likely to release unneeded capacity and that a generic remedy is therefore unnecessary. Any substantial allegations that indicate that a transmission customer is withholding scarce capacity in a way that has an anticompetitive effect would be addressed under section 206. If we found such allegations to be true, we could order the customer to return the capacity reservation right to the transmission operator. This approach should allay concerns that a customer may reserve scarce capacity and not use it, without forcing customers to demonstrate need or to reveal details of individual transactions.

5. Reservation of Transmission Capacity for Future Use by Utility

Comments

EEI and many IOUs argue that native load and network transmission customers should have first priority to existing capacity for their reasonably forecasted load requirements because that capacity was constructed to provide service to them and was paid for by them.[307] EEI contends that such priority ensures equity and comparability based on past and future cost responsibility for the system. Similarly, Florida Power Corp and PECO contend that third-party customers should not be allowed to use transmission capacity that native load customers would grow into within a reasonable planning horizon.

Other commenters disagree, asserting that available transmission capacity must be determined in the same manner for all customers and that utilities should not be permitted to reserve capacity for their own uses.[308] NIEP argues that utilities should not be permitted to lock up available transmission capacity over valuable transmission paths and then require transmission requesters to pay for the cost of incremental transmission upgrades. This would let the utility avoid incremental transmission charges on its system. Oklahoma G&E argues that existing available transmission capacity should be made available until it is needed for native load growth. Utilicorp states that transmission owners should not be permitted to set aside capacity for sales or purchases of economy energy. CCEM argues that the centerpiece of comparability is that all transmission customers, including the merchant operations of the transmission owner, take service from available capacity pursuant to the same tariffs. CCEM adds that allowing utilities to reserve capacity based on forecasted retail and network loads creates an incentive for them to over-forecast their load to the detriment of all others. NRECA suggests that the need to maintain reliability should not perpetuate transmission providers' preferential treatment of their own transactions. It also recommends that, during periods when facilities are constrained, access be allocated based on a combination of past actual use and planned future use.

Commission Conclusion

We conclude that public utilities may reserve existing transmission capacity needed for native load growth and network transmission customer load growth reasonably forecasted within the utility's current planning horizon. However, any capacity that a public utility reserves for future growth, but is not currently needed, must be posted on the OASIS and made available to others through the capacity reassignment requirements, until such time as it is actually needed and used.

In response to arguments raised by several commenters that existing requirements customers should have future rights to existing capacity beyond the terms of their contracts because of their historical use, as discussed previously, we believe existing customers should have a right of first refusal to capacity they previously used, if they are willing to match the rate offered by another potential customer, up to the transmission provider's maximum filed transmission rate at that time, and to accept a contract term at least as long as that offered by another potential customer.[309]

[305] A reservation charge would assure that the utility fully recovers its fixed costs associated with the transmission customer's reserved transmission capacity.

[306] *See* Section IV.C.6.

[307] *E.g.*, NYPP, Public Service E&G, Sierra Pacific Power, Ohio Edison. Sierra Pacific Power asserts that a utility should be permitted to retain capacity for native load use over the pertinent planning period. El Paso adds that the Commission should allow utilities the opportunity to reserve capacity for anticipated uses that, although not firm, are necessary to maintain reliability.

[308] *E.g.*, NIEP, CCEM, Conservation Law Foundation.

6. Capacity Reassignment

In the NOPR, the Commission proposed that a tariff must explicitly permit reassignment of firm service entitlements.[310] We explained that reassignment of capacity rights could have a number of benefits: (1) Helping transmission users manage financial risk, (2) reducing transmission providers' market power by enabling transmission customers to compete with them, and (3) improving capacity allocation when capacity is constrained and some market participants value capacity more than current capacity holders. We requested comments on whether the current price cap on resale should be modified or eliminated and whether the transmission services described in the NOPR are suitable for reassignment.

Comments

General

Many commenters favor capacity reassignment and the development of secondary markets.[311] However, WP&L notes that reassignments should not be permitted over constrained interfaces if the source or destination of power changes, and LA DWP opposes unrestricted reassignment because it could cause tax-exempt financing problems for many public power utilities.

Many IOUs argue that the same terms and conditions of service applied to IOUs should be applied to resellers of transmission services.[312] Arizona Public Service, however, asserts that all unused transmission rights should not be assignable, but should be made available to others in a manner consistent with the contract supporting the rights. It argues that a network user experiencing an off-system network shutdown should be required during the outage to make available to others the path from the point that the power enters the system to its load. It also contends that firm transmission customers should be required to post their unused rights on an EBB or RIN.

Several commenters oppose mandatory reassignment of firm capacity rights.[313] NEPCO declares that if a customer is willing to pay for its reserved capacity, it should not be forced to reassign unused capacity. Nebraska Public Power District believes that mandatory reassignment could cause problems for publicly-owned utilities. It further asserts that in the gas industry the Commission did not allow the unregulated reassignment regime it proposes for the electric industry.

SoCal Edison argues that when a transmission customer resells transmission capacity, it should not be released from its contractual obligation to the transmission provider. It notes that under traditional contract law, a party to a contract cannot escape its obligations by delegating them to another.

Price Caps

Most commenters addressing this issue support retaining the existing price cap on reassignments or resales.[314] Generally, these commenters believe that the price cap is necessary to prevent customers from speculating or hoarding capacity in anticipation of its value increasing. Public Service Co of CO believes that allowing assignments of capacity at prices greater than cost could prevent a transmission provider from offering firm capacity for legitimate long-term transactions. TDU Systems states that a cap should remain until the secondary market in the relevant geographic market has been shown to be competitive. PA Com states that turning available capacity into a spot market would tie up capacity that might otherwise be used on a day-to-day basis and for emergencies. Still other commenters argue that customers should not be allowed to sell the capacity for more than the transmitting utility could charge.[315] Allegheny argues that any rule that allows resale of transmission capacity at a higher price than the transmission provider can achieve is "patently illogical and probably illegal." Several utilities, including Allegheny and CSW, contend that if resellers can market transmission services at market rates, then transmission owners must be given the same opportunity.

Duquesne and United Illuminating argue that the price cap should be modified so that third parties are allowed to resell capacity at the higher of embedded costs or opportunity costs.[316] Duquesne notes that such a provision would be comparable to the option transmitting utilities now have and would be economically efficient because it would encourage the firm capacity owner with the lowest opportunity cost to resell its capacity.

A few commenters argue that the price cap should be eliminated.[317] IL Com claims that capacity will be made available to the entity that values it most and that an uncapped resale market cannot lead to more market power because an efficient secondary market cannot be monopolized. Con Ed agrees that if the secondary market is competitive, all entities should be allowed to sell at market-based rates.[318] CT DPUC argues that there should not be a price cap; instead, it would prefer that those holding transmission rights not be allowed to withhold use of any portion of their reserved transmission capacity in the actual moment-by-moment operation of the grid.

Creditworthiness Standards

Of those commenting on the appropriate creditworthiness standards for replacement customers (assignees), all favor allowing the transmission provider to use reasonable credit procedures to assure that the replacement customer is financially sound.[319] NYSEG suggests that, at a minimum, the same creditworthiness criteria should be applied to the replacement customer as are applied to the original customer. Oglethorpe recommends that the assignee be required to commit to comply with all customer obligations and to pay for any additional costs resulting from the assignment.

Liability for Payment

Commenters split on whether the original customer or the replacement customer should be liable to the transmitting utility for payment for the service. One group of commenters believes that the original customer should remain liable for all costs and for the performance of all obligations.[320] Another group of commenters believes that the original customer should be relieved of financial responsibility, at least under certain circumstances.[321] For

[309] *See* Section IV.A.5.

[310] FERC Stats. & Regs. ¶ 32,514 at 33,068.

[311] *E.g.*, PacifiCorp, DOJ, NIEP, ELCON, United Illuminating, DOD, WP&L, FTC. OK Com and FL Com favor reassignment of capacity, but express concerns that reliability not be affected.

[312] *E.g.*, Northern States Power.

[313] *E.g.*, NEPCO, Nebraska Public Power District.

[314] *E.g.*, NRECA, Montana Power, PacifiCorp, NYSEG, PA Com, Idaho, Public Service Co of CO, FPC, Entergy, TDU Systems, Duke, Cajun, CVPSC, Oglethorpe, Minnesota DPS. FL Com argues that the price of reassignment should be capped at the contract selling price. WP&L argues that the price cap should be raised to the maximum rate allowed in the tariff under which the user purchased the original service.

[315] *See also* Minnesota DPS.

[316] *See also* Midwest Commissions, SMUD, CCEM.

[317] *E.g.*, IL Com, NEPCO, Consumers, American Wind.

[318] If the market is not competitive, however, Con Ed maintains that the cap should be retained for all entities.

[319] *E.g.*, PacifiCorp, NYSEG, Oglethorpe.

[320] *E.g.*, Oglethorpe, NSP.

[321] *E.g.*, NYSEG, Entergy, TDU Systems, Turlock, American Wind.

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example, NYSEG asserts that the original customer should be relieved of its obligations upon the execution of a new service agreement between the new customer and the provider. TDU Systems contends that the original customer should be relieved of future liability where the replacement customer meets the transmission provider's creditworthiness standards. Entergy argues that the original customer should remain liable until all obligations are fulfilled.

Commission Conclusion

After reviewing the comments, we conclude that a public utility's tariff must explicitly permit the voluntary reassignment of all or part of a holder's firm transmission capacity rights [322] to any eligible customer.[323] Reassignment may be on a temporary or permanent basis, and must be subject to the conditions and requirements discussed below.

Allowing holders of firm transmission capacity rights to reassign capacity will: (1) Help them manage the financial risks associated with their long-term transmission commitments, (2) reduce the market power of transmission providers by enabling customers to compete, and (3) foster efficient capacity allocation. We offer below a number of clarifications and further explanations in response to concerns raised by commenters.

(1) Reassignable Transmission Services

We conclude that point-to-point transmission service, because it sets forth clearly defined capacity rights, should be reassignable. As for network transmission service, we conclude that there are no specific capacity rights associated with such service, and thus, network transmission service is not reassignable.

(2) Terms and Conditions of Reassignments

a. General

In effecting a reassignment, the assignor does not have to return its capacity entitlement to the original transmission provider, but may deal directly with an assignee without involvement of the transmission provider. However, an assignee must meet the eligibility standard established by this Rule and must comply with the reliability criteria of the original transmission provider. Any such transaction must be posted on the transmission provider's OASIS within a reasonable time after its effective date. Alternatively, the assignor may, if it wishes, request the transmission provider to effect a reassignment on its behalf.[324] In such a situation, the transmission provider must immediately post the available capacity on its OASIS. The transmission provider must assure that any revenues associated with the reassignment are credited to the assignor.[325]

b. Contractual Obligations

Assignors and assignees may contract directly with each other, but the assignor will remain obligated to the transmission provider. This obligation extends to any penalties or other charges incurred by the assignee in its use of the reassigned capacity. The assignee will be liable solely to the assignor, and should it not meet its obligations, the assignor may cancel the assignment under their contract.

If the transmission provider and the original customer mutually agree, we will permit alternatives to the above approach. For example, the transmission provider could agree to relieve the original customer of payment liability for the term of the reassignment and permit the assignee to pay the provider directly.

In the case of a permanent reassignment, the transmission provider should not unreasonably refuse to release the assignor from liability if the assignee meets the transmission provider's creditworthiness requirements as set forth in its tariff and agrees to pay the price the assignor is obligated to pay the transmission provider.

c. Price Cap

We conclude that the rate for any capacity reassignment must be capped by the highest of: (1) The original transmission rate charged to the purchaser (assignor), (2) the transmission provider's maximum stated firm transmission rate in effect at the time of the reassignment, or (3) the assignor's own opportunity costs capped at the cost of expansion (Price Cap). We remain convinced that we cannot lift the Price Cap and permit reassignments at market-based rates. Based upon the information available in this proceeding, we are unable to determine that the market for reassigned capacity is sufficiently competitive so that assignors will not be able to exert market power. Thus, we will not permit an assignor to reassign capacity at a rate in excess of the Price Cap. Assignees must agree, in contracting with the assignor, that the firm transmission capacity they will use is subject to the Price Cap.

7. Information Provided to Transmission Customers Comments

Many commenters argue that in an open access, competitive environment, confidential and proprietary information should not be made publicly available through a RIN.[326]

Several utilities assert that the existing reporting requirements are sufficient to support the comparability requirements of the proposed rule, with some modifications.[327] They note that the Commission's audit authority and complaint process will help enforce comparability requirements.[328] Central Illinois Public Service states that, with the availability of pricing and transaction information through the RIN, no further reporting requirements are necessary. IL Com states that additional reporting should be required only if clear evidence emerges of discriminatory use of the transmission system. Dominion Resources adds that users have no need for utility planning information and data on generator status and that disclosure of such information would place owners at a competitive disadvantage. VEPCO opposes the disclosure of any commercially sensitive information to marketers, including the utility's power marketing employees.

On the other hand, several commenters argue that the information submitted by public utilities may not be adequate. For example, APPA argues that the Commission should scrutinize closely cost functionalization by utilities to assure that plant in service is properly booked. Others recommend that the Commission put in place a monthly pass-through of transmission-related operating income for all classes of customers receiving firm transmission service, rather than rely on the current practice of reducing test year

[322] The transmission provider has the same rights as any other potential assignee to obtain capacity that is posted on an OASIS or to negotiate with the assignor for any capacity the assignor seeks to assign.

[323] The public utility's tariff shall not preclude an assignor from including a right of recall in its agreement with an assignee.

[324] The assignor may also request the transmission provider to provide the billing and payment services for the reassignment. The parties would negotiate terms for such an arrangement, including a fee for the transmission provider. If an assignor is a public utility, it will have to have on file with the Commission a rate schedule governing reassigned capacity.

[325] Any expenses that the public utility incurs in carrying out the capacity assignment program would simply be included in its cost of service.

[326] Similar arguments with respect to the information that public utilities must provide to the Commission in standard reports (*e.g.*, Form No. 1) are addressed later in this Final Rule.

[327] *E.g.*, PacifiCorp, NYSEG, NSP.

[328] *See also* PA Com.

cost of service by revenues booked to Accounts 456 and 447. Industrial Energy Applications recommends that utilities be required to file quarterly reports with the Commission that detail the transmission services and the pricing of their off-system power supply transactions, as an incentive to comply with the Commission's rule.

Commission Conclusion

We conclude that all necessary transmission information, as detailed in the OASIS final rule, must be posted on an OASIS. With respect to generation information, we will require, consistent with the OASIS final rule, that information needed to verify opportunity/redispatch costs be provided, on request, to the transmission customer charged. We will not require this information, or any other generation information,[329] to be posted on an OASIS.[330]

8. Consequences of Functional Unbundling

a. Distribution Function

The NOPR proposed functional unbundling of wholesale generation and wholesale transmission so that the public utility as a wholesale seller could not gain an undue advantage from its transmission ownership. We did not propose to further unbundle the retail transmission and distribution functions from the wholesale transmission function.

Comments

A number of commenters assert that utilities should be required to unbundle—either functionally or corporately—the distribution function from the transmission function. ELCON argues that unbundling distribution would help delineate state and Federal jurisdiction, facilitate the establishment of transmission pricing, avoid cross-subsidization, and prepare for the customer choice (retail wheeling) programs that will be implemented by states in the future. It contends that functional distinctions between wholesale and retail service should be minimized.[331]

Other commenters, however, oppose establishing a separate distribution function. DOD asserts that the Commission can address any problems that arise by enforcing the terms of open access tariffs and that the Commission should not intrude into state ratemaking.[332]

Various state commissions question the workability and desirability of a functional test to determine the dividing line between retail transmission and local distribution.[333] CA Com recommends that, to avoid jurisdictional uncertainty surrounding functional unbundling, the Commission adopt a functional test for local distribution. Under this test, vertically integrated utilities that chose to unbundle into separate operating companies, including a local distribution company that sells only at retail, could establish a workable bright line between state and Federal authority without engaging in the arduous task of differentiating transmission from distribution.

Certain IOUs echo the jurisdictional concerns raised by the state commissions.[334] They believe that the unbundling of the distribution function would create significant jurisdictional problems. Pacificorp also argues that unbundling of the distribution function would create significant jurisdictional conflict with respect to cost allocation.

Commission Conclusion

We conclude that the additional step of functionally unbundling the distribution function from the transmission function is not necessary at this time to ensure non-discriminatory open access transmission. Our approach to assuring such open access has two broad requirements: (1) Functional unbundling of transmission and generation (which includes separately stated rates for generation, transmission, and ancillary services, and a requirement that a transmission provider take service under its own tariff), except for bundled retail service and (2) an OASIS with standards of conduct. We believe that additional requirements are not needed now. We further address in Section IV.I the concerns raised regarding our proposed tests to distinguish transmission and local distribution.

b. Retail Transmission Service

Comments

The majority of commenters addressing this issue believe that unbundling retail service is unnecessary to establish a competitive market and to achieve non-discriminatory open access transmission.[335] For example, PSNM argues that the Commission is not as well situated as are state regulators to oversee and supervise local reliability issues for retail customers. Central Illinois Public Service argues that due to the nature of transmission facilities and operations, it is not possible for the transmission provider to discriminate between the provision of wholesale and retail firm service. Several IOUs further contend that because the Commission is specifically precluded from mandating retail wheeling and has no authority over bundled retail service, the Commission cannot require retail service to be provided.[336]

In contrast, some commenters argue that functional unbundling must apply to all transmission service in interstate commerce provided by public utilities, including the transmission component of bundled retail sales.[337] They believe that this is necessary to achieve comparability. For example, CCEM asserts that if the distribution function is not unbundled, the result will be service under two separate arrangements—an explicit wholesale transmission tariff filed at the Commission and an implicit retail transmission tariff governed by a state regulatory body. According to CCEM, failure to unbundle retail transmission will allow transmitting utilities to manipulate how they characterize and account for their own uses of transmission. ABATE contends that the Commission, for efficiency reasons, should encourage states to permit retail access. It asserts that the Commission must adopt a policy that signals to states how rates, terms, and conditions of retail service will be established; once a state sets such parameters, the Commission should review them.

Commission Conclusion

Although the unbundling of retail transmission and generation, as well as wholesale transmission and generation, would be helpful in achieving comparability, we do not believe it is necessary. In addition, it raises numerous difficult jurisdictional issues

[329] The prices of some ancillary services, which are posted on the OASIS, are based on generation costs, however.

[330] Because the Commission establishes many generation and all transmission rates on a cost basis, the Commission also will continue to need the information that it collects in Form No. 1 and other standard forms from public utilities to assure that the rates are just and reasonable. As we explain later in this Final Rule, the information provided in those forms is public information that is available to any transmission customer. However, because of the competitive changes occurring in the electric industry, we recognize that there may be a need to reexamine the information we collect from public utilities through the Form No. 1.

[331] *See also* Environmental Action, Missouri Basin MPA, Texaco, EGA, AEC & SMEPA.

[332] *See also* TDU Systems, Public Service Co. of CO.

[333] *E.g.*, NARUC, AZ Com, CT DPUC, OK Com, FL Com, NC Com, NM Com.

[334] *E.g.*, Com Ed, Citizens Utilities, PacifiCorp.

[335] *E.g.*, Allegheny Power, PacifiCorp, MidAmerican, PECO, Public Service Co. of CO, Com Ed, NARUC, NRRI, MN DPS, ND Com, FL Com.

[336] *E.g.*, Allegheny Power.

[337] *E.g.*, CCEM, ABATE.

that we believe are more appropriately considered when the Commission reviews unbundled retail transmission tariffs that may come before us in the context of a state retail wheeling program. The Commission therefore reaffirms its decision to require the unbundling only of wholesale transmission from generation.[338]

c. Transmission Provider

1. Taking Service Under the Tariff

In the NOPR, we explained that a public utility must take transmission services for all of its new wholesale sales and purchases of energy under the same tariff of general applicability under which others take service.[339]

Comments

A number of commenters argue that utilities should be required to take all of the transmission for their own use under their tariff.[340] CCEM asserts that a transmission owner should have to schedule, at arm's length, its retail transmission uses and pay posted rates into a separate account; otherwise the capacity might be overforecast at no cost.

PECO requests that the Commission clarify that the requirement that a transmission provider take service under its own transmission tariffs does not apply to: (1) Retail service, (2) existing wholesale contracts, and (3) pooling arrangements. UNITIL claims that the requirement for a transmission provider to take service under its own tariff and to post its own tariff rate should not apply to pool transactions where a single pool-wide rate is applied.

A number of IOUs contend that it is not necessary for the transmission provider to take service under the network tariff because both the transmission provider and the network customers cannot use the tariff to make off-system sales. LILCO states that it is appropriate to distinguish between a transmission owner's use of its transmission system to make: (1) Wholesale bulk power sales; and (2) off-system purchases to serve its native load retail customers. LILCO contends that in the second situation it should not be required to take transmission service under its own open access tariffs.

EGA argues that transmission owners should be required to take transmission service under open access tariffs for both wholesale off-system sales and purchases. It maintains that, as retail competition increases, utilities will eventually have to take retail service under their own tariffs. Power Marketing Association believes that comparability can be achieved only if transmission service provided in connection with coordination transactions is unbundled and the transmission provider takes such transmission service under its tariff.

Consumers Power also claims that there is an inconsistency between the NOPR text, the tariffs, and the proposed regulatory language regarding whether the requirement for a utility to take service under its own tariff applies only to new wholesale transactions.

Commission Conclusion

We conclude that public utilities must take all transmission services for wholesale sales under new requirements contracts and new coordination contracts under the same tariff used by others (eligible customers).[341] For sales and purchases under existing bilateral economy energy coordination agreements, we will give an extension until December 31, 1996, for public utilities to take transmission service under the same tariff used by others.[342] As further discussed in Section IV.F., we will also give an extension of time to December 31, 1996, for certain existing power pooling and other multi-lateral coordination agreements to comply with this requirement. This will ensure that utilities live by their own rules for wholesale transactions and that we can achieve non-discriminatory open access transmission. In the case of a public utility buying or selling at wholesale, the public utility must take service under the same tariff under which other wholesale sellers and buyers take service.

2. Accounting Treatment

In the NOPR, we did not address any accounting aspects of our proposed rule.

Comments

IOUs generally object to a requirement that they pay themselves for their use of the transmission system.[343] NEPCO claims that it is a general principle of accounting that an enterprise cannot recognize and record revenues to itself. NEPCO suggests that, to ensure that utilities' financial statements are not misleading, this aspect of functional unbundling can and should be accomplished through the ratemaking process, rather than by requiring utilities to actually charge themselves revenues for taking transmission services.[344]

Atlantic City Electric states that the added costs of properly administering and accounting for these transactions separately will increase prices to ultimate consumers. It contends that ensuring that operators do not give undue preference to transactions of the transmission provider makes it unnecessary for a utility to charge itself.

CSW argues that some of the provisions of the tariffs were specifically designed for third parties and do not make sense as applied to the transmission provider (*e.g.*, signing service agreements and running credit checks).[345]

Most IOUs suggest that a revenue credit mechanism be used to account for a transmission provider's use of its system. Florida Power Corp states that revenue credits should be equal to the utility's posted rates for transmission service multiplied by the amount of capacity reserved and/or energy transmitted by the utility.

Otter Tail proposes a revenue credit that allocates revenues based on use under the tariff of the utility's transmission investment and credits these revenues against the firm load customers' accounts.

Duke asserts that the transmission provider should maintain records reflecting transmission for its own transactions under the tariff and develop appropriate revenue credits for transmission rates. It also believes that all firm users of the transmission system should receive credits for all non-firm uses.

Allegheny Power states that the crediting of non-firm revenues to network customers would have to be done on an after-the-fact basis when their loads would be known. However, it believes that revenue crediting should occur only if the firm service customer has retained the utility to remarket the customer's unused capacity.

Cajun proposes that all transmission revenues in excess of those implicitly included in the development of the transmission rates, including those that the utility has charged itself, be credited back to the network service transmission customers on a load ratio share basis. If transmission service rates are formula rates that are recalculated annually, Cajun proposes that excess transmission revenues be used to offset the recalculated revenue requirement. If the rates are not formula rates, Cajun states that an explicit tracker with monthly crediting to the network customer must be used.

To avoid cross-subsidization between affiliates and third parties, NRECA suggests that transmission revenues "paid" by a utility's generation function to its transmission function be credited back to the utility's nonaffiliated customers, and that any rate discounts extended to the generation function by the transmission function be filed with the Commission with a full explanation of why the discount was extended together with a showing that the discount was made available to all other similarly situated customers.

APPA contends that the Commission's current system of revenue crediting could give transmission owners an unfair competitive advantage by allowing them to use the revenue credit to subsidize the price at which they sell power. It argues that transmission owners should pay the actual price of transmission rather than booking a revenue credit as an offset to the cost of transmission service.

TAPS and Wisconsin Municipals argue that an essential element of true comparability is the ongoing pass-through to network customers of a load ratio share of transmission revenues generated by third-party and the transmission provider's off-system uses of the transmission system.

Houston L&P suggests that the revenue crediting mechanism proposed in the NOPR could be established to recognize the utility's transmission service revenue and expenses in non-third-party wheeling transactions by reclassifying a portion of its revenue equal to the cost of transmission services provided to itself during such transactions. This mechanism would not reclassify expense accounts, but would distinguish that transmission portion of the total transaction's revenue that was associated with covering the cost of transmission service, using the rates charged in similar third-party transactions.

PacifiCorp contends that the Commission should enforce the requirement that utilities account for revenues they pay themselves through the commission's audit powers and through complaint proceedings. It specifically recommends that each transmitting utility be required to indicate, in its Form No. 1 under Account 456, the megawatts and revenues associated with its firm and non-firm off-system sales.[346]

MT Com states that the embedded costs that the Commission functionalizes for jurisdictional purposes should be carefully reconciled with plant balances used to calculate other costs of service.

CCEM wants each transmission provider to charge and book revenues into separate accounts for (1) service provided to itself and off-system sales and third-party sales under the tariffs, (2) impact study costs that the provider performs for itself or an affiliate, and (3) ancillary service revenues, net of out-of-pocket expenses the transmission owner provides itself or an affiliate.

Arizona Public Service recommends that any revenue crediting or booking be prospective only and that enforcement occur through the Commission's periodic audits and a utility's rate cases.

Many IOUs argue that there should be no obligation to credit non-firm transmission revenues to customers who are not using their firm capacity.[347] PacifiCorp contends that all non-firm revenues should be credited against total annual revenue requirements, resulting in lower rates to all customers. Wisconsin P&L maintains that non-firm sales revenue should be shared with all network customers.

Otter Tail argues that non-firm transactions between existing utilities to support and achieve real-time system optimization should be permitted without charge to the transmission owner. CSW asserts that no credits should be made for the non-firm secondary service under the point-to-point tariff and that off-system purchases for native load should not result in a revenue credit.

Southwestern suggests that the Commission not require the crediting of a transmission component associated with off-system purchases by the public utility. Southwestern argues that a credit would interfere with a utility's ability to buy the most economic energy for its native load customers. It also argues that requiring a credit is not comparable to what network customers pay. NEPCO points out that crediting transmission associated with purchases would require native load customers to pay the costs of the utility's purchasing off-system power while network customers do not have to pay a separate point-to-point charge for their off-system purchases. Southwestern claims that the crediting requirement would double-charge the transmitting utility and its native load customers because a utility's off-system purchases directly relate to the load it serves, and that load already is reflected in the transmission rate calculation. Southwestern also claims that it is unclear from the NOPR whether the Commission considers sales from the renewal of existing wholesale requirements contracts as being subject to crediting. It argues that transmission related to these sales should not be subject to the crediting requirement because this is service to native load customers.

Brazos opposes imputing revenues associated with a utility's own use of its transmission system because this will artificially increase the cost of power and deny consumers the benefits of economy energy sales made at market-based prices.

Commission Conclusion

While we used the word "accounting" in the NOPR, the real issue is assuring that utilities bear the costs associated with their own uses of the system in a manner comparable to how they charge others. Accordingly, this is a rate issue, not an accounting issue. However, we direct utilities to account for all uses of the transmission system and to demonstrate that all customers (including the transmission provider's native load) bear the cost responsibility associated with their respective uses.[348]

D. Ancillary Services

In the NOPR, the Commission stated that several ancillary services are needed to provide basic transmission service to a customer. These services range from actions taken to effect the transaction (such as scheduling and dispatching services) to services that are necessary to maintain the integrity of the transmission system during a transaction (such as load following and reactive power support). Other ancillary services are needed to correct for the effects associated with undertaking a transaction (such as energy imbalance service).

We proposed six ancillary services to be offered in an open access transmission tariff, which we called (1) scheduling and dispatching services, (2) load following service, (3) energy imbalance service, (4) system protection service, (5) reactive power/voltage control service, and (6) loss compensation service. We requested

[338] *But see* discussion of buy/sell transactions in Section IV.I.

[339] FERC Stats. & Regs. ¶ 32,514 at 33,080.

[340] *E.g.*, Michigan Systems, Cleveland, Municipal Energy Agency Nebraska, Missouri Basin MPA, TAPS, Wisconsin Municipals, LG&E, NIEP, CCEM.

[341] With the exception of certain contracts and agreements executed on or before 60 days after publication of the Final Rule in the **Federal Register**, the regulation we are adopting requires that public utilities take service under their open access tariff for wholesale sales or purchases of electric energy and unbundled retail sales of electric energy, effective on the date the public utility engages in such transactions.

[342] As discussed in Section IV.F., the Commission will not impose this requirement on existing bilateral non-economy coordination agreements, but persons may file complaints that such agreements need to be modified.

[343] *E.g.*, BEI, Con Ed, VEPCO.

[344] *See also* NEPCO.

[345] *See also* Florida Power Corp.

[346] If the utility is not required to file a Form No. 1, PacifiCorp states that it should be required to file similar information annually.

[347] *E.g.*, Consumers Power, Northern States Power, PacifiCorp, Allegheny Power.

[348] Additional guidance on this subject is in Section IV.G.4.g.(2)(a).

comments on all aspects of ancillary services, including whether the identified ancillary services are appropriately defined, whether other services should be included, and how these services should be supplied.

Commenters identified a number of other services that may be provided as part of interconnected operations. After considering the comments, we conclude that the following six ancillary services must be included in an open access transmission tariff:

(1) Scheduling, System Control and Dispatch Service;

(2) Reactive Supply and Voltage Control from Generation Sources Service;

(3) Regulation and Frequency Response Service;

(4) Energy Imbalance Service;

(5) Operating Reserve—Spinning Reserve Service; and

(6) Operating Reserve—Supplemental Reserve Service.

A description of these services and our reasons for designating them as ancillary services are included in section 1 below. We also discuss in that section our rationale for excluding other services from the list of ancillary services that must be included in an open access transmission tariff. In section 2 below, we discuss which of the six ancillary services the transmission provider must provide or offer to provide to transmission customers, and which the transmission customer must purchase from the transmission provider. These requirements are summarized as follows:

(1) Scheduling, System Control and Dispatch Service (Transmission Provider must provide and Transmission Customer must purchase from Transmission Provider);

(2) Reactive Supply and Voltage Control from Generation Sources Service (Transmission Provider must provide and Transmission Customer must purchase from Transmission Provider);

(3) Regulation and Frequency Response Service (Transmission Provider must offer to provide only to Transmission Customer serving load in Transmission Provider's control area and Transmission Customer must acquire, but may do so from Transmission Provider, a third party or self supply);

(4) Energy Imbalance Service (Transmission Provider must offer to provide only to Transmission Customer serving load in Transmission Provider's control area and Transmission Customer must acquire, but may do so from Transmission Provider, a third party or self supply);

(5) Operating Reserve—Spinning Reserve Service (Transmission Provider must offer to provide only to Transmission Customer serving load in Transmission Provider's control area and Transmission Customer must acquire, but may do so from Transmission Provider, a third party or self supply); and

(6) Operating Reserve—Supplemental Reserve Service (Transmission Provider must offer to provide only to Transmission Customer serving load in Transmission Provider's control area and Transmission Customer must acquire, but may do so from Transmission Provider, a third party or self supply).

Our requirement that these six ancillary services be included in an open access transmission tariff does not preclude the transmission provider from offering voluntarily to provide other interconnected operations services to the transmission customer along with the supply of basic transmission service and ancillary services.[349]

1. Definitions and Descriptions

Comments

Commenters generally agree that some ancillary services are needed for transmission of power. Some commenters, however, argue for a different name or description for the ancillary services we proposed in the NOPR. Others argue for a more extensive list of services.

EEI believes that the term "ancillary" is a confusing description because the services are integral to providing transmission service. NERC, PSE&G, and others claim that ancillary services are not, as the term "ancillary" implies, subordinate or auxiliary to the transmission of power; rather such services are conjunctive and required to allow reliable operation of an electric system. BG&E and others contend that ancillary services should be defined as services for control area operation,[350] and not as services provided by an individual, noncontrol area utility. NERC proposes, and many IOU commenters support, an alternative name for these services, "Interconnected Operations Services." NERC contends that the alternative name better reflects the fact that the services are needed in the broader context of allowing control areas, transmission customers, and other operating entities to operate reliably and equitably.

Some commenters propose a greater number of ancillary services. They argue that the services we proposed can be broken down into more discrete functions. A number of commenters provide rather lengthy lists of possible ancillary services to supplement those identified in the NOPR.[351]

NERC identifies twelve services, which it groups into three broad categories: interchange scheduling services, generation services, and transmission services. NERC's proposed interconnected operations services are:

(a) interchange scheduling services:

(1) System control and dispatch services; and

(2) Accounting;

(b) generation services:

(1) Regulation service;

(2) Energy imbalance service;

(3) Frequency response service;

(4) Backup supply service;

(5) Operating reserve service: spinning reserve and supplemental reserve services;

(6) Real power loss service;

(7) Reactive supply (from generation resources) and voltage control service; and

(8) Restoration service; and

(c) Transmission services:

(1) Facilities use; and

(2) Reactive supply (from transmission resources).

NERC also identifies dynamic scheduling as a unique type of dispatch service that control areas must have responsibility over to ensure reliability.

Houston L&P proposes a substitute list of twenty services. NYPP proposes a substitute list of thirty-eight "unbundled components for transmission service," which include twelve generation-related services and twenty-six operations-related services. Oak Ridge recommends that the Commission consider using seven ancillary services, which closely conform to the six services described in the NOPR.[352] Although Oak Ridge identifies several additional ancillary services, it recommends that these services not be included in the list of services to be required because they cannot be measured or because the cost of metering and billing outweighs the cost of these services.

[349] Of course, public utilities would have to have a rate schedule on file to provide other jurisdictional interconnected operations services.

[350] A control area is part of an interconnected power system with a common generation control system. It may contain one or several utilities. The operator of the control area is responsible for balancing generation and load and for maintaining reliable system operation.

[351] *E.g.*, Oak Ridge, Houston L&P, Carolina P&L, NYPP.

[352] Oak Ridge originally identified nineteen ancillary services, which included a recommended separation of the six NOPR ancillary services into twelve services and seven additional new services.

Commission Conclusion

We will adopt NERC's recommendations for definitions and descriptions with modifications. Starting with NERC's Interconnected Operations Services, we identify some of these as ancillary services that must be offered with basic transmission service under an open access transmission tariff.[353] The definitions developed by NERC for the individual services reflect the current position of a broad spectrum of experts on the subject of interconnected operations. Adoption of NERC's terminology will provide a more universally accepted set of definitions of services. We will retain the term "ancillary services," which will refer to those interconnected operations services that we will require transmission providers to include in an open access transmission tariff.

The interconnected operations services identified by NERC incorporate all of the ancillary services proposed in the NOPR. We believe, however, that several of the individual services identified by NERC do not warrant classification as unbundled ancillary services due to the small cost involved (*e.g.*, accounting). NERC also has identified services that, while capable of being provided in the context of integrated operations, are more appropriately provided for in a separate service agreement or other contractual arrangement (*e.g.*, dynamic scheduling, loss compensation service). NERC and others have attempted to identify all interconnected operation services that could be provided by a control area. The thoroughness of the comments received on this issue has been invaluable to the Commission's deliberations.

We will require that an open access transmission tariff include the six ancillary services that we have identified as necessary for the transmission provider to offer to transmission customers. These are needed to accomplish transmission service while maintaining reliability within and among control areas affected by the transmission service. Other interconnected operations services, such as loss compensation service, may be provided by the transmission provider or third parties to facilitate a particular transaction or operating arrangement. We will not require other interconnected operations services as part of an open access transmission tariff. If a transmission provider supplies such services voluntarily, they may be added to a customer's service agreement with the transmission provider.

As mentioned, we will adopt NERC's definitions with modifications, and we name and describe the six ancillary services below. After each service name, we list in parenthesis the service name in the NOPR that most closely corresponds to the service defined. In the discussion, we explain whether and how we modified NERC's term.

a. The Six Ancillary Services

(1) Scheduling, System Control and Dispatch Service (in the NOPR: Scheduling and Dispatching Service)

Comments

NERC proposes a System Control and Dispatch Service, which provides for (i) interchange schedule confirmation and implementation with other control areas, including intermediary control areas that are providing transmission service, and (ii) actions to ensure operational security during the interchange transaction. A transmission customer may schedule interchange with another control area operator or with another entity inside another control area; however, the control area operators are responsible for confirming and implementing the interchange into or out of their respective areas on behalf of the transmission customer.

NERC also proposes a separate Accounting Service, which provides for energy accounting and billing services associated with interchange. Accounting Service would be provided by the operator of the control area in which the transmission service takes place.

Commission Conclusion

We adopt "Scheduling, System Control and Dispatch" as the name for an ancillary service. It substitutes for the NOPR's Scheduling and Dispatching Service.

The name is NERC's recommendation with two modifications. First, we include the term "scheduling" in the name of this service because a control area operator/transmission provider must take on the function of scheduling on behalf of customers. Second, we will not require Accounting as a separate ancillary service. The purpose of separating accounting as a stand-alone service would be to allow customers to take it separately from scheduling and system control. However, we believe that accounting for scheduling, system control and dispatch is not separable from these other functions and that accounting costs are likely to be small. Therefore, accounting does not warrant separate service status. The cost of accounting for these services should be included in the cost of Scheduling, System Control and Dispatch Service.

(2) Reactive Supply and Voltage Control From Generation Sources Service (Formerly Reactive Power/Voltage Control Service)

Comments

A number of commenters explain that reactive power and voltage control service is integrally related to the reliable operation of the transmission system. These commenters also note that reactive power and voltage support must be supplied at the location where it is needed.[354] It cannot be provided by a distant supplier.[355]

NERC indicates that reactive supply is necessary to maintain the proper transmission line voltage for the transaction. NERC states that reactive supply is provided from both generation resources and transmission facilities (*e.g.*, capacitors), and lists its provision as two services, distinguished by the facilities that supply them.[356] NERC further distinguishes reactive supply service based on the source of the need for the service: (1) Reactive supply needed to support the voltage of the transmission system and (2) reactive supply needed to correct for the reactive portion of the customer's load at the delivery point.

Commission Conclusion

We adopt "Reactive Supply and Voltage Control from Generation Sources" as the name for an ancillary service. It substitutes for the NOPR's Reactive Power/Voltage Control Service.

We accept NERC's identification of two ways of supplying reactive power and controlling voltage. One is to install facilities, usually capacitors, as part of the transmission system. We will consider the cost of these facilities as part of the cost of basic transmission service. Providing reactive power and voltage control in this way is not a separate ancillary service.

The second is to use generating facilities to supply reactive power and voltage control. This use is the service

[353] NERC indicates that the list of services is a work in progress and therefore may not be a complete list. NERC has formed an independent Interconnected Operations Services Working Group (Working Group). The Working Group includes representatives with a broad range of industry interests (transmission-dependent, partial requirements, IPP, transmission-owning, public power). We encourage this effort and will consider future changes to the list of ancillary services or their descriptions to reflect the further development of concepts in this area.

[354] *See, e.g.*, APPA.

[355] *E.g.*, EEI, NERC, NYSEG, FPL, NSP.

[356] *See also* APPA.

named here, which must be unbundled from basic transmission service.

We note, however, that customers have the ability to reduce (but not eliminate completely) the reactive supply and voltage control needs and costs that their transactions impose on the transmission provider's system. For example, customers who control generating units equipped with automatic voltage control equipment can use those units to respond to local voltage requirements and thereby reduce a portion of the reactive power requirements associated with their transaction.[357]

In addition, transmission customers that serve loads can minimize the reactive power demands that they impose on the transmission system by maintaining a high power factor at their delivery points. A poor power factor at a customer's delivery point creates a need for either transmission reactive facilities (*i.e.*, capacitors) or local generator-supplied voltage support.[358]

However, these transmission customer actions do not eliminate entirely the need for generator-supplied reactive power. The transmission provider must provide at least some reactive power from generation sources. For this reason, and because a transmission customer has the ability to affect the amount of reactive supply required, we will require that reactive supply and voltage control service be offered as a discrete service, and to the extent feasible, charged for on the basis of the amount required.[359]

(3) Regulation and Frequency Response Service (in the NOPR: Load Following Service)

Comments

Someone must supply extra generating capacity, called regulating margin, to follow the moment-to-moment variations in the load located in a control area. Following load variations is necessary to maintain scheduled interconnection frequency at sixty cycles per second (60 Hz).

NERC and others support the need for someone to provide load following service to have generation follow a transmission customer's load changes; someone must supply power to meet any difference between a customer's actual and scheduled generation. Usually, the control area operator provides this service, but it is possible for a customer to arrange for someone else to follow its variations in load.

Many commenters indicate that the industry commonly refers to this service as "Regulation Service." [360]

Also, NERC proposes that Frequency Response Service be identified as a related but distinct service. NERC indicates that all control areas are expected to have generation and control equipment to respond automatically to frequency deviations in their networks.

Commission Conclusion

We adopt "Regulation and Frequency Response" as the name of an ancillary service. It substitutes for the NOPR's Load Following Service. This name conforms to the terminology recommended by NERC.

We conclude that Regulation Service and Frequency Response Service are the same services that make up the Load Following Service referenced in the NOPR. While the services provided by Regulation Service and Frequency Response Service are different, they are complementary services that are made available using the same equipment. For this reason, we believe that Frequency Response Service and Regulation Service should not be offered separately, but should be offered as part of one service.

(4) Energy Imbalance Service (the Same in the NOPR)

Comments

Many commenters explain that Energy Imbalance Service, as proposed in the NOPR, is necessary when transmission service is provided in a control area that contains the load being served.[361] Energy Imbalance Service supplies any hourly mismatch between a transmission customer's energy supply and the load being serving in the control area. That is, this service makes up for any net mismatch over an hour between the scheduled delivery of energy and the actual load that the energy serves in the control area. In contrast, Regulation and Frequency Response Service corrects for instantaneous variations between the customer's resources and load, even if over an hour these variations even out and require no net energy to be supplied.

Commission Conclusion

We will adopt "Energy Imbalance" as the name for an ancillary service. This is the same name proposed in the NOPR. NERC's description is the same as the service proposed in the NOPR.

(5) Operating Reserve—Spinning Reserve Service and

(6) Operating Reserve—Supplemental Reserve Service (in the NOPR These Two Were Formerly System Protection Service)

Comments

Many commenters express confusion regarding the NOPR term "system protection." They indicate that the term "system protection," is described in the NOPR as furnishing operating reserve, but has another meaning in the industry.[362]

Operating reserve is extra generation available to serve load in case there is an unplanned event such as loss of generation. Generation held for operating reserve should be located near the load, typically in the same control area. Operating reserve amounts are set by the region, subregion, or a reserve sharing group in which the transmission customer's load is electrically located.

NERC and other commenters recommend the commonly-used name, "operating reserve," for this service. NERC also indicates that there are two types of operating reserve: spinning reserve and supplemental reserve.

Spinning reserve is provided by generating units that are on-line and loaded at less than maximum output. They are available to serve load *immediately* in an unexpected contingency, such as an unplanned outage of a generating unit.

Supplemental reserve is also generating capacity that can be used to respond to contingency situations. Supplemental reserve, however, is not available instantaneously, but rather within a short period (usually ten minutes). Supplemental operating reserve is provided by generating units that are on-line but unloaded, by quick-start generation, and by customer-interrupted load, *i.e.*, curtailing load by negotiated agreement with a customer to correct an imbalance between generation and load rather than increasing generation output.

Commission Conclusion

We adopt Operating Reserve—Spinning Reserve Service and Operating Reserve—Supplemental Reserve Service as the names of two related, but distinct, ancillary services. They substitute for a single ancillary service in the NOPR, System Protection Service. The names conform to the terminology recommended by NERC. We distinguish them because these services may be subject to different reliability requirements; the resources that supply each service may not be the same; and the two services may be provided by different suppliers.

b. Other Services Discussed in the NOPR

Commenters discussed whether two other services that were discussed in the NOPR should be designated as ancillary services.[363] Although we do not designate these as ancillary services for purposes of this Rule, we discuss the names and descriptions here so that we can discuss our policy regarding these services.

(1) Real Power Loss Service (in the NOPR: Loss Compensation Service)

In the NOPR, we proposed that Loss Compensation be an ancillary service.

Comments

NERC recommends the term, "Real Power Loss," to refer to energy consumed in transmission, much of it by resistance heating of the lines and transformers. Many parties, including NERC, comment that there are a number of ways to compensate the transmission provider for the losses that occur in providing transmission service. They indicate that real power loss service can be obtained from a variety of sources, such as the power supplier, the customer, a third-party, the transmission provider, or another control area. Also, the loss is commonly accounted for by a transmission customer receiving less energy at the point of delivery than it provides to the transmission provider at the point of receipt. The difference between delivered and received energy can be set equal to the energy lost in transmission.

Commission Conclusion

We adopt the term "Real Power Loss" as the name of this interconnected operations service. It substitutes for the Loss Compensation service described in the NOPR. This name conforms to the terminology recommended by NERC.

Although proposed as an ancillary service in the NOPR, we will not require that Real Power Loss be included as an ancillary service in an open access transmission tariff. It is not necessary to require the transmission provider to supply energy losses to the transmission to ensure comparable transmission access. Real Power Loss is more appropriately an interconnected operations service that transmission providers may offer voluntarily to provide to transmission customers.

It is not necessary for the transmission provider to supply Real Power Loss to effect a transmission service transaction. The transmission provider is not uniquely situated to provide Real Power Loss service to its customers, nor does it have a comparative advantage over anyone in providing such a service. Indeed, to require the transmission provider to provide this service would effectively obligate the transmission provider to engage in a sale of power when such a sale is not needed to effect the transmission service transaction.

As noted in the comments, customers have several options to cover losses that occur when electricity moves across transmission facilities.[364] The availability of open access permits the customer to obtain energy losses from many regional suppliers.

Although we will not require the transmission provider to supply Real Power Loss to the transmission customer nor require the customer to purchase it from the transmission provider, the customer must make provision for Real Power Loss. It cannot take basic transmission service without such a provision. A customer seeking transmission service must bring to the transaction sufficient energy and capacity to replace the losses associated with its intended transaction.[365] Consequently, we will require that the transmission customer's service agreement with the transmission provider identify the party responsible for supplying real power loss. In addition, we will require that the transmission provider indicate, either in its tariff or on its OASIS, what the energy and capacity loss factors would be for any transmission service it may provide so that potential customers will know the amount of losses to replace.

(2) Dynamic Scheduling (the Same in the NOPR)

In the NOPR's discussion of Scheduling and Dispatch Service, we pointed out that dynamic scheduling is possible in some regions. We asked for comments on whether we should require dynamic scheduling as an ancillary service, given the complexity of the service.

Comments

Most commenters would not have us require Dynamic Scheduling as an ancillary service.[366] Dynamic scheduling provides the metering, telemetering, computer software, hardware, communications, engineering, and administration required to allow remote generators to follow closely the moment-to-moment variations of a local load. In effect, dynamic scheduling electronically moves load out of the control area in which it is physically located and into another control area.

Commission Conclusion

We adopt the name Dynamic Scheduling Service, but we will not designate it as an ancillary service that must be included in an open access transmission tariff.

In the NOPR, we noted that Dynamic Scheduling could be used in a transmission transaction if it is technically feasible to do so without adversely affecting reliability. We did not propose in the NOPR that Dynamic Scheduling be named an ancillary service. Although Dynamic Scheduling is closely related to Scheduling, System Control and Dispatch Service, it is a special service that is used only infrequently in the industry. It uses advanced technology and requires a great level of coordination. Each Dynamic Scheduling application has unique costs for special telemetry and control equipment, making it difficult to post a standard price for the service.

Consequently, we will not require that the transmission provider offer Dynamic Scheduling Service to a transmission customer, although it may do so voluntarily. If the customer wants to

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[357] The ability to reduce reactive power requirements will be affected by the location and operating capabilities of the generator. Any arrangement for the customer to self-supply a portion of reactive supply should be specified in the transmission customer's service agreement with the transmission provider.

[358] Transmission providers may propose delivery point power factor standards, including additional (penalty) charges for failure to maintain specified power factors, in service agreements with customers. We will evaluate the reasonableness of any such proposals by public utilities to determine whether they conform to prudent utility practices and are comparable to requirements imposed by the utility on other customers, including the utility's own requirements customers, and are otherwise just and reasonable.

[359] Separation of reactive supply and voltage control from basic transmission service also may contribute to the development of a competitive market for such service if technology or industry changes result in improved ability to measure the reactive power needs of individual transmission customers or the ability to supply reactive supply from more distant sources. We recognize that these capabilities may not be fully developed at present and the ability to distinguish the reactive power needs of individual customers may be limited at first to generator control and power factor correction.

[360] *E.g.*, NERC, EEI, Florida Power Corp.

[361] *E.g.*, NERC, EEI.

[362] *E.g.*, EEI, Florida Power Corp, TVA, Wollenberg.

[363] In addition, NERC designates "facilities use service" as an interconnected operations service. We note that the facilities use service described by NERC is simply basic transmission service, which must be provided under an open access tariff. We do not consider facilities use service to be an ancillary service.

[364] *See, e.g.*, Portland, APPA, PacifiCorp, EEI.

[365] If a transmission provider does not charge for transmission used to supply losses for its own wholesale power sales and purchases, it may not charge others. If it charges others, it must charge for its own uses.

[366] *E.g.*, Detroit Edison, El Paso, FPL, Minnesota P&L, NIPSCO.

purchase this service from a third party, the transmission provider should make a good faith effort to accommodate the necessary arrangements between the customer and the third party for metering and communication facilities.

c. Other Services Not Discussed in the NOPR

Comments

Some commenters identified several other services that were not discussed in the NOPR, which they recommend we require to be provided as ancillary services.[367] Examples are emergency power, supplemental power, and inadvertent power.

Commission Conclusion

We believe that these other services generally refer to either (1) generation services that are not related to providing transmission or (2) a subpart of a service discussed above, the cost of which is not easily separable from the other service. Consequently, we will not name any of these services as an ancillary service that a transmission provider will be required to offer separately under an open access transmission tariff. However, generation-related services may be offered voluntarily to the transmission customer.

We discuss below two of these proposed generation-related ancillary services, which NERC included among its proposed interconnected operations services.

(i) Backup Supply Service

Comments

NERC explains that Backup Supply is electric generating capacity and energy that is provided to the transmission customer as needed (1) to replace the loss of its generation sources and (2) to cover that portion of the customer's load that exceeds its generation supply for more than a short time. NERC notes that Backup Supply Service is a long-term service, which distinguishes it from Operating Reserve Service and Energy Imbalance Service. Backup Supply service replaces temporary use of operating reserves; it serves load after operating reserves are returned to standby mode to maintain operating reserves at required levels. Backup Supply may last for hours, weeks, or longer. NERC indicates that a transmission customer could reduce its need for backup supply service by using interruptible load control or active demand-side management control, or both.

[367] *E.g.*, NERC, Carolina P&L, Oak Ridge, Houston L&P.

Commission Conclusion

We accept the term "Backup Supply" as the name for this interconnected operations service, but we will not require this service as an ancillary service under an open access transmission tariff. Backup Supply Service is not required for comparable open access transmission service.

Backup Supply Service is an alternative source of generation that a customer can use in the event its primary generation source becomes unavailable for more than a few minutes. Although we believe that the two short-term operating reserve services (spinning and supplemental) are necessary to support transmission, we conclude that long-term service is not necessary. Backup Supply is a generation service that may reasonably be viewed as the responsibility of the transmission customer, who may contract for backup service or curtail load.

We will impose no obligation on the transmission provider to provide power to the customer for a time longer than specified in the tariff for the customer's own backup power supply to be made available. The transmission provider is obligated to protect against emergencies for a short time; it has no obligation to furnish replacement power on a long-term basis if the customer loses its source of supply. The transmission provider has no obligation to provide power for the weeks necessary for unit maintenance, for example.

The transmission provider is not uniquely situated to provide Backup Supply Service to its transmission customers, nor does it have a comparative advantage over others in providing such service. Moreover, as Backup Supply Service may require substantial amounts of generation capability, it is inappropriate to require the transmission provider to assume significant generation responsibilities as we functionally unbundle transmission from generation.

Although the transmission provider will not be required to offer this service to transmission customers, it may offer voluntarily to provide Backup Supply Service to its transmission customers. Any arrangements for the supply of such service by the transmission provider should be specified in the customer's service agreement.

(ii) Restoration Service

Comments

NERC states that Restoration Service provides facilities and procedures to enable (1) a transmission provider to restore its system and (2) a transmission customer to start its generating units or restore its loads if local power is unavailable. Other commenters refer to Restoration Service as Blackstart Service, which may be provided by the operator of the host control area, another control area operator, or another generation supplier.[368]

According to NERC, close coordination with the host control area operator is absolutely necessary during system restoration operations. Under current industry practice, each control area operator is responsible for implementing a restoration plan in coordination with non-control area utilities as well other power producers. Many large generating units require startup power to restart after being out of service. Startup power may be provided, for example, by self-contained diesel engine generator sets located at a generating plant. If electric power is not available from the grid, some and perhaps many plants must obtain the necessary power from their auxiliary generators to restart plants and return the grid voltage to the proper level. Other generators without blackstart capability may rely on power from the grid to restart, once the grid is energized by others. NERC notes, however, that it may be inappropriate to rely completely on power from the grid for restart power because power from the grid may be unavailable or insufficient. Consequently, at least some power plants must have internal auxiliary power sources.

Commission Conclusion

We accept the term "Restoration" as the name for this interconnected operations service. We will not require the transmission provider to offer Restoration Service as a separate ancillary service in an open access transmission tariff.

Comments on Restoration Service appear to describe two services, blackstart service and planning for system restoration. Presumably, each utility and power producer will do its part through voluntary coordination and self-interest to ensure a reliable and adequate source of startup power for its generating units. We will not require a transmission provider to provide blackstart capability to transmission customers. Generators without blackstart capability can instead purchase blackstart power from any power supplier connected to the grid at an appropriate power price, if such service is available after a contingency is corrected.

[368] *E.g.*, Atlantic City, Oak Ridge.

The obligation to plan for restoration capability is a system control area function that rests with the transmission provider and the operator of the control area in which the transmission provider is located. The transmission provider (or its associated control area operator) generally makes arrangements with enough generators to provide the system with this capability at strategic locations on the transmission system. Thus, restoration planning is intrinsic to the transmission provider's basic transmission service and included in its cost.

2. Obligations of Transmission Providers and Transmission Customers With Respect to Ancillary Services

In the NOPR, the Commission proposed that public utilities required to file open access transmission tariffs also be required to provide unbundled ancillary services to transmission customers. Although the NOPR included a list of ancillary services to be offered by transmission providers, the NOPR did not indicate whether a customer must take basic transmission service from the transmission provider to be eligible to require the transmission provider to supply ancillary services. Comments on these issues are summarized below.[369]

Comments

Several commenters[370] distinguish generation-related ancillary services from others. Generation-related services are those that require the provider to have extra generating capacity or to provide electric energy. The remaining ancillary services are called transmission-related services or control area services. Transmission-related services would involve, for example, voltage support from transmission facilities. An example of a control area service is system control and dispatch. Commenters do not agree on how each service should be classified.

Many commenters state that only control area operators should be allowed to offer certain ancillary services, such as scheduling, system control and dispatch.[371] They believe that otherwise reliability might suffer.

Minnesota P&L states that certain ancillary services (*e.g.* reactive power from generators, load following, frequency control) should be provided exclusively by the operator of the control area where the load resides.[372] Minnesota P&L indicates that obtaining these services externally could jeopardize reliability. Several commenters claim that a control area operator must provide the scheduling, system control and dispatch service and reactive power supply service (except in cases where the customer's load is very close to the generating source).[373] Numerous commenters indicate that load following (now called Regulation and Frequency Response Service) generally is provided only by a control area operator.[374]

EEI and other commenters state that energy imbalance service must be provided by either the control area operator or some other entity that is in the control area where the customer's load is located and has real-time response capability.[375] NYSEG points out that transmission providers generally are also control area operators and thus automatically provide energy imbalance service to maintain interchange flows and control area reliability. For this reason, NYSEG believes it is important that this service remain a responsibility of the transmission provider.

SC Public Service Authority contends that ancillary services can be provided only by an entity large enough to operate at a NERC regional scale. It states that ancillary services protocols must be established regionally to support regional transmission services.

Other commenters disagree. They argue that all the generation-related ancillary services identified in the NOPR can be obtained from sources other than the transmission provider.[376] American Wind believes the ability of a transmission customer to self-supply ancillary services or purchase them from a third party will help to curb inflated prices for such services. Southwest TDU Group also claims that permitting entities outside the transmission provider's control area to provide ancillary services will enhance competition and reduce the need for Commission oversight of charges for ancillary services.

A majority of commenters support the view that the transmission-providing public utility should provide ancillary services. Many commenters do not discuss the services individually but present their views generally on the provision of ancillary services. Missouri-Kansas Industrials and CCEM support a requirement that utilities make ancillary services available through a tariff. They argue that, from a customer's point-of-view, it is extremely critical that a transmission provider be required to furnish these services under a regulated, nondiscriminatory, cost-based tariff format. NIEP argues that, until a fully competitive market for ancillary services develops, transmitting utilities should be obligated to provide or arrange for any and all of the NOPR ancillary services, to the extent that the transmission customer desires such services. Direct Service Industries emphasizes that a transmission provider should be required to provide any ancillary service that it is capable of supplying. Direct Service Industries and Utilities For Improved Transition claim that open access tariffs should state clearly that the transmission provider must secure ancillary services for a transmission customer if the transmission provider is not able to provide these services itself. Large Public Power Council contends that, during the transition to a competitive market for generation-related ancillary services, transmission providers should be required to provide all ancillary services related to generation that existing customers now take on a bundled basis. OH Com notes that transmission owners, by virtue of their position as transmission owners, are necessarily the providers of last resort for certain ancillary services. OH Com therefore believes that only transmission providers should provide ancillary services.

Several non-IOU, transmission-owning commenters, however, urge that the Commission not require transmission providers to provide ancillary services that they cannot physically supply, *i.e.*, if they lack sufficient generation, lack control area facilities, or have slow-responding generating units.[377] NRECA and TDU Systems also state that many cooperatives and transmission

[369] Some commenters suggest that transmission providers be required to provide, or transmission customers be required to purchase or self-supply, certain services other than the six ancillary services that we will require to be included in an open access transmission tariff. Because we will not require the transmission provider to offer any services other than basic transmission service and the six ancillary services, comments on requirements to provide or take other services are not included in the summary.

[370] *E.g.*, NERC, Tallahassee, IL Com.

[371] *E.g.*, BG&E, Minnesota P&L, Florida Power Corp.

[372] *See also* Florida Power Corp and Montana Power.

[373] *E.g.*, Carolina P&L, Texas Utilities, NERC, PSE&G.

[374] *E.g.*, SCE&G, Montana Power, NIPSCO, EEI, PacifiCorp. EEI and PacifiCorp indicate that dynamic scheduling of load following service is an exception to the general practice of the control area operator providing load following service.

[375] *E.g.*, Montana Power, TDU Systems.

[376] *E.g.*, Tallahassee, Wisconsin Municipals, IL Com.

[377] *E.g.*, OVEC, OG&E, Memphis, Nebraska Public Power, TDU Systems, TANC, San Francisco, Brazos.

dependent systems presently obtain ancillary services from control area utilities under specific contract terms. Consequently, if their member systems are asked to provide transmission service, they may not be able to take on the obligation to secure ancillary services under their existing contracts for transmission customers. Soyland and Pacific Northwest Coop argue that a transmission provider should not be required to supply services that it does not provide to its native load.

Most IOU commenters and others oppose a requirement that the transmission provider be obligated to provide generation-related ancillary services. They offer the following reasons: (1) The need for such services differs from one transaction to the next; (2) a transmission provider is neither uniquely qualified to provide these services, nor is it essential that such provider be the one providing these services in order to effect a transaction; (3) until it is demonstrated that these services cannot be obtained from a source other than the transmission provider, it is inappropriate to require transmission providers to supply such services; and (4) a transmission provider should have no residual obligation as a provider of last resort to plan its system to have generating resources available for the supply of ancillary services.[378] IL Com also contends that utilities should not be required to provide generation-related ancillary services under general transmission service tariffs if such services can be obtained from the bulk power market.

Other IOU commenters argue that there is a fundamental inconsistency between an obligation to provide or obtain ancillary services for customers and the NOPR's unbundling requirement. For example, BG&E claims that it is inconsistent to require the traditional vertically integrated utility to functionally unbundle and also to remain responsible for providing at cost-based rates what should be competitively-priced generation services. Florida P&L and other IOU commenters argue that providing generation-related ancillary services effectively imposes the load-serving obligation of the transmission customer on the transmission provider.

However, some IOU commenters contend that the transmission provider or its agent should be required to provide certain ancillary services.[379] NIPSCO and PacifiCorp believe that load following (now called Regulation and Frequency Response Service) should be provided only by the transmitting utility, especially if the customer's load and resources are located in the control area operated by the transmitting utility. EEI contends that a third-party generator should have the opportunity to provide regulation service if it resides in the transmission provider's control area and coordinates its actions with the control area operator.

IN Com and NY Com recommend that the Commission provide flexibility in assessing responsibility for the supply of ancillary services. MN DPS recommends that an individual transmission provider should not be required to file an individual tariff for ancillary services if it is a member of an RTG whose tariffs adequately cover the same services.

EEI contends that a control area utility should not be required to provide ancillary services to a third party outside its control area. EEI also argues that, if the transmission provider is not a control area, it should not be required to procure ancillary services from a control area on behalf of a third party seeking service over its system. Rather, the third party should be responsible for procuring the ancillary services it needs. Other IOU commenters argue that the responsibility to acquire ancillary services belongs to the transmission customer, not the transmission provider.[380]

Many IOU commenters express concern that ancillary services be offered and taken on a symmetrical basis, *i.e.*, if transmission providers are uniquely situated to provide the service, customers should likewise be required to take and pay for the service from such transmission providers.[381] BG&E claims that it is patently unfair to give third-party users the option not to purchase ancillary services that the transmission provider must offer. BG&E argues that, if transmission providers have an obligation to provide ancillary services, equity dictates that transmission customers have a corresponding obligation to take those services or compensate transmission providers for the costs associated with the unused capabilities. United Illuminating argues that the requirement to provide service without a corresponding obligation to purchase service unfairly burdens the transmission provider and skews competition in favor of transmission customers.

Other non-IOU commenters oppose a symmetric obligation to provide and purchase particular ancillary services.[382] Ontario Hydro and others claim that the customer should decide on a case-by-case basis which ancillary services it needs to purchase.

BPA and BG&E assert that transmission providers should be able to require that the party *receiving* the power, which may not be the transmission customer, be responsible for acquiring ancillary services. This would allow the transmission provider to establish the appropriate contractual arrangements with the party that is actually receiving the energy and avoid shifting responsibility to a party that is merely arranging the transmission service.

A number of IOU commenters express concern that customers may "lean" on a transmission provider's system for ancillary services. That is, they worry that the transmission customer may not purchase an ancillary service but nevertheless rely on the transmission provider to provide it. Commenters propose various remedies to address this concern. NIEP, Dayton P&L and others argue that the Commission should require that, as a prerequisite to basic transmission service, the transmission customer has either arranged to obtain ancillary services from the transmission provider or has demonstrated it has an arrangement with an alternative supplier that is reliable and sufficient to satisfy the ancillary service needs associated with the transmission service transaction. NYPP believes that, if the customer's method of providing ancillary services does not meet the standards of the transmission provider, the transmission provider should be able to require that the transmission customer find another ancillary service supplier or purchase the service directly from the transmission provider at its tariff rates.[383] EEI proposes that penalties be permitted as a backstop if the market cannot resolve the "leaning" problem. VEPCO suggests that utilities should have the option to require customers to maintain backup supply reserves.

Commission Conclusion

The NOPR proposed that six ancillary services be included in an open access transmission tariff. Some commenters interpret the NOPR to require that transmission providers make a "universal" offer of unbundled ancillary services, *i.e.*, an offer to any transmission customer regardless of location and whether the transmission customer would also be taking basic transmission service from the supplier of ancillary services.[384] Such interpretation is incorrect; it goes beyond what is required for comparability. These services are required to be provided only to customers taking basic transmission service. However, transmission providers may offer these services on a voluntary basis to other customers if technology permits.

Transmission *through* or *out of* a control area requires fewer ancillary services from the operator of the control area than transmission *within* or *into* a control area to serve loads in the control area. If the requested transmission service transaction involves more than one control area, *i.e.*, the receipt point and delivery point of transmission service are located in different control areas, certain ancillary services will be needed only in the control area where the transmission customer's load is located.

We will distinguish two groups or categories of ancillary services: (1) Services that we will require the transmission provider to provide to all its basic transmission customers, and (2) services that we will require the transmission provider to offer to provide only to transmission customers serving load in the provider's control area. The first group is comprised of (i) Scheduling, System Control and Dispatch and (ii) Reactive Supply and Voltage Control from Generation Services. The second group is comprised of (i) Regulation and Frequency Response, (ii) Energy Imbalance, (iii) Operating Reserve—Spinning, and (iv) Operating Reserve—Supplemental.

With respect to the first group of ancillary services, we conclude that the transmission provider that operates a control area is uniquely positioned to provide these services. Thus, as stated above, we will require the transmission provider that operates a control area to *provide* these ancillary services. We will also require that the transmission customer purchase these services from the transmission provider, as explained in the next section.

With respect to the second group of ancillary services, we conclude that the transmission provider is not always uniquely positioned to provide these services, although in many cases it may be the only practical source. Thus, we will require the transmission provider to *offer* to provide the ancillary services in the second group to transmission customers serving load in the transmission provider's control area. We also will require the transmission customer serving load in the transmission provider's area to acquire these services, but it may do so from the transmission provider, a third party or self-supply. These ancillary services must be provided by someone if the system is to be operated reliably; the customer may not decline the transmission provider's offer of ancillary services unless it demonstrates that it has acquired the services from another source. The transmission provider may require the customer to decide which of these ancillary services it will purchase from the transmission provider when it applies for basic transmission service.

If the transmission provider is a public utility providing basic transmission service but is not a control area operator, it may be unable to provide some or all of the ancillary services we require without substantial investment. In this case, we will allow the transmission provider to fulfill its obligation to provide, or offer to provide, ancillary services by acting as the customer's agent. We will require the transmission provider to offer to act as agent for the transmission customer to secure these services from the control area operator.[385] The customer may have the transmission provider act as agent or may secure the ancillary services directly from the control area operator. As stated above, the customer may also secure the second group of ancillary service from a third party or by self-supply.

If the transmission provider is a public utility that is not a control area operator, but its control area operator is a public utility, the control area operator must offer to provide all ancillary services to any transmission customer that takes transmission service over facilities in its control area whether or not the control area operator owns or controls the facilities used to provide the basic transmission service.[386]

We discuss the requirement to supply and purchase each ancillary service individually below.

a. Ancillary Services Required To Be Provided by Transmission Provider for All of Its Transmission Customers

(1) Scheduling, System Control and Dispatch Service

We conclude that this service is necessary to the provision of basic transmission service within every control area. As NERC and other commenters point out, Scheduling, System Control and Dispatch Service can be provided only by the operator of the control area in which the transmission facilities used are located.[387] This is because the service is to schedule the movement of power through, out of, within, or into the control area.

(2) Reactive Supply and Voltage Control Service From Generation Sources

We conclude that this service is necessary to the provision of basic transmission service within every control area. Because reactive power cannot be transmitted for significant distances, the local transmission provider has to supply reactive power from generation sources. It is often uniquely situated to supply reactive power. The transmission provider or the operator of the control area in which the provider is located cannot avoid supplying it to the transmission customer, and the transmission customer cannot avoid taking at least some of this service from the transmission provider. Although a customer is required to take this ancillary service from the transmission provider or control area operator, it may reduce the charge for this service to the extent it can reduce its requirement for reactive power supply.

b. Ancillary Services Required To Be Offered Only to Transmission Customers Serving Loads in the Transmission Provider's Control Area

(1) Regulation and Frequency Response

Regulation and Frequency Response Service is not required for transmission out of or through the transmission provider's control area. We conclude that this service must be offered only for transmission within or into the transmission provider's control area to serve load in the area. Customers may be able to satisfy the regulation service obligation by providing generation with

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[378] *E.g.*, PSNM, Atlantic City, Centerior, UWG, Texas Utilities, Entergy, LG&E, Montana Power, FPL, United Illuminating, Large Public Power Council, Christensen.

[379] *E.g.*, NIPSCO, PacifiCorp, Orange & Rockland, Allegheny, NYSEG, EEI.

[380] *E.g.*, BG&E.

[381] *E.g.*, CSW, BG&E, ConEd, United Illuminating, Ohio Edison, Atlantic City, Centerior, SoCal Edison, Duke, EEI.

[382] *E.g.*, RUS, TDU Systems, DE Muni.

[383] *See also* NYSEG, Ohio Edison.

[384] *E.g.*, PSNM, Atlantic City, Centerior, Texas Utilities, Entergy, FPL, Utility Working Group.

[385] The requirement to offer to act as agent is in lieu of the requirement for the transmission provider to supply the ancillary service to the transmission customer. Many commenters asked that we not require the transmission provider to acquire the capacity to provide ancillary services that it does not provide for itself but acquires from its control area operator. *E.g.*, EEI, NRECA, BPA, TDU Systems.

[386] If the transmission provider is a control area operator but not a public utility, we can order transmission services only upon application, pursuant to section 211 and 212 of the FPA. However, the provision of transmission services by non-public utilities would be necessary to satisfy the reciprocity condition in public utilities' open access transmission tariffs.

[387] *E.g.*, Carolina P&L, Texas Utilities, PSE&G.

automatic generation control capabilities to the control area in which the load resides. Dynamic scheduling may also be used to electronically "move" a remote generating unit into the appropriate control area. For customers to take advantage of these developments, a transmission provider is required to identify the regulating margin requirements for transmission customers serving loads in its control area and develop procedures by which customers can avoid or reduce such requirements.

(2) Energy Imbalance

We conclude that Energy Imbalance service must be offered for transmission within and into the transmission provider's control area to serve load in the area.

Energy imbalance represents the deviation between the scheduled and actual delivery of energy to a load in the local control area over a single hour. A transmission customer can reduce or eliminate the need for energy imbalance service in several ways. A customer can avoid taking energy imbalance service if it controls generation with load-following capabilities located in the control area. The Final Rule pro forma tariff allows unlimited changes before the hour at no additional charge to a customer's hourly schedule of energy deliveries to the control area. By changing its schedule more frequently (based on updated load information, for example), a customer can reduce or avoid energy imbalance charges. Other customer options to reduce or avoid energy imbalance charges include (i) establishing the load as a separate control area island within the transmission provider's control area with its own generation and load and (ii) removing the customer's load from the transmission provider's control area through dynamic scheduling.[388]

(3) Operating Reserve—Spinning

(4) Operating Reserve—Supplemental

We conclude that Operating Reserve—Spinning and Operating Reserve—Supplemental must be offered for transmission within and into the transmission provider's control area to serve load in the control area. Reserves should be located near load in case of unplanned unavailability of generating units serving load in the control area. We will permit transmission providers to rely upon prevailing regional practices to set reserve criteria. Transmission providers are required to facilitate efforts by customers to meet Operating Reserve obligations with their own generating resources or from third-party sources if they can satisfy the regional criteria.

If a customer uses either type of operating reserve, it must expeditiously replace the reserve with backup power to reestablish required minimum reserve levels.

3. Unbundling and Bundling Ancillary Services

a. Services That Can Be Bundled With Transmission Service

In the NOPR, the Commission proposed that transmission providers should be required to offer ancillary services as discrete services, unbundled from basic transmission service.

Comments

While most commenters support the approach to unbundling the ancillary services proposed in the NOPR, a number of commenters argue that, for technical and administrative reasons, certain services should be bundled with basic transmission service. For example, some commenters assert that Reactive Supply and Voltage Support service should be bundled with basic transmission service.[389] They argue that this service is integrally related to the operation of the transmission system, that it must be provided at or near the point of need, and that its costs are difficult to isolate and account for.[390] Other commenters argue that scheduling and dispatch service, for similar reasons, should be bundled with basic transmission service.[391]

A few commenters suggest that other services could be bundled with the basic transmission service. For example, NYSEG identifies energy imbalance service as a candidate for bundling. EEI identifies frequency regulation and NYMEX identifies frequency control as services that could be bundled with basic transmission service.

Some commenters believe that the Commission should allow utilities to file transmission tariffs that bundle all necessary transmission and ancillary services, at least as an interim measure.[392]

On the other hand, other commenters believe that a greater level of unbundling of transmission and ancillary services is necessary to facilitate the development of competitive markets and to ensure that transmission customers are able to purchase only the services they require.[393] Dayton P&L believes that all ancillary services should be offered as discrete services with separate prices. Texas Utilities asserts that generation-related ancillary services should be unbundled and separately priced.

Commission Conclusion

Although commenters raise valid concerns, they do not provide a compelling reason to require that our six ancillary services be bundled with basic transmission service. We have, however, changed the proposal in the NOPR to clarify that reactive supply and voltage support from *transmission* resources is part of basic transmission service.

Unbundling ancillary services will promote competition and efficiency in their supply. Because most generation-based ancillary services potentially can be provided by many of the generators connected to the transmission system, some customers may be able to provide or procure such services more economically than the transmission provider can. Once they are unbundled, a more competitive market may emerge to supply such services.

Also, unbundling makes possible a more equitable distribution of costs. Because customers that take similar amounts of transmission service may require different amounts of some ancillary services, bundling these services with basic transmission service would result in some customers having to take and pay for more or less of an ancillary service than they use. For these reasons, the Commission concludes that the six required ancillary services should not be bundled with basic transmission service.

With respect to the specific question of whether Reactive Supply and Voltage Control from Generation Sources should be bundled with basic transmission service, we believe that this service should remain unbundled because, as explained above, transmission customers have some ability to effect how much of this service they need and a third party may be able to supply some portion of a customer's reactive power requirements.

b. Services That May Be Offered and Sold as a Package

The NOPR indicated that ancillary services must be offered separately from one another but did not indicate if the transmission provider may also offer a package of ancillary services.

Comments

Several commenters support giving customers the option either to purchase ancillary services as separate and distinct services or to purchase a package of services from the transmission provider.[394] Others, such as Tallahassee, recommend that utilities be prohibited from bundling the purchase of one service with another so that a transmission customer cannot rely on the transmission provider for just one or a few of the ancillary services.

EEI and ELCON argue that the Commission should permit customers the option to request that transmission providers offer packages of selected ancillary services.[395] They and other commenters express a concern that efficiencies can be lost under a policy that precludes combining ancillary services.

Commission Conclusion

We conclude that a transmission provider must offer and price the individual ancillary services separately. It may not tie the purchase of one to the purchase of another.

However, we will allow a transmission provider to assemble packages of ancillary services (*not* bundled with basic transmission service) that can be offered at rates that are less than the total of individual charges for the services if purchased separately. It may also offer rate discounts on any ancillary service. If a rate discount is offered to the transmission owner itself or to an affiliate of the transmission owner, the same discount must be offered to non-affiliates, as well. In addition, discounts offered to non-affiliates must be on a basis that is not unduly discriminatory. All discounts must be posted on the transmission provider's OASIS.

4. Reassignment of Ancillary Services

In the NOPR, the Commission noted that ancillary services may not be suitable for reassignment and requested comments on this issue.

Comments

Commenters express divided views on the reassignment issue. Some IOU commenters believe that, subject to technical limitations, ancillary services could be reassigned.[396] Other commenters, including many IOUs, oppose reassignment because they believe it is impractical.[397] In particular, PacifiCorp claims that the customer-specific nature of generation-related ancillary services prevents such services from being reassigned.

TDU Systems argue that transmission customers that must pay for ancillary services they do not need should be able to resell them to someone else.[398] Mt. Hope Hydro claims that, if a bulk power transaction and the associated transmission service can be reassigned, it is reasonable that the ancillary services used to support the transaction also should be reassigned, particularly if the same facilities and contract path are used.[399]

Commission Conclusion

We conclude that transmission customers will be allowed to reassign ancillary services along with the reassignment of basic transmission service. The Commission believes that a policy of transmission capacity reassignment may not be possible unless the ancillary services used to support the transmission are also reassignable.

5. Pricing of Ancillary Services

In the NOPR, we asked for comments on ancillary service pricing and proposed specific ancillary services prices in the Stage One implementation rates. Many commenters commented on the Stage One rates. There is no Stage One in the Final Rule.

Comments

Many commenters state that ancillary services are difficult to price. They suggest diverse pricing approaches. IN Com notes that, because utilities and regulatory commissions have no experience with pricing unbundled ancillary services, the process needs to evolve but the goal should be to encourage market pricing in competitive markets. Air Liquide believes the best pricing policy should be negotiated bilateral agreements, provided market power is mitigated.

Other commenters express concern about how pricing proposed in the NOPR would affect the development and operation of competitive ancillary services markets. Industrial Energy Applications notes that low price caps on generation-related services, such as supplying losses, imbalance energy, operating reserve and backup power, which can be provided from many sources, inhibit competitive market development. There is little incentive for other providers to invest in facilities to provide these services. Dayton P&L and others contend that the Commission should not require transmission providers to provide generation-based ancillary services at cost-based rates and then allow third parties to resell such services at market-based rates. PacifiCorp expresses concern that the NOPR's pricing proposal would be overly restrictive in the emerging competitive market for generation-related ancillary services.

Many commenters argue that cost-based price caps are appropriate for ancillary services if there are no alternative suppliers or until competitive markets develop.[400] CAMU suggests that the comparability standard is not met if market rates exceed the costs of providing ancillary services. Allegheny, Ohio Edison and Atlantic City support cost-based pricing for Reactive Power/Voltage Control. Ohio Edison recommends cost-based pricing for frequency regulation, and Atlantic City recommends it for scheduling and dispatch.

Several commenters suggest that the Commission require cost-based rates for ancillary services where no source other than the transmission provider exists and market-based rates for generation-related ancillary services if competition exists.[401] Washington and Oregon Energy Offices recommend that, before permitting market-based rates, at least two other non-affiliated parties should be able to offer a nearly identical ancillary service and that the Commission should use the same standards for allowing market-based rates for ancillary services that it has used for wholesale power sales. Mt. Hope Hydro argues that vertically integrated utilities should be permitted to charge cost-based rates that are limited to no more than the market price for ancillary services. It also contends that companies whose generation facilities are not supported by captive retail or transmission customers should be authorized to sell at market-based prices.

The vast majority of commenters from all interest groups who address market-based pricing for ancillary services agree that market-based pricing is appropriate for ancillary services where competitive market conditions exist. However, commenters disagree over whether a

[388] Some of these options (*e.g.*, establishing a separate control area), while technically feasible, may be too costly or otherwise inadvisable.

[389] *E.g.*, Carolina P&L, NYSEG, FPL, NSP, WP&L, Orange & Rockland, Arizona, Salt River, SC Public Service Authority, Brazos, NY Com.

[390] *See, e.g.*, Carolina P&L Initial Comments at 56.

[391] *See, e.g.*, CCEM, Carolina P&L, NYSEG, CINergy.

[392] *E.g.*, UT Com, Washington and Oregon Energy Offices, WA Com.

[393] *E.g.*, Direct Service Industries, Mt. Hope Hydro.

[394] *E.g.*, Direct Service Industries, Mt. Hope Hydro, ELCON, PA Com.

[395] EEI Initial Comments at V–4; ELCON Initial Comments at 21.

[396] *E.g.*, WP&L, NYSEG.

[397] *E.g.*, Consumers, PacifiCorp, Carolina P&L, PSNM, Salt River, PA Com, TDU Systems.

[398] TDU Systems Initial Comments at 87.

[399] Mt. Hope Hydro Initial Comments at 17.

[400] *E.g.*, Utilities For Improved Transition, Idaho, CINergy, Direct Service Industries, Mt. Hope Hydro, ABATE, TDU Systems, Missouri-Kansas Industrials, Washington and Oregon Energy Offices, IN Com.

[401] *E.g.*, PJM, Texas Utilities, Entergy, Carolina P&L.

competitive market for ancillary services currently exists.

In determining the extent of competition, many commenters distinguish between ancillary services that are (1) generation-related and (2) transmission-related. Commenters disagree over whether the Commission can declare generation-related ancillary services to be competitive on a generic basis. Many commenters contend that transmission-related ancillary services are not available in a competitive market; consequently, they agree that prices for such services should be cost-based.

Commission Conclusion

We will consider ancillary services rate proposals on a case-by-case basis.

In response to comments,[402] we offer here some general guidance on ancillary services pricing principles.

(1) Ancillary service rates should be unbundled from the transmission provider's rates for basic transmission service, even though such services are a necessary adjunct to basic transmission service.

(2) The fact that we have authorized a utility to sell wholesale power at market-based rates does not mean we have authorized the utility to sell ancillary services at market-based rates.

(3) In the absence of a demonstration that the seller does not have market power in such services, rates for ancillary services should be cost-based and established as price caps, from which transmission providers may offer a discount to reflect cost variations or to match rates available from any third party. If a rate discount is offered to the transmission owner itself or to an affiliate of the transmission owner, the same discounted rate must be offered to non-affiliates, as well. In addition, discounts offered to non-affiliates must be on a basis that is not unduly discriminatory. All discounts must be posted on the transmission provider's OASIS.

(4) The amount of each ancillary service that the customer must purchase, self-supply, or otherwise procure must be readily determined from the transmission provider's tariff and comparable to the obligations to which the transmission provider itself is subject. The provider must take ancillary services for its own wholesale transmission under its own tariff.

(5) The location and characteristics of a customer's loads and generation resources may affect significantly the level of ancillary service costs incurred by the transmission provider. Ancillary service rates and billing units should reflect these customer characteristics to the extent practicable.

6. Accounting for Ancillary Services

Comments

Some commenters suggest that there may be a need for revising the Uniform System of Accounts to track better the costs of providing discrete ancillary services. Other commenters believe that ancillary services are transmission-type services and suggested that the costs of generation-provided ancillary services be refunctionalized from power production expense to transmission expense.

Oak Ridge asserts that a primary goal of those interested in restructuring the electricity industry should be to identify clearly the different functions that are today buried within the vertically integrated utility and bundled into one price. Oak Ridge, however, indicates that achieving this ideal of identifying unbundled services at appropriate prices will be difficult because of utility accounting practices.

EEI asserts that since the current Uniform System of Accounts was designed to track costs incurred to provide bundled wholesale service, it does not track the discrete costs incurred to provide ancillary services. Therefore, according to EEI, a major update is needed to support the pricing of discrete ancillary services.

ConEd states that ancillary services are integral and essential elements of providing transmission services. It notes that, historically, due to the vertical integration of utilities, those services have been bundled with the other services provided and the costs associated with providing ancillary services have not been specifically defined. ConEd claims that to a large degree, this is due to the fact that utility accounting mechanisms were not established with the intention of identifying the costs for ancillary services.

UI asserts that if transmission customers are to be charged for certain ancillary services, it may be necessary to refunctionalize certain specific costs items from generation to transmission. UI points out that some of the reactive power to support system voltages and to provide transmission services, for example, is supplied from the variable reactive output of the generators. It states that these costs, to the extent they can be identified with the provision of transmission service, should be refunctionalized to the transmission account. However, UI states it may not be possible to develop a unit cost for specific transactions. Thus, UI states it may be more appropriate to roll these costs into the embedded transmission rate and allocate them among the various users of the transmission system.

Commission Conclusion

To ensure comparable transmission access a Transmission Provider is obligated to offer or arrange to provide certain ancillary services to the Transmission Customer. Also, the Transmission Provider may offer to provide other ancillary services to the Transmission Customer. A Transmission Customer is obligated to purchase certain ancillary services from the Transmission Provider.

Generation resources provide certain ancillary services, while transmission resources provide other ancillary services. Consequently, the costs of providing certain ancillary services are recorded in the utility's power production expense accounts, while others are recorded in the utility's transmission expense accounts.

Currently, the Uniform System of Accounts requires that costs incurred in providing ancillary services be recorded as power production or transmission expense depending upon which resource the utility uses to supply the service. At this time, we are not convinced that the amounts involved or the difficulty associated with measuring the cost of ancillary services warrants a departure from our present accounting requirements. We will specify, however, that revenues a Transmission Provider receives from providing ancillary services must be recorded by type of service in Account 447, Sales for Resale, or Account 456, Other Electric Revenues, as appropriate.

E. Real-Time Information Networks

In the Open Access NOPR, the Commission determined that in order to remedy undue discrimination, a utility must functionally unbundle its wholesale services, and that among the things required by functional unbundling is that the utility, when buying or selling power, rely upon the same electronic network that its transmission customers rely upon to obtain transmission information. Accordingly, the Commission accompanied its issuance of the Open Access NOPR with issuance of a notice of technical conference that initiated a proceeding in Docket No. RM95–9–000 to consider whether Real-Time Information Networks (RINS) or some other option would be the best means to ensure that potential customers of transmission services have access to the information necessary to obtain open access transmission service on a non-discriminatory basis.[403]

The Commission affirms its conclusion that in order to remedy undue discrimination in the provision of transmission services it is necessary to have non-discriminatory access to transmission information, and that an electronic information system and standards of conduct are necessary to meet this objective. Therefore, we issue, in conjunction with this Final Rule, a final rule adding a new Part 37 that requires the creation of a basic OASIS and standards of conduct.[404]

The Phase I OASIS rules require each public utility (or its agent), as defined in section 201(e) of the Federal Power Act, 16 U.S.C. 824(e), that owns, controls, or operates facilities used for the transmission of electric energy in interstate commerce to develop and/or participate in an OASIS. The Phase I OASIS rules describe what information must be provided on the OASIS during Phase I and how OASIS must be implemented.

In addition, the new Part 37 contains a code of conduct applicable to all transmission providing public utilities. The code of conduct is designed to ensure that preferential access to information about wholesale transmission prices and availability is not available to employees of the public utility engaged in wholesale marketing functions or to employees of certain of the public utility's affiliates.

F. Coordination Arrangements: Power Pools, Public Utility Holding Companies, Bilateral Coordination Arrangements, and Independent System Operators

Comments

Timing of Reformation

Many marketers, IPPs, and other nonmembers of pools request that the Commission immediately apply unbundling and transmission tariff requirements to all new transactions under existing pooling agreements. APPA states that the Commission should not deal with power pools as a "follow-on activity" because treatment of pools is an integral step in achieving transmission comparability. AEC contends that until pools publish open access tariffs, the Commission should permit applications for section 211 transmission orders from one or more applicants directed to multiple respondents.

Existing pools generally urge the Commission to allow time for the pools to propose alternative structures or agreements which would meet the objectives of the final rule. EEI states that the rule may create problems for power pools that will not be examined or understood by the Commission and the public until the Commission's pooling inquiry is completed; it requests that the pooling inquiry be completed before a final rule is issued. Duke recommends that implementation of open access transmission services by power pools be addressed in a separate proceeding because implementation of open access for power pools raises complex issues.

EGA, among others, argues that new transactions under existing pooling agreements should not be grandfathered, but rather should be required to meet the functional unbundling requirements of the final rule. Some pool members argue that pool transactions are largely not wholesale transactions. For example, PECO (a member of PJM) requests the Commission to clarify that the delivery of pooled generation to pool members' native load is not a "wholesale purchase" of power and thus would not require taking transmission service under one's own open access transmission tariff. Another member of PJM, BG&E, interprets the proposed rule to require all PJM economy trades to be firm point-to-point services; it claims that such a requirement "jeopardizes the continued viability of the pool."

System-Wide Tariffs

Virtually all commenters on power pool issues state that the tariff requirements should not be applied directly to individual utilities who are members of "tight" power pools. ELCON, CCEM, and others argue that the pro forma tariff requirement should be applied directly to "tight" or "single system" power pools to avoid discriminatory "pancaking" of transmission rates. However, Duke argues that where there are both multiple owners and operators, as in "loose" pools, it is appropriate to have individual tariffs unless the pool members agree otherwise. DOE recommends a power pool file a single pool-wide tariff to offset problems associated with joint ownership or control of transmission. CT DPUC recommends that the Commission provide guidance for transmission access and pricing (so as to avoid needless disruption of present methods).

Flexible Treatment

Most commenters on power pools support recognizing regional differences among power pools and urge flexibility. PSE&G (a member of PJM) states that open access tariffs must be specially crafted to deal with power pool members. NYPP and PJM state that they are considering innovations and urge that their efforts not be stifled by any final rule. CSW proposes a region-wide pricing model based on power flows. NPPD, a member of the Mid-Continent Area Power Pool (MAPP), says MAPP is considering adopting the megawatt-mile approach to transmission pricing. SoCal Edison states that California utilities are developing a market-based power pool and that it is crucial for the final rule to be flexible to permit innovations throughout the country.

ELCON and power marketers, however, argue for uniformity and point out the difficulties of moving power from system to system where each system has varying standards or "pool rules." These commenters support uniform application of the terms and conditions in the pro forma tariffs to create a national standard.

NEPOOL emphasizes that since pools remain voluntary, the imposition of rules that are not acceptable to pool members simply increases the likelihood that members will withdraw and pools will disintegrate. For this reason, NEPOOL states that solutions to enhance competition (within a tight pool setting) are best identified through the consensus of pool members, which requires both time and flexibility on the part of the Commission.

DE, DC, NJ and MD Coms emphasizes its concern that a one-size-fits-all open-access policy, while perhaps benefiting subsets of individual suppliers and purchasers, may not be the best solution for the millions of retail customers who currently rely on power pools.[405] It wants the Commission to be aware that the individual commissions have begun a formal dialog among each other and with the PJM utilities to discuss possible regional solutions to transitional competitive issues.

Open Membership

NIEP and CCEM argue that the competitive playing field cannot be level unless nonmembers receive certain

[402] Many commenters were particularly concerned that rates for energy losses, a NOPR ancillary service, should be market-based. We need not address this concern in this Rule, however, because we will not require Real Power Losses to be offered as an ancillary service.

[403] *See* Real-Time Information Networks, Notice of Technical Conference and Request for Comments, 60 FR 17726 (April 7, 1995).

[404] In Phase II, we will continue to develop the requirements for fully functional OASIS. We expect to issue a final rule on Phase II OASIS requirements sometime in 1997.

[405] *E.g.*, DE Com, DC Com, NJ Com, MD Com.

power pool services on terms comparable to those for pool members. Members of pools state that "return in kind" transactions are efficient, but that such transactions are not appropriate for those entities that are not similarly situated to vertically integrated utilities.

EEI maintains that those seeking the benefits of pool membership must accept the burdens imposed on existing pool members (otherwise, they would have an advantage, not comparability). EEI believes that new pool participants can negotiate and "buy into" the pool resources. Many commenters claim that unbundling certain power pool services to accommodate open access will solve the problem.

MidAmerican states that if the Commission grants nonmembers access to pool transmission service, the Commission should allow a period of at least four years for pools to restructure and refile rate schedules to avoid the inequitable results which the Commission's requirements will impose on pool members.

MidAmerican contends that the Commission should authorize pool members to unilaterally withdraw from their pools if any restructuring or revision of rate schedules is unacceptable to the member.

Holding Companies

Allegheny, Southern, and other holding companies argue that coordination agreements among subsidiaries of a utility holding company system do not constitute a power pool and should not be subject to any obligations the Commission may place on power pools.

Bilateral Coordination Agreements

Ohio Edison requests clarification that the Commission is not requiring new wholesale coordination transactions to be under the open access tariffs; they may be continued under existing coordination agreements. It stresses the importance of such agreements in making economy and emergency transactions.

A number of commenters agree that existing coordination contracts should not be abrogated or modified, and that transactions under these existing contracts should *not* be governed by the provisions of the pro forma tariffs.[406] These commenters generally argue that existing coordination agreements should not be abrogated or amended by the final rule because: (1) They were not negotiated in the environment envisioned by the NOPR; (2) coordination sales are beneficial to consumers and ratepayers (and thus it would not be in the public interest to curtail them); and (3) the termination of coordination agreements, which in some cases have been in place for years and are tailored to parties' peculiar circumstances, could cause severe hardships in certain regions (especially with regard to scheduling and curtailment).

PSNM contends that such agreements are the result of mutually beneficial bargaining. LPPC and MEAG argue that current contracts negotiated among parties provide cost savings to consumers, which may be foregone if existing contracts are modified. Central Louisiana suggests that the pro forma tariff provisions should be flexible enough to achieve comparability if applied to both existing and new coordination agreements.

Some commenters argue that there may be cases where it is inappropriate to modify existing coordination agreements to satisfy the requirements of the rule. They assert that coordination agreements providing for emergency transactions,[407] reliability,[408] and resource efficiency gains[409] need special attention. However, Soyland believes that existing agreements need to be reviewed if there is substantial increase in wholesale power market transactions, at the customer's option. TDU Systems argues that coordination contracts supporting system reliability should be honored and given scheduling and curtailment preference. TDU Systems contends that any amendments should be at the parties' discretion rather than by Commission mandate.

Several commenters suggest that the proposed rule is unclear about whether only existing transactions under agreements already approved by the Commission will be exempt from functional unbundling, or whether the proposed rule also would exempt (or grandfather) *new* transactions entered into pursuant to existing approved contracts.[410] Other commenters recommend that the Commission clarify that its policy on unbundling applies to all new transactions, whether pursuant to new or existing agreements.[411] ConEd and KCPL request clarification that purchases made to satisfy retail service are not subject to the requirements of the pro forma tariffs.

CCEM argues that all coordination transactions, including new transactions under existing agreements, should be unbundled to ensure that transmission providers are implementing the posted transmission rate. CINergy contends that the comparability standard should be applied to existing coordination agreements, including buy-resell agreements, to mitigate any unfair bulk power market advantages. Functional unbundling would ensure that a utility includes an EBB-posted transmission rate in the transaction charge. CINergy and Power Marketing Association recommend that the Commission use its authority under section 206 to require all utilities to file amendments to their existing coordination agreements providing for transmission service to be taken pursuant to the parties' open access transmission tariffs. Power Marketing Association further recommends that the Commission establish expedited procedures to address the situation arising from conflicting pro forma tariffs and existing coordination provisions.

Tallahassee also believes that the comparability standard should be applied to existing coordination agreements, but Tallahassee recommends that the Commission establish a transition period to allow for renegotiation among parties rather than imposing modifications to existing agreements. Renegotiation would provide an opportunity to retain previously bargained-for benefits. Detroit Edison also contends that many of the existing coordination agreements do not provide for the services required under the pro forma tariffs. Like Tallahassee, Detroit Edison recommends that the Commission allow sufficient time for parties to renegotiate existing agreements. CINergy suggests a three-year transition period.

Coordination Pricing Practices

EEI and PJM disagree with the Commission's assertion that current coordination pricing is no longer just and reasonable in the absence of an open access tariff. Ohio Edison and PA Com question the basis of the Commission's preliminary conclusion that current coordination pricing is no longer justified in the absence of a seller's tariff offer of non-discriminatory open access transmission services. PA Com asserts that the Commission's underlying assumption of general lack of transmission access by wholesale customers has not been established as fact in the proposed rule.

[405] *E.g.*, Central Louisiana, Dayton P&L, LPPC, MEAG, Missouri Basin Group, Montana-Dakota Utilities, Nebraska Public Power District, Ohio Edison, PSNM.

[407] *E.g.*, Arizona, Ohio Edison.

[408] *E.g.*, Soyland, NRECA.

[409] *E.g.*, APPA.

[410] *E.g.*, APPA, CCEM, EGA.

[411] *E.g.*, APPA, CCEM, LG&E, EGA.

MN DPS supports current coordination pricing methods provided that utilities have executed open-access tariffs. Missouri Basin Group argues that, if increased market competition materializes through open access, utilities will decreasingly rely on current coordination pricing if it no longer produces the most beneficial outcome. Missouri Basin Group recommends the Commission simply allow utilities to choose a pricing method even if a utility opts for a less beneficial outcome. Nebraska Public Power District also urges the Commission to avoid mandating coordination pricing methods. Nebraska Public Power District is concerned that this may impede establishing RTGs where such pricing is by mutual agreement and subject to ADR procedures.

Several commenters agree that current coordination pricing may no longer be appropriate in an open access regime.[412] FL Com believes that current coordination pricing should be replaced by market-based rates if open access transmission service is imposed by the Commission.

Commission Conclusion

The term "coordination" is applied to a wide variety of wholesale power sales agreements within the industry, including interchange, interconnection, pooling, and other agreements. Broadly speaking, any non-requirements power sales agreement can be considered to be a coordination agreement.[413]

The Final Rule's general requirement for non-discriminatory transmission access and pricing by public utilities, and its specific requirement that public utilities unbundle their transmission rates and take transmission service under their own tariffs, apply to all public utilities' wholesale sales and purchases of electric energy, including coordination transactions. The Commission has determined that certain existing wholesale coordination arrangements and agreements must be modified to ensure that necessary transmission services for such arrangements and agreements are taken under open access transmission tariffs and thus that such arrangements and agreements are not unduly discriminatory. Below we discuss how and when various types of coordination agreements will need to be modified, and when public utility parties to coordination agreements must begin to trade power under those agreements using transmission service obtained under the same open access transmission tariff available to non-parties.

Coordination arrangements, and the agreements governing them, vary widely. They range from relatively simple bilateral arrangements to complex tight power pools. Our discussion addresses four broad categories of arrangements and accompanying agreements: "tight" power pools, "loose" power pools, public utility holding company arrangements, and bilateral coordination arrangements. For purposes of implementing the non-discriminatory, open access requirements of the Final Rule, we are dividing bilateral coordination agreements into two general categories: bilateral economy energy agreements and other bilateral coordination agreements. Economy energy agreements typically provide for short-term economy trading "if, as, and when available" and are generally driven by the buyer and seller's generation costs. They do not require either the seller or the buyer to engage in a particular transaction. Other coordination agreements are typically longer term or open-ended. Some may involve joint ownership or joint planning of generation.[414] Others may provide joint operation of facilities so that the parties can coordinate their maintenance schedules or provide one another with emergency service. These longer-term coordination agreements are distinguished from short-term economy trading agreements in that the parties have undertaken a contractual obligation to operate their facilities so as to support one another under the conditions specified in the arrangements.

As noted in the NOPR, power pools, in contrast to most bilateral arrangements, present complex issues that may require special implementation requirements.[415] This is because these arrangements may involve agreements containing an intricate set of rights, obligations, and considerations among the members of a pool. We provide for implementation requirements herein that vary depending upon the type of "pooling" arrangement involved.

The Commission has concluded that in order to adequately remedy the undue discrimination in transmission access and pricing by public utilities that are members of power pools or other coordination arrangements, such public utilities must remove preferential transmission access and pricing provisions from agreements governing their transactions. The filing of open access tariffs by the public utility members of a power pool is not enough to cure undue discrimination in transmission if those public utilities can continue to trade with a selective group within a power pool that discriminatorily excludes others from becoming a member and that provides preferential intra-pool transmission rights and rates. The same holds true of certain bilateral arrangements that allow preferential transmission pricing or access. These arrangements and agreements need to be changed. We expect such arrangements and agreements to be modified by the dates indicated in this Rule. However, if necessary, we will institute section 206 proceedings against public utilities that do not make such filings.

The Commission's technical conferences on power pools, ISOs, and pro forma tariffs made clear to us the need to articulate guidance in this Rule on the restructuring or modification of unduly discriminatory coordination arrangements—particularly tight power pools.[416] They also made clear that members of tight power pools, in particular, need time to make the necessary modifications to these arrangements. We recognize that members of some power pools are already in the process of formulating voluntary modifications to pooling agreements to be filed with the Commission (*e.g.*, PJM, NYPP, NEPOOL). Therefore, we will provide adequate time for these filings as well as guidance to changes that need to be made.

In addition, although we do not at this time find it necessary to require power pools to form an independent system operator in order to remedy undue discrimination, we believe ISOs may prove to be an effective means for

[412] *E.g.*, Arizona, CINergy, Consumers Power, EEI, PJM.

[413] For example, a 30-year contract to supply 50 MW of power can be considered to be a coordination arrangement because it is not a contract to meet all of the buyer's power requirements.

[414] Agreements dealing with joint ownership or operation of transmission facilities are discussed at Section IV.C.3.

[415] The Commission did not define what it meant by "power pools" in the NOPR discussion. We use the term power pool in a very broad context here and have generally characterized three broad types of arrangements that represent some form of pooling: "tight pools", "loose" pools and other multilateral coordination arrangements, and holding companies. Even between the categories of tight and loose pools, however, there is no bright dividing line.

[416] A technical conference on pro forma tariffs was held on October 27, 1995. A technical conference on power pools was held on December 5 and 6, 1995 and a follow-up technical conference on ISOs and power pools was held on January 24, 1996.

accomplishing comparable access.[417] We recognize that several utilities are exploring the possibility of forming ISOs. For example, discussions are ongoing in California, PJM, NYPP, and the Midwest. Therefore, because of the industry's interest (which we share) in the concept of an ISO and the potential for an ISO to provide non-discriminatory transmission services to all market participants, we will provide guidance in this section on minimum ISO characteristics.

1. Tight Power Pools

For purposes of this Rule, the tight power pools are: New York Power Pool (NYPP), New England Power Pool (NEPOOL), Pennsylvania-New Jersey-Maryland Interconnection (PJM), and the Michigan Electric Coordinated Systems (MECS).

Public utilities who are members of a tight pool must file, within 60 days of publication of the Final Rule in the **Federal Register**, either: (1) An individual Final Rule pro forma tariff; or (2) a joint pool-wide Final Rule pro forma tariff. They are not required to take service for *pool transactions* under the tariff that is filed within 60 days. However, they will be required to file a joint pool-wide Final Rule pro forma tariff no later than December 31, 1996, and must begin to take service under that tariff for all pool transactions no later than December 31, 1996. The purpose of this extension is to allow sufficient time for tight pools to amend their pooling agreements and to restructure their operations to conform to the requirements of the Final Rule. We also believe that the additional time is necessary to preserve efficient trading arrangements during the restructuring period.

The Commission therefore will require that the public utility members of tight pools file reformed power pooling agreements no later than December 31, 1996. The reformed power pool agreements should establish open, non-discriminatory membership provisions (including establishment of an ISO, if that is a pool's preferred method of remedying undue discrimination) and modify any provisions that are unduly discriminatory or preferential. The membership provision must allow any bulk power market participant to join, regardless of the type of entity, affiliation, or geographic location.

If the reformed agreement allows members to make transmission commitments or contributions in exchange for the discounted transmission rates, the pool may file a transmission tariff that contains an access fee for non-transmission owning members or non-members, justified solely on the basis of transmission-related costs. Alternatively, the pool could make available a transmission rate that is structured the same as the discounted rate (*e.g.*, non-pancaked) but with a higher rate that is justified on the basis of transmission-related costs borne (or contributed) by the pool members. However, any such access fee or higher rate must be justified solely on the basis of transmission costs and cannot be tied to the costs of any other agreement among the pool members (*e.g.*, generation reserve sharing).

2. Loose Pools

For purposes of the Final Rule, a loose pool is any multi-lateral (more than 2 public utilities) arrangement, many of which contain discounted and/or special transmission arrangements. Examples are MAPP, Inland Power Pool, and the MOKAN pool. Other entities may qualify to be treated as a loose pool if they can show that they meet the definition above.

Public utilities within a loose pool must file, within 60 days of publication of the Final Rule in the **Federal Register**, either: (1) An individual Final Rule pro forma tariff; or (2) a pool-wide Final Rule pro forma tariff. They are not required to take service for *pool transactions* under the tariff that is filed within 60 days. However, they will be required to file a joint pool-wide Final Rule pro forma tariff no later than December 31, 1996, and must begin to take service under that tariff for all pool transactions no later than December 31, 1996. The purpose of this extension is to allow sufficient time for loose pools to amend their agreements and to restructure their operations to conform to the requirements of the Final Rule. We also believe that the additional time is necessary to preserve efficient trading arrangements during the restructuring period.

The Commission therefore will require that the public utility members of loose pools file reformed power pooling agreements no later than December 31, 1996. They also must file a joint pool-wide tariff no later than December 31, 1996. The reformed power pool agreements should establish open, non-discriminatory membership provisions and modify any provisions that are unduly discriminatory or preferential. The membership provision must allow any bulk power market participant to join, regardless of the type of entity, affiliation, or geographic location.

The Commission recognizes that loose pools typically do not operate as a single control area and that operational unbundling, perhaps through an ISO, might not be readily attainable at this time. Nonetheless, we encourage the members of loose pools to explore the advantages of the ISO concept.

If the reformed agreement allows members to make transmission commitments or contributions in exchange for discounted transmission rates, the pool may file a transmission tariff that contains an access fee for non-transmission owning members or non-members, justified solely on the basis of transmission-related costs. Alternatively, the pool could make available a transmission rate that is structured the same as the discounted rate (*e.g.*, non-pancaked) but with a higher rate that is justified on the basis of transmission-related costs borne (or contributed) by the pool members. However, any such access fee or higher rate must be justified solely on the basis of transmission costs and cannot be tied to the costs of any other agreement among the pool members (*e.g.*, generation reserve sharing).

3. Public Utility Holding Companies

Public utility members of registered and exempt holding companies that are also members of tight or loose pools are subject to the tight and loose pool requirements set forth above. The remaining holding company public utility members, with the exception of the Central and South West (CSW) System, are required to file a single system-wide Final Rule pro forma tariff permitting transmission service across the entire holding company system at a single price within 60 days of publication of the Final Rule in the **Federal Register** (service companies may, of course, file on behalf of their public utility affiliates). As discussed below, CSW presents special circumstances.

The CSW System is comprised of four operating public utilities. Two of those utilities, Southwestern Electric Power Company (SWEPCO) and Public Service Company of Oklahoma (PSO) operate in the Southwest Power Pool (SPP). The other two, West Texas Utilities Company (West Texas) and Central Power and Light Company (CP&L), operate in the Electric Reliability Council of Texas (ERCOT). SWEPCO and PSO exchange power with West Texas and CP&L through two high voltage, direct current interconnections (the North and East Interconnections).[418]

Pursuant to the Commission orders concerning the North and East Interconnections, CP&L, West Texas, SWEPCO, and PSO have on file what are referred to as the "to or from and over tariffs."[419] Those tariffs apply only to transmission service that involves the delivery of power and energy to or from and over the North and East Interconnections.[420] The tariffs do not apply to the transmission of power for CSW subsidiaries other than the operating companies. The tariffs in many respects are different from the Final Rule pro forma tariff and do not provide comparable services. Moreover, the pricing provided in the "to or from and over" tariffs is different from the pricing set forth in the Texas Commission's final open access rule.[421]

Given these special circumstances, we believe it appropriate to give CSW the opportunity to propose a solution to achieving comparability for the CSW system. Accordingly, we direct the public utility subsidiaries of CSW to consult with the Texas, Arkansas, Oklahoma and Louisiana Commissions and to file not later than December 31, 1996 a system tariff that will provide comparable service to all wholesale users on the CSW System,[422] regardless of whether they take transmission service wholly within ERCOT or the SPP, or take transmission service between the reliability councils over the North and East Interconnections.[423]

The Commission will give public utilities that are members of holding companies an extension of the requirement to take service under the system tariff *for wholesale trades* between and among the public utility operating companies within the holding company system. This extension is until December 31, 1996—the same extension we are granting to power pools. At that point, the public utility operating companies will be required to take service under the Final Rule pro forma tariff for wholesale trades among themselves. In addition, it may be necessary for registered holding companies to reform their holding company equalization agreement to recognize the non-discriminatory terms and conditions of transmission service required under the Final Rule pro forma tariff.

4. Bilateral Coordination Arrangements

Any bilateral wholesale coordination agreement executed after the effective date of this Rule will be subject to the functional unbundling and open access requirements set forth in this Rule. With regard to existing bilateral agreements, however, the diversity of the types of agreements currently on file presents special implementation problems. The Commission is particularly concerned with future economy energy transactions that may occur pursuant to existing umbrella-type coordination agreements. Accordingly, we shall require all bilateral economy energy coordination contracts executed before the effective date of this Rule to be modified to require unbundling of any economy energy *transaction* occurring after December 31, 1996. All non-economy energy bilateral coordination contracts executed before the effective date of this Rule will be permitted to continue in effect, but will be subject to complaints filed under section 206 of the FPA. Under those procedures, the rates, terms, and conditions of individual coordination contracts may be challenged as unduly discriminatory or otherwise unlawful.

To compute the unbundled coordination compliance rate, the utility must subtract the corresponding transmission unit charge in its open access tariff from the existing coordination rate ceiling. For example, if a utility has a coordination rate ceiling for hourly service of incremental cost plus 15 mills/kWh and a transmission tariff rate for hourly service of 3 mills/kWh, it shall revise the coordination rate ceiling to incremental cost plus 12 mills/kWh. The Commission cautions that the compliance filing will be strictly limited to removing the current transmission tariff price from the coordination price and will not be a medium for otherwise revising the residual coordination sales price.

The transmission rate for the coordination transactions may be at or below the tariff rate. However, if a utility's transmission operator offers a discounted transmission rate to the utility's wholesale marketing department or an affiliate for the purposes of coordination transactions, the same discounted rate must be offered to others for trades with any party to the coordination agreement. In addition, discounts offered to non-affiliates must be on a basis that is not unduly discriminatory.[424] This may require parties to file modifications of the coordination arrangements.

ISO Principles

The Commission recognizes that some utilities are exploring the concept of an Independent System Operator and that the tight power pools are considering restructuring proposals that involve an ISO. While the Commission is not requiring any utility to form an ISO at this time, we wish to encourage the formation of properly-structured ISOs. To this end, we believe it is important to give the industry some guidance on ISOs at this time. Accordingly, we here set out certain principles that will be used in assessing ISO proposals that may be submitted to the Commission in the future.

These principles are applicable only to ISOs that would be control area operators, including any ISO established in the restructuring of power pools. We recognize that some utilities are exploring concepts that do not involve full operational control of the grid. Without in any way prejudging the merits of such arrangements, the following principles do not apply to independent administrators or coordinators that lack operational control. We do not have enough information at this time to offer guidance about such entities, but

[417] The DOJ and DOE suggested that the Commission examine operational unbundling as a way of enforcing comparability in transmission service. DOJ and DOE believe that functional unbundling may not be adequate to ensure comparability and so have recommended that some form of operational unbundling be required. While we believe that requiring this is premature, we note that an ISO is one way to achieve operational unbundling and we encourage the voluntary development of ISOs.

[418] The North and East Interconnections were ordered by the Commission pursuant to sections 210, 211 and 212 of the Federal Power Act. *See* Central Power and Light Company, *et al.*, 17 FERC ¶ 61,078 (1981), *order on reh'g*, 18 FERC ¶ 61,100 (1982); 40 FERC ¶ 61,077 (1987).

[419] Houston Lighting and Power Company (HL&P) and Texas Utilities Electric Company (TU) also have on file "to or from and over tariffs" pursuant to the Commission orders.

[420] *See, e.g.*, CP&L and West Texas Interpool Transmission Service Tariff, § 4.1.

[421] *Compare* 21 TEX REG 1397, LEXIS, *mimeo* at 18 (adopting hybrid pricing scheme with 70% of transmission rate based on regional postage stamp method and 30% based on the vector-absolute megawatt-mile method) *with Id.* at Article III.

We note that the Texas Commission concluded that the ERCOT portion of the costs of the North and East Interconnections "should be included in the cost of service, when the owners of the (Interconnections) amend the FERC tariffs for the use of the (Interconnections) to provide equal access to other utilities. 21 TEX REG, LEXIS, *mimeo* at 24.

[422] It may be appropriate to have different rates for transmission service wholly within ERCOT or the SPP, and for service between the reliability councils. However, the same rates, terms, and conditions applicable for third parties should also be applicable to the CSW System's wholesale transmission requirements.

[423] We recognize that this action may require amendment to the Commission's orders under FPA sections 210, 211, and 212, ordering the North and East Interconnections. In this regard, it should be clearly understood that the Commission's action in requiring comparable service by the CSW System is not in any way intended to result in public utility status to any ERCOT participants that are not public utilities—*e.g.*, HL&P and TU. *See* 16 U.S.C. 824(b)(2).

[424] All discounts must be posted on the transmission provider's OASIS.

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recognize that they could perform a useful role in a restructured industry.

Because an ISO will be a public utility subject to our jurisdiction,[425] the ISO's operating standards and procedures must be approved by the Commission. In addition, a properly constituted ISO is a means by which public utilities can comply with the Commission's non-discriminatory transmission tariff requirements. The principles for ISOs are:

1. The ISO's governance should be structured in a fair and non-discriminatory manner. The primary purpose of an ISO is to ensure fair and non-discriminatory access to transmission services and ancillary services for all users of the system. As such, an ISO should be independent of any individual market participant or any one class of participants (e.g., transmission owners or end-users). A governance structure that includes fair representation of all types of users of the system would help ensure that the ISO formulates policies, operates the system, and resolves disputes in a fair and non-discriminatory manner. The ISO's rules of governance, however, should prevent control, and appearance of control, of decision-making by any class of participants.

2. An ISO and its employees should have no financial interest in the economic performance of any power market participant. An ISO should adopt and enforce strict conflict of interest standards. To be truly independent, an ISO cannot be owned by any market participant. We recognize that transmission owners need to be able to hold the ISO accountable in its fiduciary role, but should not be able to dictate day-to-day operational matters. Employees of the ISO should also be financially independent of market participants. We recognize, however, that a short transition period (we believe 6 months would be adequate) will be needed for employees of a newly formed ISO to sever all ties with former transmission owners and to make appropriate arrangements for pension plans, health programs and so on. In addition, an ISO should not undertake any contractual arrangement with generation or transmission owners or transmission users that is not at arm's length. In order to ensure independence, a strict conflict of interest standard should be adopted and enforced.

3. An ISO should provide open access to the transmission system and all services under its control at non-pancaked rates pursuant to a single, unbundled, grid-wide tariff that applies to all eligible users in a non-discriminatory manner. An ISO should be responsible for ensuring that all users have non-discriminatory access to the transmission system and all services under ISO control. The portion of the transmission grid operated by a single ISO should be as large as possible, consistent with the agreement of market participants, and the ISO should schedule all transmission on the portion of the grid it controls. An ISO should have clear tariffs for services that neither favor nor disfavor any user or class of users.

4. An ISO should have the primary responsibility in ensuring short-term reliability of grid operations. Its role in this responsibility should be well-defined and comply with applicable standards set by NERC and the regional reliability council. Reliability and security of the transmission system are critical functions for a system operator. As part of this responsibility an ISO should oversee all maintenance of the transmission facilities under its control, including any day-to-day maintenance contracted to be performed by others. An ISO may also have a role with respect to reliability planning. In any case, the ISO should be responsible for ensuring that services (for all users, including new users) can be provided reliably, and for developing and implementing policies related to curtailment to ensure the on-going reliability and security of the system.

5. An ISO should have control over the operation of interconnected transmission facilities within its region. An ISO is an operator of a designated set of transmission facilities.

6. An ISO should identify constraints on the system and be able to take operational actions to relieve those constraints within the trading rules established by the governing body. These rules should promote efficient trading. A key function of an ISO will be to accommodate transactions made in a free and competitive market while remaining at arm's length from those transactions. The ISO may need to exercise some level of operational control over generation facilities in order to regulate and balance the power system, especially when transmission constraints limit trading over interfaces in some circumstances. It is important that the ISO's operational control be exercised in accordance with the trading rules established by the governing body. The trading rules should promote efficiency in the marketplace. In addition, we would expect that an ISO would provide, or cause to be provided, the ancillary services described in this Rule.

7. The ISO should have appropriate incentives for efficient management and administration and should procure the services needed for such management and administration in an open competitive market. Management and administration of the ISO should be carried out in an efficient manner. In addition to personnel and administrative functions, an ISO could perform certain operational functions, such as: determination of appropriate system expansions, transmission maintenance, administering transmission contracts, operation of a settlements system, and operation of an energy auction. The ISO should use competitive procurement, to the extent possible, for all services provided by the ISO that are needed to operate the system. All procedures and protocols should be publicly available.

8. An ISO's transmission and ancillary services pricing policies should promote the efficient use of and investment in generation, transmission, and consumption. An ISO or an RTG of which the ISO is a member should conduct such studies as may be necessary to identify operational problems or appropriate expansions. Appropriate price signals are essential to achieve efficient investment in generation and transmission and consumption of energy. The pricing policies pursued by the ISO should reflect a number of attributes, including affording non-discriminatory access to services, ensuring cost recovery for transmission owners and those providing ancillary services, ensuring reliability and stability of the system and providing efficient price signals of the costs of using the transmission grid. In particular, the Commission would consider transmission pricing proposals for addressing network congestion that are consistent with our Transmission Pricing Policy Statement. In addition, an ISO should conduct such studies and coordinate with market participants including RTGs, as may be necessary to identify transmission constraints on its system, loop flow impacts between its system and neighboring systems, and other factors that might affect system operation or expansion.

9. An ISO should make transmission system information publicly available on a timely basis via an electronic information network consistent with the Commission's requirements. A free-flow of information between the ISO and market participants is required for an ISO to perform its functions and for market participants to efficiently participate in the market. At a minimum, information on system operation, conditions, available capacity and constraints, and all contracts or other service arrangements of the ISO should be made publicly available. This information should be made available on an OASIS operated by the ISO.

10. An ISO should develop mechanisms to coordinate with neighboring control areas. An ISO will be required to coordinate power scheduling with other entities operating transmission systems. Such coordination is necessary to ensure provision of transmission services that cross system boundaries and to ensure reliability and stability of the systems. The mechanisms by which ISOs and other transmission operators coordinate can be left to those parties to determine.

11. An ISO should establish an ADR process to resolve disputes in the first instance. An ISO should provide for a voluntary dispute resolution process that allows parties to resolve technical, financial, and other issues without resort to filing complaints at the Commission. We would encourage the ISO to establish rules and procedures to implement alternative dispute resolution processes.

[425] A public utility is any person that owns *or operates* facilities used for the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce. An ISO will operate facilities used for the transmission of electric energy in interstate commerce and thus will be subject to the Open Access and OASIS rules.

G. Pro Forma Tariff

In the NOPR, the Commission stated that—

> all utilities use their own systems in two basic ways: to provide themselves point-to-point transmission service that supports coordination sales, and to provide themselves network transmission service that supports the economic dispatch of their own generation units and purchased power resources (integrating their resources to meet their internal loads). [426]

Accordingly, the Commission proposed two pro forma tariffs in Appendices B and C of the NOPR: One for point-to-point service and one for network service. Our goal was to encourage the development of competitive bulk power markets by ensuring that all participants would be able to secure transmission services on a non-discriminatory basis. We attempted in the NOPR pro forma tariffs to articulate the minimally acceptable terms and conditions of service for point-to-point and network transmission service that were required to ensure non-discriminatory transmission service.[427] We explained that, for the most part, specific pricing provisions were omitted. We asked for comments on whether these tariffs provided a good basis for defining the minimum acceptable non-price terms and conditions of service.[428]

Subsequently, in a June 28, 1995 order, we encouraged public utilities to file open access transmission tariffs as soon as possible.[429] Tariffs with terms and conditions of service substantively similar to the NOPR pro forma tariffs would become effective without a refund condition, assuming there were no other concerns, *e.g.*, rate issues. We also indicated that these tariffs would be subject to revision based on the Final Rule.

[426] FERC Stats. & Regs. ¶ 32,514 at 33,079.

[427] *Id.* at 33,092.

Unified Pro Forma Tariff

The Commission received many comments on both the point-to-point and network tariffs. Many commenters suggested improvements to the proposed tariffs. Others took issue with how to reconcile various aspects of service under the two tariffs (*e.g.*, cost allocation, service priority, customer rights and obligations). As discussed below, the Commission has attempted to address these concerns in developing tariff requirements for the Final Rule. Importantly, while the Commission has retained point-to-point transmission service and network transmission service as distinct services, the requirements for the two services are now in a single pro forma tariff.[430] The Final Rule pro forma tariff eliminates many of the differences between the two NOPR pro forma tariffs, provides a unified set of definitions, and consolidates certain common requirements such as the obligation to provide ancillary services. The general terms and conditions of transmission service specified in the Final Rule pro forma tariff should be familiar to all utilities, particularly those that have voluntarily filed open access tariffs based on the NOPR pro forma tariffs.

The Commission believes that the modified, single pro forma tariff, in conjunction with the other requirements, is sufficient to remedy undue discrimination in the provision of transmission services. However, we note that in an accompanying notice of proposed rulemaking in Docket No. RM96–11–000, we are seeking comments on whether a different form of open access tariff—one based solely on a capacity reservation system—might better accommodate competitive changes occurring in the industry while ensuring that all wholesale transmission service is provided in a fair and non-discriminatory manner.

We address below the comments received on the NOPR tariff and the specific modifications we have made in the Final Rule pro forma tariff.

[428] On October 27, 1995, the Commission's staff sponsored a technical conference on the pro forma tariffs.

[429] American Electric Power Service Corporation, *et al.*, 71 FERC ¶ 61,393, modified, 72 FERC ¶ 61,287 (1995).

[430] The Final Rule pro forma tariff is attached as Appendix D.

1. Tariff Provisions That Affect The Pricing Mechanism

a. Non-Price Terms and Conditions

Comments

Utilities For Improved Transition argues that any generic imposition of detailed tariffs on the electric industry will stifle the evolution of the industry. Rather, it asserts, utilities that supply transmission service should be permitted to apply general principles of comparability in their company-specific tariffs, using terms and conditions of service based on their own particular circumstances and those of their customers.

Utility Working Group wants the final rule to allow utilities to depart from the pricing method implicitly contained in the NOPR pro forma tariffs. It argues that the final rule should recognize that some terms and conditions may not make sense in the context of innovative pricing proposals.

DOE thinks that it is proper to base the tariffs on a familiar and simple pricing method. However, DOE suggests that, in the future, the Commission carefully assess the workability of the contract path model in a competitive bulk power market. DOE suggests that spot or real-time pricing should be considered.

Numerous commenters contend that the NOPR pro forma tariffs are based upon the contract path, embedded cost methodology. According to EEI and other IOU commenters, conforming changes may be needed to various terms and conditions of the tariffs to implement pricing methodologies that are not based upon contract path. These commenters argue that any flow-based model would necessitate different non-price terms and conditions. The commenters generally recognize the technical difficulties of implementing a flow-based model.[431] These commenters assert that the NOPR pro forma tariffs, as written, are not independent of pricing.

EGA criticizes the assumption underlying the contract path approach,

[431] Additional comments concerning transition to flow-based pricing are summarized in Section IV.A.6.

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i.e., that the capacities of individual transmission paths can be determined independently and made available to third parties. EGA notes that, in light of the competitive implications associated with transmission pricing, some utilities may propose other non-price terms and conditions suitable for other pricing methods, including power-flow-based tariffs. EGA expresses concern that the pro forma tariffs will be the only type of tariff allowed. EGA believes that the Commission should follow its transmission pricing policy guidelines and not impose a special burden on parties proposing tariffs that differ from the final rule pro forma tariffs, including non-price terms that support alternative pricing methods.

Some commenters also interpret the lack of reference to opportunity cost and incremental cost in the NOPR pro forma tariffs as a rejection of their use.[432]

Commission Conclusion

We agree that non-price terms and conditions cannot be designed independent of pricing and cost recovery. As discussed in detail below, the Final Rule pro forma tariff is intended to *initiate* open access, with non-price terms and conditions based on the contract path model of power flows and embedded cost ratemaking. It is designed based on the practices and procedures currently used by virtually all public utilities and complements the large number of tariffs already filed with the Commission. The Final Rule pro forma tariff is not intended to signal a preference for contract path/embedded cost pricing for the future. We recognize that the industry, in response to changes in institutions, competitive pressure, and technological innovations, is evolving rapidly. For example, various forms of flow-based pricing are beginning to be considered in conjunction with electronic transmission information systems. We seek to encourage this process and will in the future entertain non-discriminatory tariff innovations to accommodate new pricing proposals.[433]

In response to various comments, we are revising certain non-price terms and conditions where suggested changes either improve the tariff services or reconcile tariff inconsistencies. The nature of these tariff revisions does not appear to have serious cost consequences. The mandated changes are generally compatible with the rate proposals already filed by many public utilities. As discussed in Section IV.H., those utilities will not be required to file corresponding rate changes due to our mandated tariff changes to non-price terms and conditions, although they will be permitted to do so.

The Final Rule pro forma tariff includes specific terms and conditions rather than general principles. By initially requiring a standardized tariff,[434] we intend to foster broad access across multiple systems under standardized terms and conditions. However, in response to concerns raised by certain commenters, the tariff provides for certain deviations where it can be demonstrated that unique practices in a geographic region require modifications to the Final Rule pro forma tariff provisions. Accordingly, where applicable, the tariff permits the use of alternative non-price terms or conditions that are reasonable, generally accepted in the region, and consistently adhered to by the transmission provider.

Finally, we will allow utilities to propose a single cost allocation method for network and point-to-point transmission services. These principles, as well as other modifications and clarifications to the NOPR pro forma tariffs, are discussed in detail below.

b. Load Ratio Sharing Allocation Mechanism for Network Service

Comments

Some commenters believe that load ratio cost allocation is appropriate for network service.[435] Other commenters argue that load ratio cost allocation is inappropriate, but disagree on the alternative. They offer a variety of other cost allocation and pricing methods.

The most frequent comment is that network and point-to-point services should be priced on the same basis. Florida Power Corp wants network contract demand to be offered and priced on a 12 CP basis.[436] ConEd and Duke argue that their systems are built and designed to meet a single peak; therefore, they contend that network service costs should be allocated with a load ratio calculation based on annual system peak rather than 12 CP. PSE&G claims that load ratio cost allocation works only if the customer has its own generation. Many commenters propose that "behind the meter" generation and load be eliminated from the network load ratio calculation.[437]

CINergy notes that the transmission provider's monthly load ratio calculation includes its long-term off-system firm service. It proposes that off-system sales be eliminated from the load ratio calculation to enable the transmission provider to offer discounts on long-term service. Alternatively, CINergy proposes that the revenues from these long-term off-system sales be shared with network customers based on their load ratio.

Atlantic City and Allegheny contend that cost allocation for network service should also reflect customers' relative energy use (*i.e.*, not just customers' coincident demand). Consequently, these commenters propose that cost allocation consider the network customer's actual load factor. Allegheny also proposes adding a minimum revenue provision to the load ratio method to recognize cost responsibility for non-peak use. Allegheny further proposes to include an increasing return on equity as available transmission capacity decreases. EEI proposes that cost allocation be based on a customer's non-coincident peak demand.

Lower Colorado River Authority proposes using load flow studies to determine planned use during the system peak with MW-mile billing units. It believes that this pricing method should be used for all transmission service to ensure comparable transmission pricing. Oklahoma G&E wants cost allocation to be based on the impacted MW-mile method, or alternatively, to determine embedded cost by voltage level. Centerior proposes the use of actual transfer capability instead of contract path capability in determining cost responsibility.

Orange & Rockland recommends some form of a "poolco" approach using locational marginal cost pricing. DOE also recommends using location-specific spot pricing (a form of marginal cost) for operating and congestion costs.

Public Generating Pool believes that load ratio share pricing is unworkable in the Pacific Northwest, in part because generation is generally located outside of the control area directly served by parties in the Northwest, and in part because BPA, which does not have a typical service territory, dominates the regional transmission market. Seattle states that cost allocation based solely on demand is inappropriate for systems

[432] *E.g.*, BPA, Utilities For Improved Transition, PG&E, Duke.

[433] We further clarify that, contrary to some commenters' interpretation, the Final Rule pro forma tariff is in no way a rejection of opportunity or incremental cost pricing.

[434] As noted in Section IV.H., public utilities may propose variations that are consistent with or superior to the terms and conditions in the Final Rule pro forma tariff.

[435] *E.g.*, PSNM, WP&L.

[436] Florida Power Corp's contract demand proposal would allow a network customer to nominate less than its full load for transmission service.

[437] *E.g.*, Cajun, NRECA.

that consist predominantly of hydro generation.[438]

AEC & SMEPA and NRECA are concerned about pancaked rates for network service that is provided to load served by more than one network tariff. Other commenters advocate use of some form of regional pricing.[439] American Wind proposes the use of a complex seasonal calculation, which appears to benefit wind energy. NY Com and Missouri-Kansas Industrials also express a preference for seasonal pricing models.

Commission Conclusion

We conclude that the load ratio allocation method of pricing network service continues to be reasonable for purposes of initiating open access transmission. Network service permits a transmission customer to integrate and economically dispatch its resources to serve its load in a manner comparable to the way that the transmission provider uses the transmission system to integrate its generating resources to serve its native load. Because network service is load based, it is reasonable to allocate costs on the basis of load for purposes of pricing network service. This method is familiar to all utilities, is based on readily available data, and will quickly advance the industry on the path to non-discrimination. We are reaffirming the use of a twelve monthly coincident peak (12 CP) allocation method because we believe the majority of utilities plan their systems to meet their twelve monthly peaks. Utilities that plan their systems to meet an annual system peak (e.g., ConEd and Duke) are free to file another method if they demonstrate that it reflects their transmission system planning. Moreover, we recognize that alternative allocation proposals may have merit and welcome their submittal by utilities in future rate applications. They will be evaluated on a case-by-case basis and decided on their merits.

As to the concerns raised by AEC & SMEPA and NRECA about pancaked rates for network service provided to load served by more than one network service provider, we have stated that if a customer wishes to exclude a particular load at discrete points of delivery from its load ratio share of the allocated cost of the transmission provider's integrated system, it may do so.[440] Customers that elect to do so, however, must seek alternative transmission service for any such load that has not been designated as network load for network service. This option is also available to customers with load served by "behind the meter" generation that seek to eliminate the load from their network load ratio calculation.

As noted, the most frequent comment is that the network and point-to-point services should be priced on a similar basis. This concern is addressed in the next section.

c. Annual System Peak Pricing for Flexible Point-to-Point Service

Comments

Commenters express concern that, if annual system peak capability is used to determine rates for point-to-point service and 12 CP is used to allocate costs for network service, point-to-point service may be underpriced relative to network service.[441] Therefore, many commenters propose pricing both services on the same basis.

EEI argues that flexible point-to-point service provides a premium service at a discount price. Therefore, EEI would increase the price unless the Commission either (1) eliminates the flexibility or (2) allows network customers to make non-firm sales at no additional charge. It recommends use of 12 CP for pricing both network and point-to-point service, but would credit point-to-point revenues to the cost of service for network and native load to avoid over-collection from contract demand point-to-point users. Alternatively, EEI contends that point-to-point service could use annual system peak capability pricing with a ratchet,[442] although EEI believes that 12 CP reflects the premium nature of long-term transmission. Under this alternative method, EEI notes that long-term non-flexible point-to-point service would use annual system peak pricing, while short-term service should be based on "up to" (ceiling) rates. In essence, EEI proposes a two-tier point-to-point service, with the first tier (flexible service) of equal priority in all respects to network service.[443] Ohio Edison also claims that, as proposed, flexible point-to-point service is a more valuable service than network service because it would be priced lower than network service. To correct for this difference, Ohio Edison would impose a separate rate for point-to-point non-firm use.

According to NRECA, unless the same measure of demand is included in the calculation of network and point-to-point charges, actual revenue from these two firm services will be greater than the actual cost of service. FL Com believes that flexible point-to-point service allows a transmission customer to engage in network economy transactions without incurring a full network charge, thus gaining an advantage over the transmission provider. Atlantic City recommends that the Commission either (1) eliminate the flexibility of point-to-point service or (2) price such service on a 12 CP basis. It claims that the use of an annual system peak capability creates a higher value service at a lower cost than network service. Based on its 1994 system data, Atlantic City claims that there is a 33 percent difference in rates between network and point-to-point services. Atlantic City also opposes the requirement to offer point-to-point service on an hourly basis, claiming that, unlike the point-to-point service customer, native load and network service customers are responsible for system investment year-round. Atlantic City also argues that point-to-point customers should pay for all non-firm use, *i.e.*, the Commission should eliminate the flexible nature of firm point-to-point service. PSE&G argues that point-to-point service should be used only for through-flow or out-flow transactions with all other transactions treated as network service. Thus, according to PSE&G, point-to-point service would not need flexibility.

If an annual system peak capability is used, Oklahoma G&E would redefine point-to-point service to eliminate the flexibility. FPL recommends either eliminating the flexibility to nominate secondary receipt and delivery points and receive non-firm service between them or pricing point-to-point service as premium service (*i.e.*, at a higher price than network service). Florida Power Corp claims that flexibility should be associated with network service, not point-to-point service. It also argues that revenues from point-to-point service should be credited against total transmission costs. It would similarly exclude point-to-point demands from the derivation of the network rate. Utility Working Group claims that if flexible point-to-point service is retained, such service should be priced at a higher (unspecified) rate or the non-firm secondary use should be separately priced. It believes that all users should

[438] Additional comments concerning the Pacific Northwest are summarized in Section IV.K.

[439] *E.g.*, OH Coops, Municipal Energy Agency Nebraska, UT Com.

[440] Florida Municipal Power Agency v. Florida Power & Light Company, 74 FERC ¶ 61,006 (1996), *reh'g pending*.

[441] Under the annual system peak method, system costs are allocated on the basis of each customer's contribution to the utility's annual system peak. Under the 12 CP method, system costs are allocated based on the average of the customer's usage at the time of the utility's 12 monthly system peaks.

[442] A ratchet is a billing provision that imposes minimum payment obligations on utility customers.

[443] *See also* Centerior, SCE&G, Detroit Edison.

pay for non-firm use, or if there is no additional charge under the point-to-point tariff, network customers and the transmission provider should be treated equally. SMUD argues that a user who does not want flexibility should have an option to elect a lower-priced non-flexible point-to-point service.

Commission Conclusion

We agree that pricing both services on a consistent basis may be appropriate. Consequently, we will allow a transmission provider to propose a formula rate that assigns costs consistently to firm point-to-point and network services. While not requiring the use of any particular rate methodology, we will no longer summarily reject a firm point-to-point transmission rate developed by using the average of the 12 monthly system peaks.

Our previous rationale for not using the average of the twelve-monthly peaks as a denominator in the development of non-customer specific transmission rates was enunciated in *Southern Company Services, Inc.*, 61 FERC ¶ 61,339 (1992) (*Southern*). In *Southern*, the Commission was concerned that establishing a system-wide, non-customer specific transmission service rate that did not appropriately account for diversity [444] among various transmission customers might result in the over-recovery of revenues for point-to-point service. Inherent in our ruling in *Southern* was the understanding that once a sufficient pattern of customer usage under the tariff was established, the company was free to file a customer-specific rate using the average of the 12 monthly system peaks for cost allocation. We still believe that it is appropriate for utilities to use a customer-specific allocated cost of service [445] to account for diversity, but based on the changed circumstances since *Southern* (which we discuss below) we will now permit an alternative.

We also note that the circumstances in *Southern* are distinguishable from those now present in the industry. Southern proposed a rigid, inflexible firm point-to-point transmission service where the customer paid separately for each delivery and receipt point combination. The only flexibility permitted was to use alternative receipt and delivery points on a non-firm basis at no additional charge. As the name implies, the flexible nature of the point-to-point transmission service proposed in the NOPR is more akin to the service provided to native load and network service customers. Contrary to what was proposed in *Southern*, point-to-point service does not require separate charges for each firm service receipt and delivery point combination. Rather, customers pay on the basis of the higher of the total delivery points or total receipt point combination. Flexible point-to-point transmission customers continue to be able to access alternative receipt and delivery points on a non-firm basis without additional charges (as long as they remain within their capacity reservation). In addition, firm point-to-point customers can reassign and resell unused portions of their reserved firm capacity to third parties. With flexible firm and non-firm point-to-point transmission service, the transmission provider must make firm point-to-point transmission capacity available to the customer regardless of its load characteristics or use.

For these reasons, we will allow all firm transmission rates, including those for flexible point-to-point service, to be based on adjusted system monthly peak loads. The adjusted system monthly peak loads consist of the transmission provider's total monthly firm peak load minus the monthly coincident peaks associated with *all* firm point-to-point service customers plus the monthly contract demand reservations for *all* firm point-to-point service.

The flexibility and reassignment rights of this transmission service require the transmission provider to hold the firm contract capacity available regardless of the customer's own load characteristics or its actual use. In other words, a transmission provider's obligation to plan for, and its ability to use, a transmission customer's reserved capacity is clearly defined by that customer's contract reservation. For these reasons, it is appropriate to consider a firm reservation as the equivalent of a load for cost allocation and planning purposes.

In order to prevent over-recovery of costs for those who use this approach, we will require transmission providers to include firm point-to-point capacity reservations in the derivation of their load ratio calculations for billings under network service. In addition, revenue from non-firm services should continue to be reflected as a revenue credit in the derivation of firm transmission tariff rates. The combination of allocating costs to firm point-to-point service and the use of a revenue credit for non-firm service will satisfy the requirements of a conforming rate proposal enunciated in our Transmission Pricing Policy Statement.[446]

d. Opportunity Cost Pricing

(1) Recovery of Opportunity Costs

Comments

EEI and IOUs generally support the notion that transmission customers should pay some form of opportunity cost when transmission is constrained and request that the final rule clearly define redispatch and opportunity costs. These commenters generally agree that the final rule should codify these terms consistent with recent Commission orders addressing opportunity costs.

Duke requests that the final rule clarify that the transmission customer should pay all the opportunity costs associated with modified dispatch. Centerior argues that redispatch costs include consideration of parallel flows and scheduled deliveries, which, according to Centerior, cause redispatch costs to be incurred.

Florida Power Corp and NYSEG state that redispatch costs should be either rolled in or charged on an incremental basis, consistent with the Commission's "or" pricing policy. Florida Power Corp recommends that an opportunity cost recovery provision be added to the "Rates and Charges" sections of the tariffs. NYSEG recommends that the tariffs implement the Commission's recent ruling in *Florida Power & Light Company*, 66 FERC ¶ 61,227 (1994), allowing lost opportunity costs to be recalculated annually. NYSEG believes that: (1) Redispatch costs should be collected for any period in which the transmission customer causes a constraint, including the period of time it takes to construct incremental facilities necessary to alleviate the constraint; (2) network customers should be responsible for any opportunity costs incurred as a result of their non-firm use of the system if such costs rise to a level above their load ratio share of system costs; and (3) point-to-point customers should be responsible for any opportunity costs incurred as a result of their non-firm use of the transmission provider's system up to their reserved firm entitlement.

Ohio Edison believes that, given the unique nature of network service, it is inappropriate to require network service customers to incur redispatch costs in order to create additional capacity. PECO requests that the final rule clearly indicate (1) from whose perspective "least cost" redispatch is judged and (2) that the "least cost" redispatch obligation is subordinate to reliability.

Concerned that transmission providers could manipulate the calculation of redispatch charges to increase profits, NRECA proposes that transmission providers develop formal redispatch protocols that would be provided to all customers. NRECA argues that all information necessary to calculate redispatch costs should be made available on the RIN. Customers assessed redispatch charges should be provided with all the necessary information to evaluate such charges, including full audit rights. NRECA, Cajun, and PacifiCorp object to the inclusion of "lost opportunity" costs in redispatch charges. NRECA proposes that only actual non-firm sales or purchases should be included in the calculation of opportunity costs.

United Illuminating and Seattle state that all opportunity costs should be assessed to short-term and non-firm transmission service customers that cause the transmission provider to redispatch its generation to unload a constrained transmission line. According to United Illuminating, it is not appropriate to roll opportunity costs into the rates charged other transmission users because existing users do not have the choice to pay the opportunity costs or to allow their transaction to be curtailed.

UtiliCorp, on the other hand, states that all "out of rate" uneconomic dispatch costs should be rolled in and recovered from all users of the transmission system. UtiliCorp argues that directly assessing these costs to a particular customer would unfairly penalize a customer who could not gain access to a system until after the tariffs take effect.

CCEM argues that only lost opportunity costs associated with the loss of *firm* purchases or sales should be recoverable. CCEM also believes that the transmission provider should calculate the redispatch costs in advance and transmission customers should be able to opt out of redispatch if costs rise above a certain level.

Commission Conclusion

We will retain redispatch provisions in the Final Rule pro forma tariff, but clarify that redispatch is required only if it can be achieved while maintaining reliable operation of the transmission system in accordance with prudent utility practice.

We find that the recovery of redispatch cost requires that: (1) A formal redispatch protocol must be developed and made available to all customers; and (2) all information necessary to calculate redispatch costs should be made available to the customer for audit.

As discussed in the Section IV.H., the Commission is according substantial flexibility to public utilities to propose appropriate pricing terms, including opportunity cost pricing, in their compliance tariff. However, as with any compliance filing, the rates proposed must meet the standards for conforming proposals in the Transmission Pricing Policy Statement.

In *Northeast Utilities* and *Penelec*, we fully explained our rationale for allowing utilities to charge opportunity costs.[447] We concluded that a public utility is entitled to full compensation for all "legitimate" and "verifiable" costs it incurs to provide firm transmission service.[448] We explained that where a utility can demonstrate that additional opportunity costs are incurred as a direct result of providing transmission service, our pricing principles would permit recovery of those costs. The Commission further explained in the Transmission Pricing Policy Statement that when transmission capacity is constrained and a utility does not expand capacity, we have allowed the utility to charge transmission customers the higher of embedded costs or legitimate and verifiable opportunity costs, but not the sum of the two (*i.e.*, "or" pricing is permitted; "and" pricing is not). The opportunity costs are capped by incremental expansion costs.[449]

Transmission providers proposing to recover opportunity costs must adhere to the following requirements:

(1) A fully developed formula describing the derivation of opportunity costs must be attached as an appendix to their proposed tariff.

(2) Proposals must address how they will be consistent with comparability.

(3) All information necessary to calculate and verify opportunity costs must be made available to the transmission customer.

(2) Fuel Adjustment Clause Treatment for Redispatch Costs

If the transmission provider proposes to separately collect redispatch costs on a direct assignment basis from a specific transmission customer, we will require that the transmission provider credit these revenues to the cost of fuel and purchased power expense included in its wholesale fuel adjustment clause.

e. Expansion Costs

Comments

ELCON argues that direct assignment of 100% of the costs of expanding a constrained transmission system to a particular customer is unfair. NY Energy Buyers believes that the costs of expanding the transmission system should be shared among all customers seeking transmission service. Alternatively, NY Energy Buyers states that if direct assignment of system expansions is adopted, such costs should be payable both by new wholesale customers and by new retail load. According to NY Energy Buyers, it would be preferable for the utility to treat all requesters during a given period as making one request for a large increment of capacity, with all requesters paying the same average incremental cost. New native load also should be considered to be a requester of transmission capacity and allocated an appropriate share of any expansion costs.

CA Energy Co believes that incremental pricing will discriminate against all later competitors by charging higher rates. It advocates rolled-in pricing with the requirement that all users requesting system expansion commit to service for a term that will cover their proportionate expansion cost assignments.

FPL proposes that costs associated with normal load growth and the repair and/or replacement of older facilities be rolled in with the other embedded transmission costs and shared on a load ratio basis. However, it believes that transmission expansions associated with the addition of a new resource should be separately assigned.

On the other hand, Orange & Rockland maintains that unless expansion costs are directly assigned, an unfair subsidization will occur. According to PECO, transmission customers should be assigned costs for system upgrades under both the network and point-to-point tariffs. Consumers Power claims that the network tariff is unclear about which facilities are directly assignable, and proposes that all costs that exceed the

[444] In this context, diversity occurs when a customer's peak demand is not coincident with the transmission provider's system peak demand.

[445] The use of this rate design is particularly applicable where customers who were taking bundled service convert to transmission-only service under the point-to-point tariff and ensures that transmission costs are allocated to point-to-point customers and network customers in a consistent manner.

[446] FERC Stats. & Regs. ¶ 31,005 (1994).

[447] Northeast Utilities Service Company (*Northeast Utilities*), 56 FERC ¶ 61,269 (1991), *order on reh'g*, 58 FERC ¶ 61,070, *reh'g denied*, 59 FERC ¶ 61,042 (1992), *order granting motion to vacate and dismissing request for rehearing*, 59 FERC ¶ 61,089 (1992), *aff'd in relevant part and remanded in part*, Northeast Utilities Service Company v. FERC, 993 F.2d 937 (1st Cir. 1993); Pennsylvania Electric Company (*Penelec*), 58 FERC ¶ 61,278 at 62,871–75, *reh'g denied*, 60 FERC ¶ 61,034 (1992), *affd*, Pennsylvania Electric Company v. FERC, 11 F.3d 207 (D.C. Cir. 1993).

[448] *Penelec*, 58 FERC at 61,872; 60 FERC ¶ 61,034 at 61,126 (1992).

[449] FERC Stats. & Regs. ¶ 31,005 at 31,138.

embedded average cost qualify for direct assignment.

SMUD requests that the final rule clarify that if a transmission customer invests in incremental facilities, it will be entitled to ownership-like rights to the capacity addition.

In order to avoid possible argument over the necessity and cost of system expansions for a particular transmission request, NIEP requests that the final rule require utilities to use a "least-cost" approach to transmission expansion that includes comparable transmission expansion practices for all wholesale customers.

According to Duke, the concern that the transmission provider's retail customers will retain an advantage by having expansion costs placed on third parties is misplaced. Duke argues that, under "or" pricing, the issue of who is responsible for expansion costs would still arise. It contends that the Commission will have to decide on a case-by-case basis whether expansion costs are incurred for the benefit of a specific party or are part of overall network costs. Duke generally supports the current "or" pricing policy.

Citing the Commission's Transmission Pricing Policy Statement, FL Com supports the flexibility of charging both embedded cost and incremental cost transmission rates, *i.e.*, "and" pricing. It argues that, because of the dynamic and interconnected nature of the transmission system, tariff customers causing expansion costs should be held responsible for both the incremental cost of the addition and some portion of the existing transmission system needed to support the addition. FL Com states that the comparability standard is at odds with the Commission's non-conforming transmission pricing policy, particularly with respect to "and" pricing.

Commission Conclusion

Under the Final Rule pro forma tariff, we will allow transmission providers to propose any method of collecting expansion costs that is consistent with our transmission pricing policy. We disagree with ELCON's assertion that directly assigning the costs for expanding a constrained transmission system is necessarily unfair. As we stated in *Northeast Utilities*, if the cost of expansion is directly attributable to a customer's request for transmission service and the expansion would not be undertaken "but for" that customer's request, then it is reasonable to assign the cost of expansion to that customer. If we were not to allow the direct assignment of expansion costs to the customer causing the expansion, then other customers would subsidize the new customer's use of the transmission system. We continue to believe that "or" pricing sends the proper price signal to customers and promotes efficiency. Under the tariff, any assignment of future expansion costs must meet the standards for conforming proposals in the Transmission Pricing Policy Statement. Recovering expansion cost based upon "and" pricing will not be allowed.

Any request to recover future expansion costs will require a separate section 205 filing. The Commission will evaluate, on a case-by-case basis, who is responsible for expansion costs in those filings and whether direct assignment of those costs is appropriate.

f. Credit for Customers' Transmission Facilities

Comments

Most commenters agree that the Commission must clearly define when a network customer's transmission facilities warrant a credit from the transmission provider. Several commenters state that customers must bear the burden of demonstrating that their facilities are used by and useful to the transmission provider, provide direct benefits, and support the operation of the transmission system.[450] EEI cautions against providing a credit for facilities that may be integrated with, but of no effective benefit to, the operation of the bulk power system.

The costs associated with customer-owned facilities that are used by the transmission provider should, in PECO's opinion, be recovered from the transmission provider under the customer's own transmission tariff.

FPL cautions that the position of certain parties that transmission facilities warrant a credit if they would have been included in the transmission provider's rates could produce absurd results. It claims that it could actually end up paying a network customer with substantial transmission investment for the right to provide that customer service. FPL contends that it will receive absolutely no service from its network customers because FPL would not need, nor could it use, any of the customers' transmission facilities to integrate FPL's loads and resources. FPL argues that crediting under the so called "rate base" test obligates the transmission provider to purchase a load-ratio share of the customer's transmission facilities. FPL states that, under network service, the transmission provider and the network customer will not create a single system.

[450] *E.g.*, EEI, Consumers Power.

AEP recommends that a network customer receive a credit if its transmission facilities meet the following criteria: (1) At points of interconnection, there must be a through-flow of power from the network customer's system to the transmission provider's system under normal operating conditions; and (2) the customer's facilities must: (a) Increase the transfer capability of an interface on the transmission provider's system; (b) provide an alternative path for power flows during transmission facility outages, thus increasing the reliability or stability of the combined system; or (c) otherwise satisfy the transmission provider's planning criteria for the installation of network facilities.

WP&L argues for a broader standard and states that a transmission customer should be entitled to a credit if the transmission owner would have installed similar facilities to provide service for its own native load under similar circumstances. Florida Power Corp states that the credit for each facility should be determined on a case-by-case basis.

PacifiCorp argues that a utility may take advantage of the transmission credit and shift major transmission investment onto another transmitting utility and its transmission customers by simply becoming a network customer. PacifiCorp claims that such a situation may, for example, exist for BPA as a transmitting utility. According to PacifiCorp, preliminary studies indicate at least one potential network customer may be entitled to a transmission credit which would exceed that customer's charges for BPA's network integration service.

APPA, Blue Ridge, and Cajun maintain that a customer's facilities should be evaluated on a basis comparable to the facilities included in the rates of transmission providers in a region. APPA argues that a claim that the transmission customer's facilities do not benefit the transmission system must be weighed against the fact that some facilities included in the transmission provider's rate base may not directly benefit the transmission customer. Cajun advocates setting clear standards for the identification of customer-owned transmission facilities eligible for crediting and clear guidelines for determining the amount of the credit.

SMUD not only supports the credit under the network tariff, but also would extend the credit to facilities used to complete a transaction under the transmission provider's point-to-point tariff.

Commission Conclusion

Because of the diverse concerns raised by the commenters, we are unable to resolve on the basis of this record the extent to which, or under what circumstances, cost credits related to customer-owned facilities would be appropriate under an open-access transmission tariff. We conclude that such credits are more appropriately addressed on a case-by-case basis, where individual claims for credits may be evaluated against a specific set of facts.

We stress that while certain facilities *may* warrant some form of cost credit, the mere fact that transmission customers may own transmission facilities is not a guaranteed entitlement to such a credit. The presumption of many commenters that a customer's subscription to transmission service somehow transforms the provider's and customer's systems into an expanded integrated whole to the mutual benefit of both is not a valid one. As we ruled in *Florida Municipal Power Agency* v. *Florida Power & Light Company* (*FMPA*), it must be *demonstrated* that a transmission customer's transmission facilities are integrated with the transmission system of the transmission provider. Specifically, we stated that:

> The integration of facilities into the plans or operations of a transmitting utility is the proper test for cost recognition in such cases. The mere fact that a section 211 requestor has previously constructed facilities is not sufficient to establish a right to credits.[451]

The fact that a transmission customer's facilities may be *interconnected* with a transmission provider's system does not prove that the two systems comprise an *integrated* whole such that the transmission provider is able to provide transmission service to itself or other transmission customers over those facilities—a key requirement of integration.[452] We also note that consistent with our ruling in *FMPA*, if a customer wishes not to integrate certain loads and resources, and thereby exclude them from their load ratio share of the allocated cost of the integrated system, it may do so. Customers that elect to do so, however, should recognize that they may need to secure alternative transmission arrangements such as point-to-point transmission service on an as-available basis in order to utilize those resources for reserves.

Where disputes over credits for customer-owned transmission facilities arise, we encourage all parties to first pursue alternative means to resolve their differences rather than seek formal resolution at the Commission. In any event, the Commission anticipates that disputes over the appropriate level of transmission facility credits should not preclude transmission customers from initiating service under the tariff. Where the parties are unable to reach agreement on the appropriate credit for customer-owned transmission facilities, the parties may make an appropriate filing with the Commission.

g. Ceiling Rate for Non-Firm Point-to-Point Service

Comments

Commenters generally support a ceiling rate for non-firm transmission service, capped at the firm rate.[453] Others request clarification as to whether the point-to-point tariff rates are fixed or are ceiling rates. Central Illinois Public Service's major concern is that, if the rates are fixed, the tariffs may result in higher prices for capacity and energy than those currently allowed for bundled service.

NYSEG argues that unequal pricing is a natural phenomenon of the open marketplace and requests assurance that offering transmission service at prices below a cost-based ceiling rate will not expose a transmission provider to claims of undue discrimination.

AEC & SMEPA opposes using the firm rate as the cap for non-firm transmission service. It states that, given the substantially lower quality of non-firm service (with no obligation to plan for such service), no cost-of-service principle justifies charging rates for non-firm service as high as the rate for firm service.

EGA and NRECA state that any discounts from the maximum firm rate must be uniform, transparent, readily understood, and posted on a RIN. According to CCEM and NRECA, the transmitting utility must have nondiscriminatory discount practices and must contemporaneously offer discounts to transmission customers at the same time and on the same basis as discounts for internal sales operations or affiliates.

Commission Conclusion

We believe that it is important to continue to allow pricing flexibility. In accordance with the Commission's current policies, the rate for non-firm point-to-point transmission service may reflect opportunity costs. Any provisions for opportunity cost pricing for non-firm service must meet the requirements already discussed. If a utility chooses to adopt opportunity cost pricing, the non-firm rate is effectively capped by the availability of firm service and is not subject to a separately-stated price cap. If a utility chooses not to adopt opportunity cost pricing, the non-firm rate is capped at the firm rate. We also wish to ensure that non-firm transmission service is priced in a nondiscriminatory fashion. Accordingly, if a transmission provider offers a rate discount to its affiliate, or if the transmission provider attributes a discounted rate to its own transactions, the same discounted rate must also be offered at the same time to non-affiliates on the same transmission path and on all unconstrained transmission paths. We will further require that any affiliate discounts from the maximum firm rate must be transparent, readily understandable, and posted on the transmission provider's OASIS in advance so that all eligible customers have an equal opportunity to purchase non-firm transmission at the discounted rate.[454] In addition, discounts offered to non-affiliates must be on a basis that is not unduly discriminatory and must be reported on the OASIS within 24 hours of when available transmission capability (ATC) is adjusted in response to the transaction. As discussed in the RIN section, information, including the price for all non-firm transaction discounts, must be posted on the OASIS to ensure comparability.

2. Priority for Obtaining Service

Comments

The term "priority" is used in the comments in several senses. The intent of the comment depends on which kind of "priority" is intended. In general, there are comments about the order in which parties can obtain new service, which we call "reservation priority," and there are comments about the order in which parties lose service they already have, which we call "curtailment priority." Commenters may establish different reservation priorities for various services, such as network, off-system sales, firm, ability to reserve a portion of new transmission

[451] 74 FERC ¶ 61,006 at 61,010 (1996), *reh'g pending*.

[452] We caution all transmission providers that while our discussion here addresses the requirements necessary for a customer's transmission facilities to become eligible for a credit, the principles of comparability compel us to apply the same standard to the transmission provider's facilities for rate determination purposes.

[453] *E.g.*, Duke, SCE&G, AEP, FPL.

[454] The same requirements will apply to discounts from firm transmission service. Similarly, if a transmission provider offers an affiliate a discount for ancillary services, or attributes a discounted ancillary service rate to its own transactions, it must offer at the same time the same discounted rate to all eligible customers. Discounted ancillary services rates must be posted on the OASIS pursuant to new Part 37 of the Commission's regulations.

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capacity to be constructed, and so on. Curtailment priorities also differ with the type of service. However, many commenters assert that certain parties should or should not have "priority" without distinguishing the kind of priority or type of service for which priority is intended.

a. Reservation Priority for Existing Firm Service Customers

Comments

Many IOUs, state commissions, and cooperatives strongly believe that native load should have priority to reserve transmission capacity under the tariffs.

EEI suggests that existing and future allocations of transmission capacity must be based on proper transmission pricing or, in its absence, priority of service. According to EEI, retail and existing wholesale requirements service should have the highest priority for use of transmission capacity, followed by long-term point-to-point service. Dayton P&L supports a continued preference for native load growth because native load customers have borne the majority of the costs of the transmission system. Detroit Edison, EEI, and Florida Power Corp claim that, because native load and network customers pay higher rates during all hours, such customers should have higher priority for service requests than others requesting transmission service. These commenters also claim that the transmission provider should be able to reserve firm capacity for native load and network service customers.

Similarly, NARUC wants wholesale and retail native load customers to be held harmless from functional unbundling of wholesale transmission services. Because these customers have borne the vast majority of the costs of the utility's transmission facilities, NARUC argues that priority of service, quality of service, and allocation of joint and common costs to native load customers should not be affected by the transition to an open access transmission regime.

PA Com does not share the Commission's concern that a transmission provider may discriminate against a third party transmission customer vis-a-vis native load. It finds nothing impermissible in this sort of discrimination, arguing that the interconnected system was financed by, designed for, and built to serve native load.

NRECA explains that most transmission customers that seek network service will already be receiving similar service (albeit in a bundled form) from their transmission providers. It argues that these customers should receive the same priority of service as the transmission provider's native load customers for as long as they continue to take network service, whether under a current bundled wholesale supply contract, a private transmission contract, or a network tariff.[455]

East Kentucky requests that the final rule clarify that member distribution cooperatives of G&Ts will have priority over third parties in the use of the G&T's existing transmission facilities. TVA comments that native load customers and emergency service to neighboring systems should have a higher service priority than transmission services sold to third parties (where an alternative power supply is available to the third party).

Commission Conclusion

We reiterate that we are not requiring the transmission provider to unbundle transmission service to its retail native load nor are we requiring that bundled retail service be taken under the terms of the Final Rule pro forma tariff. However, the amount of transmission capacity available to wholesale and unbundled retail customers under the Final Rule pro forma tariff is clearly affected by the amount of transmission capacity that the transmission provider reserves for the use of its native load customers and the future load growth of those customers. The transmission provider may reserve in its calculation of ATC transmission capacity necessary to accommodate native load growth reasonably forecasted in its planning horizon. However, the transmission provider is obligated to provide transmission service to others under the Final Rule pro forma tariff out of capacity reserved for native load growth up to the time the capacity is actually needed for such future needs. Furthermore, as we explained previously, while existing wholesale customers do not have any ownership-like rights to the capacity they used during the term of their contract, they will have a right of first refusal to that capacity after the expiration of their contracts or when their contracts become subject to renewal or rollover.[456]

b. Reservation Priority for Firm Point-to-Point and Network Service

Comments

A number of commenters argue that all firm service should *not* be treated equally. These commenters argue that the price of the service should determine the priority that the service receives. A large number of IOUs and potential network customers (existing requirements customers) argue that in light of the pricing implicit in the NOPR, (*i.e.*, 12 CP for network versus annual system peak for point-to-point) network service should have priority over point-to-point service (because, all other things being equal, the price for network service will be higher).

BG&E believes that a customer receiving service priority equal to native load and network customers should pay comparable rates. Thus, BG&E argues that either flexible firm point-to point service should be priced the same as network service, or point-to-point service should have a lesser priority than native load and network service customers if point-to-point service is priced lower than network service.

DE Muni believes that native load and network customers must have priority access to interfaces (particularly where they are constrained) after system reliability concerns have been satisfied. The same argument is advanced by commenters concerning long-term service versus short-term service. Public Generating Pool argues that long-term service should always have priority over short-term service because long-term customers contribute more towards fixed-cost recovery than do short-term customers.

Cajun objects to having its service and service to its customers, which it characterizes as network service, receive the same priority as firm point-to-point service customers who take service for periods as short as one hour. Cajun points out that it, as well as other network and native load customers, have been paying and will be paying for the transmission facilities in place to serve their needs for many years. According to Cajun, the transient firm point-to-point customer should not have equal standing. Cajun suggests, however, that a long-term firm point-to-point customer taking service for ten years or more should have service priority equal to native load and network service customers.

SC Public Service Authority argues that the availability of short-term firm service with a priority equal to long-term service would provide a means for short-term customers to obtain the advantages of long-term firm service at a much lower total cost. As a result, it argues that a few point-to-point customers would opt for long-term firm service, and the burden of the residual costs of the transmission system would fall on network customers.

EEI claims that priority for point-to-point service should be on a continuum of firmness, with reservation (as well as

[455] *See also* American Forest & Paper, AMP-Ohio.

[456] *See* discussion in Section IV.A.5.

curtailment) priority based upon duration of service and specific negotiated terms. EEI proposes that the point-to-point tariff be modified to provide a first-tier category of flexible point-to-point transmission service that is comparable in priority, price, length, and terms of service to network service. EEI believes that this modification will resolve the problems that are associated with establishing priorities between network service and point-to-point service if the Commission retains different CP cost allocation methods for each service.

On the other hand, CCEM, a group of power marketers, supports the concept that all firm service should be treated equally, regardless of the term or the nature of service.

Commission Conclusion

An essential element of non-discriminatory transmission access is the right of transmission customers to reserve and purchase transmission service that is of the same quality as that used by the transmission provider in serving its wholesale requirements customers and retail load. Thus, we reject the proposal of some commenters that transmission providers need not provide firm point-to-point service that is of the same "firmness" as the transmission provider's service to native load. However, the fact that both network service and point-to-point service are provided on an equally firm basis does not mean that both types of service must be priced or reserved in the same manner.

The comments about reservation priorities for firm services boil down to two concerns. First, due to the differences in pricing firm point-to-point service and network service implicit in the NOPR (*i.e.*, twelve-monthly CP pricing for network versus annual system peak for point-to-point), some commenters believe that network service should have priority over point-to-point service. Second, some commenters maintain that according firm, short-term point-to-point service a priority equal to long-term service provides a means for short-term customers to avoid making a fair contribution to the long-term costs of the system.

With respect to the first concern, we have eliminated the differences in pricing by permitting utilities to adopt point-to-point reservations as the customer load. As discussed above, for purposes of the Final Rule pro forma tariff, utilities are free to propose a single cost allocation method for the two services.

The second area of concern arises because of the first-come first-served reservation priority in the NOPR point-to-point tariff. The Commission recognizes that the tariffs, as proposed in the NOPR, provide the opportunity for a customer to reserve certain valuable rights (*e.g.*, the right to short-term firm service during peak periods) while avoiding in part the long-term costs of the system (perhaps by relying on non-firm service during lengthy off-peak periods when there is a substantially reduced chance of interruption). However, the Commission has a countervailing concern that the transmission provider should not be able to withhold valuable transmission capacity from potential customers if that capacity is not being used by those who are paying for the long-term costs of the system.

Accordingly, the Final Rule pro forma tariff provides a mechanism to address this concern while safeguarding the rights of potential customers to obtain access to unused capacity. The tariff provides that reservations for short-term firm point-to-point service (less than one year) will be conditional until one day before the commencement of daily service, one week before the commencement of weekly service, and one month before the commencement of monthly service. These conditional reservations may be displaced by competing requests for longer-term firm point-to-point service. For example, a reservation for daily firm point-to-point service could be displaced by a request for weekly firm point-to-point service during an overlapping period. Before the applicable reservation deadline, a holder of a conditional firm point-to-point reservation would have the right of first refusal to match any longer-term firm point-to-point reservation before being displaced. After the deadline, the reservation becomes unconditional, and the service would be entitled to the same priorities as any long-term point-to-point or network firm service.[457]

The Final Rule pro forma tariff does not propose point-to-point or network service with various degrees of firmness beyond the simple categories of firm and non-firm. When a customer requests firm transmission service, reservation priorities are established based first on availability, and in the event the system is constrained, based on duration of the underlying firm service request; customers may choose the "firmness" of service they want by electing to take non-firm service, or by reserving and paying for firm service. We have not included any degrees of firmness in the Final Rule pro forma tariff because having intermediate categories of firmness under point-to-point or network service would, we believe, unnecessarily complicate the priority system. However, utilities are free to propose and fully support different reservation priority provisions for firm service in subsequent rate filings as long as those provisions are not unduly discriminatory, fully comply with the principles of comparability, and are priced appropriately.

[457] The service itself, as opposed to reservations, is subject to the curtailment provisions discussed below.

c. Reservation Priorities for Non-Firm Service

Comments

IOUs, state commissions, and potential network customers tend to support the service reservation priorities for non-firm service set forth in the NOPR pro forma tariffs (*i.e.*, transmission service by network customers for economy purchases to serve network load has a higher priority than non-firm point-to-point service, which has a higher priority than a firm point-to-point customer using transmission service at secondary points of receipt and delivery). However, because network customers pay a higher rate than point-to-point customers, these commenters argue that network customers should be permitted to use their off-peak load ratio share of the transmission system to make off-system sales. Many commenters argue that point-to-point customers can use their secondary service for both purchases and sales; thus, they believe it is discriminatory to limit network customers to purchases at secondary points.

Commenters that are opposed to the service reservation priority scheme in the NOPR pro forma tariffs argue that transmission providers will discriminate against third party users in favor of their native load economy purchases. These commenters argue that all non-firm service should have equal priority.

Other commenters, such as CINergy, would base priority on the duration of service. CINergy claims that this method would eliminate what it claims is an advantage (over network) given in the NOPR to point-to-point service in making short-term purchases. TVA notes that it establishes priority for non-firm service based on duration of service requested, with customers in each service category receiving priorities based on the rate they wish to pay.

Some commenters believe that the transmission price should affect the

priority of customers to obtain non-firm transmission capacity.[458] However, other commenters argue that this seems to be precluded by the NOPR pro forma tariffs' service priority provisions.

Although PSE&G believes that the NOPR pro forma tariffs suggest a first-come, first-served allocation method for capacity in excess of that needed for firm transmission service, it proposes a fixed period of time for all potential users to submit bids for service (*e.g.*, one week prior for monthly service), allowing the bid price to determine priority (*i.e.*, the higher bid prices receive service priority over lower bid prices). According to PSE&G, customers could bid an "up to" rate subject to a price floor, with all revenues flowed back to firm service customers. TVA also advocates departing from the first-come, first-served approach for allocating some uses of the transmission system, claiming that price is an effective means to establish priority for non-firm and short-term firm services.

Utility Wind Interest Group requests that non-firm service used for transmitting renewable resources be given a higher priority than non-firm service used for transmitting conventional resources because renewable resources cannot store their fuel supply.

Commission Conclusion

We continue to believe that network economy purchases should have a reservation priority over non-firm point-to-point and secondary point-to-point uses of the transmission system. Network transmission customers are obliged to pay all of the costs of the transmission system without regard to the resources from which energy is scheduled. Therefore, it is appropriate that the transmission associated with a network customer's economy purchases (*i.e.*, transmission that is used to substitute one resource for another on an as-available basis) enjoys a higher priority than non-firm point-to-point transmission service.

Regarding the reservation priority for non-firm service under point-to-point service, we will adopt a reservation priority based upon duration of non-firm service, with price acting as a tie-breaker for competing service requests of an equal duration. If there is insufficient transmission capacity to accommodate all non-firm transmission requests, the reservation of longer duration should displace the shorter. For example, a reservation for a month of non-firm service will displace a reservation for a week of non-firm service. Also, a reservation for a week will displace a reservation for a day, which will displace a reservation for an hour of non-firm service. If a customer requests non-firm and later another customer requests longer-term non-firm service before either term of service begins, the first customer to request service has the right of first refusal to change its request to the longer term of service. A firm point-to-point customer's use of transmission service at secondary points of receipt and delivery will continue to have the lowest reservation priority.

3. Curtailment Provisions

a. Pro-Rata Curtailment Provisions

Comments

A large number of IOUs that are control area operators argue for discretion to curtail the transaction that most effectively relieves the constraint, in lieu of mandatory pro-rata curtailments, which they argue are inappropriate and not cost effective.

Other commenters that do not support pro-rata curtailment argue that preference should be given to native load or existing customers because these customers have paid the majority of the costs of the transmission system. A large number of customers note that their existing contracts contain "enhanced" curtailment priorities (*i.e.*, service to others will be curtailed before service to customers with such curtailment priority) due to the large capital outlays made by them in connection with their service.[459]

Public Generating Pool believes that the proposed curtailment provisions may not be flexible enough for transactions in the Northwest. It argues that hydro spill should be avoided, and suggests that transactions from federal and/or non-federal hydroelectric generation facilities should not be curtailed pro rata with other transactions that do not rely on such facilities. Public Generating Pool urges that regional agreements (*e.g.*, regional transmission group agreements) that would achieve this goal should be given deference.

Other commenters support pro-rata curtailments for firm service.[460] PSNM states that this has been its operating practice in the past, and PSNM expects to continue such an approach in the future.

Power marketer commenters generally support the pro-rata curtailment adding that a standardized curtailment priority applied nationally would provide greater open access and eliminate discriminatory curtailments.

Commenting on a related subject, EEI maintains that the network tariff provision for termination of service in the event a customer fails to curtail load[461] may not be realistic for service to a Transmission Dependent Utility. EEI suggests that the Commission supplement this provision with a substantial penalty provision, coupled with an indemnification requirement.

Commission Conclusion

It was not our intent in the NOPR to require all transactions to be curtailed on a pro-rata basis regardless of whether the transaction relieves a constraint. We intended to permit curtailments of transactions that substantially relieve a constraint.[462] We intended and continue to believe that curtailment on a pro-rata basis is appropriate for curtailing the transactions that substantially relieve the constraint. In order to allay the concerns of the commenters addressing this issue, we are clarifying the curtailment provision of the tariff to explicitly allow the transmission provider discretion to curtail the services, whether firm or non-firm, that substantially relieve the constraint. Of course, any curtailment must be made on a non-discriminatory basis, including curtailment of the transmission provider's own use of the transmission system. Customers that believe the curtailment policy is administered unfairly may file a section 206 complaint at the Commission.

Concerning the request of certain Pacific Northwest commenters, we would consider granting deference to an alternative curtailment method to avoid hydro spill if such a regional practice is generally accepted and adhered to across the region, as discussed further in Section IV.K.

Finally, we agree with EEI's observation that terminating network service under the tariff to a transmission dependent utility that fails to curtail load as required may not be appropriate. As a result, we clarify that under network and point-to-point service, the transmission provider may propose a rate treatment (penalty provision) to apply in the event a customer fails to curtail load as required under the Final Rule pro forma tariff. Such proposals will be evaluated on a case-by-case basis on compliance.

b. Curtailment Provisions for Non-Firm Service

Comments

A number of commenters seek clarification of the curtailment provision for non-firm service under the two tariffs. They note that economy purchases by the network customer are accorded a higher curtailment priority than non-firm service under the point-to-point tariff. However, under the point-to-point tariff there is no acknowledgement of this higher priority for network service. Curtailments for non-firm transmission service under the point-to-point tariff are simply based upon duration of service, without reference to a higher priority for network economy purchases.

A number of commenters, including Industrial Energy Applications, suggest that a price-based curtailment queue for non-firm transmission will facilitate economy energy deals in highly competitive wholesale power supply markets and allow the parties to directly address delivery risk through the pricing mechanism.

Blue Ridge argues that the final rule should provide equal curtailment priority for all types of non-firm transmission service. Utilities For Improved Transition argues that network customers should be able to transmit non-firm power imports under the network tariff with the same curtailment priority that is assigned to all other firm network uses of the transmission system.

A number of commenters note that the tariffs allow non-firm service to be interrupted only for emergency or reliability reasons or to provide firm service. These commenters contend that, under this requirement, curtailment of non-firm service is unlikely.[463] As a result, they believe that non-firm service is elevated to firm service. To remedy this situation, these commenters argue that transmission providers should have the ability to curtail non-firm service for any economic reason.

Commission Conclusion

We have clarified in the Final Rule pro forma tariff that a network customer's economy purchases have a higher curtailment priority than non-firm point-to-point transmission service.

A higher curtailment priority should be provided to network economy energy purchases for the reasons stated in *AES Power, Inc.*.[464] In that case, we recognized that the network transmission customer has already "paid" for the transmission of its economy purchases (*i.e.*, transmission that is used to substitute one resource for another on an as available basis) through its payment of a load ratio share of the system.

Many commenters oppose the point-to-point service provision allowing non-firm service to be interrupted only for emergency or reliability reasons or to provide firm service. Upon further consideration, we agree that this provision is too narrow. Accordingly, the Final Rule pro forma tariff is revised to allow the transmission provider to curtail non-firm service for reliability reasons or economic reasons (*i.e.*, in order to accommodate (1) a request for firm transmission service, (2) a request for non-firm service of greater duration, (3) a request for non-firm transmission service of equal duration with a higher price, or (4) transmission service for economy purchases by network customers from non-designated resources.). However, all curtailments must continue to be made on a non-discriminatory basis including curtailments of the transmission provider's own non-firm uses of the transmission system under the tariff. A firm point-to-point customer's use of transmission service at secondary points of receipt and delivery will continue to have the lowest curtailment priority.

4. Specific Tariff Provisions

a. Network and Point-to-Point Customers' Uses of the System

Comments

Generally, transmission providers argue that the tariffs give too much flexibility to customers, while transmission customers argue that even more flexibility is required. The arguments are generally tied to pricing rather than technical problems with providing any level of service.

A common transmission provider argument is that the proposed firm point-to-point tariff provides a premium service comparable to network service, but at a lower rate. It has been suggested that either the flexibility to use non-firm service at secondary points of receipt and/or delivery at no additional charge under the point-to-point tariff be eliminated or that point-to-point customers should pay a premium price for such flexibility.[465] Transmission providers generally argue that flexible point-to-point service puts the transmission owner and the network customer at a competitive disadvantage. They assert that the point-to-point customer is able to use non-firm transmission to reach secondary receipt and delivery points for both sales and purchases, but the network customer may use only non-firm transmission to reach secondary points for purchases. Thus, they argue, the flexible point-to-point users can sell non-firm power with a small or even no transmission component (because the underlying transmission is effectively free). Electric Consumers Alliance and Cajun believe that the owner and network customer competing for that sale should not be charged for the identical transaction. Absent a change to the point-to-point tariff, a number of transmission providers and state commissions (including Midwest Commissions) argue that to provide balance to the tariffs, the network tariff should permit the network customers to have non-firm transmission to secondary receipt and delivery points at no additional charge for both purchases and sales within its load-ratio transmission entitlement. Utilities For Improved Transition refers to this proposed network tariff modification as "headroom."

CCEM opposes the headroom concept, arguing that "free" use of capacity will give transmission providers an unfair competitive advantage. CCEM also cites Order No. 636 in support of its position.

Conversely, a number of customer groups believe the point-to-point tariff should be made more flexible by broadly defining the concept of points of receipt and delivery. They argue that all points of connection between the transmitting utility and the purchasing utility should be treated as a single point of delivery (POD) or point of receipt (POR).[466] In this manner, a customer would not have to pay for every point of receipt or point of delivery, but could select a contract demand level of service. The customer could then use the service at multiple

[458] *E.g.*, Duke, Orange & Rockland.

[459] *E.g.*, TANC, Turlock, SMUD.

[460] *E.g.*, PSNM and Nebraska Public Power District.

[461] Proposed Pro Forma Network tariff section 9.7—System Reliability.

[462] The Final Rule pro forma tariff contains language allowing the transmission provider the discretion to interrupt firm transmission service in an emergency or other unforeseen condition in a manner suggested by these commenters. Section 11.6, Curtailment of Firm Service, of the Final Rule pro forma tariff provides:

However, the Transmission Provider reserves the right to Interrupt, in whole or in part, firm Transmission Service provided under this Tariff when, in the Transmission Provider's sole discretion, an emergency or other unforeseen condition impairs or degrades the reliability of its transmission system.

The reference to curtailments being allocated on a proportional (pro rata) basis addresses situations where multiple transactions could be curtailed to relieve a constraint.

[463] *E.g.*, Florida Power & Light Company, Southern California Edison Company.

[464] 69 FERC ¶ 61,145 at 62,300 (1994) (proposed order), 74 FERC ¶ 61,220 (1996) (final order).

[465] *E.g.*, EEI, Utility Working Group, SoCal Edison.

[466] *E.g.*, Arkansas Cities, NRECA.

points without incurring separate reservation charges for each point.

A number of commenters contend that the Commission should not force specific tariffs on public utilities in the Pacific Northwest due to their unique status.[467] In particular, NWRTA recommends that the final rule recognize that the Pacific Northwest's integrated transmission system, including large components owned by non-public utilities, was constructed to support a unique region-wide hydroelectric-dependent generating system. NWRTA recommends that the final rule be sufficiently flexible to accommodate these unique characteristics without prejudicing the interests of users or providers of transmission services.

Similarly, Public Generating Pool states that the NOPR pro forma network tariff departs from the status quo arrangements in the Northwest and is generally unworkable because generation is usually remote from the control area serving the network load and because BPA, which does not have a typical service territory, dominates the regional transmission market. Public Generating Pool suggests that the Commission require, and the region develop, a "generation integration" transmission tariff that would offer network-type service to a source or sources of generation unbundled from the "network services" designed to integrate load. Similar contract demand network tariffs have already been proposed by some IOUs.

Commission Conclusion

We will not allow network customers to make off-system sales within the load-ratio transmission entitlement at no additional charge. Commenters have raised no new arguments to persuade us to do so. The primary purpose of network service is to integrate resources to serve loads. Use of transmission by network customers for non-firm economy purchases, which are used to displace firm network resources, must be accorded a higher priority than non-firm point-to-point service and secondary point-to-point service under the tariff. Off-system sales transactions, which are sales other than those to serve a network customer's native load, must be made using point-to-point service. They can be made on either a firm or non-firm basis.

A large number of transmission providers support the "headroom" concept, arguing that without it the flexible point-to-point service puts them at a competitive disadvantage. This would be true if a utility serving load were required to use network service exclusively. However, we do not require any utility to take network service to integrate resources and loads. If any transmission user (including the public utility) prefers to take flexible point-to-point service,[468] they are free to do so. Any point-to-point customer may take advantage of the secondary, non-firm flexibility provided under point-to-point service equally, on an as-available basis.

b. Minimum and Maximum Service Periods

Comments

Commenters raise issues regarding the minimum term of one hour for firm point-to-point service. Their concerns center on price and priority. Transmission providers point out that their native load customers pay the fixed cost of the transmission system every hour of the year. They argue that comparability is not achieved by permitting others to have service for one hour with equal priority to native load and other long-term customers. Others worry that the one-hour minimum term will: (1) Promote the selective use of the transmission system; (2) impair the ability of a utility to plan its system; and (3) adversely impact longer term transactions.

Tallahassee and KY Com are concerned that one-hour firm service may encourage speculative advance requests for service during the system peak day (Cajun refers to this as cream skimming). These commenters express concern that such requests could displace other valid transactions or constrain a corridor or interface to the detriment of network service or native load customers. Tallahassee proposes a one-day minimum term for firm service.[469]

East Kentucky is concerned that users of the transmission system could, under the Commission's proposed open-access rule, purchase short-term firm service during peak months in lieu of annual firm service to reduce expenses associated with the purchase of firm transmission service. By buying short-term firm service only during the peak months, an entity can significantly reduce its transmission expenses by purchasing non-firm service during off-peak months when the available transmission capacity far exceeds the demand on the transmission system. For this reason, some commenters request that short-term firm service be priced to generate revenues over the peak months equal to the charge for annual firm service.

Duke argues that, because all curtailments are equal, the addition of each one hour firm transaction will lower the reliability profile of native load customers and other customers with long-term commitments. It suggests that different classes of services be established that offer transmission customers the flexibility to obtain an intermediate level of transmission service (between native load firm and non-firm) for transactions of shorter duration.

On the other hand, some TDUs and power marketers support the one-hour minimum term. TAPS argues that transmission providers should not be permitted to restrict the availability of hourly, daily or weekly transmission service at reasonable prices, as some transmission providers have proposed in open access cases. Brazos supports a minimum duration of service equal to the minimum scheduling period of the transmission owner. Turning to the maximum term of service, Chugach objects to the imprecise requirement that transmission service be offered for a term equal to the life of a particular generation resource. Chugach, joined by VEPCO, suggests that the Commission require transmitting utilities to offer five-year terms (with longer contract terms by negotiated agreement).

Although BPA supports eliminating arbitrary term limitations and facilitating long-term resource commitments, it is concerned that the Commission's failure to specify a maximum term for firm transmission service (particularly where no specific resource is being wheeled) requires transmitting utilities to effectively sell off their transmission capacity to third parties. In BPA's view, such a requirement goes well beyond the intent of the Energy Policy Act.

PSE&G argues that the term limit for firm transmission service should be consistent with the transmission provider's planning horizon (*e.g.*, for PSE&G, 10 years), which will ensure comparability of firm third party customers with native load. According to ConEd, failure to specify a maximum term for service creates uncertainty for planning purposes. PECO believes that utilities should have the right to limit the term of service to either: (1) The expected useful life of facilities used in providing service; or (2) the term of permits and land rights needed for those facilities.

[467] *E.g.*, Public Power Council, Washington Water Power, NWRTA.

[468] *See* Florida Municipal Power Agency v. Florida Power & Light Company, 74 FERC ¶61,006 at 61,013 and n.70 (1996).

[469] *See also* VEPCO, CSW, NYSEG, WP&L.

Commission Conclusion

We will adopt a one-day minimum term for firm point-to-point service. The one-day minimum term for firm point-to-point service, along with modifications to the procedures for requesting firm point-to-point service, will moot a number of reliability concerns and allegations about possible "cream-skimming." As discussed *supra*, firm service requests with longer durations of service will have bumping rights over shorter term firm service requests. Also, the one-day minimum will not disadvantage anyone because the transmission provider will be subject to the same one-day term for its firm point-to-point uses of the transmission system. Because of the longer-term nature of network service, it will be subject to a one-year minimum term.

We will not specify a maximum term for either point-to-point or network transmission service. However, we recognize the concerns raised by commenters that a commitment of uncertain duration makes planning difficult. Therefore, we will modify the tariff to require that an application for transmission service specify the length of service being requested. This will provide the transmission provider with the certainty it needs for planning and the transmission customer with the flexibility to request the service it needs.

c. Amount of Designated Network Resources

Comments

The NOPR pro forma network tariff specifies that a customer may designate only those resources that the customer owns or has committed to purchase pursuant to an executed contract. Transmission providers argue that there is a need for some limitation on the resources that network customers can designate to serve their loads. Otherwise, they assert, a utility would be required to incur costs (planning, constructing, and operating its transmission system) that are out of proportion to the customer's load and its share of the utility's cost of service. However, EEI, VEPCO, and Utilities For Improved Transition believe that the Commission's proposal to use a purchase obligation standard is too narrow, inflexible, and susceptible to manipulation. These IOU commenters argue that it could include very short-term obligations and contingent obligations to purchase. EEI suggests that the Commission should establish a minimum term so that a customer could not designate resources for which it has only a one-month contract. The principal problem VEPCO sees is that purchase obligations may not be clear. According to VEPCO, a transmission customer may claim an obligation when it has no substantial payment obligation and thus no economic deterrent to designating that purchase obligation as a potential resource to serve its loads. It alleges that the result is that the transmitting utility can be forced to tie up transmission capacity for service from a resource that may have little probability of being used; consequently, less capacity will be available for other uses. VEPCO further argues that, since upgrade costs are typically rolled in, the customer may not have a strong incentive to minimize transmission construction. EEI argues for system-specific limits based on capacity needs to serve the network loads reliably. Alternatively, if the "own" or "purchase" provision is to be used, EEI contends that the customer should be required to have a significant and ongoing obligation to purchase power (*e.g.*, minimum one-year contracts that impose obligations on a first-call basis).

These IOUs also recommend that the Commission not decide on a single way to limit network resources. They note that proposals based on percentage limits (*e.g.*, 125%) subject to exceptions for reliability concerns may be a reasonable approach. According to these IOUs, the Commission should permit flexibility to develop not unduly discriminatory provisions until experience suggests which are the best ways to satisfy the objective. To prevent over-designating network resources, Missouri-Kansas Industrials suggest placing a limit of 200% of the subscriber's load.

Arkansas Cities supports limiting the definition of network resources to those that the customer owns or contracts for. It argues that this reasonably accommodates the planning process. Arkansas Cities argues that any type of percentage adder would unreasonably restrict the process.

ELCON states that virtually any issue regarding the nature of network service can be resolved by reference to the price of such service. According to ELCON, if a transmission customer seeks to incorporate unlimited (*i.e.*, unspecified) generation sources into its network load, the customer should pay a higher rate than a network customer that can identify a need for service to/from specified generating units.

A related issue is how interface capacity should be allocated between network customers and the transmission provider. IOUs generally argue that interface capacity should be allocated based upon the load ratio of the customers. Tariff customers generally argue that there should be no restriction on the amount of interface capacity that they may designate.

Commission Conclusion

We do not believe that a superior alternative has been suggested to our purchase obligation for limiting network resources. Accordingly, we will not change the limitation on the amount of resources a network customer may designate. A transmission provider taking network service to serve network load under the tariff also is required to designate its resources and is subject to the same limitations required of any other network customer.

Limiting the amount of resources to those that the customer owns or commits to purchase will protect a utility from having to incur costs that are out of proportion to the customer's load. The transmission provider's concern that the purchase limitation will result in excessive network resources is unfounded. A transmission customer, like a transmission provider, has an incentive not to oversubscribe its capacity requirements because the cost of excessive reserve margins will be prohibitive. Requiring a strict percentage limitation could distort the planning process by limiting the size of resource additions a transmission customer may undertake. Allowing discretionary exceptions to the percentage limit will inevitably lead to disputes and claims of discrimination.

With respect to the allocation of interface capacity under network service, we clarify that a customer is not limited to a load ratio percentage of available transmission capacity at every interface. A customer may designate a single interface or any combination of interface capacity to serve its entire load, provided that the designation does not exceed its total load.

d. Eligibility Requirements

Under the NOPR pro forma tariffs, the transmission provider and anyone who can file a section 211 request is eligible to request service.

Comments

In general, most commenters agree with the eligibility requirements. However, several IOUs argue that the tariffs should be modified specifically to preclude the use of the tariffs for retail wheeling.[470]

NIEP believes the eligibility provision should include all entities that not only generate power themselves, but also purchase power generated by others for

[470] *E.g.*, El Paso, Southern, NSP.

resale, including municipalities, federal entities with rights to purchase, and other entities with load but no generation resources.

Power Marketing Association and others argue that the network tariff should be modified to specifically allow service to marketers.

PacifiCorp argues that independent owners of generation resources should not be allowed to acquire network integration service directly. It suggests that, if the eligible utility does not have a load in the control area, the service sought is to accommodate off-system sales, which is a point-to-point service.

Commission Conclusion

As we previously explained, a non-discriminatory open access transmission tariff must be made available, at a minimum, to any entity that can request transmission services under section 211 and to foreign entities.[471] Eligibility to take service is further discussed in Section IV.C.1.

e. Two-Year Notice of Termination Provision

Comments

Ohio Edison, Utilities For Improved Transition, LA DWP, and VEPCO believe that point-to-point transmission customers should not be allowed to terminate transmission service prior to the end of their contract term, especially in light of their reassignment rights. For network service, VEPCO, Florida Power Corp, Utilities For Improved Transition, and Duke believe that the notice of termination period should be at least five years, to coincide with the utility's construction horizon. In particular, VEPCO wants transmission customers terminating service prior to the end of the contract term to pay for network upgrades constructed for their benefit that would be stranded due to early termination of service.

CCEM supports a six-month notice of termination as appropriate for a term of service of one year or greater; any longer notice period would unduly limit a transmission customer's purchasing options.

NYSEG and EEI want the flexibility to negotiate a reasonable, mutually agreeable notice of termination period to recognize such things as the term of the contract and the amount of service at issue.

LEPA, VT DPS, and NorAm believe that written notice of termination should not be required for transactions of two years or less.

[471] *See* discussion in Section IV.C.1.

Commission Conclusion

We will delete the notice of termination provision from the tariff. We believe that commenters have raised a number of valid concerns about including the notice of termination provision. In particular, the notice of termination will have no effect on short-term service of less than two years. In addition, the two-year notice provision does not coincide with either a transmission provider's planning or construction horizon. Because we are eliminating the notice of termination provision from the tariff, transmission service will have to be reserved and paid for over the length of the contract term. Of course, by eliminating this tariff provision, we are not precluding parties from negotiating mutually agreeable terms for early termination on a case-specific basis. However, we note that point-to-point customers are able, under the reassignment provision, to resell unused transmission capacity.

f. Reciprocity Provision

In the NOPR, the Commission explained that it was requiring a reciprocity provision in the non-discriminatory open access transmission tariffs so that public utilities offering transmission access to others would be able to receive service from transmitting utilities that are not public utilities (*e.g.*, municipal power authorities and federal power marketing administrations that receive service under a public utility's tariff).

Comments

Reciprocity Requirement

The vast majority of the jurisdictional IOUs commenting on this issue favor a reciprocity requirement. In contrast, the non-jurisdictional transmission customers (primarily publicly-owned entities and cooperatives) generally oppose such a requirement. The few state commissions commenting on this issue generally support the stated goal of the reciprocity requirement, but question our legal authority to require it.[472] The few IPP and power marketer commenters that address this issue do not object to reciprocity if it does not apply to non-transmission owners.[473]

Several commenters believe that all transmission-owning utilities, whether public or investor-owned, must be required to provide open access service for a truly competitive wholesale power market to be realized.[474] Sierra states that specific legislation by Congress and/or state lawmakers may be necessary to ensure that currently non-public utilities comply with the Commission's open access requirements.

A number of commenters maintain that the Commission should enforce reciprocity by allowing public utilities to deny transmission service to non-public utility transmitting entities when reciprocal transmission service is not offered.[475]

Phelps Dodge and Otter Tail believe that non-public utility transmitting entities will continue their existing bundled service contracts indefinitely to avoid complying with the reciprocity requirement. Therefore, to promote transmission access through reciprocity, Phelps Dodge and Otter Tail suggest requiring the unbundling of existing contracts by a date certain to convert such contracts to transmission service agreements under the transmission provider's open access tariff.

A number of commenters argue that the Commission's only legal authority to impose a reciprocity requirement on non-public utilities is that provided by section 211 of the FPA.[476] Large Public Power and others suggest that mandating reciprocity is not necessary because the stated goals of the reciprocity requirement can be met by voluntary transmission access and through section 211 filings.

Many commenters do not oppose reciprocity if it is modified to incorporate the protections present in sections 211 and 212 and the benefits available under sections 205 and 206.[477] TDU Systems explains that section 211 contains a number of protections, *e.g.*, transmitting utilities cannot be required to provide transmission service if such service impairs their ability to provide reliable service, disrupts existing contracts with entities seeking service, or is inconsistent with state law regarding retail marketing areas. It also notes that section 212 contains rate provisions that protect a non-public utility transmission provider from being forced to provide electric service at a non-compensatory rate. Seminole EC argues that, without section 205/206 rights, non-public utilities cannot adjust their tariffs or challenge tariff provisions that they believe should not apply to them.

Several commenters also suggest that, without sections 211, 212, and 205 rights and protections, reciprocity

[472] *E.g.*, IL Com, KY Com, VT DPS, GA Com.

[473] *E.g.*, CCEM, CA Energy Co.

[474] *E.g.*, Sierra, MidAmerican, Tucson Power.

[475] *E.g.*, Puget, Sierra, NSP.

[476] *E.g.*, NRECA, Omaha Public Power District, Dairyland, AEC & SMEPA, PA Com, IL Com, TDU Systems.

[477] *E.g.*, NRECA, SC Public Service Authority, Seminole EC, TDU Systems.

provisions allow the transmission provider to deny transmission based on its own determination of the transmission customer's attempt to comply with reciprocity, which SC Public Service Authority contends is letting the "fox guard the henhouse." TAPS states that in no event should the claimed lack of reciprocity constitute grounds for refusal to offer a service agreement, or unilateral denial, delay or termination of service. TAPS, and other cooperative, municipal, and public power commenters suggest that some procedure must be developed to bring reciprocity disputes before the Commission. Wisconsin Municipals argues that this provision should be modified, claiming that a customer's receipt of a revenue credit for transmission facilities it contributes to the transmission provider's system should satisfy the reciprocity requirement.

Rather than filing tariffs with the Commission, Dairyland suggests allowing cooperatives that are not public utilities to file a compliance transmission tariff with the Rural Utilities Service (RUS) as it relates to the issue of reciprocity, thereby affording non-jurisdictional cooperative utilities rights and privileges similar to those afforded jurisdictional utilities.

Application of Reciprocity Requirement

Several commenters argue that reciprocity should apply to both the seller and purchaser engaged in a transaction under an open access tariff to ensure that: (1) Transmission customers cannot avoid their reciprocity obligation by requesting service through an agent that owns no transmission facilities; (2) a generator cannot take transmission service in order to sell power to a non-jurisdictional entity, thereby allowing the non-jurisdictional entity to escape the reciprocity provision, and (3) a buyer cannot take service in order to purchase power from a non-jurisdictional entity, thereby allowing the entity to escape the reciprocity requirement.[478]

Entergy also is concerned that reciprocity can be evaded through the use of power marketers. Therefore, Entergy proposes that, if the transmission customer is neither the producer, transmitter, nor distributor of the power and energy to be transmitted, but instead acts as a marketer, the marketer must designate an electric utility that either produces, transmits, or distributes such power and energy as being subject to the requirement to provide comparable service.

CCEM and NIEP support the reciprocity provision because they apply only to transmission owners. CCEM and NIEP contend that non-transmission-owning customers should not be required to procure transmission capacity or hire a proxy solely to meet a reciprocity requirement.

In contrast, CA Energy Co insists that the reciprocity provisions of the proposed tariffs must be amended to clarify that IPPs can obtain access even if the IPPs own no transmission assets. CA Energy Co argues that the Commission must exempt IPPs from the reciprocity requirement if IPPs are to be assured equal access and thus remain effective competitors.

Publicly-Owned Entities

Publicly-owned entities argue that they differ from IOUs and cannot provide completely reciprocal services.[479] LPPC identifies a number of differences between publicly-owned utilities and IOUs, such as: the publicly-owned utilities' use of tax-exempt debt, which could be jeopardized if they are required to make their transmission systems available for private use; restrictions on the rate-setting methods publicly-owned utilities can use; and statutory restrictions on the services publicly-owned utilities can offer.[480] LPPC asks that the reciprocity provision be dropped or changed to recognize these differences.[481] It argues that the purposes of the NOPR are met by transmission tariffs voluntarily offered by its members that generally meet the standard of open access.

NE Public Power District notes that to the extent that the Commission requires cost-based rates, the Commission must recognize that publicly-owned utilities do not establish rates in the same manner as IOUs; for example, NE Public Power District does not include depreciation or return on equity as costs in its rates, nor does it pay federal income taxes. It suggests that the Commission should not apply a one-size-fits-all approach to pricing transmission service, should consider the special circumstances of publicly-owned utilities in exercising its authority under section 212, and should give publicly-owned utilities the opportunity for an evidentiary hearing before requiring them to adopt rate-setting conventions that are appropriate for public utilities.[482]

CAMU asserts that the tax-exempt financing of government bodies may be jeopardized due to limitations on the private use of facilities that are financed through tax exempt bonds.[483] It suggests that a solution may be to impute the cost of capital based on the average cost of all area utilities. Wisconsin Municipals says that the Commission should seek an opinion from the IRS regarding whether reciprocal use would jeopardize tax-exempt status; if it is determined it would, the owner of the transmission facilities should be allowed to recover any increased costs associated with the loss of tax-exempt status.[484]

DE Muni is concerned that a utility may "impose" the open access tariffs on a non-public utility customer such as a municipal system and then demand reciprocal access to that customer's transmission facilities to serve the municipal's retail customers.

San Francisco argues that there is no legal authority in the FPA or case law to impose the open access requirement on non-public utility entities. Moreover, San Francisco is concerned that the reciprocity requirement may impair its ability to deliver its own power pursuant to the requirements of the Raker Act.

Salt River opposes the reciprocity provision because it could "administratively vest discriminatory market power in FERC jurisdictional public utilities." Salt River further argues that "duly adopted open-access transmission tariffs or rate schedules of publicly-owned utilities should be presumed to satisfy FERC's reciprocity requirement, and the legislative action of the publicly-owned utility's ratemaking body should be given deference in a dispute brought before FERC relating to the tariff or rate schedule."

Public Generating Pool argues that a non-public utility transmission customer should not have to provide the same service a public utility provides. It argues that a publicly-owned entity may lack the resources to provide the high level of service a public utility can provide.

Tallahassee seeks clarification that reciprocity does not mean that investor-owned utilities can require municipal utilities to offer services that are *identical* to those offered by the

[478] *E.g.*, EEI, Consumers Power, Montana-Dakota Utilities, CSW, Duke, BPA.

[479] *E.g.*, Blue Ridge, SMUD, LPPC, Salt River, Oglethorpe.

[480] *See also* Omaha PPD, Salt River, MEAG, TAPS.

[481] *See also* Omaha PPD.

[482] *See also* Heartland.

[483] *See also* Wisconsin Municipals, Omaha PPD, Salt River, MEAG, MMEWC, NE Public Power District.

[484] *See also* TAPS.

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investor-owned utilities. It argues that it is not practical to require small utilities to provide all of the services bigger utilities provide and that legal obligations imposed on municipal utilities may interfere with their ability to provide certain types of open access provisions. Tallahassee concludes that reciprocity should be equated with comparability (the transmission user must offer service that is comparable to the service it offers to itself).

TANC asks for clarification and suggests various changes to the reciprocity provision. It asks whether the reciprocity requirement will apply to it, since it is part owner of a transmission facility (the California Oregon Transmission Project (COTP)) but has contractually dedicated its entitlement to use of this facility to its members. It argues that if the requirement does apply, its obligation should be limited to the member's share of TANC's entitlement. TANC also asks whether when it receives transmission service on behalf of a member, that member's non-COTP transmission facilities must be made available to the transmission provider. If that is the case, TANC asks what voltage level of facilities must TANC and its members make available? TANC believes that if a TANC member independently requests transmission service from a utility, that member would be obligated to make reciprocal service available to the utility on the share of the COTP that member "controls" through TANC's entitlement. TANC argues that neither TANC and its members nor TANC and its COTP co-owners should be treated as "affiliates" under the proposed reciprocity provision. It argues that the comparable service tariff it must provide as a member of the Western Regional Transmission Association should satisfy the reciprocity requirement.

TANC also asks for clarification as to how the reciprocity provision would be administered. A non-public utility cannot file a tariff with the Commission, so presumably it and the public utility from which it wants transmission service would negotiate; if, however, the public utility does not agree that reciprocal service is being offered, it will deny access to its transmission facilities, and the non-public utility would have to come to the Commission to resolve the dispute. SC Public Service Authority expresses a similar concern. It argues that the reciprocity provision will prevent non-public utilities from obtaining comparable access. The public utility from which the non-public utility wants access will be able to delay access by claiming that the reciprocity provision is not satisfied. Even the possibility of such a delay may discourage customers from contracting with non-public utilities. SC Public Service Authority suggests that this problem can be fixed by allowing non-public utilities to file comparable access tariffs with the Commission.

NE Public Power District asserts that while government-owned utilities are subject to limited regulation under sections 211–213 of the FPA, "that limited grant of jurisdiction cannot be transmuted into amenability of state- and municipally owned utilities to the sort of detailed regulation that the NOPR would impose through requiring insertion of so-called 'reciprocity' clauses in the transmission tariffs of jurisdictional public utilities, by inviting the filing of 'class' § 211 applications, or by making adherence to the rules emerging from the NOPR proceeding an automatic requirement for utilities that are subject to a section 211 application."

NE Public Power District explains that it has pending before the Commission a proceeding in which it has taken the position that it is not subject to the Commission's jurisdiction. (citing Docket No. TX95–3–000).[485] NE Public Power District also argues that it would be unconstitutional under the Tenth Amendment and the Guarantee Clause of the United States Constitution for the Commission to assert jurisdiction. It further argues that the proposed regulations would constitute an unfunded Federal mandate within the meaning of the Unfunded Mandates Reform Act of 1995 and that the Commission has not followed the requirements of that Act.

NE Public Power District explains that under Nebraska law it is prohibited from granting or conveying to any private entity any interest or control of any of its property or facilities, and section 211 does not authorize the Commission to order wheeling for an end-user or to replace a contractual wholesale sale. Thus, it argues that the Commission does not have authority to use mandatory reciprocity clauses to obtain compliance with a policy it has no right to impose directly. (citing *Sunray* and *AGD*). NE Public Power District also questions whether the Commission may lawfully declare exclusive-use provisions invalid under the *Sierra-Mobile* doctrine without conducting a proceeding under section 206 with regard to each specific facility and making the necessary findings.

Salt River responds to complaints that public power entities have a competitive advantage, due to subsidies and preferences, over investor-owned utilities:

> This Commission is not the appropriate forum and this proceeding is not the appropriate proceeding to consider the investor-owned utilities' "level playing field" complaint as it relates to public power, and the Commission should reject any suggestion that it do so.[486]

Cleveland urges the Commission not to address in the NOPR proceeding either congressional policy as reflected in the tax laws or the propriety of other long-standing federal statutes in considering complaints that publicly-owned entities receive subsidies from the government that IOUs do not. It points to three tax breaks available to IOUs: (1) Investment tax credits; (2) deferred taxes resulting from different book and tax depreciation; and (3) use of tax-exempt financing in certain circumstances.

NRECA/APPA argues that the Commission should not, as requested by EEI, address alleged "undue" subsidies received by consumer-owned utilities and delve into such subsidy issues as municipal financing policy, rural electrification and development policies, and the merits of privatizing the federal power marketing administration. NRECA/APPA alleges that these are complex issues that are within the domain of other federal agencies.

G&T and Distribution Cooperatives

NRECA explains that under Dairyland Power Cooperative,[487] the Commission does not have jurisdiction over cooperatives that have REA/RUS loans.[488] NRECA further explains that rural electric cooperatives are exempt from federal taxation only if 85 percent of their revenues are derived from their members and open access could jeopardize their tax relief.[489] RUS notes that while the Energy Policy Act expanded the Commission's authority to order transmission access, it did not amend the Rural Electrification Act (RE Act) so as to curtail the plenary powers of RUS to carry out a program of rural electrification.

Citing various cases, Brazos says that the Commission must be mindful of the purposes of the RE Act and, if available transmission on Brazos is taken for use by third parties, "a question remains as to the capacity of the remaining portions of the system to function with 'decent service and at decent rates.' "[490]

Various rural electric cooperatives state that the Commission must recognize that consumer-owned electric utilities are very different from investor-owned utilities.[491] Mor-Gran-Sou EC is concerned that the final rule will have a detrimental impact on rural areas, just as it believes deregulation of the banking industry, airline industry and telecommunications industry has had.

Many cooperatives request that the term "affiliates" be defined: (1) To apply only to corporate "affiliates" over which the transmission customer exercises legal control; and (2) to exclude the distribution cooperative members of a generation and transmission (G&T) cooperative.[492] Seminole EC explains that a G&T is a cooperative formed by a group of distribution cooperatives; therefore, a G&T has no legal powers to require action by its member cooperatives. In fact, according to Seminole EC, the distribution cooperatives govern the G&T.

Similarly, TDU Systems notes that the term "affiliates" could be construed to apply to a joint action agency and its municipal and cooperative members. TDU Systems point out that a joint action agency, itself a creature of statute, may not have the power to require its members to provide transmission service.

AEC & SMEPA contends that including the transmission customer's affiliates in the reciprocity obligation is broader than the obligation of the transmission provider, which does not include transmission service by the provider's affiliates. AEC & SMEPA suggests that either: (1) The transmission provider's affiliates should be included in the basic obligation to provide transmission service; or (2) the reciprocity provision should delete the reference to affiliates of the transmission customer.

NRECA comments that it is unclear whether "facilities owned or controlled by the transmission customer" include transmission contracts. NRECA believes that transmission contracts cannot be included in this definition, at least as applied to "transmitting utilities" under sections 211 and 212.

Transmission Provider

Seminole EC questions whether the requirement to offer "open access" service requires reciprocal service to be provided solely to the transmission provider or an open access tariff available to any and all qualified applicants. Seminole EC and NRECA request that the Commission adopt the former interpretation in the final rule.

In contrast, Tucson Power and Phelps Dodge believe that, if a non-public utility transmitting entity chooses to take service under any open access tariff, such access should be conditioned on its own agreement to provide comparable service to *all* eligible customers under an open access tariff.

Tucson Power believes that, without such access to all eligible customers, reciprocity will fail to achieve true "comparability." Tucson Power explains that reciprocal transmission service would appear to be limited by the terms of the specific original request for transmission. For example, Tucson Power fears that a non-jurisdictional entity requesting 25 MW of point-to-point firm service could argue that its reciprocal transmission obligation is limited to the same 25 MW of point-to-point firm service for an equivalent duration. Tucson Power argues that such a limitation on providing reciprocal service would prove useless. Further, Tucson Power believes that reciprocity should be interpreted to require a non-public utility entity to expand or upgrade facilities to meet the transmission requests of all eligible entities and should contain the same pricing provisions as applied in this proceeding for jurisdictional utilities.

Seminole EC questions whether the reciprocity requirement to provide "comparable" service to the transmission provider simply means offering the same *kind* of service to the transmission provider that the transmission customer receives (i.e., network, firm point-to-point, or non-firm).

NRECA claims that the reciprocity requirement should not be construed to impose on non-public utilities an unreasonable obligation to build. Seminole EC adds that an unreasonable obligation to build could effectively preclude requests for tariff service; the transmission customer could be better off litigating a section 211 request rather than accepting the obligation to undertake a massive construction program.

Commission Conclusion

We conclude that it is appropriate to require a reciprocity provision in the Final Rule pro forma tariff. This provision would be applicable to all customers, including non-public utility entities such as municipally-owned entities and RUS cooperatives, that own, control or operate interstate transmission facilities and that take service under the open access tariff, and any affiliates of the customer that own, control or operate interstate transmission facilities. Any public utility that offers non-discriminatory open access transmission for the benefit of customers should be able to obtain the same non-discriminatory access in return.

In the NOPR, we explained that the reciprocity provision would "requir(e) any user or agent of the user of the tariff that owns and/or controls transmission facilities to provide non-discriminatory access to the tariff provider."[493] We wish to clarify that, in stating that a user must provide non-discriminatory access to the tariff provider, we intend that reciprocal service be limited to the transmission provider. However, in situations in which a non-public utility is a member of an RTG or a power pool, it also would have to provide service to the other members of the RTG or power pool. We do not believe it is appropriate to expand the reciprocity condition beyond these situations at this time because, as discussed further below, the IRS currently is evaluating its tax-exempt financing regulations in light of competitive changes in the industry.

We are aware that many non-public utilities are very willing to offer reciprocal access, and that some are willing to provide access to all eligible customers through an open access tariff. However, they are fearful that a public utility may deny service based simply on a claim that the open access tariff offered by a non-public utility is not satisfactory. To assist these non-public utilities, we have developed a voluntary safe harbor procedure that should alleviate these concerns. Under this procedure, non-public utilities would be allowed to submit to the Commission a transmission tariff and a request for declaratory order that the tariff meets the Commission's comparability (non-discrimination) standards. We would post these requests on the Commission Issuance Posting System (CIPS) and would provide them with an NJ (non-

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[485] We note that the application in Docket No. TX95–3–000 by Municipal Energy Agency of Nebraska was withdrawn on November 16, 1995.

[486] Salt River Reply Comments at 2. *See also* NCMPA.

[487] 37 FPC 12, 37 FPC 495 (1967), *aff'd sub nom.* Salt River Project v. FPC, 391 F.2d 470 (D.C. Cir.), *cert. denied*, 393 U.S. 857 (1968).

[488] *See also* Basin EC, Big Rivers EC (citing *Golden Spread*, 39 FERC ¶ 61,322, *reh'g denied*, 40 FERC ¶ 61,346 (1987)), RUS (asserting that RUS has exclusive authority over rural power cooperatives that have RUS loans).

[489] *See also* McKenzie EC, NW Iowa Cooperative, TDU Systems, RUS (asserting that if cooperative voluntarily gives up its tax exempt status, the Commission should allow the related tax expense to be included in the rates charged to the non-member customers only), Brazos, Tri-State G&T, TAPS.

[490] Brazos Initial Comments at 6.

[491] *E.g.*, NW Iowa Cooperative, TDU Systems, Big Rivers EC, Mor-Gran-Sou EC, San Luis Valley REC, Tri-County EC; *see also* RUS, MEAG, Brazos.

[492] *E.g.*, NRECA, Cajun, AEC & SMEPA, Seminole EC, TDU Systems.

[493] FERC Stat. & Regs. at 33,050.

jurisdictional) docket designation. If we find that a tariff contains terms and conditions that substantially conform or are superior to those in the Final Rule pro forma tariff, we would deem it an acceptable reciprocity tariff and would require public utilities to provide open access service to that particular non-public utility.[494] In order to find that a non-public utility's tariff is consistent with our comparability standards, we would need sufficient information to conclude that the non-public utility's rate is comparable to the rate it charges others. In addition, once we find that a tariff is an acceptable reciprocity tariff, an applicant in a section 211 case against a non-public utility would have the burden of proof to show why service to the applicant under the same terms as the reciprocity tariff is not sufficient and why a section 211 order should be granted.

The safe harbor procedures that we have outlined above would be purely *voluntary* for non-public utilities. The procedures are intended to provide non-public utilities an opportunity to confirm that they are willing to provide comparable transmission service. If, however, a non-public utility chooses not to seek a Commission determination that its tariff meets the Commission's comparability standards, a public utility could refuse to provide open access transmission service only if such denial is based on a good faith assertion that the non-public utility has not met the Commission's reciprocity requirements.

In addition to the safe harbor procedures, we note that a non-public utility that is a member of an RTG can meet our comparability standards through the RTG, and can provide an open access tariff that meets our comparability standards by filing a tariff with the administrator of the RTG.[495] Similarly, a non-public utility that is a member of a power pool could meet our comparability standard if the power pool adopts a joint pool-wide open access tariff.

Some commenters have challenged the Commission's jurisdiction to require any non-public utility that takes jurisdictional service to provide reciprocal non-discriminatory transmission services and to unbundle its rates. We are not requiring non-public utilities to provide transmission access. Instead, we are conditioning the use of open access services on an agreement to offer open access services in return. Non-public utilities can choose not to take service under public utility open access tariffs and can instead seek voluntary service from the public utility on a bilateral basis.

In response to arguments raised by publicly-owned utilities and cooperatives, we are not prepared to revise or eliminate the reciprocity condition. Our reason is simple and compelling. We are undertaking this Rule and imposing significant responsibilities on public utilities to ensure the Nation's transmission grid is open and available to customers seeking access to the increasingly competitive commodity market for electricity. While we do not have the authority to require non-public utilities to make their systems generally available, we do have the ability, and the obligation, to ensure that open access transmission is as widely available as possible and that this Rule does not result in a competitive disadvantage to public utilities. Non-public utilities, whether they are selling power from their own generation facilities or reselling purchased power, have the ability to foreclose their customers' access to alternative power sources, and to take advantage of new markets in the traditional service territories of other utilities. While we do not take issue with the rights these non-public utilities may have under other laws, we will not permit them open access to jurisdictional transmission without offering comparable service in return. We believe the reciprocity requirement strikes an appropriate balance by limiting its application to circumstances in which the non-public utility seeks to take advantage of open access on a public utility's system. However, we recognize that Congress has determined that certain entities in the bulk power market can utilize tax-exempt financing by issuing bonds that do not constitute "private activity bonds" [496] or by financing facilities with "local furnishing" bonds.[497] In both circumstances, Congress has entrusted the Internal Revenue Service (IRS) with the responsibility for implementation and for determining what uses of the facilities are consistent with maintaining tax-exempt status for bonds used to finance such facilities. It is not our purpose to disturb Congress's and the IRS's determinations with respect to tax-exempt financing.

We are encouraged that the IRS is presently reconsidering its private activity bond regulations in light of, among other things, the changing circumstances in the electric industry, including this proceeding.[498] We are hopeful that the IRS in its rulemaking will, to the maximum extent possible, remove regulatory impediments that limit the ability of industry participants to provide reciprocal open access service. Until that occurs, however, we believe we must ensure that the reciprocity requirement will not be used to defeat tax-exempt financing authorized by the Congress. Therefore, we clarify that reciprocal service will not be required if providing such service would jeopardize the tax-exempt status of the transmission customer's (or its corporate affiliates') bonds used to finance such transmission facilities.[499] If a non-public utility has sought a declaratory order on a voluntarily-filed tariff, we request that it identify the services, if any, that it cannot provide without jeopardizing the tax-exempt status of its financing.[500]

We believe, given the fact that the IRS is currently examining these issues, that our policy in this regard is appropriate for the time being. After the IRS acts, we will reexamine our policy to ensure that the reciprocity requirement is applied broadly to achieve open access without jeopardizing tax-exempt financing.

With respect to local furnishing bonds, which are available to a handful of public utilities, we note that Congress, in section 1919 of the Energy Policy Act, amended section 142(f) of the Internal Revenue Code to provide that a facility shall not be treated as failing to meet the local furnishing requirement by reason of transmission services ordered by the Commission under section 211 of the FPA if "the portion of the cost of the facility financed with tax-exempt bonds is not greater than the portion of the cost of the facility which is allocable to the local furnishing of electric energy." [501] San Diego G&E has included in its existing transmission tariff a provision that provides that, if it appears that the provision of transmission service would jeopardize the tax-exempt status of any local furnishing bonds used to finance its facilities, San Diego G&E will not contest the issuance of an order under section 211 of the FPA requiring the provision of such service, and will, within 10 days of receiving a written request by the applicant, file with the Commission a written waiver of its rights to a request for service under section 213(a) of the FPA and to the issuance of a proposed order under section 212(c).[502] We believe such a provision is necessary and appropriate so that any local furnishing bonds that may exist do not interfere with the effective operation of an open access transmission regime. Accordingly, we will require any public utility that is subject to the Open Access Rule that has financed transmission facilities with local furnishing bonds to include in its tariff a similar provision.[503]

In addition, in response to arguments raised by cooperatives and joint action agencies, we agree to limit the reciprocity requirement to corporate affiliates. If a G&T cooperative seeks open access transmission service from the transmission provider, then only the G&T cooperative, and not its member distribution cooperatives, would be required to offer transmission service. However, if a member distribution cooperative itself receives transmission service from the transmission provider, then it (but not its G&T cooperative) must offer reciprocal transmission service over its interstate transmission facilities.

Finally, a non-public utility, for good cause shown, may file a request for waiver of all or part of the reciprocity requirement. We would apply the same criteria we will use to determine whether to grant a waiver of all or part of the Final Rule's requirements for public utilities that request waiver.

The reciprocity requirement will also apply to any entity that owns, controls or operates transmission facilities that uses a marketer or other intermediary to obtain access. For example, if a municipal purchases power from a marketer that also arranges for the transmission of the power through a public utility open access tariff to the municipal, the municipal would need to meet our reciprocity requirements. We point out here that we have established a procedure, set out in Section IV.K.2., for small public utilities to request a waiver from some or all of the requirements of the Rule. We would apply the same criteria to waive the reciprocity condition for small non-public utilities.

[494] Public utilities would also be required to provide service during the pendency of any request for declaratory order. Otherwise, public utilities could continue to delay providing service.

[495] *See, e.g.*, Southwest Regional Transmission Association, 73 FERC ¶ 61,147 at 61,414 (1995).

[496] *See* 26 U.S.C. 141.

[497] *See* 26 U.S.C. 142.

[498] Definition of Private Activity Bonds, 59 FR 67658 (December 30, 1994), Proposed Rules (to be codified at 26 CFR pt. 1).

[499] The same would be true in the case of a G&T cooperative that is a tax-exempt entity under section 501(c)(12) of the Internal Revenue Code (26 U.S.C. 501(c)(12)) that would risk loss of tax-exempt status if more than 15 percent of its revenues are derived from business with non-members. We clarify that reciprocal service will not be required if providing such service would jeopardize the G&T cooperative's tax-exempt status.

[500] A tariff offered by a non-public utility transmission provider to satisfy the reciprocity requirement may include a provision permitting the transmission provider to refuse service if providing such service would jeopardize its tax-exempt status or the tax-exempt status of its bonds. The non-public utility could file a declaration to this effect in an NJ docket.

[501] 26 U.S.C. 142(f)(2)(A).

[502] *See* San Diego Gas & Electric Company, Docket No. ER96–43–000, Pro-Forma Point-to-Point Transmission Service Tariff, section 4.6(d); Network Transmission Service Tariff, section 4.7(d).

[503] *See* Appendix D, Pro Form Open Access Transmission Tariff, Section 5.

g. Miscellaneous Tariff Modifications

(1) Ancillary Services

The pro forma tariff, attached as Appendix D, incorporates conforming revisions consistent with the determinations discussed in Section IV.D.

(2) Clarification of Accounting Issues

Comments

A number of commenters generally assert that, as presently configured, the Commission's Uniform System of Accounts does not support the proposed stranded cost and open access policies set forth in the NOPR. They urge the Commission to open a separate docket to address these accounting issues and bring together all parties to properly resolve them. More specifically, commenters ask whether certain of the requirements outlined in the NOPR pro forma tariffs would require changes to the Uniform System of Accounts. In particular, commenters are concerned that the recording of costs and revenues related to ancillary services, facilities studies, and system impact studies would require the creation of new accounts under the Uniform System of Accounts. In addition, commenters raise questions about the procedures transmission providers would have to follow for recording the costs for their own use of the system. Commenters also indicate that the Commission's accounting requirements may not be adequate to provide fully for the recognition of stranded costs as contemplated in the NOPR.

Commission Conclusion

The Final Rule will result in significant changes in the way public utilities conduct business. This will create needs for financial information that are different from those that the Commission and others found necessary in the past. The Commission believes that the accounting guidance discussed *infra* will be sufficient to provide the financial information needed for regulatory purposes in light of this Rule. Therefore, we will not institute a separate proceeding to propose changes to our Uniform System of Accounts at the present time. We recognize, however, that the industry is in an early stage of transition to an environment in which truly comparable transmission services will be provided to all wholesale users. If, after gaining additional experience, it becomes apparent that more guidance is needed, additional guidance can be provided at that time through issuance of accounting interpretations, guidance letters, or a notice of proposed rulemaking to change our accounting regulations.

Many of the accounting concerns expressed by commenters were addressed in the Chief Accountant's January 26, 1996 guidance letter. We offer the following additional clarifications on the Final Rule pro forma tariff requirements and certain other accounting issues related to the Final Rule.

(a) Transmission Provider's Use of Its System (Charging Yourself)

The purpose of functional unbundling is to separate the transmission component of all new transactions occurring under the Final Rule pro forma tariff, thereby assisting in the verification of a transmission provider's compliance with the comparability requirement. For example, if a transmission provider makes an off-system power sale, functional unbundling requires that the revenues received from that third-party customer be unbundled into specific transmission and production components. The transmission component of the revenues would be the product of the amount of transmission capacity used in making the sale and the applicable rate. With respect to off-system sales, the transmission provider would look to operating revenue accounts those revenues received from the customer to whom it made the off-system sale. We will require that the transmission service component and energy component of those revenues be recorded in separate subaccounts of Account 447, Sales for Resale.

(b) Facilities and System Impact Studies

Comparability mandates that to the extent a transmission provider charges transmission customers for the costs of performing specific facilities or system impact studies related to a service request, the transmission provider also must separately record the costs associated with specific studies undertaken on behalf of its own native load customers, or, for example, for making an off-system sale. Utilities choosing this method of recovering the cost of specific studies must keep detailed expense records pertaining to each specific study. We will require utilities to record the cost of such studies that are properly includable in the determination of net income for the

period in a separate subaccount of Account 566, Miscellaneous Transmission Expenses. We note, however, that not all studies performed by a transmission provider will benefit only a single customer. To the extent a transmission provider performs a system impact study that is useful in providing service to all transmission customers, the costs should be allocated to all customers.

(c) Ancillary Services

To ensure comparable transmission access a transmission provider is obligated to provide, or offer to provide, certain ancillary services to the transmission customer. Also, the transmission provider may offer to provide other ancillary services to the transmission customer, as discussed in Section IV.D. A transmission customer is obligated to purchase certain ancillary services from the transmission provider.

Generation resources provide certain ancillary services, while transmission resources provide other ancillary services. Consequently, the costs of providing certain ancillary services are recorded in the transmission provider's power production expense accounts,[504] while others are recorded in the transmission provider's transmission expense accounts.

Some commenters suggest that there may be a need for revising the Uniform System of Accounts to better track the costs of providing discrete ancillary services. Other commenters believe that ancillary services are transmission-type services and suggested that the costs of generation-provided ancillary services be refunctionalized from power production expense to transmission expense.

Currently, the Uniform System of Accounts requires that costs incurred in providing ancillary services are recorded as power production or transmission expense depending upon which resource the transmission provider uses to supply the service. At this time, we are not convinced that the amounts involved or the difficulty associated with measuring the cost of ancillary services warrants a departure from our present accounting requirements. However, in calculating separate rates for specific ancillary services utilities must maintain sufficient records and cost support for the derivation of the rates. Additionally, we will specify that the revenues a Transmission Provider receives from providing ancillary services must be recorded by type of service in Account 447, Sales for Resale, or Account 456, Other Electric Revenues, as appropriate.

(3) Liability and Indemnification

Comments

A number of commenters addressed the liability and indemnification provisions of the proposed pro forma tariffs. Duke argues that the proposed language confuses and conflates the limitation on the Transmission Provider's and Customer's rights against each other if a force majeure event occurs, and the requirement of indemnification against claims by third parties.

EEI argues that the proposed indemnification provision is inappropriate because it applies both ways, that is, the Transmission Provider and Customer indemnify each other against third party claims arising on their own systems. EEI suggests that the provision, as written, could result in the utility being required to indemnify the customer against damages incurred if, for example, an individual pried open a transformer to steal materials and in the process was electrocuted. This concern was also voiced by Consolidated Edison, NYSEG, and Virginia Electric and Power Company. Consumer Power suggests that the best answer to this issue may be to leave the issue of allocation of risk to the contracting parties, to be resolved by negotiation when a Service Agreement is drawn up.

The Coalition for a Competitive Market, on the other hand, argues that the indemnification provision, as proposed, provides too much of a limitation of the Transmission Provider's liability, requiring gross negligence rather than simple negligence before the Transmission Provider can be held liable for damages to third parties arising from the Transmission Provider's actions.

Commission Conclusion

We agree with the commenters that these risk allocation provisions must be carefully drafted so that transmission providers and customers can accurately assess and account for their respective risks. The indemnification provision has now been broken into two parts. The first part is a force majeure provision which provides that neither the transmission provider nor the customer will be in default if a force majeure event occurs, but also provides that both the transmission provider and customer will take all reasonable steps to comply with the tariff despite the occurrence of a force majeure event. This protection against unexpected and unpredictable events is appropriately made available to both the transmission provider and transmission customer.

The second portion of the provision provides for indemnification against third party claims arising from the performance of obligations under the tariff. We have limited the indemnification portion of the provision so that it is now only the transmission customer who indemnifies the transmission provider from the claims of third parties. The customer is taking service from the transmission provider and may appropriately be asked to bear the risks of third-party suits arising from the provision of service to the customer under the tariff. We find that this new indemnification provision would be too strict if it required customers to indemnify transmission providers even in cases where the transmission provider is negligent. *See Pacific Interstate Offshore Company*, 62 FERC ¶ 61,260 at 62,733–34 (requiring amendment of indemnification provisions that required indemnification except in cases of "gross negligence"). Accordingly, the revised provision provides that the customer will not be required to indemnify the transmission provider in the case of negligence or intentional wrongdoing by the transmission provider.

(4) Miscellaneous Clarifications

(a) Electronic Format

In the NOPR, we proposed that public utilities making Stage Two filings be required, in addition to the requirements specified in Part 35, to file copies of such filings on a diskette in ASCII format. We will now require that public utilities, in addition to complying with the requirements of Part 35, submit a complete electronic version of all transmission tariffs and service agreements in a word processor format, with the diskette labeled as to the format (including version) used, initially and each time changes are filed. After the initial compliance filing, utilities proposing changes to the Final Rule pro forma tariff terms and conditions must provide a detailed list of changes and, to the extent practicable, provide an electronic version that reflects changes in redline/strikeout format.

(b) Administrative Changes

A number of commenters request tariff modifications of an administrative nature. We have adopted many of these recommendations. Due to the nature of these changes, we feel that no further explanation is necessary. The tariff modifications include the following:

Part I—Common Service Provisions

Description

- Added definition for Curtailment.
- Modified definition for Good Utility Practice.
- Added definition for Interruption.
- Added definition for Load Shedding
- Added definition for Long-Term Firm Point-to-Point Transmission Service.
- Added definition for Third-Party Sale.
- Modified provision for Interest on Unpaid Balances to include amounts placed in escrow.
- Modified provision for Customer Default to not require termination of service.
- Deleted contradictory language from the provision for Rights Under the Federal Power Act.
- Deleted references to Valid Request throughout the tariff.

Part II—Point-To-Point Transmission Service

Description

- Added language that multiple generating units at one site are considered one point of receipt.
- Changed the time to file an unexecuted service agreement from 10 days to 30 days.
- Changed the time to execute a service agreement from 30 days to 15 days.
- Deleted charge for scheduling changes.
- Deleted redundant language on study agreements.
- Changed standards for estimates from binding to good faith.
- Clarified that schedules of energy submitted to the delivering party will equal the schedules of energy submitted by the receiving party unless reduced for losses.
- Clarified that the term of non-firm point-to-point transmission service need not expire before the customer may submit another application for service.
- Added language for rate treatment in the instance when a customer uses more non-firm point-to-point transmission service than it has reserved.
- Clarified Deposit provision to permit return of deposit at expiration of service agreement rather than crediting the deposit against unspecified customer obligations under the tariff.
- Clarified provision for Yearly Extensions for Commencement of Service.
- Clarified provision for Reservation of Non-Firm Point-to-Point Transmission Service.
- Modified provision for customer Power Factor to permit mutually agreeable alternatives to maintaining a specified power factor.

Part III—Network Integration Transmission Service

Description

- Deleted redundant Direct Assignment provision.
- Added language to clarify that a transmission customer does not have to use the transmission provider's point-to-point transmission service if the sales to non-designated loads do not use the transmission provider's system.
- Modified Transmission Customer Redispatch Obligation to limit the redispatch obligation to reliability reasons.
- Deleted Member System requirement from network service.
- Deleted redundant General Conditions.
- Added provision to return application if customer does not remedy deficiency.
- Deleted redundant language for designating new network resources.
- Deleted redundant language for connecting new member systems.
- Deleted redundant language for new interconnection points.
- Added a 60 day period for initial applications consistent with the point-to-point service provision. (If applications during this period exceed available capacity, they are considered simultaneous requests and service will be decided based on a lottery.)
- Modified System Impact Study provision.
- Added 30 day turnaround for Facilities Study Agreement and changed estimates from binding to good faith.
- Deleted redundant language for adding new network resources.
- Added language for rate treatment in the instance when a customer fails to curtail or shed load.
- Deleted redundant language from Network Operating Committee.

H. Implementation

The Commission proposed in the NOPR a two-stage implementation process that would apply to all transmission-owning public utilities that do not have non-discriminatory open access transmission tariffs on file on the effective date of the final rule. As proposed in the NOPR, public utilities already in compliance with the rule would not be subject to the two-stage process.

In Stage One, the Commission proposed to put into effect tariffs for network and point-to-point services, which include ancillary transmission services. These tariffs would specify the minimum terms and conditions of service needed to eliminate undue discrimination, and were proposed to be effective 60 days after the effective date of the final rule. Because the proposed pro forma tariffs did not contain specific rates, the Commission proposed to itself establish, for each affected public utility, just and reasonable rates for network service, point-to-point service, and six identified ancillary services. These rates were to be incorporated into each utility's tariffs.

In Stage Two, which was to begin 61 days after the effective date of the final rule, parties would have been allowed to propose changes to the rates, terms, and conditions for service under utilities' transmission tariffs pursuant to sections 205 and 206 of the FPA.

Comments

The commenters are split on the two-stage implementation procedure proposed in the NOPR. Commenters in favor of the proposed procedure believe that a two-stage process is necessary to put basic open access tariffs in place without delay.[505] Florida Power Corp and NIEP state that a longer implementation procedure would create a discriminatory situation for utilities that have filed open access tariffs versus those that have not. Other commenters, however, contend that the proposed Stage One rates would be just and reasonable only as an interim measure; therefore, the period during which such rates are effective should be limited.[506]

Those commenters that oppose the two-stage implementation process do so for a variety of reasons.[507] Many transmission customers believe that Stage One rates will be much higher than the rates they pay now. Several commenters warn that the implementation plan may not be practical if the Commission is inundated with filings at the beginning of Stage Two.[508] Some commenters expressing concerns about transmission pricing policy believe that in the NOPR the Commission intended to establish the Stage One rate method as its own

[504] This discussion applies to vertically integrated transmission providers. It may not apply, for example, to a transmission-only company or an independent system operator.

[505] *E.g.*, ABATE, CO Com, DOE, Florida Power Corp, IBM, IL Com, MN DPS, Industrial Energy Applications, Missouri-Kansas Industrials, NIEP, ND Com, PG&E, PSNM, SBA, SC Public Service Authority, TDU Systems.

[506] *E.g.*, SC Public Service Authority.

[507] *E.g.*, Dayton, Carolina P&L, Citizens Utilities, Montana Power, Oglethorpe, OK Com, Seattle, Seminole EC, St. Joseph, Turlock, WA Com.

[508] *E.g.*, Christensen, Seminole EC.

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official pricing policy, while other commenters argue that the Stage One rates demonstrate that broad pricing policy reform is needed as part of an open access rule.

Some commenters express concern about the timing of Stage One. Carolina P&L complains that the proposed implementation date is far too aggressive and proposes a one-year delay between the final rule and its implementation. Montana Power states that Stage One tariffs cannot be implemented in 60 days if any sort of functional unbundling is required. It insists that utilities should be given, at a minimum, 180 days in which to hire and train new employees and to install new equipment. Dayton P&L believes that Stage One tariffs should not be imposed until experience is gained with voluntarily-filed open access tariffs, but recommends further development of the tariffs for guidance purposes. It also requests that the Commission delay implementation of mandatory open access transmission until meaningful appellate review has taken place. Seattle suggests that the rate determination methods be phased in, so that the forced filing of transmission tariffs does not cause immediate and major shifts in cost allocation between old and new customers.

A few commenters express concern about the applicability of the implementation process. EEI and Consumers Power state that utilities that have already filed open access tariffs should have the option to use the two-stage implementation procedure so that they can obtain the terms and conditions of the NOPR tariffs without having to make a full-blown rate case filing.

Citizens Utilities asks that small distribution public utilities be exempt from Stage One if such entities can demonstrate that they do not use their own transmission systems to provide network service. Alternatively, it asks that application of Stage One to small public utilities be deferred until 60 days after they receive a section 211 request. Oglethorpe states that the proposed method of Stage One pricing is not appropriate for electric cooperatives that receive financing from the Rural Utilities Service (formerly the Rural Electrification Administration).

Commission Conclusion

In light of the many concerns raised regarding the proposed implementation process, the need to have adequate open access tariffs on file for all public utilities as soon as possible, the large number of utilities that have already filed some form of open access tariffs, and the desire to give public utilities flexibility to propose their own rates to be used in conjunction with the minimum non-rate terms and conditions necessary to ensure comparable service, we have decided to modify our proposed procedures. The details of the revised procedures are discussed below. In addition, special implementation requirements for coordination arrangements (power pools, public utility holding companies, and bilateral coordination arrangements) are discussed in Section IV.F.

The Revised Procedures

Implementation of the Rule will vary slightly for those public utilities that tendered for filing open access tariffs before the date of issuance of this Rule (including newly-tendered applications that have not been accepted for filing before the issuance of this rule) and those public utilities that did not tender open access tariffs before the issuance of this Rule. The former group is hereinafter referred to as Group 1 public utilities, while the latter group is referred to as Group 2 public utilities.

1. Group 1 Public Utilities

Group 1 public utilities will be required, within 60 days following publication of the Final Rule in the **Federal Register**, to make section 206 compliance filings that contain the non-rate terms and conditions set forth in the Final Rule pro forma tariff and identify any terms and conditions that reflect regional practices, as discussed below. Attached as Appendix E to this Rule is a list of Group 1 public utilities.

As to rates, we note that a transmission tariff rate is already in effect for all Group 1 public utilities, except for the few with recently-tendered applications that have not yet been accepted for filing. Most of these rates have been suspended, accepted for filing, set for hearing, and made subject to refund. Some have been accepted outright. Still others are the product of rate settlements.

We anticipate that our mandated changes in non-rate terms and conditions are compatible with the rate proposals already filed by Group 1 public utilities. Consequently, we are not going to divert the industry's resources by mandating any rate changes to fine-tune these interim tariffs. Should, however, a Group 1 public utility determine that certain rate changes are necessitated by the revised non-rate terms and conditions, it may file a new rate proposal under FPA section 205. Such filings must be "conforming" [509] under the Transmission Pricing Policy Statement and must be made no later than 60 days after publication of the Final Rule in the **Federal Register**. Intervenors may raise any concerns with the filings within 15 days after such filings.[510] We hereby impose a blanket suspension for any filings by Group 1 public utilities proposing rate changes necessitated by the new non-rate terms and conditions. These rates will go into effect, subject to refund, 60 days after publication of this Rule in the **Federal Register** (the same day on which the non-rate terms and conditions of the Final Rule pro forma tariff go into effect).[511]

If the Final Rule tariff's non-rate terms and conditions do not in the opinion of the utility necessitate a change in current rates, then the current rates will continue in effect under whatever refund conditions, if any, now apply to those rates.

2. Group 2 Public Utilities

Group 2 public utilities will be treated the same as Group 1 public utilities with regard to non-rate terms and conditions, but will be treated slightly differently from Group 1 as to rates, since Group 2 utilities have not filed any proposed rates. We will require these utilities to *either:* (i) Within 60 days following publication of the Final Rule in the **Federal Register**, make section 206 compliance filings that contain the non-rate terms and conditions set forth in the Final Rule pro forma tariff and identify any terms and conditions that reflect regional practices, as discussed below; and (ii) within 60 days following publication of the Final Rule in the **Federal Register**, make section 205 filings to propose rates for the services provided for in the tariff, including ancillary services; *or* (iii) make a "good faith" request for waiver. The rates must meet the standards for conforming proposals in the Commission's Transmission Pricing Policy Statement and comply with the guidance concerning ancillary services set forth in this order. Attached to this Rule as Appendix F is a list of Group 2 public utilities.

Intervenors may raise any concerns with these filings within 15 days after the filing.[512] We hereby impose a blanket suspension for all such rate filings; they will go into effect, subject to refund, 60 days after the publication of this Rule in the **Federal Register** (the same day on which the terms and conditions of the compliance tariffs go into effect).[513]

3. Clarification Regarding Terms and Conditions Reflecting Regional Practices

We have built a degree of flexibility into the tariffs to accommodate regional and other differences. Certain non-rate Final Rule pro forma tariff provisions specifically allow utilities either to follow the terms of the provision or to use alternatives that are reasonable, generally accepted in the region, and consistently adhered to by the transmission provider (*e.g.*, time deadlines for scheduling changes, time deadlines for determining available capacity). In addition, other tariff provisions require utilities to follow Good Utility Practice. The definition of "Good Utility Practice," contained in Section 1.14 of the Final Rule pro forma tariff, states that it "is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the region." Thus, where public utilities are permitted to follow regional practices, and elect to do so within 60 days of the date of publication of the Final Rule in the **Federal Register**, they should identify the regional practices in their compliance tariff filings.

4. Future Filings

We recognize that there may be circumstances in which a public utility believes that the Final Rule pro forma tariff does not provide sufficient flexibility or that the utility can propose superior non-rate terms and conditions. Thus, once the compliance tariff and conforming rates go into effect, which will be 60 days after publication of this Rule in the **Federal Register**, a public utility (either Group 1 or Group 2) may file pursuant to section 205 a tariff with terms and conditions that differ from those set forth in this Rule, provided that it: (1) Serves a copy of its filing on all wholesale customers for whom it has provided transmission service since March 29, 1995 (the date of the Open Access NOPR) and on the state agencies that regulate public utilities in the states where those customers are located; (2) identifies all deviations from its compliance tariff in its letter of transmittal; (3) provides, to the extent practical, a redlined version of the tariff; and (4) demonstrates that such terms and conditions are consistent with, or superior to, those in the compliance tariff. However, it may not seek to litigate fundamental terms and conditions set forth in the Final Rule.[514] In addition, the public utility may file whatever rates it believes are appropriate, consistent with the Transmission Pricing Policy Statement.

5. Waiver

Finally, as noted above, several commenters propose that public utilities that own few transmission facilities be granted waiver, or that application of the Rule to such utilities be deferred until 60 days after they receive a section 211 request. As discussed more fully in Section IV.K.2., we find that it is reasonable to permit certain public utilities for good cause shown to file, within 60 days after this Rule is published in the **Federal Register**, requests for waiver from some or all of the requirements of this Rule. The filing of a request in good faith for a waiver from the requirement to file an open access tariff will eliminate the requirement that such public utility make a compliance filing unless thereafter ordered by the Commission to do so. It will not, however, exempt such public utility from providing, upon request, transmission services consistent with the requirements of the Final Rule.

I. Federal and State Jurisdiction: Transmission/Local Distribution. In the original Stranded Cost NOPR, the Commission clarified that it has exclusive jurisdiction over unbundled retail transmission in interstate commerce by public utilities: it found that the Commission has exclusive jurisdiction over the rates, terms, and conditions of unbundled retail transmission in interstate commerce by public utilities, up to the point of local distribution. In the Open Access NOPR, the Commission reaffirmed this jurisdictional determination [515] and also addressed the distinction between transmission and local distribution. The Commission stated three reasons for expressing its views on the distinction between Commission-jurisdictional transmission in interstate commerce and state-jurisdictional local distribution, in the context of unbundled retail wheeling by public utilities.[516] First, facilities that can be used for wholesale transmission in interstate commerce by a public utility would be subject to the Commission's open access requirements. Second, states have authority to address retail stranded costs and stranded benefits through their jurisdiction over facilities used in local distribution. Third, as the structure of the industry continues to change dramatically, utilities need to know which regulator has jurisdiction over which facilities and services in order to meet state and federal filing requirements. Accordingly, the NOPR set forth our jurisdictional analysis and several technical factors, for determining what constitutes "facilities used in local distribution."

For unbundled wholesale wheeling, the NOPR proposed to apply a functional test, *i.e.*, whether the entity to whom the power is delivered is a lawful reseller. For unbundled retail wheeling, the NOPR proposed to apply a combination functional-technical test that would take into account technical characteristics of the facilities used for the wheeling. The Commission proposed seven indicators of local distribution to be evaluated on a case-by-case basis:

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[509] As described in the Transmission Pricing Policy Statement, a "conforming" proposal is one that meets the traditional revenue requirement and reflects comparability. FERC Stats. & Regs. ¶ 31,005 at 31,141.

[510] Given the brief comment period on the compliance filings, we will require public utilities to serve copies of their compliance filings (via overnight delivery) on: all participants in their current open access rate proceedings (if applicable); all customers that have taken wholesale transmission service from the utility after the date of issuance of the Open Access NOPR; and the state agencies that regulate public utilities in the states of those participants and customers.

[511] The Commission retains the right to reject such rates or to set them for hearing.

[512] Group 2 public utilities must serve a copy of their filings (via overnight delivery) on all customers that have taken wholesale transmission service from them since March 29, 1995 (the date of issuance of the Open Access NOPR) and on the state agencies that regulate public utilities in the states where those customers are located.

[513] *But see* note 510, *supra*.

[514] As we stated in our "Further Guidance Order," American Electric Power Service Corp., 71 FERC ¶ 61,393, 62,539–40, *order on rehearing*, 72 FERC ¶ 61,287, *order on rehearing*, 74 FERC ¶ 61,013 (1995), all tariffs need not be "cookie-cutter" copies of the Final Rule tariff. Thus, under our new procedure, ultimately a tariff may go beyond the minimum elements in the Final Rule pro forma tariff or may account for regional, local, or system-specific factors. The tariffs that go into effect 60 days after publication of this Rule in the **Federal Register** will be identical to the Final Rule pro forma tariff; however, public utilities then will be free to file under section 205 to revise the tariffs, and customers will be free to pursue changes under section 206.

[515] That determination included the situation in which a former bundled retail customer may need unbundled wheeling services from its previous public utility generation supplier, as well as unbundled wheeling from one or more intervening public utilities, in order to reach a distant generation supplier. In that scenario, the Commission would have jurisdiction over all of the transmission facilities used for the unbundled wheeling provided by the intervening public utilities. The NOPR also noted that the Commission would not have jurisdiction over the rates for the sale of generation by the distant supplier because the transaction would be a retail sale. FERC Stats. & Regs. ¶ 32,514 at 33,144.

[516] The term "wheeling" is intended to cover any delivery of electric energy from a supplier to a purchaser, i.e., transmission, distribution, and/or local distribution. The Commission also has jurisdiction to order wholesale transmission services in either interstate or intrastate commerce by transmitting utilities that are not also public utilities. See Tex-La Electric Cooperative of Texas, Inc., 67 FERC ¶ 61,019 (1994), reh'g pending.

(1) Local distribution facilities are normally in close proximity to retail customers.

(2) Local distribution facilities are primarily radial in character.

(3) Power flows into local distribution systems; it rarely, if ever, flows out.

(4) When power enters a local distribution system, it is not reconsigned or transported on to some other market.

(5) Power entering a local distribution system is consumed in a comparatively restricted geographical area.

(6) Meters are based at the transmission/local distribution interface to measure flows into the local distribution system.

(7) Local distribution systems will be of reduced voltage.[517]

The NOPR concluded that the application of these tests will enable states to address stranded costs by imposing an exit fee on departing retail customers, or including an adder in the retail customers' local distribution rates.[518]

In the NOPR, the Commission also addressed buy-sell transactions in which an end user arranges for the purchase of generation from a third-party supplier and a public utility transmits that energy in interstate commerce and re-sells it as part of a "nominal" bundled retail sale to the end user. We explained that the retail sale is actually the functional equivalent of two unbundled sales (one transmission and the other the sale of power) and that we have exclusive jurisdiction over the voluntary sale by public utilities of unbundled transmission at retail in interstate commerce.[519]

Comments

Several commenters support the Commission's proposed jurisdictional demarcation.[520] San Diego G&E states that the Commission correctly proposed to look at both functional factors (such as whether the service is retail or wholesale) and technical factors (such as voltage). PG&E states that the NOPR's functional/technical test is preferable to a bright line voltage test.

Consumers Power states that the Commission has exclusive jurisdiction over all wheeling on an interconnected interstate transmission grid. It suggests that the Commission and the states act through a joint board or hearing to resolve jurisdictional differences and develop a bright line test.

PSE&G and PG&E express concern that if retail wheeling is implemented, there may be loopholes that would enable customers to evade state jurisdiction and thus avoid paying stranded costs. For example, PSE&G is concerned that a retail customer may request transmission service only and a state commission will be unable to attach a retail stranded cost surcharge to that customer. PG&E proposes adding another indicator to the functional/technical test—a final tap to a retail customer—to ensure that "high-voltage" retail customers do not evade the state's reach. Moreover, to ensure that retail customers cannot escape state jurisdiction, PG&E recommends that the Commission state, as a matter of policy, that "*all* retail customers taking retail transmission service from their host utility *by definition* take service over local distribution facilities."

CINergy agrees with the Commission that a distinction between transmission and local distribution is important, but emphasizes the practical need for clarity on a timely basis. To achieve certainty, CINergy proposes that the Commission allow public utilities to file, under section 205, classifications of their facilities as transmission or local distribution. CCEM endorses CINergy's proposal. Although NARUC disagrees that the Commission has jurisdiction over unbundled retail transmission, if the Commission reaffirms the NOPR regarding its jurisdiction, then NARUC supports CINergy's proposal.

PSE&G strongly supports the Commission's proposed case-by-case methodology for determining whether facilities should be classified as transmission or local distribution. SoCal Edison argues that since a utility may have difficulty determining which of its facilities are transmission and which are local distribution, utilities and states should be able to ask the Commission to classify a particular facility. Portland and Orange & Rockland suggest that the Commission provide a forum to resolve disputes over the correct classification of particular facilities.

Ohio Edison states that the Commission should assume jurisdiction over unbundled retail transmission, but only where a state has required this unbundling. It also believes that the Commission should assert jurisdiction over the ancillary services necessary to provide this jurisdictional service.

NYSEG argues that the Commission lacks jurisdiction over the transmission component of bundled retail service. On the other hand, NYSEG argues that the statute, legislative history, and case law reveal that the Commission has jurisdiction over unbundled retail wheeling from source to load, since it is transmission in interstate commerce. NYSEG argues that the "local distribution" exception to the Commission's jurisdiction applies only to bundled sales of power at retail.

Several state commissions assert that states have rate authority over all facilities used to provide retail service.[521] IL Com argues that states have rate authority over all facilities used to provide retail service, regardless of whether the NOPR would classify these facilities as transmission or local distribution.

MI Com, citing *Connecticut Light & Power Company* v. *Federal Power Commission*, 324 U.S. 515 (1945) (*CL&P*), and *Arkansas Electric Cooperative* v. *Arkansas Public Service Commission*, 461 U.S. 375, 393–94 (1983), contends that states have plenary jurisdiction over all aspects of retail service, including retail access and unbundled retail transmission service. It asserts that the Commission's effort to expand federal jurisdiction into transmission in connection with retail sales is without statutory justification.

Legal Environmental Assistance argues that the NOPR creates confusion about, and may intrude onto, state jurisdiction. NYMEX argues that when a state orders retail wheeling, the state should have jurisdiction over that transmission-only service.

Oklahoma G&E, citing *CL&P* and *United States* v. *California Public Utilities Commission*, 345 U.S. 295, 316 (1953), asserts that the Commission failed to explain that the term "transmission in interstate commerce" could have different meanings depending on the factual context in which the term is applied. It argues that "transmission in interstate commerce" means the movement, in bulk, of electric energy flowing in interstate commerce, as opposed to the movement of electric energy that has been subdivided for delivery to consumers.

Oklahoma G&E further argues that "[t]he distinction between interconnected operation and radial operation corresponds precisely to this distinction between activities that have potential interstate effects and those that might have interstate effects but are a matter of primarily local concern." [522] Oklahoma G&E also disagrees that the transportation of electric energy sold at wholesale necessarily constitutes transmission in interstate commerce. It argues that the Commission has misapplied case precedent and, by focusing on the level of the associated power sale, the Commission has misunderstood what constitutes a functional distinction between transmission in interstate commerce and local distribution.

NY Com asserts that the grant of jurisdiction to the Commission over wholesale power transactions in interstate commerce under section 201 of the FPA does not reduce the states' authority over local distribution (citing *CL&P* and *Federal Power Commission* v. *Florida Power & Light Company*, 404 U.S. 453, 467 (1972)). NY Com argues that the NOPR's assertion of exclusive jurisdiction over all facilities used to deliver electricity for resale, even those traditionally regarded as local distribution, violates Congress' assignment of local electric distribution to the states. It takes issue with the Commission's list of factors and says that states and the Commission should agree on a definition that preserves the traditional classification of local distribution facilities. According to NY Com, such definition should focus on the functional characteristics of local electric systems—*i.e.*, electricity flows into a comparatively restricted geographic area and does not flow back out of that area, and the power is consumed in that area.

NY IOUs argue that the Commission has jurisdiction over unbundled, but not bundled retail wheeling. It says that other factors, including the indicators listed in the NOPR, are irrelevant, and that even long-distance interstate transmission is under state jurisdiction as long as it is bundled with a retail sale. According to NY IOUs, this is the plain meaning of the FPA; resort to legislative history is unnecessary. NY IOUs bases this view on section 201(a), which says that federal regulation extends only to matters not subject to state regulation. NY IOUs says that the only matters subject to state regulation were bundled retail sales, and that since transmission was part of the bundle, Congress intended transmission to stay under state authority as long as it is part of that bundle. It also cites section 201(b), which sets forth exceptions from Commission jurisdiction, and section 201(c), which defines "transmission in interstate commerce" and thus also controls the definition of transmission in intrastate commerce. Finally, NY IOUs argues that the legislative history supports its view, as does the case law.

Central Louisiana believes that the costs of requiring a transmission provider to take unbundled transmission service for both wholesale and retail purposes would far exceed any benefits. In this regard, Central Louisiana says that states clearly have jurisdiction over bundled retail transmission charges and that the proposed approach could not be implemented without states giving up jurisdiction or the passage of new federal legislation.

MN DPS disagrees on legal and policy grounds with the Commission's assertion of jurisdiction over unbundled retail transmission services.[523] It maintains that the Commission's arguments do not negate the language of the FPA specifying that regulation of retail sales of electric energy is reserved to the states. MN DPS argues that the Commission's arguments in support of its position are not on point because the issue is state authority to set rates for retail sales, not interstate commerce. Further, it declares that jurisdiction over a service does not change simply because it is priced differently.

Several commenters argue that unbundled pricing should not expand the Commission's jurisdiction.[524] NARUC argues that the NOPR did not explain why the Commission's authority attaches only to unbundled retail transmission service, why unbundling is jurisdictionally significant, and how transmission of electricity to end users differs from unbundled interstate transmission of natural gas by local distribution companies, which is subject to state regulation. Thus, NARUC urges the Commission not to claim jurisdiction over unbundled retail transmission services.

NARUC also argues that the Commission's test for distinguishing between transmission and local distribution is not a bright line as discussed in *Federal Power Commission* v. *Southern California Edison Company*, 376 U.S. 205 (1964) (*Colton*). NARUC concludes that when a state determines to enable a retail customer to purchase power from a third-party provider, that state retains the authority to regulate the delivery service provided by the utility.

IL Com asserts that the test should be whether the utility function over which the Commission seeks to exercise jurisdiction is one which falls within the *Attleboro* gap.[525] It argues that the Commission has no legal authority to prescribe conditions under which a public utility may provide transmission service within its own service territory to its own retail customers. IL Com concedes that the court cases cited by the Commission can be interpreted to support widely disparate legal and policy positions, but argues that those cases resolved questions of Commission jurisdiction in circumstances where wholesale sales of electric power were being examined and not circumstances where retail sales are being considered. It contends that the question of whether the Commission should exercise jurisdiction over all transmission in retail wheeling has never been addressed before and requires a careful examination of the underlying purposes of Congress in enacting the FPA. IL Com explains that transmission by an Illinois utility of power to a retail consumer within its own service territory is not subject to Commission jurisdiction because that transmission was never within the *Attleboro* gap and has always been regulated by states.

OK Com recommends that the Commission apply to the electric industry the same policy that it has adopted concerning its regulation of the gas industry and leave unbundled retail service regulation to state authorities.

WI Com argues that if a utility offers unbundled retail access, jurisdiction over transmission services should continue to be based upon the historical demarcation between wholesale and retail transactions. KY Com argues that Congress did not intend, by authorizing wholesale wheeling in the Energy Policy Act, to change the longstanding division of jurisdiction between the Commission and the states. It claims that the NOPR ignores the limitation in the FPA that the Commission has no jurisdiction over retail sales service. NV Com cites several cases noting the states' historical authority to regulate retail rates.

IA Com proposes a definition of local distribution and transmission that would preserve the jurisdictional status quo and does not put a state commission in the position of losing authority over certain elements of a retail transaction should it allow retail wheeling. IA Com's proposed definition is as follows:

> Distribution—Service provided by a utility directly connected to an ultimate consumer of electricity is a distribution service with respect to electric energy delivered to that consumer.
>
> Transmission—Service provided by a utility with respect to electric energy to be delivered to an ultimate consumer through another utility is a transmission service.[526]

Montana Power states that a reasonable way to give effect to the "local distribution" exemption is to define "local distribution" as a bundled retail sale, even if interstate facilities are used.

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[517] FERC Stats. & Regs. ¶32,514 at 33,145.

[518] *Id.* at 33, 144–45.

[519] As discussed *infra*, there also would be a component of local distribution in such a transaction that would be subject to state jurisdiction.

[520] *E.g.*, PG&E, Wisconsin Coalition, Com Ed.

[521] *E.g.*, NM Com, NC Com, AZ Com.

[522] Oklahoma G&E Initial Comments at 16.

[523] *See also* OH Com.

[524] *E.g.*, DOD, NM Com, KY Com, ABATE.

[525] *See* Public Utilities Commission v. Attleboro Steam & Electric Company, 273 U.S. 83 (1927).

[526] IA Com Initial Comments at 4.

Several commenters criticized the NOPR's functional/physical indicators. PA Com disagrees with the Commission's discussion of the FPA's legislative history and asserts that the FPA does not address the issue of what constitutes local distribution. PA Com contends that the issue was resolved by the Supreme Court in *CL&P* in a manner contrary to the Commission's technical-functional test and that the NOPR minimized *CL&P*. NM Com asserts that the proposed engineering and functional elements for determining the status of local distribution facilities fail to account for the governmental or legalistic test requirement of the FPA as identified in *CL&P*.

KY Com concludes that a physical definition of distribution facilities, based on objective criteria, is consistent with the FPA and is necessary to provide a clean line of demarcation.

CO Com argues that Congress used a transactional test rather than a functional test and that Congress intended all retail transactions to be under state jurisdiction. According to CO Com, there is concurrent jurisdiction over unbundled transmission in interstate commerce to an end-user. Moreover, CO Com asserts that unbundled intrastate transmission to a wholesale purchaser is under state jurisdiction (citing section 201(b)(1)). Finally, CO Com argues that the state has authority over unbundled transmission in intrastate commerce to an end-user when the transmission-providing utility, end-user, and generator are all within the same state.

Other commenters prefer a functional test. Natural Resources Defense, DOE, and Sustainable Energy Policy generally agree that a line needs to be drawn between transmission and local distribution but believe that the Commission's test is unnecessarily cumbersome or may lead to legal uncertainty, at least within the context of stranded benefits. Instead, Natural Resources Defense proposes the following functional test, which is based on end-use service:

> The Federal Power Act does not affect state regulators' jurisdiction to apply distribution charges—either volume-based or fixed—to electricity that is used by any utility customer to provide end-use services (as distinguished from electricity that is purchased for resale to end-use customers).[527]

Sustainable Energy Policy endorses Natural Resources Defense's position. DOE suggests that a functional definition of local distribution (*i.e.*, electricity provided for end-use service) may be the best way to avoid legal uncertainty.

EPA argues that the Commission's proposed physical definition may encourage gaming to avoid stranded costs and costs associated with public policy goals such as energy efficiency, renewable energy development and R&D funding, and a physical definition assumes that power flows into, and not out of, distribution systems, which would not allow for distributed generation (*e.g.*, fuel cells). Thus, EPA urges the Commission to adopt a functional definition that "local distribution occurs whenever electricity is provided by a utility for end-use service." Alternatively, EPA suggests that the Commission add a provision to its approach that "the provision of electricity for end-use service generally involves local distribution." Sustainable Energy Policy suggests a non-bypassable charge levied on all users of the distribution system. It endorses the policy formulation set forth by Natural Resources Defense in its initial comments. Reynolds wants to ensure that there is always at least concurrent state jurisdiction over lines used to serve end-use customers, since only states can order retail wheeling.

Detroit Edison argues that state/federal jurisdictional issues should be resolved by focusing on the use of the facilities. It says that facilities that are used to distribute a utility's own power to its own local customers should be subject to state regulation, while the use of facilities for wholesale power transactions or wholesale or retail transmission in interstate commerce should be under federal regulation.

Mountain States Petroleum Assoc argues that the Commission should use a functional test based on state boundaries: if a line is in more than one state, there is Commission jurisdiction; if a line is entirely within one state, there is state jurisdiction.

MD Com states that it believes that the Commission's proposed indicators for determining where to draw the line are adequate, but adds that it does not concede the Commission's assertion of jurisdiction over unbundled retail transmission.

Some commenters suggest that implementation of the NOPR's tests could have adverse consequences. NH Com objects to the NOPR's specific tests; for example, if the Commission asserts jurisdiction over facilities because they are not radial, New Hampshire's policy of encouraging looping rather than radial lines would have the ironic effect of destroying state jurisdiction. NJ BPU states that there may be situations when the NOPR factors would not produce the proper result. It requests that the final rule recognize the need for case-by-case flexibility in determining where federal jurisdiction ends, so that the Commission and the states can work cooperatively.

NRRI argues that the NOPR's test could make siting of new transmission lines more difficult because states have in the past required native load customers to pay that part of the transmission-related revenue requirement that is not covered by unbundled transmission service. NRRI contends that, if the Commission asserts jurisdiction over all unbundled transmission service and if there is a firm point-to-point service capacity right that has value and is reassignable, then state commissions might eliminate portions of the transmission systems subject to capacity rights from rate base. NRRI is also concerned that the NOPR's transmission/local distribution test could create a price squeeze between bundled and unbundled retail transmission rates.

IN Com argues that the NOPR's view of jurisdiction would discourage retail wheeling. It says that states will be reluctant to order wheeling if the result is that they lose jurisdiction over the previously rolled-in transmission aspect of the service. It suggests that the Commission use negotiated rulemaking to address jurisdictional issues.

Several commenters suggest alternative approaches to jurisdictional line-drawing. NV Com suggests that the Commission consider federal and state jurisdiction over transmission by using "network" and "non-network" concepts:

> The "network" concept for regulation recognizes that there is an interstate network of electric facilities used to link generation with loads. The operation of that network is indifferent to whether the electrical flows are retail or wholesale flows. Conceptually, events on the network could fall under federal jurisdiction. Where facilities provide essential service for the delivery of power, but do not substantially affect the electrical flows on the network, the facilities fall outside the network and would remain within the traditional domain of the state commission. As a consequence the delineation of federal and state jurisdiction evolves from the recognition of the events and where they occur as opposed to a rigid consideration of the physical properties of the facilities involved.[528]

NV Com further explains that the determination of what is a network event would require a case-by-case examination.

[527] Natural Resources Defense Initial Comments at 3.

[528] NV Com Reply Comments at 3.

OH Com asserts that Congress intends there to be a bright line between state and federal jurisdiction and that the Commission has failed to provide such a bright line. OH Com proposes the use of retail marketing areas to provide the bright line—the jurisdictional line would be at the point at which power enters the retail marketing area of the entity delivering the power to the retail customer. OH Com cites section 212(g) of the FPA, as amended by the Energy Policy Act, which provides that the Commission cannot issue any order under the FPA inconsistent with state law governing retail marketing areas.

Under OH Com's proposal, the Commission would have jurisdiction over the wheeling-out and wheeling-through components of retail wheeling and the state would have jurisdiction over the wheeling-in component due to its local nature. OH Com concludes that the Commission's approach "fails to meet the legal standard FERC must consider, and is inconsistent with the 'savings clause' and legitimacy of 'retail marketing areas' as discussed in the amended FPA."[529] OH Com also explains that the Commission's approach "is wreaking havoc on the state's ability to develop an interruptible buy-through arrangement to provide an increased competitive option for its retail customers."[530] OH Com further encourages the use of mutual deference to promote Congress' intent in mandating a system of federal/state cooperation. In support, OH Com cites federal and state enforcement of telecommunications laws. NRRI also suggests that the jurisdictional line be drawn at the retail marketing area.

DC Com argues that the NOPR test is too difficult to administer and will create problems in determining the rate base at the state level. It suggests that the Commission should have jurisdiction over transmission from the source to the boundary of the "home" utility that delivers the power to the customer, with state jurisdiction over all aspects of the transmission service within that utility's franchise territory. AZ Com also expresses doubts that the NOPR's test is workable.

Several commenters propose that the Commission and state authorities address the jurisdictional issue jointly. SBA characterizes the Commission's proposed demarcation line as "laudable but misguided."[531] SBA recommends that a federal/state board be established to resolve the transmission/local distribution dilemma, similar to what Congress did for allocating costs between interstate and intrastate communications. SBA explains that the problem in the communications industry was the impossibility of allocating a portion of a single copper wire to interstate or intrastate service.

AZ Com notes that even if the Commission is correct, the FPA clearly does not preempt a state from concluding that retail transmission or other direct access programs should be implemented in that state. AZ Com suggests that there may be concurrent jurisdiction and that mutually agreed-upon principles should be implemented to determine which jurisdiction should be given deference.

MD Com states that in determining the status of particular facilities, the Commission should give substantial weight to determinations made by states. ABATE states that the Commission could initially defer to states with respect to the determination of rates, terms, and conditions, while maintaining the right to review and overturn the state determination.

If the Commission maintains its position concerning jurisdiction, NARUC argues that the Commission should not implement its multi-factor test, but should enter into discussions with state commissions to develop workable alternatives. NH Com argues that pricing the retail part of a transaction, even if it involves use of the transmission system, should be subject only to state jurisdiction. NH Com wants to create a mechanism by which state and federal regulators combine their efforts in cooperative regulation; it suggests several alternatives such as state/federal agreements for shared jurisdiction.

KY Com and NRRI object to the statement in the NOPR that retail buy-through service is really transmission service (subject to the Commission's jurisdiction) plus a sale of generation at retail (subject to state jurisdiction). From a policy standpoint, KY Com argues that the Commission's approach creates a powerful disincentive for a state to embark on changes that otherwise might foster a more competitive environment. NRRI argues that the Commission's approach may violate sections 212(g) and 212(h).

IL Com is concerned that industrial customers who get direct access may attempt to evade state jurisdiction, and thus avoid retail stranded cost charges, by bypassing facilities such as radial lines. It contends that retail wheeling rate surcharges would be a more effective means of recovering retail stranded costs if states were allowed to apply them to unbundled transmission and local distribution rates, not just the local distribution component of such rates.

NC Com asserts that "[a] significant cottage industry may well arise solely to convert retail customers into wholesale customers, thereby subverting the intent of Congress as expressly set forth in EPACT."[532] If the Commission does not adopt NARUC's proposal, NARUC asserts that the Commission's functional test should not permit an end user to bypass the distribution service provided by the utility. It urges the Commission to assure that there will be some facility involved in the transaction that will be defined as providing a local distribution service.

NARUC also requests that the following sentence be added to proposed 18 CFR 35.27:

> Nothing in this part limits the authority of a State commission in accordance with State law (1) to allow or disallow the inclusion of the costs of electric energy purchased at wholesale in retail rates subject to such State commission's jurisdiction, (2) to establish competitive procedures for the acquisition of such electric energy, or (3) to establish non-discriminatory fees for the delivery of such electric energy to retail consumers for purposes established in accordance with State law.[533]

Duke is concerned about the potential for regulatory gaps, which could lead to costs not being recovered from either federal or state jurisdiction. Duke is also concerned that where facilities are used for both wholesale and retail transactions, costs might not be recovered if federal and state regulators use different methods of cost allocation.

In response to the NOPR's proposal for functional unbundling,[534] CA Com agrees that it is important to draw a distinction between transmission and local distribution and that a bright line is not possible, but suggests that corporate or functional unbundling

[529] Sections 212(g) and 212(h) of the FPA.

[530] We note that since OH Com filed its comments, it approved an interruptible buy-through plan. *See* Interruptible Electric Service Guidelines, Case No. 95–866–EL–UNC, __ PUR 4th __ (Ohio PUC Feb. 15, 1996). *See also* Central Illinois Light Company, Docket No. ER96–1075–000, 75 FERC ¶ _____ (1996) (accepting amendment to open access transmission tariffs that expands service eligibility to accommodate participation in experimental retail wheeling pilot program approved by the Illinois Commerce Commission); Illinois Power Company, Docket No. ER96–1285–000, 75 FERC ¶ _____ (1996); *cf.* Illinois Power Company, __ PUR4th __, No. 95–0494 (Illinois Commerce Commission Mar. 13, 1996) (offering retail direct access service providing transmission and ancillary services using the rates, terms, and conditions of Illinois Power's open access tariff on file with the Commission); recently introduced legislation in Rhode Island, H.B. 8124, the Utility Restructuring Act of 1996.

[531] SBA Initial Comments at 36.

[532] NC Com Initial Comments at 7.

[533] NARUC Reply Comments at 15–16.

[534] FERC Stats. & Regs. ¶ 32,514 at 33,080–83.

might provide a means to establish a workable bright line without relying on the more qualitative approach proposed in the NOPR. Arizona argues that rather than unbundling transmission for retail purposes, each utility should establish a distribution function that would obtain transmission on behalf of retail customers, taking service under the utility's tariff. Arizona states that this would simplify the allocation of transmission costs, since all transmission costs would be under the Commission's jurisdiction. Arizona argues that the Commission should permit the utility to recover the distribution rate approved by the state. According to Arizona, this would create a bright line between state and federal jurisdiction.

TX Com argues that the proposed test would not be applicable to intrastate utilities in Texas because they do not operate in interstate commerce. Thus, it asserts that it should continue to regulate Electric Reliability Council of Texas (ERCOT) transmission and distribution service and deal with stranded cost issues that arise in connection with any retail wheeling initiatives.

Several commenters object to the Commission's proposal to assert jurisdiction over transactions that are buy-sell transactions in name only.[535] AEP argues that the Commission should avoid an unnecessary conflict over state/federal jurisdiction that may be caused by the NOPR's statement that buy-sell transactions are in fact transmission subject to Commission jurisdiction. It suggests that the Commission attempt to reach agreement with the states on this matter or ask Congress for any necessary statutory change. Citizens Utilities also argues that the Commission should not unbundle the interstate transmission aspect of buy-sell transactions. It says that, unlike the analogous gas contracts, buy-sell arrangements on the electric side are not an end run around clear federal jurisdiction. Further, it argues that it would be very difficult to define those buy-sell transactions that truly belong under federal jurisdiction.

IL Com also objects to the NOPR's characterization of buy-sell transactions. It argues that the fact that a transaction becomes unbundled does not suddenly make part of it under federal jurisdiction. Nucor argues that there is no need for the Commission to resolve this issue now; it suggests that the buy-sell arrangement is only tangentially related to open access. It argues that each buy-sell transaction will have to be addressed individually.

UT Com seeks clarification as to what the Commission means by buy-sell arrangements:

> we currently authorize interruptible "buy-through" contracts, through which a retail customer, taking service subject to interruption for either economic or technical reasons, can opt to "buy-through" an interruption. The public utility purchases energy on behalf of the customer and sells it at cost to the customer. In our opinion, such transactions are not an example of a buy-sell transaction within the meaning of the proposed rule.[536]

DOD objects to the statement in the NOPR that "buy-sell" transactions are not really bundled retail service. It says that this view will discourage the development of innovative state programs, such as direct access programs. NYSEG also argues that buy-sell transactions are not under the Commission's jurisdiction. It argues that these transactions are unlike buy-sell transactions on the gas side, where the Commission asserted jurisdiction to prevent LDCs from circumventing the nondiscrimination standard it imposed on the release of capacity. NYSEG says:

> In contrast to its regulation of gas buy-sells, if the Commission regulates electric buy-sell transactions it would forego regulation of a transaction in which the Commission has a significant interest (*i.e.*, access to the upstream seller's transmission), to regulate a transaction in which the Commission has virtually no interest (*i.e.*, access to the distributing utility's system). Electric utilities must serve each retail customer irrespective of whether the customer takes traditional bundled service or retail buy-sell service. Unlike excess upstream gas pipeline capacity, the capacity on the local utility's electric system would not be allocated to another customer in a FERC jurisdictional transaction absent the electric buy-sell transaction. Electric buy-sell transactions are not designed so as to manipulate the assignment of upstream transmission capacity. Consequently, the impetus for FERC to reclassify gas buy-sell transactions as capacity assignments is not present in the electric context.[537]

NYSEG argues that there are only two possible grounds for the Commission's assertion of jurisdiction over electric buy-sell transactions: either (1) the sale for resale by the supplier is really a sale at retail to the end user, and the resale by the local utility is really unbundled retail wheeling; or (2) the Commission has jurisdiction over transmission service that is part of bundled retail service. It claims that the second ground is invalid because the transmission aspect of bundled retail service is distribution. It also claims that the first ground is invalid because it assumes that the sale by the supplier to the local utility is not a sale for resale even though the contract says that it is. NYSEG states:

> The logical outcome would be that FERC would *not* have jurisdiction over the sale by the supplier to the utility, including transmission by that supplier because it would be a bundled retail sale. This is because, if the commission holds the resale to be a retail wheel, then it would have to find that the sale by the supplier is a retail sale to the end user. The Commission cannot at once regulate the sale for resale and the "retail transmission service." The Commission would regulate the transmission rates of the local franchise utility, although it would not regulate the access to such transmission service—a matter FERC leaves to state regulators. In the process, FERC would abandon the ability to regulate access to the supplier's bundled "retail power sale and transmission service," a transaction that FERC arguably has an interest in regulating.[538]

Finally, NYSEG argues that if the Commission insists on asserting jurisdiction, it should at least grandfather existing contracts.

UT Industrials state that where there is a state barrier to a buy-sell transaction, the Commission should allow the utility to file a tariff with the Commission that would permit the utility to complete a voluntary buy-sell transaction as the NOPR proposes. However, it contends that when a state regulatory authority is authorized to, and has approved buy-sell transactions, it is not necessary for the Commission to become involved. It urges the Commission to allow such transactions to take place free of Commission regulation.

Commission Conclusion

In the discussion below, the Commission addresses the following jurisdictional issues raised in the prior NOPRs:

a. Does the Commission have jurisdiction over unbundled transmission in interstate commerce by a public utility when such transmission is used to transport electric energy that is sold to an end user?

b. If so, what facilities are jurisdictional to the Commission in a situation involving the unbundled delivery in interstate commerce by a public utility of electric energy from a third-party supplier to an end user?

c. What facilities are jurisdictional to the Commission in a situation involving the unbundled delivery in interstate commerce by a public utility of electric energy from a third-party supplier to a purchaser who will then re-sell the energy to an end user?

d. What procedures are appropriate for making jurisdictional determinations?

In addition, the Commission addresses concerns raised by state regulators which indicate that competition and open access are perceived as threatening the traditional regulatory functions of state commissions. The Federal Power Act differentiates between state and federal regulation of electric power. As we discuss below, the Commission believes that any change in state or federal jurisdiction over physical transmission assets and related costs will not affect the traditional tasks of state and federal regulators.

The wide range of jurisdictional interpretations and proposals in the comments reflects the fact that the legislative history of the FPA and case law interpreting federal/state jurisdiction under that Act and the Natural Gas Act grew out of a market structure in which electricity and transmission generally were bought and sold on a bundled basis. As a result, most transactions included either a retail or wholesale sale of electric energy and jurisdictional lines were drawn on the basis of this sale. Thus, the cases simply do not resolve dispositively these jurisdictional issues when they arise in the context of the market structures and unbundled transactions being contemplated in today's electric industry. However, after reviewing the extensive analysis of the FPA, legislative history, and case law contained in both our initial Stranded Cost NOPR and in our Open Access NOPR, and the comments received on that analysis, we continue to believe that we were correct in asserting jurisdiction over the transmission component of an unbundled interstate retail wheeling transaction. We therefore reaffirm our conclusion. We also reaffirm and clarify our determinations regarding the tests to be used to determine what constitute Commission-jurisdictional transmission facilities and what constitute state-jurisdictional local distribution facilities in situations involving unbundled wholesale wheeling and unbundled retail wheeling.[539]

At the same time, the Commission strongly supports the efforts of states to pursue pro-competitive policies. We recognize that jurisdictional issues raise overlapping Federal and state policy concerns that call for heightened cooperation among federal and state regulators. As discussed below, where states unbundle retail sales, we will give deference to their determinations as to which facilities are transmission and which are local distribution, provided that the states, in making such determinations, apply the seven criteria discussed in the NOPR and reaffirmed below. In addition, we clarify our view that there is an element of local distribution service in any unbundled retail transaction, and further clarify other aspects of our jurisdictional ruling to preserve state jurisdiction over matters that are of local concern and will remain subject to state jurisdiction if retail unbundling occurs.

We first address our legal determination that if unbundled retail transmission in interstate commerce occurs voluntarily by a public utility or as a result of a state retail access program, this Commission has exclusive jurisdiction over the rates, terms, and conditions of such transmission. No commenter has raised cases or legislative history not previously considered in our prior NOPRs, and we will not repeat here our full legal analysis of this issue.[540] However, we find compelling the fact that section 201 of the FPA, *on its face*, gives the Commission jurisdiction over transmission in interstate commerce (by public utilities) without qualification.[541] Unlike our jurisdiction over sales of electric energy, which section 201 of the FPA specifically limits to sales at wholesale, the statute does not limit our transmission jurisdiction over public utilities to wholesale transmission.

In response to those commenters (including NARUC) who argue that the Commission did not explain why its authority attaches only to unbundled, but not bundled, retail transmission in interstate commerce by public utilities, we believe that when transmission is sold at retail as part and parcel of the delivered product called electric energy, the transaction is a sale of electric energy at retail. Under the FPA, the Commission's jurisdiction over sales of electric energy extends only to wholesale sales. However, when a retail transaction is broken into two products that are sold separately (perhaps by two different suppliers: an electric energy supplier and a transmission supplier), we believe the jurisdictional lines change. In this situation, the state clearly retains jurisdiction over the sale of the power. However, the unbundled transmission service involves *only* the provision of "transmission in interstate commerce" which, under the FPA, is exclusively within the jurisdiction of the Commission. Therefore, when a bundled retail sale is unbundled and becomes separate transmission and power sales transactions, the resulting transmission transaction falls within the Federal sphere of regulation.

In asserting jurisdiction over unbundled retail transmission in interstate commerce by public utilities, the Commission in no way is asserting jurisdiction to order retail transmission directly to an ultimate consumer. Section 212(h) of the FPA clearly prohibits us from doing so. In addition, as stated in both the initial Stranded Cost NOPR and the Open Access NOPR, we do not address whether states have authority to order retail wheeling in interstate commerce. The Commission's assertion of jurisdiction is that *if* retail transmission in interstate commerce by a public utility occurs voluntarily or as a result of a state retail wheeling program, the Commission has exclusive jurisdiction over the rates, terms, and conditions of such transmission and public utilities offering such transmission must comply with the FPA by filing proposed rate schedules under section 205.

The Commission clarifies that nothing in this jurisdictional determination changes historical state franchise areas or interferes with state laws governing retail marketing areas of electric utilities. Section 212(g) of the FPA prohibits Commission orders that would be inconsistent with such laws. However, we reject arguments made by some of the commenters that section 212(g) could somehow be construed to give states authority over the rates, terms, and conditions of unbundled interstate transmission within retail marketing areas.[542] While our

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[535] *See id.* at 33,082.

[536] UT Com Initial Comments at 4–5.

[537] NYSEG Initial Comments at 48 (footnote omitted).

[538] NYSEG Initial Comments at 50.

[539] Not only do we conclude that our determinations are legally supportable under the case law, but we believe it is imperative to provide guidance to public utilities and state regulators as to our position on where the jurisdictional boundaries lie.

[540] The Commission's complete legal analysis on this issue, and on the related issue of what facilities are Commission-jurisdictional transmission facilities, and what are state jurisdictional local distribution facilities, are contained in Appendix G to this Rule.

[541] Section 201(b)(1) specifically exempts from Commission jurisdiction facilities used for transmission in intrastate commerce and transmission of electric energy consumed wholly by the transmitter. As a result, we have no jurisdiction over retail wheeling that occurs in Alaska, Hawaii and the Electric Reliability Council (ERCOT) portion of Texas since transactions in those areas are intrastate.

[542] The legislative history of FPA section 212(g) and its predecessor, former section 211(c)(3), indicates that the provision was focused on not interfering with state laws governing retail service territories and not permitting Commission wheeling orders "for purposes of sale by a utility to an ultimate consumer who is within the service territory of another utility (other than the applicant) where such territory is established by or under State law, rule, or decision." *See* H.R. Conf. Rep. No. 1750, 95th Cong., 2d Sess. 92 (1978), *reprinted in*

jurisdiction cannot affect whether and to whom a retail electric service territory (marketing area) is to be granted by the state, and whether such grant is exclusive or non-exclusive, neither can state jurisdiction affect this Commission's exclusivejurisdiction over transmission in interstate commerce by public utilities.

In response to several of the commenters, we further clarify that the Commission's jurisdiction over the rates, terms, and conditions of unbundled retail transmission is no broader than our authority over transmission used for wholesale transactions, and will not affect matters otherwise left to the states by Congress.[543] The Federal Power Act recognizes that retail marketing areas are governed by state law. Moreover, we believe that states have authority over the *service* of delivering electric energy to end users. In exercising this authority, state regulatory commissions and state legislatures have traditionally developed social and environmental programs suited to the circumstances of their states. State regulation of most power production and virtually all distribution and consumption of electric energy is clearly distinguishable from this Commission's responsibility to ensure open and non-discriminatory interstate transmission service. Nothing adopted by the Commission today, including its interpretation of its authority over retail transmission or how the separate distribution and transmission functions and assets are discerned when retail service is unbundled, is inconsistent with traditional state regulatory authority in this area.

The Commission reiterates its strong interest in preventing any balkanization of the interstate power market. Although the Commission believes its Final Rule will accommodate retail competition, if it is offered voluntarily by a utility or ordered by a state, our policies relate only to the bulk power market and not traditional state regulation of the retail market.[544]

NARUC has requested that the Commission specifically clarify in § 35.27 of its proposed rules[545] that nothing in our final rule limits the authority of a state commission "to allow or disallow the inclusion of the costs of electric energy purchased at wholesale in retail rates subject to such State commission jurisdiction." We will adopt NARUC's proposal with modification, but add it as a separate subsection. The Final Rule adopts a new § 35.27(b) as follows:

> Nothing in this part (i) shall be construed as preempting or affecting any jurisdiction a state commission or other state authority may have under applicable state and federal law, or (ii) limits the authority of a state commission in accordance with state and federal law to establish (a) competitive procedures for the acquisition of electric energy, including demand-side management, purchased at wholesale, or (b) non-discriminatory fees for the distribution of such electric energy to retail consumers for purposes established in accordance with state law.

With respect to the Commission's adoption of the Open Access NOPR's functional/technical tests for determining what facilities are Commission-jurisdictional facilities used for transmission in interstate commerce and what facilities are state-jurisdictional local distribution facilities, the case law supports a bright line for unbundled wholesale transmission, *i.e.*, transmission of electric energy that is being sold for resale. This is consistent with the bright line drawn by Congress to fill the *Attleboro* gap for regulating wholesale sales of electric energy. The case law also supports a bright line with respect to retail transmission by intervening utilities, *i.e.*, transmission by those utilities between the new retail generation supplier and the public utility that previously provided bundled retail service to the end user. However, despite many commenters' arguments to the contrary, we cannot divine such a bright line for unbundled retail transmission by the public utility that previously provided bundled retail service to the end user. In fact, the limited case law, including *CL&P* and *Colton*, supports a case-by-case determination.[546] Accordingly, we believe our technical test, with its seven indicators, will permit reasoned factual determinations in individual cases.

Although we are unable to draw the bright line for local distribution facilities that many commenters would like, we believe it is important to make two clarifications regarding local distribution in the context of retail wheeling. First, even when our technical test for local distribution facilities identifies no local distribution facilities for a specific transaction, we believe that states have authority over the *service* of delivering electric energy to end users. Second, through their jurisdiction over retail delivery services, states have authority not only to assess stranded costs but also to assess charges for stranded benefits, such as low-income assistance and demand-side management. Because their authority is over services, not just the facilities, states can assign stranded costs and benefits based on usage (kWh), demand (kW), or any combination or method they find appropriate. They do not have to assign them to specific facilities.[547]

Thus, while we believe in most cases there will be identifiable local distribution facilities subject to state jurisdiction, we also believe that even where there are no identifiable local distribution facilities, states nevertheless have jurisdiction in all circumstances over the service of delivering energy to end users. Under this interpretation of state/federal jurisdiction, customers have no incentive to structure a purchase so as to avoid using identifiable local distribution facilities in order to bypass state jurisdiction and thus avoid being assessed charges for stranded costs and benefits.

Based on concerns raised by state commissions as well as some utilities, we have further determined that it is appropriate to provide deference to state commission recommendations regarding certain transmission/local distribution matters that arise when retail wheeling occurs. We also believe it is important to develop mechanisms to avoid regulatory conflict and to help provide certainty to utilities as to which regulator has jurisdiction over which facilities. These are discussed below.

1978 *U.S. Code Cong. & Ad. News* 7797, 7826. Nothing on the face of section 212(g) or the legislative history of either the Energy Policy Act or PURPA indicates that the provision in any way affects the Commission's authority over rates, terms, and conditions of transmission in interstate commerce by public utilities.

[543] Among other things, Congress left to the States authority to regulate generation and transmission siting. *See* FPA sections 201(b) and 211(d)(1); section 731 of the Energy Policy Act.

[544] This Final Rule will not affect or encroach upon state authority in such traditional areas as the authority over local service issues, including reliability of local service; administration of integrated resource planning and utility buy-side and demand-side decisions, including DSM; authority over utility generation and resource portfolios; and authority to impose non-bypassable distribution or retail stranded cost charges.

[545] Section 35.27 of the proposed rules provided that any public utility seeking authorization to engage in sales for resale at market-based rates shall not be required to demonstrate any lack of market power in generation with respect to sales from capacity first placed in service on or after 30 days from the date of publication of the Final Rule in the **Federal Register**. FERC Stats. & Regs. ¶ 32,514 at 33,154.

[546] As noted, the Commission's detailed legal analysis is contained in Appendix G. We are particularly persuaded by the Supreme Court's statement that whether facilities are used in local distribution is a question of fact to be decided by the Commission as an original matter. *See* CL&P, 515 U.S. at 534–35.

[547] As noted above, states retain authority over state integrated resource planning, utility resource portfolios, and utility buy-side and demand-side decisions.

Determining where to draw the jurisdictional line for facilities used in unbundled retail wheeling transactions will involve case-specific determinations that evaluate the seven local distribution indicators that we are adopting. We believe that the Commission should take advantage of state regulatory authorities' knowledge and expertise concerning the facilities of the utilities that they regulate. Therefore, in instances of unbundled retail wheeling that occurs as a result of a state retail access program, we will defer to recommendations by state regulatory authorities concerning where to draw the jurisdictional line under the Commission's technical test for local distribution facilities, and how to allocate costs for such facilities to be included in rates, provided that such recommendations are consistent with the essential elements of the Final Rule.[548] Moreover, we recognize that in some cases the Commission's seven technical factors may not be fully dispositive and that states may find other technical factors that may be relevant. We will consider jurisdictional recommendations by states that take into account other technical factors that the state believes are appropriate in light of historical uses of particular facilities.

Some commenters have asked the Commission to provide a forum to prevent or resolve disputes over the correct classification of facilities as transmission or local distribution. As a means of facilitating jurisdictional line-drawing, we will entertain proposals by public utilities, filed under section 205 of the FPA, containing classifications and/or cost allocations for transmission and local distribution facilities. However, as a prerequisite to filing transmission/local distribution facility classifications and/or cost allocations with the Commission, utilities must consult with their state regulatory authorities. If the utility's classifications and/or cost allocations are supported by the state regulatory authorities and are consistent with the principles established in the Final Rule, the Commission will defer to such classifications and/or cost allocations.[549] We encourage public utilities and their state regulatory authorities to attempt to agree to utility-specific classifications and allocations that the utility may file at the Commission.

A number of commenters have asked the Commission to defer to state commission recommendations or decisions regarding rates, terms and conditions of unbundled retail transmission in interstate commerce by public utilities. Some have suggested that we set broad guidelines for such rates, terms, and conditions, and then allow states to actually implement the guidelines. While the Commission cannot simply turn over its jurisdiction for the states to implement, we understand the concerns raised by many state regulators and believe that deference to state commissions with regard to rates, terms, and conditions may be appropriate in some circumstances, as discussed below.

As we determined in the NOPR, when unbundled retail wheeling in interstate commerce occurs, the transaction has two components for jurisdictional purposes—a transmission component and a local distribution component. The Commission has jurisdiction over facilities used for the transmission component of the transaction, and the state has jurisdiction over facilities used for the local distribution component.[550] Thus, the rates, terms and conditions of unbundled retail transmission by a public utility must be filed at the Commission. When this occurs, we will generally expect unbundled retail wheeling customers to take service under the same FERC tariff that applies to wholesale customers. However, if the unbundled retail wheeling occurs as part of a state retail access program, it may be appropriate to have a separate retail transmission tariff[551] to accommodate the design and special needs of such programs. In such situations, the Commission will defer to state requests for variations from the FERC wholesale tariff to meet these local concerns, so long as the separate retail tariff is consistent with the Commission's open access policies and comparability principles reflected in the tariff prescribed by this Final Rule. In addition, rates must be consistent with our Transmission Pricing Policy Statement, and the guidance herein concerning ancillary services.[552]

A final jurisdictional issue raised in the Open Access NOPR concerns buy-sell transactions. We remain concerned, just as we were with buy-sell arrangements in the gas industry, that buy-sell arrangements can be used by parties to obfuscate the true transactions taking place and thereby allow parties to circumvent Commission regulation of transmission in interstate commerce. Thus, we reaffirm our conclusion that we have jurisdiction over the interstate transmission component of transactions in which an end user arranges for the purchase of generation from a third-party. However, we recognize that there is a wide range of programs and transactions that might or might not fall within this category. We will address these on a case-by-case basis.

In summary, the Commission reaffirms and clarifies its prior jurisdictional conclusions and tests for determining the demarcation between federal and state jurisdiction over transmission in interstate commerce and local distribution. We have attempted to address these issues in a way that provides for flexibility and recognition of legitimate state concerns. With regard to retail services, we recognize the states' concerns that the unbundling of retail transactions would result in changes from what historically has been regulated by the states (principally, the rates of transmission assets previously included in retail rate base). However, the decision to provide unbundled retail wheeling is not the Commission's to make because we have no authority to order transmission directly to an ultimate consumer. In addition, even if a retail access program occurs, we do not believe the unbundling of retail transactions will radically change fundamental state authorities, including authority to regulate the vast majority of generation asset costs, the siting and maintenance of generation facilities and transmission lines, and decisions regarding retail service territories. Further, the Commission intends to be respectful of state objectives so long as they do not balkanize interstate transmission of power or conflict with our interstate open access policies. As the electric industry and state regulatory authorities continue to develop new competitive market structures and consider retail wheeling programs, we believe that the tests and mechanisms we have provided in this Rule will accommodate both Federal and state interests and will help provide jurisdictional certainty to market participants.

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[548] In order to give such deference, we expect state regulators to specifically evaluate the seven indicators and any other relevant facts and to make recommendations consistent with the essential elements of the Rule.

[549] This should also alleviate some concerns about the potential for costs not being accounted for if the Commission and a state commission use different methods of allocating costs.

[550] As discussed above, even if there were instances where no local distribution *facilities* are used, we believe states have authority over the *service* of delivering electric energy to end users.

[551] *I.e.*, the tariff would be different from the tariff that applies to wholesale customers. Such tariff would still be filed with the Commission under FPA section 205.

[552] In applying the principles of the Final Rule to retail transmission tariffs, the Commission clearly cannot order retail wheeling directly to an ultimate consumer. *See* FPA section 212(h).

J. Stranded Costs

1. Justification for Allowing Recovery of Stranded Costs

In the Supplemental Stranded Cost NOPR, the Commission noted that the Open Access Rule would give a utility's historical wholesale customers greatly enhanced opportunities to reach new suppliers.[553] This would affect the way in which utilities have recovered costs under the traditional regulatory system that, on the one hand, imposed an obligation to serve,[554] and, on the other hand, permitted recovery of all prudently incurred costs. We noted that if customers leave their utilities' generation systems without paying a share of these costs, the costs will become stranded unless they can be recovered from other customers. The Commission stated in the NOPR that we must address the costs of the transition to a competitive industry by allowing utilities to recover their legitimate, prudent and verifiable stranded costs simultaneously with any final rule we adopt requiring open access transmission.[555]

Comments

Virtually all of the investor-owned utility commenters as well as commenters representing state commissions and other constituencies support the NOPR's premise that stranded costs can be created when a customer switches suppliers. They endorse the proposal to allow the recovery of legitimate and verifiable stranded costs.[556] Numerous commenters also support the Commission's proposal to link stranded cost recovery with open access tariffs. These commenters agree that the recovery of stranded costs is critical to the successful transition of the industry to an open transmission access, competitive industry.[557] Commenters such as EEI and NU submit that open access and stranded cost recovery should be implemented simultaneously; that unbundled transmission service should not be required until a stranded cost recovery mechanism is in place. Some commenters propose that if the full recovery of stranded costs is disallowed as a result of rehearing or judicial review, utilities that have filed open access transmission tariffs should be permitted to withdraw them, or the Commission should otherwise reconsider its rule on open access transmission in light of such a reversal.[558]

Commenters representing the financial community reiterate their strong support for the full recovery of stranded costs, noting that the prospect of not recovering stranded costs could erode a utility's ability to attract capital which, in turn, could impede the long-term goal of achieving competitive wholesale markets.[559] Several commenters also argue that stranded cost recovery is economically efficient and is necessary to ensure parity among competitors and to avoid uneconomic bypass.[560]

The commenters that oppose allowing utilities to recover legitimate and verifiable stranded costs repeat many of the arguments that were raised in response to the initial Stranded Cost NOPR. For example, a number of commenters argue that the risk that a utility could lose customers (and thereby incur stranded costs) is not a new phenomenon created by regulatory and statutory initiatives that utilities could not have anticipated.[561] Some commenters argue that there was never an implied obligation to serve at wholesale.[562] According to TDU Systems, monopoly power, not regulatory obligation, has kept wholesale customers captive over the years.

Other commenters argue that allowing the recovery of stranded costs would make it uneconomic for customers to seek alternative sources of power and that the prospect of liability for and protracted litigation over stranded cost claims would create paralyzing uncertainty for customers, uncertainty that may dissuade them from taking advantage of new opportunities in the wholesale power market.[563] Some commenters also argue that stranded cost recovery would be a disincentive to efficient operation by affording the greatest protection to utilities that made the worst investment decisions.[564]

Commenters also argue that the scope of the proposed rule is overbroad; that stranded cost recovery should be allowed, if at all, on a case-by-case basis; that there should be no presumption that every utility will experience stranded costs; and that utilities should not be allowed to recover 100 percent of prudently incurred stranded costs.[565]

Several commenters suggest that there is no factual basis for the stranded cost rule, citing a lack of evidence of a wholesale stranded cost problem.[566] TDU Systems refers to a Resource Data International study that shows that, of $114 billion in potential investor-owned utility stranded investment, only $10.4 billion is associated with wholesale transactions.[567] Others submit that the

[553] FERC Stats. & Regs. ¶ 32,514 at 33,095.

[554] The Supplemental Stranded Cost NOPR described such an obligation as explicit at retail and arguably implicit at wholesale. FERC Stats. & Regs. ¶ 32,514 at 33,101.

[555] *Id.* at 33,095–96, 33,101.

[556] *See, e.g.*, EEI, Atlantic City, Arizona, Carolina P&L, Centerior, Central Hudson, Detroit Edison, Duke, Duquesne, Entergy, Florida Power Corp, El Paso, Houston, NIPSCO, NU, Oklahoma G&E, Otter Tail, PG&E, Puget, Southern, San Diego G&E, SCE&G, SoCal Edison, Montana, Montana-Dakota Utilities, NSP, Utilities For Improved Transition, NC Com, PA Com, Electric Consumers Alliance, American National Power, NE Public Power District, MEAG, OH Coops, Seattle, NY Energy Buyers, SBA, TVA, Utility Workers Union, Big Rivers EC, Central EC, Citizens Lehman, NGSA, AGA, Montaup, NIEP.

[557] *See, e.g.*, EEI, Coalition for Economic Competition, EGA, CINergy, Electric Consumers Alliance, Atlantic City, Com Ed, Consumers Power, Dayton P&L, Dominion, Duke, El Paso, NEPCO, NIMO, NIPSCO, Ohio Edison, Florida Power Corp, PECO, Pennsylvania P&L, PSNM, Public Service Co of CO, Southern, SCE&G, VEPCO, Texas Utilities, DOE, CA Energy Com, CO Com, PA Com, NE Public Power District, SMUD, Brazos, Sunflower, PJM, Utility Workers Union, Utility Investors Analysts, Nuclear Energy Institute, SoCal Gas, AGA, Utility Shareholders, LPPC. Although DOD agrees that addressing stranded costs is a critical part of the transition to a more competitive industry, it submits that there is nothing in the Open Access NOPR that should affect the treatment of stranded costs because the Open Access NOPR would not change the contracts that govern existing wholesale transactions. It argues that the Commission will have ample opportunity to decide these matters before the present wholesale long-term contracts expire.

[558] *E.g.*, Utilities For Improved Transition, PECO, Utility Workers Union, Dayton P&L.

[559] Utility Investors Analysts, Utility Shareholders.

[560] *See, e.g.*, EEI, SCE&G, Montana, Com Ed.

[561] *E.g.*, TAPS, IN Industrials, Air Liquide, Texas Industrials, Detroit Edison Customers, AMP-Ohio.

[562] *E.g.*, TDU Systems, Competitive Enterprise.

[563] *See, e.g.*, Missouri Joint Commission, Omaha PPD, American Forest & Paper, TAPS, AMP-Ohio, Kansas Commission, VA Com, Nucor, Torco, IPALCO, DE Muni, Municipal Energy Agency Nebraska, Air Liquide, Arkansas Cities, Detroit Edison Customers, Cleveland, Texas-New Mexico, Blue Ridge, Suffolk County, NM Industrials, PA Munis, Caparo, ABATE, NRRI, Building Owners, Alma, WEPCO, Total Petroleum. SC Public Service Authority asserts that the Commission has not adequately addressed the anticompetitive potential of exit fees and the potential shifting of losses from high-cost to low-cost producers. It says that the Commission should renotice any further proposal that it develops to permit a reasoned analysis of anticompetitive concerns.

[564] *E.g.*, TAPS, AMP-Ohio, IPALCO, Suffolk County, Competitive Enterprise, NY Energy Buyers, Supervised Housing, Central Illinois Light, WP&L, SC Public Service Authority, KS Com.

[565] *E.g.*, Alma, IPALCO, Suffolk County, CO Consumers Counsel, Arkansas Cities, Central Illinois Light, NY AG, NASUCA, VA Com, NY Energy Buyers, UT Industrials, NM Industrials, NJ Ratepayer Advocate, WEPCO, IN Industrials, ABATE, AZ Com.

[566] *E.g.*, ELCON, TDU Systems, Texas-New Mexico, Central Illinois Light.

[567] However, Utilities for Improved Transition refers to a report by Moody's Investor Service estimating that the stranded costs of the Nation's 114 largest electric utilities under open access transmission will be $135 billion in the next ten years (13 to 14 times greater than the costs stranded by the introduction of open access transportation of natural gas). It notes that this estimate covers costs stranded by transmission in interstate commerce of both wholesale and retail power, and submits that both types of costs are relevant to this proceeding because of the Commission's jurisdiction over the transmission rates for wheeling to both wholesale and retail customers.

[568] *E.g.*, Central Illinois Light, Utility Workers Union, Alcoa.

[569] *See* FERC Stats. & Regs. ¶ 32,514 at 33,105.

[570] According to NRRI, the Commission did not "berate" electric utility management to sign uneconomic contracts in the manner that NRRI contends the Commission and Congress "berated" pipeline management. NRRI Initial Comments at 6. NRRI also objects that the proposed rule is a departure from what occurred in other deregulated industries (where no stranded cost recovery was allowed) and that the Commission should provide a fuller explanation as to why it believes allowing utilities full recovery of legitimate and verifiable stranded costs is the correct course of action.

[571] *E.g.*, Legal Environmental Assistance, Conservation Law Foundation.

[572] *E.g.*, TDU Systems.

[573] *E.g.*, EGA, LG&E. EGA and LG&E further argue that if a utility is able to abrogate a QF contract, a QF should be entitled to recover its costs based upon the same equities of reliance upon governmental approvals, changed regulatory regimes, and reasonable expectation.

Commission should obtain more current data concerning the magnitude of potential stranded cost recovery before issuing the final rule.[568] In reference to the statement in the Supplemental NOPR that the Commission will continue to gather information on the magnitude of potential stranded costs,[569] DE Muni states that the Commission must commit to making public all the data it obtains so that all can evaluate the impact of the recovery of stranded costs on an ongoing basis.

NRRI submits that the Commission has drawn the wrong conclusion from its natural gas industry experience. According to NRRI, pipelines were "caught in an unusual transition" by changes caused by Congress and the Commission. In the case of the electric industry, NRRI submits that although there are uneconomic wholesale power contracts, the Commission is not responsible for this situation.[570]

Several commenters suggest that the Commission condition a utility's ability to recover stranded costs upon the utility agreeing to take certain actions (such as reducing environmental effects [571] or ensuring the payment of costs that are stranded if the utility commences direct service to an end-use customer that was previously a wholesale customer of a transmission dependent utility [572]), or agreeing to refrain from certain actions (such as seeking unilaterally to terminate or modify IPP contracts).[573] CCEM proposes that open access, conversion rights, and divestiture should each be a precondition to a utility's eligibility for any stranded cost recovery. VT DPS submits that, if the Commission adopts a stranded cost rule, it should limit utility stranded cost claims to those cases where the utility can demonstrate that its costs have been rendered unrecoverable as a direct result of the final rule.[574]

A number of commenters object that the proposed rule contains no provisions for non-transmission-owning utilities to collect stranded costs.[575] Illinois Municipal Electric Agency asks the Commission to consider providing a forum for municipals to recover stranded costs from their customers under the same guidelines as investor-owned utilities. Recognizing that the FPA gives the Commission no general jurisdiction over municipalities for purposes of rate regulation,[576] Illinois Municipal Electric Agency argues that the FPA nevertheless does not prevent the Commission from providing a forum for municipalities that may experience stranded costs as a result of new federal regulations. NE Public Power District, RUS, and rural electric cooperative commenters object that the NOPR gives public utilities a greater chance than other transmitting utilities to recover stranded costs from departing customers by offering public utilities two avenues of recovery (an exit fee under a power sales contract or a transmission surcharge) but offering other transmitting utilities only one avenue (a transmission surcharge).[577]

PA Munis objects that the Commission's proposal to impose stranded costs only on wholesale requirements customers (and not on other wholesale customers) is unduly discriminatory and counter to the goals of the Open Access NOPR. It submits that the Commission's proposal, by subjecting a wholesale requirements customer to increased transmission rates for stranded costs not levied on other wholesale customers, is indistinguishable in substance from the pre-Order 436 plan held to be discriminatory in *Maryland People's Counsel* v. *FERC*.[578]

ELCON and others [579] urge the Commission to clarify that stranded costs do not arise when a customer leaves a system because its plant becomes uneconomic or the customer wishes to co-generate or self-generate. They note that "[t]hese alternatives have always existed and do not arise from new opportunities for wholesale and retail wheeling." [580]

Commission Conclusion

We reaffirm our preliminary determination that the recovery of legitimate, prudent and verifiable stranded costs should be allowed. Having considered the arguments raised by the commenters that oppose stranded cost recovery, we continue to believe that utilities that entered into contracts to make wholesale requirements sales under an entirely different regulatory regime should have an opportunity to recover stranded costs that occur as a result of customers leaving the utilities' generation systems through Commission-jurisdictional open access tariffs or FPA section 211 orders,[581] in order to reach other power suppliers. As we indicated in the Supplemental Stranded Cost NOPR, we do not believe that utilities that made large capital expenditures or long-term contractual commitments to buy power years ago should now be held responsible for failing to foresee the actions this Commission would take to alter the use of their transmission systems in response to the fundamental changes that are taking place in the industry.[582] We will not ignore the effects of recent significant statutory and regulatory changes on the past investment decisions of utilities.[583] While, as some commenters point out, there has always been some risk that a utility would lose a particular customer, in the past that risk was smaller. It was not unreasonable for the utility to plan to continue serving the needs of its wholesale requirements customers and retail customers, and for those customers to expect the utility to plan to meet future customer needs. With the new open access, the risk of losing a

[574] VT DPS argues that under Order No. 636, the Commission allowed recovery of costs that would be rendered "unrecoverable" because the costs would not be incurred to provide transportation service and because there would be no wholesale load from which to recover the costs. It suggests that when a utility loses wholesale load or a municipality establishes a new distribution system, the utility's costs are not necessarily rendered unrecoverable.

[575] *E.g.*, PA Munis, Missouri Joint Commission, TAPS, Municipal Energy Agency Nebraska.

[576] *But see* FPA section 212(a), 16 U.S.C. 824k(a).

[577] RUS objects that, at the same time, an RUS-financed cooperative that is a transmitting utility would be required to provide reciprocal open access to its public utility supplier, which is also its customer and its competitor.

[578] 761 F.2d 768 (D.C. Cir. 1985).

[579] *E.g.*, VA Com, DE Muni, LG&E, Mountain States Petroleum Assoc.

[580] ELCON July 25, 1995 Comments at 6.

[581] Hereafter referred to collectively as the "new open access" or "open access transmission."

[582] FERC Stats. & Regs. ¶ 32,514 at 33,101–02.

[583] Contrary to NRRI's claim, and as explained in the NOPR (*see, e.g.*, FERC Stats. & Regs. ¶ 32,514 at 33,063–68), the electric industry's transition to a more competitive market *is* driven in large part by statutory and regulatory changes beyond the utilities' control.

customer is radically increased. If a former wholesale requirements customer or a former retail customer uses the new open access to reach a new supplier, we believe that the utility is entitled to recover legitimate, prudent and verifiable costs that it incurred under the prior regulatory regime to serve that customer.[584]

We learned from our experience with natural gas that, as both a legal and a policy matter, we cannot ignore these costs. During the 1980s and early 1990s, the Commission undertook a series of actions that contributed to the impetus for restructuring of the gas pipeline industry. The introduction of competitive forces in the natural gas supply market as a result of the Natural Gas Policy Act of 1978[585] and the subsequent restructuring of the natural gas industry left many pipelines holding uneconomic take-or-pay contracts with gas producers. When the Commission initially declined to take direct action to alleviate that burden, the U.S. Court of Appeals for the District of Columbia Circuit faulted the Commission for failing to do so.[586] The court noted that pipelines were "caught in an unusual transition" as a result of regulatory changes beyond their control.[587]

As we stated in the Supplemental NOPR, the court's reasoning in the gas context applies to the current move to a competitive bulk power industry. Indeed, because the Commission failed to deal with the take-or-pay situation in the gas context, the court invalidated the Commission's first open access rule for gas pipelines. Once again, we are faced with an industry transition in which there is the possibility that certain utilities will be left with large unrecoverable costs or that those costs will be unfairly shifted to other (remaining) customers. That is why we must directly and timely address the costs of the transition by allowing utilities to seek recovery of legitimate, prudent and verifiable stranded costs. At the same time, however, this Rule will not insulate a utility from the normal risks of competition, such as self-generation, cogeneration, or industrial plant closure, that do not arise from the new availability of non-discriminatory open access transmission. Any such costs would not constitute stranded costs for purposes of this Rule.

We are issuing the Stranded Cost Final Rule simultaneously with the Open Access Final Rule because we believe that the recovery of legitimate, prudent and verifiable stranded costs is critical to the successful transition of the electric industry to a competitive, open access environment. We believe that our decision today will be upheld by the courts. While the D.C. Circuit is still considering the various appeals of Order No. 636,[588] it has already upheld, in at least two instances, our ultimate decision to allow the recovery of costs stranded in the transition to a competitive natural gas industry.[589] As a result, we reject the suggestions of some commenters that a utility's obligation to comply with the provisions of the Open Access Final Rule should be conditioned upon final court approval of the Stranded Cost Final Rule. We also decline otherwise to condition a utility's ability to recover its stranded costs. As described in greater detail in Section IV.J.8, if a utility can make the necessary evidentiary showings, it will be eligible for stranded cost recovery.

With regard to the magnitude of potential wholesale stranded costs, as the Supplemental Stranded Cost NOPR recognizes, the level may be small relative to that of retail stranded costs. Nevertheless, wholesale costs may be stranded as a result of open access transmission. Because the significance of such costs to the utilities that would face them may be great (and the prospect of not recovering such costs could erode utilities' ability to attract capital and be very detrimental to a diverse array of utility shareholders), we believe that we have a responsibility to allow for the recovery of such costs.

We disagree with the commenters who contend that this Rule would discriminate against certain segments of the industry, such as non-transmission-owning utilities (who would not be allowed to collect stranded costs) or wholesale requirements customers (who would be subject to stranded cost charges while other wholesale customers would not). These commenters misconstrue the purpose of this Rule and the nature of the stranded costs for which this Rule would allow recovery. This rule is designed to address a new and specific problem: The fact that a utility that historically has supplied bundled generation and transmission services to a wholesale requirements customer and incurred costs to meet reasonably expected customer demand may experience stranded costs when its customer is able to reach a new generation supplier due to the availability of open access transmission. This rule proposes a solution to that problem by allowing the recovery of legitimate, prudent and verifiable costs incurred by a utility to provide service to a wholesale requirements customer that subsequently becomes, in whole or in part, an unbundled wholesale transmission services customer of the utility. The opportunity for extra-contractual wholesale stranded cost recovery is allowed for only a discrete set of requirements contracts for which the utility can demonstrate that it had a reasonable expectation of continuing service, as well as for retail-turned-wholesale situations in which the utility satisfies the necessary evidentiary criteria. Thus, the fundamental premise of this rule—namely, that a utility should have an opportunity to recover reasonably-incurred costs that arise because open access use of the utility's transmission system enables a generation customer to shop for power—would not apply to a non-transmission-owning utility that, by definition, has no transmission by which its generation customer can escape to another supplier.

The same historical relationship discussed above, including the expectation of continued service, justifies imposing the stranded costs covered by this rule on wholesale requirements customers only (not on non-requirements customers that contract separately for transmission services to deliver their purchased power). Requirements customers historically were long-term customers who typically did not expect to take service from other suppliers. Utilities thus assumed they would continue serving these customers and may have made significant investments based on that long-term expectation. In contrast, utilities did not (and do not today) generally make investments for short-term economy-type transactions. Rather, such transactions were entered into only when the utility temporarily had available capacity or energy that could be provided to the buyer at a price lower than the buyer's decremental cost. The utility was not obligated in any way—either explicitly or implicitly—to provide for the needs of non-requirements customers. Because coordination transactions were not the cause of stranded investment decisions, it would be inappropriate to allocate such costs to non-requirements customers.

Further, although some commenters object that the Rule would give public utilities a greater opportunity than other transmitting utilities to recover stranded costs, our jurisdiction over transmitting utilities that are not also public utilities is limited. If the selling utility under an existing contract is a transmitting utility that is not also a public utility, its wholesale requirements contracts are not subject to this Commission's jurisdiction. Thus, we can allow such a transmitting utility to recover stranded costs only through Commission-jurisdictional transmission rates under sections 211 and 212 of the FPA. Nevertheless, in the context of a specific section 211 case, we would expect to apply similar principles to the extent possible to assure full stranded cost recovery. We also encourage such transmitting utilities to negotiate mutually agreeable stranded cost provisions with their customers.

2. Cajun Electric Power Cooperative, Inc. v. FERC[590]

In the Supplemental Stranded Cost NOPR, the Commission made a preliminary finding that the *Cajun* court decision does not bar the recovery of stranded costs as proposed in the NOPR and set forth our reasoning in support of that finding.[591]

Comments

Various commenters contend that the proposal to permit recovery of stranded costs at all, or particularly through transmission rates of departing customers, fails to address the *Cajun* court's concerns.[592] These commenters repeat many of the same arguments previously raised in this proceeding, which we have already addressed. Some commenters argue that including generation-based stranded costs in transmission rates is an anticompetitive tying arrangement and that *Cajun* compels the Commission to abandon this aspect of its stranded cost proposal or, at a minimum, to explain how the chosen method of recovery differs from that remanded in *Cajun*.[593]

Several commenters[594] question whether the NOPR's stranded cost provisions would undermine the "meaningful" access to alternative suppliers referenced by the *Cajun* court.[595] For example, Arkansas Cities asserts that the Commission has failed to address whether a transmitting utility retains market power over transmission even after imposition of an open access tariff. It contends that this question is vital to determining whether imposition of stranded costs would interfere with a wholesale transmission customer's meaningful access to other power suppliers.

Some commenters also submit that the proposed procedures for a customer to obtain an estimate of its stranded cost liability are inadequate because they do not ameliorate the uncertainty confronting the customer, which was a concern of the court in *Cajun*. They suggest that a customer would still face the prospect of litigation concerning whether a proposed stranded cost charge is appropriate.[596]

Other commenters argue that *Cajun* requires a trial-type evidentiary hearing before stranded costs may be recovered. They question whether the Commission's generic proposals on open access and the Commission's statements about the need to recover stranded costs are adequate.[597] ELCON references the *Cajun* court's statement that "if the Commission is wrong at the outset concerning the *possibility* of legitimate stranded investment cost, it is not fair or reasonable to create such a mechanism for recovery."[598] ELCON submits that the factual record does not demonstrate any significant wholesale stranded cost problem and, as a result, a final rule allowing recovery of such costs would not be "fair or reasonable."

Many other commenters, in contrast, believe that the NOPR is distinguishable from the case that was before the court in *Cajun* and that the Commission has fully addressed the *Cajun* court's concerns. According to the Coalition for Economic Competition, this proceeding is very different from the *Cajun* proceeding because the proposed rule would not automatically permit utilities to charge market-based rates. The Coalition for Economic Competition states that in the absence of generic market-based rate authorization, there is no basis in *Cajun* for barring the recovery of stranded investment in transmission tariffs.[599]

A number of commenters agree with the Commission that the *Cajun* court was concerned with the need for a more complete explanation of the basis for stranded cost recovery and the mechanism selected for such recovery. These commenters believe that the NOPR provides both the evidentiary record for addressing these concerns on a generic basis and the opportunity for all participants to present evidence and arguments.[600]

Noting the *Cajun* court's concern as to whether the wholesale customer in that case had "meaningful" access to alternative suppliers, a number of commenters agree that the Commission, through the open access provisions of the NOPR, is in fact providing wholesale customers meaningful, reasonable access to alternative suppliers.[601]

As evidence that the *Cajun* court was concerned with inadequate explanation and procedures and did not find that stranded costs could never be justified, several commenters point out that the *Cajun* court did not mention the D.C. Circuit's landmark decision in *AGD*, which strongly supports stranded cost

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[584] As a result, the opportunity for wholesale stranded cost recovery under this Rule is limited to utilities that provided sales of generation and transmission under wholesale requirements contracts, and to utilities that provided service to retail customers that convert to wholesale customer status, and that face the potential inability to recover costs when their customers are able to reach new suppliers through open access transmission.

[585] 15 U.S.C. 3301 *et seq.*

[586] *AGD*, 824 F.2d at 1021.

[587] *Id.* at 1027.

[588] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 636, 57 FR 13267 (April 16, 1992), FERC Stats. & Regs. ¶ 30,939 (1992), *order on reh'g*, Order No. 636–A, 57 FR 36128 (August 12, 1992), FERC Stats. & Regs. ¶ 30,950 (1992); *order on reh'g*, Order No. 636–B, 57 FR 57911 (December 8, 1992), 61 FERC ¶ 61,272 (1993), *reh'g denied*, 62 FERC ¶ 61,007 (1993), *appeal pending* United Distribution Companies, *et al.*, v. FERC, No. 92–1485, *et al.*, (D.C. Cir. Oral Argument Held Feb. 21, 1996).

[589] *See, e.g.*, Public Utilities Commission of the State of California v. FERC, 988 F.2d 154, 166 (D.C. Cir. 1993) ("FERC, with the backing of this court, has been at pains to permit pipelines to recover these (take-or-pay) costs, which have accumulated less through mismanagement or miscalculation by the pipelines than through an otherwise beneficial transition to competitive gas markets."); Western Resources, Inc. v. FERC, 72 F.3d 147 (D.C. Cir. 1995).

[590] 28 F.3d 173 (D.C. Cir. 1994) (*Cajun*).

[591] FERC Stats. & Regs. ¶ 32,514 at 33,105–06.

[592] *E.g.*, APPA, ABATE, ELCON, Central Illinois Light, IL Com, VT DPS.

[593] *See, e.g.*, ELCON, American Forest & Paper, MMWBC, Cajun, IL Com, PA Com, VT DPS, Education, DE Muni, IN Industrials, Texas-New Mexico, Las Cruces, Blue Ridge, Suffolk County, Total Petroleum, NM Industrials, PA Munis.

[594] *E.g.*, Arkansas Cities, PA Munis, NM Industrials.

[595] *See Cajun*, 28 F.3d at 179.

[596] *See, e.g.*, Suffolk County, Arkansas Cities, Education.

[597] *E.g.*, PA Com, NY Com, RUS.

[598] *Cajun*, 28 F.3d at 179 (emphasis in original).

[599] SC Public Service Authority notes this distinction as well (Initial Comments at 78): "In *Cajun*, the court was not criticizing the recovery of stranded assets as an abstract matter, but specifically as an integral part of a set of tariffs designed to justify market-based rates on the basis that the open access tariff adequately mitigated market power despite the provision permitting recovery of stranded assets." It suggests that if the Commission decides to allow utilities to recover stranded costs from departing customers, any utility recovering such costs should not be allowed to charge market-based rates.

[600] *See, e.g.*, EEI, NEPCO, Canterior, Electric Consumers Alliance, Southern.

[601] *E.g.*, Omaha PPD, Com Ed, Florida Power Corp. Com Ed also submits that the argument by the petitioners in *Cajun* that "there really is no such thing as stranded investment, only a failure to compete" ignored the circumstances under which the investments were made. It states that electric utilities did not incur the costs of generation facilities (and long-term fuel and power supply contracts) because they were less efficient competitors, but to satisfy their obligation in a fully-regulated market to provide service to all who request it.

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recovery.[602] For example, Coalition for Economic Competition suggests that construing *Cajun* to hold that stranded cost recovery is always anticompetitive would be at odds with *AGD* and other decisions that have upheld the Commission's policy of allowing recovery of the costs of the transition to competitive markets.[603]

Numerous commenters also support the Commission's conclusion that stranded cost recovery through transmission rates is not a tying arrangement.[604] Among other things, these commenters argue that a tying claim requires that the defendant force the sale of a separate product with the sale of a product over which it has market power, and that here there is no second product being tied to transmission. Several commenters also suggest that, in any event, stranded cost recovery as proposed in the NOPR would be considered a legitimate business justification under the antitrust laws.[605] Com Ed explains that the Commission, as part of its effort to enhance competition in generation by opening up the transmission network, is avoiding placing on utilities the entire burden of the stranded costs resulting from their past regulatory obligations; it is not permitting utilities to maintain a monopoly of power sales.

Commission Conclusion

We reaffirm that we do not interpret the *Cajun* court decision as barring the recovery of stranded costs. The court in that case did not bar stranded cost recovery, as some commenters suggest; it instead found that the Commission had not provided adequate proceedings and had not fully explained its decision. The Commission had failed to hold an evidentiary hearing concerning whether the inclusion of a stranded cost recovery provision in a particular utility's transmission tariff, along with other provisions in the tariff, resulted in the adequate mitigation of Entergy's market power so as to justify market-based rates. The court also found that the Commission had failed to explain adequately its approval of the stranded cost provision, among other provisions. In contrast, as discussed below, we have addressed in this consolidated proceeding (the Stranded Cost NOPR, the Supplemental Stranded Cost NOPR, the Open Access NOPR, and the Open Access/Stranded Cost Final Rule) all of the *Cajun* court's concerns.

Our interpretation of *Cajun* is bolstered by a recent opinion of the Court of Appeals for the D.C. Circuit (the same circuit that decided *Cajun*) that confirms the validity of Commission imposed stranded cost recovery mechanisms in the transition to competitive markets. In *Western Resources, Inc.* v. *FERC*,[606] the court affirmed the Commission's decision to allow the recovery of costs stranded in the transition of the natural gas industry to a competitive market.[607] We believe that, by this decision, the court has again affirmed the Commission's ability to allow stranded cost recovery, as long as we follow adequate procedures and explain our decision.[608]

We are providing in this proceeding the evidentiary record to support our decision to allow the recovery of legitimate, prudent and verifiable stranded costs on a generic basis. We also are ensuring the "meaningful" access to alternative suppliers that was identified as a concern of the *Cajun* court. The Open Access Final Rule is designed to attack one essential element of market power—namely, control over transmission access. The standard we are adopting for transmission service is far stricter than the standard we used at the time *Cajun* was decided; we now require non-discriminatory open access transmission, as well as a code of conduct and non-discriminatory sharing of transmission information (OASIS). The collective effect of these actions is that public utilities that own, control or operate interstate transmission facilities will not be able to favor their own generation and will have to compete on an equal basis with other suppliers.[609] All public utilities that own, control or operate facilities used for transmitting electric energy in interstate commerce will have tariffs on file that offer to any eligible customer any transmission services that the public utility could provide to itself, and under comparable terms and conditions.

We note that the *Cajun* court identified several provisions in Entergy's proposed tariff as potentially restraining competition: Entergy's retention of sole discretion to determine the amount of transmission capability available for its competitors' use;[610] the point-to-point service limitation;[611] the failure to impose reasonable time limits on Entergy's response to requests for transmission service;[612] and Entergy's reservation of the right to cancel service in certain instances,[613] even where a customer had paid for transmission system modifications.[614] These types of provisions, which have the potential to restrain competition, will not be allowed under the Open Access Rule. On the contrary, the Final Rule pro forma tariff contains terms and conditions to ensure the provision of non-discriminatory transmission service. In addition, the requirements that a public utility take service under its own tariff, adopt a non-discriminatory transmission information network, and separate power marketing and transmission functions further ensure non-discrimination and remove constraints to fair competition. Thus, the nondiscriminatory open access transmission that is the hallmark of this Rule is designed to ensure meaningful access to alternative suppliers and goes far beyond that which was offered in the transmission tariff that was under review in *Cajun*.

[602] *See, e.g.*, Com Ed, Coalition for Economic Competition, NYSEG, Entergy.

[603] *See, e.g.*, K N Energy, Inc., 968 F.2d 1295 at 1301 (D.C. Cir. 1992), Elizabethtown Gas Co. v. FERC, 10 F.3d 866, 874 (D.C. Cir. 1993).

[604] *E.g.*, EEI, Com Ed, Consumers Power, SoCal Edison, Salt River, Entergy.

[605] *See* State of Illinois ex rel. Burris v. Panhandle Eastern Pipe Line Co., 935 F.2d 1469, 1483 (7th Cir. 1991), *cert. denied*, 502 U.S. 1094 (1992) (pipeline's refusal to transport gas that an LDC customer purchased from another supplier was "genuinely and reasonably motivated by the need to limit its potential take-or-pay liability, not by a desire to maintain its monopoly position by excluding competition in the sale of natural gas"); City of Chanute v. Williams Natural Gas Company, 743 F. Supp. 1437 (D. Kan.), *aff'd*, 955 F.2d 641 (7th Cir. 1990) (pipeline's refusal to transport third-party gas was motivated by legitimate business concerns, including desire to prevent take-or-pay liability, not by an anticompetitive motive).

[606] 72 F.3d 147 (D.C. Cir. 1995).

[607] *Id.* at 152.

[608] As we noted in the Supplemental NOPR, the same court had earlier instructed the Commission in the *AGD* case that the Commission *must* consider the transition costs borne by regulated utilities when the Commission changes the regulatory rules of the game. FERC Stats. & Regs. ¶ 32,514 at 33,106.

[609] *Id.* at 33,065–67.

[610] In contrast to the tariff under review in *Cajun*, the Final Rule pro forma tariff provides that available transmission capability (ATC) must be calculated and posted on the transmission provider's Open Access Same-time Information System (OASIS) pursuant to new Part 37—OPEN ACCESS SAME-TIME INFORMATION SYSTEM AND STANDARDS OF CONDUCT FOR PUBLIC UTILITIES of the Commission's regulations. Section 37.6 provides in pertinent part that along with posting its ATC on its OASIS node, a public utility must make all data used in the calculation publicly available, on request. Section 37.4 provides that employees of the public utility and any affiliate that are engaged in merchant functions are prohibited from having preferential access to any transmission-related information. Additionally, the regulations provide auditing and monitoring procedures to safeguard against discriminatory practices.

[611] In contrast to the tariff under review in *Cajun*, the Final Rule pro forma tariff requires the provision of point-to-point and network service.

[612] In contrast to the tariff under review in *Cajun*, the Final Rule pro forma tariff requires reasonable time limits for responses to transmission requests. Specifically, Section 17.5 provides that a transmission provider must respond to a request for firm service as soon as practicable, but not later than thirty days after the date of receipt of a completed application.

[613] In contrast to the tariff under review in *Cajun*, the Final Rule pro forma tariff does not allow firm transmission service to be cancelled after the service has been commenced. However, Section 7.3 of the Final Rule pro forma tariff does provide that in the event of a customer default, the transmission provider may, in accordance with Commission policy, file and initiate a proceeding with the Commission to terminate service.

[614] *Cajun*, 28 F.3d at 179–80.

We also have addressed the *Cajun* court's concern over the *method* of recovery. In that case, Entergy proposed to include a charge in the departing customer's transmission rate to recover its stranded investment costs. The court said that this might constitute an anticompetitive tying arrangement.[615] As we explained in the Supplemental NOPR, the stranded cost recovery procedure we prescribe in this Rule is a *transitional mechanism only* that is intended to enable utilities to recover costs prudently incurred under a different regulatory regime. The purpose and effect of the stranded cost recovery mechanism that we approve in this Rule is to facilitate the transition to competitive wholesale power markets. Although we recognized in the Supplemental NOPR that stranded cost recovery may delay some of the benefits of competitive bulk power markets for some customers, such transition costs must nevertheless be addressed at an early stage if we are to fulfill our regulatory responsibilities in moving to competitive markets. The stranded cost recovery mechanism that we direct here is a necessary step to achieve pro-competitive results. In the long term, the Commission's rule will result in more competitive prices and lower rates for consumers.

The Commission's approach also is consistent with the traditional regulatory concept of cost causation. We do not believe it is an illegal tying arrangement to hold a customer accountable for the consequences of leaving an incumbent supplier if, under our rules, the incumbent supplier must show a reasonable expectation of continuing service before it can recover stranded costs from the customer.

Further, in response to the *Cajun* court's concern that the Commission had failed in that case to explain adequately its approval of the stranded cost provision and other provisions, we have provided in this proceeding a detailed explanation of the fundamental industry and regulatory changes that have given rise to the potential for stranded costs; the transitional nature of stranded costs; the critical need to deal with these costs in order to reach more competitive wholesale markets; and the consumer benefits that will result from competitive generation markets. We also have provided a detailed explanation of the terms and conditions in the Final Rule pro forma tariff that will meet the non-discriminatory open access service requirement.

Several commenters (and the *Cajun* court) express concern for the need to provide as much certainty as possible for departing customers concerning their potential stranded cost obligation. Without some certainty, customers may be unable to shop for alternative suppliers. In response to these concerns, we have modified the stranded cost recovery mechanism to include a formula for calculating a departing customer's potential stranded cost obligation. As discussed in greater detail in Section IV.J.9, the revenues lost formula is designed to provide certainty for departing customers and to create incentives for the parties to address stranded cost claims between themselves without resort to litigation.

We conclude that we have fully explained our decision to allow the recovery of legitimate, prudent and verifiable costs that are stranded in the transition to competitive wholesale bulk power markets. We also have provided ample opportunity for all concerned to present arguments and evidence on the issue. Further, we have significantly strengthened our open access requirements to ensure mitigation of transmission market power. Thus, we have fully addressed the concerns of the *Cajun* court.

3. Responsibility for Wholesale Stranded Costs (Whether To Adopt Direct Assignment to Departing Customers)

In the Supplemental Stranded Cost NOPR, the Commission made a preliminary finding that direct assignment of stranded costs to the departing wholesale generation customer is the appropriate method for recovery of such costs.[616]

Comments

Numerous parties representing all constituencies support direct assignment of stranded costs to the departing generation customer.[617] These commenters argue, among other things, that direct assignment is consistent with the cost causation principle and preferable to increasing the delivered price of electricity to a whole region through the imposition of a wires charge, and that recovery of stranded costs from remaining customers would not be in the public interest. Several state commenters seek assurance from the Commission that native load customers will be held harmless from stranded costs resulting from other customers leaving the system.[618] KY Com submits that the possible results of a broader assessment of stranded costs, with the related uncertainty of its impact on the utilities' cost of capital, is more problematic in the long run than the possibility that the direct assignment of stranded costs would deter customers from shopping for power.

Although TAPS opposes stranded cost recovery in general, it submits that, if the Commission decides to allow recovery, the Commission should directly assign stranded costs and not spread them across the board to all transmission users.

Several commenters also oppose any allocation of stranded cost liability to shareholders.[619]

Some commenters state that direct assignment of stranded costs sends the correct pricing signals during the transition to a competitive regime. For example, Electric Consumers Alliance states that a wholesale customer should be able to obtain power elsewhere, but that the motive to do so should not be to escape responsibility for sunk investments made on its behalf. El Paso submits that failure to make the departing generation customer liable for stranded cost recovery would create a "first-off" incentive; the customers that leave the system first would not suffer from higher future rates designed to recover prudently incurred costs from the reduced base of remaining customers.

Some commenters support direct assignment but oppose recovery of stranded costs through transmission rates. These commenters prefer an exit fee or lump-sum approach that would reflect cost causation in an unbundled fashion.[620] DOJ maintains that a

[615] Notably, the court stated: "This is, in essence, a tying arrangement, (citation omitted), and *it might be fine if the purpose of the arrangement were not to cabin Entergy's market power.*" *Id.* at 177–78 (emphasis added).

[616] FERC Stats. & Regs. ¶32,514 at 33,108.

[617] *See, e.g.*, EEI, Atlantic City, Arizona, Carolina P&L, Centerior, Com Ed, Duke, HP&L, Duquesne, Florida Power Corp, Omaha PPD, Alcoa, AEC & SMEPA, BG&E, Central Electric, Detroit Edison, El Paso, Montana-Dakota Utilities, Ohio Edison, PECO, PSNM, Southern, Sierra, SoCal Edison, Tucson Power, Utilities For Improved Transition, Cajun, NRECA, EGA, Electric Consumers Alliance, FL Com, PA Com, Knoxville, Salt River, KY Com, ND Com, California DWR, LA DWP, TVA, Utility Investors Analysts, Texas Utilities, LG&E, Utility Shareholders.

[618] *E.g.*, NC Com, UT Com, NJ Ratepayer Advocate.

[619] *E.g.*, SCE&G, Com Ed, Ky Com, NC Com. SCE&G states that the Commission misinterpreted its previous comments by suggesting in the Supplemental NOPR that SCE&G believed shareholders should bear part of the costs.

[620] *E.g.*, Texas Utilities, DOJ.

transmission adder is analogous to an excise tax and that the excise tax approach would distort pricing signals and customers' decisions on the use of electric power. It submits that the lump-sum approach, on the other hand, would establish a fixed, sunk liability that would not depend upon how much transmission service the departing customer takes in the future.[621]

Other commenters oppose direct assignment as being inconsistent with wholesale competition.[622] They argue that placing all of the responsibility for stranded costs on departing generation customers would discourage customers from switching to other generation providers and would thereby inhibit competition.[623] Some commenters also assert that departing generation customers are not the sole "cause" of stranded costs.[624] VT DPS contends that direct assignment cannot be reconciled with the Commission's refusal to allow the imposition of exit fees by gas pipelines when their wholesale customers depart.[625]

Some commenters support spreading the burden of stranded costs broadly among departing customers, shareholders, and remaining wholesale customers on the basis that it would be equitable for all industry stakeholders to share both the benefits and the costs of the transition to competition.[626]

Others support spreading the costs to all customers through, for example, a meter charge to all utilities (to be passed on to customers), a one-time charge across the total market base, an access fee on the transmission system, or a component of transmission rates.[627] Nordhaus proposes a uniform national tax on all customers, at a rate that declines over time in a predetermined manner. He submits that this approach would remove "gaming" between utilities and potential exiters, would ensure that the stranded costs are not disproportionately loaded on price-sensitive demanders (that is, exiting customers), and would gradually disappear over time in a predictable fashion, thereby increasing the predictability of the new market.

PA Munis disputes the Commission's assertion in the Supplemental Stranded Cost NOPR that there is no compelling reason to assess costs broadly. It argues that a broad-based recovery mechanism that distributes uneconomic stranded costs to all power users would minimize the competition-inhibiting aspects of the Commission's proposed surcharge on departing generation customers. In a similar fashion, NSP states that across-the-board recovery from all users of the grid would recognize the societal benefits to be achieved from the transition to a competitive bulk power market and would reflect precedent set during the move to competition in the natural gas and telephone industries. It submits that the cost per service unit would be lower than exit fees assigned to particular customers and would eliminate the need for detailing stranded cost exposure for each customer contemplating leaving the system.

FTC submits that some investments that now appear as stranded costs may have been intended to benefit customers over a wider area than a single utility. It suggests that national regional assessment methods could recover stranded costs undertaken to benefit these wider groups of customers.

We also received comments suggesting that less than full recovery of stranded costs should be allowed. A number of commenters urge the Commission to require some shareholder liability for stranded cost recovery to give utilities an incentive to mitigate.[628] Several of these commenters assert that utility shareholders should be required to pay a portion of any stranded costs (such as 25–50 percent) because at least some of the responsibility for stranded costs lies with poor business decisions by utility management.[629] Occidental Chemical proposes that the Commission grant utilities a "presumption of prudence" in return for requiring them to absorb a minimum of 25 percent (up to 50 percent) of stranded costs, citing as support the Commission's precedent in the natural gas industry.

Commission Conclusion

We reaffirm our decision that direct assignment of stranded costs to the departing wholesale generation customer through either an exit fee[630] or a surcharge on transmission is the appropriate method for recovery of such costs. We believe it is appropriate that the departing generation customer, and not the remaining generation or transmission customers (or shareholders), bear its fair share of the legitimate and prudent obligations that the utility undertook on that customer's behalf.

In reaching this decision, we have carefully weighed the arguments supporting direct assignment of stranded costs against those supporting a more broad-based approach, such as spreading stranded costs to all transmission users of a utility's system.

[621] In its reply comments, Utility Working Group disputes DOJ's arguments that a transmission adder is analogous to an excise tax and would distort competition. It argues that DOJ's claim of price distortion ignores the fact that the costs that would be associated with a transmission adder consist of a portion of the previous wholesale power price—the markup above the utility's marginal cost that had regulatory approval. Utility Working Group says that because the utility's price and its competitor's price will contain this same charge for the utility's sunk and regulatory costs (the difference between the utility's regulated rate and its incremental cost), they will compete on the basis of their respective incremental costs. It also suggests that transmission adders can be designed on a lump-sum basis so that they are not tied to the amount of electricity purchased.

[622] *E.g.*, ELCON, NYMEX, IL Industrials, Missouri-Kansas Industrials, Philip Morris, Fertilizer Institute, Coalition on Federal-State Issues.

[623] Some commenters also oppose the Commission's proposal to allow the recovery of generation-related costs through transmission rates as being in contravention of cost-causation principles (*e.g.*, VT DPS) or in violation of section 212(a) of the FPA, which they contend limits cost recovery to transmission-related costs (*e.g.*, IL Industrials, Las Cruces).

[624] *E.g.*, ELCON, IL Industrials, NY Energy Buyers, TX Industrials, Missouri-Kansas Industrials, Caparo, IBM, PA Munis, Education. For example, Caparo submits that business decisions by incumbent utilities are the cause of stranded costs.

[625] In support of this proposition, the VT DPS cites Transwestern Pipeline Co., 44 FERC ¶61,164 at 61,536 (1988); El Paso Natural Gas Co., 47 FERC ¶61,108 at 61,314 (1989); El Paso Natural Gas Co., 72 FERC ¶61,083 (1995). It also contends that the Commission recently treated a notice provision in an El Paso contract as a conclusive, rather than a rebuttable, presumption. VT DPS cites other differences between the Commission's treatment of the natural gas and the electric utility industries. It notes that the Commission has not proposed to allow existing wholesale electric customers to get out of their contracts early, as it did in the gas area.

[626] *E.g.*, ELCON, IN Industrials, Reynolds, Philip Morris, ABATE, Missouri-Kansas Industrials, Aluminum.

[627] *See, e.g.*, American National Power, NIEP, NSP, SBA, Coalition on Federal-State Issues, Pennsylvania P&L, Consolidated Natural Gas, Nordhaus, PA Munis. Consumers Power states that it does not oppose direct assignment, but asks that the final rule not preclude utilities from proposing alternative recovery mechanisms, including those that assess stranded costs on all transmission customers as part of the transmission rate. It suggests that utilities should not be precluded from showing that there may be countervailing reasons to assess stranded costs broadly among all transmission customers (*e.g.*, where the costs assignable to a particular customer or group of customers may be so high as to create a dispute as to the propriety of direct assignment).

[628] *See, e.g.*, American Forest & Paper, Torco, Philip Morris, DE Muni, MT Com, IL Com, KS Com, Fertilizer Institute, Caparo, Las Cruces, IN Com, PA Munis, San Francisco, NRRI, Competitive Enterprise, ELCON, IN Industrials, UT Industrials, NY Energy Buyers, ABATE, CA Energy Co, Caparo, Education, Reynolds.

[629] *See, e.g.*, Fertilizer Institute, Caparo, DE Muni, PA Munis, MT Com, San Francisco, ELCON, IN Industrials, NY Energy Buyers.

[630] As used in this Rule, "exit fee" refers to the charge that will be payable by a departing generation customer upon the termination of its requirements contract with a utility (if the utility is able to demonstrate that it reasonably expected to continue serving the customer beyond the term of the contract), whether payable in a lump-sum payment or an amortization of a lump-sum payment. (The same charge also can be paid as a surcharge on the customer's transmission rate.)

Recognizing that each approach has advantages and disadvantages, we conclude that, on balance, direct assignment is the preferable approach for both legal and policy reasons.

One of the main reasons to adopt direct assignment of stranded costs is that direct assignment is consistent with the well-established principle of cost causation, namely, that the party who has caused a cost to be incurred should pay it. Direct assignment of stranded costs to departing generation customers is particularly appropriate given the nature of the stranded cost recovery mechanism contained in this Rule, which links the incurrence of stranded costs to the decision of a particular generation customer to use open access transmission to leave the utility's generation system and shop for power, and which bases the prospect of stranded cost recovery on the utility's ability to demonstrate that it incurred costs with the reasonable expectation that the customer would remain on its generation system.

A broad-based approach, in contrast, would violate the cost causation principle by shifting costs to customers (such as transmission users of the utility's system) that had no responsibility for stranding the costs in the first place. In addition, if the Commission were to adopt a broad-based approach, it would have to determine whether to base the transmission surcharge on all users of a utility's transmission system on a one-time, up-front estimate of stranded costs (that is, each utility claiming stranded costs would make a one-time, comprehensive determination of stranded costs for the utility as a whole) or on an as-realized basis (the surcharge would be based on actual customer departures and would be adjusted each time a customer departs). Each option would have disadvantages that are not present in the direct cost causation approach we are adopting.

For example, a major disadvantage of an up-front, broad-based transmission surcharge is that it in effect would charge customers for costs before the costs are incurred (*i.e.*, before customers have even decided to leave the utility's generation system) and could charge for costs that may never be incurred (*e.g.*, some customers may decide to stay on the utility's system as requirements customers). The other option, a broad-based transmission surcharge that would be adjusted as customers leave the utility's system, also has disadvantages. While this option might recover stranded costs that are closer to the actual amount incurred by the utility, it could produce variability in transmission rates every time stranded costs from a newly-departed customer are included in the transmission surcharge and, in turn, could possibly hamper efficient power supply choices and efficient generator location decisions. These disadvantages are not present in the direct assignment approach.

Direct assignment will result in a more accurate determination of a utility's stranded costs than would an up-front, broad-based transmission surcharge. This is because the stranded cost for any customer is finally determined only if that customer actually leaves a utility. Moreover, there is no stranded cost unless the then-current market price of power for the period that the utility reasonably expected to continue serving the customer is below the utility's cost. Thus, because the circumstances of each departing customer will be known, the amount of any stranded cost liability can be determined with reasonable accuracy. Further, if a customer does not leave the utility or leaves at some future time when the utility's costs are competitive, the issue need not be addressed.

On this basis, the direct assignment approach is more suited to the recovery of stranded costs as defined in this Rule (including the reasonable expectation standard and open access transmission causation requirement) than is a broad-based approach. We expect that a utility would have difficulty estimating in advance all of its stranded costs for purposes of an up-front, broad-based transmission surcharge. In the face of this uncertainty, the utility's best strategy likely would be to try to recover through the broad-based surcharge as much of its uneconomic assets as possible by claiming that all of its wholesale customers are likely to depart and to leave large stranded costs. In this regard, the broad-based approach would provide an incentive for a utility to try to recover the costs of all of its uneconomic assets whether or not they were prudently incurred. This is in contrast to what this Rule provides, which is for recovery of only those legitimate, prudent and verifiable costs that were incurred on behalf of a specific customer based on a reasonable expectation that the utility would continue to serve the customer and that are stranded when the customer departs the utility's generation system by using the utility's open access transmission.

The direct assignment approach also can be readily applied to both wholesale and retail-turned-wholesale departing customers. It also can be adapted for retail customers. Further, it works for costs stranded by a section 211 order requiring either a public utility, or a transmitting utility that is not also a public utility, to provide transmission service. However, this is not the case for a broad-based approach, particularly an up-front, broad-based approach. Assuming that a principal motivation for an up-front, broad-based approach would be to recover all of a utility's stranded costs as quickly as possible, retail-turned-wholesale stranded costs nevertheless are not susceptible of being collected on an up-front basis. It is not possible to make a realistic up-front estimate of costs stranded by municipalizations that may occur in the future. Thus, even if we were to adopt an up-front, broad-based approach for recovering costs that are stranded when wholesale requirements customers use their former supplier's transmission system to reach a new supplier, retail-turned-wholesale stranded costs would have to be identified as they occur and the stranded cost surcharge on transmission users adjusted accordingly. Similarly, the broad-based approach is not easily adaptable to transmitting utilities that are not also public utilities. It is doubtful that, in establishing the rate for a section 211 applicant, the Commission could also set transmission surcharges for customers that were not section 211 applicants; this is what a broad-based approach, in effect, would require us to do.

Direct assignment by means of an exit fee or a transmission surcharge that is not dependent on any subsequent power or transmission purchases by the customer is also an economically efficient way to collected stranded costs. The customer may make a lump-sum stranded cost payment, amortize the lump-sum payment, or spread the payment as a surcharge in addition to its transmission rate. The total amount of stranded costs that the directly-assigned customer ultimately pays would not depend on how much transmission service it takes and thus would not influence the customer's subsequent transmission purchase decisions.

With a broad-based surcharge (which could be demand- or usage-based), on the other hand, the surcharge for transmission users would depend on how much transmission service the users take. A broad-based approach also would be inefficient as it would raise the price of transmission service for all customers, thereby potentially cutting off some beneficial power trading that would otherwise occur for all unbundled transmission customers. The surcharge also could convert some profitable existing power purchase contracts into unprofitable contracts. In

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addition, it could reduce economy trading because the surcharge would be added to the price of economy transmission. In this manner, a broad-based surcharge would constitute a cross-subsidy that could distort the market.

We recognize that direct assignment is not without its potential drawbacks. For example, when compared to an up-front, broad-based transmission surcharge approach, direct assignment may entail a longer stranded cost recovery period. The transition period for stranded cost recovery under a direct assignment approach would depend on the length of the remaining terms of the wholesale requirements contracts for which this Rule provides an opportunity for recovery (contracts executed on or before July 11, 1994 that do not contain an exit fee or explicit stranded cost provision).

On the other hand, a broad-based approach could identify and recover stranded costs earlier than the direct assignment approach; recovery of stranded costs for all of a utility's wholesale requirements customers could begin as soon as the utility's up-front stranded cost amount for departing wholesale customers is determined (through litigation or settlement). However, this potential advantage of a broad-based approach (the shorter transition period) is outweighed by what we believe to be a serious infirmity, namely, the possibility that the broad-based transmission surcharge could end up including costs that have not yet been incurred and may never be incurred.

In addition, another potential drawback to the direct assignment approach is that the departing generation customer may see little or no savings in the short-term by switching power suppliers once its stranded cost exit fee is added to its lower power price from a new supplier. Direct assignment may leave the customer uncertain about the benefits of shopping for power because of the customer's potential stranded cost liability and, in turn, may bias the customer toward staying with its existing power supplier.[631]

In the case of a broad-based approach, in contrast, much of the customer's direct assignment stranded costs are spread to others through a transmission surcharge. As a result, the departing generation customer's power cost savings may more than offset the customer's stranded cost transmission surcharge. The customer may therefore see earlier power cost savings if a broad-based approach were adopted.[632] Once again, however, we believe that this potential benefit to a broad-based approach is outweighed by a significant countervailing disadvantage. In particular, the potential power cost savings to the departing generation customer would be realized only by shifting costs (that are directly attributable to the departing generation customer) to the other users of the utility's transmission system. We believe that this negative aspect of a broad-based approach—its violation of the cost causation principle—is too great a price to pay for allowing a departing generation customer to realize power cost savings as early as possible.

Thus, we recognize that under direct assignment, it is possible that some customers may not be able to afford to leave as soon as they would like. This in turn could mean that lower cost suppliers would not be able to make sales to those customers as soon as they would like. However, this would occur only during a transition period, and it would ensure that, consistent with strict cost causation principles, the burden of these transition costs is not unfairly spread to other customers. Once the existing uneconomic assets and contracts are behind us, all wholesale customers will be better able to shop for power and reap the long-term benefits of competitive supply markets.

Although this direct assignment approach is different from the approach taken in the natural gas industry, we believe that the difference is justified. The transition of the electric industry to an open transmission access, competitive industry (including our proposal to allow an opportunity for extra-contractual recovery of stranded costs associated with a discrete set of wholesale requirements contracts) is different in a number of respects from the natural gas industry's transition to open access transportation service by interstate natural gas pipelines. The gas industry underwent a long period of open access transition, starting with Order No. 436 in 1985 and culminating with Order No. 636 in 1992. In the gas context, prior to addressing potential stranded costs, the Commission in Order No. 436 allowed customers receiving bundled gas sales and transportation service from a pipeline the option to convert to transportation-only service, or to reduce their contract demand for gas service, before the termination of their contracts with the pipeline.[633] As a result, most of the former bundled customers of the pipeline had already departed the pipeline's sales service before the Commission addressed the recovery of take-or-pay costs in Order Nos. 500 and 528. In addition, by the time that the Commission addressed the remaining transition costs in Order No. 636, the commodity or wellhead natural gas market was already competitive and the majority of gas was already being sold on an unbundled basis.

Thus, changes in the natural gas industry had progressed to such a point (*i.e.*, the departure of customers from bundled sales) that it was not possible for the Commission to use a strict cost causation approach. We noted in the Supplemental Stranded Cost NOPR that

> Many natural gas customers had already left their historical pipeline suppliers' systems. Others had converted from sales and transportation customers to transportation-only customers. Others were in a transition stage having had opportunities to lower their contract demands or otherwise become partial service customers. Significant take-or-pay and other costs had accumulated.[634]

Under those circumstances, the Commission determined that it was appropriate to spread the majority of the remaining transition costs associated with take-or-pay and other supply contracts to all customers (both existing and new) using the interstate natural gas transportation system. Moreover, because of the changes in contractual relationships that had already occurred among pipelines and their customers, it was no longer possible for the Commission to follow a strict cost causation approach to recovering take-or-pay costs. The Commission-prescribed remedy for the recovery of transition costs in the natural gas industry thus was tailored to fit the needs of that industry given the stage of development at the time.

However, such a broad-based approach to recovery of natural gas transition costs was an *exception* to the

[631] To counteract this potential disadvantage, we have provided procedures in this Rule, including a formula that the utility is to use to calculate a departing generation customer's stranded cost obligation, that allow a customer considering switching power suppliers to request a stranded cost determination from the utility at any time before the expiration of the customer's wholesale requirements contract. *See* Section IV.J.9.

[632] In addition, because the customer would already know its stranded cost transmission surcharge, it presumably would have some certainty as to the costs of shopping for power. However, the stranded cost surcharge in its transmission rates subsequently may be adjusted upward if the utility providing transmission becomes eligible to recover retail-turned-wholesale stranded costs. Also, if the broad-based stranded cost surcharge is adjusted on an as-realized basis, the potential departing generation customer's surcharge may increase as a result of other customers leaving the utility's system.

[633] As discussed in Section IV.A.5, we are not providing for a similar conversion right in this Rule.

[634] FERC Stats. & Regs. ¶32,514 at 33,108.

time-honored principle that rates should reflect cost causation, and because of this it was necessary for the Commission to justify its departure from that principle. As the court said in *K N Energy* v. *FERC*,[635] "[i]t has been this Commission's long standing policy that rates must be cost supported. Properly designed rates should produce revenues from each class of customers *which match, as closely as practicable, the costs to serve each class or individual customer.*" In that case, the court found the Commission's departure from cost-causation justified "given the unusual circumstances surrounding the take-or-pay problem, and the limited nature—both in time and scope—of the Commission's departure from the cost-causation principle."[636] It continues to be Commission policy to follow the cost-causation principle to the extent possible.

The factors described above are not present in the electric industry. At this time, the vast majority of customers remain on their bundled suppliers' systems and generation is not yet fully competitive. Because the situation facing the electric industry today is different from that which the natural gas industry faced, the Commission must tailor its approach differently. In the case of the electric industry today, we have the opportunity to address the stranded cost recovery issue up front, before customers leave their suppliers' systems. We thus are able to use the cost causation approach that has been fundamental to our regulation since 1935.[637]

The Commission disagrees with commenters' arguments that we cannot impose an exit fee to recover stranded costs because we did not do so in the gas context. As discussed in Section IV.J.9, this Rule establishes procedures for providing a potential departing generation customer advance notice (*before* it leaves its existing supplier) of the stranded cost charge (whether it is to be paid as an exit fee or a transmission surcharge) that will be applied if the customer decides to buy power elsewhere. In the natural gas context, in contrast, the Commission has prohibited pipelines from developing and charging an "exit fee" *after* a customer had implemented its gas purchase decision, noting that otherwise, the customer would not know in advance the full cost consequences of its nomination decision.[638] The "exit fee" that the Commission rejected in *El Paso Natural Gas Company*[639] is also factually distinguishable from the "exit fee" discussed in this rule. In that case, the Commission rejected a pipeline's attempt post-restructuring to impose an "exit fee" on firm transportation-only customers (that were converted sales customers) who in the future elect either to terminate their firm transportation service upon expiration of the service agreement, or to reduce their firm transportation services level by more than 10 percent pursuant to an existing contractual reduction right. Such a scenario is quite different from the limited opportunity for stranded cost recovery provided in this Rule, which is based on a utility's reasonable expectation of continuing generation service to a bundled (sales and transmission) requirements customer.

We also will decline to require a utility seeking stranded cost recovery to shoulder a portion of its stranded costs. Such a requirement would be a major deviation from the traditional principle that a utility should have a reasonable opportunity to recover its prudently incurred costs.[640] Although the Commission allowed such an approach with regard to a natural gas pipeline's take-or-pay costs,[641] we did so only as an extraordinary measure given the nature of the take-or-pay problem and the prevailing environment at that time. We returned to traditional principles when, in issuing Order No. 636, we authorized pipelines to recover all of their prudently incurred gas supply realignment costs (the costs pipelines incur in realigning, renegotiating, or terminating their portfolio of gas supply contracts to adjust to their sales customers' decisions to exercise their unilateral right under the rule to reduce or end their commodity purchase obligations to the pipelines).[642] In the case of the open access transmission required by this Rule, we believe that a utility is entitled to an opportunity to recover all legitimate, prudent and verifiable costs incurred by the utility when the availability of open access transmission enables a requirements customer to reach a new generation supplier.

Although the alternatives of either spreading the stranded costs to all transmission users or requiring the utility shareholders to share the costs with departing customers might enable a wholesale customer to leave sooner than would the direct assignment approach, the departing customer would be able to do so only at the expense of others who had no responsibility for causing the legitimate, prudent and verifiable costs to be incurred. Although we departed from strict cost causation principles in the gas context and required a broad spreading of the costs given the particular circumstances presented by the gas industry's transition to open access, we ultimately returned to the more traditional approach of allowing utilities to recover all of their prudently incurred transition costs in Order No. 636. At this juncture in the evolution of competition in the electric industry we need not make such a departure from cost causation principles; utilities can identify and seek to charge the customers who caused the costs to be incurred in the first place, before those customers leave the utility's generation system. Accordingly, we believe that a broader spreading of the costs to entities who are not responsible for the incurrence of

[635] 968 F.2d 1295, 1300–01 (D.C. Cir. 1992) (quoting Alabama Electric Cooperative, Inc. v. FERC, 684 F.2d 20, 27 (D.C. Cir. 1982) (emphasis in original).

[636] *Id.* at 1301. *See also* Public Utilities Commission of State of California v. FERC, 988 F.2d 154, 169 (D.C. Cir. 1993).

[637] Moreover, as we explained in the Supplemental Stranded Cost NOPR, the shifting of generation costs to transmission rates does not violate Commission policy where, as here, the customer that caused the costs to be incurred and stranded will continue to pay those costs. As we indicated, the only difference is that in some instances the customer will pay the costs through an adder to its transmission rate instead of through a generation rate. *See* FERC Stats. & Regs. ¶32,514 at 33,108 n.209.

[638] *See, e.g.*, Transwestern Pipeline Company, 43 FERC ¶61,240 at 61,654, *order on rehearing*, 44 FERC ¶61,164 at 61,536 (1988), *relevant petitions for review dismissed as moot*, Transwestern Pipeline Company v. FERC, 897 F.2d 570, 575–76 (D.C. Cir. 1990); El Paso Natural Gas Company, 47 FERC ¶61,108 at 61,314 (1989).

[639] 72 FERC ¶61,083 (1995). Further, VT DPS misinterprets the Commission's reference to the NOPR in that case. The Commission did not treat a notice of termination provision in El Paso's contract as a conclusive presumption that El Paso had no reasonable expectation of continuing to serve certain customers, as VT DPS contends. The Commission merely stated that "(e)ven if the rules proposed in (the Supplemental Stranded Cost) NOPR were applied here, El Paso would have difficulty justifying the exit fee proposed in light of the existence of the notice of termination provision in the contract." 72 FERC at 61,441.

[640] *See, e.g.*, Maryland v. Louisiana, 451 U.S. 725, 748 (1981); Office of Consumers' Counsel v. FERC, 914 F.2d 292 (D.C. 1990); National Fuel Gas Supply Corporation v. FERC, 900 F.2d 340, 342, 347–51 (D.C. Cir. 1990).

[641] In Order No. 500, the Commission provided that if pipelines absorbed from 25 to 50 percent of their take-or-pay settlement costs, they could recover an equal amount from their firm sales customers in the form of fixed charges. Any balance could be recovered in the form of a commodity rate surcharge or a volumetric surcharge on total pipeline throughput. Order No. 500, FERC Stats. & Regs. ¶30,761 at 30,787 (1987). *See also* Order No. 528, 53 FERC ¶61,163 at 61,597 (1990). Moreover, we offered pipelines an important *quid pro quo* for absorbing take-or-pay costs under Order Nos. 500 and 528—a special presumption that they had been prudent in incurring their take-or-pay liabilities.

[642] Order No. 636, FERC Stats. & Regs. ¶30,939 at 30,461.

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the stranded costs would not be equitable.

4. Recovery of Stranded Costs Associated With New Wholesale Requirements Contracts

In the Supplemental Stranded Cost NOPR, the Commission preliminarily concluded that future wholesale contracts must explicitly address the obligations of the seller and buyer, including the seller's obligation to continue to serve the buyer, if any, and the buyer's obligation, if any, if it changes suppliers. We stated that utilities will be allowed stranded cost recovery associated with "new" wholesale requirements contracts (executed after July 11, 1994) only if *explicit* stranded cost provisions are contained in the contract. We indicated that recovery of wholesale stranded costs associated with any such new contract will not be allowed unless such recovery is provided for in the contract.[643] We also stated that a contract that is extended or renegotiated for an effective date after July 11, 1994 becomes a "new" contract for which stranded cost recovery will be allowed only if explicitly provided for in the contract.[644]

We also stated that it is not appropriate to impose on a wholesale requirements supplier a regulatory obligation to continue to serve its existing requirements customer beyond the end of the contract term. We proposed to retain the § 35.15 prior notice of termination filing requirement only for: (i) All contracts required to be filed under sections 205 and 206 of the FPA that were executed before the effective date of the Final Rule pro forma tariffs; and (ii) any unexecuted contracts that were filed before the effective date of the Final Rule pro forma tariffs. With regard to any power sales contract executed on or after that date, we proposed to no longer require prior notice of termination under § 35.15, but to require (for administrative reasons) written notification of the termination of such contract within 30 days after termination takes place. We requested comments on whether this proposal should also be applied to transmission contracts.[645]

Comments

Numerous commenters support our preliminary conclusion that new wholesale requirements contracts should explicitly address the obligations of the seller and buyer and that it is not appropriate to impose on wholesale requirements suppliers a regulatory obligation to continue to serve their existing requirements customers beyond the end of the contract term.[646] However, Arkansas Cities expresses concern that this could undermine obligations to serve that have been included in certain contracts with utilities. It asks the Commission to state that, unless a utility has undertaken an obligation to serve via contract, there is no obligation to serve beyond the contract term. Arkansas Cities asks the Commission to clarify that contracts establishing an obligation to serve will be enforced.

Several other commenters argue that if a wholesale customer elects to switch suppliers, the previous supplier should be under no obligation to take the customer back onto its system at embedded cost rates.[647] Sierra asks the Commission to endorse a host utility's ability to insist on protective contract provisions before reestablishing service, including a predetermined period (such as five years—a commonly-used planning period) before the customer could seek to leave the system again.

A number of commenters support the Commission's proposal to eliminate the prior notice of termination requirement for power sales contracts executed after the date on which the final rule pro forma tariffs become effective.[648] Southern states that, because of the opportunities for power purchasers that will exist after the proposed rules take effect, the Commission also should eliminate § 35.15 as it applies to old contracts.

Several commenters support eliminating the § 35.15 filing requirement for transmission contracts as well.[649] This change is needed, some assert, to provide certainty in commercial arrangements in the more competitive environment and as a matter of fairness. CSW suggests that all § 35.15 filing requirements for existing contracts (wholesale and transmission contracts) be phased out over three years and that only contracts that expire within three years after the final rule should be subject to the requirement to file a notice of termination.

Nevertheless, several other commenters oppose the Commission's proposal to no longer require prior notice of termination for power sales contracts executed on or after the effective date of the generic tariffs.[650] TDU Systems opposes elimination of § 35.15 as tantamount to a finding that termination of all contracts is just and reasonable. TDU Systems and NRECA submit that the market power exercised by supplying utilities will not disappear the instant the rule becomes final and that it may be possible for a utility to exercise monopoly power even with regard to "new" contracts. They propose that if the Commission nevertheless decides to allow contract termination under § 35.15, the Commission should require a public utility to pay "stranded benefit" costs to former wholesale power customers if the customers show that they had a reasonable expectation that the power sales would continue past the end of the agreement at the prior rate.

Several commenters also oppose eliminating the § 35.15 filing requirement for transmission contracts.[651] FL Com asserts that because the Commission has imposed an obligation to serve for transmission service, § 35.15 should be retained for new and existing transmission contracts.

Commission Conclusion

We reaffirm our preliminary determination that future wholesale requirements contracts should explicitly address the mutual obligations of the seller and buyer, including the seller's obligation to continue to serve the buyer, if any, and the buyer's obligation, if any, if it changes suppliers. As we indicated in the Supplemental Stranded Cost NOPR, now that utilities have been placed on explicit notice that the risk of losing customers through increased wholesale competition must be addressed through contractual means only, they must address stranded cost issues when negotiating new contracts or be held strictly accountable for the failure to do so.

We accordingly will allow recovery of wholesale stranded costs associated with any new requirements contract (executed after July 11, 1994) only if explicit stranded cost provisions are contained in the contract. By "explicit stranded cost provision" (for contracts executed after July 11, 1994) we mean a provision that identifies the specific amount of stranded cost liability of the customer(s) and a specific method for calculating the stranded cost charge or rate. For purposes of requirements contracts executed after July 11, 1994 but before the date on which this Final Rule is published in the **Federal Register**, however, we clarify that a provision that specifically reserved the right to seek stranded cost recovery consistent with what the Commission permits in this Rule (without identifying the specific amount of stranded cost liability of the customer(s) and calculation method) nevertheless will be deemed an "explicit stranded cost provision." However, a provision in a requirements contract executed after July 11, 1994 but before the date on which this Final Rule is published in the **Federal Register** that merely postpones the issue of stranded cost recovery without specifically providing for such recovery will *not* be considered an "explicit stranded cost provision." After the date on which this Final Rule is published in the **Federal Register**, a provision must identify the specific amount of stranded cost liability of the customer(s) and a specific method for calculating the stranded cost charge or rate in order to constitute an "explicit stranded cost provision."

We reaffirm that a requirements contract that is extended or renegotiated for an effective date after July 11, 1994 becomes a "new" requirements contract for which stranded cost recovery will be allowed only if explicitly provided for in the contract.

We also reaffirm our preliminary determination not to impose a regulatory obligation on wholesale requirements suppliers to continue to serve their existing requirements customers beyond the end of the contract term. The only exception to this would be if the customer decides to remain a requirements customer for the period for which the Commission finds that the supplying utility reasonably expected to continue serving the customer. In such a case, the supplying utility will be obligated to offer continuing service to the requirements customer for the period the utility reasonably expected to continue serving the customer.

A requirements customer will be responsible for planning to meet its power needs beyond the end of the contract term by either building its own generation, signing a new power sales contract with its existing supplier, or contracting with new suppliers in conjunction with obtaining transmission service under its existing supplier's open access transmission tariff or another utility's transmission system. In so holding, it is not our intent to undermine any obligations specifically contained in a contract. Thus, if a contract explicitly establishes an obligation to serve beyond the end of the contract term, such a contractually-imposed obligation to serve (as distinguished from a regulatory obligation to serve) would be enforceable as a term of the contract. If a wholesale customer that switches suppliers later seeks to reestablish service with its former supplier, it will be up to the parties to negotiate their respective obligations.

We also reaffirm our preliminary determination to no longer require prior notice of termination under § 35.15 for any power sales contract executed on or after the effective date of the Final Rule pro forma tariff (but to require written notification of the termination of such contract within 30 days after termination takes places). This determination goes hand-in-hand with our determination (discussed above) not to impose a regulatory obligation on wholesale requirements suppliers to continue to serve their existing requirements customers beyond the end of the contract term.[652] We clarify, however, that this decision applies only to a power sales contract that is to *terminate by its own terms* (such as on the contract's expiration date). We have revised § 35.15 accordingly. We will, however, continue to require prior notice of cancellation or termination for any power sales contract that is proposed to be cancelled or terminated for a reason other than by the contract's own terms (such as a self-help provision related to, for example, a billing dispute), regardless of when the contract was executed. We also will continue to require prior notice of the proposed termination of any power sales contract executed before the effective date of the Final Rule pro forma tariff (even if the contract is to terminate by its own terms) as well as any unexecuted power sales contract that was filed before that date.

Further, we will retain the § 35.15 filing requirement for all transmission contracts. The reason for retaining the § 35.15 requirement for transmission contracts is that transmission will continue to be provided under conditions of potential market power, and the Commission must be assured that transmission owners are not exerting market power in termination of transmission contracts. In addition, this filing requirement will provide the customer an opportunity to notify the Commission if the termination terms are disputed or if the customer was not given adequate opportunity to exercise its limited right of first refusal under the Final Rule (*see* Section IV.A.5).

5. Recovery of Stranded Costs Associated With Existing Wholesale Requirements Contracts

In the Supplemental Stranded Cost NOPR, the Commission reaffirmed its proposal to permit the recovery of legitimate, prudent and verifiable stranded costs for a discrete set of "existing" wholesale requirements contracts (executed on or before July 11, 1994)—those that do not already contain exit fees or other explicit stranded cost provisions. We encouraged the parties to such contracts to renegotiate them to address stranded costs. In the case of existing contracts that already contain an exit fee or explicit stranded cost provision, however, we proposed to reject a unilateral stranded cost amendment; that is, we stated we would reject an amendment unless the contract permits renegotiation of the existing stranded cost provision or the parties to the contract mutually agree to renegotiate the contract.[653] In so doing, we proposed to drop the three year mandatory negotiation period suggested in the initial Stranded Cost NOPR.[654]

If an existing requirements contract does not contain an exit fee or other explicit stranded cost provision (and is not renegotiated to add such a provision), we proposed that before the expiration of the contract: (1) A public utility or its customer may file a proposed stranded cost amendment to the contract under section 205 or 206; or (2) a public utility or transmitting utility may file a proposal to recover stranded costs associated with any such existing contract through its transmission rates for a customer that uses the utility's transmission system to reach another generation supplier.

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[643] FERC Stats. & Regs. ¶ 32,514 at 33,110.

[644] *Id.* at 33,118.

[645] *Id.* and nn. 273, 274.

[646] *E.g.*, PA Com, FL Com, PSNM, Southern, NC Com, Duke, Public Service Co of CO, SoCal Edison, PacifiCorp, Carolina P&L, NYSEG.

[647] *E.g.*, Sunflower, Sierra, Public Service Co of CO, Duke.

[648] *E.g.*, EEI, NYSEG, Southern, PA Com, SoCal Edison, Pacificorp, El Paso.

[649] *E.g.*, EEI, Public Service Co of CO, PA Com, Entergy, Florida Power Corp.

[650] *E.g.*, TDU Systems, NRECA, TAPS, Redding, Southwest TDU Group. VT DPS sees no urgent need for elimination of the § 35.15 requirement or for automatic termination of sales service under a wholesale contract of more than three years duration. However, it supports pregranted authorization of service termination upon expiration of sales contracts with terms of less than three years. Among other things, it submits that the pregranted authority to terminate short-term service would relieve the utility of a planning uncertainty and allow it to maximize use of uncommitted transmission capacity.

[651] TAPS, TDU Systems, FL Com. MMWEC.

[652] Although several commenters have asked the Commission to retain the prior notice of termination filing requirement due to concern that a utility nevertheless may be able to exercise generation market power with regard to a "new" wholesale requirements contract, we do not believe that retention of that provision is necessary to address these commenters' concerns. Instead, any party claiming to be aggrieved by a utility's alleged abuse of generation market power under a wholesale requirements contract can file a complaint with the Commission under section 206 of the FPA.

[653] FERC Stats. & Regs. ¶ 32,514 at 33,113.

[654] We invited comments on this proposal. *Id.* at 33,115.

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In the Supplemental Stranded Cost NOPR, we reaffirmed our proposal in the initial Stranded Cost NOPR that, even if the contract contains an explicit *Mobile-Sierra*[655] provision, it is in the public interest to permit public utilities to seek unilateral amendments to add stranded cost provisions if the contracts do not in essence forbid such recovery by containing exit fees or other explicit stranded cost provisions.[656] Under these circumstances, if neither of the parties seeks and obtains acceptance or approval of a stranded cost amendment, we propose to permit the public utility to seek recovery of stranded costs through its wholesale transmission rates.

We also proposed procedures for providing an existing wholesale requirements customer advance notice of how the utility would propose to calculate costs that the utility claims would be stranded by the customer's departure.[657]

Comments

a. July 11, 1994 Cut-Off Date

A number of commenters ask the Commission to reconsider the July 11, 1994 cut-off date for distinguishing between "existing" and "new" requirements contracts. Some commenters[658] support October 24, 1992 (the date of passage of the Energy Policy Act) as the cut-off date on the basis that anyone entering into a wholesale requirements contract after that date should have recognized the greatly increased possibility of the customer terminating or not renewing the contract.

Other commenters[659] support a later date for defining "new" requirements contracts, such as the date on which the final rule open access tariffs become effective. Utilities For Improved Transition argues that the Commission cannot retroactively adopt the July 11, 1994 cut-off date, but must wait until the final rule is issued before setting the date after which requirements contracts must contain stranded cost provisions in order for stranded cost recovery to be allowed.

Commenters representing electric cooperatives also oppose the July 11, 1994 cut-off date.[660] They contend that RUS borrowers were not free to negotiate stranded cost amendments to wholesale power contracts as soon as the Commission warned them to do so because their wholesale power contracts are mandated both as to form and substance by the RUS.[661]

PA Munis asks the Commission to treat certain contracts that were executed before July 11, 1994 (but not approved by the Commission until after that date) as "new" contracts. PA Munis argues that the utility, after issuance of the initial NOPR, could have withdrawn its filing of the contract and sought to negotiate an exit fee at that time. It submits that the utility's failure to do so would justify a finding by the Commission that contracts *approved* after July 11, 1994 be treated similarly to contracts executed after that date.

b. Stranded Cost Recovery for Existing Requirements Contracts

A number of commenters express support for the Commission's proposal to permit modification of existing requirements contracts that do not already contain exit fees or other explicit stranded cost provisions.[662] NEPCO states its interpretation that the NOPR does not consider notice provisions to be "explicit stranded cost provisions;" it argues that the presence of a notice provision in a contract, while bearing on the supplier's ability to demonstrate the duration of its reasonable expectation of continued service, should not foreclose the amendment of a wholesale contract to add an exit fee or similar payment provision. Several other commenters ask the Commission to clarify that contracts that contain notice provisions and that preclude recovery for termination or reduction of service (but that do not necessarily use the terms "exit fee" or "stranded cost"), or that expressly provide that stranded costs shall not be charged, cannot be reopened for a stranded cost claim.[663]

A number of other commenters oppose the Commission's proposal to permit amendment of wholesale requirements contracts that do not address stranded cost recovery, for reasons previously raised in this proceeding.[664] They argue, among other things, that contracts should stand on their own. RUS asserts that the integrity of its Federal loan program is to a large extent predicated on honoring the long-term requirements wholesale power contracts between G&Ts and their distribution members.

Several commenters also challenge the Commission's proposed determination that it is in the public interest to permit utilities to seek unilateral amendments to add stranded cost provisions to requirements contracts. These commenters argue that the NOPR's assumptions concerning the financial stability of public utilities are unsupported and thus do not meet the burden of proof required for the public interest finding under the *Mobile-Sierra* doctrine. They urge the Commission to require a utility-specific finding of imminent financial jeopardy before overriding a *Mobile-Sierra* contract.[665]

ELCON argues that the recent *Northeast Utilities Service Company* v. *FERC*[666] case reaffirms the traditional high threshold for overriding *Mobile-Sierra* clauses in the "classic *Mobile-Sierra* situation" in which one of the parties seeks modification of a contract that has already been reviewed and approved by the Commission. It submits that a utility seeking to add a stranded cost provision to an existing contract would fall within the "classic situation." ELCON also argues that the First Circuit strongly implied that to satisfy *Mobile-Sierra*, the Commission must identify specifically those aspects of a contract that are contrary to the public interest and why. On this basis, ELCON argues that the case supports its position that a utility-specific finding of imminent financial jeopardy is necessary to override an existing *Mobile-Sierra* contract.[667]

[655] *See* United Gas Pipeline Company v. Mobile Gas Service Corporation, 350 U.S. 332 (1956); FPC v. Sierra Pacific Power Company, 350 U.S. 348 (1956).

[656] FERC Stats. & Regs. ¶ 32,514 at 33,113–14. We noted that under the *Mobile-Sierra* doctrine, a customer may waive its right to challenge the contract and/or the utility may waive its right to make unilateral rate changes. However, the parties may not waive the indefeasible right of the Commission to alter rates that are contrary to the public interest. *Id.* at 33,111.

[657] *Id.* at 33,114–15.

[658] *E.g.*, ELCON, TAPS, Alcoa, Utilicorp.

[659] *E.g.*, Utilities For Improved Transition, Atlantic City.

[660] *E.g.*, Basin, Tri-County EC, NW Iowa Cooperative, Baker EC, Big Horn EC, Black Hills EC, Bon Homme Yankton EC, Carbon Power, Central EC, Douglas EC, East River EC, Ida County REC, James Valley EC, Lincoln-Union EC, McKenzie EC, North Dakota RECs, Oahe EC, Oliver-Mercer EC, Panhandle Coop, Rushmore EC, San Luis Valley EC, Slope EC, Spink EC, Turner-Hutchinson EC, Traverse EC, Union County EC, West River EC, Whetstone Valley EC, Woodbury County REC, Yellowstone Valley EC.

[661] Basin indicates that all such contracts for the sale of more than 1,000 kW and any amendments thereto must be specifically approved by the RUS.

[662] *E.g.*, EEI, PSNM, AEP, Consumers Power. Consumers Power suggests that the language of proposed § 35.26(c)(1)(iv) be modified to recite the Commission's public interest finding.

[663] *E.g.*, Concord, Chugach, ME Consumer-Owned Utilities.

[664] *E.g.*, Utilicorp, AMP-Ohio, Environmental Action, DE Muni, Arkansas Cities, Direct Service Industries, PA Munis, ABATE, APPA.

[665] *See, e.g.*, American Forest & Paper, VT DPS, PA Munis, ABATE, ELCON, APPA, Environmental Action.

[666] 55 F.3d 686 (1st Cir. 1995) (*Northeast Utilities*).

[667] PA Munis argues that *Northeast Utilities* provides no support for the Commission's proposed *Mobile-Sierra* finding because *Northeast Utilities* involved the effect of disputed contractual terms on third parties, not the alleged financial effect on the utility. It argues that the court found that the Commission had adequately explained how the disputed contractual terms may harm third parties to the contract (which PA Munis says the Commission has failed to do here). PA Munis also submits that the court went out of its way to emphasize the narrow scope of its order affirming the Commission.

[668] *E.g.*, ELCON, CCEM, VT DPS, OK Com, TDU Systems, LG&E, ABATE, Portland, Utilicorp, TAPS.

[669] *E.g.*, Knoxville, Memphis.

[670] *E.g.*, EEI, Florida Power Corp, PA Com, WP&L, Consumers Power, FL Com, TVA, SoCal Edison, Texas Utilities.

[671] *E.g.*, TAPS, TDU Systems, DOD, ELCON, APPA.

Some commenters argue that if utilities are to be granted industry-wide *Mobile-Sierra* relief, then the Commission should give wholesale customers the reciprocal right to convert their wholesale power contracts to transmission-only service.[668] However, EEI contends that the Commission is barred by section 211(c)(2) of the FPA from ordering wheeling where a customer is taking service under a contract or under a rate tariff on file with the Commission.

Several commenters ask the Commission to require renegotiation of the notice and/or term of all existing contracts with long lead-time cancellation provisions in order to allow all wholesale customers access to the market at the same time.[669] They submit that customers with short notice provisions will be the first to enjoy the benefits of open access and will have an effective "first right of refusal" of the most economical transmission paths and low cost suppliers, putting customers with long lead-time cancellations at a competitive disadvantage.

c. Transition Period

A number of commenters support the Commission's proposal not to mandate a three-year time limit for renegotiation of existing wholesale requirements contracts. They note that existing contracts have unique characteristics and complexities that affect the time required to renegotiate the contract bilaterally, to file a unilateral amendment with the Commission, or to file for stranded cost recovery through transmission rates.[670]

On the other hand, some commenters object that the proposal to replace the previously proposed three-year window with an opportunity to raise stranded cost claims throughout the existing contract term creates a virtually unlimited transition period.[671] For example, ELCON asserts that because the NOPR would allow utilities to seek amendment of an existing contract any time prior to its expiration, stranded cost issues could extend through the life of existing facilities (30 years or more). Portland suggests that the Commission set a schedule now for proceedings to determine transmission costs and stranded costs for each utility with wholesale requirements customers.

Commenters propose various limits to the period within which stranded cost recovery could be raised, such as: (i) Three to five years;[672] (ii) the lesser of three years from the effective date of the final rule or the remaining term of the contract;[673] (iii) one year from the effective date of the final rule;[674] and (iv) December 31, 1998 (20 years after PURPA).[675]

Commission Conclusion

a. July 11, 1994 Contract Cut-Off Date

We reaffirm our proposal to permit the recovery of legitimate, prudent and verifiable stranded costs for "existing" wholesale requirements contracts (executed on or before July 11, 1994) that do not already contain exit fees or other explicit stranded cost provisions. We believe that July 11, 1994—the date on which the initial Stranded Cost NOPR was published and, thus, on which the industry was put on notice of the proposal to disallow prospectively extra-contractual recovery of stranded costs—is the appropriate date for distinguishing "existing" requirements contracts from "new" requirements contracts. Because all parties were put on notice in the initial Stranded Cost NOPR that July 11, 1994 would be the operable date for the "existing"/"new" contract distinction, utilities that executed requirements contracts after that date could have had no reasonable expectation that they would be permitted to recover any costs extra-contractually.

Moreover, because the costs at issue are extra-contractual costs, the Commission's notice to all parties that contracts executed after July 11, 1994 will be enforced by their terms as far as stranded cost recovery is concerned does not constitute "retroactive rulemaking." Contrary to UFIT's contention, the Commission is not "requir[ing]" utilities to include stranded cost recovery provisions in all contracts executed after July 11, 1994.[676] The Commission has merely put all parties on notice that the opportunity for extra-contractual stranded cost recovery (which will be allowed on a prospective basis upon the effective date of the Rule) will not be available for any requirements contracts executed after July 11, 1994. The parties to requirements contracts executed after July 11, 1994 have been free to provide for stranded cost recovery in the contract, or not.[677] The point is that, for requirements contracts executed after the cut-off date, stranded cost recovery will be governed solely by the terms of the contract.

b. Stranded Cost Recovery for Existing Requirements Contracts

We reaffirm that we will permit utilities to seek recovery of stranded costs for a limited set of existing wholesale requirements contracts, namely, those that do not already contain exit fees or other explicit stranded cost provisions.[678] If an existing requirements contract includes an explicit provision for payment of stranded costs or an exit fee, we will assume that the parties intended the contract to cover the contingency of the buyer leaving the system. We will reject a stranded cost amendment to such a contract, unless the contract permits renegotiation of the existing stranded cost provision or the parties to the contract mutually agree to a new stranded cost provision. Similarly, we will reject a stranded cost amendment to an existing requirements contract if the contract prohibits stranded cost recovery (or precludes recovery for termination or reduction of service) or

[672] *E.g.*, Sierra, Central Illinois Light, NY Energy Buyers, American Forest & Paper, WEPCO, EGA. Education proposes either a transition period that ends five years after the effective date of the final rule or a phase-out of the utility's authority to recover stranded costs from departing customers by gradually reducing (for instance, over a ten year period from the date of the final rule) the percentage of stranded costs that the utility could recover.

[673] *E.g.*, TAPS, Missouri Joint Commission.

[674] *E.g.*, TDU Systems.

[675] *E.g.*, DOD, ABATE.

[676] See UFIT Initial Comments at 34. Moreover, the cases that UFIT cites, in which the Commission rejected parties' efforts to devise rates based on methods or formulas contained in proposed rules, are inapposite. By establishing the July 11, 1994 cutoff date, the Commission is not "fix(ing) rates under section 206" or otherwise making "a Section 206 'determination,'" as UFIT suggests. *Id.* at 35, 36. The Commission has not proposed a change in the way that utilities compute their rates; it has simply put all parties on notice of the limited nature and opportunity for extra-contractual stranded cost recovery.

[677] In response to the commenters representing electric cooperatives that object to the July 11, 1994 cut-off date, we do not believe that the requirement that RUS borrowers obtain RUS approval of their contracts necessarily prevents such borrowers from addressing stranded cost recovery in contracts executed after July 11, 1994.

[678] We confirm that a notice of termination provision by itself (that is, one that does not also provide for or preclude recovery of stranded costs by the seller upon termination of the contract) is not an "explicit" stranded cost provision; however, as discussed in Section IV.I.8, the presence of a notice provision creates a rebuttable presumption that the utility had no reasonable expectation of continuing to serve the customer.

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prohibits renegotiation of an existing stranded cost or exit fee provision, unless the parties to the contract mutually agree to a new stranded cost provision.[679]

We reaffirm our desire that utilities attempt to renegotiate with their customers existing requirements contracts that do not contain exit fees or other explicit stranded cost provisions. If the parties negotiate a stranded cost provision and the seller is A public utility, the utility must file the provision with the Commission as an amendment to the existing requirements contract.

If an existing requirements contract does not contain an exit fee or other explicit stranded cost provision (and is not renegotiated to add such a provision), before the expiration of the contract: (1) a public utility or its customer may file a proposed stranded cost amendment to the contract under section 205 or 206; or (2) a public utility in a section 205 proceeding, or a transmitting utility in a section 211 proceeding, may file a proposal to recover stranded costs associated with any such existing contract through its transmission rates for a customer that uses the utility's transmission system to reach another generation supplier.

We thus reaffirm that if an existing requirements contract is not renegotiated, and the contract permits the seller and/or buyer to seek an amendment to the contract, the authorized party may seek an amendment to add a stranded cost provision. We also adopt our preliminary finding that, even if an existing requirements contract contains an explicit *Mobile-Sierra* provision, it is in the public interest to permit the public utility to seek a unilateral amendment to add stranded cost provisions if the contract does not already contain exit fees or other explicit stranded cost provisions. In the initial Stranded Cost NOPR, we identified two ways in which a failure to permit public utilities to address stranded costs could harm third parties, and thereby harm the public interest:

First, the inability to seek recovery of stranded costs could impair the financial ability of a utility to continue to provide reliable service. This will depend on the magnitude of stranded costs and the prospect or lack thereof for recovering such costs from ratepayers. The prospect of not recovering from ratepayers significant amounts of stranded costs could seriously erode a utility's access to capital markets, or could drive the utility's cost of capital to unprecedented levels. This high cost of capital could precipitate other customers leaving the system which, in turn, could cause others to leave. Such a spiral could be difficult to stop once begun. Second, if some customers are permitted to leave their suppliers without paying for stranded costs, this may cause an excessive burden on the remaining customers who, for whatever reason, cannot leave and therefore may have to bear those costs.[680]

The financial community commenters confirm our views in this regard. As they note, a utility's access to financial markets is essential to the continued provision of safe and reliable electric service to customers. However, the prospect of a utility not recovering stranded costs could erode a utility's ability to attract capital and thus imperil its continued financial stability.[681] As these and other commenters agree, the recovery of stranded costs is critical to the successful transition to more competitive markets.

Moreover, our determination that it is in the public interest to give public utilities a limited opportunity to propose contract changes unilaterally to address stranded costs if their contracts do not already explicitly do so satisfies the public interest standard of the *Mobile-Sierra* doctrine as recently interpreted by the *Northeast Utilities* court. In that case, the court affirmed an order of the Commission on remand modifying a contract under the *Mobile-Sierra* public interest standard.[682] As the court explained, the *Mobile-Sierra* doctrine "represents the Supreme Court's attempt to strike a balance between private contractual rights and the regulatory power to modify contracts when necessary to protect the public interest."[683] The court noted that when the Commission is considering whether a contract rate is too low, protective action by the Commission in the public interest is justified "where the rate might impair the financial ability of the utility to continue to supply electricity, force electricity consumers to bear an excessive burden, or be unduly discriminatory."[684]

The court also explained that "the most attractive case for affording additional protection [under the public interest standard], despite the presence of a contract, is where the protection is intended to safeguard the interests of third parties * * *."[685] It stated that the *Mobile-Sierra* doctrine allows the Commission to modify the terms of a private contract "when third parties are threatened by possible 'undu[e] discrimination' or the imposition of an 'excessive burden.'"[686] The court found that the Commission had met the public interest standard by showing how the contract could harm *third parties*.[687]

Consistent with the holding in *Northeast Utilities*, and contrary to the positions of some commenters, we have demonstrated how "*third parties* may ultimately bear the burden"[688] if public utilities with *Mobile-Sierra* contracts are not given any opportunity to propose contract changes to address stranded costs. If the Commission fails to give a public utility this opportunity, and the utility's financial ability to continue the provision of safe and reliable service is impaired, third parties (customers relying on the public utility for their electric service) will be placed at risk. Similarly, if the Commission fails to give a public utility the opportunity to directly assign costs to the customers on whose behalf they were incurred, and some of the utility's customers leave the utility's generation system for that of another supplier without paying such costs, third parties (the utility's remaining customers) will be harmed by having to bear the costs that were not incurred to serve them and that are stranded by the other customers' departures via open access transmission. Moreover, we believe that protective action in the public interest is particularly necessary where, as here, a utility's rates could become insufficient because of fundamental changes in the industry that largely result from legislative or regulatory changes that could not be anticipated.

Further, notwithstanding the arguments of some commenters supporting a case-by-case (as opposed to a generic) public interest finding, we believe it appropriate that our public interest finding be made on a generic basis given the fact that, by this Rule, we are requiring full open access that could significantly affect historical relationships among traditional utilities and their customers and the ability of utilities to recover prudently incurred costs. We also emphasize that we are not eliminating the need for case-by-case demonstrations that stranded cost recovery should be allowed. Our public interest finding is that utilities be permitted to *seek* extra-contractual recovery of stranded costs in certain defined circumstances. Utilities seeking recovery of stranded costs will have the burden, on a case-by-case basis, of showing they had a reasonable expectation of continuing to serve the departing generation customer.

In summary, we emphasize the limited nature of our *Mobile-Sierra* public interest finding. First, our holding applies only to wholesale requirements contracts executed on or before July 11, 1994 that do not contain an exit fee or other explicit stranded cost provision. Thus, we will not permit modification of any contract that addresses the stranded cost issue explicitly, unless the contract specifically permits such modifications. Instead, we are simply examining requirements contracts that do not clearly address the issue in the context of the traditional regulatory regime under which they were signed—a regulatory environment in which it was assumed as a matter of course that the great majority of requirements customers would stay with their original suppliers and that these suppliers had a concomitant obligation to plan to supply these customers' continuing needs.

Second, although we have decided on a generic basis that it is in the public interest to permit public utilities with *Mobile-Sierra* contracts to make unilateral filings, we are not automatically approving any amendment that a particular utility might file. As we stated in the initial Stranded Cost NOPR, if a public utility unilaterally files a proposed stranded cost amendment under either section 205 or 206 of the FPA, this does not necessarily mean that the Commission ultimately will find it appropriate to allow such amendment.[689] In addition, customers with *Mobile-Sierra* contracts that do not explicitly address stranded costs may also file complaints under section 206 of the FPA to propose to address stranded costs in existing requirements contracts. The Commission will analyze any proposed stranded cost amendment to a *Mobile-Sierra* contract, whether proposed by the utility or by its customer, based on the particular circumstances surrounding that contract. Thus, the case-by-case findings that some commenters seek will, in effect, be made when the Commission determines whether to approve a proposed stranded cost amendment to a particular contract.

As discussed in Section IV.A (Scope), the Commission has concluded that although current conditions in the wholesale power market do not warrant the generic modification of requirements contracts, nonetheless the modification of certain requirements contracts on a case-by-case basis may be appropriate. We have concluded further that, even if customers under such contracts are bound by so-called *Mobile-Sierra* clauses, they nonetheless ought to have the opportunity to demonstrate that their contracts no longer are just and reasonable.

We have found that it would be against the public interest to permit a *Mobile-Sierra* clause in an existing wholesale requirements contract to preclude the parties to such a contract from the opportunity to realize the benefits of the competitive wholesale power markets. For purposes of this finding, the Commission defines existing requirements contracts as contracts executed on or before July 11, 1994.[690] By operation of this finding, a party to a requirements contract containing a *Mobile-Sierra* clause no longer will have the burden of establishing independently that it is in the public interest to permit the modification of such contract. The party, however, still will have the burden of establishing that such contract no longer is just and reasonable and therefore ought to be modified.

This finding complements the Commission's finding that, notwithstanding a *Mobile-Sierra* clause in an existing requirements contract, it is in the public interest to permit amendments to add stranded cost provisions to such contracts if the public utility proposing the amendment can meet the evidentiary requirements of this Rule. The Commission's complementary *Mobile-Sierra* findings are not mutually exclusive. Any contract modification approved under this section shall provide for the utility's recovery of any costs stranded consistent with the contract modification. The stranded costs must be prudently incurred, legitimate and verifiable. Further, the Commission has concluded that if a customer is permitted to argue for modification of existing contracts that are less favorable to it than other generation alternatives, then the utility should be able to seek modification of contracts that may be beneficial to the customer.

The Commission believes that the most productive way to analyze contract modification issues is to consider simultaneously both the selling public utility's claims, if any, that it had a reasonable expectation of continuing to serve the customer beyond the term of the contract and the customer's claim, if any, that the contract no longer is just and reasonable and therefore ought to be modified. Thus, if the selling public utility intends to claim stranded costs, it must present that claim in any section 206 proceeding brought by the customer to shorten or terminate the contract. Similarly, if the customer intends to claim that the notice or termination provision of its existing requirements contract is unjust and unreasonable, it must present that claim in any proceeding brought by the selling public utility to seek recovery of stranded costs. This will promote administrative efficiency and will permit the Commission to consider how the contracting parties' claims bear on one another.

[679] In the case of an existing wholesale requirements contract that does not contain an exit fee or other explicit stranded cost provision but does contain a notice provision, once a customer gives notice according to the terms of the contract that it will no longer purchase all or a part of its requirements from the selling utility, we would not allow the utility to amend the contract to add a stranded cost provision. However, in such a case, the utility could seek to recover stranded costs through its rates for transmission services to the customer. As discussed in Section IV.J.8, the utility would have to rebut the presumption that, based on the presence of the notice provision, it had no reasonable expectation of continuing to serve the customer.

[680] FERC Stats. & Regs. ¶ 32,507 at 32,670.

[681] *See* Utility Investors Analysts, Initial Comments at 2–3; Utility Shareholders, Initial Comments at 2–4.

[682] The court concluded that the Commission "gave thoughtful consideration to the public interest." 55 F.3d at 693.

[683] *Id.* at 689.

[684] *Id.* at 690.

[685] *Id.* at 691, citing Northeast Utilities Service Company v. FERC, 993 F.2d 937, 961 (1st Cir. 1993).

[686] *Northeast Utilities*, 55 F.3d at 691. The court distinguished the facts of that case from other *Mobile-Sierra* cases. It noted that "[t]he issue here is not whether one party to a rate contract filed with FERC can effect a rate change unilaterally, but the standard to be used by FERC in examining electric power contracts filed with it." *Id.* at 690–91. It also noted that the contract provisions under review were not low-rate issues in the context of *Mobile* and *Sierra*. We recognize that whether a contract should be modified to add a stranded cost provision could be viewed as one party to a contract seeking to effect a unilateral rate change, or as a low-rate issue (*i.e.*, whether the utility's rates would be insufficient without stranded cost recovery). However, parties are being permitted to make such unilateral filings only after a generic finding by the Commission that the public interest likely would be jeopardized if utilities are not permitted to make a case-specific showing that recovery should be allowed. We believe that *Northeast Utilities* provides valuable guidance concerning application of the public interest standard where, as here, a failure to allow limited contract modification may harm the public interest by harming third parties.

[687] The court found that the Commission had met the public interest standard "by explaining how the disputed contractual terms may harm third parties to the contract. * * * For example, the Commission found the automatic rate-of-return-on-equity adjustment provision unacceptable because *third parties* may ultimately bear the burden of a rate component that does not reflect actual capital market conditions. Likewise, the 'blank check' given owners of the power plant to determine the decommissioning costs for themselves under New Hampshire law is impermissible because it may be cashed at the expense of non-parties to the contract." *Id.* at 692 (emphasis in original). The court rejected the argument that the public interest standard is "practically insurmountable" in all circumstances. It noted, among other things, "that neither *Mobile* nor *Sierra* stated or intimated that the 'public interest' doctrine was 'practically insurmountable.'" *Id.* at 691.

[688] *Id.* at 692 (emphasis in original).

[689] FERC Stats. & Regs. ¶ 32,507 at 32,671.

[690] This is consistent with the definition of existing requirements contracts we have used for purposes of stranded cost recovery.

The Commission does not take contract modification lightly. Whether a utility is seeking a contract amendment to permit stranded cost recovery based on expectations beyond the stated term of the contract, or a customer is seeking to shorten or eliminate the term of an existing contract, we believe that each have a heavy burden in demonstrating that the contract ought to be modified. Still, we believe that given the industry circumstances now facing us, both selling utilities and their customers ought to have an opportunity to make the case that their existing requirements contracts ought to be modified. By providing both buyers and sellers this opportunity, the Commission attempts to strike a reasonable balance of the interests of all market participants. The Commission expects that many of the arguments presented by buyers and sellers in such proceedings will be fact specific.

c. Transition Period

We reaffirm our proposal to allow a public utility or its customer to file a proposed stranded cost amendment, or to allow a public utility or transmitting utility to file a proposal to recover stranded costs through a departing generation customer's transmission rates, at any time prior to the expiration of the contract. There is no uniform time remaining on requirements contracts executed on or before July 11, 1994. Any limitation on the period in which parties could propose amendments covering stranded costs (*e.g.*, 3 years) would thus unequally affect market participants. Those with long terms remaining on their contracts could object that immediately addressing the issue would not be cost effective. For example, a utility with a long remaining term (*e.g.*, 20 years) might not even seek stranded cost recovery depending on the competitive value of its assets near the end of the contract term.[691] However, such a utility would invariably seek to preserve its option to seek stranded cost recovery if its failure to do so within a short period resulted in a waiver of its right to do so.

6. Recovery of Stranded Costs Caused by Retail-Turned-Wholesale Customers

In the Supplemental Stranded Cost NOPR, we stated that both this Commission and state commissions have the legal authority to address stranded costs that result from retail customers becoming wholesale customers who then obtain transmission under the open access tariffs.[692] We proposed that this Commission should be the primary forum for addressing the recovery of stranded costs caused by retail-turned-wholesale customers. We explained that if a retail customer becomes a legitimate wholesale customer (such as through municipalization), it becomes eligible to use the non-discriminatory open access tariffs:

> If costs are stranded as a result of this wholesale transmission access, we believe that these costs should be viewed as 'wholesale stranded costs.' But for the ability of the new wholesale entity to reach another generation supplier through the FERC-filed open access transmission tariff, such costs would not be stranded.[693]

We accordingly proposed to define "wholesale stranded costs" to include stranded costs resulting from unbundled transmission for newly-created wholesale customers and sought comments on this definition.

We proposed to require the same evidentiary demonstration for recovery as that required if recovery were sought from a wholesale requirements customer. We reaffirmed our proposal in the initial Stranded Cost NOPR that a utility will have to show that the stranded costs are not more than the net revenues that the retail-turned-wholesale customer would have contributed to the utility had it remained a retail customer of the utility, and that the utility has taken and will take reasonable steps to mitigate stranded costs. We further proposed to deduct any recovery that a state has permitted from departing retail-turned-wholesale customers from the legitimate stranded costs of which we will allow recovery. In addition, we proposed to apply the same procedures for obtaining an estimate of maximum stranded cost exposure without mitigation to retail customers contemplating becoming wholesale transmission customers as those proposed for wholesale customers.[694]

Comments

Some commenters contend that stranded costs that result when a retail customer becomes a wholesale customer should be left to the states as a matter of law and comity.[695] These commenters argue, among other things, that because the facilities used to provide retail service to these retail customers were subject to state jurisdiction and were included in retail rate base when the service was rendered, the state is the appropriate entity to determine the extent to which those customers should compensate the utility for the stranding of these costs. According to ELCON, "(a) retail customer's new found access to the wholesale market does not provide FERC with authority over costs that originated with the local distribution function."[696]

Commenters assert that stranded costs resulting from the creation of new wholesale entities will occur as a result of state or local decisionmaking.[697] A number of commenters contend that in states where the state commission has control over municipalization, the Commission has no authority to provide for the recovery of stranded costs due to municipalization.[698] IL Com asserts that the Commission lacks authority over retail-turned-wholesale stranded costs, even in the absence of any explicit statutory authority for state commissions to address such costs. FL Com argues that the Commission should address the recovery of these stranded costs only upon petition from a state public utility commission.

According to some commenters, the availability of open access transmission tariffs does not convert the character of the costs of stranded generation that was built to serve retail customers from retail to wholesale.[699] CA Com argues that this reasoning could require the Commission to act as the primary forum for stranded costs resulting from retail wheeling if the Commission's jurisdiction over retail transmission is upheld. It argues that in such a case, there also would be a relationship between the Commission-jurisdictional transmission and stranded costs.

Some commenters also submit that the potential for retail customers to become wholesale customers has existed since the beginning of the industry and that utilities have had ample opportunity to adjust to this risk.[700] A number of commenters submit

[691] The value of its assets could vary over time as new technologies emerge, fuel costs fluctuate, or environmental requirements change.

[692] FERC Stats. & Regs. ¶ 32,514 at 33,127.

[693] *Id.* at 33,128.

[694] *Id.*

[695] *E.g.*, NARUC, ELCON, TAPS, NASUCA, N.Y. Mayors, NY Industrials, American Iron & Steel, Missouri Joint Commission, Omaha PPD, MI Com, NY Com, NJ BPU, VT DPS, OK Com, IN Com, UT Com, WA Com, Environmental Action, IN Industrials, LA DWP, Seattle, CAMU, Las Cruces, UT Industrials, Suffolk County, NM Industrials, CO Consumers Counsel.

[696] ELCON Comments, dated July 25, 1995, at 41.

[697] *E.g.*, MD Com, MI Com, LA DWP, Las Cruces. For example, MD Com states that while open access transmission may make municipalization more attractive, it ultimately is MD Com's approval that makes municipalization possible in Maryland.

[698] *E.g.*, MD Com, Las Cruces, Caparo, Coalition on Federal-State Issues, IN Com, MI Com, Iowa Board.

[699] *E.g.*, IL Com, CA Com, Midwest Commissions, CO Consumers Counsel.

[700] *E.g.*, LA DWP, Ohio Manufacturers, MMWEC, American Iron & Steel, UT Industrials, MI Com, NY Industrials, WA Com, Caparo.

that state commissions are in a better position than the Commission to address the recovery of costs that were incurred to serve retail customers and to take into consideration local concerns.[701]

NARUC recognizes that a "practical regulatory gap may exist that prevents [state commission] consideration of recovery of * * * potentially stranded costs" in certain instances "such as municipalization and cooperatives, where retail customers become wholesale customers under a FERC-approved open access tariff, [and] costs of the utility which served the customer at retail may become stranded;"[702] NARUC proposes that the affected states and the Commission collaboratively develop mechanisms (which may involve amendments to the FPA, state statutes, or both) to eliminate these regulatory gaps.

Some commenters object that the Commission's proposal to be the primary forum for recovery of stranded costs caused by retail-turned-wholesale customers would make municipalization more expensive and therefore would discourage municipalities from seeking alternative sources of electricity.[703] Some argue that different treatment of stranded costs between federal and state authorities may lead to forum-shopping as a primary determinant in the decision to municipalize.[704]

A number of commenters also suggest that the NOPR is inconsistent with prior Commission treatment of municipalization because the Commission has historically promoted franchise competition between municipalities and utilities and has never before suggested that utilities could "penalize" municipalization decisions through generation cost add-ons to transmission rates.[705] VT DPS states: "By the Commission's logic, there would never have been an *Otter Tail* case. If Otter Tail could have made a stranded cost claim against the municipal utility Elbow Lake planned to create, Otter Tail would never have needed to refuse to wheel."[706]

Suffolk County states that the Commission already considered stranded costs in the context of retail-turned-wholesale customers in *United Illuminating Company*,[707] where the Commission required United Illuminating to remove a provision in its proposed transmission tariff that would have allowed it to recover stranded costs associated with former retail loads served by new municipal systems. Suffolk County states that the Commission made clear that stranded cost matters, including those caused by municipalization, properly would be raised before state regulatory authorities. It objects that the Open Access NOPR ignores this case. Suffolk County also submits that the Commission's adoption of the settlement approved by the Massachusetts DPU in the Massachusetts Bay Transportation Authority case should serve as an example of proper jurisdictional deference with respect to local issues.[708]

However, many other commenters support the Commission's proposal to be the primary forum for retail-turned-wholesale stranded costs.[709] These commenters submit, among other things, that the Commission's jurisdiction over such costs is clear.[710] Coalition for Economic Competition states that when a utility's costs are stranded through the availability of Commission-jurisdictional transmission service, the Commission must address those costs. It argues that commenters opposing the Commission's jurisdiction fail to analyze the Commission's duty to establish just and reasonable rates for Commission-jurisdictional transmission service.

A number of commenters support the Commission's proposal to address retail-turned-wholesale stranded costs on the basis that many state commissions either lack authority to address costs that are stranded because of expanding or newly-created municipal systems, or have failed to address such costs.[711] El Paso adds that any protection offered by state judicial condemnation proceedings does not obviate the need for the Commission's involvement in this issue, noting that condemnation awards may not provide full stranded investment recovery under the Commission's standards. In addition, El Paso suggests that municipalization may occur through means other than condemnation of the distribution systems of electric utilities, such as when a municipality constructs its own, duplicative distribution facilities.

Several commenters also indicate that by forthrightly addressing this issue, the Commission has removed a cloud of uncertainty that would have taken years to resolve through litigation.[712] El Paso states that the proposed rule is needed because utilities may be subject to stranded costs resulting from municipalization in two separate state jurisdictions.

In response to the argument that stranded costs are exclusively subject to state jurisdiction, SoCal Edison asserts that whether the costs are retail or wholesale is irrelevant because the issue is how and where these costs should be recovered. According to SoCal Edison, if the Commission finds that these costs are just and reasonable costs associated with providing open access transmission service, the Commission may allow utilities to recover them in Commission-regulated rates.

Coalition for Economic Competition notes that while utilities are aware of state laws allowing municipalities to condemn electric facilities and to form utilities, in recent decades, it has not happened on most systems. Moreover, it argues that merely being on notice that municipalization is a possibility does not relieve utilities of their state-imposed obligation to serve all

[701] *E.g.*, American Iron & Steel, MD Com, LA DWP, Suffolk County, MI Com, NJ BPU, N.Y. Mayors. NASUCA cites practical problems posed by the Commission's proposal to assume jurisdiction over stranded costs resulting from municipalization, such as how the Commission would transfer the revenues extracted from the retail-turned-wholesale customer to a non-wholesale, locally-franchised entity.

[702] NARUC Initial Comments at 18–19.

[703] *E.g.*, N.Y. Mayors, NIEP, Wing Group, VT DPS, NY Industrials, American Iron & Steel, Environmental Action, IN Industrials, Las Cruces, Caparo, UT Industrials.

[704] *E.g.*, IN Com.

[705] *E.g.*, VT DPS, American Iron & Steel. American Forest & Paper states that allowing stranded cost recovery in the event of municipalization would be inconsistent with the Commission's actions in the natural gas industry, where the Commission has encouraged competition at the retail level (through competitive bypass rather than franchise competition) and has not imposed transition charges or exit fees on converting customers.

[706] VT DPS Initial Comments at 49; *see also* American Iron & Steel, NY Industrials, Caparo.

[707] 63 FERC ¶ 61,212 (1993), *reh'g denied*, 64 FERC ¶ 61,087 (1993).

[708] *See* Massachusetts Electric Company, 68 FERC ¶ 61,101 (1994); Letter Order dated March 3, 1995, Docket No. ER94–129–000 (approving settlement).

[709] *E.g.*, EEI, PSE&G, Centerior, Com Ed, Consumers Power, Detroit Edison, Duke, El Paso, Entergy, LILCO, Minnesota Power, Montana-Dakota Utilities, NYSEG, PECO, PG&E, PSNM, Southern, Utilities For Improved Transition, Allegheny, OH Com, Utilicorp, PA Com, WI Com, Coalition for Economic Competition, Central Louisiana, United Illuminating, Utility Investors Analysts, Nuclear Energy Institute, Utility Shareholders.

[710] *E.g.*, Consumers Power, Coalition for Economic Competition, Utilities For Improved Transition.

[711] *E.g.*, Detroit Edison, Minnesota Power, El Paso, LILCO, Centerior, PG&E. PG&E urges a clarification in the rule so that the Commission would address retail-turned-wholesale stranded costs only if the state commission either lacks jurisdiction over municipal utilities, or, if it has jurisdiction, declines to address stranded costs. Where a state commission possesses jurisdiction over municipal entities and provides a utility with stranded cost recovery from former retail customers that have municipalized, PG&E proposes that such action should be final and not subject to Commission review. Other commenters, such as El Paso, ask the Commission to establish itself as the forum of last resort when states do not provide for full recovery of stranded costs.

[712] E.g., Coalition for Economic Competition, El Paso.

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customers in their franchise areas. It asserts that utilities had to continue to invest in plant to satisfy their duty to serve. In addition, it submits that utilities had a reasonable expectation that they would continue to serve retail load because, among other things, state regulators set long amortization periods of 30–40 years for depreciation rates.

Some commenters state that the Commission also should ensure that stranded costs are recovered when a municipal utility annexes territory served by another utility or otherwise expands its service territory.[713] A number of commenters also urge the Commission to ensure recovery of costs that are stranded if a municipal utility or a newly-formed wholesale or municipal utility physically interconnects to another utility or builds new transmission or distribution facilities to the municipal system.[714]

Several commenters believe that close coordination between the Commission and state regulators as to the calculation of stranded costs is important in the case of municipalization.[715] A number of state commissions suggest that the Commission allow the states to set the level of retail-turned-wholesale stranded costs to be recovered in wholesale transmission rates set by the Commission.[716] They submit that this approach would respect state interests in controlling the rate impact of stranded costs, while allowing the Commission to design cost recovery, and would address the needs of industrial customers and other stakeholders by providing a forum before state regulators who will be more aware of their particular needs. Further, they contend that this approach would prevent relitigation of issues, minimize forum-shopping, and prevent legitimate and verifiable costs from falling through the cracks or being double-recovered.[717] NY Industrials asks the Commission to clarify that utilities will not be allowed to seek cost recovery at both the Commission and state commissions.

Commission Conclusion

We reaffirm our preliminary determination that this Commission should be the primary forum for addressing the recovery of stranded costs caused by retail-turned-wholesale customers. If such a customer is able to reach a new generation supplier because of the new open access (through the use of a FERC-filed open access transmission tariff or through transmission services ordered pursuant to section 211 of the FPA), we believe that any costs stranded as a result of this wholesale transmission access should be viewed as "wholesale stranded costs." Such costs would not be stranded *but for* the action of this Commission (either through a mandatory FPA section 205–206 open access tariff or an order under FPA section 211) in permitting the new wholesale entity to become an unbundled transmission services customer of the utility and thereby to obtain power from a new supplier.[718] There is a clear nexus between the FERC-jurisdictional transmission access requirement and the exposure to non-recovery of prudently incurred costs. In these circumstances, we believe that this Commission should be the primary forum for addressing recovery of such costs. To avoid forum-shopping and duplicative litigation of the issue, we expect parties to raise claims before this Commission in the first instance.[719]

Some commenters have asked us also to be the primary forum for stranded cost recovery in situations in which an existing municipal utility annexes territory served by another utility or otherwise expands its service territory. We decline to do so because in these situations there is no direct nexus between the FERC-jurisdictional transmission access requirement and the exposure to non-recovery of prudently incurred costs. The risk of an existing municipal utility expanding its territory was a risk prior to the Energy Policy Act and prior to any open access requirement.

Nevertheless, we are concerned that there may be circumstances in which customers and/or utilities could attempt, through indirect use of open access transmission, to circumvent the ability of any regulatory commission—either this Commission or state commissions—to address recovery of stranded costs.[720] We reserve the right to address such situations on a case-by-case basis.

As we indicated in the Supplemental Stranded Cost NOPR, if the state has permitted any recovery from departing retail-turned-wholesale customers (for example, if it imposed an exit fee prior to, or as a condition of, creating the wholesale entity), that amount will not, in fact, be stranded, and we will deduct that amount from the legitimate stranded costs for which we will allow recovery.

As discussed in Sections IV.J.8–IV.J.9, we will require the same evidentiary demonstration for recovery of stranded costs from a retail-turned-wholesale customer, and will apply the same procedures for determining stranded cost obligation, as that required in the case of a wholesale requirements customer.

[713] *E.g.*, EEI, Minnesota Power, Centerior, Public Service Co of CO, SoCal Edison, Coalition for Economic Competition. PG&E asks that we allow utilities to seek recovery at the Commission for stranded costs attributable to former retail customers that have become customers of existing public agencies or municipal utilities where such costs cannot be collected at the state level.

[714] *E.g.*, Centerior, Coalition for Economic Competition, PG&E. Coalition for Economic Competition proposes that the Commission accept just and reasonable regional stranded cost recovery mechanisms in such situations to enable regional transmission associations (whether through pool and interpool arrangements or regional transmission groups) to collect through Commission-filed rate schedules from interconnected utilities charges equal to the costs otherwise stranded as a result of Commission-jurisdictional service realignments.

[715] *E.g.*, SoCal Edison, OH Com, NY Com, MI Com, Coalition on Federal-State Issues.

[716] *E.g.*, MI Com, NY Com, Ohio Com.

[717] PG&E proposes a similar approach, noting that if there are differences in the stranded cost method used by the Commission and the states, an incentive may remain for retail customers to municipalize merely to take advantage of more favorable stranded cost treatment at the Commission.

[718] Costs that are exposed to nonrecovery when a retail customer or a newly-created wholesale power sales customer ceases to purchase power from the utility and does not use the utility's transmission system to reach a new generation supplier (*e.g.*, through self-generation or use of another utility's transmission system) do not meet the definition of "wholesale stranded costs" for which this rule provides an opportunity for recovery. Such costs are outside the scope of this rule because such costs would not be stranded as a result of the new open access. *See* Section IV.J.12.

[719] We recognize that we took a different approach to retail-turned-wholesale stranded cost recovery in *United Illuminating*, where we suggested that state and local regulatory authorities or the courts should be able to provide an adequate forum to address retail franchise matters, including recovery of stranded costs caused by municipalization, but said we would consider revisiting the question if United Illuminating could demonstrate the lack of a forum. 63 FERC at 62,583–84. Since the issuance of that decision, however, we have had an opportunity to re-analyze the nature of the stranded cost problem in cases where a retail customer becomes a wholesale customer, including the potential that there might not be a state regulatory forum for recovery of such costs. In these circumstances, we have determined that where such costs are stranded as a result of wholesale open access transmission, these costs should be viewed as wholesale stranded costs and this Commission should be the primary forum for addressing their recovery.

[720] The CA Com has asked that, "(t)o the extent of FERC's authority, it should assume jurisdiction to fulfill a backstop role in case retail customers evade a state-determined transition charge by becoming retail customers of an entity not subject to the state regulatory commission's jurisdiction. In assuming jurisdiction, the Commission should defer to the state commission's determination and allocation of stranded costs for the departing retail customer." CA Com March 18, 1996 Response to Supplemental Comments of PG&E.

7. Recovery of Stranded Costs Caused by Retail Wheeling

In the Supplemental Stranded Cost NOPR, we stated that both this Commission and state commissions have the legal authority to address stranded costs that result from retail customers who obtain retail wheeling from public utilities in order to reach a different generation supplier.[721] Because the vast majority of commenters urged the Commission not to assume responsibility for retail stranded costs, except in certain circumstances, we preliminarily concluded that it is appropriate to leave it to state regulatory authorities to deal with any stranded costs occasioned by retail wheeling. We proposed to entertain requests to recover stranded costs caused by retail wheeling only when the state regulatory authority does not have authority under state law to address stranded costs at the time when the retail wheeling is required.[722] In so doing, we preliminarily accepted the view that stranded costs caused by retail wheeling are primarily a matter of local or state concern and thus, with the limited exception discussed above, generally must be recovered through retail charges.

We noted that the states have a number of mechanisms for addressing stranded costs caused by retail wheeling, one of which is a surcharge to state-jurisdictional rates for local distribution.[723] We encouraged the states to use the mechanisms available to them to address stranded costs.[724] We also noted that the states may use their jurisdiction over local distribution facilities to address "stranded benefits," such as environmental benefits associated with conservation, load management, and other demand side management programs.[725]

Comments

A number of commenters support the Commission's proposal for addressing stranded costs caused by retail wheeling.[726]

Other commenters urge the Commission to take a greater role in retail stranded cost recovery and to entertain requests to recover stranded costs as a backstop where: (1) State regulatory authorities have the authority to address stranded costs but either choose not to exercise that authority or fail to permit full stranded cost recovery; [727] or (2) the state commission's authority is unclear.[728]

Commenters that support a greater Commission backstop role argue, among other things, that because the Commission has exclusive ratemaking jurisdiction over any stranded cost charges imposed "for or in connection with" interstate transmission service by public utilities, the Commission has an obligation to regulate the recovery of stranded costs from interstate retail transmission customers.[729] A number of these commenters argue that the determining factor is who has the jurisdiction to review the rates for the service, not who has the jurisdiction to order the service.[730] They explain that the Commission has jurisdiction over generating facilities and associated costs to the extent appropriate to establish just and reasonable rates for jurisdictional services. They disagree with other commenters who argue that only the jurisdiction under whose authority the costs were incurred and initially recovered should have authority to order recovery of stranded costs.[731]

These commenters contend that the Commission cannot abdicate its regulatory responsibilities by either deferring to the state commissions or otherwise failing to independently address the issue.[732] EEI and the Coalition for Economic Competition refer to "a long line of cases (where) the courts have held that where a federal regulatory agency * * * is charged with implementing a statutory framework, that agency is without authority to deviate from or abdicate its statutory responsibilities."[733] According to Coalition for Economic Competition, for example, the Commission could satisfy its obligation to address stranded costs that arise from retail wheeling by allowing states to determine retail stranded cost charges in the first instance; to the extent that the state allows full recovery, Coalition for Economic Competition submits that the Commission's obligation would be satisfied.

EEI asserts that it would be unduly discriminatory and preferential for the Commission to refuse to address all stranded costs arising from retail wheeling. According to EEI, the same arguments that support the Commission's decision to address costs that are stranded where retail load municipalizes and where the state regulatory authority, at the time retail wheeling is required, lacks authority to act, apply with equal force to all other retail stranded costs. EEI submits that the nexus in these cases is that Commission-jurisdictional transmission service is the means by which the costs are stranded.[734]

Utility Working Group argues that the NOPR inappropriately characterizes the Commission's jurisdiction over retail stranded costs and that this could later be used against the Commission's exercise of its full authority. According to Utility Working Group, the NOPR depicts the Commission's jurisdiction as

[721] As discussed in Section IV.I, the Commission's authority to address retail stranded costs derives from its jurisdiction over the rates, terms and conditions of unbundled transmission in interstate commerce used by retail customers that obtain retail wheeling. The states' authority derives from state jurisdiction over local distribution facilities and over the service of delivering electric energy to end users, and from the authority to impose, among other things, retail exit fees and surcharges on local distribution rates.

[722] We proposed to require the same evidentiary demonstration for recovery of stranded costs from a retail customer that obtains retail wheeling as that required in the case of a wholesale requirements customer. We also reaffirmed our proposal in the initial Stranded Cost NOPR that a utility will have to show that the stranded costs are not more than the net revenues that the retail customer would have contributed to the utility had it remained a retail customer of the utility, and that the utility has taken and will take reasonable steps to mitigate stranded costs. FERC Stats. & Regs. ¶ 32,514 at 33,128.

[723] As we noted in the Supplemental NOPR, a state may require payment of an exit fee before a franchise customer is permitted to obtain unbundled retail wheeling. If local distribution facilities are used by a retail wheeling customer, the state may allow recovery of stranded costs through rates for use of such local distribution facilities. In addition, as discussed in Section IV.I, because we believe that states have authority over the *service* of delivering electric energy to end users, not merely the local distribution facilities themselves, state authorities can assign stranded costs and benefits through a local distribution service charge, and may do so based on usage (kWh), demand (kW), or any combination or method they find appropriate. If a state decides not to take any of these routes, it may consider whether to allow recovery of stranded costs from remaining retail customers or whether shareholders should bear all or part of those costs. *Id.* at 33,129.

[724] *Id.* at 33,129–30.

[725] *Id.* at 33,098 n. 230.

[726] *E.g.*, Utilicorp, Houston L&P, PG&E, Freedom Energy Co, WI Com.

[727] *E.g.*, EEI, EGA, Coalition for Economic Competition, Utilities for Improved Transition, Atlantic City, Arizona, Centerior, Com Ed, Detroit Edison, El Paso, LILCO, NU, NSP, NYSEG, United Illuminating, BG&E, Sierra, Southern. UT Industrials, NRECA. NRECA argues that unless the Commission addresses stranded costs caused by retail wheeling where a state commission lacks authority, or has authority but decides not to exercise it, there could be a jurisdictional gap into which many rural electric cooperatives could fall.

[728] *E.g.*, CSW.

[729] *E.g.*, EEI, Illinois Power, PSNM, Entergy, Nuclear Energy Institute, Coalition for Economic Competition.

[730] *E.g.*, Coalition for Economic Competition, Illinois Power, Utilities for Improved Transition, EEI.

[731] EEI notes, for example, that as use of electrical facilities shifts between retail and wholesale, jurisdiction over the rates to recover the allocated cost of service shifts between state commissions and this Commission, and that the regulatory authority is determined by the nature of the transactions and the classification of the customer, not the jurisdiction under which the costs originally arose.

[732] *E.g.*, Illinois Power, Utilities For Improved Transition, EEI, Coalition for Economic Competition.

[733] EEI Initial Comments at IV–13; *see also* Coalition for Economic Competition Initial Comments at 23–31.

[734] *See also* SoCal Edison.

being derived from state law (in other words, the Commission will act where state regulatory authorities have no authority over retail stranded costs and will not act where state regulatory authorities have such authority). If the Commission desires to afford substantial deference to the states regarding retail stranded costs, Utility Working Group contends that the final rule should reflect that policy determination; however, the rule should not confuse policy with jurisdiction by purporting to place limits on, or attempting to waive, the Commission's jurisdiction over such costs.

Entergy asserts that the Commission's jurisdiction over multi-state utilities provides further support for our jurisdiction over retail stranded costs in certain contexts. Entergy states that most of the eleven multi-state registered holding company systems have some form of Commission-jurisdictional agreement that allocates production and transmission costs among the systems' affiliated operating companies. It asserts that these agreements by their very nature allocate costs among jurisdictions (that is, between states). Many of these agreements equalize the cost of generating reserves among affiliated operating companies, and such reserve equalization formulas can shift retail stranded costs among states unless the Commission provides a regulatory forum to address cost-shifting. Citing *Middle South Energy*,[735] and *City of New Orleans* v. *FERC*,[736] Entergy submits that the Commission cannot sit on the sidelines when it comes to stranded retail costs on the Entergy system. According to Entergy, Commission and judicial precedent place on the Commission the responsibility to ensure that federally-approved costs and cost allocations are not undermined by state action.

Commenters also express concern that it will not be possible to be sure that a state regulatory authority has authority over retail stranded costs until after years of litigation. If the Commission waits for the resolution of challenges to state authority and a court holds that the state regulatory authority is without authority, these commenters assert that the bar on retroactive ratemaking could leave the states and the Commission without a remedy to compensate utilities for stranded costs.[737] A number of commenters suggest that while the states should be allowed to set retail wheeling stranded cost charges in the first instance, the Commission should accept filings to preserve a utility's ability to recover retail stranded costs from the time the customer departs if the state-authorized charges are not upheld in court. They submit that this would put customers on notice of the potential for Commission action and thereby avoid the retroactivity problem.[738]

Some commenters express concern that if the Commission does not take more decisive action on retail wheeling stranded costs, the result will be wasteful litigation that will discourage competition by causing financial uncertainty and higher financing costs for investor-owned utilities and higher rates for consumers.[739] Coalition for Economic Competition also asserts that stranded cost charges would be greatest at the start of a retail wheeling program, thereby making the years during which the state-authorized charges are subject to appeal more important for recovery purposes.

A number of commenters support Commission-established uniform standards for, and uniform recovery of, costs stranded as a result of open access to the interstate transmission system.[740] They argue that disparate state treatment of stranded costs would be economically inefficient and discriminatory and would burden interstate commerce.[741] Several commenters support state involvement in the establishment of uniform standards.[742]

In contrast to the commenters that support a greater Commission role in retail stranded cost recovery, NARUC and a number of other commenters oppose any Commission involvement in retail stranded costs.[743] These commenters contend, among other things, that the Commission lacks authority over these costs. Even if the Commission could assert such jurisdiction, they argue that as a policy matter it would be inappropriate for the Commission to delve into complicated legal and policy issues governed by varying state regulatory regimes.

According to some of these commenters,[744] section 201(a) of the FPA precludes an exercise of federal jurisdiction over retail stranded cost recovery because the Commission's jurisdiction extends "only to those matters which are not subject to regulation by the States."[745] NM Industrials argues that a lack of state commission authority is an affirmative state determination, either by act or omission, that stranded costs must be dealt with in a particular manner. It submits that the Commission also lacks authority over retail stranded costs when states either decide not to address such costs or, in the Commission's opinion, grant insufficient recovery of stranded costs. NM Industrials asserts that the language of the FPA and its legislative history indicate that Congress wanted to preclude Commission jurisdiction in those areas where states could exercise effective control, and that this limitation covers all matters which are or can be regulated by the states, including the recovery of stranded investment. NM Industrials also suggests that assertion of Commission jurisdiction would violate the provision of section 212 of the FPA that prohibits the Commission from interfering with the states' authority over the transmission of energy directly to an ultimate consumer.[746]

Other commenters argue that the Commission's proposed treatment of retail stranded costs infringes on the states' jurisdiction over the allocation of costs that were under their jurisdiction when the costs were incurred. According to these commenters, the question of whether these costs should be recovered from other retail ratepayers, eliminated as excess capacity, or billed in some fashion to the customer now receiving wheeling service are purely questions of state ratemaking law.[747] Some commenters assert that, as a matter of policy, the Commission should stay out of retail stranded costs because only the states have sufficient knowledge and expertise regarding utility planning, investment,

[735] Opinion 234, 31 FERC ¶ 61,305, on reh'g, 32 FERC ¶ 61,425 (1985).

[736] 875 F.2d 903 (D.C. Cir. 1989), *cert. denied sub nom.* Mississippi v. FERC, 494 U.S. 1078 (1990).

[737] *E.g.*, NU, Coalition for Economic Competition, Illinois Power, EEI.

[738] *E.g.*, NEPCO, EEI, Coalition for Economic Competition, Entergy.

[739] *E.g.*, LILCO, Coalition for Economic Competition.

[740] *E.g.*, NU, NSP, Illinois Power, Coalition for Economic competition, PSE&G, Utilities For Improved Transition, Philip Morris, EEI.

[741] Freedom Energy Co. rejects this argument on the basis that state regulation has never been wholly consistent and yet utilities have not asked for federal unification of state ratemaking policies or resolution of differences.

[742] E.g., PSNM, GA Com, Omaha PPD, Illinois Power.

[743] *E.g.*, CA Com, MD Com, VA Com, IN Com, NH Com, NV Com, NY Com, OH Com, FL Com, AZ Com, TX Com, ELCON, NY Industrials, NY AG, NY Consumer Protection, MA DPU, Iowa Board, IN Industrials, Texas Industrials, NM Industrials, Reynolds, NYMEX, Legal Environmental Assistance, CO Consumers Counsel, NJ Ratepayer Advocate, IBM, ME Industrials, Jay, WEPCO, NH General Court.

[744] *E.g.*, NARUC, ELCON, NY Industrials, NM Industrials, NV Com.

[745] 16 U.S.C. 824(a).

[746] *See also* Freedom Energy Co. Reply Comments.

[747] *E.g.*, ELCON, PA Com, NY Industrials, ND Com, VA Com, NM Com.

and forecasting to address these costs adequately.[748]

Commenters also express concern that the possibility of Commission involvement in retail stranded cost recovery will encourage forum-shopping whenever state commission action is unfavorable, even when states have procedures to deal with stranded costs. They argue that the result would be endless litigation over where federal jurisdiction ends and where state jurisdiction begins. They suggest that if a state fails to address retail stranded cost recovery, the issue should be addressed in court or in state legislatures.[749] OH Com contends that a Commission policy that does not recognize states' authority over retail stranded costs would be a disincentive for states to permit retail wheeling.

A number of commenters argue that recovery of retail stranded costs is not directly implicated by any Commission or Congressional action—that most such costs would be created by retail wheeling, which is not the subject of the Commission's open access initiatives—and thus need not be dealt with as part of the final rule.[750]

Commenters seek a number of clarifications concerning the Commission's position on, and the procedures for, retail stranded cost recovery. A number of commenters ask the Commission to clarify the states' role with respect to retail stranded cost recovery.[751] Others address the type of evidence required to establish that the state regulatory authority lacks authority to address stranded costs when retail wheeling is required.[752]

Several commenters express concern that customers receiving retail wheeling not be able to evade state stranded cost charges.[753] IL Com says that the Commission's proposal for determining whether facilities are state-jurisdictional "local distribution" facilities or Commission-jurisdictional "transmission" facilities in interstate commerce may not always provide a state with the opportunity to recover retail stranded costs through distribution rate surcharges. It says that the Commission does not offer any assurances that the case-by-case application of the proposed "functional-technical test" will result in a finding that "local distribution" facilities are used in all retail wheeling scenarios. PG&E asks the Commission to provide that all retail customers that opt for direct transmission access by definition take service over local distribution facilities and therefore may be subjected to a state-determined distribution rate that includes stranded cost surcharges.

A number of commenters ask the Commission to clarify that, in issuing the final rule, the Commission is not endorsing (either implicitly or explicitly) retail wheeling.[754]

Several commenters express concern that stranded costs may arise in one state jurisdiction and be shifted to another.[755] For example, MT Com says that an analysis confined to a state's boundaries may reveal no stranded costs, but that such costs may indirectly arise because of common pool revenue recovery mechanisms, which may be the largest source of stranded costs for some utilities. Entergy raises a similar concern in the context of holding company or other multi-state situations. It argues that denial of retail stranded cost recovery by a state regulatory authority could harm customers in other states. Entergy proposes that, while state regulators should be given the opportunity in the first instance to assure that stranded costs are recovered and are not shifted to other states, the Commission should allow utilities to file retail wheeling tariffs with the Commission to preserve the right to seek recovery from the Commission.

Several commenters oppose Entergy's proposal.[756] Among other things, they argue that the FPA does not authorize the Commission to act as an appellate court over retail regulators. They assert that, in the case of a multi-state holding company system, it is the Commission-jurisdictional intra-system agreement (not a state's decision as to recovery of retail stranded costs) that determines the allocation of costs at wholesale among the affiliates. Several of these commenters suggest that if the holding company believes that, as a result of a state's disallowance of costs in retail rate base, the cost allocations under an intra-system agreement are unduly discriminatory, the holding company could propose to amend the agreement.[757]

A number of commenters also express concern that services that investor-owned utilities provide to promote energy efficiency and conservation and to assist low-income residents and the elderly be continued.[758] NW Conservation Act Coalition suggests that the Commission should condition stranded cost recovery upon a showing by the utility that allowing recovery will not strand such social benefits.[759]

Various commenters endorse the use by state regulators of a distribution charge or other fee imposed on electricity consumption to address stranded social benefits.[760] NARUC and OH Com express concern that the Commission, by claiming authority over unbundled retail transmission services, may make it difficult for states to use non-bypassable "wires charges" or "access fees" to require all customer classes to support such programs.[761] NARUC asks the Commission to ensure that any jurisdiction we exercise over unbundled transmission services does not legally or practically foreclose the ability of individual states to fund such programs.[762] LILCO, as part of its argument that the Commission should provide a complete backstop for stranded cost recovery resulting from retail wheeling, urges the Commission to establish retail wheeling rates that provide for full recovery of any stranded costs, including stranded social benefits,

[748] *E.g.*, OH Com, NY Industrials, NM Com, IN Com, WA Com, NV Com, NY Com, Suffolk County, NY AG, Tonko, PA Industrials, NH General Court.

[749] *E.g.*, OH Com, PA Com, NM Com, CA Com, Blue Ridge.

[750] *E.g.*, Nucor, AEC & SMEPA.

[751] *E.g.*, NY Industrials, EGA, NJ BPU, Coalition on Federal-State Issues.

[752] *E.g.*, Iowa Board, Nevada Commission, CCEM; *see also* NE Public Power District.

[753] *E.g.*, IL Com, PG&E, Public Service Co of CO.

[754] *E.g.*, NRECA, Wisconsin EC, EEI, PECO, Missouri Basin Group.

[755] *E.g.*, MT Com, Entergy.

[756] *E.g.*, NARUC, Entergy Retail Regulators, MS Com, Al Com.

[757] *E.g.*, NARUC, MS Com.

[758] *E.g.*, Homelessness Alliance, Black Mayors, National Women's Caucus, Vann, La Raza.

[759] NARUC and OH Com assert that, in determining whether a wholesale transmission transaction is a "sham," the Commission should consider a retail customer's intent to bypass responsibility for supporting social programs.

[760] *E.g.*, Natural Resources Defense, NW Conservation Act Coalition, Seattle, FTC, Northeast States for Coordinated Air Use Management, NARUC, OH Com. CO Com agrees that states should have the option to fund such programs through the imposition of surcharges on any form of electric service used to benefit retail customers, including surcharges on retail transmission rates. Seattle proposes either a simple fee on kWhs or a differential fee based on the type of resource and its environmental affects. DOE urges the Commission to work with state regulators to ensure that states have the ability to recover stranded retail costs and benefits in a way that prevents cost-shifting, forum-shopping, and uneconomic bypass (including bypass of stranded benefits).

[761] CO Com notes that the NOPR proposes to limit states to funding mechanisms that can be implemented solely at the local distribution level, presumably through the use of a surcharge on distribution facilities or so-called "fee at the meter" or the use of a local distribution system revenue decoupling mechanism. It suggests that neither of these options may be legally or practically feasible in many states for a wide variety of reasons (but does not expand on these reasons).

[762] Natural Resources Defense proposes that the Commission adopt the following language: "The FPA does not affect state regulators' jurisdiction to apply distribution charges—either volume-based or fixed—to electricity that is used by any utility customer to provide end-use services (as distinguished from electricity that is purchased for resale to end-use customers)." Natural Resources Defense Initial Comments at 3.

that are unrecovered after state stranded cost determinations.

Commission Conclusion

We believe that both this Commission and the states have the legal authority to address stranded costs that result when retail customers obtain retail wheeling in order to reach a different generation supplier, and that utilities are entitled, from both a legal and a policy perspective, to an opportunity to recover all of their prudently incurred costs. This Commission's authority to address retail stranded costs is based on our jurisdiction over the rates, terms, and conditions of unbundled retail transmission in interstate commerce. The authority of state commissions to address retail stranded costs is based on their jurisdiction over local distribution facilities and the service of delivering electric energy to end users. However, because it is a state decision to permit or require the retail wheeling that causes retail stranded costs to occur, we will leave it to state regulatory authorities to deal with any stranded costs occasioned by retail wheeling. The only circumstance in which we will entertain requests to recover stranded costs caused by retail wheeling is when the state regulatory authority [763] does not have authority under state law to address stranded costs when the retail wheeling is required.

Commenters that describe our action as an unlawful abdication or delegation of authority misconstrue the nature of our decision to leave retail stranded costs (with a limited exception) to state regulatory authorities.[764] We have not "abdicated" or "delegated" to state regulatory authorities our jurisdiction over the rates, terms, and conditions of retail transmission in interstate commerce; if retail transmission in interstate commerce by a public utility occurs, public utilities offering such transmission must comply with the FPA by filing proposed rate schedules under section 205. Instead, we have made a policy determination that the recovery of retail stranded costs—an issue over which either this Commission or state commissions could exercise authority by virtue of their jurisdiction over retail transmission in interstate commerce and over local distribution facilities and services, respectively—is primarily a matter of local or state concern that should be left with the state commissions. However, if the state regulatory authority does not have authority under state law to address stranded costs when the retail wheeling is required, then we will entertain requests to recover such costs.[765]

Because we have accepted the view that stranded costs caused by retail wheeling are primarily a matter of local or state concern, we will not allow the states to use the interstate transmission grid as a vehicle for passing through any retail stranded costs, with the following limited exception. If the state regulatory authority does not have authority under state law when the retail wheeling is required to resolve the retail stranded cost issue, we will permit a utility to seek a customer-specific surcharge to be added to an unbundled transmission rate.

We believe that most states have a number of mechanisms for addressing stranded costs caused by retail wheeling.[766] In addition, as further discussed in Section IV.I, we are defining in this rule "facilities used in local distribution" under section 201(b)(1) of the FPA. Rates for services using such facilities to make a retail sale are state-jurisdictional, and states will be free to impose stranded costs caused by retail wheeling on facilities or services used in local distribution. States may also use their jurisdiction over local distribution facilities or services to recover so-called stranded benefits. This rule is not intended to preempt any existing state authority to assess a stranded cost or stranded benefits charge on a retail customer that obtains retail wheeling. Moreover, since the charge is state jurisdictional, it is of no moment to our responsibilities under the FPA as to whether such charges are volume-based (kWh), demand-based (kW), or customer-based (fixed).

We believe that our approach to retail wheeling stranded costs represents an appropriate balance between federal and state interests. This approach ensures that the rates for transmission in interstate commerce by public utilities (except in a narrow circumstance) will not be burdened by retail costs. It also helps to ensure that one state will not be able to impose costs stranded by its ordering of retail wheeling [767] on customers in another state.[768] In a holding company or other multi-state situation, we recognize that denial of retail stranded cost recovery by a state regulatory authority could, through operation of the reserve equalization formula in a Commission-jurisdictional intra-system agreement, inappropriately shift the disallowed costs to affiliated operating companies in other states. The Commission is concerned about this potential for cost-shifting. We would not wish to see an intra-system agreement used as a means for one jurisdiction to shift to other jurisdictions retail stranded costs for which it would otherwise be responsible under that agreement. However, we will deal with such situations if they arise pursuant to public utility filings under section 205 or complaints under section 206. Thus, the need to amend a jurisdictional agreement to prevent retail stranded costs from being shifted to customers in other states will be addressed on a case-by-case basis. We encourage the affected state commissions in such situations to seek a mutually agreeable approach to this potential problem. If such a consensus solution resulted in a filing to modify a jurisdictional agreement, we would accord such a proposal deference, particularly if other interested parties support the filing. In the event that the state commissions and other interested parties cannot reach consensus that would prevent cost shifting, the Commission would ultimately have to resolve the appropriate treatment of such stranded costs.

Should a situation arise in which a state regulatory authority concludes that it has no ability to address retail stranded costs, or the appropriate state courts ultimately determine that a state regulatory authority does not have authority to impose retail stranded costs, a utility may seek recovery here through its Commission-jurisdictional retail transmission rates of costs stranded as of the date of the customer's departure. Because all parties are put on notice by this Rule of the potential for recovery through Commission-jurisdictional retail transmission rates should state commission-authorized retail wheeling charges be invalidated, such recovery (if allowed) would not be retroactive ratemaking.[769]

8. Evidentiary Demonstration Necessary—Reasonable Expectation Standard

In the Supplemental Stranded Cost NOPR, the Commission made a preliminary determination that a public utility or transmitting utility seeking to recover stranded costs must demonstrate that it had a reasonable expectation of continuing to serve a customer. We indicated that the existence of a notice of termination provision in a wholesale requirements contract creates a rebuttable presumption that the utility had no reasonable expectation of serving the customer beyond the period provided for in the notice provision.[770] We proposed not to adopt a minimum notice period for purposes of applying the rebuttable presumption. This was because whether a utility has a reasonable expectation of continuing to serve a customer, and for how long, including whether there is sufficient evidence to rebut the presumption that no such expectation existed beyond the notice provision in the contract, will depend on the facts of each case.

We sought further comment concerning whether the reasonable expectation standard should apply if a utility has been making wholesale requirements sales to a customer in a non-contiguous service territory and where, in order to make such a sale possible, transmission service has been rendered by an intervening utility. We asked whether the Commission should take this as conclusive evidence that the customer had a choice of wholesale suppliers and, therefore, that the seller had no reasonable expectation that the contract would be extended. We further asked should we choose to provide the seller with an opportunity to prove that it had a reasonable expectation, what weight should be given to the fact that transmission service was rendered by the intervening utility. If the seller establishes that it had a reasonable expectation, and the former wholesale customer does not take unbundled transmission service from the former seller, we asked what if any means ought to be available for the collection of stranded costs.[771]

We also proposed to require the same evidentiary demonstration for recovery of stranded costs from a retail-turned-wholesale customer or a retail customer that obtains retail wheeling as that required when a wholesale requirements customer leaves a utility's system. We proposed that the utility must demonstrate that it incurred stranded costs based on a reasonable expectation that the customer would continue to receive bundled retail services. We anticipated that the reasonable expectation test would be easily met in those instances in which state law awards exclusive service territories and imposes a mandatory obligation to serve. We requested comments on these proposals.[772]

Comments

a. Rebuttable Presumption

Some commenters oppose treating a notice provision as a rebuttable presumption that the utility had no reasonable expectation of continuing to serve a customer. Commenters representing the financial community (Utility Shareholders and Utility Investors Analysts), for example, state that investment in generation and other costs incurred in providing utility service have not been tied to notice provisions. Based on the use of notice provisions in the past, and their infrequent use for termination, they state that the financial community has not viewed notice provisions as a determinant of the financial basis of investment in the industry.

Other commenters also argue that the Commission interprets the intent behind termination notice provisions too narrowly. These commenters submit that the Commission should examine on a case-by-case basis whether a notice provision demonstrates a sufficient meeting of the minds between the parties that there was no reasonable expectation that the contract would be extended.[773] TVA notes that the existence of a notice provision in its contracts in no way implies that continued service would not be expected.

A number of commenters [774] note that some utilities have "evergreen" contracts that remain in effect indefinitely unless either party gives notice that it intends to terminate the contract. They argue that, with no date certain for termination, the provider of bundled service must proceed on the assumption that it will have to meet its contract obligations on a continued basis. CSW recommends that the Commission limit the rebuttable presumption standard to contracts that contain a fixed contract termination date. IN Com suggests that where a contract contains an evergreen provision, the Commission should consider how often the contract has been automatically renewed and the length of the notice period.

A number of commenters suggest that the following factors should be conclusive proof of a reasonable expectation (or sufficient to conclusively rebut the presumption of no reasonable expectation): (1) An obligation under statute, certificate of public convenience and necessity, order or otherwise, granted to the utility to provide service to the area that includes the customer; (2) participation by the customer in regulatory proceedings that defer the utility's complete recovery of the costs associated with existing investment to a later period; or (3) service under a wholesale rate that averaged the cost of all of a utility's generation resources, both long-term and short-term.[775] Utilities For Improved Transition maintains that a customer whose rates were based on the totality of a utility's resources, including those with long life expectancies,

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[763] "State regulatory authority" has the same meaning as provided in section 3(21) of the FPA.

[764] We reject the arguments of EEI and Coalition for Economic Competition that the Commission made findings in the initial stranded cost NOPR that "inexorably" lead to the conclusion that Commission action providing full recovery of retail stranded costs is required. Their reliance on *Williams Natural Gas Company v. FERC*, 872 F.2d 438 (D.C. Cir. 1989), *appeal after remand*, 943 F.2d 1320 (D.C. Cir. 1991) (*Williams*), is simply misplaced. *Williams* involved a rulemaking that was terminated by the Commission. The court stated that the Commission, "having expressed these tentative views (that the incentive price for tight formation gas would disserve the public interest) and having solicited comments on the issue, was not free to terminate the rulemaking" without providing a satisfactory explanation. 872 F.2d at 446, 450. Here, in contrast, we are issuing a Final Rule that reaffirms in many respects preliminary findings proposed in both the initial and Supplemental Stranded Cost NOPRs. Although the conclusion we reach based on those findings may be different than that which some commenters advocate, we have fully explained the basis for our decision.

[765] In these circumstances, the cases cited by commenters to support the proposition that an agency is not authorized to abdicate its statutory responsibilities or to delegate to parties and intervenors regulatory responsibilities (such as preparation of an environmental impact statement) are factually distinguishable and inapposite. *See, e.g.*, FPC v. Texaco, 417 U.S. 380, 394 (1974) (Commission cannot exempt small-producer rates from compliance with just and reasonable standard); United States v. City of Detroit, 720 F.2d 443, 451 (6th Cir. 1983) (district court inappropriately implied waiver of EPA statutory duty under Title II of the Federal Water Pollution Prevention and Control Act); State of Idaho v. ICC, 35 F.3d 585, 595–96 (D.C. Cir. 1994) (an agency cannot abdicate its NEPA responsibilities in favor of the regulated party).

[766] As discussed in the Supplemental NOPR (FERC Stats. & Regs. ¶ 32,514 at 33,129–30), these mechanisms include requiring an exit fee before a franchise customer is permitted to obtain unbundled retail wheeling and imposing a surcharge on local distribution rates. Commenters identified several other possible mechanisms in response to the initial Stranded Cost NOPR.

[767] As we stated in the Supplemental NOPR, we do not address whether states have the lawful authority to order retail wheeling in interstate commerce. *Id.* at 33,098 at n.228. In addition, we are neither endorsing nor discouraging retail wheeling.

[768] *See id.* at 33,098, 33,127–28.

[769] *See* Public Utilities Commission of the *State of California v. FERC*, 988 F.2d 154, 163–66 (D.C. Cir. 1993).

[770] FERC Stats. & Regs. ¶ 32,514 at 33,117.

[771] *Id.* at 33,118.

[772] *Id.* at 33,128.

[773] *E.g.*, Carolina P&L, CSW, Duke, Utilities for Improved Transition, Montaup, TVA. MidAmerican. MidAmerican states that, for years, utilities have entered into wholesale contracts containing termination notice provisions and, for years, customers have renewed and renegotiated those contracts. Duke agrees that more important indications of the utility's reasonable expectation of continuing to serve the customer can be found where the service has been included in the IRP process or the contract has been repeatedly renewed. Orange & Rockland proposes that there be a rebuttable presumption of recovery for long-standing (at least 10 years) contracts between utility affiliates on the basis that the existence of a long-standing relationship is of greater significance than a notice provision.

[774] *E.g.*, CSW, IN Com.

[775] *E.g.*, El Paso, Utilities For Improved Transition.

cannot claim that the governing expectation was that the utility would serve the customer only for a period of one to three years.

Other commenters, in contrast, assert that the rebuttable presumption does not go far enough. These commenters submit that a notice of termination provision should create a conclusive presumption that a utility had no reasonable expectation of continuing to serve a customer beyond the notice period.[776] Some commenters[777] also support a conclusive presumption of no reasonable expectation where one or more of the following grounds are present: (1) An explicit termination provision, regardless of the length of the pre-termination notice period; (2) an explicit provision for decreasing service or switching to partial requirements service; (3) a pre-existing transmission tariff or transmission service schedule; (4) NRC license conditions providing for transmission service or pooling rights;[778] (5) a municipal joint action agency or G&T cooperative with authority to supply the wholesale load in question; (6) a fixed-term contract; (7) membership in a power pool that provides access to regional markets; (8) a contract entered into after passage of the Energy Policy Act; or (9) other evidence of an ability to seek alternative suppliers. Several of these commenters, such as TAPS and Detroit Edison Customers, submit that a conclusive, irrebuttable presumption would decrease the number of disputes over stranded cost issues.

Several comments were submitted concerning the examples listed in the NOPR that the Commission suggested, depending on all of the facts and circumstances, could establish a reasonable expectation that a contract would be extended. These examples include lack of access to alternative suppliers, repeated contract renewals, failure of a customer to object to the imposition of construction-work-in-progress, or communications between supplier and customer concerning including the customer's load in system planning.[779] Some commenters argue that evidence of this type should not be enough to rebut the presumption (or to overcome a summary judgment motion based on the presumption) of no reasonable expectation for contracts with notice provisions.[780] ELCON objects to using a customer's lack of alternative supply as evidence of a continued service obligation; it submits that the historic lack of supply alternatives has been caused by undue exercise of market power and should not be rewarded.[781] Las Cruces suggests that if lack of opposition to construction-work-in-progress evidences a reasonable expectation of continued service, continuous opposition should evidence a reasonable expectation that the customer will depart a system at the earliest possible date. With regard to the Commission's suggestion that communications with the customer on the customer's future plans could establish reasonable expectation, Direct Service Industries submits that no claimed reliance should be deemed reasonable unless the seller obtained express assurances from the customer that the customer intended to continue to purchase power from the seller beyond its current contract.

We also received comments on the time at which the reasonable expectation had to exist. TAPS urges that the Commission should focus on whether a utility had a reasonable expectation of continued service when it entered into the most recent execution, renewal or amendment of the power supply contract.[782] PSE&G, on the other hand, argues that the focus of the Commission's review should be whether, at the time of incurring or obligating itself to incur the cost of serving a customer, the utility had a reasonable expectation of serving that customer for its planning horizon.

b. Application of Reasonable Expectation Standard to Non-Contiguous Service Territory

Some commenters discuss the situation in which a utility has been making wholesale requirements sales to a customer in a non-contiguous service territory and, in order to make such a sale possible, transmission service has been rendered by an intervening utility. They argue that this situation presents conclusive evidence that the customer had a choice of wholesale suppliers and, therefore, that the seller had no reasonable expectation that the contract would be extended.[783] Direct Service Industries submits that if a customer has power supply options that do not rely on access to the selling utility's transmission system, the selling utility could have had no reasonable expectations other than those expressly created by contract. NM Industrials submits that allowing recovery of stranded costs in this situation would also constitute retroactive ratemaking in violation of *Arkansas Louisiana Gas Company* v. *Hall*.[784] It argues that by assessing stranded costs at the close of a contract's term against customers that do not even need a generating utility's transmission services to leave its system, the Commission would retroactively alter the terms and conditions of the rates for generation negotiated between the parties and approved by the Commission.

Other commenters submit that in these circumstances the Commission should give the supplier the opportunity to prove that it had a reasonable expectation that it would continue to serve the customer.[785] ELCON and WP&L state that the reasonable expectation standard should be satisfied (or not) by reference to the parties' existing contract, regardless of whether the customer is in a contiguous service territory.

Utility Investors Analysts asserts that a seller will always have a reasonable expectation that a business relationship can be continued with a current customer and that the better presumption would be that the contract will be extended unless evidence to the contrary exists.

[776] *See, e.g.*, ELCON, NRECA, APPA, American Forest & Paper, Central Montana EC, Municipal Energy Agency Nebraska, Arkansas Cities, Direct Service Industries, Atlantic City, TDU Systems, Fertilizer Institute, LG&E, ABATE, Oglethorpe.

[777] *E.g.*, TAPS, Missouri Joint Commission, Detroit Edison Customers, LEPA, APPA, Cleveland.

[778] According to LEPA, the normal set of NRC license conditions included an explicit wheeling commitment and many of the license conditions clearly referenced the possibility that the wheeling commitment would lead to the loss of customers to whom the utility had been selling bulk power supply as well as retail power. LEPA submits that acceptance of such license conditions should have ended any reasonable expectation that a utility might have had of continuing to serve a full requirements customer, wholesale or retail, after the termination of its contract.

[779] *See* FERC Stats. & Regs. ¶ 32,514 at 33,117.

[780] *E.g.*, TAPS, Phelps Dodge. Phelps Dodge suggests that evidence of past contract renewals, by itself, should not serve to rebut the presumption that the utility has no reasonable expectation of contract renewal in the future.

[781] In contrast, EEI believes that lack of access to alternative suppliers can be evidence that a utility reasonably expected to continue to serve a customer.

[782] If the investment now alleged to be stranded was incurred after the most recent amendment or extension to the contract, TAPS would focus the reasonable expectation review on such later date.

[783] *E.g.*, IL Com, Utilicorp, PSG&E, NM Industrials.

[784] 453 U.S. 571 (1981).

[785] E.g., Florida Power Corp, Consumers Power, FL Com, TDU Systems.

c. Application of Reasonable Expectation Standard to Retail-Turned-Wholesale Customers or To Retail Wheeling

A number of commenters support the Commission's proposal to apply the reasonable expectation standard in these cases.[786] PA Com submits that the case-by-case analysis contemplated by the Commission for establishing a utility's reasonable expectation of continuing to serve a wholesale requirements customer should also apply in the case of a retail-turned-wholesale customer or a retail customer that obtains retail wheeling.

Some commenters believe that the reasonable expectation test would be easily met in those instances in which state law awards exclusive service territories and imposes an obligation to serve.[787] Some contend that the reasonable expectation standard should be presumed met in these circumstances because state law obligates a utility to serve all retail customers. A number of commenters assert that such a presumption would obviate the need for case-by-case showings concerning the expectations of each utility and the nature of each franchise.[788] At a minimum, several commenters propose that the Commission adopt a rebuttable presumption that utilities had an obligation to serve retail customers and therefore that the reasonable expectation test is met in a retail-turned-wholesale customer scenario or in the case of costs stranded as a result of retail wheeling.[789]

On the other hand, a number of commenters argue that there is no basis for a utility to reasonably expect that it will continue to serve a particular customer in states where franchises are non-exclusive.[790] Several of these commenters argue that a utility operating under a non-exclusive franchise is faced with the ever-present prospect that the communities it serves may build their own systems.[791]

Other commenters oppose the suggestion that the reasonable expectation test cannot be met where a franchise is non-exclusive or has terminated.[792] They argue that a utility's obligation to serve retail customers arises under state laws independent of the franchise. SoCal Edison explains that in states such as California, a franchise is nothing more than the source of a utility's right to use the city's streets, poles, rights of way, etc., and that a utility's duty to serve extends to all customers within its certificated service territories and not simply to those areas in which it has a franchise.

Commission Conclusion

We reaffirm that a utility seeking to recover stranded costs must demonstrate that it had a reasonable expectation of continuing to serve a customer. Whether a utility had a reasonable expectation of continuing to serve a customer, and for how long, will be determined on a case-by-case basis, and will depend on all of the facts and circumstances.[793]

Further, we will apply the reasonable expectation standard in those cases where a utility has been making wholesale requirements sales to a customer in a non-contiguous service territory and, in order to make such a sale possible, transmission service has been rendered by an intervening utility. We believe it is appropriate to give the utility an opportunity to prove that it had a reasonable expectation of contract renewal in circumstances in which the remote customer becomes an unbundled transmission services customer of the former supplier.[794]

We also reaffirm our determination that the existence of a notice provision in a contract creates a rebuttable presumption that the utility had no reasonable expectation of serving the customer beyond the specified period. Whether or not a contract contains an "evergreen" or other automatic renewal provision will be a factor to be considered in determining whether the presumption of no reasonable expectation is rebutted in a particular case.

We will not adopt a minimum notice period for purposes of applying the reasonable expectation rebuttable presumption. Whether a utility had a reasonable expectation of continuing to serve a customer, including whether there is sufficient evidence to rebut the presumption that no such expectation existed beyond the notice provisions in a contract, will depend on the facts of each case.

In addition, we reaffirm our preliminary determination to apply the reasonable expectation standard to retail-turned-wholesale customers. In this scenario, before the Commission will permit a utility to recover stranded costs, the utility must demonstrate that it incurred such costs based on a reasonable expectation that the retail-turned-wholesale customer would continue to receive bundled retail service. Whether the state law awards exclusive service territories and imposes a mandatory obligation to serve would be among the factors to be considered in determining whether the reasonable expectation test is met in a particular case.[795]

We further note that we are not addressing in this Rule who will bear the stranded costs caused by a departing generation customer if the Commission finds that the utility had no reasonable expectation of continuing to serve that

[786] *E.g.*, PA Com, Com Ed, CSW, United Illuminating, UFIT, PSNM, TDU Systems.

[787] *E.g.*, Com Ed, Central and Southwest, United Illuminating, Utilities For Improved Transition, Utility Investors Analysts, Utility Shareholders.

[788] E.g., EEI, Minnesota Power, PECO, Puget, Centerior, Florida Power Corp, FL Com, Southern, SoCal Edison, NEPCO, Consumers Power, Coalition for Economic Competition. NEPCO asserts that the Supplemental Stranded Cost NOPR does not cite any comments or evidence casting doubt on the Commission's initial proposal (in the initial Stranded Cost NOPR) not to apply the reasonable expectation test to retail-turned-wholesale or retail customers that obtain retail wheeling on the basis that utilities operating under an obligation to serve at retail necessarily have an entitlement to recover the costs prudently incurred in fulfillment of that obligation.

[789] *E.g.*, EEI, Detroit Edison, Centerior, Consumers Power, Ohio Edison.

[790] *E.g.*, Wing Group, Alma, Total Petroleum, Cleveland, ABATE, N.Y. Mayors, CAMU, Suffolk County.

[791] *E.g.*, Wing Group, Total Petroleum, ABATE, CAMU, NY Mayors. Proposals advanced by commenters to address non-exclusive franchises include suggestions that the Commission: summarily reject claims to recover retail stranded costs where the utility has a non-exclusive franchise and historically has been subject to retail competition (*e.g.*, Cleveland); apply a rebuttable presumption that a utility had no reasonable expectation of continued service where a municipal franchise is expiring and the municipality has put the retail supplier on notice that the municipality may seek an alternative source of power supply (*e.g.*, Las Cruces); or provide that no stranded cost claim will be entertained absent a showing, by reference to applicable state law, that the utility had an exclusive service franchise obligation or was otherwise subject to an obligation to serve the customer that is departing its system (*e.g.*, Phelps Dodge).

[792] *E.g.*, Utility Working Group, SoCal Edison, Florida Power Corp, PG&E. Referring to the Commission's statement that it expects the reasonable expectation test to be easily met in those instances in which state law awards exclusive territories *and* imposes a mandatory obligation to serve, Utility Working Group asks the Commission to make clear in the final rule that it did not intend by that example that utilities with non-exclusive service territories would be presumed to fail the reasonable expectation test. According to Utility Working Group, the focus of the test must be on the utility's obligation to serve, which may be separate from any franchise arrangements.

[793] The examples that the Commission provided in the Supplemental NOPR of possible ways to establish reasonable expectation were not intended to be dispositive of the issue. As we make clear in this Rule, whether a particular utility had a reasonable expectation that a contract would be extended will depend on all of the facts and circumstances.

[794] However, if the remote customer does not use the former supplying utility's open access tariff to reach the new supplier, there would be no "wholesale stranded costs" as that term is defined in this Rule. In this situation, we would not allow extra-contractual recovery of stranded costs. Thus, there would be no need to address reasonable expectation. *See* Section IV.J.12.

[795] The same procedures would apply to retail customers that obtain retail wheeling.

customer. As we suggested in the initial Stranded Cost NOPR,[796] we anticipate that, in such a case, a public utility will seek in subsequent requirements rate cases to have the costs reallocated among the remaining customers on its system. However, we will not prejudge that issue here.

9. Calculation of Recoverable Stranded Costs

In the Supplemental Stranded Cost NOPR, the Commission proposed that the determination of recoverable stranded costs be based on a "revenues lost" approach. Under this approach, stranded costs are calculated by subtracting the competitive market value of the power the customer would have purchased from the revenues that the customer would have paid had it stayed on the utility's generation system. We cited several benefits that we believe a "revenues lost" approach offers over a hypothetical cost-of-service approach, including avoidance of an asset-by-asset review, minimization of cost allocation procedures, and ease of application.[797]

We sought comments on how to calculate what the utility's revenue stream would have been had the customer continued service. We also sought comments on how to calculate the revenues that the utility would receive in a competitive market for the stranded assets. This included whether we should require the utility to track the actual selling price of the power over time or require the utility to use an up-front approach (such as an estimate of the forecasted market value of the power for the period during which the customer would have taken service). We asked whether we should allow prices in futures markets or forward markets to be used in an up-front approach, assuming such financial instruments become available.[798]

We suggested that the revenues lost approach automatically takes account of mitigation measures because it reduces the amount of stranded costs recoverable by a utility by the market price of the power that the customer no longer takes. We noted that this is particularly so if mitigation is reflected through a one-time, up-front estimate of the future market value of the power and is not trued up over time. We sought comments regarding implementation of a mitigation requirement. If mitigation is trued up over time, we asked how the Commission should ensure that the utility takes all reasonable steps to mitigate its own costs so as to minimize what the customer would have paid. We also asked how the Commission should ensure that the utility does its best to sell the power at its highest possible value. In addition, we asked whether there are other mitigation measures that should be taken into account (such as efficiency improvements that a utility would have undertaken regardless of whether the particular customer continued to take power under its contract, or cost savings resulting from the buy-out of a fuel contract made possible by the customer's departure).[799]

With regard to determining how long a utility could have reasonably expected to keep a generation customer (which we will call the "reasonable expectation period"), we preliminarily found that a one-size-fits-all approach is not appropriate. We sought further comment with respect to whether the Commission ought to establish presumptions or, in the alternative, absolute limits on a customer's maximum liability when a utility establishes that it had a reasonable expectation that the contract would be extended. We inquired whether it would be appropriate to pick an outer limit equal to the revenues that the utility would lose during the length of one additional contract extension period, or during the length of the utility's planning horizon. We also asked what other events or criteria might be used to establish either presumptions or absolute limits on the reasonable expectation period.[800]

In addition, we proposed procedures for providing a customer advance notice of how the utility would propose to calculate costs that the utility claims would be stranded by the customer's departure.[801] We invited comments on these procedures.[802]

Comments

a. Revenues Lost Approach

Numerous commenters, including almost all investor-owned utility commenters, support the revenues lost approach for calculating stranded costs.[803] Among other things, commenters maintain that the revenues lost approach is fair, reliable, and less complicated than the asset-by-asset approach. As discussed below, while some of these commenters support an "up-front" determination of stranded costs with no subsequent adjustments, others prefer use of a true-up mechanism whereby a customer's responsibility for stranded costs is adjusted to the extent that the actual competitive market value is different from the estimated market value used to determine the customer's up-front stranded cost charge.

Other commenters, on the other hand, oppose the revenues lost approach.[804] Some commenters state that the revenues lost approach provides no incentive to mitigate stranded costs because, by permitting a utility to recoup from a departing generation customer the difference between the contract price and a power resale price, the utility receives the same total revenues regardless of whether the customer stays or leaves and regardless of whether the utility effectively mitigates stranded costs.[805] Others maintain that the revenues lost approach is imprecise.[806] Referencing the problems associated with avoided cost projections used in setting QF rates under PURPA, some of these commenters submit that the revenues lost approach also requires significant assumptions (regarding projected revenue streams, service levels, and generic market value forecasts).[807] Among the other criticisms of the revenues lost approach that are raised by commenters are that it leads to over-recovery of stranded costs,[808] is anticompetitive,[809] and that it leads to cost shifting.[810] NARUC and TDU Systems also maintain that it is likely that assets stranded by a customer's departure from the utility's generation system will be used to serve new customers but that the revenues lost approach offers no method of accounting for such "unstranding" of assets.

A number of commenters request clarification of the stranded cost formula contained in the NOPR, including specific instructions regarding how to calculate the revenues the customer would have paid the utility had it remained a customer and the competitive market value of the power the customer would have purchased.[811] Some of these commenters suggest that the stranded cost issue will be more contentious if the final rule does not provide greater detail.[812] Several commenters request that the Commission issue a detailed list of recoverable costs.[813] A number of commenters propose detailed alternatives to, or variations of, the revenues lost approach.[814]

Numerous commenters urge the Commission to be flexible and not overly prescriptive regarding the calculation of the formula components.[815] These commenters generally recommend that the Commission judge each stranded cost proposal on a case-by-case basis.[816]

Definition and Calculation of Revenue Stream

Some commenters maintain that the revenue stream component should be calculated based on the present rates paid by the customer.[817] These commenters state that because present rates have been approved by various commissions, the costs have been shown to be legitimate, prudent, and verifiable.

Other commenters oppose the use of current rates to calculate the utility's revenue stream. WP&L believes that the use of current rates would be overly generous and recommends capping the revenue measure at a regional average rate rather than a utility-specific rate. A number of other commenters argue that the effects of competition should be factored into the revenue stream by using the rates for capacity and energy actually offered or available in the utility's marketplace, such as incentive and special rates, not just the tariff rates to a particular customer.[818] Several commenters support removal of rate of return-related revenues associated with stranded assets, including risk premiums that are designed to compensate for potential nonrecovery of stranded costs.[819] EEI, in contrast, opposes any disallowance of rate of return-related revenues on the grounds that such a disallowance would violate the constitutional bar against the taking of private property without just compensation. Electronic Data Systems recommends calculation of the revenue stream using projected rates that include the effects of future rate increases.

The Commission requested comments on what categories of costs, in addition to investment costs, should be eligible for stranded cost recovery. In response, many commenters support the inclusion in the revenue stream calculation of additional costs, termed "special" costs, that may not be currently reflected in the rates paid by the departing customers, but that were incurred to provide service to these customers.[820] "Special" costs include: (1) Nuclear decommissioning costs; (2) environmental obligations existing at the time of the customer's departure; (3) purchased power contracts; (4) buyouts and buydowns of purchased power contracts; and (5) all regulatory assets, including deferred costs of generating assets for which regulators have promised recovery, deferred taxes, transition costs for post-employment benefits other than pensions, and contingent liability.

Other commenters oppose the inclusion of "special" costs in the calculation of the revenue stream.[821] TAPS questions how a customer can be held responsible for a cost that, by definition, it was never under a contractual obligation to pay. WP&L states that suppliers' rates should already reflect reasonable estimates of decommissioning costs and, therefore, no additional recovery is warranted.

Some commenters argue that the calculation of stranded costs should include social costs, such as demand side management, environmental costs, low income assistance costs, and costs associated with the management of fish and wildlife.[822]

NARUC states that the Commission should not preempt the ability of states to establish competitively neutral programs, such as DSM and energy efficiency, environmental mitigation, and R&D.

Various commenters state that any determination of stranded costs should take into account all offsetting benefits realized by the transmission provider upon a customer's departure.[823] Some commenters describe these costs as "stranded benefits."[824]

Most commenters favor the removal of avoided variable costs from the calculation of stranded costs on the basis that only fixed costs are truly stranded.

Some commenters support prioritizing stranded cost recovery.[825] These commenters argue that stranded costs should be categorized and ranked by the degree of responsibility that utilities had for their incurrence. Utilities would be allowed the greatest percentage of recovery for those stranded costs over which they had the least control.

Definition and Calculation of the Competitive Market Value

There generally was no consensus among the commenters concerning how

[796] FERC Stats. & Regs. ¶ 32,507 at 32,872.

[797] *Id.* at 33,121.

[798] *Id.*

[799] *Id.* at 33,123. We also asked how revenues received as a result of mitigation measures should be reflected in the determination of the amount of recoverable stranded costs; what special accounts, if any, should be created to track revenue liability for specific customers, revenues from mitigation measures, and other revenues received by the utility that offset the stranded cost liability; whether any adjustment should be permitted to the revenues that the utility claims will be realized in a competitive market for its stranded assets, and if so, how often and under what circumstances. Further, we sought comments on whether there are special costs that warrant some special consideration in the determination of stranded cost liability under a revenues lost approach, and if so, how they should be treated. *Id.* at 33,121–22.

[800] *Id.* at 33,122.

[801] *Id.* at 33,114–15.

[802] *Id.* at 33,115.

[803] *E.g.*, Centerior, NYSEG, Florida Power Corp, Houston L&P, NIMO, Orange & Rockland, Com Ed, PSE&G, EEI, PECO, Texas Utilities, PG&E, SoCal Edison, Dayton P&L, El Paso, IL Com, United Illuminating, Nuclear Energy Institute.

[804] *E.g.*, LG&E, TAPS, TDU Systems, ABATE, Blue Ridge, NY Energy Buyers, WP&L, PA Com, KY Com, American National Power, ELCON, Texaco, UT Com, NARUC, NIEP, DE Muni, Reynolds, Knoxville, Alma, APPA, NY Industrials, IL Industrials, SC Public Service Authority, Caparo, American Forest & Paper.

[805] *E.g.*, NIEP, DE Muni and TDU Systems.

[806] *E.g.*, SC Public Service Authority, ABATE, NY Energy Buyers, NARUC, ELCON, American Forest and Paper, APPA.

[807] *E.g.*, NARUC, NYSEG.

[808] *E.g.*, NRECA, NIEP, TDU Systems.

[809] *E.g.*, TDU Systems, Blue Ridge, NY Energy Buyers.

[810] *E.g.*, UT Com.

[811] *E.g.*, Utility Investors Analysts, Public Power Council, Atlantic City, EEI, PA Com, NYSEG, Central Montana EC, Nebraska Public Power District, LG&E ABATE.

[812] Several commenters (Illinois Power, Oklahoma G&E, and Utility Investors Analysts) suggest that the Commission hold a technical conference to discuss how best to define the calculation of the formula components.

[813] Central Montana EC and NY Energy Buyers.

[814] *See* EEI, Electronic Data Systems, Knoxville, NIMO, NYSEG, NY Energy Buyers, Reynolds.

[815] *E.g.*, Nuclear Energy Institute, EEI, Consumers Power, PA Com, Oklahoma G&E, Portland, Knoxville, MidAmerican, Seattle, Salt River, Washington and Oregon Energy Offices, SMUD, Caparo.

[816] Some commenters (e.g., Alma, Freedom Energy) oppose such flexibility. Alma maintains that clarity of rules is needed to provide participants in the competitive market as much certainty as possible about stranded cost charges likely to be recovered before they engage in alternative transactions. Freedom Energy similarly supports across-the-board or generic standards, as opposed to a case-by-case approach.

[817] *E.g.*, Centerior, Com Ed, Duke, Entergy, Florida Power Corp, Utility Investors Analysts, CA Energy Co, CSW.

[818] *E.g.*, Alma, ABATE, DOD, TDU Systems, ELCON.

[819] *E.g.*, NRECA, CA Energy Co, ABATE, DOD.

[820] *E.g.*, EEI and various investor-owned utilities, Nuclear Energy Institute, NC Com, Legal Environmental Assistance, EPA, Utilities for Improved Transition, PA Com.

[821] *E.g.*, TAPS, WP&L, UT Industrials, UtiliCorp, American Forest & Paper.

[822] *E.g.*, DC Com, Sustainable Energy Policy, Washington and Oregon Energy Offices.

[823] *E.g.*, ABC & SMEPA, Electronic Data Systems, Freedom Energy Co, LG&E, American National Power, BGA, Entergy, AMP Ohio, TDU Systems, TAPS, Las Cruces.

[824] TDU Systems proposes that the Commission allow for the recovery of stranded benefits in one of two ways: (1) Require direct payment of stranded benefits to a wholesale purchaser whose contract is terminated; or (2) allow a party to continue to receive power at cost-based rates for a period sufficient for the purchaser to be "transitioned" into a competitive market.

[825] *E.g.*, ELCON, NY Energy Buyers, SMUD, Caparo.

to determine the revenues a utility would receive in a competitive market for the stranded assets, that is, the competitive market value.[826] Proposals for calculating competitive market value include using: (1) The marginal cost of the released capacity; (2) the long-run marginal cost of the most competitive incremental generation replacement technology; (3) the marginal cost of requirements service; (4) a combination of the marginal costs of the utility, alternative suppliers, and others; (5) the cost of a combined cycle combustion turbine; (6) the price paid by the departing generation customer; (7) the highest price available in the market; and (8) auctions. In addition, to the extent that a futures market is sufficiently well-developed when the Commission issues a final rule, several commenters believe that futures market prices could be used as an estimate of market value.[827]

MT Com contrasts the effect of using short-term nonfirm prices instead of long-term firm prices as the competitive market value. It states that if short-term nonfirm prices are used, the stranded cost estimate would be higher, because the market price of short-term nonfirm power is lower than both the market price of long-term firm power and the embedded cost price.

Some commenters express concern regarding the difficulty of determining the market value of the displaced capacity under the revenues lost approach.[828] Among other things, commenters note that because a competitive market does not yet exist, the market price cannot be calculated in advance. For this reason, several commenters support an after-the-fact determination of market value.[829]

Snapshot Approach vs. True-Ups

Commenters are split on whether the revenues lost approach should use a one-time snapshot approach [830] or whether true-ups should be required or allowed.[831] The primary rationale offered in support of a snapshot approach is certainty; [832] the primary rationale offered in support of true-ups is accuracy.

Commenters that support true-ups note the inaccuracy associated with long-term avoided cost estimates contained in PURPA-mandated QF contracts and maintain that the projections required by the revenues lost approach will produce similarly disastrous results if true-ups are not permitted. As a component of the true-up calculation, some commenters favor inclusion of revenues associated with future load growth of remaining customers.[833] According to Electronic Data Systems, if these revenues are not included in a true-up calculation, the utility could over- or under-collect stranded costs, depending on whether and what type of load growth is anticipated. CA Energy Co and American National Power recommend consideration of load growth of remaining customers as a mitigating factor because the load increases of these customers allow the sale of the stranded capacity. CSW, on the other hand, opposes using the future load growth of remaining customers as a mitigation device. CSW states that the benefits of growth on the former supplier's system should flow to the customers who remain customers of that system. Ohio Ed agrees, except where the customer proves that the utility has deferred or cancelled capacity resource additions in response to departing customers.

Other commenters suggest that the Commission should not prescribe one method over the other.[834] EGA, for example, states that customers should have the choice of paying either a projected fixed amount or a charge that is periodically trued up.

Mitigation

A number of commenters agree that the revenues lost approach effectively encompasses mitigation.[835] Others argue that mitigation should (or could) be accomplished through divestiture of assets or capacity auctions.[836] LG&E states that a utility requesting recovery of stranded costs should be required to auction that portion of its system to the highest bidder. The difference between the auction price and the depreciated value of the auctioned assets could be used to determine stranded costs. However, LG&E does not advocate complete recovery of this difference; rather, it argues that this amount could be used as a starting point.

Several commenters argue that the revenues lost approach can produce anticompetitive results if capacity auctions or divestiture are not required.[837] A number of these commenters contend that utilities that recover significant stranded costs (while still maintaining control over the stranded capacity) can use the freed capacity to make sales in the market at subsidized prices. They maintain that these utilities do not have to worry about recovery of fixed costs because those costs are recovered by the stranded cost charge. According to these commenters, utilities can then remarket (or "dump") stranded capacity at artificially low prices (made possible by the subsidy from the stranded cost recovery) and thereby gain a competitive advantage in other transactions.[838] If the utilities are permitted to remarket the displaced capacity, CA Energy Co states that market-sensitive floor prices should be set to prevent utilities from reselling power from stranded assets at artificially low prices.

Suggestions as to how to prevent such anticompetitive consequences include allowing the customer to own or control the residual asset or amount of stranded capacity equivalent to the lost revenues. According to EGA, the customer could market the capacity it would have had to pay for through stranded cost charges and thus prevent the utility from remarketing the capacity after it has been paid stranded costs.

Several commenters take a harder line and would require suppliers seeking stranded cost recovery to offer for sale to the departing customer a "slice" of their system.[839] TDU Systems states that the purchase of an undivided slice of the system is superior to divestiture of a specific asset because the utility cannot keep the wheat and leave the purchaser with the chaff. TDU Systems would also make purchase rights to the system assignable. According to TDU Systems, this mitigation scheme is the only possible way to justify the revenues lost approach. TDU Systems argues that this proposal would inflict no harm on the utility, which would be fully compensated for the stranded assets. It also suggests that the ability to purchase a slice of the supplier's system would serve as an important bargaining tool in stranded cost negotiations, which would help level the playing field among the parties.

Other mitigation proposals include: (i) Requiring each utility to prepare a mitigation plan under the supervision of an independent expert that must be approved by the parties or by the Commission before stranded cost recovery is permitted; [840] (ii) requiring a utility to report annually for a five-year period its mitigation activities and to identify its stranded costs yet to be recovered; [841] and (iii) setting the market value of the displaced capacity at a high level (thereby reducing the stranded cost charge) to provide a mitigation incentive.[842] A number of commenters support customer-controlled mitigation, arguing, among other things, that the entity responsible for paying stranded costs has the best incentive to mitigate them.[843] Others support some form of utility sharing of stranded costs to give utilities an incentive to mitigate stranded costs.[844]

b. Reasonable Expectation Period (Period of Expected Continued Service)

Numerous commenters oppose setting absolute limits on the period over which a customer's liability for stranded costs would be determined.[845] They suggest instead that the Commission should apply the facts of each case, including the facts used to prove a reasonable expectation of continued service, to its determination of a reasonable expectation period. Among the factors commenters propose for consideration are: the utility's planning horizon; the average remaining life of the utility's generating facilities or a specific number of years that coincides with the duration of a utility-specific stranded cost recovery plan; utility projected load growth; dedicated facility construction lead times; estimated time to market stranded assets; the lesser of the utility's need date for new generation or the cross-over date when the market generation price is expected to equal a customer's embedded cost less other charges and compensation; and the period for which estimated revenues exceed market values. Commenters representing the financial community [846] oppose limiting cost recovery from the departing generation customer based on the term of the contract. They argue that it was reasonable for a utility to expect to continue to serve a customer, or customers who would take its place, through the life of the assets; otherwise, the asset could not have been financed in the first place.

A number of other commenters urge the Commission to prescribe limits on a customer's maximum liability.[847] Some commenters believe that the utility's planning horizon is the reasonable expectation period.[848] PSE&G states that since utilities invested and incurred costs to serve customers based on the planning horizon, the planning horizon is the only logical period. Other commenters propose that the reasonable expectation period be limited to one contract extension period, or to the shortest of: (i) One additional contract renewal period; (ii) the utility's planning horizon; (iii) the period it would/does take for load growth on the seller's system to absorb the lost load; or (iv) the contractual notice period.[849] Other suggested limits include the weighted average remaining life of all generating assets; [850] the in-service date of the utility's next avoidable generating unit or purchased power contract that is projected to have a capacity factor comparable to the departing generation customer's load factor minus a one-time mitigation effort; [851] and a rebuttable presumption that two years is the maximum time for a utility reasonably to expect to receive revenue from tariff sales or "open-ended" contracts.[852]

Other commenters propose recovery periods that range from three to five years (*e.g.*, Central Montana EC),[853] five years (*e.g.*, Public Power Council), and eight years (*e.g.*, Allegheny).[854]

GA Com and AZ Com state that stranded cost recovery should not go on indefinitely. GA Com states that stranded costs should be collected for a sufficient period of time to ensure full recovery and indifference on the part of the utilities' remaining native load customers. AZ Com states that a specific termination period will also create an incentive for utilities to mitigate stranded costs.

c. Proposed Stranded Cost Recovery Procedures

Several commenters [855] urge the Commission to be flexible in evaluating proposed mechanisms for recovery of stranded costs, including the payment method, noting that an approach suitable to one utility and its customers may not be suitable to another. They say that utilities within a region might find a mechanism that meets their region's unique characteristics.

Some commenters oppose certain aspects of the procedures proposed in the NOPR. For example, TAPS objects that the NOPR procedure aimed at providing advance notice to the customer of its potential stranded cost obligation resembles the procedure rejected in *Cajun*. It says that "the customer will likely be forced to spend significant time and resources 'litigat[ing] to determine the price of a product(,)' thereby 'introduc[ing] deal-killing transactional costs and uncertainties.'" (citing *Cajun*, 28 F.3d at 179). TAPS proposes that the seller be required to produce a stranded cost estimate that reflects a good faith, reasonable estimate of the likely impact of mitigation and that sellers making excessive and unsupported stranded cost claims be penalized. At a minimum, it argues that the seller should be held responsible for the costs

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[826] *E.g.*, Centerior, Duke, Entergy, Com Ed, Houston L&P, Florida Power Corp, Carolina P&L, NRRI, WP&L, DOE, CSW, UtiliCorp, LG&E, FL Com.

[827] *E.g.*, WP&L, DOD, Duke, PSNM, ABATE, Houston L&P. The Commission notes that the New York Mercantile Exchange only recently began trading in electricity futures and that such trading was limited to two delivery points located within the Western Interconnection.

[828] *E.g.*, MI Com, NSP, NY Energy Buyers, KS Com.

[829] *E.g.*, KS Com, NY Energy Buyers.

[830] Commenters that support a one-time, up-front approach include FL Com, Dayton P&L, Portland, DE Muni.

[831] Commenters that support true-ups include ELCON, NYSEG, MN DPS, Reynolds, TAPS, NIMO, DOE, Electric Consumers Alliance, Com Ed, United Illuminating, SoCal Edison.

[832] DE Muni urges rejection of true-ups on the basis that true-ups represent guaranteed recovery of 100 percent of stranded costs.

[833] *E.g.*, Electronic Data Systems, Alma, American National Power, CA Energy Co, NARUC, NRECA.

[834] *E.g.*, Atlantic City Electric, EGA, Conservation Law Foundation.

[835] *E.g.*, Utility Investors Analysts, Duke, PSE&G, Com Ed, United Illuminating, Entergy.

[836] *E.g.*, NIEP, LG&E, TDU Systems, EGA, NY Energy Buyers, ELCON, American National Power.

[837] *E.g.*, LG&E, Allegheny, TDU Systems, EGA, AMP Ohio, CA Energy Co, WP&L, Torco.

[838] CA Energy Co maintains that an anticompetitive intent could be hidden by the argument that power must be dumped to mitigate stranded costs. It thus submits that, even without intending to do so, a utility could cripple competition by depressing market rates to artificially low levels.

[839] *E.g.*, TDU Systems, Arkansas EC.

[840] *See, e.g.*, CA Energy Co.

[841] *See, e.g.*, PSNM.

[842] *See* WP&L.

[843] *E.g.*, EEI, PA Com, AMP Ohio, TAPS.

[844] *E.g.*, ABATE, Fertilizer Institute, IL Com, KS Com, San Francisco, UT Industrials, ELCON, CA Energy Co, MT Com, Caparo, WA Com, Education, NRRI, NY Energy Buyers, Reynolds, DOD, DC Com.

[845] *See, e.g.*, Florida Power Corp, Central and South West, Com Ed, EEI, Montana, PECO, Minnesota DPS, NIMO, NSP, SoCal Edison, PA Com, Central Louisiana, Utility Investors Analysts, Salt River, Orange & Rockland.

[846] *E.g.*, Utility Investors Analysts and Utility Shareholders.

[847] *E.g.*, NIEP, TAPS, Allegheny, Central Montana, Municipal Energy Agency Nebraska, PSNM, ABATE, ELCON, PSE&G, UtiliCorp.

[848] *E.g.*, PSE&G, PSNM, ELCON, Oklahoma G&E, Duke. Oklahoma G&E supports use of the utility's planning cycle for retail stranded costs and use of the contract term for wholesale stranded costs. Duke states that the Commission should permit the customer and the transmission provider to establish the compensation period at something less than the maximum period.

[849] *E.g.*, UtiliCorp, WP&L, Missouri Joint Commission, TAPS, Municipal Energy Agency Nebraska, TDU Systems.

[850] *E.g.*, Carolina P&L.

[851] *E.g.*, FL Com.

[852] *E.g.*, UT Industrials.

[853] Central Montana describes as "excessive" the recovery period offered to it by Montana. Central Montana states that it gave notice under a five-year notice provision and that Montana responded with a stranded cost demand extending 14 years after notice of termination (nine years from the date service would terminate).

[854] Allegheny would exempt three types of stranded costs from such a limit: (1) Those due to PURPA power purchases (it submits that these were federally-mandated rather than profit-motivated business decisions); (2) those due to regulatory assets (such as deferred taxes); and (3) those due to municipalization. In addition, it favors establishing a rebuttable presumption that these special costs are eligible for stranded cost recovery.

[855] *E.g.*, EEI, Centerior, PECO, Houston L&P, Salt River.

reasonably expended by the buyer to litigate the stranded cost claim.

DE Muni asserts that if filing a complaint to redress grievances related to the recovery of stranded costs is to be a meaningful remedy, the final rule should set a time limit within which the complaint must be resolved.

A number of commenters offer modifications to the recovery procedures set forth in the NOPR, including: (1) Extending a utility's response time for providing stranded cost liability estimates from 30 days to at least 60 days;[856] (2) requiring a utility to provide to each wholesale customer within six months of the effective date of the final rule: (a) The formula that the utility proposes to use to calculate the customer's maximum possible stranded cost exposure without mitigation; and (b) an actual calculation of the customer's stranded cost exposure assuming the customer left the utility's system six months after the effective date of the final rule;[857] (3) allowing customers that desire to litigate their stranded cost liability to do so in a forum in which all litigating customers participate;[858] (4) requiring utilities to disclose their estimated transition cost liabilities (and the nature of those liabilities) before the effective date of the final rule to permit a realistic evaluation of the scope of the transition cost problem and possibly facilitate resolution of some disputes by settlement;[859] (5) requiring any utility seeking stranded cost recovery to provide a list of the stranded facilities to the departing generation customer and offer that customer an equity position in those facilities in return for payment of stranded costs, thereby enabling the departing customer to recover some of its stranded costs payment when any of the facilities becomes useful again;[860] (6) requiring a "good faith request" for an estimate of stranded costs based on an expected date of departure from the providing utility's system and mitigation efforts expected to be undertaken by the utility;[861] and (7) requiring documented evidence that a utility made a good faith attempt to settle with a departing generation customer before the utility is given the opportunity to recover stranded costs.[862]

[856] *E.g.*, Entergy.
[857] *E.g.*, Associated Power.
[858] *E.g.*, Associated Power.
[859] *E.g.*, Texaco.
[860] *E.g.*, Heartland.
[861] *E.g.*, PSNM, ELCON.
[862] *E.g.*, ELCON.

Commission Conclusion

We reaffirm our proposal that the determination of recoverable stranded costs should be based on the "revenues lost" approach. We find that the revenues lost approach is the fairest and most efficient way to balance the competing interests of those involved.

After careful consideration of the comments submitted, we have decided to adopt the following formula for calculating a departing generation customer's stranded cost obligation (SCO), on a present value basis, under a revenues lost approach:

SCO=(RSE − CMVE×L

where:

RSE=Revenue Stream Estimate—average annual revenues from the departing generation customer over the three years prior to the customer's departure (with the variable cost component of the revenues clearly identified), less the average transmission-related revenues that the host utility would have recovered from the departing generation customer over the same three years under its new wholesale transmission tariff.[863]

CMVE=Competitive Market Value Estimate—determined in one of two ways, *at the customer's option:* Option (1)—the utility's estimate of the average annual revenues (over the reasonable expectation period "L" discussed below) that it can receive by selling the released capacity and associated energy, based on a market analysis performed by the utility; or Option (2)—the average annual cost to the customer of replacement capacity and associated energy, based on the customer's contractual commitment with its new supplier(s).

L=Length of Obligation (reasonable expectation period)—refers to the period of time the utility could have reasonably expected to continue to serve the departing generation customer. We reaffirm that we do not believe that a one-size-fits-all approach is appropriate for determining the length of a customer's obligation. If the parties cannot reach agreement as to the length of the customer's obligation, this period is to be determined through litigation as a part of the threshold issue of whether the utility had a reasonable expectation of continuing to serve the customer.

Application of the foregoing formula and collection of the resulting stranded costs are subject to the following conditions:

1. Cap on SCO. The quantity (RSE–CMVE) can be no greater than the average annual contribution to fixed power supply costs (defined as RSE less variable costs) that would have been made by the departing generation customer had it remained a customer.

2. Changes in Customer Revenues. If the customer's rates (or *contract demand* amounts, if relevant) changed during the three-year period prior to the termination of its existing requirements contract, then the RSE should be calculated using the customer's most recent 12 months of revenue.

3. CMVE Option 2 Conditions. Option 2 (a CMVE equal to the average cost to the customer of replacement capacity and associated energy) would be available to a customer whose alternative purchase(s) runs concurrent with L, or, if longer than L, contains rates that do not fluctuate over the duration of the contract. The customer would be required to demonstrate (at the time it chooses this option) that the replacement capacity contract(s) is for service equivalent to the released capacity (that is, firm power for a period at least equal to L), and must also clearly identify the rates to be paid for the replacement service.

4. Payment Options. The method and term of payment should be negotiated, but is ultimately left to the customer's discretion. Possible payment options include a lump-sum payment, an amortization of a lump-sum payment over a reasonable period of time, or a surcharge on the customer's transmission rate.

5. Applicability. The formula is designed for determining stranded costs associated with departing wholesale generation customers and for retail-turned-wholesale customers.[864]

6. Marketing/Brokering Option. The Commission will allow the customer, at its sole discretion, a choice to market the released capacity and associated energy (or to contract with a marketer for such service). Alternatively, the customer may choose to broker the released capacity and associated energy (or to contract with a broker).[865]

[863] In the case of a retail-turned-wholesale customer, subtraction of distribution system-related costs may also be appropriate.

[864] The formula is not to be used for recovering stranded costs associated with retail wheeling. We believe the formula is unworkable in this scenario because one of its key elements—the option for a customer to market or broker the utility's power—may not be practicable for retail customers. Therefore, stranded costs associated with retail wheeling will be determined on a case-by-case basis.

[865] The customer may also decide to remain a requirements customer for L. If the customer elects to remain a requirements customer, the utility will be obligated to continue service to the customer for the duration of L.

7. Released Capacity and Associated Energy. A utility requesting stranded cost recovery must indicate the amount of system capacity and the amount of associated energy released by the departing generation customer and used in the revenues lost calculation. This will allow the departing generation customer to fairly consider exercising a choice to market or broker the released capacity and associated energy.

The formula balances a number of goals, including: (1) Ensuring full recovery of legitimate, prudent and verifiable stranded costs; (2) requiring the utility to mitigate stranded costs; (3) providing certainty for departing generation customers; and (4) creating incentives for the parties to renegotiate their existing requirements contracts or otherwise settle stranded cost claims without resort to litigation.

Contrary to the objections of some commenters that the revenues lost approach creates no incentive to mitigate stranded costs, the formula automatically encompasses mitigation by reducing the departing generation customer's stranded cost obligation by the competitive market value of the released capacity and associated energy. Further, the option provided in the formula for a customer to market or broker the released capacity and associated energy protects the customer from a utility trying to overrecover stranded costs by estimating a low value for the released capacity and associated energy and thereby provides the customer some assurance that stranded costs will be minimized. Specifically, if a customer believes the utility's competitive market value estimate (CMVE) is too low, it can market or broker the released capacity and associated energy and reduce its stranded cost obligation.[866] We accordingly will not impose a separate mitigation obligation on the utility above that which is already subsumed in the revenues lost approach. In addition, a utility will continue to be subject to an ongoing prudence obligation to sell excess capacity off-system and/or to dispose of uneconomic assets.

We recognize that some commenters oppose the revenues lost approach as imprecise. However, any ratemaking method that relies on estimates will be subject to forecasting error. Moreover, in direct response to commenter concerns, we have gone to great lengths in this rule to provide specificity with respect to the calculation of the components of the formula. We believe that use of the formula will narrow the scope of disputes over the calculation of stranded costs, lend precision to the stranded cost amount it produces, and provide certainty to departing generation customers with respect to their stranded cost obligations.

Calculation of the Revenue Stream Estimate (RSE)

The RSE component of the formula is based on revenues paid by the departing generation customer during the last three years of its contract or retail service. We believe that the use of "present" revenues in the calculation of the revenue stream has numerous advantages over other approaches advocated. The use of present revenues eliminates disputes over estimates of future revenues, thereby adding certainty to the calculation. It also eliminates the need for a detailed listing of includable costs, relying instead on the assumption that present rates include all of the utility's costs of providing service. Further, the rates that produce present revenues have been approved by regulators, which strongly suggests that the costs included in them are prudent, legitimate and verifiable.[867]

We reject the suggestion by commenters that a utility be required to calculate the revenue stream using any lower rate being offered by the utility for service comparable to that being taken by the customer when the customer departs the utility's generation system. A revenue stream calculated in this manner could deny a utility the opportunity to fully recover its stranded costs or could shift costs to other customers, a result we find unacceptable. Similarly, the elimination of return-related revenues from the revenue stream effectively would require shareholders to absorb stranded costs, which is contrary to our determination that a utility is entitled to an opportunity to fully recover legitimate, prudent and verifiable stranded costs.

Calculation of the Competitive Market Value Estimate (CMVE)

We recognize the difficulty associated with estimating the competitive market value of the capacity and associated energy not purchased by the departing generation customer. However, we believe that an up-front estimate, which provides flexibility to the utility and a measure of certainty to customers, is superior to other proposals, provided the right mix of incentives and options is included in the formula.

A utility requesting stranded cost recovery must estimate CMVE based on a market analysis, with all assumptions and work papers made available to the departing generation customer. This provides a utility with the flexibility to choose the methodology that it feels produces the best estimate of the competitive market value of the released capacity and associated energy. We note that numerous proposals for calculating competitive market value were made in the comments. The Commission believes that the flexibility provided by the formula we adopt in this Rule permits the filing utility to avail itself of many of these recommendations.

At the same time, a utility may have an incentive to underestimate CMVE and thereby increase the stranded costs charge. To address this issue, the formula contains several features designed to create an incentive to produce a good faith estimate of stranded costs and to safeguard customers if a utility fails to do so. For example, the formula provides a departing generation customer with the option to market or broker the released capacity and associated energy if it believes the utility's estimate is too low. If the marketing option is chosen, the customer would buy the released capacity from the utility at the utility's market value estimate. The associated energy would be purchased at the utility's average system variable cost. The customer would then resell the released capacity and energy and keep the resulting revenues. If the revenues it receives are greater than the utility's market value estimate, the customer will have reduced its stranded cost obligation. If the customer chooses the brokering option and the released capacity and associated energy are purchased by a third-party for more than the utility's market value estimate, the difference between the average annual revenues produced by the sale and the utility's CMVE estimate will be used to lower the customer's stranded cost obligation. The utility may be required to show in a compliance filing that it has reduced the customer's stranded cost obligation under such circumstances.

If the customer chooses CMVE Option 2 and meets its conditions, CMVE will be set at the average price that the customer pays its new supplier. The customer will test the market and choose the best deal available. Hence,

[866] This option also addresses the concerns of commenters that, by failing to require auctions or divestiture of stranded capacity, the Rule would allow a utility recovering stranded costs to sell the freed capacity at subsidized prices, thereby gaining a competitive advantage in other transactions. If the customer avails itself of this option, the utility would no longer control the released capacity.

[867] The present rates, whether established by settlement or otherwise, have been found to be just and reasonable. In other words, they are neither confiscatory nor exorbitant.

the price the customer pays its alternative supplier is arguably a more accurate measure of the competitive market value of the capacity and associated energy not taken from the host utility. Whether to exercise Option 2 resides solely with the customer.

We further note that the sale of all or part of a utility's generating assets could be used as a method to determine competitive market value of such assets. Under the theory that an asset sale price reflects the highest value for the utility's assets, the Commission would presume that the competitive market value established under an open asset sale (*i.e.*, an offer to sell assets to any taker) would fully satisfy the utility's responsibility to minimize stranded costs. If a stranded cost claim involves divestiture of assets, the amount of stranded costs associated with those assets would be the book value less the sale price. The Commission would determine the appropriate stranded cost charge based on the facts presented.

Snapshot Approach Versus True-Ups

The revenues lost formula is based on a one-time snapshot approach. We favor this approach over the true-up approach because it creates certainty and will produce reasonably accurate results. True-ups, on the other hand, while theoretically more accurate, require periodic recalculation of stranded costs, which creates ongoing uncertainty and disputes. In addition, true-ups will result in additional transaction costs. We believe that an approach that provides certainty and establishes cost responsibility up front is best for what is fundamentally a transition issue.

Implementation Procedures [868]

In the Supplemental Stranded Cost NOPR, we proposed procedures to provide a potential departing generation customer with advance notice of how the utility would propose to calculate costs that the utility claims would be stranded by the customer's departure.[869] These procedures are modified as follows to incorporate the findings made in this rule:

(1) A customer may, at any time before the termination date specified in its existing wholesale requirements contract,[870] request the public utility to provide an estimate of the customer's stranded cost obligation based on the revenues lost formula contained in this Rule,[871] as of the date set forth in the customer's request. The customer should specify in its request, to the extent possible, pursuant to its rights under its power sales requirements contract with the seller,[872] the date on which the customer is considering substituting alternative generation for the requirements purchase and the amount of the substitute generation. Any remaining generation requirements to be purchased from the existing supplier after this date should be clearly indicated. The customer may seek further information on how the stranded cost charge would vary as a result of choosing different dates or different amounts of substitute purchases. The customer also should indicate its preferred payment method, such as a lump-sum payment, an amortization of a lump-sum payment, or a surcharge (such as monthly or annual) on the customer's transmission rate.

(2) The utility shall, within thirty days of receipt of the request, or other mutually agreed-upon period, provide the customer with an estimate of the customer's stranded cost obligation. The response shall include: (i) Estimates of RSE, CMVE, and L according to the revenues lost formula and based on the information supplied by the customer; (ii) supporting detail (including the underlying market analysis that forms the basis for the CMVE estimate) indicating how each element in the formula is derived to enable the customer to understand the basis for each element; (iii) a detailed rationale justifying the basis for the utility's reasonable expectation of continuing to serve the customer beyond the termination date in the contract; [873] (iv) an estimate of the amount of released capacity and the amount of associated energy that would result from the customer's departure, based on the information supplied by the customer, including detailed support for the amount of the released capacity and the amount of associated energy, and the market value of each, for each year of the reasonable expectation period, and how those amounts are consistent with the RSE and CMVE estimates; and (v) the utility's proposal for any contract amendment needed to implement the customer's payment of stranded costs (the proposed modification should also reflect the customer's chosen payment method).

(3) If the customer believes that: (i) The utility has failed to establish that it had a reasonable expectation of continuing to serve the customer beyond the contract term; [874] (ii) the proposed stranded cost charge (or any of the elements used to compute it) is unreasonable; (iii) the amount of released capacity and the amount of associated energy assumed to be sold is unreasonable; or (iv) the utility's proposal for any contract amendment needed to implement the customer's payment of stranded costs is unreasonable, the customer will have thirty days in which to respond to the utility explaining why it disagrees. The Commission expects parties to attempt to resolve any disputed issues.

(4) If the parties are unable to resolve the matter using the procedures in (1)–(3) above, the customer may either: (a) File a petition for declaratory order, or a section 206 filing seeking to amend an existing requirements contract, to seek a Commission determination as to whether: (i) The utility has met the reasonable expectation standard; (ii) the proposed stranded cost charge satisfies the other evidentiary standards set forth in this Rule; (iii) the amount of released capacity and the amount of associated energy proposed by the utility is reasonable; or (iv) the utility's proposal for any contract amendment needed to implement the customer's payment of stranded costs is reasonable; *or* (b) wait until the proposed stranded cost charge is filed by the utility under section 205 of the FPA, and contest it at that time.[875] In either case, because estimates of RSE and CMVE may change over time, any estimate of stranded costs provided by a utility to a customer will not be considered binding prior to any filing by either party with the Commission. However, any stranded cost estimate filed by the utility in a section 205 or 206 proceeding, or in response to a petition for a declaratory order, shall be considered to be a binding estimate of the customer's maximum stranded cost obligation for purposes of litigation. Similarly, any estimate of stranded cost obligation filed by a customer in a petition for declaratory order or a section 205 or 206 proceeding shall be considered to be a binding estimate of the customer's minimum stranded cost obligation for purposes of litigation.[876] Estimates of stranded cost obligation that are filed by either party with the Commission shall include the information, including the supporting detail, identified in (2) above.

(5) If a utility intends to file for stranded cost recovery from a customer through either a stranded cost amendment to its existing contract or a surcharge on transmission rates, it must file its stranded cost estimate no later than 120 days prior to the end of the customer's contract term. The filing shall include the information, including the supporting detail, set forth in (2) above. The customer, of course, may contest the contents of such a filing.[877]

Conditions of the Marketing/Brokering Option

A customer may choose to market or broker a portion or all of the released capacity and associated energy identified by the utility in its stranded cost estimate (or to contract with a marketing/brokering agent). Importantly, by exercising the marketing or brokering option, the customer does not relinquish its right to contest any aspect of the utility's stranded cost estimate, including whether the utility is entitled to recover stranded costs for the period that the customer has agreed to market or broker any released capacity and associated energy. To implement this option, a customer must inform the utility in writing of its decision no later than 30 days after the utility files its estimate of stranded costs for the customer with the Commission. Before marketing or brokering of the released capacity and associated energy can begin, the utility and customer must execute an agreement identifying, at a minimum, the amount of capacity and associated energy the customer is entitled to schedule, the price of capacity and associated energy, and the duration of the customer's marketing/brokering of the released capacity and associated energy. Parties are encouraged to settle disputes over these and any other marketing/brokering implementation issues. The negotiations should be guided by the principle that the utility must allow the customer to market or broker the released capacity and associated energy under terms and conditions comparable to those for a utility resale of the capacity and associated energy to a third party. If agreement over marketing or brokering cannot be reached, the parties may seek to include the issue as a part of a proceeding initiated at the Commission with respect to the utility's stranded cost estimate for the customer.[878] Upon issuance of an order resolving the disputed issues, the customer may reevaluate its decision to exercise the marketing/brokering option. The customer also may choose to market or broker any released capacity and associated energy not being marketed or brokered under an earlier agreement with the utility. A customer must notify the utility in writing within 30 days of issuance of the Commission's order resolving the disputed issues whether the customer will market or broker a portion or all of the capacity and energy associated with stranded costs allowed by the Commission.

Payment for Released Capacity and Associated Energy Under the Marketing Option

If the customer chooses to market released capacity and associated energy, it shall pay the utility's estimate of the competitive market value of the capacity, or, if the marketing option is exercised after a Commission order, it shall pay the competitive market value amount as determined by Commission order. In addition, for all energy scheduled to be delivered, the customer shall pay the utility's average system variable costs. The customer may also choose to market only a portion of the released capacity and/or for a shorter period. In this situation, the customer will also pay the competitive market value for the released capacity plus the utility's average system energy costs. The customer's liability for payment of stranded costs is unaffected by its decision to market released capacity and associated energy.[879] In addition, to the extent that the customer chooses to market a portion or all of the capacity alleged by the utility to be stranded, a final determination with respect to the customer's stranded cost obligation will not affect any prior marketing agreement.

Payment for Stranded Costs Under the Brokering Option

If the customer chooses to broker a portion or all of the released capacity and associated energy, any revenue received from such brokering activity shall be used to offset the utility's estimate of the competitive market value of the brokered capacity and associated energy.[880] Once a brokering agreement is executed between the customer and the utility, if the customer's brokering efforts fail to produce a buyer within 60 days of the date of that agreement, the customer shall relinquish all rights to broker the released capacity and associated energy and will pay stranded costs as determined by the formula.

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[868] These procedures apply to a potential departing generation customer who is an existing wholesale requirements customer of a public utility, or a retail customer of a public utility who is contemplating becoming a wholesale transmission customer (such as through municipalization). They may be used at the option of the potential departing generation customer. An existing wholesale requirements customer may use the procedures in conjunction with, or in lieu of, a complaint under section 206 to amend its existing requirements contract to add an explicit stranded cost provision, as discussed in Section IV.J.5.

[869] FERC Stats. & Regs. ¶ 32,514 at 33,114–15; 33,128–29.

[870] If the customer is a retail customer contemplating becoming a wholesale transmission customer, it may at any time request the public utility to provide an estimate of its stranded cost obligation.

[871] Because the formula reduces a customer's stranded cost obligation by the competitive market value of the capacity and associated energy that would be released by the customer's departure, we will not adopt the proposal in the Supplemental Stranded Cost NOPR to allow a potential departing customer to receive an estimate of the customer's "maximum possible stranded cost exposure without mitigation." Requiring the utility to provide an estimate that reflects the competitive market value of the capacity and associated energy to be released will better enable the customer to assess its supply options.

[872] If the customer is a retail customer contemplating becoming a wholesale transmission customer, it should specify in its request, to the extent possible, the date on which the customer is considering becoming a wholesale transmission customer of the utility and the amount of generation, if any, it will continue to purchase from its existing supplier.

[873] If the customer is a retail customer contemplating becoming a wholesale transmission customer, the utility should provide a detailed rationale justifying the basis for its reasonable expectation of continuing to provide the customer bundled retail service.

[874] Subsection (i) above also would apply to a retail customer contemplating becoming a wholesale transmission customer if the customer believes that the utility has failed to establish that it had a reasonable expectation of continuing to provide the customer bundled retail service.

[875] As discussed above, retail customers contemplating becoming wholesale transmission customers may use the same procedures. As also discussed above, customers under existing requirements contracts with public utilities have the option of making a filing under section 206 seeking to amend the contract to add an explicit stranded cost provision, without having to go through these procedures.

[876] Although estimates by the utility or the customer may be binding for purposes of litigation, this does not mean that the parties may not settle at any time on another amount.

[877] A customer requesting a section 211 order for transmission services from a transmitting utility also may incur a stranded cost obligation. Any estimate of stranded cost obligation resulting from the requested transmission services should be included as part of the utility's good faith response to the customer's request for transmission services. *See* 18 CFR 2.20. Because the Commission will apply the revenues lost formula to any request for stranded cost recovery as a part of its determination of the appropriate charge for transmission services ordered in a section 211 proceeding, we encourage non-public utilities to use the revenues lost formula to estimate a customer's stranded cost obligation.

[878] Because litigation of stranded costs may extend beyond the date of the customer's departure, the customer may also file a petition for a declaratory order requesting expedited resolution of marketing or brokering implementation issues.

[879] If the customer can market the released capacity and associated energy for a higher price than the customer paid for it, the customer effectively reduces its stranded cost obligation, *i.e.*, the incremental revenue received offsets a portion of the customer's stranded cost payment to the utility.

[880] For example, if the customer brokers any released capacity and associated energy for a higher price than the utility's estimated competitive market value of that capacity and energy, the difference between the utility's estimate and the brokered price will be used to increase the utility's CMVE component of the stranded cost calculation, thereby reducing the customer's stranded cost obligation.

10. Stranded Costs in the Context of Voluntary Restructuring

In the Supplemental Stranded Cost NOPR, we noted that the functional unbundling of wholesale services does not require corporate unbundling (such as disposition of assets to a non-affiliate, or establishing a separate corporate affiliate to manage a utility's transmission assets). At the same time, we indicated that some utilities may ultimately choose some form of corporate unbundling.[881] We reaffirm in this Final Rule that we are willing to consider case-specific proposals for dealing with stranded costs in the context of any restructuring proceedings that may be instituted by individual utilities.

11. Accounting Treatment for Stranded Costs Comments

A number of commenters ask the Commission to provide accounting treatment guidance as part of its procedures for implementing its policies on stranded costs and their recovery.[882]

NSP states that the Commission will need to provide appropriate accounting guidance for the final stranded cost recovery methodology, including accounting for any portion of stranded cost recovery representing capital costs, the effect of any interperiod differences between the stranded cost calculations and the authorized recovery period, and the effects of differences between book and income implications of the stranded cost recovery mechanism. NSP also asserts that, in addressing the accounting implications of the final rule, the Commission must consider the requirements of the Financial Accounting Standards Board (FASB) Statement of Financial Accounting Standards No. 121, "Impairment of Long-Lived Assets" (SFAS No 121).

NASUCA states that one of the Commission's stated goals in providing stranded cost recovery is to protect against cost shifting. NASUCA argues that the Commission should adopt an accounting rule that assures that any federal resolution of wholesale stranded costs does not impose any cost shifting to captive customers.

EEI and Conterior argue that the Uniform System of Accounts as presently configured does not support the Commission's proposed policies on stranded cost recovery. Further, EEI states that even with the revenues lost approach, which EEI supports, utilities will still have to account for their assets on a class-of-asset by class-of-asset basis. EEI argues that this is necessary to ensure that the costs of the assets are expensed in the proper accounting period. EEI states that one of the basic principles of financial accounting is that expenses should be matched with the related revenues.

Commission Conclusion

As discussed in Section IV.J.3, this rule adopts a direct assignment approach for the recovery of stranded costs from departing generation customers. Under the revenues lost approach, stranded cost recovery is limited to the departing generation customer's contribution to fixed costs that the utility otherwise would not recover because of the customer's departure.

We recognize that there are certain similarities between the financial reporting objectives of SFAS No. 121 and the determination of stranded costs. However, there are also important differences between SFAS No. 121 and our approach to stranded costs. The revenues lost approach does not attempt to identify specific uneconomic assets and is not limited to only long-lived assets. Instead, it uses a formulary methodology that encompasses all fixed costs of providing service.

From a financial accounting standpoint, our approach to stranded costs creates the potential for a mismatch between the periods in which the stranded costs are charged to expense and any revenues provided for their recovery are included in net income determinations. This is because the earning process entitling a utility to the benefits of stranded cost recovery and thereby requiring the recognition of revenue may be completed prior to the time that the stranded costs must be charged to expense under generally accepted cost recognition criteria. This circumstance in a cost-based regulated environment creates the undesirable potential for double recovery of the same cost, cost shifting, and inappropriate financial reporting.

In order to avoid this potential, utilities shall not recognize revenues intended to provide for recovery of stranded costs from wholesale requirements customers prior to the time that the stranded costs are charged to expense, unless prior Commission approval to do so has been obtained. Absent Commission approval, utilities shall defer such amounts in Account 253, Other Deferred Credits, and amortize them to Account 456, Other Electric Revenues, consistent with the period the related costs are charged to expense. Also, we will require a utility to submit its proposed accounting for stranded costs and related revenues as part of its rate filing requesting recovery of stranded costs under section 205 of the FPA.

12. Definitions, Application, and Summary

In the Supplemental Stranded Cost NOPR, the Commission described proposed amendments to our regulations to establish filing requirements for public utilities and transmitting utilities that seek stranded cost recovery. We proposed to define "wholesale stranded cost" as "any legitimate, prudent and verifiable cost incurred by a public utility or a transmitting utility to provide service to: (i) A wholesale requirements customer that subsequently becomes, in whole or in part, an unbundled wholesale transmission services customer of such public utility or transmitting utility, or (ii) a retail customer, or a newly created wholesale power sales customer, that subsequently becomes, in whole or in part, an unbundled wholesale transmission services customer of such public utility or transmitting utility." We sought comments on whether this definition should encompass the situation where a wholesale requirements customer ceases to purchase power from the utility that had been making wholesale requirements sales to such customer without becoming an unbundled transmission services customer of that utility.[883]

Comments

We received numerous comments both supporting and opposing revisions to the proposed definition of wholesale stranded costs.[884] Several commenters oppose broadening the definition to include costs stranded by customers that do not become unbundled transmission service customers of the former supplier.[885] For example, EGA argues that the loss of an industrial customer that chooses to self-generate or the loss of a requirements customer as a result of a newly-created municipal system that interconnects with a transmitting utility that is not the customer's former supplier could have happened at any time. EGA states that revenues lost as a result of either

[881] FERC Stats. & Regs. ¶32,514 at 33,132.

[882] *See, e.g.*, EEI, NSP, LILCO, Central Hudson, Deloitte & Touche, Centerior.

[883] FERC Stats. & Regs. ¶ 32,514 at 33,115.

[884] EEI asks the Commission to expand the definition of stranded costs to account for the case where the Commission has proposed to address purely retail stranded costs (that is, where a state regulatory authority does not have authority to address stranded costs at the time that retail wheeling is required). However, the regulations will contain a definition of "retail stranded costs" to account for this case. *See* § 35.26(b)(5) of the Final Rule.

[885] *E.g.*, EGA, Direct Service Industries, Memphis.

scenario have nothing to do with regulatory reforms and should not be considered "stranded" costs.

Other commenters disagree.[886] Puget asserts that permitting departing generation customers to avoid paying stranded costs if they do not take unbundled transmission from their former suppliers would create an incentive for departing customers (or their new electric suppliers) to build unneeded and uneconomic new transmission lines. Puget says that it also could be a disincentive to engage in regional transmission planning and coordination because the existence of new transmission facilities needed to achieve regional reliability and efficiency may increase the likelihood that departing generation customers could import their power supplies over those new facilities and avoid paying the utility's stranded costs.[887]

Some of these commenters propose using an exit fee to collect stranded costs from a customer that does not take unbundled transmission from its former supplier, since a transmission surcharge is not available in this circumstance.[888] Other methods proposed include: (1) Conditioning Commission approval of the transmission rates or wholesale power rates charged by the transmission-providing utility upon the inclusion of a surcharge to recover the former supplier's stranded costs or upon the transmission-providing utility otherwise agreeing to guarantee the payment of the stranded costs or act as billing agent for the former supplier;[889] (2) authorizing the former supplier to levy a stranded cost charge on the transmission-providing utility (if that utility is interconnected with and has transmission contracts with the former supplier); (3) if a retail customer becomes annexed to a municipal utility and does not take unbundled transmission services from its former supplier, permitting recovery of stranded costs from the municipal utility through its jurisdictional transmission rates; or (4) requiring a public utility providing transmission service for a customer that has left its former supplier to agree, as a condition to recovery of its own stranded costs, to ensure the payment of any stranded costs incurred by the former supplier.[890]

Commenters also address the use of the terms "legitimate, prudent, and verifiable" in the definitions of wholesale and retail stranded costs. Several commenters suggest that the Commission's use of the word "prudent" could imply that utilities have to relitigate the prudence of costs that the Commission and state commissions have already approved; these commenters believe that utilities should not have to relitigate prudence.[891] Some argue that once a regulatory agency (state or federal) has allowed recovery of the costs in rates, or promised future recovery, utilities should not have to undergo a second regulatory review to recover those costs if they become stranded.[892]

Commenters recommend that the Commission address this situation by: Striking the word "prudent" from the definition or specifying that the prudence requirement is satisfied by previous regulatory authorization;[893] dropping the terms "legitimate, prudent and verifiable" from the definition and using instead "allowed," "accepted," or "allowable";[894] or adding "or approved by state commission" after the words "legitimate, prudent and verifiable" in the definitions of both wholesale and retail stranded costs.[895]

Other commenters oppose these proposals, suggesting that the prudence analysis for stranded cost purposes may involve questions of prudence different from those that arise in a ratemaking context.[896] DE Muni objects that replacing "legitimate, prudent and verifiable" with "allowed, accepted, or allowable" could enable a utility to recover costs that the utility may not be able to prove were prudent, legitimate, and verifiable.

A number of commenters submit that "legitimate, prudent and verifiable" costs should not include the costs of uneconomic plants or costs resulting from utilities' independent business decisions (as distinguished from costs the utility was forced by regulation to incur).[897]

Several other commenters address the rule's application to wholesale requirements customers.[898] AMP-Ohio asks the Commission to clarify that the reference to "wholesale requirements customer" is to a full requirements customer, not a partial requirements customer. It says that no transmission provider should have any reasonable expectation of continuing to serve loads of partial requirements customers. TAPS suggests that references to "new wholesale requirements contract" in proposed § 35.26(c)(1) should be conformed to the defined term "new contract" in proposed § 35.26(b)(7). In addition, it suggests that the Commission clarify the regulations by clearly foreclosing stranded cost claims for "new contracts" without express exit fees, instead of simply failing to provide for such recovery.

Commission Conclusion

We will retain the definition of "wholesale stranded cost" proposed in the Supplemental Stranded Cost NOPR.[899] We believe it would be inappropriate to expand the definition to include the situation where a

[886] *E.g.*, Atlantic City, Carolina P&L, Consumers Power, Minnesota Power, Knoxville, Alma, Florida Power Corp, El Paso, Central Louisiana, Southern, WP&L, FL Com, Utility Investors Analysts, Florida Power Corp, El Paso, Central Louisiana, TDU Systems, NW Conservation Act Coalition, Puget, NU, EEI.

[887] Several commenters also ask the Commission to expand the definition of wholesale stranded cost to include the situation where a wholesale supplier loses wholesale load as a result of a requirements customer's loss of retail load because of retail wheeling, municipalization or retail taps from another utility's system. *E.g.*, Utilities For Improved Transition, Montaup, SC Public Service Authority. In addition, a number of commenters ask the Commission to treat the members of a single G&T cooperative system as a single economic unit and to revise the definition of wholesale stranded costs to allow a transmitting G&T cooperative (the arm of the cooperative system that provides the transmission) to recover the costs stranded when a retail customer of one of its member distribution cooperatives takes advantage of the open access environment by becoming a wholesale entity. *E.g.*, Big Rivers EC, NRECA, Tri-County EC, TDU Systems.

[888] *E.g.*, Carolina P&L, NU, Florida Power Corp, PSNM, Southern, Mountain States Petroleum Assoc, FL Com.

[889] In its reply comments, Memphis Light objects to the proposal that the Commission condition approval of all new power contracts for those customers that leave a utility's system without using the transmission services of the original utility upon the inclusion of a provision to recover the stranded cost for the previous power supplier. It argues that this proposal could result in nonrecovery from some customers because wholesale customers faced with such a provision would pursue non-jurisdictional contracts and/or generate within the confines of their own systems.

[890] *E.g.*, EEI, El Paso, NU, Atlantic City, PG&E, Coalition for Economic Competition, NW Conservation Act Coalition, Puget, NRECA, Cajun, East Kentucky, FL Com, Associated EC, Utilities For Improved Transition, TDU Systems, TVA.

[891] *E.g.*, EEI, NSP, Arizona, United Illuminating, Entergy, SCG&E, PECO, NRECA.

[892] *E.g.*, EEI, Centerior, NSP, SCG&E, PECO, Tucson Power, Arizona.

[893] *E.g.*, PECO, Entergy.

[894] *E.g.*, EEI, SCG&E, Carolina P&L.

[895] *E.g.*, Atlantic City. EEI also proposes that at the time of filing of a stranded cost recovery charge (whether as an amendment to a contract or a surcharge to a transmission rate), the Commission limit its inquiry to the issue of the stranded cost charge rather than allowing all aspects of a rate or contract to be opened up. EEI states that this is what the Commission did in the natural gas context, where it permitted limited rate filing cases under section 4 of the NGA.

[896] *E.g.*, Alcoa, Cleveland.

[897] *E.g.*, Mountain States Petroleum Assoc, Caparo, Torco.

[898] *E.g.*, AMP-Ohio, PA Munis, TAPS.

[899] For the reasons articulated below, we accordingly will reject the various revisions to the definition that were proposed by commenters.

wholesale requirements customer[900] (or a retail-turned-wholesale customer) ceases to purchase power from the utility without using the transmission services of that utility.[901] Any costs that the utility might incur as a result of the loss of the requirements customer in this scenario would be outside the scope of this Rule. The premise of this Rule is that, where a customer uses the new open access to obtain power from a new generation supplier, the customer must pay the costs that were incurred on its behalf under the prior regulatory regime. However, if a customer leaves its utility supplier by exercising power supply options (such as access to another utility's transmission system or self-generation) that do not rely on access to the former seller's transmission, there is no nexus to the new open access rules.[902] If a customer is able to obtain power from a new supplier by using the transmission system of another utility, it is likely that the customer could have made these arrangements in the absence of the new open access rules. The new transmission provider would have had little incentive to deny transmission services to the customer in order to protect an existing power supply arrangement, since it was not the customer's power supplier in the first place. Indeed, it is likely that the neighboring utility would have a positive incentive to provide the transmission service in order to increase its revenues. This incentive is unchanged by open access transmission.

Some commenters have asked us to eliminate the term "prudent" from the definition of stranded costs. We will not do so; we will retain the requirement that stranded costs be "legitimate, prudent and verifiable." A determination that a utility had a reasonable expectation of continuing to serve a customer would not, in all circumstances, mean that costs incurred by the utility were prudent. Prudence of costs, depending upon the facts in a specific case, may include different things: *e.g.*, prudence in operation and maintenance of a plant; prudence in continuing to own a plant when cheaper alternatives become available; prudence in entering into purchased power contracts, or continuing such contracts when buy-outs or buy-downs of the contracts would result in savings. The Commission therefore cannot make a blanket assumption that all claimed stranded costs will have been prudently incurred. However, we clarify that we do not intend to relitigate the prudence of costs previously recovered.[903]

Thus, this Rule will permit a public utility or transmitting utility to seek recovery of wholesale stranded costs as follows. First, for stranded costs associated with new wholesale requirements contracts (that is, any wholesale requirements contract executed after July 11, 1994), the regulations will allow recovery of stranded costs only if the contract contains an explicit stranded cost provision that permits recovery. By "explicit stranded cost provision" we mean a provision that identifies the specific amount of stranded cost liability of the customer(s) and a specific method for calculating the stranded cost charge or rate.. We clarify that provisions in requirements contracts executed after July 11, 1994 but before the date on which this Final Rule is published in the **Federal Register** that explicitly reserved the right to stranded cost recovery pending the outcome of this Rule will be deemed "explicit stranded cost provisions." However, provisions in requirements contracts executed after July 11, 1994 but before the date on which this Final Rule is published in the **Federal Register** that postpone the issue of stranded cost recovery without specifically providing for recovery of stranded costs will not be considered "explicit stranded cost provisions."

Second, for existing wholesale requirements contracts (that is, any wholesale requirements contract executed on or before July 11, 1994), a utility may not recover stranded costs if recovery is explicitly prohibited by the contract (including associated settlements) or by any power sales or transmission tariff on file with the Commission.

Third, for existing wholesale requirements contracts that do not address stranded costs through exit fee or other explicit stranded cost provisions, a public utility may seek recovery of stranded costs only as follows: (1) If the parties to the existing contract renegotiate the contract and file a mutually agreeable amendment dealing with stranded costs, and the Commission accepts or approves the amendment; (2) if either or both parties seeks an amendment to the existing contract under sections 205 or 206 of the FPA, before the contract expires, and the Commission accepts or approves an amendment permitting stranded cost recovery; or (3) if the public utility files a request, before the contract expires, to recover stranded costs through a departing generation customer's transmission rates under FPA sections 205–206 or 211–212.

Fourth, if the selling utility under an existing wholesale requirements contract is a transmitting utility but not also a public utility, and the contract does not address stranded costs through an explicit exit fee or other stranded cost provision, the transmitting utility may seek to recover stranded costs through a surcharge to a departing generation customer's transmission rates under FPA sections 211–212. Such utility may not seek recovery of stranded costs through a section 211–212 transmission rate if the existing requirements contract does contain an explicit exit fee or other stranded cost provision.

Fifth, for a retail-turned-wholesale customer, a public utility or transmitting utility may file a request to recover stranded costs from the newly-created wholesale customer through that customer's transmission rates under FPA sections 205–206 or 211–212.

Sixth, for customers who obtain retail wheeling, a public utility or transmitting utility may seek recovery through Commission-jurisdictional transmission rates only if the state regulatory authority had no authority under state law to address stranded costs when retail wheeling is required.

[900] "Wholesale requirements contract" is defined as "a contract under which a public utility or transmitting utility provides *any portion* of a customer's bundled wholesale power requirements" (emphasis added). Thus, a "wholesale requirements customer" for purposes of the Rule can be either a full or a partial requirements customer. We reject AMP-Ohio's suggestion that the Commission make a blanket finding that a utility could not have had a reasonable expectation of continuing to serve a partial requirements customer. For example, a partial requirements customer may have met part of its needs with its own generation but because it could not build more of its own generation locally it had to depend on the utility for the remainder of its needs in the absence of the new open access. Also, a partial requirements customer may have been able to reach alternative suppliers for only a portion of its requirements due to transmission constraints. If this were the case, the partial requirements supplier may well have had a reasonable expectation of continuing to serve the balance of the customer's load.

[901] The definition of "retail stranded cost" contains a similar requirement (*i.e.*, the retail customer must become, in whole or in part, an unbundled retail transmission services customer of the public utility or transmitting utility from which the customer pseviously received bundled retail services). We will retain it for the same reasons discussed above.

[902] As we have said, this Rule is not intended to insulate a utility from the normal risks of competition.

[903] As the Commission has previously indicated, however, in the case of formula rates, approval of a formula rate constitutes approval of the formula, and not the underlying costs. *See, e.g.*, New England Power Company, *et al.*, 72 FERC ¶61,148 at 61,761 (1995); Boston Edison Company, Opinion No. 376, 61 FERC ¶61,026 at 61,145 (1992).

K. Other

1. Information Reporting Requirements for Public Utilities

In the NOPR, the Commission did not propose any changes to its information filing requirements for public utilities.

Comments

Many IOUs argue that the current information filing requirements competitively disadvantage traditional public utilities and unfairly benefit sellers, such as power marketers, that are not required to provide comparable information.[904] They urge the Commission to eliminate the requirement for public disclosure of competitively sensitive, proprietary, or otherwise confidential Form No. 1 data. They contend that requiring such disclosure only from traditional public utilities harms such public utilities and compromises the development of efficient competition. Illinois Power asks the Commission to review all information that utilities must file, including EIA 860, EIA 767, and FERC Form No. 715.

A number of commenters believe that some type of information requirement must also be placed on non-public utility entities.[905] PacifiCorp suggests that the Commission should require transmitting utilities that do not file a Form No. 1 to file similar information annually with the Commission. Ohio Edison asserts that the Commission should extend its use of the reciprocity concept to require the filing of operating data with the Commission. Further, if non-public utility entities are not required to disclose certain information, Ohio Edison asserts that all public utilities that have received approval to sell power at market-based rates, including traditional utilities, should also be free from having to disclose such information.

Arizona argues that enforcing comparability vis-a-vis non-public utility transmitting utilities would seem to invite jurisdictional challenge. Thus, it would support legislation to broaden the Commission's jurisdiction.[906]

Commission Conclusion

We will not adopt the suggestion made by a number of commenters that we now eliminate the public disclosure of allegedly competitively sensitive, proprietary, or otherwise confidential data submitted to the Commission on Form No. 1, as well as on other Commission forms. The information that we collect from public utilities is necessary to carry out our jurisdictional responsibilities and is used, among other things, to evaluate the reasonableness of cost-based rates subject to our jurisdiction and the operation of power markets.[907] Moreover, as we explained in *ConEd*,

[R]eports required to be submitted by Commission rule and necessary for the Commission's jurisdictional activities are considered public information. 18 CFR 388.106. In addition, the Commission has long required jurisdictional utilities to submit Form 1 data on a form that states on its cover that the Commission does not consider the material to be confidential.[908]

We are sensitive to the lack of symmetry in the generation information we require from traditional public utilities, particularly those that have market-based rate authority, and the generation information we require from other public utilities (*e.g.*, public utility marketers) authorized to sell at market-based rates.[909] However, the record in this proceeding is insufficiently developed for us to make and support a well-informed decision requiring a different reporting scheme, particularly given the industry's current rapid pace of change. Also, we are not persuaded that the burdens borne by traditional public utilities (primarily annual reports submitted months after-the-fact) are impairing the competitiveness of these utilities so much that we must act hastily now, instead of deferring a decision to a more appropriate proceeding. Moreover, we are required to regulate the rates of public utilities and, although we are moving toward greater reliance on market-based generation rates, we continue to regulate generation on a cost basis for most traditional public utilities, particularly rates for sales from existing generation. To assure that these rates are just and reasonable, we, as well as the customers of public utilities, need the more detailed information our regulations require public utilities to submit.

Accordingly, at this time, we will not change our information reporting requirements. As the industry becomes more competitive, we will monitor our reporting requirements to make sure that they are needed, fair to all segments of the industry, and consistent with the workings of a competitive environment.

2. Small Utilities

In the NOPR, we did not address whether special provisions were needed for small public utilities and small transmission customers because of the possible burden of unbundling, open access tariffs, and the OASIS requirement.

Comments

A number of commenters assert that the unbundling requirement poses significant problems for smaller public utilities and that small utilities should not be subject to the same requirements as larger utilities.[910] St. Joseph notes that in small utilities one system operator typically runs the system operations center. Functional unbundling, it asserts, would require the addition of another operator for each shift at great cost to the small utility. Central Hudson estimates that unbundling would result in an approximately 10 percent increase in the wholesale price, putting small utilities at a competitive disadvantage.

Several commenters assert that many small utilities enjoy little or no transmission market power because their systems tend to be in parallel with large systems and are bypassed as a result. They say that customers prefer to deal with one large regional utility rather than pay pancaked transmission rates for service through two or more small utilities.

Citizens Utilities argues that some systems are radial spurs of much larger systems and merely serve to link points of interconnection. It claims that a network tariff is not applicable in such a case and that it is unlikely that third parties would request service over such small or isolated systems. It recommends that if a utility is basically a spur system and faces little present or future demand for third-party service, the Commission should either relax the open access requirements or defer them until a section 211 request is submitted.

East Kentucky proposes that the Commission exempt not-for-profit utilities from the requirement to separate the functions related to operation and marketing, since small G&T cooperatives exist solely to serve the needs of their owner-member distribution cooperatives.

[904] *E.g.*, NIPSCO, Illinois Power, Centerior, Ohio Edison, EEI.

[905] *E.g.*, NSP, Ohio Edison.

[906] *See also* Minnesota P&L.

[907] *See, e.g.*, Consolidated Edison Company of New York, Inc. and Central Hudson Gas & Electric Corp., 72 FERC ¶61,184 at 61,891 (1995) (*ConEd*).

[908] 72 FERC at 61,891.

[909] We note that public utility marketers are required to file quarterly transaction reports so that the Commission can monitor the reasonableness of their charges and their ability to exercise market power. *See* Heartland Energy Services, Inc., 68 FERC ¶61,223 at 62,065–66 (1994). Unlike traditional public utilities, marketers do not use cost-based rates. Approval of the generation rates of non-jurisdictional transmitting utilities is not subject to our jurisdiction.

[910] *E.g.*, Central Hudson, Central Illinois Light, CVPSC, Citizens Utilities, East Kentucky, IPALCO, Montana-Dakota Utilities, Seattle, St. Joseph, Tallahassee, VT DPS.

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VT DPS suggests that waiver of marketing and transmission personnel separation requirements may be appropriate in the case of smaller utilities that do not operate control areas. St. Joseph proposes that the Commission establish a threshold level based on system demand of 1000 MW, below which unbundling of wholesale transmission functions from other dispatching functions would not be required. Alternatively, St. Joseph proposes an exemption from unbundling where the utility can demonstrate that it has no market power and that unbundling would not materially improve the level of competition in the generating market.

Central Hudson believes that the Commission should allow the development of a short form tariff or else defer the functional unbundling requirement for smaller utilities and use the section 211 process in the interim to provide flexibility for these utilities.

Oregon Trail EC, a small rural electric, public utility cooperative, requests that the Commission revise proposed § 35.28 of its regulations to provide that the generic open access transmission requirements apply only to public utilities that *operate* facilities used for the transmission of electric energy in interstate commerce. It explains that it owns one transmission line that it leases to BPA, which operates the line as part of its integrated transmission network. Thus, Oregon Trail EC states that it cannot meet the requirements of the open access rule. It also points out that the Commission exempted Oregon Trail EC and other similarly situated utilities from the transmission reporting requirements of Form No. 715 because they did not engage in transmission planning.

ALCOA suggests that the default tariffs for smaller utilities with transmission systems unlikely to be used by others should not become effective automatically. Rather, the default tariffs should become effective only when service is requested. Citizens Utilities suggests that relaxed tariff requirements be established for small utilities with insignificant demand for transmission service.

BG&E believes that a utility using its system on a network basis for economic dispatch should not be required to file a network service tariff if there is no customer to take the service. It suggests that if municipalization were to occur, the Commission could then require the utility to file, within 60 days, a network service tariff to serve the new municipal.

Commission Conclusion

We are sympathetic to the array of concerns raised by small public utilities and small transmission customers. The regulations we are adopting include waiver provisions under which public utilities and transmission customers, and non-public utility entities seeking exemption from the reciprocity condition, may file requests for waivers from all or part of the Commission's regulations or for special treatment.[911] However, it is difficult to imagine any circumstance that would justify waiving the requirements of this Rule for any public utility that is also a control area operator.

We recognize, for example, that it might be a financial burden on small public utilities to unbundle generation from transmission, follow standards of conduct that separate transmission personnel from wholesale marketing personnel, and maintain an OASIS. These requirements may be particularly burdensome for small public utilities that own no generation and buy at wholesale on a radial transmission line from another utility's grid. In addition, if a small public utility's service territory is part of another utility's control area, the small public utility should be permitted to make a showing that it should be exempt from all or some of the Rule. In this circumstance, we will consider granting a waiver if the utility can show that: (1) It does not own transmission facilities, (2) it has turned control of its facilities over to someone else (such as the control area operator) who complies with the rule as its agent, or (3) no one is likely to ask to use its facilities (*e.g.*, because they are radial lines), and it commits to file an open access tariff within 60 days of a request to use its facilities and to comply with the rule in all other ways.

Because the possible scenarios under which small entities may seek waivers from the Final Rule are diverse, they are not susceptible to resolution on a generic basis and we will require applications and fact-specific determinations in each instance. We note here that any waivers that we may grant depend upon the facts presented in each case. If the circumstances that give rise to the exemption change, the waiver may no longer be appropriate. For example, a radial line today could very easily become part of a network tomorrow and a portion of a grid that no one is interested in using today could become an important transmission link tomorrow, especially if retail access is allowed.

In addition, we will apply the same standards to any entity seeking a waiver. This includes public utilities seeking waiver of some or all of the requirements of the rule, as well as non-public utilities seeking waiver of the reciprocity provisions contained in the pro forma open access tariff. Thus, we would not apply the open access reciprocity provision to small non-public utilities that are not control area operators and either do not own or control transmission or have transmission that no one is likely to ask to use. They would not have to provide an open access tariff, establish an OASIS, or separate operators of transmission from wholesale purchasers in order to satisfy the reciprocity condition for obtaining transmission servico. However, they will have to apply for this waiver and demonstrate that they qualify for the waiver.

3. Regional Transmission Groups

In the NOPR, we again expressed our support for the voluntary formation of regional transmission groups (RTGs).[912] We also explained that the potential benefits of RTGs would not be undermined by the rules proposed in the NOPR.

a. Incentives for RTGs to Form and Resolve Regional Transmission Issues

Comments

A number of commenters urge the Commission to provide incentives for the formation of RTGs within two years of the adoption of the final rule.[913] Several commenters argue that the Commission should encourage a regional approach to transmission issues by expanding the role of RTGs.[914] Com Ed also claims that contract path pricing problems probably will need to be resolved at the regional level.

Sierra Pacific Power, which views open access as the major benefit of RTGs, questions the need to provide incentives for the development of RTGs once open access is implemented. However, it does see that RTGs may help promote open access with non-public utility entities, who have shown

[911] Non-public utility entities could request that the Commission find that they can satisfy the reciprocity condition without meeting all or some of the requirements that public utilities must meet. The requests could encompass a wide variety of circumstances. For example, a non-public utility could agree to offer comparable transmission services but not wish to have an OASIS or separate transmission personnel from wholesale marketing personnel due to the cost of doing so. The Commission could find that the entity nevertheless satisfied the reciprocity condition.

[912] FERC Stats. & Regs. ¶ 32,514 at 33,095.

[913] *E.g.*, AMP-Ohio, Missouri Joint Commission, MT Com, WEPCO, Nebraska Public Power District, Texas-New Mexico.

[914] *E.g.*, WEPCO, Portland, WA Com.

an increased interest in joining RTGs. American Wind and MT Com request that the Commission adopt policies that will encourage a close working relationship between RTGs and state authorities.

Otter Tail contends that the final Rule should stop short of establishing any conditions on the formation, governance, or functions of RTGs, arguing that such issues are complex and outside the scope of the NOPR. ALCOA and Missouri Joint Commission encourage the Commission to make certain that its policy regarding RTGs is not implemented in a manner that conflicts with the new open access regime.

Commission Conclusion

We continue to support the development of RTGs and encourage the formation of regional tariffs.[915] In our Policy Statement Regarding Regional Transmission Groups, we first explained our support for such voluntary associations.[916] We again explained our support in the NOPR:

> We believe that RTGs can speed the development of competitive markets, increase the efficiency of the operation of transmission systems, provide a framework for coordination of regional planning of the system and reduce the administrative burden on the Commission and on members of RTGs by providing for voluntary resolution of disputes.[917]

To further encourage the development of RTGs, we will accept regional open access transmission tariffs developed by RTGs that are consistent with the objectives of this Rule. This should make it easier for all parties in a region to coordinate their activities.

b. Deference to RTGs To Develop Regional Tariffs and Prices

Comments

A number of commenters urge the Commission to give considerable deference to RTGs on such issues as the formulation of pricing methods and RTG member duties.[918] Nebraska Public Power District requests that the Commission consider permitting a megawatt-mile pricing mechanism for MAPP. NWRTA urges the Commission to define clearly how much deference it will accord to RTGs and explicitly grant deference to RTGs on such matters as dispute resolution and decisionmaking processes. It also asks that the Commission honor the reciprocity provisions related to Canadian participation that are contained in the NWRTA agreement. Nevada Power requests the Commission to accept, as not unduly discriminatory, RTG open access tariffs that reflect the members' specific terms and conditions so long as the tariffs satisfy the substantive requirements of the final rule. It proposes that such tariffs be allowed to become effective without hearing or refund obligation.

Texas-New Mexico, while encouraging deference to RTGs in general, argues that deference must be conditioned upon a requirement that the RTG provide not only equal access but also terms and conditions of service that are comparable to what a customer could otherwise obtain under the final Rule tariff or under section 211 of the FPA.

Southwest TDU Group contends that RTGs should not be given deference, and RTG filings should be subject to the same standards and scrutiny as non-RTG filings.

Commission Conclusion

As we explained in the RTG Policy Statement, we intend to give deference to the planning, dispute resolution, and decisionmaking processes of an RTG. With respect to pricing proposals submitted by RTGs, we believe that RTGs may be able to develop solutions to such problems as loop flows through innovative flow-based pricing methodologies. As we stated in the Transmission Pricing Policy Statement, we will afford considerable deference to an RTG.

4. Pacific Northwest

Comments

Commenters in the Pacific Northwest ask the Commission to be flexible in reviewing tariffs that are based on regional practices, and that differ from the final Rule tariff as a result. Public Generating Pool urges the Commission to recognize that the Northwest's transmission system has been developed and is operated to support the region's coordinated power system. That is, it wants all hydro spill to be treated equally with no preference between federal and non-federal power. Also, it asserts that firm available transmission capacity in the Northwest must be worked out by the NWRTA RTG to account for the contingent operation of generation to avoid hydro spill.

Similarly, other commenters note that the Northwest's integrated transmission system was constructed to support a unique regionwide hydroelectric-dependent generating system and that flexibility is needed to accommodate the characteristics of the system.

WA Com argues that imposition of a uniform national tariff would not reflect the region's specific system characteristics or operating practices. It argues that the final Rule could impede rather than promote efficient competition in the Northwest. It believes that the Commission should defer to RTGs for defining and implementing wholesale transmission access terms and conditions at the regional level.

The Washington and Oregon Energy Offices, while supporting the adoption of regional practices, argues that uniform transmission principles should apply for all transmitting entities in the region. They argue that dispatch decisions are complicated by flood control, salmon passage, navigation, irrigation, and other constraints. Puget requests that the Commission give each transmitting utility the flexibility to file tariffs that fit unique or unusual circumstances and allow for regional market differences.

Because the terms and conditions offered by the smaller transmission owners in the Northwest are determined by the terms and conditions offered by Bonneville, Pacific Northwest Coop argues that the terms and conditions for wholesale power transmission, ancillary services, and RINs should be deferred until BPA's 1996 rate case is resolved and until appropriate regional and national systems and protocols are developed.

Commission Conclusion

As we explained with respect to RTGs, we encourage the filing of regional open access transmission tariffs.[919] The Final Rule pro forma tariff contains provisions allowing utilities to modify tariff terms to reflect prevailing regional practices. This should permit entities in the Pacific Northwest to address unique circumstances that exist in the Pacific Northwest and to incorporate prevailing regional practices (*e.g.*, treatment of hydropower generation in the priority of dispatch) into their open access transmission tariffs.[920] This should also encourage

[915] If an RTG is not a corporate person, each utility member of the RTG may file the same or complementary tariffs.

[916] 58 FR 41626 (August 5, 1993), FERC Stats. & Regs., Regulations Preambles ¶ 30,976 (RTG Policy Statement).

[917] FERC Stats. & Regs. ¶ 32,514 at 33,095.

[918] *E.g.*, UT Com, ID Com, LA DWP, Nebraska Public Power District, Salt River, Nevada Power. *See also* NEPCO, United Illuminating, Utility Working Group.

[919] Also, as we explained with respect to RTGs, we will review pricing proposals in regional tariffs pursuant to our Transmission Pricing Policy Statement.

[920] This Rule will not resolve disputes over federal hydro preference policies or over the agreements incorporated in the Northwest Power Planning Act.

other regional solutions, such as the development of regional ISOs, to transmission problems.

In addition, although we will put the Final Rule pro forma tariff (which already allow for certain provisions consistent with regional practices) into effect for all public utilities 60 days after publication of this Rule in the **Federal Register**, utilities may file regional tariffs or propose deviations in the pro forma tariff based on additional regional needs to be effective at any time thereafter. Such proposals, however, will have to be consistent with the requirements of the Final Rule and be reasonable, generally accepted in the region and consistently adhered to by the transmission provider. Further, we will not permit entities in a region to claim different sets of prevailing regional practices.

5. Power Marketing Agencies

a. Bonneville Power Administration (BPA)

Comments

Washington Water Power explains that for open access transmission to be fully realized in the Pacific Northwest there must be federal legislation to remove the monopoly protections of federally generated power. Until then, Washington Water Power suggests certain mitigating measures that would increase competition in the Pacific Northwest. It also urges the Commission to take BPA's special characteristics into account in issuing the final rule.

Public Power Council encourages the Commission to make broad use of section 211 to mandate transmission access to ensure that BPA continues to provide comparable open access transmission.[921]

Public Generating Pool argues that the extent to which BPA's tariffs are allowed to deviate from the rule should be governed by the technical characteristics of the system and not by BPA's status.[922]

Direct Service Industries argues that the non-discrimination standard is made applicable to BPA by section 212(i) and that the Commission has the authority to review all BPA rates under the Northwest Power Act (citing Pacific Northwest Electric Power Planning and Conservation Act, section 7(a), 16 U.S.C. 839e(a)). It also argues that functional unbundling is particularly important for BPA because of BPA's market power and relative freedom from regulation. Clark also argues that the Commission should require BPA to meet the comparability standard. It alleges that BPA refuses to provide comparable service. It asserts that the Commission has authority to remedy the problem under the Energy Policy Act amendments to section 212, which Clark states gives the Commission authority over BPA's transmission practices. Clark also notes that BPA is a member of WRTA and, as such, must provide comparable service.

Pacific Northwest Coop argues that many of the issues presented in this rulemaking are currently being contested in the BPA rate case in Docket Nos. WP–96/TR–96 and TC–96. It says that the Commission should defer application of the rule to Pacific Northwest Coop and all of BPA's customers until conclusion of the rate case.

Washington and Oregon Energy Offices asserts that it would be proper for the Commission "to impose similar transmission price structures upon Bonneville under section 211 orders as it will for jurisdictional [public] utilities under sections 205, 206, and the NOPR."

With respect to stranded costs, BPA notes that it may be necessary to tailor a stranded cost policy for BPA that addresses the goals of open access and wholesale stranded cost recovery in a manner consistent with BPA's unique circumstances. BPA asks the Commission to defer consideration of its stranded investment and related cost recovery issues until it makes a rate filing with the Commission.[923] It further argues that the rule should not address whether and how BPA stranded costs might be recovered in transmission rates approved by the Commission under authority other than sections 211 and 212. Clark argues that the Commission's stranded cost recovery policy is inapplicable to BPA.

NW Conservation Act Coalition makes the following suggestions: (1) The Commission should grant BPA the authority to levy exit fees on customers who are terminating service and who do not use BPA's transmission system for their new power transaction; (2) any affected person should be allowed to petition the Commission for review of BPA's rates for inadequate or inappropriate mitigation of its stranded benefits; (3) the rule should insist upon a requirement that open access and stranded cost recovery be permitted only if the entities involved can show there will be no lessening of support for public purposes; and (4) the Commission should clarify that the Direct Service Industries customers are retail customers and that they will be subject to recovery of stranded costs and benefits.

Commission Conclusion

BPA is not a public utility under section 201(e) of the FPA and, thus, is not subject to the requirements of this Rule to put the Final Rule pro forma tariff into effect. However, there are three circumstances under which the Commission may review BPA's transmission access and pricing policies. First, BPA could file an open access tariff and accompanying rates for review and confirmation under section 7 of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act)[924] and at that time could ask the Commission to find that its tariff meets the Commission's open access policies. Second, BPA is a transmitting utility subject to a request for mandatory transmission services under section 211 of the FPA. Transmission required of BPA under section 211 would have to be consistent with the requirements imposed on BPA under its organic statutes, the Northwest Power Act, and the Federal Columbia River Transmission System Act.[925] Third, if BPA receives open access transmission from a public utility, it is subject to the reciprocity provision contained in the utility's Final Rule pro forma tariff. If BPA seeks to comply with the reciprocity provision, it could use the declaratory order procedures we have provided in this rule for non-public utility transmission providers. Finally, we note that BPA has agreed to provide open access as a member of two RTGs approved by this Commission.

With respect to stranded costs, BPA has asked us to clarify that the Stranded Cost Rule does not address whether and how BPA stranded costs might be recovered in transmission rates approved by the Commission under authority other than sections 211 and 212 of the FPA (namely, section 7 of the Northwest Power Act). We clarify that this rule addresses only stranded costs recovered by public utilities under the FPA and transmitting utilities (including BPA) that are subject to mandatory transmission requests under FPA section 211. It does not address stranded cost recovery by BPA under the Northwest Power Act.

[921] *See also* Puget, Portland, Reynolds.

[922] *See also* Public Power Council.

[923] *See also* Snohomish, NPPC, W&O, Public Power Council, Washington and Oregon Energy Offices, Direct Service Industries.

[924] 16 U.S.C. 839–839h.

[925] 16 U.S.C. 838–838j.

b. Other Power Marketing Agencies

Comments

SEPA requests that the final rule assure that SEPA can receive network transmission service when necessary. It also indicates that it has 58 customers that receive less than one MW of power, but that the NOPR pro forma point-to-point tariff contains a one MW minimum scheduling requirement. Thus, it requests that the final rule allow some flexibility with respect to this requirement so that it can carry forward its marketing program.

DOE notes that the Western Area and Southwestern Area Power Administrations have pledged to offer transmission services that are comparable to those required of public utilities to the extent not otherwise prohibited by law.

Commission Conclusion

Federal power marketing agencies (PMAs) are not public utilities as defined under section 201(e) of the FPA and, thus, are not required by this rule to file non-discriminatory open access transmission tariffs.[926] However, to the extent a PMA receives open access transmission service from a public utility, it is subject to the reciprocity provisions in the utility's pro forma tariff.[927] If a PMA seeks to comply with the reciprocity provision, it can file a proposed tariff and seek a declaratory ruling.

With respect to SEPA's concern that the proposed point-to-point tariff has a one MW minimum scheduling requirement, but many of its customers have loads of less than one MW, we clarify that the Final Rule pro forma tariff will allow SEPA to continue to schedule service for these customers. Under SEPA's current transmission arrangements, it is allowed to aggregate loads within a single control area that are less than one MW individually, but jointly are more than one MW, to meet the requirement at an interface. The revised language in the Final Rule tariff permits this practice to continue. We also clarify that SEPA, as a seller of power to multiple purchasers inside several control areas, is eligible to receive network service.

6. Tennessee Valley Authority

Comments

TVA is concerned that the final rule may place TVA at a disadvantage because its opportunities to participate in the electricity market outside the TVA area are so severely limited by statute. It explains that it is restricted from directly participating in the new competitive landscape except through limited power exchange opportunities with a few neighboring systems. It urges the Commission to recognize these circumstances in the final rule. TVA is also concerned that its regional customers may face stranded costs because its ability to mitigate those costs by making replacement sales to new customers is limited.

Commission Conclusion

TVA is not a public utility under section 201(e) of the FPA and, thus, is not required to file a non-discriminatory open access transmission tariff under this rule.[928] However, if TVA receives open access transmission service from a public utility, it is subject to the reciprocity provision in the utility's pro forma tariff. If TVA seeks to comply with reciprocity, it may avail itself of the Commission's reciprocity safe harbor approach, through a declaratory ruling, if it is fearful that a public utility may deny it service simply on a claim that TVA's non-discriminatory open access tariff is not satisfactory.[929] The details of this safe harbor procedure are set forth in Section IV.G.4.f.

7. Hydroelectric Power

Comments

Non-Firm Transactions

ID Com believes that the NOPR unfairly discriminates against hydro-based utilities. It argues that utilities that rely heavily on hydropower need to engage in non-firm market transactions that depend on water levels; *e.g.*, during low water years, a utility must have access to the transmission system to make non-firm, off-system purchases. It asserts that the NOPR treats non-firm sales and purchases as subordinate to firm transactions and does not allow the utility to reserve capacity for its critical, but non-firm, transactions. ID Com also asserts that the NOPR would, in effect, strand the utility's investment in the production plant being used to generate power for the non-firm sales.

Idaho complains that the NOPR unfairly allows a customer to buy and reserve firm transmission rights surplus to its needs, but does not permit a utility to do the same. It explains that this problem is particularly acute for hydro utilities and argues that they must be allowed to reserve at tariff rates at least a portion of available transmission capacity for firm and non-firm wholesale transactions. In the alternative, Idaho asserts that the transmission owner should not be required to provide point-to-point service for transmission uses other than from demonstrated firm obligations.

Commission's Licensing Practices

National Hydropower argues that in light of the NOPR the Commission should reexamine the manner in which it exercises its FPA Part I authority with respect to (1) economic feasibility determinations, (2) section 10(a) findings, (3) determinations of section 10(j) recommendations, and (4) section 13. For example, it states that the NOPR suggests that all future electric resource selection decisions should be based exclusively on short-run marginal cost comparisons. Because, it asserts, hydroelectric power provides many public interest benefits not susceptible to precise quantification, the Commission should clarify how non-price factors are to be considered in a post-final rule wholesale electric marketplace.

Commission Conclusion

Non-Firm Transactions

As we explained above with respect to the Pacific Northwest, we will permit entities to incorporate prevailing regional practices (*e.g.*, treatment of hydropower generation in the priority of dispatch) into regional open access transmission tariffs. This should permit entities in a region to resolve concerns over the scheduling of non-firm hydropower. In addition, if a utility and its customers can agree on the scheduling of non-firm hydropower and the disruption of firm transactions, we would permit that resolution to be incorporated into the utility's tariff. Utilities are permitted to consider seasonal variations in hydropower availability in the determination of Available Transmission Capacity to be posted on the OASIS.

Commission's Licensing Practices

The issues raised by National Hydropower with respect to our

[926] PMAs, however, are transmitting utilities subject to requests for mandatory transmission services under section 211 of the FPA.

[927] *See* Section IV.G.4.f.

[928] TVA, however, is a transmitting utility subject to requests for mandatory transmission services under section 211 of the FPA.

[929] We recognize that sections 212(f)(1) and 212(j) of the FPA, as amended by the Energy Policy Act, limit the applicability of section 211 to TVA, but conclude that this limitation in no way affects our application of the reciprocity requirement to TVA. Limitations on TVA's authority to market power are not the product of this rule but rather of TVA's enabling legislation. Thus, it is for Congress to decide whether TVA should be permitted greater marketing authority. As noted in our earlier discussion of reciprocity, TVA is not being required to file an open access tariff. Rather it is being precluded from taking advantage of benefits available under this rule without providing comparable use of its system to others.

hydroelectric licensing practices are beyond the scope of this rulemaking. Indeed, National Hydropower has already raised its concerns in a petition to the Commission to revise our hydroelectric licensing procedures, filed on July 10, 1995. That is the proper proceeding in which to address our hydroelectric licensing practices.

8. Residential Customers

Comments

Several commenters are concerned that the rule may undermine the financial position of public utilities so that they will not be able to provide many of the programs that benefit low-income residents (*e.g.*, assistance to low-income and elderly consumers, weatherization and energy conservation programs, and payment of taxes that provide many city services).[930]

La Raza is concerned that the rule will permit large preferred customers to opt out of the regulated structure, leaving behind a smaller and less affluent base to support the long-term investments made under the previous regulatory environment.

Home Builders is concerned that utilities may compensate for reduced profits under the proposed rule by raising infrastructure charges and hookup fees for new homes, thus reducing new home sales.

State and City Supervised Housing for Equity in Electric Rates states that publicly supervised housing is uniquely qualified to obtain open access electricity from wholesale markets, and that the Commission should adopt policies that bring competitive benefits to residents of such housing.

Commission Conclusion

While some residential consumers may be apprehensive about the changes that this rule may have on the electric industry, we are convinced that the changes we are proposing for wholesale markets will benefit them. As wholesale transmission open access becomes a reality, residential consumers should reap the benefits of more competitive bulk power markets and associated lower costs. This rule does not require retail transmission access for retail customers of any size. Moreover, this rule does not require any changes in programs such as assistance to low-income and elderly consumers and weatherization and energy conservation. As discussed in Section IV.I, those programs are under the jurisdiction of the individual states, and will remain under their jurisdiction. Indeed, this rule contains several safeguards to maintain the ability of states to impose conditions on retail access, such as conditions that help to protect residential customers from becoming the residual payer of stranded costs.

V. Environmental Statement

This section reviews and adopts the final environmental impact statement (FEIS) prepared by the Commission staff in connection with this rule. It identifies the alternatives considered by the agency in reaching its decision; analyzes and considers whether and to what extent the chosen alternative—adoption of this rule—is likely to result in environmental harm; evaluates alternatives and suggestions for mitigating environmental harm from the rule, if any; and states the Commission's decision.

Summary

A. The Environmental Impact Statement

The Commission decided to prepare an environmental impact statement (EIS) evaluating the environmental consequences that could result from adoption of this rule. We did so largely in response to the claims of several commenters, including the Environmental Protection Agency (EPA), who charge that the rule will have significant adverse environmental effects.

Although a number of issues were raised, by far the most prominent concern arises from the theory that competitive market conditions created by the rule will provide an advantage to power suppliers who produce power from coal-fired facilities that are not subject to stringent environmental controls on nitrogen oxides (NO_X) emissions.[931] Under this theory, these facilities, located primarily in the Midwest and South, will, as a result of the rule, generate more power and emit more NO_X, which will contribute to ozone formation. The ozone could add to pollution both in those regions and more significantly in the Northeast, to which area such pollutants could be transported. Those who propound this theory argue that it is the responsibility of the Commission, using its authority under the Federal Power Act, to effect environmental controls that will mitigate what they predict will be significant increases in NO_X emissions associated with this rule.

The staff prepared an FEIS based upon computer modeling simulations of power generation patterns and NO_X emissions likely to occur as a result of the rule. Staff used widely accepted models for studying economic conditions in power markets and simulating emissions of NO_X and other pollutants. These models took into account a variety of different assumptions concerning significant factors such as coal and natural gas prices and other competitive conditions. These factors are critical because increased use of coal-fired generation tends to increase NO_X emissions, while increased use of gas-fired generation is environmentally more benign.

The examination in the FEIS of the environmental effects that are likely to result from implementing the rule is based on an analytic framework that was shaped by comments received in the scoping process and on the DEIS. The study was revised to reflect the frozen efficiency reference case assumptions requested by EPA and other commenters. This was done to ensure full disclosure of possible environmental impacts even though the Commission disagrees that use of these assumptions is appropriate.

It has been observed in the context of agency preparation of an environmental study that "(t)he NEPA process involves an almost endless series of judgment calls."[932] That is particularly true where, as here, the agency undertakes to examine the impacts of a proposed regulatory program. In designing an effective assessment of the environmental impacts of the rule, the Commission had to make a number of judgments as to the type and the scope of studies necessary to analyze the proposals sufficiently. Commenters also raised many issues related to the design of the study. For example, the Center for Clean Air Policy contends that the Commission should model a range of mitigation policies; the Missouri Department of Natural Resources contends that the impact of the rule on generation may be locally intense and that these effects should have been studied; and other commenters sought to have the Commission examine different database or modeling assumptions.

For these and similar matters we exercised our judgment as to the appropriate manner in which to treat the issue. For example, we determined not to model a range of mitigation

[930] *E.g.*, Urban League, Latin League, Black Mayors, Homelessness Alliance, National Women's Caucus, La Raza.

[931] References throughout the Environmental Statement are to emissions from the electric industry, and not to emissions from all sources.

[932] Coalition on Sensible Transportation, Inc. v. Dole, 826 F.2d 60, 66 (D.C. Cir. 1987). The Court added that "[i]t is of course always possible to explore a subject more deeply and to discuss it more thoroughly. The line-drawing decisions necessitated by this fact of life are vested in the agencies, not the courts." *Id.*

policies because we did not find that the impacts of the rule require the Commission to adopt or implement a plan of mitigation. It would have been extremely difficult, if not impossible, to examine the many varied local impacts that could be expected across the Nation in response to the Rule. We made judgments as to the appropriate database and modeling assumptions to use—in some cases, those assumptions were shaped or changed by comments we received.

In short, many competing considerations came into play during the design of the complex analysis used to examine the environmental effects of the rule. We exercised our judgment, for example, based on consideration of whether matters are within the scope of the rule, the most appropriate way to study the effects of the proposal, and whether the issues raised were relevant to a consideration of the environmental effects of the rule. The Commission's response to issues raised by commenters is reflected in the response to comments set forth in Appendix J of the FEIS. We conclude that the FEIS reflects the appropriate consideration of these and many similar issues.

B. Major Issues

Some comments on the draft environmental impact statement (DEIS), as well as earlier comments in response to Commission scoping inquiries, raise two major areas of objection to the Commission's analysis. First, commenters claim that in determining what NO_X emission levels would be in the future with the adoption of the rule, the Commission did not compare the emissions levels associated with the rule against the appropriate base case. They argue that the Commission should have analyzed and compared the impacts of the rule to a "no-action" alternative that assumes that the Commission abandons all its open access policies, not just this rule. Some commenters, including EPA, go even further, suggesting that the Commission compare emission levels projected to result from the rule against a "frozen efficiency" case in which other major factors—factors that would increase industry efficiency independent of the Rule—do not occur. Such factors include adoption of pro-competitive state policies and actions by utilities to undertake mutually beneficial voluntary transactions that do not require the use of open access tariffs mandated under this rule. Commenters who advocate either a different "no-action" alternative or the frozen efficiency case expect that studies using those assumptions will show that the rule will cause significantly greater NO_X emissions than shown in the DEIS.[933]

Assuming these results, these commenters raise their second major area of concern, which is mitigating the presumed effects of the rule. These arguments vary somewhat but share a common theme: That the Commission has a responsibility, either as a legal or public policy matter, to mitigate what they expect to be the significant environmental impact associated with the rule. They suggest various mitigation schemes, including a FERC-administered NO_X emission allowance program along the lines of the sulfur dioxide (SO_2) program enacted by Congress and administered by the EPA under the Clean Air Act. Other proposals would have the Commission condition the right of a seller to use an open access tariff on certification that the source of the power sold is in compliance with (as yet undetermined) emissions limitations. Another proposal would have the Commission impose a charge on emissions to be paid by utilities to a fund established by the Commission. The added cost to the utilities would work to account for, or "internalize", the external costs of emissions.

Commenters advocating Commission-administered mitigation argue that the mechanisms under current law for regulating NO_X emissions are cumbersome and slow, and that the Commission should not (some argue, may not) go forward with the rule unless it puts in place environmental regulatory mechanisms that prevent further increases in NO_X emissions.

Various legal theories are advanced as a basis for Commission environmental regulation under the Federal Power Act. Some argue that the conditioning authority under the Federal Power Act is sufficient to enable us to fashion comprehensive controls on emissions from utility generators because there is a direct causal nexus between power trading (which we regulate) and generation (which we do not). Others argue that such authority lies in the use of our power to impose requirements on utilities "in the public interest", enhanced by the National Environmental Policy Act. Others argue that, in remedying undue discrimination, we must correct competitive advantages arising from Congressional decisions to exempt certain kinds of generation facilities from some Clean Air Act regulation.

[933] *See* Section V, Discussion, Subsection C.

C. Commission Conclusions

After reviewing the comments and the additional studies conducted by staff in response to the comments, the Commission adopts the findings in the FEIS.

First, the findings show that, without the rule, NO_X emissions are expected to decline until at least the year 2000. Thereafter, again without the rule, NO_X emissions are expected to increase steadily through the year 2010 (the end of the FEIS study period). The extent of the decrease and the increase will largely be determined by the relative prices of natural gas and coal, the two main fuels used to generate electric power in most regions.[934]

In reaching this conclusion, the FEIS used two "base" cases. In one (the "High-Price-Differential Base Case"), natural gas was assumed to become substantially more expensive compared with coal than it is today. In the other (the "Constant-Price-Differential Base Case"), natural gas was assumed to maintain essentially the same price relative to coal that has existed for the last ten years. The two cases describe the range of emissions due to fuel price uncertainty without the rule and demonstrate the overall trends of decreases until 2000 and increases thereafter.

Second, the FEIS finds that the rule will not in any significant respect affect these overall trends.

The potential impact of the rule was studied initially under two scenarios.[935] In one (the "Competition-Favors-Gas Scenario"), the rule is assumed to result in efficiency gains in the electric industry that would tend to favor natural gas as a fuel. In this scenario the effect of the rule is slightly beneficial. Total NO_X emissions are reduced overall by about two percent nationwide from the base cases. In the other (the "Competition-Favors-Coal Scenario"), the rule is assumed to result in efficiency gains in the electric industry that would tend to favor coal as a fuel. In this scenario the effect is again slight, showing approximately a one percent increase in NO_X emissions nationwide from the base cases. In both scenarios, however, the rule does not have an overall effect on NO_X emission trends.

Stated differently, under any case studied, with or without the rule, there will be an overall net decrease in NO_X

[934] Generally, a relative advantage for coal is likely to increase environmental impacts while a relative advantage for natural gas is likely to create modest environmental benefits.

[935] A third scenario considered improved conditions for the transmission system only. This scenario showed very small effects from the rule and is not addressed further here.

emissions through the year 2000.[936] Thereafter, NO_X emissions begin to increase. The rule does not materially affect either the decline prior to 2000 or the increase thereafter.

Based on these findings the Commission concludes that a comprehensive, Commission-imposed mitigation scheme to address the environmental consequences of the rule is not appropriate. If competition favors gas, the effects are beneficial and mitigation is unnecessary. If competitive conditions favor coal through the year 2010, and NO_X emissions increase slightly as a result of the rule, these minor effects would be effectively mitigated as a part of a comprehensive NO_X cap and trading allowance scheme developed by EPA in cooperation with the Ozone Transport Assessment Group (OTAG) and administered by EPA and state environmental regulators under the clearly established authority of the Clean Air Act.

Further, the Commission believes that staff has selected the appropriate "no-action" alternative. An alternative that requires the Commission to reverse all its other open access policies is simply not a "no-action" alternative. To the contrary, it would require decisive action running counter to the direction from the Congress in the Energy Policy Act and the needs of the marketplace and electricity consumers.

However, to ensure that the effects of the rule were analyzed fully, the FEIS did study a reference case based on the "frozen efficiency" case proffered by EPA and the Department of Energy (DOE).[937] Although, as described below, we believe this case to be highly unlikely, the results show that, even under this scenario, the impacts of the rule are not great and do not vary significantly from those projected by staff under the other assumptions.

In one case requested by EPA, staff studied a combination of assumptions most likely to show significant increases in emissions associated with the rule; the case included EPA's frozen efficiency scenario, coupled with the "Competition-Favors-Coal" assumptions. Other cases requested by EPA posit dramatic increases in transmission capacity (that we find highly unlikely). Even this combination of assumptions—geared to demonstrate the greatest impact the rule might have on increased NO_X emissions—produced little in the way of environmental consequences associated with the rule. Under these extreme (and unlikely) conditions, there would still be a net decrease in NO_X emissions until at least the year 2000, albeit a smaller decrease than in the base cases. Comparing projections of emissions for the same years, emissions would be higher than the base cases only by two percent in 2000 and three percent in 2005.[938] It is only in the year 2010, assuming these improbable scenarios, that NO_X emissions associated with the rule would be higher than the base case by even five percent.[939]

Based on these studies, including the EPA reference case, the Commission endorses the staff findings that the rule will affect air quality slightly, if at all, and that the environmental impacts are as likely to be beneficial as negative. This is true even under scenarios contrived to maximize emissions associated with the rule under circumstances that this Commission believes to be highly unlikely.

Importantly, this is also true in the near- to mid-term. Until the year 2010, even the worst case (the frozen efficiency case) produces results very similar to those produced using assumptions the Commission believes to be reasonable. In short, the rule will not produce an "ozone cloud" coming across the Appalachians to threaten the Northeast on the day the rule goes into effect. Assuming that any environmental impacts occur, they are years in the future and may well be beneficial. As a result, calls for Commission mitigation, and in particular for interim mitigation to "fill the gap" until programs under the Clean Air Act can be adopted, are unnecessary and disproportionate to the possible effects of the rule.

We also endorse the staff view that it is neither within our statutory authority nor appropriate as a matter of policy to fashion from the FPA a comprehensive clean air regulatory program to address NO_X emissions. As described below, we believe that the mitigation proposals proffered in comments exceed our statutory authority to regulate rates, terms and conditions of sales of electric energy and transmission of electric energy in interstate commerce. We are, in essence and by law, economic regulators. While we have an obligation under NEPA to take the environmental consequences of our actions into account in fashioning our decision—and we have done so—NEPA grants us no new regulatory powers. While NEPA extends our general obligation to engage in reasoned decisionmaking to include the consideration of possible environmental consequences of our actions, it compels no particular substantive result.

Though our conditioning authority under sections 205 and 206 of the FPA is broad, our actions under it are confined to the subject matter of our jurisdiction. That subject matter excludes the physical aspects of generation and transmission. Our actions must derive from and advance our statutory mandate to protect consumers by establishing utility rates and business practices that are just, reasonable, and not unduly discriminatory or preferential. These authorities, however broad they are with respect to economic matters, are not unbounded; they may not be used to "fill in the gaps" of regulatory programs that, by law, are not our own.

Moreover, even if it were possible to tease from the FPA some implicit authority to regulate NO_X emissions from utility generators, it is not feasible for this Commission to develop and implement such a program. The mitigation schemes presented in comments are filled with unknowns and complexities that are best resolved by those charged with administration of the Nation's environmental laws. In some cases, the mitigation schemes are based on a model of utility transactions that is fundamentally at odds with the purposes of the rule. For example, several proposals would require the Commission to establish whether emissions from certain units or systems contribute to ozone noncompliance elsewhere, perhaps hundreds of miles away. Other proposals would require the Commission to establish baseline standards for emissions; generating units with emissions above that level would be required to adopt mitigation measures. The technical difficulties associated with these proposals are evident on their face. While resolving these issues is necessary to establish an effective NO_X regulatory program, the Commission does not possess the requisite expertise to establish baseline NO_X emission levels and address the difficult technical and policy issues that are presented in regulating NO_X emissions. EPA is the agency with jurisdiction over and experience with such matters. Although efforts are underway to resolve these issues within the framework of the Clean Air Act, all air regulators agree that much work still needs to be done.

[936] These results are set forth graphically and in tabular form in the FEIS at pp. ES–3 and ES–13. They are also reproduced in Appendix H.

[937] Although DOE agreed with EPA's request that we analyze the frozen efficiency case as a reference case, DOE believes that the DEIS selected the appropriate base case. DOE also argues that the mitigation of any adverse consequences from the rule should be addressed by EPA under the Clean Air Act or by the Congress.

[938] FEIS Table 6–10 at p. 6–17.

[939] *Id.*

Other proposals would require the Commission to track generation that is used for wholesale versus retail sales. However, for example, use of holding company corporate structures, as well as emerging market structures, would make it extremely difficult, if not impossible to distinguish between retail and wholesale transactions. In addition, such measures are inconsistent with the goals of the rule (and the Energy Policy Act) to eliminate time-consuming, inefficient transaction-based approvals that impede open access and to promote entry of sellers into bulk power markets on a competitive basis.

Moreover, any such program implemented by this Commission could well undercut the existing regulatory scheme crafted by Congress under the Clean Air Act, as amended. In particular, we are being asked essentially to rework the legislative decisions made by Congress regarding certain coal-fired generators. Those decisions are at the heart of the 1990 Clean Air Act compromise. The only means Congress has made available for addressing these problems under current law are in the Clean Air Act. If these means prove insufficient to address the NO_X problem overall, the case for change must be presented to the Congress.

Although we have concluded that NO_X emissions problems are most effectively addressed by clean air regulations within the framework of the Clean Air Act, we do recognize that the question of NO_X emissions is a very important one. Our FEIS documents that, with or without this rule, NO_X emissions from all sources are expected to increase over time. This will present a significant environmental issue for the Northeast, which is already struggling to reach current NO_X reduction standards, as well as for other regions of the country that are being called on to participate in an inter-regional solution to the NO_X problem. As the EPA rightly recognizes, attempting to frame an appropriate solution with the tools currently available is a tough job. We therefore understand why those concerned would try to enlist this Commission in an effort to solve this problem with regulatory mechanisms other than those set out in the Clean Air Act. We also understand why even the prospect of exacerbating that problem would ignite the kind of controversy reflected in the comments to this rule, and why, in response, those who have gained Congressional exemptions from certain regulations wish not to have those benefits undermined. At the same time, we understand, and have great sympathy with, the many commenters who have suggested that the economic benefits of this rule to consumers should not be suppressed or delayed by this difficult, ongoing debate.

Our FEIS clearly demonstrates that this rule is not the appropriate vehicle for resolving this very important debate. We believe that our study makes a significant contribution nonetheless. We have added significantly to the understanding of the problem and have established a viable, current baseline for assessing future industry trends. This baseline should serve air regulators well in analyzing overall NO_X emissions in the future.[940] We have resolved some important questions about the role of open access and have established clearly the influence of energy prices on NO_X emissions in the future.

Our study also supports the view held by many commenters that the appropriate regulatory mechanisms for addressing the NO_X problem overall, including emissions from electric utility generating plants, is a NO_X emissions cap and allowance trading scheme along the lines of that developed by the Congress under the Clean Air Act for SO_2 emissions. As staff suggests, even if there are slight environmental impacts associated with the rule, they are better and more effectively addressed as a part of a comprehensive NO_X regulatory program. While Congress did not enact such a scheme for NO_X, it did, as described below, empower the EPA to establish such a program. The EPA is the only federal agency with clear authority and expertise to address this problem. It should do so.

The FEIS also identifies the importance of OTAG to the development of a fair and effective NO_X regulatory program. OTAG, which includes representatives from all affected states, is currently at work developing the analytic basis needed for a regional consensus solution to the NO_X problem. OTAG is also evaluating possible solutions, including an allowance trading scheme. We believe that OTAG's efforts are to be applauded, and we encourage the EPA and all interested parties to work with OTAG to address this issue of national concern.

[940] For example, the data we used to project future industry generation and fuel use update by several years the data relied upon by EPA in its Regulatory Impact Analysis used as a basis for its recently proposed NO_X rule, entitled "Acid Rain Program: Nitrogen Oxides Emission Reduction Program." 61 FR 1442 (1996). We believe the data developed in the FEIS will make a useful contribution to EPA's effort.

Discussion

A. Compliance With NEPA Requirements

1. Background

The Commission issued a NOPR in this proceeding on March 29, 1995. In doing so, we concluded that promulgating the proposed Rule would not represent a major federal action having a significant adverse impact on the human environment and that the proposed Rule fell within the categorical exemption provided in the Commission's regulations for electric rate filings submitted by public utilities under sections 205 and 206 of the FPA.[941] Subsequently, the Commission determined that, despite the availability of the categorical exclusion, it would nonetheless prepare an environmental analysis. On July 12, 1995, the Commission directed staff to prepare an EIS to assess the environmental impacts of the proposed Rule. That notice requested comments on environmental issues and scheduled a scoping meeting for September 8, 1995.[942]

A Notice of Availability of the DEIS was published in the **Federal Register** on November 27, 1995.[943] The DEIS evaluated several potential alternatives and mitigation measures as summarized below.

A Notice of Availability of the FEIS was published in the **Federal Register** on April 19, 1996.[944]

2. General Requirements

Section 102 of NEPA, 42 U.S.C. 4332, requires that federal agencies prepare an EIS on proposals for major federal actions significantly affecting the quality of the human environment. The objective is to build into the agency decisionmaking process careful consideration of environmental aspects of proposed actions, including the evaluation of reasonable alternatives. Although we believe a categorical exclusion to be available,[945] the Commission has performed this EIS to ensure that this Rule is promulgated with the benefit of careful consideration of its environmental aspects.

3. Alternatives

The consideration an agency must give in an EIS to alternatives to its proposed action is bounded by a number of factors, including notions of feasibility, whether basic changes would

[941] 18 CFR 380.4(a)(15).

[942] 60 FR 36752 (1995).

[943] 60 FR 58304 (1995).

[944] 61 Fed.Reg. 17,296 (1996).

[945] *See* 40 CFR 1507.3 (1995); 18 CFR 380.4 (1995).

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be required to the statutes and policies of other agencies, and the extent to which the proposal would result in significant impacts. The United States Supreme Court (Supreme Court or Court) stated what is required in an EIS with regard to alternatives in *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 551 (1978): "(A)s should be obvious even upon a moment's reflection, the term 'alternatives' is not self-defining. To make an impact statement something more than an exercise in frivolous boilerplate the concept of alternatives must be bounded by some notion of feasibility." [946] In this regard, the Supreme Court quoted *Natural Resources Defense Council* v. *Morton*, 458 F.2d 827, 837–38 (D.C.Cir. 1972), with approval as follows:

There is reason for concluding that NEPA was not meant to require detailed discussion of the environmental effects of "alternatives" put forward in comments when those effects cannot be readily ascertained and the alternatives are deemed only remote and speculative possibilities, in view of basic changes required in statutes and policies of other agencies—making them available, if at all, only after protracted debate and litigation not meaningfully compatible with the time-frame of the needs to which the underlying proposal is addressed.

The Supreme Court went on to discuss the concept of "feasibility", stating that:

Common sense also teaches us that the "detailed statement of alternatives" cannot be found wanting simply because the agency failed to include every alternative device and thought conceivable by the mind of man. Time and resources are simply too limited to hold that an impact statement fails because the agency failed to ferret out every possible alternative, regardless of how uncommon or unknown that alternative may have been at the time the project was approved.[947]

Thus, an EIS must discuss the alternatives that are feasible and briefly discuss the reasons others were eliminated. There is no minimum number of alternatives that must be discussed.[948] An agency's consideration of alternatives is adequate if it considers an appropriate range of alternatives—it does not have to consider every available alternative.[949]

The range of alternatives that must be considered in the EIS need not extend beyond those reasonably related to the purposes of the project.[950] An agency is entitled to identify some parameters and criteria related to the proposal for generating alternatives to which it would devote serious consideration. Without such criteria, an agency could generate countless alternatives.[951] Alternatives that are unlikely to be implemented need not be considered, nor must an agency consider alternatives that are infeasible, ineffective, or inconsistent with basic policy objectives.[952] In this sense, central to evaluating practicable alternatives is the determination of a project's purpose.[953]

Furthermore, the range of alternatives that reasonably must be considered decreases as the environmental impact of a project becomes less and less substantial. If a proposal would have minimal environmental effect, the range of alternatives that must be considered is narrow. It would be an anomaly to require that an agency search for more environmentally sound alternatives to a project that it has determined will have no significant environmental effects.[954] Moreover, feasible alternatives may be rejected if they present unique problems or cause extraordinary costs and community disruption.[955]

As applied to the instant case, NEPA does not require the consideration of alternatives that are remote and speculative possibilities because they would require basic changes to statutes and policies. Therefore, alternatives that would require the Commission to ignore open access policies enacted by Congress in the Energy Policy Act and to assume such policies would not be pursued by the states are not feasible and need not be considered. Likewise, the Commission need not consider alternatives that are ineffective or inconsistent with basic policy objectives, or that would cause extraordinary costs and community disruption. Finally, because the rule would have minimal environmental effect, the range of alternatives that must be considered is narrow. We conclude that staff has examined the appropriate alternatives in the FEIS and correctly determined that promulgation of the rule represents the most appropriate action.

Certain commenters have argued that the alternative that calls for the Commission to abandon the policy of promoting transmission access is more appropriate for the no-action alternative than the no-action alternative selected by the staff.[956] We disagree. As discussed below, that contention is more properly an argument about the appropriate baseline to use in the FEIS. That debate has been resolved by the consideration of a reference case that includes a baseline which bounds the effects that those commenters seek to have analyzed.

4. Mitigation

To fulfill the requirements of NEPA with regard to mitigation, an agency must identify and evaluate the adverse environmental effects of the proposed action, in this case the rule. Having identified and evaluated adverse environmental effects, the agency is not constrained from then deciding that other values outweigh the environmental costs of the proposal.

The leading case interpreting this requirement is *Robertson* v. *Methow Valley Citizens Council*, 490 U.S. 332 (1989)(*Methow Valley*). There, the Court explained that:

Although these procedures (preparation and circulation of an EIS) are almost certain to affect the agency's substantive decision, it is now well settled that NEPA itself does not mandate particular results, but simply prescribes the necessary process. *If the adverse environmental effects of the proposed action are adequately identified and evaluated, the agency is not constrained by NEPA from deciding that other values outweigh the environmental costs* * * *. Other statutes may impose substantive environmental obligations on federal agencies, but NEPA merely prohibits uninformed—rather than unwise—agency action.[957]

The Court held that "(t)o be sure, one important ingredient of an EIS is the discussion of steps that can be taken to mitigate adverse environmental consequences." [958] This is so because: Implicit in NEPA's demand that an agency prepare a detailed statement on "any adverse environmental effects which cannot be avoided should the proposal be implemented, 42 U.S.C. 4332(C)(ii), is an understanding that the EIS will discuss the extent to which adverse effects can be avoided. More generally, omission of a reasonably complete discussion of possible mitigation measures would undermine the "action-forcing" function of NEPA. Without such a discussion, neither the agency nor other interested groups and individuals can properly evaluate the severity of the adverse effects * * *.[959]

The Court acknowledged that:

There is a fundamental distinction, however, between a requirement that mitigation be discussed in sufficient detail to ensure that environmental consequences have been fairly evaluated, on the one hand, and a substantive requirement that a complete mitigation plan be actually formulated and adopted, on the other * * *. Even more significantly, it would be inconsistent with NEPA's reliance on procedural mechanisms—as opposed to substantive, result-based standards—to demand the presence of a fully developed plan that will mitigate environmental harm before an agency can act.[960]

The Court again stressed that "(b)ecause NEPA imposes no substantive requirement that mitigation measures actually be taken, it should not be read to require agencies to obtain an assurance that third parties will implement particular measures." [961] Thus, the Court held that mitigation, including mitigation that other governmental bodies have jurisdiction to implement, must be discussed in sufficient detail to ensure that environmental consequences of a proposed action have been fairly evaluated. However, a complete mitigation plan need not be actually formulated or adopted.

The suggestion by various commenters that the Commission is required to adopt and implement a plan to mitigate the impacts of the rule is without legal or factual basis. Even if the effects of the rule were greater than the FEIS shows them to be, *Methow Valley* clearly establishes that, regardless of the impacts of the proposed action, the Commission is required only to understand the impacts of its actions. This compels us to consider and discuss mitigation; it does not require us to adopt and implement mitigation. This FEIS thoroughly examines mitigation of possible adverse environmental effects and concludes that sufficient mechanisms exist to address the impacts of the rule, if any.

5. Role of EPA

Section 309 of the Clean Air Act, 42 U.S.C. 7609, authorizes EPA to review and comment on environmental impact statements prepared by federal agencies. If the EPA Administrator determines that a proposed regulation is unsatisfactory from, among other things, the standpoint of environmental quality, she may refer the matter to the Council on Environmental Quality (CEQ).[962]

In this case, EPA has commented extensively on the DEIS. It sought changes to the staff's analysis, primarily to include the use of the frozen efficiency assumptions. The staff has fully complied with EPA's study requests even though it regards such assumptions as implausible, contrary to the Energy Policy Act and Commission policy, and at odds with industry trends and practical considerations affecting the industry.[963]

Although EPA may disagree with the environmental acceptability of an agency's proposal, the agency is charged with making the ultimate determination whether to implement a proposal; in making that decision, the agency is free to reject advice offered through the comment and referral process.[964] Objections on the part of EPA may give rise to a heightened obligation of the agency to explain clearly and in detail its reasons for proceeding in the face of those objections. This the Commission has done. It has thoroughly examined the impact of the assumptions advanced by EPA; that analysis is detailed in Chapter 6 of the FEIS.[965]

In summary, NEPA prescribes a process and not a result. What is critical is that environmental impacts of a proposed action be adequately identified and evaluated—an important component of this process is understanding the possible mitigation measures that are involved, including measures which may be beyond the jurisdiction of an agency to implement. This requirement does not translate, however, into a requirement that an EIS adopt a mitigation plan, particularly where, as here, the impacts of the rule are small and may be either positive or negative.

B. Analysis of Alternatives

The FEIS evaluated three alternatives to the rule including: (1) A no-action alternative which assumes that the rule is not adopted, but that existing statutory and regulatory policies remain in place; (2) a Commission decision to reverse existing policies and halt implementation of mandatory open access; and (3) a Commission decision to aggressively develop competitive power markets by mandating corporate reorganization or divestiture.

1. The No-Action Alternative

The principal alternative to the proposed action is for the Commission not to adopt the rule, but to continue its existing open access and stranded cost policies. In recent years, the Commission has required public utilities that merge or seek to acquire jurisdictional transmission facilities under section 203 of the FPA to file open access transmission tariffs. The Commission also has required public utilities to file open access transmission tariffs to mitigate market power and to ensure non-discrimination if they or their affiliates wish to sell power at market-based rates. In addition, the Commission processes case-by-case requests made by potential transmission users under section 211 of the Energy Policy Act for transmission service, and has allowed utilities to include stranded cost provisions in their open access transmission tariffs on a case-by-case basis.[966]

Actions taken pursuant to section 211, and pursuant to sections 203 and 205 in merger and market-based rate cases respectively, represent a case-by-case approach to establishing open access. By contrast, the rule would, in a single generic proceeding, require each jurisdictional public utility to file open access tariffs at the same time. The consumer benefits from the rule are expected to be $3.8 to $5.4 billion per year.[967]

Absent action on the rule, the Commission would continue on a case-by-case basis to require public utilities to file open access tariffs and provide case-specific service as necessary or appropriate. Sections 205 and 206 charge the Commission with ensuring that voluntary transmission tariffs are not unduly discriminatory. If the rule were not adopted, the Commission would continue to require that voluntary tariffs be upgraded to offer non-discriminatory open access transmission services pursuant to the Commission's current standards. The result of continuing the Commission's policies without the rule is that the Commission would effectuate a more open transmission grid than is present today, but in a patchwork manner and at a slower pace. Over some extended time period, many, but not necessarily

[946] Vermont Yankee, 435 U.S. at 551.
[947] *Id.*
[948] Laguna Greenbelt, Inc. v. DOT, 42 F.3d 517, 524–25 (9th Cir. 1994).
[949] Resources Limited, Inc. v. Robertson, 35 F.3d 1300, 1307 (9th Cir. 1993).
[950] *Id.*
[951] *Id.*
[952] *Id.*
[953] National Wildlife Federation v. Whistler, 27 F.3d 1341, 1345 (8th Cir. 1994).
[954] Missouri Mining, Inc. v. ICC, 33 F.3d 980, 984 (8th Cir. 1994).
[955] Communities, Inc. v. Busey, 956 F.2d 619, 627 (6th Cir.), *cert. denied*, 506 U.S. 953 (1992).
[956] *See* Section V, Discussion, Subsection B.2.
[957] Methow Valley, 490 U.S. at 350–51 (citations and footnote omitted) (emphasis added).
[958] *Id.* at 351 (footnote omitted).
[959] *Id.* at 351–52 (citation omitted).
[960] *Id.* at 352–53 (citation and footnote omitted).
[961] *Id.* at 353 n .16.
[962] The process appropriate for CEQ referral of actions by an independent regulatory agency is not addressed here.
[963] For example, see the discussion on transmission constraints at Section V, Discussion, Subsection C.
[964] *See* Alaska v. Andrus, 580 F.2d 465 (D.C. Cir.), *vacated in part on other grounds sub nom.* Western Oil & Gas Ass'n v. Alaska, 439 U.S. 922 (1978).
[965] The Commission bears the ultimate responsibility for evaluating the environmental impacts of the rule. In doing so, it must consider EPA's comments, but is not bound by them. *See* Citizens Against Burlington, Inc. v. Busey, 938 F.2d 190, 201 (D.C.Cir.), *cert. denied*, 502 U.S. 994 (1991). In that case the Court held that:

Congress wants the EPA to participate when other agencies prepare environmental impact statements. *See* 42 U.S.C. 7609(a). The EPA participated here. But the (Federal Aviation Agency), not the EPA, bore the ultimate statutory responsibility for actually preparing the environmental impact statement, and under the rule of reason, a lead agency does not have to follow the EPA's comments slavishly—it just has to take them seriously. *See Alaska v. Andrus*, 580 F.2d at 474.

[966] *See* Section III.
[967] *See* Section I.

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all, utilities would become subject to open access requirements.

The case-by-case approach to achieving open access now in use is slower and more costly, and thereby less desirable, than the generic approach set forth in the rule. Given the rapid changes facing the industry, and the opportunity for great consumer savings, the no-action alternative is not a reasonable alternative to the rule.

2. Abandon the Policy of Promoting Transmission Access

A second alternative is for the Commission to abandon its current policy and take no action whatsoever to foster transmission access. Under this alternative, the Commission would no longer require open access transmission as a condition of mergers and asset acquisitions under section 203 or requests for market-based pricing under section 205, and would no longer grant applications filed pursuant to section 211. Offers of transmission would become strictly voluntary.

This alternative is inconsistent with Congress' general intent in the Energy Policy Act to foster wholesale competition, and also with its specific intent in expanding section 211 to permit the Commission to require a transmission-owning utility to make its transmission system available to eligible users if to do so is in the public interest. This alternative is also inconsistent with the Commission's obligations under sections 205 and 206 to ensure that public utilities do not unduly discriminate in providing jurisdictional services. It is, therefore, not a reasonable alternative to the rule.

3. Corporate Reorganization/Divestiture Alternative

Under this alternative, the Commission would require public utilities either to divest control of their transmission assets or to reorganize their corporate structures to perform their transmission functions through a separate subsidiary, thereby segregating transmission from the rest of the utilities' operations. However, corporate reorganization or divestiture would have no effect on the operation of power plants, which are assumed to be dispatched on the basis of economic efficiencies. Thus, this alternative would lead to the same environmental impacts as the rule. That is, the environmental effects would be no different from those studied in the FEIS.

C. The Scope of the FEIS

The FEIS examines the environmental impacts that could result from implementing this rule. This analysis is undertaken against the background of the existing electric industry. The electric industry currently produces environmental impacts, and those impacts are certain to change over time as the industry responds to factors as varied as changes in demand for electricity, the price of fuels, changes in regulatory programs, technological developments, and changes in market structure.

The FEIS does not examine the environmental impact of electric generation that is required to meet generators' existing service requirements. Nor does it examine the environmental effects of the inter-utility power exchanges that have occurred in the industry for as long as utilities have been interconnected. Rather, the FEIS examines impacts of potential increases in generation and changes in patterns of generation that might result from implementation of the rule.

In creating an analytical construct to examine the impacts of the rule, the staff developed a set of cases that defined the framework for running the computer models utilized to examine the changes in types of power plants constructed in the future and changes in operating patterns of existing power plants, including changes in fuel mix.

First, staff characterized how electric power markets might evolve absent adoption and implementation of the rule by establishing baselines (i.e., base cases) to project the future impacts of the industry.[968] The relative prices of coal and natural gas are critical in establishing what is likely to happen in the future. Accordingly, a range of prices was developed to project the impacts of these factors. In the first baseline, the Constant-Price-Differential Base Case, coal and natural gas prices are assumed to maintain the same relative position they have maintained over the past ten years. In the second baseline, the High-Price-Differential Base Case, natural gas is assumed to become substantially more expensive compared with coal than it has been over the past 10 years. In all other respects, the assumptions underlying the two base cases are the same.

Because the purpose of the base cases is to describe the impacts of the electric industry if the Commission takes no action over and beyond continued implementation of existing policies, the baselines assume that the Commission continues the open access and stranded cost policies it has instituted in recent years.

Some commenters have challenged this aspect of the baselines used in the study. The gist of their argument is that the environmental impacts of these programs have not been evaluated and that the baselines therefore improperly take credit for impacts that have not yet occurred, thus understating the projected impacts of the rule. In general, these commenters argue that the second alternative considered by the staff represents the "true" no-action alternative.

At bottom, this debate is not about what constitutes the appropriate no-action alternative. Rather, it is a debate about what aspects of the electric industry should be taken into account when determining future environmental impacts of the industry against which to measure the impacts of the rule. The commenters urge the Commission to consider varying baselines, but in general they oppose inclusion in the base cases of the Commission's ongoing open access and stranded cost programs.

Some commenters not only urge that the Commission not take into account continued implementation of its open access and stranded cost programs, but that it go much farther and establish baselines (against which to examine the impacts of the rule) that do not reflect the impacts of a great many changes that are already taking place in the electric industry. This proposal would establish a baseline that does not take into account: (1) Current Commission transmission policy; (2) programs that states and industry players have adopted to improve industry efficiency; and (3) mutually beneficial transactions that electric companies enter into on a regular basis.

The use of these assumptions would fly in the face of long-standing industry trends which move in precisely the opposite direction. Utilities are reducing reserve margins, improving plant availabilities, and reducing barriers to transmission even without Commission action.[969] Many states are aggressively pursuing plant efficiency policies.[970] These trends are long-standing and are not attributable to the rule, or even to a broader Commission program of open access. These trends, projected into the future, form the basis for the conditions reflected in the FEIS base cases. These trends are fundamentally at odds with the assumptions some commenters wish the Commission to use to establish baselines.

[968] As discussed below, once baselines were established to portray what is likely to happen in the electric industry without the rule, the projected impacts of the rule were then determined against this background.

[969] FEIS Chapter 6.

[970] *Id.*

We conclude that the approach used by staff to develop the baselines used in the FEIS is appropriate. Abandoning current open access policies is unrealistic, contrary to Congressional intent, and at odds with pro-competition policies that are at the heart of the Commission's current regulatory mission. The selection of the appropriate methodology to establish the baselines used in the FEIS is clearly within the Commission's discretion and expertise.[971]

What the commenters challenging this assumption desire is additional study of the impacts of the rule. Specifically, they wish to test the rule against a different set of assumptions for the acknowledged purpose of attributing greater adverse environmental consequences to the rule. The regulations of the Council on Environmental Quality no longer contain a requirement to conduct a conjectural "worst-case analysis."[972] NEPA requires an agency to adequately identify and evaluate the adverse environmental effects of a proposed action.[973] It does not require the agency to ignore the world as it exists.

Nonetheless, to respond to concerns about the baselines used in the DEIS with respect to key atmospheric emissions, the staff conducted sensitivity analyses to examine the outer boundaries of a range of cases requested by some commenters. This range of cases is called the "frozen efficiency" case. In essence, the frozen efficiency cases assume that no further open access of any kind occurs during the study period and that efficiency in the industry (for instance, power plant availability) remains frozen through the same period. The assumption that there is substantially more inter-regional transmission capacity than posited in the original analysis is separately examined in the base and rule cases.[974]

We must reiterate that the frozen efficiency case is far more restrictive in its assumptions than a true no-action case in which the Commission simply stops all efforts to promote open access. A true no-action case would closely resemble the FEIS base cases because much of the efficiency gain in that base case would occur even with no move toward open access.

As detailed in Chapter 6 of the FEIS, and as discussed below, even the frozen efficiency case demonstrates results that are essentially the same as those demonstrated by the base cases used by the staff. In the frozen efficiency worst case, when coal prices become considerably more attractive compared to gas prices, national NO_X emissions would be lower than in the base cases used by staff by only one percent (in 2000) to four percent (in 2010). If coal and natural gas prices remain at today's relative levels, the effects would be smaller—zero percent in 2000 to two percent lower in 2010. National CO_2 emissions would be between zero and two percent lower than in the base cases used by the staff over the same time frame.

D. Economic and Environmental Impacts of the Rule

The FEIS reports a quantitative estimate of approximately $3.8 billion to $5.4 billion in benefits per year of cost savings expected from competition under the rule. The FEIS also considers other, non-quantifiable benefits that can be expected from implementing the rule. These benefits include better use of existing assets and institutions, new market mechanisms, technical innovation, and less rate distortion. Further, the FEIS demonstrates to our satisfaction that the rule is likely to have little or no adverse environmental impact and that any impacts are as likely to be beneficial as harmful.

The issue most frequently raised by commenters involves air quality impacts, particularly the possible transport of NO_X emissions from upwind areas to airsheds in the Northeast and the resulting impacts on ozone non-attainment areas.

With regard to NO_X, the FEIS demonstrates that, as a result of clean air regulatory programs, NO_X emissions nationwide, with or without the rule, will decline through the year 2000, but begin to climb thereafter.[975] This basic trend remains the same in all cases examined in the FEIS. This is because the level of NO_X emissions in any given year depends primarily on one key uncertainty that is not related in any way to the rule—the relative price of natural gas and coal.[976] Lower prices for natural gas, relative to coal, lead to lower levels of NO_X emissions.

The FEIS also demonstrates that increases in access to transmission and efficiencies in electric power markets associated with the rule do not alter the expected trend of NO_X emissions, regardless of the relative price of natural gas and coal. Increased transmission access and industry efficiency facilitated by the rule may either decrease total emissions somewhat or increase them somewhat, depending on whether competitive conditions in the electric industry favor natural gas or coal. When competitive conditions favor natural gas, the effect of the rule is beneficial, reducing emissions somewhat. When competitive conditions favor coal, emissions increase by a small amount. Nevertheless, the overall trend of expected NO_X emissions retains its general shape.

In assessing the projected impacts of the electric industry absent adoption of the rule (*i.e.*, the base cases studied in the FEIS), the most important factor affecting changes in national NO_X emissions is the relative competitive position of coal and natural gas. The most important factor affecting the relative competitive positions of coal and natural gas is price.

National NO_X emissions from the electric industry were 5,844 thousand tons in 1993, the last year for which complete data is available. If relative gas

[971] *See, e.g.*, Sierra Club v. Marita, 46 F.3d 606, 621, 623 (7th Cir. 1995).

[972] Methow Valley, 490 U.S. at 354–55. The revised requirement, 40 CFR 1502.22, which pertains to incomplete or unavailable information, is inapplicable as well. The problem here is not incomplete or unavailable information, but rather which existing policies and events should be included in the analysis.

[973] 42 U.S.C. 4332.

[974] Several commenters, including EPA, are concerned that increases in transmission capacities resulting from open access might increase generation levels and thus air emissions. EPA is especially concerned with the expansion of transmission links between the midwest and east coast. The FEIS examines scenarios that increase transmission capacity substantially beyond current levels. This analysis finds that postulated increases do not affect emissions attributable to the rule. We believe increases considered in the FEIS far exceed any transmission capacity increases that might occur as a result of the rule. This is due in part to the fact that state-level siting issues, the principal barrier to major capacity increases in the transmission grid, are unaffected by the rule. The issues regarding enhancement of existing lines are more complex. Competition under open access will lead to improved efficiencies in generation. Transmission, on the other hand, will remain a regulated monopoly function. The rule will reduce barriers to access, but will not open the transmission system to direct competition. Thus, we believe that the competitive effects of the rule on transmission expansion will be relatively small.

EPA urges us to assume that transmission capacity is expanded by 40 percent compared to our base case. We do not believe this is likely to occur. The experience with one proposed new transmission line in the very area EPA focuses on demonstrates this difficulty. Duquesne Light filed an application with the Pennsylvania Public Utilities Commission to construct a new 500 Kv line across Pennsylvania to supply electricity to New Jersey. Within a few days of the filing of the application, over 3,000 individuals and groups filed complaints in opposition to the proposed line. "Electricity Utility Week" (November 4, 1991). A bill was proposed in the Pennsylvania Legislature to prevent construction of the line. Another bill was introduced in Congress to halt construction of new transmission lines throughout the U.S. for two years. Duquesne ultimately decided to withdraw its proposal and the line was not constructed. "The Energy Daily" (April 4, 1994).

[975] FEIS Figure ES–1 and Table ES–2, reproduced at Appendix H.

[976] *See, e.g.*, FEIS at ES–8.

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and coal prices remain the same, for example, we project that national NO_X emissions will be 5,579 thousand tons in 2005 without adoption of the rule. If gas prices rise relative to coal prices, we project that NO_X emissions in 2005 will be 6,053 thousand tons without adoption of the rule. Stated another way, favorable coal prices are projected to result in NO_X emissions that are about three percent higher in 2000 to 10 percent higher in 2010 over the base case where gas is the favored fuel.

The effect of adopting the rule could be to raise or lower national emissions slightly compared to the effects projected in the base cases. Nationally, in 2005, we project that the Competition-Favors-Coal Scenario (with rising relative gas prices) would add one percent to NO_X emissions above the base case that favors coal. The Competition-Favors-Gas Scenario (with constant relative fuel prices) would lower emissions by two percent compared with the base case that favors gas.

Regional effects are generally similar. In 2005, in the East North Central region (a source of potential increased NO_X emissions that might affect the Northeast), the base cases project small increases in industry emissions (two percent). In that region in 2005, the rule may add as much as one percent to NO_X emissions compared to the relevant base case (the Competition-Favors-Coal Scenario) or reduce emissions compared to the relevant base case by as much as three percent (the Competition-Favors-Gas Scenario).

The EIS uses the UAM–V model to track the effects of projected NO_X emissions on downstream ozone levels during a severe weather period. This detailed air quality modeling shows no real difference in the Northeast between the base case favoring coal (the High-Price-Differential Base Case) and the Competition-Favors-Coal Scenario. Detailed local analysis shows slightly lower ozone concentrations in some locations and slightly higher concentrations in others. None of the differences adds to non-attainment levels projected in the relevant base case, and all fall within the noise levels of the model. That is, they are smaller than the uncertainties in the science underlying the model.

As discussed above, the Commission believes that the base cases used by staff in its analysis are the most realistic and, therefore, the most appropriate cases to consider the potential environmental impacts of the rule. However, as requested by the EPA, DOE, and certain other commenters, sensitivity analyses were conducted to examine the impacts on the results of the analysis if key assumptions are changed as requested by commenters. Presumably, comparing the projected impacts of the rule to the requested "frozen efficiency" case provides a measure of the greatest impacts that could possibly (albeit unrealistically) be expected from implementing the rule.[977]

As the FEIS discusses, even comparing projected NO_X emissions under the rule to the highly implausible frozen efficiency case, impacts attributable to the Rule are projected to be modest or non-existent. This holds true even when large (up to 40 percent) increases in transmission capacity are assumed to occur under the rule.[978] Moreover, adding coal-favoring assumptions—which would presumably increase emissions—about future competitive conditions in the electric industry to the implausible frozen efficiency assumptions, NO_X emissions are projected to increase very modestly until the year 2010 (by only two percent in 2000 and three percent in 2005). Even using this highly unlikely alternative to the rule, the analysis projects a net environmental benefit (although a very small one) if gas prices stay constant compared to coal prices.

Concern also has been expressed with regard to the need to mitigate CO_2, mercury, and fine particulate emissions, and with the impact of the rule on visibility. As with NO_X, the FEIS demonstrates that the rule is as likely to improve such emissions and visibility as it is to exacerbate them. In any event, the impact is expected to be small.

In sum, the Commission adopts the FEIS findings that:

- The relative price of coal and natural gas has a larger effect on NO_X emissions than any impacts from the proposed rule. Without the proposed rule, different fuel price assumptions are projected to lead to a 7 percent difference between the two base cases in nationwide NO_X emissions in 2005, with some regions affected more than others.
- The rule is projected to have only slight impacts on NO_X emissions, and the impacts are as likely to be beneficial as harmful. In 2005, if competitive conditions in the electric industry (for instance, heat rates) favor natural gas, the proposed rule is projected to decrease baseline NO_X emissions by 2 percent nationwide. If competitive conditions favor coal, the rule is projected to raise baseline NO_X emissions by 1 percent. Regional effects in both cases are generally similar. In short, any negative impacts that the rule might cause are a small fraction of the uncertainty inherent in fuel price projections.
- Even a substantial increase in transmission capacity (up to 40 percent on every transmission line in the country) would change emission estimates by very small amounts in all cases. In many cases, the changes would represent net environmental benefits.
- Even comparing projected emissions under the proposed rule to the highly implausible frozen efficiency case, impacts attributable to the rule are projected to be modest or non-existent. The staff believes this is an unreasonable comparison because the frozen efficiency assumptions ignore industry trends that the Commission is generally powerless to stop. In effect, they assume that the alternative to the proposed rule is (1) for the Commission to reverse current transmission policy, an action that is inconsistent with Congressional policies under EPAct, (2) for states to cease adopting programs to improve industry efficiency, and (3) for electric companies to cease entering mutually beneficial transactions. Even after adding coal-favoring assumptions about future competitive conditions in the electric industry to the implausible frozen efficiency assumptions, NO_X emissions are projected to increase only very modestly until 2010 (by only 2 percent in 2000 and 3 percent in 2005). Even using this highly unlikely alternative to the proposed rule, the analysis projects a net environmental benefit (although a very small one) if gas prices stay constant compared to coal prices. EPA indicates that it considers the lower gas price assumption to be "the more likely of the base cases" (DEIS comments, p. 35).[979]

E. Mitigation Analysis

An agency is required to consider mitigation if the proposed action will result in adverse environmental impacts.[980] The insistence of commenters that the Commission adopt and implement mitigation measures is based on significantly overstated assumptions regarding the contribution of the rule to existing environmental problems. The analysis presented in the FEIS establishes that these assumptions about the impact of the Rule are wrong. As stated in the FEIS,

> The sensitivity analyses (*i.e.*, the frozen efficiency case requested by EPA, DOE and other commenters) do not support the argument that the proposed rule is likely to lead to large immediate impacts that require immediate mitigation. In fact, using the more reasonable EIS base cases, it is clear that the proposed rule is at least as likely, if not more likely, to benefit the environment as it is to have adverse environmental impacts. As a result, we believe it is not a responsible course of action to undertake efforts to mitigate speculative adverse environmental consequences that may well not materialize; such action could well have the opposite effect and delay the clear benefits the proposed rule will produce in order to address small, highly uncertain environmental impacts.[981]

Even if the rule were to result in adverse environmental impacts as a result of competitive conditions that favor the future use of coal, such impacts are not likely to occur until about the end of the time period examined in the FEIS. EPA in its comments on the DEIS stressed, based on views it formed prior to knowing the results of the frozen efficiency case, that the Commission should develop interim mitigation until EPA can implement a program of controls. EPA stated in its comments that it has authority to address "some" of the impacts it believed would result from the rule, but stated that it would take it considerable time to do so—up to 10 years. The results of the unrealistic worst case analysis demonstrate that adverse effects would not be expected to occur for approximately 10 years in any event. Thus, interim mitigation is not required; EPA will have sufficient time to develop under the Clean Air Act whatever mitigation plan it may deem necessary.

Although the staff concluded that mitigation was unnecessary given the results of its analysis, given the importance of this issue, it nonetheless examined in considerable detail measures, including those proposed by commenters, that could be taken to mitigate adverse environmental consequences of the rule if they were to occur. The FEIS focuses on NO_X emissions in particular given the importance assigned to this issue by commenters.

1. Mitigation Measures Under the Clean Air Act

As discussed in greater detail in the FEIS, the existence for many years of a significant ozone non-attainment problem in parts of the U.S. has led to the development of mechanisms to address this issue. In particular, Congress has established requirements in the Clean Air Act for regulating NO_X emissions. These requirements establish specific NO_X emission levels for certain types of boilers. As discussed below, the Commission is not authorized to alter those requirements as requested by certain commenters.

In the 1990 Amendments to the Clean Air Act, Congress enacted the Acid Rain Program to reduce annual SO_2 and NO_X emissions. For SO_2, Congress established a cap and trade program that uses a market-based allowance system to reduce SO_2 emissions from utilities by approximately 50 percent. The allowance system caps utility emissions at 8.9 million tons a year by 2000. A pool of 8.9 million allowances was then created, each representing the right to emit one ton of SO_2 pollution in a specified calendar year. The allowances can be used to permit current emissions, sold, or held in reserve.

As a result of uncertainty in the understanding of ozone formation and transport, Congress acted less aggressively in regulating NO_X emissions. It chose to limit NO_X emissions from utilities by means of allowable emission limits and to require further study of ozone precursors, leaving room for the EPA to abate NO_X requirements where scientifically justified. Accordingly, in section 407 of the Clean Air Act, 42 U.S.C. 7651f, Congress established a NO_X reduction program which provides that EPA shall by regulation establish annual allowable emissions limitations for NO_X for specified types of utility boilers (Group 1 boilers). Section 407 also provides that, by not later than January 1, 1997, the Administrator shall establish allowable emission limitations for NO_X on a lb/MMBtu, annual average basis for specified other types of utility boilers (Group 2 boilers).

On April 13, 1995, EPA promulgated a Rule setting emission limitations on Group 1 boilers that combust coal as a primary fuel. EPA reports that the April 13, 1995 regulation "is expected, by the year 2000, to nationally reduce NO_X emissions by an estimated 1.54 million tons per year."[982]

On January 19, 1996, EPA published a proposed rule to implement the second phase of the Acid Rain Program. This rule proposes to establish NO_X emission limitations for Group 2 boilers and to revise NO_X emission limitations for Group 1 boilers to impose tougher standards. EPA states that "[t]he proposal would, by the year 2000, achieve an additional reduction of 820,000 tons of NO_X annually."[983]

In addition, Congress determined to deal with the issue of the interstate transport of ozone by authorizing the formation of transport commissions. The Clean Air Act authorizes EPA to establish transport regions that are charged with assessing the degree of interstate transport of pollutants, assessing mitigation strategies, and recommending revisions to State Implementation Plans to correct the problem. The Clean Air Act specifically establishes an ozone transport region (OTR) for the Northeast. The jurisdictions that comprise the OTR have developed a coordinated approach to this problem that includes adopting a regional cap on NO_X emissions.

Although the OTR process is achieving its purpose, a broader program is clearly appropriate to address the overall problem. As a consequence, the Ozone Transport Assessment Group (OTAG) has been formed which encompasses the OTR and upwind states that contribute to non-attainment. OTAG is performing extensive photochemical grid modeling of the eastern U.S. to determine ozone transport problems and to evaluate the efficiency of various control strategies. OTAG is considering recommending a cap and trade system for NO_X emissions from all sources in a 37-state area comprising the Northeast OTR and upwind states. If the cap and trading system becomes effective it therefore should fully mitigate NO_X emission increases, if any, attributable to open access transmission within the 37-state area. A cap and trade program is also likely to mitigate CO_2 and mercury emissions.[984] Any incremental increases in NO_X, mercury, or CO_2 emissions that may result from the rule can and should be addressed within this existing framework.

All of these factors lead us to agree with the staff's conclusion in the FEIS that a cap and trading system such as that under consideration in the OTAG process is the preferred approach to the overall NO_X emissions problem, including emissions associated with the rule, if any. This approach brings together EPA and the concerned states in a program that utilizes existing regulatory authority under the Clean Air Act.

The OTAG process brings to the table the parties that must participate in making the difficult decisions necessary to fully resolve this problem. OTAG possesses the technical resources and expertise to address the difficult scientific and technical issues that must be resolved to remedy this problem. A cap and trading system will require the

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[977] These assumptions include, and go substantially beyond, the "no-action" alternative advocated by EPA and others in positing a baseline that would tend to maximize the amount of NO_X emissions attributed to the rule. This is because under a frozen efficiency scenario *all* increases in power trading (and resulting NO_X emissions) would be attributed to the Rule. In fact, as described below, many of the efficiencies posited under the EPA assumptions are attributable to other factors and certain of the efficiencies (*e.g.*, 40 percent increase in transmission capacity) are wholly unrealistic.

[978] Some commenters assume that large increases in transmission capacity would result in a significant expansion in generation and thus increased emissions. In reality, the analysis present in Chapter 6 of the FEIS indicates that this is not the case.

[979] FEIS at ES–2.

[980] *See* Methow Valley, 490 U.S. at 348–53.

[981] FEIS at 7–5.

[982] 61 FR 1442 (1996).

[983] *Id.*

[984] It should be noted that the science relating to determining mercury emission levels and also to the environmental impacts of CO_2 is uncertain, particularly with regard to the impacts of CO_2 emissions. The FEIS evaluates these matters as best it can under the circumstances.

development of emission baselines for a great many entities; development of such baselines is certain to require extensive modeling and many difficult compromises. OTAG and others have been working towards this end for a long time. A more limited approach—one undertaken by this Commission or aimed at the limited (and only potential) impacts of the rule—cannot render a satisfactory solution. A program designed to deal with the slight impacts associated with the rule will not contribute significantly to the overall solution and could, indeed, impede it if the Commission took actions that prove inconsistent with solutions developed by OTAG or if debate over Commission-sponsored mitigation were to continue to distract interested parties from the preferred route of developing a consensus solution within the framework of the Clean Air Act. We respect the expertise and the goals of the OTAG process and do not believe we can or should substitute for them in addressing this long-term national problem.

2. Mitigation Measures Proposed by Commenters

The FEIS also analyzes NO_X mitigation measures proposed by commenters. These include voluntary measures pursuant to which the Commission would support utility efforts to mitigate pollution and proposals under which the Commission would mandate mitigation. Commenters suggest a variety of Commission actions including using its conditioning authority to require utilities to consider environmental impacts;[985] sanctioning imputed charges in rates to reflect incurred environmental externalities; and designing specific, transaction-oriented mechanisms designed to address the increment of emissions attributable to new wholesale transactions resulting from the rule.[986] The FEIS discusses five proposals in some detail: Those presented by the Center for Clean Air Policy (CCAP), the EPA, Joint Commenters, the Project for Sustainable FERC Energy Policy (Sustainable FERC), and the DOE.[987] Of these, the FEIS recommends the proposal put forward by DOE:

> Staff concurs (with the DOE analysis) that the best solution to the problem of NO_X transport and ozone non-attainment lies in exercise of statutory authority under the Clean Air Act by EPA and the states. Absent Congressional action, no resolution of the difficult political and technical issues will represent a lasting solution of this problem except one that comes from a collaborative process such as OTAG.[988]

As the FEIS explains in great detail, each of the other recommendations suffers from serious shortcomings. In one form or another, they would require the Commission to implement technically complex emissions control regimes outside of the Commission's expertise. Some would require that we duplicate existing monitoring systems. Others would require that we implement provisions that would, in effect, defeat the very purpose of the rule.[989] Indeed, these recommendations would have the Commission embark upon an extensive environmental regulatory regime that appears unwarranted, unworkable and, as discussed below in some detail, beyond our lawful authority. And they would have us act in a way that may well frustrate the ongoing efforts to deal with these problems and would frustrate the benefits to be derived from the rule.

The CCAP asserts that FERC should establish an emissions monitoring program for NO_X and CO_2 and implement an emission neutrality requirement (ENR) to mitigate what it believes to be the impacts of the rule. The monitoring program would require generators to identify emissions associated with off-system sales on a kWh basis in real-time and integrate this information with the data to be made available on electronic bulletin boards (EBBs). Under the ENR aspect of CCAP's proposal, to be eligible for service under open access tariffs, companies that operate plants upwind from the Northeast OTR and the upper Midwest would have to certify that firm and economy off-system power sales using an open access tariff would have no incremental impact on ozone compliance in other areas. All sales for resale that require service under an open access tariff and originate upwind of the OTR would need to include NO_X emissions reduction credits equal to the increase in emissions related to those sales. The seller could meet its requirement to be "emission neutral" under the mechanism by achieving the required emission reductions annually at their own facilities, or through purchases of credits anywhere in the airshed.

EPA proposes two mitigation alternatives. In the first, it states that FERC could deny open access service unless there is a showing that the service will not have an adverse environmental impact. Under this approach, EPA, in cooperation with the states in OTAG, would recommend and establish a mitigation mechanism that could be entered into by a customer seeking open access service and used by such customer to make the necessary environmental demonstration supporting the provision of the service. The FERC would rule on whether the mitigation mechanism presented by the customer and the evidence on the likely effectiveness of the mechanism were sufficient to make the environmental demonstration.

In the second proposal, EPA suggests that any fossil fuel-burning generating entity seeking service under open access transmission tariffs would be required to commit by an enforceable contractual undertaking that it will avoid or offset emission increases (measured against as yet undetermined baselines), and periodically certify its compliance with that commitment. Middlemen would have a similar obligation. The generator could meet its emission limits either by making verified emission reductions within its own facilities or by obtaining eligible emissions offsets from other entities. An important element of the mitigation mechanism is the emissions baseline above which mitigation would be required. This mitigation mechanism would operate until superseded by appropriate programs addressing these pollution problems under other authority. EPA's own comments on the DEIS recognize that there may be substantial practical complexities in implementing such mechanism.

The Joint Commenters propose a flexible mitigation strategy pursuant to which FERC would require as part of open access transmission a demonstration that NO_X emissions would not be increased. To qualify for open access transmission access, an electric generating unit would be

[985] For example, EPA suggests that we require certain types of filings, such as a request to charge market-based rates, to include an assessment of environmental impacts and mitigation, if necessary. Joint Commenters suggest we require wheeling and interconnection applicants to demonstrate that their requests will not contribute to increased NO_X or ozone in downwind regions, and Conservation Law suggests linking recovery of stranded costs to the retirement of unsuitable generators.

[986] The FEIS also discusses mitigation measures that can be undertaken by others. These include strategies to require some existing plants to meet more stringent, new NO_X standards, relying on market forces to control inter-regional NO_X transport, or measures that could be employed by the states to limit power purchases based on environmental considerations. *See* FEIS at 7–26 to 7–28.

[987] FEIS at 7–28 to 7–43.

[988] FEIS at 7–43.

[989] The rule represents the Commission's remedy to unduly discriminatory practices found to exist by public utilities that own and/or control interstate transmission facilities. Having found an unlawful practice, we must remedy it. However, EPA would require that those seeking to enjoy the benefits of non-discriminatory open access transmission further agree to go beyond current environmental requirements specified by federal and state authorities authorized by Congress to regulate such matters.

responsible for mitigating any excess NO_X emissions that adversely affect ozone non-attainment areas. Utility systems would be able to comply by use of emission control technology, fuel changes, or other measures to reduce applicable emissions, or by buying appropriate emission reduction credits to offset excess emissions. To comply with this policy, a company would need first to calculate whether it had excess emissions for the ozone season. A company that failed to mitigate would be required to remit to a regional emissions fund all revenues in excess of the incremental operating cost of producing electricity sold under the open transmission access policy during the previous ozone season plus an emissions make-up penalty the following year patterned after the penalty for excess emissions in the Acid Rain Program. The proposed mitigation policy would apply generally throughout the OTAG region.

The outlines of Sustainable FERC's proposal are vague, but it appears to request that FERC, either singly or in combination with other agencies, eliminate the different environmental standards that apply to entities participating in open access transmission. This plan would include the reporting of emissions data to EPA, principles to eliminate the adverse impacts of non-comparable environmental standards, and an EPA-administered emissions monitoring process designed to determine whether generating plant emissions of specific pollutants under open access exceed designated baselines.

Finally, DOE proposes action under the Clean Air Act as the most effective mitigation of the inter-regional NO_X transport problem. DOE supports the activities of OTAG and believes that a regional NO_X cap and trading system is a particularly promising approach. If OTAG does not succeed in addressing the problem, EPA should consider exercising its authority under sections 110 and 126 of the Clean Air Act, 42 U.S.C. 7410 and 7426, respectively, to require states to amend their State Implementation Plans to reach the same result.

The proposals advanced by CCAP, EPA, Sustainable FERC, and Joint Commenters suffer from practical and legal problems that render them unworkable. A common thread is for the Commission to "level the environmental playing field." "Impacts of non-comparable environmental standards" are not impacts of this rule, but rather of the Clean Air Act regulations and statutory requirements under which those standards have been imposed. We have no authority to "level" the different emissions standards for different types of power plants, when those differences in standards are the direct result of the program adopted in the Clean Air Act and regulations promulgated by EPA. In enacting the Clean Air Act, Congress chose not to impose identical emission standards on all electric utility powerplants, but did create mechanisms for regulation of certain pollutants that can be used to "level the playing field" if that is appropriate clean air policy. For the Commission to presume to overturn those standards or seek to impose more stringent standards is something the Commission believes it cannot do.

A fundamental problem that plagues several proposals is the difficulty in identifying causation. While it is generally accepted that there is a link between increased emissions in certain areas of the country and increases in ozone levels in other areas, that link is in many respects poorly understood. In particular, it is difficult to prove that emissions from a particular unit or particular system contribute to ozone noncompliance elsewhere. As a result, it is very difficult to establish an analysis that would support a certification that a particular power sale would have no incremental impact on ozone compliance.

Similarly, the proposals tying "emission neutrality" to "open access transactions" seem to fundamentally misunderstand the operation of power markets and the role of open access tariffs in moving power from willing sellers to willing buyers. In particular, these proposals do not reflect the difficulty in identifying the transactions that are likely to result from the open access policies adopted in this rule. The rule does not authorize sales for resale of electric energy; rather, it establishes requirements for open access transmission, *i.e.*, it requires utilities with monopoly control of transmission to make transmission service available to customers who want to buy power from someone other than the transmission owner. Open access will facilitate transactions where the transmission owner will not provide service. However, generators do not necessarily have to request service under a Commission ordered open access tariff to make specific sales. There are a number of ways to structure transactions where third party transmission service is either not necessary or is voluntarily available.[990] Even when open access tariffs are used, the sales are not always (or even often) sales from specific generators to specific buyers. Marketers or brokers can buy generation from any number of sources. They can also buy transmission service in blocks that may not be associated with specific sales. Service agreements can be executed that allow use of non-firm transmission service for transactions that are not even known at the time of the execution of the agreement.

The rule envisions a world where transmission will be arranged with minimal transaction cost. Terms, conditions, rates, and even approvals often will be established far in advance of particular transactions. All other problems aside, requiring showings of the kind required by the various mitigation proposals would undermine the basic philosophy behind the rule, would make transactions much more difficult to engage in, would increase transaction costs, and would cause delays resulting in lost efficiencies. In addition, it would directly conflict with the Commission's responsibility under the FPA to remedy undue discrimination in jurisdictional services, which is the fundamental purpose of the rule.

Another significant issue with several of the proposals is how to establish the baselines against which to measure emissions. Establishing such baselines is extremely difficult; EPA itself, for example, has not come to grips with these complexities. The picture is complicated by difficulties in identifying open access transactions that result from the policies implemented by this rule. For example, some utilities use holding company corporate structures in which generation assets are held in an affiliate that sells power at wholesale to the holding company's distribution affiliate. For these utilities, all retail native load service would be subject to environmental review under the mitigation proposals if the base were established by reviewing all wholesale sales. This would make the Commission responsible for addressing all NO_X emissions from power plants for utilities with such corporate structures, a result that goes far beyond the stated goal of mitigating emissions that result from increased interstate trade facilitated by the rule.

As the industry changes, new structures are emerging that will make any system that tries to keep track of wholesale sales even more difficult to administer. California is putting into place an industry structure that could see all generation in the state sold into a central pool and then sold again at wholesale to distributors. Other states

[990] Indeed, over 100 utilities are now providing some form of open access on a voluntary basis.

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are contemplating retail market structures that are even more fluid than the California proposal. Differentiating between sales for resale that are for former retail customers and sales for resale that are for "new" wholesale customers, and therefore somehow the result of open access policies, would be extremely difficult. In general, it is not easy to distinguish among growth in generation for native retail load, wholesale requirements customers, existing economy sales, and new sales that are facilitated by the rule, either for purposes of establishing a baseline or for tracking responsibility for emissions.[991]

Joint Commenters proposal would have the Commission impose a revenue collection measure—in essence a tax on open access transmission. The Commission is authorized by the FPA to pass through costs, not to collect additional fees from entities utilizing programs established by the Commission. The payment of emission fees is outside the Commission's authority under the FPA.

The FEIS concludes that mitigation by the Commission should not be undertaken in this rule because:

- Any mitigation measures the Commission might undertake are not justified by the small impacts of the rule, which impacts are as likely to be beneficial as they are to be harmful;
- The impacts of the proposed rule are dwarfed by the far larger ozone and NO_X emission issues that either have nothing to do with the electric industry or will be unchanged by the rule or the larger open access program. We believe that it would be ineffective to address the NO_X and ozone issues in a piecemeal way;
- The NO_X issue is part of a long-standing, difficult set of inter-regional environmental issues. Representatives of many interests have invested substantial efforts toward finding acceptable solutions through the OTAG process. Any mitigation the Commission might undertake could usurp EPA's mandate under the Clean Air Act and undermine progress towards comprehensive solutions sought by OTAG. This is not justified by impacts that are small and just as likely to be positive;
- We do not agree that the frozen efficiency reference case should be substituted for the EIS base cases or that competitive forces will favor coal over the next 15 years. But even accepting these assumptions, emissions attributable to the rule are relatively small until well after the turn of the century. So, even accepting such assumptions, the staff believes it would be unreasonable for the Commission to adopt mitigation requirements as part of the final rule; to do so would be tantamount to assuming that EPA and OTAG will not implement reasonable control measures in the next ten to 15 years;
- The Federal Power Act and NEPA, either singly or conjointly, do not authorize the Commission to adopt and implement the proposed mitigation measures. The Commission does not possess (and has no mandate to possess) expertise on the extremely difficult issues involved in atmospheric chemistry and transport. It is fundamentally an economic regulatory agency. As a result, any mitigation measures the Commission undertook would be based on less-than-ideal information and analysis. It is unreasonable for the Commission to attempt such mitigation given the impacts found in this FEIS. This is especially true in light of the substantial additional research that EPA and OTAG are undertaking on the basic nature of the problem;
- Some suggested mitigation measures that might work at the transaction level would undermine the purpose of the rule. There is no justification for endangering the substantial benefits projected from the rule to mitigate a problem that might not exist and that is, in any case, likely to be small.[992]

In sum, the rule is expected to have small impacts and those impacts are as likely to be beneficial as they are to be harmful. Therefore, mitigation is not required. In addition, processes are in place to address the pre-existing NO_X problem—a problem that dwarfs any impacts the Rule might have. These processes are expected to address the underlying transport problems well before any potential harmful effects of the rule will develop.[993]

The mitigation measures that certain commenters urge the Commission to adopt are truly unwarranted in light of these facts. They also fail to recognize or adequately consider the Commission's limited jurisdiction, its lack of expertise required to assess and address the underlying problem, the existing mechanisms and efforts to address the underlying problem, and the balance that has been reached and continues to be defined by the many interests that have invested substantial efforts toward finding acceptable solutions to these problems.

3. Legal and Policy Considerations

The FEIS concludes that the mitigation measures recommended by commenters are beyond our authority to implement and that strong policy considerations militate against their adoption. We agree.

Several commenters contend that the Commission is authorized to use the rulemaking as a vehicle to impose an air emissions regulatory regime on the electric utility industry.[994] Others argue that, as a matter of law and policy, we cannot and should not impose such measures.[995] While the conditioning proposals vary in specifics, all have as their central theme that generators would be forced to agree to operate generation facilities in a manner to reduce air pollution below levels currently authorized by EPA and the states.[996]

The Commission's authority to regulate public utilities is set out in Parts II and III of the FPA. Parts II and III do not provide the Commission with the authority to condition either the provision of, or access to, jurisdictional services on the agreement to undertake environmental mitigation measures.[997] Section 201, which is found in Part II of the FPA, explicitly bars the Commission from exercising the jurisdiction that the proponents of the conditioning

[991] We are also very concerned about the time and effort involved in developing the various programs suggested by commenters. The EPA and OTAG are working on the establishment of emissions standards, which action is an essential prerequisite to three of the proposals. However, developing those standards is among the challenges that EPA believes may take up to 10 years to complete. It simply makes no sense to delay the benefits of the rule (which has slight, if any, environmental impacts) during the period required for experts in the area to develop standards that, once established, can form the basis of a program under existing Clean Air Act authority.

[992] FEIS at 7–48.

[993] Many commenters state that the rule does not require mitigation and urge that a mitigation plan not be adopted. We would also note in light of the substantial number of comments opposing the proposition that we have mitigation authority, that any such mitigation measure we may choose to undertake would, in all likelihood, be subject to judicial review and the inevitable delays and uncertainties that accompany litigation. In the meantime, we would expect actions by OTAG and EPA to eclipse whatever action the Commission attempted to implement during this time.

[994] Alliance for Affordable Energy, *et al.* (Alliance); EPA; Project for Sustainable FERC Energy Policy (Project for Sustainable FERC); and Northeast States For Coordinated Air Use Management (NESCAUM).

[995] *See, e.g.*, AEP at 3; CINERGY at 8–9; Entergy at 11–13; GPU at 2; Midwest Ozone Group at 3; NMA at 5–8; Ohio Consumers' Counsel at 5; Ohio PUC at 1; TVA at 8; and WEPCO at 2. *See also* CCEM Supplemental Comments at 1–5.

[996] *See, e.g.*, CCAP (FERC should establish an emissions monitoring program and implement an emission neutrality requirement); EPA (either deny open access service unless the customer demonstrates no adverse environmental impact or require, through contract terms, any generating entity seeking open access service to avoid or offset emission increases for the benefit of third parties); Joint Commenters (electric generators to qualify for open access must be held responsible for mitigating any excess NO_X emissions through a revenue collection measure); Project for Sustainable FERC (pro forma tariffs to contain environmental mitigation measures imposed on generators). *See generally*, FEIS at 7–28 to 7–42.

[997] Parts II and III of the FPA originated with the Public Utility Act of 1935, 49 Stat. 803, 838 (Aug. 26, 1935) and stemmed in part from the financial abuses in the utility industry in the late 1920s and early 1930s. *See* Report of National Power Policy Committee on Public-Utility Holding Companies, S. Rep. No. 621, Appendix, 74th Cong., 1st Sess. 55–60 (1935); *see also* H.R. Rep. No. 1318, 74th Cong., 1st. Sess. 1–3 (1935). The FPA has been amended several times, most recently by the Energy Policy Act of 1992.

proposals would have us undertake: authority over the *operation* of generating facilities. Section 201(b)(1) provides that:

> The Commission shall have jurisdiction over all facilities for (the transmission of electric energy in interstate commerce) or (the) sale of electric energy (at wholesale in interstate commerce), *but shall not have jurisdiction, except as specifically provided in (Parts II and III), over facilities used for the generation of electric energy* * * *. (emphasis added).

This standard is reflected throughout Parts II and III of the FPA. Sections 205 and 206, which are the cornerstones of Parts II and III, concern the regulation of *rates, terms and charges* occurring in connection with transmission or sales subject to the Commission's jurisdiction. Parts II and III do not grant the Commission authority to regulate the environmental aspects of jurisdictional activities.[998] Instead, they provide authority over certain interconnections;[999] the rates, terms and conditions of wholesale sales of electric energy in interstate commerce and transmission in interstate commerce; the disposition and merger of facilities used for such sales and transmission; issuance of securities; accounting matters; and interlocking directorates. Thus, the Commission's jurisdiction over generation extends only to matters directly related to the *economic* aspects of transactions resulting from such facilities.[1000] We do not have jurisdiction over the *physical* aspects of generation facilities.[1001]

This limitation on the Commission's jurisdiction stems from the historical purposes for which the Commission was established. Congress had two objectives in expanding the authority of the Federal Water Power Commission in 1935.[1002] The first was to close the gap created by *Public Utilities Commission* v. *Attleboro Steam & Electric Co.*, 273 U.S. 83 (1927)(*Attleboro*), in which the Court found that under the Commerce Clause states could not regulate wholesale sales of electricity in interstate commerce. The result was a gap in regulation of such sales because there was no federal entity with authority to regulate them at that time. The second was to eliminate the economic abuses that were then rampant in the industry.[1003] In expanding the Commission's jurisdiction Congress made clear that such Federal regulation, however, was "to extend only to those matters which are not subject to regulation by the States."[1004]

Several commenters argue nonetheless that the Commission may do indirectly what it is barred from doing directly. Their arguments boil down to the claim that the Commission's responsibility under the FPA to act in the "public interest", either alone or in conjunction with NEPA, provides the Commission with the authority to impose environmental regulation on generators to address the supposed impacts of the Rule.[1005] We disagree. In making this argument, the commenters attribute to that standard a breadth of discretion that vastly exceeds the traditional ambit of our authority.

It is well established that NEPA merely establishes a procedural vehicle for assessing the impacts of a proposed action on the environment. It neither expands nor contracts the basic grant of jurisdiction made by Congress to the agency conducting the review, and it does not mandate particular results but simply prescribes a process.[1006] Commenters' arguments that NEPA somehow "fills in the blanks" of the FPA to authorize us to impose environmental regulatory regimes on generating facilities, or those who may purchase power from them, is simply incorrect. If we have such authority, it must be found in our substantive statute, the FPA.

Courts have addressed the breadth of our public interest standard on several occasions. The principal case on this point is *National Association for the Advancement of Colored People* v. *FPC* 520 F.2d 432 (D.C. Cir. 1975), *aff'd*, 425 U.S. 662 (1976) (*NAACP*). In *NAACP*, a number of organizations requested that the Commission promulgate regulations requiring equal employment opportunity and proscribing racial discrimination in the employment practices of public utilities.[1007] The Commission declined, finding that the FPA did not authorize it to do so. Petitioners appealed, contending that the Commission was authorized and required to act in the public interest: to order such interconnections of electric power transmission facilities, setting such terms and conditions for the same, as are "necessary or appropriate in the public interest"; to approve such asset sales and consolidations of interstate electric power companies as are "consistent with the public interest; to approve such securities issuances by those companies as are "compatible with the public interest" and "consistent with the proper performance * * * of service as a public utility"; to determine "just and reasonable" rates for interstate sales and transmission of electric power; and to order that "proper, adequate or sufficient" interstate power service be rendered.[1008] On this basis, they argued that because prohibition of discrimination is in the "public interest," the Commission was therefore required to proscribe discrimination by jurisdictional entities.

The Court rejected petitioners' argument. It observed that:

> the (Federal Power) Act's preamble echoes the generality of the foregoing quoted

[998] The statutory framework established by Congress in sections 205 and 206 is not compatible with the administration of environmental regulatory regimes as a precondition to authorization. The Commission has only 60 days to review rate filings under section 205 before they become effective. Absent Commission action rejecting a rate filing or suspending its operation for up to five months within such period, a jurisdictional transaction (either the sale of energy or the transmission of energy) and the proposed rates accompanying the transaction go into effect by operation of law. Some mitigation proposals would require us to reject transactions within 60 days or allow them to go forward but with case-by-case determinations or hearings on environmental effects made within that time period. This could result in transaction gridlock for the trade of electricity in interstate commerce—a situation that is totally at odds with the regulatory framework established by Congress in the FPA and the Commission policy objectives under this rule to minimize regulatory impediments to fluid competitive power sales markets. Moreover, letting transactions go into effect subject to environmental hearings is not likely to produce meaningful environmental controls. Clearly, our processes, which contemplate the resolution of factual matters through hearings and the use of refund obligations to adjust parties' obligations on the basis of the record, make no provision for extensive scientific inquiry and are not designed to accommodate the imposition of clean air standards on power sellers.

[999] *See* FPA section 202(b), 16 U.S.C. 824c(b). *See also* Department of Energy Organization Act, 42 U.S.C. 7151, 7172.

[1000] We also note that section 731 of the Energy Policy Act preserves state and local authority over environmental protection and the siting of facilities.

[1001] For example, we do not have jurisdiction over the physical location of generation or transmission facilities, even though we have exclusive jurisdiction of the rates, terms and conditions of sales for resale or transmission of electric energy in interstate commerce by public utilities using such facilities, *i.e.*, the economic aspects of the use of such facilities.

[1002] The Federal Water Power Commission was established in 1920 with jurisdiction over the licensing of hydropower projects. 41 Stat. 1063 (June 10, 1920). In 1935, it was reconstituted as the Federal Power Commission, with expanded responsibilities over utility regulation. The jurisdiction over the licensing of hydropower was preserved as Part I of the Federal Power Act.

[1003] *See* Report of National Power Policy Committee on Public Utility Holding Companies.

[1004] FPA section 201(a), 16 U.S.C. 824(a). The House, Senate and Conference Reports concerning the Public Utility Act of 1935, *i.e.*, concerning Parts II and III of the FPA, are silent with respect to environmental concerns.

[1005] *See, e.g.*, comments by EPA, Project for Sustainable FERC, and Attorneys General.

[1006] *See, e.g.*, Methow Valley, 490 U.S. at 350–53; *see also*, LaFlamme v. FERC, 852 F.2d 389, 399 (9th Cir. 1988).

[1007] NAACP, 520 F.2d at 433.

[1008] *Id.* at 437–38 (footnotes omitted). The authorities listed cover FPA sections 202, 203, 204, 205, 206, and 207.

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phrases, declaring that the sale and transmission of electric power are "affected with the public interest," federal regulation of interstate aspects being "necessary in the public interest." The statute itself nowhere defines the "public interest," but instead leaves the precise ambit of the Commission's concern uncertain.[1009]

The Court found from the entirety of the Act that, "(o)f the Commission's primary task there is no doubt, however, and that is to guard the consumer from exploitation by non-competitive electric power companies."[1010] The Court reiterated that "(t)he Supreme Court has stated that the words 'public interest' do not constitute a 'mere general reference to the general welfare, without any standard to guide determinations.'"[1011] Significantly, the Court also found that "(w)ords like 'public interest' * * * though of wide generality, take their meaning from the substantive provisions and purposes of the Act."[1012] The Court concluded that:

Congress has not charged the Commission with advancing *all* public interests, but only the public's interest in having the particular mandates of the Commission carried out, its interest, in other words, in the conservation of natural resources and the enjoyment of cheap and plentiful electricity and natural gas.[1013]

With this, the Court rejected petitioners' argument that the FPA "public interest" standard requires the Commission to promulgate regulations prohibiting discriminatory practices by entities who are in some way regulated by the Commission. The Court found that the Commission was *not empowered* to promulgate anti-discrimination regulations because to do so would not be "reasonably related to the furtherance of the Commission's proper objectives," which, under Part II of the FPA, are "the enjoyment of cheap and plentiful electricity."[1014]

On review, the Supreme Court affirmed this limited reading of the Commission's authority to act in the public interest.[1015] In doing so, the Court noted that:

The use of the words "public interest" in the Gas and Power Acts is not a directive to the Commission to seek to eradicate discrimination, but, rather, is a charge to promote the orderly production of plentiful supplies of electric energy and natural gas at just and reasonable rates.[1016]

The question the Supreme Court asked in *NAACP* is the appropriate question here concerning the commenters' environmental mitigation proposals:

The question presented is not whether the elimination of discrimination from our society is an important national goal. It clearly is. The question is not whether Congress could authorize the Federal (Energy Regulatory) Commission to combat such discrimination. It clearly could. The question is simply whether and to what extent Congress did grant the Commission such authority.[1017]

We believe the same conclusion is true here for air pollution as the Court found there regarding discrimination.[1018]

The argument by EPA and others that because the FPA authorizes the Commission to act in the "public interest" it somehow authorizes the Commission to impose environmental mitigation measures is virtually indistinguishable from petitioners' argument in *NAACP*.[1019] Here, as in *NAACP*, parties urge the Commission to act to achieve worthwhile goals. However, the question is not whether the measures proposed by the parties would advance important national goals. Rather, "(t)he question is simply whether or to what extent Congress did grant the Commission such authority."[1020] Also here, as in *NAACP*, the parties improperly base their belief that the Commission has authority to act under the FPA on an incorrect, overly broad application of the "public interest" standard. The goals sought to be advanced by EPA and others are broadly speaking "in the public interest," but they are not goals that Congress has directed this Commission to pursue.[1021] Thus, just as the FPA did not authorize the Commission to take actions that petitioners requested in *NAACP*, the FPA does not authorize the Commission to undertake the types of environmental mitigation measures proposed by the commenters.[1022]

[1009] *Id.* at 438 (footnote omitted).

[1010] *Id.*

[1011] *Id.* at 440, *citing* New York Central Securities Co. v. United States, 287 U.S. 12, 24 (1932).

[1012] *Id., quoting* Alabama Electric Cooperative, Inc. v. SEC, 353 F.2d 905, 907 (1965), *cert. denied*, 383 U.S. 966 (1966).

[1013] *Id.* at 441 (emphasis in original). The Court made clear that "the conservation of natural resources" was a Commission interest only with regard to the regulation of hydropower resources under Part I of the FPA. *Id.* at 437.

[1014] *Id.* at 443 and 441.

[1015] NAACP, 425 U.S. 662 (1976).

[1016] *Id.* at 670 (footnote omitted). Several commenters, *e.g.*, Project for Sustainable FERC at 31–32 and Alliance at 53, make much of the Court's statement that there are undoubtedly other subsidiary purposes contained in the FPA and NGA, noting its reference in a footnote that the Commission has authority to consider "environmental" questions. NAACP, 425 U.S. at 670 n.6. However, they neglect to mention that the section of the FPA which the Court identified in support of this reference to environmental questions is section 10 of the FPA concerning our Part I authority over hydroelectric licensing matters, not Parts II and III. Part I contains explicit authority for the Commission to consider and require environmental mitigation measures.

[1017] NAACP, 425 U.S. at 665.

[1018] In analyzing the scope of the Commission's authority to act in the public interest, the *NAACP* Court found it useful to analogize to federal labor law. While noting that Congress had "unmistakably defined the national interest in free collective bargaining," *Id.* at 671, the Court found that it could not be supposed that in directing the Commission to be guided by the "public interest," Congress instructed the Commission "to take original jurisdiction over the processing of charges of unfair labor practices on the part of its regulatees." *Id.* Yet this is exactly the form of what EPA and the other commenters supporting our authority to require environmental mitigation would have us do. However, just as with discriminatory employment practices, we can consider the consequences of air pollution practices of our regulatees "only insofar as such consequences are *directly related* to the Commission's establishment of just and reasonable rates in the public interest." *Id.* (emphasis added).

[1019] We note that the standard the Commission is bound to apply in reviewing section 205 and section 206 transactions (which are the focus of the majority of commenters' mitigation proposals) is not a broad "public interest" standard, but rather a standard that rates, terms and conditions of such transactions be "just, reasonable and not unduly discriminatory or preferential." 16 U.S.C. 824d, 824e.

[1020] NAACP, 425 U.S. at 665.

[1021] The limited nature of the Commission's ability under *NAACP* to consider "environmental" issues is reflected in the few court decisions on this subject. *See Public Utility Commission of California* v. FERC, 900 F.2d 269, 281 (D.C. Cir. 1990) (The broad public interest standards in the Commission's enabling legislation are limited to "the purposes that Congress had in mind when it enacted this (NGA and FPA) legislation. This rule helps confine an agency's authorization "to those areas in which the agency fairly may be said to have expertise."); *Process Gas Consumers Group* v. *FERC*, 930 F.2d 926, 935 & n.14 (D.C. Cir. 1991) (Commission improperly allowed in rates the costs of research intended to benefit ratepayers solely through a "cleaner environment"; the Court found that the Commission has no particular "expertise" in determining and promoting the pollution-reducing effects of natural gas vehicles).

[1022] The Supreme Court's holding in *NAACP* as to the limited ability of administrative agencies to implement broad "public interest" mandates, and direction to refrain from straying beyond the specific purposes of the regulatory legislation they are entrusted to administer, is well established. *See Community Television of Southern California* v. *Gottfried*, 459 U.S. 498, 510–11 n.17 (1983) ("[A]n agency's general duty to enforce the public interest does not require it to assume responsibility for enforcing legislation that is not directed at the agency"); *Hampton* v. *Mow Sun Wong*, 426 U.S. 88; 114 (1976) ("It is the business of the Civil Service Commission to adopt and enforce regulations which will best promote the efficiency of the federal civil service. That agency has no responsibility for foreign affairs, for treaty negotiations, for establishing immigration quotas or conditions of entry, or for naturalization policies"); *McLean Trucking Company* v. *United States*, 321 U.S. 67, 79 (1944) (that Congress "has vested expert administrative bodies such as the Interstate Commerce Commission with broad discretion and has charged them with the duty to execute stated and specific statutory policies" does not "necessarily include either the duty or the authority to execute numerous other laws" beyond enumerated statutory responsibilities); *see also Bob Jones University* v. *United States*, 461 U.S. 574, 611 (1983) (Powell, J., concurring) ("This Court often has expressed concern that the scope of an agency's authorization be limited to those areas in which the agency fairly may be said to have expertise").

Lower courts have repeated the Court's admonition in this regard on numerous occasions

The Project for Sustainable FERC argues that in *Richmond Power & Light* v. *FERC*, 574 F.2d 610, 616–17 n.22 (D.C. Cir. 1978) (*Richmond Power*), the Court "suggested" a broader agency latitude than described in *NAACP*.[1023] We disagree.

Richmond Power involved a case where the Commission was challenged, *inter alia*, because it declined to adopt a particular transmission rate that would have permitted Richmond to shift from oil to some other fuel. The Court affirmed the Commission's decision, finding that:

Although the Commission must serve the public interest in approving rates, we see no abuse of discretion in limiting this proceeding to the shortrun problem of setting just and reasonable rates for the service theretofore provided in response to the 1973 oil embargo. While an administrative agency must remain faithful to public policies directly related to its regulatory authority, surely at any given moment of history it may rationally decline to affirmatively foster other policies in weighing the specific interests that it is required by the statute to consider. This is especially true when the forum chosen by proponents of the other policy is not well suited to the study of its implications.[1024]

In dicta, in a footnote that began with the Court doubting whether the goal of energy independence is within the Commission's regulatory jurisdiction at all, the Court merely said that "(n)othing in *NAACP* v. *FPC*, *supra*, forecloses agency discretion to *consider* in given situations pervasive public policies that it is not required to evaluate in every decision it makes."[1025]

The discretion to *consider* public policy matters is a far cry from the authority, or obligation, to regulate those matters. We have considered the environmental impact of the rule. Nothing in *Richmond Power* suggests that the consideration of such matters conveys an affirmative grant of broad new regulatory powers to develop and implement a comprehensive regulatory program in an area expressly assigned by Congress to another agency.[1026]

The cases rejecting commenters' broad reading of our public interest authority are supported by the decision in *Office of Consumers' Counsel* v. *FERC*, 655 F.2d 1132 (D.C. Cir. 1980) (*Great Plains*). There, the Court found that, even under the explicit "public interest" standard in section 7(a) of the Natural Gas Act, the Commission is not granted power to act on matters outside of its statutory mandate.[1027]

In *Great Plains*, the Court reviewed a Commission decision to grant a certificate of public convenience and necessity to facilitate construction and operation of a coal gasification plant. Although the NGA does not explicitly provide the Commission with authority to certificate coal gasification projects, the Commission reasoned that it had such authority because the demonstration project was "in the public interest" and, because the Commission was authorized under section 7 of the NGA to "consider" all factors in reaching a decision on whether to grant the certificate, it had the requisite authority to act.

The Court rejected the Commission's reasoning in that case, stating that:

Any such authority to consider all factors bearing on the "public interest" must take into account what the "public interest" means in the context of the Natural Gas Act. FERC's authority to consider all factors bearing on the public interest when issuing certificates means authority to look into those factors which reasonably relate to the purposes for which FERC was given certification authority.[1028]

The Court repeated the finding in *NAACP* that the Commission's authority to act in the public interest is limited to the furtherance of the purposes for which its organic statutes were adopted.[1029]

In concluding that the Commission was not authorized to act as it did, the Court looked to several factors. The Court found it persuasive that Congress had specifically authorized a different governmental entity, the Synthetic Fuels Corporation, to provide support for coal gasification, and that Congress had carefully crafted a special means for providing federal financial assistance for synfuel development.[1030] The Court also found it persuasive that the Commission possessed no expertise in making determinations regarding the relative merits of different synfuel processes, methods or technologies, and that the financing arrangements "were certainly not ordered with the interests of ratepayers foremost in mind."[1031] The Court stated that "by utilizing its statutory tools for a non-statutory purpose, FERC very likely was distracted from its primary statutory duty to protect the interests of ratepayers."[1032] Finally, the Court found that the Commission's action seemed to have been prompted at least in part by an attitude that, because Congress had not acted speedily, the Commission could act. The Court criticized the Commission for improperly attempting to preempt Congressional action and to "fill in"

In finding that federal agencies improperly have overstepped, or properly have refrained from overstepping, the limitations of their "public interest" (or similarly worded) jurisdiction. *See, e.g., The Business Roundtable* v. *Securities and Exchange Commission*, 905 F.2d 406, 413–14 (D.C. 1990) (SEC's assertion of authority under "public interest" standard to bar national security exchanges and associations from listing stock of certain corporations invaded traditional state regulatory purview); *Public Utility Commission of California* v. *FERC*, 900 F.2d 269, 281 (D.C. Cir. 1990) (FERC has no authority to consider allegations of copyright infringement or unfair trade practices in determining whether to issue certificates of public convenience and necessity); *American Trucking Association* v. *United States*, 642 F.2d 916 (5th Cir. 1981) (intention of ICC to promote competition is consistent with statutory standard; more generalized intention to promote public welfare needs, unrelated to its legislative instruction to attend to transportation needs of the public, is not); *Natural Resources Defense Council, Inc.* v. *Securities and Exchange Commission*, 606 F.2d 1031 (D.C. Cir. 1979) (SEC has no obligation to promulgate regulations requiring comprehensive disclosure of (among other things) corporate environmental policies unrelated to objectives of federal securities laws); *Sunflower Electric Cooperative, Inc.* v. *Kansas Power & Light Company*, 603 F.2d 791, 799 (D.C. Cir. 1979) (FERC does not have primary jurisdiction to consider antitrust-related issues that do not involve rate-setting practices of public utilities); *O-J Transport Company* v. *United States*, 536 F.2d 126, 131–32 (6th Cir.), *cert. denied*, 429 U.S. 960 (1976) (ICC properly did not stray beyond its congressionally-defined role over transportation regulation by refusing to promote more generalized public welfare concerns); *see also, e.g.*, In re Multidistrict Vehicle Air Pollution, 538 F.2d 231 (9th Cir. 1976) (under antitrust laws, federal district court has no authority to fashion an environmental remedy, intended to reduce auto emissions, that serves no antitrust purpose).

[1023] Project for Sustainable FERC at 31.

[1024] Richmond Power, 574 F.2d at 616–17 (footnotes omitted).

[1025] *Id.* at 616 n.22 (emphasis added).

[1026] Alliance and the Project for Sustainable FERC cite *American Trucking Association, Inc.* v. *United States*, 642 F.2d 916 (5th Cir. 1981), to support an argument that, even under *NAACP*, the Commission can impose conditions under the FPA "public interest" standard because there is a "nexus" between the primary goals of the FPA and the proffered conditions. As discussed below in greater detail, we disagree.

American Trucking involved review of an ICC rulemaking effort to, among other things, allow government agencies to tender a fair portion of their freight shipments to small businesses and those operated by disadvantaged persons. In reviewing the case, the Court referenced the *NAACP* decision to observe that under the governing law, the ICC's "useful purpose" and "public need" criterion (used here to justify the regulations) do "not (refer) to the pursuit of affirmative action goals." *Id.* at 921–922. Indeed, it is clear that the Court read *NAACP* as permitting the consideration of "racial, ethnic and social-economic factors" only when they relate to the matters within the ICC's authority, *i.e.*, the transportation needs of the public, as opposed to some generalized notion of the general public welfare. *Id.* at 922 n.3.

[1027] NGA section 7(a), like, for example, FPA section 203(a), provides for a "public interest" standard of review. Section 7 of the NGA represents the maximum authority the Commission has over environmental issues under that Act. Section 7 provides the Commission authority to approve the siting and construction of facilities.

[1028] Great Plains, 655 F.2d at 1147.

[1029] *Id.*

[1030] *Id.* at 1150.

[1031] *Id.* at 1151.

[1032] *Id.*

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where the agency believed federal action was needed.[1033]

The facts and reasoning in *Great Plains* are directly analogous to this proceeding. Congress has specifically authorized other entities—EPA and the states—under other statutes to address air pollution. The Commission is being urged to regulate in an area in which, as in *Great Plains*, it possesses no special expertise (*i.e.*, in making determinations regarding appropriate air pollution control mitigation measures) and in which it is not authorized to act.[1034] Finally, as in *Great Plains*, if the Commission were to undertake mitigation, it would be diverted from its primary statutory duty to protect the economic interests of ratepayers, *i.e.*, by having to continually monitor compliance with mitigation conditions.[1035]

As in *Great Plains*, the Commission is being urged to act at least in part because of the belief that Congress has not provided a sufficiently speedy process by which to regulate air pollution produced by electric utilities. The EPA argues that:

> Regulations under the Clean Air Act must in general be implemented through State Implementation Plans; the time from reaching a general conclusion that control is needed to adoption of necessary regulations by states generally takes from three to five years; that regulatory lag time means compliance with new rules can be, and usually is, more than a decade from the point at which the problem occurred. Ten years of bad air is ten years delay too many.[1036]

That Congress has imposed upon the EPA procedures that the EPA and others find burdensome and overly time consuming is an issue for Congress and EPA to address, not the Commission.[1037]

This conclusion has particular force when, as here, we are urged to impose environmental restrictions on certain coal-fired generators in spite of Congressional actions regulating those entities. In essence, some commenters argue that under a very tenuous connection to the public interest standard of the FPA we may undertake to do more than the agency that Congress has authorized to act on such matters. This result is not a correct reading of the law and we reject it.

Several commenters attempt to overcome the various Courts' views of the scope of the public interest standard under the FPA by arguing that there is a "direct nexus" between the Rule and environmental concerns that suffices to invoke an imputed authorization under the FPA to prescribe environmental requirements on generators.[1038] To this end, they argue that the purpose of the rule is really to facilitate the least-cost use and construction of generation resources and that the environmental consequences of these actions will impact economic efficiency, rates, competition, and competitive markets. Thus, they conclude that we have the authority to require that those who seek to obtain transmission access on a non-discriminatory basis must first mitigate air emissions under as yet undefined standards.

These commenters misstate the question. The question is not whether there is a nexus between the rule and environmental concerns. Clearly, electric utilities contribute to pollution; anything that facilitates the sale of power from whatever source is, under this tenuous logic, "related" to environmental concerns.[1039]

However, as discussed below, Congress did not give us plenary powers over public utilities to shape their activities in response to a broad range of public policy concerns. The nexus that must be established is a nexus between the requirements sought to be imposed, in this case emission controls, and the statutory *standards* which authorize us to act. That is, in order to impose the environmental conditions sought by commenters, a direct connection must be established between those conditions and our duty to determine that the rates, terms and conditions of service under our open access tariffs are not unjust, unreasonable, unduly discriminatory, or preferential.

It is on this point that commenters' arguments founder. While the Commission has broad latitude to interpret these standards to advance the interests of ratepayers, we cannot implement policy objectives that are not assigned to us and that are, in fact, clearly assigned to other entities. The Congress has assigned responsibility for environmental regulation of air quality to EPA and the states; it has explicitly charged them with dealing with such pollution from electric generating facilities. While, as noted earlier, we do not dispute the need to give appropriate weight to environmental considerations in making decisions within our authority, we cannot use that authority to accomplish public policy objectives that, by statute, are required to be implemented and administered by other agencies.[1040]

[1033] *Id.* at 1151–52.

[1034] To our knowledge the only time Congress has asked the Commission with respect to its regulation under Parts II and III of the FPA to address environmental issues was in Section 808 of the Clean Air Act Amendments of 1990. There, Congress directed the Commission, in consultation with EPA, to study the environmental externalities of electricity production. The Commission staff did so and provided the required report to Congress. While the Commission in compliance with the 1990 Amendments also addressed the accounting issues related to SO_2 emissions trading, the Commission did so within the context of its accounting authority under the FPA.

[1035] EPA argues that the Commission would not be required to monitor compliance with the environmental mitigation measures. However, if environmental mitigation is within our statutory mandate, we could not delegate that authority to others. *See* EPA at 51.

[1036] EPA at 4–5; *see also* Project for Sustainable FERC (protections achieved by the Clean Air Act Amendments of 1990 are in danger of being destroyed by the Energy Policy Act's open access policies if those policies are implemented without environmental mitigation).

We would also note that the premise upon which EPA makes this argument—that air emissions will rapidly increase with implementation of the rule—is not supported by the record. *See* Section V, Discussion, Subsection C.

[1037] We believe that this conclusion is supported by section 205(a) of the Public Utility Regulatory Policies Act of 1978 (PURPA). PURPA, *inter alia*, amended the FPA in certain respects but also gave the Commission authority in certain sections, such as PURPA sections 205(a) and 210, that did not amend the FPA. Under PURPA section 205(a), the Commission in certain circumstances may exempt electric utilities, in whole or in part, from state laws, rules or regulations which prohibit or prevent voluntary coordination, including agreements for central dispatch. (Of course, the central dispatch is dispatch of generation facilities.) However, PURPA section 205(a)(2) provides that no exemption may be granted if the state law, rule or regulation is designed, among others, to protect public health, safety or welfare *or the environment*. In commenting on the limitation of the Commission's exemption authority under PURPA section 205(a), the Conferees noted that the prohibition includes "regulations under the Clean Air Act." H.R. Conf. Rep. No. 1750, 95th Cong., 2d Sess. 95 (1978), *reprinted in* 1978 U.S. Code Cong. & Ad. News 7797, 7829. While the Commission's statutory authority has been modified in legislation enacted subsequent to PURPA, the provisions of PURPA section 205(a) have not been modified.

[1038] *See, e.g.*, EPA at 54. *See also* Alliance; Project for Sustainable FERC; Coalition; Signatories; CCAP; Attorneys General.

[1039] Under this logic, the Securities and Exchange Commission, for example, which facilitates utility financing for new facilities would be empowered to administer environmental requirements.

[1040] We are also troubled by the confusion that persists as to the usefulness of imposing a condition on the use of open access tariffs as a means to accomplish environmental goals. As noted earlier, the Commission's decision to compel the filing of open access tariffs is intended to provide access to third party power suppliers who need access across a utility's transmission system. Open access will primarily benefit independent power suppliers offering power from new facilities, most of which under current market conditions are likely to be gas-fired facilities. Traditional utilities that own the generating plants of particular concern to commenters (*i.e.*, coal-fired plants subject to less strict environmental controls) have extensive transmission systems that they can use to get power to market. Thus, the exercise of conditioning authority is more likely to impede sales from new, cleaner facilities than it is sales from older, coal-fired facilities. It makes no sense from an economic or environmental perspective to burden new transactions with this cumbersome condition for what will likely be little in the way of effective environmental controls.

Some commenters have sought to address this issue by characterizing the proposed conditions as necessary to create a level competitive playing field among generators. For example, Alliance argues that unless the Commission requires environmental mitigation certain competitors in the bulk power market (those with "dirty generation") would be favored over "clean" competitors. It argues that:

> Mitigation of the environmental impacts resulting from the NOPR has a direct relationship to ensuring that open access is implemented under terms of economic fairness for all utilities and utility consumers, and not merely those with current low-cost regulatory advantages.[1041]

We note that all power generation technologies have different costs. For example, hydroelectric facilities which, like coal-fired facilities, may have environmental mitigation conditions imposed on them, may be quite expensive to build compared to gas or oil-fired generation, but their operating costs may be significantly lower. These cost differences may reflect the different costs of complying with mandated environmental requirements; the prudent costs of complying with such mandates may be reflected in rates.

Indeed, sellers come to the power markets with a variety of advantages and disadvantages, many of which are the result of federal laws—for example, tax preferences, labor standards, and similar matters. In empowering the Commission to remedy undue discrimination and promote competition, Congress has not authorized the Commission to equalize the environmental costs of electricity production in order to ensure "economic fairness." Such homogenization of competitors, or their costs, has never been a goal of the FPA.[1042]

In short, the "economic nexus" urged by commenters advocating that the Commission undertake to regulate air emissions is inconsistent with the "charge to promote the orderly production of plentiful supplies of electric energy" envisioned by the FPA.[1043]

We have exercised conditioning authority in the past only where necessary to ensure that jurisdictional transactions and rates do not result in anti-competitive effects, or are not unjust, unreasonable or unduly discriminatory or preferential.[1044] Thus, the conditions we have imposed have involved economic regulatory matters within our purview under the FPA.[1045] Any exercise of conditioning authority must, as the Supreme Court noted in *NAACP*, be directly related to our economic regulation responsibilities; EPA and the other commenters have not demonstrated such a nexus.[1046]

This distinction is more evident when one considers the way in which we are authorized to treat the costs of environmental compliance. There are legitimate costs of environmental compliance that should be reflected in jurisdictional rates to the extent prudently incurred, just as the prudent costs of complying with, for example, occupational health and safety requirements designed to protect utility employees should be reflected in jurisdictional rates. This we are authorized to do and we routinely review and allow such costs.[1047] However, the fact that the costs of providing utility workers with a safe workplace are properly reflected in utilities' jurisdictional rates does not mean that we have authority to condition sellers' rates or customers' use of jurisdictional services on meeting safety regulations that are in the public interest. The same rationale applies to environmental matters related to the rule.[1048]

Commenters also raise several other arguments to support the claim that the Rule requires us to undertake environmental regulation to remedy supposed impacts of the rule. EPA, for example, argues that requiring environmental mitigation would not run afoul of the prescription of section 201(b)(1) of the FPA enjoining our regulation of generation facilities because the "regulation of transmission tariffs necessarily has manifold indirect effects on generation sources. The proposed mitigation mechanism would influence generation sources in a similar, indirect manner."[1049]

EPA fundamentally misunderstands the purpose of the Rule. We act to remedy unduly discriminatory practices in, as here for example, the provision of transmission access. Since "undue discrimination," is one of the matters "specifically provided in this Part (II)", *i.e.*, in FPA sections 205 and 206, we are acting within the bounds of our statutory mandate and the effect that the Rule may have "over facilities used for the generation of electric energy" is specifically sanctioned. Indeed, many generators are transmission customers who we are obliged to protect under the FPA. That there may be indirect environmental consequences from our Rule does not trigger our jurisdiction under the FPA.

[1041] Alliance at 55. *See also* Project for Sustainable FERC at 37.

[1042] For the same reason, we do not have authority to impose an obligation on utilities to "internalize" environmental externalities. *See generally* FEIS at 7–24. In effect, such proposals would involve the Commission requiring a surcharge on power sales rates fixed at some amount equal to the environmental "cost" inflicted by the generation supporting those sales. Assuming such a surcharge could be calculated, imposing such a cost would be to fix a rate without reference to any cost incurred by the public utility. Indeed, we would impose in rates, and require ratepayers to pay, a cost that was manifestly not incurred by the utility. In reality, such a surcharge would require us to impose a tax or a penalty, neither of which we are authorized to impose.

The SO_2 program created under the 1990 Clean Air Act Amendments illustrates the way in which EPA and FERC authority can intersect to accomplish the goal of internalizing externalities. There, the Congress by capping emissions and providing for a market in emission allowances required utilities to "pay for" the right to emit SO_2. These costs are legitimate costs and the *Commission's* role is to permit their recovery in rates. Similarly, a comparable NO_X cap and trading scheme established by EPA would "internalize" the external costs of NO_X pollution and the Commission would provide for prudently incurred allowance costs in rates.

[1043] NAACP, 425 U.S. at 670.

[1044] Cf. Utah Power & Light Co., Opinion No. 318, 45 FERC ¶ 61,095 at 61,280–83 (1988) (discussing the Commission's authority to condition a merger). Unlike the situation in Opinion No. 318 where the Commission had the authority under section 203 to disapprove a merger upon a finding of actual and potential anticompetitive effects, the Commission's rate authority under sections 205 and 206 does not permit the Commission to deny the proposed rates out of a concern that such action will result in an increase in air pollution. *See* Monongahela Power Co., 39 FERC ¶ 61,350 at 62,096, *reh'g denied*, 40 FERC ¶ 61,256 (1987). As a result, we have no authority to condition the same result under these sections on environmental mitigation.

[1045] The obligation of the Commission to weigh antitrust considerations highlights this point. The Commission must take into account anticompetitive effects when setting rates. *See Northern Natural Gas Co.* v. *FPC*, 399 F.2d 953 (D.C. Cir. 1968). However, we are limited as to the remedies we may impose. We cannot go further and assess the range of remedies that, for example, a Court may exact upon finding an antitrust violation. *See generally* NAACP, 520 F.2d at 441.

[1046] Project for Sustainable FERC, at 32–33, and Alliance, at 41–42, have attempted to argue that *NAACP* actually supports the Commission having authority to order environmental mitigation. Their argument fails because they have not shown, and cannot show, the necessary direct nexus to our economic regulation.

[1047] For example, our regulations permit 100 percent of any construction work in progress for pollution control facilities allocable to wholesale sales to be included in rate base. *See* 18 CFR 35.25 (1995). This regulatory action, directly related to our core ratemaking responsibilities, removes an economic disincentive for public utilities to invest in structures designed to reduce the amount of pollution produced by a generating facility. *See* 18 CFR 35.25(b) (definition of pollution control facility).

The Commission also addressed the ratemaking consequences of SO_2 emissions trading in response to a petition from the Edison Electric Institute. This is another example of the Commission's proper exercise of its jurisdiction, *i.e.*, over the costs of environmental compliance.

[1048] Indeed, our regulations provide for such cost recovery.

[1049] EPA at 50.

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EPA next argues that, even if we could not impose a specific mitigation mechanism for open access transmission, we could deny transmission service unless there is a showing that the service will not have an adverse environmental impact.[1050]

We have already discussed why we believe this approach is unworkable and inconsistent with sections 205 and 206 of the FPA.[1051] Plainly stated, EPA would have transmission customers assume an additional regulatory burden in order to be treated lawfully.[1052] Quite apart from this fundamental problem, such a regime is beyond our authority. Our regulation under sections 205 and 206 is over the *selling* public utility's rates, terms and conditions, not over the buyer's agreement to undertake measures which have no nexus whatsoever with the seller's costs or terms of service.

EPA states that its alternative mitigation mechanism would not be a condition of the open access *tariff*, but apparently a condition on the ability of customers to take service under the tariff. However, our authority to set terms and conditions of eligibility derives from precisely the same authority that we use to set other tariff terms. It must still be based on a nexus with the subject matter of our jurisdiction. For buyers, open access is a right, not a privilege. We fail to see, given the direction of the FPA to ensure these rights, any basis for us to undertake the actions EPA proposes.

Finally, EPA points to the Commission's decision to exclude certain diesel facilities in defining qualifying facilities (QF) under PURPA section 210.[1053] However, this provides no precedent for imposing environmental standards to prevent customers from obtaining nondiscriminatory open access. Whatever the merits of that decision,[1054] the Commission subsequently found that any facility that satisfies the ownership and technical requirements for QF status set forth in PURPA and the Commission's regulations is a QF without any action by the Commission.[1055] More to the point, EPA ignores the fact that, in issuing environmental findings with its QF Rules, the Commission found that environmental concerns were a local matter to be handled under other statutory authorities. While PURPA permitted certain qualifying facilities to be exempt from state and federal laws,

it excludes exemptions from environmental laws. Thus, a qualifying facility may not be built or operated unless it complies with all applicable local, State, and Federal zoning, air, water, and other environmental quality laws, and unless it obtains all required permits.[1056]

Thus, while we have noted that QFs are required to satisfy all environmental requirements, we have not viewed our responsibilities under PURPA as permitting us to enforce compliance with environmental laws.[1057]

EPA then proposes to require any fossil fuel-burning generating entity seeking service under an open access tariff to (a) commit by contract to avoid or offset emissions increases (measured against certain baselines), and (b) periodically certify its compliance with that commitment.[1058] This proposal is neither workable nor within our jurisdiction.

The deficiency with respect to (a) is that we have no authority to require such action. While EPA cites to FPA section 206 for the proposition that we may change jurisdictional contracts, we may do so only if the contract is, for example, unjust or unreasonable with respect to matters within our jurisdiction, *i.e.*, economic regulation. Our standards for acting are strictly prescribed under the FPA.[1059] As *NAACP* and *Great Plains* teach, sections 205 and 206 do not provide the Commission with the means to remedy every possible problem that is in any fashion related to a sale for resale or transmission in interstate commerce by a public utility. Since we do not have the authority to require (a), it follows we cannot require the periodic certification of compliance recommended in (b).

EPA notes that it "could establish a procedure whereby a generator could *voluntarily* subject its facilities to emission limits that are enforceable by EPA and/or state environmental authorities."[1060] This is a matter within EPA's province, and we support EPA in undertaking whatever measures it determines to be within its authority and appropriate to the problem.

Alliance argues, at 47–51, that sections 211 and 212 of the FPA, as amended by the Energy Policy Act, authorize the Commission to impose environmental conditions. To the extent that Alliance's arguments rely on the "public interest" language used in section 211, we believe that the discussion above already addresses such arguments, with one exception: Alliance argues that the House Report for the Energy Policy Act states that the purpose of the Act is to "increase U.S. energy security in cost-effective and environmentally beneficial ways

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[1050] EPA at 51. *See also* NESCAUM at 19; Alliance at 18, 53; Project for Sustainable FERC at 37.

[1051] CCEM argues that the tracking of documentation with environmental compliance requirements will stifle the very competitive bulk power market that EPA and others profess to support. CCEM notes that "(i)t is both ironic and inexplicable why EPA, the agency charged with enforcing the nation's clean air and other environmental protection laws is so anxious to shift this responsibility away from itself and onto economic participants in the incipient, competitive power supply industry." CCEM Supplemental Comments at 4.

[1052] We also note that under EPA's scheme those most likely to benefit from denying access—transmission sellers—would be provided the authority to lawfully deny transmission access.

[1053] EPA states at 51–52 that:

In implementing section 210 of the Public Utility Regulatory Policies Act, the FERC took the approach of declining to act because of the potential adverse environmental impacts of the action. Section 210 required the FERC to prescribe regulations "to encourage cogeneration and small power production * * * Because of its concern that "diesel and dual-fuel commercial cogeneration facilities in the New York City area had the potential to cause environmentally significant effects" (46 FR 33025) (1981)), the FERC issued regulations that excluded new diesel cogeneration facilities from being "qualifying facilities." 45 FR 17964.

EPA maintains that the FERC similarly has authority in the instant case to deny open access transmission to the extent such transmission would have adverse environmental impacts.

[1054] The Commission subsequently modified this position and decided to treat diesel cogeneration facilities like other QFs.

[1055] *See* CMS Midland, Inc., 50 FERC ¶ 61,098 at 61,277–278 (1990), *reh'g denied*, 56 FERC ¶ 61,177 (1991), *aff'd mem. sub nom.*, Michigan Municipal Cooperative Group, v. FERC, 990 F.2d 1377 (D.C. Cir.) (*per curiam*), *cert. denied*, 114 S.Ct. 546 (1993); *see also* Mesquite Lake Associates, Ltd., 63 FERC ¶ 61,351 (1993); Citizens for Clean Air and Reclaiming Our Environment v. Newbay Corporation, 56 FERC ¶ 61,428 at 62,532–33, *reh'g denied*, 57 FERC ¶ 61,219 (1991).

[1056] Small Power Production and Cogeneration Facilities—Environmental Findings, 10 FERC ¶ 61,314 at 61,632 (1980). The Commission has included similar language in every order it issues finding qualifying facility status. *See also* Small Power Production and Cogeneration, Order No. 70–E, FERC Stats. & Regs., Regs. Preambles 1977–81 ¶ 30,274 at 31,596 (1981).

[1057] The important point is that the Commission has fully complied with its responsibilities under NEPA in both instances. Whatever initial decision it may have come to in 1981 with regard to the particular circumstances involved in adopting QF regulations under PURPA is irrelevant to the instant rulemaking.

[1058] EPA's proposal apparently would apply only for NO_X, CO_2 and mercury. *See* EPA at 58 n.31 and 60 (because there is already a nationwide cap on SO_2 emissions in the Clean Air Act, there is no need for mitigation for that pollutant). In other words, EPA apparently would require us to impose environmental mitigation only in those instances in which Congress has not provided a nationwide cap for a pollutant.

[1059] *See United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956); *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

[1060] EPA at 59 (emphasis added). *See also* Project for Sustainable FERC at 38–39 (proposing that a regulatory plan be developed through consultations between the Commission, EPA, DOE, and appropriate regional and state regulators and then presented in the FEIS).

* * *."[1061] However, even if we assume that the Report language reflects Congressional intent for the Energy Policy Act in general, we note that, in Title VII of the Energy Policy Act concerning electricity, the only mention of the environment was, as noted above, in section 731 which specifically provided that nothing in the Energy Policy Act in any way interferes with the authority of any state or local government relating to, *inter alia*, environmental protection. While we do not quarrel with the proposition that Congress in the Energy Policy Act obviously had concerns with environmental matters,[1062] Congress did not provide the Commission with any authority to mandate environmental mitigation.

We have undertaken an extensive NEPA analysis to consider the environmental effects of our Rule. We cannot, however, take NEPA's requirement to consider environmental effects as authority to require the environmental mitigation proposed in the comments. Congress has charged other agencies, most notably the EPA, with the responsibility of protecting the environment and enforcing environmental laws.[1063] While we stand ready to work in a complementary fashion with these agencies, we believe that any attempt by the Commission to go beyond the economic regulation that Congress has delegated to us would be *ultra vires*.

To summarize: The Commission's jurisdiction under Parts II and III of the FPA is limited to matters relating to economic regulation. Neither the relevant statutes nor the case law supports the expansive and novel reading of the Commission's authority advocated by the commenters that argue that we have environmental mitigation authority. The Commission is not explicitly given such authority in either the FPA or NEPA. Moreover, the FPA and the case law clearly compel the conclusion that we cannot impose environmental conditions that do not directly relate to the economic matters over which we have jurisdiction. To do so, in fact, would prevent the Commission from effectively carrying out its responsibilities under the FPA.

F. Coastal Zone Management Act Issue

By letter dated February 22, 1996, and filed with the Commission on March 5, 1996, the Connecticut Department of Environmental Protection (Connecticut) notified the Commission that it has determined that the Commission's proposed action in this rulemaking proceeding is likely to adversely affect Connecticut's coastal resources. Connecticut reasons that the Rule's promotion of competition "is likely to increase energy production by mid-west coal burning plants(,) which will in turn increase the export of nitrogen and sulphur oxides." Connecticut states that airborne nitrogen emissions are linked to adverse environmental impacts in Long Island Sound. It therefore asserts that, pursuant to section 307(c)(1) of the Coastal Zone Management Act (16 U.S.C. 1456(c)(1)) (CZMA), and the federal regulations promulgated thereunder (15 CFR part 930), the Commission is required to provide it with a determination of the Rules' consistency with Connecticut's federally approved coastal management plan.

Section 307(c)(1)(A) of the CZMA deals with the prevention or amelioration of adverse physical impacts on coastal zone resources attributable to federal activities. The legislative history indicates that in enacting the CZMA Congress was concerned with the adverse effects on coastal lands and waters of such activities as excavation, filling, diversion of water or sediment, clearing, and off-shore energy exploration and dumping.[1064]

As discussed more fully above, section 201 of the FPA declares that the Commission shall *not* have jurisdiction over facilities used for the generation of electricity except as specifically provided. Thus, the Commission has no direct jurisdiction over fossil-fuel plants. Its jurisdiction extends only to the rates, terms, and conditions of wholesale sales and transmission of electric energy in interstate commerce from those plants. While we are aware that the legislative history of the CZMA indicates a Congressional intent to cover all federal activities, there is absolutely no indication in the CZMA or its legislative history that "federal activities" should include all federal regulatory decisions, including Commission orders involving interstate electric rates and service (or any other jurisdictional matter under Part II of the FPA).[1065] We are not aware of any judicial or agency interpretation that would cast the net of the states under the CZMA broadly enough to include the generic federal regulatory action undertaken in this Rule. Such action is clearly remote from the kind of activities such as leasing of land, and dredging and filling that either affect, or authorize specific activities that affect, the environment in the coastal zone.

Connecticut's attempt to pull FPA Part II regulation into the CZMA federal consistency provisions by dint of the rulemaking's alleged adverse impact on air quality and consequent adverse impact on water quality in the coastal zone is untenable in view of the existence of the Clean Air Act, a complex, 700-page environmental law that constitutes a comprehensive scheme of regulation of the Nation's air quality, including the direct regulation of emissions by utility power plants. Indeed, the CZMA provides that the requirements of the Clean Air Act, and governmental directives pursuant to that Act, shall be incorporated in, and shall be the air pollution control requirements of, all state coastal zone

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[1061] Alliance at 62, *quoting* H.R. Rep. No. 474 (Part I) (Vol. 4), 103d Cong., 2d Sess. 132 (1992), *reprinted in* 1992 U.S. Code Cong. & Ad. News 1955.

[1062] For example, Title XVI concerned Global Climate Change.

[1063] *See, e.g.*, S. Rep. No. 228 (concerning the Clean Air Act Amendments of 1990), 101st Cong., 2d Sess. 5 (1990), *reprinted in* 1990 U.S. Code Cong. & Ad. News 3391 ("The States, together with EPA, are responsible for ensuring that the primary air quality standards are met * * *"); S. Rep. No. 228, 101st Cong., 2d Sess. 9, *reprinted in* 1990 U.S. Code Cong. & Ad. News 3395 ("The 1970 and 1977 Clean Air Act Amendments established a partnership between the States and Federal government. EPA sets nationally uniform air quality standards and States, with the Agency's assistance, are responsible for meeting them."). *See also, e.g., Connecticut* v. *EPA*, 696 F.2d 147, 163 (2d Cir. 1982) ("One central focus of the Clean Air Act Amendments of 1977 was to ensure that the EPA would monitor and control the impact of pollution from one state on air quality in another."); *Ohio Environmental Council* v. *EPA*, 593 F.2d 24, 31 (6th Cir. 1979) ("Congress placed responsibility for enforcing the Clean Air Act in the U.S. EPA.").

We further note the following limitations on the Clean Air Act Amendments of 1990 with respect to the emission allowance program in section 403(f), which provides in pertinent part:

Nothing in this section shall be construed as requiring a change of any kind in any State law regulating electric utility rates and charges or affecting any State law regarding such State regulation or as limiting State regulation (including any prudency review) under such a State law. Nothing in this section shall be construed as modifying the Federal Power Act (16 U.S.C.A. 791a et seq.) or as affecting the authority of the Federal Energy Regulatory Commission under that Act. Nothing in this subchapter shall be construed to interfere with or impair any program for competitive bidding for power supply in a State in which such program is established.

[1064] 42 U.S.C. 7651b(f). Thus, Congress expressly chose not to tie environmental authority under the emission allowance program to the Commission's and states' ratemaking authority.

[1065] The conference report on the 1990 CZMA amendments expressly states that the principal objective of the 1990 revisions to the language of section 307(c)(1) was to overturn a Supreme Court decision holding that Outer Continental Shelf oil and gas lease sales were not subject to CZMA consistency determinations. H.R. Rep. No. 101–964, 101st Cong., 2d Sess. 2675 (1990).

[1065] In using the phrase "federal activities" Congress did not use the term "federal action" which has clear and broad meaning under NEPA.

management programs.[1066] It therefore defies logic to assert that, despite the pervasive regulatory reach of the Clean Air Act and the clear authority of EPA to regulate NO_X emissions under that statute, the CZMA is a separate source of authority for state jurisdiction over air quality impacts to coastal zones.

While it is clear that Connecticut's invocation of the CZMA is incorrect, we note that, under the Commerce Department's implementing regulations, Connecticut has in any event waived its right to request a consistency determination for the Commission's rulemaking. Connecticut's coastal management program's list of federal agency activities likely to require a consistency determination does not (for good reason) describe rulemakings of this kind, and the rule will not "result in a significant change in air or water quality within the management area" (the program's catch-all category). In addition, Connecticut did not notify the Commission of its conclusion that the Rule requires a consistency determination until well after 45 days from receipt of several notices of the rulemaking proceeding.[1067] Consequently, pursuant to 15 CFR 930.35(b), Connecticut has in any event waived its right to request a consistency determination for this rulemaking.

Conclusion

After reviewing the record in this proceeding, including the FEIS, we find for the reasons discussed above that proceeding with this rule is the best alternative. No other alternative will accomplish the Commission's purposes.

The rule is expected to slightly increase or slightly decrease total future NO_X emissions, depending on whether competitive conditions in the electric industry favor the utilization of natural gas or coal as a fuel for the generation of electricity. Other impacts of the rule have also been determined to be slight. Therefore, it is unnecessary to adopt and implement a plan of mitigation.

A wide range of mitigation measures have nonetheless been fully evaluated as discussed in Chapter 7 of the FEIS. This discussion concludes that the Commission does not have authority under the FPA and NEPA, singly or conjointly, to impose mitigation, and that existing and proposed mitigation strategies and efforts are the best way to deal with potential environmental effects that might result from implementing the rule. Such effects, if they indeed materialize, are not expected to occur for many years. In the meantime, action by entities such as EPA and OTAG are expected to address the underlying air emission problems facing parts of the Nation. Interim mitigation efforts to be undertaken by the Commission would address only a very small part of the problem, would require the exercise of technical expertise and authority that the Commission does not possess, and could well interfere with efforts by EPA and others to address this situation.

For these reasons, we support the analysis in the staff's FEIS and adopt the conclusions in that document.[1068]

VI. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA)[1069] requires rulemakings to contain either a description and analysis of the effect that the proposed rule will have on small entities or a certification that the rule will not have a significant economic impact on a substantial number of small entities. In the Open Access and Stranded Cost NOPRs, the Commission concluded that the proposed rules would not have a significant economic impact upon a substantial number of small entities.[1070]

SBA questions this conclusion.[1071] It states that, "[a]ccording to data from the Department of Energy, the vast majority of utilities are small."[1072] SBA requests that if, upon reconsideration, the Commission determines that the final rule in the Open Access NOPR proceeding would have a significant economic impact on a substantial number of small entities, the Commission perform a Regulatory Flexibility Analysis under the requirements of the RFA.[1073]

A. Docket No. RM95–8–000 (Open Access Final Rule)

1. Public Utilities

The Open Access Final Rule is applicable to public utilities that own, control or operate interstate transmission facilities, not to electric utilities *per se*.[1074] The total number of public utilities that, absent waiver, would have to have open access tariffs on file is 166.[1075] Of these, only 50 public utilities dispose of 4 million MWh or less per year.[1076] Eliminating those utilities that are affiliates of other utilities whose sales exceed 4 million MWh per year, or are not independently owned,[1077] the total number of public utilities affected by the Open Access Final Rule that qualify under the SBA's definition of small electric utility is 19, or 11 percent of the total number of public utilities that would have to have on file open access tariffs.[1078] We do not consider this a substantial number,[1079] and, in any event, these entities may seek waiver of the Open Access Final Rule's requirements under the Rule's waiver provisions.

Moreover, in the Open Access Final Rule, the Commission is specifying the non-rate terms and conditions of the tariffs that the public utilities must have on file. The public utilities need only develop and file a rate.[1080] When one considers that the disposition of 4 million MWhs a year translates into sales in the range of $120 million to $180 million per year, the cost to prepare and file proposed rates,[1081] which these utilities must regularly do anyway in the ordinary course of business, is not a significant economic impact.

2. Non-Public Utilities

The Open Access Final Rule will not impose any burden on non-public utilities, since they need not themselves file open access tariffs. Triggering the reciprocity provision in the Open Access Final Rule is optional; it is merely a condition of receiving a benefit, *i.e.*, open access transmission service from a public utility. If non-public utilities elect not to take advantage of open access services because they do not want to meet the tariff reciprocity provision, they can still seek voluntary, bilateral transmission services from public utilities. Also, under the waiver provisions in the Open Access Final Rule, small non-public utilities may seek waiver from the reciprocity provision.

B. Docket No. RM94–7–001 (Stranded Cost Final Rule)

1. Public Utilities

As with the Open Access Final Rule, there are not a substantial number of public utilities that qualify under the SBA's definition of small electric utility that are subject to the Stranded Cost Final Rule. The Stranded Cost Rule applies only to public utilities that seek stranded cost recovery in connection with a limited set of wholesale requirements contracts (those executed on or before July 11, 1994 that do not contain an exit fee or other explicit stranded cost provision). To the extent that public utilities seek stranded cost recovery, they will do so in a rate filing, where stranded cost recovery is likely to be one of many items considered. Accordingly, the Stranded Cost Final Rule will not pose a significant economic impact on a substantial number of public utility small entities.

2. Non-Public Utilities

With regard to non-public utilities, the stranded cost issue would only arise in a proceeding under sections 211 and 212 of the FPA when, in directing transmission, the Commission addresses the stranded cost issue in determining a just and reasonable rate. As with public utilities, stranded costs will be just one more item to be considered in establishing just and reasonable rates for transmission. As a result, the Stranded Cost Final Rule will not impose a significant economic impact on a substantial number of non-public utility small entities.

C. Conclusion

Accordingly, the Commission certifies that these final rules will not have a significant economic impact on a substantial number of small entities.

VII. Information Collection Statement

The Office of Management and Budget's (OMB) regulations[1082] require that OMB approve certain information and recordkeeping requirements (collections of information) imposed by an agency. Upon approval of a collection of information, OMB shall assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this Rule shall not be penalized for failing to respond to this collection of information unless the collection of information displays a valid OMB control number.

There are now approximately 328 public utilities, including marketers and wholesale generation entities. The Commission estimates that 166 of these utilities own, control or operate facilities used for the transmission of electric energy in interstate commerce and would be subject to the filing requirements of this Rule.

Title: FERC–516, Electric Rate Schedule Filings.

Action: Final Rule.

OMB Control No: 1902–0096.

Respondents: Public Utilities that own, control or operate facilities used for the transmission of electric energy in interstate commerce.

Frequency of Responses: On occasion.

Necessity of information: The Final Rule requires public utilities that own, control or operate facilities used for the transmission of electric energy in interstate commerce to have on file with the Commission non-discriminatory open access transmission tariffs that contain minimum terms and conditions of service and permits public utilities to make filings to seek recovery of legitimate, prudent and verifiable stranded costs associated with providing open access and FPA section 211 transmission services. The Commission has a mandate under sections 205 and 206 of the FPA to ensure, with respect to any transmission in interstate commerce or any sale of electric energy for resale in interstate commerce by a public utility, that no entity is subject to undue discrimination. The Commission will use the data collected in this collection of information to carry out its responsibilities under Part II of the FPA. The Commission's Office of Electric Power Regulation will use the data to review electric rate and tariff filings.

The Commission is submitting notification of this Final Rule to OMB. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. 20426 [Attention: Michael Miller, Information Services Division, (202) 208–1415], and to the Office of Management and Budget (Attention: Desk Officer for the Federal Energy Regulatory Commission, (202) 395–3087).

VIII. Effective Date

This Rule will take effect on July 9, 1996. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this rule is a "major rule" within the meaning of section 351 of the Small Business Regulatory Enforcement Act of 1996.[1083] The rule will be submitted to both Houses of Congress and the Comptroller General prior to its publication in the **Federal Register**.

List of Subjects

18 CFR Part 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission. Commissioner Hoecker concurred in part and dissented in

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[1066] Section 307(f) of the CZMA, 16 U.S.C. 1456(f). A state may develop more stringent standards, if they can be enforced by the state (15 CFR 923.45(c)(2)), but more stringent state air quality standards would not alter the characteristics of FPA Part II regulation that put it beyond the federal consistency requirements of the CZMA.

[1067] The Connecticut Department of Environmental Protection is on the service list for the rulemaking proceeding. The Commission issued a NOPR in this proceeding on March 29, 1995 (60 FR 17662, April 7, 1995). On July 12, 1995, it issued a notice of intent to prepare an EIS in this proceeding (60 FR 36752, July 18, 1995). On November 17, 1995, the Commission issued a Draft EIS (60 FR 58304, Nov. 27, 1995).

[1068] A Record of Decision (ROD) will not be issued as a separate document; instead this rule, including the FEIS as incorporated into the rule by adoption, will serve as the ROD for the rule.

[1069] 5 U.S.C. 601–612.

[1070] 60 FR 17662 at 17721 (April 7, 1995), FERC Stats. & Regs. ¶ 32,514 at 33,151.

[1071] SBA Initial Comments at 1 and n.1.

[1072] SBA Initial Comments at 2 n.1. SBA "defines a small electric utility as one that disposes of 4 million MWh of electricity in a given year." *Id.* At an average wholesale price of between $30 and $40 per MWh (Energy Information Administration, Financial Statistics of Major Investor-Owned Utilities, 1994, Table No. 1), utilities that dispose of 4 million MWh per year would have annual sales in the range of $120 million to $180 million.

[1073] 5 U.S.C. 601–612. SBA Initial Comments at 2 n.1.

[1074] The Stranded Cost Final Rule is applicable to public utilities and to transmitting utilities (that are not also public utilities).

[1075] Over 100 of these entities have already filed some type of open access tariff.

[1076] The sources for this figure are FERC Form No. 1 and FERC Form No. 1–F data.

[1077] The RFA defines a "small entity" as "one which is independently owned and operated and which is not dominant in its field of operation." *See* 5 U.S.C. 601(3) and 601(6) and 15 U.S.C. 632(a)(1) (definition of "small business concern").

[1078] We note that five of these 19 public utilities have already filed open access tariffs with the Commission. While these five public utilities fall within SBA's definition of small electric utility, since they have already filed open access tariffs, the effect of the Open Access Final Rule on these entities should not be significant. The remaining 14 small public utilities constitute eight percent of the total number of public utilities that would have to have on file open access tariffs. To the extent these 14 small public utilities consider the impact of the Final Rule to be significant, these entities may request a waiver of the open access filing requirements under the waiver provisions of the Open Access Final Rule.

[1079] *In Mid-Tex Electric Coop., Inc.* v. *FERC*, 773 F.2d 327, 340–43 (D.C. Cir. 1985) (*Mid-Tex*), the court accepted the Commission's conclusion that, since virtually all of the public utilities that it regulates do not fall within the meaning of the term "small entities" as defined in the RFA, the Commission did not need to prepare a regulatory flexibility analysis in connection with its proposed rule governing the allocation of costs for construction work in progress (CWIP). The CWIP rules applied to *all* public utilities. The Open Access Final Rule applies to *only* those public utilities that own, control or operate interstate transmission facilities. These entities are a subset of the group of public utilities found not to require preparation of a regulatory flexibility analysis for the CWIP rule.

[1080] Those public utilities that already have open access tariffs on file are not even required to propose rates. They may elect to continue service under the Open Access Final Rule's non-rate terms and conditions at their existing rates.

[1081] In the Public Reporting Burden section (Section II), the Commission reaffirms the average reporting burden of 300 hours per response, which was proposed and unchallenged in the NOPR. If a cost of $200 per hour is used, the cost of making the required filing would be $60,000. On average, this is no more than one half of one percent of total annual sales for small electric utilities.

[1082] 5 CFR 1320.11.

[1083] 5 U.S.C. 804(2).

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part with a separate statement attached. Commissioner Massey dissented in part with a separate statement attached.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission amends parts 35 and 385, chapter I, title 18 of the *Code of Federal Regulations*, as set forth below.

PART 35—FILING OF RATE SCHEDULES

1. The authority citation for part 35 continues to read as follows:

Authority: 16 U.S.C. 791a-825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

2. Part 35 is amended by revising § 35.15, by redesignating § 35.28 as § 35.29, and by adding new §§ 35.26, 35.27, and 35.28 to read as follows:

§ 35.15 Notices of cancellation or termination.

(a) *General rule.* When a rate schedule or part thereof required to be on file with the Commission is proposed to be cancelled or is to terminate by its own terms and no new rate schedule or part thereof is to be filed in its place, each party required to file the schedule shall notify the Commission of the proposed cancellation or termination on the form indicated in § 131.53 of this chapter at least sixty days but not more than one hundred-twenty days prior to the date such cancellation or termination is proposed to take effect. A copy of such notice to the Commission shall be duly posted. With such notice each filing party shall submit a statement giving the reasons for the proposed cancellation or termination, and a list of the affected purchasers to whom the notice has been mailed. For good cause shown, the Commission may by order provide that the notice of cancellation or termination shall be effective as of a date prior to the date of filing or prior to the date the filing would become effective in accordance with these rules.

(b) *Applicability.* (1) The provisions of paragraph (a) of this section shall apply to all contracts for unbundled transmission service and all power sale contracts:

(i) Executed prior to July 9, 1996; or

(ii) If unexecuted, filed with the Commission prior to July 9, 1996.

(2) Any power sales contract executed on or after July 9, 1996 that is to terminate by its own terms shall not be subject to the provisions of paragraph (a) of this section.

(c) *Notice.* Any public utility providing jurisdictional services under a power sales contract that is not subject to the provisions of paragraph (a) of this section shall notify the Commission of the date of the termination of such contract within 30 days after such termination takes place.

§ 35.26 Recovery of stranded costs by public utilities and transmitting utilities.

(a) *Purpose.* This section establishes the standards that a public utility or transmitting utility must satisfy in order to recover stranded costs.

(b) *Definitions.*

(1) *Wholesale stranded cost* means any legitimate, prudent and verifiable cost incurred by a public utility or a transmitting utility to provide service to:

(i) A wholesale requirements customer that subsequently becomes, in whole or in part, an unbundled wholesale transmission services customer of such public utility or transmitting utility; or

(ii) A retail customer, or a newly created wholesale power sales customer, that subsequently becomes, in whole or in part, an unbundled wholesale transmission services customer of such public utility or transmitting utility.

(2) *Wholesale requirements customer* means a customer for whom a public utility or transmitting utility provides by contract any portion of its bundled wholesale power requirements.

(3) *Wholesale transmission services* has the same meaning as provided in section 3(24) of the Federal Power Act (FPA): The transmission of electric energy sold, or to be sold, at wholesale in interstate commerce.

(4) *Wholesale requirements contract* means a contract under which a public utility or transmitting utility provides any portion of a customer's bundled wholesale power requirements.

(5) *Retail stranded cost* means any legitimate, prudent and verifiable cost incurred by a public utility or transmitting utility to provide service to a retail customer that subsequently becomes, in whole or in part, an unbundled retail transmission services customer of that public utility or transmitting utility.

(6) *Retail transmission services* means the transmission of electric energy sold, or to be sold, in interstate commerce directly to a retail customer.

(7) *New wholesale requirements contract* means any *wholesale requirements* contract executed after July 11, 1994, or extended or renegotiated to be effective after July 11, 1994.

(8) *Existing wholesale requirements* contract means any *wholesale requirements* contract executed on or before July 11, 1994.

(c) *Recovery of wholesale stranded costs.*

(1) *General requirement.* A public utility or transmitting utility will be allowed to seek recovery of wholesale stranded costs only as follows:

(i) No public utility or transmitting utility may seek recovery of wholesale stranded costs if such recovery is explicitly prohibited by a contract or settlement agreement, or by any power sales or transmission rate schedule or tariff.

(ii) No public utility or transmitting utility may seek recovery of stranded costs associated with a new wholesale requirements contract if such contract does not contain an exit fee or other explicit stranded cost provision.

(iii) If wholesale stranded costs are associated with a new wholesale requirements contract containing an exit fee or other explicit stranded cost provision, and the seller under the contract is a public utility, the public utility may seek recovery of such costs, in accordance with the contract, through rates for electric energy under sections 205–206 of the FPA. The public utility may not seek recovery of such costs through any transmission rate for FPA section 205 or 211 transmission services.

(iv) If wholesale stranded costs are associated with a new wholesale requirements contract, and the seller under the contract is a transmitting utility but not also a public utility, the transmitting utility may not seek an order from the Commission allowing recovery of such costs.

(v) If wholesale stranded costs are associated with an existing wholesale requirements contract, if the seller under such contract is a public utility, and if the contract does not contain an exit fee or other explicit stranded cost provision, the public utility may seek recovery of stranded costs only as follows:

(A) If either party to the contract seeks a stranded cost amendment pursuant to a section 205 or section 206 filing under the FPA made prior to the expiration of the contract, and the Commission accepts or approves an amendment permitting recovery of stranded costs, the public utility may seek recovery of such costs through FPA section 205–206 rates for electric energy.

(B) If the contract is not amended to permit recovery of stranded costs as described in paragraph (c)(1)(v)(A) of this section, the public utility may file a proposal, prior to the expiration of the contract, to recover stranded costs through FPA section 205–206 or section 211–212 rates for wholesale transmission services to the customer.

(vi) If wholesale stranded costs are associated with an existing wholesale requirements contract, if the seller under such contract is a transmitting utility but not also a public utility, and if the contract does not contain an exit fee or other explicit stranded cost provision, the transmitting utility may seek recovery of stranded costs through FPA section 211–212 transmission rates.

(vii) If a retail customer becomes a legitimate wholesale transmission customer of a public utility or transmitting utility, *e.g.*, through municipalization, and costs are stranded as a result of the retail-turned-wholesale customer's access to wholesale transmission, the utility may seek recovery of such costs through FPA section 205–206 or section 211–212 rates for wholesale transmission services to that customer.

(2) *Evidentiary demonstration for wholesale stranded cost recovery.* A public utility or transmitting utility seeking to recover wholesale stranded costs in accordance with paragraphs (c)(1)(v)–(vii) of this section must demonstrate that:

(i) It incurred stranded costs on behalf of its wholesale requirements customer or retail customer based on a reasonable expectation that the utility would continue to serve the customer;

(ii) The stranded costs are not more than the customer would have contributed to the utility had the customer remained a wholesale requirements customer of the utility, or, in the case of a retail-turned-wholesale customer, had the customer remained a retail customer of utility; and

(iii) The stranded costs are derived using the following formula: Stranded Cost Obligation = (Revenue Stream Estimate − Competitive Market Value Estimate)×Length of Obligation (reasonable expectation period).

(3) *Rebuttable presumption.* If a public utility or transmitting utility seeks recovery of wholesale stranded costs associated with an existing wholesale requirements contract, as permitted in paragraph (c)(1) of this section, and the existing wholesale requirements contract contains a notice provision, there will be a rebuttable presumption that the utility had no reasonable expectation of continuing to serve the customer beyond the term of the notice provision.

(4) *Procedure for customer to obtain stranded cost estimate.* A customer under an existing wholesale requirements contract with a public utility seller may obtain from the seller an estimate of the customer's stranded cost obligation if it were to leave the public utility's generation supply system by filing with the public utility a request for an estimate at any time prior to the termination date specified in its contract.

(i) The public utility must provide a response within 30 days of receiving the request. The response must include:

(A) An estimate of the customer's stranded cost obligation based on the formula in paragraph (c)(2)(iii) of this section;

(B) Supporting detail indicating how each element in the formula was derived;

(C) A detailed rationale justifying the basis for the utility's reasonable expectation of continuing to serve the customer beyond the termination date in the contract;

(D) An estimate of the amount of released capacity and associated energy that would result from the customer's departure; and

(E) The utility's proposal for any contract amendment needed to implement the customer's payment of stranded costs.

(ii) If the customer disagrees with the utility's response, it must respond to the utility within 30 days explaining why it disagrees. If the parties cannot work out a mutually agreeable resolution, they may exercise their rights to Commission resolution under the FPA.

(5) A customer must be given the option to market or broker a portion or all of the capacity and energy associated with any stranded costs claimed by the public utility.

(i) To exercise the option, the customer must so notify the utility in writing no later than 30 days after the public utility files its estimate of stranded costs for the customer with the Commission.

(A) Before marketing or brokering can begin, the utility and customer must execute an agreement identifying, at a minimum, the amount and the price of capacity and associated energy the customer is entitled to schedule, and the duration of the customer's marketing or brokering of such capacity and energy.

(ii) If agreement over marketing or brokering cannot be reached, and the parties seek Commission resolution of disputed issues, upon issuance of a Commission order resolving the disputed issues, the customer may reevaluate its decision in paragraph (c)(5)(i) of this section to exercise the marketing or brokering option. The customer must notify the utility in writing within 30 days of issuance of the Commission's order resolving the disputed issues whether the customer will market or broker a portion or all of the capacity and energy associated with stranded costs allowed by the Commission.

(iii) If a customer undertakes the brokering option, and the customer's brokering efforts fail to produce a buyer within 60 days of the date of the brokering agreement entered into between the customer and the utility, the customer shall relinquish all rights to broker the released capacity and associated energy and will pay stranded costs as determined by the formula in paragraph (c)(2)(iii) of this section.

(d) *Recovery of retail stranded costs.*

(1) *General requirement.* A public utility may seek to recover retail stranded costs through rates for retail transmission services only if the state regulatory authority does not have authority under state law to address stranded costs at the time the retail wheeling is required.

(2) *Evidentiary demonstration necessary for retail stranded cost recovery.* A public utility seeking to recover retail stranded costs in accordance with paragraph (d)(1) of this section must demonstrate that:

(i) It incurred stranded costs on behalf of a retail customer that obtains retail wheeling based on a reasonable expectation that the utility would continue to serve the customer; and

(ii) The stranded costs are not more than the customer would have contributed to the utility had the customer remained a retail customer of the utility.

§ 35.27 Power sales at market-based rates.

(a) Notwithstanding any other requirements, any public utility seeking authorization to engage in sales for resale of electric energy at market-based rates shall not be required to demonstrate any lack of market power in generation with respect to sales from capacity for which construction has commenced on or after July 9, 1996.

(b) Nothing in this part

(1) Shall be construed as preempting or affecting any jurisdiction a state commission or other state authority may have under applicable state and federal law, or

(2) Limits the authority of a state commission in accordance with state and federal law to establish

(i) Competitive procedures for the acquisition of electric energy, including demand-side management, purchased at wholesale, or

(ii) Non-discriminatory fees for the distribution of such electric energy to retail consumers for purposes established in accordance with state law.

§ 35.28 Non-discriminatory open access transmission tariff.

(a) *Applicability.* This section applies to any public utility that owns, controls or operates facilities used for the transmission of electric energy in

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interstate commerce and to any non-public utility that seeks voluntary compliance with jurisdictional transmission tariff reciprocity conditions.

(b) *Definitions.*

(1) *Requirements service agreement* means a contract or rate schedule under which a public utility provides any portion of a customer's bundled wholesale power requirements.

(2) *Economy energy coordination agreement* means a contract, or service schedule thereunder, that provides for trading of electric energy on an "if, as and when available" basis, but does not require either the seller or the buyer to engage in a particular transaction.

(3) *Non-economy energy coordination agreement* means any non-requirements service agreement, except an economy energy coordination agreement as defined in paragraph (b)(2) of this section.

(c) *Non-discriminatory open access transmission tariffs.*

(1) Every public utility that owns, controls or operates facilities used for the transmission of electric energy in interstate commerce must have on file with the Commission a tariff of general applicability for transmission services, including ancillary services, over such facilities. Such tariff must be the open access pro forma tariff contained in Order No. 888, FERC Stats. & Regs. ¶ 31,036 (Final Rule on Open Access and Stranded Costs) or such other open access tariff as may be approved by the Commission consistent with Order No. 888, FERC Stats. & Regs. ¶ 31,036.

(i) Subject to the exceptions in paragraphs (c)(1)(ii), (c)(1)(iii), and (c)(1)(iv) of this section, the pro forma tariff contained in Order No. 888, FERC Stats. & Regs. ¶ 31,036, and accompanying rates, must be filed no later than 60 days prior to the date on which a public utility would engage in a sale of electric energy at wholesale in interstate commerce or in the transmission of electric energy in interstate commerce.

(ii) If a public utility owns, controls or operates facilities used for the transmission of electric energy in interstate commerce as of July 9, 1996, it must file the pro forma tariff contained in Order No. 888, FERC Stats. & Regs. ¶ 31,036, pursuant to section 206 of the FPA and accompanying rates pursuant to section 205 of the FPA, no later than July 9, 1996. However, if a public utility has already filed, or has on file, an open access tariff and accompanying rates as of April 24, 1996, it may, but is not required to, file new rates with its section 206 pro forma tariff filing.

(iii) If a public utility owns, controls or operates transmission facilities used for the transmission of electric energy in interstate commerce as of July 9, 1996, such facilities are jointly owned with a non-public utility, and the joint ownership contract prohibits transmission service over the facilities to third parties, the public utility with respect to access over the public utility's share of the jointly owned facilities must file no later than December 31, 1996 the pro forma tariff contained in Order No. 888, FERC Stats. & Regs. ¶ 31,036, pursuant to section 206 of the FPA and accompanying rates pursuant to section 205 of the FPA.

(iv) If a public utility obtains a waiver of the tariff requirement pursuant to paragraph (d) of this section, it does not need to file the pro forma tariff required by this section.

(v) Any public utility that seeks a deviation from the pro forma tariff contained in Order No. 888, FERC Stats. & Regs. ¶ 31,036, must demonstrate that the deviation is consistent with the principles of Order No. 888, FERC Stats. & Regs. ¶ 31,036.

(2) Every public utility that owns, controls or operates facilities used for the transmission of electric energy in interstate commerce, and that uses those facilities to engage in wholesale sales and/or purchases of electric energy, or unbundled retail sales of electric energy, must take transmission service for such sales and/or purchases under the open access tariff filed pursuant to this section.

(i) Subject to the exceptions in paragraphs (c)(2)(ii) and (c)(3)(iv) of this section, this requirement is effective on the date that such public utility engages in a wholesale sale or purchase of electric energy or any unbundled retail sale of electric energy, but no earlier than July 9, 1996.

(ii) For sales of electric energy pursuant to a requirements service agreement executed on or before July 9, 1996, this requirement will not apply unless separately ordered by the Commission. For sales of electric energy pursuant to a bilateral economy energy coordination agreement executed on or before July 9, 1996, this requirement is effective on December 31, 1996. For sales of electric energy pursuant to a bilateral non-economy energy coordination agreement executed on or before July 9, 1996, this requirement will not apply unless separately ordered by the Commission.

(3) Every public utility that owns, controls or operates facilities used for the transmission of electric energy in interstate commerce, and that is a member of a power pool, public utility holding company, or other multi-lateral trading arrangement or agreement that contains transmission rates, terms or conditions, must file a joint pool-wide or system-wide open access transmission pro forma tariff.

(i) For any power pool, public utility holding company or other multi-lateral arrangement or agreement that contains transmission rates, terms or conditions and that is executed after July 9, 1996, this requirement is effective on the date that transactions begin under the arrangement or agreement.

(ii) For any public utility holding company arrangement or agreement that contains transmission rates, terms or conditions and that is executed on or before July 9, 1996, this requirement is effective July 9, 1996, except for the Central and South West System, which must comply no later than December 31, 1996.

(iii) For any power pool or multi-lateral arrangement or agreement other than a public utility holding company arrangement or agreement, that contains transmission rates, terms or conditions and that is executed prior to July 9, 1996, this requirement is effective on December 31, 1996.

(iv) A public utility member of a power pool, public utility holding company or other multi-lateral arrangement or agreement that contains transmission rates, terms or conditions and that is executed on or before July 9, 1996 must begin to take service under a joint pool-wide or system-wide pro forma tariff for wholesale trades among the pool or system members no later than December 31, 1996.

(d) *Waivers.* A public utility subject to the requirements of this section and Order No. 889, FERC Stats. & Regs. ¶ 31,037 (Final Rule on Open Access Same-Time Information System and Standards of Conduct) may file a request for waiver of all or part of the requirements of this section, or Part 37 (Open Access Same-Time Information System and Standards of Conduct for Public Utilities), for good cause shown. An application for waiver must be filed either:

(i) No later than July 9, 1996 or

(ii) No later than 60 days prior to the time the public utility would otherwise have to comply with the requirement.

(e) *Non-public utility procedures for tariff reciprocity compliance.*

(1) A non-public utility may submit a transmission tariff and a request for declaratory order that its voluntary transmission tariff meets the requirements of Order No. 888 (Final Rule on Open Access and Stranded Costs).

(i) Any submittal and request for declaratory order submitted by a non-public utility will be provided an NJ (non-jurisdictional) docket designation.

(ii) If the submittal is found to be an acceptable transmission tariff, an applicant in a Federal Power Act (FPA) section 211 case against the non-public utility shall have the burden of proof to show why service under the open access tariff is not sufficient and why a section 211 order should be granted.

(2) A non-public utility may file a request for waiver of all or part of the reciprocity conditions contained in a public utility open access tariff, for good cause shown. An application for waiver may be filed at any time.

PART 385—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

2. Part 385 is amended by adding paragraph (b)(5) to § 385.2011 to read as follows:

§ 385.2011 Procedures for filing on electronic media (Rule 2011).

* * * * *

(b) * * *

(5) Non-discriminatory open access transmission tariffs filed pursuant to § 35.28 of this chapter.

* * * * *

Note: Appendices A through H and statements of Commissioners Hoecker and Massey will not be published in the Code of Federal Regulations.

LIST OF SECTION 211 APPLICATIONS

No.	Docket No.	Applicant	Transmitter	Commission action
1	TX93–1–000	Tex-La Electric Cooperative of Texas, Inc.	Texas Utilities Electric Company	Denied, 64 FERC ¶61,162.
2	TX93–2–000	City of Bedford, Virginia, et al	American Electric Power Company, Inc.	Granted. Final order, 68 FERC ¶61,003. Reh'g denied, 73 FERC ¶61,322.
3	TX93–3–000	Wisconsin Electric Power Company	Upper Peninsula Power Company	Withdrawn 9/10/93.
4	TX93–4–000	Florida Municipal Power Agency	Florida Power & Light Company	Granted. Final order, 67 FERC ¶61,167. Order on reh'g, 74 FERC ¶61,006.
5	TX94–1–000	Minnesota Municipal Power Agency	Northern States Power Company	Granted. Proposed order, 66 FERC ¶61,114. Reh'g denied, 66 FERC ¶61,323 Settlement accepted by letter order, 68 FERC ¶61,031.
6	TX94–2–000	El Paso Electric Company, et al	Southwestern Public Service Company	Proposed order, 68 FERC ¶61,182; order on reh'g, 68 FERC ¶61,399; order dismiss'g proceeding, 72 FERC ¶61,292.
7	TX94–3–000	Minnesota Municipal Power Agency	Southern Minnesota Municipal Power Agency.	Granted. Proposed order, 66 FERC ¶61,223; reh'g denied, 67 FERC ¶61,075; Final order, 68 FERC ¶61,060.
8	TX94–4–000	Tex-La Electric Cooperative of Texas, Inc.	Texas Utilities Electric Company	Granted. Proposed order, 67 FERC ¶61,019; Final order, 69 FERC ¶61,269.
9	TX94–5–000	Old Dominion Electric Cooperative, Inc	Delmarva Power & Light Company	Granted. Proposed order, 68 FERC ¶61,169. Settl'd, 69 FERC ¶61,436, 70 FERC ¶61,082.
10	TX94–6–000	Reading Municipal Light Department	16 New England Transmitting Utilities	Terminated July 10, 1995 by OEPR Letter Order, following notice of withdrawal filed May 8, 1995.
11	TX94–7–000	AES Power, Inc	Tennessee Valley Authority	Granted. Final Order issued Feb. 29, 1996, 74 FERC ¶61,220, reh'g pending.
12	TX94–8–000	Duquesne Light Company	PJM Companies	Granted. Proposed order issued 5/16/95, 71 FERC ¶61,155.
13	TX94–9–000	Borough of Zelienople, Pennsylvania	Pennsylvania Power Company	Granted. Proposed order issued 1/25/95, 70 FERC ¶61,073.
14	TX94–10–000	Duquesne Light Company	Allegheny Power System	Granted. Proposed order issued 5/16/95, 71 FERC ¶61,156.
15	TX95–1–000	Enron Power Marketing, Inc	Consolidated Edison Co. of New York	Pending. Comments due 11/3/94.
16	TX95–2–000	Wisconsin Public Power Inc. SYSTEM	WEPCO, WP&L, WPSC	Pending. Comments due 11/16/94.
17	TX95–3–000	Municipal Energy Agency of Nebraska	Nebraska Public Power District and Tri-State Generation and Transmission Association, Inc.	w/drawn 11–16–95
18	TX95–4–000	American Municipal Power-Ohio, Inc	Ohio Edison Company	Granted. Proposed Order issued Feb. 1, 1996 74 FERC ¶61,086.
19	TX95–5–000	United States Department of Energy—Southeastern Power Administration.	Southern Company System	Pending.
20	TX95–6–000	Cleveland Public Power	Centerior Energy Corporation	Rejected Without Prejudice 72 FERC ¶61,189.
21	TX95–7–000	Cleveland Public Power	Cleveland Electric Illuminating Company and Toledo Edison Company.	Pending.
22	TX96–1–000	Citizens Utilities Company	Swanton Village, Vermont	Pending.

LIST OF SECTION 211 APPLICATIONS—Continued

No.	Docket No.	Applicant	Transmitter	Commission action
23	TX96–2–000	City of College Station, Texas	City of Bryan, Texas and Texas Municipal Power Agency.	Pending.
24	TX96–3–000	Citizens Utilities Company	Swanton Village, Vermont	Pending.
25	TX96–4–000	Suffolk County Electrical Agency	Long Island Lighting Company	Pending.
26	TX96–5–000	United States Department of Energy—Western Area Power Administration.	Public Service Company of New Mexico.	Pending.
27	TX96–6–000	Montana Power Company	Basin Electric Cooperative	Pending.
28	TX96–7–000	City of Palm Springs, California	Southern California Edison Company	Pending.

Appendix B—List of Commenters

Abbreviation	Commenter
1. ABATE	Association of Businesses Advocating Tariff Equity.
2. AEC & SMEPA	Alabama Electric Cooperative, Inc. and South Mississippi Electric Power Association.
3. AEP	American Electric Power System.
4. AGA	American Gas Association.
5. Air Liquide	Air Liquide America Corporation.
6. AL Com	Alabama Public Service Commission.
7. ALCOA	Aluminum Company of America.
8. Allegheny	Allegheny Power Service Corporation.
9. Alma	City of Alma, Michigan.
10. Aluminum	Aluminum Association.
11. American Forest & Paper	American Forest & Paper Association.
12. American Iron & Steel	American Iron & Steel Institute American Forest & Paper Association, American Public Power Association, Chemical Manufacturers Association, Citizen Action, Council of Industrial Boiler Owners, Electricity Consumers Resource Council, Environmental Action Foundation, City of Las Cruces, New Mexico, City of Westbrook, Maine, Sovereign California Cities Joint Powers Committee, Toward Utility Rate Normalization.
13. American National Power	American National Power, Inc.
14. American Wind	American Wind Energy Association.
15. AMP-Ohio	American Municipal Power-Ohio, Inc. and Indiana Municipal Power Agency.
16. Anaheim	Cities of Anaheim, Azusa, Banning, Colton and Riverside, California.
17. Anchorage	Anchorage Municipal Light and Power.
18. Anoka EC	Anoka Electric Cooperative.
19. APPA	American Public Power Association.
20. APS Customers	APS Wholesale Customer Group (Aquila Irrigation District, Buckeye Water Conservation District, Electrical District No. 3 of Pinal County, Electrical District No. 6 of Pinal County, Electrical District No. 7 of Maricopa County, Electrical District No. 8 of Maricopa County, Harquahala Valley Power District, Maricopa County Municipal Water Conservation District No. 1, McMullan Valley Water Conservation District, Roosevelt Irrigation District and Tonopah Irrigation District).
21. Arcadia	Arcadia Resources, Inc.
22. Arizona	Arizona Public Service Company.
23. Arizona EC	Arizona Electric Power Cooperative.
24. Ark Elec	Arkansas Electric Cooperative Corporation.
25. Arkansas Cities	Arkansas Cities and Farmers Electric Cooperative.
26. Associated EC	Associated Electric Cooperative, Inc.
27. Associated Power	Associated Power Services, Inc.
28. Atlantic City	Atlantic City Electric Company.
29. AZ Com	Arizona Corporation Commission.
30. Baker EC	Baker Electric Cooperative, Inc.
31. Baltimore Transp Bureau	Transportation Bureau of Baltimore, Inc.
32. Basin EC	Basin Electric Power Cooperative.
33. BG&E	Baltimore Gas and Electric Company.
34. Big Horn REC	Big Horn Rural Electric Company.
35. Big Rivers EC	Big Rivers Electric Cooperative.
36. Black Hills EC	Black Hills Electric Cooperative.
37. Black Mayors	National Conference of Black Mayors.
38. Blue Ridge	Blue Ridge Power Agency, Northeast Texas Electric Cooperative, Inc., Sam Rayburn G&T Electric Cooperative, Inc., and Tex-La Electric Cooperative of Texas, Inc.
39. Bon Homme Yankton EC	Bon Homme Yankton Electric Association, Inc.
40. Boston Edison	Boston Edison Company.
41. Boulder	City of Boulder, Colorado.
42. BPA	Bonneville Power Administration.
43. Brazos	Brazos Electric Power Cooperative, Inc.
44. Brownsville	Brownsville, Texas Public Utilities Board.
45. Building Owners	Building Owners and Managers Association International.
46. CA Cogen	Cogeneration Association of California.
47. CA Com	California Public Utilities Commission.

Abbreviation	Commenter
48. CA Energy Co	California Energy Company, Inc.
49. CA Energy Com	California Energy Commission.
50. Cajun	Cajun Electric Power Cooperative, Inc.
51. California DWR	California Department of Water Resources.
52. California Water Agencies	Association of California Water Agencies.
53. Calpine	Calpine Corporation.
54. CAMU	Colorado Association of Municipal Utilities.
55. Canada	Canadian Embassy.
56. Canadian Petroleum Producers	Canadian Association of Petroleum Producers.
57. Caparo	Caparo Steel.
58. Carbon Power	Carbon Power & Light Inc.
59. Carolina P&L	Carolina Power & Light Company.
60. CCEM	Coalition for a Competitive Electric Market (consisting of Catex Vitol Electric, Inc., Coastal Electric Services Company, Destec Power Services, Inc., Electric Clearinghouse, Inc., Enron Power Marketing, Inc., Equitable Power Services Company, KCS Power Marketing, Inc. and MidCon Power Services Corp.).
61. Centerior	Centerior Energy Corporation.
62. Central EC	Central Electric Power Cooperative.
63. Central Hudson	Central Hudson Gas & Electric Corporation.
64. Central Illinois Light	Central Illinois Light Company.
65. Central Illinois Public Service	Central Illinois Public Service Company.
66. Central Louisiana	Central Louisiana Electric Company, Inc.
67. Central Montana EC	Central Montana Electric Power Cooperative, Inc.
68. Christensen	Laurits R. Christensen Associates Inc.
69. Chugach	Chugach Electric Association, Inc.
70. CINergy	CINergy Corp.
71. Citizens Lehman	Citizens Lehman Power L.P.
72. Citizens Utilities	Citizens Utilities Company.
73. Clark	Clark Public Utilities.
74. Clean Air	Clean Air Action Corporation.
75. Cleveland	Cleveland Public Power.
76. CO Com	Colorado Public Utilities Commission Staff.
77. CO Consumers Counsel	Colorado Office of Consumer Counsel.
78. Coalition for Economic Competition	Coalition for Economic Competition (consisting of Central Hudson Gas & Electric Corporation, Central Maine Power Company, Consolidated Edison Company of New York, Inc., Illinois Power Company, Long Island Lighting Company, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.
79. Coalition on Federal-State Issues	Coalition on Federal-State Issues of the Power Marketing Association.
80. Com Ed	Commonwealth Edison Company.
81. Com Electric	Commonwealth Electric Company.
82. Competitive Enterprise	Competitive Enterprise Institute.
83. Concord	Concord Municipal Light Plant.
84. ConEd	Consolidated Edison Company of New York, Inc.
85. Conservation Law Foundation	Conservation Law Foundation and Center for Efficiency and Renewable Technologies.
86. Consolidated Natural Gas	Consolidated Natural Gas Company.
87. Consumers Power	Consumers Power Company.
88. Continental Power Exchange	Continental Power Exchange, Inc.
89. Cooperative Power	Cooperative Power.
90. CSW	Central and South West Corporation.
91. CT DPUC	Connecticut Department of Public Utility Control.
92. CT Munis	Connecticut Conference of Municipalities.
93. CVPSC	Central Vermont Public Service Corporation.
94. Dairyland	Dairyland Power Cooperative.
95. Dayton P&L	Dayton Power and Light Company.
96. DC Com	Public Service Commission of the District of Columbia.
97. DE Muni	Delaware Municipal Electric Corporation, Inc.
98. DE, DC, NJ and MD Coms	Delaware Public Service Commission, District of Columbia Public Service Commission, Maryland Public Service Commission, and New Jersey Board of Public Utilities.
99. Deloitte & Touche	Deloitte & Touche LLP.
100. Destec	Destec Energy.
101. Detroit Edison	Detroit Edison Company.
102. Detroit Edison	Detroit Edison Wholesale Customers (consisting of City of Croswell, Michigan, and Thumb Electric Cooperative).
103. Direct Service Industries	Direct Service Industries (consisting of ELF Atochem North America, Inc., Columbia Columbia Aluminum Corporation, Columbia Falls Aluminum Co., Georgia Pacific, Kaiser Aluminum & Chemical Corporation, Intalco Aluminum, Northwest Aluminum Company, Reynolds Metals Company and Vanalco, Inc.).
104. DOD	Department of Defense.
105. DOE	United States Department of Energy.
106. DOJ	United States Department of Justice.
107. Dominion	Dominion Resources.
108. Douglas EC	Douglas Electric Cooperative, Inc.
109. Duke	Duke Power Company.

Abbreviation	Commenter
110. Duquesne	Duquesne Light Company.
111. East Kentucky	East Kentucky Power Cooperative, Big Rivers Electric Corporation, and Hoosier Energy Rural Electric Cooperative.
112. East River EC	East River Electric Power Cooperative.
113. EDS Utilities	Electronic Data Systems Inc., Utilities Division (Joussef Heguzy, Clifford J. Meagh, Julius A. Wright).
114. Education	American Council on Education and the National Association of College and University Business Officers
115.	EEI Edison Electric Institute.
116. EGA	Electric Generation Association.
117. El Paso	El Paso Electric Company.
118. ELCON	Electricity Consumers Resource Council, American Iron and Steel Institute, Chemical Manufacturers Association and Council of Industrial Boiler Owners.
119. Electric Consumers Alliance	Electric Consumers' Alliance.
120. Electronic Data Systems	EDS Utilities Division (James F. Susman).
121. ENEREX	ENEREX, Inc.
122. Entergy	Entergy Services, Inc.
123. Entergy Retail Regulators	Arkansas Public Service Commission, City Council of New Orleans, Louisiana Public Service Commission, and Mississippi Public Service Commission.
124. Environmental Action	Environmental Action Foundation.
125. EPA	United States Environmental Protection Agency.
126. Fertilizer Institute	The Fertilizer Institute.
127. FL Com	Florida Public Service Commission.
128. Florida Power Corp	Florida Power Corporation.
129. FPL	Florida Power & Light Company.
130. Freedom Energy Co	Freedom Energy Company, LLC.
131. FTC	United States Federal Trade Commission, Staff of the Bureau of Economics.
132. Fuel Managers	Fuel Managers Association.
133. GA Com	Georgia Public Service Commission.
134. GAPP Committee	General Agreement of Parallel Paths Committee (A. Garfield).
135. Graves	Graves, Frank and Ilic, Marija.
136. Green Mountain	Green Mountain Power Corporation.
137. Heartland	Heartland Consumers Power District.
138. Hogan	Hogan, William W.
139. Home Builders	National Association of Home Builders.
140. Homelessness Alliance	National Alliance to End Homelessness, Inc.
141. Hoosier EC	Hoosier Energy Rural Electric Cooperative.
142. Hopkinsville EC	Hopkinsville Electric System.
143. Houston L&P	Houston Lighting & Power Company.
144. Hydro-Quebec	Hydro-Quebec.
145. IA Com	Iowa Utilities Board.
146. IBM	International Business Machines.
147. ID Com	Idaho Public Utilities Commission.
148. Ida County REC	Ida County Rural Electric Cooperative.
149. Idaho	Idaho Power Company.
150. IES Utilities	IES Utilities Inc.
151. IL Com	Illinois Commerce Commission.
152. IL Industrials	Illinois Industrial Energy Consumers.
153. Illinois Municipal Electric Agency	Illinois Municipal Electric Agency.
154. Illinois Power	Illinois Power Company.
155. IN Com	Indiana Utility Regulatory Commission.
156. IN Industrials	Indiana Industrial Energy Consumers, Inc.
157. Industrial Energy Applications	Industrial Energy Applications.
158. Inland Power Pool	Inland Power Pool.
159. IPALCO	IPALCO Enterprises, Inc.
160. James Valley EC	James Valley Electric Cooperative, Inc.
161. Jay	Town of Jay, Maine and the Jay Power District.
162. KCPL	Kansas City Power & Light Company.
163. Knoxville	Knoxville Utilities Board.
164. KS Com	Kansas Corporation Commission Staff.
165. KU	Kentucky Utilities Company.
166. KY AG	Kentucky Attorney General.
167. KY Com	Kentucky Public Service Commission.
168. LA DWP	Department of Water and Power of the City of Los Angeles.
169. LA Industrials	Louisiana Energy Users Group.
170. La Raza	National Council of La Raza.
171. Las Cruces	City of Las Cruces, New Mexico.
172. Latin League	League of United Latin American Citizens.
173. Legal Environmental Assistance	Legal Environmental Assistance Foundation.
174. LEPA	Louisiana Energy and Power Authority.
175. Lester Fink	Fink, Lester.
176. LG&E	LG&E Energy Corp.
177. LILCO	Long Island Lighting Company.
178. Lincoln-Union EC	Lincoln-Union Electric Company.

Abbreviation	Commenter
179. Lively	Lively, Mark B.
180. Local Furnishing Utilities	Local Furnishing Utilities (Long Island Lighting Company, Nevada Power Company, and San Diego Gas & Electric Company).
181. Lower Colorado River Authority	Lower Colorado River Authority.
182. LPPC	Large Public Power Council.
183. MA DPU	Massachusetts Department of Public Utilities.
184. Madison G&E	Madison Gas & Electric Company.
185. Maine Public Service	Maine Public Service Company.
186. Maritime	Maritime Electric Company.
187. McKenzie EC	McKenzie Electric Cooperative, Inc.
188. MD Com	Maryland Public Service Commission.
189. ME Consumer-Owned Utilities	Maine Consumer-Owned Utilities (consisting of Eastern Maine Electric Cooperative, Inc., Fox Islands Electric Cooperative, Inc. Houlton Water Company, Isle au Haut Electric Power Co., Kennebunk Light & Power District, Madison Electric Works, Swans Island Electric Cooperative, Inc., and Van Buren Light & Power District).
190. ME Industrials	Industrial Energy Consumer Group of Maine.
191. MEAG	Municipal Electric Authority of Georgia.
192. Memphis	Memphis Light, Gas and Water Division.
193. Mercer	Mercer, Dorothy Ph.D.
194. MI Com	Michigan Public Service Commission.
195. MI MEA	Municipal Energy Agency of Mississippi.
196. Michigan Coalition	Consumers Power, Detroit Edison and Michigan Public Service Commission.
197. Michigan Systems	Florida Municipal Power Agency, Michigan Public Power Agency, Michigan South Central Power Agency, Michigan Public Power Ratepayers Association and Wolverine Power Supply Cooperative.
198. MidAmerican	MidAmerican Energy Company.
199. Midwest Commissions	Arkansas, Kansas & Missouri State Commissions.
200. Minnesota P&L	Minnesota Power & Light Company.
201. Missouri Basin Group	Missouri Basin Systems Group, Inc.
202. Missouri Basin MPA	Missouri Basin Municipal Power Agency.
203. Missouri Joint Commission	Missouri Joint Municipal Electric Utilities Commission.
204. Missouri-Kansas Industrials	Missouri-Kansas Industrial Energy Consumers.
205. MMWEC	Massachusetts Municipal Wholesale Electric Company.
206. MN DPS	Minnesota Department of Public Service.
207. Montana Power	Montana Power Company.
208. Montana-Dakota Utilities	Montana-Dakota Utilities Company.
209. Montaup	Montaup Electric Company.
210. Mor-Gran-Sou EC	Mor-Gran-Sou Electric Cooperative.
211. Mountain States Petroleum Assoc	Independent Petroleum Association of Mountain States and Colorado Oil and Gas Association.
212. MS Com	Mississippi Public Service Commission.
213. MT Com	Montana Public Service Commission.
214. MT Dept of Environmental Quality	Montana Department of Environmental Quality.
215. Mt. Hope Hydro	Mt. Hope Hydro, Inc.
216. Municipal Energy Agency Nebraska	Municipal Energy Agency of Nebraska.
217. NARUC	National Association of Regulatory Utility Commissioners.
218. NASUCA	National Association of State Utility Consumer Advocates.
219. National Hydropower	National Hydropower Association.
220. National Women's Caucus	National Women's Political Caucus.
221. Natural Resources Defense	Natural Resources Defense Council and Pacific Gas and Electric Company.
222. NC Com	North Carolina Utilities Commission.
223. NCMPA	North Carolina Municipal Power Agency Number 1.
224. NCPA	Northern California Power Agency.
225. ND Com	North Dakota Public Service Commission.
226. NE Public Power District	Nebraska Public Power District.
227. NE States Air Management	Northeast States for Coordinated Air Use Management.
228. NEPCO	New England Power Company.
229. NEPOOL	New England Power Pool Executive Committee.
230. NEPOOL Review Committee	New England Public Power NEPOOL Review Committee.
231. NERC	North American Electric Reliability Council.
232. Nevada	Nevada Power Company.
233. New Brunswick	New Brunswick Power.
234. NGSA	Natural Gas Supply Association.
235. NH Com	New Hampshire Public Utilities Commission.
236. NH General Court	Retail Wheeling & Restructuring Committee of the New Hampshire General Court.
237. NIEP	National Independent Energy Producers.
238. NIMO	Niagara Mohawk Power Corporation.
239. NIPSCO	Northern Indiana Public Service Company.
240. NJ BPU	New Jersey Board of Public Utilities.
241. NJ Ratepayer Advocate	New Jersey Division of the Ratepayer Advocate.
242. NM Com	New Mexico Public Utility Commission.
243. NM Industrials	New Mexico Industrial Energy Consumers.
244. NorAm	NorAm Energy Services, Inc.
245. Nordhaus	Nordhaus, William D.
246. North Dakota RECs	North Dakota Association of Rural Electric Cooperatives.

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Abbreviation	Commenter
247. NRECA	National Rural Electric Cooperative Association.
248. NRECA/APPA	National Rural Electric Cooperative Association and APPA.
249. NRRI	National Regulatory Research Institute.
250. NSP	Northern States Power Company.
251. NU	Northeast Utilities System Companies.
252. Nuclear Energy Institute	Nuclear Energy Institute.
253. Nucor	Nucor Corporation.
254. NV Com	Public Service Commission of Nevada.
255. NW Conservation Act Coalition	Northwest Conservation Act Coalition.
256. NW Iowa Cooperative	Northwest Iowa Power Cooperative.
257. NW Power Planning Council	Northwest Power Planning Council.
258. NWRTA	Northwest Regional Transmission Association.
259. NY AG	New York State Attorney General.
260. NY Com	Public Service Commission of the State of New York.
261. NY Consumer Protection	New York Consumer Protection Board.
262. NY Energy Buyers	New York Energy Buyers Forum.
263. NY Industrials	Multiple Industrial Intervenors of New York.
264. NY IOUs	Long Island Lighting, New York State Electric & Gas and Rochester Gas & Elec.
265. NY Mayors	New York State Conference of Mayors and Municipal Officals.
266. NYMEX	New York Mercantile Exchange.
267. NYPP	New York Power Pool.
268. NYSEG	New York State Electric & Gas Corporation.
269. Oahe EC	Oahe Electric Cooperative, Inc.
270. Oak Ridge	Oak Ridge National Laboratory.
271. Occidental Chemical	Occidental Chemical Corporation.
272. Oglethorpe	Oglethorpe Power Corporation.
273. OH Com	Public Utilities Commission of Ohio.
274. OH Coops	Ohio Rural Electric Cooperatives, Inc. and Buckeye Power, Inc.
275. OH Industrials	Industrial Energy Users—Ohio.
276. Ohio Edison	Ohio Edison Company.
277. Ohio Manufacturers	Ohio Manufacturers' Association.
278. Ohio Valley	Ohio Valley Electric Corporation.
279. OK Com	Oklahoma Corporation Commission.
280. Oklahoma G&E	Oklahoma Gas and Electric Company.
281. Old Dominion EC	Old Dominion Electric Cooperative, Inc.
282. Oliver-Mercer EC	Oliver-Mercer Electric Cooperative, Inc.
283. Omaha PPD	Omaha Public Power District.
284. Ontario Hydro	Ontario Hydro.
285. Orange & Rockland	Orange and Rockland Utilities, Inc.
286. Oregon Trail EC	Oregon Trail Electric Cooperative, Inc.
287. Otter Tail	Otter Tail Power Company.
288. PA Com	Pennsylvania Public Utility Commission.
289. PA Coops	Pennsylvania Rural Electric Association and Allegheny Electric Cooperative, Inc.
290. PA Industrials	Industrial Energy Consumers of Pennsylvania.
291. PA Munis	Pennsylvania Municipal Electric Association.
292. Pacific Northwest Coop	Pacific Northwest Generating Cooperative.
293. PacifiCorp	PacifiCorp.
294. Panhandle Coop	Panhandle Rural Electric Membership Association.
295. PECO	PECO Energy Company.
296. Pennsylvania P&L	Pennsylvania Power & Light Company.
297. PG&E	Pacific Gas and Electric Company.
298. Phelps Dodge	Phelps Dodge Corporation.
299. Philip Morris	Philip Morris Management Corp.
300. PJM	PJM—Pennsylvania New Jersey Maryland Interconnection.
301. Portland	Portland General Electric Company.
302. Power Marketing Association	Power Marketing Association.
303. PSE&G	Public Service Electric and Gas Company.
304. PSNM	Public Service Company of New Mexico.
305. Public Generating Pool	Public Generating Pool.
306. Public Power Council	Public Power Council.
307. Public Service Co of CO	Public Service Company of Colorado and Cheyenne Light, Fuel and Power Company.
308. Puget	Puget Sound Power & Light Company.
309. Redding	Cities of Redding and Santa Clara, California.
310. Reynolds	Reynolds Metals Company.
311. Rochester G&E	Rochester Gas and Electric Corporation.
312. Rocky Mountain Institute	Rocky Mountain Institute (Amory Lovins).
313. Rosebud	Rosebud Enterprises, Inc.
314. RUS	Rural Utilities Service (formerly REA).
315. Rushmore EC	Rushmore Electric Power Cooperative, Inc.
316. Salt River	Salt River Project Agriculture Improvement and Power District.
317. San Diego G&E	San Diego Gas & Electric Company.
318. San Francisco	City and County of San Francisco.
319. San Luis Valley REC	San Luis Valley Rural Electric Cooperative.
320. SBA	United States Small Business Administration, Office of Advocacy.

Abbreviation	Commenter
321. SC Com	South Carolina Public Service Commission.
322. SCE&G	South Carolina Electric & Gas Company.
323. SC Public Service Authority	South Carolina Public Service Authority.
324. Seattle	Seattle City Light Department.
325. Seminole EC	Seminole Electric Cooperative, Inc.
326. SEPA	Southeastern Power Administration/Federal Power Customers.
327. Shelby County	Shelby County Board of Commissioners.
328. Sierra	Sierra Pacific Power Company.
329. Slope EC	Slope Electric Cooperative Inc.
330. SMUD	Sacramento Municipal Utility District.
331. Snohomish	Public Utility District No. 1 of Snohomish County, Washington.
332. SoCal Edison	Southern California Edison Company.
333. SoCal Gas	Southern California Gas Company.
334. South Jersey Gas	South Jersey Gas Company.
335. Southern	Southern Company Services, Inc.
336. Southwest TDU Group	Southwest Transmission Dependent Utility Group (consisting of Aguila Irrigation District, Ak-Chin Indian Community, Buckeye Irrigation District, Central Arizona Water Conservation District, Electrical District No. 3, No. 4, No. 5, No. 6, No. 7, Harquahala Valley Power District, Maricopa Water District, McMullen Valley Water Conservation and Drainage District, City of Needles, Roosevelt Irrigation District, City of Safford, Tonopah Irrigation District, Wellton-Mohawk Irrigation and Drainage District).
337. Southwestern	Southwestern Public Service Company.
338. Soyland	Soyland Power Cooperative.
339. Spink EC	Spink Electric, Redfield, SD.
340. SPP	Southwest Power Pool, Inc.
341. Springfield	City Utilities of Springfield, Missouri.
342. St. Joseph	St. Joseph Light & Power Company.
343. Suffolk County	Suffolk County (New York) Electric Agency.
344. Sunflower	Sunflower Electric Power Corporation.
345. Supervised Housing	State and City Supervised Housing for Equity in Electric Rates.
346. Sustainable Energy Policy	Project For Sustainable FERC Energy Policy (on behalf of Alliance for Affordable Energy, Citizens Action Coalition of Indiana, Conservation Law Foundation, Environmental Defense Fund, Environmental Law & Policy Center of the Midwest, Izaak Walton League of America, Land and Water Fund of the Rockies, Legal Environmental Assistance Foundation, Mid-Atlantic Energy Project, Minnesotans for an Energy-Efficient Economy, Natural Resources Defense Council, Northwest Conservation Act Coalition, Pace Energy Project, Public Citizen, Texas, RENEW Wisconsin, Southern Environmental Law Center, Texas Ratepayers' Organization to Save Energy, Union of Concerned Scientists, and Wisconsin's Environmental Decade).
347. Tallahassee	City of Tallahassee, Florida.
348. Tampa	Tampa Electric Company.
349. TANC	Transmission Agency of Northern California.
350. TAPS	Transmission Access Policy Study Group.
351. TDU Systems	Transmission Dependent Utility Systems (Arkansas Electric Cooperative Corporation, Connecticut Municipal Electric Energy Cooperative, Golden Spread Electric Cooperative, Inc., Holy Cross Electric Association, Inc., Kansas Electric Power Cooperative, Inc., Magic Valley Electric Cooperative, Inc., Mid-Tex Generation & Transmission Electric Cooperative, Inc., NewCorp Resources, Inc., Old Dominion Electric Cooperative, Inc.).
352. Texaco	Texaco Inc.
353. Texas Utilities	Texas Utilities Electric Company.
354. Texas-New Mexico	Texas-New Mexico Power Company.
355. Tonko	Tonko, Paul D. (NY State Assembly).
356. Torco	Torco Energy Marketing, Inc.
357. Total Petroleum	Total Petroleum, Inc.
358. Traverse EC	Traverse Electric Cooperative, Inc.
359. Tri-County EC	Tri-County Electric Association, Inc.
360. Tri-State G&T	Tri-State Generation and Transmission Association, Inc.
361. Tucson Power	Tucson Electric Power Company.
362. Turlock	Turlock Irrigation District.
363. Turner-Hutchinson EC	Turner-Hutchinson Electric Cooperative, Inc.
364. TVA	Tennessee Valley Authority.
365. TX Com	Public Utility Commission of Texas.
366. TX Industrials	Texas Industrial Energy Consumers.
367. UAMPS	Utah Associated Municipal Power Systems.
368. Union County EC	Union County Electric Cooperative, Inc.
369. Union Electric	Union Electric Company.
370. United Illuminating	United Illuminating Company.
371. UNITIL	UNITIL Corporation.
372. Urban League	Greater Washington Urban League, Inc.
373. UT Com	Utah Public Service Commission and Utah Division of Public Utilities.
374. UT Industrials	Utah Industrial Energy Consumers (consisting of Alliant Techsystems, Inc., Amoco Oil Company, Holnam, Inc., Kennecott Copper Corp., and Western Zirconium.
375. UtiliCorp	UtiliCorp United Inc.

Abbreviation	Commenter
376. Utilities For Improved Transition	Utilities For an Improved Transition (consisting of Basin Electric Cooperative, Black Hills Corporation, Boston Edison Company, Central Vermont Public Service Corporation, Montaup Electric Company, Wisconsin Electric Power Company, and Wisconsin Public Service Corporation).
377. Utility—Trade Corp. Utility—Trade Corp.	
378. Utility Investors Analysts	Utility Investors and Analysts.
379. Utility Shareholders	United Utility Shareholders Association of America.
380. Utility Wind Interest Group	Utility Wind Interest Group, Inc.
381. Utility Workers Union	Utility Workers Union of America, AFL–CIO.
382. Utility Working Group	Utility Working Group (consisting of Atlantic City Electric Company, Dominion Resources, Inc., Duke Power Company, Florida Power & Light Company, Niagara Mohawk Power Corporation, Pacific Gas and Electric Company, Public Service Electric and Gas Company, and San Diego Gas & Electric Company).
383. VA Com	Staff of the Virginia State Corporation Commission.
384. Vann	Vann, Albert (NY State Assembly).
385. VEPCO	Virginia Electric and Power Company.
386. Verendrye EC	Verendrye Electric Cooperative, Inc.
387. Vernon	City of Vernon, California.
388. VT DPS	Vermont Department of Public Service.
389. WA Com	Washington Utilities and Transportation Commission.
390. Wabash	Wabash Valley Power Association, Inc.
391. WAPA	Western Area Power Administration and Department of Energy.
392. Washington and Oregon Energy Offices	Washington State Energy Office and Oregon Department of Energy.
393. Washington Water Power	Washington Water Power Company Energy Offices.
394. WEPCO	Wisconsin Electric Power Company.
395. West River EC	West River Electric Association, Inc.
396. Western Resources	Western Resources Inc.
397. Whetstone Valley EC	Whetstone Valley Electric Cooperative, Inc.
398. WI Com	Public Service Commission of Wisconsin.
399. Wing Group	Wing Group.
400. Wisconsin Coalition	Wisconsin Coalition (Wisconsin Public Power Incorporated System, Municipal Electric Utilities of Wisconsin, Madison Gas and Electric Company, and Citizens' Utility Board of Wisconsin).
401. Wisconsin EC	Wisconsin Electric Cooperative Association.
402. Wisconsin Municipals	Municipal Electric Utilities of Wisconsin.
403. Wollenberg	Wollenberg, Bruce, et al.
404. Wolverine Coop Members	Wolverine Power Supply Cooperative Special Members Committee.
405. Woodbury County REC	Woodbury County Rural Electric Cooperative.
406. WP&L	Wisconsin Power and Light Company.
407. WSCC	Western Systems Coordinating Council Board of Trustees.
408. WSPP	Western Systems Power Pool.
409. Yellowstone Valley EC	Yellowstone Valley Electric Cooperative, Inc.

Environmental Impact Commenters

1. Attorneys General of Massachusetts, Connecticut, New Jersey and Vermont
2. Center for Clean Air Policy
3. Central Maine Power Company
4. Cincinnati Gas & Electric Company and PSI Energy, Inc.
5. Clifton Below
6. Electric Consumer's Alliance
7. Connecticut Siting Council
8. Southern Environmental Law Center
9. General Public Utilities Corporation
10. Public Advisory Committee of the Grand Canyon Visibility Transport Commission
11. Institute of Clean Air Companies
12. Interstate Natural Gas Association of America
13. Atlantic Electric Co. and Audubon Society of New Hampshire et al.
14. Maryland Department of Natural Resources and Maryland Energy Administration
15. Midwest Ozone Group
16. Missouri Department of Natural Resources
17. National Mining Association, Western Fuels Association, Inc. and the Center for Energy and Economic Efficiency
18. The Navajo Nation
19. Maine, Massachusetts, Vermont and New Hampshire Public Service Commissions
20. New Jersey Board of Public Utilities and the New Jersey Department of Environmental Protection
21. New York State Department of Public Service and the New York State Department of Environmental Conservation
22. Office of the Ohio Consumers' Counsel
23. Ohio Electric Utility Institute Environmental Committee
24. Ozone Transport Assessment Group
25. Ozone Transport Commission
26. Utility Air Regulatory Group (Edison Electric Institute, the National Rural Electric Cooperative Association and the American Public Power Association)
27. Wisconsin Department of Natural Resources

Other (Including Technical Conference Commenters)

1. Electric Power Research Institute
2. Electric Policy Technical Issues Group
3. Tejas Power Corporation
4. Competitive Power Coalition of New England
5. Mid-Continent Area Power Pool
6. Michigan Electric Coordinated Systems
7. Independent Energy Producers Association
8. Praxair, Inc.
9. Utility-Trade Corp.
10. Competitive Power Coalition of New England
11. Wyoming Public Service Commission
12. State of New Jersey
13. Paul Joskow
14. New England Conference of Public Utility Commissioners
15. Commonwealth of Massachusetts
16. Florida Electric Power Coordinating Group
17. Dine Power Authority
18. State of Connecticut Department of Environmental Protection
19. Commonwealth of Massachusetts Department of Environmental Protection
20. State of Maine Department of Environmental Protection
21. Comision Federal de Electricidad of Mexico

Appendix C—Allegations of Public Utilities Exercising Transmission Dominance

I. Examples From Proceedings Before Administrative Law Judges

These are examples of allegations that various public utilities have refused to provide comparable service, either through refusals to wheel, dilatory tactics that so protracted negotiations as to effectively deny wheeling, refusals to provide service priority equal to native load, or refusals to provide service flexibility equivalent to the utility's own use.

A. American Electric Power Service Corp. (AEP)

In 1993, AEP filed, on behalf of its public utility associate companies, an open access tariff that offered only firm point-to-point service with very limited flexibility. It did not offer network service, flexible point-to-point service, or non-firm service. Thus, it did not provide customers with the same flexibility that AEP itself has. Nor did it provide a service priority equivalent to that enjoyed by native load. The Commission set AEP's tariff for hearing and, on rehearing, held that in order not to be unduly discriminatory, the tariff had to offer comparable service. American Electric Power Service Corp., 64 FERC ¶ 61,279 (1993), *reh'g*, 67 FERC ¶ 61,168 (1994).

At hearing, Raj Rao of Indiana Michigan Power Agency (IMPA) (Ex. IMPA–1, Feb 23, 1994) and Kenneth Hegemann of American Municipal Power-Ohio, Inc. (AMP-Ohio) (Ex. AMPO–1, Feb 23, 1994), both senior management officials, testified concerning AEP's alleged discriminatory practices.[1] AMP-Ohio is an association of municipalities in Ohio, some of whose members depend on AEP for transmission and partial requirements service. IMPA is an association of municipalities in Indiana, and many of IMPA's loads are captive to the AEP transmission system. The witnesses alleged as follows:

1. In anticipation of high peak demands, AEP would contract for large blocks of available short-term power, withhold sale of short-term power, refuse to transmit third party short-term power, and require purchases from AEP at the emergency rate (100 mill/kwh) when an emergency might not exist. Ex. AMPO–1 at 6.

2. In December 1989, AMP-Ohio negotiated a 20 MW purchase of short-term power from Louisville Gas & Electric Company (LG&E). AEP refused to wheel because LG&E had earlier that day told AEP it had no power to sell to AEP. AEP then bought the power from LG&E and offered to resell it to AMP-Ohio. Ex. AMPO–1 at 6–7.

3. In January 1990, AMP-Ohio solicited bids for February power purchases from a number of utilities including AEP. AEP was not the winning bid. AMP-Ohio made arrangements to purchase the power from four winning bidders and sought transmission through AEP. When AMP-Ohio gave AEP the schedule for delivery, AEP refused to transmit the power, matched the average price of the winning bids, and made the sale itself. Ex. AMPO–1 at 7.

4. In August 1993, an AMP-Ohio member (Columbus, Ohio) was purchasing 10 MW of hourly non-displacement power from AEP and, after AEP raised its price to 60 mills/kwh, sought another source for the next hour. Consumers Power Company and Detroit Edison Company both offered non-displacement power at 40 mills. AEP refused to transmit, saying it had a 600 MW unit out and could not resell power from another source.[2] Columbus cancelled the transaction and had to buy 10 MW of power from AEP at 100 mills/kwh. Ex. AMPO–1 at 7–8.

5. In July 1993, two AMP-Ohio members (Columbus and St. Mary's) had been buying hourly non-displacement power from AEP when the price rose to 35 mills. Dayton Power & Light Company (DP&L) offered to sell at 23 mills and AEP agreed to transmit for one hour. But for the next hour, AEP said it had problems with its system, refused to transmit the power, kept the power from DP&L for itself and offered to sell power to AMP-Ohio for Columbus and St. Mary's at 100 mills. Columbus increased its local generation, but St. Mary's purchased 8 MW at 100 mills. For the next hour, AMP-Ohio arranged with DP&L for another 8 MW, hoping AEP would transmit under the 24 hour buy-sell agreement. AEP did transmit this power. Seven hours later in the day, St. Mary's Greenup Hydro project power was available and the 8 MW from DP&L was no longer needed. If St. Mary's had been receiving the hourly power that AEP had refused to transmit, St. Mary's could have switched to Greenup power. But because AMP-Ohio had changed to daily service, St. Mary's had to pay a demand charge for the entire day, even though it used the power only 7 hours and would have paid less under the hourly rate. Ex. AMPO–1 at 8–9.

6. In January 1994, AMP-Ohio sought to transfer power from one member with generation to other members, which required transmission over AEP and Toledo Edison lines. Toledo Edison said yes, AEP said no. AMP-Ohio's northern members purchased emergency power from Toledo Edison. AMP-Ohio then reminded AEP that it had agreed not to deny transmission and AEP agreed to transmit. Ex. AMPO–1 at 9.

7. IMPA arranged to buy 80 MW of short-term power from LG&E and have it wheeled, using buy-sell arrangements, through Public Service Company of Indiana (PSI) and AEP to serve IMPA's load at Richmond (an IMPA member). The delivered price was $.292 per kW-day plus a 1 mill adder. At the same time AEP arranged to buy 300 MW from PSI at $.30 per kW day plus out-of-pocket energy costs. Hence, PSI was shipping a total of 380 MW to AEP with 80 MW of that amount to be delivered to IMPA's load at Richmond. Then, on a day when IMPA should have received the 80 MW, AEP told IMPA that PSI had sold everything to AEP and that IMPA would have to buy from AEP at $.63 per kW day plus the cost of energy from AEP. IMPA purchased from AEP under protest. AEP used its control over transmission to intercept the 80 MW at a lower price and resell it as short-term power to IMPA. AEP claimed that PSI had terminated its sales to AEP on that day. But the 80 MW was independent of PSI's other sales to AEP and would not have been interrupted if AEP had not interrupted it. IMPA–1 at 7.

8. IMPA has combustion turbines owned by and located at one member, which IMPA would like to connect to the Joint Transmission System owned by IMPA, CINergy and Wabash Valley Power Association. To do so, IMPA needed a metering agreement with AEP, to which AEP would not agree. IMPA–1 at 6.

9. In January 1994, IMPA had power to sell from its turbines when AEP and others needed power. IMPA offered power to AEP but AEP it said could not purchase the power without an existing contract. Moreover, since there was no short-term tariff, IMPA could not sell the power to another utility. IMPA–1 at 6.

10. Another example of the utility engaging in dilatory tactics that raised the customer's transaction costs and effectively denied transmission is the "sham transaction" provision proposed by AEP. As filed, AEP's tariffs permitted it to deny service merely because a portion of the transmitted power might be used to serve a former retail customer of AEP. *See, e.g.*, Ex. BR&WVP–1 (J. Bertram Solomon testimony, February 23, 1994). (As part of a settlement AEP filed the *pro forma* tariff and withdrew this provision.)

11. Finally, AEP's originally filed tariff contained a "prodigal customer" provision. Under this provision, transmission customers who sought to convert back to requirements service had to give AEP five years' notice, in which case AEP and the customer would enter into negotiations to determine whether AEP will provide service at all and if so under what rate, terms, and conditions. Ex. S–39 at 1 (Staff testimony). AEP did not require notice from all new customers, only from prodigal customers. *Id.* at 2. That a potential customer was previously served by AEP is not a reason to treat the customer differently. (AEP withdrew this provision when it filed the *pro forma* tariff.)

B. Entergy Services, Inc. (Entergy)

Entergy filed a partial settlement largely adopting the NOPR *pro forma* tariffs except for two provisions (headroom and ancillary services). Because the settlement predated the filing date for customer testimony before the ALJ, the customers did not address the need for Entergy to file a tariff. However, customers did make allegations of discriminatory practices, as follows.

1. Customers alleged that Entergy flat-out refused to wheel. Louisiana Energy and Power Authority (LEPA) witness Sylvan J. Richard testified that LEPA's predecessor systems could not obtain interconnections from Entergy. Ex. SJR–1 at 50.

2. Customers also alleged that Entergy refused to provide service priority equal to native load and refused to provide service flexibility equivalent to the utility's own use. For example, LEPA witness Richard testified that even after state commissions ordered interconnections and other coordination

[1] After the Rehearing Order expanding the scope of the proceeding, AMP-Ohio and IMPA withdrew this testimony as no longer necessary. This withdrawal does not change the fact that the testimony was sworn to under oath.

[2] AEP generally limited its offer of short-term transmission to buy/sell transactions; that is, AEP would buy the power from the seller and resell it to the purchaser. Supplemental testimony of AEP Witness Baker (Ex. A–73) at 27–29. Often, the terms of the buy/sell transaction required transmission dependent utilities (TDUs) to maintain reserves and meet contractual commitments for at least a year. *Id.*

services, LEPA's predecessors were still not able to obtain coordination services because Entergy was not willing to coordinate and because the transmission service it did offer was inflexible, unidirectional point-to-point service, which prevented economic coordination with others. *Id.* at 50–51.

3. South Mississippi Electric Power Association (SMEPA) witness J. Bertram Solomon testified that Entergy's original "open access" tariff was restricted to point-to-point service, proposed separate charges for each operating company, and required the cancellation of existing agreements in order to take service under the proposed tariff. Ex. SMEPA–10 at 28. Entergy eventually filed a network tariff, but proposed different local facilities charges for the various Entergy public utility operating subsidiaries. *Id.* at 29. Since these local facilities charges were higher than the transmission component of the subsidiaries' bundled rates, Entergy obtained a competitive advantage. *Id.*

4. The Arkansas Cities and Cooperatives (ACC) is a group of cities and cooperatives that own or operate electric generation or distribution systems in Arkansas. ACC Witness Steven Merchant testified that Entergy has segregated the wholesale market between two of its subsidiaries, Arkansas Power & Light Copmpany (APL) and Entergy Power, Inc. (EPI). Ex. SMM–1 at 16. In marketing power and energy in Arkansas, EPI is subject to an Arkansas Commission order that bars EPI from competing with APL for wholesale loads without first obtaining a waiver. *Id.* Recently, EPI requested this waiver for all wholesale transactions in Arkansas except for wholesale customers currently served by an Entergy subsidiary; in other words, EPI requested the Arkansas Commission to expand competition for all wholesale customers except where EPI might compete with APL. *Id.* ACC witness Merchant concluded that, since EPI does not compete with APL, Entergy insulates APL's wholesale business from competition and denies those wholesale customers access to EPI as a source of power, thereby limiting alternative generation sources available to ACC. *Id.* at 17–19. (Entergy's witness Kenney stated that Entergy has recently filed a joint motion with ACC to the Arkansas Commission seeking to extend the waiver and permit EPI to sell to APL's wholesale customers. Ex. JFK–11 at 14–15.)

C. Pacific Gas & Electric Company (PG&E)

Northern California Power Agency (NCPA) attached several documents to its 1988 complaint in Docket No. EL89–4. These documents were provided to support NCPA's claim that PG&E's unreasonable practices under the PG&E/NCPA Interconnection Agreement (IA) effectively denied NCPA access to transmission properly requested under the IA. Although the parties eventually settled and the Commission terminated the docket with a letter order dated May 18, 1988, these documents provide allegations of PG&E using dilatory tactics that so protracted negotiations as to effectively equal a refusal to wheel.[3]

1. PG&E stated that since transmission was not currently available, it was entitled to wait 72 months before providing transmission; that is, transmission access could not be granted before the passing of the 72-month notice period. NCPA 1988 Complaint, Ex. 3. However, the IA provided that transmission be provided when it becomes actually available. PG&E also requested substantial additional information, which NCPA considered beyond that reasonably necessary for a study, but still provided. PG&E then determined that transmission was not available, reasoning that transmission was unavailable unless all the transmission requested could be provided 8760 hours per year without restrictions or limitations, extending through the expiration of the agreement in 2013. NCPA 1988 Complaint at 9.

2. On November 27, 1987, NCPA made a new transmission request to PG&E, seeking 50 MW of bi-directional transmission at Midway. NCPA 1988 Complaint, Ex. 5. On January 26, 1988, PG&E filed an interconnection agreement with Turlock Irrigation District (TID) that provided TID with 50 MW of bi-directional transmission at Midway. *Pacific Gas & Electric Company*, 42 FERC ¶ 61,406, *order on reh'g*, 43 FERC ¶ 61,403 (1988). On February 22, 1988, PG&E advised NCPA that all firm transmission service available at Midway had been fully subscribed. NCPA 1988 Complaint, Ex. 6. Then, on March 29, 1988, PG&E filed with the Commission an interconnection agreement with Modesto Irrigation District (MID), that provided MID with 50 MW of bi-directional transmission at Midway. *Pacific Gas & Electric Company*, 44 FERC ¶ 61,010 (1988). At about the same time (in the last week in March 1988), PG&E advised NCPA that the allocations of transmission to TID, MID, and others, including a not yet finalized allocation to Sacramento Municipality Utility District, had used all the transmission available at Midway. NCPA 1988 Complaint, Exs. 7 and 8.

D. Northeast Utilities Service Company (NU)

This is the case where Northeast Utilities acquired Public Service of New Hampshire (PSNH) (Docket No. EC90–10). New England Power Company (NEP) witness Robert Bigelow's direct testimony expressed concern over the "relatively restrictive transmission policies of both" NU, on behalf of Northeast Utilities' public utility subsidiaries, and PSNH. Bigelow Direct Testimony at 21 (filed May 25, 1990). In his cross rebuttal testimony, Mr. Bigelow testified that "NU has a poor track record as a provider of transmission service" and "PSNH also has an abhorrent track record as a provider of transmission services." Bigelow Cross Rebuttal Testimony, at 3 (filed June 20, 1990). Mr. Bigelow described both NU's and NEP's (his own company) failure to provide service flexibility equivalent to their own use. Except for NEP's TDUs, both NEP and NU historically provided only point-to-point transmission, which required separate scheduling for each transaction. Bigelow Cross Rebuttal at 4.

E. Southern California Edison Company and San Diego Gas and Electric Company

The evidence in this merger proceeding (Docket No. EC89–5) included testimony from a number of witnesses describing instances of Edison's conduct. Richard Greenwalt was the power supply supervisor for the City of Riverside, California. He was responsible for scheduling all purchases of energy for Riverside and for the cities of Azusa, Banning and Colton, California. Greenwalt testimony at 1 (November 1989). (These four cities and Anaheim, California, are collectively referred to as the Southern Cities or Cities.) Joseph Hsu was the Director of Utilities for Azusa. Hsu testimony at 1 (November 1989). Gale Drews was the electric utility director of Colton. Drews testimony at 1–2 (November 1989). Bill Carnahan was the director for Riverside. Carnahan testimony at 1 (November 1989). Gordon Hoyt was the general manager of the Anaheim power department. Hoyt testimony at 1 (November 1989). Dan McCann was the power coordination supervisor for Anaheim. He supervised Anaheim's load scheduling and is a former Edison employee, having worked for Edison for 20 years. McCann Testimony at 1–2 (November 1989). These witnesses testified that Edison refused to wheel as follows.

1. Edison's policy was to curtail the Cities any time it could be justified using any of a list of acceptable reasons to deny interruptible transmission service. *Id.* at 22–23.

2. Edison would not generally provide transmission service when Edison could save money by itself purchasing the economy energy that would be wheeled. McCann testimony at 19. The Cities called Edison every hour to request interruptible transmission service. *Id.* Edison often refused to sell energy available in the Western Systems Power Pool to the Cities and then made available higher cost contract energy or partial requirements service. *Id.* at 19–20.

3. When Anaheim requested Edison provide firm transmission of power from neighboring states, Edison would often agree to provide non-firm service but would not integrate the capacity for many years in the future, saying that its control area did not need capacity at that time. Hoyt testimony at 9. Since the selling utility was interested in a sale of capacity, not just energy, the transaction would not occur. *Id.* Edison repeatedly used its control over transmission to deny Anaheim access to low-cost firm power. *Id.* at 9–10.

4. While Edison provided short-term firm transmission service to the Cities, it would only provide long-term firm service for three specific resources: The SONGS nuclear plant, a specific IPP, and Hoover Dam power. Hoyt testimony at 20. One of Edison's reasons for denying long-term transmission was that Edison desired to reserve the transmission for its own future (unspecified) needs. *Id.*

5. In the 1970s, Edison refused to allow the Cities access to the Pacific Intertie. Hoyt testimony at 21; Drews testimony at 7–8.

6. In 1988, Edison refused to provide transmission service for a Cities power purchase from Public Service Company of New Mexico (PSNM) from Palo Verde Nuclear station. Hoyt testimony at 21.

7. Edison has refused to provide requested firm transmission from

—California-Oregon border to Midway Station
—Nevada-Oregon Border to Sylmar Substation
—Palo Verde Switchyard to Vista
—SONGS Switchyard to Vista.

Carahan testimony at 15.

8. Riverside requested transmission from Palo Verde and was told that such service was not available. Carnahan testimony at 16. Edison offered Riverside only 12 MW of curtailable transmission entitlement to provide Riverside's share of Palo Verde. *Id.* This service was neither large enough or long enough, and Edison insisted on unreasonable terms and conditions. *Id.*

9. Azusa, Banning and Colton had a contract with Edison that entitled them to use their Palo Verde firm transmission path to schedule energy to meet their contract energy obligation. Edison refused to permit the three cities to use that path. Edison did not contest that the contracts allowed this use, but said that the scheduling of such small amounts of energy for the three cities would be too burdensome. Greenwalt testimony at 14.

10. Edison would not respond in a timely manner to the Cities' requests, routinely taking months to respond. Drews testimony at 15.

11. During the 1980s, Edison provided Colton with some transmission service to allow the Cities to reach certain suppliers, but limited the choices available to the Cities and imposed terms and conditions that increased the Cities' costs and placed Colton at a disadvantage against Edison. Drews testimony at 9. Arranging alternative generation sources was difficult because the Cities always had to first get Edison to state whether it would provide transmission.

12. During 1988 and 1989, a dispute arose between Edison and the Cities concerning the Hoover Uprating Project. Drews testimony at 16. Edison argued that for the months when units were out of service for uprating, and Southern Cities capacity was reduced to zero, Southern Cities would not receive an energy credit, even though energy was still available and used by Edison. But the contracts allowed a participant who did not have capacity to still schedule its energy as non-firm energy on the capacity of another participant. *Id.* at 16–17.

13. In 1986, Azusa negotiated a power purchase contract with the California Department of Water Resources in increments of first 5 MW and then 2 MW (for a total of 7 MW). Hsu testimony at 14. First Edison assured Azusa that the transmission for the additional 2 MW would not be a problem. *Id.* Then Edison would not agree to amend the transmission service agreement for the additional 2 MW. *Id.*

14. In 1986, Azusa notified Edison of Special Condition 12[4] purchases from PG&E and requested firm transmission service. *Id.* Two months before service was to begin, Edison notified the Cities of a problem with the transmission lines. *Id.* Transmission was eventually granted, but only after a four-month delay and substantial losses to the Cities. *Id.* Then Edison decided there was no problem with its transmission facilities. *Id.* at 14–15.

15. In 1986–87, the Cities purchased 20 MW from PG&E and 80 MW from Deseret G&T Cooperative. Hoyt testimony at 7–8. Edison stated that without reinforcement of its transmission system, Edison would not provide the transmission. *Id.* There was a five-month delay during which the Cities were forced to purchase from Edison at a higher cost. *Id.* at 8–9. Then Edison decided that the transmission system did not need reinforcement. *Id.* at 8.

16. Edison also refused to provide a service priority equal to that of native load. It would curtail the Cities in order to purchase more economy energy for itself. McCann testimony at 28. If Edison could make the purchase, it would curtail the City and use the energy for itself. *Id.* When Edison curtailed the Cities, they were not able to purchase economy energy and instead purchased energy from Edison. *Id.* at 24.

17. According to Edison, the interruptible transmission if provided the Cities was interruptible for any reason. *Id.* at 20. A purchase could be terminated the hour after it is begun or even during the hour. *Id.* As a result, the Cities lost opportunities to make advantageous economy purchases. *Id.* at 20–21.

18. Edison also refused to provide customers flexibility similar to the flexibility Edison provided itself. Edison's refusal to provide bi-directional transmission service restricted the Cities' abilities to purchase hydroelectric energy from the Pacific Northwest. Hoyt testimony at 22. Because most contracts with Northwest utilities require a return of power, the Northwest utilities would not deal with the Cities without transmission to return energy. *Id.* at 22–23. Edison did provide bi-directional transmission to the Los Angeles Department of Water & Power (LADWP) to accommodate flows to and from Arizona. *Id.*

19. Riverside was unable to obtain non-firm service more than two hours in advance of need. Carnahan testimony at 18.

20. Riverside and Colton were both served out of Edison's Vista substation. Although the two cities were on the same 69 kV bus, Edison would not allow them to sell energy to each other. Greenwalt testimony at 17.

21. Riverside's agreement with Edison allowed Riverside to purchase a block of energy through the WSPP and divide it up among the four Cities (Azusa, Banning, Colton and Riverside). Greenwalt testimony at 17. When Riverside had excess energy from other sources, Edison would not permit it to sell that energy to the other three cities. *Id.* For example, Riverside attempted to sell Deseret energy transmitted by LADWP to the Edison system. *Id.* at 17–18. LADWP would not break out the Cities' shares of that energy, and Edison would not accept the energy as a delivery for all four cities. *Id.* at 18. Edison argued that because this energy was excess energy that Riverside could not use, Riverside did not have transmission rights to bring it into the control area. *Id.* As a result, Riverside paid for the energy delivered by LADWP to the Edison control area, but could not sell it to the other three cities, and gave it to Edison itself, which consumed the energy without making any payment for it. *Id.* Riverside tried a number of alternative paths, including using WSPP transmission where Riverside paid Edison 5 mills to connect to Azusa, 5 mills to connect to Banning, and 5 mills to connect to Colton for each megawatthour. While this approach was successful for a while, eventually Edison refused to permit these sales.

22. Edison claimed that the Cities only have transmission rights to bring in enough Special Condition 12 energy to satisfy the Cities' load. Greenwalt testimony at 18.

23. Edison contended that the Cities' load requirements were satisfied first by integrated resources and then by Special Condition 12 and economy energy purchases. *Id.* at 19. When the Cities' integrated resources exceeded their load, any Special Condition 12 resources became excess. Under Riverside's Deseret contract, the Cities were required to take a minimum of 35 MW each hour. *Id.* Edison acknowledged that it was obligated to buy, or allow the Cities to sell, any excess energy from Riverside's integrated resources. *Id.* However, Edison refused to give the Cities credit for excess Special Condition 12 energy brought into the area, claiming that the Cities could not have brought it in because they did not have transmission rights. *Id.*

II. Other Examples of Transmission Disputes

Disputes over transmission are not uncommon, contrary to EEI's suggestion. Some recent examples taken from pleadings and other documents and from Commission orders reveal that it has been very difficult for various entities in the electric power industry to agree on transmission rights. These examples also reveal that even after issuance of *AEP* and the Open Access NOPR with its proposed *pro forma* tariffs, there has been considerable controversy over whether various utilities' "open access" tariffs deviate from those tariffs. (The Commission has allowed utilities that adopt tariffs that match or exceed the non-rate terms and conditions in the NOPR *pro forma* tariffs to obtain certain benefits.)

A. In a letter of February 3, 1995 to Mr. Gerald Richman of the Commission's Enforcement section in the Office of the General Counsel, Steven J. Kean, Vice President, Regulatory Affairs, Enron Power Marketing, Inc. (Enron) alleged that Niagara Mohawk Power Corporation (NiMo) refused to wheel power from Rochester Gas & Electric (RG&E) to Enron under RG&E's transmission contract with NiMo; however, when Enron revealed the buyer, NiMo did wheel power for RG&E to the buyer. Mr. Kean alleged that this was not an isolated incident. NiMo argued that the contract did not require it to

[3] All of these incidents are related to and examples of PG&E's conduct described in the NOPR (FERC Stats. & Regs. ¶ 32,514 at 33,073 n.151), that is, the history of PG&E's attempt to avoid its commitments made to the California owners of the California Oregon Transmission Project (COTP). However, these incidents are not exactly the same as the incidents described in the NOPR, because NCPA is not one of the owners of the COTP.

[4] Special Condition 12 of the Integrated Operations Agreement between Edison and the Southern Cities defined certain Special Condition 12 resources and allowed the Cities to make certain uses of those resources, subject to certain restrictions.

provide RG&E with transmission to Enron. It also said that the principle of comparability does not require the service. Letter of November 21, 1994 from NiMo representative A. Karen Hill to Gerald Richman.

B. The Commission's Task Force Hot Line (Hot Line) received a complaint that a member of the New York Power Pool (NYPP) refused to transmit power that another member bought from a power marketer. In a letter of November 17, 1994, from Chair Moler to Mr. William J. Balet, Executive Director of NYPP, Chair Moler explained that the Commission's enforcement staff had investigated and found the allegation to be true.

C. In *Southern Minnesota Municipal Power Agency* v. *Northern States Power Company (Minnesota)*, 73 FERC ¶61,350 (1995), NSP and SMMPA had a contract under which NSP agreed to provide transmission service. However, the parties had numerous disputes over the service. The Commission found that NSP had misinterpreted the contract in several ways. For, example, SMMPA argued that it should be able to directly schedule its deliveries of energy out of the NSP control area and that it should not be limited to particular points of delivery. NSP argued that only it was entitled to control the physical operation of scheduling. The Commission found that the clear language of the contracts gave SMMPA the authority to schedule its own power.

D. *Mid-Continent Area Power Pool*, 72 FERC ¶61,223 (1995), involved MAPP's membership criteria, which made it impossible for a power marketer to join MAPP and obtain the benefits of certain transmission services available only to MAPP members. The Commission found that the membership criteria may be unreasonable, particularly since there may be less burdensome ways of setting up membership criteria for non-traditional entities.

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I. Common Service Provisions

1. Definitions

1.1 Ancillary Services: Those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the Transmission Provider's Transmission System in accordance with Good Utility Practice.

1.2 Annual Transmission Costs: The total annual cost of the Transmission System for purposes of Network Integration Transmission Service shall be the amount specified in Attachment H until amended by the Transmission Provider or modified by the Commission.

1.3 Application: A request by an Eligible Customer for transmission service pursuant to the provisions of the Tariff.

1.4 Commission: The Federal Energy Regulatory Commission.

1.5 Completed Application: An Application that satisfies all of the information and other requirements of the Tariff, including any required deposit.

1.6 Control Area: An electric power system or combination of electric power systems to which a common automatic generation control scheme is applied in order to:

(1) Match, at all times, the power output of the generators within the electric power system(s) and capacity and energy purchased from entities outside the electric power system(s), with the load within the electric power system(s);

(2) maintain scheduled interchange with other Control Areas, within the limits of Good Utility Practice;

(3) maintain the frequency of the electric power system(s) within reasonable limits in accordance with Good Utility Practice; and

(4) provide sufficient generating capacity to maintain operating reserves in accordance with Good Utility Practice.

1.7 Curtailment: A reduction in firm or non-firm transmission service in response to a transmission capacity shortage as a result of system reliability conditions.

1.8 Delivering Party: The entity supplying capacity and energy to be transmitted at Point(s) of Receipt.

1.9 Designated Agent: Any entity that performs actions or functions on behalf of the Transmission Provider, an Eligible Customer, or the Transmission Customer required under the Tariff.

1.10 Direct Assignment Facilities: Facilities or portions of facilities that are constructed by the Transmission Provider for the sole use/benefit of a particular Transmission Customer requesting service under the Tariff. Direct Assignment Facilities shall be specified in the Service Agreement that governs service to the Transmission Customer and shall be subject to Commission approval.

1.11 Eligible Customer: (i) Any electric utility (including the Transmission Provider and any power marketer), Federal power marketing agency, or any person generating electric energy for sale for resale; electric energy sold or produced by such entity may be electric energy produced in the United States, Canada or Mexico; however, such entity is not eligible for transmission service that would be prohibited by Section 212(h)(2) of the Federal Power Act; and (ii) any retail customer taking unbundled Transmission Service pursuant to a state retail access program or pursuant to a voluntary offer of unbundled retail transmission service by the Transmission Provider.

1.12 Facilities Study: An engineering study conducted by the Transmission Provider to determine the required modifications to the Transmission Provider's Transmission System, including the cost and scheduled completion date for such modifications, that will be required to provide the requested transmission service.

1.13 Firm Point-To-Point Transmission Service: Transmission Service under this Tariff that is reserved and/or scheduled between specified Points of Receipt and Delivery pursuant to Part II of this Tariff.

1.14 Good Utility Practice: Any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

1.15 Interruption: A reduction in non-firm transmission service due to economic reasons pursuant to Section 14.7.

1.16 Load Ratio Share: Ratio of a Transmission Customer's Network Load to the Transmission Provider's total load computed in accordance with Sections 34.2 and 34.3 of the Network Integration Transmission Service under Part III the Tariff and calculated on a rolling twelve month basis.

1.17 Load Shedding: The systematic reduction of system demand by temporarily decreasing load in response to transmission system or area capacity shortages, system instability, or voltage control considerations under Part III of the Tariff.

1.18 Long-Term Firm Point-To-Point Transmission Service: Firm Point-To-Point Transmission Service under Part II of the Tariff with a term of one year or more.

1.19 Native Load Customers: The wholesale and retail power customers of the Transmission Provider on whose behalf the Transmission Provider, by statute, franchise, regulatory requirement, or contract, has undertaken an obligation to construct and operate the Transmission Provider's system to meet the reliable electric needs of such customers.

1.20 Network Customer: An entity receiving transmission service pursuant to the terms of the Transmission Provider's Network Integration Transmission Service under Part III of the Tariff.

1.21 Network Integration Transmission Service: The transmission service provided under Part III of the Tariff.

1.22 Network Load: The load that a Network Customer designates for Network Integration Transmission Service under Part III of the Tariff. The Network Customer's Network Load shall include all load served by the output of any Network Resources designated by the Network Customer. A Network Customer may elect to designate less than its total load as Network Load but may not designate only part of the load at a discrete Point of Delivery. Where an Eligible Customer has elected not to designate a particular load at discrete points of delivery as Network Load, the Eligible Customer is responsible for making separate arrangements under Part II of the Tariff for any Point-To-Point Transmission Service that may be necessary for such non-designated load.

1.23 Network Operating Agreement: An executed agreement that contains the terms and conditions under which the Network Customer shall operate its facilities and the technical and operational matters associated with the implementation of Network Integration Transmission Service under Part III of the Tariff.

1.24 Network Operating Committee: A group made up of representatives from the Network Customer(s) and the Transmission Provider established to coordinate operating criteria and other technical considerations required for implementation of Network Integration Transmission Service under Part III of this Tariff.

1.25 Network Resource: Any designated generating resource owned or purchased by a Network Customer under the Network Integration Transmission Service Tariff. Network Resources do not include any resource, or any portion thereof, that is committed for sale to third parties or otherwise cannot be called upon to meet the Network Customer's Network Load on a non-interruptible basis.

1.26 Network Upgrades: Modifications or additions to transmission-related facilities that are integrated with and support the Transmission Provider's overall Transmission System for the general benefit of all users of such Transmission System.

1.27 Non-Firm Point-To-Point Transmission Service: Point-To-Point Transmission Service under the Tariff that is reserved and scheduled on an as-available basis and is subject to Curtailment or Interruption as set forth in Section 14.7 under Part II of this Tariff. Non-Firm Point-To-Point Transmission Service is available on a stand-alone basis for periods ranging from one hour to one month.

1.28 Open Access Same-Time Information System (OASIS): The information system and standards of conduct contained in Part 37 of the Commission's regulations.

1.29 Part I: Tariff Definitions and Common Service Provisions contained in Sections 2 through 12.

1.30 Part II: Tariff Sections 13 through 27 pertaining to Point-To-Point Transmission Service in conjunction with the applicable Common Service Provisions of Part I and appropriate Schedules and Attachments.

1.31 Part III: Tariff Sections 28 through 35 pertaining to Network Integration Transmission Service in conjunction with the applicable Common Service Provisions of Part I and appropriate Schedules and Attachments.

1.32 Parties: The Transmission Provider and the Transmission Customer receiving service under the Tariff.

1.33 Point(s) of Delivery: Point(s) on the Transmission Provider's Transmission System where capacity and energy transmitted by the Transmission Provider will be made available to the Receiving Party under Part II of the Tariff. The Point(s) of Delivery shall be specified in the Service Agreement.

1.34 Point(s) of Receipt: Point(s) of interconnection on the Transmission Provider's Transmission System where capacity and energy will be made available to the Transmission Provider by the Delivering Party under Part II of the Tariff. The Point(s) of Receipt shall be specified in the Service Agreement.

1.35 Point-To-Point Transmission Service: The reservation and transmission of capacity and energy on either a firm or non-firm basis from the Point(s) of Receipt to the Point(s) of Delivery under Part II of the Tariff.

1.36 Power Purchaser: The entity that is purchasing the capacity and energy to be transmitted under the Tariff.

1.37 Receiving Party: The entity receiving the capacity and energy transmitted by the Transmission Provider to Point(s) of Delivery.

1.38 Regional Transmission Group (RTG): A voluntary organization of transmission owners, transmission users and other entities approved by the Commission to efficiently

coordinate transmission planning (and expansion), operation and use on a regional (and interregional) basis.

1.39 Reserved Capacity: The maximum amount of capacity and energy that the Transmission Provider agrees to transmit for the Transmission Customer over the Transmission Provider's Transmission System between the Point(s) of Receipt and the Point(s) of Delivery under Part II of the Tariff. Reserved Capacity shall be expressed in terms of whole megawatts on a sixty (60) minute interval (commencing on the clock hour) basis.

1.40 Service Agreement: The initial agreement and any amendments or supplements thereto entered into by the Transmission Customer and the Transmission Provider for service under the Tariff.

1.41 Service Commencement Date: The date the Transmission Provider begins to provide service pursuant to the terms of an executed Service Agreement, or the date the Transmission Provider begins to provide service in accordance with Section 15.3 or Section 29.1 under the Tariff.

1.42 Short-Term Firm Point-To-Point Transmission Service: Firm Point-To-Point Transmission Service under Part II of the Tariff with a term of less than one year.

1.43 System Impact Study: An assessment by the Transmission Provider of (i) the adequacy of the Transmission System to accommodate a request for either Firm Point-To-Point Transmission Service or Network Integration Transmission Service and (ii) whether any additional costs may be incurred in order to provide transmission service.

1.44 Third-Party Sale: Any sale for resale in interstate commerce to a Power Purchaser that is not designated as part of Network Load under the Network Integration Transmission Service.

1.45 Transmission Customer: Any Eligible Customer (or its Designated Agent) that (i) executes a Service Agreement, or (ii) requests in writing that the Transmission Provider file with the Commission, a proposed unexecuted Service Agreement to receive transmission service under Part II of the Tariff. This term is used in the Part I Common Service Provisions to include customers receiving transmission service under Part II and Part III of this Tariff.

1.46 Transmission Provider: The public utility (or its Designated Agent) that owns, controls, or operates facilities used for the transmission of electric energy in interstate commerce and provides transmission service under the Tariff.

1.47 Transmission Provider's Monthly Transmission System Peak: The maximum firm usage of the Transmission Provider's Transmission System in a calendar month.

1.48 Transmission Service: Point-To-Point Transmission Service provided under Part II of the Tariff on a firm and non-firm basis.

1.49 Transmission System: The facilities owned, controlled or operated by the Transmission Provider that are used to provide transmission service under Part II and Part III of the Tariff.

2 Initial Allocation and Renewal Procedures

2.1 Initial Allocation of Available Transmission Capability: For purposes of determining whether existing capability on the Transmission Provider's Transmission System is adequate to accommodate a request for firm service under this Tariff, all Completed Applications for new firm transmission service received during the initial sixty (60) day period commencing with the effective date of the Tariff will be deemed to have been filed simultaneously. A lottery system conducted by an independent party shall be used to assign priorities for Completed Applications filed simultaneously. All Completed Applications for firm transmission service received after the initial sixty (60) day period shall be assigned a priority pursuant to Section 13.2.

2.2 Reservation Priority For Existing Firm Service Customers: Existing firm service customers (wholesale requirements and transmission-only, with a contract term of one-year or more), have the right to continue to take transmission service from the Transmission Provider when the contract expires, rolls over or is renewed. This transmission reservation priority is independent of whether the existing customer continues to purchase capacity and energy from the Transmission Provider or elects to purchase capacity and energy from another supplier. If at the end of the contract term, the Transmission Provider's Transmission System cannot accommodate all of the requests for transmission service the existing firm service customer must agree to accept a contract term at least equal to a competing request by any new Eligible Customer and to pay the current just and reasonable rate, as approved by the Commission, for such service. This transmission reservation priority for existing firm service customers is an ongoing right that may be exercised at the end of all firm contract terms of one-year or longer.

3 Ancillary Services

Ancillary Services are needed with transmission service to maintain reliability within and among the Control Areas affected by the transmission service. The Transmission Provider is required to provide (or offer to arrange with the local Control Area operator as discussed below), and the Transmission Customer is required to purchase, the following Ancillary Services (i) Scheduling, System Control and Dispatch, and (ii) Reactive Supply and Voltage Control from Generation Sources.

The Transmission Provider is required to offer to provide (or offer to arrange with the local Control Area operator as discussed below) the following Ancillary Services only to the Transmission Customer serving load within the Transmission Provider's Control Area (i) Regulation and Frequency Response, (ii) Energy Imbalance, (iii) Operating Reserve—Spinning, and (iv) Operating Reserve—Supplemental. The Transmission Customer serving load within the Transmission Provider's Control Area is required to acquire these Ancillary Services, whether from the Transmission Provider, from a third party, or by self-supply. The Transmission Customer may not decline the Transmission Provider's offer of Ancillary Services unless it demonstrates that it has acquired the Ancillary Services from another source. The Transmission Customer must list in its Application which Ancillary Services it will purchase from the Transmission Provider.

If the Transmission Provider is a public utility providing transmission service but is not a Control Area operator, it may be unable to provide some or all of the Ancillary Services. In this case, the Transmission Provider can fulfill its obligation to provide Ancillary Services by acting as the Transmission Customer's agent to secure these Ancillary Services from the Control Area operator. The Transmission Customer may elect to (i) have the Transmission Provider act as its agent, (ii) secure the Ancillary Services directly from the Control Area operator, or (iii) secure the Ancillary Services (discussed in Schedules 3, 4, 5 and 6) from a third party or by self-supply when technically feasible.

The Transmission Provider shall specify the rate treatment and all related terms and conditions in the event of an unauthorized use of Ancillary Services by the Transmission Customer.

The specific Ancillary Services, prices and/or compensation methods are described on the Schedules that are attached to and made a part of the Tariff. If the Transmission Provider offers an affiliate a rate discount, or attributes a discounted Ancillary Service rate to its own transactions, the Transmission Provider must offer at the same time the same discounted Ancillary Service rate to all Eligible Customers. Information regarding any discounted Ancillary Service rates must be posted on the OASIS pursuant to Part 37 of the Commission's regulations. In addition, discounts to non-affiliates must be offered in a not unduly discriminatory manner. Sections 3.1 through 3.6 below list the six Ancillary Services.

3.1 Scheduling, System Control and Dispatch Service: The rates and/or methodology are described in Schedule 1.

3.2 Reactive Supply and Voltage Control from Generation Sources Service: The rates and/or methodology are described in Schedule 2.

3.3 Regulation and Frequency Response Service: Where applicable the rates and/or methodology are described in Schedule 3.

3.4 Energy Imbalance Service: Where applicable the rates and/or methodology are described in Schedule 4.

3.5 Operating Reserve—Spinning Reserve Service: Where applicable the rates and/or methodology are described in Schedule 5.

3.6 Operating Reserve—Supplemental Reserve Service: Where applicable the rates and/or methodology are described in Schedule 6.

4 Open Access Same-Time Information System (OASIS)

Terms and conditions regarding Open Access Same-Time Information System and standards of conduct are set forth in 18 CFR part 37 of the Commission's regulations (Open Access Same-Time Information System and Standards of Conduct for Public

Utilities). In the event available transmission capability as posted on the OASIS is insufficient to accommodate a request for firm transmission service, additional studies may be required as provided by this Tariff pursuant to Sections 19 and 32.

5 Local Furnishing Bonds

5.1 Transmission Providers That Own Facilities Financed by Local Furnishing Bonds: This provision is applicable only to Transmission Providers that have financed facilities for the local furnishing of electric energy with tax-exempt bonds, as described in Section 142(f) of the Internal Revenue Code ("local furnishing bonds"). Notwithstanding any other provision of this Tariff, the Transmission Provider shall not be required to provide Transmission Service to any Eligible Customer pursuant to this Tariff if the provision of such Transmission Service would jeopardize the tax-exempt status of any local furnishing bond(s) used to finance the Transmission Provider's facilities that would be used in providing such Transmission Service.

5.2 Alternative Procedures for Requesting Transmission Service:

(i) If the Transmission Provider determines that the provision of transmission service requested by an Eligible Customer would jeopardize the tax-exempt status of any local furnishing bond(s) used to finance its facilities that would be used in providing such transmission service, it shall advise the Eligible Customer within thirty (30) days of receipt of the Completed Application.

(ii) If the Eligible Customer thereafter renews its request for the same transmission service referred to in (i) by tendering an application under Section 211 of the Federal Power Act, the Transmission Provider, within ten (10) days of receiving a copy of the Section 211 application, will waive its rights to a request for service under Section 213(a) of the Federal Power Act and to the issuance of a proposed order under Section 212(c) of the Federal Power Act and shall provide the requested transmission service in accordance with the terms and conditions of this Tariff.

6 Reciprocity

A Transmission Customer receiving transmission service under this Tariff agrees to provide comparable transmission service to the Transmission Provider on similar terms and conditions over facilities used for the transmission of electric energy in interstate commerce owned, controlled or operated by the Transmission Customer and over facilities used for the transmission of electric energy in interstate commerce owned, controlled or operated by the Transmission Customer's corporate affiliates. A Transmission Customer that is a member of a power pool or Regional Transmission Group also agrees to provide comparable transmission service to the members of such power pool and Regional Transmission Group on similar terms and conditions over facilities used for the transmission of electric energy in interstate commerce owned, controlled or operated by the Transmission Customer's corporate affiliates. This reciprocity requirement also applies to any Eligible Customer that owns, controls or operates transmission facilities that uses an intermediary, such as a power marketer, to request transmission service under the Tariff. If the Transmission Customer does not own, control or operate transmission facilities, it must include in its Application a sworn statement of one of its duly authorized officers or other representatives that the purpose of its Application is not to assist an Eligible Customer to avoid the requirements of this provision.

7 Billing and Payment

7.1 Billing Procedure: Within a reasonable time after the first day of each month, the Transmission Provider shall submit an invoice to the Transmission Customer for the charges for all services furnished under the Tariff during the preceding month. The invoice shall be paid by the Transmission Customer within twenty (20) days of receipt. All payments shall be made in immediately available funds payable to the Transmission Provider, or by wire transfer to a bank named by the Transmission Provider.

7.2 Interest on Unpaid Balances: Interest on any unpaid amounts (including amounts placed in escrow) shall be calculated in accordance with the methodology specified for interest on refunds in the Commission's regulations at 18 CFR 35.19a(a)(2)(iii). Interest on delinquent amounts shall be calculated from the due date of the bill to the date of payment. When payments are made by mail, bills shall be considered as having been paid on the date of receipt by the Transmission Provider.

7.3 Customer Default: In the event the Transmission Customer fails, for any reason other than a billing dispute as described below, to make payment to the Transmission Provider on or before the due date as described above, and such failure of payment is not corrected within thirty (30) calendar days after the Transmission Provider notifies the Transmission Customer to cure such failure, a default by the Transmission Customer shall be deemed to exist. Upon the occurrence of a default, the Transmission Provider may initiate a proceeding with the Commission to terminate service but shall not terminate service until the Commission so approves any such request. In the event of a billing dispute between the Transmission Provider and the Transmission Customer, the Transmission Provider will continue to provide service under the Service Agreement as long as the Transmission Customer (i) continues to make all payments not in dispute, and (ii) pays into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If the Transmission Customer fails to meet these two requirements for continuation of service, then the Transmission Provider may provide notice to the Transmission Customer of its intention to suspend service in sixty (60) days, in accordance with Commission policy.

8 Accounting for the Transmission Provider's Use of the Tariff

The Transmission Provider shall record the following amounts, as outlined below.

8.1 Transmission Revenues: Include in a separate operating revenue account or subaccount the revenues it receives from Transmission Service when making Third-Party Sales under Part II of the Tariff.

8.2 Study Costs and Revenues: Include in a separate transmission operating expense account or subaccount, costs properly chargeable to expense that are incurred to perform any System Impact Studies or Facilities Studies which the Transmission Provider conducts to determine if it must construct new transmission facilities or upgrades necessary for its own uses, including making Third-Party Sales under the Tariff; and include in a separate operating revenue account or subaccount the revenues received for System Impact Studies or Facilities Studies performed when such amounts are separately stated and identified in the Transmission Customer's billing under the Tariff.

9 Regulatory Filings

Nothing contained in the Tariff or any Service Agreement shall be construed as affecting in any way the right of the Transmission Provider to unilaterally make application to the Commission for a change in rates, terms and conditions, charges, classification of service, Service Agreement, rule or regulation under Section 205 of the Federal Power Act and pursuant to the Commission's rules and regulations promulgated thereunder.

Nothing contained in the Tariff or any Service Agreement shall be construed as affecting in any way the ability of any Party receiving service under the Tariff to exercise its rights under the Federal Power Act and pursuant to the Commission's rules and regulations promulgated thereunder.

10 Force Majeure and Indemnification

10.1 Force Majeure: An event of Force Majeure means any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any Curtailment, order, regulation or restriction imposed by governmental military or lawfully established civilian authorities, or any other cause beyond a Party's control. Neither the Transmission Provider nor the Transmission Customer will be considered in default as to any obligation under this Tariff if prevented from fulfilling the obligation due to an event of Force Majeure. However, a Party whose performance under this Tariff is hindered by an event of Force Majeure shall make all reasonable efforts to perform its obligations under this Tariff.

10.2 Indemnification: The Transmission Customer shall at all times indemnify, defend, and save the Transmission Provider harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties,

arising out of or resulting from the Transmission Provider's performance of its obligations under this Tariff on behalf of the Transmission Customer, except in cases of negligence or intentional wrongdoing by the Transmission Provider.

11 Creditworthiness

For the purpose of determining the ability of the Transmission Customer to meet its obligations related to service hereunder, the Transmission Provider may require reasonable credit review procedures. This review shall be made in accordance with standard commercial practices. In addition, the Transmission Provider may require the Transmission Customer to provide and maintain in effect during the term of the Service Agreement, an unconditional and irrevocable letter of credit as security to meet its responsibilities and obligations under the Tariff, or an alternative form of security proposed by the Transmission Customer and acceptable to the Transmission Provider and consistent with commercial practices established by the Uniform Commercial Code that protects the Transmission Provider against the risk of non-payment.

12 Dispute Resolution Procedures

12.1 Internal Dispute Resolution Procedures: Any dispute between a Transmission Customer and the Transmission Provider involving Transmission Service under the Tariff (excluding applications for rate changes or other changes to the Tariff, or to any Service Agreement entered into under the Tariff, which shall be presented directly to the Commission for resolution) shall be referred to a designated senior representative of the Transmission Provider and a senior representative of the Transmission Customer for resolution on an informal basis as promptly as practicable. In the event the designated representatives are unable to resolve the dispute within thirty (30) days [or such other period as the Parties may agree upon] by mutual agreement, such dispute may be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below.

12.2 External Arbitration Procedures: Any arbitration initiated under the Tariff shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) days of the referral of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall generally conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association and any applicable Commission regulations or Regional Transmission Group rules.

12.3 Arbitration Decisions: Unless otherwise agreed, the arbitrator(s) shall render a decision within ninety (90) days of appointment and shall notify the Parties in writing of such decision and the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply the provisions of the Tariff and any Service Agreement entered into under the Tariff and shall have no power to modify or change any of the above in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act and/or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with the Commission if it affects jurisdictional rates, terms and conditions of service or facilities.

12.4 Costs: Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable:

(A) The cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or

(B) One half the cost of the single arbitrator jointly chosen by the Parties.

12.5 Rights Under the Federal Power Act: Nothing in this section shall restrict the rights of any party to file a Complaint with the Commission under relevant provisions of the Federal Power Act.

II. Point-To-Point Transmission Service

Preamble

The Transmission Provider will provide Firm and Non-Firm Point-To-Point Transmission Service pursuant to the applicable terms and conditions of this Tariff. Point-To-Point Transmission Service is for the receipt of capacity and energy at designated Point(s) of Receipt and the transmission of such capacity and energy to designated Point(s) of Delivery.

13 Nature of Firm Point-To-Point Transmission Service

13.1 Term: The minimum term of Firm Point-To-Point Transmission Service shall be one day and the maximum term shall be specified in the Service Agreement.

13.2 Reservation Priority: Long-Term Firm Point-To-Point Transmission Service shall be available on a first-come, first-served basis *i.e.*, in the chronological sequence in which each Transmission Customer has reserved service. Reservations for Short-Term Firm Point-To-Point Transmission Service will be conditional based upon the length of the requested transaction. If the Transmission System becomes oversubscribed, requests for longer term service may preempt requests for shorter term service up to the following deadlines: one day before the commencement of daily service, one week before the commencement of weekly service, and one month before the commencement of monthly service. Before the deadline, if available transmission capability is insufficient to satisfy all Applications, an Eligible Customer with a reservation for shorter term service has the right of first refusal to match any longer term reservation before losing its reservation priority. After the deadline, service will commence pursuant to the terms of Part II of the Tariff. Firm Point-To-Point Transmission Service will always have a reservation priority over Non-Firm Point-To-Point Transmission Service under the Tariff. All Long-Term Firm Point-To-Point Transmission Service will have equal reservation priority with Native Load Customers and Network Customers. Reservation priorities for existing firm service customers are provided in Section 2.2.

13.3 Use of Firm Transmission Service by the Transmission Provider: The Transmission Provider will be subject to the rates, terms and conditions of Part II of the Tariff when making Third-Party Sales under (i) agreements executed on or after July 9, 1996, or (ii) agreements executed prior to the aforementioned date that the Commission requires to be unbundled, by the date specified by the Commission. The Transmission Provider will maintain separate accounting, pursuant to Section 8, for any use of the Point-To-Point Transmission Service to make Third-Party Sales.

13.4 Service Agreements: The Transmission Provider shall offer a standard form Firm Point-To-Point Transmission Service Agreement (Attachment A) to an Eligible Customer when it submits a Completed Application for Firm Point-To-Point Transmission Service. Executed Service Agreements that contain the information required under the Tariff shall be filed with the Commission in compliance with applicable Commission regulations.

13.5 Transmission Customer Obligations for Facility Additions or Redispatch Costs: In cases where the Transmission Provider determines that the Transmission System is not capable of providing Firm Point-To-Point Transmission Service without (1) degrading or impairing the reliability of service to Native Load Customers, Network Customers and other Transmission Customers taking Firm Point-To-Point Transmission Service, or (2) interfering with the Transmission Provider's ability to meet prior firm contractual commitments to others, the Transmission Provider will be obligated to expand or upgrade its Transmission System pursuant to the terms of Section 15.4. The Transmission Customer must agree to compensate the Transmission Provider for any necessary transmission facility additions pursuant to the terms of Section 27. To the extent the Transmission Provider can relieve any system constraint more economically by redispatching the Transmission Provider's resources than through constructing Network Upgrades, it shall do so, provided that the Eligible Customer agrees to compensate the Transmission Provider pursuant to the terms of Section 27. Any redispatch, Network Upgrade or Direct Assignment Facilities costs to be charged to the Transmission Customer under the Tariff will be specified in the Service Agreement prior to initiating service.

13.6 Curtailment of Firm Transmission Service: In the event that a Curtailment on the Transmission Provider's Transmission System, or a portion thereof, is required to maintain reliable operation of such system, Curtailments will be made on a non-discriminatory basis to the transaction(s) that effectively relieve the constraint. If multiple transactions require Curtailment, to the extent practicable and consistent with Good Utility Practice, Curtailments will be proportionally allocated among the Transmission Provider's Native Load Customers, Network Customers, and Transmission Customers taking Firm Point-To-Point Transmission Service. All Curtailments will be made on a non-discriminatory basis, however, Non-Firm Point-To-Point Transmission Service shall be subordinate to Firm Transmission Service. When the Transmission Provider determines that an electrical emergency exists on its Transmission System and implements emergency procedures to Curtail Firm Transmission Service, the Transmission Customer shall make the required reductions upon request of the Transmission Provider. However, the Transmission Provider reserves the right to Curtail, in whole or in part, any Firm Transmission Service provided under the Tariff when, in the Transmission Provider's sole discretion, an emergency or other unforeseen condition impairs or degrades the reliability of its Transmission System. The Transmission Provider will notify all affected Transmission Customers in a timely manner of any scheduled Curtailments.

13.7 Classification of Firm Transmission Service:

(a) The Transmission Customer taking Firm Point-To-Point Transmission Service may (1) change its Receipt and Delivery Points to obtain service on a non-firm basis consistent with the terms of Section 22.1 or (2) request a modification of the Points of Receipt or Delivery on a firm basis pursuant to the terms of Section 22.2.

(b) The Transmission Customer may purchase transmission service to make sales of capacity and energy from multiple generating units that are on the Transmission Provider's Transmission System. For such a purchase of transmission service, the resources will be designated as multiple Points of Receipt, unless the multiple generating units are at the same generating plant in which case the units would be treated as a single Point of Receipt.

(c) The Transmission Provider shall provide firm deliveries of capacity and energy from the Point(s) of Receipt to the Point(s) of Delivery. Each Point of Receipt at which firm transmission capacity is reserved by the Transmission Customer shall be set forth in the Firm Point-To-Point Service Agreement along with a corresponding capacity reservation associated with each Point of Receipt. Each Point of Delivery at which firm transmission capacity is reserved by the Transmission Customer shall be set forth in the Firm Point-To-Point Service Agreement along with a corresponding capacity reservation associated with each Point of Delivery. The greater of either (1) the sum of the capacity reservations at the Point(s) of Receipt, or (2) the sum of the capacity reservations at the Point(s) of Delivery shall be the Transmission Customer's Reserved Capacity. The Transmission Customer will be billed for its Reserved Capacity under the terms of Schedule 7. The Transmission Customer may not exceed its firm capacity reserved at each Point of Receipt and each Point of Delivery except as otherwise specified in Section 22. The Transmission Provider shall specify the rate treatment and all related terms and conditions applicable in the event that a Transmission Customer (including Third-Party Sales by the Transmission Provider) exceeds its firm reserved capacity at any Point of Receipt or Point of Delivery.

13.8 Scheduling of Firm Point-To-Point Transmission Service: Schedules for the Transmission Customer's Firm Point-To-Point Transmission Service must be submitted to the Transmission Provider no later than *10:00 a.m.* [or a reasonable time that is generally accepted in the region and is consistently adhered to by the Transmission Provider] of the day prior to commencement of such service. Schedules submitted after 10:00 a.m. will be accommodated, if practicable. Hour-to-hour schedules of any capacity and energy that is to be delivered must be stated in increments of 1,000 kW per hour (or a reasonable increment that is generally accepted in the region and is consistently adhered to by the Transmission Provider). Transmission Customers within the Transmission Provider's service area with multiple requests for Transmission Service at a Point of Receipt, each of which is under 1,000 kW per hour, may consolidate their service requests at a common point of receipt into units of 1,000 kW per hour for scheduling and billing purposes. Scheduling changes will be permitted up to *twenty (20) minutes* (or a reasonable time that is generally accepted in the region and is consistently adhered to by the Transmission Provider) before the start of the next clock hour provided that the Delivering Party and Receiving Party also agree to the schedule modification. The Transmission Provider will furnish to the Delivering Party's system operator, hour-to-hour schedules equal to those furnished by the Receiving Party (unless reduced for losses) and shall deliver the capacity and energy provided by such schedules. Should the Transmission Customer, Delivering Party or Receiving Party revise or terminate any schedule, such party shall immediately notify the Transmission Provider, and the Transmission Provider shall have the right to adjust accordingly the schedule for capacity and energy to be received and to be delivered.

14 Nature of Non-Firm Point-To-Point Transmission Service

14.1 Term: Non-Firm Point-To-Point Transmission Service will be available for periods ranging from one (1) hour to one (1) month. However, a Purchaser of Non-Firm Point-To-Point Transmission Service will be entitled to reserve a sequential term of service (such as a sequential monthly term without having to wait for the initial term to expire before requesting another monthly term) so that the total time period for which the reservation applies is greater than one month, subject to the requirements of Section 18.3.

14.2 Reservation Priority: Non-Firm Point-To-Point Transmission Service shall be available from transmission capability in excess of that needed for reliable service to Native Load Customers, Network Customers and other Transmission Customers taking Long-Term and Short-Term Firm Point-To-Point Transmission Service. A higher priority will be assigned to reservations with a longer duration of service. In the event the Transmission System is constrained, competing requests of equal duration will be prioritized based on the highest price offered by the Eligible Customer for the Transmission Service. Eligible Customers that have already reserved shorter term service have the right of first refusal to match any longer term reservation before being preempted. Transmission service for Network Customers from resources other than designated Network Resources will have a higher priority than any Non-Firm Point-To-Point Transmission Service. Non-Firm Point-To-Point Transmission Service over secondary Point(s) of Receipt and Point(s) of Delivery will have the lowest reservation priority under the Tariff.

14.3 Use of Non-Firm Point-To-Point Transmission Service by the Transmission Provider: The Transmission Provider will be subject to the rates, terms and conditions of Part II of the Tariff when making Third-Party Sales under (i) agreements executed on or after July 9, 1996 or (ii) agreements executed prior to the aforementioned date that the Commission requires to be unbundled, by the date specified by the Commission. The Transmission Provider will maintain separate accounting, pursuant to Section 8, for any use of Non-Firm Point-To-Point Transmission Service to make Third-Party Sales.

14.4 Service Agreements: The Transmission Provider shall offer a standard form Non-Firm Point-To-Point Transmission Service Agreement (Attachment B) to an Eligible Customer when it first submits a Completed Application for Non-Firm Point-To-Point Transmission Service pursuant to the Tariff. Executed Service Agreements that contain the information required under the Tariff shall be filed with the Commission in compliance with applicable Commission regulations.

14.5 Classification of Non-Firm Point-To-Point Transmission Service: Non-Firm Point-To-Point Transmission Service shall be offered under terms and conditions contained in Part II of the Tariff. The Transmission Provider undertakes no obligation under the Tariff to plan its Transmission System in order to have sufficient capacity for Non-Firm Point-To-Point Transmission Service. Parties requesting Non-Firm Point-To-Point Transmission Service for the transmission of firm power do so with the full realization that such service is subject to availability and to Curtailment or Interruption under the terms of the Tariff. The Transmission Provider shall specify the rate treatment and all related terms and conditions applicable in the event that a Transmission Customer (including Third-Party Sales by the Transmission Provider) exceeds its non-firm capacity reservation. Non-Firm Point-To-Point Transmission Service shall include transmission of energy on an hourly basis and transmission of scheduled short-term capacity and energy on a daily, weekly or monthly basis, but not to exceed one month's reservation for any one Application, under Schedule 8.

14.6 Scheduling of Non-Firm Point-To-Point Transmission Service: Schedules for Non-Firm Point-To-Point Transmission Service must be submitted to the Transmission Provider no later than *2:00 p.m.* [or a reasonable time that is generally accepted in the region and is consistently adhered to by the Transmission Provider] of the day prior to commencement of such service. Schedules submitted after 2:00 p.m. will be accommodated, if practicable. Hour-to-hour schedules of energy that is to be delivered must be stated in increments of 1,000 kW per hour [or a reasonable increment that is generally accepted in the region and is consistently adhered to by the Transmission Provider]. Transmission Customers within the Transmission Provider's service area with multiple requests for Transmission Service at a Point of Receipt, each of which is under 1,000 kW per hour, may consolidate their schedules at a common Point of Receipt into units of 1,000 kW per hour. Scheduling changes will be permitted up to *twenty (20) minutes* [or a reasonable time that is generally accepted in the region and is consistently adhered to by the Transmission Provider] before the start of the next clock hour provided that the Delivering Party and Receiving Party also agree to the schedule modification. The Transmission Provider will furnish to the Delivering Party's system operator, hour-to-hour schedules equal to those furnished by the Receiving Party (unless reduced for losses) and shall deliver the capacity and energy provided by such schedules. Should the Transmission Customer, Delivering Party or Receiving Party revise or terminate any schedule, such party shall immediately notify the Transmission Provider, and the Transmission Provider shall have the right to adjust accordingly the schedule for capacity and energy to be received and to be delivered.

14.7 Curtailment or Interruption of Service: The Transmission Provider reserves the right to Curtail, in whole or in part, Non-Firm Point-To-Point Transmission Service provided under the Tariff for reliability reasons when, an emergency or other unforeseen condition threatens to impair or degrade the reliability of its Transmission System. The Transmission Provider reserves the right to Interrupt, in whole or in part, Non-Firm Point-To-Point Transmission Service provided under the Tariff for economic reasons in order to accommodate (1) a request for Firm Transmission Service, (2) a request for Non-Firm Point-To-Point Transmission Service of greater duration, (3) a request for Non-Firm Point-To-Point Transmission Service of equal duration with a higher price, or (4) transmission service for Network Customers from non-designated resources. The Transmission Provider also will discontinue or reduce service to the Transmission Customer to the extent that deliveries for transmission are discontinued or reduced at the Point(s) of Receipt. Where required, Curtailments or Interruptions will be made on a non-discriminatory basis to the transaction(s) that effectively relieve the constraint, however, Non-Firm Point-To-Point Transmission Service shall be subordinate to Firm Transmission Service. If multiple transactions require Curtailment or Interruption, to the extent practicable and consistent with Good Utility Practice, Curtailments or Interruptions will be made to transactions of the shortest term (e.g., hourly non-firm transactions will be Curtailed or Interrupted before daily non-firm transactions and daily non-firm transactions will be Curtailed or Interrupted before weekly non-firm transactions). Transmission service for Network Customers from resources other than designated Network Resources will have a higher priority than any Non-Firm Point-To-Point Transmission Service under the Tariff. Non-Firm Point-To-Point Transmission Service over secondary Point(s) of Receipt and Point(s) of Delivery will have a lower priority than any Non-Firm Point-To-Point Transmission Service under the Tariff. The Transmission Provider will provide advance notice of Curtailment or Interruption where such notice can be provided consistent with Good Utility Practice.

15 Service Availability

15.1 General Conditions: The Transmission Provider will provide Firm and Non-Firm Point-To-Point Transmission Service over, on or across its Transmission System to any Transmission Customer that has met the requirements of Section 16.

15.2 Determination of Available Transmission Capability: A description of the Transmission Provider's specific methodology for assessing available transmission capability posted on the Transmission Provider's OASIS (Section 4) is contained in Attachment C of the Tariff. In the event sufficient transmission capability may not exist to accommodate a service request, the Transmission Provider will respond by performing a System Impact Study.

15.3 Initiating Service in the Absence of an Executed Service Agreement: If the Transmission Provider and the Transmission Customer requesting Firm or Non-Firm Point-To-Point Transmission Service cannot agree on all the terms and conditions of the Point-To-Point Service Agreement, the Transmission Provider shall file with the Commission, within thirty (30) days after the date the Transmission Customer provides written notification directing the Transmission Provider to file, an unexecuted Point-To-Point Service Agreement containing terms and conditions deemed appropriate by the Transmission Provider for such requested Transmission Service. The Transmission Provider shall commence providing Transmission Service subject to the Transmission Customer agreeing to (i) compensate the Transmission Provider at whatever rate the Commission ultimately determines to be just and reasonable, and (ii) comply with the terms and conditions of the Tariff including posting appropriate security deposits in accordance with the terms of Section 17.3.

15.4 Obligation to Provide Transmission Service that Requires Expansion or Modification of the Transmission System: If the Transmission Provider determines that it cannot accommodate a Completed Application for Firm Point-To-Point Transmission Service because of insufficient capability on its Transmission System, the Transmission Provider will use due diligence to expand or modify its Transmission System to provide the requested Firm Transmission Service, provided the Transmission Customer agrees to compensate the Transmission Provider for such costs pursuant to the terms of Section 27. The Transmission Provider will conform to Good Utility Practice in determining the need for new facilities and in the design and construction of such facilities. The obligation applies only to those facilities that the Transmission Provider has the right to expand or modify.

15.5 Deferral of Service: The Transmission Provider may defer providing service until it completes construction of new transmission facilities or upgrades needed to provide Firm Point-To-Point Transmission Service whenever the Transmission Provider determines that providing the requested service would, without such new facilities or upgrades, impair or degrade reliability to any existing firm services.

15.6 Other Transmission Service Schedules: Eligible Customers receiving transmission service under other agreements on file with the Commission may continue to receive transmission service under those agreements until such time as those agreements may be modified by the Commission.

15.7 Real Power Losses: Real Power Losses are associated with all transmission service. The Transmission Provider is not obligated to provide Real Power Losses. The Transmission Customer is responsible for replacing losses associated with all transmission service as calculated by the Transmission Provider. The applicable Real Power Loss factors are as follows: [To be completed by the Transmission Provider].

16 Transmission Customer Responsibilities

16.1 Conditions Required of Transmission Customers: Point-To-Point Transmission Service shall be provided by the Transmission Provider only if the following conditions are satisfied by the Transmission Customer:

a. The Transmission Customer has pending a Completed Application for service;

b. The Transmission Customer meets the creditworthiness criteria set forth in Section 11;

c. The Transmission Customer will have arrangements in place for any other transmission service necessary to effect the delivery from the generating source to the Transmission Provider prior to the time service under Part II of the Tariff commences;

d. The Transmission Customer agrees to pay for any facilities constructed and

chargeable to such Transmission Customer under Part II of the Tariff, whether or not the Transmission Customer takes service for the full term of its reservation; and

e. The Transmission Customer has executed a Point-To-Point Service Agreement or has agreed to receive service pursuant to Section 15.3.

16.2 Transmission Customer Responsibility for Third-Party Arrangements: Any scheduling arrangements that may be required by other electric systems shall be the responsibility of the Transmission Customer requesting service. The Transmission Customer shall provide, unless waived by the Transmission Provider, notification to the Transmission Provider identifying such systems and authorizing them to schedule the capacity and energy to be transmitted by the Transmission Provider pursuant to Part II of the Tariff on behalf of the Receiving Party at the Point of Delivery or the Delivering Party at the Point of Receipt. However, the Transmission Provider will undertake reasonable efforts to assist the Transmission Customer in making such arrangements, including without limitation, providing any information or data required by such other electric system pursuant to Good Utility Practice.

17 Procedures for Arranging Firm Point-To-Point Transmission Service

17.1 Application: A request for Firm Point-To-Point Transmission Service for periods of one year or longer must contain a written Application to: [Transmission Provider Name and Address], at least sixty (60) days in advance of the calendar month in which service is to commence. The Transmission Provider will consider requests for such firm service on shorter notice when feasible. Requests for firm service for periods of less than one year shall be subject to expedited procedures that shall be negotiated between the Parties within the time constraints provided in Section 17.5. All Firm Point-To-Point Transmission Service requests should be submitted by entering the information listed below on the Transmission Provider's OASIS. Prior to implementation of the Transmission Provider's OASIS, a Completed Application may be submitted by (i) transmitting the required information to the Transmission Provider by telefax, or (ii) providing the information by telephone over the Transmission Provider's time recorded telephone line. Each of these methods will provide a time-stamped record for establishing the priority of the Application.

17.2 Completed Application: A Completed Application shall provide all of the information included in 18 CFR § 2.20 including but not limited to the following:

(i) The identity, address, telephone number and facsimile number of the entity requesting service;

(ii) A statement that the entity requesting service is, or will be upon commencement of service, an Eligible Customer under the Tariff;

(iii) The location of the Point(s) of Receipt and Point(s) of Delivery and the identities of the Delivering Parties and the Receiving Parties;

(iv) The location of the generating facility(ies) supplying the capacity and energy and the location of the load ultimately served by the capacity and energy transmitted. The Transmission Provider will treat this information as confidential except to the extent that disclosure of this information is required by this Tariff, by regulatory or judicial order, for reliability purposes pursuant to Good Utility Practice or pursuant to RTG transmission information sharing agreements. The Transmission Provider shall treat this information consistent with the standards of conduct contained in Part 37 of the Commission's regulations;

(v) A description of the supply characteristics of the capacity and energy to be delivered;

(vi) An estimate of the capacity and energy expected to be delivered to the Receiving Party;

(vii) The Service Commencement Date and the term of the requested Transmission Service; and

(viii) The transmission capacity requested for each Point of Receipt and each Point of Delivery on the Transmission Provider's Transmission System; customers may combine their requests for service in order to satisfy the minimum transmission capacity requirement.

The Transmission Provider shall treat this information consistent with the standards of conduct contained in Part 37 of the Commission's regulations.

17.3 Deposit: A Completed Application for Firm Point-To-Point Transmission Service also shall include a deposit of either one month's charge for Reserved Capacity or the full charge for Reserved Capacity for service requests of less than one month. If the Application is rejected by the Transmission Provider because it does not meet the conditions for service as set forth herein, or in the case of requests for service arising in connection with losing bidders in a Request For Proposals (RFP), said deposit shall be returned with interest less any reasonable costs incurred by the Transmission Provider in connection with the review of the losing bidder's Application. The deposit also will be returned with interest less any reasonable costs incurred by the Transmission Provider if the Transmission Provider is unable to complete new facilities needed to provide the service. If an Application is withdrawn or the Eligible Customer decides not to enter into a Service Agreement for Firm Point-To-Point Transmission Service, the deposit shall be refunded in full, with interest, less reasonable costs incurred by the Transmission Provider to the extent such costs have not already been recovered by the Transmission Provider from the Eligible Customer. The Transmission Provider will provide to the Eligible Customer a complete accounting of all costs deducted from the refunded deposit, which the Eligible Customer may contest if there is a dispute concerning the deducted costs. Deposits associated with construction of new facilities are subject to the provisions of Section 19. If a Service Agreement for Firm Point-To-Point Transmission Service is executed, the deposit, with interest, will be returned to the Transmission Customer upon expiration of the Service Agreement for Firm Point-To-Point Transmission Service. Applicable interest shall be computed in accordance with the Commission's regulations at 18 CFR § 35.19a(a)(2)(iii), and shall be calculated from the day the deposit check is credited to the Transmission Provider's account.

17.4 Notice of Deficient Application: If an Application fails to meet the requirements of the Tariff, the Transmission Provider shall notify the entity requesting service within fifteen (15) days of receipt of the reasons for such failure. The Transmission Provider will attempt to remedy minor deficiencies in the Application through informal communications with the Eligible Customer. If such efforts are unsuccessful, the Transmission Provider shall return the Application, along with any deposit, with interest. Upon receipt of a new or revised Application that fully complies with the requirements of Part II of the Tariff, the Eligible Customer shall be assigned a new priority consistent with the date of the new or revised Application.

17.5 Response to a Completed Application: Following receipt of a Completed Application for Firm Point-To-Point Transmission Service, the Transmission Provider shall make a determination of available transmission capability as required in Section 15.2. The Transmission Provider shall notify the Eligible Customer as soon as practicable, but not later than thirty (30) days after the date of receipt of a Completed Application either (i) if it will be able to provide service without performing a System Impact Study or (ii) if such a study is needed to evaluate the impact of the Application pursuant to Section 19.1.

17.6 Execution of Service Agreement: Whenever the Transmission Provider determines that a System Impact Study is not required and that the service can be provided, it shall notify the Eligible Customer as soon as practicable but no later than thirty (30) days after receipt of the Completed Application. Where a System Impact Study is required, the provisions of Section 19 will govern the execution of a Service Agreement. Failure of an Eligible Customer to execute and return the Service Agreement or request the filing of an unexecuted service agreement pursuant to Section 15.3, within fifteen (15) days after it is tendered by the Transmission Provider will be deemed a withdrawal and termination of the Application and any deposit submitted shall be refunded with interest. Nothing herein limits the right of an Eligible Customer to file another Application after such withdrawal and termination.

17.7 Extensions for Commencement of Service: The Transmission Customer can obtain up to *five (5) one-year extensions* for the commencement of service. The Transmission Customer may postpone service by paying a non-refundable annual reservation fee equal to one-month's charge for Firm Transmission Service for each year or fraction thereof. If during any extension for the commencement of service an Eligible Customer submits a Completed Application for Firm Transmission Service, and such request can be satisfied only by releasing all or part of the Transmission Customer's Reserved Capacity, the original Reserved Capacity will be released unless the following condition is satisfied. Within thirty (30) days, the original Transmission Customer agrees to pay the Firm Point-To-Point transmission rate for its Reserved Capacity concurrent with the new Service Commencement Date. In the event the Transmission Customer elects to release the Reserved Capacity, the reservation fees or portions thereof previously paid will be forfeited.

18 Procedures for Arranging Non-Firm Point-To-Point Transmission Service

18.1 Application: Eligible Customers seeking Non-Firm Point-To-Point Transmission Service must submit a Completed Application to the Transmission Provider. Applications should be submitted by entering the information listed below on the Transmission Provider's OASIS. Prior to implementation of the Transmission Provider's OASIS, a Completed Application may be submitted by (i) transmitting the required information to the Transmission Provider by telefax, or (ii) providing the information by telephone over the Transmission Provider's time recorded telephone line. Each of these methods will provide a time-stamped record for establishing the service priority of the Application.

18.2 Completed Application: A Completed Application shall provide all of the information included in 18 CFR § 2.20 including but not limited to the following:

(i) The identity, address, telephone number and facsimile number of the entity requesting service;

(ii) A statement that the entity requesting service is, or will be upon commencement of service, an Eligible Customer under the Tariff;

(iii) The Point(s) of Receipt and the Point(s) of Delivery;

(iv) The maximum amount of capacity requested at each Point of Receipt and Point of Delivery; and

(v) The proposed dates and hours for initiating and terminating transmission service hereunder.

In addition to the information specified above, when required to properly evaluate system conditions, the Transmission Provider also may ask the Transmission Customer to provide the following:

(vi) The electrical location of the initial source of the power to be transmitted pursuant to the Transmission Customer's request for service; and

(vii) The electrical location of the ultimate load.

The Transmission Provider will treat this information in (vi) and (vii) as confidential at the request of the Transmission Customer except to the extent that disclosure of this information is required by this Tariff, by regulatory or judicial order, for reliability purposes pursuant to Good Utility Practice, or pursuant to RTG transmission information sharing agreements. The Transmission Provider shall treat this information consistent with the standards of conduct contained in Part 37 of the Commission's regulations.

18.3 Reservation of Non-Firm Point-To-Point Transmission Service: Requests for monthly service shall be submitted *no earlier than sixty (60) days* before service is to commence; requests for weekly service shall be submitted *no earlier than fourteen (14) days* before service is to commence, requests for daily service shall be submitted *no earlier than two (2) days* before service is to commence, and requests for hourly service shall be submitted *no earlier than noon the day* before service is to commence. Requests for service received *later than 2:00 p.m.* prior to the day service is scheduled to commence will be accommodated if practicable [or such reasonable times that are generally accepted in the region and are consistently adhered to by the Transmission Provider].

18.4 Determination of Available Transmission Capability: Following receipt of a tendered schedule the Transmission Provider will make a determination on a non-discriminatory basis of available transmission capability pursuant to Section 15.2. Such determination shall be made as soon as reasonably practicable after receipt, but not later than the following time periods for the following terms of service *(i) thirty (30) minutes for hourly service, (ii) thirty (30) minutes for daily service, (iii) four (4) hours for weekly service, and (iv) two (2) days for monthly service.* [Or such reasonable times that are generally accepted in the region and are consistently adhered to by the Transmission Provider].

19 Additional Study Procedures for Firm Point-To-Point Transmission Service Requests

19.1 Notice of Need for System Impact Study: After receiving a request for service, the Transmission Provider shall determine on a non-discriminatory basis whether a System Impact Study is needed. A description of the Transmission Provider's methodology for completing a System Impact Study is provided in Attachment D. If the Transmission Provider determines that a System Impact Study is necessary to accommodate the requested service, it shall so inform the Eligible Customer, as soon as practicable. In such cases, the Transmission Provider shall within thirty (30) days of receipt of a Completed Application, tender a System Impact Study Agreement pursuant to which the Eligible Customer shall agree to reimburse the Transmission Provider for performing the required System Impact Study. For a service request to remain a Completed Application, the Eligible Customer shall execute the System Impact Study Agreement and return it to the Transmission Provider within fifteen (15) days. If the Eligible Customer elects not to execute the System Impact Study Agreement, its application shall be deemed withdrawn and its deposit, pursuant to Section 17.3, shall be returned with interest.

19.2 System Impact Study Agreement and Cost Reimbursement:

(i) The System Impact Study Agreement will clearly specify the maximum charge, based on the Transmission Provider's estimate of the actual cost, and time for completion of the System Impact Study. The charge shall not exceed the actual cost of the study. In performing the System Impact Study, the Transmission Provider shall rely, to the extent reasonably practicable, on existing transmission planning studies. The Eligible Customer will not be assessed a charge for such existing studies; however, the Eligible Customer will be responsible for charges associated with any modifications to existing planning studies that are reasonably necessary to evaluate the impact of the Eligible Customer's request for service on the Transmission System.

(ii) If in response to multiple Eligible Customers requesting service in relation to the same competitive solicitation, a single System Impact Study is sufficient for the Transmission Provider to accommodate the requests for service, the costs of that study shall be pro-rated among the Eligible Customers.

(iii) For System Impact Studies that the Transmission Provider conducts on its own behalf, the Transmission Provider shall record the cost of the System Impact Studies pursuant to Section 20.

19.3 System Impact Study Procedures: Upon receipt of an executed System Impact Study Agreement, the Transmission Provider will use due diligence to complete the required System Impact Study within a sixty (60) day period. The System Impact Study shall identify any system constraints and redispatch options, additional Direct Assignment Facilities or Network Upgrades required to provide the requested service. In the event that the Transmission Provider is unable to complete the required System Impact Study within such time period, it shall so notify the Eligible Customer and provide an estimated completion date along with an explanation of the reasons why additional time is required to complete the required studies. A copy of the completed System Impact Study and related work papers shall be made available to the Eligible Customer. The Transmission Provider will use the same due diligence in completing the System Impact Study for an Eligible Customer as it uses when completing studies for itself. The Transmission Provider shall notify the Eligible Customer immediately upon completion of the System Impact Study if the Transmission System will be adequate to accommodate all or part of a request for service or that no costs are likely to be incurred for new transmission facilities or upgrades. In order for a request to remain a Completed Application, within fifteen (15) days of completion of the System Impact Study the Eligible Customer must execute a Service Agreement or request the filing of an unexecuted Service Agreement pursuant to Section 15.3, or the Application shall be deemed terminated and withdrawn.

19.4 Facilities Study Procedures: If a System Impact Study indicates that additions or upgrades to the Transmission System are needed to supply the Eligible Customer's service request, the Transmission Provider, within thirty (30) days of the completion of the System Impact Study, shall tender to the Eligible Customer a Facilities Study Agreement pursuant to which the Eligible Customer shall agree to reimburse the Transmission Provider for performing the required Facilities Study. For a service request to remain a Completed Application, the Eligible Customer shall execute the

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Facilities Study Agreement and return it to the Transmission Provider within fifteen (15) days. If the Eligible Customer elects not to execute the Facilities Study Agreement, its application shall be deemed withdrawn and its deposit, pursuant to Section 17.3, shall be returned with interest. Upon receipt of an executed Facilities Study Agreement, the Transmission Provider will use due diligence to complete the required Facilities Study within a sixty (60) day period. If the Transmission Provider is unable to complete the Facilities Study in the allotted time period, the Transmission Provider shall notify the Transmission Customer and provide an estimate of the time needed to reach a final determination along with an explanation of the reasons that additional time is required to complete the study. When completed, the Facilities Study will include a good faith estimate of (i) the cost of Direct Assignment Facilities to be charged to the Transmission Customer, (ii) the Transmission Customer's appropriate share of the cost of any required Network Upgrades as determined pursuant to the provisions of Part II of the Tariff, and (iii) the time required to complete such construction and initiate the requested service. The Transmission Customer shall provide the Transmission Provider with a letter of credit or other reasonable form of security acceptable to the Transmission Provider equivalent to the costs of new facilities or upgrades consistent with commercial practices as established by the Uniform Commercial Code. The Transmission Customer shall have thirty (30) days to execute a Service Agreement or request the filing of an unexecuted Service Agreement and provide the required letter of credit or other form of security or the request will no longer be a Completed Application and shall be deemed terminated and withdrawn.

19.5 Facilities Study Modifications: Any change in design arising from inability to site or construct facilities as proposed will require development of a revised good faith estimate. New good faith estimates also will be required in the event of new statutory or regulatory requirements that are effective before the completion of construction or other circumstances beyond the control of the Transmission Provider that significantly affect the final cost of new facilities or upgrades to be charged to the Transmission Customer pursuant to the provisions of Part II of the Tariff.

19.6 Due Diligence in Completing New Facilities: The Transmission Provider shall use due diligence to add necessary facilities or upgrade its Transmission System within a reasonable time. The Transmission Provider will not upgrade its existing or planned Transmission System in order to provide the requested Firm Point-To-Point Transmission Service if doing so would impair system reliability or otherwise impair or degrade existing firm service.

19.7 Partial Interim Service: If the Transmission Provider determines that it will not have adequate transmission capability to satisfy the full amount of a Completed Application for Firm Point-To-Point Transmission Service, the Transmission Provider nonetheless shall be obligated to offer and provide the portion of the requested Firm Point-To-Point Transmission Service that can be accommodated without addition of any facilities and through redispatch. However, the Transmission Provider shall not be obligated to provide the incremental amount of requested Firm Point-To-Point Transmission Service that requires the addition of facilities or upgrades to the Transmission System until such facilities or upgrades have been placed in service.

19.8 Expedited Procedures for New Facilities: In lieu of the procedures set forth above, the Eligible Customer shall have the option to expedite the process by requesting the Transmission Provider to tender at one time, together with the results of required studies, an "Expedited Service Agreement" pursuant to which the Eligible Customer would agree to compensate the Transmission Provider for all costs incurred pursuant to the terms of the Tariff. In order to exercise this option, the Eligible Customer shall request in writing an expedited Service Agreement covering all of the above-specified items within thirty (30) days of receiving the results of the System Impact Study identifying needed facility additions or upgrades or costs incurred in providing the requested service. While the Transmission Provider agrees to provide the Eligible Customer with its best estimate of the new facility costs and other charges that may be incurred, such estimate shall not be binding and the Eligible Customer must agree in writing to compensate the Transmission Provider for all costs incurred pursuant to the provisions of the Tariff. The Eligible Customer shall execute and return such an Expedited Service Agreement within fifteen (15) days of its receipt or the Eligible Customer's request for service will cease to be a Completed Application and will be deemed terminated and withdrawn.

20 Procedures if the Transmission Provider is Unable to Complete New Transmission Facilities for Firm Point-To-Point Transmission Service

20.1 Delays in Construction of New Facilities: If any event occurs that will materially affect the time for completion of new facilities, or the ability to complete them, the Transmission Provider shall promptly notify the Transmission Customer. In such circumstances, the Transmission Provider shall within thirty (30) days of notifying the Transmission Customer of such delays, convene a technical meeting with the Transmission Customer to evaluate the alternatives available to the Transmission Customer. The Transmission Provider also shall make available to the Transmission Customer studies and work papers related to the delay, including all information that is in the possession of the Transmission Provider that is reasonably needed by the Transmission Customer to evaluate any alternatives.

20.2 Alternatives to the Original Facility Additions: When the review process of Section determines that one or more alternatives exist to the originally planned construction project, the Transmission Provider shall present such alternatives for consideration by the Transmission Customer. If, upon review of any alternatives, the Transmission Customer desires to maintain its Completed Application subject to construction of the alternative facilities, it may request the Transmission Provider to submit a revised Service Agreement for Firm Point-To-Point Transmission Service. If the alternative approach solely involves Non-Firm Point-To-Point Transmission Service, the Transmission Provider shall promptly tender a Service Agreement for Non-Firm Point-To-Point Transmission Service providing for the service. In the event the Transmission Provider concludes that no reasonable alternative exists and the Transmission Customer disagrees, the Transmission Customer may seek relief under the dispute resolution procedures pursuant to Section 12 or it may refer the dispute to the Commission for resolution.

20.3 Refund Obligation for Unfinished Facility Additions: If the Transmission Provider and the Transmission Customer mutually agree that no other reasonable alternatives exist and the requested service cannot be provided out of existing capability under the conditions of Part II of the Tariff, the obligation to provide the requested Firm Point-To-Point Transmission Service shall terminate and any deposit made by the Transmission Customer shall be returned with interest pursuant to Commission regulations 35.19a(a)(2)(iii). However, the Transmission Customer shall be responsible for all prudently incurred costs by the Transmission Provider through the time construction was suspended.

21 Provisions Relating to Transmission Construction and Services on the Systems of Other Utilities

21.1 Responsibility for Third-Party System Additions: The Transmission Provider shall not be responsible for making arrangements for any necessary engineering, permitting, and construction of transmission or distribution facilities on the system(s) of any other entity or for obtaining any regulatory approval for such facilities. The Transmission Provider will undertake reasonable efforts to assist the Transmission Customer in obtaining such arrangements, including without limitation, providing any information or data required by such other electric system pursuant to Good Utility Practice.

21.2 Coordination of Third-Party System Additions: In circumstances where the need for transmission facilities or upgrades is identified pursuant to the provisions of Part II of the Tariff, and if such upgrades further require the addition of transmission facilities on other systems, the Transmission Provider shall have the right to coordinate construction on its own system with the construction required by others. The Transmission Provider, after consultation with the Transmission Customer and representatives of such other systems, may defer construction of its new transmission facilities, if the new transmission facilities on another system cannot be completed in a timely manner. The Transmission Provider shall notify the Transmission Customer in writing of the basis for any decision to defer construction and the specific problems which must be resolved before it will initiate or resume construction of new facilities. Within sixty (60) days of receiving written notification by the Transmission Provider of its intent to defer construction pursuant to this section, the Transmission Customer may challenge the decision in accordance with the dispute resolution procedures pursuant to Section 12 or it may refer the dispute to the Commission for resolution.

22 Changes in Service Specifications

22.1 Modifications On a Non-Firm Basis: The Transmission Customer taking Firm Point-To-Point Transmission Service may request the Transmission Provider to provide transmission service on a non-firm basis over Receipt and Delivery Points other than those specified in the Service Agreement ("Secondary Receipt and Delivery Points"), in amounts not to exceed its firm capacity reservation, without incurring an additional Non-Firm Point-To-Point Transmission Service charge or executing a new Service Agreement, subject to the following conditions.

(a) Service provided over Secondary Receipt and Delivery Points will be non-firm only, on an as-available basis and will not displace any firm or non-firm service reserved or scheduled by third-parties under the Tariff or by the Transmission Provider on behalf of its Native Load Customers.

(b) The sum of all Firm and non-firm Point-To-Point Transmission Service provided to the Transmission Customer at any time pursuant to this section shall not exceed the Reserved Capacity in the relevant Service Agreement under which such services are provided.

(c) The Transmission Customer shall retain its right to schedule Firm Point-To-Point Transmission Service at the Receipt and Delivery Points specified in the relevant Service Agreement in the amount of its original capacity reservation.

(d) Service over Secondary Receipt and Delivery Points on a non-firm basis shall not require the filing of an Application for Non-Firm Point-To-Point Transmission Service under the Tariff. However, all other requirements of Part II of the Tariff (except as to transmission rates) shall apply to transmission service on a non-firm basis over Secondary Receipt and Delivery Points.

22.2 Modification On a Firm Basis: Any request by a Transmission Customer to modify Receipt and Delivery Points on a firm basis shall be treated as a new request for service in accordance with Section 17 hereof, except that such Transmission Customer shall not be obligated to pay any additional deposit if the capacity reservation does not exceed the amount reserved in the existing Service Agreement. While such new request is pending, the Transmission Customer shall retain its priority for service at the existing firm Receipt and Delivery Points specified in its Service Agreement.

23 Sale or Assignment of Transmission Service

23.1 Procedures for Assignment or Transfer of Service: Subject to Commission approval of any necessary filings, a Transmission Customer may sell, assign, or transfer all or a portion of its rights under its Service Agreement, but only to another Eligible Customer (the Assignee). The Transmission Customer that sells, assigns or transfers its rights under its Service Agreement is hereafter referred to as the Reseller. Compensation to the Reseller shall not exceed the higher of (i) the original rate paid by the Reseller, (ii) the Transmission Provider's maximum rate on file at the time of the assignment, or (iii) the Reseller's opportunity cost. If the Assignee does not request any change in the Point(s) of Receipt or the Point(s) of Delivery, or a change in any other term or condition set forth in the original Service Agreement, the Assignee will receive the same services as did the Reseller and the priority of service for the Assignee will be the same as that of the Reseller. A Reseller should notify the Transmission Provider as soon as possible after any assignment or transfer of service occurs but in any event, notification must be provided prior to any provision of service to the Assignee. The Assignee will be subject to all terms and conditions of this Tariff. If the Assignee requests a change in service, the reservation priority of service will be determined by the Transmission Provider pursuant to Section 13.2.

23.2 Limitations on Assignment or Transfer of Service: If the Assignee requests a change in the Point(s) of Receipt or Point(s) of Delivery, or a change in any other specifications set forth in the original Service Agreement, the Transmission Provider will consent to such change subject to the provisions of the Tariff, provided that the change will not impair the operation and reliability of the Transmission Provider's generation, transmission, or distribution systems. The Assignee shall compensate the Transmission Provider for performing any System Impact Study needed to evaluate the capability of the Transmission System to accommodate the proposed change and any additional costs resulting from such change. The Reseller shall remain liable for the performance of all obligations under the Service Agreement, except as specifically agreed to by the Parties through an amendment to the Service Agreement.

23.3 Information on Assignment or Transfer of Service: In accordance with Section 4, Resellers may use the Transmission Provider's OASIS to post transmission capacity available for resale.

24 Metering and Power Factor Correction at Receipt and Delivery Points(s)

24.1 Transmission Customer Obligations: Unless otherwise agreed, the Transmission Customer shall be responsible for installing and maintaining compatible metering and communications equipment to accurately account for the capacity and energy being transmitted under Part II of the Tariff and to communicate the information to the Transmission Provider. Such equipment shall remain the property of the Transmission Customer.

24.2 Transmission Provider Access to Metering Data: The Transmission Provider shall have access to metering data, which may reasonably be required to facilitate measurements and billing under the Service Agreement.

24.3 Power Factor: Unless otherwise agreed, the Transmission Customer is required to maintain a power factor within the same range as the Transmission Provider pursuant to Good Utility Practices. The power factor requirements are specified in the Service Agreement where applicable.

25 Compensation for Transmission Service

Rates for Firm and Non-Firm Point-To-Point Transmission Service are provided in the Schedules appended to the Tariff: Firm Point-To-Point Transmission Service (Schedule 7); and Non-Firm Point-To-Point Transmission Service (Schedule 8). The Transmission Provider shall use Part II of the Tariff to make its Third-Party Sales. The Transmission Provider shall account for such use at the applicable Tariff rates, pursuant to Section 8.

26 Stranded Cost Recovery

The Transmission Provider may seek to recover stranded costs from the Transmission Customer pursuant to this Tariff in accordance with the terms, conditions and procedures set forth in FERC Order No. 888. However, the Transmission Provider must separately file any specific proposed stranded cost charge under Section 205 of the Federal Power Act.

27 Compensation for New Facilities and Redispatch Costs

Whenever a System Impact Study performed by the Transmission Provider in connection with the provision of Firm Point-To-Point Transmission Service identifies the need for new facilities, the Transmission Customer shall be responsible for such costs to the extent consistent with Commission policy. Whenever a System Impact Study performed by the Transmission Provider identifies capacity constraints that may be relieved more economically by redispatching the Transmission Provider's resources than by building new facilities or upgrading existing facilities to eliminate such constraints, the Transmission Customer shall be responsible for the redispatch costs to the extent consistent with Commission policy.

III. Network Integration Transmission Service

Preamble

The Transmission Provider will provide Network Integration Transmission Service pursuant to the applicable terms and conditions contained in the Tariff and Service Agreement. Network Integration Transmission Service allows the Network Customer to integrate, economically dispatch and regulate its current and planned Network Resources to serve its Network Load in a manner comparable to that in which the Transmission Provider utilizes its Transmission System to serve its Native Load Customers. Network Integration Transmission Service also may be used by the Network Customer to deliver economy energy purchases to its Network Load from non-designated resources on an as-available basis without additional charge. Transmission service for sales to non-designated loads will be provided pursuant to the applicable terms and conditions of Part II of the Tariff.

28 Nature of Network Integration Transmission Service

28.1 Scope of Service: Network Integration Transmission Service is a transmission service that allows Network Customers to efficiently and economically utilize their Network Resources (as well as other non-designated generation resources) to serve their Network Load located in the Transmission Provider's Control Area and any additional load that may be designated pursuant to Section 31.3 of the Tariff. The Network Customer taking Network Integration Transmission Service must obtain or provide Ancillary Services pursuant to Section 3.

28.2 Transmission Provider Responsibilities: The Transmission Provider will plan, construct, operate and maintain its Transmission System in accordance with Good Utility Practice in order to provide the Network Customer with Network Integration Transmission Service over the Transmission Provider's Transmission System. The Transmission Provider, on behalf of its Native Load Customers, shall be required to designate resources and loads in the same manner as any Network Customer under Part III of this Tariff. This information must be consistent with the information used by the Transmission Provider to calculate available transmission capability. The Transmission Provider shall include the Network Customer's Network Load in its Transmission System planning and shall, consistent with Good Utility Practice, endeavor to construct and place into service sufficient transmission capacity to deliver the Network Customer's Network Resources to serve its Network Load on a basis comparable to the Transmission Provider's delivery of its own generating and purchased resources to its Native Load Customers.

28.3 Network Integration Transmission Service: The Transmission Provider will provide firm transmission service over its Transmission System to the Network Customer for the delivery of capacity and energy from its designated Network Resources to service its Network Loads on a basis that is comparable to the Transmission Provider's use of the Transmission System to reliably serve its Native Load Customers.

28.4 Secondary Service: The Network Customer may use the Transmission Provider's Transmission System to deliver energy to its Network Loads from resources that have not been designated as Network Resources. Such energy shall be transmitted, on an as-available basis, at no additional charge. Deliveries from resources other than Network Resources will have a higher priority than any Non-Firm Point-To-Point Transmission Service under Part II of the Tariff.

28.5 Real Power Losses: Real Power Losses are associated with all transmission service. The Transmission Provider is not obligated to provide Real Power Losses. The Network Customer is responsible for replacing losses associated with all transmission service as calculated by the Transmission Provider. The applicable Real Power Loss factors are as follows: [To be completed by the Transmission Provider].

28.6 Restrictions on Use of Service: The Network Customer shall not use Network Integration Transmission Service for (i) sales of capacity and energy to non-designated loads, or (ii) direct or indirect provision of transmission service by the Network Customer to third parties. All Network Customers taking Network Integration Transmission Service shall use Point-To-Point Transmission Service under Part II of the Tariff for any Third-Party Sale which requires use of the Transmission Provider's Transmission System.

29 Initiating Service

29.1 Condition Precedent for Receiving Service: Subject to the terms and conditions of Part III of the Tariff, the Transmission Provider will provide Network Integration Transmission Service to any Eligible Customer, provided that (i) the Eligible Customer completes an Application for service as provided under Part III of the Tariff, (ii) the Eligible Customer and the Transmission Provider complete the technical arrangements set forth in Sections 29.3 and 29.4, (iii) the Eligible Customer executes a Service Agreement pursuant to Attachment F for service under Part III of the Tariff or requests in writing that the Transmission Provider file a proposed unexecuted Service Agreement with the Commission, and (iv) the Eligible Customer executes a Network Operating Agreement with the Transmission Provider pursuant to Attachment G.

29.2 Application Procedures: An Eligible Customer requesting service under Part III of the Tariff must submit an Application, with a deposit approximating the charge for one month of service, to the Transmission Provider as far as possible in advance of the month in which service is to commence. Unless subject to the procedures in Section 2, Completed Applications for Network Integration Transmission Service will be assigned a priority according to the date and time the Application is received, with the earliest Application receiving the highest priority. Applications should be submitted by entering the information listed below on the Transmission Provider's OASIS. Prior to implementation of the Transmission Provider's OASIS, a Completed Application may be submitted by (i) transmitting the required information to the Transmission Provider by telefax, or (ii) providing the information by telephone over the Transmission Provider's time recorded telephone line. Each of these methods will provide a time-stamped record for establishing the service priority of the Application. A Completed Application shall provide all of the information included in 18 CFR § 2.20 including but not limited to the following:

(i) The identity, address, telephone number and facsimile number of the party requesting service;

(ii) A statement that the party requesting service is, or will be upon commencement of service, an Eligible Customer under the Tariff;

(iii) A description of the Network Load at each delivery point. This description should separately identify and provide the Eligible Customer's best estimate of the total loads to be served at each transmission voltage level, and the loads to be served from each Transmission Provider substation at the same transmission voltage level. The description should include a ten (10) year forecast of summer and winter load and resource requirements beginning with the first year after the service is scheduled to commence;

(iv) The amount and location of any interruptible loads included in the Network Load. This shall include the summer and winter capacity requirements for each interruptible load (had such load not been interruptible), that portion of the load subject to interruption, the conditions under which an interruption can be implemented and any limitations on the amount and frequency of interruptions. An Eligible Customer should identify the amount of interruptible customer load (if any) included in the 10 year load forecast provided in response to (iii) above;

(v) A description of Network Resources (current and 10-year projection), which shall include, for each Network Resource:

—Unit size and amount of capacity from that unit to be designated as Network Resource
—VAR capability (both leading and lagging) of all generators
—Operating restrictions
—Any periods of restricted operations throughout the year
—Maintenance schedules
—Minimum loading level of unit
—Normal operating level of unit
—Any must-run unit designations required for system reliability or contract reasons
—Approximate variable generating cost ($/MWH) for redispatch computations
—Arrangements governing sale and delivery of power to third parties from generating facilities located in the Transmission Provider Control Area, where only a portion of unit output is designated as a Network Resource
—Description of purchased power designated as a Network Resource including source of supply, Control Area location, transmission arrangements and delivery point(s) to the Transmission Provider's Transmission System;

(vi) Description of Eligible Customer's transmission system:

—Load flow and stability data, such as real and reactive parts of the load, lines, transformers, reactive devices and load type, including normal and emergency ratings of all transmission equipment in a load flow format compatible with that used by the Transmission Provider
—Operating restrictions needed for reliability
—Operating guides employed by system operators
—Contractual restrictions or committed uses of the Eligible Customer's transmission system, other than the Eligible Customer's Network Loads and Resources
—Location of Network Resources described in subsection (v) above
—10 year projection of system expansions or upgrades
—Transmission System maps that include any proposed expansions or upgrades
—Thermal ratings of Eligible Customer's Control Area ties with other Control Areas; and

(vii) Service Commencement Date and the term of the requested Network Integration

Transmission Service. The minimum term for Network Integration Transmission Service is one year.

Unless the Parties agree to a different time frame, the Transmission Provider must acknowledge the request within ten (10) days of receipt. The acknowledgement must include a date by which a response, including a Service Agreement, will be sent to the Eligible Customer. If an Application fails to meet the requirements of this section, the Transmission Provider shall notify the Eligible Customer requesting service within fifteen (15) days of receipt and specify the reasons for such failure. Wherever possible, the Transmission Provider will attempt to remedy deficiencies in the Application through informal communications with the Eligible Customer. If such efforts are unsuccessful, the Transmission Provider shall return the Application without prejudice to the Eligible Customer filing a new or revised Application that fully complies with the requirements of this section. The Eligible Customer will be assigned a new priority consistent with the date of the new or revised Application. The Transmission Provider shall treat this information consistent with the standards of conduct contained in Part 37 of the Commission's regulations.

29.3 Technical Arrangements to be Completed Prior to Commencement of Service: Network Integration Transmission Service shall not commence until the Transmission Provider and the Network Customer, or a third party, have completed installation of all equipment specified under the Network Operating Agreement consistent with Good Utility Practice and any additional requirements reasonably and consistently imposed to ensure the reliable operation of the Transmission System. The Transmission Provider shall exercise reasonable efforts, in coordination with the Network Customer, to complete such arrangements as soon as practicable taking into consideration the Service Commencement Date.

29.4 Network Customer Facilities: The provision of Network Integration Transmission Service shall be conditioned upon the Network Customer's constructing, maintaining and operating the facilities on its side of each delivery point or interconnection necessary to reliably deliver capacity and energy from the Transmission Provider's Transmission System to the Network Customer. The Network Customer shall be solely responsible for constructing or installing all facilities on the Network Customer's side of each such delivery point or interconnection.

29.5 Filing of Service Agreement: The Transmission Provider will file Service Agreements with the Commission in compliance with applicable Commission regulations.

Network Resources

30.1 Designation of Network Resources: Network Resources shall include all generation owned or purchased by the Network Customer designated to serve Network Load under the Tariff. Network Resources may not include resources, or any portion thereof, that are committed for sale to non-designated third party load or otherwise cannot be called upon to meet the Network Customer's Network Load on a non-interruptible basis. Any owned or purchased resources that were serving the Network Customer's loads under firm agreements entered into on or before the Service Commencement Date shall initially be designated as Network Resources until the Network Customer terminates the designation of such resources.

30.2 Designation of New Network Resources: The Network Customer may designate a new Network Resource by providing the Transmission Provider with as much advance notice as practicable. A designation of a new Network Resource must be made by a request for modification of service pursuant to an Application under Section 29.

30.3 Termination of Network Resources: The Network Customer may terminate the designation of all or part of a generating resource as a Network Resource at any time but should provide notification to the Transmission Provider as soon as reasonably practicable.

30.4 Operation of Network Resources: The Network Customer shall not operate its designated Network Resources located in the Network Customer's or Transmission Provider's Control Area such that the output of those facilities exceeds its designated Network Load plus losses.

30.5 Network Customer Redispatch Obligation: As a condition to receiving Network Integration Transmission Service, the Network Customer agrees to redispatch its Network Resources as requested by the Transmission Provider pursuant to Section 33.2. To the extent practical, the redispatch of resources pursuant to this section shall be on a least cost, non-discriminatory basis between all Network Customers, and the Transmission Provider.

30.6 Transmission Arrangements for Network Resources Not Physically Interconnected With The Transmission Provider: The Network Customer shall be responsible for any arrangements necessary to deliver capacity and energy from a Network Resource not physically interconnected with the Transmission Provider's Transmission System. The Transmission Provider will undertake reasonable efforts to assist the Network Customer in obtaining such arrangements, including without limitation, providing any information or data required by such other entity pursuant to Good Utility Practice.

30.7 Limitation on Designation of Network Resources: The Network Customer must demonstrate that it owns or has committed to purchase generation pursuant to an executed contract in order to designate a generating resource as a Network Resource. Alternatively, the Network Customer may establish that execution of a contract is contingent upon the availability of transmission service under Part III of the Tariff.

30.8 Use of Interface Capacity by the Network Customer: There is no limitation upon a Network Customer's use of the Transmission Provider's Transmission System at any particular interface to integrate the Network Customer's Network Resources (or substitute economy purchases) with its Network Loads. However, a Network Customer's use of the Transmission Provider's total interface capacity with other transmission systems may not exceed the Network Customer's Load Ratio Share.

30.9 Network Customer Owned Transmission Facilities: The Network Customer that owns existing transmission facilities that are integrated with the Transmission Provider's Transmission System may be eligible to receive consideration either through a billing credit or some other mechanism. In order to receive such consideration the Network Customer must demonstrate that its transmission facilities are integrated into the planning and operations of the Transmission Provider to serve all of its power and transmission customers. For facilities constructed by the Network Customer subsequent to the Service Commencement Date under Part III of the Tariff, the Network Customer shall receive credit where such facilities are jointly planned and installed in coordination with the Transmission Provider. Calculation of the credit shall be addressed in either the Network Customer's Service Agreement or any other agreement between the Parties.

31 Designation of Network Load

31.1 Network Load: The Network Customer must designate the individual Network Loads on whose behalf the Transmission Provider will provide Network Integration Transmission Service. The Network Loads shall be specified in the Service Agreement.

31.2 New Network Loads Connected With the Transmission Provider: The Network Customer shall provide the Transmission Provider with as much advance notice as reasonably practicable of the designation of new Network Load that will be added to its Transmission System. A designation of new Network Load must be made through a modification of service pursuant to a new Application. The Transmission Provider will use due diligence to install any transmission facilities required to interconnect a new Network Load designated by the Network Customer. The costs of new facilities required to interconnect a new Network Load shall be determined in accordance with the procedures provided in Section 32.4 and shall be charged to the Network Customer in accordance with Commission policies.

31.3 Network Load Not Physically Interconnected with the Transmission Provider: This section applies to both initial designation pursuant to Section 31.1 and the subsequent addition of new Network Load not physically interconnected with the Transmission Provider. To the extent that the Network Customer desires to obtain transmission service for a load outside the Transmission Provider's Transmission System, the Network Customer shall have the option of (1) electing to include the entire load as Network Load for all purposes under Part III of the Tariff and designating Network Resources in connection with such additional Network Load, or (2) excluding that entire load from its Network Load and purchasing Point-To-Point Transmission

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Service under Part II of the Tariff. To the extent that the Network Customer gives notice of its intent to add a new Network Load as part of its Network Load pursuant to this section the request must be made through a modification of service pursuant to a new Application.

31.4 New Interconnection Points: To the extent the Network Customer desires to add a new Delivery Point or interconnection point between the Transmission Provider's Transmission System and a Network Load, the Network Customer shall provide the Transmission Provider with as much advance notice as reasonably practicable.

31.5 Changes in Service Requests: Under no circumstances shall the Network Customer's decision to cancel or delay a requested change in Network Integration Transmission Service (*e.g.* the addition of a new Network Resource or designation of a new Network Load) in any way relieve the Network Customer of its obligation to pay the costs of transmission facilities constructed by the Transmission Provider and charged to the Network Customer as reflected in the Service Agreement. However, the Transmission Provider must treat any requested change in Network Integration Transmission Service in a non-discriminatory manner.

31.6 Annual Load and Resource Information Updates: The Network Customer shall provide the Transmission Provider with annual updates of Network Load and Network Resource forecasts consistent with those included in its Application for Network Integration Transmission Service under Part III of the Tariff. The Network Customer also shall provide the Transmission Provider with timely written notice of material changes in any other information provided in its Application relating to the Network Customer's Network Load, Network Resources, its transmission system or other aspects of its facilities or operations affecting the Transmission Provider's ability to provide reliable service.

32 Additional Study Procedures for Network Integration Transmission Service Requests

32.1 Notice of Need for System Impact Study: After receiving a request for service, the Transmission Provider shall determine on a non-discriminatory basis whether a System Impact Study is needed. A description of the Transmission Provider's methodology for completing a System Impact Study is provided in Attachment D. If the Transmission Provider determines that a System Impact Study is necessary to accommodate the requested service, it shall so inform the Eligible Customer, as soon as practicable. In such cases, the Transmission Provider shall within thirty (30) days of receipt of a Completed Application, tender a System Impact Study Agreement pursuant to which the Eligible Customer shall agree to reimburse the Transmission Provider for performing the required System Impact Study. For a service request to remain a Completed Application, the Eligible Customer shall execute the System Impact Study Agreement and return it to the Transmission Provider within fifteen (15) days. If the Eligible Customer elects not to execute the System Impact Study Agreement, its Application shall be deemed withdrawn and its deposit shall be returned with interest.

32.2 System Impact Study Agreement and Cost Reimbursement:

(i) The System Impact Study Agreement will clearly specify the maximum charge, based on the Transmission Provider's estimate of the actual cost, and time for completion of the System Impact Study. The charge shall not exceed the actual cost of the study. In performing the System Impact Study, the Transmission Provider shall rely, to the extent reasonably practicable, on existing transmission planning studies. The Eligible Customer will not be assessed a charge for such existing studies; however, the Eligible Customer will be responsible for charges associated with any modifications to existing planning studies that are reasonably necessary to evaluate the impact of the Eligible Customer's request for service on the Transmission System.

(ii) If in response to multiple Eligible Customers requesting service in relation to the same competitive solicitation, a single System Impact Study is sufficient for the Transmission Provider to accommodate the service requests, the costs of that study shall be pro-rated among the Eligible Customers.

(iii) For System Impact Studies that the Transmission Provider conducts on its own behalf, the Transmission Provider shall record the cost of the System Impact Studies pursuant to Section 6.

32.3 System Impact Study Procedures: Upon receipt of an executed System Impact Study Agreement, the Transmission Provider will use due diligence to complete the required System Impact Study within a sixty (60) day period. The System Impact Study shall identify any system constraints and redispatch options, additional Direct Assignment Facilities or Network Upgrades required to provide the requested service. In the event that the Transmission Provider is unable to complete the required System Impact Study within such time period, it shall so notify the Eligible Customer and provide an estimated completion date along with an explanation of the reasons why additional time is required to complete the required studies. A copy of the completed System Impact Study and related work papers shall be made available to the Eligible Customer. The Transmission Provider will use the same due diligence in completing the System Impact Study for an Eligible Customer as it uses when completing studies for itself. The Transmission Provider shall notify the Eligible Customer immediately upon completion of the System Impact Study if the Transmission System will be adequate to accommodate all or part of a request for service or that no costs are likely to be incurred for new transmission facilities or upgrades. In order for a request to remain a Completed Application, within fifteen (15) days of completion of the System Impact Study the Eligible Customer must execute a Service Agreement or request the filing of an unexecuted Service Agreement, or the Application shall be deemed terminated and withdrawn.

32.4 Facilities Study Procedures: If a System Impact Study indicates that additions or upgrades to the Transmission System are needed to supply the Eligible Customer's service request, the Transmission Provider, within thirty (30) days of the completion of the System Impact Study, shall tender to the Eligible Customer a Facilities Study Agreement pursuant to which the Eligible Customer shall agree to reimburse the Transmission Provider for performing the required Facilities Study. For a service request to remain a Completed Application, the Eligible Customer shall execute the Facilities Study Agreement and return it to the Transmission Provider within fifteen (15) days. If the Eligible Customer elects not to execute the Facilities Study Agreement, its Application shall be deemed withdrawn and its deposit shall be returned with interest. Upon receipt of an executed Facilities Study Agreement, the Transmission Provider will use due diligence to complete the required Facilities Study within a sixty (60) day period. If the Transmission Provider is unable to complete the Facilities Study in the allotted time period, the Transmission Provider shall notify the Eligible Customer and provide an estimate of the time needed to reach a final determination along with an explanation of the reasons that additional time is required to complete the study. When completed, the Facilities Study will include a good faith estimate of (i) the cost of Direct Assignment Facilities to be charged to the Eligible Customer, (ii) the Eligible Customer's appropriate share of the cost of any required Network Upgrades, and (iii) the time required to complete such construction and initiate the requested service. The Eligible Customer shall provide the Transmission Provider with a letter of credit or other reasonable form of security acceptable to the Transmission Provider equivalent to the costs of new facilities or upgrades consistent with commercial practices as established by the Uniform Commercial Code. The Eligible Customer shall have thirty (30) days to execute a Service Agreement or request the filing of an unexecuted Service Agreement and provide the required letter of credit or other form of security or the request no longer will be a Completed Application and shall be deemed terminated and withdrawn.

33 Load Shedding and Curtailments

33.1 Procedures: Prior to the Service Commencement Date, the Transmission Provider and the Network Customer shall establish Load Shedding and Curtailment procedures pursuant to the Network Operating Agreement with the objective of responding to contingencies on the Transmission System. The Parties will implement such programs during any period when the Transmission Provider determines that a system contingency exists and such procedures are necessary to alleviate such contingency. The Transmission Provider will notify all affected Network Customers in a timely manner of any scheduled Curtailment.

33.2 Transmission Constraints: During any period when the Transmission Provider determines that a transmission constraint exists on the Transmission System, and such constraint may impair the reliability of the Transmission Provider's system, the Transmission Provider will take whatever actions, consistent with Good Utility Practice, that are reasonably necessary to maintain the reliability of the Transmission Provider's system. To the extent the Transmission Provider determines that the reliability of the Transmission System can be maintained by redispatching resources, the Transmission Provider will initiate procedures pursuant to the Network Operating Agreement to redispatch all Network Resources and the Transmission Provider's own resources on a least-cost basis without regard to the ownership of such resources. Any redispatch under this section may not unduly discriminate between the Transmission Provider's use of the Transmission System on behalf of its Native Load Customers and any Network Customer's use of the Transmission System to serve its designated Network Load.

33.3 Cost Responsibility for Relieving Transmission Constraints: Whenever the Transmission Provider implements least-cost redispatch procedures in response to a transmission constraint, the Transmission Provider and Network Customers will each bear a proportionate share of the total redispatch cost based on their respective Load Ratio Shares.

33.4 Curtailments of Scheduled Deliveries: If a transmission constraint on the Transmission Provider's Transmission System cannot be relieved through the implementation of least-cost redispatch procedures and the Transmission Provider determines that it is necessary to Curtail scheduled deliveries, the Parties shall Curtail such schedules in accordance with the Network Operating Agreement.

33.5 Allocation of Curtailments: The Transmission Provider shall, on a non-discriminatory basis, Curtail the transaction(s) that effectively relieve the constraint. However, to the extent practicable and consistent with Good Utility Practice, any Curtailment will be shared by the Transmission Provider and Network Customer in proportion to their respective Load Ratio Shares. The Transmission Provider shall not direct the Network Customer to Curtail schedules to an extent greater than the Transmission Provider would Curtail the Transmission Provider's schedules under similar circumstances.

33.6 Load Shedding: To the extent that a system contingency exists on the Transmission Provider's Transmission System and the Transmission Provider determines that it is necessary for the Transmission Provider and the Network Customer to shed load, the Parties shall shed load in accordance with previously established procedures under the Network Operating Agreement.

33.7 System Reliability: Notwithstanding any other provisions of this Tariff, the Transmission Provider reserves the right, consistent with Good Utility Practice and on a not unduly discriminatory basis, to Curtail Network Integration Transmission Service without liability on the Transmission Provider's part for the purpose of making necessary adjustments to, changes in, or repairs on its lines, substations and facilities, and in cases where the continuance of Network Integration Transmission Service would endanger persons or property. In the event of any adverse condition(s) or disturbance(s) on the Transmission Provider's Transmission System or on any other system(s) directly or indirectly interconnected with the Transmission Provider's Transmission System, the Transmission Provider, consistent with Good Utility Practice, also may Curtail Network Integration Transmission Service in order to (i) limit the extent or damage of the adverse condition(s) or disturbance(s), (ii) prevent damage to generating or transmission facilities, or (iii) expedite restoration of service. The Transmission Provider will give the Network Customer as much advance notice as is practicable in the event of such Curtailment. Any Curtailment of Network Integration Transmission Service will be not unduly discriminatory relative to the Transmission Provider's use of the Transmission System on behalf of its Native Load Customers. The Transmission Provider shall specify the rate treatment and all related terms and conditions applicable in the event that the Network Customer fails to respond to established Load Shedding and Curtailment procedures.

34 Rates and Charges

The Network Customer shall pay the Transmission Provider for any Direct Assignment Facilities, Ancillary Services, and applicable study costs, consistent with Commission policy, along with the following:

34.1 Monthly Demand Charge: The Network Customer shall pay a monthly Demand Charge, which shall be determined by multiplying its Load Ratio Share times one twelfth (1/12) of the Transmission Provider's Annual Transmission Revenue Requirement specified in Schedule H.

34.2 Determination of Network Customer's Monthly Network Load: The Network Customer's monthly Network Load is its hourly load (including its designated Network Load not physically interconnected with the Transmission Provider under Section 31.3) coincident with the Transmission Provider's Monthly Transmission System Peak.

34.3 Determination of Transmission Provider's Monthly Transmission System Load: The Transmission Provider's monthly Transmission System load is the Transmission Provider's Monthly Transmission System Peak minus the coincident peak usage of all Firm Point-To-Point Transmission Service customers pursuant to Part II of this Tariff plus the Reserved Capacity of all Firm Point-To-Point Transmission Service customers.

34.4 Redispatch Charge: The Network Customer shall pay a Load Ratio Share of any redispatch costs allocated between the Network Customer and the Transmission Provider pursuant to Section 33. To the extent that the Transmission Provider incurs an obligation to the Network Customer for redispatch costs in accordance with Section 33, such amounts shall be credited against the Network Customer's bill for the applicable month.

34.5 Stranded Cost Recovery: The Transmission Provider may seek to recover stranded costs from the Network Customer pursuant to this Tariff in accordance with the terms, conditions and procedures set forth in FERC Order No. 888. However, the Transmission Provider must separately file any proposal to recover stranded costs under Section 205 of the Federal Power Act.

35 Operating Arrangements

35.1 Operation under The Network Operating Agreement: The Network Customer shall plan, construct, operate and maintain its facilities in accordance with Good Utility Practice and in conformance with the Network Operating Agreement.

35.2 Network Operating Agreement: The terms and conditions under which the Network Customer shall operate its facilities and the technical and operational matters associated with the implementation of Part III of the Tariff shall be specified in the Network Operating Agreement. The Network Operating Agreement shall provide for the Parties to (i) operate and maintain equipment necessary for integrating the Network Customer within the Transmission Provider's Transmission System (including, but not limited to, remote terminal units, metering, communications equipment and relaying equipment), (ii) transfer data between the Transmission Provider and the Network Customer (including, but not limited to, heat rates and operational characteristics of Network Resources, generation schedules for units outside the Transmission Provider's Transmission System, interchange schedules, unit outputs for redispatch required under Section 33, voltage schedules, loss factors and other real time data), (iii) use software programs required for data links and constraint dispatching, (iv) exchange data on forecasted loads and resources necessary for long-term planning, and (v) address any other technical and operational considerations required for implementation of Part III of the Tariff, including scheduling protocols. The Network Operating Agreement will recognize that the Network Customer shall either (i) operate as a Control Area under applicable guidelines of the North American Electric Reliability Council (NERC) and the [applicable regional reliability council], (ii) satisfy its Control Area requirements, including all necessary Ancillary Services, by contracting with the Transmission Provider, or (iii) satisfy its Control Area requirements, including all necessary Ancillary Services, by contracting with another entity, consistent with Good Utility Practice, which satisfies NERC and the [applicable regional reliability council] requirements. The Transmission Provider shall not unreasonably refuse to accept contractual arrangements with another entity for Ancillary Services. The Network Operating Agreement is included in Attachment G.

35.3 Network Operating Committee: A Network Operating Committee (Committee) shall be established to coordinate operating criteria for the Parties' respective responsibilities under the Network Operating Agreement. Each Network Customer shall be entitled to have at least one representative on the Committee. The Committee shall meet from time to time as need requires, but no less than once each calendar year.

Schedule 1—Scheduling, System Control and Dispatch Service

This service is required to schedule the movement of power through, out of, within, or into a Control Area. This service can be provided only by the operator of the Control Area in which the transmission facilities used for transmission service are located. Scheduling, System Control and Dispatch Service is to be provided directly by the Transmission Provider (if the Transmission Provider is the Control Area operator) or indirectly by the Transmission Provider making arrangements with the Control Area operator that performs this service for the Transmission Provider's Transmission System. The Transmission Customer must purchase this service from the Transmission Provider or the Control Area operator. The charges for Scheduling, System Control and Dispatch Service are to be based on the rates set forth below. To the extent the Control Area operator performs this service for the Transmission Provider, charges to the Transmission Customer are to reflect only a pass-through of the costs charged to the Transmission Provider by that Control Area operator.

Schedule 2—Reactive Supply and Voltage Control from Generation Sources Service

In order to maintain transmission voltages on the Transmission Provider's transmission facilities within acceptable limits, generation facilities (in the Control Area where the Transmission Provider's transmission facilities are located) are operated to produce (or absorb) reactive power. Thus, Reactive Supply and Voltage Control from Generation Sources Service must be provided for each transaction on the Transmission Provider's transmission facilities. The amount of Reactive Supply and Voltage Control from Generation Sources Service that must be supplied with respect to the Transmission Customer's transaction will be determined based on the reactive power support necessary to maintain transmission voltages within limits that are generally accepted in the region and consistently adhered to by the Transmission Provider.

Reactive Supply and Voltage Control from Generation Sources Service is to be provided directly by the Transmission Provider (if the Transmission Provider is the Control Area operator) or indirectly by the Transmission Provider making arrangements with the Control Area operator that performs this service for the Transmission Provider's Transmission System. The Transmission Customer must purchase this service from the Transmission Provider or the Control Area operator. The charges for such service will be based on the rates set forth below. To the extent the Control Area operator performs this service for the Transmission Provider, charges to the Transmission Customer are to reflect only a pass-through of the costs charged to the Transmission Provider by the Control Area operator.

Schedule 3—Regulation and Frequency Response Service

Regulation and Frequency Response Service is necessary to provide for the continuous balancing of resources (generation and interchange) with load and for maintaining scheduled Interconnection frequency at sixty cycles per second (60 Hz). Regulation and Frequency Response Service is accomplished by committing on-line generation whose output is raised or lowered (predominantly through the use of automatic generating control equipment) as necessary to follow the moment-by-moment changes in load. The obligation to maintain this balance between resources and load lies with the Transmission Provider (or the Control Area operator that performs this function for the Transmission Provider). The Transmission Provider must offer this service when the transmission service is used to serve load within its Control Area. The Transmission Customer must either purchase this service from the Transmission Provider or make alternative comparable arrangements to satisfy its Regulation and Frequency Response Service obligation. The amount of and charges for Regulation and Frequency Response Service are set forth below. To the extent the Control Area operator performs this service for the Transmission Provider, charges to the Transmission Customer are to reflect only a pass-through of the costs charged to the Transmission Provider by that Control Area operator.

Schedule 4—Energy Imbalance Service

Energy Imbalance Service is provided when a difference occurs between the scheduled and the actual delivery of energy to a load located within a Control Area over a single hour. The Transmission Provider must offer this service when the transmission service is used to serve load within its Control Area. The Transmission Customer must either purchase this service from the Transmission Provider or make alternative comparable arrangements to satisfy its Energy Imbalance Service obligation. To the extent the Control Area operator performs this service for the Transmission Provider, charges to the Transmission Customer are to reflect only a pass-through of the costs charged to the Transmission Provider by that Control Area operator.

The Transmission Provider shall establish a deviation band of +/− 1.5 percent (with a minimum of 1 MW) of the scheduled transaction to be applied hourly to any energy imbalance that occurs as a result of the Transmission Customer's scheduled transaction(s). Parties should attempt to eliminate energy imbalances within the limits of the deviation band within thirty (30) days or within such other reasonable period of time as is generally accepted in the region and consistently adhered to by the Transmission Provider. If an energy imbalance is not corrected within thirty (30) days or a reasonable period of time that is generally accepted in the region and consistently adhered to by the Transmission Provider, the Transmission Customer will compensate the Transmission Provider for such service. Energy imbalances outside the deviation band will be subject to charges to be specified by the Transmission Provider. The charges for Energy Imbalance Service are set forth below.

Schedule 5—Operating Reserve—Spinning Reserve Service

Spinning Reserve Service is needed to serve load immediately in the event of a system contingency. Spinning Reserve Service may be provided by generating units that are on-line and loaded at less than maximum output. The Transmission Provider must offer this service when the transmission service is used to serve load within its Control Area. The Transmission Customer must either purchase this service from the Transmission Provider or make alternative comparable arrangements to satisfy its Spinning Reserve Service obligation. The amount of and charges for Spinning Reserve Service are set forth below. To the extent the Control Area operator performs this service for the Transmission Provider, charges to the Transmission Customer are to reflect only a pass-through of the costs charged to the Transmission Provider by that Control Area operator.

Schedule 6—Operating Reserve—Supplemental Reserve Service

Supplemental Reserve Service is needed to serve load in the event of a system contingency; however, it is not available immediately to serve load but rather within a short period of time. Supplemental Reserve Service may be provided by generating units that are on-line but unloaded, by quick-start generation or by interruptible load. The Transmission Provider must offer this service when the transmission service is used to serve load within its Control Area. The Transmission Customer must either purchase this service from the Transmission Provider or make alternative comparable arrangements to satisfy its Supplemental Reserve Service obligation. The amount of and charges for Supplemental Reserve Service are set forth below. To the extent the Control Area operator performs this service for the Transmission Provider, charges to the Transmission Customer are to reflect only a pass-through of the costs charged to the Transmission Provider by that Control Area operator.

Schedule 7—Long-Term Firm and Short-Term Firm Point-To-Point Transmission Service

The Transmission Customer shall compensate the Transmission Provider each month for Reserved Capacity at the sum of the applicable charges set forth below:

(1) Yearly delivery: one-twelfth of the demand charge of $_____/KW of Reserved Capacity per year.

(2) Monthly delivery: $_____/KW of Reserved Capacity per month.

(3) Weekly delivery: $_____/KW of Reserved Capacity per week.

(4) Daily delivery: $_____/KW of Reserved Capacity per day.

The total demand charge in any week, pursuant to a reservation for Daily delivery, shall not exceed the rate specified in section (3) above times the highest amount in kilowatts of Reserved Capacity in any day during such week.

(5) Discounts: If the Transmission Provider offers an affiliate a rate discount or attributes a discounted transmission rate to its own transactions, the Transmission Provider must offer at the same time the same discounted Firm Point-To-Point Transmission Service rate to all Eligible Customers on the same path and on all unconstrained transmission paths. Information regarding any firm transmission discounts must be posted on the OASIS pursuant to Part 37 of the Commission's regulations. In addition, discounts to non-affiliates must be offered in a not unduly discriminatory manner.

Schedule 8—Non-Firm Point-To-Point Transmission Service

The Transmission Customer shall compensate the Transmission Provider for Non-Firm Point-To-Point Transmission Service up to the sum of the applicable charges set forth below:

(1) Monthly delivery: $_____/KW of Reserved Capacity per month.

(2) Weekly delivery: $_____/KW of Reserved Capacity per week.

(3) Daily delivery: $_____/KW of Reserved Capacity per day.

The total demand charge in any week, pursuant to a reservation for Daily delivery, shall not exceed the rate specified in section (2) above times the highest amount in kilowatts of Reserved Capacity in any day during such week.

(4) Hourly delivery: The basic charge shall be that agreed upon by the Parties at the time this service is reserved and in no event shall exceed $_____/MWH. The total demand charge in any day, pursuant to a reservation for Hourly delivery, shall not exceed the rate specified in section (3) above times the highest amount in kilowatts of Reserved Capacity in any hour during such day. In addition, the total demand charge in any week, pursuant to a reservation for Hourly or Daily delivery, shall not exceed the rate specified in section (2) above times the highest amount in kilowatts of Reserved Capacity in any hour during such week.

(5) Discounts: If the Transmission Provider offers an affiliate a rate discount or attributes a discounted transmission rate to its own transactions, the Transmission Provider must offer at the same time the same discounted Non-Firm Point-To-Point Transmission Service rate to all Eligible Customers on the same path and on all unconstrained transmission paths. Information regarding any non-firm transmission discounts must be posted on the OASIS pursuant to Part 37 of the Commission's regulations. In addition, discounts to non-affiliates must be offered in a not unduly discriminatory manner.

Attachment A—Form Of Service Agreement for Firm Point-To-Point Transmission Service

1.0 This Service Agreement, dated as of _____, is entered into, by and between _____ (the Transmission Provider), and _____ ("Transmission Customer").

2.0 The Transmission Customer has been determined by the Transmission Provider to have a Completed Application for Firm Point-To-Point Transmission Service under the Tariff.

3.0 The Transmission Customer has provided to the Transmission Provider an Application deposit in the amount of $_____, in accordance with the provisions of Section 17.3 of the Tariff.

4.0 Service under this agreement shall commence on the later of (1) _____, or (2) the date on which construction of any Direct Assignment Facilities and/or Network Upgrades are completed, or (3) such other date as it is permitted to become effective by the Commission. Service under this agreement shall terminate on _____.

5.0 The Transmission Provider agrees to provide and the Transmission Customer agrees to take and pay for Firm Point-To-Point Transmission Service in accordance with the provisions of Part II of the Tariff and this Service Agreement.

6.0 Any notice or request made to or by either Party regarding this Service Agreement shall be made to the representative of the other Party as indicated below.

Transmission Provider:

_____

Transmission Customer:

_____

7.0 The Tariff is incorporated herein and made a part hereof.

In Witness Whereof, the Parties have caused this Service Agreement to be executed by their respective authorized officials.

Transmission Provider:

By: _____

Name

_____

Title

_____

Date

_____

Transmission Customer:

By: _____

Name

_____

Title

_____

Date

_____

Specifications for Firm Point-To-Point Transmission Service

1.0 Term of Transaction: _____

Start Date: _____

Termination Date: _____

2.0 Description of capacity and energy to be transmitted by Transmission Provider including the electric Control Area in which the transaction originates. _____

3.0 Point(s) of Receipt: _____

Delivering Party: _____

4.0 Point(s) of Delivery: _____

Receiving Party: _____

5.0 Maximum amount of capacity and energy to be transmitted (Reserved Capacity): _____

6.0 Designation of party(ies) subject to reciprocal service obligation: _____

7.0 Name(s) of any Intervening Systems providing transmission service: _____

8.0 Service under this Agreement may be subject to some combination of the charges detailed below. (The appropriate charges for individual transactions will be determined in accordance with the terms and conditions of the Tariff.)

8.1 Transmission Charge: _____

8.2 System Impact and/or Facilities Study Charge(s): _____

8.3 Direct Assignment Facilities Charge: _____

8.4 Ancillary Services Charges: _____

Attachment B—Form Of Service Agreement For Non-Firm Point-To-Point Transmission Service

1.0 This Service Agreement, dated as of _____, is entered into, by and between _____ (the Transmission Provider), and _____ (Transmission Customer).

2.0 The Transmission Customer has been determined by the Transmission Provider to be a Transmission Customer under Part II of the Tariff and has filed a Completed Application for Non-Firm Point-To-Point Transmission Service in accordance with Section 18.2 of the Tariff.

3.0 Service under this Agreement shall be provided by the Transmission Provider upon request by an authorized representative of the Transmission Customer.

4.0 The Transmission Customer agrees to supply information the Transmission Provider deems reasonably necessary in accordance with Good Utility Practice in order for it to provide the requested service.

5.0 The Transmission Provider agrees to provide and the Transmission Customer agrees to take and pay for Non-Firm Point-To-Point Transmission Service in accordance with the provisions of Part II of the Tariff and this Service Agreement.

6.0 Any notice or request made to or by either Party regarding this Service Agreement shall be made to the representative of the other Party as indicated below.

Transmission Provider:

_____

Transmission Customer:

_____

7.0 The Tariff is incorporated herein and made a part hereof.

In Witness Whereof, the Parties have caused this Service Agreement to be executed by their respective authorized officials.

Transmission Provider:

By: _____

Name

_____

Title

_____

Date

Transmission Customer:

By: _____

Name

_____

Title

_____

Date

Attachment C—Methodology To Assess Available Transmission Capability

To be filed by the Transmission Provider.

Attachment D—Methodology for Completing a System Impact Study

To be filed by the Transmission Provider.

Attachment E—Index Of Point-To-Point Transmission Service Customers

Customer _____
Date of Service Agreement _____

Attachment F—Service Agreement for Network Integration Transmission Service

To be filed by the Transmission Provider.

Attachment G—Network Operating Agreement

To be filed by the Transmission Provider.

Attachment H—Annual Transmission Revenue Requirement for Network Integration Transmission Service

1. The Annual Transmission Revenue Requirement for purposes of the Network Integration Transmission Service shall be _____.

2. The amount in (1) shall be effective until amended by the Transmission Provider or modified by the Commission.

Attachment I—Index of Network Integration Transmission Service Customers

Customer _____
Date of Service Agreement _____

Appendix E—Group 1 Public Utilities

Alabama Power Company
Appalachian Power Company
Arkansas Power & Light Company
Atlantic City Electric Company
Baltimore Gas & Electric Company
Black Hills Power & Light Company
Cambridge Electric Light Company
Central Illinois Light Company
Central Power and Light Company
Central Vermont Public Service Corporation
Cheyenne Light, Fuel and Power Company
Cincinnatti Gas & Electric Company
Citizens Utilities Company
Columbus Southern Power Company
Commonwealth Edison Company
Commonwealth Electric Company
Connecticut Light & Power Company
Connecticut Valley Electric Company
Consumers Power Company
Dayton Power & Light Company
Delmarva Power & Light Company
Duke Power Company
Duquesne Light Company
Florida Power & Light Company
Florida Power Corporation
Georgia Power Company
Granite State Electric Company
Gulf Power Company
Gulf States Utilities Company
Holyoke Power & Electric Company
Holyoke Water Power Company
Idaho Power Company
IES Utilities, Inc.
Illinois Power Company
Indiana Michigan Power Company
Interstate Power Company
Jersey Central Power & Light Company
Kansas City Power & Light Company
Kansas Gas & Electric Company
Kentucky Power Company
Kentucky Utilities Company
Kingsport Power Company
Louisiana Power & Light Company
Louisville Gas & Electric Company
Maine Public Service Company
Massachusetts Electric Company
Metropolitan Edison Company
MidAmerican Energy Company
Midwest Energy, Inc.
Minnesota Power & Light Company
Mississippi Power Company
Mississippi Power & Light Company
Monongahela Power Company
Montana Power Company
Montaup Electric Company
Nantahala Power & Light Company
Narragansett Electric Company
Nevada Power Company
New England Power Company
New Orleans Public Service Inc.
Northern Indiana Public Service Company
Northern States Power Company(Wisconsin)
Northern States Power Company (Minnesota)
Ohio Power Company
Orange & Rockland Utilities, Inc.
Pacific Gas & Electric Company
PacifiCorp
PECO Energy Company
Pennsylvania Electric Company
Pennsylvania Power & Light Company
Pike County Light & Power Company
Portland General Electric Company
Potomac Edison Company
Potomac Electric Power Company
PSI Energy, Inc.
Public Service Company of Colorado
Public Service Company of New Mexico
Public Service Company of New Hampshire
Public Service Electric and Gas Company
Public Utility Company of Oklahoma
Puget Sound Power & Light Company
Rockland Electric Company
San Diego Gas & Electric Company
Savannah Electric and Power Company
South Carolina Electric & Gas Company
Southern California Edison Company
Southern Indiana Gas & Electric Company
Southwestern Electric Power Company
Southwestern Public Service Company
Tampa Electric Company
United Illiminating Company
UtiliCorp United, Inc.
Washington Water Power Company
West Penn Power Company
West Texas Utilities Company
Western Massachusetts Electric Company
Western Resources, Inc.
Wheeling Power Company
Wisconsin Electric Power Company
Wisconsin Power & Light Company
Wisconsin Public Service Corporation

Note: Transmission tariffs have also been filed for some public utilities associated with pending merger applications. These individual utilities are not included in Group 1 and will be required to file tariffs on compliance with the Final Rule. They are: Centerior's filing for Cleveland Electric Illuminating Company and Toledo Edison Company; Interstate Energy Corporation's filing for South Beloit Water, Gas & Electric Company; Resources West's for Sierra Pacific Power Company; and the rate filing associated with the merger of Union Electric Company and Central Illinois Public Service Company.

Appendix F—Group 2 Public Utilities

Arizona Public Service Company
Bangor Hydro-Electric Company
Blackstone Valley Electric Company
Boston Edison Company
Carolina Power & Light Company
Central Hudson Gas & Electric Corporation
Central Illinois Public Service Company
Central Louisiana Electric Company, Inc.
Central Maine Power Company
Cleveland Electric Illuminating Company
Commonwealth Edison Company of Indiana
Concord Electric Company
Consolidated Edison Company of New York Inc.
Consolidated Water Power Company
Detroit Edison Company
Eastern Edison Company
Edison Sault Electric Company
El Paso Electric Company
Electric Energy Inc.
Empire District Electric Company
Exeter & Hampton Electric Company
Fitchburg Gas & Electric Light Company
Green Mountain Power Corporation
Indiana-Kentucky Electric Corporation
Indianapolis Power & Light Company
Kanawha Valley Power Company
Lockhart Power Company
Long Island Lighting Company
Long Sault, Inc.
Madison Gas & Electric Company
MDU Resources Group, Inc.
Mt. Carmel Public Utility Company
New England Electric Transmission Corporation
New England Hydro Transmission Electric Company
New England Hydro Transmission Corporation
New York State Electric & Gas Corporation
Newport Electric Corporation
Niagara Mohawk Power Corporation
Northwestern Public Service Company
Northwestern Wisconsin Electric Company
Ohio Edison Company
Ohio Valley Electic Corporation
Oklahoma Gas & Electric Company
Old Dominion Electric Cooperative
Otter Tail Power Company
Pennsylvania Power Company
Peoples Electric Cooperative
Rayburn Country Electric Cooperative
Rochester Gas & Electric Corporation
Sierra Pacific Power Company
South Beloit Water, Gas & Electric Company
St. Joseph Light & Power Company
Superior Water, Light and Power Company
Texas-New Mexico Power Company
Toledo Edison Company
Tucson Electric Power Company
UGI Utilities, Inc.
Union Electric Company
Union Light, Heat & Power Company
Unitil Power Corporation
Upper Penninsula Power Company
Vermont Electric Transmission Company
Vermont Electric Power Company
Virginia Electric & Power Company
Yadkin, Inc.

Appendix G

I. Legal Analysis of Commission Jurisdiction Over the Rates, Terms and Conditions of Unbundled Retail Transmission in Interstate Commerce

Based on an analysis of the relevant legislative history and case law under the Federal Power Act (FPA), the Commission concludes that it has exclusive jurisdiction over the rates, terms and conditions of the unbundled transmission in interstate commerce, by a public utility, of electric energy to an end user. This is also known as retail wheeling in interstate commerce. [1]

The Commission's jurisdiction over the rates, terms and conditions of transmission in interstate commerce derives from Congress' power to regulate interstate commerce under the United States Constitution [2] and the FPA. When Congress enacted the FPA, it gave the Commission exclusive jurisdiction over the rates, terms and conditions of transmission in interstate commerce by public utilities. The Supremacy Clause of the Constitution provides that federal laws enacted pursuant to the powers delegated to the federal government by the United States Constitution are the supreme law of the land.[3] Accordingly, to the extent that retail wheeling involves transmission in interstate commerce by public utilities, the rates, terms and conditions of such service are subject to the exclusive jurisdiction of the Commission, and must be filed with the Commission.[4]

1. Relevant Federal Power Act Provisions

Section 201(b)(1) of the FPA provides:

The provisions of this Part shall apply to *the transmission of electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce* * * *. The Commission shall have jurisdiction over all facilities for such transmission or sale of electric energy, but shall not have jurisdiction * * * over facilities used in local distribution or only for the transmission of electric energy in intrastate commerce, or over facilities for the transmission of electric energy consumed wholly by the transmitter.

16 U.S.C. 824(b)(1) (emphasis added). Thus, the statute on its face limits Commission jurisdiction over sales of energy to sales at wholesale, but does not limit jurisdiction over transmission to transmission used only for wholesale sales.

Sections 201 (c) and (d) define the meaning of "the transmission of electric energy in interstate commerce" and "sale of electric energy at wholesale in interstate commerce." Section 201(c) provides:

For the purpose of this Part, electric energy shall be held to be transmitted in interstate commerce if transmitted from a State and consumed at any point outside thereof; but only insofar as such transmission takes place within the United States.

16 U.S.C. 824(c). Section 201(d) provides:

The term "sale of electric energy at wholesale" when used in this Part means a sale of electric energy to any person for resale.

16 U.S.C. 824(d).

Sections 205 and 206 of the FPA give the Commission jurisdiction over the rates, terms and conditions of transmission in interstate commerce, and sales at wholesale in interstate commerce, by public utilities. 16 U.S.C. 824d and 824e.

2. Legislative History and Case Law

Much of the legislative history of the FPA indicates that Congress intended the Commission's jurisdiction to extend only to those matters which the *Attleboro* decision [5] held to be beyond the reach of the States. For instance, the report accompanying the Senate bill states that subsection (b) "leaves to the States the authority to fix local rates even in cases where the energy is brought in from another State." [6] In other words, states retain authority to regulate rates of electric energy to ultimate consumers. The Senate report also states:

The rate-making powers of the Commission are confined to those wholesale transactions which the Supreme Court held in (*Attleboro*) to be beyond the reach of the States. *Jurisdiction is asserted also over all interstate transmission lines whether or not there is sale of the energy carried by those lines* and over the generating facilities which produce energy [7] for interstate transmission and sale. S. Rep. No. 621, 74th Cong., 1st Sess. 48 (1935) (emphasis added). Thus, federal jurisdiction over transmission lines is not dependent on whether those lines are used to effect a sale, wholesale or otherwise.

The provisions of FPA section 201 reserving certain regulatory authority to the States have been interpreted narrowly.[8] The Supreme Court has stated:

In section 201(b), Congress did no more than leave standing whatever valid state laws then existed relating to the exportation of hydroelectric energy; by its plain terms, section 201(b) simply saves from pre-emption under Part II of the Federal Power Act such state authority as was otherwise "lawful." [9]

The Court also stated:

Nothing in the legislative history or language of the statute evinces a congressional intent 'to alter the limits of state power otherwise imposed by the Commerce Clause,' * * * or to modify the earlier holding of this Court concerning the limits of state authority to restrain interstate trade.[10]

Unlike the narrow interpretations given to the FPA provisions reserving certain regulatory authority to the States,[11] the courts have construed transmission "in interstate commerce" broadly. The term does not turn on whether the contract path for a particular power or transmission sale crosses state lines, but rather follows the physical flow of electricity. Because of the highly integrated nature of the electric system, this results in most transmission of electric energy being "in interstate commerce."

One of the earliest cases construing Commission jurisdiction over transmission was *Jersey Central Power & Light Co.* v. *FPC*, 319 U.S. 61 (1943) (*Jersey Central*). In that case, the Commission asserted jurisdiction over a New Jersey utility by showing that the utility owned transmission facilities that were used to transmit energy in interstate commerce. The Court found that the Commission had demonstrated that the utility owned transmission facilities that were indirectly interconnected, through a second New Jersey utility, to facilities owned by a New York utility and that the facilities were used to transmit electric energy in interstate commerce.

The Court noted that section 201(c) of the FPA defines electric energy transmitted in interstate commerce to be energy "transmitted from a State and consumed at any point outside thereof." The Court stated:

It is impossible for us to conclude that this definition [of transmission in interstate commerce] means less than it says and applies only to the energy at the instant it crosses the state line and so only to the facilities which cross the line and only to the company which owns the facilities that cross the line.

319 U.S. at 71. Thus, a critical question regarding the jurisdictional status of a wheeling transaction is whether the facilities used to provide the service transmit electric energy in interstate commerce.

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[1] Section 212(h) of the FPA provides that no order issued under the FPA shall be conditioned upon or require the transmission of electric energy directly to an ultimate consumer. 16 U.S.C. 824k(b). The Commission's assertion of jurisdiction in this final rule is over the rates, terms and conditions of retail tranamission that occurs voluntarily or as a result of a state retail access program.

[2] U.S. Const. art I, Section 8, cl.3.

[3] U.S. Const. art. VI, cl.2.

[4] *See* Montana-Dakota Utilities Co. v. Northwestern Public Service Co., 341 U.S. 246, 251–52 (1951) (*Montana-Dakota*).

[5] Public Utilities Commission v. Attleboro Steam & Electric Co., 273 U.S. 83 (1927) (*Attleboro*). In *Attleboro*, the Supreme Court held that State regulation of the interstate sale of electricity was barred by the Commerce Clause because such regulation would impose a "direct burden" on interstate commerce.

[6] S. Rep. No. 621, 74th Cong., 1st Sess. 48 (1935). *See also* H.R. Rep. No. 1318, 74th Cong., 1st Sess. 8 (1935).

[7] The provisions of the Senate bill regarding federal jurisdiction over generating facilities were eliminated from the final version of the bill.

[8] Section 201(a) declares that Federal regulation of the transmission of electric energy in interstate commerce and the sale of such energy at wholesale in interstate commerce is necessary in the public interest, "such Federal regulation, however, to extend only to those matters which are not subject to regulation by the States." 16 U.S.C. 824(a). Section 201(b)(1) states that the provisions of Part II of the FPA apply to the transmission of electric energy in interstate commerce and the sale of electric energy at wholesale in interstate commerce but, except as specifically provided, "shall not apply to any other sale of electric energy or deprive a State or State commission of its lawful authority now exercised over the exportation of hydroelectric energy which is transmitted across a State line." 16 U.S.C. 824(b)(1).

[9] New England Power Co. v. New Hampshire, 455 U.S. 331, 341 (1982) (*NEPCO*).

[10] *Id.* (citation omitted).

[11] While Congress may exercise its Commerce Clause authority to grant the States that "ability to restrict the flow of interstate commerce that they would not otherwise enjoy," Lewis v. BT Investment Managers, Inc., 447 U.S. 27, 44 (1980), States may not exercise such regulatory powers unless Congress has expressly stated its intention to make such an affirmative grant of power. *NEPCO*, 455 U.S. at 343.

In *Connecticut Light & Power Co.* v. *FPC*, 324 U.S. 515 (1945) (*CL&P*), the Court reviewed the Commission's finding that a Connecticut utility was jurisdictional because it owned transmission facilities that were used in interstate commerce. The Court generally embraced the *Jersey Central* standard for determining whether facilities are used to transmit electric energy in interstate commerce. The Court emphasized that whether certain facilities transmit electric energy in interstate commerce is more a technical than a legal question. The Court stated:

Federal jurisdiction was to follow the flow of electric energy, an engineering and scientific, rather than a legalistic or governmental, test.

324 U.S. at 529. Thus, the Court adopted the *Jersey Central* test providing that the Commission's jurisdiction generally extends to transmission facilities that transmit electric energy in interstate commerce.

The Court also applied the *Jersey Central* test in *FPC* v. *Florida Power & Light Co.*, 404 U.S. 453 (1972), affirming the Commission's finding of jurisdiction over a Florida utility. The Commission demonstrated that the utility transmitted power to another Florida utility's "bus" [12] and that power was simultaneously transferred from the "bus" to a Georgia utility. The Court upheld the Commission's finding that electric energy from the two Florida utilities was commingled and was therefore transmitted in interstate commerce. 404 U.S. at 463.

In all of the above cases, the Court's decisions turned on whether energy being transmitted flowed in interstate commerce as a technical matter. The decisions did not turn on whether the transmission of energy flowing in interstate commerce involved energy that was being sold for resale or was being sold to an end user. Thus, there is nothing in the statute, its legislative history, or the case law to indicate that the Commission's jurisdiction over rates, terms and conditions of transmission in interstate commerce extends only to wholesale transmission and not retail transmission. Indeed, the statute on its face gives the Commission jurisdiction over transmission in interstate commerce and makes no distinction between wholesale transmission and retail transmission.

However, there are two important limitations on Commission authority. First, as discussed above, the FPA does not give the Commission jurisdiction over sales of electric energy at retail. Such sales historically have been bundled sales (*i.e.*, generation and transmission), and courts and the Commission have recognized State jurisdiction over bundled sales of energy. Second, under section 201(b)(1) of the FPA, the Commission does not have jurisdiction over facilities used in local distribution. In *CL&P*, the Court stated that local distribution facilities are exempt from Commission jurisdiction even if those facilities "carry no energy except extra-state energy." 324 U.S. at 531.

In the next section the Commission further discusses the statutory provisions and case law that shed light on the demarcation between transmission and local distribution, and thus on the jurisdictional line between federal and State authority.

II. Legal Analysis of Commission Jurisdictional Transmission Facilities and State Jurisdictional Local Distribution Facilities

Two specific circumstances are addressed:

First, what facilities are jurisdictional to the Commission in a situation involving the unbundled delivery in interstate commerce by a public utility of electric energy from a third-party supplier to a purchaser who will then re-sell the energy to an end user?

Second, what facilities are jurisdictional to the Commission in a situation involving the unbundled delivery in interstate commerce by a public utility of electric energy from a third-party supplier to an end user?

Based on an analysis of the relevant legislative history and case law under the FPA, the Commission reaches the following conclusions. With respect to the first circumstance, the Commission concludes that a public utility's facilities used to deliver electric energy to a wholesale purchaser, whether labeled "transmission," "distribution," or "local distribution" are subject to the Commission's exclusive jurisdiction under sections 205 and 206 of the FPA, and that a public utility's facilities used to deliver electric energy from the wholesale purchaser to the ultimate consumer are "local distribution" facilities subject to the rate jurisdiction of the state. [13]

With respect to the second circumstance, the Commission believes that, based on the particular facts of the case, some of the public utility's facilities used to deliver electric energy to an end-user may be FERC-jurisdictional transmission facilities, while some of the facilities used may be state-jurisdictional local distribution facilities.

We set forth below the relevant legislative history and case law, our legal conclusions, and the factors which we believe are indicative of whether facilities are used in "local distribution" or "transmission in interstate commerce," as those terms are used in the FPA.

1. Relevant Federal Power Act Provisions

The Commission's jurisdiction is set forth in section 201 of the FPA. [14] Section 201(b)(1) provides in pertinent part:

The provisions of this Part shall apply to the transmission of electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce * * *. The Commission shall have jurisdiction over all facilities for such transmission or sale of electric energy, but shall not have jurisdiction * * * over *facilities used in local distribution* or only for the transmission of electric energy in intrastate commerce, or over facilities for the transmission of electric energy consumed wholly by the transmitter. [15]

Some of the court decisions that construe jurisdictional facilities under section 201 also construe the Commission's jurisdiction under section 203. Section 203(a) provides, in relevant part:

No public utility shall sell, lease, or otherwise dispose of the whole of its *facilities subject to the jurisdiction of the Commission*, * * * or by any means whatsoever, directly or indirectly, merge or consolidate such facilities or any part thereof with those of any other person * * * without first having secured an order of the Commission to do so. [16]

In addition, section 206(d) concerns facilities "under the jurisdiction of the Commission":

The Commission upon its own motion, or upon the request of any State commission whenever it can do so without prejudice to the efficient and proper conduct of its affairs, may investigate and determine the cost of the production or transmission of electric energy by means of *facilities under the jurisdiction of the Commission* in cases where the Commission has no authority to establish a rate governing the sale of such energy. [17]

2. Legislative History of the FPA

The relevant legislative history of the general purposes of Title II of the FPA, and of section 201 in particular, focuses primarily on bundled sales of electric energy and does not directly address the issue of what constitutes local distribution as opposed to transmission in interstate commerce.

In discussing the general purposes of Title II of the House bill, the House Report states:

Title II * * * establishes for the first time regulation of electric utility companies transmitting energy in interstate commerce.

* * * * * *

* * * Under the decision of the Supreme Court of the United States in (Attleboro), the rates charged in interstate wholesale transactions may not be regulated by the States. Part II gives the Federal Power Commission jurisdiction to regulate these rates. A "wholesale" transaction is defined to mean the sale of electric energy for resale and the Commission is given no jurisdiction over local rates even where the electric energy moves in interstate commerce. [18]

In its analysis of section 201, the House Report states:

As in the Senate bill no jurisdiction is given over local distribution of electric energy, and the authority of States to fix local rates is not disturbed even in those cases where the energy is brought in from another State. [19]

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[12] A bus is an electrical conductor which serves as a common connection for two or more electrical circuits. Electric Utility Rate Design Study, Glossary: Electric Utility and Ratemaking Load & Management Terms, Edison Electric Institute (Sept. 11, 1978).

[13] There are, of course, facilities that are used to provide delivery to both wholesale purchasers and end users. In those situations, we believe that the Commission and the States have jurisdiction to set rates for the services that are within their respective jurisdictions. That facilities are used to serve resale and retail customers does not, however, necessarily mean that the facilities are local distribution facilities.

[14] 16 U.S.C. 824.

[15] 16 U.S.C. 824(b) (emphasis added).

[16] 16 U.S.C. 824b (emphasis added).

[17] 16 U.S.C. 824e(d) (emphasis added).

[18] H.R. Rep. No. 1318, 74th Cong., 1st Sess. 7–8 (1935).

[19] *Id.* at 27.

The Senate Report's discussion of the general purposes of the FPA states:

The decision of the Supreme Court in (*Attleboro*) placed the interstate wholesale transactions of the electric utilities entirely beyond the reach of the States. Other features of this interstate utility business are equally immune from State control either legally or practically. [20]

In discussing material differences between the final version of the Senate bill and the original version, the Senate Report states:

Subsection (b), formerly (a), which states the subject matter to which the part relates, has been clarified to make plain that it includes interstate transmission where there is no sale and excludes all facilities used only for production of transmission in intrastate commerce or in local distribution. [21]

In discussing section 201 of the Senate bill, the Senate Report further states:

The rate-making powers of the Commission are confined to those wholesale transactions which the Supreme Court held in (*Attleboro*) to be beyond the reach of the States. Jurisdiction is asserted also over all interstate transmission lines whether or not there is sale of the energy carried by those lines and over the generating facilities which produce energy for interstate transmission and sale. It is obvious that no steps can be taken to secure the planned coordination of this industry on a regional scale unless all of the facilities, other than those used solely for retail distribution, are made subject to the jurisdiction of the Commission. Facilities used only for intrastate commerce or local distribution are expressly excluded from the operation of the act. [22]

The Conference Report adds little description regarding jurisdictional facilities. In reference to section 201(b) it states that:

[T]he language of the House amendment has been followed with a clarifying phrase added to remove any doubt as to the Commission's jurisdiction over facilities used for the generation and local distribution of electric energy to the extent provided in other sections of this part and the part next following. [23]

In addition to the above statements pertaining to section 201 of the FPA, Congress referenced distribution of energy in the legislative history of section 206(d). Section 206(d) was originally enacted as section 206(b) of the FPA. Under the Regulatory Fairness Act of 1988, [24] section 206(b) was redesignated as section 206(d).

The Conference Report on the original FPA does not address section 206(b). The Senate Report on the FPA bill states in pertinent part:

Subsection (b) authorizes the Commission to investigate and determine the cost of the production or transmission of electric energy by means of facilities under the jurisdiction of the Commission in cases where the Commission has no authority to establish a rate governing the sale of such energy. * * * Since the rate-making powers granted to the Commission apply only to the wholesale rates of energy sold in interstate commerce, this last subsection should be of great benefit in removing the practical difficulty which the States may encounter in regulating the *interstate distribution rates* which are left under their control. Such rate regulation involves the examination and valuation of property *outside* the State. The task is one requiring an agency with a jurisdiction broader than that of a single State. The authority of the Federal Commission is to render assistance to the State commissions in a way which would preserve and make more effective the jurisdiction which is thus left to the States. [25]

The House Report discusses section 206(b) as follows:

This subsection reaches those situations where electric energy is transmitted in interstate commerce *by the same company which distributes it locally*, and will greatly aid State commissions in fixing reasonable rates in such cases. [26]

Thus, the discussions in the two reports do not appear to contemplate a situation in which the transmitter and seller of electric energy are different, and neither is a "local" distributor. The House Report expressly refers to the same company being the transmitter and seller of electric energy. The Senate Report by its terms addresses the regulation of interstate distribution rates. [27]

The above legislative history on sections 201 and 206(b) does not provide any definitive answers to the questions raised. We therefore turn to the case law under the FPA.

3. Case Law Under the FPA

Jersey Central was the first of the major FPC jurisdictional cases considered by the Supreme Court. The case involved the acquisition by New Jersey Power and Light Company (New Jersey Power) of certain securities of Jersey Central Power & Light Company (Jersey Central) without the Commission's prior approval. The question before the Court was whether Jersey Central was a "public utility" under section 201(e) [28] of the FPA so that the Commission's prior approval of the stock acquisition was necessary under section 203 of the FPA.

Jersey Central owned transmission facilities that connected to facilities that Public Service Electric & Gas Company (Public Service) owned. The interconnection of these transmission facilities was in New Jersey. Public Service's facilities in turn connected to the facilities of the Staten Island Edison Corporation (Staten Island Edison), a New York utility, at the mid-channel of Kill van Kull, a body of water separating New Jersey and New York. Jersey Central delivered energy to and received energy from Public Service under contract, and Public Service delivered energy to and received energy from Staten Island Edison under contract. [29]

The Court found that, although Jersey Central generated and received electricity only in New Jersey, some of the electric energy that it dispatched to Public Service "was instantaneously transmitted to New York." [30] The Court held that "[t]his evidence * * * furnishes substantial basis for the conclusion of the Commission that facilities of Jersey Central are utilized for the transmission of electric energy across state lines." [31] Therefore, the Court found that Jersey Central was a public utility within the meaning of section 201(e). [32]

The Court cited *Attleboro*, in which the Court found that the sale of locally produced electric energy for use in another state resulted in the transmission of electric energy in interstate commerce, even though title passed at the state line. [33] In *Jersey Central*, the Court explained the rationale for federal jurisdiction as follows:

(Section 201(c) of the FPA) defines the electric energy in commerce as that "transmitted from a State and consumed at any point outside thereof." There was no change in this definition in the various drafts of the bill. The definition was used to "lend precision to the scope of the bill." It is impossible for us to conclude that this definition means less than it says * * *. The purpose of this act was primarily to regulate the rates and charges of the interstate energy. [34]

The Court in *Jersey Central* thus interpreted the FPA as placing within the federal province regulation of wholesale sales of electric energy that, in any manner, flows in interstate commerce. The language quoted above and the citation to section 201(c) of the FPA, to be relied upon in subsequent Supreme Court cases, strongly suggested that the Commission's jurisdiction was not based on whether there was a sale by the utility, but rather on the flow of electric energy either into or out of a state, so long as the energy crosses state lines.

CL&P, which was decided two years after *Jersey Central*, is the leading case interpreting

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[20] S. Rep. No. 621, 74th Cong., 1st Sess. at 17 (1935). *See id.* at 18 ("The revision [between the original and final versions of the Senate bill] has also removed every encroachment upon the authority of the States. The revised bill would impose Federal regulation only over those matters which cannot effectively be controlled by the States.")

[21] *Id.* at 19.

[22] *Id.* at 48. The provisions of the Senate bill regarding federal jurisdiction over generating facilities were eliminated from the final version of the bill.

[23] H.R. Conf. Rep. No. 1903, 74th Cong., 1st Sess. 74 (1935).

[24] Pub. L. No. 100–473, 102 Stat. 2299 (1988).

[25] S. Rep. No. 621, 74th Cong., 1st Sess. 51 (1935) (emphasis added).

[26] H.R. Rep. No. 1318, 74th Cong., 1st Sess. 29 (1935) (emphasis added).

[27] The Senate Report states that interstate distribution rates are left in the States' control. Obviously, the Senate drew a distinction between interstate distribution (left in the States' control) and interstate transmission (given to the FPC). *Compare* S. Rep. No. 621 at 49 *with* H.R. Rep. No. 1318 at 51.

[28] Section 201(e) defines a "public utility" as "any person who owns or operates facilities subject to the jurisdiction under this Part (other than facilities subject to such jurisdiction solely by reason of section 210, 211, or 212)." 16 U.S.C. 824(e). The section as adopted in 1935 did not contain the parenthetical, which was adopted in 1978 as part of the Public Utility Regulatory Policies Act.

[29] *Jersey Central*, 319 U.S. at 63–65.

[30] *Id.* at 66.

[31] *Id.* at 67 (citation omitted).

[32] *Id.* at 73.

[33] 273 U.S. at 86, 89–90.

[34] 319 U.S. at 71 (footnote omitted).

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the section 201(b) local distribution proviso. In *CL&P*, the Commission sought to regulate the accounting practices of Connecticut Light & Power Company (CL&P).[35] At issue was whether CL&P was a "public utility" under the FPA. The utility's system encompassed an area solely within a single state (Connecticut)[36] and did not interconnect with any other company that operated out of state.[37] "Its purchases and sales, its receipts and deliveries of power, (were) all within the state."[38] However, CL&P did purchase energy from companies that had, in turn, purchased energy from Massachusetts. The company also sold energy to a municipality that exported a portion of that energy to Fishers Island, located off the coast of Connecticut but "territory of New York."[39] The Commission based its jurisdiction on these few transactions.[40]

The Court of Appeals affirmed the Commission, holding that the Commission's jurisdiction extended to "electric distribution systems which normally would operate as interstate businesses." The Court of Appeals found that:

Whether or not the facilities by which petitioner distributes energy from Massachusetts should be classified as 'local' is not relevant to this case. The sole test of jurisdiction of the Commission over accounts is whether these facilities, 'local' or otherwise, are used for the transmission of electric energy from a point in one state to a point in another.([41])

The Supreme Court reversed. It held that the statutory language in section 201(b) of the FPA providing that the Commission "shall not have jurisdiction * * * over facilities used in local distribution" is a limitation upon Commission jurisdiction that "the Commission must observe and the courts must enforce."[42] In analyzing the statute, the Court stated:

It has never been questioned that technologically generation, transmission, distribution and consumption are so fused and interdependent that the whole enterprise is within the reach of the commerce power of Congress, either on the basis that it is, or that it affects, interstate commerce, if at any point it crosses a state line.

* * * * *

But whatever reason or combination of reasons led Congress to put the provision in the Act, we think it meant what it said by the words "but shall not have jurisdiction * * * over facilities used in local distribution." Congress by these terms plainly was trying to reconcile the claims of federal and local authorities and to apportion federal and state jurisdiction over the industry.[43]

The Court decided that this limitation on jurisdiction was "a legal standard that must be given effect in this case in addition to the technological transmission test."[44]

The Court stated that whether or not local distribution facilities carried out-of-state electric energy was irrelevant. Whatever the origin of the electric energy they carried, so long as the utility used the lines for local distribution,[45] they were exempt from federal jurisdiction.[46] In fact, the Court stated that local distribution facilities "may carry no energy except extra-state energy and still be exempt under the Act." *Id.* at 531. The Court concluded that the Commission's order:

Must stand or fall on whether this company owned facilities that were used in transmission of interstate power and which were not facilities used in local distribution.[47]

Upon reversing the Court of Appeals, the Court commented, in dictum, on the evidence the Commission had relied upon in finding that the facilities in question were used for transmission. It noted that the Commission had relied upon certain gas transportation cases in concluding that transmission extends from the generator to the point where the function of conveyance in bulk over distance is completed and the process of subdividing the energy to serve ultimate consumers, which is the characteristic of "local distribution," is begun. The Court cautioned:

But a holding that distributing gas at low pressure to consumers is a local business is not a holding that the process of reducing it from high to low pressure is not also part of such local business. In so far as the Commission found in these cases a rule of law which excluded from the business of local distribution the process of reducing energy from high to low voltage in subdividing it to serve ultimate consumers, the Commission has misread the decisions of this Court. No such rule of law has been laid down.[48]

The Court also noted in its dictum, however, that once a company is properly found to be a "public utility" under the Act, the fact that a local commission may also have jurisdiction does not preclude exercise of the Commission's functions. *Id.* at 533.[49]

The Court instructed the lower court to remand the case to the Commission for a finding regarding whether the facilities in question were used in local distribution.[50]

The *CL&P* case was ultimately disposed of without the Commission having made a finding that the facilities were used in local distribution. While the Commission found that it was "extremely doubtful" that it could find that the facilities in question were not local distribution facilities, 6 FPC 104, 106 (1947), the Commission did not articulate a definition of local distribution facilities.

In *Wisconsin-Michigan Power Co.* v. *Federal Power Commission*,[51] the Seventh Circuit held that a utility was a jurisdictional public utility where it operated two divisions in Wisconsin and Michigan in a coordinated manner such that electric energy from one state was transmitted to the other, and vice versa, "in appreciable amounts by the power company and by it commingled with energy generated in the two respective districts and then delivered to the [wholesale] customers * * *."[52] The court also rejected the notion that the energy changed its form or character when it was stepped down in voltage before it reached the wholesale purchasers.[53]

The court in *Wisconsin-Michigan* distinguished between transmission and local distribution by focusing on wholesale sales of electric energy versus retail sales ("local rates") of electric energy. It cited the House Report on the FPA, and characterized the legislative history as follows:

The legislative history, [H.R. Rep. No. 1318), 74th Cong., 1st Sess. pages 7, 8 and 27 (1935), discloses that the Congressional Committee intended that *the provisions of the (FPA) should apply to the transmission of electric energy in interstate commerce, i.e., the sale of energy at wholesale in interstate commerce, but not to the retail sale of any such energy in local distribution;* that the (FPA) left to the state the authority to fix local rates where the energy is brought in from other states, and that the rate making power of the (FPC) was to be confined to those *wholesale transmissions* which the Supreme Court had held in (*Attleboro*) to be beyond the reach of the state. Under that decision, said the committee, the rates charged in interstate wholesale transactions could not be regulated by the states. It defined a wholesale transaction as the sale of electric energy for resale.[54]

The Seventh Circuit's characterization of the House Report seems to equate transmission of electric energy in interstate commerce with the sale of energy at wholesale in interstate commerce. However, this interpretation is at odds with both the plain words of the statute as well as the language of the House Report, both of which refer to transmission in interstate commerce separately from sales for resale in interstate commerce.[55] In addition, the Senate Report, which the Seventh Circuit did not mention, clearly recognized jurisdiction over all interstate transmission lines, whether or not a sale of energy is carried by those lines.[56]

The *Wisconsin-Michigan* court also cited analogous natural gas cases, stating that "[t]he question is essentially, when does interstate commerce transportation end and where do the local distribution facilities first become operative."[57] The court further stated that:

(U)pon delivery to (the wholesaler) local distribution begins when he resells. His sales and distribution at retail are clearly local in character, and constitute only local distribution; but at no point before delivery to him has been completed, has interstate transmission terminated. In other words, "facilities used in local distribution" means facilities used for making resale and distribution to consumers, jurisdiction over which is left to the states. It was only because of this conclusion that the Supreme Court said, (citation omitted), the Act "cut(s) sharply and cleanly between sales for resale and direct sales for consumptive uses." We think there is no ground for the position that local distribution includes any transmission occurring before the wholesaler who resells at retail is reached.[58]

The Seventh Circuit concluded that the sales for resale were made in interstate commerce; that local distribution had not begun; that the interstate character of the transmission persisted until delivery to the wholesaler; that, up to that point, no local distribution facilities were in operation and that, therefore, the sales were subject to Commission regulation.

In *Federal Power Commission v. Southern California Edison Company* (the *Colton* case),[59] the Supreme Court held that the FPA provides a clear line of demarcation between jurisdictional transactions and non-jurisdictional transactions. However, this case, too, involved bundled sales of electric energy. In the facts of the case, Southern California Edison Company (Edison) admitted that it was a public utility by virtue of owning two interstate transmission lines.[60] At issue was whether its sales of electric energy to the City of Colton, California, for resale to Colton's retail customers, were jurisdictional. Included in the electric energy that Edison sold to Colton was out-of-state electric energy from Hoover Dam.[61] The Commission ruled that the sale to Colton was a sale of electric energy at wholesale in interstate commerce subject to regulation under the FPA.[62] In upholding the Commission, the Court held that Edison's importation of out-of-state electricity for resale to Colton sufficed to confer federal jurisdiction.

The Court, citing an earlier Supreme Court case,[63] characterized Congressional intent in the FPA:

(W)hat Congress did was to adopt the test developed in the *Attleboro* line which denied state power to regulate a sale "at wholesale to local distributing companies" and allowed state regulation of a sale at "local retail rates to ultimate consumers."[64]

The Court rejected the argument that FPC jurisdiction was confined to those interstate wholesale sales constitutionally beyond the power of state regulation by force of the Commerce Clause, and was to be determined on a case-by-case analysis of the impact of state regulation upon the national interest. The Court stated that in the FPA:

(C)ongress meant to draw a bright-line easily ascertained, between state and federal jurisdiction, making unnecessary such case-by-case analysis. This was done in the Power Act by making FPC jurisdiction plenary and extend[ed] it to all wholesale sales in interstate commerce except those which Congress has made explicitly subject to regulation by the States.[65]

The Court held that "(t)here is no such exception covering the Edison-Colton sale."[66]

Parties in the Colton case had raised the question of whether jurisdiction over the Colton sale was prevented by the "local distribution" proviso of section 201(b). The Court stated that whether facilities are local distribution facilities is a matter for the Commission to decide in the first instance. Citing *CL&P*, *supra*, it stated:

Whether facilities are used in local distribution—although a limitation on FPC jurisdiction and a legal standard that must be given effect in addition to the technological transmission test * * *—involves a question of fact to be decided by the FPC as an original matter.[67]

The Court cited evidentiary support and the Commission's expertise in such matters in upholding the Commission's determination that certain facilities owned by Edison were used exclusively to effect the wholesale sale to Colton and not for local distribution. Such facilities included 12 kV lines that served an industrial customer, several lighted highway signs, a residence and a railroad section house before they reached the transformers in the Colton substation. The FPC had held that those uses prior to the lines reaching the Colton substation did not transform the lines into local distribution facilities.[68]

In *Duke Power Company* v. *Federal Power Commission* (*Duke*),[69] the D.C. Circuit held that a public utility's acquisition of facilities used solely in local distribution, and which would continue to be used for local distribution, was beyond the Commission's jurisdiction under section 203. The case involved Duke Power Company's (Duke's) proposed acquisition of facilities owned by Clemson University (Clemson), which were used to distribute electricity off-campus to customers (primarily university personnel) in two South Carolina counties. Clemson purchased the power at wholesale from Duke. No one appeared to contest the conclusion that the 7 miles of distribution line and 416 service connections owned by Clemson were "local distribution" facilities.[70] Rather, the case turned on interpreting section 203 and whether it was intended to affect *only* acquisitions of jurisdictional facilities, or also to affect acquisitions of non-jurisdictional facilities. In interpreting section 203, however, the D.C. Circuit extensively analyzed and discussed the fundamental jurisdictional lines that Congress drew in section 201.

Citing to the *CL&P* case, the court in *Duke* stated:

The Act, as we have seen, effectuated federal control over the transmission and the sale at wholesale of electric energy in interstate commerce, and established the Commission's regulatory power over public utilities engaging in *either* of these pursuits.[71]

However, quoting *CL&P*, the court further stated:

The expression "facilities used in local distribution" is one of relative generality. But as used in this Act it is not a meaningless generality in the light of our history and the structure of our government. We hold the phrase to be a limitation on jurisdiction and a legal standard that must be given effect in this case in addition to the technological transmission test.[72]

The court further rejected the Commission's concept that, in order to determine whether jurisdiction over any particular acquisition existed, the impact of local supervision be measured on a case-by-case basis. Quoting from *Colton*, the court stated:

[T]his "flexible approach"—involving as it does the consideration, *inter alia*, of "the

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[35] *CL&P*, 324 U.S. at 517.

[36] *Id.* at 518.

[37] *Id.* at 521.

[38] *Id.* at 522.

[39] *Id.* at 519–21.

[40] *Id.*

[41] *Id.* at 522, *quoting* Connecticut Light & Power Co. v. FPC, 141 F.2d 14, 18 (D.C. Cir. 1944).

[42] 324 U.S. at 529.

[43] *Id.* at 529–31.

[44] Id. at 531.

[45] It appears that while the Company received power (at one location) at 66 kV, it primarily owned facilities at 13.8 kV and below.

[46] 324 U.S. at 531.

[47] *Id.* at 531 (emphasis added).

[48] *Id.* at 534.

[49] *See* United States v. Public Utilities Commission of California, 345 U.S. 295, 316 (1953) (*Public Utilities Commission*): Certainly the concrete fact of resale of some portion of the electricity transmitted from a state to a point outside thereof invokes federal jurisdiction at the outset, despite the fact that the power thus used traveled along its interstate route "commingled" with other power sold by the same seller and eventually directly consumed by the same purchaser-distributor.

See also Arkansas Power & Light Co. v. FPC, 368 F.2d 376, 383 (8th Cir. 1966) ("Where a company is in fact a public utility, all wholesale sales for resale in interstate commerce are subject to the provisions of sections 205 and 206 of the (FPA), regardless of the facilities used."). The Eighth Circuit further noted that the section 201(b) exemption applies to a company's status as a public utility and not to the Commission's jurisdiction over sales in interstate commerce for resale. *Id.*, citing *Public Utilities Commission, Colton, infra*, and *Wisconsin-Michigan, infra*.

[50] *Id.* at 536.

[51] 197 F.2d 472 (7th Cir. 1952), *cert. denied*, 345 U.S. 934 (1953) (*Wisconsin-Michigan*).

[52] *Id.* at 474.

[53] *Id.* ("Obviously the energy thus transmitted in interstate commerce is not changed in form or in character except that the voltage is reduced to an extent consistent with efficient economic management and operation.").

[54] 197 F.2d at 476 (emphasis added).

[55] *See* H.R. Rep. No. 1318 at 27. ("Subsection (b) confers jurisdiction upon the Commission over the transmission of electric energy in interstate commerce *and* the sale of electric energy in wholesale in interstate commerce * * *." emphasis added).

[56] *See* S. Rep. No. 621 at 48 ("Jurisdiction is asserted over all interstate transmission lines whether or not there is a sale of the energy carried by those lines * * *.").

[57] 197 F.2d at 477.

[58] *Id.*, citing FPC v. East Ohio Gas Co., 338 U.S. 464 (1950) (*East Ohio*).

[59] 376 U.S. 205 (1964) (*Colton*).

[60] The Supreme Court noted that Edison's status as a public utility did not decide the question of whether the FPC could assert jurisdiction over the rates for the Edison-Colton sale. *Id.* at 208 n.3.

[61] *Id.* at 208, 209 & n.5.

[62] *Id.* at 208. *See* Arkansas Electric Cooperative Corp. v. Arkansas Public Service Commission, 461 U.S. 375, 380 (1983) ("(*Colton*) held, among other things, that * * * a California utility that received some of its power from out-of-state was subject to federal and not state regulation in its sales of electricity to a California municipality that resold the bulk of the power to others.").

[63] Illinois Natural Gas Co. v. Central Illinois Public Service Co., 314 U.S. 498, 504 (1942).

[64] 376 U.S. at 214.

[65] *Id.* at 215–216.

[66] *Id.* at 216 (footnote omitted).

[67] *Id.* at 210 n.6 (citation omitted).

[68] *Id.* at 210 n.6.

[69] 401 F.2d 930 (D.C. Cir. 1968) (*Duke*).

[70] Duke delivered power to Clemson at a distribution voltage of 4,160 volts. The step-down transformers by which the voltage was reduced, and the substations at which the delivery was effected, were owned by Duke. 401 F.2d at 931, n.8.

[71] 401 F.2d at 936–39 (emphasis added, footnotes omitted).

[72] *Id.* (footnote omitted).

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effect of the regulation upon the national interest in the commerce"—has been flatly rejected as a technique for resolving jurisdictional conflicts between the Commission and state bodies. * * * We think that like the line "(i)t cut sharply and cleanly between sales for resale and direct sales for consumptive uses" to facilitate jurisdictional determinations in rate regulation, "Congress meant to draw a bright line easily ascertained, between state and federal jurisdiction, making unnecessary such case-by-case analysis," in distributing regulatory power over the acquisition of facilities.[73]

The court rejected the Commission's argument that jurisdiction over the merger or consolidation of jurisdictional facilities with those of any other "person" under section 203 gave the Commission jurisdiction over Duke's acquisition. The court stated that the FPA reflects a policy "' that matters largely of a local nature, even though interstate in character, should be handled locally and should receive the consideration of local [officials] familiar with the local conditions in the communities involved.' "[74]

Federal Power Commission v. *Florida Power & Light Company*[75] is the last major court case to address the Commission's transmission jurisdiction. In this case, the Commission sought to impose its accounting rules upon Florida Power & Light Company (Florida Power & Light). The company's system lay solely within the borders of Florida and did not directly connect with any out-of-state utility.[76] The Commission held that Florida Power & Light did own facilities that transmitted electric energy in interstate commerce, but the Court of Appeals for the Fifth Circuit ruled that the Commission did not have substantial evidence to support its finding.

The Supreme Court reversed. The Supreme Court noted that Florida Power & Light was a member of the Florida Power Pool along with Florida Power Corporation (Florida Power Corp.).[77] In turn, Florida Power Corp. connected with Georgia Power Company (Georgia Power) at a "bus"[78] south of the Georgia-Florida border.[79] Florida Power Corp. regularly exchanged power with Georgia Power.[80] In many instances, Florida Power Corp. transferred power to Florida Power & Light instantly after receiving power from Georgia Power, and transferred power to Georgia Power immediately after receiving power from Florida Power & Light.[81] The Supreme Court found that power commingled in the bus moved across state lines, and concluded that Florida Power & Light engaged in transmission in interstate commerce. The Court held that, to establish jurisdiction, the Commission need only show that "some (Florida Power & Light) power goes out of State."[82] The Court further explained that "(i)f any (Florida Power & Light) power has reached Georgia, *or* (if Florida Power & Light) makes use of any Georgia power * * * FPC jurisdiction will attach * * *."[83]

There is also a line of cases that address, among other things, what constitutes a Commission jurisdictional "sale of electric energy at wholesale"[84] under section 201 of the FPA.[85] These cases all concerned bundled sales. While the issues posed above involve unbundled wheeling, the "resale" cases are helpful to the extent they suggest that local distribution takes place only *after* power is subdivided. *See, e.g.*, 345 U.S. at 316 ("the facilities supplied 'local distribution' only after the current was subdivided for individual consumers.").

4. Natural Gas Act

The Natural Gas Act (NGA) was adopted in 1938. Like the FPA, the NGA contains language limiting the Commission's jurisdiction in situations involving local distribution.[86]

Section 1(b) of the NGA provides:

The provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and to natural gas companies engaged in such transportation or sale, *but shall not apply* to any other transportation or sale of natural gas or *to the local distribution of natural gas or to the facilities used for such distribution* or to the production or gathering of natural.[87]

There is similarity in many respects between the House and Senate Reports on the FPA and the NGA with respect to the jurisdiction given the Commission. For example, all four reports mention *Attleboro* as placing interstate wholesale transactions beyond the reach of the States. As indicated in the House Report on the NGA, the States could "regulate sales to consumers even though such sales are in interstate commerce, such sales being considered local in character and in the absence of congressional prohibition subject to State regulation." (*See* H.R. Rep. No. 709, 75th Cong., 1st Sess. 1). However, the House and Senate Reports on the NGA contain identical language not found in the reports on the FPA:

In view of the importance of section 1(b), which states the scope of the act, it seems advisable to comment on certain provisions appearing therein. It will be noted that this subsection of the bill, after affirmatively stating the matters to which the act is to apply, contains a provision specifying what the act is not to apply to, as follows:

But shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas.

The quoted words are not actually necessary, as the matters specified therein could not be said fairly to be covered by the language affirmatively stating the jurisdiction of the Commission, but similar language was in previous bills, and, rather than invite the contention, however unfounded, that the elimination of the negative language would broaden the scope of the act, the committee has included it in this bill. *That part of the negative declaration stating that the act shall not apply to "the local distribution of natural gas" is surplusage by reason of the fact that distribution is made only to consumers in connection with sales, and since no jurisdiction is given to the Commission to regulate sales to consumers the Commission would have no authority over distribution, whether or not local in character.* (Emphasis added).[88]

As a result of this language it can be argued that Congress considered distribution (and local distribution) only in the context of bundled retail sales of natural gas. In fact, it appears that all of the court cases affirming the states' right to regulate local distribution of gas have involved bundled retail sales. *See Panhandle Eastern Pipe Line Co.* v. *Michigan Public Service Commission*, 341 U.S. 329 (1951) (*Panhandle*). There the Court, in affirming the State of Michigan's right to regulate an interstate pipeline's proposed bundled retail sales of gas to industrial consumers, noted that the pipeline company proposed to lay pipeline in "the streets and alleys of Detroit" and ignored the local distribution company's request for additional gas to meet the increased needs of the industrial consumers. *Id.* at 333. While the Court based its holding on a state's authority to regulate direct (retail) sales to an end-user, rather than on the basis of the section 1(b) local distribution provision, it also found that the proposed sales were "primarily of local interest" and "emphasized the need for local regulation." *Id.* Two years before *Panhandle*, the Supreme Court issued its decision in *FPC* v. *East Ohio Gas Co.*, 338 U.S. 465 (1949) (*East Ohio*). East Ohio Gas Company owned and operated a natural gas business wholly within the State of Ohio. The company sold gas only to Ohio customers but most of the gas was transported to Ohio from other states by interstate pipelines. These interstate pipelines connected inside Ohio with East Ohio's large high pressure lines. The gas then was transported over 100 miles through East Ohio's system to its local distribution system. East Ohio argued that it was exempt from Commission jurisdiction because all of its facilities were local distribution.

The Court disagreed, finding the Commission's jurisdiction extends over the transportation of gas in interstate commerce through high-pressure transmission lines and that distribution did not begin until the point where pressure is reduced and gas enters local mains. The Court stated that: "[w]hat Congress must have meant by 'facilities' for 'local distribution' was equipment for distributing gas among customers within a particular local community, not the high-pressure pipelines transporting the gas to the local mains."[89]

The Commission relied in part on *East Ohio's* high pressure/low pressure distinction in a recent NGA section 7 certificate case which authorized construction of facilities to bypass the local distribution company.[90] On appeal, the California Commission argued that under section 1(b) it should at least have "jurisdiction over the 'taps, meters and other tie-in facilities' that link the pipeline to end users."[91] The court disagreed:

While as a matter of ordinary English 'local distribution' might be understood to encompass any delivery to an end user, that is hardly the only or even more plausible reading. Distribution conjures up receiving a large quantity of some good and parcelling it out among many takers.[92]

After reviewing the report language discussed above, the court also stated:

Insofar as congressional committees spoke to the matter * * * they appear to have viewed distribution as confined to its parcelling out function and (probably) even more narrowly, to parcelling out *accompanied by* retail sales.[93]

In *Cascade Natural Gas Corporation* v. *FERC, et al.* (*Cascade*), the court affirmed the Commission's authorizing an interstate pipeline under section 7 of the NGA "to construct a tap and meter facility that would allow it to deliver natural gas directly to two industrial consumers * * *."[94] To reach the interstate pipeline, the industrials constructed a nine-mile pipeline. Together, the facilities bypassed the local distribution company.[95]

The court rejected arguments that section 1(b) deprived the Commission of jurisdiction holding that:

"Local distribution," as Congress viewed the term, involves two components: the retail sale of natural gas and its local delivery, normally through a network of branch lines designed to supply local consumers.[96]

5. Analysis

a. What facilities are jurisdictional to the Commission in a situation involving the unbundled delivery in interstate commerce by a public utility of electric energy from a third-party supplier to a purchaser who will than re-sell the energy to an end user?

The case law supports the conclusion that any facilities of a public utility used to deliver electric energy in interstate commerce to a wholesale purchaser, whether such facilities are labeled "transmission," "distribution" or "local distribution," are subject to the Commission's jurisdiction under sections 205 and 206.

This conclusion is supported by *Public Utilities Commission*, *supra*, in which the Supreme Court, in the section of its opinion addressing the section 201(b) local distribution provision, held that local distribution facilities began "only after the current was subdivided for individual consumers."[97] *Wisconsin-Michigan*, *supra*, in which the Seventh Circuit held that there is no local distribution until the wholesaler who re-sells at retail is reached, is to like effect.

This conclusion, which results in a "functional" line being drawn to determine Commission jurisdiction, is not only consistent with the case law under section 201, but is also consistent with our interpretation of the line drawn under newly amended FPA sections 211 and 212. As long as electric energy is being sold to a legitimate wholesale purchaser, we believe the Commission has jurisdiction under sections 201, 205, and 206 of the FPA over the public utility's facilities used to deliver electric energy to that purchaser.

b. What facilities are jurisdictional to the Commission in a situation involving the unbundled delivery in interstate commerce by a public utility of electric energy from a third-party supplier directly to an end user?

In analyzing jurisdiction over unbundled retail wheeling, we believe it is important to distinguish between unbundled wheeling provided by the public utility who previously provided bundled retail service to the end user, and unbundled wheeling provided by other public utilities to the end user. For example, a former bundled retail customer may need unbundled wheeling services from its previous public utility generation supplier, as well as unbundled wheeling from one or more intervening public utilities, in order to reach a distant generation supplier. In this scenario, the Commission believes it would have jurisdiction over all of the facilities used for the unbundled wheeling provided by the intervening public utilities.[98] The more difficult issue is whether some portion of the facilities used to transmit energy from the transmitting utility in closest proximity to the end user (the former supplier of the bundled product) is local distribution facilities. We believe that in most, if not all circumstances, some portion will be local distribution facilities.

The case law is replete with statements that the local distribution provision of section 201 must be given effect. However, the Supreme Court in both *CL&P* and *Colton*, *supra*, has stated that whether facilities are used in local distribution is a question of fact to be decided by the Commission as an original matter. Thus, there is no clear case law on a "bright line" between transmission and local distribution. In addition, regardless of the details of the chain of delivery services necessary to move electric energy from the generator to the end user, in most cases the last public utility in the chain will use facilities that historically were considered local distribution facilities. Accordingly, unlike the situation involving unbundled wholesale wheeling, for which the case law clearly supports a "functional" test, the Commission believes the case law and practical realities of a changing industry support an analysis of local distribution facilities based on the facilities' functional as well as technical characteristics.

While it would be preferable to draw an absolutely "bright" line (e.g., based on technical characteristics such as voltage), the Commission does not believe this is required by the case law and, importantly, would not be a workable approach in all cases because of the variety of circumstances that may arise and because utilities themselves classify facilities differently (*e.g.*, one utility may classify a 69 kV facility as transmission; another may classify it as distribution).

Therefore, the Commission is adopting several indicators it will evaluate in determining whether particular facilities are transmission or local distribution in the case of vertically integrated transmission and distribution utilities:[99]

- Local distribution facilities are normally in close proximity to retail customers.
- Local distribution facilities are primarily radial in character.
- Power flows into local distribution systems, it rarely, if ever, flows out.
- When power enters a local distribution system, it is not reconsigned or transported on to some other market.
- Power entering a local distribution system is consumed in a comparatively restricted geographical area.
- Meters are based at the transmission/local distribution interface to measure flows into the local distribution system.
- Local distribution systems will be of reduced voltage.[100]

In summary, for unbundled wholesale wheeling the Commission will apply a

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[73] *Id.* at 949 (footnotes omitted).

[74] *Id.* at 936 (quoting from Hearings on H.R. 5423 before the House Committee on Interstate and Foreign Commerce, 74th Cong., 1st Sess. 393 (1935) (testimony of then-FPC Commissioner Seavey)).

[75] 404 U.S. 453, *reh'g denied*, 405 U.S. 948 (1972) (*Florida Power & Light*).

[76] 404 U.S. at 456.

[77] *Id.* at 456.

[78] A "bus" is a connector or group of connectors that serves as a common connection for two or more circuits.

[79] 404 U.S. at 457.

[80] *Id.*

[81] *Id.* at 457 & n.8.

[82] *Id.* at 461. (emphasis omitted).

[83] *Id.* at 461 n.10. (emphasis added).

[84] *See* Section 201(d), 16 U.S.C. 824(d) (1988).

[85] *Public Utilities Commission*, *supra* note 345; City of Oakland, California v. FERC, 754 F.2d 1378 (9th Cir. 1985) (*Oakland*). See also Alexander v. FERC, 609 F.2d 543 (D.C. Cir. 1979) (*Alexander*).

[86] Courts often rely on cases construing the NGA when interpreting the FPA, and vice versa. *E.g.*, Arkansas Louisiana Gas Co. v. Hall, 453 U.S. 571, 577 n.7 (1981).

[87] 15 U.S.C. 717(b) (emphasis added).

[88] H.R. Rep. No. 709, 75th Cong., 1st Sess. 3 (1937); S. Rep. No. 1162, 75th Cong., 1st Sess. 3 (1937).

[89] 338 U.S. at 469–70.

[90] *See* Mojave Pipeline Company, 35 FERC ¶ 61,199 (1986), *reh'g denied*, 41 FERC ¶ 61,040 (1987), *reh'g denied*, 42 FERC ¶ 61,351 (1988); *see also* Mojave Pipeline Company, 66 FERC ¶ 61,194 (1994), *reh'g pending*.

[91] *See* Public Utilities Commission of the State of California v. FERC, *et al.*, 900 F.2d 269, 273 (D.C. Cir. 1990) (footnote omitted) (*WyCal*).

[92] *Id.* at 276.

[93] *Id.* (emphasis in original).

[94] 955 F.2d 1412, 1414 (10th Cir. 1992).

[95] Unlike the situation in *WyCal* where the pipeline made direct sales to end users, in *Cascade* the pipeline transported gas purchased from third parties. *See* Northwest Pipeline Corporation, 51 FERC ¶ 61,289 at 61,909 (1990).

[96] *Cascade*, 955 F.2d at 1421.

[97] 345 U.S. at 316 (footnote omitted).

[98] The Commission would not have jurisdiction over the rates for the sale of generation by the distant supplier because the transaction would be a retail sale of electric energy.

[99] In the case of a distribution-only utility, which is franchised by a State or local government and sells only at retail, all of the circuits (and related wires, transformers, towers, and rights of way) which it owns or operates (regardless of voltage) would be local distribution facilities.

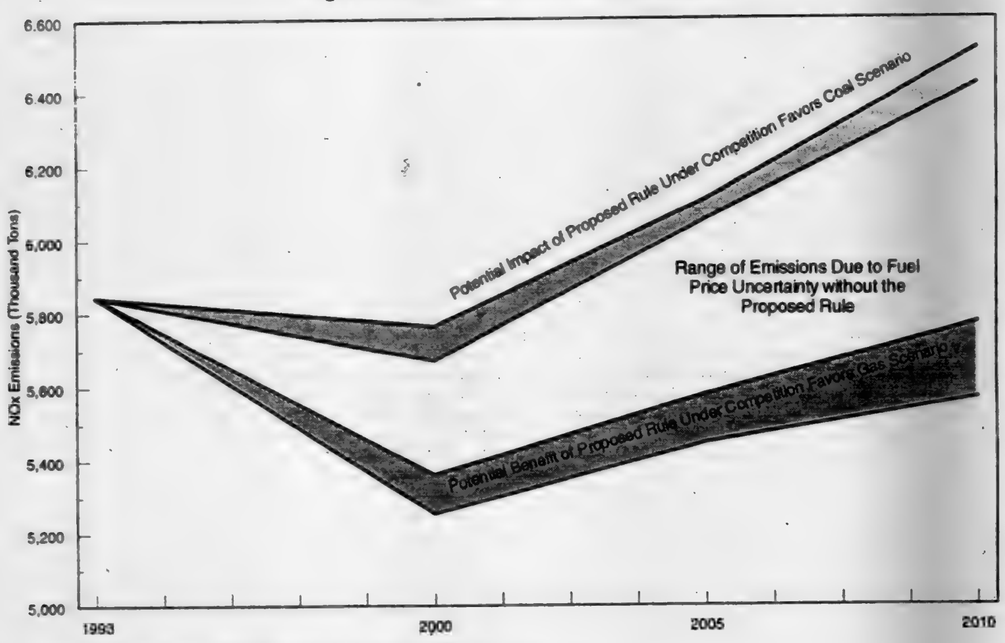
[100] The Commission has analyzed utilities' filings required by the Commission's regulations. These filings are made on FERC Form No. 1. While there is no uniform breakpoint between transmission and distribution, it appears that utilities account for facilities operated at greater than 30 kV as transmission and that distribution facilities are usually less than 40 kV.

functional test. The only definitive question will be whether the entity to whom the power is delivered is a lawful wholesaler. For unbundled retail wheeling the Commission will apply a combination functional-technical test that will take into account technical characteristics of the facilities used for the wheeling. The Commission concludes that these tests are consistent with the FPA, its legislative history and the case law discussed above.

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APPENDIX H
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Figure ES-1. Total U.S. NOx Emissions



Source for 1993 data: Energy Information Administration, *Electric Power Annual.*
Note: All estimates include NOx emissions adjustments for MOU in the Ozone Transport Region.

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APPENDIX H.—TABLE ES–2.—NATIONAL EMISSIONS OF NO_X *as Projected in Both Base Cases and All Proposed Rule Scenarios*

[Thousand tons]

Year	Under assumption that relative gas and coal prices remain constant		Under assumption that gas prices increase compared to coal prices		
	Constant price-differential base case	Competition-favors-gas proposed rule scenario	High-price-differential base case	Competition-favors-coal proposed rule scenario	Low response proposed rule scenario
1993	5,844	5,844	5,844	5,844	5,844
2000	5,362	5,255	5,672	5,763	5,743
2005	5,579	5,449	6,053	6,108	6,056
2010	5,772	5,638	6,426	6,519	6,426

Promoting Wholesale Competition Through Open Access Non- Discriminatory Transmission Services by Public Utilities

Recovery of Stranded Costs by Public Utilities and Transmitting Utilities

(As corrected April 25, 1996)

[Docket No. RM95–8–000; Docket No. RM94–7–001]

Issued April 24, 1996.

HOECKER, Commissioner, *concurring in part and dissenting in part:*

General Observations

A. Four years and untold numbers of conferences, studies, and speculations after the Energy Policy Act, the Commission today takes a major step in bringing competition to the wholesale bulk power market in the United States. Order No. 888 (FERC Stats. & Regs. ¶ 31,036), together with our order establishing an open access same-time information system (OASIS) (Order No. 889, FERC Stats. & Regs. ¶ 31,037) and our proposal to conform all transmission tariffs to a uniform capacity reservation system (FERC Stats. & Regs. ¶ 32,517), will set in motion a dynamism seldom witnessed in the electric power business. In that sense, the organizational, operational, and economic consequences of the requirements we adopt today defy prediction. I believe nevertheless that the Commission's Final Rule today is a sound and reasoned decision about the industry as we now know it and as we think it may evolve. I therefore announce my unequivocal support for the order's basic tenets as we have chosen to implement them—the unbundled wholesale utility services, open and non-discriminatory access to transmission and to information about transmission, service comparability, an opportunity for increased competition among generation sources, coordination with and deference to state regulatory interests, and full recovery of eligible stranded investments.

B. Restructuring the electric power industry is a matter of national interest and priority. Electricity is ubiquitous. Its benefits are key to the American quality of life. Operating 750,000 MW of generation capacity arrayed across three synchronous regional transmission grids, the electric industry is the nation's most capital intensive. The 179 largest investor-owned utilities alone control nearly $600 billion in assets. And, total electricity revenues constitute between 3 and 4 percent of the gross domestic product (GDP)—larger than telecommunications, natural gas pipeline, and airline revenues combined.

Both the Congress and the President have recognized our obligation to ensure that these resources are used wisely and efficiently. We all recognize that systemic change is happening within the industry and that regulation must change to take maximum advantage of the most constructive of those forces. "At the center of the success of our economy is the market, and at the core of the success of the market is competition," states the President in his 1996 *Economic Report* to the Congress; "it is competition that drives down costs and prices, induces firms to produce the goods consumers want, and spurs innovation and the expansion of new markets abroad." Yet, as state and local governments consider the future of industries heretofore heavily regulated in the public interest, deregulation is not enough, states the President. Competition must be actively promoted and preserved from the abuses and distortions associated with monopoly power, as well as from outdated forms of regulation that provide inappropriate incentives.

In the electric utility restructuring process, several difficult challenges must still be met here and elsewhere. First, policymakers must make the tough choices to attack access discrimination and promote competition while also ensuring reliability and economical service. Success in these undertakings may require pricing innovation and structural reforms to attain significant long-run gains in efficiency and productivity. *Economic Report,* at 183–185. Second, no transition to a new regime of operating rules and assumptions, can be achieved reasonably if regulated companies are shorn of the opportunity to recover prudently incurred costs. Utility investments that may become stranded or uneconomic as competitive choice displaces franchise monopoly are estimated to represent a $100 billion-plus risk for public utilities. State and federal regulators must confront this issue in the interest of equity and a swift readjustment to the new competitive realities. As the President's *Economic Report* makes clear, it will be important to future suppliers of private capital for public use that a regulatory bargain made must remain a bargain kept. "Credible government is key to a successful market economy, because it is so important for encouraging long-term investments." *Id.,* at 186–188. Third, maintaining competitive parity and environmental protection are key challenges as well. That means, among other things, that environmental policy must respond to the environmental risks associated with restructuring and vice versa. *Id.,* at 188–189. This assessment of the realities and challenges facing this Commission, its state counterparts, and the diverse elements of the industry substantially ratifies the Commission's actions today.

C. The long-run prospect for reform of the wholesale market is promising, though the task seems daunting. The preamble to the Final Rule begins by outlining the difficult issues that await this Commission and the industry: (1) Corporate organizational matters, including the role of independent system operators (ISOs) in promoting more efficient operation of the transmission system on a regional basis; (2) the need for a new merger policy, which I believe must be predicated on a thorough understanding of emerging markets and genuine ratepayer protections instead of a subjective tally of supposed "benefits"; and (3) further efforts to make greater use of flow-based pricing where appropriate. In adopting the OASIS requirements, we have taken a first step in recognizing that competitive markets do not consist of wires and turbines alone, but of information also. Full competition requires the consolidation of the electron transportation system with the electronic information superhighway.

One thing is abundantly clear: restructuring will require continued innovation and fortitude from our capable staff, cooperation from state regulators, patience and foresight from legislators and, most of all, creativity, responsiveness, and endurance from both utility management and electric consumers.

II. Concurrence on Specific Issues

The Final Rule resolves certain matters of policy and law in ways which, despite my fundamental agreement, I would like to offer some additional perspectives.

A. Coordinating State and Federal Regulatory Interests

Perhaps no single issue will influence the success or failure of restructuring as will the capacity of the FERC and state regulators to reach meaningful accommodations as the electric utility industry becomes increasingly subject to competitive forces. The vertical organization and technological integration of the electric power business contributes to the impression of a regulatory system riddled with gaps and overlaps, interregional inequities, and uncertainty. To the extent that impression predominates in the months to come, the pressure from legislators and the financial community to devise single-minded national solutions to issues of regional or local significance will likely prove irresistible.

The regulation of this industry is a unique exercise in federalism. The Deputy Secretary of Energy wisely acknowledged months ago that, "the aftermath of FERC's open access rulemaking will put to the test our ability to evolve improved means for unsnarling the governance problems of federal and state authorities." Charles B. Curtis, Remarks Before the Third DOE/NARUC National Symposium, December 4, 1995. I find no shortage of good ideas on how to achieve better state, federal, and inter-regional cooperation. But, unanswered questions persist about the availability of sufficient political will and leadership to achieve electricity markets that at once satisfy the need for operational efficiency on a regional level and also provide the "opportunity for experimentation and market testing with the flexibility to comprehend local differences * * * [that is] the very genius of the federal system." *Id.*

Although it remains unclear today whether this challenge will be met, I firmly believe that the Final Rule is a sound resolution of the jurisdictional questions facing this Commission as a result of competition and open access. State PUC comments reflect enormous concern about the potential loss of jurisdiction over some wires and services, if and when "retail transmission" becomes unbundled. States raise legal objections to our claim of jurisdiction. While reaffirming our view that the Commission has exclusive jurisdiction over the rate, terms, and conditions of interstate transmission, today's order addresses state concerns squarely—first, by adhering to the practical distinctions between transmission and distribution set forth in the NOPR and, second, by according deference[1] to states where appropriate when

[1] The Commission leaves unexplored the precise meaning of "deference" in these circumstances. At

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retail transmission services become subject to a FERC tariff. These accommodations will smooth the transition to a seamless competitive market with full customer choice, if and when individual states initiate retail competition.

While the Final Rule, not unexpectedly, manifests this Commission's strong interest in preventing balkanization of the interstate power market, nothing adopted by the Commission today, including the interpretation of its authority over retail transmission when retail service is unbundled, is inconsistent with the traditional state roles in developing regulatory, social, and environmental requirements and programs suited to the circumstances of their localities. Section I of the Final Rule is emphatic about this.

I will conclude with two observations on matters I believe to be of particular sensitivity to the states. First, it appears to me that state regulators may impose distribution and other non-bypassable charges or other retail requirements on direct access services, even in those circumstances where no distribution facilities can be identified under the functional/technical test. The Final Rule ensures that result by acknowledging state authority over distribution-related services under the FPA.

Second, state authority is traditionally employed to ensure that power production conforms to local economic, environmental, and resource diversity policy preferences. A state may wish, for example, to ensure that a direct access industrial customer is no less obligated to purchase power consistent with the resource diversity or environmental requirements than is that customer's franchise distribution utility. To the extent that state requirements to own or purchase a certain amount of generation from, say, renewable sources are enshrined in utility supply portfolios, those states have direct influence on the economic and environmental consequences of energy consumption in that jurisdiction. Moreover, such requirements ought to be compatible with open access transmission. However, it will be important that state authority over resource procurement be exercised on a not unduly discriminatory basis. In other words, a PUC may not treat in-state and out-of-state suppliers differently. If access over the network is non-discriminatory in nature, the federal regulatory and constitutional interests are arguably satisfied.

B. Environmental Effects of Restructuring

1. Last July, we instructed our staff to prepare an Environmental Impact Statement (EIS) in conjunction with this rulemaking. The Final EIS (FEIS), issued on April 12, 1996, is an impressive and, with respect to the air impacts of electric restructuring, a pioneering work. It considers in detail: (1) The possible environmental consequences of adopting this Rule, including a number of additional analyses requested by commenters, (2) alternative methods of pursuing open access transmission service, (3) a range of environmental mitigation actions proposed by commenters, and (4) the Commission's legal and technical ability to undertake environmental mitigation. On the whole, I find staff's studies to be analytically sound and generally in conformance with my understanding of this agency's powers to engage in environmental mitigation. Moreover, its conclusions and recommendations are thoughtful and well-reasoned. I therefore believe that consideration of the FEIS as part of the Commission's actions today meets our National Environmental Policy Act of 1969 (NEPA) obligations[2] and the requirement of reasoned decisionmaking.

The FEIS highlights a very important public health and social welfare issue, not to mention a matter of great financial importance to certain utilities. To be specific, the FEIS examines potential air quality impacts in the event generation increases from certain coal-fired units. Open transmission access is expected by some to stimulate that additional generation and hence additional nitrogen oxide (NO_X) emissions and related ozone formation. From these projections, a substantive and not altogether constructive debate has ensued. As Section V of the Final Rule describes more fully, the Commission conducted additional studies to respond to comments on the draft EIS, using new recommended baselines for comparison. The results confirm that the air quality impacts of the rule are within reason.

The Commission has satisfied itself that the three most pressing questions have been addressed: (1) What increment of the NO_X emissions problem may be attributable to this Final Rule? (2) Will Final Rule-induced NO_X emission increases be so significant and their impacts sufficiently adverse to justify an alternative regulatory approach, such as "no action" on utility restructuring? (3) Short of no action, can the Commission undertake direct actions that mitigate any potential adverse effects? Based on the FEIS, I can find no justification in the cause, size, or certainty of near-term emissions increases for delaying or diluting the Open Access Rule and no clear basis for a FERC-sponsored emissions control regime, even on an interim basis.

2. Having discharged our NEPA obligations, I cannot pretend that this matter of public interest is no longer of any interest or concern to us. Clean air is a birthright. Air emissions are therefore an important concern. I would not relegate this issue to the periphery of our deliberations. If the EIS process accomplishes nothing else, it has familiarized the FERC with the difficulties of addressing the seemingly intractable problem of NO_X emissions. The problem engenders interregional economic and environmental conflicts that can be addressed only by a sophisticated balancing of interests and a selfless commitment to the greater good. EPA and several commenters on our Rule express frustration over the progress being made to reduce NO_X emissions. For this and other environmental issues, such as NO_X waivers, resort to the courts has become customary, and complex technological and economic disputes are the norm. *See e.g., Electric Power Alert*, April 24, 1996, at 29–30.

Regions of the country differ, often vehemently, about the source and effects of ozone-causing emissions and how best to curb the generation and transport of pollutants that create ozone. Utilities in some regions have made commitments and invested heavily to achieve "attainment" levels, while the blessings of geography and circumstance have imposed no such burden on others. We recognize in essence that reconciling these interests is a task the Congress has assigned to the EPA. Although the Clean Air Act authorizes EPA to develop a national program to enforce emissions reduction largely through state environmental regulatory efforts (the so-called State Implementation Plans (SIPs)), the statutory process is ponderous in practice. Moreover, even where gains are expected to be made in the form of reduced NO_X emissions (*e.g.*, under EPA's pending rulemaking to set NO_X emissions limitations for certain types of utility boilers), those gains might arguably be offset by future increases in the demand for electricity or, according to some parties, by the additional power generation some say will be encouraged by open access transmission.

The inability to guarantee future NO_X reductions for a variety of reasons that range well beyond this Rule presents formidable challenges. EPA places great faith in the ability of the Ozone Transport Assessment Group (OTAG), a voluntary multi-state organization established in part to set up NO_X emission mitigation mechanism, to address these complex issues and achieve a resolution. It nevertheless appears to me that, for the most part, consensus remains distant. The alternative appears to be an even more protracted EPA procedure.

With respect to the gravamen of this issue (i.e., the establishment of an emissions cap and credit trading system reminiscent of what Congress ordered for sulphur dioxide (SO_2)), this Commission has no real choice but to defer to agencies with jurisdiction by law and special expertise. The EPA has done an outstanding job implementing the market-based SO_2 allowance program. It is widely regarded as both creative and successful.

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one extreme, it could mean courteous regard for another's views and, at the other, binding submission to another's judgment. I would, for example, accord state views on cost allocation considerable or presumptive, but not conclusive, weight.

[2] NEPA (42 U.S.C. 4321–4370), the Council on Environmental Quality's (CEQ) regulations promulgated thereunder (40 CFR parts 1500–1508 (1995)), and our own environmental regulations supplementing those of CEQ (18 CFR part 380 (1995)) together establish an important procedural mechanism that was designed, not to impose upon this Commission substantive duties to achieve particular results, but to infuse our decisional processes with a broad awareness of the environmental consequences of our actions. Under NEPA, the Commission must in any applicable instance consider and weigh its core objectives and responsibilities under the Federal Power Act and the impacts of its actions on all aspects of the human environment—economic and social as well as ecological. This exercise requires the Commission to ascertain the availability and consider the feasibility of alternative approaches with lesser impacts. In other words, the Commission's duty is to take a "hard look" at the environmental effects of its major actions. Robertson v. Methow Valley Citizens Council, *et al.*, 490 U.S. 332 (1988); Strycker's Bay Neighborhood Council, Inc. v. Karlen, *et al.*, 444 U.S. 223 (1980). The EIS process fulfills that requirement.

OTAG, regardless of any concerns about its processes, brings together a broad range of regional interests, thereby offering an unprecedented opportunity for achieving consensus resolution of this difficult problem.

3. In my view, it behooves this Commission to assist in any way it can, consistent with its expertise and authority, to find consensual solutions. I do not think that means denying polluting utilities access to the transmission system and thereby merely reinforcing their monopoly power. Rather, we must stand ready to assist EPA and OTAG in making competition and environmental responsibility equally attractive. We have begun providing that assistance by ensuring (see II.A. above) that state regulators retain their customary authority under state law to structure the generation and purchase power portfolios of state-regulated utilities. Moreover, the Commission has in the past addressed through its rate jurisdiction various public interest goals, including environmental concerns, intergenerational equities, and least-cost planning needs. For instance, in order to encourage capital investment in pollution control equipment and conservation, the Commission has long allowed utilities to include in rate base the costs of "construction work in progress" (CWIP) for pollution control devices and fuel conversion measures that discourage use of certain fossil fuels.[3] In addition, utilities are not eligible for CWIP treatment for plant construction not shown to be the product of integrated resource planning.[4]

With respect to the NO_X issue specifically, the Commission is competent to help facilitate an emissions cap and trading system. For instance, the accounting treatment provided for the cost of SO_2 emissions allowances in rates was done to assist implementation of the Clean Air Act.[5] The same accommodations could be instituted for a NO_X program. Perhaps the greatest potential for DOE–EPA–OTAG–FERC collaboration and consultation involves our knowledge of the industry and, after preparing the FEIS, our familiarity with the NO_X problem itself. That information should be useful beyond the confines of this rulemaking. In addition, the FEIS indicates (at p. 7–22) that we can structure the electronic bulletin board systems we require so as to facilitate the posting of emissions data required by EPA.

4. Based upon the mutual concerns and the different but complementary expertise of the affected agencies, I encourage the development of consultative mechanisms, memoranda of understanding, or other procedures that will support and help ensure the success of OTAG's efforts. Such efforts must be consistent with the goals and allocation of responsibilities under the Clean Air Act, and our own regulatory role. Restructuring may pose some environmental risks. We think they are small and (at least eventually) manageable. Further experience is likely to demonstrate that restructuring opens up new possibilities for addressing longstanding environmental problems associated with utility operations. Open access enhances the prospects for environmental dispatch on a statewide or regional basis. It gives isolated renewable plants, particularly hydroelectric and wind power units that are tied to specific geographical features, better market access. I must note that investments in DSM and renewable resources, which offer relatively stable costs, may be an attractive component of utilities' generation portfolios because they also minimize risks. And, as restructuring makes electricity a more customer-driven business, the public's documented preference for environmentally benign power will become more powerful. In addition, efficient markets provide the necessary means to "marketize" environmental rules and perhaps to modify siting and other regulatory processes that are predicated on the vertical integration of the utility sector. And, finally, energy services companies that can promote conservation and generation alternatives require more open and dynamic markets. For the environment, the prospects offered by restructuring are exciting. Inhibiting or stopping its development will not help it.

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[3] 18 CFR 35.25 (1995).

[4] 18 CFR 35.13(h)(38) (1995).

[5] Revisions to Uniform Systems of Accounts to Account for Allowances under the Clean Air Act Amendments of 1990, Order No. 552, III FERC Statutes and Regulations ¶30,967 (1993).

III. Partial Dissent

The Final Rule announces that the Commission will be the "primary forum" to hear stranded cost claims where a retail power customer turns wholesale wheeling customer, usually through a municipalization (Situation 2). Although the Final Rule recognizes that states *do* have authority to deal with stranded costs in Situation 2, the majority nevertheless instructs parties to bring their claims to this Commission "in the first instance." However, where costs are stranded due to state authorized retail wheeling (Situation 3), the majority takes a different and, I contend, incongruent approach that effectively denies any forum for those costs if state regulators possess authority to act but do not do so. Because I find nothing in policy or law to commend this approach, I respectfully dissent.[6]

I take issue with the "primary forum" approach because I believe that it: (1) Requires the Commission to second-guess state determinations on recovery of costs incurred at retail at a time when many states are addressing the issue; (2) will encourage forum shopping; and (3) is inconsistent with our approach in the retail wheeling situation; and (4) involves an unnecessary legal risk for the Commission.

A. Second-Guessing State Determinations of Retail Stranded Costs is Unwise and Unnecessary

The Final Rule's stranded cost recovery methodologies and the underlying jurisdictional assumptions are aimed at achieving full recovery of all legitimate, verifiable and prudent stranded costs, consistent with a utility's reasonable expectations and the justness and reasonableness of the underlying contract. I believe that this is a worthy objective, but it is not one which requires the Commission to second-guess state determinations. As state proceedings now reveal, the Commission's leadership in raising this issue has borne fruit. Where municipalization is occurring, states are addressing stranded costs responsibly. In nearby Virginia, for example, the Virginia State Corporation Commission has interceded into the dispute between Virginia Electric Power Company and the City of Falls Church over the City's plans to undertake a "muni-lite" form of municipalization. Moreover, the record before us today does not endorse the view that municipalization constitutes a major bypass threat to stranded cost recovery.

Notwithstanding such developments, the Final Rule announces that the Commission will be the "primary forum" to hear stranded cost claims where a retail power customer turns wholesale wheeling customer, usually through a municipalization. While declaration of "primary forum" status sounds very legalistic, there is in fact no legal basis for it. The policy is not founded on a concept of federal preemption in the area. Indeed, the Federal Power Act provides no basis for preemption. Moreover, the Final Rule recognizes that states *do* have authority to deal with stranded costs in these circumstances. The majority's instruction to bring claims directly to FERC will, if anything, afford states a reason to avoid this difficult issue altogether.

B. The "Primary Forum" Approach May Encourage Forum Shopping

As a policy matter, the majority's approach is peculiar on its face. Although the "primary forum" approach is intended to eliminate forum shopping, it will not achieve even that objective. Indeed, I think the "primary forum" approach may encourage parties to forum shop. State commissions or legislatures will often provide for stranded cost recovery at the time the wholesale entity is formed. Similarly, condemnation proceedings may provide for stranded costs in whole or part. Moreover, standards for stranded cost recovery are occasionally prescribed by statute. In reality, the Commission cannot preclude the states from acting on stranded cost issues and our proposed rule may encourage rather than discourage forum shopping.

C. The "Primary Forum" Approach Covers Fact Situations Largely Indistinguishable From the Retail Wheeling Scenario

The majority's decision to take primary jurisdiction of costs where a retail power customer becomes wholesale wheeling customer through municipalization and to distance itself from virtually any cost recovery responsibility where retail power customers becomes retail wheeling customers does not withstand scrutiny. These are not factually distinguishable cases, insofar as jurisdiction over stranded costs is concerned. The inadequacy of the majority's reasoning is palpable because it has adopted very different policies with respect to two stranded cost situations that, if properly understood, are virtually indistinguishable.

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[6] My views conform generally to Commissioner Massey's partial dissent today.

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First, in both Situations 2 and 3, retail power costs are stranded by customers who gain access to FERC jurisdictional transmission tariffs via state action. In Situation 2, state municipalization law governs. In Situation 3, the state has authorized retail wheeling by statute or regulation, or both. Notwithstanding the need for state authorization in both cases, the majority decides that the Commission should be the "primary forum" in Situation 2, but that a much more narrow approach to retail stranded costs in Situation 3.[7] The more aggressive "primary forum" approach to municipalization is predicated on the view that any strandings are a result of an inducement (*i.e.*, market options) created by this Commission's Open Access Rule. Yet, since both wholesale transmission customers and retail transmission customers are "eligible customers" under the tariffs required by this Rule, if the Rule induces the stranding of retail power costs in one situation, it obviously does it in both.

As commenters have noted, the relationship between FERC-regulated transmission service and retail power customers is generally the same in both Situations 2 and 3.[8] The similarity runs first to the actions that actually cause costs to be stranded. While it is true that retail wheeling will only occur pursuant to state legislative or regulatory action, it is also true that a retail customer can only convert to wholesale status (*e.g.*, municipalize) pursuant to state law. This process sometimes may occur in the absence of regulatory or other oversight (*e.g.*, municipalization under pre-established statutory scheme), or with direct and immediate review and approval. The current evidence reflects active state commission oversight, typically. In this latter case, there is even less reason to distinguish between these Situations.

The majority implicitly seeks to delimit the area of appropriate state authority over stranded costs according to whether the state acts directly and by current enactments to authorize retail wheeling, on one hand, or less directly through established state municipalization laws, on the other. However, costs could be stranded under state law by either action. Under the former scenario, however, a state is presumed to be more willing and capable of dealing with stranded costs. Under the latter, it is presupposed to be less interested. This distinction is specious.

A second similarity pertains to the jurisdictional status of transmission service. The Commission has been clear and consistent that the FPA gives the Commission exclusive jurisdiction over interstate transmission service, regardless of whether the customer is a wholesale or a retail wheeling customer. It is this authority upon which we rely to claim jurisdiction over transmission assets and related costs originally incurred to provide customers at the retail level with bundled service. New wheeling customers in both Situations 2 and 3 will take service under FERC open access tariffs. There are identical cost-causational facts in Situations 2 and 3, yet the majority adopts very different outcomes in each case under the Final Rule.

D. The "Primary Forum" Approach is More Subject to Legal Challenge

In my view, our disagreement involves more than a policy choice. The majority's chosen approach clearly makes our stranded cost recovery approach more vulnerable to a legal challenge. The cost recovery scheme which would result from the majority's approach will render a FERC-ordered transmission surcharge to recover retail stranded costs susceptible to legal challenge on the basis that it is anti-competitive and unduly discriminatory. The "primary forum" approach imposes upon a retail-turned-wholesale customer something akin to double jeopardy. In other words, a departing customer might have to pay both an exit fee for the retail costs which the state commission finds it has stranded and, in addition, an entry fee for wholesale access in the amount of the additional retail stranded costs which FERC determines are inadequately covered by state proceedings.

This, in my view, makes the Final Rule more susceptible to challenges that FERC's transmission surcharge is anti-competitive. *E.g., Cajun Electric Power Cooperative, Inc.* v. *FERC*, 28 F.3d 173 (D.C. Cir. 1994). The second-guessing of states inherent in the "primary forum" approach makes any arguments that stranded cost recovery is anti-competitive more difficult to overcome than if the stranded costs resulted from wholesale customers simply changing wholesale suppliers. This is because, unlike wholesale-to-wholesale strandings, the Commission cannot plausibly argue that the costs incurred were originally addressed in the context of its own rate decisions or were previously part of its responsibility for administering wholesale service obligations.

I am strongly persuaded that the Commission would be on much stronger legal ground if we were to treat state authority over stranded costs with the same deference in the municipalization or "retail-turned-wholesale" situation in the same manner as the Final Rule prescribes for situations where retail wheeling occurs. In the latter case, the Commission ought to provide a forum where neither the state legislature nor the state commission attempts to address this important transition issue.

James J. Hoecker,

Commissioner.

Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities

Recovery of Stranded Costs by Public Utilities and Transmitting Utilities

[Docket No. RM95–8–000; Docket No. RM94–7–001]

Issued April 24, 1996.

MASSEY, Commissioner, *dissenting in part:*

I support all of the provisions of this rule save one, the provision on stranded costs arising from retail competition and from municipalization. When the Commission issued the Notice of Proposed Rulemaking, I stated that the Commission should treat stranded costs arising from retail competition and municipalizations similarly, as follows:

For either retail competition or municipalization, when the state commission has authority to address the issue, and uses such authority to decide the recoverability of the stranded costs, the state's decision should not be second-guessed by this Commission. However, when a state commission does not have the authority to decide the recoverability of stranded costs, or has authority but does not use it, this Commission should act on requests for stranded cost recovery.

My approach would assure utilities of getting a decision on the merits of their claim. Costs would not be stranded for lack of a regulatory decision. At the same time, this Commission would allow states to make decisions, when they have authority, on issues of critical concern to their local utilities and ratepayers. Only if states lack, or fail to use, such authority would this Commission step in to assure the utility of receiving a decision on the merits.

For the reasons I stated then, I still disagree with the rule's approach to stranded costs arising from retail competition or municipalization. In all other respects, I support this rule.

William L. Massey,

Commissioner.

[FR Doc. 96–10694 Filed 5–9–96; 8:45 am]

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[7] The policy adopted with respect to Situation 3 is that the Commission would only be a forum for hearing stranded costs issues in the narrow circumstance where "the state regulatory authority does not have authority under state law to address stranded costs when the retail wheeling is required." The majority fails to address what would happen if a legislature addresses the issue of stranded costs directly without delegating the task to a state regulatory authority. I would hope that the Commission would not set itself up for confrontation with a state legislature and I would have preferred that to also exclude those circumstances "where the state otherwise addresses the issue" from the circumstances in which the Commission would act in Situation 3.

[8] This argument is made both by commenters arguing that the Commission has no jurisdiction over stranded costs in Situation 2 or 3 (California Public Utilities Commission Initial Comments at 7) and by commenters arguing that the Commission should assert primary jurisdiction over stranded costs in both Situations (*see e.g.*, Edison Electric Institute Initial Comments at IV–13; Coalition For Economic Competition Initial Comments at 22; Utilities For An Improved Transition Initial Comments at 16–26).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM95–9–000; Order No. 889]

Open Access Same-Time Information System (Formerly Real-Time Information Networks) and Standards of Conduct

April 24, 1996.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is adding rules establishing and governing an Open Access Same-time Information System (OASIS) (formerly real-time information networks) and prescribing standards of conduct. Under this final rule, each public utility (or its agent) that owns, controls, or operates facilities used for the transmission of electric energy in interstate commerce will be required to create or participate in an OASIS that will provide open access transmission customers and potential open access transmission customers with information, provided by electronic means, about available transmission capacity, prices, and other information that will enable them to obtain open access non-discriminatory transmission service. This final rule requires each public utility subject to the rule to implement standards of conduct to functionally separate transmission and wholesale power merchant functions and the creation of a basic OASIS system. In addition, some of the standards and formats for OASIS nodes are prescribed in a document entitled *OASIS Standards and Communication Protocols* that is being issued with the final rule. The Commission also is establishing further procedures to complete the standards for displays and formats. The development of OASIS requirements will continue in a Phase II, in which the Commission will continue to develop the requirements for a fully functional OASIS.

Effective Date: This final rule will become effective on July 9, 1996.

Compliance Date: Compliance with the standards of conduct and operation of an OASIS meeting the requirements of this final rule must commence on or before November 1, 1996.

Conference Date: A technical conference on any remaining issues will be held on June 17, 1996.

ADDRESSES: The technical conference will be held at the Commission's headquarters at 888 First Street, NE., Washington, DC. 20426.

FOR FURTHER INFORMATION CONTACT:

Marvin Rosenberg (Technical Information), Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–1283

William C. Booth (Technical Information), Office of Electric Power Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 (202) 208–0849

Gary D. Cohen (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–0321

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397 if dialing locally or 1–800–856–3920 if dialing long distance. CIPS is also available through the Fed World system (by modem or Internet). To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this order will be available on CIPS indefinitely in ASCII and Wordperfect 5.1 format. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

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I. Introduction

The Federal Energy Regulatory Commission (Commission) is promulgating new regulations amending 18 CFR to add Part 37 containing rules establishing and governing transmission information networks and standards of conduct. The Commission is issuing this final rule in tandem with its final rule on Open Access Transmission and Stranded Costs (Open Access Final Rule).[1] This final rule applies to any public utility that offers open access transmission services under the Open Access Final Rule *pro forma* tariff. Under the Open Access Final Rule, the open access *pro forma* tariff may be used by wholesale transmission customers and by retail transmission customers that are able to receive unbundled retail transmission either voluntarily from the public utility or as a result of a state retail access program.

This final rule is being issued after a review of the comments filed in response to the Commission's notice of proposed rulemaking issued in this proceeding on December 13, 1995 (RIN NOPR).[2]

This final rule becomes effective on July 9, 1996. By November 1, 1996, all affected public utilities must file procedures with the Commission that will enable customers and the Commission to determine whether they are in compliance with the standards of conduct requirements contained herein.

Additionally, under this final rule, each public utility as defined in section 201(e) of the Federal Power Act, 16 U.S.C. 824(e) (1994), (or its agent) that owns, controls, or operates facilities used for the transmission of electric energy in interstate commerce (each Transmission Provider) must develop or participate in an Open Access Same-time Information System (OASIS).[3] This final rule establishes Phase I OASIS rules that require the creation of a basic OASIS.[4] The basic OASIS required by this final rule must be in place and operational by November 1, 1996. The development of OASIS requirements will continue in Phase II, during which the Commission will develop the requirements for a fully functional OASIS.

While the final rule set forth in this order is consistent with the proposal described in the RIN NOPR, it also resolves certain issues that were described in the RIN NOPR but left undecided, and adds clarifications and revisions, as suggested by the comments. As proposed in the RIN NOPR, the final rule describes what information must be provided on an OASIS, how an OASIS must be implemented and used, and contains a code of conduct applicable to all transmission providing public utilities.

As proposed in the RIN NOPR, we are issuing this final rule along with a separate document entitled *OASIS Standards and Communication Protocols (Standards and Protocols)* to help ensure that each OASIS will provide information in a uniform manner. However, the standards and protocols are not yet complete. Consequently, we are inviting the How Group[5] to submit an additional report, on or before May 28, 1996, to help us resolve these deficiencies. We will also hold a technical conference on June 17, 1996 to resolve any remaining issues and to allow input from interested persons. We will issue a revised *Standards and Protocols* document as soon as possible thereafter.

We are moving promptly to complete the standards and protocols to ensure that the OASIS will be operational and in compliance with this final rule by November 1, 1996. In selecting this date, we have balanced the need to have a functional system of fair and non-discriminatory information in place to support the Open Access Final Rule against the comments that argued that implementation of an OASIS could not be accomplished in 60 days and to avoid implementation during the peak winter or summer months.

II. Public Reporting Burden

The final rule requires Transmission Providers to participate in an OASIS designed to provide open access transmission users and potential open access transmission users with information by electronic means about available transmission capacity and prices.

The RIN NOPR contained an estimated annual public reporting burden associated with a final rule consistent with the RIN NOPR. In response to the RIN NOPR, NRECA[6] filed comments with the Commission that argued that the Commission's estimated public reporting burden should have taken into account that Question 45 of the RIN NOPR asked whether OASIS rules should be *extended* to apply to non-public utilities that own or control facilities used for the transmission of electric power in interstate commerce.[7] Based on this inquiry, NRECA argued that the public burden estimate should have been based on the assumption that the proposed OASIS rules would be extended to apply to non-public utilities (even though this was not proposed by the Commission).

The Commission's task in preparing a public burden estimate at the NOPR stage was to estimate the annual public reporting burden associated with a final rule consistent with the RIN NOPR. This is what the Commission did. An estimate based on deviations from the NOPR proposal, as NRECA suggested, would have been inappropriate. At the same time, however, by asking Question 45, we identified the issue and gave the commenters an opportunity to be heard before making a final decision.

Our final rule, like the RIN NOPR, applies only to public utilities, and not to non-public utilities. However, as discussed in this order and as commented upon by various non-public utilities, in the Open Access Final Rule we are including a reciprocity provision in public utility open access tariffs under which all those who elect to take service under the open access tariff (including non-public utilities) will have to offer reciprocal service including an information network, unless they are granted a waiver of the reciprocity provision in the tariff.[8] Consequently, we have increased the estimate of number of respondents in this rulemaking to reflect the additional burden on those non-public utilities that seek service under open access tariffs. However, this is offset by our current expectation that there will be far fewer OASIS sites than we originally anticipated in the RIN NOPR. The How Group estimates there will be between 20–35 OASIS sites nationwide.[9] Using the higher number, the burden of running each OASIS will be shared, on average, by four respondents. This is reflected in the burden hour and cost estimates.

Our burden hour and cost estimates include the information gathering requirements imposed on public utilities that do not develop their own OASIS. Additionally, we have refined our estimate of the annual public reporting burden to account for revisions that this final rule makes to the RIN NOPR.

Estimated Annual Burden:

Data collection	No. of respondents	No. of responses	Hours per response	Total annual hours
Reporting	140	1	1879	263,060
Recordkeeping	140	1	418	58,520

Total Annual Hours for Collection (Reporting + Recordkeeping, (if appropriate)) = 321,580.
Data collection costs: The Commission projects the average annualized cost per respondent to be the following:
Annualized Capital/Startup Costs—$47,500.
Annualized Costs (Operations & Maintenance)—$142,250.
Total Annualized Costs—$189,750.

Internal Review

The Commission has reviewed the collection of information required by this final rule and has determined that the collection of information is necessary and conforms to the Commission's plan, as described in this final rule, for the collection, efficient management, and use of the required information. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the information burden estimate set forth above.[10]

Persons wishing to comment on the collections of information required by this final rule should direct their comments to the Desk Officer FERC, Office of Management and Budget, Room 3019NEOB, Washington, D.C. 20503, phone 202–395–3087, facsimile: 202–395–7285 or via the Internet at hillier_____t@a1.eop.gov. Comments must be filed with the Office of Management and Budget within 60 days of publication of this document in the **Federal Register**. A copy of any comments filed with the Office of Management and Budget also should be sent to the following address at the Commission: Federal Energy Regulatory Commission, Information Services Division, Room 41–17, 888 First Street, NE., Washington, DC 20426. For further information, contact Michael Miller, 202–208–1415.

III. Discussion

A. Background

This proceeding began with the issuance of our proposed Open Access rule (Open Access NOPR)[11] and a notice of technical conference to consider whether a RIN (now an OASIS) or some other option would be the best means to ensure that potential customers of transmission services could obtain access to transmission service on a non-discriminatory basis.[12] The notice of technical conference was followed by procedures and input (described in the RIN NOPR) that led to the issuance of the RIN NOPR.

Open access non-discriminatory transmission service requires that information about the transmission system must be made available to all transmission customers at the same time. This means that public utilities must make available to others the same transmission information that is available to their own employees and that is pertinent to decisions they make involving the sale or purchase of electricity. The RIN NOPR suggested requirements representing the first steps towards accomplishing these objectives.

The RIN NOPR addressed four main issues: the types of information that need to be posted on an OASIS; technical issues concerning the development and implementation of an OASIS; the development of a basic OASIS in Phase I and the development of a fully functional OASIS in Phase II; and proposed standards of conduct to prevent employees of a public utility (or any of its affiliates) engaged in marketing functions from obtaining preferential access to OASIS-related information.

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[1] *See* Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Final Rule, FERC Stats. & Regs. ¶ 31,036 (April 24, 1996); this document is being published concurrently in the **Federal Register**.

[2] Real-Time Information Networks and Standards of Conduct, Notice of Proposed Rulemaking, 60 FR 66182 (December 21, 1995), FERC Stats. & Regs. ¶ 32,516 (December 13, 1995).

[3] In the notice of technical conference that initiated this proceeding, *see infra* n. 12, we chose the term "Real-Time Information Network" to describe the electronic information system envisioned by that notice. We invited comments on whether we should substitute another term in place of RIN. In response, a number of commenters suggested that "RIN" was not a suitable name for the electronic information network envisioned by the RIN NOPR, mainly because while some RIN postings may be made "real-time" most will not and that, therefore, RIN is a misnomer.

After a review of suggested replacements presented in the comments, we will abandon the name "RIN" in favor of Open Access Same-time Information System, suggested by Virginia Electric Power Company (VEPCO), for several reasons. First, as noted above, the information system being developed in this proceeding actually will be a "same-time" information system, and not a "real-time" system. Second, VEPCO correctly points out that the system will be part of an existing network (the Internet) and not a new network. Third, the name "OASIS" highlights that the system relates to open access.

[4] Any entity may, for good cause, seek a waiver of the requirements established by this final rule, either as to the creation of an OASIS or for reporting requirements.

[5] *See, infra,* n. 13.

[6] Attached to this document is a list of the commenters and the abbreviations used to designate them. Several of the comments were filed late. We, nevertheless, will consider these comments.

[7] NRECA also submitted a letter to the Office of Management and Budget (OMB) that raised the same issue.

[8] As explained in the Open Access Final Rule, non-public utilities that do not want to meet the reciprocity condition may choose not to take service under an open access tariff. In that circumstance, the public utility may, if it chooses, voluntarily provide transmission service on a unilateral basis to the non-public utility.

[9] How Group comments at 19.

[10] *See* 44 U.S.C. § 3506(c).

[11] *See* Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Notice and Supplemental Notice of Proposed Rulemaking, 60 FR 17662 (April 7, 1995), FERC Stats. & Regs. ¶ 32,514 (March 29, 1995).

[12] Real-Time Information Networks, Notice of Technical Conference and Request for Comments, 60 FR 17726 (April 7, 1995).

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The Commission's consideration of the first two of these issues relied heavily on the efforts of two industry-led working groups that presented recommendations to the Commission. [13]

Additionally, the RIN NOPR invited commenters to address specific questions on various issues and invited comments generally on the entire proposal.

As discussed in the RIN NOPR, the handling of various types of information that might be posted on an OASIS depends on substantive determinations being made in the Commission's Open Access rulemaking proceeding.[14] For this reason, the RIN NOPR attempted to identify the issues that might be affected by decisions that would be made in the Open Access rulemaking and invited comment on the mechanics of implementing whatever determinations ultimately would be reached in the Open Access rulemaking, without attempting to prejudge the merits of the underlying legal and policy issues.

Additionally, the RIN NOPR included (as Appendix "C") a set of upload and download templates for comment to ensure that all data definitions are the same and that the information presented on the OASIS will be uniform and clearly understood.

The Commission's RIN NOPR, issued on December 13, 1995, invited comments on enumerated questions, along with general comments. Comments were filed by over 100 commenters. These comments were generally favorable to the OASIS concept, although numerous disagreements remained as to the details. The comments will be discussed below on an issue-by-issue basis.[15]

In the RIN NOPR, we invited the two industry-led working groups to continue their efforts to reach consensus and to report to us on their progress. On March 7, 1996, the How Group submitted a report giving proposed revisions to their original report.[16] The How Group also submitted a report on April 15, 1996 making recommendations on additional issues on which the group had reached consensus.

B. Summary of the Regulations and Their Implementation

The Commission is issuing this final rule with the Open Access Final Rule to implement the legal and policy determinations being made in the Open Access Final Rule.[17] This final rule contains three basic provisions that, taken together, will ensure that transmission customers have access to transmission information enabling them to obtain open access transmission service on a non-discriminatory basis. This final rule is necessary, therefore, to meet the legal requirement, discussed in the Open Access Final Rule, that the Commission remedy undue discrimination in interstate transmission services by public utilities.

The first provision establishes standards of conduct. These standards are designed to ensure that a public utility's employees (or any of its affiliates' employees) engaged in transmission system operations function independently of the public utility's employees (or of any of its affiliates' employees) who are engaged in wholesale purchases and sales of electric energy in interstate commerce. Such separation is vital if we are to ensure that the utility does not use its access to information about transmission to unfairly benefit its own or its affiliates' sales. Entities subject to these rules are to achieve compliance with the standards of conduct by November 1, 1996.

The second provision sets out basic rules requiring that jurisdictional utilities that own or control transmission systems set up an OASIS. Under these rules, the utilities are required to provide certain types of information on that electronic information system as to the status of their transmission systems and are required to do so in a uniform manner. With these requirements, we are opening up the "black box" of utility transmission system information. When in place, the OASIS will allow transmission customers to determine the availability of transmission capacity and will help ensure that public utilities do not use their ownership, operation, or control of transmission to deny access unfairly. Entities subject to this rule are to have a basic OASIS, meeting the requirements of this final rule, in operation by November 1, 1996.

The third component involves the various standards and protocols referenced in the regulations that are necessary to ensure that the OASIS system presents information in a consistent and uniform manner. As proposed in the RIN NOPR, this final rule references a publication entitled *OASIS Standards and Communication Protocols.*[18] This publication contains the above-mentioned standards and communication protocols. The publication details the Phase I requirements for technical issues related to the implementation and use of an OASIS (*i.e.*, a compilation of OASIS standards and communication protocols). Because of their level of detail, the standards and protocols referenced in the regulations will be contained in the *Standards and Protocols* document and will not be set out in the Code of Federal Regulations.

In developing the standards and protocols, we have been greatly assisted by the industry. However, more work needs to be done before the necessary standards and protocols are complete. For this we will again look to the industry and its working groups. The Commission believes a standard or uniform set of protocols is essential. The industry is best situated not only to develop the necessary standards but to develop them where possible with a consensus. Consequently, we are asking the How Group to provide us with additional recommendations on those technical issues remaining to be resolved. After receiving this report, we will hold a technical conference. In the meantime, to enable utilities to begin the process of implementing their OASIS, we will publish the standards and protocols that have been developed to date.

We must also provide for the contingency that, over time, the standards and protocols may need to be revised. To this end, NERC, in its comments, proposed to continue the industry-based process for developing OASIS requirements begun by the two industry working groups. NERC argued that the Commission should abandon its intention to approve standards developed by industry-wide consensus and to make decisions in those areas where consensus is not achieved. Instead, NERC argued that the Commission should authorize an industry group, facilitated by NERC and EPRI, to set and enforce detailed standards under broad policy guidelines fixed by the Commission.

As we have needed the contributions of the industry to develop the standards and protocols, we will continue to need that assistance in the future to develop a consensus wherever possible. We need to strike a balance between standardization to make OASIS work and encouraging innovation. To this end we encourage all industry participants to continue seeking consensus and reporting proposals to the Commission for our consideration. We welcome the continued work of *all* industry participants on revising and improving standards and establishing appropriate methods for recommending standards in the future. We will continue to give careful consideration to all consensus recommendations presented by the industry group(s), provided that they continue to invite balanced participation in an open process.

However, we reject entirely the notion that the Commission need not approve the *Standards and Protocols* and that these matters can be left to the industry for implementation and self-policing. Although we continue to seek industry consensus, the Commission must reserve final decisions to itself. We cannot turn over the process of approving and enforcing OASIS requirements to the industry. The Commission does not believe that resolution of the outstanding issues or future changes will occur more quickly without Commission oversight.[19] Nor do we believe that merely by announcing broad policy guidelines we would be creating a mechanism that would be sufficient to allow the Commission to revise regulations quickly. Accordingly, we will not abdicate our responsibility to decide these issues ourselves; nor shall we delegate responsibility for making these decisions to anyone else.

With respect to the as yet unresolved technical issues, we invite the How Group to report to us on or before May 28, 1996 on these issues (and to attach any comments it has received from any interested person with opposing views). Prior to issuing a revised *Standards and Protocols* document, we will hold a technical conference on these issues on June 17, 1996. This short time frame is necessary if the OASIS is to be properly operational by November 1, 1996.

The Commission recognizes that the standards and protocols necessarily will evolve over time. The Commission is committed to a process for reviewing and, if necessary, revising and improving the *Standards and Protocols* on a regular basis after implementation. We are sensitive to the fact that business practices and technology will continue to change under open access and that a mechanism to make changes to the regulations and to the accompanying standards and protocols on an expedited basis may be needed. It would be premature at this time, however, to determine the appropriate mechanism for making such changes, because the method could vary depending on the type of change contemplated. In filing its report, we ask that the How Group advise us on this issue. We will welcome discussions and comments on mechanisms for revising the standards and protocols on an ongoing basis at the June 17, 1996 technical conference.

In the sections that follow, we discuss, section-by-section, the regulations we are adopting with this final rule; how the costs of implementing the requirements of these regulations are to be recovered; and the details of implementation.

C. Section 37.1—Applicability

This section is unchanged substantively from what we proposed in the RIN NOPR. As proposed previously, the rules in Part 37 apply to any public utility that owns or controls facilities used for the transmission of electric energy in interstate commerce.[20]

In proposing these regulations, we stated that issues relating to potential gaps in providing comparable open access to wholesale transmission services or to transmission information that may arise because the requirements do not apply to non-public utilities would be addressed in the Open Access rulemaking proceeding. We also invited comment on whether the Commission should extend OASIS requirements to non-public utilities that own or control facilities used for the transmission of electric energy in interstate commerce (Question 45) and on whether the reciprocity condition of the proposed Open Access rule dictates that a non-public utility should have an OASIS (Question 46).

Comments

The responses to Question 45 split along industry lines. Generally, public utilities subject to OASIS rules advocated that the Commission should impose OASIS requirements on non-public utilities. They argued that applying OASIS requirements to non-public utilities would promote competition and a "level playing field." These commenters argue that all companies should pay the costs of developing and operating an OASIS and should be required to divulge information to their competitors on it.

Along these lines, Allegheny argued that, in order to provide a level playing field between public utilities and their competitors, the proposed standards of conduct should be expanded to include personnel of any entity that trades on an OASIS. Allegheny suggested, therefore, that the standards of conduct be rewritten to be applicable to non-public utilities through a requirement that they sign confidentiality agreements as a condition of obtaining access to OASIS.

Those favoring applying OASIS rules to non-public utilities argued that a significant portion of the wholesale transmission market is owned by non-public utilities (ConEd estimates that non-public utilities, excluding cooperatives, control about 25 percent of the circuit miles of transmission lines nationwide). They argued that, without information about these lines, accurate calculations of available transmission capability cannot be made. However, those advocating that the Commission should assert jurisdiction over non-public utilities were divided between those who maintained that the Commission has authority to do so directly under § 311 of the Federal

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[13] The North American Electric Reliability Council (NERC) acted as a facilitator for an industry-led independent working group, representing diverse interests, to help participants reach consensus, and to help them prepare a report to the Commission on what information should be posted on a RIN (the "What Group"). The Electric Power Research Institute (EPRI) facilitated a similar working group (the "How Group") that sought consensus on how to implement a system that would accomplish these objectives. Both groups submitted reports to the Commission describing their progress in reaching consensus on their respective issues. As explained in the RIN NOPR, after determining that the working groups had balanced representation from diverse interests and had operated in an open, inclusive manner, the Commission used the working groups' recommendations as the starting point for developing the RIN NOPR.

A fuller description of the working groups' composition and activities is contained in the RIN NOPR and in the reports that those groups submitted to the Commission for its review (attached to the RIN NOPR as Appendices "A" and "B" and made publicly available at the Commission's offices and through the Commission Issuance Posting System (CIPS)).

[14] For example, the information about ancillary services that must be posted on an OASIS depends on what ancillary services a public utility must provide. Likewise, the information about discounts that must be posted on an OASIS depends on whether discounting is allowed.

[15] In the discussion that follows, our references to comments are illustrative and not inclusive. While we have intended to identify all of the major issues raised by the commenters, we have not attempted to identify all commenters in instances where more than one comment makes the same point.

[16] The participants in the How Group submitted a report entitled *Consensus Comments of the Wholesale Electric Power Industry* on behalf of the "industry management process (interim) on how to implement transmission services information networks?"

[17] For example, a number of smaller public utilities and non-public utilities have argued that they should be exempted from the OASIS requirements. The Open Access Final Rule provides that public utilities may seek waivers of some or all of the requirements of the Open Access rules. This would include the OASIS requirement. Similarly, the Open Access Final Rule provides that non-public utilities may seek waivers of the tariff reciprocity provision as applied to them.

[18] This title differs slightly from the title we suggested for this document in the RIN NOPR. We are making this change to reflect more accurately the contents of the document as it has evolved.

[19] To the contrary, our experience with the natural gas pipeline industry persuades us that an expedited schedule is more likely with active Commission oversight than otherwise.

[20] We are, however, modifying this provision to clarify that it is intended to include public utilities that "operate" facilities used for the transmission of electric energy in interstate commerce. We are also clarifying that these regulations apply to transactions performed under the *pro forma* tariff required in Part 35 of the Commission's regulations.

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Power Act (FPA)[21] and those who maintained that the Commission does not have such authority. The latter group suggested that the Commission's authority is not clearcut and, to avoid needless delay and litigation, the Commission should rely on the reciprocity condition in the *pro forma* tariffs to extend OASIS requirements to non-public utilities.[22] ConEd argued that we should state that compliance with OASIS requirements is required by both § 311 and reciprocity.

The larger non-public utilities argued that, while the Commission lacks authority to impose OASIS rules under § 311 of the FPA, they nevertheless will voluntarily comply with the rules because this would be in their own best interest. By contrast, a number of small non-public utilities argued that they should be exempt from OASIS rules, particularly the standards of conduct, for the same reasons that smaller public utilities argued that they should be exempted from the requirements of the Open Access Final Rule. The smaller non-public utilities stressed that they do not "control" many of their transmission lines and that many of their lines lack commercial interest. They recommended the development of a joint or regional OASIS that would make participation in an OASIS easier and argued that, as to smaller non-public utilities, the rules requiring a separation of functions are unduly burdensome and their scant benefits would be outweighed by their costs to consumers.

NRECA argued that the availability of transmission service under § 211 of the FPA is sufficient to prevent abuses. By contrast, Com Ed argued that Commission orders in § 211 proceedings come too late to prevent abuses.

In Question 46 of the RIN NOPR, we asked whether, based on reciprocity, we should require non-public utilities to develop or participate in an OASIS.[23] The responses to this question generally are split along the same lines as the responses to Question 45, with non-public utilities pointing out that most would participate voluntarily in an OASIS because it would be in their best interest to do so.

APPA asserted that voluntary participation would suffice to accomplish the Commission's goals and seeks assurance that compliance with OASIS requirements by non-public utilities would be deemed by the Commission to satisfy the reciprocity condition in the *pro forma* tariffs. APPA also asserted that participation in a regional OASIS would make compliance easier for non-public utilities and would help them deal better with operational issues such as parallel flows. At the same time, NE Public Power District argued that, although it is willing to participate in an OASIS voluntarily, the Commission lacks authority to compel publicly-owned non-public utilities to comply with OASIS regulations.

In contrast, a number of public utilities maintained that non-public utilities cannot provide comparable open-access non-discriminatory service unless they comply with the same OASIS rules as do public utilities. PJM argued that, although public utilities and non-public utilities differ in their ownership, this does not provide a rational basis to exclude non-public utilities from participation in an OASIS. Carolina P&L argued that the same concerns that motivated the Commission to propose the standards of conduct dictate that the rules should apply equally to non-public utilities.

Others argued that, if non-public utilities need not comply with the same OASIS rules applicable to public utilities, the non-public utilities would have the benefit of an uneven playing field that would give them a competitive advantage. Along these lines, EGA argued that, in pursuing a competitive wholesale market, the Commission should apply OASIS rules equally to all entities that own wholesale transmission facilities. Mid-American stressed the need for reciprocity by pointing out (as others did in response to Question 45) that a significant portion of wholesale transmission facilities nationwide, including some in pivotal areas, are owned by non-public utilities. VEPCO urged that any entity that owns transmission facilities, is affiliated with an entity that owns transmission facilities, controls transmission facilities through a lease or contract, or signs a contract for transmission services, should be required to establish or participate in an OASIS that is compatible with the industry standards established by the Commission in the final rule in this proceeding as a condition of being eligible to use a Transmission Provider's OASIS.

OK Com stated that it would support the Commission's assertion of jurisdiction over non-public utilities, provided that the Commission makes a finding that the non-participation of a transmission owning entity in an OASIS would have a substantial detrimental impact on potential customers attaining open-access non-discriminatory service throughout the Nation. Com Ed argued that the Commission needs to ensure that non-public utilities do not circumvent the rule by making purchases and sales through intermediaries.

Larger non-public utilities, such as Public Generating Pool, suggested that the participation of larger non-public utilities is much more important, in terms of promoting competition in the wholesale market, than is participation by smaller non-public utilities, whose systems are predominantly small distribution systems that are not essential to the larger regional power market. Public Generating Pool proposed that small non-public utilities should be able to seek an exemption and that regional transmission groups should decide whether it is necessary for a small non-public utility to participate in the regional OASIS. Public Generating Pool also suggested that, if the Commission prefers, decisions as to who is required to implement an OASIS could be based on objective factors, such as market share or concentration. Other non-public utilities, such as Seattle and Tallahassee, stress the need for flexibility (in providing sufficient time for compliance and in allowing deviations from the rule) in any requirement that non-public utilities make changes to their system.

Discussion

After reviewing these comments we have concluded that we will not directly assert jurisdiction over non-public utilities under § 311 of the FPA to ensure compliance with OASIS requirements. We will, instead, rely on the reciprocity provision of the *pro forma* tariff that requires a non-public utility to offer comparable transmission service to the Transmission Provider as a condition of obtaining open access service. If a non-public utility chooses to take open access service, and therefore is subject to the tariff reciprocity condition, it will need to meet the OASIS requirements in new Part 37, unless the Commission grants a waiver of this condition. Although, as pointed out by ConEd, non-public utilities control a significant percentage of the circuit miles of transmission lines nationwide, and fully accurate calculations of available capacity on public utilities' lines cannot be made without information about these lines, we believe reciprocity provides a sufficient incentive for non-public utilities to meet the OASIS requirements imposed on public utilities.

We note that in our Open Access Final Rule we have concluded that certain of the requirements we are imposing on public utilities may not be appropriate for small utilities. This conclusion applies equally to the treatment of small public utilities and small non-public utilities. Accordingly, we have established a mechanism in the Open Access proceeding that allows small public utilities and small non-public utilities to seek waivers based on the same criteria.[24]

D. Section 37.2—Purpose

Section 37.2 sets out the fundamental purpose of this part—to ensure that all potential customers of open access transmission service have access to the information that will enable them to obtain transmission service on a non-discriminatory basis. Comments in response to the RIN NOPR did not take issue with the proposed language of § 37.2 and we are adopting this provision largely without change.

We wish to clarify, however, that while the OASIS requirements imposed by this final rule establish a mechanism by which Transmission Customers may reserve transmission capacity, they do not require the replacement of existing systems for scheduling transmission service and conducting transmission system operations at this time. We believe that it may be appropriate to include energy scheduling as part of the OASIS requirements developed for Phase II. In the meantime, if we conclude that an existing system is operated in an unduly discriminatory manner, we will pursue changes to such a system in a separate proceeding.

E. Section 37.3—Definitions

This section defines six terms used throughout this Part—"Transmission Provider", "Transmission Customer", "Responsible Party", "Resellers", "Wholesale Merchant Function", and "Affiliate". The comments in response to the RIN NOPR did not take issue with the proposed definitions.[25] Consequently, this final rule adopts these definitions largely without change. To prevent confusion, the definition of Transmission Customer has been revised to include potential customers, *i.e.*, those who can execute service agreements or can receive services as well as those who actually do so. And, we have modified the definition of "Affiliate" to more closely track provisions of the FPA and the Public Utility Holding Company Act.

F. Section 37.4—Standards of Conduct

This section sets out the standards of conduct necessary to ensure that Transmission Providers do not use their unique access to information unfairly to favor their own merchant functions, or those of their affiliates, in selling electric energy in interstate commerce. Although preserving the substance of what was proposed, the final rule has been reorganized.

Paragraph (a) sets out the general rules that require the separation of transmission and merchant functions and that recognize in emergency circumstances system operators may take whatever steps are necessary to keep the system in operation.

Paragraph (b) sets out the specific rules governing employee conduct under five headings covering prohibited practices, transfers of employees, access to information, disclosure, and conduct in implementing tariffs. These provisions correspond to elements of paragraph (a), as well as paragraphs (b) through (h) and (j) of the standards proposed in the RIN NOPR.

Paragraph (c) requires that there be written procedures implementing the standards of conduct and that these must be kept in a public place and filed with the Commission. Paragraph (c) corresponds to paragraph (k) of the standards proposed in the RIN NOPR.

In the RIN NOPR, the Commission proposed standards of conduct for public utilities patterned after those promulgated for natural gas pipelines.[26] The proposed standards of conduct would require Transmission Providers to separate their wholesale merchant functions (*i.e.*, wholesale purchases or wholesale sales of electric energy in interstate commerce) from their wholesale transmission system operations and reliability functions. Employees performing wholesale merchant functions would be required to obtain information on wholesale transmission services only through an OASIS, on the same basis available to all other OASIS users. The standards of conduct were intended to prevent employees of the Transmission Provider that perform wholesale merchant functions or employees of any affiliate from having *preferential* access to any relevant information about the Transmission Provider's wholesale transmission availability and costs, or uses or possible uses of the Transmission Provider's transmission system by non-affiliates.[27]

We accompanied this proposal with two questions that asked whether the proposed standards of conduct should be modified and whether they sufficiently addressed functional unbundling (Questions 41 and 42). We also asked whether our proposal might interfere with system reliability (*see* Question 43).

The responses basically fell into three categories.[28] First, a number of smaller public utilities argued that they should be granted waivers (or be deemed exempt) from the proposed standards of conduct because these standards would compel them to hire additional staff not justified by their small market share or by the small revenues they derive from providing wholesale transmission services. These comments suggested that the standards should not apply to public utilities that lack operational control over the facilities used for wholesale transmission service, or to public utilities that do not exceed given thresholds for market share, percent of revenues, or total revenues from wholesale transmission services.

Second, a number of large utilities basically were satisfied with the proposed rules and offered specific suggestions for revisions. Third, commenters raised the issue of whether to require the separation of generation

[21] 16 U.S.C. § 825j. Section 311 authorizes the Commission to obtain information (and conduct appropriate investigations) about, among other matters, the transmission of electric energy throughout the United States, regardless of whether such transmission is otherwise subject to the Commission's jurisdiction, and to report to Congress the results of any investigations it carries out under the authority of this provision.

[22] *See* discussion of Question 46, *infra*.

[23] The discussion of questions 45 and 46 by commenters often overlapped.

[24] Open Access Final Rule at section IV.K.

[25] MidAmerican Energy suggested, however, that a definition for "Transmission System Operator" be added. We will not do so because we do not use this term anywhere in the OASIS regulations. MidAmerican's purpose in making this suggestion may have been to exclude the posting on the OASIS of transactions involving the use of transmission for purchases made for native load (this issue was also brought up by CCEM, EGA, MidAmerican, NYPP, and NIEP). We address the issue of native load purchases in the Open Access Final Rule.

[26] In the RIN NOPR, the proposed standards of conduct were set out in § 37.6. *See* RIN NOPR text at section III.E (60 FR at 66196) and the proposed regulation at 18 CFR § 37.6 (60 FR at 66199). We are renumbering this provision as § 37.4 in this final rule.

[27] Because the Open Access Final Rule pro forma tariff may include certain retail transmission customers, this final rule's OASIS information requirements will apply to applicable retail as well as wholesale services and information.

[28] Among the over 100 comments filed, only Dayton P&L, among public utilities, questioned the Commission's underlying authority to mandate control room unbundling. Dayton P&L's short conclusory statements in this proceeding were not accompanied by even a cursory explanation of its reasoning or by any legal analysis or supporting citations.

Although Dayton P&L offered no support for its position in this proceeding, it did (along with other parties) devote extensive discussion to the more general issue of the Commission's authority to order open access transmission in its initial comments in the Open Access rulemaking proceeding. We reject Dayton P&L's unsubstantiated conclusion, urged in this proceeding, that we lack authority to order control room unbundling for the same reasons that we reject their more general and more extensive arguments on the Commission's authority in the Open Access Final Rule. *See* Open Access Final Rule at section IV.B.

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and transmission functions.[29] We discuss these three categories below.

1. Requests by Smaller Public Utilities for Waivers From the Standards of Conduct

Turning first to the arguments of smaller public utilities that they should be exempt from the standards of conduct, we note that this issue also arose in the Commission's Open Access rulemaking proceeding. As described in the Open Access Final Rule, we will publish a list of jurisdictional public utilities that must comply with these rules. At the same time, we establish a mechanism that allows small public utilities to seek a waiver. In appropriate circumstances, the Commission would waive some or all of the Open Access requirements, subject to future reconsideration as warranted by circumstances.[30]

A related issue involves the concerns of small non-public utilities about their obligation under the reciprocity condition. We have decided in the Open Access rulemaking proceeding that we would use these same criteria to decide whether a small non-public utility should be granted a waiver from all or part of the reciprocity condition contained in public utility open access tariffs. Such waivers could be sought of the requirements to have open access tariffs, provide ancillary services, establish an OASIS, or separate functions.

A full explanation of the waiver mechanism is contained in the Open Access Final Rule.[31] We will use these same standards to determine whether small public utilities have complied with the OASIS requirements and to determine whether small non-public utilities have met their contractual obligation to comply with OASIS requirements as a condition of service under open access tariff reciprocity provisions.

2. Suggested Revisions to the Standards of Conduct and Timing

For the most part, we have adopted the standards of conduct as proposed, making technical and conforming revisions. In a few instances, in response to comments, we have made substantive changes. These changes, and the suggestions that led us to make them, are discussed below, along with some suggestions that we rejected.

1. As proposed, the regulations would prohibit preferential access to the system control room and "other facilities of the public utility" that differs from the access available to other potential transmission users. AEP suggested that it is not clear whether this was intended to restrict access to *all* other facilities or is meant to restrict access to other *similar* facilities, (*i.e.*, those facilities that, like the control room, are involved in transmission operations and reliability functions). Consistent with this latter interpretation, AEP suggested that the restriction be modified to apply to the system control room and "similar facilities used for transmission operations or reliability functions." We agree with AEP's interpretation of the scope of this restriction and adopt the suggested revision in section 37.4(b)(1)(ii) of the final rule.

2. Section 37.4(c) of the proposed standards of conduct would prohibit contacts (off OASIS) between employees of the public utility engaged in transmission system operations and employees of the public utility engaged in wholesale marketing functions, and employees of any affiliate no matter how employed. AEP, Com Ed, and Ohio Edison argued that this provision is too broad and would exclude contacts between transmission system operators and employees of affiliates engaged in various activities, many of which are unrelated to a public utility's merchant functions. For example, an energy services subsidiary might be engaged in building a power plant in a foreign country. AEP argued that there would be no reason to deny employees engaged in such an activity access to utility personnel involved in transmission or reliability functions. Com Ed suggested that this provision should be modified to prevent contacts between system operators and employees engaged in wholesale marketing functions, regardless of whether those marketing employees are engaged in those activities on behalf of either the utility or its affiliates. Thus, under this argument, contacts between system operators and affiliate employees not engaged in wholesale marketing functions would not be prohibited.

We agree with AEP, Com Ed, and Ohio Edison that our proposed standards of conduct were overly broad because they prohibited contacts between system operators and affiliate employees engaged in functions completely unrelated to a public utility's wholesale power and energy marketing functions. We will revise the proposed standards of conduct accordingly.

AEP also argued that employees of the affiliate may be involved in the wholesale merchant function, but not in the utility's market area. For example, an employee of an affiliate might be involved in a different geographic area, far from the system's transmission grid. AEP argued that there would be no need to isolate such activities from the utility's transmission operations. To cover such situations, AEP suggested that the language be modified to read "employees of any affiliate of the public utility, to the extent that such employees are engaged in wholesale merchant functions in the utility's market area."

We reject AEP's suggestion. Although public utilities may still have the ability to exert market dominance in particular markets, they also will now have the ability to participate in transactions across the nation. We fully expect—and our experience with the WSPP demonstrates—that in the move to a competitive wholesale bulk power market, public utilities will have extensive market areas in which to make offers. Thus, there is no reason to limit the scope of the standards of conduct as recommended by AEP.

We also have clarified section 37.4(b)(3)(i) to explain that employees engaged in merchant trading functions must not have preferential access to any information about the Transmission Provider's transmission system that is not available to all users of an OASIS. However, the standards of conduct do not foreclose customers, including merchant employees, from obtaining information about the status of their particular contracted for transaction from Transmission Provider employees engaged in system operation and reliability functions. The information provided in status reports must present the same types of information, in the same level of detail, to any customer presenting a similar request. The standards do, however, preclude merchant employees from obtaining preferential access to information about the Transmission Provider's system (not directly linked to their particular transaction) from any nonpublic source as well as market information acquired from nonaffiliated customers or potential nonaffiliated customers or developed by the Transmission Provider in its role as a Transmission Provider (except to the limited extent that this information is required to be posted on the OASIS).[32]

3. APPA argued that the rules should prohibit preferential treatment of wholesale purchases or sales by any utility. APPA interpreted the originally proposed language to mean that preferential treatment would be permitted, as long as the preference would not be extended to the public utility itself or an affiliate. APPA and Com Ed argued that preferential treatment of any wholesale customer over the interests of any other wholesale customer must not be allowed. Com Ed adds that absent clarification, relationships of reciprocal favoritism could develop in the industry, to the detriment of all other customers.

We find this contingency is possible. While the standards of conduct set guidelines for Transmission Providers and their affiliates in handling their wholesale merchant functions; public utilities are also governed by section 205(b) of the Federal Power Act. Section 205(b) prohibits public utilities from granting any undue preference or advantage to any person or subjecting any person to any undue prejudice or disadvantage with respect to any transmission or sale subject to the jurisdiction of the Commission. This provision remains in full force and effect and prohibits preferential treatment in transactions regardless of whether those transactions are specifically addressed in the standards of conduct.

4. In section 37.6(i) of the RIN NOPR we proposed that public utilities offer customers discounts comparable to those that the public utility offers to its own power customers or those of an affiliate. AEP suggested that this limitation on allowable discounts be expressly limited to discounts on wholesale transmission services. We agree and are revising this provision accordingly. Discounts for jurisdictional power sales are not governed by this final rule but by section 205(b) of the FPA and related precedent on power sales.

5. Allegheny suggested that the Commission should find that there will no longer be a presumption of discriminatory dealing between utility affiliates in generation and transmission services when network owners comply with the standards of conduct. Allegheny has presented no basis for making such a finding and we decline to do so.

6. Com Ed, Duke, and NEPOOL suggested that the proposed standards should not be interpreted to prevent employees of the utility engaged in wholesale marketing functions from obtaining information about their competitors from non-affiliated third party sources such as the trade press. Com Ed also suggested that the utility should be allowed freedom to give out information about its transmission functions off OASIS (*e.g.*, in briefings at public meetings) as long as the utility's wholesale marketing employees do not obtain *preferential* access to those forums. Ohio Edison suggested that the proposed standards of conduct should be revised to preclude only "substantive access" to the system control room. Ohio Edison argued that access for matters unrelated to transmission matters, such as training programs, should be permitted.

We have two points we wish to make regarding these related suggestions. First, we clarify that the rules do not prohibit access to information contemporaneously available without restriction to other members of the general public. (*See* section 37.4(b)(1)(ii) dealing with access to information). Second, these rules are intended to be interpreted consistent with common sense, prudence, and caution.

Our standards of conduct are intended to prevent preferential access to information related to transmission prices and availability by employees of the public utility or any affiliate engaged in wholesale merchant functions. Preferential access means that information is obtained from those with access to information about the public utility's transmission system operations that is not equally available to other customers. It is obvious, at least to us, that this does not bar wholesale merchant employees from reading the trade press or from sitting in the audience of a publicly-announced and available lecture delivered by the public utility's transmission operator or a third party in an open forum. However, the onus is on the public utilities subject to these standards to conduct their affairs in compliance with these rules, and they should exercise care and prudence in so doing.

We decline, therefore, to specify in these regulations whether, for example, a "public meeting" must be preceded by advance notice, to whom that notice must be provided, and what that notice would need to spell out. We do not believe that it would be appropriate to burden our rules with this kind of minutiae in a misplaced effort to anticipate every possible contingency. Such regulatory overkill is unwarranted and counterproductive. Moreover, those subject to the regulations may, like other members of the public, call the Enforcement Task Force Hotline to obtain informal advice on implementing the standards of conduct.

7. VEPCO suggested that, rather than prohibiting contacts between system operators and employees of the public utility and any affiliates engaged in wholesale merchant functions, the Commission could reach the same result by allowing system operators to disclose, through informal communications, information about the status of the transmission system, provided that they then post this information on OASIS.

We find this suggestion untenable. First, such disclosures would necessarily be posted after-the-fact, and thus the information would not be conveyed to all potential customers at the same time. Second, such a provision would be very difficult to enforce. Third, the same information could just as easily be divulged on the OASIS to all customers, rather than "reported" on the OASIS after-the-fact.

8. Com Ed suggested that the reference in subsections (a) and (d) of the proposed standards to "reliability functions" should be clarified to apply only to transmission functions and not to generation functions. We disagree. As discussed below, system operations and reliability functions include both transmission and generation functions.

9. Con Ed suggested that the standards of conduct should include a disclaimer that utilities will not be liable for the reliability or accuracy of data posted on the OASIS as an accommodation to third parties. We agree that the responsibility for assuring the reliability and accuracy of data supplied by third parties rests with those third parties and not with the public utility that posts this information on the OASIS as an accommodation. We do not, however, view this as a standard of conduct issue. Instead, we address this point in our discussion of what information is to be posted under § 37.6(g).

10. Ohio Edison suggested that posting the names of personnel transferring between departments would make these employees targets for recruitment by competitors. Notwithstanding this concern, we believe that this information must be posted on the OASIS to make possible

[29] A number of comments raised the issue of whether the OASIS regulations would promote ISOs (independent system operators) and whether participation in an ISO would exempt an entity from compliance with OASIS requirements. In this regard, a number of comments suggested that the proposed standards of conduct will result in the widespread transfer of tranamission functions to the control of ISOs and predicted that the need for the standards of conduct will diminish as ISOs become more prevalent. In this context, IN Com supported the formation of ISOs, because this would reduce the need for state commissions to monitor functional unbundling and would help in resolving jurisdictional questions.

The concept of ISOs is addressed in the Open Access Final Rule. As to the prediction that the rise in the number of ISOs will make the standards of conduct unnecessary, or should offer a basis for an exemption from the standards of conduct, we would characterize the potential of ISOs somewhat differently. In our view, a properly constituted ISO could be a mechanism, not for an exemption, but as a means to comply with the standards of conduct.

[30] Open Access Final Rule at section IV.K.

[31] *Id.*

[32] *See* § 37.4(b)(4)(iii); *see* text accompanying n. 33, *infra*.

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"gaming of the system" through spurious revolving door tactics more visible.

11. Ohio Edison also suggested that the phrase in subsection (b) of the proposed standards "* * * must rely upon the same information relied upon by the public utility's wholesale transmission customers" should be modified to read "* * * must have available only the same information available to the public utility's wholesale transmission customers." Ohio Edison argued that the Transmission Provider has no way of knowing what information its customers "relied upon" and that it should not be held to an undefinable subjective standard. We agree. Accordingly, we adopt Ohio Edison's suggestion in section 37.4(b)(3)(i) of the final rule and omit the phrase "rely upon."

12. Ohio Edison also suggested that if its suggestion (in the previous item) is adopted, then the language in section 37.4(b) beginning with the language in parenthesis becomes redundant and should be deleted. We disagree and will retain that language in section 37.4(b)(3)(ii) of the final rule. We believe the language adds necessary clarification.

13. Montana Power suggested that, if off-OASIS communications between the utility's system operators and wholesale marketing personnel are prohibited, these kinds of communications should also be prohibited between system operators and all transmission users. Montana Power would prefer, however, that these communications be permissible. Likewise, Duke suggested that we change the regulations so that if an employee of an unrelated third party calls the transmission-related employees, for example, to better understand the public utility's transmission system, such communications should be permitted to be conducted off the OASIS. Duke maintains that the free flow of information should not be discouraged so long as functional unbundling is implemented and affiliate abuse is avoided. NEPOOL suggested that the rules dictating the Transmission Provider's release of information should apply to all Transmission Customers, not just to the Transmission Provider's employees, as affiliates, engaged in wholesale merchant functions.

Our proposed standards of conduct were designed, and our final standards are being implemented, to prevent Transmission Providers from giving themselves an undue preference over their customers through the exchange of "insider" information between the company's system operators and employees of the public utility, or any affiliate, engaged in wholesale marketing functions. Thus, the rules place restrictions on preferential communications from the system operators to only those merchant employees. The rules were not designed to prevent system operators from having communications with third parties. We do not generally see this as an area that needs regulatory oversight. As discussed above, we have revised the regulations to ensure no discriminatory treatment and we remind public utilities subject to these regulations that section 205(b) of the FPA prohibits undue discrimination. This should suffice.

14. NUSCO suggested that the Commission should distinguish: (1) The functional separation of generation marketing related to operation of the transmission system and administration of transmission tariffs (which are relatively short-term activities); from (2) the coordination of marketing with the system planning function (a long-term activity encompassing both generation and transmission). Similarly, the FL Com is concerned that the standards of conduct might impede system reliability, and argued that marketers and system operators should be able to confer concerning the company's long-term planning activities that require knowledge about the company's generation and transmission systems. NEPOOL expresses similar concerns.

By contrast, Com Ed suggested that the proposed standards of conduct will not impair planning because, like a one-way street, they allow information to be conveyed from employees engaged in merchant functions to system operators, while at the same time prohibiting information to be conveyed in the opposite direction. Com Ed submitted that the inter-relationship between the areas of strategic planning, resource planning and long-range transmission planning require the flow of information to transmission personnel. Future acquisitions of capacity may constitute a resource taken into account in planning and may have an impact on the transmission system that needs to be accounted for by transmission planners. Thus, Com Ed argued that there should be no restriction on the flow of information about future purchases or sales from the merchant function to the transmission function, although restrictions on the flow of information to the merchant function should be adopted as proposed.

We agree with Com Ed that, as we proposed in the RIN NOPR, the flow of information, through the OASIS, from employees engaged in wholesale merchant functions to system operators should remain permissible, to allow proper system planning, while at the same time restricting information being conveyed off the OASIS from system operators to utility and affiliate employees engaged in wholesale merchant functions, to prevent preferential access to transmission information. Consequently, we reject the proposals offered by NUSCO, FL Com, and NEPOOL in this regard.

15. Omaha PPD argued that information regarding the scheduling of power transfers, economic dispatch, and economic conditions have nothing to do with the information that is needed regarding the availability of transmission capability. Omaha PPD suggested, therefore, that any information relating to economic operation or the commercial state of a utility be removed from the standards of conduct. By contrast, NUCOR suggested that, since economic dispatch is premised on real-time marginal production cost data and generating unit economics, the comparability standard mandates that utilities provide the same generation cost data to other market participants. Similarly, NUCOR argued that, because economic dispatch also is dependent on the economics of off-system purchases and sales, data pertaining to such purchases and sales also must be made generally available.

Except for postings for certain ancillary services, the RIN NOPR did not propose the posting on an OASIS of data on generation and we are not persuaded, at this juncture, to do more. Our decision is based on a balancing of the need for the information, the claimed commercial sensitivity of the information, and the desire to avoid, to the extent possible, having public utilities reporting generation data that their competitors may not be required to report.

16. VEPCO suggested that the regulations should prohibit system operators from disclosing information to wholesale marketing employees or other customers about the ancillary services offered by third parties because they are not permitted to disclose the same information about their companies' own products. VEPCO further suggested that the prohibition against discussing the companies' own products should be removed.

We find these suggestions inconsistent with the kinds of safeguards we are trying to provide through these standards of conduct. In any event, as discussed below in our discussion of items to be posted on the OASIS, we are requiring that this kind of information be posted on the OASIS, and thus companies will be able to get

their message out that these services are available.

17. Duke suggested that the proposed subsection dealing with the impartial application of tariff provisions should be revised to make clear it is the customer (and not the employees) who is to be treated on a fair and impartial basis. We agree and the final rule in section 37.4(b)(5)(ii) adopts this suggestion.

18. VEPCO suggested that the rules requiring a separation of functions should be suspended if additional employees trained in system operations (but normally assigned to marketing functions) should be needed to assist in handling system operation functions during emergencies affecting system reliability. VEPCO also suggested that the Commission should allow transmission and generation operators to engage in emergency energy transactions and hourly non-firm energy transactions.

It is not the purpose of these rules to compromise reliability. In emergency circumstances affecting system reliability, system operators may take whatever steps are necessary to keep the system in operation. Consequently, we are adding a provision to the standards of conduct that specifically grants system operators the authority to take whatever steps are necessary to maintain system reliability during an emergency, notwithstanding that this could otherwise constitute a violation of the standards of conduct. Transmission Providers will be required to report to the Commission and on the OASIS each emergency that resulted in any deviation from the standards of conduct, within 24 hours of such deviation. If we see a pattern of activities that suggested that "emergencies" are not authentic, we will take strong action against the offending public utilities.

Because we are adding a provision that allows actions to be taken in response to emergencies, we are deleting the phrase "to the maximum extent practicable" that had appeared in section 37.6(a) of the standards of conduct proposed in the RIN NOPR.

19. Continental Power Exchange argued that, just as merchant traders should be prohibited from access to the control center, system operators should be prohibited from access to the trading floor. United Illuminating agreed that separation of functions needs to apply to separation of transmission and customer supply functions. Continental Power Exchange also suggested that discounts should be offered unilaterally to all customers without prior notice and without two-way negotiation. Continental Power Exchange further suggested that short-term transactions should be deemed approved upon request, unless the utility specifically notifies the customer that the transaction will be denied. Continental Power Exchange argued that this would streamline the proposed procedures and make OASIS transactions faster and more manageable.

We will not, at this time, adopt Continental Power Exchange's suggestion to create an absolute prohibition against system operators having access to the trading floor because we are concerned about information divulged by system operators and not about information acquired by them. However, any non-public contacts between system operators and merchant traders creates the risk that there will be improper communications between these employees and the burden is on Transmission Providers subject to the standards of conduct to devise procedures that will prevent improper contacts. We expect, therefore, that the Transmission Providers themselves will devise procedures that will either prohibit or, at a minimum, severely restrict access to the trading floor by system operators.

As to Continental Power Exchange's other suggestions, we will not adopt these suggestions at this time, but may come back to them as the process evolves and the feasibility of back and forth negotiations is tested by experience.

20. SoCal Edison and Tucson Power suggested that, while the proposed 60-day deadline for filing procedures to implement the standards is adequate, the Commission needs to be flexible on implementing other changes, such as reconfiguring and relocating control rooms and other facilities, and training and recruiting new employees.

Although we originally proposed to require compliance with the standards of conduct starting 60 days from the publication of this final rule, on further consideration we have decided to put off the requirement that they be implemented until the implementation of OASIS, that is by November 1, 1996. As a practical matter, the standards of conduct cannot be implemented apart from the electronic communication systems of a functioning OASIS; the two work together. In addition, the extra time will permit utilities the opportunity to fully implement the requirements of the standards of conduct. Although the result will be a window of time during which open access transmission tariffs will not be supported by standards of conduct (or OASIS), we must recognize that the changes we are mandating for the industry cannot be implemented overnight; a transition period is required.

21. Finally, after a review of the comments, we have added an additional provision to the standards of conduct (section 37.4(b)(4)(iii) of the final rule) dealing with the posting of any additional market information developed by a Transmission Provider in its role as a Transmission Provider and shared with employees of its, or an affiliate's, merchant function.

We have expressed concern in a number of recent orders about the possibility of the dissemination of market information by a public utility with market-based rate authority.[33] To guard against the possibility of affiliate abuse, we have required such public utilities to commit in their codes of conduct with affiliates to share market information only if they make the same information publicly available to non-affiliates at the same time. We have not dictated the means by which public utilities are to make this information simultaneously available to all.

This same concern for the unequal distribution of market information, in a manner that may benefit select recipients with commercial or competitive information that is not equally available to others, leads us, after a review of the comments, to extend the standards of conduct to cover any market information gathered by Transmission Providers in the course of responding to transmission or ancillary service inquiries.

Our concern, based in part on our experience with implementing and monitoring electronic bulletin boards developed for use by the natural gas pipeline industry, is that there remains the incentive for a Transmission Provider to share with its own merchant employees, or those of an affiliate, any information it has developed (not limited to transmission system information) in responding to requests made over the OASIS. This is particularly a concern with respect to market information developed in the course of denying a request for transmission service.

While we have developed procedures dealing with the obligations of Transmission Providers in responding to requests for service, we believe that these procedures, alone, may not be sufficient to eliminate the possibility of an unfair competitive advantage to employees of the Transmission Provider

[33] See, *e.g.*, Illinova Power Marketing, Inc., 74 FERC ¶ 61,313, *slip op.* at 4–6 (1996); USGen Power Services, L.P., 73 FERC ¶ 61,302 at 61,845 (1995).

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(or an affiliate) engaged in merchant functions, by virtue of access to market information not shared with others.

Accordingly, we will add to the standards of conduct a provision that precludes a Transmission Provider from sharing market information acquired from nonaffiliated Transmission Customers or potential nonaffiliated Transmission Customers or developed in the course of responding to requests for transmission or ancillary service. In this manner, we can be better assured that employees of the Transmission Provider or an affiliate engaged in merchant operations do not develop a competitive advantage by virtue of operation of an OASIS. The Transmission Provider may only reveal information about transmission requests as provided in the provisions of this rule (section 37.6 (e)) dealing, generally, with responses to transmission and ancillary service requests and, specifically, with transaction confidentiality (except to the limited extent that this information is required to be posted on the OASIS).

3. Whether To Require the Separation of Generation and Transmission Functions

In the RIN NOPR we proposed standards of conduct that would require Transmission Providers and their affiliates to separate system operation and reliability functions from wholesale merchant functions. Both transmission and generation functions are included within system operation and reliability functions. The RIN NOPR, notwithstanding Questions 42 and 43, did not propose that these functions (transmission and generation) be separated. Nor did we propose that Transmission Providers divest their ownership of generation assets.

We received numerous comments in response to our questions 42 and 43 that asked whether, if the Commission would go beyond unbundling transmission and generation merchant functions to order the unbundling of generation and transmission operations, this would necessitate revision of the proposed standards of conduct and whether this would adversely affect reliability.[34] After reviewing the comments, we conclude that we should require—with these final rules—only the unbundling of the transmission operations and wholesale marketing functions of public utilities and their affiliates, as proposed in the RIN NOPR. We do not extend these rules to require the unbundling of transmission and generation control functions or to mandate the divestiture by Transmission Providers of their generation assets.

We will require the functional unbundling of transmission operations and wholesale marketing functions because we are persuaded that this will prevent abuses based on preferential access to information and other discriminatory behavior, without compromising system reliability. The standards of conduct are designed to accomplish this: (a) By requiring that transmission-related information be made available to all customers (including employees of the public utility, and any affiliate, engaged in merchant functions) through OASIS postings available to all customers at the same time and on an equal basis; and (b) by prohibiting the employees of Transmission Providers and any affiliates from disclosing (or obtaining) non-public transmission-related information, through communications not posted on the OASIS.

G. Section 37.5—Obligations of Transmission Providers

This section of the final rule adopts, without substantive change, the provisions proposed as section 37.4 (Standardization of Data Sets and Communication Protocols) and section 37.5 (Obligations of Transmission Providers) in the RIN NOPR. The final rule requires, in paragraph (a), that a Transmission Provider must provide for the operation of an OASIS either individually or jointly with other Transmission Providers and it must do so in accord with the requirements of Part 37. Paragraph (b)(1) requires that the OASIS must give access to relevant standardized information pertaining to the status of the transmission system as well as to the types and prices of services. Finally, in paragraph (b)(2), the rule requires that the OASIS must be operated in compliance with the protocols set out in the publication, *OASIS Standards and Communication Protocols*.

In the RIN NOPR, we explained that each Transmission Provider would be responsible for compliance, regardless of whether it establishes its own OASIS or participates in a joint OASIS.[35] The final rule does not change this. In a related provision, we proposed, in § 37.1, that Part 37 would apply to any public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce. However, as noted by many commenters, it is quite probable that individual public utilities may turn the operation of their transmission system and information system over to an ISO or other joint or regional entity. (This has been provided for in the definition of the term "Responsible Party"). This raises the issue of the Commission's jurisdiction over such entities.

Under section 201(e) of the FPA, a "public utility" means,

> Any person who owns or operates facilities subject to the jurisdiction of the Commission under this Part (other than facilities subject to such jurisdiction solely by reason of section 210, 211, or 212).[36]

To the extent that anyone is given control and decision making authority over the transmission operations of a public utility's transmission facilities, it clearly would "operate" public facilities, within the meaning of section 201(e), and therefore would be subject to the Commission's jurisdiction.[37] To the extent that a public utility turns over its operations to an ISO or any other joint entity to satisfy the Open Access and OASIS requirements, the ISO or any other entity would fall within the definition of a "public utility" under § 201 of the FPA and thus would be subject to the OASIS regulations of Part 37.

H. Section 37.6—Information To Be Posted on an Oasis

In the RIN NOPR, we proposed, in sections 37.7 through 37.14, rules governing: (1) The information that must be posted on an OASIS; (2) the procedures for the posting and updating of information on the OASIS; (3) the posting of discounts; (4) procedures for Transmission Providers to respond to customer requests for transmission service; (5) procedures for communicating denials of requests for service and curtailments; and (6) the posting of information about scheduling and affiliate transactions. These

[34] The commenters nearly universally focused their presentations on why the Commission should not order an unbundling of generation and transmission operations, rather than addressing the precise topic we set out. In any event, the issue is now moot, as we have decided not to order Transmission Providers to separate their generation and transmission operations at this time. If, however, with experience we discover that the steps we are ordering here are not adequate to remedy undue discrimination, we can revisit this issue.

[35] NRECA commented that the Commission should ensure that expenses by a joint OASIS are subject to the Commission's jurisdiction and audit authority. We agree. We will treat this as a normal ratemaking expense issue and will allocate such costs on a case-by-case basis when such expenses are presented to us for our review.

[36] 16 U.S.C. § 824.

[37] *See, e.g.*, Bechtel Power Corporation, *order granting declaratory order and disclaiming jurisdiction*, 60 FERC ¶ 61,156 at 61,572 (1992) (on control issue), and FPC v. Florida Power & Light Company, 404 U.S. 453 (1972) (on defining jurisdictional facilities).

provisions have been consolidated and are now covered in § 37.6 of the regulations adopted by this final rule.

As discussed in more detail below, section 37.6 has eight paragraphs. Paragraph (a) lists the objectives of an OASIS. Paragraph (b) lists what must be posted for public transmission capability—that is, available transmission capability (ATC) and total transmission capability (TTC)—as well as how and when this information is to be updated. Paragraph (c) sets out the requirements for posting transmission service products, including resold capacity as well as their prices. Paragraph (d) provides the same for offerings of ancillary services. Paragraph (e) sets out the requirements for posting transmission service requests and responses including service denials and curtailment or interruption of transmission. Paragraph (f) provides requirements for posting transmission service schedules. Paragraph (g) deals with posting other transmission-related communications. Finally, paragraph (h) sets out the requirements for auditing information.

Some of the proposed provisions have not been adopted. These include requirements concerning an application procedure for requesting transmission service (§ 37.9(b)(5) of the proposed regulations); requirements imposed on the reseller to notify the Transmission Provider of certain information (§ 37.9(c)(3) of the proposed regulations); and the steps that must be followed by the Transmission Provider and Requester in their negotiations (§ 37.12 of the proposed regulations). These did not prescribe information that must be posted; rather, they were concerned with how parties should conduct business in an open access environment. These matters are considered in the Open Access Final Rule.

1. OASIS Objectives (§ 37.6(a))

The Commission proposed five objectives for the OASIS in the RIN NOPR.[38] Few comments were received on these objectives; none were substantive. Thus, we adopt these objectives without substantive revision in the final rule.

2. Posting Transmission Capability (§ 37.6(b))

a. ATC for Network Integration Service. The RIN NOPR discussed requiring the posting of available transmission capability for network service. As we acknowledged in the RIN NOPR,[39] before-the-fact measurement of the availability of network transmission service is difficult. Nonetheless, it is important to give potential network customers under the Commission's *pro forma* tariff (as discussed in the Open Access Final Rule)[40] an easy-to-understand indicator of service availability. To this end, the Commission requested comments on how best to post the availability of network transmission service on the OASIS (Question 3).

NERC reiterated the statement in the What Group report that "it does not seem possible to post the availability of Network Integration Transmission Service" on an OASIS. No other commenter disagreed.

NERC went on to describe some of the challenges involved with calculating available transmission capability (ATC) for network integration service. Network service is a complex, long-term relationship between a requester and provider that must be investigated in detail because it involves the specification of multiple points of receipt or delivery or both. Because of the long-term nature of network service, the planning process involves a complex interrelationship of future loads and resources, with an impact on the network that is extremely location dependent. A major difficulty in estimating network ATC is the lack of specific locations for which to calculate an impact on the network. Each network service request would be unique, with different sets of integrated loads and generating stations affecting the network, including its constrained paths, differently.

The Commission also asked if there were any alternative service that is more suitable to measurement than the current version of network service. Some commenters said that it might be possible to devise a concept which supports better measurement of network-like service availability, but devising and implementing such a new concept within the proposed initial implementation time line for OASIS is not feasible. The Commission is not, at this time, persuaded to require the posting of ATC for network service.

b. Minimizing the Reporting of ATC (§§ 37.6(b) (1) and (3)). In the RIN NOPR, the Commission requested comments on ways to minimize the burden of ATC calculations, while ensuring that wholesale Transmission Customers have the information they need (Question 5).

Commenters suggested a number of ways to minimize the reporting of ATC, including less frequent updates, developing standardized methods for calculating ATC, and encouraging regional efforts. Most of the comments discussed ways to limit the number of paths for which ATC has to be posted.

The What Group proposed that ATC be posted only for paths as "business needs" arise. This proposal was intended to limit the number of paths for which ATC must be posted. A "business need" was defined, in part, by a Transmission Customer requesting information about a path. A number of commenters supported the proposal to limit paths based on "business need."[41]

The Commission suggested in the RIN NOPR a different approach to the problem. Calculating ATC and updating frequency could be based, instead, on the level of activity and constraints on a given path. This approach was supported by a number of commenters.[42] A number of commenters wanted to leave to the Transmission Provider the decision of which paths to post ATC.[43]

Detroit Edison, Oklahoma G&E and PSNM suggested that customers could also identify paths, along with a process for deleting them. NEPOOL and Detroit Edison stated that they will post ATC for all control area interfaces and any internal constraints. The Western Group had a similar proposal.

NE Public Power District, NERC and NSP commented that ATCs should be posted only for constrained paths. PJM and WP&L proposed that, for unconstrained paths, static numbers or limits could be used and would be updated infrequently. VEPCO suggested that paths be coded by the quality of the ATC calculation used and that high quality effort be used only when ATC is less than 25 percent of the total transmission capability. ConEd suggested that posting could be sorted by frequency of update so that busier paths would be at the top of the list.

Dayton P&L suggested mandatory information on ATC be limited to: (1) Identification of the interface; (2) firm and non-firm ATC (hourly for the current day, daily for the next seven

[38] *See* RIN NOPR text at section III.C (60 FR at 66188) and the proposed regulation at 18 CFR 37.7 (60 FR 66200).

[39] *See* RIN NOPR text at section III.C (60 FR at 66188).

[40] *See* Open Access Final Rule at sections IV.G and IV.H.

[41] *See, e.g.*, Arizona, ConEd, NEPOOL, NE Public Power District, NERC and Western Group comments.

[42] *See* Basin EC, Duke, NE Public Power District, Tallahassee, Union Electric, and VEPCO comments. Only Arizona said it was a bad idea because it would be too subjective and confusing.

[43] *See* Central Illinois Public Service, Detroit Edison, Omaha PPD, PSNM, Texas Utilities, Union Electric, and VEPCO comments.

days, weekly for the next four weeks, monthly for the next 12 months); and (3) price for each service.

MAPP summarized the issue well when it stated "[t]he burden of ATC calculations will be determined by the number of paths for which ATC is being calculated and posted, the accuracy needed and the frequency of required update."

The proposed regulations have been modified to implement the alternative approach suggested by the Commission in the RIN NOPR. The regulations in § 37.6(b)(1) define the paths for which ATC and TTC must be posted. These are called "posted paths."

A transmission path becomes a "posted path" in one of three ways. First, ATC and TTC must be posted for any path between two control areas. Second, posting is required for any path for which transmission service has been denied, curtailed or subject to interruption during any hour or part of an hour for a total of 24 hours in the last 12 months. In counting up to 24, curtailment for any part of an hour counts for a whole hour. Finally, Transmission Customers can request that ATC and TTC be posted for any other transmission path. Customer requested postings may be dropped if no customer has taken service on the path in the last 180 days.

The regulations in § 37.6(b)(3) define two classes of posted paths based on usage: "unconstrained" and "constrained". A constrained posted path is one for which ATC has been less than or equal to 25 percent of TTC for at least one of the last 168 hours or is calculated to be 25 percent or less of its associated posted TTC during the next 7 days. An unconstrained posted path is any posted path that is not a constrained posted path.

For constrained posted paths, ATC and TTC for firm and non-firm service would have to be posted for the next 168 hours and, thereafter, to the end of a 30-day period. In addition, ATC and TTC for firm and non-firm service must be posted for the current month and the next twelve months. However, this monthly posting for ATC and TTC for non-firm service is required only if requested by a customer. If the Transmission Provider charges separately for on-peak and off-peak periods in its tariff, ATC and TTC will be posted daily for each period. A posting for a constrained posted path must be updated when transmission service on the path is reserved or service ends or when the path's TTC changes by more than 10 percent.

For an unconstrained posted path, ATC and TTC for firm transmission service and non-firm transmission service would be required to be posted for the next seven days and for the current month and the next twelve months.[44] If the Transmission Provider charges separately for on-peak and off-peak periods in its tariff, ATC and TTC will be posted for the current day and the next six days following for each period. Postings for an unconstrained posted path must be updated when the ATC changes by more than 20 percent of the path's TTC.

We will not require ATC and TTC to be posted on the OASIS more than thirteen months in advance, with the following exception. If planning and specific requested transmission studies have been done, seasonal capability shall be posted for the year following the current year and for each year following to the end of the planning horizon, but not to exceed 10 years.

c. Methodology for Calculating ATC and TTC (§ 37.6(b)(2)). In the RIN NOPR, the Commission discussed the requirements for calculating ATC and TTC.[45] Recognizing that formal methods do not currently exist to calculate ATC and TTC, the Commission requested comment on how to develop a consistent, industry-wide method of calculation (Question 4).

Most commenters recommended that the Commission defer to NERC regarding the development of a consistent, industry-wide method of calculation. NERC, in turn, recommended that the Commission give deference to NERC's ongoing, industry-wide effort. NERC's Transmission Transfer Capability Task Force (TTC Task Force), with an expanded roster to include representation from all segments of the electric industry, was formed to develop uniform definitions for determining ATC and related terms. Because the TTC Task Force will not be finished with its assignment until May 1996, NERC recommended that the OASIS final rule not contain specific definitions of terms such as ATC, but instead be limited to a general framework within which the same information can be made available to all transmission users at the same time.

The Commission encourages industry efforts to develop consistent methods for calculating ATC and TTC. Consequently, the final rule follows the proposed regulations in requiring that ATC and TTC be calculated based on a methodology described in the Transmission Provider's tariff and that it be "based on current industry practices, standards and criteria." (Section 37.6(b)(2)(i)).[46]

As provided in the *pro forma* tariff, Transmission Providers may themselves purchase only transmission capability that is posted as available. This requirement should create an adequate incentive for them to calculate ATC and TTC as accurately and as uniformly as possible.

d. Accommodating Flow-Based Pricing. In the RIN NOPR, the Commission asked for comment on what requirements would have to be changed if the electric power industry moves to regional pricing, flow-based pricing, or other pricing models that depart from the "contract path" approach (Question 2).[47]

Many commenters expressed the need for OASIS flexibility to support both contract path and actual flow models.[48] Com Ed stated that, so long as the OASIS is flexible, appropriate postings involving ATC, price, and related information will develop for use with tariffs using flow-based pricing.

The Commission concludes that the proposed regulations were general enough to accommodate flow-based pricing methods. Therefore, we have provided no special provision regarding flow-based pricing in the final rule. Any OASIS-related issue that arises when flow-based proposals are made can be dealt with at that time. We cannot accurately foresee what issues may arise concerning flow-based pricing because this is an evolving area.

e. Actual Flow Data. The RIN NOPR proposed the posting of actual path flow data to better inform Transmission Customers about the true network impacts of taking service on a contract path basis.[49] The Commission asked whether there are any difficulties, technical or otherwise, associated with posting actual path flows (Question 20).

In response, commenters stated that such posting is technically difficult, but possible. However, they question the value and usefulness of such postings.[50]

[44] The terms "firm point-to-point transmission service" and "non-firm point-to-point transmission service" are defined in the definition section of the *pro forma* tariff for point-to-point service.

[45] *See* RIN NOPR text at section III.C (60 FR at 66188) and the proposed regulation at 18 CFR 37.9(b)(2) (60 FR 66200).

[46] The *pro forma* tariff in the Open Access Final Rule provides that Transmission Providers must develop a method for calculating ATC and TTC and must include a description of this methodology in their tariffs.

[47] *See* RIN NOPR text at section III.C (60 FR at 66186).

[48] *See, e.g.*, Consumers Power, Basin EC, ERCOT, NEPOOL, PA Com, How Group, NIEP, NYPP, NERC, Ohio Com, OK Com, Oklahoma G&E, PSNM, Texas Utilities, Western Group, PacifiCorp, and PJM comments.

[49] *See* RIN NOPR text at section III.C (60 FR at 66191).

[50] *See, e.g.*, Allegheny, Arizona, Central Illinois Public Service, Carolina P&L, Florida Power Corp,

Commenters stated that information on actual path flows is voluminous, excessive, and burdensome to post.

Allegheny stated that actual flow information could be commercially sensitive depending on the degree to which a generator's output can be determined from it. Oklahoma G&E stated that actual flows are meaningless unless accompanied by voltage, line thermal limits, and line first contingency incremental transfer capability. NERC commented that actual path flow postings would be irrelevant or even misleading to the Transmission Customer and should not be required. NERC added, however, that the Commission should not preclude such postings either. The How Group pointed out that, from a technical standpoint, posting actual path flows significantly increases the level of detail in information about transmission service. APPA answered that some regions already have the capability to post actual flows, but functional separation diminished the need for the Commission to require the posting of actual flows.

The final rule does not require the posting of actual path flows. As long as ATC and TTC are calculated to reflect network conditions, including parallel path constraints, actual flow data need not be posted. The Commission may reassess this issue after reviewing the proposals of the TTC Task Force on methods for calculating ATC and TTC expected in May 1996.

f. Providing Supporting Information (§ 37.6(b)(2)(ii)). In the RIN NOPR, we proposed that public utilities must post all data used in calculating the ATC and TTC and make such data publicly available.[51] The Commission received a number of comments on this proposal.

A majority of commenters stated that supporting data should not be available on the OASIS.[52] About half of the commenters argued that the data should be available off-line.[53] Others suggested that procedures and software used in calculating ATC and TTC must be posted.[54] NYPP suggested that a bibliography of supporting information should be maintained on the OASIS.

Having this information available is essential for building and maintaining trust in the information posted on the OASIS. Transmission Providers generally seem willing to provide this information after-the-fact and off-line. Since this information would be used only after-the-fact and can be voluminous, the final regulations require that ATC and TTC supporting information be made available by the Responsible Party within one week of posting, on request, in their original electronic format and at the cost of reproducing the materials. A requirement specifying how long the information must be retained also has been added.

g. Long-Term Studies (§ 37.6(b)(2)(iii)). The RIN NOPR proposed that any planning or specifically requested studies of the transmission network performed by the Transmission Provider be posted on a same-time basis.[55] This would include only those parts of customer-specific interconnection studies that relate to network impacts.

The majority of commenters responded that transmission planning studies should not be posted on the OASIS. ConEd and MAPP suggested an index to be maintained on the OASIS. NEPOOL, Tallahassee, and Montana Power suggested that summaries should be maintained on the OASIS.

As with the ATC supporting information, having this information available is essential for building and maintaining trust in the ATC and TTC posted on the OASIS. Since this information would be used only after-the-fact and can be voluminous, the final regulations require that final transmission studies be available from the Responsible Party on request in original electronic format and at the cost of reproducing the materials. A list of available studies is to be posted on the OASIS. A requirement specifying how long the studies must be retained also has been added.

3. Posting Transmission Service Products and Prices (§ 37.6(c))

Paragraph 37.6(c) of the regulations adopts several of the proposed provisions. It requires Transmission Providers to post prices and a summary of the terms and conditions of transmission products. In addition, Transmission Providers must provide a downloadable file of their complete tariffs. Furthermore, customers who use an OASIS to resell transmission capacity must submit relevant information about their resale transactions to the Transmission Provider for posting to the same OASIS as used by the Transmission Provider in originally offering that capacity. As proposed in the RIN NOPR, the Transmission Provider must post this information about resales on the same display page, using the same tables, as similar capacity being sold by it. Similarly, the information must be contained in the same downloadable files as the Transmission Provider's own available capacity. A customer who does not use an OASIS to arrange a resale of transmission capacity must, nevertheless, inform the original Transmission Provider of the transaction within the time limits prescribed by the "Sale or Assignment of Transmission Service" section of the *pro forma* tariff.

The proposed standards of conduct required a Transmission Provider that offers any discount on behalf of its power customers or those of an affiliate, to post offers for similar service containing comparable discounts, at the same time, to all Transmission Customers.

As to discounts that the Transmission Provider has agreed to give to any Transmission Customer (affiliated or unaffiliated), the Commission proposed requiring that these discounts be posted within 24 hours after the agreement is entered (measured from when ATC is adjusted in response to the agreement), and that they remain posted for 30 days. The Commission sought comment on whether all transmission discounts should be posted on the OASIS, or only those provided to the Transmission Provider or its affiliates (Question 14).

Most commenters, including representatives with diverse interests such as APPA, EEI, Continental Power Exchange, EGA, EEI, NIEP, and NRECA, argued that discounts must be made available to all customers. NRECA especially, was concerned about the potential for selective discounting. The Ohio Com, clearly concerned about allowing Transmission Providers to negotiate privately, asked that we clarify how discounting would work, and EGA raised some practical concerns about how the Commission's proposal would work. EGA asked whether, when a discount is offered to an affiliate, discounts must be offered to others on the same path, all paths, or only paths needed to get to the buyer to whom the affiliate is selling. This issue is addressed in the Open Access Final Rule, which concludes that such

Montana Power, NERC, Omaha PPD, Texas Utilities, Union Electric, and VEPCO comments.

[51] *See* RIN NOPR text at section III.C (60 FR at 66190) and the proposed regulation at 18 CFR 37.9(b)(6) (60 FR 66200).

[52] *See, e.g.*, Allegheny, Central Illinois Public Service, Continental Power Exchange, EPRI, Florida Power Corp, MAPP, NERC, NE Public Power District, NYPP, Ohio Edison, PSNM, VEPCO, Western Group, and WP&L comments.

[53] *See, e.g.*, Allegheny, ConEd, Detroit Edison, Duke, EPRI, Idaho, MAPP, NEPOOL, NE Public Power District, Ohio Edison, PSNM, VEPCO, and Western Group comments.

[54] *See, e.g.*, Duke, EPRI, Idaho, PSNM, Western Group comments.

[55] *See* RIN NOPR text at section III.C (60 FR at 66191) and the proposed regulation at 18 CFR 37.8(c) (60 FR 66200).

discounts must be offered to all customers on all unconstrained paths.

Several commenters were against discounting, but would accept discounts if they were made available to all customers.[56] Several commenters agreed with the proposal to require posting of discounts offered to affiliates and delaying the reporting of discounts to others.[57] However, CCEM wants to change the 24-hour delay period to 30 days.

SCE&G and Union Electric would allow discounting but not post them on the OASIS. Central Hudson would post only affiliate discounts. SMUD argued that selective discounting is good and stated that, if public utilities must offer discounts to everyone, no discounts would be offered to anyone.

The question of whether discounts may be offered is discussed in the Open Access Final Rule.[58] If a Transmission Provider offers a discount for transmission service to its own power customers or those of an affiliate, it must, at the same time, post on the OASIS an offer to provide the same discount to all eligible customers on the same path and on all unconstrained transmission paths. As to discounts for ancillary services, if a Transmission Provider offers a rate discount to an affiliate, or attributes a discounted ancillary service rate to its own transactions, the Transmission Provider must, at the same time, post on the OASIS an offer to provide the same discount to all eligible customers. If a Transmission Provider offers discounts to non-affiliates, it must offer to do so on a basis that is not unduly discriminatory. Any discounts under § 37.6(c)(3) offered to affiliates or to the Transmission Provider's own power customers must be posted on the OASIS when they are offered pursuant to § 37.4(b)(5)(v). Discounts offered to non-affiliates must be posted within 24 hours of when ATC is adjusted in response to the transaction.

4. Posting Ancillary Service Offerings and Prices (§ 37.6(d))

Transmission Providers are required to post on the OASIS information about all ancillary services required by the Open Access Final Rule to be provided or offered to customers.[59] A Transmission Provider may, at its discretion, post information on the OASIS about other interconnected operation services, offered by itself or third parties, that are not services required by the Open Access Final Rule to be offered to customers. However, if a Transmission Provider elects to post these optional services for any party, including itself, then it must post on its OASIS, for a reasonable cost based fee, the same type of information about comparable optional ancillary services offered by third parties.

In the RIN NOPR, we proposed the posting of price and other information about ancillary services.[60] We requested comment on: (1) The information needed about ancillary services (Question 12); (2) how often the information should be updated (Question 13); and (3) where on the information network offers of ancillary services by entities other than the Transmission Provider should be placed (Question 9).

While there is near consensus among commenters on the need to update ancillary services information as it changes, there is widespread disagreement on what information about ancillary services should be posted and where on the OASIS offers by other entities to provide ancillary services should be placed. Some commenters request that the Commission allow flexibility because the information requirement may depend upon the industry structure that develops in response to the Open Access Final Rule. NERC asserted that it is impractical to expect the initial OASIS to be the vehicle for posting information on the availability and price of all ancillary services.

Ancillary service providers are required to post all pertinent information about their ancillary service offerings (*e.g.*, a description of the service being offered, its availability, and its price) so that Transmission Customers may compare offers and decide which offer best suits their needs. Information about ancillary services should be updated as it changes. Postings by customers and third parties should be on the same page, and in the same format, as postings of the Transmission Provider.

5. Posting Transmission Service Requests and Responses (§ 37.6(e))

Section 37.6(e) requires that all requests by customers for transmission service that the Transmission Provider offers under the *pro forma* tariff must be made on the OASIS. The Responsible Party is required to provide to others on the OASIS the essential information relating to such requests, with the identity of the parties masked, if requested. Additionally, the section sets out the steps that must be followed in processing such requests, including the posting of curtailments, interruptions, or denials of service.[61] The final OASIS regulations require that a record of transactions not resulting in agreements also be kept for audit purposes. We now discuss some special issues arising under this provision and the comments relating to those provisions.

a. Posting Curtailments and Interruptions (§ 37.6(e)(3)). We proposed requiring that, when a transaction is curtailed, a Transmission Provider must post the reason that the transaction was curtailed and the available options, if any, for adjusting the operation of the Transmission Provider's system to increase transfer capability in order to accommodate the transaction.[62] Since scheduling and the curtailment of schedules would not be done through the information network initially, this curtailment data would be for information purposes only.

The Commission requested comments on what information about curtailments should be communicated on an OASIS (Question 7). Only Union Electric, among the commenters who answered this question, argued against posting information about curtailments or recording this information in an audit file. Among those who supported posting or recording, the differences were in how much information should be provided, where the information should be placed, and who should have access to the information.

The comments expressed support for a Transmission Provider setting out in its tariff, or elsewhere, curtailment or interruption rules or constraint relief protocols.[63] This would let a customer know what to expect when there is a constraint and would allow the Transmission Provider to be held to a formal set of procedures. Then, when a curtailment occurs, postings on the OASIS can refer to steps and reasons defined in the curtailment procedures.

Many commenters agreed that at least some basic information about curtailments needs to be posted or documented in the audit file. Several commenters pointed out that there may

[56] *See* ERCOT, MidAmerican, NUCOR, and Public Generating Pool comments.

[57] *See* CCEM, OK Com, and Tallahassee comments.

[58] *See generally* Open Access Final Rule at sections IV.D and IV.G.

[59] *See generally* Open Access Final Rule at section IV.D.

[60] *See* RIN NOPR text at section III.C (60 FR at 66190).

[61] The Open Access Final Rule discusses curtailments at section IV.G and provides that a company's curtailment policy is to be described in its tariff.

[62] "Curtailments" are service cutbacks made for system reliability reasons and are distinguishable from "interruptions", which are made pursuant to tariff conditions.

[63] *See* APS, NERC, and NIEP comments.

be some lag before these postings are placed on the OASIS because control room personnel may need time to determine and resolve the problem.[64] Some commenters believed that these postings should be made available only to those curtailed.[65]

The proposed regulations addressed curtailments and denials of service together. In this final rule, denials are distinguished from curtailments of service. Transmission Providers are not required to offer options for making capacity available to those curtailed, but if options are offered, they must be offered to curtailed and interrupted customers at the same time.

As discussed in the Open Access Final Rule, transmission tariffs must include rules for curtailment and interruption of service, including clear steps or stages in the process for relieving constraints, and transmission service agreements must clearly identify the service's priority relative to concurrent services. Consistent with these requirements, the final rule here provides that, when curtailments or interruptions take place, they must be posted as soon as possible and must include identification of the service (with the identity of the customer masked), the reason for the curtailment or interruption, and the tariff-defined step in the curtailment and interruption process. In the event that an emergency situation affecting system reliability delays this posting, the posting must be made as soon as practicable thereafter along with an explanation for the delayed posting.

Curtailments and interruptions will be recorded for audit purposes. This audit data should contain enough information about the timing of superseding requests and changes in ATC to document the reason for a curtailment or interruption. The final rule also provides that customers have the right to request an explanation of the reason for a curtailment or interruption.

b. Posting Denials of Requests for Service (§ 37.6(e)(2)). In the RIN NOPR, we proposed requiring that, when requests for service are denied, Transmission Providers must communicate to Transmission Customers through the OASIS: the reason(s) that the transaction(s) could not be accommodated; and the available options, if any, for adjusting the operation of the Transmission Provider's system to increase transfer capability to accommodate the transaction(s). The Commission requested comments on what information about denials of requests for service should be communicated on an OASIS (Question 7).

As with curtailments, only Union Electric out of the commenters who answered this question opposed posting information about denials of service on the OASIS or recording this information in an audit file. Many commenters agreed that at least some basic information about denials should be posted. Some commenters believed that these postings should be available only to those denied service.[66]

Service can be denied for two basic reasons: either (1) the customer requested more than the posted ATC or (2) after the request for service was made, conditions changed due to preexisting requests or unforeseen events reducing capacity. Denials should be handled as part of the request and response process. A requester should receive a standardized reason for denial as part of the response. Denials would not be posted. Instead, denials must be recorded for audit purposes and maintained as provided in section 37.7(b). This data should contain the information about a denial needed to explain the reason for a denial. Under the final rules, customers have the right to request an explanation of the standardized reason for a denial.

c. Transaction Anonymity (§ 37.6(e)(3)(i)). In the RIN NOPR, we proposed that, generally, information concerning negotiations on transmission requests need not be posted unless an agreement to provide the transmission is reached.[67] This information would be available only after-the-fact in the audit file. In addition, if an agreement is reached, the identity of parties to transmission transactions would be masked until 30 days after the date when the Transmission Provider's ATC was adjusted in response to the transaction. (This might be after the date when service begins). After that date, all transaction data would be made available. In addition, we proposed that transmission transaction prices be included in the information in the audit file. Price information concerning cost-based transmission services would not be considered commercially sensitive.

The Commission requested comment on what information should be considered commercially sensitive, the 30-day release period proposal, and on how and when commercially sensitive information should be released to concerned parties before the standard release period and whether affiliated transactions should be treated differently (Question 24).

Several commenters agreed that information about negotiations that do not reach agreement should not be reported.[68] No commenter argued for making this information public.

A number of commenters supported the 30-day delay on providing commercially sensitive information.[69] Several, however, thought the information should be provided as soon as possible.[70] Others thought it should be provided quarterly.[71] WP&L proposed a 60-day delay. Dayton P&L said that the delay should depend on contract length. Union Electric suggested a delay of 30 days after the transaction begins and not after the ATC is adjusted.

Commenters split on the question of whether price data are commercially sensitive.[72] Commenters listed several items as commercially sensitive that were proposed to be posted. These are ATC supporting information,[73] transmission schedule information,[74] generation run status,[75] amount provided,[76] terms and conditions,[77] and duration.[78]

NE Public Power District argued for full disclosure of all but generator information because, as a public entity, it must disclose such information. NIEP stated that comparability should be the ruling principle in information disclosure.

The final rule adopts the NOPR proposal and provides that the identity of parties to an agreement are confidential during ongoing negotiations and for 30 days from the time ATC is adjusted. Although not explicitly required in the new Part 37, the price of services offered on and

[64] *See* Allegheny, Com Ed, CSW, NERC, NRECA, and SCE&G comments.

[65] *See, e.g.*, Allegheny and Central Illinois Public Service comments.

[66] *See* Allegheny and Central Illinois Public Service comments.

[67] *See* RIN NOPR text at section III.C (60 FR at 66191) and the proposed regulation at 18 CFR 37.14(d) (60 FR 66201).

[68] *See, e.g.*, Allegheny, Detroit Edison, El Paso, NorAm, and OK Com comments.

[69] *See* Allegheny, CCEM, El Paso, Oklahoma G&E, PJM, PSNM, and Western Group comments.

[70] *See* APPA, Continental Power Exchange, MidAmerican Energy, and NIEP comments.

[71] *See* Arizona, ConEd, and NorAm comments.

[72] EGA, NUCOR, NRECA, Omaha PPD, and PJM supported the proposition that the data are not commercially sensitive. Arizona, Central Illinois Public Service, Detroit Edison, OK Com, PSNM, Seattle, and Western Group argued that the data are commercially sensitive.

[73] *See* Carolina P&L and El Paso comments.

[74] *See* Central Illinois Public Service and OK Com comments.

[75] *See* Allegheny, Carolina P&L, CSW, Detroit Edison, EGA, NE Public Power District, and PJM comments.

[76] *See, e.g.*, Allegheny and WP&L comments.

[77] *See* Central Illinois Public Service comments.

[78] *See* Allegheny comments.

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agreed to through the OASIS are not considered commercially sensitive.[79]

6. Posting Facility Status Information

The RIN NOPR discussed the fact that the ATC of some transmission paths depends on generator run status or megawatt output, or both, as well as on other system elements.[80] We proposed requiring Transmission Providers to post information about those system elements that have a direct and significant impact on ATC. Such elements could include generators, transmission lines, phase shifters, series and shunt capacitors, static VAR compensators, special protection systems or remedial action schemes. We, therefore, requested comment on whether it is sufficient to provide information only about planned outages and (for both planned and forced outages) return dates for system elements deemed to have a direct and significant impact on ATC and whether posting this information would cause any confidentiality concerns (Question 18). We also requested comment on how "significant and direct impact" should be defined (Question 19).

Additionally, we requested comment on whether it would be sufficient to post the changes to ATC corresponding to the planned outage or return dates of generators (Question 21); and whether, if operating guides, nomograms, operating studies, and similar information were posted, the run status of those generators with a significant and direct impact on ATC could be deduced (Question 22).

Comments

A number of commenters stated that the posting of facility status information should not be a requirement.[81] These commenters reasoned that the posted ATC and TTC values would reflect facility status impacts and that posting status information therefore would be unnecessary and burdensome, and would render the information network unmanageable. With regard to generator status and outage information, a number of respondents argued that generator status and outage-related information is commercially sensitive and confidential.[82] They stated that posting generator-related information would give an unfair advantage to competitors. Some opposing the posting of generation-related information also added that the Commission's proposed standards of conduct would make it unnecessary to post this information because the Transmission Customer's and the Transmission Provider's wholesale marketing functions would rely on the same information.[83] A number of Transmission Providers believed that facility status data can be archived and made available for after-the-fact audits.[84]

A second group of commenters believed that facility status information should be posted on the OASIS.[85] With regard to generator status and outage data, Seattle responded that planned generator outage data should be updated as it changes and that an explanation of the impact of typical outage configurations should be made available to all transmission users in advance. APPA stated that the run status (on-line or off-line) of any generating unit should not be kept confidential. APPA argued that keeping such information confidential, under the guise of competitive necessity, is an excuse to protect opportunities to game the market. NCEMC stated that, because the transmission user needs to be able to do a reliability and risk assessment of various available power supply sources and transmission paths, it probably is not sufficient to post ATC changes corresponding to generation outages.

A third group of commenters suggested that, while generator status-related information should not be posted, information about transmission facilities with direct and significant impact on ATC and TTC could be posted.[86] There were diverging views among the commenters as to whether posted ATC or TTC values would reveal the run status of generators if operating guides, nomograms, operating studies, and similar information were posted. A number of commenters responded that ATC and TTC are affected by many variables and, even though in some cases it may be possible to deduce the run status of certain generators from the posted ATC or TTC, these deductions would be uncertain.[87]

NERC responded that it may be possible, over time, to recognize patterns and supporting data that would indicate which generator went off-line, but not whether the reason is a planned outage, forced outage, reserve shutdown, or other reasons. NERC explained that a run status so deduced would itself be an estimate and not as commercially sensitive as knowing the reason for that status. Florida Power Corp and Montana Power responded that customers will be able to deduce generation-related information from changes in ATC if guides, nomograms, or studies are posted and, therefore, such information should not be posted.

By contrast, a number of commenters stated that nomograms, derating tables, and operating studies can be used to identify equipment that has a direct and significant impact on ATC and TTC.[88] The Western Group responded that, where study results have been summarized in nomograms, derating tables, and operating guidelines and procedures, these summary forms should be made available as information on the OASIS.

A number of respondents answered that it is not necessary to define "significant and direct impact" because ATC and TTC are the only quantities that need to be posted.[89] ConEd stated that the definition of "significant" should be consistent with local and regional procedures. Duke and Florida Power Corp commented that the Commission should work through NERC in developing appropriate definitions. NYPP, on the other hand, stated that "significant and direct impact" can be determined only on a case-by-case basis. Montana Power defined the term as a reduction of ATC that results in the denial of service. Continental Power Exchange proposed that any system element affecting ATC more than 10 percent should be considered significant. CSW proposed a 50 percent threshold. CSW further proposed to include those elements that can cause a reduction of more than 25 percent of the normal flows across an interface.

[79] We note, in this regard, that § 205(c) of the FPA requires public utilities to have their prices on file with the Commission and available for public inspection.

[80] *See* RIN NOPR text at section III.C (60 FR at 66191).

[81] *See* Allegheny, Central Illinois Public Service, Com Ed, CSW, Dayton P&L, Detroit Edison, Duke, Montana Power, NERC, NYPP, Ohio Edison, PJM, PSNM, Texas Utilities, VEPCO, and WP&L comments.

[82] *See* Allegheny, Arizona, Central Illinois Public Service, ConEd, Carolina P&L, CSW, Dayton P&L, Detroit Edison, Florida Power Corp, NEPOOL, NE Public Power District, NERC, NYPP, Oklahoma G&E, Omaha PPD, PJM, Texas Utilities, Union Electric, VEPCO, and WP&L comments.

[83] *See* Central Illinois Public Service, Carolina P&L, and Ohio Edison comments.

[84] *See* ConEd, CSW, Florida Power Corp, NYPP, Ohio Edison, and PSNM comments.

[85] *See* APPA, CCEM, EGA, NCEMC, NIEP, OK Com, Seattle, Tallahassee, and United Illuminating comments.

[86] *See* Arizona, Dayton P&L, MidAmerican, NEPOOL, PJM, and Western Group comments.

[87] *See* Arizona, CCEM, Central Illinois Public Service, Com Ed, ConEd, CSW, Detroit Edison, NEPOOL, NE Public Power District, VEPCO, and WP&L comments.

[88] *See* APPA, Arizona, CCEM, Idaho, NEPOOL, Oklahoma Com, Seattle, and SoCal Edison comments.

[89] *See* Allegheny, Com Ed, Detroit Edison, NERC, NE Public Power District, Ohio Edison, SCE&G, Texas Utilities, Union Electric, and VEPCO comments.

Discussion

Additional information about the state of the transmission system will enable Transmission Customers to make better decisions about the quality of the transmission service they intend to purchase. However, the development and implementation of Phase I OASIS, in what is a relatively short period of time, requires that we limit the posting requirements of the OASIS to the essentials. We believe that audit data and information required to be provided about the reasons for curtailments and interruptions will make it possible to document unduly discriminatory practices concerning facilities critical to transmission capability. Also, as pointed out by APPA, the standards of conduct that we put in place with this rule lessen the urgency of posting additional information concerning generating unit status and transmission component status. Consequently, the Commission will not require the posting of information about the run status of generation and transmission facilities for a Phase I OASIS. We may reconsider this subject for Phase II OASIS depending on the Phase I experience.

7. Posting Transmission Service Schedules Information (§ 37.6(f))

The final rule consolidates and renumbers §§ 37.14(b) and (c) of the RIN NOPR as § 37.6(f). This provision requires information on scheduled transmission service to be recorded by the entity scheduling the transmission service and requires that the information be made available for download on the OASIS by interested parties. It also provides that postings must be made within one week of the start of the transmission service schedule agreed upon by the parties. The comments in response to the RIN NOPR did not take issue with the proposal. Thus, the provision is adopted without substantial revision.

8. Posting Other Transmission-Related Communications (§ 37.6(g))

Section 37.6(g) basically adopts what we proposed for the posting of "want ads" and "other communications" in § 37.9(f) of the RIN NOPR. Postings made in this section carry no obligation to respond on the part of any market participant.

This section provides that "other communications related to transmission services" (such as using the OASIS as a transmission-related conference space or to provide transmission-related messaging services between OASIS users) and "want ads" must be posted by the Responsible Party.

We received comments that urged the Commission to issue a disclaimer to the effect that, although Transmission Providers are responsible for posting other transmission-related communications at the request of third parties, it is the responsibility of the third parties requesting such postings to ensure the accuracy of the information to be posted. We agree that such a disclaimer is appropriate. We provide it in § 37.6(g)(2).

In addition, the final rule requires that transfers of personnel between the transmission and marketing functions are to be posted on the OASIS (§ 37.6(g)(3)). This incorporates the requirements of the standards of conduct at § 37.4(b)(2).

I. Section 37.7—Auditing Transmission Service Information

In the RIN NOPR, we proposed procedures that would govern the availability of records about auditing transmission service transactions.[90] The Commission proposed requiring that historical data on postings, updates, and request/response communications be recorded for audit purposes, be downloadable from the OASIS in an appropriate format for 60 days, and be available for download on a rolling basis for three years from entry on the OASIS. These provisions are now contained in § 37.7 of the final rule. However, we have increased the time during which audit data must be available for download from 60 days to 90 days because this provides greater protection to customers.

ConEd suggested that the Commission should provide assurance to Transmission Providers that they will not be liable if they post data under the proposed audit provisions that is considered confidential by their customers. We do not believe that it would be appropriate for the Commission to issue this sort of blanket disclaimer in the absence of any particular facts or controversy. However, to the extent that a Transmission Provider posts data because this is required by the Commission's regulations, the Transmission Provider may, of course, assert this as a defense against any legal action brought against it based on the disclosure.

J. Standards and Communication Protocols

In this section, we discuss the major issues raised in response to our proposed standards and protocols. As proposed, these are being issued in the separate *Standards and Protocols* document that we are issuing together with this final rule. As already described, the final rule states explicitly that information is to be posted on the OASIS in conformance with the specifications of the *Standards and Protocols*.

The most recent How Report (filed on April 15, 1996) shows great strides toward reaching consensus on a set of implementable standards. However, it needs to be augmented in two ways.

First, there are some internal inconsistences. For example, there are data elements that appear in the data dictionary that do not appear in the templates and vice versa. The data elements for DUNS numbers that appear in the data dictionary need to be added to the appropriate templates. Data elements for DUNS numbers for resellers need to be added to both the data dictionary and the appropriate templates. The October 16, 1995 How Report contained standards for Transmission Services Information Timing Requirements. The most recent report substantially changed these requirements. We request that the report we are asking the How Group to submit by May 28, 1996 reinstate these requirements or explain why they should be changed.

Second, and not surprisingly, the standards and protocols must now be conformed to the requirements of the final rule. For example, necessary changes include developing file and display templates for curtailments and interruptions, developing file and display templates to place primary and resale capacity on the same displays and in the same downloadable files, and developing file and display templates to place ancillary services provided by the primary provider and others on the same display page and in the same downloadable files.

Under procedures we are instituting today, we expect the recommendations for standards and protocols to be conformed to the requirements of the final rule and for inconsistencies to be corrected in the next few months. We are issuing portions of the standards and protocols now to provide as much information as possible to allow the industry to begin the work of building necessary systems to make their OASIS nodes operational. This information, coupled with the requirements of the Open Access Final Rule and our additional procedures to complete the *Standards and Protocols*, should result in the OASIS nodes being operational

[90] See RIN NOPR text at section III.C (60 FR at 66191) and the proposed regulation at 18 CFR 37.14 (60 FR 66201).

within six months of the publication of this final rule in the **Federal Register**.

The April 15, 1996 How Report contains references to a yet to be established industry group, the [OASIS] Management Organization, that will maintain a registry of [OASIS] node names and perhaps perform other functions associated with maintaining a functioning [OASIS]. We agree that there is a need for an industry group to maintain a registry of OASIS node names and perform similar functions and expect that such a group will be established by the industry prior to the implementation of the OASIS requirements. The *Standards and Protocols*, therefore, contains a reference to this function. We expect that such a group would be composed of representatives of all segments of the electric industry and we expect to be apprised of the group's activities.

1. Summary of Standards and Communication Protocol Requirements

The *Standards and Protocols*, which we are adopting together with this final rule, require Transmission Providers to make their OASIS nodes accessible through the Internet. Each Responsible Party's OASIS is considered to be a separate node. An OASIS operated jointly by several utilities would be considered one node. By connecting each node through the Internet, transmission service information provided by each utility becomes part of a network.

We are requiring that nodes must support the use of Internet tools. The specific tools are described in the *Standards and Protocols*. OASIS users will access nodes using World Wide Web (WWW) browsers.[91] Each node will display information using the Hypertext Mark-up Language (HTML) protocol required by World Wide Web browsers. Screen displays will consist of a series of pages that may be viewed by customers without requiring the page to be downloaded and viewed by separate software. The information on each page, but not the actual displays, will be standardized. Information must also be made available for downloading, in a standardized ASCII[92] format.

In Phase I, customers will have access to the information required to be posted by this rule and will be able to use the OASIS to reserve transmission capacity. They will be able to request capacity either by completing a standardized form contained in an on-line HTML page or by uploading a filled-out form using HTTP. Customers who want to resell transmission capacity will upload (post) the relevant information to the same OASIS node used by the primary provider from whom they purchased the ATC. Customers will also be able to upload other communications (*e.g.*, Want Ads) containing such information as requests to purchase transmission capacity.

OASIS nodes must provide direct connections to private networks if requested to do so. The cost of the connections will be paid for by the requestor and the networks are required to use Internet tools.

The *Standards and Protocols* contain a model of the information requirements that must be provided at each OASIS node. Customers are limited to obtaining information from HTML text displays and selecting from menus of downloadable files. Customers will receive the information either as HTML pages or as ASCII files in a predetermined form and layout.

For security purposes, and as an aid in auditing performance and transactions, all customers are required to register with the Responsible Party before they are permitted access to the utility's transmission service information on the OASIS. As registered subscribers, they will be allowed to read and download information, make requests for transmission service, place "Want Ads" and offer transmission service for resale. Commission staff and staff of state regulatory authorities are to obtain free "read only" access to the OASIS and members of the general public will also be provided "read only" access to the OASIS for the same usage fee paid by customers, once they have complied with the requisite registration procedures.

Responsible Parties are required to meet a number of performance standards and security precautions. Performance requirements include sizing OASIS nodes to handle the loading of registered subscribers, responding to subscriber requests, backing up the system, and other areas that are necessary for the system to function as desired.

2. Number of OASIS Nodes (Question 35)

The Commission proposed that Transmission Providers be permitted to combine their separate OASIS nodes into a single node. Thus, while there could be as many nodes as there are transmission-owning utilities, if utilities choose to combine together to create joint nodes, we could end up with a small number of nodes.

A small number of nodes would minimize the networking management requirements for the OASIS and would help ensure access to the information systems. On the other hand, the advantages of a small number of separate nodes must be weighed against the greater complexity and size of a joint node that would handle transactions for several large transmission-owning utilities at one node. The Commission requested comments on whether a small or large number of OASIS nodes should be encouraged.

The majority of commenters preferred a small number of nodes, but would not necessarily have the Commission require a small number of nodes.[93] Some commenters advocated regional nodes.[94] PJM speculated that, even if the Commission does not encourage a small number of nodes, economies of scale and market efficiencies will lead to smaller numbers in the normal course of events. The How Group reported that significant consolidation is already occurring:

> it appears there may be 1 node in ERCOT, 13–14 nodes in the Eastern Interconnection, and 6–20 nodes in the Western Interconnection. The resulting 20–35 nodes [nationwide] is a manageable number for Customers maneuvering through the system and at the same time minimizes the impact of possible security breaches or system failures by being sufficiently distributed.[95]

Given these comments, we believe that the question of whether there should be a small number of nodes is one best left to the industry. At this stage, flexibility in such matters is important.

3. Direct Connections to OASIS Nodes (Question 36)

The Commission explained in the RIN NOPR that private networks and third party services can provide valuable contributions to the successful operation of an OASIS.[96] The Commission, therefore, proposed to require utilities to provide direct connections to the OASIS without the need to obtain access through the Internet. We also proposed that the cost of these connections be paid for by the customers making the requests and that the networks be required to use the same Internet tools as the Internet connections.

Most commenters preferred that the Commission not require third-party connections to the OASIS in Phase I.[97] Com Ed asserted that direct connections would provide only marginal benefits to the development of an OASIS, and that adding such non-essential goals to OASIS requirements would jeopardize utilities' ability to implement an OASIS on time. Montana Power argued that direct connections would provide affluent large marketers with information ahead of smaller users, and thus would give them market power.

On the other hand, other commenters argued that such connections are important. ConEd argued that direct connections would help minimize the number of different connections customers must have. Continental Power Exchange sees direct connections as allowing third parties to provide services that will add valuable contributions to the successful operation of an OASIS. The How Group reported that discussions among the parties in the group indicated that direct connections would not be a problem as long as the Responsible Party is compensated for the additional service and given a reasonable time to make the connection.

All commenters addressing the subject of who should pay for direct connections agreed that the cost should be paid by the requesting party.[98]

CCEM and OK Com agreed that the direct connections should be required to use the Internet tools required for the Internet connection.

Finally, APPA asserted that, if private networks are created to provide direct connections that are operated by partners or affiliates of utilities, these networks could provide significant performance advantages for the Transmission Provider's merchant affiliates. APPA would require full public disclosure of such partnership or affiliate relationships by the service provider.

We find that the How Group's position is reasonable. Direct connections are feasible if the provider is compensated for the additional service and is given a reasonable time to make the connection. We will, therefore, require direct connections in Phase I, upon request.

Moreover, such connections must be made available on an equal basis to all requesting customers. We note, however, that to the extent that the Transmission Provider is not the Responsible Party, a direct connection is available only from the Responsible Party. This being the case, APPA's concern that the Transmission Provider's merchant services may gain an advantage from an affiliate with a direct connection or private network does not appear to be warranted, as anyone can obtain a direct connection or the services of a private network.

4. Value-Added OASIS Services Provided by Transmission Providers or Responsible Parties

The Commission proposed in the RIN NOPR to permit Transmission Providers or Responsible Parties to provide value-added OASIS services, such as higher speed connections and automatic notification of changed data.

NTEC argued that, unless these services are offered on a non-discriminatory basis, public utilities could gain a competitive advantage by offering these services solely to affiliates. NTEC also requested the Commission to monitor the "basic" and "premium" service packages to ensure that customers need not pay a "premium" price to obtain basic services.

TAPS argued against any offering of value-added services. They argued that smaller customers may not be able to afford such services and that price could be used to discriminate against them. TAPS proposed that instead of permitting value-added services, the Commission should include all OASIS costs in transmission rates.

We agree with NTEC that value-added OASIS services should be offered on a non-discriminatory basis. If a value-added service is offered to anyone, it should be offered to everyone on the same terms and conditions. Regarding NTEC's concern over basic and premium services, we believe that the standards setting process will ensure that the basic package of OASIS services will provide all pertinent information and the means to retrieve it that are necessary for the functioning of the Open Access program.

The Commission will allow these services on a non-discriminatory basis. Such services will remain cost-based until the Commission is satisfied that market-based (value added) rates should be allowed for such services. Requests for market-based rates for such services will be addressed on a case-by-case basis.

5. Transmission Services Information Timing Requirements (Question 37)

In the NOPR, the Commission requested comments on several timing requirements for posting transmission service information. These are:

(1) Transmission Service Information Availability: The most recent Provider transmission service information, including updates reflecting power system changes, shall be available to all Customers within 5 minutes of its scheduled posting time at least 98 percent of the time. The remaining 2 percent of the time the transmission service information shall be available within 10 minutes of its scheduled posting time;

(2) Notification of Posted or Changed Transmission Service Information: Notification of transmission service information posted or changed by a Provider shall be made available within 60 seconds to all subscribed Customers who are currently connected; and

(3) Acknowledgment by the Transmission Service Information Provider: Acknowledgment by the transmission service information provider of the receipt of Customer purchase request/response requests shall occur within 1 minute for Phase I. The actual negotiations and agreements on purchase request/response requests do not have time constraints. For Phase II, acknowledgment shall occur within 30 seconds.

Most commenters supported the Commission's proposals as proposed[99] or with some modification.[100] CCEM asserted that the proposed requirements for updating transmission service information contained in Item (1) would lead to stale information, and would result in customers using the telephone and not the OASIS. CCEM asserted that the Phase I tolerances should be reduced to 30 seconds and one minute respectively.

Continental Power Exchange asserted that items (1) and (2) are good starting points. The Western Group suggested that Item (1) would be adequate if it can be accomplished automatically. Otherwise, it would recommend reducing the 98 percent compliance requirement to 85 percent.

Some commenters agreed with the need for such standards, but opposed

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[91] The World Wide Web is a system of computer resources that are accessed through the Internet.

A Browser is a computer program for retrieving and reading hypermedia documents from the WWW. A hypermedia document can contain text, graphics, video, sound or data. These documents are often linked to other documents.

[92] ASCII refers to the American Standard Code for Information Interchange, a code for character representation.

[93] *See, e.g.*, Allegheny, Central Hudson, Central Illinois Public Service, Com Ed, Continental Power Exchange, How Group, Florida Power Corp, Montana Power, NERC, NYPP, Ohio Edison, OK Com, PJM, PSNM, Seattle, Texas Utilities, and VEPCO comments.

[94] *See* APPA, CCEM, ConEd, CSW, and MAPP comments.

[95] How Group comments at 19.

[96] For example, a private network could connect to one or more OASIS nodes and offer users off-the-Internet connections at faster speeds. Third parties could gather OASIS information and repackage it into customized displays favored by individual users.

[97] *See, e.g.*, Allegheny, Com Ed, Montana, NERC, Ohio Edison, OK Com, PJM, PSNM, and VEPCO comments.

[98] *See* APPA, CCEM, ConEd, Continental Power Exchange, How Group, and PJM comments.

[99] *See, e.g.*, APPA, Duke, How Group, Florida Power Corp, NYPP, and OK Com comments.

[100] *See* CCEM, Com Ed, Continental Power Exchange, PSNM, and Western Group comments.

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incorporating timing performance standards in Phase I standards. VEPCO asserted that these standards are too ambitious for Phase I. Tallahassee argued that these timing requirements may be too restrictive for small utilities whose staff and technology capabilities will be strained by this rule. Central Hudson proposed that response times be determined after OASIS is implemented and users are comfortable with what they would expect as adequate performance.

Most commenters agreed on the need for standards for how quickly providers should post transmission service information. Commenters argued that the requirements should be stricter, that they are too strict, or that they are just right.

The Commission stated that information posting performance requirements are needed to ensure that information is disseminated in a timely manner by Transmission Providers. The comments do not persuade us to change the proposed requirements. We note that the April 15, 1996 How Report drops these requirements. We request the How Group to reinstate these requirements in the report we are inviting them to file on or before May 28, 1996, or to explain why these requirements should be dropped.

Commenters raise several additional points that need to be addressed. First, Com Ed and others argued that these requirements should not be in force during emergencies. The Commission agrees.

Second, several commenters pointed out that the phrase "available to all Customers" contained in Item (1) is ambiguous and request that it should be replaced by "available on the [OASIS]." We agree.

Third, some commenters suggested that transmission service requests and schedules be approved automatically, on a first come, first served basis. The industry does not generally do business in this manner today, and the Commission will not require it in Phase I. We request the industry to address this issue when developing requirements for Phase II.

6. Common Codes

a. Company Codes

The Commission's experience with implementing standards for file transfers and electronic bulletin boards in the natural gas industry shows that the use of a common system of identifying companies enhances the efficiency of data transfers. The Commission is satisfied with the results of using DUNS numbers [101] as the standard to uniquely identify pipelines and shippers in the natural gas transactions.[102] The Commission proposed to require the use of DUNS numbers to identify transmission-owning utilities and customers on OASIS nodes.

Most commenters believed that DUNS numbers alone or DUNS numbers in combination with names should be used.[103] The How Group asserted that using DUNS numbers will enhance the management of data from a computer perspective and allow flexibility of business applications of OASIS in the future. The How Group also asserted that having commonly used names is more user friendly and proposed that the list of names and DUNs numbers be maintained on a centralized registry.

Others believed that names alone would be sufficient.[104] NERC and Ohio Edison believed that such standardization should be left to the industry.

APPA asserted that DUNS numbers are primarily for private companies and do not include many public power systems. Instead of using DUNS numbers, APPA recommended using a numbering system derived from Energy Information Administration forms: EIA–861 ("Annual Electric Utility Report") and EIA–867 ("Annual Nonutility Power Producer Report") as these forms appear to be the most all-encompassing existing numbering system that could be used for OASIS identification. Dun and Bradstreet have informed staff that they will assign DUNS numbers, free of charge, to any entity requesting a number.

The Commission will require the DUNS numbers as the unique numerical identification of OASIS participants. The industry can proceed to develop a naming convention as suggested in the comments.

b. Common Location Codes

The Commission's experience in the natural gas industry demonstrates that a common method of uniquely identifying location points will be needed to facilitate movement of power across the grid. The Commission proposed to use a system to identify locations and paths on the electric transmission grid.

Nearly all commenters who discussed the issue argued that the Commission should not require common location codes.[105] Several commenters argued that providing longitude and latitude information for power plants and substations raises serious national security issues.[106]

Many commenters see the need for a common naming convention for paths and other facilities, such as that currently under development by the How Working Group.[107]

The Commission is persuaded to drop the requirement for a system for location codes and requests the industry to continue development of a common naming convention to be implemented as soon as practicable.

7. Data Definitions and File Formats Not Covered by the Revised How Report

a. Offers to Provide Ancillary Services Provided by an Entity Other Than the Transmission Provider (Question 11)

In the RIN NOPR, the Commission requested the specifications needed to post this information in HTML displays and the formats needed to standardize uploadable and downloadable files containing this information. This final rule requires that information about ancillary services provided by an entity other than the Transmission Provider be posted on the OASIS by Responsible Parties and be displayed on the same page and in the same file format as that of the Transmission Provider.

Although we did receive comments on this issue from various parties, this was not an issue resolved by the revised How Report. We would prefer that the How Group attempt to reach consensus on this issue before we impose our own solution. Therefore, we will include this issue among those that we are requesting further input on before we address this issue in the *Standards and Protocols*.

b. Offering of Primary and Secondary Capacity

The Commission requested comments on how to redesign the download templates in Appendix C of the NOPR so that primary and secondary capacity can be offered through downloadable files that have the same format. The Commission also requested comments on how primary and secondary capacity can be displayed in the same tables on an OASIS node. Posting secondary capacity requires more information than for primary capacity and, thus, using the same formats would require many more fields. We need information on the design of those fields before we can set standards for the display of this information.

Although we did receive comments on this issue from various parties, this was not an issue resolved by the revised How Report. We would prefer that the How Group attempt to reach consensus on this issue before we impose our own solution. Therefore, we will include this issue among those that we are requesting further comment on before we address this issue in the *Standards and Protocols*.

8. Formats for Downloadable Files Not Covered in the How Report

a. Standard Format for Data Used in Calculating ATC (Question 16)

The Commission requested comments on how the data used in calculating ATC should be formatted and asked whether the information should be in free form text, predefined tables, or comma delimited ASCII files. We also asked whether, if the information is in free form text, it should be in plain ASCII text or in a word processor format, such as WordPerfect or Word. We deal with both of these issues in section H(2)(f) of this final rule and in the regulations at § 37.6(b)(2)(ii).

b. Standard Formats for Transmission Studies (Question 23)

The Commission requested comments on how transmission studies should be formatted for download from the OASIS. We deal with this issue in section H(2)(g) of this final rule and in the regulations at § 37.6(b)(2)(iii).

c. Standard Format for Electronic Submission to the Commission of Transmission Tariffs (Question 6)

In the RIN NOPR, the Commission proposed requiring that Transmission Providers provide downloadable files of their complete tariffs on the OASIS.[108] The Commission requested that commenters propose a standard format for electronic submission of transmission tariffs to the Commission.

New formats continually are being developed by the computer industry and it would be worthwhile to address this issue again when the Commission addresses Phase II or remaining OASIS issues.

We will require utilities to provide tariff downloads from their OASIS in the same format that they use to file with the Commission.

9. Communication Protocol Issues

a. Internet Browsers

There are a large number of Internet browsers available commercially and in the public domain. The How Report proposed that browsers support "at least" HTML version 3 and "optionally" support Secure Sockets Layer. The HTML standards used by browsers change from time to time, and, in addition, various browsers can support different extensions to the standards. The Commission does not want to stifle innovation, but at the same time it does want uniformity on the OASIS. The Commission does not want customers to be forced to use different browsers for different OASIS nodes. The Commission wants to ensure that a customer will be able to choose a browser and use it to access all OASIS nodes.

To this end, the Commission requested comments on how to ensure that a customer will be able to choose a browser and use it to access all OASIS nodes.

Most commenters agreed that requiring browsers to support HTML 3 would be sufficient to meet the needs of OASIS nodes and customers at this time.[109]

CSW reported that while the specifications for HTML 3 are still in draft mode, it is the first version of HTML to support the table feature for browsing that the How Working Group wants to use. NYPP would add encryption capabilities to the list of standards. Ohio Edison would require JAVA-enabled browsers.[110]

OK Com recommended that the Commission adopt a primary browser and two alternative browsers for use on OASIS nodes. PJM asserted that, by requiring OASIS nodes to accommodate browsers in common use, OASIS nodes would be able to become more sophisticated as the Internet itself becomes more sophisticated.

Com Ed, ConEd and PSNM would leave the standard to the How Group or an industry-wide OASIS Management Organization.

Most commenters agreed with the How Report that, requiring OASIS nodes to support HTML 3 will allow browsers supporting this standard to view documents on the OASIS. The Commission will adopt the recommendation for HTML 3 contained in the How Report.

b. Bandwidth of Node Connections to the Internet

At issue is the speed at which OASIS users will receive information from OASIS nodes. A major determinant of the speed are the bandwidth connections between the OASIS node and the Internet. The How Report proposed a formula to compute the required minimum bandwidth based on the number of registered users of the node and the number of bits per second to be received by users during HTML displays and downloads of files.[111] These information transfers would include both the receipt of HTML displays and downloads of files. The How Report proposed to use a rate of 8,000 bits per second to determine bandwidth. In the RIN NOPR, the Commission noted that an 8,000 bit per second transfer rate is a much slower rate than the 28,800 bit per second transfer rate for telephone connections that many private individuals and customers use to connect to the Internet. The Commission expressed concern that using 8,000 bit per second as the basis for the bandwidth calculation will lead to connections that are too slow and proposed to use 28,800 bits per second.

Many commenters agreed with the Commission.[112] Com Ed reported that a T1 communications line (1.54 million bits per second) could support 500 simultaneous customers using the Commission's proposal of using 28,800 bits per second in the bandwidth formula. Com Ed concluded that it is unlikely that an OASIS node will experience 500 simultaneous users and that a T1 line is a reasonable upper limit, at this time. The How Group reported that its members are currently paying between $1,500 and $3,000 per month for T1 connections and concludes that it may be cost effective to oversize the bandwidth even though a high bandwidth does not automatically translate into higher access speeds or download rates.

Several commenters preferred the 8,000 bits per second originally proposed by the How Group.[113] Ohio Edison suggested that using a speed of 28,800 will dramatically increase costs and may make joint OASIS nodes less attractive. The How Group asserted that experience has shown that 8,000 bits per second is a reasonable average rate

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[101] DUNS numbers refer to the Data Universal Numbering System, maintained by Dun and Bradstreet.

[102] *See* Standards for Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations, Docket No. RM93–4–001, Order 563–A, FERC Stats. & Regs., Regulations Preambles, ¶ 30,994 at 31,034 (1994).

[103] *See, e.g.*, Allegheny, CCEM, Com Ed, Continental Power Exchange, How Group, OK Com, and PJM comments.

[104] *See* Seattle, VEPCO, and Western Group comments.

[105] *See* Allegheny, APPA, CCEM, Continental Power Exchange, Duke, How Group, ERCOT, Florida Power Corp, NERC, PJM, VEPCO, and Western Group comments.

[106] *See* How Group, FPC, and NERC comments.

[107] *See* How Group, PSNM, and Western Group comments.

[108] *See* RIN NOPR text at section III.C (60 FR at 66186) and the proposed regulation at 18 CFR 37.9(c)(1) (60 FR 66200).

[109] *See, e.g.*, Allegheny, APPA, CCEM, and How Group comments.

[110] JAVA is a language that enables a browser to run programs embedded in a WWW page.

[111] How Report at § 3.4.3.

[112] *See, e.g.*, Allegheny, APPA, CSW, OK Com, PJM, and Seattle comments.

[113] *See* ConEd, How Group, and Ohio Edison comments.

for users of the Internet. VEPCO stated that, while many customers will initially use modems rated at 28,800 bits per second, their average data transfer rate will be lower due to a number of factors. Nevertheless, VEPCO asserted that an average of 8,000 bits per second is on the low end of acceptability, especially if large files are to be downloaded or if graphics files are to be viewed. Continental Power Exchange proposed that the 19,200 bits per second be used in the formula. It asserted that this is the fastest modem speed achievable with Microsoft's Windows 3.1.

APPA speculated that there may some areas in remote locations that cannot secure a connection to the Internet with adequate bandwidth to support the 28,800 bit per second standard.

After considering the comments, the Commission continues to believe that 8,000 bits per second is too slow, especially when large files must be transferred and when information is needed promptly for business decisions. The Commission, therefore, will require that a rate of 28,800 bits per second be used in the minimum bandwidth calculation.

c. Data Compression Standards

In the RIN NOPR, the Commission expressed agreement with the How Report that data compression will speed up the transmission of files.[114] We also expressed the belief that communication of OASIS information would be enhanced if every OASIS node used the same compression techniques. The Commission requested comments on what data compression technique or techniques should be made standard for all OASIS nodes.

Most commenters recommended that the "ZIP" file compression standard be adopted as the common OASIS standard.[115] The How Group pointed out that the ZIP format is available for most computer platforms. Some commenters, however, suggested that setting a common compression technique is too detailed for a Commission rulemaking.[116]

Most commenters supported using the "ZIP" file compression standard on OASIS. This format is widely used for data communication and the necessary software is available for most computer platforms. The Commission will, therefore, require that the ZIP standard be the data compression standard on OASIS nodes. The Commission agrees that requiring compression for files created for each HTTP request may be too complex for Phase I. However, utilities may want to compress large files that would be infrequently updated, such as tariffs. These files will benefit from file compression and will not be subject to the complexities of compressing the dynamically created HTTP files. The Commission will require that static files residing on OASIS nodes be compressed.

d. Other Communication Protocol Issues Raised by Commenters

i. The Requirement to Use FTP for File Transfers

The October 16, 1995 How Report recommended requiring OASIS nodes to use the Internet File Transfer Protocol (FTP) for file uploads and downloads. In its comments, the How Group recommended changing the file transfer method originally proposed in the How Report from the FTP to the HTTP for data access, including files upload and download to and from OASIS nodes. We will accept this recommendation.

ii. Field Size for Path Names

The How Report proposed that path names be a 12-character alphanumeric string. The March 7, 1996 filing by its How Group recommends that the 12 characters be changed to 50 alphanumeric characters. Subsequent to the How Report, the How Group found that 12 characters were insufficient to accommodate path names and the associated regional identifiers.

We will await final recommendations concerning file formats before ruling on this issue.

iii. Files Containing More Than 100,000 Bytes

The How Report recommended that customers not be required to download any single file that is larger than 100,000 bytes in order to access transmission information in electronic form. The implication is that all files larger than 100,000 bytes must be broken into sub-files.

Detroit Edison argued that there is no easy way to download only a section of a file and that customers may prefer to download one large file rather than 20 small ones.

We agree and will not require files to be broken into 100,000 byte segments at this time. In the event that a restriction on file size becomes needed, it can be addressed in Phase II.

K. Cost Recovery Issues

1. Costs of Developing and Running an OASIS (Question 34)

Transmission-owning public utilities are entitled to recover the costs of developing and running an OASIS. Generally, these costs will be fixed costs not attributable to individual users. In the NOPR, the Commission proposed to include these costs in wholesale transmission rates. The Commission also proposed to allow costs that can be identified as varying with usage to be charged as usage fees to individual customers.

The commenters were nearly evenly split between those favoring and opposing the Commission's proposals. NIEP argued that rolling-in OASIS costs would distribute costs among all transmission users equally and would be the only fair method of allocating the cost of an OASIS. NIEP concludes that, if costs were directly assigned to individual transmission users, these users would be penalized by forcing them to pay the cost of providing information which is available to, and used by, all transmission users.

Many commenters objected to including OASIS costs in wholesale transmission rates. They argued that it is inappropriate to require network service customers (who may not participate in wholesale sales transactions) to absorb the cost of the OASIS. Indianapolis P&L claimed that it has no significant, unique transmission paths and uses its transmission assets to serve its native load customers. Consequently, most of its OASIS costs would be borne by its native load customers.

Many commenters suggested alternatives to rolling in OASIS costs. ConEd argued that, if all OASIS costs were included in wholesale transmission rates, OASIS costs might not be fully recovered since transmission use varies. To remedy this, ConEd proposed rolling in part of the costs with the remainder to be recovered through a monthly access fee. MAPP suggested usage fees based on cost causation, such as time access charges, fixed fees for transmission requests and fees based on energy scheduled over transmission secured on the OASIS. NSP suggested a fee structure like other on-line information services, such as America On Line, CompuServe, and Prodigy.

Several commenters saw other problems associated with utility recovery of OASIS costs. Some called attention to potential problems in recovering the costs of a joint OASIS. MAPP pointed out that a jointly operated OASIS will not have composite transmission tariffs from which to recover costs and that a method was needed for utilities to recover joint expenses.

Detroit Edison speculated that a large number of the general public could be connected to an OASIS at one time and thus limit OASIS access to transmission users. To prevent this problem, Detroit Edison proposed that fees be established to prevent misuse or overuse of an OASIS.

It is appropriate that all wholesale transmission customers and all unbundled retail transmission customers should pay a share of OASIS development costs in their rates. Therefore, the Commission concludes that the cost of developing an OASIS should be included in unbundled transmission rates with variable costs of operating an OASIS to be recovered, to the extent possible, in usage fees. Individual rate proceedings will determine which OASIS costs can be identified as varying with usage and how to set the fees.

2. Costs of Posting Resales of Capacity on the OASIS (Question 40)

The Commission proposed that resales of capacity be posted on the same page, and using the same display and downloadable tables, as capacity being sold by the Transmission Provider. This posting incurs an expense on the part of the Responsible Party. The Commission proposed that each reseller must, therefore, pay the costs of posting its own offering.

Most commenters believed that those posting secondary services should pay the cost of posting. APPA proposed that the incremental cost of posting should be recovered as a special fee in the primary contract of transmission service. Ohio Edison proposed a fee for each posting with a "true up" mechanism to ensure that over time actual costs are recovered. Com Ed and WP&L suggested a fee that is a percentage of revenue received from the secondary postings.

NEPOOL suggested that this expense is unlikely to be significant and, therefore, could be included in rates. NRECA and NCEMC warned that posting fees not be set so high as to discourage resale of capacity. OK Com argued that it would be inappropriate to charge resellers of transmission capacity for posting if the Transmission Provider is not also required to pay a fee for posting.

After considering the comments, we have decided that there should be no added fee for posting capacity resales. All OASIS users, including the Transmission Provider, who post capacity pay all the fixed costs of OASIS in wholesale rates and pay usage-related variable costs in access fees. Thus, the costs of posting resale capacity are already recovered. To require resellers to pay additional fees for posting their products would provide OASIS operators with a cost advantage.

3. Costs of Posting Ancillary Services on the OASIS

The Commission proposed that entities posting offers to provide ancillary services on the OASIS should pay the costs associated with posting this information and requested comments on how to determine these costs.

Commenters proposed various fee schemes to recover these costs. Some were based on the cost of developing and maintaining posting services, others were based solely on the incremental cost of posting a notice. Some proposed to roll the costs into wholesale transmission rates. Others proposed that utilities be allowed make a profit from this service.

Arizona proposed an incentive scheme to keep costs down, while Continental Power Exchange suggested that the method of calculating these costs be left to the industry. PJM proposed a fee based on the amount of person-hours and computer usage required by such posting. ConEd argued that utilities should be allowed to earn a profit on this service.

CSW submitted that posting costs cannot be broken out individually and proposed that the costs for an OASIS should be borne by all market participants on a fair basis. Florida Power Corp argued that an OASIS is not a newspaper, and that Transmission Providers are not in the publishing business; therefore, OASIS services, including the posting of ancillary services, should not be sold like classified ads. It proposed that the cost of operating an OASIS should be rolled into wholesale transmission rates. VEPCO also suggested that the cost of posting ancillary services should be included in the cost of the OASIS, with costs of specific evaluations of ancillary service offers to be determined and posted on the OASIS.

After assessing the comments, we find that the cost of developing the facilities needed to post ancillary services required to be provided by the Open Access Final Rule should be recovered through unbundled transmission rates. Any variable costs of posting these services will be included in the general OASIS usage fees. As for those ancillary services not required to be provided,[117] OASIS operators may charge a cost based fee to those offering these services for the cost of posting.

L. Section 37.8—Implementation in Phases

1. Phase I Implementation

Implementation of this rule and the initial standards and protocols will ensure that sufficient information is available to transmission customers to achieve comparable access to transmission information. They do not, however, provide all the desired performance requirements.

Because of the complexity of developing an OASIS, and the need to begin the transmission open access program promptly, the Commission proposed a phased approach to OASIS implementation. We proposed to require implementation of a Phase I OASIS as of the effective date of the final rule on non-discriminatory open access transmission and stranded costs (*i.e.*, 60 days from publication of this order in the **Federal Register**).

Comments

Many commenters argued that the proposed 60-day implementation period is unrealistic in light of the amount of work that must be done. ERCOT suggested that only portions of the Phase I implementation could be accomplished within the 60-day period. A vast majority of commenters suggested that an implementation period of six months would be required.

Arizona and ConEd pointed out that, while plans for implementation can begin in advance of the final rule, final specifications and designs depend on the resolution of several major Open Access Final Rule issues. ConEd also argued that all new systems require a "Beta" test stage in which the system can be tested before it is used in a production environment, and that a 60-day implementation period will not permit such testing. Similarly, NERC argued that more time is needed to make sure workable administrative procedures are in place for consistency in calculating, posting, and coordinating ATC. NEPOOL echoed these comments, reporting that an implementation period of less than six months would result in the development of OASIS nodes across the nation that lack uniformity as each region complies within a short deadline without time to coordinate with other areas.

Duke argued that a full six months will be needed because, in addition to

[114] How Report § 3.3.8(c).

[115] *See* APPA, CCEM, ConEd, and PSNM comments.

[116] *See* NERC and Ohio Edison comments.

[117] *See* Open Access Final Rule generally at section IV.D.

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the difficult task of implementing OASIS, the Open Access Final Rule will change the way the industry does business. Duke argued that the coordination of resources necessary to accommodate all of the discussions and decisions in developing joint OASIS nodes is a more lengthy process than development of an OASIS by each individual company. Duke asserted that a six-month implementation period is needed to permit joint OASIS projects to develop.[118]

SoCal Edison requested that the Commission delay implementation until the requirements of the CA Com's California Restructuring Order have been fully identified. Public Generating Pool argued that the Northwest governors have organized a review of the Northwest Power Act, the Bonneville Power Act, and the northwest electric system in general, to be completed by November 1996. Public Generating Pool argued that the Commission should consider possible contributions to be made by this forthcoming report and urged that the Commission not ignore this work based on a need to meet self-imposed unreasonable and unrealistic OASIS implementation dates.

The How Group, the Western Group and VEPCO suggested that, if the Commission cannot extend the implementation period to six months, then Phase I should itself be implemented in stages. The How Group suggested a three-stage process that would begin with a requirement for primary providers, within 120 days after issuance of the final rule, to post estimates of ATC and secondary capacity for resale that might not be accurate. This would be followed, within 180 days after issuance of the final rule, by the posting of fully accurate secondary capacity information and ATC information, and with Transmission Providers certifying, within 210 days of the final rule, that all functionality and performance requirements for OASIS have been met.

ConEd and Carolina P&L noted that OASIS implementation will cause changes to utility operations, and requested that the Commission schedule implementation during off-peak seasons, such as the spring or fall, when they claim transmission systems are under less stress.

Public Generating Pool and Tallahassee speculated that, if publicly-owned utilities are considered to be under the Commission's jurisdiction for OASIS purposes, they will need more than a six-month implementation period because they may be required to obtain funding approval from state or local oversight commissions.

Discussion

Commenters make persuasive arguments for permitting a six-month implementation period. They raise concerns that a shorter period will not permit adequate time to design, build and thoroughly test an OASIS. They also raise concerns that a shorter period will inhibit the development of joint OASIS and OASIS with a common look and feel. The Commission shares these concerns. We also want to take into account commenters' requests that implementation not be required during the peak winter or summer months. For this reason, we are requiring compliance by November 1, 1996, a specific date about six months from when we expect this final rule to become effective, chosen to avoid the winter and summer peak months. This date is provided in § 37.8 of the final rule, which modifies the provision originally set out in § 37.15 of the RIN NOPR.

In addition, we will provide additional procedures to allow the development of the remaining initial standards and protocols. As described above, we invite the How Group to report to us on or before May 28, 1996 on these issues (and to attach any comments it has received from any interested person with opposing views).

For these reasons, the Commission will require implementation of Phase I of OASIS to be operational by November 1, 1996.

2. Phase II Implementation

Once Phase I becomes operational, and the industry and public gain experience with it, the full information and functional requirements needed to support open access transmission service will become clearer. In the RIN NOPR, the Commission stated that it envisioned that Phase II would build on Phase I and requested that the industry continue the process of developing standards, and provide a consensus report to the Commission on Phase II recommendations by January 1, 1997.

Most commenters argued that the proposed January 1997 date is too ambitious. Southern argued that this date does not provide enough time for the industry to gain experience with Phase I. Tallahassee and others suggested that Phase II should not be implemented until at least one year after Phase I is implemented. Continental Power Exchange asserted that Phase II will be a continuum of development from the first day of Phase I implementation. NRECA suggested that, if Phase I turns out to be inadequate, then Phase II should be accelerated.

We are sensitive to commenters' concerns about the time between the implementation of Phase I and Phase II. At the same time, the need for the additional functions and performance requirements proposed for Phase II will, we believe, need to be implemented quickly. Accordingly, the industry should continue the process of developing standards, and attempt to develop a consensus report on Phase II recommendations by no later than seven months after implementation of Phase I June 4, 1997. We anticipate that this report would be the basis for supplemental OASIS proceedings to Phase II OASIS requirements. The additional time should permit the industry to obtain sufficient experience with Phase I before it recommends specifications for Phase II.

We believe that it may be appropriate to require the scheduling of energy transfers on the OASIS in Phase II. Electronic scheduling of energy transfers over the OASIS would increase efficiency. We, therefore, request that the industry incorporate standards for the scheduling of energy transfers on OASIS into the Phase II report.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)[119] requires the Commission to describe the impact that any proposed or final rule would have on small entities or to certify that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The entities that would have to comply with the final rule are public utilities and transmitting utilities that do not fall within the RFA's definition of small entities.[120] Therefore, under section 605(b) of the RFA, the Commission hereby certifies that this final rule will not have a significant economic impact on small entities within the meaning of the RFA. Accordingly, no regulatory flexibility analysis is required pursuant to section 603 of the RFA.

In its comments, NRECA questioned the Commission's conclusion that the RIN NOPR did not need to be accompanied by an RFA analysis. NRECA's argument was based on its concern that the Commission might extend OASIS requirements to non-public, not-for-profit cooperative utilities. NRECA argued that, if this were to happen, the Commission would then have to analyze the effect of the OASIS requirements on these utilities and show that the requirements would not have a substantial economic impact upon them. However, as proposed in the RIN NOPR, the Commission's OASIS regulations will apply only to public utilities that own, operate, or control transmission facilities subject to the Commission's jurisdiction. As noted immediately above, public utilities do not fall within the RFA's definition of a "small entity." In addition, as discussed earlier, and as discussed in the Open Access Final Rule, there will be a provision for a waiver for small entities. This responds to NRECA's concerns.

V. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for a Commission action that may have a significant effect on the human environment.[121] Although this final rule does not directly affect any physical transmission facilities, but merely requires the electronic posting by computers of certain information about transmission availability and prices, it nevertheless is covered by the Final Environmental Impact Statement issued in the Open Access NOPR proceeding in Docket Nos. RM95–8–000 and RM94–7–001 on April 12, 1996. Thus, no separate environmental assessment or environmental impact statement has been prepared in this proceeding.

VI. Information Collection Statement

There are now approximately 328 public utilities, including marketers and wholesale generation entities. The Commission estimates that approximately 166 of these utilities own, operate, or control facilities used for the transmission of electric energy in interstate commerce and thus are subject to this rule. However, since the operation of an OASIS will be closely associated with control areas, we assume that an OASIS will be developed at the control area level and not by each public utility that owns, operates, or controls interstate transmission facilities. We also expect that some additional OASIS nodes will be created voluntarily by non-public utilities subject to these regulations under the reciprocity condition of the *pro forma* tariffs. We estimate, therefore, that 140 respondents will be required to collect information. We believe that this estimate is conservative (on the high side) because some regions are likely to develop a region-wide OASIS that will cover more than one control area.[122]

This estimate is higher than the one we included in the RIN NOPR, where we estimated that there would be 84 respondents. We have adjusted our estimate in response to the arguments advanced by NRECA and NE Public Power District, in separate letters to OMB, that the Commission's Information Collection Statement contained in the RIN NOPR failed to account for the proposal in the Open Access NOPR that, because of the reciprocity requirement, non-public utilities and cooperatives entering contracts for open access transmission services would be required to establish their own OASIS nodes or participate in a regional OASIS node.

NRECA also argued that the Commission's analysis must include not only those entities that are developing their own OASIS node, but also those entities who, while they are not developing and operating their own OASIS node, nevertheless will contribute data to their control area operators or regional OASIS operators. NRECA argued, therefore, that the Commission's estimate of the number of respondents should have taken this into account. It did.

Although not explicitly stated in the RIN NOPR, the Commission's Information Collection Statement, both in this final rule and in the RIN NOPR, has been based not only on the efforts by the respondents who will directly operate OASIS nodes but also reflects the collection of information from all significant participants in the transmission market.

Information Collection Statement

Title: FERC–717, Real-Time Information Network Standards.
Action: Final Rule
OMB Control No: 1902–0173.
Respondents: Public Utilities that own and/or control facilities used for the transmission of electric energy in interstate commerce.

Frequency of Responses: On Occasion
Necessity of the information: The final rule requires affected public utilities to comply with requirements for an Open Access Same-time Information System (OASIS) established by the Commission to give potential customers access to information, by electronic means, that would ensure the availability of open access wholesale transmission service on a non-discriminatory basis. These requirements would support arrangements made for wholesale sales and purchases for third parties. Public utilities or their agents will be required to give competitors and other users of the transmission system access to the same information available to public utility personnel who initiate the acquisition or disposition of power in the wholesale market and at the same time. The Commission will use the information to monitor the networks to ensure that potential purchasers of transmission services obtain the services on a non-discriminatory basis. This final rule was developed after a review of comments filed in response to issuance of a notice of public rulemaking.

The Office of Management and Budget's (OMB) regulations,[123] require OMB to approve certain information collection requirements imposed by agency rule. The information collection requirements in the final rule will be reported directly to transmission users and will be subject to subsequent audit by the Commission. The distribution of these data will help the Commission carry out its responsibilities under Part II of the FPA.

The Commission is submitting notification of this final rule to OMB. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 [Attention Michael Miller, Information Services Division, (202) 208–1415], and to the Office of Management and Budget [Attention: Desk Officer for the Federal Energy Regulatory Commission (202) 395–3087].

VII. Effective Date

The regulations of new part 37 will become effective on July 9, 1996. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that the Open Access Final Rule and the OASIS final rule together constitute a "major rule" as

[118] NERC made this same point in its comments.

[119] 5 U.S.C. §§ 601–612.

[120] *See* 5 U.S.C. §§ 601(3) and 601(6) and 15 U.S.C. § 632(a). The RFA defines a small entity as one that is independently owned and not dominant in its field of operation. *See* 15 U.S.C. § 632(a). In addition, the Small Business Administration defines a small electric utility as one that disposes of 4 million MWh or less of electric energy in a given year. *See* 13 CFR 121.601 (Major Group 49–Electric, Gas and Sanitary Services) (1995).

In the Open Access Final Rule, issued contemporaneously with this final rule, we conclude that, under these definitions, the Open Access Final Rule would not have a significant economic impact on a significant number of small entities. As this final rule only implements the OASIS requirements of the Open Access Final Rule, the same conclusion is warranted here, for the same reasons.

[121] Regulations Implementing National Environmental Policy Act, Order No. 486, 52 FR 47897 (Dec. 17, 1987); 1986–90 Regulations Preambles, FERC Stats. & Regs. ¶30,783 (Dec. 10, 1987) (*codified* at 18 CFR Part 380).

[122] *See supra* (discussion quoted from How Report at 80).

[123] 5 CFR 1320.11.

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defined in section 351 of the Small Business Regulatory Enforcement Act of 1996.[124] The rule will be submitted to both Houses of Congress and the Comptroller General prior to its publication in the **Federal Register**. All of the requirements prescribed in the standards of conduct must be complied with and Phase I OASIS sites that meet the requirements prescribed in this final rule must be in operation by November 1, 1996.

List of Subjects in 18 CFR Part 37

Electric power plants, Electric utilities.

By the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission amends chapter I of title 18, *Code of Federal Regulations*, to add a new part 37, as set forth below:

PART 37—OPEN ACCESS SAME-TIME INFORMATION SYSTEMS AND STANDARDS OF CONDUCT FOR PUBLIC UTILITIES

Sec.

37.1 Applicability.
37.2 Purpose.
37.3 Definitions.
37.4 Standards of conduct.
37.5 Obligations of Transmission Providers and Responsible Parties.
37.6 Information to be posted on an OASIS.
37.7 Auditing Transmission Service Information.
37.8 Implementation schedule for OASIS requirements; phases.

Authority: 16 U.S.C. 791–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

§ 37.1 Applicability.

This part applies to any public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce and to transactions performed under the *pro forma* tariff required in part 35 of this chapter.

§ 37.2 Purpose.

(a) The purpose of this part is to ensure that potential customers of open access transmission service receive access to information that will enable them to obtain transmission service on a non-discriminatory basis from any Transmission Provider. These rules provide standards of conduct and require the Transmission Provider (or its agent) to create and operate an Open Access Same-time Information System (OASIS) that gives all users of the open access transmission system access to the same information.

[124] 5 U.S.C. § 804(2).

(b) The OASIS will provide information by electronic means about available transmission capability for point-to-point service and will provide a process for requesting transmission service. OASIS will enable Transmission Providers and Transmission Customers to communicate promptly requests and responses to buy and sell available transmission capacity offered under the Transmission Provider's tariff.

§ 37.3 Definitions.

(a) *Transmission Provider* means any public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce.

(b) *Transmission Customer* means any eligible customer (or its designated agent) that can or does execute a transmission service agreement or can or does receive transmission service.

(c) *Responsible party* means the Transmission Provider or an agent to whom the Transmission Provider has delegated the responsibility of meeting any of the requirements of this part.

(d) *Reseller* means any Transmission Customer who offers to sell transmission capacity it has purchased.

(e) *Wholesale merchant function* means the sale for resale, or purchase for resale, of electric energy in interstate commerce.

(f) *Affiliate* means:

(1) For any exempt wholesale generator, as defined under section 32(a) of the Public Utility Holding Company Act of 1935, as amended, the same as provided in section 214 of the Federal Power Act; and

(2) For any other entity, the term *affiliate* has the same meaning as given in § 161.2(a) of this chapter.

§ 37.4 Standards of conduct.

A Transmission Provider must conduct its business to conform with the following standards:

(a) *General rules.* (1) Except as provided in paragraph (a)(2) of this section, the employees of the Transmission Provider engaged in transmission system operations must function independently of its employees, or the employees of any of its affiliates, who engage in Wholesale Merchant Functions.

(2) Notwithstanding any other provisions in this section, in emergency circumstances affecting system reliability, Transmission Providers may take whatever steps are necessary to keep the system in operation. Transmission Providers must report to the Commission and on the OASIS each emergency that resulted in any deviation from the standards of conduct, within 24 hours of such deviation.

(b) *Rules governing employee conduct.* (1) *Prohibitions.* Any employee of the Transmission Provider, or any employee of an affiliate, engaged in wholesale merchant functions is prohibited from:

(i) Conducting transmission system operations or reliability functions; and

(ii) Having access to the system control center or similar facilities used for transmission operations or reliability functions that differs in any way from the access available to other open access Transmission Customers.

(2) *Transfers.* Employees engaged in either wholesale merchant functions or transmission system operations or reliability functions are not precluded from transferring between such functions as long as such transfer is not used as a means to circumvent the standards of conduct of this section. Notices of any employee transfer to or from transmission system operations or reliability functions must be posted on the OASIS as provided in § 37.6(g)(3). The information to be posted must include: the name of the transferring employee, the respective titles held while performing each function (*i.e.*, on behalf of the Transmission Provider and wholesale merchant or affiliate), and the effective date of the transfer. The information posted under this section must remain on the OASIS for 90 days.

(3) *Information access.* Any employee of the Transmission Provider, or of any of its affiliates, engaged in wholesale merchant functions:

(i) Shall have access to only that information available to the Transmission Provider's open access transmission customers (*i.e.*, the information posted on an OASIS), and must not have preferential access to any information about the Transmission Provider's transmission system that is not available to all users of an OASIS; and

(ii) Is prohibited from obtaining information about the Transmission Provider's transmission system (including information about available transmission capability, price, curtailments, ancillary services, and the like) through access to information not posted on the OASIS that is not otherwise also available to the general public without restriction, or through information through the OASIS that is not also publicly available to all OASIS users.

(4) *Disclosure.* A Transmission Provider is responsible for ensuring compliance with the following provisions:

(i) Any employee of the Transmission Provider, or any employee of an affiliate, engaged in transmission system operations or reliability functions may not disclose to employees of the Transmission Provider, or any of its affiliates, engaged in wholesale merchant functions any information concerning the transmission system of the Transmission Provider or the transmission system of another (including information received from non-affiliates or information about available transmission capability, price, curtailments, ancillary services, etc.) through non-public communications conducted off the OASIS, through access to information not posted on the OASIS that is not at the same time available to the general public without restriction, or through information on the OASIS that is not at the same time publicly available to all OASIS users (such as E-mail).

(ii) If an employee of the Transmission Provider engaged in transmission system operations or reliability functions discloses information not posted on the OASIS in a manner contrary to the requirements of the standards of conduct, the Transmission Provider must immediately post such information on the OASIS.

(iii) A Transmission Provider may not share any market information, acquired from nonaffiliated Transmission Customers or potential nonaffiliated Transmission Customers, or developed in the course of responding to requests for transmission or ancillary service on the OASIS, with its own employees (or those of an affiliate) engaged in merchant functions, except to the limited extent information is required to be posted on the OASIS in response to a request for transmission service or ancillary services.

(5) *Implementing tariffs.* (i) Employees of the Transmission Provider engaged in transmission system operations or reliability functions must strictly enforce all tariff provisions relating to the sale or purchase of open access transmission service, if these provisions do not provide for the use of discretion.

(ii) Employees of the Transmission Provider engaged in transmission system operations must apply all tariff provisions relating to the sale or purchase of open access transmission service in a fair and impartial manner that treats all customers (including the public utility and any affiliate) in a non-discriminatory manner, if these provisions involve discretion.

(iii) The Transmission Provider must keep a log, available for Commission audit, detailing the circumstances and manner in which it exercised its discretion under any terms of the tariff.

(iv) The Transmission Provider may not, through its tariffs or otherwise, give preference to wholesale purchases or sales made on behalf of its own power customers, or those of an affiliate, over the interests of any other wholesale customer in matters relating to the sale or purchase of transmission service (including issues of price, curtailments, scheduling, priority, ancillary services, etc.).

(v) If the Transmission Provider offers a discount on purchases of transmission service made on behalf of its own power customers or those of any affiliate, then, at the same time, it must post on the OASIS an offer to provide the same discount to all Transmission Customers on the same path and on all unconstrained transmission paths.

(vi) If the Transmission Provider offers a rate discount on ancillary services to an affiliate, or attributes a discounted ancillary service rate to its own transactions, the Transmission Provider must, at the same time, post on the OASIS an offer to provide the same discount to all eligible customers.

(6) *Books and records.* A Transmission Provider must maintain its books of account and records (as prescribed under parts 101 and 125 of this chapter) separately from those of its affiliates and these must be available for Commission inspection.

(c) *Maintenance of written procedures.* The Transmission Provider must maintain in a public place, and file with the Commission, current written procedures implementing the standards of conduct in such detail as will enable customers and the Commission to determine that the Transmission Provider is in compliance with the requirements of this section.

§ 37.5 Obligations of Transmission Providers and Responsible Parties.

(a) Each Transmission Provider is required to provide for the operation of an OASIS, either individually or jointly with other Transmission Providers, in accordance with the requirements of this Part. The Transmission Provider may delegate this responsibility to a Responsible Party such as another Transmission Provider, an Independent System Operator, a Regional Transmission Group, or a Regional Reliability Council.

(b) A Responsible Party must:

(1) Provide access to an OASIS providing standardized information relevant to the availability of transmission capacity, prices, and other information (as described in this part) pertaining to the transmission system for which it is responsible; and

(2) Shall operate the OASIS in compliance with the standardized procedures and protocols found in OASIS Standards and Communication Protocols, which can be obtained from the Public Reference and Files Maintenance Branch, Room 2A, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

(c) Transmission Providers must provide "read only" access to the OASIS to Commission staff and the staffs of State regulatory authorities, at no cost, after such staff members have complied with the requisite registration procedures.

§ 37.6 Information to be posted on an OASIS.

(a) The information posted on the OASIS must be in such detail as to allow Transmission Customers to:

(1) Make requests for transmission services offered by Transmission Providers, Resellers and other providers of ancillary services;

(2) View and download in standard formats, using standard protocols, information regarding the transmission system necessary to enable prudent business decision making;

(3) Post, view, upload and download information regarding available products and desired services;

(4) Clearly identify the degree to which their transmission service requests or schedules were denied or interrupted; and

(5) Obtain access, in electronic format, to information to support available transmission capability calculations and historical transmission service requests and schedules for various audit purposes.

(b) *Posting transmission capability.* The transmission capability that is expected to be available on the Transmission Provider's system (ATC) and the total transmission capability (TTC) of that system shall be calculated and posted for each Posted Path as set out in this section.

(1) *Definitions.* For purposes of this section the terms listed below have the following meanings:

(i) *Posted path* means any control area to control area interconnection; any path for which service is denied, curtailed or interrupted for more than 24 hours in the past 12 months; and any path for which a customer requests to have ATC or TTC posted. For this last category, the posting must continue for 180 days and thereafter until 180 days have elapsed from the most recent request for service over the requested path. For purposes of this definition, an

hour includes any part of an hour during which service was denied, curtailed or interrupted.

(ii) *Constrained posted path* means any posted path having an ATC less than or equal to 25 percent of TTC at any time during the preceding 168 hours or for which ATC has been calculated to be less than or equal to 25 percent of TTC for any period during the current hour or the next 168 hours.

(iii) *Unconstrained posted path* means any posted path not determined to be a constrained posted path.

(2) *Calculation methods, availability of information, and requests.* (i) Information used to calculate any posting of ATC and TTC must be dated and time-stamped and all calculations shall be performed according to consistently applied methodologies referenced in the Transmission Provider's transmission tariff and shall be based on current industry practices, standards and criteria.

(ii) On request, the Responsible Party must make all data used to calculate ATC and TTC for any constrained posted paths publicly available (including the limiting element(s) and the cause of the limit (*e.g.*, thermal, voltage, stability)) in electronic form within one week of the posting. The information is required to be provided only in the electronic format in which it was created, along with any necessary decoding instructions, at a cost limited to the cost of reproducing the material. This information is to be retained for six months after the applicable posting period.

(iii) System planning studies or specific network impact studies performed for customers to determine network impacts are to be made publicly available in electronic form on request and a list of such studies shall be posted on the OASIS. A study is required to be provided only in the electronic format in which it was created, along with any necessary decoding instructions, at a cost limited to the cost of reproducing the material. These studies are to be retained for two years.

(3) *Posting.* The ATC and TTC for all Posted Paths must be posted in megawatts by specific direction and in the manner prescribed in this subsection.

(i) *Constrained posted paths*—(A) *For Firm ATC and TTC.* (*1*) The posting shall show ATC and TTC for a 30-day period. For this period postings shall be: by the hour, for the current hour and the 168 hours next following; and thereafter, by the day. If the Transmission Provider charges separately for on-peak and off-peak periods in its tariff, ATC and TTC will be posted daily for each period.

(*2*) Postings shall also be made by the month, showing for the current month and the 12 months next following.

(*3*) If planning and specific requested transmission studies have been done, seasonal capability shall be posted for the year following the current year and for each year following to the end of the planning horizon but not to exceed 10 years.

(B) *For Non-Firm ATC and TTC.* The posting shall show ATC and TTC for a 30-day period by the hour and days prescribed under paragraph (b)(3)(i)(A)(*1*) of this section and, if so requested, by the month and year as prescribed under paragraph (b)(3)(i)(A)(*2*) and (*3*) of this section.

(C) *Updating Posted Information for Constrained Paths.*

(*1*) The capability posted under paragraphs (b)(3)(i) (A) and (B) of this section must be updated when transactions are reserved or service ends or whenever the TTC estimate for the Path changes by more than 10 percent.

(*2*) All updating of hourly information shall be made on the hour.

(ii) *Unconstrained Posted Paths.* (A) Postings of ATC and TTC shall be by the day, showing for the current day and the next six days following and thereafter, by the month for the 12 months next following. If the Transmission Provider charges separately for on-peak and off-peak periods in its tariff, ATC and TTC will be posted for the current day and the next six days following for each period. These postings are to be updated whenever the ATC changes by more than 20 percent of the Path's TTC.

(B) If planning and specific requested transmission studies have been done, seasonal capability shall be posted for the year following the current year and for each year following until the end of the planning horizon but not to exceed 10 years.

(c) *Posting Transmission Service Products and Prices.* (1) Transmission Providers must post prices and a summary of the terms and conditions associated with all transmission products offered to Transmission Customers.

(2) Transmission Providers must provide a downloadable file of their complete tariffs in the same electronic format as the tariff that is filed with the Commission.

(3) A Transmission Provider, within 24 hours of agreeing to sell transmission service to a non-affiliate at a discount (as measured from when ATC must be adjusted in response to the transaction), must post on the OASIS (and make available for download) information describing the transaction (including price, quantity, and any other relevant terms and conditions) and shall keep such information posted on the OASIS for at least 30 days. A record of the transaction must be retained and kept available as part of the audit log required in § 37.7. With respect to any discount offered to its own power customers or its affiliates, the Transmission Provider must, at the same time, post on the OASIS an offer to provide the same discount to all Transmission Customers on the same path and on all unconstrained transmission paths.

(4) Customers choosing to use the OASIS to offer for resale transmission capacity they have purchased must post relevant information to the same OASIS as used by the one from whom the Reseller purchased the transmission capacity. This information must be posted on the same display page, using the same tables, as similar capability being sold by the Transmission Provider, and the information must be contained in the same downloadable files as the Transmission Provider's own available capability. A customer reselling transmission capacity without the use of an OASIS must, nevertheless, inform the original Transmission Provider of the transaction within the time limits prescribed by the "Sale or Assignment of Transmission Service" section of the *pro forma* tariff.

(d) *Posting Ancillary Service Offerings and Prices.* (1) Any ancillary service required to be provided or offered under the *pro forma* tariff prescribed by part 35 of this chapter must be posted with the price of that service.

(2) A Transmission Provider, within 24 hours of agreeing to sell an ancillary service to a non-affiliate at a discount, must post on the OASIS (and make available for download) information describing the transaction (including price, quantity, and any other relevant terms and conditions) and shall keep such information posted on the OASIS for at least 30 days. A record of the transaction must be retained and kept available as part of the audit log required in § 37.7. As to discounts for ancillary services, if a Transmission Provider offers a rate discount to an affiliate, or attributes a discounted ancillary service rate to its own transactions, the Transmission Provider must, at the same time, post on the OASIS an offer to provide the same discount to all eligible customers.

(3) Any other interconnected operations service offered by the Transmission Provider may be posted, with the price for that service.

(4) Any entity offering an ancillary service shall have the right to post the offering of that service on the OASIS if the service is one required to be offered by the Transmission Provider under the *pro forma* tariff prescribed by part 35 of this chapter. Any entity may also post any other interconnected operations service voluntarily offered by the Transmission Provider. Postings by customers and third parties must be on the same page, and in the same format, as postings of the Transmission Provider.

(e) *Posting Specific Transmission Service Requests and Responses.*

(1) *General rules.* (i) All requests for transmission service offered by Transmission Providers under the *pro forma* tariff must be made on the OASIS. Requests for transmission service, and the responses to such requests, must be conducted in accordance with the Transmission Provider's tariff, the Federal Power Act, and Commission regulations.

(ii) In processing a request for transmission or ancillary service, the Responsible Party shall post the following information: the date and time when the request is made, its place in any queue, the status of that request, and the result (accepted, denied, withdrawn).

(iii) The identity of the parties will be masked—if requested—during the negotiating period and for 30 days from the date when the request was accepted, denied or withdrawn.

(2) *Posting when a request for transmission service is denied.* (i) When a request for service is denied, the Responsible Party must provide the reason for that denial as part of any response to the request.

(ii) Information to support the reason for the denial, including the operating status of relevant facilities, must be maintained for 60 days and provided, upon request, to the potential Transmission Customer.

(iii) Any offer to adjust operation of the Transmission Provider's System to accommodate the denied request must be posted and made available to all Transmission Customers at the same time.

(3) *Posting when a transaction is curtailed or interrupted.*

(i) When any transaction is curtailed or interrupted, the curtailment or interruption must be posted (with the identities of the parties masked as required in § 37.6(e)(1)(iii)) and must state the reason why the transaction could not be continued or completed.

(ii) Information to support any such curtailment or interruption, including the operating status of the facilities involved in the constraint or interruption, must be maintained for 60 days and provided, upon request, to the curtailed or interrupted customer.

(iii) Any offer to adjust the operation of the Transmission Provider's system to restore a curtailed or interrupted transaction must be posted and made available to all curtailed and interrupted Transmission Customers at the same time.

(f) *Posting Transmission Service Schedules Information.* Information on transmission service schedules must be recorded by the entity scheduling the transmission service and must be available on the OASIS for download. Transmission service schedules must be posted no later than seven calendar days from the start of the transmission service.

(g) *Posting Other Transmission-Related Communications.* (1) The posting of other communications related to transmission services must be provided for by the Responsible Party. These communications may include "want ads" and "other communications" (such as using the OASIS as a Transmission-related conference space or to provide transmission-related messaging services between OASIS users). Such postings carry no obligation to respond on the part of any market participant.

(2) The Responsible Party is responsible for posting other transmission-related communications in conformance with the instructions provided by the third party on whose behalf the communication is posted. It is the responsibility of the third party requesting such a posting to ensure the accuracy of the information to be posted.

(3) Notices of transfers of personnel shall be posted as described in § 37.4(b)(2).

§ 37.7 Auditing Transmission Service Information.

(a) All OASIS database transactions, except other transmission-related communications provided for under § 37.6(g)(2), must be stored, dated, and time stamped.

(b) Audit data must remain available for download on the OASIS for 90 days. The audit data are to be retained and made available upon request for three years from the date when they are first posted.

§ 37.8 Implementation schedule for OASIS requirements; phases.

Each Transmission Provider must develop or participate in an OASIS that meets the requirements of this part and that is in operation by November 1, 1996. Each Transmission Provider must be in compliance with the standards of conduct prescribed in § 37.4 by November 1, 1996.

[NOTE: This attachment will not appear in the Code of Federal Regulations.]

ATTACHMENT 1.—LIST OF COMMENTERS TO RIN NOPR

Number	Commenter name	Abbreviation
1	ABB Systems Control	(ABB)
2	Allegheny Power Service Corporation	(Allegheny)
3	American Electric Power	(AEP)
4	American Public Power Association	(APPA)
5	City of Anaheim, CA	(Anaheim)
6	Arizona Public Service Company	(Arizona)
7	Bangor Hydro-Electric Company	(Bangor)
8	Basin Electric Power Cooperative	(Basin EC)
9	Bonneville Power Administration	(BPA)
10	California PUC	(CA Com)
11	Carolina Power & Light Company	(Carolina P&L)
12	Central Hudson Gas & Electric Corp	(Central Hudson)
13	Central Illinois Public Service Company	(Central Illinois Public Service)
14	CINergy Corporation	(CINergy)
15	Coalition for a Competitive Electric Market	(CCEM)
16	Colorado Springs Utilities	(CSU)
17	Commonwealth Edison Company	(Com Ed)
18	Consolidated Edison Company	(ConEd)

[NOTE: This attachment will not appear in the Code of Federal Regulations.]
ATTACHMENT 1.—LIST OF COMMENTERS TO RIN NOPR

Number	Commenter name	Abbreviation
19	Consumers Power Company	(Consumers Power)
20	Continental Power Exchange	(Continental Power Exchange)
21	CSW Companies	(CSW)
22	Dayton Power and Light Company	(Dayton P&L)
23	Detroit Edison Company	(Detroit Edison)
24	Duke Power Company	(Duke)
25	Edison Electric Institute	(EEI)
26	El Paso Electric Company	(El Paso)
27	Electric Generation Association	(EGA)
28	Electric Reliability Council of Texas	(ERCOT)
29	Entergy Services, Inc	(Entergy)
30	Florida Electric Power Coordinating Group	(Florida CG)
31	Florida Power Corporation	(Florida Power Corp)
32	Florida PSC	(FL Com)
33	Fuel Managers Association	(Fuel Managers)
34	"How" Industry Working Group (EPRI)	(How Group)
35	Idaho Power Company	(Idaho)
36	Indiana Utility Regulatory Commission	(IN Com)
37	Indianapolis Power & Light Company	(Indianapolis P&L)
38	Klein, Stanley A	(Klein)
39	Long Island Lighting Company	(LILCO)
40	Madison Gas and Electric Company	(Madison G&E)
41	Maine Public Service Company	(Maine Public Service)
42	MidAmerican Energy Company	(MidAmerican)
43	Mid-Continent Area Power Pool	(MAPP)
44	Minnesota Power & Light Company	(Minnesota P&L)
45	Missouri Public Service Commission	(MO & AK Com's)
46	Montana Power Company	(Montana Power)
47	National Association of Regulatory Utility Commissioners	(NARUC)
48	National Independent Energy Producers	(NIEP)
49	National Rural Electric Cooperative Association	(NRECA)
50	Nebraska Public Power District	(NE Public Power District)
51	New England Power Pool	(NEPOOL)
52	New York Mercantile Exchange	(NYMEX)
53	New York Power Pool	(NYPP)
54	New York State Electric & Gas Corp	(NYSEG)
55	New York State PSC	(NY Com)
56	NorAm Energy Services, Inc	(NorAm)
57	North American Electric Reliability Council	(NERC)
58	North Carolina Electric Membership Corp	(NCEMC)
59	Northeast Texas Electric Cooperative, Inc	(NTEC)
60	Northeast Utilities	(NU)
61	Northern States Power Companies	(NSP)
62	Nucor Corporation	(Nucor)
63	Oak Ridge National Lab, Energy Division	(Oak Ridge)
64	Ohio Edison Company	(Ohio Edison)
65	Ohio PUC	(Ohio Com)
66	Oklahoma Corporation Commission	(OK Com)
67	Oklahoma Gas & Electric	(Oklahoma G&E)
68	Omaha Public Power District	(Omaha PPD)
69	Ontario Hydro	(Ontario Hydro)
70	Orange and Rockland Utilities, Inc	(Orange & Rockland)
71	Oregon Trail Electric Consumers Cooperative	(Oregon EC)
72	Otter Tail Power Company	(Otter Trail)
73	Pacific Gas and Electric Company	(PG&E)
74	PacifiCorp	(PacifiCorp)
75	Pennsylvania—New Jersey—Maryland Power Pool	(PJM)
76	Pennsylvania Public Utility Commission	(PA Com)
77	Public Generating Pool	(Public Generating Pool)
78	Public Service Company of New Mexico	(PSNM)
79	Sacramento Municipal Utility District	(SMUD)
80	Salt River Project	(Salt River)
81	San Diego Gas & Electric Company	(San Diego G&E)
82	Seattle City Light	(Seattle)
83	Services-Oriented Open Network Technologies, Inc.	(SONETECH)
84	Sierra Pacific Power Company	(Sierra)
85	South Carolina Electric & Gas Company	(SCE&G)
86	South Carolina Public Service Authority	(SC Public Service Authority)
87	Southern California Edison Company	(SoCal Edison)
88	Southern Company Services, Inc	(Southern)
89	Southwest Transmission Dependent Utility Group	(Southwest TDU Group)

[NOTE: This attachment will not appear in the Code of Federal Regulations.]
ATTACHMENT 1.—LIST OF COMMENTERS TO RIN NOPR

Number	Commenter name	Abbreviation
90	Southwestern Public Service Company	(Southwestern)
91	Sunflower Electric Power Cooperative	(Sunflower)
92	City of Tallahassee, FL	(Tallahassee)
93	Tampa Electric Company	(Tampa)
94	Tennessee Valley Authority	(TVA)
95	Texas Utilities Electric Company	(Texas Utilities)
96	Transmission Access Policy Study Group	(TAPS)
97	Tucson Power Electric Power Company	(Tucson Power)
98	Union Electric Company	(Union Electric)
99	United Illuminating Company	(United Illuminating)
100	U.S. Department of Energy, Office of Energy Research	(DOE)
101	UTC, The Telecommunications Association	(UTC)
102	Virginia Electric and Power Company	(VEPCO)
103	Western Group	(Western Group)
104	Wisconsin Power & Light	(WP&L)

BILLING CODE 6717-01-P

[NOTE: This attachment will not appear in the Code of Federal Regulations.]

ATTACHMENT 2

Docket No. RM95-9

Form Approved
OMB No. 1902-0173
Expires February 28, 1999

FEDERAL ENERGY REGULATORY COMMISSION

STANDARDS

AND

COMMUNICATION PROTOCOLS

FOR

OPEN ACCESS SAME-TIME INFORMATION SYSTEM

(OASIS)

Version 1.0

(April 24, 1996)

The public burden for the development and initial operation of this information requirement is estimated to average 1,879 reporting hours and 418 record keeping hours per public utility. The estimate includes the time required to review and implement the standards, develop the necessary software, search existing data sources, gather and maintain the data, complete and review the information. Send comments regarding this burden estimate or any other aspect of this information requirement, including suggestions for reducing the burden, to each of the following:

Federal Energy Regulatory Commission
Attention: Michael Miller, Information Services Division
888 First Street, N.E.
Washington, DC 20426

Office of Management and Budget
Office of Information and Regulatory Affairs
Attention: Desk Officer for the Federal Energy Regulatory Commission
Washington, DC 20503

You shall not be penalized for failure to respond to this collection of information unless the collection of information displays a valid OMB control number.

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GENERAL INFORMATION

I. Purpose

In Order No. 888 the Commission requires public utilities to provide comparable access to transmission services and transmission system information. Order No. 889 amends the Commission's regulations, by adding 18 CFR Section 37, to require utilities to provide information about the availability of transmission service on an Open Access Same-Time Information System (OASIS). This information will be provided both through displays and through standardized files that users can download to their own computers. Certain information will also be uploaded through standardized forms and files transmitted from customers' computers to the OASIS. The regulations require public utilities to comply with standardized procedures and communication protocols governing the means by which the information is made available. This document contains the standardized data sets that show the information that must be provided, standard operating procedures and the protocols for communication of that information.

II. Who Must Comply

All jurisdictional public utilities that are required to maintain an OASIS under Part 37 of the Commission's regulations must comply with these standards and communication protocols.

III. Implementation Date

Utilities must implement these standards and protocols by November 1, 1996.

IV. Development Of The Standards And Communication Protocols

The standards and communication protocols were developed by the electric utility industry through a working group facilitated by EPRI. This working group included representatives from all major segments of the electric utility industry, such as utilities and marketers, as well as other interested parties such as computer and software firms. The standards and communication protocols represent a broad agreement of the working group.

As the industry obtains experience with OASIS and the new operating environment created by Order No. 888, the standards and communication protocols will need to be revised. The Commission has requested the industry to continue to develop standards and identify necessary changes. The Commission will provide all

interested parties with notice and an opportunity for comment on proposed changes to this document.

V. OASIS STANDARDS AND COMMUNICATION PROTOCOLS

1. INTRODUCTION

1.1 DEFINITION OF TERMS

The following definitions are offered to clarify discussions of the OASIS in this document.

a. **Transmission Services Information (TS Information)** is transmission and ancillary services information which must be made available by public utilities on a non-discriminatory basis to meet the regulatory requirements of transmission open access.

b. **Open Access Same-Time Information System (OASIS)** comprises the computer systems and associated communications facilities that public utilities are required to provide for the purpose of making available to all transmission users comparable interactions with TS Information.

c. **Open Access Same-Time Information System Node (OASIS Node)** is a subsystem of the OASIS. It is one computer system in the (OASIS) that provides access to TS Information to a Transmission Customer.

d. **Transmission Provider (TP or Provider)** is the public utility (or its designated agent) that owns, operates or controls facilities used for the transmission of electric energy in interstate commerce . (This is the same term as is used in Part 35.3)

e. **Transmission Customer (TC or Customer)** is any eligible customer (or its designated agent) that can or does execute a transmission service agreement or can or does receive transmission service. (This is the same term as is used in Part 35.3)

f. **Secondary Transmission Provider (ST, Reseller, or Secondary Provider)** is any Customer who offers to sell transmission capacity it has purchased. (This is the same as Reseller in Part 37)

g. **Transmission Services Information Provider (TSIP)** is a Transmission Provider or an agent to whom the Transmission Provider has delegated the responsibility of meeting any of the requirements of Part 37. (This is the same as Responsible Party in Part 37)

h. **Value-Added Transmission Services Information Provider (VTSIP)** is an entity who uses TS Information in the same manner as a Customer and provides value-added information services to its Customers.

2. NETWORK ARCHITECTURE REQUIREMENTS

2.1 ARCHITECTURE OF OASIS NODES

a. **Permit Use of Any OASIS Node Computers:** TSIPs shall be permitted to use any computer systems as a OASIS Node, so long as they meet the OASIS requirements.

b. **Permit Use of Any Customer Computers:** OASIS Nodes shall permit the use by Customers of any commonly available computer systems, as long as they support the required communication links to the Internet.

c. **Permit the Offering of Value-Added Services:** TSIPs are required, upon request, to provide their Customers the use of private network connections on a cost recovery basis. Additional services which are beyond the scope of the minimum OASIS requirements are also permitted. When provided, these private connections and additional services shall be offered on a fair and non-discriminatory basis to all Customers who might chose to use these services.

d. **Permit Use of Existing Communications Facilities:** In implementing the OASIS, the use of existing communications facilities shall be permitted. The use of OASIS communication facilities for the exchange of information beyond that required for open transmission access (e.g., transfer of system security or operations data between regional control centers) shall also be permitted, provided that such use does not negatively impact the exchange of open transmission access data and is consistent with the Standards of Conduct in Part 37.

e. **Single or Multiple Providers per Node:** A OASIS Node may support a single individual Primary Provider (plus any Secondary Providers) or may support many Providers.

2.2 INTERNET-BASED OASIS NETWORK

a. **Internet Compatibility:** All OASIS Nodes shall support the use of internet tools, internet directory services, and internet communication protocols necessary to support the Information Access requirements stated in Section 4.

b. **Connection through the public Internet:** Connection of OASIS Nodes to the public Internet is required so that Users may access them through Internet links. This connection shall be made through a firewall to improve security.

c. **Connection to a private internet network:** OASIS Nodes shall support private connections to any OASIS User (User) who requests such a connection. The TSIP is permitted to charge the User, based on cost, for these connections. The same internet tools shall be required for these private networks as are required for the public Internet. Private connections must be provided to all users on a fair and nondiscriminatory basis.

d. **Internet Communications Channel:** The OASIS Nodes shall utilize a communication channel to the Internet which is adequate to support the performance requirements given the number of Users subscribed to the Providers on the Node (see section 5.3).

2.3 COMMUNICATION STANDARDS REQUIRED

a. **Point-to-Point Protocol (PPP) and Internet Protocol Control Protocol (IPCP)** (reference RFCs 1331 and 1332) shall be supported for private internet network dial-up connections.

b. **Serial Line Internet Protocol (SLIP)** (reference RFC 1055) shall be supported for private internet network dial-up connections.

c. **Transport Control Protocol and Internet Protocol (TCP/IP)** shall be the only protocol set used between OASIS Nodes whenever they are directly interconnected, or for Users using private leased line internet network connections.

d. **Hyper Text Transport Protocol (HTTP)** shall be supported on the OASIS Node so that Users can use it to select information for viewing displays and for downloading and uploading files electronically.

e. **Internet Protocol Address:** All OASIS Nodes are required to use an IP address registered with the Internet Network Information Center (InterNIC), even if private connections are used.

2.4 INTERNET TOOL REQUIREMENTS

Support for the following specific internet tools is required, both for use over the public Internet as well as for any private connections between Users and OASIS Nodes:

a. **Hypertext Markup Language (HTML),** at least version 3, and optionally Secure Sockets Layer (SSL), shall be used by TSIPs as a standard tool for presenting information to Users.

b. **HTML Forms** shall be provided by the TSIPs for Customers to use to request purchases from a Provider. The activation of a form (sending a filled-out form to the Provider) shall be time-stamped and logged as part of the audit trail.

c. **Domain Name Service (DNS)** (ref. RFC 1034, 1035) shall be provided as a minimum by the TSIPs (or their Internet Service Provider) for the resolution of IP addresses to allow Users to navigate easily between OASIS Nodes.

d. **Simple Network Management Protocol (SNMP)** shall be supported to provide tools for operating and managing the network, if private interconnections between OASIS

Nodes are established.

e. **E-mail** shall be supported by the OASIS Node for exchanges between Providers and Customers, including the sending of attachments. The protocols supported shall include, as a minimum, the Simple Messaging Transfer Protocol (SMTP), POP, and MIME.

2.5 NAVIGATION AND INTERCONNECTIVITY BETWEEN OASIS NODES

a. **World Wide Web Browsers:** TSIPs shall permit Users to navigate using WWW browsers for accessing different sets of TS information from one Provider, or for getting to TS information from different Providers on the same OASIS Node. These navigation methods shall not favor User access to any Provider over another Provider, including Secondary Providers.

b. **Internet Interconnection across OASIS Nodes:** Navigation tools shall not only support navigation within the TSIP's Node, but also across interconnected OASIS Nodes. This navigation capability across interconnected Nodes shall, as a minimum, be possible through the public Internet.

3. INFORMATION ACCESS REQUIREMENTS

3.1 REGISTRATION AND LOGIN REQUIREMENTS

a. **Location of Providers:** To provide Users with the information necessary to access the desired Providers, publicly available documentation or menus shall list the OASIS Node addresses of all Primary, Secondary, and Value-Added Providers.

b. **Initial User Registration:** TSIPs shall require Users to register with a Provider before they are permitted to access the Provider's TS information. This registration shall require at least the following information:

- Company name
- Name of company OASIS Account Administrator
- Name of the individual user(s) within a company (each individual user is considered as a separate User with possibly different levels of authority)
- User password
- Supplemental information such as address, telephone number, fax number, and e-mail

c. **Initial Access Privileges:** Initial registration shall permit a User only the minimum Access Privileges. A User and a Provider shall mutually determine what access privilege the User is permitted: the TSIP shall set a User's Access Privilege as authorized by the Provider.

d. **User Login:** After registration, Users shall be required to login every time they establish a dial-up connection. If a direct, permanent connection has been established, Users shall be required to login initially or any time the connection is lost. Use of alternative forms of login and authentication using certificates and public key standards is acceptable.

e. **User Logout:** Users shall be automatically logged out any time they are disconnected. Users may logout voluntarily.

3.2 SERVICE LEVEL AGREEMENTS

a. **Service Level Agreements:** It is recognized that Users will have different requirements for frequency of access, performance, etc., based on their unique business needs. To accommodate these differing requirements, TSIPs shall be required to establish a "Service Level Agreement" with each User which specifies the terms and conditions for access to the information posted by the Providers. The default Service Level Agreement shall be Internet access with the OASIS Node meeting all minimum performance requirements.

3.3 ACCESS TO INFORMATION

a. **Text Display:** TSIPs shall format all TS information as plain or HTML 3.0 text such that it may be viewed and read directly by Users without requiring them to download it. This text shall be in clear English as much as possible, with the definitions of any mnemonics or abbreviations available on-line. The templates for displaying the text are described in Section 4.3.

b. **Read-Only Access to TS Information:** For security reasons, Users shall have read-only access to the TS information. They shall not be permitted to enter any information except where explicitly allowed, such as on transaction request forms.

c. **Downloading Capability:** Users shall be able to download from a OASIS Node the TS information in electronic format as a file. The rules for formatting of this data are described in section 4.4.

d. **On-Line Data Entry on Forms:** Customers shall be permitted to fill out on-line the Service Request forms supplied by the TSIPs on the OASIS Nodes, for requesting the purchase of services and for posting of products for sale (by Customers who are resellers). Customers shall also be permitted to fill-out and post Want-Ads.

e. **Uploading Capability:** Customers shall be able to upload to OASIS Nodes the filled-out forms. TSIPs shall ensure that these uploaded forms are handled identically to forms filled out on-line. TSIPs shall provide Forms that support the "file" input type available in HTML 3.0. This capability shall permit a Customer to upload a file (or

files) using standard Web browsers by providing an input space to specify a file stored on the Customer's hard disk.

f. **Selection of TS Information:** Users shall be able to dynamically select the TS information they want to view and/or download. This selection shall be, as a minimum, through navigation to text displays, the use of pull-down menus to select information for display, data entry into forms for initiating queries, and the selection of files to download via menus.

3.4 PROVIDER UPDATING REQUIREMENTS

TO BE COMPLETED BY INDUSTRY

3.5 ACCESS TO CHANGED INFORMATION

a. **General Message & Log:** TSIPs shall post a general message and log that may be read by Users. The message shall state that the Provider has updated some information, and shall contain (or point to) a reverse chronological log of those changes. The User may use the manual or automatic refresh capability to see the message.

b. **TSIP Notification Design Responsibilities:** The TSIP shall avoid a design that could cause serious performance problems by necessitating frequent requests for information from many Customers.

3.6 SERVICE REQUEST TRANSACTION SUPPORT

The requirements for supporting Service Request transactions are as follows:

a. **Basic Service Request Transaction Support:** Providers shall support basic Service Request transaction requests from the Customer. All forms shall be formatted according to the Service Request templates described in Section 4. Specifically, the following four types of transactions shall be supported as a minimum:

- A Customer issues a Service Request to a Provider, either by data entry on an on-line form or by uploading a filled-out form.
- The TSIP posts the receipt of the Service Request to the Customer.
- The Provider responds by posting the Service Request Status of the Customer's Service Request each time it changes. The changed status includes: received by the Provider, accepted by seller, accepted by customer, confirmed for scheduling, withdrawn, or refused / rejected.
- The Provider issues an acknowledgment of his acceptance or denies the Service Request.
- The Customer issues an acknowledgment of his acceptance or withdraws the

Service Request.
- A Customer who wishes to resell transmission rights shall issue a request to the TSIP for a product posting and then becomes a seller of transmission rights.

4. INTERFACE REQUIREMENTS

4.1 INFORMATION MODEL CONCEPTS

4.1.1 ASCII-Based Information Model

a. **ASCII-Based OASIS Templates:** For displaying information to Users, TSIPs shall use the specified OASIS Templates. These Templates define the information which, as a minimum, must be presented to Users, both in the form of graphical displays and as downloaded files, whenever they access the Template. Users shall be able to request Template information using the request-response data flows (Query Variables for use with HTTP) that are defined in Appendix B. Responses shall contain the same Query Variables containing the results of the query. The OASIS Templates are described in section 4.3. The Data Element Dictionary which defines the data elements in the OASIS Templates is provided in Appendix A.

Additional information may be presented in a display or a file at the discretion of the TSIP. However, no User shall be obligated or expected to recognize or use this additional information. As stated above, although the minimal ***contents*** of the displays are precisely defined, the actual graphical display ***formats*** of the TS information are beyond the scope of the OASIS requirements.

b. **ASCII-Based OASIS File Structures:** For uploading requests from and downloading information to Users, TSIPs shall use specific file structures that are defined for OASIS Template information (see section 4.4). These file structures are based on the use of headers which contain the Query Variable information, including the name of the OASIS Template. These headers thus determine the contents and the format of the data that follows.

4.2 OASIS NODE CONVENTIONS AND STRUCTURES

4.2.1 OASIS Node Naming Requirements

The following are the OASIS Node naming requirements:

a. **Node Naming Convention:** In order to provide a consistent method for locating a OASIS Node, the standard Internet naming convention shall be used. All OASIS Node names shall be unique, and shall be registered to the OASIS Management Organization at the web site http://www.tsin.com. OASIS Node names shall be stored in a DNS name directory, which shall be accessible by Customers as an HTML page.

b. **URL Structure:** The OASIS Node naming conventions shall use standard URL structures.

c. **OASIS Node Home Directory:** The home directory name on a OASIS Node shall be "OASIS" to identify that the directory is related to the OASIS. The name of each Primary Provider and Secondary Provider with shall be listed under "OASIS" with a "hot-link", so that Users can navigate directly to Provider Home Pages. Common Gateway Interface (CGI) scripts shall be located in the directory "cgi" as follows:

//(OASIS Node name)/OASIS/(Transmission Provider)/cgi/(cgi script name)

Where:
(OASIS Node name) is the World Wide Web URL address of the OASIS Information Provider.
Transmission Provider is the 4 character acronym of the transmission provider
(cgi script name) is (register | (template name)) (?search)
Where:
register is the name of the cgi script program to register a user
(template name) is name of the template cgi script for the template of data being requested, see Appendix B, Query Variables.
(?search) a list of query variable with their settings

Example:
To request the hourly schedule template at WXYZ Co.
http://www.wxyz.com/oasis/wxyz/cgi/scheduledatc
?TEMPLATE=scheduledatc&VER=1&FMT=html
&DATETIMETZ=19960412040000PD&PROVIDER=wxyz ...

4.2.2 Data Element Dictionary

The following are the requirements for the Data Element Dictionary:

a. **Definition of OASIS Information Elements:** All OASIS Information elements shall be defined in the Data Element Dictionary which will be stored in the OASIS Node directory:
http://(OASIS Node Name)/OASIS/(Transmission Provider)/(datadic.html | datadict.txt).
Where:
datadic.html is the HTML version of the data element dictionary
datadic.txt is the ASCII text version of the data element dictionary

The global Data Dictionary is defined in Appendix A.

The local data element names, such as Path Codes, may be unique within the Primary Provider's territory, while universally accessible data element names shall be globally unique. In posting OASIS information, TSIPs shall use only the names listed in the

Data Element Dictionary.

Each entry in the Data Element Dictionary shall contain as a minimum:

- Unique name of the data element
- Description of the data element
- Formats for all primitive data elements shall include:
  - Character string (ASCII), Floating point, integer, Boolean, universal time format, registered object definition, etc.
  - Length of field
- Units
- Lists of valid values that the data element could assume, limits on numerical values, or other validation criteria.
- Definition of the data element

4.2.3 General Rules for OASIS Templates

Section 4.3 lists the set of OASIS Templates. These OASIS Templates are intended to be used precisely as shown for download and upload of data. For on-line display, all relevant information must be provided but flexibility is permitted as to how the data are displayed. The construction of the OASIS Templates shall follow the rules described below:

a. **Unique OASIS Template Name:** Each type of OASIS Template shall be identified with a unique name which shall be displayed to the User whenever the OASIS Template is accessed.

b. **Source Information:** Each OASIS Template shall identify the source of its information by including or linking to the name of the Primary Provider, the Secondary Provider, or the Customer who provided the information.

c. **Time Stamp:** Each OASIS Template shall include a timestamp indicating when it was created or last updated.

d. **Column Headings:** OASIS Template column headings shall define the elementary Data Element Dictionary entries for the data values. The order of the column headings shall define the order that the values are presented. Within a table, the ordering of some column headings may be selected by Users from pull-down menus. For tables with selectable columns, the number of columns displayed or selected for download shall be determined by entry into a specified field.

e. **Rows:** The table rows below the column headings shall represent the data being presented.

f. **Row Wrap:** If the width of tables is larger than can be displayed in readable size on

a single screen, the rows shall either wrap on the screen or shall be accessible through horizontal scrolling.

g. **Documentation:** OASIS Information shall be in non-cryptic English, with all mnemonics defined in a glossary of terms. TSIPs shall provide on-line descriptions and help screens to assist Users understanding the displayed information. Documentation of all formats, contents, and mnemonics shall be available both as displays and as files which can be downloaded electronically.

- HTML "Hot-Links" or other pointer mechanisms may be provided for column headings in OASIS Templates which permit the User to access documentation describing the meaning, type, and format of the data in the column.
- HTML "Hot-Links" or other pointer mechanisms may be provided for data in the OASIS Templates to explanations, comments, constraints, and other notes.
- In order to meet the "User-Friendly" goal and permit the flexibility of the OASIS to expand to meet new requirements, the OASIS Templates shall be as self-descriptive as possible.

4.2.4 Display Request and Response Procedures

4.2.4.1 Display Request

A request for the display of the information in a OASIS Template shall consist of the following minimal input (either through direct data entry or through selection procedures):

TEMPLATE=(template name)

Additional Query Variables may be included to specify non-default data, either through direct data entry or through selection procedures. These additional Query Variables shall be prefixed with an ampersand (&), suffixed with an equal sign (=), and followed by the appropriate parameters.

If repeated values are given for a Query Variable, the variable name will be suffixed with a digit starting with "1" and increasing by one for each repeated variable, for example:

&PATH1=ABC-XYZ &PATH2=ABC-RST

4.2.4.2 Display Response

The information in the OASIS Template requested shall be presented as a display, using the display formats defined by the TSIP.

4.2.5 File Request, File Download Response, and Form Upload Rules and Procedures

4.2.5.1 File Request Rules and Procedure

A request to download a file of the information in a OASIS Template to a User site shall consist of the following minimal input (either through direct data entry, through selection procedures on a display, or through an uploaded computer file):

TEMPLATE=(*template name*)
&VER=(*nn.n*)
&FMT=(aaaa)
$DTZ= (nnnnnnnnnnnnnnaa)
$PROVIDER=(aaaa)

Additional Query Variables may follow to specify specific data; otherwise default data will be assumed. These additional Query Variables shall be prefixed with an ampersand (&), suffixed with an equal sign (=), and followed by the appropriate parameters.

If repeated values are given for a Query Variable, the variable name will be suffixed with a digit starting with "1" and increasing by one for each repeated variable, for example:

&PATH1=ABC-XYZ &PATH2=ABC-RST

4.2.5.2 File Download Response Rules and Procedures

The response to a request for the download of Template information into file at the User site shall conform to the following rules:

a. **Download ASCII Delimited Files:** Users shall always be able to download all OASIS Template information in ASCII with no special embedded codes.

   Query Variables shall be used to define what data is being downloaded. Each Query Variable (containing the response to the query) shall be followed by an equals sign (=) and the parameters associated with the variable.

   Each record shall be separated by a carriage return plus line feed (↵). The fields within a record shall be delimited by a comma (,). Text fields shall be enclosed with double quotes (").

b. **Data Compression:** Data compression of downloadable files shall be supported, using ZIP compression methods.

c. **Non-ASCII Formats:** Formats in addition to ASCII may be used (at the TSIP's option). If formats other than ASCII are available for downloading or uploading

specific data elements, these formats shall be indicated in the Data Element Dictionary for those data elements.

d. **Partial OASIS Template Download**: TSIPs shall either divide large OASIS Templates into separate files for downloading or shall permit the User to select which rows of a OASIS Template they wish to download.

Every download file for a OASIS Template shall contain the following records in the indicated order.

The following 6 records shall always precede the Template information:

REQUEST_STATUS=*nnn*↵
VERSION=*nn.n*↵
DATETIMETZ=*nnnnnnnnnnnnnnaa*↵
PRIMARY_PROVIDER=*aaaaaaaaaaaaaaaaaaaaaaaa*↵
DATA_ROWS=*nnn*↵
COLUMN_HEADERS=*aaaa.....aaaaaa*↵

The DATA_ROWS record contains the number of data records following the COLUMN_HEADERS. The COLUMN_HEADERS record contains a column for each field that is required in the Template, in the order shown in the Template.

The Template information then follows as records which correspond one-to-one with the column headings. The order of the records shall be that a column only changes its value after all columns to the right of it have changed their values. In other words, the rightmost column varies first, then the second rightmost, on back to the leftmost column which varies only after all columns to the right have varied.

4.2.5.3 Form Upload Rules and Procedures

a. **Upload using HTTP Protocol:** Customers and Providers shall be able to upload OASIS Templates using the file request format of section 4.2.5.1.

b. **Upload ASCII Delimited Files:** Customers and Providers shall be able to upload OASIS Templates in ASCII with no special embedded codes.
   Query Variables shall be used to define what data is being uploaded. Each Query Variable shall be followed by an equals sign (=) and the parameters associated with the variable.

   Each record shall be separated by a carriage return plus line feed (↵). The fields within a record shall be delimited by a comma (,). Text fields shall be enclosed with double quotes (").

Every ASCII delimited upload file reflecting an input OASIS Template (as opposed to a file requesting Template information) shall contain the following records in the indicated order.

TEMPLATE=(template name)↵ (If template CGI procedure is called then this record is optional)
VERSION=*nn.n*↵
OUTPUT_FORMAT=*aaaa*↵
DATETIMETZ=*nnnnnnnnnnnnnaa*↵
PRIMARY_PROVIDER=*aaaaaaaaaaaaaaaaaaaaaaaa*↵
DATA_ROWS=*nnn*↵
COLUMN_HEADERS=*aaaa....aaaaaa*↵

The DATA_ROWS record contains the number of data records following the COLUMN_HEADERS.

The COLUMN_HEADERS record contains a column for each field that is required in the Template, in the order shown in the Template. The Template information then follows as records which correspond one-to-one with the column headings.

c. **Data Compression:** Data compression of large uploaded files shall be supported, using ZIP compression methods.

d. **Default User Directory:** The default customer directory for upload of files shall be /OASIS/(Provider)/upload
Where: Provider is the 4 character acronym of the Primary Provider.

4.3 TEMPLATE DESCRIPTIONS

The following OASIS Templates are required as a minimum. The definitions of the data elements are listed in the Data Dictionary in Appendix A. The definitions of the Query Variables are listed in the Query Variable Dictionary in Appendix B.

TSIPs must provide a more detailed supplemental definition of the terms Point of Receipt (POR) and Point of Delivery (POD), clarifying how the terms are being used. If POR and POD are not used, then Path Name must include directionality.

Most of the Templates represent response information, sent from the OASIS Node to the Customer. Some, as noted in their descriptions, are input information, sent from the Customer to the OASIS Node.

4.3.1 Summary System Information Templates

The Summary System Information Templates provide information on a specific path with ATC being offered by one or more Providers (Primary and Secondary Providers).

a. **Summary Path Hourly ATC Template (sumpathhouratc)**
- PROVIDERS (all PROVIDERS supplying CAPACITY for Path)
- PATH_NAME
- POINT_OF_RECEIPT
- POINT_OF_DELIVERY
- INTERFACE_TYPE
- COMMENTS
- DTMMTZ (Date and Time Available)
- CAPACITY
- CAPACITY_TYPE

b. **Summary Path Daily ATC Template (sumpathdayatc)**
- PROVIDERS (all PROVIDERS supplying CAPACITY for Path)
- PATH_NAME
- POINT_OF_RECEIPT
- POINT_OF_DELIVERY
- INTERFACE_TYPE
- COMMENTS
- DTMMTZ (Date and Time Available)
- CAPACITY
- CAPACITY_TYPE

c. **Summary Monthly ATC Template (sumpathmonthatc)**
- PROVIDERS (all PROVIDERS supplying CAPACITY for Path)
- PATH_NAME
- POINT_OF_RECEIPT
- POINT_OF_DELIVERY
- INTERFACE_TYPE
- COMMENTS
- DTMMTZ (Date and Time Available)
- CAPACITY
- CAPACITY_TYPE

d. **Summary Yearly ATC Template (sumpathyearatc)**
- PROVIDERS (all PROVIDERS supplying CAPACITY for Path)
- PATH_NAME
- POINT_OF_RECEIPT
- POINT_OF_DELIVERY
- INTERFACE_TYPE

- COMMENTS
- DTMMTZ (Date and Time Available)
- CAPACITY
- CAPACITY_TYPE

4.3.2 Provider System Information Templates

The OASIS Templates which display Provider TS Information shall provide the following information. Depending upon the Query Variables, the information will be provided with Providers per Path or Paths per Provider or other combinations:

a. **Hourly Capacity Available for Purchase** (houratc)is used to display the hourly ATC that is available for sale by a Primary Provider or Reseller for one or more paths.
- PRIMARY_PROVIDER
- PATH_NAME
- POINT_OF_RECEIPT
- POINT_OF_DELIVERY
- BEGDATETZ
- ENDDATETZ
- SELLER_NAME
- INTERFACE_TYPE
- ANCILLARY_SERVICES_REQUIREMENTS
- COMMENTS
- TIME_OF_LAST_UPDATE
- DTMMTZ (Date and Time Available)
- CAPACITY
- CAPACITY_TYPE
- PRICE
- PRICE_UNITS

b. **Daily Capacity Available for Purchase** (dayatc) is used to display the daily ATC that is available for sale by a Primary or Secondary Provider.
- PRIMARY_PROVIDER
- PATH_NAME
- POINT_OF_RECEIPT
- POINT_OF_DELIVERY
- BEGDATETZ
- ENDDATETZ
- SELLER_NAME
- INTERFACE_TYPE
- ANCILLARY_SERVICES_REQUIREMENTS
- COMMENTS
- TIME_OF_LAST_UPDATE
- DTMMTZ (Date and Time Available)

- CAPACITY
- CAPACITY_TYPE
- PRICE
- PRICE_UNITS

c. **Monthly Capacity Available for Purchase** (monthatc) is used to display the monthly ATC that is available for sale.
- PRIMARY_PROVIDER
- PATH_NAME
- POINT_OF_RECEIPT
- POINT_OF_DELIVERY
- BEGDATETZ
- ENDDATETZ
- SELLER_NAME
- INTERFACE_TYPE
- ANCILLARY_SERVICES_REQUIREMENTS
- COMMENTS
- TIME_OF_LAST_UPDATE
- DTMMTZ (Date and Time Available)
- CAPACITY
- CAPACITY_TYPE
- PRICE
- PRICE_UNITS

d. **Yearly Capacity Available for Purchase** (yearatc) is used to display the yearly ATC that is available for sale. (Optional)
- PRIMARY_PROVIDER
- PATH_NAME
- POINT_OF_RECEIPT
- POINT_OF_DELIVERY
- BEGDATETZ and ENDDATETZ
- SELLER_NAME
- INTERFACE_TYPE
- ANCILLARY_SERVICES_REQUIREMENTS
- COMMENTS
- TIME_OF_LAST_UPDATE
- DTMMTZ (Date and Time Available)
- CAPACITY
- CAPACITY_TYPE
- PRICE
- PRICE_UNITS

e. **Hourly Schedule** (scheduledatc) is used to display a Provider's scheduled transmission capacity usage.

- PRIMARY_PROVIDER
- PATH_NAME(S)
- POINT_OF_RECEIPT
- POINT_OF_DELIVERY
- CURTAILMENT_PRIORITY
- SOURCE
- SINK
- ASSIGNMENT_REF
- INTERFACE_TYPE
- CUSTOMER_REQUEST_IDENTITY
- DEAL_REFERENCE
- COMMENTS
- TIME_OF_LAST_UPDATE
- DTMMTZ (Date and Time Available)
- CAPACITY
- CAPACITY_TYPE
- PRICE
- PRICE_UNITS

4.3.3 Secondary Provider (Reseller) Posting Templates

Sellers may aggregate portions of several previous purchases to create a new service, if this capability is provided by the Transmission Services Information Provider.
Secondary Providers shall use the following templates for providing resell information:

a. **Secondary Provider Capacity Posting (Input)** (secondatcpost) shall be used by the Secondary Provider to post on to the OASIS Node the transmission capacity for resale.
   - PRIMARY_PROVIDER
   - SELLER_NAME
   - PATH_NAME
   - POINT_OF_RECEIPT
   - POINT_OF_DELIVERY
   - INTERFACE_TYPE
   - ANCILLARY_SERVICES_REQUIREMENTS
   - REQUEST_REF
   - BEGDATETZ
   - ENDDATETZ
   - CAPACITY
   - CAPACITY_TYPE
   - TERMS_AND_CONDITIONS
   - SELLER_NAME
   - SELLER_COMPANY
   - SELLER_PHONE

   - SELLER_FAX
   - SELLER_EMAIL
   - PREV_ASSIGN_REF
   - REASSIGNED_CAPACITY (Capacity from each previous assignment being offered for sale)
   - REASSIGNED_BEGDATETZ
   - REASSIGNED_ENDDATETZ
   - COMMENTS
   - HOUR
   - PRICE
   - PRICE_UNITS

b. **Secondary Provider (Reseller) Capacity Remove (Input)** (secondatcremove) shall be used by the Secondary Provider to remove a posting of transmission capacity.
   - PRIMARY_PROVIDER
   - SELLER_NAME
   - PATH_NAME
   - POINT_OF_RECEIPT
   - POINT_OF_DELIVERY
   - INTERFACE_TYPE
   - ANCILLARY_SERVICES_REQUIREMENTS
   - REQUEST_REF
   - BEGDATETZ
   - ENDDATETZ
   - CAPACITY(Total capacity being removed)
   - CAPACITY_TYPE
   - TERMS_AND_CONDITIONS
   - SELLER_NAME
   - SELLER_COMPANY
   - SELLER_PHONE
   - SELLER_FAX
   - SELLER_EMAIL
   - PREV_ASSIGN_REF
   - REASSIGNED_CAPACITY (Capacity being removed from each previous reassignment)
   - REASSIGNED_BEGDATETZ
   - REASSIGNED_ENDDATETZ
   - COMMENTS

4.3.4 Services Information Templates

a. **Ancillary Services Available for Purchase** (servavail) is used to provide information regarding the different services that are available for sale by a Service Provider.
   - ANCILLARY_SERVICE_ PROVIDER

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- ANCILLARY_SERVICE_CATEGORY
- ANCILLARY_SERVICE_TYPE
- SELLER_NAME
- SELLER_COMPANY
- SELLER_PHONE
- SELLER_FAX
- SELLER_EMAIL
- PRICE
- PRICE_UNITS
- DTTZTS_POSTED
- DTTZTS_EXPIRES
- COMMENTS
- SERVICE_DESCRIPTION

b. **Services Transmission** (servtrans) is used to provide detailed information regarding the transmission services that are available for sale by a Primary Provider in the Templates in Section 4.3.2. This Template is used to summarize tariff information for the convenience of the Customer. Fields which are not used may have "Not Applicable" assigned to them. (Optional)

- TARIFF_REFERENCE
- PRIMARY_ PROVIDER
- SERVICE_CATEGORY
- SERVICE_TYPE
- PATH_NAME
- POINT_OF_RECEIPT
- POINT_OF_DELIVERY
- RATE_INFORMATION
- UNITS
- COMMENTS
- RECALLABLE_REASONS
- RECALLABLE_MINIMUM_NOTICE
- RECALLABLE_QUEUE_ORDER
- RECALLABLE_RESUMPTION
- CURTAILMENT_REASONS
- CURTAILMENT_MINIMUM_NOTICE
- CURTAILMENT_QUEUE_ORDER
- CURTAILMENT_RESUMPTION
- SERVICE_TIMING_MINIMUM_DURATION
- SERVICE_TIMING_MAXIMUM_DURATION
- CUSTOMER_PAYMENT
- ASSIGNABILITY
- INCREASE_OBLIGATION
- LOSS_OBLIGATION
- CUSTOMER_REQUIREMENTS

- PROVIDER_OPTIONS

4.3.5 "Service Request" Transaction Templates

The Primary Provider shall assign a unique assigned reference identifier for each customer request to purchase capacity or services. This identifier will be used to track the request through various stages.

a. **Customer Capacity Purchase Request (Input)** (atcrequest) is used by the Customer to request the purchase of transmission services.

- CUSTOMER
- PATH_NAME
- POINT_OF_RECEIPT
- POINT_OF_DELIVERY
- SELLER_NAME (Secondary Provider)
- SOURCE
- SINK
- CAPACITY
- CAPACITY_TYPE
- BEGDATETZ
- ENDDATETZ
- REQUEST_REF
- PRICE
- PRICE_UNITS
- DISCOUNT
- DEAL_REFERENCE
- ANCILLARY_SERVICES_REQUIREMENTS
- INTERFACE_TYPE
- COMMENTS

b. **TSIP Posting of "Acknowledge Receipt" of Request** (atcacknowledge)is used to acknowledge that the Customer's request was received by the OASIS Node. It does not imply that the Provider has received the request.

- CUSTOMER
- PATH_NAME
- POINT_OF_RECEIPT
- POINT_OF_DELIVERY
- SELLER_NAME
- SOURCE
- SINK
- CAPACITY
- CAPACITY_TYPE
- BEGDATETZ
- ENDDATETZ

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- ASSIGNMENT_REF
- REQUEST_REF
- PRICE
- PRICE_UNITS
- DISCOUNT
- DEAL_REFERENCE
- ANCILLARY_SERVICES_REQUIREMENTS
- INTERFACE_TYPE
- COMMENTS

c. **Provider Capacity Purchase Status Response to Customer Request** (atcstatus) is posted upon the request of a Customer, to indicate the status and queue of the request. It is almost identical to the Customer Purchase Request, but includes a Status field, a Queue field, and an Assignment Reference identifier assigned by the Primary Provider, which will be used to track all transactions for specific Capacity.

When a Customer calls up the Template, all posted requests for that Customer are retrieved. Only the authorized Customer is permitted to view this information.

When a Secondary Provider calls up the Template, all posted requests for that Secondary Provider are retrieved. Only the authorized Secondary Provider is permitted to view this information.

The following information is included:

- PRIMARY_PROVIDER
- PATH_NAME
- POINT_OF_RECEIPT
- POINT_OF_DELIVERY
- SELLER_NAME
- SOURCE
- SINK
- CAPACITY (of total transaction)
- CAPACITY_TYPE
- BEGDATETZ
- ENDDATETZ
- REQUEST_REF
- CUSTOMER
- PRICE
- PRICE_UNITS
- DISCOUNT
- DEAL_REFERENCE
- SERVICE_DESCRIPTION
- ASSIGNMENT_REF

- STATUS = **None, Pending, Received, Accepted by Customer, Accepted by Seller, Confirmed for Scheduling, Withdrawn, or Rejected**
- INTERFACE_TYPE
- DTTZTS_QUEUED
- COMMENTS
- PREV_ASSIGN_REF
- REASSIGNED_CAPACITY (Capacity from each previous transaction)
- REASSIGNED_STATUS= **Posted, Received, Accepted by Seller, Accepted by Customer, Withdrawn, or Rejected**
- REASSIGNED_BEGDATETZ
- REASSIGNED_ENDDATETZ
- COMMENTS

d. **Customer's Purchase Acknowledge Acceptance (Input)** (atcaccept) is used by the Customer to acknowledge his agreement or rejection of a purchase after the Provider has indicated that the purchase request is accepted. It is identical to the Provider Response.

- CUSTOMER
- PRIMARY_ PROVIDER
- PATH_NAME
- POINT_OF_RECEIPT
- POINT_OF_DELIVERY
- SELLER_NAME
- SOURCE
- SINK
- CAPACITY
- CAPACITY_TYPE
- BEGDATETZ
- ENDDATETZ
- REQUEST_REF
- PRICE
- PRICE_UNITS
- DISCOUNT
- DEAL_REFERENCE
- SERVICE_DESCRIPTION
- ASSIGNMENT_REF
- STATUS =**Accepted or Rejected**
- INTERFACE_TYPE
- DTTZTS_QUEUED
- COMMENTS

e. **Seller Form to Acknowledge Capacity Purchase Status (Input)** (sellerack) is used by a Secondary Provider to indicate the status and queue of a request by a Customer. It is almost identical to the Customer Purchase Request, but includes a Status field. a

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Queue field, and a Schedule Reference number assigned originally by the Primary Provider, which will be used to track all transactions for the specific Capacity.

The following information is included in the Form:

- CUSTOMER
- PRIMARY_PROVIDER
- PATH_NAME
- POINT_OF_RECEIPT
- POINT_OF_DELIVERY
- SELLER_NAME
- SOURCE
- SINK
- CAPACITY (Total capacity acknowledged)
- CAPACITY_TYPE
- BEGDATETZ
- ENDDATETZ
- REQUEST_REF
- PRICE
- PRICE_UNITS
- DISCOUNT
- DEAL_REFERENCE
- SERVICE_DESCRIPTION
- ASSIGNMENT_REF
- INTERFACE_TYPE
- DTTZTS_QUEUED
- PREV_ASSIGN_REF
- REASSIGNED_CAPACITY(Previous capacity to be reassigned)
- REASSIGNED_STATUS= **Received, Accepted by Seller, Withdrawn, or Rejected**
- REASSIGNED_BEGDATETZ
- REASSIGNED_ENDDATETZ
- COMMENTS

f. **Seller Form to Reassign Service Rights to Another Customer (Input)** (sellerrassign) is used by the Secondary Provider to ask the Transmission Services Information Provider to reassign some or all of the Seller's rights to Services to another Customer, following a confirmation of a sale of these services from that Customer.

- CUSTOMER
- PRIMARY_PROVIDER
- PATH_NAME
- POINT_OF_RECEIPT
- POINT_OF_DELIVERY
- SELLER_NAME

- SOURCE
- SINK
- CAPACITY (Total capacity being sold)
- CAPACITY_TYPE
- BEGDATETZ
- ENDDATETZ
- REQUEST_REF
- PRICE
- PRICE_UNITS
- DISCOUNT
- DEAL_REFERENCE
- SERVICE_DESCRIPTION
- ASSIGNMENT_REF
- INTERFACE_TYPE
- DTTZTS_QUEUED
- PREV_ASSIGN_REF
- REASSIGNED_CAPACITY (Capacity being sold from each previous assignment)
- REASSIGNED_BEGDATETZ
- REASSIGNED_ENDDATETZ
- REASSIGNED_STATUS = **Accepted or Rejected**
- COMMENTS

4.3.6 Informal Information Templates

a. **Provider/Customer Want-Ad Posting Request (Input)** (wantadpost) is used by Providers and Customers who wish to advertise.

- PROVIDER or CUSTOMER
- COMPANY
- PHONE
- FAX
- EMAIL
- DTTZTS_POSTED
- DTTZTS_EXPIRES
- KEYWORD
- SUBJECT
- WANT-AD

b. **TSIP Posting of Want-Ad Response** (wantadlisting) is the response of the TSIP to a Want-Ad posting request. The contents are identical to the request.

- PROVIDER or CUSTOMER
- CONTACT
- PHONE
- FAX
- E-MAIL

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- DTTZTS_POSTED
- DTTZTS_EXPIRES
- KEYWORD
- SUBJECT
- WANT-AD

4.4 FILE REQUEST AND FILE DOWNLOAD EXAMPLES

4.4.1 File Example for Summary Path Hourly ATC

Example of the request and response for path "W/AAAA/PATH-ABC//" for today.

- **Request**

http://(OASIS Node name)/OASIS/wxyz/cgi/sumpathouratc?&ver=1.0&fmt=data&
dtz=19960412043010ED& pprovider=wxyz& path=W/AAA/PATHABC//& relday=0& shr=0&
her=14& capacity_type1=firm& capacity_type2=non-firm

- **Response Data**

REQUEST-STATUS=200 ↵ *(Successful)*
VERSION=1.0↵
DATETIMETZ="19960410113526PD" ↵
PRIMARY_PROVIDER=wxyz↵
DATA_ROWS=30↵
COLUMN_HEADERS="PROVIDER","PATH_NAME","POR","POD","IT","CT","CAP","DTMM
TZ","COMMENTS" ↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","FIRM",300,"199604100100PD","N/A" ↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","NON-FIRM",500,"199604100100PD","N/A"↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","FIRM",300,"199604100200PD","N/A" ↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","NON-FIRM",500,"199604100200PD","N/A"↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","FIRM",300,"199604100300PD","N/A" ↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","NON-FIRM",500,"199604100300PD","N/A"↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","FIRM",300,"199604100400PD","N/A" ↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","NON-FIRM",500,"199604100400PD","N/A"↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","FIRM",300,"199604100500PD","N/A" ↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","NON-FIRM",500,"199604100500PD","N/A"↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","FIRM",300,"199604100600PD","N/A" ↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","NON-FIRM",500,"199604100600PD","N/A"↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","FIRM",300,"199604100700PD","N/A" ↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","NON-FIRM",500,"199604100700PD","N/A"↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","FIRM",300,"199604100800PD","N/A" ↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","NON-FIRM",500,"199604100800PD","N/A"↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","FIRM",300,"199604100900PD","N/A" ↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","NON-FIRM",500,"199604100900PD","N/A"↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","FIRM",300,"199604101000PD","N/A" ↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","NON-FIRM",500,"199604101000PD","N/A"↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","FIRM",300,"199604101100PD","N/A" ↵

"AAA","W/AAA/PATHABC//","N/A","N/A","E","NON-FIRM",500,"199604101100PD","N/A"↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","FIRM",300,"199604101200PD","N/A" ↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","NON-FIRM",500,"199604101200PD","N/A"↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","FIRM",300,"199604101300PD","N/A" ↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","NON-FIRM",500,"199604101300PD","N/A"↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","FIRM",300,"199604101400PD","N/A" ↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","NON-FIRM",500,"199604101400PD","N/A"↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","FIRM",300,"199604101500PD","N/A" ↵
"AAA","W/AAA/PATHABC//","N/A","N/A","E","NON-FIRM",500,"199604101500PD","N/A"↵

4.4.2 File Example for Hourly Schedule Data

This example shows a request for the hourly schedule data. This demonstrates how to specify query variables from a file.

- **Request**

URL Request (HTTP method=GET)
http://(OASIS Node name)/OASIS/wxyz/cgi/scheduledatc& ver=1.0& fmt=data&
dtz=19960412043010ED& pprovider=wxyz &por=BBB &pod=CCC &relday=1 &hour-start=08
&hour-end=17

URL Request (HTTP method=POST)
$ fetch_http http://(OASIS Node name)/OASIS/wxyz/cgi/OASISdata -f
c:/OASIS/wxyz/upload/inputfile.txt
Where *inputfile.txt* contains the following:
Template=scheduledatc& ver=1.0 & fmt=data& dtz=19960412044010CD&
pprovider=wxyz& por=BBB& pod=CCC &relday=1 &hour-start=08 &hour-
end=17

- **Response Data**

REQUEST-STATUS=200↵
VERSION=1.0↵
DATETIMETZ=19960410114702PD↵
PROVIDER=wxyz↵
DATA_ROWS=50↵
COLUMN_HEADERS="PATH_NAME","POR","POD","SOURCE","SINK","REF","IT","CUSTOMER","D
EAL","CT","CAP","DTMMTZ",...↵
"AAA","AAABBB","BBB","CCC","source","sink","794245","E","BPA","deal","NON-FIRM",50,
"199604100800PD","","",""↵
...↵
...↵

"AAA","AAABBB","BBB","CCC","source","sink","795000","E","BPA","deal","FIRM",39,"199604101700P
D","","",""↵

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4.4.3 Customer Capacity Purchase Request

This example shows how a customer might make a request to purchase capacity from a provider. The information to be sent to the provider is specified using Query Variables in a file. The example uses the FETCH_HTTP program to send a file to the OASIS node.

- **Request File purchase.txt**

template= atcrequest& fmt=data& ver=1.0& dtz=19960412043010MD& pprovider=abcd &por=aaa&pod=bbb&path=aaa1bbb1&source=src1& sink=sink1& capacity=100& capacity_type=non-firm& year=1996& month=04&day-start=15& day-end=20& tz=pd& price=1.00& customer=cust1& deal_ref=1234567800& comments="Example purchase request"

FETCH_HTTP Command to send purchase request

$ fetch_http http://(OASIS Node name)/OASIS/abcd/cgi/atcrequest -f c:/OASIS/abcd/upload/*purchase.txt*

- **Response Data**

REQUEST-STATUS=200↵
VERSION=1.0↵
DATATIMEZ=19960412073500PD↵
PRIMARY_PROVIDER=abcd↵
DATA_ROWS=1↵
COLUMN_HEADERS= "BEGDATETZ", "ENDDATETZ", "ASSIGNMENT_REF", "PROVIDER", "PATH", "POR", "POD", "SELLER_NAME", "SOURCE", "SINK", "CAPACITY", "CAPACITY_TYPE", "REQUEST_REF", "DEAL_REFERENCE", "COMMENTS"↵
"19960415000100PD", "19960420002400PD", "ABC998553", "ABC", "AAA1BBB1", "AAA", "AAA", "ABC", "src1", "sink1", "100", "NON-FIRM", "", "1234567800", "Example Purchase Request" ↵

4.4.4 Capacity Purchase Status

- **Request URL**

http://(OASIS Node name)/OASIS/abc/cgi/atcstatus? ver=1.0& fmt=data& dtz=19960412043010ED& pprovider=wxyz& customer=cust1& year=1996&month=04

- **Response Data**

REQUEST-STATUS=200 ↵
VERSION=1.0↵
DATATIMEZ=19960412090215PD↵
PRIMARY_PROVIDER=*wxyz*↵
DATA_ROWS=1↵
COLUMN_HEADERS=BEGDATETZ, ENDDATETZ, ASSIGNMENT_REF, PROVIDER, PATH, POR, POD, SELLER_NAME, SOURCE, SINK, CAPACITY, CAPACITY_TYPE, REQUEST_REF,

DEAL_REFERENCE, COMMENTS, STATUS, ASSIGNMENT_REF, DTTZTS_QUEUED, NO_PREF_ASSIGN_REF↵
"19960415000100PD", "19960420002400PD", "ABC998553", "ABC", "AAA1BBB1", "AAA", "AAA", "ABC", "src1", "sink1", "100", "NON-FIRM", "", "1234567800", "Example Purchase Request", "Accepted by Seller", "ABC998532", "19960412080000PD", "0" ↵

4.4.5 Customer's Purchase Acknowledge Acceptance (Input)

- ***Customer Input File: accept.txt***

TEMPLATE=atcaccept &VERSION=1.0& FORMAT=data& &dtz=19960412043010ED& provider=wxyz &STATUS="Accepted" & BEGDATETZ=19960415000100PD &ENDDATETZ=19960420002400PD &ASSIGNMENT_REF=ABC998553 &PROVIDER=wxyz &PATH=AAA1BBB1 &POR=AAA &POD=AAA &SELLER_NAME=ABC &SOURCE=src1 &SINK=sink1 &CAPACITY=100 &CAPACITY_TYPE=NON-FIRM &REQUEST_REF= &DEAL_REFERENCE=1234567800 &COMMENTS="Example Purchase Request" &ASSIGNMENT_REF="ABC998532" &DTTZTS_QUEUED=19960412080000PD &NO_PREF_ASSIGN_REF=0

FETCH_HTTP command

$ fetch_http http://(OASIS node name)/OASIS/(provider)/cgi/atcaccept -f c:\OASIS\wxyz\upload*accept.txt*

5. PERFORMANCE REQUIREMENTS

A critical aspect of any system is its performance. Performance encompasses many issues, such as security, sizing, response to user requests, availability, backup, and other parameters that are critical for the system to function as desired. The following sections cover the performance requirements for the OASIS.

5.1 SECURITY

Breaches of security include many inadvertent or possibly even planned actions. Therefore, several requirements shall be implemented by the TSIPs to avoid these problems:

a. **Provider Update of TS Information:** Only Providers, including Secondary Providers, shall be permitted to update their own TS Information.

b. **User Input Only ASCII Text:** TSIPs shall be permitted to require that inputs from Customers shall be filtered to permit only strict ASCII text (strip bit 8 from each byte).

c. **Provider Updating Over Public Facilities:** If public facilities are involved in the connection between a Provider and the OASIS Node, the Provider shall be able to update his TS Information only through the use of ASCII or through encrypted files.

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d. **User Registration and Login:** All Users shall be required to register and login to a Provider's Account before accessing that Provider's TS Information.

e. **User Passwords:** All Users shall enter their personal password when they wish access to TS Information beyond the lowest Access Privilege.

f. **Service Request Transactions:** Whenever Service Request transactions are implemented entirely over the OASIS, Customer Service Request requests shall require both an individual Customer password for the request, and an individual Provider password for the notification of acceptance.

g. **Data Encryption:** Sophisticated data encryption techniques and the "secure id" mechanisms being used on the public Internet shall be used to transfer sensitive data across the Internet and directly between OASIS Nodes.

h. **Viruses:** TSIPs shall be responsible for protecting the OASIS Nodes from viruses.

i. **Performance Log:** TSIPs shall keep a log on User usage of OASIS resources.

j. **Disconnection:** TSIPs shall be allowed to disconnect any User who is degrading the performance of the OASIS Node through the excessive use of resources, beyond what is permitted in their Service Level Agreement.

k. **Premature Access:** The TSIP log shall also be used to ensure that Users who are affiliated with the Provider's company (or any other User) do not have access to TS information before it is publicly available.

l. **Firewalls:** TSIPs shall employ security measures such as firewalls to minimize the possibility that unauthorized users shall access or modify TS Information or reach into Provider or User systems. Interfaces through Public Data Networks or the Internet shall be permitted as long as these security requirements are met.

m. Certificates and Public Key Standards (optional) Use of alternative forms of login and authentication using certificates and public key standards is acceptable.

5.2 ACCESS PRIVILEGES

Users shall be assigned different Access Privileges based on external agreements between the User and the Provider. These Access Privileges are associated with individual Users rather than just a company, to ensure that only authorized Users within a company have the appropriate access.

The following Access Privileges shall be available as a minimum:

a. **Access Privilege Read-Only:** The User may only read publicly available TS information.

b. **Access Privilege for Transactions:** The Customer is authorized to transact Service Request requests.

c. **Access Privilege Read/Write:** A Secondary Provider shall have write access to his own Provider Account on a OASIS Node.

5.3 OASIS RESPONSE TIME REQUIREMENTS

TSIPs can only be responsible for the response capabilities of two portions of the Internet-based OASIS network:

- The response capabilities of the OASIS Node server to process interactions with Customers
- The bandwidth of the connection(s) between the OASIS Node server and the Internet.

Therefore, the OASIS response time requirements are as follows:

a. **OASIS Node Server Response Time:** The OASIS Node server shall be capable of supporting its connection(s) to Users with an average aggregate data rate of at least "A" bits per second. "A" is defined as follows:

$$A = N * R \text{ bits/sec}$$

where:

$$N = 5\% \text{ of registered Customers.}$$

and

$$R = 28{,}800 \text{ bits/sec per Customer.}$$

b. **OASIS Node Network Connection Bandwidth:** The bandwidth "B" of the OASIS Node connection(s) to the Internet shall be at least:

$$B = 2 * A \text{ bits/sec}$$

c. **Time to Meet Response Requirements:** The minimum time responses shall be met **within 1 month of User registration** for any single new User. If more than 10 new Users register in one month, 2 months lead time shall be permitted to expand/upgrade the OASIS Node to meet the response requirements.

5.4 OASIS PROVIDER ACCOUNT AVAILABILITY

The following are the OASIS Provider Account availability requirements:

a. **OASIS Provider Account Availability:** The availability of each OASIS Provider

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a. **OASIS Provider Account Availability:** The availability of each OASIS Provider account on a OASIS Node shall be at least **98.0%** (downtime of about 7 days per year).

Availability is defined as:

$$\% \text{ Availability} = \frac{(1 - \text{Cumulative Provider Account Downtime})}{\text{Total Time}} * 100$$

A Provider account shall be considered to be down, and downtime shall be accumulated, upon occurrence of any of the following:

1. One or more Users can not link and log on to the Provider account. The downtime accumulated shall be calculated as:
   Σ **for affected Users of 1/n * (Login Time)**, which is the time used by each affected User to try to link and log on to the Provider account, and where "n" is the total number of Users actively registered for that Provider account.

2. One or more Users can not access TS Information once they have logged on to a Provider account. The downtime accumulated shall be calculated as:
   Σ **for affected Users of 1/n * (Access Time)**, which is the time used by each affected User to try to access data, and where "n" is the total number of Users actively registered for that Provider.

3. A **five (5) minute** penalty shall be added to the cumulative downtime for every time a User loses their connection to a Provider's account due to a OASIS Node momentary failure or problem.

5.5 BACKUP AND RECOVERY

The following backup and recovery requirements shall be met:

a. **Normal Backup of TS Information:** Backup of TS Information and equipment shall be provided within the OASIS Nodes so that no data or transaction logs are lost or become inaccessible by Users due to any single point of failure. Backed up data shall be no older than **30 seconds.** Single points of failure include the loss of one:

- Disk drive or other storage device
- Processor
- Inter-processor communications (e.g. LAN)
- Inter-OASIS communications
- Software application
- Database
- Communication ports for access by Users
- Any other single item which affects the access of TS Information by Users

b. **Spurious Failure Recovery Time:** After a spurious failure situation, all affected Users shall regain access to all TS Information **within 30 minutes**.

c. **Long-Term Backup:** Permanent loss of critical data due to a catastrophic failure shall be minimized through off-line storage on a **daily basis** and through off-site data storage on a **periodic basis**.

d. **Catastrophic Failure Recovery:** Recovery from a catastrophic failure or loss of a OASIS Node may be provided through the use of alternate OASIS Nodes which meet the same availability and response time requirements. TSIPs may set up prior agreements with other TSIPs as to which Nodes will act as backups to which other Nodes, and what procedure will be used to undertake the recovery. Recovery from a catastrophic failure shall be designed to be achieved **within 24 hours**.

5.6 TIME SYNCHRONIZATION

The following are the time requirements:

a. **Time Synchronization:** Time shall be synchronized on OASIS Nodes such that all time stamps will be accurate to within ±0.5 second of official time. This synchronization may be handled over the network using NTP, or may be synchronized locally using time standard signals (e.g. WWVB, GPS equipment).

b. **Network Time Protocol (NTP):** OASIS Nodes shall support the Internet tool for time synchronization, Network Time Protocol (NTP), which is described in RFC-1305, version 3, so that Customers shall be able to request the display and the downloading of current time on a OASIS Node for purposes of user applications which might be sensitive to OASIS time.

5.7 TS INFORMATION TIMING REQUIREMENTS

TO BE COMPLETED BY THE INDUSTRY

5.8 TS INFORMATION ACCURACY

The following requirements relate to the accuracy of the TS information:

a. **TS Information Reasonability:** TS information posted and updated by the Provider shall be validated for reasonability and consistency through the use of limit checks and other validation methods.

b. **TS Information Accuracy:** Although precise measures of accuracy are difficult to establish, Providers shall use their best efforts to provide accurate information.

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5.9 PERFORMANCE AUDITING

The following are the performance auditing requirements:

a. **User Help Desk Support**: TSIPs shall provide a "Help Desk" that is available at least during normal business hours (local time zone) and normal work days.

b. **Time-Stamped OASIS Performance Log:** All posting of TS information, all updating of TS information, all User logins and disconnects, all User download requests, all Service Request requests, and all other transactions shall be time stamped and stored in a OASIS Performance Log. This OASIS Performance Log shall be the official log for auditing performance, as well as acting as the official record of interactions.

c. **Monitoring Performance Parameters:**TSIPs shall use their best efforts to monitor performance parameters. Any Customer shall be able to read or download these performance statistics.

5.10 MIGRATION REQUIREMENTS

The following are the migration requirements:

a. **Support for Legacy Capabilities:** Any time mandated upgrades or modifications to OASIS capabilities and tools are made to the OASIS, TSIPs shall continue to support the existing capabilities and tools for at least 3 months. This overlap will permit Customers the time to upgrade their own systems to reflect these changes.

[NOTE: This appendix will not appear in the Code of Federal Regulations.]

Appendix A

Data Element Dictionary

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Data Dictionary Element Name	Description	Field Format : minimum characters (type of ASCII) maximum characters	Units or Type	Restricted Values	Definition of Data Element
ANCILLARY_SERVICES_ CATEGORY (alias ANC_SERV_CAT)	Category of ancillary services (to be defined)	1(ALPHANUMERIC)20	Text	Free-form text	A reference to ancillary service categories defined by the Provider
ANCILLARY_SERVICES_ PROVIDER (alias ANC_SERV_PROVIDER)	Provider of ancillary services	1(ALPHANUMERIC)25	Name	Unique value	Name of a provider of ancillary services
ANCILLARY_SERVICES_ REQUIREMENTS (alias ANC_SERV_REQ)	Requirements for Ancillary Services	1(ALPHANUMERIC) 50	Text	Free-form text	Requirements for Ancillary Services
ANCILLARY_SERVICES_ TYPE (alias (ANC_SERV_TYPE)	Type of ancillary services (to be defined)	1(ALPHANUMERIC)14	Text	Free-form text	A reference to the ancillary service types defined by the Provider. This provides a sub-category for ANCILLARY_SERVICE_CATEGORY
ASSIGNABILITY	Assignability	2(ALPHA)3	Boolean	YES or NO	Identifies whether service is assignable or not
ASSIGNMENT_REF (ALIAS ASSIGN_REF)	Reference for Assignment of ATC Rights	1(ALPHANUMERIC)12	Text	Unique value	A unique reference number assigned by a Transmission Information Provider to provide a unique record for each transmission service request.
BEGDATETZ (alias BEGDTZ)	Beginning Date and Time	16 alphanumeric characters: yyyy+mo+dd+hh+mm+ss+ tz	Time	Valid date and time	Beginning Date, time, and time zone. Military time is used. Example: 19960212145530PS
CAPACITY (alias CAP,ATC)	Available Transmission Capacity or Available Transfer Capability	1(NUMERIC)12	MW	Positive number	Transfer capability is the measure of the ability of the interconnected electric systems to reliably move or transfer power from one area to another over all transmission lines (or paths) between those areas under specified system conditions. In this context, 'area' may be an individual electric system, power pool, control area, subregion, or NERC region, or portion thereof.
CAPACITY_TYPE (alias CAP_TYPE,ATC_TYPE)	Type of Capacity	1(ALPHANUMERIC)14	Text	The value is selected from the _TYPE element described by the Provider in his Services_ Transmission	The type of capacity being referenced. *Examples include Firm, Non-Firm;' Firm-On-Peak, Firm-Off-Peak, Non-Firm-On-Peak, Non-Firm-Off-Peak;*

Data Dictionary Element Name	Description	Field Format : minimum characters (type of ASCII) maximum characters	Units or Type	Restricted Values	Definition of Data Element
COLUMN_HEADERS (alias HEADERS	Column headers for data	1(ALPHANUMERIC)Unlimited	Text	Headers surrounded with " and seperated by commas	Example: "PATH_NAME","POR","POD","SOURCE","SINK"
COMMENTS	Comments	1(ALPHANUMERIC) 50	Text	Free-form text	Informative text.
COMPANY	Company of a Primary Provider, Secondary Provider, or Customer	1(ALPHANUMERIC)25	Name	Valid name of a Company	The name of a Company who has services for resell
CONTACT	Contact name	1(ALPHANUMERIC)25	Name	Valid name of a person	The name of an individual contact.
CURTAILMENT_ RESUMPTION (alias CURT_RESUMP)	Curtailment Resumption	1(NUMERIC)12	Priority number	Positive number	Priority in which service is resumed
CURTAILMENT_MINIMUM_ NOTICE (alias CURT_MIN_NOTICE)	Curtailment Minimum Notice	1(ALPHANUMERIC)18	Time in Hours	Positive number	Minimum time to provide notice of curtailment of service.
CURTAILMENT_PRIORITY (alias CP)	Curtailment Priority	1(NUMERIC)3	Priority number	Positive number	The order in which the schedules will be curtailed
CURTAILMENT_QUEUE_ORDER (alias CURT_QUE_ORDER)	Curtailment Queue Order	1(NUMERIC)3	Queue number	Positive number	Priority in which curtailment of service occurs.
CURTAILMENT_REASON (alias CURT_REASON)	Curtailment Reasons	1(ALPHANUMERIC)25	Text	Free-form text	Reason for curtailment of service.
CUSTOMER	Name of Requester and Customer Identifier (authorization password or identifier code, which at least is non-displayable and should be encrypted)	1(ALPHANUMERIC)25	Name	Unique value	Any eligible company (or its designated agent) that is authorized to view OASIS information, to execute a service agreement, and/or to receive transmission service.
CUSTOMER_CODE (alias CUST_CODE)	Transmission Customer Code	1(NUMERIC)12	DUNS number	Unique number	Unique DUNS number for each Customer (if available)
CUSTOMER_PAYMENT (alias CUST_PAYMENT)	Customer Payment	1(ALPHANUMERIC)20	Text	Free-form text	Customer payment
CUSTOMER_REQUIREMENT (alias CUST_REQUIREMENTS)	Customer Requirements	1(ALPHANUMERIC)20	Text	Free-form text	Customer requirements
DATA_RECORDS	Data included in a file	1(APLPHANUMERIC) unlimited	Text or numbers	Free-form text or numbers	Data included in a file

Data Dictionary Element Name	Description	Field Format : minimum characters (type of ASCII) maximum characters	Units or Type	Restricted Values	Definition of Data Element
DATETIMETZ (alias DTZ)	Date and Time Stamp	16 alphanumeric characters: yyyy+mo+dd+hh+mm+ss+tz	Time	Valid date and time	Date and Time Stamp of the information being presented to the Customer
DAY	Day	Query Variable	Numeric	The day is represented as an integer from 1 to 31. For some months, the maximum value may be less.	This specifies the day of the month from which the data is requested. DAY refers to a single day, while DAY-START and DAY-END refer to a range of days.
DAY-END, (alias EDAY)	Last day to show data	Query Variable	Numeric	The day is represented as an integer from 1 to 31. For some months, the maximum value may be less.	This specifies the day of the month from which the data is requested. DAY refers to a single day, while DAY-START and DAY-END refer to a range of days.
DAY-START, (alias SDAY)	First day to show data	Query Variable	Numeric	The day is represented as an integer from 1 to 31. For some months, the maximum value may be less.	This specifies the day of the month from which the data is requested. DAY refers to a single day, while DAY-START and DAY-END refer to a range of days.
dd	Days in date and time fields	2(NUMERIC)2	Time	Range of 0 to 31, validated against month	A numeric value represent the day in the month

Data Dictionary Element Name	Description	Field Format : minimum characters (type of ASCII) maximum characters	Units or Type	Restricted Values	Definition of Data Element
DEAL_REFERENCE (alias DEALREF)	Deal Reference	1(ALPHANUMERIC)12	Text	Unique value	The unique reference assigned by a Customer to two or more SERVICE_PURCHASES to identify each of them as related to others in the same power service deal. These requests may be related to each other in time sequence through a single Provider, or as a series of wheels through multiple Providers, or a combination of both time and wheels. The Customer uses the DEAL_REFERENCE to uniquely identify a combination of requests relating to a particular deal.
DISCOUNT	Discount	0(ALPHANUMERIC)20	Text	Free-form text	A description of any discount that applies.
DISCOUNT_PERCENT	Discount Percentage	0(NUMERIC)5	Percentage	Between 0 and 100	The percentage of any discount that applies.
DTMMTZ	Date and Time to minutes with time zone	14 alphanumeric characters: yyyy+mo+dd+hh+mm+tz	Time	Valid date and time	Date and time to the minute resolution and time zone. This specifies the time when the Capacity is available.
DTTZTS_EXPIRES	Date and time of expiration	14 alphanumeric characters: yyyy+mo+dd+hh+mm+tz	Time	Valid date and time	Represents when a Want Ad message expires (i.e., is removed from data storage).Date, time, and time zone. Military time is used. Example: 19960212145530PS
DTTZTS_POSTED	Date and time posted, oriented to computers	14 alphanumeric characters: yyyy+mo+dd+hh+mm+tz	Time	Valid date and time	Represents when a Want Ad message was posted. Date, time, and time zone oriented to computer interpretation. Military time is used. Example: 19960212145530PS
DTTZTS_QUEUED	Date and time entered into queue	16 alphanumeric characters: yyyy+mo+dd+hh+mm+ss+tz	Time	Valid date and time	Represents when a Customer Request or a Want Ad message was queued for processing. Date, time, and time zone oriented to computer interpretation. Military time is used. Example: 19960212145530PS
E-MAIL (alias EMAIL)	E-mail address	5(ALPHANUMERIC)60	E-mail address	Valid network reference	E-MAIL address
ENDDATETZ (alias ENDDTZ)	Ending Date and Time	16 alphanumeric characters: yyyy+mo+dd+hh+mm+ss+tz	Time	Valid date and time	Ending Date, time, and time zone. Military time is used. Example: 19960212145530PS

Data Dictionary Element Name	Description	Field Format : minimum characters (type of ASCII) maximum characters	Units or Type	Restricted Values	Definition of Data Element
FAX	Fax number	10(NUMERIC)10	Telephone number	Area code and telephone number	A telephone number for a fax machine.
hh	Hour in date and time fields	2(NUMERIC)2	Time	Range of 0 to 25	A numeric value represent the hour of the day with a range of 0 to 25 The value of 25 is necessary for observance of daylight savings time.
HOUR	Hour	Query Variable	Numeric	An integer value between 1 and 25 representing "hour-ending" time. Hour 1 refers to the time between 00:01 to 01:00. Hour 25 refers to the extra hour added when daylight savings time changes in the fall. Default is all hours of the day.	This specifies the hour of the day or range of hours in the day for each hour data is requested. HOUR refers to a single hour, while HOUR-START and HOUR-END refer to a range of hours
HOUR-END, (alias EHR)	Hour	Query Variable	Numeric	An integer value between 1 and 25 representing "hour-ending" time.	This specifies the hour of the day or range of hours in the day for each hour data is requested. HOUR refers to a single hour, while HOUR-START and HOUR-END refer to a range of hours
HOUR-START, (alias SHR)	Hour	Query Variable	Numeric	An integer value between 1 and 25 representing "hour-ending" time.	This specifies the hour of the day or range of hours in the day for each hour data is requested. HOUR refers to a single hour, while HOUR-START and HOUR-END refer to a range of hours
INCREASE_OBLIGATION (alias INC_OBLIG)	Increase Obligation	1(ALPHANUMERIC)12	Text	Free-form text	Increase obligation.

Data Dictionary Element Name	Description	Field Format : minimum characters (type of ASCII) maximum characters	Units or Type	Restricted Values	Definition of Data Element
INTERFACE_TYPE (alias IT)	Internal or External interface to an area	1(ALPHA)1	Text	E = external I = internal O = other	The value is either the character 'I' for Internal (Intra-control area-to-control area) or the character 'E' for External (Inter-control area-to-control area) or the character 'O' for Other.
KEYWORD	Keyword	0(ALPANUMERIC)16	Text	Free-form text	A descriptive word for identification. Typically such that it would be specified for search for information.
mm	Minutes in date and time fields	2(NUMERIC)2	Time	Range of 0 to 59	A numeric value represent the minutes of the hour
mo	Month in date and time fields	2(NUMERIC)2	Time	Range of 1 to 12	A numeric value represent the month of the year
MONTH, (alias MON)	Month	Query Variable	Numeric	Month is specified as a numeric value between 1 and 12.	This specifies which month of data is requested. Normally, the date is further qualified by day (except when monthly data is requested. MONTH refers to a single month. MONTH-START and MONTH-END specify a range
MONTH-END, (alias EMON)	Last month to show data	Query Variable	Numeric	Month is specified as a numeric value between 1 and 12.	This specifies which month of data is requested Normally, the date is further qualified by day (except when monthly data is requested. MONTH refers to a single month. MONTH-START and MONTH-END specify a range
MONTH-START, (alias SMON)	First month to show data	Query Variable	Numeric	Month is specified as a numeric value between 1 and 12.	This specifies which month of data is requested Normally, the date is further qualified by day (except when monthly data is requested. MONTH refers to a single month. MONTH-START and MONTH-END specify a range
NO_OF_ROWS	Number of rows of data in a file	1(NUMERIC)4	Number	Range of 1 to 9999	Number of rows of data in a file
NO_PREV_ASSIGN_REF (alias NO_PAREF)	Number of previous assignment references	1(NUMERIC)4	Number	Range of 1 to 9999	The number of previous sales of transmission services that have been aggregated to form a new sale of a portion of those services.
OUTPUT_FORMAT (alias FMT)	Output Format	4(ALPHANUMERIC)4	Text	Values of: HTML, DATA,	Defines the format of the response. The information returned is used for either a Graphical User Interface (GUI) or as a File processed by a computer.

Data Dictionary Element Name	Description	Field Format : minimum characters (type of ASCII) maximum characters	Units or Type	Restricted Values	Definition of Data Element
PATH_NAME (alias PATH)	Path name	5(ALPHANUMERIC)50	Name	Unique value	The unique name assigned to a single transmission line or the set of one or more parallel transmission lines whose power transfer capabilities are strongly interrelated and must be determined in aggregate. These lines are typically described as being on a path, corridor or interconnection in some regions, or as crossing an interface or cut-plane in other regions. Multiple lines may be owned by different parties and require prorating of capability shares. The name is constructed from the following fields, with each code separated by a "/" REGION_CODE - 2 chars, unique to OASIS System OWNER_CODE - 4 chars, unique within Region PATH_CODE - 12 chars, unique for Owner OPTIONAL_CODE - 25 chars, unique for Path. If used for directionality, then the first 12 characters shall represent POR, followed by '-', followed by 12 characters which shall represent POD SPARE_CODE - 3 chars
PHONE	Phone number	10(NUMERIC)10	Telephone number	Area code and telephone number	A telephone number.
POINT_OF_DELIVERY (alias POD)	Point of Delivery	1(ALPHANUMERIC)12	Name	Unique value	Point of Delivery is the point of interconnection on the Transmission Provider's transmission system where capacity and/or energy transmitted by the Transmission Provider will be made available to the Receiving Party. This is used along with Point of Receipt to define a Path and direction of flow on that path. For internal paths, this would be a specific location in the area. For an external path, this may be an area-to-area interface.

Data Dictionary Element Name	Description	Field Format : minimum characters (type of ASCII) maximum characters	Units or Type	Restricted Values	Definition of Data Element
POINT_OF_RECEIPT (alias POR)	Point of Receipt	1(ALPHANUMERIC)12	Name	Unique value	Point of Receipt is the point of interconnection on the Transmission Provider's transmission system where capacity and/or energy transmitted will be made available to the Transmission Provider by the Delivering Party. This is used along with Point of Delivery to define a Path and direction of flow on that path. For internal paths, this would be a specific location in the area. For an external path, this may be an area-to-area interface.
PREV_ASSIGN_REF	Reference for Previous Assignment of ATC Rights	1(ALPHANUMERIC)12	Text	Unique value	A reference to a previous reassignment of rights, uniquely assigned by a Provider
PRICE	Price	1(NUMERIC)5 + "." + 2(NUMERIC)2	Dollars and cents	Positive number with 2 decimals	The offering price of the Transmission Service in dollars
PRICE_UNITS	Units for PRICE	5(ALPHA)5	Name	MW-HR, MW-DAY, KW-WK, KW-MO, KW-YR	The units used for PRICE. MW-Megawatts, KW-Kilowatts, HR-Hour, WK-Week, YR-Year
PRIMARY_ PROVIDER (alias PPROVIDER)	Primary Provider	1(ALPHANUMERIC)25	Name	Unique value	Name of an Owner of transmission services
PROVIDER	Primary or Secondary Provider	1(ALPHANUMERIC)25	Name	Unique value	Name of PRIMARY_PROVIDER or SECONDARY_PROVIDER
PROVIDER_CODE	Provider DUNS number	1(NUMERIC)12	DUNS number	Valid DUNS number	Unique code for each Primary and Secondary Provider.
PROVIDER_OPTIONS	Provider Options	1(ALPHANUMERIC)50	Text	Free-form text	Represents options offered by the Provider.
RATE_INFORMATION	Rate information related to transmission services	1(ALPHANUMERIC)50	Text	Free-form text	Rate information related to transmission services
REASSIGNED_BEGDATETZ	Beginning Date and Time	16 alphanumeric characters: yyyy+mo+dd+hh+mm+ss+tz	Time	Valid date and time	Date and time of the beginning of the transmission service that is reassigned to another customer.

Data Dictionary Element Name	Description	Field Format : minimum characters (type of ASCII) maximum characters	Units or Type	Restricted Values	Definition of Data Element
REASSIGNED_CAPACITY (alias REASIGN_CAP)	Transmission Capacity or Transfer Capability that is being reassigned to another customer	1(NUMERIC)12	MW	Positive number, cannot exceed previous purchase	Transfer capability is the measure of the ability of the interconnected electric systems to reliably move or transfer power from one area to another over all transmission lines (or paths) between those areas under specified system conditions. In this context, 'area' may be an individual electric system, power pool, control area, subregion, or NERC region, or portion thereof.
REASSIGNED_ENDDATEZ	End Date and Time	16 alphanumeric characters: yyyy+mo+dd+hh+mm+ss+tz	Time	Valid date and time	Date and time of the end of the transmission service that is reassigned to another customer.
REASSIGNED_STATUS	Status	4(ALPHABETIC)25	Text	Valid field	Valid entries include: Posted, Received, Accepted by Seller, Accepted by Customer, Withdrawn, Rejected
RECALLABLE_MINIMUM_NOTICE (alias REC_MIN_NOTICE)	Recallable Minimum Notice	1(ALPHANUMERIC)16	Text	Free-form text	Description by the Provider regarding time to notify that a service will be recalled.
RECALLABLE_QUEUE_ORDER (alias REC_QUE_ORDER)	Recallable Queue Order	1(ALPHANUMERIC)16	Text	Free-form text	Description by the Provider of the relative position of a services request to others of a similar type.
RECALLABLE_REASON (alias REC_REASON)	Recallable Reasons	1(ALPHANUMERIC)16	Text	Free-form text	Description by the Provider regarding conditions for services being recalled
RECALLABLE_RESUMPTION (alias REC_RESUMP)	Recallable Resumption	1(ALPHANUMERIC)16	Text	Free-form text	Description by the Provider regarding resumption of services.
REGION	Name of Region	1(ALPHANUMERIC)12	Text	Unique within OASIS System	Unique name for each area within the OASIS
REGION_CODE	Code for Region	1(ALPHANUMERIC)2	Code	Unique within OASIS System	Unique Defined for NERC regions, with the following defined: E - ECAR I - MAIN S - SERC T - ERCOT A - MAPP P - SPP M - MAAC N - NPCC W - WSCC

Data Dictionary Element Name	Description	Field Format : minimum characters (type of ASCII) maximum characters	Units or Type	Restricted Values	Definition of Data Element
RELATIVE_DAY, (alias RDAY)	Day relative to today	Query Variable	Numeric	Number greater than or equal to zero	This represents a value for DAY which is relative to TODAY. TODAY is represented as relative day 0. Days in the future are represented as positive values and days is the past are represented as negative values. TOMORROW is always relative day 1, while YESTERDAY is always relative day -1. This variable is used when only a single day needs to be specified. For a range of days, use the REATIVE_DAY_START and RELATIVE_DAY_END. If RELATIVE_DAY is specified, then DAY, DAY_START, and DAY_END, ELATIVE_DAY_START and RELATIVE_DAY_END must not be specified.
RELATIVE_DAY_END, (alias ERDAY)	Day relative to today for end	Query Variable	Numeric	Number greater than or equal to zero	See above
RELATIVE_DAY_START, (alias SRDAY)	Day relative to today for start	Query Variable	Numeric	Number greater than or equal to zero	See above
REQUEST_REF	Customer Request Identifier	1(ALPHANUMERIC)12	Text	Unique value	A reference uniquely assigned by a Customer to a request for service from a Provider.
REQUEST_STATUS	Status of a response to a request	1(NUMERIC)3+ALPHA	Status	Error number+!Successful/Unsuccessful	Example: 200 !Successful
SELLER_COMPANY (alias SECONDARY_PROVIDER_COMPANY, S_COMPANY)	Company of a Secondary Provider	1(ALPHANUMERIC)25	Name	Valid name of a Customer	The name of a Customer who has services for resell.
SELLER_EMAIL (alias (S_EMAIL)	Secondary Provider E-mail address	5(ALPHANUMERIC)80	E-mail address	Valid network reference	E-Mail address
SELLER_FAX (alias SECONDARY_PROVIDER_FAX), S_FAX	Secondary Provider Fax	10(NUMERIC)10	Telephone number	Area code and telephone number	The telephone number for SECONDARY_PROVIDER fax machine.

Data Dictionary Element Name	Description	Field Format : minimum characters (type of ASCII) maximum characters	Units or Type	Restricted Values	Definition of Data Element
SELLER_NAME (alias SECONDARY_PROVIDER_NAME, S_NAME)	Secondary Provider Name	1(ALPHANUMERIC)12	Name	Valid name	The name of an individual working for a Secondary Provider Company.
SELLER_PHONE (alias SECONDARY_PROVIDER_PHONE, S_PHONE)	Secondary Provider Phone	Numeric 10(NUMERIC)10	Telephone	Area code and telephone number	The telephone number for SECONDARY_PROVIDER_NAME
SERVICE_CATEGORY (alias SERVICE_CAT)	Service Category	1(ALPHANUMERIC)20	Text	Free-form text	A reference to the various service categories defined by the Provider.
SERVICE_DESCRIPTION	Description of Services	1(ALPHANUMERIC) Unlimited	Text	Free-form text	Information text.
SERVICE_TIMING_MAXIMUM_DURATION (alias SVC_MAX_DUR)	Service Timing Maximum Duration	1(NUMERIC)10	Hours	Positive number	Maximum amount of time for service.
SERVICE_TIMING_MINIMUM_DURATION (alias SVC_MIN_DUR)	Service Timing Minimum Duration	1(NUMERIC)10	Hours	Positive number	Minimum amount of time for service.
SERVICE_TYPE	Service Type	1(ALPHANUMERIC)14	Text	Free-form text	A reference to the various service types defined by the Provider. This provides for a sub-category for SERVICE_CATEGORY.
SINK	Sink	0(ALPHANUMERIC)14	Name	Valid area name	The area in which the SINK is located.
SOURCE	Source	0(ALPHANUMERIC)14	Name	Valid area name	The area in which the SOURCE is located.
ss	Seconds in date and time fields	2(NUMERIC)2	Time	Range of 0 to 59	A numeric value represent the seconds in the minute
STATUS	Status = Pending, Posted, Received, Accepted by Customer, Accepted by Seller, Confirmed for Scheduling, None, Withdrawn, or Rejected	4(ALPHABETIC)25	Text	Valid field	Valid entries include: POSTED PENDING RECEIVED ACCEPTED BY CUSTOMER ACCEPTED BY SELLER CONFIRMED WITHDRAWN REJECTED NONE

Data Dictionary Element Name	Description	Field Format : minimum characters (type of ASCII) maximum characters	Units or Type	Restricted Values	Definition of Data Element
SUBJECT	Subject	1(ALPANUMERIC)64	Text	Free-form text	A short descriptive phrase for summarizing information text.
TARIFF_REFERENCE	Reference to tariff	1(ALPANUMERIC)20	Text	Valid text	Valid reference to a tariff
TEMPLATE	Name of the Template:	Query Variable	Variable	Name of Template	This specifies which Template from which the data is returned. The following list are the names and valid values of the Templates.
TEMPLATE01		Query Parameter	Name	sumpathhouratc	Summary Path Hourly ATC
TEMPLATE02		Query Parameter	Name	sumpatdayatc	Summary Path Daily ATC
TEMPLATE03		Query Parameter	Name	sumpathmonthatc	Summary Path Monthly ATC
TEMPLATE04		Query Parameter	Name	sumpathyearatc	Summary Path Yearly ATC (optional)
TEMPLATE05		Query Parameter	Name	houratc	Hourly Capacity Available for Purchase
TEMPLATE06		Query Parameter	Name	dayatc	Daily Capacity Available for Purchase
TEMPLATE07		Query Parameter	Name	monthatc	Monthly Capacity Available for Purchase
TEMPLATE08		Query Parameter	Name	yearatc	Yearly Capacity Available for Purchase (optional)
TEMPLATE09		Query Parameter	Name	scheduledatc	Hourly Schedule
TEMPLATE10		Query Parameter	Name	secondatcpost	Secondary Provider Capacity Posting (Input)
TEMPLATE11		Query Parameter	Name	secondatcremove	Secondary Provider (Reseller) Capacity Remove (input)
TEMPLATE12		Query Parameter	Name	servavail	Ancillary Services Available for Purchase
TEMPLATE13		Query Parameter	Name	servtrans	Services Transmission
TEMPLATE14		Query Parameter	Name	atcrequest	Customer Capacity Purchase Request (Input)
TEMPLATE15		Query Parameter	Name	atcacknowledge	TSIP Posting of "Acknowledge Receipt" of Request
TEMPLATE16		Query Parameter	Name	atcstatus	Provider Capacity Purchase Status Response to Customer Request
TEMPLATE17		Query Parameter	Name	atcaccept	Customer's Purchase Acknowledge Acceptance (input)
TEMPLATE18		Query Parameter	Name	sellerack	Seller Form to Acknowledge Capacity Purchase Status (input)
TEMPLATE19		Query Parameter	Name	sellerreassign	Seller Form to Reassign Service Rights to Another Customer (input)
TEMPLATE20		Query Parameter	Name	wantadpost	Provider/Customer Want-Ad Posting Request (Input)
TEMPLATE21		Query Parameter	Name	wantadlisting	TSIP Posting of Want-Ad Response
TERMS_AND_CONDITIONS (alias TERM_COND)	Terms and Conditions	0(ALPHANUMERIC) Unlimited	Text	Free-form text	Short descriptions of terms and conditions.

Data Dictionary Element Name	Description	Field Format : minimum characters (type of ASCII) maximum characters	Units or Type	Restricted Values	Definition of Data Element
TIME_OF_LAST_UPDATE	Date and Time	16 alphanumeric characters: yyyy+mo+dd+hh+mm+ss+tz	Time	Valid date and time	Date and time data was last updated on OASIS Node Example: 19960212145530PS
TOTAL_TRANSMISSION_CAPACITY (alias TTC)	Total Transmission Capacity	1(NUMERIC)12	Megawatt hours	Positive number	Total capacity of a Path
tz	Time zone in date and time fields	2(ALPHA)2	Time	Valid text	An alphanumeric value represent the time zone, which can take the following values: ES, ED, CS, CD, MS, MD, PS, or PD
UNITS	Units	1(ALPANUMERIC)12	Units	Valid units	Description of type of entity being referenced
VERSION (alias VER)	Version	1(REAL NUMBER)6	Number	Range of 1.0 to 9999.9	Specifies which version of the OASIS Requirements specification to use when interpreting the request
WANT_AD	Want-Ad message	1(ALPHANUMERIC) Unlimited	Text	Free-form text	Information text.
YEAR	Year	4(NUMERIC)4	Time	Range of 1 to 12	A numeric value represent the year
YEAR-END, (alias EYR)	Last year to show data for	Query Variable	Numeric	Valid year	YEAR-START and YEAR-END specify a range of years.
YEAR-START, (alias SYR)	First year to show data for	Query Variable	Numeric	Valid year	YEAR-START and YEAR-END specify a range of years.
yyyy	Year in date and time fields	4(NUMERIC)4	Time	Range of 1 to 12	A numeric value represent the year

[NOTE: This appendix will not appear in the Code of Federal Regulations.]

Appendix B
Request (Query) Variables
April 24, 1996
Version 1.0

Use of Query Variables

PHASE 1 OASIS Requirements, Template-specific Query Variables

Each query of the OASIS node requests data from a specific OASIS Template in the Information Model. The user specifies which OASIS Template from which to obtain data based on a "template" query variable. The query variables allowed in a request depends upon which "template" is being requested.

For each template a description of the data request is documented.
Each query variable allowed for the template is listed afterwards. At the end of each template, there may be "Discussion Issues" related to the template.

Use of Query Variables

Summary Path Hourly ATC Template

This request returns the ATC and for transmission products (e.g. firm and non-firm transmission) by each provider of a given path for each hour on a given day.

Variables

TEMPLATE=sumpathhouratc

OUTPUT_FORMAT
VERSION

PATH-NAME
POR
POD

YEAR	(or YEAR-START and YEAR-END)
MONTH	(or MONTH-START and MONTH-END)
DAY	(or DAY-START and DAY-END)
RELDAY	(or RELDAY-START and RELDAY-END)
HOUR	(or HOUR-START and HOUR-END)
TZ	

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Use of Query Variables

Summary Path Daily ATC Template

Response contains on and off-peak firm and non-firm ATC and price by each provider of a given path for a given range of days.

Variables

TEMPLATE=sumpathdayatc

OUTPUT_FORMAT
VERSION

PATH-NAME
POR
POD

YEAR (or YEAR-START and YEAR-END)
MONTH (or MONTH-START and MONTH-END)
DAY (or DAY-START and DAY-END)
RELDAY (or RELDAY-START and RELDAY-END)

Use of Query Variables

Summary Path Monthly ATC

Response contains on and off-peak firm and non-firm ATC and price by each provider for a given path for a given range of months.

Variables

TEMPLATE=sumpathmonthatc

OUTPUT_FORMAT
VERSION

PATH-NAME
POR
POD

YEAR (or YEAR-START and YEAR-END)
MONTH (or MONTH-START and MONTH-END)

Use of Query Variables

Summary Path Yearly ATC Template

Response contains on and off-peak firm and non-firm ATC and price by each provider for a given path for a given range of years.

Variables

TEMPLATE=sumpathyearatc

OUTPUT_FORMAT
VERSION

PATH-1
POR-1
POD-1

YEAR (or YEAR-START and YEAR-END)

Use of Query Variables

Hourly Capacity Available for Purchase Template

Response contains firm and non-firm ATC and price for a given provider for one or more paths for each hour on a given day.

Variables

TEMPLATE=houratc

OUTPUT_FORMAT
VERSION

PROVIDER	must be specified
PATH-NAME	(PATH or PATH1 or PATH2, etc)
POR	(or POR1 or POR2, etc)
POD	(or POD1 or POD2, etc)
YEAR	(or YEAR-START and YEAR-END)
MONTH	(or MONTH-START and MONTH-END)
DAY	(or DAY-START and DAY-END)
RELDAY	(or RELDAY-START and RELDAY-END)
HOUR	(or HOUR-START and HOUR-END)
TZ	

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Use of Query Variables

Daily Capacity Available for Purchase Template

Response contains on and off-peak firm and non-firm ATC and price for a given provider for one or more paths for a given range of days.

Variables

TEMPLATE=dayatc

OUTPUT_FORMAT
VERSION

PROVIDER	must be specified
PATH-NAME	(PATH or PATH1 or PATH2, etc)
POR	(or POR1 or POR2, etc)
POD	(or POD1 or POD2, etc)
YEAR	(or YEAR-START and YEAR-END)
MONTH	(or MONTH-START and MONTH-END)
DAY	(or DAY-START and DAY-END)
RELDAY	(or RELDAY-START and RELDAY-END)

Use of Query Variables

Monthly Capacity Available for Purchase Template

Response contains on and off-peak firm and non-firm ATC and price for a given provider for one or more paths for a given range of months.

Variables

TEMPLATE=monthatc

OUTPUT_FORMAT
VERSION

PROVIDER	must be specified
PATH-NAME	(PATH or PATH1 or PATH2, etc)
POR	(or POR1 or POR2, etc)
POD	(or POD1 or POD2, etc)
YEAR	(or YEAR-START and YEAR-END)
MONTH	(or MONTH-START and MONTH-END)

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Use of Query Variables

Yearly Capacity Available for Purchase Template

Response contains on and off-peak firm and non-firm ATC and price for a given provider for one or more paths for a given range of months.

Variables

TEMPLATE=yearatc

OUTPUT_FORMAT
VERSION

PROVIDER	must be specified
PATH-NAME	(PATH or PATH1 or PATH2, etc)
POR	(or POR1 or POR2, etc)
POD	(or POD1 or POD2, etc)
YEAR	(or YEAR-START and YEAR-END)

Use of Query Variables

Hourly Schedule Template

Response contains firm and non-firm ATC schedule by each customer for one or more paths for each hour in a given day. No price information is given. Customer names "might" not be visible.

Variables

TEMPLATE=scheduledatc

OUTPUT_FORMAT
VERSION

PROVIDER	must be specified
PATH-NAME	(PATH or PATH1 or PATH2, etc)
POR	(or POR1 or POR2, etc)
POD	(or POD1 or POD2, etc)
YEAR	(or YEAR-START and YEAR-END)
MONTH	(or MONTH-START and MONTH-END)
DAY	(or DAY-START and DAY-END)
RELDAY	(or RELDAY-START and RELDAY-END)
HOUR	(or HOUR-START and HOUR-END)
TZ	

Use of Query Variables

Secondary Provider Capacity Posting (Input)

Input contains information to post ATC for sale by a secondary provider.

Variables

TEMPLATE=secondatcpost

VERSION

YEAR (or YEAR-START and YEAR-END)
MONTH (or MONTH-START and MONTH-END)
DAY (or DAY-START and DAY-END)
RELDAY (or RELDAY-START and RELDAY-END)
HOUR (or HOUR-START and HOUR-END)
TZ

POR
POD
PATH
PROVIDER
CAPACITY
CAPACITY_TYPE
INTERFACE_TYPE
REQUEST_REF
PRICE
UNITS
TERMS_AND_CONDITIONS
COMMENTS
SELLER_NAME
SELLER_COMPANY
SELLER_PHONE
SELLER_FAX
SELLER_EMAIL
PREV_ASSIGN_REF
REASSIGNED_CAPACITY
BEGDATETZ
ENDDATETZ
COMMENTS

Use of Query Variables

Secondary Provider (Reseller) Capacity Remove (Input)

Input contains information about a previously posted ATC for sale by a secondary provider.

Variables

TEMPLATE=secondatcremove

VERSION

YEAR (or YEAR-START and YEAR-END)
MONTH (or MONTH-START and MONTH-END)
DAY (or DAY-START and DAY-END)
RELDAY (or RELDAY-START and RELDAY-END)
HOUR (or HOUR-START and HOUR-END)
TZ

PROVIDER
POR
POD
PATH
CAPACITY
CAPACITY_TYPE
INTERFACE_TYPE
REQUEST_REF
PRICE
UNITS
TERMS_AND_CONDITIONS
COMMENTS
SELLER_NAME
SELLER_COMPANY
SELLER_PHONE
SELLER_FAX
SELLER_EMAIL

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Use of Query Variables

Ancillary Services Available for Purchase

Response contains a list of ancillary services provided by a given Service Provider.

Variables

TEMPLATE=servavail

OUTPUT_FORMAT
VERSION

PROVIDER

Use of Query Variables

Services Transmission

Response contains Transmission services tariff information about each service by the given provider.

Variables

TEMPLATE=servtrans

OUTPUT_FORMAT
VERSION

PROVIDER

Use of Query Variables

Customer Capacity Purchase Request (Input)

Input contains information necessary to purchase transmission capacity of a specific type (firm or non-firm) at a specific time.

Variables

TEMPLATE=atcrequest

OUTPUT_FORMAT
VERSION

POR
POD
PATH
CAPACITY
CAPACITY_TYPE
YEAR (or YEAR-START and YEAR-END)
MONTH (or MONTH-START and MONTH-END)
DAY (or DAY-START and DAY-END)
RELDAY (or RELDAY-START and RELDAY-END)
HOUR (or HOUR-START and HOUR-END)
TZ
PRICE
CUSTOMER
DISCOUNT
DEAL_REF
ANCILLARY_SERVICES_REQUIREMENTS
INTERFACE_TYPE
COMMENTS

Use of Query Variables

TSIP Posting of "Acknowledge Receipt" of Request

Response contains the customer capacity purchase information.

Variables

TEMPLATE=atcacknowledge

OUTPUT_FORMAT
VERSION

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Use of Query Variables

Provider Capacity Purchase Status Response to Customer Request

Response contains the STATUS and QUEUE INFORMATION for a given customer capacity Purchase Request.

Variables

TEMPLATE=atcstatus

OUTPUT_FORMAT
VERSION

POR
POD
PATH
CAPACITY
CAPACITY_TYPE
YEAR (or YEAR-START and YEAR-END)
MONTH (or MONTH-START and MONTH-END)
DAY (or DAY-START and DAY-END)
RELDAY (or RELDAY-START and RELDAY-END)
HOUR (or HOUR-START and HOUR-END)
TZ
PRICE
CUSTOMER
DISCOUNT
DEAL_REF
ANCILLARY_SERVICES_REQUIREMENTS
INTERFACE_TYPE
COMMENTS

Use of Query Variables

Customer's Purchase Acknowledge Acceptance (Input)

Input contains the Provider Capacity Purchase Status for a given customer Capacity Purchase Request and an indication of acceptance or rejection of the purchase.

Variables

TEMPLATE=atcaccept

OUTPUT_FORMAT
VERSION

STATUS (must be either "Accepted" or "Rejected")

POR
POD
PATH
CAPACITY
CAPACITY_TYPE
YEAR (or YEAR-START and YEAR-END)
MONTH (or MONTH-START and MONTH-END)
DAY (or DAY-START and DAY-END)
RELDAY (or RELDAY-START and RELDAY-END)
HOUR (or HOUR-START and HOUR-END)
TZ
PRICE
CUSTOMER
DISCOUNT
DEAL_REF
ANCILLARY_SERVICES_REQUIREMENTS
INTERFACE_TYPE
COMMENTS

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Use of Query Variables

Seller Form to Acknowledge Capacity Purchase Status (Input)

Input contains the Seller's status, queue, and reference number of a Customer Purchase Request.

Variables

TEMPLATE=sellerack

VERSION
STATUS
DTTZTS_QUEUED
REQUEST_REF
POR
POD
PATH
PROVIDER
SELLER_NAME
CAPACITY
CAPACITY_TYPE
CUSTOMER
DISCOUNT
DEAL_REFERENCE
SERVICE_DESCRIPTION
ASSIGNMENT_REF
INTERFACE_TYPE
COMMENTS
PREV_ASSIGN_REF The following may contain multiple values
PREV_CAPACITY
PREV_STATUS
PREV_BEGDATETZ
PREV_ENDDATETZ
PREV_COMMENTS

Use of Query Variables

Seller Form to Reassign Service Rights to Another Customer (Input)

Input contains the Seller's status, queue, and reference number of a Customer Purchase Request.

Variables

TEMPLATE=sellerreassign

VERSION
POR
POD
PATH
PROVIDER
SELLER_NAME
CAPACITY
CAPACITY_TYPE
BEGDATETZ
ENDDATETZ
REQUEST_REF
CUSTOMER
DISCOUNT
DEAL_REFERENCE
SERVICE_DESCRIPTION
ASSIGNMENT_REF
INTERFACE_TYPE
DTZZTS_QUEUED
COMMENTS

PREV_ASSIGN_REF The following may contain multiple values
PREV_CAPACITY
PREV_STATUS
PREV_BEGDATETZ
PREV_ENDDATETZ
PREV_COMMENTS

Use of Query Variables

Provider/Customer Want-Ad Posting Request (Input)

Input contains the want-ad information to post on the OASIS.

Variables

TEMPLATE=wantadpost

VERSION

YEAR	Date when message expires
MONTH	
DAY	
HOUR	
CUSTOMER	(or PROVIDER)
CONTACT	must be specified
PHONE	must be specified (if FAX or E-MAIL is blank)
FAX	must be specified (if PHONE or E-MAIL is blank)
E-MAIL	must be specified (if PHONE or FAX is blank)
KEYWORD	
SUBJECT	must be specified
WANT-AD	must be specified

Use of Query Variables

TSIP Posting of Want-Ad Response

Response contains the want-ad information on the OASIS.

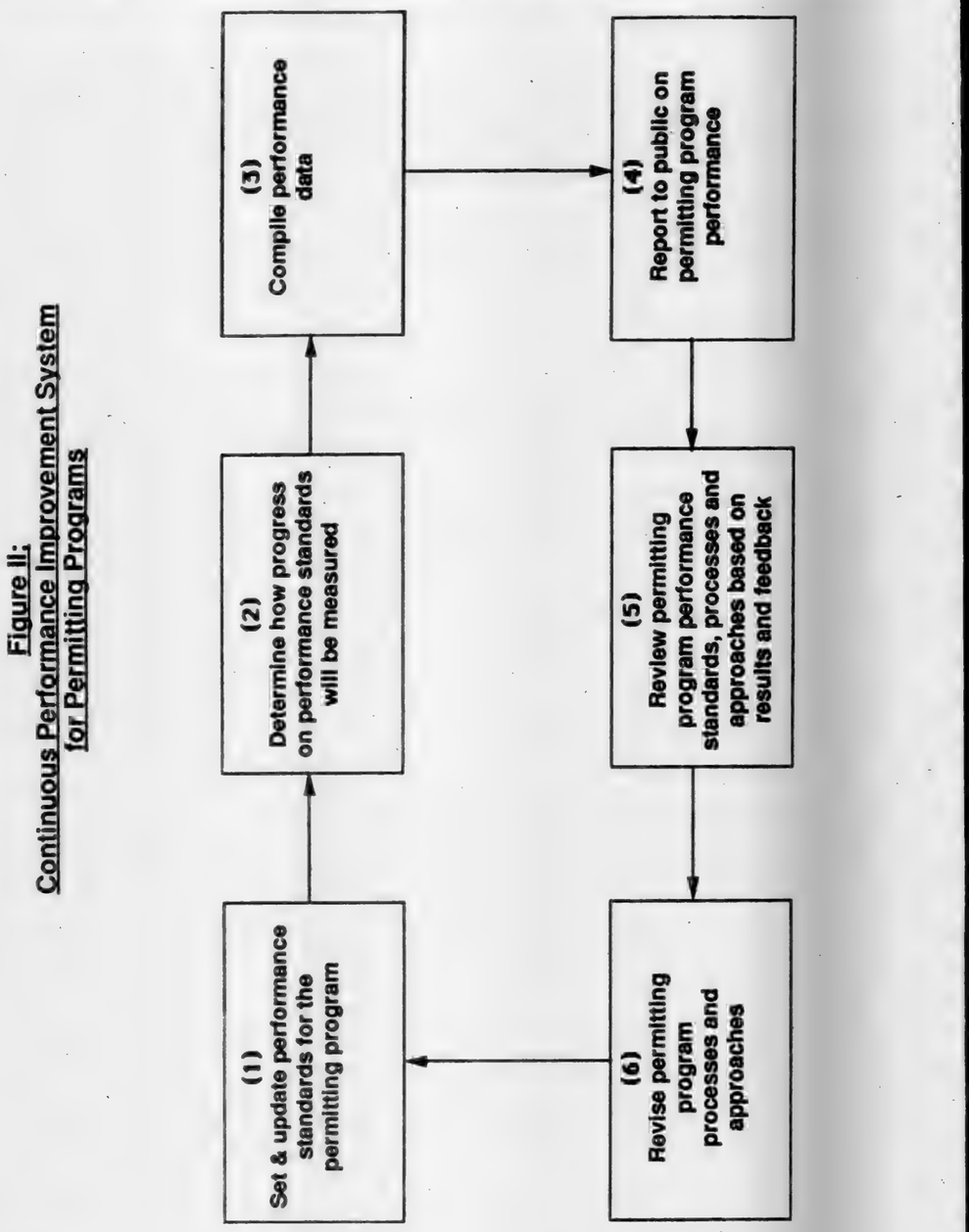
Variables

TEMPLATE=wantadlisting

OUTPUT_FORMAT
VERSION

SUBJECT	[optional]
WANT-AD	[optional]

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BILLING CODE 6717–01–C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM96–11–000]

Capacity Reservation Open Access Transmission Tariffs

April 24, 1996.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing a rule that specifies filing requirements to be followed by public utilities in making transmission tariff filings based on capacity reservations for all transmission users. The proposed capacity reservation open access transmission tariff, if adopted, would replace the open access transmission tariff required by the Commission in Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996). The Commission is seeking public comment on whether to require this type of tariff for all public utilities that must comply with the Commission's open access requirements, and on the specific provisions that should be contained in a capacity reservation tariff. The Commission will convene a technical conference on these issues.

DATES: Written comments must be received by the Commission by August 1, 1996. The Commission also will convene a technical conference to be held over two days in September 1996 at the Commission, 888 First Street NE., Washington, D.C. 20426. The Commission will announce the dates, time, and agenda of the technical conference at a later date.

FOR FURTHER INFORMATION CONTACT:
Jan Macpherson (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, Telephone: (202) 208–0921
Roland W. Wentworth (Technical Information), Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 10426, Telephone: (202) 208–1288.

ADDRESSES: Send comments to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street NE., Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1997 if dialing locally or 1–800–856–3520 if dialing long distance. CIPS is also available through the Fed World system (by modem or Internet). To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this order will be available on CIPS indefinitely in ASCII and WordPerfect 5.1 format. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in the Public Reference Room at 888 First Street NE., Washington, D.C. 20426.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is today adopting a final rule (Open Access Final Rule)[1] requiring each public utility that owns, operates or controls facilities used for the transmission of electric energy in interstate commerce to file an open access non-discriminatory transmission tariff (Final Rule tariff). The Open Access Final Rule also requires these utilities to take transmission service for their own wholesale sales and purchases of electric energy under this tariff. The Final Rule tariff specifies that service is to be provided on both a network basis and a flexible point-to-point basis; the network service is a load-based service, while the point-to-point service is based on transmission capacity reservations.

This Notice of Proposed Rulemaking ("NOPR") requests comment on whether there are certain disadvantages inherent in offering transmission service on both a network and a point-to-point basis. If so, the Commission requests comment on whether comparability of transmission service can be better accomplished by requiring that transmission service be rendered using a single methodology. In particular, the Commission requests comment on the capacity reservation tariff ("CRT") approach described herein. The Commission also requests comment on whether there are other methodologies that can fulfill the policy goals served by a single capacity allocation methodology as well as, or better than, the proposed CRT approach.

The proposed CRT approach would be based on the point-to-point service in the Final Rule tariff and would allow all transmission customers to have the same degree of flexibility in reserving and using transmission service. This NOPR proposes that no later than December 31, 1997, the Open Access Final Rule's network and point-to-point tariff be replaced by a CRT that provides only reservation-based transmission service for all jurisdictional service.

The Commission will hold a technical conference on this proposal prior to adopting a final rule.

II. Public Reporting Burden

The proposed rule specifies filing requirements to be followed by public utilities in making tariff filings that reflect transmission capacity reservations for all wholesale transmission customers and any unbundled retail transmission customers and would replace the open access transmission tariffs required by the Commission in the Open Access Final Rule. The information collection requirements of the proposed rule are attributable to FERC–516 "Electric Rate Schedule Filings." The current total annual reporting burden for FERC–516 is 828,300 hours.

The proposed rule requires public utilities filing capacity reservation transmission tariffs to provide certain information to the Commission. The public reporting burden for the information collection requirements contained in the proposed rule is estimated to average 250 hours per response. This estimate includes time for reviewing the requirements of the Commission's regulations, searching existing data sources, gathering and maintaining the necessary data, completing and reviewing the collection of information, and filing the required information.

There are approximately 328 public utilities, including marketers and wholesale generation entities. The Commission estimates that approximately 166 of these entities own, operate, or control facilities used for the

[1] Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities, Docket No. RM95–8–000, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996). The Open Access Final Rule is being published concurrently in the **Federal Register**.

transmission of electric energy in interstate commerce and will respond to the information collection. The respondents would be the same as those for the Open Access Final Rule, *i.e.*, all public utilities required to file non-discriminatory open access tariffs. Accordingly, the public reporting burden is estimated to be 41,000 hours.

Interested persons may send comments regarding the burden estimates or other aspects of this collection of information, including suggestions for reducing this burden, to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Michael Miller, (202) 208–1415], and to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission (202) 395–3087).

III. Background

In the Open Access Final Rule, the Commission has adopted a pro forma tariff containing the minimum acceptable terms and conditions of transmission service for network service and for flexible point-to-point service. This type of tariff, in conjunction with other requirements imposed in the Open Access Final Rule and in the related final rule in Open Access Same-Time Information System,[2] is sufficient to remedy undue discrimination in the provision of transmission services. However, in analyzing the comments in the Open Access proceeding, it became apparent that a single service open access tariff might better accommodate competitive changes occurring in the industry while ensuring that all interstate transmission service subject to the Commission's jurisdiction is provided in a fair and non-discriminatory manner.

Network transmission service, in the Open Access Final Rule, defines rights and sets prices based on *customer load*. It allows the transmission customer to use the transmission provider's entire grid to serve designated loads from designated resources without having to pay a separate charge for each pairing of resource and load. Thus, network service enables the transmission customer to use the network flexibly to integrate its resources and loads efficiently and to dispatch economically its system, in the same way as the owner of the transmission system.

Firm flexible point-to-point service in the Open Access Final Rule, on the other hand, defines rights and sets prices based on transmission *capacity reservations*. The transmission user designates points of delivery (PODs) and points of receipt (PORs) and makes a capacity reservation for each POD and for each POR. Consistent with the comparability principle that is one of the cornerstones of the Open Access Final Rule, firm point-to-point transmission service provided to a customer must be comparable to that which the utility provides to itself. For example, the customer should be able to use any available unreserved service without an additional charge, as long as the use does not exceed its capacity reservation.

The Commission proposes to replace the network and point-to-point services in the Open Access Final Rule tariff with a CRT that would accommodate both network and point-to-point needs. The CRT would be based on the point-to-point service in the Final Rule tariff and would allow all jurisdictional transmission customers to have the same degree of flexibility in reserving and using transmission service. Under the CRT, all transmission customers would specify the amount of power to be received and delivered at multiple receipt and delivery points, and would have substantial flexibility in rearranging these receipt and delivery points. All nominations for capacity reservations would be evaluated in the same manner.[3]

IV. Reasons for Proposing a CRT

In adopting the Final Rule tariff in the Open Access Final Rule, our purpose was to remedy undue discrimination in the provision of interstate transmission service, not to reform traditional tariff design. We believe that the Final Rule tariff, in conjunction with the OASIS Final Rule, remedies undue discrimination in transmission service. The network section of the Final Rule tariff is based on the prevailing industry practice of traditional load-ratio pricing.

Many commenters responded to our initial proposed open access pro forma tariffs by asking us to adopt either more flexible or more innovative tariffs in the Open Access Final Rule. Some commenters suggested that the basic design of the Open Access NOPR pro forma tariffs may be too inflexible to accommodate industry innovations. The capacity reservation tariff proposed here is an alternative that may better suit the needs of the changing electric power industry.

The Final Rule tariff offers two types of transmission service. Network service provides enough transmission capacity to satisfy a customer's consumption of electric power. Point-to-point service sets aside as much transmission capacity as the customer reserves. Thus, network service is based on use, and point-to-point service is based on reservations.

Network customers get and pay for the capacity they use, and point-to-point customers get and pay for the capacity they reserve. The fixed costs of the transmission system are allocated among network customers on the basis of use, that is, the customers' loads. The fixed costs of the transmission system are allocated among point-to-point customers on the basis of their reservations, that is, their contract demands.

Offering two types of service in one tariff may have disadvantages. At the end of this NOPR we ask questions about whether this is so. If it is, a solution may be to put all jurisdictional transmission users on the same basis: The transmission provider would serve and charge all customers (including its own jurisdictional uses of the system) on the basis of how much transmission capacity they either use or ask for. That is, it would make the entire tariff either load-based or reservation-based. If we do reform the tariff to put all transmission users on the same basis, we believe that, for the reasons set out next, putting all on a reservation basis may be more consistent with the industry's direction in its competitive restructuring. We seek comment on whether this premise concerning reservation-based service is in fact correct.

First, reservation-based service appears to be more compatible with our new OASIS and the requirement that market participants know how much transmission is available for their use. In the OASIS Final Rule, we require public utilities to post electronically their available transmission capability, or ATC. They must do this by calculating total transmission capability and subtracting transmission capacity committed to other uses. It is relatively easy to subtract point-to-point service reservations, but there is no amount of transmission capacity explicitly reserved for network customers or for the transmission provider's own network uses.

The transmission provider is committed to having available enough transmission capacity to serve its native load and the loads of its network customers. But the transmission provider knows only the customers' historical loads, not their future loads. Although the customers (as well as the transmission provider itself) must forecast their loads, they may have no incentive to forecast accurately because the utility must meet all transmission needs for serving load regardless of the forecast. This requires the transmission provider to predict its future native load and that of each of its network customers in order to determine its ATC.

While this process can work reasonably well in a regime in which utilities make bundled generation and transmission sales to requirements customers, it may not work as well now that various kinds of power sellers and marketers are eligible for unbundled network service. The transmission provider may not have any good way to forecast the increases or decreases in the loads of customers that it has no obligation to serve. It seems appropriate to ask all transmission customers, including the transmission provider, to state explicitly how much transmission capacity they want set aside for their needs. In this way, they effectively would be making a capacity reservation. This would simplify the transmission provider's determination of ATC and make the information available on the OASIS.

Under a CRT approach, each transmission customer (including the transmission provider for its own uses) would have to state its transmission capacity needs, as in the current point-to-point tariff. The requirement that reservations be stated in order to be subtracted from total transmission capability would ensure that all customers are treated comparably without the transmission provider having to make forecasts only for some.

On the other hand, an argument can be made that the CRT approach may lead to an understatement of ATC. For example, in reserving transmission service, customers might base such reservations on an estimate of their maximum non-coincident peak ("NCP") load. This conceivably could result in an understatement of ATC, because the diversity of customer loads at the time of the system peak would no longer be a relevant factor in determining ATC. The Commission requests comment on whether in practice this would be a problem and, if so, whether it can be remedied.

Second, a reservation-based tariff would put all jurisdictional transmission customers, including the transmission provider for its own jurisdictional uses, on the same basis. All customers would not only have to reserve transmission capacity but also would have to pay for the transmission capacity that they reserve.

It may be disadvantageous to have different bases for the pricing of two services in a tariff. For example, suppose a transmission provider has two nearly identical transmission customers. Each has a load of 50 MW, and each thinks its load next year could be as little as 40 MW or as much as 60 MW. However, one takes network service, and the other takes 60 MW of point-to-point service. Suppose these are the only customers on the system and they have coincident peak loads; if each actually uses 60 MW next year, each pays half the cost of the transmission system. But if each uses 40 MW, the point-to-point customer pays 60 percent of the cost[4] while the network customer pays only 40 percent.

Customers also may attempt to exploit to their advantage the different terms and conditions of the two services. As commenters in the Open Access proceeding pointed out, the many differences between capacity reservation-based (point-to-point) and load-based (network) services mean that transmission customers are treated differently. Having two services in a tariff may create an incentive for a customer to switch back and forth from one service to another in a way that may allow it to avoid paying a fair share of system costs. This would not be the case if all customers are served under a reservation-based (or load-based) tariff.

Third, a reservation-based approach may be a better basis for accommodating electric industry innovations and pricing reforms. The industry is in a period of rapid change, and many ideas are being considered for independent system operators (ISOs), regional transmission groups, regional power exchanges, generation divestiture, distribution company spin-offs, unified regional transmission ownership, regional transmission tariffs, megawatt-mile transmission pricing, marginal cost pricing, and congestion pricing, among other innovations. Innovations are being considered or implemented in such places as California, the Midwest, the large eastern power pools, and other places. Most proposals assume that all jurisdictional users of the transmission system will be treated alike.

Many commenters in the Open Access proceeding raised concerns that our pro forma tariffs with two separate services, one based on load and another based on capacity reservation, may be an obstacle to putting all transmission customers on the same basis and hence an obstacle to innovation. For example, the Commission would need to make special tariff accommodations to permit California public utilities to carry out the reforms mandated by the California Public Utilities Commission for an ISO, a regional power exchange, and congestion pricing. Although we have indicated that we are prepared to accept other tariff designs that further the goal of fostering robust competition in the bulk power market, the number of parties concerned with the traditional nature of our tariff suggests that our tariff may inhibit other parties from considering innovative industry structures and pricing policies.

This NOPR, among other things, indicates that the Commission is not committed to traditional tariff design. Further, it proposes a tariff design that supports calculation of ATC and treats all jurisdictional transmission users alike. We believe that the proposed CRT concept would provide a flexible base on which industry participants can build a variety of innovative tariff designs. We expect the CRT concept to be more compatible with various ISO and power pool pricing proposals than the traditional Open Access Final Rule tariff. We ask for comment on whether this is so. In addition, we request comment on whether there are other transmission capacity allocation methodologies (for instance, an "all network service" methodology) that, when compared to the two-service approach in the Final Rule, are more compatible with proposed and contemplated marketplace innovations.

In particular, we expect that a CRT would provide a better basis for regional flow-based transmission pricing. In the comments we received in the Open Access proceeding, a large number of industry participants stressed that the Commission should not codify contract path pricing in its Final Rule. As we explain more fully in the Open Access Final Rule, they were concerned that the proposed pro forma tariffs would codify the contract path approach to pricing. We explain in the Open Access Final Rule that this is not our intention; we continue to encourage the industry to explore solutions to regional loop flow problems through innovative regional flow-based pricing proposals.

It is unlikely that an efficient tariff for a large region would allocate some transmission costs on the basis of various subregional loads and other costs on the basis of capacity reserved over various multipath interfaces within

[2] Open Access Same-Time Information System (formerly Real-Time Information Networks) and Standards of Conduct, Docket No. RM95–9–000, Order No. 889, FERC Stats. & Regs. ¶ 31,037 (1996) (OASIS Final Rule). This rule also is being published concurrently in the **Federal Register**.

[3] A "nomination" is a request; a "reservation" is a confirmed nomination that can be held or traded.

[4] This is based on a 60–MW reservation divided by the sum of the network loads and the capacity reservations at the time of system peak.

the region. Most regional tariff proposals would allocate costs on the latter basis alone, recognizing, of course, that the configuration of regional loads is a starting point for any load flow study. For this reason, we believe that the proposed CRT approach to tariff design may be more compatible with the intent of some in the industry to move to flow-based pricing than a tariff that combines services based on usage and reservations. We ask for comments on whether this is the case. In addition, we ask for comment on whether there are other non-CRT approaches that may be more compatible with flow-based pricing.

Fourth, as discussed in the Open Access Final Rule, load-based network service generally cannot be resold. This reduces the amount of transmission products and services that can enter the secondary market. As a result, the secondary market could be thinner and less effective as a risk management tool for market participants. In addition, independent generators and marketers could be hampered in making efficiency-enhancing transactions that do not involve a load-serving entity, such as trading power between generators in different market centers. The Commission seeks comments on whether a capacity reservation service or some other alternative to the two-service approach in the Final Rule would better allow market participants to freely make efficient deals that involve combining transmission entitlements with power products in new and creative ways.

Fifth, we believe that additional comments should be received on whether the goal of unbundling transmission and generation services can be fully achieved under load-based network service. It would appear that transmission service would be fully unbundled from generation service under a CRT because the generation and transmission products are reserved and used independently. For example, reservations for flexible grid use, including interface capacity, could be held independently of load. In addition, generation resources and load would not need to be designated as under the network service; a transmission customer would have to pay for the capacity it reserved at PODs and PORs, but it would not have to designate any resources or loads.

Sixth, a capacity reservation approach may facilitate transmission planning. Under a CRT, all wholesale transmission users and unbundled retail transmission customers would be required to specify and pay for all of their transmission needs, including capacity needed for contingencies. The costs of contingency margins needed by only some users would not be allocated to all users of the grid. A CRT would allow each customer flexibility in managing its own risk, *e.g.*, a customer could factor reasonable reserve margins into its reservation for contingencies. This approach may be consistent with some innovative proposals that seek to accommodate customer-driven transmission expansion, in addition to traditional utility-planned transmission expansion.

Finally, some commenters in the Open Access proceeding encouraged us to treat the retail function of a public utility transmission provider as a separate wholesale customer for purposes of the transmission tariff. While we do not require this in the Open Access Final Rule, we propose here that the transmission used on behalf of the transmission provider's bundled retail native load be *nominated and reserved* in the same way as all other transmission service.[5] Requiring the same reservation system for all transmission capacity needs would help to assure that all uses of the transmission system are treated in a comparable, non-discriminatory manner. We seek comment on whether the retail function of a public utility transmission provider should be treated as a separate wholesale customer for purposes of the CRT tariff.

V. Capacity Reservation Service

A. Discussion

The Commission's CRT proposal is as follows. Each public utility subject to the Open Access Final Rule would be required to file a CRT no later than December 31, 1997. Under the CRT, which would replace existing transmission tariffs, all firm transmission users, including the transmission owner on behalf of its wholesale requirements and bundled retail customers, would nominate and reserve transmission capacity; they would nominate and reserve firm rights to receive specific amounts of power at specific grid PORs and to deliver specific amounts of power at specific grid PODs. PORs could include interconnections with other systems or generator bus bars. PODs could include interconnections with other systems or substations where the transmission provider's transmission and distribution systems are connected. Reservation holders could flexibly schedule power among some or all of their PORs and PODs within their reservation limits and could reassign their reservations. Thus, capacity reservation service could be used both for point-to-point types of transactions and in a network manner (integration of a set of generating resources with a dispersed load).

The capacity reservation approach would be based on the flexible point-to-point service in the Open Access Final Rule. A customer could specify a single POR and a single POD, or it could reserve service from multiple PORs to multiple PODs. The transmission provider would set aside sufficient transmission capacity to satisfy its firm reservation needs for any potential combinations of power receipts and deliveries among the designated receipt and delivery points.

An entity with dispersed generation and load could use CRT service to dispatch its generation economically within its capacity reservation. When one generating unit is ramped down, the customer could ramp up another generating unit located at another designated receipt point. The flexibility to serve load when the transmission customer is using less than its capacity reservation would be the same as under Final Rule network service. CRT service could also be used for simple point-to-point transactions if the customer does not want or need much flexibility.

Under a CRT, a customer also could have the flexibility to rearrange, or modify, its firm reservation to deal with unforeseen circumstances. Such a rearrangement could be accomplished as long as the customer's capacity reservation is not exceeded and firm transmission capacity is available. The flexibility of the proposed CRT service would not be unlimited, however. For example, a transmission customer might have very little flexibility to modify its reservation on a firm basis to accommodate an unanticipated dispatch pattern when the grid is operating at or close to capacity. Under such conditions, modifications likely would infringe on other firm reservations. To manage this risk, the customer would have two basic options. One would be to take non-firm transmission or ancillary service on an as-available basis (and potentially pay opportunity costs) when the need to alter the planned operation arises. The other option would be to subscribe to sufficient firm capacity in advance so as to build in the desired operating flexibility. While either option would have financial risks, all jurisdictional transmission customers would have the same opportunity to manage this risk, since the transmission service would be the same for all users.

[5] As discussed below, this is not the same as requiring bundled retail customers to *take* service under the CRT.

Under a CRT, all unbundled transmission service in interstate commerce, including unbundled retail service, would be taken under the tariff unless the Commission in an individual case determined otherwise (as discussed in the Open Access Final Rule in Section IV.I). The rates, terms, and conditions for unbundled transmission service would be in accordance with the tariff. In addition, all public utilities would nominate and reserve firm transmission service under the tariffs, including nominating and reserving transmission used for native load (*i.e.*, bundled wholesale requirements and bundled retail customers). This means that nominations and reservations would have to be made for specific receipt and delivery points for *all* firm transmission services. The purpose of this requirement would be that it may better ensure comparability. Moreover, the requirement for utilities to hold reservations on behalf of bundled wholesale and retail customers would be consistent with our responsibility under FPA section 213(b) to make information available about ATC and transmission constraints. The physical quantities of transmission service available to unbundled users cannot be measured accurately as long as the physical quantities used for bundled service are not measured in the same way.

However, we wish to emphasize that we are not proposing to set the rates, terms or conditions for the transmission component of bundled retail service. Nor would we determine the amount of capacity to be reserved for retail load. Traditional ratemaking prerogatives of state commissions would be unchanged by this nomination and reservation requirement. If the CRT is adopted, the Commission would allocate transmission costs based on the sum of all reservations for wholesale customers, unbundled retail customers, and bundled retail customers. State commissions could adopt a similar approach; however, they would remain free to use an inter-jurisdictional allocation formula of their own choosing, just as they may now. We note that in the Open Access Final Rule we have provided for procedures to facilitate jurisdictional line-drawing regarding cost allocation, and for deference to state recommendations. Therefore, we do not expect significant conflicts.

Under a CRT, a public utility would have an opportunity to recover all of its transmission fixed costs, just as it does today. While it is possible that the federal and state allocations could add up to less or more than 100 percent of the utility's fixed transmission costs, that is a risk that a utility faces anytime it is subject to the rate jurisdiction of more than one regulatory authority. Moreover, we would work with state commissions to develop compatible cost allocation procedures and to minimize the possibility of any over- or under-recovery of transmission costs.

B. Proposed Principles

A capacity reservation tariff might have terms and conditions very much like those for point-to-point service in the Final Rule tariff. These would need to be modified to accommodate former network service customers. It is premature to specify detailed terms and conditions of capacity reservation service in advance of the comments and technical conference. However, we propose certain general capacity reservation tariff principles for comment.

1. *Purpose of Reservation Service*

Transmission products and services should be provided on an open access, comparable basis. In order to ensure comparability, transmission service should be nominated and reserved on a non-discriminatory basis. Transmission for wholesale sales of electric energy should be made available on an unbundled basis.

2. *Basic Service Concept*

All firm transmission service would be reserved, and all reserved service would be firm service. Reservations of transmission capacity should permit the customer to receive up to a specific amount of power into the grid at specified PORs, and to deliver up to a specific amount of power from the grid at specified PODs, on a firm basis. Individual PORs and PODs need not be "paired" with each other. The customer's capacity reservation would be the higher of either (1) the sum of the reservations at all PORs or (2) the sum of the reservations at all PODs. All nominations for a capacity reservation would be evaluated using the same standard; for example, the utility could apply a feasibility criterion that states that the grid must be able to accommodate the scheduled use of all capacity reservations simultaneously.

3. *Use of Capacity Reservations*

A customer with a capacity reservation could use the reservation to deliver or receive any type of power product (such as firm or non-firm power). That is, use of the capacity reservation should not be restricted to particular power products. Any such restriction would be inconsistent with unbundling. This would allow the capacity reservation holder to combine transmission and power products in any way that satisfies its needs.

4. *Applicability to All Customers*

Capacity reservations for all firm transmission service would be made under the CRT, including reservations nominated on behalf of the transmission provider's bundled wholesale and retail customers. This would make it possible to allocate capacity and costs comparably among all transmission users. This would not require the unbundling of the transmission component of bundled retail rates or affect state authority with regard to the rates, terms, and conditions of service to bundled retail customers.

5. *Application of Penalties for Overuse*

Any charges for exceeding capacity reservations should be non-discriminatory. If a CRT penalizes use in excess of reserved amounts, these penalties should be applied comparably to all reservations. Any dispositions of penalties assessed against the utility for violating bundled retail capacity reservations would be under the state commission's ratemaking authority. If penalties are not authorized by the state commission's ratemaking authority, the Commission would not authorize recovery of such penalties from other transmission customers.

6. *Standard for Accepting Nominations*

A nomination for a capacity reservation would be accepted if the transmission provider determines that it can be reliably accommodated without infringing on other firm reservations. If transmission capacity expansion is needed and approved by state siting authorities, a nomination should be accepted if the nominating customer is willing to pay its appropriate share of the cost of the expansion.

7. *Non-firm Transmission Service*

In addition to reserved firm service, transmission providers would offer non-firm transmission service. Non-firm service could be provided from transmission capacity not scheduled by customers with reservations or from capacity that is not previously reserved. Non-firm service would be allocated to the highest valued use by opportunity cost pricing as described in the Open Access Final Rule or by some other pricing consistent with the Commission's Transmission Pricing Policy Statement.

8. *Open Season for New Facilities*

We would anticipate requiring a transmission provider to publicly announce its plans for capacity expansion projects to allow market participants to reserve capacity. Participants would pay an appropriate share of the costs of the project. All market participants would be treated comparably in securing additional transmission capacity reservations when the grid capacity is expanded.

9. *Cost Allocation and Pricing*

The fixed costs of the transmission network would be allocated among reservation holders on the basis of their capacity reservations. Rates would be designed to recover these costs and would be revised from time to time to reflect changes in the level of fixed costs or changes in reserved amounts. In this way, transmission providers would have an opportunity to fully recover their fixed costs. Transmission providers would be expected to propose specific mechanisms for recovering fixed costs from transmission customers.

10. *Standardized Products and Priority Protocols*

Just as the Commission has required under the Open Access Final Rule tariff, the CRT would offer standardized transmission products and services, defining reserved and non-reserved transmission service and setting reservation priorities and curtailment protocols. This would reduce uncertainty and facilitate the trading of any transmission capacity in a secondary market. Such trading can be an important tool in price discovery and risk management.

11. *Service Modifications*

Customers with a capacity reservation would be allowed to modify their capacity reservations at no additional charge if the modification can be accommodated without infringing upon any other firm capacity reservations. Modifications should not result in the customer's capacity reservation being exceeded. Modifications could include reallocation among the customer's already specified receipt and delivery points or reallocation from existing to new receipt and delivery points.

12. *Scheduling Flexibility*

Customers with capacity reservations would be given the option of scheduling (using) less than their full capacity reservation at each POR or POD. In addition, the transmission provider also could offer an "obligation" type of capacity reservation under which the customer would be required to use all of the capacity it has reserved.

13. *Reassigning Reservations*

Customers would be allowed to reassign their reservations to other entities eligible to take service under the CRT at no additional cost, subject to certain limitations, such as those in the Open Access Final Rule point-to-point tariff provisions.

14. *Opportunity Cost Pricing*

Opportunity cost pricing would still be an option under a capacity reservation service. Under a CRT, a holder of a capacity reservation would not pay opportunity costs for use of its own capacity when the utility encounters a transmission constraint; instead, it would be eligible to receive opportunity cost payments if it did not use its full capacity reservation across the constrained interface. In contrast, a customer seeking a capacity reservation or using non-firm service might have to pay opportunity costs.

15. *Planning Obligation*

Each market participant would be responsible for planning its own transmission needs. The transmission provider would not be responsible under Federal rules for planning the CRT nominations of others, even relatively small customers. Transmission providers, of course, would be free to enter voluntary arrangements to perform this task, or they may be required to do so under state laws. The Commission would consider approving negotiated rates and conditions between a small customer and a transmission utility that reflect different risks accepted by each party when one plans for the other.

VI. Questions

In addition to the questions discussed above, the Commission also seeks comments on the following questions:

1. What are the advantages and disadvantages of having two services in one tariff?

2. What are the advantages and disadvantages of having all transmission users on a load-based network service tariff? Are there ways of overcoming the disadvantages without moving away from network service?

3. Does network service provide any transmission use that could not be provided under a CRT?

4. Is the CRT or a network approach better suited to encouraging efficiency-enhancing transactions and encouraging wholesale power markets in which the greatest number of sellers have a chance to compete? Are they equally-suited to achieving these goals?

5. The proposed rule would require that all transmission uses, including bundled retail service, be reserved. Is this appropriate? The Commission intends that bundled wholesale and retail load would have reservation priority and seeks comments on how best to achieve this. Is it appropriate or necessary to have federal rules regarding such matters as physical scheduling and reservation priority for bundled retail load as well as for other transmission customers? How can transmission service for bundled retail load be separated from transmission service for others and how would such a separation be implemented?

6. Would a CRT requirement by the Commission facilitate or hinder any of the industry's current restructuring efforts?

7. Would a CRT facilitate or hinder any of the innovative transmission pricing approaches now being considered by the industry? Specifically, would it accommodate flow-based pricing that does not depend on a contract path?

8. Should nominations for longer-term capacity reservation receive priority over those for shorter terms? Are there other ways to allocate capacity nominations? Would an initial open season, with bundled wholesale and retail load priority, be appropriate?

9. How should points of receipt and points of delivery be defined? Is the distinction between transmission and distribution relevant in determining eligible points?

VII. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA)[6] requires rulemakings to contain either a description and analysis of the effect that the proposed rule will have on small entities or a certification that the rule will not have a significant economic impact on a substantial number of small entities. We note, if this proposed rule is adopted, only public utilities that are subject to the Open Access Final Rule will have to file CRTs. In other words, the proposed rule would be applicable to public utilities that own, control or operate interstate transmission facilities, not to electric utilities *per se*. Almost all public utilities that own, control or operate interstate transmission facilities do not fall within the RFA definition of small entities.

[6] 5 U.S.C. §§601–612.

In *Mid-Tex Electric Coop., Inc.* v. *FERC*,[7] the court accepted with the Commission's conclusion that, since virtually all of the public utilities that it regulates do not fall within the meaning of the term "small entities" as defined in the RFA,[8] the Commission did not need to prepare a regulatory flexibility analysis in connection with its proposed rule governing the allocation of costs for construction work in progress (CWIP).[9] The CWIP rules applied to all public utilities. The proposed rule in contrast would apply to only those public utilities that own, control or operate interstate transmission facilities. These entities are a subset of the group of public utilities found not to require preparation of a regulatory flexibility analysis for the CWIP rule. Further, the Commission expects that public utilities for good cause shown could seek waivers of the proposed rule's requirement, just as they are able to seek waiver of the Open Access Final Rule.

Because: (a) Virtually all of the utilities that would be subject to the proposed rule are not "small entities" as defined in the RFA; and (b) the proposed rule will make adequate provision, through allowances for waivers, for mitigation of the effects of the rule, the Commission certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

VIII. Environmental Statement

The Commission concludes that promulgating the proposed rule would not represent a major federal action having a significant adverse impact on the human environment under the Commission's regulations implementing the National Environmental Policy Act.[10]

IX. Information Collection Statement

The Office of Management and Budget's (OMB) regulations[11] require that OMB approve certain information and recordkeeping requirements imposed by an agency.

The information collection requirements in the proposed rule are contained in FERC–516 "Electric Rate Filings." The Commission uses the data collected in this information collection requirement to carry out its regulatory responsibilities under Part II of the Federal Power Act. The Commission's Office of Electric Power Regulation uses the data to review electric rate filings.

The Commission is submitting notification of this proposed rule to OMB. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 (Attention: Michael Miller, Information Policy and Standards Branch, (202) 208–1415). Comments on the requirements of this proposed rule can also be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for Federal Energy Regulatory Commission).

X. Public Comment Procedures

The Commission invites comments on the proposed rule from interested persons. An original and 14 copies of written comments on the proposed rule must be filed with the Commission no later than August 1, 1996.

In addition, commenters are requested to submit a copy of their comments on a 3½ inch diskette formatted for MS–DOS based computers. In light of our ability to translate MS-DOS based materials, the text need be submitted only in the format and version in which it was generated (*i.e.*, MS Word, WordPerfect, ASCII, etc.). It is not necessary to reformat word processor text to ASCII. For Macintosh and Macintosh-based users, it would be helpful to save the documents in Macintosh word processor format and then to write them to files on a diskette formatted for MS-DOS machines. All comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, and should refer to Docket No. RM96–11–000.

All written comments will be placed in the Commission's public files and will be available for public inspection in the Commission's public reference room at 888 First Street, N.E., Washington, DC 20426, during regular business hours.

XI. Technical Conference

The Commission intends to convene a technical conference for two days in September 1996 at the Commission's office, 888 First Street NE., Washington, DC 20426, at a date and time to be announced. The first day of the technical conference will address the issue of whether the Commission should require CRTs. The second day will address the issue of how to implement any such requirement.

List of Subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements

By direction of the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission proposes to amend part 35, chapter I, title 18, Code of Federal Regulations, as set forth below.

PART 35—FILING OF RATE SCHEDULES

1. The authority citation for part 35 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

2. Section 35.28 is revised to read as follows:

§35.28 Non-discriminatory open access transmission tariffs.

(a) Every public utility that owns, controls or operates facilities used for the transmission of electric energy in interstate commerce must have on file with the Commission a capacity reservation tariff of general applicability for transmission services, including ancillary services, over these facilities consistent with the requirements of Order No. ____, (Final Rule on Open Access Capacity Reservation Tariffs). Subject to the exception in paragraph (b) of this section, such tariff must be filed no later than the date on which the Commission accepts for filing any agreement under which such public utility would engage in a sale of electric energy at wholesale in interstate commerce, or any agreement under which such public utility would engage in the transmission of electric energy in interstate commerce.

(b) If a public utility owns, controls or operates facilities used for the transmission of electric energy in interstate commerce as of July 9, 1996. it must file a capacity reservation tariff of general applicability for transmission services, including ancillary services, over these facilities consistent with the requirements of Order No. —(Final Rule on Open Access Capacity Reservation Tariffs) no later than December 31, 1997.

(c) Any public utility that owns, controls or operates facilities used for the transmission of electric energy in interstate commerce, and that uses those facilities to engage in wholesale sales and/or purchases of electric energy, or

[7] 773 F.2d 327, 340–343 (D.C. Cir. 1985) (*Mid-Tex*).

[8] The RFA defines a "small entity" as "one which is independently owned and operated and which is not dominant in its field of operation." *See* 5 U.S.C. 601(3) and 601(6) and 15 U.S.C. 632(a)(1) (definition of "small business concern").

[9] *Mid-Tex*, 773 F.2d at 340–43.

[10] *See* 18 CFR 380.4(a)(15) (categorically excluding electric tariff filings under sections 205 and 206 of the FPA from the obligation to prepare an environmental assessment or an environmental impact statement).

[11] 5 CFR 1320.12.

unbundled retail sales of electric energy, must take transmission service for such sales and/or purchases under the tariff filed pursuant to this section.

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Part III

Environmental Protection Agency

Permits Improvement Team Concept Paper on Environmental Permitting and Task Force Recommendations; Availability; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5501–7]

Notice of Availability of Permits Improvement Team Concept Paper on Environmental Permitting and Task Force Recommendations

AGENCY: Environmental Protection Agency.

ACTION: Final draft of Permits Improvement Team's Recommendations.

SUMMARY: The PIT was formed in July 1994 to evaluate the Agency's permitting programs, both delegated and administered directly, and develop recommendations to improve the effectiveness and efficiency of the permitting process. The PIT is composed of representatives from EPA Headquarters and Regional Office and state, tribal and local permitting agencies. The PIT held numerous stakeholder meetings to solicit input on the most critical permitting issues and to obtain feedback on the initial recommendations.

Although significant input on the PIT's recommendations has been received through our stakeholder meetings, a brief final review by appropriate Federal Advisory Committee Act (FACA) organizations (Common Sense Initiative, National Environmental Justice Advisory Council and Federal Facilities Environmental Restoration Dialogue Committee) is being provided. This is being done to ensure that the recommendations are not inconsistent with the efforts of these Agency advisory groups. After making any changes based on this review, the PIT recommendations will be submitted to Administrator Browner for her consideration. Should she endorse the recommendations, implementation will commence. Stakeholders will continue to be involved in specific permit reform efforts.

The PIT Concept Paper on Environmental Permitting and Task Force Recommendations follows this notice. In addition, the document can be obtained via the Internet at 'gopher://gopher.epa.gov' or 'http://www.epa.gov'. After reaching either of these Internet sites, locate the search function and type 'Permit Improvement Team' to locate the Concept Paper on Environmental Permitting and Task Force Recommendations. A copy can also be obtained by writing to the Permits Improvement Team, Mail Stop 100, 2890 Woodbridge Ave., Edison, NJ 08837.

If an organization would like to discuss the PIT recommendations a meeting can be arranged, provided funding is available in the Agency's budget. Contact Lance Miller, PIT Executive Director at the above address to arrange a meeting.

Dated: April 19, 1996.

Elliott P. Laws,

Designated Federal Official.

PERMITS IMPROVEMENT TEAM FINAL DRAFT OF CONCEPT PAPER ON ENVIRONMENTAL PERMITTING AND TASK FORCE RECOMMENDATIONS

April 1996

CONCEPT PAPER ON ENVIRONMENTAL PERMITTING

I. Introduction

A. Purpose of the Concept Paper

Over the past 25 years, EPA has continually searched to find the best ways to protect the environment. Among the most successful methods have been EPA's programs requiring industrial and municipal facilities to obtain permits to control their pollutant emissions [1] to the air, land and water. Programs such as New Source Review for air emissions, National Pollutant Discharge Elimination System (NPDES) for water discharges and the Resource Conservation and Recovery Act (RCRA) for hazardous waste management have in many ways reduced the negative impacts of industrial and municipal facilities on human health and the environment.

But numerous environmental challenges remain. Perhaps the greatest challenge for EPA today is to answer the public demand for *more* environmental protection at *less* cost. This demand of "more for less" requires EPA to examine both the philosophy and practice of its permitting systems, to determine how they can be made to function more effectively while at the same time decreasing costs for environmental agencies and the regulated community.

This concept paper seeks to resolve these concerns by establishing a revised approach to environmental permitting: public performance-based permitting. This approach incorporates two concepts; one, the establishment of a defined level of performance to be achieved by the permittee and two, providing the public with the necessary information so they can monitor the permitting process and compliance of permitted facilities. Once the final draft of this concept paper has been completed and approved (following the incorporation of additional comments), it will serve as a statement of official EPA policy on environmental permitting. As such, it will be used by EPA permit programs as guidance. EPA Program offices affected by these changes will need to develop plans that outline what they must do to implement these principles (e.g., policy, regulatory or process changes) consistent with statutory requirements. Theses plans could take the form of program specific strategic plans that would include short and long-term goals for moving the public performance-based permitting concepts forward. It is important to note that some EPA programs, such as NPDES permitting, are already applying many of these principles, and therefore may have fewer changes to make.

Other environmental permitting programs, such as those of state, tribal or local governments, are strongly encouraged to adopt these principles where appropriate.

B. EPA's Relationship With State, Tribal and Local Environmental Agencies

Before discussing the principles of a modified permitting system, it is important to understand the context in which these principles would be carried out. Rather than issuing most permits itself, EPA generally has established programs to authorize state, tribal and local permitting authorities, to perform most of the permitting. Recently, EPA and the states signed an agreement, the National Environmental Performance Partnership System, aimed at making EPA oversight of states less uniform and prescriptive and more based on performance, so that states with more effective programs and proven environmental results may receive less oversight. A similar approach is being developed for tribes. This concept paper follows the principles of the new EPA/state relationship, with the goals of making EPA permitting systems more performance-based and providing authorized permitting authorities more flexibility to find the best approaches to permitting and data management. The principles in this paper, therefore, should be understood as approaches that EPA would like to encourage through flexibility and assistance to state, tribal and local governments, and not as any kind of new mandates. A key aspect of that assistance is the provision of information from EPA databases. A comprehensive effort to upgrade the quality and breadth of these databases is needed. Some of the individual Task Force recommendations that follow this paper identify specific projects to improve the Agency's delivery of information. In addition, specific changes to the permitting system need to be developed through continued dialogue with state, tribal and local environmental agencies and other stakeholders.[2]

[1] The terms "emission", "release" and "discharge" are used interchangeably in this paper.

C. Permits Improvement Initiatives

While EPA and many other environmental agencies have taken, and are taking, specific actions to improve their permitting systems, there is also a need to re-examine EPA's overall approach to permitting. Toward this end, the Permits Improvement Team (PIT) was founded by EPA's Administrator in July 1994 to comprehensively examine the permit reform efforts going on around the country and determine how, taking the best of these efforts, EPA's overall approach to permitting could be improved. (A compilation of over 100 environmental agency permitting reform projects, entitled "The Inventory of USEPA/State Permit Improvement Initiatives" can be accessed via the internet at 'gopher://gopher.epa.gov' or at 'http://www.epa.gov'. After reaching either of these internet sites, locate the search function and type 'Permit Improvement Team' to locate the inventory. A hard copy of the inventory can be obtained by calling 908–321–6782.)

D. Public Performance-Based Permitting

The purpose of permitting is to establish the level of performance needed by facilities or individuals to protect human health and the environment. To do so, EPA has in some cases set performance standards, determined the technical means by which facilities must comply with these standards, and then required monitoring and inspection to assure their compliance. In some instances, standards were highly prescriptive (including detailed technology or management requirements) that eliminate or severely restrict alternative approaches to achieving compliance. In other cases EPA bases a standard on a technology, which can be viewed by the regulated community as the technology of choice.

It is the contention of this paper that too much time and resources are spent reviewing the *technical means* by which a permittee will comply with permit conditions. While detailed technical reviews were warranted 25 years ago, sufficient progress has been made in verifying technology and increasing corporate environmental responsibility that it is now appropriate to re-evaluate this approach. In instances where technologies are new or unique, detailed technical review may still be warranted; in circumstances where proven or verified technology is being permitted, however, such level of review may be inappropriate. Conducting detailed technical reviews for off-the-shelf technologies has resulted in several negative consequences:

- Permitting agencies are overloaded with routine detailed paperwork to review. This takes time away from other activities, as verifying the equivalency of performance for innovative technologies, causes permit actions to take an unacceptable amount of time, and prevents a more logical and beneficial ordering of priorities. In addition, the excessive focus on the *means* of compliance distracts attention from evaluation of progress on the *end* of improving environmental conditions.
- The regulated community, in addition to sometimes being burdened by unwarranted paperwork, a slow permitting process and unnecessary economic hardships, is in some cases not provided the flexibility—or any incentives—to seek the kind of technological innovations which could *prevent* pollution at its source, and/or provide better environmental results at lower cost.
- The permitting process is largely focused on technical issues, sometimes, beyond the grasp and interest of the general public. The permitting agency and permittee can spend much time grappling with these issues, while the public is usually excluded until such a time when these issues have been resolved through the writing of a draft permit. The public's ability and opportunity to judge the permit process and results can thus be unduly limited.

In order to remedy this situation, this paper proposes a permitting approach called public performance-based permitting, or P3. The essence of this approach is to shift the focus of environmental permitting towards the measurement and assurance of performance, while providing flexibility as to *how* a permittee will meet performance standards. The focus of this system will not simply be performance, but performance within a public arena: to the extent possible and appropriate, the public should be involved in the setting of performance standards and the measurement and judgement of performance. It is recognized that the existing environmental statutes may limit EPA's latitude in fully implementing this approach. As EPA seeks changes to its various permitting programs in accordance with this approach, specific legislative barriers will be identified. As opportunities develop to address these barriers, specific legislative changes will be proposed.

The P3 principle includes three different types of performance. The existing permitting programs each contain elements of this principle. The objective of the permitting programs will be to more fully implement each type of performance.

1. Environmental results: How are permitted activities actually affecting the environment? To improve knowledge and understanding of this performance factor, this paper proposes that permitting agencies increase ambient (environmental) monitoring as a permit condition in selected permits, while comparatively reducing other emissions monitoring and reporting requirements. Ambient monitoring results shall be reported to the public in understandable terms. Ambient monitoring would not eliminate individual facility monitoring requirements.

2. Facility compliance: How well are permitted facilities complying with their permits over time? To increase the rates at which facilities comply with their permit conditions, permitting agencies should (1) establish reporting requirements based on a facility's level of compliance (e.g., reduce reporting for facilities with good compliance records) and potential impact of an activity, (2) create incentives for pollution prevention and technological innovation, and (3) provide compliance assistance to facilities that are making good-faith efforts but finding it difficult to comply (e.g., small businesses and local governments). Furthermore, compliance data will be put in understandable terms and made available to the public.

3. Agency performance: How good a job are EPA and other environmental permitting agencies doing? To ensure that they continue to protect the environment in the most effective and efficient ways possible, this paper recommends that EPA devise methods to measure the performance of permitting systems and to continually improve these systems based on performance data received. These methods shall be provided for the use of state, tribal and local environmental agencies as well. Information on the performance of all permitting agencies should be publicly reported in understandable terms.

[2] The term stakeholder(s) is used in this paper to refer to all groups interested in environmental permitting, including environmental, community and environmental justice groups, regulated entities, and state, tribal and local permitting agencies.

The proposals for these three types of performance are detailed in the following sections. But first, it is necessary to discuss in more detail the importance of public participation in the approach to permitting specified in this concept paper.

Traditionally, permitting agencies have limited public participation to public comment periods and hearings at the latter stages of the permit process. This concept paper sets forth a more open process that provides the public opportunities for earlier and more meaningful participation, within the context of the requirements specified in federal and state laws. This model is inspired by some recent initiatives in public participation, including EPA's RCRA Expanded Public Participation rule and the Chemical Manufacturing Association's (CMA) Responsible Care Program.

These initiatives are based on the concept of direct reporting of information to the public early in the permitting process and in understandable terms. In addition to increasing public awareness regarding facility operations, these programs can serve as a powerful incentive for facilities to reduce their toxic emissions, so as to avoid arousing public concern. P3 would extend these concepts to the public reporting of ambient monitoring results, facility compliance data and information on how well EPA and permitting agencies are performing.

Furthermore, an effective permitting process (for individual permits) requires that the public be involved early and intimately enough that their needs and concerns may be incorporated into permits and other aspects of facility and/or agency policy. Such opportunities can defuse the kinds of adversarial relationships which otherwise may slow and obstruct the permitting system with, for example, lawsuits or permit appeals.

To address these types of concerns, the CMA established its Responsible Care program. Under this program, chemical plants are encouraged to establish community advisory panels, through which the facility and members of its surrounding community can establish a continuing dialogue. The Departments of Defense and Energy have developed similar programs to encourage community participation in their environmental projects. Such forums allow the public and the facility new opportunities to educate each other on their respective needs and concerns, and to jointly resolve differences on environmental issues. EPA will encourage the development of community advisory panels at more facilities, by facilitating the establishment of similar committees in situations where the public and regulated community determine it would be beneficial.

Public performance-based permitting is designed to change the relationships among permitting agencies, permittees and the general public. The permitting process is currently often burdened with mistrust and adversarial relationships among all three of these parties. If these relationships can be rebuilt on a basis of trust, partnering, accountability and cooperation, the most serious obstacles to an effective and efficient permitting system will have been removed. (See Figure I)

The PIT specifically notes that there are regulatory or statutory barriers to some of the approaches listed below. The Agency's ability to implement each of these options under current law would need to be investigated further as these options are developed in more detail.

II. Environmental Results

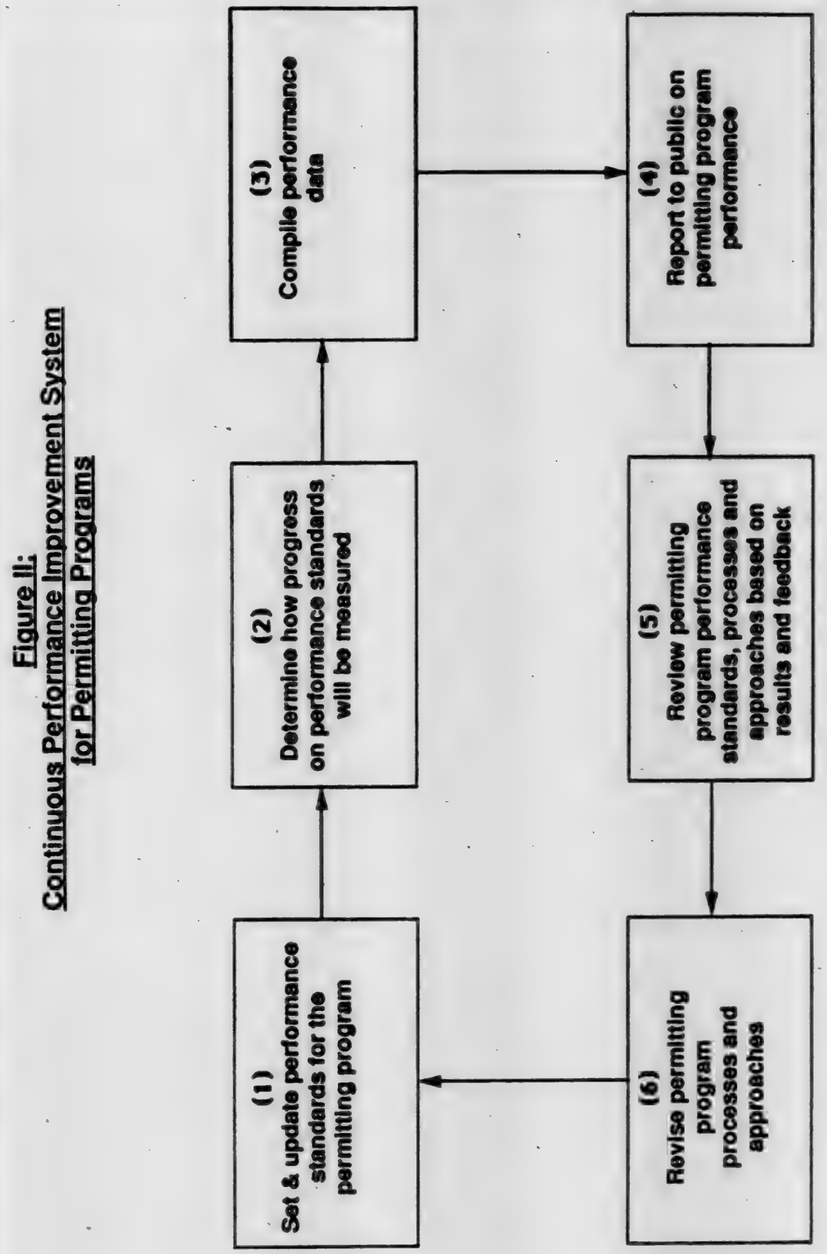
The ultimate measure of the performance of EPA's environmental permitting systems is the condition of the air, land and water. Current permitting systems focus primarily on gathering information about permittees' compliance, but comparatively little information is gathered on the actual effects of permitted activities on human health and the environment. To a large extent, environmental permitting systems also lack the flexibility to restructure and rearrange their priorities in response to such environmental performance data, since they are often set up to issue individual permits based solely on the potential impacts of each facility. However, changes are being proposed in this area as permitting authorities consider ecosystem and community based approaches to permit issuance.

Yet in order to answer public demands for *more* environmental protection at *less* cost, there is a need to determine how to focus more resources on the activities producing the greatest environmental impact, while divesting from activities of lesser significance. To do so effectively, better information is needed on the effects industrial and municipal activities are actually having on the air, land and water.

This should be accomplished through, for example, an increase in the use of ambient monitoring as a permit condition. Practically speaking, this cannot be done overnight. EPA needs to research how to perform ambient monitoring in a cost-effective manner, how to collect useful data and how to trace pollution found through such monitoring back to the source(s). Different media present varying challenges: air monitoring, for example, is particularly complex. It might be beneficial to work on these issues in a multi-program team with Office of Research and Development (ORD) support.

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Figure II:
Continuous Performance Improvement System for Permitting Programs



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Despite these challenges, some programs are already beginning to achieve these objectives. The Greater Houston Partnership, for example, is a voluntary program under which Houston-area refineries have set up an air monitoring network. In the short term, EPA will encourage and set up more such pilots and feed all results into a study of how to run effective ambient monitoring programs. These pilots should cover each media (air, surface water and ground water) jointly or separately, and some of the pilots should incorporate the concept of involving the community in monitoring, facilitated by experts from government or the private sector.

At the same time, it is important *not* to increase the information-gathering and reporting burden on permitted facilities. On many occasions, the regulated community has raised concerns about having to meet duplicative or counter-productive compliance monitoring, reporting or record-keeping requirements. In exchange for increasing ambient monitoring requirements, therefore, EPA shall concurrently identify and eliminate other compliance information requirements. The Office of Enforcement and Compliance Assurance and the Program offices, in consultation with stakeholders, will conduct thorough program reviews that rank compliance monitoring, reporting and record-keeping requirements according to the best estimate of their actual value to the environment and to determine where different media requirements for compliance information duplicate and/or conflict with one another. The reviews should be followed by proposals and schedules for permit programs to streamline reporting requirements.

This approach is an element in several other EPA initiatives. In response to a Presidential initiative, EPA is examining how it can reduce paperwork requirements by 25%. This effort should be a major portion of the reviews discussed in the preceding paragraph. In addition, EPA's "one-stop reporting initiative" aims to streamline reporting requirements, for example by replacing separate facility identification codes used by different EPA programs with a single facility identifier.

Increasing ambient monitoring while decreasing other compliance information requirements at the source would allow permitting agencies to prioritize permitting information requirements based on real environmental impacts. But permitting agencies should be encouraged and allowed to take this idea one step further, and prioritize which facilities will receive full-fledged individual permits and which facilities can receive general (non-individual) permits or no permit at all, based on certain conditions or levels of emissions (this would require statutory amendments for some programs). The better ambient information becomes, the more precisely permitting agencies can and should gear environmental permitting systems to the most significant risks to the environment. This could entail protection of high quality areas as well as focusing on areas where environmental standards are not being achieved.

One major reform being developed by the PIT is to establish criteria to determine when individual permits are needed and when they could be replaced with types of permits requiring less administrative oversight and cost, without any impact to the environment. Such alternatives to individual permits include general permits, permits-by-rule, hybrid permits, and conditional and de minimis exemptions from permitting. Criteria developed by the PIT's Alternatives to Individual Permits Task Force include:

- Issue permits only where there is a real or potential adverse environmental impact and the regulatory agency needs to be involved (add value) in developing proper controls. This would require revision to certain environmental statutes.
- Issue *individual* permits only where there is a potential for significant environmental impact or high degree of variability in regulatory requirements at individual facilities.

It is important that the public be involved in the development and implementation of any alternatives to individual permits, and that adequate compliance and enforcement programs be put in place where alternatives to individual permits are developed.

In the long term, and in conjunction with the pilots and research discussed above—and recognizing the legal constraints that may exist—EPA Program offices will revise policies and regulations to provide state, tribal and local permitting agencies more flexibility and guidance to: increase ambient monitoring, reduce end-of-pipe/stack monitoring and reporting requirements, adjust databases to focus on ambient data, and tier permitting systems based on the actual environmental impacts of different types of facilities and activities. Some programs (e.g. OW) are already developing guidance for reducing reporting and monitoring requirements.

III. Permittee Compliance

A. Hierarchy of Permitting Standards

While permitting systems need to be better geared towards actual environmental impacts, as discussed above, they still must include sufficient monitoring to determine permittee compliance. The key is to make permitting systems *less prescriptive* and *more performance-based*, or in other words, to continue to tell a permittee *what* standards to achieve, but to no longer mandate, in most cases, *how* they are to achieve them.

This more flexible approach is designed to:

- Help the environment by encouraging pollution prevention;
- Help permittees by giving them the opportunity to develop more cost-effective (and equally or more environmentally effective) approaches to pollution control and prevention; and
- Help permitting agencies by allowing them to shift resources from extensive engineering and paperwork reviews to a focus on ambient monitoring, standard setting, compliance assistance and enforcement.

Permitting based on performance standards rather than on technology or management requirements is not a completely new idea. EPA's NPDES program, for example, currently uses such an approach to a large extent. Performance-based permitting will now be the preferred approach, wherever feasible and appropriate, for all of EPA's permitting programs, and State, tribal and local governments will be provided the flexibility and guidance to implement similar approaches. Programs not using performance-based permitting will need to justify why that approach is not appropriate (e.g., see Underground Injection Control (UIC) example below).

Thus, EPA programs will follow the hierarchy of preferred approaches shown below in setting permitting standards:

i. Set performance standards based on ambient environmental goals.

ii. Set performance standards based on technological achievability.

iii. Set technology- or management-specific standards. The ideal approach is where EPA sets performance standards based on actual environmental needs and projected impacts. EPA and other environmental agencies should follow this approach wherever possible and appropriate. It may be appropriate to combine the above approaches in an overall permitting system (e.g. establish a base level of performance and only require higher levels of performance where

environmental conditions are not being achieved). This later approach is currently prescribed by statute in many of the Agency's permitting programs.

In cases where EPA is not able to establish permit conditions based on environmental needs, e.g., due to costs and complexities involved with obtaining useful ambient data, or due to methodological difficulties (there are significant difficulties with implementing ambient standard schemes, including contentious scientific issues), the second-best approach is for performance standards to be based on what is technologically achievable. For example, based on EPA's knowledge of the removal efficiency of a particular water pollution control device, the Water program may set a numerical standard that facilities will have to meet in order to be in compliance with statutorily established control standards. While the permitting program will make information available about what technologies are capable of achieving that standard, it will allow the facilities to make their own determination of what technologies to use to meet the numerical standard. In some cases, facilities may substitute a technology or procedure at earlier stages of its process, rather than at the end of the pipe or smokestack, so as to more efficiently prevent pollution and save having to deal with its consequences.

There will be instances in which technology- or management-specific standards are warranted. For example, the underground injection control (UIC) program has a non-degradation policy backed up by engineering requirements that are supported by industry as well as by the permitting agency. In this program, the cost of ambient monitoring to ensure compliance would be excessive compared to establishing technical requirements.

B. Increasing facilities' Operational Flexibility

In addition to allowing permittees the flexibility to determine the technical means by which they meet EPA standards, there are several other ways to increase permittees' operating flexibility. Permitting agencies should consider these alternatives and incorporate them into their permitting processes as appropriate. Any alternatives that provide increased flexibility to the regulated community need to ensure that the requirements are enforceable.

First, permitting agencies' review of permits should be more performance-based. This would involve reducing review steps to those needed to reasonably demonstrate that the permittee will meet performance standards. Upfront technical (engineering) reviews, therefore, would be reduced or even eliminated where possible and appropriate. In general, where technologies are already proven or verified, there would be less need to perform technical review as part of the permitting process. EPA will give state, tribal and local governments the flexibility to reduce such reviews. EPA Program offices will evaluate existing regulations, policies and priorities that limit this flexibility and make appropriate revisions where authorized by statute. In addition, EPA will evaluate whether to shift grants funding from this stage of the permitting process to other more productive stages (such as compliance assistance and enforcement). This flexibility in use of grants is consistent with the Performance Partnership Grant program proposed in the FY96 EPA budget.

As an example, the lengthy and detailed technical reviews often conducted under the RCRA program may be less necessary for many standard container and tank storage operations. The PIT is working on a project with California and Texas to develop a general (non-individual) permit for this class of facilities, thus substantially streamlining the RCRA permitting program.

As noted in Section II, permitting agencies should also be given the leeway to reduce reporting and compliance monitoring requirements which are deemed to be unnecessary or duplicative.

Second, permitting agencies will be allowed to reduce the number of times permits need to be formally modified. Currently, lengthy permit modification processes discourage facilities from making needed process changes—including changes which could *reduce* emissions. Generally, permit modifications should be required only where process changes will increase pollution, or are needed to ensure proper operation or monitoring of a facility (this is likely to require regulatory revisions in some permit programs). Permitting agencies should be able to tailor their permit modification requirements by facility; facilities with good compliance records may be made subject to less prescriptive requirements. Each EPA permitting program shall review their modification requirements and make appropriate revisions to only require permit modifications where needed to protect human health and the environment.

As discussed in Section I–D above, permitted facilities should be encouraged to establish mechanisms for conducting regular dialogue with the public, such as community advisory committees. Major changes in plant operations may well be appropriate topics for dialogue regardless of whether a permit modification is required.

Third, permitting agencies should use the permitting process to encourage municipal and industrial facilities to practice pollution prevention. One of the primary purposes of making permitting performance-based rather than technology-based is to encourage and allow facilities to pursue innovative technological approaches to preventing pollution at the source. However, additional incentives and technical assistance are needed. In addition to pollution prevention technologies, the permitting system should encourage the use of more cost effective innovative technologies of any type, where practicable and consistent with legal requirements.

In many cases, encouraging pollution prevention and innovative technologies will require facility-specific actions, e.g., drafting a flexible permit that allows the permittee discretion to do what is needed to prevent pollution. This is the approach of a major EPA initiative, Project XL, under which facilities are exempted from certain regulatory requirements if they can demonstrate that they will achieve better environmental results through other means. In addition, the PIT is working on a project with the state of New Jersey, under EPA's Environmental Technology Initiative (ETI), to develop and implement a protocol to encourage the utilization of innovative technologies and pollution prevention.

ETI is also sponsoring more than two dozen other projects, programs and demonstrations in order to remove barriers to technology innovation in the permitting process, through facility-specific actions as well as more general regulatory, administrative and procedural changes. The Office of Policy, Planning and Evaluation has established a program to coordinate these ETI permitting projects and to provide information and assistance to other EPA offices, state, tribal, and local permitting agencies, and outside groups.

Turning to the additional incentives needed for encouraging pollution prevention the Pollution Prevention Incentives Task Force recommends, among other things: (1) increasing the use of facility-wide permitting, and (2) inserting language in general permits stating that pollution prevention is the preferred means of reaching compliance. Permitting agencies, at their discretion, may decide to use

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similar incentives to encourage recycling or other beneficial management methods as well as pollution prevention.

EPA's Multi-Media Pollution Prevention (M2P2) Permit Project is currently working with several states on multimedia permitting. This should become the long-term direction of EPA's permitting programs; however, the transition from single-medium to multi-media permitting will take time and careful planning. EPA's evaluation under the M2P2 Project will be used to plan that transition.

C. Public Performance-Based Compliance Assurance and Enforcement

Regardless of the level of flexibility provided to permittees, there will always be a need for environmental agencies to monitor, assure and enforce compliance with permits. In fact, where upfront technical reviews are reduced or eliminated, these functions become even more important. Whereas the existing permitting system is in some way geared to hold all permittees to requirements based on the worst-case scenario, the proposed system would gear requirements to actual environmental performance. A tiered approach to compliance assurance, is one possible approach, under which less significant violators are provided technical assistance, while more significant violators become subject to penalties that should be harsh enough to deter activities that may threaten human health or the environment.

In addition, information about permittee compliance performance should become available to the public in clear, user-friendly databases and publications. It is not enough for an industrial or municipal facility to perform to the satisfaction of the permitting agency; the surrounding community has the right to know how well a facility is complying with its permits and use this information for itself. The concept behind this approach is to employ the power of public disclosure, so that a permittee would be deterred from violating permits by the public relations implications of poor compliance, or conversely be encouraged to maintain a high level of compliance by the public relations benefit of being in compliance.

The Office of Enforcement and Compliance Assurance (OECA), in consultation with appropriate stakeholder, will investigate and recommend ways to publicize, in an easy to understand format, facilities' compliance records. Some possibilities are an annual report (developed by the permitting authority) or requiring compliance reporting as part of a facility's permit. This compliance reporting could be based on a third-party audit, conducted by an impartial auditor, or a self-audit, possibly used at facilities with excellent compliance histories. The developed approach would probably have to be piloted in particular media programs, Regions or states before it is ready to be applied to all permitting programs individually and on a multimedia basis. It will also require study by OECA to ensure that this system is successfully designed to be legally defensible, fair, efficient and enforceable.

The criteria behind the compliance reporting should take several factors into account. First, there should be a clear distinction between paperwork violations of little or no direct consequence to the environment and permit violations with the actual potential to damage the environment or human health. It is recognized that certain paperwork requirements are critical to determining permit compliance. Furthermore, continued violation of paperwork requirements should result in enforcement action. Second, there could be separate ranking systems for small and large facilities, since they face different challenges when it comes to permit compliance. (With small facilities, the greatest challenge can be having the time and resources to understand and afford to comply with permit requirements. With larger facilities, the top challenge may be achieving compliance given different process lines, smokestacks, discharge pipes, etc.). Regardless of the final criteria used, they should be clear enough that there is no dispute as to whether or not a facility is in compliance.

Compliance assurance and enforcement activities should also take into consideration facilities' compliance records. This could help EPA and state, tribal and local permitting agencies to better target inspections, enforcement actions and penalties based on the severity of the violations. For smaller facilities with labelling or paperwork violations, EPA may target technical assistance at them (e.g., in cooperation with universities or other programs which provide such assistance) so as to improve their understanding of permit requirements and how to comply with them.

On the other hand, facilities whose non-compliance has the potential to threaten human health and the environment more significantly, should be much higher priorities for reporting, monitoring and attention. In the most severe cases, EPA or the permitting authority should reserve the option of halting a plant's operations until it complies with essential permit conditions. This targeted enforcement approach should make it possible to respond to the worst threats in a more immediate fashion.

IV. Agency Performance

No reform can ever permanently solve every problem with a particular system, because problems and public perceptions of them are constantly evolving. Therefore EPA, state, tribal and local permitting programs should institute systems of continuous evaluation and improvement of their own performance.

As illustrated in Figure II, this system would involve several steps:

(1) Identify performance standards for the permit program: the PIT's Performance Measures Task Force has developed draft standards by which permit program performance could be measured, including timeliness of permit reviews, permit backlogs and customer satisfaction.

(2) Determine how these standards would be measured: e.g., design surveys to measure customer satisfaction. As part of EPA's Customer Service efforts, surveys have been drafted for citizens involved in permitting decisions, permit applicants and delegated/authorized permitting agencies. Customer service standards have also been drafted based on these surveys. Surveying will begin in Federal Fiscal Year 1996. This step needs to be carefully designed to avoid burdening agencies with tedious "bean-counting" exercises. Streamlined ways of recording performance, including user-friendly electronic means, are encouraged.

(3) Compile performance data: e.g., conduct surveys, measure performance rates, etc.

(4) Report to public on permit program performance: compile results into a regular (e.g., yearly) report on performance which is clearly understandable and easily accessible, in print as well as on the Internet. Establish mechanisms to receive public feedback, via Internet, phone and mail. Permit programs may also decide to hold public meetings or focus groups to obtain more feedback, as appropriate.

(5) Review permit program standards, processes and approaches based on evaluation results and public feedback: permit programs should conduct periodic program evaluations based on the input received from this process. They should determine what changes to implement in their programs to respond to any shortcomings in performance. Performance standards will also need to be periodically revised to respond fully to program needs.

(6) Revise permitting program processes and approaches: implement the changes that have been identified and return to step one of the continuous performance improvement system.

The performance of EPA and other permitting agencies, like the performance of permittees and the actual condition of the environment, needs to be publicly reported in clear, understandable terms. By bringing these types of performance into the light, public performance-based permitting will focus attention on the results of environmental permitting systems, and use those results to continually make these systems more responsive and environmentally protective.

ADMINISTRATIVE STREAMLINING—TASK FORCE RECOMMENDATIONS

Goal for Administrative Streamlining

The goal of the Administrative Streamlining Task Force was to improve the permit process by analyzing successful permit programs across the country and recommend permitting process changes (guidance, policy, regulations, procedures) designed to apply these successes more broadly.

Recommendations

1. Create a Predictable, User-Friendly Federal Permit Process

a. Information and Process

Currently, EPA permitting programs have different processes that follow different timeframes (See Attachment 1). The lack of coordination among these programs, and the lack of predictability created by this situation, can unnecessarily complicate the permitting process for permittees, state, tribal and local permitting authorities, and the public. In addition, EPA's oversight of delegated or authorized permitting programs varies by Region and media program.

Therefore, EPA should to the extent consistent with its various statutory authorities develop one unified, standard timeline model applicable to all of its permitting programs (it may be necessary to have one model for new permit applications and permit modifications and another for facilities that are required to upgrade to meet new requirements). It may also be necessary to have different timelines based on the type of permit (e.g. major or minor). This model timeline is intended to be used as a management tool for permitting agencies to set realistic and desirable time goals; if goals are not being met, permitting agencies should review their processes to identify and eliminate inefficiencies and unnecessary or unproductive procedures.

In the short term, one uniform model should be approved by EPA as non-binding guidance for state, tribal and local permitting authorities. Where allowed by statute or regulation, EPA permitting programs should provide sufficient flexibility to allow authorized permitting authorities to adopt this timeline in lieu of specific program timeframes.

Appendix 2 contains a proposed uniform timeline model. Under this model, the timeline would be subject to extension if the applicant consents to negotiate permit terms, if the applicant must submit further information, or if the permitting agency determines that the project is unusually complicated. The process should include a mechanism that clearly identifies the reason for any time extension and whether the applicant is responsible for any actions that would re-start the clock on the timeline. The applicant's failure to submit needed information would constitute a basis for denying the application. The timeline could include options for enforcing the time limits and "calling the question" on the permit action, as determined by each permitting jurisdiction.

Several options for "calling the question" on a permit application were considered by the Task Force. One option would include a refund of permit fees for failure to meet the timelines. A few states have implemented this approach. Another option would be a judicial cause of action or other administrative remedy to compel agency action on the permit, if the controlling statute made meeting the deadline a non-discretionary duty. A third option would be to allow a permit to go into effect automatically if the agency does not meet the deadline. This option is inconsistent with current law and would be contrary to the PIT's recommendations to enhance public participation and is therefore not endorsed by the PIT. In addition, this option may also foreclose the ability of the permitting authority to adequately evaluate appropriate considerations under Title VI of the 1964 Civil Rights Act, such as, any disproportionate impact of the permit action on minority communities.

Permits that are issued by the Regions or by state, tribal or local permitting authorities that are authorized pursuant to federal law would have legal impediments to some of the above options. Most importantly, if the last option caused the elimination of required public participation the resulting permit would not comply with federal law.

The proposed timeline includes a notice to the public of either the complete application, the proposed draft permit, or both, depending on program needs and statutory constraints.

Implementation (short term): Each EPA Program office should release a uniform model timeline (by permit type—major/minor) to its authorized authorities as guidance, and establish, as policy, that Regions and state, tribal and local permitting authorities, to the extent allowed by statute and regulations, will be allowed to follow this timeline in lieu of specific EPA permitting program timeframes that may otherwise conflict with it.

Implementation (long term): A high-level cross-office team should be established in FY96 to reach consensus on what changes should be made to EPA statutes, regulations, policies, guidances and processes so as to bring all major EPA permit programs under a single uniform timeline and oversight approach. This team should also define the resource burden of making these revisions along with the potential savings from reducing EPA oversight of delegated or authorized agency issued permits. The PIT has already identified some of the statutory and regulatory barriers to a uniform timeline. The proposed team would, with stakeholder input, agree on the specific changes to be made and work with Program offices to ensure that these changes are implemented or proposed for statutory change.

b. Single Point of Contact for All Media Permits

In addition to basic level, point of entry offices, each permitting agency should assign senior permitting personnel to projects in which a facility receives multiple permits. This can help ensure cross-program permit coordination and provide each permittee with one senior staff contact to coordinate the resolution of any cross-cutting issues. In cases where state/tribal/local permits and federal permits are being issued to the same facility, permit coordination is also needed between the permitting agencies.

Example: EPA Region 6 multi-media permit teams.

Implementation: We recommend that a PIT workgroup draft policy and operational guidance, to be issued by EPA's Administrator, for Regional Administrators to implement a single

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point of contact approach during FY 1996.

2. Encourage and Implement Flexible Permitting Projects

EPA and state, tribal and local permitting authorities should create opportunities for facilities to negotiate alternative permit conditions that maximize operational flexibility and encourage pollution prevention while maintaining or increasing levels of environmental protection. Each permitting agency should identify those situations where a modification can occur without review. Presently, initiatives such as Project XL, the Common Sense Initiative (CSI), the Environmental Technology Initiative (ETI) and the Clean Air Act Title V permit program are piloting approaches and mechanisms to promote greater flexibility in permits.

Examples of flexible permits:

• Intel Corporation, U.S. EPA, the Oregon Department of Environmental Quality, and the Pacific Northwest Pollution Prevention Research Center developed a flexible Title V operating permit with the goal of accommodating shifts in emissions within the facility and encouraging pollution prevention, while preserving the enforceability of the Clean Air Act's requirements. Under ETI, EPA Regions 1, 9 and 10 are working with the Office of Air and Radiation; the Office of Prevention, Pesticides and Toxics; and the Office of Policy, Planning and Evaluation to expand the Intel flexible permitting experience to several other states and industries. This national expansion of the Intel experience will provide EPA and the States with valuable information and will help ensure the development of enforceable Title V regulations that allow for permit flexibility and the incorporation of pollution prevention and innovative control technologies.

• EPA and Minnesota Pollution Control Agency worked with 3M corporation to develop a flexible permit which, while ensuring all necessary environmental protection, allows the source to make physical and operational changes without triggering major new source review requirements under the Clean Air Act.

Implementation: EPA should, through Regional Offices, serve as a clearinghouse for good examples of flexible permits and serve as a resource to state, local and tribal governments and the public in implementing these approaches. This proposal should be implemented through the electronic clearinghouse recommended in 4d below, as well as through the Regional Permit Process Assistance program recommended in 5 below.

3. Tier Permitting Programs in Proportion to Environmental Significance

EPA should establish a policy and guidance to encourage state, tribal and local permitting authorities to tier their permit programs according to the environmental significance of facilities' polluting activities. Such a policy should allow agencies to reduce monitoring or other reporting requirements for less significant activities so agencies can focus on the actions with the greatest potential for environmental impact.

Suggested ways to do this include: increasing thresholds for small emissions; exploring use of impartial third-party certification systems; exempting certain activities; requiring less frequent/consolidated reporting; expediting the review for low tier permits; and providing incentives for good compliance records and for use of pollution prevention approaches. Some of these approaches would require regulatory and possibly statutory changes in order to be implemented.

Examples: A number of states are moving towards tiered permits, to reduce permit process requirements in accordance with the location of the project, environmental significance of the impact imposed by the project, etc. Examples include California Tiered Permitting for hazardous wastes, Minnesota's Air and RCRA Programs, and the Massachusetts 401 Certification Program.

Implementation: As an FY96 project, a PIT workgroup should conduct an analysis of current approaches to tiered permitting, and then, based on this analysis, draft EPA policy and guidance promoting such approaches where appropriate. This analysis should also focus on projects such as Project XL, to determine where principles applied to individual facilities (e.g., pollution prevention incentives) can and should be applied to whole classes of facilities.

4. Establish Computer Systems

a. Integrated Facility Data Bases with Geographic Information System (GIS) Interface

Permitting authorities should combine cross-media information for each facility into a single database which provides instant access and search capability. EPA has initiated this task at the national level through the efforts of the Key Identifiers Workgroup.

Example: Massachusetts DEP's Environmental Protection Integrated Computer System (EPICS) system takes information supplied by 12 separate MADEP divisions, such as air emissions, hazardous waste and water supply and combines it into a single database. This gives MADEP employees instant access to all the agency's information and allows them to search for data on a facility by entering its name and location. This and a two-year cross-training program have allowed inspectors to do multi-media inspections. EPICS is currently developing an interface with GIS to help site new businesses and to assess cumulative threats to resources for targeted compliance/enforcement.

b. Permit Software Systems

EPA should collect and make available state, tribal, local and regionally developed software for a menu-driven system to train permit-writers and assist them in drafting permits. The system should contain and cross-reference all appropriate regulations and procedures, and provide a mechanism for tracking.

Examples: Maryland/Region 3 software program for NPDES permit writing and tracking. Also, the Indiana Department of Environmental Management has begun a project to develop a menu-driven, expert system to help permit writers in drafting permits. This project was started in an effort to provide training to new permit writers in the state. The expert system takes permit writers through the process of writing a permit, cross-references all appropriate state regulations and internal procedures, and results in a draft permit. This system could also be made available to permittees and the public.

c. Electronic Permitting and Reporting

EPA should facilitate permitting authority efforts to provide permit application forms on disk or by dial-in, issue permits electronically (while providing for public notice, access and opportunity to comment), develop permit tracking capability, and establish electronic facility-based compliance reporting. Model permits (like the RCRA model permit) in electronic format may be provided to applicants to fill-out as a supplemental part of their permit application if they choose to do so. This can greatly reduce the time required for a permit writer to transform permit application proposals into permit conditions. The permit writer can also easily verify that the permit conditions proposed by the applicant meet all applicable requirements. The use of electronic exchanges in permitting will not replace the need to continue to provide appropriate permitting information through non-electronic means.

d. Electronic Database/Clearinghouse

EPA should establish, provide access to and maintain an electronic database/clearinghouse which contains relevant information necessary for permit writers in all media, including: pollution prevention, toxics use reduction, pollution allocation/Total Maximum Daily Load (TMDL) models, site specific protocols, etc.

Implementation: Recommendations 4a-c above should be referred to EPA's Office of Information Resource Management to identify existing capabilities, develop resource needs and schedules to adopt across media Program offices. Recommendation 4d should be referred to Research Triangle Park's Internet Group to identify existing capabilities, develop resource needs and a schedule to allow adoption across media Program offices.

5. Regional Permit Process Assistance

Under the National Environmental Performance Partnership System agreed to between EPA and the states on May 17, 1995, EPA will be reducing direct oversight of authorized state programs. The Regions are in an excellent position to help the states improve their permitting processes by keeping abreast of the latest changes that are being implemented, and sharing that information with the states. Working together, a Region and state would identify areas in need of improvement in a permitting process and evaluate existing approaches that have been utilized to help address the identified area.

Implementation: As an FY96 PIT pilot project, a Region and a state (possibly Texas) should develop an approach whereby the Region would assist the state in evaluating a permitting process. The purpose of this evaluation would be for the Region to help identify improvements that could be implemented. The Region would make use of national clearinghouses and data bases (see recommendation 4d) to help identify approaches that could be of assistance to the state. The Region could also provide any needed training to the state. The state would make the final decision on implementing any improvements.

The Region (with input from the state) would prepare a report on the lessons learned from this pilot and, working with a PIT workgroup, propose an approach that other Regions could utilize in providing assistance to states and tribes in their respective region.

Attachments:

1. A table of current permit program timetables.

2. A proposed uniform timeline for all major and minor federal permits (see Recommendation 1.a., above).

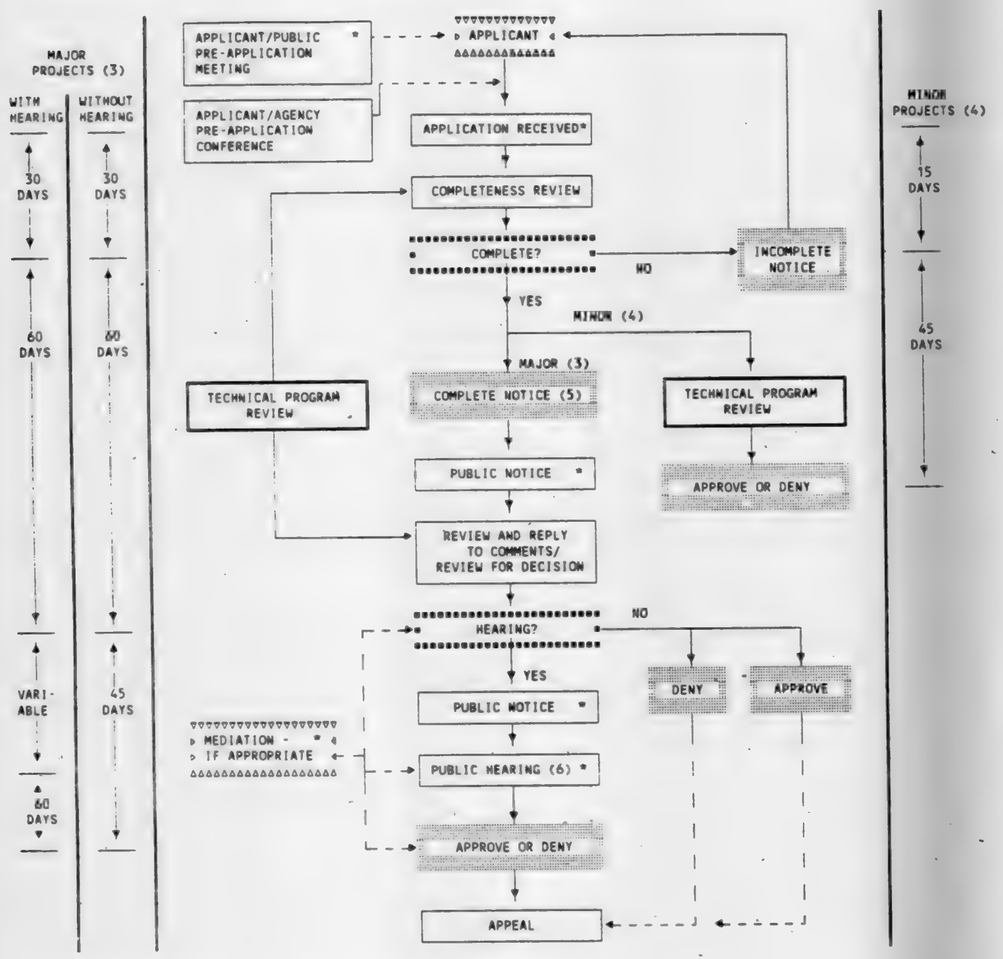
ATTACHMENT 1.—FEDERAL PERMIT PROGRAMS, CURRENT TIMETABLES

Statute	Public notice requirement	Public hearing requirement	Permit duration
RCRA [1]	Notice of draft permit in newspaper and radio. 45 day comment period.	30 day public notice. Required if written opposition to draft permit.	10 years, review every 5 years for land disposal facilities. May be reviewed/modified at any time.
Prevention of Significant air quality Deterioration (PSD).	Notice of draft permit in newspaper. 30 day comment period.	30 day notice. Silent on threshold	No expiration date. New permit required to modify.
Clean Air Act Title V	Notice of draft permit in newspaper. 30 day comment period.	30 day notice. Silent on threshold	Up to 5 years. 3 types of modifications follow new permit process.
NPDES	Notice of draft permit in newspaper. 30 day comment period.	30 day notice. Silent on threshold	5 years.
UIC	Notice of draft permit in newspaper. 30 day comment period.	30 day notice. Silent on threshold	Classes I & V: Up to 10 years. Classes II & III: Up to operating life.

[1] These requirements do not include the changes for enhancing public participation included in RCRA Expanded Public Participation Rule.

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ATTACHMENT 2: AUTHORIZED & DELEGATED PERMIT PROGRAMS PROPOSED UNIFORM PERMITTING PROCESS (1,2)



Notes

* Opportunities or requirement for public participation.
(1) Time frames can be waived with mutual consent, or if applicant is unresponsive.
(2) Procedure to apply to all programs except siting.
(3) Major projects receive full public participation opportunity. They are the projects most likely to have significant environmental impact.
(4) Minor projects receive internal review only. They represent minimal or no environmental threat.
(5) "Complete" notice can be published when application is determined to be complete, or when draft permit has been agreed on, or at both milestones.
(6) Public hearings may be evidentiary or administrative, at states' option.

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ALTERNATIVES TO INDIVIDUAL PERMITS—TASK FORCE RECOMMENDATIONS

A. Background/Approach

The Permits Improvement Team is exploring alternatives to individual permits in order to deliver government services more efficiently, target EPA resources at environmental priorities, and encourage pollution prevention. EPA's National Performance Review included the goal "Target Permit Priorities", with the following objectives:

- Issue individual permits only where there is a high degree of environmental concern and where it is necessary to apply tailored or site-specific requirements.
- Use alternatives where possible, such as compliance with self-implementing regulations (e.g., permit-by-rule) and general or class permits.

This report refers to six different types of permitting, defined below:

Individual permitting refers to authorization granted to a person through an adjudicatory process on a site-specific basis. Typically, the permittee initiates the individual permitting process through submission of an application. The permitting agency then develops a proposed permit (which may or may not be developed in coordination with the permit applicant) and publishes notice of the proposed permit for public comment. After consideration of public comments, the permitting agency will issue a final decision on the permit application. In some instances, permitting agencies provide an opportunity for administrative appeal of a final permit before it becomes effective.

General permitting refers to a rulemaking-type process where requirements are developed based on a prototype facility. The permitting agency develops a general permit applicable to facilities or activities of substantially similar nature. General permit authorization is granted after a person registers with the permitting authority its intention to comply with the terms of the general permit. The general permit rulemaking process may be initiated by the permitting agency or by petition to that agency. Depending on programmatic needs and legal requirements, a hearing may be required on whether the general permit applies to a particular facility (or activity). Typically, general permits are issued for environmental activities of "medium to low" concern where there is little variability from the prototype facility or activity considered in development of the general permit. Under the Clean Water Act, general permits are widely used, particularly for storm water discharges. Public involvement occurs at time of development of the general permit.

Hybrid permitting refers to a combination of general permitting and individual permitting. Though the permittee is subject to a single permit, the permit terms with which the permittee must comply are developed in part through rulemaking (general permit) and in part through adjudicatory processes to determine site-specific requirements (or to comply with site-specific notice or applicability requirements). Hybrid permitting is not currently used by EPA, so there is no established procedure, but such a process could be established through modification of the general permitting process. Hybrid permitting may be more appropriate than general permitting where there is greater variability from the prototype, or where there is a statutory requirement for site-specific hearings.

Permitting-by-rule (PBR) refers to authorization that does not require subsequent action either by the permit applicant or the permitting authority. For certain RCRA requirements, EPA has issued permits-by-rule when compliance with a permit under one statute is "deemed" to be permitted under RCRA. Alternatively, a general permit that does not require registration may be considered to be a permit-by-rule.

De minimis exemptions to permitting refers to the regulatory exclusion of an activity that might otherwise fall within the scope of activity regulated by a statute. Application of the *de minimis* exemption theory is subject to some legal restrictions.

Conditional exemptions refer to activities which are not subject to permitting if the conditions of the exemption are met. Conditional exemptions would be used where it is important to establish some "non-permit" substantive standards; e.g., a standard of performance or management practice. Conditional exemptions may represent an enforceable means to establish that a facility/site/source falls below some "applicability threshold" for a given permit program (such as a *de minimis* pollution threshold). Conditionally exempt activity is not subject to permitting, but is subject to some enforceable requirement. The conditional exemption theory has not yet been tested in the courts.

B. Methodology for Choosing Recommendations

This Task Force's recommendations were based upon the following criteria:

- *Issue permits* only where there is a real or potential adverse environmental impact and the regulatory agency needs to be involved (add value) in developing proper controls.
- *Issue individual permits* only where there is a potential significant environmental impact or high degree of variability in regulatory requirements at individual facilities.
- *Involve the public* in the development and implementation of any alternatives to individual permits.
- *Ensure adequate compliance and enforcement* activities where alternatives to individual permits are developed.

C. Recommendations

These recommendations need to be implemented by the applicable EPA Headquarters permitting program. As part of that implementation, each Program office needs to review their legal authority for utilizing alternatives to individual permits. If the statutory authority exists but current regulations restrict the use of alternative approaches, the Program office will propose appropriate revisions.

General Recommendations

1. Each Program office should formally consider the appropriateness of using alternative permit approaches. Consider the degree of environmental risk, level of public interest, site variability in application of requirements and duplication of state, tribal, and local permits in establishing permitting approach.

2. In administering EPA-issued permits, each Regional office should consider the performance of state, tribal and local permit programs that may regulate the same or similar activities. Regional offices may appropriately provide a less rigorous level of review in those jurisdictions where the state, tribal or local permitting authority provides equivalent protection. In some cases, where a facility may operate lawfully without a federal permit, it maybe appropriate for the Regional office to place lower priority on issuing federal permits in such jurisdictions. Where the facility is required to have a federal permit, EPA Program offices should investigate the development of general permits that reference the state, tribal, or local permits.

This recommendation does not solve the underlying problem of authorizing state, tribal and local permitting

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programs that provide a substantially equivalent program but not identical to EPA's approach. Each Program office should revise their regulations to streamline the authorization process and provide for greater flexibility where allowed by statute. If a statutory barrier exists, the Program office should seek revisions to the statute to provide clear direction on when authorization can occur.

3. Each EPA Program office should develop and maintain a clearinghouse of permit alternatives being developed and used in federal and state/tribal/local programs throughout the country. The Program offices should consult with their state, tribal and local counterparts to determine the most appropriate information to provide, given available resources. State, tribal and local permitting programs are encouraged to submit copies of any alternative permit approaches in electronic form for ready use by other permitting authorities interested in pursuing similar approaches.

Program Specific Recommendations

1. Stormwater—National Pollutant Discharge Elimination System (NPDES)

a. The Task Force agrees with the Office of Water's ongoing permit reform efforts for Phase I and Phase II, conducted under a Federal Advisory Committee Act (FACA) charter, and recommends they be continued.

b. The Task Force agrees with the further development of general permits as part of Office of Wastewater Management's (OWM) projected permit improvements in the NPDES program in the final 1992 Non-Construction Industrial permit and the proposed Multi-Sector stormwater general permit and recommends they be continued. Specifically;

- The development of general permit language that emphasizes pollution prevention (P2) and Best Management Practices (BMP)in the Non-Construction Industrial permit and the Multi-Sector permit.

c. The Task Force recommends the continued use of the clearinghouse for general permits.

d. Where non-approved states, tribes, or localities are issuing substantially similar permits, EPA Regions should defer to those permitting authorities by prioritizing permitting actions to focus on non-approved permitting authorities *without* substantially similar programs.

2. NPDES—Process Wastewater

a. Because of the need to control specific dischargers, individual permits should be maintained for water quality limited areas, where Total Maximum Daily Loads (TMDL's) are necessary or wherever specific conditions to be addressed in a permit are not amenable to a general permit.

b. Permit duration should be increased from 5 to 10 years or the life of the facility. Under this approach, there should be a provision to allow permits to be re-opened if there are facility, regulatory, or water quality changes. This recommendation requires a statutory change. This increase would be an incentive for states to move toward the watershed protection approach.

c. OWM should develop and expand the use of general permits in non-water quality limited areas and non-TMDL areas through policy directives, development of general permit boilerplates and establishment of a national clearinghouse of general permits.

d. A permit-by-rule (PBR) should be established for de minimis discharges that establishes threshold conditions below which no reporting would be required. They could be based on industry-type, percentage of loading, etc. The rationale for the established PBR for Metal Products should be used to develop de minimis PBR's for other discharge categories.

Recommend PIT FY'96 Pilot Project with the State of Washington, Region X and OW to develop PBR for de minimis discharges.

e. Overall monitoring requirements should be decreased, but include ambient as well as end-of-pipe monitoring. Ambient monitoring would be used primarily to set permit limits where national technology based standards and state water quality based standards have not achieved environmental goals.

The PIT recommends a Pilot Project be conducted by OW, with a Region and State, to determine achievement of program goals.

3. Toxic Substances Control Act (TSCA)

The Task Force's initial recommendations included the consolidation of PCB disposal requirements into the RCRA requirements. However, the current position of the Office of Solid Waste (OSW)/Office of Pollution Prevention and Toxics (OPPT) workgroup evaluating this issue, for a variety of reasons, is to leave the two programs separate but to improve communications to make them more compatible. This Task Force defers to the workgroup on this issue.

The workgroup is identifying options that can be readily implemented to improve the disposal of PCB's, while considering costs to industry, states (unfunded mandates), and EPA. Several potential goals have been identified to help direct the workgroup's efforts:

1. State primacy for the PCB disposal program (one stop shopping) (may require statutory change);
2. Consolidation of hazardous waste requirements (avoid program duplication); and
3. Utilization of EPA grant money for state actions (PCB and hazardous wastes).

The Task Force recommends that the PCB combustion authorization requirements be incorporated into the Air permit program if legally permissible. Other portions of the TSCA program would remain in OPPT. This recommendation is consistent with the recommendation below concerning the Resource Conservation and Recovery Act (RCRA) combustion program. This recommendation avoids the problems associated with incorporating the PCB disposal program into RCRA, but would place all permitted air emissions under one program.

The PIT recommends an OPPT and Office of Air and Radiation (OAR) workgroup be formed to develop appropriate procedures.

4. Safe Drinking Water Act—Underground Injection Control (UIC) Program

a. Shallow injection wells (Class V wells): Continue use of authorization by rule, which has been granted to all Class V wells, providing that they comply with certain minimal requirements (e.g., well inventory) unless the well may endanger underground sources of drinking water.

b. Injection of fluids related to oil and gas production (Class II wells): Where appropriate, continue use of area permits; promote use of non-individual permits by authorized permitting authorities.

c. Individual permitting should continue for Class I wells (deep wells for industrial, municipal and hazardous waste).

5. RCRA Permit Program (See Attachment for More Detail)

The PIT specifically notes that there are regulatory or statutory barriers to some of the approaches listed below. The Agency's ability to implement each of these options under the current law would need to be investigated further as these options are developed in more detail.

RCRA Base Program

a. Maintain individual permits for facilities requiring operating and post-closure land disposal permits.

b. OSW should establish a general permit boilerplate and promote the use of general permits for non-commercial storage or treatment facilities, including, for example, laboratories. The general permit conditions may need to be supplemented, in some cases, with site-specific conditions identified by the permitting authority or through local public participation. In this situation the permit would be a hybrid permit.

PIT FY'96 project to pilot the use of general permits in the states of California and Texas with Regions VI and IX and OSW.

c. Extend the generator storage time frames from 90 to 270 days for laboratories as part of regulatory re-invention.

d. For hazardous waste combustion facilities, Regional offices should incorporate RCRA requirements into the Air permit program, where both apply; a facility's Air permit would address both Air and RCRA combustion and emission requirements (this is one alternative provided for in EPA's proposed Hazardous Waste Combustion Regulation, Subpart O). Other RCRA requirements (e.g. storage and non-thermal treatment, corrective action) would be addressed through either an individual, general or hybrid permit. This recommendation should be implemented after the proper regulatory authorities are in place. Revised RCRA and CAA regulations are expected to be proposed in March 1996.

RCRA Corrective Action

a. Allow a facility to perform corrective action through a state/EPA order cross-referenced in the permit, or through an individual, general or hybrid permit.

b. Prioritize the issuance of corrective action permits and orders by focusing on state programs that are not authorized and that do not have substantially similar cleanup programs. States with substantially similar programs should be a lower priority. The de-coupling of corrective action from RCRA permitting is being considered as part of the Subpart S regulations (see Advanced Notice of Rule Making—expected to be issued 4/96) and Post-Closure rule (Subpart C) proposal. Under this approach a Region would be relying upon another agency to serve as lead in this situation.

c. EPA should focus the majority of its corrective action resources on states without substantially similar cleanup programs. To achieve maximum overall environmental benefit, EPA should also explore allowing EPA RCRA resources to be shifted to support states in clean-up of higher state priority non-RCRA facilities. The legal authority to implement this recommendation needs to be evaluated.

d. Subpart S needs to provide incentives for performing clean-ups by allowing conditional exemptions from permitting for:

—On-site storage of contaminated media and off-site storage and transfer of clean-up waste, especially from spill response activities,
—Non-RCRA facilities performing voluntary clean-ups.

e. Low-priority RCRA facilities should be allowed to conduct voluntary (early) corrective action through general or hybrid permits, memoranda of agreement between the facility and the permitting authority that achieve defined performance standards, or through amendments to the interim status regulations. There may be obstacles to using memoranda of agreements, since they would not provide legal protection to a facility that is required to obtain a federal permit.

f. Investigate third-party certification of general and hybrid permits for hazardous waste management that is generated through corrective action activities. (See Administrative Streamlining Recommendation #3, page 23, for broader recommendation concerning third-party certifications.)

PIT recommends review of MA initiative to utilize third party certification to determine if it is appropriate in RCRA.

g. Fast-track the Hazardous Waste Identification Rule (HWIR) and Definition of Solid Waste Rule, to limit regulation to wastes that are truly hazardous, allow general or hybrid permits to regulate recyclers and utilize the HWIR media rule concept of remediation management plans (RMP) for off-site storage and treatment of remedial waste.

6. Air—New Source Review (NSR) Permit Program

a. The Task Force agrees with the Office of Air Quality Planning and Standards (OAQPS) NSR reform efforts, particularly the following:

- Implementing plant-wide applicability limit (PAL) policy.
- Allowing states more flexibility to match the level of permitting effort to environmental significance. This recognizes that there may be facilities which do not require permits at all.
- Including special provisions to encourage the use of innovative technologies.
- Acknowledging and promoting pollution prevention activities.

If the NSR reforms do not receive stakeholder support, consider establishing a PIT workgroup to conduct an independent evaluation and develop recommendations.

b. Develop a more expansive definition of minor sources through the use of the following:

- Re-define the potential to emit to recognize the inherent operating limitations in defining this concept. The current definition is not realistic in addressing the highest environmental priorities.
- Develop and promote the use of general permits by preparing boilerplate language for applicable sources and establishing a national clearinghouse of general permits.

c. State, tribal and local permitting authorities should establish additional de minimis levels for selected minor sources under which no permit would be required, in conformance with existing regulations. This will provide that only true health and environmental risks require permits.

7. Air—Title V Permit Program

a. The Task Force supports the National White Paper and Supplemental Part 70 proposal, and recommends:

- Evaluating techniques to take inherent operating limitations into account in determining potential to emit.
- Investigating methods to simplify the renewal process to allow for automatic renewal upon recertification that no facility changes have occurred and no new requirements have come into effect since the initial permit issuance.

b. Develop and promote the use of general permits for sources with low actual emissions by preparing boilerplate language for applicable sources and establishing a national clearinghouse of general permits.

PIT recommends a FY'96 pilot project with the State of Iowa, Region VII and OAQPS to develop general title V permits (e.g. for paint booths). This project should be coordinated with the ongoing ETI Title V project.

c. Allow a self-implementation alternative for facilities with actual emissions of less than 50% of applicable standards.

- Implement flexible permits, through the use of plant-wide applicability (PAL) limits.

• Allow states more flexibility in deciding the most effective monitoring methods and controls.

d. Allow state, tribal and local permitting authorities to establish additional de minimis levels for selected minor sources under which no permit would be required. This will provide that only true health and environmental risks require permits. For example, in MA, emissions below 1 ton/year do not require a permit.

D. Attachment

A more complete discussion of the RCRA proposals follows.

Attachment—RCRA Alternative Permitting Recommendations

Task Force recommendations do not cover all aspects of RCRA permitting, but highlight areas both where continued use of individual permits seem most appropriate, as well as areas where alternatives may be particularly useful. Also, as is the case with some recommendations in other programs, there are regulatory or statutory barriers to some of the approaches listed below. The Agency's ability to implement each of these options under current law would need to be investigated further as these options are developed in greater detail.

RCRA Base Program

1. Continued Use of Individual Permits

The Task Force recommends continuing to use individual permits for facilities requiring operating and post-closure land disposal permits. Although some aspects of these facilities could be regulated by general permits or other alternatives to individual permits, the Task Force felt that the potential environmental impacts of these facilities particularly warranted regulatory attention and public comment on an individualized basis.

The Task Force also recognized that combustion facilities (incinerators, burners and industrial furnaces) warranted highly focused regulatory and public attention on an individual basis. However, efficiency could be obtained by having the impacts of these facilities reviewed in concert with air permitting. If so, the RCRA program could issue a general or hybrid permit to address any additional technical requirements not covered by the Clean Air Act permit process (e.g., corrective action), and could also address permit requirements for any ancillary units (e.g., storage units).

2. Ninety-Day Accumulation and Treatment for Generators

The Task Force also recommends providing guidance or otherwise clarifying the enforcement discretion available when a facility exceeds applicable time frames or violates any of the management conditions referenced in 40 C.F.R. § 262.34. The Task Force recommends that it be made clear that enforcement against such a facility may be handled as a violation of the specific requirements of § 262.34 (e.g., storage over 90 days, failure to mark containers, etc.) rather than as a failure to have a permit. Some prior agency statements have suggested that a facility that failed to mark a container would necessarily be subject to full permit requirements. [3]

3. Third Party Certifications

The Task force recommends consideration of the use of third party certifications both for corrective action and for hazardous waste management requirements. Where, for example, a regulatory agency might otherwise be inclined to require extensive regulatory review of a corrective action, unit design, contingency plan, or other RCRA-regulated activity in the context of an individual permit review, the agency might be able to shift that activity to a general or hybrid permit if the facility notification were accompanied by a third party certification that indicated comparable review has been conducted by an independent third party. There is a legal concern, however, presented by EPA's need to defend information and conclusions in the permitting decision that EPA itself did not develop.

RCRA Corrective Action

1. Corrective Action

Where a state with a well developed cleanup program is authorized for the base RCRA program, but has not yet become authorized for corrective action, the Task Force recommends that EPA consider issuing a "rider" general permit that would require treatment, storage or disposal (TSD) facilities receiving state RCRA permits to satisfy corrective action obligations by complying with the requirements of the state's cleanup program. For this approach to be legally defensible, EPA would need to explain the basis for finding that the state controls satisfy federal corrective action requirements. Another option would be for the federal permit to set a schedule of compliance for corrective action measures contingent on completion of the state cleanup in order to see whether further corrective action measures are necessary at that point. For this approach to be effective, EPA must be willing to defer to the State's overall site prioritization system. This may mean that there is less near-term cleanup at RCRA facilities, if there are higher priority non-RCRA facilities.[4]

Under this approach, EPA could then focus its resources and attention on corrective action in states without cleanup programs and on high priority RCRA facilities not otherwise being addressed by the states.

General or hybrid permits could include provisions that authorize low-priority TSD facilities not otherwise receiving regulatory attention to conduct early cleanups, subject to performance standards identified in the general permit (or through use of Memoranda of Agreement between the facility and permitting authority). Again, however, there may be legal barriers to these approaches under the current statute and regulations. An analysis of the possible alternatives to individual permits for corrective action and the legal barriers to those alternatives is ongoing within the PIT and its subgroup on general permits.

Another way to ensure that facilities receive federal permits would be for EPA to issue a permit that simply "copies" the state's permit, relying on the state's supporting record. EPA would not develop a record for the permit independently. In this approach, the facility would obtain a federal permit and would not be liable for operating without a permit. However, this approach would be viable only to the extent EPA feels comfortable that it will be able to defend against any permit challenges based on a record developed by a separate entity (*i.e.*, the state). The issue of deferral to the state, in general, is one that is still being examined by the PIT subgroup.

[3] *See, e.g.*, In the Matter of Humko Products, Docket No. V–W–84–R–014 (March 7, 1985) at p. 20 (facility storing waste over 90 days "is subject to * * * the permit requirements of 40 CFR Part 270"), p. 26 n. 12; Permit Policy Compendium No. 9453.1989(05), Letter from Sylvia Lowrance to Stephen Axtell, April 21, 1989 (generator who fails to mark accumulation date "has not met the pre-conditions for the exemption from permitting requirements and is an operator * * * subject to permit requirements").

[4] EPA sometimes currently defers on a case-by-case basis to other cleanup programs in deciding how to address corrective action in a RCRA permit. In considering this recommendation, EPA might also consider whether its current practice sufficiently meets the goals of this recommendation, or whether there are alternative means of achieving a similar result through improvements on existing practice. For example, are there better ways of reflecting this deferral process in the permit than is currently the case.

2. Non-RCRA Cleanups

Many facilities that do not require RCRA permits have the potential to trigger RCRA permit requirements while conducting cleanups, whether voluntarily or under State direction. Many persons have noted that the possibility of subjecting a facility to full RCRA permitting, including fenceline-to-fenceline corrective action for cleanup activity is a disincentive to conducting focused cleanup and conversion of brownfields. EPA is currently developing approaches to many of these problems through the HWIR rulemakings. The Task Force recommends considering alternative approaches to permitting through the following scenarios which may go beyond the HWIR concepts in some applications:

• Off-site storage and transfer of cleanup waste, where the cleanup activity is being directed or supervised by EPA or a State regulatory agency ;

• On-site storage of contaminated media (includes voluntary cleanups as well as cleanups under regulatory supervision)(action would be subject to best management practices); and

• Activities at facilities not currently subject to RCRA conducting voluntary cleanup.

Of these various options, the last is most expansive, and goes beyond the more limited proposal for on-site storage of contaminated media. The second and third recommendations go beyond the HWIR approaches currently being considered in that they would apply to voluntary cleanups as well as cleanups under regulatory oversight.

ENHANCED PUBLIC PARTICIPATION TASK FORCE RECOMMENDATIONS

A. Background

An important ingredient for improving the permitting process is improving and expanding public involvement in the process. The Enhanced Public Participation Task Force was tasked with developing recommendations for providing opportunities for early and more meaningful public participation, including provisions for addressing environmental justice concerns.

Public participation has many aspects. It can be seen as involvement through participation in the permitting process—e.g., providing notice of upcoming events, or opportunities for meetings with businesses, communities, and regulating agencies. It can also be seen as involvement through access to quality information—e.g., businesses need quality information to identify opportunities to prevent pollution and save money, and communities need access to information to participate in decision-making in a meaningful and informed manner.

The Task Force looked into both areas, and developed five recommendations. The first three recommendations discussed in this report focus on short-term products (i.e., ones that might be developed in FY 1996) that are intended to fill an immediate need for information. These products may be used by permitting agencies, industry, and communities alike to (1) learn about potential ways to involve themselves or each other in the permitting process, and (2) find out what types of information are available, and how they can access it. These three recommendations were discussed with stakeholders and modified to incorporate their comments.

The remaining two recommendations were developed based on general public participation discussions that took place during the PIT's stakeholder meetings. These recommendations are good candidate projects for the continuing efforts of the PIT.

B. Task Force Recommendations

1. Develop An "Easy Reference" Guidance for Public Participation Activities

Description: The purpose of the guidance should be to serve as a valuable reference of public involvement activities. The guidance should not cover every possible type of activity. Rather, it should serve as a supplement to existing guidance developed by EPA Program offices, trade associations, or environmental groups. It could be used by businesses, communities, and permitting agencies in putting together public involvement strategies appropriate for particular situations. We recommend that the guidance be kept fairly short, perhaps 20 pages, in order to facilitate quick reference. The guidance should consist of three sections: an introduction, a matrix of public involvement techniques, and an attachment with additional reference information.

The introduction should lay out both the purpose and limitations of the guidance. The introduction should also:

• Encourage all stakeholders—regulators, facilities, and communities—to take an active role in opening up the permitting process and promoting meaningful public involvement;

• Urge industry and communities to explore innovative public involvement programs, such as the Responsible Care Program (through CMA) and Good Neighbor Agreements (through the Good Neighbor Project); and

• Encourage regulators, facilities, and communities to coordinate public involvement activities across media programs whenever appropriate and feasible.

The matrix of public involvement activities should list a wide variety of public involvement techniques, and provide a brief description of the activity (technique), and some of its advantages and disadvantages. Any activity currently required by an EPA Program office will be footnoted as a regulatory requirement. Since final recommendations regarding alternatives to individual permits have not yet been implemented, the easy-reference guidance should not attempt to "tier" public involvement activities by type of permit. The guidance should, however, have a mechanism to help people determine what activities they could use.

For its "first edition," the guidance should identify "Level I" and "Level II" activities. Level I activities are those that should be considered for use in every situation, regardless of the type of permit, type of facility, or level of community interest. Level II activities represent a variety of ways to go beyond basic approaches to public involvement, and should be considered for use as necessary to meet the needs of the situation at hand. When developing subsequent editions of the easy-reference guidance, the mechanism for "ranking" activities (i.e., Levels I and II) should be re-evaluated to determine if it is still appropriate or if it should be replaced.

The attachment for additional resources should include: (1) the main telephone numbers of all State environmental permitting agencies; (2) the main telephone numbers of all EPA regional permitting offices; (3) a list of all the EPA-sponsored hotlines and information centers, and (4) a recap of the activities required by each EPA media Program office and a list of resources (e.g., guidance manuals) available through those offices.

Implementation: The RCRA Permits Branch in the Office of Solid Waste should take the lead on developing the initial edition of the easy-reference guidance. A draft of the guidance should be shared with a PIT workgroup for review and comment, as well as with the Siting and Public Participation Subcommittees of the National Environmental Justice Advisory Committee (NEJAC).

Hardcopy Distribution: The PIT should distribute copies to its stakeholder mailing list. The PIT should

also provide camera-ready copies of the guidance to the Office of Communications, Education and Public Affairs (OCEPA) and to the Office of Regional Operations, State/Local Relations (OROSLR) so they may distribute the guidance to their respective contacts and mailing lists. Furthermore, each media program office at the federal, state, local and tribal levels should also be encouraged to distribute the guidance as widely as possible.

Electronic Distribution: The Enhanced Public Participation Task Force leader should coordinate with appropriate Agency personnel to post the easy-reference guidance on the Internet. Access to the guidance should be provided through EPA's home page as well as through each media office's menus.

Training: The Enhanced Public Participation Task Force should coordinate with the Training Task Force to evaluate potential ways to provide training, if necessary, on techniques included in the easy-reference guidance.

2. Utilize the Environmental Justice (EJ) Public Participation Checklist as Guidance to the Extent Appropriate and Feasible

Description: The environmental justice movement has sparked a lot of discussion on ways to improve communications and working relations among agencies, industries, and communities. The InterAgency Working Group on Environmental Justice, led by EPA, developed a Public Participation Checklist that lays out ways to identify, inform, and involve stakeholders (e.g., environmental organizations, business and trade associations, civic/public interest groups, grassroots/community-based organizations, tribal governments, and industry). It reflects a combination of: guiding principles for setting up and conducting activities, such as public meetings; specific activities for ensuring widespread and meaningful involvement; and recommendations on how to effectively carry out those activities.

Although the checklist was initially developed in the context of environmental justice, to help federal agencies prepare for the first public meeting to discuss their EJ strategies, it embodies sound principles that apply to public participation for all communities. Therefore, the Task Force recommends that:

(1) EPA (through its Office of Communications, Education, and Public Affairs) should widely distribute the EJ checklist for use as guidance, so that permitting agencies, businesses and the public may benefit from it.

(2) A PIT workgroup continue to coordinate with the Office of Environmental Justice (OEJ) and the InterAgency Working Group on Environmental Justice in order to promote consistency in Agency approaches to enhancing public involvement. The Task Force should forward any suggestions it receives for modifying or enhancing the EJ Checklist to the OEJ and/or InterAgency Working Group.

Implementation: Public Participation Task Force representatives should meet with contacts in OEJ to: (1) review and discuss suggestions the PIT received regarding the Checklist, (2) develop an introduction to accompany the Checklist (describing its origins, etc.), and (3) to plan for further interactions between the two groups. Any changes to the Checklist should be made by OEJ or the InterAgency Working Group, since they originated the Checklist. Their continued "ownership" of the Checklist, and our combined efforts to keep the list current, will help ensure that the two teams continue to work in partnership to address environmental justice concerns, particularly in the context of public involvement. If OEJ (or the InterAgency Working Group) chooses to revise the Checklist, a PIT workgroup could provide assistance.

Hardcopy Distribution: Once the list is revised, OEJ should provide a camera-ready copy of the Checklist to the Office of Communications, Education and Public Affairs (OCEPA) for distribution to its contacts and mailing lists. In addition, camera-ready copies should also be provided to the Office of Regional Operations, State/Local Relations (OROSLR) so they can distribute the Checklist to their contacts and mailing lists. Finally, each media program office at the federal, state, tribal and local levels should be encouraged to distribute the Checklist as widely as possible.

The Task Force assumes that OEJ sends the checklist out to its contacts across the country, and that these contacts include EJ and community groups. In order to target industry for receiving copies of the Checklist, OEJ should provide the Checklist to trade associations for distribution to their member companies.

Electronic Distribution: The Task Force leader should coordinate with appropriate Agency personnel to post the EJ Checklist on the Internet. Access to the Checklist should be provided through EPA's home page as well as through each media office's menus.

3. Develop an Inventory of Mechanisms That Promote Access to Environmental Information

Description: Access to information is an essential component of public involvement. Meaningful, quality information is needed by regulators, regulated industries, and the public alike in order to promote sound environmental decision-making. Within the federal government, offices are revisiting what types of information should be collected and how information may be more readily shared.

An inventory with abstracts of existing sources of information, as well as of the efforts underway to improve quality of and access to information, and the appropriate contact person or office for each, would be a useful reference document. It could be used to inform agencies, businesses and the public of the wide variety of mechanisms available to them.

Development: The inventory of mechanisms should be developed under the direction of EPA's Office of Information Resources Management (OIRM). Identifying and describing the numerous and diverse data systems, information sources, and so on is beyond the scope of PIT resources; however, a PIT workgroup should meet with OIRM to discuss the project and to be available to provide assistance on an as-needed basis.

Primary focus of the inventory should be on Agency automated sources of information (e.g., data systems, bulletin boards), "hardcopy" information sources (e.g., Toxic Release Inventory (TRI) Report), and means of accessing information sources (e.g., through the Freedom of Information Act (FOIA) process, the Internet, via the National Technical Information Service—NTIS). The inventory should also, to the extent possible and feasible, discuss efforts-in-progress (e.g., the Key Identifier and One-Stop Public Access and Reporting Initiative). The inventory should include innovative systems promoted by Program offices to improve community involvement and help empower communities (e.g., Landview II being used by the Office of Solid Waste and Emergency Response). Finally, the inventory should include mechanisms to obtain access to pollution prevention information, such as on-line EPA computer systems like Enviro$ense or the Technology Transfer Network.

The inventory of mechanisms should be presented in an understandable, user friendly manner. In addition, because not every agency, business and member of the public will have electronic access to bulletin board systems and the Internet, proposals for increasing access to information should also include making material easily available in the traditional manners (e.g., printed copies at agency offices, in information repositories, mailed to interested parties, announced in press releases or through radio ads).

Distribution: Distribution of the inventory should be coordinated by OCEPA. The inventory should be available in hardcopy format as well as through the Internet.

In addition, OCEPA should investigate more effective ways to publicize the many sources of information the Agency has, and the avenues to obtaining that information. For example, the Agency develops a thick (over 600 pages!) publication entitled "Access EPA"—a comprehensive directory with detailed descriptions of the Agency's information resources. Unfortunately, relatively few people know of, or have access to, "Access EPA." OCEPA should look into the feasibility of using innovative mechanisms to more widely and effectively distribute this directory, such as entering into an agreement with a national bookstore chain to get their stores to carry "Access EPA" and/or certain other EPA publications.

4. Explore, and Possibly Conduct Pilots for, the Development and Use of Comprehensive Multi-Media Community Involvement Plans

Background: Under the Agency's current regulations, there are various public participation requirements in each media program area—hazardous waste, water, and air. The requirements focus on the individual media permit, and are not consistent across programs. In meeting their regulatory obligations for each media permit, industries and regulators alike often create more confusion than clarity among members of the public who, for the most part, do not segment their involvement along statutory lines—their interests lay with the facility in its entirety. Moreover, having to conduct multiple, yet similar, activities (e.g., one public hearing for the air permit and another for the RCRA permit) imposes an unnecessary burden on a facility; having to keep track of and attend these multiple activities imposes an unnecessary burden on the public. Further exacerbating the problem is the way information about a facility is collected and reported—also a media-by-media approach. No clear picture of the facility as a whole, its total emissions or releases, its comprehensive compliance record, is readily available.

Discussion: In order to create an environment that truly fosters effective interactions between facilities and their neighboring communities, the Agency needs to make the entire public participation process more user-friendly. Using Community Involvement Plans (CIPs), in concert with some programmatic adjustments from other PIT Task Forces, could accomplish this objective.

It is envisioned that a facility, in close coordination with community stakeholders, would be responsible for drafting a CIP. The elements of a CIP would most likely vary, although certain core elements may ultimately be defined. In essence, the CIP would serve as a vehicle through which a facility and a community could form a multi-media approach tailored to meet their particular situation. They could address issues on an aggregate basis, instead of on the media-by-media basis perpetuated by EPA's current structure and regulations. At a minimum, a CIP should set objectives for educating the community on the facility and its operations and for providing routine opportunities for information exchange. Techniques to achieve these objectives could include: community advisory panels, facility tours, integrated compliance reporting, and so on.

The appropriate role of the regulatory agency would also need to be laid out in the CIP. There would need to be an incentive offered in exchange for a facility undertaking the integrated approach to public involvement embodied by the CIP concept—for example, expedited permit processing, aggregated (multi-media) permit processing, or relief from media-specific public participation regulatory obligations. This does not mean, however, that the regulator does not continue to play a key role—the permitting agency would need to interface with both the facility and the community.

Implementation Ideas: The Task Force recommends that the CIP concept be piloted with a few facilities and their neighboring communities. It may be possible to coordinate this effort with other Agency initiatives, such as Project XL or Brownfields, that are intended to pilot innovative approaches to environmental management. The PIT could take the lead on evaluating the results of the pilots. If the efforts prove successful, the Agency should promote widespread use of CIPs and pursue the regulatory changes needed to implement the incentives described above.

• Pros—There are many potential benefits to be gained by using CIPs. For example, they move us away from a "command and control" approach by allowing flexibility to follow a plan that makes sense for the situation at hand. If CIPs ultimately replace media-specific public participation requirements, there would still be a basic "level playing field" by virtue of the fact that everyone would have to develop a plan founded on mutual (facility, community, regulator) needs and concerns. Finally, CIPs enable a facility and a community to deal with issues on an aggregate basis, which may help to move EPA towards a more integrated approach to environmental management.

• Cons—Providing some relief from current media-specific public participation requirements in exchange for using CIPs will necessarily result in a lack of consistency in approaches to public participation. The lack of consistency could create confusion for industry, communities, and regulators alike—no one would be certain what they should do or what their opportunities for involvement are. In considering this aspect, however, it is important (1) to remember that there is already inconsistency in public participation requirements across the Agency's media programs; (2) to question whether the desire for consistency outweighs the need for flexibility; and (3) to focus on the need for improved results.

5. Develop a Series of Case Studies on the Effectiveness of Public Participation Activities

Description: Guidance materials and checklists for promoting public participation provide very useful tools. However, there is a lot that can be learned from real world successes and failures as well. A compilation of actual case studies would be a useful tool to help permitting agencies, industry, and communities put suggested public involvement activities into a context meaningful to their own situations—in other words, it gives people something concrete they can relate to.

Development: The Task Force recommends that a PIT workgroup compile a number of case studies as a project in FY 1996. The PIT should collect existing case studies from various sources, such as (but not limited to) EPA Program offices, Regional or State community relations offices, and environmental justice groups. Further, the PIT could develop its own case studies based on recommendation 4, above.

PERFORMANCE MEASURES—TASK FORCE RECOMMENDATIONS

Background

An important aspect of improving the environmental permitting process concerns how the performance and success of the permitting programs are measured. To often in the past, regulatory agencies have measured success based on the number of permits that have been issued. This "bean counting" has been identified as one of the problems in the current system that needs to be improved.

On September 11, 1993, President Clinton signed Executive Order 12862, Setting Customer Service Standards. This Order, in part, requires each department and agency to "post service standards and measure results against them". The performance measures presented below have been prepared to comply with the Executive Order. These measures will be publicly available so that all Agency stakeholders can review the performance of the permitting programs.

The Performance Measures Task Force developed the following performance and tracking measures based on the input received at stakeholder meetings held during the PIT project and the written comments received on the draft recommendations. The performance measures will be used to evaluate how a permitting program is doing in achieving environmental results and customer satisfaction. The measures focus on the performance of the permitting process and are designed to evaluate the system as a whole. These measures will help EPA identify where changes may be needed in a program to achieve the desired results. The tracking measures provide information on changes to the permitting processes over time and will be used to identify areas of opportunity for process improvement.

The performance and tracking measures are broken down into the following three categories:

1. Process—those measures that specify how the permitting process is doing compared to established criteria;
2. Results—those measures that determine whether the permits are having their desired outcome; and
3. Customer Service—those measures that evaluate how the general public and regulated community feel about the permitting process.

It is recommended that the performance and tracking measures be piloted in a Region that is still issuing a significant number of permits. This will allow the measures to be field tested and any modifications made prior to full implementation. The Permits Improvement Team would assist the Regional office as necessary.

It is further recommended that each Regional office provide these measures to any state, tribe or local government, that is authorized to issue permits, for their consideration. These permitting authorities should not be required to adopt these measures. They should be free to modify them or develop their own measures of a successful permitting program.

Generic Performance Measures

Process

1. Timeliness

Each Regional office that is issuing permits will establish processing time goals for each type of permit they issue (presented as a percentage of applications processed within a specified timeframe). Each Regional media permitting program will determine the appropriateness of dividing their permit universe based on the degree of environmental impact (e.g. minor, significant minor, major). Four distinct processing times will be established to cover the entire permitting process, from receipt of application to permit effectiveness. In addition, the total processing time of each permit will be a tracking measure.

Example: For (type of permit [1]), the time required from receipt of an application to agency determination that the application is complete is as follows:

____% determinations made within 30 days;
____% determinations made between 30 and 60 days;
____% determinations made between 60 and 90 days.

For (type of permit [1]), the time required from receipt of a complete application to issuance of the proposed (or final if no public comment is necessary) agency decision to approve or deny the permit is as follows:

____% proposals/decisions made within 60 days;
____% proposals/decisions made between 60 and 90 days;
____% proposals/decisions made between 90 and 180 days.

For (type of permit [1]), the time required from the issuance of the proposed decision to approve or deny the permit to the final agency action is as follows:

Where limited and straightforward comments are received and no public hearing:

____% decisions made within 60 days;
____% decisions made between 60 and 90 days.

Where substantial and complex comments are received and no public hearing:

____% decisions made within 90 days;
____% decisions made between 90 and 120 days.

When a public hearing is held:

____% decisions made within 180 days;
____% decisions made between 180 and 240 days.

For (type of permit [1]) that are appealed, the time required from issuance of the Region's final permit decision to the effective date of the permit is as follows:

____% effective within 90 days;
____% effective between 90 and 270 days;
____% effective between 270 and 455 days;
____% not effective within 455 days.

Purpose: To have the Regional offices focus on each step of the permit process. The time required to process a permit is influenced by the performance of both the regulatory agency and the permittee as well as by the level of public comment. To achieve the most rapid processing of a permit as possible the agency and permittee need to work together (and with the public as necessary). Therefore, this performance measure is written to identify how long the permit process is taking for each of the major steps. If the actual processing time of the Regional office is longer than the established goal, steps can be identified to improve the performance in that area.

2. Number of Pending Permits

Each Regional office that is issuing permits will establish a goal for the maximum number of permits for new discharges, emissions or releases (either new facilities or modifications required to address a new discharge at an existing facility) that have exceeded the specified times for approval or disapproval provided in 1 above.

Example: (#) of new applications and permit modifications for (type of permit [1]) have not been approved or disapproved within the ____ days set as the maximum for this type of permit action.

Purpose: To provide a measure of the number of permits for new discharges that have not been processed within the defined time periods. This performance measure is just for new discharges. Backlogs of permit renewals are a tracking measure (see below), since there may be a need to prioritize the issuance of certain renewals (e.g. ecosystem based priorities) rather than renew a permit after it has expired but remains in effect. Trend analyses would allow the regulatory agency to readily determine whether they are improving or falling further behind. A backlog above the goal would trigger an evaluation to determine its cause and how to improve the Region's performance.

Results

1. Environmental Indicators

The success of permitting programs need to evaluated based on the environmental conditions that exist in a particular area. Although permitted discharges are not the only source of pollutants, they are regulated to limit their impact so that environmental goals are achieved. Therefore, it is recommended that all permitting authorities develop specific environmental indicators that will be used to evaluate the overall success of their permitting programs.

The Agency is in the process of developing environmental indicators for the nation. Once the national indicators are determined each Regional office will work with the respective state and tribal governments to establish specific indicators for that jurisdiction. This is being accomplished through the development of Environmental Performance Agreements (EnPA) with states and tribes. EnPA's will include indicators that will be re-evaluated yearly and updated, revised or replaced as needed to accurately measure environmental progress. The first EnPA's will be for states and tribes volunteering in Fiscal Year 1996, with full implementation scheduled for FY97. A key component of the EnPA's is stakeholder participation, which includes the development of appropriate environmental indicators for each jurisdiction. The environmental indicators will be used to determine priorities for the next year, including permitting activities.

2. Level of Compliance

The compliance status of all permitted facilities is an important performance measure for permitting programs. In order for environmental protection to occur, facilities must be in compliance with their permits. Just issuing the permit doesn't ensure protection, therefore, it is necessary to determine the level of compliance with those permits to help identify where greater clarity of permit conditions is needed and where to provide technical assistance.

The initial PIT recommendations on how to measure the level of compliance did not contain sufficient detail to allow stakeholders to give their opinion on this approach. The comments received focused on the need for more detail to better define this performance measure. In addition, the Agency has compliance categories for the individual media programs. However, for the most part these have not been developed with stakeholder input. Therefore, it is recommended that a project team of EPA Headquarters and Regional offices and state and tribal agencies be established to further develop this measure as needed. The project team would work with stakeholder groups in the development of a proposal to measure the level of compliance of permitted entities and identify the causes of non-compliance. The Office of Enforcement and Compliance Assurance (OECA) should be responsible for establishing and leading the broad based project team.

Customer Service

1. Customer Satisfaction

Customer service surveys and standards have been drafted for three groups to which EPA provides service: citizens participating in the permitting process; permit applicants; and authorized state, tribal or local governments. The surveys have been approved by the Office of Management and Budget (OMB) and EPA plans to begin using the surveys in FY'96. The customer service standards will be discussed with stakeholder groups prior to finalization. EPA will prepare a report on the results of the customer service surveys in September 1996.

The Office of Policy Planning and Evaluation (OPPE) has been recommended to conduct the surveys and analyze the results. Each Regional permitting office would receive a report identifying any situations where the customer service standards were not met. In these cases, the Regional office could hold focus group meetings or other outreach activities with appropriate stakeholders to determine a course of action that is intended to improve customer service.

Generic Tracking Measures

Process

1. Time Required for Permit Issuance

Each Regional office that is issuing permits will determine the average time required from receipt of a permit application to the Region's final permit decision (this does not include the time to address any appeals). The range of time required to issue each type of permit will also be determined. This information will be made available in any fact sheets and permit application information distributed by the Regional office.

Example: The average time required to issue (type of permit [1]) is ____ (days, weeks, months) with a range of ____ to ____ (days, weeks, months).

Purpose: To provide the applicant and public with an estimate of the total time required to process a given type of permit. This measure, coupled with the timeliness performance measure will show the amount of time the applicant spends working on the permit as well as EPA.

2. Permit Application Completeness

Each Regional office that is issuing permits will track the number of resubmittals (additional/revised information required for the permitting authority to be able to act on the application) required to obtain a complete application. This information will be presented as a percentage of the total universe of permit applications received.

Example: The percentage of (type of permit [1]) applications requiring resubmittal prior to being complete is as follows:

____% No resubmittals required
____% One resubmittal required
____% Two resubmittals required
____% Three or more resubmittals required

Purpose: To have the Regional offices track and make public the number of resubmittals needed to obtain a complete permit application. Regional offices should work with their regulated community to identify causes of excessive resubmittals and determine corrective actions. Permitting programs with high percentages of applications requiring multiple resubmittals would indicate a problem somewhere in the permit process. This could include the information being requested, the clarity of the deficiency letter, the training provided to the regulated community, etc. Trend analysis could be used to determine if progress was being made to reduce the number of applications requiring resubmittal.

3. Cost of Permitting Program

Each Regional office that is issuing permits will estimate the total agency work hours required to process each type of permit they issue and the average number of work hours required to process each individual permit. This information will allow the EPA Region to sum the totals from each permit category to obtain the overall work hours expended on environmental permitting in that Region.

Example: The total work hours of processing all (type of permit [1]) was (#)

for ___ (calendar or fiscal year). The average work hours expended on each permit, based on the processing of (#) permits, is (#) for the same reporting period.

Purpose: To provide an estimate of the total work hours expended on environmental permitting programs. The average work hours information would be useful in determining if programs of similar complexity had significantly different averages. This information could also be used to compare the average processing times of the Regional offices. Evaluations could then be conducted to determine the cause of the difference and learn from successful programs. Trend analysis could be used to determine if work hours are increasing or decreasing.

4. Number of Pending Renewal (Air/Water) and Interim Status (RCRA) Permits

Each Regional office that is issuing permits will track the number of permits that have expired but remain in effect and have not been renewed, or in the case of RCRA, the number of facilities that are operating under an interim status designation.

Example: (#) (type of permit [1]) have not been renewed by the expiration date as of _____ (reporting period).

Purpose: To provide a measure of the number of permits that have not been renewed by their expiration date. Trend analyses would allow the Regional office to readily determine whether the number is increasing or decreasing. Additional analysis would be needed to determine if an increasing trend was a problem or the result of a decision by the Region to focus on ecosystems and allow permits in non-priority areas to remain in effect.

Results

1. Pollution Prevention/Innovative Technology

Each Regional office that is issuing permits will track the number and percent of their permits that include innovative technology or pollution prevention conditions that are included as a means, in whole or in part, to achieve compliance. These conditions could include actual pollution prevention activities or investigations into possible pollution prevention techniques that could assist the facility in complying with permit conditions. Discharge, emission and release limitations would not be considered pollution prevention conditions. The Regions would require the same information from delegated state, tribal and local agencies.

Example: (#) and (%) of (type of permit [1]) that includes pollution prevention conditions (this term requires definition) in the permit as a means, in whole or in part, to achieve compliance with permit conditions.

Example: (#) and (%) of (type of permit [1]) that utilize innovative technology (this term requires definition) to achieve compliance with permit conditions.

Purpose: To determine the effectiveness of permitting programs in encouraging the use of pollution prevention and innovative technologies. If the percentage is below what a regulatory agency was hoping to achieve, additional analyses could be conducted to determine why pollution prevention approaches or innovative technologies were not being used to achieve permit compliance. This tracking measure should be reevaluated, within 1–2 years, to determine if it should be changed to a performance measure, with a specific goal as to the percentage of permits that should utilize pollution prevention techniques or innovative technologies to achieve compliance.

POLLUTION PREVENTION INCENTIVES—TASK FORCE RECOMMENDATIONS

A. Background/Approach

The Pollution Prevention Incentives Task Force derived its mission from the recommendations of the National Performance Review (NPR). The NPR stated that EPA should encourage pollution prevention (P2) by providing flexibility, creating P2 incentives in permits and compliance approaches, and issuing guidance on how to implement innovative strategies and procedures. The NPR also recommended that EPA facilitate permitting of innovative technologies and identify what changes are necessary to achieve this.

EPA has a strong commitment to fostering pollution prevention because experience has shown that it is good for the environment and the economy alike. To implement P2 on a larger scale calls for flexible thinking, concrete and ambitious goal-setting, strong commitment at all levels of government and industry, and an innovative effort that only business can supply. The P2 Incentives Task Force explored these dynamics to help EPA improve the permitting system to encourage investment in P2 measures.

[1] Type of Permit—Each permitting authority would individually define the permit universe that would be included within the performance or tracking measure.

The Pollution Prevention Act of 1990 establishes a hierarchy for environmental protection (source reduction, reuse, recycle, treat, store and dispose) with P2 as the preferred approach. As the hierarchy acknowledges, P2 approaches are not attainable in all instances. In the discussion that follows, many of the recommendations are relevant to P2, recycling, or other innovative approaches.

Streamlined permitting may have an important role in fostering P2. The PIT is focusing on eliminating factors of the permitting system that are overly rigid, cumbersome, and time-consuming. These changes can free up additional resources for potential investments in P2. Yet, streamlined permitting might not mean more pollution prevention unless we also allow greater flexibility, and design incentives to encourage P2-based activity.

This Task Force is emphasizing *incentives* for P2 because, as a general rule, it is in industry's interest to prevent pollution. Our goal is to create permitting incentives and eliminate barriers for industry to do what is largely in their own best interest.

The following Task Force recommendations present approaches for forging the necessary connection between more efficient permitting and real progress in preventing pollution.

B. Task Force Recommendations

1. Link Performance-Based Permitting with Facility-Based Permitting, Consolidation of Permitting Requirements, and Cross-Media Permitting

The Task Force recommends that EPA and state, tribal and local permitting authorities use performance-based permitting as a means of achieving greater flexibility. By performance-based permitting, the Task Force means permitting which recognizes that a standard containing a numeric level does not automatically dictate which technology facilities are to use. On the rule development side, this means writing standards that set numeric levels where possible and appropriate. Many EPA technology-based rules have in fact been written that way. This is because "technology-based" is shorthand for a rule that sets a standard at the numeric level at which the referenced-technology performs. The reference technology is determined by the type of standard being set, such as best demonstrated available technology.

What is key is how "technology-based" rules are interpreted by permit writers. Often, they interpret the rules as requiring the use of the referenced technology. To avoid this, EPA rulemakings should explicitly acknowledge that permit writers are authorized to evaluate technologies other than the referenced technology. Flexibility is needed to allow facilities to use innovative approaches that prevent pollution and achieve greater emission reductions across media. Flexibility would not be allowed to compromise environmental protection, since the permit writer would still have to be satisfied that the permit applicant could meet the performance standard in question.

It is key to recognize that permit writers are generally burdened with heavy case loads, and that it substantially increases their burden if they must regularly evaluate alternative technologies to determine whether they perform at a level equivalent to that of the standard's reference technology. Making it easier for permit writers to evaluate alternative technologies is a task that EPA and state, tribal and local permitting authorities need to address systemically. Hopefully, some of the specific steps provided at the end of this section will meet this need.

The steps in this recommendation should provide the following advantages: (1) making it easier for facilities to use innovative technologies (often key for P2); (2) giving facilities more latitude to explore P2 approaches; and (3) giving facilities a greater economic incentive to explore P2 approaches. Looking at a facility as a whole, rather than a collection of individual pipes each of which needs to meet an individual emission level, can often provide significantly greater opportunities for preventing pollution and making wise investments that yield long-term savings.

The Task Force recommends that EPA, state, tribal and local permitting authorities take steps to link performance-based permitting with facility-based permitting, consolidation of permitting requirements by industry sector, and cross-media permitting. These recommendations build on the Administrative Streamlining Task Force's recommendation for flexible permitting. It is important to note that the focus here is on facility-based permitting, and not company-based, which is a different issue.

These steps are also in line with the alternatives being explored in a host of new EPA initiatives, including several priority projects of the Administration's program to reinvent environmental regulation. Project XL, and alternative strategies for industry sectors, communities, and federal agencies, can address a combination of facility-based permitting and cross-media permitting issues; consolidating federal air rules for the chemical industry will be a test case for consolidation. Demonstration projects in multi-media permitting, as led by the Pollution Prevention Policy Staff are expected to produce several multi-media P2-oriented permits in the next year. The Environmental Technology Initiative's (ETI's) Innovative Technology Permitting Program, being implemented by the Office of Policy, Planning and Evaluation, is currently advancing over two dozen projects designed to eliminate barriers to technology innovation in the permitting process. In addition, ETI's Environmental Technology Verification Program, being implemented by the Office of Research and Development, will soon begin providing credible performance information on more cost effective innovative technologies.

Based on the foregoing, the Task Force recommends the following:

a. The concepts of this first recommendation should be incorporated into CSI, Project XL, ETI, and multi-media permitting. PIT members will work with these initiatives to help achieve the implementation of these concepts.

b. As Regional offices disinvest from oversight of state permit programs, they should collaborate with state, tribal, and local permitting authorities in assessing relevant P2 techniques, where appropriate.

c. To the extent possible, subsequent EPA rulemakings should explicitly acknowledge that permit writers are authorized to exercise their judgment in establishing performance-based limitations based on the technology referenced in the development of the regulatory standard. For example, in the NPDES program, the permitting authority does not approve technologies. The permit writer prepares a permit which includes limitations and conditions, and it is up to the facility to determine how they will meet the permit limits.

d. Examine what steps would be necessary to move towards institutionalizing some of the approaches described above in core EPA programs. This should be undertaken by a PIT workgroup.

e. State permitting authorities should use the results of the Environmental Technology Verification Program or similar state programs to reduce the need for testing and indepth engineering review during permitting.

2. Create Industry-Sector Inventories of Regulatory Thresholds for Permitting.

The Task Force recommends developing a public inventory of existing federal regulatory thresholds for permitting requirements on an industry-by-industry basis. Specifying the thresholds would help facilities to assess the costs and benefits of going below the thresholds and opting out of the permitting system. The Task Force believes that in most instances the savings achievable by getting out of the permitting system would more than offset the investments needed to get releases below thresholds.

Data in this inventory could serve as a reference point for discussions between communities and local facilities about financial incentives for using pollution prevention approaches. Mutual discussions could more easily be tied to the financial incentives for a facility to reduce releases to a level where permitting is reduced or unnecessary, and outcomes that could represent cost savings to the facility.

The Office of Pollution Prevention and Toxics (OPPT) in EPA is piloting this approach for the metal finishing industry, which is comprised mainly of small to medium-sized businesses. Since industry faces federal and state regulations, OPPT will try to include key state regulatory requirements, too. If it appears that some opportunities for getting below certain thresholds bear more promise than others, EPA would emphasize those opportunities most likely to result in success.

EPA recognizes that some explanation about possible permit variances or exemptions will be needed in an industry-sector inventory. In some instances, for example, emissions trading is allowed, and a facility may have legitimately purchased an emissions trading credit. EPA will need to provide sufficient explanation so that users of the inventory will find its data relevant and meaningful to their own applications.

To be clear, the scope of an inventory will be limited to linking permitting thresholds with the economic incentives for getting below thresholds. It will not provide facility-specific information or health/environmental effects data.

The Task Force's specific recommendations are:

a. OPPT should develop a pilot inventory for an industry sector, such as metal finishing (this effort has already started).

b. OECA and OPPT should investigate whether OECA industry sector notebooks (developed for compliance assistance) could be used as a basis to

help industry conduct analyses between the costs of compliance and the costs of getting below permitting thresholds.

3. Explore Offering Alternative Emissions Tracking in Exchange for Using P2 Practices

The Task Force recommends that EPA explore whether an alternative emissions tracking approach could be offered in exchange for a facility commitment to use P2 practices to achieve compliance in whole or in part. Federal permitting requirements generally require facilities to monitor releases (using EPA-approved methodology) and report this data to regulatory agencies. An alternative approach would be to allow a facility to use third-party auditors to convert its proprietary process control measurements into release data that would be reported to EPA as public data.

A primary reason EPA is interested in this approach is that using process data encourages facilities to find opportunities for pollution prevention. Second, it may provide communities with significantly more reliable data on facility emissions in their communities. Third, there may be a significant economic incentive for industry to avoid the cost of expensive monitoring equipment.

The recommended approach is basically an equivalent alternative to current monitoring requirements. (Reducing monitoring requirements is beyond the scope of this particular recommendation.) The Task Force acknowledges that EPA would need to verify P2 commitments made in exchange for using this alternative.

EPA recognizes that there are some concerns about whether the public would have confidence in this recommended approach. One concern is that industry consultants might lack credibility with local communities. The key difference in what the Task Force is proposing is that industry would not pay a third-party auditor directly. The apt analogy is the third-party auditor system used in this country for accrediting laboratories. Labs pay a non-profit organization for the services of the third-party auditors. The auditor's sponsoring organization (the non-profit) has an overriding interest in maintaining the integrity and independence of their auditors, because a biased auditor reflects badly on the organization and the entire accreditation system.

Third-party auditors would have to be trained and accredited by an accrediting organization. Among other things, they would probably need to be trained in knowing what kind of data to get from facilities, and learning the calculations to perform to convert facility process data into reportable emissions data. Given the great diversity of American industry, this may be an idea that could be piloted on an industry-sector basis.

The Task Force recommends the following specific steps:

a. A PIT workgroup should consult with the project team for piloting third-party audits for industry compliance (one of the President's 25 initiatives for reinventing environmental regulation) to further investigate the viability of this approach.

b. This PIT workgroup should also explore potential overlap with International Organization for Standardization (ISO) 14000 efforts.

4. Share P2 Data With Permit Applicants and Affected Communities, and Give Basic P2 Training to Permit Writers

The Task Force recommends that EPA and state, tribal and local permitting authorities share P2 data with permit applicants and affected communities, and give basic P2 training to permit writers. Both of these ideas would provide a way for P2 to be emphasized up-front in the permitting process.

Most permit writers are at the state, tribal, and local level and face workloads that are generally perceived as heavy. To date, their experience with P2 has ranged from no involvement to personal commitment to P2, with lack of time and knowledge often being cited as barriers to their promoting P2.

Despite this perception about the difficulty permit writers face in promoting P2, a recent survey of permit writers in northeastern states conducted by the Northeast Waste Management Officials' Association (NEWMOA) indicates the vast majority of those surveyed wanted P2 training. They said they wanted training in when, how, and where they can use P2 directly in their jobs, and under what authority they can act. NEWMOA is piloting a P2 training for permit writers, based on a review of many permits where P2 has already been incorporated. Efforts such as NEWMOA's could serve as a model for training in other parts of the country, and could be tailored according to the permitting authority and regional needs.

At a minimum, permit writers could serve as a reference for facilities on where to turn (such as local technical assistance centers) for P2 information. It is key that they have a baseline of information about P2 concepts and appreciate the value of sharing P2 data with facilities. Training could most effectively be offered at the state and EPA regional level. EPA, in consultation with states, tribes and local permitting authorities, should evaluate whether P2 reference materials need to be developed and sent to permit applicants and made available to the public.

The Task Force recommends that pollution prevention be made part of the core training for permit writers being advocated by the PIT Training Task Force. Stakeholders have suggested that P2 training should also be given to enforcement and regulatory personnel.

5. Develop an Enforcement Policy to Accommodate the Possibility That Innovative P2 Technologies May Not Perform as Expected or May Take Longer to Achieve Compliance

The Task Force believes it is key to examine the current incentives and disincentives for pollution prevention in environmental enforcement policies as well as in permitting. One reason is that innovative P2 technologies do not always perform as expected. A facility may have little incentive to invest in an innovative P2 technology—and risk its compliance on how that technology will perform—if there is no "soft landing" enforcement policy to cushion against enforcement penalties in the event the technology fails to perform as expected. Some form of risk-sharing, such as mitigation of penalties, should be accepted by EPA.

A second reason that enforcement policies are key to encouraging P2 through permitting is that using P2 approaches—such as process changes—sometimes takes longer than using off-the-shelf control devices. If EPA can offer no extension in compliance deadlines (as appropriate for making P2 changes), facilities may opt for using control devices to ensure they meet these deadlines.

The Task Force recommends that the PIT and the Office of Enforcement and Compliance Assurance (OECA) establish a workgroup to explore a "soft landing" enforcement policy for facilities that adopt innovative P2 technologies, including those verified by EPA or states, that fail to perform as expected. A soft landing policy could remove a significant disincentive against using innovative technologies by providing a cushion against enforcement penalties or costly remedial solutions, and allowing a facility some flexibility in reaching compliance. For example, a facility might be allowed time to achieve compliance through adjusting some other part of its process, allowing it to keep its P2 technology intact.

In addition, the workgroup should identify more ways to offer compliance extensions, consistent with statutory compliance extension mechanisms, in exchange for commitments to use P2 approaches for compliance. (The Task Force supports EPA's recently initiated pilot efforts like Project XL that will be exploring this kind of an approach.) The Task Force also recommends that OECA and EPA Program offices consider using an approach developed by stakeholders in the Industrial Pollution Prevention Project (IP3): through rule-specific guidance, allowing permit modifications to be made under specified conditions that extend the time for compliance. This approach has received EPA-wide endorsement as part of the Clean Water Act reauthorization process.

The Task Force recognizes the need to address boundaries as to how "soft" a soft landing enforcement policy should be, and how long a compliance extension should reasonably be. EPA has previously explored these issues in the IP3, and will need to clarify them again. The State of New Jersey, through an Environmental Technology Initiative grant, will be exploring these limits in its own programs.

6. In All General Permits and Permits-By-Rule, Include Language That Explains the Preference for Using P2 Approaches and the Potential Economic Benefits of P2

The Task Force recommends that EPA and state, tribal and local permitting authorities incorporate language in all general permits and permits-by-rule that explains the environmental management hierarchy (source reduction, reuse, recycle, treat, store and dispose), the preference for using P2 to achieve compliance, and the potential economic benefits associated with P2. If there are differences between EPA's and a state, tribal or local permitting authorities' hierarchy, the permitting authority could list both.

Individual permits are not included in this recommendation because it is recognized that, in these cases, major opportunities for P2 can be identified while the permit conditions are being developed before permit issuance. Therefore, for individual permits, it would be better to put this type of language up-front in the process, such as in permit call-in letters or model permit applications used in the RCRA program. Also, implementing recommendation 4 would encourage including P2 up-front in the process of preparing individual permits.

It is recommended that a PIT workgroup develop sample language and make it available for distribution through core training sessions for permit writers. The workgroup should include permit writers from the Regions and state, tribal and local permitting agencies.

TRAINING TASK FORCE RECOMMENDATIONS

Background

The National Performance Review Team for Permit Streamlining identified training for permit professionals as a priority. Their specific recommendation included the following suggestions: establish an EPA Permits Institute, require State/Federal permit professionals to complete core curriculum, review permit organizational staffing for appropriate skills mix and provide financial/other incentives and awards to permit professionals. In addition to these specific proposals, training was also highlighted under the category of "Increasing Access to Permitting Information." Suggestions under this category discussed training for the public and applicants. Specific recommendations included: draft clear, understandable guidance manuals for states, tribes, local authorities, applicants and the general public; and hold periodic training workshops in conjunction with state associations, trade associations and citizens' groups. The PITs Training Task Force chose to address training broadly to include the regulated community, public and permit professionals.

Overview

Effective environmental permitting relies upon effective transmittal and use of information by all interested parties. State, tribal, local and EPA permit writers need information of the specific characteristics of the facilities being permitted, and need knowledge of the applicable statutes and regulations. The regulated community also needs information, in particular of the permitting process and how regulators use their information. Citizens and environmental groups also need to know the permitting process in order to effectively participate in the permitting process.

The lack of information leads to several problems. Delays in completing permits occur if permittees and citizens do not understand the permitting process and use the appeals process to delay issuance until they are satisfied they fully understand all provisions of the permit, including how each provision was developed. Inconsistencies between permits, that should be similar, occur if permit writers do not understand the basis and reason of the underlying regulations or do not know of applicable guidance.

Recommendations

In order to provide the necessary information to EPA, state, tribal and local permit writers, the regulated community, and citizens and environmental groups, the Task Force recommends four actions.

1. Provide information to the regulated community and others. The Task Force recommends that EPA national Program offices use a series of informational tools to educate permittees and citizens about the permit process. Specific tools to be used or developed are:

a. Using the Internet, trade associations and small business development centers to announce training opportunities and distribute training materials. The announcement should include an explanation of the contents of the training. Program offices should also coordinate to standardize and post these announcements and develop and implement a program to educate the public on the permitting process using tools such as: press releases, infomercials, radio/TV announcements and commercials.

b. Development of a generic fact sheet which summarizes a new permitting project in plain English and may be used as a tool to explain to interested parties the permitting action. The Program offices should coordinate in the development of these fact sheets to achieve as much consistency in format and information provided as possible. After the generic fact sheet is developed, all permitting authorities should prepare a fact sheet, following the model, as part of the permitting process.

c. Develop a clearinghouse of existing model permitting applications and instructions (this should be accomplished in cooperation with state, tribal, and local associations). In addition, the Program offices should request the permitting authorities, especially in EPA, to use "plain English" instructions with application forms and to include a single point of contact (see Administrative Streamlining Task Force report).

2. Provide information on every new significant[5] rule. The Task Force recommends the development and use of a series of informational tools to educate Regional, state, tribal, and local permitting authorities, permittees, and citizens about the requirements and reasons for new rules. Specific actions are:

[5] A significant permitting rule should be determined by considering its environmental impacts, community concerns, and/or complexity of the regulated facilities.

a. Program offices should prepare, as part of regulatory development for significant rules, a package of information which explains the new requirements, including information about permitting and any implementing guidance. The information package should contain materials targeted to different audiences, the regulated community, the permitting authorities and the public and provide contacts for additional information. This package of information must be available at the time of promulgation (e.g., via Internet). Include in the **Federal Register** information about the availability of this material.

b. A PIT workgroup (including representatives from program the offices) should develop a standardized fact sheet format to be used with each new significant rule. Once developed, the Program offices should use this format for transmitting information about each new significant rule either electronically (e.g., Internet) and/or via mailing lists.

3. Define and provide training on core skills and knowledge needed to issue permits. The Task Force has developed the core skills and knowledge that are recommended for permit writers to be effective in their jobs. The Task Force recommends that the Administrator endorse a training program for permit writers, including the core curriculum for permit writers (listed below). This will require the commitment of resources to develop the training and travel funds to attend the training. A PIT workgroup (comprised of representatives from each Program office) should take the lead in designing the training program. States, tribes, and local permitting authorities should participate on the workgroup. Each Program office also needs to identify the additional media specific knowledge which would be necessary for that program. All training should be made available to interested parties, both internal and external to EPA. Examples of these core skills and knowledge include:

- The need and purpose of permits,
- Factors that comprise an enforceable permit,
- Applicable parts of the environmental statutes,
- When a permit application is complete,
- Pollution prevention and innovative technology,
- Waste management hierarchy,
- Development of permit conditions,
- Public speaking and communicating with different audiences,
- Technical writing,
- Sensitivity (understanding needs of stakeholders),
- Environmental justice,
- Holistic view of permitting—multi-media/coordination of permits, and
- Training on the new permitting approach (if adopted).

4. Store and provide critical knowledge. The Task Force has identified a series of tools to better provide written guidance and accumulated permitting office experience to Regions, states, tribes, local authorities, permittees, and citizens. The Task Force recommends that the national Program offices develop these tools and make them available as needed. These tools are:

a. Provide electronically (Internet) an index and synopsis of guidance documents.

b. Creation of EPA subject-based work groups, for example to coordinate issuance of combustion permits between the Air, RCRA and TSCA programs. To assist in the development of the subject based work groups, the Regions should establish regional multi-media permit coordination work groups. Representatives from the regional multi-media permit coordination work groups and the Headquarters Program offices will participate on the subject-based work groups. The work groups will focus on implementing more organized permit "quality control" (e.g., collecting, storing and disseminating EPA, state, tribal, local agencies, and permit writers appeal issues (major and minor) and/or other issues that have an impact on the effectiveness and enforceability of permits).

c. Establishing quasi-independent permit review teams to assure the issuance of quality permits. The review teams may consist of representatives from the above-mentioned, subject-based work groups. The review teams would evaluate significant permitting actions[6] to assure all aspects of the permitting process were addressed (environmental justice, pollution prevention, public notice/hearing, and understandable compliance terms). In FY–96, the permit review team and a state volunteer will conduct a pilot to assess the effectiveness of the permit review team.

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[6] A significant permitting action should be determined by considering the environmental impacts, community concerns, and/or complexity of the facility being permitted.

federal register

Friday
May 10, 1996

Part IV

Department of Health and Human Services

Food and Drug Administration

Harmonisation International Conference; Guidelines Availability: Biotechnological/ Biological Pharmaceutical Products; Viral Safety Evaluation; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96D–0058]

International Conference on Harmonisation; Draft Guideline on Viral Safety Evaluation of Biotechnology Products Derived From Cell Lines of Human or Animal Origin; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a draft guideline entitled "Viral Safety Evaluation of Biotechnology Products Derived From Cell Lines of Human or Animal Origin." The draft guideline was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The draft guideline describes viral safety testing and evaluation of biotechnology products derived from characterized cell lines of human or animal origin, and outlines data that should be submitted in marketing applications.

DATES: Written comments by August 8, 1996.

ADDRESSES: Submit written comments on the draft guideline to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Copies of the draft guideline are available from the Division of Communications Management (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1012. An electronic version of this guideline is also available via Internet by connecting to the CDER file transfer protocol (FTP) server (CDVS2.CDER.FDA.GOV).

FOR FURTHER INFORMATION CONTACT:

Regarding the guideline: Ruth Wolff, Center for Biologics Evaluation and Research (HFM–30), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–594–5660.

Regarding ICH: Janet J. Showalter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

At a meeting held on November 29, 1995, the ICH Steering Committee agreed that a draft guideline entitled "Viral Safety Evaluation of Biotechnology Products Derived From Cell Lines of Human or Animal Origin" should be made available for public comment. The draft guideline is the product of the Quality Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Quality Expert Working Group. Ultimately, FDA intends to adopt the ICH Steering Committee's final guideline.

The draft guideline describes approaches for evaluating the risk of viral contamination and for removing viruses from biotechnology products derived from human or animal cell lines. The draft guideline emphasizes the value of many strategies including: (1) Thorough characterization/screening of the cell substrate starting material in order to identify which, if any, viral contaminants are present; (2) assessment of risk by a determination of the human tropism of the contaminants; (3) incorporation of studies that assess virus inactivation and removal steps in the production process; (4) careful design of viral clearance studies to avoid pitfalls and provide interpretable results; and (5) use of different methods of virus inactivation or removal in the same production process in order to achieve maximum viral clearance.

In the past, guidelines have generally been issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to state procedures or standards of general applicability that are not legal requirements but are acceptable to FDA. The agency is now in the process of revising § 10.90(b). Although this guideline does not create or confer any rights for or on any person and does not operate to bind FDA, it does represent the agency's current thinking on viral safety evaluation of biotechnology products.

Interested persons may, on or before August 8, 1996, submit to the Dockets Management Branch (address above) written comments on the draft guideline. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guideline and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The text of the draft guideline follows:

Viral Safety Evaluation of Biotechnology Products Derived From Cell Lines of Human or Animal Origin

I. Introduction

This document is concerned with testing and evaluation of the viral safety of biotechnology products derived from characterized cell lines of human or animal origin (i.e., mammalian, avian, insect), and outlines data that should be submitted in the marketing application/registration package. For the purposes of this document, the term virus excludes nonconventional transmissible agents like those associated with Bovine Spongiform Encephalopathy (BSE) and scrapie. Applicants are encouraged to discuss issues associated with BSE with the regulatory authorities.

The scope of the document covers products derived from cell cultures initiated from characterized cell banks. It covers products derived from in vitro cell culture, such as interferons, monoclonal antibodies, and recombinant deoxyribonucleic acid (DNA)-derived products including recombinant subunit vaccines, and also includes products derived from hybridoma cells grown in vivo as ascites. In this latter case, special considerations apply and additional information on testing cells propagated in vivo is contained in Appendix 1. Inactivated vaccines, all live vaccines containing self-replicating agents, and genetically engineered live vectors are excluded from the scope of this document.

The risk of viral contamination is a feature common to all biotechnology products derived from cell lines. Such contamination could have serious clinical consequences and can arise from the contamination of the source cell lines themselves (cell substrates) or from adventitious introduction of virus during production. To date, however, biotechnology products derived from cell lines have not been implicated in the transmission of viruses. Nevertheless, it is expected that the safety of these products with regard to viral contamination can be reasonably assured only by the application of a virus testing program and assessment of virus removal and inactivation achieved by the manufacturing process, as outlined below.

Three principal, complementary approaches have evolved to control the potential viral contamination of biotechnology products:

(1) Selecting and testing cell lines and other raw materials, including media components, for the absence of undesirable viruses which may be infectious and/or pathogenic for humans;

(2) Assessing the capacity of the production processes to clear infectious viruses; and

(3) Testing the product at appropriate stages of production for the absence of contaminating infectious viruses.

All testing suffers from the inherent limitation of quantitative virus assays in that the ability to detect low viral concentrations depends for statistical reasons on the size of the sample. Therefore, no single approach will necessarily establish the safety of a product. Confidence that infectious virus is absent from the final product will in many instances not be derived solely from direct testing for their presence, but also from a demonstration that the purification regimen is capable of removing and/or inactivating the viruses.

The type and extent of viral tests and viral clearance studies required at different stages of production will depend on various factors and should be considered on a case-by-case and step-by-step basis. The factors that should be taken into account include the extent of cell bank characterization and qualification, the nature of any viruses detected, culture medium constituents, culture methods, facility and equipment design, the results of viral tests after cell culture, the ability of the process to clear viruses, and the type of product and its intended clinical use.

The purpose of this document is to provide a general framework for virus testing, experiments for the assessment of viral clearance, and a recommended approach for the design of viral tests and viral clearance studies. Related information is described in the appendices and selected definitions are provided in the Glossary.

Manufacturers should adjust the recommendations presented here to their specific product and its production process. The approach used by manufacturers in their overall strategy for ensuring viral safety should be explained and justified. In addition to the detailed data which is provided, an overall summary of the viral safety assessment would be useful in facilitating the review by regulatory authorities. This summary should contain a brief description of all aspects of the viral safety studies and strategies used to prevent virus contamination as they pertain to this document.

II. Potential Sources of Virus Contamination

Viral contamination of biotechnology products may arise from the original source of the cell lines or from adventitious introduction of virus during production processes.

A. Viruses That Could Occur in the Master Cell Bank (MCB)

Cells may have latent or persistent virus infection (e.g., herpesvirus) or endogenous retrovirus which may be transmitted vertically from one cell generation to the next, since the viral genome persists within the cell. Such viruses may be constitutively expressed or may unexpectedly become expressed as an infectious virus.

Viruses can be introduced into the MCB by several routes such as: (1) Derivation of cell lines from infected animals; (2) use of virus to establish the cell line; (3) use of contaminated biological reagents such as animal serum components; and (4) contamination during cell handling.

B. Adventitious Viruses That Could Be Introduced During Production

Adventitious viruses can be introduced into the final product by several routes including, but not limited to, the following: (1) Use of contaminated biological reagents such as animal serum components; (2) use of a virus for the induction of expression of specific genes encoding a desired protein; (3) use of a contaminated reagent, such as a monoclonal antibody affinity column; and (4) use of a contaminated excipient during formulation.

III. Cell Line Qualification: Testing for Viruses

An important part of qualifying a cell line for use in the production of a biotechnology product is the appropriate testing for the presence of virus.

A. Suggested Virus Tests for MCB, Working Cell Bank (WCB), and Cells at the Limit of In Vitro Cell Age Used for Production

Table 1 shows an example of virus tests to be performed once only at various cell levels, including MCB, WCB, and cells at the limit of in vitro cell age used for production.

1. Master Cell Bank

Extensive screening for both endogenous and nonendogenous viral contamination should be performed on the MCB. For heterohybrid cell lines in which one or more partners are human or nonhuman primate in origin, tests should be performed in order to detect viruses of human or nonhuman primate origin because viral contamination arising from these cells may pose a particular hazard.

Testing for nonendogenous viruses should include in vitro and in vivo inoculation tests and any other specific tests, including species-specific tests such as the mouse antibody production (MAP) test, that are appropriate, based on the passage history of the cell line, to detect possible contaminating viruses.

2. Working Cell Bank

Each WCB as a starting cell substrate for drug production should be tested for adventitious virus either by direct testing or by analysis of cells at the limit of in vitro cell age, initiated from the WCB. When appropriate nonendogenous virus tests have been performed on the MCB and cells cultured up to or beyond the limit of in vitro cell age have been derived from the WCB and used for testing for the presence of adventitious viruses, similar tests need not be performed on the initial WCB. Antibody production tests are usually not necessary for the WCB. An alternative approach in which full tests are carried out on the WCB rather than on the MCB would also be acceptable.

3. Cells at the Limit of In Vitro Cell Age Used for Production

The limit of in vitro cell age used for production should be based on data derived from production cells expanded under pilot-plant scale or commercial-scale conditions to the proposed in vitro cell age or beyond. Generally, the production cells are obtained by expansion of the WCB; the MCB could also be used to prepare the production cells. Cells at the limit of in vitro cell age should be evaluated once for those endogenous viruses that may have been undetected in the MCB and WCB. The performance of suitable tests (e.g., in vitro and in vivo) at least once on cells at the limit of in vitro cell age used for production would provide further assurance that the production process is not prone to contamination by adventitious virus. If any adventitious viruses are detected at this level, the process should be carefully checked in order to determine the cause of the contamination and completely redesigned if necessary.

B. Recommended Viral Detection and Identification Assays

Numerous assays can be used for the detection of endogenous and adventitious viruses. Table 2 outlines examples for these assays. They should be regarded as assay protocols recommended for the present, but the list is not all-inclusive or definitive. Since the most appropriate techniques may change with scientific progress, proposals for alternative techniques, when accompanied by adequate supporting data, may be acceptable. Manufacturers are encouraged to discuss these alternatives with the regulatory authorities. Other tests may be necessary depending on the individual case. Assays should include appropriate controls to ensure adequate sensitivity and specificity. Wherever a relatively high possibility of the presence of a specific virus can be predicted from the species of origin of the cell

substrate, specific tests and/or approaches may be necessary. If the cell line used for production is of human or nonhuman primate origin, additional tests for human viruses, such as those causing immunodeficiency diseases and hepatitis, should be performed unless otherwise justified. The polymerase chain reaction (PCR) may be appropriate for detection of sequences of these human viruses as well as for other specific viruses. The following is a brief description of a general framework and philosophical background within which the manufacturer should justify what was done.

1. Tests for Retroviruses

For the MCB and for cells cultured up to or beyond the limit of in vitro cell age used for production, tests for retroviruses, including infectivity assays in sensitive cell cultures and electron microscopy (EM) studies, should be carried out. If infectivity is not detected and no retrovirus or retrovirus-like particles have been observed by EM, reverse transcriptase (RT) or other appropriate assays should be performed to detect retroviruses which may be noninfectious. Induction studies have not been found to be useful.

2. In Vitro Assays

In vitro tests are carried out by the inoculation of a test article (see Table 2) into various susceptible indicator cell cultures capable of detecting a wide range of human and relevant animal viruses. The choice of cells used in the test is governed by the species of origin of the cell bank to be tested, but should include a human and/or a nonhuman primate cell line susceptible to human viruses. The nature of the assay and the sample to be tested are governed by the type of virus which may possibly be present based on the origin or handling of the cells. Both cytopathic and hemadsorbing viruses should be sought.

3. In Vivo Assays

A test article (see Table 2) should be inoculated into animals, including suckling and adult mice, and in embryonated eggs to reveal viruses that cannot grow in cell cultures. Additional animal species may be used depending on the nature and source of the cell lines being tested. The health of the animals should be monitored and any abnormality should be investigated to establish the cause of the illness.

4. Antibody Production Tests

Species-specific viruses present in rodent cell lines may be detected by inoculating test article (see Table 2) into virus-free animals and examining the serum antibody level or enzyme activity after a specified period. Examples of such tests are the MAP test, rat antibody production (RAP) test, and hamster antibody production (HAP) test. The viruses currently screened for in the antibody production assays are discussed in Table 3.

C. Acceptability of Cell Lines

It is recognized that some cell lines used for the manufacture of product will contain endogenous retroviruses, other viruses, or viral sequences. In such circumstances, the action plan recommended for manufacture is described in section V. of this document. The acceptability of cell lines containing viruses other than endogenous retroviruses will be considered on an individual basis by the regulatory authorities, by taking into account a risk/benefit analysis based on the benefit of the product and its intended clinical use, the nature of the contaminating viruses, their potential for infecting humans or for causing disease in humans, the purification process for the product (e.g., viral clearance evaluation data), and the extent of the virus tests conducted on the purified bulk.

IV. Testing for Viruses in Unprocessed Bulk

The unprocessed bulk constitutes one or multiple pooled harvests of cells and culture media. When cells are not readily accessible (e.g., hollow fiber or similar systems), the unprocessed bulk would constitute fluids harvested from the fermenter. A representative sample of the unprocessed bulk, removed from the production reactor prior to further processing, represents one of the most suitable levels at which the possibility of adventitious virus contamination can be determined with a high probability of detection. Appropriate testing for viruses should be performed at the unprocessed bulk level unless virus testing is made more sensitive by initial partial processing (e.g., unprocessed bulk may be toxic in test cell cultures, whereas partially processed bulk may not be toxic).

In certain instances it may be more appropriate to test a mixture consisting of both intact and disrupted cells and their cell culture supernatants removed from the production reactor prior to further processing. Data from at least 3 lots of unprocessed bulk at pilot-plant scale or commercial scale should be submitted as part of the registration/marketing application package.

It is recommended that manufacturers develop programs for the ongoing assessment of adventitious viruses in production batches. The scope, extent, and frequency of virus testing on the unprocessed bulk should be determined by taking several points into consideration including the nature of the cell lines used to produce the desired products, the results and extent of virus tests performed during the qualification of the cell lines, the cultivation method, raw material sources, and results of viral clearance studies. In vitro screening tests, using one or several cell lines, are generally employed to test unprocessed bulk. If appropriate, a PCR test or other suitable methods may be used.

Generally, harvest material in which adventitious virus has been detected should not be used to manufacture the product. If any adventitious viruses are detected at this level, the process should be carefully checked to determine the cause of the contamination, and appropriate actions taken.

V. Rationale and Action Plan for Viral Clearance Studies and Virus Tests on Purified Bulk

It is important to design the most relevant and rational protocol for virus tests from the MCB level through the various stages of drug production to the final product, including evaluation and characterization of viral clearance from unprocessed bulk. The evaluation and characterization of viral clearance plays a critical role in this scheme. The goal should be to obtain the best reasonable assurance that the product is free of virus contamination.

In selecting viruses to use for a clearance study, it is useful to distinguish between the need to evaluate processes for their ability to clear viruses that are known to be present and the desire to estimate the robustness of the process by characterizing the clearance of nonspecific "model" viruses (described later). Definitions of "relevant", specific and nonspecific "model" viruses are given in the Glossary. Process evaluation requires knowledge of how much virus may be present in the process, such as the unprocessed bulk, and how much can be cleared in order to assess product safety. Knowledge of the time dependence for inactivation procedures is helpful in assuring the effectiveness of the inactivation process.

When a manufacturing process is characterized for robustness of clearance using nonspecific "model" viruses, less extensive virus removal/inactivation studies are appropriate. Indepth, time-dependent inactivation studies, demonstration of reproducibility of inactivation/removal, and evaluation of process parameters are not required. These studies should be performed on the manufacturing process in Cases A through E as described below.

Table 4 presents an example of an action plan in terms of process evaluation and characterization of viral clearance as well as virus tests on purified bulk, in response to the results of virus tests on cells and/or the unprocessed bulk. Various cases are considered. In all cases, characterization of clearance using nonspecific "model" viruses should be performed. The most common situations are Cases A and B. Production systems contaminated with a virus other than a rodent retrovirus are normally not used. Where there are convincing and well justified reasons for drug production using a cell line from Cases C, D, or E, these should be discussed with the regulatory authorities. With Cases C, D, and E, it is important to have validated effective steps to inactivate/remove the virus in question from the manufacturing process.

Case A: Where no virus, virus-like particle, or retrovirus-like particle has been demonstrated in the cells or the unprocessed bulk, virus removal and inactivation studies should be performed with nonspecific "model" viruses as previously stated.

Case B: Where only a rodent retrovirus (or a retrovirus-like particle which is believed to be nonpathogenic, such as rodent A- and R-type particles) is present, process evaluation using a specific "model" virus, such as a murine leukemia virus, should be performed. Purified bulk should be tested using suitable methods having high specificity and sensitivity for the detection of the virus in question. For marketing authorization, data from at least 3 lots of purified bulk at pilot-plant scale or commercial scale should be provided. Cell lines such as Chinese hamster ovary (CHO), C127, baby hamster kidney (BHK), and murine hybridoma cell lines have frequently been used as substrates for drug production with no reported safety problems related to viral contamination of the products. For these cell lines in which the endogenous particles have been extensively characterized and clearance has been demonstrated, it is not usually necessary to assay for the presence of the noninfectious particles in purified bulk.

Case C: When the cells or unprocessed bulk are known to contain a virus, other than a rodent retrovirus, for which there is no evidence of capacity for infecting humans, (such as those identified by footnote 2 in Table 3, except rodent retroviruses (Case B)), virus removal and inactivation evaluation studies should use the identified virus. If it is not possible to use the identified virus, "relevant" or specific "model" viruses should be used to demonstrate acceptable clearance. Time-dependent inactivation for identified (or "relevant" or specific "model") viruses at the critical inactivation step(s) should be obtained as part of process evaluation for these viruses. Purified bulk should be tested using suitable methods having high specificity and sensitivity for the detection of the virus in question. For the purpose of marketing authorization, data from at least 3 lots of purified bulk manufactured at pilot-plant scale or commercial scale should be provided.

Case D: Where a known human pathogen, such as those indicated by footnote 1 in Table 3, is identified, the product may be acceptable only under exceptional circumstances. In this instance, it is recommended that the identified virus be used for virus removal and inactivation evaluation studies and specific methods with high specificity and sensitivity for the detection of the virus in question be employed. If it is not possible to use the identified virus, "relevant" and/or specific "model" viruses (described later) should be used. The process should be shown to achieve the removal and inactivation of the selected viruses during the purification and inactivation processes. Time-dependent inactivation data for the critical inactivation step(s) should be obtained as part of process evaluation. Purified bulk should be tested using suitable methods having high specificity and sensitivity for the detection of the virus in question. For the purpose of marketing authorization, data from at least 3 lots of purified bulk manufactured at pilot-plant scale or commercial scale should be provided.

Case E: When a virus which cannot be classified by currently available methodologies is detected in the cells or unprocessed bulk, the product is usually considered unacceptable since the virus may prove to be pathogenic. In the very rare case where there are convincing and well justified reasons for drug production using such a cell line, this should be discussed with the regulatory authorities before proceeding further.

VI. Evaluation and Characterization of Viral Clearance Procedures

Evaluation and characterization of the virus removal and/or inactivation procedures plays an important role in establishing the safety of biotechnology products. Many instances of contamination in the past have occurred with agents whose presence was not known or even suspected, and though this happened to biological products derived from various source materials other than fully characterized cell lines, assessment of viral clearance will provide a measure of confidence that any unknown, unsuspected, and harmful viruses may be removed.

The objective of viral clearance studies is to assess process step(s) that can be considered to be effective in inactivating/removing viruses and to estimate quantitatively the overall level of virus reduction obtained by the process. This should be achieved by the deliberate addition ("spiking") of significant amounts of a virus to the crude material and/or to different fractions obtained during the various process stages and demonstrating its removal or inactivation during the subsequent stages. It is not necessary to evaluate or characterize every stage of a manufacturing process if adequate clearance is demonstrated by the use of fewer steps.

The reduction of virus infectivity may be achieved by removal of virus particles or by inactivation of viral infectivity. For each production stage assessed, the possible mechanism of loss of viral infectivity should be described with regard to whether it is due to inactivation or removal. For inactivation steps, the study should be planned in such a way that samples are taken at different times and an inactivation curve constructed. Studies should be carried out in a manner that is well documented and controlled (see section VI.B.5).

Viral clearance evaluation studies are performed to demonstrate the clearance of a virus known to be present in the MCB and/or to provide some level of assurance that adventitious viruses which could not be detected, or might gain access to the production process, would be cleared.

In contrast to viral clearance studies described above for viruses known to be present, studies to characterize the ability to remove and/or inactivate other viruses should be conducted. The purpose of the studies with viruses that are not known or expected to be present is to characterize the robustness of the procedure rather than to achieve a specific inactivation or removal goal. They are not performed to evaluate a specific safety risk. Therefore, a specific clearance value need not be achieved.

A. The Choice of Viruses for the Evaluation and Characterization of Viral Clearance

Viruses for clearance evaluation and process characterization studies should be chosen to resemble viruses which may contaminate the product and to represent a wide range of physico-chemical properties in order to test the ability of the system to eliminate viruses in general. The manufacturer should justify the choice of viruses in accordance with the aims of the evaluation and characterization study and the guidance provided in this guideline.

1. "Relevant" Viruses and "Model" Viruses

A major issue in performing a viral clearance study is to determine which viruses should be used. Such viruses fall into three categories: "Relevant" viruses, specific "model" viruses, and nonspecific "model" viruses.

"Relevant" viruses are viruses used in process evaluation of viral clearance studies which are either the identified viruses, or of the same species as the viruses that are known, or likely to contaminate the cell substrate or any other reagents or materials used in the production process. The purification and/or inactivation process should demonstrate the capability to remove and/or inactivate such viruses. When a "relevant" virus is not available or when it is not well adapted to process evaluation of viral clearance studies (e.g., it cannot be grown in vitro to sufficiently high titers), a specific "model" virus should be used as a substitute. An appropriate specific "model" virus may be a virus which is closely related to the known or suspected virus (same genus or family), having similar physical and chemical properties to the observed or suspected virus.

Cell lines derived from rodents usually contain endogenous retrovirus particles or retrovirus-like particles, which may be infectious (C-type particles) or noninfectious (cytoplasmic A- and R-type particles). The capacity of the manufacturing process to remove and/or inactivate rodent retroviruses from products obtained from such cells should be determined. This may be accomplished by using a murine leukemia virus, a specific "model" virus in the case of cells of murine origin. When human cell lines secreting monoclonal antibodies have been obtained by the immortalization of B lymphocytes by Epstein-Barr Virus (EBV), the ability of the manufacturing process to remove and/or inactivate a herpes virus should be determined. Pseudorabies virus may also be used as a specific "model" virus.

When the purpose is to characterize the capacity of the manufacturing process to remove and/or inactivate viruses in general, i.e., to characterize the robustness of the clearance process, viral clearance characterization studies should be performed with nonspecific "model" viruses with differing properties. Data obtained from studies with "relevant" and/or specific "model" viruses may also contribute to this assessment. It is not necessary to test all types of viruses. Preference should be given to viruses that display a significant resistance to physical and/or chemical treatments. The results obtained for such viruses provide useful information about the ability of the production process to remove and/or inactivate viruses in general. The choice and number of viruses used will be influenced by the quality and characterization of the cell lines and the production process.

Examples of useful "model" viruses representing a range of physico-chemical structures and examples of viruses which have been used in viral clearance studies are given in Appendix 2 and Table A–1.

2. Other Considerations

Additional points to be considered are as follows:

(a) Viruses which can be grown to high titer are desirable, although this may not always be possible.

(b) There should be an efficient and reliable assay for the detection of each virus

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used, for every stage of manufacturing that is tested.

(c) Consideration should be given to the health hazard which certain viruses may pose to the personnel performing the clearance studies.

B. Design and Implications of Viral Clearance Evaluation and Characterization Studies

1. Facility and Staff

It is inappropriate to introduce any virus into a production facility because of good manufacturing practice (GMP) constraints. Therefore, viral clearance studies should be conducted in a separate laboratory equipped for virological work and performed by staff with virological expertise in conjunction with production personnel involved in designing and preparing a scaled-down version of the purification process.

2. Scaled-down Production System

The validity of the scaling-down should be demonstrated. The level of purification of the scaled-down version should represent as closely as possible the production procedure. For chromatographic equipment, column bed-height, linear flow-rate, flow-rate-to-bed-volume ratio (i.e., contact time), buffer and gel types, pH, temperature, and concentration of protein, salt, and product should all be shown to be representative of commercial-scale manufacturing. For other procedures, similar considerations apply. Deviations which cannot be avoided should be discussed with regard to their influence on the results.

3. Analysis of Step-wise Elimination of Virus

When viral clearance studies are being performed, it is desirable to assess the contribution of more than one production step to virus elimination. Essential stages of the purification process should be individually assessed for their ability to remove and inactivate virus and careful consideration should be given to the exact definition of an individual stage. Sufficient virus should be present in the material of each stage to be tested so that an adequate assessment of the effectiveness of each step is obtained. Generally, virus should be added to in-process material of each stage to be tested. In some cases, simply adding high titer virus to unpurified bulk and testing its concentration between steps will be sufficient. When virucidal buffers are used in multiple steps within the manufacturing process, alternative strategies such as parallel spiking in less virucidal buffers may be carried out as part of the overall process assessment. The virus titer before and after each step being tested should be determined. Quantitative infectivity assays should have adequate sensitivity and reproducibility and should be performed with sufficient replicates to ensure adequate statistical validity of the result (see Appendix 3). Quantitative assays not associated with infectivity may be used if justified. Appropriate virus controls should be included in all infectivity assays to ensure the sensitivity of the method. Also, the statistics of sampling virus when at low concentrations should be considered (Appendix 4).

4. Determining Physical Removal Versus Inactivation

Reduction in virus infectivity may be achieved by the removal or inactivation of virus. For each production stage assessed, the possible mechanism of loss of viral infectivity should be described with regard to whether it is due to inactivation or removal. If little clearance of infectivity is achieved by the production process, and the clearance of virus is considered to be a major factor in the safety of the product, specific or additional inactivation/removal steps should be introduced. It may be necessary to distinguish between removal and inactivation for a particular step, e.g., when there is a possibility that a buffer used in more than one clearance step may contribute to inactivation during each step, i.e., the contribution to inactivation by a buffer shared by several chromatographic steps and the removal achieved by each of these chromatographic steps should be distinguished. Assurance should be provided that any virus potentially retained by the production system would be adequately destroyed or removed prior to reuse of the system. For example, such evidence may be provided by demonstrating that the cleaning and regeneration procedures do inactivate or remove virus.

5. Inactivation Assessment

For assessment of viral inactivation, unprocessed crude material or intermediate material should be spiked with infectious virus and the reduction factor calculated. The determination of initial virus load for assessing inactivation potential may be derived from the titer of the spiking virus preparation. This may be of importance when virucidal buffers are used in multiple steps within the manufacturing process. Virus inactivation is not a simple, first order reaction and is usually more complex, with a fast "phase 1" and a slow "phase 2." The study should, therefore, be planned in such a way that samples are taken at different times and an inactivation curve constructed. It is recommended that studies for inactivation include at least one time point less than the minimum exposure time and greater than zero, in addition to the minimum exposure time. These types of data are particularly important where the virus is a "relevant" virus known to be a human pathogen and an effective inactivation process is being designed.

6. Function and Regeneration of Columns

Over time and after repeated use, the ability of chromatography columns and other devices used in the purification scheme to clear virus may vary. Some estimate of the stability of the viral clearance after several uses may provide support for repeated use of such columns. Assurance should be provided that any virus potentially retained by the production system would be adequately destroyed or removed prior to reuse of the system. For example, such evidence may be provided by demonstrating that the cleaning and regeneration procedures do inactivate or remove virus.

7. Specific Precautions

(a) Care should be taken in preparing the high-titer virus to avoid aggregation which may enhance physical removal and decrease inactivation, thus distorting the correlation with actual production.

(b) Consideration should be given to the minimum quantity of virus which can be reliably assayed.

(c) The study should include parallel control assays to assess the loss of infectivity of the virus due to such reasons as the dilution, concentration, filtration, or storage of samples before titration.

(d) The virus "spike" should be added to the product in a small volume so as not to dilute or change the characteristics of the product. Diluted, test-protein sample is no longer identical to the product obtained at commercial scale.

(e) Small differences in, for example, buffers, media, or reagents, can substantially affect viral clearance.

(f) Virus inactivation is time-dependent, therefore, the amount of time a spiked product remains in a particular buffer solution or on a particular chromatography column should reflect the conditions of the commercial-scale process.

(g) Buffers and product should be evaluated independently for toxicity or interference in assays used to determine the virus titer, as these components may adversely affect the indicator cells. If the solutions are toxic to the indicator cells, dilution, adjustment of the pH, or dialysis of the buffer containing spiked virus may be necessary. If the product itself has antiviral activity, the clearance study may need to be performed without the product in a "mock" run, although omitting the product or substituting a similar protein that does not have antiviral activity could affect the behavior of the virus in some production steps. Sufficient controls to demonstrate the effect of procedures used solely to prepare the sample for assay (e.g., dialysis, storage) on the removal/inactivation of the spiking virus should be included.

(h) Many purification schemes use the same or similar buffers or columns repetitively. The effects of this approach should be taken into account when analyzing the data. The effectiveness of virus elimination by a particular process may vary with the manufacturing stage at which it is used.

(i) Overall reduction factors may be underestimated where production conditions or buffers are too cytotoxic or virucidal and should be discussed on a case-by-case basis.

C. Interpretation of Viral Clearance Studies; Acceptability

The objective of assessing virus inactivation/removal is to evaluate and characterize process steps that can be considered to be effective in inactivating/removing viruses and to estimate quantitatively the overall level of virus reduction obtained by the manufacturing process. For virus contaminants, as in Cases B through E, it is important to show that not only is the virus eliminated or inactivated, but that there is excess capacity for viral clearance built into the purification process to assure an appropriate level of safety for the final product. The amount of virus eliminated or inactivated by the production process should be compared to the amount of virus which may be present in unprocessed bulk. However, for inactivation studies in which nonspecific "model" viruses are used, or when specific "model" viruses are used as surrogates for virus particles such as the CHO intracytoplasmic retrovirus-like particles, it is sufficient to demonstrate reproducible clearance in at least two independent experiments. It is recommended that these studies for inactivation include at least one time-point less than the minimum exposure time and greater than zero, in addition to the minimum exposure time.

To carry out this comparison, it is important to estimate the amount of virus in the unprocessed bulk. This estimate should be obtained using assays for infectivity or other methods such as transmission electron microscopy (TEM). The entire purification process should be able to eliminate substantially more virus than is estimated to be present in a single-dose-equivalent of unprocessed bulk. See Appendix 5 for calculation of virus reduction factors and Appendix 6 for calculation of estimated particles per dose.

A combination of factors must be considered when judging the data supporting the effectiveness of virus inactivation/removal procedures. These include:

(i) The appropriateness of the test viruses used;

(ii) The design of the clearance studies;

(iii) The log reduction achieved;

(iv) The time dependence of inactivation;

(v) The potential effects of variation in process parameters on virus inactivation/removal; and

(vi) The limits of assay sensitivities.

Effective clearance may be achieved by any of the following: Multiple inactivation steps, multiple complementary separation steps, or combinations of inactivation and separation steps. Since separation methods may be dependent on the extremely specific physico-chemical properties of a virus which influence its interaction with gel matrices and precipitation properties, "model" viruses may be separated in a different manner than a target virus. Differences may originate from changes in surface properties such as glycosylation. However, despite these potential variables, effective removal can be obtained by a combination of complementary separation steps or combinations of inactivation and separation steps. Therefore, well-designed separation steps, such as chromatographic procedures, filtration steps, and extractions, can be effective virus removal steps provided that they are performed under appropriately controlled conditions.

An overall reduction factor is generally expressed as the sum of the individual factors. However, reduction in virus titer of the order of 1 $\log_{10}$ or less would be considered negligible and would be ignored unless assay variability were shown to be below that order of magnitude.

If little reduction of infectivity is achieved by the production process, and the removal of virus is considered to be a major factor in the safety of the product, a specific, additional inactivation/removal step or steps should be introduced. For all viruses, manufacturers should justify the acceptability of the reduction factors obtained. Results will be evaluated on the basis of the factors listed above.

D. Limitations of Viral Clearance Studies

Viral clearance studies are useful for contributing to the assurance that an acceptable level of safety in the final product is achieved, but do not by themselves establish safety. However, a number of factors in the design and execution of viral clearance studies may lead to an incorrect estimate of the ability of the process to remove virus infectivity (see Appendices 2, 3, and 4). These factors include the following:

1. Virus preparations used in clearance studies for a production process are likely to be produced in tissue culture. The behavior of a tissue culture virus in a production step may be different from that of the native virus, for example, if native and cultured viruses differ in purity or degree of aggregation.

2. Inactivation of virus infectivity frequently follows a biphasic curve in which a rapid initial phase is followed by a slower phase. It is possible that virus escaping a first inactivation step may be more resistant to subsequent steps. For example, if the resistant fraction takes the form of virus aggregates, infectivity may be resistant to a range of different chemical treatments and to heating.

3. The ability of the overall process to remove infectivity is expressed as the sum of the logarithm of the reductions at each step. The summation of the reduction factors of multiple steps, particularly of steps with little reduction (e.g., below 1 $\log_{10}$), may overestimate the true potential for virus elimination. Furthermore, reduction values achieved by repetition of identical or near identical procedures should not be included unless justified.

4. The expression of reduction factors as logarithmic reductions in titer implies that, while residual virus infectivity may be greatly reduced, it will never be reduced to zero. For example, a reduction in the infectivity of a preparation containing 8 $\log_{10}$ infectious units per milliliter (mL) by a factor of 8 $\log_{10}$ leaves zero $\log_{10}$ per mL or one infectious unit per mL, taking into consideration the limit of detection of the assay.

5. Pilot-plant scale processing may differ from commercial-scale processing despite care taken to design the scaled-down process.

6. Addition of individual virus reduction factors resulting from similar inactivation mechanisms along the manufacturing process may overestimate overall viral clearance.

E. Statistics

The viral clearance studies should include the use of statistical analysis of the data to evaluate the results. The study results should be statistically valid to support the conclusions reached (see Appendices 3 and 4).

F. Re-Evaluation of Viral Clearance

Whenever significant changes in the production or purification process are made, the effect of that change on viral clearance should be considered and the system re-evaluated as needed. For example, changes in production processes may cause significant changes in the amount of virus produced by the cell line; changes in process steps may change the extent of viral clearance.

VII. Summary

This document suggests approaches for the evaluation of the risk of viral contamination and for the removal of virus from the product, thus contributing to the production of safe biotechnology products derived from animal or human cell lines, and emphasizes the value of many strategies, including:

A. Thorough characterization/screening of cell substrate starting material in order to identify which, if any, viral contaminants are present;

B. Assessment of risk by determination of the human tropism of the contaminants;

C. Incorporation of studies which assess virus inactivation and removal steps into the production process;

D. Careful design of the viral clearance studies to avoid pitfalls and provide interpretable results; and

E. Use of different methods of virus inactivation or removal in the same production process in order to achieve maximum viral clearance.

Glossary

Adventitious Virus. See virus.

Cell Substrate. Cells used to manufacture product.

Endogenous Virus. See virus.

Inactivation. Reduction of virus infectivity caused by chemical or physical modification.

In Vitro Cell Age. A measure of the period between thawing of the MCB vial(s) and harvest of the production vessel measured by elapsed chronological time in culture, population doubling level of the cells, or passage level of the cells when subcultivated by a defined procedure for dilution of the culture.

Master Cell Bank (MCB). An aliquot of a single pool of cells which generally has been prepared from the selected cell clone under defined conditions, dispensed into multiple containers, and stored under defined conditions. The MCB is used to derive all working cell banks. The testing performed on a new MCB (from a previous initial cell clone, MCB, or WCB) should be the same as for the MCB, unless justified.

Minimum Exposure Time. The shortest period for which a treatment step will be maintained.

Nonendogenous Virus. See virus.

Process Characterization of Viral Clearance. Viral clearance studies in which nonspecific "model" viruses are used to assess the robustness of the manufacturing process to remove and/or inactivate viruses.

Process Evaluation Studies of Viral Clearance. Viral clearance studies in which "relevant" and/or specific "model" viruses are used to determine the ability of the manufacturing process to remove and/or inactivate these viruses.

Production Cells. Cell substrate used to manufacture product.

Unprocessed Bulk. One or multiple pooled harvests of cells and culture media. When

cells are not readily accessible, the unprocessed bulk would constitute fluid harvested from the fermenter.

Virus. Intracellularly replicating infectious agents that are potentially pathogenic, possessing only a single type of nucleic acid (either ribonucleic acid (RNA) or DNA), are unable to grow and undergo binary fission, and multiply in the form of their genetic material.

Adventitious Virus. Unintentionally introduced contaminant viruses.

Endogenous Virus. Viral entity whose genome is part of the germ line of the species of origin of the cell line and is covalently integrated into the genome of animal from which the parental cell line was derived. For the purposes of this document, intentionally introduced, nonintegrated viruses such as EBV used to immortalize cell substrates or Bovine Papilloma Virus fit in this category.

Nonendogenous Virus. Viruses from external sources present in the Master Cell Bank.

Nonspecific Model Virus. A virus used for characterization of viral clearance of the process when the purpose is to characterize the capacity of the manufacturing process to remove and/or inactivate viruses in general, i.e., to characterize the robustness of the purification process.

Relevant Virus. Virus used in process evaluation studies which is either the identified virus, or of the same species as the virus that is known, or likely to contaminate the cell substrate or any other reagents or materials used in the production process.

Specific Model Virus. Virus which is closely related to the known or suspected virus (same genus or family), having similar physical and chemical properties to those of the observed or suspected virus.

Viral Clearance. Elimination of target virus by removal of viral particles or inactivation of viral infectivity.

Virus-like Particles. Structures visible by electron microscopy which morphologically appear to be related to known viruses.

Virus Removal. Physical separation of virus particles from the intended product.

Working Cell Bank (WCB). The WCB is prepared from aliquots of a homogeneous suspension of cells obtained from culturing the MCB under defined culture conditions.

TABLE 1.—VIRUS TESTS TO BE PERFORMED ONCE AT VARIOUS CELL LEVELS

	MCB	WCB[1]	Cells at the limit[2]
Tests for Retroviruses and Other Endogenous Viruses			
Infectivity	+	–	+
Electron microscopy[3]	+[3]	–	+[3]
Reverse transcriptase[4]	+[4]	–	+[4]
Other virus-specific tests[5]	as appropriate[5]	–	as appropriate[5]
Tests for Nonendogenous or Adventitious Viruses			
In vitro Assays	+	–[6]	+
In vivo Assays	+	–[6]	+
Antibody production tests[7]	+[7]	–	–
Other virus-specific tests[8]	+[8]	–	–

[1] See text—section III.A.2.
[2] Cells at the limit; cells at the limit of in vitro cell age used for production (See text—section III.A.3.)
[3] May also detect other agents.
[4] Not necessary if positive by retrovirus infectivity test.
[5] As appropriate for cell lines which are known to have been infected by such agents.
[6] For the first WCB, this test should be performed on cells at the limit of in vitro cell age, generated from that WCB; for WCB's subsequent to the first WCB, a single in vitro and in vivo test can be done either directly on the WCB or on cells at the limit of in vitro cell age.
[7] e.g., MAP, RAP, HAP—usually applicable for rodent cell lines.
[8] e.g., tests for cell lines derived from human, nonhuman primate, or other cell lines as appropriate.

TABLE 2.—EXAMPLES OF THE USE AND LIMITATIONS OF ASSAYS WHICH MAY BE USED TO TEST FOR VIRUS

Test	Test article	Detection capability	Detection limitation
Anbibody production	Lysate of cells and their culture medium	Specific viral antigens	Agents not infectious for animal test system.
in vivo virus screen	Lysate of cells and their culture medium	Broad range of viruses pathogenic for humans	Agents failing to replicate or produce diseases in the test system.
in vitro virus screen for		Broad range of viruses pathogenic for humans	Agents failing to replicate or produce diseases in the test system.
1. Cell bank characterization	1. Lysate of cells and their culture medium (for cocultivation, intact cells should be in the test article)		
2. Production screen	2. Unprocessed bulk harvest or lysate of cells and their cell culture medium from the production reactor		
TEM on:		Virus and virus-like particles	Qualitative assay with assessment of identity.
1. Cell substrate	1. Viable cells		
2. Cell culture supernatant	2. Concentrated cell-free supernatant		

TABLE 2.—EXAMPLES OF THE USE AND LIMITATIONS OF ASSAYS WHICH MAY BE USED TO TEST FOR VIRUS—Continued

Test	Test article	Detection capability	Detection limitation
Reverse transcriptase (RT)	Cell-free culture supernatant	Retroviruses and expressed retroviral RT	Only detects enzymes with optimal activity under preferred conditions. Interpretation may be difficult due to presence of cellular enzymes; background with some concentrated samples.
Retrovirus (RV) infectivity	Cell-free culture supernatant	Infectious retroviruses	RV failing to replicate or form discrete foci or plaques in the chosen test system.
Cocultivation infectivity endpoint	Viable cells	Infectious retroviruses	RV failing to replicate. See above under RV infectivity.
TEM endpoint			See above under TEM.[1]
RT endpoint			See above under RT.
PCR (Polymerase chain reaction)	Cells, culture fluid and other materials	Specific virus sequences	Primer sequences must be present. Does not indicate whether virus is infectious.

[1] In addition, difficult to distinguish test article from indicator cells.

TABLE 3.—VIRUS DETECTED IN ANTIBODY PRODUCTION TESTS

MAP	HAP	RAP
Ectromelia Virus[2,3]	Lymphocytic Choriomeningitis Virus (LCM)[1,3]	Hantaan Virus[1,3]
Hantaan Virus[1,3]	Pneumonia Virus of Mice (PVM)[2,3]	Kilham Rat Virus (KRV)[2,3]
K Virus[2]	Reovirus Type 3 (Reo3)[1,3]	Mouse Encephalomyelitis Virus (Theiler's, GDVII)[2]
Lactic Dehydrogenase Virus (LDH)[2]	Sendai Virus[1,3]	Pneumonia Virus of Mice (PVM)[2,3]
Lymphocytic Choriomeningitis Virus (LCM)[1,3]	SV5	Rat Coronavirus (RCV)[2]
Minute Virus of Mice (MVM)[2,3]		Reovirus Type 3 (Reo3)[1,3]
Mouse Adenovirus (MAV)[2,3]		Sendai Virus[1,3]
Mouse Cytomegalovirus (MCMV)[2,3]		Sialoacryoadenitis Virus (SDAV)[2]
Mouse Encephalomyelitis Virus (Theiler's, GDVII)[2]		Toolan Virus (HI)[2,3]
Mouse Hepatitis Virus (MHV)[2]		
Mouse Rotavirus (EDIM)[2,3]		
Pneumonia Virus of Mice (PVM)[2,3]		
Polyoma Virus[2]		
Reovirus Type 3 (Reo3)[1,3]		
Sendai Virus[1,3]		
Thymic Virus[2]		

[1] Viruses for which there is evidence of capacity for infecting humans or primates.
[2] Viruses for which there is no evidence of capacity for infecting humans.
[3] Virus capable of replicating in vitro in cells of human or primate origin.

TABLE 4.—ACTION PLAN FOR PROCESS ASSESSMENT OF VIRAL CLEARANCE AND VIRUS TESTS ON PURIFIED BULK

	Case A	Case B	Case C[2]	Case D[2]	Case E[2]
Status					
Presence of virus[1]	–	–	+	+	(+)[3]
Virus-like particles[1]	–	–	–	–	(+)[3]
Retrovirus-like particles[1]	–	+	–	–	(+)[3]
Virus identified	not applicable	+	+	+	–
Virus pathogenic for humans	not applicable	–[4]	–[4]	+	unknown
Action					
Process characterization of viral clearance using nonspecific "model" viruses	yes[5]	yes[5]	yes[5]	yes[5]	yes[7]
Process evaluation of viral clearance using "relevant" or specific "model" viruses	no	yes[6]	yes[6]	yes[6]	yes[7]
Test for virus in purified bulk	not applicable	yes[8]	yes[8]	yes[8]	yes[8]

[1] Results of virus tests for the cell substrate and/or at the unprocessed bulk level. Cell cultures used for production which are contaminated with viruses will generally not be acceptable. Endogenous viruses (such as retroviruses) or viruses that are an integral part of the MCB may be acceptable if appropriate viral clearance evaluation procesures are followed.
[2] The use of source material which is contaminated with viruses, whether or not they are known to be infectious and/or pathogenic in humans, will only be permitted under very exceptional circumstances.

[3] Virus has been observed by either direct or indirect methods.
[4] Believed to be nonpathogenic.
[5] Characterization of clearance using nonspecific "model" viruses should be performed.
[6] Process evaluation for "relevant" viruses or specific "model" viruses should be performed.
[7] See text under Case E.
[8] The absence of detectible virus should be confirmed for purified bulk by means of suitable methods having high specificity and sensitivity for the detection of the virus in question. For the purpose of marketing authorization, data from at least 3 lots of purified bulk manufactured at pilot-plant scale or commercial scale should be provided. However, for cell lines such as CHO cells for which the endogenous particles have been extensively characterized and adequate clearance has been demonstrated, it is not usually necessary to assay for the presence of the noninfectious particles in purified bulk.

Appendix 1

Products Derived From Characterized Cell Banks Which Were Subsequently Grown In Vivo

For products manufactured from fluids harvested from animals inoculated with cells from characterized banks, additional information regarding the animals should be provided.

Whenever possible, animals used in the manufacture of biotechnological/biological products should be obtained from well defined, specific pathogen-free colonies. Quarantine procedures for newly arrived as well as diseased animals should be described, and assurance provided that all containment, cleaning, and decontamination methodologies employed within the facility are adequate to contain the spread of adventitious agents. This may be accomplished through the use of a sentinel program. A listing of agents for which testing is performed should also be included. Veterinary support services should be available on-site or within easy access. The degree to which the vivarium is segregated from other areas of the manufacturing facility should be described. Personnel practices should be adequate to ensure safety.

Procedures for the maintenance of the animals should be fully described. These would include diet, cleaning, and feeding schedules, provisions for periodic veterinary care if applicable, and details of special handling that the animals may require once inoculated. A description of the priming regimen(s) for the animals, the preparation of the inoculum, and the site and route of inoculation should also be included.

The primary harvest material from animals may be considered an equivalent stage of manufacture to unprocessed bulk harvest from a bioreactor. Therefore, all testing considerations previously outlined in section IV. of this document should apply. In addition, the manufacturer should assess the bioburden of the unprocessed bulk, determine whether the material is free of mycoplasma, and perform species-specific assay(s) as well as in vivo testing in adult and suckling mice.

Appendix 2

The Choice of Viruses for Viral Clearance Studies

A. Examples of Useful "Model" Viruses:

1. Nonspecific "model" viruses representing a range of physico-chemical structures:

- SV40 (Polyomavirus maccacae 1), human polio virus 1 (Sabin), animal parvovirus or some other small, nonenveloped viruses;
- a parainfluenza virus or influenza virus, Sindbis virus or some other medium-to-large, enveloped, RNA viruses;
- a herpes virus (e.g., HSV–1 or a pseudorabies virus), or some other medium-to-large, DNA viruses.

These viruses are examples only and their use is not mandatory.

2. For rodent cell substrates, murine retroviruses are commonly used as specific "model" viruses.

B. Examples of Viruses Which Have Been Used in Viral Clearance Studies.

Several viruses which have been used in viral clearance studies. are listed in Table A–1. However, since these are merely examples, the use of any of the viruses in the table is not mandatory and manufacturers are invited to consider other viruses, especially those which may be more appropriate for their individual production processes. Generally, the process should be assessed for its ability to clear at least three different viruses with differing characteristics.

TABLE A–1.—EXAMPLES OF VIRUSES WHICH HAVE BEEN USED IN VIRAL CLEARANCE STUDIES

Virus	Family	Genus	Natural host	Genome	Envelope	Size	Shape	Resistance[1]
Vesicular stomatitis virus	Rhabdo	Vesiculovirus	Equine Bovine	RNA	yes	70x175 nm	Bullet	Low
Parainfluenza virus	Paramyxo	Paramyxovirus	Various	RNA	yes	100–200+ nm	Pleo/Spherical	Low
MuLV	Retro	Type C oncovirus	Mouse	RNA	yes	80–110 nm	Spherical	Low
Sindbis virus	Toga	Alphavirus	Human	RNA	yes	60–70 nm	Spherical	Low
BVDV	Flavi	Pestivirus	Bovine	RNA	yes	50–70 nm	Pleo-Spherical	Low
Pseudorabies virus	Herpes		Swine	DNA	yes	120–200 nm	Spherical	Medium
Poliovirus Sabin Type 1	Picorna	Enterovirus	Human	RNA	no	25–30 nm	Icosahedral	Medium
Encephalomyocarditis virus (EMC)	Picorna	Cardiovirus	Mouse	RNA	no	25–30 nm	Icosahedral	Medium
Reovirus 3	Reo	Orthoreovirus	Various	RNA	no	60–80 nm	Spherical	Medium
SV40	Papova	Polyomavirus	Monkey	DNA	no	40–50 nm	Icosahedral	Very high
Parvoviruses (canine, porcine)	Parvo	Parvovirus	Canine Porcine	DNA	no	18–24 nm	Icosahedral	Very high

[1] Resistance to physico-chemical treatments based on studies of production processes. Resistance is relative to the specific treatment and it is used in the context of the understanding of the biology of the virus and the nature of the manufacturing process. Actual results will vary according to the treatment. These viruses are examples only and their use is not mandatory.

Appendix 3

Statistical Considerations for Assessing Virus Assays

Virus titrations suffer the problems of variation common to all biological assay systems. Assessment of the accuracy of the virus titrations and reduction factors derived from them and the validity of the assays should be performed to define the reliability of a study. The objective of statistical evaluation is to establish that the study has been carried out to an acceptable level of virological competence.

1. Variation may arise within an assay as a result of dilution errors, statistical effects, and differences within the assay system that are either unknown or difficult to control. These effects are likely to be greater when different assay runs are compared (between-assay variation) than when results within a single assay run are compared (within-assay variation).

2. Assay methods may be either quantal or quantitative. Quantal methods include infectivity assays in animals or in tissue-culture-infectious-dose (TCID) assays, in which the animal or cell culture is scored as either infected or not. Infectivity titers are then measured by the proportion of animals or culture infected. In quantitative methods, the infectivity measured varies continuously with the virus input. Quantitative methods include plaque assays where each plaque counted corresponds to a single infectious unit. Both quantal and quantitative assays are amenable to statistical evaluation.

3. The 95 percent confidence limits for results of within-assay variation normally should be on the order of ±0.5 $\log_{10}$ of the mean. Within-assay variation can be assessed by standard textbook methods. Between-assay variation can be monitored by the inclusion of a reference preparation, the estimate of whose potency should be within approximately 0.5 $\log_{10}$ of the mean estimate established in the laboratory for the assay to be acceptable. Assays with lower precision may be acceptable with appropriate justification.

4. The 95 percent confidence limits for the reduction factor observed should be calculated wherever possible in studies of clearance of "relevant" and specific "model" viruses. If the 95 percent confidence limits for the viral assays of the starting material are +s, and for the viral assays of the material after the step are +a, the 95 percent confidence limits for the reduction factor are in the equation below.

$$\pm\sqrt{S^2 + a^2}$$

Appendix 4

Probability of Detection of Viruses at Low Concentrations

At low virus concentrations (e.g., in the range of 10 to 1000 infectious particles per liter), it is evident that a sample of a few milliliters may or may not contain infectious particles. The probability, p, that this sample does not contain infectious viruses is:

$p = ((V\text{-}v)/V)^n$

where V (liter) is the overall volume of the material to be tested, v (liter) is the volume of the sample and n is the absolute number of infectious particles statistically distributed in V.

If V >> v, this equation can be approximated by the Poisson distribution:

$p = e^{-cv}$

where c is the concentration of infectious particles per liter.

or, $c = \ln p / -v$

As an example, if a sample volume of 1 mL is tested, the probabilities p at virus concentrations ranging from 10 to 1000 infectious particles per liter are:

c	10	100	1,000
p	0.99	0.90	0.37

This indicates that for a concentration of 1,000 viruses per liter, in 37 percent of sampling, 1 mL will not contain a virus particle.

If only a portion of a sample is tested for virus and the test is negative, the amount of virus which would have to be present in the total sample in order to achieve a positive result should be calculated and this value taken into account when calculating a reduction factor. Confidence limits at 95 percent are desirable. However, in some instances, this may not be practical due to material limitations.

Appendix 5

Calculation of Reduction Factors in Studies to Determine Viral Clearance

The virus reduction factor of an individual purification or inactivation step is defined as the $\log_{10}$ of the ratio of the virus load in the pre-purification material and the virus load in the post-purification material which is ready for use in the next step of the process. If the following abbreviations are used:

Starting material: vol v'; titer $10^{x'}$;
virus load: $v'.10^{x'}$,
Final material: vol v"; titer $10^{x''}$;
virus load: $v".10^{x''}$,

the individual reduction factors Ri are calculated according to

$10^{Ri} = v'.10^{x'} / v".10^{x''}$

This formula takes into account both the titers and volumes of the materials before and after the purification step.

Because of the inherent imprecision of some virus titrations, an individual reduction factor used for the calculation of an overall reduction factor should be greater than 1. The overall reduction factor for a complete production process is the sum logarithm of the reduction factors of the individual steps. It represents the logarithm of the ratio of the virus load at the beginning of the first process clearance step and at the end of the last process clearance step.

Appendix 6

Calculation of Estimated Particles per Dose

This is applicable to those viruses for which an estimate of starting numbers can be made, such as endogenous retroviruses. Example:

I. Assumptions

Measured or estimated concentration of virus in cell culture harvest = 10^6/mL
Calculated viral clearance factor = $>10^{15}$
Volume of culture harvest needed to make a dose of product = 1 liter (10^3mL)

II. Calculation of Estimated Particles/Dose

$$\frac{(10^6 \text{ virus units/mL}) \times (10^3 \text{ mL/dose})}{\text{Clearance factor} > 10^{15}} = \frac{10^9 \text{ particles/dose}}{\text{Clearance factor} > 10^{15}}$$

$= <10^{-6}$ particles/dose

Therefore, less than one particle per million doses would be expected.

Dated: May 1, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

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Airworthiness Standards: Transport Category Rotorcraft Performance; Final Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No. 24802; Amendment No. 29–40]

RIN 2120–AB36

Airworthiness Standards; Transport Category Rotorcraft Performance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule adopts new and revised airworthiness standards for the performance of transport category rotorcraft. The changes define more clearly the factors for determining takeoff, climb, and landing performance requirements. These changes provide an improved level of safety associated with recent technological advances in the design of turboshaft engines and rotorcraft.

EFFECTIVE DATE: June 10, 1996.

FOR FURTHER INFORMATION CONTACT: T.E. Archer, Policy and Procedures Group (ASW–110), Rotorcraft Standards Staff, Aircraft Certification Service, Federal Aviation Administration, Fort Worth, Texas 76193–0110, telephone (817) 222–5126.

SUPPLEMENTARY INFORMATION:

Background

This final rule is based on a Notice of Proposed Rulemaking (NPRM) (Notice 90–1), issued January 2, 1990 (55 FR 698, January 8, 1990). The NPRM was preceded by an Advance Notice of Proposed Rulemaking (ANPRM) (Notice 85–19) issued October 9, 1985 (50 FR 42126, October 17, 1985), and by a public meeting on April 30, 1986 (51 FR 4504, February 5, 1986), in Fort Worth, Texas. A transcript of that meeting is contained in the docket for this rulemaking. Supplemental Notice of Proposed Rulemaking (SNPRM) (Notice 90–1A), issued June 15, 1994 (59 FR 33598, June 29, 1994), modified Notice 90–1 by including a minimum descent height of 15 feet.

Amendment 29–21 (48 FR 4373, January 26, 1983) revised the transport category rotorcraft airworthiness requirements to provide for an increased level of safety in several areas, including performance. Subsequently, a Federal Aviation Administration (FAA) program to develop guidance material (Advisory Circulars 27–1 and 29–2A) for certification of rotorcraft in accordance with the requirements of Title 14 of the Code of Federal Regulations (Title 14) part 29 (part 29) revealed a need for some additions to and clarification of the provisions of Amendment 29–21. Those additions and clarification are included in this amendment.

Amendment 29–21 modified the applicability limits of Categories A and B of Transport Category Rotorcraft. Category A rotorcraft must meet a higher level of safety, including the requirement to have multiple engines, and be able to continue safe flight after an engine failure. Category B rotorcraft may be either single or multiengine, but the changes adopted in Amendment 29–21 limited this category further to a maximum capacity of nine passengers and 20,000 pounds gross weight. No changes are made to those limits in this amendment.

A significant element of Notice 90–1 was a proposed minimum climb gradient for the Category A takeoff path. This standard was proposed to standardize the climb gradient for helicopters regardless of their airspeeds and to facilitate heliport planning. The present standard requires a minimum rate of climb for the takeoff path; however, recently certificated rotorcraft, as well as most rotorcraft currently under development, produce maximum rates of climb at higher airspeeds than the previous generation of rotorcraft. For a specific rate of climb, the climb gradient decreases as climb airspeed increases. This results in a shallower climb gradient for modern, high-speed rotorcraft than for older, slow-speed rotorcraft. Notice 90–1 proposed a minimum climb gradient based on the present rate-of-climb requirement and the lower airspeed of older rotorcraft. At the time Notice 90–1 was issued, FAA analysis suggested that this change would have involved an acceptably small weight (payload) penalty. However, more precise data supplied by the commenters in response to the notice indicate there would be a payload penalty of 450 pounds or greater for a current 10,000-pound class helicopter. This could represent as much as 20 to 25 percent of the passenger payload, which one commenter characterized as totally unacceptable. Upon reconsideration, the FAA agrees that the proposal would have a significantly more burdensome effect and would not be cost beneficial, and as noted in the following discussion, the proposal for requiring minimum climb gradient is not adopted in this rule.

All interested persons have been given an opportunity to participate in the making of these amendments, and due consideration has been given to all comments received. Except for the change described above and for the nonsubstantive, editorial, and clarifying changes as discussed herein, the proposals have been adopted as proposed.

Discussion of Comments

Five commenters each responded to Notices 85–19 and 90–1. These commenters represent worldwide manufacturers, operators, and airworthiness authorities. The commenters' recommendations and the suggested changes are summarized in the following discussions. Four commenters responded to Notice 90–1A and all agreed with that proposal.

14 CFR 29.1 Applicability

Notice 90–1 proposed to change the reference in paragraph (e) from §§ 29.79 to 29.87, which is redesignation of the section number for the height-velocity envelope. There were no comments; therefore, the proposal is adopted.

New 14 CFR 29.49 Performance at Minimum Operating Speed (Old § 29.73)

Notice 90–1 proposed to redesignate § 29.73 as § 29.49 to relocate the requirements for helicopter hover performance. For transport category helicopters, hover performance is analogous to the stall speed for transport category airplanes and provides the basis for all other performance requirements. Therefore, by placing the requirements for hovering performance first, the other requirements more logically follow.

One commenter proposes a requirement for one-engine-inoperative (OEI) hover performance both in and out-of-ground effect (OGE). This comment, also made in response to the ANPRM, is beyond the scope of this rule as proposed in the notice.

This commenter also recommends that OGE controllability (in 17-knot winds from any direction) should also be required. The FAA disagrees. Past FAA policy has permitted OGE performance to be presented in zero wind if a minimum of yaw control remains (i.e., must be able to generate a positive yaw rate) or to be demonstrated with some wind condition if the demonstrated conditions are clearly identified in the Rotorcraft Flight Manual (RFM). The validity of this policy has been borne out by good service experience; therefore, the 17-knot criteria are not considered necessary in determining OGE controllability. Therefore, the FAA considers the calm-wind OGE hover performance data with no related controllability limit are the minimum data that should be provided, and the amendment is adopted as proposed. The requirement to provide performance information about OGE hover and the maximum safe wind for the data presented is clarified in the new § 29.1587(a)(6) and revised § 29.1587(b)(8).

14 CFR 29.51 Takeoff Data: General

Notice 90–1 proposed to change the sections referenced in the introductory text of paragraph (a) to correspond to the applicable sections numbered in accordance with these new amendments. No comments were received; therefore, the proposal is adopted as proposed.

14 CFR 29.53 Takeoff: Category A

This proposal would separate, in the text, the Category A takeoff requirement from the definition of a decision point. No comments were received; therefore, the proposal is adopted as proposed.

New 14 CFR 29.55 Takeoff Decision Point: Category A

Notice 90–1 proposed to add this new section to redefine the takeoff critical decision point (CDP) previously contained in § 29.53; it further proposed to remove the requirement to identify the CDP by height and airspeed, since height alone or other factors may be more appropriate. A commenter suggests that the section title and other references to "critical decision point" be changed to "takeoff decision point (TDP)." The commenter notes that TDP is compatible with the term "landing decision point (LDP)" already in other regulatory parts. The FAA agrees; accordingly, "critical decision point" is changed to "takeoff decision point."

Additionally, a commenter to § 29.59 states that engine failure and the TDP do not occur at the same time because of necessary pilot-recognition time. The FAA agrees that a time interval for pilot recognition of the engine failure must be included when establishing the TDP. Calculating a pilot-recognition time interval when determining the TDP is a natural part of the TDP-determining process. Current industry practice already adequately considers this pilot-recognition time interval in determining the TDP. Therefore, to explicitly state this requirement in the regulations imposes no additional economic burden on manufacturers. Also, to harmonize Title 14 and the Joint Aviation Requirements (JAR's), the certification requirements for the Joint Aviation Authorities (JAA) of Europe, an explicit adoption of the pilot-recognition time interval is necessary. Therefore, since a pilot-recognition time interval is currently being used by manufacturers, and the FAA and the manufacturers are interested in harmonizing Title 14 and the JAR's, a new paragraph (c) has been added to § 29.55 to require that a pilot-recognition time interval be included in the TDP determination.

This section is adopted with changes as discussed.

14 CFR 29.59 Takeoff Path: Category A

Notice 90–1 proposed to move the rejected takeoff requirements to a new § 29.62 and more clearly define the takeoff path from the start of the takeoff to completion at 1,000 feet above the takeoff surface. It also proposed the new phrase "critical decision point," now changed to "takeoff decision point" as explained in new § 29.55. The most significant proposed change was to establish minimum climb gradients along the takeoff path. Present requirements specify only a rate of climb. The use of gradients would have assisted heliport designers and provided additional safe ground clearance. The FAA estimated that inclusion of these gradients would introduce only a slight performance penalty. However, as discussed earlier, more precise data submitted by commenters indicate that adopting these gradients would result in an unanticipated decrease in the payload of a 10,000-pound class rotorcraft. Therefore, present rate-of-climb requirements are retained; the proposed minimum climb gradient is not adopted; and the remaining paragraphs of § 29.59 are renumbered accordingly.

One commenter proposes that a new section be introduced to require information on the takeoff path acceleration segment distance when accelerating from V_{TOSS} to V_y and that § 29.1587 also be amended to require these data. The commenter's proposal is beyond the scope of Notice 90–1; therefore, the proposal is not included in the amendment as adopted but may be appropriate for future rulemaking.

Another commenter disagrees that engine failure and CDP (now TDP) occur at the same time. The FAA agrees as discussed previously under § 29.55. Accordingly, the proposed § 29.59(a)(2) has been reworded by changing critical decision point to engine failure point; and by adding the phrase, ". . . continue to the TDP, and then . . ." to paragraph (a)(3). These additions clarify that consideration of the time interval between engine failure and the pilot's recognition of the failure is necessary in establishing TDP.

Notice 90–1, with respect to loss of altitude after engine failure, proposed no minimum height during descent to attain V_{TOSS} except that touchdown should not occur. Also, Notice 90–1 proposed that a minimum ground clearance be determined during certification and the data included in the RFM. Several commenters objected to the proposal and stated that a minimum ground clearance value should be specified in the rule. Wide support was expressed by European authorities, manufacturers, and operators to limit the descent to not less than 15 feet above the takeoff surface. Also, this minimum height was reflected in the European JAA, Notice of Proposed Amendment (NPA) 29–2, Preliminary Issue 1. However, since Notice 90–1 proposed to eliminate the existing 35-foot minimum height of part 29, requiring a new minimum height of a specified value in excess of that proposed was more stringent than that proposed in Notice 90–1. Therefore, the FAA issued Notice 90–1A to include a minimum descent height of 15 feet and all commenters agreed. Hence, the minimum descent height of 15 fee is adopted as proposed by Notice 90–1A. However, the paragraph is shown as (e) rather than (g) as proposed by Notice 90–1A due to renumbering as discussed previously.

New 14 CFR 29.60 Elevated Heliport Takeoff Path: Category A

Notice 90–1 proposed to add this section to introduce the requirements for pinnacle takeoff path, Category A. However, two commenters suggest using the term "elevated" rather than "pinnacle" since "elevated" is a more common term. The FAA agrees, and the word "pinnacle" has been replaced with "elevated heliport" wherever used. Several commenters also recommend that the requirement for takeoff climb gradients be deleted from this section. Therefore, as in the ground-level takeoff path, the climb gradients proposed for this section have also been removed because data submitted by commenters indicate that adopting these gradients would result in an unanticipated decrease in payload.

However, the FAA notes that the proposal for this section was not clear in Notice 90–1. The section, as proposed, would require a continuous maneuver from the start of the takeoff unit reaching 1,000 feet above the takeoff surface with two specific rate-of-climb requirements at 200 and 1,000 feet above the takeoff surface. A continuous climb was never intended by the FAA. For example, if the descent below the takeoff surface is 200 feet, using a continuous climb standard would require a total initial climb of 400 feet to regain a point 200 feet above the takeoff surface. Therefore, climbing at a rate of 100 feet per minute would take

4 minutes to regain a point 200 feet above the takeoff surface while the current One Engine Inoperative (OEI) standards only require that 2½ minutes of emergency power be available. Hence, the time for this descent-climb would not be compatible with the time-limited OEI power level that is permitted. Therefore, this paragraph has been clarified to indicate that the distances to be measured will be the vertical magnitude of any descent below the takeoff surface and the horizontal distance from the start of the takeoff to the point where a positive rate of climb is established at an airspeed of at least V_{TOSS}. This will be considered to be the end of the takeoff distance. (See § 29.61.) From the end of the takeoff distance, climb data will be used for the remainder of takeoff path planning. The rate-of-climb requirements at 200 and 1,000 feet above the takeoff surface will remain the same but will be clearly identified as separate requirements and not a part of a continued takeoff maneuver. Climb gradients were also included in the proposal but, as previously discussed, are not adopted. This section is adopted with changes as discussed.

New 14 CFR 29.61 Takeoff Distance: Category A

Notice 90–1 proposed to add a new section to define more clearly the parameters to be used in determining takeoff distance. No comments were received on this proposal. However, in view of the previous discussion of elevated heliports and the changes to § 29.60, a second paragraph is added to more clearly define takeoff distances. Also, as discussed for the new § 29.59, a requirement for considering the pilot recognition interval following engine failure is recognized in the new § 29.61. The addition of § 29.61(b) states explicitly that the takeoff distance for elevated heliports is defined the same as that for nonelevated heliports except that there is no requirement that the rotorcraft remain at least 35 feet above the takeoff surface. This provision harmonizes Title 14 and the JAR. Section 29.61(b) relieves applicants from the requirement to attain and maintain at least 35 fee of altitude when determining the takeoff distance from an elevated heliport. Thus, the takeoff distance will be shorter for rotorcraft that take off from an elevated heliport. Thus, the takeoff distance will be shorter for rotorcraft that take off from an elevated heliport that the distance needed to reach 35 feet above the takeoff surface as required by § 29.61(a) for rotorcraft that take off from a nonelevated heliport. This reduction in takeoff distance will result from an exchange of the inherent altitude of the elevated heliport for airspeed and subsequently rate of climb. The FAA has determined that this relieving provision will neither increase the economic burden on any applicant nor increase the scope of this rule. Therefore, the proposal is adopted with the noted changes.

New 14 CFR 29.62 Rejected Takeoff: Category A

Notice 90–1 proposed to separate the text of the rejected takeoff criteria from the takeoff path section and impose the restriction for the use of only primary controls while airborne. No comments were received; therefore, the proposal is adopted with the change of CDP to TDP, the change of "takeoff decision" to "engine failure," and the addition of "the rotorcraft continuing to takeoff decision point," as explained in the discussion of new § 29.55.

New 14 CFR 29.64 Climb: General

This new section relocates and clarifies the general climb requirements. No comments were received; therefore, the proposal is adopted without change.

14 CFR 29.65 Climb: All Engines Operating

Notice 90–1 proposed to add a general requirement to determine Category a rotorcraft climb performance. Currently Category A rotorcraft climb performance is required only when V_{NE} (never-exceed speed) is less than best climb speed (V_Y) at sea level. No comments were received; therefore, the proposal is adopted without change.

14 CFR 29.67 Climb: One-engine-Inoperative

Notice 90–1 proposed to include the takeoff climb gradients as a part of the general climb requirement, as well as the OEI climb requirements to be met at 200 and 1,000 feet above the takeoff surface.

Commenters recommend that the climb gradient requirements be removed. The FAA agrees because data submitted by commenters indicate that adopting these gradients would result in an unanticipated decrease in payload. Therefore, the proposed climb gradient requirements are not adopted. However, the rate of climb requirements are adopted as proposed. Also, various clarifying word changes have been made including adding the words "climb following" before "takeoff" in paragraph (a)(2)(ii) to clarify that the unfavorable center of gravity applies to the climb following takeoff. The proposal is adopted with the noted changes.

14 CFR 29.75 Landing: General

Notice 90–1 proposed to revise the general landing requirements to separate specific requirements and to provide references to those specific landing requirement sections. No comments were received; therefore, the proposal is adopted without change.

14 CFR 29.77 Landing Decision Point

Notice 90–1 proposed to add the new requirement for designation of a landing decision point (LDP), which has been an industry practice although not required in all recent Category A certifications. No comments were received; therefore, the proposal is adopted without change except for clarifying that, in accordance with the discussion for § 29.55, pilot recognition time must be considered.

14 CFR 29.79 Landing: Category A

Notice 90–1 proposed to establish the Category A landing requirements as a separate section with only minor revision from the present requirements. One commenter discusses studies and computer predictions for approaches and landings at elevated heliports but does not propose any changes. Since no changes were recommended, and the FAA does not see a need for any changes based on the commenters' discussion, the proposal is adopted without change.

New 14 CFR 29.81 Landing Distance: Category A

Notice 90–1 proposed a new section to require landing distances to be determined from specific heights. One commenter suggests that the proposed flight profile between LDP and touchdown using an elevated heliport is unduly restrictive. This comment was based on the commenter's concern that the proposal would require consideration of a 25-foot high screen at the approach edge of the elevated heliport. The FAA notes that this is not the intent of this section. The proposed horizontal landing distance determined from a point 25 feet higher than the elevated heliport need not be contained within the heliport landing surface. "Pinnacle" has been changed to "elevated heliport" in accordance with previous discussions. Therefore, the proposal is adopted with the change as noted.

New 14 CFR 29.83 Landing: Category B

Notice 90–1 proposed a new § 29.83 that included moving the Category B landing requirement presently in § 29.75(c) into this new section and required landing distances to be determined power-on rather than power-off. One commenter suggests deleting the requirement to avoid the unsafe area of the height-velocity (HV) envelope since Category B rotorcraft with nine or fewer passengers and less than 20,000 pounds do not have the HV envelope as a limitation and may transit the unsafe area of the HV envelope during landing. The FAA disagrees. While the commenter is correct about the HV envelope not being a limitation for Category B rotorcraft with nine or fewer passengers, the FAA cannot agree with presenting data that include normal operations within the unsafe area of the HV envelope. Certain operations (e.g., external loads and hoist work) are not necessarily limited by the type certification HV envelope; however, the operator still should be aware that the operations do not involve normal procedures, and the operator should evaluate the risk in accordance with the applicable regulations (e.g., part 133). Therefore, the proposal is adopted without change.

New 14 CFR 29.85 Balked Landing: Category A (Old § 29.77)

Notice 90–1 proposed to redesignate present § 29.77 as a new § 29.85, to clarify the relationship between the landing decision point and balked landing, and to remove the prohibition against descending below 35 feet above the landing surface. The proposal only specified that the rotorcraft "not touch down" during descent. One commenter proposes that some minimum height be required. As previously discussed under § 29.59, the FAA agrees; however, Notice 90–1 proposed to allow the rotorcraft to descend below the current 35-foot height as long as it does not touch down. Therefore, the FAA issued Notice 90–1A to include the 15-foot minimum descent height. Three commenters to Notice 90–1A fully agreed with the proposed changes. One commenter agreed provided the working for § 29.85(c) read identically to the wording of Notice 90–1. However, it was necessary to amend the wording in proposed paragraph (c) to add the minimum descent height restriction requirements. Otherwise, the wording is identical. Also, as previously discussed the term "elevated" will be used rather than "pinnacle." Therefore, the proposal is adopted by adding the 15-foot minimum descent height and the amended wording to paragraph (c) and by adding the phrase "failed and failure recognized" to paragraph (b) to specify that the time interval for pilot recognition of engine failure must be considered as discussed in § 29.55.

New 14 CFR 29.87 Height-velocity Envelope (Old § 29.79)

Notice 90–1 proposed to redesignate § 29.79 as a new § 29.87 and to revise the engine power conditions to be used. No comments were received; therefore, the proposal is adopted with only editorial changes.

14 CFR 29.1323 Airspeed Indicating System

Notice 90–1 proposed to change the term "height-speed" to "height-velocity" to agree with other changes in the proposal. No comments were received; therefore, the proposal is adopted without change.

14 CFR 29.1587 Performance Information

Notice 90–1 proposed to change this section to conform to other changes in the proposal. One commenter suggests requiring, as performance information, the steady gradient of climb for each weight, altitude, and temperature for which takeoff data are scheduled for the two conditions between the end of the takeoff and at 1,000 feet above the takeoff surface. The FAA does not agree. This would require a significant increase in the number of flight tests for compilation of data and for FAA verification of this data, with resulting significant adverse economic impact and no perceived safety benefits. As discussed with respect to the new § 29.49, the requirement to provide OGE performance data, including the maximum safe wind for the data presented, is added to the Category A requirements in § 29.1587(a)(6). Also, § 29.1587(b)(8) is revised to reflect that OGE performance data, including maximum safe wind for the data presented, is no longer optional. Even though the new paragraph (a)(6) and the revised paragraph (b)(8) were not proposed, they only require the presentation in the Rotorcraft Flight Manual of the new OGE performance data, including the maximum wind for the data presented. The collection of the data is now required by the new § 29.49. New paragraph (a)(6) and revised paragraph (b)(8) state explicitly what would otherwise be required during the certification process to demonstrate compliance with the new required § 29.49. In addition to clarifying § 29.49(c), the new paragraph (a)(6) for Category A rotorcraft and the revised paragraph (b)(8) for Category B rotorcraft have identical provisions and additionally harmonize the FAR and the JAR. Based on these factors, the minimal burden placed on manufacturers of presenting the data that they are required to develop, and the remote likelihood of an adverse comment, it is unnecessary to solicit prior public comment on these nonsubstantive changes. Therefore, the proposal is adopted with the noted changes.

Regulatory Evaluation Summary

Changes to federal regulations must undergo several economic analyses. First, Executive Order 12866 directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society outweigh the potential costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Finally, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these assessments, the FAA has determined that this rule: (1) Will generate benefits exceeding its costs and is not "significant" as defined in Executive Order 12866; (2) is not "significant" as defined in DOT's Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; and (4) will not impact international trade. These analyses, available in the docket, are summarized below.

Cost/Benefit Analysis

The rule includes 31 changes to 21 sections of part 29. Twenty eight of the changes are either editorial in nature or update the regulations to correspond with current technology. Three changes, as discussed below, were singled out for study because they are more substantive in terms of cost and/or benefit impact. The FAA has determined that these requirements will have no or negligible economic impacts on manufacturers and operators.

Section 29.49(b)—Performance at Minimum Operating Speed (Category B Hover Performance). This rule renumbers § 29.73 to 29.49, deletes paragraph (b)(2), and removes the minimum hover performance requirement for Category B helicopters (but still requires that hover performance data be developed and provided by the manufacturer). There will be no cost impact resulting from this change, since test requirements are unchanged and design changes are not required. Although the same amount of hover performance data will still be required from manufacturers, operators will benefit by being able to capitalize on a small increase in gross weight and payload.

Section 29.49(c)—Performance at Minimum Operating Speed (Out-of-

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Ground Effect Hover Performance). The rule will require that manufacturers provide out-of-ground effect (OGE) hover ceiling data to operators. Manufacturers have historically provided this information on a voluntary basis. Industry sources estimate that requiring OGE hover data will add, at most, an additional 3 to 5 flight test hours. At a cost of $24,800 per flight test hour, this represents an additional cost to manufacturers of $74,400 to $124,000 (in 1994 dollars) per certification.

OGE hover performance data is needed by operators that conduct external lift operations. If an operator were to conduct external lift operations without OGE hover data, the operator might pick up excessively heavy loads. While a single excessive load would not necessarily lead to an accident, it could create excessive stress on the dynamic components of the helicopter that could eventually lead to fatigue failure of a critical component and, subsequently, an accident. The expected benefit of averting a single accident entailing just one serious injury and/or moderate damage to the helicopter would easily exceed the upper-bound certification cost of $124,000.

Other advantages of requiring that manufacturers provide OGE hover data are that: (1) Operators will no longer be concerned that manufacturers might arbitrarily stop providing the data, (2) operators may feel more confident about the data because the FAA would be approving it, and (3) the FAA can assure uniformity in the presentation of data between manufacturers.

Section 29.83—Landing: Category B. The rule will require that approach and landing tests for Category B rotorcraft be made with power on rather than with engine power off. This is a more normal flight profile. This change will benefit pilots by providing more useful data in the flight manual for flight planning purposes since pilots normally plan for power-on landings. This will be particularly useful if a rotorcraft is operating at or near maximum gross weight in or around unimproved landing areas where landing distances are more critical. This will also increase the safety of test pilots since they will be required to perform fewer power-off tests. There are no or negligible additional costs associated with this change.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires a Regulatory Flexibility Analysis if a proposed or final rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, prescribes standards for complying with RFA review requirements in FAA rulemaking actions. The Order defines "small entities" in terms of size thresholds, "significant economic impact" in terms of annualized cost threshold, and "substantial number" as a number which is not less than eleven and which is more than one-third of the small entities subject to the proposed or final rule.

The rule will affect manufacturers and operators of future type-certificated transport category rotorcraft. For manufacturers, Order 2100.14A specifies a size threshold for classification as a small entity as 75 or fewer employees. Since no part 29 rotorcraft manufacturer has 75 or fewer employees, the rule will not have significant economic impact on a substantial number of small manufacturers. For operators, the benefits of increased payloads would probably not exceed the annualized thresholds specified in the Order; consequently, the rule will not have a significant economic impact on a substantial number of small operators.

International Trade Impact

The rule will have little or no impact on trade for either U.S. firms doing business in foreign markets or foreign firms doing business in the United States.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that these amendments do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not a significant regulatory action under Executive Order 12866. In addition, the FAA certifies that these changes will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. All changes are found to have negligible or no cost impacts. Small entities are not affected because transport rotorcraft are manufactured by large entities, and trade is not affected since foreign manufacturers also must comply with the requirements of part 29. This proposal is considered to be nonsignificant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A regulatory evaluation of the changes, including a Regulatory Flexibility Determination and International Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 29

Air transportation, Aircraft, Aviation safety, Rotorcraft, Safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 29 of Title 14, Code of Federal Regulations (14 CFR part 29) as follows:

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

1. The authority citation for part 29 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

2. Section 29.1 is amended by revising paragraph (e) to read as follows:

§ 29.1 Applicability.

* * * * *

(e) Rotorcraft with a maximum weight of 20,000 pounds or less but with 10 or more passengers seats may be type certificated as category B rotorcraft provided the Category A requirements of §§ 29.67(a)(2), 29.87, 29.1517, and subparts C, D, E, and F of this part are met.

* * * * *

3. Section 29.73 is redesignated as § 29.49 and revised to read as follows:

§ 29.49 Performance at minimum operating speed.

(a) For each Category A helicopter, the hovering performance must be determined over the ranges of weight, altitude, and temperature for which takeoff data are scheduled—

(1) With not more than takeoff power;

(2) With the landing gear extended; and

(3) At a height consistent with the procedure used in establishing the takeoff, climbout, and rejected takeoff paths.

(b) For each Category B helicopter, the hovering performance must be determined over the ranges of weight, altitude, and temperature for which certificate is requested, with—

(1) Takeoff power;

(2) The landing gear extended; and

(3) The helicopter in ground effect at a height consistent with normal takeoff procedures.

(c) For each helicopter, the out-of-ground effect hovering performance must be determined over the ranges of weight, altitude, and temperature for which certification is requested with takeoff power.

(d) For rotorcraft other than helicopters, the steady rate of climb at the minimum operating speed must be determined over the ranges of weight, altitude, and temperature for which certification is requested with—

(1) Takeoff power; and

(2) The landing gear extended.

4. Section 29.51 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 29.51 Takeoff data: general.

(a) The takeoff data required by §§ 29.53, 29.55, 29.59, 29.60, 29.61, 29.62, 29.63, and 29.67 must be determined—

* * * * *

5. Section 29.53 is revised to read as follows:

§ 29.53 Takeoff: Category A.

The takeoff performance must be determined and scheduled so that, if one engine fails at any time the start of takeoff, the rotocraft can—

(a) Return to, and stop safely on, the takeoff area; or

(b) Continue the takeoff and climbout, and attain a configuration and airspeed allowing compliance with § 29.67(a)(2).

6. A new § 29.55 is added to read as follows:

§ 29.55 Takeoff decision point (TDP): Category A.

(a) The TDP is the first point from which a continued takeoff capability is assured under § 29.59 and is the last point in the takeoff path from which a rejected takeoff is assured within the distance determined under §29.62.

(b) The TDP must be established in relation to the takeoff path using no more than two parameters; e.g., airspeed and height, to designate the TDP.

(c) Determination of the TDP must include the pilot recognition time interval following failure of the critical engine.

7. Section 29.59 is revised to read as follows:

§ 29.59 Takeoff path: Category A.

(a) The takeoff path extends from the point of commencement of the takeoff procedure to a point at which the rotorcraft is 1,000 feet above the takeoff surface and compliance with § 29.67(a)(2) is shown. In addition—

(1) The takeoff path must remain clear of the height-velocity envelope established in accordance with § 29.87;

(2) The rotocraft must be flown to the engine failure point; at which point, the critical engine must be made inoperative and remain inoperative for the rest of the takeoff;

(3) After the critical engine is made inoperative, the rotorcraft must continue to the takeoff decision point, and then attain V_{TOSS};

(4) Only primary controls may be used while attaining V_{TOSS} and while establishing a positive rate of climb. Secondary controls that are located on the primary controls may be used after a positive rate of climb and V_{TOSS} are established but in no case less than 3 seconds after the critical engine is made inoperative; and

(5) After attaining V_{TOSS} and a positive a climb, the landing gear may be retracted.

(b) During the takeoff path determination made in accordance with paragraph (a) of this section and after attaining V_{TOSS} and a positive rate of climb, the climb must be continued at a speed as close as practicable to, but not less than, V_{TOSS} until the rotocraft is 200 feet above the takeoff surface. During this interval, the climb performance must meet or exceed that required by § 29.67(a)(1).

(c) From 200 feet above the takeoff surface, the rotorcraft takeoff path must be level or positive until a height 1,000 feet above the takeoff surface is attained with not less than the rate of climb required by § 29.67(a)(2). Any secondary or auxiliary control may be used after attaining 200 feet above the takeoff surface.

(d) Takeoff distance will be determined in accordance with § 29.61.

(e) During the continued takeoff, the rotorcraft shall not descend below 15 feet above the takeoff surface when the takeoff decision point is above 15 feet.

8. A new § 29.60 is added to read as follows:

§ 29.60 Elevated heliport takeoff path: Category A.

(a) The elevated heliport takeoff path extends from the point of commencement of the takeoff procedure to a point in the takeoff path at which the rotorcraft is 1,000 feet above the takeoff surface and compliance with § 29.67(a)(2) is shown. In addition—

(1) The requirements of § 29.59(a) must be met;

(2) While attaining V_{TOSS} and a positive rate of climb, the rotocraft may descend below the level of the takeoff surface if, in so doing and when clearing the elevated heliport edge, every part of the rotocraft clears all obstacles by at least 15 feet;

(3) The vertical magnitude of any descent below the takeoff surface must be determined; and

(4) After attaining V_{TOSS} and a positive rate of climb, the landing gear may be retracted.

(b) The scheduled takeoff weight must be such that the climb requirements of § 29.67 (a)(1) and (a)(2) will be met.

(c) Takeoff distance will be determined in accordance with § 29.61.

9. A new § 29.61 is added to read as follows:

§ 29.61 Takeoff distance: Category A.

(a) The normal takeoff distance is the horizontal distance along the takeoff path from the start of the takeoff to the point at which the rotorcraft attains and remains at least 35 feet above the takeoff surface, attains and maintains a speed of at least V_{TOSS}, and establishes a positive rate of climb, assuming the critical engine failure occurs at the engine failure point prior to the takeoff decision point.

(b) For elevated heliports, the takeoff distance is the horizontal distance along the takeoff path from the start of the takeoff to the point at which the rotorcraft attains and maintains a speed of at least V_{TOSS} and establishes a positive rate of climb, assuming the critical engine failure occurs at the engine failure point prior to the takeoff decision point.

10. A new § 29.62 is added to read as follows:

§ 29.62 Rejected takeoff: Category A.

The rejected takeoff distance and procedures for each condition where takeoff is approved will be established with—

(a) The takeoff path requirements of §§ 29.59 and 29.60 being used up to the engine failure point, the rotorcraft continuing to takeoff decision point, and the rotorcraft landed and brought to a stop on the takeoff surface;

(b) The remaining engines operating within approved limits;

(c) The landing gear remaining extended throughout the entire rejected takeoff; and

(d) The use of only the primary controls until the rotorcraft is on the

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ground. Secondary controls located on the primary control may not be used until the rotorcraft is on the ground. Means other than wheel brakes may be used to stop the rotorcraft if the means are safe and reliable and consistent results can be expected under normal operating conditions.

11. A new § 29.64 is added to read as follows:

§ 29.64 Climb: general.

Compliance with the requirements of §§ 29.65 and 29.67 must be shown at each weight, altitude, and temperature within the operational limits established for the rotorcraft and with the most unfavorable center of gravity for each configuration. Cowl flaps, or other means of controlling the engine-cooling air supply, will be in the position that provides adequate cooling at the temperatures and altitudes for which certification is requested.

12. Section 29.65 is amended by revising paragraph (a) to read as follows and by removing paragraph (c):

§ 29.65 Climb: all engines operating.

(a) The steady rate of climb must be determined—

(1) With maximum continuous power;

(2) With the landing gear retracted; and

(3) A V_y for standard sea level conditions and at speeds selected by the applicant for other conditions.

* * * * *

13. Section 29.67 is revised to read as follows:

§ Climb: one-engine-inoperative (OEI).

(a) For Category A rotorcraft, in the critical takeoff configuration existing along the takeoff path, the following apply:

(1) The steady rate of climb without ground effect, 200 feet above the takeoff surface, must be at least 100 feet per minute for each weight, altitude, and temperature for which takeoff data are to be scheduled with—

(i) The critical engine inoperative and the remaining engines within approved operating limitations, except that for rotorcraft for which the use of 30-second/2-minute OEI power is requested, only the 2-minute OEI power may be used in showing compliance with this paragraph;

(ii) The landing gear extended; and

(iii) The takeoff safety speed selected by the applicant.

(2) The steady rate of climb without ground effect at 1,000 feet above the takeoff surface must be at least 150 feet per minute for each weight altitude, and temperature for which takeoff data are to be scheduled with—

(i) The critical engine inoperative and the remaining engines at maximum continuous power including OEI maximum continuous power, if approved, or at 30-minute power for rotorcraft for which certification for use of 30-minute power is requested;

(ii) The most unfavorable center of gravity for climb following takeoff;

(iii) The landing gear retracted; and

(iv) The speed selected by the applicant.

(3) The steady rate of climb (or descent) in feet per minute, at each altitude and temperature at which the rotocraft is expected to operate and at any weight within the range of weights for which certification is requested, must be determined with—

(i) The critical engine inoperative and the remaining engines at maximum continuous power including OEI maximum continuous power, if approved, and at 30-minute power for rotorcraft for which certification for the use of 30-minute power is requested;

(ii) The landing gear retracted; and

(iii) The speed selected by the applicant.

(b) For multiengine Category B rotorcraft meeting the Category A engine isolation requirements, the steady rate of climb (or descent) must be determined at the speed for best rate of climb (or minimum rate of descent) at each altitude, temperature, and weight at which the rotorcraft is expected to operate, with the critical engine inoperative and the remaining engines at maximum continuous power including OEI maximum continuous power, if approved, and at 30-minute power for rotorcraft for which certification for the use of 30-minute power is requested.

14. Section 29.75 is revised as follows:

§ 29.75 Landing: general.

(a) For each rotorcraft—

(1) The corrected landing data must be determined for a smooth, dry, hard, and level surface;

(2) The approach and landing must not require exceptional piloting skill or exceptionally favorable conditions; and

(3) The landing must be made without excessive vertical acceleration or tendency to bounce, nose over, ground loop, porpoise, or water loop.

(b) The landing data required by §§ 29.77, 29.79, 29.81, 29.83, and 29.85 must be determined—

(1) At each weight, altitude, and temperature for which landing data are approved;

(2) With each operating engine within approved operating limitations; and

(3) With the most unfavorable center of gravity.

15. Section 29.77 is redesignated as § 29.85 and a new § 29.77 is added to read as follows:

§ 29.77 Landing decision point: Category A.

The landing decision point (LDP) must be established at not less than the last point in the approach and landing path at which a balked landing can be accomplished under § 29.85 with the critical engine failed or failing and with the engine failure recognized by the pilot.

16. Section 29.79 is redesignated as § 29.87 and a new § 29.79 is added to read as follows:

§ 29.79 Landing: Category A.

(a) For Category A rotorcraft—

(1) The landing performance must be determined and scheduled so that if the critical engine fails at any point in the approach path, the rotorcraft can either land and stop safely or climb out and attain a rotorcraft configuration and speed allowing compliance with the climb requirement of § 29.67(a)(2);

(2) The approach and landing paths must be established with the critical engine inoperative so that the transition between each stage can be made smoothly and safely;

(3) The approach and landing speeds must be selected by the applicant and must be appropriate to the type of rotorcraft; and

(4) The approach and landing path must be established to avoid the critical areas of the height-velocity envelope determined in accordance with § 29.87.

(b) It must be possible to make a safe landing on a prepared landing surface after complete power failure occurring during normal cruise.

17. A new § 29.81 is added to read as follows:

§ 29.81 Landing distance: Category A

The horizontal distance required to land and come to a complete stop (or to a speed of approximately 3 knots for water landings) from a point 50 feet above the landing surface (25 feet for Category A elevated heliport landing operations) must be determined from the approach and landing paths established in accordance with § 29.79.

18. A new § 29.83 is added to read as follows:

§ 29.83 Landing: Category B.

(a) For each Category B rotorcraft, the horizontal distance required to land and come to a complete stop (or to a speed of approximately 3 knots for water landings) from a point 50 feet above the landing surface must be determined with—

(1) Speeds appropriate to the type of rotocraft and chosen by the applicant to avoid the critical areas of the height-velocity envelope established under § 29.87; and

(2) The approach and landing made with power on and within approved limits.

(b) Each multiengined Category B rotorcraft that meets the powerplant installation requirements for Category A must meet the requirements of—

(1) Sections 29.79 and 29.81; or

(2) Paragraph (a) of this section.

(c) It must be possible to make a safe landing on a prepared landing surface if complete power failure occurs during normal cruise.

19. Redesignated § 29.85 is revised to read as follows:

§ 29.85 Balked landing: Category A.

For Category A rotocraft, the balked landing path must be established so that—

(a) With the critical engine inoperative, the transition from each stage of the maneuver to the next stage can be made smoothly and safely;

(b) With the critical engine failed and the failure recognized at the landing decision point on the approach path selected by the applicant, a safe climbout can be made at speeds allowing compliance with the climb requirements of § 29.67(a) (1) and (2); and

(c) The rotocraft does not descend below 15 feet above the landing surface. For elevated heliport operations, descent may be below the level of the landing surface provided the deck edge clearance of § 29.60 is maintained and the descent distance below the landing surface is determined.

20. Redesignated § 29.87 is revised to read as follows:

§ 29.87 Height-velocity envelope.

(a) If there is any combination of height and forward velocity (including hover) under which a safe landing cannot be made after failure of the critical engine and with the remaining engines (where applicable) operating within approved limits, a height-velocity envelope must be established for—

(1) All combinations of pressure altitude and ambient temperature for which takeoff and landing are approved; and

(2) Wright from the maximum weight (at sea level) to the highest weight approved for takeoff and landing at each altitude. For helicopters, this weight need not exceed the highest weight allowing hovering out-of-ground effect at each altitude.

(b) For single-engine or multiengine rotorcraft that do not meet the Category A engine isolation requirements, the height-velocity envelope for complete power failure must be established.

Section 29.1323 is amended by revising paragraph (b)(2)(ii) to read as follows:

§ 29.1323 Airspeed indicating system.

* * * * *

(b) * * *

(2) * * *

(ii) Avoidance of the critical areas of the height-velocity envelope as established under § 29.87.

* * * * *

22. Section 29.1587 is amended by revising (a)(4), (a)(5), (b)(3) and (b)(8) and adding a new (a)(6) to read as follows:

§ 29.1587 Performance information.

* * * * *

(a) * * *

(4) The rejected takeoff distance determined under § 29.62 and the takeoff distance determined under § 29.61 or § 29.63;

(5) The landing data determined under § 29.81 or § 29.83; and

(6) Out-of-ground effect hover performance determined under § 29.49 and the maximum safe wind demonstrated under the ambient conditions for data presented.

(b) * * *

(3) The landing distance, appropriate airspeed, and type of landing surface, together with all pertinent information that might affect this distance, including the effects of weight, altitude, and temperature;

* * * * *

(8) Out-of-ground effect hover performance determined under § 29.49 and the maximum safe wind demonstrated under the ambient conditions for data presented; and

* * * * *

Issued in Washington, DC, on May 2, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–11494 Filed 5–9–96; 8:45 am]

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Part VI

Department of Transportation

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14 CFR Parts 27 and 29

Rotorcraft Regulatory Changes Based on European Joint Aviation Requirements; Final Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 27 and 29

[Docket No. 28008; Amendment No. 27–33, 29–39]

RIN 2120–AF55

Rotorcraft Regulatory Changes Based on European Joint Aviation Requirements

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: The Federal Aviation Administration (FAA) is amending the airworthiness standards for normal and transport category rotorcraft. The changes revise airworthiness standards for performance, systems, propulsion, and airframes. The changes increase the regulatory safety level, clarify existing regulations, and standardize terminology. The changes are based on standards incorporated by the European Joint Aviation Authorities (JAA) for Joint Aviation Requirements (JAR) 27 and 29. These changes are intended to harmonize the U.S. rotorcraft airworthiness standards with the European JAR.

EFFECTIVE DATE: August 8, 1996.

FOR FURTHER INFORMATION CONTACT: Carroll Wright, Regulations Group Rotorcraft Directorate, Aircraft Certification Service, Federal Aviation Administration, Fort Worth, Texas 76193–0111, telephone (817) 222–5120.

SUPPLEMENTARY INFORMATION:

Background

These amendments are based on Notice of Proposed Rulemaking (NPRM) No. 94–36 published in the **Federal Register** on December 28, 1994 (59 FR 67068). That notice proposed to amend the airworthiness standards for both normal and transport category rotorcraft based on recommendations from the Aviation Rulemaking Advisory Committee (ARAC). By announcement in the **Federal Register** (57 FR 58846, December 11, 1992), the "JAR/FAR 27 and 29 Harmonization Working Group" was chartered by the ARAC. The working group included representatives from four major rotorcraft manufacturers (normal and transport) and representatives from Aerospace Industries Association of America, Inc. (AIA), Association Europeene des Constructeurs de Material Aerospatial (AECMA), Helicopter Association International (HAI), JAA, and the FAA Rotorcraft Directorate. This broad participation is consistent with FAA policy to involve all known interested parties as early as practicable in the rulemaking process.

The Harmonization Working Group was tasked with making recommendations to the ARAC regarding JAA Notices of Proposed Amendment (NPA's). The ARAC subsequently recommended that the FAA revise the airworthiness standards for normal and transport category rotorcraft to those currently in the JAR 27 and 29.

The FAA evaluated the ARAC recommendations and proposed changes to the rotorcraft airworthiness standards in 14 CFR parts 27 and 29 (parts 27 and 29). These proposed changes evolved from the FAA, JAA, and industry meetings of 1990–1992 and the ARAC recommendations of 1993. The changes proposed to (1) incorporate current design and testing practices into the rules by requiring additional performance data, (2) incorporate additional powerplant and rotor brake controls requirements, (3) incorporate bird-strike protection requirements, and (4) harmonize the certification requirements between parts 27 and 29 and the JAR. The proposals for part 27 included JAA's harmonized NPA's 27-Basic and 27–1, and the proposals for part 29 included NPA's 29-Basic and 29–1 through 29–5. This rule contains the harmonized rule language of those sections of the NPA's except for § 27.602 of NPA 27-Basic and § 29.602 of NPA 29–4.

In proposed rule, NPRM 94–36, there were several instances in which a few descriptive words were proposed to either be removed from or added to regulatory text. These word changes were adequately described in the amendatory language to NPRM 94–36 when that proposal was published in the **Federal Register**. However, at least one commenter misunderstood the amendatory language. Therefore, to avoid possible misunderstanding about the final rule language, the paragraphs with the minor rule language changes are reproduced in their entirety in this final rule. Also, the numbering of other regulations referenced in §§ 29.1587(a)(4) and (a)(5) has been changed, and a new § 29.1587(a)(6) has been added. The current § 29.1587(a)(6), which is being redesignated in this rule as § 29.1587(a)(7), was added by the Transport Category Rotorcraft Performance Rule published elsewhere in this issue of the **Federal Register.**

In this final rule, under the heading "Appendix C to Part 27—Criteria for Category A," the NPRM 94–36 cites to Advisory Circular (AC) material have been removed since AC material is advisory only. A note has been added that informs the reader that there is appropriate guidance material available. Further, the requirement to meet § 29.571 standards for certification as a part 27 Category A rotorcraft has been removed from the Appendix C listing. The FAA has determined that the current § 27.571 contains sufficient certification standards to maintain an adequate level of safety for part 27 Category A rotorcraft, and an additional requirement of testing to § 29.571 standards is unnecessary.

Discussion of Comments

Interested persons have been afforded an opportunity to participate in the making of these amendments. Due consideration has been given to the comments received. Comments were received from the JAA, HAI, Transport Canada, and the United Kingdom Civil Aviation Authority (UKCAA).

The JAA agrees with the proposed rule and the effort to harmonize certification regulations of the U.S. and the European communities. To fulfill harmonization objectives, the JAA prepared an NPA identical to the NPRM and will publish the JAR final rule at the same time as this time as this final rule for parts 27 and 29.

HAI comments that the proposals faithfully reflect the recommendation made to the FAA by the ARAC on rotorcraft regulatory changes. HAI further comments that the NPRM reflects prudent rulemaking to increase safety, economic viability, and harmonization within realistic requirements and urges the adoption of the proposal.

Transport Canada comments that the NPRM was not the same as the ARAC recommendations in that there were changes in the nonregulatory sections (preamble) and in the proposed text of the rule. The commenter states that these changes cause concern because the discrepancies may lead to different interpretations. The commenter notes that the meaning of § 29.547 was changed because the word "main" had been removed in the ARAC recommendations but was not removed in the NPRM. This commenter also states that the requirements of §§ 29.547 and 29.917 are redundant because § 29.571 also requires the identification of the principal structural elements (PSE) that includes rotors and rotor drive systems with the establishment of the inspections and replacement times for those PSE's. Additionally, the commenter says that § 29.610 should state that it addresses only "direct effects" of lightning and electricity and that indirect effects are covered elsewhere in §§ 29.954, 29.863, 29.1309, etc. This commenter also states that § 29.1309 should retain the reference to § 29.610. This commenter also suggests adding a new requirement and paragraph to Appendix B to part 29 that would require an additional, self-powered third attitude indicator.

The FAA agrees with Transport Canada that editorial changes between the ARAC recommendations and the NPRM are a concern because the differences may lead to different interpretations. To obviate this concern, editorial changes have been made in the final rule language to make it consistent with the ARAC recommended language. Also, the FAA agrees with Transport Canada that the word "main" had been removed from the introductory paragraph of § 29.547(c), (d), and (e) in the ARAC recommended language but, as previously discussed, had not been shown as removed in the NPRM rule language. However, the word "main" is being removed from this final rule.

The FAA does not agree with this commenter that §§ 29.547, 29.571, and 29.917 are redundant in requiring identification of principal structural elements (PSE's), which include rotors and rotor drive systems, and the establishment of the inspections, replacement times of those PSE's. Section 29.547(b) requires a design assessment for main and tail rotor structure components (rotor hub, blades, pitch control mechanisms, etc); § 29.571 requires fatigue evaluation of structural components; and § 29.917 requires a design assessment of the rotor drive system (drive shafts, transmission, gearboxes, etc). Therefore, these are non redundant requirements. The language is adopted as proposed.

The FAA agrees with the intent of this commenter's suggestion that § 29.610 should clearly indicate that it addresses only "direct effects" of lightning and electricity. However, this was achieved in the NPRM by adding the word "structure" between the words "rotorcraft" and "must" in § 29.610(a) to clarify that this paragraph applied to rotorcraft structure and not to systems and equipment. Accordingly, the language is adopted as proposed.

The FAA does not agree with this commenter that § 29.1309 should retain the reference to § 29.610. The NPRM added the word "structure" to § 29.610 to clarify that the paragraph applied to rotorcraft structure and not to systems and equipment. Since § 29.1309(h) applies to lightning protection of systems and equipment, it is inappropriate to reference § 29.610, which applies to lightning protection of structures. The commenter's proposal to retain the reference to § 29.610 is not adopted.

The FAA disagrees with this commenter's suggestion that a new requirement and paragraph be added to part 29, Appendix B, to require an additional, self-powered third attitude indicator. Part 29, Appendix B, paragraph VIII(a)(2) currently requires a standby attitude indicator that is independent of the aircraft electrical generating system. Additionally, part 29, Appendix B, paragraph VIII(b)(5)(iii) states, "The equipment, systems, and installations must be designed so that one display of the information essential to the safety of flight that is provided by the instruments will remain available to a pilot, without additional crew-member action, after any single failure or combination of failures that is not shown to be extremely improbable * * *." Currently, the only practical design to meet the extremely improbable (10^{-9}) requirement of part 29, Appendix B, for the display of information essential to flight safety after a single failure or combination of failures is the design that uses a third attitude indicator powered by a source other than the aircraft electrical generating system. However, the FAA does not wish to limit future alternative designs that may meet the extremely improbable standard without a third attitude indicator. The suggestion of the commenter to add a requirement for a self-powered third attitude indicator is not adopted.

The UKCAA comments that Proposal No. 13 in NPRM 94–36 proposed to amend § 29.923(b)(3)(i), to require two applications of 2-minute power following each application of 30-second power, instead of the one application of 2-minute power previously proposed. The UKCAA fully supports the proposed changes in NPRM 94–36. However, the UKCAA further comments that since publication of NPRM 94–36, the FAA published Amendment 29–34 (59 FR 47764, September 16, 1994) that states in part, "When conducted on a bench test, the test sequence must be conducted following stabilization at take-off power." The commenter states that the reason for adding this sentence, as stated in the preamble to Amendment 29–34, remains valid, and this sentence should therefore be included in the final rule developed from NPRM 94–36.

The FAA concurs with the UKCAA that the reason for adding the sentence, "When conducted on a bench test, the test sequence must be conducted following stabilization at take-off power" remains valid and the sentence should be retained in § 29.923(b)(3)(i). The sentence was adopted in Amendment 29–34 due to a commenter's statement that if the 5-minute takeoff power run to qualify the drive system is conducted as part of the endurance run, and the 30-second/2-minute OEI requirements are conducted on a bench test, then the takeoff power 5-minute run will be conducted twice on the same set of gears. The FAA did not intend to duplicate the takeoff power 5-minute run if the OEI requirements are conducted on a bench test, and the sentence was adopted for clarification. Since the omission of the sentence in NPRM 94–36 was inadvertent, since the reasons for including the sentence remain valid, and since the sentence is relieving in nature and does not place any additional burden on manufacturers, it is unnecessary to solicit prior public comment. Therefore, the sentence is restored as requested by the commenter.

After considering all of the comments, the FAA has determined that air safety and the pubic interest support adoption of the amendments with the changes noted.

Regulatory Evaluation Summary

Proposed changes to federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule: (1) would generate benefits that justify its costs and is not "a significant regulatory action" as defined in the Executive Order; (2) is nonsignificant as defined in DOT's Regulatory Policies and Procedures; (3) would not have a significant impact on substantial number of small entities; and (4) will lessen restraints on international trade. These analyses, available in the docket, are summarized below.

Cost-Benefit Analysis

All of the changes to part 27 and all but four of the changes to part 29 will impose no or insignificant costs on rotorcraft manufacturers since they largely reflect current design practices. In recent years, manufacturers have incorporated engineering and structural improvements into rotorcraft designs

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that exceed minimum regulatory requirements with the aim of increasing operating efficiencies, payload capabilities, and marketability in world markets. Many of these improvements have also inherently improved safety codification of these improvement and other changes will ensure continuation of enhanced safety levels in future rotofcraft designs.

The changes will also increase harmonization and commonality between U.S. and European airworthiness standards. Harmonization will eliminate the need to comply with different FAA and JAA airworthiness requirements, thus reducing manufacturers' certification costs. Based on experience in a recent certification, one rotorcraft manufacturer indicated that complying with different FAA and JAA requirements resulted in several hundred thousand dollars of excessive certification costs (as related to all part 27 and 29 requirements). The duplicate certification costs avoided by the harmonized rule alone could outweigh the relatively modest increase in certification costs imposed by the few new requirements. Following is a summary of the four changes to part 29 that will impose additional costs totaling approximately $160,000 per type certification. The safety benefits of these changes are expected to easily exceed the incremental costs.

Section 29.547—Main and tail rotor structure. While manufacturers currently perform the design assessment as an integral part of the design requirements of § 29.917, there will be some incremental costs to formalize the existing information. These costs are included in the cost estimates of § 29.917 summarized below. Formal identification and assessment of critical component failures will increase safety by providing more comprehensive maintenance information to operators. The benefits of averting a single accident will exceed the relatively low incremental costs of compliance.

Section 29.631—Bird strike. Manufacturers indicate that present rotorcraft structures can withstand impacts with 2.2 pound birds; therefore, no incremental manufacturing costs are anticipated. Nonrecurring testing and analysis costs of the requirement are estimated to be $107,000 per type certification. A review of National Transportation Safety Board (NTSB) data for the period 1983–1991 reveals two rotorcraft accidents caused by bird strikes. One accident resulted in one serious injury, one minor injury, and substantial damage to the rotorcraft (tail rotor separation); in the other accident, the rotorcraft was destroyed but there were no injuries. There is at least an equal probability of such accidents in the future, given the tendencies toward higher operating speeds. The benefits of averting a single accident will exceed the incremental costs of the amendment.

Section 29.917—Design. The incremental costs to formalize existing design information for the rotor structure (§ 29.547 above) and drive system are estimated to total $47,000 per type certification. Formal identification and assessment of critical component failures of the rotor drive system will increase safety by providing more comprehensive maintenance information to operators. The benefits of averting a single accident caused directly or indirectly by a lack of relevant data would easily exceed the incremental costs.

Section 29.1587—Performance information. Since the required climb gradient data are already available from the results of flight tests required to obtain performance information, the only additional costs will be those associated with incorporating the data into the Flight Manual, estimated to total $6,000 per type certification. The availability and accuracy of performance data are paramount to operational safety. The benefits of averting a single accident caused directly or indirectly by a lack of relevant performance information will easily exceed the incremental costs.

Regulatory Flexibility determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal Regulations. The RFA requires a Regulatory Flexibility Analysis if a proposed rule would have "a significant economic impact on a substantial number of small entities." Based on the criteria of FAA Order 2100.14A, the FAA has determined that the rule will not have a significant impact on a substantial number of small entities.

The rule will affect manufacturers of future type-certificated normal (part 27) and transport category (part 29) rotorcraft. For manufacturers, Order 2100.14A defines a small entity as one with 75 or fewer employees and a significant economic impact as annualized costs of $19,000 or more. The FAA has determined that the rule will not have a significant economic impact on a substantial number of small manufacturers since (1) no part 29 and only two part 27 rotorcraft manufacturers have 75 or fewer employees, and (2) the annualized certification costs of the rule are less than $19,000.

International Trade Impact Assessment

The rule will not constitute a barrier to international trade, including the export of American rotorcraft to other countries and the import of rotorcraft into the United States. Instead, the changes will harmonize with certification procedures of the JAA and thereby enhance free trade.

Conclusion

For the reasons discussed above, including the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not a significant regulatory action under Executive Order 12866. In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This regulation is considered nonsignificant under DOT Order 2100.5. A final regulatory evaluation of the regulation, including a final Regulatory Flexibility Determination and International Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 14 CFR Parts 27 and 29

Air transportation, Aircraft, Aviation safety, Rotorcraft, Safety.

The Amendments

In consideration of the foregoing, the Federal Aviation Administration amends parts 27 and 29 of Title 14, Code of Federal Regulations (14 CFR parts 27 and 29) as follows:

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

1. The authority citation for part 27 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

2. Section 27.1 is amended by adding a new paragraph (c) to read as follows:

§ 27.1 Applicability.

* * * * *

(c) Multiengine rotorcraft may be type certificated as Category A provided the requirements referenced in appendix C of this part are met.

3. Section 27.65 is amended by revising paragraphs (b)(2) introductory text and (b)(2)(ii) to read as follows:

§ 27.65 Climb: all engines operating.

* * * * *

(b) * * *

(2) The steady rate of climb must be determined—

* * * * *

(ii) Within the range from sea level up to the maximum altitude for which certification is requested;

* * * * *

4. Section 27.1141 is amended by redesignating existing paragraphs (c) and (d) as paragraphs (d) and (e) and by adding a new paragraph (c) to read as follows:

§ 27.1141 Powerplant controls: general.

* * * * *

(c) Each control must be able to maintain any set position without—

(1) Constant attention; or

(2) Tendency to creep due to control loads or vibration.

* * * * *

5. New § 27.1151 is added to read as follows:

§ 27.1151 Rotor brake controls.

(a) It must be impossible to apply the rotor brake inadvertently in flight.

(b) There must be means to warn the crew if the rotor brake has not been completely released before takeoff.

6. Part 27 is amended by adding a new appendix C to read as follows:

Appendix C to Part 27—Criteria for Category A

C27.1 General.

A small multiengine rotorcraft may not be type certificated for Category A operation unless it meets the design installation and performance requirements contained in this appendix in addition to the requirements of this part.

C27.2 Applicable part 29 sections. The following sections of part 29 of this chapter must be met in addition to the requirements of this part:

29.45(a) and (b)(2)—General.
29.49(a)—Performance at minimum operating speed.
29.51—Takeoff data: General.
29.53—Takeoff: Category A.
29.55—Takeoff decision point: Category A.
29.59—Takeoff Path: Category A.
29.60—Elevated heliport takeoff path: Category A.
29.61—Takeoff distance: Category A.
29.62—Rejected takeoff: Category A.
29.64—Climb: General.
29.65(a)—Climb: AEO.
29.67(a)—Climb: OEI.
29.75—Landing: General.
29.77—Landing decision point: Category A.
29.79—Landing: Category A.
29.81—Landing distance (Ground level sites): Category A.
29.85—Balked landing: Category A.
29.87(a)—Height-velocity envelope.
29.547(a) and (b)—Main and tail rotor structure.
29.861(a)—Fire protection of structure, controls, and other parts.
29.901(c)—Powerplant: Installation.
29.903(b) (c) and (e)—Engines.
29.908(a)—Cooling fans.
29.917(b) and (c)(1)—Rotor drive system: Design.
29.927(c)(1)—Additional tests.
29.953(a)—Fuel system independence.
29.1027(a)—Transmission and gearboxes: General.
29.1045(a)(1), (b), (c), (d), and (f)—Climb cooling test procedures.
29.1047(a)—Takeoff cooling test procedures.
29.1181(a)—Designated fire zones: Regions included.
29.1187(e)—Drainage and ventilation of fire zones.
29.1189(c)—Shutoff means.
29.1191(a)(1)—Firewalls.
29.1193(e)—Cowling and engine compartment covering.
29.1195(a) and (d)—Fire extinguishing systems (one shot).
29.1197—Fire extinguishing agents.
29.1199—Extinguishing agent containers.
29.1201—Fire extinguishing system materials.
29.1305(a) (6) and (b)—Powerplant instruments.
29.1309(b)(2) (i) and (d)—Equipment, systems, and installations.
29.1323(c)(1)—Airspeed indicating system.
29.1331(b)—Instruments using a power supply.
29.1351(d)(2)—Electrical systems and equipment: General (operation without normal electrical power).
29.1587(a)—Performance information.

Note: In complying with the paragraphs listed in paragraph C27.2 above, relevant material in the AC "Certification of Transport Category Rotorcraft" should be used.

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

7. The authority citation for part 29 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

8. Section 29.547 is amended by revising the heading; by revising paragraph (a); by revising the introductory text in paragraphs (c), (d), and (e); by revising paragraph (e)(1)(ii); and by adding paragraph (b) to read as follows:

§ 29.547 Main and tail rotor structure.

(a) A rotor is an assembly of rotating components, which includes the rotor hub, blades, blade dampers, the pitch control mechanisms, and all other parts that rotate with the assembly.

(b) Each rotor assembly must be designed as prescribed in this section and must function safely for the critical flight load and operating conditions. A design assessment must be performed, including a detailed failure analysis to identify all failures that will prevent continued safe flight or safe landing, and must identify the means to minimize the likelihood of their occurrence.

(c) The rotor structure must be designed to withstand the following loads prescribed in §§ 29.337 through 29.341 and 29.351:

* * * * *

(d) The rotor structure must be designed to withstand loads simulating—

* * * * *

(e) The rotor structure must be designed to withstand the limit torque at any rotational speed, including zero. In addition:

(1) * * *

* * * * *

(ii) For the main rotor, the limit engine torque specified in § 29.361.

* * * * *

9. Section 29.610 is amended by revising the heading; by revising paragraph (a); and by adding a new paragraph (d) to read as follows:

§ 29.610 Lightning and static electricity protection.

(a) The rotorcraft structure must be protected against catastrophic effects from lightning.

* * * * *

(d) The electric bonding and protection against lightning and static electricity must—

(1) Minimize the accumulation of electrostatic charge;

(2) Minimize the risk of electric shock to crew, passengers, and service and maintenance personnel using normal precautions;

(3) Provide an electrical return path, under both normal and static electricity on the functioning of essential electrical and electronic equipment.

(4) Reduce to an acceptable level the effects of lightning and static electricity on the functioning of essential electronic equipment.

10. Section 29.629 is revised to read as follows:

§ 29.629 Flutter and divergence.

Each aerodynamic surface of the rotorcraft must be free from flutter and divergence under each appropriate speed and power condition.

11. Section 29.631 is added before the undesignated center heading, "Rotors" to read as follows:

§ 29.631 Bird strike.

The rotorcraft must be designated to ensure capability of continued safe flight and landing (for Category A) or safe landing (for Category B) after impact with a 2.2-lb (1.0 kg) bird when

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the velocity of the rotorcraft (relative to the bird along the flight path of the rotorcraft) is equal to V_{NE} or V_H (whichever is the lesser) at altitudes up to 8,000 feet. Compliance must be shown by tests or by analysis based on tests carried out on sufficiently representative structures of similar design.

12. Section 29.917 is amended by redesignating existing paragraph (b) as (c) and by adding a new paragraph (b) to read as follows:

§ 29.917 Design.

* * * * *

(b) Design assessment. A design assessment must be performed to ensure that the rotor drive system functions safely over the full range of conditions for which certification is sought. The design assessment must include a detailed failure analysis to identify all failures that will prevent continued safe flight or safe landing and must identify the means to minimize the likelihood of their occurrence.

* * * * *

13. Section 29.923 is amended by revising paragraph (b)(3)(i) to read as follows:

§ 29.923 Rotor drive system and control mechanism tests.

* * * * *

(b) * * *

(3) * * *

(i) Immediately following any one 5-minute power-on run required by paragraph (b)(1) of this section, simulate a failure for each power source in turn, and apply the maximum torque and the maximum speed for use with 30-second OEI power to the remaining affected drive system power inputs for not less than 30 seconds. Each application of 30-second OEI power must be followed by two applications of the maximum torque and the maximum speed for use with the 2 minute OEI power for not less than 2 minutes each; the second application must follow a period at stabilized continuous or 30 minute OEI power (whichever is requested by the applicant). At least one run sequence must be conducted from a simulated "flight idle" condition. When conducted on a bench test, the test sequence must be conducted following stabilization at take-off power.

* * * * *

14. Section 29.1305 is amended by redesignating existing paragraphs (a)(6) through (a)(25) as paragraphs (a)(7) through (a)(26) and by adding a new paragraph (a)(6) to read as follows:

§ 29.1305 Powerplant instruments

* * * * *

(a) * * *

(6) An oil pressure indicator for each pressure-lubricated gearbox.

* * * * *

15. Section 29.1309 is amended by revising paragraph (h) to read as follows:

§ 29.1309 Equipment, systems, and installations

* * * * *

(h) In showing compliance with paragraphs (a) and (b) of this section, the effects of lightning strikes on the rotorcraft must be considered.

16. Section 29.1351(d) is revised to read as follows:

§ 29.1351 General

* * * * *

(d) Operation with the normal electrical power generating system inoperative.

(1) It must be shown by analysis, tests, or both, that the rotorcraft can be operated safely in VFR conditions for a period of not less than 5 minutes, with the normal electrical power generating system (electrical power sources excluding the battery) inoperative, with critical type fuel (from the standpoint of flameout and restart capability), and with the rotorcraft initially at the maximum certificated altitude. Parts of the electrical system may remain on if—

(i) A single malfunction, including a wire bundle or junction box fire, cannot result in loss of the part turned off and the part turned on;

(ii) The parts turned on are electrically and mechanically isolated from the parts turned off; and

(iii) The electrical wire and cable insulation, and other materials, of the parts turned on are self-extinguishing when tested in accordance with § 25.1359(d) in effect on September 1, 1977.

(2) Additional requirements for Category A Rotorcraft.

(i) Unless it can be shown that the loss of the normal electrical power generating system is extremely improbable, an emergency electrical power system, independent of the normal electrical power generating system, must be provided, with sufficient capacity to power all systems necessary for continued safe flight and landing.

(ii) Failures, including junction box, control panel, or wire bundle fires, which would result in the loss of the normal and emergency systems, must be shown to be extremely improbable.

(iii) Systems necessary for immediate safety must continue to operate following the loss of the normal electrical power generating system, without the need for flight crew action.

17. Section 29.1587 is amended by redesignating (a)(6) as (a)(7), by removing "and" from the end of paragraph (a)(5), and by adding a new paragraph (a)(6) to read as follows:

§ 29.1587 Performance information.

* * * * *

(a) * * *

(6) The steady gradient of climb for each weight, altitude, and temperature for which takeoff data are to be scheduled, along the takeoff path determined in the flight conditions required in § 29.67(a)(1) and (a)(2):

(i) In the flight conditions required in § 29.67(a)(1) between the end of the takeoff distance and the point at which the rotorcraft is 200 feet above the takeoff surface (or 200 feet above the lowest point of the takeoff profile for elevated heliports);

(ii) In the flight conditions required in § 29.67(a)(2) between the points at which the rotorcraft is 200 and 1000 feet above the takeoff surface (or 200 and 1000 feet above the lowest point of the takeoff profile for elevated heliports); and

* * * * *

18. Part 29 Appendix B is amended by adding a new paragraph VIII(b)(6) to read as follows:

Appendix B to Part 29—Airworthiness Criteria for Helicopter Instrument Flight

* * * * *

VIII * * *

(b) * * *

(6) In determining compliance with the requirements of § 29.1351(d)(2), the supply of electrical power to all systems necessary for flight under IFR must be included in the evaluation.

Issued in Washington, DC, on May 2, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–11493 Filed 5–9–96; 8:45 am]

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Friday
May 10, 1996

Part VII

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Proposed Modification of the Dallas/Fort Worth Class B Airspace Area, TX; Proposed Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 94–AWA–2]

Proposed Modification of the Dallas/Fort Worth Class B Airspace Area; TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to modify the Dallas/Forth Worth (DFW) Class B airspace area. Specifically, this proposal would raise the upper limit of the DFW Class B airspace area from 10,000 feet mean sea level (MSL) to 11,000 feet MSL, except in the reconfigured northern and southern sections, and would redefine several existing subareas. The FAA is proposing this rule to improve the flow of aviation traffic and enhance safety in the DFW Class B airspace area while accommodating the concerns of airspace users.

DATES: Comments must be received on or before June 24, 1996.

ADDRESSES: Send comments on the proposal in triplicate to the Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket, AGC–200, Airspace Docket No. 94–AWA–2, 800 Independence Avenue, SW, Washington, DC 20591. The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays except Federal holidays, between 8:30 a.m. and 5:00 p.m. An informal docket may also be examined during normal business hours at the Office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: William C. Nelson, Airspace and Rules Division, ATA–400, Office of Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–3075.

SUPPLEMENTARY INFORMATION:

Comment Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and should be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 94–AWA–2". The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will also be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3075. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677 for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Background

The Class B airspace area (formerly TCA) program was developed to reduce the potential for midair collision in the congested airspace surrounding airports with high density air traffic by providing an area wherein all aircraft are subject to certain operating rules and equipment requirements.

The density of traffic and the type of operations being conducted in the airspace surrounding major terminals increase the probability of midair collisions. In 1970, an extensive study found that the majority of midair collisions occurred between a general aviation (GA) aircraft and an air carrier or military aircraft, or another GA aircraft. The basic causal factor common to these conflicts was the mix of aircraft operating under visual flight rules (VFR) and aircraft operating under instrument flight rules (IFR). Class B airspace areas provide a method to accommodate the increasing number of IFR and VFR operations. The regulatory requirements of Class B airspace areas afford the greatest protection for the greatest number of people by giving air traffic control (ATC) increased capability to provide aircraft separation service; thereby minimizing the mix of controlled and uncontrolled aircraft. On May 21, 1970, the FAA published the Designation of Federal Airways, Controlled Airspace, and Reporting Points final rule (35 FR 7782). This rule provided for the establishment of Terminal Control Areas (TCA). To date, the FAA has established a total of 29 Class B airspace areas. The FAA is proposing to take action to modify or implement the application of these proven control areas to provide greater protection for air traffic in the airspace areas most commonly used by passenger-carrying aircraft.

The standard configuration of a Class B airspace area contains three concentric circles centered on the primary airport extending to 10, 20, and 30 nautical miles (NM), respectively. The standard vertical limits of the Class B airspace area normally should not exceed 10,000 feet MSL, with the floor established at the surface in the inner area and at levels appropriate to the containment of operations in the outer areas. Variations of these criteria may be utilized contingent on the terrain, adjacent regulatory airspace, and factors unique to the terminal area.

The coordinates for this airspace docket are based on North American Datum 83. Class B airspace areas are published in Paragraph 3000 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR section 71.1. The Class B airspace area listed in this document would be published subsequently in the Order.

Related Rulemaking Actions

On June 21, 1988, the FAA published the Transponder with Automatic Altitude Reporting Capability Requirement Final Rule (53 FR 23356). This rule requires all aircraft to have an altitude encoding transponder when operating within 30 NM of any designated TCA primary airport from the surface up to 10,000 feet MSL. This rule excluded those aircraft that were not originally certificated with an engine driven electrical system, balloons, or gliders.

On October 14, 1988, the FAA published the TCA Classification and

TCA Pilot and Navigation Equipment Requirements Final Rule (53 FR 40318). This rule, in part, removed the different classifications of TCA's, and requires the pilot-in-command of a civil aircraft operating within a TCA to hold at least a private pilot certificate, except for a student pilot who has received certain documented training.

On December 17, 1991, the FAA published the Airspace Reclassification Final Rule (56 FR 65655). This rule discontinued the use of the term "Terminal Control Area" (TCA) and replaced it with the designation "Class B airspace area." This change in terminology is reflected in this NPRM.

Pre-NPRM Public Input

In June 1992 an ad hoc committee was formed to represent all major users to analyze the DFW Class B airspace area and to develop recommendations for modifying the existing design. The ad hoc committee met regularly at various locations throughout the DFW area for approximately one year. The ad hoc committee submitted written comments on modifying the DFW Class B airspace area.

As announced in the **Federal Register** on October 30, 1993, (58 FR 54073) and on January 31, 1994, (59 FR 4310), pre-NPRM airspace meetings were held on December 8, 1993, in Mesquite, TX, December 13, 1993, in North Richland Hills, TX, April 5, 1994, in North Richland Hills, TX, and April 7, 1994, in Mesquite, TX. These meetings provided local airspace users with an opportunity to present input on the design of the proposed modifications of the DFW Class B airspace area. All comments received during the informal airspace meetings and the subsequent comment periods were considered and incorporated, in part, in this proposed modification. Verbal and written comments received, and the FAA's findings, are summarized below.

Analysis of Comments

Some commenters recommended that portions of the Class B airspace area be reconfigured into VFR corridors.

The FAA did not adopt this recommendation. After thorough review, it was determined that this recommended reconfiguration was not feasible. However, to accommodate the recommendation the FAA proposes to amend the airspace south of victor(V) airways, V16/94 from Class B to Class E airspace, reducing the lateral limits of the Class B airspace south of DFW Airport.

Certain commenters recommended that the Class B airspace area be decreased in size in the vicinity of Grand Prairie Airport and that prominent visual landmarks be used to assist pilots in identifying the airspace boundaries.

The FAA supports this recommended modification and proposes to modify the DFW Class B airspace area in the vicinity of Grand Prairie Municipal Airport by moving the 7 NM boundary north to follow Interstate 30 (I–30) and the 10 NM arc north to follow State Highway 303 (SH–303).

Some commenters recommended that the DFW Class B airspace area be modified near the Addison Airport (ADS) to increase traffic pattern airspace for ingress/egress to/from the ADS.

The FAA supports this recommendation and proposes to modify the DFW Class B airspace area in the vicinity of the ADS by raising the floor of the DFW Class B airspace from the surface to 2,000 feet MSL south of Lyndon Baines Johnson (LBJ) Freeway to Forest Lane, and west of ADS to Marsh Lane.

Recommendations were made to modify the DFW Class B airspace area in the vicinity of Naval Air Station Dallas (NAS Dallas) to allow for uniform transition for those aircraft operating in the airspace south of DFW Airport, and in the vicinity north of the Redbird Airport from 2,500 feet MSL to 3,500 feet MSL.

The FAA supports these recommendations, in part, and proposes to raise the floor of the DFW Class B airspace area from the surface to 2,000 feet MSL in the vicinity of NAS Dallas, and to raise the floor of the DFW Class B airspace area north of the Redbird Airport from 2,500 feet MSL to 3,000 feet MSL.

The Airline Transport Association of America (ATA) proposed raising the ceiling of the DFW Class B airspace area from 10,000 feet MSL to 11,000 feet MSL.

The FAA agrees with this recommendation and proposes to raise the ceiling of the DFW Class B airspace area, excluding that airspace overlying the V66/278 and V16/94 airways north and south of the DFW Airport to provide airspace for high performance aircraft while allowing non-participating aircraft to access certain airways above 10,000 feet MSL.

Two areas of concern surfaced relative to the airspace located between 20 and 30 NM west of DFW Airport. First, ATC, for air traffic separation purposes, sometimes assigns altitudes below the floor of this portion of the DFW Class B airspace area. Second, some commenters complained that the current floor of 5,000 feet MSL hinders VFR non-participating aircraft desiring to transit the airspace beyond 25 NM. The FAA proposes to lower the floor of the airspace from 5,000 feet MSL to 4,000 feet MSL between 20 and 23 MN west, and to raise the floor of the airspace from 5,000 feet MSL to 6,000 feet MSL between 26 and 30 MN west. This would alleviate both concerns while enhancing aviation safety and airspace utilization.

One written comment received after the December 1993 airspace meetings questioned the need for the proposed expansion of the DFW Class B airspace area northwest of the Alliance Airport.

The FAA proposes to decrease the overall amount of DFW Class B airspace area by restructuring the area northwest of Alliance Airport. While there is some proposed expansion northwest of the Alliance Airport, this proposed modification would provide a safer transition area for those aircraft operating into and out of the Alliance Airport.

The Proposal

The FAA proposes to amend 14 CFR part 71 by modifying the DFW Class B airspace area. Specifically, this proposal (depicted in the attached chart) would raise the upper limit of the DFW Class B airspace area from 10,000 feet MSL to 11,000 feet MSL, except in the reconfigured northern and southern sections, and would redefine several existing subareas. the FAA is proposing to amend the airspace south of victor airways V–16/94 from Class B to Class E airspace.

This proposal would realign the boundaries of the Class B airspace area north of Grand Prairie Municipal Airport to follow Interstate 30 (I–30) and State Highway 303 (SH–303) south of DFW. In addition, this proposed rule would raise the floor of the Class B airspace area to 2,000 feet MSL in the vicinity of NAS Dallas, south of LBJ Freeway to Forest Lane, and west of ADS to marsh Lane, and 3,000 feet MSL north of Redbird Airport. Further, the FAA proposes to lower the floor of the airspace from 5,000 feet MSL to 4,000 feet MSL between 20 and 23 NM west, and to raise the floor of the airspace from 5,000 feet MSL to 6,000 feet MSL between 26 and 30 NM west. This proposal would enhance safety and improve the flow of aviation traffic in the DFW Class B airspace area.

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned

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determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that the proposed rule would generate benefits that justify its costs and is not "a significant regulatory action" as defined in the Executive Order and the Department of Transportation Regulatory policies and Procedures. The proposal would not have a significant impact on substantial number of small entities and would not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

Costs

The FAA has determined that the proposed modification of the DFW Class B airspace area would result in little or no cost to either the agency or aircraft operators, as discussed in the following paragraphs.

The proposal would not impose any additional administrative costs on the FAA for either personnel or equipment. Projected increases in traffic volume would be absorbed by current personnel and equipment resources through more efficient services. Revising aeronautical charts to reflect the change of the airspace area would not add to the cost of the routine and periodic updating of the charts.

The proposal would not require additional avionics equipment for aircraft. Aircraft operators that currently use the affected airspace should already have Mode C transponders. In addition, aircraft operators should also have two-way radio communications. The density of air traffic in the DFW area makes it highly unlikely that VFR traffic would transit this airspace without two-way radio equipment.

Finally, the proposal should not significantly increase the cost to pilots who wish to remain clear of the proposed expanded areas of the DFW Class B airspace area. The pilots would need to make only small deviations from their current flight paths to avoid the proposed expanded areas of Class B airspace.

Benefits

The proposed rule is expected to generate benefits primarily in the form of improved traffic flow while enhancing safety. Traffic flow would improve because air traffic controllers could more efficiently handle the increasing number of operations at the DFW International Airport. Based on the FAA's Terminal Area Forecast, total aircraft operations at the DFW International Airport were about 831,000 in 1994, up from 504,000 in 1984, and are projected to increase to about 1,009,000 by the year 2000. Also, passenger enplanements were estimated to be 25.5 million in 1994, up from 15.5 million in 1984, and are projected to increase to about 35.3 million by the year 2000. The proposed rule would enhance safety by lowering the risk of midair collisions. This lower risk would result from the increased control in those areas where Class B airspace would be expanded.

The proposed rule would benefit GA aircraft operators by contracting the Class B airspace in certain areas. Additionally, it would simplify the airspace area.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a proposed rule would have "a significant economic impact on a substantial number of small entities." FAA Order 2100.14A outlines the FAA's procedures and criteria for implementing the RFA. Small entities are independently owned and operated small businesses and small not-for-profit organizations. A substantial number of small entities is defined as a number that is 11 or more and which is more than one-third of the small entities subject to this proposal. The FAA has determined that the proposal would not result in a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required under the terms of the RFA.

International Trade Impact Assessment

The proposal would not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries and the import of foreign goods and services to the United States. This proposal would not impose costs on aircraft operators or aircraft manufacturers in the United States or foreign countries. The modification of the Class B airspace area would only affect U.S. terminal airspace operating procedures at and in the vicinity of Dallas-Fort Worth, TX. The proposal would not have international trade ramifications because it is a domestic airspace matter that would not impose additional costs or requirements on affected entities.

Federalism Implications

This proposed rule would not have substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612 (52 FR 41695; October 30, 1987), it is determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

This proposed rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3507 et seq.).

International Civil Aviation Organization (ICAO) and Joint Aviation Regulations (JAR)

The FAA has determined that this proposal, if adopted, would not conflict with any international agreements of the United States.

Conclusion

For reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Assessment, the FAA has determined that this regulation is not a "significant regulatory action" under Executive Order 12866. In addition, the FAA certifies that this regulation would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This regulation is not considered significant under DOT Order 2100.5, Policies and Procedures for Simplification, Analysis and Review of Regulations. A regulatory evaluation of the proposed regulation, including a Regulatory Flexibility Determination and International Trade Impact Assessment has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects In 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (Air).

The Proposed Amendment

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 3000—Subpart B—Class B Airspace

* * * * *

ASW TX B Dallas/Fort Worth, TX [Revised]

Dallas/Fort-Worth International Airport
(Primary Airport)
(Lat. 32°53'49"N., long. 97°02'33"W.)
Dallas/Fort-Worth VORTAC
(Lat. 32°51'57"N., long. 97°01'41" W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 11,000 feet MSL beginning at the intersection of the DFW VORTAC 10-mile arc and Josey Lane, thence southbound on Josey Lane to Forest Lane, thence eastbound on Forest Lane until Interstate 635 (that also coincides with the DFW VORTAC 15-mile arc), extending clockwise on the DFW VORTAC 15-mile arc until the DFW VORTAC 129° radial 15-mile DME fix, thence northwest on the DFW VORTAC 129° radial until Interstate 30, extending west on Interstate 30 until the DFW VORTAC 7-mile arc, thence clockwise on the DFW VORTAC 7-mile arc until the DFW VORTAC 310° radial, 7-mile DME fix, extending northwest on the DFW VORTAC 310° radial until the DFW VORTAC 310° radial 10-mile DME fix, and extending clockwise on the DFW VORTAC 10-mile arc to the point of beginning.

Area B. That airspace extending upward from 2,000 feet MSL to and including 11,000 feet MSL beginning at the DFW VORTAC 310° radial 10-mile DME fix, thence southeast on the DFW VORTAC 310° radial until the DFW VORTAC 310° radial 7-mile DME fix, extending counterclockwise on the DFW VORTAC 7-mile arc until Interstate 30, thence eastbound on Interstate 30 to the DFW VORTAC 129° radial, thence southeast on the DFW VORTAC 129° radial until the DFW VORTAC 129° radial 10-mile DME fix, extending clockwise on the DFW VORTAC 10-mile arc until Highway 303, thence west on Highway 303 until the DFW VORTAC 10-mile DME arc, and extending clockwise on the DFW VORTAC 10-mile arc to the DFW VORTAC 300° radial 10-mile DME fix, thence northwest on the 300° radial until the DFW VORTAC 300° 13-mile DME fix, extending clockwise on the DFW VORTAC 13-mile arc until the DFW VORTAC 023° radial 13-mile DME fix, thence southeast on the DFW VORTAC 023° radial until the DFW VORTAC 023° radial 10-mile DME fix, extending counterclockwise on the DFW VORTAC 10-mile arc to the DFW VORTAC 310° 10-mile DME fix; and that airspace extending upward from 2,000 feet MSL to and including 11,000 feet MSL beginning at the intersection of the DFW VORTAC 10-mile arc and Josey Lane, thence southbound on Josey Lane to Forest Lane, thence eastbound on Forest Lane to Interstate 635, thence westbound on Interstate 635 to the DFW VORTAC 10-mile arc, and extending counterclockwise on the DFW VORTAC 10-mile arc to the point of beginning.

Area C. That airspace extending upward from 2,500 feet MSL to and including 11,000 feet MSL beginning at the intersection of the DFW VORTAC 15-mile arc and Interstate 635, extending clockwise on the DFW VORTAC 15-mile arc until the DFW VORTAC 129° radial 15-mile DME fix, thence southeast on the DFW VORTAC 129° radial until the DFW VORTAC 129° radial 20-mile DME fix, extending counterclockwise on the DFW VORTAC 20-mile arc until Interstate 635, and extending northwest along Interstate 635 to the point of beginning.

Area D. That airspace extending upward from 3,000 feet MSL to and including 11,000 feet MSL beginning at the DFW VORTAC 300° radial 10-mile DME fix, extending counterclockwise on the DFW VORTAC 10-mile arc to Highway 303, thence eastbound on Highway 303 until the DFW VORTAC 10-mile arc, extending counterclockwise on the DFW VORTAC 10-mile arc to the DFW VORTAC 129° radial, thence southeast along the DFW VORTAC 129° radial until the DFW VORTAC 129° radial 20-mile DME fix, extending clockwise on the DFW VORTAC 20-mile arc until the DFW VORTAC 217° radial, thence northeast on the DFW VORTAC 217° radial until the DFW VORTAC 217° radial 13-mile DME fix, extending clockwise along the DFW VORTAC 13-mile arc to the DFW VORTAC 300° radial 13-mile DME fix, and thence southeast on the DFW VORTAC 300° radial to the point of beginning; and that airspace extending upward from 3,000 feet MSL to and including 11,000 feet MSL beginning at the DFW VORTAC 300° radial 13-mile DME fix, thence northwest on the DFW VORTAC 300° radial until the DFW VORTAC 300° radial 20-mile DME fix, extending clockwise on the DFW VORTAC 20-mile arc until Interstate 635, extending northwest along Interstate 635 until the DFW VORTAC 10-mile arc, extending counterclockwise on the DFW VORTAC 10-mile arc until the DFW VORTAC 023° radial 10-mile DME fix, thence northeast on the DFW VORTAC 023° radial until the DFW VORTAC 023° radial 13-mile DME fix, and extending counterclockwise on the DFW VORTAC 13-mile arc to the point of beginning.

Area E. That airspace extending upward from 4,000 feet MSL to and including 11,000 feet MSL beginning at the DFW VORTAC 217° radial 20-mile DME fix, extending counterclockwise on the DFW VORTAC 20-mile arc until the DFW VORTAC 300° radial 20-mile DME fix, thence southeast on the DFW VORTAC 300° radial until the DFW VORTAC 300° radial 13-mile DME fix, extending counterclockwise on the DFW VORTAC 13-mile arc until the DFW VORTAC 217° radial 13-mile DME fix, thence southwest on the DFW VORTAC 217° radial until the DFW VORTAC 217° radial 20-mile fix, extending clockwise on the DFW VORTAC 20-mile arc until Interstate 820, thence west and north on Interstate 820 until the DFW VORTAC 23-mile arc, extending clockwise on the DFW VORTAC 23-mile arc until Highway 156, thence northeast on Highway 156 until the DFW VORTAC 329° radial, thence northwest on the DFW VORTAC 329° radial until intercepting a line defined by the DFW VORTAC 041° radial 30 DME fix and the DFW VORTAC 315° radial 30 DME fix, thence east along that line defined by the DFW VORTAC 041° radial 30 DME fix and the DFW VORTAC 315° radial 30 DME fix until the DFW VORTAC 30-mile arc, extending clockwise on the DFW VORTAC 30-mile arc until the DFW VORTAC 138° radial 30-mile DME fix, thence west until the DFW VORTAC 217° radial 28.3 mile DME fix, and thence northeast on the DFW VORTAC 217° radial until the point of beginning.

Area F. That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL beginning at the DFW VORTAC 138° radial 30-mile DME fix, extending clockwise on the DFW VORTAC 30-mile arc until the DFW VORTAC 162° radial 30-mile DME fix, thence west until the DFW VORTAC 196° radial 30-mile DME fix, extending clockwise on the DFW VORTAC 30-mile arc until the DFW VORTAC 217° radial 30-mile DME fix, and thence northeast on the DFW VORTAC 217° radial until the DFW VORTAC 217° radial 28.3-mile DME fix, and thence east on a line to the point of beginning; and that airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL beginning at the DFW 315° radial 30-mile DME fix, extending clockwise on the DFW 30-mile arc until the DFW 336° radial 30-mile DME fix, thence east until the DFW 020° radial 30-mile DME fix, extending clockwise on the DFW 30-mile arc until the DFW 041° radial 30-mile DME fix, and thence west on a line until the point of beginning.

Area G. That airspace extending upward from 5,000 feet MSL, up to and including 11,000 feet MSL beginning at the DFW VORTAC 315° radial 30-mile DME fix, extending counterclockwise on the DFW VORTAC 30-mile arc until the DFW VORTAC 293° radial, thence southeast on the DFW VORTAC 293° radial until the DFW VORTAC 26-mile DME fix, extending counterclockwise on the DFW VORTAC 26-mile arc until Highway 377, thence southwest on Highway 377 until the DFW VORTAC 30-mile arc, and counterclockwise to the DFW VORTAC 217° radial 30-mile DME fix, thence northeast on the DFW VORTAC 217° radial until the DFW VORTAC 20-mile arc, extending clockwise on the 20-mile arc until Interstate 820, thence west and north on Interstate 820 until the DFW VORTAC 23-mile arc, thence clockwise on the DFW VORTAC 23-mile arc until Highway 156, extending northeast on Highway 156 to the DFW VORTAC 329° radial, thence northeast on the DFW VORTAC 329° radial.

until intercepting a line defined by the DFW VORTAC 041° radial 30-mile DME fix and the DFW VORTAC 315° radial 30-mile DME fix, thence west along that line until the point of beginning.

Area H. That airspace extending upward from 6,000 feet MSL to and including 11,000 feet MSL beginning at the DFW VORTAC 293° radial 30-mile DME fix, thence southeast on the DFW VORTAC 293° radial until the DFW VORTAC 293° radial 26-mile DME fix, extending counterclockwise on the DFW VORTAC 26-mile arc until Highway 377, thence southwest on Highway 377 until the DFW VORTAC 30-mile arc, and extending clockwise on the DFW VORTAC 30-mile arc until the point of beginning.

* * * * *

Issued in Washington, DC, on May 2, 1996.

Nancy B. Kalinowski,

Acting Program Director for Air Traffic Airspace Management, ATA–1.

Note: This appendix will not appear in the Code of Federal Regulations.

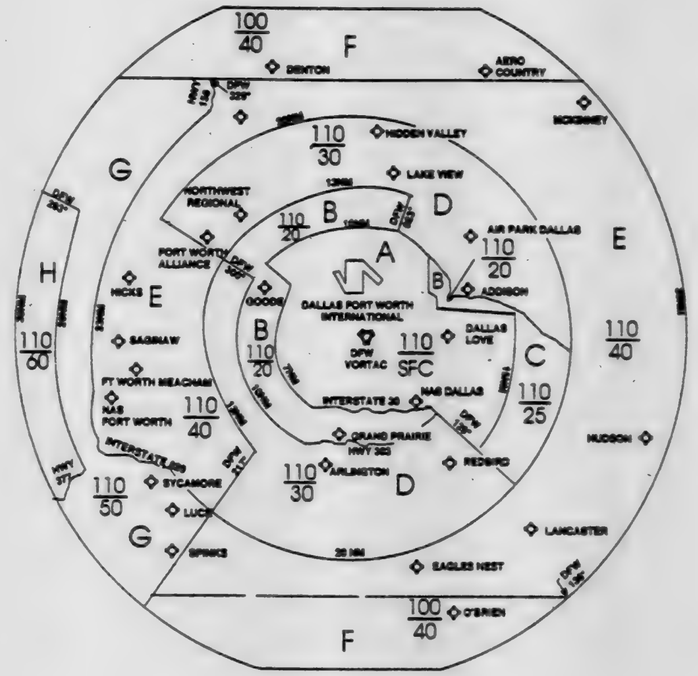
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Appendix—Dallas/Fort Worth International Airport Class B Airspace Area

DALLAS/FORT WORTH INTERNATIONAL AIRPORT

CLASS B AIRSPACE AREA

(NOT TO BE USED FOR NAVIGATION)



Prepared by the

FEDERAL AVIATION ADMINISTRATION

Air Traffic Publications Branch

ATP-210

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Part VIII

Department of Housing and Urban Development

24 CFR Part 206

Home Equity Conversion Mortgage Insurance Demonstration: Additional Streamlining; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 206

[Docket No. FR-2958-P-04]

RIN 2502-AF32

Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Home Equity Conversion Mortgage Insurance Demonstration: Additional Streamlining

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would make changes to the Home Equity Conversion Mortgage (HECM) Insurance Demonstration, including technical and clarifying changes, to improve and streamline the program as a supplement to the changes made through the interim rule, published on August 16, 1995, and made final on December 21, 1995.

DATES: Comment Due Date: July 9, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500.

Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Richard K. Manuel, Acting Director, Single Family Development Division, Office of Insured Single Family Housing, Room number 9272, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–2700; TTY (202) 708–4594. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: The information collection requirements for the Home Equity Conversion Mortgage Insurance Demonstration have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1995, and have been assigned OMB Control Number 2528–0133. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. This rule does not contain additional information collection requirements.

Background

The Home Equity Conversion Mortgage (HECM) Insurance Demonstration was authorized by section 417 of the Housing and Community Development Act of 1987 (42 U.S.C. 5301), which amended section 255 of the National Housing Act (12 U.S.C. 1715z–20) to permit elderly homeowners to borrow against the equity in their homes. The interim rule published on August 16, 1995, at 60 FR 42754, revised 24 CFR part 206 to include improvements to the program that did not require prior public comment before implementation. The interim rule was made final on December 21, 1995, at 60 FR 66476. This proposed rule reflects additional ideas for improving the program regulations for which the Department desires public comment prior to implementation. An explanation of the proposed changes follows.

Proposed Changes to HECM Regulations

Sections 206.3 and 206.209

A definition of "mortgage balance" is proposed to be included that would make HECMs "closed end" credit for purposes of the regulations implementing the Truth in Lending Act (TILA) (15 U.S.C. 1601 *et seq.*). The rule would continue to permit prepayment by mortgagors as mandated by statute, but prepayments (including insurance or condemnation proceeds that have been applied to the debt) would be excluded from the definition of mortgage balance for purposes of calculating future loan advances, thereby prohibiting mortgagors from re-borrowing funds previously prepaid. A recent amendment to § 206.21(c) deleted specific reference to the "open end" credit TILA regulations at 12 CFR part 226 in anticipation of this change.

Currently, HECM funds may be prepaid and borrowed again. This fact makes the mortgage "open end" credit or "revolving" credit under the TILA. The TILA requires initial and periodic disclosures, in addition to those disclosures required by the HECM statute. The TILA disclosures have been difficult for mortgagees to produce for this type of mortgage and have increased the paperwork at closing. Mortgage lenders ordinarily only have experience with "closed end" credit requirements. Additionally, at this point in the demonstration, few, if any, mortgagors have utilized the option to re-borrow. HUD does not regard the option as an important aspect of the demonstration.

The definitions of "principal limit" and "expected average mortgage interest rate" in § 206.3 also would be amended to require that the principal limit grow at the mortgage interest rate plus the monthly mortgage insurance premium (MIP) rate instead of the expected average mortgage interest rate (expected rate) plus the monthly MIP rate. The expected rate would be used only when needed to project the principal limit for calculation of future payments for adjustable rate mortgages because the actual mortgage interest rate cannot be calculated in advance. HUD is particularly interested in receiving public comment on this proposal.

Under the current regulation, the principal limit increases for all purposes each month by one-twelfth of the expected rate plus the monthly MIP rate. For fixed rate mortgages, the expected rate is the same as the actual fixed interest rate that appears in the note. For adjustable rate mortgages, the expected rate is fixed at closing as the sum of the mortgagee's margin plus the weekly average yield for U.S. Treasury Securities adjusted to a constant maturity of 10 years. In contrast, the mortgage balance grows at the actual current interest rate that is applied under the note and adjusted periodically. Because two different interest rates are used to determine the principal limit and the mortgage balance on adjustable rate mortgages, these sums grow at different rates and the difference between them can become unpredictable.

When the mortgage note rate is higher than the expected rate, the mortgage balance increases at a faster pace than the principal limit. In this case the maximum loan advance amount available under a HECM line of credit is eroded by interest charged to the account balance, leaving the mortgagor with less to borrow than he or she might have anticipated. Monthly payments under a term or tenure payment option, however, are guaranteed under the loan agreement regardless of this interest rate risk.

When the note rate is lower than the expected rate, the mortgage balance grows at a slower pace than the principal limit. This discrepancy between the note rate and the expected rate creates additional potentially-available credit. This situation has caused servicing problems because mortgagors that have borrowed the full principal limit under a line of credit may at a future date have additional credit created from the difference in the interest rates.

HUD has considered several solutions to this interest rate risk problem. One solution would be to terminate a mortgagor's right to continue borrowing once his or her mortgage balance reached the principal limit, even if at a later time the interest rate differential caused the principal limit to exceed the mortgage balance. The disadvantage of this solution is that it does not address the problem of an increasing note rate resulting in an erosion of the principal limit. An alternative solution would be to cap the note rate at the expected rate. However, this solution does not address the problem presented when the note rate is below the expected rate resulting in excess credit, and is of questionable legality due to the statutory provision providing for a note rate negotiated between the mortgagor and mortgagee rather than one regulated by HUD. Another solution would be to require that all line of credit payment plans must be established together with a term or tenure monthly payment plan. Each payment plan would carry a separate principal limit. All fees and charges would be charged to the monthly payment plan balance. In this way, as long as no line of credit draws were made, the line of credit would not be effected by the interest rate fluctuations because the line of credit principal limit would be separate from the monthly payments principal limit. This solution only forestalls the problem. Once a draw is made against the line of credit the same interest rate risk problem can occur as under the current rule.

HUD does not propose these solutions because each one requires additional regulatory restraint on the terms and conditions of the HECM. Instead, HUD proposes to make a program change by altering the definitions of "expected average mortgage interest rate" and "principal limit." The expected rate would only be used to determine future monthly payments. (Section 206.25(b)(1)(vi) provides for continued use of the expected rate to calculate future estimated interest that will accrue on scheduled monthly payments.) The monthly calculation of growth to the principal limit would not involve the expected rate but would instead be determined by using the mortgage note rate plus the monthly MIP rate. In this way, both the principal limit and the mortgage balance would grow at the same rate. This solution would give mortgagors and mortgagees more certainty in knowing what funds would be available to be drawn than the current system.

In low interest rate markets, mortgagors would not have the benefit of an increase in available principal limit. In high interest rate markets, mortgagors would not experience the erosion of lines of credit. These variations in the available principal limit would be replaced by a system with greater predictability. In the long run, the principal limit is expected to be approximately the same as the current rule because the expected rate under the current rule encompasses the market's best estimate of future note rates. This rule change would be effective only for mortgages which the mortgagee closed on or after the effective date of the final rule.

Section 206.8.

A new § 206.8 would be added to provide a first lien priority to all debt secured by the HECM, including all direct payments to the mortgagor and all other loan advances under the HECM for purposes such as interest, taxes and special assessments, premiums for hazard or mortgage insurance, servicing charges and costs of collection. Any contrary State laws would be preempted. This preemption is proposed to clarify the current uncertainty regarding the lien priority to be accorded HECM loan advances in certain circumstances and to ensure that all HECM debt will have a first lien priority. That priority is a basic assumption behind the computer model used to determine the amount of payments to the mortgagor. State law would still be applicable for determining the authority of a mortgagee to make a HECM loan as provided in § 206.9(a) of the current HECM regulation.

In the absence of an applicable Federal statute or regulation, lien priority would be determined under *United States* v. *Kimbell Foods, Inc.*, 440 U.S. 715 (1979) if the HECM had been assigned to HUD. In most circumstances courts applying *Kimbell Foods* have determined that the lien priority law of the State should be adopted as the Federal rule of decision. State law would also apply while the HECM was still held by the mortgagee as an insured mortgage.

State law is sometimes unclear regarding the appropriate priority to be given to loan advances made many years after the original mortgage was recorded when other liens have been filed in the interim. To the extent State laws are clear, they differ, and some would have the effect of subordinating the priority of HECM loan advances made after certain events such as the filing of another lien that has been brought to the attention of the HECM mortgagee. HUD or the mortgagee could guard against loss of priority to some extent by stopping further loan advances directly to the mortgagor (as permitted by the HECM loan documents when needed to protect lien priority) but this will not protect the lien priority of the mandatory loan advances that will continue for interest, mortgage insurance premiums and servicing charges. HUD or the mortgagee may find it necessary to accelerate the loan and foreclose to prevent the continued growth of debt without a first lien priority. Even without a foreclosure, the homeowner may have to move if loan advances are stopped, because of inability to pay basic homeowner expenses such as real estate taxes without further advances. This result would conflict with the program goal of non-displacement of an elderly homeowner that desires to continue living in his or her home.

The proposed rule would serve as a Federal law that courts would use to determine the lien priority of HECM loan advances. *Kimbell Foods* would be inapplicable for a HECM assigned to HUD because that decision guides courts only in the absence of a Federal law, and the regulation would otherwise preempt state law that would be applied to an insured HECM still held by a mortgagee. This use of a regulation to avoid any application of *Kimbell Foods* is in accord with *Chicago Title Ins. Co.* v. *Sherred Village Associates*, 708 F. 2d 804 (1st Cir. 1983), and preemption by regulation of state law that would otherwise apply to privately-held mortgages has been approved by the Supreme Court in cases such as *Fidelity Federal Savings and Loan Association* v. *De La Cuesta*, 458 U.S. 141 (1982) and *United States* v. *Shimer*, 367 U.S. 374 (1961).

The proposed priority lien regulation would assure that HECM loan advances made in accordance with the loan agreement would not be interrupted due to the application of State lien priority laws. Reasonable arguments can be made that, even without this rule, *Kimbell Foods* would not compel application of State lien priority laws to a HECM held by HUD due to distinctive features of the HECM program, and that State laws would not apply to a HECM held by a private mortgagee if conflict with the program goal of non-displacement, as described above, would occur. This proposed rule does not reject those arguments. It recognizes the uncertainty of current law and proposes to replace that uncertainty with a clear rule on which HUD, mortgagees and other potential lienors can rely. Private creditors intending to rely on the equity of the mortgagor in the home will be on clear notice that the

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entire HECM debt will be superior to any other private lien. The proposed priority lien regulation would have one exception to permit a higher priority for state or local liens for taxes or special assessments, to the extent provided by State or local law.

Section 206.21

Paragraph (b) of § 206.21 would be amended to permit a mortgage that provides for monthly adjustments to the interest rate to be converted to one that provides for annual adjustments if the mortgage is assigned to HUD by the mortgagee. This would enable HUD to reduce greatly the servicing burden associated with ARMs that are assigned to HUD. A similar change is proposed for § 206.121(c) regarding the second mortgage held by HUD. If the mortgagee had drafted the second mortgage to provide for monthly adjustments HUD could convert it to annual adjustments.

Section 206.25

Section 206.25(d) would be revised to permit the principal limit amount set aside for a line of credit to increase at the same rate as the full principal limit whether or not combined with a term or tenure option with monthly payments. HUD has been informed that the current regulation has been interpreted to permit this by some participants in the HECM program, including the Federal National Mortgage Corporation (FNMA). Although not necessarily in conformity with HUD's original intentions behind § 206.25(d), this approach to calculating the principal limit for a line of credit has the advantage of simplicity as compared to HUD's original intention, and does not result in increased risk to the borrower or HUD. HUD is proposing a formal change in regulations to permit FNMA and others to continue with a practice that is compatible with the general design of the HECM program. Most of the actual difference in results between the various approaches to § 206.25(d) would be eliminated as a result of the separate proposal to calculate the principal limit using the actual mortgage interest rate instead of the expected average mortgage interest rate; the proposed change to § 206.25(d) is a technical revision to eliminate remaining perceived adverse effects of the current § 206.25(d). A conforming change would be made to § 206.19(c) to avoid conflicting descriptions of how line of credit payments are calculated.

Section 206.26

The specific dollar amount of $20 that mortgagees may charge when payments are recalculated would be removed from § 206.26(d), and the Secretary would be given discretion to set a fee. The Secretary would continue to set a maximum fee at $20, but would establish the amount in Handbook 4235.1 subject to future reconsideration.

Section 206.27

Changes to §§ 206.27(d), 206.117, and 206.121(c) are proposed to be made to give the Secretary the option to eliminate the HUD-held second mortgage. The current regulations require originating mortgagors to execute a second HECM security instrument and note (second mortgage) held by the Secretary. The second mortgage comes into effect only if a mortgagee defaults in making payments and is unable or unwilling to assign the mortgage to HUD. It assures that any funds advanced by HUD are secured by a mortgage. (In the case of assignments, the Secretary continues making payments to the mortgagor under the first mortgage and the second mortgage is not utilized.) HUD now concludes that it is inappropriate to bind itself by regulation to this particular approach to protection of the Secretary's financial interests.

In practice, the second mortgage has proven to be cumbersome and costly to mortgagors. First, in virtually all cases mortgagors are required to pay recording fees per page of documents recorded. Two mortgages double the recording fees. Second, mortgagees and mortgagors have mistakenly believed that the second mortgage represents additional mortgage debt and have been confused as to the purpose of the second mortgage. Third, when the mortgage has been paid off, release of the second mortgage has been time-consuming. The provisions in the legal documents regarding the relationship between the debts secured by the first and second mortgages if the second mortgage is used are complex, untested and without close precedent and therefore could invite litigation.

HUD's ultimate objective is to eliminate or reduce reliance on the second mortgage as the means of protecting the mortgagor and HUD against mortgagee defaults. The proposed changes would permit the Secretary to do without the second mortgage when deemed prudent. HUD does not expect to change its current practices, however, until it is reasonably certain that it has a legal means of enforcing an assignment of the first mortgage free and clear of any interests of other parties. At such time as legal doubts are resolved, HUD anticipates that the second mortgage requirement could be terminated without further regulatory changes.[1]

Sections 206.27 and 206.35

Currently part 206 does not permit mortgagors to hold only a life estate in the mortgaged property. At least one eligible mortgagor must hold title in fee simple or through a long-term leasehold of a fee simple interest. HUD is proposing amendment of sections 206.27(c)(1) and 206.35 to permit mortgages to be insured and remain in force even if no eligible mortgagor has any interest in the property greater than a life estate. If a mortgagor holds only a life estate when the mortgage is executed, all holders of any future interest in the property (remainder or reversion) would also be required to execute the mortgage to ensure that the mortgage was secured by a fee simple. A holder of a future interest would not execute the note or loan agreement and would not have the rights to loan proceeds of other mortgagors. The proposed change would also permit a mortgagor who held fee simple title when the mortgage was executed to subsequently convey his or her interests in the property as long as a life estate is retained.

Because the mortgage will in all cases be secured by a fee simple or long-term leasehold interest in the property, mortgagees and HUD should not be subject to any greater financial risk if the proposed change is adopted. The proposed change would recognize that an elderly homeowner may wish to convey future interests in his or her home as an estate planning measure while retaining a life interest to ensure a continued right of occupancy for the remaining lifetime. There is no conflict between this approach to estate planning and the basic objective of the HECM program—to provide elderly homeowners the financial means to continue residing in their homes for the remainder of their lifetimes. HUD has already accommodated other approaches to estate planning by permitting mortgagors to convey joint ownership of the mortgaged property to other non-elderly, non-occupant parties and by permitting a living trust to hold legal title to the home for benefit of the elderly homeowner.

[1] Complete abandonment of a second mortgage requirement might not be prudent in the absence of a statutory change—which has not been proposed to date by HUD—that would guarantee HUD the right to assume first mortgages upon mortgagee default, similar to language found in section 306(g)(1) of the National Housing Act (12 U.S.C. 1723)(g)(1)). Section 306(g)(1) provides that the Government National Mortgage Association (GNMA) shall be subrogated fully to the rights of a defaulted issuer when GNMA makes the payment of principal and interest on securities guaranteed by GNMA. Section 306(g)(1) further provides that GNMA may provide by regulation or contract with the issuer for the extinguishment, upon default by the issuer, of any right, title or interest of the issuer in the assumed mortgages (this provision also appears in GNMA regulations at 24 CFR 390.15(b)).

Section 206.45

A new paragraph (e) would be added to § 206.45 to incorporate the free assumability regulations at 24 CFR 203.41 and 234.66 which were published in a final rule at 58 FR 42645 (August 11, 1993). Those rules codify HUD's general policy that the property mortgaged under its single family mortgage insurance programs must be freely marketable except for a limited number of specific exceptions, primarily those permissible for affordable housing purposes. While HUD does not have the same concerns about restrictions on assumptions for the HECM program as for other single family programs, because a HECM by its nature is not assumable, HUD is concerned that any property acquired by the mortgagee or HUD through foreclosure or deed-in-lieu of foreclosure needs to be readily marketable without restrictions to a wide potential market. HUD has identified one area of special impact of this policy on the HECM program for which it specifically seeks comment. The rule would prevent use of the HECM program for a unit in a condominium if the condominium association possesses a right of first refusal (unless the condominium project received written approval from HUD prior to September 10, 1993). HUD believes that there may be a substantial number of condominiums existing prior to that date that did not obtain FHA approval, have condominium associations with rights of first refusal, and have current unit owners that would be prospective applicants for a HECM. A recent proposed amendment of § 206.51 (60 FR 32630, June 23, 1995) would permit HECMs on some individual units in a condominium project that have not received HUD approval but such units would also be affected by the proposed change to § 206.45. HUD therefore also seeks comment on whether, if the proposed change to § 206.51 is adopted, HUD should insure a HECM on a unit in a condominium project that does not meet usual HUD policy regarding rights of first refusal.

Section 206.125

Paragraph (d) of § 206.125 would be amended to apply HUD's State by State time frames to define "reasonable diligence" as provided in 24 CFR 203.356.

Section 206.209

Section 206.209 would be revised to reflect the proposed policy that prepayments do not increase the amount of funds available to be borrowed as discussed for § 206.3. The regulation also would provide that in the event the prepayment is made from insurance or condemnation proceeds, the principal limit would decrease by the amount of proceeds not applied to repair of the property. This will reflect the permanent reduction in the value of the security that resulted from the condemnation or unrepaired damage.

The prepayment requirements which permit the mortgagee to charge interest if the prepayment is not made within the required time frames would be eliminated. The current prepayment provision parallels the prepayment procedures for Section 203(b) mortgages. The prepayment regulation for Section 203(b) mortgages is necessary to assure that prepayments are made in a timely fashion so that interest due to GNMA security holders is available to the GNMA issuers. Since HECMs are not securitized there is no need to restrict the time of prepayment.

Other Matters

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). This Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development Room 10276, 451 Seventh Street, SW, Washington, DC 20410.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule, before publication and by approving it certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule is limited to revision of the Home Equity Conversion Mortgage Demonstration. Specifically, the requirements of the proposed rule are directed to making the program more efficient for participating mortgagees, mortgagors and the Department.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, has determined that § 206.8 of the proposed rule has federalism implications. Specifically, the rule provides that State law on lien priority would be preempted if HECM loan advances made by private mortgagees would not have a first lien priority (subject only to liens for State or local taxes or special assessments). (Preemption is not an issue for loan advances made by HUD because Federal law rather than State law would apply under *United States* v. *Kimbell Foods, Inc.*, 440 U.S. 715 (1979).

The purpose of the proposed rule is to permit a mortgagee to be able to continue to make loan advances in accordance with the loan agreement (including advances for accruing interest and mortgage insurance premiums) as long as the elderly homeowner/mortgagor desires to continue to occupy his or her home, while still maintaining a first lien priority for all advances. If State law was applied and resulted in granting priority to some other lien created after the HECM was recorded, the mortgagee would need to stop further payments to the mortgagor. The mortgagee might also need to foreclose to stop the continuing accrual of items such as interest and mortgage insurance premium with a junior lien priority. Either result would conflict with the HECM program goal of preventing displacement of the elderly homeowner, either directly from foreclosure or indirectly because of lack of funds available to the homeowner for the expenses of homeownership.

This conflict itself might result in preemption of State law under relevant Supreme Court opinions. The proposed rule would remove any doubt and provide needed clarification for HUD, mortgagees, and other creditors who may rely on the mortgagor's equity. HUD has concluded that State law would ordinarily result in a first lien status for all HECM loan advances, but is concerned that applicable law is not always clear and that some situations might occur in which the application of State law would leave the first lien status in doubt. The effect of the proposed preemption is likely to be small but it is important to ensure that the HECM program remains a first mortgage program as intended by Congress.

HUD has concluded that it is not necessary to preempt laws that would give priority to liens for unpaid State or local taxes or special assessments. If the mortgagee pays them and later files an

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insurance claim, HUD would reimburse the mortgagee for those amounts as part of the insurance benefits. This distinguishes these liens from other liens and there is therefore no need to object to a superior lien position. This exception permitting superior liens for unpaid taxes and special assessments means that the proposed rule would have no substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States.

The Department believes that although the proposed rule might have federalism implications, it is designed to achieve a legitimate Federal purpose and is carefully crafted to limit its effects to those necessary to achieve that end. In these circumstances, the Department believes that the Order imposes no bar to implementation of the rule. For these reasons, the General Counsel has determined that the rule's federalism implications are not sufficiently significant to warrant preparation of a Federalism Assessment under section 6(b) of the Order.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this proposed rule would not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns.

List of Subjects in 24 CFR Part 206

Aged, Condominiums, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 206 is proposed to be amended as follows:

PART 206—HOME EQUITY CONVERSION MORTGAGE INSURANCE

1. The authority citation for part 206 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715z–20; 42 U.S.C. 3535(d).

2. Section 206.3 is amended by revising the first sentence of the definition of "expected average mortgage interest rate," by revising the definition of "principal limit," and by adding a new definition of "mortgage balance," to read as follows:

§ 206.3 Definitions.

* * * * *

Expected average mortgage interest rate means the mortgage interest rate used to calculate future payments to the mortgagor and is established when the mortgage interest rate is established.

* * *

* * * * *

Mortgage balance means the total amount of accrued debt calculated in accordance with the terms of the mortgage. For the purpose of recalculating payments under §§ 206.19(c), 206.25(b)(ii), 206.25(d) and 206.26(c), the mortgage balance includes principal that has been repaid, including insurance or condemnation proceeds that have been applied to the debt, unless the mortgage was executed before [effective date of final rule].

* * * * *

Principal limit means the maximum disbursement that could be received in any month under a mortgage, assuming that no other disbursements are made, taking into account the age of the youngest mortgagor, the mortgage interest rate, and the maximum claim amount. Mortgagors over the age of 95 will be treated as though they are 95 for purposes of calculating the principal limit. The principal limit is used to calculate payments to a mortgagor. It is calculated for the first month that a mortgage could be outstanding using factors provided by the Secretary. It increases each month thereafter at a rate equal to one-twelfth of the mortgage interest rate in effect at that time, plus one-twelfth of one-half percent per annum, unless the mortgage was executed on or after [effective date of final rule]. If the mortgage was executed before [effective date of final rule], the principal limit increases at a rate equal to the expected average mortgage interest rate plus one-twelfth of one-half percent per annum. The principal limit may decrease because of insurance or condemnation proceeds applied to the mortgage balance under § 209.209(b) of this chapter.

* * * * *

3. Subpart A is amended by adding a new § 206.8, to read as follows:

§ 206.8 Preemption.

(a) *Lien priority.* The full amount secured by the mortgage shall have the same priority over any other liens on the property as if the full amount had been disbursed on the date the initial disbursement was made, regardless of the actual date of any disbursement. The amount secured by the mortgage shall include all direct payments by the mortgagee to the mortgagor and all other loan advances permitted by the mortgage for any purpose including loan advances for interest, taxes and special assessments, premiums for hazard or mortgage insurance, servicing charges and costs of collection, regardless of when the payments or loan advances were made. The priority provided by this section shall apply notwithstanding any State constitution, law or regulation.

(b) *Second mortgage.* If the Secretary holds a second mortgage, it shall have a priority subordinate only to the first mortgage (and any senior liens permitted by paragraph (a) of this section).

4. Section 206.19 is amended to revise paragraph (c), to read as follows:

§ 206.19 Payment options.

* * * * *

(c) *Line of credit payment option.* Under the line of credit payment option, payments are made by the mortgagee to the mortgagor at times and in amounts determined by the mortgagor as long as the amounts do not exceed the payment amounts permitted by § 206.25(d).

* * * * *

5. Section 206.21 is amended to add paragraph (b)(3), to read as follows:

§ 206.21 Interest rate.

* * * * *

(b) * * *

(3) A mortgage providing for monthly adjustments to the interest rate may be converted by the Secretary to one providing for annual adjustments at any time after the mortgage is assigned to the Secretary by providing notice to the mortgagor.

* * * * *

6. Section 206.25 is amended to revise paragraph (d), to read as follows:

§ 206.25 Calculation of payments.

* * * * *

(d) *Line of credit separately or with monthly payments.* If the mortgagor has a line of credit, separately or combined with the term or tenure payment option, the principal limit is divided into an amount set aside for servicing charges under § 206.19(d), an amount equal to the line of credit (including any portion of the principal limit set aside for repairs or property charges under § 206.19(d)), and the remaining amount of the principal limit (if any). The line of credit amount increases at the same rate as the total principal limit increases under § 206.3. A payment under the line of credit may not exceed the difference between the current amount of the principal limit for the line of credit and the portion of the mortgage balance, including accrued interest and MIP,

attributable to draws on the line of credit.

* * * * *

7. Section 206.26 is amended to revise paragraph (d), to read as follows:

§ 206.26 Change in payment option.

* * * * *

(d) *Fee for change in payment.* The mortgagee may charge a fee, not to exceed an amount determined by the Secretary, whenever payments are recalculated.

* * * * *

8. Section 206.27 is amended to revise paragraphs (c)(1) and (d), to read as follows:

§ 206.27 Mortgage provisions.

* * * * *

(c) * * *

(1) The mortgage shall state that the mortgage balance will be due and payable in full if

(i) A mortgagor dies and the property is not the principal residence of at least one surviving mortgagor, or

(ii) A mortgagor conveys all or his or her title in the property and no other mortgagor retains title to the property. For purposes of the preceding sentence, a mortgagor retains title in the property if the mortgagor continues to hold title to any part of the property in fee simple, as a leasehold interest as set forth in § 206.45(a), or as a life estate.

* * * * *

(d) *Second mortgage to Secretary.* Unless otherwise provided by the Secretary, a second mortgage to secure any payments by the Secretary as provided in § 206.121(c) must be given to the Secretary before a Mortgage Insurance Certificate is issued for the mortgage.

* * * * *

9. Section 206.35 is amended by adding a new sentence at the end, to read as follows:

§ 206.35 Title held by mortgagor.

* * * If one or more mortgagors hold a life estate in the property, for purposes of this section only the term "mortgagor" shall include each holder of a future interest in the property (remainder or reversion) who has executed the mortgage.

10. Section 206.45 is amended to add a new paragraph (e), to read as follows:

§ 206.45 Eligible properties.

* * * * *

(e) *Freely marketable.* The property must be freely marketable. Conveyance of the property may only be restricted as permitted under 24 CFR 203.41 or 234.66 and this part.

11. Section 206.117 is revised to read as follows:

§ 206.117 General.

The Secretary is required by statute to take any action necessary to provide a mortgagor with funds to which the mortgagor is entitled under the mortgage and which the mortgagor does not receive because of the default of the mortgagee. The Secretary may hold a second mortgage to secure repayment by the mortgagor under § 206.27(d) or may accept assignment of the first mortgage.

12. Section 206.121 is amended by revising the first two sentences of paragraph (c), to read as follows:

§ 206.121 Secretary authorized to make payments.

* * * * *

(c) *Second mortgage.* If the contract of insurance is terminated as provided in § 206.133(c), all payments to the mortgagor by the Secretary will be secured by the second mortgage, if any. Payments will be due and payable in the same manner as under the insured first mortgage, except that if the first mortgage provided for monthly adjustments to the interest rate under § 206.21(b)(2) then the Secretary may convert the second mortgage to an annually adjustable interest rate under § 206.21(b)(1) at any time by providing notice to the mortgagor. * * *

13. Section 206.125 is amended to revise paragraph (d)(3), to read as follows:

§ 206.125 Acquisition and sale of the property.

* * * * *

(d) * * *

(3) The mortgagee must give written notice to the Secretary within 30 days after the initiation of foreclosure proceedings, and must exercise reasonable diligence in prosecuting the foreclosure proceedings to completion and in acquiring title to and possession of the property. A time frame that is determined by the Secretary to constitute "reasonable diligence" for each State is made available to mortgagees.

* * * * *

14. Section 206.209 is revised to read as follows:

§ 206.209 Prepayment.

(a) *No charge or penalty.* The mortgagor may prepay a mortgage in full or in part without charge or penalty at any time, regardless of any limitations on prepayment stated in a mortgage. Amounts prepaid are not available to be re-borrowed, unless the mortgage was executed before [effective date of final rule].

(b) *Insurance and condemnation proceeds.* If insurance or condemnation proceeds are paid to the mortgagee, the principal limit and the mortgage balance shall be reduced by the amount of the proceeds not applied to restoration or repair of the damaged property.

Dated: April 12, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 96–11649 Filed 5–9–96; 8:45 am]

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Part IX

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Part 902
50 CFR Parts 216 and 222
Reporting and Recordkeeping Requirements; Final Rule

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Parts 216 and 222

[Docket No. 960419116–8116–01; I.D. 122492C]

RIN 0648–AD11

Marine Mammal Special Exception Permits to Take, Import and Export Marine Mammals; Update of Office of Management and Budget (OMB) Approval Numbers

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule updates and consolidates the regulations for special exception permits to: Take, import, export, or carry out any other otherwise prohibited act involving marine mammals for the purposes of scientific research, enhancing the survival or recovery of a marine mammal species or stock (enhancement), educational and commercial photography, and public display under the Marine Mammal Protection Act of 1972 (MMPA); take, import, export or carry out any other otherwise prohibited act concerning endangered or threatened marine mammals for scientific purposes or enhancement under the Endangered Species Act of 1973 (ESA); and, determine the status and disposition of rehabilitated stranded marine mammals. This rule sets forth revised procedures for these permits in order to make administration of the NMFS marine mammal permit program more efficient, consistent, and predictable.

This rule also updates OMB Paperwork Reduction Act approval numbers for applications and reports for special exception permits.

EFFECTIVE DATE: This final rule is effective June 10, 1996.

ADDRESSES: National Marine Fisheries Service, (F/PR1), 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Laurel Bryant or Ann Terbush, Permits Division, Office of Protected Resources, 301/713–2289.

SUPPLEMENTARY INFORMATION:

Purpose

A proposed rule was published (58 FR 53320, October 14, 1993) to consolidate into a single set of regulations all permitting requirements under the MMPA, the ESA, and the Fur Seal Act (FSA) to take, import, or export all protected species under the NMFS jurisdiction for purposes of scientific research or enhancement, and public display, and to provide clear procedures for the disposition of rehabilitated stranded marine mammals.

In contrast, this final rule implements only a part of that proposed rule; namely, it establishes basic permit requirements applicable to all permits to take, import and export marine mammals and marine mammal parts for purposes of scientific research and enhancement, photography, and public display (for captures and initial imports) under the MMPA; provides additional permit criteria specific to scientific research and enhancement only; and establishes clarified administrative procedures for determining the releasability or non-releasability of rehabilitated stranded marine mammals and their disposition.

Scope

This notice responds to the comments and the final rule incorporates a number of the changes recommended by commenters. In addition, the rule implements certain statutory changes made to the MMPA by the MMPA Amendments of 1994 (1994 Amendments) (Public Law 103–238) enacted on April 30, 1994.

Photography and public display. Not included in this final rule are the additional requirements specific to photography or public display established by the 1994 Amendments. The 1994 Amendments included significant changes regarding these activities. Accordingly, NMFS will publish separate proposed rules for public comment for these areas.

ESA species. It is important to note that this final rule applies to the issuance of special exception permits under both the MMPA and ESA for species of marine mammals only. However, activities involving species other than marine mammals that are protected under the ESA will continue to require a permit issued under separate ESA regulations.

History

The 1993 proposed rule. The proposed rule proposed to amend and consolidate permit regulations under the FSA, MMPA and the ESA to facilitate "one-stop shopping" for the issuance of permits to take "protected species" (including species that are depleted under the MMPA, and threatened and endangered under the ESA) for purposes of scientific research, enhancement and public display. The proposed rule was also designed to establish permit conditions capable of addressing the various circumstances that had evolved over two decades of issuing permits to take marine mammals. For example, although photography of marine mammals in the wild is a common source of research and educational information, the MMPA did not provide an exception for such an activity. The 1993 proposed rule attempted to facilitate research related photography under statutory provisions for bona fide scientific research and enhancement activities, while at the same time guarding against the use of research permits for commercial activities, which had become a growing concern. However, comments received on the proposed rule were critical of these provisions as being too restrictive and bureaucratic. The new authority to issue permits for educational and commercial photography provided by the 1994 Amendments eliminates the need for addressing photography in much detail under scientific research permits.

The proposed rule was originally open for public comment for a 60-day period. A number of focused briefings on the proposed rule were held for a variety of interested parties, including Congress, various groups directly affected by the regulations, and the public. In addition, NMFS held three regional public hearings: Silver Spring, MD on December 3; Oakland, CA on December 6; and Chicago, IL on December 8. A combined total of 53 oral and written testimonies was submitted for the record through the public hearing process. Due to the level of interest expressed, NMFS extended the public comment period for an additional 30 days, closing on January 28, 1994. In addition, a transcribed question and answer session was held with certain representatives of the public display industry at their request. A total of 187 comments were received from individuals and organizations representing the scientific research community, public display industry, and conservation and animal protection interests. A discussion of and response to those comments is detailed below.

The 1994 Amendments. The 1994 Amendments substantially revised the MMPA. The statutory changes to the MMPA that impact this final rule include: Statutorily defining the term harassment; providing a General Authorization for bona fide research involving only Level B harassment; waiving the public comment process for research permits to be issued under emergency situations; eliminating the statutory restriction against duplication of scientific research projects; statutorily providing for the issuance of permits for purposes of educational and commercial photography; and substantial changes to the public display provisions of the Act, eliminating the basis for many of the provisions that had been included in the proposed rule.

Response to 1993 Comments and Discussion of 1994 Amendments. Many commenters found the scope and organization of the proposed rule to be confusing, arguing that they had difficulty determining which regulations applied to their expressed interest.

Organization. In the proposed rule, each regulatory section was subdivided into four categories: General (i.e., basic requirements applicable to all permits), Public display, Scientific research, and Enhancement. This required a reviewer to identify within each section, both the basic permit requirements and the requirements particular to their area of interest.

In response, these final regulations have been significantly reorganized by removing non-statutory general conditions and reporting requirements from regulatory text; listing requirements basic to all permits in §§ 216.33 through 216.40 (i.e., application procedures, issuance criteria, permit restrictions, conditions, reporting requirements, amendment procedures, and penalties); and providing the additional requirements applicable to each special exception purpose in separately identified sections (i.e., § 216.41 contains the additional requirements for Scientific Research). The table of contents has been revised to include identification of sections reserved for future photography and public display regulations.

A number of comments questioned why the proposed rule would amend the Pribilof Islands and northern fur seal regulations issued under the FSA (part 215). These regulations were included to reduce regulatory burden and confusion by consolidating, under the MMPA, the requirements contained under the FSA regarding the take, transportation, importation, exportation or possession of fur seals or their parts for educational, scientific or exhibition purposes. However, these changes to part 215 were included in the interim final rule for the General Authorization for bona fide scientific research (59 FR 50372 October 3, 1994) and are, therefore, not included with this final rule.

Disruption as a part of harassment. The proposed definition of harass drew general criticism over its inclusion of the term disruption. Commenters argued that, combined with the 1993 proposed appendix of approach guidelines and reporting requirements, inclusion of the term would create too much bureaucratic burden, over-reporting of takes, and stifle scientific research. Commenters also expressed concern that NMFS would not enforce the moratorium on taking against someone unintentionally harassing a marine mammal. Members of the public disrupting sea lions hauled-out at a public wharf were cited as an example. Although commenters did not believe NMFS would institute enforcement actions for such incidents of unintentional harassment, or that it was the intent of Congress to focus on such incidents, they were concerned that NMFS might impose a higher standard on researchers. The 1994 Amendments defined harassment, and it is that definition that is included in this rule (see § 216.3 Definitions).

Approach guidelines (Appendix B). In view of the statutory changes defining harassment, and in response to the comments, NMFS has eliminated the Appendix B listing of approach guidelines and will instead refer applicants to the appropriate regional office(s) to receive any approach guidelines developed for the species of marine mammals specific to that region.

Reporting. Comments were generally critical of the reporting requirements regarding scientific research, arguing that the detail requested on behavioral responses was excessive, and the amount of data requested could compromise a researcher's "stock-in-trade" by forcing public documentation of data and information before it could be synthesized into published material.

In conjunction with the previous discussion, NMFS points out that a recurring theme throughout the history of issuing permits for the harassment of marine mammals has been the need for objective standards for identifying stressful responses in marine mammals to activities and closeness of approach which harass them. Such standards would prove valuable in facilitating better management practices in the wild and controlling against activities which may be detrimental to individual marine mammals or their stocks. In an effort to maintain this aspect of the reporting requirements while at the same time easing burdens, the reporting requirements have been made more flexible by emphasizing summaries of information and researcher discretion for determining "noteworthy" behavioral responses.

General take category. Many comments expressed support for a general take category allowing for routine, non-invasive harassment for purposes of scientific research, photography and whale watching.

The 1994 Amendments defined harassment and divided such takes into two levels of impact: Level A harassment has the potential to injure, and Level B harassment has only the potential to disturb (§ 216.3 Definitions). Bona fide scientific research projects which do not exceed Level B harassment on species not listed under the ESA are eligible for authorization under the new General Authorization category. This authorization is a streamlined process without public comment for low levels of harassment (Level B). A final rule based on comments received on the interim final rule (59 FR 50372. October 3, 1994) implementing the General Authorization now in effect, will be published separately in the **Federal Register**. The new permit category to harass marine mammals in the wild for purposes of educational and commercial photography also will allow only Level B harassment. A proposed rule for photography permits will be published in the **Federal Register** at a later date.

With regard to whale watching, there is no statutory exception provided for observational cruise activities, however, such activities can be conducted carefully without harassing marine mammals. Therefore, NMFS will continue to inform prospective vessel operators of guidelines to follow in an effort to avoid harassment.

Fees. A great deal of controversy was generated by NMFS' proposal to increase the fees for processing permits. Comments ranged from perceiving these fees as intentionally punitive against various permitted activities, to detailed suggestions for tiering the fees based on the type of permit, the level of staff review involved, and the financial disposition of the applicant.

In view of the significant changes made to the public display provisions of the statute, the nominal fees associated with scientific research, and a complete absence of any likely consensus on the subject of scientific research fees, NMFS has eliminated the proposed fee structure. This issue may be reconsidered at some time in the future. In the interim, no fee will be charged for these special exception permits.

Ethics of captivity. Many comments discussed the ethics of captivity, questioning the practice of holding marine mammals for public display and suggesting that a ban be placed on all captivity.

Since the passage of the MMPA in 1972, Congress has recognized the

public display of marine mammals as an exception to the moratorium on taking. Congress continued to recognize public display in the 1994 Amendments by continuing to provide for this activity in statute, and increasing significantly the authority and discretion of the public display industry over the marine mammals they hold.

Appendix A and C. As proposed in 1993, an Appendix A was provided for listing the activities that would require a special exception permit. In addition, an Appendix C provided the application information anticipated for special exception permits. Due to the controversy generated by the proposed scale of fees and the corresponding activities listed in Appendix A, NMFS has eliminated Appendix A. NMFS has also eliminated Appendix C and on request will provide application instructions for each permit category.

Bona fide scientific research (§ 216.3). A number of comments were critical of the proposed definition of bona fide scientific research, arguing that it extended unlimited discretion to NMFS for determining what was bona fide. The definition in the 1994 Amendments closely parallels the definition in the proposed rule. In practice, NMFS expects that the definition provides flexibility to an applicant rather than unlimited discretion to the agency.

Custody (§ 216.3). In response to comments on the proposed definition, and in consideration of the extensive changes to the public display provisions by the 1994 Amendments, the definition of custody has been simplified.

Humane (§ 216.3). Several comments were critical of the proposed definition of humane, arguing that the definitions utilized by the National Institutes of Health or American Veterinary Medicine Association should be adopted instead. In response, NMFS points out that the definition is essentially identical to the definition in the statute.

Interactive program (§ 216.3). A number of comments expressed a range of concerns over the definition of interactive program. Some commenters stated that NMFS had no authority over these activities, while others urged the elimination of therapeutic swim programs due to lack of bona fide scientific research criteria. The 1994 Amendments eliminated MMPA's jurisdiction over these public display captive care and maintenance issues, eliminating the need to define interactive program.

Public display (§ 216.3). A number of comments criticized the proposed definition of public display for being at odds with the MMPA and in violation of First Amendment rights by including the requirement for educational and conservation programs as part of the definition. It was suggested that the proposed definition parallel that contained in statute.

There is no definition of public display contained in the statute. Rather, prior to the 1994 Amendments, public display was referred to in the context of issuing a permit for public display to an applicant which offers a program for education or conservation purposes that, based on professionally recognized standards of the public display community, is acceptable to the Secretary of Commerce (Secretary). In keeping with this reference, NMFS included in the proposed rule reference of these programs as part of the definition.

The 1994 Amendments eliminated the requirement that public display education and conservation programs be acceptable to the Secretary. Public display education and conservation programs are now only subject to self-regulation. Accordingly, reference to education and conservation programs has been eliminated from the definition.

Initial review process (§ 216.33(c)). A number of comments were critical of the initial review process, arguing that it provided NMFS an opportunity to reject a permit application before receiving the benefit of public comment. The purpose of the initial review is to ensure that an application is appropriate, valid, and complete prior to its publication for public review. Premature publication without benefit of such determination could expose the applicant and agency to unnecessary administrative burdens, delays, and public confusion.

Adequate EA/EIS information (§ 216.33(c)). Several comments expressed confusion over the requirement that an applicant submit sufficient information to enable NMFS to determine whether the proposed activity will be categorically excluded from further environmental documentation under the National Environmental Policy Act of 1969 (NEPA).

NEPA applies to federally approved, initiated, or funded activities that impact the human environment. As such, it is necessary to retain this requirement of applicants in order to comply with NEPA. In an effort to provide regulatory "one-stop-shopping", NMFS is making every effort to include up front all requirements and provisions mandated by statute. Compliance with NEPA is a critical component of that process. As in the past, NMFS will make every effort to assist an applicant with NEPA compliance. Nevertheless, it is the responsibility of the applicant to consider the potential impacts of its proposed activity and provide the necessary information accordingly.

Marine Mammal Commission's (MMC) failure to comment (§ 216.33(d)). Many comments were critical of the provision which would regard the MMC's failure to comment on an application as a recommendation to deny the permit. It was suggested that the failure to comment by the MMC should be regarded as a recommendation to issue, and that recommendations to deny a permit be available for review by the applicant.

NMFS believes it would be inappropriate to default a no-comment to a recommendation status. However, in the same vein, NMFS recognizes the unfairness of defaulting to a denial status. In response, the recommendation to deny has been replaced with "no objection to issuance" (§ 216.33(d)(2)). With regard to comments received from the MMC on permit applications, these are a matter of public record and have always been available to anyone interested in reviewing them.

Duplication. Several comments criticized proposed language controlling against unnecessary duplication of scientific research projects, pointing out that duplication is an important aspect of investigating the soundness of a hypothesis. This language was a direct implementation of statutory language which specified scientific research to "not involve unnecessary duplication of research."

The 1994 Amendments struck from the statute the language restricting unnecessary duplication. Therefore, duplication is no longer a regulatory matter except as it relates to whether a proposed activity is bona fide scientific research, and the need to monitor against the cumulative impact of activities with the potential to exceed Level B harassment (§ 216.34(a)(4)).

Notarized copy (§ 216.35(j)). A number of comments were critical over the requirement that an original or notarized copy of the special exception permit be in the possession of the permit holder during the time of the authorized special exception activity. This provision was argued as unnecessary and too restrictive. In reconsidering the value of this provision for purposes of enforcement against fraud, NMFS has determined that an original or a copy of an original will satisfy the intent behind this requirement and has revised the provision accordingly.

Import and export (§ 216.37). A number of comments were critical of the provisions for regulating the import and export of marine mammal parts for scientific research, claiming that they were too bureaucratic and would stifle activities such as research and education. In addition, there was concern expressed over lost research opportunities and information due to the prohibition against importing marine mammal parts which resulted from a lethal activity otherwise prohibited under the Act (§ 216.41(c)(1)(v)).

As originally mandated in 1972, the restriction against the import and export of marine mammal parts was designed to prevent the development of commercial markets for marine mammal parts or products derived therefrom. However, the circumstances of bona fide scientific research involving import and export of marine mammal parts are varied, making clarity in regulations difficult. In addition, previously only the export of ESA listed species and parts was prohibited. The 1994 Amendments extended this prohibition to all marine mammals and marine mammal parts, except for the export of living marine mammals for purposes of public display.

In response, NMFS has made every effort to implement the intent of the law without creating undue burden against scientific research activities by ensuring that adequate documentation is provided for a part's acquisition, location and possession. Flexibility has also been provided at the sole discretion of the Office Director regarding importation of parts for bona fide scientific research that may have resulted from prohibited activities. For example, as a general rule it is illegal to import parts that have been taken in violation of domestic and foreign law. However, acknowledging the research value of some of these parts, the Office Director may authorize their importation for bona fide scientific research purposes.

Major and minor amendments (§ 216.39). Some confusion was expressed over the need to maintain a distinction between major and minor amendments, suggesting that all amendments be treated as major amendments, thereby reducing the confusion over the two terms. In response, NMFS believes that not all amendments should be required to go through a public review process, and that only those amendments that change elements of a permit which are statutorily highlighted as fundamental permit terms and conditions should be subject to public review (i.e., changes in: the number and species of marine mammals affected; the manner in which they are taken; the location; and the period of time the permit is valid). Other changes (i.e., minor amendments) are most appropriately addressed on a case-by-case basis between the permit holder and the Office Director without additional opportunity for public comment. Consistent with this policy, comments received, and in keeping with current administration of the program, the process for a hearing on a minor amendment as outlined in the proposed rule has been eliminated from this rule.

Lethal take as critically important (§ 216.41(b)(2)). Several commenters criticized the use of the phrase "critically important research need" as being too ambiguous a requirement for research results involving lethal take. In response, NMFS notes that this language is taken directly from the statute, which remains unchanged by the 1994 Amendments.

Publication of research results (§ 216.41(c)(1)(ii)). A number of commenters expressed concern over the requirement that research results be published within a "reasonable period of time", questioning what the agency would define as reasonable. In response, it would be arbitrary and impractical to define in advance what would constitute a reasonable period of time applicable to all circumstances. As such, NMFS has retained this requirement as a necessary characteristic of bona fide scientific research and would argue that by not defining what is reasonable the regulations provide adequate flexibility and deference to the researcher. In addition, Congress also recognized publication and availability of research results as necessary characteristics of bona fide scientific research by including these parameters in the new statutory definition of bona fide research (§ 216.3).

Personnel experience and direct supervision (§§ 216.35(f)–(g) and 216.41(c)). A number of comments expressed criticism of the requirements that all personnel conducting permitted activities under the authority of a scientific research permit must be directly supportive of and necessary for the permitted research activity. It was argued that this was a matter of internal personnel management and not an issue of regulatory concern. In addition, several commenters argued against the requirement that activities be conducted under the direct supervision of the principal investigator or a co-investigator, finding this to be too restrictive.

In response, permits are issued based in significant part on the determination that the proposed activity is to be conducted by qualified individuals capable of accomplishing the activity, in this case bona fide scientific research. Much of that determination is necessarily based on the qualifications of the applicant, principal investigator (PI), co-investigator(s) and any supportive personnel listed to conduct work under the terms of the permit. As such, NMFS has retained this language and would note that discretion over personnel matters is left entirely to the applicant.

Direct supervision over permitted activities by the PI or a co-investigator has been retained by NMFS as a necessary requirement (§ 216.41(c)(1)(iii)). In the past, inexperienced personnel have conducted permitted activities involving the take, import or export of marine mammals without direct supervision and left a project vulnerable to criticism and litigation.

It is important and reasonable to presume that the PI or a co-investigator will be directly involved in the activity authorized under a permit. However, this requirement should in no way be construed as a "draconian effort" to force critical research personnel to supervise the most routine of functions. Rather, it is intended to ensure the integrity of a bona fide research permit and the activities it has authorized. Qualified individuals may be designated in the permit as co-investigators to conduct, or directly supervise the conduct of, the taking, import and export activities authorized under a permit, but the PI is ultimately responsible for all such activities. To ensure that the roles and responsibilities of the PI and co-investigator(s) are clearly understood, definitions for both of these terms have been added (see § 216.3).

Prohibiting public display of marine mammals held for research (§ 216.41(c)(1)(vi)). A number of comments expressed concern over restricting the public display of marine mammals held for scientific research. Some comments identified specific instances in which research facilities display their marine mammals as a means of educating the public about the research and receiving donations for financial support of research projects.

As scientific research and public display are recognized by statute as two separate activities, NMFS has retained this restriction as a necessary distinction between these activities. However, in response to concerns over the public viewing of marine mammals involved with research projects, the regulatory exceptions to this restriction clearly provide adequate flexibility to

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allow such activities, under appropriate conditions, to occur under a scientific research permit.

Marketable products (§ 216.41(c)(1)(vii)). One of the more contentious areas of comment was the prohibition against the commercial sale of products derived from activities conducted under a scientific research permit. Concern was primarily expressed by commercial entities specializing in photographic coverage of research. In addition, many criticized the proposed definition of marketable product as beyond the jurisdiction of NMFS.

The proposed rule was in part driven by increasing reports and concerns about abuse of the scientific research permit system for commercial purposes. Although NMFS recognized the educational and scientific value of photographic coverage of marine mammals in conjunction with research, scientific research permits had, in some instances, been exploited for commercial purposes.

The 1994 Amendments acknowledged the need to provide for photographic activities in a controlled manner by permitting low levels of harassment of marine mammals for the purposes of commercial and educational photography. This new provision eliminated the need for much of the restrictive language included in the proposed rule for scientific research as well as for the need to define marketable product.

Permit conditions and reporting requirements. The regulatory text establishes permit-specific conditions and restrictions. By contrast, non-statutory general permit conditions and reporting requirements have been eliminated from the regulatory text. As a general rule, these general conditions and reporting requirements tend to vary given the nature of the permitted activity. Elimination of the permit conditions and reporting requirements provides NMFS with greater flexibility, allowing it to incorporate only those conditions and requirements that are appropriate to the permit. Appropriate general conditions and reporting requirements will be incorporated into the permit itself, and must be adhered to along with all other terms and conditions.

Most of the general conditions and reporting requirements that may be incorporated into a permit issued under this subpart, appear below. Additionally, these conditions and requirements may also be obtained from NMFS upon request (see **ADDRESSES**).

Conditions and Reporting Requirements for All Permits Conditions

1. The permit holder shall provide the Director (Regional Director) written notice of the date, time, and port at least one week in advance of any import or export, unless this notice is waived by the Regional Director in writing in advance.

2. The permit holder shall not, in interstate or foreign commerce, deliver, receive, carry, transport, ship, purchase, or sell, or attempt any of the same, any threatened or endangered marine mammal species acquired under this subpart except with the prior approval of the Office Director and subject to any conditions the Office Director may prescribe.

3. Upon request by the Office Director, the permit holder shall allow any employee of NOAA or any other person designated by the Office Director to inspect or observe the permit holder's records, facilities, marine mammals, marine mammal parts, and activities, and shall provide all additional information related to any inspection.

4. If activities authorized under a special exception permit have adverse unforeseen effects on the ecosystem of which marine mammals are a part, the permit holder must suspend permitted activities and notify the Regional Director, and, if marine mammals are involved, the Office Director, of the circumstances and any relevant observations and recommendations. The permit holder shall not continue such permitted activities until specifically authorized by the Regional Director or, if marine mammals are involved, the Office Director.

5. The Permit holder must immediately cease all permitted activities if so required by the Office Director on the basis of new information that demonstrates that the permitted activities may have an adverse effect on individual marine mammals, on the species or stock, or on the marine ecosystem, that was not anticipated at the time of permit issuance. Permitted activities may be resumed by the permit holder only upon specific authorization by the Office Director, and subject to any terms or conditions that the Office Director determines necessary, consistent with the provisions of 216.35.

6. The permit holder shall participate in a cooperative endangered and threatened marine mammal breeding program if requested by the Office Director.

7. When animal-specific information for live import or capture is not available at the time of permit issuance, the permit holder must request authorization by the Office Director prior to importing or initiating a capture activity for long-term or permanent captive maintenance (i.e., other than short-term capture and release) of a living marine mammal. The permit holder must:

i. Request authorization to import or capture at least 30 days prior to the proposed importation or capture date;

ii. Provide the proposed dates and, for imports, country of origin, port of entry, description of the marine mammals to be imported, and, for captures, the location of the capture and associated taking;

iii. Identify the proposed method, including, but not limited to, a detailed description of the containers/devices to be used and any special care required, modes (i.e., aircraft, truck, other), duration (including any transfer points), and date of transport, and the attending veterinarian, or authorized support personnel of the permit holder knowledgeable in the area of marine mammal care for the species concerned, who will accompany the marine mammal; and

iv. Provide a license and or registration issued by the Animal and Plant Health Inspection Service; a certification, to the satisfaction of the Office Director, that all applicable standards under the Animal Welfare Act will be complied with, and that any violations of those standards have been resolved and any required corrective actions taken, or will be within a period specified by the Office Director; and a certification from the responsible veterinarian that the transport will be conducted in compliance with the applicable standards of the Animal Welfare Act.

Reporting

1. *Annual reports.* All permit holders shall file written annual reports with the Office Director. Annual reports shall provide information requested by the Office Director, and shall be filed on the date set forth in the permit. At the discretion of the Office Director, the reporting deadline may coincide with the end of the permit holder's fiscal year or research season.

2. *Special reports.* Special reports include but are not limited to:

a. *Live captures.* Where the permit authorizes a capture from the wild, the permit holder shall submit a written live capture report to the Office Director within 30 days of capture. The report shall set forth the time and specific location (i.e., latitude/longitude) of the capture, the number of marine mammals chased or detained incidental to capture, and any deaths, injuries or complications that arose in connection with capture. For each marine mammal listed, the report must set forth the animal's size, age, sex, and reproductive condition.

b. *Lethal take.* Where a lethal take is authorized under the permit, the permit holder shall submit a written report to the Office Director within 30 days of the authorized lethal take. Where an actual or presumed lethal take occurs inadvertent or incidental to permitted activities, the permit holder shall notify the Office Director within 12 hours of the lethal take, or within 12 hours of return to port if the taking occurred at sea. This lethal take report or notification, as applicable, shall set forth the date, time, location, number, and, to the extent possible, age/size, sex, and reproductive condition of each animal killed. For inadvertent or incidental mortalities, notification shall also include the circumstances accompanying the incident and all actions taken to reduce the potential for future occurrences. A necropsy must be conducted and a report submitted if required by the Office Director.

c. *Initial importation of marine mammal parts.* Within 30 days of the initial importation of any marine mammal part, the permit holder shall submit a written report to the Office Director. The report shall include a description of the part and the unique number assigned to the part.

d. *Transfer, export or re-importation of marine mammal parts.* The permit holder shall provide written notification to the Regional Director within 30 days after any transfer, export, or re-import of a marine mammal part. Notification shall include: A description of the part and unique number; the person to whom the part was transferred, exported or reimported and, if applicable, the recipient's permit number; the purpose of the transfer, export or reimport; and, for transfers, certification that the recipient has agreed to comply with the requirements of § 216.37(a) for subsequent transfers.

e. *Other.* If the permit holder observes an unexpected event that may pose a significant adverse affect upon the health or welfare of a living marine mammal species subject to the permit, or the marine ecosystem of which they are a part, the permit holder shall submit a brief written report to the Office Director describing the circumstances concerned and all relevant observations or recommendations.

Additional Scientific Research and Enhancement Conditions and Reporting Requirements

Conditions

In addition to those conditions detailed above, scientific research and enhancement permits are subject to the following conditions:

1. Unless approved by the Office Director, the PI and co-investigators identified in the permit shall not be changed. A request to change a co-investigator listed under the permit must be submitted by the permit holder and include a description of the activity to be conducted by the proposed co-investigator, the manner in which such activity is a part of the permitted activity, and information regarding the proposed co-investigator equivalent to that required for the PI in an initial application.

2. The transfer and transport of marine mammals held for purposes of scientific research or enhancement must be authorized by NMFS.

Reporting

In addition to the reporting requirements detailed above, scientific research and enhancement permits are subject to the following reporting requirements:

1. *Annual reports.* For scientific research and enhancement permits, the annual report also shall include the following information:

a. To the extent practicable, for each marine mammal taken, imported, exported, or otherwise affected pursuant to permitted activities: The species, age, size, sex, and reproductive condition of the animal; the date, location, and manner of taking, import, or export; and for tagged animals, the dates each animal was tagged and tracked;

b. For each marine mammal part taken, imported, exported or otherwise affected pursuant to permitted activities, a description of the part and its assigned identification number;

c. The personnel and vessels involved in the conduct of the permitted research or enhancement and their respective functions;

d. For each marine mammal placed on public display: The name and location of the display facility; and the number of days the animal was displayed; and

e. A summary of all research and enhancement activities conducted during the past year.

2. *Final reports.* Scientific research and enhancement permit holders shall submit a final report to the Office Director within 180 days of the last annual report. The final report shall include:

a. A summary of all research or enhancement objectives, hypotheses, and testing (including methodology).

b. A summary of results and the manner in which such results relate to the research or enhancement objectives;

c. Where the authorized take, import, export or other activity involves a species or stock designated, or proposed to be designated, as depleted, endangered or threatened, an assessment of whether and how the scientific research or enhancement activity contributed to the achievement of any recovery objectives established for the species or stock.

d. For scientific research: An indication of where and when the research findings will be published or otherwise made available to the public or scientific community;

e. For enhancement: A description of the manner in which the enhancement program contributed significantly to maintaining or increasing distribution or abundance, enhanced the health or welfare of the species or stock, or was necessary to ensure the survival or recovery of the affected species or stock in the wild; and an assessment of the need for additional enhancement, along with specific recommendations;

f. Where marine mammals designated as depleted, endangered, or threatened are held captive under an enhancement permit, the report shall describe the manner in which the captive maintenance has contributed directly to the survival or recovery of the species or stock; and

g. A description of the disposition of any marine mammal parts, including an identification of the part as required in § 216.37(a)(4) and the manner of disposition.

3. *Special reports.* Information on marine mammals held captive must be submitted for purposes of the Marine Mammal Inventory. Such information includes animal-specific data when animals are initially obtained, and subsequent updates to be submitted for any changes in the captive holding status (i.e., animal identification, sex, estimated or actual birth date, date of acquisition or disposition by the permit holder, source of acquisition including location of the take from the wild if applicable, name of recipient if animal is transferred, notation if animal was acquired as the result of a stranding, date and cause of death, and prior notification of any sale, purchase, export, or transport). At the request of the Office Director, a necropsy report shall be submitted following report of a death.

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Classification

NMFS prepared an Environmental Assessment (EA) for the 1993 proposed rule and concluded that this final rule will not significantly affect the human environment. Therefore, preparation of an Environmental Impact Statement on this action is not required by section 102(2) of NEPA or its implementing regulations. Copies of the EA remain available on request (see **ADDRESSES**). NEPA requirements as they pertain to individual permits that may be issued under these proposed regulations will be addressed on a case-by-case basis.

This final rule has been determined to be not significant for purposes of E.O. 12866 and is consistent with the President's Regulatory Reform Initiative to reduce regulatory burden on the public. This rule clarifies current permitting procedures that were found not significant during the proposed stage.

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), an Initial Regulatory Flexibility Analysis (IRFA) was prepared and NMFS solicited comments in the proposed rule on the economic impacts to small business entities (available upon request (see **ADDRESSES**). The IRFA determined that the projected economic impact of the proposed revisions on affected small business entities would be primarily administrative, a combination of paperwork burden costs, permit fees (some of which would be greater than the fees under current permit regulations), and the proposed requirement of a surety bond for the care, maintenance, and disposition of captive marine mammals. NMFS believed that it was unlikely that significant economic impact would result from the requirements of the proposed regulations beyond the economic impacts associated with paperwork requirements, associated permit administration, and similar requirements imposed under existing regulations. However, sufficient financial and economic data was not available for NMFS to conduct an in-depth economic analysis, particularly in regards to the permit fees and surety bond requirement. NMFS sought comments on the anticipated economic effects during the public comment period. The comments submitted in response to this request addressed public display activities exclusively, which have been eliminated from this rule.

Due to statutory changes made by Congress in the 1994 Amendments, significant portions of the proposed rule have been eliminated, including the collection of permit fees and the proposed requirement for surety bonds. In addition, activities involving the issuance of permits for purposes of public display were significantly reduced by the 1994 Amendments, further reducing any economic impact associated with paperwork costs contained in this final rule.

As a result, the impact of this final rule on small business entities is primarily in the form of paperwork burdens. Paperwork requirements include permit applications and reports, which may be annual, special, and/or final. The projected economic impact on small business entities as a result of the paperwork requirements was estimated in the IRFA as a total of $123,260 annually for a universe of 462 entities, or about $267.00 per entity, an amount not significant for purposes of the Regulatory Flexibility Act. Accordingly, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. As a result, a Final Regulatory Flexibility Analysis was not prepared.

This rule contains collections of information subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget for special exception permits, OMB Control Number 0648–0084. The public burden for collection of this information is estimated to average 29 hours per response for permit applications and major amendment requests, 3 hours for minor amendments and authorization requests, and an average of 8 hours per response for various reporting requirements that range from 12 hours for scientific research annual reports to 2 hours for necropsies.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

NMFS has determined that these final regulations do not directly affect the coastal zone of any state with an approved coastal zone management program.

Under NOAA Administrative Order 205–11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 216

Administrative practice and procedure, Exports, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 222

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: May 6, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For reasons set out in the preamble, 15 CFR chapter IX and, under the authority of 16 U.S.C. 1361 *et seq.*, 50 CFR chapter II are amended as follows:

15 CFR CHAPTER IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, paragraph (b) the table is amended by removing in the left column under 50 CFR, the entries "216.24(d)", "216.31", and "222.23", and in the right column, in corresponding positions, the control numbers; and by adding, in numerical order, the following entries to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
. . .	. . .
50 CFR:	
. . .	. . .
216.24(d)	–0099 and –0217
. . .	. . .
216.27	–0084
216.37	–0084

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
216.38	–0084
216.39	–0084
216.41	–0084
. . .	. . .

50 CFR CHAPTER II

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

3. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

4. In § 216.3, definitions for "Co-investigator", "Custody", "Facility", "Humane", "Intrusive research", "Principal investigator", "Public display", and "Rehabilitation" are added in alphabetical order, and the definition of "Soft part" is revised to read as follows:

§ 216.3 Definitions.

* * * * *

Co-investigator means the on-site representative of a principal investigator.

* * * * *

Custody means holding a live marine mammal pursuant to the conditional authority granted under the MMPA, and the responsibility therein for captive maintenance of the marine mammal.

* * * * *

Facility means, in the context specific to captive marine mammals,: (1) One or more permanent primary enclosures used to hold marine mammals captive (i.e., pools, lagoons) and associated infrastructure (i.e., equipment and supplies necessary for the care and maintenance of marine mammals) where these enclosures are either located within the boundaries of a single contiguous parcel of land and water, or are grouped together within the same general area within which enclosure-to-enclosure transport is expected to be completed in less than one hour; or

(2) A traveling display/exhibit, where the enclosure(s) and associated infrastructure is transported together with the marine mammals.

* * * * *

Humane means the method of taking, import, export, or other activity which involves the least possible degree of pain and suffering practicable to the animal involved.

* * * * *

Intrusive research means a procedure conducted for bona fide scientific research involving: A break in or cutting of the skin or equivalent, insertion of an instrument or material into an orifice, introduction of a substance or object into the animal's immediate environment that is likely either to be ingested or to contact and directly affect animal tissues (i.e., chemical substances), or a stimulus directed at animals that may involve a risk to health or welfare or that may have an impact on normal function or behavior (i.e., audio broadcasts directed at animals that may affect behavior). For captive animals, this definition does not include:

(1) A procedure conducted by the professional staff of the holding facility or an attending veterinarian for purposes of animal husbandry, care, maintenance, or treatment, or a routine medical procedure that, in the reasonable judgment of the attending veterinarian, would not constitute a risk to the health or welfare of the captive animal; or

(2) A procedure involving either the introduction of a substance or object (i.e., as described in this definition) or a stimulus directed at animals that, in the reasonable judgment of the attending veterinarian, would not involve a risk to the health or welfare of the captive animal.

* * * * *

Principal investigator means the individual primarily responsible for the taking, importation, export, and any related activities conducted under a permit issued for scientific research or enhancement purposes.

Public display means an activity that provides opportunities for the public to view living marine mammals at a facility holding marine mammals captive.

* * * * *

Rehabilitation means treatment of beached and stranded marine mammals taken under section 109(h)(1) of the MMPA or imported under section 109(h)(2) of the MMPA, with the intent of restoring the marine mammal's health and, if necessary, behavioral patterns.

* * * * *

Soft part means any marine mammal part that is not a hard part. Soft parts do not include urine or fecal material.

* * * * *

5. In § 216.13, the section heading is revised and paragraph (d) is added to read as follows:

§ 216.13 Prohibited uses, possession, transportation, sales, and permits.

* * * * *

(d) Any person to violate any term, condition, or restriction of any permit issued by the Secretary.

6. In § 216.26, the section heading and paragraphs (b), (c), and (d) are revised and the introductory text to the section and paragraph (e) are added to read as follows:

§ 216.26 Collection of certain marine mammal parts without prior authorization.

Notwithstanding any other provision of this subpart:

* * * * *

(b) Notwithstanding the provisions of subpart D, soft parts that are sloughed, excreted, or discharged naturally by a living marine mammal in the wild may be collected or imported for bona fide scientific research and enhancement, provided that collection does not involve the taking of a living marine mammal in the wild.

(c) Any marine mammal part collected under paragraph (a) of this section or any marine mammal part collected and imported under paragraph (b) of this section must be registered and identified, and may be transferred or otherwise possessed, in accordance with § 216.22(c). In registering a marine mammal part collected or imported under paragraph (b) of this section, the person who collected or imported the part must also state the scientific research or enhancement purpose for which the part was collected or imported.

(d) No person may purchase, sell or trade for commercial purposes any marine mammal part collected or imported under this section.

(e) The export of parts collected without prior authorization under paragraph (b) of this section may occur if consistent with the provisions at § 216.37(d) under subpart D.

7. In subpart C, § 216.27 is added to read as follows:

§ 216.27 Release, non-releasability, and disposition under special exception permits for rehabilitated marine mammals.

(a) *Release requirements.* (1) Any marine mammal held for rehabilitation must be released within six months of capture or import unless the attending veterinarian determines that:

(i) The marine mammal might adversely affect marine mammals in the wild;

(ii) Release of the marine mammal to the wild will not likely be successful given the physical condition and behavior of the marine mammal; or

(iii) More time is needed to determine whether the release of the marine mammal to the wild will likely be successful. Releasability must be

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reevaluated at intervals of no less than six months until 24 months from capture or import, at which time there will be a rebuttable presumption that release into the wild is not feasible.

(2) The custodian of the rehabilitated marine mammal shall provide written notification prior to any release into the wild.

(i) Notification shall be provided to:

(A) The NMFS Regional Director at least 15 days in advance of releasing any beached or stranded marine mammal, unless advance notice is waived in writing by the Regional Director; or

(B) The Office Director at least 30 days in advance of releasing any imported marine mammal.

(ii) Notification shall include the following:

(A) A description of the marine mammal, including its physical condition and estimated age;

(B) The date and location of release; and

(C) The method and duration of transport prior to release.

(3) The Regional Director, or the Office Director as appropriate, may:

(i) Require additional information prior to any release;

(ii) Change the date or location of release, or the method or duration of transport prior to release;

(iii) Impose additional conditions to improve the likelihood of success or to monitor the success of the release; or

(iv) Require other disposition of the marine mammal.

(4) All marine mammals must be released near wild populations of the same species, and stock if known, unless a waiver is granted by the Regional Director or the Office Director.

(5) All marine mammals released must be tagged or marked in a manner acceptable to the Regional Director or the Office Director. The tag number or description of the marking must be reported to the Regional Director or Office Director following release.

(b) *Non-releasability and postponed determinations.* (1) The attending veterinarian shall provide the Regional Director or Office Director with a written report setting forth the basis of any determination under paragraphs (a)(1)(i) through (iii) of this section.

(2) Upon receipt of a report under paragraph (b)(1) of this section, the Regional Director or Office Director, in their sole discretion, may:

(i) Order the release of the marine mammal;

(ii) Order continued rehabilitation for an additional 6 months; or

(iii) Order other disposition as authorized.

(3) No later than 30 days after a marine mammal is determined unreleasable in accordance with paragraphs (a)(1)(i) through (iii) of this section, the person with authorized custody must:

(i) Request authorization to retain or transfer custody of the marine mammal in accordance with paragraph (c) of this section, or;

(ii) Humanely euthanize the marine mammal or arrange any other disposition of the marine mammal authorized by the Regional Director or Office Director.

(4) Notwithstanding any of the provisions of this section, the Office Director may require use of a rehabilitated marine mammal for any activity authorized under subpart D in lieu of animals taken from the wild.

(5) Any rehabilitated beached or stranded marine mammal placed on public display following a non-releasability determination under paragraph (a)(1) of this section and pending disposition under paragraph (c) of this section, or any marine mammal imported for medical treatment otherwise unavailable and placed on public display pending disposition after such medical treatment is concluded, must be held in captive maintenance consistent with all requirements for public display.

(c) *Disposition for a special exception purpose.* (1) Upon receipt of an authorization request made under paragraph (b)(3)(i) of this section, or release notification under (a)(2), the Office Director may authorize the retention or transfer of custody of the marine mammal for a special exception purpose authorized under subpart D.

(2) The Office Director will first consider requests from a person authorized to hold the marine mammal for rehabilitation. The Office Director may authorize such person to retain or transfer custody of the marine mammal for scientific research, enhancement, or public display purposes.

(3) The Office Director may authorize retention or transfer of custody of the marine mammal only if:

(i) Documentation has been submitted to the Office Director that the person retaining the subject animal or the person receiving custody of the subject animal by transfer, hereinafter referred to as the recipient, complies with public display requirements of 16 U.S.C. 1374(c)(2)(A) or, for purposes of scientific research and enhancement, holds an applicable permit, or an application for such a special exception permit under § 216.33 or a request for a major amendment under § 216.39 has been submitted to the Office Director and has been found complete;

(ii) The recipient agrees to hold the marine mammal in conformance with all applicable requirements and standards; and

(iii) The recipient acknowledges that the marine mammal is subject to seizure by the Office Director:

(A) If, at any time pending issuance of the major amendment or permit, the Office Director determines that seizure is necessary in the interest of the health or welfare of the marine mammal;

(B) If the major amendment or permit is denied; or

(C) If the recipient is issued a notice of violation and assessment, or is subject to permit sanctions, in accordance with 15 CFR part 904.

(4) There shall be no remuneration associated with any transfer, provided that, the transferee may reimburse the transferor for any and all costs associated with the rehabilitation and transport of the marine mammal.

(5) Marine mammals undergoing rehabilitation or pending disposition under this section shall not be subject to public display, unless such activities are specifically authorized by the Regional Director or the Office Director, and conducted consistent with the requirements applicable to public display. Such marine mammals shall not be trained for performance or be included in any aspect of a program involving interaction with the public; and

(6) Marine mammals undergoing rehabilitation shall not be subject to intrusive research, unless such activities are specifically authorized by the Office Director in consultation with the Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals, and are conducted pursuant to a scientific research permit.

(d) Reporting. In addition to the report required under § 216.22(b), the person authorized to hold marine mammals for rehabilitation must submit reports to the Regional Director or Office Director regarding release or other disposition. These reports must be provided in the form and frequency specified by the Regional Director or Office Director.

8. In subpart D, §§ 216.31 through 216.34 are revised; §§ 216.35 through 216.44 are added; and § 216.30 and §§ 216.46 through 216.49 are added and reserved to read as follows:

Subpart D—Special Exception Permits

216.30 [Reserved]
216.31 Definitions.
216.32 Scope.
216.33 Permit application submission, review, and decision procedures.
216.34 Issuance criteria.
216.35 Permit restrictions.
216.36 Permit conditions.
216.37 Marine mammal parts.
216.38 Reporting.
216.39 Permit amendments.
216.40 Penalties and permit sanctions.
216.41 Permits for scientific research and enhancement.
216.42 Photography. [Reserved]
216.43 Public display. [Reserved]
216.44 Applicability/transition.
216.45 General authorization.
216.46–216.49 [Reserved]

§ 216.30 [Reserved]

§ 216.31 Definitions.

For the purpose of this subpart, the definitions set forth in 50 CFR part 217 shall apply to all threatened and endangered marine mammals, unless a more restrictive definition exists under the MMPA or part 216.

§ 216.32 Scope.

The regulations of this subpart apply to:

(a) All marine mammals and marine mammal parts taken or born in captivity after December 20, 1972; and

(b) All marine mammals and marine mammal parts that are listed as threatened or endangered under the ESA.

§ 216.33 Permit application submission, review, and decision procedures.

(a) *Application submission.* Persons seeking a special exemption permit under this subpart must submit an application to the Office Director. The application must be signed by the applicant, and provide in a properly formatted manner all information necessary to process the application. Written instructions addressing information requirements and formatting may be obtained from the Office Director upon request.

(b) *Applications to export living marine mammals.* For applicants seeking a special exception permit to export living marine mammals, the application must:

(1) Be submitted through the Convention on International Trade in Endangered Fauna and Flora management authority of the foreign government or, if different, the appropriate agency or agencies of the foreign government that exercises oversight over marine mammals.

(2) Include a certification from the foreign government that:

(i) The information set forth in the application is accurate;

(ii) The laws and regulations of the foreign governmentinvolved allow enforcement of the terms and conditions of the permit, and that the foreign government will enforce all terms and conditions; and

(iii) The foreign government involved will afford comity to any permit amendment, modification, suspension or revocation decision.

(c) *Initial review.* (1) NMFS will notify the applicant of receipt of the application.

(2) During the initial review, the Office Director will determine:

(i) Whether the application is complete.

(ii) Whether the proposed activity is for purposes authorized under this subpart.

(iii) If the proposed activity is for enhancement purposes, whether the species or stock identified in the application is in need of enhancement for its survival or recovery and whether the proposed activity will likely succeed in its objectives.

(iv) Whether the activities proposed are to be conducted consistent with the permit restrictions and permit specific conditions as described in § 216.35 and § 216.36(a).

(v) Whether sufficient information is included regarding the environmental impact of the proposed activity to enable the Office Director:

(A) To make an initial determination under the National Environmental Policy Act (NEPA) as to whether the proposed activity is categorically excluded from preparation of further environmental documentation, or whether the preparation of an environmental assessment (EA) or environmental impact statement (EIS) is appropriate or necessary; and

(B) To prepare an EA or EIS if an initial determination is made by the Office Director that the activity proposed is not categorically excluded from such requirements.

(3) The Office Director may consult with the Marine Mammal Commission (Commission) and its Committee of Scientific Advisors on Marine Mammals (Committee) in making these initial, and any subsequent, determinations.

(4) Incomplete applications will be returned with explanation. If the applicant fails to resubmit a complete application or correct the identified deficiencies within 60 days, the application will be deemed withdrawn. Applications that propose activities inconsistent with this subpart will be returned with explanation, and will not be considered further.

(d) *Notice of receipt and application review.* (1) Upon receipt of a valid, complete application, and the preparation of any NEPA documentation that has been determined initially to be required, the Office Director will publish a notice of receipt in the **Federal Register**. The notice will:

(i) Summarize the application, including:

(A) The purpose of the request;

(B) The species and number of marine mammals;

(C) The type and manner of special exception activity proposed;

(D) The location(s) in which the marine mammals will be taken, from which they will be imported, or to which they will be exported; and

(E) The requested period of the permit.

(ii) List where the application is available for review.

(iii) Invite interested parties to submit written comments concerning the application within 30 days of the date of the notice.

(iv) Include a NEPA statement that an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an EA or EIS, that an EA was prepared resulting in a finding of no significant impact, or that a final EIS has been prepared and is available for review.

(2) The Office Director will forward a copy of the complete application to the Commission for comment. If no comments are received within 45 days (or such longer time as the Office Director may establish) the Office Director will consider the Commission to have no objection to issuing a permit.

(3) The Office Director may consult with any other person, institution, or agency concerning the application.

(4) Within 30 days of publication of the notice of receipt in the **Federal Register**, any interested party may submit written comments or may request a public hearing on the application.

(5) If the Office Director deems it advisable, the Office Director may hold a public hearing within 60 days of publication of the notice of receipt in the **Federal Register**. Notice of the date, time, and place of the public hearing will be published in the **Federal Register** not less than 15 days in advance of the public hearing. Any interested person may appear in person or through representatives and may submit any relevant material, data, views, or comments. A summary record of the hearing will be kept.

(6) The Office Director may extend the period during which any interested party may submit written comments. Notice of the extension must be published in the **Federal Register** within 60 days of publication of the notice of receipt in the **Federal Register**.

(7) If, after publishing a notice of receipt, the Office Director determines on the basis of new information that an EA or EIS must be prepared, the Office Director must deny the permit unless an EA is prepared with a finding of no significant impact. If a permit is denied under these circumstances the application may be resubmitted with information sufficient to prepare an EA or EIS, and will be processed as a new application.

(e) *Issuance or denial procedures.* (1) Within 30 days of the close of the public hearing or, if no public hearing is held, within 30 days of the close of the public comment period, the Office Director will issue or deny a special exception permit.

(2) The decision to issue or deny a permit will be based upon:

(i) All relevant issuance criteria set forth at § 216.34;

(ii) All purpose-specific issuance criteria as appropriate set forth at § 216.41, § 216.42, and § 216.43;

(iii) All comments received or views solicited on the permit application; and

(iv) Any other information or data that the Office Director deems relevant.

(3) If the permit is issued, upon receipt, the holder must date and sign the permit, and return a copy of the original to the Office Director. The permit shall be effective upon the permit holder's signing of the permit. In signing the permit, the holder:

(i) Agrees to abide by all terms and conditions set forth in the permit, and all restrictions and relevant regulations under this subpart; and

(ii) Acknowledges that the authority to conduct certain activities specified in the permit is conditional and subject to authorization by the Office Director.

(4) Notice of the decision of the Office Director shall be published in the **Federal Register** within 10 days after the date of permit issuance or denial and shall indicate where copies of the permit, if issued, may be reviewed or obtained. If the permit issued involves marine mammals listed as endangered or threatened under the ESA, the notice shall include a finding by the Office Director that the permit:

(i) Was applied for in good faith;

(ii) If exercised, will not operate to the disadvantage of such endangered or threatened species; and

(iii) Is consistent with the purposes and policy set forth in section 2 of the ESA.

(5) If the permit is denied, the Office Director shall provide the applicant with an explanation for the denial.

(6) Under the MMPA, the Office Director may issue a permit for scientific research before the end of the public comment period if delaying issuance could result in injury to a species, stock, or individual, or in loss of unique research opportunities. The Office Director also may waive the 30-day comment period required under the ESA in an emergency situation where the health or life of an endangered or threatened marine mammal is threatened and no reasonable alternative is available. If a permit is issued under these circumstances, notice of such issuance before the end of the comment period shall be published in the **Federal Register** within 10 days of issuance.

(7) The applicant or any party opposed to a permit may seek judicial review of the terms and conditions of such permit or of a decision to deny such permit. Review may be obtained by filing a petition for review with the appropriate U.S. District Court as provided for by law.

§ 216.34 Issuance criteria.

(a) For the Office Director to issue any permit under this subpart, the applicant must demonstrate that:

(1) The proposed activity is humane and does not present any unnecessary risks to the health and welfare of marine mammals;

(2) The proposed activity is consistent with all restrictions set forth at § 216.35 and any purpose-specific restrictions as appropriate set forth at § 216.41, § 216.42, and § 216.43;

(3) The proposed activity, if it involves endangered or threatened marine mammals, will be conducted consistent with the purposes and policies set forth in section 2 of the ESA;

(4) The proposed activity by itself or in combination with other activities, will not likely have a significant adverse impact on the species or stock;

(5) Whether the applicant's expertise, facilities, and resources are adequate to accomplish successfully the objectives and activities stated in the application;

(6) If a live animal will be held captive or transported, the applicant's qualifications, facilities, and resources are adequate for the proper care and maintenance of the marine mammal; and

(7) Any requested import or export will not likely result in the taking of marine mammals or marine mammal parts beyond those authorized by the permit.

(b) The opinions or views of scientists or other persons or organizations knowledgeable of the marine mammals that are the subject of the application or of other matters germane to the application will be considered.

§ 216.35 Permit restrictions.

The following restrictions shall apply to all permits issued under this subpart:

(a) The taking, importation, export, or other permitted activity involving marine mammals and marine mammal parts shall comply with the regulations of this subpart.

(b) The maximum period of any special exception permit issued, or any major amendment granted, is five years from the effective date of the permit or major amendment. In accordance with the provisions of § 216.39, the period of a permit may be extended by a minor amendment up to 12 months beyond that established in the original permit.

(c) Except as provided for in § 216.41(c)(1)(v), marine mammals or marine mammal parts imported under the authority of a permit must be taken or imported in a humane manner, and in compliance with the Acts and any applicable foreign law. Importation of marine mammals and marine mammal parts is subject to the provisions of 50 CFR part 14.

(d) The permit holder shall not take from the wild any marine mammal which at the time of taking is either unweaned or less than eight months old, or is a part of a mother-calf/pup pair, unless such take is specifically authorized in the conditions of the special exception permit. Additionally, the permit holder shall not import any marine mammal that is pregnant or lactating at the time of taking or import, or is unweaned or less than eight months old unless such import is specifically authorized in the conditions of the special exception permit.

(e) Captive marine mammals shall not be released into the wild unless specifically authorized by the Office Director under a scientific research or enhancement permit.

(f) The permit holder is responsible for all activities of any individual who is operating under the authority of the permit;

(g) Individuals conducting activities authorized under the permit must possess qualifications commensurate with their duties and responsibilities, or must be under the direct supervision of a person with such qualifications;

(h) Persons who require state or Federal licenses to conduct activities authorized under the permit must be duly licensed when undertaking such activities;

(i) Special exception permits are not transferable or assignable to any other person, and a permit holder may not require any direct or indirect compensation from another person in return for requesting authorization for such person to conduct the taking,

import, or export activities authorized under the subject permit;

(j) The permit holder or designated agent shall possess a copy of the permit when engaged in a permitted activity, when the marine mammal is in transit incidental to such activity, and whenever marine mammals or marine mammal parts are in the possession of the permit holder or agent. A copy of the permit shall be affixed to any container, package, enclosure, or other means of containment, in which the marine mammals or marine mammal parts are placed for purposes of transit, supervision, or care. For marine mammals held captive and marine mammal parts in storage, a copy of the permit shall be kept on file in the holding or storage facility.

§ 216.36 Permit conditions.

(a) *Specific conditions.* (1) Permits issued under this subpart shall contain specific terms and conditions deemed appropriate by the Office Director, including, but not limited to:

(i) The number and species of marine mammals that are authorized to be taken, imported, exported, or otherwise affected;

(ii) The manner in which marine mammals may be taken according to type of take;

(iii) The location(s) in which the marine mammals may be taken, from which they may be imported, or to which they may be exported, as applicable, and, for endangered or threatened marine mammal species to be imported or exported, the port of entry or export;

(iv) The period during which the permit is valid.

(2) [Reserved]

(b) *Other conditions.* In addition to the specific conditions imposed pursuant to paragraph (a) of this section, the Office Director shall specify any other permit conditions deemed appropriate.

§ 216.37 Marine mammal parts.

With respect to marine mammal parts acquired by take or import authorized under a permit issued under this subpart:

(a) Marine mammal parts are transferrable if:

(1) The person transferring the part receives no remuneration of any kind for the marine mammal part;

(2) The person receiving the marine mammal part is:

(i) An employee of NMFS, the U.S. Fish and Wildlife Service, or any other governmental agency with conservation and management responsibilities, who receives the part in the course of their official duties;

(ii) A holder of a special exception permit which authorizes the take, import, or other activity involving the possession of a marine mammal part of the same species as the subject part; or

(iii) In the case of marine mammal parts from a species that is not depleted, endangered or threatened, a person who is authorized under section 112(c) of the MMPA and subpart C of this part to take or import marine mammals or marine mammal parts;

(iv) Any other person specifically authorized by the Regional Director, consistent with the requirements of paragraphs (a)(1) and (a)(3) through (6) of this section.

(3) The marine mammal part is transferred for the purpose of scientific research, maintenance in a properly curated, professionally accredited scientific collection, or education, provided that, for transfers for educational purposes, the recipient is a museum, educational institution or equivalent that will ensure that the part is available to the public as part of an educational program;

(4) A unique number assigned by the permit holder is marked on or affixed to the marine mammal part or container;

(5) The person receiving the marine mammal part agrees that, as a condition of receipt, subsequent transfers may only occur subject to the provisions of paragraph (a) of this section; and

(6) Within 30 days after the transfer, the person transferring the marine mammal part notifies the Regional Director of the transfer, including a description of the part, the person to whom the part was transferred, the purpose of the transfer, certification that the recipient has agreed to comply with the requirements of paragraph (a) of this section for subsequent transfers, and, if applicable, the recipient's permit number.

(b) Marine mammal parts may be loaned to another person for a purpose described in paragraph (a)(3) of this section and without the agreement and notification required under paragraphs (a)(5) and (6) of this section, if:

(1) A record of the loan is maintained; and

(2) The loan is for not more than one year. Loans for a period greater than 12 months, including loan extensions or renewals, require notification of the Regional Director under paragraph (a)(6).

(c) Unless other disposition is specified in the permit, a holder of a special exception permit may retain marine mammal parts not destroyed or otherwise disposed of during or after a scientific research or enhancement activity, if such marine mammal parts are:

(1) Maintained as part of a properly curated, professionally accredited collection; or

(2) Made available for purposes of scientific research or enhancement at the request of the Office Director.

(d) Marine mammal parts may be exported and subsequently reimported by a permit holder or subsequent authorized recipient, for the purpose of scientific research, maintenance in a properly curated, professionally accredited scientific collection, or education, provided that:

(1) The permit holder or other person receives no remuneration for the marine mammal part;

(2) A unique number assigned by the permit holder is marked on or affixed to the marine mammal specimen or container;

(3) The marine mammal part is exported or reimported in compliance with all applicable domestic and foreign laws;

(4) If exported or reimported for educational purposes, the recipient is a museum, educational institution, or equivalent that will ensure that the part is available to the public as part of an educational program; and

(5) Special reports are submitted within 30 days after both export and reimport as required by the Office Director under § 216.38.

§ 216.38 Reporting.

All permit holders must submit annual, final, and special reports in accordance with the requirements established in the permit, and any reporting format established by the Office Director.

§ 216.39 Permit amendments.

(a) *General.* Special exception permits may be amended by the Office Director. Major and minor amendments may be made to permits in response to, or independent of, a request from the permit holder. Amendments must be consistent with the Acts and comply with the applicable provisions of this subpart.

(1) A "major amendment" means any change to the permit specific conditions under § 216.36(a) regarding:

(i) The number and species of marine mammals that are authorized to be taken, imported, exported, or otherwise affected;

(ii) The manner in which these marine mammals may be taken, imported, exported, or otherwise affected, if the proposed change may result in an increased level of take or risk of adverse impact;

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(iii) The location(s) in which the marine mammals may be taken, from which they may be imported, and to which they may be exported, as applicable; and

(iv) The duration of the permit, if the proposed extension would extend the duration of the permit more than 12 months beyond that established in the original permit.

(2) A "minor amendment" means any amendment that does not constitute a major amendment.

(b) *Amendment requests and proposals.* (1) Requests by a permit holder for an amendment must be submitted in writing and include the following:

(i) The purpose and nature of the amendment;

(ii) Information, not previously submitted as part of the permit application or subsequent reports, necessary to determine whether the amendment satisfies all issuance criteria set forth at § 216.34, and, as appropriate, § 216.41, § 216.42, and § 216.43.

(iii) Any additional information required by the Office Director for purposes of reviewing the proposed amendment.

(2) If an amendment is proposed by the Office Director, the permit holder will be notified of the proposed amendment, together with an explanation.

(c) *Review of proposed amendments.* (1) *Major amendments.* The provisions of § 216.33(d) and (e) governing notice of receipt, review and decision shall apply to all proposed major amendments.

(2) *Minor amendments.* (i) After reviewing all appropriate information, the Office Director will provide the permit holder with written notice of the decision on a proposed or requested amendment, together with an explanation for the decision.

(ii) If the minor amendment extends the duration of the permit 12 months or less from that established in the original permit, notice of the minor amendment will be published in the **Federal Register** within 10 days from the date of the Office Director's decision.

(iii) A minor amendment will be effective upon a final decision by the Office Director.

§ 216.40 Penalties and permit sanctions.

(a) Any person who violates any provision of this subpart or permit issued thereunder is subject to civil and criminal penalties, permit sanctions and forfeiture as authorized under the Acts, and 15 CFR part 904.

(b) All special exception permits are subject to suspension, revocation, modification and denial in accordance with the provisions of subpart D of 15 CFR part 904.

§ 216.41 Permits for scientific research and enhancement.

In addition to the requirements under § 216.33 through § 216.38, permits for scientific research and enhancement are governed by the following requirements:

(a) *Applicant.* (1) For each application submitted under this section, the applicant shall be the principal investigator responsible for the overall research or enhancement activity. If the research or enhancement activity will involve a periodic change in the principal investigator or is otherwise controlled by and dependent upon another entity, the applicant may be the institution, governmental entity, or corporation responsible for supervision of the principal investigator.

(2) For any scientific research involving captive maintenance, the application must include supporting documentation from the person responsible for the facility or other temporary enclosure.

(b) *Issuance Criteria.* For the Office Director to issue any scientific research or enhancement permit, the applicant must demonstrate that:

(1) The proposed activity furthers a bona fide scientific or enhancement purpose;

(2) If the lethal taking of marine mammals is proposed:

(i) Non-lethal methods for conducting the research are not feasible; and

(ii) For depleted, endangered, or threatened species, the results will directly benefit that species or stock, or will fulfill a critically important research need.

(3) Any permanent removal of a marine mammal from the wild is consistent with any applicable quota established by the Office Director.

(4) The proposed research will not likely have significant adverse effects on any other component of the marine ecosystem of which the affected species or stock is a part.

(5) For species or stocks designated or proposed to be designated as depleted, or listed or proposed to be listed as endangered or threatened:

(i) The proposed research cannot be accomplished using a species or stock that is not designated or proposed to be designated as depleted, or listed or proposed to be listed as threatened or endangered;

(ii) The proposed research, by itself or in combination with other activities will not likely have a long-term direct or indirect adverse impact on the species or stock;

(iii) The proposed research will either:

(A) Contribute to fulfilling a research need or objective identified in a species recovery or conservation plan, or if there is no conservation or recovery plan in place, a research need or objective identified by the Office Director in stock assessments established under section 117 of the MMPA;

(B) Contribute significantly to understanding the basic biology or ecology of the species or stock, or to identifying, evaluating, or resolving conservation problems for the species or stock; or

(C) Contribute significantly to fulfilling a critically important research need.

(6) For proposed enhancement activities:

(i) Only living marine mammals and marine mammal parts necessary for enhancement of the survival, recovery, or propagation of the affected species or stock may be taken, imported, exported, or otherwise affected under the authority of an enhancement permit. Marine mammal parts would include in this regard clinical specimens or other biological samples required for the conduct of breeding programs or the diagnosis or treatment of disease.

(ii) The activity will likely contribute significantly to maintaining or increasing distribution or abundance, enhancing the health or welfare of the species or stock, or ensuring the survival or recovery of the affected species or stock in the wild.

(iii) The activity is consistent with:

(A) An approved conservation plan developed under section 115(b) of the MMPA or recovery plan developed under section 4(f) of the ESA for the species or stock; or

(B) If there is no conservation or recovery plan, with the Office Director's evaluation of the actions required to enhance the survival or recovery of the species or stock in light of the factors that would be addressed in a conservation or recovery plan.

(iv) An enhancement permit may authorize the captive maintenance of a marine mammal from a threatened, endangered, or depleted species or stock only if the Office Director determines that:

(A) The proposed captive maintenance will likely contribute directly to the survival or recovery of the species or stock by maintaining a viable gene pool, increasing productivity, providing necessary biological information, or establishing animal reserves required to support directly these objectives; and

(B) The expected benefit to the species or stock outweighs the expected benefits of alternatives that do not require removal of marine mammals from the wild.

(v) The Office Director may authorize the public display of marine mammals held under the authority of an enhancement permit only if:

(A) The public display is incidental to the authorized captive maintenance;

(B) The public display will not interfere with the attainment of the survival or recovery objectives;

(C) The marine mammals will be held consistent with all requirements and standards that are applicable to marine mammals held under the authority of the Acts and the Animal Welfare Act, unless the Office Director determines that an exception is necessary to implement an essential enhancement activity; and

(D) The marine mammals will be excluded from any interactive program and will not be trained for performance.

(vi) The Office Director may authorize non-intrusive scientific research to be conducted while a marine mammal is held under the authority of an enhancement permit, only if such scientific research:

(A) Is incidental to the permitted enhancement activities; and

(B) Will not interfere with the attainment of the survival or recovery objectives.

(c) *Restrictions.* (1) The following restrictions apply to all scientific research permits issued under this subpart:

(i) Research activities must be conducted in the manner authorized in the permit.

(ii) Research results shall be published or otherwise made available to the scientific community in a reasonable period of time.

(iii) Research activities must be conducted under the direct supervision of the principal investigator or a co-investigator identified in the permit.

(iv) Personnel involved in research activities shall be reasonable in number and limited to:

(A) Individuals who perform a function directly supportive of and necessary to the permitted research activity; and

(B) Support personnel included for the purpose of training or as backup personnel for persons described in paragraph (c)(1)(iv)(A).

(v) Any marine mammal part imported under the authority of a scientific research permit must not have been obtained as the result of a lethal taking that would be inconsistent with the Acts, unless authorized by the Office Director.

(vi) Marine mammals held under a permit for scientific research shall not be placed on public display, included in an interactive program or activity, or trained for performance unless such activities:

(A) Are necessary to address scientific research objectives and have been specifically authorized by the Office Director under the scientific research permit; and

(B) Are conducted incidental to and do not in any way interfere with the permitted scientific research; and

(C) Are conducted in a manner consistent with provisions applicable to public display, unless exceptions are specifically authorized by the Office Director.

(vii) Any activity conducted incidental to the authorized scientific research activity must not involve any taking of marine mammals beyond what is necessary to conduct the research (i.e., educational and commercial photography).

(2) Any marine mammal or progeny held in captive maintenance under an enhancement permit shall be returned to its natural habitat as soon as feasible, consistent with the terms of the enhancement permit and the objectives of an approved conservation or recovery plan. In accordance with section 10(j) of the ESA, the Office Director may authorize the release of any population of an endangered or threatened species outside the current range of such species if the Office Director determines that such release will further the conservation of such species.

§ 216.42 Photography. [Reserved]

§ 216.43 Public display. [Reserved]

§ 216.44 Applicability/transition.

(a) *General.* The regulations of this subpart are applicable to all persons, including persons holding permits or other authorizing documents issued before June 10, 1996, by NMFS for the take, import, export, or conduct of any otherwise prohibited activity involving a marine mammal or marine mammal part for special exception purposes.

(b) *Scientific research.* Any intrusive research as defined in § 216.3, initiated after June 10, 1996, must be authorized under a scientific research permit. Intrusive research authorized by the Office Director to be conducted on captive marine mammals held for public display purposes prior to June 10, 1996, must be authorized under a scientific research permit one year after June 10, 1996.

* * * * *

§§ 216.46–216.49 [Reserved]

PART 222—ENDANGERED FISH OR WILDLIFE

9. The authority citation for part 222 is revised to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

10. In § 222.23, the first sentence in paragraph (b) is revised to read as follows:

§ 222.23 Permits for scientific purposes or to enhance the propagation or survival of the affected endangered species.

* * * * *

(b) *Application procedures.* To obtain such a permit, an application must be made to the Director in accordance with this subpart, except for marine mammal permits which shall be issued in accordance with the provisions of part 216, subpart D of this chapter, and sea turtle permits which shall be issued in accordance with part 220, subpart E of this chapter.

* * * * *

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Part X

The President

Executive Order 13001—Establishing an Emergency Board To Investigate a Dispute Between Certain Railroads Represented by the National Railway Labor Conference and Their Employees Represented by the Transportation Communications International Union

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Presidential Documents

Title 3—

The President

Executive Order 13001 of May 8, 1996

Establishing an Emergency Board To Investigate a Dispute Between Certain Railroads Represented by the National Railway Labor Conference and Their Employees Represented by the Transportation Communications International Union

A dispute exists between certain railroads represented by the National Railway Labor Conference and their employees represented by the Transportation Communications International Union. The railroads involved in this dispute are designated on the attached list, which is made a part of this order.

This dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended (45 U.S.C. 151 *et seq.*) (the "Act").

In the judgment of the National Mediation Board, this dispute threatens substantially to interrupt interstate commerce to a degree that would deprive a section of the country of essential transportation service.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States, including section 10 of the Act (45 U.S.C. 160), it is hereby ordered as follows:

Section 1. *Establishment of Emergency Board ("Board").* There is established effective May 8, 1996, a Board of three members to be appointed by the President to investigate the dispute. No member shall be pecuniarily or otherwise interested in any organization of railroad employees or any railroad carrier. The Board shall perform its functions subject to the availability of funds.

Sec. 2. *Report.* The Board shall report to the President with respect to the dispute within 30 days of its creation.

Sec. 3. *Maintaining Conditions.* As provided by section 10 of the Act, from the date of the creation of the Board and for 30 days after the Board has made its report to the President, no change, except by agreement of the parties shall be made by the railroads or the employees in the conditions out of which the dispute arose.

Sec. 4. *Records Maintenance.* The records and files of the Board are records of the Office of the President and upon the Board's termination shall be maintained in the physical custody of the National Mediation Board.

Sec. 5. *Expiration.* The Board shall terminate upon the submission of the report provided for in sections 2 and 3 of this order.

William J. Clinton

THE WHITE HOUSE,
May 8, 1996.

RAILROADS

Alameda Belt Line Railway
Alton & Southern Railroad
American Refrigerator Transit Company
Arkansas Memphis Bridge Company
Atchison, Topeka and Santa Fe Railway Company
Bangor and Aroostook Railroad Company
Belt Railway Company of Chicago
Brownsville & Matamoros Bridge Company
Burlington Northern Railroad Company
  Allouez Taconite Facility
  Brainerd Timber Treating Plant
  Western Fruit Express Company
Camas Prairie Railroad Company
Canadian National North America
Central California Traction Company
Chicago Heights Terminal Railroad
Chicago Heights Terminal Transfer Railroad
Chicago and North Western Railway Company
Chicago South Shore and South Bend Railroad
Consolidated Rail Corporation
CSX Transportation, Inc.
  The Baltimore and Ohio Railroad Company (former)
  The Chesapeake and Ohio Railway Company (former)
  Louisville and Nashville Railroad Company (former)
  Seaboard Coast Line Railroad Company (former)
Houston Belt and Terminal Railway
Joint Railroad Agency - National Stock Yards
The Kansas City Southern Railway Company
  CP-Kansas City Southern Joint Agency
Kansas City Terminal Railway Company
Lake Superior & Ishpeming Railroad Company
Los Angeles Junction Railroad Company
Missouri Pacific Railroad
New Orleans Public Belt Railroad
Norfolk and Portsmouth Belt Line Railroad Company
Norfolk Southern Corporation
Norfolk Southern Railway Company
  The Alabama Great Southern Railroad Company
  Atlantic & East Carolina Railway Company
  Central of Georgia Railroad Company
  The Cincinnati, New Orleans and Texas Pacific Railway Company
  Georgia Southern and Florida Railway Company
  Norfolk & Western Railway Company
  Tennessee, Alabama and Georgia Railway Company

Northern Indiana Commuter Transportation District
Peoria and Pekin Union Railway Company
The Pittsburgh, Chartiers & Youghiogheny Railway Company
Port Terminal Railroad Association
Portland Terminal Railroad Company
Spokane International Railroad
Terminal Railroad Association of St. Louis
Texarkana Union Station Trust Company
Union Pacific Fruit Express
Union Pacific Railroad
  Galveston, Houston and Henderson Railroad
  Missouri-Kansas-Texas Railroad
  Oklahoma, Kansas & Texas Railroad
Western Pacific Railroad
Wichita Terminal Association

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REMINDERS

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Sheep promotion, research, and consumer information; published 5-9-96
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Marine mammals:
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Small takes by harassment in Arctic waters; published 4-10-96
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Air quality implementation plans; approval and promulgation; various States:
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Common and private carrier paging, geographic licensing procedures; competitive bidding; published 5-10-96
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Boeing; published 4-25-96
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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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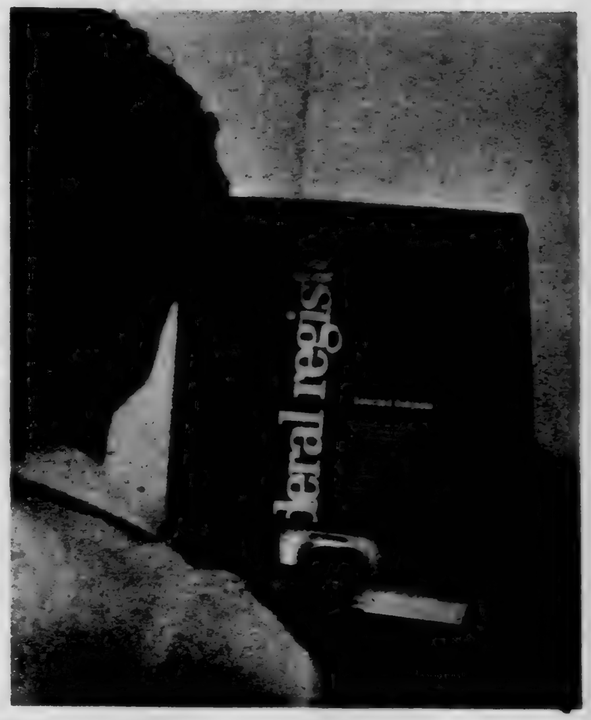
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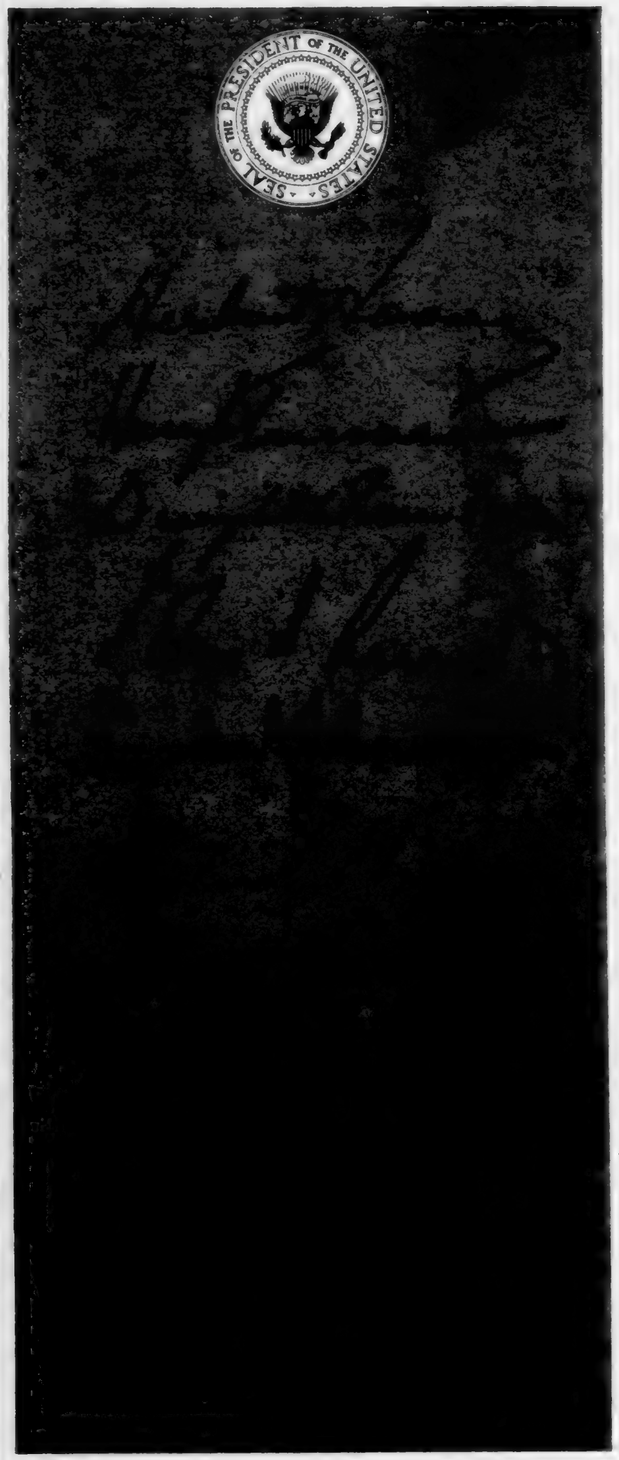
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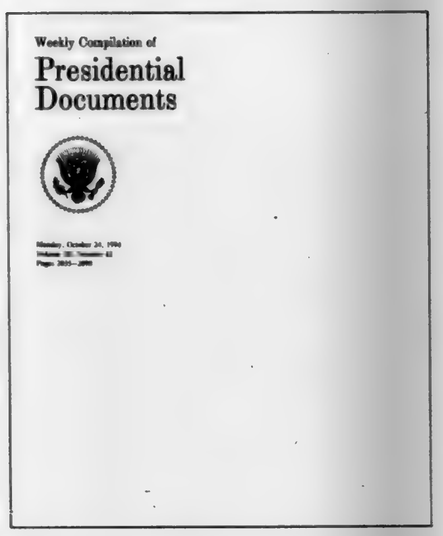
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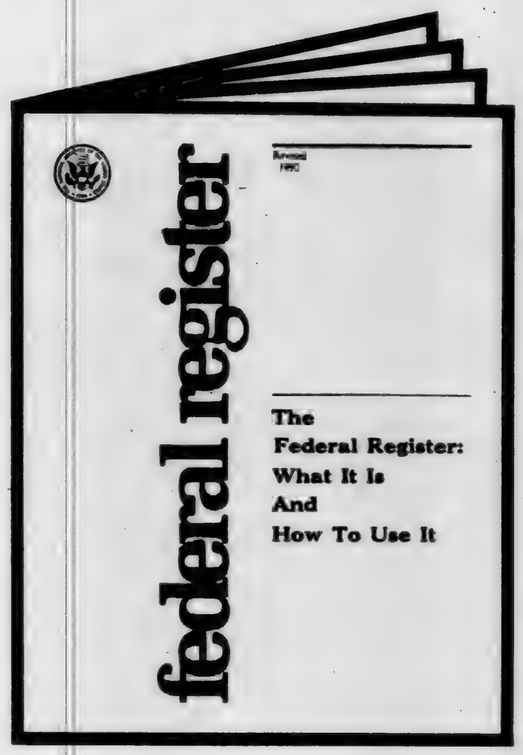
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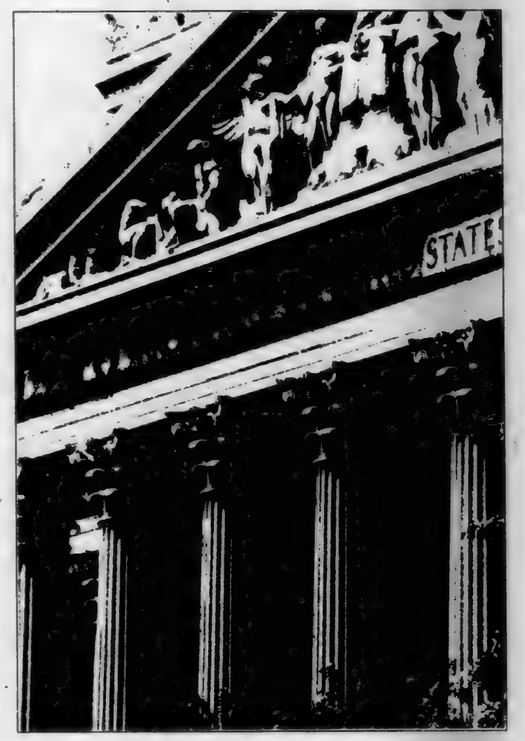
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 410

RIN 3206–AF99

Training

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations governing Federal employee training. The regulations implement provisions of the Federal Workforce Restructuring Act, dated March 30, 1994 and provisions of the Federal Reports Elimination and Sunset Act of 1995, dated December 21, 1995; incorporate former provisionally retained FPM Letters; and reflect OPM's response to agency requests to restructure 5 CFR part 410. The interim rules provide agencies additional flexibility by implementing the National Performance Review recommendations to reduce restrictions on training and make it a more responsive management tool.

DATES: This interim rule becomes effective on May 13, 1996. Comments must be received on or before June 12, 1996.

ADDRESSES: Send or deliver written comments to Allan D. Heuerman, Associate Director, Human Resources Systems Service, Office of Personnel Management, Room 7412, 1900 E Street, NW., Washington, DC, 20415–0001.

FOR FURTHER INFORMATION CONTACT: Judith Lombard, 202–606–2431, FAX 202–606–2394.

SUPPLEMENTARY INFORMATION: These interim regulations affect the training of Government employees. They incorporate (1) Public Law 103–226 amendments to chapter 41 of title 5, United States Code; (2) Public Law 104–66 amendments to chapter 41 of title 5, United States Code; (3) former provisionally retained FMP Letters; and (4) flexibilities requested by agencies. Decisions on what to include in the regulations were based on whether the requirement or authority was necessary to assure uniformity in training Federal employees and/or to protect employee rights.

Amendments to the Government Employees Training Act

The September 1993 Report of the National Performance Review (NPR) recommended (1) eliminating the distinction between Government and non-Government training to make training more market driven and (2) removing the restrictions on employee training to help develop a multi-skilled workforce in the Federal Government. These recommendations were included in Public Law 103–226 (Federal Workforce Restructuring Act of 1994) dated March 31, 1994, which amended 5 U.S.C. chapter 41 in the following ways.

In 5 U.S.C. 4101, the definition of training expands from training directly related to the performance of official duties to any training that improves individual and organizational performance and assists an agency in achieving its mission and performance goals.

5 U.S.C. 4103(a) requires the head of an agency to relate training programs and plans to agency mission and performance goals and to provide employees information about training selection and assignment and applicable training limitations and restrictions.

5 U.S.C. 4103(b)(1) allows agencies to train employees for placement in another agency when such training is in the interest of the Government.

5 U.S.C. 4105 eliminates the distinction between "Government" and "non-Government" training, thereby allowing managers to take full advantage of available training sources. Previously agencies had to use Government training facilities where possible.

5 U.S.C. 4106 is deleted, thereby eliminating both service requirements for non-Government training and restrictions on time-in-training. Previously, an employee had to have 1 year of current, continuous civilian service to be eligible for non-Government training. Previously, an employee could spend only 1 year in training for every 10 years of Government service.

Section 2181(c) of Public Law 104–66 (Federal Reports Elimination and Sunset Act of 1995), dated December 21, 1995, repealed section 4113 of title 5, United States Code, eliminating the requirements for agencies to review the training needs of employees and to report their training programs and plans to OPM at least once every 3 years.

These interim regulations revise 5 CFR part 410 to reflect the changes in 5 U.S.C. chapter 41.

Former Provisionally Retained FPM Letters

One of the recommendations of the September 1993 Report of the National Performance Review was that the Federal Personnel Manual (FPM) should be "sunset." The Director of OPM abolished the FPM on December 31, 1993. Two FPM Letters on training were provisionally retained through December 31, 1994.

1. Training of Civilian Officials Appointed by the President

Provisionally retained FPM Letter 410–34, Training of Civilian Officials Appointed by the President, delegated to the heads of agencies the authority to designate Presidential appointees, other than themselves, for training. The interim regulation puts this delegation of authority into § 410.302(b).

2. Conferences as Training Activities

Provisionally retained FPM Letter 410–35, Conferences as Training Activities, implemented the February 10, 1993, Presidential memorandum and OMB Bulletin 93–11 on "Government Fiscal Responsibility and Reducing Perquisites," and the Federal Travel Regulations on "Conference Planning" (41 CFR part 301–16). They require that agencies exercise strict fiscal responsibility when selecting conference sites to minimize costs and to keep employee attendance to a minimum consistent with serving the public's interest. The interim regulations put language into 5 CFR 410 to assist agencies in determining if a conference is a training activity (§ 410.404). This will reduce Government costs by limiting Federal employee attendance to appropriate training conferences where participation fosters the achievement of agency

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missions while enhancing employees' professional growth.

Summary of Major Proposed Changes to Training Regulations

OPM also is revising its training regulations in other ways to provide additional flexibilities, eliminate burdensome requirements, and clarify ambiguous language. The following list summarizes the substantive changes, including those discussed above.

Added Flexibilities and Reduced Requirements

1. The head of an agency has increased flexibility and authority in planning, implementing and evaluating training to meet mission-related needs. (§ 410.101(4), § 410.201)
2. Each agency determines what constitutes its mission-related training needs. (§ 410.101(4))
3. Each agency has increased flexibility for training employees for placement in other agencies. (§ 410.308)
4. Each agency determines when continued service agreements will be required. (§ 410.310)
5. Constraints on the use of non-Government training are eliminated.
6. Limitations on training employees through non-Government facilities are eliminated.
7. Limitations on subsistence payments for extended training assignments are eliminated. (§ 410.403)
8. Annual reporting requirements are eliminated and other reporting requirements are significantly reduced. (§ 410.701)

New Provisions

1. Authority to approve training of Presidential appointees is delegated to heads of agencies. (§ 410.302(b))
2. Integrating employee training and development with agency mission and performance goals is added and clarified. (§ 410.202)
3. Training related career transition assistance for displaced and surplus employees is added and clarified. (§ 410.308(d))
4. Criteria for determining if a conference is a training activity is added. (§ 410.404)

Waiver of Notice of Proposed Rulemaking

Pursuant to 5 U.S.C. 553(b)(3)(b), I find that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived and the regulation is being made effective in less than 30 days. Inconsistencies between the law and the currently published regulations have caused confusion and led Federal managers, employees, and training officials to operate under outdated, and unnecessary, regulations. We find that delay in issuing updated regulations would be contrary to public interest and to National Performance Review recommendations.

Regulatory Flexibility Act

I certify that these regulations will not have significant economic impact on a substantial number of small entities because they affect only Federal employees and agencies.

List of Subjects in 5 CFR Part 410

Education, Government employees.

U.S. Office of Personnel Management.

James B. King,

Director.

Accordingly, the Office of Personnel Management is revising 5 CFR part 410 as follows:

PART 410—TRAINING

Subpart A—General Provisions

Sec.
410.101 Definitions.

Subpart B—Planning for Training

Sec.
410.201 Responsibilities of the head of an agency.
410.202 Integrating employee training and development with agency strategic plans.
410.203 Assessing organizational, occupation, and individual needs.
410.204 Options for developing employees.

Subpart C—Establishing and Implementing Training Programs

Sec.
410.301 Scope and general conduct of training programs.
410.302 Responsibilities of the head of an agency.
410.303 Employee responsibilities.
410.304 Funding training programs.
410.305 Establishing and using interagency training.
410.306 Selecting and assigning employees to training.
410.307 Training for promotion.
410.308 Training for placement in other agency positions, in other agencies, or outside Government.
410.309 Training to obtain an academic degree.
410.310 Agreements to continue in service.
410.311 Computing time in training.
410.312 Records.

Subpart D—Paying for Training Expenses

Sec.
410.401 Determining necessary training expenses.
410.402 Paying premium pay.
410.403 Subsistence payments for extended training assignments.
410.404 Determining if a conference is a training activity.
410.405 Protection of Government interest.
410.406 Records of training expenses.

Subpart E—Accepting Contributions, Awards, and Payments From Non-Government Organizations

Sec.
410.501 Scope.
410.502 Authority of the head of an agency.
410.503 Records.

Subpart F—Evaluating Training

Sec.
410.601 Responsibility of the head of an agency.
410.602 Records.

Subpart G—Reports

Sec.
410.701 Reports.

Authority: 5 U.S.C. 4101, *et seq.*; E.O. 11348, 3 CFR, 1967 Comp., p. 275.

Subpart A—General Provisions

§ 410.101 Definitions.

In this part:

(a) *Agency, employee, Government facility,* and *non-Government facility* have the meanings given these terms in section 4101 of title 5, United States Code.

(b) Exceptions to organizations and employees covered by this subpart include:

(1) Those named in section 4102 of title 5, United States Code, and

(2) The U.S. Postal Service and Postal Rate Commission and their employees, as provided in Public Law 91–375, enacted August 12, 1970.

(c) *Training* has the meaning given to the term in section 4101 of title 5, United States Code, and includes planned activities which support and improve individual and organizational performance and effectiveness, such as on-the-job training, career development programs, professional development activities, or developmental assignments.

(d) *Mission-related training* is training that supports agency goals by improving organizational performance at any appropriate level in the agency, as determined by the head of the agency. This includes training that:

(1) Supports the agency's strategic plan and performance objectives;

(2) Improves an employee's current job performance;

(3) Allows for expansion or enhancement of an employee's current job;

(4) Enables an employee to perform needed or potentially needed duties outside the current job at the same level of responsibility; or

(5) Meets organizational needs in response to human resource plans and re-engineering, downsizing, restructuring, and program changes.

(e) *Retraining* means training and development provided to address an individual's skills obsolescence in the current position and/or training and development to prepare an individual for a different occupation, in the same agency, in another Government agency, or in the private sector.

(f) *Continued service agreement* has the meaning given to service agreements in section 4108 of title 5, United States Code.

(g) *Interagency training* means training provided by one agency for other agencies or shared by two or more agencies.

(h) *State and local government* have the meanings given to these terms by section 4762 of title 42, United States Code.

Subpart B—Planning for Training

§ 410.201 Responsibilities of the head of an agency.

As stated in section 4103 of title 5, United States Code, and in Executive Order 11348, the head of each agency shall:

(a) Establish, budget for, operate, maintain, and evaluate a program or programs, and a plan or plans thereunder, for training agency employees by, in, and through Government and non-Government facilities;

(b) Determine policies governing employee training, including a statement of broad purposes for agency training, the assignment of responsibility for seeing that these purposes are achieved, and the delegation of training approval authority to the lowest possible level; and

(c) Establish priorities for training employees and provide for funds and staff according to these priorities.

§ 410.202 Integrating employee training and development with agency strategic plans.

(a) Agencies shall include training and development in agency strategic planning to ensure that:

(1) Agency training strategies and activities contribute to mission accomplishment; and

(2) Organizational performance goals are met.

(b) Agency human resource development programs and plans should:

(1) Improve employee and organizational performance; and

(2) Build and support an agency workforce capable of achieving agency mission and performance goals.

§ 410.203 Assessing organizational, occupational, and individual needs.

(a) Assessment. Executive Order 11348 specifies the responsibility of heads of agencies to assess agency training needs.

(b) Method. The method an agency uses to conduct training needs assessment shall meet the requirements of chapter 41 of title 5, United States Code, Executive Order 11348, and this subpart.

§ 410.204 Options for developing employees.

Agencies may use a full range of options to meet their organizational and employee development needs, including classroom training, on-the-job training, technology-based training, satellite training, employees' self-development activities, coaching, mentoring, career development counseling, details, rotational assignments, cross training, and developmental activities at retreats and conferences.

Subpart C—Establishing and Implementing Training Programs

§ 410.301 Scope and general conduct of training programs.

(a) Authority. The requirements for establishing training programs and plans are found in section 4103(a) of title 5, United States Code, and Executive Order 11348.

(b) Alignment with other human resource functions. Training programs established by agencies under chapter 41 of title 5, United States Code, should be integrated with other personnel management and operating activities, to the maximum possible extent.

§ 410.302 Responsibilities of the head of an agency.

(a) Specific responsibilities. (1) The head of each agency shall prescribe procedures to ensure that the selection of employees for training is made without regard to political preference, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights as provided by merit system principles set forth in 5 U.S.C. 2301(b)(2).

(2) The head of each agency shall prescribe procedures to ensure that the training facility and curriculum are accessible to employees with disabilities.

(3) The head of each agency shall not allow training in a facility that discriminates in the admission or treatment of students.

(b)(1) Training of Presidential appointees. The Office of Personnel Management delegates to the head of each agency authority to authorize training for officials appointed by the President. In exercising this authority, the head of an agency must ensure that the training is in compliance with chapter 41 of title 5, United States Code, and with this part. This authority may not be delegated to a subordinate.

(2) Records. When exercising this delegation of authority, the head of an agency must maintain records that include:

(i) The name and position title of the official;

(ii) A description of the training, its location, vendor, cost, and duration; and

(iii) A statement justifying the training and describing how the official will apply it during his or her term of office.

(3) Review of delegation. Exercise of this authority is subject to U.S. Office of Personnel Management review.

(c) Training for the head of an agency. Since self-review constitutes a conflict of interest, heads of agencies must submit their own requests for training to the U.S. Office of Personnel Management for approval.

§ 410.303 Employee responsibilities.

Employees are responsible for self-development, for successfully completing and applying authorized training, and for fulfilling continued service agreements. In addition, they share with their agencies the responsibility to identify training needed to improve individual and organizational performance and identify methods to meet those needs, effectively and efficiently.

§ 410.304 Funding training programs.

Section 4112 of title 5, United States Code, provides for agencies paying the costs of their training programs and plans from applicable appropriations or funds available. Training costs associated with program accomplishment may be funded by appropriations applicable to that program area. In addition, section 4109(a)(2) of title 5, United States Code, provides authority for agencies and employees to share the expenses of training.

§ 410.305 Establishing and using interagency training.

An agency may extend training programs developed for its employees to employees of other agencies (and to employees of Federal organizations excepted by section 4102 of title 5, United States Code) when this would result in better training, improved service, or savings to the Government.

§ 410.306 Selecting and assigning employees to training.

(a) Each agency shall establish criteria for the fair and equitable selection and assignment of employees to training consistent with merit system principles specified in 5 U.S.C. 2301(b) (1) and (2).

(b) Persons on Intergovernmental Personnel Act mobility assignments may be assigned to training if that training is in the interest of the Government.

(c) Under the provisions of § 410.309(a) of this part, an agency may pay all or part of the training expenses of students hired under the Student Career Experience Program (see 5 CFR 213.3202(d)(10)).

§ 410.307 Training for promotion.

Under the authority of 5 U.S.C. 4103, and consistent with merit system principles set forth in 5 U.S.C. 2301(b) (1) and (2), an agency may provide training to career or career-conditional employees that in certain instances may lead to promotion. An agency must follow its competitive procedures under part 335 of this chapter when selecting a career or career-conditional employee for training that permits noncompetitive promotion after successful completion of the training.

§ 410.308 Training for placement in other agency positions, in other agencies, or outside Government.

(a) Under the authority of 5 U.S.C. 4103 and 5 U.S.C. 5364, an agency may train an employee to meet the qualification requirements of another position in the agency if the new position is at or below the grade the employee held before grade or pay retention.

(b) Under the authority of 5 U.S.C. 4103(b), and consistent with merit system principles set forth in 5 U.S.C. 2301, an agency may train an employee to meet the qualification requirements of a position in another agency if the head of the agency determines that such training would be in the interests of the Government.

(1) Before undertaking any training under this section, the head of the agency shall obtain verification that there exists a reasonable expectation of placement in another agency.

(2) When selecting an employee for training under this section, the head of the agency shall consider:

(i) The extent to which the employee's current skills, knowledge, and abilities may be utilized in the new position;

(ii) The employee's capability to learn skills and acquire knowledge and abilities needed in the new position; and

(iii) The benefits to the Government which would result from retaining the employee in the Federal service.

(c) Displaced or surplus employees as defined in 5 CFR 330.604 (b) and (f) may be eligible for training or retraining for positions outside Government through programs provided under 29 U.S.C. 1651, or similar authorities. An agency may use its appropriated funds for training displaced or surplus employees for positions outside Government only when specifically authorized by legislation to do so.

(d) Under 5 CFR 330.602, agencies are required to establish career transition assistance plans (CTAP) to provide career transition services to displaced and surplus employees.

(1) Under the authority of 5 U.S.C. 4109, an agency may:

(i) Train employees in the use of the CTAP services;

(ii) Provide vocational and career assessment and counseling services;

(iii) Train employees in job search skills, techniques, and strategies; and

(iv) Pay for training related expenses as provided in 5 U.S.C. 4109(a)(2).

(2) Agency CTAP's will include plans for retraining displaced or surplus employees covered by this part.

§ 410.309 Training to obtain an academic degree.

(a) Prohibition. (1) Under 5 U.S.C. 4107(a), an agency may not authorize training for an employee to obtain an academic degree, except for shortage occupations as defined in § 410.309(b).

(2) An agency may assign employees to academic training on a course-by-course basis. If, in the accomplishment of this training, an employee receives an academic degree, the degree is an incidental by-product of the training.

(b) Degree training to relieve recruitment and retention problems. (1) An agency may authorize academic degree training if the training:

(i) Is necessary to assist in recruiting or retaining employees in occupations in which the agency has or anticipates a shortage of qualified personnel, especially in occupations which it has determined involve skills critical to its mission, and

(ii) Meets the conditions of this section.

(2) In reviewing the need to provide training under this section, an agency shall give appropriate consideration to any special salary rate, student loan repayment, retention allowance, or other monetary inducement authorized by law already provided or being provided which contributes to the alleviation of the staffing problem in the occupation targeted by that training.

(3) In exercising the authority in this section, an agency shall, consistent with the merit system principles set forth in 5 U.S.C. 2301(b) (1) and (2), take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in the agency.

(4) The authority in this section shall not be exercised on behalf of any employee occupying, or seeking to qualify for appointment to, any position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character.

(5) An agency's policies established under § 410.201 of this part shall cover decisions to authorize training under this section, to ensure that:

(i) The determination to pay for degree training is made at a sufficiently high level so as to protect the Government's interest; and

(ii) The authority is used to address the agency's recruitment and retention problems expeditiously through appropriate delegations of authority.

(c) Determining recruitment and retention problems. For the purposes of this section, a recruitment or retention problem exists if the criteria for a recruitment bonus under 5 CFR § 575.104(c)(2) or for a retention allowance under 5 CFR § 575.305(c)(3) applies.

(1) Recruitment problem. Before determining that an agency has or anticipates a problem in the recruitment of qualified personnel for a particular position, an agency shall make a reasonable recruitment effort, including factors in 5 CFR § 575.104(c)(2). In making a reasonable recruitment effort, an agency will consider the following:

(i) For a position in the competitive service, the results of requests for referral of eligibles from the appropriate competitive examination. For a position in the excepted service, the agency's objectives and staffing procedures.

(ii) Contacts with State Employment Service office(s) serving the locality concerned.

(iii) Contacts with academic institutions, technical and professional organizations, and other organizations likely to produce qualified candidates for the position, including women's and minority-group organizations.

(iv) The possibility of relieving the shortage through broader publicity and recruitment.

(v) The availability of qualified candidates within the agency's current work force.

(vi) The possibility of relieving the shortage through job engineering or training of current employees.

(2) Retention problem. Before determining that an agency has or anticipates a problem in the retention of qualified personnel in a particular occupation, an agency shall consider the factors in 5 CFR § 575.305(c)(3) and:

(i) The ease with which an agency could replace the employee with someone of comparable background;

(ii) The current and projected vacancy rates in the occupation;

(iii) The rate of turnover in the occupation; and

(iv) Technological changes affecting the occupation and long-range predictions affecting staffing for the occupation.

(d) Assessing continuing problems. A reassessment of a "continuing" recruitment or retention problem shall be made periodically.

(e) Authorizing training. (1) An agency may authorize full or part-time training to address a recruitment problem if—

(i) The training qualifies an employee for a shortage position identified under paragraph (c)(1) of this section; and

(ii) The agency expects to place the employee in the shortage position after the training.

(2) Training may be authorized under this section for the purpose of retaining an employee in a shortage occupation identified under paragraph(c)(2) of this section, if it involves a course of study selected mainly or its potential contribution to effective performance in that occupation.

(3) Agencies shall select employees for academic degree training according to competitive procedures as specified in § 410.307.

(f) Monitoring training. An Agency shall assess the contribution of training assignments under this section to resolving recruitment or retention problems in its shortage occupations.

(g) Documentation. (1) In exercising the authority in this section, an agency shall retain for a reasonable period:

(i) A record of employees assigned to training under this section and

(ii) A record of findings that the recruitment or retention problem is a continuing one.

(2) As a separate record, the servicing personnel office shall keep the following information for each employee assigned to training under this section:

(i) Nature and justification for the shortage determination;

(ii) Kind of training (e.g., career experience program, continuing professional and technical education, retraining for occupational change); a description of the field of study; and the nature of any degree pursued under the training program; and

(iii) A written continued service agreement, if required.

§ 410.310 Agreements to continue in service.

(a) Authority. Continued service agreements are provided for in section 4108 of title 5, United States Code. Agencies have the authority to determine when such agreements will be required.

(b) Requirements. (1) The Head of the agency shall establish written procedures which cover the minimum requirements for continued service agreements. These requirements shall include procedures the agency considers necessary to protect the Government's interest should the employee fail to successfully complete training.

(2) An employee selected for training subject to an agency continued service agreement must sign an agreement to continue in service after training prior to starting the training. The period of service will equal three times the length of the training.

(c) Failure to fulfill agreements. With a signed agreement, the agency has a right to recover training costs, except for pay or other compensation, if the employee voluntarily separates from Government service. The agency shall provide procedures to enable the employee to obtain a reconsideration of the recovery amount or to appeal for a waiver of the agency's right to recover.

§ 410.311 Computing time in training.

For the purpose of chapter 41 of title 5, United States Code, and this subpart:

(a) An employee on an 8-hour day work schedule assigned to training is counted as being in training for the same number of hours he or she is in pay status during the training assignment. If the employee is not in pay status during the training, the employee is counted as being in training for the number of hours he or she is granted leave without pay for the purpose of the training.

(b) For any employee on an alternative work schedule, the agency is responsible for determining the number of hours the employees is in pay status during the training assignment. If the employee is not in pay status during the training, the employee is counted as being in training for the number of hours he or she is granted leave without pay for the purpose of the training.

(c) An employee on a 8-hour or an alternative work schedule assigned to training on less than a full-time basis is counted as being in training for the number of hours he or she spends in class, in formal computer-based training, in satellite training, in formal self-study programs, or with the training instructor, unless a different method is determined by the agency.

§ 410.312 Records.

Agencies shall keep a record of training events authorized for each employee under this subpart.

Subpart D—Paying for Training Expenses

§ 410.401 Determining necessary training expenses.

(a) The head of an agency determines which expenses constitute necessary training expenses under section 4109 of title 5, United States Code.

(b) An agency may pay, or reimburse an employee, for necessary expenses incurred in connection with approved training as provided in section 4109(a)(2) of title 5, United States Code. Necessary training expenses do not include an employee's pay or other compensation.

§ 410.402 Paying premium pay.

(a) Prohibitions. Except as provided by paragraph (b) of this section, an agency may not use its funds, appropriated or otherwise available, to pay premium pay to an employee engaged in training by, in or through Government or non-government facilities.

(b) Exceptions. The following are excepted from the provision in paragraph (a) of this section prohibiting the payment of premium pay:

(1) Continuation of premium pay. An employee given training during a period of duty for which he or she is already receiving premium pay for overtime, night, holiday, or Sunday work shall continue to receive that premium pay. This exception does not apply to an employee assigned to full-time training at institutions of higher learning.

(2) Training at night. An employee given training at night because situations that he or she must learn to handle occur only at night shall be paid night pay.

(3) Cost savings. An employee given training on overtime, on a holiday, or on a Sunday because the costs of the training, premium pay included, are less than the costs of the same training confined to regular work hours shall be paid the applicable premium pay.

(4) Availability pay. An agency shall continue to pay availability pay during agency-sanctioned training to a criminal investigator who is eligible for it under

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5 U.S.C. 5545(a) and implementing regulations. Agencies may, at their discretion, provide availability pay to investigators during periods of initial, basic training. (See 5 CFR § 550.185 (b) and (c).)

(5) Standby and administratively uncontrollable duty. An agency may continue to pay annual premium pay for regularly scheduled standby duty or administratively uncontrollable overtime work, during periods of temporary assignment for training as provided by 5 CFR § 550.162(c).

(6) Agency exemption. An employee given training during a period not otherwise covered by a provision of this paragraph may be paid premium pay when the employing agency has been granted an exception to paragraph (a) of this section by the U.S. Office of Personnel Management.

(c) An employee who is excepted under paragraph (b) of this section is eligible to receive premium pay in accordance with the applicable pay authorities.

(d) Overtime pay under the Fair Labor Standards Act (FLSA). (1) Time spent in training or preparing for training outside regular working hours shall be considered hours of work for the purpose of computing FLSA overtime if an agency requires the training to bring performance up to a fully successful, or equivalent, level or to provide knowledge or skills to perform new duties and responsibilities in the employee's current position. (Also see 5 CFR § 551.423.)

(2) The requirement of paragraph (d)(1) of this section does not pertain to training or preparing for training to:

(i) Improve a nonexempt employee's performance in his or her current position above a fully successful, or equivalent, level, provided such training is undertaken with the knowledge that the employee's performance or continued retention in his or her current position will not be adversely affected by nonenrollment in the training program; or

(ii) Provide a nonexempt employee with additional knowledge or skills for reassignment to another position or advancement to a higher grade. This includes any developmental training, even if such training is directed by the agency.

§ 410.403 Subsistence payments for extended training assignments.

An agency has the authority to pay all or part (if agreed to by the employee) of actual subsistence expenses of an employee assigned to training at a temporary duty station lasting more than 30 calendar days. The agreed rate of payment shall be applicable from the 1st day of the assignment. An agency may adjust an agreed rate of payment when circumstances so justify, provided the employee agrees to any decrease. If the fees paid to the training institution include lodging or meal costs, an appropriate reduction shall be made from any standardized subsistence payments.

§ 410.404 Determining if a conference is a training activity.

Agencies may sponsor an employee's attendance at a conference as a developmental assignment under section 4110 of title 5, United States Code, when—

(a) The content of the conference is germane to improving individual and/or organizational performance, and

(b) Developmental benefits will be derived through the employee's attendance.

§ 410.405 Protection of Government interest.

The head of an agency shall establish such procedures as he or she considers necessary to protect the Government's interest when employees fail to complete, or to successfully complete, training for which the agency pays the expenses.

§ 410.406 Records of training expenses.

An agency shall maintain records of payments made for travel, tuition and fees, and other necessary training expenses.

Subpart E—Accepting Contributions, Awards, and Payments From Non-Government Organizations

§ 410.501 Scope.

(a) Section 4111 of title 5, United States Code, describes conditions for employee acceptance of contributions, awards, and payments made in connection with non-Government sponsored training or meetings which an employee attends while on duty or when the agency pays the training or meeting attendance expenses, in whole or in part.

(b) This subpart does not limit the authority of an agency head to establish procedures on the acceptance of contributions, awards, and payments in connection with any training and meetings that are outside the scope of this subpart in accordance with laws and regulations governing Government ethics and governing acceptance of travel reimbursements from non-Federal sources.

§ 410.502 Authority of the head of an agency.

(a) In writing, the head of an agency may authorize an agency employee to accept a contribution or award (in cash or in kind) incident to training or to accept payment (in cash or in kind) of travel, subsistence, and other expenses incident to attendance at meetings if

(1) The conditions specified in section 4111 of title 5, United States Code, are met; and

(2) In the judgment of the agency head, the following two conditions are met:

(i) The contribution, award, or payment is not a reward for services to the organization prior to the training or meeting; and

(ii) Acceptance of the contribution, award, or payment:

(A) Would not reflect unfavorably on the employee's ability to carry out official duties in a fair and objective manner;

(B) Would not compromise the honesty and integrity of Government programs or of Government employees and their official actions or decisions;

(C) Would be compatible with the Ethics in Government Act of 1978, as amended; and

(D) Would otherwise be proper and ethical for the employee concerned given the circumstances of the particular case.

(b) Delegation of authority. An agency head may delegate authority to authorize the acceptance of contributions, awards, and payments under this section. The designated official must ensure that—

(1) The policies of the agency head are reflected in each decision; and

(2) The circumstances of each case are fully evaluated under conditions set forth in § 410.502(a).

(c) Acceptance of contributions, awards, and payments. An employee may accept a contribution, award, or payment (whether made in cash or in kind) that falls within the scope of this section only when he or she has specific written authorization.

(d) When more than one non-Government organization participates in making a single contribution, award, or payment, the "organization" referred to in this subsection is the one that:

(1) selects the recipient; and

(2) administers the funds from which the contribution, award, or payment is made.

§ 410.503 Records.

An agency shall maintain, in such form and manner as the agency head considers appropriate, the following records in connection with each contribution, award, or payment made and accepted under authority of this section: The recipient's name; the organization's name; the amount and nature of the contribution, award, or payment and the purpose for which it is to be used; and a copy of the written authorization required by § 410.502(a).

Subpart F—Evaluating Training

§ 410.601 Responsibility of the head of an agency.

Under provisions of chapter 41 of title 5, United States Code, and Executive Order 11348, the agency head shall evaluate training to determine how well it meets short and long-range program needs by occupations, organizations, or other appropriate groups. The agency head may conduct the evaluation in the manner and frequency he or she considers appropriate.

§ 410.602 Records.

An agency head shall keep records of these evaluations as he or she considers appropriate.

Subpart G—Reports

§ 410.701 Reports.

Each agency shall maintain records of its training plans, expenditures and activities and report its plans, expenditures and activities to the Office of Personnel Management and at such times and in such form as the Office prescribes.

[FR Doc. 96–11863 Filed 5–10–96; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Parts 831 and 842

RIN 3206–AG16

Retirement; Alternative Forms of Annuity

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations on alternative forms of annuity. The regulations establish a new standard for determining what constitutes a critical medical condition and implement the changes made by the Omnibus Budget Reconciliation Act of 1993. Under this law the alternative form of annuity was repealed for employees whose annuities commence on or after October 1, 1994, except for employees who have a life-threatening affliction or other critical medical condition. The regulations also revise the list of critical medical conditions that are qualifying.

EFFECTIVE DATE: June 12, 1996.

FOR FURTHER INFORMATION CONTACT:
Harold L. Siegelman, (202) 606–0299.

SUPPLEMENTARY INFORMATION: On October 25, 1995, we published (at 60 FR 54585) interim regulations on alternative forms of annuity to change the standard for determining what constitutes a critical medical condition. Our previous regulations used a 1-year-or-less life expectancy as the standard, but the interim regulations adopted a 2-year-or-less standard. The interim regulations also make effective the previously proposed regulations (published on November 4, 1994, at 59 FR 55211) on alternative forms of annuity (AFA) to implement the changes in sections 8343a and 8420a of title 5, United States Code, made by the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103–66. The Act included a provision terminating this benefit for employees whose annuities commence on or after October 1, 1994, except for employees who have a life-threatening affliction or other critical medical condition. The interim regulations also made effective a revised list of critical medical conditions. This revised list was included in the 1994 general notice of proposed rulemaking. We received no comments on the interim regulations. We addressed the one comment that we received on the 1994 proposed regulations in the supplementary information section of the interim regulations.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect Federal employees and agencies and retirement payments to retired Government employees and their survivors.

List of Subjects in 5 CFR Parts 831 and 842

Administrative practice and procedure, Air traffic controllers, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

Office of Personnel Management.

James B. King,

Director.

Accordingly, under authority of 5 U.S.C. 8347 and 8467, OPM is adopting its interim rules amending 5 CFR parts 831 and 842, published on October 25, 1995, at 60 FR 54585, as final rules without change.

[FR Doc. 96–11864 Filed 5–10–96; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ASO–7]

Amendment to Class D and E2 Airspace and Establishment of Class E4 Airspace; Jackson, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies Class D and E2 Airspace and establishes Class E4 Airspace at Jackson, TN, for the McKellar-Sipes Regional Airport. This amendment is necessary because the arrival extension, which is currently part of the Class D surface area airspace, is greater than 2 miles and must, by regulation, be designated as Class E4 airspace.

EFFECTIVE DATE: 0901 UTC, August 15, 1996.

FOR FURTHER INFORMATION CONTACT:
Benny L. McGlamery, System Management Branch, Air Traffic Division, Federal Aviation Administration, PO Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

History

On March 18, 1996, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR Part 71) by modifying Class D and E2 and establishing Class E4 airspace at Jackson, TN 61 FR 10908). This action would provide adequate Class E airspace for IFR operations at the McKellar-Sipes Regional Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class D airspace designations, Class E airspace designations for airspace areas designated as a surface area for an airport and Class E airspace designations for airspace areas designated as an extension to a Class D surface area are published in Paragraphs 5000, 6002 and 6004, respectively, of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995,

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which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document would be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class D and E2 and establishes Class E4 airspace at Jackson, TN, for the McKellar-Sipes Regional Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

ASO TN D Jackson, TN [Revised]

McKellar-Sipes Regional Airport, TN
(lat. 35°35'59" N, long. 88°54'56" W)

That airspace extending upward from the surface to and including 2900 feet MSL within a 4.2-mile radius of the McKellar-Sipes Regional Airport. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

ASO TN E2 Jackson, TN [Revised]

McKellar-Sipes Regional Airport, TN
(lat. 35°35'59" N, long. 88°54'56" W)

Within a 4.2-mile radius of the McKellar-Sipes Regional Airport. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D surface area.

* * * * *

ASO TN E4 Jackson, TN [New]

McKellar-Sipes Regional Airport, TN
(lat. 35°35'59" N, long. 88°54'56" W)
McKellar VOR/DME
(lat. 35°36'13" N, long. 88°54'38" W)

That airspace extending upward from the surface within 3.1 miles each side of the McKellar VOR/DME 206° radial, extending from the 4.2-mile radius of the McKellar-Sipes Regional Airport to 7 miles southwest of the VOR/DME. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on April 25, 1996.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 96–11931 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 10 and 140

Change of Address; Change in Titles of Office and Personnel

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission is amending its regulations to reflect changes in office titles, personnel titles and address in its regulations.

EFFECTIVE DATE: May 13, 1996.

FOR FURTHER INFORMATION CONTACT:

Stacy Yochum, Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, (202) 418–5157.

SUPPLEMENTARY INFORMATION: On October 26, 1995, the Commission published in the **Federal Register** a notice to execute certain office and personnel name changes in Part 10. (60 FR 54801) Specifically, the changes implemented 1984 title changes making the Office of Hearings and Appeals part of the Office of Proceedings and changing the title of the Hearing Clerk to Proceedings Clerk. The purpose of this release is to change these titles in section 10.102(e)(2) which was inadvertently omitted from the previous release. The previous release also reflected the reassignment of the duties of the vacant position of Chief Administrative Law Judge to the Director of the Office of Proceedings. Section 10.84(b) was inadvertently omitted in the previous release.

In addition, the Commission's Office of Personnel has changed its name to the Office of Human Resources. The Director of the Office of Human Resources serves as the Commission's security officer. This release changes references in Part 140 from "Personnel Security Officer" to "Security Officer" and from "Director of Personnel" to "Director of Human Resources."

List of Subjects in 17 CFR Parts 10 and 140

Administrative practice and procedure, Commodity Futures Trading Commission.

Based upon the foregoing, pursuant to its authority contained in section 2(a)(11) of the Commodity Exchange Act, 7 U.S.C. 4a(j), the Commission hereby amends 17 CFR Chapter I of the Code of Federal Regulations as follows:

PART 10—[AMENDED]

1. The authority for part 10 continues to read as follows:

Authority: Pub. L. 93–463, sec. 101(a)(11), 88 Stat. 1391; 7 U.S.C. 4a(j), unless otherwise noted.

§ 10.84 [Amended]

2. Section 10.84, paragraph (b) is amended by removing "Chief Administrative Law Judge" and adding in its place "Director of the Office of Proceedings."

§ 10.102 [Amended]

3. Section 10.102, paragraph (e)(2) is amended by removing "Office of Hearings and Appeals" and adding "Office of Proceedings" in its place and by removing "Hearing Clerk" and adding "Proceedings Clerk" in its place.

PART 140—[AMENDED]

1. The authority citation for part 140 continues to read as follows:

7 U.S.C. 4a and 12a.

§ 140.20 [Amended]

2. Section 140.20, paragraph (a) is amended by removing "Personnel Security Officer" and adding "Security Officer" in its place.

§ 140.24 [Amended]

3. Section 140.24, paragraph (a)(6) is amended by removing "Personnel Security Officer" and adding "Security Officer" in its place.

§ 140.735–8 [Amended]

4. Section 140.735–8, paragraph (a)(3) is amended by removing "Director of Personnel" and adding "Director of Human Resources" in its place.

5. Section 140.735–8, paragraph (c)(2) is amended by removing "Director of Personnel" and adding in its place "Director of Human Resources."

6. Section 140.735–8, paragraphs (e) and (f) are amended by removing "Director of Personnel" and adding in its place "Director of Human Resources."

The foregoing rules shall be effective May 13, 1996. The Commission finds that the amendments relate solely to agency organization, procedure or practice and that the public procedures and publication prior to the effective date of the amendments, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

Issued in Washington, DC, on May 6, 1996, by the Commission.

Jean Webb,

Secretary of the Commission.

[FR Doc. 96–11923 Filed 5–10–96; 8:45 am]

BILLING CODE 8351–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8670]

RIN 1545–AU20

Revision of Section 482 Cost Sharing Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to qualified cost sharing arrangements under section 482 of the Internal Revenue Code. These regulations reflect technical changes to the requirements for qualification as a controlled participant under the final cost sharing regulations published in the **Federal Register** on December 20, 1995.

DATES: These regulations are effective May 13, 1996.

These regulations are applicable for taxable years beginning on or after January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Lisa Sams of the Office of Associate Chief Counsel (International), IRS (202) 622–3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 482 was amended by the Tax Reform Act of 1986, Public Law 99–514, 100 Stat. 2085, 2561, et. seq. (1986–3 C.B. (Vol. 1) 1, 478). On January 30, 1992, a notice of proposed rulemaking concerning the section 482 amendment in the context of cost sharing was published in the **Federal Register** (INTL–0372–88, 57 FR 3571).

Written comments were received with respect to the notice of proposed rulemaking, and a public hearing was held on August 31, 1992.

On December 20, 1995, final regulations were published in the **Federal Register** (INTL–0372–88, 60 FR 65553) as Treasury Decision 8632. These final regulations amend the regulations contained in Treasury Decision 8632 by making technical changes to the requirements for qualification as a controlled participant contained in § 1.482–7(c).

The agency has decided not to issue a second notice of proposed rulemaking with respect to the modifications to TD 8632 contained in these final regulations. The rules to which the modifications relate (concerning qualification as a controlled participant) were the subject of the notice of proposed rulemaking published on January 30, 1992, and comments on those rules were received in connection with those proposed regulations. Therefore, a further comment period on these rules is unnecessary. Taxpayers need prompt guidance on how to conform their arrangements to the rules set forth in TD 8632, which is effective for taxable years beginning on or after January 1, 1996, and which provides a one year transition period for amending arrangements. The modifications contained in these final regulations will aid taxpayers in that regard, and any delay caused by a second notice of proposed rulemaking would be impracticable and contrary to the public interest. Unsolicited comment letters were received in connection with TD 8632 and are available for public inspection in the FOIA reading room.

Explanation of Provisions

The purpose of these regulations is to rectify problems in qualifying as a controlled participant caused by the technical requirements of the active conduct rule of § 1.482–7(c). This rule provided that a controlled taxpayer may be a controlled participant only if it uses or reasonably expects to use covered intangibles in the active conduct of a trade or business.

Under the 1992 proposed cost sharing regulations, a member of a group of controlled taxpayers could participate in a qualified cost sharing arrangement on behalf of, and could satisfy the active conduct rule based on activities performed by, one or more other members of the group (a cost sharing subgroup). The participating subgroup member would then transfer or license the intangibles developed under the arrangement to the nonparticipating subgroup member(s). The proposed regulations would have measured benefits in such case on the basis of the benefits of the entire subgroup from exploiting the intangibles. TD 8632, in streamlining the participation rules, omitted the subgroup rules. Taxpayers commented that the change would force them to amend existing arrangements to include as a participant every operating company that predictably would be using covered intangibles.

These regulations further streamline the participation rules. The principal reason for the active conduct rule was to ensure that a controlled participant stands to benefit from the use of covered intangibles in a manner that can be reliably measured. The Treasury and Service have concluded that this purpose can be accomplished without the active conduct rule. No distinction need be made based on the nature of a participant's use of covered intangibles, so long as its benefits from such use (whether from directly exploiting the intangibles or from transferring or licensing them to others) can be reliably measured.

Accordingly, these regulations eliminate the active conduct rule of § 1.482–7(c) as a requirement for qualification as a controlled participant in a qualified cost sharing arrangement. Section 1.482–7(c)(1) of these regulations substitutes a general rule that a controlled taxpayer may be a controlled participant in a cost sharing arrangement only if it reasonably anticipates that it will derive benefits

from the use of covered intangibles. In addition, § 1.482–7(f)(3)(ii) provides that if a controlled participant transfers covered intangibles to another controlled taxpayer, the participant's benefits will be measured with reference to the transferee's benefits rather than with reference to any consideration paid by the transferee. (This gives rise to results similar to those under the subgroup rules of the proposed regulations by different mechanics.) Finally, § 1.482–7(f)(3)(ii) continues to provide that the amount of benefits that each of the controlled participants is reasonably anticipated to derive from covered intangibles must be measured on a basis that is consistent for all such participants.

These changes ensure that a controlled participant must benefit from the arrangement, that the basis for measuring benefits must be consistent for all controlled participants, and that, in the event of intragroup transfers, there will be "look through" treatment for reliably measuring benefits. These rules allow a participant to exploit covered intangibles itself or through transferring or licensing them to others, so long as the benefits to be derived can be consistently and reliably measured for all controlled participants.

These regulations also clarify that the documentation requirements of § 1.482–7(j)(2) will satisfy the principal document requirement of § 1.6662–6(d)(iii)(B) with respect to a qualified cost sharing arrangement.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Lisa Sams, Office of Associate Chief Counsel (International), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805. * * *

Par. 2. Section 1.482–0 is amended by revising the entries for §§ 1.482–7 (c) and (j) to read as follows:

§ 1.482–0 Outline of regulations under 482.

* * * * *

§ 1.482–7 Sharing of costs.

* * * * *

(c) Participant.
(1) In general.
(2) Treatment of a controlled taxpayer that is not a controlled participant.
(i) In general.
(ii) Example.
(3) Treatment of consolidated group.

* * * * *

(j) Administrative requirements.
(1) In general.
(2) Documentation.
(i) Requirements.
(ii) Coordination with penalty regulation.
(3) Reporting requirements.

* * * * *

Par. 3. Section 1.482–7 is amended as follows:

a. By revising paragraph (c)(1)(i).

b. By adding paragraph (c)(1)(iv).

c. By removing paragraphs (c)(2) and (c)(3) and redesignating paragraphs (c)(4) and (c)(5) as paragraphs (c)(2) and (c)(3), respectively.

d. By revising newly designated paragraph (c)(2)(ii).

e. By adding a sentence after the second sentence in paragraph (f)(3)(ii).

f. By revising *Example 8* of paragraph (f)(3)(iii)(E).

g. By redesignating the text of paragraph (j)(2) following the heading as paragraph (j)(2)(i) and adding a heading for newly designated paragraph (j)(2)(i).

h. By removing the language "(j)(2)" and adding "(j)(2)(i)" in its place in the first sentence of newly designated paragraph (j)(2)(i).

i. By adding a paragraph (j)(2)(ii).

The additions and revisions read as follows:

§ 1.482–7 Sharing of costs.

* * * * *

(c) * * * (1) * * *

(i) Reasonably anticipates that it will derive benefits from the use of covered intangibles;

* * * * *

(iv) The following example illustrates paragraph (c)(1)(i) of this section:

Example. Foreign Parent (FP) is a foreign corporation engaged in the extraction of a natural resource. FP has a U.S. subsidiary (USS) to which FP sells supplies of this resource for sale in the United States. FP enters into a cost sharing arrangement with USS to develop a new machine to extract the natural resource. The machine uses a new extraction process that will be patented in the United States and in other countries. The cost sharing arrangement provides that USS will receive the rights to use the machine in the extraction of the natural resource in the United States, and FP will receive the rights in the rest of the world. This resource does not, however, exist in the United States. Despite the fact that USS has received the right to use this process in the United States, USS is not a qualified participant because it will not derive a benefit from the use of the intangible developed under the cost sharing arrangement.

(2) * * *

(ii) *Example.* The following example illustrates this paragraph (c)(2):

Example. (i) U.S. Parent (USP), one foreign subsidiary (FS), and a second foreign subsidiary constituting the group's research arm (R+D) enter into a cost sharing agreement to develop manufacturing intangibles for a new product line A. USP and FS are assigned the exclusive rights to exploit the intangibles respectively in the United States and the rest of the world, where each presently manufactures and sells various existing product lines. R+D is not assigned any rights to exploit the intangibles. R+D's activity consists solely in carrying out research for the group. It is reliably projected that the shares of reasonably anticipated benefits of USP and FS will be 66⅔% and 33⅓, respectively, and the parties' agreement provides that USP and FS will reimburse 66⅔% and 33⅓%, respectively, of the intangible development costs incurred by R+D with respect to the new intangible.

(ii) R+D does not qualify as a controlled participant within the meaning of paragraph (c) of this section, because it will not derive any benefits from the use of covered intangibles. Therefore, R+D is treated as a service provider for purposes of this section and must receive arm's length consideration for the assistance it is deemed to provide to USP and FS, under the rules of § 1.482–4(f)(3)(iii). Such consideration must be treated as intangible development costs incurred by USP and FS in proportion to their shares of reasonably anticipated benefits (i.e., 66⅔% and 33⅓%, respectively). R+D will not be considered to bear any share of the intangible development costs under the arrangement.

* * * * *

(f) * * *

(3) * * *

(ii) * * * If a controlled participant transfers covered intangibles to another controlled taxpayer, such participant's benefits from the transferred intangibles must be measured by reference to the transferee's benefits, disregarding any consideration paid by the transferee to the controlled participant (such as a royalty pursuant to a license agreement).

* * *

(iii) * * *

(E) * * *

Example 8. U.S. Parent (USP), Foreign Subsidiary 1 (FS1) and Foreign Subsidiary 2 (FS2) enter into a cost sharing arrangement to develop computer software that each will market and install on customers' computer systems. The participants divide costs on the basis of projected sales by USP, FS1, and FS2 of the software in their respective geographic areas. However, FS1 plans not only to sell but also to license the software to unrelated customers, and FS1's licensing income (which is a percentage of the licensees' sales) is not counted in the projected benefits. In this case, the basis used for measuring the benefits of each participant is not the most reliable because all of the benefits received by participants are not taken into account. In order to reliably determine benefit shares, FS1's projected benefits from licensing must be included in the measurement on a basis that is the same as that used to measure its own and the other participants' projected benefits from sales (e.g., all participants might measure their benefits on the basis of operating profit).

* * * * *

(j) * * *

(2) *Documentation*—(i) *Requirements.*

* * *

(ii) *Coordination with penalty regulation.* The documents described in paragraph (j)(2)(i) of this section will satisfy the principal documents requirement under § 1.6662–6(d)(2)(iii)(B) with respect to a qualified cost sharing arrangement.

* * * * *

Approved: May 2, 1996.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Leslie Samuels,
Assistant Secretary of the Treasury.

[FR Doc. 96–11781 Filed 5–9–96; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 3

[CGD 96–016]

RIN 2115–AF31

First and Fifth District Boundaries, Marine Inspection and Captain of the Port Zone Boundaries

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the boundary between the First and Fifth Districts and revising the descriptions of several Marine Inspection and Captain of the Port Zone boundaries in the First and Fifth Districts. The Marine Inspection Zone that covers the New York and Long Island Sound Captain of the Port Zones is being split into two Marine Inspection Zones, each of which will be the same geographic area as its respective Captain of the Port Zone. These changes clarify Coast Guard geographic area responsibilities both in the First and Fifth Coast Guard Districts. These changes are administrative and will impact Coast Guard services.

EFFECTIVE DATE: This rule is effective on April 15, 1996.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001, between 8 a.m. and 3 p.m., Monday through Friday, except Federal Holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: Richard Schaefer, Project Manager, Program Branch, Search Rescue Division (G–NRS–1), (202) 267–1089.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The Coast Guard is revising 33 CFR part 3 to reflect a change in the boundaries of the First and Fifth Districts. The First District, headquartered in Boston, includes New England and the State and City of New York and is located immediately to the north of the Fifth District which includes the mid-Atlantic area and is headquartered in Portsmouth, Virginia. The Coast Guard has moved the boundary between the districts approximately 21 miles north, thereby enlarging the area of the Fifth District and reducing the area of the First District.

Portions of the area transferred from the First to the Fifth District which are currently part of the New York Captain of the Port Zone become part of the Philadelphia Marine Inspection Zone and Captain of the Port Zone, and the Hampton Roads Marine Inspection Zone and Captain of the Port Zone. The boundaries of the Philadelphia and Hampton Roads Zones are amended to reflect this additional area.

Additionally, within the First District, two new Marine Inspection Zones are being established. Previously, the New York and Long Island Captain of the Port Zones together comprised a single Marine Inspection Zone. This single Marine Inspection Zone is being divided into two new zones. One new Marine Inspection Zone will have the same boundaries as the New York Captain of the Port Zone, and the other new Marine Inspection Zone will have the same boundaries as the Long Island Sound Captain of the Port Zone.

Discussion of Changes

The current descriptions do not reflect the changes in these District and Marine Inspection and Captain of the Port Zone boundaries. This rule revises these descriptions. The Coast Guard is proceeding directly to a final rule under section 553(b)(3)(A) of the Administrative Procedures Act (5 U.S.C. 551 et seq.) which excludes rulemakings relating to agency organization, procedure, or practice from the requirements of public notice and comment. These changes are administrative and will not impact Coast Guard services.

Section 3.05–1. This section is revised to describe the First District's new boundaries. Portions of northern New Jersey which were formerly in the First District are now in the Fifth District. The new boundary line between the districts in New Jersey moves approximately 21 miles north from 39°57′ N. latitude at the Toms River to 40°18′ N. latitude, just south of the Shrewsbury River. The offshore boundary in the Atlantic Ocean moves north an equal distance.

Section 3.05–25. This section, describing the New York Marine Inspection Zone, is removed.

Section 3.05–30. This section, describing the New York Captain of the Port Zone, is revised to describe the boundaries of the new New York Captain of the Port Zone and the new New York Marine Inspection Zone, both of which have the same boundaries.

Section 3–05–35. This section, describing the Long Island Sound Captain of the Port Zone, is revised to describe the boundaries of the new Long Island Sound Captain of the Port Zone and the new Long Island Sound Marine Inspection Zone, both of which have the same boundaries.

Section 3–25–1. This section, describing the Fifth District boundaries, is revised to add those portions of New Jersey and adjacent offshore waters of the Atlantic Ocean which previously were in the First District. All of Ocean County, NJ, the southern half of

Monmouth County, NJ, north of 40°18′ N. latitude and Atlantic Ocean waters adjacent will be within the boundaries of the Fifth District.

3.25–05. This section, describing the Philadelphia Marine Inspection Zone and Captain of the Port Zone, is revised to add those portions of New Jersey and adjacent offshore waters of the Atlantic Ocean north of 38°28′ N. latitude which previously were in the New York Captain of the Port Zone. All of Ocean County, NJ, the southern half of Monmouth County, NJ, north of 40°18′ N. latitude and Atlantic Ocean waters adjacent will be within the boundaries of the Philadelphia Marine Inspection and Captain of the Port Zones.

Section 3.25–10. This section, describing the Hampton Roads Marine Inspection Zone and Captain of the Port Zone, is revised to add those portions of the Atlantic Ocean south of 38°28′ N. latitude which previously were in the New York Captain of the Port Zone.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. As this rule involves internal agency practices and procedures, it will not impose any costs on the public.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under paragraph 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. This exclusion is in accordance with paragraphs 2.B.2.e (34) (a) and (b), concerning regulations that are editorial or procedural and concerning internal agency functions or organization. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 3

Organization and functions (Government agencies). For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 3 as follows:

PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

1. The authority citation for part 3 continues to read as follows:

Authority: 14 U.S.C. 633; 49 CFR 1.45, 1.46.

2. In section 3.05–1, paragraph (b) is revised to read as follows:

§ 3.05–1 First district.

* * * * *

(b) The First Coast Guard District is comprised of: Maine; New Hampshire; Vermont; Massachusetts; Rhode Island; Connecticut; New York except that part north of latitude 42° N. and west of longitude 74°39′ W; that part of New Jersey north of 40°18′ N. latitude, east of 74°30.5′ W. longitude, and northeast of a line from 40°18′ N. 74°30.5′ W. north-northwesterly to the New York, New Jersey & Pennsylvania boundaries at Tristate; all U.S. Naval reservations on shore at Newfoundland; the ocean area encompassed by the Search and Rescue boundary between Canada and the United States easterly to longitude 63° W.; thence due south to latitude 41° N.; thence southwesterly along a line bearing 219°T to the point of intersection at 37° N. latitude, 67°13′ W. longitude with a line bearing 122°T from the New Jersey shoreline at 40°18′ N. latitude (just south of the Shrewsbury River); thence northwesterly along this line to the coast.

§ 3.05–25 [Removed]

3. Section 3.05–25 is removed.

4. Section 3.05–30 is revised to read as follows:

§ 3.05–30 New York Marine Inspection Zone and Captain of the Port Zone.

(a) The New York Marine Inspection Office and Captain of the Port Office is located in New York, New York.

(b) The boundary of the New York Marine Inspection Zone and Captain of the Port Zone starts on the south shore of Long Island at 40°35.4′ N. latitude, 73°46.6′ W. longitude and proceeds southeasterly along a line bearing 127.5°T to 38°28′ N. latitude, 70°11′ W. longitude; thence northwesterly along a line bearing 122°T from the New Jersey coast at 40°18′ N. latitude; thence west along 40°18′ N. latitude to 74°30.5′ W. longitude; thence northwesterly to the intersection of the New York-New Jersey-Pennsylvania boundaries at Tristate; thence northwesterly along the east bank of the Delaware River to 42°00′ N. latitude; thence east to 74°39′ W. longitude; thence north to the Canadian border; thence easterly along the Canadian Border to the northeast corner of the Orleans County line in Vermont; thence following the eastern and southern boundaries of Orleans, Franklin, Chittenden, Addison, and Ruthland Counties to the Vermont-New York boundary; thence southerly along the New York boundary to 41°01.5′ N. latitude, 73°40′ W. longitude; thence southerly to the southern shore of Manursing Island at 40°58′ N. latitude, 73°40′ W. longitude; thence southeasterly to 40°52.5′ N. latitude, 73°37.2′ W. longitude; thence southerly to 40°40′ N. latitude, 73°40′ W. longitude; thence southwesterly to the point of origin.

5. Section 3.05–35 is revised to read as follows:

§ 3.05–35 Long Island Sound Marine Inspection and Captain of the Port Zone.

(a) The Long Island Sound Marine Inspection Office and Captain of the Port Office is located in New Haven, Connecticut.

(b) The boundary of the Long Island Sound Marine Inspection Zone and Captain of the Port Zone starts at 40°35.4′ N. latitude, 73°46.6′ W. longitude; thence proceeds along a line northwesterly to 40°40′ N. latitude, 73°40′ W. longitude; thence to 40°52.5′ N. latitude, 73°37.2′ W. longitude; thence northwest to the south shore of Manursing Island at 40°58′ N. latitude, 73°40′ W. longitude; thence northerly to the Connecticut-New York boundary at 41°01.5′ N. latitude, 73°40′ w. longitude; thence north along the western boundary of Connecticut to the Massachusetts-Connecticut boundary; thence east along the southern boundary of Massachusetts, including the waters of the Congamond Lakes, to the Rhode Island boundary; thence south along the Connecticut-Rhode Island boundary, excluding the waters of Beach Pond, to 41°24′ N. latitude, 71°48′ W. longitude; thence southerly to 41°21′ N. latitude, 71°48.5′ W. longitude at Westerly, Rhode Island; thence southwesterly to Watch Hill Light, Rhode Island. The northern offshore boundary is a line bearing 132°T from Watch Hill Light to the outermost extent of the EEZ. The southern offshore boundary extends along a line bearing 127.5°T from the south shore of Long Island at 40°35.4′ N. latitude, 73°46.6′ W. longitude to 38°28′ N. latitude, 70°11′ W. longitude; thence easterly to the outermost extent of the EEZ; thence northerly along the outermost extent of the EEZ to the intersection of the northern boundary.

6. In section 3.25–1, paragraph (b) is revised to read as follows:

§ 3.25–1 Fifth district.

* * * * *

(b) The Fifth Coast Guard District is comprised of: North Carolina; Virginia; District of Columbia; Maryland; Delaware; that part of Pennsylvania east of a line drawn along 78°55′ W. longitude south to 41°00′ N. latitude, thence west to 79°00′ W. longitude, and thence south to the Pennsylvania-Maryland boundary; that portion of New Jersey that lies south and west of a line drawn from the New Jersey shoreline at 40°18′ N. latitude (just south of the Shrewsbury River), thence westward to 40°18′ N. latitude, 74°30.5′ W. longitude, thence north-northwesterly to the junction of the New York, New Jersey, and Pennsylvania boundaries at Tristate; and the ocean area encompassed by a line bearing 122°T from the coastal end of the First and Fifth Districts' land boundary at the intersection of the New Jersey shoreline and 40°18′ N. latitude (just south of the Shrewsbury River) to the southernmost point in the First Coast Guard District (a point located at approximately 37° N. latitude, 67°13′ W. longitude); thence along a line bearing 219°T to the point of intersection with the ocean boundary between the Fifth and Seventh Coast Guard Districts, which is defined as a line bearing 122°T from the coastal end of the Fifth and Seventh Districts' land boundary at the shoreline at the North Carolina-South Carolina border, point located at approximately 30°55′ N. 73° W.; thence northwesterly along this line to the coast.

7. In section 3.25–05, paragraph (b) is revised to read as follows:

§ 3.25–05 Philadelphia Marine Inspection Zone and Captain of the Port Zone.

* * * * *

(b) The boundary of the Philadelphia Marine Inspection zone and Captain of the Port Zone starts at the New Jersey coast at 40°18′ N. latitude, thence proceeds westward to 40°18′ N. latitude, 74°30.5′ W. longitude, thence north-northwesterly to the junction of the New York, New Jersey, and Pennsylvania boundaries at Tristate; thence northwesterly along the east bank of the Delaware River to 42°00′ N. latitude; thence west along the New York-Pennsylvania boundary to 78°55′ W. longitude; thence south to 41°00′ N. latitude; thence west to 79°00′ W. longitude; thence south to the Pennsylvania-Maryland boundary; thence east to the intersection of the Maryland-Delaware boundary; thence south and east along the Maryland-Delaware boundary to the sea, including Fenwick Island Light. The offshore boundary starts at Fenwick Island Light and proceeds east along 38°28′ N. latitude to 70°11′ W. longitude; thence northwesterly along a line bearing 122°T from the New Jersey Coast at 40°18′ N. latitude.

8. In section 3.25–10, paragraph (b) is revised to read as follows:

§ 3.25–10 Hampton Roads Marine Inspection Zone and Captain of the Port Zone.

* * * * *

(b) The boundary of the Hampton Roads Marine Inspection Zone and Captain of the Port Zone starts at the intersection of the Maryland-Delaware boundary and the coast and proceeds along the Maryland-Delaware boundary to a point 75°30′ W. longitude; thence southerly to a point 75°30′ W. longitude on the Maryland-Virginia boundary, thence westerly along the Maryland-Virginia boundary as it proceeds across the Delmarva Peninsula, Pocomoke River, Tangier and Pocomoke Sounds, and Chesapeake Bay; thence northwesterly along the Maryland-Virginia boundary and the District of Columbia-Virginia boundary as those boundaries are formed along the southern bank of the Potomac River to the intersection of the Virginia-Maryland-West Virginia boundaries; thence southerly along the Virginia-West Virginia boundary and the Virginia-Kentucky boundary to the Tennessee boundary; thence eastward along the Virginia-Tennessee boundary to the Virginia-North Carolina boundary; thence eastward along the Virginia-North Carolina boundary to Kerr (Buggs Island) Lake; thence along the shore of Kerr Lake in North Carolina back to the Virginia-North Carolina boundary; thence eastward along the Virginia-North Carolina boundary to the west bank of the Chowan River; thence southerly along the west bank of the Chowan River to a point 36°00′ N. latitude, 76°41′ W. longitude; thence generally southerly and easterly along the western boundaries of Washington, and Hyde Counties to a point 35°37′ N. latitude, 76°32′ W. longitude; thence easterly to a point 35°37′ N. latitude, 76°00.5′ W. longitude; thence generally southwesterly to a point 35°01.5′ N. latitude, 76°20 W. longitude; thence easterly to the sea at 34°59.8′ N. latitude, 76°07.8 W. longitude. The offshore boundary starts at the intersection of the Maryland-Delaware boundary and the coast and proceeds east to a point 38°28′ N. latitude, 70°11 W. longitude; thence southeasterly on a line bearing 122° T to the outermost extent of the EEZ; thence southerly along the outermost extent of the EEZ to 34°59.8′ N. latitude; and thence westerly along 34°59.8′ latitude to the coast at 76°07.8′ W. longitude.

Dated: April 10, 1996.

Rudy K. Peschel,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety an Waterway Services.

[FR Doc. 96–11899 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 100

[CGD01–95–017]

RIN 2115–AE 46

Special Local Regulation: Harvard-Yale Regatta, Thames River, New London, CT

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The annual Harvard-Yale Regatta is a rowing competition held on the Thames River in New London, CT. This regulation establishes the date and time for this year's event and amends the permanent regulation. These regulations are necessary to control vessel traffic within the immediate vicinity of the event due to the confirmed nature of the waterway and anticipated congestion at the time of the event, thus providing for the safety of life and property on the affected navigable waters.

EFFECTIVE DATE: This section is effective on June 12, 1996.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Benjamin M. Algeo, Chief Boating Affairs Branch, First Coast Guard District, (617) 223–8310.

SUPPLEMENTARY INFORMATION:

Regulatory History

A notice of proposed rulemaking (NPRM) was published on April 24, 1995, (60 FR 20065) in the **Federal Register** proposing a permanent change to the effective period in 33 CFR 100.101. No comments were received and no hearing was requested.

Background and Purpose

The NPRM published on April 24, 1995, proposed to eliminate the specific rate times to allow for a flexible time period. The Harvard/Yale Regatta is a rowing competition which is scheduled around favorable tidal conditions. Therefore, a flexible effective period is necessary to avoid having to publish, annually, a NPRM and final rule changing the race times. This rule varies from the NPRM in one regard; it provides notice of the dates and times of this 1996 event in addition to changing the permanent regulation. Notice of specific race dates and times for following years will be specified each year in a **Federal Register** notice.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that the race is of short duration, there is little commercial traffic on the affected portion of the Thames River, and the advance notice which will be made to the affected maritime community.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impacts of this rule and concluded that, under paragraph 2.B.2.e.34(h) of COMDTINST 16475.1B, (as revised by 61 FR 13563, March 27, 1996) this rule is a special local regulation issued in conjunction with a regatta or marine parade and is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Final Regulation

For the reasons set forth in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.101, is amended by revising paragraph (b) to read as follows:

§ 100.101 Harvard-Yale Regatta, Thames River, New London, CT.

* * * * *

(b) *Effective period.* This section is in effect on June 8, 1996, from 4:00 p.m. to 7:30 p.m. and each year thereafter on a date and times specified in a **Federal Register** notice. If the regatta is canceled due to weather, this section will be in effect on the following Sunday.

* * * * *

Dated: May 1, 1996.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 96–11903 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–14–M

Coast Guard

33 CFR Part 100

[CGD07–96–032]

RIN 2115–AE46

Special Local Regulations; Key West Super Boat Race; Key West, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Special local regulations are being adopted for the Key West Super Boat Race sponsored by Super Boat Racing, Inc. This event will be held on May 19, 1996, between 10 a.m. and 4 p.m. edt (eastern daylight time). The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: This rule is effective from 10 a.m. edt and terminates at 4 p.m. edt, on May 19, 1996.

FOR FURTHER INFORMATION CONTACT: QMC Kent, project officer, USCG Group Key West, (305) 292–8727.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical, as there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Discussion of Regulations

These special local regulations are being adopted for the Key West Super Boat Race. The event will be held from 10 a.m. to 4 p.m. edt, on May 19, 1996. Approximately 35 power boats and 100 spectator craft are expected to participate in the Key West Super Boat Race. The power boats will be competing at high speeds and operating in close proximity to the spectators, creating an extra or unusual hazard on navigable waters. These regulations are needed to provide for the safety of life on navigable waters during the event.

Regulatory Evaluation

This regulations is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Entry into the regulated area is prohibited for only 6 hours on the day of the event.

Since the impact of this rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coat Guard has considered the environmental impact of this rule consistent with Section 2.B.2. of Commandant Instruction M16475.1B. In accordance with that section, this action has been environmentally assessed (EA completed), and the Coast Guard has determined that it will not significantly affect the quality of human environment. An environmental assessment and finding of no significant impact have been prepared. Furthermore as a condition of the marine event permit, the applicant has been required to educate the operators of spectator craft and race participants regarding the possible presence of manatees and the appropriate precautions to take if the animals are sighted.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Final Regulations

In consideration of the foregoing, the Coast Guard amends, Part 100 of Title 33, Code of Federal Regulations, as follows:

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35–T07–032 is added to read as follows:

§ 100.35–T07–032 Key West Super Boat Race; Key West, FL.

(a) *Definitions.*

(1) *Regulated area.* All navigable waters within a line drawn through the following points:

24–33.65N 081–48.47W; thence to, 24–33.95N, 081–48.30W; thence to, 24–34.05N, 081–48.45W; thence to, 24–33.58N, 081–48.70W; thence to, 24–31.18N, 081–51.10W; thence to, 24–31.18N, 081–48.88W; thence to, 24–32.94N, 081–48.82W.

All coordinates reference use datum: NAD 1983.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the United States Coast Guard who has been designated by Coast Guard Group Key West, Florida.

(b) *Special local regulations.* (1) Entry into the regulated area, by other than event participants, is prohibited unless otherwise authorized by the patrol commander.

(2) A succession of not less than 5 short whistle or horn blasts from a patrol vessel will be the signal for any non-participating vessel to take immediate steps to avoid collision. The display of a red distress flare from a patrol vessel will be a signal for any and all vessels to stop immediately.

(c) *Effective Date.* This section is effective at 10 a.m. edt and terminates at 4 p.m. edt, on May 19, 1996.

Dated: April 25, 1996.

P.J. Cardaci,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 96–11897 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD01–95–168]

RIN 2115–AE 46

Special Local Regulation: World's Fastest Lobster Boat Race, Moosabec Reach, Jonesport, ME

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent special local regulation for the World's Fastest Lobster Boat Race in the waters of Moosabec Reach, Jonesport, ME. The event will be held on July 4, 1996, and each year thereafter on a date published in the **Federal Register.** This regulation is needed to protect the boating public from the hazards associated with high speed powerboat racing in confined waters.

EFFECTIVE DATE: This rule is effective on June 12, 1996.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Benjamin M. Algeo, Chief Boating Affairs Branch, First Coast Guard District, (617) 223–8310

SUPPLEMENTARY INFORMATION:

Regulatory History

A notice of proposed rulemaking (NPRM) was published on March 4, 1996, (61 FR 8227) proposing the establishment of a permanent special local regulation for the World's Fastest Lobster Boat Race. The NPRM proposed to restrict vessels from transiting a specified regulated area to ensure the safety of life and property in the immediate vicinity of the event. No comments were received and no hearing was requested.

Discussion of Amendments

The World's Fastest Lobster Boat Race is a local, traditional event that has been held for many years in Jonesport, ME. In the past, the Coast Guard has promulgated individual regulations for each year's race. Given the recurring nature of the event,the Coast Guard is establishing a permanent regulation. The regulation establishes a regulated area on Moosabec Reach and provides specific guidance to control vessel movement during the race.

This event includes up to 60 power-driven lobster boats competing in heats on a marked course at speeds approaching 25 m.p.h. The Coast Guard will assign a patrol to the event, and the race course will be marked. However, due to the speed, large wakes, and proximity of the participating vessels, it is necessary to establish a special local regulation to control spectator and commercial vessel movement. Spectator craft are authorized to watch the race from any area as long as they remain outside the designated regulated area. In emergency situations, the Coast Guard patrol commander may establish escort procedures for vessels requiring transit through the regulated area.

This section will be effective annually on a date to be published in the **Federal Register.** If the race is canceled due to weather, this section will be effective on the day following the effective date. This final rule varies from the NPRM in that it provides for the effective date to be published annually in the **Federal Register.**

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, and does into require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040;

February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the limited duration of the race, the extensive advisories that will be made to the affected maritime community, and the minimal restrictions the regulation places on vessel traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impacts of this rule and concluded that, under paragraph 2.B.2.e.34(h) of COMDTINST 16475.1B, (as revised by 61 FR 13563, March 27, 1996) this rule is a special local regulation issued in conjunction with a regatta or marine parade and is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Records and recordkeeping requirements, Waterways.

Final Regulation

For the reasons set forth in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new permanent section, 100.110, is added to read as follows:

§ 100.110 World's Fastest Lobster Boat Race, Jonesport, ME.

(a) *Regulated area.* The regulated area includes all waters of Moosabec Reach within the following points (NAD 83):

Latitude	*Longitude*
44°31'36" N	067°36'54" W
44°31'48" N	067°34'42" W
44°31'36" N	067°34'42" W
44°31'18" N	067°36'54" W

(b) *Special local regulations.* (1) The Coast Guard patrol commander may delay, modify, or cancel the race as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in the regulated area unless participating in the event or unless authorized by the Coast Guard patrol commander.

(3) Vessels encountering emergencies which require transit through the regulated area should contact the Coast Guard patrol commander on VHF Channel 16. In the event of an emergency, the Coast Guard patrol commander may authorize a vessel to transit through the regulated area with a Coast Guard designated escort.

(4) All persons and vessels shall comply with the instructions of the on-scene Coast Guard patrol commander. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon hearing five or more short blasts from a U.S. Coast Guard vessel, the operator of a vessel shall proceed as directed. Members of the Coast Guard Auxiliary will also be present to inform vessel operators of the regulation in this section and other applicable laws.

(c) *Effective period.* This section is in effect from 10 a.m. to 1 p.m. on July 4, 1996, and each year thereafter on a date and times published in a **Federal Register** notice. If the event is canceled due to weather, this section is in effect on the day following the published effective date.

Dated: May 1, 1996.

J. L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 96–11896 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD07–96–031]

RIN 2115–AE46

Special Local Regulations: Boating Safety Parade; Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting Special Local Regulations for the Boating Safety Parade, sponsored by the Charleston Power Squadron. This event will be held from 12 p.m. to 4 p.m. EDT (Eastern Daylight Time), on May 18, 1996. The customary presence of commercial and recreational traffic, and the nature of the event creates an extra or unusual hazard on the navigable waters. These regulations are necessary to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: This rule is effective from 12 p.m. to 4 p.m. EDT, on May 18, 1996.

FOR FURTHER INFORMATION CONTACT: ENS M.J. DaPonte, project officer, Coast Guard Group Charleston at (803) 724–7621.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical. The information to hold the event was not received until April 4, 1996, and there was insufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Discussion of Regulations

These temporary special local regulations are needed to provide for the safety of life during Charleston Power Squadron's Boating Safety Parade. The regulations are intended to promote safe navigation on the waters on the Cooper and Ashley Rivers in Charleston Harbor during the parade by controlling the traffic entering, exiting, and traveling within the parade formation. There will be approximately thirty sailing and power boats participating in the parade. The anticipated concentration of nonparticipating vessels within the area poses a safety concern, which is addressed in these special local regulations.

The temporary special local regulations will not permit the entry or movement of spectator vessels and other non-participating vessel traffic within an area 500 yards ahead, 100 yards astern, and 50 yards to either side of the vessels participating in the parade of boats between Town Creek Reach Buoy 2 (LLNR 2215) and the City Marina on the Ashley River, from 12 to 4 p.m. EDT, on May 18, 1996. The regulations will permit the movement of nonparticipating vessels within the regulated area after the termination of the event, at the discretion of the Coast Guard Patrol Commander.

Regulatory Evaluation

This proposal is not a significant regulatory action under Section 3(f) of the Executive Order 12866 and does not require an assessment of the potential costs and benefits under Section 6(a)(3) of that Order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The regulated area encompasses less than 3 nautical miles of the Cooper and Ashley Rivers in Charleston, SC, and the regulation would be in effect for only 4 hours the day of the event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

Collection of Information

These proposed regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal consistent with Section 2.B.2.e of Commandant Instruction M16475.1 (Series). In accordance with that section, this event has been determined to be categorically excluded. Specifically, the Coast Guard has consulted with the South Carolina Department of Natural Resources and Department of Environmental and Health Control, the Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service regarding the environmental impact of this event, and it has been determined that the event does not jeopardize the continued existence of protected species.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulation

PART 100—[AMENDED]

For reasons set out in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35–T07–031 is added to read as follows:

§ 100.35–T07–031 Charleston Power Squadron Boating Safety Parade; Wando, Cooper and Ashley Rivers, Charleston, SC.

(a) Definitions: (1) *Regulated area.* The regulated area is formed around the area 500 yards ahead of the lead vessel of the parade, 100 yards astern of the last parade vessel, and 50 yards to either side of all parade vessels along the parade route described in paragraph (a)(2) of this section.

(2) *Parade route.* The parade route begins at the Town Creek Lower Reach buoy 2 (LLNR 2215) in approximate position 32°47.6′ N, 079°55.35′ W, thence south along the Charleston peninsula to 32°45.95′ N, 079°55.34′ W, thence up the Ashley River, and continuing to the finishing point at City Marina, in approximate position 32°46.8′ N, 79°57.18′ W. All coordinates referenced use datum: NAD 1983.

(3) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant or petty officer of the Coast Guard who has bee designated by the Commander, Coast Guard Group Charleston, South Carolina.

(b) *Special local regulations.*

(1) Entry into the regulate area by other than authorized parade participants or official patrol vessels is prohibited, unless authorized by the Patrol Commander.

(2) After termination of the Charleston Power Squadron Boating Safety Parade and departure of the parade participants from the regulated area, all vessels may resume normal operations.

(c) *Effective date.* This section is effective at 12 p.m. and terminates at 4 p.m. EDT, on May 18, 1996, unless otherwise specified in the Seventh Coast Guard District Local Notice to Mariners.

Dated: April 30, 1996.

Roger T. Rufe, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 96–11901 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD01–96–026]

RIN 2115–AA97

Safety Zone: Fire Island Lighthouse Fireworks Display, Fire Island, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Fire Island Lighthouse Fireworks Display to be held on Great South Bay, Fire Island, NY, on May 26, 1996. This safety zone is needed to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with this fireworks display. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This regulation is effective on May 26, 1996, from 9:30 p.m. until 9:45 p.m. unless extended or terminated sooner by the Captain of the Port. There is no rain date scheduled for this event.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander T.V. Skuby, Chief of Port Operations, Captain of the Port, Long Island Sound at (203) 468–4464.

SUPPLEMENTARY INFORMATION:

Regulatory History

As authorized by 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after Federal Register publication. Due to the complex planning and coordination involved, the sponsor of the event was unable to provide the Coast Guard with the final details for the events in sufficient time to publish a NPRM or a final rule 30 days in advance. The delay encountered if normal rule making procedures were followed would effectively cancel the event.

Background and Purpose

On February 15, 1996, the sponsor, Fire Island Lighthouse Preservation Society, Fire Island, NY, requested that a 15 minute fireworks display, be permitted in Great South Bay, located approximately 1000 yards southeast of Captree State Park, Fire Island, NY. The fireworks display will occur on May 26, 1996, from 9:30 p.m. until 9:45 p.m. The safety zone covers all waters of Great South Bay within a 1200 foot radius of the fireworks launching barge. This zone is required to protect the maritime community from the safety dangers associated with this fireworks display.

Entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port or his on scene representative.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This safety zone involves only a portion of Great South Bay and entry into this zone will be restricted for only 15 minutes on May 26, 1996. Although this regulation prevents traffic from transiting Great South Bay, at Fire Island, NY, the effect of this regulation will not be significant for several reasons: the safety zone will not impact a navigable channel; the duration of the event is limited; the event is at a late hour; all vessel traffic may safely pass to the seaward side of this safety zone; and extensive, advance maritime advisories will be made.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (14 U.S.C. 632).

For the reasons addressed under the Regulatory Evaluation above, the Coast Guard expects the impact of this regulation to be minimal and certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and has determined that these regulations do not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised 59 FR 38654, July 29, 1995, the promulgation of this regulation is categorically excluded form further environmental documentation. A Categorical Exclusion Determination and a Environmental Analysis Checklist are included in the docket. An appropriate environmental analysis of the fireworks program will be conducted in conjunction with the marine event permitting process.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A temporary section, 165.T01–026, is added to read as follows:

§ 165.T01–026 Fire Island Lighthouse Fireworks Display, Fire Island, NY.

(a) *Location.* The safety zone includes all waters of Great South Bay within a 1200 foot radius of the fireworks barge, located offshore approximately 1000 yards southeast of Captree State Park in Great South Bay, Fire Island, NY, in approximate position 40°38'00" N, 073°15'00" W. (NAD 1983)

(b) *Effective date.* This section is effective on May 26, 1996, from 9:30 p.m. until 9:45 p.m., unless extended or terminated sooner by the Captain of the Port Long Island Sound. In case of inclement weather there is no rain date scheduled for this event.

(c) *Regulations.* The general regulations covering safety zones contained in § 165.23 of this part apply.

Dated: May 2, 1996.

W.R. Grawe,

Commander, U.S. Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. 96–11900 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AH95

Medical; Nonsubstantive Miscellaneous Changes

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs medical regulations in 38 CFR Part 17 by making a number of nonsubstantive changes. More specifically, section numbers are redesignated, redundant material is removed, restatements of statutory material are removed, certain position titles and organizational titles are changed to reflect current titles, authority citations are added, obsolete material is removed, and material inadvertently deleted is restored. These changes are made for clarity and accuracy.

EFFECTIVE DATE: May 13, 1996.

FOR FURTHER INFORMATION CONTACT: LeRoy E. Cossette, Acting Director, Headquarters Health Administration Service (161A), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420; (202) 565–5412. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: This final rule consists of nonsubstantive changes and, therefore, is not subject to the notice and comment and effective date provisions of 5 U.S.C. 553.

The Secretary hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule merely consists of nonsubstantive changes.

The Catalog of Federal Domestic Assistance numbers for the programs affected by this rule are 64.005, 64.007, 64.008, 64.009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, 64.024, and 64.025.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Phillipines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: May 3 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out above, 38 CFR part 17 is amended as set forth below:

PART 17—MEDICAL

1. The authority citation for part 17 is revised to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

1a. The undesignated center headings preceeding §§ 17.51c, 17.55, 17.57, 17.135 and 17.400 are removed.

§§ 17.32, 17.33, 17.38, 17.46a, 17.50e, 17.51b through 17.51g, 17.52, 17.55, 17.57, 17.58, 17.60c, 17.60h, 17.99, 17.103, 17.115a, 17.115c, 17.135, 17.160, 17.165c, 17.176, 17.212 and 17.400 through 17.416 [Removed]

2. In part 17, the following sections are removed:

a. Section 17.32;
b. Section 17.33;
c. Section 17.38;
d. Section 17.46a;
e. Section 17.50e;
f. Section 17.51b through 17.51g;
g. Section 17.52;
h. Section 17.55;
i. Section 17.57;
j. Section 17.58;
k. Section 17.60c;
l. Section 17.60h;
m. Section 17.99;
n. Section 17.103;
o. Section 17.115a;
p. Section 17.115c;
q. Section 17.135;
r. Section 17.160;
s. Section 17.165c;
t. Section 17.176;
u. Section 17.212; and
v. Sections 17.400 through 17.416.

§§ 17.30, 17.31, 17.48, 17.51 [Amended]

3. Part 17 is further amended by removing the following paragraphs:

a. Section 17.30 (a) through (l), and (o) through (w);

b. Section 17.31 (a), (b) introductory text and (b)(1) through (b)(4), (b)(6), (b)(7), and (c);

c. Section. 17.48 (e)(1) through (e)(5), and (e)(8); and

d. Section 17.51 (a)(1) through (a)(3), and (b).

§ 17.46 [Redesignated as § 17.43]

4. Section 17.46 is redesignated as § 17.43.

§ 17.47 [Redesignated as § 17.46]

4a. Section 17.47 is redesignated as § 17.46; in the newly redesignated § 17.46, paragraphs (a), (c), and (d) are removed, and paragraphs (b) and (e) are redesignated as paragraphs (a) and (b), respectively.

§ 17.60 [Redesignated as § 17.93]

5. Section 17.60 is redesignated as § 17.93, in the newly redesignated § 17.93, paragraphs (a)(1) through (a)(3), (b), (d)(1) through (d)(4), (e), and (f) are removed; paragraphs (a)(4) and (a)(5) are redesignated as paragraphs (a)(1) and (a)(2), respectively; paragraph (c) is redesignated as paragraph (b); and paragraph (d) is redesignated as paragraph (c); the newly redesignated paragraph (c)(5) is redesignated as paragraph (c)(1), and paragraph (c)(2) is reserved.

§ 17.60b [Redesignated as § 17.95]

6. Section 17.60b is redesignated as § 17.95; and in the newly redesignated § 17.95, paragraph (b) and the paragraph designation "(a)" are removed.

§ 17.78 [Redesignated as § 17.115]

7. Section 17.78 is redesignated as § 17.115, in the newly redesignated § 17.115, paragraph (b) is removed; the paragraphs designation "(a)" is removed, and paragraphs (a)(1) and (a)(2) are redesignated as paragraphs (a) and (b), respectively.

§ 17.123 [Redesignated as § 17.161]

8. Section 17.123 is redesignated as § 17.161, in the newly redesignated § 17.161 paragraph (j) is revised to read as follows:

§ 17.161 Authorization of outpatient dental treatment.

* * * * *

(j) *Class VI.* Any veterans scheduled for admission or otherwise receiving care and services under chapter 17 of 38 U.S.C. may receive outpatient dental care which is medically necessary, i.e., is for dental condition clinically determined to be complicating a medical condition currently under treatment.

9. Part 17 is amended by redesignating the following sections and paragraphs as set forth below:

Old section	New section
17.30 (m) and (n)	17.30 (a) and (b)
17.31(b)(5)	17.31
17.34	17.32
17.34a	17.33
17.35	17.34
17.36	17.35
17.37	17.36
17.39	17.37
17.42	17.40
17.45	17.41
17.45a	17.42
17.46b	17.44
17.46c	17.45
17.48	17.47
17.48 (e)(6) and (e)(7).	17.47 (e)(1) and (e)(2)
17.50a	17.51
17.50b	17.52
17.50c	17.53
17.50d	17.54
17.50f	17.55
17.51 (a)(4) and (5)	17.56 (a) and (b)
17.51a	17.60
17.51h	17.61
17.51i	17.62
17.51j	17.63
17.51k	17.64
17.51l	17.65
17.51m	17.66
17.51n	17.67
17.51o	17.68
17.51p	17.69
17.51q	17.70
17.51r	17.71
17.51s	17.72
17.53a	17.80
17.53b	17.81
17.53c	17.82
17.53d	17.83
17.54	17.84
17.56	17.90
17.56a	17.91
17.59	17.92
17.60a	17.94
17.60d	17.96
17.60e	17.97
17.60f	17.98
17.60g	17.99
17.61	17.100
17.62	17.101

Old section	New section
17.63	17.102
17.64	17.103
17.65	17.104
17.65a	17.105
17.68	17.106
17.70	17.110
17.71	17.111
17.75	17.112
17.76	17.113
17.77	17.114
17.80	17.120
17.80a	17.121
17.81	17.122
17.82	17.123
17.83	17.124
17.84	17.125
17.85	17.126
17.86	17.127
17.87	17.128
17.88	17.129
17.89	17.130
17.90	17.131
17.91	17.132
17.95	17.140
17.96	17.141
17.98	17.142
17.100	17.143
17.101	17.144
17.102	17.145
17.115	17.150
17.115b	17.151
17.115d	17.152
17.116	17.153
17.118	17.154
17.119	17.155
17.119a	17.156
17.119b	17.157
17.119c	17.158
17.119d	17.159
17.120	17.160
17.123a	17.162
17.123b	17.163
17.123c	17.164
17.124	17.165
17.129	17.166
17.155	17.170
17.161	17.180
17.165	17.190
17.165a	17.191
17.165b	17.192
17.165d	17.193
17.166	17.194
17.166a	17.195
17.166b	17.196
17.166c	17.197
17.166d	17.198
17.167	17.199
17.168	17.200
17.170	17.210
17.171	17.211
17.172	17.212
17.173	17.213
17.174	17.214
17.175	17.215
17.177	17.216
17.178	17.217
17.179	17.218
17.180	17.219
17.181	17.220
17.182	17.221
17.183	17.222
17.190	17.230
17.210	17.240
17.211	17.241
17.220	17.242
17.260	17.250
17.261	17.251
17.262	17.252
17.265	17.253
17.266	17.254
17.267	17.255
17.268	17.256
17.270	17.257
17.271	17.258
17.275	17.259
17.276	17.260
17.277	17.261
17.281	17.262
17.285	17.263
17.287	17.264
17.290	17.265
17.291	17.266

§ 17.30 [Amended]

10. In § 17.30, the newly redesignated paragraphs (a)(3) and (b) are amended by removing "17.100" and adding "17.142" in place thereof.

§ 17.32 [Amended]

11. In redesignated § 17.32(e), "Chief Medical Director" is removed and "Under Secretary for Health" is added in place thereof.

§ 17.41 [Amended]

12. In redesignated § 17.41, the section heading is amended by removing "entitled to" and adding "eligible for" in place thereof.

§ 17.42 [Amended]

13. In redesignated § 17.42, "§ 17.45" is removed and "§ 17.41" is added in place thereof.

§ 17.43 [Amended]

14. In redesignated § 17.43, paragraphs (a) and (b) introductory text are amended by removing "§§ 17.46b through 17.48" and adding, "38 U.S.C. 1710, 1722, and 1729, and 38 CFR 17.44 and 17.45" in place thereof.

15. In redesignated § 17.43(e), "§ 17.62" is removed and "§ 17.101" is added in place thereof.

§ 17.46 [Amended]

16. In redesignated § 17.46(a), in the introductory text "paragraph (a) of this section," is removed and "38 U.S.C. 1710(a)(1)," is added in place thereof, and in paragraph (a)(1) "§ 17.50(b)" is removed and "38 U.S.C. 1703 and 38 CFR 17.52" is added in place thereof.

§ 17.47 [Amended]

17. In redesignated § 17.47(b)(1), "§ 17.47(a)" is removed in both places it appears and "38 U.S.C. 1710(a)(1)" is added in place thereof.

18. In redesignated § 17.47(e)(2), "under § 17.47 (a) or (c), rather than § 17.47(d)," is removed and "under 38 U.S.C. 1710(a)(1) rather than § 1710(a)(2)," is added in place thereof.

19. In redesignated § 17.47(f), "17.47(d), or outpatient care under § 17.60 (e) or (f) by virtue of the veteran's eligibility for hospital care under § 17.47(d)" is removed and "38 U.S.C. 1710(a)(2) or outpatient care under 38 U.S.C. 1712(a)(4) by virtue of the veteran's eligibility for hospital care under 38 U.S.C. 1710(a)" is added in place thereof; and "Chief Medical Director" is removed and "Under Secretary for Health" is added in place thereof.

20. In redesignated § 17.47(g) introductory text, "entitled to" is removed and "eligible for" is added in place thereof.

21. In redesignated § 17.47(l), "§ 17.47 or § 17.60" is removed and "38 U.S.C. 1710 or 1712" is added in place thereof.

22. In § 17.49, "§ 17.47" is removed and "§ 17.46" is added in place thereof.

§ 17.50 [Amended]

23. In § 17.50, "eligible under § 17.47" is removed and "eligible under 38 U.S.C. 1710 or 38 CFR 17.44" is added in place thereof.

§ 17.51 [Amended]

24. In redesignated § 17.51, "§ 17.47" is removed and "38 U.S.C. 1710 or 38 CFR 17.46" is added in place thereof.

§ 17.52 [Amended]

25. In redesignated § 17.52(a), "§ 17.50c" is removed and "§ 17.53" is added in place thereof.

§ 17.55 [Amended]

26. In redesignated § 17.55 introductory text, "§ 17.50b" is removed and "38 U.S.C. 1703 or 38 CFR 17.52" is added in place thereof.

§ 17.56 [Amended]

27. In redesignated § 17.56(b), "§ 17.47(a) and (c), the Chief Medical Director" is removed and "38 U.S.C. 1710(a)(1), the Under Secretary for Health" is added in place thereof; "§ 17.47(d)" is removed and "38 U.S.C. 1710(a)(2)" is added in place thereof; and "§ 17.48(e)" is removed and "38 U.S.C. 1710(f)" is added in place thereof.

§ 17.61 [Amended]

28. In redesignated § 17.61(c), "§ 17.51j" is removed and "§ 17.63" is added in place thereof.

§ 17.62 [Amended]

29. In redesignated § 17.62 introductory text, "§§ 17.51h through 17.51s" is removed and "§§ 17.61 through 17.72" is added in place thereof.

§ 17.64 [Amended]

30. In redesignated § 17.64(a), "§ 17.51j(c)(3) and/or § 17.51j(e)(2)" is removed in paragraph (a) introductory text and (a)(1) and "§ 17.63(c)(3) and/or § 17.63(e)(2)" is added in place thereof.

§ 17.65 [Amended]

31. In redesignated § 17.65(c), "§ 17.51j(d) and the records standard set forth in § 17.51j(i)" is removed and "§ 17.63(d) and the records standard set forth in § 17.63(i)" is added in place thereof.

32. In redesignated § 17.65(d), "§ 17.51j(d) of this part; the bedroom standard set forth in § 17.51j(e) of this part; the activities standard set forth in § 17.51j(g) of this part; and the records standard set forth in § 17.51j(i)" is removed and "§ 17.63(d) of this part; the bedroom standard set forth in § 17.63(e) of this part; the activities standard set forth in § 17.63(g) of this part; and the records standard set forth in § 17.63(i)" is added in place thereof.

§ 17.66 [Amended]

33. In redesignated § 17.66 introductory text, "§ 17.51j" is removed and "§ 17.63" is added in place thereof.

§ 17.69 [Amended]

34. In redesignated § 17.69 introductory text, "§ 17.51m" is removed and "§ 17.66" is added in place thereof.

35. In redesignated § 17.69 introductory text, "§ 17.51o" is removed and "§ 17.68" is added in place thereof.

§ 17.70 [Amended]

36. In redesignated § 17.70(c)(2), "§ 17.51j" is removed and "§ 17.63" is added in place thereof.

§ 17.71 [Amended]

37. In redesignated § 17.71(a), "§ 17.51q" is removed and "§ 17.70" is added in place thereof and "§ 17.51j" is removed and "§ 17.63" is added in place thereof.

38. In redesignated § 17.71(c), "§ 17.51j" is removed and "§ 17.63" is added in place thereof and "§§ 17.51m–17.51r" is removed and "§§ 17.66–17.71" is added in place thereof.

§ 17.81 [Amended]

39. In redesignated § 17.81(a) introductory text, "§ 17.53a(a)" is removed and "§ 17.80(a)" is added in place thereof; and "Chief Medical Director" is removed and "Under Secretary for Health" is added in place thereof.

§ 17.82 [Amended]

40. In redesignated § 17.82(a) introductory text, "§ 17.53a" is removed and "§ 17.80" is added in place thereof.

§ 17.84 [Amended]

41. In redesignated § 17.84(c), "Chief Medical Director" is removed and "Under Secretary for Health" is added in place thereof.

§ 17.90 [Amended]

42. In redesignated § 17.90(a), "§ 17.48(j)" is removed and "§ 17.47(j)" is added in place thereof.

§ 17.92 [Amended]

43. In redesignated § 17.92, "§ 17.62(g)" is removed and "§ 17.101" is added in place thereof.

§ 17.93 [Amended]

44. In redesignated § 17.93(a), "§ 17.123" is removed and "§ 17.161" is added in place thereof.

45. In redesignated § 17.93(b), "in paragraphs (a) and (b)" is removed and "in this section and 38 U.S.C. 1712 (a)(1) and (a)(2)" is added in place thereof and "§ 17.50b" is removed and "§ 17.52" is added in place thereof.

46. In redesignated § 17.93(c)(1), "§ 17.48(j)" is removed and "§ 17.47(j)" is added in place thereof.

§§ 17.94, 17.95 [Amended]

47. In redesignated §§ 17.94 and 17.95(a), "§ 17.62" is removed from each and "§ 17.101" is added in each place thereof.

§ 17.97 [Amended]

48. In redesignated § 17.97, "§ 17.60d" is removed and "38 U.S.C. 1712(h)" is added in place thereof.

§ 17.98 [Amended]

49. In redesignated § 17.98(a), "§ 17.30(1)(2) of this part" is removed and "38 U.S.C. 1701(6)(B)" is added in place thereof; and "§§ 17.47, 17.54, 17.57 or 17.60(a), (b), or (f)" is removed and "38 U.S.C. 1710, 1712, 1712A, 1713, or 1717, or 38 CFR. 17.84" is added in place thereof.

§ 17.101 [Amended]

50. In redesignated § 17.101(a), "§ 17.35" is removed and "§ 17.34" is added in place thereof.

51. In redesignated § 17.101(b)(1), "§ 17.46(c)(1) or § 17.60b" is removed and "§ 17.43(c)(1) or § 17.95" is added in place thereof.

52. In redesignated § 17.101(d), "Chief Medical Director" is removed and "Under Secretary for Health" is added in place thereof.

53. In redesignated § 17.101(f), "Chief Medical Director" is removed and "Under Secretary for Health" is added in place thereof.

§ 17.102 [Amended]

54. In redesignated § 17.102, "§ 17.62" is removed and "§ 17.101" is added in place thereof.

§ 17.103 [Amended]

55. In redesignated § 17.103(a) introductory text, "§ 17.62(a)" is removed and "§ 17.101(a)" is added in place thereof.

56. In redesignated § 17.103(c)(1), "§ 17.62(a)" is removed and "§ 17.101(a)" is added in place thereof.

57. In redesignated § 17.103(c)(3), "§ 17.65a(c)" is removed and "§ 17.105(c)" is added in place thereof.

§ 17.104 [Amended]

58. In redesignated § 17.104(a), "§ 17.62(a) or (b)" is removed and "§ 17.101(a) or (b)" is added in place thereof.

§ 17.105 [Amended]

59. In redesignated § 17.105(a), "§ 17.62(a)" is removed and "§ 17.101(a)" is added in place thereof.

60. In redesignated § 17.105(b), "§ 17.64(b)" is removed and "§ 17.103(b)" is added in place thereof.

§ 17.112 [Amended]

61. In redesignated § 17.112, "§§ 17.76 and 17.77" is removed and "§§ 17.113 and 17.114" is added in place thereof.

§ 17.114 [Amended]

62. In redesignated § 17.114, "§ 17.76" is removed wherever it appears and "§ 17.113" is added in place thereof.

§ 17.122 [Amended]

63. In redesignated § 17.122, "§ 17.48(g)," is removed and "17.47(g)" is added in place thereof.

§ 17.125 [Amended]

64. In redesignated § 17.125(b), "Regional Office, Manila" is removed and "Outpatient Clinic (358/00), 2201 Roxas Blvd., Pasay City, 1300, Republic of the Philippines" is added in place thereof.

65. In redesignated § 17.125(c), "Chief, Outpatient Service, Department of Veterans Affairs Medical Center, 50 Irving Street NW., Washington, DC 20422" is removed and "Chief, Medical Administration Service (136), Department of Veterans Affairs Medical Center, White River Junction, VT 05009" is added in place thereof.

66. In redesignated § 17.125(d), "may be filed with the American Embassy or consulate in the country where services were provided. Claims will be developed and forwarded to the VA

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Medical Center, Washington, DC, for final action. Claims may be submitted directly to the VA Medical Center, Washington, DC, if the veteran has returned to the United States before having had a chance to contact the appropriate Embassy or Consulate" is removed and "must be mailed to the Health Administration Center, P.O. Box 65023, Denver, CO 80206–3023" is added in place thereof.

§ 17.128 [Amended]

67. In redesignated § 17.128 introductory text, "§ 17.80" is removed and "§ 17.120" is added in place thereof.

§ 17.129 [Amended]

68. In redesignated § 17.129, "§ 17.85" is removed and "§ 17.126" is added in place thereof.

§ 17.141 [Amended]

69. In redesignated § 17.141, "The VA Medical Center, Washington, DC," is removed and "The Health Administration Center in Denver, CO," is added in place thereof, and "except the Republic of the Philippines" is removed and "except Canada which will be referred to the VA Medical Center in White River Junction, VT, and the Republic of the Philippines which will be referred to the VA Outpatient Clinic in Pasay City" is added in place thereof.

70. In redesignated § 17.143, paragraph (a) is revised to read as follows:

§ 17.143 Transportation of claimants and beneficiaries.

(a) "If travel will be provided, it shall be paid in accordance with 38 U.S.C. 111 and this section." is added in place thereof.

(Authority: 38 U.S.C. 111)

* * * * *

§ 17.143 [Amended]

71. In redesignated § 17.143(f)(1), "§§ 17.47 and 17.54" is removed and "38 U.S.C. 1710, 38 CFR 17.46 and 17.84" is added in place thereof.

72. In redesignated § 17.143(h), "§ 17.60 (e) and (f)" is removed and "38 U.S.C. 1712(a)(5), and 1717" is added in place thereof.

73. In redesignated § 17.143(k)(1), "§ 17.101" is removed and "38 U.S.C. 111(c) and 38 CFR 17.144" is added in place thereof.

74. In redesignated § 17.143(k)(2), "for veterans under § 17.60 (h) and (i);" is removed; "for veterans under § 17.93 (a)(2) and (d)(3)" is added in place thereof; and "§ 17.48(g), subject to limitations described in § 17.101" is removed and "17.47(j), subject to limitations described in § 17.144" is added in place thereof.

75. In redesignated § 17.143(m), "§ 17.100, § 17.101 or § 17.102" is removed and "38 U.S.C. 111 and 38 CFR 17.143, 17.144 and 17.145" is added in place thereof.

§ 17.145 [Amended]

76. In redesignated § 17.145, an authority citation is added immediately following paragraph (b) to read: "(Authority: 38 U.S.C. 111)."

§ 17.150 [Amended]

77. In redesignated § 17.150(a), "§ 17.60 (a) through (d) and (k) through (m) (or a necessary part of outpatient care authorized under § 17.60a)" is removed and "38 U.S.C. 1712 and 38 CFR 17.93 (or a necessary part of outpatient care authorized under § 17.94)" is added in place thereof.

§ 17.157 [Amended]

78. In redesignated § 17.157, "Chief Medical Director" is removed and "Under Secretary for Health" is added in place thereof; and "§ 17.119a" is removed and "§ 17.156" is added in place thereof.

§ 17.158 [Amended]

79. In redesignated § 17.158(b), "Chief Medical Director" is removed and "Under Secretary for Health" is added in place thereof.

§ 17.160 [Amended]

80. In redesignated § 17.160(f), "§ 17.48(g)" is removed and "17.47(g)" is added in place thereof.

81. In redesignated § 17.160(g), "Chief Medical Director" is removed and "Under Secretary for Health" is added in place thereof.

§ 17.161 [Amended]

82. In redesignated § 17.161 introductory text, "§ 17.60 (a) to (d)" is removed and "38 U.S.C. 1712(b) and 38 CFR 17.93" is added in place thereof.

83. In redesignated § 17.161(i), "§ 17.48(g)" is removed and "17.47(g)" is added in place thereof.

§ 17.162 [Amended]

84. In redesignated § 17.162, "§ 17.123(b)" is removed and "§ 17.161(b)" is added in place thereof.

§ 17.170 [Amended]

85. In redesignated § 17.170(f), "§ 17.60" is removed and "38 U.S.C. 1712 and 38 CFR 17.93" is added in place thereof.

§ 17.190 [Amended]

86. In redesignated § 17.190(d), "§ 17.166a(b)" is removed and "§ 17.195(b)" is added in place thereof.

§ 17.191 [Amended]

87. In redesignated § 17.191, "Chief Medical Director" is removed in both places and "Under Secretary for Health" is added in both places.

§ 17.192 [Amended]

88. In redesignated § 17.192, the third sentence is removed.

§ 17.212 [Amended]

89. In redesignated § 17.212(a), "§§ 17.170 through 17.177" is removed and "38 U.S.C. 8131 through 8137 and §§ 17.210 through 17.216" is added in place thereof.

90. In redesignated § 17.212(b), "§ 17.173(d)" is removed and "§ 17.213(d)" is added in place thereof.

§ 17.213 [Amended]

91. In redesignated § 17.213(a)(3), "§§ 17.170 through 17.177" is removed and "38 U.S.C. 8135 and 38 CFR 17.210 through 17.216" is added in place thereof.

92. In redesignated § 17.213(c)(1) introductory text, "§§ 17.170 through 17.177 and appendix A to § 17.171" is removed and "§§ 17.210 through 17.216 and appendix A to § 17.211" is added in place thereof.

§ 17.214 [Amended]

93. In redesignated § 17.214(a) introductory text, "§ 17.173" is removed and "§ 17.213" is added in place thereof.

§ 17.215 [Amended]

94. In redesignated § 17.215(b), in the first and second sentences "§ 17.165" is removed and "§ 17.190" is added in place thereof.

§ 17.216 [Amended]

95. In redesignated § 17.216(c), "§§ 17.178 through 17.179" is removed and "§§ 17.217 and 17.218" is added in place thereof.

§ 17.217 [Amended]

96. In redesignated § 17.217(b), "§ 17.183" is removed and "§ 17.222" is added in place thereof.

§ 17.220 [Amended]

97. In redesignated § 17.220(b)(5), "§ 17.183(c)(5)(i)" is removed and "§ 17.222(c)(5)(i)" is added in place thereof.

§ 17.250 [Amended]

98. In redesignated § 17.250, "§ 17.260 through 17.291" is removed and "§ 17.250 through § 17.266" is added in place thereof.

§ 17.254 [Amended]

99. In redesignated § 17.254 introductory text, "Chief Medical Director" is removed both times it appears and "Under Secretary for Health" is added in place thereof both times it appears.

§ 17.255 [Amended]

100. In redesignated § 17.255, "§ 17.266" is removed and "§ 17.254" is added in place thereof.

§ 17.257 [Amended]

101. In redesignated § 17.257 introductory text, "Chief Medical Director" is removed and "Under Secretary for Health" is added in place thereof.

102. In redesignated § 17.257(b), "§ 17.271" is removed and "§ 17.258" is added in place thereof.

103. In redesignated § 17.257(c), "§§ 17.266 through 17.268" is removed and "§§ 17.254 through 17.256" is added in place thereof.

§ 17.258 [Amended]

104. In redesignated § 17.258(b), "§§ 17.266 through 17.267" is removed and "§§ 17.254 through 17.256" is added in place thereof.

105. In redesignated § 17.258(c), "§§ 17.275 through 17.277" is removed and "§§ 17.259 through 17.261" is added in place thereof.

§ 17.262 [Amended]

106. In redesignated § 17.262, "Chief Medical Director" is removed and "Under Secretary for Health" is added in place thereof.

§ 17.350 [Amended]

107. In § 17.350, "§§ 17.37 through 17.42" is removed and "38 U.S.C. 1724 and § 1732, and 38 CFR 17.36 through 17.40" is added in place thereof.

§ 17.355 [Amended]

108. In § 17.355, "Chief Medical Director" is removed and "Under Secretary for Health" is added in place thereof.

§ 17.364 [Amended]

109. In § 17.364(a), "§§ 17.37 through 17.39" is removed and "38 U.S.C. 1724 and 1732, and 38 CFR 17.36 through 17.37" is added in place thereof.

§ 17.367 [Amended]

110. In § 17.367, "§§ 17.37 through 17.42" is removed and "38 U.S.C. 1724 and 1732, and 38 CFR 17.36 through 17.40" is added in place thereof.

* * * * *

111. In § 17.601 paragraph (f) is revised to read as follows:

§ 17.601 Definitions.

(f) Under Secretary for Health means the Under Secretary for Health for Veterans Health Administration or designee.

* * * * *

§ 17.603, 17.608, 17.609 [Amended]

112. In §§ 17.603, 17.608(c) introductory text, and 17.609, "Chief Medical Director" is removed and "Under Secretary for Health" is added in each place thereof.

[FR Doc. 96–11637 Filed 5–10–96; 8:45 am]

BILLING CODE 8320–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 412

[BPD–856–FC]

Medicare and Medicaid Program; Criteria for a Rural Hospital To Be Designated as an Essential Access Community Hospital (EACH)

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule revises the criteria that a rural hospital must meet to be designated as an Essential Access Community Hospital (EACH). The revised criteria permit HCFA to designate a hospital as an EACH if the hospital cannot be designated as an EACH by the State only because it has fewer than 75 beds and is located 35 miles or less from another hospital. Hospitals in rural areas that are designated as EACHs by HCFA are treated, for payment purposes, as sole community hospitals.

The revised criteria are designed to facilitate development of network affiliations between rural EACHs and small rural facilities, known as Rural Primary Care Hospitals (RPCHs). The revisions would affect only hospitals located in rural areas of the States of California, Colorado, Kansas, South Dakota, New York, West Virginia, and North Carolina, or in an adjacent State.

DATES: Effective Date: This regulation is effective May 13, 1996.

Comment Period: Comments will be considered if received at the appropriate address, as provided below, no later than 5 p.m. on July 12, 1996.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–856–FC, P.O. Box 7517, Baltimore, MD 21207–0517.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201, or

Room C5–09–26, Central Building, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–856–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

For comments that relate to information collection requirements, mail a copy of comments to: Health Care Financing Administration, Office of Financial and Human Resources, Management Planning and Analysis Staff, Room C2–26–17, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $8.00. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: George Morey, (410) 786–4653.

SUPPLEMENTARY INFORMATION:

I. Background

On May 26, 1993, we published in the **Federal Register** (58 FR 30630) a final rule to implement the Essential Access Community Hospital (EACH) Program. That program, which is authorized by

section 1820 of the Social Security Act (the Act), is intended to promote regionalization of health services in rural areas, improve access to hospital and other health services for rural residents, and enhance the provision of emergency and other transportation services related to health care. The program is not national in scope, but is limited to the States (not to exceed seven) that have been given Federal grants for their activities in support of it. The States that have received such grants are California, Colorado, Kansas, South Dakota, New York, West Virginia, and North Carolina.

An important component of the EACH program is the rural health network, which is an organization made up of at least one Rural Primary Care Hospital (RPCH), and at least one EACH, regional referral center, or hospital located in an urban area that meets the criteria for classification as a regional referral center. An RPCH is a small, limited-service facility that is located in a rural area and furnishes outpatient and short-term inpatient care needed to stabilize a patient before discharge or transfer to another facility for further care. An EACH is a larger, full-service hospital that has agreed to provide emergency and medical backup services to the RPCH (or RPCHs) participating in its network. Network membership is optional for RPCHs, but a hospital cannot be designated as an EACH unless it has a network agreement. EACHs in rural areas are treated for Medicare payment purposes as sole community hospitals, which typically entitles the facilities to a higher level of payment for their inpatient services than they would otherwise receive.

As is the case with any other relationships between providers or between providers and other persons or entities, any arrangements are subject to the provisions of the Medicare and Medicaid anti-kickback statute (section 1128B(b) of the Social Security Act, 42 U.S.C. 1320a–7b(b)). That statute prohibits knowingly and willfully offering, paying, soliciting or receiving remuneration in order to induce business reimbursed under the Medicare, Medicaid or other State health care programs. Prohibited conduct includes the transferring of anything of value intended to induce referrals of patients, as well as *soliciting or receiving remuneration in return for* the purchasing, leasing, ordering or arranging for any good, facility, service or item paid for by Medicare, Medicaid, or other State health care program.

II. Criteria for Designation of EACHs

Under section 1820(I)(1)(A) of the Act, HCFA can designate a hospital as an EACH only if it meets specific requirements and is first designated as such by the grant State. The criteria for State designation are set forth in section 1820(e). Under these criteria, a State may designate a rural facility as an EACH only if the hospital—

- Is located in a rural area, as defined in section 1886(d)(2)(D);
- Is located more than 35 miles from any hospital that—
  + Has been designated as an essential access community hospital;
  + Is classified by the Secretary as a rural referral center under section 1886(d)(5)(C); or
  + Meets such other criteria relating to geographic location as the State may impose with the approval of the Secretary;
- Has at least 75 inpatient beds or is located more than 35 miles from any other hospital;
- Has in effect an agreement to provide emergency and medical backup services to rural primary care hospitals participating in the rural health network of which it is a member and throughout its service area;
- Has in effect an agreement, with each rural primary care hospital participating in the rural health network of which it is a member, to accept patients transferred from such primary care hospital, to receive data from and transmit data to such primary care hospital, and to provide staff privileges to physicians providing care at such primary care hospital; and
- Meets any other requirements imposed by the State with the approval of the Secretary.

Section 1820 also contains a provision that allows the Secretary some flexibility in designating hospitals as EACHs even though they do not meet the general bed size and geographic location criteria. Section 1820(i)(1)(B) of the Act allows the Secretary to designate a hospital as an EACH if it is not eligible for designation by the State only because it does not have 75 or more beds, or is not located more than 35 miles from another hospital. While we were preparing the final rule published May 26, 1993 (58 FR 30629), we received comments suggesting that we use this authority to designate facilities as EACHs, even though they do not meet the bed size and geographic criteria specified in section 1820(e)(2). We considered these comments carefully but decided to exercise the authority only with respect to hospitals that have fewer than 75 beds and are located within 35 miles of another hospital, but are not located within 35 miles of any hospital having 75 or more beds. Where such hospitals meet other applicable criteria and are recommended by the State as the EACH member of a proposed network, HCFA will designate them as EACHs. Regulations permitting such designations are set forth at 42 CFR 412.109(c)(2) (ii) and (iii).

Based on our further experience in administering the EACH program, we now believe that in order to increase access to hospital services in rural areas, there may be other circumstances in which it would be appropriate to exercise our section 1820(i)(1)(B) authority for rural hospitals. For example, a full-service hospital that meets other requirements to be the EACH member of a network may be located within 35 miles of another hospital that has 75 or more beds. In this situation the hospital could not, under existing regulations, be designated as an EACH, even if it is the only hospital that is willing and able to furnish the rural health network emergency and medical backup services available from EACHs that might be needed to permit a third facility to operate successfully as an RPCH, thus preserving access to care in its area. Under these circumstances, section 1820(i)(1)(B) authority may appropriately be exercised to permit designation of an EACH, thus allowing the small facility to be converted successfully to an RPCH and to continue providing services to its patients.

To allow for designation of facilities as EACHs in these circumstances while not defeating the purpose of the basic statutory requirements for EACH designations, we are revising § 412.109(c) of our regulations to specify additional criteria under which designations by HCFA will be made. As revised, the regulations allow a hospital located 35 miles or less from another hospital to be designated as an EACH only if—

- The hospital is not eligible for State designation as an EACH solely because it has fewer than 75 beds and is located 35 miles or less from any other hospital; and
- The hospital is located more than 35 miles from the nearest hospital having 75 or more beds, and is recommended by the State for designation as the EACH member of a proposed network; or
- The following criteria are met—

—The hospital seeking EACH designation has entered into a network agreement under 42 CFR 485.603 with a facility that the State has designated as an RPCH, and the hospital designated as an RPCH by the State does not have a network agreement with any existing EACH;

—The facility that the State has designated as an RPCH, and that has entered into the network agreement described above, is located more than 35 miles from any other hospital having 75 or more inpatient beds;

—The distance between the facility that the State has designated as an RPCH and the hospital seeking designation as an EACH is less than the distance between the facility that the State has designated as an RPCH and the nearest hospital that has 75 or more inpatient beds or is designated as an EACH; and

—The State certifies to HCFA that—

+ The rural health network emergency and medical backup services actually being provided by the hospital seeking EACH designation are essential to the continued existence of the facility as an RPCH; and

+ The existence of the facility as an RPCH is needed to ensure access to health care services in the area of the State served by the facility that the State has designated as an RPCH.

The criteria described above are designed to ensure that the section 1820(i)(1)(B) authority is exercised only in appropriate cases. First, there must be a network agreement in effect between the hospital seeking EACH designation and a particular facility that the State has designated an RPCH, and the RPCH must not have entered into any network agreement with any other hospital that is currently an EACH. This criterion is needed to ensure that there is a valid network agreement linking the two facilities, and that only one hospital is able to achieve EACH designation based on its agreement with a particular RPCH. In addition, a prospective EACH will not be able to qualify if the RPCH with which it has entered into a network agreement is within 35 miles of any other hospital having 75 or more inpatient beds or is designated as an EACH. We also are requiring that the hospital seeking designation as an EACH under these criteria be closer to the RPCH than the nearest hospital that has 75 or more beds or is designated as an EACH. We are including these provisions because we do not wish to encourage EACH designations that are inappropriate in terms of the location of the EACH or RPCH relative to other facilities.

In applying these criteria, we will consider only a hospital's location relative to other facilities that participate in Medicare as general hospitals (that is, under the criteria in 42 CFR 482.1 through 482.57). We will not take into account the location of nonparticipating hospitals or of those that participate in Medicare as psychiatric hospitals, since those hospitals would not be appropriate referral sites for most Medicare patients following care at an RPCH.

In addition, we require that the State make certain certifications to HCFA. These are—

- That the rural health network and emergency medical backup services actually being provided by the hospital seeking EACH designation are essential to the continued existence of the facility as an RPCH; and
- That the RPCH is needed to ensure access to health care services in its service area.

We have decided not to prescribe specific criteria for the State to follow in determining what constitutes a desirable level of patient access to care in rural areas, or whether the assistance of the EACH is needed to help ensure that a certain level of access is maintained. We believe each State should develop its own criteria and procedures for making these determinations, based on local and Statewide characteristics such as population density, travel conditions, existing referral patterns, availability of health care professionals, and other factors that affect access.

We are including a requirement under which EACH designation made under our revised regulation will remain in effect only as long as the criteria in § 412.109(c)(2)(D)(ii) continue to be met. Thus, for EACH designation to continue, the EACH must continue to carry out its network responsibilities with respect to the RPCH, and the continued existence of the facility as an RPCH must remain necessary to ensure patient access to care in the facility's service area. If we determine that these criteria are no longer met (because, for example, another source of care becomes available to patients in the area of the RPCH), or if a false certification was made, we will terminate the EACH status of the hospital prospectively, effective with discharges occurring on or after 30 days after the date of the determination. We are redesignating § 412.109(f) as new paragraph (g), and adding a new paragraph (f) that specifies this requirement.

Although we expect that States will notify us promptly of any changes in hospitals' activities and will not make false or inaccurate certifications, we reserve the right to review any information that calls the accuracy of a certification into question, and to terminate a hospital's EACH designation if we find factual information sufficient to convince us that the designation is no longer appropriate. The hospital's Medicare participation would not be affected by this change but, as of the effective date of the change, it would no longer be paid by Medicare as a sole community hospital. As in the case of any other determination that the hospital does not meet the criteria for EACH designation or that a hospital's EACH designation should be terminated, the determination would be subject to review under the provider appeals regulations at 42 CFR Part 405, Subpart R.

We note that a separate provision of the law and regulations allows a hospital to be designated as an EACH only if it has in effect an agreement for acceptance of patients and sharing of patient data with each RPCH in the network of which it is a member (section 1820(e)(4) of the Act and the implementing regulations at 42 CFR 412.109(d)(3)). Since an agreement of this kind can be made only with a facility participating in Medicare as an RPCH, the effect of this requirement is to allow EACH status for any hospital to be effective no earlier than the first date of participation of an affiliated RPCH. This provision is not subject to waiver under section 1820(I)(1)(B), and thus is not affected by this final rule.

III. Other Required Information

A. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, agencies are required to provide 60 days' notice in the **Federal Register** to solicit public comments before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3504(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment in the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendation to minimize the information collection burden on the affected public, including automated collection technique.

Following is a discussion of these requirements:

Under § 412.109(c), a hospital can be considered for HCFA designation as an

EACH, even though it does not meet the requirements for State designation as set forth in § 412.109(d), if the State makes certain certifications to HCFA. These include the importance of the EACH to the continued existence of the facility as an RPCH, by providing emergency and medical backup services with respect to the RPCH under its network agreement, and the importance of RPCH ongoing operation to access to care for residents of its service area. While the regulations do not require direct reporting of information to HCFA, we expect that as a practical matter the prospective EACH will be required to furnish the State with some information in order to support the second item of the certification, and that the prospective RPCH will need to supply the State with information in support of the other items.

Public reporting burden for this collection of information is estimated to be 2 hours for the hospital's first year of operation as an EACH and one hour for each subsequent year of operation as an EACH. Existing regulations require EACHs to furnish HCFA with information regarding their agreements with RPCHs, and we believe very little additional time will be required to supply the State with similar information.

Public reporting burden for the RPCH for this collection of information is estimated to be 6 hours for the hospital's first year of operation as an RPCH and 2 hours for each subsequent year of operation as an RPCH. These information collection and record keeping requirements are not effective until they have been approved by OMB. A notice will be published in the **Federal Register** when approval is obtained. Organizations and individuals desiring to submit comments on these information collection and record keeping requirements should direct them to the Health Care Financing Administration, Office of Financial and Human Resources, Management Planning and Analysis Staff, Room C2–26–17, 7500 Security Boulevard, Baltimore, MD 21244–1850.

B. Regulatory Flexibility Analysis

We generally prepare an initial regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA)(5 U.S.C. 601 through 612) unless the we certify that the final rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all hospitals to be small entities. Individuals and States are not included in the definition of a small entity.

Also, section 1102(b) of the Act requires us to prepare a regulatory impact analysis for any final rule that may have a significant impact on a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

We have determined, and certify, that these regulations will not have a significant impact on a substantial number of small rural hospitals. As noted earlier, EACH designation is available only in seven States and in the States adjacent to those seven States. Moreover, only a few prospective EACHs would be so located relative to other hospitals that they would be affected by the changes in this rule. Therefore, we have not prepared a regulatory flexibility analysis or an analysis of the effect on small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was not reviewed by the Office of Management and Budget.

Under the provisions of Public Law 104–121, we have determined that the rule is not a major rule.

C. Waiver of Notice of Proposed Rulemaking and 30–Day Delay in the Effective Date

We ordinarily publish a notice of proposed rulemaking for a rule to provide a period for public comment. However, we may waive that procedure if we find good cause that prior notice and comment are impractical, unnecessary, or contrary to public interest. We find good cause to implement this rule as a final rule because the delay involved in prior notice and comment procedures for the new provisions of this rule would be contrary to the public interest.

This rule does not impose an additional burden or obligation on any hospital or community; on the contrary, it relaxes a restriction on the designation of certain rural hospitals as EACHs. We expect that the resulting assistance will enable the small facilities to avoid closure and to continue to provide needed services to their communities. In view of the precarious financial status of many small rural hospitals, and in consideration of the likelihood that Medicare beneficiaries and other patients served by these facilities would be left without access to care if they closed, we believe it is necessary to implement this change as soon as possible. Thus, we find that the delay involved in prior notice and comment would be contrary to the public interest. We have concluded that it is appropriate to implement the revisions to § 412.109 as final in this instance.

We also normally provide a delay of 30 days in the effective date of a regulation. However, if adherence to this procedure would be impractical, unnecessary, or contrary to public interest, we may waive the delay in the effective date. We may also waive the delay in the case of a rule that grants an exemption or relieves a restriction. We find good cause to waive the usual 30-day delay in this instance. As explained above, it is in the public interest for the transition from hospital to RPCH to be made by many small facilities as soon as possible, so as to avert insolvency and complete closure. A 30-day delay in the effective date would only postpone unnecessarily the start of the transition for many facilities, and place them at greater risk. Therefore, we believe that a 30-day delay in the effective date for this provision would be contrary to the public interest, and we find good cause to waive the usual 30-day delay in the effective date.

List of Subjects in 42 CFR Part 412

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and record keeping requirements.

42 CFR part 412 is amended as set forth below:

PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES

1. The authority citation for part 412 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

Subpart G—Special Treatment of Certain Facilities Under the Prospective Payment System for Inpatient Operating Costs

2. In § 412.109, paragraph (c) is revised, paragraph (f) is redesignated as paragraph (g), and a new paragraph (f) is added to read as follows:

§ 412.109 Special treatment: Essential access community hospitals (EACHs).

* * * * *

(c) *Criteria for HCFA designation.*

(1) HCFA designates a hospital as an EACH if the hospital is located in a State that has received a grant under section 1820(a)(1) of the Act or in an adjacent State and is designated as an EACH by the State that has received the grant.

(2) HCFA designates a hospital as an EACH if—

(i) The hospital—

(A) Is not eligible for State designation as an EACH solely because the hospital has fewer than 75 inpatient beds and is located 35 miles or less from any other hospital; and

(B) Is located more than 35 miles from the nearest hospital having 75 or more inpatient beds, and is recommended by the State for designation as the EACH member of a proposed network; or

(ii) The following criteria are met—

(A) The hospital seeking EACH designation has entered into a network agreement under § 485.603 of this chapter with a facility that the State has designated as an RPCH, and the hospital designated as an RPCH by the State does not have a network agreement with any existing EACH;

(B) The facility that the State has designated as an RPCH, and that has entered into the network agreement described in paragraph (c)(2)(ii)(A) of this section, is located more than 35 miles from any other hospital having 75 or more inpatient beds;

(C) The distance between the facility that the State has designated as an RPCH and the hospital seeking designation as an EACH is less than the distance between the facility that the State has designated as an RPCH and the nearest hospital that has 75 or more inpatient beds or is designated as an EACH;

(D) The State certifies to HCFA that—

(*1*) The rural health network emergency and medical backup services actually being provided by the hospital seeking EACH designation are essential to the continued existence of the facility as a RPCH; and

(*2*) The existence of the facility as an RPCH is needed to ensure access to health care services in the area of the State served by the RPCH.

For purposes of this paragraph (c)(2)(ii), the location of a hospital will not be considered unless the hospital participates in Medicare under §§ 482.1 through 482.57 of this chapter.

* * * * *

(f) *Termination of EACH designation under paragraph (c)(2)(ii)(D).* If HCFA determines that the criteria in paragraph (c)(2)(ii)(D) of this section are no longer met with respect to a hospital HCFA has designated as an EACH under that paragraph, HCFA will terminate the EACH designation of the hospital, effective with discharges occurring on or after 30 days after the date of the determination.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 6, 1996.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: May 8, 1996.

Donna E. Shalala,

Secretary.

[FR Doc. 96–11990 Filed 5–9–96; 10:26 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 94–156; RM–8564]

Radio Broadcasting Services; Hawesville, KY and Tell City, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of WLME, Inc, substitutes Channel 246A for Channel 289A at Hawesville, Kentucky, and modifies Station WKCM-FM's license accordingly. To accommodate the allotment, we also substitute Channel 289A for vacant Channel 245A at Tell City, Indiana. *See* 60 FR 90, January 3, 1995. Channel 246A can be substituted for Channel 289A at Hawesville in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.7 kilometers (2.3 miles) northeast at petitioner's presently licensed site. The reference coordinates for Channel 246A at Hawesville are North Latitude 37–55–33 and West Longitude 86–43–19. *See* Supplementary Information, *infra.*

EFFECTIVE DATE: June 17, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 94–156, adopted April 24, 1996, and released May 3, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Additionally, Channel 289A can be substituted for vacant Channel 245A at Tell City, Indiana, in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.6 kilometers (7.8 miles) south in order to avoid short-spacings to the licensed sites of Station WASE(FM), Channel 288A, Fort Knox, Kentucky, and Station WUZR(FM), Channel 289A, Bicknell, Indiana. The modified reference coordinates for Channel 289A at Tell City are North Latitude 37–50–49 and West Longitude 86–43–27. With this action, this proceeding is terminated.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by removing Channel 289A and adding Channel 246A at Hawesville.

3. Section 73.202(b), the Table of FM Allotments under Indiana, is amended by removing Channel 245A and adding Channel 289A at Tell City.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–11815 Filed 5–10–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF DEFENSE

48 CFR Part 231

[DFARS Case 96–D303]

Defense Federal Acquisition Regulation Supplement; Cost Reimbursement Rules for Indirect Costs—Private Sector

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement to permit the DoD to enter into a defense

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capability preservation agreement with a defense contractor where it would facilitate the achievement of the policy objectives relating to defense reinvestment, diversification, and conversion set forth in 10 U.S.C. 2501(b).

DATES: *Effective date:* May 13, 1996.

Comment date: Comments on the interim rule and the associated information collection requirement should be submitted in writing to the address shown below on or before July 12, 1996, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Sandra G. Haberlin, PDUSD (A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 96–D303 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT:

Ms. Sandra G. Haberlin, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule adds Subsection 231.205–71 to the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 808 of the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104–106). Section 808 permits the DoD to enter into a defense capability preservation agreement with a defense contractor where it would facilitate the achievement of the policy objectives relating to defense reinvestment, diversification, and conversion set forth in 10 U.S.C. 2501(b). Such an agreement would permit the contractor to claim certain indirect costs, attributable to its private sector work, on its defense contracts.

B. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this rule as an interim rule. Compelling reasons exist to promulgate this rule without prior opportunity for public comment. This rule implements Section 808 of the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104–106), which was effective upon enactment on February 10, 1996. However, comments received in response to the publication of this interim rule will be considered in formulating the final rule.

C. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because most contracts awarded to small entities are awarded on a competitive fixed-price basis and do not require application of the cost principles contained in this rule. An initial regulatory flexibility analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subpart will also be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite 5 U.S.C. 601 *et seq.* (DFARS Case 96–D303), in correspondence.

D. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (Pub. L. 104–13) applies because the interim rule contains a new information collection requirement. A request for approval of a new information collection requirement, under the emergency processing provisions of Section 3502(j) of the Paperwork Reduction Act, was submitted to the Office of Management and Budget and approved through July 31, 1996, under OMB Number 0704–0387. The necessary regular request for approval of the information collection requirement has been submitted to the Office of Management and Budget under Section 3507(d) of the Act.

Comments are invited. Particular comments are solicited on:

a. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

b. The accuracy of the agency's estimate of the burden of the information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

Title, Associated Form, and OMB Number: Defense Preservation Capability Agreements, DFARS Subsection 231.205–71, OMB Number 0704–0387.

Needs and Uses: This information collection requirement is a direct result of Section 808 of the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104–106). Section 808 and this interim rule permit the Department of Defense (DoD) to enter into a defense capability preservation agreement with a defense contractor. This agreement would permit the contractor to claim certain indirect costs attributable to its private sector work as allowable costs on its defense contracts. Before such an agreement may be entered into, DoD must make a determination that the agreement would facilitate DoD's achievement of the policy objectives relating to defense reinvestment, diversification, and conversion set forth in 10 U.S.C. 2501(b). In order to make this determination, DoD must obtain supporting information from the contractor requesting the agreement. The informational copy to be provided to the cognizant administrative contracting officer (ACO) will facilitate early involvement of the ACO, who will be a key player in compiling data for evaluation of the request.

Affected Public: Businesses or other for profit.

Annual Burden Hours: 4,000.

Number of Respondents: 50.

Average Burden Per Response: 80 Hours.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The collection of information is required each time a defense contractor requests to enter into a defense capability preservation agreement with DoD, in accordance with Section 808 of Pub. L. 104–106. Such an agreement would permit the contractor to claim certain indirect costs attributable to its private sector work as allowable costs on its defense contracts. The law does not require contractors to submit the information. The law does require, however, that before a defense capability preservation agreement may be entered into, DoD must make a determination that such an agreement would facilitate DoD's achievement of the policy objectives relating to defense reinvestment, diversification, and conversion set forth in 10 U.S.C. 2501(b). In order to make this determination, DoD must obtain supporting information from the contractor requesting the agreement. The rule also recommends that the contractor submit a copy of any request for such an agreement to the cognizant administrative contracting officer.

List of Subjects in 48 CFR Part 231

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 231 is amended as follows:

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 231 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

2. Section 231.205–71 is added to read as follows:

231.205–71 Defense capability preservation agreements.

(a) *Scope and authority.* Where it would facilitate the achievement of the policy objectives relating to defense reinvestment, diversification, and conversion set forth in 10 U.S.C. 2501(b), DoD may enter into a "defense capability preservation agreement" with a contractor. As authorized by Section 808 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106), such an agreement would permit the contractor to claim certain indirect costs attributable to its private sector work as allowable costs on its defense contracts.

(b) *Procedure.* A contractor may submit a request for such an agreement, together with appropriate justification, through the Assistant Secretary of Defense for Economic Security, to the Under Secretary of Defense for Acquisition and Technology, who has exclusive approval or disapproval authority. The contractor should also provide an informational copy of any such request to the cognizant administrative contracting officer.

[FR Doc. 96–11887 Filed 5–10–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF ENERGY

48 CFR Parts 904, 906, 911, 912, 913, 915, 919, 925, 926, 933, 950, 952 and 970

RIN 1991–AB27

Acquisition Regulation; Technical Amendments

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) today issues a final rule to make technical, non-substantive amendments to the Department of Energy Acquisition Regulation (DEAR). The Federal Acquisition Regulation (FAR) was amended several times to implement various parts of the Federal Acquisition Streamlining Act of 1994, Public Law 103–355. This rule amends sections of the DEAR to conform to the revised provisions of the FAR.

EFFECTIVE DATE: This final rule will be effective June 12, 1996.

FOR FURTHER INFORMATION CONTACT: Richard B. Langston, Office of Policy (HR–51), Office of the Deputy Assistant Secretary for Procurement and Assistance Management, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–8247.

SUPPLEMENTARY INFORMATION:

I. Explanation of Revisions
II. Procedural Requirements
A. Review Under Executive Order 12866
B. Review Under Executive Order 12778
C. Review Under the Regulatory Flexibility Act
D. Review Under the Paperwork Reduction Act
E. Review Under Executive Order 12612
F. Review Under the National Environmental Policy Act
G. Public Hearing Determination

I. Explanation of Revisions

The revisions in this rule are either technical and nonsubstantive in nature, or nondiscretionary. They involve the renumbering or redesignating of DEAR sections or subsections, or the substitution of new terminology for designations previously used to describe "small purchases" and "small and small disadvantaged businesses." These revisions are intended to ensure that the DEAR conforms to the FAR to implement various parts of the Federal Acquisition Streamlining Act of 1994, Public Law 103–355. Three amendments to the FAR created a need for this technical amendment of the DEAR. New FAR regulations governing micropurchases, i.e., acquisitions below $2,500, and simplified acquisitions, i.e., acquisitions exceeding the micropurchase level but not greater than $100,000, were published respectively on December 15, 1994 at 59 FR 64786 and July 3, 1995 at 60 FR 34741. These two amendments require changes at DEAR Parts 901, 904, 906, 913, 915, 925, 952 and 970. The third amendment affected provisions dealing with commercial items, small business, and protests. It was published on September 18, 1995, at 60 FR 48206. It requires changes at DEAR Parts 911, 912, 919, 926, and 933.

II. Procedural Requirements

A. Review Under Executive Order 12866

This regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993). Accordingly, this action was not subject to review, under that Executive Order, by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2 (a) and (b), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected legal conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that this rule meets the requirements of sections 2 (a) and (b) of Executive Order 12778.

C. Review Under the Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980, Public Law 96–354, which requires preparation of a regulatory flexibility analysis for any rule that is likely to have a significant economic impact on a substantial number of small entities. This rule will have no impact on interest rates, tax policies or liabilities, the cost of goods or services, or other direct economic factors. It will also not have any indirect economic consequences such as changed construction rates. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed by this rule. Accordingly, no OMB clearance is required under the

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Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

E. Review Under Executive Order 12612

Executive Order 12612, entitled "Federalism," 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. DOE has determined that this rule will not have a substantial direct effect on the institutional interests or traditional functions of States.

F. Review Under the National Environmental Policy Act

Pursuant to the Council on Environmental Quality Regulations (40 CFR 1500–1508), the Department has established guidelines for its compliance with the provisions of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321). Pursuant to Appendix A of Subpart D of 10 CFR 1021, National Environmental Policy Act Implementing Procedures (Categorical Exclusion A6), DOE has determined that this rule is categorically excluded from the need to prepare an environmental impact statement or environmental assessment.

G. Prior Notice and Public Hearing Determination

The final regulations published in this notice are interpretive of FAR provisions implementing the Federal Acquisition Streamlining Act of 1994, Public Law 103–355. They are non-discretionary in nature. DOE therefore is not providing prior notice and opportunity for public comment.

DOE also has concluded that this rule does not involve any significant issues of law or fact. Therefore, consistent with 5 U.S.C. 553, DOE has not scheduled a public hearing.

List of Subjects in 48 CFR Parts 904, 906, 911, 912, 913, 915, 919, 925, 926, 933, 950, 952, and 970

Government procurement.

Issued in Washington, D.C., on April 25, 1996.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is amended as set forth below.

1. The authority citation for Parts 904, 906, 911, 912, 913, 915, 919, 925, 926, 933, 950, and 952 continues to read as follows:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

1a. The authority citation for Part 970 continues to read:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), sec. 644 of the Department of Energy Organization Act of 1977, Public Law 95–91 (42 U.S.C. 7254).

PART 904—ADMINISTRATIVE MATTERS

§ 904.7103 [Amended]

2. Section 904.7103, "Solicitation provision and contract clause" is amended, at both paragraphs (a) and (b), by revising the words "small purchase or other simplified purchase" to read "simplified acquisition."

PART 906—COMPETITION REQUIREMENTS

§ 906.303–1 [Amended]

3. Subsection 906.303–1(a), Requirements, is amended by removing the final sentence.

PART 912—[REDESIGNATED AS PART 911]

4. Part 912 is redesignated Part 911 (Part 912 is reserved). The heading for the new 911 is "DESCRIBING AGENCY NEEDS."

§ 912.300, 912.302, 912.304 [Redesignated as 911.600, 911.602, 911.604]

a. Sections 912.300, 912.302, and 912.304 are redesignated 911.600, 911.602, and 911.604 respectively.

911.600 [Amended]

b. Newly redesignated Section 911.600 is amended by revising the reference "FAR subpart 12.3" to read "FAR subpart 911.6."

§ 911.604 [Amended]

c. Newly designated Section 911.604 is amended:

i. in paragraph (a) by revising "952.212–70" to read "952.211–70" and removing "(JUNE 1987)";

ii. in paragraph (b) by revising "952.212–71" to read "952.211–71" and removing "(JUNE 1987)";

iii. in paragraph (c) by revising "952.212–70" and "952.212–71" to read "952.211–70" and "952.211–71" respectively;

iv. in paragraph (d) by revising "952.212–70" to read "952.211–70" and removing "(JUNE 1987)"; and,

v. in paragraph (e) by revising "952.212–71" to read "952.211–71" and removing "(JUNE 1987)."

PART 913—SIMPLIFIED ACQUISITION PROCEDURES

5. The Part heading for Part 913 is amended to read as set forth above.

§ 913.505–1 [Amended]

6. Subsection 913.505–1 is amended as follows:

a. at paragraph (a)(2) by revising the words "small purchase" in the first sentence to read "simplified acquisition";

b. by adding a new third sentence to read: 913.505–1 Optional Form (OF) 347, Order for Supplies or Services, and Optional Form 348, Order for Supplies or Services-Continuation or DOE F 4250.3, Order for Supplies or Services. * * * Standard Form 1449 shall be used for acquisitions of commercial items.

c. by adding, at paragraph (b)(2), the words "or Standard Form 1449" after the words "Optional Form 347."

PART 915—CONTRACTING BY NEGOTIATION

915.970–8 [Amended]

7. Subsection 915.970–8 is amended at paragraph (f)(1), second sentence, by removing the words "labor surplus," and at paragraph (f)(2)(i), first sentence, by revising the words "small business and small disadvantaged business" to read "small, small disadvantaged and women-owned small business," by removing paragraph (f)(2)(ii), and by redesignating subparagraph (f)(2)(iii) as (f)(2)(ii).

915.971–3 [Amended]

8. Subsection 915.971–3, is amended at paragraph (b)(viii), by revising the words "small and small disadvantaged" to read "small, small disadvantaged and women-owned small."

PART 919—SMALL BUSINESS PROGRAMS

9. The Part heading for Part 919 is revised to read as set forth above.

919.201 [Amended]

10. Paragraph (c) of section 919.201 is amended in each of the first three sentences, by revising the words "small and small disadvantaged" to read "small, small disadvantaged, and women-owned small" and in the fourth sentence, by revising the words "small business/small disadvantaged business (SB/DB) specialist" to read "small business specialist."

919.501 [Amended]

11. Section 919.501, General, at the end of the first sentence of paragraph (c), is amended by revising the words "small purchase limitation" to read "simplified acquisition threshold."

919.602–1 [Amended]

12. Subsection 919.602–1, Referral, is amended at paragraph (a)(2) by removing the words "and disadvantaged."

919.7 [Amended]

Subpart 919.7—Subcontracting with Small Business, Small Disadvantaged Business, and Women-Owned Small Business Concerns

13. The heading of Subpart 919.7 is revised to read as set forth above.

PART 925—FOREIGN ACQUISITION

925.901 [Amended]

14. Section 925.901, Omission of the examination of records clause, is amended by revising its heading to read "Omission of the audit clause." and by revising "48 CFR 25.903" to read "48 CFR 25.901."

PART 926—OTHER SOCIOECONOMIC PROGRAMS

926.7003 [Amended]

15. Section 926.7003, Review of the procurement request, is amended by removing "/Labor Surplus Area Set Aside."

PART 933—PROTESTS, DISPUTES, AND APPEALS

933.106 [Amended]

16. Section 933.106 is amended by revising the words "for other than small purchases" to read "above the simplified acquisition threshold."

PART 950—EXTRAORDINARY CONTRACTUAL ACTIONS

950.7101 [Amended]

17. Section 950.7101, at paragraph (c)(2), first sentence, is amended by revising the words "small businesses and small disadvantaged businesses" to read "small, small disadvantaged and women-owned small businesses."

PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

952.212 [Redesignated as 952.211]

18. Section 952.212 is redesignated 952.211. Its subsections are amended as follows:

a. Subsections 952.212–70, 952.212–71, 952.212–72, and 952.212–73 are redesignated 952.211–70, 952.211–71, 952.211–72, and 952.211–73 respectively.

b. Redesignated subsection 952.211–70, is amended by revising the reference "912.304(a)" to read "911.604(a)" in the introductory paragraph and by revising the reference "912.304(d)" to read "911.604(d)" in Alternate I.

c. Redesignated 952.211–71 is amended by revising the reference "912.304(b)" to read "911.604(b)" in the introductory paragraph and by revising the reference "912.304(e)" to read "911.604(e)" in Alternate I.

952.226 [Amended]

19. Section 952.226 is amended at 952.226–70(c) in the first sentence, 952.226–70(d) and 970.226–72(c)(2) by revising the words "Small Business and Small Disadvantaged Business Subcontracting Plan" to read "Small, Small Disadvantaged and Women-Owned Subcontracting Plan" and at 952.226–71(b) by revising the words "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns" to read "Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns."

952.250–70 [Amended]

20. Subsection 952.250–70, Nuclear hazards indemnity agreement, is amended at paragraph (h) by removing the words "Officials Not to Benefit" and revising the words "Examination of Records by the Comptroller General" to read "Audit and records—negotiation."

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

970.19 Small, Small Disadvantaged and Women-Owned Small Business Concerns

21. The heading of subpart 970.19 is revised to read as set forth above.

970.5203–2 [Removed and reserved]

22. Subsection 970.5203–2, Examination of Records by the Comptroller General, is removed and reserved.

970.5204–9 [Amended]

23. Subsection 970.5204–9, Accounts, records, and inspection, is amended by revising paragraph (g) and adding paragraph (i). The revised and added paragraphs read:

970.5204–9 Accounts, records, and inspection.

* * * * *

Accounts, Records, and Inspection (APR 1996)

* * * * *

(g) *Subcontracts.* The contractor further agrees to require the inclusion of provisions similar to those in paragraphs (a) through (g) and paragraph (i) of this clause in all subcontracts (including fixed-price or unit-price subcontracts or purchase orders) of any tier entered into hereunder where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor.

Note: If the prime contract contains a "Defective Cost or Pricing Data" clause, this paragraph (g) shall be modified by adding the following:

The contractor further agrees to include an "Audit" clause, the substance of which is the "Audit" clause set forth at FAR 52.215–2, in each subcontract which does not include provisions similar to those in paragraph (a) through paragraph (g) and paragraph (i) of this clause, but which contains a "defective cost and pricing data" clause.

* * * * *

(i) *Comptroller General.*

(1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder.

(2) This paragraph may not be construed to require the contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(3) Nothing in this contract shall be deemed to preclude an audit by the General Accounting Office of any transaction under this contract.

970.5204–13 [Amended]

24. Subsection 970.5204–13, Allowable costs and fixed-fee (Management and Operating contracts), at clause paragraph (e)(36)(ii)(A), is amended by revising the words "Small Businesses and Small Disadvantaged Businesses" (both sentences) to read "small, small disadvantaged and women-owned small businesses" and by revising the words "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns" to read "Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns" in the first sentence.

970.5204–14 [Amended]

25. Subsection 970.5204–14, Allowable costs and fixed-fee (support contracts), at paragraph (e)(34)(ii)(A), is amended by revising the words "Small Businesses and Small Disadvantaged Businesses" (both sentences) to read "small, small disadvantaged and women-owned small businesses" and by revising the words "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns" to read "Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns." (first sentence).

970.5204–44 [Amended]

26. Subsection 970.5204–44, Flowdown of contract requirements to subcontracts, is amended by removing and reserving paragraph (b)(12), Examination of Records by the Comptroller General, and revising the title of subparagraph (b)(19) to read "Accounts, Records, and Inspection."

[FR Doc. 96–11918 Filed 5–10–96; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 678

[I.D. 042696D]

Atlantic Shark Fisheries; Large Coastal Shark Species

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the commercial fishery for large coastal sharks conducted by vessels with a Federal Atlantic shark permit in the Western North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. This action is necessary to prevent exceeding the semiannual quota of 1285 metric tons (mt) for the period January 1 through June 30, 1996.

EFFECTIVE DATE: The closure is effective from 11:30 p.m. local time May 17, 1996, through June 30, 1996.

FOR FURTHER INFORMATION CONTACT: C. Michael Bailey, 301–713–2347; Kevin B. Foster, 508–281–9260; or John M. Ward 813–570–5335.

SUPPLEMENTARY INFORMATION: The Atlantic shark fishery is managed by NMFS according to the Fishery Management Plan (FMP) for Atlantic Sharks prepared by NMFS under authority of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR part 678.

Section 678.24(b) of the regulations provides for two semiannual quotas of large coastal sharks to be harvested from Atlantic, Caribbean, and Gulf of Mexico waters by commercial fishermen. The first semiannual quota of 1,285 mt is available for harvest from January 1 through June 30, 1996.

The Assistant Administrator for Fisheries, NOAA (AA), is required under § 678.25 to monitor the catch and landing statistics and, on the basis of these statistics, to determine when the catch of Atlantic, Caribbean, and Gulf of Mexico sharks will equal any quota under § 678.24(b). When shark harvests reach, or are projected to reach, a quota established under § 678.24(b), the AA is further required under § 678.25 to close the fishery.

The AA has determined, based on the reported catch and other relevant factors, that the semiannual quota for the period January 1 through June 30, 1996, for large coastal sharks, in or from the Western North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, will be attained by May 17, 1996. During this closure, for vessels issued a permit under § 678.4, retention of large coastal sharks from the management unit is prohibited, unless the vessel is operating as a charter vessel or headboat, in which case, the vessel limit per trip is four large coastal sharks. Also, the sale, purchase, trade, or barter or attempted sale, purchase, trade, or barter of carcasses and/or fins of large coastal sharks harvested by a person aboard a vessel that has been issued a permit under § 678.4, is prohibited, except for those that were harvested, offloaded, and sold, traded, or bartered prior to May 17, 1996, and were held in storage by a dealer or processor.

Vessels that have been issued a Federal permit under § 678.4 are reminded that, as a condition of permit issuance, the vessel may not retain a large coastal shark during the closure, except as provided by § 678.24(a). Fishing for pelagic and small coastal sharks may continue. The recreational fishery is not affected by this closure.

Classification

This action is taken under 50 CFR part 678 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. *et seq.*

Dated: May 6, 1996

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–11851 Filed 5–8–96; 2:28 pm]
BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 93
Monday, May 13, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–165–AD]
RIN 2120–AA64

Airworthiness Directives; Beech (Raytheon) Model BAe 125–800A and –1000A, and Model Hawker 800 and 1000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Beech (Raytheon) Model BAe 125–800A and –1000A, and Model Hawker 800 and 1000 series airplanes. This proposal would require modification of the TKS metering pump in the airframe ice protection system. This proposal is prompted by a report that the pump was found fitted with silver plated wiring. The actions specified by the proposed AD are intended to ensure that silver plated wiring is removed from these pumps; silver plated wiring carrying a direct current can ignite the ice protection fluid (glycol) when exposed to it, which could result in a possible fire hazard.

DATES: Comments must be received by June 17, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–165–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Raytheon Aircraft Company, Manager, Service Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–165–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–165–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain Beech (Raytheon) Model BAe 125–800A and –1000A, and Model Hawker 800 and 1000 series airplanes. The CAA has received a report indicating that, during a design review, the TKS metering pump in the airframe ice protection system was found fitted with silver plated wiring. The TKS pump pumps the ice protection fluid to the wing leading edge where it is excreted through microholes to prevent ice build up. If silver plated wiring is bare, or if its insulation is chafed, and it is carrying a direct current, it can ignite the ice protection fluid (glycol) when exposed to it. Such an ignition could result in a possible fire hazard.

The manufacturer has issued Hawker Service Bulletin SB.30–61–7676A, dated February 15, 1995, which describes procedures for modification of the TKS pump (Modification 257676A). The modification involves accomplishing an inspection to determine if the flying leads of the TKS pump have silver plated conductors; replacement of those leads with ones that do not have silver plated conductors; and reidentification of the pump. Accomplishment of this modification will ensure that silver plated wiring is removed from the TKS pump. The CAA classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require modification of the TKS pump.

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The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 23 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,380, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Beech Aircraft Company (Formerly DeHavilland; Hawker Siddeley; British Aerospace, PLC; Raytheon Corporate Jets, Inc.): Docket 95–NM–165–AD.

Applicability: Model BAe 125–800A and –1000A, and Model Hawker 800 and 1000 series airplanes; on which Modification 257676A has not been accomplished (reference Hawker Service Bulletin SB.30–61–7676A or Aerospace Systems and Technology Service Bulletin S.B.30–25); certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Note 2: Beech (Raytheon) Model BAe 125–800B and BAe 125–1000B series airplanes are similar in design to the airplanes that are subject to the requirements of this AD and, therefore, also may be subject to the unsafe condition addressed by this AD. However, as of the effective date of this AD, those models are not type certificated for operation in the United States. Airworthiness authorities of countries in which the Model BAe 125–800B and BAe 125–1000B series airplanes are approved for operation should consider adopting corrective action, applicable to those models, that is similar to the corrective action required by this AD.

Compliance: Required as indicated, unless accomplished previously.

To ensure that silver plate wiring is removed from the TKS metering pump and a possible fire hazard eliminated, accomplish the following:

(a) Within 3 months after the effective date of this AD, modify the TKS pump in accordance with Hawker Service Bulletin SB.30–61–7676A, dated February 15, 1995.

(b) As of the effective date of this AD, no person shall install on any airplane a TKS metering pump, having part number XA9511E003–3 or XA9511E009, unless it has been modified in accordance with the requirements of paragraph (a) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 3, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–11825 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 95–CE–39–AD]

RIN 2120–AA64

Airworthiness Directives; H.B. Flugtechnik GmbH 23/2400 Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain H.B. Flugtechnik GmbH (Flugtechnik) 23/2400 sailplanes. The proposed action would require inspecting the rudder bearing support bracket for cracks, replacing the bracket if cracked, and modifying the bracket with a third bolt if no cracks are found. Cracks found in the rudder bearing support brackets during routine inspections prompted the proposed action. The actions specified by the proposed AD are intended to prevent cracks in the rudder bearing support bracket, which could cause loss of control of the rudder and possible loss of control of the sailplane.

DATES: Comments must be received on or before July 15, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–39–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from H.B. Flugtechnik GmbH, attn: Dr. Adolf Scharf STR, 42 P.F. 74, A–4053, Haid, Austria. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–39–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Herman C. Belderok, Project Officer, Sailplanes/Gliders, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 95–CE–39–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–39–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Austro Control GmbH (ACG), which is the airworthiness authority for Austria, notified the FAA that an unsafe condition may exist on certain Flugtechnik HB 23/2400 sailplanes. The ACG reports that, upon routine inspections of certain Flugtechnik HB 23/2400 sailplanes, cracks are appearing in the rudder bearing support bracket. This condition, if not detected and corrected, could result in loss of control of the rudder and possible loss of control of the sailplane.

Flugtechnik has issued service bulletin (SB) HB 23/19/91, dated October 5, 1991, which specifies procedures for inspecting the rudder bearing support bracket for cracks, replacing the bracket if cracks are found and modifying the bracket with a third bolt if no cracks are found.

The ACG classified this service bulletin as mandatory and issued AD No. 68, dated October 28, 1991, in order to assure the continued airworthiness of these sailplanes in Austria.

This sailplane model is manufactured in Austria and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the ACG has kept the FAA informed of the situation described above. The FAA has examined the findings of the ACG, reviewed all available information including the service information referenced above, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop in other certain Flugtechnik 23/2400 sailplanes of the same type design registered in the United States, the proposed AD would require inspecting the rudder bearing support bracket for cracks, and replacing the bracket with a new bracket with 3 bolt holes, or modifying the bracket by making a third hole and installing a new bolt. Accomplishment of the proposed installation would be in accordance with Flugtechnik SB HB 23/19/91, dated October 5, 1991.

The FAA estimates that one sailplane in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per sailplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $5 per sailplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $65. The FAA has no way of determining whether the one sailplane owner/operator has replaced or modified the rudder bearing support bracket and this figure takes into account that the affected sailplane operator has not accomplished the proposed action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [AMENDED]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

H.B. Flugtechnik: Docket No. 95–CE–39–AD.

Applicability: Model 23/2400 Sailplanes (serial numbers 23001 through 23048), certificated in any category.

Note 1: This AD applies to each sailplane identified in the preceding applicability

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provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 50 hours time-in- service (TIS) after the effective date of this AD, unless already accomplished.

To prevent the rudder bearing support bracket from cracking, which could cause loss of rudder control and possible loss of the sailplane, accomplish the following:

(a) Inspect (one time) the rudder bearing support bracket with a 10x magnifying glass for any visible cracks in accordance with the *Actions* section of Flugtechnik service bulletin (SB) HB–23/19/91, dated October 5, 1991.

(1) If cracks are found, prior to further flight, replace the rudder bearing support bracket with a new support bracket that has 3 bolt holes in accordance with the *Actions* section of Flugtechnik SB HB–23/19/91, dated October 5, 1991.

(2) If no cracks are found, modify the rudder bearing support bracket by installing a third bolt (part number M6x30) or replace the bracket with a new bracket that has 3 bolt holes in accordance with the *Actions* section of Flugtechnik SB HB–23/19/91, dated October 5, 1991.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the sailplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

NOTE 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate Aircraft Certification Office.

(d) All persons affected by this directive may obtain copies of this document referred to herein upon request to H.B. Flugtechnik GmbH, attn: Dr. Adolf Scharf STR, 42 P.F. 74, A–4053, Haid, Austria; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 6, 1996.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–11880 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–NM–63–AD]

RIN 2120–AA64

Airworthiness Directives; Gates Learjet Model 35 and 36 Series Airplanes Modified by Raisbeck STC SA766NW

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Gates Learjet Model 35 and 36 series airplanes that have been modified in accordance with Raisbeck Supplemental Type Certificate (STC) SA766NW. This proposal would require a reduction of the maximum operating limit speed on the affected airplanes to prevent encountering certain potentially hazardous conditions. This proposal is prompted by reports of incidents of aileron buffet or buzz experienced during high speed cruise. The actions specified by the proposed AD are intended to prevent aileron buffet or buzz conditions, which can result in the deterioration of the aircraft lateral control system characteristics to an unacceptable level.

DATES: Comments must be received by June 24, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–63–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

Information concerning the subject of this rulemaking action may be obtained from Jet Air Corporation, P.O. Box 245, Bellevue, Washington 98009. Information concerning this rulemaking action may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stan Wood, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2772; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96–NM–63–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–63–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On July 23, 1985, the FAA issued AD 85–16–04, amendment 39–5110 (50 FR 30803, July 30, 1985), which is applicable to certain Gates Learjet Model 35 and 36 series airplanes that have been modified in accordance with Raisbeck Supplemental Type Certificate (STC) SA766NW. That AD requires the accomplishment of one of two optional actions, both of which are intended to prevent the airplane from encountering the potentially hazardous condition of aileron buffet or buzz:

1. One optional action requires operators to reduce permanently the maximum operating Mach limit (M_{MO}) of these airplanes from .83 to .80. This action includes resetting the Mach overspeed warning switch; recalibrating the airspeed indicator; and changing the FAA-approved Airplane Flight Manual (AFM) Supplement to reflect the new Mach limit; or

2. Removing the Raisbeck STC modifications and returning the airplane either to its original configuration or to the Gates Learjet "Softflight" configuration.

These proposed requirements are the same actions currently required by AD 85–16–06.

The applicability of the proposed AD would include all Learjet Model 35 and 36 series airplanes modified in accordance with Raisbeck STC SA766NW that are not currently subject to AD 85–16–04.

[**Note:** The FAA's normal policy is that when an AD requires a substantive change, such as a change (expansion) in its applicability, the "old" AD is superseded by removing it from the system and a new AD is added. In the case of this proposed AD action, the FAA normally would have proposed superseding AD 85–16–04 to expand its applicability to include the additional affected airplanes. However, in reconsideration of the entire fleet size that would be affected by a supersedure action, and the consequent workload associated with revising maintenance record entries, the FAA has determined that a less burdensome approach is to issue a separate AD applicable only to these additional airplanes. This proposed AD would not supersede AD 85–16–04; airplanes listed in the applicability of AD 85–16–04 are required to continue to comply with the requirements of that AD. This proposed AD is a separate AD action, and is applicable only to airplanes that are not subject to AD 85–16–04.]

Petitioning for an Exemption of the Requirements of the Final Rule

Affected operators should note that the aileron instability that is the subject of this proposed AD is a condition affected by the contour of the wing leading edge, which is a function of manufacturing tolerances. In light of this, the FAA recognizes that not all airplanes modified in accordance with Raisbeck STC SA766NW may exhibit the problem of aileron buffet or buzz below .83 Mach. Should this proposal become a final rule, operators of those airplanes may wish to petition the FAA for an exemption from the requirements of the rule, under the provisions of part 11 of the Federal Aviation Regulations (14 CFR 11), "General Rulemaking Procedures."

Petitioners for such an exemption should provide data that would justify a grant of exemption, including, but not limited to, information concerning the number of flights the airplane has flown in conditions involving high weight, high altitude, and high speed, and if any incident of buffet or buzz was observed during flight in those conditions. Based on the data submitted with the petition, the FAA will determine on a case-by-case basis if a flight evaluation or other additional data are necessary to determine if granting the petition (1) would not adversely affect safety, and (2) would be in the public interest.

Cost Impact

There are approximately 29 Gates Learjet Model 35 and 36 series airplanes of the affected design in the worldwide fleet. The FAA estimates that at least 1 airplane of U.S. registry would be affected by this proposed AD.

To accomplish the removal and recalibration of the airspeed indicators and Mach overspeed warning switch, and to revise the AFM Supplement, as would be required by "Option I" of the proposed rule, it would take approximately 5 work hours per airplane, at an average labor rate of $60 per work hour. The FAA estimates that it would cost approximately $1,000 per airplane to reset the airspeed indicators and Mach overspeed warning switch. Based on these figures, the cost impact of this action of the proposed AD on U.S. operators is estimated to be $1,300 per airplane.

To accomplish the removal of the STC modifications, as would be required by "Option II" of the proposed rule, it would take approximately 100 work hours per airplane, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this action of the proposed AD on U.S. operators is estimated to be $6,000 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if

Actions Subsequent to the Issuance of AD 85–16–04

When AD 85–16–04 was issued, its applicability included only certain modified airplanes, which were identified by specific serial numbers. However, since the issuance of that AD, the FAA has received a report that at least one additional airplane, that was not included in the applicability of the AD, has been modified in accordance with the subject Raisbeck STC. (The STC installed on this particular airplane was performed at a non-U.S. repair station.) In light of this, that airplane may be subject to the same unsafe condition addressed by AD 85–16–04.

Further, since the Raisbeck STC could be installed on Model 35 or 36 series airplanes anywhere in the world, the FAA may not be immediately aware of it. Therefore, the FAA has determined that any of these airplanes on which the Raisbeck STC is installed could be subject to that same unsafe condition.

Description of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require the accomplishment of one of two optional actions, both of which are intended to prevent the airplane from encountering the potentially hazardous condition of aileron buffet or buzz:

1. Permanently reducing the maximum operating M_{MO} from .83 to .80; resetting the Mach overspeed warning switch; recalibrating the airspeed indicator; and changing the FAA-approved Airplane Flight Manual

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promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Gates Learjet: Docket 96–NM–63–AD.

Applicability: Model 35, 35A, 36 and 36A series airplanes, modified in accordance with Raisbeck Group Supplemental type Certificate (STC) SA766NW, that do not have one of the serial numbers listed in Table 1 of this AD; certificated in any category.

TABLE 1

[Serial Numbers* NOT affected by this AD]

35–023	35A–092	35A–192	36–004
35–034	35A–093	35A–203	36–017
35–042	35A–095	35A–206	36–028
35–044	35A–118	35A–207	36A–029
35–047	35A–127	35A–209	36A–031
35A–068	35A–132	35A–228	36A–038
35A–073	35A–135	35A–231	36A–043
35A–075	35A–145	35A–244	36A–044
35A–076	35A–172	35A–245	
35A–086	35A–185	36–003	

*Airplanes having the serial numbers listed in Table 1 are subject to similar requirements mandated by AD 85–16–04, amendment 39–5110.

Note 1: This AD applies to each airplane as indicated in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent deterioration of the airplane's lateral control characteristics as a result of aileron buffet or buzz, accomplish the following:

(a) Within 200 hours time-in-service after the effective date of this AD, or within 6 months after the effective date of this AD, whichever occurs first, accomplish either paragraph (a)(1) or (a)(2) of this AD:

(1) *Option I.* Permanently reduce the airplane's maximum operating Mach limit (M_{MO}) by accomplishing the actions specified in paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(iii) of this AD:

(i) Submit the FAA-approved STC SA766NW Airplane flight Manual Supplement to the Manager, Flight Test Branch, ANM–160S, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; to change the limit Mach number from .83 to .80. And

(ii) Remove the "Mach Overspeed Warning Switch" and have it reset from Mach .83 to .80. Contact the manufacturer, PRECISION SENSOR, P.O. Box 509, Milford, Connecticut 06460; telephone number (203) 877–2795; to have the instrument recalibrated. Reidentify the Mach overspeed warning switch by ink-stamping the words "Mach limit .80" adjacent to the part number. Reinstall the "Mach Overspeed Warning Switch" after it has been so recalibrated. And

(iii) Remove the pilot's and copilot's airspeed indicators and have them modified by changing the "barber pole" from Mach number .83 to .80. The instrument must be recalibrated by the instrument manufacturer or a certified repair station. Reidentify the airspeed indicators by ink stamping "Mach limit .80" adjacent to the part number. Reinstall the pilot's and copilot's airspeed indicators after they have been so modified.

(2) *Option II.* Remove the modifications installed in accordance with Raisbeck Group STC SA766NW, and return the aircraft either to the original type design configuration, or to the Gates Learjet "Softflight" configuration.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 7, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–11881 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 96–ACE–5]

Proposed Amendment to Class E Airspace; Ames, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Ames, Iowa. The development of a new Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS) has made the proposal necessary. The intended effect of this proposal is to provide additional controlled airspace for aircraft executing the SIAP at the above listed airport.

DATES: Comments must be received on or before June 20, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, ACE–530, Federal Aviation Administration, Docket No. 96–ACE–5, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the office of the Manager, Operations Branch, Air Traffic Division, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Operations Branch, ACE–530C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone number: (816) 426–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 96–ACE–5." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to provide additional controlled airspace for a new Instrument Flight Rules (IFR) procedure at the Ames Municipal Airport, Ames, Iowa. The additional airspace would segregate aircraft operating under VFR conditions from aircraft operating under IFR procedures. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9C, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Ames, IA [Revised]

Ames Municipal Airport, IA
(lat. 41°59'32" N., long. 93°37'18 W.)
Ames NDB
(lat. 41°59'42" N., long. 93°37'37" W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Ames Municipal Airport, and within 2.1 miles each side of the 197° bearing from the Ames NDB extending from the 6.6-mile radius to 7.4 miles south of the airport, and within 2 miles each side of the 136° bearing from the airport extending from the 6.6-mile radius to 10 miles southeast of the airport.

* * * * *

Issued in Kansas City, MO, on April 9, 1996.

Christopher R. Blum,

Acting Manager, Air Traffic Division Central Region.

[FR Doc. 96–11932 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS–5–96]

RIN 1545–AU14

Termination of a Partnership under Section 708(b)(1)(B)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the termination of a partnership upon the sale or exchange of 50 percent or more of the total interest in partnership capital and profits. The proposed regulations affect all partners and partnerships that terminate under section 708(b)(1)(B).

DATES: Written comments and requests to speak (with outlines of oral comments) at a public hearing scheduled for September 5, 1996, must be received by August 15, 1996.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (PS–5–96), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (PS–5–96), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. The public hearing will be held in the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Steven R. Schneider, (202) 622–3060; concerning submissions and the hearing, Christina Vasquez, (202) 622–7190; (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Introduction

This document proposes to revise section 1.708–1(b)(1)(iv) of the Income

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Tax Regulations (26 CFR Part 1) under section 708(b)(1)(B) of the Internal Revenue Code (Code). This document also proposes revisions to other sections of the Income Tax Regulations to reflect the proposed revision to § 1.708-1(b)(1)(iv).

Background

Section 708(b)(1)(B) provides that, for purposes of section 708(a), a partnership shall be considered terminated if within a 12-month period there is a sale or exchange of 50 percent or more of the total interest in partnership capital and profits. The Code and the legislative history to section 708(b)(1)(B) do not specify the tax consequences of that termination or the steps by which such a termination occurs.

However, § 1.708–1(b)(1)(iv) of the Income Tax Regulations provides that, if a partnership is terminated by a sale or exchange of an interest, the following is deemed to occur: the partnership distributes its properties to the purchaser and the other remaining partners in proportion to their respective interests in the partnership properties; and, immediately thereafter, the purchaser and the other remaining partners contribute the properties to a new partnership, either for the continuation of the business or for its dissolution and winding up.

The distribution of property that is deemed to occur upon a termination under section 708(b)(1)(B) is treated like an actual distribution for federal tax purposes. As a result, a continuing partner may recognize gain under section 731(a) if the amount of money deemed distributed to the partner (including any money deemed distributed upon a shift in liabilities under section 752) exceeds the partner's basis in the partnership interest. In addition, the distribution may affect the basis of the partnership's assets because the basis of the distributed property in the hands of the partners (and thus in the hands of the reconstituted partnership) is determined under section 732(b) by reference to the partners' bases in their partnership interests. Another possible consequence of the deemed distribution is a change in the holding periods of the partners' interests in the partnership.

The deemed distribution of partnership property that occurs on a termination raises particular concerns with respect to the interaction of sections 708(b)(1)(B), 704(c), and 737. Section 704(c)(1)(A) requires that gain or loss with respect to property contributed to a partnership by a partner be shared among the partners so as to take into account any built-in gain or loss in the property at the time of the contribution. Section 704(c)(1)(B) provides that, if property contributed by a partner is distributed to another partner within five years, the contributing partner must recognize gain or loss in an amount equal to the gain or loss the partner would have been allocated under section 704(c)(1)(A) on a sale of the property by the partnership. Section 737 provides that, if property is distributed to a partner that had contributed other property to the partnership within five years, the distributee partner must recognize gain equal to the lesser of (i) the net precontribution gain on property contributed by the partner, or (ii) the excess of the value of the distributed property over the adjusted basis of the partner's interest in the partnership. Net precontribution gain is the net gain, if any, that would have been recognized by the distributee partner under section 704(c)(1)(B) if all partnership property contributed by the distributee partner within five years of the distribution had been distributed to another partner.

The legislative history of sections 704(c)(1)(B) and 737 indicates that Congress intended these sections to be coordinated with the rules governing partnership terminations under section 708(b)(1)(B). The legislative history states that such coordination will provide that (1) no gain is recognized under sections 704(c)(1)(B) and 737 as a result of a deemed distribution on termination; (2) the deemed distribution will not change the application of the sharing requirements of section 704(c) to precontribution gain or loss with respect to property contributed to the partnership before the termination; and (3) the constructive contribution of partnership property to a new partnership is treated as beginning a new five-year period for all contributed property to the extent that the pretermination appreciation in the value of property was not already required to be allocated to the original contributor (if any) of the property. H.R. Rep. No. 247, 101st Cong., 1st Sess. 1355 (1989); H.R. Conf. Rep. No. 1018, 102d Cong., 2d Sess. 428 (1992). These results are difficult to integrate with the current regulations under section 708(b)(1)(B). The difficulty arises primarily because the section 708(b)(1)(B) regulations provide for a pro rata distribution of property to the partners, while the legislative history seems to contemplate that partnership property previously contributed to the partnership by a partner will be distributed to that partner, at least to the extent of the remaining built-in gain or loss in the property.

The IRS and Treasury Department recently issued final regulations under sections 704(c)(1)(B) and 737. Commentators, however, noted that the approach taken in the legislative history and the final regulations would not be required if the section 708(b)(1)(B) regulations did not create a deemed distribution of partnership property to the partners as part of a section 708(b)(1)(B) termination. The preamble to the final regulations indicated that the IRS and Treasury would consider issuing separate guidance on the interaction of sections 704(c) and 708(b)(1)(B) and invited additional comments and suggestions regarding the project.

Explanation of Provisions

The proposed regulations under section 708(b)(1)(B) provide that, if a partnership is terminated by a sale or exchange of an interest, the following is deemed to occur: the partnership transfers all of its assets and liabilities to a new partnership in exchange for an interest in the new partnership; immediately thereafter, the terminated partnership distributes interests in the new partnership to the purchasing partner and the other remaining partners in liquidation of the terminated partnership, either for the continuation of the business or for its dissolution and winding up.

Under the proposed regulations, a termination under section 708(b)(1)(B) will no longer result in a deemed distribution of the terminated partnership's assets to the purchasing and remaining partners. As a result, the federal tax consequences of a termination that result from the deemed distribution of assets will no longer occur on a section 708(b)(1)(B) termination. Such consequences include the possibility of gain under section 731(a), a change in the partnership's basis in partnership property, and the commencement of a new five-year period for purposes of sections 704(c)(1)(B) and 737. In addition, the interaction between section 704(c) and section 708(b)(1)(B) is greatly simplified under the proposed regulation. The section 704(c) property held by the terminated partnership (and deemed contributed to a new partnership) will continue to be treated as section 704(c) property in the hands of the new partnership under § 1.704–3(a)(9). A distribution of property by the new partnership will have the same effect for purposes of section 704(c)(1)(B) and section 737 as a distribution from the terminated partnership. See §§ 1.704–4(c)(4) and 1.737–2(b)(1) as proposed to be amended by this document.

The proposed regulations do not change the federal tax consequences of a termination under section 708(b)(1)(B) to the extent that the consequences were not dependent on the deemed distribution. Such consequences will continue under the proposed regulations. For example, the tax year of the terminated partnership will still close as a result of the termination, the elections of the terminated partnership will be invalidated, and a termination will continue to be treated as a liquidation under the section 704(b) regulations.

In addition, the proposed regulations will not change the effect of a termination on the depreciation of partnership property by the new partnership. Property deemed contributed to the new partnership will continue to be subject to the anti-churning provisions of section 168(f)(5), which generally require the new partnership to depreciate the property as if it were newly acquired property under the same depreciation system used by the terminated partnership. This result is required by statute and is not affected by the specific mechanics of a termination under section 708(b)(1)(B). See Code sections 168(f)(5); 168(i)(7); 168(e)(4) and (f)(10) (repealed 1986).

This document also contains proposed regulations under sections 704(b), 704(c)(1)(B), 743(b), 737, and 761(e). These proposed regulations relate to the elimination of a deemed distribution of partnership assets as part of a section 708(b)(1)(B) termination. The proposed regulations under section 704(b) will eliminate the reference to a deemed contribution of partnership property by the partners of the continuing partnership. The proposed regulations under sections 704(c)(1)(B) and 737 provide that a termination under section 708(b)(1)(B) does not commence a new five-year period for partnership property and that a distribution of property by the new partnership will be treated in the same manner as a distribution by the terminated partnership would have been treated. Although the legislative history suggests the beginning of a new five year period for built in gain or loss in the property deemed contributed to the new partnership, that legislative history was commenting on a deemed contribution of property by the partners to the new partnership, as then required by the section 708 regulations. Under the approach proposed in this regulation, a new five year period is no longer appropriate.

The proposed regulations under section 743(b) provide that any special basis adjustment a partner has in assets of the terminated partnership as a result of a section 754 election will carry over to the new partnership. The proposed regulations under section 761(e) provide that the distribution of interests in the new partnership by the terminated partnership is not treated as a sale or exchange of the interests in the new partnership. This provision is necessary to prevent the distribution of interests in the new partnership from causing a termination of the new partnership.

Proposed Effective Date

This section is proposed to apply to terminations of partnerships under section 708(b)(1)(B) occurring on or after the date on which these regulations are published as final regulations in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are timely submitted to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for September 5, 1996, at 10 a.m. in the Auditorium of the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments by August 15, 1996, and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by August 15, 1996.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Steven R. Schneider of the Office of Assistant Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805. * * *
Section 1.704–4 also issued under 26 U.S.C. 704(c). * * *

Par. 2. Section 1.704–1 is amended as follows:

1. Paragraph (b)(2)(iv)(*l*) is amended by removing the fourth sentence.

2. Paragraph (b)(5) *Example 13*(v) is amended by removing sentences five to the end and adding five new sentences in their place.

The revisions and addition read as follows:

§ 1.704–1 Partner's distributive share.

* * * * *

(b) * * *

(5) * * *

Example 13. * * *

(v) * * * In accordance with paragraph (b)(2)(iv)(e) of this section, the partnership agreement provides that the partners' capital accounts are adjusted to reflect how unrealized taxable gain would have been allocated if the property distributed to the partners in liquidation of the partnership (i.e., the interest in the new partnership constructively received by the terminated partnership under § 1.708–1(b)(1)(iv)) had been sold for its fair market value of $40,000. Accordingly, the $18,000 of unrealized gain ($40,000 less $22,000 adjusted tax basis) is credited to the partners' capital accounts as follows:

	Z	LK
Capital account following sale	$11,000	$11,000
Deemed sale adjustment	9,000	9,000
Capital account before constructive liquidation	20,000	20,000

Constructive liquidating distributions of the interests in the new partnership are made with reference to its $40,000 fair market value. Under section 732(b), the adjusted tax basis of the 50 percent interest in the new partnership constructively distributed to Z is equal to the $11,000 adjusted tax basis of Z's partnership interest before the constructive liquidation, and the adjusted tax basis of the 50 percent interest in the new partnership constructively distributed to LK is equal to the $20,000 adjusted tax basis of LK's partnership interest before the constructive liquidation. Under paragraph (b)(2)(iv)(d) of this section, the capital account of the terminated partnership with respect to the new partnership would be $40,000 (i.e., the fair market value of the property constructively contributed to the new partnership by the terminated partnership). The capital accounts of Z and LK with respect to the constructively distributed interests in the new partnership are stated at $20,000 (i.e., one-half of the $40,000 capital account of the terminated partnership). This Example 13(v) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after the date on which these regulations are published as final regulations in the **Federal Register**.

* * * * *

Par. 3. Section 1.704–4 is amended by revising paragraphs (a)(4)(ii) and (c)(3) to read as follows:

§ 1.704–4 Distribution of contributed property.

(a) * * *

(4) * * *

(ii) *Section 708(b)(1)(B) terminations.* A termination of the partnership under section 708(b)(1)(B) does not begin a new five-year period for each partner with respect to the built-in gain and built-in loss property that the terminated partnership is deemed to contribute to a new partnership following the termination. See § 1.704–3(a)(3)(ii) for the definitions of built-in gain and built-in loss on section 704(c) property. This paragraph (a)(4)(ii) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after the date on which these regulations are published as final regulations in the **Federal Register**.

* * * * *

(c) * * *

(3) *Section 708(b)(1)(B) terminations.* Section 704(c)(1)(B) and this section do not apply to a deemed distribution of interests in a new partnership caused by a termination of a partnership under section 708(b)(1)(B). A subsequent distribution of section 704(c) property by the new partnership to a partner of the new partnership is subject to section 704(c)(1)(B) to the same extent that a distribution by the terminated partnership would have been subject to section 704(c)(1)(B). See also § 1.737–2(a) for a similar rule in the context of section 737. This paragraph (c)(3) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after the date on which these regulations are published as final regulations in the **Federal Register**.

* * * * *

Par. 4. In § 1.708–1, paragraph (b)(1)(iv) is amended by removing the first sentence and adding two new sentences in its place to read as follows:

§ 1.708–1 Continuation of Partnership.

* * * * *

(b) * * *

(1) * * *

(iv) If a partnership is terminated by a sale or exchange of an interest, the following is deemed to occur: The partnership transfers all of its assets and liabilities to a new partnership in exchange for an interest in the new partnership; and, immediately thereafter, the terminated partnership distributes an interest in the new partnership to the purchasing partner and the other remaining partners in liquidation of the terminated partnership, either for the continuation of the business of the new partnership or for its dissolution and winding up. The first sentence of this paragraph (b)(1)(iv) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after the date on which these regulations are published as final regulations in the **Federal Register**.

* * *

* * * * *

Par. 5. Section 1.743–1 is amended by adding paragraph (d) as follows:

§ 1.743–1 Optional adjustment to basis of partnership property.

* * * * *

(d) *Section 708(b)(1)(B) terminations.* A partner with a special basis adjustment in property held by a partnership that terminates under section 708(b)(1)(B) will continue to have the same special basis adjustment with respect to property contributed by the terminated partnership to the new partnership under § 1.708–1(b)(1)(iv). This paragraph (d) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after the date on which these regulations are published as final regulations in the **Federal Register**.

Par. 6. In § 1.737–2, paragraph (a) is revised to read as follows:

§ 1.737–2 Exceptions and special rules.

(a) *Section 708(b)(1)(B) terminations.* Section 737 and this section do not apply to a deemed distribution of interests in a new partnership caused by a termination of a partnership under section 708(b)(1)(B). A subsequent distribution of section 704(c) property by the new partnership to a partner of the new partnership is subject to section 737 to the same extent that a distribution by the terminated partnership would have been subject to section 737. See also § 1.704–4(c)(3) for a similar rule in the context of section 704(c)(1)(B). This paragraph (a) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after the date on which these regulations are published as final regulations in the **Federal Register**.

* * * * *

Par 7. In § 1.761–1, paragraph (e) is added to read as follows:

§ 1.761–1 Terms defined.

* * * * *

(e) *Distribution of partnership interest.* For purposes of section 708(b)(1)(B) and § 1.708–1(b)(1)(iv), the distribution of an interest in a new partnership by a partnership that terminates under section 708(b)(1)(B) is not a sale or exchange of an interest in the new partnership. This paragraph (e) applies to terminations of partnerships under section 708(b)(1)(B) occurring on or after the date on which these regulations are published as final regulations in the **Federal Register**.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 96–11779 Filed 5–9–96; 8:45 am]

BILLING CODE 4830–01–U

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26 CFR Part 1

[FI–47–92]

RIN 1545–AR76

Reissuance of Mortgage Credit Certificates; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to implementing a provision of the Tax reform Act of 1984 permitting the reissuance of mortgage credit certificates.

DATES: The public hearing originally scheduled for May 22, 1996, beginning at 10:00 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Evangelista C. Lee of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190 (not a toll free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed amendments to the Income Tax Regulations under section 25 of the Internal Revenue Code. A notice of public hearing appearing in the **Federal Register** on Friday, April 5, 1996 (61 FR 15204), announced that a public hearing would be held on Wednesday, May 22, 1996, beginning at 10:00 a.m., in the Commissioners Conference Room, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, D.C. 20224.

The public hearing scheduled for Wednesday, May 22, 1996, is cancelled.

Michael L. Slaughter,

Acting Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–11778 Filed 5–10–96; 8:45 am]

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26 CFR Part 301

[PS–43–95]

RIN 1545–AT91

Simplification of Entity Classification Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that would replace the existing regulations for classifying certain business organizations with an elective regime. These proposed regulations simplify the existing classification rules.

DATES: Written comments and requests to speak (with outlines of oral comments) at a public hearing scheduled for August 21, 1996, at 10 a.m. must be submitted by August 12, 1996.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (PS–43–95), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (PS–43–95), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Armando Gomez, (202) 622–3050; concerning foreign organizations, Ronald M. Gootzeit or William H. Morris, (202) 622–3880; concerning submissions and the hearing, Evangelista Lee (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224. Comments on the collection of information should be received by July 12, 1996.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collections of information are required by §§ 301.6109–1(b)(2)(vi) and 301.7701–3(c). This information is required by the IRS to ensure the proper classification of business organizations and to ensure compliance with the proposed regulations. The likely respondents are businesses and other for-profit organizations, including small businesses.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

The burden of the collection of information required by § 301.6109–1 will be reflected in Forms SS–4 and W–7. The burden of the collection of information required by § 301.7701–3(c) will be reflected in such form as is prescribed by the Commissioner for purposes of making the election described in this regulation.

Introduction

This document proposes to revise §§ 301.7701–1 through 301.7701–3 of the Procedure and Administration Regulations (26 CFR part 301) to clarify which organizations are classified as corporations automatically under the Internal Revenue Code (Code) and to provide a simple elective regime for classifying other business organizations. This document also proposes conforming changes to §§ 1.581–1, 1.581–2, and 1.761–1 of the Income Tax Regulations (26 CFR part 1), and to §§ 301.6109–1, 301.7701–4, 301.7701–6, and 301.7701–7 of the Procedure and Administration Regulations (26 CFR part 301).

Background

On April 3, 1995, Notice 95–14, relating to classification of business organizations under section 7701, was published in the Internal Revenue Bulletin (1995–1 C.B. 297). A notice of public hearing was published in the **Federal Register** on May 10, 1995 (60 FR 24813). Written comments were received and a public hearing was held on July 20, 1995. After consideration of the comments, the Treasury Department and the IRS propose to replace the existing classification regulations with a simplified regime that is elective for certain business organizations.

Explanation of Provisions

I. Introduction

Section 7701(a)(2) of the Code defines a partnership to include a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and that is not a trust or estate or a corporation. Section 7701(a)(3) defines a corporation to include associations, joint-stock companies, and insurance companies.

The existing regulations for classifying business organizations as associations (which are taxable as corporations under section 7701(a)(3)) or as partnerships under section 7701(a)(2) are based on the historical differences under local law between partnerships and corporations. However, many states have revised their statutes to provide that partnerships and other unincorporated organizations may possess characteristics that traditionally have been associated with corporations, thereby narrowing considerably the traditional distinctions between

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corporations and partnerships under local law. For example, some partnership statutes now provide that no partner is unconditionally liable for all of the debts of the partnership. Similarly, almost all states have enacted statutes allowing the formation of limited liability companies. These entities provide protection from liability to all members but may qualify as partnerships for federal tax purposes under the existing regulations. See, e.g., Rev. Rul. 88–76 (1988–2 C.B. 360).

One consequence of the increased flexibility under local law in forming a partnership or other unincorporated business organization is that taxpayers generally can achieve partnership tax classification for a nonpublicly traded organization that, in all meaningful respects, is virtually indistinguishable from a corporation. To accomplish this, however, taxpayers and the IRS must expend considerable resources on classification issues. For example, since the issuance of Rev. Rul. 88–76, the IRS has issued seventeen revenue rulings analyzing individual state limited liability company statutes, and has issued several revenue procedures and numerous letter rulings relating to classification of various business organizations. Meanwhile, small business organizations may lack the resources and expertise to achieve the tax classification they want under the current classification regulations.

Reacting to the fact that publicly traded entities could easily qualify as partnerships, in 1987 Congress enacted section 7704 to require most publicly traded partnerships to be taxable as corporations. Thus, even if an organization could be classified as a partnership under the current regulations, it will nevertheless be classified as a corporation in most cases if its ownership interests are publicly traded.

In light of these developments, Treasury and the IRS believe that it is appropriate to replace the increasingly formalistic rules under the current regulations with a much simpler approach that generally is elective. To further simplify this area, the proposed regulations provide similar rules for organizations that have a single owner.

With respect to foreign organizations, Notice 95–14 (1995–1 C.B. 297) observed that, while the distinctions are similarly formalistic, the classification process under the current regulations involves even more complexities and requires greater resources than does the classification process for domestic organizations. For example, the classification of a foreign organization involves not only a review of organizational documents, but also a thorough understanding of the controlling foreign law. Accordingly, the simplified system provided under the proposed regulations extends to foreign organizations as well, with certain modifications explained below.

In light of the increased flexibility under an elective regime for the creation of organizations classified as partnerships, the Treasury Department and the IRS will continue to monitor carefully the uses of partnerships in the international context and will issue appropriate substantive guidance when partnerships are used to achieve results that are inconsistent with the policies and rules of particular Code provisions or of U.S. tax treaties.

To accomplish the changes described above, the proposed regulations would replace §§ 301.7701–1, 301.7701–2, and 301.7701–3 with new regulations. In addition, conforming amendments would be made to §§ 1.581–1, 1.581–2, 1.761–1, 301.6109–1, 301.7701–4, 301.7701–6, and 301.7701–7.

II. General Classification Rules

A. Business Entities

Proposed § 301.7701–1 provides an overview of the rules applicable in determining an organization's classification for federal tax purposes. The first step in the classification process is to determine whether there is a separate entity for federal tax purposes (which is a matter of federal tax law). The proposed regulations explain that certain joint undertakings that are not entities under local law may nonetheless constitute separate entities for federal tax purposes; on the other hand, not all entities formed under local law are recognized as separate entities for federal tax purposes. For example, individuals who own property as tenants in common may create a separate entity for federal tax purposes if the individuals actively carry on a trade, business, financial operation, or venture and divide the profits therefrom. On the other hand, an organization wholly owned by a State is not recognized as a separate entity for federal tax purposes if it is an integral part of the State. Similarly, tribes incorporated under section 17 of the Indian Reorganization Act of 1934, as amended, 25 U.S.C. 477, or under section 3 of the Oklahoma Indian Welfare Act, as amended, 25 U.S.C. 503, are not recognized as separate entities for federal tax purposes. See Rev. Rul. 94–16 (1994–1 C.B. 19); Rev. Rul. 94–65 (1994–2 C.B. 14). Also, the proposed regulations retain the rule under the current regulations that a qualified cost sharing arrangement described in § 1.482–7 is not a partnership for federal tax purposes.

An organization that is recognized as a separate entity for federal tax purposes is either a trust or a business entity (unless a provision of the Code expressly provides for special treatment, such as the Real Estate Mortgage Investment Conduit (REMIC) rules, see section 860A(a)). The proposed regulations provide that trusts generally do not have associates or an objective to carry on business for profit. While these proposed regulations restate the distinction between trusts and business entities, the determination of whether an organization is classified as a trust for federal tax purposes is intended to remain the same as under current law.

Proposed § 301.7701–2 specifies those business entities that automatically are classified as corporations for federal tax purposes. Any other business entity that is recognized for federal tax purposes may choose its classification under the rules of proposed § 301.7701–3. Those rules provide that a business entity with at least two members can be classified as either a partnership or an association, and that a business entity with a single member can be classified as an association or can be disregarded as an entity separate from its owner.

B. Corporations

The proposed regulations clarify that business entities that are classified as corporations for federal tax purposes include corporations denominated as such under applicable law, as well as associations, joint-stock companies, insurance companies, organizations that conduct certain banking activities, organizations wholly owned by a State, organizations that are taxable as corporations under a provision of the Code other than section 7701(a)(3), and certain organizations formed under the laws of a foreign jurisdiction or a U.S. possession, territory, or commonwealth. Each of these categories is described briefly below.

The proposed regulations define corporation to include any business entity recognized for federal tax purposes that is organized under a Federal or State statute, or under a statute of a federally recognized Indian tribe, that describes or refers to the entity as incorporated or as a corporation, body corporate, or body politic. Such entities include governmentally chartered corporations, as well as business corporations. See, e.g., 12 U.S.C. 21 et seq. (national banking associations), 20 U.S.C. 1087–2 (Student Loan Marketing Association),

and 36 U.S.C. 1101 (private corporations established under federal law).

The proposed regulations define an association by reference to § 301.7701–3. As discussed in detail below, that section permits certain business entities to choose whether to be classified as an association or as a partnership (or, if the entity has a single owner, as a non-entity).

The proposed regulations define a joint-stock company as a business entity organized under a State statute that describes or refers to the entity as a joint-stock company or joint-stock association. These entities typically have a fixed capital stock divided into shares represented by certificates transferable only upon the books of the company, manage their affairs by a board of directors and executive officers, and conduct their business in the general form and mode of procedure of a corporation. See *Burk-Waggoner Oil Assoc.* v. *Hopkins*, 269 U.S. 110, 113 (1925).

The proposed regulations define an insurance company as a business entity that is taxable as an insurance company under subchapter L, chapter 1 of the Code.

Under the proposed regulations, a state-chartered bank is classified as a corporation if any of the bank's deposits are insured under the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1811 *et seq.*, or a similar federal statute. This rule reflects Congress requirement that these organizations be incorporated to be eligible for federal deposit insurance, see 12 U.S.C. 1813(a)(2), and provides comparable tax treatment to state-chartered banks and national banks chartered under the National Bank Act, 12 U.S.C. 21 *et seq.* (which characterizes national banks as corporations, see 12 U.S.C. 24). It also is consistent with Congress historical treatment of banks as corporations, as reflected in section 581 of the Code, which requires a bank to be incorporated for purposes of subchapter H of chapter 1. Under this rule, however, an unincorporated organization that conducts banking activities but that does not have federal deposit insurance, may, under proposed § 301.7701–3, choose not to be an association for federal tax purposes; in that case, however, the organization is not a bank within the meaning of section 581, and thus is not eligible for treatment under subchapter H.

The proposed regulations also classify as corporations organizations that are recognized for federal tax purposes if they are wholly owned by a State, or any political subdivision thereof. Organizations wholly owned by a State that are not an integral part of the State must be recognized for federal tax purposes and scrutinized under section 115 (which excludes from gross income any income derived from the exercise of any essential governmental function and accruing to a State or any political subdivision thereof, or the District of Columbia). Accordingly, the proposed regulations classify any such organization as a corporation. Nevertheless, under section 115, the organization's income may not be subject to federal income tax.

The proposed regulations define corporation to include any business entity that is taxable as a corporation under another provision of the Code. For example, a business entity that is publicly traded within the meaning of section 7704 (and not within the exception in section 7704(c)), is taxable as a corporation. Similarly, a business entity that is a taxable mortgage pool under section 7701(i) is taxable as a corporation.

Finally, the proposed regulations classify as corporations certain foreign business entities (including entities organized in U.S. possessions, territories, and commonwealths) that are listed in the regulations. Notice 95–14 observed that current law does not automatically classify any foreign entity as a corporation by reference to the juridical status or designation of that entity under local law. That is, current law does not identify the foreign analogue to the incorporated state law entity that is always classified as a corporation for federal tax purposes, even though section 7701(a)(3) makes no distinction between domestic and foreign entities. Rather, since the issuance of Rev. Rul. 88–8 (1988–1 C.B. 403), all foreign entities have been classified based on the characteristics set forth in §§ 301.7701–2 and 301.7701–3 of the current regulations. Nevertheless, under this approach, those foreign entities that are equivalent to state law corporations are virtually always classified as corporations.

To ensure the corporate classification of these foreign entities, the proposed regulations include a list of foreign business entities that always will be classified as corporations. Several commentators supported inclusion of a list of foreign business entities that either would be treated as corporations per se or that would continue to be classified under the current regulations. The Treasury Department and the IRS believe that classifying the business entities on the list as corporations in all cases is consistent with the goal of simplifying the entity classification area. The organizations listed are limited liability entities, such as the British Public Limited Company, the French Societe Anonyme, and the German Aktiengesellschaft. The Treasury Department and the IRS invite comments on the composition of the list.

Under a special grandfather rule, however, an entity described in this list will nevertheless be classified as a partnership under the proposed regulations if: (1) The entity was in existence and claimed to be a partnership on May 8, 1996 and for all prior periods, (2) that classification was relevant to any person for federal tax purposes at any time during the period that includes May 8, 1996, (3) the entity had a reasonable basis (within the meaning of section 6662) for claiming partnership classification, and (4) neither the entity nor any member has been notified in writing on or before May 8, 1996 that the classification of the entity is under examination (in which case the entity's classification will be determined in the examination).

When these regulations become final, and current § 301.7701–2 (on which Rev. Rul. 88–8 is based) is superseded, Rev. Rul. 88–8 will be obsolete.

C. Other Business Entities

The proposed regulations define the term partnership to include any business entity that has at least two members and that is not classified as a corporation.

Some commentators requested clarification of the effect of these elective classification rules on an organization's ability to elect to be excluded from subchapter K under section 761. The proposed regulations do not change the existing requirements for the election provided in § 1.761–2. Accordingly, an organization that is classified as a partnership under the proposed regulations may elect to be excluded from subchapter K, if it qualifies under § 1.761–2.

Many commentators requested guidance concerning the classification of an unincorporated business entity with a single owner. Some commentators suggested that these entities be treated as sole proprietorships, while others suggested partnership classification. Because a fundamental characteristic of a partnership is the presence of associates, an entity with a single owner cannot conduct business as a partnership. However, the proposed regulations permit a business entity with a single owner that is not required to be classified as a corporation to elect to be classified as an association or to have the organization disregarded as an

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entity separate from its owner (in which case the business activity is treated for federal tax purposes in the same manner as if it were conducted as a sole proprietorship, branch, or division of the organization's owner).

III. Elective Classification of Certain Entities

A. In General

Proposed § 301.7701–3 sets forth rules permitting a business entity that is not required to be classified as a corporation (referred to in the regulation as an *eligible entity*) to elect its classification for federal tax purposes. An eligible entity that has at least two members may elect to be classified as an association or a partnership, and an eligible entity with a single owner may elect to be classified as an association or to be disregarded as an entity separate from its owner.

B. Default Classification

The proposed regulations are designed to provide most eligible entities with the classification they would choose without requiring them to file an election. Thus, the proposed regulations provide default classification rules that aim to match expectations. An eligible entity that wants the default classification need not file an election.

1. Domestic eligible entities. Notice 95–14 suggested partnership default for domestic eligible entities. The comments supported this rule, and the proposed regulations adopt it. Thus, a newly formed domestic eligible entity will be classified as a partnership if it has two or more members unless an election is filed to classify the entity as an association; no affirmative action need be taken by the entity to ensure partnership classification. Similarly, if that entity has a single member, it will not be treated as an entity separate from its owner for federal tax purposes unless an election is filed to classify the organization as an association.

2. Foreign eligible entities. Notice 95–14 suggested association default for foreign eligible entities. The Notice indicated that while domestic eligible entities typically are formed with an intent to obtain partnership classification, the preferred classification of foreign eligible entities is less predictable. For example, the Notice expressed concern that because partnership default could subject some foreign entities to compliance requirements and excise tax liability under section 1491, an entity should not be classified as a partnership inadvertently. On the other hand, as some commentators indicated, association default might not match the expectations of a foreign eligible entity.

In response to these comments, the proposed regulations provide a default rule that should match expectations more closely. The Treasury Department and IRS believe that if any of an organization's members has personal liability for the debts of the organization, the expectation is that the organization will be classified as a partnership. Accordingly, the proposed regulations provide that if one or more of an eligible entity's members have unlimited liability, the entity will be classified as a partnership if it has two or more members, or it will be disregarded as a separate entity if it has a single owner. Only if all of the entity's members have limited liability will the entity's default classification be association.

For purposes of this rule, a member of a foreign entity has limited liability only if, based solely on the controlling statute or law pursuant to which the entity is organized, the member's personal liability for the debts of or claims against the entity is specifically limited (for example, to the amount of the member's unpaid capital contribution or to the amount of a statutorily limited guarantee). If protection from personal liability is optional under the applicable law, the entity's organizational documents will determine which option applies. The determination whether there is limited liability for purposes of the default rule is intended to be simpler and more straightforward than under current law, to ensure that the default classification is readily apparent. Thus, the limited liability inquiry generally will focus solely on controlling statutes as interpreted by judicial or administrative review. As a result, a member's ability to satisfy creditors' claims would not be relevant. If taxpayers remain uncertain whether there is limited liability in a particular case, they may file an election to secure the desired classification.

3. Existing eligible entities. Commentators suggested that special rules should be provided for eligible entities formed prior to the effective date of the regulations. These commentators were concerned that some existing eligible entities would be required to file classification elections immediately to prevent their classification from being changed under a default rule. Under the proposed regulations, eligible entities existing prior to the effective date of the regulations that choose to retain their current classification would not be required to file an election. Rather, those entities would retain the classification claimed under the existing regulations (except that, if an eligible entity with a single owner claimed to be a partnership under the current regulations, the entity would be disregarded as an entity separate from its owner under this default rule). A foreign entity is considered such an existing entity only if its classification immediately prior to the effective date of these regulations is relevant to any person for federal tax purposes; other foreign entities formed prior to the effective date of these regulations would be considered new entities at the time that their federal tax classification became relevant and, therefore, would be required to file a classification election or be classified under the general default rule described above.

Furthermore, under a transition rule discussed below, the IRS generally will not challenge an existing entity's claimed classification for periods to which the existing regulations apply if the entity had a reasonable basis for the claimed classification.

C. Elections

1. In general. An eligible entity that does not want the classification provided by the applicable default provision, or that wants to change its classification, may file an election to obtain the chosen classification. Some commentators suggested that the election be made with Form SS–4 (Application for Employer Identification Number); others suggested that the election be made with the filing of the entity's first tax return.

An eligible entity may elect its classification by filing an election with the appropriate service center. The proposed regulations would require that the election specify the name, address, and taxpayer identifying number of the entity, the chosen classification, whether the election results in a change in classification, and whether the entity is a domestic or foreign entity. It is anticipated that the Commissioner will prescribe a form for this purpose, in which case elections must be made on such form. The election will be effective on a date specified on the election if that date is not more than 75 days prior to the date on which the election is filed, or on the date filed if no such date is specified on the election. In addition to the original election, a business entity that makes an election shall file a copy of its election with its federal tax return for the year in which the election is effective. If the entity is not required to file a return, the Commissioner will require direct or indirect owners of the entity to include copies of the election with their federal tax returns.

Notice 95–14 suggested that all the members of an electing eligible entity would be required to consent unanimously to a classification election. Most commentators stated that, although an indication of unanimity may be appropriate, a requirement that each member sign the election could cause significant administrative difficulties. In response to these comments, the proposed regulations require that an election be signed by: (1) Each member of the entity, or (2) any officer, manager, or owner who is authorized to make the election and who represents to having such authorization under penalties of perjury.

An electing eligible entity also would be required to provide its Employer Identification Number (EIN) on the election form. To reduce taxpayers' paperwork burdens when an existing entity elects to change its classification, the proposed regulations provide that if the entity already has an EIN, it will retain it even though it elects to change its tax classification. Any organization without an EIN at the time it files its election, including an organization that had not previously been treated as a separate entity for federal tax purposes, must apply for an EIN on Form SS–4 when it files its election. If a new single-member entity elects to be disregarded as an entity separate from its owner, then the taxpayer identifying number of its owner must be displayed on the election. The proposed regulations amend § 301.6109–1 to reflect these requirements.

2. Special rule for exempt organizations. A special rule is provided for eligible entities that have been determined to be, or claim to be, exempt from taxation under section 501(a). A substantial majority of exempt organizations (including those employee plans that qualify under section 401(a)) will not be eligible entities, either because they are properly classified as trusts for federal tax purposes or because they are not-for-profit corporations. However, for those exempt organizations that are eligible entities, the business entity classification that is consistent with the claim for exemption is association (taxable as a corporation). Accordingly, the proposed regulations provide that a claim or determination of exempt status by an eligible entity is treated as an election to be classified as an association. Such elections will take effect on the first day for which exemption is claimed or determined to apply, regardless of when the claim or determination is made, and will remain in effect unless an election is made to change that classification after the date that either the claim is withdrawn or rejected or the determination is revoked.

3. Limits on changes in classification by election. Notice 95–14 requested comments on whether the regulations should restrict elections to change an entity's classification. To varying degrees, commentators supported such a restriction. Under the proposed regulations, an eligible entity that makes an election to change its classification cannot change its classification by election again during the sixty months succeeding the effective date of the election. However, an existing entity that elects to change its classification as of the effective date of the proposed regulations may elect to change again within the first sixty months following the effective date.

The sixty month limitation only applies to a change in classification by election. Thus, if a new eligible entity elects out of its default classification effective from its inception, that election is not a change in the entity's classification. Furthermore, the limitation does not apply if the organization's business actually is transferred to another entity. For example, an organization could liquidate into its parent, terminate and reform as another entity (e.g., by merger), or contribute its business to another organization without restriction.

Taxpayers are reminded that a change in classification, no matter how achieved, will have certain tax consequences that must be reported. For example, if an organization classified as an association elects to be classified as a partnership, the organization and its owners must recognize gain, if any, under the rules applicable to liquidations of corporations.

D. Certain Partnership Terminations

Under section 708(b)(1)(B), a partnership is considered terminated if within a twelve month period there is a sale or exchange of fifty percent or more of the total interests in partnership capital and profits. Under this rule, a termination is treated as a liquidation of the existing partnership and the formation of a new partnership. Accordingly, if an existing partnership terminates under section 708(b)(1)(B), the newly created entity will be classified as a partnership (but could elect to change its classification thereafter).

IV. Effective Date and Transition Rules

The regulations are proposed to apply generally for periods beginning on or after the date the final regulations are published in the **Federal Register**. Sections 301.7701–1 through 301.7701–3 will continue to apply until these regulations are effective.

In addition, the IRS will not challenge the classification of an existing eligible entity, or an existing entity described in the list of foreign entities that are classified as corporations under the proposed regulations, for periods to which the current regulations apply if: (1) The entity had a reasonable basis (within the meaning of section 6662) for its claimed classification, (2) the entity claimed that same classification in all prior years, and (3) neither the entity nor any member has been notified in writing on or before May 8, 1996 that the classification of the entity is under examination (in which case the entity's classification will be determined in the examination).

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Wednesday, August 21, 1996, at 10 a.m. in the Auditorium of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments by August 12, 1996 and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by August 12, 1996.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Armando Gomez of the Office of Assistant Chief Counsel (Passthroughs and Special Industries) and Ronald M. Gootzeit and William H. Morris of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805. * * *

Par. 2. Section 1.581–1 is revised to read as follows:

§ 1.581–1 Tax on banks.

(a) For an institution to be a bank for purposes of section 581, it must be a corporation for federal tax purposes. See § 301.7701–2(b) of this chapter for the definition of corporation.

(b) This section applies to taxable years beginning on or after the date that final regulations are published in the **Federal Register**.

§ 1.581–2 [Amended]

Par. 3. In § 1.581–2, paragraph (a) is amended by removing the first sentence.

Par. 4. In § 1.761–1, paragraph (a) is revised to read as follows:

§ 1.761–1 Terms defined.

(a) *Partnership.* The term *partnership* means a partnership as determined under §§ 301.7701–1, 301.7701–2, and 301.7701–3.

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

Par. 5. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805.* * *

Par. 6. Section 301.6109–1, as proposed to be amended in project number INTL–0024–94, published on June 8, 1995, at 60 FR 30214, and INTL–062–90, INTL–0032–93, INTL–52–86, and INTL–52–94, published on April 22, 1996, at 61 FR 17666, is amended as follows:

1. Paragraph (b)(2)(v) is amended by removing the language "." at the end of the paragraph, and replacing it with the language "; and".
2. Paragraph (b)(2)(vi) is added.
3. The text of paragraph (d)(2) is redesignated as paragraph (d)(2)(i).
4. A paragraph heading is added for newly designated paragraph (d)(2)(i).
5. Paragraph (d)(2)(ii) is added.

The revisions and additions read as follows:

§ 301.6109–1 Identifying numbers.

* * * * *

(b) * * *

(2) * * *

(vi) A foreign person that makes an election under § 301.7701–3(c).

* * * * *

(d) * * *

(2) *Employer identification number*—(i) *In general.* * * *

(ii) *Special rule for entities electing to change their federal tax classification under § 301.7701–3(c).* Any entity that has an employer identification number and then elects under § 301.7701–3(c) to change its federal tax classification will retain that employer identification number.

* * * * *

Par. 7. Sections 301.7701–1, 301.7701–2, and 301.7701–3 are revised to read as follows:

§ 301.7701–1 Classification of organizations for federal tax purposes.

(a) *Organizations for federal tax purposes*—(1) *In general.* The Internal Revenue Code prescribes the classification of various organizations for federal tax purposes. Whether an organization is an entity separate from its owners for federal tax purposes is a matter of federal tax law and does not depend on whether the organization is recognized as an entity under local law.

(2) *Certain joint undertakings give rise to entities for federal tax purposes.* A joint venture or other contractual arrangement may create a separate entity for federal tax purposes if the participants carry on a trade, business, financial operation, or venture and divide the profits therefrom. For example, a separate entity exists for federal tax purposes if co-owners of an apartment building lease space and in addition provide services to the occupants either directly or through an agent. Nevertheless, a joint undertaking merely to share expenses does not create a separate entity for federal tax purposes. For example, if two or more persons jointly construct a ditch merely to drain surface water from their properties, they have not created a separate entity for federal tax purposes. Similarly, mere co-ownership of property that is maintained, kept in repair, and rented or leased does not constitute a separate entity for federal tax purposes. For example, if an individual owner, or tenants in common, of farm property lease it to a farmer for a cash rental or a share of the crops, they do not necessarily create a separate entity for federal tax purposes.

(3) *Certain local law entities not recognized.* An entity formed under local law is not always recognized as a separate entity for federal tax purposes. For example, an organization wholly owned by a State is not recognized as a separate entity for federal tax purposes if it is an integral part of the State. Similarly, tribes incorporated under section 17 of the Indian Reorganization Act of 1934, as amended, 25 U.S.C. 477, or under section 3 of the Oklahoma Indian Welfare Act, as amended, 25 U.S.C. 503, are not recognized as separate entities for federal tax purposes.

(4) *Single owner organizations.* Under §§ 301.7701–2 and 301.7701–3, certain organizations that have a single owner can choose to be recognized or disregarded as entities separate from their owners.

(b) *Classification of organizations.* The classification of organizations that are recognized as separate entities is determined under §§ 301.7701–2, 301.7701–3, and 301.7701–4 (unless a provision of the Internal Revenue Code provides for special treatment of that organization). For the classification of organizations as trusts, see § 301.7701–4. That section provides that trusts generally do not have associates or an objective to carry on business for profit. Sections 301.7701–2 and 301.7701–3 provide rules for classifying organizations that are not classified as trusts.

(c) *Qualified cost sharing arrangements.* See § 301.7701–3(e) as contained in 26 CFR Part 301 as revised as of April 1, 1996.

(d) *Domestic and foreign entities.* For purposes of this section and

§§ 301.7701–2 and 301.7701–3, an entity is a domestic entity if it is created or organized in the United States or under the law of the United States or of any State; an entity is foreign if it is not domestic. See sections 7701(a)(4) and (a)(5).

(e) *State.* For purposes of this section and § 301.7701–2, the term *State* includes the District of Columbia.

(f) *Effective date.* The rules of this section apply to periods beginning on or after the date that final regulations are published in the **Federal Register**.

§ 301.7701–2 Business entities; definitions.

(a) *Business entities.* For purposes of this section and § 301.7701–3, a *business entity* is any entity recognized for federal tax purposes (including an entity with a single owner that may be disregarded as an entity separate from its owner under § 301.7701–3) that is not properly classified as a trust under § 301.7701–4 (or otherwise subject to special treatment under the Internal Revenue Code). A business entity with two or more members is classified for federal tax purposes as either a corporation or a partnership. A business entity with only one owner is classified as a corporation or is disregarded; if the entity is disregarded, its activities are treated in the same manner as a sole proprietorship, branch, or division of the owner.

(b) *Corporations.* For federal tax purposes, the term *corporation* means—

(1) A business entity organized under a Federal or State statute, or under a statute of a federally recognized Indian tribe, if the statute describes or refers to the entity as incorporated or as a corporation, body corporate, or body politic;

(2) An association (as determined under § 301.7701–3);

(3) A business entity organized under a State statute, if the statute describes or refers to the entity as a joint-stock company or joint-stock association;

(4) A business entity that is taxable as an insurance company under subchapter L, chapter 1 of the Internal Revenue Code;

(5) A State-chartered business entity conducting banking activities, if any of its deposits are insured under the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1811 *et seq.*, or a similar federal statute;

(6) A business entity wholly owned by a State or any political subdivision thereof;

(7) A business entity that is taxable as a corporation under a provision of the Internal Revenue Code other than section 7701(a)(3); and

(8) Except as provided in paragraph (d) of this section, the following business entities formed in the following jurisdictions:

American Samoa, Corporation
Argentina, Sociedad Anonima
Aruba, Naamloze Vennootschap
Australia, Public Limited Company
Austria, Aktiengesellschaft
Barbados, Limited Company
Belize, Public Limited Company
Belgium, Societe Anonyme or Naamloze Vennootschap
Bolivia, Sociedad Anonima
Brazil, Sociedade Anonima
Canada, Corporation
Chile, Sociedad Anonima
People's Republic of China, Company Limited by Shares
Republic of China (Taiwan), Company Limited by Shares
Colombia, Sociedad Anonima
Costa Rica, Sociedad Anonima
Cyprus, Public Limited Company
Czech Republic, Akciova Spolecnost
Denmark, Aktieselskab
Ecuador, Sociedad Anonima or Compania Anonima
El Salvador, Sociedad Anonima
Egypt, Sharikat Al-Mossahamah
Finland, Osakeyhtio/Aktiebolag
France, Societe Anonyme
Germany, Aktiengesellschaft
Greece, Anonymos Etairia
Guam, Corporation
Guatemala, Sociedad Anonima
Guyana, Public Limited Company
Honduras, Sociedad Anonima
Hong Kong, Public Limited Company
Hungary, Reszvenytarsasag
Iceland, Hlutafelag
India, Public Limited Company
Indonesia, Perseroan Terbatas
Ireland, Public Limited Company
Israel, Public Limited Company
Italy, Societa per Azioni
Jamaica, Public Limited Company
Japan, Kabushiki Kaisha
Kazakstan, Ashyk Aktsionerlik Kogham
Republic of Korea, Chusik Hoesa
Liberia, Corporation
Luxembourg, Societe Anonyme
Malaysia, Berhad
Malta, Partnership *Anonyme*
Mexico, Sociedad Anonima
Morocco, Societe Anonyme
Netherlands, Naamloze Vennootschap
Netherlands Antilles, Naamloze Vennootschap
New Zealand, Limited Company
Nicaragua, Compania Anonima
Nigeria, Public Limited Company
Northern Mariana Islands, Corporation
Norway, Aksjeselskap
Pakistan, Public Limited Company
Panama, Sociedad Anonima
Paraguay, Sociedad Anonima
Peru, Sociedad Anonima
Philippines, Stock Corporation
Poland, Spolka Akcyjna
Portugal, Sociedade Anonima
Puerto Rico, Corporation
Romania, Societe pe Actiuni
Russia, Otkrytoye Aktsionernoy Obshchestvo
Saudi Arabia, Sharikat Al-Mossahamah
Singapore, Public Limited Company
Slovak Republic, Akciova Spolocnost
South Africa, Public Limited Company
Spain, Sociedad Anonima
Surinam, Naamloze Vennootschap
Sweden, Aktiebolag
Switzerland, Aktiengesellschaft or Societe Anonyme
Thailand, Borisat Chamkad (Machachon)
Trinidad & Tobago, Public Limited Company
Turkey, Anonim Sirket
Tunisia, Societe Anonyme
Ukraine, Aktsionerne Tovaristvo Vidkritogo Tipu
United Kingdom, Public Limited Company
United States Virgin Islands, Corporation
Uruguay, Sociedad Anonima
Venezuela, Sociedad Anonima or Compania Anonima

(c) *Other business entities.* For federal tax purposes—

(1) The term *partnership* means a business entity that is not a corporation under paragraph (b) of this section and that has at least two members; and

(2) A business entity that has a single owner and is not a corporation under paragraph (b) of this section is disregarded as an entity separate from its owner.

(d) *Special rule for certain foreign business entities.* A foreign business entity described in paragraph (b)(8) of this section is classified as a partnership if—

(1) The entity was in existence and claimed to be a partnership on May 8, 1996 and for all prior periods;

(2) That classification was relevant to any person for federal tax purposes at any time during the period that includes May 8, 1996;

(3) The entity had a reasonable basis (within the meaning of section 6662) for claiming partnership classification; and

(4) Neither the entity nor any member has been notified in writing on or before May 8, 1996 that the classification of the entity is under examination (in which case the entity's classification will be determined in the examination).

(e) *Effective date.* The rules of this section apply to periods beginning on or after the date that final regulations are published in the **Federal Register**.

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§ 301.7701–3 Classification of certain business entities.

(a) *In general.* A business entity that is not classified as a corporation under § 301.7701–2(b) (1), (3), (4), (5), (6), (7), or (8) (an *eligible entity*) can elect its classification for federal tax purposes as provided in this section. An eligible entity with at least two members can elect to be classified as either an association (and thus a corporation under § 301.7701–2(b)(2)) or a partnership, and an eligible entity with a single member can elect to be classified as an association or to be disregarded as an entity separate from its owner. Paragraph (b) of this section provides a default classification for an eligible entity that does not make an election. Thus, elections are necessary only when an eligible entity chooses to be classified initially as other than the default classification or when an eligible entity chooses to change its classification. Paragraph (c) of this section provides rules for making express elections. Paragraph (d) of this section provides a special rule for classifying an entity created pursuant to a termination of a partnership under section 708(b)(1)(B). Paragraph (e) of this section sets forth the effective date of this section and a special rule relating to prior periods.

(b) *Classification of eligible entities that do not file an election—(1) Domestic eligible entities.* Except as provided in paragraph (b)(3) of this section, unless the entity elects otherwise, a domestic eligible entity is—

(i) A partnership if it has two or more members; or

(ii) Disregarded as an entity separate from its owner if it has a single owner.

(2) *Foreign eligible entities—(i) In general.* Except as provided in paragraph (b)(3) of this section, unless the entity elects otherwise, a foreign eligible entity is—

(A) A partnership if it has two or more members and any member has unlimited liability;

(B) An association if no member has unlimited liability; or

(C) Disregarded as an entity separate from its owner if it has a single owner that has unlimited liability.

(ii) *Definition of unlimited liability.* For purposes of paragraph (b)(2)(i) of this section, a member of a foreign eligible entity has unlimited liability if the member has personal liability for the debts of or claims against the entity, by reason of being a member, based solely on the statute or law pursuant to which the entity is organized. A member has personal liability if creditors of the entity may seek satisfaction of debts of or claims against the entity from the member as such. A member has personal liability for purposes of this paragraph even if the member makes an agreement under which another person (whether or not a member of the entity) assumes such liability or agrees to indemnify such member for any such liability.

(3) *Existing eligible entities.* Unless the entity elects otherwise, an eligible entity in existence prior to the effective date of this section will have the same classification that the entity claimed under §§ 301.7701–1 through 301.7701–3 as in effect on the date prior to the effective date of this section; except that if an eligible entity with a single owner claimed to be a partnership under those regulations, the entity will be disregarded as an entity separate from its owner under this paragraph. For special rules regarding the classification of such entities for periods prior to the effective date of this section, see paragraph (e)(2) of this section. For purposes of this paragraph, a foreign eligible entity is treated as being in existence prior to the effective date of this section only if the entity's classification is relevant to any person for federal tax purposes at any time during the period that includes the date immediately prior to the effective date of this section.

(c) *Elections—(1) Time and place for filing—(i) In general.* Except as provided in paragraphs (c)(1)(ii) and (iii) of this section, an eligible entity may elect to be classified other than as provided under paragraph (b) of this section, or to change its classification, by filing an election with the appropriate service center. Such an election shall specify the name, address, and taxpayer identifying number of the entity, the chosen classification, whether the election results in a change in classification, and whether the entity is a domestic or foreign entity. The election will be effective on the date specified on the election if that date is not more than 75 days prior to the date on which the election is filed, or on the date filed if no such date is specified on the election. If the Commissioner prescribes a form for this purpose, the election shall be made on such form. See § 301.6109–1 for rules on applying for and displaying Employer Identification Numbers.

(ii) *Limitation.* If an eligible entity makes an election under this paragraph (c) to change its classification (other than an election made by an existing entity to change its classification as of the effective date of this section), it cannot change its classification by election again during the sixty months succeeding the effective date of the election.

(iii) *Special rule for exempt organizations.* An eligible entity that has been determined to be, or claims to be, exempt from taxation under section 501(a) is treated as having made an election under this section to be classified as an association. Such election will be effective as of the first date for which exemption is claimed or determined to apply, regardless of when the claim or determination is made, and will remain in effect unless an election is made under paragraph (c)(1)(i) of this section after the date the claim for exempt status is withdrawn or rejected or the date the determination of exempt status is revoked.

(iv) *Examples.* The following examples illustrate the rules of this paragraph (c)(1):

Example 1. On July 1, 1996, X, a domestic corporation, purchases a 10% interest in Y, an eligible entity formed under Country A law in 1990. The entity's classification was not relevant to any person for federal tax purposes prior to X's acquisition of an interest in Y. Thus, Y is not considered to be in existence on the effective date of this section for purposes of paragraph (b)(3) of this section. Under the applicable Country A statute, no member of Y has unlimited liability as defined in paragraph (b)(2)(ii) of this section. Accordingly, Y is classified as an association under paragraph (b)(2)(i)(B) of this section unless it elects under paragraph (c) of this section to be classified as a partnership. To be classified as a partnership as of July 1, 1998, Y must file the election by September 13, 1998. See paragraph (c)(1)(i) of this section. Because an election cannot be effective more than 75 days prior to the date on which it is filed, if Y files its election after September 13, 1998, it will be classified as an association from July 1, 1998, until the effective date of the election. In that case, it could not change its classification by election under paragraph (c) of this section during the sixty months succeeding the effective date of the election.

Example 2. (i) Z is an eligible entity formed under Country B law and is in existence on the effective date of this section within the meaning of paragraph (b)(3) of this section. Prior to the effective date of this section, Z claimed to be classified as an association. Unless Z files an election under paragraph (c) of this section, it will continue to be classified as an association under paragraph (b)(3) of this section.

(ii) Z files an election under paragraph (c) of this section to be classified as a partnership, effective as of the effective date of this section. Z can file an election to be classified as an association at any time thereafter, but then would not be permitted to change its classification by election during the sixty months succeeding the effective date of that subsequent election.

(2) *Authorized signatures.* An election made under paragraph (c)(1)(i) of this section must be signed by—

(i) Each member of the electing entity; or

(ii) Any officer, manager, or member of the electing entity who is authorized to make the election and who represents to having such authorization under penalties of perjury.

(3) *Further notification of elections.* An eligible entity required to file a federal tax return for the taxable year for which an election is made under paragraph (c)(1)(i) of this section shall attach a copy of the form filed in accordance with paragraph (c)(1)(i) of this section to its federal tax return for that year. If the entity is not required to file a return for that year, the Commissioner will require that a copy of such form be attached to the federal income tax return of any direct or indirect owner of the entity for the taxable year of the owner that includes the date on which the election was effective.

(d) *Special rule for certain partnership terminations.* When a partnership terminates by operation of section 708(b)(1)(B) (on the sale or exchange of fifty percent or more of the total interests in partnership capital or profits within a twelve month period), the resulting entity created by such termination is a partnership.

(e) *Effective date—(1) In general.* The rules of this section apply to periods beginning on or after the date that final regulations are published in the **Federal Register**.

(2) *Prior treatment of existing entities.* In the case of a business entity that is not described in § 301.7701–2(b) (1), (3), (4), (5), (6), or (7), and that is in existence prior to the effective date of this section, the entity's claimed classification will be respected for all periods prior to the effective date of this section if—

(i) The entity had a reasonable basis (within the meaning of section 6662) for its claimed classification;

(ii) The entity claimed that same classification for all prior periods; and

(iii) Neither the entity nor any member has been notified in writing on or before May 8, 1996 that the classification of the entity is under examination (in which case the entity's classification will be determined in the examination).

Par. 8. Section 301.7701–4 is amended as follows:

1. The last sentence of paragraphs (b), (c)(1), (c)(2) *Example 1*, and (c)(2) *Example 3* are revised.

2. Paragraph (f) is added.

The revisions and additions read as follows:

§ 301.7701–4 Trusts.

* * * * *

(b) *Business trusts.* * * * The fact that any organization is technically cast in the trust form, by conveying title to property to trustees for the benefit of persons designated as beneficiaries, will not change the real character of the organization if the organization is more properly classified as a business entity under § 301.7701–2.

(c) * * * (1) * * * An investment trust with multiple classes of ownership interests ordinarily will be classified as a business entity under § 301.7701–2; however, an investment trust with multiple classes of ownership interests, in which there is no power under the trust agreement to vary the investment of the certificate holders, will be classified as a trust if the trust is formed to facilitate direct investment in the assets of the trust and the existence of multiple classes of ownership interests is incidental to that purpose.

(2) * * *

Example 1. * * * As a consequence, the existence of multiple classes of trust ownership is not incidental to any purpose of the trust to facilitate direct investment, and, accordingly, the trust is classified as a business entity under § 301.7701–2.

* * * * *

Example 3. * * * Accordingly, the trust is classified as a business entity under § 301.7701–2.

* * * * *

(f) *Effective date.* The rules of this section generally apply to taxable years beginning after December 31, 1960. Paragraph (e)(5) of this section contains rules of applicability for paragraph (e) of this section. In addition, the last sentences of paragraphs (b), (c)(1), and (c)(2) *Example 1* and *Example 3* of this section apply to taxable years beginning on or after the date that final regulations are published in the **Federal Register**.

Par. 9. Section 301.7701–6 is revised to read as follows:

§ 301.7701–6 Definitions; person, fiduciary.

(a) *Person.* The term *person* includes an individual, a corporation, a partnership, a trust or estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization or group. The term also includes a guardian, committee, trustee, executor, administrator, trustee in bankruptcy, receiver, assignee for the benefit of creditors, conservator, or any person acting in a fiduciary capacity.

(b) *Fiduciary—(1) In general.* Fiduciary is a term that applies to persons who occupy positions of peculiar confidence toward others, such as trustees, executors, and administrators. A fiduciary is a person who holds in trust an estate to which another has a beneficial interest, or receives and controls income of another, as in the case of receivers. A committee or guardian of the property of an incompetent person is a fiduciary.

(2) *Fiduciary distinguished from agent.* There may be a fiduciary relationship between an agent and a principal, but the word agent does not denote a fiduciary. An agent having entire charge of property, with authority to effect and execute leases with tenants entirely on his own responsibility and without consulting his principal, merely turning over the net profits from the property periodically to his principal by virtue of authority conferred upon him by a power of attorney, is not a fiduciary within the meaning of the Internal Revenue Code. In cases when no legal trust has been created in the estate controlled by the agent and attorney, the liability to make a return rests with the principal.

(c) *Effective date.* The rules of this section are effective on the date that final regulations are published in the **Federal Register**.

§ 301.7701–7 [Removed]

Par. 10. Section 301.7701–7 is removed.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 96–11780 Filed 5–9–96; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Chapter II

Meeting of the Federal Gas Valuation Negotiated Rulemaking Committee

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Secretary of the Department of the Interior (Department) established a Federal Gas Valuation Negotiated Rulemaking Committee (Committee) to develop specific recommendations with respect to Federal gas valuation under its responsibilities imposed by the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA). The Department has determined that the establishment of this Committee is in the public interest and will assist the agency in performing its duties under FOGRMA.

MMS published a proposed rule on November 6, 1995, in the **Federal**

Register (60 FR 56007) advancing the consensus decisions of the Committee regarding the valuation of gas produced from Federal leases. On December 13, 1995, in the Federal Register (60 FR 64000), MMS extended the period for receiving comments on the proposed rule through February 5, 1996. MMS is holding a meeting of the Committee to discuss how to proceed with further rulemaking in light of the comments received on the proposed rule.

DATES: The Committee will meet on: Wednesday, June 12, 1996, 10:00 a.m. to 5:00 p.m.; Thursday, June 13, 1996, 8:00 a.m. to 5:00 p.m.; Friday, June 14, 1996, 8:00 a.m. to 2:00 p.m.

ADDRESSES: The meetings will be held at the Denver Federal Center, building 85, West 6th Avenue and Kipling Street, Lakewood, Colorado, 80225.

Written statements may be submitted to Ms. Deborah Gibbs Tschudy, Chief, Valuation and Standards Division, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3150, Denver, Colorado 80225–0165, courier delivery to Building 85, Denver Federal Center, Denver, CO 80225.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Gibbs Tschudy, Chief, Valuation and Standards Division, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3150, Denver, Colorado, 80225–0165, telephone number (303) 275–7200, fax number (303) 275–7227.

SUPPLEMENTARY INFORMATION: The meetings will be open to the public without advanced registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits, and file written statements with the Committee for its consideration.

Written statements should be submitted to the address listed above. Minutes of Committee meetings will be available for public inspection and copying 10 days following each meeting at the same address. In addition, the materials received to date during the input sessions are available for inspection and copying at the same address.

Dated: May 7, 1996.

Robert E. Brown,

Associate Director for Royalty Management.

[FR Doc. 96–11853 Filed 5–10–96; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01–95–058]

RIN 2115–AE 46

Special Local Regulation: Connecticut River Raft Race, Middletown, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the regulations governing the Connecticut River Raft Race. The event name would change to the "Great Connecticut River Raft Race" due to a change in sponsor. The regulated area would move upriver to coincide with a change in the race course. The effective period would also change to July 27, 1996, and each year thereafter on a date and times specified in a Federal Register document. This regulation is necessary to control vessel traffic within the regulated area due to the confined nature of the waterway and anticipated congestion at the time of the event, thus providing for the safety of life and property on the affected navigable waterway.

DATES: Comments must be received on or before June 27, 1996.

ADDRESSES: Comments should be mailed to Commander (b), First Coast Guard District, Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, Massachusetts 02110–3350. Comments also may be hand-delivered to room 428 at the same address between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Benjamin M. Algeo, Chief, Boating Affairs Branch, First Coast Guard District, (617) 223–8311.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Each person submitting comments should include their name and address, identify this notice (CGD01–95–058), the specific section of the proposal to which each comment applies, and give the reason for each comment. Comments and attachments should be submitted on 8½" × 11" unbound paper in a format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons requesting acknowledgement of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

All comments received during the comment period will be considered by the Coast Guard and may change this proposal. The Coast Guard has no plans to hold a public hearing. Persons may request a public hearing by writing to Commander (b), First Coast Guard District at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If the Coast Guard determines that oral presentations will aid this rulemaking, it will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Discussion of Proposed Amendments

The Connecticut River Raft Race is in its twenty-second year, and is a popular local event. A permanent special local regulation, 33 CFR Part 100.102, governs the running of the event. Due to a change in sponsor, the name of the event will change to the "Great Connecticut River Raft Race" and the location of the race will be moved a short distance upriver. The event will continue to be annually recurring, therefore, the Coast Guard proposes to permanently amend the special local regulation found in 33 CFR Part 100.102. The race course and regulated area will change to consist of that portion of the Connecticut River between Marker nos. 92 and 73, Middletown, CT. The event date will also change from the first Saturday in August to the last Saturday in July or first Saturday in August.

This event will include up to 60 homemade rafts and is expected to draw up to 100 spectator craft. The Coast Guard, Connecticut Department of Environmental Protection, and local fire and police departments will each assign a patrol to the event. However, due to the restricted maneuverability of the participating rafts, it is necessary to establish a special local regulation to control spectator and commercial vessel movement within this confined area. Spectator craft are authorized to watch the race from any area as long as they remain outside the designated regulated area.

The proposed section will be effective annually on the last Saturday in July or first Saturday in August, between 10 a.m. and 2 p.m., or as published in a Coast Guard Notice to Mariners. A rain date may be established and announced in a Coast Guard Notice to Mariners. In emergency situations, the Coast Guard patrol commander may establish escort procedures for vessels requiring transit through the regulated area.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the limited duration of the race, the extensive advisories that will be made to the affected maritime community, and the minimal restrictions the regulation places on vessel traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*).

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impacts of this proposal and concluded that, under paragraph 2.B.2.e.34(h) of COMDTINST 16475.1B (as revised by 59 FR 38654, July 29, 1944), this proposal is a regulation issued in conjunction with an annually issued regatta or marine parade permit and is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Proposed Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.102 is revised to read as follows:

§ 100.102 Great Connecticut River Raft Race, Middletown, CT.

(a) *Regulated Area.* That section of the Connecticut River between Dart Island (Marker no. 73) and Portland Shoals (Marker no. 92), Middletown, CT.

(b) *Special Local Regulations.*

(1) The Coast Guard patrol commander may delay, modify, or cancel the race as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in the regulated area unless participating in the event or unless authorized by the Coast Guard patrol commander.

(3) Vessels encountering emergencies which require transit through the regulated area should contact the Coast Guard patrol commander on VHF Channel 16. In the event of an emergency, the Coast Guard patrol commander may authorize a vessel to transit through the regulated area with a Coast Guard designated escort.

(4) All persons and vessels shall comply with the instructions of the on-scene Coast Guard patrol commander. On-scene patrol personnel may include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon hearing five or more short blasts from a U.S. Coast Guard vessel, the operator of a vessel shall proceed as directed. Members of the Coast Guard Auxiliary will also be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective period.* This section is in effect from 10 a.m. to 2 p.m. on July 27, 1996, and each year thereafter on a date and times specified in a **Federal Register** Document.

Dated March 19, 1996.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 96–11774 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–14–M

Coast Guard

33 CFR Part 100

[CGD01–96–025]

RIN 2115–AE 46

Special Local Regulation: Newport-Bermuda Regatta, Narragansett Bay, Newport, RI

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a permanent special local regulation for the Newport-Bermuda Regatta. The event will be held on June 21, 1996, and biennially thereafter on even numbered years on the third Friday in June. The regatta begins in the approach to Newport Harbor, Newport, RI, in the East Passage of Narragansett Bay, continuing offshore to Bermuda, U.K. This regulation is needed to control vessel movement in the confined waters of the regatta start area.

DATES: Comments must be received on or before June 12, 1996.

ADDRESSES: Comments should be mailed to Commander (b), First Coast Guard District, Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, MA 02110–3350, or may be hand delivered to Room 428 at the same address, between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Benjamin. M. Algeo, Chief, Boating Affairs Branch, First Coast Guard District, (617) 223–8311.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Each person submitting comments should include their name and address, identify this notice (CGD01–96–025), the specific section of the proposal to which each comment applies, and give the reason for each comment. Comments and attachments should be submitted on

8½" × 11" unbound paper in a format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons requesting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. All comments received during the comment period will be considered by the Coast Guard and may change this proposal.

The Coast Guard has no plans to hold a public hearing. Persons may request a public hearing by writing to Commander (b), First Coast Guard District at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If the Coast Guard determines that oral presentations will aid this rulemaking, it will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Good cause exists to provide for a comment period less than 45 days. Due to the need to provide public notice and establish regulations for this year's event, a longer comment period is impracticable and contrary to the public interest.

Discussion of Proposed Amendments

The 1996 Newport-Bermuda Regatta is the fortieth running of the event. In the past, the Coast Guard has promulgated individual regulations for each year's race. Given the recurring nature of the event, the Coast Guard desires to establish a permanent regulation. The proposed regulation would establish a regulated area on Narragansett Bay, in the East Passage, and would provide specific guidance to control vessel movement during the race.

This event includes up to 120 ocean going sailboats racing from the approach to the entrance of Newport Harbor, Newport, RI, to Bermuda, U.K. The event typically attracts approximately 150–200 spectator craft. The Coast Guard will assign a patrol to the event, and the race course starting area will be marked. However, due to the large number of participants and anticipated spectator craft, it is necessary to establish a special local regulation to control spectator and commercial vessel movement within the confined starting area. Spectator craft are authorized to watch the race from any area as long as they remain outside the designated regulated area.

The proposed section will be effective biennially on even numbered years on the third Friday in June. In emergency situations, provisions may be made to establish safe escort by a Coast Guard or Coast Guard designated vessel for vessels requiring transit through the regulated area.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, in unnecessary. This conclusion is based on the limited duration of the race, the extensive advisories that will be made to the affected maritime community, and the minimal restrictions which the regulation places on vessel traffic.

Small Entities

Under the Regulatory flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impacts of this proposal and concluded that, under paragraph 2.B.2.e.34(h) of COMDTINST 16475.1B, (as revised by 61 FR 13563, March 27, 1996) this proposal is a special local regulation issued in conjunction with a regatta or marine parade and is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Proposed Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A permanent section, 100.119, is added to read as follows:

§ 100.119 Newport Bermuda Regatta, Narragansett Bay, Newport, RI.

(a) *Regulated Area.* The regulated area includes all waters of Narragansett Bay, Newport, RI, within the following points (NAD 83):

Latitude	*Longitude*
41°27'51" N	071°22'14" W
41°27'24" N	071°21'37" W
41°27'09" N	071°22'39" W
41°27'36" N	072°22'55" W

In the event that weather conditions prohibit a safe race start within the approach to Newport Harbor, the race will begin offshore and the following regulated area applies (NAD 83)

Latitude	*Longitude*
41°26'04" N	071°22'16" W
41°25'36" N	071°21'58" W
41°25'45" N	071°22'40" W
41°25'49" N	071°22.56" W

(b) *Special Local Regulations.*

(1) The Coast Guard patrol commander may delay, modify, or cancel the race as considerations or circumstances require.

(2) No person or vessel may enter, transit, or remain in the regulated area unless participation in the event or unless authorized by the Coast Guard patrol commander.

(3) Vessels encountering emergencies which require transit through the regulated area should contact the Coast Guard patrol commander on VHF Channel 16. In the event of an emergency, the Coast Guard patrol commander may authorize a vessel to transit through the regulated area with a Coast Guard designated escort.

(4) All persons and vessels shall comply with the instructions of the Coast Guard on-scene patrol commander. On scene patrol personnel may included commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon hearing five or more short blasts from a U.S. Coast Guard vessel, the operator of a vessel shall proceed as directed. Members of the Coast Guard Auxiliary may also be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective period.* This section is in effect on June 21, 1996, from 10:00 a.m. to 3:30 p.m., and biennially thereafter on even numbered years on the third Friday in June.

Dated: April 30, 1996.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 96–11902 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 100

[CGD01–96–022]

RIN 2115–AE46

Special Local Regulation: Searsport Lobster Boat Races, Searsport, ME

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposed to establish a permanent special local regulation for the Searsport Lobster Boat Races. The event will be held from 8 a.m. to 2 p.m. on August 24, 1996, and each year thereafter on a date and times published in a **Federal Register** notice. This regulation is needed to protect the boating public from the hazards associated with high speed powerboat racing in confined waters.

DATES: Comments must be received on or before June 27, 1996.

ADDRESSES: Comments should be mailed to Commander (b), First Coast Guard District, Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, MA 02110–3350, or may be hand delivered to Room 428 at the same address, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Benjamin M. Algeo, Chief, Boating Affairs Branch, First Coast Guard District, (617) 223–8311.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Each person submitting comments should include their name and address, identify this notice (CGD01–96–022), the specific section of the proposal to which each comment applies, and give the reason for each comment. Comments and attachments should be submitted on 8½" × 11" unbound paper in a format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons requesting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. All comments received during the comment period will be considered by the Coast Guard and may change this proposal.

The Coast Guard has no plans to hold a public hearing. Persons may request a public hearing by writing to Commander (b), First Coast Guard District at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If the Coast Guard determines that oral presentations will aid this rulemaking, it will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Discussion of Proposed Amendments

The Searsport Lobster Boat Races is a local, traditional event that has been held for many years in Searsport Harbor, ME. In the past, the Coast Guard has promulgated individual regulations for each year's race. Given the recurring nature of the event, the Coast Guard desires to establish a permanent regulation. The proposed regulation would establish a regulated area on Searsport harbor and would provide specific guidance to control vessel movement during the race.

The event includes 50 or more participants with 4 to 8 boats per class racing in heats around a ¾ mile marked course. The event typically attracts approximately 100 spectator craft. The Coast Guard will assign a patrol to the event, but due to the speed, large wakes, and proximity of the participating vessels, it is necessary to establish a special local regulation to control spectator and commercial vessel movement within this confined area. Spectator craft are authorized to watch the race from any area as long as they remain outside the designated regulated area.

The proposed section will be effective from 8 a.m. to 2 p.m. on August 24, 1996, and each year thereafter as published in a **Federal Register** notice. If the race is canceled due to weather, this section will be effective on the day following the effective date. In emergency situations, provisions may be made to establish safe escort by a Coast Guard or Coast Guard designated vessel for vessels requiring transit through the regulated area.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the limited duration of the race, the extensive advisories that will be made to the affected maritime community, and the minimal restrictions which the regulation places on vessel traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impacts of this proposal and concluded that, under paragraph 2.B.2.e.34(h) of DOMDTINST 16475.1B, (as revised by 61 FR 13563, March 27, 1996) this proposal is a special local regulation issued in conjunction with a regatta or marine parade and is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Proposed Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A permanent section, 100.118, is added to read as follows:

§ 100.118 Searsport Lobster Boat Races, Searsport Harbor, ME.

(a) *Regulated Area.* The regulated area includes all waters of Searsport Harbor, ME, within the following points (NAD 83):

Latitude	*Longitude*
44°26′31″ N	068°54′20″ W
44°27′03″ N	068°54′20″ W
44°27′03″ N	068°55′17″ W
44°26′51″ N	068°55′17″ W

(b) *Special Local Regulations.*

(1) The Coast Guard patrol commander may delay, modify, or cancel the race as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in the regulated area unless participating in the event or unless authorized by the Coast Guard patrol commander.

(3) Vessels encountering emergencies which require transit through the regulated area should contact the Coast Guard patrol commander on VHF Channel 16. In the event of an emergency, the Coast Guard patrol commander may authorize a vessel to transit through the regulated area with a Coast Guard designated escort.

(4) All persons and vessels shall comply with the instructions of the Coast Guard on-scene patrol commander. On-scene patrol personnel may include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon hearing five or more short blasts from a U.S. Coast Guard vessel, the operator of a vessel shall proceed as directed. Members of the Coast Guard Auxiliary may also be present to inform vessel operators of this regulation and other application laws.

(c) *Effective period.* This section is in effect form 8 a.m. to 2 p.m. on August 24, 1996, and each year thereafter on a date and times published in a **Federal Register** notice. If the event is canceled due to weather, this section is effective the following day.

Dated: May 1, 1996.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 96–11904 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD01–95–002]

RIN 2115–AE47

Drawbridge Operation Regulations New Rochelle Harbor, NY

AGENCY: Coast Guard DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing a change to the regulations governing the Glen Island Bridge, mile 0.8, across New Rochelle Harbor in New Rochelle, New York. The proposal would require two hours advance notice for openings between the hours of 12 midnight and 6 a.m. from May 1st through October 31st, and twenty-four hours advance notice between the hours of 8 p.m. and 8 a.m. from November 1st through April 30th.

This change was requested by the Westchester County Department of Parks because of the few requests for bridge openings during these time periods. This action should relieve the bridge owner of the burden of having personnel constantly available to open the bridge and should provide for the reasonable needs of navigation.

DATES: Comments must be received on or before July 12, 1996.

ADDRESSES: Comments should be mailed to Commander (obr), First Coast Guard District, Building 135A, Governors Island, New York, 10004–5073, or may be hand-delivered to the same address between 6:30 a.m. and 3 p.m., Monday through Friday, except federal holidays. The telephone number is (212) 668–7170. The comments will become part of this docket and will be available for inspection and copying by appointment at the above address.

FOR FURTHER INFORMATION CONTACT: Gary Kassof, Bridge Program Manager, First Coast Guard District, (212) 668–7069.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD1 95–002), the specific section of this proposal to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format no larger than 8½″ by 11″, suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons desiring acknowledgment that their comments have been received are to enclose a stamped, self-addressed post card or envelope.

The Coast Guard will consider all comments received during the comment period, and may change this proposal in light of comments received. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Commander (obr), First Coast Guard District at the address listed under **ADDRESSES.** The request should include reasons why a hearing would be beneficial. If the Coast Guard determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Glen Island Bridge has vertical clearances when in the closed position of 13 feet above mean high water (MHW) and 20 feet above mean low water (MLW). The bridge is presently required to open on signal. The proposed regulations would provide openings on signal with two hours advance notice between the hours of 12 midnight and 6 a.m. from May through October, and with twenty-four hours advance notice between the hours of 8 p.m. and 8 a.m. from November through April

On January 27, 1995, the Coast Guard published a notice of proposed rulemaking entitled "Drawbridge Operation Regulations; New Rochelle Harbor, NY" in the **Federal Register** (60 FR 5343), proposing a change in the operating regulations by permitting the bridge to remain closed from 1 May through 31 October between 12 midnight and 8 a.m. and from 1 November through 30 April between 8 p.m. and 8 a.m. The Commander, First Coast Guard District also circulated this proposal for comment via Public Notice 1–846 dated April 18, 1995. The Coast Guard received ninety-eight comments expressing opposition to the proposal. The major objection was the fact that vessels requiring passage during the nighttime closed periods would be forced to use the alternate, New Rochelle Harbor South (back) Channel, which is considered dangerous for nighttime passage due to the shallowness and narrowness of the channel and the lack of lighted aids to navigation. No public hearing was requested and none was held. Based on the concerns expressed by the marine public, the Westchester County Department of Parks revised its request to modify the drawbridge operating regulations.

These proposed regulations will provide the bridge owner relief from having an operator in constant attendance at the bridge during periods of limited opening demand, while accommodating the navigational needs of the marine community.

Discussion of Proposed Amendments

The Coast Guard proposes to amend 33 CFR 117 by adding section 117.802 to require two hours advance notice for bridge openings between the hours of 12 midnight and 6 a.m. from May through October and twenty-four hours advance notice between the hours of 8 p.m. and 8 a.m. from November through April.

The Coast Guard also proposes that bridge owners install and maintain clearance gauges with figures not less than twelve inches high on the upstream and downstream sides of the bridge.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The proposed regulations will not prevent mariners from passing through the Glen Island Bridge but just require giving two hours advance notice of arrival between 12 midnight and 6 a.m. from May through October and twenty-four hours between 8 p.m. and 8 a.m. from November through April. This notice requirement will have minimal economic impact considering the low frequency of openings for navigation and the inactivity of the local marinas, yacht clubs and boat yards located up and downstream of the bridge during the regulated periods. There will be no impact on vehicular traffic that uses this bridge.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. Because of the reasons discussed in the Regulatory Evaluation above, the Coast Guard finds that the rule will not have a significant economic impact on a substantial number of small entitles. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

This proposed rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposed regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under paragraph 2.B.2.e(32)(e) of commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation since it is a proposed promulgation of a drawbridge operating regulation.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 449; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.802 is added to read as follows:

§ 117.802 New Rochelle Harbor.

(a) The draw of the Glen Island Bridge, mile 0.8, at new Rochelle, New York, shall open on signal, except as follows:

(1) two hours advance notice shall be given for openings from 12 midnight to 6 a.m. from May 1st through October 31st.

(2) twenty-four hours advance notice shall be given for openings from 8 p.m. to 8 a.m. from November 1st through April 30th.

(b) The owner of the bridge shall provide and keep in good legible condition clearance gauges with figures not less than 12 inches high designed, installed, and maintained according to the provisions of section 118.180.

Dated: April 30, 1996.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 96–11905 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–14–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Chapter II

[Docket No. RM 96–3]

Notice and Recordkeeping for Subscription Digital Transmissions

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Copyright Office of the Library of Congress is requesting comments on the requirements by which copyright owners shall receive reasonable notice of the use of their works from subscription digital transmission services, and how records of such use shall be kept and made available to copyright owners. The regulations are required to be adopted by the Digital Performance Right in Sound Recordings Act of 1995, and are intended to ensure proper payment to copyright owners.

DATES: Comments are due July 12, 1996. Reply comments are due August 12, 1996.

ADDRESSES: An original and fifteen copies of the comments shall be delivered to: Office of General Counsel, The Copyright Office, LM–407, The Madison Building, 101 Independence Avenue SE., Washington, D.C., or mailed to: Marilyn J. Kretsinger, Acting General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, or William J. Roberts, Senior Attorney, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 1995, Congress enacted the Digital Performance Right in Sound Recordings Act of 1995. Pub. L. 104–39, 109 Stat. 337 (1995). Among other things, it created a new compulsory copyright license that is paid by nonexempt subscription digital transmission services to the copyright owners of sound recordings. 17 U.S.C. 114(f). Congress directed the Librarian of Congress to establish regulations by which the entities availing themselves of this new license would keep records of their use, make the records available to the copyright owners, and give notice to the copyright owners of the use of their works.

The Sec. 114 License for Nonexempt Subscription Digital Transmissions Services

The Digital Performance Right in Sound Recordings Act gave to copyright owners of sound recordings an exclusive right to perform their works by means of a digital audio transmission. Certain digital transmissions were exempted from the scope of this right, 17 U.S.C. 114(d)(1), while certain subscription digital transmission services were given the opportunity to qualify for a compulsory license. 17 U.S.C. 114(d)(2).

A nonexempt subscription digital transmission qualifies for a compulsory license if the transmission is not part of an interactive service, does not exceed the sound recording performance complement, does not give an advance program schedule or prior announcements of the titles to be performed, does not automatically cause the receiving device to switch automatically from one program channel to another, and includes, if the copyright owner wants it, encoded information that identifies the title, the featured artist, and related information. 17 U.S.C. 114(d)(2).

If a service offering subscription digital transmissions qualifies for the compulsory license, it has the choice of reaching a voluntary agreement with the owners of the sound recordings it wishes to use, or, failing that, it may petition the Librarian of Congress to convene a copyright arbitration royalty panel (CARP) to set the rates and terms of the compulsory license. 17 U.S.C. 114(f). The terms and rates set by a CARP will be applicable to all subscription digital transmission services not subject to a voluntary agreement. However, the above mentioned requirements for notice and recordkeeping are to be set by the Librarian, not the CARP. 17 U.S.C. 114(f)(2).

On December 1, 1995, the Copyright Office and the Library of Congress initiated the six month period for negotiating the rates and terms for a compulsory license for subscription digital transmission services. 60 FR 61655 (Dec. 1, 1995). The period will run until June 1, 1996, after which the parties have 60 days to petition the Librarian to convene a CARP to set the rates and terms for those entities who have not reached voluntary agreements.

In the meantime, any person who wishes to perform a sound recording publicly by means of a nonexempt subscription transmission may do so without infringing the rights of the copyright owner of the sound recording by complying with the notice requirements set by the Librarian of Congress and agreeing to pay the royalty fees as they are determined. 17 U.S.C. 114(f)(5).

This notice requirement, however, is an affirmative duty placed on the digital transmission subscription services to provide reasonable notice to the copyright owners of the use of their sound recordings. 17 U.S.C. 114(f)(2). Therefore, it is important for the Copyright Office and the Library of Congress to begin this rulemaking to establish the notice and recordkeeping requirements so that persons wishing to abide by section 114(f)(5) may do so.

Although we do not propose any specific regulatory language, commentators should consider both the adequacy of the notice to the copyright owners of the sound recordings and the administrative burdens placed on the digital transmission services in providing notice and maintaining records of use.

Dated: May 3, 1996.

Recommended by:

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 96–11926 Filed 5–10–96; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5504–2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Alaskan Battery Enterprises Site from the National Priorities List Update: Request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region 10 announces its intent to delete the Alaskan Battery Enterprises Site (Site) from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Alaska Department of Environmental Conservation (ADEC) have determined that this Site poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before June 12, 1996.

ADDRESSES: Comments may be mailed to: Keith Rose, U. S. Environmental Protection Agency, 1200 Sixth Avenue, Mail Stop: ECL–111, Seattle, Washington 98101.

Comprehensive information on this Site is available through the Region 10 public docket which is available for viewing at the Alaskan Battery Enterprises Site information repositories at the following locations:

Alaska Department of Environmental Conservation, Attn: Jeffrey Peterson, 610 University Avenue, Fairbanks, Alaska 99709–3643

U.S. Environmental Protection Agency, Region 10, Environmental Cleanup Office—Records Center, Attn: Lynn Williams, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Keith Rose, U.S. EPA, 1200 Sixth Avenue, Mail Stop: ECL–111, Seattle, Washington 98101, (206) 553–7721.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis of Intended Site Deletion

I. Introduction

The Environmental Protection Agency (EPA) Region 10 announces its intent to delete a site from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Contingency Plan (NCP), 40 CFR Part 300, and requests comments on this deletion. Sites listed on the NPL are those which present a significant risk to human health or the environment. As described in Section 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such actions.

EPA plans to delete the Alaskan Battery Enterprises Site at 157 Old Richardson Highway, Fairbanks, Alaska 99709, from the NPL. EPA will accept comments on the plan to delete this Site for thirty days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Alaskan Battery Enterprises Site and explains how this site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites, where a release of hazardous substances has occurred, may be deleted from, or recategorized on the NPL, where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further action by responsible parties is appropriate, or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site *above* levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. In the case of this Site, where hazardous substances are not above health based levels and future access does not require restriction, operation and maintenance activities and five-year reviews will not be conducted. However, if new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazard Ranking System.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) EPA Region 10 issued a Record of Decision (ROD) which documented that no further action was necessary because cleanup goals had been achieved through removal actions prior to the ROD; (2) ADEC concurred with the proposed deletion decision; (3) A notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and, (4) All relevant documents have been made available for public review in the local Site information repositories.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual rights or obligations. The NPL is designed primarily for informational purposes to assist Agency management. As mentioned in Section II of this Notice, 40 CFR 300.425(e)(3) states that deletion of a site from the NPL does not preclude eligibility for future Fund-financed response actions.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary if any significant public comments are addressed.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional office.

IV. Basis for Intended Site Deletion

The following Site summary provides the Agency's rationale for the intention to delete this Site from the NPL.

A. Site Background

The Alaskan Battery Enterprises (ABE) facility was a 0.5 acre battery recycling facility located at 157 Old Richardson Highway at the southern edge of Fairbanks, Alaska. The area surrounding the site is primarily mixed residential and light commercial property.

B. Site History

The facility conducted battery recycling and manufacturing operations of automobile batteries from 1961 until about 1992. During its operation, crushed battery casings were used as fill material in low-lying areas of the ABE property and in the construction of the septic cribs along the southern property boundary. Used battery acid was also discharged directly to the ground on the ABE property.

Investigations conducted by the Alaska Department of Transportation (ADOT) in 1986, and by the EPA technical Assistance Team in 1988, identified high levels of lead contamination in soil on the ABE property and on the adjacent right-of-way owned by ADOT. In August 1988, EPA initiated an emergency removal action at the Site. Soils with lead

concentrations in excess of 1,000 mg/kg were excavated and disposed of at an off-site hazardous waste disposal facility. Excavation was completed in the summer of 1989 with a total of 3,760 cubic yards of contaminated soil removed and disposed off-site. Excavated areas were backfilled with clean soil.

In the summer of 1991 EPA initiated a Remedial investigation (RI) for the Site. The results of the RI indicated that there were two locations in the surface soil and one location in the subsurface soil where lead concentrations still posed a potential human health risk. Groundwater sampling conducted during the RI found elevated lead concentrations in unfiltered samples, but lead was not detected in filtered samples, indicating that lead was bound to soil particles and not mobile in the groundwater.

In the spring of 1992 the ABE site was selected for the demonstration of an innovative soil washing technology by EPA's Superfund Innovative Technology Evaluation (SITE) Program. All soil containing lead concentrations exceeding 1,000 mg/kg, which was a total of about 130 cubic yards, was excavated and treated by the soil washing system. Treated soil which met the cleanup goal was backfilled into the excavated areas, and soil which did not meet the cleanup goal was sent to an off-site disposal facility.

EPA completed the RI, a Human Health Risk Assessment, and Feasibility Study (FS) for the Site in August, 1992. A Record of Decision (ROD) for the Site, which declared that no further action was necessary, was signed on March 2, 1993. However, the ROD specified that two years of groundwater monitoring would be required to verify that groundwater at the Site was not contaminated with lead at levels which would pose a human health risk. This groundwater monitoring program, which was completed in September 1995, determined that lead concentrations in the groundwater were below EPA's drinking water standard of 15 µg/kg, and therefore the groundwater did not pose a human health risk.

During the removal activities at this Site, EPA kept the community informed of its cleanup actions primarily through fact sheets, newspaper articles, and personal communications with EPA's On-Scene Coordinator. Following the removal action, EPA representatives met with local officials, congressional representatives, the facility owner, and members of the community on numerous occasions to identify community concerns to support development of a Community Relations Plan, and to explain EPA's process for conducting a further investigation of the Site. EPA representatives also met several times with the Potentially Responsible Parties to discuss their potential liability for cleanup costs at the Site. A Proposed Plan for the Site, which called for no further cleanup action, was issued on October 29, 1992, and subject to public comment for 30 days. This Proposed Plan was mailed to individuals on EPA's mailing list and was also announced in a local newspaper notice. EPA also held a public meeting on the Proposed Plan in Fairbanks. In general, those who commented on the Proposed Plan supported EPA's no further action decision. EPA responded to all comments received in the Responsivesness Summary, which is attached to the ROD.

C. Characterization of Site Risk

Based on data collected during the RI, a risk assessment was conducted to identify exposure pathways and potential human health risks resulting from exposure to lead contamination remaining on-site after the removal actions conducted in 1988–89. The potential pathways for human health exposure to lead contamination at the Site were accidental ingestion of soil and ingestion of groundwater. A model was used to determine that a lead cleanup goal of 490 mg/kg for surface soil would be protective of potentially exposed children. For subsurface soils, EPA determined that a cleanup goal of 1,000 mg/kg; which was based on an industrial exposure, would be protective of workers who might be exposed to contaminated soil for a short duration. A risk assessment was not conducted for ingestion of lead in groundwater because a federal drinking water standard (15 ug/kg) already existed which was protective of human health.

Confirmational monitoring of soil and groundwater demonstrate that no significant risk to public health or the environment is posed by residual lead contamination remaining at the Site. Long-term operation and maintenance activities are not required at the Site. Based on the actions taken at the Site prior to the ROD, EPA and ADEC believe that hazardous substances have been removed from the Site so as to allow for unlimited use and unrestricted exposure within the Site, that conditions at the Site are protective of public health and the environment, and that no further remedial action or institutional controls are needed at the Site. Accordingly, EPA will not conduct "five-year reviews" at this Site.

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if "all appropriate Fund-financed response under CERCLA has been implemented, and no further action by responsible parties is appropriate." EPA, with concurrence of ADEC, believes that this criterion for deletion has been met. The groundwater and soil data confirm that the ROD goals have been met. It is concluded that there is no significant threat to public health or the environment and, therefore, no further remedial action is necessary. Subsequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available from the docket.

Dated: April 30, 1996.

Chuck Clarke,

Regional Administrator, Region 10.

[FR Doc. 96–11757 Filed 5–10–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 300

[FRL–5504–1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete Martin Marietta Aluminum Company from the National Priorities List Update: Request for Comments.

SUMMARY: The Environmental Protection Agency (EPA), Region 10, announces its intent to delete the Martin Marietta Site from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Oregon Department of Environmental Quality (DEQ) have determined that the Site poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before June 12, 1996.

ADDRESSES: Comments may be mailed to: Howard Orlean, Environmental Protection Agency, 1200 Sixth Avenue, Mail Stop: ECL–113, Seattle, Washington 98101.

Comprehensive information on this Site is available through the Region 10 public docket which is available for viewing at the Martin Marietta Site information repositories at the following locations:

Dalles/Wasco County Library, 722 Court Street, The Dalles, Oregon 97058.

United States Environmental Protection Agency, Region 10 Office of Environmental Cleanup - Records Center, Attn: Lynn Williams, 1200 Sixth Avenue, Mail Stop, ECL–113, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Howard Orlean, U.S. EPA Region 10, 1200 Sixth Avenue, Mail Stop: ECL–113, Seattle, Washington 98101, (206) 553–6903.

SUPPLEMENTARY INFORMATION

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I. Introduction

The Environmental Protection Agency (EPA) Region 10 announces its intent to delete a site from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Contingency Plan (NCP), 40 CFR Part 300, and requests comments to this deletion. EPA identifies sites on the NPL that appear to present a significant risk to human health or the environment. As described in Section 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such actions.

EPA plans to delete the Martin Marietta Aluminum Company Site ("Site") at 3313 West 2nd Street, The Dalles, Oregon 97058, from the NPL.

EPA will accept comments on the plan to delete this Site for thirty days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Martin Marietta Aluminum Company Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that "releases" (sites) may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further action by responsible parties is appropriate, or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. In the case of the Martin Marietta Aluminum Company Site, hazardous substances remain on the Site which are above health-based levels, therefore, access restrictions, monitoring, operation and maintenance activities, and periodic five-year reviews will continue. In addition, whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazard Ranking System.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) EPA Region 10 issued preliminary and final close out reports which documented the achievement of cleanup goals; (2) The Oregon Department of Environmental Quality (DEQ) concurred with the proposed deletion decision; (3) A notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and, (4) All relevant documents have been made available for public review in the local Site information repositories.

Deletion of the Site from the NPL does not itself, create, alter or revoke any individual rights or obligations. The NPL is designed primarily for informational purposes to assist Agency management. As mentioned in Section II of this Notice, 40 CFR 300.425(e)(3) states that deletion of a site from the NPL does not preclude eligibility for future Fund-financed response actions.

EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision. The Agency will prepare a Responsiveness Summary if any significant public comments are received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional office.

IV. Basis for Intended Site Deletion

The following site summary provides the Agency's rationale for the intention to delete this Site from the NPL.

A. Site Background

Martin Marietta Aluminum was an aluminum reduction facility located in The Dalles, Wasco County, Oregon, just west of the Columbia River and east of the Union Pacific Railroad tracks at 3313 West 2nd Street. The area surrounding the site is primarily mixed heavy and light industrial and manufacturing property.

B. History

Aluminum production operations were begun at the Site by Harvey Aluminum, Inc. in 1958. Harvey Aluminum, Inc. became a wholly owned subsidiary of Martin Marietta Corporation (MMC) in 1970. The Martin Marietta facility continued operations until 1984, when the plant was shut down. In September of 1986, MMC leased a portion of the facility to Northwest Aluminum Company (NWA), which resumed primary aluminum operations in late 1986. In October 1991, MMC sold the portion of the facility not affected by deed restrictions to NWA. In 1995, MMC merged with Lockheed Corporation to form Lockheed Martin. Lockheed Martin, as successor to MMC, maintains the portion of the NWA plant affected by CERCLA remedial actions. The NWA plant still produces aluminum by electrolytic reduction of alumina.

During facility operation, waste constituents were stored, treated, and disposed of at the Site. Hazardous substances generated by the Martin Marietta facility included fluoride, sodium, sulfate, cyanide and polynuclear aromatic hydrocarbons (PAHs).

A landfill located in the northern portion of the Site was used to dispose of primarily construction debris from the plant. Other materials disposed of in this landfill included asbestos

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insulation, coke, pitch and cathode waste.

In the Spring of 1983, the presence of cyanide compounds was detected in the ground water at the Martin Marietta facility. The site was proposed for inclusion on the NPL in October 1984. On June 10, 1986 the Site was placed on the NPL.

In September 1985, MMC and EPA entered into a Consent Order to conduct a remedial investigation/feasibility study (RI/FS) for the Site. On September 29, 1988, EPA signed a Record of Decision (ROD) that addressed the potential sources of contamination as identified in the RI/FS. The selected remedial action in the ROD included the following components:

- Consolidate on-Site residual cathode waste and fill material into the existing Landfill;
- Cap the existing Landfill in place with a multi-media cap meeting Resource Conservation and Recovery Act (RCRA) performance criteria;
- Place a soil cover over two Sludge Ponds;
- Plug and abandon nearby production wells and connect users to the City of The Dalles water supply system;
- Collect and treat leachate generated from the Landfill;
- Recover and treat contaminated ground water from a perched zone near the Unloading Area portion of the Site;
- Prepare ground-water quality monitoring and contingency plans to perform additional recovery of ground water in the event that further contamination is detected above health based standards; and
- Implement institutional controls including deed restrictions and fencing, to assure that the remedial action will protect human health and the environment during and after implementation.

An Explanation of Significant Differences (ESD) was signed by EPA Region 10 on September 23, 1994. The ESD documented modifications to remedial actions which were anticipated in the ROD, and an addition to the remedial action which was not anticipated in the ROD.

Changes to the ROD which are documented in the ESD include the following:

- The ROD anticipated that the volume of leachate generated from the Landfill would be reduced to a negligible flow within five years. However, since the signing of the ROD, the leachate flow rate has not decreased significantly. As a result, the leachate will have to be treated for a longer term than expected.
- The ROD also required treatment of contaminated ground water in an area known as the Unloading Area. Additional ground-water information which was collected since the ROD, has made it unnecessary to treat the ground water in the Unloading Area.

C. Characterization of Risk

Prior to remediation, the preliminary environmental pathways of concern related to the wastes from the aluminum reduction facility were ground water and on-Site soils.

The remedial action commenced on August 29, 1989 and consisted of the following activities:

- Consolidation and capping of wastes and debris from three former operating units.
- Excavation and consolidation of cathodic wastes into the Landfill, and placement of a multi-layered RCRA performance cap over the Landfill.
- Construction of a Leachate Collection System and Cyanide Destruction Treatment System to collect and transfer any generated leachate from the Landfill for treatment.
- Abandonment of four potable water wells in the vicinity of the Site, and connecting their users to the municipal supply.
- Implementation of institutional controls.
- Implementation of a ground-water monitoring program.

On-Site containment of contaminated soils and debris has reduced exposure and inhibited the source of ground-water contamination. Analytical data based on five years of ground-water monitoring following the remedial action indicate concentrations of contaminants of concern do not exceed ROD cleanup levels.

All pathways by which environmental receptors could potentially be exposed to Site-related contaminants have been eliminated.

Since hazardous substances will remain on Site, operation and maintenance activities will continue, and institutional controls will remain in effect. A long-term ground-water monitoring program has been implemented at the Site. In addition, the Site will continue to be subject to periodic five-year reviews to ensure that the remedy remains protective of human health and the environment.

D. Public Participation

Community input has been sought by EPA Region 10 throughout the cleanup process for the Site. Community relations activities have included public meetings prior to signing of the ROD, several public notices in local newspapers, and routine publication of progress fact sheets. A copy of the Deletion Docket can be reviewed by the public at the Dalles/Wasco County Library or the EPA Region 10 Superfund Records Center. The Deletion Docket includes this Notice, the ROD, ESD, Remedial Action Construction Report, Preliminary Site Close-Out Report, and Final Site Close-Out Report. EPA Region 10 will also announce the availability of the Deletion Docket for public review in a local newspaper and informational fact sheet.

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if "responsible parties or other persons have implemented all appropriate response actions required". EPA, with the concurrence of DEQ, believes that this criterion for deletion has been met. Ground water and soil data from the Site confirm that the ROD cleanup goals have been achieved. It is concluded that there is no significant threat to human health or the environment and, therefore, no further remedial action is necessary. Subsequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available from the docket.

Dated: May 2, 1996.

Chuck Clarke,

Regional Administrator, Region 10.

[FR Doc. 96–11756 Filed 5–10–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 96–98, DA 96–700]

Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Increase in Page Limits for Comments and Reply Comments on Proposed Rule

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On April 19, 1996, the Commission adopted and released a Notice of Proposed Rulemaking (NPRM) to implement provisions of the Telecommunications Act of 1996 that address local competition. In addition to seeking comment on substantive rules, the NPRM established a limit of seventy-five (75) pages for the initial round of comments and thirty-five (35) pages for reply comments. Exhibits, appendices, and affidavits of expert witnesses are counted towards these page limits. In response to motions filed by GTE Service Corporation and the Consumer Federation of America, the Commission hereby increases the limit for initial comments from 75 to 120 pages and the limit for replies from 35 to 50 pages. In addition, the Commission expands the exclusion from these page limits to include any technical diagrams submitted by commenters in addition to the previously excluded documents. These modifications are intended to permit the development of the best possible record in light of the statutory deadline.

DATES: Comments on all sections of the NPRM other than Dialing Parity, Number Administration, Public Notice of Technical Changes, and Access to Rights of Way, must be submitted on or before May 16, 1996. Reply Comments must be filed on or before May 30, 1996. Comments on the remaining sections must be submitted on or before May 20, 1996. Reply comments for these sections must be submitted on or before June 3, 1996.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Janice Myles of the Common Carrier Bureau, 1919 M Street, N.W., Room 544, Washington, D.C. 20554. A copy of Comments and Reply Comments on Dialing Parity, Number Administration, Public Notice of Technical Changes, and Access to Rights of Way should be submitted to Gloria Shambley of the Network Services Division, Common Carrier Bureau, 2000 M Street, N.W., Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C. 20554. Parties are also asked to submit comments and reply comments on diskette. Such diskette submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Janice Myles of the Common Carrier Bureau, 1919 M Street, N.W., Room 544, Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be remitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, D.C. 20554 or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Kalpak Gude at (202) 418–1580, Common Carrier Bureau, Policy and Program Planning Division.

SUPPLEMENTARY INFORMATION:

Adopted: May 7, 1996

Released: May 7, 1996

By the Chief, Common Carrier Bureau:

1. On April 19, 1996, the Commission released a Notice of Proposed Rulemaking (Notice) in CC Docket No. 96–98 to implement the local competition provisions of the Telecommunications Act of 1996. *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Notice of Proposed Rulemaking, CC Docket No. 96–98, FCC 96–182, 61 FR 18311 (April 25, 1996). The NPRM provided that comments were to be no longer than seventy-five (75) pages and that reply comments were to be no longer than thirty-five (35) pages, including exhibits, appendices, and affidavits of expert witnesses. Empirical economic studies and copies of relevant state orders were not to be counted against these page limits. The NPRM required parties to file comments by May 16, 1996 and reply comments by May 30, 1996. The NPRM established separate comment and reply dates for issues regarding Dialing Parity, Number Administration, Notice of Technical Changes, and Access to Rights of Way. Nothing in this order alters or affects filing procedures regarding those issues.

2. On May 1, 1996, GTE Service Corporation (GTE) and the Consumer Federation of America (CFA) filed motions for extension of time. GTE Motion for Extension of Time and for Waiver of Page Limits (filed May 1, 1996); CFA Request for Extension of Time (filed May 1, 1996). GTE argued that, in light of the number of issues to be addressed, the inclusion of appendices in the page limits, the 35 page limit for replies, and the 14 day time period for replies, will preclude development of the most helpful and informative record. Among other things, GTE emphasized the difficulty of reviewing the record and filing reply comments within 14 days. GTE urged the Commission to modify the comment filing procedures to provide that: (1) Exhibits, appendices, and affidavits not be counted against the page limits; (2) the page limit for replies be 50 pages; and (3) the date for filing reply comments be increased from 14 to 21 days after the comment due date, i.e., June 6, 1996.

3. CFA argued that this proceeding and the universal service proceeding are inextricably linked, and that the limited comment periods in this proceeding would have a disproportionate negative effect on the ability of public interest groups to file comments. *Federal-State Joint Board on Universal Service*, Notice of Proposed Rulemaking and Order Establishing Joint Board, CC Docket No. 96–45, FCC 96–93, 61 FR 10499 (March 14, 1996). CFA argued that large telecommunications companies with substantial resources would have less difficulty participating in both proceedings, while public interest groups may be forced to either file comments which are less than complete or not file comments at all. CFA asserted that this would result in an incomplete record. CFA requested the Commission to extend the time to file comments until June 13, 1996 and the time for reply comments until July 3, 1996.

4. In light of concerns expressed by the parties, and in the interest of building the best record possible under the existing circumstances, the page limitations are modified as follows: (1) Comments must be no longer than one hundred twenty (120) pages and reply comments no longer than fifty (50) pages; (2) in addition to empirical economic studies and copies of relevant state orders, technical diagrams will not count against these page limitations; and (3) an additional 4 copies of comments and reply comments must be sent to Janice Myles of the Common Carrier Bureau, 1919 M Street, NW., Room 544, Washington, DC 20554. We decline to adopt GTE's request that exhibits, appendices and affidavits be excluded from the page limit since we believe that this could easily be tantamount to removing the page limitations altogether. In lieu of this, we are increasing the page limit for comments substantially, from 75 to 120 pages. We are also increasing the page limit for replies to 50 pages as requested by GTE.

5. We deny the GTE and CFA requests for extension of the dates for filing comments and/or replies. Although the current pleading schedule is relatively compressed given the scope of the issues involved, we do not believe that we can extend the filing dates without compromising the Commission's ability to meet the implementation schedule mandated by Congress.

6. In order to facilitate development of the best possible record within existing constraints, we stress the need for interested parties to present their positions fully in their initial comments. We emphasize that the purpose of reply comments is to permit parties to respond to the original comments. 47 CFR § 1.415(c).

7. Accordingly, it is ordered that the motion for extension of time and for waiver of page limits filed by GTE Service Corporation is granted to the extent indicated above and otherwise denied.

8. It is further ordered that the request for extension of time filed by the Consumer Federation of America is denied.

Federal Communications Commission.

Regina M. Keeney,

Chief, Common Carrier Bureau.

[FR Doc. 96–11965 Filed 5–10–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapters 1 and 2

[FAR Case 96–308]

Federal Acquisition Regulation; Implementation of Commercially Available Off-the-Shelf Item Acquisition Provisions of the Federal Acquisition Reform Act

AGENCIES: Department of Defense, General Services Administration, and National Aeronautics and Space Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Acquisition Regulatory Council is soliciting comments regarding the implementation of section 4203 of the Federal Acquisition Reform Act (Pub. L. 104–106) (the Act) with respect to Commercially Available Off-the-Shelf Item Acquisitions. The Act requires the FAR to list provisions of law that are inapplicable to contracts for the acquisition of commercially available off-the-shelf items. Certain laws have already been determined to be inapplicable to all commercial items as a result of the implementation of the Federal Acquisition Streamlining Act of 1994 (see FAR 12.503). The additional provisions of law that could be determined inapplicable to commercially available off-the-shelf items are listed under **SUPPLEMENTARY INFORMATION** below.

DATES: Comments should be submitted to the address shown below by June 28, 1996.

ADDRESSES: Interested parties should submit comments to the FAR Secretariat, General Services Administration, 18th and F Sts. NW, Washington, DC 20405. Please cite FAR Case 96–308.

FOR FURTHER INFORMATION CONTACT: FAR Secretariat, (202) 501–4755.

SUPPLEMENTARY INFORMATION: 15 U.S.C. 637(d) (2) and (3), Utilization of Small Business Concerns (see 52.219–8); 15 U.S.C. 637(d)(4), Small Business Subcontracting Plan (see 52.219–9); 15 U.S.C. 637(a)(14), Limitation on Subcontracting (see 52.219–14); 19 U.S.C. 1202, Tariff Act of 1930 (see 52.225–10); 19 U.S.C. 1309, Supplies for Certain Vessels and Aircraft (see 52.225–10); 19 U.S.C. 2701, *et seq.*, Authority to Grant Duty Free Treatment (see 52.225–10); 29 U.S.C. 793, Affirmative Action for Handicapped Workers (see 52.222–36); 38 U.S.C. 4212, Affirmative Action for Special Disabled Vietnam Era Veterans (see 52.222–35); 38 U.S.C. 4212(d)(1), Employment Reports on Special disabled Veterans and Veterans of the Vietnam Era (see 52.222–37); 41 U.S.C. 10, Buy American Act—Supplies (see 52.225–3); 41 U.S.C. 253d, Validation of Proprietary Data Restrictions (see 52.227–14); 41 U.S.C. 253g and 10 U.S.C. 2482, Prohibition on Limiting Subcontractor Direct Sales to the United States (see 52.203–6); 41 U.S.C. 254(b) and 10 U.S.C. 2306a, Truth in Negotiations Act (see 15.804); 41 U.S.C. 254d(c) and 10 U.S.C. 2513(c), Examination of Records of Contractor (see 52.215–2); 41 U.S.C. 418a, Rights in Technical Data (see 52.227–14); 41 U.S.C. 442, Cost Accounting Standards (see FAR Appendix B, 48 CFR Chapter 99); 41 U.S.C. 423(e)(3), Administrative Actions (see 3.104); 46 U.S.C. 1241(b), Transportation in American Vessels of Government Personnel and Certain Cargo (see 52.247–64); 49 U.S.C. 40118, Fly American Provisions (see 52.247–63); For purposes of this notice, a "commercially available off-the-shelf item" means—

(1) a commercial item as defined in FAR 2.101;

(2) an item sold in substantial quantities in the commercial marketplace; and

(3) an item is offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace. This does not include bulk cargo, as defined in 46 U.S.C. App. 1702, such as agricultural and petroleum products. The FAR Council is requesting any interested parties to provide advance comments on:

(1) the definition of "commercially available off-the-shelf item" cited above.

(2) whether the above cited list of statutory provisions that could be determined inapplicable to commercial off-the-shelf items is complete.

(3) whether the specific provisions of law should be determined to be inapplicable. Comments received will be considered in the development of proposed or interim rules. In addition, a 60-day public comment period will be provided once proposed and/or interim FAR rules are drafted. Noted that agency specific statutory provisions will be addressed in separates **Federal Register** notices.

Dated: May 7, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 96–11862 Filed 5–10–96; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 537

[Docket No. 96–38, Notice 01]

RIN 2127–AG00

Automotive Fuel Economy; Semi-Annual Reports

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes various revisions to the required form and contents of the semi-annual reports which automobile manufacturers are statutorily required to submit under the Federal automotive fuel economy program. It is intended that these revisions will reduce the paperwork burdens imposed on manufacturers without inhibiting the agency's ability to comply with its statutory requirements. NHTSA undertakes this action as part of its effort to implement the President's Regulatory Reinvention Initiative to make regulations easier to understand and apply.

ADDRESSES: Comments should refer to the docket and notice number set forth above and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, D.C. 20590.

DATES: Comments on this notice must be received by July 12, 1996. The final rule would apply to reports submitted for model years beginning after publication of the final rule.

FOR FURTHER INFORMATION CONTACT: Alan Berkewitz, Office of Planning and Consumer Programs, Safety Performance Standards, NHTSA, 400 7th St., SW., Washington DC 20590. Telephone: (202) 366–4795.

SUPPLEMENTARY INFORMATION:

President's Regulatory Reinvention Initiative

Pursuant to the March 4, 1995, directive "Regulatory Reinvention Initiative" from the President to the heads of departments and agencies, NHTSA undertook a review of its regulations and directives. During the course of this review, the agency identified rules that it could propose to eliminate as unnecessary or to amend to improve their comprehensibility, usefulness, and appropriateness. NHTSA has identified the Semi-Annual Reports for Automotive Fuel Economy as a candidate for review.

Background

Section 32907 of Chapter 329 of Title 49 of the U.S. Code (49 U.S.C. 32901 *et seq.*) requires each automobile manufacturer (other than those small manufacturers which have been granted an alternative fuel economy standard under section 32902(d)) to submit semi-annual reports to the agency relating to that manufacturers' efforts to comply with average fuel economy standards. One report is due during the 30-day period preceding the beginning of each model year (the "pre-model year report") and the other is due during the 30-day period beginning on the 180th day of the model year (the "mid-model year report").

Since the various manufacturers have different annual production periods, the agency determined in 42 FR 62374 (December 12, 1977) that there was no single model year designation applicable to all companies. Therefore, in accordance with section 32901(a)(15) of Chapter 329, the agency determined that the calendar year should serve as the "model year" for purposes of section 32907, making the pre-model year report for any year due in December of the prior year and the mid-model year report for any year due in July of that year. For the major domestic manufacturers, this means that the pre-model year report is submitted well into their actual production period and the mid-model year report is due near the end of that period.

Section 32907(a)(1) of Chapter 329 provides that each report must contain a statement as to whether the manufacturer will comply with average fuel economy standards for that year, a plan describing the steps the manufacturer has taken or will take to comply with the standards, and any other information the agency may require. Whenever a manufacturer determines that a plan it has submitted in one of its reports is no longer adequate to assure compliance, it must submit a revised plan. Section 32907(a)(1)(C) of Chapter 329 also permits the agency to issue rules prescribing the form and content of reports.

Proposed Revisions

The revised text for 49 CFR Part 537 presented in this notice proposes to reduce the amount of detailed specification data required of manufacturers in their reports to the agency. Specifically, the agency is asking for data to be consolidated at the model level instead of the configuration level. This would reduce the volume of information that must be submitted. The proposed revision provides the data in a form that more closely matches the format of information that the agency uses in analyzing the manufacturers' fleets for purposes of its annual report to the Congress and special reports and studies of fuel economy standards. The format of the report is revised to delete some items that the agency has not used in recent years, i.e., engine code, emission control system, existence of overdrive, axle ratio, existence of temporary living quarters, expansion of cargo carrying capacity by removal of seats, and frontal area.

The proposed text also changes the time of submission of the detailed specification information from the pre-model year report to the mid-model year report. This will result in the manufacturers providing more complete and correct data as the data will be assembled near the end of the typical production period for each model. The data will still be provided to the agency in time for incorporation in the annual report to the Congress.

Finally, the text description for supplementary reports (§ 537.8) is deleted. Manufacturers have not been furnishing this report to the agency, nor has the agency been requesting it. Its purpose, to explain how a fleet that is below the average fuel economy standard will be brought into compliance, can be fulfilled by the addition of an appropriate statement in either the pre- model year or mid-model year report. Some manufacturers currently use this procedure. That statement is specified in the revised text in § 537.7(b)(4).

Impact Analyses

1. Economic Impacts

This notice of proposed rulemaking (NPRM) was not reviewed under Executive Order 12866 (Regulatory Planning and Review). NHTSA has analyzed the impact of this request for comment and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The agency anticipates, if a final rule should result from this NPRM, new requirements would not be imposed on manufacturers.

2. Impacts on Small Entities

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact this rulemaking would have on small entities. Few, if any, automobile manufacturers subject to the proposed rule would be classified as a "small business" under the Regulatory Flexibility Act. I certify that this action would not have a significant economic impact on a substantial number of small entities.

3. Impact of Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule would not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

4. Paperwork Reduction Act

Information collection requirements contained in this NPRM represent an amendment to those approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act (Pub. L. 96–511) and assigned OMB Control Number 2127–0019. The agency believes that the changes proposed in this notice will result in a small reduction in the paperwork burden of this reporting requirement. The agency solicits comment on the expected change in paperwork burden that this proposal would entail.

5. National Environmental Policy Act

The agency has analyzed this rule for the purpose of the National Environmental Policy Act and determined that it would not have any

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significant impact on the quality of the human environment.

6. Civil Justice Reform

This proposed rule would not have any retroactive effect and it does not preempt any State law. 49 U.S.C. 32909 sets forth a procedure for judicial review of automobile fuel economy regulations. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Comments

NHTSA is providing a comment period, ending on July 12, 1996 for interested parties to present data and views on the issues raised in this notice, as well as any other issues commenters believe are relevant to this proceeding. It is requested but not required that 10 copies be submitted.

Comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 537

Fuel economy, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Part 537 would be revised to read as follows:

PART 537—AUTOMOTIVE FUEL ECONOMY REPORTS

Sec.
537.1 Scope.
537.2 Purpose.
537.3 Applicability.
537.4 Definitions.
537.5 General requirements for reports.
537.6 General content of reports.
537.7 Pre-model year and mid-model year reports.
537.8 [Reserved].
537.9 Determination of fuel economy values and average fuel economy.
537.10 Incorporation by reference.
537.11 Public Inspection of Information.
537.12 Confidential Information.

Authority: 49 U.S.C. 32907; 49 CFR 1.50.

§ 537.1 Scope.

This part establishes requirements for automobile manufacturers to submit reports to the National Highway Traffic Safety Administration regarding their efforts to improve automotive fuel economy.

§ 537.2 Purpose.

The purpose of this part is to obtain information to aid the National Highway Traffic Safety Administration in valuating automobile manufacturers' plans for complying with average fuel economy standards and in preparing an annual review of the average fuel economy standards.

§ 537.3 Applicability.

This part applies to automobile manufacturers, except for manufacturers subject to an alternate fuel economy standard under 49 U.S.C. 32902(d).

§ 537.4 Definitions.

(a) Statutory terms. (1) The terms average fuel economy standard, fuel, manufacture, and model year are used as defined in 49 U.S.C. 32901.

(2) The term manufacturer is used as defined in 49 U.S.C. 32901 and in accordance with Part 529 of this chapter.

(3) The terms average fuel economy, fuel economy, and model type are used as defined in Subpart A of 40 CFR Part 600.

(4) The terms automobile, automobile capable of off-highway operation, and passenger automobile are used as defined in 49 U.S.C. 32901 and in accordance with the determinations in Part 523 of this chapter.

(b) Other terms. (1) The term loaded vehicle weight is used as defined in Subpart A of 40 CFR Part 86.

(2) The terms base level, body style, car line, combined fuel economy, equivalent test weight, inertia weight, transmission class, and vehicle configuration are used as defined in Subpart A of 40 CFR Part 600.

(3) The term light truck is used as defined in Part 523 of this chapter and in accordance with determinations in that part.

(4) The terms approach angle, axle clearance, breakover angle, cargo-carrying volume, departure angle, passenger-carrying volume, and running clearance are used as defined in Part 523 of this chapter.

(5) The term incomplete automobile manufacturer is used as defined in Part 529 of this chapter.

(6) As used in this part, unless otherwise required by the context:

(i) Administrator means the Administrator of the National Highway Traffic Safety Administration or the Administrator's delegate.

(ii) Current model year means:

(A) In the case of a pre-model year report, the full model year immediately following the period during which that report is required by 537.5(b) to be submitted.

(B) In the case of a mid-model year report, the model year during which that report is required by 537.5(b) to be submitted.

(iii) Average means a production weighted harmonic average.

(iv) Total drive ratio means the ratio of an automobile's engine rotational speed (in revolutions per minute) to the automobile's forward speed (in miles per hour).

§ 537.5 General requirements for reports.

(a) For each current model year, each manufacturer shall submit a pre-model year report and a mid-model year report.

(b)(1) The pre-model year report required by this part for each current model year must be submitted during the month of December (e.g., the pre-model year report for the 1997 model year must be submitted during December, 1996).

(2) The mid-model year report required by this part for each current model year must be submitted during the month of July (e.g., the mid-model year report for the 1997 model year must be submitted during July 1997).

(c) Each report required by this part must:

(1) Identify the report as a pre-model year report or mid-model year report;

(2) Identify the manufacturer submitting the report;

(3) State the full name, title, and address of the official responsible for preparing the report;

(4) Be submitted in 10 copies to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590;

(5) Identify the current model year;

(6) Be written in the English language; and

(7)(i) Specify any part of the information or data in the report that the manufacturer believes should be with held from public disclosure as trade secret or other confidential business information.

(ii) With respect to each item of information or data requested by the manufacturer to be withheld under 5 U.S.C. 552(b)(4) and 15 U.S.C. 2005(d)(1), the manufacturer shall:

(A) Show that the item is within the scope of sections 552(b)(4) and 2005(d)(1);

(B) Show that disclosure of the item would result in significant competitive damage;

(C) Specify the period during which the item must be withheld to avoid that damage; and

(D) Show that earlier disclosure would result in that damage.

(d) Each report required by this part must be based upon all information and data available to the manufacturer 30 days before the report is submitted to the Administrator.

§ 537.6 General content of reports.

(a) Pre-model year and mid-model year reports. Except as provided in paragraph (b) of this section, each pre-model year report and the mid-model year report for each model year must contain the information required by 537.7(a).

(b) Exceptions. The pre-model year report and the mid-model year report submitted by an incomplete automobile manufacturer for any model year are not required to contain the information specified in 537.7 (c)(4)(xix) (A) and (B)(1), (3), and (4) and (c)(5). The information provided by the incomplete automobile manufacturer under 537.7(c) shall be according to base level instead of model type or car line.

§ 537.7 Pre-model year and mid-model year reports.

Each manufacturer submitting a report shall:

(a)(1) Provide the information required by paragraphs (b) and (c) of this section for the manufacturer's passenger automobiles for the current model year.

(2) After providing the information required by paragraph (a)(1) of this section provide the information required by paragraphs (b) and (c) of this section for the manufacturer's light trucks for the current model year.

(b) Projected average Fuel economy. (1) State the projected average fuel economy for the manufacturer's automobiles determined in accordance with 537.9 and based upon the fuel economy values and projected sales figures provided under paragraph (c)(2) of this section.

(2) State the projected final average fuel economy that the manufacturer anticipates having if changes implemented during the model year will cause that average to be different from the average fuel economy projected under paragraph (b)(1) of this section.

(3) State whether the manufacturer believes that the projection it provides under paragraph (b)(2) of this section, or if it does not provide an average under that paragraph, the projection it provides under paragraph (b)(1) of this section sufficiently represents the manufacturer's average fuel economy for the current model year for the purposes of the statute. In the case of a manufacturer that believes that the projection is not sufficiently representative for those purposes, state the reason for the insufficiency and the specific additional testing or derivation of fuel economy values by analytical methods believed by the manufacturer necessary to eliminate the insufficiency and any plans of the manufacturer to undertake that testing or derivation voluntarily and submit the resulting data to the Environmental Protection Agency under 40 CFR 600.509.

(4) If the projected average fuel economy provided under section (b)(1) or (b)(2) of this section does not comply with the applicable average fuel economy standard, state what actions the manufacturer has taken or intends to take to comply with the standard and whether those actions are sufficient to ensure compliance.

(c) Model type fuel economy and technical information. (1) For each model type of the manufacturer's automobiles, provide the information specified in paragraph (c)(2) of this section in tabular form. List the model types in order of increasing equivalent test weight from top to bottom down the left side of the table and list the information categories in the order specified in paragraph (c)(2) of this section from left to right across the top of the table.

(2)(i) Combined fuel economy for each model type and CAFE for the fleet; and (ii) Projected production for the current model year and total production of all model types.

(3) (Mid-model report only.) For each model type provide the information specified in paragraph (c)(4) at this section either in tabular form or preferably as a database formatted computer disk. If a tabular form is used then list the vehicle model types in the order listed under paragraph (c)(2) of this section from top to bottom down the left of the table and list the information categories across the top of the table from left to right in the order specified in paragraph (c)(4) of this section. Other formats (such as copies of EPA reports), which contain all the required information in a readily identifiable form, are also acceptable. If a computer disk is used, any NHTSA approved database structure may be used, but each model type record should identify the manufacturer, model type, and for light trucks the drive wheel code, e.g. 2- or 4- wheel drive. At least the information categories specified here and in paragraph (c)(4) must be provided, but if preferred, the disk may contain any additional categories. Each computer disk record must contain all the required categories of information to enable direct reading and interpretation in the database format that was approved. Parameters that vary within the model type (e.g., loaded vehicle weight) should be weighted by the production share of each distinct value.

(4)(i) Loaded vehicle weight;
(ii) Equivalent test weight;
(iii) Engine displacement, liters;
(iv) Number of engine cylinders;
(v) SAE net rated power, kilowatts;
(vi) Type of fuel injection;
(vii) Transmission class;
(viii) Number of forward speeds;
(ix) Total drive ratio (N/V);
(x) Combined fuel economy, mpg;
(xi) Projected production for the current model year;
(xii) Road load power at 50 miles per hour;
(xiii) (A) In the case of passenger automobiles:
(*1*) Interior volume index, determined in accordance with Subpart D of 40 CFR Part 600, and
(*2*) Body style;
(B) In the case of light trucks:
(*1*) Passenger-carrying volume; and
(*2*) Cargo-carrying volume.

(5) For each model type of automobile which is classified as an automobile capable of off-highway operation under Part 523 of this chapter, provide the following data:

(i) Approach angle;
(ii) Departure angle;
(iii) Breakover angle;
(iv) Axle clearance;
(v) Minimum running clearance; and
(vi) Existence of 4-wheel drive (indicate yes or no).

(6) The fuel economy values provided under paragraphs (c) (2) and (4) of this section shall be determined in accordance with § 537.9.

§ 537.8 [Reserved]

§ 537.9 Determination of fuel economy values and average fuel economy.

(a) Base level and model type fuel economy values. For each base level and model type, the manufacturer shall submit a fuel economy value based on the vehicle configuration values that have been determined and approved under 40 CFR part 600, or, if such a value does not exist, a value based on a comparable test or analysis, and calculated in the same manner as base level and model type fuel economy values are calculated for use under Subpart F of 40 CFR part 600.

(b) Average fuel economy. Average fuel economy must be based upon fuel economy values calculated under paragraph (a) of this section for each model type and must be calculated in accordance with 40 CFR 600.506, using the configurations specified in 40 CFR 600.506(a)(2), except that fuel economy values for running changes and for new base levels are required only for those changes made or base levels added before the average fuel economy is required to be submitted under this part.

§ 537.10 Incorporation by reference.

(a) A manufacturer may incorporate by reference in a report required by this part any document other than a report, petition, or application, or portion thereof submitted to any Federal department or agency more than two model years before the current model year.

(b) A manufacturer that incorporates by references a document not previously submitted to the National Highway Traffic Safety Administration shall append that document to the report.

(c) A manufacturer that incorporates by reference a document shall clearly identify the document and, in the case of a document previously submitted to the National Highway Traffic Safety Administration, indicate the date on which and the person by whom the document was submitted to this agency.

§ 537.11 Public inspection of information.

Except as provided in § 537.12, any person may inspect the information and data submitted by a manufacturer under this part in the docket section of the National Highway Traffic Safety Administration. Any person may obtain copies of the information available for inspection under this section in accordance with the regulations of the Secretary of Transportation in Part 7 of this title.

§ 537.12 Confidential information.

(a) Information made available under § 537.11 for public inspection does not include information for which confidentiality is requested under § 537.5(c)(7), is granted in accordance with section 32910(c) of Chapter 329 and section 552(b) of Title 5 of the United States Code, and is not subsequently released under paragraph (c) of this section in accordance with section 32910 of Chapter 329.

(b) Denial of confidential treatment. When the Administrator denies a manufacturer's request under § 537.5(c)(7) for confidential treatment of information, the Administrator gives the manufacturer written notice of the denial and reasons for it. Public disclosures of the information is not made until after the ten-day period immediately following the giving of the notice.

(c) Release of confidential information. After giving written notice to a manufacturer and allowing ten days, when feasible, for the manufacturer to respond, the Administrator may make available for public inspection any information submitted under this part that is relevant to a proceeding under the Act, including information that was granted confidential treatment by the Administrator pursuant to a request by the manufacturer under § 537.5(c)(7).

Issued on: May 7, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–11720 Filed 5–10–96; 8:45 am]
BILLING CODE 4910–59–P

Surface Transportation Board

49 CFR Part 1185

[STB Ex Parte No. 543]

Revision of Regulations for Interlocking Rail Officers

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Surface Transportation Board (the Board) is seeking comments on proposed revisions to the regulations for authorization of interlocking rail officers and directors.

DATES: Comments on the proposed revisions are due June 3, 1996.

ADDRESSES: Send comments (an original and 10 copies) referring to STB Ex Parte No. 543 to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–7513. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the ICCTA) abolished the Interstate Commerce Commission (ICC) and established within the Department of Transportation the Board. Section 204 of the ICCTA provides that "[t]he Board shall promptly rescind all regulations established by the [ICC] that are based on provisions of law repealed and not substantively reenacted by this Act."

Under the prior statute at 49 U.S.C. 11322, a person wishing to hold a position of officer or director of more than one rail carrier of any size was required to seek prior ICC authorization. The ICC, however, exercising its general exemption authority under former 49 U.S.C. 10505, adopted rules at 49 CFR 1185 exempting from regulation as a class requests to assume the position of director or officer of a rail carrier while holding the position of director or officer of another rail carrier, except where both carriers are Class I railroads. *Exemption—Certain Interlocking Directorates*, 5 I.C.C.2d 7 (1988) (*Interlocking Directorates*). The class exemption does not apply to an individual who is an officer or director of a Class I carrier and who wishes to become an officer or director of another Class I railroad; that individual is required to file either an application (or petition for an individual exemption).

The ICCTA revised the statute so that, under new 49 U.S.C. 11328, individuals seeking to hold the position of officer or director only of Class III railroads are no longer required to seek Board authorization, either through exemption or through affirmative approval. We propose to revise 49 CFR part 1185 to reflect this statutory change and to eliminate other unnecessary and redundant provisions. The changes would clarify that the class exemption applies exclusively to interlocking directorates that (a) Do not involve an officer or director of a Class I rail carrier who seeks to become an officer or director of another Class I rail carrier, and (b) do not involve only Class III rail carriers.[1] The proposed rules would also make clear that, where the class exemption applies, it is not necessary to make a filing with the Board to invoke the exemption. *See Southern Electric—Petition for Exemption—Construction of a Rail Line in Shelby Co., AL*, Finance Docket No. 31498 *et al.* (ICC served Sept. 19, 1989).

The proposed revision would also update and clarify the term "carrier" for purposes of administering the interlocking officer and director provisions of the statute. Former 49 U.S.C. 11322, and the current regulations at 49 CFR 1185.2, use the term "carrier" as defined at former 49 U.S.C. 11301(a)(1).[2] New 49 U.S.C. 11328 does not separately define "carrier." We note that the general definition of "rail carrier" in new 49 U.S.C. 10102(5) refers to a person providing common carrier railroad transportation "for compensation," but not to a "sleeping car carrier" or "a corporation organized to provide transportation."[3]

In defining "carrier" for interlocking directorate purposes, we propose to exclude "sleeping car carrier" and to add "for compensation." We also believe that, in the context of interlocking directorates, the term "rail carrier" should be interpreted to embrace corporations organized to provide transportation. Because an individual would need Board approval after a corporation becomes a carrier, we believe it is appropriate to allow an individual to obtain early Board consideration, thereby providing more commercial certainty. This would also benefit the Board, by giving us an earlier opportunity to analyze a potential interlocking officer position or directorate. We thus propose the following definition of rail carrier in our proposed rule 1185.1(d):

A rail carrier means a person providing common carrier transportation for compensation (except a street, suburban, or interurban electric railway not operating as part of the general system of rail transportation), and a corporation organized to provide transportation by rail carrier.

We also propose to change the requirements for the form of the application to comply with our rules of practice (proposed section 1185.3). Finally, we seek specific comment on whether to include proposed section 1185.4, which would revise current 49 CFR 1185.9, *General authority*, pertaining to receipt of general authority to hold a directorship with subsidiary or affiliated companies. We question whether this provision is needed, because there are two other similar sections, proposed section 1185.5, *Common control* (currently section 1185.10) and proposed section 1185.6, *Jointly used terminal properties* (currently section 1185.11).[4] All three of these provisions concern interlocking directorships among carriers in an established system. *See Governing Officers*, 363 I.C.C. at 681 and 683.

The Board certifies that this rule, if adopted, would not have a significant economic effect on a substantial number of small entities. In response to the statutory change, this proposed rule will reduce regulation and it imposes no new reporting requirements on small entities. Requirements for the form of the application have been slightly modified to conform to the Board's rules of practice. The Board, however, seeks comments on whether there would be effects on small entities that should be considered.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1185

Administrative practice and procedure, Railroad.

Decided: April 23, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X, part 1185 of the Code of Federal Regulations is proposed to be revised to read as follows:

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[1] All other "interlocking directorates" are exempted as a class by virtue of the decision of the ICC in *Interlocking Directorates, supra*. The Board proposes to expressly affirm and adopt that exemption.

[2] The definition in former section 11301(a)(1) read:

"carrier" means a rail or *sleeping car carrier* providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title (except a street, suburban, or interurban electric railway not operated as part of a general railroad system of transportation), and *a corporation organized to provide transportation by rail carrier subject to that subchapter*. (Emphasis supplied.)

[3] Under new 49 U.S.C. 10102(5), rail carrier is defined as:

a person providing common carrier railroad transportation for compensation, but does not include street, suburban,or interurban electric railways not operated as part of the general system of rail transportation[.]

[4] *In Revised Regulations Governing Officers*, 336 I.C.C. 679 (1970) (*Governing Officers*), the ICC issued rules, codified at 49 CFR 1185.10 and 11, that would allow individuals to hold interlocking directorate positions with carriers lawfully operated under common control and to hold interlocking directorate positions with a carrier and a terminal railroad whose facilities are operated or used by the carrier jointly with other carriers.

PART 1185—INTERLOCKING OFFICERS

Sec.
1185.1 Definitions and scope of regulations.
1185.2 Contents of application.
1185.3 Procedures.
1185.4 General authority.
1185.5 Common control.
1185.6 Jointly used terminal properties.

Authority: 5 U.S.C. 553 and 559; 49 U.S.C. 721, 10502, and 11328.

§ 1185.1 Definitions and scope of regulations.

(a) Under 49 U.S.C. 11328, authorization of the Board is required before a person may hold the position of officer or director of more than one rail carrier, except where only Class III carriers are involved. Board authorization is not needed for individuals seeking to hold the positions of officers or directors only of Class III railroads. 49 U.S.C. 11328(b).

(b) When a person is an officer of a Class I railroad and seeks to become an officer of another Class I railroad, an application under 49 U.S.C. 11328(a) (or petition for individual exemption under 49 U.S.C. 10502) must be filed. All other "interlocking directorates" are exempt as a class from the prior approval requirements of 49 U.S.C. 11328(a). For such interlocking directorates exempted as a class, no filing with the Board is necessary to invoke the exemption.

(c) An "interlocking directorate" exists whenever an individual holds the position of officer or director of one rail carrier and assumes the position of officer or director of another rail carrier. This provision applies to any person who performs duties ordinarily performed by a director, president, vice president, secretary, treasurer, general counsel, general solicitor, general attorney, comptroller, general auditor, general manager, freight traffic manager, passenger traffic manager, chief engineer, general superintendent, general land and tax agent or chief purchasing agent.

(d) For purposes of this part, a rail carrier means a person providing common carrier railroad transportation for compensation (except a street, suburban, or interurban electric railway not operating as part of the general system of rail transportation), and a corporation organized to provide such transportation.

§ 1185.2 Contents of application.

(a) Each application shall state the following:

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(1) The full name, occupation, business address, place of residence, and post office address of the applicant.

(2) A specification of every carrier of which the applicant holds stock, bonds, or notes, individually, as trustee, or otherwise; and the amount of, and accurate description of, the securities, owned or held by him, of each carrier for which he seeks authority to act. (Whenever it is contemplated that the applicant will represent on the board of directors of any carrier securities other than those owned by him, the application shall describe such securities, state the character of representation, the name of the beneficial owner or owners, and the general nature of the business conducted by such owner or owners.)

(3) Each and every position with any carrier which is held by the applicant at the time of the application; and which he seeks authority to hold, together with the date and manner of his election or appointment thereto and, if he has entered upon the performance of his duties in any such position, the nature of the duties so performed and the date when he first entered upon their performance. (A decision authorizing a person to hold the position of director of a carrier will be construed as sufficient to authorize him to serve also as chairman of its board of directors or as a member or chairman of any committee or committees of such board; and, therefore, when authority is sought to hold the position of director, the applicant need not request authority to serve in any of such other capacities.)

(4) As to each carrier covered by the requested authorization, whether it is an operating carrier, a lessor company, or any other corporation organized for the purpose of engaging in rail transportation. (If any such carrier neither operates nor owns any railroad, transportation by which is subject to the Act, there shall be filed with the application, as a part thereof, a copy of such carrier's charter or certificate or articles of incorporation, with amendments to date. When such copy has once been filed with the former Interstate Commerce Commission (ICC) or with the Board, reference thereto, with amendments, if any, will suffice.)

(5) Thereafter a full statement of pertinent facts relative to any carrier which does not make annual reports to the Board, authorization for a position with which is sought.

(6) Full information as to the relationship, operating, financial, competitive, or otherwise, existing between the carriers covered by the requested authorization.

(7) Every corporation—industrial, financial, or miscellaneous—of which the applicant is an officer or director, and the general character of the business conducted by such corporation.

(8) The reasons, fully, why the granting of the authority sought will not affect adversely either public or private interests.

(9) Whether or not any other application for authority has been made in behalf of the applicant and, if so, the date and docket number thereof, by who made, and the action thereon, if any.

(b) When application has been made in behalf of any person, a subsequent application by him need not repeat any statement contained in the previous application but may incorporate the same by appropriate reference.

§ 1185.3 Procedures.

The original application or petition shall be signed by the individual applicant or petitioner and shall be verified under oath. Petitions and applications should comply with the Board's general rules of practice set forth at 49 CFR part 1104. Applications or petitions may be made by persons on their own behalf.

§ 1185.4 General authority.

Any person who holds or may seek specific authority to hold positions with a carrier may also request general authority to act as an interlocking officer for all affiliated or subsidiary companies or properties used or operated by the carrier, either separately or jointly, with other carriers. A carrier may apply for general authority on behalf of an individual who has already received authority to act as an interlocking officer. However, a carrier may not apply for general authority for an individual who holds a position with another railroad which is not an affiliate or subsidiary of the carrier or whose properties are not used or operated by the carrier, either separately or jointly with other carriers.

§ 1185.5 Common control.

It shall not be necessary for any person to secure authorization under the foregoing provisions to hold the position of officer or director of two or more carriers, if such carriers are operated under common control or management, either:

(a) Pursuant to approval and authority of the ICC granted under former 49 U.S.C. 11343–44 (repealed effective January 1, 1996) or by the Board granted under 49 U.S.C. 11323–24, or

(b) Pursuant to an exemption authorized by the ICC under former 49 U.S.C. 10505 (repealed effective January 1, 1996) or by the Board under 49 U.S.C. 10502, or

(c) Pursuant to a controlling, controlled, or common control relationship which has existed between such carriers since before June 16, 1933.

§ 1185.6 Jointly used terminal properties.

Any person holding the position of officer or director of a carrier is hereby relieved from the foregoing provisions to the extent that he may also hold a directorship and any other position to which he may be elected or appointed with a terminal railroad the properties of which are operated or used by the carrier jointly with other carriers.

[FR Doc. 96–11716 Filed 5–10–96; 8:45 am]

BILLING CODE 4915–00–P

Notices

Federal Register
Vol. 61, No. 93
Monday, May 13, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: The Rural Housing Service, USDA.

ACTION: Proposed collection; comments request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's (RHS) intention to request an extension for a currently approved information collection in support of the program for Housing Application Packaging Grants.

DATES: Comments on this notice must be received by July 12, 1996 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Betsy McDaniel, Loan Specialist, Single Family Housing Processing Division, RHS, U.S. Department of Agriculture, Ag Box 0783, Washington, DC 20250, Telephone (202) 720–1486.

SUPPLEMENTARY INFORMATION:

Title: Housing Application Packaging Grants.

OMB Number: 0575–0157.

Expiration Date of Approval: September 1996.

Type of Request: Extension of a currently approved information collection.

Abstract: The Rural Housing Service under Section 509 of the Housing Act of 1949, as amended, authorizes grants to public and private nonprofit organizations and state and local governments to package housing applications for Sections 502, 504, 514/516, 515, and 533 in colonias and designated counties. Eligible organizations will aid very low- and low-income individuals and families in obtaining benefits from RHS housing programs.

RHS will be collecting information from grantees to assure the organizations participating in this program are eligible entities and have participated in RHS training in application packaging. The respondents are nonprofit organizations, States, State agencies, and units of general local government. The information required for approval of housing application packaging grants is used by RHS personnel to verify program eligibility requirements and to secure grant assistance. The information is collected at the RHS field office responsible for the processing of the application being submitted. The information is also used to insure the program is administered in a manner consistent with legislative and administrative requirements. If not collected, RHS would be unable to determine if a grantee would qualify for grant assistance.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 4.5 hours per response.

Respondents: Private and public nonprofit organizations, and State and local governments.

Estimated Number of Respondents: 400.

Estimated Number of Responses per Respondent: 4.5.

Estimated Total Annual Burden on Respondents: 1800 hours.

Copies of this information collection can be obtained from the Director, Regulations and Paperwork Management Division, at (202) 720–9725.

Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of RHS, including whether the information will have practical utility; (b) the accuracy of RHS's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Director, Regulations and Paperwork Management Division, U.S. Department of Agriculture, Ag Box 0743, Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: May 6, 1996.

Maureen Kennedy,

Administrator, Rural Housing Service.

[FR Doc. 96–11832 Filed 5–10–96; 8:45 am]

BILLING CODE 3410–07–U

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1996 Community Census.

Form Number(s): DT–1A, 1B, 1(E), 1(E)SUPP, 10, 20A, 31, 14B.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 1,203 hours.

Number of Respondents: 11,000.

Avg Hours Per Response: 7 minutes.

Needs and Uses: The Census Bureau plans to conduct the 1996 Community Census to test new and improved methodologies for reducing the differentials in the census among the various components of the population and for containing costs associated with conducting a census. The test will be conducted on two American Indian Reservations and in 6 census tracts in Chicago, Illinois. Objectives are to test the Integrated Coverage Measurement Program in a reengineered census setting and compare rostering strategies for improving within–household coverage. We will use respondent friendly forms to maximize mail response. We also plan to implement and evaluate a partnership agreement with tribal governments and expand the Tribal Liaison's role to include involvement in census operational activities.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: May 7, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–11820 Filed 5–10–96; 8:45 am]

BILLING CODE 3510–07–F

Bureau of the Census

1997 Census of Agriculture

ACTION: Proposed agency information collection activity; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 12, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to: Joseph Reilly, Bureau of the Census, AGFS Division, Room 437, Iverson Mall, Washington, DC 20233. Phone: (301) 763–8557.

SUPPLEMENTARY INFORMATION:

I. Abstract

A census of agriculture is taken to obtain measures of agricultural activity and productivity for each county or county equivalent and state in the United States and the outlying areas. The census of agriculture is conducted on the same 5-year cycle as the other economic censuses. The 1997 Census of Agriculture covers all agricultural operations in each state, the Commonwealth of Puerto Rico, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands which meet the census farm definition. The farm definition for the 1997 Census of Agriculture for the 50 states is any place that produced and sold, or normally would produce and sell, $1,000 or more of agricultural products during 1997. This is the identical definition used for the 1992 Census of Agriculture. The Commonwealth of Puerto Rico farm definition has been changed from the 1992 definition, and will be the same as the definition used in the United States. The farm definition for Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands will stay at its 1992 level of $100 in sales.

To minimize respondent burden, the Census Bureau limits the items asked on the report forms for all farms to just these basic subjects: land use and ownership, irrigated land, crop acreages and quantities harvested, livestock and poultry inventories and value of products sold, acres set aside under Federal acreage-reduction programs, payment for participation in Federal farm programs, the amount received from Commodity Credit Corporation loans, number of injuries and deaths, and operator characteristics. Additionally, 25 percent of the report forms include additional questions on number of hired farm workers, production expenses, fertilizer and chemicals, machinery and equipment, market value of land and buildings, and income from farm-related sources. The Census Bureau designs regionalized report forms that are tailored for various parts of the country and are specific to the crops grown in a farmer's particular area.

The census of agriculture is authorized by law under Title 13, United States Code, sections 142(a) and 191. Individual farm operators are guaranteed by this same law that their individual information will be kept confidential. The Census Bureau uses the information only for statistical purposes and publishes data only as tabulated totals. The census of agriculture is the only comprehensive source of agricultural statistics at the county level. These agricultural statistics are used by Congress in developing and changing farm programs. Many national and state programs are designed or allocated on the basis of census data such as funds for extension services, research, and soil conservation projects. Private industry uses census statistics to provide a more effective production and distribution system for the agricultural community.

II. Method of Collection

The 1997 Census of Agriculture for the United States and the Commonwealth of Puerto Rico will be conducted primarily using mailout/mailback procedures for data collection. For Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands direct enumeration methods will be used for data collection.

III. Data

OMB Number: Not Available.

Form Number: 97–A0101–97–A0111, 97–A0114, 97–A0201–97–A0216, 97–0216(SP), 97–A1(G), 97–A1(VI), 97–A1(NM), and 97–A46.

Type of Review: Regular.

Affected Public: Farms.

Estimated Number of Respondents: 3,590,000.

Estimated Time Per Response: 22.5 minutes.

Estimated Total Annual Burden Hours: 1,346,250.

Estimated Total Annual Cost: $113.2 million over a 6-year cycle (1995–2000).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated-collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 7, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–11826 Filed 5–10–96; 8:45 am]

BILLING CODE 3510–07–P

1997 Economic Census Covering Transportation of Commodities

ACTION: Proposed agency information collection activity; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 12, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to John Fowler, Bureau of the Census, Room 2724, Building 3, Washington, DC 20230 on (301) 457–2108.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau is the preeminent collector and provider of timely, relevant, and quality data about the people and economy of the United States. Economic data are the Census Bureau's primary program commitment during nondecennial census years. The economic census, conducted under authority of Title 13, U.S.C., is the primary source of facts about the structure and functioning of the Nation's economy and features unique industry and geographic detail. Economic census statistics serve as part of the framework for the national accounts and provide essential information for government, business and the general public. The 1997 Economic Census will cover virtually every sector of the U.S. Economy.

The 1997 Commodity Flow Survey, a component of the Economic Census, will produce key statistics on the movement of freight in the United States. In the past, these types of data were used primarily by governmental agencies in planning for transportation infrastructure. Now these types of data are becoming increasingly important to the business sector for making decisions related to marketing and transportation strategies. The Commodity Flow Survey will be conducted with the guidance and co-sponsorship of the Bureau of Transportation Statistics, Department of Transportation. This survey will provide a range of transportation statistics including value of shipments, weight of shipments, commodities shipped, mode(s) of transportation used, origin and destination of shipments, ton-miles and average miles per shipment. The Census Bureau will publish shipment characteristics at the national, state, and National Transportation Analysis Region levels.

Primary strategies for reducing respondent burden in the Commodity Flow Survey include:

- Employing a stratified random sample to use the least number of establishments required to produce reliable statistics;
- Accepting estimates;
- Requesting data on a limited sample of shipments.

We will introduce additional strategies for reducing overall respondent burden for the 1997 Commodity Flow Survey, based on experience gained from the 1993 survey. These include:

- Decreasing the total sample size by nearly one half;
- Reducing the reporting period from two weeks to one week each quarter;
- Offering electronic reporting options.

II. Method of Collection

The Commodity Flow Survey will survey a sample of business establishments in mining, manufacturing, wholesale, and selected retail industries. Each selected establishment will receive, by mail, four questionnaires—one during each quarter of 1997. On each form, an establishment will be asked to report data for an average of 25 shipments, selected during a designated one-week reporting period.

III. Data

OMB Number: Not Available.

Form Number: CFS–1000.

Type of Review: Regular review.

Affected Public: Businesses and Other For-profit, Small Businesses or Organizations.

Estimated Number of Respondents: 100,000.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 800,000.

Estimated Total Annual Cost: The cost to the government for this work, to be shared between the Department of Transportation and the Census Bureau is estimated to be $22.5 million.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the utility of the information to businesses/private industry for marketing/cost evaluation/planning; (c) the accuracy of the agency's estimate of burden (including hours and cost) of the proposed collection of information; (d) ways to enhance the quality, utility, and clarity of the information to be collected; and (e) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 7, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–11827 Filed 5–10–96; 8:45 am]

BILLING CODE 3510–07–P

Wave 3 of the 1996 Panel Survey of Income and Program Participation (SIPP)

ACTION: Proposed agency information collection activity; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 12, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Michael McMahon, Room 3319–3, Washington DC 20233–8400, or telephone 301/457–3819.

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SUPPLEMENTARY INFORMATION:

I. Abstract

The SIPP represents a source of information for a wide variety of topics and allows information for separate topics to be integrated to form a single, unified data base so that the interaction between tax, transfer, and other government and private policies can be examined. Government domestic policy formulators depend heavily upon SIPP information concerning the distribution of income received directly as money or indirectly as in-kind benefits, and the effect of tax and transfer programs on this distribution. They also need improved and expanded data on the income and general economic and financial situation of the U.S. population. The SIPP has provided these kinds of data on a continuing basis since late 1983, permitting levels of economic well-being and changes in these levels to be measured over time.

The survey is molded around a central "core" of labor force and income questions that will remain fixed throughout the life of a panel. The core is supplemented with questions designed to answer specific needs such as estimating eligibility for government programs, examining pension and health care coverage, and analyzing individual net worth. These supplemental questions are included with the core and are referred to as "topical modules."

The topical modules for the 1996 Panel Wave 3 are the following: (1) Assets and Liabilities; (2) Medical Expenses and Work Disability, and (3) Real Estate, Shelter Costs, Dependent Care, and Vehicles; and (4) the Poverty Module. Also, additional topical module items will be asked at the end of the core instrument concerning Earnings and Employment, General Income Amounts, Stocks and Mutual Fund Shares, Rental Income, Mortgages, Royalties, and Other Financial investments. Wave 3 interviews will be conducted from December 1996 through March 1997.

II. Method of Collection

The SIPP is designed as a continuing series of national panels of interviewed households that are introduced every 4 years, with each panel having a duration of about 4 years in the survey. All household members 15 years old or older are interviewed using regular proxy-respondent rules. They are interviewed a total of 12 times (12 waves) at 4-month intervals, making the SIPP a longitudinal survey. Sample persons (all household members present at the time of the first interview) who move within the country and reasonably close to a SIPP Primary Sampling Unit (PSU) will be followed and interviewed at their new address. Persons 15 years old or older who enter the household after Wave 1 will be interviewed; however, if these persons move, they are not followed unless they happen to move along with a Wave 1 sample person. A reinterview with a sample of participants is also conducted to ensure quality in responses.

III. Data

OMB Number: 0607–0813.
Form Number: SIPP–16303 Reminder Card; SIPP/CAPI Automated Instrument.
Type of Review: Regular.
Affected Public: Individuals or Households.
Estimated Number of Respondents: 77,700 (interview), 2,500 (reinterview).
Estimated Time Per Response: 30 minutes (interview), 10 minutes (reinterview).
Estimated Total Annual Burden Hours: 116,550*

Interview	*116,500
Reinterview	*1,250
Total	117,800

* Estimates based on conducting 3 waves in a year.

Estimated Total Annual Cost: $28,000,000.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 7, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–11826 Filed 5–10–96; 8:45 am]

BILLING CODE 3510–07–P

Economics and Statistics Administration

Bureau of the Census

Census Advisory Committee on Agriculture Statistics; Notice of Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. app. 2, (1973), and after consultation with the General Services Administration, the Secretary of Commerce has determined that the renewal of the Census Advisory Committee on Agriculture Statistics is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was established July 16, 1962. It was initially chartered under the Federal Advisory Committee Act in January 1973. The Committee's purpose is to advise the Director, Bureau of the Census, on the conduct of the periodic censuses and surveys of agriculture and related surveys and the kind of information to obtain from respondents associated with agriculture production. The Committee also prepares recommendations regarding the content of agriculture reports, and presents the views and needs for data of major suppliers and users of agriculture statistics. The Committee draws on the experience and expertise of its members to form a collective judgment concerning agriculture data collected and the statistics the Census Bureau issues.

The committee will function solely as an advisory body and will comply fully with the provisions of the Federal Advisory Committee Act. The advisory committee shall consist of 21 member organizations. Each of the member organizations shall appoint a representative to the committee, subject to the concurrence of the Director, Bureau of the Census.

The committee shall report to the Director, Bureau of the Census.

The Department of Commerce will file copies of the committees' renewal charters with appropriate committees in Congress.

You may address inquires or comments to Maxine Anderson-Brown, Committee Liaison Officer, Bureau of the Census, Room 3039, FB 3, Washington, D.C. 20233, telephone (301) 457–2308, TDD (301) 457–2540.

Dated: May 7, 1996.

Martha Farnsworth Riche,

Director, Bureau of the Census.

[FR Doc. 96–11888 Filed 5–10–96; 8:45 am]

BILLING CODE 3510–BS–P

International Trade Administration

[A–412–817]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Foam Extruded PVC and Polystyrene Framing Stock From the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 13, 1996.

FOR FURTHER INFORMATION CONTACT: Ellen Grebasch, Dorothy Tomaszewski, or Erik Warga, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3773, (202) 482–0631, or (202) 482–0922, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act") are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act ("URAA").

Preliminary Determination

As explained in the memoranda from the Assistant Secretary for Import Administration dated November 22, 1995, and January 11, 1996, the Department of Commerce ("the Department") has exercised its discretion to toll all deadlines for the duration of the partial shutdowns of the Federal Government from November 15 through November 21, 1995, and December 16, 1995, through January 6, 1996. Thus, the deadline for the preliminary determination in this investigation has been extended by 28 days, *i.e.*, one day for each day (or partial day) the Department was closed. As such, the deadline for this determination is no later than May 3, 1996.

We preliminarily determine that foam extruded PVC and polystyrene framing stock ("framing stock") from the United Kingdom ("U.K.") is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation (Notice of Initiation of Antidumping Duty Investigation: Foam Extruded PVC and Polystyrene Framing Stock from the United Kingdom (60 FR 52370, October 6, 1995), the following events have occurred:

On October 25, 1995, the United States International Trade Commission ("ITC") issued an affirmative preliminary injury determination in this case (*see* ITC Investigation No. 731–TA–738).

On November 9, 1995, the Department issued an antidumping duty questionnaire to each of the three U.K. companies (Ecoframe Ltd., ("Ecoframe") Magnolia Group PLC, ("Magnolia") and Robobond Ltd., ("Robobond")) that produced and sold the subject merchandise during the period of investigation ("POI"), September 1, 1994, through August 31, 1995. The questionnaire is divided into four sections. Section A requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all of its markets. Sections B and C request home market sales listings and U.S. sales listings, respectively. Section D requests information on the cost of production ("COP") of the foreign like product and constructed value ("CV") of the subject merchandise.

On January 11, 1996, Robobond submitted a letter requesting that it be excused from reporting its home market and U.S. sales made from inventory, referred to as "501 stock" sales, on the grounds that the transactions were small quantities, represented a small percentage of overall sales, and would be burdensome to report and verify. *See* "Export Price" and "Normal Value" sections of this notice, below.

Ecoframe requested on January 11 and March 3, 1996, that the Department exclude from its margin analysis "ecopasta," "special offer" and scrap sales in both the United States and home markets, as well as a "special circumstance" sale to one U.S. customer. *See* "Export Price" and "Normal Value" sections of this notice, below.

On February 9, 1996, Magnolia requested (1) a quantity adjustment (*see* "Normal Value" section of this notice, below) and (2) the exclusion of certain home market sales from reporting requirements. The Department granted Magnolia's exclusion request by a March 25, 1996, letter.

Based on timely allegations by petitioner, Marley Mouldings, the Department began investigations into whether the three respondents had made sales in the home market at prices that were below COP pursuant to section 773(b) of the Act (*see* February 28 and March 4, 1996, memoranda from team to Gary Taverman).

On February 16, 1996, petitioner made a timely request that, pursuant to section 733(c)(1)(A) of the Act, the Department postpone its preliminary determination in this proceeding. Accordingly, we postponed the preliminary determination until not later than May 3, 1996 (61 FR 7240, February 27, 1996). (As noted above, all deadlines were tolled 28 days as a result of the two federal government shutdowns totaling 28 days; therefore, the original deadline of February 15, 1996, had already been extended to March 14, 1996.)

Respondents submitted responses to the various sections of the questionnaire from December 1995 through April 1996. For respondents' responses to sections A, B and C, the Department issued supplemental requests for information from February through April 1996. Responses to these supplemental requests were received in March and April 1996. Robobond and Ecoframe also filed supplements to their section D responses on April 17 and May 1, 1996, respectively.

Petitioner filed comments on Robobond's response to section D on April 29, 1996. Robobond argued in April 30 and May 2, 1996, letters that petitioner's comments were too late to be considered for the preliminary determination.

Postponement of Final Determination

On April 25, 1996, Robobond requested that, pursuant to section 735(a)(2)(A) of the Act, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the publication of the affirmative preliminary determination in the **Federal Register**. In accordance with 19 CFR 353.20(b), inasmuch as our preliminary determination is affirmative, Robobond accounts for a significant proportion of exports of the subject merchandise, and we are not aware of the existence of any compelling reasons for denying the request, we are granting Robobond's request and postponing the final determination.

Consistent with the General Agreement on Tariffs and Trade ("GATT"), section 773(d) of the Act permits the Department to extend suspension of liquidation from four to six months at the request of exporters representing a significant proportion of exports of the subject merchandise. The structure of the statute integrally links a

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request to extend the final determination and extension of suspension of liquidation. This linkage balances the goals of providing an expeditious remedy to the domestic industry against the desire to avoid undue harm to the exporters who have requested extension of the final determination. Accordingly, we consider a request by an exporter to extend the final determination as containing an implied request to extend suspension of liquidation. We are, therefore, extending suspension of liquidation in this case.

Scope of Investigation

This investigation covers all extruded PVC and polystyrene framing stock regardless of color, finish, width or length. Finished frames assembled from foam extruded PVC and polystyrene framing stock are excluded. The merchandise under investigation is currently classifiable under subheadings 3924.90.20.00; 3926.90.90.90; 3926.90.95.90; and 3926.90.98.90 of the Harmonized Tariff Schedules of the United States ("HTS"). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

Period of Investigation

The POI is September 1, 1994, through August 31, 1995.

Fair Value Comparisons

To determine whether sales of the subject merchandise by respondents to the United States were made at less than fair value, we compared the export price ("EP") to the Normal Value ("NV"), as described in the "Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i), we compared POI-wide weighted-average EPs to weighted-average NVs. In determining averaging groups for comparison purposes, we considered the appropriateness of such factors as physical characteristics and level of trade.

A. Physical Characteristics

In accordance with section 771(16) of the Act, we considered all products covered by the description in the *Scope of Investigation* section, above, produced in the United Kingdom and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in the Department's antidumping questionnaire. In making the product comparisons, we relied on the following criteria (in order of preference): material; weight per linear foot; profile type; width; finish type (pasta/compo, foil, mylar, laminated/wrapped, embossed plain substrate, embossed substrate with foil, embossed substrate with mylar, wet system (*e.g.*, paint), or other); and total number of finishes.

B. Level of Trade

In accordance with section 773(a)(7)(A) of the Act and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act ("SAA"), H.R. Doc. No. 316, 103d Cong., 2d Sess. 829–831 (1994), to the extent practicable, the Department will calculate NV based on sales at the same level of trade as the U.S. sale. When the Department is unable to find sale(s) in the comparison market at the same level of trade as the U.S. sales(s), the Department may compare sales in the U.S. and foreign markets at one or more different levels of trade.

Of the three respondents in this proceeding, only Robobond reported that different levels of trade existed, claiming that its sales from inventory are at a different level than its non-inventory sales.

We preliminarily find that different levels of trade do not exist for Robobond. In its level-of-trade claim, Robobond stated that sales from inventory constituted a separate level from non-inventory sales. We are not satisfied that this difference rises to the level of a different level of trade. *See* May 3, 1996, memorandum, on file in Room B–099 of the Main Commerce Building. However, we will examine this issue further at verification and consider arguments that parties may make during the briefing process.

What Robobond has characterized as a level-of-trade difference appears to stem from a concern that comparisons be made using comparable quantities. However, Robobond has not explained how comparable quantities might be defined or whether price comparability is affected by comparing different quantities. The Department must, in considering the question of level of trade categorization, ensure there are different selling functions at the alleged different levels, and distinguish differences in level of trade from other differences among sales, such as quantity differences. *See* SAA at 830. While differences in quantity may be an appropriate factor to consider in making fair value comparisons, such differences do not constitute level-of-trade differences.

Accordingly, we preliminarily find that no level of trade differences exist and that level of trade does not need to be considered in price averaging.

Export Price

We calculated EP, in accordance with subsections 772(a) and (c) of the Act, for each of the respondents, where the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and use of constructed export price was not otherwise warranted based on the facts of record.

We made company-specific adjustments as follows:

Ecoframe

We calculated EP based on packed, ex-works, FOB port, and delivered prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for the following charges: international freight (including plant-to-port-of-exit freight; brokerage and handling; and ocean freight).

For sales of a particular model to one U.S. customer, Ecoframe requested exclusion because certain designing and tooling costs had been paid separately by the customer. Rather than exclude these sales, we increased export price to account for the revenue. The Department may consider such revenue to be a component of the price charged to the customer. See Final Results of Antidumping Duty Administrative Review: Certain Forged Steel Crankshafts from the United Kingdom (56 FR 5975, February 14, 1991). We will fully examine the nature of this revenue during verification of Ecoframe's questionnaire response.

We excluded Ecoframe's scrap sales to U.S. customers. These were sales that were discounted when it was discovered after sale that the merchandise sold as prime merchandise was actually substandard. The sales involved relatively insignificant quantities. We did not exclude "ecopasta" or "special offer" sales because Ecoframe did not adequately explain why such sales should be excluded nor does the record indicate that the sales were extraordinary.

Finally, we recalculated credit expenses because the reported figure did not comport with the narrative description.

Magnolia

We calculated EP based on packed, delivered prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for the following charges: international freight (including plant-to-port-of-exit freight; U.K. inland insurance; brokerage and handling; ocean freight; marine insurance; U.S. inland port-to-warehouse freight; U.S. inland warehouse-to-customer freight; U.S. inland insurance; and other U.S. transportation charges) and U.S. duty.

Robobond

We calculated EP based on packed, delivered/duty unpaid and ex-works prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for the following charges: international freight (including UK inland freight, UK brokerage & handling, ocean freight, U.S. brokerage and handling, and U.S. inland freight). We added to the starting price an amount for reported freight revenue, where appropriate. We recalculated reported credit expenses using the average U.S.-dollar prime interest rate because the interest rate used for the reported figures was not based on information from the POI but rather on information provided by a bank for purposes of the questionnaire response.

We did not exclude "501 stock" sales because the record does not indicate that these sales were materially different from Robobond's other U.S. sales. Although Robobond characterized these sales as being a separate level of trade based on seller function, such a difference, if found to exist, is properly considered in the context of making fair value comparisons rather than by exclusions. As discussed above, Robobond has not established that these sales are at a different level of trade.

Normal Value

Cost of Production Analysis

As noted in the "Case History" section above, based on the petitioners' allegations, the Department found reasonable grounds to believe or suspect that each respondent made sales in the home market at prices below the cost of producing the merchandise. As a result, the Department initiated investigations to determine whether the respondents made home market sales during the POI at prices below their respective COPs within the meaning of section 773(b) of the Act.

Before making any fair value comparisons, we conducted the COP analysis described below.

A. Calculation of COP

We calculated the COP based on the sum of each respondent's cost of materials and fabrication for the foreign like product, plus amounts for home market general, and administrative expenses ("G&A") and packing costs in accordance with section 773(b)(3) of the Act. We relied on the respondents' submitted COP amounts except in the following specific instances wherein the reported costs were improperly valued:

Ecoframe: different costs had been reported for identical products and were weight averaged to derive a single, product-specific cost; and the reported amount for variable overhead was recalculated to exclude packing expenses.

Magnolia: indirect selling expenses were recalculated to adjust for improper allocation.

Robobond: reported G&A expenses were adjusted to reflect expenses for all affiliated companies; and reported depreciation expenses were revised to reflect Robobond's historical treatment of depreciation rather than an accounting practice adopted after the filing of the petition.

B. Test of Home Market Prices

We used the respondents' adjusted weighted-average COP for the POI. We compared the weighted-average COP figures to home market sales of the foreign-like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at below-cost prices within an extended period of time in substantial quantities, and were not at prices which permit recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges and direct and indirect selling expenses.

C. Results of COP Test

Pursuant to section 773(b)(2)(C) where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we disregarded the below-cost sales because such sales were found to be made in substantial quantities within an extended period of time (in accordance with section 773(b)(2)(B) of the Act) and at prices which would not permit recovery of all costs within a reasonable period of time (in accordance with section 773(b)(2)(D) of the Act).

Where there were no above-cost sales available for matching purposes, export prices that would have been compared to home market prices for these models were instead compared to CV.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of a respondent's cost of materials, fabrication, selling, general, and administrative expenses ("SG&A") and U.S. packing costs as reported in the U.S. sales databases. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. Where appropriate, we calculated each respondent's CV based on the methodology described in the calculation of COP above. For selling expenses, we used the weighted-average home market selling expenses. For Robobond, we calculated interest based on actual interest expenses incurred rather than the reported figure, which improperly included an adjustment for imputed interest.

Adjustments to Prices

We made company-specific adjustments to prices used as NV, as follows:

Ecoframe

We calculated NV based on packed, delivered prices to unaffiliated customers. We made deductions from the starting price for inland freight. In addition, where appropriate, we adjusted for differences in circumstances of sale for imputed credit expenses, credit insurance expenses, and commissions (including appropriate offsets). We adjusted reported gross unit prices to reflect the actual unit price of the quantity delivered.

We excluded Ecoframe's scrap sales to home market customers. Some were sales that were discounted when it was discovered after sale that the merchandise sold as prime merchandise was actually substandard; others were off-prime production sold as scrap. All types of excluded sales involved relatively insignificant quantities. We did not exclude "ecopasta" or "special offer" sales because Ecoframe did not adequately explain why such sales should be excluded nor does the record indicate that the sales were extraordinary.

Magnolia

We calculated NV based on packed, delivered prices to unaffiliated customers. We made deductions from the starting price for inland freight and early payment discounts. In addition, we adjusted for differences in circumstances of sale for imputed credit

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expenses (which we recalculated using the proper base price). Magnolia also reported an amount upon which to base an adjustment for differences in quantities sold between the U.S. and U.K. markets, pursuant to 19 CFR 353.55(a). Although Magnolia claimed that it incurred differing manufacturing costs depending on quantity, it did not demonstrate, nor did data on the record show, that pricing differences were related to quantity. Accordingly, we have not made the requested adjustment.

Robobond

We calculated NV based on packed, ex-works or delivered prices to unaffiliated customers. We made deductions from the starting price for inland freight, where appropriate. We added to the starting price an amount for reported freight revenue, where appropriate. In addition, we adjusted for differences in circumstances of sale for imputed credit expenses, post-sale clearing of accounts receivable (U.S. and home market), bank charges (U.S. and home market), post-sale "overcharging" credits, post-sale "shortage" credits, and customer-specific freight charges not allocable to specific sales. We reclassified as indirect selling expenses reported direct selling expenses for bad debt and for net expense freight on return merchandise. Neither expense was attributable to specific customers. We recalculated reported credit expenses using the average U.K.-pound-sterling lending rate because the interest rate used for the reported figures was not based on information from the POI but rather on information provided by a bank for purposes of the questionnaire response.

For each respondent, we made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. Where the difference in merchandise adjustment for every comparison product exceeded 20 percent, we based NV on CV. In addition, in accordance with section 773(a)(6)(B), we deducted home market packing costs and added U.S. packing costs for all respondents.

We did not exclude "501 stock" sales from the home market sales listing for the reasons described in the "Export Price" section of this notice, above.

Price to CV Comparisons

Where we compared CV to export prices, we deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses (where appropriate) in accordance with section 773(a)(8) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars. Further, section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. The benchmark is defined as the moving average of rates for the past 40 business days. (For an explanation of this method, see Policy Bulletin 96–1: Currency Conversions (61 FR 9434, March 8, 1996)). Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the U.K. pound did not undergo a sustained movement, nor were there currency fluctuations during the POI.

Verification

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

Exporter/manufacturer	Weighted-average margin percentage
Ecoframe	27.26
Robobond/Simons	2.60
Magnolia	81.24
All Others	4.29

Pursuant to section 733(d)(1)(A) and section 735(c)(5) of the Act, the Department has not included zero and *de minimis* weighted-average dumping margins and margins determined entirely under section 776 of the Act, from the calculation of the "all others" deposit rate.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than August 1, 1996, and rebuttal briefs, no later than August 8, 1996. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on August 15, 1996, the time and place to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B–099, within ten days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to section 733(f) of the Act.

Dated: May 3, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–11822 Filed 5–10–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–825]

Sebacic Acid From the People's Republic of China; Extension of Time Limits of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limits of antidumping duty administrative review.

SUMMARY: The Department of Commerce (the Department) is extending the time limits for preliminary and final results in the administrative review of the antidumping duty order on sebacic acid from the People's Republic of China (PRC), covering the period July 13, 1994, through June 30, 1995, because it is not practicable to complete the review within the time limits mandated by the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) (the Act).

EFFECTIVE DATE: May 13, 1996.

FOR FURTHER INFORMATION CONTACT: Andrea Chu or Michael Rill, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

The Department received a request to conduct an administrative review of the antidumping duty order on sebacic acid from the PRC. On September 15, 1995, the Department published a notice of initiation of this administrative review covering the period July 13, 1994, through June 30, 1995. The Department adjusted the time limits by 28 days due to the government shutdowns, which lasted from November 14, 1995, to November 20, 1995, and from December 15, 1995, to January 6, 1996. *See* memoranda to the file from Susan G. Esserman, Assistant Secretary for Import Administration, dated November 22, 1995, and January 11, 1996. As adjusted, the current time limits are April 29, 1996, for the preliminary results and August 27, 1996, for the final results.

It is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act. Therefore, in accordance with that section, the Department is extending the time limits for the preliminary results to August 27, 1996, and for the final results to February 24, 1997.

Intersted parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 353.34(b).

These extensions are in accordance with section 751(a)(3)(A) of the Act.

Dated: April 29, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–11821 Filed 5–10–96; 8:45 am]

BILLING CODE 5510–DS–M

National Institute of Standards and Technology

Visiting Committee on Advanced Technology; Meeting

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the National Institute of Standards and Technology's Visiting Committee on Advanced Technology (NIST) will meet on Tuesday, June, 11, 1996, from 8:30 a.m. to 5:00 p.m., and on Wednesday, June 12, 1996, from 8:30 a.m. to 9:30 a.m. The Visiting Committee on Advanced Technology is composed of fifteen members appointed by the Director of the National Institute of Standards and Technology who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. On June 11, 1996, the agenda will include an update on NIST programs by NIST Director Prabhakar; presentations on strategic planning for Standards in Trade, Information Technology and Biotechnology; predictions about the future of the internet; impact of advancing technology on metrology needs; and a laboratory tour. On June 12, 1996, the agenda will include presentations on the ATP Focused Program, Tools for DNA Diagnostics and the Baldrige Pilot Programs in Education and Health Care.

DATES: The meeting will convene June 11, 1996, at 8:30 a.m., and will adjourn at 9:30 a.m. on June 12, 1996.

ADDRESSES: The meeting will be held in the Employees Lounge (seating capacity 80, includes 38 participants), Administration Building, at NIST, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Chris E. Kuyatt, Visiting Committee Executive Director, NIST, Gaithersburg, Maryland 20899, telephone number (301) 975–6090.

Dated: May 7, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–11929 Filed 5–10–96; 8:45 am]

BILLING CODE 3510–13–M

National Technical Information Service

Advisory Board Meeting

AGENCY: National Technical Information Service, Technology Administration, Department of Commerce.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the National Technical Information Service Advisory Board (the "Board") will meet on Monday, June 17, 1996, from 9:00 a.m. to 4:00 p.m. This meeting will be closed to the public.

The Board was established under the authority of 15 U.S.C. 3704b(c), and was Chartered on September 15, 1989. The Board is composed of five members appointed by the Secretary of Commerce who are eminent in such fields as information resources management, information technology, and library and information services. The purpose of the meeting is to review and make recommendations regarding general policies and operations of NTIS, including policies in connection with fees and charges for its services. The session will be closed because premature disclosure of the information to be discussed would be likely to significantly frustrate implementation of NTIS' business plans.

DATES: The meeting will convene on June 17, 1996, at 9:00 a.m. and adjourn at 4:00 p.m.

ADDRESSES: The meeting will be held in Room 2029, Sills Building, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

PUBLIC PARTICIPATION: This one-day meeting will be closed to the public.

FOR FURTHER INFORMATION CONTACT:

Linda Lucas, NTIS Advisory Board Secretary, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, Telephone: (703) 487–4636; Fax (703) 487–4093.

Dated: May 6, 1996.

Donald R. Johnson,

Director.

[FR Doc. 96–11871 Filed 5–10–96; 8:45 am]

BILLING CODE 3510–04–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 12, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following service has been proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Administrative/General Support Services (GSA/FSS Region 7), General Products Commodity Center Fort Worth, Texas (Up to 50% of the Government's requirement)

NPA:

The Arkansas Lighthouse for the Blind, Little Rock, Arkansas
High Plains Lighthouse for the Blind, Amarillo, Texas
The Lighthouse for the Blind in New Orleans, New Orleans, Louisiana
Louisiana Association for the Blind, Shreveport, Lquisiana
New Mexico Industries for the Blind, Albuquerque, New Mexico
The Oklahoma League for the Blind, Oklahoma City, Oklahoma
The Travis Association for the Blind, Austin, Texas
South Texas Lighthouse for the Blind, Corpus Christi, Texas
Tarrant County Association for the Blind, Fort Worth, Texas
Dallas Lighthouse for the Blind, Inc., Dallas, Texas
The Lighthouse of Houston, Houston, Texas
West Texas Lighthouse for the Blind, San Angelo, Texas
San Antonio Lighthouse, San Antonio, Texas
Beacon Lighthouse, Inc., Wichita Falls, Texas
East Texas Lighthouse for the Blind, Tyler, Texas
Industries for the Blind and Visually Impaired, Delhi, Louisiana
Baton Rouge Industries for the Blind, Baton Rouge, Louisiana
El Paso Lighthouse for the Blind, El Paso, Texas
Center for the Retarded, Inc., Houston, Texas
Pathfinder Schools, Inc., Jacksonville, Arkansas
Goodwill Industries of Amarillo, Inc., Amarillo, Texas
RCI, Inc., Albuquerque, New Mexico
Expanco, Inc., Fort Worth, Texas
Goodwill Industries of Central Texas, Inc., Austin, Texas
Goodwill Industries of Fort Worth, Fort Worth, Texas
Goodwill Industries of San Antonio, San Antonio, Texas
Goodwill Industries of Southeastern Louisiana, Inc., New Orleans, Louisiana
Oklahoma Goodwill Industries, Inc., Oklahoma City, Oklahoma
Goodwill Industries of Dallas, Inc., Dallas, Texas
Abilene Goodwill Industries, Inc., Abilene, Texas
North Louisiana Goodwill Industries & Rehabilitation Center, Inc., Shreveport, Louisiana
Work Services Corporation, Wichita Falls, Texas
Fairweather Associates, Inc., Dallas, Texas
Louisiana Industries for the Disabled, Baton Rouge, Louisiana
Association for Retarded Citizens, New Orleans, Louisiana
Goodwill Industries of South Texas, Corpus Christi, Texas

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 96–11922 Filed 5–10–96; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

New York Mercantile Exchange: Proposed Amendments to the New York Harbor No. 2 Heating Oil Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the proposed amendments to the New York Harbor No. 2 heating oil futures contract.

SUMMARY: The New York Mercantile Exchange (NYMEX or Exchange) has submitted for the Commission's approval, under Section 5a(a)(12) of the Commodity Exchange Act and Commission Rule 1.41(b), proposed amendments to its New York Harbor No. 2 heating oil futures contract. The proposed amendments relate to the dyeing and color standards and testing requirements for deliverable heating oil and would apply to all newly listed and existing contracts beginning with the August 1996 delivery month. The Acting Director of the Division of Economic Analysis (Division) of the Commission has determined that obtaining public comment on the proposed rule amendments is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act. Accordingly, the Division, pursuant to the authority delegated by Commission Rule 140.96, is hereby providing notice of, and seeking comment on, the proposed rule amendments.

DATES: Comments must be received on or before June 12, 1996.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Reference should be made to the New York Harbor No. 2 heating oil futures contract.

FOR FURTHER INFORMATION CONTACT: Please contact John Forkkio of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581, telephone 202–418–5281.

SUPPLEMENTARY INFORMATION: The Exchange is proposing the following primary amendments to the No. 2 heating oil futures contract:

1. Adopt the IRS Dye Requirement: The Exchange is proposing to adopt the IRS dye requirement for tax-free sales or uses of diesel fuel, in lieu of the current EPA specification in the futures contract. In this regard, the Exchange is proposing two methods for testing for dye concentration: the IRS test method and the PetroSpec dye analyzer method.

The Exchange justified these proposed amendments by stating that:

> In conversations with market participants, the Exchange has learned that heating oil dyed to the IRS specification has become the standard in the heating oil cash market in New York Harbor. Market participants stated that this product became the dominant type of heating oil this past winter after test methods became available to measure for the IRS dye concentration. * * * [t]here was no way to test or verify this exact level of concentration until recently. Consequently, the IRS did not begin to enforce the dye concentration requirement until the Fall of 1994, when the IRS purchased the PetroSpec dye analyzer for its enforcement agents use in the field.
>
> In the heating oil cash market, buyers specifically request fuel dyed to the IRS requirement. Thus, the Exchange is proposing to adopt the IRS dye specification so that the NYMEX No. 2 heating oil futures contract will conform more closely to cash market standards.

2. Eliminate the ASTM D1500 Color Test: The NYMEX is proposing to eliminate the ASTM D1500 color test requirement in the heating oil futures contract. According to the NYMEX, this test no longer is valid for testing dyed fuel. With the dye requirement now in effect, the Exchange stated that it is no longer possible to run the ASTM D1500 test accurately on dyed fuel, and, consequently, the cash market no longer requires this test. The NYMEX further stated that inspectors have been unable to assess the color of dyed fuel, the ASTM D1500 color test is no longer performed in the cash market, since it is not useful as a test of fuel quality for dyed heating oil.

3. Require Five Additional Tests in Lieu of the Color Test: In order to replace the ASTM D1500 color test, and to provide substantively similar information on fuel quality, the Exchange proposes to adopt five additional tests of deliverable fuel oil to measure stability, haze, carbon residue, ash, and corrosion. According to the Exchange:

> both Colonial and Buckeye Pipelines require the five additional tests * * *. The current NYMEX heating oil specifications already require these five additional tests only for heating oil samples that do not meet the maximum color level of 2.5 on the ASTM D1500 color test. The proposed amendments would bring the NYMEX heating oil futures contract specifications more into conformity with the Colonial and Buckeye Pipeline specifications.

4. Add a Second Test Method for Carbon Residue: Finally, the Exchange is proposing an additional test method for the carbon residue test, *i.e.*, ASTM D4530. According to the NYMEX, Buckeye Pipeline specifies this test method, along with the existing test method specified in the heating oil futures contract, ASTM D524. The NYMEX stated that, "inspectors from independent labs recommended that the Exchange adopt this additional test method "since it is newer, more accurate, and easier to run."

NYMEX intends to apply the amendments to newly listed contracts and to existing contracts beginning with the August 1996 contract month.

The Division is requesting comment on the proposed amendments and the implementation plan.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, D.C. 20581. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5097.

Other materials submitted by the NYMEX in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments regarding the proposed amendments, or with respect to other materials submitted by the NYMEX in support of the proposed amendments, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on May 7, 1996.

Blake Imel,

Acting Director

[FR Doc. 96–11924 Filed 5–10–96; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent to Prepare a Joint Environmental Impact Statement/ Environmental Impact Report for the Disposal and Reuse of Certain Real Properties at Naval Training Center, San Diego, California

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508) and the California Environmental Quality Act (CEQA), the Department of the Navy, in association with the City of San Diego, California, announces its intent to prepare a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) to evaluate the environmental effects of the proposed disposal and reuse of certain real properties at the Naval Training Center (NTC), San Diego, California. The Navy will be the lead agency for NEPA documentation and the City of San Diego will be the lead agency for CEQA documentation.

In accordance with the Defense Base Closure and Realignment Act (Public Law 101–510) of 1990, as implemented by the 1993 Base Closure and Realignment process, the Navy was directed to close NTC San Diego. The proposed action involves the disposal of land, buildings, and infrastructure of NTC for subsequent reuses.

The property currently occupied by NTC is approximately 550 acres. Of the 550-acre site, approximately 410 acres are planned for disposal. The remaining 140 acres will be retained by the U.S. Navy for military housing and other uses. NTC is located in a highly developed residential and commercial area approximately two miles from

downtown San Diego at the edge of northern San Diego Bay. It is bordered by the community of Point Loma to the west, the Fleet Anti-Submarine Warfare Training Center to the south, the U.S. Marine Corps Recruit Depot to the northeast, and the San Diego International Airport (Lindberg Field) to the eastern boundary.

The EIS/EIR will analyze the environmental effects of the disposal of NTC based on potential reasonable reuses of the property, taking into account uses identified by the City of San Diego and as determined during the scoping process. The City's NTC Reuse Planning Committee has proposed a draft reuse plan which identifies several uses for the property. The draft reuse plan includes such uses as: residential; educational; a mixture of active and passive recreational open space; retail and cultural uses; and galleries and exhibit space in the historic core of the site. Alternatives being considered would include airport expansion, housing types, hotel use, and a Public Safety Academy. Major environmental issues that will be addressed in the document would include, but are not limited to traffic, cultural and biological resources, land uses, visual quality, socioeconomics, community services and utilities, and noise.

ADDRESSES: The Navy will conduct a scoping meeting on Tuesday, June 11, 1996, beginning at 7:00 p.m. at the NTC Support Center, Building 623, Cushing Road (NTC Support Center can be accessed from Gate 1 located at the corner of Lytton Avenue and Barnett Avenue), San Diego, California. A brief description of the proposed action will precede request for public comment. Navy and City representatives will be available at this meeting to receive comments from the public regarding issues of concern. Federal, state and local agencies, and interested parties are invited to be present or represented at the meeting. Oral comments will be heard and transcribed by a stenographer. To assure accuracy of the record, all comments should be submitted in writing. All comments, both oral and written, will become part of the public record in the study. In the interest of available time, each speaker will be asked to limit oral comments to five minutes. Longer comments should be summarized at the public meeting and submitted in writing either at the meeting or mailed to the address listed below. Written comments must be received by June 25, 1996, to become part of the official record. Additional information concerning this notice may be obtained by contacting: Ms. Sheila Donovan (Code 232.SD), Southwest Division, Naval Facilities Engineering Command, 1220 Pacific Highway, San Diego, California 92132–5178, telephone (619) 532–3624. For further information regarding the City's NTC Reuse Plan, please contact Mr. Scott Vurbeff, City of San Diego Development Services Department, 1222 First Avenue, Mail Station 501, San Diego California 92101, telephone (619) 236–6947.

Dated: May 8, 1996.

M.A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–11861 Filed 5–10–96; 8:45 am]

BILLING CODE 3810–FF–P

Notice of Intent to Prepare an Environmental Impact Statement for Construction and Operation of an East Coast Shallow Water Training Range

SUMMARY: Pursuant to Executive Order (EO) 12114, and the National Environmental Policy Act of 1969, as implemented by the Council on Environmental Quality Regulations (40 CFR 1500–1508), the Department of Navy announces its intent to prepare an environmental Impact Statement (EIS) for the construction and operation of a shallow water training range (SWTR) near the coast of the United States. The proposed action involves the establishment of an instrumented range in water depths of 120 to 1200 feet.

The project is proposed to meet the new need for shallow water submarine training for the Atlantic Fleet. The action seaward of 12 nautical miles (nm), which will be evaluated under EO 12114, includes installation of bottom-mounted transducers, which will collect information about naval units training in the SWTR. This information will be used to monitor and evaluate the performance of these units during training operations. The SWTR will also be used in conjunction with other offshore air, land, and water-based training activities. The SWTR will be built in four phases of 125 square nautical miles each. The transducers will be connected to the shore by cable, and may be trenched in using standard telephone cabling technology. The action to be evaluated under NEPA includes the cable placement and the shore-based construction associated with the SWTR.

Alternatives to be addressed in the EIS will focus on means of meeting training requirements, including alternative onshore construction sites, and offshore training sites. In order to take advantage of nearby naval facilities such as homeports and training facilities, four sites were evaluated in a site alternatives study: offshore of Cape Ann, Massachusetts (in the Gulf of Maine); offshore of Wallops Island, Virginia; offshore of the New River, North Carolina; and offshore of Charleston, South Carolina. The Cape Ann and Charleston sites were eliminated as unreasonable because they did not meet operational requirements. The site off of Wallops Island, Virginia, and the site offshore of the New River, North Carolina are the reasonable alternatives that will be evaluated in the EIS.

ADDRESSES: Agencies and the public are encouraged to provide written scoping comments. To be most helpful, comments should clearly describe specific issues or topics which the EIS should address. Written comments should be postmarked by June 3, 1996, and should be mailed to Commanding Officer, Altantic Division, Naval Facilities Engineering Command, 1510 Gilbert Street, Norfolk, VA 23511–6287, (Attn: Mr. Jim Haluska, Code 2032JH), telephone (804) 322–4889, facsimile (804) 322–4894.

Dated: April 30, 1996.

M.A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–11860 Filed 5–10–96; 8:45 am]

BILLING CODE 3810–FE–M

Office of the Secretary

Defense Science Board Task Force on Deep Attack Weapons Mix Study (DAWMS); Notice of Advisory Committee Meetings

SUMMARY: The Defense Science Board Task Force on Deep Attack Weapons Mix Study (DAWMS) will meet in closed session on June 5, 1996 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will develop an independent assessment of the analytic tools and models employed in the DoD internal DAWNS effort. Specifically, the Task Force will (1) assess the analysis developed in part one of the study, (2) evaluate the soundness of the analytic approach proposed for part two, and (3) review the alternatives—developed in part two to ensure that they are balanced and representative.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c) (1) (1988), and that accordingly this meeting will be closed to the public.

Dated: May 7, 1996.

L.M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–11817 Filed 5–10–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on C4ISR Integration; Notice of Advisory Committee Meeting

SUMMARY: The Defense Science Board Task Force on C4ISR Integration will meet in closed session on May 29, 1996 at Strategic Analysis, Inc., Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will assist the internal DoD process by providing advice to the DoD on all aspects of C4ISR integration.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c) (1) (1988), and that accordingly this meeting will be closed to the public.

Dated: May 7, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–11818 Filed 5–10–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board FFRDC & UARC Independent Advisory Task Force; Notice of Advisory Committee Meeting

SUMMARY: The Defense Science Board FFRDC & UARC Independent Advisory Task Force will meet in open session on May 22, 1996 from 8:30 a.m. to 5:00 p.m. at the Center for Naval Analyses, 4401 Ford Avenue, Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense.

Persons interested in further information should call the Defense Science Board Secretariat at (703) 695–4157.

Dated: May 7, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–11819 Filed 5–10–96; 8:45 am]

BILLING CODE 5000–04–M

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of revised non-foreign overseas per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 187. This bulletin lists revisions in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. Bulletin Number 187 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: May 1, 1996.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 186. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office.

The text of the Bulletin follows:

BILLING CODE 5000–04–M

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA:				
ADAK 5/	$ 10	$ 34	$ 44	10-01-91
ANAKTUVUK PASS	83	57	140	12-01-90
ANCHORAGE				
05-05--09-30	147	70	217	05-05-96
10-01--05-04	76	64	140	05-01-96
ANIAK	73	36	109	07-01-91
ATQASUK	129	86	215	12-01-90
BARROW	110	76	186	03-01-96
BETHEL	84	54	138	05-01-96
BETTLES	65	45	110	12-01-90
COLD BAY	110	54	164	07-01-93
COLDFOOT	95	59	154	10-01-92
CORDOVA	74	76	150	03-01-96
CRAIG				
05-01--08-31	97	96	193	05-01-96
09-01--04-30	75	94	169	03-01-96
DENALI NATIONAL PARK	113	68	181	05-01-94
DILLINGHAM	85	64	149	11-01-93
DUTCH HARBOR-UNALASKA	113	67	180	05-01-92
EIELSON AFB				
05-15--09-15	112	59	171	05-15-96
09-16--05-14	70	55	125	03-01-96
ELMENDORF AFB				
05-05--09-30	147	70	217	05-05-96
10-01--05-04	76	64	140	05-01-96
EMMONAK	62	61	123	10-01-93
FAIRBANKS				
05-15--09-15	112	59	171	05-15-96
09-16--05-14	70	55	125	03-01-96
FALSE PASS	80	37	117	06-01-91
FT. RICHARDSON				
05-05--09-30	147	70	217	05-05-96
10-01--05-04	76	64	140	05-01-96
FT. WAINWRIGHT				
05-15--09-15	112	59	171	05-15-96
09-16--05-14	70	55	125	03-01-96
GUSTAVUS	70	62	132	03-01-96
HOMER				
05-01--09-30	115	68	183	05-01-96
10-01--04-30	90	65	155	03-01-96
JUNEAU				
05-01--09-30	$ 89	$ 82	$171	05-01-96
10-01--04-30	78	80	158	03-01-96
KATMAI NATIONAL PARK	89	59	148	12-01-90
KENAI-SOLDOTNA				
05-01--09-30	109	74	183	05-01-96
10-01--04-30	76	71	147	03-01-96
KETCHIKAN				
05-16--09-15	86	72	158	05-16-96
09-16--05-15	73	70	143	03-01-96
KING COVE	85	69	154	03-01-96
KING SALMON 3/	77	68	145	03-01-96

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA: (CONT'D)				
KLAWOCK				
05-01--08-31	97	96	193	05-01-96
09-01--04-30	75	94	169	03-01-96
KODIAK	79	68	147	03-01-96
KOTZEBUE	133	87	220	05-01-93
KUPARUK OILFIELD	75	52	127	12-01-90
METLAKATLA				
06-01--10-01	95	58	153	06-01-94
10-02--05-31	72	56	128	02-01-94
MURPHY DOME				
05-15--09-15	112	59	171	05-15-96
09-16--05-14	70	55	125	03-01-96
NELSON LAGOON	102	39	141	06-01-91
NOATAK	133	87	220	05-01-93
NOME	86	67	153	05-01-96
NOORVIK	133	87	220	05-01-93
PETERSBURG	77	62	139	03-01-96
POINT HOPE	99	61	160	12-01-90
POINT LAY 6/	106	73	179	12-01-90
PRUDHOE BAY-DEADHORSE	73	60	133	11-01-93
SAND POINT	64	67	131	08-01-94
SEWARD				
05-16--08-31	115	60	175	05-16-96
09-01--05-15	83	57	140	03-01-96
SHUNGNAK	133	87	220	05-01-93
SITKA-MT. EDGECOMBE				
04-01--10-31	94	58	152	04-01-96
11-01--03-31	83	57	140	03-01-96
SKAGWAY				
05-16--09-15	$ 86	$ 72	$158	05-16-96
09-16--05-15	73	70	143	03-01-96
SPRUCE CAPE	79	68	147	03-01-96
ST. GEORGE	100	39	139	06-01-91
ST. MARY'S	77	59	136	06-01-93
ST. PAUL ISLAND	62	63	125	10-01-93
TANANA	86	67	153	05-01-96
TOK				
05-01--09-30	70	51	121	05-01-96
10-01--04-30	50	49	99	03-01-96
UMIAT	97	63	160	12-01-90
VALDEZ				
05-01--09-14	99	66	165	05-01-96
09-15--04-30	83	64	147	03-01-96
WAINWRIGHT	90	75	165	12-01-90
WALKER LAKE	82	54	136	12-01-90
WRANGELL				
05-16--09-15	86	72	158	05-16-96
09-16--05-15	73	70	143	03-01-96
YAKUTAT	77	58	135	11-01-93
OTHER 3, 4, 6/	60	56	116	03-01-96
AMERICAN SAMOA	73	48	121	11-01-94
GUAM	190	85	275	05-01-96

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LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
HAWAII:						
ISLAND OF HAWAII: HILO	73		64		137	10-01-95
ISLAND OF HAWAII: OTHER	98		63		161	10-01-95
ISLAND OF KAUAI	105		75		180	10-01-95
ISLAND OF KURE 1/			13		13	12-01-90
ISLAND OF MAUI						
04-18--11-30	105		73		178	10-01-95
12-01--04-17	116		75		191	12-01-95
ISLAND OF OAHU	100		70		170	10-01-95
OTHER	79		62		141	06-01-93
JOHNSTON ATOLL 2/	22		22		44	08-01-94
MIDWAY ISLANDS			13		13	12-01-90
NORTHERN MARIANA ISLANDS:						
ROTA	83		90		173	05-01-96
SAIPAN	138		89		227	05-01-96
TINIAN	$ 61		$ 72		$133	06-01-95
OTHER	20		13		33	12-01-90
PUERTO RICO:						
BAYAMON						
04-16--12-23	96		65		161	11-01-95
12-24--04-15	130		70		200	12-24-95
CAROLINA						
04-16--12-23	96		65		161	11-01-95
12-24--04-15	130		70		200	12-24-95
FAJARDO (INCL CEIBA, LUQUILLO AND HUMACAO)						
04-16--12-10	65		52		117	10-01-93
12-11--04-15	110		52		162	12-11-93
FT. BUCHANAN (INCL GSA SERV CTR, GUAYNABO)						
04-16--12-23	96		65		161	11-01-95
12-24--04-15	130		70		200	12-24-95
MAYAGUEZ	93		70		163	11-01-95
PONCE	107		64		171	11-01-95
ROOSEVELT ROADS						
04-16--12-10	65		52		117	10-01-93
12-11--04-15	110		52		162	12-11-93
SABANA SECA						
04-16--12-23	96		65		161	11-01-95
12-24--04-15	130		70		200	12-24-95
SAN JUAN (INCL SAN JUAN COAST GUARD UNITS)						
04-16--12-23	96		65		161	11-01-95
12-24--04-15	130		70		200	12-24-95
OTHER 7/	75		52		127	11-01-95
VIRGIN ISLANDS OF THE U.S.:						
ST. CROIX						
04-15--12-14	119		73		192	08-01-94
12-15--04-14	169		78		247	12-15-94
ST. JOHN						
06-01--12-14	255		78		333	11-01-94
12-15--05-31	370		90		460	12-15-94
ST. THOMAS						
04-17--12-17	141		106		247	08-01-94
12-18--04-16	220		114		334	12-18-94
WAKE ISLAND 2/	30		25		55	10-01-94
ALL OTHER LOCALITIES	20		13		33	12-01-90

(Bulletin No. 187)

FOOTNOTES

1/ Commercial facilities are not available. The meal and incidental expense rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.

2/ Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

3/ On any day when US Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $19.65 is prescribed to cover meals and incidental expenses at Shemya AFB, Clear AFS, Galena APT and King Salmon APT. This rate will be increased by the amount paid for U.S. Government or contractor quarters and by $4 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

4/ On any day when U.S. Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $34 is prescribed to cover meals and incidental expenses at Amchitka Island, Alaska. This rate will be increased by the amount paid for U.S. Government or contractor quarters and by $10 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

5/ On any day when U.S. Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $25 is prescribed instead of the rate prescribed in the table. This rate will be increased by the amount paid for U.S. Government or contractor quarters.

6/ The meal rates listed below are prescribed for the following locations in Alaska: Cape Lisburne RRL, Cape Newenham RRL, Cape Romanzof APT, Fort Yukon RRL, Indian Mtn RRL, Sparrevohn RRL, Tatalina RRL, Tin City RRL, Barter Island AFS, Point Barrow AFS, Point Lay AFS and Oliktok AFS. The amount to be added to the cost of government quarters in determining the per diem will be $3.50 plus the following amount:

	Daily Rate
DOD Personnel	$13
Non-DOD Personnel	$30

7/ (Eff 9-1-94) A per diem rate of $200 (lodging $148; M&IE $52) will be in effect for Las Croabas, Puerto Rico, during the Annual Conference of the National Association of State Boating Law Administrators (NASBLA) being held at the El Conquistador Resort and Country Club. This rate will be in effect from 4-12 September 1994 only for travelers attending the conference and only for travelers staying at the El Conquistador Resort.

Dated: May 6, 1996.

L. M. Bynum,

Alternate OSD Federal Register Liaison Office, Department of Defense.

[FR Doc. 96–11816 Filed 5–10–96; 8:45 am]

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Department of the Navy

Record of Decision for the Disposal and Reuse of the Charleston Naval Base, North Charleston, SC

The Department of the Navy (Navy), pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, and the regulations of the Council on Environmental Quality that implement NEPA procedures, 40 CFR Parts 1500–1508, hereby announces its decision to dispose of the Charleston Naval Base in North Charleston, South Carolina.

Navy intends to dispose of the Charleston Naval Base in a manner that is consistent with Alternative Reuse Scenario 3, described in the Final Environmental Impact Statement (FEIS) as the preferred alternative. Alternative Reuse Scenario 3, composed of three Development Concepts approved by the Local Redevelopment Authority (LRA), the Charleston Naval Complex Redevelopment Authority, is characterized by high density redevelopment of the entire 1,500-acre Naval Base.

In deciding to dispose of the Naval Base property in a manner consistent with Alternative Reuse Scenario 3, Navy has determined that high density redevelopment of this Base bears the greatest potential for achieving the goals of local economic redevelopment of the closed military facility and creation of new jobs. This Record of Decision does not mandate selection of any one Development Concept. Rather, it leaves selection of the particular means to achieve high density redevelopment to the acquiring entity and the local zoning authority.

In addition to the Naval Base property in North Charleston, the Commander of the Naval Base at Charleston also exercised jurisdiction over the Clouter Island Dredged Material Disposal Facility located across the Cooper River from the Naval Base and over the Charleston Naval Station Annex located five miles north of the Naval Base, adjacent to the Charleston Air Force Base and the Charleston International Airport. Neither of these properties is subject to this Record of Decision.

The Department of the Army requested an interservice transfer of the Clouter Island facility under the authority of 10 U.S.C. 2571. Navy will prepare appropriate NEPA documentation for this transfer.

The Department of the Air Force requested transfer of the Naval Station Annex but later withdrew its request. In light of Air Force's request, the initial 1993–1994 LRA for the Naval Base, known as Trident's BEST (Building Economic Solutions Together) Committee, established in 1993 by Executive Order of the Governor of South Carolina and composed of representatives from the three concerned counties of Berkeley, Charleston, and Dorchester, did not consider the Annex available for reuse and did not plan for its redevelopment. The Charleston Naval Complex Redevelopment Authority will develop a reuse plan for the Naval Station Annex, and Navy will prepare a separate environmental analysis under NEPA to address disposal and reuse of this property.

Background

The 1993 Defense Base Closure and Realignment Commission recommended closure of Naval Station Charleston and the Charleston Naval Shipyard. This recommendation was then approved by President Clinton and accepted by the One Hundred Third Congress in 1994. Operations at the Naval station and the Shipyard ceased on April 1, 1996, and the property has been in caretaker status since that date.

The Charleston Naval Base is located within the City of North Charleston and covers 1,575 acres of fee-owned land. The Naval Base is composed of the Naval Station which covers 842 acres, the Naval Shipyard which covers 505 acres, the Fleet and Industrial Supply Center which covers 194 acres, the Fleet and Mine Warfare Training Center which covers 10 acres, and the Chicora Tank Farm which covers 24 acres. Collectively, these properties are designated in the FEIS as the Naval Base.

Two other Federally owned parcels of land lie within the boundaries of the Charleston Naval Base but are not part of the Base property: an 8.7 acre parcel owned by the Department of State and a four acre parcel owned by the Department of Commerce for the use of the National Oceanic and Atmospheric Administration. The FEIS prepared by Navy did not address the property held by State and Commerce, because the actions of the 1993 Defense Base Closure and Realignment Commission did not affect these parcels.

A Notice of Intent was published in the **Federal Register** on April 26, 1994, stating that Navy would prepare an Environmental Impact Statement that analyzed the impacts of disposal and reuse of the land, buildings, and infrastructure at the Base. A 90-day public scoping period was established, and Navy held four scoping meetings. Two meetings were held in the City of North Charleston on May 11, 1994, and meetings were also held in the towns of Goose Creek and Summerville on May 12, 1994.

On October 21, 1994, Navy distributed a Draft Environmental Impact Statement (DEIS) to Federal, State, and local agencies, elected officials, special interest groups, and interested persons. Navy held two public hearings on November 28 and 29, 1994, at the Chicora Community Center and at City Hall in North Charleston. Federal agencies, South Carolina state agencies, local governments, and the general public commented on the DEIS. These comments and Navy's responses were incorporated in the FEIS, which was distributed to the public on June 23, 1995, for a review period that concluded on July 24, 1995. Public comments on the FEIS were considered before preparation of the Record of Decision.

Alternatives

NEPA requires Navy to evaluate a reasonable range of alternatives for disposal and reuse of this Federal property. In the NEPA process, Navy analyzed the environmental impacts of various proposed reuses that could result from disposal of the Naval Base property. As the basis for this analysis, Navy initially relied upon the reuse and redevelopment alternatives identified by the BEST Committee, the first LRA that prepared the Charleston Naval Complex Reuse Plan presented to the Department of the Navy on June 9, 1994.

On June 30, 1994, the State of South Carolina authorized creation of a redevelopment authority to oversee disposal of the Base property and on September 30, 1994, the Governor of South Carolina established the Charleston Naval Complex Redevelopment Authority, known a the RDA, that succeeded the BEST Committee as the LRA. The LRA, as the Local Redevelopment Authority, adopted the BEST Committee's reuse plan for the Naval Base, characterized by high density redevelopment of the entire Base. In April 1995, the State of South Carolina reorganized the Charleston Naval Complex Redevelopment Authority and appointed new members to succeed the RDA established in September 1994. In June 1995, the new RDA, as the Local Redevelopment Authority for the Charleston Naval Base, endorsed high density redevelopment of the Naval Base, with two variations from the BEST Committee's reuse plan.

The BEST Committee considered three levels of reuse and redevelopment. The first level proposed reuse and redevelopment of 500 acres of Naval Base property; the second level proposed reuse and redevelopment of 1000 acres of Naval property; and the third level proposed reuse and redevelopment of the entire 1500 acre Naval Base property. The BEST Committee adopted the third level, reuse and redevelopment of the entire Naval Base, as its proposed reuse plan for the property. This plan was treated in the FEIS as an element of Alternative Reuse Scenario 3.

In the first two levels of redevelopment, the LRA did not propose to develop the entire Naval Base property. Thus, in order to evaluate the environmental impacts caused by disposing of the entire Naval Base in light of these proposals, Navy projected and analyzed likely categories of reuse for these areas of the Naval Base property that the LRA did not propose to develop in its 500 and 1000 acre scenarios.

In the FEIS, Navy evaluated a "no action" alternative and three "action" alternatives for the entire Naval Base property. The first alternative was the "No Action" alternative which would leave the property in caretaker status with Navy maintaining the physical condition of the property, providing a security force, and making repairs essential to safety. The first "action" alternative, Alternative Reuse Scenario 1, proposed mixed use of the property with minimal infrastructure improvements and reflected the 500 acre redevelopment scenario examined by the LRA. This alternative utilized existing Naval Base administrative areas for office space, Naval Shipyard property for an industrial park, and open space areas for passive recreation. Alternative Reuse Scenario 2 proposed a more intensive mixed use and reflected the 1000 acre redevelopment scenario evaluated by the LRA. This alternative provided an industrial district near the piers but also sought to attract tourism with a "destination" mixed use waterfront district, a commercial marina, civic and office buildings, and large active recreation areas. Alternative Reuse Scenario 3 proposed the most intensive redevelopment and reflected the high density redevelopment scenario adopted by the LRA as its proposed reuse plan. This alternative proposed a high level of industrial and commercial redevelopment of the 1500 acre property that could be achieved through several different approaches and is described in the FEIS as the preferred alternative.

Alternative Reuse Scenario 3 is composed of three high density redevelopment Concepts that Navy analyzed and designated as Development Concepts 3, 3A, and 3B. Concept 3 reflected the BEST Committee's reuse plan; Concept 3A reflected Navy's modification of Concept 3, to take account of the environmental remediation planned for two sites on the Base; and Concept 3B, added by the RDA in February 1995, reflected the City of North Charleston's opposition to an intermodal cargo terminal and its preference for maritime industrial development. Alternative Reuse Scenario 3 with its variations is the proposed reuse plan endorsed by the RDA in June 1995.

Development Concept 3, the plan advanced by the BEST Committee, provided areas for civic and community use and proposed five major employment centers: an office district, a shipyard district, a marine industrial district, an intermodal cargo facility, and an industrial park related to and located behind the intermodal facility. Part of the proposed intermodal cargo terminal would be built on a pile-supported platform over the Cooper River. An adjacent railroad yard would also be constructed behind the terminal. Concept 3 emphasized government and port-related activities.

Development Concept 3A is similar to Concept 3. It proposed the same major employment centers but changed the locations of the intermodal cargo terminal, the related railroad yard, and the marine (or maritime) industrial district to avoid incompatibility with the environmental remediation planned for two sites on the Naval Station, *i.e.*, Solid Waste Management Units (SWMU) 9 and 14. These changes decreased the potential impact on wetlands by affecting only 9.3 acres as compared with 20.5 acres under Concept 3 and also reduced the impact on a vegetated buffer area along Shipyard Creek. Concept 3A would move the intermodal cargo facility farther out into the Cooper River and change its shape to retain the same area; it would not build any facilities over the two SWMS's; it would move the related railroad yard farther away from wetlands and the vegetated area along Shipyard Creek; and it would change the shape of the maritime industrial district.

Development Concept 3B proposed the use and expansion of existing Naval Shipyard and Naval Station facilities to develop an extensive maritime industrial district. Under Concept 3B, the intermodal cargo facility would not be built. Instead, the shipyard area would be enlarged and the maritime industrial facilities would be expanded to include the property where the cargo facility would be constructed under Concepts 3 and 3A.

The maritime industrial district covers much of the Naval Station property south of the Naval Shipyard that would be occupied by the intermodal cargo facility proposed in Development Concepts 3 and 3A. The proposal embodied in Concept 3B would avoid the impacts on waterways caused by building the intermodal cargo terminal over the Cooper River and the railway and elevated highway across Shipyard Creek. Concept 3B would further reduce the potential impact on wetlands by affecting only 4 acres as compared with 9.3 acres under Concept 3A and 20.5 acres under Concept 3. Concept 3B would not develop the sites at SWMU 9 and SWMU 14, instead leaving them as open space. Additionally, the vegetated buffer area along Shipyard Creek would not be developed. Concept 3B would also provide an office district, a cultural park district, a community support district, and areas for open space and recreation.

Environmental Impacts

The potential impacts of all three "action" Alternative Reuse Scenarios were analyzed for their effects on adjacent land use, traffic and transportation, noise, air quality, water quality, hazardous materials, biological resources, historic and archaeological resources, economics, environmental justice, aesthetics, and public services. Each of these Alternative Reuse Scenarios has the potential for causing impacts on the environment. This Record of Decision will focus on the impacts associated with the preferred alternative, Alternative Reuse Scenario 3, and its three Development Concepts. All three Concepts are generally compatible with the use of adjacent lands.

Each of the three Development Concepts would cause adverse local impacts on traffic. As a consequence of activity associated with the intermodal cargo facility proposed in Concepts 3 and 3A, rail and truck traffic in the area would increase. The traffic levels (composed of trucks and automobiles) generated by Concepts 3 and 3A would likely exceed by about 13 per cent those experienced during operation of the Naval Base. To accommodate this increase in traffic, it would be necessary for State and local governments to modify the transportation infrastructure by realigning rail lines, building additional access to Interstate Highway I–26, widening local roads, and modernizing local intersections. These, or similar, actions should mitigate the effects of the increased traffic.

The traffic associated with Concept 3B, which did not propose an

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intermodal facility, would exceed by about 3 per cent the level experienced during operation of the Naval Base. Concept 3B did not propose any changes to the existing railroad or roadway networks, but would upgrade certain roadways on the Base to accommodate commercial vehicles.

Re-use under any of the three Development Concepts would not significantly affect ambient noise levels. However, long term increases in noise would occur on those local roadways that would experience increases in traffic. Under Concepts 3 and 3A, vehicular noise would increase in neighborhoods adjacent to the proposed I–26 highway connection at the south end of the Base. The intermodal cargo facility and related railroad yard that would be developed under Concepts 3 and 3A would also increase ambient noise levels, although not significantly. Since Concept 3B did not propose an intermodal cargo facility, the associated increase in noise would be less than that associated with Concepts 3 and 3A. Under Concept 3B, traffic and resultant noise would increase on local roads.

Re-use under any of the three Development Concepts would not significantly affect air quality. The sources of air pollutants associated with the proposed redevelopment would be motor vehicles, demolition and construction, ships, trains, and industrial operations. However, with the exception of Nitrogen Oxides from diesel locomotives associated with the intermodal railroad yard in Concepts 3 and 3A, the emissions that would arise out of the proposed redevelopment are not likely to generate a net increase over those present when the Base was operating.

Under Concept 3B, the level of emissions would be determined by the nature and extent of industrial activity conducted on the property. It would be necessary, of course, for those conducting such activities to obtain appropriate permits from the South Carolina Department of Health and Environmental Control.

The Base is located in a region that is in attainment with National Ambient Air Quality Standards. Therefore, an analysis under the Clean Air Act Conformity Rule is not required.

All three Development Concepts would cause adverse impacts on wetlands, surface waters, and aquatic habitats. The construction of new facilities under Development Concepts 3, 3A and 3B would remove, respectively, 20.5, 9.3 and 4 acres of wetlands. The stringent requirements of Sections 401 and 404 of the Clean Water Act (CWA), 33 U.S.C. 1252, *et seq.*, however, should provide adequate mitigation for the loss of wetlands. Under CWA, wetland replacement may be required when wetlands are filled as envisioned in Alternative Reuse Scenario 3.

Development of the intermodal cargo facility under Concepts 3 and 3A would require construction of a pile-supported platform over, respectively, 80 and 130 acres of the Cooper River and construction of a railway and an elevated highway across Shipyard Creek. The pile-supported cargo terminal would likely alter the flow characteristics of the Cooper River and cause a gradual buildup of sediments under the platform similar in effect to that of the existing Navy piers. Concept 3B would have no similar impact on hydrology because it did not propose to build the intermodal cargo terminal.

Before building the intermodal cargo facility, the acquiring entity would be required to obtain permits under Section 404 of CWA and the Rivers and Harbors Act, 33 U.S.C. 401, (which together control construction of facilities over navigable waters) for any construction that affects the Cooper River or Shipyard Creek. These permits are reviewed and approved by several Federal and State environmental agencies through public processes, and the agencies may require substantial environmental mitigation as a condition of approving the proposed construction.

Under all three Development Concepts, the impact on surface water quality caused by stormwater runoff would be regulated by the South Carolina Stormwater Management and Sediment Reduction Act, 48 S.C. Code Ann. § 48–14–10, *et seq.* This statute requires the acquiring entity to submit a sediment and erosion control plan to the State for approval, and the State may impose mitigation measures on the developer to minimize adverse effects from stormwater runoff. Future development will be subject to the prescriptions of CWA and the South Carolina statute, which require management of stormwater runoff into surface waters such as the Cooper River, Shipyard Creek, and Noisette Creek.

Because of the construction required for the intermodal cargo terminal, implementation of Development Concepts 3 and 3A would also have an impact on several State-designated species of concern that currently or historically have existed at the Base. Sea purslane, a plant species classified as a State species of concern, would likely be eliminated from the site of the marine industrial park if Concept 3 were implemented. Least terns, a threatened species under South Carolina law, nest on the roofs of buildings that would be demolished if the intermodal facility proposed in Concepts 3 and 3A were built. Thus, demolition should be coordinated with the South Carolina Department of Natural Resources. Two bat species that have been listed as candidates for the Federal endangered species list are present in the Charleston Harbor area, may roost in some buildings on the Base, and could also be affected by the demolition of buildings. Thus, the U.S. Fish and Wildlife Service may request that the acquiring entity conduct surveys of Base buildings before demolition in order to avoid causing harm to the least terns and bats.

Development Concept 3B would not have an impact on the least terns and would have less impact on the bats, because the proposed shipyard and maritime industrial complex would not require the extent of building demolition that would be necessary if the intermodal cargo facility were built. Redevelopment under all three Development Concepts would affect, by removal or alteration, more than half of the wooded areas on the Base.

Navy is evaluating the extent of existing contamination on the Base. Navy, the Environmental Protection Agency, and the South Carolina Department of Health and Environmental Control (DHEC) will review and approve the risk assessments developed to ascertain the potential impacts of existing contamination on human health and the environment before Navy remediates the contaminated sites and conveys the property.

There are three historic districts (Naval Shipyard, Naval Hospital and Officer Housing), one archeological site (a prehistoric site near Quarters L), and three individually eligible structures (Navy Chapel, Marine Barracks, and Coast Guard Air Station Bachelor Officers Quarters) on the Base. Navy, the Advisory Council on Historic Preservation, and the State Historic Preservation Officer entered into a Programmatic Agreement on July 10, 1995. Under this Agreement, Navy will encourage adaptive reuse of the historic structures and maintain and preserve the buildings and the archeological site until a decision is made concerning their ultimate disposal. Additionally, Navy will include protective covenants in the deeds for parcels that contain historic structures and the archeological site.

Navy also analyzed the impacts on low income and minority populations pursuant to Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" and found that there will be no disproportionately high and adverse human health or environmental effects on minority and low income populations. Any impacts related to reuse of the Base will be experienced equally by all groups within the regional population.

Mitigation

No mitigation measures are required to implement Navy's decision to dispose of the Naval Base property. Navy's FEIS identified and discussed the actions that would be necessary to mitigate the impacts associated with reuse and redevelopment. The acquiring entity, under the direction of Federal, State and local agencies with regulatory authority over protected resources, will be responsible for implementing these mitigation measures.

Absent statutory authority, Navy cannot impose restrictions on the future use of this surplus Federal property. Navy will, however, include appropriate notifications in the deeds for any parcels that contain wetlands, lie within floodplains or are inhabited by threatened or endangered species protected under Federal and State laws.

Comments Received on the FEIS

Navy received nine comment letters from regulatory agencies, a citizens group, and individual citizens. These comments did not raise new issues concerning potential problems with implementation of the reuse plan or propose mitigation measures other than those addressed in the FEIS. While some expressed concern that there was insufficient detail describing implementation of the reuse plan, these concerns may be addressed by the entity that acquires the Naval Base as it develops its implementation plan.

The South Carolina Department of Health and Environmental Control's Office of Ocean and Coastal Resource Management (OCRM) requested that Navy either develop a Basewide stormwater management plan or require the acquiring entity to develop such a plan as a condition of conveyance. Navy will instead rely upon the applicability of the South Carolina Stormwater Management and Sediment Reduction Act, 48 S.C. Code Ann. § 48–14–10, *et seq.*, and local ordinances that require the acquiring entity to submit a stormwater management plan to OCRM for approval.

Regulations Governing the Disposal Decision

Since the proposed action contemplates a disposal action under the Defense Base Closure and Realignment Act of 1990 (DBCRA), Public Law 101–510, 10 U.S.C. 2687 note, selection of Alternative Reuse Scenario 3 as the preferred alternative was based upon the environmental analysis in the FEIS and application of the standards set forth in DBCRA, the Federal Property Management Regulations (FPMR), 41 CFR Part 101–47, and the Department of Defense Rule on Revitalizing Base Closure Communities and Community Assistance (DOD Rule), 32 CFR Parts 90 and 91.

Section 101–47.303–1 of the FPMR requires that the disposal of Federal property benefit the Federal government and constitute the highest and best use of the property. The FPMR defines the "highest and best use" as that use to which a property can be put that produces the highest monetary return from the property, promotes its maximum value, or serves a public or institutional purpose. The "highest and best use" determination must be based upon the property's economic potential, qualitative values, and utilization factors such as zoning, physical characteristics, other private and public uses in the vicinity, former Government uses, access, roads, location and environmental considerations.

After Federal property has been conveyed to non-Federal entities, the property is subject to local land use regulations, including zoning and subdivision regulations and building codes. Unless expressly authorized by statute, the disposing Federal agency cannot restrict the future use of surplus Government property. As a result, the local community exercises substantial control over future use of the property. For this reason, local land use plans and zoning affect determination of the highest and best use of surplus Government property.

The DBCRA directed the Administrator of the General Services Administration (GSA) to delegate to the Secretary of Defense authority to transfer and dispose of base closure property. Section 2905(b) of DBCRA directs the Secretary of Defense to exercise this authority in accordance with GSA's property disposal regulations, set forth at Sections 101–47.1 through 101–47.8 of the FPMR. By letter dated December 20, 1991, the Secretary of Defense delegated the authority to transfer and dispose of base closure property closed under DBCRA to the Secretaries of the Military Departments. Under this delegation of authority, the Secretary of the Navy must follow FPMR procedures for screening and disposing of real property when implementing base closures. Only where Congress has expressly provided additional authority for disposing of base closure property, *e.g.*, the economic development conveyance authority established in 1993 by Section 2905(b)(4) of DBCRA, may Navy apply disposal procedures other than the FPMR's prescriptions.

In Section 2901 of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103–160, Congress recognized the economic hardship occasioned by base closures, the Federal interest in facilitating economic recovery of base closure communities, and the need to identify and implement reuse and redevelopment of property at closing installations. In Section 2903(c) of Public Law 103–160, Congress directed the Military Departments to consider each base closure community's economic needs and priorities in the property disposal process. Under Section 2905(b)(2)(E) of DBCRA, Navy must consult with local communities before it disposes of base closure property and must consider local plans developed for reuse and redevelopment of the surplus Federal property.

The Department of Defense's goal, as set forth in Section 90.4 of the DOD Rule, is to help base closure communities achieve rapid economic recovery through expeditious reuse and redevelopment of the assets at closing bases, taking into consideration local market conditions and locally developed reuse plans. Thus, the Department has adopted a consultative approach with each community to ensure that property disposal decisions consider the Local Redevelopment Authority's reuse plan and encourage job creation. As a part of this cooperative approach, the base closure community's interests, *e.g.*, reflected in its zoning for the area, play a significant role in determining the range of alternatives considered in the environmental analysis for property disposal. Furthermore, Section 91.7(d)(3) of the DOD Rule provides that the Local Redevelopment Authority's plan generally will be used as the basis for the proposed disposal action.

The Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484, as implemented by the FPMR and DBCRA, identifies several mechanisms for disposing of surplus base closure property: By public benefit conveyance (FPMR Sec. 101–47.303–2); by economic development conveyance (DBCRA Sec. 2905(b)(4)); by negotiated sale (FPMR Sec. 101–47.304–8); and by competitive sale (FPMR Sec. 101–47.304–7). The selection of any

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particular method of conveyance merely implements the Federal agency's decision to dispose of the property. Decisions concerning whether to undertake a public benefit conveyance or an economic development conveyance, or to sell property by negotiation or by competitive bid are committed by law to agency discretion. Selecting a method of disposal implicates a broad range of factors and rests solely within the Secretary of the Navy's discretion.

Conclusion

Alternative Reuse Scenario 3 with its three Development Concepts presents the highest and best use of the Charleston Naval Base. The local community, represented by the Charleston Naval Complex Redevelopment Authority, has determined in its reuse plan that the property should be used for a high density mix of commercial, industrial and recreational activities. The property's physical characteristics and past use and the current use of adjacent lands make it appropriate for this high density mix of redevelopment. Additionally, utilizing the existing infrastructure on the Base to the maximum extent, this redevelopment would produce an environment most likely to create jobs.

Alternative Reuse Scenario 3 responds to local economic conditions, promotes rapid economic recovery from the impact of base closure, and is consistent with President Clinton's Five-Part Plan for revitalizing base closure communities, which emphasizes local economic redevelopment of the closing military facility and creation of jobs as the means to revitalize these communities. 32 CFR Parts 90 and 91, 59 FR 16,123 (1994). The resultant environmental impacts can be mitigated by the acquiring entity under the direction of Federal, State and local regulatory authorities.

If only environmental considerations were determinative, the proposal with the least potential for causing adverse environmental impacts would be Alternative Reuse Scenario 1. This alternative, however, does not constitute the highest and best use of the Base property. While Alternative Reuse Scenario 1 presents a reasonable use which could benefit residents of the local community, this alternative does not take full advantage of the property's physical characteristics and past use, does not make maximum use of the existing infrastructure to support redevelopment, and does not have as high a potential for job creation.

Additionally, Alternative Reuse Scenario 1 does not provide the level of activity sought in the LRA's reuse plan and would not foster rapid economic recovery for this base closure community through redevelopment of the closed Base and job creation. Consequently, Alternative Reuse Scenario 1 does not constitute the highest and best use of the property. Similarly, Alternative Reuse Scenario 2 does not take full advantage of the potential for redevelopment of the Base property and is not as likely to achieve economic redevelopment of the Base as is Alternative Reuse Scenario 3.

Accordingly, Navy will dispose of the Charleston Naval Base in a manner that is consistent with the Charleston Naval Complex Redevelopment Authority's proposed reuse plan for the property.

Dated: May 7, 1996.

William J. Cassidy, Jr.,

Deputy Assistant Secretary of the Navy (Conversion And Redevelopment).

[FR Doc. 96–11889 Filed 5–10–96; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF ENERGY

Storage and Disposition of Weapons-Usable Fissile Materials Draft Programmatic Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of extension of public comment period.

SUMMARY: The Department of Energy (DOE) announced the availability of the Storage and Disposition of Weapons-Usable Fissile Materials Draft Programmatic Environmental Impact Statement (Storage and Disposition Draft PEIS) (DOE/EIS–0229–D) for public review and comment in the March 8, 1996, **Federal Register** (61 FR 9443). The Department is announcing that the public comment period which began on March 8, 1996 and was to close on May 7, 1996 has been extended to June 7, 1996, for the Storage and Disposition Draft PEIS.

DATES: The public is invited to submit written and oral comments on any or all portions of the Storage and Disposition Draft PEIS during the extension of the public comment period that began on March 8, 1996 and now continues until June 7, 1996. Comments postmarked after that date will be considered to the extent practicable. Comments submitted during the original public comment period do not have to be resubmitted. DOE's responses to comments received during the public comment period will be presented in the Storage and Disposition Final PEIS. The Department held eight public meetings to discuss and receive comments on the Storage and Disposition Draft PEIS during the period from March 26, 1996 through April 30, 1996.

ADDRESSES AND FURTHER INFORMATION: Written comments on the Storage and Disposition Draft PEIS should be mailed to the following address: DOE-Office of Fissile Materials Disposition, P.O. Box 23786, Washington, DC 20026–3786. Comments may also be submitted orally (to a recording machine) or by fax by calling 1–800–820–5156, or to the Office of Fissile Materials Disposition's INTERNET (World Wide Web) address at URL=http://web.fie.com/htdoc/fed/doe/fsl/pub/menu/any/index.htm.

Requests for further information concerning the Storage and Disposition Draft PEIS should be directed to: Office of Fissile Materials Disposition (MD–4), Attention: Storage and Disposition PEIS, U.S. Department of Energy, 1000 Independence Ave., SW, Washington, DC 20585; by calling 1–800–820–5134; or by using the above INTERNET address.

Information regarding the DOE National Environmental Policy Act process should be directed to: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Ave., SW, Washington, DC 20585, by calling (202) 586–4600 or leaving a message at 1–800–472–2756.

DOE Public Reading Rooms

Copies of the draft Storage and Disposition PEIS, as well as technical data reports and other supporting documents, are available for public review at the following locations:

Albuquerque Operations Office

National Atomic Museum, 20358 Wyoming Boulevard, SE, Kirtland AFB, NM 87117, 505–284–3243

Amarillo Area Office

U.S. Department of Energy, Amarillo College, Lynn Library/Learning Center, 2201 South Washington, P.O. Box 447, Amarillo, TX 79178, 806–371–5400

U.S. DOE Reading Room, Carson County Library, 401 Main Street, P.O. Box 339, Panhandle, TX 79068, 806–537–3742

Chicago Operations Office

Office of Planning, Communications and EEO, U.S. Department of Energy, 9800 South Cass Avenue, Argonne, Il 60439, 708–252–2013

Headquarters, Department of Energy

U.S. Department of Energy, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, 202–586–3142

Idaho Operations Office

Idaho Public Reading Room, 1776 Science Center Drive, Idaho Falls, ID 83402, 208–526–0271

Los Alamos National Laboratory

U.S. Department of Energy, c/o Los Alamos Community Reading Room, 1350 Central, Suite 101, Los Alamos, NM 87544, 505–665–2127

Nevada Operations Office

Nevada Operations Office, U.S. Department of Energy, Public Reading Room, 2621 Losse Road, North Las Vegas, NV 89030, 702–295–1128

Oak Ridge Operations Office

U.S. Department of Energy, Public Reading Room, 55 South Jefferson Circle, Room 112, P.O. Box 2001, Oak Ridge, TN 37831–8501,423–241–4780

Richland Operations Office

Washington State University, Tri-Cities Branch Campus, 100 Sprout Road, Room 130 West, Richland, WA 99352, 509–376–8583

Rocky Flats Office

Front Range Community College Library, 3645 West 112th Avenue, Westminister, CO 80030, 303–469–4435

Sandia National Laboratory

Livermore Public Library, 1000 S. Livermore Avenue, Livermore, CA 94550, 510–373–5500

Savannah River Operations Office

Gregg-Graniteville Library, University of South Carolina-Aiken, 171 University Parkway, Aiken, SC 29801, 803–641–3320

Issued in Washington, DC, May 7, 1996.

Gregory P. Rudy,

Acting Director, Office of Fissile Materials Disposition

[FR Doc. 96–11911 Filed 5–10–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation.

DATES: Wednesday, June 5, 1996: 6:00 p.m.–9:00 p.m.

ADDRESSES: Oak Ridge Inn (formerly Holiday Inn), 420 South Illinois Avenue, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Sandy Perkins, Site-Specific Advisory Board Coordinator, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, (423) 576–1590.

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

June Meeting Topics

The Board will be briefed on the air monitoring program for the Oak Ridge Reservation.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Sandy Perkins at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 8:30 am and 5:00 pm on Monday, Wednesday, and Friday; 8:30 am and 7:00 pm on Tuesday and Thursday; and 9:00 am and 1:00 pm on Saturday, or by writing to Sandy Perkins, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, or by calling her at (423) 576–1590.

Issued at Washington, DC on May 3, 1996.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–11910 Filed 5–10–96; 8:45 am]

BILLING CODE 6450–01–P

Privacy Act of 1974; Notice To Amend an Existing System of Records

AGENCY: Department of Energy (DOE).

ACTION: Proposed amendment to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, Title 5, United States Code, Section 552a, the Department of Energy is publishing for public comment a revision to an existing system of records, "DOE–34, Employee Assistance Program (Alcohol and Drug Abuse Program)" including the renaming of the system to "DOE–34, Employee Assistance Program (EAP) Records." The revision expands the scope of the system to include assistance on all behavioral problems or issues. The revision also proposes to increase system locations, expand the categories of individuals covered and the categories of records in the system, establish new routine uses, delete existing routine uses, and update other information related to the system.

DATES: The proposed revisions will become effective without further notice 40 days after publication in the **Federal Register**, unless comments are received on or before that date that would result in a contrary determination and a notice is published to that effect.

ADDRESSES: Written comments should be directed to the following address: Director, FOIA/Privacy Act Division, Office of the Executive Secretariat, HR–78, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Written comments will be available for inspection at the above address between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: GayLa D. Sessoms, Director, FOIA/Privacy Act Division, HR–78, U.S. Department of Energy, 1000 independence Avenue, SW., Washington, DC 20585, (202) 586–5955; Bruce Murray, Office of Personnel Policy, Programs and Assistance, HR–323, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–3372; or Harold Halpern, Office of General Counsel, GC–80, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8618.

SUPPLEMENTARY INFORMATION: The Department proposes to amend its system of records, "DOE–34, Employee Assistance Program (Alcohol and Drug Abuse Program)" and to rename the system "DOE–34, Employee Assistance Program (EAP) Records." The revision expands the scope of the system to include assistance on all behavioral problems or issues. The existing system covers only those records relating to counseling and referral services to resolve alcohol and/or drug abuse problems.

The system location is extended to include the offices of off-site Department of Energy service providers. The categories of individuals covered is extended to former employees and the categories of records in the system will now include a detailed employee profile, interest inventory and/or psychological test results, issue inventory, case notes, consent/release forms, and psychological reports.

Records from this system will be used to provide information to the employee assistance program provider, program coordinator, and program evaluators to assist the operation of the program. The information will also be provided to appropriate Departmental management officials regarding possible health, safety, or security risks.

The new routine uses permit the disclosure of information maintained in the system of records (other than records pertaining to alcohol and substance abuse which are subject to the more restrictive confidentiality constraints set forth at Title 42, United States Code, Section 290dd–2, and Title 42, Code of Federal Regulations, Part 2) to: (1) Department contractors providing services to the Program and their personnel who have a need for the records in the performance of their duties; (2) appropriate community officials regarding suspected child, spousal, or elder abuse; (3) any persons to the extent necessary to prevent an imminent or potential crime which directly threatens loss of life or serious bodily injury; (4) qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation; (5) appropriate Federal agencies in defending claims against the United States when the claim results from actions against an individual based upon the individual's behavior, or mental, or physical condition, or is alleged to have arisen because of activities of any Federal agency in connection with the individual, and; (6) the United States Enrichment Corporation to enable it to perform functions transferred to it from the Department.

This notice also deletes the routine uses listed for the system in the Department's complete compilation of Privacy Act system of records (47 **Federal Register** 14306, April 2, 1982) and later **Federal Register** re-publications. All intended disclosures of information maintained in the system are included in the new routine uses proposed to be established in this notice.

The text of the system notice is set forth below.

Issued in Washington, DC, this 24th day of April, 1996.

Archer L. Durham,

Assistant Secretary for Human Resources and Administration.

DOE–34

SYSTEM NAME:

Employee Assistance Program (EAP) Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

These records are maintained at Department of Energy offices or, when Departmental service providers (counselors) are off-site, in the office of the provider.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Department of Energy employees who have contacted a service provider and have received counseling and/or been referred out for assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes records generated in the course of managing and monitoring employee referrals and participation in the Employee Assistance Program, such as:

a. Employee profile—Name; social security number; work and home addresses and phone numbers; job title and grade level; organization; supervisor's name and phone number; sex; race; marital status; spouse and family members' names; name, address, and phone number of any previously seen counselor or treatment facility; security clearance.

b. Interest inventory and/or psychological test results.

c. Issue(s) inventory.

d. Case notes.

e. Consent/release forms.

f. Correspondence, including referrals to community resources and/or treatment facilities.

g. Medical and/or psychological reports.

All employee counseling records are owned by the Department.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 91–616, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970; Public Law 102–143, The Omnibus Transportation Employee Testing Act of 1991; Title 5, United States Code, Sections 301, 7901, and 7904; Title 5, Code of Federal Regulations, Part 792; and Section 641 of the Department of Energy Organization Act, codified at Title 42, United States Code, Section 7251, incorporating Title 42, United States Code, Section 2201 and Title 15, United States Code, Section 764.

PURPOSE:

These records are used by the Department of Energy to maintain documentation on employees seeking assistance on behavioral problems or issues. Records from this system will be used to provide information to the employee assistance program provider, program coordinator, program evaluators to assist the operation of the program and, in cases of employee supervisor initiated referrals and others, if the employee waives confidentiality, records will also be provided to the employee's supervisor.

The information will also be provided to appropriate Departmental management officials regarding possible health, safety, or security risks.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records regarding drug and alcohol use are subject to the confidentiality and disclosure provisions at Title 42, United States Code, Section 290dd–2, and the regulations at Title 42, Code of Federal Regulations, Part 2. All other counseling records will be treated with the same degree of confidentiality, with the exception that they may be disclosed:

1. To Department contractors who provide services to the Employee Assistance Program, their officers and employees, in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

2. To appropriate community officials if the employee is suspected of child, spousal, or elder abuse.

3. To any person or entity to the extent necessary to prevent an imminent or potential crime which directly threatens loss of life or serious bodily injury.

4. To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report, or otherwise disclose patient identities in any manner.

5. To the Department of Justice or other appropriate Federal agencies in defending claims against the United States, when the claim results from action against an individual based upon the individual's behavior, or mental or physical condition, or is alleged to have arisen because of activities of any Federal agency in connection with the individual.

6. To the United States Enrichment Corporation to enable the Corporation to perform functions transferred to it from the Department of Energy.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored in any form, including hard copy and automated.

RETRIEVABILITY:

By employee's name or other personal identifier, such as, social security number.

SAFEGUARDS:

Records must be maintained in locked file cabinets or offices. Access to records is to authorized personnel only.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the General Records Schedule and DOE records schedules which have been approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

a. Headquarters: Deputy Assistant Secretary for Human Resources, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585.

b. Field Offices: Personnel Officers at all other Departmental locations including the Office of Inspector General.

NOTIFICATION PROCEDURES:

Requests by an individual to determine if a system of records contains information about him/her should be directed to either the Director, FOIA/Privacy Act Division, Office of the Executive Secretariat, HR–78, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, for Headquarters, or the Privacy Act Officer at each field location in accordance with the Department's Privacy Act regulations (Title 10, Code of Federal Regulations, Section 1008, 45 FR 61576, September 16, 1980, or its successor issuance).

Requests should include the requester's complete name, social security number, the geographic location(s) where the requester believes the records may be located, and time period.

RECORD ACCESS PROCEDURES:

With proper identification in accordance the Department's Privacy Act regulations, a current or former employee may obtain a copy of his/her employee assistance file, unless, in the opinion of the service provider, the medical or psychological information contained in it would be inappropriate for release directly to the individual. In such a case, the requester should provide the name of his/her attending counselor so the file can be sent directly to the counselor and the information released pursuant to the Privacy Act, Title 5, United States Code, Section 552a(f)(3).

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

a. The subject employee.

b. The employee's supervisor(s).

c. The employee assistance program coordinator.

d. Staff of the applicable servicing personnel office.

e. Staff of the applicable personnel security office.

f. Therapists or institutions providing treatment.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 96–11919 Filed 5–10–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP96–215–001]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 7, 1996.

Take notice that on May 2, 1996, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to become effective June 1, 1996:

First Revised Volume No. 1

Second Revised Sheet No. 11
First Revised Sheet No. 12
Second Revised Sheet No. 15
Second Revised Sheet No. 51
First Revised Sheet No. 55
First Revised Sheet No. 56
First Revised Sheet No. 70
First Revised Sheet No. 83
Third Revised Sheet No. 93
First Revised Sheet No. 111
First Revised Sheet No. 116
Third Revised Sheet No. 121
Third Revised Sheet No. 122
First Revised Sheet No. 126
Subsitute Original Sheet No. 129C
Subsitute Original Sheet No. 129D

FGT states that on April 25, 1996 FGT filed tariff sheets to provide for the resolution of Unscheduled Deliveries on FGT's system. Subsequently, FGT has become aware that Original Sheet Nos. 129C and 129D included in the April 25 filing has been previously filed on December 30, 1994 in FGT's rate case in RP95–103. These tariff sheets were never motioned into effect and were subsequently withdrawn by default by FGT's settlement dated August 24, 1995 as approved by Commission Order dated October 11, 1995. In the instant filing, FGT is submitting Substitute Original Sheet Nos. 129C and 129D because these tariff sheets were previously filed as original sheets.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11840 Filed 5–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–231–000]

Kern River Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 7, 1996.

Take notice that on May 3, 1996, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff the following tariff sheets, to become effective June 3, 1996:

First Revised Volume No. 1

Second Revised Sheet No. 127
Original Sheet No. 128
First Revised Sheet No. 200
First Revised Sheet No. 202
First Revised Sheet No. 203
First Revised Sheet No. 300
First Revised Sheet No. 301
First Revised Sheet No. 302
First Revised Sheet No. 303
First Revised Sheet No. 354
First Revised Sheet No. 356
First Revised Sheet No. 357
First Revised Sheet No. 400
First Revised Sheet No. 401
First Revised Sheet No. 500A
First Revised Sheet No. 523
First Revised Sheet No. 524
First Revised Sheet No. 533
First Revised Sheet No. 534
First Revised Sheet No. 600A
First Revised Sheet No. 623
First Revised Sheet No. 632
First Revised Sheet No. 633
First Revised Sheet No. 700A
First Revised Sheet No. 726
First Revised Sheet No. 728
First Revised Sheet No. 736
First Revised Sheet No. 802
First Revised Sheet No. 823
Second Revised Sheet No. 827
First Revised Sheet No. 844
First Revised Sheet No. 872
First Revised Sheet No. 876
Second Revised Sheet No. 878
First Revised Sheet No. 879

Kern River states that, in partial compliance with Order No. 582, it is revising its tariff to (1) update references in its tariff to the former Part 154 regulations; (2) include a statement on Kern River's "order of discounting" and; (3) include a statement of Kern River's policy with respect to the construction of delivery facilities.

Kern River further states that it is proposing revisions to its tariff sheets to reflect a change in Kern River's principal place of business and other minor corrective changes.

Any person desiring to be heard or protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available to public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11841 Filed 5–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–159–000]

Shell Gas Pipeline Company; Notice of Technical Conference

May 7, 1996.

Take notice that the technical conference in the above captioned proceeding, previously scheduled for April 17, 1996, has been rescheduled to be held on May 16, 1996. The Conference will be convened at 10:00 p.m. at the Commission's offices, located at 888 First St., N.E., Washington, D.C. 20426. All parties are invited to attend. For further information contact Fred Koester, (202) 208–2258, or Robert Wolfe, (202) 208–2098.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11833 Filed 5–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 1930–000]

Southern California Edison Company; Notice of Authorization for Continued Project Operation

May 7, 1996.

On May 2, 1994, Southern California Edison Company, licensee for the Kern River No. 1 Project No. 1930, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 1930 is located on the Kern River in Kern County, California.

The license for Project No. 1930 was issued for a period ending April 30, 1996. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in Section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of Section 15 of the FPA, then, based on Section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to Section 15 of the FPA, notice is hereby given than an annual license for Project No. 1930 is issued to Southern California Edison Company for a period effective May 1, 1996, through April 30, 1997, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before April 30, 1997, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under Section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to Section 15 of the FPA, notice is hereby given that Southern California Edison Company is authorized to continue operation of the Kern River No. 1 Project No. 1930 until such time as the Commission acts on its application for subsequent license.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11835 Filed 5–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 1932–000]

Southern California Edison Company; Notice of Authorization for Continued Project Operation

May 7, 1996.

On April 29, 1994, Southern California Edison Company, licensee for the Lytle Creek Project No. 1932, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 1932 is located on Lytle Creek in San Bernardino County, California.

The license for Project No. 1932 was issued for a period ending April 30, 1996. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in Section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of Section 15 of the FPA, then, based on Section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 1932 is issued to Southern California Edison Company for a period effective May 1, 1996, through April 30, 1997, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license or (other disposition) does not take place on or before April 30, 1997, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under Section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to Section 15 of the FPA, notice is hereby given that Southern California Edison Company is authorized to continue operation of the Lytle Creek Project No. 1932 until such time as the Commission acts on its application for subsequent license.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11836 Filed 5–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 1933–000]

Southern California Edison Company; Notice of Authorization for Continued Project Operation

May 7, 1996.

On April 29, 1994, Southern California Edison Company, licensee for the Santa Ana Nos. 1 and 2 Project No. 1933, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 1933 is located on the Santa Ana River and its tributaries in San Bernardino County, California.

The license for Project No. 1933 was issued for a period ending April 30, 1996. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in Section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of Section 15 of the FPA, then, based on Section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to Section 15 of the FPA, notice is hereby given that an annual license for Project No. 1933 is issued to Southern California Edison Company for a period effective May 1, 1996, through April 30, 1997, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before April 30, 1997, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under Section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to Section 15 of the FPA, notice is hereby given that Southern California Edison Company is authorized to continue operation of the Santa Ana Nos. 1 and 2 Project No. 1933 until such time as the Commission acts on its application for subsequent license.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11837 Filed 5–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 1934–000]

Southern California Edison Company; Notice of Authorization for Continued Project Operation

May 7, 1996.

On April 29, 1994, Southern California Edison Company, licensee for the Mill Creek Nos. 2 and 3 Project No. 1934, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 1934 is located on Mill Creek and its tributary, Mountain Home Creek, in San Bernardino County, California.

The license for Project No. 1934 was issued for a period ending April 30, 1996. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in Section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of Section 15 of the FPA, then, based on Section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to Section 15 of the FPA, notice is hereby given that an annual license for Project No. 1934 is issued to Southern California Edison Company for a period effective May 1, 1996, through April 30, 1997, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before April 30, 1997, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under Section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to Section 15 of the FPA, notice is hereby given that Southern California Edison Company is authorized to continue operation of the Mill Creek Nos. 2 and 3 Project No. 1934 until such time as the Commission acts on its application for subsequent license.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11838 Filed 5–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–35–000, et al.]

Central Vermont Public Service Corporation, et al.; Electric Rate and Corporate Regulation Filings

April 29, 1996.

Take notice that the following filings have been made with the Commission:

1. Central Vermont Public Service Corporation

[Docket No. ER94–35–000]

Take notice that on April 24, 1996, Central Vermont Public Service Corporation tendered for filing an amendment to its filing in this docket. The amendment responds to informal requests of the Commission Staff.

Comment date: May 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. New England Power Pool

[Docket No. ER96–1621–000]

Take notice that on April 23, 1996, the New England Power Pool Executive Committee filed a signature page to the NEPOOL Agreement dated September 1, 1971, as amended, signed by Global Petroleum Corporation (Global). The New England Power Pool Agreement, as amended, has been designated NEPOOL FPC No. 2.

The Executive Committee states that acceptance of the signature page would permit Global to join the over 90 other electric utilities and independent power producers that already participate in the Pool. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make Global a Participant in the Pool. NEPOOL requests an effective date of June 1, 1996 for commencement of participation in the Pool by Global.

Comment date: May 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. New England Power Pool

[Docket No. ER96–1622–000]

Take notice that on April 23, 1996, the New England Power Pool Executive Committee filed a signature page to the NEPOOL Agreement dated September 1, 1971, as amended, signed by Wheeled Electric Power Company (Wheeled Electric). The New England Power Pool Agreement, as amended, has been designated NEPOOL FPC No. 2.

The Executive Committee states that acceptance of the signature page would permit Wheeled Electric to join the over 90 Participants already in the Pool. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make Wheeled Electric a Participant in the Pool. NEPOOL requests an effective date on or before March 28, 1996 for commencement of participation in the Pool by Wheeled Electric.

Comment date: May 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power Corporation

[Docket No. ER96–1623–000]

Take notice that on April 23, 1996, Florida Power Corporation tendered for filing a service agreement providing for service to Louisville Gas and Electric Company, pursuant to Florida Power's power sales tariff. Florida Power requests that the Commission waive its notice of filing requirements and allow the Service Agreement to become effective on April 24, 1996.

Florida Power requests that the Commission waive its notice of filing requirements to allow the Service Agreement to become effective on the date listed above.

Comment date: May 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Florida Power Corporation

[Docket No. ER96–1624–000]

Take notice that on April 23, 1996, Florida Power Corporation (Florida Power), tendered for filing service agreements providing for service to Louisville Gas and Electric Company pursuant to its open access transmission tariff (the T–2 Tariff). Florida Power requests that the Commission waive its notice of filing requirements and allow the agreements to become effective on April 24, 1996.

Comment date: May 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Idaho Power Company

[Docket No. ER96–1625–000]

Take notice that on April 23, 1996, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission a Service Agreement under Idaho Power Company FERC Electric Tariff, Second Revised, Volume No. 1 between USGen Power Services, L.P. and Idaho Power Company, and a Certificate of Concurrence.

Comment date: May 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. New England Power Company, NEES Transmission Services, Inc., Granite State Electric Company, Massachusetts Electric Company and the Narragansett Electric Company

[Docket No. ER96–1626–000]

Take notice that on April 23, 1996, New England Power Company, NEES Transmission Services, Inc., and certain of its affiliates tendered a series of agreements and amendments to agreements to permit Massachusetts Electric Company to implement two Pilot Programs approved by the Massachusetts Department of Public Utilities that are designed to allow retail electricity sales by alternative suppliers in Massachusetts Electric Company's service territory.

Comment date: May 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Duke Power Company

[Docket No. ER96–1627–000]

Take notice that on April 23, 1996, Duke Power Company (Duke), tendered for filing a Service Agreement for Market Rate (Schedule MR) Sales between Duke and Entergy Services, Inc. and Schedule MR Transaction Sheets thereunder.

Comment date: May 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Duke Power Company

[Docket No. ER96–1628–000]

Take notice that on April 23, 1996, Duke Power Company (Duke), tendered for filing Schedule MR Transaction Sheets under Service Agreement No. 3 of Duke's FERC Electric Tariff, Original Volume No. 3.

Comment date: May 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Power and Light Company

[Docket No. ER96–1629–000]

Take notice that on April 19, 1996, Wisconsin Power and Light Company (WP&L), tendered for filing a signed Service Agreement under WP&L's Bulk Power Tariff between itself and Valero Power Services Company (Valero). WP&L respectfully requests a waiver of the Commission's notice requirements, and an effective date of April 8, 1996.

Comment date: May 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Entergy Services, Inc.

[Docket No. ER96–1630–000]

Take notice that on April 24, 1996, Entergy Services, Inc. (Entergy Services), on behalf of Arkansas Power & Light Company, Gulf States Utilities Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service, Inc. (Entergy Operating Companies), tendered for filing a Transmission Service Agreement (TSA) between Entergy Services, Inc. and Central and South West Services, Inc., acting as agent for Southwestern Electric Power Company. Entergy Services states that the TSA sets out the transmission arrangements under which the Entergy Operating Companies provide firm transmission service under their Transmission Service Tariff.

Comment date: May 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Family Fiber Connection

[Docket No. ER96–1631–000]

Take notice that on April 24, 1996, Family Fiber Connection (FFC), tendered for filing FFC Rate Schedule FERC No. 1, under which FFC will engage in wholesale electric power and energy transactions as a marketer. FFC requests that the Commission accept the rate schedule for filing effective the earlier of 60 days from the date of this filing or the date the Commission issues an order accepting the rate schedule.

Comment date: May 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Florida Power Corporation

[Docket No. ER96–1632–000]

Take notice that on April 24, 1996, Florida Power Corporation (FPC), tendered for filing a contract for the provision of interchange service between itself and Western Power Services, Inc. (WPS). The contract provides for service under Schedule J, Negotiated Interchange Service, and OS, Opportunity Sales. Cost support for both schedules has been previously filed and approved by the Commission. No specifically assignable facilities have been or will be installed or modified in order to supply service under the proposed rates.

FPC requests Commission waiver of the 60-day notice requirement in order to allow the contract to become effective as a rate schedule on April 25, 1996. Waiver is appropriate because this filing does not change the rate under these two Commission accepted, existing rate schedules.

Comment date: May 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Portland General Electric Company

[Docket No. ER96–1633–000]

Take notice that on April 24, 1996, Portland General Electric Company (PGE), tendered for filing under FERC Electric Tariff, 1st Revised Volume No. 2, executed Service Agreements for Industrial Energy Applications and Utah Municipal Power Agency.

Pursuant to 18 CFR 35.11 and the Commission's order issued July 30, 1993 (Docket No. PL93–2–002), PGE respectfully requests the Commission grant a waiver of the notice requirement of 18 CFR 35.3 to allow the executed Service Agreement to become effective April 1, 1996.

A copy of this filing was served upon Industrial Energy Applications and Utah Municipal Power Agency.

Comment date: May 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Maine Public Service Company

[Docket No. ER96–1634–000]

Take notice that on April 24, 1996, Maine Public Service Company submitted an agreement under its Umbrella Power Sales tariff.

Comment date: May 13, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11842 Filed 5–10–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EG96–60–000, et al.]

O'Brien (Parlin) Cogeneration, Inc., et al.; Electric Rate and Corporate Regulation Filings

May 7, 1996.

Take notice that the following filings have been made with the Commission:

1. O'Brien (Parlin) Cogeneration, Inc.

[Docket No. EG96–60–000]

On April 29, 1996, O'Brien (Parlin) Cogeneration, Inc. ("Parlin"), 225 South Eighth Street, Philadelphia, PA 19106, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Parlin is a Delaware corporation that is engaged directly and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale.

Parlin owns a 122 MW topping-cycle cogeneration facility located in Parlin, New Jersey.

Comment date: May 28, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. O'Brien (Newark) Cogeneration, Inc.

[Docket No. EG96–61–000]

On April 29, 1996, O'Brien (Newark) Cogeneration, Inc. ("Newark"), 225 South Eighth Street, Philadelphia, PA 19106, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Newark is a Delaware corporation that is engaged directly and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale.

Newark owns a 52 MW topping-cycle cogeneration facility located in Newark, New Jersey.

Comment date: May 28, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. QST Energy Trading Inc.

[Docket No. ER96–553–001]

Take notice that on April 16, 1996, QST Energy Trading Inc. amended its compliance filing in this docket.

Comment date: May 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

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4. Citizens Utilities Company

[Docket No. ER96–699–001]

Take notice that on April 22, 1996, Citizens Utilities Company tendered for filing its refund report in the above-referenced docket.

Comment date: May 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Illinois Power Company

[Docket No. ER96–1537–000]

Take notice that on April 29, 1996, Illinois Power Company tendered for filing an amendment to the April 9, 1996, filing that it made in this proceeding.

Comment date: May 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Idaho Power Company

[Docket No. ER96–1625–000]

Take notice that on May 1, 1996, Idaho Power Company (IPC) tendered for filing a letter requesting an amended effective date of April 3, 1996, for its Service Agreement under Idaho Power Company FERC Electric Tariff, Second Revised, Volume No. 1 between USGen Power Services, L.P. and Idaho Power Company.

Comment date: May 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Southwestern Public Service Company

[Docket No. ER96–1666–000]

Take notice that on April 29, 1996, Southwestern Public Service Company (Southwestern), tendered for filing a new rate schedule. The new rate schedule is for economy and system participation capacity service to The Empire District Electric Company (Empire District). Service to Empire District is scheduled to start June 1, 1996.

Comment date: May 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Duke Power Company

[Docket No. ER96–1667–000]

Take notice that on April 29, 1996, Duke Power Company (Duke), tendered for filing with the Commission Supplement No. 9 to Supplement No. 24 to the Interchange Agreement between Duke and Carolina Power & Light Company (CP&L) dated June 1, 1961, as amended (Interchange Agreement). Supplement No. 9 changes Duke's monthly transmission capacity rate under the Interchange Agreement from $1.0908 per KW per month to $1.0758 per KW per month. Duke has proposed an effective date of July 1, 1996, for the revised charge.

Copies of this filing were mailed to Carolina Power & Light Company, the North Carolina Utilities Commission, and the South Carolina Public Service Commission.

Comment date: May 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Niagara Mohawk Power Corporation

[Docket No. ER96–1669–000]

Take notice that on April 29, 1996, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing pursuant to Section 35.13 of the Federal Energy Regulatory Commission's Regulations, 18 CFR 35.13, an Amendment to its FERC Rate Schedule No. 165, an agreement between Niagara Mohawk and New York State Electric & Gas Corporation (NYSEG) and NYSEG's Certificate of Concurrence with respect to NYSEG FERC Rate Schedule No. 115.

These rate schedules consist of a January 1, 1990, agreement, as amended and supplemented from time to time (the 1990 Agreement) pursuant to which Niagara Mohawk and NYSEG (the Parties) provide certain transmission services to each other. The Amendment modifies the rates that each Party charges the other for transmission services under the 1990 Agreement and was negotiated at arm's length. Under the Amendment, the fixed monthly charge that NYSEG pays Niagara Mohawk will increase from $1,162,083 to $1,164,250 (an increase of $2,167 per month or $26,004 per year).

Niagara Mohawk requests that the Amendment become effective on September 1, 1995, and requests waiver of the notice requirements for good cause shown.

Niagara Mohawk served copies of the filing upon the New York State Public Service Commission and NYSEG.

Comment date: May 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Washington Water Power Company

[Docket No. ER96–1670–000]

Take notice that on April 29, 1996, Washington Water Power Company, tendered for filing with the Federal Energy Regulatory Commission, pursuant to 18 CFR 35.13, a signed service agreement under FERC Electric Tariff Volume No. 4 with E Prime, Inc.

Comment date: May 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Florida Power & Light Company

[Docket No. ER96–1671–000]

Take notice that on April 29, 1996, Florida Power & Light Company (FPL), tendered for filing a document entitled Florida Southern Export Allocation Agreement Among Florida Power & Light Company, Florida Power Corporation, Jacksonville Electric Authority, and the City of Tallahassee, Florida (Export Agreement). FPL's filing includes a Certificate of Concurrence executed by Florida Power Corporation in lieu of an independent filing.

FPL states that the Export Agreement establishes limits on the Contracting Parties' right to export power at the Florida Southern Interface, by allocating the Florida Southern Interface export capability among the Contracting Parties.

FPL requests that waiver of Section 35.3 of the Commission's Regulations be granted and that the Export Agreement be made effective on May 14, 1996. FPL states that copies of the filing were served on Florida Power Corporation, Jacksonville Electric Authority, and the City of Tallahassee, Florida.

Comment date: May 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Florida Power & Light Company

[Docket No. ER96–1672–000]

Take notice that on April 29, 1996, Florida Power & Light Company (FPL), tendered for filing a document entitled Joint Ownership Party Export Allocation Between Florida Power & Light Company and Jacksonville Electric Authority (JEA), (JOP Export Agreement).

FPL states that the JOP Export Agreement establishes limits on FPL's and JEA's right to export power at the Florida Southern Interface, by allocating between FPL and JEA the Interface export capability allocated collectively to FPL and JEA under a separate, simultaneously filed agreement: the Florida Southern Transmission Export Allocation Agreement Among Florida Power & Light Company, Florida Power Corporation, Jacksonville Electric Authority, and City of Tallahassee, Florida.

FPL requests that waiver of Section 35.3 of the Commission's Regulations be granted and that the JOP Export Agreement be made effective on May 14, 1996. FPL states that copies of the filing were served on JEA.

Comment date: May 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11872 Filed 5–10–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP96–199–000]

Egan Hub Partners, L.P.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Egan Gas Storage Expansion Project and Request for Comments on Environmental Issues

May 7, 1996.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of the facilities proposed in the Egan Gas Storage Expansion Project.[1] This EA will be used by the Commission in its decision-making process to determine whether an environmental impact statement is necessary and whether to approve the project.

Summary of the Proposed Project

Egan Hub Partners, L.P. (Egan) proposes to construct and operate a second storage cavern and install about 6,260 horsepower of additional compression at the storage facility site in Acadia Parish, Louisiana.

Egan indicates that the new storage facilities would provide up to a total of about 4 billion cubic feet of working gas storage capacity.

[1] Egan Hub Partners, L.P.'s application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

The general location of the project facilities are shown in appendix 1.[2]

Land Requirements for Construction

No additional land would be required for the project.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Land use.
- Air quality and noise.
- Public safety.
- Cultural resources.
- Endangered and threatened species.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we recommend that the Commission approve or not approve the project.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

Currently Identified Environmental Issues

We have already identified two issues that we think deserves attention based on a preliminary review of the proposed facilities and the environmental information provided by Egan. Keep in mind that these are preliminary issues.

- Egan would develop an additional salt storage cavern which would require fresh water withdrawal, saltwater disposal, and surface disposal of insolubles.
- Noise impacts would occur to nearby residences from the operation of the compressors.

The list of issues may be added, subtracted from, or changed based on your comments and our analysis.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations or routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Washington, DC 20426;
- Reference Docket No. CP96–199–000;
- Send a *copy* of your letter to: Mr. Herman K. Der, EA Project Manager, Federal Energy Regulatory Commission, 888 First St., N.E. PR–11.1, Washington, DC 20426; and
- Mail your comments so that they will be received in Washington, DC on or before June 17, 1996.

If you wish to receive a copy of the EA, you should request one from Mr. Herman K. Der at the above address.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an "intervenor". Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

You do not need intervenor status to have your scoping comments considered.

Additional information about the proposed project is available from Mr. Herman K. Der, EA Project Manager, at (202) 208–0896.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11834 Filed 5–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–166–013]

Panhandle Eastern Pipe Line Company; Notice of Technical Conference

May 7, 1996.

Take notice that a technical conference will be convened in this proceeding on May 16, 1996, at 2:00 p.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, for the purpose of reviewing information submitted by Panhandle pursuant to the Commission's remand order in the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information please contact Carmen Gastilo (202) 208–2182 or Kathleen Dias (202) 208–0524.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11839 Filed 5–10–96; 8:45 am]

BILLING CODE 6717–01–M

Sunshine Act Meeting

May 8, 1996.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: May 15, 1996, 10:00 a.m.

PLACE: Room 2C, 888 First Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda; Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary,Telephone (202) 208–0400, for a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

Consent Agenda—Hydro, 652nd Meeting—May 15, 1996 Regular Meeting (10:00 a.m.)

CAH–1.	DOCKET# P–5984	004	NIAGARA MOHAWK POWER CORPORATION
CAH–2.	OMITTED		
CAH–3.	OMITTED		
CAH–4.	DOCKET# P–11090	001	TUNBRIDGE MILL CORPORATION
CAH–5.	DOCKET# P–11402	001	CITY OF CRYSTAL FALLS, MICHIGAN
CAH–6.	DOCKET# P–2114	040	PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY, WASHINGTON

CONSENT AGENDA—ELECTRIC

CAE–1.	DOCKET# ER–95–203	007	UTILICORP UNITED, INC.
	OTHER#S ER95–216	007	AQUILA POWER CORPORATION
	ER96–980	000	AQUILA POWER CORPORATION
	ER96–1000	000	UTILICORP UNITED, INC.
	ER96–1366	000	AQUILA POWER CORPORATION
CAE–2.	DOCKET# ER96–1121	000	DUKE/LOUIS DREYFUS ENERGY SERVICES (NEW ENGLAND) L.L.C.
	OTHER#S ER96–108	003	DUKE/LOUIS DREYFUS L.L.C.
CAE–3.	DOCKET# ER96–1348	000	CSW POWER MARKETING, INC.
CAE–4.	DOCKET# ER96–1361	000	ATLANTIC CITY ELECTRIC COMPANY
CAE–5.	OMITTED		
CAE–6.	DOCKET# ER96–1428	000	PENNSYLVANIA POWER & LIGHT COMPANY
CAE–7.	DOCKET# ER96–1459	000	BLACK HILLS POWER AND LIGHT COMPANY
CAE–8.	DOCKET# ER96–1461	000	CAMBRIDGE ELECTRIC LIGHT COMPANY
	OTHER#S ER96–49	000	CAMBRIDGE ELECTRIC LIGHT COMPANY
CAE–9.	DOCKET# QF94–160	001	CHEROKEE COUNTY COGENERATION PARTNERS, L.P.
CAE–10.	DOCKET# ER96–1456	000	PUGET SOUND POWER & LIGHT COMPANY
	OTHER#S ER96–697	000	PUGET SOUND POWER & LIGHT COMPANY
CAE–11.	DOCKET# ER95–626	000	PSI ENERGY, INC.
CAE–12.	DOCKET# ER95–1800	001	PUBLIC SERVICE COMPANY OF NEW MEXICO
	OTHER#S EL95–55	001	PLAINS ELECTRIC GENERATION AND TRANSMISSION COOPERATIVE, INC. V. PUBLIC SERVICE CO. OF NEW MEXICO
	EL95–63	001	INCORPORATED COUNTY OF LOS ALAMOS, NEW MEXICO V. PUBLIC SERVICE COMPANY OF NEW MEXICO
	EL95–65	001	WESTERN AREA POWER ADMINISTRATION V. PUBLIC SERVICE COMPANY OF NEW MEXICO
	EL95–75	001	NAVAJO TRIBAL UTILITY AUTHORITY V. PUBLIC SERVICE COMPANY OF NEW MEXICO

CONSENT AGENDA—GAS AND OIL

CAG–1.	DOCKET# RP96–153	000	ANR PIPELINE COMPANY
CAG–2.	DOCKET# RP95–296	002	WILLIAMS NATURAL GAS COMPANY
CAG–3.	DOCKET# RP96–67	000	MOJAVE PIPELINE COMPANY

Consent Agenda—Hydro, 652nd Meeting—May 15, 1996 Regular Meeting (10:00 a.m.)—Continued

CAG–4.	DOCKET# TM96–2–28	001	PANHANDLE EASTERN PIPELINE COMPANY
CAG–5.	DOCKET# RP96–78	000	STINGRAY PIPELINE COMPANY
CAG–6.	DOCKET# RP95–197	011	TRANSCONTINENTAL GAS PIPE LINE CORPORATION
	OTHER#S RP95–197	009	TRANSCONTINENTAL GAS PIPE LINE CORPORATION
CAG–7.	DOCKET# RP89–186	056	GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP
	OTHER#S ST93–2038	000	GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP
	ST93–2039	000	GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP
	ST93–2040	000	GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP
	ST93–2732	000	GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP
	ST93–2733	000	GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP
	ST93–3139	000	GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP
	ST93–3140	000	GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP
	ST93–3141	000	GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP
	ST93–3142	000	GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP
CAG–8.	DOCKET# RP95–187	004	NORTHWEST PIPELINE CORPORATION
	OTHER#S RP94–220	011	NORTHWEST PIPELINE CORPORATION
	TM95–2–37	004	NORTHWEST PIPELINE CORPORATION
CAG–9.	DOCKET# RP95–408	009	COLUMBIA GAS TRANSMISSION CORPORATION
CAG–10.	DOCKET# RP92–237	023	ALABAMA-TENNESSEE NATURAL GAS COMPANY
	OTHER#S RP92–237	022	ALABAMA-TENNESSEE NATURAL GAS COMPANY
CAG–11.	OMITTED		
CAG–12.	DOCKET# FA90–65	002	NORTHERN BORDER PIPELINE COMPANY
CAG–13.	DOCKET# RP96–68	002	NORTHERN NATURAL GAS COMPANY
	OTHER#S RP95–178	000	NORTHERN NATURAL GAS COMPANY
	RP95–179	000	NORTHERN NATURAL GAS COMPANY
	RP95–313	000	NORTHERN NATURAL GAS COMPANY
	RP95–328	001	NORTHERN NATURAL GAS COMPANY
	RP96–164	000	NORTHERN NATURAL GAS COMPANY
CAG–14.	DOCKET# IS92–27	001	LAKEHEAD PIPE LINE COMPANY, LIMITED PARTNERSHIP
	OTHER#S IS93–4	001	LAKEHEAD PIPE LINE COMPANY, LIMITED PARTNERSHIP
	IS93–33	002	LAKEHEAD PIPE LINE COMPANY, LIMITED PARTNERSHIP
CAG–15.	DOCKET# RP95–408	008	COLUMBIA GAS TRANSMISSION CORPORATION
	OTHER#S RP95–408	002	COLUMBIA GAS TRANSMISSION CORPORATION
CAG–16.	DOCKET# RP93–36	015	NATURAL GAS PIPELINE COMPANY OF AMERICA
CAG–17.	OMITTED		
CAG–18.	OMITTED		
CAG–19.	OMITTED		
CAG–20.	DOCKET# RA95–2	000	LOVELACE GAS SERVICE, INC.
CAG–21.	DOCKET# MG96–2	001	SEA ROBIN PIPELINE COMPANY
CAG–22.	DOCKET# MG96–9	000	KO TRANSMISSION COMPANY
CAG–23.	OMITTED		
CAG–24.	DOCKET# CP95–791	000	PRIMA EXPLORATION, INC., ET AL. AND BTA OIL PRODUCERS AND NGC ENERGY RESOURCES, LIMITED PARTNERSHIP
	OTHER#S CP95–791	001	PRIMA EXPLORATION, INC., ET AL. AND BTA OIL PRODUCERS AND NGC ENERGY RESOURCES, LIMITED PARTNERSHIP
CAG–25.	DOCKET# CP96–32	000	VIKING GAS TRANSMISSION COMPANY
CAG–26.	DOCKET# CP96–99	000	NATURAL GAS PIPELINE COMPANY OF AMERICA
CAG–27.	DOCKET# CP96–126	000	COLUMBIA GAS TRANSMISSION CORPORATION
CAG–28.	DOCKET# CP96–137	000	WILLIAMS NATURAL GAS COMPANY
CAG–29.	DOCKET# CP96–307	000	SHELL GAS PIPELINE COMPANY
CAG–30.	DOCKET# CP91–50	003	SUMAS COGENERATION COMPANY, L.P.
CAG–31.	DOCKET# CP95–35	000	ECOELECTRICA, L.P.
CAG–32.	OMITTED		
CAG–33.	DOCKET# CP96–140	000	TENNECO BAJA CALIFORNIA CORPORATION
CAG–34.	DOCKET# CP96–248	000	PORTLAND NATURAL GAS TRANSMISSION SYSTEM
CAG–35.	DOCKET# CP95–565	000	EQUITRANS, INC.
	OTHER#S CP86–676	000	EQUITRANS, INC.
	CP95–565	001	EQUITRANS, INC.

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Consent Agenda—Hydro, 652nd Meeting—May 15, 1996 Regular Meeting (10:00 a.m.)—Continued

CAG–36.	DOCKET# CP95–755	000	MISSOURI GAS ENERGY, A DIVISION OF SOUTHERN UNION COMPANY V. PANHANDLE EASTERN PIPE LINE COMPANY
CAG–37.	DOCKET# CP96–131	000	CENTANA INTRASTATE PIPELINE COMPANY
	OTHER#S CP96–122	000	TEXAS EASTERN TRANSMISSION CORPORATION
CAG–38.	DOCKET# MT95–7	000	NORTHWEST PIPELINE CORPORATION

HYDRO AGENDA

H–1. RESERVED

ELECTRIC AGENDA

E–1. RESERVED

OIL AND GAS AGENDA

I. PIPELINE RATE MATTERS
PR–1. RESERVED
II. PIPELINE CERTIFICATE MATTERS
PC–1. RESERVED

Lois D. Cashell,
Secretary.
[FR Doc. 96–12023 Filed 5–09–96; 11:13 am]
BILLING CODE 6717–01–P

[Docket No. CP96–348–000, et al.]

Colorado Interstate Gas Company, et al.; Natural Gas Certificate Filings

May 7, 1996.

Take notice that the following filings have been made with the Commission:

1. Colorado Interstate Gas Company

[Docket No. CP96–348–000]

Take notice that on April 24, 1996, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP96–348–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct a new delivery facility under CIG's blanket certificate issued in Docket No. CP83–21–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

CIG proposes to construct and operate the delivery facility in Sherman County, Texas. The facility will be constructed pursuant to a facilities agreement between CIG and Amarillo Natural Gas Inc. (Amarillo) wherein CIG will tap its 20-inch main line with a 3/4 inch tap and valve for the delivery of gas to Amarillo. The estimated cost of construction is $1,100. The quantity of gas to be delivered is approximately 400 Dth per day on an interruptible basis. CIG states that the gas will be transported for Amarillo for delivery to a feedlot to be used to process feed.

CIG states that this new delivery facility is not prohibited by its existing tariff and that it has sufficient capacity to accomplish deliveries without detriment or disadvantage to other customers. The proposed delivery facility will not have an effect on CIG's peak day and annual deliveries and the total volumes delivered will not exceed total volumes authorized prior to this request.

Comment date: June 21, 1996, in accordance with Standard Paragraph G at the end of this notice.

2. Williams Natural Gas Company

[Docket No. CP96–373–000]

Take notice that on April 30, 1996, Williams Natural Gas Company (WNG), P.O. Box 2400, Tulsa, Oklahoma, 74102, filed in Docket No. CP96–373–000 a request pursuant to Sections 157.205, and 157.212(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, and 157.212) for approval to install and operate a tap, measuring and appurtenant facilities for the delivery of transportation gas to City Utilities of Springfield (City Utilities) in Christian County, Missouri, under the blanket certificate issued in Docket No. CP82–479–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG states that the facilities for which it seeks construction authorization are designed to accommodate delivery volumes at ant level between 3,500 Dth per day and 125,000 Dth per day. It is indicated that there will be no increase in peak deliveries to City Utilities beyond that requested in Docket No. CP95–700–000. It is further indicated that the estimated cost of construction is $499,737, which will be fully reimbursed by City Utilities to WNG.

WNG indicates that the proposed construction is not prohibited by its existing tariff and that WNG has sufficient capacity to accomplish the deliveries without detriment or disadvantage to its other customers.

Comment date: June 21, 1996, in accordance with Standard Paragraph G at the end of this notice.

3. Tennessee Gas Pipeline Company

[Docket No. CP96–402–000]

Take notice that on May 1, 1996, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP96–402–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to replace an existing delivery point in Middlesex County, Massachusetts under Tennessee's blanket certificate issued in Docket No. CP82–413–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee proposes to replace an existing delivery point in Middlesex County, Massachusetts to accommodate increase natural gas deliveries to Commonwealth Gas Company (Commonwealth). Commonwealth has requested that Tennessee amend the maximum daily delivery quantities under Commonwealth's rate schedule FT-A service agreement to shift primary firm capacity rights from Commonwealth's Worchester delivery point to the Hudson-Commonwealth delivery point. Tennessee states that the requested changes will not increase the overall firm transportation quantity under Commonwealth's Rate Schedule FT–A Service Agreement.

In order to increase the measurement capability at this point, Tennessee indicates that it will remove certain existing measurement, interconnecting and appurtenant facilities and install dual 6-inch orifice meter tubes, an 8-inch tie in assembly and approximately 150 feet of 8-inch interconnecting pipe. Commonwealth will install the regulation facilities. Tennessee states that it will be fully reimbursed for the cost associated with the replacements at this facility.

Tennessee states that the total quantities to be delivered will not exceed those quantities authorized prior to this request. Tennessee states that the replacement of the proposed delivery point is not prohibited by Tennessee's tariff, and that it has sufficient capacity to accomplish deliveries without detriment or disadvantage to any of Tennessee's other customers.

Comment date: June 21, 1996, in accordance with Standard Paragraph G at the end of this notice.

4. Columbia Gulf Transmission Company

[Docket No. CP96–429–000]

Take notice that on May 1, 1996, Columbia Gulf Transmission Company (Columbia Gulf), 2603 Augusta STE 125, Houston, Texas 77057–5637, filed in Docket No. CP96–429–000, a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to establish a new interconnection to provide transportation service to Central Louisiana Electric Company, Inc. (CLECO) in Evangeline Parish, Louisiana, under Columbia Gulf's blanket authorization issued in Docket No. CP83–496–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia Gulf explains that this new interconnection has been requested by CLECO to serve Coughlin Power Plant. Columbia Gulf estimates the quantities of natural gas to be delivered at the new interconnection as 85,000 Dth per day and 6 Bcf annually. Columbia Gulf states that the transportation service to be provided to this interconnection will be interruptible service under its Rate Schedule ITS–1. Columbia Gulf states there will be no impact on its existing design day and annual obligation to its customers as a result of this new interconnection.

Columbia Gulf estimates the cost to construct the new interconnection to be approximately $186,000, and states that CLECO will reimburse Columbia Gulf 100% of the total cost of construction. Columbia Gulf states it will comply with all of the environmental requirements of Section 157.206(d) of the Commission's Regulations prior to the construction of any facilities.

Comment date: June 21, 1996, in accordance with Standard Paragraph G at the end of this notice.

5. Northern Natural Gas Company

[Docket No. CP96–451–000]

Take notice that on May 1, 1996, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in the above docket, a request, pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act, for authorization to upgrade the Crosby #4 town border station (TBS), an existing delivery point located in Crow Wing County, Minnesota, to accommodate incremental interruptible natural gas deliveries to UtiliCorp United, Inc. (UCU) under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the NGA, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, Northern states that it requests authorization to upgrade an existing delivery point in Minnesota to accommodate incremental interruptible natural gas deliveries to UCU under its currently effective throughput service agreements. Northern further states that UCU has requested increased service at the Crosby #4 TBS to provide increased service to an industrial end-user.

Northern states that the proposed increase in volumes to be delivered to UCU at the Crosby #4 TBS are an incremental 49 MMBtu on a peak day and 32,618 MMBtu on an annual basis. Northern's estimated cost of upgrading the existing delivery point is $29,250. UCU will reimburse Northern for the total cost of upgrading the existing delivery point.

Northern states that the total volumes to be delivered to the customer after the request do not exceed the total volumes authorized prior to the request. Northern further states that the proposed activity is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the changes proposed herein without detriment or disadvantage to its other customers.

Comment date: June 21, 1996, in accordance with Standard Paragraph G at the end of this notice.

6. Williston Basin Interstate Pipeline Company

[Docket No. CP96–485–000]

Take notice that on May 3, 1996, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 300, 200 North Third Street, Bismarck, North Dakota 58501, filed in Docket No. CP96–485–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to continue the present operation of a previously installed tap located in Butte County, South Dakota under Williston Basin's blanket certificate issued in Docket No. CP83–1–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Williston Basin states that due to a request by Montana-Dakota Utilities Company (Montana-Dakota), a local distribution company, to commence transportation deliveries of natural gas through the subject tap to an end-user, it is necessary to state separately this delivery point on its master delivery point list. Williston Basin states that the continued operation of the subject tap will have no significant effect on its peak day or annual requirements and capacity has been determined to exist on Williston Basin's system to serve this natural gas market.

Comment date: June 21, 1996, in accordance with Standard Paragraph G at the end of this notice.

7. El Paso Natural Gas Company

[Docket No. CP96–487–000]

Take notice that on May 3, 1996, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP96–487–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to operate certain existing delivery points under El Paso's blanket certificate issued in Docket No. CP82–435–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

El Paso proposes to establish as jurisdictional delivery points certain tap and meter facilities that were originally constructed for the nonjurisdictional delivery of fuel and lift gas to various field operations in the Permian Basin, as listed below. El Paso would now like to use these delivery points to provide gas deliveries to various operators under transportation service agreements.

Delivery point	Location
Sid Richardson Keystone Field Plant Fuel Delivery Point.	Winkler County, Texas
Richardson-Bass Plant Start-Up Fuel Delivery Point.	Winkler County, Texas.
West Texas Gathering Compressor Fuel Delivery Point.	Winkler County, Texas.
Blanket Gas at Jal No. 4 Delivery Point.	Lea County, New Mexico.
SWEPI Terrell Plant Emergency Fuel Delivery Point.	Terrell County, Texas.
Spraberry Lift Gas No. 1 Delivery Point.	Midland County, Texas.
Spraberry Lift Gas No. 11 Delivery Point.	Midland County, Texas.
Meyers LM Water Flood Unit Delivery Point.	Lea County, New Mexico.

Comment date: June 21, 1996, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11873 Filed 5–10–96; 8:45 am]

BILLING CODE 6717–01–P

Office of Hearings and Appeals

Notice of Cases Filed; Week of January 1 Through January 5, 1996

During the week of January 1 through January 5, 1996, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: April 30, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Jan. 1 through Jan. 5, 1996]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 2, 1996	Charter/Mississippi, Jackson, Mississippi	RQ23–601	Application for a Second Stage Refund in the Charter, Amoco II and Oklahoma City Refund Proceedings.
	Oklahoma City/Mississippi, Jackson, Mississippi.	RQ251–602	
	Amoco II/Mississippi, Jackson, Mississippi.	RQ13–603	
Jan. 2, 1996	Ellsworth Freight Lines, Inc., Memphis, Tennessee.	RR272–228	If granted: The second stage refund application submitted by the State of Mississippi in the Charter, Amoco II and Oklahoma City Refund Proceedings would be granted. Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The December 7, 1995 Decision and Order, Case No. RF272–97361, issued to Ellsworth Freight Lines, Inc., regarding the firm's application for refund submitted in the Crude Oil Refund Proceeding would be modified.
Do	Tajon, Inc., Memphis, Tennessee	RR272–229	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The December 21, 1995 Decision and Order, Case No. RC272–325, issued to Tajon, Inc., regarding the firm's application for refund submitted in the Crude Oil Refund Proceeding would be modified.
Jan. 4, 1996	Albuquerque Operations Office, Albuquerque, New Mexico.	VSO–0077	Request for Hearing under 10 CFR Part 710. If granted: An individual employed at the Albuquerque Operations Office would receive a hearing under 10 C.F.R. Part 710.
Do	Oakland Operations Office, Oakland, California.	VSO–0078	Request for Hearing under CFR Part 710. If granted: An individual employed at the Oakland Operations Office would receive a hearing under 10 CFR Part 710.

[FR Doc. 96–11912 Filed 5–10–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Hearings and Appeals

Notice of Cases Filed; Week of January 15 Through January 19, 1996

During the week of January 15 through January 19, 1996, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: April 30, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Jan. 15 through Jan. 19, 1996]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 16, 1996	Albuquerque Operations Office, Albuquerque, New Mexico.	VSO–0079	Request for Hearing under 10 CFR Part 710. If granted: An individual employed at Albuquerque Operations Office would receive a hearing under 10 CFR Part 710.
Do	Chris A. Schaefer, San Rafael, California	VFA–0114	Appeal of an Information Request Denial. If granted: The March 20, 1995 Freedom of Information Request Denial issued by Savannah River Operation Office would be rescinded, and Charles A. Schaefer would receive access to certain Department of Energy information.
Do	Stand of Amarillo, Inc., Albuquerque, New Mexico.	VFA–0115	Appeal of an Information Request Denial. If granted: The November 2, 1995 Freedom of Information Request Denial issued by the Albuquerque Operation Office would be rescinded, and Stand of Amarillo, Inc. would receive access to certain Department of Energy information.
Do	Tech, Inc., Herndon, Virginia	VFA–0113	Appeal of an Information Request Denial. If granted: The December 15, 1995 Freedom of Information Request Denial issued by the Western Area Power Administration would be rescinded, and Tech, Inc. would receive access to certain DOE information.
Jan. 17, 1996	Phoenix Rising Communications, Stockton, California.	VFA–0116	Appeal of an Information Request Denial. If granted: The December 28, 1995 Freedom of Information Request Denial issued by the Oakland Operations Office would be rescinded, and Phoenix Rising Communications would receive access to certain DOE information.
Jan. 18, 1996	Idaho Operations Office, Idaho Falls, Idaho.	VSO–0080	Request for Hearing under 10 CFR Part 710. If granted: An individual employed at Idaho Operations Office would receive a hearing under 10 CFR Part 710.

[FR Doc. 96–11913 Filed 5–10–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Hearings and Appeals

Notice of Cases Filed; Week of February 19 Through February 23, 1996

During the week of February 19 through February 23, 1996, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585–0107.

Dated: April 30, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of February 19 through February 23, 1996]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 20, 1996	Dan's Rental, Memphis, Tennessee	RR300–270	Request for Modification/Rescission in the Gulf Refund Proceeding. If granted: The January 29, 1996 Dismissal, Case No. RF300–19585, issued to Dan's Rental in the Gulf refund proceeding would be rescinded and the firm's refund application reinstated.
Do	Daniel's Gulf, Memphis, Tennessee	RR300–266	Request for Modification/Rescission in the Gulf Refund Proceeding. If granted: The January 29, 1996 Dismissal, Case No. RF300–19586, issued to Daniel's Gulf in the Gulf refund proceeding would be rescinded and the firm's refund application reinstated.
Do	Dix Gulf, Memphis, Tennessee	RR300–269	Request for Modification/Rescission in the Gulf Refund Proceeding. If granted: The January 29, 1996 Dismissal, Case No. RF300–19588, issued to Dix Gulf in the Gulf refund proceeding would be rescinded and the firm's refund application reinstated.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued
[Week of February 19 through February 23, 1996]

Date	Name and location of applicant	Case No.	Type of submission
Do	Hilltop Gulf, Memphis, Tennessee	RR300–268	Request for Modification/Rescission in the Gulf Refund Proceeding. If granted: The January 31, 1996 Dismissal, Case No. RF300–18730, issued to Hilltop Gulf in the Gulf refund proceeding would be rescinded and the firm's refund application reinstated.
Do	John L. Sutton, Jr. Gulf, Memphis, Tennessee.	RR300–267	Request for Modification/Rescission in the Gulf Refund Proceeding. If granted: The January 31, 1996 Dismissal, Case No. RF300–21410, issued to John L. Sutton, Jr. Gulf in the Gulf refund proceeding would be rescinded and the firm's refund application reinstated.
Do	Moore Brothers, Anaheim, California	RR272–232	Request for Modification/Rescission in the Crude Oil Refund Proceeding.If granted: The January 17, 1990 Decision and Order, Case Number RF272–4527, issued to Moore Brothers regarding the firm's application for refund submitted in the Crude Oil refund proceeding would be modified.
Feb. 21, 1996	Oak Ridge Operations Office, Knoxville, Tennessee.	VSA–0057	Request for Review of Opinion under 10 C.F.R. Part 710. If granted: At the request of an individual employed at the Oak Ridge Operations Office, the January 25, 1996 Opinion of the Office of Hearings and Appeals, Case Number VSO–0057, would be reviewed.
Do	On-Site Fuel Oil Co., Inc. Brooklyn, New York.	RR300–272	Request for Modification/Rescission in the Gulf Oil Refund Proceeding. If granted: The December 14, 1995 Dismissal, Case No. RF300–16898, issued to On-Site Fuel Oil Co., in the Gulf Oil refund rescinded and the firm's refund application reinstated.
Do	Sanders Gulf, Gulf Shores, Alabama	RR300–273	Request for Modification/Rescission in the Gulf Oil Refund Proceeding. If granted: The January 30, 1996 Dismissal, Case No. RF300–18795, issued to Sanders Gulf in the Gulf Oil refund proceeding would be rescinded and the firm's refund application reinstated.
Feb. 23, 1996	C. W. Mullock Gulf, Memphis, Tennessee.	RR300–271	Request for Modification/Rescission in the Gulf Refund Proceeding. If granted: The February 7, 1996 Dismissal Letter Case Number RF300–18186, issued to C.W. Mullock Gulf in the Gulf refund proceeding would be rescinded and the firm's refund application reinstated.
Do	Government Accountability Project, Washington, DC.	VFA–0134	Appeal of an Information Request Denial. If granted: The January 17, 1996 Freedom of Information Request Denial issued by the Office of Nuclear Safety Enforcement would be rescinded, and the Government Accountability Project would receive access to certain DOE information.

[FR Doc. 96–11914 Filed 5–10–96; 8:45 am]
BILLING CODE 6450–01–P

Notice of Cases Filed; Week of January 29 Through February 2, 1996

During the week of January 29 through February 2, 1996, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: April 30, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS
[Week of January 29 through February 2, 1996]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 29, 1996	Pittsburgh Naval Reactors Office West Mifflin, Pennsylvania.	VSO–0082	Request for Hearing under 10 CFR Part 710. If granted: An applicant for employment at Pittsburgh Naval Reactors Office would receive a hearing under CFR Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material."
Jan. 30, 1996	Briggs and Tillman, Inc., Clinton, Missouri.	VEE–0015	Exception to the Reporting Requirements. If granted: Briggs and Tillman, Inc. would not be required to file Form EIA–782B Reseller's/Retailer's Monthly Petroleum Products Sales Report.
Jan. 31, 1996	Albuquerque Operations Office, Washington DC.	VSX–0020	Remand for Opinion under 10 CFR Part 710. If granted: The August 11, 1995 Opinion of the Office of Hearings and Appeals, Case Number VSO–0020, is remanded, and the OHA Hearing Officer will consider the individual's eligibility for access authorization.
Feb. 2, 1996	Kenneth H. Besecker, Martinez, Georgia	VFA–0124	Appeal of an Information Request Denial. If granted: The January 22, 1996 Freedom of Information Request Denial issued by the Office of Economic Impact and Diversity would be rescinded, and Kenneth H. Besecker would receive access to certain DOE information.

[FR Doc. 96–11915 Filed 5–10–96; 8:45 am]
BILLING CODE 6450–01–P

Notice of Cases Filed; Week of February 26 Through March 1, 1996

During the week of February 26 through March 1, 1996, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: April 30, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS
[Week of February 26 through March 1, 1996]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 26, 1996	Visa Petroleum, Inc., Fresno, California	VEE–0017	Exception to the Reporting Requirements. If granted: Visa Petroleum, Inc., would not be required to file Form EIA–782B "Reseller's/Retailer's Monthly Petroleum Product Sales Report."
Feb. 27, 1996	Tajon, Inc., Industry, Pennsylvania	RR272–233	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The December 1, 1995 Decision and Order Case No. RC272–325, issued to Tajon, Inc., regarding the firm's application for refund submitted in the crude oil refund proceeding would be modified.
Feb. 28, 1996	David K. Hackett, Knoxville, Tennessee	VFA–0135	Appeal of an Information Request Denial. If granted: The June 30, 1995 Freedom of Information Request Denial issued by the Oak Ridge Operations Office would be rescinded, and David K. Hackett would receive access to certain DOE information.
Feb. 26, 1996	Nevada Operations Office, North Las Vegas, Nevada.	VSA–0049	Request for Review of Opinion under 10 CFR Part 710. If granted: At the request of an individual employed at the Nevada Operations Office, the January 4, 1996 Opinion of the Office of Hearings and Appeals, Case No. VSO–0049, would be reviewed.

[FR Doc. 96–11916 Filed 5–10–96; 8:45 am]
BILLING CODE 6450–01–P

Notice of Cases Filed; Week of February 5 Through February 9, 1996

During the week of February 5 through February 9, 1996, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585–0107.

Dated: April 30, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of February 5 through February 9, 1996]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 2, 1996	Albuquerque Operations Office, Albuquerque, NM.	VSO–0083	Request for Hearing under 10 CFR Part 710. If granted: An individual employed at the Albuquerque Operations Office would receive a hearing under 10 CFR Part 710.
——Do	Albuquerque Operations Office, Albuquerque, NM.	VSO–0084	Request for Hearing under 10 CFR Part 710. If granted: An individual employed at the Albuquerque Operations Office would receive a hearing under 10 CFR Part 710.
Feb. 5, 1996	Keith E. Loomis, Waterford, NY	VFA–0125	Appeal of an Information Request Denial. If granted: The January 3, 1996 Freedom of Information Request Denial issued by Schenectady Naval Reactors would be rescinded, and Keith E. Loomis would receive access to certain DOE information.
Feb. 6, 1996	Albuquerque Operations Office, Albuquerque, NM.	VSA–0051	Request for Review of Opinion under 10 CFR Part 710. If granted: The December 28, 1995 Opinion of the Office of Hearings and Appeals, Case No. VSO–0051, would be reviewed at the request of an individual employed at the Albuquerque Operations Office.
——Do	Florida Hospital Medical Center, Orlando, FL.	RR272–231	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The May 3, 1995 Dismissal, Case No. RF272–88662, issued to Florida Hospital Medical Center would be modified regarding the firm's application for refund submitted in the Crude Oil refund proceeding.
——Do	Georgina Jacobs, Walla Walla, WA	VFA–0126	Appeal of an Information Request Denial. If granted: The January 28, 1996 Freedom of Information Request Denial issued by the External Affairs Office of the Richland Operations Office would be rescinded, and Georgina Jacobs would receive access to certain Department of Energy information.
——Do	William H. Payne, Albuquerque, NM	VFA–0128	Appeal of an Information Request Denial. If granted: The August 7, 1995 Freedom of Information Request Denial issued by Los Alamos National Laboratories would be rescinded, and William H. Payne would receive access to certain DOE information.
Feb. 7, 1996	Burns Concrete, Inc., Idaho Falls, ID	VFA–0127	Appeal of an Information Request Denial. If granted: The January 12, 1996 Freedom of Information Request Denial issued by the Pittsburgh Naval Reactors Office would be rescinded, and Burns Concrete, Inc. would receive access to certain DOE information.
——Do	Melvin Gordon, Streamwood, IL	RR304–71	Request for Modification/Rescission in the Arco Refund Proceeding. If granted: The April 5, 1993 Dismissal Letter, Case Number RF304–9273, issued to Melvin Gordon would be modified regarding the firm's application for refund submitted in the Arco refund proceeding.
Feb. 9, 1996	Nathaniel Hendricks, Putney, VT	VFA–0129	Appeal of an Information Request Denial. If granted: The April 5, 1995 Freedom of Information Request Denial issued by the Argonne Area Office would be rescinded, and Nathaniel Hendricks would receive access to certain DOE information.
Feb. 7, 1996	Hellen Ruth Sutton-Pank, Flandreau, SD	VFA–0130	Appeal of an Information Request Denial. If granted: The January 2, 1996 Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded, and Hellen Ruth Sutton-Pank would receive access to certain DOE information.

[FR Doc. 96–11917 Filed 5–10–96; 8:45 am]
BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL–5469–4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 22, 1996 Through April 26, 1996 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 5, 1996 (61 FR 15251).

Draft EISs

ERP No. D–AFS–L65255–AK Rating EC2, Control Lake Timber Sale, Implementation, Prince of Wales Island, Tongass National Forest, AK.

Summary: EPA expressed environmental concerns related to potential impacts of the project on water quality and the marine environment.

ERP No. D–AFS–L65259–OR Rating EC2, Foss Perkins Analysis Area, Vegetation Management and Timber Sale, Ochoco National Forest, Snow Mountain Ranger District, Harney County, OR.

Summary: EPA expressed environmental concerns based on potential water quality impacts to Silver Creek, a 303(d) listed, impaired water body according to the Oregon State Department of Environmental Quality.

ERP No. D–AFS–L65260–WA Rating EC2, Taneum/Peaches Road Access Project, Issuance of Two Temporary Permits to Plum Creek for Road Construction, Wenatchee National Forest, Cle Elum Ranger District, Kittitas County, WA.

Summary: EPA expressed environmental concerns related to alternative selection prior to the Plum Creek Habitat Conservation Plan and the Snoqualmie Pass Adaptive Management Area plans and insufficient information to evaluate potential impacts to a 303(d) listed waterbody, Lookout Creek.

ERP No. D–BLM–J65247–UT Rating EC2, Dixie Land and Resource Management Plan, Implementation, Cedar City Ranger District, Washington County, UT.

Summary: EPA expressed environmental concerns due to potential impacts to water quality, air quality and wildlife habitat. EPA requested that the discussion of these issues be expanded in the final document.

ERP No. D–NPS–K65180–CA Rating LO, Lava Beds National Monument, General Management Plan, Implementation, Siskiyou and Modoc Counties, CA.

SUMMARY: EPA had no objections to the proposed action.

Final EISs

ERP No. F–AFS–L02021–00 Umatilla and Malheur National Forests Oil and Gas Exploration and Development, Lease Offerings, several counties, WA and OR.

Summary: EPA expressed environmental concerns that the EIS lacks the criteria for subsequent NEPA documentation which would be tiered from this EIS.

ERP No. F–AFS–L65228–ID Tailholt Administrative Research Study, Timber Harvesting and Road Construction, Payette National Forest, Krassel Ranger District, Valley County, ID.

SUMMARY: EPA had no objections to the preferred alternative as described in the EIS.

ERP No. F–AFS–L65244–ID Fall Creek Post-Fire Project, Harvesting Fire-Killed and Damage Trees, Implementation, McCall Ranger District, Payette National Forest, Valley County, ID.

SUMMARY: EPA had no objections to the preferred alternative as described in the EIS.

ERP No. F–COE–J35010–UT Kennecott Tailings Modernization Project, Tailings Impoundment Expansion, COE Section 404 Permit Issuance, Salt Lake County, UT.

SUMMARY: The FEIS substantively addresses most of EPA's concerns; although the potential for bioaccumulation of selenium is a continuing concern. The CERCLA process and the proposed mitigation and monitoring plans should adequately address issues identified during the ongoing ecological risk assessments.

ERP No. F–SCS–J36046–UT Muddy Creek—Orderville Watershed Plan, Offsite Salt and Sediment Damage to Water Quality in the Virgin River and the Colorado River, Wildlife Habitat and Rangeland Productivity Enhancements, Approvals and Funding, Kane County, UT.

SUMMARY: EPA had no objections to the project as proposed.

ERP No. FS–AFS–L65183–AK Central Prince of Wales Ketchikan Pulp Long-Term Timber Sale, Additional Information, Implementation, Tongass National Forest, Prince of Wales Island, AK.

SUMMARY: EPA had no objections to the preferred alternative as described in the EIS.

Dated: May 8, 1996.

William D. Dickerson,

Director, NEPA Compliance Division Office of Federal Activities.

[FR Doc. 96–11891 Filed 5–10–96; 8:45 am]
BILLING CODE 6560–50–U

[ER–FRL–5469–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed April 29, 1996 Through May 3, 1996 Pursuant to 40 CFR 1506.9.

EIS No. 960201, Final EIS, AFS, NV, CA, Heavenly Ski Resort Master Plan, Improvement, Expansion and Management, Lake Tahoe Basin Management Unit, Special-Use-Permit, Douglas County, NV and El Dorado and Alpine Counties, CA, Due: June 10, 1996, Contact: Virgil Anderson (916) 573–2600.

EIS No. 960202, Draft EIS, FHW, WI, US 151 Highway Project, Dickeyville to Belmont, Improvements, Funding and COE Section 404 Permit, Grant and Lafayette Counties, WI, Due: July 1, 1996, Contact: Richard C. Madrzak (608) 829–7510.

EIS No. 960203, Final EIS, AFS, MS, G.F. Erambert and Black Creek Seed Orchards Pest Management Plan, Implementation, Southern Region, National Forests in Mississippi, Forrest and Perry Counties, MS, Due: June 10, 1996, Contact: Dennis Weber (503) 326–7171.

EIS No. 960204, Final EIS, COE, MS, Coldwater River Watershed Demonstration Erosion Control Project, Flood and Sediment Control Measures, Implementation, Yazoo Basin, Marshall, Benton and Tate Counties, MS, Due: June 14, 1996, Contact: Wendell King (601) 631–5967.

EIS No. 960205, Final EIS, AFS, AK, 1995 Mendenhall Glacier Recreation Area Management Plan, Implementation, Tongass National Forest, Juneau Ranger District, Chatham Area, AK, Due: June 10, 1996, Contact: Joni Packard (907) 586–8800.

EIS No. 960206, Draft EIS, AFS, NV, Spring Mountains National Recreation

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Area General Management Plan, Toiyabe National Forest Land and Resource Management Plan Amendment, Implementation, Clark and Nye Counties, NV, Due: August 1, 1996, Contact: Jerry Ingersoll (702) 873–8800.

EIS No. 960207, Draft EIS, FHW, IL, Federal Aid Route 310/US 67 Expressway Study, Godfrey to Jacksonville, Funding and COE Section 404 Permit, Madison, Jersey, Greene, Morgan and Scott Counties, IL, Due: July 5, 1996, Contact: Michael A. Cook (217) 492–4600.

EIS No. 960208, Final EIS, FDA, NY, U.S. Food and Drug Administration, Construction of Regional Office and Laboratory, Site Specific, Jamaica Site, Queen County, NY, Due: June 10, 1996, Contact: Peter A. Sneed (212) 264–3581.

EIS No. 960209, Final EIS, AFS, ID, Hungry-Mill Timber Sales, Timber Harvest and Road Construction, Nez Perce National Forest, Clearwater Ranger District, Idaho County, ID, Due: June 10, 1996, Contact: Sue Paradiso (208) 983–1963.

EIS No. 960210, Draft Supplement, AFS, MT, Trail Creek Timber Sale, Implementation, New and Updated Information, Beaverhead National Forest, Wisdom Ranger District, Beaverhead County, MT, Due: June 24, 1996, Contact: Peri Suenram (406) 683–3967.

EIS No. 960211, Draft EIS, USA, CA, Camp Roberts Army National Guard Training Site, Implementation, Combined-Forces Training Activities, New Equipment Utilization and Range Modernization Program, Monterey and San Luis Obispo Counties, CA, Due: June 24, 1996, Contact: William R. Parsonage (805) 238–8207.

EIS No. 960212, Draft Supplement, FHW, CA, CA–238 Hayward Bypass, from Industrial Parkway to the CA–238/I–580 Interchange, Funding and COE Section 404 Permit, (Foothill Boulevard thru downtown Hayward and Mission Boulevard south of Jackson Street, in the City of Hayward and in Unincorporated areas of Alameda County, CA, Due: June 24, 1996, Contact: John R. Schultz (916) 498–5041.

EIS No. 960213, Final EIS, USN, CA, Camp Pendleton Marine Corps Air Station/Marine Corps Base (MCAS/MCB) Realignment and Tustin and EL Toro Marine Corps Bases Closure, Implementation and COE Section 404 Permit Issuance, San Diego County, CA, Due: June 10, 1996, Contact: CW04 Harry Roberts (714) 726–3383.

EIS No. 960214, Draft EIS, USA, NJ, Evans Subpost Disposal and Reuse, Implementation, Fort Monmouth, Ocean and Monmouth Counties, NJ, Due: June 24, 1996, Contact: Dr. Susan Rees (334) 694–4141.

EIS No. 960215, Final EIS, USN, CA, Miramar Naval Air Station (NAS) Realignment or Conversion to Miramar Marine Corps Air Station, Implementation, San Diego, CA, Due: June 10, 1996, Contact: Lt. Col. George Martin (619) 537–6679.

EIS No. 960216, Final EIS, GSA, CO, National Oceanic and Atmospheric Administration (NOAA) Consolidation of Facilities; National Institute of Standards and Technology (NIST) to Upgrade Facilities and National Telecommunications and Information Administration (NITA) to Implement Master Site Development Plan, Site Specific, 325 Broadway Campus, Boulder County, CO, Due: June 10, 1996, Contact: Sharon Malloy (303) 236–7131.

EIS No. 960217, Legislative Draft EIS, AFS, CA, Tahoe National Forest and Portion of Plumas and EL Dorado National Forests, Implementation, Twenty-Two Westside Rivers for Suitability and Inclusion in the National Wild and Scenic Rivers System, Wild and Scenic River Study, Placer, Nevada, Sierra, Plumas, EL Dorado and Yuba Counties, CA, Due: August 9, 1996, Contact: Phil Horning (916) 478–6210.

The U.S. Department of Agriculture's, Forest Service and the US Department of the Interior's, Bureau of Land Management are Joint Lead Agencies for this Project.

EIS No. 960218, Draft EIS, AFS, CO, Lakewood Raw Water Pipeline for Continued Operation, Maintenance, Reconstruction and/or Replacement, Application for Easement, Roosevelt National Forest, Boulder Ranger District, in the City of Boulder, CO, Due: June 24, 1996, Contact: Jean A. Thomas (970) 498–1267.

EIS No. 960220, Final EIS, BLM, WY, Fontenelle Natural Gas Infill Drilling Projects, Implementation, Right-of-Way Grants and Permit Issuance, Sweetwater and Lincoln Counties, WY, Due: June 24, 1996, Contact: Bill Mc Mahan (307) 382–5350.

EIS No. 960221, Draft EIS, COE, MD, DE, Chesapeake and Delaware Canal-Baltimore Harbor Connecting Channel (Deepening), Feasibility Study, Navigation Improvements and Dredged Material Disposal Plan, MD and DE, Due: June 24, 1996, Contact: Barbara Conlin (215) 656–6555.

EIS No. 960222, Draft EIS, BLM, NV, Mule Canyon Surface Gold Mine Development, Operation and Reclamation and Associate Facilities, Plan of Operation Approval, Battle Mountain District, Lander and Eureka Counties, NV, Due: June 10, 1996, Contact: Christopher Stubbs (702) 635–4000.

Amended Notices

EIS No. 960171, Draft EIS, FHW, IN, Southwest Indiana Highway Corridor, Evansville to Bloomington, I–64/I–164/IN–57 to IN–37, Improvements, Gibson, Pike, Warrick, Monroe, Greene and Daviess Counties, IN , Due: August 1, 1996, Contact: Arthur A. Fendrick (317) 226–7475.

Published FR 4–19–96 Correction to EIS Title.

Dated: May 8, 1996.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–11892 Filed 5–10–96; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 7, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. ABC Bancorp, Inc., Moultrie, Georgia; to merge with Central Bankshares, Inc., Cordele, Georgia, and thereby indirectly acquire Central Bank & Trust, Cordele, Georgia.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Prairieland Employee Stock Ownership Plan, Bushnell, Illinois; to acquire an additional 5 percent for a total of 35 percent of the voting shares of Prairieland Bancorp, Inc., Bushnell, Illinois, and thereby indirectly acquire Farmers & Merchants State Bank, Bushnell, Illinois.

Board of Governors of the Federal Reserve System, May 7, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–11849 Filed 5–10–96; 8:45 am]

BILLING CODE 6210–01–F

Notice of Proposals to Engage in Permissible Nonbanking Activities or To Acquire Companies That are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 23, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Community Trust Financial Services Corporation, Hiram, Georgia; to acquire Personal Finance Service, Inc., Rossville, Georgia, and Rock City Enterprises, Inc., Rockmart, Georgia, through its subsidiary, Community Loan Company, Hiram, Georgia, and thereby engage in consumer finance business, credit insurance, and tax planning and preparation services, pursuant to §§ 225.25(b)(1)(i), 225.25(b)(8)(ii) and 225.25(b)(21) of the Board's Regulation Y. The proposed activities will be conducted throughout the State of Georgia.

Board of Governors of the Federal Reserve System, May 7, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–11850 Filed 5–10–96; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Inspector General; Statement of Organization, Functions and Delegations of Authority

This Notice amends Part A (Office of the Secretary) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS) to reflect recent changes in Chapter AF, Office of Inspector General (OIG). Chapter AF was last published in its entirety on November 7, 1989 (54 FR 46775).

The statement of organization, functions and delegations of authority reflects the original transfer of the statutory basis for the Office of Inspector General from Public Law 94–505 to Public Law 95–452 (and made under the Inspector General Act Amendments of 1988, Public Law 100–504), and conforms to and carries out the statutory requirements for operating the Office of Inspector General. A number of revisions have been made to the basic organizational structure of the Office of Inspector General to reflect the break out of functions from the Office of Civil Fraud and Administrative Adjudication (OCFAA) into two separate organizational units, and the effect of recent shifts and changes, such as the separation out of the Social Security Administration in accordance with the Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296). As a result, within the organizational structure of the OIG: (1) A new Office of Enforcement and Compliance (OEC) and a new Office of Litigation Coordination (OLC) have been formed, (2) certain units and positions have recently been renamed, (3) minor shifts in reporting relationships have occurred, (4) an additional program unit has been delineated, and (5) some small functional units have been transferred. While relatively minor, these changes have been made in an effort to assist the organization in accomplishing its mission with greater efficiency and effectiveness.

As amended, Chapter AF now reads as follows:

Section AF.00, Office of Inspector General (OIG)—Mission

This organization was established by law as an independent and objective oversight unit of the Department to carry out the mission of promoting economy, efficiency and effectiveness

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through the elimination of waste, abuse and fraud. In furtherance of this mission, the organization engages in a number of activities:

A. Conducting and supervising audits, investigations, inspections and evaluations relating to HHS programs and operations.

B. Identifying systemic weaknesses giving rise to opportunities for fraud and abuse in HHS programs and operations and making recommendations to prevent their recurrence.

C. Leading and coordinating activities to prevent and detect fraud and abuse in HHS programs and operations.

D. Detecting wrongdoers and abusers of HHS programs and beneficiaries so appropriate remedies may be brought to bear.

E. Keeping the Secretary and the Congress fully and currently informed about problems and deficiencies in the administration of such programs and operations and about the need for and progress of corrective action, including imposing sanctions against providers of health care under Medicare and Medicaid who commit certain prohibited acts.

In support of its mission, the Office of Inspector General carries out and maintains an internal quality assurance system and a peer review system with other Offices of Inspectors General, that include periodic quality assessment studies and quality control reviews, to provide reasonable assurance that applicable laws, regulations, policies, procedures, standards and other requirements are followed; are effective; and are functioning as intended in OIG operations.

Section AF.10, Office of Inspector General—Organization

There is at the head of the OIG a statutory Inspector General, appointed by the President and confirmed by the Senate. The Office of Inspector General consists of seven organizational units:

A. Immediate Office of the Inspector General (AFA).

B. Office of Management and Policy (AFC).

C. Office of Evaluation and Inspections (AFE).

D. Office of Enforcement and Compliance (AFF).

E. Office of Litigation Compliance (AFG).

F. Office of Audit Services (AFH).

G. Office of Investigations (AFJ).

Section AF.20, Office of Inspector General—Functions

The component sections which follow describe the specific functions of the organization.

Section AFA.00, Immediate Office of the Inspector General (IOIG)—Mission

The Inspector General is directly responsible for meeting the statutory mission of the OIG as a whole and for promoting effective OIG internal quality assurance systems, including quality assessment studies and quality control reviews of OIG processes and products. The Office of Inspector General also plans, conducts and participates in a variety of inter-agency cooperative projects and undertakings relating to fraud and abuse activities with the Department of Justice (DoJ), the Health Care Financing Adminstration (HCFA) and other governmental agencies.

Section AFA.10, Immediate Office of the Inspector General—Organization

The Immediate Office comprises the Inspector General, the Principal Deputy Inspector General, and an immediate staff.

Section AFA.20, Immediate Office of the Inspector General—Functions

As the senior official of the organization, the Inspector General supervises the Deputy Inspectors General and the Assistant Inspector General for Litigation Coordination who head the major OIG components. The Inspector General is appointed by the President, with the advice and consent of the Senate, and reports to and is under the general supervision of the Secretary or, to the extent such authority is delegated, the Deputy Secretary, but does not report to and is not subject to supervision by any other officer in the Department. In keeping with the independence intended in the statutory basis for the OIG and its mission, the Inspector General assumes and exercises, through line management, all functional authorities related to the administration and management of the OIG and all mission related authorities stated or implied in the law or delegated directly from the Secretary.

The Inspector General provides executive leadership to the organization and exercises general supervision over the personnel and functions of its major components. The Inspector General determines the budget needs of the OIG, sets OIG policies and priorities, oversees OIG operations and provides reports to the Secretary and the Congress. In this capacity the Inspector General is empowered under the law with general personnel authority, e.g., selection, promotion, assignment of employees, including members of the senior executive service. The Inspector General delegates related authorities as appropriate.

The Principal Deputy Inspector General assists the Inspector General in the management of the OIG, and during the absence of the Inspector General, acts as the Inspector General.

Section AFC.00, Office of Management and Policy (OMP)—Mission

This office is responsible for the reporting and legislative and regulatory review functions required in the law; for formulating and executing the OIG budget; for managing external affairs; and for establishing functional policies for the general management of the OIG. In support of its mission, the office carries out and maintains an internal quality assurance system. The system includes quality assessment studies and quality control reviews of OMP processes and products to ensure that policies and procedures are followed effectively and function as intended.

Section AFC.10, Office of Management and Policy—Organization

This office is directed by the Deputy Inspector General for Management and Policy, and comprises the Deputy Inspector General for OMP and an immediate staff.

Section AFC.20, Office of Management and Policy—Functions

Through the Deputy Inspector General for Management and Policy:

A. The office conducts and coordinates OIG reviews of existing and proposed legislation and regulations related to HHS programs and operations to identify their impact on economy and efficiency and their potential for fraud and abuse. It develops all OIG sanction and interpretive regulations for publication in the **Federal Register** and legislative proposals for inclusion in the Department's legislative program. It serves as contact for the press and electronic media and serves as OIG congressional liaison. The office prepares congressional testimony and confers with officials in the Office of the Secretary staff divisions on congressional relations, legislation and public affairs. It develops and publishes OIG newsletters, recruitment brochures and other issuances to announce and promote OIG activities and accomplishments.

B. The office coordinates the development of the OIG long-range strategic plan. It compiles the Semiannual Report to the Congress and operates the Executive Secretariat. It formulates and oversees the execution of the OIG budget and confers with the Office of the Secretary, the Office of Management and Budget and the Congress on budget issues. It issues quarterly grants to States for Medicaid fraud control units. It conducts management studies and analyses and establishes and coordinates general management policies for the OIG and publishes those policies in the OIG Administrative Manual. It serves as OIG liaison to the Office of the Secretary for personnel issues and other administrative policies and practices, and on equal employment opportunity and other civil rights matters. It coordinates internal control reviews for the OIG.

C. The office is responsible for OIG information resources management (IRM), as defined by the Paperwork Reduction Act, OMB Circular A–130, the Federal Information Resources Management regulations, the Computer Security Act of 1987, HHS IRM Circulars, and by related guidance. The office also provides information technology support to the OIG through management of its local area networks nationwide, provision of headquarters computer end-user support, and support of OIG information systems as required.

Section AFE.00, Office of Evaluation and Inspections (OEI)—Mission

The Office of Evaluation and Inspections is responsible for conducting inspections of HHS programs, operations and processes to identify vulnerabilities, to prevent and detect misconduct, and to promote economy, efficiency and effectiveness in HHS programs and operations. In support of its mission, the office carries out and maintains an internal quality assurance system. The system includes quality assessment studies and quality control reviews of OEI processes and products to ensure that policies and procedures are effective; are followed; and are functioning as intended.

Section AFE.10, Office of Evaluation and Inspections—Organization

This office is directed by the Deputy Inspector General for Evaluation and Inspections, and comprises the Immediate Office, including the Deputy Inspector General for OEI and an immediate staff, and eight regional offices.

Section AFE.20, Office of Evaluation and Inspections—Functions

The office is responsible for carrying out inspections supporting the OIG mission. The Deputy Inspector General provides general supervision to the OEI immediate office staff and supervises the Regional Inspectors General for Evaluation and Inspections who carry out OEI's mission and activities in assigned geographic areas. The Immediate Office carries out OEI's mission in headquarters.

A. The immediate office develops OEI's evaluation and inspections policies, procedures and standards. It assesses the quality of inspections to ensure compliance with policies and procedures. It manages OEI's human and financial resources. It develops and monitors OEI's management information systems. It conducts management reviews within the HHS/OIG and for other OIG's upon request.

B. The immediate office manages OEI's work planning process and reviews legislative, regulatory and program proposals for vulnerabilities to fraud, waste and mismanagement. It develops evaluation techniques and coordinates projects with other OIG and departmental components. It provides programmatic expertise and information on new programs, procedures, regulations and statutes to OEI regional offices. It maintains liaison with other components in the Department, follows up on implementation of corrective action recommendations, evaluates the actions taken to resolve problems and vulnerabilities identified, and provides additional data or corrective action options, where appropriate.

C. The regional offices carry out OEI's mission in the field. The regional offices evaluate HHS programs and produce the results in inspection reports. They conduct data and trend analyses of major HHS initiatives to determine the effects of current policies and practices on program efficiency and effectiveness. They recommend changes in program policies, regulations and laws to improve efficiency and effectiveness, and to prevent fraud, abuse, waste and mismanagement. They analyze existing policies to evaluate options for future policy, regulatory and legislative improvements.

Section AFF.00, Office of Enforcement and Compliance (OEC)—Mission

The Office of Enforcement and Compliance is responsible for the imposition of those mandatory and permissive program exclusions and civil money penalty (CMP) and assessment actions not handled by the Office of Litigation Coordination. The office serves as a liaison with HCFA, State licensing boards and other outside organizations and entities with regard to integrity, compliance and enforcement activities. It develops models for corporate integrity, compliance and enforcement programs; monitors ongoing compliance, exclusion and HCFA suspension agreements; and promotes industry awareness of corporate integrity and enforcement agreements developed by the OIG.

Section AFF.10, Office of Enforcement and Compliance—Organization

This office is directed by the Deputy Inspector General for Enforcement and Compliance, and comprises the Deputy Inspector General for OEC and an immediate staff.

Section AFF.20, Office of Enforcement and Compliance—Functions

Through the Deputy Inspector General for Enforcement and Compliance:

A. The office develops, coordinates and effectuates all health care mandatory and permissive exclusions, with the exception of those handled by the Office of Litigation Coordination. The office develops standards governing the imposition of the mandatory and permissive exclusion authorities within the scope of its responsibility, and develops criteria for evaluating when it will impose such permissive exclusions against health care providers. It reviews all applications for readmission to program participation for purposes of determining whether an excluded provider has demonstrated the ability to comply with program requirements; and ensures enforcement of exclusions imposed through liaison with HCFA, DoJ and other governmental and private sector entities.

B. The office is responsible for developing, improving and maintaining a comprehensive and coordinated OIG data base on all OIG exclusion actions, and promptly and accurately reports all exclusion actions within its authority to the data base. It informs appropriate regulatory agencies, health care providers and the general public of all OIG exclusion actions, and is responsible for improving public access to information on these exclusion actions to ensure that excluded individuals and entities are effectively barred from program participation.

C. The office imposes CMPs and assessments in accordance with the CMP law on those cases not handled by the Office of Litigation Coordination, and ensures that all monetary recoveries are promptly and accurately reported to the appropriate OIG data base.

D. The office monitors corporate and provider compliance plans adopted as part of settlement agreements, and develops audit and investigative review standards for monitoring such plans in cooperation and coordination with other OIG components. It resolves breaches of compliance plans through the development of corrective action plans, on-site reviews, and when appropriate,

refers material breaches of compliance plans to the Office of Litigation Coordination for potential sanctioning.

E. The office serves to increase industry awareness of corporate integrity issues by proactively promoting voluntary adoption of corporate compliance plans through speeches, articles, visits and other liaison activities with governmental and private sector groups.

Section AFG.00, Office of Litigation Coordination (OLC)—Mission

The Office of Litigation Coordination is responsible for the coordination and disposition of all *qui tam* and other False Claims Act matters, and other criminal, civil and administrative matters when DoJ has an interest in the matter; the coordination and disposition of all voluntary disclosure activities; liaison activities with HCFA and outside entities in global settlement negotiations; the development of standards governing use of permissive exclusion authority in cases involving DoJ, including and United States Attorney's Office; and the establishment and maintenance of a data system on settled and pending False Claim Act and CMP cases.

Section AFG.10, Office of Litigation Coordination—Organization

The office is directed by the Assistant Inspector General for Litigation Coordination, and comprises the Assistant Inspector General of OLC and an immediate staff.

Section AFG.20, Office of Litigation Coordination—Mission

Through the Assistant Inspector General for Litigation Coordination:

A. The office oversees all False Claims Act and *qui tam* cases, including the handling of (1) requests for extensions of intervention dates, (2) resource requests from other agencies, (3) resource coordination among the OIG components, (4) settlement negotiations and (5) final sign-off. By coordinating DoJ resource requests, participating in settlement negotiations and providing litigation support, the office serves as the primary focal point for most criminal and civil cases involving other government agencies or more than one OIG component. It coordinates the Department's response to all settlement proposals in cases involving DoJ, including the amount of restitution and resolution of the selected CMP and exclusion liability, and serves as the liaison to other components of the Department in these cases.

B. The office coordinates and resolves all voluntary disclosures through (1) liaison activities with DoJ and the U.S. Attorney's office, (2) the disclosure verification efforts of the Office of Audit Services and the Office of Investigations and (3) final disposition and sign-off of the matter.

C. The office, in coordination with other OIG components, develops both the standards governing the use of permissive exclusion authorities in cases involving other Federal agencies, including DoJ, and the criteria for evaluating whether to impose permissive exclusions against health care providers in such cases. It is responsible for ensuring that all exclusion actions not handled by the Office of Enforcement and Compliance are promptly and accurately reported to the appropriate OIG data base.

D. The office is responsible for developing, improving and maintaining a comprehensive and coordinated data base on all settled and pending False Claims Act and CMP cases under its authority. The office, through this data base, records all monetary recoveries and tracks outstanding *qui tam*, OIG intercomponent and multiple agency health care fraud investigations.

Section AFH.00, Office of Audit Services (OAS)—Mission

The Office of Audit Services provides policy direction for and conducts and oversees comprehensive audits of HHS programs, operations, grantees and contractors, following generally accepted Government auditing standards (GAGAS), the Single Audit Act of 1984, applicable Office of Management and Budget (OMB) circulars and other legal, regulatory and administrative requirements. It maintains an internal quality assurance system, including periodic quality assessment studies and quality control reviews, to provide reasonable assurance that applicable laws, regulations, policies, procedures, standards and other requirements are followed in all audit activities performed by, or on behalf of, the Department. In furtherance of this mission, the organization engages in a number of activities:

A. The office coordinates and confers with officials of the central Federal management agencies (OMB, the General Accounting Office (GAO), the Office of Personnel Management (OPM) and the Department of the Treasury) on audit matters involving HHS programs and operations. It provides technical assistance to Federal, State and local investigative offices on matters concerning the operation of the Department's programs. It participates in interagency efforts implementing OMB Circulars A–128 and A–110, which call for use of the single audit concept for most external audits. It performs audits of activities administered by other Federal departments, following the system of audit cognizance administered by OMB. It participates in the President's Council on Integrity and Efficiency (PCIE) initiatives and other Government-wide projects. It works with other OIG components on special assignments and projects. It responds to congressional oversight interests related to audit matters in the Department.

B. The Office of Audit Services helps HHS operating divisions and the Office of the Secretary staff divisions to develop policies to manage grants and procurements and policies to establish indirect cost rates. It performs pre-award audits of grant or contract proposals to determine the financial capability of the grantees or contractors and conducts post-award audits.

C. The office reviews legislative, regulatory and policy proposals for audit implications. It recommends improvements in the accountability and integrity features of legislation, regulations and policy. It prepares reports of audits and special studies for the Secretary, heads of HHS operating divisions, Regional Directors and others. It gathers data on unresolved audit findings for the statutorily required Semiannual Reports to the Congress and for the Deputy Secretary as Chairman of the Audit Resolution Council. It conducts follow-up examinations and special analyses of actions taken on previously reported audit findings and recommendations to ensure completeness and propriety.

D. The office decides when audits can or may be performed by audit organizations outside the Department, including those by other Federal or nonfederal governmental agencies, contractors, or public accounting firms. It assures that any audit performed by non-OIG auditors complies with the Government auditing standards established by the Comptroller General of the United States. It evaluates audits performed for the Department by outside organizations. It coordinates the development of the OIG Annual Work Plan and produces summaries of both (1) the Orange Book—a summary of unimplemented program and management improvements recommended—and (2) the Red Book - a summary of significant monetary recommendations not yet implemented.

E. The office serves as the focal point for all financial audit activity within the Department and provides the primary liaison conduit between the OIG and

departmental management. The office provides overall leadership and direction in carrying out the responsibilities mandated under the Chief Financial Officers Act relating to financial statement audits.

Section AFH.10, Office of Audit Services—Organization

The Office of Audit Services comprises the following components:

A. Immediate Office

B. Audit Operations and Financial Statement Activities.

C. Health Care Financing Audits.

D. Administrations of Children, Family and Aging Audits.

E. Public Health Audits.

Section AFH.20, Office of Audit Services—Functions

A. *Immediate Office of the Deputy Inspector General for Audit Services.* This office is directed by the Deputy Inspector General for Audit Services who carries out the functions designated in the law for the position, Assistant Inspector General for Auditing. The Deputy Inspector General for Audit Services is responsible to the Inspector General for carrying out OIG's audit mission and supervises the Assistant Inspectors General heading OAS offices described below.

The Immediate Office manages the human and financial resources of the Office of Audit Services including developing staffing allocation plans and issuing policy for, coordinating and monitoring all budget, staffing, recruiting and training activities of the office. It maintains a professional development program for Office of Audit Services staff which meets the requirements of Government auditing standards. The office provides liaison with the General Accounting Office. It reviews all replies to GAO reports to ensure they are responsive, properly coordinated and representative of HHS policy and advises the Secretary and other officials about significant findings.

B. *Audit Operations and Financial Statement Activities.* This office is directed by the Assistant Inspector General for Audit Operations and Financial Statement Activities. In addition to directing this office, the Assistant Inspector General supervises the eight Regional Inspectors General for Audit Services. The office's principal functions include providing direction and oversight to OAS through its work planning and quality assurance activities; the direct-line responsibility for audits of financial statements and financial related audits, including internal audits of functional areas within the Department; and directing field audit operations.

1. The office serves as the focal point for all financial statement and financial related audit activity within the Department and serves as the primary liaison conduit between the OIG and departmental management.

2. The office operates an internal quality assurance system that provides reasonable assurance that applicable laws, regulations, policies, procedures, standards and other requirements are followed in all audit activities performed by, or on behalf of, the Department.

3. The office evaluates audit work, including performing quality control reviews of audit reports, and develops and monitors audit work plans. It develops audit policy, procedures, standards, criteria and instructions for all audit activities performed by, on behalf of, or conforming with departmental programs, grants, contracts or operations in accordance with GAGAS and other legal, regulatory and administrative requirements.

4. The office tracks, monitors and reports on audit resolution and follow-up in accordance with OMB Circular A–50.

5. The office provides oversight for audits of governments, universities and nonprofit organizations conducted by nonfederal auditors and those under contract with the OIG (external audit resources).

6. The office coordinates with the other OIG components in developing the semiannual report to Congress.

C. *Health Care Financing Audits.* This office is directed by the Assistant Inspector General for Health Care Financing Audits. The office conducts audits of HCFA program operations and oversees nationwide the audits of the Medicare and Medicaid programs, their contractors, and providers of services and products. It maintains an internal quality assurance system, including periodic quality control reviews, to provide reasonable assurance that applicable laws, regulations, policies, procedures, standards and other requirements are followed in all HCFA audit activities performed by, or on behalf of, the Department.

D. *Administrations of Children, Family and Aging Audits.* This office is directed by the Assistant Inspector General for Administrations of Children, Family and Aging Audits. The office conducts and oversees audits of the operations and programs of the Administration for Children and Families and the Administration on Aging, as well as statewide cost allocation plans. It maintains an internal quality assurance system, including periodic quality control reviews, to provide reasonable assurance that applicable laws, regulations, policies, procedures, standards and other requirements are followed in its audit activities.

E. *Public Health Audits.* This office is directed by the Assistant Inspector General for Public Health Audits. The office conducts and oversees audits of the programs and activities of the public health related agencies, including the Food and Drug Administration; the National Institutes of Health; the Health Resources and Services Administration; the Alcohol, Drug Abuse, and Mental Health Administration; the Centers for Disease Control and Prevention; the Agency for Toxic Substances and Disease Registry; the Indian Health Service and the Surgeon General, as well as those colleges, universities and nonprofit organizations that receive research grants from the Federal Government. It maintains an internal quality assurance system, including periodic quality control reviews, to provide reasonable assurance that applicable laws, regulations, policies, procedures, standards and other requirements are followed in all public health related audit activities performed by, or on behalf of, the Department.

Section AFJ.00, Office of Investigations (OI)—Mission

The Office of Investigations is responsible for conducting and coordinating investigative activities related to fraud, waste, abuse and mismanagement in HHS programs and operations, including wrongdoing by applicants, grantees, or contractors, or by HHS employees in the performance of their official duties. It serves as OIG liaison to DoJ on all matters relating to investigations of HHS programs and personnel, and reports to the Attorney General when the OIG has reasonable grounds to believe Federal criminal law has been violated. It works with other investigative agencies and organizations on special projects and assignments. In support of its mission, the office carries out and maintains an internal quality assurance system. The system includes quality assessment studies and quality control reviews of OI processes and products to ensure that policies and procedures are followed effectively, and are functioning as intended.

Section AFJ.10, Office of Investigations—Organization

The Office of Investigations comprises the following components:

A. Immediate Office.

B. Criminal Investigations.

C. Investigations Policy and Oversight.

Section AFJ.20, Office of Investigations—Functions

A. *Immediate Office of the Deputy Inspector General for Investigations.* This office is directed by the Deputy Inspector General for Investigations who is responsible for the functions designated in the law for the position, Assistant Inspector General for Investigations. The Deputy Inspector General for Investigations supervises the Assistant Inspectors General who head the OI offices described below.

The Deputy Inspector General for Investigations is responsible to the Inspector General for carrying out the investigative mission of the OIG and for leading and providing general supervision to the OIG investigative component. The Immediate Office coordinates quality assurance studies to ensure that applicable laws, regulations, policies, procedures, standards and other requirements are followed in all investigative activities performed by, or on behalf of, the Department.

B. *Criminal Investigations.* This office is directed by the Assistant Inspector General for Criminal Investigations who supervises a headquarters policy and review staff and the Regional Inspectors General for Investigations who carry out investigative activities in their assigned geographic areas.

1. The headquarters staff assists the Deputy Inspector General for Investigations to establish investigative priorities, to evaluate the progress of investigations, and to report to the Inspector General on the effectiveness of investigative efforts. It develops and implements investigative techniques, programs, guidelines and policies. It provides programmatic expertise and issues information on new programs, procedures, regulations and statutes. It directs and coordinates the investigative field offices.

2. The headquarters staff reviews completed reports of investigations to ensure accuracy and compliance with guidelines. It issues the reports to pertinent agencies, management officials and the Secretary and recommends appropriate debarment actions, administrative sanctions, CMPs and other civil actions, or prosecution under criminal law. It identifies systemic and programmatic vulnerabilities in the Department's operations and makes recommendations for change to the appropriate managers.

3. The staff provides for the personal protection of the Secretary.

4. The field offices conduct investigations of allegations of fraud, waste, abuse, mismanagement and violations of standards of conduct and other investigative matters within the jurisdiction of the OIG. They coordinate investigations and confer with HHS operating divisions, staff divisions, OIG counterparts and other investigative and law enforcement agencies. They prepare investigative and management improvement reports.

C. *Investigations Policy and Oversight.* This office is directed by the Assistant Inspector General for Investigations Policy and Oversight who leads outreach activities to State and local investigative agencies, and the general management functions of the Office of Investigations.

1. The office oversees State Medicaid fraud control units and is responsible for certifying and recertifying these units and for auditing their Federal funding. The office provides pertinent information from HHS records to assist Federal, State and local investigative agencies to detect, investigate and prosecute fraud. It manages the HHS Hotline to receive complaints and allegations of fraud, waste and abuse, and to refer the information for investigation, audit, program review, or other appropriate action. It coordinates with the GAO hotline and hotlines from other agencies.

2. The office maintains an automated data and management information system used by all OI managers and investigators. It provides technical expertise on computer applications for investigations and coordinates and approves investigative computer matches with other agencies.

3. The office develops general management policy for the OI. It develops and issues instructional media on detecting wrongdoing and on investigating and processing cases. The office reviews proposed legislation, regulations, policies and procedures to identify vulnerabilities and recommends modification where appropriate. It reviews investigative files in response to Privacy and Freedom of Information Act requests. It plans, develops, implements and evaluates all levels of employee training for investigations, management, support skills and other functions, and serves as OIG liaison to the Office of the Secretary for Freedom of Information and Privacy Act requests. It coordinates general management processes, e.g., compiles reports on the budget, on awards and on other personnel matters for OI as a whole; implements policies and procedures published in the OIG Administrative Manual; and processes procurement requests and other service related actions.

Dated: April 25, 1996.

June Gibbs Brown,

Inspector General.

[FR Doc. 96–11844 Filed 5–10–96; 8:45 am]

BILLING CODE 4150–04–P

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC): Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Clinical Laboratory Improvement Advisory Committee.

Times and Dates: 1–5 p.m., May 29, 1996; 8 a.m.–4 p.m., May 30, 1996.

Place: CDC, Auditorium B, Building 2, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: This committee is charged with providing scientific and technical advice and guidance to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the need for, and the nature of, revisions to the standards under which clinical laboratories are regulated; the impact of proposed revisions to the standards; and the modification of the standards to accommodate technological advances.

Matters To Be Discussed: Agenda items include: An update on the Clinical Laboratory Improvement Amendments (CLIA), review of CLIA quality control issues discussed at the August 30–31, 1995, CLIAC meeting; and proposals for addressing these issues.

Agenda items are subject to change as priorities dictate.

Contact Person for Additional Information: John C. Ridderhof, Dr. P.H., Division of Laboratory Systems, Public Health Practice Program Office, CDC, 4770 Buford Highway, NE., M/S G–25, Atlanta, Georgia 30341–3724, telephone 404/488–7660.

Dated: May 2, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–11858 Filed 5–10–96; 8:45 am]

BILLING CODE 4163–18–M

Injury Research Grant Review Committee: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Injury Research Grant Review Committee (IRGRC).

Times and Dates: 6 p.m.–9 p.m., June 9, 1996; 8 a.m.–6 p.m., June 10, 1996.

Place: The Palmer House Hilton, 17 East Monroe Street, Chicago, Illinois 60603–5605.

Status: Open: 6 p.m.–7 p.m., June 9, 1996; Closed: 7 p.m.–9 p.m., June 9, 1996; Closed: 8 a.m.–6 p.m., June 10, 1996.

Purpose: This committee is charged with advising the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the scientific merit and technical feasibility of grant applications received from academic institutions and other public and private profit and nonprofit organizations, including State and local government agencies, to conduct specific injury research that focus on prevention and control and to support injury prevention research centers.

Matters To Be Discussed: Agenda items include: announcements, discussion of review procedures, future meeting dates, and review of grant applications.

Beginning at 7 p.m., June 9, through 6 p.m., June 10, the Committee will meet to conduct a review of grant applications. This portion of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92–463.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Richard W. Sattin, M.D., Executive Secretary, IRGRC, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway, NE., M/S K58, Atlanta, Georgia 30341–3724, telephone 770/488–4580.

Dated: May 3, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–11857 Filed 5–10–96; 8:45 am]

BILLING CODE 4163–18–M

Health Resources and Services Administration

Advisory Commission on Childhood Vaccines; Request for Nominations for Voting Members

AGENCY: Health Resources and Services Administration.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is requesting nominations to fill three vacancies on the Advisory Commission on Childhood Vaccines (ACCV). The ACCV was established by title XXI of the Public Health Service Act (the Act), as enacted by Public Law (P.L.) 99–660 and as subsequently amended, and advises the Secretary of Health and Human Services (the Secretary) on issues related to implementation of the National Vaccine Injury Compensation Program (VICP).

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Palmer, Committee Management Assistant, Policy and Commission Branch, Division of Vaccine Injury Compensation, at (301) 443–1533.

DATES: Nominations are to be submitted by June 13, 1996.

ADDRESSES: All nominations are to be submitted to the Director, Division of Vaccine Injury Compensation, Bureau of Health Professions, HRSA, Parklawn Building, Room 8A–35, 5600 Fishers Lane, Rockville, Maryland 20857.

SUPPLEMENTARY INFORMATION: Under the authorities that established the ACCV, viz., the Federal Advisory Committee Act of October 6, 1972 (P.L. 92–463) and section 2119 of the Act, 42 U.S.C. 300aa-19, as added by P.L. 99–660 and amended, HRSA is requesting nominations for three voting members of the ACCV.

The ACCV advises the Secretary on the implementation of the VICP; on its own initiative or as the result of the filing of a petition, recommends changes in the Vaccine Injury Table; advises the Secretary in implementing the Secretary's responsibilities under section 2127 regarding the need for childhood vaccination products that result in fewer or no significant adverse reactions; surveys Federal, State, and local programs and activities relating to the gathering of information on injuries associated with the administration of childhood vaccines, including the adverse reaction reporting requirements of section 2125(b); advises the Secretary on means to obtain, compile, publish, and use credible data related to the frequency and severity of adverse reactions associated with childhood vaccines; and recommends to the Director, National Vaccine Program, research related to vaccine injuries which should be conducted to carry out the VICP.

The ACCV consists of nine voting members appointed by the Secretary as follows: three health professionals, of whom at least two are pediatricians, who are not employees of the United States, who have expertise in the health care of children, the epidemiology, etiology and prevention of childhood diseases, and the adverse reactions associated with vaccines; three members from the general public, of whom at least two are legal representatives (parents or guardians) of children who have suffered a vaccine-related injury or death; and three attorneys, of whom at least one shall be an attorney whose specialty includes representation of persons who have suffered a vaccine-related injury or death and one shall be an attorney whose specialty includes representation of vaccine manufacturers. In addition, the Director of the National Institutes of Health, the Assistant Secretary for Health, the Director of the Centers for Disease Control and Prevention, and the Commissioner of the Food and Drug Administration (or the designees of such officials) serve as nonvoting ex officio members.

Specifically, HRSA is requesting nominations for three voting members of the ACCV representing: (1) A health professional with special experience in childhood diseases; (2) a member from the general public who is a legal representative (parent or guardian) of a child who has suffered a vaccine-related injury or death; and (3) an attorney with no specific affiliation (as stated above, this category requires membership of three attorneys, of whom at least one shall be an attorney whose specialty includes representation of persons who have suffered a vaccine-related injury or death and one of whom is an attorney whose specialty includes representation of vaccine manufacturers—by this notice, the Department is soliciting nominations for the third attorney position). Nominees will be invited to serve 3-year terms beginning January 1, 1997, and ending December 31, 1999.

Interested persons may nominate one or more qualified persons for membership on the ACCV. Nominations shall state that the nominee is willing to serve as a member of the ACCV and appears to have no conflict of interest that would preclude the ACCV membership. Potential candidates will be asked to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflicts of interest. A curriculum vitae should be submitted with the nomination.

The Department of Health and Human Services has special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female, minority, or physically handicapped candidates.

Dated: May 7, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–11878 Filed 5–10–96; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health.

ACTION: Notice.

SUMMARY: The invention referenced below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

U.S. Patent 4,790,987 issued on December 13, 1988 and entitled "Viral Glycoprotein Subunit Vaccine"—This patent discloses subunit vaccine compositions for the prevention of viral infections including influenza virus, parainfluenza virus, herpes virus, paramyxoviruses, rabies virus, and human T-cell lymphotrophic viruses. The patent also discloses a method for preparing the vaccine compositions. A novel feature of the invention is the utilization of a dialyzable detergent for solubilization of the active component, which allows a relatively simple purification process on a large scale. Thus, these vaccines are easier to prepare than other glycoprotein subunit vaccines and retain their antigenicity to a greater extent than formalin-inactivated subunit vaccines.

The invention claimed in this patent is available for licensing on a nonexclusive basis. Interested parties should respond by June 12, 1996.

ADDRESSES: Licensing information and a copy of the issued patent may be obtained by contacting Cindy K. Fuchs, J.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7735 ext 232; fax 301/402–0220).

Dated: May 1, 1996.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 96–11907 Filed 5–10–96; 8:45 am]

BILLING CODE 4140–01–M

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health.

ACTION: Notice.

SUMMARY: The invention referenced below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

U.S. Patent 4,788,181 issued on November 29, 1988 and entitled "5-Substituted-2′,3′-Dideoxycytidine Compounds with Anti-HTLV–III Activity"—5-substituted-2′,3′-dideoxycytidine analogs and their phosphorylated derivatives are effective inhibitors of HTLV–III/LAV (HIV) infection, especially in the brain. Although the parent compound 2′,3′-dideoxycytidine can scarcely enter the central nervous system, 2′,3′-dideoxy-5-fluorocytidine readily penetrates the blood-brain barrier and, thus, is more effective against the AIDS virus in the brain.

The invention claimed in this patent is available for licensing on either an exclusive or nonexclusive basis.

Interested parties should respond by August 12, 1996.

ADDRESSES: Licensing information and a copy of the issued patent may be obtained by contacting Robert Benson at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7056 ext 267; fax 301/402–0220).

Dated: May 2, 1996.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 96–11909 Filed 5–10–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: May 17, 1996.

Time: 10 a.m.

Place: Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

For Further Information Contact: Angela L. Redlingshafer, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: May 7, 1996.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 96–11906 Filed 5–10–96; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Toxicology Program; Announcement of Intent To Conduct Toxicological Studies of 9 Chemicals

Request for Comments: As part of an effort to obtain public input into the selection of chemicals for evaluation, the National Toxicology Program (NTP) routinely announces in the **Federal Register** the lists of chemicals for which plans to develop protocols for toxicological studies are underway. This announcement will allow interested parties to comment and provide information on chemicals under consideration. Chemicals and types of studies under consideration are listed below.

Allyl Bromide (CAS No. 106–95–6) is used in both organic and biochemical synthesis, commonly as a chemical intermediate, in the synthesis of perfumes and pharmaceuticals, polymers and resins, and the production of agricultural chemicals.

The National Cancer Institute nominated allyl bromide based on widespread use, its persistence as an environmental pollutant and the lack of toxicology data. There is potential for human exposure both from production and manufacturer as well as during its end use. Possible routes of human exposure include inhalation, oral and dermal routes. Allyl bromide is one of a group of organohalogen compounds identified in waste water or drinking water. Plans are underway to develop protocols for toxicity and carcinogenicity studies.

Divinylbenzene (CAS No. 1321–74–0) (DVB) is a specialty monomer used in polymer applications that require additional heat resistance and strength. It is used in styrene-butadiene rubber to improve the swelling shrinkage, and extrusion properties of the product. In addition, DVB is used as a cross-linking monomer for copolymerization with styrene, and acrylic or methacrylic acid to produce ion exchange resins.

DVB was nominated to the NTP by the National Cancer Institute for carcinogenicity testing based upon its structural relationship to styrene and benzene, and the potential for significant human exposure. The major route of potential human exposure in the industrial setting is considered to be inhalation during manufacturing processes involving about 35,000 workers. Commercial DVB generally consists of a mixture of the meta and para isomers of DVB and ethylvinylbenzene.

Fourteen-day studies and toxicokinetic studies are planned and the decision to conduct 90-day and chronic studies will be made after review of this data.

Diazoaminobenzene (CAS No. 136–35–6) is used as an intermediate in organic synthesis, dye and agricultural chemical manufacturing. Diazoaminobenzene is a metal complexing agent and polymer additive used as a coupler to promote adhesion to natural rubber and steel and as a blowing agent in resins and urea-formaldehyde adhesives, polyurethane coatings.

Diazoaminobenzene was recommended by the National Institute of Environmental Health Sciences for toxicological testing based on the potential for worker exposure and the lack of adequate toxicological data. Several structural analogs of Diazoaminobenzene are carcinogenic, suggesting the possible carcinogenicity of Diazoaminobenzene, as well. It is used in D&C Red Dye and has been found as a contaminant in food samples collected by the Food and Drug Administration. It is mutagenic in Salmonella. Published carcinogenicity studies in mice are considered inadequate and none have been conducted in rats. Plans are underway to develop protocols for toxicity and carcinogenicity studies.

Ethidium Bromide (CAS No. 1239–45–8), because it interchelates in DNA, is commonly used for identification of DNA in research setting.

Ethidium bromide was nominated by a University faculty member because of its increasing use as a reagent of DNA chemistry and its widespread use as a DNA probe in sequencing reactions and the increased potential for exposure to laboratory workers. Plans are underway to develop protocols for toxicity and carcinogenicity studies.

Formamide (CAS No. 75–12–7) is used as a solvent, a softener, an intermediate in organic synthesis and in water-soluble ink formulations.

The National Cancer Institute nominated a class of chemicals which included formamide, N-methylformamide (NMF), and N,N-dimethylformamide (DMF), for NTP testing. DMF studies on have been completed and published by the NTP (prechronic), and industry (chronic). NMF was nominated only for genotoxicity testing and was found to be negative in the salmonella assay. Studies conducted by others have demonstrated that NMF is metabolized in the same manner as DMF. No further testing is therefore recommended for NMF. Formamide was nominated by the NCI for carcinogenicity testing. The limited information available on formamide indicates that it is metabolized to formate. Since rodents metabolize formate much more efficiently than primates, they may be insensitive to formamide toxicity. Therefore comparative metabolism of formamide will be evaluated in rat, mouse, and human liver slices studies prior to any pre-chronic studies. In addition, metabolism/disposition studies will be conducted initially in rats and then in mice using nose-only inhalation. Based on the results of these studies and any new information that becomes available in the literature, NTP will determine the appropriate animal model for future toxicity studies.

5-Hydroxymethyl Furfural (CAS No. 67–47–0) (HMF) is formed during the thermal decomposition of sugars and carbohydrates. HMF has been identified in a wide variety of heat processed foods including milk, fruit juices, spirits, honey, etc. HMF is also found in cigarettes.

The National Institute of Environmental Health Sciences nominated HMF based on the potential for widespread exposure in the diet, evidence for carcinogenic potential of other members of this class, and the fact that little is known about HMF toxicity. NTP plans to develop protocols to investigate the metabolism, toxicity and carcinogenicity of HMF.

Isoeugenol (CAS No. 97–54–1) is found in cloves, tobacco, and other plants and flowers. Isoeugenol is used to manufacture vanillin, and is widely used in fragrances and as a flavoring additive. Many consumers are potentially exposed to isoeugenol from its use in cosmetics and food.

Isoeugenol was nominated for carcinogencity testing by the National Cancer Institute based on its structural similarity to the carcinogens eugenol, safrole, isosafrole, and estragole, and its potential for human exposure as a food flavoring agent and a fragrance ingredient. Plans are underway to develop protocols to investigate the toxicity and carcinogenicity of Isoeugenol.

Methyl Styryl Ketone (CAS No. 1896–62–4) is a naturally occurring product and a synthetic flavor and fragrance additive. Its most important use is a flavoring and fragrance additive in many commercial products (for example; soap, detergent, perfume, creams and lotions, baked goods, frozen dairy products, nonalcoholic beverages). MSK is also listed on the recently released list of tobacco additives used in cigarette manufacture.

The rationale for the National Cancer Institute's (NCI) nomination included wide-spread low level human exposure from its use as a flavoring agent and use in perfumes, lotions, soap, and detergents. As an α,β-unsaturated ketone, it exhibits mutagenicity in short-term tests in Salmonella with metabolic activation. It is a known Michael acceptor and is expected to react with either food stuffs or proteins in the target tissues. Toxicology data is very limited.

There is a CAS number for Methyl Styryl Ketone that refers to unspecified isomers of Methyl Styryl Ketone. It should be noted that the trans isomer (CAS 1896–62–4) is being studied to avoid any future confusion. Methyl Trans Styryl Ketone (MSK) was nominated by NCI for comparative toxicity studies, metabolism, and carcinogenicity based on potential for human exposure. Metabolism studies are underway. Plans are underway to develop protocols for comparative disposition and short-term toxicity studies.

Stoddart Solvent (Casno: 8052–41–3) is used as a multipurpose petroleum solvent; uses include paint vehicles; thinning agent for paints, coatings, and waxes; printing inks, adhesives; solvent in liquid photocopier toners; solvent in dry cleaning; degreaser for engine parts in machine and auto repair shops.

Stoddard solvent (high flash, low aromatic grade), was nominated by the United Auto Workers as one of several organic solvents that are used with substantial exposure in transportation, equipment and related metal working industries. For most of these solvents, there was evidence for human health risks particularly occupational cancer and respiratory toxicity found in epidemiology studies, from cases reports, from acute and subacute testing in animals from inadequate chronic exposure studies. Stoddard solvent is a mixture of numerous hydrocarbons derived by refining crude oil. The mixture consists of three major groups of components: linear and branched alkanes (30–50%), also known as paraffins; cycloalkanes (30–40%); and

aromatic hydrocarbons (10–20%). There are various types of Stoddard solvent with different flash points and composition of linear alkanes, cycloalkanes, and aromatic hydrocarbons. ASTM specifies four types of mineral spirit (Stoddard solvent): Type I—Regular; Type II—High flash point; Type III—Odorless; and Type IV—Low Dry Point. Stoddard solvent type III selected for testing is a mixture with high aliphatic and low aromatic contents, little odor, and 100°F minimum flash point. In 1990, production volume was about 38 million pounds. NTP is developing protocols for toxicity and carcinogenicity studies.

Anyone having relevant information (including ongoing toxicological studies, current or future trends in production and import, use pattern, human exposure levels, environmental occurrence and toxicological data) to share with the NTP on any of these chemicals, should contact Dr. William Eastin within 60 days of the appearance of this announcement. The information provided will be considered by the NTP in designing these studies.

Contact may be made by mail to: Dr. William Eastin, NIEHS/NTP, P.O. Box 12233, Research Triangle Park, North Carolina 27709, by telephone at 919–541–7941, fax 919–541–4714, or email at Eastin@NIEHS.HIH.GOV

Dated: May 1, 1996.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 96–11908 Filed 5–10–96; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention, Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the Center for Substance Abuse Prevention (CSAP) National Advisory Council and Drug Testing Advisory Board meetings in May and June 1996.

A summary of these meetings and a roster of committee members may be obtained from: Mrs. Vera L. Jones, Acting Committee Management Officer, CSAP, Rockwall II Building, Suite 7A–140, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–9542.

Substantive program information may be obtained from the individual whose name and telephone number is listed as Contact below.

The meeting of the CSAP National Advisory Council will include a presentation from the SAMHSA Administrator, discussion of administrative matters, announcements and reports from the SAMHSA and CSAP Councils' subcommittees. Invitation has been extended for a presentation on CSAP and Department of State Collaborative Studies.

Committee Name: Center for Substance Abuse Prevention National Advisory Council.

Meeting Date(s): May 30, 1996.

Place: Bethesda Marriott Residence Inn, 7335 Wisconsin Avenue, Bethesda, Maryland 20814.

Open: May 30, 1996, 8:30 a.m. - 5 p.m.

Contact: Yuth Nimit, Ph.D., Executive Secretary, Rockwall II Building, Suite 7A–140; Telephone: (301), 443–8455 and FAX: (301) 443–3355.

The meeting of the Drug Testing Advisory Board will include a roll call, general announcements, and a discussion of various program, procedural, and technical issues. Public comments are welcome during the open session. Please communicate with the individual listed as contact below for guidance.

The meeting will also include the review of sensitive National Laboratory Certification Program (NLCP) internal operating procedures and program development issues. Therefore, a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c)(2), (4), and (6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: Drug Testing Advisory Board.

Meeting Date(s): June 27, 1996.

Place: Ramada Inn - Rockville, 1775 Rockville Pike, Rockville, Maryland 20857.

Open: June 27, 1996, 8:30 a.m. - 10:00 a.m.

Closed: June 27, 1996, 10:00 a.m. - 4:00 p.m.

Contact: Donna M. Bush, Ph.D.; Executive Secretary, Telephone: (301) 443–6014 and FAX: (301) 443–3031.

Dated: May 7, 1996.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 96–11928 Filed 5–10–96; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3917–N–77]

Office of the Assistant Secretary for Policy Development and Research; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: July 12, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: David Chase, Economist, Office of Policy Development and Research—telephone (202) 708–4504 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Evaluation of Home Ownership Counseling Initiatives.

OMB Control Number, if applicable: 2528–.

Description of the need for the information and proposed use: The information is being collected to determine the feasibility of setting a long-term mechanism for the collection of data to evaluate the efficacy of home ownership counseling. Evaluating counseling programs has been hampered by two methodological reasons: (1) Differences in programs goals complicate any type of performance comparison; and (2) the counseling industry encounters very different market conditions in different areas.

HUD's involvement with the counseling dates back to the 1960s. With the passage of the 1968 Housing and Urban Development Act, HUD was authorized to contract with public and private organizations to provide counseling to mortgagors in the Section 235 and 237 Programs. Between 1988 and 1993, HUD gave some operating support to over 300 agencies. To ensure that this support is being provided in a cost-effective manner, HUD proposes to undertake a preliminary investigation of the feasibility of a long-term evaluation. This investigation will include identifying key data requirements and pre-testing a baseline data collection form to gather the required information from counseling recipients.

Agency form numbers, if applicable: None.

Members of affected public: New participants in three counseling programs will be asked to participate in this data collection activity. It is expected that at most 200 participants in each program will be evaluated.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Information will be collected by one-time interviews with at most 600 participants in counseling programs. These interviews will take approximately thirty minutes each. This means a total of 300 hours of response for the information collection.

Status of the proposed information collection: Pending OMB clearance.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 30, 1996.

Michael A. Stegman,

Assistant Secretary, Office of Policy Development and Research.

[FR Doc. 96–11846 Filed 5–10–96; 8:45 am]

BILLING CODE 4210–62–M

Office of the Assistant Secretary for Housing; Notice of Proposed Information Collection for Public Comment

[Docket No. FR–3235–N–05]

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: July 12, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451—7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Barbara D. Hunter, Telephone number (202) 708–3944 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Notice of Funding Availability for the Federally Assisted Low-Income Housing Drug Elimination Grant Program—FY 1996 (FR–3235).

OMB Control Number: 2502–0476.

Description of the need for the information and proposed use: This information collection is required in connection with HUD's proposed issuance of a Notice of Funding Availability (NOFA) that will announce the availability of $10,000,000 in grant funds authorized under Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et seq.), as amended by Section 581 of the National Affordable Housing Act of 1990 (NAHA) approved November 28, 1990, Public Law 101–625; approved November 28, 1990), and Section 161 of the Housing and Community Development Act of 1992 (NCDA 1992) (Public Law 102–550, approved October 28, 1992).

Note: This NOFA does not apply to the funding available under the statute for Public and Indian Housing.

Agency Form Numbers: SF–424, SF–424A, SF–LLL, HUD–50070 and HUD–2880.

Members of Affected Public: Project owners, housing owners.

An estimation of the total numbers of hours needed to prepare the information collection is 40,000, the number of respondents is 1,000, frequency of response is 1, and the hours of response is 40.

Status of the Proposed Information Collection: Extension.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: May 7, 1996.

Stephanie A. Smith,

General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 96–11894 Filed 5–10–96; 8:45 am]

BILLING CODE 4210–27–M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–3886–N–05]

Announcement of Funding Awards for HOPE for Single Family Homes Program (HOPE 3)

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding award.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this is an announcement notifying the public of the funding decision made by the Department for funding under a Notice of Funding Availability for HOPE for Single Family Homes Program (HOPE 3), published on February 24, 1995 (60 FR 10446). This announcement contains the names and addresses of the grantees and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Office of Affordable Housing Programs, Department of Housing and Urban Development, room 7168, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3226 (this is a not toll-free number). A telecommunications device for hearing- and speech-impaired

individuals (TTY) is available at 1–800–877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: The HOPE 3 program is authorized by title IV of the National Affordable Housing Act (42 U.S.C. 12891–12898), which created the HOPE 3 Program. The final rule for the program, was published in the **Federal Register** on July 7, 1993, is codified at 24 CFR part 572. HOPE 3 funding for Fiscal Year 1994 is appropriated by the HUD Appropriations Act for Fiscal Year 1995 (Pub. L. 103–327, approved September 28, 1994).

The purpose of the competition was to make funding available for grants under the HOPE for Homeownership of Single Family Homes Program (HOPE 3). The HOPE 3 program provides homeownership opportunities for eligible families to purchase Federal, State, and local government-owned single family properties. HOPE 3 provides implementation grants to selected eligible applicants to assist them in developing and carrying out approved homeownership programs for eligible families. Recipients were chosen in a competition under selection criteria announced in the February 24, 1995 NOFA.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is hereby publishing the names, addresses, and amount of those awards as shown in Appendix A.

Dated: May 7, 1996.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

APPENDIX A.—FISCAL YEAR 1994 HOPE 3 GRANTEES

Grantee	Amount
Kennebec Valley Community Action Program, 101 Water Street, P.O. Box 1529, Waterville, ME 04903–1529	$374,200
Comprehensive Community Action, 311 Doric Avenue, Cranston, RI 02910	468,300
Manchester Neighborhood Housing, Services, Inc., 434 Union Street, Manchester, NH 03103–5128	187,500
Collaborative Lending Initiative, Inc., 924 Cherry Street, Philadelphia, PA 19107	899,400
New York City Department of Housing Preservation and Development, 100 Gold Street, New York, NY 10038	966,700
County of Orange, 223 Main Street, Goshen, NY 10924	249,000
Resources for Human Development, Inc., 4333 Kelly Drive, Philadelphia, PA 19129	833,000
Enterprise Housing Corporation of Maryland, Inc., 10227 Wincopin Circle, Suite 810, Columbia, MD 21044	682,250
Manna, Inc., 614 S Street, NW Rear, P.O. Box 26049, Washington, DC 20001	405,000
Chester Community Improvement Project, Inc., 412 Avenue of the States, P.O. Box 541, Chester, PA 19013	182,000
Sandtown Habitat for Humanity, Inc., 1385 N. Gilmor Street, Baltimore, MD 21217–2331	114,750
Ceiba Housing and Economic Development Corporation, P.O. Box 203, Ceiba, PR 00735	355,000
City of Tampa, FL, 306 E. Jackson Street, 8th Floor East, Tampa, FL 33602	667,000
Knox Housing Partnership, Inc., 220 Carrick Street, Suite 124, Knoxville, TN 37921	417,000
Shelby County Government, 100 N. Mid-America Mall, Suite 1303, Memphis, TN 38103	500,000
City of Columbia, P.O. Box 137, Columbia, SC 29217	250,000
Charlotte-Mecklenburg Housing Partnership, Inc., 201 Greenwood Cliff, Suite 300, Charlotte, NC 28204	545,000
Board of County Commissioners of Lee County, P.O. Box 398, Fort Myers, FL 33902–0898	500,000
Greater Miami Neighborhoods, Inc., 1460 Brickell Avenue, Suite 309, Miami, FL 33131	640,000
City of Bessemer, 180 3rd Avenue North, Bessemer, AL 35020	86,000
Macon Housing Authority, P.O. Box 4928, Macon, GA 31208	324,000
Minneapolis Community Development Agency, 105 South 5th Avenue, Suite 200, Minneapolis, MN 55401	600,000
New Cities Community Development Corporation, 16333 S. Halsted, Harvey, IL 60426	667,000
Mid-Ohio Regional Planning Commission, 285 East Main Street, Columbua, OH 43215	250,000
Jackson Affordable Housing Corporation, 61 W. Michigan Avenue, 7th Floor, Jackson, MI 49201	410,800
Cleveland Housing Network, Inc., 4614 Prospect Avenue, #340, Cleveland, OH 44103	314,800
City of Indianapolis, 200 East Washington Street, Suite 2042, Indianapolis, IN 46204	474,000
Lutheran Housing Corporation, 13944 Euclid Avenue, Suite 208, East Cleveland, OH 44112	107,000
City of Rockford, 425 E. State Street, Rockford, IL 61104	337,000
Crowley's Ridge Development Council, Inc., P.O. Box 1497, 249 S. Main, Jonesboro, AR 72403	479,000
Tarrant County Housing, Partnership, Inc., 603 East Berry Street, Suite 112, Fort Worth, TX 76110	900,000
City of Lubbock, P.O. Box 2000, 1625 13th Street, Lubbock, TX 79457	800,000
Habitat for Humanity, International, Southwest Regional Office, P.O. Box 3005, Waco, TX 76707	623,000
City of Topeka, Department of Community and Economic Development, 515 S. Kansas Avenue, Suite 405, Topeka, KS 66603	500,000
Operation Impact, 330 N. 15th Street, St. Louis, MO 63103	500,000
Commerce City Housing Authority, 5291 E. 60th Avenue, Commerce City, CO 80022	509,000
Northeast Denver Housing Center, Inc., 1735 Gaylord Street, Denver, CO 80206	236,800
Salt Lake Community Development Corporation, 223 West 700 South, Salt Lake City, UT 84101	254,200
Human Action for Chandler, 77 W. Chicago Street, P.O. Box 1776, Chandler, AZ 85244–1776	1,000,000
Housing Authority of the City of Los Angeles, 2600 Wilshire Boulevard, Los Angeles, CA 90057	1,000,000
Homeward Bound, 29 W. Thomas Road, Suite E, Phoenix, AZ 85013	645,800
Housing for Mesa, Inc., P.O. Box 4457, Mesa, AZ 85211–4457	362,500
Pima County, 32 N. Stone, #1600, Tucson, AZ 85701	715,000
Rural California Housing Corporation, 2125 19th Street, Suite 101, Sacramento, CA 95818	560,000
St. Vincent de Paul Society of Lane County, 705 S. Seneca, Eugene, OR 97402	997,000

[FR Doc. 96–11847 Filed 5–10–96; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of Application for an Incidental Take Permit for Construction of One Single Family Residence at 0 Yucca Mountain Road (Across From 9206 Yucca Mountain Road), Austin, Travis County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Chuck Clinton (applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(A)(1)(b) of the Endangered Species Act (Act). The applicant has been assigned permit number PRT–812703. The requested permit, which is for a period of 5 years, would authorize the incidental take of the endangered golden-cheeked warbler (*Dendroica chrysoparia*).

The proposed take would occur as a result of the construction of one single family residence at 0 Yucca Mountain Road (across from 9206 Yucca Mountain Road), Austin, Travis County, Texas. The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of whether jeopardy to the species will likely result from this action or a Finding of No Significant Impact (FONSI) will not be made before 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before June 12, 1996.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Joseph E. Johnston or Mary Orms, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 at (512/490–0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the above U.S. Fish and Wildlife Service address in Austin, Texas.

Written data or comments concerning the application and EA/HCP should be submitted to the Field Supervisor, Ecological Services Field Office, Austin, Texas at the above address. Please refer to permit number PRT–812703 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Joseph E. Johnston or Mary Orms at the above Austin Ecological Services Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the "taking" of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances,may issue permits to take endangered wildlife species when such taking is incidental to, and not the purpose of, otherwise lawful activities Regulations governing permits for endangered species are at 50 CFR 17.22.

APPLICANT: Chuck Clinton plans to construction a single family residence at 0 Yucca Mountain Road, (across from 9206 Yucca Mountain Road) Austin, Travis County, Texas. This action will effect less than one-half acre of land and indirectly impact less than one-half additional acre of golden-cheeked warbler habitat.

The applicant proposes to compensate for this loss of golden-cheeked warbler habitat by placing $1,500 into the City of Austin Balcones Canyonlands Conservation Fund to acquire/manage lands for the conservation of the golden-cheeked warbler. Alternatives to this action were rejected because selling or not developing the subject property with federally listed species present was not economically feasible.

Lynn B. Starnes,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 96–11845 Filed 5–10–96; 8:45 am]

BILLING CODE 4510–55–M

Buresu of Land Management

[ID–990–1020–00]

Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Upper Columbia—Salmon Clearwater Districts, Idaho.

ACTION: Notice of Resource Advisory Council meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, the Bureau of Land Management (BLM) announces the meeting of the Upper Columbia—Salmon Clearwater Districts Resource Advisory Council (RAC) on Thursday, May 30, 1996. The meeting will be held via telephone conference.

The purpose of the meeting is for the RAC members to discuss and make recommendations to the District Manger and State Director concerning proposed rangeland standards and guidelines. Other administrative issues may be discussed as time permits. The RAC will meet from 10:00 a.m. to noon (PDT). The public may address the Council during the public comment period starting at 11:00 a.m. at BLM's Coeur d'Alene Field Office, 1808 N. Third St., Coeur d'Alene, Idaho.

SUPPLEMENTARY INFORMATION: All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

The Council's responsibilities include providing long-range planning and establishing resource management priorities; and assisting the BLM to identify state standards for rangeland health and guidelines for grazing.

FOR FURTHER INFORMATION CONTACT: Ted Graf (208) 769–5004.

Dated: May 7, 1996.

Jenifer Arnold,

Acting District Manager.

[FR Doc. 96–11879 Filed 5–10–96; 8:45 am]

BILLING CODE 4310–GG–M

Minerals Management Service

Notice and Agenda for Meeting of the Royalty Policy Committee of the Minerals Management Advisory Board

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Secretary of the Department of the Interior (Department) has established a Royalty Policy Committee (Committee), on the Minerals Management Advisory Board, to provide advice on the Department's management of Federal and Indian minerals leases, revenues, and other minerals related policies.

Committee membership includes representatives from States, Indian Tribes and allottee organizations, minerals industry associations, the general public, and Federal departments. At this second meeting, the Committee will hear reports from the subcommittees on audit; appeals,

settlements, and alternative dispute resolution; royalty reporting and production accounting. The Committee will also discuss the work being done by the five other subcommittees.

DATES: The meeting will be held on: Tuesday, June 4, 1996, 8:30 a.m. to 5:00 p.m. and Wednesday, June 5, 1996, 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at the Denver Marriott Southeast, 6363 East Hampden Avenue, Denver, Colorado 80222, Telephone (303) 758–7000.

FOR FURTHER INFORMATION CONTACT: Mr. Clare Onstad, Senior Technical Advisor to the Associate Director for Royalty Management, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS–3000, Denver, Colorado 80225–0165, courier delivery to Building 85, Room A–212, Denver Federal Center, Denver, Colorado, 80225, telephone number (303) 231–3827, fax number (303) 231–3780.

SUPPLEMENTARY INFORMATION: The location and dates of future meetings will be published in the **Federal Register**.

The meeting will be open to the public without advanced registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits, and file written statements with the Committee for its consideration.

Written statements should be submitted to the address listed above. Minutes of Committee meetings will be available for public inspection and copying 10 days following each meeting at the Royalty Management Program, Building 85, Denver Federal Center, West 6th Avenue and Kipling Street, Denver, Colorado.

Date May 7, 1996

Robert E. Brown,

Associate Director for Royalty Management

[FR Doc. 96–11854 Filed 5–10–96; 8:45 am]

BILLING CODE 4310–MR–P

National Park Service

Revised Draft Development Concept Plan/Environmental Impact Statement for South Side Denali, Alaska

AGENCY: National Park Service, Interior.

ACTION: Extension of the Public Comment Period for the Revised Draft Development Concept Plan/ Environmental Impact Statement for South Side Denali, Alaska.

SUMMARY: The National Park Service announces a 15-day extension of the public comment period for the Revised Draft Development Concept Plan/ Environmental Impact Statement (DCP/ EIS) for South Side Denali, Alaska, that was published in the **Federal Register** on March 25, 1996 (61 FR 12095–12096). The original comment period was through May 21, 1996. This extension is in response to comments received to date which requested additional time to review the DCP/EIS. An additional information meeting/ public hearing is also scheduled for the following date and location: May 15—Wasilla, MatSu Resort, 1850 Bogard Road. Information Meeting: 6:30 to 7:30 p.m. Hearing: 7:30 to 9:30 p.m.

DATES: Comments on the revised draft DCP/EIS must be received no later than June 5, 1996.

ADDRESSES: Comments on the revised draft DCP/EIS should be submitted to the Superintendent, Denali National Park and Preserve, Post Office Box 9, Denali Park, Alaska 99755. Copies of the Revised Draft South Side Denali DCP/ EIS are available by request from the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Nancy Swanton, Park Planner, Denali National Park and Preserve. Telephone: (907) 257–2651, FAX: (907) 257–2485 Email: Nancy__Swanton@nps.gov

Dated: May 3, 1996.

Marcia D. Blaszak,

Acting Field Director, Alaska Field Office.

[FR Doc. 96–11794 Filed 5–10–96; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Modified Consent Decree Pursuant To The Clean Water Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed First Modification of Consent Decree in *United States* versus *City of Macclenny, Florida and the State of Florida*, Civil Action No. 89–454–Civ–J–14 was lodged on April 30, 1996, with the United States District Court for the Middle District of Florida, Jacksonville Division. This Modified Consent Decree relates to a Consent Decree previously entered in this matter on July 18, 1989. The 1989 Consent Decree resolved the United States' claims alleging violations of the Clean Water Act, 33 U.S.C. 1251 *et seq.*, and its implementing regulations, and provided for stipulated penalties and injunctive relief.

The Modified Consent Decree obligates the City to construct a wastewater treatment facility (the "facility") to insure consistent compliance by the City with its NPDES Permit. The Modified Consent Decree sets forth a schedule to begin construction of the facility by August 1, 1996, complete construction of the facility by July 1, 1997, and achieve and maintain continuous compliance with all NPDES permit effluent limitations by September 1, 1997.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Modified Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *City of Macclenny, Florida, et al.*, DOJ Ref. #90–5–1–1–3206.

The proposed Modified Consent Decree may be examined at the Office of the United States Attorney, Middle District of Florida, 500 Zack Street, Rm. 400, Tampa 33602; Office of the U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365; and at the Consent Decree Library, 1120 G Street, N.W., Washington, D.C. 20005, 202–624–0892. A copy of the proposed Modified Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G. Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose check in the amount of $6.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–11800 Filed 5–10–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 C.F.R. § 50.7 and 42 U.S.C. 9622(d)(2), notice is hereby given that two proposed consent decrees in *United States* v. *Maryland Sand, Gravel, & Stone Company, et al.*, Civil Action No. HAR–89–2869, were lodged on April 22, 1996, with the United States District Court for the District of Maryland.

The complaint filed by the United States in October 1989 seeks to recover past, unreimbursed costs under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9607, incurred by the United States in connection with response actions taken at the Maryland Sand, Gravel and Stone Superfund Site ("Site") located in Elkton, Maryland. As part of its complaint, the United States sought recovery of costs from, *inter alia*, A&S Manufacturing Company, Schering Corporation and Westinghouse Electric. In turn, these parties sought contribution from, *inter alia*, E.R. Squibb & Sons and Martin Alexander.

The first consent decree is between the United States, A&S Manufacturing and Martin Alexander. This decree requires these parties to pay to the United States $105,000 in reimbursement of past response costs associated with Operable Units I and II of the Maryland Sand Site. The settlement is based on a demonstration by A&S Manufacturing of its inability to reimburse the United States for any additional response costs. Under the terms of the decree, the United States has specifically reserved its right to seek further relief from A&S and Alexander for any future claims not specifically addressed in the decree. The decree also contains a reopener provision that allows the United States and any party that has paid past response costs as defined in the decree to seek further reimbursement from A&S or Alexander should either of them obtain insurance coverage for such claims.

The second decree is between the United States, Schering Corporation, Westinghouse Electric Company, Inc., and E.R. Squibbs & Sons, Inc. Under the terms of this decree Schering Corporation will pay $1,942,084, Westinghouse will pay $577,916 and E.R. Squibb will pay $50,000 in reimbursement of the United States' response costs. Under the terms of the decree, the United States has specifically reserved its right to seek further relief from these parties for any future claims not specifically addressed in the decree.

The consent decrees include a covenant not to sue by the United States under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.* ("CERCLA"), and under Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6973 for past response costs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States* v. *Maryland Sand, Gravel & Stone Company, et al.*, DOJ Ref. *#90–11–2–225A*. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA.

The proposed consent decrees may be examined at the Office of the United States Attorney, District of Maryland, U.S. Courthouse, 101 Lombard Street, Baltimore, Md. 21201; Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pa.; and at the Consent Decree Library, 1120 "G" Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed decrees may be obtained in person or by mail from the Consent Decree Library at the address listed above. In requesting a copy, please refer to the referenced case and number, and enclose a check in the amount of $9.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Environmental Enforcement Section, Environment and Natural Resource Division.

[FR Doc. 96–11802 Filed 5–10–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act and Section 7003(D) of the Resource Conservation and Recovery Act

Notice is hereby given that a proposed Settlement Agreement and Stipulated Order for Abandonment in *In re Tonolli Corporation*, Civil Action No. 5–86–00065, was lodged on March 6, 1996 with the United States Bankruptcy Court for the Middle District of Pennsylvania. The action arises out of the Tonolli Corporation Superfund Site in Nesquehoning, Pennsylvania, and resolves a dispute between the United States and one of Tonolli's creditors, Meridian Bank/Meridian Bancorp ("Meridian"), regarding which party had a priority security interest in the Tonolli property. Under the terms of the settlement, Meridian is assigning to EPA its security interest in the property of the Tonolli estate, giving the United States a priority security interest in this property. In exchange, the United States covenants not to sue Meridian under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 *et seq.* and Section 7003 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6973. The proposed settlement also provides that Meridian will be entitled to contribution protection to the extent provided in Section 113(f)(2) of CERCLA, 42 U.S.C. 9613(f)(2).

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed settlement. If requested, the Department will also provide a public meeting in the affected area, pursuant to Section 7003(d) of RCRA, 42 U.S.C. 6973(d). Comments and requests should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *In re Tonolli Corporation*, DOJ Ref. 90–7–2–174C.

The proposed consent decree may be examined and copied at the Office of the United States Attorney, Middle District of Pennsylvania, Middle District of Pennsylvania, Federal Building, Suite 1162, 228 Walnut Street, Harrisburg, Pennsylvania 17108; the Region III Office of the Environmental Protection Agency, Office of Regional Counsel, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. A copy of the proposed settlement may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, 202–624–0892. In requesting a copy, please refer to the referenced case (*In re Tonolli Corp.*, DOJ Case No. 90–7–2–174C) and enclose a check in the amount of $3.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–11803 Filed 5–10–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant To The Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Young Refining Company*, Civil Action No. 1–96–CV–1002–JEC, was lodged on April 25, 1996, with the United States District Court for the Northern District of Georgia. The consent decree settles a claim brought under Section 107(a) of the Comprehensive Environmental

Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9607(a), for response costs incurred by the United States at the Basket Creek Drum Disposal site (the "Basket Creek site") in Douglasville, Georgia. Under the proposed consent decree, Young Refining will pay $51,000 to the United States in reimbursement of response costs incurred by the Environmental Protection Agency ("EPA") in connection with the Basket Creek site. Although the actual removal of hazardous substances from the Basket Creek Site was conducted by Chem-Nuclear Systems, Inc., EPA has incurred costs in excess of $475,000 in connection with the Basket Creek Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Young Refining Company*, DOJ Ref. #90–11–2–755.

The proposed consent decree may be examined at the office of the United States Attorney, Richard Russell Federal Building, Suite 1800, 75 Spring Street, S.W., Atlanta, Georgia 30335; the Region 4 Office of the Environmental Protection Agency, 345 Courtland Ave., N.E., Atlanta, Georgia 30307; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.25 (25 cents' per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–11801 Filed 5–10–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Proposed Termination of Judgment

Notice is hereby given that defendant, Southern Forest Products Association ("SFPA"), has filed with the United States District Court for the Eastern District of Louisiana a motion to terminate the Judgment in *United States* v. *Southern Pine Ass'n, et al.*, Civil Action No. 275, and that the Department of Justice ("Department"), in a stipulation also filed with the Court, has tentatively consented to termination of the Judgment but has reserved the right to withdraw its consent pending receipt of public comments. The complaint in this case (filed February 21, 1940) alleged that the Southern Pine Association ("SPA") and its lumber company members had fixed prices, curtailed output, enforced an agreed policy of distribution and excluded others from engaging in trade and commerce.

On February 21, 1940, a Judgment was entered against the SPA and its members which *inter alia* created the SOUTHERN PINE INSPECTION BUREAU ("SPIB") as a separate entity to perform lumber grading and standards activities. The Judgment also enjoined the defendants from carrying out statistical activities related to prices, limiting production, and attempting to control distribution. In 1969, the Judgment was amended to allow SPIB to incorporate in Louisiana as a non-profit corporation and in 1993 the Judgment was amended to make certain technical changes in the way SPIB conducts its business. In 1970, the name of the SPA became the SFPA.

The Department has filed with the court a memorandum setting forth the reasons why the Government believes that termination of the Judgment would serve the public interest. Copies of SFPA's motion papers, the stipulation containing the Government's consent, the Government's memorandum and all further papers filed with the court in connection with this motion will be available for inspection at the Legal Procedure Unit of the Antitrust Division, Room 215 North, Liberty Place, Washington, D.C. 20530, and at the Office of the Clerk of the United States District Court for the Eastern District of Louisiana, 500 Camp Street, New Orleans, Louisiana 70130. Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decree to the Government. Such comments must be received by the Division within sixty (60) days and will be filed with the court by the Government. Comments should be addressed to Christopher S. Crook, Acting Chief, San Francisco Office, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102 (Telephone: (415) 436–6660).

Rebecca P. Dick,

Deputy Director of Operations.

[FR Doc. 96–11797 Filed 5–10–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984—Enterprise Computer Telephony Forum

Notice is hereby given that, on February 20, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Enterprise Computer Telephony Forum ("ECTF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Analogic Corporation, Peabody, MA; Amteva, Glen Allen, VA; Apple Computers, Cupertino, CA; Aspect Telecommunications, San Jose, CA; AT&T Network Systems, Glen Allen, VA; Bellcore, Red Bank, NJ; Brooktrout Technology, Needham, MA; Centrigram Communications, San Jose, CA; Cintech Tele-Management Database Network Services, Cincinnati, OH; CSETL, Torino, ITALY; Database Network Systems, Minnetonka, MN; Dialogic Corporation, Parsippany, NJ; Dinatel Corporation, San Jose, CA; Digital Equipment Corporation, Merrimack, NJ; Ericsson Business Networks AB, Stockholm, SWEDEN; Fujitsu Limited, Kawasaki, JAPAN; Hewlett-Packard Company, Cupertino, CA; IBM Corporation, San Jose, CA; InterVoice, Dallas, TX; Mitel Corporation, Kanata, CANADA; Motorola, Inc., Schaumburg, IL; Natural MicroSystems Corp., Natick, MA; Networks Unlimited AG, Dusseldorf, GERMANY; Nortel, Nashville, TN; Novell, Inc., San Jose, CA; Periphonics, Bohemia, NY; Rockwell International, Downers Grove, IL; Siemens AG, Munich, GERMANY; Unimax, Minneapolis, MN; and Voicetek Corporation, Howell, NJ.

ECTF is a California nonprofit mutual benefit membership corporation which has been established to conduct joint research and development in the area of interoperable implementation specifications in the field of computer telephony integration (CTI). ECTF is dedicated to promoting the acceptance and implementation of CTI Technology based on national and international standards.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–11798 Filed 5–10–96; 8:45 am]

BILLING CODE 4410–01–M

MERIT SYSTEMS PROTECTION BOARD

Notice of Toll Free Information Line

AGENCY: Merit Systems Protection Board.

ACTION: The Merit Systems Protection Board announces it toll free information line.

SUMMARY: The U.S. Merit Systems Protection Board (MSPB) has installed a toll free information line for customers to check on the status of their appeals, request copies of Board studies and publications, and receive general information. MSPB customers—Federal employees, agencies, and the general public—will hear a recorded announcement that will guide them through menu selections to route their requests to the appropriate MSPB office mailbox. Calls will be returned promptly or requests will be satisfied appropriately. The toll free number is 1–800–209–8960.

FOR FURTHER INFORMATION CONTACT: Patricia Ealey, Office of the Clerk of the Board (202) 653–7200.

Dated: May 7, 1996.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 96–11813 Filed 5–10–96; 8:45 am]

BILLING CODE 7400–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 96–049]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee.

DATES: June 11, 1996, 8:30 a.m. to 5:00 p.m.; and June 12, 1996, 8:30 a.m. to 11:45 a.m.

ADDRESSES: National Aeronautics and Space Administration, Room 7H46, 300 E Street, S.W., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Mary-Ellen McGrath, Office of Aeronautics, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–4729).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Aeronautics Overview
—University Strategy Update
—Affordable Design and Manufacturing (ADAM) Activities
—Subcommitte Reports
—Subcommittee Restructuring
—Update on Current Alliances
—Overview of X31 Program Results
—Wind Tunnel Briefing
—NASA Aeronautics Home Page

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: May 7, 1996.

Leslie M. Nolan,

Advisory Committee Management Officer.

[FR Doc. 96–11856 Filed 5–10–96; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–440]

The Cleveland Electric Illuminating Company, Et Al.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of The Cleveland Electric Illuminating Company, et al. (the licensee) to withdraw its June 18, 1993, application for proposed amendment to Facility Operating License No. NPF–58 for the Perry Nuclear Power Plant, Unit No. 1, located in Lake County, Ohio.

The proposed amendment would have modified the facility technical specifications pertaining to Figure 5.1.1–1, "Exclusion Area, Unrestricted Area for Liquid Effluents and Site Boundary for Gaseous Effluents."

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on September 15, 1993 (58 FR 48389). However, by letter dated April 26, 1996, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated June 18, 1993, and the licensee's letter dated April 26, 1996, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, Ohio.

Dated at Rockville, Maryland, this 7th day of May 1996.

For the Nuclear Regulatory Commission.

Jon B. Hopkins,

Project Manager, Project Directorate III–3, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–11877 Filed 5–10–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No.: 040–08974]

Consideration of Amendment Request for Decommissioning the Molycorp, Inc., Facility in York, Pennsylvania, and Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of consideration of amendment request for decommissioning the Molycorp, Inc., facility in York, Pennsylvania, and opportunity for a hearing.

The U.S. Nuclear Regulatory Commission is considering issuance of a license amendment to Source Material License No. SMB–1408, issued to Molycorp, Inc. (the licensee), to authorize decommissioning of its former rare earth processing facility in York, Pennsylvania.

The licensee submitted the site decommissioning plan (SDP) to NRC for review on August 14, 1995. Radioactive contamination at the licensee's York facility consists of soils containing thorium-228 and uranium-238 with a volume of approximately 90,000 cubic feet that resulted from operations to recover rare earth metals from ore. These operations were conducted from April 1962 to August 1991.

The NRC will require the licensee to remediate the York facility to meet NRC's decommissioning criteria, and during the decommissioning activities, to maintain effluents and doses within NRC requirements and as low as reasonably achievable.

Prior to approving the decommissioning plan, NRC will have made findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation

Report and an Environmental Assessment. Approval of the SDP will be documented in an amendment to NRC License No. SMB–1408.

The NRC hereby provides notice that this is a proceeding on an application for amendment of a license falling within the scope of Subpart L "Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings," of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(c). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Docketing and Service Branch of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738; or

2. By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

In accordance with 10 CFR § 2.1205(e), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Molycorp Incorporated, 350 North Sherman Street, York, Pennsylvania 17403, Attention: Ms. Barbara Dankmyer; and

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For further details with respect to this action, the site decommissioning plan is available for inspection at the NRC's Public Document Room, 2120 L Street N.W., Washington, DC 20555.

Dated at Rockville, Maryland, this 6th day of May, 1996.

For the Nuclear Regulatory Commission.

Robert A. Nelson,

Acting Chief, Low-Level Waste and Decommissioning, Projects Branch, Division of Waste Management, Office of Nuclear Material Safety, and Safeguards.

[FR Doc. 96–11876 Filed 5–10–96; 8:45 am]

BILLING CODE 7590–01–P

NRC Bulletin 96–03, Potential Plugging of Emergency Core Cooling Suction Strainers by Debris in Boiling-Water Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued Bulletin 96–03 to request boiling-water reactor (BWR) licensees to implement measures to ensure the capability of the emergency core cooling system (ECCS) to perform its safety function following a loss-of-coolant accident (LOCA), and require that BWR licensees report to the NRC whether and to what extent the requested actions will be taken and to notify the NRC when the actions associated with the bulletin are complete. This bulletin is available in the NRC Public Document Room under accession number 9605020119. This bulletin is discussed in Commission information paper SECY–96–087 which is also available in the NRC Public Document Room.

DATES: The bulletin was issued on May 6, 1996.

ADDRESSES: Not applicable.

FOR FURTHER INFORMATION CONTACT: Robert B. Elliott, (301) 415–1397 or Internet: rbe@nrc.gov, or M. David Lynch, (301) 415–3023 or Internet: mdl@nrc.gov.

SUPPLEMENTARY INFORMATION: The NRC issued this bulletin to request BWR licensees to implement appropriate procedural measures and plant modifications to minimize the potential for clogging of ECCS suppression pool suction strainers by debris generated during a LOCA. The NRC has identified three potential resolution options, which include (1) the installation of a large capacity passive strainer design, (2) the installation of a self-cleaning strainer, and (3) the installation of a backflush system. However, licensees may propose an alternative course of action provided it offers an equivalent level of assurance that the ECCS will be able to perform its safety function following a LOCA. The actions requested by this bulletin are considered backfits in accordance with NRC procedures and are necessary to ensure compliance with existing NRC rules and regulations. In particular, Section 50.46 of Title 10 of the *Code of Federal Regulations* (10 CFR 50.46) requires that adequate ECCS flow be provided to maintain the core temperature at an acceptably low value and to remove decay heat for the extended period of time required by the long-lived radioactivity remaining in the core following a design basis accident. Therefore, this bulletin was issued as a compliance backfit under the terms of 10 CFR 50.109(a)(4)(i).

Dated at Rockville, Maryland, this 7th day of May, 1996.

For the Nuclear Regulatory Commission.

Brian K. Grimes,

Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 96–11875 Filed 5–10–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection; OPM 2809–EZ1

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management intends to submit to the Office of Management and Budget a request for clearance of a revised information collection. OPM 2809–EZ1, Enrollment Change and Brochure Request, is used only at Open Season to request an enrollment change, insurance plan brochures, and other informational materials. If OPM Form 2809–EZ1 is used to request plan brochures, an OPM Form 2809-EZ2 is furnished to the enrollee for use if a plan change is desired.

Approximately 74,200 OPM Forms 2809–EZ1 are completed annually. Each form requires approximately 30 minutes to complete. The annual burden is 37,100 hours.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@mail.opm.gov

DATES: Comments on this proposal should be received on or before July 12, 1996.

ADDRESSES: Send or deliver comments to—Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, room 3349, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–11866 Filed 5–10–96; 8:45 am]

BILLING CODE 6325–01–M

Proposed Collection; Comment Request for Review of a Revised Information Collection; OPM 2809–EZ2

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management intends to submit to the Office of Management and Budget a request for clearance of a revised information collection. OPM 2809–EZ2, Open Season Health Benefits Enrollment Change, is used by annuitants only at Open Season to elect a change in health benefits coverage.

Approximately 35,345 OPM Forms 2809–EZ2 are completed annually. Each form requires approximately 30 minutes to complete. The annual burden is 17,672 hours.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-Mail to jmfarron@mail.opm.gov

DATES: Comments on this proposal should be received on or before July 12, 1996.

ADDRESSES: Send or deliver comments to—Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW., room 3349, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–11867 Filed 5–10–96; 8:45 am]

BILLING CODE 6325–01–M

Proposed Collection; Comment Request; Review of a Revised Information Collection; RI 25–007

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management will be submitting to the Office of Management and Budget a request for clearance of a revised information collection. RI 25–007, Marital Status Certification, is used to survey surviving spouses to see if they have remarried before age 55. If they have remarried, their survivor annuity is terminated. Beginning with the 1996 information collection, only survivor annuitants who have remarried before age 55 are required to respond. Previously, all survivor annuitants were required to respond each year.

We estimate 350 forms are completed annually. Each form takes approximately 15 minutes to complete. The annual estimated burden is 87.5 hours, a reduction of 11,162.5 hours.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@mail.opm.gov

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Victor C. Roy, Chief, Eligibility Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, room 2342, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–11868 Filed 5–10–96; 8:45 am]

BILLING CODE 6325–01–M

Submission for OMB Review; Comment Request for Review of an Expiring Information Collection; RI 78–11

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management will submit to the Office of Management and Budget a request for a clearance of an expiring information collection. RI 78–11, Medicare Part B Certification, is used to determine eligibility for a Government contribution toward the cost of Medicare Part B if enrolled in the Retired Federal Employees Health Benefits Program.

We estimate 300 RI 78–11 forms are completed annually. Each form takes approximately 10 minutes to complete for an annual estimated burden of 50 hours.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-Mail to jmfarronmail.opm.gov

DATES: Comments on this proposal should be received on or before June 12, 1996.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, 1900 E Street, NW, room 3349, Washington, DC 20415–0001, and

Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Team Leader, Management Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–11865 Filed 5–10–96; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF STATE

[Public Notice No. 2376]

Overseas Schools Advisory Council; Notice of Meeting

The Overseas Schools Advisory Council, Department of State, will hold its Annual Meeting on Thursday, June 20, 1996 at 9:30 a.m. in Conference Room 1406, Department of State Building, 2201 C Street, NW., Washington, DC. The meeting is open to the public.

The Overseas Schools Advisory Council works closely with the U.S. business community in improving those American-sponsored schools overseas which are assisted by the Department of State and which are attended by dependents of U.S. government families

and children of employees of U.S. corporations and foundations abroad.

This meeting will deal with issues related to the work and the support provided by the Overseas Schools Advisory Council to the American-sponsored overseas schools.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. Access to the State Department is controlled and individual building passes are required for each attendee. Persons who plan to attend should so advise the office of Dr. Ernest N. Mannino, Department of State, Office of Overseas Schools, SA–29, room 245, Washington, DC 20522–2902, telephone 703–875–7800, prior to May 31, 1996. Visitors will be asked to provide their date of birth and Social Security number at the time they register their intention to attend and must carry a valid photo ID with them to the meeting. All attendees must use the C Street entrance to the building.

Dated: April 30, 1996.

Ernest N. Mannino,

Executive Secretary, Overseas Schools Advisory Council.

[FR Doc. 96–11843 Filed 5–10–96; 8:45 am]

BILLING CODE 4710–24–M

[Public Notice No. 2384]

Advisory Committee on Private International Law; Meeting of Study Group on Electronic Commerce

The Study Group on Electronic Commerce will hold its next meeting from 1:00–5:00 p.m. on Tuesday, May 21 in Washington, DC at the International Law Institute. The meeting will review proposed general rules on use of computer and related electronic messaging in international commercial transactions, which are expected to be finalized at the upcoming Plenary session of the United Nations Commission on International Trade Law (UNCITRAL) in June, and to discuss U.S. positions as to future work on electronic commerce which will also be considered at that session.

The meeting of the Advisory Committee Study group is open to the public, and members of the public who cannot attend are welcome to comment on the proposed rules for electronic commerce and the future work program. The proposed rules are currently in the form of a model national law. The principal background documents, which are available from the Office of the Legal Adviser at the address indicated below, include (1) the report by UNCITRAL on its 28th plenary session held in May 1995, which considered and revised certain of the proposed rules, UN Doc. A/50/Supp. 17; (2) The report of the UNCITRAL Working Group on Electronic Data Interchange (EDI), which met during February–March, 1996, and which considered new draft rules on transport documents, primarily electronic maritime bills of lading, as well as proposals for future work, UN Doc. A/CN.9/421; and (3) a draft "guide to enactment" of the UNCITRAL model law, UN Doc. A/CN.9/426, April 1996, which will also be considered by the Commission at the June plenary session.

The proposed rules will apply to commercial activities, and will include *inter alia* legal recognition of data messages; electronic equivalents of "writing", "signature", and "original"; admissibility and evidential weight; obligation to retain; attribution; acknowledgement; time and place of dispatch and receipt; formation and validity of contracts; electronic maritime bills of lading, and other matters. The rules will not apply to consumer transactions.

The March 1996 Working Group recommended that future work include digital signatures, electronic registries and consideration of rules applicable to information service providers. U.S. positions on those recommendations will be considered at the May 21st Study Group meeting; recommendations for alternate future work topics can also be considered.

The International Law Institute (ILI) is located at 1615 New Hampshire Avenue, NW. Members of the public may attend up to the capacity of the meeting room and subject to direction of the Chair. Persons planning to attend should advise the Office of the Legal Adviser or the Institute in advance. Requests for attendance or background documents can be made to the Office of the Legal Adviser (L/PIL) by fax to (202) 776–8482 or by mail to Suite 203, South Building, 2430 E Street, NW., Washington, DC 20037–2800, Attention: Harold S. Burman. Questions concerning meeting arrangements should be directed to ILI Executive Director, Stuart Kerr, (202) 483–8036.

Dated: May 6, 1996.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law.

[FR Doc. 96–11831 Filed 5–10–96; 8:45 am]

BILLING CODE 4710–08–M

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority (Meeting No. 1484).

TIME AND DATE: 10 a.m. (CDT), May 15, 1996.

PLACE: TVA Customer Service Center, 310 Research Boulevard, Starkville, Mississippi.

STATUS: Open.

Agenda

Approval of minutes of meeting held on April 24, 1996.

New Business

C—Energy

C1. Delegation of authority to the Vice President, Fuel Supply and Engineering, to award six 6-year (maximum term) coal contracts under Requisition 33, and one rail transportation contract for up to 10 years for coal supply to Colbert, Johnsonville, and Widows Creek Fossil Plants.

C2. Delegation of authority to the Vice President, Fuel Supply and Engineering, to award Ingram Barge Company a 10-year contract under Requisition 33 for coal barge transportation to Gallatin, Cumberland, Johnsonville, Colbert, and Widows Creek Fossil Plants.

E—Real Property Transactions

E1. Grant of permanent easements to the city of Fort Payne, Alabama, affecting approximately 9.65 acres of land on Guntersville Lake in Jackson County, Alabama (Tract No. XTGR–162E), for a raw water pump station and water line.

E2. Grant of permanent easements to the Sevier Water Board, Inc., affecting approximately 2.604 acres of land on Douglas Lake in Sevier County, Tennessee (Tract No. XTDR–32E), for a water intake site, transfer pump station, water line, and access road.

E3. Sale of 30-year easement to Vanguard Services affecting 9.64 acres of land on Kentucky Lake in Humphreys County, Tennessee (Tract No. XGIR–925BT), for a barge terminal.

Information Items

1. Filing of condemnation cases.
2. Delegation of authority to the Chief Financial Officer or the Vice President and Treasurer to enter into contracts for the sale, purchase, or loan of sulfur dioxide emission allowances.

For more information: Please call TVA Public Relations at (423) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: May 8, 1996.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 96–11993 Filed 5–9–96; 3:50 pm]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending 5/3/96

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–96–1321.
Date filed: April 29, 1996.
Parties: Members of the International Air Transport Association.
Subject: COMP Telex Mail Vote 800. Amend Rounding Units—Mexico. Intended effective date: June 1, 1996.

Docket Number: OST–96–1322.
Date filed: April 29, 1996.
Parties: Members of the International Air Transport Association.
Subject: TC31 Telex Mail Vote 799. Reso 010m—San Francisco-Hong Kong fare alignment. Intended effective date: June 1, 1996.

Docket Number: OST–96–1323.
Date filed: April 29, 1996.
Parties: Members of the International Air Transport Association.
Subject: TC31 Telex Mail Vote 801. Japan-North America/Caribbean fares, r–1– 074r r–3– 091p, r–2– 085tt r–4– 010c. Intended effective date: May 20, 1996.

Docket Number: OST–96–1324.
Date filed: April 29, 1996.
Parties: Members of the International Air Transport Association.
Subject: TC12 Reso/P 1743 dated April 26, 1996; TC12 Reso/P 1744 dated April 26, 1996. Mid Atlantic-Europe/Middle East Expedited Resos.

Docket Number: OST–96–1330.
Date filed: May 1, 1996.
Parties: Members of the International Air Transport Association.
Subject: COMP Reso 024f. Local Currency Fare Changes—Botswana. Intended effective date: June 1, 1996.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–11884 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending May 3, 1996

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–96–1334.
Date filed: May 2, 1996.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 30, 1996.
Description: Application of Arriva Air International, Inc., pursuant to 49 U.S.C. 41102, and Subpart Q of the Regulations, for issuance of a certificate of public convenience and necessity so as to authorize Arriva Air to provide on-demand charter interstate air transportation of property and mail between various points in the United States.

Docket Number: OST–96–1337.
Date filed: May 2, 1996.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 30, 1996.
Description: Application of Tatonduk Outfitters Ltd. d/b/a Tatonduk Flying Service d/b/a Air Cargo Express, pursuant to 49 U.S.C. 41101 and Subpart Q of the Regulations, for amendment of its certificate of public convenience and necessity in two respects: (a) deletion of condition (3), which limits Tatonduk to operations within the State of Alaska; and (b) that portion of condition (4), which prohibits Tatonduk from conducting cargo operations with more than two "Large" Aircraft without first having its fitness to conduct such operations redetermined.

Docket Number: OST–96–1339.
Date filed: May 2, 1996.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 30, 1996.
Description: Application of World Airways, Inc., pursuant to the Department's Notice, and 49 U.S.C. 41102, requests certificate authority and allocation of two additional frequencies to conduct scheduled combination services between New York and Johannesburg.

Docket Number: OST–96–1344.
Date filed: May 3, 1996.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 31, 1996.
Description: Application of Transwede Airways AB and Transwede Leisure AB, pursuant to 49 U.S.C. 41303 and 41304 and Subpart Q of the Regulations, requests transfer of the Foreign Air Carrier Permit held by Transwede to Transwede Leisure.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–11885 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on General Aviation Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss general aviation operations issues.

DATES: The meeting will be held on May 22, 1996, at 2:00 p.m.

ADDRESSES: The meeting will be held at the Federal Aviation Administration's Office of Rulemaking Conference Room, room 302, 800 Independence Ave., NW., Washington, DC, 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Williams, Office of Rulemaking, (ARM–100), 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–9685.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on May 22, 1996, at Federal Aviation Administration's Office of Rulemaking, 800 Independence Ave., NW., Washington, DC. The agenda for this meeting will include a discussion of the FAA's study on manipulation of the controls of an aircraft by noncertificated persons. Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

Issued in Washington, DC, on May 7, 1996.

Steven J. Brown,

Assistant Executive Director for General Aviation Operations, Aviation Rulemaking Advisory Committee.

[FR Doc. 96–11930 Filed 5–8–96; 2:28 pm]

BILLING CODE 4910–13–M

Federal Aviation Administration

Research, Engineering and Development Advisory Committee; Meeting

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the FAA Research, Engineering and Development Advisory Committee. The meeting will be held on June 5 and 6, 1996, at the Maritime Institute of Technology and Graduate Studies, 5700 Hammonds Ferry Road, Linthicum Heights, MD 21090.

On Tuesday, June 5 the meeting will begin at 9:00 a.m. and end at 5:00 p.m. On Wednesday, June 6 the meeting will begin at 8:00 a.m. and end at 5:00 p.m. The meeting agenda will review the Federal Aviation Administration's research and development investments.

Attendance is open to the interested public but limited to space available. With the approval of the Committee Chair, members of the public may present oral statements at the meeting. Persons wishing to attend the meeting, obtain information or present oral statements, should contact Lee Olson at the Federal Aviation Administration, AAR–200, 800 Independence Avenue, SW, Washington, DC 20591 (202) 267–7358.

Members of the public may present a written statement to the Committee at any time.

Issued in Washington, DC on May 2, 1996.

Andres G. Zellweger,

Director, Aviation Research.

[FR Doc. 96–11933 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In April 1996, there were nine applications approved. Additionally, five approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of 49 U.S.C. 40117 (Pub. L. 103–272) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Metropolitan Nashville Airport Authority, Nashville, Tennessee.

Application Number: 96–02–U–00–BNA.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total Net PFC Revenue: $87,194,200

Charge Effective Date: January 1, 1993.

Estimated Charge Expiration Date: October 1, 1999.

Class of Air Carriers not Required to Collect PFC's: No change from previous approval.

Brief Description of Projects Approved for Use: International arrivals building, Construct concourse connector.

Decision Date: April 3, 1996.

FOR FURTHER INFORMATION CONTACT: Charles L. Harris, Memphis Airports District Office, (901) 544–3495.

Public Agency: City of Pueblo, Colorado.

Application Number: 96–02–C–00–PUB.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in this Application: $230,946

Estimated Charge Effective Date: September 1, 1999.

Estimated Charge Expiration Date: May 1, 2009.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved for Concurrent Authority to Impose and Use: Airport planning studies, Rehabilitate taxiway A, Extend taxiway K—phase I, Extend taxiway K—phase II.

Decision Date: April 11, 1996.

FOR FURTHER INFORMATION CONTACT: Chris Schaffer, Denver Airports District Office, (303) 286–5524.

Public Agency: Bureau of Aviation and Ports, State of Connecticut Department of Transportation, Windsor Locks, Connecticut.

Application Number: 96–04–C–00–BDL.

Application Type: Impose and use a PFC

PFC Level: $3.00.

Total Net PFC Revenue Approved in this Application: $2,995,000.

Estimated Charge Effective Date: July 1, 1996.

Estimated Charge Expiration Date: January 1, 1997.

Class of Air Carriers not Required to Collect PFC's: On-demand air taxi/commercial operators that (1) do not enplane or deplane passengers at the main terminal building; and, (2) enplane less than 500 passengers per year at Bradley International Airport (BDL).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at BDL.

Brief Description of Project Approved for Concurrent Authority to Impose and use: Bradely Airport equipment acquisition.

Decision Date: April 18, 1996.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Scott, New England Region Airports Division, (617) 238–7614.

Public Agency: Yakima Air Terminal Board, Yakima, Washington.

Application Number: 96–04–C–00–YKM.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in this Application: $432,000.

Estimated Charge Effective Date: July 1, 1996.

Estimated Charge Expiration Date: July 1, 1998.

Class of Air Carriers not Required to Collect PFC's: Air taxi/commerical operators operating aircraft with less than 10 seats.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Yakima Air Terminal.

Brief Description of Projects Approved for Collection and use: Snow removal equipment. Expand snow removal equipment storage facility, Terminal building renovation project—phase 2.

Decision Date: April 22, 1996.

FOR FURTHER INFORMATION CONTACT: Cayla Morgan, Seattle Airports District Office, (206) 227–2653.

Public Agency: City of Chicago, Department of Aviation, Chicago, Illinois.

Application Number: 96–04–C–00–ORD.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in this Application: $1,450,000.

Estimated Charge Effective Date: May 1, 1999.

Estimated Charge Expiration Date: June 1, 1999.

Class of Air Carriers not Required to Collect PFC's: Air taxi operators.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Chicago O'Hare International Airport.

Brief Description of Projects Approved for Collection at Chicago O'Hare International Airport and Use at Gary Regional Airport: West air cargo area site work, Apron deicing facility, East T-hangar area site work, Perimeter fencing.

Brief Description of Disapproved Project: Fixed base operator apron overlay/expansion.

Determination: Disapproved. The City of Chicago requested PFC funds for the local match share of a proposed Airport Improvement Program (AIP) discretionary fund grant. The FAA cannot commit to AIP discretionary funding for this project at this time. Further, in preparing the impose and use PFC application, the City of Chicago did not provide an alternative funding plan for the project. Therefore, the FAA is unable to determine that excess PFC revenue will not be collected if this project is approved and the approved project is not implemented.

Decision Date: April 24, 1996.

FOR FURTHER INFORMATION CONTACT: Louis H. Yates, Chicago Airports District Office, (847) 294–7335.

Public Agency: Springfield Airport Authority, Springfield, Illinois.

Application Number: 96–06–U–00–SPI.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total Net PFC Revenue Approved: $4,508,030.

Charge Effective Date: February 1, 1994.

Estimated Charge Expiration Date: February 1, 2006.

Class of Air Carriers not Required to Collect PFC's: No change from previous approvals.

Brief Description of Projects Approved for use: Install instrument landing system on runway 31, Parallel taxiway for runway 31.

Decision Date: April 25, 1996.

FOR FURTHER INFORMATION CONTACT: Philip M. Smithmeyer, Chicago Airports District Office, (847) 294–7435.

Public Agency: Virgin Islands Port Authority, St. Thomas, Virgin Islands.

Application Number: 96–04–U–00–STT.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $3,871,005.

Charge Effective Date: March 1, 1993.

Charge Expiration Date: February 1, 1995.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Project Approved for Use: Aircraft rescue and firefighting (ARFF) facility (building).

Decision Date: April 25, 1996.

FOR FURTHER INFORMATION CONTACT: Pablo G. Affuant, Orlando Airports District Office, (407) 648–6582.

Public Agency: Sacramento County Department of Airports, Sacramento, California.

Application Number: 96–04–C–00–SMF.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in this Application: $96,224,000.

Estimated Charge Effective Date: March 1, 1997.

Estimated Charge Expiration Date: April 1, 2006.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: Terminal roads phase 1, Aircraft apron expansion, Terminal roads phase 2A, Terminal roads phase 2B, Rehabilitate existing roads.

Decision Date: April 26, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph R. Rodriguez, San Francisco Airports District Office, (415) 876–2805.

Public Agency: Sacramento County Department of Airports, Sacramento, California.

Application Number: 96–05–C–00–SMF.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in this Application: $62,823,190.

Estimated Charge Effective Date: April 1, 2006.

Estimated Charge Expiration Date: February 1, 2011.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: Sacramento area flood control agency flood control project, Terminal roadway island widening, General aviation apron airside access road, Earhart Driver reconstruction, Terminals 1 and 2 rehabilitation, phase 3, Security system upgrade, Airfield, terminal, tower communication system—telephone switch, ARFF vehicles replacement, Surface movement guidance control system, Concourse throat expansion, West terminals jet loaders, phase 2, Aircraft noise monitoring system, Master plan update and environmental impact assessment report, Part 150 study.

Brief Description of Projects Partially Approved for Collection and Use: Terminals 1, 2, and 3, central public services building, and administration building electrical system reconstruction/upgrade phase 2.

Determination: In accordance with paragraph 551(d) of FAA Order 5100.38A, revenue producing and non public-use space such as concessions in the terminals and the central public service and administration buildings in their entirety are not AIP eligible, thus making utilities which serve those areas ineligible. In phase 1 of this project, partially approved in the 95–02–C–00–SMF Record of Decision, the public agency determined and the FAA concurred, that approximately 49 percent of the project served ineligible areas. The public agency did not provide a new proration with submission of this project, therefore, the FAA has used the same ratio of eligible to ineligible areas as was used on Phase 1 of the project. The public agency has requested 100 percent PFC funding for this project. The FAA's approval reduced the approved amount to the prorated cost of the eligible portion of the project. Reconstruct electrical vault and construct east electrical vault.

Determination: In accordance with paragraph 551(d) of FAA Order 5100.38A, revenue producing and non public-use space such as concessions in the terminals, rental car facilities, as well as airport and airline administrative spaces are not AIP eligible, thus making utilities which serve those areas ineligible. Only that portion of this project which relates to eligible facilities is eligible. In the 95–02–C–00–SMF Record of Decision, the public agency determined and the FAA concurred, that, for a project involving the electrical vault, approximately 52 percent of the project served ineligible areas. The public agency did not provide a new proration with submission of this project which involves work similar to the previous approval, therefore, the FAA has used the same ratio of eligible to ineligible areas as was used on the previous project. The public agency has requested 100 percent PFC funding for this project. The FAA's approval reduced the approved amount to the prorated cost of the eligible portion of the project.

Brief Description of Disapproved Projects: Air quality mitigation compress natural gas (CNG) system.

Determination: Disapproved. Based on information available to the FAA, the FAA has determined that the CNG fueling station is a part of the Air Quality certificate to permit the Sacramento Metropolitan Airport to increase the number of terminal vehicular parking spaces, not for the 1985 runway project, as presented by the public agency in their Attachment B for this project. In addition, the project was not identified as a mitigation action at the time the environmental finding was approved for the runway project. Therefore, this project must be considered as a project to comply with Clean Air Act mandates. Section 203 of the Federal Aviation Administration Authorization Act of 1994, Public Law No. 103–305 (August 23, 1994) (49 U.S.C. 40017(a)(3)(F)), expanded PFC eligibility to include Federal clean air mandate projects imposed on an airport. However, this same legislation limited PFC eligibility to only airside, that is, aircraft movement area, clean air act mandate projects unless the project was also included in an AIP grant. This proposed project is not considered an airside project and the proposed financial plan shows only PFC funding. Therefore, the project is not PFC eligible. Airfield support shops and facilities.

Determination: Disapproved. The justification provided by the public agency for this project in the Attachment B indicates that these facilities will support the airfield operations and maintenance, buildings, and equipment. In a March 13, 1996, letter to the FAA, the public agency clarifies that these facilities are not intended to support ARFF or airfield lighting requirements. The FAA has determined that these facilities will support maintenance and operations functions at the airport. This project, therefore, is not AIP eligible in accordance with Appendix 2, item 11, of FAA Order 5100.38A, AIP Handbook. Therefore, this project does not meet the requirements of § 158.15(b). Airfield drainage control equipment—backhoe.

Determination: Disapproved. This equipment is considered a maintenance item and, as such, does not qualify as eligible safety, security, or support equipment as defined by paragraphs 562, 563, 565, and 566 of FAA Order 5100.38A, AIP Handbook. Therefore, this project does not meet the requirements of § 158.15(b). Airfield sweeper.

Determination: Disapproved. This equipment is intended for use at another airport the public agency owns, Sacramento Mather Airport, not Sacramento Metropolitan Airport; however, information provided to the carriers during consultation as well as the discussion of the project in the airline consultation meeting makes no mention that this sweeper is intended for use at an airport other than the airport where the PFC is being imposed. Therefore, the FAA has determined that the consultation for this project was not adequate.

Decision Date: April 26, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph R. Rodriguez, San Francisco Airports District Office, (415) 876–2805.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Amended approved net PFC revenue	Previous approved net PFC revenue	Previous estimated charge exp. date	Amended estimated charge exp. date
94–01–C–01–FOD, Fort Dodge, IA.	03/25/96	$150,622	$157,221	4/01/00	4/01/00
94–01–C–01–BOI, Boise, ID.	04/03/96	9,651,628	6,857,774	10/01/98	11/01/97
93–01–C–01–EUG, Eugene, OR.	04/03/96	4,629,888	3,729,599	11/01/98	11/01/98
95–01–C–01–ABY, Albany, GA.	04/04/96	307,301	457,301	10/01/99	5/01/98
93–01–C–01–NGM, Agana, GU	4/29/96	258,408,107	258,408,107	7/01/21	7/01/21

Issued in Washington, D.C. on May 6, 1996.

Donna P. Taylor,

Manager, Passenger Facility Charge Branch.

[FR Doc. 96–11934 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–13–M

Maritime Administration

[Docket No. M–015; OMB No: 2133–0024]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before July 12, 1996.

FOR FURTHER INFORMATION CONTACT: Michael P. Ferris, Director Office of Costs and Rates, Maritime Administration, MAR–560, Room 8117, 400 Seventh Street, S.W., Washington, D.C. 20590. Telephone 202–366–2324 or fax 202–366–7901. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Subsidy Voucher - Operating - Differential Subsidy (Bulk & Liner Cargo Vessels).

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0024.

Form Number: MA–790, SF–1034 and supporting schedules.

Expiration Date of Approval: June 30, 1996.

Summary of Collection of Information: The information collected is the costs and manning complement of bulk and liner cargo vessels engaged in carrying commodities in worldwide services and covered by an Operating-Differential Subsidy Agreement (ODS) in accordance with Title VI of the Merchant Marine Act, 1936, as amended (Act).

Need and Use of the Information: The information is utilized by MARAD examiners to determine subsidy payable for voyages performed in accordance with ODS agreements.

Description of Respondents: Bulk and liner vessel operators of vessels covered by an ODS agreement under the Act.

Annual Responses: 320.

Annual Burden: 640 hours.

Comments: Send all comments regarding this information collection to Joel C. Richard, Department of Transportation, Maritime Administration, MAR–120, Room 7210, 400 Seventh Street, S.W., Washington, D.C. 20590. Send comments regarding whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected.

By Order of the Maritime Administrator.

Dated: May 8, 1996.

Joel C. Richard,

Secretary.

[FR Doc. 96–11883 Filed 5–10–96; 8:45 am]

BILLING CODE 4910–81–P

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Corrections

Federal Register
Vol. 61, No. 93
Monday, May 13, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

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37 CFR Ch. II

[Docket No. 96-2]

Eligibility for the Cable Compulsory License

Correction

In proposed rule document 96–11226 beginning on page 20197 in the issue of Monday, May 6, 1996, make the following correction:

On page 20197, in the second column, in the **DATES** section, in the third line, "June 5, 1996" should read "August 5, 1996".

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-37138; File No. SR-Amex-96-14]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Exchange Board of Governors

Correction

In notice document 96–10493 beginning on page 18765 in the issue of Monday, April 29, 1996, make the following correction:

On page 18766, in the third column, the signature was omitted and should be inserted before the FR Doc. line as follows:

Margaret H. McFarland,

Deputy Secretary.

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-36960; File No. SR-OCC-95-20]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to the Issuance, Clearance, and Settlement of Buy-Write Options Unitary Derivatives

Correction

In notice document 96–6643 beginning on page 11458 in the issue of Wednesday, March 20, 1996, make the following correction:

On page 11461, in the third column, the signature should read "**Margaret H. McFarland,**".

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-36976; File No. SR-Phlx-96-07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc.; To Adopt a Market Index Option Hedge Exemption

March 14, 1996.

Correction

In notice document 96–6764 beginning on page 11668 in the issue of Thursday, March 21, 1996, the subject heading and date should have appeared as set forth above.

BILLING CODE 1505–01–D

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1995. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1995. The CFR volume issued July 1, 1991, should be retained.

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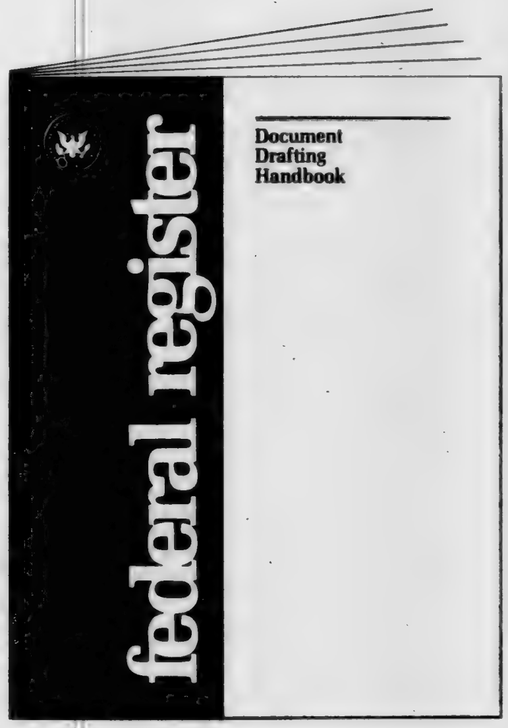
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Unified Agenda of Federal Regulatory and Deregulatory Actions

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EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

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This Unified Agenda of Federal Regulatory and Deregulatory Actions is the 35th edition of a document describing regulations that executive and independent agencies are currently developing. These documents have been required by various laws and executive orders since 1978, and have been published twice a year since 1983. Presidents Carter, Reagan, Bush, and Clinton all have supported these efforts.

Over the years, these "agendas" have given those affected by regulations—those who will benefit and those who will be subject to or relieved of legal requirements—information about their government's regulatory activities, enabling them to participate fully in the rulemaking process.

This edition reflects this Administration's many initiatives to improve the federal regulatory system:

- The President believes strongly that government should regulate only when necessary. This agenda includes the fewest *new* entries since April 1989, and the fewest total entries since October 1990, with the exception of the April 1992 edition.

- The President also believes strongly that we must apply common sense to regulations. About 30 percent of this agenda's entries—and 40 percent of the *new* entries—are deregulatory rules, rules reforming the way government operates, or rules eliminating or reinventing existing regulations.

In this edition, over three-fourths of the entries are for routine (as opposed to significant) regulations. Routine regulations are the non-controversial rules that let the government function on a daily basis, and help citizens obtain government benefits. Significant regulations include those required by law under the recently enacted farm bill; those resulting from the General Agreement on Tariffs and Trade (GATT) or other international treaties, such as the Commerce Department's anti-dumping and countervailing duty regulations; and other important initiatives such as the Food and Drug Administration's rule to protect children and young adults from becoming addicted to smoking and its rule setting standards for mammography facilities, equipment, and testing.

Over the years, businesses, State and local governments, universities, and citizen groups—indeed, all those affected by, and involved in, the regulatory process—have found the agenda a useful, convenient resource and compendium of essential information about the government. This 35th edition continues that tradition. It lists each agency's regulatory activities, and also cross references them in three indices to help those searching for information. One index arranges the entries by subject matter; another lists rules that affect local, state, federal, or tribal governments; and the third lists regulations of particular interest to small businesses. In addition, each entry includes such useful information as the status of the regulation; a timetable for further action; any statutory or judicial deadlines; and the name and phone number of an agency contact.

We continue to seek ways to improve this document and welcome any comments on how to make this tool more informative and useful.

Sally Katzen,

Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

federal register

Monday
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Part II

Regulatory Information Service Center

Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions

REGULATORY INFORMATION SERVICE CENTER

Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Regulatory Information Service Center.

ACTION: Introduction to the Unified Agenda.

SUMMARY: The Regulatory Flexibility Act (5 U.S.C. 602) requires that agencies publish semiannual regulatory agendas describing regulatory actions they are developing. Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and Office of Management and Budget memoranda implementing section 4 of that Order establish minimum standards for agencies' agendas, including specific types of information for each entry. In addition, the Office of Federal Procurement Policy Act Amendments of 1988 (41 U.S.C. 402) require the development and semiannual publication of a report on procurement regulations.

The Unified Agenda helps agencies fulfill all of these requirements. All Federal regulatory agencies have chosen to publish their regulatory agendas as part of this publication.

Section 4 of Executive Order 12866 also directs that, as part of their submissions to the October edition of the Unified Agenda, agencies prepare a regulatory plan of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year. The agency plans appear only as part of the October Agenda publication; they are not included in the April publication.

The following separate parts in this issue of the **Federal Register** are the agency agendas, which together comprise the April 1996 edition of the semiannual Unified Agenda. We welcome your comments on this joint publication and your suggestions for improving future ones.

ADDRESSES: Regulatory Information Service Center, 750 17th Street NW., Suite 500, Washington, DC 20006.

Electronic Availability

The full text of this edition of the Unified Agenda can be browsed and searched by pointing a worldwide web viewer to the U.S. Business Advisor located at:

http://www.business.gov

FOR FURTHER INFORMATION CONTACT: For further information about specific regulatory actions, please refer to the Agency Contact listed for each entry.

To provide comment on or to obtain further information about this publication, contact: Mark G. Schoenberg, Executive Director, Regulatory Information Service Center, 750 17th Street NW., Suite 500, Washington, DC 20006, (202) 395-6222. You may also send comments by e-mail to us at RISC@A1.EOP.GOV.

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INTRODUCTION TO THE UNIFIED AGENDA

About the Unified Agenda

The Regulatory Information Service Center (the Center) compiles the Unified Agenda for the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The Center provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency managers, and the public.

The Office of Information and Regulatory Affairs is responsible for overseeing the Federal Government's regulatory, paperwork, and information resource management activities, including implementation of E.O. 12866.

The Unified Agenda, which has been published twice each year since 1983, provides uniform reporting of data on regulatory activities under development throughout the Federal Government. This edition of the Unified Agenda includes 62 regulatory agendas from the Federal departments, agencies, and commissions that publish agendas. Agencies of the United States Congress are not included. Some agencies that have published regulatory agendas in the past have nothing to report for this edition.

Except for completed actions, the regulatory activities included are, in general, those that will have a regulatory action within the next 12 months. In addition, agencies may include in a Long-Term Actions section activities that will have a regulatory action within a longer timeframe. Some of the entries in this section may contain abbreviated information. The agendas do not include regulations that were excluded under E.O. 12866, such as those concerning military or foreign affairs functions or regulations related to agency organization, management, or personnel matters.

The Regulatory Flexibility Act (5 U.S.C. 601) requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities. Agencies meet that requirement by including the information in their submissions for this publication.

In addition, Executive Order 12875 entitled "Enhancing the Intergovernmental Partnership" (October 26, 1993; 58 FR 58093) directs agencies to reduce the imposition of unfunded mandates upon State, local, and tribal governments. The Order directs agencies that are proposing to impose nonstatutory unfunded mandates to consult with affected governmental officials and document their concerns, report those concerns to the Director of the Office of Management and Budget, and explain the agency's position supporting the continuing need to issue the regulation in light of those concerns. As part of this effort, agencies include in their submissions for this publication information on whether their regulatory actions may have an effect on the various levels of government.

The Unified Agenda also helps fulfill the statutory requirement that the Office of Federal Procurement Policy (OFPP) publish a **Procurement Regulatory Activity Report** as required by the Office of Federal Procurement Policy Act Amendments of 1988 (102 Stat. 4055; 41 U.S.C. 402). In their submissions for this publication, agencies indicate which regulatory actions are procurement-related, as well as whether or not there is a statutory requirement or a paperwork burden associated with the procurement-related actions. Information that agencies publish in the Unified Agenda is used by OFPP to produce its report.

The Unified Agenda is produced through a computer system designed and maintained by the Center with the advice and assistance of the Government Printing Office. The system was designed to save agencies time and money by automating the preparation and printing of their materials in a uniform format and the production of the tables of contents and indexes for the publication. To further facilitate production of this publication, many agencies currently use computer terminals at their offices to enter information into the Center's computer system.

All Agenda entries contain uniform data elements, which are described below. Agencies may also include any additional information they consider important.

Congress generally authorizes a single Federal agency to implement, through regulation, a specific policy objective. Sometimes, however, a statute may require that several agencies issue regulations to accomplish the objective. In such cases, the agencies, working with a central coordinator, jointly publish the documents issued in the course of the rulemaking proceeding. These proceedings are referred to as Governmentwide common rules.

In this edition of the Unified Agenda, one Governmentwide common rule is reported by the agencies participating in its development. It is:

• New Restrictions on Lobbying

Agencies participating in the development of this common rule have reported it in their individual sections of the Unified Agenda.

How To Use the Unified Agenda

Each agency agenda appears as a separate part in this edition of the **Federal Register**. The parts are organized alphabetically in four groups: Cabinet departments; other executive agencies; the Federal Acquisition Regulation, a joint authority; and independent regulatory agencies. Departments may in turn be divided into subagencies.

Each agency introduces its section of the Unified Agenda with a preamble providing information specific to that section. Each agency then lists its entries under one of five headings according to the rulemaking stage of the entry. The stages are:

1. Prerule Stage—actions agencies will undertake in the next 12 months to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking (NPRM) and may include Advance Notices of Proposed Rulemaking (ANPRMs) and reviews of existing regulations.

2. Proposed Rule Stage—actions for which agencies plan to publish a Notice of Proposed Rulemaking as the next step in their rulemaking process or for which the closing date of the NPRM Comment Period is the next step.

3. Final Rule Stage—actions for which agencies plan to publish a final rule or an interim final rule or to take other final action as the next step in their rulemaking process.

4. Long-Term Actions—items for which the agency does not expect to have a regulatory action within the 12 months after publication of this edition of the Unified Agenda.

5. Completed Actions—actions or reviews the agency has completed or withdrawn since publishing its last agenda. This section also includes items the agency began and completed between issues of the Agenda.

An agency may use subheadings to identify regulations that it has grouped according to particular topics. When these subheadings are used, they appear above the title of the first regulation in each group.

A bullet (•) preceding an entry indicates that the entry appears in the publication for the first time.

All entries are numbered sequentially from the beginning to the end of the Unified Agenda. The Sequence Number (Seq. No.) preceding the title of each

entry identifies the location of the entry in this edition of the Unified Agenda. The same number is used in the indexes to enable readers to find entries on specific subjects.

For each agency that requests it, the Center provides a computer-produced table of contents that appears after the agency preamble. The agency tables of contents help readers locate quickly those entries that may be of most interest to them. Sequence numbers also appear in agency tables of contents.

The Unified Agenda contains three indexes. The first two indexes list the regulatory actions that agencies believe may have effects on small entities or levels of government. The third is a Subject Index based on the **Federal Register Thesaurus of Indexing Terms** to help readers locate entries from various agencies that may affect a particular area of interest. This index also contains cross-references to facilitate the reader's search.

Unified Agenda Data Elements

Entries in the Unified Agenda should contain, at a minimum, the following information:

- Title of the Regulation.
- Priority—agencies have been asked to place each entry into one of the following five categories of significance:

Economically Significant

As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The definition of an "economically significant" rule is similar but not identical to the definition of a "major" rule under Public Law 104-121 that defers the effective date of a "major" rule for at least 60 days from publication of the final rule in the **Federal Register**.

Other Significant

A rulemaking that is not economically significant but is considered significant by the agency. This category includes rules that the agency anticipates will be reviewed under E.O. 12866 or rules that are a priority of the agency head. These rules may or may not be included in **The Regulatory Plan**.

Substantive, Nonsignificant

A rulemaking that has substantive impacts but is neither Significant, nor Routine and Frequent, nor Informational/Administrative.

Routine and Frequent

A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

Informational/Administrative/Other

A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the agency's regulatory mandate but that the agency places in the Agenda to inform the public of the activity.

- Reinvention—an indication of whether the action is part of the Administration's Reinventing Government effort and, if so, whether the result will be elimination of existing text in the Code of Federal Regulations (CFR) or revision of text in the CFR to reduce burden or duplication or to streamline requirements.
- Legal Authority—the section(s) of the United States Code (U.S.C.) or Public Law (P.L.) or the Executive order (E.O.) that authorize(s) the regulatory action. Agencies may provide popular name references to laws in addition to these citations.
- CFR Citation—the section(s) of the Code of Federal Regulations that will be affected by the action.
- Legal Deadline—an indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to an NPRM, a Final Action, or some other specific action.
- Abstract—a brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, the alternatives that the agency is considering to address the problem; and the potential costs and benefits of the action.
- Timetable—the dates and citations (if available) for all past steps and at least a projected date for the next step for the regulatory action. If a date appears in this section as 00/00/00, the date of the action is currently undetermined. Similarly, a date printed in the form 10/00/96 means the agency can predict the month and year the action will take place but not the day it will occur. "Undetermined" indicates the agency does not know what specific action it will take next.
- Small Entities Affected—indicates whether the rule is expected to have a significant economic impact on a substantial number of "small entities" as defined by the Regulatory Flexibility Act (5 U.S.C. 601) and, if so, whether the small entities are businesses, governmental jurisdictions, or organizations.
- Government Levels Affected—indicates whether the rule is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.
- Agency Contact—the name, title, address, and phone number of a person in the agency who is knowledgeable about the regulation. If available, the agency may also provide the fax number, e-mail address, and TDD for the agency contact.
- Procurement—a statement identifying procurement-related actions and indicating whether there is a statutory requirement for the action and whether there is a paperwork burden associated with the action. The Procurement heading appears only if the entry is a procurement-related action.

Some agencies have provided other optional information at their discretion; this information may include:

- Compliance Cost to the Public—the estimated gross compliance cost to the public of the action.
- Affected Sectors—the industrial sectors that the action may most affect, either directly or indirectly. Affected Sectors are identified by Standard Industrial Classification (SIC) numbers.
- Analysis—agencies may indicate if a Regulatory Flexibility Analysis, within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601), is being prepared or if any other kind of analysis or evaluation is being prepared (e.g., an environmental impact statement).

In addition, some agencies have used "Additional Information" to elaborate on the information they have provided.

In addition to the Unified Agenda data elements that appear above, each entry that was designated a **Regulatory Plan** entry in the October 1995 edition may contain the information listed below. Agencies are given the choice of reprinting this information in their April agenda entries. For those that chose to reprint it, this information will appear as part of their agenda entries:

- Statement of Need—a description of the need for the regulatory action.
- Summary of the Legal Basis—a description of the legal basis for the action, including whether any aspect of the action is required by statute or court order.
- Alternatives—a description of the alternatives to be considered or that were considered for analysis as required by section 4(c)(1)(B) of E.O. 12866.
- Anticipated Costs and Benefits—a description of preliminary estimates of the anticipated costs and benefits of the action.
- Risks—a description of the magnitude of the risk being addressed by the action, the amount by which this risk is expected to be reduced by the action, and the relation of these risks and risk reduction efforts to other risks and risk reduction efforts within the agency's jurisdiction.

Data Limitations

Agencies prepared entries for this edition of the Unified Agenda to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed.

The Unified Agenda does not create a legal obligation on agencies to adhere to schedules within it or to confine their regulatory activities to those regulations that appear in this publication. The information in this edition is accurate as of April 1, 1996, in the judgment of the submitting agencies, except as otherwise noted by the agencies. In addition, some agencies submitted updates after that date.

Where applicable, individual actions will be subject to review for compliance with applicable Executive orders, the Regulatory Flexibility Act, the Office of Federal Procurement Policy Act Amendments of 1988; and the Paperwork Reduction Act at appropriate points in the regulatory process.

List of Abbreviations

The following abbreviations appear throughout this publication:

ANPRM—An Advance Notice of Proposed Rulemaking is a preliminary notice, published in the **Federal Register**, announcing that an agency is considering a regulatory action. The agency issues an ANPRM before it develops a detailed proposed rule. The ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

CFR—The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the **Federal Register** by the departments and agencies of the Federal Government. The Code is divided into 50 titles, and each title covers a broad area subject to Federal regulation. The CFR is keyed to and kept up to date by the daily issues of the **Federal Register**.

EO—An Executive order is a directive from the President to executive agencies, issued under constitutional or statutory authority. Executive orders are published in the **Federal Register** and in title 3 of the Code of Federal Regulations.

FR—The **Federal Register** is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal departments and agencies.

FY—The Federal fiscal year runs from October 1 to September 30.

NPRM—A Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act (5 U.S.C. 553), an NPRM must include, at a minimum:

- a statement of the time, place, and nature of the public rulemaking proceeding;
- a reference to the legal authority under which the rule is proposed; and
- either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL—A Public Law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, as opposed to a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, PL 104-5 is the fifth public law of the 104th Congress.

RFA—A Regulatory Flexibility Analysis is a description and analysis of the impact of a rule on small entities, including small businesses, small governmental jurisdictions, and certain small not-for-profit organizations. The Regulatory Flexibility Act (5 U.S.C. 601) requires each agency to prepare an initial RFA for public comment when it is required to publish an NPRM and to make available a final RFA when the final rule is published, unless the agency head certifies that the rule would not have a significant economic impact on a substantial number of small entities.

RIN—The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in the Unified Agenda and **The Regulatory Plan**, as directed by E.O. 12866 (section 4(b)). Additionally, OMB has asked agencies to include RINs in the headings of their Rule and Proposed Rule documents when publishing them in the **Federal Register** to make it easier for the public and agency officials to track the publication history of regulatory actions throughout their development.

Seq. No.—The Sequence Number identifies the location of an entry in this publication. Note that a specific regulatory action will have the same RIN throughout its development but will generally have different sequence numbers in different editions of the Unified Agenda and **The Regulatory Plan**.

USC—The United States Code is a consolidation and codification of all general and permanent laws of the United States. The USC is divided into 50 titles, and each title covers a broad area of Federal law.

Information About Additional Copies

Additional copies of this edition of the **Federal Register** are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325, (202) 512-1800.

Copies of individual agency materials may be available directly from the agency. Please contact the particular agency for further information.

Dated: April 25, 1996.

Mark G. Schoenberg,

Executive Director.

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Part III

Department of Agriculture

Semiannual Regulatory Agenda

DEPARTMENT OF AGRICULTURE (USDA)

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Subtitle A, Chs. I-VII, IX-XII, XIV-XVIII, XXI, XXIV-XXIX

9 CFR Chs. I-IV

36 CFR Ch. II

41 CFR Ch. 4

Semiannual Regulatory Agenda, April 1996

AGENCY: Office of the Secretary, USDA.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of significant and not-significant regulations being developed in agencies of the U.S. Department of Agriculture (USDA) in conformance with Executive Order 12866 "Regulatory Planning and Review." The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Public Law 96-354.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication except for minor and routine or repetitive actions, but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action. Requests for copies of the agenda should include a self-addressed, stamped envelope and be directed to: Regulatory Agenda, OBPA, Office of the Secretary, Room 118-E, Jamie Whitten Building, U.S. Department of Agriculture, Washington, DC 20250, (202) 720-1272.

Dated: March 19, 1996.

Marvin J. Shapiro,

Chief, Legislative, Regulatory, and Automated Systems Division.

Agricultural Marketing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1	National Organic Program	0581-AA40

Agricultural Marketing Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2	Revision of Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products	0581-AA45
3	Regulations Under the Perishable Agricultural Commodities Act	0581-AB28
4	Revision of Perishable Agricultural Commodities Act	0581-AB41
5	National Laboratory Accreditation Program	0581-AB42

Agricultural Marketing Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
6	Refrigeration and Labeling Requirements for Shell Eggs	0581-AA66
7	Salmonella Recognized Laboratory Program	0581-AB38
8	Regulations and Rules of Practice Under the Plant Variety Protection Act	0581-AB39

Farm Service Agency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
9	National Average Loan Rates for 1996-Crop Quota and Additional Peanuts and Minimum Commodity Credit Corporation (CCC) Export- Edible Sales Price for Additional Peanuts	0560-AE43
10	Upland Cotton User Marketing Certificate Program	0560-AE51
11	Terms for the Collection of 1995 Advance Deficiency Overpayments	0560-AE53
12	Implementation of Five-Year Direct Line of Credit Program	0560-AE58

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Farm Service Agency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
13	Farmer Programs Guaranteed Interest Assistance Program	0560-AE01
14	Farmer Program Account Servicing Policies for Section 1816 and Other Related Sections for the "1990 FACT Act"	0560-AE02
15	Implement Section 1818 (Borrower Training) of the Food, Agriculture, Conservation, and Trade Act of 1990 (FACT Act)	0560-AE04
16	Guaranteed Loan Programs; Monitoring Liquid Accounts	0560-AE05
17	Insured and Guaranteed Operating and Farm Ownership Loan and Related Instructions To Implement Sections 4, 5, 7, 8, 9, and 19 of the Agricultural Credit Improvement Act of 1992	0560-AE09
18	Implement Sections 11 and 13 of the Agriculture Credit Improvement Act 1993 (Application Processing Timeframe)	0560-AE14
19	Acquisition and Management of Real and Chattel Property	0560-AE15
20	Small Farmer Outreach Training and Technical Assistance Program	0560-AE17
21	Disaster Assistance	0560-AE22
22	Revisions to the Direct Farm Ownership Loan Regulation (1943-A) Outreach Program for Members of Socially Disadvantaged Groups	0560-AE23
23	Amendment to Conservation Program Appeal Regulations Regarding Jurisdiction	0560-AE30
24	Permit CFSA To Sell or Assign Farm Loan Mortgages and Notes	0560-AE35
25	1996 Upland Cotton Program	0560-AE40
26	1996-Crop Peanuts National Poundage Quota	0560-AE45
27	1996-Crop Marketing Quotas and Price Support Levels for Six Kinds of Tobacco	0560-AE46
28	1996-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AE47
29	1996-Crop Marketing Quotas and Price Support Level for Flue-Cured Tobacco	0560-AE48
30	Deletion of FSA Regulations Regarding Colorado River Basin Salinity Control Program	0560-AE54
31	Amendment to the Conservation Reserve Program Regarding Early Contract Terminations	0560-AE56
32	Dairy Indemnity Payment Program	0560-AE57

Farm Service Agency—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
33	Excessive Manufacturing (Make) Allowances in State Marketing Orders for Milk	0560-AC23
34	Amendment to the Highly Erodible Land and Wetlands Conservation Program Regulations—Person Determinations	0560-AC86
35	Amendments to the Wetlands Regulations Regarding Abandoned Acreage and Drainage by Drainage Districts	0560-AC92
36	Amendments to CCC Debt Settlement Regulations Regarding Waiver of Restriction on Program Eligibility and Collection of Judgments by Administrative Offset	0560-AD09
37	Conservation Environmental Programs Regulations Regarding Water Quality Incentives Project, Cost Share Provisions of the Emergency Conservation Program, and Other Revisions	0560-AD10
38	Amendment to the Acreage Conservation Reserve and the Conserving Use Acreage Regulations for Producers Affected by Excessive Rainfall and Flooding	0560-AD50
39	Program Ineligibility for Noncompliance With Boll Weevil Eradication Program	0560-AD57
40	Regulations for Conservation Compliance Crop Acreage Base (CAB) Adjustments	0560-AD80
41	Amendment to the Emergency Livestock Assistance Regulations Regarding Feed Allowance and Approval of Counties for Assistance	0560-AD84
42	Farm Facility Loan Program Regulations	0560-AD85
43	Common Provisions for 1995 Wheat, Feed Grain, Cotton, and Rice Programs	0560-AD86
44	Sugar and Crystalline Fructose Information and Recordkeeping Requirements	0560-AD88
45	Amendments to the Payment Limitation Regulations for 1995	0560-AD89
46	Amendment to the Warehouse Regulations Regarding Auction Tobacco Warehouses	0560-AD92
47	Amendment to the Tobacco Loan Program Regulations—Budget Deficit Marketing Assessments	0560-AD93
48	Measure-All Pilot Project	0560-AD98
49	Implementation of Certified Lender Program	0560-AE07
50	Loans to Indian Tribes and Tribal Corporations	0560-AE10
51	Section 14 of the Agricultural Credit Improvement Act of 1992, (Graduation) and Sections 1819 (Loan Assessment) and 1821 (Market Placement) of the Fact Act	0560-AE11
52	The Agricultural Credit Improvement Act of 1992	0560-AE13
53	Decision to Liquidate	0560-AE19
54	Socially Disadvantaged Outreach Program	0560-AE24

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Farm Service Agency—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
55	Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994	0560-AE25
56	Part 1946 Mediation; Subpart A Agricultural Loan Mediation Program	0560-AE26
57	Extension of Maturing 1994 and Subsequent Crop Year Wheat and Feed Grain Price Support Loans	0560-AE28
58	Technical Corrections to Wheat, Feed Grain, Cotton, and Rice Program Regulations	0560-AE29
59	Selection and Functions of Farm Service Agency State and County Committees	0560-AE33
60	End-Use Certificate Program—Providing Notification of Origin to Buyers	0560-AE37
61	Implementation Procedures for Highly Erodible Land and Wetlands Conservation Provisions of the Food Security Act	0560-AE38
62	Amendment to the Tobacco Regulations Regarding Nested Tobacco	0560-AE41
63	Amendments to the Farmer Account Servicing Policies	0560-AE42
64	Amendments to the Standards for Approval of Warehouse for Commodity Credit Corporation Storage Contracts	0560-AE50
65	1996 Rice Price Support Program	0560-AE55

Farm Service Agency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
66	Wool and Mohair Recourse Loan Program	0560-AD75
67	Amendment to the Peanut Loan Program Regulations—Requirement for Crop Insurance	0560-AD90
68	Amendment to the Tobacco Loan Program Regulations—Requirement for Crop Insurance	0560-AD91
69	Removal of the Prohibition Against Charging Interest on Interest on Guaranteed Loans	0560-AE16
70	Special Disaster Set-Aside Program; Fruit and Nut Trees	0560-AE21
71	Amendment to Tobacco Marketing Quota Regulations Regarding the Effective Date for the Domestic Marketing Assessment	0560-AE27
72	Amendments to the Disaster Payment Program Regulations for 1990 and Subsequent Crops	0560-AE31
73	1995-Crop Sugar Beet and Sugarcane Price Support Loan Rates	0560-AE44
74	Agency Name Change	0560-AE49
75	Agency Name Change	0560-AE52

Animal and Plant Health Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
76	Importation of Fruits and Vegetables	0579-AA58

Animal and Plant Health Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
77	Addition of Cervidae to the Regulations Concerning Tuberculosis in Livestock	0579-AA53
78	Proposed Revision of the Federal Seed Act Regulations for Imported Seed	0579-AA64
79	Definition of "Biological Products" and "Guidelines"	0579-AA65
80	User Fees, Veterinary Diagnostics	0579-AA70
81	Importation of Animals and Animal Products	0579-AA71
82	Humane Treatment of Dogs and Cats; Tethering and Temperature Requirements	0579-AA74
83	Accreditation of Private Seed Laboratories	0579-AA75
84	Humane Treatment of Dogs and Cats; Wire Flooring	0579-AA78
85	Humane Treatment of Dogs and Cats; Licensing and Consignment Requirements	0579-AA79

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Animal and Plant Health Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
86	Exotic Newcastle Disease in All Birds and Poultry; Psittacosis and Ornithosis in Poultry	0579-AA22
87	Animal Welfare—Standards for Marine Mammals	0579-AA59
88	Import/Export User Fees	0579-AA67
89	User Fees—Commercial Aircraft and Vessels; Phytosanitary Certificates	0579-AA68
90	Genetically Engineered Organisms; Simplification of Requirements and Procedures	0579-AA73

Animal and Plant Health Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
91	Chicken Disease Caused by Salmonella Enteritidis	0579-AA48
92	Importation of Certain Embryos and Animal Semen	0579-AA63
93	In Vitro Tests for Serial Release in Place of Animal Potency Tests	0579-AA66
94	HSTAIC Repair and Maintenance Fees	0579-AA69
95	Animal Welfare—Standards for Animal Auctions	0579-AA76

Animal and Plant Health Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
96	Cyclical Review of 9 CFR Part 92, Phase II	0579-AA34
97	Importation of Certain Animals and Poultry and Certain Animal and Poultry Products—Prevention of Poultry Diseases	0579-AA38
98	Export Certification	0579-AA54

Cooperative State Research, Education, and Extension Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
99	Higher Education Multicultural Scholars Program; Administrative Provisions	0524-AA09
100	Agricultural Telecommunications Program Administrative Provisions	0524-AA12

Cooperative State Research, Education, and Extension Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
101	Higher Education Challenge Grants Program; Administrative Provisions	0524-AA02
102	1890 Institution Capacity Building Grants Program; Administrative Provisions	0524-AA03
103	Small Business Innovation Research Program Administrative Provisions	0524-AA08
104	Administrative Manual for Federal Excess Personal Property Loaned to State Cooperative Research Activities	0524-AA13
105	Rangeland Research Grants Program; Administrative Provisions	0524-AA15

Cooperative State Research, Education, and Extension Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
106	Personal Property	0524-AA14

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Cooperative State Research, Education, and Extension Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
107	National Research Initiative Competitive Grants Program Administrative Provisions	0524-AA07
108	Buildings and Facilities Program Administrative Provisions	0524-AA11

Rural Housing and Community Development Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
109	Farm Labor Housing	0575-AC03

Rural Housing and Community Development Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
110	Disposition of Interests in Indian Trust Land	0575-AB17
111	Community Programs Guaranteed Loans	0575-AB48
112	Debt Settlement	0575-AB80
113	Escrow of Taxes and Insurance and Changing Agency Processes and Techniques To Conform With the Private Sector	0575-AB99
114	Require All Single-Family Housing Borrowers and Nonprogram Borrowers Who Have Purchased Single-Family Residence To Pay One-Time Tax Service Fee	0575-AC00
115	Provide Information Regarding Lease Write-Off and Annual Lease Statements	0575-AC01

Rural Housing and Community Development Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
116	Recapture of Section 502, Rural Housing Subsidy	0575-AA29
117	Housing Preservation Grants for Replacement of Housing	0575-AB43
118	Environmental Program	0575-AB64
119	Security Servicing for Multiple-Family Housing Loans	0575-AB73
120	Community Facility Loans: Internal Revenue Service Taxpayers Identification Number	0575-AB77
121	Rural Rental and Rural Cooperative Housing Loan Policies, Procedures, and Authorizations—Point Score System To Prioritize Rural Rental Housing Loans	0575-AB93
122	FmHA Instruction 1942-A, "Community Facility Loans"	0575-AC05
123	Davis-Bacon, Contract Work Hours and Safety Standards and Related Acts	0575-AC06

Rural Housing and Community Development Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
124	Denying Credit to Applicants Delinquent on Any Federal Debt	0575-AA66
125	Civil Rights Compliance Requirements—1940-D	0575-AA83
126	Section 502 Rural Housing Loan Policies, Procedures, and Authorizations (Deferred Mortgage Program)	0575-AA87
127	Housing for Rural Homeless and Migrant Farmworkers; Policies, Procedures, and Authorizations	0575-AB14
128	Offsets of Federal Payments to FmHA Borrowers	0575-AB55
129	Planning and Performing Construction and Other Development and Related Construction Seismic Safety	0575-AB59
130	Section 515 Nonprofit Set-Aside Funds	0575-AB60
131	Environmental Program Streamline Environmental Process	0575-AB98
132	Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Multiple Family Housing	0575-AC02

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Rural Housing and Community Development Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
133	Section 502 Rural Housing Loan Policies, Procedures, and Authorizations	0575-AA35
134	1927-B Real Estate Title Clearance and Loan Closing	0575-AB52
135	Decision To Liquidate	0575-AC04

Federal Crop Insurance Corporation—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
136	Common Crop Insurance Regulations; Peanut Crop Insurance Provisions	0563-AA85
137	Common Crop Insurance Regulations; Onion Crop Insurance Provisions	0563-AA87
138	Common Crop Insurance Regulations; Northern Potato Crop Insurance Provisions	0563-AA89
139	Common Crop Insurance Regulations; Sugarbeet Crop Insurance Provisions	0563-AA93
140	Common Crop Insurance Regulations; Canning and Processing Tomato Crop Insurance Provisions	0563-AA94
141	Common Crop Insurance Regulations; Fresh Market Tomato (Guaranteed Production) Crop Insurance Provisions	0563-AA95
142	Common Crop Insurance Regulations; Dry Bean Crop Insurance Provisions	0563-AB02
143	Group Risk Plan Crop Insurance Provisions; Part 407	0563-AB06

Federal Crop Insurance Corporation—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
144	General Administrative Regulations; Subpart N; Disaster Assistance Act of 1988	0563-AB20

Federal Crop Insurance Corporation—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
145	Common Crop Insurance Regulations; Tobacco (Guaranteed Plan) Crop Insurance Provisions	0563-AA54
146	General Administrative Regulations; High Risk Land Regulations	0563-AA98
147	General Administrative Regulations; Subpart D; Application for Crop Insurance	0563-AB00
148	General Administrative Regulations; Subpart U; Ineligible File - Crop Insurance Ineligibility	0563-AB01
149	Common Crop Insurance Regulations; Rice, Fig, Almond, Raisin, Forage Production, Hybrid Sorghum Seed, Pear, Apple, Canning and Processing Sweet Corn, Dollar Plan Fresh Market Tomato,	0563-AB03
150	General Administrative Regulations; Nonstandard Classification System; Subpart O	0563-AB05
151	General Administrative Regulations; Subpart S; Regulations for Insurance Coverage by Written Agreement	0563-AB07
152	Catastrophic Risk Protection Endorsement; Part 402	0563-AB09
153	General Administrative Regulations: Subpart T; Federal Crop Insurance Reform Act of 1994; Regulations for Implementation	0563-AB11
154	Noninsured Crop Disaster Assistance Program, Part 404	0563-AB13
155	General Administrative Regulations; Subpart V; Supplemental and Alternative Crop Insurance Policy Approval Process	0563-AB15
156	General Administrative Regulations; Subpart J; Appeal Procedure Regulations	0563-AB17
157	General Administrative Regulations; Federal Jurisdiction and Statute of Limitation for Suits Based Upon Denial of Claims for Indemnity	0563-AB21
158	General Administrative Regulations; Actual Production History Coverage Program; Transitional Yields for Producers of Feed or Forage	0563-AB23
159	Common Crop Insurance Regulations; Small Grains (Including Malting Barley), Cotton, ELS Cotton, and Coarse Grains Crop Insurance Provisions	0563-AB24
160	General Administrative Regulations: Subpart Q: Collection and Storage of Social Security Account Numbers and Employer Identification Numbers	0563-AB26
161	1996 Crop Year Plantain and Banana Insurance Program and Banana Crop Intensive Cultivation Insurance Program for Puerto Rico	0563-AB30
162	1996 Crop Year Coffee Crop Insurance Program for Puerto Rico	0563-AB33

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Federal Crop Insurance Corporation—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
163	1996 Crop Year Coffee Plantation Insurance Program for Puerto Rico	0563-AB34
164	1996 Crop Year Fruit Crop (Avocado, Oranges, Mango, Citron, Lemon, Papaya, Passion) Insurance Program for Puerto Rico	0563-AB35
165	1996 Crop Year Fruit Trees (Avocado, Oranges, Mango, Citron, Lemon) Insurance Program for Puerto Rico	0563-AB36
166	1996 Crop Year Sugarcane Insurance Program for Puerto Rico	0563-AB40
167	1996 Crop Year Vegetable Insurance Program for Puerto Rico	0563-AB41
168	Common Crop Insurance Regulations; Sunflower Seed Crop Insurance Provisions	0563-AB42
169	General Administrative Regulations; Reinsurance Agreement Standards for Approval	0563-AB44
170	Tobacco, Quota Plan Crop Insurance Regulations	0563-AB47
171	Popcorn Corn Insurance Regulations	0563-AB48
172	Common Crop Insurance Regulations; Texas Citrus Tree Crop Insurance Provisions	0563-AB50
173	Common Crop Insurance Regulations: Florida Citrus Fruit Crop Insurance Provisions	0563-AB51

Federal Crop Insurance Corporation—Completed Actions

Sequence Number	Title	Regulation Identifier Number
174	Common Crop Insurance Regulations; Hybrid Corn Seed Crop Insurance Provisions	0563-AA78
175	General Administrative Regulations; Subpart L, Reinsurance Agreement - Standards for Approval	0563-AB08
176	Common Crop Insurance Regulations: Small Grains, Coarse Grains, Cotton and Extra Long Staple Cotton	0563-AB27
177	General Crop Insurance Regulations, Various Endorsements; Hybrid Seed Crop Insurance Regulations; and Common Crop Insurance Regulations, Sunflower Seed Crop Insurance Provisions	0563-AB28
178	General Crop Insurance Regulations; Florida Citrus Endorsement	0563-AB29
179	Common Crop Insurance Regulations, Various Crop Provisions (Coarse Grains, Cotton, ELS Cotton, and Sunflower Seed); General Crop Insurance Regulations, Various Endorsements	0563-AB43
180	General Crop Insurance Regulations; Various Endorsements; Hybrid Seed; Common Crop Insurance Regulations; Sunflower Seed	0563-AB46
181	Common Crop Insurance Regulations, Various Crop Provisions (Coarse Grains, Small Grains, Sunflower Seed, Cotton and ELS Cotton); General Crop Insurance Regulations	0563-AB49

Grain Inspection, Packers and Stockyards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
182	Fees for Commodity Inspection	0580-AA48

Grain Inspection, Packers and Stockyards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
183	Fees for Official Inspection and Weighing Service	0580-AA40
184	Regulations and Statements of General Policy Under the Packers and Stockyards Act (Group 2)	0580-AA44
185	Regulations and Statements of General Policy Under the Packers and Stockyards Act (Group 3)	0580-AA45
186	Fees for Rice Inspection	0580-AA47

Grain Inspection, Packers and Stockyards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
187	Statement of General Policy Under the Packers and Stockyards Act: Care and Handling of Livestock	0580-AA46

USDA

Grain Inspection, Packers and Stockyards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
188	Fees for Official Inspection and Weighing Services	0580-AA27
189	Official Performance and Procedural Requirements for Grain Weighing Equipment and Related Grain Handling Systems	0580-AA39

Food and Consumer Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
190	Notice of New Privacy Act System of Records—Food Stamp Retailer Information	0584-AC19

Food and Consumer Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
191	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Delivery Systems	0584-AA80
192	Food Stamp Program: Emergency Assistance for Victims of Disasters	0584-AA85
193	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Part 246.10, Food Package III, Participants with Certain Medical Conditions	0584-AB09
194	Special Supplemental Food Program for Women, Infants and Children (WIC): Miscellaneous Provisions	0584-AB10
195	Food Distribution Programs—Paperwork Reduction	0584-AB27
196	Food Distribution Programs—Implementation of 1990 Farm Bill	0584-AB28
197	Commodity Supplemental Food Program: Elderly-Only Sites, Administrative Funding, Referrals to Health and Social Services, Caseload Allocation Process, Priority System, and Miscellaneous	0584-AB37
198	Food Stamp Program: 1995 Quality Control Technical Amendments	0584-AB38
199	Provisions of Computer Matching and Privacy Protection Act of 1988, Amendments of 1990, and Implementation of the Disqualified Recipient Subsystem	0584-AB51
200	Food Stamp Program: Anticipating Income and Reporting Changes	0584-AB57
201	Child and Adult Care Food Program: Elimination of Whole Cow's Milk From the Infant Meal Pattern	0584-AB81
202	Food Stamp Program: Food Stamp Recipient Claim Establishment and Collection Standards	0584-AB88
203	Food Stamp Program: Revisions in Retail Food Store Eligibility Criteria and in Eligibility Guidance and Program Authorization	0584-AB90
204	Food Stamp Program: Retailer Application Processing	0584-AC05
205	Summer Food Service Program: Program Meal Service During the School Year	0584-AC06
206	Amendment To Remove Formulated Grain—Fruit Product Section	0584-AC09
207	Consolidation of National School Lunch Program and School Breakfast Program Into Comprehensive School Meal Program	0584-AC10
208	FSP: Retailer Delinquent Debt Collection: Offsetting Federal Income Tax Refund	0584-AC11
209	Crediting of Yogurt in the School Meals Programs	0584-AC15
210	Modification of the "Vegetable Protein Products" Portion of Appendix A of 7 CFR Parts 210, 225, and 226	0584-AC18
211	Child and Adult Care Food Program: Child Nutrition and WIC Reauthorization Act Amendments and Healthy Meals for Healthy Americans Act of 1994	0584-AC20
212	Release of Free and Reduced Price School Meal Eligibility Information	0584-AC21
213	Food Stamp Program: Regulatory Review/Program Management	0584-AC22
214	Child and Adult Care Food Program Initiative	0584-AC24

Food and Consumer Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
215	Miscellaneous Farm Bill Provisions Relating to the Authorization of Retail Firms and Wholesale Food Concerns	0584-AB02
216	Determination of Eligibility for Free Meals by Summer Food Service Program Sponsors and Free and Reduced Price Meals by Child and Adult Care Food Program Institutions	0584-AB17
217	Child and Adult Care Food Program: Authority To Collect Overclaims	0584-AB19

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Food and Consumer Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
218	Food Distribution Programs—Disaster Provisions	0584-AB55
219	Food Distribution Program on Indian Reservations—Oklahoma Waiver Authority	0584-AB56
220	Food Stamp Program: Child Support Deduction	0584-AB58
221	Food Stamp Program: Simplification of Program Rules	0584-AB60
222	Food Stamp Program: Payment of Certain Administrative Costs of State Agencies	0584-AB66
223	Food Distribution Program on Indian Reservations: Definition of Indian Tribal Household	0584-AB67
224	Food Stamp Program: Quality Control Provisions of the Mickey Leland Childhood Hunger Relief Act	0584-AB75
225	Food Stamp Program: Certification Provisions of the Mickey Leland Childhood Hunger Relief Act	0584-AB76
226	Treatment of Educational and Training Assistance	0584-AB84
227	Food Stamp Program: Revisions in Use and Disclosure of Information Provided by Retail Food Stores and Wholesale Food Concerns	0584-AB87
228	Food Stamp Program Automated Data Processing Equipment and Services; Reduction in Reporting Requirements	0584-AB92
229	Monthly Reporting on Indian Reservations Provision of Food Stamp Program Improvements Act of 1994	0584-AB98
230	School Nutrition Programs: Technical and Nondiscretionary Amendments	0584-AC01
231	Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Implementation of WIC Mandates of the Healthy Meals for Healthy Americans Act of 1994	0584-AC02
232	Removal of the "Cheese Alternate Products" Requirements From the National School Lunch Program	0584-AC04
233	Child and Adult Care Food Program: Child Nutrition and WIC Reauthorization Act of 1989 and Other Amendments	0584-AC07
234	Failure To Comply With Federal, State, or Local Work Program Requirements	0584-AC08
235	Availability of Information and Records to the Public	0584-AC13
236	Food Stamp Program Regulatory Review: Alaska, Puerto Rico, Commonwealth of the Northern Mariana Islands, and Demonstration Projects	0584-AC14
237	SFSP Implementation of Healthy Meals for Healthy Americans Act of 1994	0584-AC23

Food and Consumer Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
238	Special Supplemental Food Program for Women, Infants and Children (WIC): Food Cost Containment Requirements	0584-AB11
239	Permanent Agreements/Direct Certification in National School Lunch, School Breakfast, and Special Milk Programs	0584-AB35
240	National School Lunch Program: Review of Free and Reduced Price Application Under the Coordinated Review Effort	0584-AB50
241	Special Supplemental Food Program for Women, Infants and Children (WIC): Infant Formula Procurement Act of 1992	0584-AB52
242	Food Stamp Program: Excess Shelter Expense Limit and Standard Utility Allowances	0584-AB59
243	FSP: Targeting for Income and Eligibility Verification	0584-AB74
244	Food Stamp Program: Utility Reimbursement Exclusion	0584-AB79
245	National School Lunch, Special Milk, School Breakfast, Child and Adult Care Food and Summer Food Service Programs: Purchase of Food Products Produced in the U.S	0584-AB82

Food and Consumer Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
246	Waiver Authority Under the State Processing Program	0584-AB99
247	Quality Control Regression Amendment	0584-AC03
248	Food Stamp Program: Maximum Allotments for Hawaii, Alaska, Guam, and the Virgin Islands	0584-AC16
249	Food Stamp Program: Maximum Allotments for 48 States and DC, and Income Eligibility Standards and Deductions for 48 States and DC, Alaska, Hawaii, Guam, and Virgin Islands	0584-AC17

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Food Safety and Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
250	Meat and Poultry Standards of Identity and Composition	0583-AC01
251	Transportation and Storage Requirements for Potentially Hazardous Foods	0583-AC05

Food Safety and Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
252	Use of Trisodium Phosphate on Raw, Unchilled Poultry Carcasses	0583-AB80
253	Nutrition Labeling; New Product Categories and Reference Amounts	0583-AB81
254	Elimination of Prior Approval Requirements for Facilities Equipment and Certain Partial Quality Control Program	0583-AB93
255	Performance Standards for Certain Meat Products and Poultry Products	0583-AB94
256	Continuous Chilling of Split Turkey Portions	0583-AB95
257	Identification of the Origin of Sausage Casings	0583-AB98
258	Glycerine Used as a Humectant in Shelf Stable Meat Snacks	0583-AC00
259	Use of Sorbitol in Cooked Roast Beef Products	0583-AC02
260	Elimination of Prior Approval Requirements for Egg and Egg Products Establishment Drawings and Specifications	0583-AC06

Food Safety and Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
261	Requirements for Foreign Country Import Certification and Live Animal Importation	0583-AA47
262	Substances Approved for Use in the Preparation of Meat Food and Poultry Products	0583-AB02
263	Nutrition Labeling: Health Claims on Meat and Poultry Products	0583-AB64
264	Trisodium Phosphate as a Post-Chill Antimicrobial Treatment for Raw Poultry	0583-AB65
265	Pathogen Reduction; Hazard Analysis and Critical Control Points (HACCP) Systems	0583-AB69
266	Sodium Citrate Buffered with Citric Acid Used as an Antimicrobial Agent in Cured and Noncured Meat and Poultry Products	0583-AB97

Food Safety and Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
267	Food Standards: Requirements for Processed Meat and Poultry Products Named by Use of an Expressed Nutrient Content Claim and a Standardized Term	0583-AB51
268	Nutrition Labeling of Ground Beef and Hamburger	0583-AB74
269	Use of Soy Protein Concentrate and Food Starch—Modified as Binders in Cured Pork Products	0583-AB82
270	FSIS Agenda for Change: Regulatory Review; Food Standards	0583-AB89
271	Refrigeration and Labeling Requirements for Shell Eggs	0583-AC04

Food Safety and Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
272	Prior Labeling Approval System	0583-AB92
273	Use of the Fast Antimicrobial Screen Test for Bob Veal Calves	0583-AC03

USDA

Foreign Agricultural Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
274	Emerging Democracies Agricultural Facilities Guarantee Program	0551-AA35
275	Sugar Import Licensing	0551-AA39
276	Regulation Governing the Financing of Commercial Sales of Agricultural Commodities (PL 480, Title I)	0551-AA42
277	Export Sales Reporting Requirements	0551-AA44

Foreign Agricultural Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
278	Regulations Governing Implementation of the Market Promotion Program (MPP) Overseas	0551-AA24
279	Dairy Tariff Rate Import Quota Licensing	0551-AA27
280	CCC Export Credit Guarantee Program (GSM-102) and CCC Intermediate Export Credit Guarantee Program (GSM-103)	0551-AA30
281	Regulations Governing the Financing of Commercial Sales of Agricultural Commodities (P.L. 480, Title I)	0551-AA43
282	Limitation on Imports of Meat	0551-AA45
283	Section 22 Import Fees	0551-AA46
284	Reentry of Cotton Into the United States	0551-AA48
285	Calculation of Market Stabilization Price	0551-AA49

Foreign Agricultural Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
286	Proposed Regulations Governing Implementation of the Cooperator Market Development Program Overseas	0551-AA26
287	Program Criteria for the Sunflowerseed Oil Assistance Program (SOAP) and the Cottonseed Oil Assistance Program (COAP)	0551-AA31
288	Reporting Requirements Related to Tobacco Exports	0551-AA32
289	Sunflowerseed Oil Assistance Program Operations (SOAP) and Cottonseed Oil Assistance Program Operations (COAP)	0551-AA33
290	Foreign Donation of Agricultural Commodities	0551-AA38
291	Reform of Export Bonus Program	0551-AA41

Foreign Agricultural Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
292	Direct Credit Programs (GSM-201 and GSM-301) Risk Assurance Program (GSM-101) CCC Barter Program	0551-AA34
293	Regulations Governing the Financing of Commercial Sales of Agricultural Commodities (P.L. 480 Title I Program)	0551-AA36

Forest Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
294	Small Tracts Act Regulations	0596-AA79
295	Isolated Cabin Policy	0596-AA85
296	Solid Waste Disposal Policy	0596-AA92
297	Timber Sale Performance and Payment Bond Form Revision	0596-AA94
298	Disposal of National Forest Timber; Cancellation of Timber Sale Contracts	0596-AB21
299	Species Surplus to Domestic Manufacturing Needs	0596-AB27
300	Retention of Downpayment on Timber Sale Contracts	0596-AB28
301	National Forest System Land and Resource Management Planning Forest Service Manual Chapter 1920	0596-AB31

USDA

Forest Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
302	Use of Fixed Anchors for Rock Climbing in Wilderness	0596-AB33
303	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations	0596-AB36
304	Market-Related Term Additions	0596-AB41
305	Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands	0596-AB45
306	Sale and Disposal of National Forest System Timber; Extension of Timber Sale Contracts To Permit Urgent Removal of Other Timber	0596-AB48
307	Disposal of National Forest Timber: Timber Sale Contract Revisions	0596-AB52
308	National Environmental Policy Act; Revised Policy and Procedures	0596-AB54
309	36 CFR 223 Subpart C-Suspension and Debarment of Timber Purchasers	0596-AB55
310	Subsistence Management Regulations for Public Lands in Alaska	0596-AB56
311	Preference for Visitor Service; Alaska National Forest Conservation System Units	0596-AB57

Forest Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
312	Hydropower Applications	0596-AA47
313	Indian Allotments on National Forest System Lands	0596-AA52
314	National Forest System Land and Resource Management Planning	0596-AB20
315	Timber Sale Contracts; Appraisal Procedures for Determining Fair Market Value	0596-AB26
316	State and Private Forestry Assistance Stewardship Incentive Program	0596-AB32
317	Special-Use Applications and Administration of Special-Use Authorizations	0596-AB35
318	Smith River National Recreation Area	0596-AB39
319	Ski Area Permit Fee System	0596-AB49

Forest Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
320	Management of Grazing Use Within Rangeland Ecosystems	0596-AA35
321	National Forest Prohibitions; Law Enforcement Support Activities	0596-AA75

Forest Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
322	Irrevocable Letter of Credit	0596-AA93
323	Federal Timber Export and Substitution Restrictions (Comprehensive Revision)	0596-AB22
324	Exercise of Outstanding Mineral Rights	0596-AB38
325	Occupancy and Use of Developed Sites and Areas of Concentrated Public Use	0596-AB43
326	Private Sale of Golden Eagle Passports	0596-AB44
327	Fee Schedules for Communication Uses on National Forest System Lands	0596-AB51

Office of Chief Financial Officer—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
328	Audits of State, Local, and Indian Tribal Governments	0505-AA09

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Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
329	Nondiscrimination in USDA Conducted Programs and Activities	0503-AA15

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
330	Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations	0503-AA10

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
331	Supplemental Standards of Ethical Conduct for Employees of the Department of Agriculture	0503-AA05

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
332	Nonprocurement Debarment and Suspension	0503-AA12
333	Expiration of the Replenishment Agricultural Worker Program	0503-AA13
334	Expiration of the Seasonal Agricultural Worker Program	0503-AA14

Rural Business-Cooperative Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
335	Rural Business Enterprise Grants and Television Demonstration Grants	0570-AA08
336	Intermediary Relending Program Rewrite	0570-AA15
337	Rural Economic Development Loan and Grant Program	0570-AA19

Rural Business-Cooperative Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
338	Local Technical Assistance and Planning Grants	0570-AA05
339	Rural Business Loan Streamlining	0570-AA09

Rural Business-Cooperative Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
340	Rural Technology Development Grants	0570-AA02
341	1980-E Business and Industrial Loan Program—Audit Requirements	0570-AA11
342	Business and Industrial Interest Buydown	0570-AA13
343	Community Facility Loans: Recreation and Tourism	0570-AA14

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Rural Utilities Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
344	Electric System Planning and Design—Policies and Procedures	0572-AA48
345	Electric Standards and Specifications for Materials and Construction	0572-AA67
346	Post-Loan Policies and Procedures Common to Insured and Guaranteed Electric Loans	0572-AA71
347	Electric Systems Operations and Maintenance	0572-AA74
348	Civil Rights Policies Applicable to RUS Borrowers	0572-AA75
349	RUS Fidelity and Insurance Requirements for Electric and Telecommunications Borrowers	0572-AA86
350	Use of General Funds Investments, Loan Guarantees, and Retirement of Capital Credits by Electric Borrowers	0572-AB01
351	RUS Approval of Sale of Capital Assets by Electric Borrowers	0572-AB02
352	Loan Deferments for Energy Resources Conservation - Electric Program	0572-AB03
353	Power Requirement Studies	0572-AB05
354	Streamlining the Rural Utilities Service's Water and Waste Program Regulations	0572-AB20
355	Establish Water and Waste Disposal Regulations Within the Rural Utilities Service	0572-AB21
356	Distance Learning and Telemedicine Grant Program	0572-AB22
357	Water and Waste Loan and Grant Servicing	0572-AB23
358	RUS Policies and Procedures for Mergers and Consolidations of Electric Borrowers	0572-AB24

Rural Utilities Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
359	Loan Account Computations, Policies, and Procedures	0572-AA65
360	Long-Range Financial Forecasts of Electric Borrowers	0572-AA89
361	Accounting Requirements for RUS Telecommunications Borrowers	0572-AB10
362	Use of Consultants Funded by Borrowers	0572-AB17

Rural Utilities Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
363	Loan Security Documents—Telecommunications Program	0572-AA30
364	Wholesale Contracts for the Purchase and Sale of Electric Power and Energy	0572-AA41
365	Margin Stabilization Plans and Revenue and Expense Deferrals	0572-AA50
366	Loan Documents—Bank Program	0572-AA76
367	Depreciation Rates and Procedures	0572-AA80
368	Preservation of Records Accounting Requirements for RUS Electric Borrowers	0572-AA92
369	Community Facility Loans - Timber-Dependent Communities	0572-AB11
370	Liquidation of Loans and Acquisition, Management and Disposal of Security Property	0572-AB13
371	Solid Waste Management Grants	0572-AB14
372	Technical Assistance and Training Grants	0572-AB15

Rural Utilities Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
373	Rescission of RUS Bulletins 345-13, 345-29, 345-75, and 345-168 —Telephone Program Regulations	0572-AA66
374	Policy on Audits of RUS Borrowers	0572-AB19

USDA

Office of Operations—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
375	Agriculture Acquisition Regulation	0599-AA00

Office of Operations—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
376	New Restrictions on Lobbying	0599-AA03

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Proposed Rule Stage

1. NATIONAL ORGANIC PROGRAM

Priority: Other Significant

Legal Authority: PL 101-624, sec 2101 to 2123; 7 USC 6501 to 6522

CFR Citation: None

Legal Deadline: NPRM, Statutory, May 28, 1992. Final, Statutory, October 1, 1993. Other, Statutory, May 28, 1991.

The Organic Foods Production Act calls for the Secretary to appoint the National Organic Standards Board 180 days after enactment and convene it within 60 days thereafter.

Abstract: The Organic Foods Production Act of 1990 (OFPA) states that the Secretary shall establish an organic certification program for producers and handlers of agricultural products that have been produced using organic methods. The OFPA provides for three proposed actions by the Department of Agriculture: (a) the accreditation of State and private certifying agents for the Secretary, which includes provision for the collection of reasonable fees from producers, certifying agents, and handlers who participate in the program; (b) the establishment of a national list of natural substances prohibited, and synthetic substances allowed in organic production and handling; and (c) the development of national standards and procedures to be used in organic production, processing and handling, with the requirement that any product labeled as organically produced will have to be certified once the program is implemented (except for producers with less than $5,000 gross sales). The OFPA also calls for establishment of a National Organic Standards Board (NOSB), notices of meetings, and notices of hearings for standards for livestock products.

Timetable:

Action	Date	FR Cite
Organic Livestock Hearings	12/30/93	58 FR 69315
Notice - Procedure to Submit Names of Substances for National List	03/27/95	60 FR 15744
NPRM	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harold S. Ricker, Program Leader/National Organic Program, Transportation and Marketing Division, Department of Agriculture, Agricultural Marketing Service, Room 2947 South Building, P.O. Box 96456, Washington, DC 20090-6456
Phone: 202 720-3252

RIN: 0581–AA40

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Long-Term Actions

2. REVISION OF REGULATIONS GOVERNING THE INSPECTION AND GRADING SERVICES OF MANUFACTURED OR PROCESSED DAIRY PRODUCTS

Priority: Routine and Frequent

CFR Citation: 7 CFR 58

Timetable:

Action	Date	FR Cite
NPRM	08/10/92	57 FR 35492
NPRM Comment Period End	10/09/92	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tracy Schonrock
Phone: 202 690-0530

RIN: 0581–AA45

3. REGULATIONS UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 46

Timetable:

Action	Date	FR Cite
NPRM	07/12/94	59 FR 35487
NPRM Comment Period End	08/11/94	
NPRM Comment Period Extended to	10/12/94	59 FR 46772

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James Frazier
Phone: 202 720-4180

RIN: 0581–AB28

USDA—AMS

Long-Term Actions

4. • REVISION OF PERISHABLE AGRICULTURAL COMMODITIES ACT

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 499o

CFR Citation: 7 CFR 46

Legal Deadline: None

Abstract: The majority of the proposed revisions to the regulations are needed to implement changes to the Perishable Agricultural Commodities Act (PACA) as a result of the enactment of H.R. 1103, the PACA Amendments of 1995. The Legislation which was signed by President Clinton on November 15, 1995 (Public Law 104-48), restructures and strengthens the PACA. The changes in the regulations are necessary to update them to conform with the requirements of Public Law 104-48. The proposed revisions which specifically relate to sections 46.27 and 46.28, are made in response to directions received from the House Agriculture Committee to accurately reflect the increased role of fruit and vegetable brokers as agent of purchasers.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. R. Frazier, Assistant Chief, PACA Branch, Fruit and Vegetable Division, Department of Agriculture, Agricultural Marketing Service, P.O. Box 96465, Room 2077-South, Washington, DC 20090-6456
Phone: 202 720-4180

RIN: 0581–AB41

5. • NATIONAL LABORATORY ACCREDITATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 138 to 138i

CFR Citation: None

Legal Deadline: None

Abstract: The 1990 Farm Bill authorized the creation of a National Laboratory Accreditation Program (NLAP) for laboratories that request accreditation and conduct residue testing of agricultural products concerning chemical residue levels on agricultural products. The program is designed to protect human health by ensuring that laboratories which make claims to the public concerning pesticide residue levels meet minimum quality and reliability standards. The standards for the NLAP will be provided by the Food and Drug Administration with the operation of the program under the Agricultural Marketing Service, USDA. The program costs will be offset by a fee schedule. The one-time appropriation was used to provide for a fully equipped pesticide laboratory to verify the findings of those laboratories applying for accreditation.

Timetable:

Action	Date	FR Cite
ANPRM	11/20/92	57 FR 54727
ANPRM Comment Period End	01/19/93	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: I-Pin Ho, Chemist, Technical Services Branch, Department of Agriculture, Agricultural Marketing Service, USDA, AMS, Science and Technology Division, P.O. Box 96456, Room 3517-South, Washington, DC 20090-6456
Phone: 202 205-4993
Fax: 202 720-6496

RIN: 0581–AB42

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Marketing Service (AMS)

Completed Actions

6. REFRIGERATION AND LABELING REQUIREMENTS FOR SHELL EGGS

Completed:

Reason	Date	FR Cite
Transfer Development to RIN 0583-AC04	02/06/96	

RIN: 0581–AA66

7. SALMONELLA RECOGNIZED LABORATORY PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 93

Completed:

Reason	Date	FR Cite
Withdrawn - Program Has Been Transferred to FSIS.	02/22/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Isaac G. Sterling
Phone: 202 720-5878

RIN: 0581–AB38

8. REGULATIONS AND RULES OF PRACTICE UNDER THE PLANT VARIETY PROTECTION ACT

Priority: Other Significant

CFR Citation: 7 CFR 97.1 to 97.3; 7 CFR 97.5 to 97.7; 7 CFR 97.9; 7 CFR 97.11 to 97.12; 7 CFR 97.14 to 97.15; 7 CFR 97.19 to 97.21; 7 CFR 97.23; 7 CFR 97.1000; 7 CFR 97.104 to 97.106; 7 CFR 97.120; 7 CFR 97.130; 7 CFR 97.40 to 97.143; 7 CFR 97.175; 7 CFR 97.201; 7 CFR 97.205 to 97.222; ...

Completed:

Reason	Date	FR Cite
Final Action	01/04/96	61 FR 247

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marsha Stanton
Phone: 301 504-5518

RIN: 0581–AB39

BILLING CODE 3410-02-F

DEPARTMENT OF AGRICULTURE (USDA)
Farm Service Agency (FSA)

Proposed Rule Stage

9. NATIONAL AVERAGE LOAN RATES FOR 1996-CROP QUOTA AND ADDITIONAL PEANUTS AND MINIMUM COMMODITY CREDIT CORPORATION (CCC) EXPORT- EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1445c-3

CFR Citation: 7 CFR 1421; 7 CFR 1446

Legal Deadline: Final, Statutory, February 15, 1996.
For price support levels only.

Abstract: This action is needed to implement the peanut price support program, as required by statute. The price support levels provide a domestic price floor for quota and additional peanuts. The price support level for quota peanuts is set by statutory formula to be equal to last year's level plus any increase in production costs, but may increase by no more than 5 percent above the previous year. The support level for additional peanuts must be set at a level that ensures that CCC incurs no losses from the price support program. The minimum export-edible sales price is set at the Secretary's discretion, and has been set at $400 per ton for each of the previous 8 years. The Peanut Program, which also includes the poundage quota program, will result in a net realized loss of about $87 million.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE43

10. • UPLAND COTTON USER MARKETING CERTIFICATE PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 1444-2

CFR Citation: 7 CFR 1427

Legal Deadline: None

Abstract: This action will amend the regulations to change the date of the payment rate for exporters participating in the upland cotton user marketing certificate program from the date of the sales contract to the date the cotton was shipped. A net savings to the Government of about $25 to $65 million will result.

Timetable:

Action	Date	FR Cite
NPRM	03/13/96	61 FR 10289
NPRM Comment Period End	04/12/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE51

11. • TERMS FOR THE COLLECTION OF 1995 ADVANCE DEFICIENCY OVERPAYMENTS

Priority: Other Significant

Legal Authority: 15 USC 714b; 15 USC 714c

CFR Citation: 7 CFR 1403

Legal Deadline: None

Abstract: This action will provide a new policy for the collection of 1995 advance deficiency payment overpayments and the calculation of late payment interest. Producers who must repay overpayments will be offered more lenient interest rates to ease financial burdens resulting from adverse weather or other conditions. Specifically, CCC 1) will not assess the 3 percent late payment interest normally required for price support loans that remain unpaid 60 days after the date the claim is established, 2) may waive all or part of the late payment interest for installment payment plans, 3) offer producers an option to repay by offset of future program payments, and 4) calculate interest from the date on which the claim is established. This action will increase expenditures by about $90 million.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205 5851
Fax: 202 690-2181

RIN: 0560–AE53

12. • IMPLEMENTATION OF FIVE-YEAR DIRECT LINE OF CREDIT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1941 et seq

CFR Citation: 7 CFR 1941, subpart A

Legal Deadline: None

Abstract: This action will implement a five-year direct line of credit program. A direct line of credit will allow applicants to be eligible to continue to receive advances for up to five years without submitting subsequent applications. Savings in administrative costs will offset slightly higher loan costs.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205 5851
Fax: 202 690-2181

RIN: 0560–AE58

DEPARTMENT OF AGRICULTURE (USDA)
Farm Service Agency (FSA)

Final Rule Stage

13. FARMER PROGRAMS GUARANTEED INTEREST ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart B; 7 CFR 1980 subpart D; 7 CFR 1980 subpart E; 7 CFR 1980 subpart G

Legal Deadline: None

Abstract: This regulation will provide for a government subsidy to lenders for interest rates for guaranteed Farmer Programs loans so the borrower will be paying interest rates for guaranteed loans that are similar to insured loans. This should provide an incentive for using the guaranteed loan program. The potential cost to the Government will be reduced as the Government will only pay a lender up to 90 percent of the losses on loans and only part of the interest rate rather than loaning a borrower the full amount of the loan and paying an investor the full cost of the Government borrowing the money for an insured loan. The benefit is that the borrower will be paying an interest rate for guaranteed loans that is comparable to that for insured loans.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/28/91	56 FR 8258
Final Action	09/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This entry was reported as RIN 0575-AA80 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE01

14. FARMER PROGRAM ACCOUNT SERVICING POLICIES FOR SECTION 1816 AND OTHER RELATED SECTIONS FOR THE "1990 FACT ACT"

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-624, sec 1816; 7 USC 1989; 42 USC 1480; 5 USC 301; PL 102-554, sec 10; PL 102-554, sec 23

CFR Citation: 7 CFR 1900 subpart B; 7 CFR 1924 subpart B; 7 CFR 1951 subpart S

Legal Deadline: None

Abstract: This action will implement provisions of the Food, Agriculture, Conservation and Trade Act of 1990, as they affect the Farmers Home Administration's Farmer Programs, plus relevant provisions of the Omnibus Budget Reconciliation Act of 1990. In addition, the Agricultural Credit Act of 1992 provided that in extraordinary circumstances, the State Director could extend the 60-day time period for submitting an application for Farmer Programs Loan Servicing (RIN 0575-AB42, published as an interim rule, March 23, 1993, 58 FR 15417). RIN 0575-AB42 will be combined into RIN 0575-AA91; and one final rule will be published.

Timetable:

Action	Date	FR Cite
NPRM	10/23/91	56 FR 54970
NPRM Comment Period End	11/22/91	
Interim Final Rule	04/30/92	57 FR 18612
Final Action	08/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: This entry was reported as RIN 0575-AA91 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE02

15. IMPLEMENT SECTION 1818 (BORROWER TRAINING) OF THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990 (FACT ACT)

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-624, sec 1818

CFR Citation: 7 CFR 1910 subpart A; 7 CFR 1943 subpart B; 7 CFR 1924 subpart B; 7 CFR 1941 subpart A; 7 CFR 1945 subpart D; 7 CFR 1943 subpart A; 7 CFR 1951 subpart S; 7 CFR 1980 subpart B; 7 CFR 1962 subpart A; 7 CFR 1965 subpart A

Legal Deadline: None

Abstract: Regulations are needed to set forth the curriculum and process to train Farm Service Agency borrowers.

Timetable:

Action	Date	FR Cite
NPRM	11/25/92	57 FR 55473
NPRM Comment Period End	12/28/92	
Interim Final Rule	12/30/93	58 FR 69190
Final Action	07/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This entry was reported as RIN 0575-AB13 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE04

16. GUARANTEED LOAN PROGRAMS; MONITORING LIQUID ACCOUNTS

Priority: Other Significant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart B

Legal Deadline: None

Abstract: Lenders are currently required to monitor liquidated accounts for five years. This regulation will reduce that period of time to three years. This regulation change only affects the monitoring of guaranteed loan accounts in which a final loss claim has been paid. These accounts

will be monitored by lenders for three years following the liquidation for potential future recoveries.

Timetable:

Action	Date	FR Cite
NPRM	05/05/94	59 FR 23173
NPRM Comment Period End	07/05/94	
Final Action	09/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: This entry was reported as RIN 0575-AB29 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE05

17. INSURED AND GUARANTEED OPERATING AND FARM OWNERSHIP LOAN AND RELATED INSTRUCTIONS TO IMPLEMENT SECTIONS 4, 5, 7, 8, 9, AND 19 OF THE AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-554

CFR Citation: 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1980; 7 CFR 1955

Legal Deadline: Final, Statutory, October 1, 1993. Other, Statutory, April 28, 1993.
Sec 23 of Pub. L. 102-554 requires that interim regulations be published by April 28, 1993, and final regulations published by October 1, 1993.

Abstract: The law was enacted to assist beginning farmers and ranchers in getting started in agriculture. The 1987 Census of Agriculture indicated an increase of 20.7 percent in the number of farmers in the 65 and over age group between 1978 and 1987. During the same period the number of farmers less than 25 years of age declined by 46.2 percent and the number of farmers between 25 and 34 years of age declined by 15 percent. The impact and cost on the farm ownership (FO) loan program should be minimal in view of the required 10 percent cash down payment by beginning farmer applicants. The impact on the operating loan (OL) program should be minimal in view of FO loan restrictions during the first 5 years of participation in this program. Applicants have a choice of applying for FO and OL assistance under the new programs or under the existing FO and OL programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/93	58 FR 48275
Final Action	12/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: This entry was reported as RIN 0575-AB41 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE09

18. IMPLEMENT SECTIONS 11 AND 13 OF THE AGRICULTURE CREDIT IMPROVEMENT ACT 1993 (APPLICATION PROCESSING TIMEFRAME)

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-554

CFR Citation: 7 CFR 1910; 7 CFR 1980

Legal Deadline: Final, Statutory, October 1, 1993. Other, Statutory, April 28, 1993.
Sec 23 of Pub. L. 102-554 requires interim regulations to be published by April 28, 1993, and final regulations to be published by October 1, 1993.

Abstract: The Agricultural Credit Improvement Act of 1992 requires the Farm Service Agency (FSA) to change its procedures for notifying applicants for farmer program loans and loan guarantees when information is needed to complete an application. In addition, County Offices will now be required to report applications that remain pending 45 days after receipt, and the reasons they remain pending. The Agency is also required to report to the Congress every month each application pending more that 50 days after its receipt. In addition, County Committees are required under the Act to review all applications for direct and guaranteed farmer programs loans not later than 5 days after receipt if there is more than one other complete application pending, and not later than 15 days if there are no other complete applications pending. These changes will ensure more timely and consistent processing of applications. Otherwise, their impact on the Agency should be minimal. Impact on applicants and participating lenders should be favorable, regarding timeliness in processing.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/93	58 FR 68717
Final Action	12/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: This entry was reported as RIN 0575-AB56 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE14

19. ACQUISITION AND MANAGEMENT OF REAL AND CHATTEL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 2.23; 7 CFR 2.70; 7 CFR 1955A; 7 CFR 1955C

Legal Deadline: Final, Statutory, April 28, 1993.

Abstract: Provide additional notice to Native Americans to convey property prior to foreclosure, notify tribe of properties value and inform them of the amount of the Government's bid at a foreclosure sale. Allow surplus property to be leased with or without an option to purchase to eligible program applicants. Will implement changes required by the Agricultural Improvement Act of 1992, H.R. 6129, which was signed on October 28, 1992. Will also regulate how properties can be transferred to Indian tribes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/93	58 FR 68722
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Tribal

Additional Information: This entry was reported as RIN 0575-AB63 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE15

20. SMALL FARMER OUTREACH TRAINING AND TECHNICAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-624; 7 USC 2279; 7 USC 1989; 5 USC 301

CFR Citation: 7 CFR 1943 subpart C

Legal Deadline: None

Abstract: The subpart is being added to meet the objectives of the Small Farmer Outreach Training and Technical Assistance Program which will allow the Farm Service Agency to fund cooperative and other agreements or enter into a Memorandum of Understanding with 1890 or other eligible educational institutions or community-based organizations. (1890 Colleges and Universities - Black Land Grant Colleges established under the 1890 Morrill Act.)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/27/94	59 FR 66441
Final Action	07/00/96	

Small Entities Affected: Organizations

Government Levels Affected: State

Additional Information: This entry was reported as RIN 0575-AB74 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE17

21. DISASTER ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 5 USC 301; 42 USC 1980

CFR Citation: 7 CFR 1945 subpart A

Legal Deadline: None

Abstract: This action will amend the regulations to improve and expedite the disaster designation process that will make emergency loan (EM) assistance available in a more expeditious manner in declared/designated disaster areas to assist family farmers whose operations have sustained qualifying losses as a result of a major or natural disaster, and who wish to apply for such loan assistance. The regulation would also continue to be out of date with the current policy of basing countywide production losses on a major single enterprise only, in lieu of requiring a determination of countywide production losses in all crops. To change the regulation will bring the designation process in line with the current policy of eliminating the requirement for determining a 30 percent countywide reduction in the normal year's dollar value of all crops in a county(ies). This action will update and improve the process of current policy if there is a 30 percent or greater countywide reduction in the normal year's dollar value of a single enterprise (single crop), which is considered a major enterprise or crop in the county, or a determination that extenuating circumstances exist and warrant a designation under the Secretary of Agriculture's discretionary authority. This change will permit CFSA to automatically gather information for consideration of the Secretary's discretionary authority, and allow the Secretary to expeditiously designate the affected counties and make EM loans available to eligible family farmers.

Timetable:

Action	Date	FR Cite
Final Action	07/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal

Additional Information: This entry was reported as RIN 0575-AB87 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE22

22. REVISIONS TO THE DIRECT FARM OWNERSHIP LOAN REGULATION (1943-A) OUTREACH PROGRAM FOR MEMBERS OF SOCIALLY DISADVANTAGED GROUPS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 5 USC 301

CFR Citation: 7 CFR 1943 subpart A

Legal Deadline: None

Abstract: The Farm Service Agency proposes to amend its direct farm ownership (FO) regulation to: (1) change and clarify the Agency's existing procedures on outreach provided to applicants/ borrowers who are members of socially disadvantaged groups, and to reference the policies and operating procedures for doing outreach as found in the Farmers Home Administration (FmHA) Handbook for the socially disadvantaged outreach program; (2) explain the Agency's policy pertaining to financing alternative agricultural enterprises; (3) revise Exhibit B on Target Participation Rates (TPRs) to remove the obsolete State TPRs and to provide for refinancing real estate debts, in justifiable cases, to prevent foreclosure action on farmland owned by socially disadvantaged applicants/borrowers; and (4) add a new section on the guidelines used in developing State and County TPRs, and to make reference to the FmHA Handbook which contains the policies and procedures for targeting FO loan funds in accordance with the TPRs. This action is necessary in order to reach more socially disadvantaged individuals and make them aware of the statutory targeted FO loan assistance available to them under this program. Also, this action will result in better coordination of the outreach program at the Agency's County Office level.

USDA—FSA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This entry was reported as RIN 0575-AB88 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE23

23. AMENDMENT TO CONSERVATION PROGRAM APPEAL REGULATIONS REGARDING JURISDICTION

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6932

CFR Citation: 7 CFR 780

Legal Deadline: None

Abstract: The Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (the Act) change the appeals procedures applicable to producers affected by Natural Resources Conservation Service (NRCS) determinations on the conservation programs authorized by Title XII of the Food Security Act of 1985. The Act provides that CFSA shall have initial jurisdiction over administrative appeals resulting from an adverse determination, including those involving technical determinations by NRCS. Producers will no longer appeal separately to NRCS. The Act requires CFSA to issue a rule with the concurrence of NRCS establishing procedures for review by NRCS of the technical determinations involved. Technical criteria used by NRCS shall be used by CFSA as the basis for any decisions regarding technical determinations. If no review is requested, NRCS technical determinations shall be the technical basis for decisions rendered by county or area committees. No additional cost to USDA. Producers may save some money by being able to avoid the costs of separate appeals.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/95	60 FR 67298
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE30

24. PERMIT CFSA TO SELL OR ASSIGN FARM LOAN MORTGAGES AND NOTES

Priority: Economically Significant

Legal Authority: 7 USC 1989

CFR Citation: 7 CFR 1962; 7 CFR 1965

Legal Deadline: None

Abstract: FSA is proposing to amend its regulations to establish a procedure for the sale and assignment of farmer program notes and mortgages. This will assist the Agency in resolving loan accounts with greater dispatch and less loss to the Government. Borrowers can benefit by receiving more generous repayment terms from the purchaser/assignee than the Agency is authorized to provide.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/96	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE35

25. 1996 UPLAND COTTON PROGRAM

Priority: Economically Significant

Legal Authority: 7 USC 1444-2

CFR Citation: 7 CFR 1413; 7 CFR 1427

Legal Deadline:
Final, Statutory, January 1, 1995, Final ARP level.
NPRM, Statutory, November 1, 1995, Preliminary ARP level.
Final, Statutory, November 1, 1995, Loan rate.

Abstract: This action is needed to implement the 1996 Upland Cotton Program as required by legislation. The primary determinations are the loan rate and the Acreage Reduction Program level. The cost to Government is estimated to range from $0.5 to $1.5 billion.

Timetable:

Action	Date	FR Cite
NPRM	10/10/95	60 FR 52634
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE40

26. 1996-CROP PEANUTS NATIONAL POUNDAGE QUOTA

Priority: Other Significant

Legal Authority: 7 USC 1358-1

CFR Citation: 7 CFR 729

Legal Deadline: Final, Statutory, December 15, 1995.

Abstract: The objective of the peanut quota is to balance supply with demand at a level that will assure stable supplies for domestic use and assure producers a stable income. This action is required by statute, which provides a formula for computing the national quota, based on the Secretary's estimate of the amount of peanuts required for domestic food, seed, and related uses for the 1996 marketing year, and may not be less than 1.35 million tons. The 1996 marketing year is from August 1, 1996 through July 31, 1997. The Peanut Program, which also includes the price support program and export policies, will result in a net realized loss of about $87 million.

Timetable:

Action	Date	FR Cite
Announcement	12/00/96	
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE45

27. 1996-CROP MARKETING QUOTAS AND PRICE SUPPORT LEVELS FOR SIX KINDS OF TOBACCO

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1312

CFR Citation: 7 CFR 723; 7 CFR 1464

Legal Deadline: Final, Statutory, March 1, 1996.
For marketing quotas.

Abstract: Marketing quotas/acreage allotments and price support are required by statute for these types of tobacco: fire-cured (type 21), fire-cured (types 22-23), dark air-cured (types 35-36), Virginia sun-cured (type 37), cigar filler (type 46) and cigar filler and binder (types 42-44 and 53-55). Quotas and allotments are determined by statutory formula to balance supply with demand to assure stable supplies for domestic and export use. Marketing quotas are implemented if approved by producers in referenda. Producers approved quotas for the 1996 crops of fire-cured (types 21-23), dark air-cured (types 35-36), and sun-cured (type 37) in March 1994 and March 1995. Referenda for the other types are scheduled for March 1996. Producers of these types have historically voted in favor of quotas. Price support levels are set by statutory formula. The Secretary may reduce the level at the request of producer associations, and may limit increases to 65 percent of the formula increase. Gross loan outlays of $3 million in FY 1997 will be offset by loan redemptions and no-net-cost assessments in FY 1997 and subsequent years for a net cost of 0.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE46

28. 1996-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1314; 7 USC 1445

CFR Citation: 7 CFR 723; 7 CFR 1464

Legal Deadline: Final, Statutory, February 1, 1996.
for marketing quotas.

Abstract: The burley tobacco marketing quota and price support are required by statute. Their purpose is to balance supply with demand at levels assuring stable supplies for domestic and export use at prices considered sufficient for producers. The national quota is based on cigarette manufacturers' intentions, 3-year average exports, loan stocks adjustment, and a discretionary adjustment of plus or minus 3 percent. The quota may not be less than 90 percent of the previous year's quota except the limit may be waived if producer association inventories will likely exceed 150 percent of the reserve stock level. The price support level is based on a formula that averages market prices (2/3 weight) and a cost index (1/3 weight), plus discretion to limit any increase to 65 percent of the formula increase. Marketing quotas were approved by producers in a referendum in February, 1995. Gross loan outlays of $40 million in FY 1997 will be offset by loan repayments and no-net-cost assessments in Fy 1997 and subsequent years for a net cost of 0.

Timetable:

Action	Date	FR Cite
Announcement	02/01/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE47

29. 1996-CROP MARKETING QUOTAS AND PRICE SUPPORT LEVEL FOR FLUE-CURED TOBACCO

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1314; 7 USC 1445

CFR Citation: 7 CFR 723; 7 CFR 1464

Legal Deadline: Final, Statutory, December 15, 1995.
for marketing quotas.

Abstract: The flue-cured tobacco marketing quota and price support are required by statute. Their purpose is to balance supply with demand at levels assuring stable supplies for domestic and export use at prices that are considered sufficient for producers. The national quota is based on cigarette manufacturers' intentions, 3-year average exports, a loan stocks adjustment, and a discretionary adjustment of plus or minus 3 percent. The quota may not be less than 90 percent of the previous year's, except the limit may be waived if producer association inventories will likely exceed 150 percent of the reserve stock level. The price support level is based on a formula that averages market prices (2/3 weight) and a cost index (1/3 weight), with discretion to limit any increase to 65 percent of the formula increase. Marketing quotas were approved by producers in a referendum in January, 1995. Gross

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loan outlays of $75 million in FY 1996 and 1997 will be offset by loan redemptions and no-net-cost assessments in FY 1996 and subsequent years for a net cost of 0.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE48

30. • DELETION OF FSA REGULATIONS REGARDING COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 7 USC 6962

CFR Citation: 7 CFR 702; 7 CFR 703; 7 CFR 752

Legal Deadline: None

Abstract: The Department of Agriculture Reorganization Act of 1994 moved responsibility for the Colorado River Basin Salinity Control Program, Wetlands Reserve Program and Water Bank Program from the former Agricultural Stabilization and Conservation Service (now the Farm Service Agency) to the new Natural Resources Conservation Service. This action will remove the FSA regulations for these programs. There will be no cost to the government as a result of this action.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205 5851
Fax: 202 690-2181

RIN: 0560–AE54

31. • AMENDMENT TO THE CONSERVATION RESERVE PROGRAM REGARDING EARLY CONTRACT TERMINATIONS

Priority: Other Significant

Legal Authority: 16 USC 3831 et seq

CFR Citation: 7 CFR 704

Legal Deadline: None

Abstract: The Secretary announced that USDA will provide CRP contract holders with contracts scheduled to expire September 30, 1996, an opportunity to request release from their contracts and to modify their contracts to reduce the amount of acreage subject to the contracts prior to contract expiration without penalty or refund of previous payments. The purpose of the early release is to enhance the commodity supply situation for the 1996/97 marketing year. Savings of about $26-$30 million will accrue in FY 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/15/96	61 FR 10671
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205 5851
Fax: 202 690-2181

RIN: 0560–AE56

32. • DAIRY INDEMNITY PAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 4501

CFR Citation: 7 CFR 760

Legal Deadline: None

Abstract: The Dairy Indemnity Payment Program indemnifies dairy producers for milk dumped because of contamination that is not the fault of the producer and dairy manufacturers for dairy products removed from the market through no fault of their own. This action will extend the program through September 30, 1996. $100,000 has been appropriated for FY 1996, and is the average outlay for recent years.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205 5851
Fax: 202 690-2181

RIN: 0560–AE57

DEPARTMENT OF AGRICULTURE (USDA)

Farm Service Agency (FSA)

Long-Term Actions

33. EXCESSIVE MANUFACTURING (MAKE) ALLOWANCES IN STATE MARKETING ORDERS FOR MILK

Priority: Economically Significant

CFR Citation: 7 CFR 13

Timetable:

Action	Date	FR Cite
NPRM	06/19/92	57 FR 27371
NPRM Comment Period End	10/19/92	
Supplemental NPRM	01/14/94	59 FR 2307
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AC23

USDA—FSA

Long-Term Actions

34. AMENDMENT TO THE HIGHLY ERODIBLE LAND AND WETLANDS CONSERVATION PROGRAM REGULATIONS—PERSON DETERMINATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 7 CFR 12

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AC86

35. AMENDMENTS TO THE WETLANDS REGULATIONS REGARDING ABANDONED ACREAGE AND DRAINAGE BY DRAINAGE DISTRICTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 12

Timetable:

Action	Date	FR Cite
NPRM	07/06/92	57 FR 29658
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AC92

36. AMENDMENTS TO CCC DEBT SETTLEMENT REGULATIONS REGARDING WAIVER OF RESTRICTION ON PROGRAM ELIGIBILITY AND COLLECTION OF JUDGMENTS BY ADMINISTRATIVE OFFSET

Priority: Other Significant

CFR Citation: None

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AD09

37. CONSERVATION ENVIRONMENTAL PROGRAMS REGULATIONS REGARDING WATER QUALITY INCENTIVES PROJECT, COST SHARE PROVISIONS OF THE EMERGENCY CONSERVATION PROGRAM, AND OTHER REVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 701

Timetable:

Action	Date	FR Cite
NPRM	01/10/94	59 FR 1293
NPRM Comment Period End	02/09/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AD16

38. AMENDMENT TO THE ACREAGE CONSERVATION RESERVE AND THE CONSERVING USE ACREAGE REGULATIONS FOR PRODUCERS AFFECTED BY EXCESSIVE RAINFALL AND FLOODING

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1413

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/27/93	58 FR 57721
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AD50

39. PROGRAM INELIGIBILITY FOR NONCOMPLIANCE WITH BOLL WEEVIL ERADICATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AD57

40. REGULATIONS FOR CONSERVATION COMPLIANCE CROP ACREAGE BASE (CAB) ADJUSTMENTS

Priority: Other Significant

CFR Citation: 7 CFR 1417

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AD80

41. AMENDMENT TO THE EMERGENCY LIVESTOCK ASSISTANCE REGULATIONS REGARDING FEED ALLOWANCE AND APPROVAL OF COUNTIES FOR ASSISTANCE

Priority: Other Significant

CFR Citation: 7 CFR 1475

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AD84

42. FARM FACILITY LOAN PROGRAM REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 1474

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AD85

43. COMMON PROVISIONS FOR 1995 WHEAT, FEED GRAIN, COTTON, AND RICE PROGRAMS

Priority: Economically Significant

CFR Citation: 7 CFR 1413

Timetable:

Action	Date	FR Cite
NPRM	01/24/95	60 FR 4571
NPRM Comment Period End	01/27/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AD86

44. SUGAR AND CRYSTALLINE FRUCTOSE INFORMATION AND RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1435

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AD88

45. AMENDMENTS TO THE PAYMENT LIMITATION REGULATIONS FOR 1995

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1497; 7 CFR 1498

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AD89

46. AMENDMENT TO THE WAREHOUSE REGULATIONS REGARDING AUCTION TOBACCO WAREHOUSES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 723; 7 CFR 737

Timetable:

Action	Date	FR Cite
NPRM	07/28/95	60 FR 38766
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AD92

47. AMENDMENT TO THE TOBACCO LOAN PROGRAM REGULATIONS—BUDGET DEFICIT MARKETING ASSESSMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1464

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/20/95	60 FR 19665
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AD93

48. MEASURE-ALL PILOT PROJECT

Priority: Other Significant

CFR Citation: 7 CFR 718

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AD98

49. IMPLEMENTATION OF CERTIFIED LENDER PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart B

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/24/93	58 FR 34302
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE07

50. LOANS TO INDIAN TRIBES AND TRIBAL CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1942 subpart F; 7 CFR 1823; 7 CFR 2.23; 7 CFR 2.70

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Tribal

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE10

51. SECTION 14 OF THE AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992, (GRADUATION) AND SECTIONS 1819 (LOAN ASSESSMENT) AND 1821 (MARKET PLACEMENT) OF THE FACT ACT

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1951; 7 CFR 1980; 7 CFR 1943; 7 CFR 1945; 7 CFR 1962

Timetable:

Action	Date	FR Cite
NPRM	12/30/93	58 FR 69274
NPRM Comment Period End	02/28/94	
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE11

52. THE AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1992

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1946; 7 CFR 1980

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/17/93	58 FR 65871
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE13

53. DECISION TO LIQUIDATE

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1980

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE19

54. SOCIALLY DISADVANTAGED OUTREACH PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1941 subpart A; 7 CFR 1980 subpart B

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE24

55. FEDERAL CROP INSURANCE REFORM AND DEPARTMENT OF AGRICULTURE REORGANIZATION ACT OF 1994

Priority: Other Significant

CFR Citation: 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1980; 7 CFR 2.23; 7 CFR 2.70

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/97	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE25

56. PART 1946 MEDIATION; SUBPART A AGRICULTURAL LOAN MEDIATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1946 subpart A

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE26

57. EXTENSION OF MATURING 1994 AND SUBSEQUENT CROP YEAR WHEAT AND FEED GRAIN PRICE SUPPORT LOANS

Priority: Other Significant

CFR Citation: 7 CFR 1421

Timetable:

Action	Date	FR Cite
NPRM	11/03/95	60 FR 55807
NPRM Comment Period End	12/04/95	
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE28

58. TECHNICAL CORRECTIONS TO WHEAT, FEED GRAIN, COTTON, AND RICE PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 718; 7 CFR 1413; 7 CFR 1414; 7 CFR 1415; 7 CFR 1416

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/25/95	60 FR 44255
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE29

59. SELECTION AND FUNCTIONS OF FARM SERVICE AGENCY STATE AND COUNTY COMMITTEES

Priority: Other

CFR Citation: 7 CFR 7

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

USDA—FSA

Long-Term Actions

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE33

60. END-USE CERTIFICATE PROGRAM—PROVIDING NOTIFICATION OF ORIGIN TO BUYERS

Priority: Other Significant

CFR Citation: 7 CFR 782

Timetable:

Action	Date	FR Cite
NPRM	11/14/95	60 FR 57198
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE37

61. IMPLEMENTATION PROCEDURES FOR HIGHLY ERODIBLE LAND AND WETLANDS CONSERVATION PROVISIONS OF THE FOOD SECURITY ACT

Priority: Other Significant

CFR Citation: 7 CFR 1940

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	00/00/00	
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 690-2181

RIN: 0560–AE38

62. AMENDMENT TO THE TOBACCO REGULATIONS REGARDING NESTED TOBACCO

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1464.7(b)(1)

Timetable:

Action	Date	FR Cite
NPRM	02/12/96	61 FR 5317
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE41

63. AMENDMENTS TO THE FARMER ACCOUNT SERVICING POLICIES

Priority: Economically Significant

CFR Citation: 7 CFR 1900; 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1943; 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1962; 7 CFR 1965

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/14/88	53 FR 35638
NPRM	10/23/91	56 FR 54970
Interim Final Rule	04/30/92	57 FR 18612
Interim Final Rule	10/15/92	57 FR 47257
Interim Final Rule	03/23/93	58 FR 15418
Interim Final Rule	05/26/93	58 FR 30104
Interim Final Rule	12/30/93	58 FR 69190
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE42

64. • AMENDMENTS TO THE STANDARDS FOR APPROVAL OF WAREHOUSE FOR COMMODITY CREDIT CORPORATION STORAGE CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 714 et seq

CFR Citation: 7 CFR 1421; 7 CFR 1423; 7 CFR 1427

Legal Deadline: None

Abstract: This action will amend the regulations governing the standards that warehouse operators must meet to enter into storage contracts with CCC to allow additional financial institutions the ability to provide irrevocable letters of credit to CCC to satisfy deficiencies that some warehouse operators may have in meeting their required net worth and provide for the collection of fees to defray the costs incurred by CCC in in conducting examinations of non-U.S. Warehouse Act facilities as a result of warehouse operators modifying existing contracts. Costs of about $50,000 will be incurred by CCC to defray examination costs.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE50

65. • 1996 RICE PRICE SUPPORT PROGRAM

Priority: Economically Significant

Legal Authority: 7 USC 1308a; 15 USC 714c

CFR Citation: 7 CFR 1421; 7 CFR 1424

Legal Deadline: None

Abstract: The Secretary plans to announce the 1996 Rice Program using the discretionary authority under the CCC Charter Act. Under that authority, the 1996 program will make price support available for all eligible rice. Provisions of recent programs such as base acres, flexible acres, payment acres, program yields, and 50/85 payments will not apply. Price support loans may be repayable at a reduced rate when the domestic price is not high enough to cover loan principal and interest. Government expenditures will be about $600 million.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Staff, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. 2415, Wash., DC 20013
Phone: 202 205 5851
Fax: 202 690-2181

RIN: 0560–AE55

DEPARTMENT OF AGRICULTURE (USDA)
Farm Service Agency (FSA)

Completed Actions

66. WOOL AND MOHAIR RECOURSE LOAN PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1428

Completed:

Reason	Date	FR Cite
Withdrawn - No action to be taken.	12/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AD75

67. AMENDMENT TO THE PEANUT LOAN PROGRAM REGULATIONS—REQUIREMENT FOR CROP INSURANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1446

Completed:

Reason	Date	FR Cite
Final Action	11/29/95	60 FR 61198

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AD90

68. AMENDMENT TO THE TOBACCO LOAN PROGRAM REGULATIONS—REQUIREMENT FOR CROP INSURANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1464

Completed:

Reason	Date	FR Cite
Final Action	11/14/95	60 FR 57164

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AD91

69. REMOVAL OF THE PROHIBITION AGAINST CHARGING INTEREST ON INTEREST ON GUARANTEED LOANS

Priority: Other Significant

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart B

Completed:

Reason	Date	FR Cite
Final Action	10/13/95	60 FR 53254

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE16

70. SPECIAL DISASTER SET-ASIDE PROGRAM; FRUIT AND NUT TREES

Priority: Other Significant

CFR Citation: 7 CFR 1945 subpart D

Completed:

Reason	Date	FR Cite
Cancelled	02/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE21

71. AMENDMENT TO TOBACCO MARKETING QUOTA REGULATIONS REGARDING THE EFFECTIVE DATE FOR THE DOMESTIC MARKETING ASSESSMENT

Priority: Other Significant

CFR Citation: 7 CFR 723

Completed:

Reason	Date	FR Cite
Final Action	11/29/95	60 FR 61193
Final Action Effective	11/29/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE27

72. AMENDMENTS TO THE DISASTER PAYMENT PROGRAM REGULATIONS FOR 1990 AND SUBSEQUENT CROPS

Priority: Economically Significant

CFR Citation: 7 CFR 1477

Completed:

Reason	Date	FR Cite
Final Action	10/10/95	60 FR 52600

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE31

73. 1995-CROP SUGAR BEET AND SUGARCANE PRICE SUPPORT LOAN RATES

Priority: Economically Significant

CFR Citation: 7 CFR 1435

Completed:

Reason	Date	FR Cite
Final Action	04/10/96	61 FR 15881

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE44

74. • AGENCY NAME CHANGE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 6932

CFR Citation: 7 CFR VII; 7 CFR XIV

Legal Deadline: None

Abstract: This action amends the regulations to change the name of the Consolidated Farm Service Agency to the Farm Service Agency as a result of the Department of Agriculture reorganization.

Timetable:

Action	Date	FR Cite
Final Action	12/15/95	60 FR 64297

Small Entities Affected: None

Government Levels Affected: None

USDA—FSA — **Completed Actions**

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE49

75. • AGENCY NAME CHANGE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 6932

CFR Citation: 7 CFR XVIII

Legal Deadline: None

Abstract: This action amends the regulations to change the name of the Consolidated Farm Service Agency to the Farm Service Agency as a result of the Department of Agriculture reorganization.

Timetable:

Action	Date	FR Cite
Final Action	01/16/96	61 FR 1109

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Farm Service Agency, Room 3741-S, P.O. Box 2415, Wash., DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0560–AE52

BILLING CODE 3410-05-F

DEPARTMENT OF AGRICULTURE (USDA) — Prerule Stage
Animal and Plant Health Inspection Service (APHIS)

76. IMPORTATION OF FRUITS AND VEGETABLES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 150dd; 7 USC 150ee; 7 USC 150ff; 7 USC 151 to 167; 7 USC 450; 21 USC 136; 21 USC 136a

CFR Citation: 7 CFR 319.56

Legal Deadline: None

Abstract: The Department regulates the importation of fruits and vegetables into the United States to prevent the introduction of plant pests, including insects and diseases. A review of the Department's fruits and vegetables import regulations indicates the need for a complete revision to make the regulations more effective and to increase compliance with them.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ms. Jane Levy, Senior Operations Officer, PPQ, Port Operations, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 139, Riverdale, MD 20737-1236
Phone: 301 734-8259

RIN: 0579–AA58

DEPARTMENT OF AGRICULTURE (USDA) — Proposed Rule Stage
Animal and Plant Health Inspection Service (APHIS)

77. ADDITION OF CERVIDAE TO THE REGULATIONS CONCERNING TUBERCULOSIS IN LIVESTOCK

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 105; 21 USC 111 to 113; 21 USC 114; 21 USC 114a; 21 USC 115 to 117; 21 USC 120 to 121; 21 USC 134b; 21 USC 134f

CFR Citation: 9 CFR 77; 9 CFR 91

Legal Deadline: None

Abstract: Bovine tuberculosis is a contagious, infectious, and communicable disease affecting cattle, bison, and other species, including humans. The spread of bovine tuberculosis in the United States could have serious consequences for the United States cattle and bison industries, as well as for human health. Currently, the regulations concerning control and eradication programs for bovine tuberculosis in livestock only regulate cattle, bison, and swine. Recent outbreaks in the United States of bovine tuberculosis in semi-domesticated herds of cervidae (such as deer and elk) have made apparent the need to also regulate these animals in order to prevent the spread of bovine tuberculosis.

Timetable:

Action	Date	FR Cite
NPRM	04/04/96	61 FR 14982
NPRM Comment Period End	06/03/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Dr. Joseph VanTiem, Senior Staff Veterinarian, VS, Cattle Diseases and Surveillance, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 36, Riverdale, MD 20737-1231
Phone: 301 734-8715

RIN: 0579–AA53

78. PROPOSED REVISION OF THE FEDERAL SEED ACT REGULATIONS FOR IMPORTED SEED

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1581 to 1611

CFR Citation: 7 CFR 201

Legal Deadline: None

Abstract: On October 1, 1982, the Agricultural Marketing Service transferred to the Animal and Plant Health Inspection Service responsibility for administering Title III of the Federal Seed Act (FSA), which pertains to regulation of foreign commerce in seeds. Shortly afterwards, in 1983, the FSA was amended and the inspection requirements for imported seeds were considerably lessened. However, regulations under the FSA (7 CFR 201.101 to 201.230) have not been revised to reflect either the 1982 transfer of regulatory authority or the 1983 statutory amendments. Therefore, we are considering revising FSA regulations to reflect these changes. We are also considering revising FSA regulations to update or delete obsolete sections, including taxonomies of listed weeds, and simplifying inspection requirements for seed imports from Canada. We have amended the FSA regulations to update the list of prohibited weed seeds to include the seeds of all listed Federal noxious weeds. The remaining planned revisions and updates are currently being developed.

Timetable:

Action	Date	FR Cite
ANPRM	09/13/94	59 FR 47286
ANPRM Comment Period End	10/31/94	
NPRM	03/23/95	60 FR 15257
NPRM Comment Period End	04/24/95	
Final Rule	07/12/95	60 FR 35829
Final Rule Effective	08/11/95	
NPRM (Other Amendments)	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Polly Lehtonen, Botanist, PPQ, Biological Assessment/Taxonomic Support, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 133, Riverdale, MD 20737-1236
Phone: 301 734-8896

RIN: 0579–AA64

USDA—APHIS — **Proposed Rule Stage**

79. DEFINITION OF "BIOLOGICAL PRODUCTS" AND "GUIDELINES"

Priority: Other Significant

Legal Authority: 21 USC 151 to 159

CFR Citation: 9 CFR 101

Legal Deadline: None

Abstract: The proposed rule would update the definitions of "biological products" and "guidelines" to reflect current usage. The definition of biological products has not been amended since 1973. APHIS has received a citizen's petition from producers of veterinary biological products to update this definition to accommodate advances in scientific knowledge and to reflect current usage. Similarly, a definition of guidelines is necessary to describe the purpose of such documents as veterinary biologics memoranda, licensing considerations, and notices.

The proposal would provide guidance to producers who are making a choice to seek regulatory approval from the Food and Drug Administration for a product intended for use as an animal drug (e.g. antibiotics, hormones, feed supplements, etc.) or from APHIS for a product intended for use as a veterinary biological product (e.g. vaccines, adjuvants, immunomodulators, and diagnostics). Submission to the appropriate Federal agency would depend upon the intended use of the product for which regulatory approval is sought.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Dr. Frank Y. Tang, Biotechnologist, BCTA, BBEP, Veterinary Biologics, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 148, Riverdale, MD 20737-1237
Phone: 301 734-4833

RIN: 0579–AA65

80. USER FEES, VETERINARY DIAGNOSTICS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114; 21 USC 114a; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135; 21 USC 136; 21 USC 136a

CFR Citation: 9 CFR 130

Legal Deadline: None

Abstract: The Animal and Plant Health Inspection Service (APHIS) is proposing to revise current fees for cost increases or decreases in the user fee program and to propose additional fees for goods and services which APHIS provides. The purpose is to more accurately provide for full-cost recovery of Agency activities. Fees being revised include: user fees at APHIS's animal import centers and user fees at the National Veterinary Services Laboratories (NVSL) (including the labs at the Foreign Animal Diseases Diagnostic Laboratory (FADDL)) to account for cost increases and decreases. Fees being proposed include: user fees at APHIS's animal import center and user fees for hourly services, for tests and reagents which currently do not have user fees and for other miscellaneous goods and services at NVSL and FADDL.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barbara Thompson, Chief, BAD, Financial Systems Services Branch, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 54, Riverdale, MD 20737-1232
Phone: 301 734-5901

RIN: 0579–AA70

81. IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 147a; 7 USC 150ee; 7 USC 161 to 162; 7 USC 450;

7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114a; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135; 21 USC 136; 21 USC 136a; 31 USC 9701; ...

CFR Citation: 9 CFR 92; 9 CFR 93; 9 CFR 94; 9 CFR 95; 9 CFR 96; 9 CFR 98

Legal Deadline: None

Abstract: APHIS would amend the animal and animal product importation regulations that currently identify entire countries as those that are either free of certain diseases or those in which the diseases exist. The proposed change would allow for regionalization of countries--i.e., disease classification of parts of a country, an entire country, or groups of countries. The rule change would also recognize levels of disease risk in regions. Although APHIS anticipates expanding these proposed provisions to apply to the importation of all regulated animals and animal products, at this time the rule changes would apply to ruminants and swine, and their products.

Timetable:

Action	Date	FR Cite
NPRM	04/18/96	61 FR 16978
NPRM Comment Period End	07/17/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Dr. Gary Colgrove, Chief Staff Veterinarian, VS, Program Evaluation and Planning, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, MD 20737-1231
Phone: 301 734-8590

RIN: 0579–AA71

82. • HUMANE TREATMENT OF DOGS AND CATS; TETHERING AND TEMPERATURE REQUIREMENTS

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 1; 9 CFR 3

Legal Deadline: None

Abstract: This rule would amend the regulations for the humane treatment of dogs and cats under the Animal Welfare Act by removing the provisions for tethering dogs as a means of primary enclosure. This rule would also amend the regulations by revising the temperature requirements for indoor, sheltered, and mobile and traveling housing facilities, and for primary conveyances used in transportation, to state that the ambient temperature must never exceed 90 degree F (32.2 degree C) when dogs or cats are present. We are taking these actions because our experience in enforcing the Animal Welfare Act has led us to conclude that continuous confinement of dogs by a tether is inhumane. Also, the current temperature requirements (that the temperature may not exceed 85 degree F for more that four hours); have proven difficult to enforce. These actions would help ensure that dogs and cats in facilities regulated under the Animal Welfare Act will be treated in a humane manner. We do not expect these actions to have any significant impact on affected businesses. Very few businesses regulated under the Animal Welfare Act use a tether as a means of primary enclosure. Dog and cat dealers who do not wish to install air conditioning to meet the temperature requirement could choose from a number of less costly alternatives, such as installing electric fans or establishing outdoor shelters or runs.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mr. Stephen Smith, Staff Animal Health Technician, Department of Agriculture, Animal and Plant Health Inspection Service, REAC, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737-1234
Phone: 301 734-4972

RIN: 0579–AA74

83. • ACCREDITATION OF PRIVATE SEED LABORATORIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 147a

CFR Citation: 7 CFR 353

Legal Deadline: None

Abstract: APHIS is proposing to establish an accreditation protocol for public and private seed health laboratories in order to achieve more timely and cost-effective seed testing. Laboratory accreditation is expected to facilitate U.S. seed exports because the test results provided by an accredited laboratory could be used as supporting documentation in the preparation of Federal phytosanitary certificates. The proposed regulations would provide for the organization of a joint industry/government accrediting body that would assess the ability and competence of applicant laboratories to conduct seed health tests or phytosanitary field inspections. The proposal was initiated by the seed industry, as represented by the American Seed Trade Association, and has the support of State regulatory agencies, which are represented by the National Plant Board.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	
Final Action	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mr. Narcy G. Klag, Senior Operations Officer, Department of Agriculture, Animal and Plant Health Inspection Service, Port Operations, PPQ, APHIS, 4700 River Road Unit 139, Riverdale, MD 20737-1236
Phone: 301 734-8537
Email: nklag@aphis.usda.gov

RIN: 0579–AA75

84. • HUMANE TREATMENT OF DOGS AND CATS; WIRE FLOORING

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 3

Legal Deadline: None

Abstract: This rule would amend the regulations for the humane treatment of dogs and cats under the Animal Welfare Act to prohibit bare wire flooring in primary enclosures for dogs and cats. The rule would further require that, if the floor of a primary enclosure for dogs or cats is constructed of wire, the wire must be coated with a material such as plastic or fiberglass. We believe that bare wire floors are inadequate in providing for the comfort and well-being of dogs and cats because of their potential to cause foot injuries and because they are difficult to clean and sanitize thoroughly. Requiring coated wire to be used for wire floors in primary enclosures would improve comfort, help eliminate foot injuries, and help provide clean and sanitary housing for dogs and cats. The cost to affected businesses of replacing bare wire flooring with coated wire is expected to be a considerable initial expense. However, coated wire flooring is more durable and needs to be replaced less often than bare wire flooring.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mr. Stephen Smith, Staff Animal Health Technician, Department of Agriculture, Animal and Plant Health Inspection Service, REAC, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737-1234
Phone: 301 734-4972

RIN: 0579–AA78

85. • HUMANE TREATMENT OF DOGS AND CATS; LICENSING AND CONSIGNMENT REQUIREMENTS

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 2; 9 CFR 3

Legal Deadline: None

Abstract: This rule would amend the regulations for the humane treatment of dogs and cats under the Animal Welfare Act by revising a provision that persons who sell fewer that 25 dogs and/or cats per year to research facilities are exempted from having to obtain a license to sell dogs and cats. We would revise this provision to exempt persons who sell fewer than 10 dogs and/or cats. This rule would also require that no person who has a contract to enforce local animal control regulations may be licensed as a Class B dealer of dogs and cats. Finally, this rule would include several revisions to certificates used for certifying dogs and cats for sale and consigning dogs and cats to intermediate handlers. We believe these changes are necessary to facilitate regulation of Class B dog and cat dealer activities and to help eliminate the suspected sale of missing and stolen pet dogs and cats for use in research. The cost to affected businesses of revising the licensing exemptions is difficult to determine; the effect would depend on how many currently exempt businesses choose to obtain a license and continue operating.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mr. Stephen Smith, Staff Animal Health Technician, Department of Agriculture, Animal and Plant Health Inspection Service, REAC, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737-1234
Phone: 301 734-4972

RIN: 0579–AA79

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Final Rule Stage

86. EXOTIC NEWCASTLE DISEASE IN ALL BIRDS AND POULTRY; PSITTACOSIS AND ORNITHOSIS IN POULTRY

Priority: Other Significant

Legal Authority: 21 USC 111 to 113; 21 USC 115; 21 USC 117; 21 USC 120; 21 USC 123 to 126; 21 USC 134a; 21 USC 134b; 21 USC 134f

CFR Citation: 9 CFR 82

Legal Deadline: None

Abstract: Exotic Newcastle Disease (also known as viscerotropic velogenic Newcastle disease and as VVND) and psittacosis or ornithosis (now generally referred to as chlamydiosis) are communicable diseases of birds and poultry. The spread of these diseases in the United States could have serious consequences for the United States poultry industry. A review of the Department's regulations to prevent the interstate spread of these diseases indicates the need for a complete revision to make the regulations more effective and to increase compliance with them.

Timetable:

Action	Date	FR Cite
NPRM	06/28/94	59 FR 33214
NPRM Comment Period End	08/29/94	
NPRM	09/30/94	59 FR 44865
NPRM Comment Period Extended	11/29/94	
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Dr. Kelly Preston, Staff Veterinarian, VS, Emergency Programs, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 41, Riverdale, MD 20737-1231
Phone: 301 734-8240

RIN: 0579–AA22

87. ANIMAL WELFARE—STANDARDS FOR MARINE MAMMALS

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 3

Legal Deadline: None

Abstract: The Department regulates the treatment of certain marine mammals under the Animal Welfare Act. The present standards for treatment of these animals have been in effect for over 10 years. During this time, advances have been made and new information has been developed with regard to the housing and care of marine mammals. The Department has given notice of its review of the present standards to determine what revisions or additions might be necessary, and has requested comments on appropriate specific standards for treatment of marine mammals. The Department is conducting negotiated rulemaking (Reg Neg) and developing proposed changes to the regulations.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/93	58 FR 39458
ANPRM Comment Period End	10/06/93	
NPRM	01/23/95	60 FR 4383
NPRM Comment Period End	02/22/95	
NPRM Comment Period Extended (Swim With the Dolphins (SWTD))	02/28/95	60 FR 10810
NPRM Comment Period Extended (SWTD)	03/09/95	60 FR 12906
NPRM Reopened and Extended Comment Period (SWTD)	03/24/95	60 FR 15524
Notice, Establish a Committee (Reg Neg)	05/22/95	60 FR 27049
Correction (Reg Neg)	06/02/95	60 FR 28834
FRM Final Action for (SWTD); Final Action for (SWTDJ)	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Agency Contact: Dr. Barbara Kohn, Veterinary Medical Officer, REAC, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 84, Riverdale, MD 20737-1234
Phone: 301 734-7833

RIN: 0579–AA59

88. IMPORT/EXPORT USER FEES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114; 21 USC 114a; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135; 21 USC 136; 21 USC 136a

CFR Citation: 9 CFR 130

Legal Deadline: None

Abstract: Amending existing user fees for certain import- and export-related services we provide for live animals and birds, animal products, organisms and vectors, and germ plasm and veterinary diagnostic services. Also establishing user fees for import- and export-related services we provide for live animals and birds, and animal products and byproducts. Actions are necessary to help ensure that we recover our costs, and to simplify and clarify application of user fees.

Timetable:

Action	Date	FR Cite
NPRM	05/26/95	60 FR 27913
NPRM Correction, Editorial	06/07/95	60 FR 30157
NPRM Comment Period End	07/25/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Thompson, Chief, BAD, Financial Systems Services Branch, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 54, Riverdale, MD 20737-1232
Phone: 301 734-5901

RIN: 0579–AA67

89. USER FEES—COMMERCIAL AIRCRAFT AND VESSELS; PHYTOSANITARY CERTIFICATES

Priority: Other Significant

Legal Authority: 7 USC 2260; 21 USC 136 to 136a; 49 USC 1741

CFR Citation: 7 CFR 354.3

Legal Deadline: None

Abstract: APHIS is amending the user fee regulations by lowering the fees charged for certain agricultural quarantine and inspection services we provide in connection with the arrival of international commercial aircraft at ports in the customs territory of the United States. APHIS is also amending the user fee regulations by raising the fees charged for export certification of plants and plant products. We have determined, based on a review of our user fees, that the fees must be adjusted to reflect the actual cost of providing these services. In addition, we are amending the user fee regulations to clarify the exemption for certain vessels which sail only between the United States and Canada.

Timetable:

Action	Date	FR Cite
NPRM	05/24/95	60 FR 27437
NPRM Comment Period End	06/23/95	
Final Action	04/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Donna Ford, PPQ User Fees Section Head, BAD, Financial Systems Services Branch, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 54, Riverdale, MD 20737-1232
Phone: 301 734-5901

RIN: 0579–AA68

90. GENETICALLY ENGINEERED ORGANISMS; SIMPLIFICATION OF REQUIREMENTS AND PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 150aa to 150jj; 7 USC 151 to 167; 7 USC 1622n

CFR Citation: 7 CFR 340

Legal Deadline: None

Abstract: The introduction of regulated articles is required to be conducted under permit or under notification procedures acknowledged by APHIS. The latter procedures require that the regulated article meet certain eligibility criteria and performance standards. Field data reports are required to be submitted to APHIS after completion of a field test. The effect would be to simplify procedures for the introduction of certain genetically engineered organisms, requirements for certain determinations of nonregulated status, and procedures for the reporting of field tests under notification. It would allow most genetically engineered plants that are considered regulated articles to be introduced under notification procedures.

Timetable:

Action	Date	FR Cite
NPRM	08/22/95	60 FR 43567
NPRM Comment Period End	10/23/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Michael Schechtman, Branch Chief, Biotechnology Coordination, Technical Assistance, BBEP, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road Unit 146, Riverdale, MD 20737-1237
Phone: 301 734-7601

RIN: 0579–AA73

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Long-Term Actions

91. CHICKEN DISEASE CAUSED BY SALMONELLA ENTERITIDIS

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 82

Timetable:

Action	Date	FR Cite
NPRM	08/02/93	58 FR 41048
Public Hearing	09/02/93	58 FR 46569
NPRM Comment Period Extended	09/28/93	58 FR 50527
NPRM Comment Period End	10/01/93	58 FR 41048
Public Hearing	10/07/93	58 FR 52240
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Allen Hogue
Phone: 301 734-4363

RIN: 0579–AA48

92. IMPORTATION OF CERTAIN EMBRYOS AND ANIMAL SEMEN

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 98

Timetable:

Action	Date	FR Cite
ANPRM	07/08/93	58 FR 36825
ANPRM Comment Period End	09/07/93	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Roger Perkins
Phone: 301 734-8172

RIN: 0579–AA63

93. IN VITRO TESTS FOR SERIAL RELEASE IN PLACE OF ANIMAL POTENCY TESTS

Priority: Other Significant

CFR Citation: 9 CFR 113

Timetable:

Action	Date	FR Cite
NPRM	05/17/95	60 FR 26381
NPRM Public Hearing	08/01/95	
NPRM Comment Period End	09/14/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Albert Morgan
Phone: 301 734-8245

RIN: 0579–AA66

94. HSTAIC REPAIR AND MAINTENANCE FEES

Priority: Other Significant

CFR Citation: 9 CFR 92.430; 9 CFR 92.522

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Joan Montgomery
Phone: 301 734-8172

RIN: 0579–AA69

95. • ANIMAL WELFARE—STANDARDS FOR ANIMAL AUCTIONS

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 1; 9 CFR 2; 9 CFR 3

Legal Deadline: None

Abstract: This proposal would establish standards designed specifically for the humane handling, care, treatment, and transportation of animals covered by the Animal Welfare Act that are held in auction markets. Currently, the treatment of animals at auction sales is being enforced under general regulations for warmblooded animals that are not otherwise covered by the regulations.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Debra Beasley, Senior Staff Veterinarian, Department of Agriculture, Animal and Plant Health Inspection Service, REAC, Animal Care, 4700 River Road Unit 84, Riverdale, MD 20737-1234
Phone: 301 734-4977

RIN: 0579–AA76

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Completed Actions

96. CYCLICAL REVIEW OF 9 CFR PART 92, PHASE II

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 92

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Expected in the Next 12 Months.	02/14/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Roger Perkins
Phone: 301 734-5097

RIN: 0579–AA34

USDA—APHIS

Completed Actions

97. IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS—PREVENTION OF POULTRY DISEASES

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 92

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Expected in the Next 12 Months.	02/14/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Keith Hand
Phone: 301 734-5097

RIN: 0579–AA38

98. EXPORT CERTIFICATION

Priority: Routine and Frequent

CFR Citation: 7 CFR 353; 7 CFR 354

Completed:

Reason	Date	FR Cite
Final Action	04/08/96	61 FR 15365

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Mr. Narcy Klag
Phone: 301 734-8537

RIN: 0579–AA54

BILLING CODE 3410-34-F

DEPARTMENT OF AGRICULTURE (USDA)

Proposed Rule Stage

Cooperative State Research, Education, and Extension Service (CSREES)

99. HIGHER EDUCATION MULTICULTURAL SCHOLARS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3152(b)(5); PL 103-111; PL 103-330

CFR Citation: 7 CFR 3409

Legal Deadline: None

Abstract: Regulations will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals and the award of project grants under the Multicultural Scholars Program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	
Final Action	06/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Jeffrey L. Gilmore, Higher Education Grant Programs Manager, Department of Agriculture, Cooperative State Research, Education, and Extension Service, Rm 3914 South Agriculture Building, 14th Street & Independence Ave. SW., Washington, DC 20250-2251
Phone: 202 720-1973
Fax: 202 720-2030
Email: jgilmore@reeusda.gov

RIN: 0524–AA09

100. AGRICULTURAL TELECOMMUNICATIONS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3318

CFR Citation: None

Legal Deadline: None

Abstract: We propose to establish Administrative Provisions for the Agricultural Telecommunications Program to institute procedures to be followed in preparing proposals, to outline requirements which grant recipients must meet, to provide instructions on how to apply for a grant, and to provide general information about post-award administration of grants under the program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Head, Policy and Program Liaison Staff, Office of Extramural Programs, Department of Agriculture, Cooperative State Research, Education, and Extension Service, AG Box 0995, Washington, DC 20250-0995
Phone: 202 401-4527
Fax: 202 401-3481
Email: pcarter@reeusda.gov

RIN: 0524–AA12

DEPARTMENT OF AGRICULTURE (USDA)

Final Rule Stage

Cooperative State Research, Education, and Extension Service (CSREES)

101. HIGHER EDUCATION CHALLENGE GRANTS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3152

CFR Citation: 7 CFR 3405

Legal Deadline: None

Abstract: Regulation will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and the award of project grants under the Higher Education Challenge Grants Program.

Timetable:

Action	Date	FR Cite
NPRM	12/19/95	60 FR 65444
NPRM Comment Period End	01/18/96	
Final Action	04/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey Gilmore, Higher Education Grant Programs Manager, Department of Agriculture, Cooperative State Research, Education, and Extension Service, Rm 3914 South Agriculture Building, 14th Street & Independence Ave. SW., Washington, DC 20250-2251
Phone: 202 720-1973

USDA—CSREES

Final Rule Stage

Fax: 202 720-2030
Email: jgilmore@reeusda.gov

RIN: 0524–AA02

102. 1890 INSTITUTION CAPACITY BUILDING GRANTS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3318

CFR Citation: 7 CFR 3406

Legal Deadline: None

Abstract: Regulation will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and award of project grants under the 1890 Institution Capacity Building Grants Program.

Timetable:

Action	Date	FR Cite
NPRM	12/20/95	60 FR 66014
NPRM Comment Period End	01/19/96	
Final Action	04/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey Gilmore, Higher Education Grant Programs Manager, Department of Agriculture, Cooperative State Research, Education, and Extension Service, Rm 3914 South Agriculture Building, 14th Street & Independence Ave. SW., Washington DC 20250-2251
Phone: 202 720-1973
Fax: 202 720-2030
Email: jgilmore@reeusda.gov

RIN: 0524–AA03

103. SMALL BUSINESS INNOVATION RESEARCH PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 638

CFR Citation: 7 CFR 3403

Legal Deadline: None

Abstract: The Cooperative State Research, Education, and Extension Service anticipates publishing in final the Administrative Provisions of the Small Business Innovation Research (SBIR) Program to incorporate compliance with the National Environmental Policy Act (NEPA) and changes to conform with the January 1993 issue of the SBIR Policy Directive. These changes include rewording and/or adding additional wording to further explain existing definitions and new requirements as well as the inclusion of new definitions and new requirements including the Documentation of Multiple Phase II awards. We propose to publish the SBIR Administrative Provisions as one document. This would be a practical and economical way to serve the public as well as offer one updated reference document for easy access.

Timetable:

Action	Date	FR Cite
NPRM	08/17/95	60 FR 42990
NPRM Comment Period End	09/18/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phillip Carter, Head, Policy and Program Liaison Staff, Office of Extramural Programs, Department of Agriculture, Cooperative State Research, Education, and Extension Service, AG Box 0995, Washington, DC 20250-0995
Phone: 202 401-4527
Fax: 202 401-3481
Email: pcarter@reeusda.gov

RIN: 0524–AA08

104. ADMINISTRATIVE MANUAL FOR FEDERAL EXCESS PERSONAL PROPERTY LOANED TO STATE COOPERATIVE RESEARCH ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 483(d)(2)(E)

CFR Citation: 7 CFR 3408

Legal Deadline: None

Abstract: This regulation will set forth the procedures to be followed by Cooperative Research entities eligible to receive Federal excess personal property loaned by the Cooperative State Research Education and Extension Service and used in the conduct of approved USDA cooperative research projects and programs.

Timetable:

Action	Date	FR Cite
NPRM	10/14/93	58 FR 53153
NPRM Comment Period End	11/15/93	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This entry was reported as RIN 0527-AA01 prior to the reorganization of USDA.

Agency Contact: Ralph Dillard, Head, Property Services Section, Department of Agriculture, Cooperative State Research, Education, and Extension Service, 3M00 Cotton Annex Building, Ag Box 0993, Washington, DC 20250-0993
Phone: 202 720-7681

RIN: 0524–AA13

105. RANGELAND RESEARCH GRANTS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3333

CFR Citation: 7 CFR 3401

Legal Deadline: None

Abstract: Cooperative State Research, Education, and Extension Service anticipates publishing in final the Administrative Provisions for the Rangeland Research Grants Program to implement the requirements of the National Environmental Policy Act, revise the objectives of the program, change the agency name to reflect the Departmental reorganization, and to make a few additional minor changes.

Timetable:

Action	Date	FR Cite
NPRM	10/27/95	60 FR 55160
NPRM Comment Period End	11/27/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phillip Carter, Head, Policy and Program Liaison Staff, Office of Extramural Programs, Department of Agriculture, Cooperative State Research, Education, and Extension Service, AG Box 0995, Washington, DC 20250-0995
Phone: 202 401-4527
Fax: 202 401-3481
Email: pcarter@reeusda.gov

RIN: 0524–AA15

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DEPARTMENT OF AGRICULTURE (USDA)
Cooperative State Research, Education, and Extension Service (CSREES)

Long-Term Actions

106. PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph Dillard
Phone: 202 720-7681

RIN: 0524–AA14

DEPARTMENT OF AGRICULTURE (USDA)
Cooperative State Research, Education, and Extension Service (CSREES)

Completed Actions

107. NATIONAL RESEARCH INITIATIVE COMPETITIVE GRANTS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3411

Completed:

Reason	Date	FR Cite
Final Action	12/08/95	60 FR 63368
Final Action Effective	11/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sally Rockey
Phone: 202 401-1761
Fax: 202 401-3237
Email: srockey@reeusda.gov

RIN: 0524–AA07

108. BUILDINGS AND FACILITIES PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3410

Completed:

Reason	Date	FR Cite
Withdrawn	02/29/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phillip Carter
Phone: 202 401-4527
Fax: 202 401-3481
Email: pcarter@reeusda.gov

RIN: 0524–AA11

BILLING CODE 3410-22-F

DEPARTMENT OF AGRICULTURE (USDA)
Rural Housing and Community Development Service (RHCDS)

Prerule Stage

109. FARM LABOR HOUSING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1971 et seq

CFR Citation: 7 CFR 1944 subpart D; 7 CFR 1930 subpart C

Legal Deadline: None

Abstract: Make needed program changes to improve compliance FmHA Instruction 1930-C and clarify servicing instructions as they relate to oversight of program operations.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/96	
ANPRM Comment Period End	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James E. Vollmer, Loan Specialist, Multi Family Housing, Department of Agriculture, Rural Housing and Community Development Service, Room 5331 South Building, Washington, DC 20250
Phone: 202 720-1060

RIN: 0575–AC03

DEPARTMENT OF AGRICULTURE (USDA)
Rural Housing and Community Development Service (RHCDS)

Proposed Rule Stage

110. DISPOSITION OF INTERESTS IN INDIAN TRUST LAND

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1955; 7 CFR 1965

Legal Deadline: None

Abstract: Incorporate requirements of the Cranston-Gonzalez National Affordable Housing Act, Section 708. This law prohibits the transfer or sale of Rural Housing Service security interest in Indian Trust Land to anyone except an eligible tribal member, the tribe, or the Indian Housing Authority servicing the tribes. These requirements will enhance the opportunity of these specific entities to become homeowners, thereby serving a previously underserved area.

Timetable:

Action	Date	FR Cite
NPRM	04/08/96	61 FR 15395
NPRM Comment Period End	06/07/96	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jean Leavitt, Senior Loan Specialist, Single Family Housing, Department of Agriculture, Rural Housing and Community Development Service, Rural Housing Servce, Room 5309 South Building, Washington, DC 20250
Phone: 202 720-1462

RIN: 0575–AB17

111. COMMUNITY PROGRAMS GUARANTEED LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

USDA—RHCDS

Proposed Rule Stage

duplication, or streamline requirements.

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980 subpart I

Legal Deadline: None

Abstract: To amend subject regulation which will provide more comprehensive guidance to applicants, lenders, and agency staff regarding financial assistance for essential guaranteed community facilities loans. Justification: These regulatory changes are necessary to streamline and reduce the burden on the public. These changes will also expand the use of the Community Facilities (CF) guarantee program by providing the ability to guarantee tax- exempt loans, and (in general) make the program more accessible to rural lenders. Finally, these changes will reflect our new Agency structure under USDA's reorganization.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Leavitt, Senior Loan Specialist, Single Family Housing, Department of Agriculture, Rural Housing and Community Development Service, Room 5309 South Building, Washington, DC 20250
Phone: 202 720-1462
Fax: 202 205-2476

RIN: 0575–AB80

112. DEBT SETTLEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 31 USC 3711

CFR Citation: 7 CFR 1956 subpart B

Legal Deadline: None

Abstract: The regulation is being revised to emphasize effective debt collection through administrative offsets, pursuing judgments, and making borrowers more accountable for the debt.

Timetable:

Action	Date	FR Cite
NPRM	04/08/96	61 FR 15395
NPRM Comment Period End	06/07/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Jean Leavitt, Senior Loan Specialist, Single Family Housing, Department of Agriculture, Rural Housing and Community Development Service, Room South Building, Washington, DC 20250
Phone: 202 720-1462

RIN: 0575–AB99

114. REQUIRE ALL SINGLE-FAMILY HOUSING BORROWERS AND NONPROGRAM BORROWERS WHO HAVE PURCHASED SINGLE-FAMILY RESIDENCE TO PAY ONE-TIME TAX SERVICE FEE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480

CFR Citation: 7 CFR 1944; 7 CFR 1951; 7 CFR 1965

Legal Deadline: None

Abstract: Rural Housing Service (RHS) has purchased a state-of-the-art dedicated loan origination/servicing system (DLOSS) which includes escrow capability. It is common industry practice to use a tax service and pass the cost of the service onto the borrower. A tax service will ensure taxes are paid timely and and are based on accurate information. All SFH and NP borrowers who are purchasing a single family residence will be required to pay a one-time tax service fee, to be collected at loan closing. In addition, all existing SFH and NP borrowers will be required to pay this fee. The fee will be consistent with industry standards.

Timetable:

Action	Date	FR Cite
NPRM	04/08/96	61 FR 15395
NPRM Comment Period End	06/07/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Jean Leavitt, Senior Loan Specialist, Single Family Housing, Department of Agriculture, Rural Housing and Community Development

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Service, Room 5309 South Building, Washington, DC 20250
Phone: 202 720-1462
Fax: 202 205-2476

RIN: 0575–AC00

115. PROVIDE INFORMATION REGARDING LEASE WRITE-OFF AND ANNUAL LEASE STATEMENTS

Priority: Other Significant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301; 31 USC 3711

CFR Citation: 7 CFR 1955 subpart B

Legal Deadline: None

Abstract: To ensure that lease information is reported properly in agency records, it is necessary to provide field offices on when it is with guidance regarding appropriate to process write-offs of leases of acquired property and subsequently report these write-offs to the Internal Revenue Service. No such guidance currently exists.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kristine Kenniston, Staff Accountant, Policy and Internal Review Division, Department of Agriculture, Rural Housing and Community Development Service, 1520 Market Street, FC-330, St. Louis, MO 63103
Phone: 314 539-2261

RIN: 0575–AC01

DEPARTMENT OF AGRICULTURE (USDA) — Final Rule Stage

Rural Housing and Community Development Service (RHCDS)

116. RECAPTURE OF SECTION 502, RURAL HOUSING SUBSIDY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1951 subpart I

Legal Deadline: None

Abstract: The Rural Housing Service proposes to revise the regulation for the recapture of subsidy granted on Section 502 rural housing loans. This action will simplify and automate the calculation process in conjunction with the purchase of a modern commercial off-the-shelf loan servicing system with escrow capability.

Timetable:

Action	Date	FR Cite
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Phil Girard, Sr. Loan Specialist, Single Family Housing, Department of Agriculture, Rural Housing and Community Development Service, Rural Housing Service, Room 5313 South Building, Washington, DC 20250
Phone: 202 720-1461

RIN: 0575–AA29

117. HOUSING PRESERVATION GRANTS FOR REPLACEMENT OF HOUSING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1490m

CFR Citation: 7 CFR 1944 subpart N

Legal Deadline: None

Abstract: The Housing Preservation Grant program will be expanded to include Housing Preservation Grant funds to be used for replacement housing. Funds will be used to provide loans or grants, not to exceed $15,000 per unit, to owners of single family housing to replace existing housing if repairs or rehabilitation of the housing is not practicable and the owner of the housing is unable to afford a loan under Section 502 for replacement housing.

Timetable:

Action	Date	FR Cite
NPRM	04/17/95	60 FR 19168
NPRM Comment Period End	06/17/95	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Sue M. Harris, Senior Loan Officer, Mutli-Family Housing Processing Division, Department of Agriculture, Rural Housing and Community Development Service, Rural Housing Service, Room 5343 South Building, Washington, DC 20250
Phone: 202 720-1606

RIN: 0575–AB43

118. ENVIRONMENTAL PROGRAM

Priority: Other Significant

Legal Authority: PL 91-190

CFR Citation: 7 CFR 1940-G

Legal Deadline: None

Abstract: Section 1940.311 of FmHA Instruction 1940-G, describes certain utility systems which meet the criteria for environmental review using the format for a Class I environmental assessment. There has been some confusion as to what constitutes a "substantial increase" in withdrawal or discharge, and there has also been some confusion as to what criteria should be used when calculating a 50,000 gallon per day withdrawal from surface or groundwater. It is expected that the effect of this action will be to eliminate this unnecessary confusion, and reduce documentation and paperwork on the part of Rural Housing Service, and Rural Utilities Service, employees in the preparation and review of Class I environmental assessments based on these sections.

Timetable:

Action	Date	FR Cite
NPRM	03/15/95	60 FR 13928
NPRM Comment Period End	05/15/95	
Final Action	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: On March 15, 1995, the NPRM for RIN 0575-AB64 was published at 60 FR 13928 with incorrect RIN 0575-AB66.

Agency Contact: Susan Wieferich, Senior Environmental Protection Specialist, Program Support Staff, Department of Agriculture, Rural Housing and Community Development

USDA—RHCDS — **Final Rule Stage**

Service, Room 6309 South Building, Washington, DC 20250
Phone: 202 720-9619

RIN: 0575–AB64

119. SECURITY SERVICING FOR MULTIPLE-FAMILY HOUSING LOANS

Priority: Other Significant

Legal Authority: 7 USC 1980; 41 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1965 subpart B

Legal Deadline: None

Abstract: Section 1965.85 of FmHA Instruction 1965-B requires that each delinquent Multiple Family Housing account be classified on a delinquency report in addition to the preparation of a detailed servicing plan. Since the plan also includes the reason for the delinquency and the plans for resolving the problem, the classification is a duplication of work. We propose to eliminate the classifying of the account with this revision. The only alternative would be to continue classifying delinquent accounts. The deletion of this requirement would result in reduced burden for District Offices and State Offices. Exhibit A to the Instruction is being revised to clarify completion instructions and to provide uniformity required by the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
NPRM	09/04/90	55 FR 35907
NPRM Comment Period End	11/03/90	
Final Action	10/00/96	
Final Action Effective	11/00/96	

Small Entities Affected: Organizations

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $89,975; Yearly Recurring Cost: $89,975; Base Year for Dollar Estimates: 1997

Agency Contact: James E. Vollmer, Loan Specialist, Multi Family Housing, Department of Agriculture, Rural Housing and Community Development Service, Room 5331 South Building, Washington, DC 20250
Phone: 202 720-1060

RIN: 0575–AB73

120. COMMUNITY FACILITY LOANS: INTERNAL REVENUE SERVICE TAXPAYERS IDENTIFICATION NUMBER

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 16 USC 1005; 5 USC 301

CFR Citation: 7 CFR 1942; 7 CFR 1948; 7 CFR 1951; 7 CFR 1980

Legal Deadline: None

Abstract: To amend subject regulations to comply with OMB Circular A-129 and simplify procedures for the Agency's field staff. Specifically, the changes will implement the requirement to use the Internal Revenue Service Taxpayers Identification number in the borrower's case number and will provide mechanism for documentation of contacts with lenders. Additionally, some sections have been modified to provide clarification of the rules.

Timetable:

Action	Date	FR Cite
NPRM	06/15/94	59 FR 30717
NPRM Comment Period End	06/15/94	
Final Action	05/00/96	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Melvin Padgett, Loan Specialist, Community Facilty Division, Department of Agriculture, Rural Housing and Community Development Service, Room 6308 South Building, Washington, DC 20250
Phone: 202 720-1495

RIN: 0575–AB77

121. RURAL RENTAL AND RURAL COOPERATIVE HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS—POINT SCORE SYSTEM TO PRIORITIZE RURAL RENTAL HOUSING LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1489

CFR Citation: 7 CFR 1944 subpart E

Legal Deadline: None

Abstract: This Regulatory action revises the point system used to prioritize rural rental housing loan requests by reducing the number of points for proposals located 20 or more miles from an urban area, by awarding points for communities the highest share at households at or below 60 percent of the county median income who are paying in excess of 30 percent of their income for rent; simplifies the preapplication process by requiring less detailed information at the preliminary eligibility and feasibility stage; provides guidance for participation loans.

Timetable:

Action	Date	FR Cite
NPRM	01/17/96	61 FR 1153
NPRM Comment Period End	03/08/96	
Final Action	09/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Obediah G. Baker, Jr., Director, Multi-Family Housing, Processing Division, Department of Agriculture, Rural Housing and Community Development Service, Room 5339 South Building, Washington, DC 20250
Phone: 202 720-1604

RIN: 0575–AB93

122. • FMHA INSTRUCTION 1942-A, "COMMUNITY FACILITY LOANS"

Priority: Other Significant

Legal Authority: 7 USC 1989; 16 USC 1005; 5 USC 301

CFR Citation: 7 CFR 1942 subpart A

Legal Deadline: None

Abstract: The Agency is implementing the following changes to FmHA Instruction to 1942-A: (1) provide a definition of essential community facilities; (2) expand eligibility to include recreational type projects and telecommunications projects; (3) change review process for health care plan reviews to conform to state requirements (deleting certifications from HHS); (4) determine that facilities housing primarily Federal/quasi-Federal Agencies are ineligible projects: (4) revise processing requirements for appraisals; (6) revise requirement for financial feasibility reports.

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Timetable:

Action	Date	FR Cite
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jennifer Barton, Loan Specialist, Community Facility Division, Department of Agriculture, Rural Housing and Community Development Service, Room 6314 South Building, Washington, DC 20250 Phone: 202 720-1504

RIN: 0575–AC05

123. • DAVIS-BACON, CONTRACT WORK HOURS AND SAFETY STANDARDS AND RELATED ACTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1901 subpart D; 7 CFR 1940 subpart C; 7 CFR 1924 subpart A; 7 CFR 1944 subpart D

Legal Deadline: None

Abstract: 7 CFR 1901, subpart D is being revised into an agency internal guideline for enforcing the labor standards provisions of the Davis-Bacon contract work hours and safety standards and related acts. This action will eliminate duplication with procedures currently published in the Federal Register by the Department of Labor (29 CFR 5).

Timetable:

Action	Date	FR Cite
Final Action	07/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1995

Sectors Affected: None

Agency Contact: Keith A. Suerdieck, Architect, Program Support Service, Department of Agriculture, Rural Housing and Community Development Service, Room 6309 South Building, Washington, DC 20250 Phone: 202 720-9619

RIN: 0575–AC06

DEPARTMENT OF AGRICULTURE (USDA) — Long-Term Actions

Rural Housing and Community Development Service (RHCDS)

124. DENYING CREDIT TO APPLICANTS DELINQUENT ON ANY FEDERAL DEBT

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1823; 7 CFR 1910 subpart A; 7 CFR 1941 subpart A; 7 CFR 1942 subpart A; 7 CFR 1942 subpart C; 7 CFR 1942 subpart G; 7 CFR 1942 subpart H; 7 CFR 1942 subpart I; 7 CFR 1942 subpart J; 7 CFR 1942 subpart K; 7 CFR 1943 subpart A; 7 CFR 1943 subpart B; 7 CFR 1944 subpart A; 7 CFR 1945 subpart D; 7 CFR 1980 subpart B; ...

Timetable:

Action	Date	FR Cite
NPRM	05/04/94	59 FR 23018
NPRM Comment Period End	07/05/94	
Final Action	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, Tribal, Federal

Agency Contact: A. Sherie Hinton Phone: 202 720-4439 Fax: 202 720-5184

RIN: 0575–AA66

125. CIVIL RIGHTS COMPLIANCE REQUIREMENTS—1940-D

Priority: Other Significant

CFR Citation: 7 CFR 15; 12 CFR 202; 28 CFR 42; 45 CFR 90; 41 CFR 60 to 64; 24 CFR 14; 7 CFR 1940

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carlton L. Lewis Phone: 202 245-5530

RIN: 0575–AA83

126. SECTION 502 RURAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS (DEFERRED MORTGAGE PROGRAM)

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1944 subpart A; 7 CFR 1951 subpart G

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/23/91	56 FR 41764
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Craun Phone: 202 720-1474

RIN: 0575–AA87

127. HOUSING FOR RURAL HOMELESS AND MIGRANT FARMWORKERS; POLICIES, PROCEDURES, AND AUTHORIZATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1944 subpart H (New)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: John Pentecost Phone: 202 720-1606

RIN: 0575–AB14

USDA—RHCDS — **Long-Term Actions**

128. OFFSETS OF FEDERAL PAYMENTS TO FMHA BORROWERS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1951 subpart C; 7 CFR 2.23; 7 CFR 2.70

Timetable:

Action	Date	FR Cite
NPRM	05/02/94	59 FR 22548
NPRM Comment Period End	06/01/94	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Larry Dye Phone: 314 539-2150

RIN: 0575–AB55

129. PLANNING AND PERFORMING CONSTRUCTION AND OTHER DEVELOPMENT AND RELATED CONSTRUCTION SEISMIC SAFETY

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1924 subpart A; 7 CFR 1942 subpart A; 7 CFR 1942 subpart C; 7 CFR 1948 subpart C; 7 CFR 1980 subpart E; 7 CFR 1980 subpart G; 7 CFR 1944

Timetable:

Action	Date	FR Cite
NPRM	08/25/95	60 FR 44283
NPRM Comment Period End	10/24/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sam Hodges III Phone: 202 720-9653

RIN: 0575–AB59

130. SECTION 515 NONPROFIT SET-ASIDE FUNDS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1940 subpart L; 7 CFR 2.23; 7 CFR 2.70

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/21/93	58 FR 38949
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Obediah G. Baker, Jr. Phone: 202 720-1604

RIN: 0575–AB60

131. ENVIRONMENTAL PROGRAM STREAMLINE ENVIRONMENTAL PROCESS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 300; 40 CFR 260; 40 CFR 700; 40 CFR 400

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Susan Wieferich Phone: 202 720-9619

RIN: 0575–AB98

132. SERVICING CASES WHERE UNAUTHORIZED LOAN OR OTHER FINANCIAL ASSISTANCE WAS RECEIVED—MULTIPLE FAMILY HOUSING

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1951 subpart N

Timetable:

Action	Date	FR Cite
NPRM	11/19/91	56 FR 58325
NPRM Comment Period End	01/21/92	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Ernest W. Harris Phone: 202 720-1613 Fax: 202 720-0302

RIN: 0575–AC02

DEPARTMENT OF AGRICULTURE (USDA) — Completed Actions

Rural Housing and Community Development Service (RHCDS)

133. SECTION 502 RURAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1944 subpart A; 7 CFR 1910 subpart A; 7 CFR 1965 subpart C; 7 CFR 1951 subpart G; 7 CFR 1944 subpart J; 7 CFR 1924 subpart C; 7 CFR 1930 subpart C; 7 CFR 1941 subpart A; 7 CFR 1944 subpart D; 7 CFR 1944 subpart N; 7 CFR 1951 subpart M; 7 CFR 1951 subpart S; 7 CFR 1955 subpart B

Completed:

Reason	Date	FR Cite
Final Action	10/27/95	60 FR 55112

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: James W. Craun Phone: 202 720-1474

RIN: 0575–AA35

134. 1927-B REAL ESTATE TITLE CLEARANCE AND LOAN CLOSING

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1927 subpart B; 7 CFR 2.23; 7 CFR 2.70

Completed:

Reason	Date	FR Cite
Final Action	03/22/96	61 FR 11709
Final Action Effective	04/22/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no

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statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Walt Patton
Phone: 202 720-0099

RIN: 0575–AB52

135. DECISION TO LIQUIDATE

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1980

Completed:

Reason	Date	FR Cite
Withdrawn - Incorporated Into RIN 0570-AA09	02/21/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dwight Carmon
Phone: 202 690-4100

RIN: 0575–AC04

BILLING CODE 3410-07-F

DEPARTMENT OF AGRICULTURE (USDA)

Proposed Rule Stage

Federal Crop Insurance Corporation (FCIC)

136. COMMON CROP INSURANCE REGULATIONS; PEANUT CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby proposes regulations for provisions to insure peanuts. The provisions will be used in conjunction with the common crop insurance policy which contains standard terms and conditions common to most crops. The intended effect of this action is to provide automatic coverage for late and prevented planting as well as make other minor policy changes to better meet the needs of the insured. This rule proposes to remove the peanut endorsements which are currently a "stand-alone" policy located in part 425 and part 401.141 of the General Crop Insurance provisions and move them under part 457, Common Crop Insurance provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Federal Crop Insurance Corporation, Room 3741-S, P.O Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AA85

137. COMMON CROP INSURANCE REGULATIONS; ONION CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby proposes regulations for provisions to insure onions. The provisions will be used in conjunction with the Common Crop Insurance Policy which contains standard terms and conditions common to most crops. The intended effect of this action is to provide automatic coverage for late and prevented planting as well as make other minor policy changes to better meet the needs of the insured. The previous onion crop insurance policy was located at 401.126 General Crop Insurance Provisions. This rule proposes that the onion policy fall under the Common Crop Insurance regulations located in part 457.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Federal Crop Insurance Corporation, Room 3741-S, P.O Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AA87

138. COMMON CROP INSURANCE REGULATIONS; NORTHERN POTATO CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby proposes regulations for provisions to insure northern potatoes. The provision will be used in conjunction with the Common Crop Insurance policy which contains standard terms and conditions common to most crops. The intended effect of this action is to provide automatic coverage for late and prevented planting as well as make minor policy changes to better meet the needs of the insured. This rule proposes to remove the potato policy which is currently a "stand-alone" policy located in part 422 and move it under part 457, Common Crop Insurance provisions. A separate rule proposes provisions for central-southern potatoes.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	12/00/96	

USDA—FCIC

Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Federal Crop Insurance Corporation, Room 3741-S, P.O Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AA89

139. COMMON CROP INSURANCE REGULATIONS; SUGARBEET CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby proposes regulations for provisions to insure sugarbeets. The provisions will be used in conjunction with the Common Crop Insurance Policy which contains standard terms and conditions common to most crops. The intended effect of this action is to provide automatic coverage for late and prevented planting as well as make other minor policy changes to better meet the needs of the insured. This rule proposes to remove the Sugarbeet policy which currently is a "stand-alone" policy located in part 430 and move it under part 457, Common Crop Insurance Provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Federal Crop Insurance Corporation, Room 3741-S, P.O Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AA93

140. COMMON CROP INSURANCE REGULATIONS; CANNING AND PROCESSING TOMATO CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby proposes regulations for provisions to insure canning and processing tomatoes. The provisions will be used in conjunction with the Common Crop Insurance Policy which contains standard terms and conditions common to most crops. The intended effect of this action is to provide automatic coverage for late and prevented planting as well as make other minor policy changes to better meet the needs of the insured. This rule proposes to remove the Canning and Processing tomato policy which currently is located at Part 401.114 under the General Crop Insurance Regulations and move under part 457, Common Crop Insurance Regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Federal Crop Insurance Corporation, Room 3741-S, P.O Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AA94

141. COMMON CROP INSURANCE REGULATIONS; FRESH MARKET TOMATO (GUARANTEED PRODUCTION) CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby proposes regulations for provisions to insure fresh market tomatoes (guaranteed production plan). The provisions will be used in conjunction with the common crop insurance policy which contains standard terms and conditions common to most crops. The intended effect of this action is to provide automatic coverage for late and prevented planting as well as make other minor policy changes to better meet the needs of the insured. This rule proposes to remove the fresh market tomato (guaranteed production plan) policy which currently is a "stand-alone" policy located at part 454 and move it under part 457, common crop insurance regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Federal Crop Insurance Corporation, Room 3741-S, P.O Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AA95

142. COMMON CROP INSURANCE REGULATIONS; DRY BEAN CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation hereby proposes

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regulations for provisions to insure dry beans. The provisions will be used in conjunction with the Common Crop Insurance Policy which contains standard terms and conditions common to most crops. The intended effect of this action is to provide automatic coverage for late and prevented planting as well as make other minor policy changes to better meet the needs of the insured. This rule proposes to remove the dry bean policy which currently is a "stand-alone" policy located at part 433 and move it under part 457, Common Crop Insurance Regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Federal Crop Insurance Corporation, Room 3741-S, P.O Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB02

143. GROUP RISK PLAN CROP INSURANCE PROVISIONS; PART 407

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 407

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation (FCIC) hereby proposes to issue provisions which will outline a new risk management tool to be known as the Group Risk Plan of Insurance (GRP). This plan will insure against the widespread loss of production of certain crops in a county and is intended primarily for use by those farmers whose yields tend to follow the county average yield. GRP pays only when the average yield of the entire county drops below the expected county yield for the insured crop set by the FCIC. Payment is based on the percentage of county or area wide loss below the insured's trigger yield. Specific GRP Crop Insurance Provisions will be proposed for cotton, wheat, barley, corn, grain, sorghum, soybeans, forage production, and peanuts.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Federal Crop Insurance Corporation, Room 3741-S, P.O Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB06

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Final Rule Stage

144. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART N; DISASTER ASSISTANCE ACT OF 1988

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400, subpart N

Legal Deadline: None

Abstract: This rule proposes to revise subpart N of the General Administrative Regulations by repealing obsolete disaster guidelines and requiring the mandatory purchase of catastrophic crop insurance for program crops as a prerequisite for obtaining benefits under any commodity price subpart, production adjustment, or conservation program administered by USDA, or any farmer loan program, whether these programs are administered by FCIC or CFSA.

Timetable:

Action	Date	FR Cite
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Federal Crop Insurance Corporation, Room 3741-S, P.O Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB20

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Long-Term Actions

145. COMMON CROP INSURANCE REGULATIONS; TOBACCO (GUARANTEED PLAN) CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 401.129

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AA84

146. GENERAL ADMINISTRATIVE REGULATIONS; HIGH RISK LAND REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 400

USDA—FCIC

Long-Term Actions

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AA98

147. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART D; APPLICATION FOR CROP INSURANCE

Priority: Other Significant

CFR Citation: 7 CFR 400, subpart D

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB00

148. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART U; INELIGIBLE FILE - CROP INSURANCE INELIGIBILITY

Priority: Other Significant

CFR Citation: 7 CFR 400

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB01

149. COMMON CROP INSURANCE REGULATIONS; RICE, FIG, ALMOND, RAISIN, FORAGE PRODUCTION, HYBRID SORGHUM SEED, PEAR, APPLE, CANNING AND PROCESSING SWEET CORN, DOLLAR PLAN FRESH MARKET TOMATO,

Priority: Routine and Frequent

CFR Citation: 7 CFR 457

Timetable:

Action	Date	FR Cite
Interim Final: Figs	03/01/94	59 FR 9614
Final Rule: Nursery Crops	06/15/95	60 FR 31375
Final Rule: Figs	07/25/95	60 FR 37934
NPRM	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB03

150. GENERAL ADMINISTRATIVE REGULATIONS; NONSTANDARD CLASSIFICATION SYSTEM; SUBPART O

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 400, subpart O

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB05

151. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART S; REGULATIONS FOR INSURANCE COVERAGE BY WRITTEN AGREEMENT

Priority: Other Significant

CFR Citation: 7 CFR 400, subpart S

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB07

152. CATASTROPHIC RISK PROTECTION ENDORSEMENT; PART 402

Priority: Economically Significant

CFR Citation: 7 CFR 402

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/06/95	60 FR 2001
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB09

153. GENERAL ADMINISTRATIVE REGULATIONS: SUBPART T; FEDERAL CROP INSURANCE REFORM ACT OF 1994; REGULATIONS FOR IMPLEMENTATION

Priority: Economically Significant

CFR Citation: 7 CFR 400, subpart T

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/06/95	60 FR 1996
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB11

154. NONINSURED CROP DISASTER ASSISTANCE PROGRAM, PART 404

Priority: Other Significant

CFR Citation: 7 CFR 404

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/18/95	60 FR 26669
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB13

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155. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART V; SUPPLEMENTAL AND ALTERNATIVE CROP INSURANCE POLICY APPROVAL PROCESS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 400, subpart V

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB15

156. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART J; APPEAL PROCEDURE REGULATIONS

Priority: Routine and Frequent

CFR Citation: 7 CFR 400, subpart J

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/95	60 FR 67298
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB17

157. GENERAL ADMINISTRATIVE REGULATIONS; FEDERAL JURISDICTION AND STATUTE OF LIMITATION FOR SUITS BASED UPON DENIAL OF CLAIMS FOR INDEMNITY

Priority: Routine and Frequent

CFR Citation: 7 CFR 400

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB21

158. GENERAL ADMINISTRATIVE REGULATIONS; ACTUAL PRODUCTION HISTORY COVERAGE PROGRAM; TRANSITIONAL YIELDS FOR PRODUCERS OF FEED OR FORAGE

Priority: Other Significant

CFR Citation: 7 CFR 400

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB23

159. COMMON CROP INSURANCE REGULATIONS; SMALL GRAINS (INCLUDING MALTING BARLEY), COTTON, ELS COTTON, AND COARSE GRAINS CROP INSURANCE PROVISIONS

Priority: Other Significant

CFR Citation: 7 CFR 401.101; 7 CFR 401.102; 7 CFR 457.101; 7 CFR 457.103 to 457.105; 7 CFR 457.113

Timetable:

Action	Date	FR Cite
Final Rule: Malting Barley	12/07/95	60 FR 62710
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB24

160. GENERAL ADMINISTRATIVE REGULATIONS: SUBPART Q: COLLECTION AND STORAGE OF SOCIAL SECURITY ACCOUNT NUMBERS AND EMPLOYER IDENTIFICATION NUMBERS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 400, subpart Q

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB26

161. 1996 CROP YEAR PLANTAIN AND BANANA INSURANCE PROGRAM AND BANANA CROP INTENSIVE CULTIVATION INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB30

162. 1996 CROP YEAR COFFEE CROP INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB33

163. 1996 CROP YEAR COFFEE PLANTATION INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB34

164. 1996 CROP YEAR FRUIT CROP (AVOCADO, ORANGES, MANGO, CITRON, LEMON, PAPAYA, PASSION) INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB35

165. 1996 CROP YEAR FRUIT TREES (AVOCADO, ORANGES, MANGO, CITRON, LEMON) INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB36

166. 1996 CROP YEAR SUGARCANE INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB40

167. 1996 CROP YEAR VEGETABLE INSURANCE PROGRAM FOR PUERTO RICO

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB41

168. COMMON CROP INSURANCE REGULATIONS; SUNFLOWER SEED CROP INSURANCE PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 457.108

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB42

169. GENERAL ADMINISTRATIVE REGULATIONS; REINSURANCE AGREEMENT STANDARDS FOR APPROVAL

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 400.169

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/01/95	60 FR 20135
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB44

170. TOBACCO, QUOTA PLAN CROP INSURANCE REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 435

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB47

171. POPCORN CORN INSURANCE REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 447

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB48

172. COMMON CROP INSURANCE REGULATIONS; TEXAS CITRUS TREE CROP INSURANCE PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 457

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB50

173. • COMMON CROP INSURANCE REGULATIONS: FLORIDA CITRUS FRUIT CROP INSURANCE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1501 et seq

USDA—FCIC

Long-Term Actions

CFR Citation: 7 CFR 401.143; 7 CFR 457

Legal Deadline: None

Abstract: This action provides specific insurance provisions for Florida citrus fruit for the 1997 and succeeding crop years.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig, Agricultural Economist, Regulatory Review Group, Department of Agriculture, Federal Crop Insurance Corporation, Room 3741-S, P.O Box 2415, Washington, DC 20013
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB51

DEPARTMENT OF AGRICULTURE (USDA)
Federal Crop Insurance Corporation (FCIC)

Completed Actions

174. COMMON CROP INSURANCE REGULATIONS; HYBRID CORN SEED CROP INSURANCE PROVISIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 457.108

Completed:

Reason	Date	FR Cite
Final Action	11/03/95	60 FR 55781

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AA78

175. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART L, REINSURANCE AGREEMENT - STANDARDS FOR APPROVAL

Priority: Other

CFR Citation: 7 CFR 400, subpart L

Completed:

Reason	Date	FR Cite
Final Action	11/24/95	60 FR 57901

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB08

176. COMMON CROP INSURANCE REGULATIONS: SMALL GRAINS, COARSE GRAINS, COTTON AND EXTRA LONG STAPLE COTTON

Priority: Other Significant

CFR Citation: 7 CFR 457

Completed:

Reason	Date	FR Cite
Final Action - 1995 Final superseded by 1996 Final	12/07/95	60 FR 62710

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB27

177. GENERAL CROP INSURANCE REGULATIONS, VARIOUS ENDORSEMENTS; HYBRID SEED CROP INSURANCE REGULATIONS; AND COMMON CROP INSURANCE REGULATIONS, SUNFLOWER SEED CROP INSURANCE PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 401; 7 CFR 443; 7 CFR 457

Completed:

Reason	Date	FR Cite
Cancelled - 1995 Final superseded by 1996 Final	12/07/95	60 FR 62710

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB28

178. GENERAL CROP INSURANCE REGULATIONS; FLORIDA CITRUS ENDORSEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 401

Completed:

Reason	Date	FR Cite
Final Action	12/05/95	60 FR 62189

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB29

179. COMMON CROP INSURANCE REGULATIONS, VARIOUS CROP PROVISIONS (COARSE GRAINS, COTTON, ELS COTTON, AND SUNFLOWER SEED); GENERAL CROP INSURANCE REGULATIONS, VARIOUS ENDORSEMENTS

Priority: Economically Significant

CFR Citation: 7 CFR 401; 7 CFR 443; 7 CFR 457

Completed:

Reason	Date	FR Cite
Final Action	12/07/95	60 FR 62710

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB43

USDA—FCIC

Completed Actions

180. GENERAL CROP INSURANCE REGULATIONS; VARIOUS ENDORSEMENTS; HYBRID SEED; COMMON CROP INSURANCE REGULATIONS; SUNFLOWER SEED

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 457.101; 7 CFR 457.104; 7 CFR 457.105; 7 CFR 457.108; 7 CFR 457.113; 7 CFR 401.109; 7 CFR 443

Completed:

Reason	Date	FR Cite
Cancelled - No further action to be taken.	02/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB46

181. COMMON CROP INSURANCE REGULATIONS, VARIOUS CROP PROVISIONS (COARSE GRAINS, SMALL GRAINS, SUNFLOWER SEED, COTTON AND ELS COTTON); GENERAL CROP INSURANCE REGULATIONS

Priority: Economically Significant

CFR Citation: 7 CFR 457.101; 7 CFR 457.104; 7 CFR 457.105; 7 CFR 457.108; 7 CFR 457.113; 7 CFR 401.109; 7 CFR 443

Completed:

Reason	Date	FR Cite
Final Action - No further action to be taken.	02/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205 5851
Fax: 202 720-5233

RIN: 0563–AB49

BILLING CODE 3410-05-F

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Proposed Rule Stage

182. • FEES FOR COMMODITY INSPECTION

Priority: Other Significant

Legal Authority: 7 USC 1621 et seq

CFR Citation: 7 CFR 868

Legal Deadline: None

Abstract: The Grain Inspection, Packers and Stockyards Administration is proposing to make changes to fees charged for inspection services for commodities other than rice, performed under the Agricultural Marketing Act of 1946. These revisions are designed to generate revenue sufficient to cover projected operating costs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	08/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, P.O. Box 96454, Room 0623 South Building, Washington, D. C. 20090-6454
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgis.usda.gov

RIN: 0580–AA48

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Final Rule Stage

183. FEES FOR OFFICIAL INSPECTION AND WEIGHING SERVICE

Priority: Other Significant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 800

Legal Deadline: None

Abstract: The Federal Grain Inspection Service (FGIS) is proposing a change in the manner in which it collects fees for Official Inspection and Weighing services performed in the United States under the United States Grain Standard Act (USGSA), as amended.

Timetable:

Action	Date	FR Cite
NPRM	11/30/95	60 FR 61499
NPRM Comment Period End	01/29/96	
Final Action	06/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, PO Box 96454, Room 0623 South Building, Washington, DC 20090-6454
Phone: 202 720-0292

RIN: 0580–AA40

184. REGULATIONS AND STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT (GROUP 2)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 204; 7 USC 228

CFR Citation: 9 CFR 201.49; 9 CFR 201.53; 9 CFR 201.55; 9 CFR 201.69; 9 CFR 201.70; 9 CFR 201.71; 9 CFR 201.73; 9 CFR 201.76; 9 CFR 201.98; 9 CFR 201.100; 9 CFR 201.108(1); 9 CFR 201.200; 9 CFR 203.4; 9 CFR 203.18; 9 CFR 203.19; ...

Legal Deadline: None

USDA—GIPSA — **Final Rule Stage**

Abstract: All regulations and statements of general policy issued under the provisions of the Packers and Stockyards Act are being reviewed to determine which sections should be retained in their present form and which sections should be modified or removed. A notice will be published which will identify and propose to retain, modify, or remove each section in this group.

Timetable:

Action	Date	FR Cite
ANPRM	09/15/92	57 FR 42515
ANPRM Comment Period End	11/16/92	
NPRM	06/05/95	60 FR 29506
NPRM Comment Period End	08/04/95	
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This entry was reported as RIN 0590-AA09 prior to the reorganization of USDA.

Agency Contact: Harold W. Davis, Assistant Deputy Administrator, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 3039 South Building, Washington, DC 20250-2800
Phone: 202 720-7063

RIN: 0580–AA44

185. REGULATIONS AND STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT (GROUP 3)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 204; 7 USC 228

CFR Citation: 9 CFR 201.10; 9 CFR 201.27; 9 CFR 201.28; 9 CFR 201.29; 9 CFR 201.30; 9 CFR 201.31; 9 CFR 201.32; 9 CFR 201.33; 9 CFR 201.34

Legal Deadline: None

Abstract: All regulations and statements of general policy issued under the provisions of the Packers and Stockyards Act are being reviewed to determine which sections should be retained in their present form and which sections should be modified or removed. A notice will be published which identifies each section and proposes to either retain, modify, or remove the section. The sections included in this document pertain to the registration and bonding requirements under the provisions of the Packers and Stockyards Act.

Timetable:

Action	Date	FR Cite
ANPRM	09/15/92	57 FR 42515
ANPRM Comment Period End	11/16/92	
NPRM	08/21/95	60 FR 43411
NPRM Comment Period End	10/20/95	
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This entry was reported as RIN 0590-AA10 prior to the reorganization of USDA.

Agency Contact: Harold W. Davis, Assistant Deputy Administrator, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Room 3039 South Building, Washington, DC 20250-2800
Phone: 202 720-7063

RIN: 0580–AA45

186. • FEES FOR RICE INSPECTION

Priority: Other Significant

Legal Authority: 7 USC 1621 et seq

CFR Citation: 7 CFR 868

Legal Deadline: None

Abstract: The Grain Inspection, Packers and Stockyards Administration is proposing the increase fees for Federal Rice Inspection Services as performed under the Agricultural Marketing Act (AMA) of 1946. The fee increase is intended to recover, as nearly as practicable the projected operating costs, including related supervisory and administrative costs.

Timetable:

Action	Date	FR Cite
NPRM	01/11/96	61 FR 1013
NPRM Comment Period End	02/12/96	
Final Action	06/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam, Regulatory Liaison, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, P.O. Box 96454, Room 0623 South Building, Washington, D. C. 20090-6454
Phone: 202 720-0292
Fax: 202 720-4628
Email: gwollam@fgis.usda.gov

RIN: 0580–AA47

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Long-Term Actions

187. STATEMENT OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT: CARE AND HANDLING OF LIVESTOCK

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 203.20

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold W. Davis
Phone: 202 720-7063

RIN: 0580–AA46

DEPARTMENT OF AGRICULTURE (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Completed Actions

188. FEES FOR OFFICIAL INSPECTION AND WEIGHING SERVICES

Priority: Other Significant

CFR Citation: 7 CFR 800.71

Completed:

Reason	Date	FR Cite
Withdrawn	11/30/95	60 FR 61444

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam
Phone: 202 720-0292

RIN: 0580–AA27

189. OFFICIAL PERFORMANCE AND PROCEDURAL REQUIREMENTS FOR GRAIN WEIGHING EQUIPMENT AND RELATED GRAIN HANDLING SYSTEMS

Priority: Routine and Frequent

CFR Citation: 7 CFR 802

Completed:

Reason	Date	FR Cite
Final Action	06/19/95	69 FR 31907
Final Action Effective	08/18/95	69 FR 42429

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Wollam
Phone: 202 720-0292

RIN: 0580–AA39

BILLING CODE 3410-EN-F

DEPARTMENT OF AGRICULTURE (USDA)
Food and Consumer Service (FCS)

Prerule Stage

190. NOTICE OF NEW PRIVACY ACT SYSTEM OF RECORDS—FOOD STAMP RETAILER INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 93-579

CFR Citation: None

Legal Deadline: None

Abstract: This notice proposes to create a new Privacy Act system of records entitled "Food Stamp Retailer Information." This will enable FCS to share personal information with other Federal agencies pertaining to store owners currently participating in the Food Stamp Program, as well as those store owners who have previously participated in the program. Some of the identifying information which will be shared with other Federal agencies are the names and home addresses of owners, owners' Social Security Numbers, and dates of birth. (95-020)

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC19

DEPARTMENT OF AGRICULTURE (USDA)
Food and Consumer Service (FCS)

Proposed Rule Stage

191. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): FOOD DELIVERY SYSTEMS

Priority: Other Significant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: A proposed rule addressing WIC Food Delivery Systems was published on December 28, 1990 (55 FR 53446). The Department provided a 120-day comment period for the proposed rule, which closed on April 29, 1991. Nearly 1,100 comments were received from a wide variety of sources. Despite the degree of preliminary input to the December 28, 1990, proposed rule, many of the commenters responding during the formal comment period suggested that the Department's food delivery regulations needed to be proposed again, rather than proceeding directly to a final rule. In addition, several members of Congress requested that the rule be reproposed in light of its impact on State agency food delivery systems. Therefore, the Department intends to issue a second proposed rule addressing WIC food delivery systems and requirements. This second rule will address all of the provisions contained in the previous rulemaking, but will contain significant modifications to some of the proposed provisions, as well as clarifications of several provisions that may not have been clearly understood in the earlier rule. (88-512)

Timetable:

Action	Date	FR Cite
NPRM	12/28/90	55 FR 53446
NPRM Comment Period End	04/29/91	
NPRM	01/00/97	
NPRM Comment Period End	01/00/97	
Final Action	02/00/97	
Final Action Effective	02/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Sectors Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AA80

192. FOOD STAMP PROGRAM: EMERGENCY ASSISTANCE FOR VICTIMS OF DISASTERS

Priority: Other Significant

Legal Authority: 7 USC 2013 (b); 7 USC 2014 (h)

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 273; 7 CFR 274; 7 CFR 280

Legal Deadline: None

USDA—FCS

Proposed Rule Stage

Abstract: This rule would define special eligibility and issuance procedures during disasters. The rule addresses the eligibility and issuance of food stamps by the Food Stamp Program during a disaster. (86-029)

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	07/00/96	
Final Action	04/00/97	
Final Action Effective	05/00/97	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AA85

193. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): PART 246.10, FOOD PACKAGE III, PARTICIPANTS WITH CERTAIN MEDICAL CONDITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: WIC Food Package III will be revised to: clarify the types of serious medical conditions warranting its use; slightly increase the maximum monthly allowance of authorized WIC formulas; define the types and forms of authorized WIC formulas; make available additional foods currently authorized in other WIC food packages, when not medically contraindicated; and specify requirements for issuing this food package.

Need for Action:

The proposed rule responds to numerous requests over the years from WIC participants, State and local agencies, health professionals and members of Congress and to a recommendation from the National Advisory Council on Maternal, Infant and Fetal Nutrition that the Department improve the design of this food package. The proposed changes in WIC Food Package III are intended to better accommodate the special dietary needs of the most nutritionally needy and medically vulnerable subgroup of WIC participants. Those who would qualify to receive this food package would be classified under the highest nutritional risk priorities of WIC participant categories. (89-505)

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	
Final Action	02/00/97	
Final Action Effective	02/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB09

194. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): MISCELLANEOUS PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This proposed rule responds to a variety of program concerns, most of which have been expressed by WIC State agencies. The proposal strengthens the provision of services to participants in the areas of eligibility determination and nutrition education and increases State agency flexibility regarding the sharing of participant information with other programs. Several minor clarifications and technical corrections are also made. Principal provisions include: (1) mandatory minimum content requirements for nutrition education participant contacts; and (2) additional flexibility for State agencies to share participant information with related programs. (89-515)

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	09/00/96	
Final Action	12/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB10

195. FOOD DISTRIBUTION PROGRAMS—PAPERWORK REDUCTION

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-147

CFR Citation: 7 CFR 250; 7 CFR 251

Legal Deadline: None

Abstract: This rule will implement the food distribution portion of the recommendations of the August 1990 task force on paperwork reduction. These recommendations were included in a report to Congress and included perpetual State/Federal agreements and longer contract duration for warehouses. (94-007)

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB27

196. FOOD DISTRIBUTION PROGRAMS—IMPLEMENTATION OF 1990 FARM BILL

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-624

CFR Citation: 7 CFR 250; 7 CFR 251

USDA—FCS

Proposed Rule Stage

Legal Deadline: Final, Statutory, July 30, 1992.

Abstract: This rule will revise the requirements for evaluation of State warehousing and distribution systems and conversion to commercial systems. (91-004)

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	10/00/96	
Final Action	01/00/97	
Final Action Effective	05/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB28

197. COMMODITY SUPPLEMENTAL FOOD PROGRAM: ELDERLY-ONLY SITES, ADMINISTRATIVE FUNDING, REFERRALS TO HEALTH AND SOCIAL SERVICES, CASELOAD ALLOCATION PROCESS, PRIORITY SYSTEM, AND MISCELLANEOUS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 512(c)

CFR Citation: 7 CFR 247

Legal Deadline:
Final, Statutory, October 1, 1990, for funding provisions.
Final, Statutory, October 1, 1991, for all other provisions.

Abstract: This proposed rule would amend regulations governing the Commodity Supplemental Food Program (CSFP) to replace the current method of assigning caseload with a system that is based on the allocation of grants to the State agencies. (91-015)

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
NPRM Comment Period End	05/00/97	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB37

198. FOOD STAMP PROGRAM: 1995 QUALITY CONTROL TECHNICAL AMENDMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 271.2; 7 CFR 275.3; 7 CFR 275.10; 7 CFR 275.11; 7 CFR 275.12; 7 CFR 275.13; 7 CFR 275.23

Legal Deadline: None

Abstract: The Food and Consumer Service is proposing technical changes to the Food Stamp Program's Quality Control System which will reduce the workload on State agencies and improve the efficiency of the quality control system. The proposed changes would: (1) permit State agencies to reduce their sample sizes; (2) clarify the minimum size of the Federal subsample; (3) clarify State sampling procedures; (4) change the formulas for calculating Federal subsample sizes; (5) clarify the process of conducting a quality control review of negative subsystem cases and add suspended cases, those cases that are certified for the Program but do not receive benefits, to the sample universe of cases that are reviewed under the negative subsystem; (6) change the error dollar tolerance level; (7) modify the requirements regarding a home visit in active quality control reviews; (8) provide a variance exclusion under certain circumstances for errors resulting from incorrect policy issued in written State agency policies or directives; (9) adjust the case completion standard; and (10) codify into regulations those circumstances under which Federal quality control findings or disposition for a case will be changed. (92-006)

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	12/00/96	
Final Action Effective	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: RIN 0584-AB07 has been withdrawn, and the actions in that proposed rule have been included in this action.

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB38

199. PROVISIONS OF COMPUTER MATCHING AND PRIVACY PROTECTION ACT OF 1988, AMENDMENTS OF 1990, AND IMPLEMENTATION OF THE DISQUALIFIED RECIPIENT SUBSYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a) Computer Matching and Privacy Protection Act; 7 USC 2015(b) Food Stamp Act

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: None

Abstract: In accordance with the Computer Matching and Privacy Protection Act, PL 100-503, and the Computer Matching and Privacy Protection Amendments of 1990, PL 101-508, the Food Stamp Program must extend certain protections to persons whose benefits could be adversely affected by computer matches. These protections include independent verification of computer information, notification to the affected individual and provision of an opportunity to respond to the information before an adverse action becomes effective.

In addition, this proposed rule describes requirements for State agencies to report information on individuals disqualified from the program for intentional program violations to FCS and the related FCS computer matching program known as the Disqualified Recipient Subsystem (DRS). (89-010)

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
NPRM Comment Period End	01/00/97	
Final Action	07/00/97	
Final Action Effective	10/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB51

200. FOOD STAMP PROGRAM: ANTICIPATING INCOME AND REPORTING CHANGES

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 273

Legal Deadline: None

Abstract: This rule proposes several revisions in Food Stamp Program reporting and budgeting requirements. The changes in prospective budgeting and change reporting rules are intended to improve procedures for anticipating the eligibility and benefits of households whose income fluctuates unpredictably. The proposed revisions would provide a more stable level of benefits for these households by requiring them to report a change in employment status rather than a change in the amount of earnings. The rule also would allow suspension, as opposed to termination, of prospectively budgeted households that become ineligible for one month because of income fluctuations. (93-005)

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB57

201. CHILD AND ADULT CARE FOOD PROGRAM: ELIMINATION OF WHOLE COW'S MILK FROM THE INFANT MEAL PATTERN

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1751 to 1760; 42 USC 1779

CFR Citation: 7 CFR 210; 7 CFR 220; 7 CFR 226

Legal Deadline: None

Abstract: This action proposes an amendment that would affect meal pattern requirements for infants under the National School Lunch Program, School Breakfast Program, and Child and Adult Care Food Program, parts 210, 220, and 226, respectively. This rule proposes to prohibit the service of whole cow's milk to infants ages 8 months through 11 months and would require that breast milk or iron-fortified formula be served for an infant's entire first year of life. This proposal would also add or amend tables describing infant meal requirements to clarify which meals containing breast milk in place of iron-fortified formula may fulfill the infant meal pattern. Finally, this proposal would correct the definition of "infant formula" in part 226 and make the wording consistent with the definition currently in parts 210 and 220. (95-005)

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
NPRM Comment Period End	01/00/97	
Final Action	07/00/97	
Final Action Effective	09/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB81

202. FOOD STAMP PROGRAM: FOOD STAMP RECIPIENT CLAIM ESTABLISHMENT AND COLLECTION STANDARDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: None

Abstract: This rule would improve the establishment and collection of recipient claims in the Food Stamp Program. The last significant revision to these regulations was in 1983. Subsequent activities, such as technological advances and general debt management regulations, have rendered many portions of the current rule obsolete. In addition, the current rule has been found to place unnecessary burdens on State agencies. State agencies are responsible for establishing and collecting recipient claims. (94-005)

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	08/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB88

203. FOOD STAMP PROGRAM: REVISIONS IN RETAIL FOOD STORE ELIGIBILITY CRITERIA AND IN ELIGIBILITY GUIDANCE AND PROGRAM AUTHORIZATION

Priority: Other Significant

Legal Authority: PL 103-225; 7 USC 2012; 7 USC 2018

CFR Citation: 7 CFR 271; 7 CFR 278

Legal Deadline: Final, Statutory, March 25, 1994.

Abstract: This proposed rule sets forth changes required by provisions of the Food Stamp Program Improvements Act of 1994, Public Law 103-225, Title II, 108 Stat. 108-110 (1994). The purpose of this rule is to implement these statutory changes to the Food Stamp Act of 1977, as amended. It would revise the definition of "retail food store" to conform to the statutory changes to require that a firm must meet one of two new criteria to qualify for participation in the Food Stamp Program. One criterion focuses on the variety of staple foods for home preparation and consumption available on a continuous basis, including perishables. The second criterion requires that a firm's staple-food sales exceed 50 percent of its total gross sales. This rule also addresses the requirement in Public Law 103-225 for new procedures for providing periodic notification of eligibility and for reauthorizing participating firms. (95-003)

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB90

204. FOOD STAMP PROGRAM: RETAILER APPLICATION PROCESSING

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 278.1

Legal Deadline: None

Abstract: This rule would increase from 30 to 90 days the initial application processing timeframe for stores that apply for authorization. It would also allow FCS to request specific documentation to verify applicant firms' eligibility. Such information would include, but would not be limited to, business licenses, photographic identification cards, bills of sale, deeds, leases, sales contracts, certificates of incorporation, sales records, invoice records, and tax records. This documentation would be used to confirm self-reported information provided on the application form and to obtain third-party verification. (95-008)

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC05

205. SUMMER FOOD SERVICE PROGRAM: PROGRAM MEAL SERVICE DURING THE SCHOOL YEAR

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-448; 42 USC 1769a

CFR Citation: 7 CFR 225

Legal Deadline: None

Abstract: Implements provision of PL 103-448 which permits Summer Food Service Program (SFSP) meal service to be provided at non-school sites to children who are not in school for a period during the months of October through April due to a natural disaster, building repair, court order, or similar cause. Rule also simplifies the SFSP sponsor application and State monitoring requirements in order to eliminate unnecessary paperwork and reduce administrative burden for sponsors and State agencies. (95-011)

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	
Final Action	02/00/97	
Final Action Effective	03/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC06

206. AMENDMENT TO REMOVE FORMULATED GRAIN—FRUIT PRODUCT SECTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1773; 42 USC 1779

CFR Citation: 7 CFR 220 app A

Legal Deadline: None

Abstract: Formulated grain-fruit products are specially fortified pastry type products which are currently authorized for use in the School Breakfast Program (SBP) to meet one bread/bread alternate and the fruit/vegetable requirements of the meal pattern. Originally intended to increase participation in the SBP by comprising a reimbursable meal when served with milk, subsequent additions to the meal patterns have made this impossible. In addition, these products do not make favorable contributions to a healthy diet. There is a minimum of 22% fat in the product specification, and high sugar levels are also necessary to meet the calorie minimum and produce a palatable product. These products are also low in fiber. Interest in these products from the food industry is low; only a few companies have approved grain-fruit products. These companies could reformulate their existing products into lower fat, tastier products without the constraints of this regulation. This regulation is no longer necessary or effective in promoting participation in the SBP. (95-010)

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC09

207. CONSOLIDATION OF NATIONAL SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM INTO COMPREHENSIVE SCHOOL MEAL PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-448

CFR Citation: 7 CFR 210; 7 CFR 220

Legal Deadline: Final, Statutory, May 2, 1996.

Abstract: Sec. 301 of P.L. 103-448 required the consolidation of the school lunch program and the school breakfast program into a comprehensive school meal program. In establishing the comprehensive school meal program, (a) children who are eligible for free and reduced price benefits will continue to receive such benefits; (b) the meals will continue to meet the nutritional requirements of sec. 9(a)(1) of the National School Lunch Act (NSLA) and sec. 4(e)(1) of the Child Nutrition Act (CNA); and (c) breakfast and lunch payments will continue to meet the requirements of sec. 4 and 11 of the NSLA and sec. 4 of the CNA. This regulation will consolidate the two programs by making structural changes to the framework of 7 CFR Part 210 to accommodate the incorporation of the breakfast program and by removing repetitive and obsolete provisions. Further, 7 CFR Part 220 will be removed in its entirety. (95-013)

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	
Final Action	03/00/97	
Final Action Effective	04/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC10

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208. FSP: RETAILER DELINQUENT DEBT COLLECTION: OFFSETTING FEDERAL INCOME TAX REFUND

Priority: Substantive, Nonsignificant

Legal Authority: PL 98-369; PL 100-203; PL 100-485; PL 102-164

CFR Citation: 7 CFR 278.6

Legal Deadline: None

Abstract: This rule notifies the public that FCS will begin offsetting Federal income tax refunds in 1997 to collect delinquent debts against food stamp retailers. These debts represent monetary penalties which FCS assessed against retailers who have violated Food Stamp Program rules and regulations. The offset will be made from Federal income tax refunds payable to retailers who are on FCS' records as having delinquent debts. This rule implements authority granted by the Cash Management Improvements Act, as amended. (95-014)

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC11

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209. CREDITING OF YOGURT IN THE SCHOOL MEALS PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1758

CFR Citation: 7 CFR 210; 7 CFR 220

Legal Deadline: None

Abstract: This rule would allow yogurt to be credited as a meat/meat alternate in the National School Lunch Program and the School Breakfast Program when the school uses a food-based menu planning system. (95-021)

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	
Final Action	01/00/97	
Final Action Effective	02/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC15

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210. MODIFICATION OF THE "VEGETABLE PROTEIN PRODUCTS" PORTION OF APPENDIX A OF 7 CFR PARTS 210, 225, AND 226.

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1758; 42 USC 1759a; 42 USC 1761; 42 USC 1762a; 42 USC 1765; 42 USC 1766

CFR Citation: 7 CFR 210 app A; 7 CFR 210.10(k)(3)(i); 7 CFR 210.10a(d)(2)(i); 7 CFR 225 app A; 7 CFR 225.16(f)(3); 7 CFR 226 app A

Legal Deadline: None

Abstract: The usage level of vegetable protein products (VPP) is currently limited to a 30% substitution of meat, fish or poultry. A nutritional profile has been established which specifies fortification of certain nutrients as well as a protein quality requirement. This regulation could better serve the child nutrition programs if it is modified to allow an increased utilization of foods containing VPP. The food industry has requested that we allow 100% soy products to serve as meat alternates in the food based system, since there are no restrictions on their use under the nutrient based system. In addition, current fortification levels of iron and zinc established for the VPP used in the child nutrition programs were based on early dietary research. It is now believed that these levels may be excessive if the VPP is used at greater than a 30% level of substitution in the diet. The Department intends to propose a rule to modify the regulations governing the use of vegetable protein products in the child nutrition programs which will provide a consistent nutritional policy regardless of menu planning system used, and will remove confusing regulatory burdens from programs and industry. (95-018)

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer

Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC18

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211. CHILD AND ADULT CARE FOOD PROGRAM: CHILD NUTRITION AND WIC REAUTHORIZATION ACT AMENDMENTS AND HEALTHY MEALS FOR HEALTHY AMERICANS ACT OF 1994

Priority: Other Significant

Legal Authority: 42 USC 1758; 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: This rule would propose changes to the Child and Adult Care Food Program (CACFP) as required by the Child Nutrition and WIC Reauthorization Act of 1989 and the Healthy Meals for Healthy Americans Act of 1994 by: (1) providing administrative funds to family day care home sponsors for expansion into low-income or rural areas; (2) reducing from six to two the required number of annual site monitoring reviews required of schools which operate outside-school-hours care centers; (3) permitting State agencies to allow three-year applications from child and adult care institutions; (4) granting Federally funded income-eligible Head Start participants automatic eligibility for free CACFP meals without further application or eligibility determination; (5) granting pre-kindergarten Even Start participants automatic eligibility for free CACFP meals without further applications or eligibility determination; (6) allowing the use of administrative funds to conduct outreach and recruitment to unlicensed day care homes; and (7) providing CACFP child care institutions, other than outside school hours care centers, with basic information on the Special Supplemental Nutrition Program for WIC. These revisions are intended to encourage Program participation in low-income and rural areas and to reduce paperwork burden for Federal, State and local Program administrators and for program participants. (90-508)

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	11/00/96	
Final Action	05/00/97	
Final Action Effective	06/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC20

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212. • RELEASE OF FREE AND REDUCED PRICE SCHOOL MEAL ELIGIBILITY INFORMATION

Priority: Other Significant

Legal Authority: PL 103-448, sec 108

CFR Citation: 7 CFR 245

Legal Deadline: None

Abstract: This rule would allow the disclosure and use of a student's free and reduced price school meal or free milk eligibility information when needed for certain educational programs, to facilitate eligibility determinations in other means tested programs, and for certain monitoring and investigative purposes. The rule would (1) establish limits on the persons and programs that may have access to a student's free and reduced price school meal or free milk eligibility information, (2) require that households be notified that information may be shared, and (3) provide penalties for unauthorized disclosures. The proposed amendments are intended to facilitate children's access to certain programs serving low-income children and protect free and reduced price eligibility information from misuse and unauthorized disclosures. (95-022)

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	
Final Action	02/00/97	
Final Action Effective	03/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC21

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213. • FOOD STAMP PROGRAM: REGULATORY REVIEW/PROGRAM MANAGEMENT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 273.15; 7 CFR 273.16; 7 CFR 274; 7 CFR 275; 7 CFR 276; 7 CFR 277; 7 CFR 281; 7 CFR 284; 7 CFR 285

Legal Deadline: None

Abstract: The Department of Agriculture is proposing substantial revisions to the Food Stamp Program regulations governing State agency administrative and management requirements. This action is being taken in response to the President's Regulatory Reform effort and as part of the Department's ongoing effort to expand State flexibility. This action will provide the State agencies with more flexibility in operating the Food Stamp Program by eliminating outdated or overly prescriptive requirements. This rule also proposes to implement provisions of the Government Performance and Results Act of 1993 (GRPA), which shifts the focus of Federal agencies from managing processes to achieving results. (95-023)

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	12/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC22

USDA—FCS — Proposed Rule Stage

214. • CHILD AND ADULT CARE FOOD PROGRAM INITIATIVE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1758; 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: This rulemaking proposes to incorporate in the Child and Adult Care Food Program regulations several recommendations suggested by the Department's Office of Inspector General as a result of several audits recently conducted. The audits concluded that high levels of noncompliance by sponsors and family day care homes were evident in several areas of Program operations.

The Department also proposes to incorporate in the regulations several recommendations from a State-Federal task Force in the areas of (1) State approval of both new and renewing sponsoring organizations; (2) State oversight of sponsor operations; and (3) training and operational requirements for child care institutions, sponsors of family day care homes, outside-school-hours care centers, and family day care home providers.

As a result of the Task Force's recommendations, this rulemaking also proposes other changes to the CACFP regulations which are intended to streamline the operation of the Program at the State and local levels, improve its integrity, and strengthen oversight control. (95-024)

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	
Final Action	06/00/97	
Final Action Effective	06/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC24

DEPARTMENT OF AGRICULTURE (USDA)
Food and Consumer Service (FCS)

Final Rule Stage

215. MISCELLANEOUS FARM BILL PROVISIONS RELATING TO THE AUTHORIZATION OF RETAIL FIRMS AND WHOLESALE FOOD CONCERNS

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2031; PL 101-624

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 274; 7 CFR 278

Legal Deadline: Final, Statutory, October 1, 1991.
Effective 120 days from publication of implementing rules.

Abstract: This rule would implement three provisions of the 1990 Farm Bill (PL 101-624, 104 stat 3359) which revise the Food Stamp Act of 1977, as amended (7 USC 2011 et seq.). The first provision would amend the definition of "food" to include meals sold to the homeless program participants by restaurants approved by State agencies for this purpose. Such restaurants must contract with the State and must be authorized by the Food and Consumer Service to provide meals at concessional prices to homeless participants. The second provision would allow a periodic reauthorization of retail food stores and wholesale food concerns to participate in the Food Stamp Program. The third provision revises criteria for and limits the participation in the program of co-located wholesaler/retailer firms. (91-003)

Timetable:

Action	Date	FR Cite
NPRM	10/23/91	56 FR 54799
NPRM Comment Period End	11/22/91	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB02

216. DETERMINATION OF ELIGIBILITY FOR FREE MEALS BY SUMMER FOOD SERVICE PROGRAM SPONSORS AND FREE AND REDUCED PRICE MEALS BY CHILD AND ADULT CARE FOOD PROGRAM INSTITUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1758; PL 101-147

CFR Citation: 7 CFR 225; 7 CFR 226

Legal Deadline: Final, Statutory, July 1, 1990.

Abstract: Implements certain provisions of PL 101-147, including a requirement that applicants for free or reduced price meals need only provide the Social Security Number of the household member who signs the application and a requirement that the Program sponsor rather than the applicant total the income information provided. (90-510)

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB17

217. CHILD AND ADULT CARE FOOD PROGRAM: AUTHORITY TO COLLECT OVERCLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

USDA—FCS — Final Rule Stage

Abstract: Establishes the Department's authority to collect overclaims where participating institutions fail to comply with regulatory recordkeeping requirements. (87-514)

Timetable:

Action	Date	FR Cite
NPRM	12/05/95	60 FR 62227
NPRM Comment Period End	02/05/96	
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB19

218. FOOD DISTRIBUTION PROGRAMS—DISASTER PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-707

CFR Citation: 7 CFR 250

Legal Deadline: None

Abstract: This rule will propose to: (1) allow simultaneous distribution of commodities and food stamps during disaster; (2) allow commodity distribution to households during situations of distress. This rule will also define necessary accountability procedures. (90-0001)

Timetable:

Action	Date	FR Cite
NPRM	12/06/95	60 FR 62999
NPRM Comment Period End	02/06/96	
Final Action	06/00/96	

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB55

219. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS—OKLAHOMA WAIVER AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-98, Sec 1338; PL 95-113

CFR Citation: 7 CFR 254

Legal Deadline: None

Abstract: This interim rule will extend the Department's authority to grant waivers to serve urban places in excess of 10,000 people. This authority expired on September 30, 1985. (94-002)

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/96	
Final Action	01/00/97	
Final Action Effective	03/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB56

220. FOOD STAMP PROGRAM: CHILD SUPPORT DEDUCTION

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2032; PL 103-66

CFR Citation: 7 CFR 273

Legal Deadline: Other, Statutory, September 1, 1994.
Sections 13911 and 13915 of PL 103-66--effective date.

Abstract: This rule implements section 13921 of the 1993 Mickey Leland Childhood Hunger Relief Act which establishes a deduction for child support paid to a non-household member. (95-001)

Timetable:

Action	Date	FR Cite
NPRM	12/08/94	59 FR 63265
NPRM Comment Period End	02/06/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB58

221. FOOD STAMP PROGRAM: SIMPLIFICATION OF PROGRAM RULES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 273

Legal Deadline: None

Abstract: This action proposes several changes in Food Stamp Program rules relating to Social Security numbers, combined allotments, residency, excluded resources, contract income, self-employment expenses, certification periods, the notice of adverse action, recertification, and suspension. The changes are being proposed as means to simplify regulatory requirements and to increase consistency with requirements of the Aid to Families with Dependent Children (AFDC) program. (93-006)

Timetable:

Action	Date	FR Cite
NPRM	01/11/95	60 FR 2703
NPRM Comment Period End	03/13/95	
Final Action	12/00/96	
Final Action Effective	07/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB60

222. FOOD STAMP PROGRAM: PAYMENT OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2032; PL 103-66, sec 13961

USDA—FCS

Final Rule Stage

CFR Citation: 7 CFR 277

Legal Deadline: Other, Statutory, April 1, 1994.
The Act requires funding rate reduction effective 04/01/94.

Abstract: State agencies are reimbursed by FCS at standard or enhanced Federal reimbursement level for all allowable costs incurred in the State's operation of the Food Stamp Program. This proposed rule would reduce the Federal reimbursement rate for State agencies for fraud control, system development, and immigration status verification to the standard 50 percent rate. It would also limit the time period during which State agencies may file a claim for retroactive funding, and allows the cost of certifying aid to families with dependent children to be charged to the Food Stamp Program for purposes of Federal reimbursement. (93-010)

Timetable:

Action	Date	FR Cite
NPRM	11/22/94	59 FR 60079
NPRM Comment Period End	01/23/95	
Final Action	07/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB66

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223. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS: DEFINITION OF INDIAN TRIBAL HOUSEHOLD

Priority: Other Significant

Legal Authority: PL 88-525; PL 97-98, sec 1338; PL 95-113

CFR Citation: 7 CFR 253; 7 CFR 254

Legal Deadline: None

Abstract: This final rule will amend part 253 to permit households containing a Native American living in "near areas" to participate in the Food Distribution Program on Indian Reservations (FDPIR) regardless of the Native American's tribal affiliation or age. It will also amend part 254 to permit households containing a Native American to participate in FDPIR in Oklahoma regardless of the Native American's age. (82-217)

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	52 FR 39158
Interim Final Rule	01/11/94	59 FR 1447
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB67

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224. FOOD STAMP PROGRAM: QUALITY CONTROL PROVISIONS OF THE MICKEY LELAND CHILDHOOD HUNGER RELIEF ACT

Priority: Other Significant

Legal Authority: PL 103-66, sec 13951

CFR Citation: 7 CFR 272; 7 CFR 275

Legal Deadline: None

Abstract: To implement quality control changes to the Food Stamp Act required by section 13951 of the Mickey Leland Childhood Hunger Relief Act in the following areas: 1) interest on quality control claims, 2) the formula for determining quality control claim amounts, 3) variance exclusion for the application of new regulations, 4) time frames for completion of the arbitration process, 5) time frames for determining final error rates, the national average payment error rate, and the amounts of payment claims against State agencies, 6) time frames for notifying State agencies of payment claims, 7) the addition of specific criteria for a determination that "good cause" exists for not imposing a payment claim, and 8) the transfer of authority to make "good cause" determinations from FNS to the Administrative Law Judges. These provisions are nondiscretionary and will not result in an annual effect on the economy of $100 million or more, or a major increase in costs or prices for consumers, individuals, industries, Federal, State or local government agencies, or geographical regions. (93-018)

Timetable:

Action	Date	FR Cite
NPRM	06/23/95	60 FR 32615
NPRM Comment Period End	08/22/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB75

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225. FOOD STAMP PROGRAM: CERTIFICATION PROVISIONS OF THE MICKEY LELAND CHILDHOOD HUNGER RELIEF ACT

Priority: Economically Significant

Legal Authority: PL 103-66 Mickey Leland Childhood Hunger Relief Act

CFR Citation: 7 CFR 271.2; 7 CFR 273.1; 7 CFR 273.2; 7 CFR 273.7; 7 CFR 273.8; 7 CFR 273.9; 7 CFR 273.10; 7 CFR 273.12; 7 CFR 273.21

Legal Deadline: Final, Statutory, September 1, 1994.
All provisions must be implemented on 09/01/94.

Abstract: The final rule will (a) exclude certain general-assistance vendor payments from income; (b) increase the amount of the dependent care deduction; (c) require State agencies to establish a statewide limit for dependent care reimbursements paid to participants in the Food Stamp Employment & Training (E&T) Program; (d) increase the fair market value on vehicles for determining a household's resource limit; (e) exclude the value of vehicles from resources that are used by the household to transport fuel or water; (f) simplify the "household" definition; (g) establish eligibility for children who live with their food-stamp-eligible parents in a drug or alcohol rehabilitation center; (h) provide an income exclusion for earnings of elementary and secondary school students under 22; and (i) require proration of benefits following a break of more than 30 days in certification. (93-017)

USDA—FCS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/30/94	59 FR 44866
NPRM Comment Period End	10/31/94	
Final Action	05/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB76

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226. TREATMENT OF EDUCATIONAL AND TRAINING ASSISTANCE

Priority: Other Significant

Legal Authority: PL 101-392; PL 101-624; PL 102-237; PL 102-325

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline:
Final, Statutory, August 1, 1991, PL 101-624.
Final, Statutory, August 1, 1991, PL 101-392.
Final, Statutory, February 1, 1992, PL 102-237.
Final, Statutory, October 1, 1992, PL 102-325 - Tribal LoanProgram.
Final, Statutory, August 1, 1993, PL 102-325 - Title IX Exclusion.

Abstract: This action finalizes provisions of P.L. 101-624 governing the treatment of educational assistance as excluded income or resources. It finalizes provisions of P.L. 102-325 which prohibits Federal educational assistance provided under Title IV or Part E of Title XIII of the Higher Education Act from being considered as income and resources for food stamp purposes. It finalizes provisions of P.L. 101-392 which prohibits counting certain educational assistance funded by the Perkins Act as income or resources when determining the eligibility and benefits of student households. It finalizes provisions of P.L. 102-237 which provide that educational monies are excluded from income when they are awarded to a person enrolled at a recognized institution of post-secondary education, at a school for the handicapped, in a vocational education program, or in a program that provides for completion of a secondary school diploma or obtaining the equivalent. Also, such monies are excluded from income to the extent that they do not exceed the amount used for or made available as an allowance determined by the school, institution, program, or other grantor, for tuition, mandatory fees (including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved), books, supplies, transportation, and other miscellaneous personal expenses (other than living expenses), of the student incidental to attending such school, institution, or program and to the extent the loans include any origination fees and insurance premiums. The provisions of the statutes become effective on the dates of the legal deadlines whether regulations have been published or not. (94-016)

Timetable:

Action	Date	FR Cite
NPRM	11/01/93	58 FR 58463
NPRM Comment Period End	01/03/94	
Final Action	06/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB84

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227. FOOD STAMP PROGRAM: REVISIONS IN USE AND DISCLOSURE OF INFORMATION PROVIDED BY RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-225; 7 USC 2018(c)

CFR Citation: 7 CFR 278.1

Legal Deadline: None

Abstract: This proposed rule sets forth changes required by provisions of the Food Stamp Program Improvements Act of 1994, PL 103-225, Title II, 108-109 (1994). The purpose of this rule is to implement these statutory changes to the Food Stamp Act of 1977, as amended. It would permit the use and disclosure of information provided by stores to State and Federal law enforcement and investigative agencies for the purposes of administering or enforcing the Food Stamp Act, and establishes penalties against persons who misuse any of the information. (94-022)

Timetable:

Action	Date	FR Cite
NPRM	05/12/95	60 FR 25625
NPRM Comment Period End	06/12/95	
Final Action	04/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB87

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228. FOOD STAMP PROGRAM AUTOMATED DATA PROCESSING EQUIPMENT AND SERVICES; REDUCTION IN REPORTING REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 272; 7 CFR 277

Legal Deadline: None

Abstract: This rule 1) increases the cost thresholds above which prior written Federal approval is required for Federal financial participation in State automated data processing (ADP) equipment and services acquisitions; 2) provides for State requests to be deemed to have provisionally met the prior approval requirement if the Food and Consumer Service (FCS) does not approve, disapprove, or request additional information about the request within 60 days of acknowledging it; and 3) eliminates the requirement that State agencies submit a written summary pertaining to the State biennial systems security reviews. These changes are being made to

promote greater efficiency in government operations. They will reduce the State reporting burden. (94-020)

Timetable:

Action	Date	FR Cite
NPRM	07/31/95	60 FR 38972
NPRM Comment Period End	09/29/95	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: State

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB92

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229. MONTHLY REPORTING ON INDIAN RESERVATIONS PROVISION OF FOOD STAMP PROGRAM IMPROVEMENTS ACT OF 1994

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-225

CFR Citation: 7 CFR 273.21

Legal Deadline: Final, Statutory, March 25, 1994.

Abstract: Establishes special monthly reporting requirements for households living on Indian reservations. (94-013)

Timetable:

Action	Date	FR Cite
NPRM	06/06/95	60 FR 29767
NPRM Comment Period End	08/07/95	
Final Action	06/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AB98

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230. SCHOOL NUTRITION PROGRAMS: TECHNICAL AND NONDISCRETIONARY AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-488

CFR Citation: 7 CFR 215; 7 CFR 235; 7 CFR 245

Legal Deadline: None

Abstract: The rule proposes to (1) allow USDA to withhold State Administrative Expense (SAE) funds when State agencies are seriously deficient in program administration and to withhold SAE funds from State agencies unwilling to participate in studies; (2) remove the authority for child care centers in the Commonwealth of Puerto Rico to participate in the lunch and breakfast program; and (3) make other technical amendments to remove obsolete references. (96-001)

Timetable:

Action	Date	FR Cite
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC01

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231. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): IMPLEMENTATION OF WIC MANDATES OF THE HEALTHY MEALS FOR HEALTHY AMERICANS ACT OF 1994

Priority: Other Significant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This final rule implements the WIC-related reauthorization provisions mandated in Pub. L. 103-448, the Healthy Meals for Healthy Americans Act of 1994. All of the WIC-related provisions may be deemed nondiscretionary. These provisions include: counting the unborn child of an otherwise income-ineligible pregnant woman, allowing State agencies to deem income-eligible pregnant women presumptively eligible for a period not to exceed 60 days, an increase in the national breastfeeding promotion and support expenditure, and a requirement that Medicaid managed care providers be included in the programs to which WIC must make referrals. (95-004)

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC02

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232. REMOVAL OF THE "CHEESE ALTERNATE PRODUCTS" REQUIREMENTS FROM THE NATIONAL SCHOOL LUNCH PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1751 to 1760; 42 USC 1779; 42 USC 1761; 42 USC 1762a

CFR Citation: 7 CFR 210.10 (k)(3)(i); 7 CFR 210.10a (d)(2)(i); 7 CFR 210 app A; 7 CFR 225.16 (f)(3)

Legal Deadline: None

Abstract: This rule eliminates requirements governing the use of "Cheese Alternate Products" in the National School Lunch Program. The removal of these requirements should enable cheese substitute manufacturers more freedom in the production of this type of product while maintaining program nutrition standards through reliance on existing Food and Drug Administration rules. (95-007)

Timetable:

Action	Date	FR Cite
NPRM	09/27/95	60 FR 49807
NPRM Comment Period End	12/27/95	
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC04

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233. CHILD AND ADULT CARE FOOD PROGRAM: CHILD NUTRITION AND WIC REAUTHORIZATION ACT OF 1989 AND OTHER AMENDMENTS

Priority: Other Significant

Legal Authority: PL 101-147; PL 102-342; PL 102-375

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: This interim rule implements changes required in the Child and Adult Care Food Program (CACFP) by the Child Nutrition and WIC Reauthorization Act of 1989 (P.L. 101-147), the Child Nutrition Improvement Act of 1992 (P.L. 102-342) and the Older Americans Act Amendments of 1992 (P.L. 102-375) by: (1) allowing the Governor of a State to designate a State administering agency for the adult day care component of the Program that is different from the State agency which administers the child care component; (2) changing the basis for making commodities available to State agencies; (3) permitting private for-profit child care centers to participate in CACFP if at least 25 percent of their enrolled children or 25 percent of their licensed capacity, whichever is less, are Title XX recipients; (4) allowing adult day care centers to participate in the CACFP if they provide day care services to qualified persons in a group setting outside their homes, or in a group living arrangement; and (5) making three specific technical adjustments in Program regulations. This interim rule also makes a discretionary change which allows households participating in the Food Distribution Program on Indian Reservations (FDPIR) to be categorically eligible as free meal recipients under the CACFP. These changes are intended to reduce the level of administrative burden at the Federal, State and local levels. (95-009)

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC07

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234. FAILURE TO COMPLY WITH FEDERAL, STATE, OR LOCAL WORK PROGRAM REQUIREMENTS

Priority: Other Significant

Legal Authority: 7 USC 2017(d) Food Stamp Act

CFR Citation: 7 CFR 271; 7 CFR 273

Legal Deadline: None

Abstract: This action proposes to amend Food Stamp Program regulations to prohibit an increase in food stamp benefits when a household's Federal, State or local welfare assistance payment decreases as a result of a penalty for failure to comply with a Federal, State or local welfare program requirement. The revision is necessary to more fully implement congressional intent that the Food Stamp Program should reinforce, not mitigate, another program's penalties. (95-012)

Timetable:

Action	Date	FR Cite
NPRM	08/08/95	60 FR 40311
NPRM Comment Period End	09/22/95	
Final Action	06/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC08

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235. AVAILABILITY OF INFORMATION AND RECORDS TO THE PUBLIC

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 7 CFR 295.1 to 295.10

Legal Deadline: None

Abstract: The regulatory action is necessary to update the administrative information made available to the public on how to access agency information under the Freedom of Information Act. (95-019)

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC13

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236. FOOD STAMP PROGRAM REGULATORY REVIEW: ALASKA, PUERTO RICO, COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND DEMONSTRATION PROJECTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 282; 7 CFR 284; 7 CFR 285

Legal Deadline: None

Abstract: This action proposes to amend Food Stamp Program rules affecting Alaska, The Commonwealth of the Northern Mariana Islands, Puerto Rico, and demonstration projects. This action is one result of a comprehensive page by page review of all existing Food Stamp Program regulations which

USDA—FCS

Final Rule Stage

was conducted in response to the President's efforts to reform the Federal regulatory system. The changes will eliminate prescriptive detailed processes and empower States to set their own procedures for case management and customer service; eliminate outdated and redundant regulatory requirements; and emphasize recipient responsibility for applying and reporting their circumstances properly. (95-015)

Timetable:

Action	Date	FR Cite
NPRM	01/24/96	61 FR 1849
NPRM Comment Period End	03/25/96	
Final Action	06/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC14

237. • SFSP IMPLEMENTATION OF HEALTHY MEALS FOR HEALTHY AMERICANS ACT OF 1994

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1758; 42 USC 1761; 42 USC 1762a

CFR Citation: 7 CFR 225

Legal Deadline: None

Abstract: This interim rule implements five amendments to section 13 of the National School Lunch Act that are mandated by the Healthy Meals for Healthy Americans Act of 1994 (Pub. L. 103-448) to improve Summer Food Service Program (SFSP) delivery, outreach, and access. The law revises the "sponsor priority list" used by States to approve applications to give private nonprofit organizations that have successfully participated in SFSP higher priority than prospective service institutions that are new to the program. Further, it removes the requirement that a private nonprofit organization be prohibited for one year from serving an area previously served by a school or public sponsor. It also removes the requirement that State agencies collect and report to USDA all information gathered on food service management companies that wish to participate in SFSP. That requirement is replaced by a provision that allows USDA to maintain records on all food service management companies, but requires State agencies to report information only when a company is seriously deficient in its performance. Pub. L. 103-448 also reduces the number of required components in the Management and Administration Plan (MAP) which State agencies submit annually by eliminating reporting by States of sponsor applications schedules, efforts to encourage self-preparation or school preparation of meals, plans for food service management company registration, plans to determine and process reimbursement payments to sponsors, and hearing procedures for sponsors. In addition, it removes the requirement that sponsor applications for nonprofit organizations contain specific warnings of penalties for improper or unsuccessful program participation. (95-025)

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/96	
Final Action	01/00/97	
Final Action Effective	01/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22302
Phone: 703 305-2246

RIN: 0584–AC23

DEPARTMENT OF AGRICULTURE (USDA)
Food and Consumer Service (FCS)

Long-Term Actions

238. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): FOOD COST CONTAINMENT REQUIREMENTS

Priority: Other Significant

CFR Citation: 7 CFR 246

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/15/90	55 FR 9709
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB11

239. PERMANENT AGREEMENTS/DIRECT CERTIFICATION IN NATIONAL SCHOOL LUNCH, SCHOOL BREAKFAST, AND SPECIAL MILK PROGRAMS

Priority: Other Significant

CFR Citation: 7 CFR 210; 7 CFR 215; 7 CFR 220; 7 CFR 245

Timetable:

Action	Date	FR Cite
NPRM	05/28/91	56 FR 24033
NPRM Comment Period End	07/29/91	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB35

USDA—FCS

Long-Term Actions

240. NATIONAL SCHOOL LUNCH PROGRAM: REVIEW OF FREE AND REDUCED PRICE APPLICATION UNDER THE COORDINATED REVIEW EFFORT

Priority: Other Significant

CFR Citation: 7 CFR 210

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 202 305-2246

RIN: 0584–AB50

241. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): INFANT FORMULA PROCUREMENT ACT OF 1992

Priority: Other Significant

CFR Citation: 7 CFR 246

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB52

242. FOOD STAMP PROGRAM: EXCESS SHELTER EXPENSE LIMIT AND STANDARD UTILITY ALLOWANCES

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 273

Timetable:

Action	Date	FR Cite
NPRM	11/22/94	59 FR 60087
NPRM Comment Period End	01/22/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB59

243. FSP: TARGETING FOR INCOME AND ELIGIBILITY VERIFICATION

Priority: Other Significant

CFR Citation: 7 CFR 272

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/02/88	51 FR 7178
Final Action	09/00/97	
Final Action Effective	09/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB74

244. FOOD STAMP PROGRAM: UTILITY REIMBURSEMENT EXCLUSION

Priority: Economically Significant

CFR Citation: 7 CFR 272; 7 CFR 273

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/16/94	59 FR 30864
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB79

245. NATIONAL SCHOOL LUNCH, SPECIAL MILK, SCHOOL BREAKFAST, CHILD AND ADULT CARE FOOD AND SUMMER FOOD SERVICE PROGRAMS: PURCHASE OF FOOD PRODUCTS PRODUCED IN THE U.S

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 210; 7 CFR 215; 7 CFR 220; 7 CFR 225; 7 CFR 226

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB82

DEPARTMENT OF AGRICULTURE (USDA)
Food and Consumer Service (FCS)

Completed Actions

246. WAIVER AUTHORITY UNDER THE STATE PROCESSING PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 250

Completed:

Reason	Date	FR Cite
Final Action	02/12/96	61 FR 5271
Final Action Effective	02/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AB99

247. QUALITY CONTROL REGRESSION AMENDMENT

Priority: Other Significant

CFR Citation: 7 CFR 275.23

Completed:

Reason	Date	FR Cite
Withdrawn - Determined Not To Be in the Public Interest	02/06/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheri Ackerman

USDA—FCS — **Completed Actions**

Phone: 703 305-2246

RIN: 0584–AC03

248. FOOD STAMP PROGRAM: MAXIMUM ALLOTMENTS FOR HAWAII, ALASKA, GUAM, AND THE VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn Due to Pending Legislation.	02/01/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AC16

249. FOOD STAMP PROGRAM: MAXIMUM ALLOTMENTS FOR 48 STATES AND DC, AND INCOME ELIGIBILITY STANDARDS AND DEDUCTIONS FOR 48 STATES AND DC, ALASKA, HAWAII, GUAM, AND VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn Due to Pending Legislation.	02/01/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246

RIN: 0584–AC17

BILLING CODE 3410-30-F

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS) — **Prerule Stage**

250. • MEAT AND POULTRY STANDARDS OF IDENTITY AND COMPOSITION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: FSIS is carrying out a thoroughgoing regulatory review that will decide the future of its standards of identity and composition for meat and poultry products. These standards, established over many years, define particular products or product categories in terms of meat and poultry content or other characteristics. The standards are enforced through prior approval of labeling and by other means. Because of new technologies, changing lifestyles, changed consumer expectations, and the information now available to consumers through ingredient and nutrition labeling, the usefulness of many of the standards is in question. FSIS is soliciting information from the interested public on what direction reform of its food standards regulations should take, including suggestions on whether to fundamentally alter or eliminate entirely this regulatory program. FSIS recognizes that the current program impedes innovation, slowing the introduction of nutritionally beneficial products in the marketplace. FSIS seeks information on how its product standards--if they are needed at all--can provide sound and reliable consumer protection, while being flexible enough to encourage the development and marketing of improved meat and poultry products.

Timetable:

Action	Date	FR Cite
ANPRM	07/00/96	
ANPRM Comment Period End	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Post, Chief, Food Standards and Ingredients Branch, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 254-2588

RIN: 0583–AC01

251. • TRANSPORTATION AND STORAGE REQUIREMENTS FOR POTENTIALLY HAZARDOUS FOODS

Priority: Other Significant

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 305; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS), in conjunction with the Food and Drug Administration (FDA), plans to publish an advance notice of proposed rulemaking (ANPR) addressing possible transportation and storage requirements for potentially hazardous foods. (A potentially hazardous food is one, either natural or synthetic, that is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms.) For purposes of this ANPR, potentially hazardous foods include meat, poultry, egg, seafood, and dairy products.

In the past, FSIS and FDA believed that their ability to control adulterated products in commerce, coupled with an expectation of general adherence of transportation and storage firms to standard industry and commercial practices, was adequate to prevent public health concerns. However, FSIS and FDA now conclude that they must be more active in their efforts to ensure that potentially hazardous foods outside manufacturing establishments are handled such that the growth of pathogenic organisms is minimized, and no new pathogenic organisms or other hazards are introduced. The ANPR will solicit comments and information on various aspects dealing with the transportation and storage of potentially hazardous foods.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/96	
ANPRM Comment Period End	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

USDA—FSIS — **Prerule Stage**

Agency Contact: Patrick Clerkin, Compliance Program, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 205-0700

RIN: 0583–AC05

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS) — **Proposed Rule Stage**

252. USE OF TRISODIUM PHOSPHATE ON RAW, UNCHILLED POULTRY CARCASSES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the poultry products inspection regulations to permit the application of trisodium phosphate (TSP) on raw, unchilled poultry carcasses. TSP would be permitted as an antimicrobial agent on raw, unchilled poultry carcasses. Tests conducted by industry and FSIS have shown that the use of TSP reduces microbial populations on raw, unchilled poultry carcasses. This proposed rule is in response to a petition.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth Peterson, Slaughter Inspection Standards and Procedures Division, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-3219

RIN: 0583–AB80

253. NUTRITION LABELING; NEW PRODUCT CATEGORIES AND REFERENCE AMOUNTS

Priority: Other Significant

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the Federal meat and poultry products inspection regulations by adding three new product categories and reference amounts to the new product categories and reference amounts chart. FSIS has received requests through public comments and the labeling application process to add new product categories and reference amounts for "Beans with meat, plain or in sauce," "Appetizers," and "Major condiments." FSIS is also proposing to allow manufacturers of meal-type products packaged in volumes greater than one serving to be labeled as the fractional statement of the promoted serving size (e.g., 1/2 package, 1/4 package).

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
NPRM Comment Period End	02/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 254-2565

RIN: 0583–AB81

254. ELIMINATION OF PRIOR APPROVAL REQUIREMENTS FOR FACILITIES EQUIPMENT AND CERTAIN PARTIAL QUALITY CONTROL PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 304; 9 CFR 308; 9 CFR 317; 9 CFR 318; 9 CFR 319; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry products inspection regulations by removing current requirements for FSIS approval of facilities and equipment prior to their use in official establishments. Establishments would be held accountable for meeting existing regulations for facilities and equipment and for preventing conditions that would tend to adulterate meat, meat food, and poultry products. FSIS is also proposing to end its prior approval of most voluntary, plant-operated partial quality control (PQC) programs, which are used by establishments to control certain kinds of food processing and product characteristics. Establishments would be encouraged to develop and implement quality control programs without first receiving permission from the Agency to do so and without having to rely on Agency guidance in operating them.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia Stolfa, Associate Deputy Administrator, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AB93

255. PERFORMANCE STANDARDS FOR CERTAIN MEAT PRODUCTS AND POULTRY PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq; 21 USC 60 et seq

CFR Citation: 9 CFR 301; 9 CFR 318; 9 CFR 320; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry inspection regulations by converting the current regulations governing the production of cooked beef products, uncured meat patties, and certain poultry products into performance standards. The proposed performance standards spell out the objective level of performance establishments must meet during their operations in order to produce safe products, but allow the use of plant-specific processing procedures other than the procedures prescribed in the current regulations. All of the provisions in the current regulations meet the proposed performance standards. Therefore, establishments probably would not be required to change any current practices in response to this proposed rule. The current provisions would remain in the regulations as examples of how an establishment might comply with proposed performance standards, constituting "safe harbors."

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia F. Stolfa, Associate Deputy, Administrator, Science and Technology, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 205-0699

RIN: 0583–AB94

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256. CONTINUOUS CHILLING OF SPLIT TURKEY PORTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule would amend the poultry products inspection regulations to permit the chilling of split turkey portions in a continuous chiller. Under the current regulations, turkey carcasses must be intact in one piece before they may be chilled in a continuous chiller. They may not be continuously chiller if they have been split into major portions unless the carcasses have been trimmed or otherwise salvaged. This amendment would permit establishments to intentionally split dressed turkey carcasses into major portions prior to being placed into a continuous chiller. Permitting the splitting of whole turkey carcasses into major portions prior to chilling would have several benefits. First, it would improve public safety by reducing the amount of time needed to cool the whole carcasses. A decrease in the chilling time significantly diminishes the period that the carcass portion is in the "danger zone" for microbial growth. The process itself would not cause the product to become adulterated or unwholesome. Second, it would provide the inspector with easier access to the interior of the carcass. This in turn would allow for a better visual inspection of the cavity than is possible with a whole carcass. Finally, the separated portions of the carcass would be appropriately handled immediately after splitting. The white meat portion would immediately be chilled to the proper temperature for direct sale to consumers while the dark meat portion, which is usually processed, could be directly deboned and used in further processed cooked products. This rulemaking is being initiated in response to a petition.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alice M. Thaler, Slaughter Inspection Standards and Procedures Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-3119

RIN: 0583–AB95

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257. IDENTIFICATION OF THE ORIGIN OF SAUSAGE CASINGS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service has been petitioned by the State of Connecticut to amend the Federal meat inspection regulations to require that natural sausage casings be labeled as to their animal origin, i.e., species of livestock from which the casing is made. The regulation change is requested so that consumers may more easily select products on the basis of animal origin as needed to conform to religious or other dietary restrictions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
NPRM Comment Period End	02/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Cheryl Wade, Director, Food Labeling Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 254-2590

RIN: 0583–AB98

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258. GLYCERINE USED AS A HUMECTANT IN SHELF STABLE MEAT SNACKS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 317

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat inspection regulations to permit the use of food grade glycerine as a humectant in shelf stable meat snacks. It is proposing that the glycerine be used at a level not to exceed 2 percent of the formulation weight of the product. This proposed rule is in response to a petition. As a humectant, glycerine controls moisture in meat products and, at the 2 percent level, it reduces the amount of water available for microbial growth to occur. This use is Generally Recognized as Safe (GRAS) by FDA.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
NPRM Comment Period End	02/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 254-2565

RIN: 0583–AC00

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259. • USE OF SORBITOL IN COOKED ROAST BEEF PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: FSIS is proposing to amend the Federal meat inspection regulations to permit the use of sorbitol in cooked roast beef products. Sorbitol is listed in 21 CFR 184.1835 as a substance generally recognized as safe for various uses when used in accordance with good manufacturing practices. Sorbitol functions as a sweetening agent and prevents charring of meat and meat food products due to its moisture-retention properties. Sorbitol could be used for these two purposes in cooked roast beef products, at a level not more than two percent of the weight of the formula excluding the formula weight of water or ice.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 254-2588

RIN: 0583–AC02

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260. • ELIMINATION OF PRIOR APPROVAL REQUIREMENTS FOR EGG AND EGG PRODUCTS ESTABLISHMENT DRAWINGS AND SPECIFICATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1621 et seq; 7 USC 1031 to 1056 Egg Products Inspection Act

CFR Citation: 7 CFR 55; 7 CFR 59

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal eggs and egg products inspection regulations by removing current requirements for prior approval by FSIS of establishment drawings and specifications prior to the construction or remodeling of official establishments. Requirements involving the comparison of blueprints and specifications with actual facilities and equipment would end. FSIS would continue to verify through inspection that good sanitation is being achieved. This action is taken to streamline and modernize the eggs and egg products food safety regulations, to separate the roles of Government and the regulated industry, to encourage innovations that will improve food safety, and to remove unnecessary regulatory burdens on inspected egg establishments. In addition, the proposal represents an important shift away from FSIS's "command-and-control" regulatory approach and toward a less bureaucratic approach consistent with the Agency's food safety mission.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Paula M. Cohen, Director, Regulations Development, Policy, Evaluation and Planning Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250-3700
Phone: 202 720-7164

RIN: 0583–AC06

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Final Rule Stage

261. REQUIREMENTS FOR FOREIGN COUNTRY IMPORT CERTIFICATION AND LIVE ANIMAL IMPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-198

CFR Citation: 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: This rule will respond to amendments to the Federal Meat Inspection Act by the Food Security Act of 1985. The amendments require that FSIS periodically certify residue control programs submitted by foreign countries desiring to export meat and poultry products to the United States. The amendments also provide the Secretary with the authority to issue an order prohibiting the importation of livestock for immediate slaughter that have been administered a drug or antibiotic banned for use in the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/26/88	53 FR 27998
NPRM Comment Period End	09/26/88	
Reproposal	03/09/90	55 FR 8956
Reproposal Comment Period End	04/09/90	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence Skinner, Director, Foreign Programs Division, International Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-6933

RIN: 0583–AA47

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262. SUBSTANCES APPROVED FOR USE IN THE PREPARATION OF MEAT FOOD AND POULTRY PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations to simplify the procedures by which FSIS approves food additives and Generally Recognized as Safe substances to be used as ingredients in meat food products and poultry products. The proposed rule will be developed in cooperation with the Food and Drug Administration to make the Federal regulation of food additives and other substances that may be used as ingredients in meat food and poultry products more efficient and uniform.

Timetable:

Action	Date	FR Cite
NPRM	12/29/95	60 FR 67459
NPRM Comment Period End	02/27/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ralph E. Stafko, Deputy Director, Policy, Evaluation and Planning Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-8168

RIN: 0583–AB02

263. NUTRITION LABELING: HEALTH CLAIMS ON MEAT AND POULTRY PRODUCTS

Priority: Other Significant

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations to permit the use of health claims that characterize the relationship of a substance to a disease-related or health-related condition on labeling of meat and poultry products. The rule will also establish a labeling application process for such health claims. This action stems from the final nutrition labeling regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/25/94	59 FR 27144
NPRM Comment Period End	07/25/94	
Final Action	12/00/96	
Final Action Effective	05/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 254-2565

RIN: 0583–AB64

264. TRISODIUM PHOSPHATE AS A POST-CHILL ANTIMICROBIAL TREATMENT FOR RAW POULTRY

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the poultry products inspection regulations to permit the use of trisodium phosphate as a post-chill antimicrobial treatment for inspected and passed raw poultry products. This action is taken in response to a petition.

Timetable:

Action	Date	FR Cite
NPRM	01/05/94	59 FR 551
NPRM Comment Period End	03/07/94	
Final Action	12/00/96	
Final Action Effective	02/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William O. James, Director, Slaughter Inspection Standards and Procedures Division, Department of Agriculture, Food Safety and Inspection Service, Science and Technology, Washington, DC 20250
Phone: 202 720-3219

RIN: 0583–AB65

265. PATHOGEN REDUCTION; HAZARD ANALYSIS AND CRITICAL CONTROL POINTS (HACCP) SYSTEMS

Priority: Economically Significant

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 308; 9 CFR 310; 9 CFR 316; 9 CFR 320; 9 CFR 325; 9 CFR 326; 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: The Agency is amending the Federal meat and poultry products inspection regulations to require: (1) all FSIS-inspected meat and poultry establishments to adopt sanitation standard operating procedures (SOP's); (2) slaughtering establishments to verify the adequacy of their control of fecal contamination and associated bacteria through regular microbial testing; (3) slaughtering establishments and establishments producing raw ground products to meet pathogen reduction performance standards for Salmonella; (4) all meat and poultry establishments to develop, adopt, and implement Hazard Analysis and Critical Control Points (HACCP), a system of preventive controls designed to improve the safety of their products.

Risks: Microbiological testing will be conducted by poultry

Timetable:

Action	Date	FR Cite
NPRM	02/03/95	60 FR 6774
NPRM Comment Period End	06/05/95	
NPRM Reopening of Comment Period	08/11/95	60 FR 41029
NPRM Comment Period Extended to	10/30/95	60 FR 45380
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Paula M. Cohen, Director, Regulations Development, Policy, Evaluation and Planning Staff, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-7164
Fax: 202 690-4794

RIN: 0583–AB69

266. SODIUM CITRATE BUFFERED WITH CITRIC ACID USED AS AN ANTIMICROBIAL AGENT IN CURED AND NONCURED MEAT AND POULTRY PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: This rule will amend the Federal meat and poultry products inspection regulations to permit the use of sodium citrate buffered with citric acid in cured and uncured meat and poultry products. The technical effect of this buffered sodium citrate is to inhibit the growth of certain microorganisms, consequently, extending the product's shelf-life. Sodium citrate and citric acid are listed in the Food and Drug Administration regulations as generally recognized as safe for use in foods in accordance with good manufacturing practice. The technical data and information supplied by the petitioner have been reviewed and it has been determined that the use of this substance is functional and suitable for the intended purpose. This rule only makes minor, technical changes to the chart and the table of substances approved for use in meat and poultry products.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 254-2565

RIN: 0583–AB97

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Long-Term Actions

267. FOOD STANDARDS: REQUIREMENTS FOR PROCESSED MEAT AND POULTRY PRODUCTS NAMED BY USE OF AN EXPRESSED NUTRIENT CONTENT CLAIM AND A STANDARDIZED TERM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 319; 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	12/29/95	60 FR 67474
NPRM Comment Period End	02/27/96	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Charles Edwards
Phone: 202 254-2565

RIN: 0583–AB51

268. NUTRITION LABELING OF GROUND BEEF AND HAMBURGER

Priority: Other Significant

CFR Citation: 9 CFR 317; 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	05/24/94	59 FR 26916
NPRM Extension of Comment Period	07/05/94	59 FR 34396
NPRM Comment Period End	07/08/94	
NPRM Extension of Comment Period End	08/22/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Edwards
Phone: 202 254-2565

RIN: 0583–AB74

269. USE OF SOY PROTEIN CONCENTRATE AND FOOD STARCH—MODIFIED AS BINDERS IN CURED PORK PRODUCTS

Priority: Routine and Frequent

CFR Citation: 9 CFR 318

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Edwards
Phone: 202 254-2565

RIN: 0583–AB82

270. FSIS AGENDA FOR CHANGE: REGULATORY REVIEW; FOOD STANDARDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 301 to 350; 9 CFR 381

Timetable:

Action	Date	FR Cite
ANPRM	12/29/95	60 FR 67469
ANPRM Comment Period End	02/27/96	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paula M. Cohen
Phone: 202 720-7164

RIN: 0583–AB89

271. REFRIGERATION AND LABELING REQUIREMENTS FOR SHELL EGGS

Priority: Other Significant

CFR Citation: 7 CFR 56; 7 CFR 59

Timetable:

Action	Date	FR Cite
NPRM	10/27/92	57 FR 48569
NPRM Comment Period End	12/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patrick Clerkin
Phone: 202 205-0700

RIN: 0583–AC04

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Completed Actions

272. PRIOR LABELING APPROVAL SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 9 CFR 317; 9 CFR 381

Completed:

Reason	Date	FR Cite
Final Action	12/29/95	60 FR 67444
Final Action Effective	07/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Cheryl Wade
Phone: 202 254-2590

RIN: 0583–AB92

273. • USE OF THE FAST ANTIMICROBIAL SCREEN TEST FOR BOB VEAL CALVES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 310

Legal Deadline: None

Abstract: FSIS has amended the Federal meat inspection regulations to permit the use of the Fast Antimicrobial Screen Test (FAST) under its bob veal calf residue testing program. Current regulations prescribe the use of the Calf Antibiotic Sulfonamide Test (CAST). FSIS has developed FAST, which is similar to CAST but is more sensitive to the presence of some antimicrobial agents, and results can be obtained in six hours rather than 18-24 hours for the CAST test. Results from the FAST inplant study show that FAST is equivalent to CAST in detecting both antibiotic and sulfonamide residues in animal tissues. Use of FAST will allow inspectors to screen suspect carcasses and provide results within one work shift. Carcasses that test negative could be released the same day as slaughter, which will benefit the meat industry. Consumers will continue to receive the same level of benefits from FSIS's Residue testing program for bob veal calves.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/22/95	60 FR 66482
Final Action Effective	02/20/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Leese, Residue Operations Staff, Inspection Management Program, Department of Agriculture, Food Safety and Inspection Service, Inspection Operations, Washington, DC 20250-3700
Phone: 202 720-3311

RIN: 0583–AC03

BILLING CODE 3410-DM-F

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS)

Proposed Rule Stage

274. EMERGING DEMOCRACIES AGRICULTURAL FACILITIES GUARANTEE PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 5622(b)

CFR Citation: 7 CFR 17; 7 CFR 1493

Legal Deadline: None

Abstract: The regulations will provide the terms and conditions of obtaining a Commodity Credit Corporation Export Credit Guarantee for agricultural facility establishment or improvement in emerging democracies that will primarily promote the export of U.S. agricultural commodities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/01/93	58 FR 11786
Interim Final Rule Effective	03/01/93	
Interim Final Rule Comment Period End	06/01/93	
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CCC, since the publication of the interim rule, has developed the Facilities Guarantee Program operational requirements. CCC intends to issue these operational requirements as a guideline, as provided by the interim rule. Soon thereafter CCC will publish a proposed rule, with the same content as the guidelines with the intention of using this proposal as the framework for a final rule after a pilot test of the guidelines.

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, 14th & Independence Ave SW., Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA35

275. SUGAR IMPORT LICENSING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 1202

CFR Citation: 7 CFR 1530 subpart A; 7 CFR 1530 subpart B; 7 CFR 1530 subpart C

Legal Deadline: None

Abstract: This advance notice of proposed rulemaking addresses some administrative changes to the sugar import licensing programs. These changes are intended to increase the regulatory efficiency, assist in verifying program compliance and provide for the adherence of the applicable sugar provisions of the North American Free Trade Agreement.

The NPRM will also provide for implementation of certain changes to the lead note to chapter 17 of the Harmonized Tariff Schedule of the United States, pursuant to the Uruguay Round agreement.

Timetable:

Action	Date	FR Cite
ANPRM	05/04/94	59 FR 23017
ANPRM Comment Period End	07/08/94	
NPRM	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

USDA—FAS

Proposed Rule Stage

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250-1000
Phone: 202 720-6713

RIN: 0551–AA39

276. REGULATION GOVERNING THE FINANCING OF COMMERCIAL SALES OF AGRICULTURAL COMMODITIES (PL 480, TITLE I)

Priority: Other Significant

Legal Authority: 7 USC 1701 to 1705; 7 USC 1736a; 7 USC 1736c; 7 USC 5676; EO 1220

CFR Citation: 7 CFR 17

Legal Deadline: None

Abstract: This ANPRM requests comments on how the procedures for arranging the purchase and shipment of commodities under the Public Law 480, Title I program, or any and all parts of the program, could be improved. It also asks for comments on three specific issues which have been raised in recent years:

Could the purchase authorization be eliminated, with relevant portions placed in the regulations or the Invitations for Bids?

Should the Commodity Credit Corporation (CCC) pay suppliers directly for the costs which are financed by CCC instead of requiring the importing country to open letters of credit?

Should CCC finance commodity contracts on a cost and freight basis, under which the commodity supplier also provides the ocean transportation?

Timetable:

Action	Date	FR Cite
ANPRM	09/13/95	60 FR 47495
ANPRM Comment Period End	11/12/95	
NPRM	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, 14th and Independence Ave.,SW, Washington, DC 20250-1060
Phone: 202 720-6713

RIN: 0551–AA42

277. EXPORT SALES REPORTING REQUIREMENTS

Priority: Other Significant

Legal Authority: 7 USC 5712

CFR Citation: 7 CFR 20

Legal Deadline: None

Abstract: Regulation to be revised to add sunflowerseed and sunflowerseed oil to the list of commodities to be reported under the Export Sales Reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA44

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS)

Final Rule Stage

278. REGULATIONS GOVERNING IMPLEMENTATION OF THE MARKET PROMOTION PROGRAM (MPP) OVERSEAS

Priority: Other Significant

Legal Authority: 7 USC 1485

CFR Citation: 7 CFR 1736; 7 CFR 1485

Legal Deadline: None

Abstract: These regulations are promulgated to provide minimum requirements and criteria for parties interested in participating in the Market Promotion Program (MPP) as authorized by the Agricultural Trade Act of 1978, as amended, and how they may apply and participate.

Timetable:

Action	Date	FR Cite
NPRM	04/26/90	55 FR 17618
NPRM Comment Period End	06/26/90	
Interim Final Rule	08/16/91	56 FR 40745
Interim Final Rule Comment Period End	10/15/91	
Second Interim Final Rule	11/17/93	58 FR 60549
NPRM	01/10/96	61 FR 704
Third Interim Final Rule	02/01/96	61 FR 3548
NPRM Comment Period End	02/09/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA24

279. DAIRY TARIFF RATE IMPORT QUOTA LICENSING

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 624; 19 USC 1202; 31 USC 9701; PL 103-465

CFR Citation: 7 CFR 6.20 to 6.34

Legal Deadline: Final, Statutory, January 1, 1995.

Abstract: This rule would supersede the import regulation which governs the administration of the Import Licensing System for certain dairy products which are subject to in-quota tariff rates established in the harmonized tariff schedule of the United States resulting from the entry into force of certain provisions in the Uruguay Round Agreement.

Timetable:

Action	Date	FR Cite
ANPRM	06/02/94	59 FR 28495
ANPRM Comment Period End	08/01/94	
Interim Final Rule	05/02/95	60 FR 21425
Interim Final Rule	09/13/95	60 FR 47453
NPRM	01/18/96	61 FR 1233
NPRM Comment Period End	03/18/96	
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, D. C. 20250
Phone: 202 720-6713

RIN: 0551–AA27

280. CCC EXPORT CREDIT GUARANTEE PROGRAM (GSM-102) AND CCC INTERMEDIATE EXPORT CREDIT GUARANTEE PROGRAM (GSM-103)

Priority: Economically Significant

Legal Authority: 15 USC 714(b); 15 USC 714(f); 7 USC 5602; 7 USC 5622; 7 USC 5661; 7 USC 5663; 7 USC 5664; 7 USC 5676

CFR Citation: 7 CFR 1493

Legal Deadline: None

Abstract: The proposed Rule will amend regulations for CCC export credit guarantee programs by adding a new subpart D, supplier credit guarantee program. Subpart D will establish the terms and conditions by which U.S. exporters of U.S. agricultural commodities and products may obtain CCC credit guarantees for short term credits extended directly to foreign buyers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/06/91	56 FR 25998
Final Rule	10/19/94	59 FR 52866
NPRM	07/19/95	60 FR 37025
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA30

281. REGULATIONS GOVERNING THE FINANCING OF COMMERCIAL SALES OF AGRICULTURAL COMMODITIES (P.L. 480, TITLE I)

Priority: Other Significant

Legal Authority: 7 USC 1701 to 1705; 7 USC 1736a; 7 USC 1736c; 7 USC 5676

CFR Citation: 7 CFR 17

Legal Deadline: None

Abstract: The Public Law 480, title I Financing Regulations specify the documents which the suppliers of commodities and of ocean transportation must present to the bank to receive payment. One of these is Form CCC-106, "Advice of Vessel Approval," issued by CCC, providing the written approval for each shipment and containing details of the ocean freight contract terms. This proposed rule would eliminate the requirement that the commodity supplier present this form to be paid, since the commodity supplier has no control over the ocean transportation. It would also shorten Appendices A and B of the regulations, which specify the basic contracting and documentary requirements for CCC to finance a wide variety of commodities. The proposed rule would eliminate from Appendices A and B the sections covering 15 commodities which have not been shipped for five years or more.

Timetable:

Action	Date	FR Cite
NPRM	08/22/95	60 FR 43566
NPRM Comment Period End	09/12/95	
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, 14th and Independence Ave. SW., Washington, DC 20250-1060
Phone: 202 730-6713

RIN: 0551–AA43

282. LIMITATION ON IMPORTS OF MEAT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 84-540; 7 USC 1854; EO 12188; EO 11539

CFR Citation: 7 CFR 16

Legal Deadline: None

Abstract: The Uruguay Round Agreements Act repealed the Meat Import Act of 1979. As a result, the above regulation is no longer necessary and may be expunged from the CFR.

Timetable:

Action	Date	FR Cite
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA45

283. SECTION 22 IMPORT FEES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 103-465

CFR Citation: 7 CFR 6.50 to 6.55; 7 CFR 6.66; 7 CFR 6.57

Legal Deadline: None

Abstract: The proposed rule would eliminate the import licensing system for sugar exempted from the section 22 import licensing fee. The fee on raw sugar was suspended in 1985 and eliminated on January 1, 1995 as a result of the Uruguay Round Agreements. Importations of sugar for the manufacture of polyhydric alcohol have entered against licenses issued under authority of 7 CFR 1530 and not under this program. With the complete elimination of the import fee, this CFR subpart can be deleted.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA46

284. REENTRY OF COTTON INTO THE UNITED STATES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 103-465

CFR Citation: 7 CFR 6.71 to 6.75

Legal Deadline: None

Abstract: The proposed rule would eliminate the requirement and procedures to obtain certificates from the Secretary of Agriculture in order to reenter U.S. cotton into the United States against an offsetting unsubsidized cotton export. This was a provision for ex-quota entry of U.S. cotton under certain circumstances because section 22 provided for a zero quota on the reentry of cotton grown in the United States. As a result of the Uruguay Round Agreements, this provision has been eliminated from the Harmonized Tariff Schedule of the United States and the ban on the reentry of U.S. cotton has been replaced by a tariff-rate quota on cotton imported from any country.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA48

285. CALCULATION OF MARKET STABILIZATION PRICE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: Presidential Proclamation 5002, 47 FR 54269

CFR Citation: 7 CFR 6.100 to 6.102

Legal Deadline: None

Abstract: The proposed rule would eliminate the requirement that the Secretary of Agriculture calculate and publish a market stabilization price for sugar to establish a basis for liquidated damages in the Sugar Re-export Programs. Since 1990, the MSP has not been used for any purpose in the re-export programs, and the Secretary has not published an MSP since 1989. The MSP was used for two separate regulatory functions since its inception, which are no longer used. Thus this CFR subpart can be deleted.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 4957 South Building, Washington, DC 20250
Phone: 202 720-6713

RIN: 0551–AA49

DEPARTMENT OF AGRICULTURE (USDA)

Long-Term Actions

Foreign Agricultural Service (FAS)

286. PROPOSED REGULATIONS GOVERNING IMPLEMENTATION OF THE COOPERATOR MARKET DEVELOPMENT PROGRAM OVERSEAS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1550

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA26

287. PROGRAM CRITERIA FOR THE SUNFLOWERSEED OIL ASSISTANCE PROGRAM (SOAP) AND THE COTTONSEED OIL ASSISTANCE PROGRAM (COAP)

Priority: Other Significant

CFR Citation: 7 CFR 1570

Timetable:

Action	Date	FR Cite
ANPRM	12/17/93	58 FR 65941
ANPRM Comment Period End	03/17/94	
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA32

288. REPORTING REQUIREMENTS RELATED TO TOBACCO EXPORTS

Priority: Other

CFR Citation: 7 CFR 1525

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/27/91	56 FR 42222
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA31

289. SUNFLOWERSEED OIL ASSISTANCE PROGRAM OPERATIONS (SOAP) AND COTTONSEED OIL ASSISTANCE PROGRAM OPERATIONS (COAP)

Priority: Other Significant

CFR Citation: 7 CFR 1570 subpart B; 7 CFR 1570 subpart C

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Robert Riston

USDA—FAS — Long-Term Actions

Phone: 202 720-6713

RIN: 0551–AA33

290. FOREIGN DONATION OF AGRICULTURAL COMMODITIES

Priority: Other

CFR Citation: 7 CFR 1499

Timetable:

Action	Date	FR Cite
NPRM	02/14/94	59 FR 6916
NPRM Comment Period End	04/15/94	
Final Action	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: Federal

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA38

291. REFORM OF EXPORT BONUS PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1494; 7 CFR 1570

Timetable:

Action	Date	FR Cite
ANPRM	06/26/95	60 FR 32923
ANPRM Comment Period End	07/26/95	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA41

DEPARTMENT OF AGRICULTURE (USDA) — Completed Actions

Foreign Agricultural Service (FAS)

292. DIRECT CREDIT PROGRAMS (GSM-201 AND GSM-301) RISK ASSURANCE PROGRAM (GSM-101) CCC BARTER PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1487; 7 CFR 1495; 7 CFR 1491; 7 CFR 1492

Completed:

Reason	Date	FR Cite
Final Action	03/04/96	61 FR 8207

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA34

293. REGULATIONS GOVERNING THE FINANCING OF COMMERCIAL SALES OF AGRICULTURAL COMMODITIES (P.L. 480 TITLE I PROGRAM)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	12/07/95	60 FR 62702
Final Action Effective	01/08/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Riston
Phone: 202 720-6713

RIN: 0551–AA36

BILLING CODE 3410-10-F

DEPARTMENT OF AGRICULTURE (USDA) — Proposed Rule Stage

Forest Service (FS)

294. SMALL TRACTS ACT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 521(c) to 521(i)

CFR Citation: 36 CFR 254, subpart C

Legal Deadline: None

Abstract: Implementation of the Agency's Small Tracts regulations has revealed an inadvertent inconsistency between the regulations at 36 CFR 254.35(f) and 254.41(a) and the legislative history of the Small Tracts Act of January 12, 1983. The regulations imply that the disposal of mineral fractions by sale can only be made in response to an application from an abutting landowner, thus discouraging the conveyance by sale to the public. The Act clearly authorizes sale of mineral fractions to the public through public sale, as well as individual applications, provided that certain conditions are met. The revisions will clarify the application of the Act to ensure that both individual applications and public sale are permissible means of disposing of qualifying tracts.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AA79

295. ISOLATED CABIN POLICY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 477 to 482; 16 USC 551

CFR Citation: 36 CFR 251

Legal Deadline: None

USDA—FS — Proposed Rule Stage

Abstract: Agency policy is to terminate isolated cabin authorizations on National Forest System land that were constructed without advance authorization and subsequently authorized by special-use permit. These cabins are used for part- or full-time occupancy. These cabins differ from recreation residences which were established in tracts specific for this purpose and built with Agency approval and supervision. Isolated cabins originated in several ways, including encroachment and mining claims. They restrict management of the surrounding National Forest land and deprive the public the use and enjoyment of the land actually occupied and the surrounding area. The action proposed is to seek input from the public as to whether the present policy should be continued, or whether it should be revised so as to examine each isolated occupancy and determine whether, in the interest of fairness and equity, the cabin should be converted to a recreation residence. This proposal to revise current policy was originally included in proposed policy on recreation residences (RIN No. 0596-AB06).

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AA85

296. SOLID WASTE DISPOSAL POLICY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 497; 43 USC 931(c)

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: A proposal for solid waste disposal sites currently authorized for use on National Forest System lands is being developed to reflect changes which have occurred as a result of the Resource and Conservation Recovery Act, the Comprehensive Environmental Response, Compensation, and Liability Act, and an increased knowledge of solid waste disposal. The proposal would prohibit the authorization of new sites and provide for the phase-out of existing sites. During the phase out period authorizations would be amended to provide resource protection. Adoption of this policy would reduce administrative costs associated with administration of solid waste disposal sites, and protect the resources of the National Forest System lands. The proposal would impact 110 sites currently authorized.

Timetable:

Action	Date	FR Cite
ANPRM	06/26/90	55 FR 25990
ANPRM Withdrawn	07/10/90	55 FR 28258
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	
Final Action	05/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AA92

297. TIMBER SALE PERFORMANCE AND PAYMENT BOND FORM REVISION

Priority: Other Significant

Legal Authority: 31 USC 9301 to 9309; 31 USC 223 to 225

CFR Citation: None

Legal Deadline: None

Abstract: Following a period of high-priced timber sales bid prior to 1982, the Forest Service experienced a number of contract defaults on these sales. Subsequently, the Forest Service has had difficulty collecting from some sureties on the bonds guaranteeing performance on these sales. As part of a financial security initiative affecting future sales, the Forest Service is proposing to revise the payment and performance bonds to clarify surety's obligation in regard to what is being guaranteed, when payment is due in case of default, what additional charges will be assessed if payment is not made when due and when collection action may be suspended. Other alternatives include eliminating surety bonds as a form of security, reducing surety guarantee to mid-point and periodic payment and retention of current bond forms. Upon adoption, the final revised bond forms will be issued for use by Forest Service Contracting and Fiscal Officers for future timber sale contracts. The former title, Surety Bond Form Revision, has been modified to more accurately reflect the content of the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	01/17/89	54 FR 1742
NPRM Comment Period End	03/20/89	
Second NPRM	06/00/96	
Second NPRM Comment Period End	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Final action on this entry was delayed to obtain advice of the Comptroller General. Because of the lengthy delay this action will be published as proposed once more.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AA94

298. DISPOSAL OF NATIONAL FOREST TIMBER; CANCELLATION OF TIMBER SALE CONTRACTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 551

CFR Citation: 36 CFR 223.40; 36 CFR 223.116

Legal Deadline: None

Abstract: Current regulations governing cancellation of National Forest timber sale contracts do not adequately protect the Government's financial interests in the event the Forest Service is forced to cancel contracts due to events beyond its control arising from

compliance with environmental statutes. This rulemaking would remove an unworkable compensation-of-damages formula, remove limits applicable to length of contract term, and establish a termination-for-environmental-protection clause in timber sale contracts, a standard in most Federal procurement contracts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	07/00/96	
Final Action	10/00/96	
Final Action Effective	11/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB21

299. SPECIES SURPLUS TO DOMESTIC MANUFACTURING NEEDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 620 et seq

CFR Citation: 36 CFR 223.200

Legal Deadline: None

Abstract: This proposed rule would amend 36 CFR 223.200, to list species proposed to be surplus to domestic manufacturing needs. This proposed rule would implement a portion of section 620a(b) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 USC 620 et seq). Section 620a(a) of the Act provides that no person who acquires unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States may export such timber from the United States, or sell, trade, exchange or otherwise convey such timber from the United States, unless such timber has been determined under subsection (b) to be surplus to the needs of timber manufacturing facilities in the United States. Section 620a(b) of the Act provides that the prohibition contained in section (a) shall not apply to specific quantities of grades and species of unprocessed timber originating in Federal lands which the Secretary concerned determines through rulemaking to be surplus to domestic manufacturing needs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
NPRM Comment Period End	12/00/96	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB27

300. RETENTION OF DOWNPAYMENT ON TIMBER SALE CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472(a); 16 USC 618

CFR Citation: 36 CFR 223.49

Legal Deadline: None

Abstract: The Federal Timber Sale Contract Payment Modification Act directs the Forest Service to require purchasers to make downpayments and periodic payment on timber sales. The objective of these requirements is to discourage speculative bidding on National Forest System timber sales. This rule will identify the requirements to hold downpayments until the timber sale contract is substantially completed.

Timetable:

Action	Date	FR Cite
ANPRM	02/02/94	59 FR 4879
ANPRM Comment Period End	03/04/94	
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $10,000; Yearly Recurring Cost: $0

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB28

301. NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING FOREST SERVICE MANUAL CHAPTER 1920

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1600 et seq

CFR Citation: None

Legal Deadline: None

Abstract: The proposed manual policy would incorporate all direction for land and resource management planning into one Forest Service Manual chapter (FSM 1920). The proposed policy would clarify how the revised land and resource management planning regulations at 36 CFR 219 will be implemented. The proposal will focus on implementing forest plans: monitoring, evaluating, amending, and revising forest plans; and clarifying the relationship between forest planning and project decisionmaking. (See entry for RIN 0596-AB20.)

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
NPRM Comment Period End	01/00/97	
Final Action	05/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB31

302. USE OF FIXED ANCHORS FOR ROCK CLIMBING IN WILDERNESS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1121; 16 USC 1131 to 1136

CFR Citation: 36 CFR 261.16; 36 CFR 293.9

Legal Deadline: None

Abstract: The sport of rock climbing is often accomplished by using fixed, rather than removable, metal bolts and anchors. These bolts are considered permanent improvements when installed. These improvements may detract from the wilderness experience and are not compatible with management of the wilderness resource. The Forest Service proposes to reduce impacts on the wilderness resource by prohibiting all use of fixed anchors in the wilderness.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	01/00/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $1,000; Base Year for Dollar Estimates: 1992

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB33

303. COLLECTION OF REIMBURSABLE COSTS FOR PROCESSING SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1764; 30 USC 181

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The objective of this proposal is to incorporate into regulation the authority contained in the Mineral Leasing Act and the Federal Land Policy and Management Act to reimburse the United States for reasonable administrative costs associated with the issuance and administration of special-use authorizations on National Forest System lands.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	10/00/96	
Final Action	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Cost reimbursement for processing special-use applications and administration of special-use authorizations was originally included under RIN 0596-AA36. All provisions pertaining to the special-use application and administration process have been merged with RIN 0596-AB35. Thus, this rulemaking addresses only the cost-reimbursement provisions.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB36

304. MARKET-RELATED TERM ADDITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 618(b)

CFR Citation: 36 CFR 223.50; 36 CFR 223.53 (New)

Legal Deadline: None

Abstract: Based on General Accounting Office Testimony Report Number T-RCED-92-58, 04/28/92, the Secretary of Agriculture agreed to reexamine the use of the Bureau of Labor Statistics unadjusted indices to determine whether wood product prices have shown a drastic decline. The Secretary of Agriculture indicated the Forest Service would develop and publish for comment a proposed rule to use an alternative method to determine whether wood prices have drastically declined and warrant granting of a Market-Related Contract Term Addition. The proposed rulemaking proposes minor changes in procedures to determine whether a drastic reduction in wood product prices has occurred.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	10/00/96	
Final Action Effective	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB41

305. APPEAL OF DECISIONS RELATING TO OCCUPANCY AND USE OF NATIONAL FOREST SYSTEM LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472; 16 USC 551

CFR Citation: 36 CFR 251, subpart C

Legal Deadline: None

Abstract: These proposed regulations are housekeeping amendments to 36 CFR Part 251, Subpart C, to correlate with regulations at 36 CFR Part 215 and with statutory direction. For example, changes to Part 251 would clarify the application of this rule to the issuance of permits for occupancy and use of National Forest System lands. After further consideration, the Agency does not intend to proceed with timber sale set aside regulations as stated in the previous regulatory agenda since the set aside revisions are not related to special use permits. When 36 CFR Part 251, Subpart C, regulations were promulgated in 1989, NEPA analysis and documentation was not consistently applied to issuance of permits or other authorizations. Now the issuance of permits and other authorization requires application of the NEPA process prior to issuance. In addition, since these regulations were implemented, Congress has passed the Appeal Reform Act. The proposed changes to Part 251, Subpart C, are needed to make this regulation consistent with regulations at 36 CFR Part 215. Specific proposed changes to 36 CFR Part 251 include removing the second level of appeal opportunity, deleting the discretionary review option, shortening timeframes for scheduling oral presentations, and changes to conform with 36 CFR Part 215, including consistent terminology and definitions as well as removal of the automatic stay on permit issuance prior to appeal resolution.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of

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USDA—FS — Proposed Rule Stage

Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB45

306. SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER; EXTENSION OF TIMBER SALE CONTRACTS TO PERMIT URGENT REMOVAL OF OTHER TIMBER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472a

CFR Citation: 36 CFR 223.50; 36 CFR 223.53

Legal Deadline: None

Abstract: This rule and policy change will provide for extension of National Forest System (NFS) timber sale contracts when such extension will permit the prompt removal and utilization of non-NFS owned timber damaged by catastrophic events. The change will define the responsibilities of the parties for requesting and approving such extensions and specify when such extension should be approved. This change will also allow for the use of scarce timber resources and the recovery of economic benefits from timber that might otherwise be lost because of contractual obligations to harvest undamaged timber.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB48

307. DISPOSAL OF NATIONAL FOREST TIMBER: TIMBER SALE CONTRACT REVISIONS

Priority: Other Significant

Legal Authority: PL 94-588; 16 USC 472a; 16 USC 528; 15 USC 631

CFR Citation: 36 CFR 223, subpart B

Legal Deadline: None

Abstract: This proposed policy would revise the 2400-6 and the 2400-6T timber sale contracts currently used by the Forest Service to sell National Forest System timber. The proposed timber sale contracts, included as part of the proposed policy, would reflect recent court decisions and recent natural resource and environmental legislation and would clarify the rights, responsibilities, and obligations of the contracting parties. The proposed policy would address specific ambiguities and weaknesses in the current contract that have generated costly litigation in the past between the Government and the purchaser and would address the concerns regarding timber theft and log accountability.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB52

308. NATIONAL ENVIRONMENTAL POLICY ACT; REVISED POLICY AND PROCEDURES

Priority: Other Significant

Legal Authority: 42 USC 4371

CFR Citation: None

Legal Deadline: None

Abstract: The proposed manual and handbook policy would be revised to clarify the environmental analysis process used by the Forest Service to implement the NEPA regulations at 40 CFR 1500. The proposal will focus on better defining the process for determining when projects are categorically excluded and expanding the categories of action that can be excluded under NEPA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
NPRM Comment Period End	01/00/97	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Department of Agriculture, Forest Service, P. O. Box 96090, Washington, DC 20090
Phone: 703 235-1488

RIN: 0596–AB54

309. • 36 CFR 223 SUBPART C-SUSPENSION AND DEBARMENT OF TIMBER PURCHASERS

Priority: Substantive, Nonsignificant

Legal Authority: EO 12549; EO 12689

CFR Citation: 36 CFR 223, subpart C

Legal Deadline: None

Abstract: On December 20, 1994, Federal Agencies proposed a common rule to ensure reciprocal governmentwide effect on debarments and suspensions. On January 6, 1996, the Department of Agriculture published its final rule (61 FR 250) to implement regulations for Nonprocurement Debarment and suspension in 7 CFR 3017. These rules became effective February 5, 1996. As such, Forest Service timber sale related debarments and suspensions will now be governed by the governmentwide common rule and USDA rule. Accordingly, Forest Service debarments and suspensions rules will be amended or removed as necessary to conform to the governmentwide common rule.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB55

310. • SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

Priority: Other Significant

Legal Authority: PL 96-487

CFR Citation: 36 CFR 242; 50 CFR 100

Legal Deadline: NPRM, Judicial, April 5, 1996.

USDA—FS — Proposed Rule Stage

Abstract: The proposed rule would respond to rulemaking petitions submitted by the Northwest Arctic Regional Advisory Council (et al, 4/12/94) and the Mentasta Village Council (et al, 7/15/93) regarding Federal regulation of subsistence hunting and fishing on lands, which have been selected from non-Federal and Federal land for conveyance to Alaska Native Corporations or to the State of Alaska, but which have not yet been conveyed. The proposed rule would also respond to the April 20, 1995, decision by the 9th Circuit Court of Appeals regarding Federal subsistence management authority over hunting and fishing in navigable waters in Alaska. This proposed rulemaking will address identification of waters that meet the Alaska National Interest Lands Conservation Act definition of "public lands," and will address Federal Subsistence Board authority to restrict or limit hunting or fishing on non-Federal lands that interferes with subsistence hunting or fishing on Federal public lands.

Timetable:

Action	Date	FR Cite
NPRM	04/04/96	61 FR 15014
NPRM Comment Period End	06/14/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB56

311. • PREFERENCE FOR VISITOR SERVICE; ALASKA NATIONAL FOREST CONSERVATION SYSTEM UNITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3197

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: Regulations are proposed to define and establish procedures for administering the statutory rights and preferences established by the Alaska National Interest Lands Act of 1980 for historical operators, Native Corporations, and local residents to conduct revenue producing visitor services on certain National Forest System Lands in Alaska. The regulations are necessary to comply with section 1307 of the Alaska National Interest Lands Act which requires the Secretary of Agriculture to give preference to persons he determines by rule are local residents. The regulations would apply only to Conservation System Units administered by the Forest Service.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	08/00/96	
Final Action	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AB57

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS)

Final Rule Stage

312. HYDROPOWER APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 551; 43 USC 1761

CFR Citation: 36 CFR 251.54; 36 CFR 251.57

Legal Deadline: None

Abstract: A revision of Agency procedures is needed to reduce confusion regarding the role of the Forest Service in permitting hydropower uses on National Forest System lands. The goal of the directives will be to establish procedures, compatible with the procedures of the Federal Energy Regulatory Commission (FERC), for obtaining various approvals and involvement of the Forest Service in a timely manner.

In addition, the directives will establish a fee system for hydropower uses as required by Title V, Section 501 of the Federal Land Policy and Management Act of 1976. The agency will propose streamlined procedures for hydropower use approval in response to public comments received on proposed policy.

Timetable:

Action	Date	FR Cite
NPRM	05/22/95	60 FR 27154
NPRM Comment Period Extended	07/17/95	60 FR 36401
NPRM Comment Period End	09/05/95	
Final Action	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 235-1488

RIN: 0596–AA47

313. INDIAN ALLOTMENTS ON NATIONAL FOREST SYSTEM LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1603; 43 USC 1740; 25 USC 337

CFR Citation: 36 CFR 254, subpart D (New)

Legal Deadline: None

Abstract: This rule sets forth Forest Service procedures and role in the regulation of Indian allotments on National Forest System land. The Indian Allotment Act, as amended, authorizes the Secretary of the Interior to make allotments of National Forest System lands to Indians for homesteading and agricultural and grazing purposes. The Forest Service has relied upon USDI rules and procedures at 43 CFR 2533 to govern its involvement in Indian allotment cases. Litigation and a decision by the Interior Board of Land Appeals require

the Forest Service to set forth its own regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/22/87	52 FR 23473
NPRM Comment Period End	07/22/87	
Final Action	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AA52

314. NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1600 et seq; 5 USC 301

CFR Citation: 36 CFR 219

Legal Deadline: None

Abstract: This rulemaking will revise the regulations governing forest land and resource management planning to reflect Agency experience in preparing initial forest plans as required by the National Forest Management Act. The rule will articulate and clarify the forest planning and decisionmaking process, propose ways to streamline plan amendment and revision, and, in general, adjust and fine-tune the rule and its requirements to make the planning process more realistic, meaningful, and efficient.

Timetable:

Action	Date	FR Cite
ANPRM	02/15/91	56 FR 6508
NPRM	04/13/95	60 FR 18886
NPRM Comment Period End	08/17/95	
Final Action	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB20

315. TIMBER SALE CONTRACTS; APPRAISAL PROCEDURES FOR DETERMINING FAIR MARKET VALUE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1600

CFR Citation: 36 CFR 223.60

Legal Deadline: None

Abstract: This technical change to 36 CFR 223.60, in addition to the currently designated Residual Value Appraisal method of appraising National Forest timber, will provide for use of all appraisal systems, subject to approval from the Chief of the Forest Service.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB26

316. STATE AND PRIVATE FORESTRY ASSISTANCE STEWARDSHIP INCENTIVE PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 2101 et seq

CFR Citation: 36 CFR 230

Legal Deadline: None

Abstract: This final rule would incorporate streamlined procedural changes in response to public comments on the interim rule published December 4, 1991. The interim rule established the interim procedures for administration of the Stewardship Incentive Program. The Program is intended to encourage private landowners, through cost-share assistance, to manage their forest lands for economic, environmental, and social benefits. Only two alternatives were considered in detail: (1) to implement the Program in accordance with 16 USC 2101, et seq, and (2) not to implement the Program, in which case there would be no accelerated program for multiple resource management on nonindustrial private forest lands. The overall effects of the Program over time will be environmentally beneficial by enhancing wetlands, wildlife habitat, forest health, forest productivity, and recreation. The Program will help meet future demand for commodity and noncommodity forest resources. There are no potential negative impacts anticipated for the Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/04/91	56 FR 63581
Interim Final Rule Public Comment Period End	01/21/92	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB32

317. SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1764; 31 USC 483(a); 30 USC 181; 16 USC 551

CFR Citation: 36 CFR 251(b)

Legal Deadline: None

Abstract: The Forest Service proposes to amend the regulations governing the use and occupancy of National Forest System lands to minimize application expenses, streamline and make more efficient environmental analysis of special use proposals, provide the ability to use one-time payments for easements as presently used in the marketplace, limit certain liability requirements to amounts determined by a risk assessment, make certain definitions more explicit, and clarify direction on renewal of existing special use regulations. The intended effect is to reduce costs to proponents and the agency, expedite decisionmaking, and administer authorizations in a more "user friendly" manner by removing certain requirements deemed unnecessary and/or outdated. This rulemaking responds to goals identified in the National Performance Review Regulatory Reform effort.

Timetable:

Action	Date	FR Cite
NPRM	08/14/92	57 FR 36618
NPRM Comment Period End	09/28/92	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB35

318. SMITH RIVER NATIONAL RECREATION AREA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460bbb(6); 16 USC 478; 16 USC 551

CFR Citation: 36 CFR 292, subpart G

Legal Deadline: None

Abstract: This subpart will set forth the rules by which the Forest Service will carry out its statutory responsibilities for the management of mineral operations on National Forest System lands within the Smith River National Recreation Area, Six Rivers National Forest. These rules will, as required by the Smith River National Recreation Area Act (PL 102-612), promote and protect recreation opportunities but still allow for mineral operations to take place. The Forest Service did not consider other alternatives because these regulations are mandated by law. Public costs are insignificant, but the public benefits could be substantial in that Forest Service and industry cooperation should be enhanced.

Timetable:

Action	Date	FR Cite
NPRM	06/23/95	60 FR 32633
NPRM Comment Period End	08/22/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB39

319. SKI AREA PERMIT FEE SYSTEM

Priority: Other Significant

Legal Authority: PL 99-522; 16 USC 497b

CFR Citation: 36 CFR 251.57

Legal Deadline: None

Abstract: The Forest Service proposes to revise existing procedures for determining permit fees for the use of National Forest System lands by ski areas. Permit fees for most ski areas operating on National Forest System lands are determined under the graduated rate fee system (GRFS). As applied to large ski areas, GRFS is complex and costly to administer, and has thus been the subject of several audits, appeals, and lawsuits. Under the proposed policy, the Agency would determine permit fees by site-specific appraisal of the use of National Forest System land by ski areas.

Timetable:

Action	Date	FR Cite
NPRM	07/13/95	60 FR 36097
NPRM Comment Period End	09/11/95	
Final Action	10/00/96	
Final Action Effective	11/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090 Phone: 703 235-1488

RIN: 0596–AB49

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Long-Term Actions

320. MANAGEMENT OF GRAZING USE WITHIN RANGELAND ECOSYSTEMS

Priority: Other Significant

CFR Citation: 36 CFR 222, subpart A

Timetable:

Action	Date	FR Cite
NPRM	08/16/88	53 FR 30954
NPRM Comment Period End	10/17/88	
ANPRM	08/13/93	58 FR 43202
ANPRM Comment Period End	10/20/93	
NPRM - Second	04/28/94	59 FR 22074
NPRM Comment Period End	07/28/94	
Final Action	11/00/97	
Final Action Effective	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly Phone: 703 235-1488

RIN: 0596–AA35

321. NATIONAL FOREST PROHIBITIONS; LAW ENFORCEMENT SUPPORT ACTIVITIES

Priority: Other Significant

CFR Citation: 36 CFR 261; 36 CFR 262

Timetable:

Action	Date	FR Cite
Begin Review	10/01/87	
End Review	08/01/88	
NPRM	02/16/94	59 FR 7880
NPRM Comment Period End	05/16/94	
Second NPRM	05/00/97	

USDA—FS

Long-Term Actions

Action	Date	FR Cite
Second NPRM	07/00/97	
Comment Period End		
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly
Phone: 703 235-1488

RIN: 0596–AA75

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS)

Completed Actions

322. IRREVOCABLE LETTER OF CREDIT

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn	02/16/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly
Phone: 703 235-1488

RIN: 0596–AA93

323. FEDERAL TIMBER EXPORT AND SUBSTITUTION RESTRICTIONS (COMPREHENSIVE REVISION)

Priority: Other Significant

CFR Citation: 36 CFR 223, subpart B; 36 CFR 223, subpart C; 36 CFR 223, subpart D; 36 CFR 223, subpart F; 36 CFR 261, subpart A

Completed:

Reason	Date	FR Cite
Final Action	09/08/95	60 FR 46890

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly
Phone: 703 235-1488

RIN: 0596–AB22

324. EXERCISE OF OUTSTANDING MINERAL RIGHTS

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 228, subpart F

Completed:

Reason	Date	FR Cite
Withdrawn	02/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly
Phone: 703 235-1488

RIN: 0596–AB38

325. OCCUPANCY AND USE OF DEVELOPED SITES AND AREAS OF CONCENTRATED PUBLIC USE

Priority: Other Significant

CFR Citation: 36 CFR 291

Completed:

Reason	Date	FR Cite
Final Action	01/23/96	61 FR 1715
Final Action Effective	01/23/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly
Phone: 703 235-1488

RIN: 0596–AB43

326. PRIVATE SALE OF GOLDEN EAGLE PASSPORTS

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 291

Completed:

Reason	Date	FR Cite
Withdrawn	02/15/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marian P. Connolly
Phone: 703 235-1488

RIN: 0596–AB44

327. FEE SCHEDULES FOR COMMUNICATION USES ON NATIONAL FOREST SYSTEM LANDS

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	10/27/95	60 FR 55089
Final Action Effective	11/06/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marian P. Connolly
Phone: 703 235-1488

RIN: 0596–AB51

BILLING CODE 3410-11-F

DEPARTMENT OF AGRICULTURE (USDA)
Office of Chief Financial Officer (OCFO)

Long-Term Actions

328. AUDITS OF STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3015; 7 CFR 3016; 7 CFR 3050

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Allen Johnson
Phone: 202 720-8345

RIN: 0505–AA09

BILLING CODE 3410-XS-F

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC)

Proposed Rule Stage

329. • NONDISCRIMINATION IN USDA CONDUCTED PROGRAMS AND ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301

CFR Citation: 7 CFR 15

Legal Deadline: None

Abstract: This rule proposes to revise regulations governing nondiscrimination in programs and activities conducted by the Department. The proposal would remove current regulation on this subject, place it in a new part; clarify that the regulation applies to all Department-conducted programs and activities; add familial status and marital status to the protected classes contained in the regulation; add a provision on Department agencies' compliance efforts; reflect that the Assistant Secretary for Administration has been delegated the authority to make final determinations as to whether prohibited discrimination occurred and the corrective action required to solve complaints; remove the Appendix to the regulation that lists the Department programs subject to these provisions; and make other clarifications to the regulation.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Robertson, Acting Director; Office of Civil Rights Enforcement, Department of Agriculture, Office of the Secretary, Room 1322 South Building, Washington, D. C. 20250
Phone: 202 720-5212

RIN: 0503–AA15

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC)

Final Rule Stage

330. GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS AND OTHER NON-PROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 1111

CFR Citation: 7 CFR 3019

Legal Deadline: None

Abstract: This regulation establishes the administrative requirements for Federal grants and agreements to institutions of higher education, hospitals and non-profit organizations.

Timetable:

Action	Date	FR Cite
Final Action	10/00/96	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Gerald Miske, Supervisory Program Analyst, Department of Agriculture, Office of the Secretary, Room 3031 South Building, 14th and Independence Ave. SW., Washington, DC 20250
Phone: 202 720-1553

RIN: 0503–AA10

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC)

Long-Term Actions

331. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF AGRICULTURE

Priority: Other Significant

CFR Citation: 5 CFR 2635

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary M. Whitaker
Phone: 202 720-3327

RIN: 0503–AA05

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC)

Completed Actions

332. NONPROCUREMENT DEBARMENT AND SUSPENSION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3017

Completed:

Reason	Date	FR Cite
Final Action	01/04/96	61 FR 250
Final Action Effective	02/05/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary W. Butler
Phone: 202 720-2577

RIN: 0503–AA12

333. • EXPIRATION OF THE REPLENISHMENT AGRICULTURAL WORKER PROGRAM

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 8 USC 1161

CFR Citation: 7 CFR 1e

Legal Deadline: None

Abstract: This final rule amends the regulations of the United States Department of Agriculture (USDA) relating to additional special agricultural workers known as Replenishment Agricultural Workers (RAWs) under section 210A of the Immigration and Nationality Act, as added by section 303 of the

Immigration Reform and Control Act of 1986 (8 U.S.C. 1161). Specifically, this final rule removes the USDA regulations pertaining to the RAW program as the program expired at the end of Fiscal Year 1993.

Timetable:

Action	Date	FR Cite
Final Action	01/29/96	61 FR 2659

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Al French, Coordinator of Agricultural Labor Affairs, Department of Agriculture, Office of the Secretary, Room 227-E Jamie Whitten Bldg, 14th and Independence Ave SW., Washington DC 20250
Phone: 202 720-4737
Fax: 202 690-4915
Email: alfrench@usda.gov

RIN: 0503–AA13

334. • EXPIRATION OF THE SEASONAL AGRICULTURAL WORKER PROGRAM

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 8 USC 1160

CFR Citation: 7 CFR 1d

Legal Deadline: None

Abstract: This final rule amends the regulations of the United States Department of Agriculture (USDA) relating to Special Agricultural Workers (SAWs) under section 210 of the Immigration and Nationality Act, as added by section 302 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1160). Specifically, this final rule removes the USDA regulations pertaining to the SAW program as the program expired on December 1, 1988.

Timetable:

Action	Date	FR Cite
Final Action	01/29/96	61 FR 2659

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Al French, Coordinator of Agricultural Labor Affairs, Department of Agriculture, Office of the Secretary, Room 227-E Jamie Whitten Bldg, 14th and Independence Avenue SW., Washington DC 20250
Phone: 202 720-4737
Fax: 202 690-4915
Email: alfrench@usda.gov

RIN: 0503–AA14

BILLING CODE 3410-80-F

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS)

Final Rule Stage

335. RURAL BUSINESS ENTERPRISE GRANTS AND TELEVISION DEMONSTRATION GRANTS

Priority: Other Significant

Legal Authority: PL 102-552; 7 USC 1927; 7 USC 1939 (c)

CFR Citation: 7 CFR 1942 subpart G; 7 CFR 4284 subpart B

Legal Deadline: None

Abstract: Public Law 102-554 authorizes grants to qualified nonprofit organizations for the provision of technical assistance and training to rural communities for the purpose of improving passenger transportation services or facilities; to amend the definition for small and emerging private business enterprise to agree with the program size standards established by the Small Business Administration; to clarify certain administrative regulatory guidelines in order to effect improved program administration; and also authorizes grants for educational purposes and distance learning networks.

Timetable:

Action	Date	FR Cite
RBEG Interim Final Rule Provide Educational/Job Training Instruction.	05/23/94	59 FR 26585
NPRM	08/09/94	59 FR 40478
NPRM Comment Period End	09/08/94	
Final Action	05/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Mark Wyatt, Team Leader, Specialty Lenders Division, Department of Agriculture, Rural Business-Cooperative Service, Room 2245 South Building, Washington, DC 20250
Phone: 202 720-0410

RIN: 0570–AA08

336. INTERMEDIARY RELENDING PROGRAM REWRITE

Priority: Other Significant

Legal Authority: 7 USC 1932 note; 5 USC 301

CFR Citation: 7 CFR 1948

Legal Deadline: None

Abstract: This regulatory package is an initiative to enhance the program through revisions based on experience with operation of the program. The primary changes under consideration include the following: (1) Provide clarifications as to which requirements apply only to Rural Business-Cooperative Service (RBS) Intermediary Relending Program (IRP) loan funds and which apply to everything in the IRP revolving funds, (2) Authorize State Offices to accept and process applications, (3) Clarify conditions under which an intermediary that does not have lending experience may qualify, (4) Provide that proposed intermediaries that are delinquent on a Federal debt are not eligible, (5) Authorize loans for refinancing, (6) Provide general guidelines for interest rates and terms of loan to ultimate recipients, (7) Provide that intermediaries may receive a series of subsequent loans of up to $1 million each and raise the ceiling on loans to an ultimate recipient to $250,000, (8) Provide for a reserve for bad debts, (9) Allow intermediaries to draw up to 25 percent of their loan at loan closing, (10) Revise application requirements to eliminate some items, provide more detail and provide for streamlined subsequent loan applications, (11) Adjust the priority point scoring system, (12) Provide guidelines for RBS concurrence in proposed loans to ultimate recipients.

Timetable:

Action	Date	FR Cite
Interim Final Rule to Raise Loan Limit From $2 Million to $4 million	05/12/94	59 FR 24635
NPRM	01/18/95	60 FR 3566
NPRM Comment Period End	03/20/95	
Second Interim Final Rule	02/22/96	61 FR 6761
Second Interim Final Rule Comment Period End	04/22/96	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information: This entry was reported as RIN 0575-AB83 prior to the reorganization of USDA.

Agency Contact: Wayne Stansbery, Loan Specialist, Specialty Lenders Division, Department of Agriculture, Rural Business-Cooperative Service, Room 6327 South Building, Washington, DC 20250
Phone: 202 720-6819

RIN: 0570–AA15

337. RURAL ECONOMIC DEVELOPMENT LOAN AND GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 940c

CFR Citation: 7 CFR 1703 subpart B

Legal Deadline: None

Abstract: The current provisions that govern grant fund disbursement that were published on March 14, 1994, and October 27, 1994, need to be revised to provide more flexibility to advance grant funds to electric and telephone borrowers (the "grantees"). The agency will review on a case-by-case basis the requirements for disbursement of funds and provide for the advance of funds on an appropriate basis. This rule will greatly improve the Agency's ability to advance grant funds in a manner that is in both the government and the grantee's best interest. The Agency and current grantees believe the changes should be made effective as soon as possible to avoid financial hardships for both the grantees and the ultimate recipients who will receive loans from the revolving loan funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $25,000; Yearly Recurring Cost: $25,000; Base Year for Dollar Estimates: 1995

Sectors Affected: None

Agency Contact: Mark Wyatt, Team Leader, Specialty Lenders Division, Department of Agriculture, Rural Business-Cooperative Service, Room 2245 South Building, Washington, DC 20250
Phone: 202 720-0410

RIN: 0570–AA19

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS)

Long-Term Actions

338. LOCAL TECHNICAL ASSISTANCE AND PLANNING GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 4284; 7 CFR 1951

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Wyatt
Phone: 202 720-0410

RIN: 0570–AA05

339. RURAL BUSINESS LOAN STREAMLINING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1980; 7 CFR 4279; 7 CFR 4287

Timetable:

Action	Date	FR Cite
NPRM	02/02/96	61 FR 3853
NPRM Comment Period End	04/02/96	
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth E. Hennings
Phone: 202 690-4100

RIN: 0570–AA09

DEPARTMENT OF AGRICULTURE (USDA)
Rural Business-Cooperative Service (RBS)

Completed Actions

340. RURAL TECHNOLOGY DEVELOPMENT GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 4284; 7 CFR 1940; 7 CFR 1951; 7 CFR 2.23; 7 CFR 2.70

Completed:

Reason	Date	FR Cite
Final Action	02/02/96	61 FR 3779

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Tribal, Federal

Agency Contact: Joseph R. Binder
Phone: 202 720-1400

RIN: 0570–AA02

USDA—RBS

Completed Actions

341. 1980-E BUSINESS AND INDUSTRIAL LOAN PROGRAM—AUDIT REQUIREMENTS

Priority: Other Significant

CFR Citation: 7 CFR 1980 subpart E

Completed:

Reason	Date	FR Cite
Final Action	04/26/96	61 FR 18493
Final Action Effective	04/26/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rick Bonnet
Phone: 202 690-1804

RIN: 0570–AA11

342. BUSINESS AND INDUSTRIAL INTEREST BUYDOWN

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1980

Completed:

Reason	Date	FR Cite
Withdrawn - Authority for program expired.	02/21/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dwight Carmon
Phone: 202 690-4100

RIN: 0570–AA13

343. COMMUNITY FACILITY LOANS: RECREATION AND TOURISM

Priority: Other Significant

CFR Citation: 7 CFR 1980; 7 CFR 1942; 7 CFR 1948

Completed:

Reason	Date	FR Cite
Withdrawn - Incorporated into RIN 0570-AA09.	02/21/96	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Kenneth E. Hennings
Phone: 202 690-4100

RIN: 0570–AA14

BILLING CODE 3410-07-F

DEPARTMENT OF AGRICULTURE (USDA)

Proposed Rule Stage

Rural Utilities Service (RUS)

344. ELECTRIC SYSTEM PLANNING AND DESIGN—POLICIES AND PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1724

Legal Deadline: None

Abstract: This rule will codify and update Agency policies and procedures for the planning and design of electrical systems of RUS borrowers.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA48

345. ELECTRIC STANDARDS AND SPECIFICATIONS FOR MATERIALS AND CONSTRUCTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1728

Legal Deadline: None

Abstract: This regulation provides RUS borrowers and the public with specifications for material and equipment as a complement to the list of construction standards and specifications incorporated by reference.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA67

346. POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1717, A to F; 7 CFR 1717, J to K

Legal Deadline: None

Abstract: This regulation will codify most basic post-loan policies and procedures common to insured and guaranteed electric loans.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA71

USDA—RUS

Proposed Rule Stage

347. ELECTRIC SYSTEMS OPERATIONS AND MAINTENANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1730

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to codify and clarify RUS policy concerning operation and maintenance of borrower electric systems. In addition, it is proposed to add RUS policies relating to the review and evaluation of borrower systems and facilities financed with loans from RUS. These policies are presently contained in RUS Bulletin 161-5 which will be rescinded upon publication of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA74

348. CIVIL RIGHTS POLICIES APPLICABLE TO RUS BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1790

Legal Deadline: None

Abstract: This action provides RUS borrowers with access to the requirements of Title VI, Section 504, and the Age Discrimination Act, which apply directly to the operation of their programs and activities. RUS Bulletin 20-19:320-19, entitled Nondiscrimination Among Beneficiaries of RUS Programs will be rescinded upon publication of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA86

349. RUS FIDELITY AND INSURANCE REQUIREMENTS FOR ELECTRIC AND TELECOMMUNICATIONS BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1788

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) is considering revising its regulations concerning the fidelity and insurance requirements for electric and telecommunications borrowers.

Timetable:

Action	Date	FR Cite
ANPRM	04/28/93	58 FR 25786
ANPRM Comment Period End	06/28/93	
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250-1500
Phone: 202 720-9550

350. USE OF GENERAL FUNDS INVESTMENTS, LOAN GUARANTEES, AND RETIREMENT OF CAPITAL CREDITS BY ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1717 O

Legal Deadline: None

Abstract: This rule will set forth procedures for RUS approval of a borrower's use of its own funds that are not the proceeds of RUS loans for additions to electric plan. RUS loans are secured by a first mortgage on the borrower's total electric system. RUS approvals are intended to ensure that the proposed capital additions will not adversely affect the borrower's ability to provide service consistent with the RE Act and to repay its RUS loans.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RUS is splitting the old RIN due to the fact that the four subparts of the old RIN were split into separate actions which are progressing at different rates in the regulatory process.

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250-1500
Phone: 202 720-9550

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USDA—RUS

Proposed Rule Stage

Fax: 202 720-4120

RIN: 0572–AB01

351. RUS APPROVAL OF SALE OF CAPITAL ASSETS BY ELECTRIC BORROWERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1717 P

Legal Deadline: None

Abstract: This rule will set forth RUS policies and procedures for the sale of capital assets by electric borrowers. RUS loans are secured by a first mortgage on the borrower's electric system. RUS approval of sales of capital assets are intended to ensure that the sale of the assets will not adversely affect the borrower's ability to provide service consistent with the RE Act, and to repay its RUS loans. These policies were last revised in 1972.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RUS is splitting the old RIN due to the fact that the four subparts of the old RIN are now separate regulatory actions which are moving at different rates in the regulatory process.

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250-1500
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB02

352. LOAN DEFERMENTS FOR ENERGY RESOURCES CONSERVATION - ELECTRIC PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1717 L

Legal Deadline: None

Abstract: This regulation will codify and update the current Rural Utilities Service (RUS) policy implemented through an RUS bulletin which will be rescinded when this rule is published final. This action is necessary to permit a principal payment extension of monthly billed accounts for the purpose of Energy Resources Conservation (ERC) loans. The current ERC loan program implemented in 1980 allows for the extension of only quarterly principal payments. All RUS loans approved on or after September 1, 1982, require monthly repayments while those loans approved prior to that date required quarterly repayments. This new regulation will codify the current ERC loan program and will amend it to include monthly billed accounts. Most RUS loans have a repayment period of 3.5 years.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250-1500
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB03

353. POWER REQUIREMENT STUDIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 to 950(b); PL 99-591

CFR Citation: 7 CFR 1710 E

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) is proposing to update its Power Requirements currently contained in Subpart E of 7 CFR part 1710, Pre-loan Policies and Procedures for Insured and Guaranteed Electric Loans. The updates to subpart E are needed to reflect the addition to 7 CFR 1710 of Subpart H, Loans for Demand Side Management, Energy Conservation Programs, and On-Grid and Off-Grid Renewable Energy Systems. Subpart H was required by the Rural Electrification Loan Restructuring Act of 1993. Other changes to Subpart E are intended to clarify the existing language without changing its overall intent.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250-1500
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB05

354. STREAMLINING THE RURAL UTILITIES SERVICE'S WATER AND WASTE PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1989; 16 USC 1005; 5 USC 301

CFR Citation: 7 CFR 1780

Legal Deadline: None

Abstract: RUS amends the regulations utilized to administer the Water and Waste disposal loan and grant programs. The rule will combine the water and waste loan and grant regulations into one regulation. Unnecessary and burdensome requirements for entities seeking financial assistance under the programs will be eliminated.

USDA—RUS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234-S, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB20

355. ESTABLISH WATER AND WASTE DISPOSAL REGULATIONS WITHIN THE RURAL UTILITIES SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 7 USC 1005; 7 USC 301

CFR Citation: 7 CFR 1680; 7 CFR 1690; 7 CFR 1691; 7 CFR 1693; 7 CFR 1694

Legal Deadline: None

Abstract: RUS amends the regulations originally published by the Farmers Home Administration (FMHA) and the Rural Development Administration (RDA). These amendments implement legislation directing the Secretary of Agriculture to establish the RUS with responsibility for the water and waste disposal programs formerly administered by FMHA and RDA.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Washington, DC 20250, Room 2234-S
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB21

356. • DISTANCE LEARNING AND TELEMEDICINE GRANT PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq; 7 USC 950aaa et seq; PL 103-354

CFR Citation: 7 CFR 1703

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposed to revise its regulations on the distance learning and telemedicine grant program that would provide grants for distance learning and telemedicine link projects benefiting rural areas. The regulation would revise RUS' method in which applications will be revised by RUS and scored. This rule would make it easier for rural community facilities to apply for a grant

Timetable:

Action	Date	FR Cite
NPRM	04/16/96	61 FR 16684
NPRM Comment Period End	05/16/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB22

357. • WATER AND WASTE LOAN AND GRANT SERVICING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1989

CFR Citation: 7 CFR 1782

Legal Deadline: None

Abstract: This proposed action combines the various servicing regulations of the water and waste program into one. The new regulation will codify and clarify RUS policy relating to servicing water and waste loans and grants.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB23

358. • RUS POLICIES AND PROCEDURES FOR MERGERS AND CONSOLIDATIONS OF ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1717 D

Legal Deadline: None

Abstract: Vast changes are occurring in the regulatory and business environment of the electric industry. In response to these changes, many electric borrowers are considering measures that can result in operating efficiencies or other economies. One example of such a measure is a merger or consolidation

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250-1522
Phone: 202 720-9550

USDA—RUS — Proposed Rule Stage

Fax: 202 720-4120
RIN: 0572–AB24

DEPARTMENT OF AGRICULTURE (USDA) — Final Rule Stage
Rural Utilities Service (RUS)

359. LOAN ACCOUNT COMPUTATIONS, POLICIES, AND PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1785; 7 CFR 1786 A

Legal Deadline: None

Abstract: RUS proposes to codify, consolidate, and update the policies and procedures currently contained in RUS Bulletin 20-9:320-12.

Timetable:

Action	Date	FR Cite
NPRM	04/07/93	58 FR 18043
NPRM Comment Period End	05/07/93	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234 South Building, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA65

360. LONG-RANGE FINANCIAL FORECASTS OF ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 to 950(b); PL 99-591

CFR Citation: 7 CFR 1710 G

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to amend its pre-loan regulations for electric loans to clarify and revise the requirement that borrowers submit to RUS a long-range financial forecast as part of an application for a loan, loan guarantee, lien accommodation. This proposed rule is intended to strengthen credit practices and to assist borrowers in preparing, and RUS staff in reviewing loan applications.

Timetable:

Action	Date	FR Cite
NPRM	08/20/93	58 FR 44288
NPRM Comment Period End	09/20/93	
Final Action	05/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA89

361. ACCOUNTING REQUIREMENTS FOR RUS TELECOMMUNICATIONS BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1770 C

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) is proposing to add a new subpart that codifies RUS' current policy on the accounting for postretirement benefits, Rural Telephone Bank stock, cushion of credit investments, Rural Economic Development loans, and satellite or cable television services.

Timetable:

Action	Date	FR Cite
NPRM	09/14/94	59 FR 47097
NPRM Comment Period End	11/14/94	
Final Action	05/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Ave. SW., Room 2234 South Building, Washington, DC 20250-1500
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB10

362. USE OF CONSULTANTS FUNDED BY BORROWERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 7 USC 6941 et seq

CFR Citation: 7 CFR 1789

Legal Deadline: None

Abstract: Legislation as part of the Omnibus Budget Reconciliation Act of 1992 (OBRA) would allow borrowers to pay for consultants hired by RUS to expedite processing of loans, lien accommodations and other actions.

Timetable:

Action	Date	FR Cite
NPRM	01/02/96	61 FR 21
NPRM Comment Period End	02/04/96	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Department of Agriculture, Rural Utilities Service, 14th & Independence Avenue SW., Room 2234-S, Washington, DC 20250

USDA—RUS — Final Rule Stage

Phone: 202 720-9550
Fax: 202 720-4120
RIN: 0572–AB17

DEPARTMENT OF AGRICULTURE (USDA) — Long-Term Actions
Rural Utilities Service (RUS)

363. LOAN SECURITY DOCUMENTS—TELECOMMUNICATIONS PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1744

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA30

364. WHOLESALE CONTRACTS FOR THE PURCHASE AND SALE OF ELECTRIC POWER AND ENERGY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1717.300 to 1717.349

Timetable:

Action	Date	FR Cite
NPRM	09/21/90	55 FR 38930
NPRM Comment Period End	11/20/90	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA41

365. MARGIN STABILIZATION PLANS AND REVENUE AND EXPENSE DEFERRALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1767, subpart E

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA50

366. LOAN DOCUMENTS—BANK PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1620

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA76

367. DEPRECIATION RATES AND PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1767 C

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA80

368. PRESERVATION OF RECORDS ACCOUNTING REQUIREMENTS FOR RUS ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1767 D

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA92

369. COMMUNITY FACILITY LOANS - TIMBER-DEPENDENT COMMUNITIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1942 subpart A

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

USDA—RUS — **Long-Term Actions**

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB11

370. LIQUIDATION OF LOANS AND ACQUISITION, MANAGEMENT AND DISPOSAL OF SECURITY PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1696; 7 CFR 1697; 7 CFR 1951 subpart E; 7 CFR 1955 subpart A; 7 CFR 1955 subpart B; 7 CFR 1955 subpart C; 7 CFR 2.23; 7 CFR 2.70

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB13

371. SOLID WASTE MANAGEMENT GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1692; 7 CFR 1942 J

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB14

372. TECHNICAL ASSISTANCE AND TRAINING GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1691; 7 CFR 1942 subpart J

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB15

DEPARTMENT OF AGRICULTURE (USDA)
Rural Utilities Service (RUS) — **Completed Actions**

373. RESCISSION OF RUS BULLETINS 345-13, 345-29, 345-75, AND 345-168 —TELEPHONE PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1755

Completed:

Reason	Date	FR Cite
Final Action	11/06/95	60 FR 55991
Final Action Effective	12/06/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA66

374. POLICY ON AUDITS OF RUS BORROWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 7 CFR 1773

Completed:

Reason	Date	FR Cite
Final Action	01/03/96	61 FR 104

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Lamont Heppe, Jr.
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB19

BILLING CODE 3410-15-F

DEPARTMENT OF AGRICULTURE (USDA)
Office of Operations (OO) — **Prerule Stage**

375. AGRICULTURE ACQUISITION REGULATION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 401 to 453 (Revision)

Legal Deadline: None

Abstract: The Agriculture Acquisition Regulation is the Department of Agriculture's agency acquisition regulation, issued to implement or supplement the Federal Acquisition Regulation. The Agriculture Acquisition Regulation is being revised to incorporate changes required by the Federal Acquisition Streamlining Act of 1994, Executive Orders, The Federal Acquisition Regulation, and recent Office of Federal Procurement Policy Letters. The revised regulation will also incorporate changes suggested by the National Performance Review, by the Department of Agriculture's Procurement Review Task Force, and by the Department of Agriculture's Modernization of the Administrative Process Project.

USDA—OO — **Prerule Stage**

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	
NPRM	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: Multiple

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Joseph Daragan, Procurement Analyst, Department of Agriculture, Office of Operations, Rm 1546 South Building, Washington, DC 20250
Phone: 202 720-5729
Fax: 202 720-8972

RIN: 0599–AA00

DEPARTMENT OF AGRICULTURE (USDA)
Office of Operations (OO) — **Final Rule Stage**

376. • NEW RESTRICTIONS ON LOBBYING

Priority: Routine and Frequent

Legal Authority: 5 USC 301; 31 USC 1352

CFR Citation: 7 CFR 3018

Legal Deadline: None

Abstract: Prescribes USDA policy and procedures for compliance with section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 USC 1352). Imposes restrictions and disclosure requirements on payments to persons for influencing activities in connection with contracts (excluding contracts subject to the Federal Acquisition Regulation), grants, cooperative agreements, loans, or commitments to insure or guarantee loans.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Interim Final Rule	07/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Josephs J. Daragan, Procurement Analyst, Department of Agriculture, Office of Operations, Rm. 1546 South Building, 14th and Independence Ave SW., Washington, DC 20250
Phone: 202 720-5729
Fax: 202 720-8972

RIN: 0599–AA03

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Part IV

Department of Commerce

Semiannual Regulatory Agenda

federal register

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DEPARTMENT OF COMMERCE (DOC)

DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Ch. III

15 CFR Subtitle A; Subtitle B, Chs. I, II, III, VII, VIII, IX, XI, and XXIII

19 CFR Ch. III

37 CFR Chs. I, IV, and V

48 CFR Ch. 13

50 CFR Chs. II, III, IV, and VI

April 1996 Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Commerce.

ACTION: Semiannual regulatory agenda.

SUMMARY: In compliance with Executive Order (E.O.) 12866 entitled "Regulatory Planning and Review" and the Regulatory Flexibility Act (Pub. L. 96-354), the Department of Commerce, in April and October of each year, publishes in the **Federal Register** an agenda of regulations under development or review over the next 12 months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, long-term actions, and rulemaking actions completed since the October 1995 agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by the Department. The agenda is intended to facilitate comments and views by interested members of the public.

The Department's April 1996 regulatory agenda includes regulatory activities that are expected to be conducted during the period April 1, 1996, through March 30, 1997. However, at the time the agenda was prepared, the Department was operating under a Continuing Resolution, and it is unknown what programs and/or timetables will be affected by budgetary issues.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Michael A. Levitt, Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230; telephone: 202-482-0846.

SUPPLEMENTARY INFORMATION: E.O. 12866 requires agencies to publish an agenda of those regulations that are under consideration pursuant to this order. By memorandum of January 2, 1996, the Office of Management and Budget (OMB) issued guidelines and procedures for the preparation and publication of the April 1996 Unified Agenda of Federal Regulations. The Regulatory Flexibility Act, 5 U.S.C. 602(a), requires agencies to publish, in April and October of each year, a regulatory flexibility agenda which contains a brief description of the subject area of any rule which is likely to have a significant economic impact on a substantial number of small entities.

Reinventing Government

As part of the President's Regulatory Reform Initiative, the President directed agencies to conduct a page-by-page review of all regulations and eliminate or revise those that are outdated or otherwise in need of reform. The April 1996 agenda contains information on the Department's review of its regulations and identifies whether or not a current rulemaking is part of the Regulatory Reform and Reinventing Government effort. A number of regulations will be eliminated. Other regulations will be revised to reduce burden or duplication or to streamline the requirements.

Explanation of Information Contained in the Agenda

Within the Department, the Office of the Secretary and various operating units may issue regulations. Operating units, such as the Bureau of Export Administration, the International Trade Administration, the National Oceanic and Atmospheric Administration (NOAA), and the Patent and Trademark Office, issue the greatest share of the Department's regulations.

A large number of regulatory actions reported in the agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS programs, a section on "Explanation of Information Contained in NMFS Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Act) governs the management of fisheries within the Exclusive Economic Zone (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. Fishery Management Plans (FMPs) are to be prepared for fisheries which require conservation and management measures. Regulations implementing these FMPs regulate domestic fishing and foreign fishing where permitted. Foreign fishing can be conducted in a fishery for which there is no FMP only if a preliminary fishery management plan has been issued to govern that foreign fishing. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs or amendments to FMPs for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance and timing of some regulatory actions under consideration by the Councils at the time the semiannual regulatory agenda is published.

The DOC April 1996 regulatory agenda follows.

Dated: March 27, 1996.

Kathleen Ambrose,

Deputy General Counsel.

DOC

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
377	Contract Clauses and Solicitation Provisions for the Commerce Automated Solicitation System	0690-AA08
378	Standards of Ethical Conduct—Department of Commerce Supplemental Regulations	0690-AA23

Bureau of Economic Analysis—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
379	Benchmark Survey of Selected Services Transactions With Unaffiliated Foreign Persons	0691-AA27

Bureau of Economic Analysis—Completed Actions

Sequence Number	Title	Regulation Identifier Number
380	Annual Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons	0691-AA26

Bureau of the Census—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
381	Cutoff Dates for Recognition of Boundary Changes for the 2000 Decennial Census of Population and Housing	0607-AA18
382	Changes to the Foreign Trade Statistical Regulations (FTSR) to Conform Requirements and Wording to the U.S. Customs Service Requirements for the Automated Export System (AES)	0607-AA19
383	Changes to the Foreign Trade Statistical Regulations (FTSR) To Clarify the Definition of Exporter	0607-AA20
384	Changes to the Foreign Trade Statistical Regulations (FTSR) To Add a Requirement To Collect Information on Canadian Province of Origin for U.S. Imports From Canada	0607-AA21
385	Changes to the Foreign Trade Statistical Regulations (FTSR) Requiring a Designator When the Export Shipment Is a Foreign Military Sale	0607-AA22
386	Changes to the Foreign Trade Statistical Regulations (FTSR) Requiring the Filing of Shipper's Export Declarations (SEDs) for Company-Owned Tools of Trade	0607-AA23

Economic Development Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
387	Simplification and Streamlining of Regulations of the Economic Development Administration	0610-AA47

General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
388	Uniform Administrative Requirement for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofits and Commercial Organizations	0605-AA09
389	Cost Principles for State, Local, and Indian Tribal Governments	0605-AA10

DOC

International Trade Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
390	Antidumping Duties; Countervailing Duties	0625-AA45
391	Changes in Procedures for Florence Agreement Program	0625-AA47

International Trade Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
392	Antidumping and Countervailing Duty Proceedings; Administrative Protective Order Procedures and Procedures for Imposing Sanctions for Violation of a Protective Order	0625-AA43

International Trade Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
393	Proposed Changes in Procedures for Insular Watch Program	0625-AA46

Bureau of Export Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
394	Defense Priorities and Allocations System (DPAS)	0694-AA02
395	Implementation of Chemical Weapons Convention	0694-AB06
396	Changes to the Export Administrative Regulations To Implement the Guidelines and Information Sharing Provisions of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use	0694-AB40
397	Change the Commerce Control List to Revised Controls on Shotguns (Export Commerce Control Number ECCN 0A84C)	0694-AB42

Bureau of Export Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
398	Revision of Foreign Boycott Provisions of Export Administration Regulations	0694-AA11
399	Transfer of Dual-Use Items From U.S. Munitions List to the Commerce Control List	0694-AA52
400	Exports to Iran; Revision of Foreign Policy Controls	0694-AA62
401	Simplification of the Export Administration Regulations	0694-AA67
402	Implementation of the Cuba Democracy Act	0694-AA77
403	Transfer of Certain Remote Sensing Satellites From the U.S. Munitions List to the CCL	0694-AB09
404	Clarification of Enhanced Proliferation Control Initiative (EPCI) "Catch-All" Provision and Validated License Requirements	0694-AB10
405	Revision to the EAR; Supplement No. 2 to Part 778	0694-AB12
406	Revisions to the EAR: Establishment of a Standard Saving Clause	0694-AB15
407	Countries Eligible to Receive Supercomputers Under Special Licensing Procedures	0694-AB16
408	Revisions to Licensing Policy for North Korea	0694-AB19
409	Editorial Clarification and Corrections to the Export Administration Regulations; Removal of ECCN 1C65	0694-AB23
410	Proliferation Entity List	0694-AB24
411	Administration of State Log Exports Ban	0694-AB25
412	Revision to the EAR: ELAIN Accepts Classification Request	0694-AB26
413	Libya: Expansion of Foreign Policy Controls	0694-AB28
414	Revision to General License GCG (Shipments to Agencies of Cooperating Governments)	0694-AB34
415	Changes to the Commerce Control List to Accord With the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies	0694-AB35

DOC

Bureau of Export Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
416	Computer Reform of Export Control; Establishment of General License G-CTP	0694-AB36
417	Biological Warfare Experts Group Meeting Regulations	0694-AB37
418	Expansion of General License GFW; Semiconductor Manufacturing Equipment	0694-AB38
419	Export Regulation for Certain Exports of Business Equipment for Support to the Cuban People	0694-AB43

Bureau of Export Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
420	Chemical Weapons Convention Implementing Regulations (Enforcement)	0694-AB39
421	Change the Commerce Control List To Revise Controls on Communication Intercepting Devices (Export Commerce Control Number ECCN 5A80D	0694-AB41

Bureau of Export Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
422	Effect of Imported Articles on the National Security	0694-AB01
423	Exports of Sample Shipments in Mixtures Containing Precursors and Intermediate Chemicals; Revisions to Australia Group Members	0694-AB05
424	Foreign Policy Controls: Crime Control, Implements of Torture, and Arms Embargo Against Rwanda	0694-AB08
425	Revisions and Clarifications to Permissive Reexport and General License GLX	0694-AB17
426	Renumbering of Export Control Classification Numbers	0694-AB27
427	Revision to the Commerce Control List: Items Controlled for Nuclear Nonproliferation Reasons	0694-AB29
428	Expansion of General License GLX	0694-AB30
429	Exports to Iran: Imposition of Sanctions	0694-AB31

National Institute of Standards & Technology—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
430	Fastener Quality	0693-AA90

National Oceanic and Atmospheric Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
431	General Provisions for Domestic Fisheries—Standard Definitions	0648-AG45
432	Take of Marine Mammals by the U.S. Navy Incidental to Military Activities in the South Atlantic of the United States	0648-AG55

National Oceanic and Atmospheric Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
433	National Weather Service Modernization Criteria for Closure Certification	0648-AI90
434	Scientific Research—Domestic and Foreign Fishing	0648-AC61
435	Fishery Management Plan for the Queen Conch Fishery of Puerto Rico and the U.S. Virgin Islands	0648-AD91
436	Secretarial Amendment to the FMP for Atlantic Swordfish	0648-AE09

DOC

National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
437	Amendment 10 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries	0648-AF41
438	Regulatory Amendment Regarding Mesh Size in Trawls and Rock Sole Vessel Incentive Program Standards in Alaska Groundfish Fisheries	0648-AF57
439	Amendment 1 to the FMP for the Scallop Fishery Off Alaska	0648-AF81
440	Fishery Management Plan for Atlantic Tunas	0648-AF86
441	Fishery Management Plan for Tilefish	0648-AF87
442	Amendment 1 to the Fishery Management Plan for Atlantic Billfish	0648-AF88
443	Amendment 8 to the Pacific Coast Groundfish FMP To Implement Individual Quotas for the Fixed-Gear Sablefish Fishery (or Regulatory Amendment for Nontrawl Trip Limits)	0648-AF90
444	Amendment 8 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic	0648-AG25
445	Amendment 1 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic	0648-AG26
446	Amendment 8 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic	0648-AG27
447	Amendments 8, 11, and 12 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AG29
448	Regulatory Amendment To Prohibit Use of Open Access and Limited Entry Gear on the Same Trip for the Pacific Coast Groundfish Fishery	0648-AG30
449	Regulatory Amendment to Require Processing Vessels in the Pollock Fishery to Weigh Catch At Sea	0648-AG32
450	Amendment 33 to the FMP for the Groundfish Fishery of the BSAI and Amendment 37 to the FMP for Groundfish of the GOA	0648-AG41
451	Regulatory Amendment To Impose Restrictions on Fishing Black Rockfish off Oregon	0648-AG81
452	Regulatory Amendment for Managing Pelagic Fisheries by U.S. Vessels Beyond EEZ Throughout Pacific	0648-AG85
453	Amendment 3 to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands	0648-AG87
454	Amendment 1 to the Fishery Management Plan for Corals and Reef-Associated Plants and Invertebrates for Puerto Rico and the U.S. Virgin Islands	0648-AG88
455	Regulatory Amendment To Adjust Red Snapper Management Measures in the Gulf of Mexico for 1996 Season	0648-AG89
456	Generic Fishery Management Plan Amendment for the Definition of Traps in the Gulf of Mexico	0648-AG90
457	Regulatory Amendment for the Gulf of Alaska Seamount Fisheries	0648-AG94
458	Regulatory Amendment Allowing Early Individual Fishing Quota Fishing in the Aleutian Islands Area	0648-AG97
459	Amendment 34 to the FMP for the Groundfish Fishery of the BSAI	0648-AH02
460	Amendment 26 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands and Amendment 29 to the FMP for the Groundfish Fishery of the Gulf of Alaska	0648-AH03
461	Amendment 8 to the Fishery Management Plan for the Summer Flounder Fishery	0648-AH05
462	Fishery Management Plan for Black Sea Bass North of Cape Hatteras	0648-AH06
463	Regulatory Amendment for Multiple "A" Pacific Groundfish Limited Entry Permits per Vessel	0648-AH07
464	Regulatory Amendment To Facilitate Monitoring and Enforcement in the Pacific Coast Groundfish Fishery	0648-AH21
465	FMP Amendment 37 to the Groundfish Fishery of the BSAI	0648-AH28
466	Amendment 6 to the Fishery Management Plan for American Lobster	0648-AH41
467	Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	0648-AH52
468	Regulatory Amendment to Limited Access Management of Federal Fisheries In and Off of Alaska	0648-AH61
469	Amendment 1 to the Fishery Management Plan for Atlantic Bluefish	0648-AH63
470	Amendment 39 to the FMP for Groundfish Fishery of BSAI, Amendment 41 to the FMP for Groundfish of the GOA and Amendment 5 to the FMP for Commercial King & Tanner Crab Fisheries of the BSAI	0648-AH65
471	FMP Amendment 36 for the Groundfish Fishery of the BSAI and FMP Amendment 39 for the Groundfish of the GOA	0648-AH67
472	FMP Amendment 38 for the Groundfish Fishery of the GOA	0648-AH68
473	Regulatory Adjustments to the FMP for Sharks of the Atlantic Ocean	0648-AH77
474	Plan Amendment to FMP for Sharks of the Atlantic Ocean That Would Limit Entry	0648-AH78
475	Regulatory Amendment Regarding Exercise of Rights of Northwest Treaty Indian Tribes to Harvest Groundfish	0648-AH84
476	Fishery Management Plan for the Golden Crab Fishery Off the South Atlantic Region	0648-AH86
477	Notice of Changes in the Management Regimes for Atlantic and Gulf Groups of King and Spanish Mackerel for the 1996-97 Fishing Year	0648-AI13
478	Advance Notice of Proposed Rulemaking for the American Lobster Fishery Management Plan	0648-AI14
479	Amendment 2 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic	0648-AI15
480	Withdrawal of Federal Fisheries Regulations	0648-AI16
481	Consolidation of General Fishery Regulations of the United States	0648-AI17
482	Consolidation of Fisheries Regulations of Alaska	0648-AI18
483	Consolidation of Fisheries Regulations of the Pacific Coast and Western Pacific	0648-AI19
484	Consolidation of Fisheries Regulations of the Southeastern United States, Puerto Rico, and the U.S. Virgin Islands	0648-AI20

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National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
485	Consolidation of Fisheries Regulations of the Northeastern United States	0648-AI21
486	Consolidation of International Fisheries Regulations	0648-AI22
487	1996 Total Allowable Catch of Atlantic Swordfish	0648-AI23
488	Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries	0648-AI26
489	Amendment 9 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries	0648-AI27
490	Consolidation of Atlantic Highly Migratory Species Regulations	0648-AI28
491	1996 Atlantic Tuna Fisheries Quotas and Effort Controls	0648-AI29
492	Regulatory Amendment Requiring Longline Vessel Operators in the Western Pacific Pelagics Fisheries To Carry Observers at No Cost to U.S. Government	0648-AI31
493	Amendment 9 to the Western Pacific Crustacean Fishery Management Plan	0648-AI32
494	Regulatory Amendment to Change the Start of the Whiting Regular Season to May 15 North of 42 Degrees North Latitude and Change the Start of the Nontrawl Sablefish Regular Season to September 1	0648-AI34
495	Amendment 6 to the Atlantic Sea Scallop Fishery Management Plan	0648-AI36
496	Regulatory Amendment To Adjust the Total Allowable Catch for Royal Red Shrimp in the Gulf of Mexico	0648-AI39
497	Regulatory Amendment To Include the City of Akutan as a Community Development Quota Community	0648-AI46
498	Amendment 14 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AI47
499	Amendment 45 to the FMP for the Groundfish Fishery of the Gulf of Alaska	0648-AI56
500	Amendment 42 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands and Amendment 42 to the FMP for the Groundfish Fishery of the Gulf of Alaska	0648-AI57
501	Regulatory Amendment To Delay the Start Date of the Offshore Bering Sea Pollock Non-Roe Season from August 15 to September 1	0648-AI58
502	Negotiated Rulemaking on Mid-Atlantic Tuna Fishery Dispute	0648-AI60
503	Amendment 43 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands and Amendment 43 to the FMP for the Groundfish Fishery of the Gulf of Alaska	0648-AI61
504	Amendment 41 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands	0648-AI62
505	Amendment 44 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands and Amendment 44 to the FMP for the Groundfish Fishery of the Gulf of Alaska	0648-AI63
506	Regulatory Amendment To Establish a Date of December 1 for the Reopening of a Bering Sea Pollock and/or Cod Fishery if Sufficient Amounts of Fish Remain for a Directed Fishery	0648-AI64
507	Regulatory Amendment To Revise Maximum Allowable Bycatch Amounts Established for the Alaska Groundfish Fisheries	0648-AI65
508	Regulatory Amendment To Require Electronic Submission by Alaska Groundfish Processors of Weekly Production Reports and Check In/Out Reports	0648-AI66
509	Regulatory Amendment To Revise the Recordkeeping and Reporting Requirements for Groundfish Fisheries off of Alaska	0648-AI68
510	North Pacific Fisheries Research Plan Amendment To Implement a "Pay As You Go" Observer Program	0648-AI69
511	Amendment 46 to the FMP for the Groundfish Fishery of the Bering Sea a'd Aleutian Islands	0648-AI70
512	Amendment 13 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AI71
513	Amendment 2 to the Fishery Management Plan for the Red Drum Fishery of the Gulf Of Mexico	0648-AI73
514	Amendment 9 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic	0648-AI74
515	Amendment 5 to the Fishery Management Plan for the Atlantic Sea Scallop Fishery	0648-AI77
516	Fishery Management Plan for the Atlantic Herring Fishery	0648-AI78
517	Pacific Whiting Allocation Among Non-Tribal Sectors	0648-AI80
518	Revision of Whaling Regulations to Update and Broaden Scope	0648-AI81
519	Amendment 12 to FMP for Salmon Fisheries off the Coasts of Washington, Oregon, and California	0648-AI82
520	Amendment 7 to the American Lobster Fishery Management Plan (FMP) Amendment 8 to the Atlantic Sea Scallop FMP, and Amendment 8 to the Northeast Multispecies FMP	0648-AI83
521	Regulatory Amendment To Revise the Product Recovery Rate Regulations	0648-AI87
522	Amendment 2 to the Fishery Management Plan for the Scallop Fishery Off Alaska	0648-AI88
523	Screening of Water Diversions To Protect Sacramento River Winter-Run Chinook Salmon	0648-AF80
524	Designated Critical Habitat; Pacific Steelhead	0648-AG49
525	Designated Critical Habitat; Pacific Coho Salmon	0648-AG56
526	Designated Critical Habitat; Umpqua River Sea-Run Cutthroat Trout	0648-AG58
527	Proposed Designation of Critical Habitat for Puget Sound Salmon Stocks	0648-AH11
528	Proposed Rule To Provide Regulations for Permits for Capture, Transport, Import and Export of Protected Species for Public Display, and for Maintaining a Captive Marine Mammal Inventory	0648-AH26
529	Proposed Rule Governing the Issuance of Permits for Marine Mammal Photography	0648-AH31
530	Shrimp Vessel Registration Requirement	0648-AH67
531	Identification of Special Sea Turtle Conservation Areas and Appropriate Conservation Measures	0648-AH69

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533	Thunder Bay National Marine Sanctuary	0648-AE41
534	Allowance of Small-Scale Non-Intrusive Jade Collecting in Monterey Bay National Marine Sanctuary	0648-AI06
535	Coastal Zone Management Program Development and Approval Regulations	0648-AH43
536	Revision of Overflight Regulations	0648-AI91
537	Licensing of Private Remote-Sensing Space Systems	0648-AC64
538	National Weather Service Modernization Criteria for Automation Certification	0648-AF72

National Oceanic and Atmospheric Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
539	Regulatory Amendment To Implement Permit, Reporting, and Recordkeeping and Observer Requirements for Processing Vessels Over 125 Feet and Their Catcher Vessels; Pacific Coast Groundfish	0648-AE01
540	Regulatory Amendment To Require Electronic Communication of Observer Data in the Groundfish Fishery of the GOA and BSAI	0648-AE78
541	Amendment 5 to the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish	0648-AF01
542	Regulatory Amendment for Red Grouper in the Gulf of Mexico	0648-AF78
543	Financial Disclosure of Fishery Management Council Nominees, Members, and Executive Directors	0648-AG16
544	Regulatory Amendment Designating "Routine" Trip Limits in the Pacific Coast Groundfish Fishery	0648-AG31
545	Enforcement of Permit Requirements and Other Provisions Governing the Northwestern Hawaiian Islands Bottomfish Fishery	0648-AH48
546	Striped Bass Regulations for the Exclusive Economic Zone (EEZ)	0648-AH57
547	1996 Regulations for Pacific Halibut and Approval of Catch Sharing Plans	0648-AH64
548	Annual Harvest Guideline for the Northwestern Hawaiian Islands Lobster Fishery	0648-AI33
549	Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries off the Coasts of Washington, Oregon, and California	0648-AI35
550	Interim Final Rule to the North Pacific Fisheries Research Plan	0648-AI67
551	Consolidation of Atlantic Striped Bass and Atlantic Coastal Fisheries Management Regulations	0648-AI72
552	Processed Fishery Products, Processed Products Thereof & Certain Other Processed Food Products: U.S. Standards for Grades of Frozen Fish Blocks & Products Made Therefrom, Etc	0648-AA46
553	Fishermen's Protective Act, Fishing Vessel and Gear Damage Compensation Fund Claims Program	0648-AC73
554	Fishing Vessel Obligation Guarantee Program, Reinvention of Regulations	0648-AF48
555	Civil Procedures	0648-AF96
556	Financial Aid Program Procedures, Conditional Fisheries	0648-AI76
557	Final Rule for Regulations Generic to Permits Issued Under Section 104 of the MMPA, and for Regulations Specific to Permits Issued for Scientific Research and Enhancement Purposes	0648-AD11
558	Designated Critical Habitat; Johnson's Seagrass	0648-AF79
559	Final Rule To Amend Marine Mammal Regulations to Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238	0648-AG80
560	Final Rule To Establish Guidelines for Nonlethally Deterring Marine Mammals From Endangering Personal Safety or Damaging Public or Private Property	0648-AH19
561	General Authorization for Scientific Research Involving Level B Harassment	0648-AH20
562	Final Rule; Taking and Importing of Marine Mammals; Consolidation of Regulations	0648-AI89
563	Florida Keys National Marine Sanctuary	0648-AD85
564	Hawaiian Islands Humpback Whale National Marine Sanctuary	0648-AH91
565	Restricting or Prohibiting Attracting Sharks in the Monterey Bay National Marine Sanctuary	0648-AH92
566	Ocean Thermal Energy Conversion Licensing Program	0648-AI42

National Oceanic and Atmospheric Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
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National Oceanic and Atmospheric Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
568	Weakfish Regulation for the Exclusive Economic Zone (EEZ)	0648-AH58
569	Interim Final Rule To Implement High Seas Fishing Compliance Act of 1995; Permit Application Process	0648-AI50
570	Regulatory Amendment To Adjust Red Snapper Management Measures in the Gulf of Mexico for 1997 Season	0648-AI54
571	U.S. General Standards for Grades of Shrimp	0648-AA47
572	U.S. General Standards for Grades of Finfish Products	0648-AD53
573	U.S. Standards for Grades of Frozen Fish Portions	0648-AD92
574	Certificate of Legal Origin for Anadromous Fish Products	0648-AD93
575	U.S. Standards for Grades of Whole or Dressed Fish	0648-AE69
576	U.S. Standards for Grades of North American Freshwater Catfish and Products Made Therefrom	0648-AE70
577	U.S. Standards for Grades of Fish Fillets	0648-AE71
578	Fishing Vessel Capital Construction Fund Procedures—Eligibility for Safety Improvements	0648-AF22
579	Prescription of Fishways Under Section 18 of the Federal Power Act	0648-AG53
580	Seafood Inspections and Related Services	0648-AI45
581	Civil Enforcement Proceedings: Opportunity for In-Person Hearing	0648-AI53
582	Performance Standards for Tuna Vessel Operators	0648-AD03
583	Procedure for Setting Quotas on Removal of Atlantic Bottlenose Dolphins From the Waters of the Gulf of Mexico and Florida's East Coast	0648-AD39
584	Sea Turtle Monitoring and Conservation Measures for Nonshrimp Fisheries	0648-AE54
585	Taking and Importing of Marine Mammals; Dolphin Mortality Limits During Purse Seine Sets on Marine Mammals in the Eastern Tropical Pacific	0648-AF07
586	Taking and Importing of Marine Mammals; "Dolphin-Safe" Tuna Labeling	0648-AF08
587	Proposed Rule To Require Certain Fish From Mexico To Retain Heads and Tails Intact in Order To Protect the Endangered Totoaba	0648-AF32
588	Taking of Marine Mammals Incidental to Fisheries-Related Research	0648-AF50
589	Foreign Nations' Marine Mammal Program Amendments	0648-AG05
590	Designation of Critical Habitat for the Gulf of Maine Population of Harbor Porpoise	0648-AG06
591	Direct Take of Threatened Salmon by Native Americans	0648-AG15
592	Taking and Importing of Marine Mammals: Tuna Purse Seine Vessel Observer Expenses	0648-AG35
593	Taking and Importing of Marine Mammals; Taking of Marine Mammals Under the ATA Permit After February 28, 1994	0648-AG36
594	General Provisions; Endangered Fish or Wildlife; Threatened Fish and Wildlife; Sea Turtle Conservation Measures (Sec. 9 Protection)	0648-AG38
595	Designated Critical Habitat; Atlantic Salmon	0648-AG50
596	Proposed Rule To Authorize Lethal Takings of Marine Mammals by State Authorities	0648-AG79
597	Taking and Importing of Marine Mammals: Proposed Rule Prohibiting U.S. Citizens From Encircling Marine Mammals During Tuna Fishing Operations	0648-AH04
598	Protection Zones for Northern Right Whales; Response to Petition	0648-AH47
599	Proposed Rule To Govern the Transportation of Native Handicrafts	0648-AH83
600	Critical Habitat Designation for Green Sea Turtles in Culebra, Puerto Rico	0648-AH88
601	Taking of Marine Mammals Incidental to Commercial Fishing Operations; Take Reduction Plan Regulations and Emergency Regulations	0648-AI84
602	Revision of Federal Consistency Regulations Under the Coastal Zone Management Act	0648-AD83
603	Regional Marine Research Program	0648-AF20
604	NOAA Climate and Global Change Program—Proposal Submission Guidelines	0648-AG51
605	National Undersea Research Program Funding Regulations	0648-AH90

National Oceanic and Atmospheric Administration—Completed Actions

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606	Fishery Management Plan for Corals and Reef-Associated Plants and Invertebrates for Puerto Rico and the U.S. Virgin Islands	0648-AE47
607	Amendment 21B to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands	0648-AE97
608	Regulatory Amendment To Change Recordkeeping and Reporting Requirements in Alaska Groundfish Fisheries	0648-AG54
609	New Dealer Reporting Form for Large Pelagics	0648-AG76
610	Amendment 1 to the Fishery Management Plan for Atlantic Coast Red Drum	0648-AG86
611	Regulatory Amendment for Grid Sorting	0648-AG93

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National Oceanic and Atmospheric Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
612	Interpretive Rule To Provide Clarification of Separate Qualification for Halibut and Sablefish Quota Shares	0648-AG96
613	Amendment 32 to the FMP for the Groundfish Fishery of the BSAI and Amendment 36 to the FMP for the Groundfish of the GOA	0648-AG99
614	Amendment 38 to the FMP for the Groundfish Fishery of the BSAI and Amendment 40 to the FMP for the Groundfish Fishery of the GOA	0648-AH00
615	Combined Framework Adjustment—Adjustment 7 to the Northeast Multispecies FMP, Adjustment 3 to the Atlantic Sea Scallop FMP, and Adjustment 1 to the American Lobster FMP	0648-AH37
616	Interim Final Rule To Make Certain Changes in the Limited Access Appeals Procedure	0648-AH38
617	Notice of Changes in the Management Regimes for Atlantic and Gulf Groups of King and Spanish Mackerel for the 1995-96 Fishing Year	0648-AH53
618	Amendment 7 to the Fishery Management Plan for the Northeast Multispecies Fisheries	0648-AH70
619	Amendment 3 to the Fishery Management Plan for Corals and Coral Reefs of the Gulf of Mexico	0648-AH71
620	Amendment 8 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP)	0648-AH72
621	Amendment 3 to the Fishery Management Plan for Corals and Coral Reefs of the Southern Atlantic States	0648-AH74
622	Proposed Rule; Amendment 7 to the Summer Flounder Fishery Management Plan	0648-AH94
623	Summer Flounder Fishery: Dealer Reporting Requirements	0648-AH95
624	Interim Final Rule Allowing Retention of IFQ Species in Specified Areas Under 50 CFR 676.16(d)	0648-AI09
625	Advanced Notice of Proposed Rulemaking; Consideration of a Control Date for South Atlantic and Gulf of Mexico King Mackerel	0648-AI12
626	Regulatory Amendment to Change the Non-trawl Sablefish Regular Season in the Pacific Coast Groundfish Fishery	0648-AI30
627	Framework Adjustment 7 to the Atlantic Sea Scallop Fishery Management Plan	0648-AI37
628	Amendment 1 to the North Pacific Fishery Research Plan	0648-AI40
629	Pacific Halibut 1996 Area 2A Catch Sharing Plan	0648-AI48
630	Implementation of Catch Sharing Plan	0648-AI52
631	Regulatory Amendment To Remove An Unnecessary Regulation for the Issuance of Cease and Desist Orders Against Association of Procedures of Aquatic Products	0648-AI59
632	Final Rule To Implement Framework Adjustment 14 to Amendment 5 of the Fishery Management Plan for the Northeast Multispecies Fishery	0648-AI79
633	General Provisions for Domestic Fisheries	0648-AE39
634	Amendment to Procedure Governing the Readjustment and Increase in Hourly Rates of Fees	0648-AH24
635	Fisherman's Contingency Fund; Simplification of Regulations	0648-AI55
636	Fisheries Obligation Guarantee Program, Reinvention of Regulations	0648-AI75
637	Regulations Governing the Take of Dolphins Incidental to Removing Oil and Gas Platforms in the Gulf of Mexico	0648-AD25
638	Annual List of Fisheries as Authorized by Public Law 103-238	0648-AG77
639	Final Rule Establishing Leatherback Turtle Conservation Zone	0648-AH30
640	Final Rule Establishing Leatherback Turtle Conservation Zone	0648-AH97
641	Sea Turtle Conservation; Restriction Applicable to Shrimp Trawl Excluder Devices Restrictions	0648-AI24
642	Sea Turtle Conservation; Commercial Shrimp Vessel Permit	0648-AI25
643	Sea Turtle Conservation; Restrictions Applicable to Fishery Activities; Summer Flounder Fishery-Sea Turtle Protection Area	0648-AI49
644	Streamlining of National Marine Sanctuary Program Regulations	0648-AF23
645	Streamlining of National Marine Sanctuary Program Regulations	0648-AI51
646	Natural Resource Damage Assessment and Restoration Regulations	0648-AE13

National Telecommunications and Information Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
647	The Telecommunications and Information Infrastructure Grant Program	0660-AA04
648	Public Telecommunications Facilities Program	0660-AA09

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National Telecommunications and Information Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
649	Transfer of Spectrum From the Federal Government to the FCC	0660-AA05

Patent and Trademark Office—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
650	1996 Changes to Patent Practice and Procedure	0651-AA80
651	Revision of Patent and Trademark Fees for Fiscal 1997	0651-AA82
652	Patent Process Reengineering	0651-AA84
653	Miscellaneous Changes to TTAB Rules	0651-AA87

Patent and Trademark Office—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
654	Communications With the Patent and Trademark Office	0651-AA70
655	Changes to Implement 18-Month Publication of Patent Applications	0651-AA75
656	Rules of Practice in Patent Cases; Reexamination Proceedings	0651-AA79

Patent and Trademark Office—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
657	Patent Application Electronic Submission Rules	0651-AA50

Patent and Trademark Office—Completed Actions

Sequence Number	Title	Regulation Identifier Number
658	Trademark Procedures	0651-AA46
659	Cross Appeals in PTO Disciplinary Proceedings	0651-AA65
660	Simplification of the Requirements Concerning the Filing and Processing of Trademark Applications, Intent To Use Documents, and Petitions	0651-AA78
661	Changes in Patent Application Examination Procedures	0651-AA81
662	Examination Guidelines for Computer-Related Inventions	0651-AA83

Technology Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
663	Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements	0692-AA14
664	Acquisition and Protection of Foreign Rights in Inventions	0692-AA15
665	Licensing of Foreign Patents Acquired by the Government	0692-AA16

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Technology Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
666	Promotion of Private Sector Industrial Technology Partnerships	0692-AA13

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)

Long-Term Actions

377. CONTRACT CLAUSES AND SOLICITATION PROVISIONS FOR THE COMMERCE AUTOMATED SOLICITATION SYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 1301 to 1353

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kenneth J. Buck
Phone: 202 482-2773

RIN: 0690–AA08

378. STANDARDS OF ETHICAL CONDUCT—DEPARTMENT OF COMMERCE SUPPLEMENTAL REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Kucik
Phone: 202 219-9132

RIN: 0690–AA23

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA)

Proposed Rule Stage

379. BENCHMARK SURVEY OF SELECTED SERVICES TRANSACTIONS WITH UNAFFILIATED FOREIGN PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108 Int'l Investment & Trade in Svc. Survey Act

CFR Citation: 15 CFR 801

Legal Deadline: None

Abstract: This is the quinquennial benchmark survey of selected services transactions with unaffiliated foreign persons (BE-20), which will cover transactions in 1996. It is conducted to obtain comprehensive data on a variety of business and professional services, such as advertising; computer and data processing services; management, consulting and public relations; legal services; and telecommunications. The data are needed for compiling the balance of payments and national income and product accounts, and will be used to develop international trade policy and to support U.S. trade policy initiatives. The data will also be used in deriving universe estimates in conjunction with the annual survey of such services transactions that is conducted in nonbenchmark years. Consideration is being given to expanding the number of services covered by this benchmark survey compared with the prior (1991) benchmark.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	
Final Action	10/00/96	
Final Action Effective	11/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Betty L. Barker, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, (BE-50), U.S. Department of Commerce
Phone: 202 606-9800
Fax: 202 606-5318

RIN: 0691–AA27

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA)

Completed Actions

380. ANNUAL SURVEY OF FINANCIAL SERVICES TRANSACTIONS BETWEEN U.S. FINANCIAL SERVICES PROVIDERS AND UNAFFILIATED FOREIGN PERSONS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 801

Completed:

Reason	Date	FR Cite
Final Action	11/15/95	60 FR 57335
Final Action Effective	12/15/95	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Betty L. Barker
Phone: 202 606-9800

RIN: 0691–AA26

DEPARTMENT OF COMMERCE (DOC)
Bureau of the Census (CENSUS)

Long-Term Actions

381. • CUTOFF DATES FOR RECOGNITION OF BOUNDARY CHANGES FOR THE 2000 DECENNIAL CENSUS OF POPULATION AND HOUSING

Priority: Other

Legal Authority: 13 USC 4 and 6

CFR Citation: 15 CFR 70.1 to 70.3

Legal Deadline: None

Abstract: The Census Bureau proposes to amend 15 CFR part 70 to reflect the cutoff dates for recognition of boundary changes for the 2000 Census of Population and Housing (Census 2000). For the tabulation and dissemination of data from the 2000 Census of Population and Housing; the Bureau of the Census will recognize only those boundaries legally in effect on January 1, 2000 that have been reported officially to the Bureau of the Census no later than March 1, 2000. The Bureau of the Census enumerates all residents of the United States and its territories on the date of the decennial census as residing within the legal limits of municipalities, county subdivisions, counties, states, and statistically equivalent entities as those limits exist on January 1, 2000.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel L. Morrison, Chief, Geography Division, Department of Commerce, Bureau of the Census, SPC, Room 101, Washington, DC 20233
Phone: 301 457-1132
Fax: 301 457-4710

RIN: 0607–AA18

382. • CHANGES TO THE FOREIGN TRADE STATISTICAL REGULATIONS (FTSR) TO CONFORM REQUIREMENTS AND WORDING TO THE U.S. CUSTOMS SERVICE REQUIREMENTS FOR THE AUTOMATED EXPORT SYSTEM (AES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.1; 15 CFR 30.3; 15 CFR 30.4; 15 CFR 30.5

Legal Deadline: None

Abstract: The Census Bureau proposes to amend the FTSR to conform requirements and language to agree with proposed changes in the U.S. Customs Service regulations implementing and supporting operation of the AES. The AES will provide the exporting community with a single automated system throughout which the exporting community can ultimately provide the trade information required by the U.S. Government.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: The title 13 U.S.C. legislation governing export statistical collection requires minor amendments to clarify U.S. Customs Service authority necessary to collect the required information via the AES. Draft legislation, sponsored by the Customs Service, is now at the Commerce Department for initial review. This legislation must be enacted before 15 CFR can be amended.

Agency Contact: Bruce C. Walter, Assistant Division Chief, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB3, Room 2104, Washington, DC 20233
Phone: 301 457-2210
Fax: 301 457-2645

RIN: 0607–AA19

383. • CHANGES TO THE FOREIGN TRADE STATISTICAL REGULATIONS (FTSR) TO CLARIFY THE DEFINITION OF EXPORTER

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.4; 15 CFR 30.7

Legal Deadline: None

Abstract: The Census Bureau proposes to amend the FTSR definition of exporter for purposes of clarifying responsibility to report trade information. The FTSR also will be amended to reinforce the requirement for filing a power of attorney when an agent acts for an exporter specifying the essential provisions to be included with additional requirements if the exporter does not have a permanent U.S. residence.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Bruce C. Walter, Assistant Division Chief, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB3, Room 2104, Washington, DC 20233
Phone: 301 457-2210
Fax: 301 457-2645

RIN: 0607–AA20

DOC—CENSUS — Long-Term Actions

384. • CHANGES TO THE FOREIGN TRADE STATISTICAL REGULATIONS (FTSR) TO ADD A REQUIREMENT TO COLLECT INFORMATION ON CANADIAN PROVINCE OF ORIGIN FOR U.S. IMPORTS FROM CANADA

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.70

Legal Deadline: None

Abstract: The Census Bureau proposes to amend the FTSR to require importers to report on U.S. Customs Service records the Canadian Province of Origin for imports from Canada. This action is being taken to fulfill the requirements of a Memorandum of Understanding with Canada concerning the collection and exchange of import information. The USTR also has directed the Census Bureau to collect Canadian Province of Origin Information for selected softwood lumber products. This information is now collected for use in monitoring an agreement negotiated with Canada on softwood lumber products.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bruce C. Walter, Assistant Division Chief, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB3, room 2104, Washington, DC 20233
Phone: 301 457-2210
Fax: 301 457-2645

RIN: 0607–AA21

385. • CHANGES TO THE FOREIGN TRADE STATISTICAL REGULATIONS (FTSR) REQUIRING A DESIGNATOR WHEN THE EXPORT SHIPMENT IS A FOREIGN MILITARY SALE

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR subpart A, 30.7

Legal Deadline: None

Abstract: The Census Bureau proposes to amend the FTSR to require exporters or their designated agents to provide a foreign military sales indicator when merchandise is exported from the United States under the Department of Defense (DOD) Foreign Military Sales (FMS) Program. The indicator would be inserted in the area on the SED currently reserved for the Harmonized System Check Digit. This action is taken to assist the Bureau of Economic Analysis in collecting actual FMS value data. Currently this information is derived from crude estimates provided by DOD.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bruce C. Walter, Assistant Division Chief, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB3, Room 2104, Washington, DC 20233
Phone: 301 457-2210
Fax: 301 457-2645

RIN: 0607–AA22

386. • CHANGES TO THE FOREIGN TRADE STATISTICAL REGULATIONS (FTSR) REQUIRING THE FILING OF SHIPPER'S EXPORT DECLARATIONS (SEDS) FOR COMPANY-OWNED TOOLS OF TRADE

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.56 (b) (1)

Legal Deadline: None

Abstract: The Census Bureau proposed to amend the FTSR to eliminate the requirement for filing SEDs for temporary exports of tools of trade when these tools are company owned. Currently, privately owned tools of trade do not require SEDs when exported temporarily for a period of less than one year.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bruce C. Walter, Assistant Division Chief, Foreign Trade Division, Department of Commerce, Bureau of the Census, FB3, Room 2104, Washington, DC 20233
Phone: 301 457-2210
Fax: 301 457-2645

RIN: 0607–AA23

DEPARTMENT OF COMMERCE (DOC)
Economic Development Administration (EDA)

Completed Actions

387. SIMPLIFICATION AND STREAMLINING OF REGULATIONS OF THE ECONOMIC DEVELOPMENT ADMINISTRATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 13 CFR 301 to 318

Completed:

Reason	Date	FR Cite
Final Action	03/01/96	61 FR 7979
Final Action Effective	03/01/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Awilda R. Marquez
Phone: 202 482-4687

RIN: 0610–AA47

DEPARTMENT OF COMMERCE (DOC)
General Administration (ADMIN)

Final Rule Stage

388. UNIFORM ADMINISTRATIVE REQUIREMENT FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFITS AND COMMERCIAL ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 14

Legal Deadline: None

Abstract: On November 29, 1993, Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements, with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" was published in the Federal Register (58 FR 62992). In the published revised circular, OMB specified as "required action" that Federal agencies responsible for awarding and administering grants and other agreements to recipients described therein, shall adopt the language of the Circular unless other provisions are required by Federal Statute or exceptions or deviations are approved by OMB. This interim final rule adopts the provisions of the Circular and its language to the maximum extent feasible with minor language changes made to make the language apply specifically to the DOC and its operating units. This rule also contains certain policies that have been DOC policy for many years that may differ from the language of Circular A-110, but are consistent with and further implement the intent of Circular A-110 with DOC. The FY 1996 funding authority for the Department (DOC) expires on March 15th. Therefore DOC does not know the level of the funding available for this project for the remainder of FY 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Phelan III, Director, Office of Executive Assistance Management, Department of Commerce, Office of Administration, 14th Street & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-4115

RIN: 0605–AA09

389. COST PRINCIPLES FOR STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 6

Legal Deadline: None

Abstract: On May 17, 1995, Office of Management and Budget (OMB) Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," was published in the Federal Register (60 FR 26484). In the published revised circular, OMB specified as "required action" that agencies responsible for administering programs that involve cost reimbursement contracts, grants, and other agreements with governmental units shall issue codified regulations to implement the provisions of the circular and its attachments. This interim final rule adopts the provisions of Circular A-87 to the maximum extent feasible with minor language changes made to make the language apply specifically to the DOC and its operating units. The FY 1996 funding authority for the department (DOC) expires on March 15th. Therefore, DOC does not know the level of funding available for this project for the remainder of FY 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: John J. Phelan III, Director, Office of Executive Assistance Management, Department of Commerce, Office of Administration, 14th Street & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-4115

RIN: 0605–AA10

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Proposed Rule Stage

390. ANTIDUMPING DUTIES; COUNTERVAILING DUTIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 1671 et seq; 19 USC 1673 et seq; 19 USC 1303

CFR Citation: 19 CFR 351; 19 CFR 353; 19 CFR 355

Legal Deadline: Other, Statutory, January 1, 1996.
Section 103(b) of the Uruguay Round Agreements Act establishes January 1, 1996, as the deadline for interim final regulations.

Abstract: Revisions of the antidumping and countervailing duty regulations are necessary due to enactment of legislation implementing the results of the Uruguay Round multilateral trade negotiations. Revisions also will address matters that were the subject of other uncompleted rulemaking proceedings that ITA has previously withdrawn. (See April 1994 Unified Agenda of Federal Regulations). Clarifying the methodologies and procedures used in administering the antidumping and countervailing duty laws will enhance the efficiency and fairness of these laws at little, if any, additional cost.

Timetable:

Action	Date	FR Cite
ANPRM	01/03/95	60 FR 80
ANPRM Comment Period End	02/24/95	
Interim Final Rule	05/11/95	60 FR 25130
Interim Final Rule Effective	05/11/95	
NPRM	02/27/96	61 FR 7308
NPRM Comment Period End	04/29/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William D. Hunter, Senior Import Policy Analyst, Department of Commerce, International Trade Administration, Room 3713, 14th

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DOC—ITA — **Proposed Rule Stage**

Street & Constitution Avenue NW.,
Washington, DC 20230
Phone: 202 482-1930
Fax: 202 482-2308
Email: WHunter@ita.doc.gov

RIN: 0625–AA45

391. • CHANGES IN PROCEDURES FOR FLORENCE AGREEMENT PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 1202; PL 89-651 (80 Stat. 897)

CFR Citation: 15 CFR 301

Legal Deadline: None

Abstract: This action invites public comment on a proposal to amend the ITA regulations that govern the duty-free entry of scientific instruments and apparatus into the United States by educational and nonprofit institutions. The amemdments are being proposed for the purposes of: (i) making the technical changes required by the Omnibus Trade and Competitiveness Act of 1988; (ii) updating the regulations by specifying the correct court of review, taking into account terminological changes in the scientific community, and extending the waiver for repair components to maintenance tools; (iii) simplifying and clarifying the regulations for the using community by clarifying the commercial use provisions and removing redundant requirements, permitting recourse to expedited procedures when appropriate, adding information about procedures for obtaining duty refunds, reducing the number of copies required for resubmissions, and permitting perfomance data obtained in tests of trials as evidence of guaranteed specifications; and (iv) clarifying the scope of these regulations by providing key definitions for covered instruments and the purposes to which they are put.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Von Dundas, Program Manager, Department of Commerce, International Trade Administration, S.I.P.S., Room 4211, Washington, DC 20230
Phone: 202 482-1660
Fax: 202 482-0949

RIN: 0625–AA47

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA) — **Final Rule Stage**

392. ANTIDUMPING AND COUNTERVAILING DUTY PROCEEDINGS; ADMINISTRATIVE PROTECTIVE ORDER PROCEDURES AND PROCEDURES FOR IMPOSING SANCTIONS FOR VIOLATION OF A PROTECTIVE ORDER

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 1677f

CFR Citation: 19 CFR 351; 19 CFR 354

Legal Deadline: None

Abstract: The Department needs to enhance the administrative efficiency of its investigations of alleged violations of administrative protective orders (APOs) and of the process for imposing sanctions for violations, as well as the fairness of the procedures to all concerned parties. In addition, the Department needs to simplify and streamline the APO administrative process and reduce the administrative burdens on the ITA and trade practitioners. The Department is considering a variety of amendments to its existing regulations to achieve these goals. With respect to APO violations and sanctions, the Department is considering (1) expedited procedures for certain APO violations that are uncontested, inadvertent, and technical; (2) providing for warnings to be issued where a finding of a violation would lead to unjustifiably harsh sanctions; (3) where warranted, permitting the agency to dismiss a charge without prejudice without the appointment or approval of an administrative law judge; (4) providing for a sunset provision that is fairer to past violators and that eases the administrative burden; and (5) permitting a private reprimand as a sanction without requiring as a precondition that parties engage in settlement discussions. The Department expects to benefit from gains in administrative efficiency and fairness without incurring any additional costs.

Timetable:

Action	Date	FR Cite
NPRM	02/08/96	61 FR 4826
NPRM Comment Period End	03/11/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joan MacKenzie, Senior Attorney, Department of Commerce, International Trade Administration, Room H4621, 14th Street & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-1310

RIN: 0625–AA43

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA) — **Long-Term Actions**

393. PROPOSED CHANGES IN PROCEDURES FOR INSULAR WATCH PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 15 CFR 303

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Faye Robinson
Phone: 202 482-1660
Fax: 202 482-0949

RIN: 0625–AA46

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA) — **Proposed Rule Stage**

394. DEFENSE PRIORITIES AND ALLOCATIONS SYSTEM (DPAS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 50 USC app 2061 et seq; 50 USC app 468; EO 12656; EO 12742; EO 12919

CFR Citation: 15 CFR 700

Legal Deadline: None

Abstract: The Defense Priorities and Allocations System (DPAS) implements the priorities and allocations authority of title I of the Defense Production Act of 1950, as amended, and the priorities authority of section 18 of the Selective Service Act of 1948. The DPAS was published as a final rule on July 30, 1984. Based on the findings and recommendations of an interagency sponsored study concerning the controlled materials program, and comments from both defense agency and industry users, this proposed rule would amend the DPAS to remove the controlled materials provisions and make certain revisions to its procedural requirements. These amendments will have no costs associated with them, would reduce the regulatory and information reporting burden on industry and make the DPAS more effective and efficient, would result in cost savings for defense contractors, would update certain other provisions to conform to statutory and jurisdictional changes, and would make the DPAS more compatible with current industry practices.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Agency Contact: Richard V. Meyers, DPAS Program Manager, Department of Commerce, Bureau of Export Administration, Off of Strategic Industries Econ Security, National Security Preparedness Div., Room 3878, Washington, DC 20230
Phone: 202 482-3634
Fax: 202 482-5650
Email: RMeyers@BXA.DOC.GOV

RIN: 0694–AA02

395. IMPLEMENTATION OF CHEMICAL WEAPONS CONVENTION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Bureau of Export Administration is developing regulations and procedures that specify industry obligations under the chemical weapons convention.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/94	59 FR 66291
ANPRM Comment Period End	01/23/95	
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Crowe, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB06

396. • CHANGES TO THE EXPORT ADMINISTRATIVE REGULATIONS TO IMPLEMENT THE GUIDELINES AND INFORMATION SHARING PROVISIONS OF THE WASSENAAR ARRANGEMENT ON EXPORT CONTROLS FOR CONVENTIONAL ARMS AND DUAL-USE

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The United States and 27 allied countries are implementing a new regime to replace the Coordinating Committee for Multilateral Export Controls (COCOM) which dissolved on March 31, 1994. The new organization, called The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, is expected to implement controls in April 1996. Procedural guidelines and provisions for sharing information between members will have to be harmonized in numbers' national regulations. Commerce will need to alter the Export Administration Regulations to reflect the Wassenaar guidelines and information sharing provisions agreed on by the members

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Lewis, Director, Office of Strategic Trade and Foreign Policy Controls, Department of Commerce, Bureau of Export Administration, Washington, DC 20230

DOC—BXA

Proposed Rule Stage

Phone: 202 482-4196
Fax: 202 482-4094

RIN: 0694–AB40

397. • CHANGE THE COMMERCE CONTROL LIST TO REVISED CONTROLS ON SHOTGUNS (EXPORT COMMERCE CONTROL NUMBER ECCN 0A84C)

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: Shotgun licensing and policy requirements will be streamlined to exempt Wassenaar Arrangement member countries. The policy will also be streamlined to exclude certain other countries form licensing requirements by either the type of shotgun or country importation licensing procedures. These changes will reduce the number of license applications by approximately 500 applications per year, and thereby reduce the paperwork burden on U.S. industry.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Lewis, Director, Office of Strategic Trade and Foreign Policy Controls, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-4196
Fax: 202 482-4094
Email: JLewis@BXA.DOC.GOV

RIN: 0694–AB42

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Final Rule Stage

398. REVISION OF FOREIGN BOYCOTT PROVISIONS OF EXPORT ADMINISTRATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC 1701 et seq; 50 USC app 2401 et seq; EO 12002; EO 12058; EO 12214; EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 769

Legal Deadline: None

Abstract: The Department proposes to revise the foreign boycott provisions of the Export Administration Regulations. The revisions would clarify the application of: (1) the intent provision to the reporting requirement; (2) the jurisdictional requirements relating to the implementation of letters of credit; (3) the furnishing information prohibitions to information about the nationality of directors and about blacklisted persons; (4) the shipping requirement exception to refusals to use blacklisted vessels; and (5) the import and shipping document exception to information about the nationality of carriers and residence of manufacturers or suppliers. The revisions are intended to clarify areas of confusion. In addition, the proposal would remove many references and provisions dealing with effective dates and grace periods that are no longer applicable.

Timetable:

Action	Date	FR Cite
NPRM	09/26/89	54 FR 39415
NPRM Comment Period End	10/26/89	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Diamond, Team Header (Policy), Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-4550

RIN: 0694–AA11

399. TRANSFER OF DUAL-USE ITEMS FROM U.S. MUNITIONS LIST TO THE COMMERCE CONTROL LIST

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 74301(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995 (60 FR 42767)

CFR Citation: 15 CFR 799.1

Legal Deadline: None

Abstract: The former COCOM Industrial List (IL) controls so-called dual-use items, which have both civil and military uses. There is not a direct correspondence between the IL and BXA's Commerce Control List (CCL) because some IL items are controlled by the State Department in the U.S. Munitions List. In his November 15, 1990, memorandum of disapproval of H.R. 4653, the President determined that, "By June 1, 1991, the United States will remove from the U.S. Munitions List all items contained on the COCOM dual-use list unless significant U.S. national security interests would be jeopardized." This rule will implement BXA controls through the CCL on those items removed from the U.S. Munitions List as a result of the President's decision.

Timetable:

Action	Date	FR Cite
Transfer of Communications Satellites	10/23/92	57 FR 48312
Navigation and Avionics	06/23/93	58 FR 34211
Final Rule: Transfer of Commercial Communication Satellites	09/08/93	58 FR 47322
Transfer of Items From the USMI to the CCL; Imposition of Certain Foreign Policy Controls	10/26/93	58 FR 57549
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Lewis, Director, Office of Strategic Trade & Foreign Policy Controls, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-4196
Fax: 202 482-4094
Email: JLewis@BXA.DOC.GOV

RIN: 0694–AA52

DOC—BXA

Final Rule Stage

400. EXPORTS TO IRAN; REVISION OF FOREIGN POLICY CONTROLS

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 771; 15 CFR 785; 15 CFR 799

Legal Deadline: None

Abstract: This interim rule amends the Export Administration Regulations by revising the special country policies and provisions, consistent with the National Defense Authorization Act (NDAA) of 1992, to establish a policy of denial for all items that require a validated license for Iran, except items subject to short supply controls.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AA62

401. SIMPLIFICATION OF THE EXPORT ADMINISTRATION REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 768 to 779; 15 CFR 785 to 791; 15 CFR 799

Legal Deadline: None

Abstract: This rule restructures and reorganizes the Export Administration Regulations (EAR), the regulatory regime through which the Bureau of Export Administration imposes export and reexport controls on those items and activities within its jurisdiction. The rule clarifies the language of the EAR, simplifies their application, and generally makes the export control regulatory regime more user-friendly.

Timetable:

Action	Date	FR Cite
ANPRM	02/10/94	59 FR 6528
ANPRM Comment Period End	03/28/94	
NPRM	05/11/95	60 FR 25268
NPRM Comment Period End	07/10/95	
Interim Final Rule	03/25/96	61 FR 12714
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AA67

402. IMPLEMENTATION OF THE CUBA DEMOCRACY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Cuba Democracy Act required certain actions to tighten the embargo on Cuba. This includes changes in general license provisions for ship stores and new controls on medicines. These changes will complement regulations already issued by the Department of the Treasury.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AA77

403. TRANSFER OF CERTAIN REMOTE SENSING SATELLITES FROM THE U.S. MUNITIONS LIST TO THE CCL

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The former COCOM Industrial List (IL) controls dual-use items, which have both civil and military applications. At present, there is not a direct correspondence between the IL and the Commerce Control List (CCL) because some IL items are controlled by the State Department under the United States Munitions List (USML). In his November 15, 1990 memorandum disapproving H.R. 4653, former President Bush determined that "by June 1, 1991, the United States will remove from the U.S. Munitions List all items contained on the COCOM dual-use list unless significant U.S. national security interests would be jeopardized." This rule will implement Commerce controls on those items removed from the USML as a result of the President's 1990 decision. Remote sensing satellites are such an item, and this rule specifically provides for their transfer from the USML to the CCL.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Lewis, Director, Office of Strategic Trade and Foreign Policy Control, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-4196
Fax: 202 482-4094
Email: JLewis@BXA.Doc.Gov

RIN: 0694–AB09

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Final Rule Stage

404. CLARIFICATION OF ENHANCED PROLIFERATION CONTROL INITIATIVE (EPCI) "CATCH-ALL" PROVISION AND VALIDATED LICENSE REQUIREMENTS

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 11912; EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations to clarify and make more effective provisions that require exporters and others to submit individual validated license applications if they "know" or are "informed" of certain proliferation activities. These changes are among those directed by the Trade Promotion Coordinating Committee, a 19-member interagency group chaired by the Secretary of Commerce. Specifically, this rule creates categories of items subject to the EPCI licensing requirements.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hillary Hess, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB10

405. REVISION TO THE EAR; SUPPLEMENT NO. 2 TO PART 778

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 11912; EO 12058; EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations list of countries that are party to the Nuclear Non-Proliferation Treaty and/or the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco). In addition, this rule makes certain editorial clarifications and corrections, and adds material inadvertently omitted. This rule adds language in the exceptions section to clarify that General License GLV does not authorize commodities controlled for nuclear non-proliferation reasons; clarifies that General License GFW does not authorize commodities controlled for nuclear non-proliferation reasons; and clarifies that General License GCT does not authorize commodities controlled for nuclear non-proliferation reasons.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB12

406. REVISIONS TO THE EAR: ESTABLISHMENT OF A STANDARD SAVING CLAUSE

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 40 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule establishes a standard saving clause (a grace period after the date of imposition of controls within which shipments that are en route to the point of export may be exported under the previously applicable authorization) when an individual validated license requirement is imposed on items and/or destinations that formerly were eligible for a general license or special license procedure.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB15

407. COUNTRIES ELIGIBLE TO RECEIVE SUPERCOMPUTERS UNDER SPECIAL LICENSING PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule will expand the list of countries eligible to receive supercomputers under the special license procedures. This rule will lessen the administrative burden on U.S. exporters.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB16

408. REVISIONS TO LICENSING POLICY FOR NORTH KOREA

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

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Final Rule Stage

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule further implements the October 21, 1994, U.S.-North Korea Agreed Framework. This is part of the initial steps the United States is taking in response to North Korea's decisions to freeze its nuclear program and facilities and cooperate with the United States and IAEA to verify the freeze and ensure safe storage of spent nuclear fuel.

This rule amends Commerce Department license policy on exports of telecommunications items to support international gateways. Export applications for such projects will be reviewed on a case-by-case basis.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Crowe, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB19

409. EDITORIAL CLARIFICATION AND CORRECTIONS TO THE EXPORT ADMINISTRATION REGULATIONS; REMOVAL OF ECCN 1C65

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 7419; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule makes the following revisions and clarifications to the Export Administration Regulations: (1) Clarifies the licensing requirements for equipment and material that can be used in the production of biological agents by removing the reference to Export Control Classification Number (ECCN) 1C65 (complex media); (2) Adds to that which was inadvertently omitted on September 7, 1993 (58 FR 47049); and (3) Clarifies the missile technology and nuclear nonproliferation controls applicable to ECCN 1E01.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB23

410. PROLIFERATION ENTITY LIST

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Department of Commerce maintains export controls to limit the proliferation of chemical or biological weapons, nuclear weapons or explosive devices, and missile systems. The Export Administration Regulations (EAR) provide that the Bureau of Export Administration (BXA) may inform exporters, individually or through amendment to the EAR, that an individual validated license is required for exports or reexports to certain entities because there exists an unacceptable risk of use in or diversion to certain nuclear end-uses, missile end-uses, or chemical or biological weapons end-uses. In addition, BXA may inform U.S. persons that an individual validated license is required to export or reexport, perform any contract, service, or employment, or otherwise support such end-uses.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB24

411. ADMINISTRATION OF STATE LOG EXPORTS BAN

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The rule will provide the Department of Commerce's regulations implementing the ban on the export of unprocessed timber originating from non-Federal public lands in 17 western states, pursuant to the Forest Resource Conservation and Shortage Relief Act of 1990, as amended (FRCSRA). This rule defines the actions the Department will take to implement the State log export ban.

Timetable:

Action	Date	FR Cite
ANPRM	06/07/95	60 FR 30030
ANPRM Comment Period End	07/07/95	
Final Action	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Bernard Kritzer, Manager, Short Suppy Programs, Chemical/Biological Control, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-0894
Fax: 202 482-0751

RIN: 0694–AB25

412. REVISION TO THE EAR: ELAIN ACCEPTS CLASSIFICATION REQUEST

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

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Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is currently on a road to automating all of the services that fall under the "license determination" umbrella. The services that fall under the umbrella of "license determinations" are: classification requests, jurisdiction requests, EXODUS (Custom Department) requests, Export Enforcement Certifications, and Advisory Opinions. The first step has been successfully accomplished; ELAIN has been successfully modified to accept classification requests. Any person or company that has already acquired a Personal Identification Number (PIN) and has been authorized by their company and the Department of Commerce to submit license applications via ELAIN, may immediately start submitting classification requests electronically.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB26

413. LIBYA: EXPANSION OF FOREIGN POLICY CONTROLS

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7450(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule will bring the licensing policy for Libya into conformance with the licensing policy for Iran and Syria. This rule will not increase the amount of Libyan reexport authorization requests submitted to the Department of Commerce, but will increase the amount of items falling under the general policies of denial and case-by-case review.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB28

414. REVISION TO GENERAL LICENSE GCG (SHIPMENTS TO AGENCIES OF COOPERATING GOVERNMENTS)

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 771

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by revising General License GCG, which authorizes certain exports to agencies of cooperating governments. These revisions will bring General License GCG, which was originally intended to apply to exports of items controlled for national security reasons, into line with subsequent statutes and agreements dealing with proliferation and regional stability concerns.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hillary Hess, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB34

415. CHANGES TO THE COMMERCE CONTROL LIST TO ACCORD WITH THE WASSENAAR ARRANGEMENT ON EXPORT CONTROLS FOR CONVENTIONAL ARMS AND DUAL-USE GOODS AND TECHNOLOGIES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The United States and 27 allied countries are implementing a new regime to succeed the Coordinating Committee for Multilateral Export Controls (COCOM) which dissolved on March 31, 1994. The new organization, called the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, is expected to implement controls in April 1996. New lists of goods to be controlled have been agreed by the members, who will each have to amend their existing national procedures to harmonize them with the Wassenaar Arrangement. Commerce will need to make extensive changes in the Commerce Control List when the Wassenaar Arrangement dual-use control list becomes effective.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Lewis, Director, Office of Strategic Trade and Foreign Policy Controls, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-4196
Fax: 202 482-4094
Email: JLewis@BXA.DOC.GOV

RIN: 0694–AB35

416. • COMPUTER REFORM OF EXPORT CONTROL; ESTABLISHMENT OF GENERAL LICENSE G-CTP

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The President announced a liberalization of export controls on all computers to countries in North America, most of Western Europe, and parts of Asia. For certain other countries, including many in Latin America and Central and Eastern Europe, this rule also liberalizes export controls on computers. For the former Soviet Union, China and certain other countries, U.S. export controls will focus on computers intended for military and proliferation end users of users, and ease controls on exports of computers to civilian customers. Finally, there will be no change in current policy for computer shipments to terrorist countries, with the exception of the addition of Sudan to ECCNs 4A94F and Computer Tier 4 (a grouping of terrorist countries, for the purpose of computer controls. This decision will streamline validated license requirements for U.S. computer manufacturers of computers that are, or will be in the next two years, widely available in the international market place.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/25/96	61 FR 2099
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook, Regulatory Policy Division, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB36

417. • BIOLOGICAL WARFARE EXPERTS GROUP MEETING REGULATIONS

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139a; 50 USC 2401 et seq; 22 USC 6004; EO 12930; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This rule will issue regulations implementing the October agreements among the members of the Australia Group regarding microorganisms, toxins, and dual-use biological equipment. The nomenclature for several microorganisms is being revised to identify controlled organisms more clearly. Controls for fermenters and aerosol chambers are being expanded. These changes will likely cause a small increase in the number of validated export licenses that exporters will need. This rule is issued in final form; however, public comments on this regulation are welcome.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Seevaratnam, Division Director, Chemical/Biological Controls, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-3343
Fax: 202 482-0751

RIN: 0694–AB37

418. • EXPANSION OF GENERAL LICENSE GFW; SEMICONDUCTOR MANUFACTURING EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995 (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This final rule would revise the Export Administrative Regulations by expanding General License GFW eligibility to include certain semiconductor manufacturing equipment controlled under ECCN 3B01A. The expansion of General License GFW to include these items is expected to result in a decrease in the number of license applications submitted, thereby reducing the paperwork burden on exporter.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerald R. Beiter, Acting Director, Office of Strategic Trade and Foreign Policy Controls, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-6105

RIN: 0694–AB38

419. • EXPORT REGULATION FOR CERTAIN EXPORTS OF BUSINESS EQUIPMENT FOR SUPPORT TO THE CUBAN PEOPLE

Priority: Other Significant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The President has authorized transactions intended to provide support for the Cuban people including activities of recognized human rights and nongovernmental organizations and individuals which promote independent activity in Cuba. The new measures support the President's announcement of October 1995 designed to increase support for the Cuban people through a regulation that would permit U.S. persons to export business related equipment to eligible Cuban entities and equipment for the establishment of news bureaus. The action is consistent with the Cuban Democracy Act of 1992. Individual license applications will be processed consistent with Executive Order 12981 regarding export licensing procedures and timeframes.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Lewis, Director, Office of Strategic Trade and

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Foreign Policy Controls, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-4196
Fax: 202 482-4094
Email: JLewis@BXA.DOC.GOV

RIN: 0694–AB43

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Long-Term Actions

420. • CHEMICAL WEAPONS CONVENTION IMPLEMENTING REGULATIONS (ENFORCEMENT)

Priority: Substantive, Nonsignificant

Legal Authority: Chemical Weapons Convention Implementation Legislation Proposed

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This rule will set forth the acts which constitute a violation of the Chemical Weapons Convention Implementing Regulations and the penalties for violations. They will also set forth the administrative enforcement procedures.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William H. Arvin, Special Assistant to the Assistant Secretary for Export Enforcement, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-1564
Fax: 202 482-4173
Email: Warvin@BXA.DOC.GOV

RIN: 0694–AB39

421. • CHANGE THE COMMERCE CONTROL LIST TO REVISE CONTROLS ON COMMUNICATION INTERCEPTING DEVICES (EXPORT COMMERCE CONTROL NUMBER ECCN 5A80D

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 15, 1995, (60 FR 42767)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: Individual validated licenses are required for the export of all communication intercept devices to all destinations (including Canada). The Export Administration Regulations specify that such exports will only be issued to: (1) a provider of wire or electronic communication service or an officer, agent or employee of or person under contract with such a provider in the normal course of the business of providing that wire or electronic communication service; or (2) officers, agents, or employees of, or person under contract with the United States, one of the 50 States, or a political subdivision thereof, when engaged in the normal course of government activities. Commerce will need to make changes to the Commerce Control List and the Export Administration Regulations to clarify the requirements for issuing export licenses.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Lewis, Director, Office of Strategic Trade and Foreign Policy Controls, Department of Commerce, Bureau of Export Administration, Washington, DC 20230
Phone: 202 482-4196
Fax: 202 482-4094
Email: JLewis@BXA.DOC.GOV

RIN: 0694–AB41

DEPARTMENT OF COMMERCE (DOC)
Bureau of Export Administration (BXA)

Completed Actions

422. EFFECT OF IMPORTED ARTICLES ON THE NATIONAL SECURITY

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 705

Completed:

Reason	Date	FR Cite
Final Action	10/19/94	59 FR 52685
Final Action Effective	10/19/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brian Nilsson
Phone: 202 482-2376
Fax: 202 482-5650
Email: ORBN@BMPCOE.ORG

RIN: 0694–AB01

423. EXPORTS OF SAMPLE SHIPMENTS IN MIXTURES CONTAINING PRECURSORS AND INTERMEDIATE CHEMICALS; REVISIONS TO AUSTRALIA GROUP MEMBERS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 773; 15 CFR 778; 15 CFR 799

Completed:

Reason	Date	FR Cite
Final Action	10/19/94	59 FR 52685

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440

RIN: 0694–AB05

424. FOREIGN POLICY CONTROLS: CRIME CONTROL, IMPLEMENTS OF TORTURE, AND ARMS EMBARGO AGAINST RWANDA

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

DOC—BXA

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	11/28/95	60 FR 58512
Final Action Effective	11/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440

RIN: 0694–AB08

425. REVISIONS AND CLARIFICATIONS TO PERMISSIVE REEXPORT AND GENERAL LICENSE GLX

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Withdrawn - Combined with RIN 0694-AB30	03/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Crowe
Phone: 202 482-2440

RIN: 0694–AB17

426. RENUMBERING OF EXPORT CONTROL CLASSIFICATION NUMBERS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 799

Completed:

Reason	Date	FR Cite
Withdrawn - Combined With RIN 0694-AA67	03/25/96	61 FR 12714

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Crowe
Phone: 202 482-2440

RIN: 0694–AB27

427. REVISION TO THE COMMERCE CONTROL LIST: ITEMS CONTROLLED FOR NUCLEAR NONPROLIFERATION REASONS

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Final Action	02/01/96	61 FR 35550
Final Action Effective	02/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Cook
Phone: 202 482-2440

RIN: 0694–AB29

428. EXPANSION OF GENERAL LICENSE GLX

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 771

Completed:

Reason	Date	FR Cite
Final Action	12/20/95	56 FR 65526
Final Action Effective	12/20/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Lewis
Phone: 202 482-4196
Fax: 202 482-4094

RIN: 0694–AB30

429. EXPORTS TO IRAN: IMPOSITION OF SANCTIONS

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Final Action	03/05/96	61 FR 8471
Final Action Effective	03/05/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440

RIN: 0694–AB31

DEPARTMENT OF COMMERCE (DOC)
National Institute of Standards & Technology (NIST)

Long-Term Actions

430. FASTENER QUALITY

Priority: Other Significant

CFR Citation: 15 CFR 280

Timetable:

Action	Date	FR Cite
NPRM	08/17/92	57 FR 37032
NPRM Comment Period End	11/02/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Belinda L. Collins
Phone: 301 975-4000

RIN: 0693–AA90

DEPARTMENT OF COMMERCE (DOC)

Prerule Stage

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

431. GENERAL PROVISIONS FOR DOMESTIC FISHERIES—STANDARD DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 620; 50 CFR 601; 50 CFR 605

Legal Deadline: None

Abstract: This action would standardize definitions for: vessels-for-hire engaged in recreational fishing (VHERF), charter boat, headboat; and marine recreational and commercial fishing and fishermen.

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	05/00/96	
NPRM	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries, Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AG46

432. TAKE OF MARINE MAMMALS BY THE U.S. NAVY INCIDENTAL TO MILITARY ACTIVITIES IN THE SOUTH ATLANTIC OF THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 228; 50 CFR 216

Legal Deadline: None

Abstract: NMFS expects the U.S. Navy to petition for regulations that would authorize a small take of marine mammals incidental to ship shock trials in oceanic waters offshore Florida or Virginia. Under the Marine Mammal Protection Act, NMFS is allowed to authorize these takings if certain findings are made and regulations are issued that include requirements for monitoring and reporting.

Timetable:

Action	Date	FR Cite
ANPRM	04/01/96	
ANPRM Comment Period End	05/01/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kenneth Hollingshead, Fishery Biologist, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2055

RIN: 0648–AG55

DEPARTMENT OF COMMERCE (DOC)

Proposed Rule Stage

National Oceanic and Atmospheric Administration (NOAA)

433. • NATIONAL WEATHER SERVICE MODERNIZATION CRITERIA FOR CLOSURE CERTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-567; 15 USC 313 note

CFR Citation: 15 CFR 946; 15 CFR 946 app A

Legal Deadline: Final, Statutory, October 29, 1993.

Abstract: The Secretary of Commerce, in consultation with the National Research Council and the Modernization Transition Committee, and after notice and opportunity for public comment, shall publish in the Federal Register modernization criteria (including all requirements and procedures) for certifying action to close a field office under section 706 of Public Law 102-567.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nicholas Scheller, Implementation Manager, Department of Commerce, National Oceanic and Atmospheric Administration, Room 9348, 1325 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-0454
Fax: 301 713-1002

RIN: 0648–AI90

NATIONAL MARINE FISHERIES SERVICE

434. SCIENTIFIC RESEARCH—DOMESTIC AND FOREIGN FISHING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 611; 50 CFR 620

Legal Deadline: None

Abstract: This rule would define scientific research, exempted fishing, and exempted educational activities under the Magnuson Act, and would standardize procedures for issuance of permits for exempted activities and exempted educational activities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Sectors Affected: 091 Commercial Fishing

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Mgmt., Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AC61

DOC—NOAA

Proposed Rule Stage

435. FISHERY MANAGEMENT PLAN FOR THE QUEEN CONCH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq, Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: Not yet determined

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory. NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: This new Fishery Management Plan for the Queen Conch Fishery of Puerto Rico and the U.S. Virgin Islands will establish Federal management measures to rebuild the overfished queen conch resource off Puerto Rico and the U.S. Virgin Islands. Proposed measures include minimum size restrictions and bag limits for commercial and recreational fisheries.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	06/00/96	
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AD91

436. SECRETARIAL AMENDMENT TO THE FMP FOR ATLANTIC SWORDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 630

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory. NPRM 15 days and final action 110 days after beginning of review.

Abstract: FMP Amendment to reduce overfishing by placing a moratorium on issuance of new permits and developing a limited entry system of management.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	
Final Action	12/00/96	
Final Action Effective	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AE09

437. AMENDMENT 10 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 652

Legal Deadline: NPRM, Statutory. NPRM 15 days from date amendment review begins and council is sent copy for comments.

Abstract: This amendment would manage the fishery for mahogany clams (ocean quahogs) off a portion of the coast of Maine, in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AF41

438. REGULATORY AMENDMENT REGARDING MESH SIZE IN TRAWLS AND ROCK SOLE VESSEL INCENTIVE PROGRAM STANDARDS IN ALASKA GROUNDFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: This regulatory amendment specifies trawl mesh size to reduce bycatch of undersized fish and reduce waste in the Alaska groundfish fisheries.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AF57

439. AMENDMENT 1 TO THE FMP FOR THE SCALLOP FISHERY OFF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 673

Legal Deadline: NPRM, Statutory. Final, Statutory. NPRM 15 days and final action 110 days after receipt from the Regional Fishery Management Council.

Abstract: This FMP amendment authorizes a scallop fishery in Federal waters off Alaska and establishes measures necessary for the conservation and management of the scallop resource in Federal waters.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AF81

440. FISHERY MANAGEMENT PLAN FOR ATLANTIC TUNAS

Priority: Other Significant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 285

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after beginning of review.

Abstract: This Fishery Management Plan will establish management measures for Atlantic tunas under authority of the Magnuson Act, as well as the Atlantic Tunas Convention Act, as set forth in the 1990 amendments to the Magnuson Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
NPRM Comment Period End	12/00/96	
Final Action	02/00/97	
Final Action Effective	03/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-7334

RIN: 0648–AF86

441. FISHERY MANAGEMENT PLAN FOR TILEFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: Not yet determined

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
NPRM 15 days and final action 110 days after receipt from a regional fishery management council.

Abstract: This FMP would manage tilefish (Lopholatilus chamaeleonticeps) in the EEZ along the Atlantic Coast north of the Virginia/North Carolina border to rebuild the stock.

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	
NPRM Comment Period End	02/00/97	
Final Action	04/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9300

RIN: 0648–AF87

442. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC BILLFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 644

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
NPRM 15 days and final action 110 days after beginning of review.

Abstract: This amendment will define overfishing for Atlantic billfish, clarify the plan objectives and the definition of optimum yield, and implement regulatory changes to reduce fishing mortality.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	
Final Action	10/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-7334

RIN: 0648–AF88

443. AMENDMENT 8 TO THE PACIFIC COAST GROUNDFISH FMP TO IMPLEMENT INDIVIDUAL QUOTAS FOR THE FIXED-GEAR SABLEFISH FISHERY (OR REGULATORY AMENDMENT FOR NONTRAWL TRIP LIMITS)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Pacific Fishery Management Council.

Abstract: Regulations would implement Amendment 8 to the Pacific Coast Groundfish FMP to establish an individual quota system for sablefish caught with fixed gear off Washington, Oregon, and California. Alternatively a regulatory amendment may implement trip limits in the nontrawl sablefish fishery.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	
Final Action	03/00/97	
Final Action Effective	04/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AF90

444. AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 642

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days from receipt from a Regional Fishery Management Council.

Abstract: Amendment 8 management measures being considered include: permits for commercial mackerel dealers; a 3,000-lb. commercial daily trip limit for Atlantic group king mackerel; extending the cobia management area to include the exclusive economic zone (EEZ) from Virginia to New York; reestablishing the boundary separating Gulf and Atlantic groups of king mackerel; a daily commercial trip limit for cobia; at-sea vessel-to-vessel transfer of Atlantic group Spanish mackerel among commercial vessels in the EEZ off Florida; providing the South Atlantic Fishery Management Council with the authority to decide on the management measures (quotas, trip limits, etc.) for Gulf group king mackerel in the seasonal fishery (November-March) in the area off the Florida east coast; and dividing the hook-and-line commercial quota of Gulf group king mackerel in the Florida west coast subzone equitably between user groups.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AG25

445. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 659

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from a Regional Fishery Management Council.

Abstract: Amendment 1 would add rock shrimp to the management unit of the Fishery Management Plan for the Shrimp Fishery of the South Atlantic; prohibit trawling for rock shrimp in designated areas; and require vessel and dealer permits.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AG26

446. AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 646

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
NPRM 15 days and final action 110 days from receipt from a Regional Fishery Management Council.

Abstract: Amendment 8 would establish a minimum size limit of 15 inches (tail length), a bag limit, and a commercial trip limit for red porgy; establish similar measures for vermillion snapper; increase the minimum size limit for black sea bass and establish a zone where the use of sea bass pots would be prohibited within 30 miles of shore from approximately Frying Pan Shoals, North Carolina to Cape Roman, South Carolina; and change the minimum size limit and bag limit for greater amberjack. Other possible measures include: changing the overfishing definition; establishing a transit zone for possession of fish traps in the Key West, Florida area, and clarifying the use of bottom longlines in the south Atlantic.

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	
NPRM Comment Period End	03/00/97	
Final Action	05/00/97	
Final Action Effective	06/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AG27

447. AMENDMENTS 8, 11, AND 12 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 641

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
NPRM 15 days and final action 110 days from receipt from a Regional Fishery Management Council.

Abstract: Amendment 8 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) establishes individual transferable quota (ITQ) system to control access to the Gulf of Mexico commercial red snapper fishery. System includes: a mechanism for the allocation of quota shares and ITQ coupons with an initial appeals process; restrictions on the transfer of ITQ shares; provisions on how coupons are used when landing fish; reporting requirement for fishermen and dealers; and provisions for issuance of coupons annually in relation to the current commercial quota. Amendment 11 approved measures: revise the FMP's framework procedure for making annual management adjustments; restrict the sale/purchase of reef fish harvested from the exclusive economic zone to permitted reef fish permits and fish trap endorsements under specified circumstances; implement a new reef fish permit moratorium; and require charter vessel and headboat permits. Amendment 11 disapproved and resubmitted measures would: revise the

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definition for optimum yield for each management unit species; all total allowable catch to exceed maximum sustainable yield within strict limits for stocks not overfished; and respecify the generation time multiplier for stock recovery periods. Amendment 12 would: 1) remove future red snapper size limit increases for the commercial sector; 2) establish aggregate daily bag limits; and 3) revise amberjack size and bag limits.

Timetable:

Amendment 11 (approved measures):
NPRM 09/12/95 (60 FR 47341)
NPRM Comment Period End 10/27/95
Amendment 11 (resubmitted revised measures):
NPRM 04/00/96
NPRM Comment Period Ends 05/00/96
FINAL RULE 06/00/96
Amendment 11(approved measures):
FINAL RULE 12/15/95 (60 FR 64340)
Final Rule Effective 01/01/96 (60 FR 64350)
Amendment 12:
Final Rule 04/00/96
NPRM 05/00/96
NPRM Comment Period End 06/00/96
Final Rule Effective 07/00/96
Amendment 8:
NPRM 08/29/95 (60 FR 44825)
NPRM Comment Period Ends 10/11/95 (60 FR 44925)
Final Rule: 11/29/95 (60 FR 61200)
Final Action Effective 04/00/96

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AG29

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448. REGULATORY AMENDMENT TO PROHIBIT USE OF OPEN ACCESS AND LIMITED ENTRY GEAR ON THE SAME TRIP FOR THE PACIFIC COAST GROUNDFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This rule would not allow a vessel to use both open access gear and limited entry gear on the same fishing trip. Allowing both gears on the same trip causes potential problems in enforcement and determination of which trip limits apply.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	07/00/96	
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AG29

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449. REGULATORY AMENDMENT TO REQUIRE PROCESSING VESSELS IN THE POLLOCK FISHERY TO WEIGH CATCH AT SEA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: Regulatory amendment to require processor vessels participating in the pollock fishery to weigh all catch on a scale before processing or discarding.

Timetable:

Action	Date	FR Cite
ANPRM	02/20/96	61 FR 6337
ANPRM Comment Period End	03/21/96	
NPRM	02/00/97	
NPRM Comment Period End	04/00/97	
Final Action	07/00/97	
Final Action Effective	01/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 98802
Phone: 907 586-7228

RIN: 0648–AG32

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450. AMENDMENT 33 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BSAI AND AMENDMENT 37 TO THE FMP FOR GROUNDFISH OF THE GOA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory.
Final, Statutory.
NPRM 15 days and final action 110 days from receipt from the Regional Fishery Management Council.

Abstract: Allow processing (freezing) of non-individual fishing quota species on vessels using sablefish catcher vessel individual fishing quota and disallowing processing of non-individual fishing quota species on vessels using halibut catcher vessel individual fishing quota.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	06/00/96	
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AG41

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451. REGULATORY AMENDMENT TO IMPOSE RESTRICTIONS ON FISHING BLACK ROCKFISH OFF OREGON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This regulatory action would impose trip limits and time/area closures on black rockfish fishing off the coast of Oregon in order to preserve declining stocks of black rockfish. Restrictions on harvest and areas fished would adversely affect fishermen in the short term, but these measures are designed to protect black rockfish and encourage the rebuilding of stocks in the long term. These measures will be developed by the State of Oregon and complement measures in state waters.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	07/00/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AG30

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452. REGULATORY AMENDMENT FOR MANAGING PELAGIC FISHERIES BY U.S. VESSELS BEYOND EEZ THROUGHOUT PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 685

Legal Deadline: None

Abstract: This regulatory amendment would extend permit, reporting, and observer placement requirements on longline vessels of the U.S. that are fishing stocks in the management unit for the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region beyond the exclusive economic zone in the Pacific Ocean. The rule is necessary for comprehensive monitoring of all vessels fishing common stocks and possibly affecting the status of the shared stocks, other fishery interests, or protected resources so that the need for conservation and management measures can be determined.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	
Final Action	11/00/96	
Final Action Effective	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90804-4213
Phone: 310 980-4001

RIN: 0648–AG85

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453. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 669

Legal Deadline: NPRM, Statutory.
Final, Statutory.
NPRM 15 days and final action 110 days from receipt from a Region al Fishery Management Council.

Abstract: Amendment 3 would: revise the overfishing definition for red hind to ensure better conservation of this highly utilized resource and restrict the use of gillnets.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	08/00/96	
Final Action	10/00/96	
Final Action Effective	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AG87

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454. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR CORALS AND REEF-ASSOCIATED PLANTS AND INVERTEBRATES FOR PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 670

Legal Deadline: None

Abstract: Amendment 1 would establish marine conservation districts to conserve representative reef areas and fishery habitat in the exclusive economic zone of the Caribbean.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	10/00/96	
Final Action	12/00/96	
Final Action Effective	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AG88

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455. REGULATORY AMENDMENT TO ADJUST RED SNAPPER MANAGEMENT MEASURES IN THE GULF OF MEXICO FOR 1996 SEASON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 641

Legal Deadline: None

Abstract: This regulatory amendment may include measures to adjust the Gulf of Mexico red snapper bag limits, size limits, quotas, trip limits and/or seasonal and area openings.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	
Second Regulatory Amendment		
Final Rule 12/00/96		
Final Rule Effective 01/00/97		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AG89

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456. GENERIC FISHERY MANAGEMENT PLAN AMENDMENT FOR THE DEFINITION OF TRAPS IN THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 640; 50 CFR 641; 50 CFR 654; 50 CFR 658

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days from receipt from a Regional Fishery Management Council.

Abstract: This amendment would: (1) modify the construction specifications for a spiny lobster trap used in the exclusive economic zone (EEZ) of the Gulf of Mexico, and establish specifications for stone crab trap used in the Gulf EEZ; (2) prohibit the use of blue crab traps in the EEZ off Florida; and (3) establish geographic and reef fish bycatch restrictions for traps other than reef fish traps area in the Gulf EEZ.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
NPRM Comment Period End	11/00/96	
Final Action	01/00/97	
Final Action Effective	02/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AG90

457. REGULATORY AMENDMENT FOR THE GULF OF ALASKA SEAMOUNT FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672

Legal Deadline: None

Abstract: To provide effective management tools for monitoring groundfish catch harvested seaward of the EEZ to discourage illegal harvests in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	07/00/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AG94

458. REGULATORY AMENDMENT ALLOWING EARLY INDIVIDUAL FISHING QUOTA FISHING IN THE ALEUTIAN ISLANDS AREA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 676

Legal Deadline: None

Abstract: To alter season opening date for sablefish in the Aleutian Islands subarea of the Bering Sea and Aleutian Islands groundfish fishery to relieve restrictions on a small number of vessels that traditionally fish in that area.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	09/00/96	
Final Action	11/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AG97

459. AMENDMENT 34 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BSAI

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 676

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and Final Action 110 days after receipt from the Regional Fishery Management Council.

Abstract: Increase personal/vessel use limits to relieve potentially unnecessary restrictions on Individual Fishing Quota use.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	
Final Action	11/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH02

460. AMENDMENT 26 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AND AMENDMENT 29 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Regional Fishery Management Council.

Abstract: Authorize voluntary retention and processing of salmon taken as bycatch in the Alaska trawl fisheries for donation to food bank organizations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH03

461. AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR THE SUMMER FLOUNDER FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 625

Legal Deadline: NPRM, Statutory, November 15, 1994.

Abstract: Amendment 8 would implement management measures for the scup fishery.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9250

RIN: 0648–AH05

462. FISHERY MANAGEMENT PLAN FOR BLACK SEA BASS NORTH OF CAPE HATTERAS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 637

Legal Deadline: NPRM, Statutory, November 15, 1994.

Abstract: The draft FMP has objectives to reduce fishing mortality to assure that overfishing does not occur, protect immature black sea bass to increase spawning stock biomass, and improve yield in the fisheries. Management measures contained in the draft FMP are designed to reduce exploitation rates in the fishery from the current amount of 41 percent to 14 percent by year 8 of the FMP. Measures include: (1) Minimum fish sizes and commercial gear regulations during the first two years of implementation, (2) a moratorium on entry to the commercial fishery, (3) permit requirements for commercial, party and charter boats and dealers; (4) operator permit requirements for commercial, party and charter boats; and (5) reporting requirements for commercial vessels, party and charter boats, and dealers.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	09/00/96	
Final Action	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 518 281-9250

RIN: 0648–AH06

463. REGULATORY AMENDMENT FOR MULTIPLE "A" PACIFIC GROUNDFISH LIMITED ENTRY PERMITS PER VESSEL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This regulatory action would amend Pacific Coast groundfish regulations to allow multiple "A" limited entry permits per vessel. This effectively may be accomplished by attaching trip limits to the permits rather than to the vessels.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	07/00/96	
Final Action	09/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AH07

464. REGULATORY AMENDMENT TO FACILITATE MONITORING AND ENFORCEMENT IN THE PACIFIC COAST GROUNDFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This action would implement new regulatory provisions and modify existing regulatory provisions to facilitate monitoring of fishing activities and enforcement in the Pacific Coast groundfish fishery. It also would make miscellaneous technical clarifications to existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	07/00/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AH21

465. FMP AMENDMENT 37 TO THE GROUNDFISH FISHERY OF THE BSAI

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.

NPRM 15 days and final action 110 days after receipt from the Regional Fishery Management Council.

Abstract: This FMP amendment would establish a trawl closure in a portion of Bristol Bay to reduce the number of female red king crab taken as bycatch in the Bristol Bay trawl fisheries and to reduce the overall bycatch rates of red king crab experienced by vessels using nonpelagic trawl gear to fish for groundfish.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	
Final Action	11/00/96	
Final Action Effective	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99807
Phone: 907 586-7228

RIN: 0648–AH28

466. AMENDMENT 6 TO THE FISHERY MANAGEMENT PLAN FOR AMERICAN LOBSTER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 649

Legal Deadline: None

Abstract: This amendment is designed to address overfishing of American lobster in four different effort management areas for this species. Measures may include effort control provisions such as trip limit-sea allocations or gear restrictions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
NPRM Comment Period End	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AH41

467. AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 658

Legal Deadline: None
NPRM 15 days and final action 110 days from receipt from Regional Fishery Management Council

Abstract: Amendment 9 would address the issue of the incidental catch (bycatch) of fish in shrimp trawls. Management measures being considered include: requiring the use of NMFS-approved bycatch reduction devices (BRDs)in the shrimp trawls in the exclusive economic zone (EEZ) of the Gulf of Mexico within the 110-fathom contour; requiring the use of NMFS-approved BRDs in shrimp trawls in specified areas of the Gulf of Mexico EEZ; criteria for NMFS approval of BRDs, including specifications for exclusion of bycatch and retention of shrimp; and seasonal and area restrictions to reduce bycatch.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	09/00/96	
Final Action	11/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AH52

468. REGULATORY AMENDMENT TO LIMITED ACCESS MANAGEMENT OF FEDERAL FISHERIES IN AND OFF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 676

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory.
NPRM 15 days and final action 110 days after receipt from the Fishery Management Council.

Abstract: Regulatory amendment to portions of the regulations implementing the Individual Fishing Quota Program for the Pacific halibut and sablefish fixed gear fisheries in and off of Alaska. This action will eliminate the 72-hour "fair start" provisions; eliminate owner onboard restriction; eliminate certified mail requirements; allow tagged fish to be landed without being debited to a person's individual fishing quota; and allow deliveries of individual fishing quota to tenders. (Omnibus II)

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH61

469. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC BLUEFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 628

Legal Deadline: None

Abstract: This amendment would revise the management of the fishery and include measures which will be specified annually for commercial quotas and recreational possession limits for Atlantic Bluefish in the U.S. EEZ.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Action	Date	FR Cite
NPRM Comment Period End	08/00/96	
Final Action	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AH63

470. AMENDMENT 39 TO THE FMP FOR GROUNDFISH FISHERY OF BSAI, AMENDMENT 41 TO THE FMP FOR GROUNDFISH OF THE GOA AND AMENDMENT 5 TO THE FMP FOR COMMERCIAL KING & TANNER CRAB FISHERIES OF THE BSAI

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 671; 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Regional Fishery Management Council.

Abstract: Amendments authorize implementation of a license limitation program.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	
Final Action	12/00/96	
Final Action Effective	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH65

471. FMP AMENDMENT 36 FOR THE GROUNDFISH FISHERY OF THE BSAI AND FMP AMENDMENT 39 FOR THE GROUNDFISH OF THE GOA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from a Regional Fishery Management Council.

Abstract: This regulatory amendment deletes osmerid and other forage species from the "other species" category to protect important forage fish. Osmerid species would either be established as a separate total allowable catch category or established as a prohibited species. The intent of this action is to prevent the development of a commercial fishery on important forage fish.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	
Final Action	11/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH67

472. FMP AMENDMENT 38 FOR THE GROUNDFISH FISHERY OF THE GOA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Regional Fishery Management Council.

Abstract: This FMP amendment makes changes to the Gulf of Alaska Pacific ocean perch rockfish rebuilding program.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	
Final Action	10/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH68

473. REGULATORY ADJUSTMENTS TO THE FMP FOR SHARKS OF THE ATLANTIC OCEAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 678

Legal Deadline: None

Abstract: Would allow for certain regulatory adjustments within the FMP Framework.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	
Final Action	06/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AH77

474. PLAN AMENDMENT TO FMP FOR SHARKS OF THE ATLANTIC OCEAN THAT WOULD LIMIT ENTRY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 678

Legal Deadline: None

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Abstract: Amendment would allow for permit moratorium/limited entry into the Commercial Shark Fishery.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	
Final Action	12/00/96	
Final Action Effective	01/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AH78

475. REGULATORY AMENDMENT REGARDING EXERCISE OF RIGHTS OF NORTHWEST TREATY INDIAN TRIBES TO HARVEST GROUNDFISH

Priority: Other Significant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: Regulations would establish the framework for affected Northwest Indian tribes to exercise their treaty rights to harvest groundfish, as officially recognized for the first time by the Federal Government in 1994. Most of the harvest takes place in the EEZ and is governed by the Pacific Coast Groundfish FMP. These regulations would be modeled on similar regulations for salmon and halibut, and would include relevant definitions and descriptions of the tribes' fishing areas.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BINC15700, Bldg. 1, Seattle, WA 98115
Phone: 206 526-6150

RIN: 0648–AH84

476. FISHERY MANAGEMENT PLAN FOR THE GOLDEN CRAB FISHERY OFF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This new Fishery Management Plan for the Golden Crab Fishery of the South Atlantic Region (FMP) would manage the golden crab fishery in the exclusive economic zone off the southern Atlantic states. The FMP would: (1) establish a controlled access program that would include restricted fishing zones and limit the number of vessels in the fishery; (2) prohibit the retention and sale of females; (3) minimize the take of immature males (escape openings); (4) specify authorized gear for the fishery (traps only); (5) establish minimum depth limits for the use of traps; (6) establish permit and reporting requirements for vessels and dealers to insure that adequate data are collected to monitor the fishery; (7) modify the definition of the "crustacean trap" in the regulations governing the South Atlantic snapper-grouper fishery to accommodate the use of traps in the golden crab fishery; and (8) establish a framework procedure to allow timely implementation of management measures to conserve the golden crab resource (quotas and total allowable catch, trip limits, seasonal and area closures, etc.).

Timetable:

Action	Date	FR Cite
ANPRM	04/07/95	60 FR 17770
ANPRM Comment Period End	05/08/95	
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive north, St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AH86

477. NOTICE OF CHANGES IN THE MANAGEMENT REGIMES FOR ATLANTIC AND GULF GROUPS OF KING AND SPANISH MACKEREL FOR THE 1996-97 FISHING YEAR

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 642

Legal Deadline: None

Abstract: This rule would change the total allowable catch (TAC) for the Atlantic and Gulf migratory groups of king and Spanish mackerel for the 1996-97 fishing year under framework regulatory adjustment procedures for the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
Final Action	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive north, St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AH13

478. ADVANCE NOTICE OF PROPOSED RULEMAKING FOR THE AMERICAN LOBSTER FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq; 16 USC 5101 et seq

CFR Citation: 50 CFR 649

Legal Deadline: None
NPRM 15 days and final action 110 days from receipt from the Regional Fishery Management Council

Abstract: The advance notice of proposed rulemaking requests comments on options under consideration for lobster management. These options are: (1) withdrawing the FMP and implementing measures under the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA) or; (2) preparing a Secretarial amendment under the Magnuson Act.

Timetable:

Action	Date	FR Cite
ANPRM	09/18/95	60 FR 48086
ANPRM Comment Period End	11/02/95	
NPRM	05/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AI14

479. AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 659

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from a Regional Fishery Management Council.

Abstract: Amendment 2 would add brown and pink shrimp to the management unit of the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region, define overfishing for brown and pink shrimp, require the use of certified Bycatch Reduction Devices (BRDs) in all penaeid shrimp trawls in the exclusive economic zone of the south Atlantic, and establish a BRD certification process that will specify certification criteria for new or modified BRDs.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	06/00/96	
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AI15

480. WITHDRAWAL OF FEDERAL FISHERIES REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 625; 50 CFR 628; 50 CFR 640; 50 CFR 654; 50 CFR 656; 50 CFR 662; 50 CFR 674

Legal Deadline: None

Abstract: Withdraws Federal fishery regulations that can be managed adequately replaced by state fishery management regimes or that are no longer necessary.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI16

481. CONSOLIDATION OF GENERAL FISHERY REGULATIONS OF THE UNITED STATES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600; 50 CFR 601; 50 CFR 602; 50 CFR 605; 50 CFR 611; 50 CFR 619; 50 CFR 620

Legal Deadline: None

Abstract: Consolidates general fishery regulations under the Magnuson Act to enhance usability and reduce regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	
Final Action	01/00/97	
Final Action Effective	01/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI17

482. CONSOLIDATION OF FISHERIES REGULATIONS OF ALASKA

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 671; 50 CFR 672; 50 CFR 675; 50 CFR 676; 50 CFR 677

Legal Deadline: None

Abstract: Consolidates existing marine fishery regulations of Alaska to enhance usability and reduce regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	
Final Action	01/00/97	
Final Action Effective	01/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI18

483. CONSOLIDATION OF FISHERIES REGULATIONS OF THE PACIFIC COAST AND WESTERN PACIFIC

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 661; 50 CFR 663; 50 CFR 680; 50 CFR 681; 50 CFR 683; 50 CFR 685

Legal Deadline: None

Abstract: Consolidates existing marine fishery regulations of the Pacific Coast (except Alaska) and Western Pacific to enhance usability and reduce regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	
Final Action	01/00/97	
Final Action Effective	01/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI19

484. CONSOLIDATION OF FISHERIES REGULATIONS OF THE SOUTHEASTERN UNITED STATES, PUERTO RICO, AND THE U.S. VIRGIN ISLANDS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 638; 50 CFR 641; 50 CFR 645; 50 CFR 646; 50 CFR 647; 50 CFR 659; 50 CFR 669

Legal Deadline: None

Abstract: Consolidates existing marine fishery regulations of the southeastern United States, Puerto Rico, and the U.S. Virgin Islands to enhance usability and reduce regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	
Final Action	01/00/97	
Final Action Effective	01/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI20

485. CONSOLIDATION OF FISHERIES REGULATIONS OF THE NORTHEASTERN UNITED STATES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 625; 50 CFR 650; 50 CFR 651; 50 CFR 652; 50 CFR 655; 50 CFR 657

Legal Deadline: None

Abstract: Consolidates existing regulations for marine fisheries of the northeastern United States to enhance usability and reduce regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	
Final Action	01/00/97	
Final Action Effective	01/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI21

486. CONSOLIDATION OF INTERNATIONAL FISHERIES REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 951 to 961; 16 USC 1801 et seq; 16 USC 773 to 773k; 16 USC 3636(b)

CFR Citation: 50 CFR 246; 50 CFR 280; 50 CFR 281; 50 CFR 282; 50 CFR 298; 50 CFR 299; 50 CFR 300; 50 CFR 301; 50 CFR 371; 50 CFR 380; 50 CFR 695

Legal Deadline: None

Abstract: Consolidates existing international fishery regulations to enhance usability and reduce regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI22

487. 1996 TOTAL ALLOWABLE CATCH OF ATLANTIC SWORDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 630

Legal Deadline: None

Abstract: This action will establish the total allowable catch of Atlantic swordfish for 1996. Trip limits, landings requirements, and minimum size will also be adjusted.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI23

488. FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 652

Legal Deadline: None

Abstract: These quotas establish allowable harvests of surf clam and ocean quahog from the exclusive economic zone in 1997.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
NPRM Comment Period End	11/00/96	
Final Action	01/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9300

RIN: 0648–AI26

489. AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 652

Legal Deadline: None

Abstract: Amendment would revise the overfishing definitions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	07/00/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9300

RIN: 0648–AI27

490. CONSOLIDATION OF ATLANTIC HIGHLY MIGRATORY SPECIES REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 285; 50 CFR 630; 50 CFR 644; 50 CFR 678

Legal Deadline: None

Abstract: Consolidates existing Atlantic highly migratory species regulations to enhance usability and reduce regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	10/00/96	
Final Action	11/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI28

491. 1996 ATLANTIC TUNA FISHERIES QUOTAS AND EFFORT CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq

CFR Citation: 50 CFR 285

Legal Deadline: None

Abstract: Sets fishing quotas and effort controls for 1996 Atlantic tuna fisheries.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	
Final Action	06/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI29

492. REGULATORY AMENDMENT REQUIRING LONGLINE VESSEL OPERATORS IN THE WESTERN PACIFIC PELAGICS FISHERIES TO CARRY OBSERVERS AT NO COST TO U.S. GOVERNMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 685

Legal Deadline: None

Abstract: The current NMFS-funded longline fishery observer program would be replaced by an industry-funded program. NMFS would certify third-party providers of observer services, and vessel owners would contract with these third parties for observer services when advised that an observer must be carried by the vessel. An Observer Plan prepared by NMFS would establish the roles and relationships of NMFS, observer providers, and vessel owners.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Action	Date	FR Cite
NPRM Comment Period End	07/00/96	
Final Action	08/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AI31

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493. AMENDMENT 9 TO THE WESTERN PACIFIC CRUSTACEAN FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 681

Legal Deadline: None

Abstract: Amendment 9 to the Fishery Management Plan for Crustacean Fisheries of the Western Pacific Region would establish a new harvest limitation program for the lobster fishery in the Northwestern Hawaiian Islands. An annual harvest guideline would be set based on a constant harvest rate and a fixed and explicit risk of overfishing. All lobsters caught could be retained. Season and area closures, limited entry, and reporting requirements would be unchanged. Framework procedures for future regulatory changes would be set, including direct closure of the fishery by the Regional Director when he/she projects the harvest guideline will have been reached.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AI32

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494. REGULATORY AMENDMENT TO CHANGE THE START OF THE WHITING REGULAR SEASON TO MAY 15 NORTH OF 42 DEGREES NORTH LATITUDE AND CHANGE THE START OF THE NONTRAWL SABLEFISH REGULAR SEASON TO SEPTEMBER 1

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This regulation would shift the opening of the large-scale, "regular season" for Pacific whiting from April 15 to May 15 north of 42 degrees N. lat. A month delay is expected to result in better quality fish (since, in April, some are still in poor condition after spawning in the winter), greater dispersion of whiting along the coast (they migrate from south to north during the fishing season, with larger fish migrating further north), and reduced bycatch of some species, particularly chinook salmon, if the fishery occurs as it did in 1995. This action would also change the nontrawl sablefish season opening from August 6 to September 1 to enable the fleet to take better advantage of alternate fishing opportunities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	
Final Action	06/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AI34

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495. AMENDMENT 6 TO THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 650

Legal Deadline: None

Abstract: Fishing effort for this fishery would be further consolidated through either individual transferable quotas or days at sea.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AI36

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496. REGULATORY AMENDMENT TO ADJUST THE TOTAL ALLOWABLE CATCH FOR ROYAL RED SHRIMP IN THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 658

Legal Deadline: None

Abstract: In accordance with the framework procedures established under Amendment 8 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, this regulatory amendment would temporarily increase the total allowable catch for royal red shrimp by 30 percent each year for two years from 392,000 pounds to 509,600 pounds.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	07/00/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AI39

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497. • REGULATORY AMENDMENT TO INCLUDE THE CITY OF AKUTAN AS A COMMUNITY DEVELOPMENT QUOTA COMMUNITY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: None

Abstract: Regulatory amendment to include city of Akutan as a Community Development Quota community, and to remove authority to use scale weights on vessels processing community development quota pollock outside of State of Alaska waters.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	06/00/96	
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AI46

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498. • AMENDMENT 14 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 641

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days from receipt from a Regional Fishery Management Council.

Abstract: Amendment 14 includes various options to modify the moratorium on new fish trap indorsements, scheduled to expire in February 1997. Amendment 14 also includes an option to ban the use of fish traps south of 24.9 degrees N. latitude. Amendment 14 also may modify the FMP's framework procedure to state that the Regional Director may reopen the commercial fishery to achieve that sector's allocation, without proposed and final rules. Amendment may also provide for transfers of existing reef fish permits obtained by operators' earned income qualifications, without sale of vessel.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	07/00/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive H, St. Petersburg, Florida 33702-2432
Phone: 813 570-5301

RIN: 0648–AI47

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499. • AMENDMENT 45 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672

Legal Deadline: None

Abstract: Authorize the establishment of pollock seasons in regulations and associated regulatory amendment to establish three seasonal allowances of the western and central Gulf of Alaska total allowable catch amounts.

Timetable:

Action	Date	FR Cite
NPRM	03/12/96	61 FR 9972
NPRM Comment Period End	04/22/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AI56

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500. • AMENDMENT 42 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AND AMENDMENT 42 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 676

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Fishery Management Council.

Abstract: Amendments would authorize the use of quota shares assigned to a vessel size category to be used on a vessel in that category or on a vessel in a smaller size category.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AI57

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501. • REGULATORY AMENDMENT TO DELAY THE START DATE OF THE OFFSHORE BERING SEA POLLOCK NON-ROE SEASON FROM AUGUST 15 TO SEPTEMBER 1

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: None

Abstract: Regulatory amendment (or interim final rule) that delays the offshore component pollock non-roe ("B") season from August 15 to September 1 to provide the opportunity for at-sea pollock processors to participate in processing of late season salmon runs.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AI58

502. • NEGOTIATED RULEMAKING ON MID-ATLANTIC TUNA FISHERY DISPUTE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 285; 50 CFR 630; 50 CFR 644; 50 CFR 678

Legal Deadline: None

Abstract: This action involves negotiations between commercial and recreational fisheries and other parties, affected by a gear/grounds dispute over fishing for tuna in the Mid-Atlantic area. Negotiations may lead to a consensus agreement in the form of a proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary C. Matlock, Director, Office of Sustainable Fisheries, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334
Fax: 310 713-0596

RIN: 0648–AI60

503. • AMENDMENT 43 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AND AMENDMENT 43 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 676

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Regional Fishery Management Council.

Abstract: Amendments would authorize changes to sweep-up provisions under the Individual Fishing Quota Program.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	
Final Action	10/00/96	
Final Action Effective	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AI61

504. • AMENDMENT 41 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Regional Fishery Management Council.

Abstract: Amendment authorizes measures to close the nearshore Bristol Bay area to protect crab habitat.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	
NPRM Comment Period End	04/00/97	
Final Action	06/00/97	
Final Action Effective	07/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AI62

505. • AMENDMENT 44 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AND AMENDMENT 44 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from the Regional Fishery Management Council.

Abstract: Amendments will revise the current overfishing definitions.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	
Final Action	11/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric

Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AI63

506. • REGULATORY AMENDMENT TO ESTABLISH A DATE OF DECEMBER 1 FOR THE REOPENING OF A BERING SEA POLLOCK AND/OR COD FISHERY IF SUFFICIENT AMOUNTS OF FISH REMAIN FOR A DIRECTED FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: None

Abstract: Regulatory amendment that establishes a date of December 1 for the reopening of a previously closed Bering Sea pollock or a Pacific cod fishery if sufficient amounts of fish remain for a directed fishery. The intent of this action is to establish a date for reopening a fishery late in the year if remaining quota amounts exist so that industry members may adjust operating plans to take advantage of a late season, short-term opening in the most cost effective manner possible.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	09/00/96	
Final Action	10/00/96	
Final Action Effective	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AI64

507. • REGULATORY AMENDMENT TO REVISE MAXIMUM ALLOWABLE BYCATCH AMOUNTS ESTABLISHED FOR THE ALASKA GROUNDFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: Regulatory amendment to revise maximum retainable bycatch amounts established for the groundfish fisheries. These amounts are established in regulations to limit the retainable bycatch of groundfish species closed to directed fishing. Revisions to certain maximum retainable bycatch amounts are necessary to reduce the opportunity for covert target operations on species closed to directed fishing and to address recent changes to fishing operations.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	09/00/96	
Final Action	11/00/96	
Final Action Effective	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AI65

508. • REGULATORY AMENDMENT TO REQUIRE ELECTRONIC SUBMISSION BY ALASKA GROUNDFISH PROCESSORS OF WEEKLY PRODUCTION REPORTS AND CHECK IN/OUT REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: Regulatory amendment to require electronic submission of catch and processing location reports by processors participating in the Alaska groundfish fisheries. The extent of this action is to obtain more timely data on inseason fishing activities at less burden and cost to the industry and NMFS.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	09/00/96	
Final Action Effective	11/00/96	
Begin Review	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AI66

509. • REGULATORY AMENDMENT TO REVISE THE RECORDKEEPING AND REPORTING REQUIREMENTS FOR GROUNDFISH FISHERIES OFF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675; 50 CFR 301

Legal Deadline: None

Abstract: Regulatory amendment to revise portions of the recordkeeping and reporting requirements for the groundfish fisheries off of Alaska and combine the National Marine Fisheries Service and International Pacific Halibut Commission catcher vessel logbook requirements and add individual fishing quota information.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
NPRM Comment Period End	11/00/96	
Final Action	12/00/96	
Final Action Effective	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AI68

510. • NORTH PACIFIC FISHERIES RESEARCH PLAN AMENDMENT TO IMPLEMENT A "PAY AS YOU GO" OBSERVER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 677

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Proposed Rule Stage

Legal Deadline: None

Abstract: Plan amendment to implement a "pay as you go" observer program, replacing the Research Plan fee system.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	
Final Action	10/00/96	
Final Action Effective	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AI69

511. • AMENDMENT 46 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA A'D ALEUTIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 DAYS and final action 110 days after receipt from the Regional Fishery Management Council

Abstract: Amendment authorizes the allocation of Bering Sea and Aleutian Island Pacific cod among vessels using trawl, hook-and-line or pot, and jig gear.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	
Final Action	11/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AI70

512. • AMENDMENT 13 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 641

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days after receipt from a Regional Fishery Management Council.

Abstract: Amendment 13 would extend the duration of the Red Snapper trip limits and endorsement provisions until Amendment 8 is implemented or until replaced by an alternate plan to limit access to the commercial Red Snapper fishery. If neither of these options is possible, the endorsement system will terminate on December 31, 1997.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	06/00/96	
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, Florida 33702-2432
Phone: 813 570-5301

RIN: 0648–AI71

513. • AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE RED DRUM FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 653

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days from receipt from a Regional Fishery Management Council.

Abstract: Amendment 2 would modify the FMP's objectives, change the optimum yield and the total allowable catch (TAC) procedure, set TAC at zero, and modify the FMP's sections on habitat and recommendations to the states.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
NPRM Comment Period End	02/00/97	
Final Action	04/00/97	
Final Action Effective	05/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, Florida 33702-2432
Phone: 813 570-5301

RIN: 0648–AI73

514. • AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 646

Legal Deadline: NPRM, Statutory. Final, Statutory.
NPRM 15 days and final action 110 days from receipt from a Regional Fishery Management Council.

Abstract: Amendment 9 would establish a limited access system for the snapper-grouper fishery in the South Atlantic. Eligibility may be based on participants who have been in the fishery since the control date (July 30, 1991) who have reported all landings since that time. License limitation, effort units, and transferrable and non-transferable individual quotas will be considered. These measures will be considered in conjunction with vessel trip limits, area quotas, and fishing zones. The South Atlantic Council will also be considering regulations on the sale of fish caught under a bag limit.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	

DOC—NOAA

Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	12/00/96	
Interim Final Rule	02/00/97	
Final Action	03/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, Florida 33702-2432
Phone: 813 570-5301

RIN: 0648–AI74

515. • AMENDMENT 5 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SEA SCALLOP FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 650

Legal Deadline: None

Abstract: Amendment 5 would allow a closure off of Martha's Vineyard for an aquaculture project.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: AAndrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester MA 01930
Phone: 508 281-9200

RIN: 0648–AI77

516. • FISHERY MANAGEMENT PLAN FOR THE ATLANTIC HERRING FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This fishery management plan would supersede the preliminary management plan and regulate fishing activity in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
NPRM Comment Period End	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AI78

517. • PACIFIC WHITING ALLOCATION AMONG NON-TRIBAL SECTORS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: The current 3-year allocation for Pacific whiting is effective 1994-1996. Under that allocation, all vessels compete for the first 60% of the available whiting harvest guideline, and the last 40% is reserved for vessels that deliver whiting shoreside. A new allocation, or continuation of the old one, is expected in 1997 and beyond.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
NPRM Comment Period End	12/00/96	
Final Action	04/00/97	
Final Action Effective	05/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, Washington 98115-0070
Phone: 206 526-6150

RIN: 0648–AI80

518. • REVISION OF WHALING REGULATIONS TO UPDATE AND BROADEN SCOPE

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 916j

CFR Citation: 50 CFR 230

Legal Deadline: None

Abstract: This rule revises and updates the U.S. regulations concerning whaling, and broadens the regulations in case the International Whaling Commission should grant additional whale quotas to the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	04/00/96	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry Beasley, Director, Office of International Affairs, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2272

RIN: 0648–AI81

519. • AMENDMENT 12 TO FMP FOR SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 661

Legal Deadline: None

Abstract: This Amendment would establish specific protective standards for endangered and threatened runs of Pacific salmon, and set goals in the fishery management plan for weak and protected runs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
NPRM Comment Period End	12/00/96	
Final Action	03/00/97	
Final Action Effective	04/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Tribal, Federal

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700 Bldg 1, Seattle, Washington 98115-0070
Phone: 206 526-6150

RIN: 0648–AI82

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520. • AMENDMENT 7 TO THE AMERICAN LOBSTER FISHERY MANAGEMENT PLAN (FMP) AMENDMENT 8 TO THE ATLANTIC SEA SCALLOP FMP, AND AMENDMENT 8 TO THE NORTHEAST MULTISPECIES FMP

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 649; 50 CFR 650; 50 CFR 651

Legal Deadline: None

Abstract: Amendment 7 to the American Lobster Fishery Management Plan, Amendment 8 to the Atlantic Sea Scallop Fishery Management Plan, and Amendment 8 to the Northeast Multispecies Fishery Management Plan would implement framework actions to help resolve gear conflicts.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AI83

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521. • REGULATORY AMENDMENT TO REVISE THE PRODUCT RECOVERY RATE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: Regulatory amendment to revise certain product recovery rates for groundfish fisheries off of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	08/00/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, Alaska 99802
Phone: 907 586-7228

RIN: 0648–AI87

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522. • AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE SCALLOP FISHERY OFF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 673

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory. NPRM 15 days and final action 110 days from receipt from the Regional Fishery Management Council.

Abstract: Amendment would establish a moratorium on the entry of new vessels into the scallop fishery in Federal waters off Alaska to control continued growth in fishing capacity.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AI88

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523. SCREENING OF WATER DIVERSIONS TO PROTECT SACRAMENTO RIVER WINTER-RUN CHINOOK SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533 et seq

CFR Citation: 50 CFR 227; 50 CFR 222

Legal Deadline: None

Abstract: NMFS is considering proposing regulations under the Endangered Species Act that would establish screening requirements for water diversions from the Sacramento River and Delta to protect a listed species, the winter-run chinook salmon. There are over 2,000 unscreened diversions along the River and Delta. NMFS is concerned that these unscreened diversions may cause substantial losses of juvenile salmon.

Timetable:

Action	Date	FR Cite
ANPRM	10/18/93	58 FR 53703
ANPRM Comment Period End	12/18/93	
Extension of Comment Period for 90 Days	01/20/94	59 FR 3068
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jim Lecky, Chief, Protected Species Management Division, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802
Phone: 310 980-4015

RIN: 0648–AF80

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524. DESIGNATED CRITICAL HABITAT; PACIFIC STEELHEAD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: NPRM, Statutory, February 16, 1995. Final, Statutory, February 16, 1996.
Endangered Species Act section 4(b)(3)(D)(ii)

Abstract: The regulation will propose critical habitat designation for coastal steelhead populations that are proposed for listing under the Endangered Species Act in California, Oregon, and Washington.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
NPRM Comment Period End	01/00/97	
Final Action	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, F/PR8, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AG49

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525. DESIGNATED CRITICAL HABITAT; PACIFIC COHO SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: NPRM, Statutory, October 26, 1994. Final, Statutory, July 25, 1996.
Endangered Species Act sec. 4(b)(3)(D)(ii)

Abstract: The regulation will propose critical habitat designation for coastal coho salmon populations that are proposed for listing under the Endangered Species Act in California, Oregon, and Washington.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
NPRM Comment Period End	01/00/97	
Final Action	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, F/PR8, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AG56

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526. DESIGNATED CRITICAL HABITAT; UMPQUA RIVER SEA-RUN CUTTHROAT TROUT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: NPRM, Statutory, April 1, 1994. Final, Statutory, July 8, 1995. Endangered Species Act sec. 4(b)(3)(D)(ii)

Abstract: NMFS has issued a proposed rule to list the Umpqua River cutthroat trout in Oregon as endangered under the Endangered Species Act of 1973. NMFS has also determined that the Umpqua River cutthroat trout is a "species" as interpreted under the ESA. Upon completion of an analysis on the critical habitat for the Umpqua River cutthroat trout, NMFS plans to propose critical habitat for the species.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
NPRM Comment Period End	01/00/97	
Interim Final Rule	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, F/PR8, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AG58

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527. PROPOSED DESIGNATION OF CRITICAL HABITAT FOR PUGET SOUND SALMON STOCKS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq
The Endangered Species Act

CFR Citation: 50 CFR 226

Legal Deadline: NPRM, Statutory, March 14, 1995. Final, Statutory, March 14, 1996.
Endangered Species Act section 4(b)(3)(D)(ii)

Abstract: NMFS will propose critical habitat for Puget Sound salmon stocks if the species is/are proposed for listing under the Endangered Species Act. These stocks include (1) Hood Canal summer chum salmon, (2) Elwha River pink salmon, (3) Lower Dungeness River pink salmon, (4) North Fork Nooksack River spring chinook salmon, (5) South Fork Nooksack River spring chinook salmon, (6) Dungeness River spring chinook salmon, (7) Baker River sockeye salmon, (8) Discovery Bay chum salmon, and (9) White River spring chinook salmon. Mud Bay/Eld Inlet chum salmon were petitioned for listing on April 4, 1994, so this stock will be included in this rule, if warranted.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
NPRM Comment Period End	02/00/97	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-1401

RIN: 0648–AH11

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528. PROPOSED RULE TO PROVIDE REGULATIONS FOR PERMITS FOR CAPTURE, TRANSPORT, IMPORT AND EXPORT OF PROTECTED SPECIES FOR PUBLIC DISPLAY, AND FOR MAINTAINING A CAPTIVE MARINE MAMMAL INVENTORY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1372 (c)

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, January 1, 1995.

Abstract: This proposed rule would revise and simplify criteria and procedures specific to permits for taking, transporting, importing, and exporting protected species for public display and provide convenient formats for reporting marine mammal captive holdings and transports as required by

amendments made in 1994 to the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	06/01/96	
NPRM Comment Period End	07/01/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Terbush, Chief, Permits Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH26

529. PROPOSED RULE GOVERNING THE ISSUANCE OF PERMITS FOR MARINE MAMMAL PHOTOGRAPHY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1372 (c)(6)

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: This rule will provide for the issuance of permits to take marine mammals by only level B harassment for the purpose of educational or commercial photography.

Timetable:

Action	Date	FR Cite
NPRM	06/01/96	
NPRM Comment Period End	07/01/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Laurel Bryant, Marine Resources Management Specialist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH31

530. SHRIMP VESSEL REGISTRATION REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 227

Legal Deadline: None

Pending settlement agreement may impose legal deadline.

Abstract: NMFS proposes to require permits on shrimp vessels operating in Federal waters. This action is required by the 11/14/94 jeopardy biological opinion.

Timetable:

Action	Date	FR Cite
NPRM	04/01/96	
NPRM Comment Period End	05/01/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Therese Conant, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AH87

531. IDENTIFICATION OF SPECIAL SEA TURTLE CONSERVATION AREAS AND APPROPRIATE CONSERVATION MEASURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 227; 50 CFR 217; 50 CFR 222

Legal Deadline: None
Legal deadlines may be imposed by pending settlement agreement.

Abstract: NMFS proposes to amend the regulations protecting sea turtles (50 CFR parts 217 and 227, subpart D) to enhance their effectiveness in reducing sea turtle mortality resulting from shrimp trawling in the Atlantic and Gulf areas. Proposed amendments to strengthen the sea turtle conservation measures are: (1) Eliminate by December 31, 1996, the use of soft turtle excluder devices (TEDs) which have demonstrated reduced effectiveness under actual commercial fishing conditions; (2) require by December 31, 1996, the use of TEDs in try nets with a headrope length greater than 12 ft (3.6m) or a footrope length greater than 15 ft (4.6m); (3) establish Shrimp Fishery Sea Turtle Conservation Areas (SFSTCAs) in the northwestern Gulf of Mexico and in the Atlantic area consisting of the offshore waters out to 10 nautical miles (nm)(18.5km) along the coasts of Louisiana and Texas from the Mississippi River South Pass to the U.S.-Mexico border, and along the coasts of Georgia and South Carolina from the Georgia-Florida border to the North Carolina-South Carolina border; (4) implement the TED requirements of items (1) and (2) and prohibit the use of bottom-opening hard TEDs in the two SFSTCAs when a final rule becomes effective; (5) reduce nearshore

Timetable:

Action	Date	FR Cite
ANPRM	09/13/95	60 FR 47544
ANPRM Comment Period End	11/13/95	
NPRM	04/00/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONTINUED: shrimp trawling effort by prohibiting fishing in the Texas portion of the Gulf SFSTCA for a time period approximately 3 weeks prior to and 3 weeks after the Texas Gulf shrimp fishery closure by shrimp trawlers greater than 60 ft (18.3m) in length and by shrimp trawlers with a total headrope length among all nets rigged for fishing greater than 100 ft (30.5m)

Agency Contact: Russell Bellmer, Chief, Endangered Species Division, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AH89

532. • IMPLEMENTATION OF 1996 MMPA AMENDMENTS AFFECTING YELLOWFIN TUNA PURSE SEINE FISHING IN THE EASTERN TROPICAL PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: This rule would propose implementation of the 1996 amendments to the Marine Mammal Protection Act regarding regulation of the U.S. yellowfin tuna fishery and the importation of yellowfin tuna into the United States from other harvesting nations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Legislation amending the MMPA regarding the yellowfin tuna fishery will require implementation of regulations 3 months after the effective date of the legislation.

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AI85

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

533. THUNDER BAY NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 to 1445

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Thunder Bay if the area is designated as a national marine sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Completion of this regulation within the dates projected in the timetable is subject to the availability of appropriated funds for NOAA after March 15, 1996. At this time NOAA anticipates that sufficient funds will be appropriated to complete this project.

Agency Contact: James Lawless, Acting Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/0RM2), Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AE41

534. ALLOWANCE OF SMALL-SCALE NON-INTRUSIVE JADE COLLECTING IN MONTEREY BAY NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1434(a)(5)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The National Ocean Service, Sanctuaries and Reserve Division (SRD) is issuing an ANPRM to inform the public that it is considering allowing small-scale, non-intrusive jade collecting in the MBNMS, and to invite written comments, advice, and recommendations. There has been public interest in allowing jade collection in the MBNMS and this action will respond to and address those interests. If SRD determines to amend the regulations, it will issue a proposed rule with an additional 45-day comment period.

This action is considered not significant because the advance notice of proposed rulemaking simply presents an issue and course of action under consideration by SRD and requests comments from the public. This action will ensure that SRD takes into account all views on this issue. This action does not have an annual effect on the economy of $100 million or more, nor does it adversely effect in a material way the economy, environment, public health or safety.

Timetable:

Action	Date	FR Cite
ANPRM	08/09/95	60 FR 40540
ANPRM Comment Period End	09/08/95	
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Completion of this regulation within the projected dates in the timetable is subject to the availability at appropriated funds for NOAA after March 15, 1996. At this time, NOAA anticipates that sufficient funds will be appropriated to completed this project.

Agency Contact: Elizabeth Moore, Sanctuaries and Reserves Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM2), Silver Spring, MD 20910
Phone: 301 713-3145

RIN: 0648–AI06

535. COASTAL ZONE MANAGEMENT PROGRAM DEVELOPMENT AND APPROVAL REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Coastal Zone Management Act, as amended; 16 USC 1451 et seq

CFR Citation: 15 CFR 923

Legal Deadline: None

Abstract: NOAA plans to propose revising the coastal zone management program development and approval regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/11/96	61 FR 9746
NPRM Comment Period End	04/25/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Completion of this regulation revision within the dates projected in the timetable is subject to the availability of appropriated funds for NOAA after March 15, 1996. At this time, NOAA anticipates that sufficient funds will be appropriated to complete this project.

Agency Contact: James P. Lawless, Deputy Director, Office of Ocean and Coastal Resource Mgmt., Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway 11th Floor, Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AI43

DOC—NOAA

Proposed Rule Stage

536. • REVISION OF OVERFLIGHT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 to 1445

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: These regulations are being revised to clarify that they are for resource protection purposes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Completion of this regulation within the dates projected in the timetable is subject to the availability of appropriated funds for NOAA after March 15, 1996. At this time, NOAA anticipates that sufficient funds will be appropriated to complete this project.

Agency Contact: James Lawless, Acting Chief, Sanctuaries and Resources Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM 2), Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AI91

OFFICE OF THE ADMINISTRATOR

537. LICENSING OF PRIVATE REMOTE-SENSING SPACE SYSTEMS

Priority: Other Significant

Legal Authority: 15 USC 5624; PL 102-555

CFR Citation: 15 CFR 960

Legal Deadline: None

Abstract: Pub. L. 102-555 amends the Land Remote Sensing Commercialization Act of 1984 to transfer the LANDSAT program from the Department of Commerce to a joint NASA/DOD office. However, title II retains the basic provisions of title IV of the previous act authorizing the Secretary of Commerce to license private operators of land remote-sensing space systems who are subject to U.S. jurisdiction. The Secretary is required to consult with the Secretaries of Defense and State, who are responsible for determining conditions to protect national security and foreign policy concerns, respectively. The recent Act removes a regulatory restriction which required operators to make the data available to all customers on the same terms and conditions.

Timetable:

Action	Date	FR Cite
ANPRM	01/18/89	54 FR 01945
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kira Alvarez, Staff Attorney, Department of Commerce, National Oceanic and Atmospheric Administration, 1325 East-West Highway, Room 18109, Silver Spring, MD 20910
Phone: 301 713-0053

RIN: 0648–AC64

538. NATIONAL WEATHER SERVICE MODERNIZATION CRITERIA FOR AUTOMATION CERTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-567; 15 USC 313 note

CFR Citation: 15 CFR 946; 15 CFR 946 app A

Legal Deadline: Final, Statutory, October 29, 1993.

Abstract: The Secretary of Commerce, in consultation with the National Research Council and the Modernization Transition Committee, and after notice and opportunity for public comment, shall publish in the Federal Register modernization criteria (including all requirements and procedures) for certifying action to automate a field office under section 706 of Public Law 102-567.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nicholas Scheller, Implementation Manager, Department of Commerce, National Oceanic and Atmospheric Administration, Room 9348, 1325 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-0454
Fax: 201 713-1002

RIN: 0648–AF72

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Final Rule Stage

NATIONAL MARINE FISHERIES SERVICE

539. REGULATORY AMENDMENT TO IMPLEMENT PERMIT, REPORTING, AND RECORDKEEPING AND OBSERVER REQUIREMENTS FOR PROCESSING VESSELS OVER 125 FEET AND THEIR CATCHER VESSELS; PACIFIC COAST GROUNDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: Regulations would implement a comprehensive data collection and regulatory program for all processing vessels longer than 125 feet and for all harvesting vessels that deliver their catch to those vessels in the groundfish fishery off Washington, Oregon, and California. This program would consist of: (1) a requirement that processing vessels carry NMFS-certified observers; (2) a requirement for a mandatory Federal permit; (3) recordkeeping and reporting requirements; and (4) a definition for "fishing trip" for processing vessels over 125 feet in length for the purpose of applying trip landing and frequency limits. The action may be split into separate rules.

Timetable:

Action	Date	FR Cite
NPRM	11/19/92	57 FR 54552
NPRM Comment Period End	12/21/92	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AE01

540. REGULATORY AMENDMENT TO REQUIRE ELECTRONIC COMMUNICATION OF OBSERVER DATA IN THE GROUNDFISH FISHERY OF THE GOA AND BSAI

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 672; 50 CFR 675

Legal Deadline: None

Abstract: Regulatory amendment to require certain computer/satellite communications capability of groundfish fishing vessels to facilitate submission of catch reports by NMFS-certified observers to NMFS.

Timetable:

Action	Date	FR Cite
NPRM	08/31/95	60 FR 45393
NPRM Comment Period End	09/29/95	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AE78

541. AMENDMENT 5 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 655

Legal Deadline: NPRM, Statutory. Final, Statutory. Other, Statutory. NPRM 15 days and final action 110 days after receipt from the fishery management council.

Abstract: Amendment 5 would establish a moratorium on entry of vessels to the commercial fisheries for Loligo and Illex squid and for butterfish and would establish criteria for announcing a control date for Atlantic mackerel. It would specify new procedures for setting annual quotas including TALFF. Permits would be required for commercial vessels, party and charter boats, operators and dealers. It would establish logbook and/or reporting requirements for commercial vessels, party and charter boats, and dealers.

Timetable:

Action	Date	FR Cite
NPRM	12/20/95	60 FR 65618
NPRM Comment Period End	01/29/96	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AF01

542. REGULATORY AMENDMENT FOR RED GROUPER IN THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 641

Legal Deadline: None

Abstract: This regulatory amendment would decrease the minimum allowable size of red grouper for the commercial fishery from 20 to 18 inches for fish caught from the exclusive economic zone (EEZ) in the Gulf of Mexico. This action is based, in part, on the 1993 stock assessment for red grouper and would facilitate the commercial harvest of the entire 1995 shallow-water grouper quota (quota has not been fully caught in recent years), as established by the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The regulatory amendment is prepared by the Gulf of Mexico Council and reviewed and implemented by NMFS under FMP framework procedures.

Timetable:

Action	Date	FR Cite
NPRM	01/31/96	61 FR 3359
NPRM Comment Period End	03/01/96	
Final Action	04/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS,

Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 813 570-5301

RIN: 0648–AF78

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543. FINANCIAL DISCLOSURE OF FISHERY MANAGEMENT COUNCIL NOMINEES, MEMBERS, AND EXECUTIVE DIRECTORS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 601

Legal Deadline: None

Abstract: This rule revises regulations concerning the practices, procedures and operations of the Regional Fishery Management Councils under the Magnuson Fishery Conservation and Management Act. It increases the detail and availability of information in required financial disclosures of Councils' nominees, voting members, and Executive Directors and is intended to reduce the likelihood of financial conflicts of interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/11/94	59 FR 11557
Final Action	06/00/96	
Final Action Effective	06/00/96	
Begin Review	07/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AG16

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544. REGULATORY AMENDMENT DESIGNATING "ROUTINE" TRIP LIMITS IN THE PACIFIC COAST GROUNDFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 663

Legal Deadline: None

Abstract: This rule would enable timely inseason adjustments to trip and size limits for certain species, so that the harvest guidelines or allocations for those species are not exceeded. The species include lingcod, canary rockfish, and, in the open access fishery, all species of groundfish individually or in any combination (including species caught incidental to the California halibut or sea cucumber fishery.)

Timetable:

Action	Date	FR Cite
NPRM	01/23/96	61 FR 1739
NPRM Comment Period End	03/08/96	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070
Phone: 206 526-6150

RIN: 0648–AG31

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545. ENFORCEMENT OF PERMIT REQUIREMENTS AND OTHER PROVISIONS GOVERNING THE NORTHWESTERN HAWAIIAN ISLANDS BOTTOMFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 683

Legal Deadline: None

Abstract: This regulatory action will facilitate enforcement of regulations governing permit and permit reporting requirements in the NW Hawaiian Islands Bottomfish Fishery. The regulation prohibits bottomfish fishing in the Maui Zone without a permit and requires vessels to display their official numbers. A new requirement for dealers to make their records available for inspection will support existing state requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/18/95	60 FR 43106
NPRM Comment Period End	10/16/95	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AH48

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546. STRIPED BASS REGULATIONS FOR THE EXCLUSIVE ECONOMIC ZONE (EEZ)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-206

CFR Citation: 50 CFR 656

Legal Deadline: None

Abstract: This action would change Federal striped bass regulations in the EEZ off the Atlantic Coast to support the Atlantic States Marine Fisheries Commission's Striped Bass Management Plan's Amendment 5.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: ASMFC's Amendment 5 was completed on 3/95. This amendment relaxes State regulations restricting the take of striped bass in recognition of the recovery of striped bass stocks along the Atlantic coast. Federal action is anticipated to change the current Federal closure to striped bass fishing in the EEZ to regulation which will be less restrictive and more compatible with State regulations.

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries, Conservation & Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AH57

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547. 1996 REGULATIONS FOR PACIFIC HALIBUT AND APPROVAL OF CATCH SHARING PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 773

CFR Citation: 50 CFR 301

Legal Deadline: None

Abstract: Regulations governing the fishing for Pacific halibut on behalf of the International Pacific Halibut Commission for 1996. Includes catch sharing plans for domestic fisheries off California, Oregon, Washington and Alaska.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This regulation also combines RIN 0648-AI48 and 0648-AI52.

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AH64

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548. ANNUAL HARVEST GUIDELINE FOR THE NORTHWESTERN HAWAIIAN ISLANDS LOBSTER FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 681

Legal Deadline: None

Abstract: Amendment 9 to the Fishery Management Plan for Crustacean Fisheries of the Western Pacific Region would establish a harvest limitation program under which an annual harvest guideline will be established by the Southwest Regional Director, NMFS. The harvest guideline will be published in the Federal Register each year prior to the beginning of the fishery so that permit holders can decide whether to gear up for the fishery. The notice would be published in June.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero, Director, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AI33

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549. MANAGEMENT MEASURES FOR COMMERCIAL, RECREATIONAL, AND TREATY INDIAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 661

Legal Deadline: None

Abstract: Annual management measures for the 1995-96 fishing year would specify allowable ocean harvest levels (including quotas), allocations, management boundaries and zones, minimum size limits, gear definitions, seasons, selective fisheries, and in-season notice procedures.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Stelle, Director, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., BIN C15700, Bldg 1, Seattle, WA 98115
Phone: 206 526-6150

RIN: 0648–AI35

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550. • INTERIM FINAL RULE TO THE NORTH PACIFIC FISHERIES RESEARCH PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 677

Legal Deadline: None

Abstract: This interim final rule would discontinue the 1995 fee collection process; issue Federal processor permits without regard to payment of Research Plan fees; and refund $5.6 million collected by NMFS and also the accrued interest under the Research Plan during 1995 and 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steve Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AI67

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551. • CONSOLIDATION OF ATLANTIC STRIPED BASS AND ATLANTIC COASTAL FISHERIES MANAGEMENT REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 5101 et seq; 15 USC 1851 note

CFR Citation: 50 CFR 656; 50 CFR 697

Legal Deadline: None

Abstract: NMFS consolidates regulations pertaining to the Atlantic striped bass fishery and fisheries managed under the Atlantic Coastal Fisheries Cooperative Management Act as part of the President's Regulatory Reinvention Initiative.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2341

RIN: 0648–AI72

552. PROCESSED FISHERY PRODUCTS, PROCESSED PRODUCTS THEREOF & CERTAIN OTHER PROCESSED FOOD PRODUCTS: U.S. STANDARDS FOR GRADES OF FROZEN FISH BLOCKS & PRODUCTS MADE THEREFROM, ETC

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1621 to 1630, Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 264A

Legal Deadline: None

Abstract: The revised rule will expand the coverage of established voluntary standards for grades of fishery products to include new products made from fish blocks. The standards will take into account new technology and equipment. These standards will be used in a voluntary program of fishery products inspection and certification by the NMFS. Industry has shown a high level of interest and support for the revisions.

Timetable:

Action	Date	FR Cite
NPRM	09/21/89	54 FR 38881
NPRM Comment Period End	11/06/89	
Comment Period Extended to	12/29/89	54 FR 53660
Comment Period Extended to	01/29/90	54 FR 53660
Interim Final Rule	10/16/90	55 FR 41856
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Additional Information: In response to the President's Regulatory Reform Initiative, regulations are under development to allow for removal of the product-specific voluntary standards for grades for fish and fishery products from the Code of Federal Regulations. These standards will be issued as program policies.

Agency Contact: Mary Ann Metz, Chief, Standards and Specifications Branch, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9284

RIN: 0648–AA46

553. FISHERMEN'S PROTECTIVE ACT, FISHING VESSEL AND GEAR DAMAGE COMPENSATION FUND CLAIMS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 1980

CFR Citation: 50 CFR 258

Legal Deadline: None

Abstract: Reinstating regulations inadvertently dropped from the CFR when the Fishermen's Guaranty Fund Program was transferred to the State Department. Revisions to program procedures deriving from an Internal Control Review completed in May 1992, will be incorporated in the regulations as well as clarifications suggested by the General Counsel. These revised procedures will reduce the risk that fraudulent claims will be paid and clarify and simplify procedures for applicants in accordance with the National Performance Review.

Timetable:

Action	Date	FR Cite
Final Action	10/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Cooper, Program Leader, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2396

RIN: 0648–AC73

554. FISHING VESSEL OBLIGATION GUARANTEE PROGRAM, REINVENTION OF REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 USC 1271 to 1279

CFR Citation: 50 CFR 255

Legal Deadline: None

Abstract: This regulation will add definitions of "aquaculture" and "underutilized species."

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael L. Grable, Division Chief, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2390

RIN: 0648–AF48

555. CIVIL PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 to 1882; 16 USC 1531 to 1543; 16 USC 1361 to 1407; 16 USC 3371 to 3378; 16 USC 1431 to 1439; 16 USC 773 to 773k; 16 USC 951 to 961; 16 USC 1021 to 1032; 16 USC 3631 to 3644; 42 USC 9101 et seq; 30 USC 1401 et seq; 16 USC 971 to 971i; 16 USC 781 et seq; 16 USC 972 to 972b; 16 USC 916 to 916l; ...

CFR Citation: 15 CFR 904

Legal Deadline: None

Abstract: This rule will amend NOAA's regulations to make them consistent with a Federal District Court ruling on the Agency's consideration of a respondent's ability to pay when assessing a civil penalty. The amendment removes a provision which places the burden on the respondent to raise and prove inability to pay an assessed penalty when the statute involved requires NOAA to take ability to pay into account.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/02/93	58 FR 58484
Final Action	03/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rule remains in interim final status pending the completion of a revision to all of part 904.

Agency Contact: Hugh Schratwieser, Attorney Adviser, Department of Commerce, National Oceanic and Atmospheric Administration, Office of the Assistant General Counsel for Enforcement and Litigation (GCEL), 8484 Georgia Ave. 4th Fl, Silver Spring, MD 20910
Phone: 301 427-2202

RIN: 0648–AF96

556. ● FINANCIAL AID PROGRAM PROCEDURES, CONDITIONAL FISHERIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 46 USC 1177; 46 USC 1271 to 1279

CFR Citation: 50 CFR 251

Legal Deadline: None

Abstract: Removal of outdated and unnecessary regulations in accordance with the National Performance Review.

Timetable:

Action	Date	FR Cite
Final Action	06/28/96	
Final Action Effective	06/28/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles L. Cooper, Program Leader, Financial Services Division, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East West Highway, Silver Spring, MD 20910
Phone: 301 713-2396
Fax: 301 589-2686
Email: Charles—Cooper@ssp.nmfs.gov

RIN: 0648–AI76

557. FINAL RULE FOR REGULATIONS GENERIC TO PERMITS ISSUED UNDER SECTION 104 OF THE MMPA, AND FOR REGULATIONS SPECIFIC TO PERMITS ISSUED FOR SCIENTIFIC RESEARCH AND ENHANCEMENT PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq, Marine Mammal Protection Act; 16 USC 1531 et seq, Endangered Species Act; 16 USC 1151 et seq, Fur Seal Act

CFR Citation: 50 CFR 216; 50 CFR 215; 50 CFR 222

Legal Deadline: None

Abstract: These proposed revisions would update and consolidate existing permit regulations in response to comments received on proposed regulations that have been promulgated for the taking, import, export, or conduct of an otherwise prohibited activity involving marine mammal species (including endangered or threatened marine mammal species) for purposes of scientific research, and enhancement, photography, and public display under the Marine Mammal Protection Act, the Endangered Species Act, and the Fur Seal Act. In addition, this final rule establishes regulations specific to permits issued for bona fide scientific research and enhancement purposes only. These revisions would implement amendments to the Marine Mammal Protection Act enacted in 1988 and 1994, and clarify when a permit is required and the scope and extent of permit authority under these Acts. The final rule would clarify permit requirements and review procedures, and would amend the criteria for deciding whether to issue or deny permits, and revise administrative requirements and procedures, as well as some terms and conditions specific to permits for scientific research and enhancement. These revisions are intended to provide a comprehensive regulatory foundation for these special exception permits and to make administration of the NMFS permit program more efficient, consistent and predictable. The NMFS is proposing to consolidate permit regulations into a single part of title 50.

Timetable:

Action	Date	FR Cite
NPRM	10/14/93	58 FR 53320
NPRM Comment Period End	01/28/94	58 FR 68848
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Simultaneously with the publication of this Final Rule, NMFS intends to propose permit regulations specific to photography and public display.

Agency Contact: Laurel Bryant, Marine Resource Management Specialist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AD11

558. DESIGNATED CRITICAL HABITAT; JOHNSON'S SEAGRASS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: None

Abstract: The National Marine Fisheries Service (NMFS) has proposed that Johnson's seagrass be listed as threatened under the Endangered Species Act (ESA). Section 4(b)(2) of the ESA requires that critical habitat be designated for a listed species after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. Critical habitat is the specific area within the geographical range of the species that has physical or biological features essential to the conservation of the species and which may require special management consideration or protection.

Timetable:

Action	Date	FR Cite
NPRM	08/04/94	59 FR 39716
NPRM Comment Period End	10/13/94	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret C. Lorenz, Marine Resource Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401

RIN: 0648–AF79

559. FINAL RULE TO AMEND MARINE MAMMAL REGULATIONS TO AUTHORIZE INCIDENTAL TAKINGS OF MARINE MAMMALS BY HARASSMENT AS AUTHORIZED BY PUBLIC LAW 103-238

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1361 et seq The Marine Mammal Protection Act

CFR Citation: 50 CFR 228; 50 CFR 216

Legal Deadline: Final, Statutory, January 1, 1995.

Abstract: On April 30, 1994, the President signed Pub. L. 103-238, the Marine Mammal Protection Act Amendments of 1994. One part of this law amended section 101(a)(5) to establish an expedited process by which citizens of the United States, who engage in a specified activity (other than commercial fishing) within a specific geographic region, can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The proposed rule, if implemented, would establish specific time limits for public notice and comment on any requests for authorization which would be granted under this rule; implement procedures for the establishment of scientific peer review groups to review an applicant's monitoring plan when the taking may affect the availability of a stock for subsistence uses; and limit authorizations to a period of 1 year.

Timetable:

Action	Date	FR Cite
NPRM	05/31/95	60 FR 28379
NPRM Comment Period End	10/16/95	60 FR 35891
Final Action	05/01/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-2055

RIN: 0648–AG80

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560. FINAL RULE TO ESTABLISH GUIDELINES FOR NONLETHALLY DETERRING MARINE MAMMALS FROM ENDANGERING PERSONAL SAFETY OR DAMAGING PUBLIC OR PRIVATE PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq The Marine Mammal Protection Act

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, January 1, 1995.

Abstract: On April 30, 1994, the President signed Pub. L. 103-238, the Marine Mammal Protection Act Amendments of 1994. One part of this law implemented a new section 101(a)(4) to authorize the nonlethal harassment takings by citizens of the United States to deter marine mammals from: (1) Damaging commercial fishing gear or catch; (2) damaging private property; (3) endangering public safety; or (4) damaging public property. The amendments require a list of guidelines for use in safely deterring marine mammals and provide for prohibiting certain deterrent measures that may have a significant adverse impact on marine mammals.

Timetable:

Action	Date	FR Cite
NPRM	05/05/95	60 FR 22345
NPRM Comment Period End	07/05/95	
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-2055

RIN: 0648–AH19

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561. GENERAL AUTHORIZATION FOR SCIENTIFIC RESEARCH INVOLVING LEVEL B HARASSMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1151 et seq Fur Seal Act; 16 USC 1631 et seq Marine Mammal Protection Act

CFR Citation: 50 CFR 215; 50 CFR 216

Legal Deadline: Final, Statutory, August 30, 1994.

Abstract: This final rule is required by the 1994 amendments to the Marine Mammal Protection Act. These regulations establish a general authorization for bona fide scientific research on non-endangered and non-threatened marine mammals that may result in harassment with only the potential to disturb. Inclusion under the general authorization is achieved by letter of intent to the National Marine Fisheries Service and a letter of confirmation from the Service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/03/94	59 FR 50372
Interim Final Rule Comment Period End	11/17/94	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: The National Marine Fisheries Service and the U.S. Fish and Wildlife Service are discussing whether to issue this rule jointly.

Agency Contact: Laurel Bryant, Marine Resources Management Specialist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-2289

RIN: 0648–AH20

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562. • FINAL RULE; TAKING AND IMPORTING OF MARINE MAMMALS; CONSOLIDATION OF REGULATIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 16 USC 1151 to 1175; 16 USC 1361 et seq

CFR Citation: 50 CFR 215; 50 CFR 216

Legal Deadline: None

Abstract: To simplify NMFS' Code of Federal Regulations (CFR), NMFS issues this final rule to redesignate those regulations governing the take of northern fur seals for subsistence purposes on the Pribilof Islands. By this rule, an entire part within the CFR is removed. This final rule does not make substantive changes to the existing regulations. The purpose of this final rule is to make the regulations more concise, better organized, and thereby easier for the public to use. This action is consistent with the President's Regulatory Reform Initiative to simplify regulations and reduce the regulatory burden on the public.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margot Bohan, Fishery Biologist, Marine Mammal Division, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Fax: 301 713-0376

RIN: 0648–AI89

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

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563. FLORIDA KEYS NATIONAL MARINE SANCTUARY

Priority: Other Significant

Legal Authority: 16 USC 1431 et seq; PL 101-605

CFR Citation: 15 CFR 929

Legal Deadline: Final, Statutory, May 1993.

Abstract: These regulations are necessary for the implementation of the Congressionally designated national marine sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	03/30/95	60 FR 16399
NPRM Comment Period End	12/31/95	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information: Completion of this regulation within the dates projected in the timetable is subject to the availability of appropriated funds for NOAA after March 15, 1996. At this time, NOAA anticipates that sufficient funds will be appropriated to complete this project.

Agency Contact: James Lawless, Acting Chief, Sanctuaries and Reserves Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM2), Silver Spring, MD 20910
Phone: 301 713-3125

RIN: 0648–AD85

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564. HAWAIIAN ISLANDS HUMPBACK WHALE NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 et seq (National Marine Sanctuary Act); PL 102-587 (Ocean Act of 1992), subtitle C-Hawaiian; Island National Marine Sanctuary Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Regulations implement the Congressional designation of the Hawaiian Island Humpback Whale National Marine Sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	09/15/95	60 FR 49000
NPRM Comment Period End	12/14/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The proposed rule, summary of draft management plan and notice of public availability of the draft environmental impact statement was published on September 15, 1995. The 90-day comment period ended December 14, 1995.

Completion of this project within the dates projected in the timetable is subject to the availability of appropriated funds for NOAA after March 15, 1996. At this time, NOAA anticipates that sufficient funds will be appropriated to complete this project.

Agency Contact: James Lawless, Acting Chief, Sanctuaries and Reserves Div., Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (LN/ORM4), Silver Spring, MD 20910
Phone: 301 713-3185

RIN: 0648–AH91

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565. RESTRICTING OR PROHIBITING ATTRACTING SHARKS IN THE MONTEREY BAY NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1434(a)(5)

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: NOAA is proposing to amend the Monterey Bay National Marine Sanctuary regulations to prohibit the attraction of White Sharks in the nearshore (seaward to three miles) areas of the Sanctuary. The proposed prohibition is to ensure that Sanctuary resources and qualities are not adversely impacted and to avoid conflicts among various users of the Sanctuary. The rule would also clarify the "traditional fishing exemption to the discharge prohibition, and add definitions of "fishing" and traditional fishing."

Timetable:

Action	Date	FR Cite
ANPRM	02/26/95	60 FR 10612
ANPRM Comment Period End	04/14/95	
NPRM	02/12/96	61 FR 5335
NPRM Comment Period End	03/13/96	
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Completion of this project within the dates projected in the timetable is subject to availability of appropriated funds for NOAA after March 15, 1996. At this time, NOAA anticipates that sufficient funds will be appropriated to complete this project.

Agency Contact: Elizabeth Moore, Sanctuaries and Reserve Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway (N/ORM4), Silver Spring, MD 20910
Phone: 301 713-3145

RIN: 0648–AH92

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566. OCEAN THERMAL ENERGY CONVERSION LICENSING PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: Ocean Thermal Energy Conversion Act, as amended; 42 USC 9101 et seq

CFR Citation: 15 CFR 981

Legal Deadline: None

DOC—NOAA

Final Rule Stage

Abstract: NOAA plans to propose the removal of 15 CFR part 981 from the CFR.

Timetable:

Action	Date	FR Cite
NPRM	01/30/96	61 FR 2969
NPRM Comment Period End	02/29/96	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Completion of this regulation is subject to the availability of appropriated funds for NOAA after March 15, 1996. At this time, NOAA anticipates that sufficient funds will be appropriated to complete this project.

Agency Contact: James P. Lawless, Deputy Director, Office of Ocean and Coastal Resource Mgmt., Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway 11th Floor, Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AI42

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Long-Term Actions

567. DEFINITION OF "SAFE BOARDING LADDER" FOR FISHERIES REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 620

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AH39

568. WEAKFISH REGULATION FOR THE EXCLUSIVE ECONOMIC ZONE (EEZ)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 697

Timetable:

Action	Date	FR Cite
NPRM	06/20/95	60 FR 32130
NPRM Comment Period End	08/15/95	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Richard H. Schaefer
Phone: 301 713-2334

RIN: 0648–AH58

NATIONAL MARINE FISHERIES SERVICE

569. • INTERIM FINAL RULE TO IMPLEMENT HIGH SEAS FISHING COMPLIANCE ACT OF 1995; PERMIT APPLICATION PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 5501

CFR Citation: 50 CFR 300

Legal Deadline: Final, Statutory, March 3, 1996.

Abstract: This action will implement a system of licensing for U.S. vessels that fish on the high seas, in accordance with U.S. commitments and responsibilities arising from the United Nations Food and Agriculture Organization Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AI50

570. • REGULATORY AMENDMENT TO ADJUST RED SNAPPER MANAGEMENT MEASURES IN THE GULF OF MEXICO FOR 1997 SEASON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 641

Legal Deadline: None

Abstract: This regulatory amendment may include measures to adjust the Gulf Of Mexico Red Snapper bag limits, size limits, quotas, trip limits and/or seasonal and area openings for the 1997 season.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer, Director, Southeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, Florida 33702-2432
Phone: 813 570-5301

RIN: 0648–AI54

571. U.S. GENERAL STANDARDS FOR GRADES OF SHRIMP

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 265

Timetable:

Action	Date	FR Cite
NPRM	05/20/82	47 FR 21840
NPRM Comment Period End	08/18/82	
NPRM	09/21/89	54 FR 38885
NPRM Comment Period End	11/06/89	
Comment Period Extended to 01/29/90	12/29/89	54 FR 53660
Interim Final Rule	10/24/91	56 FR 55090
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Metz
Phone: 508 281-9284

RIN: 0648–AA47

572. U.S. GENERAL STANDARDS FOR GRADES OF FINFISH PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 263 subparts A to E

Timetable:

Action	Date	FR Cite
ANPRM	04/15/94	59 FR 18091

DOC—NOAA

Long-Term Actions

Action	Date	FR Cite
ANPRM Comment Period End	08/02/94	59 FR 23095
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Metz
Phone: 508 281-9284

RIN: 0648–AD53

573. U.S. STANDARDS FOR GRADES OF FROZEN FISH PORTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 264; 50 CFR 269

Timetable:

Action	Date	FR Cite
NPRM	06/11/90	55 FR 23565
NPRM Comment Period End	08/27/90	
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Metz
Phone: 508 281-9284

RIN: 0648–AD92

574. CERTIFICATE OF LEGAL ORIGIN FOR ANADROMOUS FISH PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alan Mager
Phone: 301 427-2300

RIN: 0648–AD93

575. U.S. STANDARDS FOR GRADES OF WHOLE OR DRESSED FISH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 261

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Metz
Phone: 508 281-9284

RIN: 0648–AE69

576. U.S. STANDARDS FOR GRADES OF NORTH AMERICAN FRESHWATER CATFISH AND PRODUCTS MADE THEREFROM

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 267

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Metz
Phone: 508 281-9284

RIN: 0648–AE70

577. U.S. STANDARDS FOR GRADES OF FISH FILLETS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 263

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Metz
Phone: 508 281-9284

RIN: 0648–AE71

578. FISHING VESSEL CAPITAL CONSTRUCTION FUND PROCEDURES—ELIGIBILITY FOR SAFETY IMPROVEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 259

Timetable:

Action	Date	FR Cite
NPRM	11/18/92	57 FR 54356
NPRM Comment Period End	12/18/92	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles L. Cooper
Phone: 301 713-2396

RIN: 0648–AF22

579. PRESCRIPTION OF FISHWAYS UNDER SECTION 18 OF THE FEDERAL POWER ACT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 405 (New)

Timetable:

Action	Date	FR Cite
ANPRM	09/01/94	59 FR 45255
ANPRM Comment Period End	10/31/94	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Hall
Phone: 301 713-2325

RIN: 0648–AG53

580. SEAFOOD INSPECTIONS AND RELATED SERVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 50 CFR 260

Timetable:

Action	Date	FR Cite
ANPRM	09/22/95	60 FR 49242
ANPRM Comment Period End	11/21/95	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James W. Brennan
Phone: 202 482-3044

RIN: 0648–AI45

581. • CIVIL ENFORCEMENT PROCEEDINGS: OPPORTUNITY FOR IN-PERSON HEARING

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-587 Oceans Act of 1992

CFR Citation: 15 CFR 904

Legal Deadline: None

Abstract: NOAA is proposing to amend procedural regulations that govern civil administrative enforcement proceedings that it conducts. Necessitated by the Oceans Act of 1992. These regulatory amendments ensure the opportunity for an in-person hearing in administrative

enforcement proceedings conducted by the Agency.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Joel LaBissonniere, Attorney, Office of General Counsel (GCEL), Department of Commerce, National Oceanic and Atmospheric Administration, 8484 Georgia Avenue, 4th floor, Silver Spring, MD 20910
Phone: 301 427-2202
Fax: 301 427-2211
Email: Joel R. LaBissoniere@GCEL@NOAA

RIN: 0648–AI53

582. PERFORMANCE STANDARDS FOR TUNA VESSEL OPERATORS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Timetable:

Action	Date	FR Cite
NPRM	11/01/89	54 FR 46086
NPRM Comment Period End	12/01/89	
Interim Final Rule Effective	05/16/90	
Interim Final Rule	05/17/90	55 FR 20458
Interim Final Rule Comment Period End	09/03/90	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero
Phone: 310 980-4001

RIN: 0648–AD03

583. PROCEDURE FOR SETTING QUOTAS ON REMOVAL OF ATLANTIC BOTTLENOSE DOLPHINS FROM THE WATERS OF THE GULF OF MEXICO AND FLORIDA'S EAST COAST

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Timetable:

Action	Date	FR Cite
ANPRM	05/31/90	55 FR 22042
ANPRM Comment Period End	07/02/90	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann D. Terbush
Phone: 301 713-2289

RIN: 0648–AD39

584. SEA TURTLE MONITORING AND CONSERVATION MEASURES FOR NONSHRIMP FISHERIES

Priority: Other Significant

CFR Citation: 50 CFR 217; 50 CFR 222; 50 CFR 227

Timetable:

Action	Date	FR Cite
ANPRM	07/10/92	57 FR 30709
ANPRM Comment Period End	08/08/92	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Therese Conant
Phone: 301 713-1401

RIN: 0648–AE54

585. TAKING AND IMPORTING OF MARINE MAMMALS; DOLPHIN MORTALITY LIMITS DURING PURSE SEINE SETS ON MARINE MAMMALS IN THE EASTERN TROPICAL PACIFIC

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216.24

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/19/93	58 FR 29127

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero
Phone: 310 980-4001

RIN: 0648–AF07

586. TAKING AND IMPORTING OF MARINE MAMMALS; "DOLPHIN-SAFE" TUNA LABELING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216; 50 CFR 247

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/19/91	56 FR 47418

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero
Phone: 310 980-4001

RIN: 0648–AF08

587. PROPOSED RULE TO REQUIRE CERTAIN FISH FROM MEXICO TO RETAIN HEADS AND TAILS INTACT IN ORDER TO PROTECT THE ENDANGERED TOTOABA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 227

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead
Phone: 301 713-2055

RIN: 0648–AF32

588. TAKING OF MARINE MAMMALS INCIDENTAL TO FISHERIES-RELATED RESEARCH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 228; 50 CFR 216

Timetable:

Action	Date	FR Cite
ANPRM	12/09/91	56 FR 64234
ANPRM Comment Period End	01/08/92	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Kenneth Hollingshead
Phone: 301 713-2055

RIN: 0648–AF50

589. FOREIGN NATIONS' MARINE MAMMAL PROGRAM AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216.24(e)(5)(v)(B)

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero
Phone: 310 980-4001

RIN: 0648–AG05

590. DESIGNATION OF CRITICAL HABITAT FOR THE GULF OF MAINE POPULATION OF HARBOR PORPOISE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 226

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Payne
Phone: 301 713-2322

RIN: 0648–AG06

591. DIRECT TAKE OF THREATENED SALMON BY NATIVE AMERICANS

Priority: Other Significant

CFR Citation: 50 CFR 227.21

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack
Phone: 301 713-1401

RIN: 0648–AG15

592. TAKING AND IMPORTING OF MARINE MAMMALS: TUNA PURSE SEINE VESSEL OBSERVER EXPENSES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216.24

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero
Phone: 301 980-4001

RIN: 0648–AG35

593. TAKING AND IMPORTING OF MARINE MAMMALS; TAKING OF MARINE MAMMALS UNDER THE ATA PERMIT AFTER FEBRUARY 28, 1994

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero
Phone: 310 980-4001

RIN: 0648–AG36

594. GENERAL PROVISIONS; ENDANGERED FISH OR WILDLIFE; THREATENED FISH AND WILDLIFE; SEA TURTLE CONSERVATION MEASURES (SEC. 9 PROTECTION)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 217; 50 CFR 220; 50 CFR 221; 50 CFR 222; 50 CFR 223; 50 CFR 224; 50 CFR 227

Timetable:

Action	Date	FR Cite
ANPRM	07/10/92	57 FR 30709
ANPRM Comment Period End	08/08/92	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Russell J. Bellmer
Phone: 301 713-1401

RIN: 0648–AG38

595. DESIGNATED CRITICAL HABITAT; ATLANTIC SALMON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 226

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack
Phone: 301 713-1401

RIN: 0648–AG50

596. PROPOSED RULE TO AUTHORIZE LETHAL TAKINGS OF MARINE MAMMALS BY STATE AUTHORITIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kenneth R. Hollingshead
Phone: 301 713-2055

RIN: 0648–AG79

597. TAKING AND IMPORTING OF MARINE MAMMALS: PROPOSED RULE PROHIBITING U.S. CITIZENS FROM ENCIRCLING MARINE MAMMALS DURING TUNA FISHING OPERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216.24

Timetable:

Action	Date	FR Cite
NPRM	10/12/94	59 FR 51552
NPRM Comment Period End	11/14/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero
Phone: 310 980-4001

RIN: 0648–AH04

598. PROTECTION ZONES FOR NORTHERN RIGHT WHALES; RESPONSE TO PETITION

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 222

Timetable:

Action	Date	FR Cite
ANPRM	12/27/94	59 FR 66513
ANPRM Comment Period End	02/27/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margot Bohan
Phone: 301 713-2322

RIN: 0648–AH47

599. PROPOSED RULE TO GOVERN THE TRANSPORTATION OF NATIVE HANDICRAFTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Terbush
Phone: 301 713-2289

RIN: 0648–AH83

600. CRITICAL HABITAT DESIGNATION FOR GREEN SEA TURTLES IN CULEBRA, PUERTO RICO

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 226

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Russell Bellmer
Phone: 301 713-1401

RIN: 0648–AH88

601. • TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS; TAKE REDUCTION PLAN REGULATIONS AND EMERGENCY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq The Marine Mammal Protection Act

CFR Citation: 50 CFR 229

Legal Deadline: None

Abstract: The Marine Mammal Protection Act amendments of 1994 (Public Law 103-238) provide for the development and implementation of take reduction plans to assist in the recovery or prevent the depletion of strategic marine mammal stocks. These take reduction plans shall be developed by take reduction teams, comprised of representatives of Federal, state, and other government agencies, as well as other non-governmental organizations. In some cases, take reduction plans may recommend regulatory measures for effective implementation. NMFS must publish proposed regulations to implement such plans for public review and comment during a period not to exceed 90 days.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Vicki Cornish/Michael Payne, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910 Phone: 301 713-2322 Fax: 301 713-0376

RIN: 0648–AI84

602. REVISION OF FEDERAL CONSISTENCY REGULATIONS UNDER THE COASTAL ZONE MANAGEMENT ACT

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 930

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Margo F. Jackson Phone: 301 713-2967

RIN: 0648–AD83

603. REGIONAL MARINE RESEARCH PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Don Scavia Phone: 301 713-3338

RIN: 0648–AF20

604. NOAA CLIMATE AND GLOBAL CHANGE PROGRAM—PROPOSAL SUBMISSION GUIDELINES

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Irma DuPree Phone: 301 427-2089

RIN: 0648–AG51

605. NATIONAL UNDERSEA RESEARCH PROGRAM FUNDING REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: None

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Henry Frey Phone: 301 713-2448

RIN: 0648–AH90

DEPARTMENT OF COMMERCE (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Completed Actions

606. FISHERY MANAGEMENT PLAN FOR CORALS AND REEF-ASSOCIATED PLANTS AND INVERTEBRATES FOR PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 670

Completed:

Reason	Date	FR Cite
Final Action	12/27/95	60 FR 58221
Final Action Effective	12/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer Phone: 813 570-5301

RIN: 0648–AE47

607. AMENDMENT 21B TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 675

Completed:

Reason	Date	FR Cite
Final Action	11/29/95	60 FR 61215
Final Action Effective	01/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer Phone: 907 586-7228

RIN: 0648–AE97

608. REGULATORY AMENDMENT TO CHANGE RECORDKEEPING AND REPORTING REQUIREMENTS IN ALASKA GROUNDFISH FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 672; 50 CFR 675

Completed:

Reason	Date	FR Cite
Final Action	02/13/96	61 FR 5608
Final Action Effective	03/14/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer Phone: 907 586-7228

RIN: 0648–AG54

609. NEW DEALER REPORTING FORM FOR LARGE PELAGICS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 285; 50 CFR 630; 50 CFR 678

Completed:

Reason	Date	FR Cite
Withdrawn - Accomplished through separate regulatory actions.	02/12/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard H. Schaefer Phone: 301 713-2334

RIN: 0648–AG76

610. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC COAST RED DRUM

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 647

Completed:

Reason	Date	FR Cite
Withdrawn	02/08/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer Phone: 813 570-5301

RIN: 0648–AG86

611. REGULATORY AMENDMENT FOR GRID SORTING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 672

Completed:

Reason	Date	FR Cite
Withdrawn	02/02/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer Phone: 907 586-7228

RIN: 0648–AG93

612. INTERPRETIVE RULE TO PROVIDE CLARIFICATION OF SEPARATE QUALIFICATION FOR HALIBUT AND SABLEFISH QUOTA SHARES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 676

Completed:

Reason	Date	FR Cite
Final Action	11/28/95	60 FR 58528
Final Action Effective	11/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer Phone: 907 586-7228

RIN: 0648–AG96

613. AMENDMENT 32 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BSAI AND AMENDMENT 36 TO THE FMP FOR THE GROUNDFISH OF THE GOA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 676

Completed:

Reason	Date	FR Cite
Final Action	01/24/96	61 FR 1844
Final Action Effective	02/23/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer Phone: 907 586-7228

RIN: 0648–AG99

614. AMENDMENT 38 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BSAI AND AMENDMENT 40 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE GOA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 672; 50 CFR 675

Completed:

Reason	Date	FR Cite
Final Action	12/12/95	60 FR 63654
Final Action Effective	01/01/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer Phone: 907 586-7228

RIN: 0648–AH00

615. COMBINED FRAMEWORK ADJUSTMENT—ADJUSTMENT 7 TO THE NORTHEAST MULTISPECIES FMP, ADJUSTMENT 3 TO THE ATLANTIC SEA SCALLOP FMP, AND ADJUSTMENT 1 TO THE AMERICAN LOBSTER FMP

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 649; 50 CFR 650; 50 CFR 651

Completed:

Reason	Date	FR Cite
Final Action	12/05/95	60 FR 62224
Final Action Effective	12/04/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew A. Rosenberg Phone: 508 281-9200

RIN: 0648–AH37

616. INTERIM FINAL RULE TO MAKE CERTAIN CHANGES IN THE LIMITED ACCESS APPEALS PROCEDURE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 676

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61497
Final Action Effective	11/30/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer Phone: 907 586-7228

RIN: 0648–AH38

617. NOTICE OF CHANGES IN THE MANAGEMENT REGIMES FOR ATLANTIC AND GULF GROUPS OF KING AND SPANISH MACKEREL FOR THE 1995-96 FISHING YEAR

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 642

Completed:

Reason	Date	FR Cite
Final Action	11/17/95	60 FR 57686
Final Action Effective	12/18/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer Phone: 813 570-5301

RIN: 0648–AH53

618. AMENDMENT 7 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERIES

Priority: Economically Significant

CFR Citation: 50 CFR 651

Completed:

Reason	Date	FR Cite
Final Action	03/05/96	61 FR 8540
Final Action Effective	04/19/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew A. Rosenberg
Phone: 508 281-9200

RIN: 0648–AH70

619. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR CORALS AND CORAL REEFS OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 638

Completed:

Reason	Date	FR Cite
Final Action	11/09/95	60 FR 56533
Final Action Effective	11/13/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 813 570-5301

RIN: 0648–AH71

620. AMENDMENT 8 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO (FMP)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 658

Completed:

Reason	Date	FR Cite
Final Action	12/27/95	60 FR 66928
Final Action Effective	01/26/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 813 570-5301

RIN: 0648–AH72

621. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR CORALS AND CORAL REEFS OF THE SOUTHERN ATLANTIC STATES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 638

Completed:

Reason	Date	FR Cite
Final Action	12/27/95	61 FR 66926
Final Action Effective	01/26/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 813 570-5301

RIN: 0648–AH74

622. PROPOSED RULE; AMENDMENT 7 TO THE SUMMER FLOUNDER FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 625

Completed:

Reason	Date	FR Cite
Final Action	11/24/95	60 FR 57955
Final Action Effective	12/22/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 508 281-9200

RIN: 0648–AH94

623. SUMMER FLOUNDER FISHERY: DEALER REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 625

Completed:

Reason	Date	FR Cite
Withdrawn	01/24/96	61 FR 1893

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Andrew A. Rosenberg
Phone: 508 281-9300

RIN: 0648–AH95

624. INTERIM FINAL RULE ALLOWING RETENTION OF IFQ SPECIES IN SPECIFIED AREAS UNDER 50 CFR 676.16(D)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 676

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61497
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AI09

625. ADVANCED NOTICE OF PROPOSED RULEMAKING; CONSIDERATION OF A CONTROL DATE FOR SOUTH ATLANTIC AND GULF OF MEXICO KING MACKEREL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 642

Completed:

Reason	Date	FR Cite
Final Action	10/16/95	60 FR 53576
Final Action Effective	11/15/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew J. Kemmerer
Phone: 813 570-5301

RIN: 0648–AI12

626. REGULATORY AMENDMENT TO CHANGE THE NON-TRAWL SABLEFISH REGULAR SEASON IN THE PACIFIC COAST GROUNDFISH FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 663

Completed:

Reason	Date	FR Cite
Combined With RIN 0648-AI34	01/31/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AI30

627. FRAMEWORK ADJUSTMENT 7 TO THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 650

Completed:

Reason	Date	FR Cite
Final Action	03/05/96	61 FR 8490
Final Action Effective	03/11/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew A. Rosenberg
Phone: 508 281-9250

RIN: 0648–AI37

628. AMENDMENT 1 TO THE NORTH PACIFIC FISHERY RESEARCH PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 677

Completed:

Reason	Date	FR Cite
Final Action	12/26/95	60 FR 66755
Final Action Effective	01/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AI40

629. • PACIFIC HALIBUT 1996 AREA 2A CATCH SHARING PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 301

Legal Deadline: None

Abstract: Regulations governing the fishing for Pacific halibut on behalf of the International Pacific Halibut Commission for 1996. Includes plans for domestic fisheries off California, Oregon, and Washington.

Timetable:

Action	Date	FR Cite
NPRM	01/29/96	61 FR 2782
Withdrawn Combined with RIN 0648-AH64.	01/29/96	61 FR 2782

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This regulation also combines RIN 0648-AI48 and 0648-AI52.

Agency Contact: Steven Pennoyer, Director, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AI48

630. • IMPLEMENTATION OF CATCH SHARING PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 773

CFR Citation: 50 CFR 301

Legal Deadline: None

Abstract: NMFS proposes to approve and implement a catch sharing plan (CSP) in accordance with the Northern Pacific Halibut Act of 1982 (Halibut Act). The CSP would apportion the catch limit specified by the International Pacific Halibut Commission (IPHC) for Regulatory Area 4 among subareas 4A, 4B, 4C, 4D, and 4E in and off the State of Alaska. The proposed CSP is based on the recommendations of the North Pacific Fishery Management Council (Council). This action is necessary to provide a basis for allocating the Pacific halibut resources of the Bering Sea and Aleutian Islands area among U.S. fishers who harvest these resources in accordance with the Individual Fishing Quota (IFQ) Program and Community Development Quota (CDQ) Program. The action is intended to carry out the fishery management objectives of the Council under the provisions of the Halibut Act and is consistent with the resource management objectives of the IPHC.

Timetable:

Action	Date	FR Cite
Withdrawn - Combined with RIN 0648-AH64.	01/30/96	61 FR 2992

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen Pennoyer, Director of Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AI52

631. • REGULATORY AMENDMENT TO REMOVE AN UNNECESSARY REGULATION FOR THE ISSUANCE OF CEASE AND DESIST ORDERS AGAINST ASSOCIATION OF PROCEDURES OF AQUATIC PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 48 USC 1213

CFR Citation: 50 CFR 290

Legal Deadline: None

Abstract: Deletion of a regulation that provides for a proceeding that may lead to a cease and desist order. Proceeding is initiated by a filing of a complaint with the Secretary of Commerce against an association of producers of aquatic products for monopolizing or restricting trade to such an extent that the price of any aquatic product is unduly enhanced.

Timetable:

Action	Date	FR Cite
Final Action	03/04/96	61 FR 8224

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce Morehead, Chief, Utilization Research and Service Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2358
Fax: 301 713-1081

RIN: 0648–AI59

632. • FINAL RULE TO IMPLEMENT FRAMEWORK ADJUSTMENT 14 TO AMENDMENT 5 OF THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 651

Legal Deadline: None

Abstract: Framework 14 would implement a mid-coast area spring closure and establish an additional closure in Southern New England to aid in attaining Harbor Porpoise mortality goals in the Sink Gillnet fishery.

Timetable:

Action	Date	FR Cite
Final Action	03/05/96	61 FR 8492
Final Action Effective	03/25/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew A. Rosenberg, Director, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 508 281-9200

RIN: 0648–AI79

633. GENERAL PROVISIONS FOR DOMESTIC FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 620

Completed:

Reason	Date	FR Cite
Withdrawn Actions to be merged with other regulatory initiatives.	02/11/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel LaBissonniere
Phone: 301 427-2202

RIN: 0648–AE39

634. AMENDMENT TO PROCEDURE GOVERNING THE READJUSTMENT AND INCREASE IN HOURLY RATES OF FEES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 260

Completed:

Reason	Date	FR Cite
Withdrawn	02/08/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rita Creitz
Phone: 301 713-2355

RIN: 0648–AH24

635. • FISHERMAN'S CONTINGENCY FUND; SIMPLIFICATION OF REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1841

CFR Citation: 50 CFR 296

Legal Deadline: None

Abstract: Clarification and simplification of regulations in accordance with the National Performance Review.

Timetable:

Action	Date	FR Cite
Final Action	02/20/96	61 FR 6322

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Cooper, Program Leader, Financial Services Division, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2396
Fax: 301 589-2686

RIN: 0648–AI55

636. •FISHERIES OBLIGATION GUARANTEE PROGRAM, REINVENTION OF REGULATIONS

Completed:

Reason	Date	FR Cite
Duplicate of RIN 0648-AF48	02/22/96	

RIN: 0648–AI75

637. REGULATIONS GOVERNING THE TAKE OF DOLPHINS INCIDENTAL TO REMOVING OIL AND GAS PLATFORMS IN THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 228; 50 CFR 216

Completed:

Reason	Date	FR Cite
Final Action	10/12/95	60 FR 53139
Final Action Effective	11/13/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead
Phone: 301 713-2323

RIN: 0648–AD25

638. ANNUAL LIST OF FISHERIES AS AUTHORIZED BY PUBLIC LAW 103-238

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 229

Completed:

Reason	Date	FR Cite
Final Action	12/28/95	60 FR 67063
Final Action Effective	04/01/96	61 FR 03851

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Vicki Cornish
Phone: 301 713-2322

RIN: 0648–AG77

639. FINAL RULE ESTABLISHING LEATHERBACK TURTLE CONSERVATION ZONE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 227; 50 CFR 217; 50 CFR 222

Completed:

Reason	Date	FR Cite
Final Action	09/14/95	60 FR 47713
Final Action Effective	10/16/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Russell Bellmer
Phone: 301 713-1401

RIN: 0648–AH30

640. FINAL RULE ESTABLISHING LEATHERBACK TURTLE CONSERVATION ZONE

Completed:

Reason	Date	FR Cite
Duplicate of Completed Action 0648-AH30	09/14/95	60 FR 47713

RIN: 0648–AH97

641. SEA TURTLE CONSERVATION; RESTRICTION APPLICABLE TO SHRIMP TRAWL EXCLUDER DEVICES RESTRICTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 217; 50 CFR 227

Completed:

Reason	Date	FR Cite
Replaced by RIN 0648-AH89	02/26/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Russell Bellmer
Phone: 301 181-9300

RIN: 0648–AI24

642. SEA TURTLE CONSERVATION; COMMERCIAL SHRIMP VESSEL PERMIT

Completed:

Reason	Date	FR Cite
Duplicate of RIN 0648-AH87	02/26/96	

RIN: 0648–AI25

643. •SEA TURTLE CONSERVATION; RESTRICTIONS APPLICABLE TO FISHERY ACTIVITIES; SUMMER FLOUNDER FISHERY-SEA TURTLE PROTECTION AREA

Completed:

Reason	Date	FR Cite
Duplicate of Completed 0648-AE12	01/24/96	61 FR 1846

RIN: 0648–AI49

644. STREAMLINING OF NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 15 CFR 924; 15 CFR 925; 15 CFR 935; 15 CFR 936; 15 CFR 938; 15 CFR 940; 15 CFR 941; 14 CFR 942; 15 CFR 953; 15 CFR 944

Completed:

Reason	Date	FR Cite
Merged With RIN 0648-AI51	03/19/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Lawless
Phone: 301 713-3155

RIN: 0648–AF23

645. • STREAMLINING OF NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 922; 15 CFR 924; 15 CFR 925; 15 CFR 935; 15 CFR 936; 15 CFR 938; 15 CFR 940; 15 CFR 941; 15 CFR 942; 15 CFR 943; 15 CFR 944

Legal Deadline: None

Abstract: NOAA is reviewing all sanctuary regulations to eliminate duplicative language and make the regulations more concise and easier to read.

Timetable:

Action	Date	FR Cite
Final Action	12/27/95	60 FR 66875
Final Action Effective	12/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Lawless, Acting Chief, Sanctuaries and Reserves Div., Office of Ocean and Coastal Resource Mgmt., Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service, 1305 East-West Highway (N/ORM2), Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AI51

646. NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION REGULATIONS

Priority: Other Significant

CFR Citation: 15 CFR 990

Completed:

Reason	Date	FR Cite
Final Action	01/05/96	61 FR 440
Final Action Effective	02/05/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda B. Burlington
Phone: 301 713-1217

RIN: 0648–AE13

DEPARTMENT OF COMMERCE (DOC)

Proposed Rule Stage

National Telecommunications and Information Administration (NTIA)

647. THE TELECOMMUNICATIONS AND INFORMATION INFRASTRUCTURE GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 901 et seq

CFR Citation: None

Legal Deadline: None

Abstract: The Telecommunications and Information Infrastructure Assistance Program (TIIAP) was established within NTIA pursuant to the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1994, P.L. 103-121, under NTIA's existing grant authority. P.L. 103-317 provided funds for TIIAP in FY 1995 to continue with the planning and construction of telecommunications and information infrastructure under NTIA's grant authority. The TIIAP is part of the President's plan for telecommunications and information infrastructure development. Under the program, matching grants are awarded to enable State and local governments and nonprofit entities to help bring the capabilities of advanced telecommunications technologies to the public. In FY 1994 and 1995, $24.4 million and $35.7 million funds were awarded for a variety of demonstration and planning projects that provide the basis for connecting schools, libraries, health care facilities, museums, and other social and community services with interactive data, voice and video telecommunications capabilities. In FY 1996, TIIAP is funded under a continuing resolution, P.L. 104-99, which expires March 15, 1996, that includes $21.5 million for the program. The program has not yet received a final appropriation for FY 1996.

Timetable:

Action	Date	FR Cite
Notice of FY 1994 Funding	03/04/94	59 FR 10562
Notice of FY 1995 Funding	02/10/95	60 FR 8156
Notice of FY 1996 Funding	02/29/96	61 FR 7950
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bernadette McGuire-Rivera, Ph.D., Associate Administrator, Office of Telecommunications & Info. Applications, Department of Commerce, National Telecommunications and Information Administration, Room 4096, 14th & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-5802

DOC—NTIA — Proposed Rule Stage

Email: TIIAP@NTIA.Doc.Gov

RIN: 0660–AA04

648. • PUBLIC TELECOMMUNICATIONS FACILITIES PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 290 to 393; 47 USC 397

CFR Citation: 15 CFR 2301

Legal Deadline: None

Abstract: The Public Telecommunications Facilities Program (PTFP) is authorized under Public Telecommunications Financing Act of 1978, as amended, 47 U.S.C. 390-393, 397. PTFP supports the planning and construction of public telecommunications facilities in order to: (a) extend delivery of services to as many citizens as possible by the most cost-effective means, including use of broadcast as well as nonbroadcast technologies; (b) increase public telecommunications services and facilities available to, operated by, and controlled by minorities and women; and (c) strengthen the capability of existing public TV and radio stations to provide public telecommunications services to the public. The program awards approximately $20 million in grants annually and operates under rules established in 15 CFR part 2301. FY 1995 funds were appropriated pursuant to the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1995, P.L. 103-317. In FY 1996, PTFP is funded under a continuing resolution, P.L. 104-99, which expires March 15, 1995; that includes $15.5 million for the program. The program has not yet received a final appropriation for FY 1996. As part of the National Performance Review, the program is reducing the regulatory burden on the public and plans to issue a Notice of Proposed Rulemaking (NPRM) in March that will revise the programs regulations. PTFP will follow the NPRM with a Notice of Final Rules in June.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	04/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Bernadette McGuire-Rivera, Ph.D., Associate Administrator, Office of Telecommunications & Information Application, Department of Commerce, National Telecommunications and Information Administration, Room 4625, 14th Street & Constitution Avenue NW., Washington, DC 20230
Phone: 202 482-5802
Fax: 202 482-2156
Email: PTFP@NTIA.DOC.GOV

RIN: 0660–AA09

DEPARTMENT OF COMMERCE (DOC) — Completed Actions
National Telecommunications and Information Administration (NTIA)

649. TRANSFER OF SPECTRUM FROM THE FEDERAL GOVERNMENT TO THE FCC

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn - No action anticipated in 1996.	02/21/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard D. Parlow
Phone: 202 482-1850

RIN: 0660–AA05

DEPARTMENT OF COMMERCE (DOC) — Proposed Rule Stage
Patent and Trademark Office (PTO)

650. 1996 CHANGES TO PATENT PRACTICE AND PROCEDURE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1; 37 CFR 3; 37 CFR 5; 37 CFR 7

Legal Deadline: None

Abstract: The proposed rule changes would simplify requirements, rearrange for better context, and eliminate unnecessary rules.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hiram H. Bernstein, Senior Legal Advisor, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-9285
Fax: 703 308-6916

RIN: 0651–AA80

651. REVISION OF PATENT AND TRADEMARK FEES FOR FISCAL 1997

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 41; 35 USC 1115; 35 USC 6; 35 USC 376; 35 USC 1051; 15 USC 1113; 15 USC 1123; PL 101-508; PL 102-204; PL 103-66

CFR Citation: 37 CFR 1.16; 37 CFR 1.17; 37 CFR 1.18; 37 CFR 1.19; 37 CFR 1.20; 37 CFR 1.21; 37 CFR 1.26; 37 CFR 1.445; 37 CFR 1.482; 37 CFR 1.492; 37 CFR 2.6

DOC—PTO — Proposed Rule Stage

Legal Deadline: Final, Statutory, October 1, 1996.

Abstract: Amends rules of practice to revise patent statutory fees and most trademark fees to reflect fluctuations in the Consumer Price Index (CPI) and other nonstatutory patent fees to recover the average costs of providing the goods or services consistent with the Patent and Trademark Authorization Act of 1991 (Public Law 102-204).

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Kopson, Assistant Director, Office of Planning and Evaluation, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231
Phone: 703 305-8510
Fax: 703 305-8525

RIN: 0651–AA82

652. • PATENT PROCESS REENGINEERING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1

Legal Deadline: None

Abstract: Implement changes required to support reengineered patent process.

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	
NPRM Comment Period End	03/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Kunin, Deputy Assistant Commissioner for Patent Policy and Projects, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-8850
Fax: 703 305-8825

RIN: 0651–AA84

653. • MISCELLANEOUS CHANGES TO TTAB RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1123

CFR Citation: 37 CFR 2.76(a), (g), (h); 37 CFR 2.85(e); 37 CFR 2.87(b); 37 CFR 2.101(d)(1); 37 CFR 2.102(c), (d); 37 CFR 2.111(b), (c)(1); 37 CFR 2.117; 37 CFR 2.119(d); 37 CFR 2.120(a); 37 CFR 2.121(d); 37 CFR 2.122(b), (d); 37 CFR 2.123(b), (f); 37 CFR 2.127(b); 37 CFR 2.134(a); 37 CFR 2.146(e)(1); ...

Legal Deadline: None

Abstract: These changes clarify TTAB rules, conform the rules to current practice, make minor modifications to simplify practice, and make minor corrections.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Sams, Chief Administrative Trademark Judge, Department of Commerce, Patent and Trademark Office, 2900 Crystal Drive, BOX TTAB, Arlington, VA 22202
Phone: 703 308-9300
Fax: 703 308-9333

RIN: 0651–AA87

DEPARTMENT OF COMMERCE (DOC) — Final Rule Stage
Patent and Trademark Office (PTO)

654. COMMUNICATIONS WITH THE PATENT AND TRADEMARK OFFICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.1; 37 CFR 1.5; 37 CFR 1.8; 37 CFR 1.10; 37 CFR 1.3; 37 CFR 1.9; 37 CFR 5.33; 37 CFR 10.23

Legal Deadline: None

Abstract: Currently all letters and other communications intended for the Patent and Trademark Office must be addressed to "Commissioner of Patents and Trademarks," Washington, DC 20231. The proposed rule changes would: (1) provide separate mailing addresses for patents and trademarks; (2) provide a definition for "Federal holiday"; and (3) delete requirement for an "Express Mail" certificate.

Timetable:

Action	Date	FR Cite
NPRM	11/02/95	60 FR 55691
NPRM Comment Period End	01/02/96	
Final Action	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Merged with 0651-AA73, changes in Requirements for Addressing Trademark Applications and Trademark-Related papers.

Agency Contact: Lawrence E. Anderson, Office of Petitions, Department of Commerce, Patent and Trademark Office, Commissioner of Patents and Trademarks, Washington, DC 20231
Phone: 703 305-9285

RIN: 0651–AA70

655. CHANGES TO IMPLEMENT 18-MONTH PUBLICATION OF PATENT APPLICATIONS

Priority: Other Significant

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1

Legal Deadline: None

Abstract: Congress is considering legislation that would mandate early

DOC—PTO — Final Rule Stage

publication of pending patent applications, except those under secrecy order. Early publication will require printing some information about pending patent applications 18 months after the effective filing date of each patent application. This rulemaking implements that legislation.

Timetable:

Action	Date	FR Cite
Notice of Public Hearing and Request for Public Comments	12/12/94	59 FR 63966
NPRM	08/15/95	60 FR 42352
NPRM Comment Period End	09/19/95	
Final Rule	04/00/96	
Final Rule Effective	05/00/96	
Final Action	05/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rulemaking incorporates RIN 0651-AA62: Procedures for Amending Patent Applications. Two final rules will issue from this action.

Agency Contact: Stephen G. Kunin, Deputy Assistant Commissioner for Patent Policy and Projects, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commisioner for Patents, Washington, DC 20231
Phone: 703 305-8850
Fax: 703 305-8825

RIN: 0651–AA75

656. RULES OF PRACTICE IN PATENT CASES; REEXAMINATION PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.901 to 1.907; 37 CFR 1.909; 37 CFR 1.911; 37 CFR 1.913; 37 CFR 1.915; 37 CFR 1.917; 37 CFR 1.919; 37 CFR 1.921; 37 CFR 1.923

Legal Deadline: None

Abstract: Proposed rules establish procedures for the Commissioner to reexamine U.S. patents. The rules afford third parties opportunity for greater participation.

Timetable:

Action	Date	FR Cite
NPRM	08/11/95	60 FR 41035
NPRM Comment Period End	09/22/95	
Final Action	08/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald A. Dost, Senior Legal Advisor, Department of Commerce, Patent and Trademark Office, Commissioner of Patents & Trademarks, Office of Petitions, Crystal Park 1, Rm. 520
Phone: 703 305-9282
Fax: 703 305-8825

RIN: 0651–AA79

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO) — Long-Term Actions

657. PATENT APPLICATION ELECTRONIC SUBMISSION RULES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 1; 37 CFR 2

Timetable:

Action	Date	FR Cite
ANPRM	11/30/92	57 FR 56537
ANPRM Comment Period End	03/01/93	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Olik Chaudhuri
Phone: 703 305-8600

RIN: 0651–AA50

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO) — Completed Actions

658. TRADEMARK PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 2.24; 37 CFR 2.85(e); 37 CFR 2.102(e); 37 CFR 2.119; 37 CFR 2.146(d); 37 CFR 2.162(e); 37 CFR 2.183; 37 CFR 2.33; 37 CFR 2.111(b); 37 CFR 2.80; 37 CFR 2.187; 37 CFR 2.189

Completed:

Reason	Date	FR Cite
Withdrawn for further study.	02/07/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lynne Beresford
Phone: 703 308-8900

RIN: 0651–AA46

659. CROSS APPEALS IN PTO DISCIPLINARY PROCEEDINGS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 10.155

Completed:

Reason	Date	FR Cite
Final Action	12/14/95	60 FR 64125
Final Action Effective	01/16/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen L. Bovard
Phone: 703 308-5316

RIN: 0651–AA65

DOC—PTO — Completed Actions

660. SIMPLIFICATION OF THE REQUIREMENTS CONCERNING THE FILING AND PROCESSING OF TRADEMARK APPLICATIONS, INTENT TO USE DOCUMENTS, AND PETITIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 1.1; 37 CFR 1.6; 37 CFR 1.10; 37 CFR 1.8; 37 CFR 2

Completed:

Reason	Date	FR Cite
Withdrawn for further study.	02/07/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lynne Beresford
Phone: 703 308-8900

RIN: 0651–AA78

661. CHANGES IN PATENT APPLICATION EXAMINATION PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 37 CFR 1.17; 37 CFR 1.113; 37 CFR 1.116; 37 CFR 1.198

Completed:

Reason	Date	FR Cite
Merged with RIN 0651-AA80	01/26/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Kunin
Phone: 703 305-8850
Fax: 703 305-8825

RIN: 0651–AA81

662. • EXAMINATION GUIDELINES FOR COMPUTER-RELATED INVENTIONS

Priority: Other Significant

Legal Authority: 35 USC 6

CFR Citation: None

Legal Deadline: None

Abstract: These guidelines are written to assist PTO personnel in the examination of patent applications drawn to computer related inventions.

Timetable:

Action	Date	FR Cite
Final Action	02/28/96	61 FR 7478
Final Action Effective	03/29/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen A. Buchanan, Associate Solicitor, Department of Commerce, Patent and Trademark Office, BOX 15667, Arlington, VA 22215
Phone: 703 305-8607
Fax: 703 305-9373

RIN: 0651–AA83

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA) — Final Rule Stage

663. RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS AND SMALL BUSINESS FIRMS UNDER GOVERNMENT GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

Priority: Other Significant

Legal Authority: 35 USC 206

CFR Citation: 37 CFR 401

Legal Deadline: None

Abstract: The change to the rule permitting electronic reporting of inventions was published in the Federal Register on August 14, 1995 (60 FR 41811).

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/14/95	60 FR 41811
Comment Period End	09/13/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jon Paugh, Acting Director, Technology Competitiveness, Department of Commerce, Technology Administration, Washington, DC 20230
Phone: 202 482-2100

RIN: 0692–AA14

664. ACQUISITION AND PROTECTION OF FOREIGN RIGHTS IN INVENTIONS

Priority: Substantive, Nonsignificant

Legal Authority: EO 10096; 15 USC 3710d

CFR Citation: 37 CFR 101; 37 CFR 501

Legal Deadline: None

Abstract: 37 CFR part 101 will be abolished and 37 CFR part 501 expanded to cover Federal employee foreign rights in inventions.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John H. Raubitschek, Patent Counsel, Department of Commerce, Technology Administration, RH4613, Washington, DC 20230
Phone: 202 482-8010
Fax: 202 482-0523

RIN: 0692–AA15

665. LICENSING OF FOREIGN PATENTS ACQUIRED BY THE GOVERNMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 9865; 35 USC 207; 35 USC 208; 35 USC 209

CFR Citation: 37 CFR 102; 37 CFR 404

Legal Deadline: None

Abstract: 37 CFR part 102 will be abolished because it conflicts with 37 CFR part 404.

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DOC—TA — Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John H. Raubitschek, Patent Counsel, Department of Commerce, Technology Administration, RH 4613

Phone: 202 482-8010
Fax: 202 482-0528

RIN: 0692–AA16

DEPARTMENT OF COMMERCE (DOC)
Technology Administration (TA)

Long-Term Actions

666. PROMOTION OF PRIVATE SECTOR INDUSTRIAL TECHNOLOGY PARTNERSHIPS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 1160 subpart A

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Bohannon
Phone: 202 482-1984

RIN: 0692–AA13

[FR Doc. 96-8411 Filed 05-10-96; 8:45 am]
BILLING CODE 3510-BW-F

federal register

Monday
May 13, 1996

Part V

Department of Defense

Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE (DOD)

DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Department of Defense (DoD).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Defense (DoD) is publishing this semiannual agenda of regulatory documents, including those that are procurement-related, for public information and comments under E.O. 12866 "Regulatory Planning and Review" and the Office of Federal Procurement Policy Act of 1988 (41 U.S.C. 402). This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under E.O. 12866, the Federal Procurement Policy Act, and other regulatory guidance. It contains DoD issuances initiated by DoD components that may have economic and environmental impact on State, local, or tribal interests under the criteria of E.O. 12866. Although most DoD issuances listed in the agenda are of negligible public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process.

The agenda portion of this document updates the report published on November 28, 1995, and includes regulations expected to be issued and under review over the next 12 months. The procurement-related agenda items included herein will also be used by the Office of Federal Procurement Policy to publish the "Procurement Regulatory Activity Report" required by the Office of Federal Procurement Policy Act Amendments of 1988.

The next agenda is scheduled to be published in October 1996, in consolidation with the annual regulatory plan. In addition to this agenda, DoD components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Mr. William Pearce, telephone 703-604-4582, or write to Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600, or call 703-697-2714.

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Mr. Dan Cragg, Directives and Records Division, Directorate for Correspondence and Directives, Washington Headquarters Services; telephone 703-697-4111. For general information on Office of the Secretary agenda items which are procurement-related, contact Ms. Kathleen Fenk, telephone 703-602-0131, or write to Defense Acquisition Regulations Directorate, 3062 Defense Pentagon, Washington, DC 20301-3062.

For general information on Department of the Army regulations, contact Mr. Gregory Showalter, telephone 703-428-0567, or write to Commander, U.S. Army Publications and Printing Command, ATTN: ASQZ-PDS, Room 1050, Hoffman I, Alexandria, Virginia 22331-0302.

For general information on the U.S. Army Corps of Engineers regulations, contact Mr. Michael L. Davis, telephone 202-761-0199, or write to Office of the Chief of Engineers, ATTN: CECW-OR, Washington, DC 20314-1000.

For general information on Department of the Navy regulations, contact Ms. Alcinda P. Wenberg, telephone 703-602-6766, or write to Department of the Navy, Commander, Naval Information Systems Management Center, Crystal Gateway 2, Room 1500, 1225 Jefferson Davis Highway, Arlington, Virginia 22202-4311.

For general information on Department of the Air Force regulations, contact Ms. Patsy J. Conner, telephone 703-614-3488, or write to Department of the Air Force, SAF/AAIQ, 1610 Air Force Pentagon, Washington, DC 20330-1610.

For specific agenda items, contact the appropriate individual indicated in each DoD component report.

SUPPLEMENTARY INFORMATION: This regulatory agenda is composed of the regulatory status reports, including procurement-related regulatory status reports, from the Office of the Secretary of Defense (OSD) and the Departments of the Army, Navy, and Air Force. Included also is the regulatory status report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of E.O. 12866 and involve water resource projects and regulation of activities in waters of the United States.

DoD issuances range from DoD Directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement Directives). The OSD agenda section contains the primary Directives under which DoD components promulgate their implementing regulations.

To ease identification and to clarify the differences among the variety of issuances reported, they are identified by their DoD internal numbering system, which denotes component level of authority and type of issuance, in addition to the required CFR number.

In addition, this agenda, although published under the reporting requirements of E.O. 12866, will continue to be the DoD single-source reporting vehicle, which will identify issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, DoD components will identify those rules which come under the criteria of the:

a. Regulatory Flexibility Act;

b. Paperwork Reduction Act of 1995;

c. Office of Federal Procurement Policy Act Amendments of 1988.

Those DoD issuances, which are directly applicable under these statutes, will be identified in the agenda and their action status indicated. Generally, the reports in this agenda will contain four sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; and (4) completed actions.

Although not a regulatory agency, DoD will continue to participate in regulatory initiatives designed to reduce economic costs and unnecessary environmental burdens upon the public.

Comments and recommendations are invited on the rules reported and should be addressed to the DoD component representatives identified in each section.

Although sensitive to the needs of the public and regulatory reform, DoD reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission. The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 and section 3 of E.O. 12866.

Dated: February 26, 1996.

D. O. Cooke,

Director, Administration and Management.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
667	Civil-Military Program (DoD Directive 1100aa)	0790-AF84
668	Civil-Military Program Procedures (DoD Instruction 1100bb)	0790-AF85
669	Technical Assistance for Public Participation	0790-AG14

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
670	Teacher and Teacher's Aide Placement Assistance Program (Troops to Teachers)(DoD Instruction 1404.13)	0790-AF71
671	Grants and Agreements—Military Recruiting on Campus	0790-AF87
672	Provision of Early Intervention and Special Education Services for Eligible DoD Dependents in Overseas Areas (DoD Instruction 1342.12)	0790-AF89
673	Military Recruiting at Institutions of Higher Education (DoD Directive 1322.13)	0790-AG13
674	Revitalizing Base Closure Communities and Community Assistance- Community Redevelopment and Homeless Assistance	0790-AG18
675	Former Spouse Payments From Retired Pay; Amendment	0790-AG22
676	Information Security Program Regulation (DoD 5200.1-R); Amendment	0790-AG23
677	Collection From Third Party Payers of Reasonable Costs of Healthcare Services; Amendment	0790-AG24
678	University Research Initiative Support Program (URISP)	0790-AG26
679	Educational Requirement for Appointment of Reserve Component Officers to a Grade Above First Lieutenant or Lieutenant (Junior Grade) (DoD Instruction 1215.17)	0790-AG27
680	School Boards for Department of Defense Domestic Dependent Elementary and Secondary Schools	0790-AG29
681	Conduct on the Pentagon Reservation	0790-AG30

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
682	Total Quality Management (DoD Directive 5000.51)	0790-AB33
683	Release of Acquisition-Related Information (DoD Directive 5230.aa)	0790-AC62
684	Pilot Program Policy	0790-AF26
685	Science, Mathematics, and Engineering (SME) Education	0790-AF27
686	National Security Education Program (NSEP) Grants to Institutions of Higher Education (DoD Instruction 1025.5)	0790-AF59
687	DLA Acquisition Regulation; Small Business and Small Disadvantaged Business Concerns	0790-AF72
688	DLA Acquisition Regulation; Fuel Allocation Procedures	0790-AF73
689	Contractor's Safety for Ammunition and Explosives	0790-AG06

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
690	Commercial Activities Program Procedures (DoD Instruction 4100.33); Amendment	0790-AG25

DOD

Defense Aquisition Regulations Council—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
691	Payment by Electronic Funds Transfer (DAR Case 90-D009)	0750-AA03
692	Overhead Should Cost Reviews (DFARS Case 92-D010)	0750-AA04
693	Insurance Liability to Third Parties (DAR Case 92-D015)	0750-AA05
694	Drug-Free Workforce (DAR Case 88-083)	0750-AA06
695	Incremental Funding, Fixed Price Contracts (DAR Case 90-037)	0750-AA07
696	Demilitarization (DFARS Case 92-D024)	0750-AA09
697	Reduction in Progress Payments (DFARS Case 93-D305)	0750-AA21
698	EUCOM Supplement (DFARS Case 94-D001)	0750-AA34
699	Institutions of Higher Education (DFARS Case 94-D310)	0750-AA40
700	Restructuring Costs Under Defense Contracts (DFARS Case 94-D316)	0750-AA48
701	Protection of Arms, Ammunition, and Explosives (DFARS Case 95-D001)	0750-AA51
702	Tank and Automotive Forging Items (DFARS Case 95-D003)	0750-AA53
703	Quality Assurance—Test	0750-AA56
704	Offset Administrative Costs (DFARS Case 95-D019)	0750-AA64
705	Revised North American Free Trade Agreement Thresholds (DFARS Case 95-D022)	0750-AA65
706	Contractor Purchasing System Reviews (DFARS Case 95-D026)	0750-AA67
707	Ground and Flight Risk (DFARS Case 95-D028)	0750-AA69
708	Alternative to Miller Act Bonds (DFARS Case 95-D305)	0750-AA71
709	Micropurchases (DFARS Case 95-D302)	0750-AA73
710	Precontractual Contract Administration (DFARS Case 95-D015)	0750-AA79
711	Milcon-Funded CPFF Contracts (DFARS Case 95-D024)	0750-AA80
712	Material Management and Accounting System Changes (DFARS Case 95-D029)	0750-AA84
713	Contract Award (DFARS 95-D702)	0750-AA86
714	Small Business (DFARS Case 95-D706)	0750-AA87
715	Finance (DFARS Case 95-D710)	0750-AA88
716	Cost Principles (Proposed) (DFARS Case 95-D714)	0750-AA89
717	Past Performance (DFARS Case 95-D715)	0750-AA91
718	Truth in Negotiations Act and Related Changes (DFARS Case 95-D708)	0750-AA95
719	Flexible Contract Administration Services (DFARS Case 95-D030)	0750-AA97
720	Use of Military Assistance Program Address Codes (DFARS Case 95-D032)	0750-AA98
721	Magnitude of Construction Projects (DFARS Case 95-D031)	0750-AA99
722	Acquisition of Commercial Items (DFARS Case 95-D712)	0750-AB00
723	Small Disadvantaged Business Concerns (DFARS Case 95-D039)	0750-AB01
724	Revise DD Form 1149 (DFARS Case 95-D041)	0750-AB02
725	Requirement for Cost/Schedule Status Report (DFARS Case 95-D042)	0750-AB03
726	IR&D/B&P Costs for FY96 and Beyond (DFARS Case 95-D040)	0750-AB04
727	Allowability of Costs (DFARS Case 95-D309)	0750-AB05
728	Ozone (DFARS Case 95-D037)	0750-AB07
729	Streamlined Research and Development Update (DFARS Case 95-D036)	0750-AB08
730	Foreign Product Restrictions (DFARS Case 95-D033)	0750-AB11
731	Performance Evaluations for Construction and A-E Contracts (DFARS Case 95-D034)	0750-AB12
732	Ball and Roller Bearings (DFARS Case 95-D308)	0750-AB13
733	Components for Naval Vessels (DFARS Case 96-D300)	0750-AB14
734	Procurement of Critical Aircraft and Ship Spare Parts (DFARS 96-D301)	0750-AB15
735	Leasing of Commercial Vehicle and Equipment (DFARS Case 96-D302)	0750-AB16
736	Cost Reimbursement Rules for Indirect Costs—Private Sector Work of Defense Contractor (DFARS Case 96-D303)	0750-AB17
737	Comprehensive Subcontracting Plans (DFARS Case 96-D304)	0750-AB18
738	Institutions of Higher Education (DFARS Case 96-D305)	0750-AB19

Defense Aquisition Regulations Council—Completed Actions

Sequence Number	Title	Regulation Identifier Number
739	Acquisition of Commercial Items (DAR Case 89-316)	0750-AA02
740	Personal Services Compensation (DAR Case 91-085D)	0750-AA08
741	Redesignation of USD(A) (DFARS Case 93-D320)	0750-AA26

DOD

Defense Aquisition Regulations Council—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
742	Personal Services Contracts (DFARS Case 94-D302)	0750-AA33
743	Specifications and Standards (DFARS Case 94-D003)	0750-AA36
744	Federally Funded Research and Development Centers (DFARS Case 94-D306)	0750-AA38
745	Manufacturing Science and Technology Program (DFARS Case 94-D307)	0750-AA39
746	Determinations Under the Buy American Act (DFARS 94-D313)	0750-AA42
747	Limitation on Procurement of Goods (DFARS Case 94-D314)	0750-AA43
748	Hazardous Materials (DFARS Case 94-D309)	0750-AA45
749	Subcontracting Plan from Nonprofit Agencies for the Blind or Severely Disabled (DFARS Case 94-D312)	0750-AA46
750	Preference for Local Residents (DFARS Case 94-D315)	0750-AA47
751	Individual Compensation (DFARS Case 94-D318)	0750-AA49
752	Internal Restructuring Costs (DFARS Case 94-D007)	0750-AA50
753	Field Pricing Report (DFARS Case 95-D010)	0750-AA59
754	Qualification Requirements (DFARS Case 95-D011)	0750-AA60
755	Australian Memorandum of Agreement (DFARS Case 95-D013)	0750-AA61
756	Preaward Survey (DFARS Case 95-D016)	0750-AA62
757	Cost Monitoring (DFARS Case 95-D018)	0750-AA63
758	Limiting Small Disadvantaged Business Premiums (DFARS Case 95-D023)	0750-AA66
759	Indian Incentive (DFARS Case 95-D027)	0750-AA68
760	Supercomputer (DFARS Case 95-D301)	0750-AA70
761	Uruguay Round (1996 Agreement) (DFARS Case 95-D306)	0750-AA72
762	Teaming of Sole Source Contractors (DFARS Case 95-D009)	0750-AA74
763	Integrated Materiel Management (DFARS Case 95-D005)	0750-AA75
764	Multiple Best and Final Offers (DFARS Case 95-D006)	0750-AA76
765	Contract Quality Requirements (DFARS Case 95-D007)	0750-AA77
766	Annual Automated Data Processing Equipment Leasing Reviews (DFARS Case 95-D017)	0750-AA81
767	Environmentally Sound Products (DFARS Case 95-D303)	0750-AA82
768	Contract Award (Interim)(DFARS Case 95-D701)	0750-AA85
769	Cost Principles (Final) (DFARS Case 95-D704)	0750-AA90
770	Audits (DFARS Case 95-D705)	0750-AA93
771	Ethics (DFARS Case 95-D707)	0750-AA94
772	Vietnam Veterans (DFARS Case 95-D307)	0750-AA96
773	Federal Funded Research and Development Centers (DFARS Case 95-D307)	0750-AB06
774	Firefighting and Security Guard Services (DFARS Case 95-D035)	0750-AB09
775	Master Agreements (DFARS Case 95-D038)	0750-AB10

Department of the Army—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
776	Army Regulation 190-9, Absentee Deserter Apprehension Program and Surrender of Military Personnel to Civilian Law Enforcement Agencies	0702-AA26

Department of the Army—Completed Actions

Sequence Number	Title	Regulation Identifier Number
777	Army Regulation 500-51, Emergency Employment of Army and Other Resources—Support to Civilian Law Enforcement	0702-AA23
778	Fort Lewis Regulation 350-33	0702-AA29

DOD

U.S. Army Corps of Engineers—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
779	Regulatory Programs of the Corps of Engineers	0710-AA30
780	Nationwide Permit Program (New Nationwide Permits for Additional Activities)	0710-AA32
781	Regulatory Program of the Corps of Engineers—90-Day Decisions	0710-AA40
782	Environmental Quality; Procedures for Implementing the National Environmental Policy Act (NEPA)	0710-AA42

U.S. Army Corps of Engineers—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
783	Regulatory Programs of the Corps of Engineers, Wetland Delineator Certification Program	0710-AA38
784	Regulatory Program of the Corps of Engineers—Administrative Appeals	0710-AA41

U.S. Army Corps of Engineers—Completed Actions

Sequence Number	Title	Regulation Identifier Number
785	Regulatory Programs of the Corps of Engineers, Part 325, Appendix D—Endangered Species Counterpart Regulations	0710-AA17
786	Part 326, Enforcement; Class II Administrative Penalties	0710-AA25

Department of the Navy—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
787	Adjustments to Prices Under Shipbuilding Contracts	0703-AA34
788	Use of Department of the Navy Aviation Facilities by Other Than United States Department of Defense Aircraft	0703-AA48
789	Board for Correction of Naval Records	0703-AA49

Department of the Air Force—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
790	Public Affairs Policies and Procedures	0701-AA18

Department of the Air Force—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
791	Personnel Review Boards	0701-AA43

Department of the Air Force—Completed Actions

Sequence Number	Title	Regulation Identifier Number
792	Air Force Materiel Command Federal Acquisition Regulation Supplement; Vendor Rating System	0701-AA34
793	Foreign Tax Relief Program	0701-AA44
794	Support of Nongovernmental Test and Evaluation	0701-AA45

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Department of the Air Force—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
795	Statutory Reimbursement for Land	0701-AA46
796	Air Force Systems Command Contractor Performance Assessment	0701-AA47

Office of Assistant Secretary for Health Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
797	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Individual Case Management (DoD 6010.8-R)	0720-AA30

Office of Assistant Secretary for Health Affairs—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
798	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Supplemental Insurance Plans (DoD 6010.8-R)	0720-AA01
799	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Program for the Handicapped (DoD 6010.8-R)	0720-AA04
800	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Basic Program (DoD 6010.8-R)	0720-AA06
801	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Former Spouse/Widow(er) and Federal Claims Collection Act (DoD 6010.8-R)	0720-AA07
802	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Hospital Payment for Ambulatory Care (DoD 6010.8-R)	0720-AA20
803	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Six Separate Changes (DoD 6010.8-R)	0720-AA25
804	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Provider Certification Requirements—Corporate Services Provider Class; Occupational Therapists (DoD 6010.8-R)	0720-AA27
805	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Transplants (DoD 6010.8-R)	0720-AA28
806	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Clarification of the CHAMPUS Definition of Experimental (DoD 6010.8-R)	0720-AA29

Office of Assistant Secretary for Health Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
807	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS): Expanded Active Duty Dependents Dental Benefit Plan	0720-AA19
808	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Program; Uniform HMO Benefit; Special Health Care Delivery Programs (DoD 6010.8-R)	0720-AA21

DEPARTMENT OF DEFENSE (DOD)

Proposed Rule Stage

Office of the Secretary (OS)

667. CIVIL-MILITARY PROGRAM (DOD DIRECTIVE 1100AA)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 410

CFR Citation: 32 CFR 213

Legal Deadline: None

Abstract: This part establishes policy and assigns responsibilities for the establishment and implementation of Civil-Military Programs. It is DoD policy to employ DoD resources to the extent that they do not affect readiness, to contribute to meeting the domestic

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needs of the Nation in areas such as health and human services, education and job training, and infrastructure building/ rehabilitation. Such activities may be as a byproduct of training, incidental to training, as a result of dedicated missions or the result of specifically authorized and funded program. Military support to civilian authorities (MSCA) is specifically excluded from Civil-Military Programs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: A. Hickox, Department of Defense, Office of the Secretary
Phone: 703 614-0636
Fax: 703 693-5371

RIN: 0790–AF84

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668. CIVIL-MILITARY PROGRAM PROCEDURES (DOD INSTRUCTION 1100BB)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 410

CFR Citation: 32 CFR 214

Legal Deadline: None

Abstract: This part provides guidance and procedures for implementing the Civil-Military Programs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: A. Hickox, Department of Defense, Office of the Secretary
Phone: 703 614-0636
Fax: 703 693-5371

RIN: 0790–AF85

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669. TECHNICAL ASSISTANCE FOR PUBLIC PARTICIPATION

Priority: Substantive, Nonsignificant

Legal Authority: Sec 326, National Defense Authorization Act for FY 1995

CFR Citation: 32 CFR 203

Legal Deadline: Other, Statutory. Not later than 180 days after the date on which the Secretary of Defense announces a decision to establish the Restoration Advisory Board.

Abstract: The DoD intends to publish interim rules for providing technical assistance funding to citizens affected by the environmental restoration of DoD facilities. This request for comments discusses and solicits comments on several options the DoD is considering for providing assistance to community members of Technical Review Committee (TRCs) and Restoration Advisory Boards (RABs) to obtain technical advisors and facilitate the participation of these members and affected citizens in environmental restoration activities at their associated installations. The DoD will consider these comments in formulating an interim final rule.

Timetable:

Action	Date	FR Cite
ANPRM	05/24/95	60 FR 27460
Notice of Request for Expressions of Interest	07/10/95	60 FR 35553
ANPRM Comment Period End	07/24/95	60 FR 27460
Notice of Request for Expressions of Interest Submittal Period End	09/08/95	60 FR 35553
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: P. Ferrebee/M. Read, Department of Defense, Office of the Secretary
Phone: 703 697-7475
Fax: 703 695-4981
Email: FERREBPL@ACQ.OSD.MIL

RIN: 0790–AG14

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

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670. TEACHER AND TEACHER'S AIDE PLACEMENT ASSISTANCE PROGRAM (TROOPS TO TEACHERS)(DOD INSTRUCTION 1404.13)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 1151; 10 USC 1598; 10 USC 2410c

CFR Citation: 32 CFR 254

Legal Deadline: None

Abstract: This program provides stipends to Service members and eligible individuals losing Defense jobs and provides grants to local educational agencies who hire separated military members, terminated Department of Defense and Department of Energy employees, and displaced defense contractor scientists and engineers as teachers and teacher aides. The intent of this program is to relieve shortages of elementary and secondary school teachers and teacher's aides through placement of qualified separating military, Department of Defense and Department of Energy employees, and displaced contractor employees in schools that serve a concentration of children from low-income families.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/94	59 FR 7213
Interim Final Rule Effective	02/22/94	
Interim Final Rule Comment Period End	04/18/94	
Interim Final Rule; Amendment Effective	11/25/94	60 FR 30188
Interim Final Rule; Amendment	06/08/95	60 FR 30188

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Action	Date	FR Cite
Interim Final Rule; Amendment Comment Period End	08/07/95	
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: R. Stein, Department of Defense, Office of the Secretary
Phone: 703 696-1702
Fax: 703 696-1703
Email: SMITHO@SMTTBALL.FMP.OSD.MIL

RIN: 0790–AF71

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671. GRANTS AND AGREEMENTS—MILITARY RECRUITING ON CAMPUS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301

CFR Citation: 32 CFR 23

Legal Deadline: None

Abstract: This Interim Rule implements section 558 of the National Defense Authorization Act for fiscal year 1995 (PL 103-337 (1994)), as it applies to grants. Section 558 states that funds available to the Department of Defense may not be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes: entry to campuses; access to students on campuses; or access to directory information pertaining to students. This rule implements the law, as it applies to grants, by requiring inclusion of an appropriate clause in DoD grants with institutions of higher education. It also extends the requirement, as a matter of policy, to DoD cooperative agreements, because they are very similar to grants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/24/95	60 FR 4544
Interim Final Rule Effective	01/24/95	
Interim Final Rule Comment Period End	03/27/95	
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: M. Herbst, Department of Defense, Office of the Secretary
Phone: 703 614-0205

RIN: 0790–AF87

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672. PROVISION OF EARLY INTERVENTION AND SPECIAL EDUCATION SERVICES FOR ELIGIBLE DOD DEPENDENTS IN OVERSEAS AREAS (DCD INSTRUCTION 1342.12)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 921; 20 USC 1400

CFR Citation: 32 CFR 57

Legal Deadline: None

Abstract: This part implements policy and updates responsibilities and procedures under 20 USC 921-932, 20 USC 1400 et seq., 32 CFR part 347, and 32 CFR part 71 for providing the following: (1) A free appropriate public education (FAPE) for children with disabilities who are eligible to enroll in the Department of Defense Dependents Schools (DoDDS); (2) Early intervention services for infants and toddlers birth through age 2 years who, but for their age, would be eligible to enroll in the DoDDS under 32 CFR part 71; (3) A comprehensive and multidisciplinary program of early intervention services for infants and toddlers with disabilities and their families. This part establishes a National Advisory Panel (NAP) on Education for Children with Disabilities, aged 3 to 21, inclusive and a DoD Inter-Component Coordinating Council (ICC) on Early Intervention, in accordance with DoD Directive 5105.4. This part establishes a DoD Coordinating Committee (DoD-CC) on Early Intervention, Special Education, and Medically Related Services (MRS). This part authorizes implementation instructions.

Timetable:

Action	Date	FR Cite
NPRM	05/31/95	60 FR 28362
NPRM Comment Period End	07/31/95	
Public Hearing Proposed Rule	08/04/95	60 FR 36081
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: R. Posante, Department of Defense, Office of the Secretary
Phone: 703 696-4493

RIN: 0790–AF89

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673. MILITARY RECRUITING AT INSTITUTIONS OF HIGHER EDUCATION (DOD DIRECTIVE 1322.13)

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 503 note

CFR Citation: 32 CFR 216

Legal Deadline: None

Abstract: The Department of Defense adopts this interim rule to implement the National Defense Authorization Act for Fiscal Year 1995. It updates policy, procedures, and responsibilities for identifying and taking action against any institution of higher education that has a policy of denying, or, that effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes: Entry to campuses, access to students on campuses, or access to student directory information. No funds available to the Department of Defense (DoD) may be provided by grant or contract to any such institution. The new law allows no basis for waivers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/30/95	60 FR 28050
Interim Final Rule Effective	05/30/95	
Interim Final Rule Comment Period End	07/31/95	

Action	Date	FR Cite
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: R. Liveris, Department of Defense, Office of the Secretary
Phone: 703 697-9268
Fax: 703 614-9272
Email: LIVERISR@SMTPGATE.FMP.OSD.MIL

RIN: 0790–AG13

674. REVITALIZING BASE CLOSURE COMMUNITIES AND COMMUNITY ASSISTANCE- COMMUNITY REDEVELOPMENT AND HOMELESS ASSISTANCE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 2687 note

CFR Citation: 32 CFR 92

Legal Deadline: None
Although no deadline for promulgating regulations was established in the statute, it was imperative that regulations be issued immediately to inform communities of the new process

Abstract: This interim rule promulgates policies and procedures, developed by both the Departments of Defense and Housing and Urban Development, for implementing the Base Closure Community Redevelopment and Homeless Assistance Act (the "Redevelopment Act"). The Department of Housing and Urban Development will be making a similar publication in 24 CFR part 586.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/08/95	60 FR 40277
Interim Final Rule Effective	08/08/95	
Interim Final Rule Comment Period End	10/10/95	
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: For further information of this action and a related action, see the Department of Defense Regulatory Plan appearing in Part II of this issue of the Federal Register.

Agency Contact: R. Hertzfeld, Department of Defense, Office of the Secretary
Phone: 703 695-1470
Fax: 703 697-6954
Email: HERTZFRE@ACQ.OSD.MIL

RIN: 0790–AG18

675. FORMER SPOUSE PAYMENTS FROM RETIRED PAY; AMENDMENT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 1408

CFR Citation: 32 CFR 63

Legal Deadline: None

Abstract: This proposed rule amends part 63 of title 32 to reflect amendments to the Uniformed Services Former Spouses' Protection Act and to clarify the language in section 63.6(c)(8) concerning court orders that provide for a division of retired pay by means of a formula. Guidance implementing the amendments have been incorporated into Volume 7, Part B of the DoD Financial Management Regulation, DoD 7000.14-R, but has not been previously published in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	04/06/95	60 FR 17507
NPRM Comment Period End	06/06/95	
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: F. Malufau, Department of Defense, Office of the Secretary
Phone: 703 602-5279
Fax: 702 602-5271
Email: MALUFAUF@CLEVELAND.DFAS.MIL

RIN: 0790–AG22

676. INFORMATION SECURITY PROGRAM REGULATION (DOD 5200.1-R); AMENDMENT

Priority: Other

Legal Authority: EO 12356; 5 USC 301

CFR Citation: 32 CFR 159a

Legal Deadline: None

Abstract: The DoD proposes to issue this amendment to accommodate congressional language incorporated into the fiscal year 1994 Appropriations Act which specifies that new purchases of combination locks for GSA-approved security containers, vault doors, and secure rooms shall conform to Federal Specifications FF-L-2740 as well as the findings and recommendations of a senior panel established by Deputy Secretary of Defense regarding physical security measures required to adequately safeguard classified information in the possession of DoD activities.

Timetable:

Action	Date	FR Cite
Final Rule Effective	06/01/86	54 FR 26958
Final Rule	06/27/89	54 FR 26958
Final Rule Amendment	07/28/89	54 FR 31333
Final Rule Correction	11/06/89	54 FR 46610
NPRM	06/28/95	60 FR 33376
NPRM Comment Period End	08/28/95	60 FR 22276
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: W. Bell, Department of Defense, Office of the Secretary
Phone: 703 695-2289
Fax: 703 695-8515
Email: BELLW@ISPNT.C3I.OSD.MIL

RIN: 0790–AG23

677. COLLECTION FROM THIRD PARTY PAYERS OF REASONABLE COSTS OF HEALTHCARE SERVICES; AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 10 USC 1095

CFR Citation: 32 CFR 220

Legal Deadline: None

Abstract: This rule establishes a new rule under the Third Party Collection program for determining the reasonable costs of healthcare services provided by facilities of the Uniformed Services in cases in which care is provided under TRICARE Resource Sharing Agreements. For purposes of the Third Party Collection program, such services will be treated the same as other services provided by facilities of the Uniformed Services. This rule also lowers the high cost ancillary threshold value from $60 to $25 for patients that come to the Uniformed Services facility for ancillary services requested by a source other than a Uniformed Services facility provider. The reasonable costs of such services will be accumulated on a daily basis. The Department of Defense is now implementing TRICARE, a major structural reform of the military health care system, featuring adoption of managed care practices in military hospitals and by special civilian contract provider networks. Consistent with TRICARE, as part of the Third Party Collection Program, DoD is transitioning to a billing and collection system in which all costs borne by DoD Medical Treatment Facilities (MTFs) will be billed by the MTF providing the care. Thus, all care performed within the facility, plus an added amount for supplemental care purchased by the facility, will be billed by the MTF. Conversely, care provided outside the MTF under other arrangements will be billed by the provider of that care.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39285
NPRM Comment Period End	10/02/95	
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Agency Contact: P. Kelly, Department of Defense, Office of the Secretary
Phone: 703 681-8910

RIN: 0790–AG24

678. UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM (URISP)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-160 Section 802; 10 USC 2358 note

CFR Citation: 32 CFR 209

Legal Deadline: None

Abstract: This rule is to comply with section 802 of PL 103-160. The University Research Initiative Support Program (URISP) is required to be a competitive university research program for research and development that is relevant to the requirements of the DoD, that is set aside for colleges and universities that have received less that $2 million dollars from the DoD over the two previous fiscal years. URISP is oriented toward assisting institutions build university research infrastructure in the fields of science, engineering, and mathematics, so they may become more competitive.

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11642
NPRM Comment Period End	05/01/95	
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: A. McGregor, Department of Defense, Office of the Secretary
Phone: 703 614-0205

RIN: 0790–AG26

679. • EDUCATIONAL REQUIREMENT FOR APPOINTMENT OF RESERVE COMPONENT OFFICERS TO A GRADE ABOVE FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE) (DOD INSTRUCTION 1215.17)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 12205

CFR Citation: 32 CFR 67

Legal Deadline: None

Abstract: This rule adds criteria by which a post-secondary educational institution that is not accredited by an agency recognized by the Secretary of Education can obtain recognition by the Department of Defense as a qualifying educational institution. This is necessary to determine those unaccredited educational institutions whose baccalaureate degrees the Department of Defense will recognize for the purpose of meeting the military officer educational requirement for promotion in the Army Reserve, Naval Reserve, Air Force Reserve, or Marine Corps Reserve, or for federal recognition in the Army National Guard or Air National Guard.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	10/01/95	60 FR 54301
Interim Final Rule	10/23/95	60 FR 54301
Interim Final Rule Comment Period End	12/22/95	
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: T. Bush, Department of Defense, Office of the Secretary
Phone: 703 695-7429

RIN: 0790–AG27

680. • SCHOOL BOARDS FOR DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 2164

CFR Citation: 32 CFR 69

Legal Deadline: None

Abstract: This rule provides guidance to the Department of Defense (DoD) Domestic Dependent Elementary and Secondary Schools (DDESS) implementing the National Defense Authorization Act in Fiscal Year 1995, which provides for elected School Boards in DoD DDESS. Pursuant to this legislation, school boards in DoD DDESS may participate in the development and oversight of fiscal,

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personnel, and educational policies, procedures, and programs for these schools. This rule provides guidance outlining the responsibilities, operating procedures, composition, electorate and election procedures for the DoD DDESS school boards.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/04/96	61 FR 271
Interim Final Rule Effective	01/04/96	
Interim Final Rule Comment Period End	03/04/96	
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: H. Nevarez, Department of Defense, Office of the Secretary
Phone: 703 696-4373

RIN: 0790–AG29

681. • CONDUCT ON THE PENTAGON RESERVATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 131; 10 USC 2674(c).s

CFR Citation: 32 CFR 234

Legal Deadline: None

Abstract: This rule revises DoD policy concerning conduct on the Pentagon reservation. The revisions are intended to ensure the DoD regulations are consistent with the statutory authority on which they are based, and to promote the safer, more efficient, and more secure operation of the Pentagon Reservation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/08/96	61 FR 541
Interim Final Rule Effective	01/08/96	
Interim Final Rule Comment Period End	03/08/96	
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: T. Brooke, Department of Defense, Office of the Secretary
Phone: 703 693-7374

RIN: 0790–AG30

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Long-Term Actions

682. TOTAL QUALITY MANAGEMENT (DOD DIRECTIVE 5000.51)

Priority: Routine and Frequent

CFR Citation: 32 CFR 281

Timetable:

Action	Date	FR Cite
NPRM	07/19/89	54 FR 30227
NPRM Comment Period End	08/18/89	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: F. Doherty
Phone: 703 695-2300

RIN: 0790–AB33

683. RELEASE OF ACQUISITION-RELATED INFORMATION (DOD DIRECTIVE 5230.AA)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 286h

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/12/90	55 FR 28614
Interim Final Rule Comment Period End	08/13/90	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: S. Slavsky
Phone: 703 697-8335
Fax: 703 614-1254
Email: SSLAVSKY@ACQ.OSD.MIL

RIN: 0790–AC62

684. PILOT PROGRAM POLICY

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	12/02/93	58 FR 63542
NPRM Comment Period End	01/31/94	58 FR 63543
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: R. Sylvester
Phone: 703 697-6399

RIN: 0790–AF26

685. SCIENCE, MATHEMATICS, AND ENGINEERING (SME) EDUCATION

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 118

Timetable:

Action	Date	FR Cite
NPRM	12/17/93	58 FR 65956
NPRM Comment Period End	02/15/94	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: K. Thompson
Phone: 703 614-0205
Fax: 703 697-3762

RIN: 0790–AF27

686. NATIONAL SECURITY EDUCATION PROGRAM (NSEP) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION (DOD INSTRUCTION 1025.5)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

DOD—OS

Long-Term Actions

CFR Citation: 32 CFR 206

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/05/94	59 FR 26116
Interim Final Rule	05/19/94	59 FR 26116
Interim Final Rule Comment Period End	07/18/94	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: S. Door
Phone: 703 696-1991
Fax: 703 696-5667
Email: NSEP@NSEP.POLICY.OSD.MIL

RIN: 0790–AF59

687. DLA ACQUISITION REGULATION; SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Priority: Routine and Frequent

CFR Citation: 48 CFR 5419; 48 CFR 5452

Timetable:

Action	Date	FR Cite
NPRM	04/28/94	59 FR 21954
NPRM Comment Period End	06/27/94	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: M. Reardon
Phone: 703 767-1360

RIN: 0790–AF72

688. DLA ACQUISITION REGULATION; FUEL ALLOCATION PROCEDURES

Priority: Routine and Frequent

CFR Citation: 48 CFR 5452

Timetable:

Action	Date	FR Cite
NPRM	04/28/94	59 FR 21956
NPRM Comment Period End	06/27/94	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: M. Reardon
Phone: 703 767-1360

RIN: 0790–AF73

689. CONTRACTOR'S SAFETY FOR AMMUNITION AND EXPLOSIVES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 32 CFR 184

Timetable:

Action	Date	FR Cite
NPRM	12/16/94	59 FR 64911
NPRM Comment Period End	02/14/95	
NPRM Comment Period Extended to	05/15/95	60 FR 10340
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: R. Sawyer
Phone: 703 325-8624
Fax: 703 325-6227
Email: SAWYERRA@DDESB.ACQ.OSD.MIL

RIN: 0790–AG06

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Completed Actions

690. COMMERCIAL ACTIVITIES PROGRAM PROCEDURES (DOD INSTRUCTION 4100.33); AMENDMENT

Priority: Routine and Frequent

CFR Citation: 32 CFR 169a

Completed:

Reason	Date	FR Cite
Final Action	12/29/95	60 FR 67328
Final Action Effective	06/12/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: E. DeHart
Phone: 703 604-5806

RIN: 0790–AG25

DEPARTMENT OF DEFENSE (DOD)
Defense Aquisition Regulations Council (DARC)

Long-Term Actions

691. PAYMENT BY ELECTRONIC FUNDS TRANSFER (DAR CASE 90-D009)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 232.908; 48 CFR 232.911

Timetable:

Action	Date	FR Cite
Case opened	10/19/91	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA03

692. OVERHEAD SHOULD COST REVIEWS (DFARS CASE 92-D010)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 215.810

Timetable:

Action	Date	FR Cite
Case opened	04/02/92	
NPRM	06/17/94	59 FR 31189
NPRM Comment Period End	08/16/94	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA04

693. INSURANCE LIABILITY TO THIRD PARTIES (DAR CASE 92-D015)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 228.311

Timetable:

Action	Date	FR Cite
Case opened	05/07/92	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA05

694. DRUG-FREE WORKFORCE (DAR CASE 88-063)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 223.570; 48 CFR 252.223

Timetable:

Action	Date	FR Cite
Case opened	06/14/88	
Interim Final Rule	09/28/88	53 FR 37763
Final Rule	12/30/91	56 FR 67209
NPRM	07/23/92	57 FR 32769
Interim Final Rule	07/23/92	57 FR 32736
NPRM Comment Period End	09/21/92	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA06

695. INCREMENTAL FUNDING, FIXED PRICE CONTRACTS (DAR CASE 90-037)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 232.7; 48 CFR 252.232

Timetable:

Action	Date	FR Cite
Case opened	09/26/90	
Interim Final Rule	09/01/93	58 FR 46091
Interim Final Rule	05/27/94	59 FR 27662

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA07

696. DEMILITARIZATION (DFARS CASE 92-D024)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 245.6; 48 CFR 245.73; 48 CFR 252.245

Timetable:

Action	Date	FR Cite
Case opened	07/22/92	
NPRM	03/16/94	59 FR 12223
NPRM Comment Period End	06/30/94	
NPRM	03/23/95	60 FR 15276
NPRM Comment Period End	05/22/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA09

697. REDUCTION IN PROGRESS PAYMENTS (DFARS CASE 93-D305)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 232.501; 48 CFR 232.502; 48 CFR 252.232

Timetable:

Action	Date	FR Cite
Case opened	11/15/93	
Interim Final Rule	11/24/93	58 FR 62045
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA21

698. EUCOM SUPPLEMENT (DFARS CASE 94-D001)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 216; 48 CFR 222; 48 CFR 225; 48 CFR 227; 48 CFR 228; 48 CFR 229; 48 CFR 232; 48 CFR 233; 48 CFR 236; 48 CFR 246; 48 CFR 252

Timetable:

Action	Date	FR Cite
Case opened	02/03/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA34

699. INSTITUTIONS OF HIGHER EDUCATION (DFARS CASE 94-D310)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 209.470; 48 CFR 252.209

Timetable:

Action	Date	FR Cite
Case opened	09/28/94	
Interim Final Rule	03/10/95	60 FR 13073
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA40

700. RESTRUCTURING COSTS UNDER DEFENSE CONTRACTS (DFARS CASE 94-D316)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 231.205; 48 CFR 242.12

Timetable:

Action	Date	FR Cite
Case opened	11/18/94	
Interim Final Rule	01/06/95	60 FR 1747

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA48

701. PROTECTION OF ARMS, AMMUNITION, AND EXPLOSIVES (DFARS CASE 95-D001)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 204.202; 48 CFR 223.72; 48 CFR 252.223

Timetable:

Action	Date	FR Cite
Case opened	01/31/95	
NPRM	08/03/95	60 FR 43756
NPRM Comment Period End	10/23/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA51

702. TANK AND AUTOMOTIVE FORGING ITEMS (DFARS CASE 95-D003)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.7103

Timetable:

Action	Date	FR Cite
Case opened	02/02/95	
NPRM	07/03/95	60 FR 34497
NPRM Comment Period End	09/01/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA53

703. QUALITY ASSURANCE—TEST

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5446; 48 CFR 5452

Timetable:

Action	Date	FR Cite
Case opened	02/08/95	
NPRM	07/11/95	60 FR 35721
NPRM Comment Period End	09/11/95	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA56

704. OFFSET ADMINISTRATIVE COSTS (DFARS CASE 95-D019)

Priority: Other

CFR Citation: 48 CFR 225.7303

Timetable:

Action	Date	FR Cite
Case opened	06/01/95	
NPRM	09/25/95	60 FR 49358
NPRM Comment Period End	11/24/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA64

705. REVISED NORTH AMERICAN FREE TRADE AGREEMENT THRESHOLDS (DFARS CASE 95-D022)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.402

Timetable:

Action	Date	FR Cite
Case opened	06/09/95	
NPRM	09/08/95	60 FR 46805
NPRM Comment Period End	11/07/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA65

706. CONTRACTOR PURCHASING SYSTEM REVIEWS (DFARS CASE 95-D026)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 244.303

Timetable:

Action	Date	FR Cite
Case opened	06/21/95	
NPRM	10/27/95	60 FR 55001
NPRM Comment Period End	12/26/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA67

707. GROUND AND FLIGHT RISK (DFARS CASE 95-D028)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 252.228

Timetable:

Action	Date	FR Cite
Case opened	06/21/95	
NPRM	11/13/95	60 FR 56975
NPRM Comment Period End	01/12/96	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA69

708. ALTERNATIVE TO MILLER ACT BONDS (DFARS CASE 95-D305)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 228.171; 48 CFR 252.228

Timetable:

Action	Date	FR Cite
Case opened	07/19/95	
Interim Final Rule	08/31/95	60 FR 45376
Interim Final Rule	02/01/96	61 FR 3600

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA71

709. MICROPURCHASES (DFARS CASE 95-D302)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 213.601

Timetable:

Action	Date	FR Cite
Case opened	06/09/95	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA73

710. PRECONTRACTUAL CONTRACT ADMINISTRATION (DFARS CASE 95-D015)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 207; 48 CFR 209.103; 48 CFR 242.302

Timetable:

Action	Date	FR Cite
Case opened	05/18/95	
NPRM	10/16/95	60 FR 53573
NPRM Comment Period End	12/15/95	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA79

711. MILCON-FUNDED CPFF CONTRACTS (DFARS CASE 95-D024)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 236.271; 48 CFR 216.306; 48 CFR 232.703

Timetable:

Action	Date	FR Cite
Case opened	06/09/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA80

712. MATERIAL MANAGEMENT AND ACCOUNTING SYSTEM CHANGES (DFARS CASE 95-D029)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 242.72; 48 CFR 252.242

Timetable:

Action	Date	FR Cite
Case opened	07/27/95	
NPRM	10/16/95	60 FR 53575
NPRM Comment Period End	12/15/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA84

713. CONTRACT AWARD (DFARS 95-D702)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 209.270; 48 CFR 216; 48 CFR 217; 48 CFR 246.770; 48 CFR 252.217

Timetable:

Action	Date	FR Cite
Case opened	05/05/95	
NPRM	08/07/95	60 FR 40146
NPRM Comment Period End	10/06/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA86

714. SMALL BUSINESS (DFARS CASE 95-D706)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 219

Timetable:

Action	Date	FR Cite
Case opened	08/22/95	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA87

715. FINANCE (DFARS CASE 95-D710)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 232

Timetable:

Action	Date	FR Cite
Case opened	08/26/95	
NPRM	01/24/96	61 FR 1889
NPRM Comment Period End	03/25/96	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA88

716. COST PRINCIPLES (PROPOSED) (DFARS CASE 95-D714)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 231

Timetable:

Action	Date	FR Cite
Case opened	08/18/95	
NPRM	10/13/95	60 FR 53320
NPRM Comment Period End	12/12/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA89

717. PAST PERFORMANCE (DFARS CASE 95-D715)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 213.106; 48 CFR 214.201; 48 CFR 215.605; 48 CFR 242.1502; 48 CFR 242.1503

Timetable:

Action	Date	FR Cite
Case opened	08/22/95	
NPRM	11/17/95	60 FR 57691
NPRM Comment Period End	01/16/96	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA91

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718. TRUTH IN NEGOTIATIONS ACT AND RELATED CHANGES (DFARS CASE 95-D708)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 204.805; 48 CFR 215.8; 48 CFR 216.203; 48 CFR 232.502; 48 CFR 233.7000; 48 CFR 235.015; 48 CFR 239.7406; 48 CFR 246.770; 48 CFR 252.215; 48 CFR 252.216; 48 CFR 252.243; 48 CFR 253.204

Timetable:

Action	Date	FR Cite
Case opened	06/27/95	
NPRM	10/23/95	60 FR 54326
NPRM Comment Period End	12/22/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA95

719. FLEXIBLE CONTRACT ADMINISTRATION SERVICES (DFARS CASE 95-D030)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 242.203

Timetable:

Action	Date	FR Cite
Case opened	08/18/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA97

720. USE OF MILITARY ASSISTANCE PROGRAM ADDRESS CODES (DFARS CASE 95-D032)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 253.213

Timetable:

Action	Date	FR Cite
Case opened	08/31/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA98

721. MAGNITUDE OF CONSTRUCTION PROJECTS (DFARS CASE 95-D031)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 236.204

Timetable:

Action	Date	FR Cite
Case opened	08/22/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA99

722. • ACQUISITION OF COMMERCIAL ITEMS (DFARS CASE 95-D712)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-355

CFR Citation: 48 CFR 203; 48 CFR 207; 48 CFR 210; 48 CFR 211; 48 CFR 212; 48 CFR 217; 48 CFR 225; 48 CFR 227; 48 CFR 246

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to conform to the FAR changes pertaining to the acquisition of commercial items. Also, implements DoD-unique requirements of the Federal Acquisition Streamlining Act of 1994 regarding the acquisition of commercial items.

Timetable:

Action	Date	FR Cite
Case opened	10/04/95	
Interim Final Rule	11/30/95	60 FR 61585
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AB00

723. • SMALL DISADVANTAGED BUSINESS CONCERNS (DFARS CASE 95-D039)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 215; 48 CFR 219; 48 CFR 236; 48 CFR 242; 48 CFR 252; 48 CFR 253

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to implement initiatives designed to facilitate awards to small disadvantaged businesses while taking account of the Supreme Court's decision in Adarand Constructors, Inc., vs. Pena, 63 USLW 4523 (U.S. June 12, 1995).

Timetable:

Action	Date	FR Cite
Case opened	11/08/95	
NPRM	12/14/95	60 FR 64135
NPRM Comment Period End	02/12/96	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AB01

724. • REVISE DD FORM 1149 (DFARS CASE 95-D041)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 253

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to revise block 4 of DD Form 1149, Requisition and Invoice/Shipping Document.

Timetable:

Action	Date	FR Cite
Case opened	12/06/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AB02

725. • REQUIREMENT FOR COST/SCHEDULE STATUS REPORT (DFARS CASE 95-D042)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 242.1106; 48 CFR 242.1107

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to be consistent with DoD 5000.2-M, Defense Acquisition Management Documentation and Reports.

Timetable:

Action	Date	FR Cite
Case opened	12/07/95	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AB03

726. • IR&D/B&P COSTS FOR FY96 AND BEYOND (DFARS CASE 95-D040)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 242.771; 48 CFR 225.7303; 48 CFR 231.205

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to revise IR&D/B&P cost principle to treat IR&D/B&P costs for FY96 and beyond as fully allowable, subject only to the FAR normal standards of reasonableness and allocability.

Timetable:

Action	Date	FR Cite
Case opened	12/06/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AB04

727. • ALLOWABILITY OF COSTS (DFARS CASE 95-D309)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-61, Sec 8122

CFR Citation: 48 CFR 231.205

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to implement that portion of the FY96 Defense Appropriations Act which prohibits funds from being obligated or expended to pay contractors for costs in excess of normal salaries and any bonuses that are part of restructuring costs associated with business combinations.

Timetable:

Action	Date	FR Cite
Case opened	12/18/95	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AB05

728. • OZONE (DFARS CASE 95-D037)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 223.803

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to add language on ozone-depleting substances.

Timetable:

Action	Date	FR Cite
Case opened	10/25/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB07

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729. • STREAMLINED RESEARCH AND DEVELOPMENT UPDATE (DFARS CASE 95-D036)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 235.7003; 48 CFR 235.7006

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to update administrative information pertaining to the streamlined R&D contracting test program, and to revise the list of clauses in the streamlined R&D contracting format to conform to FAR and DFARS revisions which occurred since initiation of the test program.

Timetable:

Action	Date	FR Cite
Case opened	10/11/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB08

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730. • FOREIGN PRODUCT RESTRICTIONS (DFARS CASE 95-D033)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 225.71; 48 CFR 252.225

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to eliminate the nonstatutory foreign product restrictions with the exception of ship propulsion shafts, periscope tubes, and ring forgings for bull gears.

Timetable:

Action	Date	FR Cite
Case opened	10/04/95	
NPRM	12/28/95	60 FR 67115
NPRM Comment Period End	02/26/96	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB11

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731. • PERFORMANCE EVALUATIONS FOR CONSTRUCTION AND A-E CONTRACTS (DFARS CASE 95-D034)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 236.201; 48 CFR 236.604

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to incorporate new DD Forms 2626 and 2631 that will be required to document the quality of contract performance on construction and A-E contracts.

Timetable:

Action	Date	FR Cite
Case opened	10/04/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB12

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732. • BALL AND ROLLER BEARINGS (DFARS CASE 95-D308)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-61, Sec 8099

CFR Citation: 48 CFR 225.7019; 48 CFR 252.225

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to implement that portion of the Fiscal Year 1996 Defense Appropriations Act which prohibits funds from being used for the procurement of ball and roller bearings other than those procured by a domestic source and of domestic origin.

Timetable:

Action	Date	FR Cite
Case opened	12/18/95	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB13

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733. • COMPONENTS FOR NAVAL VESSELS (DFARS CASE 96-D300)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-106, Sec 806

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to implement section 806, paragraphs (a) and (c) of the FY96 Defense Authorization Act. Adds to the existing restriction on components for naval vessels.

Timetable:

Action	Date	FR Cite
Case opened	02/07/96	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB14

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734. • PROCUREMENT OF CRITICAL AIRCRAFT AND SHIP SPARE PARTS (DFARS 96-D301)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-106, Sec 803

CFR Citation: 48 CFR 209.2

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to implement section 803 of the FY96 Defense Authorization Act. Deletes requirement for DoD to use the DoD qualification requirements that were used to qualify the original production part, with certain exceptions.

Timetable:

Action	Date	FR Cite
Case opened	02/07/96	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB15

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735. • LEASING OF COMMERCIAL VEHICLE AND EQUIPMENT (DFARS CASE 96-D302)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-106, Sec 807

CFR Citation: 48 CFR 207

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to implement section 807 of the FY96 Defense Authorization Act. Allows DoD to use leasing in the acquisition of commercial vehicles and equipment whenever the Secretary of Defense determines that leasing of the vehicles is practicable and efficient.

Timetable:

Action	Date	FR Cite
Case opened	02/07/96	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB16

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736. • COST REIMBURSEMENT RULES FOR INDIRECT COSTS—PRIVATE SECTOR WORK OF DEFENSE CONTRACTOR (DFARS CASE 96-D303)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-106, Sec 808

CFR Citation: 48 CFR 231

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to implement section 808 of the FY96 Defense Authorization Act. Permits DoD to enter into a defense capability preservation agreement with a defense contractor under which certain cost reimbursement rules apply.

Timetable:

Action	Date	FR Cite
Case opened	02/07/96	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB17

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737. • COMPREHENSIVE SUBCONTRACTING PLANS (DFARS CASE 96-D304)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-106, Sec 811

CFR Citation: 48 CFR 219.7

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to implement section 811 of the FY96 Defense Authorization Act. Revises language on comprehensive subcontracting plans.

Timetable:

Action	Date	FR Cite
Case opened	02/07/96	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB18

738. • INSTITUTIONS OF HIGHER EDUCATION (DFARS CASE 96-D305)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-106, Sec 541

CFR Citation: 48 CFR 209; 48 CFR 252.209

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to implement section 541 of the FY96 Defense Authorization Act. Revise language to prohibit funds from being obligated on a contract with any institution of higher education that has an anti-ROTC policy, as determined by the Secretary of Defense.

Timetable:

Action	Date	FR Cite
Case opened	02/07/96	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB19

DEPARTMENT OF DEFENSE (DOD)

Defense Aquisition Regulations Council (DARC)

Completed Actions

739. ACQUISITION OF COMMERCIAL ITEMS (DAR CASE 89-316)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 211.70

Completed:

Reason	Date	FR Cite
Superseded and closed	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AA02

740. PERSONAL SERVICES COMPENSATION (DAR CASE 91-085D)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 242.13

Completed:

Reason	Date	FR Cite
Withdrawn	12/14/95	60 FR 64138

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AA08

741. REDESIGNATION OF USD(A) (DFARS CASE 93-D320)

Priority: Other

CFR Citation: 48 CFR 201

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AA26

742. PERSONAL SERVICES CONTRACTS (DFARS CASE 94-D302)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 206.102; 48 CFR 237.104

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062 Phone: 703 602-0131

RIN: 0750–AB19

743. SPECIFICATIONS AND STANDARDS (DFARS CASE 94-D003)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 210

Completed:

Reason	Date	FR Cite
Withdrawn	11/17/95	60 FR 57691

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AA36

744. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS (DFARS CASE 94-D306)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 235.017

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AA38

745. MANUFACTURING SCIENCE AND TECHNOLOGY PROGRAM (DFARS CASE 94-D307)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 235.006

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AA39

746. DETERMINATIONS UNDER THE BUY AMERICAN ACT (DFARS 94-D313)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.102

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AA42

747. LIMITATION ON PROCUREMENT OF GOODS (DFARS CASE 94-D314)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.70; 48 CFR 252.225

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AA43

748. HAZARDOUS MATERIALS (DFARS CASE 94-D309)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 223.7102; 48 CFR 223.7103; 48 CFR 252.223

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AA45

749. SUBCONTRACTING PLAN FROM NONPROFIT AGENCIES FOR THE BLIND OR SEVERELY DISABLED (DFARS CASE 94-D312)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 219.703

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AA46

750. PREFERENCE FOR LOCAL RESIDENTS (DFARS CASE 94-D315)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 226.71

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk Phone: 703 602-0131

RIN: 0750–AA47

751. INDIVIDUAL COMPENSATION (DFARS CASE 94-D318)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 231.205; 48 CFR 231.303; 48 CFR 231.603; 48 CFR 231.703

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Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA49

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752. INTERNAL RESTRUCTURING COSTS (DFARS CASE 94-D007)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 231.205

Completed:

Reason	Date	FR Cite
Withdrawn	10/13/95	60 FR 53321

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA50

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753. FIELD PRICING REPORT (DFARS CASE 95-D010)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 215.805

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA59

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754. QUALIFICATION REQUIREMENTS (DFARS CASE 95-D011)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 209.202

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA60

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755. AUSTRALIAN MEMORANDUM OF AGREEMENT (DFARS CASE 95-D013)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.872

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA61

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756. PREAWARD SURVEY (DFARS CASE 95-D016)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 209.106

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA62

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757. COST MONITORING (DFARS CASE 95-D018)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 242.7003

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA63

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758. LIMITING SMALL DISADVANTAGED BUSINESS PREMIUMS (DFARS CASE 95-D023)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 219.5; 48 CFR 219.70; 48 CFR 252.219

Completed:

Reason	Date	FR Cite
Case closed	11/07/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA66

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759. INDIAN INCENTIVE (DFARS CASE 95-D027)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 226.103

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA68

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760. SUPERCOMPUTER (DFARS CASE 95-D301)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.70; 48 CFR 252.225

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA70

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761. URUGUAY ROUND (1996 AGREEMENT) (DFARS CASE 95-D306)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.402; 48 CFR 252.225

Completed:

Reason	Date	FR Cite
Final Action	01/03/96	61 FR 130
Final Action Effective	01/01/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA72

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762. TEAMING OF SOLE SOURCE CONTRACTORS (DFARS CASE 95-D009)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 206.304; 48 CFR 207.000

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA74

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763. INTEGRATED MATERIEL MANAGEMENT (DFARS CASE 95-D005)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 208.7003

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA75

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764. MULTIPLE BEST AND FINAL OFFERS (DFARS CASE 95-D006)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 215.611

Completed:

Reason	Date	FR Cite
Withdrawn	10/16/95	60 FR 53574

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA76

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765. CONTRACT QUALITY REQUIREMENTS (DFARS CASE 95-D007)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 246.000

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA77

766. ANNUAL AUTOMATED DATA PROCESSING EQUIPMENT LEASING REVIEWS (DFARS CASE 95-D017)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 239.7303

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA81

767. ENVIRONMENTALLY SOUND PRODUCTS (DFARS CASE 95-D303)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 223.000

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA82

768. CONTRACT AWARD (INTERIM)(DFARS CASE 95-D701)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 206.302; 48 CFR 207.470; 48 CFR 215.871; 48 CFR 219.602; 48 CFR 252.219

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA85

769. COST PRINCIPLES (FINAL) (DFARS CASE 95-D704)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 231; 48 CFR 237.171; 48 CFR 242; 48 CFR 252.231; 48 CFR 252.237; 48 CFR 252.242

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA90

770. AUDITS (DFARS CASE 95-D705)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 215.804; 48 CFR 235.015; 48 CFR 237.7204; 48 CFR 252.215; 48 CFR 252.239

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA93

771. ETHICS (DFARS CASE 95-D707)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 48 CFR 203.71; 48 CFR 252.203

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA94

772. VIETNAM VETERANS (DFARS CASE 95-D307)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 222; 48 CFR 252.222

Completed:

Reason	Date	FR Cite
Case Closed	09/02/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk
Phone: 703 602-0131

RIN: 0750–AA96

773. • FEDERAL FUNDED RESEARCH AND DEVELOPMENT CENTERS (DFARS CASE 95-D307)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-61, Sec 8046

CFR Citation: 48 CFR 231

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to implement a portion of the FY96 Defense Appropriations Act which, among other things, prohibits funds to be used by a Defense Federal Funded Research and Development Center for absorption of contract overruns.

Timetable:

Action	Date	FR Cite
Case opened	12/18/95	
Revisions not needed - Case closed.	02/07/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AB06

774. • FIREFIGHTING AND SECURITY GUARD SERVICES (DFARS CASE 95-D035)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 237.102; 48 CFR 237.104

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to reflect the requirements of 10 United States Code 2465, which prohibits the award of Department of Defense contracts for firefighting or security- guard functions except under certain conditions.

Timetable:

Action	Date	FR Cite
Case opened	10/11/95	
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AB09

775. • MASTER AGREEMENTS (DFARS CASE 95-D038)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 237.270

Legal Deadline: None

Abstract: Modify the Defense FAR Supplement to delete implementing text on master agreements.

Timetable:

Action	Date	FR Cite
Case opened	10/30/95	
Final Action	11/30/95	60 FR 61586
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Department of Defense, Defense Aquisition Regulations Council, ATTN: IMD 3D139, OUSD(A&T), 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

RIN: 0750–AB10

DEPARTMENT OF DEFENSE (DOD)

Department of the Army (DOA) — Final Rule Stage

776. ARMY REGULATION 190-9, ABSENTEE DESERTER APPREHENSION PROGRAM AND SURRENDER OF MILITARY PERSONNEL TO CIVILIAN LAW ENFORCEMENT AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 801 to 940

CFR Citation: 32 CFR 630

Legal Deadline: None

Abstract: This update revises provost marshall procedures and responsibilities for surrender of military personnel to civilian law enforcement authorities and the apprehension and return to military control of absentees.

Timetable:

Action	Date	FR Cite
NPRM	05/28/93	58 FR 31070
NPRM Comment Period End	06/28/93	
Final Action	04/00/96	
Final Actior. Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Proponent is in the process of preparing the revised Army Regulation. When manuscript is complete, 32 CFR part 630 will be published as a final rule. The completed manuscript must first be approved by the Army Judge Advocate General and authenticated by the Administrative Assistant to the Secretary of the Army.

Agency Contact: Gregory D. Showalter, Army Federal Register Liaison Officer, Department of Defense, Department of the Army, Commander, U.S. Army Publications and Printing Command, ATTN: ASQZ-PDS, Alexandria, VA 22331-0302
Phone: 703 428-0567

RIN: 0702–AA26

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DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)

Completed Actions

777. ARMY REGULATION 500-51, EMERGENCY EMPLOYMENT OF ARMY AND OTHER RESOURCES—SUPPORT TO CIVILIAN LAW ENFORCEMENT

Priority: Other

CFR Citation: 32 CFR 501

Completed:

Reason	Date	FR Cite
Withdrawn	03/07/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Gregory D. Showalter
Phone: 703 428-0567

RIN: 0702–AA23

778. FORT LEWIS REGULATION 350-33

Priority: Other Significant

CFR Citation: 32 CFR 552, subpart M

Completed:

Reason	Date	FR Cite
Final Action	02/14/95	60 FR 8305
Final Action Effective	02/14/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregory D. Showalter
Phone: 703 428-0567

RIN: 0702–AA29

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Proposed Rule Stage

779. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 320 to 330

Legal Deadline: None

Abstract: The Corps of Engineers intends to make numerous clarifications to its existing regulations at 33 CFR 320 to 330, to consolidate all permit regulations into one document, and to reorganize 33 CFR 325 for clarity. Since the Corps Regulatory Program final regulations were published in the Federal Register on November 13, 1986 (51 CFR 41206), there has been need to clarify several of those provisions. Since 1986, the Corps has adopted two new appendices at 33 CFR 325, appendices B and C, and the Corps has also adopted revisions to the Nationwide Permit Program (33 CFR 330), Class 1 Administrative Civil Penalties (33 CFR 326), and revisions to the definition of discharge of Dredged Material and Fill Material and prior converted croplands. For clarity, the Corps intends to consolidate all these changes into one document.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	
Final Action	01/00/97	
Final Action Effective	03/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, 20 Massachusetts Avenue NW., ATTN: CECW-OR, Washington, DC 20314-1000
Phone: 202 272-1782

RIN: 0710–AA30

780. NATIONWIDE PERMIT PROGRAM (NEW NATIONWIDE PERMITS FOR ADDITIONAL ACTIVITIES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 330

Legal Deadline: None

Abstract: The Corps will propose new nationwide permits based on a review of activities being authorized by individual permit. The authorization of activities by nationwide permits is the most efficient and effective way to regulate minor activities with minimal impacts and thus reduce the regulatory burden of the Corps regulatory program while maintaining environmental safeguards.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	11/00/96	
Final Action Effective	01/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, ATTN: CECW-OR, Washington, DC 20314-1000
Phone: 202 761-1782

RIN: 0710–AA32

781. REGULATORY PROGRAM OF THE CORPS OF ENGINEERS—90-DAY DECISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 325

Legal Deadline: None

Abstract: The Corps of Engineers is revising its regulations to provide that permit decisions should be made within 90 days of the issue of a public notice, unless precluded by other laws, such as the National Environmental Policy Act or the Endangered Species Act. A decision deadline would also be provided for these circumstances. This process is included in the President's Wetland Protection Plan to make sure that decisions are made without unnecessary delays. This will aid applicants in planning their projects and allows for more realistic expectations of obtaining permit decisions.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	
Final Action	01/00/97	
Final Action Effective	03/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, ATTN: CECW-OR, Washington, DC 20314-1000
Phone: 202 272-1782

RIN: 0710–AA40

DOD—COE

Proposed Rule Stage

782. • ENVIRONMENTAL QUALITY; PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 et seq; 40 CFR 1500-6

CFR Citation: 33 CFR 230

Legal Deadline: None

Abstract: The purpose of this regulatory revision is to clarify and provide additional guidance for Corps NEPA requirements for activities at Federal water resource development projects and lands.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Bellinger, Biologist, Department of Defense, U.S. Army Corps of Engineers, Office of Environmental Policy (CECW-A0), 20 Massachusetts Avenue NW., Washington, DC 20314-1000
Phone: 202 761-0166
Fax: 202 761-0472

RIN: 0710–AA42

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Final Rule Stage

783. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, WETLAND DELINEATOR CERTIFICATION PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1344

CFR Citation: 33 CFR 320; 33 CFR 323; 33 CFR 325; 33 CFR 328

Legal Deadline: None

Abstract: The regulation establishes the procedures for certification under the Corps of Engineers Wetland Delineator Certification Program developed pursuant to section 307(e) of the Water Resources Development Act of 1990.

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13654
NPRM Comment Period End	04/13/95	
Final Action	04/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Karen Kochenbach, Assistant to the Chief, Policy Development Section, Regulatory Branch, Department of Defense, U.S. Army Corps of Engineers, HQUSACE, ATTN: CECW-OR, Washington, DC 20314-1000
Phone: 202 272-1784

RIN: 0710–AA38

784. REGULATORY PROGRAM OF THE CORPS OF ENGINEERS—ADMINISTRATIVE APPEALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 331

Legal Deadline: None

Abstract: The regulation establishes an administrative appeal process for permit denials by permit applicants and wetland delineations by property owners. This process is included in the President's Wetland Protection Plan to increase fairness in the permitting process by allowing landowners to seek a speedy recourse of these decisions without having to go to court.

Timetable:

Action	Date	FR Cite
NPRM	07/19/95	60 FR 37280
NPRM Comment Period End	09/05/95	
Final Action	04/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, ATTN: CECW-OR, Washington, DC 20314-1000
Phone: 202 272-1782

RIN: 0710–AA41

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DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Completed Actions

785. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, PART 325, APPENDIX D—ENDANGERED SPECIES COUNTERPART REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 325, app D

Completed:

Reason	Date	FR Cite
Withdrawn	03/05/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sam Collinson
Phone: 202 272-1782

RIN: 0710–AA17

786. PART 326, ENFORCEMENT; CLASS II ADMINISTRATIVE PENALTIES

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 326.7

Completed:

Reason	Date	FR Cite
Withdrawn	03/05/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Jack T. Chowning
Phone: 202 272-1781

RIN: 0710–AA25

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy (NAVY)

Final Rule Stage

787. ADJUSTMENTS TO PRICES UNDER SHIPBUILDING CONTRACTS

Priority: Other

Legal Authority: 10 USC 2405

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: The interim rule prescribes policies and procedures to restrict contract price adjustments under shipbuilding contracts, thus implementing by regulation the requirements of 10 USC 2405. The interim rule also defines the terminology of 10 USC 2405 and promulgates a solicitation provision and contract clause on price adjustments to shipbuilding contracts. This action is intended to clarify the meaning and ensure the consistent interpretation, implementation, and administration of the statute.

Timetable:

Action	Date	FR Cite
NPRM	11/16/89	54 FR 47689
NPRM Comment Period End	02/15/90	55 FR 3608
NPRM	06/29/90	55 FR 26708
NPRM Comment Period End	08/16/90	55 FR 33541
Public Hearing	10/26/90	55 FR 43150
Interim Final Rule	12/05/91	56 FR 63664
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: CDR C. L. Thornton, Department of Defense, Department of the Navy, Office of the Assistant Secretary of the Navy (Research, Development and Acquisition), Washington, DC 20350-1000
Phone: 703 602-9977

RIN: 0703–AA34

788. USE OF DEPARTMENT OF THE NAVY AVIATION FACILITIES BY OTHER THAN UNITED STATES DEPARTMENT OF DEFENSE AIRCRAFT

Priority: Other

Legal Authority: 49 USC 1507

CFR Citation: 32 CFR 766

Legal Deadline: None

Abstract: This part establishes the policy and procedures for the use of Navy and Marine Corps aviation facilities by aircraft other than United States Department of Defense aircraft.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61561
NPRM Comment Period End	01/03/95	
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Capt. J. Calhoun, Department of Defense, Department of the Navy, Office of the Chief of Naval Operations, (N885) Pentagon, Washington, DC 20350
Phone: 703 614-2710

RIN: 0703–AA48

789. BOARD FOR CORRECTION OF NAVAL RECORDS

Priority: Other

Legal Authority: 5 USC 301; 10 USC 1552; 10 USC 5031

CFR Citation: 32 CFR 723

Legal Deadline: None

Abstract: To update procedures for making application and the consideration of applications for the correction of Navy and Marine Corps records.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dean Pfeiffer, Department of Defense, Department of the Navy, Board For Correction of Naval Records, Washington, DC 20370-5100
Phone: 703 614-1765

RIN: 0703–AA49

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Proposed Rule Stage

790. PUBLIC AFFAIRS POLICIES AND PROCEDURES

Priority: Other

Legal Authority: 10 USC 8013

CFR Citation: 32 CFR 837

Legal Deadline: None

Abstract: Describes Air Force Public Affairs program and how public affairs resources are to be managed to effectively reach public affairs goals.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: CMSgt Edward A. Braese, Department of Defense, Department of the Air Force, SAF/PAR, 1690 Air Force Pentagon, Washington, DC 20330-1690
Phone: 703 697-6701

RIN: 0701–AA18

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Final Rule Stage

791. PERSONNEL REVIEW BOARDS

Priority: Other

Legal Authority: 10 USC 1034; 10 USC 1552

CFR Citation: 32 CFR 865

Legal Deadline: None

Abstract: Subpart A establishes procedures for the consideration of applications for the correction of military records. The revision clarifies various minor provisions of the subpart.

Timetable:

Action	Date	FR Cite
NPRM	07/26/94	59 FR 37953
NPRM Comment Period End	09/26/94	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. D'Orazio, Chief Examiner, Department of Defense, Department of the Air Force, AFBCMR, 1535 Command Drive, EE Wing, 3rd Floor, Andrews AFB, MD 20762-7002
Phone: 301 981-3502

RIN: 0701–AA43

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Completed Actions

792. AIR FORCE MATERIEL COMMAND FEDERAL ACQUISITION REGULATION SUPPLEMENT; VENDOR RATING SYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5315

Completed:

Reason	Date	FR Cite
Withdrawn	02/06/96	61 FR 4393

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Capt. D. Behne
Phone: 513 257-6055

RIN: 0701–AA34

793. • FOREIGN TAX RELIEF PROGRAM

Priority: Other

Legal Authority: 10 USC 8013

CFR Citation: 32 CFR 848

Legal Deadline: None

Abstract: The rule implementing DOD policy on tax relief from foreign governments has been reviewed and removed since the Air Force determined it has limited applicability to the general public.

Timetable:

Action	Date	FR Cite
Withdrawn	02/06/96	61 FR 4352

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patsy Conner, Department of Defense, Department of the Air Force, SAF/AAIQ, 1610 Air Force Pentagon, Washington, DC 20330-1610
Phone: 703 614-3488

RIN: 0701–AA44

794. • SUPPORT OF NONGOVERNMENTAL TEST AND EVALUATION

Priority: Other

Legal Authority: 10 USC 8013

CFR Citation: 32 CFR 835

Legal Deadline: None

Abstract: Source document stating policy and procedures for providing Air Force support, services and facilities to nongovernmental organizations has been rescinded.

Timetable:

Action	Date	FR Cite
Withdrawn	02/06/96	61 FR 4393

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patsy Conner, Department of Defense, Department of the Air Force, SAF/AAIQ, 1610 Air Force Pentagon, Washington, DC 20330-1610
Phone: 703 614-3488

RIN: 0701–AA45

795. • STATUTORY REIMBURSEMENT FOR LAND

Priority: Other

Legal Authority: 10 USC 8013

CFR Citation: 32 CFR 843

Legal Deadline: None

Abstract: The rule to reimburse owners and tenants of land acquired by the Air Force for any public works project is removed since it is no longer used as the authority for payment of relocation costs.

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DOD—AF — Completed Actions

Timetable:

Action	Date	FR Cite
Withdrawn	02/06/96	61 FR 4351

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles G. Skidmore, Department of Defense, Department of the Air Force, AFREA/MI, 112 Luke Avenue, Room 104, Bolling AFB, Washington, DC 20332-8020
Phone: 202 767-4033

RIN: 0701–AA46

796. • AIR FORCE SYSTEMS COMMAND CONTRACTOR PERFORMANCE ASSESSMENT

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 8013

CFR Citation: 32 CFR 838

Legal Deadline: None

Abstract: This rule set policy, assigned responsibilities and provided procedures for systematically assessing contractor performance on contracts. The rule is withdrawn after Federal Acquisition Regulation; Past Performance Information, was published March 31, 1995, and a proposed rule, Defense Federal Acquisition Regulation Supplement; Past Performance, was published November 17, 1995.

Timetable:

Action	Date	FR Cite
NPRM	03/15/90	55 FR 9733
NPRM Comment Period End	04/16/90	
Withdrawn	02/06/96	61 FR 4351

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Maj. Bratten, Department of Defense, Department of the Air Force, SAF/AQS, 1060 Air Force Pentagon, Washington, DC 20330-1060
Phone: 703 697-6400

RIN: 0701–AA47

DEPARTMENT OF DEFENSE (DOD) — Final Rule Stage
Office of Assistant Secretary for Health Affairs (DODOASHA)

797. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); INDIVIDUAL CASE MANAGEMENT (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements provisions of the 1993 National Defense Authorization Act which allows the Secretary of Defense to establish a case management program for CHAMPUS beneficiaries with extraordinary medical or psychological disorders and to allow such beneficiaries medical or psychological services, supplies, or durable medical equipment excluded by law or regulation as a CHAMPUS benefit. Under this program, waiver of benefit limits to the Basic CHAMPUS program may be authorized for beneficiaries when the provision of such services or supplies is cost-effective and clinically appropriate, as compared to historical or projected CHAMPUS/MTF utilization of health care services. It is designed to develop a cost-effective plan of care by targeting appropriate resources to meet the individual needs of the beneficiary.

Timetable:

Action	Date	FR Cite
NPRM	01/04/96	61 FR 339
NPRM Comment Period End	03/04/96	
Final Action	04/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: D. Kamin, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 703 697-8975

RIN: 0720–AA30

DEPARTMENT OF DEFENSE (DOD) — Long-Term Actions
Office of Assistant Secretary for Health Affairs (DODOASHA)

798. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); SUPPLEMENTAL INSURANCE PLANS (DOD 6010.8-R)

Priority: Other

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	06/12/91	56 FR 26946
NPRM Comment Period End	07/12/91	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: S. Regensberg
Phone: 303 361-3572

RIN: 0720–AA01

799. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PROGRAM FOR THE HANDICAPPED (DOD 6010.8-R)

Priority: Routine and Frequent

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	06/10/91	56 FR 26635
NPRM Comment Period End	07/25/91	

Next Action Undetermined

Small Entities Affected: Organizations

Government Levels Affected: Undetermined

Agency Contact: J. Baker
Phone: 303 361-4019

RIN: 0720–AA04

DOD—DODOASHA — Long-Term Actions

800. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); BASIC PROGRAM (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	09/24/91	56 FR 48134
NPRM Comment Period End	10/24/91	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: J. Baker
Phone: 303 361-4019

RIN: 0720–AA06

801. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); FORMER SPOUSE/WIDOW(ER) AND FEDERAL CLAIMS COLLECTION ACT (DOD 6010.8-R)

Priority: Routine and Frequent

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	09/24/91	56 FR 48135
NPRM Comment Period End	10/24/91	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: A. Armijo
Phone: 303 362-3630

RIN: 0720–AA07

802. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); HOSPITAL PAYMENT FOR AMBULATORY CARE (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	01/20/94	59 FR 3046
NPRM Comment Period End	03/21/94	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: S. Lillie
Phone: 703 695-3350

RIN: 0720–AA20

803. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); SIX SEPARATE CHANGES (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	03/21/95	60 FR 14919
NPRM Comment Period End	05/22/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: C. Armijo
Phone: 303 361-1120

RIN: 0720–AA26

804. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PROVIDER CERTIFICATION REQUIREMENTS—CORPORATE SERVICES PROVIDER CLASS; OCCUPATIONAL THERAPISTS (DOD 6010.8-R)

Priority: Routine and Frequent

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	03/08/95	60 FR 12717
NPRM Comment Period End	05/08/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: M. Maxey
Phone: 303 361-1227

RIN: 0720–AA28

805. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRANSPLANTS (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	03/17/95	60 FR 14403
NPRM Comment Period End	05/16/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: T. Gilstrap
Phone: 303 361-1309

RIN: 0720–AA27

806. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); CLARIFICATION OF THE CHAMPUS DEFINITION OF EXPERIMENTAL (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Timetable:

Action	Date	FR Cite
NPRM	05/18/95	60 FR 26705
NPRM Comment Period End	07/17/95	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: R. Smith
Phone: 303 361-1181

RIN: 0720–AA29

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DEPARTMENT OF DEFENSE (DOD)
Office of Assistant Secretary for Health Affairs (DODOASHA)

Completed Actions

807. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS): EXPANDED ACTIVE DUTY DEPENDENTS DENTAL BENEFIT PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	11/01/95	60 FR 55448
Final Action Effective	12/01/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: D. Bennett
Phone: 303 361-1094

RIN: 0720–AA19

808. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRICARE PROGRAM; UNIFORM HMO BENEFIT; SPECIAL HEALTH CARE DELIVERY PROGRAMS (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	10/05/95	60 FR 52078
Final Action Effective	11/01/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: S. Lillie
Phone: 703 695-3350

RIN: 0720–AA21

[FR Doc. 96-5648 Filed 05-10-96; 8:45 am]
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federal register

Monday
May 13, 1996

Part VI

Department of Education

Semiannual Regulatory Agenda

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DEPARTMENT OF EDUCATION (ED)

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulations

AGENCY: Office of the Secretary, Education.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Secretary of Education publishes a semiannual agenda of Federal regulations issued under the authority of section 4(b) of Executive Order 12866 "Regulatory Planning and Review." The purpose of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to Kenneth C. Depew, Division of Regulations Management, Office of the General Counsel, Department of Education, Room 5112, FB-10, 600 Independence Avenue SW., Washington, DC 20202-2241; telephone: (202) 401-8300. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 4(b) of Executive Order 12866, dated September 30, 1993, requires the Department of Education (ED) to publish, at a time and in a manner specified by the Administrator of the Office of Information and Regulatory Affairs, OMB, an agenda of all regulations under development or review. The Regulatory Flexibility Act, 5 U.S.C. 602(a), requires ED to publish, in October and April of each year, a regulatory flexibility agenda. The regulatory flexibility agenda may be combined with any other agenda that satisfies the statutory requirements (5 U.S.C. 605(a)). In compliance with the Executive order and the Regulatory Flexibility Act, the Secretary publishes this agenda.

For each set of regulations listed, the agenda provides the title of the document, the type of document, a citation to any rulemaking or other action taken since publication of the most recent agenda, and planned dates of future rulemaking. In addition, the agenda provides the following information:

- An abstract, which includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(b)).
- A reference to where a reader can find the current regulations in the Code of Federal Regulations.
- A citation of legal authority.
- The name, address, and telephone number of the contact person at the Department from whom a reader can obtain additional information regarding the planned action.

In accordance with the following Principles for Regulating, the Department of Education is committed to regulating that improves the quality and equality of services to its customers, learners of all ages. ED will regulate only when absolutely necessary and then in the most flexible, most equitable, least burdensome way possible.

Principles for Deciding Whether to Regulate

- ED will regulate only when essential to serve the needs of customers by promoting quality and equality of opportunity in education.
- ED will not regulate if there is no demonstrated problem.
- ED will not regulate if the problem can be solved adequately without regulating (e.g., through local decisions or through non-regulatory guidance by ED).
- ED will not regulate if the entities or situations to be regulated are so different from each other that a uniform approach might do more harm than good.
- ED will not regulate in the face of ambiguity alone unless the ambiguity will create a real problem if not resolved through a legally binding interpretation. (Multiple possible approaches to carrying out a statutory provision do not in themselves warrant regulatory clarification, although there may be times when a regulation could promote greater flexibility than the statutory provision makes apparent.)

Principles for Deciding How to Regulate

- ED will regulate no more than necessary to solve the identified problem.
- ED will minimize burden and promote multiple approaches to meeting the requirements of the law.
- ED will strive to allow federally funded activities to be integrated with State and local reform activities.
- ED will assess the costs and benefits of the regulation and ensure that the benefits justify the costs.
- ED will, to the extent feasible, establish performance objectives, rather than specify the manner of compliance that regulated parties must adopt.
- ED will, to the extent feasible, allow flexibility so that institutional forces and incentives achieve the desired result.

Interested members of the public are invited to comment on any of the items listed in this agenda that they believe are not consistent with the Principles for Regulating.

The Department also will review all regulations that will be published to ensure that, if appropriate, those regulations support the National Education Goals.

This publication in the **Federal Register** does not impose any binding obligation on the Department with regard to any specific item on the agenda. The Department may elect not to pursue any of the regulatory actions listed here, and regulatory action in addition to the items listed is not precluded. Dates of future regulatory actions are subject to revision in subsequent agendas.

Dated: March 14, 1996.

Judith A. Winston,

General Counsel.

ED

Departmental Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
809	Education Department General Administrative Regulations (EDGAR)	1880-AA70
810	Family Educational Rights and Privacy	1880-AA65
811	Protection of Human Subjects	1880-AA75

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
812	Amendment to Education Department General Administrative Regulations	1880-AA62
813	Student Rights in Research, Experimental Programs, and Testing	1880-AA66
814	Direct Grant Programs	1880-AA76

Departmental Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
815	Revised Education Department General Administrative Regulations (EDGAR) Selection Criteria	1880-AA74
816	General Education Provisions Act (GEPA)—Enforcement: Proportionality and Equitable Offsets	1880-AA56
817	Department of Education Acquisition Regulation	1880-AA72

Departmental Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
818	Direct Grant Programs	1880-AA6E
819	Direct Grant Programs	1880-AA69
820	Family Educational Rights and Privacy	1880-AA71

Office of Bilingual Education and Minority Languages Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
821	Bilingual Education Graduate Fellowship Program	1885-AA20

Office of Educational Research and Improvement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
822	Standards for the Conduct and Evaluation of Activities Carried out by the OERI—Designation of Exemplary and Promising Programs	1850-AA52
823	National Diffusion Network	1850-AA53

ED

Office of Educational Research and Improvement—Completed Actions

Sequence Number	Title	Regulation Identifier Number
824	Standards for the Conduct and Evaluation of Activities Carried Out by OERI—Evaluation of Applications for Grants/Cooperative Agreements and Proposals for Contracts	1850-AA51

Office of Elementary and Secondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
825	Special Educational Programs for Students Whose Families Are Engaged in Migrant and Other Seasonal Farmwork—High School Equivalence Program and College Assistance Migrant Program	1810-AA86
826	Impact Aid Program	1810-AA84
827	Indian Fellowship and Professional Development Programs	1810-AA81
828	Desegregation Programs	1810-AA85

Office of Elementary and Secondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
829	Drug-Free Schools and Campuses	1810-AA83
830	Title XIV—General Provisions	1810-AA82

Office of Postsecondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
831	Secretary's Recognition Procedures for State Agencies	1840-AC32
832	Training Programs for Federal TRIO Programs	1840-AC29
833	Graduate Assistance in Areas of National Need	1840-AC31
834	International Education	1840-AC30
835	National Resource Centers Program for Foreign Language and Area Studies or Foreign Language and International Studies	1840-AC27
836	Foreign Language and Area Studies Fellowship Program	1840-AC28

Office of Postsecondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
837	Institutional Eligibility Under the Higher Education Act of 1965, As Amended; Student Assistance General Provisions; William D. Ford Federal Direct Loan Program	1840-AC18
838	Student Support Services	1840-AC24
839	Federal Family Education Loan (FFEL) Program	1840-AC16

Office of Postsecondary Education—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
840	Salary Offset for Federal Employees Who Are Indebted to the United States Under Programs Administered by the Secretary of Education	1840-AC23
841	Higher Education Programs in Modern Foreign Language Training and Area Studies	1840-AC26
842	Campus-Based Programs (Regulatory Relief)	1840-AC34

ED

Office of Postsecondary Education—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
843	Federal Family Education Loan Program	1840-AC33

Office of Postsecondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
844	Student Right-To-Know Act	1840-AB44
845	Student Assistance General Provisions—Ability To Benefit (Guidelines To Assist Institutions in Determining Student Eligibility for Title IV, HEA Student Financial Assistance)	1840-AB84
846	Student Assistance General Provisions - Equity in Athletics Disclosure Act	1840-AC14
847	Student Financial Aid Improvements (Student Assistance General Prov., Direct Loan Prog., Federal Family Education Loans, Pell Grant, Perkins Loan, Work Study, & Supp. Educ. Opp. Grant Progs)	1840-AC20
848	Student Assistance General Provisions (Default Rate Definition)	1840-AC17
849	William D. Ford Federal Direct Loan Program (Income Contingent Repayment)	1840-AC19
850	Federal Family Education Loan (FFEL) Program	1840-AC21
851	William D. Ford Federal Direct Loan Program	1840-AC22

Office of Special Education and Rehabilitative Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
852	Disability and Rehabilitation Research Programs	1820-AB36
853	The State Vocational Rehabilitation Services Program—Evaluation Standards and Performance Indicators	1820-AB14
854	Rehabilitation Services Discretionary Programs	1820-AB37

Office of Special Education and Rehabilitative Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
855	Elimination of Regulations	1820-AB34
856	The State Vocational Rehabilitation Services Program	1820-AB12
857	The State Vocational Rehabilitation Services Program—Order of Selection	1820-AB13
858	Projects With Industry	1820-AB33

Office of Special Education and Rehabilitative Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
859	State Grants Program for Technology-Related Assistance for Individuals With Disabilities	1820-AB28
860	Vocational Rehabilitation Service Projects for American Indians With Learning Disabilities	1820-AB32

Office of Vocational and Adult Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
861	State Vocational and Applied Technology Education Programs and National Discretionary Programs of Vocational Education; Adult Education; and Stewart B. McKinney Homeless Assistance Programs	1830-AA15

ED

Office of Intergovernmental and Interagency Affairs—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
862	U.S. Exchange Visitor Program—Request for Waiver of the Two-Year Foreign Residence Requirement	1860-AA02

Office of Intergovernmental and Interagency Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
863	Advisory Committee Management Regulations	1860-AA03

DEPARTMENT OF EDUCATION (ED)

Departmental Management (EDMAN)

Proposed Rule Stage

809. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 75; 34 CFR 76; 34 CFR 77

Legal Deadline: None

Abstract: These proposed regulations would reinvent key parts of EDGAR by eliminating unnecessary, obsolete, or duplicative provisions; replacing some provisions with non-regulatory guidance; and revising other sections to effect clarity and ease of use by the Department's customers.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
Final Action	02/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kathy Thomas, Office of the Chief Financial Officer, Grants and Contracts Services, Department of Education, 600 Independence Avenue SW., Room 3636, ROB-3, Washington, DC 20202-4248
Phone: 202 708-8287

RIN: 1880–AA70

810. FAMILY EDUCATIONAL RIGHTS AND PRIVACY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1232g(a)(1); 20 USC 1232g(a)(2); 20 USC 1232g(b)(1)(A); 20 USC 1232g(b)(1)(E); 20 USC 1232g(b)(1)(J); 20 USC 1232g(b)(2); 20 USC 1232g(b)(4)(B); 20 USC 1232g(e); 20 USC 1232g(h)

CFR Citation: 34 CFR 099

Legal Deadline: None

Abstract: These proposed regulations are needed to implement section 444 of the Improving America's Schools Act of 1994, (Pub. L. 103-761). That provision amends the Family Educational Rights and Privacy Act (FERPA) to specify certain requirements with regard to the disclosure of information from education records, the right of parents to inspect and review certain records maintained on their children by State educational agencies, and the maintenance and disclosure of disciplinary information found in education records. The provision also removes, in certain law enforcement instances, the requirement that schools notify parents or students before complying with a subpoena or court order. The regulations would be developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Shirley, Family Policy Compliance Office, Department of Education, 600 Independence Avenue SW., Room 1366, FB-10, Washington, DC 20202-4605
Phone: 202 260-3887

RIN: 1880–AA65

811. • PROTECTION OF HUMAN SUBJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 20 USC 1221e-3; 20 USC 3474; 42 USC 300v-1(b)

CFR Citation: 34 CFR 97

Legal Deadline: None

Abstract: These regulations amend existing regulations to add special protections for children who are involved as subjects of research. Specifically, these regulations remove exemptions and further limit the risks to which children may be made vulnerable.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	06/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Helen Deramond, Management Analyst, Department of Education, 600 Independence Avenue SW., Room 5636, ROB-3, Washington, DC 20202
Phone: 202 260-5353
Fax: 202 708-9346

RIN: 1880–AA75

DEPARTMENT OF EDUCATION (ED)

Departmental Management (EDMAN)

Final Rule Stage

812. AMENDMENT TO EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 75

Legal Deadline: None

Abstract: These proposed regulations--based on a recommendation under the National Performance Review--amend existing regulations by broadening the criteria the Secretary considers in determining the order in which discretionary grant applications will be selected for funding. Specifically, the proposed amendment would expand the criteria to include a grant recipient's past performance and previous use of funds, including failure to submit a performance report or submission of a report of unacceptable quality under any Department of Education grant programs. Currently the criteria include only past use of funds under the same grant programs. The proposed amendment would also clarify that the deadline date for the receipt of an application is the date that the application is received at the Department, not the postmark date. The proposed regulations would be developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	09/20/95	60 FR 48844
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ronelle Holloman, Office of the Chief Financial Officer, Grants and Contracts Service, Department of Education, 600 Independence Avenue SW., Room 3636, ROB-3, Washington, DC 20202-4248
Phone: 202 205-3501

RIN: 1880–AA62

813. STUDENT RIGHTS IN RESEARCH, EXPERIMENTAL PROGRAMS, AND TESTING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1232h

CFR Citation: 34 CFR 098

Legal Deadline: None

Abstract: These regulations are needed to implement section 1017 of the Goals 2000: Educate America Act (Pub. L. 103-227, 20 U.S.C. section 123h). That provision amends the Protection of Pupil Rights Amendment (PPRA) to require schools, in certain instances, to make specific educational materials available to parents for inspection. The provision also amends the PPRA to prohibit schools from requiring a student to submit to certain surveys, analyses, or evaluations without prior parental consent. The regulations are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44696
NPRM Comment Period End	10/27/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellen Campbell, Family Policy Compliance Office, Department of Education, 600 Independence Avenue SW., Room 1366, FB-10, Washington, DC 20202-4605
Phone: 202 260-3887

RIN: 1880–AA66

814. • DIRECT GRANT PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 75; 20 USC 3474

CFR Citation: 34 CFR 75.253; 34 CFR 75.261

Legal Deadline: None

Abstract: These regulations reduce regulatory, paperwork, and administrative burden on discretionary grant recipients by giving them more flexibility in planning and implementing program activities. These regulations allow the Secretary to waive the prior written approval requirement for a one-time extension of a project period for all discretionary grant recipients. The extension, however, must not involve the obligation of additional funds by the Federal government. These regulations also clarify the Department's position about carrying over grant funds to a subsequent budget period.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Greg Vick, Department of Education, 600 Independence Avenue SW., Room 3636, ROB-3, Washington, DC 20202
Phone: 202 708-8199
TDD: 800 877-8339

RIN: 1880–AA76

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DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)
Long-Term Actions

815. REVISED EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR) SELECTION CRITERIA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1221e-3; 20 USC 3474

CFR Citation: 34 CFR 75

Legal Deadline: None

Abstract: These regulations would expand the current EDGAR selection criteria in 34 CFR 75.210. Section 75.210 provides selection criteria for discretionary grant programs without implementing regulations. This regulatory action would create an extensive menu of criteria that could be used for a variety of the Department's programs, including research, planning, demonstration, training, fellowship, and field-initiated programs.

Statement of Need: These regulations would reduce the need for separate sets of regulations to govern individual discretionary grant programs.

Summary of the Legal Basis: Use of the EDGAR selection criteria would be determined on a program-by-program basis, subject to the applicable statutory program authority and program needs for effective and efficient operation.

Alternatives: The EDGAR selection criteria would be developed as an alternative to issuing regulations for each of the individual programs that are able to use them.

Anticipated Costs and Benefits: Regulations for programs for which the EDGAR selection criteria are appropriate could be reduced or eliminated. Providing a menu of criteria for which variable weights could be assigned, would increase program flexibility.

Risks: These proposed regulations would not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margo Anderson, Department of Education, 555 New Jersey Avenue NW., Room 602L, Capitol Place, Washington, DC 20208-5530
Phone: 202 219-2000

RIN: 1880–AA74

816. GENERAL EDUCATION PROVISIONS ACT (GEPA)—ENFORCEMENT: PROPORTIONALITY AND EQUITABLE OFFSETS

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1221e-3(a)(1); 20 USC 1234; 20 USC 3474(a)

CFR Citation: 34 CFR 75; 34 CFR 76; 34 CFR 81; 34 CFR 83

Legal Deadline: None

Abstract: These proposed regulations clarify circumstances under which benefits to a grant or cooperative agreement and equitable offset are taken into account in determining harm to an identifiable Federal interest under the General Education Provisions Act (GEPA).

Timetable:

Action	Date	FR Cite
NPRM	06/20/95	60 FR 32552
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Theodore Sky, Senior Counsel, Office of the General Counsel, Department of Education, 600 Independence Avenue SW., Room 5364, FB-10, Washington, DC 20202-2110
Phone: 202 401-2605

RIN: 1880–AA56

817. DEPARTMENT OF EDUCATION ACQUISITION REGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 3010; 40 USC 486(c)

CFR Citation: 48 CFR 34

Legal Deadline: None

Abstract: These proposed regulations would reinvent the EDAR in accordance with the Department's Principles for Regulating. The amended regulations would delete or revise certain existing regulatory provisions adequately covered by the Federal Acquisition Regulation (FAR), including FAR's changes implementing the Federal Acquisition Streamlining Act. Other proposed revisions would reflect changes in the Department's organizational structure.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rich Galloway, Office of the Chief Financial Officer, Department of Education, 600 Independence Avenue SW., Room 3636, ROB-3, Washington, DC 20202-4249
Phone: 202 708-8266

RIN: 1880–AA72

DEPARTMENT OF EDUCATION (ED)
Departmental Management (EDMAN)
Completed Actions

818. DIRECT GRANT PROGRAMS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 75

Completed:

Reason	Date	FR Cite
Final Action	03/04/96	61 FR 8454

Small Entities Affected: None

ED—EDMAN
Completed Actions

Government Levels Affected: None

Agency Contact: Mary Smith
Phone: 202 401-8300

RIN: 1880–AA68

819. DIRECT GRANT PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 75

Completed:

Reason	Date	FR Cite
Final Action	12/12/95	60 FR 63872
Final Action Effective	01/11/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Jacinta Ma
Phone: 202 401-8300

RIN: 1880–AA69

820. FAMILY EDUCATIONAL RIGHTS AND PRIVACY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 99

Completed:

Reason	Date	FR Cite
Withdrawn	02/06/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Shirley
Phone: 202 260-3887

RIN: 1880–AA71

DEPARTMENT OF EDUCATION (ED)
Office of Bilingual Education and Minority Languages Affairs (OBEMLA)
Final Rule Stage

821. BILINGUAL EDUCATION GRADUATE FELLOWSHIP PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 7475; PL 103-382

CFR Citation: 34 CFR 535

Legal Deadline: None

Abstract: These proposed regulations would implement statutory changes under the Improving America's Schools Act of 1994 and address the role of institutions of higher education in the program. The Graduate Fellowship Program (34 CFR Part 535) replaces the existing Bilingual Education Fellowship Program (34 CFR Part 562) and expands the program to include post-doctoral fellowships. The regulations are being developed in accordance with the Department's Principles for Regulating to ensure that the Department regulates in the most flexible, equitable, and least burdensome way possible.

Timetable:

Action	Date	FR Cite
NPRM	11/09/95	60 FR 56920
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joyce Brown, Education Program Specialist, Department of Education, Office of Bilingual Education and Minority Languages Affairs, 600 Independence Avenue SW., Room 5630, Switzer Bldg., Washington, DC 20202-6642
Phone: 202 205-9727

RIN: 1885–AA20

DEPARTMENT OF EDUCATION (ED)
Office of Educational Research and Improvement (OERI)
Proposed Rule Stage

822. • STANDARDS FOR THE CONDUCT AND EVALUATION OF ACTIVITIES CARRIED OUT BY THE OERI—DESIGNATION OF EXEMPLARY AND PROMISING PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 6011(i); 41 USC 423

CFR Citation: 34 CFR 701

Legal Deadline: None

Abstract: These regulations establish standards for the evaluation of programs which have applied to receive the designation of exemplary or promising programs. Adding this designation will broaden the range of educational resources available for school improvement efforts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Stonehill, Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Room 504, Washington, DC 20208-5644
Phone: 202 219-2088

RIN: 1850–AA52

823. • NATIONAL DIFFUSION NETWORK

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 2962

CFR Citation: 34 CFR 785; 34 CFR 786; 34 CFR 787; 34 CFR 788; 34 CFR 789

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Proposed Rule Stage

Legal Deadline: None

Abstract: These regulations incorporate statutory amendments, remove obsolete provisions, and apply the standards for the conduct and evaluation of activities carried out by the Office of Education Research and Improvement in 34 CFR Part 700.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steve Balkcom, Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Room 506C, Washington, DC 20208-5644
Phone: 202 219-2089

RIN: 1850–AA53

DEPARTMENT OF EDUCATION (ED)

Completed Actions

Office of Educational Research and Improvement (OERI)

824. STANDARDS FOR THE CONDUCT AND EVALUATION OF ACTIVITIES CARRIED OUT BY OERI—EVALUATION OF APPLICATIONS FOR GRANTS/COOPERATIVE AGREEMENTS AND PROPOSALS FOR CONTRACTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 700

Completed:

Reason	Date	FR Cite
Final Action	09/14/95	60 FR 47808

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward J. Fuentes
Phone: 202 219-1895

RIN: 1850–AA51

DEPARTMENT OF EDUCATION (ED)

Proposed Rule Stage

Office of Elementary and Secondary Education (OESE)

825. • SPECIAL EDUCATIONAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND OTHER SEASONAL FARMWORK—HIGH SCHOOL EQUIVALENCE PROGRAM AND COLLEGE ASSISTANCE MIGRANT PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1070(d) to 1070(2)

CFR Citation: 34 CFR 206

Legal Deadline: None

Abstract: The regulations would be revised to reduce burden and incorporate the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Wooten, Department of Education, Office of Elementary and Secondary Education, 600 Independence Avenue SW., Room 4000, Portals Bldg., Washington, DC 20202-6123
Phone: 202 206-1922

RIN: 1810–AA86

826. IMPACT AID PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 7701 to 7714

CFR Citation: 34 CFR 222

Legal Deadline: None

Abstract: These proposed amendments would revise programmatic regulations to conform to new statutory provisions. The proposed regulations would be based on the Department's Principles for Regulating and would increase flexibility for applicants and minimize burden on affected parties.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Wooten, Department of Education, Office of Elementary and Secondary Education, 600 Independence Avenue SW., Room 4000, Portals Bldg., Washington, DC 20202-6123
Phone: 202 260-1922

RIN: 1810–AA84

827. INDIAN FELLOWSHIP AND PROFESSIONAL DEVELOPMENT PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 7832 to 7833

CFR Citation: 34 CFR 263

Legal Deadline: None

ED—OESE

Proposed Rule Stage

Abstract: As current regulations solely governed fiscal year 1995 awards, these proposed regulations are necessary to govern the program for fiscal year 1996 and future years. In addition, the authorizing statutes require the Secretary to issue regulations on the payback requirement. The regulations are to be developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Wooten, Department of Education, Office of Elementary and Secondary Education, 600 Independence Avenue SW., Room 4000, Portals Bldg., Washington, DC 20202-6123
Phone: 202 260-1922

RIN: 1810–AA81

828. DESEGREGATION PROGRAMS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 2000c to 2000c-2; 20 USC 2000-5

CFR Citation: 34 CFR 270; 34 CFR 271; 34 CFR 272

Legal Deadline: None

Abstract: These regulations will combine three sets of existing regulations and eliminate obsolete, duplicative, and unnecessary provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Wooten, Department of Education, Office of Elementary and Secondary Education, 600 Independence Avenue SW., Room 4000, Portals Bldg., Washington, DC 20202-6123
Phone: 202 260-1922

RIN: 1810–AA85

DEPARTMENT OF EDUCATION (ED)

Final Rule Stage

Office of Elementary and Secondary Education (OESE)

829. DRUG-FREE SCHOOLS AND CAMPUSES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1145g; 20 USC 3224a

CFR Citation: 34 CFR 86

Legal Deadline: None

Abstract: In accordance with the Improving America's Schools Act, these amendments to current regulations would reduce burden on certain entities by limiting applicability of the regulations to institutions of higher education. The regulations will no longer apply to local and State educational agencies.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Wooten, Department of Education, Office of Elementary and Secondary Education, 600 Independence Avenue SW., Room 4000, Portals Bldg., Washington, DC 20202-6123
Phone: 202 260-1922

RIN: 1810–AA83

830. TITLE XIV—GENERAL PROVISIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1232g

CFR Citation: 34 CFR 299

Legal Deadline: None

Abstract: These general provisions regulations would govern groups of specified programs under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Improving America's Schools Act of 1994. The proposed regulations would establish uniform provisions under Title XIV of the ESEA applicable to consolidation of State and local administrative funds, maintenance of effort, services to private school children and complaint procedures. The uniform provisions would minimize burdensome differences in implementing provisions in individual programs. The NPRM also includes a proposed priority for empowerment zones and enterprise communities. The proposed regulations are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	03/26/96	61 FR 13324
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Wooten, Department of Education, Office of Elementary and Secondary Education, 600 Independence Avenue SW., Room 4000, Portals Bldg, Washington, DC 20202-6123
Phone: 202 260-1922

RIN: 1810–AA82

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Proposed Rule Stage

831. • SECRETARY'S RECOGNITION PROCEDURES FOR STATE AGENCIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 295f-3(b); 20 USC 295h-4(1)(d); 20 USC 298b(f); 20 USC 403(b); 20 USC 1085(b); 20 USC 1141(a); 20 USC 1248(11); 38 USC 1775(a); 42 USC 293a(b)

CFR Citation: 34 CFR 603

Legal Deadline: None

Abstract: The regulations will be eliminated. State agencies will be required to meet the same requirements as accrediting agencies under 34 CFR part 603.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sally K. Kirkgasler, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 4050, ROB-3, Washington, DC 20202-2550
Phone: 202 708-9069

RIN: 1840–AC32

832. • TRAINING PROGRAMS FOR FEDERAL TRIO PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1070(a) to 1070(17)

CFR Citation: 34 CFR 642

Legal Deadline: None

Abstract: These regulations would be revised to incorporate statutory changes and new funding priorities, and to increase grantee accountability through revised experience criteria and stronger project evaluation requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pappas, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 600, Portals Bldg., Washington, DC 20202
Phone: 202 708-4804

RIN: 1840–AC29

833. • GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1134; 20 USC 1134(1) to 1134(q)(1)

CFR Citation: 34 CFR 648

Legal Deadline: None

Abstract: These regulations would be revised to simplify the selection criteria and make them less burdensome.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cosette Ryan, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 600, Portals Bldg., Washington, DC 20202
Phone: 202 260-3608

RIN: 1840–AC31

834. • INTERNATIONAL EDUCATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1121 to 1130(b)

CFR Citation: 34 CFR 655; 34 CFR 656; 34 CFR 657; 34 CFR 658; 34 CFR 660; 34 CFR 661

Legal Deadline: None

Abstract: These proposed revisions to the existing regulations are needed to reduce burden and incorporate the Department's Principles for Regulating in the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sara West, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 600B, Portals Bldg., Washington, DC 20202
Phone: 202 401-9782

RIN: 1840–AC30

835. NATIONAL RESOURCE CENTERS PROGRAM FOR FOREIGN LANGUAGE AND AREA STUDIES OR FOREIGN LANGUAGE AND INTERNATIONAL STUDIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1122

CFR Citation: 34 CFR 656

Legal Deadline: None

Abstract: These proposed regulations would provide more clarity for applicants and reduce the reporting burden. These regulations would govern the program for fiscal year 1997.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sara West, Program Officer, Advanced Training and Research Branch, Department of Education, Office of Postsecondary Education, 600 Independence Avenue

ED—OPE

Proposed Rule Stage

SW., Room 600B, Portals Bldg, Washington, DC 20202-5331
Phone: 202 401-9782

RIN: 1840–AC27

836. FOREIGN LANGUAGE AND AREA STUDIES FELLOWSHIP PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1122

CFR Citation: 34 CFR 657 •

Legal Deadline: None

Abstract: These proposed regulations would reframe the evaluation criteria to provide more clarity for applicants and to reduce the reporting burden and would provide greater cost effectiveness in grant administration. These proposed regulations would govern the program for fiscal year 1997.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sara West, Program Officer, Advanced Training and Research Branch, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 600B, Portals Bldg., Washington, DC 20202-5331
Phone: 202 401-9782

RIN: 1840–AC28

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Final Rule Stage

837. INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED; STUDENT ASSISTANCE GENERAL PROVISIONS; WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1087a et seq; 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1096b; 20 USC 1099b; 20 USC 1099c; 20 USC 1141•

CFR Citation: 34 CFR 600; 34 CFR 668; 34 CFR 685

Legal Deadline: None

Abstract: These regulations clarify regulatory provisions and correct errors and omissions in final regulations published on November 29, 1994 and December 1, 1994.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Meredith Merrill, Program Specialist, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 3053, ROB-3, Washington, DC 20202-5400
Phone: 202 708-9406

RIN: 1840–AC18

838. STUDENT SUPPORT SERVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1070a-11; 20 USC 1070a-14

CFR Citation: 34 CFR 646

Legal Deadline: None

Abstract: In accordance with the Department's Principles for Regulating, these proposed regulations would revise current regulations by incorporating statutory changes and revised prior experience criteria and simplifying section criteria.

Timetable:

Action	Date	FR Cite
NPRM	12/13/95	60 FR 64108
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pappas, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 600, Portals Bldg., Washington, DC 20202
Phone: 202 708-4804

RIN: 1840–AC24

839. FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1071 to 1087-2

CFR Citation: 34 CFR 682

Legal Deadline: None

Abstract: These final regulations make technical amendments to the FFEL regulations, reconcile provisions that may conflict, and reconcile various amendments and corrections.

Timetable:

Action	Date	FR Cite
Final Action	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Beavan, Program Specialist, Policy Training and Analysis Service, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 3045, ROB-3, Washington, DC 20202-5449
Phone: 202 708-8242

RIN: 1840–AC16

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)
Long-Term Actions

840. SALARY OFFSET FOR FEDERAL EMPLOYEES WHO ARE INDEBTED TO THE UNITED STATES UNDER PROGRAMS ADMINISTERED BY THE SECRETARY OF EDUCATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 5514; 31 USC 3716

CFR Citation: 34 CFR 31

Legal Deadline: None

Abstract: In accordance with the Department's Principles for Regulating, these proposed regulations would simplify procedures and make them more consistent with other collection efforts.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sally K. Kirkgasler, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 4060, ROB-3, Washington, DC, 20202 Phone: 202 708-9069

RIN: 1840–AC23

841. HIGHER EDUCATION PROGRAMS IN MODERN FOREIGN LANGUAGE TRAINING AND AREA STUDIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2452(b)(6)

CFR Citation: 34 CFR 662; 34 CFR 663; 34 CFR 664

Legal Deadline: None

Abstract: These proposed regulations would revise existing regulations by addressing (1) political developments abroad, (2) new policies and practices of the J. William Fulbright Foreign Scholarship Board, and (3) clarification and flexibility. The proposed regulations are to be developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Scarfo, Director, Center for International Education, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 600, Portals Bldg., Washington, DC 20202 Phone: 202 401-9770

RIN: 1840–AC26

842. • CAMPUS-BASED PROGRAMS (REGULATORY RELIEF)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1087aa to 1087ii; 20 USC 421 to 429; 42 USC 2571 to 2756b; 20 USC 1070b to 1070b-3

CFR Citation: 34 CFR 673

Legal Deadline: None

Abstract: These proposed regulations would provide regulatory relief, including substitution of performance standards for procedural requirements wherever possible.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: George Harris, Program Specialist, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 3045, ROB-3, Washington, DC 20202 Phone: 202 708-8242

RIN: 1840–AC33

843. • FEDERAL FAMILY EDUCATION LOAN PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1071 to 1087-2

CFR Citation: 34 CFR 682

Legal Deadline: None

Abstract: The proposed regulations would clarify limitation on use of Guarantee Agency reserve funds and limit relationships between guaranty agencies and lenders and servers.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Adams, Program Specialist, Campus-Based Programs, Department of Education, Office of Postsecondary Education, 600 Independence Avenue SW., Room 3045, ROB-3, Washington, DC 20202 Phone: 202 708-4690

RIN: 1840–AC34

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)
Completed Actions

844. STUDENT RIGHT-TO-KNOW ACT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 668

Completed:

Reason	Date	FR Cite
Final Action	12/01/95	60 FR 61776

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paula Husselmann Phone: 202 708-7888

RIN: 1840–AB44

845. STUDENT ASSISTANCE GENERAL PROVISIONS—ABILITY TO BENEFIT (GUIDELINES TO ASSIST INSTITUTIONS IN DETERMINING STUDENT ELIGIBILITY FOR TITLE IV, HEA STUDENT FINANCIAL ASSISTANCE)

Priority: Other Significant

CFR Citation: 34 CFR 668

Completed:

Reason	Date	FR Cite
Final Action	12/01/95	60 FR 61830

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorraine Kennedy Phone: 202 708-7888

RIN: 1840–AB84

846. STUDENT ASSISTANCE GENERAL PROVISIONS - EQUITY IN ATHLETICS DISCLOSURE ACT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 668

Completed:

Reason	Date	FR Cite
Final Action	11/29/95	60 FR 61424

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Lorenzo Phone: 202 708-8654

RIN: 1840–AC14

847. STUDENT FINANCIAL AID IMPROVEMENTS (STUDENT ASSISTANCE GENERAL PROV., DIRECT LOAN PROG., FEDERAL FAMILY EDUCATION LOANS, PELL GRANT, PERKINS LOAN, WORK STUDY, & SUPP. EDUC. OPP. GRANT PROGS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 668; 34 CFR 674; 34 CFR 675; 34 CFR 676; 34 CFR 682; 34 CFR 685; 34 CFR 690

Completed:

Reason	Date	FR Cite
Final Action	12/01/95	60 FR 61796

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold McCullough Phone: 202 708-4690

RIN: 1840–AC20

848. STUDENT ASSISTANCE GENERAL PROVISIONS (DEFAULT RATE DEFINITION)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 668

Completed:

Reason	Date	FR Cite
Final Action	12/01/95	60 FR 61760

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Douglas Laine Phone: 202 708-9406

RIN: 1840–AC17

849. WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM (INCOME CONTINGENT REPAYMENT)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 685

Completed:

Reason	Date	FR Cite
Final Action	12/01/95	60 FR 61820

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rachel Edelstein Phone: 202 708-9406

RIN: 1840–AC19

850. FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 682

Completed:

Reason	Date	FR Cite
Final Action	12/01/95	60 FR 61750

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Bauman Phone: 202 708-8242

RIN: 1840–AC21

851. WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 685

Completed:

Reason	Date	FR Cite
Final Action	12/01/95	60 FR 61790

Small Entities Affected: None

ED—OPE — Completed Actions

Government Levels Affected: None
Agency Contact: Katrina Ingalls
Phone: 202 708-9406
RIN: 1840–AC22

DEPARTMENT OF EDUCATION (ED) — Proposed Rule Stage
Office of Special Education and Rehabilitative Services (OSERS)

852. • DISABILITY AND REHABILITATION RESEARCH PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 761a

CFR Citation: 34 CFR 350; 34 CFR 351; 34 CFR 352; 34 CFR 353; 34 CFR 355; 34 CFR 357; 34 CFR 359; 34 CFR 360

Legal Deadline: None

Abstract: These regulations will streamline and consolidate a number of the Disability and Rehabilitation Research program regulations into one CFR part. The Department will remove unnecessary regulations and make the regulations easier to use.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Betty Jo Berland, Department of Education, Office of Special Education and Rehabilitative Services, 600 Independence Avenue SW., Room 3422, Switzer, Washington, DC 20202
Phone: 202 205-9739
TDD: 202 205-5516

RIN: 1820–AB38

853. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM—EVALUATION STANDARDS AND PERFORMANCE INDICATORS

Priority: Other Significant

Legal Authority: PL 102-569

CFR Citation: 34 CFR 361

Legal Deadline: None

Abstract: These proposed revisions to existing regulations are needed because of changes in the authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569). The 1992 Amendments require the development of standards and performance indicators. The proposed regulations are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/93	58 FR 9458
NPRM	05/00/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beverlee Stafford, Acting Director, Planning, Policy, and Evaluation Services, Department of Education, Office of Special Education and Rehabilitative Services, 600 Independence Avenue SW., Room 3014, Switzer Building, Washington, DC 20202-2531
Phone: 202 205-8299

RIN: 1820–AB14

854. • REHABILITATION SERVICES DISCRETIONARY PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 711(c); 29 USC 732; 29 USC 750; 29 USC 775; 29 USC 777(a) to 777(f); 29 USC 794(e); 29 USC 795(g)

CFR Citation: 34 CFR 369; 34 CFR 376; 34 CFR 380; 34 CFR 381

Legal Deadline: None

Abstract: These proposed revisions to the existing regulations are needed to reduce burden and incorporate the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beverlee Stafford, Acting Director, Planning, Policy, and Evaluation Services, Department of Education, Office of Special Education and Rehabilitative Services, 600 Independence Avenue SW., Room 3014, Switzer Bldg., Washington, DC 20202-2550
Phone: 202 205-8299

RIN: 1820–AB37

DEPARTMENT OF EDUCATION (ED) — Final Rule Stage
Office of Special Education and Rehabilitative Services (OSERS)

855. ELIMINATION OF REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1221e-3

CFR Citation: 34 CFR 302 et seq

Legal Deadline: None

Abstract: Elimination of these regulations reduces regulatory burden and increases flexibility.

Statement of Need: As a result of new legislation, absence of funding, and regulatory reinvention review, the Secretary has determined that these regulations are no longer needed.

Summary of the Legal Basis: The Secretary's general authority to rescind regulations is granted in section 410 of the General Education Provisions Act, as amended.

Alternatives: Not applicable

Anticipated Costs and Benefits: Elimination of these regulations reduces regulatory burden and increases flexibility.

Risks: These regulations would not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Final Rule	05/23/95	60 FR 27223
Final Rule Effective	06/22/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth C. Depew, General Attorney, Office of the General Counsel, Department of Education, Office of the General Counsel, 600 Independence Avenue SW., Room 5112, FB-10, Washington, DC 20202-2241
Phone: 202 401-8300

RIN: 1820–AB34

856. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 711(e); PL 102-569

CFR Citation: 34 CFR 361

Legal Deadline: None

Abstract: These proposed revisions to existing regulations are needed to implement changes made to the Rehabilitation Act of 1973 by the Rehabilitation Act Amendments of 1992 and 1993. The changes include significant revisions in definitions, new definitions, new State plan requirements, and new eligibility requirements for services. The proposed regulations would include regulatory provisions previously listed under RIN 1820-AB15. In accordance with the Department's Principles for Regulating, the proposed regulations would reduce unnecessary process requirements, give States increased flexibility in administering the program, and eliminate requirements that do not directly contribute to the achievement of the program's objectives.

Timetable:

Action	Date	FR Cite
NPRM	12/15/95	60 FR 64476
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Beverlee Stafford, Acting Director, Planning, Policy, and Evaluation Services, Department of Education, Office of Special Education and Rehabilitative Services, 600 Independence Avenue SW., Room 3014, Switzer Building, Washington, DC 20202-2550
Phone: 202 205-8299

RIN: 1820–AB12

857. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM—ORDER OF SELECTION

Priority: Other Significant

Legal Authority: 29 USC 721(a)(5)(A); PL 102-569

CFR Citation: 34 CFR 361

Legal Deadline: None

Abstract: These amendments to existing regulations are needed because of changes in the authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569). The statute requires promulgation of specific regulations regarding the order of selection of eligible disabled individuals for services. The regulations are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	07/16/93	58 FR 38482
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Beverlee Stafford, Acting Director, Planning, Policy, and Evaluation Services, Department of Education, Office of Special Education and Rehabilitative Services, 600 Independence Avenue SW., Room 3014, Switzer Building, Washington, DC 20202-2550
Phone: 202 205-8299

RIN: 1820–AB13

858. PROJECTS WITH INDUSTRY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 795g; 29 USC 711(c)

CFR Citation: 34 CFR 379

Legal Deadline: None

Abstract: Proposed changes to the regulations are needed to address implementation problems and to improve program effectiveness. Sections of the regulations that are to be revised include the selection criteria, application content, and grantee reporting requirements. These proposed changes are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	01/22/96	61 FR 1672
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beverlee Stafford, Acting Director, Planning, Policy and Evaluation Services, Department of Education, Office of Special Education and Rehabilitative Services, 600 Independence Avenue SW., Room 3014, Switzer Bldg., Washington, DC 20202-2531
Phone: 202 205-8299

RIN: 1820–AB33

ED—OSERS — Final Rule Stage

DEPARTMENT OF EDUCATION (ED)

Completed Actions

Office of Special Education and Rehabilitative Services (OSERS)

859. STATE GRANTS PROGRAM FOR TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 345

Completed:

Reason	Date	FR Cite
Final Action	03/04/96	61 FR 8158

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol G. Cohen
Phone: 202 205-5666

RIN: 1820–AB28

860. VOCATIONAL REHABILITATION SERVICE PROJECTS FOR AMERICAN INDIANS WITH LEARNING DISABILITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 371

Completed:

Reason	Date	FR Cite
Final Action	11/24/95	60 FR 58136

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beverlee Stafford
Phone: 202 205-8299

RIN: 1820–AB32

DEPARTMENT OF EDUCATION (ED)

Completed Actions

Office of Vocational and Adult Education (OVAE)

861. STATE VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION PROGRAMS AND NATIONAL DISCRETIONARY PROGRAMS OF VOCATIONAL EDUCATION; ADULT EDUCATION; AND STEWART B. MCKINNEY HOMELESS ASSISTANCE PROGRAMS

Priority: Other

CFR Citation: 34 CFR 50(d)(2); 34 CFR 400.4(b); 34 CFR 400.6(a)(5); 34 CFR 403.15(a); 34 CFR 403.32(b)(10); 34 CFR 403.112(b)(1); 34 CFR 403.114(a)(1)(iv); 34 CFR 403.117(b)(1); 34 CFR 425.3(a)(3)

Completed:

Reason	Date	FR Cite
Withdrawn	02/06/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Sharon A. Jones
Phone: 202 205-8237

RIN: 1830–AA15

DEPARTMENT OF EDUCATION (ED)

Long-Term Actions

Office of Intergovernmental and Interagency Affairs (EDSI)

862. U.S. EXCHANGE VISITOR PROGRAM—REQUEST FOR WAIVER OF THE TWO-YEAR FOREIGN RESIDENCE REQUIREMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1182(e); 20 USC 2451 et seq

CFR Citation: 34 CFR 50

Legal Deadline: None

Abstract: By law the Department of Education may request waiver--by the Attorney General--of a requirement affecting exchange visitors under the Mutual Educational and Cultural Exchange Program. These regulations simplify and clarify procedures, criteria, and other policies governing an institution's or organization's application to the Department for a waiver on behalf of an exchange visitor employed by the institution or organization.

Timetable:

Action	Date	FR Cite
NPRM	03/01/93	58 FR 11924
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Janet Johnson, Management & Research Specialist, International and Territorial Services Staff, Department of Education, Office of Intergovernmental and Interagency Affairs, 600 Independence Avenue SW., Room 2115, FB-10, Washington, DC 20202-3601
Phone: 202 401-0430

RIN: 1860–AA02

DEPARTMENT OF EDUCATION (ED)

Completed Actions

Office of Intergovernmental and Interagency Affairs (EDSI)

863. ADVISORY COMMITTEE MANAGEMENT REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 34 CFR 11

Completed:

Reason	Date	FR Cite
Withdrawn	02/21/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ann Bailey
Phone: 202 401-3677

RIN: 1860–AA03

[FR Doc. 96-6943 Filed 05-10-96; 8:45 am]
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Part VII

Department of Energy

Semiannual Regulatory Agenda

DEPARTMENT OF ENERGY (DOE)

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

48 CFR Ch. 9

Regulatory Agenda

AGENCY: Department of Energy.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Energy has prepared and today is publishing its April 1996 regulatory agenda pursuant to instructions of the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), dated January 2, 1996.

FOR FURTHER INFORMATION CONTACT: For further information about any particular item on the regulatory agenda, please contact the individual listed under that item. For further information on the regulatory agenda in general, please contact: Richard L. Farman, Room 6E-078, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-8145.

SUPPLEMENTARY INFORMATION: The Department is continuing with its efforts to make its rulemakings less burdensome, more cost-effective, and more responsive to needs of its stakeholders, while continuing to protect health, safety, and the environment. Specifically, the Department's goal is to eliminate 33 percent of its pages in the Code of Federal Regulations and to reinvent or streamline 55 percent of its pages. As of March 15, 1996, the Department had eliminated 24 percent and reinvented 9 percent of its CFR pages. The Department had issued proposed rules to eliminate an additional 1 percent and reinvent an additional 7 percent of its CFR pages.

As reported in its October 1995 regulatory plan, the Department's rulemaking efforts with respect to energy efficiency standards for appliances may be restricted by a rider attached to fiscal year 1996 appropriations legislation. This rider, if enacted, would prohibit the Department from using fiscal year 1996 appropriations for the issuance of any proposed or final energy efficiency standards for appliances. This uncertainty has caused the Department to reconsider, with its stakeholders, the schedules for rulemakings on appliance standards and related matters. These schedules are likely to be revised in light of this reconsideration.

Regulatory Agenda Format

Regulatory agenda entries reflect the status of activities as of approximately March 25, 1996. They are divided into categories, first by program offices and then according to their stage of rulemaking action: Prerule, proposed rulemaking, final rulemaking, or completed action.

A draft of this regulatory agenda has been transmitted to the Chief Counsel for Advocacy of the Small Business Administration for comment, if any, pursuant to 5 U.S.C. 602(b).

Issued in Washington, DC, on March 15, 1996.

Robert R. Nordhaus,
General Counsel.

Energy Efficiency and Renewable Energy—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
864	Private/Local Alternative Fuels Fleet Program	1904-AA72

Energy Efficiency and Renewable Energy—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
865	Test Procedures for Central Air Conditioners and Heat Pumps—Amendments	1904-AA46
866	Energy Efficiency Performance Code for New Federal Residential Buildings	1904-AA53
867	Energy Efficiency Standards for Federal Commercial Buildings	1904-AA69
868	Test Procedures and Certification Requirements for Certain Plumbing Fixtures; and Certification Requirements for Residential Appliances	1904-AA71
869	Energy Conservation Program for Certain Commercial and Industrial Equipment: Test Procedures, Labeling, and Certification Requirements for Electric Motors	1904-AA82

Energy Efficiency and Renewable Energy—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
870	Equivalent Petroleum-Based Fuel Economy Calculation for Electric and Hybrid Electric Vehicles	1904-AA40
871	Test Procedures for Furnaces/Boilers, Vented Home Heating Equipment, and Pool Heaters—Amendment	1904-AA45
872	Test Procedures for Water Heaters, Kitchen Ranges, Ovens and Microwaves—Amendment	1904-AA52
873	Test Procedures for Fluorescent and Incandescent Reflector Lamps	1904-AA61
874	Alternative Fuel Provider Vehicle Acquisition Mandate, State Fleet Mandate, and the Alternative Fuel Vehicle Credit Program	1904-AA64
875	Clothes Washer Test Procedure Amendments	1904-AA68

DOE

Energy Efficiency and Renewable Energy—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
876	National Voluntary Residential Energy Efficiency Rating Guidelines	1904-AA74
877	Methodology and Procedures for Life Cycle Costing Under the Energy Policy Act of 1992	1904-AA80
878	State Energy Program	1904-AA81

Energy Efficiency and Renewable Energy—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
879	Energy Efficiency Standards for Pool Heaters, Direct Heating Equipment, Mobile Home Furnaces, Kitchen Ranges and Ovens, Oil and Gas Water Heaters, and Room Air Conditioners	1904-AA38
880	Energy Efficiency Standards for Refrigerators, Refrigerator-Freezers, and Freezers	1904-AA47
881	State and Local Incentives Program: Alternative Fuels	1904-AA66
882	Energy Efficiency Standards for Dishwashers, Clothes Washers, and Clothes Dryers	1904-AA67
883	Energy Efficiency Standards for Lamp Ballasts	1904-AA75
884	Energy Efficiency Standards for Water Heaters	1904-AA76
885	Energy Efficiency Standards for Central Air Conditioners and Heat Pumps	1904-AA77
886	Energy Efficiency Standards for Furnaces	1904-AA78

Energy Efficiency and Renewable Energy—Completed Actions

Sequence Number	Title	Regulation Identifier Number
887	Definitions for Certain Fluorescent and Incandescent Lamps	1904-AA70
888	Weatherization Assistance Program—Amendment	1904-AA73

Defense and Security Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
889	Policies on Information Classification	1992-AA21

Defense and Security Affairs—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
890	Personnel Assurance Program	1992-AA14

Departmental and Others—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
891	Energy Board of Contract Appeals; Organization, Functions, and Authorities; Rules of Practice	1901-AA30
892	Freedom of Information	1901-AA32
893	Nuclear Safety Management	1901-AA34
894	The Office of Energy Research Financial Assistance Program	1901-AA54
895	Payments for Special Burdens and in Lieu of Taxes	1901-AA58
896	Occupational Radiation Protection—Amendment	1901-AA59
897	Privacy Act—Exemption of an Inspector General System of Records	1901-AA62
898	Privacy Act Exemption of Certain Contractor Employee Reprisal Complaint and Investigation System of Records	1901-AA66

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Departmental and Others—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
899	Amendments to NEPA Regulations	1901-AA67
900	General Guidelines for the Recommendation of Sites for Nuclear Waste Repository	1901-AA72

Departmental and Others—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
901	Radiation Protection of the Public and the Environment	1901-AA38
902	Redesign and Revision of Wholesale Power and Transmission Rates	1901-AA64

Departmental and Others—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
903	Electric Power System Permits and Reports; Applications; Administrative Procedures and Sanctions	1901-AA19
904	Enforcement of Employee Safety Standards at Nuclear Weapons Facilities	1901-AA44
905	Standard Contract for the Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste	1901-AA49
906	Annotation of Land Records for Remediated Properties in the Uranium Mill Tailings Remedial Action Project (UMTRA)	1901-AA57
907	Privacy Act System of Records Update	1901-AA69
908	Privacy Act System of Records Amendment for Employee Assistance Program	1901-AA70
909	Environmental Management Financial Assistance Program	1901-AA71

Departmental and Others—Completed Actions

Sequence Number	Title	Regulation Identifier Number
910	Financial Assistance Program for Education Purposes	1901-AA61
911	Privacy Act System of Records Notice	1901-AA68

Office of Procurement and Assistance Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
912	Department of Energy Property Management Regulations; Miscellaneous Personal Property	1991-AA28
913	DEAR: Financial Management Clauses	1991-AB02
914	Debarment and Suspension	1991-AB24
915	DEAR: Regulatory Reinvention-Phase III	1991-AB25
916	Revisions to Organizational Conflicts of Interest	1991-AB26
917	Contract Reform	1991-AB28
918	FASA 1994, Sections 2051, 2151, and 2192	1991-AB29
919	Security, Counterintelligence, and Options	1991-AB30
920	FARA, DOE Certification Requirements	1991-AB31

Office of Procurement and Assistance Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
921	Amendment to Workplace Substance Abuse Programs at DOE Sites	1991-AA90

DOE

Office of Procurement and Assistance Management—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
922	Competition for Management and Operating Contracts	1991-AB09
923	Federal Acquisition Streamlining Act Implementation	1991-AB27

Office of Procurement and Assistance Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
924	DEAR: Security Procedures	1991-AA86
925	DEAR: Amendment to Workplace Substance Abuse Programs at DOE Sites	1991-AA97
926	DEAR: Review of M&O Contractor Purchasing Systems	1991-AB07
927	Small Business Subcontracting Program	1991-AB17

Office of Procurement and Assistance Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
928	Technology Transfer: DOE Management and Operating Contractors	1991-AA63
929	Legislative Lobbying Cost Prohibition	1991-AB08
930	Limits on Participation in Certain DOE Research and Development Programs	1991-AB14
931	Financial Assistance Rules Streamlining and Simplifying Procedures	1991-AB23

Office of General Counsel—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
932	Payment of Travel Expenses of Persons Who Are Not Government Employees	1990-AA15
933	Conduct of Employees	1990-AA19

Office of General Counsel—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
934	Patent Waiver Regulation	1990-AA02

Office of General Counsel—Completed Actions

Sequence Number	Title	Regulation Identifier Number
935	Removal of Obsolete Regulations, Part II	1990-AA23

DEPARTMENT OF ENERGY (DOE)
Energy Efficiency and Renewable Energy (EE)

Prerule Stage

864. PRIVATE/LOCAL ALTERNATIVE FUELS FLEET PROGRAM

Priority: Economically Significant

Legal Authority: 42 USC 13257 Energy Policy Act, sec 507(b)

CFR Citation: 10 CFR 490

Legal Deadline: Final, Statutory, December 15, 1996.
Alternative Final Statutory Deadline is January 1, 2000.

Abstract: The Energy Policy Act of 1992 requires DOE to initiate a rulemaking to determine whether a private and local fleet program is deemed necessary to meet the fuel displacement goals in the Act. The criteria for making this determination are mandated by the Act.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: David Rodgers, Program Manager (EE-33), Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-7182
Fax: 202 586-1610

RIN: 1904–AA72

DEPARTMENT OF ENERGY (DOE)
Energy Efficiency and Renewable Energy (EE)

Proposed Rule Stage

865. TEST PROCEDURES FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS—AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: These revisions to the test procedures for central air conditioners and heat pumps in accordance with the Energy Policy and Conservation Act, as amended, will reorganize the document in a logical order and update the references. The revisions include an updated nomenclature compatible with the eventual test procedure for conamed appliances, additional tables listing tests tolerances, a clearer specification for the demand defrost credit, and test methods for ECM blowers and history-dependent defrosts.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Raymond, Program Leader, Appliance Standards Division, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-9611
Fax: 202 586-4617
Email: michael.raymond@hq.doe.gov

RIN: 1904–AA46

866. ENERGY EFFICIENCY PERFORMANCE CODE FOR NEW FEDERAL RESIDENTIAL BUILDINGS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6834 Energy Policy Act of 1992, sec 101(a)(2)

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: Title III of the Energy Conservation and Production Act as amended by the Energy Policy Act of 1992 (PL 102-486, October 24, 1992) provides that DOE establish Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. The standards for Federal buildings are intended to parallel closely the voluntary building energy codes of the Energy Policy Act for private sector construction. Interim energy performance standards which DOE had issued before enactment of the Energy Policy Act are to remain in effect for the Federal sector until the new Federal building energy standards become effective.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	01/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen P. Walder, Program Manager, Building Division, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 301 586-9209

RIN: 1904–AA53

867. ENERGY EFFICIENCY STANDARDS FOR FEDERAL COMMERCIAL BUILDINGS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6834 Energy Policy Act of 1992, sec 101(a)(2)

CFR Citation: 10 CFR 434

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: Title III of the Energy Conservation and Product Act as amended by the Energy Policy Act of 1992 (PL 102-486, October 24, 1992) provides that DOE establish Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. The standards

DOE—EE

Proposed Rule Stage

for Federal buildings are intended to parallel closely the voluntary building energy codes of the Energy Policy Act for private sector construction. Interim energy performance standards which DOE had issued before enactment of the Energy Policy Act are to remain in effect for the Federal sector until the new Federal building energy standards become effective.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Ronald B. Majette, Program Manager, Buildings Division, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-7935

RIN: 1904–AA69

868. TEST PROCEDURES AND CERTIFICATION REQUIREMENTS FOR CERTAIN PLUMBING FIXTURES; AND CERTIFICATION REQUIREMENTS FOR RESIDENTIAL APPLIANCES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293; 42 USC 6295

CFR Citation: 10 CFR 430.2; 10 CFR 430.32

Legal Deadline: None

Abstract: This action is intended to incorporate statutory plumbing requirements into the Code of Federal Regulations, propose provisions to supplement the statutory requirements to facilitate the monitoring and administration of compliance for plumbing products, and propose amendments to clarify the existing certification and enforcement requirements for all covered residential appliances.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: William W. Hui, Program Manager, Appliance Standard Division, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9145
Fax: 202 586-4617
Email: william.hui@hq.doe.gov

RIN: 1904–AA71

869. • ENERGY CONSERVATION PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT: TEST PROCEDURES, LABELING, AND CERTIFICATION REQUIREMENTS FOR ELECTRIC MOTORS

Priority: Other Significant

Legal Authority: PL 94-163; 42 USC 6291 to 6299; PL 95-619; 42 USC 6311 to 6317; PL 102-486

CFR Citation: 10 CFR 431

Legal Deadline: Final, Statutory, October 24, 1997.

Abstract: The Energy Policy and Conservation Act of 1975, as amended, establishes energy efficiency standards for commercial and industrial electric motors, prescribes test procedures, and requires labeling for such equipment. The Department proposes to create a new part (10 CFR Part 431) in the Code of Federal Regulations. This action will establish procedures for energy efficiency testing, labeling, and certification requirements for certain commercial and industrial electric motors.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Raba, Energy Conservation Program Specialist, Department of Energy, Energy Efficiency and Renewable Energy, EE-431, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8654
Fax: 202 586-4617
Email: jim.raba@hq.doe.gov

RIN: 1904–AA82

DEPARTMENT OF ENERGY (DOE)
Energy Efficiency and Renewable Energy (EE)

Final Rule Stage

870. EQUIVALENT PETROLEUM-BASED FUEL ECONOMY CALCULATION FOR ELECTRIC AND HYBRID ELECTRIC VEHICLES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 96-185, sec 18; PL 94-413, sec 13(c); PL 94-163, sec 503(a)(3); PL 103-272

CFR Citation: 10 CFR 474

Legal Deadline: None

Abstract: The final rule on the inclusion of electric vehicles in the Corporate Average Fuel Economy (CAFE) program was issued by DOE on April 15, 1981. It established a methodology for determining the equivalent petroleum-based fuel economy (PEF) for electric vehicles so that they could be included in a manufacturer's overall CAFE program. This methodology was based on several factors including the energy efficiency of the vehicle, the efficiency of electric generation and transmission, the fuels used to generate electricity, and the driving patterns of electric vehicles. It established a method for determining the PEF of electric vehicles that are recharged from stationary sources only. Hybrid electric vehicles, a type of

electric vehicle, are electrically recharged by an on-board mobile generator. This rulemaking would establish a methodology that is necessary for calculating the CAFE credits for electric vehicles that are recharged by mobile sources, and would update the methodology for calculating the CAFE credits for electric vehicles that are recharged by stationary sources. Rulemaking authority for establishing PEF values for electric and hybrid electric vehicles is provided under Public Law 103-272 (49 USC 32904).

Timetable:

Action	Date	FR Cite
NPRM	02/04/94	59 FR 5336
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Report comparing Alternative Motor Fuels Act with existing rule completed April 1992. Second report recommending new Petroleum Equivalency Factor for NPRM completed May 1992. Final rule incorporates industry standards that are still under development. Completion of industry standards will determine date of final action.

Agency Contact: David Hamilton, Program Manager, Electric and Hybrid Propulsion Division, Department of Energy, Energy Efficiency and Renewable Energy, EE-321, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-2314
Fax: 202 586-1600

RIN: 1904–AA40

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871. TEST PROCEDURES FOR FURNACES/BOILERS, VENTED HOME HEATING EQUIPMENT, AND POOL HEATERS—AMENDMENT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: These revisions to the test procedures for furnaces and boilers, vented home heating equipment and pool heaters in accordance with the Energy Policy and Conservation Act, as amended, would incorporate by reference ASHRAE Standard 103-1993 and would include waivers granted to manufacturers. This revision is prompted by the ASHRAE revision of Standard 103-1983 and the need to include waivers granted to manufacturers. DOE reopened the comments period on January 20, 1995, regarding new energy descriptors and a cost factor for the production and use of electricity. Based on the comments received, DOE has decided to eliminate the new energy descriptors and to issue a final rule based on the existing energy descriptor.

Timetable:

Action	Date	FR Cite
NPRM	08/23/93	58 FR 44583
NPRM Comment Period End	03/21/95	60 FR 4348
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cyrus Nasseri, Program Leader, Appliance Standards Division, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585-0103
Phone: 202 586-9138

RIN: 1904–AA45

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872. TEST PROCEDURES FOR WATER HEATERS, KITCHEN RANGES, OVENS AND MICROWAVES—AMENDMENT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: In accordance with the Energy Policy and Conservation Act as amended, the test procedures for water heaters, kitchen ranges, ovens, microwaves, and clothes washers are being revised. Rulemaking issues include: with respect to water heater test procedures, inclusion of electric instantaneous water heaters and storage water heaters with less than 20 gallons volume and revision of the first hour rating; with respect to test procedures for kitchen ranges, ovens and microwaves, revision of the constant for annual cooking energy and incorporation by reference of test procedures adopted by the International Electrotechnical Commission; and with respect to clothes washer test procedures, measurements for water usage and water retention.

Test procedures for clothes washers will be issued in a different rulemaking (see RIN 1904-AA68).

Timetable:

Action	Date	FR Cite
NPRM	03/23/95	60 FR 15330
NPRM Comment Period End	08/31/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ingrid Watson, Program Manager, Appliance Standards Division, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., 1J-018, Washington, DC 20585
Phone: 202 586-8119
Fax: 202 586-4617

RIN: 1904–AA52

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873. TEST PROCEDURES FOR FLUORESCENT AND INCANDESCENT REFLECTOR LAMPS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293 Energy Policy Act of 1992, sec 123(d)

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: The test procedures will require manufacturers to use an accredited laboratory and a standardized method to measure the energy efficiency of fluorescent and incandescent reflector lamps and to measure the color rendering index of fluorescent lamps. These measurements will determine whether products comply with the energy efficiency

standards established by PL 102-486 sec 123.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/28/94	59 FR 49468
Interim Final Rule Effective	10/28/94	
Interim Final Rule Comment Period End	12/12/94	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Terry Logee, Program Manager, Appliance Standards Division, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., 5E-066, Washington, DC 20585
Phone: 202 586-1689

RIN: 1904–AA61

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874. ALTERNATIVE FUEL PROVIDER VEHICLE ACQUISITION MANDATE, STATE FLEET MANDATE, AND THE ALTERNATIVE FUEL VEHICLE CREDIT PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 13251 Energy Policy Act of 1992, sec 501; 42 USC 13257(o) Energy Policy Act of 1992, sec 507(o); 42 USC 13258 Energy Policy Act of 1992, sec 508; 42 USC 13261 to 13263 Energy Policy Act of 1992, sec 511 to 513

CFR Citation: 10 CFR 490

Legal Deadline: Final, Statutory, January 1, 1994.
In addition, the statute requires final rules by 10/24/93, for electricity providers who purchase electric vehicles.

Abstract: These rules are required by the Energy Policy Act of 1992 in order to implement statutorily imposed alternative fueled vehicle acquisition requirements that become effective by operation of law on September 1, 1995, when model year 1996 begins. These statutory requirements apply to certain alternative fuel providers and some State government vehicle fleets. The proposed rules principally cover: (1) Required interpretations necessary for affected entities to determine whether and to what extent the statutory requirements apply; (2) required procedures for exemptions and administrative remedies; and (3) a program of marketable credits to reward those who voluntarily acquire vehicles in excess of mandated requirements or before the requirements take effect, and to allow use of such credits in order to demonstrate compliance with those requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/28/95	60 FR 10970
NPRM Comment Period End	05/01/95	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State

Additional Information: The program will require acquisitions starting with model-year 1997, which begins September 1, 1996. All percentage requirements will also be delayed 1 model-year.

Agency Contact: Kenneth R. Katz, Program Manager, Office of Alternative Fuels, EE-33, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-6116
Fax: 202 586-1610

RIN: 1904–AA64

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875. CLOTHES WASHER TEST PROCEDURE AMENDMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: Temperature Selection Lockout Issue: Test procedure requires revision to address the issue of temperature selections which are not offered (locked out) of the normal cycle. Clothes washers being sold with these features use estimated energy consumption. DOE has concluded that an industry interpretation of the clothes washer test procedure, while inconsistent with the underlying purpose of the test procedure, has sufficient legal basis to necessitate an amendment of the test procedure in order to avoid material understatements of actual energy consumption.

General Test Procedure Revision: The test procedure is being updated to incorporate waivers regarding water heating clothes washers and to address the testing of innovative clothes washers (i.e. high spin speed and automatic water fill). In addition, a future test procedure proposed by AHAM to be effective when the next clothes washer standard goes into effect, is being considered. The significant impact of this test procedure is to update consumer usage habits which will result in approximately a 30 percent reduction in energy use.

Timetable:

Action	Date	FR Cite
NPRM	05/24/95	60 FR 27442
NPRM Comment Period End	07/31/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: P. Marc LaFrance, Program Manager, Appliance Standards Division, Office of Codes and Standards, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-7140

RIN: 1904–AA68

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876. NATIONAL VOLUNTARY RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 8236

CFR Citation: 10 CFR 437

Legal Deadline: Final, Statutory, April 24, 1994.

Abstract: DOE is required to establish by rule national voluntary guidelines for home energy rating system. The guidelines are designed to encourage uniformity with regard to systems for rating the annual energy efficiency of residential buildings. The guidelines may be used to enable and encourage the assignment of energy efficiency ratings to residential buildings and the development of criteria for attractive financial instruments for energy efficient homes.

DOE—EE

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 37949
NPRM Comment Period End	10/23/95	
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Mackie, Program Manager, EE-432, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-7892

RIN: 1904–AA74

877. METHODOLOGY AND PROCEDURES FOR LIFE CYCLE COSTING UNDER THE ENERGY POLICY ACT OF 1992

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 8287 Energy Policy Act of 1992, Sec 152

CFR Citation: 10 CFR 436

Legal Deadline: None

Abstract: This action amends existing procedures to clarify the application of the life cycle costing methodology to water conservation in Federal buildings. Section 152 amended the legislatively mandated Federal Energy Management Program to include conservation and the efficient use of water. This rulemaking provides Federal energy managers a rational economic basis for evaluation.

Timetable:

Action	Date	FR Cite
NPRM	08/25/95	60 FR 44286
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: K. Dean Devine, PE., Sr. Engineer (EE-92), Department of Energy, Energy Efficiency and Renewable Energy
Phone: 202 586-6784
Fax: 202 586-3000

RIN: 1904–AA80

878. STATE ENERGY PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6321 et seq; 42 USC 7101 et seq

CFR Citation: 10 CFR 420

Legal Deadline: None

Abstract: In anticipation that Congress will direct the Department to consolidate the Institutional Conservation Program and the State Energy Conservation Program (and possibly other programs now operated separately), the Department will publish an interim final rule. The consolidated program will be known as the State Energy Program and will be based on the regulations for the State Energy Conservation Program (10 CFR part 420) as revised to effect the consolidation.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Thomas Stapp, Department of Energy, Energy Efficiency and Renewable Energy, EE-531, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 426-1654

RIN: 1904–AA81

DEPARTMENT OF ENERGY (DOE)

Long-Term Actions

Energy Efficiency and Renewable Energy (EE)

879. ENERGY EFFICIENCY STANDARDS FOR POOL HEATERS, DIRECT HEATING EQUIPMENT, MOBILE HOME FURNACES, KITCHEN RANGES AND OVENS, OIL AND GAS WATER HEATERS, AND ROOM AIR CONDITIONERS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 430.32

Timetable:

Action	Date	FR Cite
ANPRM	09/28/93	55 FR 39624
NPRM	03/04/94	59 FR 10464
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Carl Adams
Phone: 202 586-7140

RIN: 1904–AA38

880. ENERGY EFFICIENCY STANDARDS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 430.32

Timetable:

Action	Date	FR Cite
ANPRM	09/08/93	58 FR 47326
NPRM	07/20/95	60 FR 37338
NPRM Comment Period End	11/02/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Edward Pollock
Phone: 202 586-7140

RIN: 1904–AA47

881. STATE AND LOCAL INCENTIVES PROGRAM: ALTERNATIVE FUELS

Priority: Other Significant

CFR Citation: 10 CFR 490

DOE—EE

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	03/21/95	60 FR 15020
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Marcy A. Rood (EE-33)
Phone: 202 586-8161
Fax: 202 586-1558

RIN: 1904–AA66

882. ENERGY EFFICIENCY STANDARDS FOR DISHWASHERS, CLOTHES WASHERS, AND CLOTHES DRYERS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 430

Timetable:

Action	Date	FR Cite
ANPRM	11/14/94	59 FR 56423
ANPRM Comment Period Extended	04/17/95	60 FR 5880
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: P. Marc LaFrance
Phone: 202 586-7140

RIN: 1904–AA67

883. ENERGY EFFICIENCY STANDARDS FOR LAMP BALLASTS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 430.32

Timetable:

Action	Date	FR Cite
ANPRM	09/28/90	55 FR 39624
NPRM	03/04/94	59 FR 10464
Revised NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Byran Berringer
Phone: 202 586-7140

RIN: 1904–AA76

884. ENERGY EFFICIENCY STANDARDS FOR WATER HEATERS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 430.32

Timetable:

Action	Date	FR Cite
ANPRM	09/28/90	55 FR 39624
NPRM	03/04/94	59 FR 10464
Revised NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Terry Logee
Phone: 202 586-1689

RIN: 1904–AA75

885. ENERGY EFFICIENCY STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 430.32

Timetable:

Action	Date	FR Cite
ANPRM	09/08/93	58 FR 47326
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Michael Raymond
Phone: 202 586-9611

RIN: 1904–AA77

886. ENERGY EFFICIENCY STANDARDS FOR FURNACES

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 430.32

Timetable:

Action	Date	FR Cite
ANPRM	09/08/93	58 FR 47326
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Cyrus Nasseri
Phone: 202 586-9138

RIN: 1904–AA78

DEPARTMENT OF ENERGY (DOE)

Completed Actions

Energy Efficiency and Renewable Energy (EE)

887. DEFINITIONS FOR CERTAIN FLUORESCENT AND INCANDESCENT LAMPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293 Energy Policy Act of 1992, sec. 123(d)

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: This action would define certain incandescent and fluorescent lamps—an action that would exempt them from efficiency standards imposed by the Energy Policy Act of 1992 and relieve these product

DOE—EE — Completed Actions

manufacturers from any related regulatory burden.

Timetable:

Action	Date	FR Cite
NPRM	09/28/94	59 FR 49478
NPRM Comment Period End	12/12/94	
Merged into RIN 1904-AA61	03/12/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Terry Logee, Program Manager, Appliance Standards Division, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585 Phone: 202 586-1689

RIN: 1904–AA70

888. WEATHERIZATION ASSISTANCE PROGRAM—AMENDMENT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6861

CFR Citation: 10 CFR 440

Legal Deadline: None

Abstract: Will change the formula for distributing funds among the States under the Weatherization Program. The revised formula will increase equity, among the States, of funded distributions under the program, while preserving existing State program capabilities.

Timetable:

Action	Date	FR Cite
NPRM	01/23/95	60 FR 4480
Interim Final Rule	06/05/95	60 FR 29469
Final Action	12/15/95	60 FR 64314
Final Action Effective	12/15/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Greg Reamy, Weatherization Assistance Program, EE-532, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585 Phone: 202 426-1677

RIN: 1904–AA73

DEPARTMENT OF ENERGY (DOE)
Defense and Security Affairs (DSA)

Proposed Rule Stage

889. POLICIES ON INFORMATION CLASSIFICATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 12958; 42 USC 2161; 42 USC 2162

CFR Citation: 10 CFR 1045

Legal Deadline: Final, Statutory, October 16, 1995. EO 12958 requires implementation regulation by 10/16/95

Abstract: This regulation establishes the policies and procedures which implement requirements of the Atomic Energy Act for the classification and declassification of information as Restricted Data and Formerly Restricted Data and which implement the requirements of EO 12958 concerning Classified National Security Information that directly affect the public. This regulation prescribes procedures to be used by all Agencies in dealing with Restricted Data and Formerly Restricted Data, and describes how members of the public may request DOE National Security Information and appeal DOE classification decisions regarding such requests.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet O'Connell, Secrity Specialist, Department of Energy, Office of Declassification (NN-521), Washington, DC 20585 Phone: 301 903-1113 Fax: 301 903-1230

RIN: 1992–AA21

DEPARTMENT OF ENERGY (DOE)
Defense and Security Affairs (DSA)

Long-Term Actions

890. PERSONNEL ASSURANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 711

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David McConagha or Tom Stepan Phone: 301 903-3463

RIN: 1992–AA14

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Proposed Rule Stage

891. ENERGY BOARD OF CONTRACT APPEALS; ORGANIZATION, FUNCTIONS, AND AUTHORITIES; RULES OF PRACTICE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 601 et seq

CFR Citation: 10 CFR 1023

Legal Deadline: None

Abstract: Update statement of Board organization, functions and authorities; update rules of practice for contract appeals to provide for alternative dispute resolution (ADR) and other purposes.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. Barclay Van Doren, Chairman, Board of Contract Appeals, Department of Energy, 4040 N. Fairfax Drive, Rm 1006, Arlington, VA 22203 Phone: 703 235-2700

RIN: 1901–AA30

892. FREEDOM OF INFORMATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 10 CFR 1004

Legal Deadline: None

Abstract: On October 23, 1991, DOE proposed to amend the procedures and principles to be applied in responding to requests for records under the Freedom of Information Act (FOIA) 5 USC 552. The proposal updated names and addresses of organizational entities, and updated guidelines for the schedule of fees associated with processing requests. A proposed section on policies clarified DOE's operation of a first-in, first-out policy in responding to FOIA requests, and the role of the Office of Hearings and Appeals was clarified. The proposal also included a statement of DOE policy on contractor records.

On December 12, 1994, DOE adopted the contractor records policy, with certain modifications. DOE expects to take final action on the remainder of the proposal in the near future.

The new regulations will clarify the FOIA process by clearly defining the roles of the FOIA Officer and the Denying Official. The new regulations will be written in a more customer-friendly

Timetable:

Action	Date	FR Cite
Final Rule (Contractor Records)	12/12/94	59 FR 63882
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: All

Agency Contact: Gary Stern, Deputy Assistant General Counsel for Information Law, Office of GC (GC-80), Department of Energy, Office of General Counsel, 1000 Independence Ave. SW., Washington, DC 20585 Phone: 202 586-8618

RIN: 1901–AA32

893. NUCLEAR SAFETY MANAGEMENT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 830

Legal Deadline: None

Abstract: This action will add regulations under 10 CFR 830 to establish nuclear safety management requirements for the Department's nuclear facilities. These requirements stem from the Department's obligations to assure adequate protection and to hold contractors who manage and operate these facilities accountable and responsible for safe operations. Under phase 1 of this action, major requirements will include conduct of operations, safety analysis reports, technical safety requirements training, maintenance, unreviewed safety questions and occurrence reporting. Under phase 2 of this action, major requirements will include nuclear design criteria, fire protection, natural phenomena hazards mitigation, and nuclear criticality safety. An initial phase adopted a quality assurance rule and definitions.

Timetable:

Initial Phase	
NPRM	12/09/91 (56 FR 64316)
Final Rule	04/05/94 (59 FR 15843)
Phase I	
NPRM	12/09/91 (56 FR 64316)
Final Rule	04/00/96
Phase II	
NPRM	10/00/96
Final Rule	10/00/97

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Stark, Nuclear Safety and Policy Standards (EH-31), Department of Energy, Washington, DC 20545 Phone: 301 903-4407

RIN: 1901–AA34

894. THE OFFICE OF ENERGY RESEARCH FINANCIAL ASSISTANCE PROGRAM

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2051; 42 USC 5817; 42 USC 5901 et seq; 42 USC 7254; 42 USC 7256; 31 USC 6301 et seq

CFR Citation: 10 CFR 605

Legal Deadline: None

Abstract: Action to be taken will improve grants administration by providing a more streamlined and uniform approach to post-award requirements, yet maintain stewardship and accountability responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Jean A. Morrow, Grants Policy Analyst (ER-64),

DOE—ENDEP

Proposed Rule Stage

Department of Energy, Office of Energy Research, Washington, DC 20545
Phone: 301 903-2452

RIN: 1901–AA54

895. PAYMENTS FOR SPECIAL BURDENS AND IN LIEU OF TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2208 Atomic Energy Act of 1954, sec 168

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: To revise the Department of Energy's policy on making payments for special burdens and in lieu of taxes to State and local taxing jurisdictions pursuant to the Atomic Energy Act of 1954. Prior to the 1987 issuance of DOE Order 2100.12, the Department and its predecessor agencies approved such payment requests on an ad hoc basis. To ensure all eligible taxing jurisdictions are provided appropriate opportunity to comment, the revised policy is being established through the rulemaking process. The Department anticipates no added costs by issuing the revised policy as a regulation rather than as an internal directive revision.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Local

Agency Contact: Robert W. Gordon, Financial Policy Analyst, Office of Financial Policy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4860

RIN: 1901–AA58

896. OCCUPATIONAL RADIATION PROTECTION—AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 835

Legal Deadline: None

Abstract: 10 CFR part 835 establishes the basic requirements for DOE contractor and subcontractor activities to ensure radiation protection of occupational workers at DOE facilities. See 58 FR 65458 (December 14, 1993). The proposed amendment to Part 835 would include several items not previously covered such as sealed radioactive source accountability and control, and surface contamination values for tritium. Sealed source accountability and control requirements currently appear in DOE Notice 5400.9, and tritium surface radioactivity values in the Radiation Control (RADCON) Manual. This rulemaking stems from DOE's ongoing effort to strengthen the protection of health and safety from the nuclear and radiological hazards posed by these DOE facilities.

We are reviewing this action in the context of DOE's recently announced accelerated DOE Order Reduction Initiative. This is to ensure both consistency of approach and consultation with DOE stakeholders.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Joel Rabovsky, Health Physicist (EH-52), Office of Worker Protection and Hazards Mgmt, Department of Energy, 19901 Germantown Rd., Germantown, MD 20874-1290
Phone: 301 903-2135

RIN: 1901–AA59

897. PRIVACY ACT—EXEMPTION OF AN INSPECTOR GENERAL SYSTEM OF RECORDS

Priority: Other

Legal Authority: 5 USC 552a

CFR Citation: 10 CFR 1008

Legal Deadline: None

Abstract: The purpose of this action is to exempt one system of records from certain subsections of the Privacy Act (5 U.S.C. 552a). The system of records is Inspection Abstract Report Files of the Office of Inspector General (DOE-83). These rules will enable the Office of the Inspector General to carry out its administrative, analytical, and investigatory duties and responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: GayLa D. Sessoms, Director, FOIA/Privacy Act Division, Office of the Executive Secretariat, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5955

RIN: 1901–AA62

898. PRIVACY ACT EXEMPTION OF CERTAIN CONTRACTOR EMPLOYEE REPRISAL COMPLAINT AND INVESTIGATION SYSTEM OF RECORDS

Priority: Other

Legal Authority: 5 USC 552a

CFR Citation: 10 CFR 1008

Legal Deadline: None

Abstract: This action would amend the Department's Privacy Act Regulations 10 CFR 1008, by adding a new system of records to the list of systems exempted from certain provisions of the Act. The proposed new system of records will be titled "Contractor Employee Reprisal Complaint and Investigation Files (DOE-89)." These exemptions are needed to enable the Office of Contractor Employee Protection to perform its administrative, analytical and investigatory duties and responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: GayLa D. Sessoms, Director, FOIA/Privacy Act Division, Office of the Executive Secretariat, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5955

RIN: 1901–AA66

899. • AMENDMENTS TO NEPA REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7254; 42 USC 4321 et seq

DOE—ENDEP

Proposed Rule Stage

CFR Citation: 10 CFR 1021

Legal Deadline: None

Abstract: The Department is proposing to amend its NEPA regulations (10 CFR 1021) to streamline the NEPA process and make it more useful to decision makers and the public, and to reflect the changing missions of the Department. The most significant amendments include: (1) eliminating the requirement to prepare an environmental impact statement implementation plan; (2) streamlining the requirements for publication of record of decision and the format of findings of no significant impact; and (3) adding 17 new categorical exclusions and modifying or clarifying 27 existing categorical exclusions.

Timetable:

Action	Date	FR Cite
NPRM	02/20/96	61 FR 6414
NPRM Comment Period End	04/05/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Pulliam, Project Leader (EH-422), Department of Energy, Office of NEPA Policy and Assistance, 1000 Independence Avenue SW., Washington, DC 20585-0119
Phone: 202 586-4597

RIN: 1901–AA67

900. • GENERAL GUIDELINES FOR THE RECOMMENDATION OF SITES FOR NUCLEAR WASTE REPOSITORY

Priority: Other Significant

Legal Authority: 42 USC 10132

CFR Citation: 10 CFR 960

Legal Deadline: None

Abstract: This action would implement the guidelines that will be used by the Department in deciding whether to recommend a site for the development of the geologic repository for the disposal of high-level radioactive waste and spent nuclear fuel. The amended guidelines will reflect statutory and policy changes that have occurred since the Nuclear Waste Policy Act was passed in 1982. The amendments will also be based on the experience the Department has gained over the last decade of investigative efforts.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Susan Rives, Counsel, Department of Energy, Yucca Mountain Site Characterization Office, PO Box 98608, Las Vegas, NV 89193
Phone: 702 794-7905
Fax: 702 794-7907

RIN: 1901–AA72

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Final Rule Stage

901. RADIATION PROTECTION OF THE PUBLIC AND THE ENVIRONMENT

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 7191

CFR Citation: 10 CFR 834

Legal Deadline: None

Abstract: This action would add a new 10 CFR 834 to DOE's regulations establishing a body of rules setting forth the basic requirements for ensuring radiation protection of the public and environment in connection with DOE nuclear activities. These requirements stem from the Department's ongoing effort to strengthen the protection of health, safety, and the environment from the nuclear, radiological, and chemical hazards posed by these DOE activities. Major elements of the proposal included a dose limitation system for protection of the public, requirements for liquid discharges; reporting and monitoring requirements; and residual radioactive material requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/25/93	58 FR 16268
NPRM Comment Period End	06/22/93	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Andrew Wallo, III, Director, Air, Water and Radiation Div. (EH-232), Office of Environmental Guidance, Department of Energy, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4996

RIN: 1901–AA38

902. REDESIGN AND REVISION OF WHOLESALE POWER AND TRANSMISSION RATES

Priority: Other

Legal Authority: 16 USC 839e

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This is an action by the Bonneville Power Administration (BPA) to redesign and revise its wholesale power and transmission rates. The principal purposes of this action would be to allow BPA to recover sufficient revenues to timely meet its repayment and other cost recovery obligations, to be a reliable and competitive power supplier, to send appropriate price signals to customers, and to otherwise meet BPA ratemaking standards set forth in various statutes.

Timetable:

Transmission Rates		
Notice of Intent to Revise Rates	12/28/94	(59 FR 66946)
NPRM	02/14/95	(60 FR 8505)
Draft Record of Decision	04/00/96	
Final Record of Decision	05/00/96	
Wholesale Power Rates		
Notice of Intent to Revise Rates	12/28/94	(59 FR 66947)
NPRM	02/14/95	(60 FR 8496)
Draft Record of Decision	04/00/96	
Final Record of Decision	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: On February 14, 1995, BPA also proposed comparable transmission terms and conditions (60 FR 8511).

This action would have been excluded from the regulatory agenda since it is being undertaken in accordance with the formal ratemaking provisions of

section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (16 USC 839e(i)). This action is being included, however, in order to provide the public with the fullest notice of DOE's rulemaking activities.

For these ratemakings, BPA's final action is characterized as the "final proposal," reflected in a final record of decision filed, together with the record, with the Federal Energy Regulatory Commission for confirmation and approval.

Agency Contact: Randy Roach, Attorney/Legal Services, Department of Energy, Bonneville Power Administration - APR, P.O. Box 3621, Portland, OR 97208
Phone: 503 230-4201

RIN: 1901–AA64

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Long-Term Actions

903. ELECTRIC POWER SYSTEM PERMITS AND REPORTS; APPLICATIONS; ADMINISTRATIVE PROCEDURES AND SANCTIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 205

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellen Russell
Phone: 202 586-9624

RIN: 1901–AA19

904. ENFORCEMENT OF EMPLOYEE SAFETY STANDARDS AT NUCLEAR WEAPONS FACILITIES

Priority: Other Significant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
ANPRM	08/26/94	59 FR 44139
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Martin S. Mathamel
Phone: 301 903-5630
Fax: 301 903-2582

RIN: 1901–AA44

905. STANDARD CONTRACT FOR THE DISPOSAL OF SPENT NUCLEAR FUEL AND/OR HIGH-LEVEL RADIOACTIVE WASTE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 961

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: David Zabransky
Phone: 202 586-9198

RIN: 1901–AA49

906. ANNOTATION OF LAND RECORDS FOR REMEDIATED PROPERTIES IN THE URANIUM MILL TAILINGS REMEDIAL ACTION PROJECT (UMTRA)

Priority: Other

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	07/14/89	54 FR 29732
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Loretta Fahy
Phone: 301 903-3895
Fax: 301 903-3877

RIN: 1901–AA57

907. • PRIVACY ACT SYSTEM OF RECORDS UPDATE

Priority: Other

Legal Authority: 5 USC 552a

CFR Citation: 10 CFR 1008

Legal Deadline: None

Abstract: This action will amend the Department's Privacy Act Regulations, 10 CFR 1008, by deleting Privacy Act system notices no longer used by the Department. It will also update the remaining systems, many of which require minor amendments to location, authority, purpose, storage, or system manager.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gayla D. Sessoms, Director, FOIA and Privacy Act Division, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5595
Fax: 202 586-0575
Email: gayla.sessoms@hq.doe.gov

RIN: 1901–AA69

908. • PRIVACY ACT SYSTEM OF RECORDS AMENDMENT FOR EMPLOYEE ASSISTANCE PROGRAM

Priority: Other

Legal Authority: 5 USC 552a

CFR Citation: 10 CFR 1008

Legal Deadline: None

Abstract: This action will amend the Department's Privacy Act Regulations, 10 CFR 1008, by expanding an existing system of records to include new records. The system, "DOE-34, Employee Assistance Program (Alcohol and Drug Abuse Program)," will be renamed "DOE-34, Employee Assistance Program (EAP) Records" and amended to include assistance given to

employees on all behavioral problems or issues. The notice also will propose to increase the number of locations for the system, establish new routine uses, delete some existing routine uses, and update information related to the system.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gayla D. Sessoms, Director, FOIA and Privacy Act Division, Office of the Executive Secretariat, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5595
Fax: 202 586-0575
Email: gayla.sessoms@hq.doe.gov

RIN: 1901–AA70

909. • ENVIRONMENTAL MANAGEMENT FINANCIAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 6301 to 6308; 42 USC 7254; 42 USC 7256

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: The purpose of this action is to establish and implement policies and procedures applicable to the award and administration of grants and cooperative agreements by the Office of Environmental Management (EM) in the areas of: environmental waste management, environmental restoration, pollution prevention and supporting technologies, decommissioning and decontamination activities, technology integration and transfer, environmental education and transportation technologies as it relates to environmental restoration and waste management.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Trina M. Porter, Contract Management Specialist, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-7615
Fax: 202 586-9469
Email: trina.porter@em.doe.gov

RIN: 1901–AA71

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Completed Actions

910. FINANCIAL ASSISTANCE PROGRAM FOR EDUCATION PURPOSES

Priority: Other Significant

Legal Authority: 42 USC 7254; 42 USC 7256

CFR Citation: 10 CFR 604

Legal Deadline: None

Abstract: This rule will support use of financial assistance awards by the Office of Science Education Programs to promote vital program missions. In addition, the rule procedures will facilitate an open and competitive process for obtaining financial assistance awards. The rule will supplement, and not supplant, DOE's generic financial assistance rules, 10 CFR Part 600.

Timetable:

Action	Date	FR Cite
Withdrawn	01/08/96	

Small Entities Affected: Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Michael Wolfe, Senior Program Manager (ET-31), Office of Science Education Programs, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5462
Fax: 202 586-0019
Email: MICHAEL.WOLFE@HQ.DOE.GOV

RIN: 1901–AA61

911. • PRIVACY ACT SYSTEM OF RECORDS NOTICE

Priority: Other

Legal Authority: 5 USC 552a

CFR Citation: 10 CFR 1008

Legal Deadline: None

Abstract: This action amends the Department's Privacy Act Regulations, 10 CFR 1008, by adding a new system of records entitled "DOE-88, Epidemiologic and Other Health Studies, Surveys, and Surveillances." This system will contain records from joint epidemiologic studies conducted by the Department of Health and Human Services and the Department of Energy.

Timetable:

Action	Date	FR Cite
Final Action	01/30/96	61 FR 3014
Final Action Effective	03/01/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: GayLa D. Sessoms, Director, FOIA and Privacy Act Division, Office of the Executive Secretariat, Department of Energy, 1000 Independence Avenue SW., Wahington, DC 20585
Phone: 202 586-5595
Fax: 202 586-0575
Email: gayla.sessoms@hq.doe.gov

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DEPARTMENT OF ENERGY (DOE)

Proposed Rule Stage

Office of Procurement and Assistance Management (PR)

912. DEPARTMENT OF ENERGY PROPERTY MANAGEMENT REGULATIONS; MISCELLANEOUS PERSONAL PROPERTY

Priority: Other

Legal Authority: 42 USC 7254

CFR Citation: 41 CFR 109

Legal Deadline: None

Abstract: Updates the Property Management Regulations regarding management of the Department's personal property. DOE Property Management Regulations will be updated to incorporate recently developed policy in the areas of High Risk personal property, math and science equipment gifts program and the transfer of personal property identified for economic development near DOE sites that are being reconfigured or closed. Revision also includes coverage on contractor self-assessment program, and expanded duties of the Organizational Property Management Officers. Many of these changes are a result of Contract Reform, streamlining and reinvention initiatives.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	05/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Julia Harman, Supply Management Representative, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-1435
Fax: 202 586-9356

RIN: 1991–AA28

913. DEAR: FINANCIAL MANAGEMENT CLAUSES

Priority: Other

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This rule revises selected financial management clauses and clarifies language in existing clauses. It will strengthen M&O contractor financial management and make the regulation easier to understand.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael L. Righi, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8175

RIN: 1991–AB02

914. DEBARMENT AND SUSPENSION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 40 USC 486

CFR Citation: 48 CFR 909.4

Legal Deadline: None

Abstract: This rule removes the current regulation at 10 CFR 1035 and recodifies the regulation at 48 CFR Part 909 to revise and streamline procedures for debarment and suspension of DOE procurement contracts. The rule also amends 10 CFR 1036 which governs DOE nonprocurement and grants program to provide consistency between DOE and E.O. 12689 regarding a contractor or awardee debarred or suspended by one Federal agency shall also be debarred or suspended from contracting with or receiving awards from all other agencies.

Timetable:

Action	Date	FR Cite
NPRM	02/02/96	60 FR 3877
NPRM Comment Period End	04/02/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Cynthia Yee, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-1140

RIN: 1991–AB24

915. DEAR: REGULATORY REINVENTION-PHASE III

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7254; 40 USC 4861(c)

CFR Citation: 48 CFR 901 to 971

Legal Deadline: None

Abstract: This action represents the third phase of DOE's effort to reinvent existing regulatory material. It will eliminate unnecessary material; streamline operations; reduce constraints, prescriptive requirements and administrative processes; and make requirements outcome rather than process oriented.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kevin Smith, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8189
Fax: 202 586-0545

RIN: 1991–AB25

916. REVISIONS TO ORGANIZATIONAL CONFLICTS OF INTEREST

Priority: Other

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 909; 48 CFR 952; 48 CFR 970

DOE—PR

Proposed Rule Stage

Legal Deadline: None

Abstract: The Department is proposing to amend its regulation to conform the DOE's Organizational Conflicts of Interest (OCI) policy to the extent practical to the Governmentwide requirements of the FAR and OEPP policy letter 89-1.

Public Laws 93-577 and 93-275 establish unique requirements regarding the Department's OCI practices preventing DOE from simply following the FAR.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert Webb, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8264
Fax: 202 586-0545

RIN: 1991–AB26

917. CONTRACT REFORM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action would amend the Department of Energy Acquisition Regulation to implement certain key recommendations of the Department's contract reform initiative. Changes are made to the following areas: fines, penalties, third-party liability and property liability; requirements for contractor make-or-buy plans; fee policy for profit-making entities; fee policy for non-profit-making entities; payment of fee; laws, regulations, and Department directives; environment; ownership of records; and contractor overtime. A related action, RIN 1991-AB09 on Competition for Management and Operating Contracts, completes the Department's contract reform changes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Connie Fournier, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8245
Fax: 202 586-0545

RIN: 1991–AB28

918. • FASA 1994, SECTIONS 2051, 2151, AND 2192

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 9

Legal Deadline: None

Abstract: Revises policy to implement FASA statutory provisions related to contract financing and allowable costs.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Terrence Sheppard, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave SW., HR-51, Washington, DC 20585
Phone: 202 586-8174
Fax: 202 586-0545

RIN: 1991–AB29

919. • SECURITY, COUNTERINTELLIGENCE, AND OPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 917; 48 CFR 970

Legal Deadline: None

Abstract: Revises policy for processing contractor employee security clearance requests, establishes counterintelligence procedures for contractors involved in classified or sensitive programs and promotes exercise of options as a performance incentive.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard Langston, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave SW., HR-51, Washington, DC 20585
Phone: 202 586-8247
Fax: 202 586-0545

RIN: 1991–AB30

920. • FARA, DOE CERTIFICATION REQUIREMENTS

Priority: Other

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 9

Legal Deadline: NPRM, Statutory, August 3, 1996.

Abstract: The Federal Acquisition Reform Act of 1996 requires each agency to review their procurement regulations that contain certification requirements not specifically imposed by statute to determine whether they should be eliminated.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a

statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert Webb, Procurement Analyst (HR-51), Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585 Phone: 202 586-8264 Fax: 202 586-0545

RIN: 1991–AB31

DEPARTMENT OF ENERGY (DOE)

Final Rule Stage

Office of Procurement and Assistance Management (PR)

921. AMENDMENT TO WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES

Priority: Other Significant

Legal Authority: 42 USC 2012 et seq, Atomic Energy Act of 1954

CFR Citation: 10 CFR 707

Legal Deadline: None

Abstract: This action will amend the Department's rule governing the use of illegal drugs at DOE sites to ensure that substance abuse programs include provisions that also address misuse and abuse of alcohol. DOE expects to mitigate the potential for harm to the environment and to the public health and safety at DOE sites by contractor employees and other individuals performing health or safety sensitive functions. Cost incurred will affect primarily cost reimbursement type contracts for managing, operating, constructing, and servicing DOE facilities and certain other on-site contractors and subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	07/22/92	57 FR 32664
NPRM Comment Period End	09/21/92	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Juanita E. Smith, Special Assistant, Substance Abuse, HR-524, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave. SW., Washington, DC 20585 Phone: 202 586-9033

RIN: 1991–AA90

922. COMPETITION FOR MANAGEMENT AND OPERATING CONTRACTS

Priority: Routine and Frequent

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: Revise policy to place greater emphasis on competition for management and operating contracts. This action is part of the Department's Contract Reform initiative.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Connie Fournier, Procurement Analyst (HR-51), Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave SW., Washington, DC 20585 Phone: 202 586-8245 Fax: 202 586-0545

RIN: 1991–AB09

923. FEDERAL ACQUISITION STREAMLINING ACT IMPLEMENTATION

Priority: Other

Legal Authority: PL 103-355; 42 USC 7254; 40 USC 486(a)

CFR Citation: 48 CFR 901 to 971

Legal Deadline: None

Abstract: This action will amend the Department of Energy Acquisition Regulation to conform with the FAR changes which resulted from the Federal Acquisition Streamlining Act.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John Bashista, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585 Phone: 202 586-8192 Fax: 202 586-0545

RIN: 1991–AB27

DEPARTMENT OF ENERGY (DOE)

Long-Term Actions

Office of Procurement and Assistance Management (PR)

924. DEAR: SECURITY PROCEDURES

Priority: Other

CFR Citation: 48 CFR 904; 48 CFR 952

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Robert Webb

Phone: 202 586-8247

RIN: 1991–AA86

925. DEAR: AMENDMENT TO WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES

Priority: Other

CFR Citation: 48 CFR 923.5; 48 CFR 970.2305

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard Langston Phone: 202 586-8247

RIN: 1991–AA97

926. DEAR: REVIEW OF M&O CONTRACTOR PURCHASING SYSTEMS

Priority: Other

CFR Citation: 48 CFR 944; 48 CFR 970

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: P. Devers Weaver Phone: 202 586-8250

RIN: 1991–AB07

927. SMALL BUSINESS SUBCONTRACTING PROGRAM

Priority: Other

CFR Citation: 48 CFR 919; 48 CFR 970

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Gwendolyn Cowan Phone: 202 586-8159

RIN: 1991–AB17

DEPARTMENT OF ENERGY (DOE)

Completed Actions

Office of Procurement and Assistance Management (PR)

928. TECHNOLOGY TRANSFER: DOE MANAGEMENT AND OPERATING CONTRACTORS

Priority: Other

Legal Authority: PL 101-189, sec 3133; 42 USC 7256(a); PL 103-160, sec 3160

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: Public Law 101-189 amended the Stevenson-Wydler Technology Innovation Act to include DOE management and operating laboratories. Subsequently, PL 103-160 expanded the definition of a laboratory to include DOE Weapon Production Facilities. DOE will need to amend DEAR 970 to standardize the implementation of its technology transfer program.

Timetable:

Action	Date	FR Cite
NPRM	05/22/95	60 FR 27069
Final Action	12/22/95	60 FR 66510
Final Action Effective	01/22/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Howard K. Mitchell, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave. SW., Washington, DC 20585 Phone: 202 586-8190

RIN: 1991–AA63

929. LEGISLATIVE LOBBYING COST PROHIBITION

Priority: Other

Legal Authority: 42 USC 7256A

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: The existing Department of Energy Acquisition Regulation will be amended to preclude any misunderstandings between the Department and its contractors regarding the allowability of costs related to legislative lobbying.

Timetable:

Action	Date	FR Cite
NPRM	10/18/94	59 FR 52505
Final Action	12/12/95	60 FR 63645
Final Action Effective	01/11/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michel L. Righi, Procurement Analyst (HR-521.1), Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Ave. SW., Washington, DC 20585 Phone: 202 586-8175

RIN: 1991–AB08

930. LIMITS ON PARTICIPATION IN CERTAIN DOE RESEARCH AND DEVELOPMENT PROGRAMS

Priority: Other Significant

Legal Authority: 42 USC 13525 Energy Policy Act of 1992, sec 2306

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: To develop guidelines to implement section 2306 of the Energy Policy Act of 1992. Section 2306 imposes eligibility requirements for financial assistance awards under titles XX through XXIII of the Act.

Timetable:

Action	Date	FR Cite
NPRM	02/23/95	60 FR 10296
Final Action	12/20/95	60 FR 65509
Final Action Effective	01/19/96	

DOE—PR

Completed Actions

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert C. Marlay, Director, Office of Science Policy, (PO-81), Department of Energy, Departmental and Others, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-3900

RIN: 1991–AB14

931. FINANCIAL ASSISTANCE RULES STREAMLINING AND SIMPLIFYING PROCEDURES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 7254; 42 USC 7256

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: This rulemaking will modify the provisions in 10 CFR 600, subparts A and C, to streamline and simplify DOE internal procedures. This action is responsive to Executive Order 12861, "Elimination of One-Half of Executive Branch Internal Regulations."

Timetable:

Action	Date	FR Cite
NPRM	08/08/95	60 FR 40323
Final Action	02/26/96	61 FR 7164

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cheryln Seckinger, Procurement Analyst, Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8192

RIN: 1991–AB23

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)

Proposed Rule Stage

932. PAYMENT OF TRAVEL EXPENSES OF PERSONS WHO ARE NOT GOVERNMENT EMPLOYEES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 1060

Legal Deadline: None

Abstract: The regulation needs to be revised to reflect the delegation of authority from the Office of Personnel Management to pay travel expenses of certain job applicants in traveling to preemployment interviews required by the Department.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: MaryAnn Shebek, Deputy Assistant General Counsel, Department of Energy, Office of General Counsel, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-1522

RIN: 1990–AA15

933. CONDUCT OF EMPLOYEES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7211 et seq; PL 103-160, sec 3161; EO 12674

CFR Citation: 10 CFR 1010; 5 CFR 2635

Legal Deadline: None

Abstract: The DOE regulation on conduct of employees needs to be revised to reflect the issuance of the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR 2635) and the repeal of conflict-of-interest provisions formerly applicable to DOE employees.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Susan Beard, Deputy Assistant General Counsel for Standards of Conduct, Department of Energy, Office of General Counsel, 1000 Independence Ave SW., Washington, DC 20585
Phone: 202 586-1522

RIN: 1990–AA19

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)

Final Rule Stage

934. PATENT WAIVER REGULATION

Priority: Other

Legal Authority: 42 USC 2182; 42 USC 5908; PL 99-661

CFR Citation: 10 CFR 784

Legal Deadline: None

Abstract: The regulation provides procedures and standards for obtaining a waiver of the Government's rights in inventions made under DOE research and development contracts with entities that are not small businesses or nonprofit institutions, and terms and conditions of such waivers. Currently, DOE waiver policy is provided in DOE Procurement Regulations (41 CFR 9-9.109-6). This regulation places DOE patent waiver policy in Title 10 of the CFR and also provides updates, revisions and clarifications to waiver policy as contained in 41 CFR 9-9.109-6.

DOE—OGC

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Michael P. Hoffman, Patent Attorney (GC-62), Department of Energy, Office of General Counsel, 1000 Independence Ave. SW., Washington, DC 20585
Phone: 202 586-3441

RIN: 1990–AA02

DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)

Completed Actions

935. • REMOVAL OF OBSOLETE REGULATIONS, PART II

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 7101

CFR Citation: 10 CFR 475; 10 CFR 476; 10 CFR 478

Legal Deadline: None

Abstract: The Department of Energy is amending the Code of Federal Regulations (CFR) to remove obsolete regulations relating to defunct programs of financial assistance for electric and hybrid vehicle research and methane transportation research. This action is being taken in furtherance of the President's Regulatory Reinvention Initiative to eliminate obsolete regulations and streamline existing rules.

Timetable:

Action	Date	FR Cite
NPRM	12/05/95	60 FR 62318
Final Action	12/05/95	60 FR 62316
NPRM Comment Period End	01/04/96	
Final Action Effective	01/16/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Romulo L. Diaz, Jr., Director, Rulemaking Support, Office of the General Counsel, Department of Energy, Office of General Counsel, 1000 Independence Avenue SW., GC-75, Washington, DC 20585
Phone: 202 586-2902

RIN: 1990–AA23

[FR Doc. 96-6944 Filed 05-10-96; 8:45 am]
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Monday
May 13, 1996

Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

21 CFR Ch. I

42 CFR Chs. I-V

45 CFR Subtitle A, Chs. II, III, and XIII

Unified Agenda of Regulations

AGENCY: Office of the Secretary, HHS.

ACTION: Semiannual regulatory agenda.

SUMMARY: The President's September 30, 1993, Executive Order 12866 and the Regulatory Flexibility Act of 1980 require the Department semiannually to publish an agenda summarizing all current and projected rulemaking and indicating those regulatory actions that are being analyzed for their effect on small businesses. The Department published its last such agenda on November 28, 1995. The document reflects the Department's efforts to reinvent its rulemaking practices in accordance with the President's strategy and invites comments to assist the Department in reviewing its regulatory processes and products.

FOR FURTHER INFORMATION CONTACT: Ann White, Department of Health and Human Services, Washington, DC 20201, (202) 690-6824, or the contact person for a specific division or agency of the Department as listed below.

SUPPLEMENTARY INFORMATION: On September 30, 1993, President Clinton issued Executive Order 12866 to reform the Federal regulatory process. The Executive order and the Administration's effort to implement it have brought about substantial improvement in the Department's regulatory practices.

Building on this success, the President announced in March of 1995 an initiative involving more comprehensive reform. The President directed each agency to undertake an exhaustive review of all existing regulations with a view to eliminating or modifying those that are obsolete, impose undue burden on the public, or are otherwise in need of reform. He directed each agency to change the way regulatory outcomes are measured—focusing on results, not process. The President asked senior executives to regularly convene grassroots-partnership meetings to allow greater collaboration and participation in reinventing the regulatory process on the part of those affected by it. He also directed that agencies expand their efforts to use newly emerging consensus-building techniques during the rulemaking process.

This agenda that follows constitutes the Department's most recent inventory of the regulatory actions to be taken in pursuit of the President's new approach to rulemaking. As we continue with this effort, we invite comments on the agenda entries and look forward to receiving suggestions for furthering the President's regulatory-reinvention strategy.

Comments should be sent to the addresses listed below, depending on the specific regulations under discussion. Comments may be sent to the Office of the Secretary if that is preferable or if a responsible division of the Department is not clear or when the comment covers subjects crossing agency lines.

Office of the Secretary: Jacquelyn Y. White, Deputy Executive Secretary, Office of the Executive Secretariat, Room 603H, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Health Care Financing Administration: Mary Ann Trosnovitch, Executive for Regulations Management, Health Care Financing Administration, Room 309G, Hubert H. Humphrey Building, Washington, DC 20201; phone 202-690-7890.

Food and Drug Administration: Edwin V. Dutra, Jr., Director, Regulatory Policy and Management Staff, 5600 Fishers Lane, Rockville, Maryland 20857; phone 301-443-3480.

Administration on Children and Families: Madeline Mocko, Director, Office of Legislative Affairs and Budget, 7th Floor, 370 L'Enfant Promenade SW., Washington, DC 20447; phone 202-401-9223.

Administration on Aging: David Bunoski, Executive Secretariat, Room 4753, Wilbur H. Cohen Building, 330 Independence Avenue SW., Washington, DC 20201; phone 202-260-0669.

Agency for Health Care Policy and Research: Peggy Washburn, 6000 Executive Drive, Suite 603, Rockville, Maryland 20852; phone 301-594-1457.

Centers for Disease Control/Agency for Toxic Substances and Disease Registry: Galen Morris, 1600 Clifton Road NE., Mail Stop D-23, Atlanta, Georgia 30333; phone 404-639-7073.

Health Resource Services Administration: Alice Wallis, 5600 Fishers Lane, Room 14-A-12, Rockville, Maryland 20857; phone 301-443-1960.

Indian Health Service: Betty Penn, 5600 Fishers Lane, Twinbrook Building, Suite 450, Rockville, Maryland 20857; phone 301-443-1116.

National Institutes of Health: Jerry Moore, 9000 Rockville Pike, Building 31, Room 3B-11, Bethesda, Maryland 20205; phone 301-496-4606.

Substance Abuse and Mental Health Services Administration: Joe Faha, 5600 Fishers Lane, Room 12-A-17, Rockville, Maryland 20857; phone 301-443-4640.

Dated: April 4, 1996.

Claudia Cooley,

Executive Secretary to the Department.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
936	Civil Money Penalties for Notifying a Home Health Agency, or a Home or Community-Based Health Care Center or Provider, of a Standard Survey	0991-AA79
937	Civil Money Penalties for False Information on Drug Manufacturer Price Surveys and Rebate Agreements	0991-AA80

HHS

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
938	Clarification of the Initial OIG Safe Harbor Provisions and Establishment of Additional Safe Harbor Provisions Under the Anti-Kickback Statute	0991-AA66

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
939	Civil Money Penalties (CMPs) for Certain Hospital Physician Incentive Plans	0991-AA45
940	Civil Money Penalties (CMPs) for Certain Practices Relating to Medicare Supplemental Policies	0991-AA53
941	Civil Money Penalties for Physician Ownership of and Referral to Certain Health Care Entities	0991-AA65
942	Senior Biomedical Research Services	0991-AA82

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
943	Uniform Administrative Requirements for Grants and Cooperative Agreements	0991-AA56
944	Safe Harbors for Protecting Health Plans	0991-AA69
945	Revisions to the PRO Sanctions Process	0991-AA73
946	Revisions to the Civil Money Penalty Provisions Relating to the Misuse of Certain Symbols and Emblems	0991-AA81

Substance Abuse and Mental Health Services Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
947	Protection and Advocacy for Individuals With Mental Illness	0930-AA02

Substance Abuse and Mental Health Services Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
948	Block Grants for Prevention and Treatment of Substance Abuse	0930-AA01

Substance Abuse and Mental Health Services Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
949	Block Grants for Prevention and Treatment of Substance Abuse (Tobacco Provisions)	0930-AA03

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
950	Implementation of the Equal Access to Justice Act in Agency Proceedings	0990-AA02

HHS

Food and Drug Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
951	Medical Foods	0910-AA20
952	Current Good Manufacturing Practice in Manufacturing, Processing, Packing, or Holding of Drugs; Proposed Amendment of Certain Requirements for Finished Pharmaceuticals	0910-AA45
953	Reinventing FDA Food Regulations	0910-AA58
954	Food Standards of Identity, Quality, and Fill of Container; Common or Usual Name Regulations: Request for Comments on Existing Regulations	0910-AA67
955	Reinvention of Regulations	0910-AA69
956	Investigational New Drug Applications; Request for Information and Comments	0910-AA83

Food and Drug Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
957	Over-the-Counter (OTC) Drug Review	0910-AA01
958	Infant Formula: Good Manufacturing Practice, Quality Control Procedures, Quality Factors, Notification Requirements, and Records and Reports	0910-AA04
959	Implementation of the Safe Medical Devices Act of 1990	0910-AA09
960	Reporting of Errors and Accidents	0910-AA12
961	Mammography Quality Standards Act of 1992	0910-AA24
962	Latex Condoms: Expiration Date Labeling	0910-AA32
963	Latex Warning	0910-AA34
964	Hearing Aids; Professional and Patient Labeling; Conditions for Sale	0910-AA39
965	Human Tissue Intended for Transplantation	0910-AA40
966	Animal Medicinal Drug Use Clarification Act of 1994; Extra-Label Use; Implementation	0910-AA47
967	Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution	0910-AA49
968	Bioavailability and Bioequivalence Requirements	0910-AA51
969	Consolidation of Regulations	0910-AA53
970	Name of Selling Agent or Distributor	0910-AA56
971	Changes to an Approved Application	0910-AA57
972	Dietary Supplement Regulations in Response to DSHEA	0910-AA59
973	Export Requirements for Drugs for Investigational Use in Other Countries	0910-AA61
974	Human Tissue Intended for Transplantation and Human Reproductive Tissue Intended for Fertilization, Implantation or Insemination	0910-AA70
975	Adverse Experience Reporting for Human Drug and Licensed Biological Products; Increased Frequency Reports	0910-AA72
976	Investigational New Drug Applications; Clinical Holds	0910-AA73
977	Parenteral Drug Products Containing Aluminum as an Ingredient or Contaminant; Labeling Requirements; Warning Statement	0910-AA74
978	Long-Term Contraceptive Drug Products and Medical Devices; Informed Consent Requirements	0910-AA75
979	Debarment Certification Regulations for Drug Applications	0910-AA76
980	Certification of Drugs Composed Wholly or Partly of Insulin	0910-AA77
981	Over-the-Counter Human Drugs; Labeling Requirements	0910-AA79
982	National Environmental Policy Act; Policies and Procedures	0910-AA80
983	Investigational New Drug Applications; Clinical Holds for Drugs for Life-Threatening Illnesses	0910-AA84
984	Adverse Experience Reporting, Recordkeeping, and Records Access Requirements for Marketed OTC Drugs That Are Now the Subjects of Approved New Drug or Abbreviated New Drug Apps	0910-AA86
985	Sterility Requirements for Inhalation Solution Products	0910-AA88
986	Informed Consent for Human Drugs and Biologics; Determination That Informed Consent Is Not Feasible	0910-AA89
987	Direct-to-Consumer Promotion Regulations	0910-AA90

Food and Drug Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
988	New Animal Drug Approval Process; Implementation of Title I of the Generic Animal Drug and Patent Term Restoration Act (GADPTRA)	0910-AA02

HHS

Food and Drug Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
989	Current Good Manufacturing Practice for Blood and Blood Components; Notification of Consignees Receiving Blood and Blood Components at Increased Risk for Transmitting HIV Infection	0910-AA05
990	Prescription Drug Marketing Act of 1987; Policy Information, Guidance, and Clarifications	0910-AA08
991	Food Labeling Review	0910-AA19
992	Disqualification of Clinical Investigators	0910-AA21
993	Investigational Device Exemption; Intraocular Lenses	0910-AA22
994	Specific Requirements on Content and Format of Labeling for Human Prescription Drugs; Addition of "Geriatric Use" Subsection in the Labeling	0910-AA25
995	Tamper-Evident Packaging Requirements for Over-the-Counter Human Drug Products	0910-AA26
996	Adverse Experience Expedited Reporting Requirements for Human Drug and Licensed Biological Products	0910-AA28
997	Electronic Signatures; Electronic Records	0910-AA29
998	Financial Disclosure by Clinical Investigators	0910-AA30
999	Effective Date of Requirement for Submission of Premarket Approval Applications	0910-AA31
1000	Prescription Drug Product Labeling; Medication Guide	0910-AA37
1001	Iron Containing Drugs and Supplements	0910-AA42
1002	Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products To Protect Children and Adolescents	0910-AA48
1003	Revocation of Certain Regulations	0910-AA54
1004	Protection of Human Subjects; Informed Consent	0910-AA60
1005	Export Requirements for Medical Devices	0910-AA62
1006	Well-Characterized Biotechnology Products; Elimination of Establishment License Application	0910-AA71
1007	New Drug Applications; Drug Master File	0910-AA78
1008	Current Good Manufacturing Practice for Finished Pharmaceutical; Positron Emission Tomography	0910-AA81
1009	Investigational New Drug Applications and New Drug Applications	0910-AA82
1010	New Drugs for Human Use; Clarification of Requirements for Application Supplements	0910-AA87

Food and Drug Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1011	Policies Concerning Uses of Sulfiting Agents	0910-AA03
1012	Lead in Foods	0910-AA06
1013	Fees for Certification Services; Insulin and Color Additive Certification Programs	0910-AA07
1014	Bottled Water	0910-AA11
1015	Review of Warnings, Use Instructions, and Precautionary Information Under Section 314 of the National Childhood Vaccine Injury Act of 1986	0910-AA14
1016	Dietary Supplement Label Review	0910-AA23
1017	Amalgam Ingredient Labeling	0910-AA33
1018	Classification of Computer Software Programs That Are Medical Devices	0910-AA41
1019	Development of Hazard Analysis Critical Control Points for the Food Industry; Request for Comments	0910-AA43
1020	Habit Forming Drugs	0910-AA50
1021	Drugs Used for Treatment of Narcotic Addicts	0910-AA52
1022	Substances Approved for Use in the Preparation of Meat and Poultry Products	0910-AA66
1023	Postmarketing Periodic Adverse Experience Reporting Requirements for Human Drug and Licensed Biological Products	0910-AA85

Food and Drug Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1024	Final Regulation To Establish Procedures for the Safe and Sanitary Processing and Importing of Fish and Fishery Products	0910-AA10
1025	General Biological Product Standards; Alternative Procedures and Exceptions	0910-AA16
1026	Medical Devices; Protective Restraints; Revocation of Exemptions From 510(k) Premarket Notification Procedures and Current Good Manufacturing Practices Regulations	0910-AA17

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Food and Drug Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1027	Certification of Drugs Composed Wholly or Partly of Insulin; Fees for Certification of Drugs Composed Wholly or Partly of Insulin	0910-AA27
1028	Premarket Approval of Medical Devices; Supplemental Applications	0910-AA35
1029	Public Information; Communications With State and Foreign Government Officials	0910-AA46
1030	OTC Drug Labeling Review	0910-AA63
1031	Medical Device Exemptions From Premarket Notification	0910-AA65

Health Resources and Services Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1032	Organ Procurement and Transplantation Network Rules	0906-AA32
1033	National Vaccine Injury Compensation Program: Revisions and Additions to the Vaccine Injury Table—II	0906-AA36
1034	Removal of Obsolete Regulations of the Title VII Grant for the Construction of Teaching Facilities for Health Professions Personnel	0906-AA39

Health Resources and Services Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1035	Health Education Assistance Loan (HEAL) Program: Lenders'/ Holders' Performance Standards	0906-AA33

Health Resources and Services Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1036	Technical Amendments to the Health Professions, Nursing, and Allied Health Training Grant Programs Under 42 CFR Parts 57 and 58	0906-AA38

Indian Health Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1037	Acquisition Under the Buy Indian Act	0917-AA00
1038	Indian Child Protection and Family Violence Prevention Act Minimum Standards of Character and Suitability for Employment	0917-AA02

Indian Health Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1039	Revision of Indian Self-Determination Regulations	0917-AA01

HHS

Agency for Health Care Policy and Research—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1040	Health Services Research, Evaluation, Demonstration, and Dissemination Projects; Peer Review of Grants and Contracts	0919-AA00

National Institutes of Health—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1041	National Institutes of Health AIDS Research Loan Repayment Program	0925-AA02
1042	National Institutes of Health Clinical Research Loan Repayment Program for Individuals From Disadvantaged Backgrounds	0925-AA09
1043	Undergraduate Scholarship Program Regarding Professions Needed by the NIH	0925-AA10
1044	Traineeships (Termination Policies)	0925-AA11
1045	Additional DHHS Protection for Pregnant Women and Human Fetuses Involved as Subjects for Research, and Pertaining to Human In Vitro Fertilization	0925-AA14
1046	National Research Service Awards	0925-AA16

National Institutes of Health—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1047	Grants for Research Projects	0925-AA01
1048	Hazardous Substances Basic Research and Training Grants	0925-AA03
1049	National Institutes of Health Construction Grants	0925-AA04
1050	Training Grants	0925-AA05
1051	National Institutes of Health Center Grants	0925-AA06
1052	Grants for National Alcohol Research Centers	0925-AA08
1053	Removal of Obsolete Patent Regulations	0925-AA15
1054	Removal of National Cancer Institute Clinical Cancer Education Program	0925-AA17

Office of Assistant Secretary for Health—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1055	Standards of Compliance for Abortion-Related Services in Family Planning Service Projects	0937-AA00

Health Care Financing Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1056	Medicare Coverage of Outpatient Occupational Therapy Services (BPD-425-P)	0938-AD32
1057	Revisions to the Confidentiality and Disclosure Regulation (OPA-001-P)	0938-AD60
1058	"Without Fault" and Beneficiary Waiver of Recovery As It Applies to Medicare Overpayment Liability (BPD-719-P)	0938-AD95
1059	Protection of Income and Resources for Community Spouses of Institutionalized Individuals (MB-023-P)	0938-AE12
1060	Provider Reimbursement Determinations and Appeals Revisions (BPD-727-P)	0938-AF28
1061	Alternative Sanctions for Psychiatric Hospitals (HSQ-191-P)	0938-AF32
1062	Assessing Interest Against Medicare Secondary Payer (MSP) Debts (BPO-108-P)	0938-AF87
1063	Revisions to Rules on Health Care Prepayment Plans (OMC-016-P)	0938-AF97
1064	Conditions of Participation for Rural Health Clinics (BPD-764-P)	0938-AG05
1065	Appointment of Representatives for Medicare Appeals (BPO-120-P)	0938-AG30
1066	Enforcement Requirements for Renal Dialysis Facilities (HSQ-204-P)	0938-AG31
1067	General Criteria and Standards for Evaluating Performance of Contract Obligations (HSQ-207-NC)	0938-AG32

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Health Care Financing Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1068	Disclosure of Confidential PRO Information for Research Purposes (HSQ-208-P)	0938-AG33
1069	Effect of Change of Ownership on Provider and Supplier Penalties, Sanctions, and Overpayments (HSQ-215-P)	0938-AG59
1070	New Payment Methodology for Routine Extended Care Services Provider in a Swing Bed Hospital (BPD-805-P)	0938-AG68
1071	Salary Equivalency Guidelines for Physical Therapy, Respiratory Therapy, Speech Pathology, and Occupational Therapy (BPD-808-PN)	0938-AG70
1072	Medicaid: Optional Coverage of TB-Related Services for Individuals Infected with Tuberculosis (MB-082-P)	0938-AG72
1073	Revision of Medicare Hospital Conditions of Participation (BPD-745-P)	0938-AG79
1074	Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships—Expanded to Designated Health Services (BPD-809-P)	0938-AG80
1075	Home Health Agency (HHA) Conditions of Participation (BPD-819-P)	0938-AG81
1076	End-Stage Renal Disease (ESRD) Conditions for Coverage (BPD-818-P)	0938-AG82
1077	Wage Index Used To Adjust Payment Rates for Hospice Services Under the Medicare Program (BPD-820-P)	0938-AG93
1078	Liability for Third Parties To Pay for Care and Services (MB-080-P)	0938-AH01
1079	Definition of Skilled Nursing Facility (SNF) and Home Health Agency (HHA) for Coverage of Durable Medical Equipment (DME) (BPD-834-P)	0938-AH16
1080	Schedule of Limits for Skilled Nursing Facility Inpatient Routine Service Costs (BPD-837-NC)	0938-AH18
1081	Additional Supplier Standards (BPD-864-P)	0938-AH19
1082	State Plan Amendment (SPA) Reconsideration Process (MB-096-P)	0938-AH24
1083	Changes in Coverage and Payment Policies for Physician Assistant Services (BPD-829-P)	0938-AH26
1084	Hospice Care—Conditions of Participation (BPD-844-P)	0938-AH27
1085	Limitations on Payment for Home Oxygen Therapy Based on Inherent Reasonableness Criteria (BPD-845-PN)	0938-AH28
1086	Medicaid Eligibility Quality Control, Staffing and Training, and Utilization Control: Removal of Obsolete and Restrictive Requirements (MB-099-P)	0938-AH31
1087	Changes to the Hospital Inpatient Prospective Payment System and Fiscal Year 1997 Rates (BPD-847-P)	0938-AH34
1088	Medicare Coverage of Services of Speech-Language Pathologists and Audiologists (BPD-843-P)	0938-AH37
1089	Medicare Program: Five-Year Review of Work Relative Value Units Under the Physician Fee Schedule (BPD-846-PN)	0938-AH38
1090	Medicare Program: Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 1997 (BPD-852-P)	0938-AH40
1091	Privacy and Security Enforcement for the Medicare Transaction System (BPO-142-P)	0938-AH47
1092	Medicare: Amount of Payments If Customary Charges for Services Furnished Are Less Than Reasonable Costs (BPD-860-P)	0938-AH49
1093	Limitations on Liability (BPD-859-P)	0938-AH51

Health Care Financing Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1094	Deduction of Incurred Medical Expenses (Spenddown) (MB-020-F)	0938-AB07
1095	Effective Dates for Provider Agreements and Supplier Approvals (HSQ-139-F)	0938-AC88
1096	Changes Concerning Suspension of Medicare Payments and Determinations of Allowable Interest Expense (BPO-118-FC)	0938-AC99
1097	Criteria and Procedures for Making Medical Services Coverage Decisions That Relate to Health Care Technology (BPD-432-FC)	0938-AD07
1098	Prohibition on Unbundling of Hospital Outpatient Services (BPD-426-F)	0938-AD33
1099	Changes to Peer Review Organization Regulations (HSQ-135-F)	0938-AD38
1100	Omnibus Nursing Home Reform Requirements (BPD-488-F)	0938-AD81
1101	HMO Organizational Structure and Services (OMC-007-F)	0938-AE25
1102	Hospital Standard for HIV Infectious Blood and Blood Products (BPD-633-F)	0938-AE40
1103	Medicare, Medicaid, and CLIA Programs: Regulations Implementing the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88) (HSQ-226-F)	0938-AE47
1104	Conditions of Coverage for Organ Procurement Organizations (BPD-646-FC)	0938-AE48
1105	Resident Assessment in Long-Term Care Facilities (HSQ-180-F)	0938-AE61
1106	Post-Contract Beneficiary Protections and Other Provisions (OMC-003-F)	0938-AE63
1107	Employer Contributions to HMOs (OMC-004-F)	0938-AE64
1108	Payment for Nursing and Allied Health Science Education (BPD-685-F)	0938-AE79
1109	Coverage of Screening Pap Smears (BPD-705-F)	0938-AE98

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Health Care Financing Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1110	Medicare Coverage of Clinical Psychologist, Other Psychologist, and Clinical Social Worker Services—Medicare (BPD-706-F)	0938-AE99
1111	OBRA '90 and Miscellaneous Managed Care Technical Amendments (OMC-018-FC)	0938-AF15
1112	Medicaid Payment for Covered Outpatient Drugs Under Rebate Agreements (MB-046-F)	0938-AF42
1113	Referral to Child Support Enforcement Agencies of Medicaid Families (MB-051-F)	0938-AF68
1114	Medicaid: Outstationed Intake Locations for Certain Low-Income Pregnant Women, Infants and Children Under Age 19 (MB-052-F)	0938-AF69
1115	Medicare and Medicaid Programs: Requirements for Physician Incentive Plans in Prepaid Health Care Organizations (OMC-010-FC)	0938-AF74
1116	Part B Advance Payments to Physicians/Suppliers or Other Entities Furnishing Items or Services Under Medicare Part B (BPO-105-F)	0938-AF85
1117	Retroactive Enrollment and Disenrollment in Risk Health Maintenance Organizations and Competitive Medical Plans (OMC-015-F)	0938-AF98
1118	Payment for Preadmission Services (BPD-731-F)	0938-AG00
1119	Change in Provider Agreement Regulations Related to Federal Employee Health Benefits (BPD-748-F)	0938-AG03
1120	Revised Medicaid Management Information Systems (MB-38-FN)	0938-AG10
1121	Medicare Program: Limitations on Medicare Coverage of Intermittent Positive Pressure Breathing Machine Therapy (BPD-781-FN)	0938-AG44
1122	Telephone and Electronic Requests for Review of Part B Initial Claim Determinations (BPO-121-F)	0938-AG48
1123	Medicare Program: Limitations on Medicare Coverage of Cataract Surgery (BPD-797-FN)	0938-AG65
1124	CLIA Program: Categorization of Waived Tests (HSQ-225-F)	0938-AG89
1125	Reporting of Interest From Zero Coupon Bonds (BPD-647-F)	0938-AH11
1126	Medicare Program: Uniform Electronic Cost Reporting for Skilled Nursing Facilities and Home Health Agencies (BPD-788-F)	0938-AH12
1127	Update of the Reasonable Compensation Equivalent Limits for Services Furnished by Physicians (BPD-816-N)	0938-AH14
1128	Criteria and Procedures for Extending Coverage to Certain Devices and Related Services (BPD-841-FC)	0938-AH21
1129	Delegation of Civil Money Penalties (BPO-135-FC)	0938-AH22
1130	Medicaid: Limitations on Aggregate Payments to Disproportionate Share Hospitals; Federal Fiscal Year 1996 (Preliminary) (MB-098-N)	0938-AH30
1131	Medicare Program; Special Enrollment Periods and Waiting Periods (BPD-752-FC)	0938-AH33
1132	Medicare Program: Physician Fee Schedule Update for Calendar Year 1996 and Physician Volume Performance Standard Rates of Increase for Federal Fiscal Year 1996 (BPD-853-FN)	0938-AH41
1133	Medicare Program: Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Rates Beginning January 1, 1997 (OACT-052-N)	0938-AH42
1134	Medicaid: Limitations on Aggregate Payments to Disproportionate Share Hospitals; Federal Fiscal Year 1996 (Final) (MB-100-N)	0938-AH44
1135	Part A Premium for 1997 for the Uninsured Aged for Certain Disabled Individuals Who Have Exhausted Other Entitlement (OACT-053-N)	0938-AH45
1136	Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 1997 (OACT-054-N)	0938-AH46
1137	Requirements for Enrollment of Medicaid Recipients Under Cost Effective Employer-Based Group Health Plans (MB-047-F)	0938-AH48

Health Care Financing Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1138	Payment for Clinical Diagnostic Laboratory Tests (BPD-309-F)	0938-AB50
1139	Participation in CHAMPUS and CHAMPVA, Hospital Admissions for Veterans, Discharge Rights Notice, and Hospital Responsibility for Emergency Care (BPD-393-F)	0938-AC58
1140	Medicare Secondary Payer for Disabled Individuals (BPD-482-F)	0938-AD73
1141	New Minimum Standards for Medicare Supplemental (Medigap) Policies (BPD-491-P)	0938-AD82
1142	Survey Requirements and Alternative Sanctions for Home Health Agencies (HSQ-169-F)	0938-AE39
1143	Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services (MB-28-F)	0938-AE72
1144	Fire Safety Standards for Hospitals, Long-Term Care Facilities, Ambulatory Surgical Centers, Hospices, and Intermediate Care Facilities for the Mentally Retarded (BPD-650-FC)	0938-AE97
1145	Changes to the Long-Term Care Facility Survey Process (HSQ-175-FC)	0938-AF02

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Health Care Financing Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1146	Case Management (MB-27-F)	0938-AF07
1147	Presumptive Limits on Payments to HMOs, CMPs, and HCPPs (OMC-006-F)	0938-AF16
1148	Partial Hospitalization Services in Community Mental Health Centers (BPD-736-F)	0938-AF53
1149	Intermediary and Carrier Functions (BPO-111-F)	0938-AG06
1150	End-Stage Renal Disease (ESRD) Payment Exception Requests and Organ Procurement Costs (BPD-763-F)	0938-AG20
1151	Noncoverage of Electrostimulation of Salivary Glands for the Treatment of Xerostomia (Dry Mouth) (BPD-782-FN)	0938-AG45
1152	Distinct Part Requirements for Nursing Homes and Prohibition of Financial Screening of Applicants for Nursing Home Admission (BPD-815-P)	0938-AG84
1153	Clinical Laboratory Improvement Amendment (CLIA) Fee Schedules (HSQ-219-FC)	0938-AG87
1154	Categorization and Certification Requirements for a New Subcategory of Moderate Complexity Testing (HSQ-222-F)	0938-AG98
1155	Medicaid Coverage of Personal Care Services (MB-071-F)	0938-AH00
1156	Ambulance Services (BPD-813-P)	0938-AH13
1157	Adjustment in Payment Amounts for New Technology Intraocular Lenses (BPD-831-P)	0938-AH15
1158	Medicare Coverage of Liver Transplantation (BPD-835-PN)	0938-AH17
1159	CLIA Program: Cytology Proficiency Testing (HSQ-233-P)	0938-AH35
1160	Limits on Actual Charges of Nonparticipating Physicians (BPD-862-P)	0938-AH50
1161	Medicare Secondary Payer Clarifications and Amendments (BPD-865-P)	0938-AH52
1162	Payment for Hospital Outpatient Radiology Services and Other Diagnostic Procedures (BPD-861-FC)	0938-AH53

Health Care Financing Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1163	Fee Schedule for Payment of Clinical Psychologist Services (BPD-495-P)	0938-AD84
1164	Coverage of Nurse Practitioner and Clinical Nurse Specialist Services (BPD-708-P)	0938-AF00
1165	Payment for Federally Qualified Health Center (FQHC) Services (BPD-728-F)	0938-AF14
1166	Federally Qualified Health Center Services (Medicaid) (MB-043-P)	0938-AF90
1167	Medicare Appeals of Individual Claims (BPD-453-P)	0938-AG18
1168	Withdrawal of Coverage of Diagnostic Nocturnal Penile Tumescence Testing (Impotence Testing) (BPD-780-FN)	0938-AG43
1169	Schedule of Limits on Home Health Agency Costs Per Visit (BPD-793-N)	0938-AG54
1170	Medicaid Program: Nurse-Midwife Services (MB-085-F)	0938-AG73
1171	Medicaid Program: Fees for Vaccine Administration Under Pediatric Immunization Program (MB-084-FN)	0938-AG77
1172	Medicaid: Nominal Copayments for Institutional Services for Medicaid Recipients (MB-090-FC)	0938-AG90
1173	Mandatory Medigap Crossover Claims Transmittal Requirements (BPD-811-P)	0938-AG94
1174	Medicare Program: Changes to the Inpatient Hospital Prospective Payment Systems and Fiscal Year 1996 Rates (BPD-825-FC)	0938-AG95
1175	Medicare Program: Revisions to Payment Policies and Adjustments to the Relative Value Units (RVUs) Under the Physician Fee Schedule for Calendar Year 1996 (BPD-827-FC)	0938-AG96
1176	Medicare Program: Coverage of Certified Nurse-Midwife Services (BPD-496-P)	0938-AH02
1177	Medicare Program: Physician Fee Schedule Update for Calendar Year 1996 & Physician Volume Performance Standard Rates of Increase for Federal Fiscal Year 1996 (BPD-828-FN)	0938-AH03
1178	Part A Premium for 1996 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement (OACT-051-N)	0938-AH06
1179	Medicare Program: Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Rates Beginning January 1, 1996 (OACT-050-N)	0938-AH07
1180	Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 1996 (OACT-049-N)	0938-AH08
1181	Limitations on Aggregate Payments to Disproportionate Share Hospitals: Federal Fiscal Year 1995 (Medicaid Program) (MB-094-N)	0938-AH09
1182	Provisions That Allow Rural Primary Care Hospitals (RPCHs) To Enter Into Swing-Bed Agreements (BPD-839-P)	0938-AH20
1183	Transfer of Assets for Less Than Fair Market Value: Medicaid Program (MB-095-P)	0938-AH23
1184	Evidence of Lawful Permanent Residence (MB-097-P)	0938-AH25
1185	CLIA Program; Granting and Withdrawal of Authority to Private Nonprofit Accreditation Organizations and of CLIA Exemption Under State Laboratory Programs; Technical Corrections (HSQ-205-FC)	0938-AH32

HHS

Administration for Children and Families—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1186	Foster Care, Adoption Assistance, and Child Welfare Services	0970-AA97
1187	Block Grant Programs (Low Income Home Energy Assistance Program —LIHEAP)—FY 1995 and FY 1996 Provisions	0970-AB47
1188	Administrative Flexibility Rule	0970-AB49
1189	Designation of Alternative Agency To Serve Indian Tribal Children	0970-AB52
1190	Construction of Head Start Facilities	0970-AB54
1191	Quality Standards for Early Head Start and Head Start Programs	0970-AB55
1192	Head Start Fellowship Program	0970-AB56
1193	On-Site Foster Care Eligibility Reviews	0970-AB60

Administration for Children and Families—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1194	Amendments to Developmental Disabilities Rules	0970-AB11
1195	Child Abuse and Neglect State Grant Program	0970-AB23
1196	Standards for Safe Transportation	0970-AB24
1197	Standards for Purchase of Facilities	0970-AB31
1198	National Voter Registration Act of 1993 Provisions Affecting Public Assistance Agencies	0970-AB32
1199	Child Care—Revised Regulations	0970-AB33
1200	Family Preservation and Support	0970-AB34
1201	Administration for Native Americans (ANA) 45 CFR Part 1336	0970-AB37
1202	Reduction of Reporting Requirements for the State Systems Advance Planning Document (APD) Process	0970-AB46
1203	Income Eligibility Criteria for Indian Tribes	0970-AB53
1204	Making Information Available to Consumer Reporting Agencies: Extension of Deadline for Certified Statewide Systems; and Revisions for the President's Reform Initiative	0970-AB57
1205	Income and Resource Disregards Related to Interests of Individual Indians in Trust or Restricted Lands	0970-AB59

Administration for Children and Families—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1206	Family Violence Prevention and Services	0970-AB18

Administration on Aging—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1207	Grants for State and Community Programs on Aging, Intrastate Funding Formulas; Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians & Native Hawaiians	0985-AA00

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Proposed Rule Stage

936. CIVIL MONEY PENALTIES FOR NOTIFYING A HOME HEALTH AGENCY, OR A HOME OR COMMUNITY-BASED HEALTH CARE CENTER OR PROVIDER, OF A STANDARD SURVEY

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-203, Sec 4022(a); PL 100-360, Sec 411(d)(2)(A); PL 100-485, Sec 608(d)(20)(A); PL 101-508, Sec 4711(b)(a)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would set forth civil money penalties against any individual or entity that notifies, or causes to notify, a home health agency, or a home or community-based health care center or provider, of the time or date on which a standard survey is scheduled to be conducted by a State or local agency.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-3270

RIN: 0991–AA79

937. CIVIL MONEY PENALTIES FOR FALSE INFORMATION ON DRUG MANUFACTURER PRICE SURVEYS AND REBATE AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-508, Sec 4401(a)(3)

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would set forth civil money penalties against any wholesaler, manufacturer or seller of outpatient drugs that fails to respond to a request for information about charges or prices, or to knowingly provide false information, in a survey by the Secretary to verify manufacturers' reported prices. In addition, this rule would set forth civil money penalties against any drug manufacturer doing business with Medicaid that, in accordance with section 1927(b)(3)(A) of the Social Security Act, fails to provide rebate agreement price information on a timely basis, and for knowingly providing false information.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-3270

RIN: 0991–AA80

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Final Rule Stage

938. CLARIFICATION OF THE INITIAL OIG SAFE HARBOR PROVISIONS AND ESTABLISHMENT OF ADDITIONAL SAFE HARBOR PROVISIONS UNDER THE ANTI-KICKBACK STATUTE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 100-93, Sec 2; PL 100-93, Sec 14

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This final rule serves both to clarify various aspects of the original safe harbor provisions and to add new safe harbors as authorized under section 14 of PL 100-93. Specifically, this rule modifies the original set of final safe harbor provisions (56 FR 35952, 7/9/91) to give greater clarity to that rulemaking's original intent. In addition, this rule sets forth an expanded listing of safe harbor provisions designed to protect additional payment and business practices from criminal prosecution and civil sanctions under the anti-kickback statute.

Timetable:

Action	Date	FR Cite
NPRM	09/21/93	58 FR 49008
NPRM Comment Period End	11/22/93	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This final rule incorporates the safe harbor clarification provisions previously addressed in RIN 0991-AA74 and set forth in proposed rulemaking (59FR37202, July 21, 1994).

Agency Contact: Joel Jay Schaer, Regulations Officer, Office of Inspector General, OMP, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-3270

RIN: 0991–AA66

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Long-Term Actions

939. CIVIL MONEY PENALTIES (CMPS) FOR CERTAIN HOSPITAL PHYSICIAN INCENTIVE PLANS

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-509, Sec 9313(c); PL 101-239, Sec 6003(g)(3); PL 101-508, Sec 4204(a)(3); PL 101-508, Sec 4731(b)(1)

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None

Abstract: This final rule will prohibit a hospital from knowingly making incentive payments to a physician as an inducement to reduce or limit services provided to Medicare or Medicaid beneficiaries who are under the direct care of that physician. The rule would also set forth standards governing the imposition of CMPs for each such individual for whom payments are made.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61571
NPRM Comment Period End	01/30/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-3270

RIN: 0991–AA45

940. CIVIL MONEY PENALTIES (CMPS) FOR CERTAIN PRACTICES RELATING TO MEDICARE SUPPLEMENTAL POLICIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-360, Sec 428(b); PL 101-508, Sec 4204(g)(1); PL 101-508, Sec 4351; PL 101-508, Sec 4354(a)(1)(E); PL 101-508, Sec 4354(a)(2); PL 101-508, Sec 4355(a); PL 101-508, Sec 4357

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This rule would authorize CMPs against any individual or entity who knowingly and willfully uses misleading or fraudulent practices in the advertisement, solicitation, offering for sale or delivery of Medicare supplemental health insurance (Medigap) policies. Penalties would also be established for failure to (1) meet Medigap policy loss-ratio requirements, (2) comply with policy simplification standards, or (3) obtain Secretarial certification of Medigap policies in States with non-approved regulatory programs. In addition, this rule would also set forth CMPs for the failure of sellers or issuers to solicit information, and to provide notice, about Medicaid status and eligibility before selling or issuing Medigap policies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General, OMP, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA53

941. CIVIL MONEY PENALTIES FOR PHYSICIAN OWNERSHIP OF AND REFERRAL TO CERTAIN HEALTH CARE ENTITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-239, Sec 6204; PL 101-508, Sec 4207(e); PL 101-508, Sec 4207(m)(a); PL 103-66, Sec 13562

CFR Citation: 42 CFR 1001; 42 CFR 1003

Legal Deadline: None

Abstract: This revised final rule is designed to implement civil money penalty authority for prohibited physician ownership and referral arrangements set forth in section 1877 of the Social Security Act. This rule addresses comments raised as a result of the final rule with comment period (60 FR 16580), and several technical changes to 42 CFR 1001 and 1003 resulting from Government reinvention efforts.

Timetable:

Action	Date	FR Cite
NPRM	10/20/93	58 FR 54096
NPRM Comment Period End	12/20/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Office of Inspector General, OMP, Department of Health and Human Services, Office of the Secretary, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AA65

942. • SENIOR BIOMEDICAL RESEARCH SERVICES

Priority: Other

Legal Authority: 42 USC 228

CFR Citation: 42 CFR 24

Legal Deadline: None

Abstract: This regulation implements the Senior Biomedical Research Service (SBRS), a personnel system established in the Public Health Service by Section 304 of Public Law 101-509. The SBRS will consist of 500 members appointed by the Secretary without regard to the provisions of Title 5, U.S. Code, regarding appointment, who are outstanding in the field of biomedical research or clinical research evaluation. Appointments to the SBRS will be only to individuals with doctoral-level degrees in biomedicine or a related field. The regulation describes basic eligiblity criteria, pay rates, performance appraisal system, optional retirement system, and procedure for removal from the SBRS.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/21/96	61 FR 6557
Interim Final Rule Comment Period End	03/31/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Rosemary Taylor, Personnel Management Specialist, Department of Health and Human Services, Office of the Secretary, 200

HHS—OS — Long-Term Actions

Independence Avenue SW., Room 522A, Washington, DC 20201 — Phone: 202 690-7358 — Fax: 202 690-6758

RIN: 0991–AA82

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Completed Actions

Office of the Secretary (OS)

943. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 74

Completed:

Reason	Date	FR Cite
Final Action	03/22/96	61 FR 11743

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Charles Gale
Phone: 202 690-6377

RIN: 0991–AA56

944. SAFE HARBORS FOR PROTECTING HEALTH PLANS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR 1001

Completed:

Reason	Date	FR Cite
Final Action	01/25/96	61 FR 2122

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer
Phone: 202 619-3270

RIN: 0991–AA69

945. REVISIONS TO THE PRO SANCTIONS PROCESS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR 1004

Completed:

Reason	Date	FR Cite
Final Action	12/12/95	60 FR 63634

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Joel Jay Schaer
Phone: 202 619-3270

RIN: 0991–AA81

946. REVISIONS TO THE CIVIL MONEY PENALTY PROVISIONS RELATING TO THE MISUSE OF CERTAIN SYMBOLS AND EMBLEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR 1003

Completed:

Reason	Date	FR Cite
Final Action	11/27/95	60 FR 58239

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Jay Schaer
Phone: 202 619-3270

RIN: 0991–AA73

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage

Substance Abuse and Mental Health Services Administration (SAMHSA)

947. PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 10801 et seq, as amended by PL 102-173

CFR Citation: 45 CFR 51

Legal Deadline: Final, Statutory, May 27, 1992.
Section 9 of P.L. 102-173, enacted on 11/27/91, sets this deadline.

Abstract: Sets requirements for funding State and State-designated systems for protecting and advocating for individuals with mental illness. By law, these requirements must be set out in regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/14/94	59 FR 64367
NPRM Comment Period End	02/13/95	
Final Action	07/00/96	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Additional Information: Previously reported under RIN 0905-AD99.

Alternate Contact: Sue Martone, DLEA, SAMHSA, PHS; Room 12C-15, 5600 Fishers Lane, Rockville, MD 20857; 301-443-4640

Agency Contact: Joseph D. Faha, Director, DLEA, SAMHSA, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 12C-15, Rockville, MD 20857
Phone: 301 443-4640

RIN: 0930–AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Long-Term Actions

Substance Abuse and Mental Health Services Administration (SAMHSA)

948. BLOCK GRANTS FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE

Priority: Other Significant

Legal Authority: 42 USC 300-x et seq, as amended by PL 102-321

CFR Citation: 45 CFR 96

Legal Deadline: Final, Statutory, August 25, 1992.
Awards to States after January 1, 1993 cannot be made until implementing regulations are published.

Abstract: Sets requirements for block grants for prevention and treatment of substance abuse. The requirements include criteria for approval of State plans which must by statute be prescribed in regulations. These provisions would replace the existing interim final rule published March 31, 1993. Given the pending reauthorization of SAMHSA and the current Administration's FY 1996 legislative proposal to turn the block grant into a "Performance Partnership," publication of this regulation has been put on hold.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/31/93	58 FR 17062
Interim Final Rule Comment Period End	06/01/93	
Final Action	00/00/00	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Tribal

Additional Information: Previously reported under RIN 0905-AD98.

Alternate Contact: Sue Martone, DLEA, SAMHSA, PHS, 5600 Fishers Lane, Room 12C-15, Rockville, MD 20852; 301-443-4640

Agency Contact: Joseph D. Faha, Director, DLEA, SAMHSA, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 12C-15, Rockville, MD 20857
Phone: 301 443-4640

RIN: 0930–AA01

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Completed Actions

Substance Abuse and Mental Health Services Administration (SAMHSA)

949. BLOCK GRANTS FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE (TOBACCO PROVISIONS)

Priority: Other Significant

CFR Citation: 45 CFR 96

Completed:

Reason	Date	FR Cite
Final Action	01/19/96	61 FR 1492

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal

Agency Contact: Joseph D. Faha
Phone: 301 443-4640

RIN: 0930–AA03

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage

Departmental Management (HHSDM)

950. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504(c)(1)

CFR Citation: 45 CFR 13

Legal Deadline: None

Abstract: The Equal Access to Justice Act generally requires agencies to pay attorney fees to parties prevailing against the Government in certain types of administrative proceedings. It requires each agency to issue rules implementing the Act as it applies to these proceedings. As originally enacted, the Act had a sunset clause. A statutory amendment eliminated the sunset provision and made other changes in the Act. The instant regulation would amend 45 CFR part 13 (HHS's regulation implementing the Act) to eliminate the corresponding sunset provision and to make other changes conforming with the statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	06/19/87	52 FR 23311
NPRM Comment Period End	08/17/87	
Final Action	10/00/96	
Final Action Effective	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leslie L. Clune, Associate General Counsel, Business and Administrative Law Division, Department of Health and Human Services, Room 5362, HHS Cohen Building, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619-0150

RIN: 0990–AA02

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)
Prerule Stage

951. MEDICAL FOODS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 341; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 350; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360ee; 21 USC 371

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Food and Drug Administration is considering development of regulations for medical foods, as defined by the Orphan Drug Act Amendments of 1988 (21 USC 360ee(b)(3)) to assure, among other things, the safety and effectiveness of these products, proper labeling of the nutrient content and purported uses, including adequate and appropriate directions for use, and quality control and good manufacturing practices.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AD91.

Agency Contact: Robert Moore, Senior Regulatory Scientist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-456), 200 C Street SW., Washington, DC 20204
Phone: 202 205-5372

RIN: 0910–AA20

952. CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PROCESSING, PACKING, OR HOLDING OF DRUGS; PROPOSED AMENDMENT OF CERTAIN REQUIREMENTS FOR FINISHED PHARMACEUTICALS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 351 to 352; 21 USC 355 to 357; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 210.3; 21 CFR 211.22; 21 CFR 211.68; 21 CFR 211.82; 21 CFR 211.84; 21 CFR 211.101; 21 CFR 211.103; 21 CFR 211.110; 21 CFR 211.111; 21 CFR 211.113; 21 CFR 211.115; 21 CFR 211.160; 21 CFR 211.166; 21 CFR 211.192; 21 CFR 211.220; ...

Legal Deadline: None

Abstract: FDA is proposing revisions to the current good manufacturing practice (CGMP) regulations at 21 CFR parts 210 and 211 regarding finished pharmaceuticals. The new regulations either codify current agency policies or current industry practices. Among other things, the proposal would create or clarify requirements for process and methods validation, appropriate laboratory testing procedures, and protection against contamination. The proposal is designed to update the CGMP regulations in response to technological changes and the Agency's experience with the regulations.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: Previously reported under RIN 0905-AE63.

Agency Contact: Thomas Kuchenberg, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1046
Fax: 301 827-0901

RIN: 0910–AA45

953. REINVENTING FDA FOOD REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 101; 21 CFR 102; 21 CFR 103; 21 CFR 131; 21 CFR 133; 21 CFR 135; 21 CFR 136; 21 CFR 137; 21 CFR 139; 21 CFR 145; 21 CFR 146; 21 CFR 150; 21 CFR 152; 21 CFR 155; 21 CFR 156; ...

Legal Deadline: None

Abstract: In response to President Clinton's memorandum to heads of departments and agencies entitled "Regulatory Reinvention Initiative," FDA will be initiating rulemaking to retain, revise, or revoke certain of its regulations for food. FDA will be proposing: (1) to establish a notification procedure for companies to use for independent GRAS determinations; (2) to request information on the need to retain, revise, or revoke its food standards of identity regulations and its common or usual name regulations; (3) to coordinate the food additive, GRAS, and color additive approval process with USDA when meat and poultry product uses are petitioned for; and (4) to increase the number of categorical exclusions from the requirements for environmental review.

Timetable:

Action	Date	FR Cite
Additional categorical exclusions for environmental impact		
NPRM	04/03/96	(61 FR 14922)
Food Additive and Other Regulations		
Final Action	05/00/96	
Food Labeling and Other Regulations		
NPRM	05/00/96	
Food Regulations; Plan for Revisions		
ANPRM	05/00/96	
Notification Procedures for Independent GRAS Determinations		
NPRM	05/00/96	
Revocation of Lower Fat Milk		
NPRM	11/09/95	(60 FR 56541)
Comment Period End	01/23/96	
Final Action	00/00/00	
Revocation of Obsolete Regulations		
NPRM	10/13/95	(60 FR 53480)
Comment Period End	01/11/96	
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: L. Robert Lake, Director, Office of Policy, Planning and Strategic Initiatives, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-150), 200 C Street SW., Washington, DC 20204
Phone: 202 205-4561
Fax: 202 401-7739

RIN: 0910–AA58

954. FOOD STANDARDS OF IDENTITY, QUALITY, AND FILL OF CONTAINER; COMMON OR USUAL NAME REGULATIONS: REQUEST FOR COMMENTS ON EXISTING REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

HHS—FDA
Prerule Stage

Legal Authority: 21 USC 321; 21 USC 336; 21 USC 341; 21 USC 343; 21 USC 348; 21 USC 349; 21 USC 371; 21 USC 376

CFR Citation: 21 CFR 102 to 103; 21 CFR 130 to 131; 21 CFR 133; 21 CFR 135 to 137; 21 CFR 139; 21 CFR 145 to 146; 21 CFR 150; 21 CFR 152; 21 CFR 155 to 156; 21 CFR 158; 21 CFR 160 to 161; 21 CFR 163 to 166; 21 CFR 168 to 169

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is considering amending, revising, or revoking its food standards of identity, quality, and fill of container and its common or usual name regulations for nonstandardized foods to make them less burdensome on industry and more responsive to the needs of consumers. A notice of proposed rulemaking that published October 13, 1995, identified, among other obsolete or otherwise unnecessary regulations, 17 specific CFR sections on food standards for possible revocation. In addition, FDA published an advance notice of proposed rulemaking (ANPRM) in the Federal Register on December 29, 1995, requesting comments on other such standards from all interested parties, including consumers, consumer groups, academia, the regulated food industry, food distributors, importers, and exporters on these regulations. The agency is seeking comments on the benefits or lack of benefits of such regulations in facilitating domestic, as well as international, commerce and on their value to consumers, less costly alternative means of accomplishing the statutory objective of food standards, that is, to promote honesty and fair dealing in the interest of consumers, in the manufacture and sale of food products covered by these regulations.

Timetable:

Action	Date	FR Cite
ANPRM	12/29/95	60 FR 67492
ANPRM Comment Period End	04/29/96	
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Agency Contact: F. Edward Scarbrough, Director, Office of Food Labeling, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, (HFS-150), 200 C St. SW., Washington, DC 20204
Phone: 202 205-4561

RIN: 0910–AA67

955. • REINVENTION OF REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 504; 5 USC 551 to 558; 5 USC 701 to 721; 7 USC 138; 7 USC 2271; 15 USC 402; 15 USC 409; 15 USC 638; 15 USC 1261 to 1282; 15 USC 1451 to 1461; 15 USC 3701 to 3711; 21 USC 41 to 50; 21 USC 61 to 63; 21 USC 141 to 149; 21 USC 321 to 394

CFR Citation: 21 CFR 1 to 3; 21 CFR 5; 21 CFR 10; 21 CFR 12; 21 CFR 19 to 20; 21 CFR 56; 21 CFR 58; 21 CFR 70 to 71; 21 CFR 80; 21 CFR 101; 21 CFR 170; 21 CFR 172 to 175; 21 CFR 177 to 178; 21 CFR 184; 21 CFR 730 to 740; ...

Legal Deadline: None

Abstract: FDA is considering ways to further streamline certain regulations that are outdated or otherwise in need of reform. The agency is taking this action in response to President Clinton's March 4, 1995 directive to all Federal agencies to conduct a page-by-page review of their regulations as part of the "Reinventing Government" initiative. FDA plans to reinvent approximately 45 percent of its regulations to ease the burden on regulated industry and consumers without sacrificing public health protection. For those regulations requiring Congressional permission to reinvent, the Administration will seek legislative changes.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Lisa M. Helmanis, Office of Policy (HF-26), Department of Health and Human Services, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-3480
Fax: 301 443-2946

RIN: 0910–AA69

956. • INVESTIGATIONAL NEW DRUG APPLICATIONS; REQUEST FOR INFORMATION AND COMMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 56; 21 CFR 312

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking would permit certain uses of investigational new drugs by individual investigators who are not included in a commercial sponsor's application provided that the drugs are in Phase 2 of commercial development.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/96	
ANPRM Comment Period End	08/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Murray Lumpkin, M.D., Deputy Center Director, (Review Management), Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD-2), 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-5417
Fax: 301 594-6197

RIN: 0910–AA83

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Food and Drug Administration (FDA)

Proposed Rule Stage

957. OVER-THE-COUNTER (OTC) DRUG REVIEW

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 321p; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360a; 21 USC 371a

CFR Citation: 21 CFR 310; 21 CFR 330; 21 CFR 333; 21 CFR 334; 21 CFR 335; 21 CFR 336; 21 CFR 337; 21 CFR 338; 21 CFR 339; 21 CFR 340; 21 CFR 341; 21 CFR 342; 21 CFR 343; 21 CFR 344; 21 CFR 345; ...

Legal Deadline: None

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. NOTE: NPRM for "Antidotes, Toxic Ingestion Products" was combined with NPRM for "Emetic Products" and reproposed as "Poison Treatment Products." NPRM for "Astringent (Wet Dressings) Products" was included in the NPRM for "Skin Protectant Products." NPRM for "Diaper Rash Products" was included in NPRMs for "Antifungal," "Antimicrobial," "External Analgesic" and "Skin Protectant Products." NPRM for "Fever Blister/Cold Sore Products (External)" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Insect Bites and Stings (Relief) Products" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." "Poison Ivy/Oak/Sumac Prevention" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Mercurial (Topical) Products" was included in revised NPRM for "Antimicrobial Products." NPRM for "Alcohol (Topical) Products" was included in revised NPRM for "Antimicrobial Products." The NPRM for "Antimicrobial Products" was updated and split into two sections: First Aid Products and Health Care Products.

SMALL ENTITIES AFFECTED: The effects, if any, vary depending on the individual rulemaking. However, the Agency anticipates that the rules would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

Timetable:

Acne (Topical) Products
ANPRM 03/23/82 (47 FR 12430)
NPRM 01/15/85 (50 FR 2172)
NPRM (Amendment) 08/07/91 (56 FR 37622)
Final Action 08/16/91 (56 FR 41008)

Alcohol (Oral) in OTC Drug Products
NPRM 10/21/93 (58 FR 54466)
Final Action 03/13/95 (60 FR 13590)
NPRM (Amendment) 05/00/96

Alcohol (Topical) Products (To be merged w/other rulemkg)
ANPRM 05/21/82 (47 FR 22324)

Anorectal Products
ANPRM 05/27/80 (45 FR 35576)
NPRM 08/15/88 (53 FR 30756)
Final Action 08/03/90 (55 FR 31776)
Final Action (LYCD) 09/02/93 (58 FR 46746)
Final Action (Witch Hazel) 06/03/94 (59 FR 28766)

Antacid Drug Products
ANPRM 04/05/73 (38 FR 8714)
NPRM 11/12/73 (38 FR 31260)
Final Action 06/04/74 (39 FR 9862)
NPRM (Amendment) (Overindulgence) 12/24/91 (56 FR 66754)
Final Action (Amendment) (Warning) 08/26/93 (58 FR 45204)
NPRM (Amendment) (Testing) 09/23/93 (58 FR 49826)
NPRM (Amendment)(Sodium Bicarb.) 02/02/94 (59 FR 5060)
Final Action (Technical Amendment) 11/25/94 (59 FR 60555)
Final Action (Amendment) (Testing) 02/08/96 (61 FR 4822)

Anthelmintic Products
ANPRM 09/09/80 (45 FR 59541)
NPRM 08/24/82 (47 FR 37062)
Final Action 08/01/86 (51 FR 27756)

Antibiotic First Aid Products
ANPRM 04/01/77 (42 FR 17642)
NPRM 07/09/82 (47 FR 29986)
Final Action 12/11/87 (52 FR 47312)
NPRM (Amendment) 08/18/89 (54 FR 34188)
Final Action 03/15/90 (55 FR 9721)
NPRM (Amendment) 05/11/90 (55 FR 19868)
NPRM (Amendment) 06/08/90 (55 FR 23450)
Final Action (Amendment) 10/03/90 (55 FR 40379)
Final Action (Amendment) 12/05/90 (55 FR 50171)
NPRM (Amendment) (Warning) 02/14/96 (61 FR 5918)

Anticaries Products
ANPRM 03/28/80 (45 FR 20666)
NPRM 09/30/85 (50 FR 39854)
NPRM 06/15/88 (53 FR 22430)
Final Action 10/06/95 (60 FR 52474)

Antidiarrheal Products
ANPRM 03/21/75 (40 FR 12924)
NPRM 04/30/86 (51 FR 16138)
Final Action 08/00/96

Antidotes, Toxic Ingestion Prdts (New Poison Treatment Prdts)
ANPRM 01/05/82 (47 FR 444)

Antiemetic Products
ANPRM 03/21/75 (40 FR 12934)
NPRM 07/13/79 (44 FR 41064)
Final Action 04/30/87 (52 FR 15886)
NPRM (Amendment) 08/26/93 (58 FR 45216)
Final Action 04/11/94 (59 FR 16981)

Antiflatulent Drug Products
NPRM 11/12/73 (38 FR 31260)
Final Action 06/04/74 (39 FR 19877)
NPRM (Amendment) 01/29/88 (53 FR 2716)
Final Action (Amendment) 03/05/96 (61 FR 8836)

Antifungal (Topical) Products
ANPRM 03/23/82 (47 FR 12480)
NPRM 12/12/89 (54 FR 51136)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25240)
Final Action (Amdt.)(Diaper Rash) 12/18/92 (57 FR 60430)
Final Action (Partial) 09/02/93 (58 FR 46744)
Final Action 09/23/93 (58 FR 49890)

Antimicrobial Products
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25246)

Antiperspirant Products
ANPRM 10/10/78 (43 FR 46694)
NPRM 08/20/82 (47 FR 36492)
Final Action 00/00/00

Antiseptic First Aid
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Revised) 07/22/91 (56 FR 33644)
Final Action 00/00/00

Antiseptic Products (Professional Use)
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
NPRM (Revised) 06/17/94 (59 FR 31402)

Aphrodisiac Products
ANPRM 10/01/82 (47 FR 43572)
NPRM 01/15/85 (50 FR 2168)
Final Action 07/07/89 (54 FR 28780)

Aspirin (Heart Labeling)
NPRM 10/20/93 (58 FR 54224)

Aspirin (Reye Syndrome)
NPRM 10/20/93 (58 FR 54228)

Astringent (Wet Dressings) Prdts (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39436)

Benign Prostatic Hypertrophy Products
ANPRM 10/01/82 (47 FR 43566)
NPRM 02/20/87 (52 FR 5406)
Final Action 02/27/90 (55 FR 6926)

Boil Ointments
ANPRM 06/29/82 (47 FR 28306)
NPRM 01/26/88 (53 FR 2198)
Final Action 11/15/93 (58 FR 60332)

Camphorated Oil Drug Products
ANPRM 09/26/80 (45 FR 63869)
Final Action 09/21/82 (47 FR 41716)

HHS—FDA

Proposed Rule Stage

Cholecystokinetic Products
ANPRM 02/12/80 (45 FR 9286)
NPRM 08/24/82 (47 FR 37068)
Final Action 06/10/83 (48 FR 27004)
NPRM (Amendment) 08/15/88 (53 FR 30786)
Final Action (Amendment) 02/28/89 (54 FR 8320)

Corn and Callus Remover Products
ANPRM 01/05/82 (47 FR 522)
NPRM 02/20/87 (52 FR 5412)
Final Action 08/14/90 (55 FR 33258)

Cough/Cold (Anticholinergic) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 11/08/85 (50 FR 46582)

Cough/Cold (Antihistamine) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2200)
NPRM (Amendment) 08/24/87 (52 FR 31892)
Final Action 12/09/92 (57 FR 58356)
Final Action (Amendment)(Warning) 01/28/94 (59 FR 4216)

Cough/Cold (Antitussive) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/19/83 (48 FR 48576)
Final Action 08/12/87 (52 FR 30042)
NPRM (Amendment) 07/06/89 (54 FR 28442)
NPRM (Amendment) 10/02/89 (54 FR 40412)
Final Action (Amendment) 07/06/90 (55 FR 27806)
Final Action (Amendment) 10/03/90 (55 FR 40381)
NPRM (Amendment)(Warning) 06/19/92 (57 FR 27666)
NPRM (Amendment)(Ingredients) 12/09/92 (57 FR 58378)
Final Action (Amendment)(Warning) 10/20/93 (58 FR 54232)
Final Action (Amdt.)(Ingredients) 06/03/94 (59 FR 29172)

Cough/Cold (Bronchodilator) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/26/82 (47 FR 47520)
Final Action 10/02/86 (51 FR 35326)
NPRM (Amendment)(Warning) 06/19/92 (57 FR 27662)
Final Action (Amendment)(Warning) 10/20/93 (58 FR 54238)
NPRM (Amendment)(MDI) 03/09/95 (60 FR 13014)
NPRM (Amendment)(Ephedrine) 07/27/95 (60 FR 38643)
Final Action (Amendment) (MDI) 05/00/96

Cough/Cold (Combination) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 08/12/88 (53 FR 30522)
NPRM (Amendment)(DPH Combinations) 02/23/95 (60 FR 10266)
Final Action Theophylline 07/27/95 (60 FR 38636)
Final Action 09/00/96

Cough/Cold (Diphenhydramine) Products
Final Action/Enforcement Policy 04/09/96 (61 FR 15700)

Cough/Cold (Expectorant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)
Final Action 02/28/89 (54 FR 8494)
Final Action (Technical Changes) 06/30/92 (57 FR 29176)

Cough/Cold (Expectorant/Ipecac) Products
Final Action 09/14/92 (57 FR 41857)

Cough/Cold (Nasal Decongestant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2220)
NPRM (Amendment) 06/19/92 (57 FR 27658)
Final Action 08/23/94 (59 FR 43386)
Final Action; Partial Stay 03/08/96 (61 FR 9570)
NPRM (Phenylpropanolamine) 09/00/96

Dandruff, Seborrheic Dermatitis and Psoriasis Control Products
ANPRM 12/03/82 (47 FR 54646)
NPRM 07/30/86 (51 FR 27346)
Final Action 12/04/91 (56 FR 63554)
NPRM (Amendment) 04/05/93 (58 FR 17554)
Final Action 01/28/94 (59 FR 4000)

Daytime Sedatives
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 06/22/79 (44 FR 36378)

Diaper Rash Products (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39406)

Digestive Aid Products
ANPRM 01/05/82 (47 FR 454)
NPRM 01/29/88 (53 FR 2706)
Final Action 10/21/93 (58 FR 54450)

Eligibility Criteria for Additional Conditions
ANPRM 07/00/96

Emetic Products
ANPRM 03/21/75 (40 FR 12939)
NPRM 09/05/78 (43 FR 39544)

Exocrine Pancreatic Insufficiency Products
ANPRM 12/21/79 (44 FR 75666)
NPRM 11/08/85 (50 FR 46594)
NPRM (Reproposed) 07/15/91 (56 FR 32282)
Final Action 04/24/95 (60 FR 20162)

External Analgesic Products
ANPRM 12/04/79 (44 FR 69768)
NPRM 02/08/83 (48 FR 5852)
NPRM (Amendment) (Dandruff) 07/30/86 (51 FR 27360)
NPRM (Amendment) (Anorectal) 08/25/88 (53 FR 32592)
NPRM (Amendment) (Poison Ivy) 10/03/89 (54 FR 40818)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/90 (55 FR 3370)
NPRM (Amendment) (1%Hydrocortisone) 02/27/90 (55 FR 6932)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25234)
Final Action (Diaper Rash) 12/18/92 (57 FR 60426)
Final Action 00/00/00

Fever Blister Products (Internal)
ANPRM 01/05/82 (47 FR 502)
NPRM 06/17/85 (50 FR 25158)
Final Action 06/30/92 (57 FR 29166)

Fvr Blister/Cold Sore Prdts (Ext.) (To be merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39436)

Hair Grower and Hair Loss Prevention Products
ANPRM 11/07/80 (45 FR 73955)
NPRM 01/15/85 (50 FR 2190)
Final Action 07/07/89 (54 FR 28772)

Hormone (Topical) Products
ANPRM 01/05/82 (47 FR 430)
NPRM 10/02/89 (54 FR 40618)
Final Action 09/09/93 (58 FR 57608)

Hypo/Hyperphosphatemia Products
ANPRM 12/09/80 (45 FR 81154)
NPRM 01/15/85 (50 FR 2160)
Final Action 05/11/90 (55 FR 19852)

Ingrown Toenail Relief Products
ANPRM 10/17/80 (45 FR 69128)
NPRM 09/03/82 (47 FR 39120)
Final Action 09/09/93 (58 FR 47602)

Insect Bite & Sting (Relief) Prdts (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)

Insect Repellent Drug Products (Internal)
ANPRM 01/05/82 (47 FR 424)
NPRM 06/10/83 (48 FR 26986)
Final Action 06/17/85 (50 FR 25170)

Internal Analgesic Products
ANPRM 07/08/77 (42 FR 35346)
NPRM 11/16/88 (53 FR 46204)
NPRM (Amendment) (Overindulgence) 12/24/91 (56 FR 66762)
NPRM (Amdt.)(Sodium Bicarbonate) 02/02/94 (59 FR 5068)
NPRM (Prof. Labeling)(Acute MI) 06/00/96
Final Action (Cardio/Cerebrovascular) 09/00/96
NPRM (Amendment)(Alcohol Warning) 09/00/96
NPRM (Labeling-revised indications) 09/00/96

Internal Analgesic Products (Overindulgence)
Final Action 00/00/00

Internal Deodorant Products
ANPRM 01/05/82 (47 FR 512)
NPRM 06/17/85 (50 FR 25162)
Final Action 05/11/90 (55 FR 19862)

Labeling of Drug Products for OTC Use
NPRM 04/05/93 (58 FR 17553)
Final Action 01/28/94 (59 FR 3998)
NPRM (Do not mix drugs) 06/03/94 (59 FR 39499)
NPRM (Amendment) (Do not mix drugs) 10/04/95 (60 FR 52058)
NPRM (Unless a doctor tells you) 03/04/96 (61 FR 8450)
NPRM (Calcium/Magnesium/Potassium) 04/22/96 (61 FR 17807)
NPRM (Format/Examples) 06/00/96

Laxative Products
ANPRM 03/21/75 (40 FR 12902)
NPRM 01/15/85 (50 FR 2124)
NPRM (Amendment) (Directions/Bulk) 10/01/86 (51 FR 35136)
NPRM (Amendment) (Docusate Salts) 09/02/93 (58 FR 46589)
NPRM (Amendment)(Sodium Phosphates) 03/31/94 (59 FR 15139)
Final Action (Sodium Phosphates) 09/00/96
NPRM (Amendment)(Phosphates Label.) 09/00/96
Final Action 09/00/96

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Leg Muscle Cramps (Nocturnal Relief) Products
ANPRM 10/01/82 (47 FR 43562)
NPRM 11/08/85 (50 FR 46588)
Final Action 08/22/94 (59 FR 43234)
Male Genital Desensitizer Products
ANPRM 09/07/82 (47 FR 39412)
NPRM 10/02/85 (50 FR 40260)
Final Action 06/19/92 (57 FR 27654)
Menstrual Products
ANPRM 12/07/82 (47 FR 55075)
NPRM 11/16/88 (53 FR 46194)
Mercurial (Topical) Products (To be merged w/other rulemkg)
ANPRM 01/05/82 (47 FR 436)
Nailbiting/Thumbsucking Deterrent Products
ANPRM 10/17/80 (45 FR 69122)
NPRM 09/03/82 (47 FR 39096)
Final Action 09/02/93 (58 FR 46749)
Nighttime Sleep Aid Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/14/89 (54 FR 6814)
NPRM (Amendment) 08/26/93 (58 FR 45217)
Final Action (Amendment) 04/11/94 (59 FR 16982)
NDA Labeling Exclusivity
NPRM 11/09/93 (58 FR 59622)
Ophthalmic Products
ANPRM 05/06/80 (45 FR 30002)
NPRM 06/28/83 (48 FR 29788)
Final Action 03/04/88 (53 FR 7076)
Final Action (Anti-infective) 12/18/92 (57 FR 60416)
Oral Discomfort (Relief) Products
ANPRM 05/25/82 (47 FR 22712)
NPRM 09/24/91 (56 FR 48302)
Oral Health Care Products
ANPRM 05/25/82 (47 FR 22760)
NPRM 01/27/88 (53 FR 2436)
NPRM (Amendment) (Antimicrobials) 02/09/94 (59 FR 6084)
Final Action 00/00/00
Oral Mucosal Injury Products (Merged w/Oral Health Care)
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)
Oral Wound Healing Products
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33984)
Final Action 07/18/86 (51 FR 26112)
Otic Products (Dry Water-Clogged Ears)
NPRM (Amendment) 07/00/96
Otic Products (Earwax)
NPRM 07/09/82 (47 FR 30012)
Final Action 08/08/86 (51 FR 28656)
Otic Products (Swimmers Ear)
NPRM 07/30/86 (51 FR 27366)
Final Action 02/15/95 (60 FR 8916)
Final Action Partial Stay 08/16/95 (60 FR 42435)
Overindulgence Remedies
ANPRM 10/01/82 (47 FR 43540)
NPRM 12/24/91 (56 FR 66742)
NPRM (Amendment)(Warning) 05/05/93 (58 FR 26886)
Overindulgence Remedies/Prevention of Inebriation
ANPRM 10/01/82 (47 FR 43540)
Final Action 07/19/83 (48 FR 32872)
Pediculicide Products
ANPRM 06/29/82 (47 FR 28312)
NPRM 04/03/89 (54 FR 13480)
Final Action 12/14/93 (58 FR 65452)
Phenylpropanolamine Products (Labeling)
NPRM 02/14/96 (61 FR 3912)
Poison Ivy/Oak/Sumac Prevention (Merged w/other rulemkg)
ANPRM 09/07/82 (47 FR 39412)
Poison Treatment Products
NPRM 01/15/85 (50 FR 2244)
NPRM (Amendment) 07/00/96
Final Action 09/00/96
Quinine for Malaria
NPRM 04/19/95 (60 FR 19650)
Final Action 09/00/96
Reporting of Adverse Reactions
NPRM 07/00/96
Skin Bleaching Products
ANPRM 11/03/78 (43 FR 51546)
NPRM 09/03/82 (47 FR 39108)
NPRM (Reproposed) 09/00/96
Skin Protectant Products
ANPRM 08/04/78 (43 FR 34628)
NPRM 02/15/83 (48 FR 6820)
NPRM (Amendment) (Astringent) 04/03/89 (54 FR 13490)
NPRM (Amendment) (Poison Ivy) 10/03/89 (54 FR 40808)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/90 (55 FR 3362)
NPRM (Amendment) (Diaper Rash) 06/20/90 (55 FR 25204)
Final Action (Astringent) 10/21/93 (58 FR 54466)
Final Action (Witch Hazel) 06/03/94 (59 FR 28767)
Final Action (Poison Ivy) 08/00/96
Final Action 08/00/96
Smoking Deterrent Products
ANPRM 01/05/82 (47 FR 490)
NPRM 07/03/85 (50 FR 27552)
Final Action 06/01/93 (58 FR 31236)
Sodium Labeling
NPRM 04/25/91 (56 FR 19222)
Final Action 04/22/96 (61 FR 17798)
Status of Certain Category II and III Ingredients
NPRM 05/16/90 (55 FR 20434)
Final Action 11/07/90 (55 FR 46914)
NPRM 08/25/92 (57 FR 38568)
Final Action 05/10/93 (58 FR 27636)
Stimulant (Overindulgence) Products
NPRM (Amendment) 12/24/91 (56 FR 66758)
Stimulant Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 02/29/88 (53 FR 6100)
Stomach Acidifier Products
ANPRM 10/19/79 (44 FR 60316)
NPRM 01/15/85 (50 FR 2184)
Final Action 08/17/88 (53 FR 31270)
Sunscreen Products
ANPRM 08/25/78 (43 FR 38206)
NPRM 05/12/93 (58 FR 28194)
NPRM (Amendment) 06/08/94 (59 FR 29706)
Sweet Spirits of Nitre
ANPRM 02/22/80 (45 FR 11846)
Final Action 06/27/80 (45 FR 43400)
Topical Drug Products Containing Benzoyl Peroxide (Labeling)
NPRM 02/17/95 (60 FR 9554)
Vaginal Contraceptive Products
ANPRM 12/12/80 (45 FR 82014)
NPRM 02/03/95 (60 FR 6892)
Vaginal Drug Products
ANPRM 10/13/83 (48 FR 46694)
Withdrawal 02/03/95 (60 FR 5226)
Vitamin/Mineral Products
ANPRM 03/16/79 (44 FR 16126)
Withdrawal 11/27/81 (46 FR 57914)
Wart Remover Products
ANPRM 10/03/80 (45 FR 65609)
NPRM 09/03/82 (47 FR 39102)
NPRM (Amendment) 03/27/87 (52 FR 9992)
Final Action 08/14/90 (55 FR 33246)
NPRM (Amendment)(Directions) 01/28/94 (59 FR 4015)
Final Action (Amdt.)(Directions) 11/23/94 (59 FR 60315)
Water Soluble Gums
NPRM 10/30/90 (55 FR 45782)
Final Action 08/26/93 (58 FR 45194)
Weight Control Products
ANPRM 02/26/82 (47 FR 8466)
NPRM 10/30/90 (55 FR 45788)
Final Action 08/08/91 (56 FR 37792)
NPRM (Amendment) 06/00/96

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AA06.

NOTE: Reinventing government applies only to the Antacid Drug Products final action.

Agency Contact: William E. Gilbertson, Assoc. Commissioner for OTC Drug Monographs, Office of Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-105), 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-2304

RIN: 0910–AA01

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958. INFANT FORMULA: GOOD MANUFACTURING PRACTICE, QUALITY CONTROL PROCEDURES, QUALITY FACTORS, NOTIFICATION REQUIREMENTS, AND RECORDS AND REPORTS

Priority: Other Significant

Legal Authority: 21 USC 350a

CFR Citation: 21 CFR 107; 21 CFR 106

Legal Deadline: None

Abstract: The agency published on December 24, 1991, a final rule implementing certain aspects of the Infant Formula Act of 1986. The rule establishes infant formula record and record retention requirements. The agency is preparing a proposed rule that will establish current good manufacturing practice regulations, quality control procedures, quality factors, notification requirements, and reports for the production of infant formulas.

Timetable:

Action	Date	FR Cite
Current Good Mfg. Practices; Qual Control Proc		
NPRM	07/00/96	
NPRM (Comment Period End)	10/00/96	
Infant Form Cons Comp, Micro Test & Recd Retention Req		
NPRM	01/26/89	54 FR 3783
NPRM (Comment Period End)	03/27/89	
Final Rule	12/24/91	56 FR 66566

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AC46.

Agency Contact: Carolyn W. Miles, Nutritionist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-456), 200 C Street SW., Washington, DC 20204
Phone: 202 205-5372

RIN: 0910–AA04

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959. IMPLEMENTATION OF THE SAFE MEDICAL DEVICES ACT OF 1990

Priority: Other Significant

Legal Authority: PL 101-629 Safe Medical Devices Act of 1990

CFR Citation: 21 CFR 860; 21 CFR 820; 21 CFR 807; 21 CFR 803; 21 CFR 17; 21 CFR 812; 21 CFR 7; 21 CFR 814; 21 CFR 821; 21 CFR 861; 21 CFR 895

Legal Deadline:
NPRM, Statutory, August 28, 1991, for Medical Device Tracking.
Final, Statutory, November 28, 1991, for Exemption ofHumanitarian Devices, etc.
Other, Statutory, December 1, 1991, for Classification ofTransitional Devices Notice.
Final, Statutory, August 28, 1993, for Medical Device Tracking.

Abstract: The Safe Medical Devices Act of 1990 (SMDA), enacted November 28, 1990, was intended to assure marketed devices are safe and effective, FDA learns quickly of device problems, and has authority to remove defective devices from the market. The act directs or authorizes FDA to develop these regulations: Medical Device Reporting--These rules require healthcare facilities and distributors to report deaths and serious injuries/illnesses related to medical devices. Medical Device Tracking--This regulation requires manufacturers to track certain devices to the user. Classification of Transitional Devices--FDA issued a notice to require submission of adverse safety and effectiveness data on transitional devices. FDA will now propose to keep each device in class III, or reclassify it in class I or II. Good Manufacturing Practices for Medical Devices--FDA proposed to add preproduction design validation in existing CGMP regulations. Exemption of Humanitarian Devices--The proposed rule gives procedures for applications for certain premarket review exemptions for humanitarian devices.

Summaries of Safety and Effectiveness for Premarket Notification--The final rule sets forth information to be included in data summaries on which substantial equivalence determinations are made. Recall of Medical Devices--A proposed rule sets forth procedures for using authority to order device recalls and notifications. Reports of Removal and Corrections--FDA proposed procedures for manufacturers to report to FDA health-related market removals and corrections of devices. Civil Money Penalties--A final rule established procedures for a hearing to which persons are entitled before the imposition of civil money penalties. Procedural Changes in Medical Device Regulations--This final rule made revisions in regulations necessary because of procedural changes made by the SMDA. Premarket Review of Combination Products--FDA published a final rule establishing procedures for determining which FDA center will review premarket approval applications for products that are a combination of a device and a drug or biologic.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	
Assignment of Agency Component for Review of Premarket Applctns		
Notice (Public Hearing)	07/12/91	56 FR 31951
Final Action	11/21/91	56 FR 31951
Civil Money Penalties		
NPRM	05/26/93	58 FR 30680
Final Action	07/27/95	60 FR 38612
Classification of Transitional Devices		
Notice	11/14/91	56 FR 57960
Notice(Extension of Comment Period)	03/10/92	57 FR 8462
Notice (Extension of Deadline)	11/30/92	57 FR 56586
Final Rule (Contact Lenses)	03/04/94	59 FR 10283
CGMPs for Medical Devices		
ANPRM (Revisions;Request for Cmnts)	06/15/90	55 FR 24544
ANPRM (Suggested Changes;Availblty)	11/30/90	55 FR 49644
ANPRM (Extension of Comment Period)	02/14/91	56 FR 5965
Notice (Open Public Advsy Cmte Mtg)	04/17/91	56 FR 15626
NPRM	11/23/93	58 FR 61952
NPRM	07/24/95	60 FR 37856
Final Action	06/00/96	
Distributor Reporting		
NPRM	06/00/96	
Exemption of Humanitarian Devices		
NPRM	12/21/92	57 FR 60491
Final Action	06/00/96	
Medical Device Recall Authority		
NPRM	06/14/94	59 FR 30656
NPRM (Correction)	06/23/94	59 FR 32489
Final Action	06/00/96	
Medical Device Reporting		
Notice (Public Conf; Rqst for Info)	03/28/91	56 FR 12934
NPRM	11/26/91	56 FR 60024
Final Rule (Distributor Reporting)	09/01/93	58 FR 46514
Final Action	12/11/95	60 FR 63578
Final Action(Ext.Eff.Date-7/31/96)	04/11/96	61 FR 16043
Medical Device Tracking		
NPRM	03/27/92	57 FR 10702
NPRM	05/29/92	57 FR 22971
Final Action	05/29/92	57 FR 22966
Final Action (Not Stat Eff Date	08/16/93	58 FR 43442
Miscellaneous Procedural Changes in Medical Device Regulations		
Final Action	12/10/92	57 FR 58400
Pre-Amendment Class III Devices (merged with 0905-AE34)		
Notice	05/06/94	59 FR 23731
Reports of Removals and Corrections of Medical Devices		
NPRM	06/04/94	59 FR 13828
Final Action	06/00/96	
Safe Medical Devices Act of 1990; Implementation Plans		
Notice	04/05/91	56 FR 14111
Summaries of Safety & Effectiveness for Premarket Notification		
Final Action	04/28/92	57 FR 18062
Notice (Stay of Effective Date)	06/01/92	57 FR 23059
Final Action	12/14/94	59 FR 64287
Temporary Suspension of a Premarket Approval Application		
NPRM	10/12/93	58 FR 52729
Final Action	06/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: Previously reported under RIN 0905-AD59.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA09

960. REPORTING OF ERRORS AND ACCIDENTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360i; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262 to 264

CFR Citation: 21 CFR 600; 21 CFR 606

Legal Deadline: None

Abstract: All licensed manufacturers are required to notify FDA promptly of errors or accidents in the manufacture of products that may affect the safety, purity, or potency of any distributed biological product (21 CFR 600.14). The reporting of certain errors or accidents occurring in the manufacture of blood and blood components is necessary so that FDA can respond where the public health may be endangered and provide added assurance as to the continued safety, identity, quality, purported quality, and purity of blood and blood components. FDA has determined that errors and accidents that are detected and corrected before a finished unit is removed from the unprocessed inventory and made available for release and distribution do not affect the safety of the blood supply and need not be reported to the Agency. The proposed rule would require licensed establishments, unlicensed establishments, and transfusion services to report and keep records. The cost to licensed establishments would be minimal. Since they already are required to report, licensed establishments would only have to make some changes in standard operating procedures. Unlicensed establishments are already required to keep records and conduct investigations. Under the proposed rule they would have to establish reporting procedures and report to FDA. The transfusion services would have to assure that their recordkeeping and investigation procedures are sufficient and establish reporting procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
NPRM Comment Period End	02/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD67.

Agency Contact: Paula S. McKeever, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-650), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 594-1077

RIN: 0910–AA12

961. MAMMOGRAPHY QUALITY STANDARDS ACT OF 1992

Priority: Economically Significant

Legal Authority: PL 102-539 Mammography Quality Standards Act of 1992; 42 USC 263b

CFR Citation: 21 CFR 900

Legal Deadline: Final, Statutory, July 27, 1993.
Standards for accreditation bodies are required by July 27, 1993.

Abstract: The purpose of the Mammography Quality Standards Act of 1992 (MQSA), enacted October 27, 1992, is to assure quality in all aspects of the practice of mammography. The primary mechanism for this is oversight of all mammography facilities through a certification and inspection program. Only facilities certified by the Secretary are permitted to produce, process, or interpret mammographic images. The statute also required the establishment of an advisory committee to advise on appropriate quality standards and also provided for the establishment of surveillance systems to evaluate breast cancer screening programs.

The agency published interim regulations on December 21, 1993, which were drafted and implemented so as to maximize lawful operation by facilities under existing quality standards, and to ensure adequate examinee access to quality mammography during the transition to more comprehensive national standards.

Concurrent with the implementation of the interim rules, FDA has proceeded with the development of proposed regulations to replace the interim rules. The agency recently issued proposed rules, with the advice and consultation of the National Mammography Quality Assurance Advisory Committee, on requirements for accreditation bodies, equipment and quality assurance requirements, facility requirements, and personnel requirements.

Timetable:

Action	Date	FR Cite
Alternative Approaches		
NPRM	04/03/96	61 FR 14856
Approval of Accrediting Bodies		
Interim Final Rule	12/21/93	58 FR 67558
Draft Proposed Quality Standards		
Notice of Availability	01/26/95	60 FR 5152
Draft X-Ray and Medical Physicist Standards Proposals		
Notice of Availability;	12/30/94	59 FR 67710
General Facility Requirements		
NPRM	04/03/96	61 FR 14870
Mammography Quality Standards Act of 1992; Inspection Fees		
Notice	03/17/95	60 FR 4584
Personnel Requirements		
NPRM	04/03/96	61 FR 14898
Quality Standards for Mammography Equipment and QA		
NPRM	04/03/96	61 FR 14908
Quality Standards for Mammography Facilities		
Interim Final Rule	12/21/93	58 FR 67565
Quality Standards/Certification Rqmts.		
Interim Final Rule	09/30/94	59 FR 49808
Requirements for Accreditation Bodies and Quality Standards		
Notice (Advisory Committee)	12/21/94	59 FR 65776
NPRM	04/03/96	61 FR 14884

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AE07.

Agency Contact: Charles K. Showalter, Office of Health and Industry Programs, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-240), 1350 Piccard Drive Rockville, MD 20850
Phone: 301 594-3332

RIN: 0910–AA24

962. LATEX CONDOMS: EXPIRATION DATE LABELING

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 351; 21 USC 352

CFR Citation: 21 CFR 801

Legal Deadline: None

Abstract: Latex condoms are used as a barrier to transmission of diseases through bodily fluids, including AIDS. Latex deteriorates over time, reducing its utility as a barrier. The proposed rule would require manufacturers of these products to perform testing to establish an appropriate expiration date for their products and to place that date on their labeling.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE37.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA32

963. LATEX WARNING

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 352

CFR Citation: 21 CFR 801

Legal Deadline: None

Abstract: Certain persons may be subject to severe adverse reaction upon contact with latex. Therefore, FDA would propose to require that devices containing latex have a warning in the labeling concerning the presence of latex and the potential risk. This will enable health professionals and consumers to make an informed choice concerning the use of a device.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE40.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA34

964. HEARING AIDS; PROFESSIONAL AND PATIENT LABELING; CONDITIONS FOR SALE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 351; 21 USC 352; 21 USC 360d; 21 USC 371; 21 USC 360j(e)

CFR Citation: 21 CFR 801.420; 21 CFR 801.421

Legal Deadline: None

Abstract: FDA is considering revising its present regulation governing the labeling and conditions for sale of hearing aids. The present rule requires an examination by a physician before purchase of a hearing aid, but permits an informed adult to waive that requirement. There is some evidence that this waiver provision is being misused. FDA is reconsidering which types of health professionals are competent to perform hearing evaluations. FDA is also considering revisions to its professional and patient labeling to require updated information.

Timetable:

Action	Date	FR Cite
ANPRM	11/10/93	58 FR 59695
ANPRM Comment Period End	01/10/94	
NPRM	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: Previously reported under RIN 0905-AE46.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA39

965. HUMAN TISSUE INTENDED FOR TRANSPLANTATION

Priority: Other Significant

Legal Authority: 42 USC 216; 42 USC 243; 42 USC 264; 42 USC 271

CFR Citation: 21 CFR 1270

Legal Deadline: None

Abstract: FDA is issuing a final rule requiring certain infectious disease testing, donor screening, and recordkeeping to help prevent the transmission of AIDS and hepatitis through human tissue used in transplantation. FDA is also clarifying and modifying those requirements previously promulgated by the interim rule. In addition, FDA is amending the regulations to require the registration of those establishments engaged in procurement, processing, storage, or distribution of human tissue intended for transplantation. Also, FDA will be proposing regulations to govern the recovery, processing, storage, or distribution of human reproductive tissue.

Timetable:

Action	Date	FR Cite
Interim Rule; Opport. for Comment	12/14/93	58 FR 65514
Interim Rule; Comment Period End	03/14/94	
NPRM	10/00/96	
NPRM Comment Period End	01/00/97	
Final Action	02/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AE49.

Agency Contact: Tracey Forfa, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-630), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 594-3074

RIN: 0910–AA40

966. ANIMAL MEDICINAL DRUG USE CLARIFICATION ACT OF 1994; EXTRA-LABEL USE; IMPLEMENTATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-396

CFR Citation: None

Legal Deadline: Final, Statutory, October 22, 1996.
Two years after bill was signed into law (10/22/94).

Abstract: Upon promulgation of regulations, the Animal Drug Amendments of 1994 will allow licensed veterinarians to prescribe off-label use of approved animal and human drugs for animals under certain circumstances within limits set by FDA. If the Secretary finds there is a reasonable probability that a use may present a risk to the public, the Secretary may establish a safe level for residues of such use by order and require the development of analytical methods for detection of resultant residues. If the Secretary finds, after affording an opportunity for public comment, that a use presents a risk to public health or if no analytical method is developed, when called for, the Secretary may prohibit such use. The Secretary may also, by regulation, provide access to veterinarian records to ascertain any use or intended extra-label use that may present a risk to public health. The proposed rule will implement the statute by providing policies, procedures, and limitations on extra-label use and by setting the circumstances and conditions for Agency examination of veterinarian records.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE66.

Agency Contact: Richard L. Arkin, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-238), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1737

RIN: 0910–AA47

967. REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 360; 21 USC 371

CFR Citation: 21 CFR 207

Legal Deadline: None

Abstract: The proposed rule would revise and clarify the regulations under part 207 to reduce the burden on manufacturers, packers, and distributors, and to consolidate and streamline the requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard Muller, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 7500 Standish Place Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA49

968. BIOAVAILABILITY AND BIOEQUIVALENCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 357; 21 USC 371

CFR Citation: 21 CFR 320

Legal Deadline: None

Abstract: The proposed rule would revise and clarify certain sections of part 320 to eliminate duplication and inconsistencies.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christine Rogers, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 7500 Standish Place Rockville, MD 20855
Phone: 301 594-1046
Fax: 301 827-0901

RIN: 0910–AA51

969. CONSOLIDATION OF REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 371

CFR Citation: 21 CFR 200.30; 21 CFR 200.31; 21 CFR 250.10; 21 CFR 250.103; 21 CFR 250.106; 21 CFR 310.502; 21 CFR 310.504-510; 21 CFR 310.513; 21 CFR 310.525; 21 CFR 310.526

Legal Deadline: None

Abstract: FDA is proposing to consolidate into one section a list of drugs previously determined to be new drugs. This document would also remove the section now providing for these drugs. This action, which will make the regulations more concise and efficient, is being taken in response to the President's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary E. Catchings, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 7500 Standish Place Rockville, MD 20855
Phone: 301 594-2041

Fax: 301 827-0901

RIN: 0910–AA53

970. NAME OF SELLING AGENT OR DISTRIBUTOR

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360i; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262 to 264

CFR Citation: 21 CFR 610

Legal Deadline: None

Abstract: This proposed rule proposes to allow distributors' and selling agents' names to be prominently displayed on biological product containers, package labels, and labeling, while retaining current product manufacturer labeling information. The proposed rule modifies the current requirement giving precedence to the name of the manufacturer by deleting the requirement for prominence of the name of the manufacturer. The proposed rule is intended to remove an impediment to flexible manufacturing, packaging, and distribution arrangements and to harmonize with the drug regulations (21 CFR 201).

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gloria Hicks, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-630), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 594-3074

RIN: 0910–AA56

971. CHANGES TO AN APPROVED APPLICATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 1451 to 1461; 21 USC 321; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360c to 360f; 21 USC 360u to 360j; 21 USC 371; 21 USC 374; 21 USC 379e; 21 USC 381; 42 USC 216; 42 USC 241; 42 USC 262 to 263

CFR Citation: 21 CFR 601

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is proposing to revise 21 CFR 601.12, which deals with proposed changes in the production of licensed biological products--for example, product labeling, production process, equipment, facilities, and responsible personnel. Currently, licenseholders must obtain FDA preapproval of all such changes through supplements to approved applications. In the proposed revision, FDA sets forth a process that is intended to reduce the burden on licenseholders by reducing the number of supplements submitted for changes and to result in more timely approval of changes in their products. The new process creates different mechanisms for reporting changes, based on their potential to affect adversely the safety, purity, potency, or effectiveness of the product. Proposed procedures for reporting changes in production include three categories:

No supplements to approved applications will be required. Firms would notify FDA of changes and dates of implementation in an annual report.

License holders would notify FDA not less than 30 days prior to implementing a change.

Changes would require FDA approval prior to implementation.

Timetable:

Action	Date	FR Cite
NPRM	01/29/96	61 FR 2739
NPRM Comment Period End	04/29/96	
Final Action	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Tracey Forfa, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-630), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 594-3074

RIN: 0910–AA57

972. DIETARY SUPPLEMENT REGULATIONS IN RESPONSE TO DSHEA

Priority: Routine and Frequent

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 101

Legal Deadline: None.

Abstract: On January 4, 1994, FDA published final rules relative to nutrition labeling, nutrient content claims and health claims for dietary supplements. The Dietary Supplement Health and Education Act (DSHEA) was enacted on October 25, 1995, modifying the provisions for labeling of dietary supplements. FDA is initiating rulemaking to modify its regulations for dietary supplements accordingly. One proposal would modify the nutrition labeling and ingredient declaration requirements. A second proposal would modify the provisions for nutrient content claims and health claims for the disclaimer to accompany statements of nutritional support. A third proposal would define the terms "high potency" and "antioxidant." These three proposals were published in the Federal Register on December 28, 1995.

Timetable:

High Potency and Antioxidant Terms; Dietary Supplements		
NPRM	12/28/95	(60 FR 67184)
Comment Period End	06/10/96	
Final Action	00/00/00	
Nutrition Content and Health Claims; Dietary Supplements		
NPRM	12/28/95	(60 FR 67176)
Comment Period End	06/10/96	
Final Action	00/00/00	
Nutrition Labeling and Ingredient Labeling; Dietary Supplements		
NPRM	12/28/95	(60 FR 67194)
Comment Period End	06/10/96	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: F. Edward Scarbrough, Director, Office of Food Labeling, Department of Health and

Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-150), 200 C Street SW. Washington, DC 20204
Phone: 202 205-4561
Fax: 202 205-4594

RIN: 0910–AA59

973. EXPORT REQUIREMENTS FOR DRUGS FOR INVESTIGATIONAL USE IN OTHER COUNTRIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 331; 21 USC 351 to 352; 21 USC 355 to 357; 21 USC 360; 21 USC 360b; 21 USC 360aa to 360dd; 21 USC 371 to 372; 21 USC 374; 21 USC 379e; 21 USC 379g; 21 USC 381 to 382; 21 USC 393; 42 USC 216; 42 USC 241; 42 USC 242l

CFR Citation: 21 CFR 312.110

Legal Deadline: None

Abstract: FDA is proposing to amend its regulations on investigational new drug products to streamline requirements for exports of unapproved drugs for investigational use in other countries. The proposal would permit an unapproved new drug product to be exported without prior FDA approval if the product is to be exported for use in a clinical investigation in any country. Persons exporting such products would be required to report to FDA the country receiving the unapproved new drug product, the consignee in the foreign country, the name of the drug product, and the quantity being exported. Thus, the proposal would eliminate the need to submit a written request to FDA and to obtain FDA approval before exporting an unapproved new drug product for use in a clinical investigation in a foreign country. The proposal carries out the President's and Vice-President's "National Performance Review" for drugs and is consistent with recent Congressional initiatives.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Horton, Director, International Policy Staff, Office of Policy (HF-23), Department of Health and Human Services, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3344

RIN: 0910–AA61

974. • HUMAN TISSUE INTENDED FOR TRANSPLANTATION AND HUMAN REPRODUCTIVE TISSUE INTENDED FOR FERTILIZATION, IMPLANTATION OR INSEMINATION

Priority: Other Significant

Legal Authority: 42 USC 216; 42 USC 243; 42 USC 264; 42 USC 271

CFR Citation: 21 CFR 1270

Legal Deadline: None

Abstract: The proposed rule will propose the registration of all establishments engaged in the recovery, processing, storage, or distribution of human tissue intended for transplantation or human reproductive tissue intended for fertilization, implantation, or insemination (and extend the existing rule requirements testing, screening and recordkeeping to such tissue).

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven F. Falter, Director, Division of Regulations and Policy, Department of Health and Human Services, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852
Phone: 301 594-3074
Fax: 301 443-3874
Email: Falter@A1.CBER.FDA.GOV

RIN: 0910–AA70

975. • ADVERSE EXPERIENCE REPORTING FOR HUMAN DRUG AND LICENSED BIOLOGICAL PRODUCTS; INCREASED FREQUENCY REPORTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 216; 21 USC 262 to 264; 21 USC 300; 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 21 USC 374; 42 USC 262

CFR Citation: 21 CFR 310; 21 CFR 314; 21 CFR 600

Legal Deadline: None

Abstract: The proposed rule would revoke the requirement for increased frequency reports to FDA for postmarketing adverse experience reporting.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Audrey Thomas, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD-7), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA72

976. • INVESTIGATIONAL NEW DRUG APPLICATIONS; CLINICAL HOLDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: The proposed rule will revise existing regulations to state that FDA will issue, within five working days after imposing a clinical hold, a written explanation to the sponsor describing the reasons for imposing the clinical hold. The proposed rule would also state that a clinical study may resume 30 calendar days after FDA receives the sponsor's complete reply to all issues raised in the clinical hold, unless FDA notifies the sponsor that it has reinstated the clinical hold.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Murray Lumpkin, MD, Deputy Center Director (Review Management), Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-2), 1451 Rockville Pike Rockville, MD 20852
Phone: 301 594-5417
Fax: 301 594-6197

RIN: 0910–AA73

977. • PARENTERAL DRUG PRODUCTS CONTAINING ALUMINUM AS AN INGREDIENT OR CONTAMINANT; LABELING REQUIREMENTS; WARNING STATEMENT

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379; 42 USC 216; 42 USC 241; 42 USC 262; 21 USC 264

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The proposed rule would establish a maximum level of aluminum permitted in large volume parenterals used in total parenteral nutrition therapy; require that the maximum aluminum content present at the time of release be stated on the immediate container label of certain small volume parenterals and pharmacy bulk packages; require that the package insert of all parenterals include a warning statement describing the effects of aluminum toxicity in patients with impaired kidneys receiving total parenteral nutrition therapy; and require manufacturers to develop validated assay methods for determining the aluminum content.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Erica L. Keys, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD-7), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA74

978. • LONG-TERM CONTRACEPTIVE DRUG PRODUCTS AND MEDICAL DEVICES; INFORMED CONSENT REQUIREMENTS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379; 42 USC 216; 42 USC 241; ...

CFR Citation: 21 CFR 201; 21 CFR 801

Legal Deadline: None

Abstract: The proposed rule would require that patient labeling for long-acting contraceptive drugs and medical devices include an informed consent form that must be signed by the patient before any long-acting contraceptive is administered. The proposed rule would help ensure that patients receive adequate information to enable them to make an informed decision about whether or not to use a long-acting contraceptive.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Wayne Mitchell, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, (HFD-7), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA76

979. • DEBARMENT CERTIFICATION REGULATIONS FOR DRUG APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1451 to 1461; 21 USC 321; 21 USC 331; 21 USC 335; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379; 21 USC 381 to 382; 42 USC 216; 42 USC 241; 42 USC 262 to 263

CFR Citation: 21 CFR 314; 21 CFR 514; 21 CFR 601

Legal Deadline: None

Abstract: The proposed rule would amend the regulations to require applicants to certify that they did not and will not use in any capacity the services of a debarred person, and would require certain applicants to list certain Federal felony, Federal misdemeanor, or State felony convictions of the applicant and affiliated persons responsible for the development or submission of the application that have occurred within the preceding 5 years.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Erica L. Keys, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 7500 Standish Place Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA75

980. • CERTIFICATION OF DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 375

CFR Citation: 21 CFR 200; 21 CFR 429

Legal Deadline: None

Abstract: The proposed rule would revise part 429 to base insulin certification on compliance with an approved application and the U.S.P.; eliminate certain tests performed by manufacturers as well as packaging and labeling requirements; establish a new labeling system; and modify the requirement to submit samples.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Wayne Mitchell, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 7500 Standish Place Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA77

981. • OVER-THE-COUNTER HUMAN DRUGS; LABELING REQUIREMENTS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360; 21 USC 371

CFR Citation: 21 CFR 330

Legal Deadline: None

Abstract: The proposed rule would provide standardized format and content requirements for OTC drug product labeling, including legibility and design features of such information as the uses for the drug, directions for use, warnings, drug interactions, precautions, active ingredients and other information that the consumer would need to know to use the product safely and effectively.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Melvin Lessing, Division of OTC Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-560), 9200 Corporate Blvd. Rockville, MD 20850
Phone: 301 827-2222

RIN: 0910–AA79

982. • NATIONAL ENVIRONMENTAL POLICY ACT; POLICIES AND PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321 to 393; 42 USC 262; 42 USC 263b; 42 USC 264; 42 USC 4321; 42 USC 4332

CFR Citation: 21 CFR 25

Legal Deadline: None

Abstract: The proposed rule would amend the regulations governing compliance with the National Environmental Policy Act (NEPA) as implemented by the regulations of the Council on Environmental Quality. The proposed rule would increase the efficiency of FDA's implementation of NEPA and reduce the regulatory burden by providing for categorical exclusions for additional classes of actions that do not individually or cumulatively have a significant effect on the human environment and for which neither an environmental impact statement nor an environmental assessment is required. The proposed rule would also amend the regulations to make the agency's NEPA procedures more concise and understandable to the public, and to reflect current FDA policy with respect to environmental considerations.

Timetable:

Action	Date	FR Cite
NPRM	04/03/96	61 FR 14922
NPRM Comment Period End	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Nancy Sager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD-4), 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 594-5413
Fax: 301 594-6197

RIN: 0910–AA80

983. • INVESTIGATIONAL NEW DRUG APPLICATIONS; CLINICAL HOLDS FOR DRUGS FOR LIFE-THREATENING ILLNESSES

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: The proposed rule would prohibit the exclusion of women of childbearing potential from Phase 1 and early Phase 2 clinical trials of drugs used to treat life-threatening illnesses, when there is no evidence of reproductive toxicity resulting from such trials or when there is evidence of such toxicity but there are other methods available for preventing such exposure.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Audrey Thomas, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD-7), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA84

984. • ADVERSE EXPERIENCE REPORTING, RECORDKEEPING, AND RECORDS ACCESS REQUIREMENTS FOR MARKETED OTC DRUGS THAT ARE NOW THE SUBJECTS OF APPROVED NEW DRUG OR ABBREVIATED NEW DRUG APPS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 375; 21 USC 379; 42 USC 216; ...

CFR Citation: 21 CFR 201; 21 CFR 211; 21 CFR 327; 21 CFR 330

Legal Deadline: None

Abstract: The proposed rule would require manufacturers, packers, and distributors of marketed nonprescription human drug products that are not the subjects of approved applications to report to FDA information they receive about adverse experiences associated with the use of their drug products; to maintain records of adverse drug experiences; and to permit access by FDA to adverse drug experience records.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Howard P. Muller, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA86

985. • STERILITY REQUIREMENTS FOR INHALATION SOLUTION PRODUCTS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 358; 21 USC 360; 21 USC 371; 21 USC 374 to 375

CFR Citation: 21 CFR 200

Legal Deadline: None

Abstract: The proposed rule would require that all inhalation solution products be manufactured to be sterile. Based on reports of adverse drug experiences from contaminated nonsterile inhalation solution products and recalls of these products, FDA is proposing to take this action to prevent future additional adverse health consequences.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Tamar Nordernberg, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD-7), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-2041
Fax: 301 827-0901

RIN: 0910–AA88

985. • INFORMED CONSENT FOR HUMAN DRUGS AND BIOLOGICS; DETERMINATION THAT INFORMED CONSENT IS NOT FEASIBLE

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 357; 21 USC 360; 21 USC 371; 21 USC 381; 42 USC 216; 42 USC 241; 42 USC 262

CFR Citation: 21 CFR 50

Legal Deadline: None

Abstract: The Food and Drug Administration proposes an amendment to informed consent regulations. The proposal would replace the interim final rule regulation promulgated December 21, 1990. The proposal establishes requirements to allow agency approval for waiver of informed consent in use of investigational drugs or biologics in certain military combat circumstances. Findings required that obtaining consent is not feasible and withholding treatment would be contrary to the best interests of military personnel. Individual waivers are required for each product and circumstance, with one year maximum extendable duration. Each waiver request from the Department of Defense must justify need for waiver, reasons use is the best preventive or therapeutic treatment, and verify that such use was approved by a properly constituted institutional review board.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brian J. Malkin, Associate Director for Patents and Hearings, Health Assessment Policy Staff (HFY-20), Department of Health and Human Services, Food and Drug Administration, Office of Health Affairs, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-1698
Fax: 301 443-0232
Email: bmalkin@fdaem.ssw.dhhs.gov

RIN: 0910–AA89

HHS—FDA — Proposed Rule Stage

987. • DIRECT-TO-CONSUMER PROMOTION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 334; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 358; 21 USC 360e to 360i; 21 USC 360k; 21 USC 361; 21 USC 362; 21 USC 371; ...

CFR Citation: 21 CFR 200; 21 CFR 800

Legal Deadline: None

Abstract: The Food and Drug Administration will issue proposed regulations for direct-to-consumer promotion of human and animal prescription drugs, biologics, and restricted devices. The regulations will set forth the requirements for what information shall be contained in the consumer directed advertisements for these products and how the information shall be presented.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Ostrove, Public Health Analyst, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation Research, (HFD-40), Room 17B-04, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3882

RIN: 0910–AA90

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage
Food and Drug Administration (FDA)

988. NEW ANIMAL DRUG APPROVAL PROCESS; IMPLEMENTATION OF TITLE I OF THE GENERIC ANIMAL DRUG AND PATENT TERM RESTORATION ACT (GADPTRA)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 360b; 21 USC 371

CFR Citation: 21 CFR 514

Legal Deadline: Final, Statutory, November 16, 1989.
The deadline applies to the GADPTRA sections. There is no deadline relating to the other sections.

Abstract: On December 17, 1991, the Agency published a proposed revision of the existing regulations that is consistent with the current procedural regulations for human drugs where appropriate. The New Animal Drug Application (NADA) revisions articulate general requirements in regulations containing performance standards and would complement them through detailed guidelines on, among other matters, appropriate ways of meeting requirements for submission of chemistry, pharmacology, and statistical data that would better address the intricate scientific issues involved. A separate proposed rule for reporting requirements for marketed animal drugs also was published on that date. The agency intends to repropose the NADA proposed rule to incorporate some recent changes in procedure. The Agency also proposes to amend its regulations to implement Title I of the Generic Animal Drug and Patent Term Restoration Act, which established new standards for marketing approval of generic copies of animal drugs approved after 1962.

Timetable:

Action	Date	FR Cite
New Animal Drug Approval Process		
NPRM	12/17/91	56 FR 65544
NPRM	10/00/96	
Reporting Requirements for Marketed Animal Drugs		
NPRM	12/17/91	56 FR 65581
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AA96.

For information concerning reporting requirements for marketed animal drugs, contact William C. Keller, Director, Division of Surveillance, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, (301) 594-1722. For further information concerning generic animal drugs, contact Lonnie W. Luther, Chief, Generic Animal Drug and Quality Control Staff, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, (301) 594-1623.

Agency Contact: Andrew J. Beaulieu, Deputy Director, Office of New Animal Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-101), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1620

RIN: 0910–AA02

989. CURRENT GOOD MANUFACTURING PRACTICE FOR BLOOD AND BLOOD COMPONENTS; NOTIFICATION OF CONSIGNEES RECEIVING BLOOD AND BLOOD COMPONENTS AT INCREASED RISK FOR TRANSMITTING HIV INFECTION

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 351 to 360k; 21 USC 374; 42 USC 262 to 264

CFR Citation: 21 CFR 606; 21 CFR 610

Legal Deadline: None

Abstract: The agency currently requires that all blood and blood components intended for transfusion or for the manufacture of any product be tested for antibody to human immunodeficiency virus (HIV). In instances when the blood of a donor is found to contain antibodies to HIV, some blood centers have initiated a program of voluntary "look-back" to determine the suitability of previous donations and to notify consignees of blood and blood components obtained from the donor's prior donations. Consignees may withdraw or destroy such blood and blood products, and may trace and notify recipients. A well-conducted look-back program can provide an effective mechanism for quarantine of products and for identifying, testing, and counseling recipients of transfusions determined to be at increased risk of HIV infection--those who receive blood from a donor later found to be infected with HIV. The agency is publishing a final rule to establish a mandatory look-back program. The final rule will require blood collection facilities to develop a procedure to identify and quarantine products from prior collections and to notify consignees promptly whenever a blood donor who has previously donated blood or source plasma is found to be positive for the antibody to HIV; and to keep appropriate records when such notification has been made. In addition, the final rule will require hospital transfusion services to notify recipients of blood products at increased risk for transmitting HIV and to keep appropriate records of the notification process. The purpose of the rulemaking is to ensure the notification of consignees and blood transfusion recipients and that prompt and appropriate action is taken.

Timetable:

Action	Date	FR Cite
NPRM	06/30/93	58 FR 34962
Final Action	06/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AC90.

Agency Contact: Sharon Carayiannis, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-630), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 594-3074

RIN: 0910–AA05

990. PRESCRIPTION DRUG MARKETING ACT OF 1987; POLICY INFORMATION, GUIDANCE, AND CLARIFICATIONS

Priority: Other Significant

Legal Authority: PL 100-293 Prescription Drug Marketing Act of 1987

CFR Citation: 21 CFR 203

Legal Deadline: None

Abstract: The Prescription Drug Marketing Act of 1987 (PDMA) amended the Federal Food, Drug, and Cosmetic Act to: (1) require State licensing of wholesale distributors of prescription human drugs under Federal guidelines including minimum standards for storage, handling, and recordkeeping; (2) ban the reimportation of prescription human drugs produced in the United States, except when reimported by the manufacturer or for emergency use; 3) ban the sale, trade, or purchase of drug samples; (4) ban trafficking in or counterfeiting of drug coupons; (5) mandate storage, handling, and recordkeeping requirements for drug samples; (6) require licensed practitioners to request drug samples in writing; (7) prohibit, with certain exceptions, the resale of prescription human drugs purchased by hospitals or health care facilities; and (8) set forth criminal and civil penalties for violations of these provisions. In the Federal Register of September 14, 1990 (55 FR 38012), FDA issued a final rule setting forth Federal guidelines for State licensing of wholesale drug distributors. The final rule would provide information, guidance, and clarification of those sections of PDMA that are not related to State licensing of wholesale distributors.

Timetable:

Action	Date	FR Cite
NPRM	03/14/94	59 FR 11842
NPRM Comment Period End	06/01/94	
Final Action	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AD44.

Agency Contact: Lee D. Korb, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA08

991. FOOD LABELING REVIEW

Priority: Routine and Frequent

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 100; 21 CFR 101; 21 CFR 102; 21 CFR 161

Legal Deadline: None

Abstract: The Nutrition Labeling and Education Act of 1990 (NLEA) requires that most foods bear nutrition labeling. The agency issued final rules implementing most of the provisions contained in the NLEA on January 6, 1993. Subsequently, however, the agency has identified additional areas that should be the subject of rulemaking. FDA issued a proposal on January 6, 1993, to establish requirements for the identification of certain ingredients on food labels. FDA proposed on June 15, 1993, to amend its January 6, 1993, final rules on nutrient content and health claims to remove the provisions that exempted restaurant menus from the requirements for how nutrient content claims and health claims are to be made. FDA also proposed to modify the provisions that delay the effective date of these regulations for small restaurant firms for one year. The agency proposed January 4, 1994, to establish reference daily intakes based on the 9th and 10th editions of the National Research Council's Recommended Dietary Allowances. On March 14, 1994, FDA published a proposal describing the provisions for exemptions for low-volume food products of small businesses that were established by the Nutrition Labeling and Education Act Amendments of 1993. On August 18, 1993, FDA published a proposal concerning the placement of the nutrition facts panel on food labels. Finally, on July 18, 1994, FDA published proposed revised guidelines for the voluntary declaration of nutrition labeling for raw produce and fish. A final rule concerning the placement of the nutrition facts panel was published on April 5, 1995. A final rule establishing reference daily intakes based on the 9th and 10th editions of Recommended Dietary Allowances was published on December 28, 1995.

Timetable:

Action	Date	FR Cite
Amend Standard of Identity for Grain Products (Folic Acid)		
NPRM	10/14/93	58 FR 53305
Final Action	03/05/96	61 FR 8781
Health Claims and Label Statements		
NPRM Folic Acid and Neural Tube Def	10/14/93	58 FR 53254
Final Action	03/05/96	61 FR 8752
Misleading Containers; Nonfunctional Slack Fill		
NPRM	01/06/93	58 FR 2957
Final Action	12/06/93	58 FR 64123

HHS—FDA — Final Rule Stage

Nutrient Content Claims and Health Claims; Restaurant Foods
NPRM 06/15/93 (58 FR 33055)
Final Action 00/00/00
Nutrient Content, Definition of the Term, Healthy
NPRM 01/06/93 (58 FR 2944)
Final Action 05/10/94 (59 FR 24232)
Placement of Nutrition Facts Panel
NPRM 08/18/93 (58 FR 44091)
Final Action 04/05/95 (60 FR 17202)
Final Action Effective 05/05/95
Final Action Correction 06/12/95 (60 FR 30788)
Protein Hydrolysates; Broth in Tuna; and/or Labeling
NPRM (Declaration of Ingredients) 01/06/93 (58 FR 2950)
Final Action (Dec. of Ingredients) 00/00/00
Reference Daily Intakes
NPRM 01/04/94 (59 FR 427)
Final Action 12/28/95 (60 FR 67164)
Small Business Exemption, Nutrition Labeling
NPRM 03/14/94 (59 FR 11872)
Final Action 07/00/96
Voluntary Guidelines for Nutrition Labeling Produce
NPRM 07/18/94 (59 FR 36379)
Final Action 08/00/96

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AD89.

Agency Contact: F. Edward Scarbrough, Director, Office of Food Labeling, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-150), 200 C Street SW., Washington, DC 20204
Phone: 202 205-4561
Fax: 202 205-4594

RIN: 0910–AA19

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992. DISQUALIFICATION OF CLINICAL INVESTIGATORS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360j(g)

CFR Citation: 21 CFR 812

Legal Deadline: None

Abstract: The rule would amend the investigational device exemption (IDE) regulations to provide for a procedure for disqualification of clinical investigators in cases of fraud or other serious violations of the regulations. Persons whose disqualification is proposed would be entitled to an opportunity for hearing.

Timetable:

Action	Date	FR Cite
NPRM	10/06/93	58 FR 52144
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD94.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA21

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993. INVESTIGATIONAL DEVICE EXEMPTION; INTRAOCULAR LENSES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 360j(g)

CFR Citation: 21 CFR 813; 21 CFR 812

Legal Deadline: None

Abstract: The rule would revoke the separate investigational device exemption regulation for intraocular lenses (IOLs). IOLs would then be subject to the same IDE regulation (21 CFR part 812) as all other devices. The IOL-IDE regulation was originally created as an interim measure.

Timetable:

Action	Date	FR Cite
NPRM	10/06/93	58 FR 52142
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD95.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA22

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994. SPECIFIC REQUIREMENTS ON CONTENT AND FORMAT OF LABELING FOR HUMAN PRESCRIPTION DRUGS; ADDITION OF "GERIATRIC USE" SUBSECTION IN THE LABELING

Priority: Other Significant

Legal Authority: 21 USC 352; 21 USC 355; 42 USC 262

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: On November 1, 1990 (55 FR 46134), the Agency proposed to amend its regulations governing the content and format of labeling for human prescription drug products to require a subsection in the labeling that would include information on the use of a drug in the elderly. This proposal reflects growing recognition by FDA and others of the special concerns associated with prescription drug use in this age group. FDA believes that providing access to this information is necessary for the safe and effective use of prescription drugs in older populations. The final rule would finalize these proposed revisions based on the comments received.

Timetable:

Action	Date	FR Cite
NPRM	11/01/90	55 FR 46134
NPRM Comment Period End	12/31/90	
Final Action	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE26.

Agency Contact: Thomas Kuchenberg, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1046
Fax: 301 827-0901

RIN: 0910–AA25

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995. TAMPER-EVIDENT PACKAGING REQUIREMENTS FOR OVER-THE-COUNTER HUMAN DRUG PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 371

CFR Citation: 21 CFR 211

Legal Deadline: None

Abstract: On January 18, 1994 (59 FR 2542), the Agency proposed to amend its tamper-resistant packaging regulations to require that all over-the-counter (OTC) human drug products marketed in two-piece, hard gelatin capsules be sealed. The proposal also solicited public comments on whether additional regulatory changes, such as packaging performance standards, may be necessary. FDA has required tamper-resistant packaging features for OTC drug products since 1982. The tamper-resistant packaging regulations were revised in 1989 in response to continuing tampering incidents. Despite the regulatory protection provided by the regulations, two-piece, hard gelatin capsules remain vulnerable to malicious tampering and were implicated in tampering incidents in 1991. This regulatory action is in response to the 1991 tampering incidents.

Timetable:

Action	Date	FR Cite
NPRM	01/18/94	59 FR 2542
NPRM Comment Period End	03/21/94	
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE27.

Agency Contact: Tamar S. Nordenberg, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA26

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996. ADVERSE EXPERIENCE EXPEDITED REPORTING REQUIREMENTS FOR HUMAN DRUG AND LICENSED BIOLOGICAL PRODUCTS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 21 USC 374; 21 USC 216; 21 USC 262; 21 USC 263; 21 USC 263a; 21 USC 264; 21 USC 300aa-25

CFR Citation: 21 CFR 20; 21 CFR 310; 21 CFR 312; 21 CFR 314; 21 CFR 600

Legal Deadline: None

Abstract: The final rule would amend the adverse experience expedited reporting regulations for human drug and licensed biological products to make the requirements consistent with a new unified agency form (FDA Form 3500A) and require the use of this new reporting form. The new form was announced as part of FDA's MedWatch program. The final rule will also revise certain definitions and reporting periods and formats as recommended by the International Conference on Harmonization of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH) and the World Health Organization's Council for International Organizations of Medical Sciences (CIOMS). In addition, the rule will amend the regulations governing the expedited reporting of data from clinical studies.

Timetable:

Action	Date	FR Cite
NPRM	10/27/94	59 FR 54046
NPRM Comment Period End	01/25/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: Previously reported under RIN 0905-AE29.

Agency Contact: Audrey Thomas, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA28

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997. ELECTRONIC SIGNATURES; ELECTRONIC RECORDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 301 et seq; 21 USC 201 et seq

CFR Citation: 21 CFR 11

Legal Deadline: None

Abstract: FDA is preparing regulations to set forth criteria for agency acceptance of electronic records and electronic signatures in lieu of paper records and handwritten signatures. The new rules would apply to any records requirements in chapter I of title 21 (all program areas and industries), unless specifically exempted by future regulations. For documents required to be maintained, but not submitted to FDA, persons could use electronic records and signatures upon the effective date of a final rule. For documents submitted to FDA, persons could use electronic records and signatures if FDA has stated, in a public docket to be maintained for that purpose, that the intended receiving organization is prepared to accept the submission in electronic form. (The proposed rule does not require use of electronic records and signatures, but permits their use under certain circumstances.) This action was taken as a follow-up to the Agency's 7/21/92 advance notice of proposed rulemaking. The intended effect is to permit and foster use of new technologies in a manner that is consistent with FDA's overall mission and that preserves the integrity of the Agency's enforcement activities.

Timetable:

Action	Date	FR Cite
ANPRM	07/21/92	57 FR 32185
ANPRM Comment Period End	10/19/92	
NPRM	08/31/94	59 FR 45160
NPRM Comment Period End	11/29/94	
Final Action	05/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: Previously reported under RIN 0905-AE31.

Agency Contact: Paul J. Motise, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-323), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1089
Fax: 301 594-2202
Email: Motise@FDACD.BITNET

RIN: 0910–AA29

998. FINANCIAL DISCLOSURE BY CLINICAL INVESTIGATORS

Priority: Other Significant

Legal Authority: 42 USC 262; 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 360; 21 USC 371; 21 USC 372; 21 USC 373; 21 USC 374; 21 USC 375; ...

CFR Citation: 21 CFR 54; 21 CFR 312.53; 21 CFR 312.57; 21 CFR 312.64; 21 CFR 314.50; 21 CFR 314.60; 21 CFR 314.94; 21 CFR 314.200; 21 CFR 314.300; 21 CFR 320.36; 21 CFR 330.10; 21 CFR 601.2; 21 CFR 807.31; 21 CFR 807.87; 21 CFR 807.100; ...

Legal Deadline: None

Abstract: This final regulation would address the problem of certain financial arrangements and interests of clinical investigators that have the potential to bias the outcome of clinical trials. The problem is significant because clinical research data provide the basis for FDA's evaluation of drugs, biologics and devices for marketing. The regulation would require the sponsor of a product that is the subject of a marketing application to submit either a statement certifying that the clinical investigator is not a party to any problematic financial interests and arrangements or a statement disclosing problematic interests and arrangements to which the investigator is a party. This information would enable FDA to subject the relevant clinical research data to an appropriate level of scrutiny to test its reliability. Alternatives to the regulation would be to prohibit investigators from holding certain financial interests altogether or to require divestiture by the investigator of a prohibited interest. The estimated costs to industry associated with preparation, submission, and retention of the information required by this final rule are well below the $100 million threshold that defines a significant regulatory action. The final rule is not expected to impose a significant resource burden on FDA because the submission of statements is limited to clinical data submitted in support of marketing applications, ruling out data from the large number of studies that do not lead to applications, and FDA estimates that sponsors will be able to certify for the majority of their clinical investigators, so that most submitted data will not require intensified scrutiny. The final rule will strengthen the FDA review process.

Timetable:

Action	Date	FR Cite
NPRM	09/22/94	59 FR 47807
NPRM Comment Period End	12/21/94	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: Previously reported under RIN 0905-AE32.

Agency Contact: Mary Gross, Department of Health and Human Services, Food and Drug Administration, Office of External Affairs (HF-24) 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3440
Fax: 301 594-0113

RIN: 0910–AA30

999. EFFECTIVE DATE OF REQUIREMENT FOR SUBMISSION OF PREMARKET APPROVAL APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360e

CFR Citation: 21 CFR 868; 21 CFR 870; 21 CFR 872; 21 CFR 878; 21 CFR 882; 21 CFR 888

Legal Deadline: Final, Statutory, December 1, 1995.

Abstract: Class III devices which were on the market before 1976 are exempt from premarket approval until FDA issues a rule requiring the submission of premarket approval applications. The Safe Medical Devices Act of 1990 directed FDA to review the classification of pre-1976 class III devices for which premarket approval is not yet required, and either reclassify them into class I or class II or require premarket approval for those devices remaining in class III. There are approximately 125 pre-1976 class III devices not yet addressed. The devices covered by this final rule are devices which FDA believes may no longer be commercially viable.

Timetable:

Action	Date	FR Cite
Notice	05/06/94	59 FR 23731
NPRM	09/07/95	60 FR 46718
NPRM Comment Period End	01/05/96	
Final Action	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE34.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20857
Phone: 301 594-4765

RIN: 0910–AA31

1000. PRESCRIPTION DRUG PRODUCT LABELING; MEDICATION GUIDE

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 352; 21 USC 371; 21 USC 355; 42 USC 262

CFR Citation: 21 CFR 201; 21 CFR 208; 21 CFR 314; 21 CFR 600

Legal Deadline: None

Abstract: Inadequate access to appropriate patient information is a major cause of inappropriate use of prescription medications, resulting in serious personal injury and related costs to the health care system. The Food and Drug Administration (FDA) believes that it is essential that patients receive information accompanying dispensed prescription drugs. This information needs to be widely distributed and be of sufficient quality to promote the proper use of prescription drugs. Therefore, FDA is proposing performance standards that would define acceptable levels of information distribution and quality, and to assess supplied information according to these standards. In accordance with the Administration's philosophy of fairly assessing a voluntary approach before imposing requirements through regulations, FDA is proposing that this information be disseminated through voluntary private-sector initiatives. Preliminary evidence suggests recent increases in the distribution of privately produced patient medication information with dispensed prescriptions; however, estimated distribution rates indicate that significant numbers of patients still do not receive information with their medications. FDA analyses also indicate that there is a high variability in the quality of this information. FDA believes that, with greater encouragement and clear objectives, the private sector will substantially improve the quality and distribution of patient information. Therefore, in concert with Healthy People 2000, FDA is proposing that private-sector initiatives meet the goal of distributing useful patient information to 75 percent of individuals receiving new prescriptions by the year 2000 and 95 percent of individuals receiving new prescriptions by the year 2006. FDA is proposing two alternative approaches to help ensure that these goals (performance standards) are achieved. FDA would periodically evaluate and report on achievement of these goals. If the goals are not met in the specified timeframes, FDA would either (a) implement a mandatory comprehensive Medication Guide program, or (b) seek public comment on whether the comprehensive program should be implemented or whether, and what, other steps should be taken to meet patient information goals.

Regardless of the approach chosen, a mandatory Medication Guide program would initially be limited to instances where a product poses a serious and significant public health concern requiring immediate distribution of FDA-approved patient information. FDA believes that substantial health care cost savings can be realized by ensuring that consumers obtain the inherent benefits of proper use of prescription drugs, and by reducing the potential for harm caused by inappropriate drug use by the patient.

Timetable:

Action	Date	FR Cite
NPRM	08/24/95	60 FR 44182
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AE43.

Agency Contact: Louis A. Morris, Chief, Marketing Practices & Communication Branch, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-240), 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 594-6828

RIN: 0910–AA37

1001. IRON CONTAINING DRUGS AND SUPPLEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 342; 21 USC 343; 21 USC 351; 21 USC 352

CFR Citation: 21 CFR 101; 21 CFR 111; 21 CFR 310

Legal Deadline: None

Abstract: On October 6, 1994, FDA published a proposal responding to three citizen petitions that were submitted in response to an increase in deaths and poisonings in small children due to accidental ingestion of iron-containing drugs and dietary supplements. The petitions requested that FDA require label warning statements for these products and special packaging to ensure the safe use of these products. Because of recent changes in the laws regulating dietary supplements brought about by the Dietary Supplement Health and Education Act (Pub. L. 103-417), FDA published a supplemental proposal on February 16, 1995, that set forth its revised legal authority a supplemental proposal that sets forth its revised legal authority.

Timetable:

Action	Date	FR Cite
NPRM	10/06/94	59 FR 51030
NPRM Correction	11/14/94	59 FR 56573
NPRM Comment Period End	12/20/94	
Supplemental NPRM	02/16/95	60 FR 8989
Supplemental NPRM Comment Period End	04/17/95	
Final Action	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE59.

Agency Contact: Linda Kahl, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-206), 200 C Street SW., Washington, DC 20204
Phone: 202 418-3101

RIN: 0910–AA42

1002. REGULATIONS RESTRICTING THE SALE AND DISTRIBUTION OF CIGARETTES AND SMOKELESS TOBACCO PRODUCTS TO PROTECT CHILDREN AND ADOLESCENTS

Priority: Economically Significant

Legal Authority: 21 USC 351; 21 USC 360; 21 USC 360j; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 801; 21 CFR 803; 21 CFR 804; 21 CFR 897

Legal Deadline: None

Abstract: The Food and Drug Administration is proposing new regulations governing the sale and distribution of nicotine-containing cigarettes and smokeless tobacco products to children and adolescents, in order to address the serious public health problems caused by the use of and addiction to these products. The proposed rule would reduce children's and adolescents' easy access to cigarettes and smokeless tobacco and would significantly decrease the amount of positive imagery that makes these products so appealing to them. The proposed rule would not restrict the use of tobacco products by adults.

The objective of the proposed rule is to meet the goal of the report "Healthy People 2000" by reducing roughly by half children's and adolescents' use of tobacco products. If this objective is not met within 7 years of the date of publication of the final rule, the agency would take additional measures to help achieve the reduction in the use of tobacco products by young people. In the proposed rule, the agency is requesting comment regarding the type of additional measures that would be most effective.

Timetable:

Action	Date	FR Cite
NPRM	08/11/95	60 FR 41314
NPRM Comment Period Extended to 01/02/96	10/16/95	60 FR 53560
NPRM Comment Period End	11/09/95	
NPRM Comment Period Reopened for Specific Documents to 04/19/96	03/20/96	61 FR 11349
Final Action	00/00/96	

Jurisdictional Analysis
Notice 08/11/95 (60 FR 41453)
Notice Com. Per. Ext. to 01/02/96 10/16/95 (60 FR 53620)
Reopened for Spec. Docs. to 4/19/96 03/20/96 (61 FR 11419)

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Philip L. Chao, Policy Analyst, Office of Policy (HF-23), Department of Health and Human Services, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3380

RIN: 0910–AA48

1003. REVOCATION OF CERTAIN REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 321 to 394; 21 USC 41 to 50; 21 USC 141 to 149; 21 USC 467F; 21 USC 679; 21 USC 821; 21 USC 1034; 42 USC 202; 42 USC 262; 42 USC 263B; 42 USC 264; 15 USC 1451 to 1461; 5 USC 551 to 558; 5 USC 701 to 721; 28 USC 2112; ...

CFR Citation: 21 CFR 100 to 101; 21 CFR 103 to 105; 21 CFR 109; 21 CFR 137; 21 CFR 161; 21 CFR 163; 21 CFR 182; 21 CFR 186; 21 CFR 197; 21 CFR 505; 21 CFR 507 to 508; 21 CFR 601; 21 CFR 620; 21 CFR 630; 21 CFR 640 to 660; ...

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is proposing to revoke certain regulations that either do not achieve public health goals or do not need to be codified as regulations to do so. These regulations include regulations that are actually statements of policy or guidance, that are duplicative, that are obsolete, or that have been made inaccurate by changes in legislation and technology.

FDA is taking this action in response to President Clinton's directive of March 4, 1995, to all Federal agencies to conduct a page-by-page review of their regulations and to eliminate or revise those that are outdated or otherwise in need of reform. As a result of its regulations review, FDA is proposing to eliminate 36 percent of its regulations that it has determined are obsolete or no longer necessary to achieve public health goals (735 pages of which will first require Congressional action). In addition, FDA plans to revise or modify an additional 45 percent of its remaining regulations to ease the burden on regulated industry and the consumer without sacrificing public health protection. For those regulations requiring Congressional permission to eliminate or reform, the Administration is seeking legislation. This proposal contains deletions that can be accomplished administratively. Examples include regulations that refer to substances no longer used in product formulations or to products that are no longer marketed; and regulations that codify product standards that can be more flexibly handled and updated within the context of the review process. FDA is providing a 90-day period for public comment on these proposed deletions.

Timetable:

Action	Date	FR Cite
NPRM	10/13/95	60 FR 53460
NPRM Comment Period End	01/11/96	
Final Action	06/00/96	

Revocation of Certain Regulations; General
NPRM 01/25/96 (61 FR 2192)
Final Rule 00/00/00

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Lisa M. Helmanis, Office of Policy (HF-26), Department of Health and Human Services, Food and Drug Administration, 5600 Fishers Lane Rockville, MD 20857
Phone: 301 443-3480
Fax: 301 443-2946

RIN: 0910–AA54

1004. PROTECTION OF HUMAN SUBJECTS; INFORMED CONSENT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 346; 21 USC 346a; 21 USC 348; 21 USC 352; 21 USC 353; 21 USC 355 to 357; 21 USC 360; 21 USC 360c to 360f; 21 USC 360h to 360j; 21 USC 371; 21 USC 379e; 42 USC 216; 42 USC 241; 42 USC 381

CFR Citation: 21 CFR 50; 21 CFR 56; 21 CFR 312; 21 CFR 314; 21 CFR 601; 21 CFR 812; 21 CFR 814

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is proposing to amend its current informed consent regulations to permit harmonization of FDA and National Institutes of Health (NIH) policies on emergency research, and to reduce confusion as to when such research can proceed without obtaining informed consent. The regulation provides a narrow exception to the requirement for obtaining and documenting informed consent from each human subject prior to initiation of an experimental treatment. The exception would apply to a limited class of research activities involving human subjects who, because of their life-threatening medical condition and the unavailability of legally authorized persons to represent them, are in need of emergency medical intervention and cannot provide legally effective informed consent.

The proposed rule would permit an Institutional Review Board (IRB) to approve an emergency research protocol if the IRB finds and documents that (a) the human subjects will be in a life-threatening situation, available treatments are unproven or unsatisfactory, and the collection of valid scientific evidence is necessary to determine what particular treatment is most beneficial; (b) obtaining informed consent is not feasible; (c) the opportunity for the subjects to participate in the research is in the interest of the subjects because treatment is required, and the risk is "reasonable" given what is known about the risks and benefits of experimental treatment, the current therapy, and the medical condition; (d) the research could not practically be carried out without the waiver; (e) additional protection of the rights and welfare of the subjects will be provided; and, (f) the IRB has reviewed and approved an informed consent document for use with subjects for whom consent is possible.

The proposed rule provided that, when possible and at the earliest possible opportunity, each subject will be informed about the details of the study and permitted to discontinue participation at any time without penalty. The rule also incorporates additional patient protections, including: FDA review of the protocol; consultation with representatives of the communities from which the subjects will be drawn; public disclosure prior to the study sufficient to describe the study and its risks and benefits; the establishment of an independent data and safety monitoring board; and public disclosure following completion of the study sufficient to apprise the community and researchers of the study and its results.

FDA, in coordination with NIH, developed this proposal because of concerns expressed by the research community and patient advocacy groups that emergency research is at a virtual halt pending a revision of both FDA's informed consent regulations and a waiver of HHS regulations for the protection of research subjects. HHS intends to bring both policies into harmony on this matter at the time this rule is made final.

Timetable:

Action	Date	FR Cite
NPRM	09/21/95	60 FR 49086
NPRM Comment Period End	11/06/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Glen D. Drew, Department of Health and Human Services, Food and Drug Administration, Office of Health Affairs (HFY-20) 5600 Fishers Lane Rockville, MD 20857
Phone: 301 443-1382

RIN: 0910–AA60

1005. EXPORT REQUIREMENTS FOR MEDICAL DEVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 360; 21 USC 360c to 360f; 21 USC 360h to 360j; 21 USC 371; 21 USC 372; 21 USC 374; 21 USC 379e; 21 USC 381; 42 USC 393; 42 USC 216; 42 USC 241; 42 USC 2421; ...

CFR Citation: 21 CFR 812.18

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is proposing to amend its regulations for investigational devices to describe streamlined requirements for exports of unapproved medical devices. Under the proposed rule, an approved investigational device exemption (IDE) would constitute an agency determination that the export of the unapproved device is not contrary to the public health or safety. Countries could notify FDA that they do not object to the importation of unapproved devices with an approved IDE into their countries. Thus, for devices with an FDA-approved IDE, the proposal would eliminate the need for FDA to make independent determinations either that exportation is not contrary to the public health or safety or that an importing country does not object to the importation of a specific device. The proposed rule is intended to codify and to simplify export requirements for certain unapproved devices pursuant to the President's and Vice-President's "National Performance Review," as reflected in the April 1995 report titled, "Reinventing Drug & Medical Device Regulations." It is also consistent with recent Congressional initiatives.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58308
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Horton, Director, International Policy Staff, Office of Policy (HF-23), Department of Health and Human Services, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3344

RIN: 0910–AA62

1006. • WELL-CHARACTERIZED BIOTECHNOLOGY PRODUCTS; ELIMINATION OF ESTABLISHMENT LICENSE APPLICATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 1451 to 1461; 21 USC 321; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360c to 360f; 21 USC 360j to 360u; 21 USC 371; 21 USC 374; 21 USC 379e; 21 USC 381; 42 USC 216; 42 USC 241; 42 USC 262 to 263

CFR Citation: 21 CFR 601.2

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is amending the biologics regulations to eliminate the establishment license application (ELA) requirement for well-characterized biotechnology products licensed under the Public Health Service Act (PHS Act). The final rule will exempt well-characterized biotechnology products licensed under the PHS Act from certain biologics' regulations and harmonize the requirements applicable to these products with those applicable to similar drug products which are approved under the Federal Food, Drug, and Cosmetic Act.

Timetable:

Action	Date	FR Cite
NPRM	01/29/96	61 FR 2733
Final Action	05/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Sharon Carayiannis, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-630), 1401 Rockville Pike Suite 200N, Rockville, MD 20852-1448
Phone: 301 594-3074
Fax: 301 443-3874

RIN: 0910–AA71

1007. • NEW DRUG APPLICATIONS; DRUG MASTER FILE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 21 USC 374; 21 USC 379

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The final rule would eliminate Type I Drug Master Files,

which contain information about manufacturing sites, facilities, operating procedures, and personnel, because these files contain outdated information, duplicate information contained in marketing applications, and are not used by application review divisions or field inspectors.

Timetable:

Action	Date	FR Cite
NPRM	07/03/95	60 FR 34486
NPRM Comment Period End	10/02/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Thomas Kuchenburg, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD-7), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA78

1008. • CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICAL; POSITRON EMISSION TOMOGRAPHY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 360; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 211

Legal Deadline: None

Abstract: The final rule would permit manufacturers of positron emission tomography radiopharmaceuticals to apply to the agency for approval of an exception or alternative to the requirements of the current good manufacturing practice regulations.

Timetable:

Action	Date	FR Cite
NPRM	02/27/95	60 FR 10517
NPRM Comment Period End	03/29/95	
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Thomas Kuchenberg, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 7500 Standish Place Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA81

1009. • INVESTIGATIONAL NEW DRUG APPLICATIONS AND NEW DRUG APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 21 USC 374; 21 USC 379; 42 USC 262

CFR Citation: 21 CFR 312; 21 CFR 314

Legal Deadline: None

Abstract: The final rule would define in the NDA format and content requirements the need to present effectiveness and safety data for important demographic subgroups, specifically gender, age, and racial subgroups, and would require IND sponsors to characterize in their annual reports the number of subjects in a clinical study according to age group, gender, and race.

Timetable:

Action	Date	FR Cite
NPRM	09/08/95	60 FR 46794
NPRM Comment Period End	12/07/95	
Final Action	08/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Audrey Thomas, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD-7), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA82

1010. • NEW DRUGS FOR HUMAN USE; CLARIFICATION OF REQUIREMENTS FOR APPLICATION SUPPLEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355 to 357; 21 USC 371; 21 USC 374; 21 USC 379

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The final rule would clarify the scope of certain reporting obligations imposed on holders of approved applications permitting an applicant to make certain changes in an approved application without submitting a supplemental application if the changes are made to comply with an official compendium.

Timetable:

Action	Date	FR Cite
NPRM	06/04/86	51 FR 20310
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Erica L. Keys, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD-7), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA87

1011. POLICIES CONCERNING USES OF SULFITING AGENTS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 336; 21 USC 341; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 182.3616; 21 CFR 182.3637; 21 CFR 182.3739; 21 CFR 182.3766; 21 CFR 182.3798; 21 CFR 182.3862; 21 CFR 100.100; 21 CFR 130.9

Legal Deadline: None

Abstract: Acceptable evidence and information exist to show that a subgroup of asthmatics is at moderate to severe risk for a severe reaction upon exposure to sulfites. The agency's primary tool for handling a situation where population subgroups may be at increased risk from a food ingredient that is safe for most people is to use labeling to inform those persons who need or want to avoid the ingredient. The agency issued a final rule, effective January 9, 1987, that requires that when a sulfiting agent is present in a finished food at 10 parts per million or greater, the sulfiting agent must be declared on the label. In addition, FDA issued a final rule, effective August 8, 1986, prohibiting the use of sulfiting agents on raw fruits and vegetables intended to be served or sold raw to consumers (e.g., in salad bars). On December 10, 1987, FDA announced its tentative conclusion that there is no longer a basis to find that the use of sulfiting agents on "fresh" potatoes served or sold unpackaged to consumers is GRAS. On December 19, 1988, FDA proposed to affirm, with specific limitations, that certain other uses of sulfiting agents are GRAS and to establish labeling requirements for sulfiting agents in standardized foods.

On March 15, 1990 (55 FR 9826), FDA issued a final rule prohibiting the use of sulfiting agents on "fresh" potatoes (55 FR 9826) and requested data and information concerning the use of sulfiting agents on frozen potatoes (55 FR 9834).

On August 3, 1990, the United States District Court for the Middle District of Pennsylvania declared the final rule concerning "fresh" potatoes to be null and void on procedural grounds. The Government appealed the district court's decision. On May 22, 1991, the U.S. Court of Appeals for the Third Circuit en banc split equally. Therefore, the decision of the district court invalidating on procedural grounds FDA's final rule revoking the GRAS status of the use of sulfiting agents on fresh potatoes was left in place. On December 22, 1994 (59 FR 65938), FDA withdrew the invalidated rule.

FDA's reproposed rule will address the regulatory status of sulfiting agents on both minimally processed ("fresh") and frozen potatoes. FDA also plans to issue a tentative final rule regarding the use of sulfiting agents in shrimp.

Timetable:

Food Labeling; Declaration of Sulfiting Agents	
NPRM	04/03/85 (50 FR 13306)
Final Action	07/09/86 (51 FR 25012)
Final Action Effective	01/09/87
GRAS Status of the Use of Sulfiting Agents on Fresh Potatoes	
NPRM-To be Merged w/Frozen Potatoes	12/10/87 (52 FR 46968)
Final Action	03/15/90 (55 FR 9826)
GRAS Status of Certain Other Food Uses of Sulfiting Agents, Etc.	
NPRM	12/19/88 (53 FR 51065)
Final Action	00/00/00
Revoking Use of Sulfiting Agents on Fruits & Vegetables, Etc.	
NPRM	08/14/85 (50 FR 32836)
Final Action	07/09/86 (51 FR 25021)
Final Action Effective	08/09/86
Use of Sulfiting Agents on Minimally Processed & Frozen Potatoes	
NPRM	00/00/00
Use of Sulfiting Agents on Shrimp	
NPRM	12/19/88 (53 FR 51065)
Tentative Final Rule	00/00/00

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AB52.

Agency Contact: JoAnn Ziyad, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-207), 200 C Street SW., Washington, DC 20204
Phone: 202 418-3116

RIN: 0910–AA03

1012. LEAD IN FOODS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 336; 21 USC 342(a); 21 USC 346; 21 USC 346a; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 109; 21 CFR 182; 21 CFR 189

Legal Deadline: None

Abstract: In light of the public health concerns raised by continuing findings concerning the effects of low levels of exposure to lead, particularly exposure by pregnant women, infants, and children, the agency is undertaking a comprehensive effort to further reduce lead levels in food where controllable or avoidable sources of lead addition to food can be identified. The goal of FDA is to reduce consumers' exposure to lead in the diet to the lowest level that can be practicably obtained.

Timetable:

Action	Date	FR Cite
Final Action	02/08/96	
Final Action Effective	02/08/96	
Lead From Ceramic Pitchers		
NPRM	06/01/89 (54 FR 23485)	
NPRM Comment Period End	07/31/89	
Withdrawal of NPRM	00/00/00	
Prohibit Use of Lead-Soldered Food Cans		
NPRM	06/21/93 (58 FR 33860)	
Final Action	06/27/95 (60 FR 33106)	
Prohibit Use of Tin-Coated Lead Foil Capsules on Wine Bottles		
NPRM	11/25/92 (57 FR 55485)	
Final Rule	02/08/96 (61 FR 4816)	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AC91.

Agency Contact: Michael E. Kashtock, Supervisory Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-306), 200 C Street SW., Washington, DC 20204
Phone: 202 205-4681

RIN: 0910–AA06

1013. FEES FOR CERTIFICATION SERVICES; INSULIN AND COLOR ADDITIVE CERTIFICATION PROGRAMS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 356; 21 USC 371; 21 USC 379e(e)

CFR Citation: 21 CFR 80; 21 CFR 429

Legal Deadline: None

Abstract: Insulin Certification Program:

In the Federal Register of October 4, 1991 (56 FR 50248), FDA issued an interim rule effective on November 4,

1991, with opportunity for public comment, revising the fee schedule for insulin certification services. In the Federal Register of November 9, 1995 (60 FR 56515), FDA issued an interim final rule, which was effective December 11, 1995. This interim final rule decreased the fees charged for insulin certification services due to lower program and administrative costs. The public had the opportunity to submit written comments to FDA by February 7, 1996.

Color Certification Program:

In the Federal Register of November 29, 1994, FDA issued an interim rule effective December 29, 1994, which amended the color additive regulations by increasing the fees for certification services. In the Federal Register of February 1, 1996 (61 FR 3571), FDA issued a final rule, effective March 4, 1996, which incorporated comments FDA received from the International Association of Color Manufacturers (IACM) on an interim rule FDA published in the Federal Register of November 29, 1994 (59 FR 60808). FDA received an objection from IACM to an annual escalator provision which would have allowed FDA to increase the fees for color certification services by a rate proportional with Federal salary increases. After considering the objection, FDA decided not to implement this provision.

Timetable:

Color Additives
Interim Final Rule 11/29/94 (59 FR 60898)
Final Action 02/01/96 (61 FR 3571)
Insulin
Interim Final Rule 10/04/91 (56 FR 50248)
Interim Final Rule 11/09/95 (60 FR 56515)
Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD34 and RIN 0910-AA27.

Agency Contact: David R. Petak, Director, Division of Accounting, Department of Health and Human Services, Food and Drug Administration, Office of Management (HFA-120), 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-1766
Fax: 301 443-6242

RIN: 0910–AA07

1014. BOTTLED WATER

Priority: Routine and Frequent

Legal Authority: 21 USC 341; 21 USC 343(g); 21 USC 343(h); 21 USC 349; 21 USC 371(a)

CFR Citation: 21 CFR 103; 21 CFR 165

Legal Deadline: Other, Statutory. Other deadline is for publication of NPRM or Notice within 180 days of EPA final action.

Abstract: In fulfillment of its mandate under the Safe Drinking Water Act, EPA is currently in the midst of reviewing and establishing standards for contaminants in public drinking water such as pathogenic bacteria, pesticides, and organic chemicals. When EPA establishes such standards for public drinking water, FDA is required to take appropriate action to amend its regulations for bottled drinking water or to state its reasons for not doing so. FDA also establishes identity standards for a food when it has determined that the standard will promote honesty and fair dealing in the interest of consumers.

Timetable:

Beverages; Bottled Water
NPRM 01/05/93 (58 FR 393)
Final Action 11/13/95 (60 FR 57132)
Microbiological Quality Standard
NPRM 10/06/93 (58 FR 25042)
Final Action 00/00/00
Quality Standard for Lead and Copper
NPRM 01/05/93 (58 FR 389)
Final Action 05/25/94 (59 FR 26933)
Quality Standards for 24 Contaminants
NPRM 08/04/93 (58 FR 41612)
Final Action 03/26/96 (61 FR 13258)
Quality Standards for 35 Contaminants
NPRM 01/05/93 (58 FR 382)
Final Action 12/01/94 (59 FR 61529)

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD65.

Agency Contact: Michael E. Kashtock, Supervisory Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-306), 200 C Street SW., Washington, DC 20204
Phone: 202 205-4681

RIN: 0910–AA11

1015. REVIEW OF WARNINGS, USE INSTRUCTIONS, AND PRECAUTIONARY INFORMATION UNDER SECTION 314 OF THE NATIONAL CHILDHOOD VACCINE INJURY ACT OF 1986

Priority: Other Significant

Legal Authority: PL 99-660, sec 314

CFR Citation: None

Legal Deadline: Final, Statutory, June 22, 1989.

Abstract: Section 314 of the National Childhood Vaccine Injury Act of 1986 mandated that the warnings, use instructions, and precautionary information of specified childhood vaccines be reviewed and that their adequacy in warning health care professionals of the nature and extent of dangers posed by such vaccines be determined. This precautionary information is contained in the package insert of each vaccine licensed by the agency. FDA held a public meeting to receive public comment on the adequacy of these package inserts.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting; Public Comment on Package Inserts	07/31/92	57 FR 33915
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Previously reported under RIN 0905-AD72.

A public meeting was held on 9/18/92 on section 314 Labeling Review. Presentations were made by FDA, CDC, manufacturers, parents groups, and the public on the adequacy of the current labeling.

Agency Contact: Tracey Forfa, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Biologics Evaluation and Research (HFM-630), 1401 Rockville Pike, Suite 200N, Rockville, MD 20852-1448
Phone: 301 594-3074

RIN: 0910–AA14

1016. DIETARY SUPPLEMENT LABEL REVIEW

Priority: Routine and Frequent

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21

USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 101

Legal Deadline: NPRM, Statutory, June 15, 1993. Final, Statutory, December 31, 1993.
If final regulations on labeling of Dietary Supplements are not published by 12/31/93, the proposed regulations shall be considered the final regulations.

Abstract: With the publication of various final rules on January 6, 1993, the Agency completed action on its food labeling initiative under the Nutrition Labeling and Education Act of 1990. Rulemaking on nutrition labeling of dietary supplements was delayed due to requirements of the Dietary Supplement Act of 1992 (DSA), which amended the law to provide that the Agency would issue proposed regulations for dietary supplements by June 15, 1993, and final regulations by December 31, 1993. Three proposed regulations were developed and published on June 18, 1993: Health Claims for Dietary Supplements, Nutrient Content Claims for Dietary Supplements, and Mandatory Nutrition Labeling for Dietary Supplements. On October 14, 1993, FDA published a proposal to not authorize health claims on the labels of dietary supplements of five nutrient/disease relationships: (1) Dietary fiber and cancer, (2) Dietary fiber and CVD, (3) Antioxidants and cancer, (4) Omega-3 fatty acids and CHD, and (5) Zinc and immune function in the elderly. In addition, FDA also published a proposed rule to authorize the use of health claims about the relationship of folates and neural tube defects. On January 4, 1994, FDA published notices stating that the proposed health claim regulations be final by operation of law. However, the notices also stated that FDA considers the October 14, 1993, rulemakings to be ongoing. The Agency intends to continue rulemaking with respect to folates and to issue a final rule as quickly as possible. FDA is also considering new scientific information that may support health claims for some of the nutrient-disease relationships given above. If this information is sufficient to support claims, the Agency will repropose to allow those claims.

Timetable:

Health Claims; Diet. Fiber/Cancer, CHD; Antioxidant/CVD; Omega-3
NPRM 10/14/93 (58 FR 53296)
Final Action 00/00/00
Health Claims; Dietary Supplements
NPRM 06/18/93 (58 FR 33700)
Final Action 01/04/94 (59 FR 395)
Health Claims; Folate and Neural Tube Defects
Final Action 01/04/94 (59 FR 433)
Final Action Effective 07/01/95
Nutrient Content Claims; Dietary Supplements
NPRM 06/18/93 (58 FR 33731)
Final Action 01/04/94 (59 FR 378)
Nutrition Labeling; Dietary Supplements
NPRM 06/18/93 (58 FR 33715)
Final Action 01/04/94 (59 FR 354)
Regulation of Die*. Supp.
ANPRM 06/18/93 (58 FR 33690)
Withdrawal of ANPRM 12/06/94 (59 FR 62544)

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AD96.

Agency Contact: F. Edward Scarbrough, Director, Office of Food Labeling, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-150), 200 C Street SW., Washington, DC 20204
Phone: 202 205-4561

RIN: 0910–AA23

1017. AMALGAM INGREDIENT LABELING

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 352

CFR Citation: 21 CFR 801

Legal Deadline: None

Abstract: Certain dental amalgams may contain ingredients which may cause some persons severe adverse reactions. Therefore, FDA would propose that labeling for dental amalgams must include the ingredients so that health professionals may choose the appropriate amalgam for the patient.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE39.

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA33

1018. CLASSIFICATION OF COMPUTER SOFTWARE PROGRAMS THAT ARE MEDICAL DEVICES

Priority: Other Significant

Legal Authority: 21 USC 321(h); 21 USC 351; 21 USC 352; 21 USC 360(c)

CFR Citation: None

Legal Deadline: None

Abstract: FDA is announcing its intention to classify stand-alone computer software products that fit the definition of a medical device under the Federal Food, Drug, and Cosmetic Act. The Agency anticipates classifying these devices by using a risk-based approach as required under the Medical Device Amendments to the act. Under this approach low risk medical software devices would be subject only to the adulteration and misbranding provisions of the act. Moderate risk devices would additionally be subject to the registration, listing, and good manufacturing practice requirements for adverse events and complaints. High risk devices would be the only products to require premarket submissions or premarket approval. FDA is also seeking comment on potential criteria related to the intended uses of medical software devices that might be used in determining the level of risk.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE58.

Agency Contact: Chuck Furfine, Regulatory Review Scientist/Software Expert, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health (HFZ-84), 2098 Gaither Road, Rockville, MD 20850
Phone: 301 594-4765

RIN: 0910–AA41

1019. DEVELOPMENT OF HAZARD ANALYSIS CRITICAL CONTROL POINTS FOR THE FOOD INDUSTRY; REQUEST FOR COMMENTS

Priority: Other Significant

Legal Authority: 21 USC 321 et seq; 21 USC 342(a)(4); 21 USC 371(a); 42 USC 264

CFR Citation: None

Legal Deadline: None

Abstract: FDA announced on April 4, 1994, its plans to consider developing regulations that would establish requirements for a new comprehensive food safety assurance program for both domestically produced and imported foods that would be based on the principles of Hazard Analysis Critical Control Points (HACCP). The new food safety program would respond to new challenges, such as new food processing and packaging technologies, new food distribution and consumption patterns, exposure to industrial chemicals and chemical waste, the increasing importation of foods, new microbial pathogens, and resource constraints. The most serious of these challenges is presented by food pathogens. The number of recognized food-borne pathogens has broadened considerably, as has awareness of long-term complications from certain food-borne illnesses--such as arthritis, heart disease, and kidney and neurological damage. To meet such challenges, FDA intends to shift the focus of its food safety assurance program away from periodic visual inspection and end-product testing and toward prevention of food safety risks and problems, utilizing the HACCP state-of-the-art preventive approach.

Timetable:

Action	Date	FR Cite
ANPRM	08/04/94	59 FR 39888
ANPRM Comment Period End	12/02/94	
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AE60.

Agency Contact: John E. Kvenberg, Strategic Manager, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-10), 200 C Street SW., Washington, DC 20204
Phone: 202 205-4010

RIN: 0910–AA43

1020. HABIT FORMING DRUGS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 329

Legal Deadline: None

Abstract: The proposed rule would revise and clarify the regulations under part 329 to be consistent with the Drug Enforcement Administration regulations and the Controlled Substances Act.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA50

1021. DRUGS USED FOR TREATMENT OF NARCOTIC ADDICTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 355; 21 USC 371; 42 USC 241; 42 USC 257; 42 USC 290; 42 USC 300

CFR Citation: 21 CFR 291

Legal Deadline: None

Abstract: The proposed rule would revise the regulations under part 291 to reduce burden, to streamline requirements, to consolidate various sections.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research (HFD-7), 7500 Standish Place Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA52

1022. SUBSTANCES APPROVED FOR USE IN THE PREPARATION OF MEAT AND POULTRY PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 342; 21 USC 348; 21 USC 371; 21 USC 379e; 21 USC 381; 42 USC 216; 42 USC 262

CFR Citation: 21 CFR 71; 21 CFR 170; 21 CFR 171

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) is proposing to amend its regulations governing the review of petitions for the approval of food and color additives and substances generally recognized as safe (GRAS) to provide for simultaneous review of such petitions by the Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA), when meat or poultry product uses are proposed. By agreement between USDA and FDA, such listings would eliminate the need for a separate FSIS rulemaking to allow the use in meat and poultry products of FDA-approved substances.

Timetable:

Action	Date	FR Cite
NPRM	12/29/95	60 FR 67490
NPRM Comment Period End	03/14/96	
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Agency Contact: George Pauli, Supervisory Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS-200) 200 C Street SW., Washington, DC 20204
Phone: 202 418-3090

RIN: 0910–AA66

1023. • POSTMARKETING PERIODIC ADVERSE EXPERIENCE REPORTING REQUIREMENTS FOR HUMAN DRUG AND LICENSED BIOLOGICAL PRODUCTS

Priority: Other Significant

Legal Authority: 21 USC 216; 21 USC 262; 21 USC 263; 21 USC 264; 21 USC 300; 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 371; 21 USC 374; ...

CFR Citation: 21 CFR 314; 21 CFR 600

Legal Deadline: None

Abstract: The final rule would amend the periodic adverse experience reporting requirements to provide new definitions and to revise reporting periods and formats as recommended by the International Conference on Harmonization of Technical Requirements for Registration of Pharmaceuticals for Human Use and the World Health Organization's Council for International Organizations of Medical Sciences.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Audrey Thomas, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, (HFD-7), 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1049
Fax: 301 827-0901

RIN: 0910–AA85

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Completed Actions

Food and Drug Administration (FDA)

1024. FINAL REGULATION TO ESTABLISH PROCEDURES FOR THE SAFE AND SANITARY PROCESSING AND IMPORTING OF FISH AND FISHERY PRODUCTS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 21 CFR 123; 21 CFR 1240

Completed:

Reason	Date	FR Cite
Final Action	12/18/95	60 FR 65096
Final Action Effective	12/18/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Philip Spiller
Phone: 202 418-3133

RIN: 0910–AA10

1025. GENERAL BIOLOGICAL PRODUCT STANDARDS; ALTERNATIVE PROCEDURES AND EXCEPTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 610; 21 CFR 640; 21 CFR 630

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen Ripley
Phone: 301 594-3074

RIN: 0910–AA16

1026. MEDICAL DEVICES; PROTECTIVE RESTRAINTS; REVOCATION OF EXEMPTIONS FROM 510(K) PREMARKET NOTIFICATION PROCEDURES AND CURRENT GOOD MANUFACTURING PRACTICES REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 880.6760; 21 CFR 890.3910

Completed:

Reason	Date	FR Cite
Final Action	03/04/96	61 FR 8432

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Joseph M. Sheehan
Phone: 301 594-4765

RIN: 0910–AA17

1027. CERTIFICATION OF DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN; FEES FOR CERTIFICATION OF DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 0910-AA07	02/13/96	

RIN: 0910–AA27

1028. PREMARKET APPROVAL OF MEDICAL DEVICES; SUPPLEMENTAL APPLICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 21 CFR 814.39

Completed:

Reason	Date	FR Cite
Withdrawn - The agency has determined this regulation is unnecessary.	02/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph M. Sheehan

HHS—FDA — Completed Actions

Phone: 301 594-4765

RIN: 0910–AA35

1029. PUBLIC INFORMATION; COMMUNICATIONS WITH STATE AND FOREIGN GOVERNMENT OFFICIALS

Priority: Other

CFR Citation: 21 CFR 20

Completed:

Reason	Date	FR Cite
Final Action	12/08/95	60 FR 63372
Final Action Effective	01/08/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Linda Horton
Phone: 301 827-3344
Fax: 301 443-6906
Email: LHorton@Bangate.FDA.GOV

RIN: 0910–AA46

1030. OTC DRUG LABELING REVIEW

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 0910-AA79	03/20/96	

RIN: 0910–AA63

1031. MEDICAL DEVICE EXEMPTIONS FROM PREMARKET NOTIFICATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 21 CFR 862; 21 CFR 866; 21 CFR 868; 21 CFR 870; 21 CFR 872; 21 CFR 874; 21 CFR 876; 21 CFR 878; 21 CFR 880; 21 CFR 882; 21 CFR 884; 21 CFR 886; 21 CFR 888; 21 CFR 890; 21 CFR 892

Completed:

Reason	Date	FR Cite
Final Action	01/16/96	61 FR 1117
Final Action Effective	02/15/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Joseph M. Sheehan
Phone: 301 594-4765

RIN: 0910–AA65

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Resources and Services Administration (HRSA)

Final Rule Stage

1032. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK RULES

Priority: Other Significant

Legal Authority: 42 USC 1320b-8 sec 1138 of the Social Security Act; 42 USC 274 sec 372 of the Public Health Service Act

CFR Citation: 42 CFR 121

Legal Deadline: None

Abstract: Section 1138 of the Social Security Act requires Medicare and Medicaid participating hospitals that perform organ transplants to be members of and abide by the rules and requirements of the Organ Procurement and Transplantation Network (OPTN) as established by section 372 of the Public Health Service Act. Section 1138 also requires that for organ procurement costs attributable to payments to an Organ Procurement Organization (OPO) to be paid by Medicare or Medicaid, the OPO must be a member of and abide by the rules and requirements of the OPTN. No other entity (for example, a histocompatibility laboratory) is required to be a member of or abide by the rules of the OPTN under the provisions of the statute. It is the Department's position that no rule, requirement, policy, or other issuance of the OPTN will be considered to be a "rule or requirement" of the Network within the meaning of section 1138 unless the Secretary has formally approved that rule. The OPTN is currently in operation and these rules will impose no further cost or provide any benefit other than that which now exists.

Timetable:

Action	Date	FR Cite
NPRM	09/08/94	59 FR 46482
NPRM Comment Period End	12/07/94	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD26.

Agency Contact: Judy Braslow, Director, Division of Transplantation, Bureau of Health Resources Development, Department of Health and Human Services, Health Resources and Services Administration, Room 7-18 Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-7577

RIN: 0906–AA32

1033. NATIONAL VACCINE INJURY COMPENSATION PROGRAM: REVISIONS AND ADDITIONS TO THE VACCINE INJURY TABLE—II

Priority: Other Significant

Legal Authority: 42 USC 216; 42 USC 300aa-14; 42 USC 300aa-1 note.

CFR Citation: 42 CFR 100

Legal Deadline: None

Abstract: The Secretary has made findings as to the illnesses and conditions that can reasonably be determined in some circumstances to be caused or significantly aggravated by certain vaccines. Based on these findings, the Secretary amends the Vaccine Injury Table by regulation pursuant to section 313 of the National Childhood Vaccine Injury Act of 1986 and section 2114(c) of the Public Health Service Act. This final rule would have effect only for petitions for compensation under the National Vaccine Injury Compensation Program (VICP) filed after the final regulations become effective.

Timetable:

Action	Date	FR Cite
NPRM	11/08/95	60 FR 56289
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: None

HHS—HRSA — Final Rule Stage

Additional Information: Previously reported under RIN 0905-AE52.

Agency Contact: Thomas E. Balbier, Jr., Director, Division of Vaccine Injury Compensation Program, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8A-35, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-6593

RIN: 0906–AA36

1034. REMOVAL OF OBSOLETE REGULATIONS OF THE TITLE VII GRANT FOR THE CONSTRUCTION OF TEACHING FACILITIES FOR HEALTH PROFESSIONS PERSONNEL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 292 et seq

CFR Citation: 42 CFR 57.101 to 57.108; 42 CFR 57.110 to 57.112

Legal Deadline: None

Abstract: The purpose of this action is to remove regulations rendered obsolete by P.L. 102-408, which rescinded the authority for a health professions training facilities construction grant program that the now obsolete regulations governed.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charlotte Pascoe, Chief, Division of Facilities Compliance and Recovery, Department of Health and Human Services, Health Resources and Services Administration, Room 7-31 Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-6512

RIN: 0906–AA39

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Resources and Services Administration (HRSA)

Long-Term Actions

1035. HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: LENDERS'/ HOLDERS' PERFORMANCE STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 292 to 292o

CFR Citation: 42 CFR 60

Legal Deadline: NPRM, Statutory, October 13, 1993.

Abstract: This Final rule amends the existing regulations governing the HEAL Program to establish standards for lenders and holders as required by the Health Professions Education Extension Amendments of 1992 (Pub. L. 102-408). These standards would provide lenders and holders a greater incentive to work to maintain low HEAL default rates and, thus, improve the long-term solvency of the Student Loan Insurance Fund.

Timetable:

Action	Date	FR Cite
NPRM	11/16/94	59 FR 50103
NPRM Comment Period End	12/16/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD87.

Agency Contact: Michael Heningburg, Director, Division of Student Assistance, Bureau of Health Professions, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Bldg. Room 8-48, Rockville, MD 20857
Phone: 301 443-1173

RIN: 0906–AA33

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Resources and Services Administration (HRSA)

Completed Actions

1036. TECHNICAL AMENDMENTS TO THE HEALTH PROFESSIONS, NURSING, AND ALLIED HEALTH TRAINING GRANT PROGRAMS UNDER 42 CFR PARTS 57 AND 58

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 42 CFR 57; 42 CFR 58

Completed:

Reason	Date	FR Cite
Final Action	02/16/96	61 FR 6118
Final Action Effective	02/16/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jennifer Burks
Phone: 301 443-1590

RIN: 0906–AA38

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Indian Health Service (IHS)

Proposed Rule Stage

1037. ACQUISITION UNDER THE BUY INDIAN ACT

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 47

CFR Citation: 48 CFR ch 3, app A

Legal Deadline: None

Abstract: This regulation will update and standardize existing regulations for the Buy Indian Act to coincide with the Department of Interior regulations at 48 CFR Chapter 14. There are no costs associated with these revised regulations. These revisions will increase competition among Indian economic enterprises and facilitate economic development of Indian reservations by increasing opportunities for Indian businesses.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Additional Information: Previously reported under RIN 0905-AE09.

Agency Contact: Myrna Mooney, Small and Disadvantaged Business Utilization Specialist, Department of Health and Human Services, Indian Health Service, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852
Phone: 301 443-1480

RIN: 0917–AA00

1038. • INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT MINIMUM STANDARDS OF CHARACTER AND SUITABILITY FOR EMPLOYMENT

Priority: Other

Legal Authority: 5 USC 301; 25 USC 3201 et seq; 42 USC 13041

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: The Indian Health Service (IHS) is proposing to establish regulations as mandated by the Indian Child Protection and Family Violence Protection Act, P.L. 101-630, 25 U.S.C. 3201-3211, that prescribes minimum standards of character and suitability of employment for individuals whose duties and responsibilities involve regular contact with, or control over, Indian children. These regulations also incorporate suitability of employment criteria required by section 231 of the Crime Control Act of 1990, P.L. 101-647, 42 U.S.C. 13041, which applies to each agency of the federal government and contractors with the federal government which hires individuals to provide child care services.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Ramona D. Williams, Child Protection Coordinator, Department of Health and Human Services, Indian Health Service, 5300 Homestead Road NE., Albuquerque, NM 87110
Phone: 505 837-4245

RIN: 0917–AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Indian Health Service (IHS)

Final Rule Stage

1039. REVISION OF INDIAN SELF-DETERMINATION REGULATIONS

Priority: Other Significant

Legal Authority: PL 93-638; PL 100-202; PL 100-446; PL 100-472; PL 100-581; PL 101-301; PL 103-413; 25 USC 450

CFR Citation: 42 CFR 36; 48 CFR 380.4; 48 CFR 352.280-4

Legal Deadline: Final, Statutory, June 1996.

Abstract: Public Law 93-638, passed in 1975, requires the Indian Health Service (IHS) to turn over administrative responsibility for service delivery programs to tribes so requesting, using the mechanism of contracting. Public Law 93-638 also authorizes the IHS to make grants to tribes for the planning, development, and/or operations of health programs. Public Law 100-472, enacted October 5, 1988, made significant changes to the statute and required that regulations implementing the amendments be promulgated in final within 10 months of enactment. The NPRM was published on January 20, 1994. The 120-day comment period was extended until August 20, 1994. On October 26, 1994, Public Law 103-413 was enacted. These amendments superseded the published NPRM and authorized the Secretaries of Interior and Health and Human Services to publish joint regulations only in specified areas. These regulations would be developed using the negotiated rulemaking procedure and are to be published within 18 months of enactment of the authorizing legislation.

Timetable:

Action	Date	FR Cite
NPRM	01/24/96	61 FR 2037
NPRM Comment Period End	03/25/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Additional Information: Previously reported under RIN 0905-AE68. Future action undetermined because statutory deadline and end of comment period differ by 30 days. Legislation to change statutory deadline to June 25, 1996, has been introduced in both houses of Congress.

Agency Contact: Betty J. Penn, Chief, Regulations Branch, DLR, Department of Health and Human Services, Indian Health Service, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852
Phone: 301 443-1116

RIN: 0917–AA01

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Agency for Health Care Policy and Research (AHCPR)

Final Rule Stage

1040. HEALTH SERVICES RESEARCH, EVALUATION, DEMONSTRATION, AND DISSEMINATION PROJECTS; PEER REVIEW OF GRANTS AND CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 299c-1(e)

CFR Citation: 42 CFR 67

Legal Deadline: None

Abstract: This final rule revises the regulations under 42 CFR part 67 to establish updated regulations for the administration of grants and peer review of grants and contracts for health services research projects supported by the Agency for Health Care Policy and Research. These grants and contracts are under authority of Title IX of the PHS Act and section 1142 of the Social Security Act, as amended by P.L. 101-239 and P.L. 102-410. Public Comment was solicited on an NPRM on November 16, 1993. The final rule will also remove an existing subpart, which is obsolete.

Timetable:

Action	Date	FR Cite
NPRM	11/16/93	58 FR 60510
NPRM Comment Period End	01/18/94	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD30.

Agency Contact: Phyllis Zucker, Dir., Off. of Planning and Evaluation, Department of Health and Human Services, Agency for Health Care Policy and Research, Suite 603, 2101 East Jefferson Street, Rockville, MD 20852
Phone: 301 594-2453

RIN: 0919–AA00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
National Institutes of Health (NIH)

Proposed Rule Stage

1041. NATIONAL INSTITUTES OF HEALTH AIDS RESEARCH LOAN REPAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-1

CFR Citation: 42 CFR 68

Legal Deadline: None

Abstract: Section 634 of PL 100-607 creates a new program through which health professionals can obtain federally funded repayment of educational loans by conducting AIDS research as NIH employees. The new regulations will cover this program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AD18.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892-2075
Phone: 301 496-4606
Fax: 301 402-0169
Email: MOOREJ@OD31EMI.NIH.GOV

RIN: 0925–AA02

1042. NATIONAL INSTITUTES OF HEALTH CLINICAL RESEARCH LOAN REPAYMENT PROGRAM FOR INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-5

CFR Citation: 42 CFR 68a

Legal Deadline: None

Abstract: Regulations would be issued to govern the awarding of educational loan repayments under the NIH Clinical Research Loan Repayment Program for Individuals From Disadvantaged Backgrounds authorized by section 487E of the Public Health Service Act, as added by provisions of the NIH Revitalization Act of 1993.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE56.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892-2075
Phone: 301 496-4606
Fax: 301 402-0169
Email: MOOREJ@OD31EMI.NIH.GOV

RIN: 0925–AA09

1043. UNDERGRADUATE SCHOLARSHIP PROGRAM REGARDING PROFESSIONS NEEDED BY THE NIH

Priority: Other

Legal Authority: 42 USC 288-4; 42 USC 216

CFR Citation: 42 CFR 68b

Legal Deadline: None

Abstract: Section 487D of the PHS Act, as added by the NIH Revitalization Act of 1993, creates a program offering scholarships, in an amount not to exceed $20,000 per year of academic study, to individuals from disadvantaged backgrounds who are enrolled as full-time students at accredited institutions pursuing academic programs appropriate for careers in professions needed by the NIH. For each year of scholarship support, the recipient agrees to service (employment), after graduation at the NIH, for one year. Additionally, the individual agrees to at least ten consecutive weeks of service (employment) at the NIH during which the individual is attending the institution and receiving the NIH scholarship. The proposed new regulations will cover this program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE57.

Agency Contact: Jerry Moore, NIH Regulations Officer, Program, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892 Phone: 301 402-4606

RIN: 0925–AA10

1044. TRAINEESHIPS (TERMINATION POLICIES)

Priority: Other

Legal Authority: 42 USC 216; 42 USC 283g(d); 42 USC 284(b)(1)(C); 42 USC 286b-3; 42 USC 287c(b)

CFR Citation: 42 CFR 63

Legal Deadline: None

Abstract: Regulations governing NIH traineeships will be amended to set forth additional conditions under which awards may be terminated.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE62.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892-2075 Phone: 301 496-4606 Fax: 301 402-0169 Email: MOOREJ@OD31EMI.NIH.GOV

RIN: 0925–AA11

1045. ADDITIONAL DHHS PROTECTION FOR PREGNANT WOMEN AND HUMAN FETUSES INVOLVED AS SUBJECTS FOR RESEARCH, AND PERTAINING TO HUMAN IN VITRO FERTILIZATION

Priority: Other

Legal Authority: 5 USC 301; 42 USC 289

CFR Citation: 45 CFR 46, subpart B

Legal Deadline: None

Abstract: Current regulations which have been in effect for two decades will be revised to reflect provisions of Public Law 103-43 and recent changes in NIH and FDA policies on the involvement of women in research.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: F. William Dommel, Jr., J.D., Senior Policy Advisor, Department of Health and Human Services, National Institutes of Health, Office for Protection from Research Risks, 6100 Executive Blvd., Ste. 3801, MSC 7507, Rockville, MD 20892-7507 Phone: 301 496-7005 Fax: 301 402-2071 Email: WD3U@NIH.GOV

RIN: 0925–AA14

1046. • NATIONAL RESEARCH SERVICE AWARDS

Priority: Other

Legal Authority: 42 USC 216; 42 USC 288

CFR Citation: 45 CFR 66

Legal Deadline: None

Abstract: Current HHS regulations will be amended to reflect provisions of the ADAMHA Reorganization Act and the NIH Revitalization Act and the NIH Revitalization Act of 1993. New language concerning the service payback obligation will set forth that a service payback obligation is incurred only during the first twelve months of postdoctoral support and individuals may pay back this service obligation by engaging in an equal period of health-related teaching, or if the individual finished the first twelve months of support, by engaging in a second year of NRSA supported research training.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892-2075 Phone: 301 496-4606 Fax: 301 402-0169 Email: moorej@od31em1.nih.gov

RIN: 0925–AA16

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

National Institutes of Health (NIH)

Final Rule Stage

1047. GRANTS FOR RESEARCH PROJECTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216

CFR Citation: 42 CFR 52

Legal Deadline: None

Abstract: Regulations covering grants for research projects will be amended to show changes necessitated by enactment of Public Laws 99-158, 99-660, 100-607, 101-549, 101-613, 102-222, 102-321, and 102-588, and to show their applicability to various programs administered by the Centers for Disease Control and Prevention and the Food and Drug Administration previously omitted from the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/02/94	59 FR 39312
NPRM Comment Period End	10/03/94	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AC02.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892-2075

Phone: 301 496-4606 Fax: 301 402-0169 Email: MOOREJ@OD31EMI.NIH.GOV

RIN: 0925–AA01

1048. HAZARDOUS SUBSTANCES BASIC RESEARCH AND TRAINING GRANTS

Priority: Other

Legal Authority: 42 USC 9660; 42 USC 216

CFR Citation: 42 CFR 65a

Legal Deadline: None

Abstract: Regulations will be promulgated concerning grants for research and training made for the purpose of understanding, assessing, and reducing the adverse effect on human health of exposure to hazardous substances. The grants are authorized by section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as added by section 209 of the Superfund Amendments and Reauthorization Act (SARA) of 1986, P.L. 99-499.

Timetable:

Action	Date	FR Cite
NPRM	03/07/95	60 FR 12525
NPRM Comment Period End	05/08/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD46.

Agency Contact: Dr. William A. Suk, Program Administrator, Division of Extramural Research and Training, Department of Health and Human Services, National Institutes of Health, NIEHS, P.O. Box 12233, Research Triangle Park, NC 27709 Phone: 919 541-0797

RIN: 0925–AA03

1049. NATIONAL INSTITUTES OF HEALTH CONSTRUCTION GRANTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 285a-2; 42 USC 285a-3; 42 USC 285b-3; 42 USC 285b-4; 42 USC 285d-6; 42 USC 285i; 42 USC 285m-3; 42 USC 287a-2; 42 USC 287a-3; 42 USC 300cc-41

CFR Citation: 42 CFR 52b

Legal Deadline: None

Abstract: Regulations concerning NCI construction grants will be amended to more clearly show their general applicability to all NIH extramural programs with construction grant authority. Additionally, the regulations will be amended to show new administrative and technical requirements, add new procedures for the recovery of grant funds for facilities no longer used for biomedical research, show new PHS Act section numbers, and update the listing of other HHS regulations relevant to construction grants.

Timetable:

Action	Date	FR Cite
NPRM	07/06/95	60 FR 35266
NPRM Comment Period End	09/05/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD49.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892-2075 Phone: 301 496-4606 Fax: 301 402-0169 Email: MOOREJ@OD31EMI.NIH.GOV

RIN: 0925–AA04

1050. TRAINING GRANTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 242l(b)(3); 42 USC 284(b)(1)(C); 42 USC 287c(b); 42 USC 300cc-15(a)(1); 42 USC 300cc-41(a)(3)(C); 42 USC 7403(h)(2)

CFR Citation: 42 CFR 63a

Legal Deadline: None

Abstract: New regulations concerning non-NRSA training grants authorized by various PHS Act sections and training activities authorized by section 103(h)(2) of the Clean Air Act, as amended by section 901 of the Clean Air Act Amendments of 1990, P.L. 101-549. The regulations are intended to serve as a standing set of regulations that could be adapted for future training grant programs.

Timetable:

Action	Date	FR Cite
NPRM	01/24/95	60 FR 4742
NPRM Comment Period End	03/27/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD56.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892-2075 Phone: 301 496-4606 Fax: 301 402-0169 Email: MOOREJ@OD313MI.NIH.GOV

RIN: 0925–AA05

1051. NATIONAL INSTITUTES OF HEALTH CENTER GRANTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 285a-3; 42 USC 285b-4; 42 USC 285c-5; 42 USC 285d-6; 42 USC 285e-2; 42 USC 285e-3; 42 USC 285f-1; 42 USC 285g-5; 42 USC 285g-7; 42 USC 285m-3; 42 USC 285o-2; 42 USC 300cc-16; 42 USC 285a-6(c)(1)(E); 42 USC 285c-8

CFR Citation: 42 CFR 52a

Legal Deadline: None

Abstract: NIH Center Grants regulations will be amended to show their applicability to the Drug Abuse Research Centers Program authorized by PHS Act, section 464N, as added by section 123 of the ADAMHA Reorganization Act, P.L. 102-321, and several new centers authorized under the NIH Revitalization Act of 1993. Additionally, in accordance with the

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HHS—NIH — Final Rule Stage

President's Reinventing Government effort, NIH is merging the regulations governing Grants for National Alcohol Research Centers codified at 42 CFR Part 54a with the Center Grants regulations and removing 42 CFR Part 54a from the CFR.

Timetable:

Action	Date	FR Cite
NPRM	02/17/95	60 FR 9560
NPRM Comment Period End	04/18/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE00. NIH plans to modify the National Alcohol Research Centers regulations to set forth changes necessitated by enactment of the ADAMHA Reorganization Act, Public Law 102-321, and other changes to update the regulations previously reported under RIN 0905-AE08. Additional Legal Authorities: 42 USC 286a-7(c)(1)(G)

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Behtesda, MD 20892-2975
Phone: 301 496-4606
Fax: 301 402-0169
Email: MOOREJ@OD31EMI.NIH.GOV

RIN: 0925–AA06

1052. GRANTS FOR NATIONAL ALCOHOL RESEARCH CENTERS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 216; 42 USC 285n-2

CFR Citation: 42 CFR 54a

Legal Deadline: None

Abstract: In accordance with the President's Reinventing Government effort, regulations governing grants for alcohol abuse and alcoholism prevention, treatment, and rehabilitation services, and National Alcohol Research Centers are being merged with the regulations governing NIH center grants codified at 42 CFR Part 52. Part 54a is being removed from the CFR.

Timetable:

Action	Date	FR Cite
NPRM	08/19/94	59 FR 42793
NPRM Comment Period End	10/18/94	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE08. Merging of the National Alcohol Research Center grants regulations with the NIH center grant regulations is also reported under RIN 0925-AA06.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892-2075
Phone: 301 496-4606
Fax: 301 402-0169
Email: MOOREJ@OD31EMI.NIH.GOV

RIN: 0925–AA08

1053. • REMOVAL OF OBSOLETE PATENT REGULATIONS

Priority: Other

Legal Authority: 42 USC 216

CFR Citation: 45 CFR 6; 45 CFR 8

Legal Deadline: None

Abstract: Currently HHS regulations relating to inventions and patents generally, and inventions resulting from research grants and contracts and fellowships awards are being rescinded because those regulations are obsolete. The current regulations were superseded by the Bayh-Dole Act and implementing regulations issued by the Department of Commerce at 37 CFR Part 401 that provide for the transfer of Government-funded technology to the private sector through the elimination of Government control over inventions made under Federal grants and contracts.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892-2075
Phone: 301 496-4606
Fax: 301 402-0169
Email: moorej@od31em.nih.gov

RIN: 0925–AA15

1054. • REMOVAL OF NATIONAL CANCER INSTITUTE CLINICAL CANCER EDUCATION PROGRAM

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 216

CFR Citation: 42 CFR 52d

Legal Deadline: None

Abstract: Current regulations relating to the National Cancer Institute Clinical Cancer Education Program will be rescinded because the regulations are obsolete. Current guidelines communicated by NCI with respect to the care of cancer patients no longer reflect the type of program described in the current regulations. This action will not affect the authority of the Director, NCI, to support appropriate programs of education and training, including clinical research training set forth in section 414 of the Public Health Service Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Building 31, Room 1B-25, 31 Center Drive MSC 2075, Bethesda, MD 20892-2075
Phone: 301 496-4606
Fax: 301 402-0169
Email: moorej@od31em1.nih.gov

RIN: 0925–AA17

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Long-Term Actions
Office of Assistant Secretary for Health (OASH)

1055. STANDARDS OF COMPLIANCE FOR ABORTION-RELATED SERVICES IN FAMILY PLANNING SERVICE PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300a-4

CFR Citation: 42 CFR 59

Legal Deadline: None

Abstract: This rule would return the Family Planning Service Program, funded under title X of the Public Health Service Act, to the compliance standards operative prior to February 2, 1988, with regard to the statutory provision prohibiting abortion as a method of family planning in projects funded under that title.

Timetable:

Action	Date	FR Cite
NPRM	02/05/93	58 FR 7464
NPRM Comment Period End	08/09/93	58 FR 34024
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Previously reported under RIN 0905-AE03.

Agency Contact: Felicia Stewart, M.D., Deputy Assistant Secretary for Population Affairs, Department of Health and Human Services, Office of Assistant Secretary for Health, East-West Towers, Suite 200, West Bldg., 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 594-4000

RIN: 0937–AA00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage
Health Care Financing Administration (HCFA)

1056. MEDICARE COVERAGE OF OUTPATIENT OCCUPATIONAL THERAPY SERVICES (BPD-425-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395k; 42 USC 1395l; 42 USC 1395w-4; 42 USC 1395x(s); 42 USC 1395x(p); 42 USC 1395cc(e)

CFR Citation: 42 CFR 410; 42 CFR 485; 42 CFR 486

Legal Deadline: None

Abstract: This rule would implement section 9337 of OBRA '86 which provides Medicare coverage for outpatient occupational therapy services furnished by providers and independent practitioners, identical to the coverage for outpatient physical therapy. It also would implement section 6133(a) of OBRA '89 which increased the payment limit for outpatient occupational therapy services provided by independent practitioners.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheridan Gladhill, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-03-18, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1782

RIN: 0938–AD32

1057. REVISIONS TO THE CONFIDENTIALITY AND DISCLOSURE REGULATION (OPA-001-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 552a; PL 99-570, Sec 1801; PL 99-570, Sec 1802; PL 99-570, Sec 1803; PL 99-570, Sec 1804; 42 USC 1306; EO 12600

CFR Citation: 42 CFR 401.101 to 401.102; 42 CFR 401.110; 42 CFR 401.120 to 401.123; 42 CFR 401.124 to 401.125; 42 CFR 401.105 to 401.108; 42 CFR 401.115 to 401.116

Legal Deadline: None

Abstract: This proposed rule would supplement the existing Department of Health and Human Services (HHS) Freedom of Information Act (FOIA) and Privacy Act regulations by establishing rules specific to HCFA. The rule would also revise existing HCFA regulations to delete language that reiterates or conflicts with HHS-FOIA or Privacy Act regulations or that pertains to the Social Security Act. This proposed rule is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melody Hardy, Freedom of Information & Privacy Office, Department of Health and Human Services, Health Care Financing Administration, C2-01-11, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5358

RIN: 0938–AD60

1058. "WITHOUT FAULT" AND BENEFICIARY WAIVER OF RECOVERY AS IT APPLIES TO MEDICARE OVERPAYMENT LIABILITY (BPD-719-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395gg

CFR Citation: 42 CFR 405; 42 CFR 401; 42 CFR 466.94; 42 CFR 411.23; 42 CFR 411.28; 42 CFR 466.86; 42 CFR 473.14; 42 CFR 413.20; 42 CFR 413.153

Legal Deadline: None

Abstract: This rule would amend the Medicare regulations to clarify our interpretation of "without fault" as it applies to physician, provider, supplier and beneficiary liability for overpayments. This definition would result in greater uniformity of determinations by carriers and intermediaries. Additionally, this rule would amend the Medicare regulations governing liability for overpayments to eliminate application of certain regulations of the Social Security Administration and to replace them with HCFA regulations more specific to

circumstances involving Medicare overpayments. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Walczak, Health Insurance Specialist, Office of Chronic Care & Insurance Policy, Department of Health and Human Services, Health Care Financing Administration, C4-07-07, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4475

RIN: 0938–AD95

1059. PROTECTION OF INCOME AND RESOURCES FOR COMMUNITY SPOUSES OF INSTITUTIONALIZED INDIVIDUALS (MB-023-P)

Priority: Other Significant

Legal Authority: 42 USC 1396r-5; 42 USC 1302

CFR Citation: 42 CFR 435.650 to 674; 42 CFR 435.750 to 754

Legal Deadline: None

Abstract: These regulations would interpret section 303(a) of MCCA '88, as amended by section 608(d)(16) of the FSA (PL 100-485), section 6411(e)(3) of OBRA '89, section 4714 of OBRA '90 and 513611(d) and 513643(c) of OBRA '93 (Pl 103-66). Section 303(a) allocates income and resources between a spouse who is institutionalized and the spouse remaining in the community. It also provides special post-eligibility rules for institutionalized individuals who have spouses in the community. The revision would allow the community spouse to retain more income to meet living expenses.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Jennifer Ryan, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-23-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4459

RIN: 0938–AE12

1060. PROVIDER REIMBURSEMENT DETERMINATIONS AND APPEALS REVISIONS (BPD-727-P)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g(a); 42 USC 1395l; 42 USC 1395x(u); 42 USC 1395hh; 42 USC 1395jj; 42 USC 1395oo; 42 USC 1395ww

CFR Citation: 42 CFR 405.1801; 42 CFR 405.1889

Legal Deadline: None

Abstract: Under section 1878 of the Social Security Act, the Provider Reimbursement Review Board (PRRB) has the authority to adjudicate substantial reimbursement disputes between providers and intermediaries. This proposed rule would revise, update, and clarify various provisions of the regulations pertaining to provider appeals before intermediaries and the PRRB. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Morty Marcus, Office of Chronic Care & Insurance Policy, Department of Health and Human Services, Health Care Financing Administration, C4-07-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4477

RIN: 0938–AF28

1061. ALTERNATIVE SANCTIONS FOR PSYCHIATRIC HOSPITALS (HSQ-191-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395cc; 42 USC 1396a

CFR Citation: 42 CFR 488

Legal Deadline: None

Abstract: This proposed rule would provide an alternative to terminating a psychiatric hospital's participation in the Medicare and Medicaid programs for facilities found to be out of compliance with participation requirements. The alternative sanctions could be imposed instead of, or in addition to, terminating a psychiatric hospital's participation in the Medicare and Medicaid programs where deficiencies do not present immediate jeopardy to the health and safety of psychiatric hospital patients. These amendments are necessary to conform HCFA regulations to changes made by section 6020 of OBRA '89 and section 4755 of OBRA '90. The statutory and regulatory revisions are intended to encourage correction of deficiencies that do not jeopardize patient health and safety before termination becomes necessary.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Frank Sololik, Center for Hospital and Community Care, Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S2-13-23, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7089

RIN: 0938–AF32

1062. ASSESSING INTEREST AGAINST MEDICARE SECONDARY PAYER (MSP) DEBTS (BPO-108-P)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3711; 31 USC 3717; 42 USC 1395y(b)(2)(B)

CFR Citation: 42 CFR 411.40; 42 CFR 405.376

Legal Deadline: None

Abstract: This proposal would establish in HCFA rules provisions concerning interest charges on amounts owed to the Federal government when an overpayment occurs because Medicare was billed and made payment as the primary payer, rather than as the secondary payer. We also propose to clarify the date of determination that an overpayment has occurred so that all parties would have a clear understanding of the period subject to payment of interest charges.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

TIMETABLE: Pending revisions resulting from PL 103-432.

Agency Contact: John Albert, Health Insurance Specialist, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, S3-02-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7457

RIN: 0938–AF87

1063. REVISIONS TO RULES ON HEALTH CARE PREPAYMENT PLANS (OMC-016-P)

Priority: Other Significant

Legal Authority: 42 USC 1395l; 31 USC 9701

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This regulation would impose a range of requirements on Health Care Prepayment Plans corresponding to certain provisions for prepaid health plans under section 1876 of the Social Security Act. The expanded regulatory requirements would increase beneficiary protections and strengthen Federal oversight of the HCFA program.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tim Love, Office of Managed Care, Department of Health and Human Services, Health Care Financing Administration, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1094

RIN: 0938–AF97

1064. CONDITIONS OF PARTICIPATION FOR RURAL HEALTH CLINICS (BPD-764-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395l(a); 42 USC 1395l(d); 42 USC 1395x(aa); 42 USC 1395ww(a)(4); 42 USC 1396a(a)(13)(E); 42 USC 263a

CFR Citation: 42 CFR 405; 42 CFR 410; 42 CFR 491

Legal Deadline: None

Abstract: This rule would update our regulations to incorporate several health care coverage and payment provisions contained in OBRAs '87, '89, and '90 and would propose administrative changes that clarify policy related to sharing space between rural health centers and other entities, such as physician offices, the replacement of the provider-based cost basis system with the all-inclusive rate payment system, and the allowance of separate payment under Part B for more complex laboratory services. (This rule is part of HCFA's regulatory reform initiative.)

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Helen Klein, Office of Physician & Ambulatory Care Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-06-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4641

RIN: 0938–AG05

1065. APPOINTMENT OF REPRESENTATIVES FOR MEDICARE APPEALS (BPO-120-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395ff; 42 USC 1302; 42 USC 1320(c); 42 USC 1395hh; 42 USC 1395ii; 42 USC 1395pp; 42 USC 1395u

CFR Citation: 42 CFR 405.870; 42 CFR 405.701(c); 42 CFR 405.801(c); 42 CFR 405.871; 42 CFR 405.872

Legal Deadline: None

Abstract: This rule would clarify current regulations concerning: who can be appointed as representatives at Medicare appeal proceedings; the appointment procedure for representatives; whether a representative may be paid for his or her services; and the representative's specific responsibilities. These changes would improve the administration of the claims appeal process.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betsy Horn, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, S1-05-15, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0973

RIN: 0938–AG30

1066. ENFORCEMENT REQUIREMENTS FOR RENAL DIALYSIS FACILITIES (HSQ-204-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395rr(g)

CFR Citation: 42 CFR 405; 42 CFR 405.2181; 42 CFR 405.2182; 42 CFR 405.2184

Legal Deadline: None

Abstract: This rule would implement section 12 of PL 100-93, which amended section 1881 of the Social Security Act by adding a new paragraph (h). Paragraph (h) (redesignated as (g) by section 4036(d)(5)(D) of OBRA '87) broadens the Secretary's authority to impose alternative sanctions on suppliers of end-stage renal disease services when the noncompliance of the supplier with the conditions of coverage does not immediately jeopardize patient health and safety. Alternative sanctions provide HCFA with a more flexible response to facility deficiencies short of termination. This rule is part of HCFA's regulatory reform initiative.

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Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Debbie Schoenemann, Office of Survey & Certification, Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S2-19-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6771

RIN: 0938–AG31

1067. GENERAL CRITERIA AND STANDARDS FOR EVALUATING PERFORMANCE OF CONTRACT OBLIGATIONS (HSQ-207-NC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1320c; 42 USC 132c-2

CFR Citation: 42 CFR 462

Legal Deadline: None

Abstract: This notice provides general criteria and standards that will be used to evaluate the effective and efficient performance of Utilization and Quality Control Peer Review Organizations (PROs) for new contracts entered into on or after April 1, 1996.

Timetable:

Action	Date	FR Cite
Notice With Comment Period	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Heidi Gelzer, Health Standards & Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S1-08-24, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-9352

RIN: 0938–AG32

1068. DISCLOSURE OF CONFIDENTIAL PRO INFORMATION FOR RESEARCH PURPOSES (HSQ-208-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320c-9; 42 USC 1302

CFR Citation: 42 CFR 476.144

Legal Deadline: None

Abstract: This rule would allow Peer Review Organizations (PROs) to disclose confidential information to researchers without the consent of the individuals who would be identified. Currently, PROs can only disclose to the public nonconfidential aggregate data where no one is specifically identified. The statute, however, provides for limited disclosure in cases where there are circumstances to assure adequate protection of the rights established by regulation, and interest of patients, health care practitioners, or providers. HCFA is now emphasizing the sharing of PRO data for educational and research purposes as evidenced by the implementation of the Uniform Clinical Data Set and the Health Care Quality Improvement Initiative. This regulatory revision will make confidential PRO information accessible to researchers while still protecting the identities of beneficiaries and practitioners from unwarranted disclosure. PRO flexibility to share information with researchers is comparable with the revised requirements in the PRO's Fourth Scope of Work contract.

Timetable:

Action	Date	FR Cite
NPRM	02/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Mike Rappaport, Director, Division of Systems Management, Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S1-09-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6759

RIN: 0938–AG33

1069. EFFECT OF CHANGE OF OWNERSHIP ON PROVIDER AND SUPPLIER PENALTIES, SANCTIONS, AND OVERPAYMENTS (HSQ-215-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395g(a); 42 USC 1395x; 42 USC 1395z; 42 USC 1395cc(a); 42 USC 1395ii; 42 USC 1396a(a)(28); 42 USC 1396r(a) to (f); 42 USC 1302; 42 USC 1395i-3(a) to (f); 42 USC 1395x(j)and (l); 42 USC 1395aa; 42 USC 1395hh; 42 USC 1395oo; 42 USC 1395d(a) and (c) and (d)

CFR Citation: 42 CFR 405.1803; 42 CFR 405.1811; 42 CFR 405.1835; 42 CFR 405.1843; 42 CFR 405.1805; 42 CFR 483.151; 42 CFR 484.36; 42 CFR 489.2; 42 CFR 489.18

Legal Deadline: None

Abstract: This rule would amend the regulations on provider agreements by clarifying the effect a change of ownership has on penalties and sanctions incurred by Medicare providers. It would provide that all Medicare penalties and sanctions are automatically assigned to a new owner. It would also extend the same principle to suppliers; i.e., we would require the new owner of a supplier to be liable for any Medicare overpayments, penalties, and sanctions incurred by or imposed on the previous owner.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: Legal Authority (Continued) 42 USC 1395f(b) 42 USC 1395l 42 USC 1395x(v) 42 USC 1395cc 42 USC 1395ww

Agency Contact: Mike Goldman, Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S2-14-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6768

RIN: 0938–AG59

1070. NEW PAYMENT METHODOLOGY FOR ROUTINE EXTENDED CARE SERVICES PROVIDER IN A SWING BED HOSPITAL (BPD-805-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395tt

CFR Citation: 42 CFR 413.53; 42 CFR 413.114

Legal Deadline: None

Abstract: This proposed rule would revise the regulations governing the methodology for payment of routine extended care services provided in a swing bed hospital. Medicare payment for such services would be determined prospectively based on the average rate per patient day paid by Medicare for routine care services provided in a free standing skilled nursing facility in the region where the hospital is located. This rule would also provide that payment for these services will be the higher of the payment cost rate in effect for the current calendar year or for the payment rate received by the swing-bed hospital for the prior calendar year. In addition, this rule would revise the regulations concerning the method used to allocate hospital general routine inpatient service costs for purposes of determining payment to swing-bed hospitals.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Katie Walker, Office of Hospital Policy, Department of Health and Human Services, Health Care Financing Administration, C5-03-03, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7278

RIN: 0938–AG68

1071. SALARY EQUIVALENCY GUIDELINES FOR PHYSICAL THERAPY, RESPIRATORY THERAPY, SPEECH PATHOLOGY, AND OCCUPATIONAL THERAPY (BPD-808-PN)

Priority: Other Significant

Legal Authority: 42 USC 1395x(v)(5)

CFR Citation: 42 CFR 413.106

Legal Deadline: None

Abstract: This notice proposes revisions to the salary equivalency guidelines for Medicare payment for the reasonable costs of physical and respiratory therapy services furnished by providers under arrangements with an outside contractor. The notice also proposes initial salary equivalency guidelines for speech language pathology and occupational therapy services furnished by providers under arrangements with an outside contractor. The guidelines would be used by Medicare fiscal intermediaries to determine the maximum allowable costs of those services.

Timetable:

Action	Date	FR Cite
Proposed Notice	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jacqueline Gordon, Health Insurance Specialist, Division of Home Care and Therapy, Department of Health and Human Services, Health Care Financing Administration, C4-07-14, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4517

RIN: 0938–AG70

1072. MEDICAID: OPTIONAL COVERAGE OF TB-RELATED SERVICES FOR INDIVIDUALS INFECTED WITH TUBERCULOSIS (MB-082-P)

Priority: Other Significant

Legal Authority: 42 USC 1396a(a)(10)(A)(ii); PL 103-66, Sec 13603; 42 USC 1396a(2)

CFR Citation: 42 CFR 435.219; 42 CFR 435.201; 42 CFR 440.250; 42 CFR 436.201; 42 CFR 436.219; 42 CFR 440.164

Legal Deadline: None

Abstract: This rule would amend the existing Medicaid regulations to provide for optional Medicaid coverage of low-income individuals infected with tuberculosis (TB). These individuals would be eligible only for specified TB-related services. The rule would incorporate and interpret provisions of section 13603 of OBRA '93.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Jennifer Ryan, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-20-14, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4459

RIN: 0938–AG72

1073. REVISION OF MEDICARE HOSPITAL CONDITIONS OF PARTICIPATION (BPD-745-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395x; 42 USC 1302; 42 USC 1395(cc); 42 USC 1395(hh)

CFR Citation: 42 CFR 482

Legal Deadline: None

Abstract: This proposed rule would revise the requirements that hospitals must meet to participate in the Medicare and Medicaid programs. The revised requirements focus on patient care and the outcomes of that care, reflect a cross-functional view of patient treatment, encourage flexibility in meeting quality standards, and eliminate unnecessary procedural requirements. These changes are necessary to reflect advances in health care practices since the requirements were last revised in 1986. This regulation is part of the Administration's reinventing government and regulatory reform initiatives.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Charles Booth, Director, Office of Hospital Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C5-02-23, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4487

RIN: 0938–AG79

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1074. PHYSICIANS' REFERRALS TO HEALTH CARE ENTITIES WITH WHICH THEY HAVE FINANCIAL RELATIONSHIPS—EXPANDED TO DESIGNATED HEALTH SERVICES (BPD-809-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395nn

CFR Citation: 42 CFR 411

Legal Deadline: None

Abstract: This proposed rule would provide that a physician who has (or has a family member who has) a financial relationship with a health care entity may not make referrals to that entity for certain services (designated health services) under the Medicare program, except under specified circumstances. This proposed rule would also deny payment to a State for expenditures for designated health services furnished on the basis of a physician referral that, all things being equal, would result in denial of payment under Medicare. The provisions of the proposed rule are based on sections 13562 and 13624 of the OBRA '93, as amended by SSA '94.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Betty Burrier, Office of Chronic Care Insurance Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-11-23, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0191

RIN: 0938–AG80

1075. HOME HEALTH AGENCY (HHA) CONDITIONS OF PARTICIPATION (BPD-819-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395cc(a); 42 USC 1395hh; 42 USC 1395bbb

CFR Citation: 42 CFR 484

Legal Deadline: None

Abstract: This proposed rule would revise home health agency conditions of participation to center on the patient, using outcome-oriented measures. Most of the current HHA conditions of participation have remained unchanged since home health services became a Medicare benefit in 1966. Some limited modifications have been made over the years to comply with legislative changes. As a result, most of the conditions of participation continue to be structure and process oriented. They do not effectively support the mandate of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) to develop a patient-centered, outcome-oriented survey process that focuses on the organization and delivery of quality care services. This proposed rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Agency Contact: Susan Levy, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-9364

RIN: 0938–AG81

1076. END-STAGE RENAL DISEASE (ESRD) CONDITIONS FOR COVERAGE (BPD-818-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 405; 42 CFR 406; 42 CFR 409; 42 CFR 412; 42 CFR 413; 42 CFR 414; 42 CFR 489; 42 CFR 492

Legal Deadline: None

Abstract: This proposed rule would revise current conditions of coverage for end-stage renal disease (ESRD) services covered by Medicare. It would update the conditions to reflect new developments in outcome-oriented standards technology and equipment, emphasize the total patient experience with dialysis and develop performance expectations for the facility that result in quality, comprehensive care for the dialysis patient. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lynn Merritt-Nixon, Office of Hospital Policy, Department of Health and Human Services, Health Care Financing Administration, C5-05-15, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4652

RIN: 0938–AG82

1077. WAGE INDEX USED TO ADJUST PAYMENT RATES FOR HOSPICE SERVICES UNDER THE MEDICARE PROGRAM (BPD-820-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395f(i); 5 USC 561 to 590

CFR Citation: 42 CFR 418

Legal Deadline: None

Abstract: The Medicare hospice benefit has been in effect since 1983. This proposed rule would update the wage index used to adjust payment rates to reflect local differences in area wage levels. The proposed is the successful result of a "negotiated rulemaking" proceeding under the Negotiated Rulemaking Act of 1990, and is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
Notice of Intent	10/14/94	59 FR 52129
NPRM	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Janice Flaherty, Director, Division of Home Care & Therapy, Department of Health and Human Services, Health Care Financing Administration, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4637

RIN: 0938–AG93

1078. LIABILITY FOR THIRD PARTIES TO PAY FOR CARE AND SERVICES (MB-080-P)

Priority: Other Significant

Legal Authority: 42 USC 1396a(a)(25)(A); 42 USC 1396b(o)

CFR Citation: 42 CFR 433.135 to 433.152

Legal Deadline: None

Abstract: This rule would incorporate the provisions of OBRA '93 by amending the regulations governing third party liability. It would add ERISA plans, service benefit plans and health maintenance organizations to the definition of liable third parties. It would require States to prohibit any health insurer from taking into account when enrolling or making payments, that an individual is eligible for or receiving Medicaid. It would also require States to enact a law under which the State is deemed to have acquired a recipient's right to payment by a third party.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Robert Nakielny, Health Insurance Specialist, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-21-01, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4466

RIN: 0938–AH01

1079. DEFINITION OF SKILLED NURSING FACILITY (SNF) AND HOME HEALTH AGENCY (HHA) FOR COVERAGE OF DURABLE MEDICAL EQUIPMENT (DME) (BPD-834-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1495x(n)

CFR Citation: 42 CFR 409; 42 CFR 410

Legal Deadline: None

Abstract: This proposed rule would define skilled nursing facilities (SNFs) for purposes of Medicare coverage of durable medical equipment (DME) and home health services. A Medicare SNF (as defined under section 1819 of the Act) can not be considered a home under Medicare Part B for DME and home health coverage. This proposed rule would presume that all Medicaid nursing facilities are section 1819(a) facilities and thus would not be considered a home for DME and home health coverage. This rule would identify non-Medicare nursing homes as skilled facilities based upon the receipt of skilled care by a proportion of its resident population that is at least comparable to the proportion typically found in participating Medicare SNFs. This proposed rule is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas Hoyer, Director, Office of Chronic Care and Insurance Policy, Department of Health and Human Services, Health Care Financing Administration, C4-02-16, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4605

RIN: 0938–AH16

1080. SCHEDULE OF LIMITS FOR SKILLED NURSING FACILITY INPATIENT ROUTINE SERVICE COSTS (BPD-837-NC)

Priority: Other Significant

Legal Authority: 42 USC 1395f(b); 42 USC 1395x(v)(1); 42 USC 1395yy; 42 USC 1302; 42 USC 1395cc(a); 42 USC 1395hh

CFR Citation: 42 CFR 413

Legal Deadline: Final, Statutory, October 1, 1995.

Abstract: This final notice with comment period will set forth an updated schedule of limits on skilled nursing facility (SNF) routine service costs for which payment may be made under the Medicare program. Section 1888(a) of the Social Security Act requires that for cost reporting periods, beginning on or after October 1, 1995 and every 2 years thereafter, the Secretary will update the per diem cost limits for SNF routine service costs.

Timetable:

Action	Date	FR Cite
Notice With Comment Period	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Kuhl, Technical Advisor, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-11-06, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4597

RIN: 0938–AH18

1081. ADDITIONAL SUPPLIER STANDARDS (BPD-864-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395(cc); 42 USC 1395m; 42 USC 1395pp(h); 42 USC 1395u(b) and (p); 42 USC 1395cc(d); 42 USC 1302; 42 USC 1395x; 42 USC 1395hh; 42 USC 1395ii

CFR Citation: 42 CFR 424.57

Legal Deadline: None

Abstract: This rule would establish additional standards for entities seeking to qualify as Medicare suppliers for purposes of submitting claims for medical equipment and supplies. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry Bonander, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-11-24, 7500 Security Boulevard, Baltimore, MD 21214
Phone: 410 786-4479

RIN: 0938–AH19

1082. STATE PLAN AMENDMENT (SPA) RECONSIDERATION PROCESS (MB-096-P)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1396a(a)

CFR Citation: 42 CFR 430.18; 42 CFR 430.60

Legal Deadline: None

Abstract: This proposed rule would revise and streamline the State Plan Amendment (SPA) reconsideration process. Currently, when a State requests reconsideration of a denied SPA, a hearing is held in all cases, even when the only dispute is over the interpretation of the statute. Under the proposed regulation, the State and HCFA could avoid the cost and delay of the hearing process when the only issue is interpretation of the statute and by permitting the State to take the issue directly to court. The reconsidered decision would then be made without a hearing. This rule is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Tomlinson, Office of Beneficiary Services, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-20-21, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4463

RIN: 0938–AH24

1083. CHANGES IN COVERAGE AND PAYMENT POLICIES FOR PHYSICIAN ASSISTANT SERVICES (BPD-829-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395k; 42 USC 1395u(b)(2); 42 USC 1395u(b)(12); 42 USC 1395x(s)

CFR Citation: 42 CFR 410.10; 42 CFR 410.74; 42 CFR 410.150; 42 CFR 414.1; 42 CFR 414.52; 42 CFR 491.2

Legal Deadline: None

Abstract: This proposed rule concerns the coverage and payment policies for services performed by physician assistants and services furnished as incident to these services. It would conform Medicare regulations to the provisions in section 6114 of OBRA '89. It would also provide consistent qualification requirements for physician assistants.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Pat Moore, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-02-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-8098

RIN: 0938–AH26

1084. HOSPICE CARE—CONDITIONS OF PARTICIPATION (BPD-844-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395x(dd)

CFR Citation: 42 CFR 418

Legal Deadline: None

Abstract: This proposed rule would revise the Medicare conditions of participation for hospices to help ensure the provision of quality care through an emphasis on patient-centered outcomes. Areas of change would include, among others, assessment of patient needs, clarification of physician roles, coordination of care for hospice patients residing in nursing homes, clarification of nursing roles, patient rights, and provision of services. This rule is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	11/30/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Thomas Saltz, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4480

RIN: 0938–AH27

1085. LIMITATIONS ON PAYMENT FOR HOME OXYGEN THERAPY BASED ON INHERENT REASONABLENESS CRITERIA (BPD-845-PN)

Priority: Economically Significant

Legal Authority: 42 USC 1395m(a); 42 USC 1395u(b)(8) and (9)

CFR Citation: 42 CFR 405.502(g); 42 CFR 414.210(d)

Legal Deadline: None

Abstract: This proposed notice sets forth our rationale for determining that Medicare's Part B payment allowances for home oxygen are grossly excessive and specifies the proposed change in our charge or methodology for determining home oxygen payment amounts.

Timetable:

Action	Date	FR Cite
Proposed Notice	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William J. Long, Health Insurance Specialist, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-04-05, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5655

RIN: 0938–AH28

1086. MEDICAID ELIGIBILITY QUALITY CONTROL, STAFFING AND TRAINING, AND UTILIZATION CONTROL: REMOVAL OF OBSOLETE AND RESTRICTIVE REQUIREMENTS (MB-099-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(4); 42 USC 1396a(a)(26); 42 USC 1396b(g) and (i); 42 USC 1396b(u); 42 USC 1396d(a)(16); 42 USC 1396d(h); 42 USC 1396a(a)(31)

CFR Citation: 42 CFR 431.861; 42 CFR 431.862; 42 CFR 431.863; 42 CFR 431.864; 42 CFR 432.10; 42 CFR 456

Legal Deadline: None

Abstract: This rule would remove several obsolete sections of the Medicaid regulations that specify rules and procedures for disallowing Federal financial participation for erroneous medical assistance payments due to eligibility and beneficiary liability errors as detected through the Medicaid eligibility quality control (MEQC) program for assessment periods from 1980 through June 1990. The rule also would eliminate certain regulations that specify Federal standards for personnel administration and training programs to allow States more flexibility and reduce burden. In addition, the rule would remove most of the regulations that prescribe requirements concerning control of the utilization of all Medicaid services, including specific requirements for control of utilization in institutions. The statutory requirements for utilization control remain in effect. This effort is part of our initiative to reinvent health care regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local

Agency Contact: Robert Weaver, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-25-02, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5914

RIN: 0938–AH31

1087. CHANGES TO THE HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEM AND FISCAL YEAR 1997 RATES (BPD-847-P)

Priority: Other Significant

Legal Authority: 42 USC 1395ww

CFR Citation: 42 CFR 412; 42 CFR 413

Legal Deadline: NPRM, Statutory, May 1, 1996. Final, Statutory, September 1, 1996.

Abstract: Medicare pays for hospital inpatient services under a prospective payment system (PPS) in which payment is made at a predetermined specific rate for the operating and capital-related costs associated with each discharge. These rules will announce the prospective payment rates for operating and capital-related costs for FY 1997. We will also revise the Medicare hospital inpatient prospective payment systems for operating costs and capital-related costs to implement necessary changes arising from our continuing experience with the system. In addition, we will set forth rate-of-increase limits as well as policy changes for hospitals and hospital units excluded from the prospective payment systems. These changes are applicable to discharges occurring on or after October 1, 1996.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Interim Final Rule	09/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Agency Contact: Charles Booth, Director, Office of Hospital Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C5-02-23, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4487

RIN: 0938–AH34

1088. • MEDICARE COVERAGE OF SERVICES OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS (BPD-843-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395x(cc)(1); 42 USC 1395x(ll)

CFR Citation: 42 CFR 484; 42 CFR 485

Legal Deadline: None

Abstract: This proposed rule would implement SSA '94 to provide coverage for speech-language provision pathology services furnished by a qualified pathologist.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jackie Gordon, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-07-14, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4517

RIN: 0938–AH37

1089. • MEDICARE PROGRAM: FIVE-YEAR REVIEW OF WORK RELATIVE VALUE UNITS UNDER THE PHYSICIAN FEE SCHEDULE (BPD-846-PN)

Priority: Other Significant

Legal Authority: 42 USC 1395w-4(c)(2)(B)(i)

CFR Citation: None

Legal Deadline: Final, Statutory, January 1, 1997.

Abstract: This proposed notice discusses changes to work relative value units (RVUs) affecting payment for physician services. Section 1848(c)(2)(B)(i) of the Social Security Act requires that we review all work RVUs no less often than every 5 years. Since we implemented the physician fee schedule effective for services furnished beginning January 1, 1992, we have initiated the 5-year review of work RVUs that will be effective for services furnished beginning January 1, 1997.

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HHS—HCFA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terrance Kay, Office of Physician & Ambulatory Care Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-10-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4497

RIN: 0938–AH38

1090. • MEDICARE PROGRAM: REVISIONS TO PAYMENT POLICIES UNDER THE PHYSICIAN FEE SCHEDULE FOR CALENDAR YEAR 1997 (BPD-852-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395w-4

CFR Citation: 42 CFR 414

Legal Deadline: Final, Statutory, January 1, 1997.

Abstract: This proposed rule involves several policy changes affecting payment for physician services under the Medicare Physician Fee Schedule for calendar year 1997. The proposed rule will discuss changes concerning Medicare payment for drugs and comprehensive locality changes.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Shana Olshan, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-10-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5246

RIN: 0938–AH40

1091. • PRIVACY AND SECURITY ENFORCEMENT FOR THE MEDICARE TRANSACTION SYSTEM (BPO-142-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1320a-3; 42 USC 1320a-5; 42 USC 1395l(e); 42 USC 1395cc; 42 USC 1395hh; 42 USC 1320a-3a

CFR Citation: 42 CFR 401; 42 CFR 420

Legal Deadline: None

Abstract: The Medicare transaction system will rely heavily on highly sophisticated electronic technology, thus requiring changes in privacy and security enforcement provisions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gerald Waters, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, S2-25-13, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1009

RIN: 0938–AH47

1092. • MEDICARE: AMOUNT OF PAYMENTS IF CUSTOMARY CHARGES FOR SERVICES FURNISHED ARE LESS THAN REASONABLE COSTS (BPD-860-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1395f(b); 42 USC 1395l(a); 42 USC 1395m(a)

CFR Citation: 42 CFR 413.13

Legal Deadline: None

Abstract: A provider whose charges are lower than its reasonable costs for those services in any cost reporting period beginning January 1, 1974 but before April 28, 1988 may carry forward costs that are unreimbursed for two succeeding cost reporting periods. Sufficient time has passed since the publication of this provision to warrant the deletion in the CFR of any reference to the carryover provision. Since payment for DME is no longer based on the lesser of the reasonable cost or reasonable charges but based on 80% for the lesser of the actual charge or the DME fee schedule amount and 80% of the fee schedule amount for nominal charge; HHAs the lesser of costs or charges (LCC) provision no longer applies and should be deleted from the CFR. This rulemaking is part of the reinventing Government effort. It will eliminate existing text in the CFR.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ward Pleinas, Office of Hospital Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C5-03-03, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4528

RIN: 0938–AH49

1093. • LIMITATIONS ON LIABILITY (BPD-859-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302 and 1395hh; 42 USC 1395pp

CFR Citation: 42 CFR 411.404

Legal Deadline: None

Abstract: This proposed rule would implement section 1879 of the Social Security Act, which limits beneficiary liability for certain durable medical equipment. This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

HHS—HCFA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Denis Garrison, Division of Beneficiary and Insurance Issues, Department of Health and Human Services, Health Care Financing Administration, C4-06-21, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5643

RIN: 0938–AH51

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Final Rule Stage

1094. DEDUCTION OF INCURRED MEDICAL EXPENSES (SPENDDOWN) (MB-020-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 435.831; 42 CFR 436.831

Legal Deadline: None

Abstract: This final rule amends and responds to comments on a final rule with comment period published in the Federal Register on January 12, 1994. That rule permits States flexibility to revise the process by which incurred medical expenses are considered to reduce an individual's or a family's income in order for the individual or family to become Medicaid eligible. Only States that cover the medically needy, and States that use more restrictive criteria to determine eligibility of the aged, blind, and disabled than the criteria used to determine eligibility for Supplemental Security Income (SSI) benefits, have a spenddown.

Timetable:

Action	Date	FR Cite
NPRM	09/02/83	48 FR 39959
NPRM Comment Period End	11/16/83	
Interim Final Rule	01/12/94	59 FR 1659
Final Rule With Comment Period	01/12/94	59 FR 1659
Comment Period End	03/14/94	
Effective Date	03/14/94	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Trudel, Health Insurance Specialist, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-25-02, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3417

RIN: 0938–AB07

1095. EFFECTIVE DATES FOR PROVIDER AGREEMENTS AND SUPPLIER APPROVALS (HSQ-139-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 431; 42 CFR 442; 42 CFR 488; 42 CFR 489; 42 CFR 498

Legal Deadline: None

Abstract: This rule will establish uniform criteria for determining the effective dates of Medicare and Medicaid provider agreements and of the approval of Medicare suppliers when the provider or supplier is subject to survey as a basis for determining participation in those programs.

Timetable:

Action	Date	FR Cite
NPRM	10/08/92	57 FR 46362
NPRM Comment Period End	12/07/92	
Final Action	11/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Irene Gibson, Depty Dir., Office of Survey & Certification, Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S2-14-17, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6768

RIN: 0938–AC88

1096. CHANGES CONCERNING SUSPENSION OF MEDICARE PAYMENTS AND DETERMINATIONS OF ALLOWABLE INTEREST EXPENSE (BPO-118-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320b-4; 42 USC 1395g; 42 USC 1395x(v)(1)(A); 42 USC 1395l; 42 USC 1395gg

CFR Citation: 42 CFR 405.370 to 405.378; 42 CFR 413.5; 42 CFR 413.90; 42 CFR 413.153

Legal Deadline: None

Abstract: This rule will change the Medicare regulations to provide for the following: (1) elimination of the requirement that in case of overpayments to health care providers, the contractor make a determination that a suspension of payment is needed to protect the program against financial loss before the payment can be suspended; (2) clarification of procedures and roles of contractors, HCFA, and the DHHS Office of Inspector General relating to suspension of payment; (3) elimination of the requirement that investment income of providers from gifts, grants, and endowments be offset against allowable interest expenses if that investment income is commingled with other funds; and (4) extension of the list of exceptions to the interest expense investment income offset provision to include investment income from deferred compensation plans and self-insurance funds.

Timetable:

Action	Date	FR Cite
NPRM	08/22/88	53 FR 31888
NPRM Comment Period End	10/21/88	
Final Rule With Comment Period	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lisa Vriezen, Overpayment & Medicare Secondary Payer Collection Unit,Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, S3-05-07, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1492

RIN: 0938–AC99

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1097. CRITERIA AND PROCEDURES FOR MAKING MEDICAL SERVICES COVERAGE DECISIONS THAT RELATE TO HEALTH CARE TECHNOLOGY (BPD-432-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395y

CFR Citation: 42 CFR 400.200; 42 CFR 405.201; 42 CFR 405.203; 42 CFR 405.205; 42 CFR 405.207; 42 CFR 405.209

Legal Deadline: None

Abstract: The final rule with comment period will establish generally applicable criteria and procedures for determining whether a service is "reasonable and necessary" under the Medicare program; set forth the coverage decisionmaking process; and summarize and provide an analysis of the public comments that we received in response to the January 30, 1989 proposed rule. The objective of the criteria and procedures set forth in this rule is to ensure that Federal funds are expended only for medical services that are appropriate to meet an individual's medical needs.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4302
NPRM Comment Period End	03/31/89	
Final Rule With Comment Period	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ron Milhorn, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-10-07, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5663

RIN: 0938–AD07

1098. PROHIBITION ON UNBUNDLING OF HOSPITAL OUTPATIENT SERVICES (BPD-426-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395y(a)(14); 42 USC 1395cc(a)(1)(H); 42 USC 1395cc(g); 42 USC 1395x(w)(1)

CFR Citation: 42 CFR 409; 42 CFR 410; 42 CFR 411; 42 CFR 412; 42 CFR 489; 42 CFR 1003

Legal Deadline: None

Abstract: This final rule, to be issued jointly by HCFA and the OIG, will prohibit Medicare payment for nonphysician services furnished to a hospital outpatient by a provider or supplier other than the hospital, unless the services are furnished under an arrangement with the hospital. The hospital is obligated by its provider agreement to furnish the services directly or under an arrangement. These regulations will also authorize the OIG to impose a civil money penalty, not to exceed $2,000, against any individual who knowingly and willfully presents, or causes to be presented, a bill or request for payment, for items or services furnished under Medicare, that is inconsistent with an arrangement under section 1866(a)(1)(H) of the Social Security Act or is in violation of the requirements for an arrangement. These regulations implement section 9343(c) of OBRA '86, section 4085(i)(17) of OBRA '87, and section 4157 of OBRA '90.

Timetable:

Action	Date	FR Cite
NPRM	08/05/88	53 FR 29486
NPRM Comment Period End	10/04/88	
Final Action	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carolyn Mullen, Office of Physician & Ambulatory Care Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-11-16, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4589

RIN: 0938–AD33

1099. CHANGES TO PEER REVIEW ORGANIZATION REGULATIONS (HSQ-135-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395i-3; 42 USC 1395x; 42 USC 1396r; 42 USC 1302

CFR Citation: 42 CFR 418; 42 CFR 440; 42 CFR 441; 42 CFR 482; 42 CFR 483; 42 CFR 431; 42 CFR 405; 42 CFR 413; 42 CFR 430; 42 CFR 434 to 436; 42 CFR 447; 42 CFR 466; 42 CFR 498

Legal Deadline: None

Abstract: This final rule will implement several provisions of OBRA '87 that concern services to residents of nursing homes. This rule will implement provisions that include Federal standards for evaluating State waivers of nursing facility nurse staffing requirements, use of physical and chemical restraints in nursing facilities, qualifications of facility administrators, notice of Medicaid rights to be given to persons admitted to nursing facilities, and other technical changes. This rule is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	02/05/92	57 FR 4516
NPRM Comment Period End	04/06/92	
Final Action	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bill Ullman, Health Insurance Specialist, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-11-06, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5667

RIN: 0938–AD81

1100. OMNIBUS NURSING HOME REFORM REQUIREMENTS (BPD-488-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395i-3; 42 USC 1395x; 42 USC 1396r; 42 USC 1302

CFR Citation: 42 CFR 418; 42 CFR 440; 42 CFR 441; 42 CFR 482; 42 CFR 483; 42 CFR 431; 42 CFR 405; 42 CFR 413; 42 CFR 430; 42 CFR 434 to 436; 42 CFR 447; 42 CFR 466; 42 CFR 498; 42 CFR 462.102; 42 CFR 462.106; 42 CFR 462.107; 42 CFR 466.1; 42 CFR 466.71; 42 CFR 466.76; 42 CFR 466.78; 42 CFR 466.83

Legal Deadline: None

Abstract: This rule will set forth several changes to regulations that govern Peer Review Organizations (PROs) and is based on statutory changes contained in COBRA '85 and OBRA '86. In addition, several technical changes will be included as a result of experience gained with the PRO program by HCFA. This rule also implements the new quality review requirements for certain Medicaid Health Maintenance Organization contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 8654
NPRM Comment Period End	05/16/88	
Final Action	01/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Harvey Brook, Office of Quality Improvement Programs, Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S1-13-07, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6853

RIN: 0938–AD38

1101. HMO ORGANIZATIONAL STRUCTURE AND SERVICES (OMC-007-F)

Priority: Other Significant

Legal Authority: 42 USC 300e

CFR Citation: 42 CFR 417.100; 42 CFR 417.101; 42 CFR 417.103; 42 CFR 417.104; 42 CFR 417.107; 42 CFR 417.120; 42 CFR 417.122; 42 CFR 417.123; 42 CFR 417.124; 42 CFR 417.126; 42 CFR 417.143; 42 CFR 417.152

Legal Deadline: None

Abstract: This final rule will provide organizations operating health maintenance organizations (HMOs) that are federally qualified under title XIII of the Public Health Service Act with greater flexibility in operating other health benefit plans. It will also authorize, with certain limitations, federally qualified HMOs to offer out-of-plan physician services and require a reasonable deductible for those services. Further, this final rule will permit the HMO to use assets of the parent organization to meet fiscal soundness and insolvency protection requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/15/93	58 FR 38170
Correction Notice	09/03/93	58 FR 46925
NPRM Comment Period End	09/13/93	58 FR 38170
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maureen Miller, Office of Managed Care, Department of Health and Human Services, Health Care Financing Administration, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1097

RIN: 0938–AE25

1102. HOSPITAL STANDARD FOR HIV INFECTIOUS BLOOD AND BLOOD PRODUCTS (BPD-633-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(e)(9)

CFR Citation: 42 CFR 482

Legal Deadline: None

Abstract: This final rule will require hospitals to notify the patient's attending physician whenever potentially HIV infectious blood has been administered, and to ask the physician to inform the patient of the need for HIV testing and counseling. If the physician is unavailable or declines to inform the patient, the hospital must notify the patient. This rule implements a recommendation of the President's Commission on AIDS.

Timetable:

Action	Date	FR Cite
NPRM	06/30/93	58 FR 34977
NPRM Comment Period End	08/30/93	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet Samen, Office of Chronic Care & Insurance Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C5-13-07, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-9161

RIN: 0938–AE40

1103. MEDICARE, MEDICAID, AND CLIA PROGRAMS: REGULATIONS IMPLEMENTING THE CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988 (CLIA '88) (HSQ-226-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493

Legal Deadline: None

Abstract: Historically the Department regulated by "location," rather than by the types of tests they performed. CLIA changes this approach. CLIA requires that the Department "regulate by test," using what is commonly referred to as the "complexity model." A final rule with comment period was published February 28, 1992, that set forth standards for all laboratories, based on complexity, and responded to public comments on the proposed standards. The regulation was revised by rules with comment period published on January 19, 1993, December 6, 1994, and April 24, 1995. A final rule, which will respond to these public comments, will be issued.

Timetable:

Action	Date	FR Cite
NPRM	05/21/90	55 FR 20896
NPRM Comment Period End	09/21/90	
Final Rule With Comment Period	02/28/92	57 FR 7002
Comment Period End	04/28/92	
Effective Date	09/01/92	
Effective Date	01/19/93	58 FR 5215
Final Rule With Comment Period	01/19/93	58 FR 5215
Comment Period End	03/22/93	
Final Action	11/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Anthony J. Tirone, Director, Office of Survey & Certification, Health Standardss and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S2-19-26, 7500 Security Boulevard, Baltimore, MD 21244

Phone: 410 786-6763

RIN: 0938–AE47

1104. CONDITIONS OF COVERAGE FOR ORGAN PROCUREMENT ORGANIZATIONS (BPD-646-FC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1320b-8

CFR Citation: 42 CFR 485; 42 CFR 405; 42 CFR 482

Legal Deadline: Final, Statutory, November 16, 1991.

Abstract: This final rule with comment period will respond to comments on the final rule with comment period which set forth changes to the conditions of coverage for organ procurement organizations (OPOs). It deals with the definition of an OPO service area; qualifications of the board of directors; establishment of qualification and performance criteria for OPOs; clarification of operational policy for certification and recertification of OPOs, competition for open areas, and, appeals of the Secretary's decisions. This rule contains provisions that are part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/21/91	56 FR 28513
NPRM Comment Period End	08/21/91	
Interim Final Rule With Comment Period	09/08/94	59 FR 46500
Effective Date	10/11/94	
Comment Period End	11/07/94	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Claude Mone, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, C5-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5666

RIN: 0938–AE48

1105. RESIDENT ASSESSMENT IN LONG-TERM CARE FACILITIES (HSQ-180-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395i-3; 42 USC 1396r; 42 USC 1302

CFR Citation: 42 CFR 483; 42 CFR 456.1; 42 CFR 456.600; 42 CFR 456.601; 42 CFR 456.602; 42 CFR 456.603; 42 CFR 456.608; 42 CFR 456.609; 42 CFR 456.610; 42 CFR 456.612; 42 CFR 456.651; 42 CFR 456.654; 42 CFR 483.20; 42 CFR 483.315

Legal Deadline: Final, Statutory, January 1, 1989.

Abstract: Sections 1819(b)(3) and 1919(b)(3) of the Social Security Act, as amended by PL 100-203, require skilled nursing facilities in the Medicare program (and before October 1, 1990, nursing facilities in the Medicaid program) to conduct a comprehensive, standardized assessment of each resident's capability to perform daily life functions. The assessment must also describe significant impairments in the resident's functional capacity and be based on a uniform minimum data set specified by the Secretary. Sections 1819(f)(6)(A) and 1919 (f)(6)(A) of the Act require the Secretary to specify a minimum data set of core elements and common definitions for use by nursing facilities in conducting the assessments. This rule will specify this minimum data set and establish guidelines for using it.

Timetable:

Action	Date	FR Cite
NPRM	12/28/92	57 FR 61614
NPRM Comment Period End	02/26/93	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sue Nonemaker, Health Standards Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S2-19-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6825

RIN: 0938–AE61

1106. POST-CONTRACT BENEFICIARY PROTECTIONS AND OTHER PROVISIONS (OMC-003-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395mm

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This rule will require health maintenance organizations (HMO) or competitive medical plans (CMP) that cease to contract with HCFA under section 1876 to provide Medicare beneficiaries with certain coverage for pre-existing conditions under supplemental insurance; provide a 30-day open enrollment period for individuals who would otherwise lose prepaid Medicare coverage as a result of termination, non-renewal or reduction in service area of a risk contract; accelerate the deadline for risk contracting HMOs and CMPs to submit adjusted community rate proposals; require all HMOs and CMPs to furnish a copy of an executed enrollment application form to Medicare applicants; and, require HCPPs to comply with HMO/CMP beneficiary application procedures.

Timetable:

Action	Date	FR Cite
NPRM	03/11/94	59 FR 11230
NPRM Comment Period End	05/09/94	
Final Action	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Tracy Jensen, Office of Managed Care, Department of Health and Human Services, Health Care Financing Administration, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1033

RIN: 0938–AE63

1107. EMPLOYER CONTRIBUTIONS TO HMOS (OMC-004-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300e(c); 42 USC 300e-1(l); 42 USC 300e-9

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This rule would conform existing regulations to sections 5(b) and 7 of the Health Maintenance Organization (HMO) Amendments of 1988 (PL 100-517). It would prohibit employers from financially discriminating against HMO enrollees in setting the contributions the employers make to employees' health plans.

Timetable:

Action	Date	FR Cite
NPRM	07/05/91	56 FR 30723
Comment Period End	09/03/91	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marty Abeln, Office of Managed Care, Department of Health and Human Services, Health Care Financing Administration, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1096

RIN: 0938–AE64

1108. PAYMENT FOR NURSING AND ALLIED HEALTH SCIENCE EDUCATION (BPD-685-F)

Priority: Other Significant

Legal Authority: PL 101-239, Sec 6205; PL 101-508, Sec 4004; PL 101-508, Sec 4159; 42 USC 1395x

CFR Citation: 42 CFR 413

Legal Deadline: NPRM, Statutory, July 1, 1990.

Abstract: This rule will set forth our policy for the payment of the costs of approved nursing and allied health science programs, as directed by section 6205(b)(2) of OBRA '89. For the most part, the provisions set forth in this rule restate or clarify our current policies governing these costs, which were previously set forth in the provider reimbursement manual and other documents, but have never been included in the regulations. In addition, we are amending the list of approved programs and clarifying payment rules for certified registered nurse anesthetist programs. This rule will also implement section 4004 of OBRA '90 which provides that, effective with cost reporting periods beginning on or after October 1, 1990, under certain conditions, costs incurred by a hospital or educational institution related to the hospital for clinical training are treated as pass-through costs and paid on the basis of reasonable cost even though the hospital does not operate the education programs.

Timetable:

Action	Date	FR Cite
NPRM	09/22/92	57 FR 43659
NPRM Comment Period End	11/23/92	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tzvi Hefter, Director, Division of Hospital Services, Department of Health and Human Services, Health Care Financing Administration, C5-08-27, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1850

RIN: 0938–AE79

1109. COVERAGE OF SCREENING PAP SMEARS (BPD-705-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(s)(14); 42 USC 1305x(nn); 42 USC 1395y(a)(1)(F)

CFR Citation: 42 CFR 410.10; 42 CFR 410.15; 42 CFR 410.56

Legal Deadline: None

Abstract: This rule will establish regulations under section 6115 of OBRA '89 to govern Medicare Part B coverage of screening pap smears (including a physician's interpretation of the test results) provided to a woman for the early detection of cervical cancer.

Timetable:

Action	Date	FR Cite
NPRM	11/26/93	58 FR 62312
NPRM Comment Period End	01/24/94	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joyce Eng, Office of Physician & Ambulatory Care Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-02-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4619

RIN: 0938–AE98

1110. MEDICARE COVERAGE OF CLINICAL PSYCHOLOGIST, OTHER PSYCHOLOGIST, AND CLINICAL SOCIAL WORKER SERVICES—MEDICARE (BPD-706-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395l(c); 42 USC 1395x(hh)(2); 42 USC 1395x(ii)

CFR Citation: 42 CFR 410; 42 CFR 417; 42 CFR 424

Legal Deadline: None

Abstract: This rule will address provisions of section 6113 of OBRA '89 and section 4157 of OBRA '90. Section 6113 of OBRA '89 provides coverage for the services of clinical psychologists (CPs) and clinical social workers. It will require CPs to agree to consult with the patient's primary care or attending physician. Also, it will eliminate the dollar limitation that previously applied to mental health services although the 62.5 percent limitation still applies. OBRA '89 also provides coverage for clinical social worker services, but places two limitations on separate payment, which apply to services provided to inpatients of hospitals and skilled nursing facilities that are Medicare participating. Section 4157 of OBRA '90 unbundled CP services from the definition of "inpatient hospital services." It also implements sections 104 (psychology services in hospitals) and 147 (consultation by social workers) of the Social Security Act Amendments of 1994.

Timetable:

Action	Date	FR Cite
NPRM	12/29/93	58 FR 68829
NPRM Comment Period End	02/28/94	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Regina Walker, Office of Chronic Care & Insurance Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-08-16, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6735

RIN: 0938–AE99

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1111. OBRA '90 AND MISCELLANEOUS MANAGED CARE TECHNICAL AMENDMENTS (OMC-018-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396b(m); 42 USC 1396a(e)(2)(A)

CFR Citation: 42 CFR 434.20 to 44; 42 CFR 435.212; 42 CFR 435.362

Legal Deadline: None

Abstract: This rule will require certain health insuring organizations to be subject to the regulations governing prepaid health plans. This rule will also allow State-only funds to be paid to Medicaid contracting entities. These funds will not be considered when computing the rate at which Federal financial participation is made. Further, this rule will incorporate several technical amendments from section 4732 of OBRA '90.

Timetable:

Action	Date	FR Cite
NPRM	05/09/94	59 FR 23820
NPRM Comment Period End	07/08/94	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane McClard, Office of Managed Care, Department of Health and Human Services, Health Care Financing Administration, S3-02-01, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4460

RIN: 0938–AF15

1112. MEDICAID PAYMENT FOR COVERED OUTPATIENT DRUGS UNDER REBATE AGREEMENTS (MB-046-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1396a(a); 42 USC 1396b(i); 42 USC 1396r-8; 42 USC 1396b(a); 42 USC 1302

CFR Citation: 42 CFR 447; 42 CFR 441

Legal Deadline: None

Abstract: This rule will incorporate section 4401 of OBRA '90 to add specific requirements for Medicaid payment for covered outpatient drugs. The requirements concern: denial of Federal financial participation unless rebate agreements and drug use review are in effect; prohibiting some State plan drug access limitations for drugs covered under a rebate agreement; and, the content of the rebate agreements. The drug rebate agreement was previously published in the Federal Register on February 21, 1991 (56 FR 7049). This rule will also reflect statutory revisions mandated by the Veteran's Health Care Act of 1992 and OBRA '93. The revision of the drug rebate dispute resolution process is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	09/19/95	60 FR 48442
NPRM Comment Period End	11/20/95	
Final Action	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Estelle Chisholm, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, C4-15-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3286

RIN: 0938–AF42

1113. REFERRAL TO CHILD SUPPORT ENFORCEMENT AGENCIES OF MEDICAID FAMILIES (MB-051-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396k

CFR Citation: 42 CFR 433.160; 42 CFR 433.135; 42 CFR 433.137; 42 CFR 433.151

Legal Deadline: None

Abstract: This rule will require State Medicaid agencies to refer Medicaid families with an absent parent to child support enforcement (CSE) agencies. Section 9142 of OBRA '87 required CSE agencies to provide all CSE services to such Medicaid families who have assigned to the State their rights to medical support. The purpose of these rules is to require States to make this referral to State CSE agencies to ensure that those recipients requiring CSE services receive them.

Timetable:

Action	Date	FR Cite
NPRM	09/22/93	58 FR 49272
NPRM Comment Period End	11/22/93	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Randy Graydon, Director, Division of Benenficiary Services, Department of Health and Human Services, Health Care Financing Administration, C4-22-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4451

RIN: 0938–AF68

1114. MEDICAID: OUTSTATIONED INTAKE LOCATIONS FOR CERTAIN LOW-INCOME PREGNANT WOMEN, INFANTS AND CHILDREN UNDER AGE 19 (MB-052-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(55)

CFR Citation: 42 CFR 435.901; 42 CFR 435.902; 42 CFR 435.903; 42 CFR 435.904; 42 CFR 435.907; 42 CFR 436.2; 42 CFR 436.3

Legal Deadline: None

Abstract: This rule implements a statutory requirement that State Medicaid agencies must provide for receipt and initial processing of Medicaid applications filed by certain low-income pregnant women, infants, and children under age 19, at locations which are other than those used for receipt and processing of Aid to Families with Dependent Children (AFDC) applications. The statutory requirement also provides that the application form for these individuals must not be the AFDC application form.

The rule is based on section 1902(a)(55) of the Social Security Act as added by section 4602 of OBRA '90, PL 101-508.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/23/94	59 FR 48805
Interim Final Rule With Comment Period	09/23/94	59 FR 48805
Effective Date	10/24/94	
Comment Period End	11/22/94	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Tomlinson, Health Insurance Specialist, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-07-22, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4531

RIN: 0938–AF69

1115. MEDICARE AND MEDICAID PROGRAMS: REQUIREMENTS FOR PHYSICIAN INCENTIVE PLANS IN PREPAID HEALTH CARE ORGANIZATIONS (OMC-010-FC)

Priority: Other Significant

Legal Authority: 42 USC 1395mm(i); 42 USC 1396b

CFR Citation: 42 CFR 417.01; 42 CFR 417.409; 42 CFR 417.495; 42 CFR 434.67; 42 CFR 1003.100 to 1003.103

Legal Deadline: None

Abstract: This rule will amend the regulations governing federally qualified health maintenance organizations (HMOs) and competitive medical plans (CMPs) contracting with the Medicare program, and certain HMOs and health insuring organizations (HIOs) contracting with States under the Medicaid program, by implementing changes made by sections 4204(a) and 4731(a) of OBRA '90 concerning physician incentive plans. The changes are intended to allow HMOs, CMPs, and HIOs the flexibility to provide reasonable financial incentives to their physicians and physician groups in order to eliminate unnecessary care while still protecting enrollees from reduced quality of care or reduced access to care.

Timetable:

Action	Date	FR Cite
NPRM	12/14/92	57 FR 59024
Comment Period End	04/13/93	58 FR 8568
Final Rule	03/27/96	61 FR 13430
Final Rule Effective Date	04/26/96	
Final Rule Comment Period End	05/28/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tony Hausner, Office of Managed Care, Department of Health and Human Services, Health Care Financing Administration, S-3-23-24, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1093

RIN: 0938–AF74

1116. PART B ADVANCE PAYMENTS TO PHYSICIANS/SUPPLIERS OR OTHER ENTITIES FURNISHING ITEMS OR SERVICES UNDER MEDICARE PART B (BPO-105-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395u

CFR Citation: 42 CFR 421.214

Legal Deadline: None

Abstract: This rule will amend Medicare regulations to provide advance payment to physicians, suppliers, or entities that furnish items or services under Medicare Part B. These payments will be made only when claims processing is so delayed that interest payments alone are insufficient to adequately compensate the provider, in light of cash flow needs. This change will result in more efficient and economical administration of the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	07/18/94	59 FR 36415
NPRM Comment Period End	09/16/94	
Final Action	04/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Bob Shaw, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, S2-01-23, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3312

RIN: 0938–AF85

1117. RETROACTIVE ENROLLMENT AND DISENROLLMENT IN RISK HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS (OMC-015-F)

Priority: Other Significant

Legal Authority: 42 USC 1395mm

CFR Citation: 42 CFR 417.448; 42 CFR 417.450; 42 CFR 417.456; 42 CFR 417.460; 42 CFR 417.461; 42 CFR 417.462; 42 CFR 417.464; 42 CFR 417.584

Legal Deadline: None

Abstract: This rule implements section 4204(e) of OBRA '90. It permits HCFA to make retroactive payments for up to 90 days when there is a delay in notifying HCFA that a beneficiary has enrolled under a section 1876 risk contract through an employer health plan. In addition, the rule will permit the Secretary to authorize retroactive disenrollment in specific cases.

Timetable:

Action	Date	FR Cite
NPRM	12/27/93	58 FR 68366
Comment Period End	02/25/94	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne Manley, Office of Managed Care, Department of Health and Human Services, Health Care Financing Administration, S-3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1096

RIN: 0938–AF98

1118. PAYMENT FOR PREADMISSION SERVICES (BPD-731-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395ww(a)(4)

CFR Citation: 42 CFR 412.2(c); 42 CFR 413.40

Legal Deadline: None

Abstract: This rule confirms the provisions published in an interim final rule with comment period on January 12, 1994, and responds to comments received on that rule. The interim final rule implemented section 4003 of OBRA '90, entitled "Expansion of DRG Payment Window," which amended the statutory definition of "inpatient operating cost" to include certain preadmission services.

Timetable:

Action	Date	FR Cite
Effective Date	01/12/94	59 FR 1654
Interim Final Rule With Comment Period	01/12/94	59 FR 1654
Comment Period End	03/14/94	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Edwards, Director, Division of Prospective Payment System, Department of Health

and Human Services, Health Care Financing Administration, C5-06-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4531

RIN: 0938–AG00

1119. CHANGE IN PROVIDER AGREEMENT REGULATIONS RELATED TO FEDERAL EMPLOYEE HEALTH BENEFITS (BPD-748-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 8904(b)

CFR Citation: 42 CFR 489

Legal Deadline: None

Abstract: This final rule will amend current Medicare regulations to require that payment limitations apply to hospitals that furnish inpatient hospital services to retired Federal workers, aged 65 or older, who are enrolled in a Federal Employee Health Benefits (FEHB) plan but not covered under Medicare Part A (Hospital Insurance). The payment amount will approximate the Medicare diagnosis-related group payment rates established under the inpatient hospital Medicare prospective payment rate. This rule will also amend current Medicare regulations to authorize HCFA to consider terminating or nonrenewing a hospital's Medicare provider agreement if the hospital repeatedly fails to accept the Medicare rate as payment in full for inpatient hospital services provided to retired Federal workers enrolled in a fee-for-service from a FEHB plan who do not have Medicare Part A coverage. This rule will implement section 7002(f) of OBRA '90, enacted November 5, 1990. It will clarify that an institutional provider may not discriminate against Medicare patients in providing services because it is dissatisfied with the level of Medicare payment.

Timetable:

Action	Date	FR Cite
NPRM	02/10/94	59 FR 6228
NPRM Comment Period End	04/11/94	
Final Action	09/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Paul Olenick, Director, Division of Beneficiary and Insurance Issues, Department of Health and Human Services, Health Care Financing Administration, C4-07-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4472

RIN: 0938–AG03

1120. REVISED MEDICAID MANAGEMENT INFORMATION SYSTEMS (MB-38-FN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396b(r)

CFR Citation: None

Legal Deadline: None

Abstract: This notice sets forth revised general functional requirements for the Medicaid Management Information System (MMIS). The MMIS consists of software and hardware used to process Medicaid claims and to retrieve and produce utilization and management information about services that are required by the Medicaid agency or Federal Government for administrative or audit purposes. The revised requirements allow States more flexibility to exercise variations in the implementation.

Timetable:

Action	Date	FR Cite
Proposed Notice	11/22/93	58 FR 61692
Comment Period End	01/21/94	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Richard Friedman, Director, Div. of Systems Data and Analysis, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-17-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3292

RIN: 0938–AG10

1121. MEDICARE PROGRAM: LIMITATIONS ON MEDICARE COVERAGE OF INTERMITTENT POSITIVE PRESSURE BREATHING MACHINE THERAPY (BPD-781-FN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(n); 42 USC 1395y(a)(1)(A)

CFR Citation: None

Legal Deadline: None

Abstract: Intermittent positive pressure breathing (IPPB) machine therapy is currently covered under Medicare as durable medical equipment for patients whose ability to breathe is severely impaired. Based on an Office of Health Technology Assessment recommendation, we will place limitations on Medicare coverage of IPPB machine therapy.

Timetable:

Action	Date	FR Cite
Proposed Notice	06/29/94	59 FR 33520
Comment Period End	08/29/94	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Francine Spencer, Office of Chronic Care & Insurance Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-04-05, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4614

RIN: 0938–AG44

1122. TELEPHONE AND ELECTRONIC REQUESTS FOR REVIEW OF PART B INITIAL CLAIM DETERMINATIONS (BPO-121-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395hh; 42 USC 1395ff

CFR Citation: 42 CFR 405.807

Legal Deadline: None

Abstract: Current Medicare regulations allow a Medicare beneficiary to appeal, in writing, decisions to deny payment for a claim under supplementary medical insurance. This rule will allow a beneficiary to appeal an initial payment determination either in writing or by telephone. This rule will allow beneficiaries to more easily pursue appeals.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35544

Action	Date	FR Cite
NPRM Comment Period End	09/08/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rosalind Little, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, S1-05-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6972

RIN: 0938–AG48

1123. MEDICARE PROGRAM: LIMITATIONS ON MEDICARE COVERAGE OF CATARACT SURGERY (BPD-797-FN)

Priority: Other Significant

Legal Authority: 42 USC 1395x(s)(1); 42 USC 1395y(a)(1)(A)

CFR Citation: None

Legal Deadline: None

Abstract: This notice announces the Medicare program's definition of medical necessity with respect to Medicare coverage of preoperative testing for cataracts, cataract surgery, and Nd:YAG capsulotomy.

Timetable:

Action	Date	FR Cite
Proposed Notice	10/06/95	60 FR 52396
NPRM Comment Period End	12/05/95	60 FR 52396
Final Action	11/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Karen McVearry, Technology & Special Analysis Staff, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-10-07, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4643

RIN: 0938–AG65

1124. CLIA PROGRAM: CATEGORIZATION OF WAIVED TESTS (HSQ-225-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493.2; 42 CFR 493.7; 42 CFR 493.9; 42 CFR 493.15; 42 CFR 493.20; 42 CFR 493.25; 42 CFR 493.35; 42 CFR 493.37; 42 CFR 493.39; 42 CFR 493.45; 42 CFR 493.47; 42 CFR 493.49; 42 CFR 493.53; 42 CFR 493.1775

Legal Deadline: None

Abstract: This rule would revise our current process of evaluating tests against generic criteria. A waiver would be granted to any test that meets the statutory criteria, provided that scientifically valid data were submitted verifying that the criteria were met.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47534
NPRM Comment Period End	11/13/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony Tirone, Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S2-19-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6810

RIN: 0938–AG99

1125. REPORTING OF INTEREST FROM ZERO COUPON BONDS (BPD-647-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(v)

CFR Citation: 42 CFR 413.153

Legal Deadline: None

Abstract: This final rule requires Medicare providers to report all interest expense and income from zero coupon bonds in the cost reporting period in which the interest was accrued.

Timetable:

Action	Date	FR Cite
NPRM	12/13/93	58 FR 65150
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ann Pash, Health Insurance Specialist, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C5-03-17, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4615

RIN: 0938–AH11

1126. MEDICARE PROGRAM: UNIFORM ELECTRONIC COST REPORTING FOR SKILLED NURSING FACILITIES AND HOME HEALTH AGENCIES (BPD-788-F)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395x(v)

CFR Citation: 42 CFR 413.24

Legal Deadline: None

Abstract: This rule will add the requirement that, for cost reporting periods beginning on or after October 1, 1995 all skilled nursing facilities and home health agencies must submit cost reports currently required under Medicare regulations in a uniform electronic format. This rule will also allow a delay or waiver of this requirement where implementation would result in financial hardship for a provider.

Timetable:

Action	Date	FR Cite
NPRM	12/05/95	60 FR 62237
NPRM Comment Period End	02/05/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Talbott, Auditor, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C5-01-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4592

RIN: 0938–AH12

1127. UPDATE OF THE REASONABLE COMPENSATION EQUIVALENT LIMITS FOR SERVICES FURNISHED BY PHYSICIANS (BPD-816-N)

Priority: Other Significant

Legal Authority: 42 USC 1395xx

CFR Citation: 42 CFR 405.482(f)

HHS—HCFA

Final Rule Stage

Legal Deadline: None

Abstract: This notice sets forth updated payment limits on the amount of allowable compensation for services furnished by physicians to providers that are not covered by the prospective payment system or per resident payments for graduate medical education. These services are paid by Medicare on a reasonable cost basis. The revised reasonable compensation equivalent limits are based on updated economic index data and replace the limits that were published in the Federal Register on February 20, 1985.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ward Pleines, Health Insurance Specialist, Office of Hospital Policy, Department of Health and Human Services, Health Care Financing Administration, C5-03-03, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4528

RIN: 0938–AH14

1128. CRITERIA AND PROCEDURES FOR EXTENDING COVERAGE TO CERTAIN DEVICES AND RELATED SERVICES (BPD-841-FC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395y(a)(1)(A)

CFR Citation: 42 CFR 405; 42 CFR 411

Legal Deadline: None

Abstract: This final rule will provide that certain medical devices with an investigational device exemption (IDE) approved by the Food and Drug Administration (FDA) may be covered under Medicare. Specifically, it will set forth the process by which the FDA will assist HCFA in identifying nonexperimental investigational devices that may be potentially covered under Medicare. It is intended to provide Medicare beneficiaries with greater access to advances in medical technology.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	08/19/95	60 FR 48417
Comment Period End	10/20/95	
Effective Date	11/01/95	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Hippler, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-11-04, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4633

RIN: 0938–AH21

1129. DELEGATION OF CIVIL MONEY PENALTIES (BPO-135-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405(a); 42 USC 1302; 42 USC 1320; 42 USC 1395cc; 42 USC 1395u(j)(2); 42 USC 1395hh; 42 USC 1395ii

CFR Citation: None

Legal Deadline: None

Abstract: This rule will contain the processes and procedures to be undertaken in the imposition of civil money penalties and in the appeals process.

Timetable:

Action	Date	FR Cite
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joel Cohen, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, S3-14-17, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3349

RIN: 0938–AH22

1130. MEDICAID: LIMITATIONS ON AGGREGATE PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS; FEDERAL FISCAL YEAR 1996 (PRELIMINARY) (MB-098-N)

Priority: Other Significant

Legal Authority: 42 USC 1396r-4

CFR Citation: 42 CFR 447.297; 42 CFR 447.298; 42 CFR 447.299

Legal Deadline: Final, Statutory, October 1995.

Abstract: This notice announces the preliminary Federal fiscal year 1996 national target and individual State allotments for Medicaid payments made to hospitals that serve a disproportionate number of Medicaid recipients and low-income patients with special needs.

Timetable:

Action	Date	FR Cite
Notice	05/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Richard Strauss, Health Insurance Specialist, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-18-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-2019

RIN: 0938–AH30

1131. MEDICARE PROGRAM; SPECIAL ENROLLMENT PERIODS AND WAITING PERIODS (BPD-752-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395

CFR Citation: 42 CFR 406; 42 CFR 407; 42 CFR 408; 42 CFR 416

Legal Deadline: None

Abstract: This rule reflects statutory changes made by OBRA's 1987, 1989, 1990, 1993 and the Social Security Act Amendments of 1994. These changes will provide an additional way for certain disabled individuals to qualify for special enrollment periods (SEPs); extend through 1998 the period during which certain disabled individuals under age 65 may take advantage of SEPs if they are covered under large group health plans; and provide that a second 24-month waiting period is not required for disability-based reentitlement if the current impairment is the same as or directly related to the impairment on which the previous period of entitlement was based. The rule ensures clear understanding of these rights for applicants and recipients. This rule also reflects several technical and clarifying changes.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Jefferson, Health Insurance Specialist, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-07-22, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4482

RIN: 0938–AH33

1132. • MEDICARE PROGRAM: PHYSICIAN FEE SCHEDULE UPDATE FOR CALENDAR YEAR 1996 AND PHYSICIAN VOLUME PERFORMANCE STANDARD RATES OF INCREASE FOR FEDERAL FISCAL YEAR 1996 (BPD-853-FN)

Priority: Other Significant

Legal Authority: 42 USC 1395w-4

CFR Citation: None

Legal Deadline: Final, Statutory, October 31, 1996.

Abstract: This notice announces the calendar year 1997 updates to the Medicare physician fee schedule and the Federal fiscal year 1997 performance standard rates of increase for expenditures and volume of physicians' services under the Medicare Supplementary Medical Insurance (Part B) program as required by sections 1848(d) and (f) of the Social Security Act.

Timetable:

Action	Date	FR Cite
Final Notice	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terrence Kay, Office of Physician & Ambulatory Care Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-10-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4497

RIN: 0938–AH41

1133. • MEDICARE PROGRAM: MONTHLY ACTUARIAL RATES AND MONTHLY SUPPLEMENTARY MEDICAL INSURANCE PREMIUM RATES BEGINNING JANUARY 1, 1997 (OACT-052-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395r

CFR Citation: None

Legal Deadline: Final, Statutory, September 30, 1996.

Abstract: This notice announces the monthly actuarial rates for aged (age 65 and over) and disabled (under age 65) enrollees in the Medicare Supplementary Insurance (SMI) program for the 12 months beginning January 1, 1997. It also announces the monthly SMI premium rate to be paid by all enrollees during the 12 months beginning January 1, 1997.

Timetable:

Action	Date	FR Cite
Final Notice	09/30/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carter Warfield, Director, Division of Supplementary Medical Insurance, Office of the Actuary, Department of Health and Human Services, Health Care Financing Administration, N3-26-00, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6396

RIN: 0938–AH42

1134. • MEDICAID: LIMITATIONS ON AGGREGATE PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS; FEDERAL FISCAL YEAR 1996 (FINAL) (MB-100-N)

Priority: Other Significant

Legal Authority: 42 USC 1396r-4

CFR Citation: 42 CFR 447.297; 42 CFR 447.298; 42 CFR 447.299

Legal Deadline: Final, Statutory, April 1, 1996.

Abstract: This notice announces the final Federal fiscal year 1996 national target and individual State allotments for Medicaid payments made to hospitals that serve a disproportionate number of Medicaid recipients and low-income patients with special needs.

Timetable:

Action	Date	FR Cite
Notice	08/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Richard Strauss, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-18-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-2019

RIN: 0938–AH44

1135. • PART A PREMIUM FOR 1997 FOR THE UNINSURED AGED FOR CERTAIN DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT (OACT-053-N)

Priority: Other Significant

Legal Authority: 42 USC 1395i-2; 42 USC 1395i-20

CFR Citation: None

Legal Deadline: Final, Statutory, September 30, 1995.

Abstract: This notice announces the hospital insurance premium for calendar year 1997 under the Medicare's hospital insurance program (Part A) for the uninsured aged and for certain disabled individuals who have exhausted other entitlement. The uninsured aged are those individuals who are not insured under the Social Security or Railroad Retirement Acts and do not otherwise meet the requirements for entitlement to Medicare Part A. The disabled beneficiaries are those who lose monthly Social Security cash payments because they returned to work even though their disability continues. Section 1818(d) of the Social Security Act specifies the method to be used to determine this amount.

Timetable:

Action	Date	FR Cite
Final Notice	09/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: John Wandishin, Office of the Actuary, Department of Health and Human Services, Health

HHS—HCFA

Final Rule Stage

Care Financing Administration, N3-36-24, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6389

RIN: 0938–AH45

1136. • INPATIENT HOSPITAL DEDUCTIBLE AND HOSPITAL AND EXTENDED CARE SERVICES COINSURANCE AMOUNTS FOR 1997 (OACT-054-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395e

CFR Citation: None

Legal Deadline: Final, Statutory, September 15, 1996.

Abstract: This notice announces the inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services furnished in calendar year 1997 under Medicare's hospital insurance program (Medicare Part A). The Medicare statute specifies the formulas to be used to determine these amounts.

Timetable:

Action	Date	FR Cite
Final Notice	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Wandishin, Office of the Actuary, Department of Health and Human Services, Health Care Financing Administration, N3-26-24, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6389

RIN: 0938–AH46

1137. • REQUIREMENTS FOR ENROLLMENT OF MEDICAID RECIPIENTS UNDER COST EFFECTIVE EMPLOYER-BASED GROUP HEALTH PLANS (MB-047-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)10; 42 USC 1396a(u)(1); 42 USC 1396d(a); 42 USC 1396a(a)(25); 42 USC 1396a(e); 42 USC 1396e

CFR Citation: 42 CFR 435.2; 42 CFR 435.3; 42 CFR 435.10; 42 CFR 435.186; 42 CFR 435.188

Legal Deadline: None

Abstract: This rule will amend our regulations to provide for continuation of payment of health insurance premiums for individuals who are entitled to elect COBRA continuation coverage under a group health plan provided by an employer with 75 or more employees; require Medicaid recipients to apply for enrollment in employer-based cost effective group health plans as a condition of Medicaid eligibility; require State agencies to pay for premiums, deductibles, coinsurances and other cost sharing obligations under employer-based cost effective group health plans, and define "COBRA continuation coverage" and "COBRA beneficiaries."

Timetable:

Action	Date	FR Cite
NPRM	06/04/94	59 FR 31569
NPRM Comment Period End	08/19/94	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Ross, Health Insurance Specialist, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-20-20, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5855

RIN: 0938–AH48

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Long-Term Actions

1138. PAYMENT FOR CLINICAL DIAGNOSTIC LABORATORY TESTS (BPD-309-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395k; 42 USC 1395m(b); 42 USC 1395u(b)and(h); 42 USC 1395w(4); 42 USC 1395x(b)and(s)and(v); 42 USC 1395y(a)(14); 42 USC 1395cc(a); 42 USC 1395hh; 42 USC 1395rr; 42 USC 1395ww; 42 USC 1395xx; 42 USC 1395zz

CFR Citation: 42 CFR 414.1; 42 CFR 414.2; 42 CFR 414.5; 42 CFR 405.556; 42 CFR 431.54; 42 CFR 447.342

Legal Deadline: None

Abstract: This rule will incorporate provisions of the Deficit Reduction Act of 1984, COBRA '85, OBRA '86, OBRA '87, TMRA '88, OBRA '89, and OBRA '90 regarding payment and "assignment" for diagnostic clinical laboratory tests establishing in regulations the methods for implementing fee schedules. This rule would set forth the methods by which the fee schedules would be updated and would allow certain adjustments for exceptions to the fee schedule. It will also reflect a statutory revision mandated by OBRA '93.

Timetable:

Action	Date	FR Cite
NPRM	08/18/93	58 FR 43156
NPRM Comment Period End	10/18/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Spalding, Division of Ambulatory Care Services, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-05-24, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4496

RIN: 0938–AB50

1139. PARTICIPATION IN CHAMPUS AND CHAMPVA, HOSPITAL ADMISSIONS FOR VETERANS, DISCHARGE RIGHTS NOTICE, AND HOSPITAL RESPONSIBILITY FOR EMERGENCY CARE (BPD-393-F)

Priority: Other Significant

Legal Authority: 42 USC 1395x; 42 USC 1395cc; 42 USC 1395dd

CFR Citation: 42 CFR 488.18; 42 CFR 489.20; 42 CFR 489.24; 42 CFR 489.25; 42 CFR 489.26; 42 CFR 489.27; 42 CFR 489.53; 42 CFR 1003

Legal Deadline: None

Abstract: This final rule will require Medicare participating hospitals with emergency departments to provide upon request medical examinations and treatments for individuals with emergency medical conditions and women in labor. A participating hospital that has specialized capabilities or facilities (such as burn, shock trauma, or neonatal intensive care units) must accept an appropriate transfer if they have the capacity to treat the individual. Hospitals failing to meet those requirements may have their Medicare provider agreements terminated, and hospitals and responsible physicians may be subject to civil money penalties. Under section 9122 of COBRA '85, Medicare participating hospitals are required to accept CHAMPUS and CHAMPVA payment as payment in full for services provided to CHAMPUS and CHAMPVA beneficiaries. These regulations also implement section 9305(b) of OBRA '86, which requires Medicare hospitals to give patients a notice of their discharge rights.

Timetable:

Action	Date	FR Cite
NPRM	06/16/88	53 FR 22513
NPRM Comment Period End	08/15/88	
Final Rule With Comment Period	06/22/94	59 FR 32086
Effective Date	07/22/94	
Comment Period End	08/22/94	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Tzvi Hefter, Director, Division of Hospital Service, Department of Health and Human Services, Health Care Financing Administration, C5-08-27, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-1304

RIN: 0938–AC58

1140. MEDICARE SECONDARY PAYER FOR DISABLED INDIVIDUALS (BPD-482-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395y(b)

CFR Citation: 42 CFR 411

Legal Deadline: None

Abstract: This rule will implement the Medicare secondary payer (MSP) provision for disabled individuals who are covered under large group health plans (LGHPs). Under this provision LGHPs may not take into account that such individuals are entitled to Medicare. The rule contains procedures under which a plan can appeal a determination of nonconformance which could lead to an excise tax. It reflects statutory revisions mandated by OBRA '86, OBRA '89, and OBRA '93, some of which also affect the MSP provisions for persons who are entitled on the basis of age or end-stage renal disease.

Timetable:

Action	Date	FR Cite
NPRM	03/08/90	55 FR 8491
NPRM Comment Period End	05/08/90	
Final Rule With Comment Period	08/31/95	60 FR 45344
Effective Date	10/02/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Herbert Pollock, Office of Chronic Care & Insurance Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-08-14, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-4474

RIN: 0938–AD73

1141. NEW MINIMUM STANDARDS FOR MEDICARE SUPPLEMENTAL (MEDIGAP) POLICIES (BPD-491-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395ss

CFR Citation: 42 CFR 403.200; 42 CFR 403.205; 42 CFR 403.206; 42 CFR 403.210; 42 CFR 403.215; 42 CFR 403.216; 42 CFR 403.220; 42 CFR 403.222; 42 CFR 403.232; 42 CFR 403.239; 42 CFR 403.250 to 403.258

Legal Deadline: None

Abstract: This rule would organize and codify in regulations the statutory changes to Medigap provisions made in 1987, 1988, 1989, 1990 and 1994. It will contain specific procedures for review of State regulatory plans (and individual policies) as required in OBRA '90. The new standards were enacted by OBRA '87, and '90, the Medicare Catastrophic Coverage Act of 1988, the Medicare Catastrophic Coverage Repeal Act of 1989, and the Social Security Act Amendments of 1994. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Julie Walton, Office of Chronic Care & Insurance Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-08-18, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4622

RIN: 0938–AD82

1142. SURVEY REQUIREMENTS AND ALTERNATIVE SANCTIONS FOR HOME HEALTH AGENCIES (HSQ-169-F)

Priority: Other Significant

Legal Authority: 42 USC 1395w-2; 42 USC 1395bbb; 42 USC 1395hh

CFR Citation: 42 CFR 488; 42 CFR 489; 42 CFR 498

Legal Deadline: None

Abstract: These rules will establish periodic, unannounced surveys of home health agencies (HHAs) and other survey requirements and also will specify a number of sanctions that could be used, when an HHA is out of compliance with Federal requirements, as an alternative or in addition to terminating an HHA's participation in the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	08/02/91	56 FR 37054
NPRM Comment Period End	10/01/91	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Frank Sokolik, Center for Hospital and Community Care,

Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S2-13-23, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-7089

RIN: 0938–AE39

1143. EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT (EPSDT) SERVICES (MB-28-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(43); 42 USC 1396d(r)

CFR Citation: 42 CFR 441.50; 42 CFR 440.40

Legal Deadline: None

Abstract: Section 1905(r) of the Social Security Act, added by section 6403 of OBRA '89 defines the following EPSDT services: screening services, vision services, dental services and hearing services. EPSDT services also are defined to include such other necessary health care, diagnostic services, treatment, and other measures described in section 1905(a) of the Act to correct or ameliorate defects, illnesses and conditions discovered by the screening services whether or not the services are covered under the State plan. Section 1902(a)(43) of the Act requires States to report to the Secretary certain information about EPSDT services provided under the plan during each fiscal year. This rule would set forth requirements to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	10/01/93	58 FR 51288
NPRM Comment Period End	11/30/93	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Robert Wardwell, Director, Office of Medical & Remedial Care Services, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-14-17, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3254

RIN: 0938–AE72

1144. FIRE SAFETY STANDARDS FOR HOSPITALS, LONG-TERM CARE FACILITIES, AMBULATORY SURGICAL CENTERS, HOSPICES, AND INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (BPD-650-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395x; 42 USC 1396d

CFR Citation: 42 CFR 482.41(b)(1); 42 CFR 483.70(a); 42 CFR 483.470(j)(2)(i)(C); 42 CFR 416.44(b); 42 CFR 418.100(d); 42 CFR 483.470(j)(1)

Legal Deadline: None

Abstract: This final rule with comment period will revise the fire safety standards for hospitals, long term care facilities participating in Medicare and Medicaid, intermediate care facilities for the mentally retarded, ambulatory surgical centers and hospices. It deletes references to the 1967 and 1973, 1981, and 1985 editions of the Life Safety Code (LSC) of the National Fire Protection Association and requires compliance with only the 1994 edition of the LSC. This is a part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	08/01/90	55 FR 31196
NPRM Comment Period End	10/01/90	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James Kenton, Division of Skilled Nursing Care, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-11-06, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5629

RIN: 0938–AE97

1145. CHANGES TO THE LONG-TERM CARE FACILITY SURVEY PROCESS (HSQ-175-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 101-239, Sec 6901(a); 42 USC 1395i-3; 42 USC 1395aa(d); 42 USC 1396r

CFR Citation: 42 CFR 442; 42 CFR 488

Legal Deadline: None

Abstract: This final rule with comment period will amend the Medicare and Medicaid regulations by removing obsolete long-term care survey forms, guidelines, and procedures used by State agencies when they evaluate a Medicare skilled nursing facility or a Medicaid nursing facility for compliance with Federal certification requirements. Effective October 1, 1990, the application of new Federal participation requirements for these facilities with an increased focus on actual or potential resident outcomes has made the survey forms and process in existing regulations outdated. Retention of the outdated items can cause confusion in connection with directions State survey agencies must follow in determining facility compliance.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective Date	10/19/94	
Interim Final Rule Comment Period End	11/18/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information:

TIMETABLE: This regulation may be published only with the concurrence of the U.S. District Court in the Smith v. Shalala suit.

Agency Contact: Helene Fredeking, Codirector, Center for Long Term Care, Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S2-21-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7304

RIN: 0938–AF02

1146. CASE MANAGEMENT (MB-27-F)

Priority: Other Significant

Legal Authority: 42 USC 1396d; 42 USC 1396n

CFR Citation: 42 CFR 431.51(c); 42 CFR 440.169; 42 CFR 440.250; 42 CFR 441.10; 42 CFR 441.18; 42 CFR 447.327; 42 CFR 431.54

Legal Deadline: None

Abstract: This rule will place into our regulations provisions of COBRA '85, OBRA '86, TEFRA '86, OBRA '87 and TMRA '88 dealing with case management services. These regulations will provide for optimal Medicaid coverage of case management services furnished to specific groups in specific geographic areas or political subdivisions within a State.

Timetable:

Action	Date	FR Cite
NPRM	10/15/93	58 FR 53481
NPRM Comment Period End	12/14/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Robert Wardwell, Office of Medical and Remedial Care Services, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-25-07, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5659

RIN: 0938–AF07

1147. PRESUMPTIVE LIMITS ON PAYMENTS TO HMOS, CMPS, AND HCPPS (OMC-006-F)

Priority: Other Significant

Legal Authority: 42 USC 1395mm(h); 42 USC 1395x(v)(1)(A)

CFR Citation: 42 CFR 417.532(a)(3); 42 CFR 417.802; 42 CFR 417.800(c)

Legal Deadline: None

Abstract: This rule will establish presumptive limits for Medicare cost payments to Health Maintenance Organizations and Competitive Medical Plans, and to Health Care Prepayment Plans (HCPPs) that furnish inpatient hospital care. It will also revise the criteria that HCFA uses to determine reasonable costs for HCPPs that do not furnish inpatient hospital care. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	02/22/94	59 FR 8435
NPRM Comment Period End	04/25/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: A. G. D'Alberto, Office of Managed Care, Department of Health and Human Services, Health Care Financing Administration, S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1100

RIN: 0938–AF16

1148. PARTIAL HOSPITALIZATION SERVICES IN COMMUNITY MENTAL HEALTH CENTERS (BPD-736-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395k(a)(2)(J); 42 USC 1395x(ff); 42 USC 1395cc(e)(2)

CFR Citation: 42 CFR 400; 42 CFR 410; 42 CFR 413; 42 CFR 489; 42 CFR 498

Legal Deadline: None

Abstract: In accordance with section 4162 of OBRA '90, this rule sets forth the coverage criteria and payment methodology for partial hospitalization services furnished in community mental health centers. Also in accordance with the law, the rule will specify the requirements a community mental health center must meet in order to enter into a Medicare provider agreement to furnish partial hospitalization services. This final rule will respond to public comments to the interim rule published on February 2, 1994.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/11/94	59 FR 6570
Effective Date	03/13/94	
Comment Period End	04/12/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet Samen, Office of Chronic Care & Insurance Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-08-15, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-9161

RIN: 0938–AF53

1149. INTERMEDIARY AND CARRIER FUNCTIONS (BPO-111-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395h; 42 USC 1395u

CFR Citation: 42 CFR 421.100; 42 CFR 421.200

Legal Deadline: None

Abstract: Current regulations list functions that intermediaries and carriers must perform. All intermediaries and all carriers must perform all the enumerated functions. This rule changes the regulations to bring them into greater conformance with the Medicare statute, which gives the Health Care Financing Administration flexibility to move some functions from one contractor to another to reduce inefficiency, lower cost or achieve better program administration. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	02/22/94	59 FR 8445
NPRM Comment Period End	04/25/94	
Notice to Reopen Comment Period	07/17/94	59 FR 35664
Comment Period End	10/11/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan Bromberg, Bureau of Program Operations, Department of Health and Human Services, Health Care Financing Administration, S2-01-23, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7441

RIN: 0938–AG06

1150. END-STAGE RENAL DISEASE (ESRD) PAYMENT EXCEPTION REQUESTS AND ORGAN PROCUREMENT COSTS (BPD-763-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 413.170; 42 CFR 413.172; 42 CFR 413.174; 42 CFR 413.176; 42 CFR 413.178; 42 CFR 413.179; 42 CFR 413.180; 42 CFR 413.182; 42 CFR 413.184; 42 CFR 413.186; 42 CFR 413.188; 42 CFR 413.190; 42 CFR 413.192; 42 CFR 413.194; 42 CFR 413.196; ...

Legal Deadline: None

Abstract: This final rule will specify the criteria HCFA will use to determine if a facility furnishing dialysis services to patients with end-stage renal disease qualifies for a higher payment under an exception to the prospectively determined payment rate; and the procedures used to evaluate ESRD payment exceptions requests. The rule will also revise the way HCFA computes acquisition costs for organs that are transplanted into Medicare beneficiaries. The rule is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	08/26/94	59 FR 44097
NPRM Comment Period End	10/25/94	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: CFR CITATIONS (CONTINUED) 42 CFR 412.113 42 CFR 413.202 42 CFR 413.203

Agency Contact: Michael Powell, Health Insurance Specialist, Division of End-Stage Renal Disease, Department of Health and Human Services, Health Care Financing Administration, C5-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4557

RIN: 0938–AG20

1151. NONCOVERAGE OF ELECTROSTIMULATION OF SALIVARY GLANDS FOR THE TREATMENT OF XEROSTOMIA (DRY MOUTH) (BPD-782-FN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395y(a)(1)(A)

CFR Citation: None

Legal Deadline: None

Abstract: This notice announces the Medicare program's intent to exclude from coverage electrostimulation of the salivary glands in the treatment of xerostomia secondary to Sjogren's Syndrome. Public Health Service (PHS) studies show that there is insufficient data to establish the clinical utility of electrostimulation to evaluate its long-term effectiveness, or to identify those xerostomia patients who would benefit from this procedure. Also, PHS reports that electrostimulation is not widely accepted as a treatment for xerostomia secondary to Sjogren's Syndrome.

Timetable:

Action	Date	FR Cite
Proposed Notice	05/23/94	59 FR 26653
Comment Period End	07/22/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Francina Spencer, Office of Chronic Care & Insurance Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-04-05, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4614

RIN: 0938–AG45

1152. DISTINCT PART REQUIREMENTS FOR NURSING HOMES AND PROHIBITION OF FINANCIAL SCREENING OF APPLICANTS FOR NURSING HOME ADMISSION (BPD-815-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395i-3; 42 USC 1396r

CFR Citation: 42 CFR 409; 42 CFR 483; 42 CFR 413

Legal Deadline: None

Abstract: In this proposed rule we would define "distinct part" by specifying that a distinct part is a physically identifiable unit of an institution (that is, an entire ward wing, floor, or building) including all beds in the unit. In conjunction with this change we propose an alternative approach for calculating Medicare payments to a skilled nursing facility (SNF). This new "distinct costing" procedure would enable a participating SNF to establish a distinct costing area within the SNF for its relatively high intensity residents so that it can isolate and fully capture the routine cost of their care without resorting to the use of arbitrary certification boundaries to achieve this result. This proposed rule would also prohibit nursing homes from financially screening private pay applicants for admission. Instead, nursing homes would be permitted to charge up to a 2-month deposit before admission to ensure that sufficient funds are available to pay for care to which the individual may be entitled.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Ullman, Health Insurance Specialist, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-13-15, 7500 Security Blvd, Baltimore, MD 21244
Phone: 401 786-5667

RIN: 0938–AG84

1153. CLINICAL LABORATORY IMPROVEMENT AMENDMENT (CLIA) FEE SCHEDULES (HSQ-219-FC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 263a(m)

CFR Citation: 42 CFR 493.638; 42 CFR 493.649

Legal Deadline: None

Abstract: The preamble to this final rule with comment period announces updated fees that laboratories must pay as required by CLIA '88. Fee increases are necessary to meet the costs of program administration, which are to be borne by the laboratories. In addition, technical conforming changes are made to the regulations to ensure consistent and complete references. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Judy Yost, Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S2-09-28, 7500 Security Blvd, Baltimore, MD 21244
Phone: 410 786-3531

RIN: 0938–AG87

1154. CATEGORIZATION AND CERTIFICATION REQUIREMENTS FOR A NEW SUBCATEGORY OF MODERATE COMPLEXITY TESTING (HSQ-222-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493.2; 42 CFR 493.3; 42 CFR 493.5; 42 CFR 493.18; 42 CFR 493.20; 42 CFR 493.21; 42 CFR 493.25; 42 CFR 493.43; 42 CFR 493.45; 42 CFR 493.48; 42 CFR 493.49; 42 CFR 493.51; 42 CFR 493.53; 42 CFR 493.638

Legal Deadline: None

Abstract: This rule would develop criteria for simple and easy-to-use test systems that have demonstrated accuracy and precision through scientific studies. It would waive the routine 2-year survey of users of accurate and precise technology (APT) tests, conducting surveys only if there are indications of problems or complaints. A small number of surveys would be conducted to validate the criteria for determining APT and to assure quality.

Timetable:

Action	Date	FR Cite
NPRM	09/15/95	60 FR 47982
NPRM Comment Period End	11/14/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony Tirone, Health Standards and Quality Bureau, Department of Health and Human Services, Health Care Financing Administration, S2-19-26, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-6810

RIN: 0938–AG98

1155. MEDICAID COVERAGE OF PERSONAL CARE SERVICES (MB-071-F)

Priority: Other Significant

Legal Authority: 42 USC 1396d(a)(24)

CFR Citation: 42 CFR 440.70; 42 CFR 440.167; 42 CFR 440.170

Legal Deadline: None

Abstract: This rule would revise the Medicaid regulations to incorporate the provisions of OBRA '93 relating to coverage of personal care services. Personal care services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded or an institution for mental disease are an optional Medicaid benefit, effective October 1, 1994. The services may be furnished both in the home and in other locations.

Timetable:

Action	Date	FR Cite
NPRM	03/08/96	61 FR 9405
NPRM Comment Period End	05/07/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Terese Klitenic, Office of Long Term Care Services, Medicaid Bureau, Department of Health and Human Services, Health Care Financing Administration, C4-25-02, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-5942

RIN: 0938–AH00

1156. AMBULANCE SERVICES (BPD-813-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1861(s)(7)

CFR Citation: 42 CFR 410.40

Legal Deadline: None

Abstract: This proposed rule would revise HCFA's policy on Medicare coverage of ambulance services. It focuses on the medical necessity for ambulance service, redefines an ambulance as an "emergency vehicle" and revises the policy on coverage of non-emergency ambulance transportation for beneficiaries with end-stage renal disease. These changes would prevent use of non-emergency vehicles and the use of ambulance transportation in non-emergency situations where the medical need has not clearly been determined. These changes require the use of emergency vehicles as ambulances and would focus on the medical treatment rather than transportation as the primary concern for furnishing ambulance services, as required by Title XVIII, Section 1861(s)(7) of the Social Security Act. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margot Blige, Office of Physician & Ambulatory Care Policy, Department of Health and Human Services, Health Care Financing Administration, C4-02-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4642

RIN: 0938–AH13

1157. ADJUSTMENT IN PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES (BPD-831-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395k(a)(2); 42 USC 1395l; 42 USC 1395z; 42 USC 1395aa; 42 USC 2630 .

CFR Citation: 42 CFR 416

Legal Deadline: NPRM, Statutory, October 31, 1995.

Abstract: This rule would establish a process under which interested parties could request, with respect to a class of new technology intraocular lenses (IOLs), a review of the appropriateness of the current payment amount for IOLs furnished by Medicare-participating ASCs. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cathaleen Ahern, Office of Physician & Ambulatory Care Policy, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-09-24, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4515

RIN: 0938–AH15

1158. MEDICARE COVERAGE OF LIVER TRANSPLANTATION (BPD-835-PN)

Priority: Other Significant

Legal Authority: 42 USC 1395y(a)(1)(A)

CFR Citation: None

Legal Deadline: None

Abstract: This proposed notice would announce changes in Medicare's national coverage policy for liver transplantations. Currently, Medicare coverage for liver transplantation in adults is limited to seven diagnoses. This notice proposes to expand the diagnoses for which Medicare would cover a liver transplant to include all end stage liver disease except malignancies, hepatitis B, and hemochromatosis. We are also proposing a change in the criteria for approval of a facility to perform liver transplants.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lana Price, Director, Division of End Stage Renal Disease, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C5-05-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4533

RIN: 0938–AH17

1159. • CLIA PROGRAM: CYTOLOGY PROFICIENCY TESTING (HSQ-233-P)

Priority: Other Significant

Legal Authority: 42 USC 263a(f)(4)(B)(IV)

CFR Citation: 42 CFR 493.855

Legal Deadline: None

Abstract: In this proposal, HHS is complying with a court order requiring publication of a proposed rule to require that cytology proficiency testing be conducted to the extent practicable, under normal working conditions. We propose to revise regulations to require that proficiency testing be conducted at a pace corresponding to the maximum workload rate for individuals examining slides. We also solicit comments on the use of computer facsimile representations of cytology specimens, as an alternative to glass-slide proficiency testing.

Timetable:

Action	Date	FR Cite
NPRM	11/30/95	60 FR 61509
NPRM Comment Period End	01/29/96	60 FR 61509
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Rhonda Whalen, Senior Health Scientist, Department of Health and Human Services, Centers for Disease Control and Prevention, 4770 Buford Highway, NE., MS F 11, Atlanta, GA 30341-3724
Phone: 770 488-7670

RIN: 0938–AH35

1160. • LIMITS ON ACTUAL CHARGES OF NONPARTICIPATING PHYSICIANS (BPD-862-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395rr(b)(1)

CFR Citation: 42 CFR 414.48

Legal Deadline: None

Abstract: This proposed rule would reflect provisions of OBRA '93 as to the suppliers subject to the charge limits, and provisions of SSA '94 as to administrative procedures for enforcing the charge limits. This rulemaking is part of the reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Anita Heygster, Health Insurance Specialist, Bureau of Policy Development, Department of Health and Human Services, Health Care Financing Administration, C4-04-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4486

RIN: 0938–AH50

1161. • MEDICARE SECONDARY PAYER CLARIFICATIONS AND AMENDMENTS (BPD-865-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 411

Legal Deadline: None

Abstract: This regulation is necessary to clarify and amend various Medicare secondary payer regulations. For instance, we wish to incorporate in regulations, policies with respect to liability insurance issues, such as structured liability settlements, future medical expenses, provider malpractice, wrongful death, and Federal tort claims policy. Also, we wish to clarify the rules dealing with group health plan bankruptcies, religious orders, and foreign group health plans, and make numerous other changes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dave Holstein, Health Insurance Specialist, Department of Health and Human Services, Health Care Financing Administration, C4-08-27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4476

RIN: 0938–AH52

1162. • PAYMENT FOR HOSPITAL OUTPATIENT RADIOLOGY SERVICES AND OTHER DIAGNOSTIC PROCEDURES (BPD-861-FC)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1302; 42 USC 1395x(v)(1)(A); 42 USC 1395hh

CFR Citation: 42 CFR 413.122

Legal Deadline: None

Abstract: The rule revises section 413.133 to remove references to payment blend effective prior to January 1, 1991. This rulemaking is part of the Reinventing Government effort. It will eliminate text in the CFR to reduce burden or duplication, or streamline requirements.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet Wellham, Health Policy Specialist, Department of Health and Human Services, Health Care Financing Administration, C4-13-26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4510

RIN: 0938–AH53

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Health Care Financing Administration (HCFA)

Completed Actions

1163. FEE SCHEDULE FOR PAYMENT OF CLINICAL PSYCHOLOGIST SERVICES (BPD-495-P)

Priority: Other Significant

CFR Citation: 42 CFR 414

Completed:

Reason	Date	FR Cite
Withdrawn - Publication Not Expected During This Semiannual Period	04/01/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Elisa Tunanidas
Phone: 410 786-4505

RIN: 0938–AD84

1164. COVERAGE OF NURSE PRACTITIONER AND CLINICAL NURSE SPECIALIST SERVICES (BPD-708-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 410; 42 CFR 413; 42 CFR 414; 42 CFR 491

Completed:

Reason	Date	FR Cite
Withdrawn - Publication Not Expected During this Semiannual Period.	03/25/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roberta Epps
Phone: 410 786-4503

RIN: 0938–AF00

1165. PAYMENT FOR FEDERALLY QUALIFIED HEALTH CENTER (FQHC) SERVICES (BPD-728-F)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 405.2401; 42 CFR 405.2430; 42 CFR 405.2446; 42 CFR 405.2448; 42 CFR 405.2450; 42 CFR 405.2463; 42 CFR 405.2466; 42 CFR 405.2468; 42 CFR 491.5; 42 CFR 491.8

Completed:

Reason	Date	FR Cite
Final Action	04/03/96	61 FR 14640
Final Action Effective	05/03/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Bernadette Schumaker
Phone: 410 786-4568

RIN: 0938–AF14

1166. FEDERALLY QUALIFIED HEALTH CENTER SERVICES (MEDICAID) (MB-043-P)

Priority: Other Significant

CFR Citation: 42 CFR 440; 42 CFR 447

Completed:

Reason	Date	FR Cite
Withdrawn - Publication Not Expected During This Semiannual Period	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Worgo
Phone: 410 786-5919

RIN: 0938–AF90

1167. MEDICARE APPEALS OF INDIVIDUAL CLAIMS (BPD-453-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 405.732; 42 CFR 405.801; 42 CFR 405.837; 42 CFR 405.838; 42 CFR 405.839; 42 CFR 405.840

Completed:

Reason	Date	FR Cite
Withdrawn - Publication Not Expected During This Semiannual Period	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Olenick
Phone: 410 786-4472

RIN: 0938–AG18

1168. WITHDRAWAL OF COVERAGE OF DIAGNOSTIC NOCTURNAL PENILE TUMESCENCE TESTING (IMPOTENCE TESTING) (BPD-780-FN)

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn	02/07/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Ulikowski
Phone: 410 786-5721

RIN: 0938–AG43

1169. SCHEDULE OF LIMITS ON HOME HEALTH AGENCY COSTS PER VISIT (BPD-793-N)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	02/14/95	60 FR 8389

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael Bussacca
Phone: 410 786-4602

RIN: 0938–AG54

1170. MEDICAID PROGRAM: NURSE-MIDWIFE SERVICES (MB-085-F)

Priority: Other Significant

CFR Citation: 42 CFR 440

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61483

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Sizelove
Phone: 410 786-3255

RIN: 0938–AG73

1171. MEDICAID PROGRAM: FEES FOR VACCINE ADMINISTRATION UNDER PEDIATRIC IMMUNIZATION PROGRAM (MB-084-FN)

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Withdrawn - Publication Not Expected During This Semiannual Period	04/01/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Marge Sciulli
Phone: 410 786-0691

RIN: 0938–AG77

1172. MEDICAID: NOMINAL COPAYMENTS FOR INSTITUTIONAL SERVICES FOR MEDICAID RECIPIENTS (MB-090-FC)

Priority: Other Significant

CFR Citation: 42 CFR 447.54; 42 CFR 447.55

Completed:

Reason	Date	FR Cite
Withdrawn - Publication Not Expected During This Semiannual Period	04/01/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Ingrid Osburne
Phone: 410 786-4461

RIN: 0938–AG90

1173. MANDATORY MEDIGAP CROSSOVER CLAIMS TRANSMITTAL REQUIREMENTS (BPD-811-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 403.206; 42 CFR 403.212; 42 CFR 403.222; 42 CFR 403.232; 42 CFR 403.204; 42 CFR 424.68

Completed:

Reason	Date	FR Cite
Withdrawn - Publication Not Expected During this Semi-annual Period.	03/25/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Hoyer, Director
Phone: 410 786-5661

RIN: 0938–AG94

1174. MEDICARE PROGRAM: CHANGES TO THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEMS AND FISCAL YEAR 1996 RATES (BPD-825-FC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR 412; 42 CFR 413

Completed:

Reason	Date	FR Cite
Final Action	09/01/95	60 FR 45778

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Agency Contact: Nancy Edwards
Phone: 410 786-4531

RIN: 0938–AG95

1175. MEDICARE PROGRAM: REVISIONS TO PAYMENT POLICIES AND ADJUSTMENTS TO THE RELATIVE VALUE UNITS (RVUS) UNDER THE PHYSICIAN FEE SCHEDULE FOR CALENDAR YEAR 1996 (BPD-827-FC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR 400; 42 CFR 405; 42 CFR 410; 42 CFR 411; 42 CFR 412; 42 CFR 413; 42 CFR 414; 42 CFR 415; 42 CFR 417; 42 CFR 489

Completed:

Reason	Date	FR Cite
Final Action	12/08/95	60 FR 63124

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terrence Kay

Phone: 410 786-4497

RIN: 0938–AG96

1176. MEDICARE PROGRAM: COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES (BPD-496-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 405; 42 CFR 410; 42 CFR 486

Completed:

Reason	Date	FR Cite
Withdrawn - Publication Not Expected During This Semiannual Period	04/01/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roberta Epps
Phone: 419 786-4503

RIN: 0938–AH02

1177. MEDICARE PROGRAM: PHYSICIAN FEE SCHEDULE UPDATE FOR CALENDAR YEAR 1996 & PHYSICIAN VOLUME PERFORMANCE STANDARD RATES OF INCREASE FOR FEDERAL FISCAL YEAR 1996 (BPD-828-FN)

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	12/08/95	60 FR 63358

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terrence Kay
Phone: 410 786-4497

RIN: 0938–AH03

1178. PART A PREMIUM FOR 1996 FOR THE UNINSURED AGED AND FOR CERTAIN DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT (OACT-051-N)

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	10/16/95	60 FR 53631

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Wandishin
Phone: 410 786-6389

RIN: 0938–AH06

1179. MEDICARE PROGRAM: MONTHLY ACTUARIAL RATES AND MONTHLY SUPPLEMENTARY MEDICAL INSURANCE PREMIUM RATES BEGINNING JANUARY 1, 1996 (OACT-050-N)

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	10/16/95	60 FR 53626

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carter Warfield
Phone: 410 786-6396

RIN: 0938–AH07

1180. INPATIENT HOSPITAL DEDUCTIBLE AND HOSPITAL AND EXTENDED CARE SERVICES COINSURANCE AMOUNTS FOR 1996 (OACT-049-N)

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	10/16/95	60 FR 53625

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Wandishin
Phone: 410 786-6389

RIN: 0938–AH08

1181. LIMITATIONS ON AGGREGATE PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS: FEDERAL FISCAL YEAR 1995 (MEDICAID PROGRAM) (MB-094-N)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 447.297; 42 CFR 447.298; 42 CFR 447.299

Completed:

Reason	Date	FR Cite
Final Action	09/08/95	60 FR 46838

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Richard Strauss
Phone: 410 786-2019

RIN: 0938–AH09

1182. PROVISIONS THAT ALLOW RURAL PRIMARY CARE HOSPITALS (RPCHS) TO ENTER INTO SWING-BED AGREEMENTS (BPD-839-P)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 485.645

Completed:

Reason	Date	FR Cite
Withdrawn - Publication Not Expected During this Semi-annual Period.	03/25/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Morey
Phone: 410 786-4653

RIN: 0938–AH20

1183. TRANSFER OF ASSETS FOR LESS THAN FAIR MARKET VALUE: MEDICAID PROGRAM (MB-095-P)

Priority: Other Significant

CFR Citation: 42 CFR 435; 42 CFR 436

Completed:

Reason	Date	FR Cite
Withdrawn - Publication Not Expected During this Semi-annual Period.	03/25/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Roy Trudel
Phone: 410 786-3417

RIN: 0938–AH23

1184. EVIDENCE OF LAWFUL PERMANENT RESIDENCE (MB-097-P)

Priority: Other

CFR Citation: 42 CFR 435.406; 42 CFR 435.408

Completed:

Reason	Date	FR Cite
Withdrawn - Publication Not Expected During This Semiannual Period	04/01/96	

Small Entities Affected: None

HHS—HCFA

Completed Actions

Government Levels Affected: State, Local

Agency Contact: Robert Tomlinson
Phone: 410 786-4463

RIN: 0938–AH25

1185. CLIA PROGRAM; GRANTING AND WITHDRAWAL OF AUTHORITY TO PRIVATE NONPROFIT ACCREDITATION ORGANIZATIONS AND OF CLIA EXEMPTION UNDER STATE LABORATORY PROGRAMS; TECHNICAL CORRECTIONS (HSQ-205-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 42 CFR 493.501; 42 CFR 493.506; 42 CFR 493.513; 42 CFR 493.515; 42 CFR 493.521

Completed:

Reason	Date	FR Cite
Withdrawn - To Be Merged Into RIN 0938-AE47 (HSQ-226-F)	02/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Josephine Simmons
Phone: 410 786-3409

RIN: 0938–AH32

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration for Children and Families (ACF)

Proposed Rule Stage

1186. FOSTER CARE, ADOPTION ASSISTANCE, AND CHILD WELFARE SERVICES

Priority: Other Significant

Legal Authority: 42 USC 627; 42 USC 671; 42 USC 1320

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1357

Legal Deadline: NPRM, Statutory, July 1, 1995.

Abstract: This NPRM will propose requirements that implement the statutory provisions of the Social Security Act Amendments of 1994 on review of State programs under Parts B and E of the Social Security Act for conformity with State Plan requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: This action was previously reported under RIN 0980-AA08.

Agency Contact: Daniel H. Lewis, Deputy Associate Commissioner, Children's Bureau, Adm. on Children, Youth & Families, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8594

RIN: 0970–AA97

1187. BLOCK GRANT PROGRAMS (LOW INCOME HOME ENERGY ASSISTANCE PROGRAM —LIHEAP)—FY 1995 AND FY 1996 PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 8621

CFR Citation: 45 CFR 96

Legal Deadline: None

Abstract: This Notice of Proposed Rulemaking will amend the DHHS block grant regulations to implement changes to the Low Income Home Energy Assistance Program (LIHEAP) statute which were made by the Human Services Amendments of 1994 (Pub. L. 103-252). Several of the provisions in the new law are self-implementing, but a few require implementing regulations. The major provisions requiring implementing regulations are: (1) Inclusion of new Assurance 16, to require grantees to submit as a part of their annual application a description of their "self-sufficiency" activities and to submit a report to DHHS on the effect of these activities; (2) Inclusion of allowable uses of DOE rules for weatherization services provided with LIHEAP funds; (3) Inclusion for requirements for submission of data on households served. In addition, other related amendments to the regulations will be included, concerning the following issues: (1) Consideration of different weighting of factors under the allocation formula for the leveraging incentive program; (2) Hearing requirements for audit disallowances; and (3) Allotments for territories.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: Janet M. Fox, Director, Division of Energy Assistance, Office of Community Services, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9351

RIN: 0970–AB47

1188. ADMINISTRATIVE FLEXIBILITY RULE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 205.31

Legal Deadline: None

Abstract: This proposed rule adds a new section 205.31 which will provide a simple administrative process for requesting waivers of certain AFDC regulatory provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

HHS—ACF

Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Mack Storrs, Director, Division of AFDC Program, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9289

RIN: 0970–AB49

1189. DESIGNATION OF ALTERNATIVE AGENCY TO SERVE INDIAN TRIBAL CHILDREN

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801, et seq

CFR Citation: 45 CFR 1302

Legal Deadline: None

Abstract: This NPRM will specify a process by which an Indian tribe may identify and establish an alternative agency to provide Head Start Services if the agency previously serving the tribe is terminated.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Organizations

Government Levels Affected: Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB52

1190. CONSTRUCTION OF HEAD START FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 9801, et seq

CFR Citation: 45 CFR 1309

Legal Deadline: None

Abstract: This NPRM will establish procedures to be used by Head Start agencies in requesting to use Head Start grant funds to construct or renovate a Head Start facility.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB54

1191. QUALITY STANDARDS FOR EARLY HEAD START AND HEAD START PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 9801

CFR Citation: 45 CFR 1301; 45 CFR 1302; 45 CFR 1305; 45 CFR 1306; 45 CFR 1308; 45 CFR 1309

Legal Deadline: NPRM, Statutory, May 18, 1995.
Legal deadline only pertains to performance standards.

Abstract: The NPRM will establish performance standards with respect to services provided to children 0 to 5 years old by Early Head Start and Head Start Programs, including health, education, parent involvement, nutritional, social and transitional services, administrative and financial management standards and condition and location of facilities used to carry out activities.

Timetable:

Action	Date	FR Cite
NPRM	04/22/96	61 FR 17754
NPRM Comment Period End	06/21/96	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB55

1192. HEAD START FELLOWSHIP PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801

CFR Citation: 45 CFR 1311

Legal Deadline: None

Abstract: This NPRM will establish the policies and procedures to be used in selecting individuals to be part of the Head Start Fellowship Program.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB56

1193. ON-SITE FOSTER CARE ELIGIBILITY REVIEWS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 1356

Legal Deadline: None

Abstract: This NPRM will propose requirements that govern on-site eligibility reviews that the Administration for Children and Families conducts to assure State agencies' compliance with the statutory requirements under Title IV-E of the Social Security Act for eligibility of foster care providers and eligibility of the children in foster care.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Daniel H. Lewis, Deputy Associate, Commissioner, Children's Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8594

RIN: 0970–AB60

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Final Rule Stage

Administration for Children and Families (ACF)

1194. AMENDMENTS TO DEVELOPMENTAL DISABILITIES RULES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6000 et seq

CFR Citation: 45 CFR 1385; 45 CFR 1386; 45 CFR 1387; 45 CFR 1388

Legal Deadline: Final, Statutory, April 29, 1991.
Final, Statutory, October 3, 1994.

Abstract: This rule updates current rules with clarifications and new requirements to implement recent changes in the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1990 (Pub. L. 101-496) and 1994 (Pub. L. 103-230).

Timetable:

Action	Date	FR Cite
NPRM	05/18/95	60 FR 26774
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: This action was previously reported under RIN 0980-AA48.

Agency Contact: John Doyle, Director, Administration and Planning Staff, Administration on Developmental Disabilities, Department of Health and Human Services, Administration for Children and Families, 200 Independence Avenue SW., Room 315D, Washington, DC 20201
Phone: 202 690-6590

RIN: 0970–AB11

1195. CHILD ABUSE AND NEGLECT STATE GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5101

CFR Citation: 45 CFR 1340

Legal Deadline: None

Abstract: The primary purpose of this rule is to revise existing regulations at 45 CFR 1340 in order to implement recent amendments to the Child Abuse Prevention and Treatment Act with respect to confidentiality requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/18/94	59 FR 26046
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Emily Cooke, Acting Director, National Center on Child Abuse and Neglect, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8586

RIN: 0970–AB23

1196. STANDARDS FOR SAFE TRANSPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1310

Legal Deadline: None

Abstract: This rule establishes Head Start Performance Standards for the safe transportation of Head Start children, including vehicle requirements, driver qualifications and training and safety rules for children and staff while en route and loading and unloading of vehicles.

Timetable:

Action	Date	FR Cite
NPRM	08/14/95	60 FR 31612
Final Action	01/00/97	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB24

1197. STANDARDS FOR PURCHASE OF FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1309

Legal Deadline: None

Abstract: This regulation establishes standards for the purchase of facilities as required by the Head Start Improvement Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61575
Final Action	08/00/96	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB31

1198. NATIONAL VOTER REGISTRATION ACT OF 1993 PROVISIONS AFFECTING PUBLIC ASSISTANCE AGENCIES

Priority: Other Significant

Legal Authority: PL 103-31

CFR Citation: 45 CFR 205.50 (a)(4); 42 CFR 431.307(a); 42 CFR 431.307 (b)

Legal Deadline: None

Abstract: Incorporates general guidance for public assistance agencies regarding registration procedures to be carried out by State Public Assistance offices. It removes former prohibitions from distributing such materials in these offices.

Timetable:

Action	Date	FR Cite
NPRM	11/22/94	59 FR 60109
Final Action	07/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Mack Storrs, Director, Division of AFDC Program, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9289

RIN: 0970–AB32

1199. CHILD CARE—REVISED REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 98.255; 45 CFR 98.256; 45 CFR 98.257

Legal Deadline: None

Abstract: The Administration for Children and Families will amend

HHS—ACF

Final Rule Stage

existing regulations which govern the administration of child care programs under Title IV-A of the Social Security Act (AFDC Child Care, Transitional Child Care, At-Risk Child Care) and the Child Care and Development Block Grant. Based on recent legislative changes, as well as comments from state and tribal program administrators, child care advocates and other interested parties, we are examining a number of specific regulatory provisions. The purpose of this regulatory package will be to implement legislative changes, reduce program differences, and promote better program coordination. We do not expect these changes to result in significant program costs; administrative savings may result.

Timetable:

Action	Date	FR Cite
NPRM	05/11/94	59 FR 24510
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Olivia M. Golden, Commissioner, Administration on Children, Youth and Families, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8572

RIN: 0970–AB33

1200. FAMILY PRESERVATION AND SUPPORT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 430 to 435

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1357

Legal Deadline: None

Abstract: This rule will amend the requirements under title IV-B subpart 1 for the Child and Family Services State plan and set forth the requirements the State must adhere to in the development and submission of its comprehensive five year plan under title IV-B, subpart 2, family preservation and support services. The submission of this jointly developed plan is required in order to receive both child and family services funds under subpart 1 and family preservation and support services funds under subpart 2 for fiscal years 1995 and following.

Timetable:

Action	Date	FR Cite
NPRM	10/04/94	59 FR 50646
Final Action	07/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Tribal

Agency Contact: Daniel H. Lewis, Deputy Associate Commissioner, Children's Bureau, ACYF, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8618

RIN: 0970–AB34

1201. ADMINISTRATION FOR NATIVE AMERICANS (ANA) 45 CFR PART 1336

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2991, et seq

CFR Citation: 45 CFR 1336

Legal Deadline: Final, Statutory, March 29, 1993.

Abstract: This regulation amends 45 CFR part 1336. It will incorporate an appeals procedure affording applicants the opportunity to appeal ANA ineligibility determinations to the HHS Departmental Appeals Board. Native American organizations are expected to welcome these procedural changes.

Timetable:

Action	Date	FR Cite
NPRM	04/21/95	60 FR 19994
Final Action	07/00/96	

Small Entities Affected: Organizations

Government Levels Affected: Tribal

Agency Contact: R. Denise Rodriguez, J.D., Program Specialist, Department of Health and Human Services, Administration for Children and Families, 200 Independence Ave SW., Washington, DC 20201
Phone: 202 690-6265

RIN: 0970–AB37

1202. REDUCTION OF REPORTING REQUIREMENTS FOR THE STATE SYSTEMS ADVANCE PLANNING DOCUMENT (APD) PROCESS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 95.600

Legal Deadline: None

Abstract: These rules decrease the reporting burden on States and increase their flexibility within the State systems APD process by increasing the threshold under which APDs and related procurement documents need not be submitted for Federal approval. Additionally, States will no longer be required to submit biennial security plans for Federal review and approval.

Timetable:

Action	Date	FR Cite
NPRM	07/24/95	60 FR 34858
NPRM Comment Period End	09/22/95	
Final Action	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Bill Davis, Management Analyst, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-6404

RIN: 0970–AB46

1203. INCOME ELIGIBILITY CRITERIA FOR INDIAN TRIBES

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 9801, et seq

CFR Citation: 45 CFR 1305

Legal Deadline: None

Abstract: This Final Rule will revise the income eligibility criteria used in enrolling Head Start children and families to allow Indian tribes, in certain situations, to enroll more

HHS—ACF — Final Rule Stage

children whose families do not meet Head Start's income criteria than would otherwise be possible.

Timetable:

Action	Date	FR Cite
NPRM	10/25/95	60 FR 54648
NPRM Comment Period End	12/26/95	
Final Action	09/00/96	

Small Entities Affected: Organizations

Government Levels Affected: Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Department of Health and Human Services, Administration for Children and Families, P.O. Box 1182, Washington, DC 20013
Phone: 202 205-8569

RIN: 0970–AB53

1204. MAKING INFORMATION AVAILABLE TO CONSUMER REPORTING AGENCIES: EXTENSION OF DEADLINE FOR CERTIFIED STATEWIDE SYSTEMS; AND REVISIONS FOR THE PRESIDENT'S REFORM INITIATIVE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-432; PL 104-35

CFR Citation: 45 CFR 301; 45 CFR 302; 45 CFR 303; 45 CFR 304; 45 CFR 306; 45 CFR 307

Legal Deadline: None

Abstract: This rule contains provisions regarding required State laws for reporting information concerning unpaid child support obligations to consumer reporting agencies. These provisions implement the requirements of section 212 of the Social Security Act Amendments of 1994, which amend title IV-D of the Social Security Act. These provisions require States to adopt procedures for periodic reporting of information to consumer reporting agencies. This rule implements PL 104-35; enacted October 12, 1995, which revises section 454(24) of the Social Security Act. This rule also includes technical changes to other child support regulations to support the President's Regulatory Reinvention Initiative.

Timetable:

Action	Date	FR Cite
NPRM	01/29/96	61 FR 2774
NPRM Comment Period End	03/29/96	
Final Action	12/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Marianne Upton, Branch Chief, Policy Division, Office of Child Support Enforcement, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-5373

RIN: 0970–AB57

1205. INCOME AND RESOURCE DISREGARDS RELATED TO INTERESTS OF INDIVIDUAL INDIANS IN TRUST OR RESTRICTED LANDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-66

CFR Citation: 45 CFR 233

Legal Deadline: None

Abstract: These rules incorporate statutory disregards in the AFDC program and the Adult Assistance programs in Guam, Puerto Rico and the Virgin Islands. The first provides that up to $2,000 per year of income derived from interests of individual Indians in trust or restricted lands shall not be considered in determining assistance. The second is a provision requiring that interests of individual Indians in trust or restricted lands shall not be considered a resource in determining eligibility for assistance.

Timetable:

Action	Date	FR Cite
NPRM	10/25/94	59 FR 51536
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mack A. Storrs, Director, Division of AFDC Program, Office of Family Assistance, Department of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447
Phone: 202 401-9289

RIN: 0970–AB59

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration for Children and Families (ACF)

Completed Actions

1206. FAMILY VIOLENCE PREVENTION AND SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1370

Completed:

Reason	Date	FR Cite
Final Action	02/22/96	61 FR 6791

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Margaret Washnitzer
Phone: 202 401-2333

RIN: 0970–AB18

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Administration on Aging (AOA)

Long-Term Actions

1207. GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING, INTRASTATE FUNDING FORMULAS; TRAINING, RESEARCH AND DISCRETIONARY PROGRAMS; VULNERABLE ELDER RIGHTS; AND GRANTS TO INDIANS & NATIVE HAWAIIANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 102-375, sec 202(a)(10); PL 102-375, sec 202(a)(14); PL 102-375, sec 305(a); PL 102-375, sec 305(a)(1); PL 102-375, sec 305(a)(2)(c); PL 102-375, sec 305(a)(2); PL 102-375, sec 305(a)(2)(D); PL 102-375, sec 305(a)(1)(E); PL 102-375, sec 305(a)(2)(E); PL 102-375, secs 305(d)(1) to 305(d)(4); PL 102-375, sec 305(a)(A)(i); PL 102-375, sec 306(a)(6)(O)(i); PL 102-375, sec 306(a)(13); PL 102-375, sec 307(a)(1); PL 102-375, sec 307(a)(C)(i)

CFR Citation: 45 CFR 1321; 45 CFR 1324; 45 CFR 1326; 45 CFR 1327; 45 CFR 1328

Legal Deadline: None
Unknown until law is reauthorized.

Abstract: The Administration on Aging (AoA) anticipates revising current rules to reflect the changes resulting from the pending reauthorization of the Older Americans Act which incorporates greater flexibility for the States. PURPOSE: The purpose of these revisions is to implement the newly enacted law in the development and provision of community-based services.

Timetable:

Action	Date
OAA Amendments in FY '96	
NPRM	08/00/97

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal

Additional Information: The Administration on Aging, in consultation with the Office of Management and Budget, has determined that it is no longer necessary to pursue final action on rules earlier proposed to implement the 1992 amendments to the Older Americans Act. The provisions of the Act remain in force and need no further regulations to implement them. AoA anticipates promulgating rules in the latter part of 1997 to implement the provisions to the next reauthorization of the Older Americans Act, if necessary.

Agency Contact: Edwin Walker, Director, Office of Program Development and Operations, Department of Health and Human Services, Administration on Aging, 330 Independence Avenue SW., Room 4733, Cohen Bldg., Washington, DC 20201
Phone: 202 619-0011

RIN: 0985–AA00

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Part IX

Department of Housing and Urban Development

Semiannual Regulatory Agenda

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Subtitles A and B

[Docket No. FR-4016]

Semiannual Agenda of Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with section 4(b) of Executive Order 12866 "Regulatory Planning and Review," the Department is publishing its agenda of regulations already issued or expected to be issued and of currently effective rules that are under review. Also, in accordance with section 602 of the Regulatory Flexibility Act, the Department's agenda of regulations indicates which regulations are likely to have a significant economic impact on a substantial number of small entities. As permitted by Executive Order 12866 and the Regulatory Flexibility Act, the two agendas are combined for publication.

FOR FURTHER INFORMATION CONTACT: Camille E. Acevedo, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410, (202) 708-2084. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review," issued by President Clinton on September 30, 1993, and published on October 4, 1993 (58 FR 51735), requires each agency to publish semiannually an agenda of regulations that the agency has issued or expects to issue and of currently effective regulations that are under agency review.

The Regulatory Flexibility Act, 5 U.S.C. 601-612, requires each agency to publish semiannually a regulatory agenda of rules expected to be proposed or promulgated, which are likely to have a significant economic impact on a substantial number of "small entities," meaning small businesses, small organizations, or small governmental jurisdictions.

Executive Order 12866 and section 605 of the Regulatory Flexibility Act each permits incorporation of the agenda required with any other prescribed agenda. Accordingly, the agenda set out below combines the information required by the Executive order and by the Regulatory Flexibility Act. In addition, the agenda contains certain information not required by either the Executive order or by the Act, which the Department considers useful both better to inform the public and to enhance the Department's own inventory control over its body of regulations.

For purposes of Executive Order 12866, "regulation" or "rule" is defined as "an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency" subject to certain exceptions. The agenda published below concentrates upon regulatory material contained or expected to be contained in the Code of Federal Regulations (CFR) (or incorporated therein by reference) following publication in the **Federal Register**. As appropriate, however, issuances in the nature of general statements of policy may be published in the **Federal Register** but not for codification in the CFR.

The Department also is subject to certain requirements involving congressional review of rulemaking action, including publication of an agenda. Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that the Secretary transmit to the congressional committees having jurisdictional oversight (the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking and Financial Services) a semiannual regulatory agenda of all rules or regulations which are under development or review by the Department. A rule appearing on the agenda cannot be published for comment before or during the first 15 calendar days after transmittal of the agenda. If, within that period, either committee notifies the Secretary that it intends to review any rule or regulation which appears on the agenda, the Secretary must submit to both committees a copy of the rule or regulation, in the form it is intended to be proposed, at least 15 calendar days before it is published for comment. The semiannual regulatory agenda published today is the agenda transmitted to the committees in compliance with the foregoing requirement.

The agenda items are divided first by program office. Within each program office, the agenda items are divided into four groups: (i) Prerulemaking actions, (ii) publication or other implementations of notices of proposed rulemaking, (iii) publications or other implementations of final rules, and (iv) completed actions. Within each grouping, rules are listed in chronological order by the part number of the CFR affected. Where a rule affects multiple parts of the CFR, the rule is listed by the first affected part number.

Items listed in this agenda are from the following offices within the Department: Office of the Secretary; Office of Housing; Office of Public and Indian Housing; Office of Community Planning and Development; Office of Fair Housing and Equal Opportunity; Office of Administration; and Office of Policy Development and Research.

This agenda will reflect that several rules have been withdrawn by the Department. Consistent with the principles set forth in Executive Order 12866 to reduce and streamline regulations and in response to President Clinton's memorandum to Federal agencies to examine all regulations and to eliminate those that are obsolete, the Department is not only examining its existing regulations but those rules proposed to be issued. On further examination, the Department may determine that certain rules listed as withdrawn under this agenda are necessary, and if that determination is made, the rules will be included in the next semiannual agenda. Some of the rules withdrawn under this agenda may include interim rules. During the period of examination, the Department will decide whether to proceed with final rulemaking based on the interim rule or to issue a final rule withdrawing the interim rule.

The Department invites all interested members of the public to comment on the rules listed in this agenda to assist the Department in improving its regulatory products and procedures.

Dated: March 15, 1996.

Dwight P. Robinson,

Deputy Secretary.

HUD

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1208	24 CFR 10 Rulemaking Policies and Procedures—Expediting Rulemaking and Policy Implementation (FR-3292)	2501-AB43
1209	24 CFR 24 Limited Denial of Participation in HUD Programs; Clarifying Amendments (FR-3975)	2501-AC08
1210	24 CFR 26 Proceedings Before a Hearing Officer, Streamlined Hearing Procedures (FR-4022)	2501-AC19
1211	24 CFR 50 Departmental Policies, Responsibilities, and Procedures for Protection and Enhancement of Environmental Quality (FR-2206)	2501-AA30
1212	24 CFR 91 Site and Neighborhood Standards for Development of HUD-Assisted Rental Housing (FR-3826)	2501-AC15

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1213	24 CFR 0 Standards of Conduct (FR-3331)	2501-AB55
1214	24 CFR 36 Lead-Based Paint Poisoning Prevention in Certain Residential Structures (FR-3482)	2501-AB57
1215	24 CFR 42 Streamlining of Relocation & Displacement Requirements (FR-3982)	2501-AC11
1216	24 CFR 58 Environmental Review Procedures for Recipients and Responsible Entities Assuming HUD Responsibilities (FR-3514)	2501-AB67
1217	24 CFR 92 HOME Investment Partnership Program (FR-3962)	2501-AC06
1218	24 CFR 582 Special Needs Assistance (FR-3691)	2501-AB75
1219	24 CFR 700 Congregate Housing Services Program—Streamlining (FR-4033)	2501-AC21
1220	24 CFR 813 Combined Income and Rent Regulations (FR-3324)	2501-AB61

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1221	24 CFR 1 Consolidation of Nondiscrimination Requirements (FR-3935)	2501-AC01
1222	24 CFR 882.109 Occupancy Standards Under the Fair Housing Act (FR-3815)	2501-AC05

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1223	24 CFR 4 Reinvention of Reform Act Requirements—Advance Disclosure and Accountability (FR-3954)	2501-AC04
1224	24 CFR 5 General HUD Program Requirements (FR-3940)	2501-AC02
1225	24 CFR 5 Streamlining Noncitizens (FR-3988)	2501-AC12
1226	24 CFR 5 Disclosure and Verification of Social Security Numbers and Employer Identification Numbers and Procedures for Obtaining Wage and Claim Information; Streamlining Rule (FR-3992)	2501-AC13
1227	24 CFR 5 Consolidated Requirements for the Assisted Housing and PIH Drug Elimination Programs (FR-3997)	2501-AC18
1228	24 CFR 7 Equal Employment Opportunity; Policies and Procedures (FR-3323)	2501-AB79
1229	24 CFR 10.3 Public Housing Lease and Grievance Procedures (FR-3819)	2501-AB92
1230	24 CFR 12 Comprehensive Needs Assessments (FR-3893)	2501-AB99
1231	24 CFR 15 Testimony, Production, and Disclosure of Material and Information by HUD Employees (FR-3949)	2501-AC03
1232	24 CFR 20 Board of Contract Appeals Rule Revision (FR-4013)	2501-AC16
1233	24 CFR 25 Mortgagee Review Board; Streamlining Rule (FR-3979)	2501-AC09
1234	24 CFR 29 Nonjudicial Foreclosure of HUD-Held Single-Family Mortgages (FR-3799)	2501-AB86
1235	24 CFR 35 Regulations Implementing Lead-Based Paint Disclosure and Warning Requirements for Sale and Rental of Housing (FR-3483)	2501-AB58
1236	24 CFR 51 HUD's Environmental Criteria and Services—Streamlining (FR-4034)	2501-AC22
1237	24 CFR 58 Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (FR-3811)	2501-AB88
1238	24 CFR 81 Regulations Implementing the Secretary's Authority Over FNMA and FHLMC (FR-3481)	2501-AB56
1239	24 CFR 86 Elimination of Requirements Governing the Lobbying of HUD Personnel; Removal of 24 CFR Part 86 (FR-4009)	2501-AC20

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Office of the Secretary—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1240	24 CFR subtitle A Elimination of Unnecessary Codifications (FR-3993)	2501-AC14
1241	24 CFR 243 Consolidated Pet Rule (FR-3942)	2501-AC07
1242	24 CFR 791 Allocation of Budget Authority for Housing Assistance (FR-4024)	2501-AC17
1243	24 CFR 912 Definition and Other General Requirements for Assistance Under the U.S. Housing Act of 1937 (FR-3029)	2501-AB68
1244	24 CFR 960 Consolidation of Admission Preference Provisions for Assisted Housing (FR-3980)	2501-AC10

Office of Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1245	24 CFR 242 Risk-Sharing Hospital Mortgage Insurance Program (FR-3914)	2502-AG53
1246	24 CFR 3280 Manufactured Home Construction and Safety Standards Manufactured Home Tires (FR-3943)	2502-AG54
1247	24 CFR 3500 RESPA: Disclosure of Fees Paid to Retail Lenders (Brokers) (FR-3780)	2502-AG40

Office of Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1248	24 CFR 200 Single Family Miscellaneous Amendments, Clarification and Corrections (FR-3977)	2502-AG61
1249	24 CFR 201 Title I Property Insurance (FR-3718)	2502-AG32
1250	24 CFR 206 Home Equity Conversion Mortgage Insurance Demonstration (FR-2958)	2502-AF32
1251	24 CFR 202.12 Streamlining FHA's Mortgagee Requirements (FR-3957)	2502-AG57
1252	24 CFR 203 Single Family Mortgage Insurance—Collection of MIP (FR-3899)	2502-AG55
1253	24 CFR 206 Allowing Individual Condominium Units To Be Eligible for Mortgage Insurance in Non-FHA Approved Condominium (FR-3655)	2502-AG23
1254	24 CFR 247 Termination of Tenancy for Criminal Activity (FR-3472)	2502-AG12
1255	24 CFR 251 Conversion From Coinsurance to Full Insurance (FR-3813)	2502-AG50
1256	24 CFR 268 Loss Mitigation—Single Family (FR-4032)	2502-AG72
1257	24 CFR 290 Sale of HUD-Held Multifamily Mortgages (FR-3970)	2502-AG59
1258	24 CFR 292 Sale of HUD-Held Single-Family Mortgages (FR-3814)	2502-AG42
1259	24 CFR 3500 RESPA Revisions (FR-3638)	2502-AG26

Office of Housing—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1260	24 CFR 3500 Agreement for Flood Plain Certificate and Related Matters—Real Estate Settlement Procedures Act (FR-3930)	2502-AG56

Office of Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1261	24 CFR 200 Revision of FHA Multifamily Processing (FR-3349)	2502-AF74
1262	24 CFR 202 Approval of Lending Institutions and Mortgagees—Subparts A and B (FR-4036)	2502-AG68
1263	24 CFR 203 Single Family Mortgage Insurance—Special Forbearance Procedures (FR-3626)	2502-AG20
1264	24 CFR 207.19(f)(3)(i) Releases From Project Reserve Funds (FR-3656)	2502-AG24
1265	24 CFR 207 Streamlining of FHA Single Family Housing and Multifamily Housing and Health Care Facility Mortgage Insurance Programs (FR-3966)	2502-AG58
1266	24 CFR 235 Refinancing Mortgages Under Section 235(r) of the National Housing Act (FR-3927)	2502-AG52

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Office of Housing—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1267	24 CFR 266 Housing Finance Agency Risk-Sharing Program for Insured Affordable Multifamily Project Loans (FR-3981)	2502-AG60
1268	24 CFR 290 Multifamily Property Disposition (FR-3715)	2502-AG30
1269	24 CFR 811 Refunding of Tax-Exempt Obligation Issued To Finance Section 8 Housing (FR-3692)	2502-AG33
1270	24 CFR 811 Tax Exemption of Obligations of Public Housing Agencies and Related Amendments (FR-3985)	2502-AG64
1271	24 CFR 880 Consolidation of Regulations for Project-Based Section 8 Housing Assistance Programs (FR-3984)	2502-AG65
1272	24 CFR 889 Supportive Housing for the Elderly and Persons with Disabilities (FR-3941)	2502-AG51
1273	24 CFR 1700 Streamlining Regulations Pertaining to the Interstate Land Sales Registration Program (FR-3987)	2502-AG63
1274	24 CFR 1720 Streamlining Interstate Land Sales, Manufactured Housing Construction and Safety Standards, and Real Estate Settlement Procedures Act Programs—Investigations (FR-4026)	2502-AG71
1275	24 CFR 3280 Streamlining Manufactured Home Standards, Regulations, and Requirements (FR-4025)	2502-AG70
1276	24 CFR 3500 Streamlining Real Estate Settlement Procedures Act (RESPA) Regulations (Regulation X) (FR-4023)	2502-AG69

Office of Community Planning and Development—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1277	24 CFR 570 Community Development Block Grant Program; Dispute Resolution and Enforcement Actions, Loan Guarantee Application Requirements (FR-3296)	2506-AB43
1278	24 CFR 570 Section 108 Loan Guarantee Program (FR-4039)	2506-AB80
1279	24 CFR 572 HOPE For Homeownership of Single Family Homes Program (HOPE 3) (FR-3857)	2506-AB71
1280	24 CFR 585 Opportunities for Youth: Youthbuild Program (FR-4038)	2506-AB79
1281	24 CFR 586 Base Closure Community Redevelopment and Homeless Program (FR-3820)	2506-AB72
1282	24 CFR 882 Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals (FR-3929)	2506-AB75

Office of Community Planning and Development—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1283	24 CFR 000 Administrative Guidelines for CPD Programs; Sec. 102(d) Limitation on Combining Other Government Assistance With CPD Housing Assistance (FR-3135)	2506-AB74

Office of Community Planning and Development—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1284	24 CFR 510 Streamlining of Affordable Housing Programs (FR-3938)	2506-AB76
1285	24 CFR 570 Community Development Block Grants Amendments (FR-2905)	2506-AB24
1286	24 CFR 570.200 Community Development Block Grants—1992 Act Changes (FR-3489)	2506-AB59
1287	24 CFR 570 Community Development Block Grants; Streamlining (FR-3978)	2506-AB77
1288	24 CFR 574 Streamlining Housing Opportunities for Persons with AIDS Program (FR-4030)	2506-AB78

Office of Fair Housing and Equal Opportunity—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1289	24 CFR 103.215 Streamlining of Fair Housing Complaint Processing (FR-4031)	2529-AA76
1290	24 CFR 115 Certification and Funding of State and Local Fair Housing Enforcement Agencies (FR-3322)	2529-AA60

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Office of Fair Housing and Equal Opportunity—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1291	24 CFR 135 Economic Opportunities for Low- and Very Low-Income Persons (FR-2898)	2529-AA49

Office of Fair Housing and Equal Opportunity—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1292	24 CFR 91 Site and Neighborhood Standards for Development of HUD-Assisted Rental Housing (FR-3826)	2529-AA75
1293	24 CFR 100 Methods of Proof of Discrimination Under the Fair Housing Act (FR-3534)	2529-AA67
1294	24 CFR 100 President's Fair Housing Council Rule (FR-3958)	2529-AA77
1295	24 CFR 100 Streamlining Amendments to HUD's Regulations Implementing the Fair Housing Act (FR-4029)	2529-AA78
1296	24 CFR 125 Fair Housing Initiatives Program (FR-3480)	2529-AA62

Office of Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1297	48 CFR 24 HUD Acquisition Regulation (FR-3887)	2535-AA23

Policy Development and Research—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1298	24 CFR 570.415 Community Development Work Study Program (FR-3902)	2528-AA05

Office of Public and Indian Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1299	24 CFR 901 Reform of Public Housing Management (FR-3447)	2577-AB30
1300	24 CFR 985 Section 8 Management Assessment Program (SEMAP) (FR-3866)	2577-AB60

Office of Public and Indian Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1301	24 CFR 92 Indian HOME: Revised Program Regulations (FR-3567)	2577-AB35
1302	24 CFR 571 Community Development Block Grants for Indian Tribes and Alaskan Native Villages (FR-2880)	2577-AB31
1303	24 CFR 882 Section 8 Moderate Rehabilitation; Rent Adjustments; Annual and Special Adjustments; Comparability Studies; Rent Reduction (FR-3709)	2577-AB48
1304	24 CFR 904 Turnkey III Homeownership Program (FR-3963)	2577-AB56
1305	24 CFR 941 Public Housing Development Regulations (FR-3569)	2577-AB37
1306	24 CFR 941 Public/Private Partnerships for Mixed-Finance Development of Public Housing Units (FR-3919)	2577-AB54
1307	24 CFR 945 Designated Housing (FR-3964)	2577-AB57

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Office of Public and Indian Housing—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1308	24 CFR 000 Administrative Guidelines for PIH Regarding Sec. 102(d) Limitations on Combining Other Government Assistance ("Subsidy Layering") (FR-3100)	2577-AB53

Office of Public and Indian Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1309	24 CFR 905 Performance Funding Systems; Definition of Unit Months Available (FR-3747)	2577-AB49
1310	24 CFR 910 Loan Guarantees for Indian Housing (FR-3614)	2577-AB40
1311	24 CFR 913.107 Public and Indian Housing Ceiling Rents (FR-3880)	2577-AB51
1312	24 CFR 958 Public Housing Modernization Streamlining (FR-3967)	2577-AB59
1313	24 CFR 965 Streamlining Public Housing Maintenance and Operation Rules (FR-3926)	2577-AB55
1314	24 CFR 984 Streamlining Family Self-Sufficiency (FR-3969)	2577-AB61
1315	24 CFR 990 Performance Funding System—Vacancy Rule (Negotiated Rulemaking) (FR-3847)	2577-AB44
1316	24 CFR 990 Low-Income Public Housing—Performance Funding System (FR-3760)	2577-AB50
1317	24 CFR 990 Operating Subsidy Adjustment for Fraud Recoveries (FR-3965)	2577-AB58

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Proposed Rule Stage

Office of the Secretary (HUDSEC)

1208. RULEMAKING POLICIES AND PROCEDURES—EXPEDITING RULEMAKING AND POLICY IMPLEMENTATION (FR-3292)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 553; 42 USC 3535(d)

CFR Citation: 24 CFR 10

Legal Deadline: None

Abstract: This rule would amend 24 CFR part 10, HUD's "rules on rules," to make possible the more timely implementation of new and changed policies of the Department in circumstances where notice and comment rulemaking is not required by law. The purposes of this rule are: to provide greater flexibility to the Department in implementing statutory and other changes to its program authorities; to avoid unnecessary rulemaking procedures; and to assure the more prompt delivery of program benefits provided for in new and amended statutes.

Timetable:

Action	Date	FR Cite
NPRM	10/14/92	57 FR 47166
NPRM Comment Period End	12/14/92	
Second NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Camille E. Acevedo, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-2084

RIN: 2501–AB43

1209. • LIMITED DENIAL OF PARTICIPATION IN HUD PROGRAMS; CLARIFYING AMENDMENTS (FR-3975)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 24

Legal Deadline: None

Abstract: This rule would streamline and clarify the causes for a limited denial of participation (LDP) in most HUD programs; conform the provisions with Governmentwide regulations; clarify calculation of a time period; and make other technical corrections.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Emmett Roden, Assistant General Counsel for Administrative Proceedings, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-2350

RIN: 2501–AC08

1210. • PROCEEDINGS BEFORE A HEARING OFFICER, STREAMLINED HEARING PROCEDURES (FR-4022)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 12 USC 1735f; 12 USC 1701g to 1701l; 12 USC 1703; 15 USC 1717a; 12 USC 2601; 12 USC 1701 to 1715z to 1718; 25 USC 450e(b); 25 USC 1437aa to 1437ee; 42 USC 1437; 42 USC 1437a; 42 USC 1437d; 42 USC 1437g

CFR Citation: 24 CFR 26; 24 CFR 28; 24 CFR 30; 24 CFR 81; 24 CFR 200; 24 CFR 965; 24 CFR 3500

Legal Deadline: None

Abstract: This rule streamlines HUD's regulations on formal hearing procedures. In an effort to comply with the President's regulatory reform initiatives, this rule will consolidate several parts within HUD's regulations that contain identical provisions on hearing procedures before an administrative law judge. This rule will also improve the substantive provisions of the HUD Civil Money Penalty regulations in 24 CFR part 30. This rule would also make minor conforming changes to parts 81, 200, 950, and 3500.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Emmett Roden, Assistant General Counsel for Administrative Proceedings, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-2350

RIN: 2501–AC19

1211. DEPARTMENTAL POLICIES, RESPONSIBILITIES, AND PROCEDURES FOR PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY (FR-2206)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4321; PL 95-557

CFR Citation: 24 CFR 50

Legal Deadline: None

Abstract: This rule streamlines existing regulations and proposes to address the following: (1) the Secretary's priorities for an interpretation of the Department's mission, by "helping people create communities of opportunities" through the promotion of good design, public amenities, and quality environments within improvements being proposed to the HUD process of environmental review and decisionmaking; (2) the Department's reorganization, which eliminates the ten Regional Offices, thereby affecting environmental responsibilities assigned to Regional and Field personnel by part 50; (3) the legislative and executive authorizations covering Federal-wide environmental policy and compliance applicable to new and existing HUD programs for which the Department retains the Federal environmental review responsibility under part 50; and (4) the updating of existing provisions of this part that need to be clarified, based on HUD's experience, since this part was originally issued. The rule would reduce regulatory burdens and procedural details consistent with environmental laws and other authorities and would assure policy consistency for all HUD programs.

Timetable:

Action	Date	FR Cite
NPRM	04/05/96	61 FR 15340
NPRM Comment Period End	06/04/96	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard H. Broun, Director, Office of Viability, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1767

RIN: 2501–AA30

1212. SITE AND NEIGHBORHOOD STANDARDS FOR DEVELOPMENT OF HUD-ASSISTED RENTAL HOUSING (FR-3826)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3608(e)(5); 42 USC 3614a; 42 USC 5304(b)(2); 42 USC 12705(b)(14)

CFR Citation: 24 CFR 91; 24 CFR 92; 24 CFR 150; 24 CFR 570; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 885; 24 CFR 889; 24 CFR 890; 24 CFR 941; 24 CFR 970; 24 CFR 983

Legal Deadline: None

Abstract: This rule revises standards for approval of sites for HUD-assisted rental housing to assure that they promote housing choice and avoid locations that foster racial, ethnic, and economic segregation. It extends the applicability of such standards to the Community Development Block Grant (CDBG) programs, and broadens the standards applied to the HOME program to include review for poverty concentration. The standards, as revised, generally will be applied not by HUD but by the local or State government or the Public Housing Agency.

The rule places these standards in a new part 150 in the chapter administered by the Assistant Secretary for Fair Housing and Equal Opportunity. The existing rules with provisions concerning site and neighborhood standards (public housing, Section 8, Section 202 and HOME programs) are proposed to be amended, as are the rules governing the program that is not currently covered by such requirements but that is to be covered under the new policy (CDBG).

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Laurence Pearl, Director, Office of Program Standards and Evaluation, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 708-0288

RIN: 2501–AC15

1213. STANDARDS OF CONDUCT (FR-3331)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 0; 5 CFR 7501

Legal Deadline: None

Abstract: This rule would be based on the Office of Government Ethics' Standards of Ethical Conduct for Employees of the Executive Branch (to be published at 5 CFR part 7501). The rule would establish standards relating to the receipt of gifts, whether from prohibited sources, because of official position, or between employees. The rule would also restrict certain financial holdings and outside activities, and set standards regarding the use of official position and time, Government property, and nonpublic information.

Timetable:

Action	Date	FR Cite
NPRM	06/30/95	60 FR 34420
NPRM Comment Period End	08/29/95	
Final Rule	04/05/96	61 FR 15350
Final Rule Effective	05/06/96	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Aaron Santa Anna, Assistant General Counsel for Ethics Law Division, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-4224

RIN: 2501–AB55

1214. LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES (FR-3482)

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4822; 42 USC 3535(d)

CFR Citation: 24 CFR 36; 24 CFR 37

Legal Deadline: Final, Statutory, January 1, 1995.

Abstract: The Office of Lead-Based Paint Abatement and Poisoning Prevention was established by Congress within the Office of the Secretary of HUD. The Office provides overall direction to HUD's lead-based paint activities.

Currently, part 35 of HUD's regulations addresses the Department's requirements on lead hazards in housing. The Residential Lead-Based Paint Hazard Reduction Act of 1992, which is title X of the Housing and Community Development Act of 1992, requires substantial revisions to HUD's current regulations for the evaluation and control of lead-based paint hazards in federally assisted and federally owned housing. The legislation evidences a concern with developing a national strategy to build the infrastructure necessary to eliminate lead-based paint hazards in all nonelderly, pre-1978 housing. Because of the scope of the problem, the strategy will be implemented on a priority basis, and is to be based in part on guidelines issued by the Secretary on August 25, 1995, on the conduct of federally supported work involving risk assessments, inspections, interim control, and abatement of lead-based paint hazards ("Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing"). The revisions required by title X will affect HUD's housing programs and the housing programs of other Federal agencies.

HUD is consolidating, in new parts 36 and 37 of title 24 of the Code of Federal Regulations, the multitude of lead-based paint regulations found throughout HUD programs and will make them consistent, creating a single point of reference for the Department's lead-based paint requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: David E. Jacobs, CIH, Director, Lead-Based Paint Abatement & Poisoning Prevention, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 755-1785

RIN: 2501–AB57

1215. • STREAMLINING OF RELOCATION & DISPLACEMENT REQUIREMENTS (FR-3982)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 4601; 42 USC 5301

CFR Citation: 24 CFR 42

Legal Deadline: None

Abstract: As part of HUD's overall effort to reduce regulatory burden and streamline the content of title 24 of the Code of Regulations, this rule will consolidate certain HOME and CDBG requirements into part 42. These requirements implement section 104(d) of the Housing and Community Development Act of 1974, concerning residential antidisplacement and relocation assistance plans.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Finks, Director, Relocation & Real Estate Div., Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-0336

RIN: 2501–AC11

1216. ENVIRONMENTAL REVIEW PROCEDURES FOR RECIPIENTS AND RESPONSIBLE ENTITIES ASSUMING HUD RESPONSIBILITIES (FR-3514)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 43320; 42 USC 3535(d)

CFR Citation: 24 CFR 58

Legal Deadline: None

Abstract: This proposed rule streamlines and updates current environmental procedures for entities assuming HUD environmental responsibilities for carrying out environmental review in accordance with the National Environmental Policy Act (NEPA) of 1969 and the other related Federal environmental laws and authorities. When this rule is issued as a final rule, it will replace the current interim rule issued on April 12, 1982 (47 FR 15752).

Timetable:

Action	Date	FR Cite
NPRM	09/25/95	60 FR 49466
NPRM Comment Period End	11/24/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Richard H. Broun, Director, Office of Community Viability, Department of Housing and Urban Development, Office of Community Planning and Development Phone: 202 708-2894

RIN: 2501–AB67

1217. HOME INVESTMENT PARTNERSHIP PROGRAM (FR-3962)

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 12721

CFR Citation: 24 CFR 92

Legal Deadline: None

Abstract: Title II of the National Affordable Housing Act of 1990 established the HOME Investment Partnership Program. This program is intended to expand the supply of decent, safe and sanitary affordable housing. Under the HOME Program, the Department of Housing and Urban Development (HUD) provides formula allocations to participating States and units of local government to be used for specified eligible housing activities in accordance with the jurisdiction's approved housing plan. A portion of each allocation must be invested in housing that is developed, owned, or sponsored by community housing development organizations. HUD provides technical assistance to develop the capacity of participating jurisdictions and has developed model programs designed to assist participating jurisdictions in carrying out their programs.

HUD published an interim rule implementing the HOME Program in December 1991. HUD has since published several additional interim rules and a proposed rule. These rules were developed to implement statutory changes and to make changes in response to public comments that were solicited as each rule was published, to HUD's experience in administering the program, and to the input of program participants at numerous training sessions across the country. The changes simplify State and local operation of the HOME Program and make it more compatible with other Federal housing programs.

This final rule will merge the initial interim rule, the subsequent interim rules, and the proposed rule into a single, streamlined HOME Program rule. Wherever possible, text that only repeats statutory language and that is only advisory, rather than exclusive and legally binding, will be removed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/06/96	61 FR 9036
Interim Final Rule Effective	04/05/96	
Final Action	08/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Mary Kolesar, Director, Policy Div., Office of Affordable Housing Programs, Department of Housing and Urban Development, Office of the Secretary Phone: 202 708-2470

RIN: 2501–AC06

1218. SPECIAL NEEDS ASSISTANCE (FR-3691)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 11403; 42 USC 11348; 42 USC 1437a; 42 USC 1437c; 42 USC 3535(d)

CFR Citation: 24 CFR 582; 24 CFR 583; 24 CFR 882

Legal Deadline: None

Abstract: This rule for the Supportive Housing Program, Shelter Plus Care, and Section 8 Moderate Rehabilitation Single Room Occupancy Program for Homeless Individuals amends the programs' regulations to remove the detail in those regulations regarding the application and grant award processes and indicates that a full description of the application and grant award processes will be published in the Federal Register in a notice of fund availability.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/10/94	59 FR 24252
Interim Final Rule Effective	06/09/94	
Interim Final Rule Comment Period End	07/11/94	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David R. Pollack, Director, Program Development Div., Office of Special Needs Assistance Programs, Department of Housing and Urban Development, Office of Community Planning and Development Phone: 202 708-1234

RIN: 2501–AB75

1219. • CONGREGATE HOUSING SERVICES PROGRAM—STREAMLINING (FR-4033)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 8011; 42 USC 3535(d)

CFR Citation: 24 CFR 700

Legal Deadline: None

Abstract: This rule amends HUD's regulations for the Congregate Housing Services Program (CHSP). In an effort to comply with the President's regulatory reform initiatives, this rule will streamline the CHSP regulations by eliminating provisions that are redundant of statutes or are otherwise unnecessary. This rule will make the CHSP regulations clearer and more concise.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carissa Janis, Program Analyst, Department of Housing and Urban Development, Office of Housing Phone: 202 708-3291

RIN: 2501–AC21

1220. COMBINED INCOME AND RENT REGULATIONS (FR-3324)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535d

CFR Citation: 24 CFR 813; 24 CFR 905; 24 CFR 913; 24 CFR 215; 24 CFR 236

Legal Deadline: Final, Statutory, April 28, 1993.

Abstract: The provisions of this regulation ease the rent burden for working families and provide needed incentives for residents to improve their economic situations. These provisions assist families who are making the transition from welfare to gainful employment and encourage higher-income working families (who are candidates for homeownership) to remain in public housing. This regulation removes several of the structural disincentives that exist in current regulations, encourages families to become more self-sufficient, and fosters long-term upward mobility.

This regulation implements an exclusion for deferred periodic payments of supplemental security income and Social Security benefits as prescribed by Section 103(a) of the HCD Act of 1992. It also implements several HUD discretionary income exclusions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/05/95	60 FR 17386
Interim Final Rule Effective	05/05/95	
Interim Final Rule Comment Period End	06/05/95	
Final Action	05/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Linda Campbell, Director, Marketing & Leasing Management Div., Department of Housing and Urban Development, Office of Public and Indian Housing Phone: 202 708-0744

RIN: 2501–AB61

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) Office of the Secretary (HUDSEC) — Long-Term Actions

1221. CONSOLIDATION OF NONDISCRIMINATION REQUIREMENTS (FR-3935)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2000d-1; 42 USC 3535(d); 29 USC 794; 42 USC 5309; 42 USC 3601 to 3619

CFR Citation: 24 CFR 1; 24 CFR 2; 24 CFR 8; 24 CFR 104; 24 CFR 107; 24 CFR 108; 24 CFR 146

Legal Deadline: None

Abstract: This rule would consolidate into a single part the nondiscrimination provisions now located in seven main parts, to eliminate duplicative material. Also, appendices will be removed since the material provided in them can be provided in guidance that can be published and updated in a Federal Register notice.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence Pearl, Director, Office of Program Standards & Evaluation, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity Phone: 202 708-0288

RIN: 2501–AC01

1222. OCCUPANCY STANDARDS UNDER THE FAIR HOUSING ACT (FR-3615)

Priority: Other Significant

Legal Authority: 42 USC 3601 to 3620; 42 USC 3535(d)

CFR Citation: 24 CFR 882.109; 24 CFR 960; 24 CFR 100

Legal Deadline: None

Abstract: The Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, handicap, familial status, or national origin. Such discrimination can include policies and practices such as restrictive occupancy standards that, in effect, work to exclude certain protected groups from otherwise acceptable housing. However, the Fair Housing Act states that nothing in the Act prohibits "reasonable" Federal, State, or local codes regulating maximum occupancy of dwellings. Housing industry officials, both public and private, have urged HUD to establish rules governing occupancy standards in order to provide guidance on what constitutes a reasonable, nondiscriminatory standard to limit occupancy. This rule would establish permissible policies and standards regarding the maximum number of persons who can occupy dwellings under the Fair Housing Act.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Suzanne Crowell, Program Analyst, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity Phone: 202 708-0870

RIN: 2501–AC05

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Completed Actions

1223. REINVENTION OF REFORM ACT REQUIREMENTS—ADVANCE DISCLOSURE AND ACCOUNTABILITY (FR-3954)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 4; 24 CFR 12

Completed:

Reason	Date	FR Cite
Final Action	04/01/96	61 FR 14448
Final Action Effective	05/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Aaron Santa Anna
Phone: 202 708-4227

RIN: 2501–AC04

1224. GENERAL HUD PROGRAM REQUIREMENTS (FR-3940)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 5

Completed:

Reason	Date	FR Cite
Final Action	02/09/96	61 FR 5198
Final Action Effective	03/11/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Camille E. Acevedo
Phone: 202 708-2084

RIN: 2501–AC02

1225. • STREAMLINING NONCITIZENS (FR-3988)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 5; 24 CFR 200; 24 CFR 215; 24 CFR 225; 24 CFR 236; 24 CFR 247; 24 CFR 812; 24 CFR 850; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 886; 24 CFR 887

Legal Deadline: None

Abstract: Section 214 of the 1980 HCD Act prohibits HUD from making financial assistance available to persons other than United States citizens, nationals, or certain categories of eligible noncitizens in HUD's Public Housing and Indian Housing programs (including homeownership), the Section 8 housing assistance payments program, the Housing Development Grants program, the Section 236 interest reduction and rental assistance programs, the Rent Supplement program, and the Section 235 homeownership program. HUD's March 20, 1995 final rule promulgated virtually identical "noncitizen" regulations for the HUD programs covered by Section 214. This final rule eliminates the redundancy and repetitiveness of these duplicative regulations and consolidates and streamlines the noncitizens requirements and relocates them to a single location in 24 CFR part 5.

Timetable:

Action	Date	FR Cite
Final Action	03/27/96	61 FR 13614
Final Action Effective	04/27/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL CONTACT PERSONS: Dominic Nessi, Director, Office of Native American Programs (PIH); (Telephone: 202-708-1015); Maggie H. Taylor, Director, Office of Special Needs Assistance Programs (CPD); (Telephone: 202-708-4300); Barbara Hunter, Director, Program Management Div. (Housing); (Telephone: 202- 708-3944) and William Heyman, Office of Lender Activities & Land Sales Registration (Housing); (Telephone: 202-708-1824)

Agency Contact: Linda Campbell, Director, Marketing & Leasing Management Div., Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0744

RIN: 2501–AC12

1226. • DISCLOSURE AND VERIFICATION OF SOCIAL SECURITY NUMBERS AND EMPLOYER IDENTIFICATION NUMBERS AND PROCEDURES FOR OBTAINING WAGE AND CLAIM INFORMATION; STREAMLINING RULE (FR-3992)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 3543; 42 USC 3544

CFR Citation: 24 CFR 5; 24 CFR 200; 24 CFR 247; 24 CFR 572; 24 CFR 750; 24 CFR 760; 24 CFR 882; 24 CFR 886; 24 CFR 887; 24 CFR 913; 24 CFR 950; 24 CFR 960; 24 CFR 982; 24 CFR 983

Legal Deadline: None

Abstract: As part of the Administration's regulatory reinvention efforts, this rule will consolidate and simplify similar provisions in parts 200, 750, and 760, concerning disclosure and verification of certain identification numbers and wage and unemployment benefit information for applicants and participants in covered HUD programs. The provisions will be moved into part 5.

Timetable:

Action	Date	FR Cite
Final Action	03/18/96	61 FR 11112
Final Action Effective	04/17/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Camille E. Acevedo, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-2084

RIN: 2501–AC13

1227. • CONSOLIDATED REQUIREMENTS FOR THE ASSISTED HOUSING AND PIH DRUG ELIMINATION PROGRAMS (FR-3997)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

HUD—HUDSEC

Completed Actions

Legal Authority: 42 USC 3535(d); 42 USC 1190

CFR Citation: 24 CFR 5; 24 CFR 961; 24 CFR 961

Legal Deadline: None

Abstract: This rule streamlines HUD's regulations for the Assisted Housing Drug Elimination Program (24 CFR part 261) and the Public Housing Drug Elimination Program (24 CFR part 961). In an effort to comply with the President's regulatory reform initiatives, this rule will consolidate these two nearly identical parts. This rule will simplify HUD's regulations and eliminate pages from the CFR.

Timetable:

Action	Date	FR Cite
Final Action	03/28/96	61 FR 13986
Final Action Effective	04/29/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Malcolm E. Main, Crime Prevention & Security Div., Office of Community Relations & Involvement, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1197

RIN: 2501–AC18

1228. EQUAL EMPLOYMENT OPPORTUNITY; POLICIES AND PROCEDURES (FR-3323)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 7

Completed:

Reason	Date	FR Cite
Final Action	03/29/96	61 FR 14226
Final Action Effective	04/29/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mari R. Barr
Phone: 202 755-3633

RIN: 2501–AB79

1229. PUBLIC HOUSING LEASE AND GRIEVANCE PROCEDURES (FR-3819)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 10.3; 24 CFR 966.51; 24 CFR 966.4

Completed:

Reason	Date	FR Cite
Final Action	03/26/96	61 FR 13272
Final Action Effective	04/25/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Campbell
Phone: 202 708-0444

RIN: 2501–AB92

1230. COMPREHENSIVE NEEDS ASSESSMENTS (FR-3893)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 12; 24 CFR 219; 24 CFR 886

Completed:

Reason	Date	FR Cite
Withdrawn	03/06/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara D. Hunter
Phone: 202 708-3944

RIN: 2501–AB99

1231. TESTIMONY, PRODUCTION, AND DISCLOSURE OF MATERIAL AND INFORMATION BY HUD EMPLOYEES (FR-3949)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 15

Completed:

Reason	Date	FR Cite
Final Action	11/27/95	60 FR 58456
Final Action Effective	12/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Weidenfeller
Phone: 202 708-3529

RIN: 2501–AC03

1232. • BOARD OF CONTRACT APPEALS RULE REVISION (FR-4013)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 601; 41 USC 603

CFR Citation: 24 CFR 20

Legal Deadline: None

Abstract: This rule revises 24 CFR part 20 of HUD's Board of Contract Appeal rules. Revisions to Rules 1 and 12 will increase certain monetary amounts as required by the Federal Acquisition Streamlining Act of 1994. Rule 6 will revise the interest of judicial efficiency and fairness, holding the Government to the same obligation with respect to filings as the Appellant.

Timetable:

Action	Date	FR Cite
Final Action	03/26/96	61 FR 13280
Final Action Effective	04/25/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David T. Anderson (Chairman), Chief Administrative Judge, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 927-5110

RIN: 2501–AC16

1233. • MORTGAGEE REVIEW BOARD; STREAMLINING RULE (FR-3979)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 12 USC 1708(c) and (d); 12 USC 1709(s); 12 USC 1715b; 12 USC 1735(f); 42 USC 3535(d)

CFR Citation: 24 CFR 25

Legal Deadline: None

Abstract: This rule further streamlines HUD's regulations governing the Mortgagee Review Board (MRB). This rule is part of HUD's efforts to comply with the President's regulatory reform initiatives by reducing concise regulations that are easy to use and understand. This rule will not change the substantive requirements of the MRB regulations, but will eliminate provisions that are redundant of the MRB statute and and therefore unnecessary.

Timetable:

Action	Date	FR Cite
Final Action	01/09/96	61 FR 684
Final Action Effective	02/08/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Emmett Roden, Assistant General Counsel for Administrative Proceedings, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-2350

RIN: 2501–AC09

1234. NONJUDICIAL FORECLOSURE OF HUD-HELD SINGLE-FAMILY MORTGAGES (FR-3799)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 29

Completed:

Reason	Date	FR Cite
Final Action	11/15/95	60 FR 57484
Final Action Effective	12/15/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph McCloskey
Phone: 202 708-1672

RIN: 2501–AB86

1235. REGULATIONS IMPLEMENTING LEAD-BASED PAINT DISCLOSURE AND WARNING REQUIREMENTS FOR SALE AND RENTAL OF HOUSING (FR-3483)

Priority: Other Significant

CFR Citation: 24 CFR 35

Completed:

Reason	Date	FR Cite
Final Action	03/06/96	61 FR 9064
Final Action Effective	09/06/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: David E. Jacobs, CIH
Phone: 202 755-1785

RIN: 2501–AB58

1236. • HUD'S ENVIRONMENTAL CRITERIA AND SERVICES—STREAMLINING (FR-4034)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 51

Legal Deadline: None

Abstract: In an effort to comply with the President's regulatory reform initiative, this rule streamlines HUD's regulations governing its environmental criteria and standards. Specifically, this rule amends these regulations to eliminate provisions which do not require regulatory codification. The rule also updates the regulations to more accurately reflect current HUD organization and practices. The streamlining amendments made by this rule will make HUD's environmental criteria clearer and more concise.

Timetable:

Action	Date	FR Cite
Final Action	03/26/96	61 FR 13332
Final Action Effective	04/25/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Broun, Director, Office of Community Viability, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-3297

RIN: 2501–AC22

1237. ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES (FR-3811)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 58

Completed:

Reason	Date	FR Cite
Withdrawn - Merged With RIN 2501-AB67 (FR-3514)	02/02/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Broun
Phone: 202 708-2894

RIN: 2501–AB88

1238. REGULATIONS IMPLEMENTING THE SECRETARY'S AUTHORITY OVER FNMA AND FHLMC (FR-3481)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 81

Completed:

Reason	Date	FR Cite
Final Action	12/01/95	60 FR 61846
Final Action Effective	01/02/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephanie Smith
Phone: 202 708-2224

RIN: 2501–AB56

1239. • ELIMINATION OF REQUIREMENTS GOVERNING THE LOBBYING OF HUD PERSONNEL; REMOVAL OF 24 CFR PART 86 (FR-4009)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 86

Legal Deadline: None

Abstract: The Lobbying Disclosure Act of 1995, established governmentwide lobbying procedures and requirements and repealed section 13 of the Department of HUD Act, which established agency specific requirements governing the lobbying of HUD personnel.

Timetable:

Action	Date	FR Cite
Final Action	02/09/96	61 FR 4878
Final Action Effective	03/11/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Aaron Santa Anna, Assistant General Counsel for Ethics
Law, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-0836

RIN: 2501–AC20

1240. • ELIMINATION OF UNNECESSARY CODIFICATIONS (FR-3993)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR subtitle A; 24 CFR subtitle B; 24 CFR 200; 24 CFR 202a; 24 CFR 222; 24 CFR 233; 24 CFR 241; 24 CFR 286; 24 CFR 287; 24 CFR 852

Legal Deadline: None

Abstract: In accordance with the President's regulatory reinvention initiative, this rule removes from title 24 of the Code of Federal Regulations the Department's codified appendices, parts, subparts, and text which are unnecessary.

Timetable:

Action	Date	FR Cite
Final Action	02/29/96	61 FR 7942
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Camille E. Acevedo, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-2084

RIN: 2501–AC14

1241. CONSOLIDATED PET RULE (FR-3942)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 243; 24 CFR 842; 24 CFR 942

Completed:

Reason	Date	FR Cite
Final Action	03/08/96	61 FR 9536
Final Action Effective	04/08/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Barbara D. Hunter
Phone: 202 708-3944

RIN: 2501–AC07

1242. • ALLOCATION OF BUDGET AUTHORITY FOR HOUSING ASSISTANCE (FR-4024)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 791

Legal Deadline: None

Abstract: To comply with the President's regulatory reform initiatives, this rule amends the regulations for the allocation of budget authority for housing assistance to make them clearer and more concise by streamlining the regulations by eliminating provisions that are redundant of statutes or are otherwise unnecessary.

Timetable:

Action	Date	FR Cite
Final Action	03/15/96	61 FR 10648
Final Action Effective	04/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nanci E. Celb, Director, Public & Indian Housing Budget Div., Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0614

RIN: 2501–AC17

1243. DEFINITION AND OTHER GENERAL REQUIREMENTS FOR ASSISTANCE UNDER THE U.S. HOUSING ACT OF 1937 (FR-3029)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 912; 24 CFR 812; 24 CFR 950; 24 CFR 982; 24 CFR 5

Completed:

Reason	Date	FR Cite
Final Action	02/13/96	61 FR 5662
Final Action Effective	03/14/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: MaryAnn Russ
Phone: 202 708-0744

RIN: 2501–AB68

1244. • CONSOLIDATION OF ADMISSION PREFERENCE PROVISIONS FOR ASSISTED HOUSING (FR-3980)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 886; 24 CFR 982; 24 CFR 983; 24 CFR 712

Legal Deadline: None

Abstract: This rule amends the various program regulations governing assisted housing programs to remove the nearly identical provisions concerning admission preferences found in numerous parts of title 24 of the Code of Federal Regulations and adds several sections on this subject in 24 CFR part 5. The amendments made by this rule do not change the substance of the provisions but eliminate redundant provisions by placing in a general part the provisions that derive from parallel statutory provisions in the U.S. Housing Act of 1937.

Timetable:

Action	Date	FR Cite
Final Action	03/06/96	61 FR 9040
Final Action Effective	04/05/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL CONTACT PERSON: Linda Campbell, Director, Marketing, Leasing & Management Div.; Office of Public &

HUD—HUDSEC — Completed Actions

Indian Housing (Telephone: 202-708-0744)

Agency Contact: Barbara Hunter, Director, Program Management Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3944

RIN: 2501–AC10

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Proposed Rule Stage
Office of Housing (OH)

1245. RISK-SHARING HOSPITAL MORTGAGE INSURANCE PROGRAM (FR-3914)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1715z

CFR Citation: 24 CFR 242

Legal Deadline: None

Abstract: This rule implements a program under which the Secretary will be authorized to enter into risk-sharing agreements with mortgagees to facilitate the financing of hospitals. The concept of risk-sharing is one of the underpinnings of the Federal Housing Administration's (FHA's) reinvention efforts and is critical to our intensified focus on customer service. The hospital risk-sharing initiative is one component of a comprehensive risk-sharing strategy for all FHA program types to assure that FHA has a method of reducing its exposure and strengthening its financial and actuarial positions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John U. Sepulveda, Director, Hospital Mortgage Insurance Staff, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0599

RIN: 2502–AG53

1246. MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS MANUFACTURED HOME TIRES (FR-3943)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d); 42 USC 5401; 42 USC 5301

CFR Citation: 24 CFR 3280

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA), DOT, and HUD are proposing amendments to the Federal Motor Carrier Safety Regulations and an interpretation of the Manufactured Home Construction and Safety Standards concerning the transportation of manufactured homes. These proposed changes are needed to clarify the respective regulations of the FHWA and HUD, and to resolve differences between Federal regulations for the overloading of tires used in the transportation of manufactured homes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Philip W. Schulte, Acting Director, Manufactured Housing & Construction Standards Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 755-7420

RIN: 2502–AG54

1247. RESPA: DISCLOSURE OF FEES PAID TO RETAIL LENDERS (BROKERS) (FR-3780)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2601

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: A proposed rule presented for public comment alternative resolutions to the issue of disclosure of certain fees earned by mortgage broker (or "retail lenders"), specifically addressing whether there is a need for disclosure of such fees. Addressing the need for disclosure is largely related to how HUD construes secondary market transactions. A second proposed rule is being developed through the negotiated rulemaking process. The negotiating committee includes industry and consumer groups, as well as governmental entities.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47650
Notice	10/25/95	60 FR 54794
NPRM Comment Period End	11/13/95	
Notice Comment Period End	11/24/95	
Second NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David R. Williamson, Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 755-7420

RIN: 2502–AG40

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Final Rule Stage
Office of Housing (OH)

1248. • SINGLE FAMILY MISCELLANEOUS AMENDMENTS, CLARIFICATION AND CORRECTIONS (FR-3977)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 200; 24 CFR 202; 24 CFR 203; 24 CFR 206; 24 CFR 221; 24 CFR 222; 24 CFR 233; 24 CFR 234; 24 CFR 267; 24 CFR 280; 24 CFR 291

Legal Deadline: None

Abstract: This rule makes a variety of minor amendments, clarifications and corrections to regulations for the single family mortgage insurance programs. None of the amendments or clarifications add to the regulatory burden for mortgagors or mortgagees and are intended to streamline the existing regulatory procedures.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Coonts, Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3046

RIN: 2502–AG61

1249. TITLE I PROPERTY INSURANCE (FR-3718)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1703

CFR Citation: 24 CFR 201

Legal Deadline: None

Abstract: This rule amends 24 CFR part 201 to implement several changes to HUD's title I manufactured-home and property-improvement loan programs. The changes are directed to expand the availability and use of both programs, and to provide affordable homeownership. For the manufactured-home loan program, the changes involve reducing the minimum downpayment required on all manufactured-home purchase loans, lot loans, and combination loans from the present level to 5 percent of the purchase price; adding appraisal fees and recording fees and taxes to the list of fees and charges that may be financed in the loan; modifying the allowable expense-to-income ratios to reflect the increased cost of complying with HUD's new energy standards for manufactured homes; and increasing the maximum allowances for certain foreclosure and repossession expenses. For the property-improvement loan program, the changes involve eliminating the requirement for equity at least equal to the loan amount on all loans over $15,000; increasing the maximum amount of an unsecured property improvement loan from $5,000 to $7,500; permitting the use of manufactured home improvement loans for site improvements under certain circumstances; and adding recording fees and taxes to the list of fees and charges that may be financed in the loan.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Coyle, Director, Title I Insurance Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-7400

RIN: 2502–AG32

1250. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION (FR-2968)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 206

Legal Deadline: None

Abstract: This rule would make changes to the Home Equity Conversation Mortgage (HECM) Insurance Demonstration, including technical and clarifying changes, to improve and streamline the program as a supplement to the changes recently made through a final rule which became effective January 22, 1996. This rule includes all changes for which the Department considers it appropriate to seek public comment before implementation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/16/95	60 FR 42754
Interim Final Rule Effective	09/15/95	
Interim Final Rule Comment Period End	10/16/95	
Final Rule	12/21/95	60 FR 66476
Final Rule Effective	01/22/96	
Second NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Manuel, Acting Director, Single Family Development Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2700

RIN: 2502–AF32

1251. STREAMLINING FHA'S MORTGAGEE REQUIREMENTS (FR-3957)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1703; 12 USC 1709; 12 USC 1715(b); 42 USC 3535(d)

CFR Citation: 24 CFR 202.12; 24 CFR 202.11; 24 CFR 202.13; 24 CFR 202.15; 24 CFR 203.3

Legal Deadline: None

Abstract: The amendments will streamline and make Federal Housing Administration processes more flexible for mortgagees and FHA's customers and clients and have no adverse impact on the public. The modifications result from the efforts of a work group consisting of mortgagees, State and local governments, trade associations, government-sponsored enterprises, FHA staff, and other interested parties.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/96	61 FR 2650
Interim Final Rule Effective	02/26/96	
Interim Final Rule Comment Period End	03/26/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William M. Heyman, Director, Office of Lender Activities & Land Sales Registration, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1824

RIN: 2502–AG57

1252. SINGLE FAMILY MORTGAGE INSURANCE—COLLECTION OF MIP (FR-3899)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1709; 42 USC 3535(d); 12 USC 1715b; 12 USC 1715l

CFR Citation: 24 CFR 203; 24 CFR 221

Legal Deadline: None

Abstract: This rule would provide many benefits to the mortgage lenders that would reduce their servicing costs and the confusion generated by adjustments to the annual mortgage insurance premium (MIP) on cases not endorsed within the first 6 months after amortization. The rule would change the method of payment and the reconciliation schedule, and clarify the due date. The changes would result in an increase in MIP income, thereby strengthening the Federal Housing Administration insurance fund. Also, it would cut down on the costly reconciliation now done by HUD.

Specifically, this rule would provide that the FHA Commissioner can accrue MIP from the beginning of amortization of all Section 530 (of the National Housing Act) loans and risk-based loans, no matter what time frame exists between the endorsement date and the beginning of amortization. It would also amend the existing regulation by requiring that mortgagees pay the monthly installments as due on the 1st and payable on or before the 10th of the month, whether or not collected from the mortgagor. A new system is being developed which would produce a monthly notice of premiums due, and the reconciliation would be made monthly by the lender when the premium is paid. There would be no requirement for annual reconciliation.

Timetable:

Action	Date	FR Cite
NPRM	01/16/96	61 FR 2644
NPRM Comment Period End	03/26/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher Peterson, Director, Office of Mortgage Insurance Accounting & Servicing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1046

RIN: 2502–AG55

1253. ALLOWING INDIVIDUAL CONDOMINIUM UNITS TO BE ELIGIBLE FOR MORTGAGE INSURANCE IN NON-FHA APPROVED CONDOMINIUM (FR-3655)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 1715b

CFR Citation: 24 CFR 206; 24 CFR 234

Legal Deadline: None

Abstract: This rule will add provisions to the regulations governing Federal Housing Administration (FHA) mortgage insurance on condominium units to permit insurance of mortgages on individual units in condominium projects that have not received FHA approval in advance under existing regulatory requirements. These "spot loans" would be approved under less stringent requirements than the existing requirements for mortgage insurance for condominiums, but the revised rule would require satisfaction of standards that would assure FHA adequate protection of the reduced risk involved of mortgage insurance on only a few loans in any particular project.

Timetable:

Action	Date	FR Cite
NPRM	06/23/95	60 FR 32630
NPRM Comment Period End	08/22/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Manuel, Acting Director, Single Family Housing Development Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2700

RIN: 2502–AG23

1254. TERMINATION OF TENANCY FOR CRIMINAL ACTIVITY (FR-3472)

Priority: Other Significant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 247; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884

Legal Deadline: None

Abstract: This rule would state that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by persons residing in the immediate vicinity of the premises of any drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control would be grounds for termination of tenancy.

Timetable:

Action	Date	FR Cite
NPRM	02/03/94	59 FR 5155
NPRM Comment Period End	04/04/94	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Hunter, Director, Program Management Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3944

RIN: 2502–AG12

1255. CONVERSION FROM COINSURANCE TO FULL INSURANCE (FR-3813)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1715b; 12 USC 1715z to 9; 42 USC 3535(d)

CFR Citation: 24 CFR 251; 24 CFR 255

Legal Deadline: None

Abstract: HUD is amending its multifamily coinsurance regulations to provide coinsuring lenders with two new options in dealing with defaulted coinsured mortgages. Specifically, this interim rule permits coinsuring lender-issuers to request that HUD endorse certain defaulted mortgages for full insurance, without a GNMA takeover of the lender-issuer's entire portfolio. Additionally, this interim rule allows coinsuring lenders to advance funds to cure mortgage delinquencies on a coinsured mortgage and to reduce principal on that mortgage to a level that restores the financial viability of the project.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/19/95	60 FR 48596
Interim Final Rule Effective	10/19/95	
Interim Final Rule Comment Period End	11/20/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara D. Hunter, Director, Program Management Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3944

RIN: 2502–AG50

1256. • LOSS MITIGATION—SINGLE FAMILY (FR-4032)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 268

Legal Deadline: Other, Statutory, March 27, 1996.
Interim regs required 60 days after enactment by Sec. 407(d).

Abstract: This rule will set forth HUD's policies and procedures with regard to the servicing of FHA-insured single family mortgages in the context of loss mitigation and foreclosure avoidance. Lenders will have an expanded menu of foreclosure avoidance and loss mitigation tools from which to choose the most appropriate in addressing each mortgagor in default. Among these would be special forbearance, loan modifications, pre-foreclosure sales, streamline refinancing, partial claims, and deeds-in-lieu of foreclosure. The Department's interest is to encourage lenders to acclimate themselves to the use of these various methods, and HUD will pay incentives to mortgagees for the appropriate use of these loss mitigation and foreclosure avoidance techniques.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph McCloskey, Director, Single Family Servicing Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1672

RIN: 2502–AG72

1257. • SALE OF HUD-HELD MULTIFAMILY MORTGAGES (FR-3970)

Priority: Other Significant

Legal Authority: 12 USC 1713; 12 USC 1701

CFR Citation: 24 CFR 290

Legal Deadline: None

Abstract: This rule revises 24 CFR part 290 to give the Department greater flexibility to sell unsubsidized mortgages, including those mortgages that have serious mortgages delinquencies. It would also make amendments to conform the rule to any changes in statutory authority enacted in HUD's fiscal year 1996 Appropriations Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/06/96	61 FR 4580
Interim Final Rule Effective	03/07/96	
Interim Final Rule Comment Period End	04/08/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Audrey Hinton, Associate Director for Program Operations, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3730

RIN: 2502–AG59

1258. SALE OF HUD-HELD SINGLE-FAMILY MORTGAGES (FR-3814)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1709; 12 USC 1715(b); 42 USC 1441; 42 USC 1551a; 42 USC 3535(d)

CFR Citation: 24 CFR 292

Legal Deadline: None

Abstract: This rule sets forth HUD's policies and procedures for the sale of HUD-held single-family mortgages. HUD is proposing to sell a large portion of its single-family mortgages to reduce losses to the FHA fund, decrease its inventory of single-family mortgages, and improve the services of those mortgages. The Department intends to sell both performing and nonperforming mortgages. In addition, all single-family mortgages would be sold without recourse and without FHA insurance. This rule also asks for public input in streamlining the regulations for the sale of HUD- held mortgages.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/31/95	60 FR 45331
Interim Final Rule Effective	10/02/95	
Interim Final Rule Comment Period End	10/30/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph McCloskey, Director, Single Family Servicing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-4672

RIN: 2502–AG42

1259. RESPA REVISIONS (FR-3638)

Priority: Other Significant

Legal Authority: 12 USC 2601

CFR Citation: 24 CFR 3500

Legal Deadline: None

HUD—OH — Final Rule Stage

Abstract: On November 2, 1992, the Department published a final rule amending the regulations on the Real Estate Settlement Procedures Act (RESPA) to address new statutory provisions. Included in the 1992 rule were provisions that allowed employer-employee payments for referrals of customers to entities that provided settlement services, and in certain situations, might have encouraged steering through the use of computer loan origination (CLO) operations. Serious objections have been raised to both provisions. As a result, the Department has issued a proposed rule that reviews these provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/21/94	59 FR 37360
NPRM Comment Period End	09/19/94	
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Sarah Rosen, Special Assistant to the Assistant Secretary for Housing–FHC, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3600

RIN: 2502–AG26

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Long-Term Actions

Office of Housing (OH)

1260. AGREEMENT FOR FLOOD PLAIN CERTIFICATE AND RELATED MATTERS—REAL ESTATE SETTLEMENT PROCEDURES ACT (FR-3930)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2601; 42 USC 3535(d)

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: This interpretive rule sets forth a limited exemption from application of RESPA to assist lenders' compliance with the National Flood Insurance Reform Act of 1994 (Title V of the Riegle Community Development and Regulatory Reform Act of 1994).

Timetable:

Action	Date	FR Cite
Notice	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David R. Williamson, Director, RESPA Enforcement, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-4560

RIN: 2502–AG56

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Completed Actions

Office of Housing (OH)

1261. REVISION OF FHA MULTIFAMILY PROCESSING (FR-3349)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 200; 24 CFR 207; 24 CFR 213; 24 CFR 220; 24 CFR 221; 24 CFR 231; 24 CFR 232; 24 CFR 231; 24 CFR 232; 24 CFR 234; 24 CFR 236; 24 CFR 241; 24 CFR 242; 24 CFR 244

Completed:

Reason	Date	FR Cite
Final Action	04/01/96	61 FR 14410
Final Action Effective	05/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane Lutor
Phone: 202 708-2556

RIN: 2502–AF74

1262. • APPROVAL OF LENDING INSTITUTIONS AND MORTGAGEES—SUBPARTS A AND B (FR-4036)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1703; 12 USC 1709; 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 202

Legal Deadline: None

Abstract: In compliance with the President's regulatory reform initiative, this rule streamlines part 202 to remove unnecessary provisions.

Timetable:

Action	Date	FR Cite
Final Action	03/04/96	61 FR 8458
Final Action Effective	04/03/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Garner-Wing, Director, Lender Approval & Recertification Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3976

RIN: 2502–AG68

1263. SINGLE FAMILY MORTGAGE INSURANCE—SPECIAL FORBEARANCE PROCEDURES (FR-3626)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Final Action	11/16/95	57 FR 676
Final Action Effective	12/18/95	

HUD—OH — Completed Actions

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph McCloskey
Phone: 202 708-1672

RIN: 2502–AG20

1264. RELEASES FROM PROJECT RESERVE FUNDS (FR-3656)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 207.19(f)(3)(i); 24 CFR 221.530; 24 CFR 232.45; 24 CFR 242.75

Completed:

Reason	Date	FR Cite
Withdrawn - Merged With RIN 2502-AG58 (FR-3966)	02/16/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Hunter
Phone: 202 708-3944

RIN: 2502–AG24

1265. STREAMLINING OF FHA SINGLE FAMILY HOUSING AND MULTIFAMILY HOUSING AND HEALTH CARE FACILITY MORTGAGE INSURANCE PROGRAMS (FR-3966)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 207; 24 CFR 213; 24 CFR 220; 24 CFR 221; 24 CFR 231; 24 CFR 232; 24 CFR 234; 24 CFR 241; 24 CFR 244

Completed:

Reason	Date	FR Cite
Final Action	04/01/96	61 FR 14396
Final Action Effective	05/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eliot Horowitz
Phone: 202 755-0579

RIN: 2502–AG58

1266. REFINANCING MORTGAGES UNDER SECTION 235(R) OF THE NATIONAL HOUSING ACT (FR-3827)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 24 CFR 235

Completed:

Reason	Date	FR Cite
Final Action	11/08/95	60 FR 56498
Final Action Effective	12/08/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert E. Falkenstein, Jr.
Phone: 202 708-0614

RIN: 2502–AG52

1267. • HOUSING FINANCE AGENCY RISK-SHARING PROGRAM FOR INSURED AFFORDABLE MULTIFAMILY PROJECT LOANS (FR-3961)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1707; 42 USC 3535(d)

CFR Citation: 24 CFR 266

Legal Deadline: None

Abstract: This rule streamlines HUD's multifamily Housing Finance Agency (HFA) risk-sharing program regulatory provisions at 24 CFR part 966. Specifically, this rule removes regulatory provisions relative to application submission and the Risk-Sharing Agreement from part 266 which are duplicative or no longer necessary. Under the multifamily risk-sharing program, HFAs are permitted to originate and service mortgage loans that are fully insured by the Federal Housing Administration (FHA). Participating HFAs are required to share in the risk associated with monetary losses that may result from loan defaults. By eliminating unnecessary language from part 266, this rule will assist HUD and participating HFAs to more effectively and efficiently meet the program's objectives.

Timetable:

Action	Date	FR Cite
Final Action	02/29/96	61 FR 7946
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jane Luton, Acting Director, Policies & Procedures Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2556

RIN: 2502–AG60

1268. MULTIFAMILY PROPERTY DISPOSITION (FR-3715)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 290; 24 CFR 886

Completed:

Reason	Date	FR Cite
Final Action	03/21/96	61 FR 11684
Final Action Effective	04/22/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara D. Hunter
Phone: 202 708-3944

RIN: 2502–AG30

1269. REFUNDING OF TAX-EXEMPT OBLIGATION ISSUED TO FINANCE SECTION 8 HOUSING (FR-3692)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 811

Completed:

Reason	Date	FR Cite
Withdrawn - Merged with RIN 2502-AG64 (FR-3985)	02/08/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James B. Mitchell
Phone: 202 755-7450

RIN: 2502–AG33

1270. • TAX EXEMPTION OF OBLIGATIONS OF PUBLIC HOUSING AGENCIES AND RELATED AMENDMENTS (FR-3985)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1436a; 42 USC 1437a; 42 USC 3535(d)

CFR Citation: 24 CFR 811

Legal Deadline: None

Abstract: This rule amends HUD's regulations for the section 8 Tax Exemption Program. In an effort to comply with the President's regulatory reform initiatives, this rule will streamline HUD's regulations governing the issuance of a Notification of Tax Exemption by eliminating provisions that are redundant of statutes or are otherwise unnecessary. This rule will make the Issuance of a Notification of Tax Exemption regulations clearer and more concise.

Timetable:

Action	Date	FR Cite
Final Action	04/01/96	61 FR 14456
Final Action Effective	05/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Mitchell, Director, Financial Services Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 755-7450

RIN: 2502–AG64

1271. • CONSOLIDATION OF REGULATIONS FOR PROJECT-BASED SECTION 8 HOUSING ASSISTANCE PROGRAMS (FR-3984)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1427f; 42 USC 3535(d)

CFR Citation: 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 885; 24 CFR 886; 24 CFR 888

Legal Deadline: None

Abstract: This rule will consolidate regulations in parts 880-888, except for 884, to eliminate identical or parallel provisions for the various programs and to eliminate provisions for the various programs and to eliminate provisions for programs for which authority has been repealed, such as New Construction and Substantial Rehabilitation. Examples of parallel provisions are definitions, property standards, Housing Assistance Payment contracts, and audits. Contract rent adjustment policies for all Section 8 programs will be consolidated in part 888.

Timetable:

Action	Date	FR Cite
Final Action	03/27/96	61 FR 13586
Final Action Effective	04/26/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Hunter, Director, Program Management Div., Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3944

RIN: 2502–AG65

1272. SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES (FR-3941)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 24 CFR 889; 24 CFR 890; 24 CFR 885

Completed:

Reason	Date	FR Cite
Final Action	03/22/96	61 FR 11948
Final Action Effective	04/22/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Cheatham
Phone: 202 708-3000

RIN: 2502–AG51

1273. • STREAMLINING REGULATIONS PERTAINING TO THE INTERSTATE LAND SALES REGISTRATION PROGRAM (FR-3987)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 1718; 42 USC 3535(d)

CFR Citation: 24 CFR 1700; 24 CFR 1710; 24 CFR 1720

Legal Deadline: None

Abstract: As part of HUD's overall effort to reduce regulatory burden and streamline the content of title 24 of the Code of Federal Regulations, this rule will remove redundant and unnecessary provisions from parts 1700, 1710, 1715, and 1720, including provisions that are obsolete, repetitious, or contain advisory material. One related part, part 1730, has already been eliminated from title 24 by an earlier reinvention rule. To the extent feasible, practice and procedures rules will be consolidated with similar provisions applicable to other programs in HUD. The rule will not affect substantive requirements or rights contained in those parts.

Timetable:

Action	Date	FR Cite
Final Action	03/27/96	61 FR 13596
Final Action Effective	04/26/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maurice D. Gulledge, Acting Director, Interstate Land Sales Registration Div., Department of Housing and Urban Development, Office of Housing
Phone: 708 202-0502

RIN: 2502–AG63

1274. • STREAMLINING INTERSTATE LAND SALES, MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS, AND REAL ESTATE SETTLEMENT PROCEDURES ACT PROGRAMS—INVESTIGATIONS (FR-4026)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2601; 15 USC 1714; 42 USC 5413; 42 USC 3535(d)

CFR Citation: 24 CFR 1720; 24 CFR 3282; 24 CFR 3500; 24 CFR 3800

Legal Deadline: None

Abstract: This final rule amends HUD's regulations for the three consumer protection regulatory programs over which the Secretary has investigative authority. The rule will streamline the regulations of the programs by eliminating provisions that are redundant or are otherwise unnecessary. Provisions on investigations under the three programs will be consolidated into a part.

Timetable:

Action	Date	FR Cite
Final Action	03/13/96	61 FR 10440
Final Action Effective	04/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rebecca Holtz, Attorney Advisor, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-3088

RIN: 2502–AG71

1275. • STREAMLINING MANUFACTURED HOME STANDARDS, REGULATIONS, AND REQUIREMENTS (FR-4025)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 5403; 42 USC 5424

CFR Citation: 24 CFR 3280; 24 CFR 3282; 24 CFR 3283

Legal Deadline: None

Abstract: As part of HUD's overall effort to reduce regulatory burden and streamline the content of title 24 of the Code of Federal Regulations, this final rule will remove redundant or unnecessary provisions from parts 3282 and 3283, including provisions that repeat statutory requirements and nonbinding guidance material. The rule will not affect substantive requirements or rights contained in those parts.

Timetable:

Action	Date	FR Cite
Final Action	03/15/96	61 FR 10658
Final Action Effective	04/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David R. Williamson, Director, Office of Consumer & Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 755-7410

RIN: 2502–AG70

1276. • STREAMLINING REAL ESTATE SETTLEMENT PROCEDURES ACT (RESPA) REGULATIONS (REGULATION X) (FR-4023)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2601; 42 USC 3535(d)

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: As part of HUD's overall effort to reduce regulatory burden and streamline the content of title 24 of the Code of Federal Regulations, this final rule will remove redundant or unnecessary provisions from part 3500, including provisions that repeat statutory requirements and nonbinding guidance material. The rule will not affect substantive requirements or rights contained in this part.

Timetable:

Action	Date	FR Cite
Final Action	03/26/96	61 FR 13232
Final Action Effective	04/25/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: David R. Williamson, Director, Office of Consumer & Regulatory Affairs (Phone: 202 755-7420).

Agency Contact: Sarah Rosen, Special Assistant to the Assistant Secretary for Housing–FHC, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3600

RIN: 2502–AG69

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Community Planning and Development (CPD)

Final Rule Stage

1277. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM; DISPUTE RESOLUTION AND ENFORCEMENT ACTIONS, LOAN GUARANTEE APPLICATION REQUIREMENTS (FR-3298)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 5301 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule proposes revisions to HUD's regulations governing the imposition of administrative sanctions in the CDBG program for entitlement grantees. The rule would establish clear standards for determining what constitutes substantial noncompliance entitling grantees to a hearing before an Administrative Law Judge. In addition, this rule would clarify certain regulations on CDBG performance standards and HUD's review procedures. A previous proposed rule for CDBG Sanctions was published in the Federal Register on November 12, 1993. While the final rulemaking for that proposal was in departmental clearance, HUD decided to substantially revise the informal hearing procedures. Therefore, HUD decided to publish another proposed rule and solicit public comments.

Timetable:

Action	Date	FR Cite
NPRM	11/12/93	58 FR 60088
NPRM Comment Period End	01/11/94	
Second NPRM	05/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Jan C. Opper, Senior Program Officer, Office of Block Grant Assistance, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1577

RIN: 2506–AB43

1278. • SECTION 108 LOAN GUARANTEE PROGRAM (FR-4039)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d); 42 USC 5300 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule deletes misleading and unnecessary language from the regulations that govern security requirements for loans guaranteed under the Section 108 Loan Guarantee Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Webster, Director, Financial Management Div., Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1871

RIN: 2506–AB80

1279. HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES PROGRAM (HOPE 3) (FR-3857)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d); 42 USC 12891

CFR Citation: 24 CFR 572

Legal Deadline: None

Abstract: This rule amends the HOPE for Homeownership of Single Family Homes Program (HOPE 3) by making a number of clarifying changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/12/95	60 FR 36016
Interim Final Rule Effective	08/11/95	
Interim Final Rule Comment Period End	09/11/95	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frances Bush, Housing Specialist, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-3226

RIN: 2506–AB71

1280. • OPPORTUNITIES FOR YOUTH: YOUTHBUILD PROGRAM (FR-4038)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d); 42 USC 8011

CFR Citation: 24 CFR 585

Legal Deadline: None

Abstract: This interim rule defines administrative costs for the Youthbuild program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Savage, Enterprize Zone Div., Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2484

RIN: 2506–AB79

1281. BASE CLOSURE COMMUNITY REDEVELOPMENT AND HOMELESS PROGRAM (FR-3820)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 11301

CFR Citation: 24 CFR 586

Legal Deadline: None

Abstract: Title V of the Stewart B. McKinney Homeless Assistance Act of 1987, as amended, 42 U.S.C. 11411 (Title V), granted first priority on use of all surplus federally owned real and personal property, including former military installations, to the homeless. The title V provisions have worked reasonably well for small parcels. However, in the base closure and realignment environment the processes for reuse planning and homeless use were independent and the timing incompatible. On October 25, 1994, the President signed the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (the Redevelopment Act), which exempts base closure and realignment property from title V and substitutes a new community-based process wherein representatives of the homeless will work directly with Local Redevelopment Authorities (LRAs) on the reuse of former military installations.

HUD's interim rule, published on August 17, 1995, was jointly developed with the Department of Defense (DoD) and, together with DoD's rule published on July 20, 1994, will govern DoD's and HUD's role in implementing the Redevelopment Act. Through these rules, HUD and DoD have developed a flexible process which aims to balance the needs of the homeless with other development interests in the community in the vicinity of the installation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/17/95	60 FR 42972
Interim Final Rule Effective	09/18/95	
Interim Final Rule Comment Period End	10/16/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Perry Vietti, Office of Community Viability, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1915

RIN: 2506–AB72

1282. SECTION 8 MODERATE REHABILITATION SINGLE ROOM OCCUPANCY PROGRAM FOR HOMELESS INDIVIDUALS (FR-3929)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

duplication, or streamline requirements.

Legal Authority: 42 USC 11401; 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: This rule makes several changes to the program regulations to conform them with statutory and regulatory changes. The rule conforms the regulations with the March 15, 1993 interim rule by replacing the waiting list provisions with outreach efforts. The rule also conforms the regulations with amendments in the Housing and Community Development Act of 1992, and with regulatory changes to environmental review procedures in 24 CFR part 58.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/14/96	61 FR 5850
Interim Final Rule Effective	03/15/96	
Interim Final Rule Comment Period End	04/15/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maggie H. Taylor, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-4300

RIN: 2506–AB75

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Long-Term Actions

1283. ADMINISTRATIVE GUIDELINES FOR CPD PROGRAMS; SEC. 102(D) LIMITATION ON COMBINING OTHER GOVERNMENT ASSISTANCE WITH CPD HOUSING ASSISTANCE (FR-3135)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 000

Legal Deadline: None

Abstract: This document sets forth the administrative guidelines the Office of Community Planning and Development will follow in determining, on a case-by-case basis, that the amount of assistance being provided by HUD for a specific housing project, for which other government assistance is also being made available, is not more than is necessary to make the assisted activity feasible after taking into account the other government assistance. HUD is required to make these determinations, and to so certify, under section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 for certain CPD programs.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Kennedy, Deputy Director, Office of Block Grants, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-3587

RIN: 2506–AB74

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Completed Actions

1284. STREAMLINING OF AFFORDABLE HOUSING PROGRAMS (FR-3938)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 510; 24 CFR 511; 24 CFR 590

Completed:

Reason	Date	FR Cite
Final Action	02/23/96	61 FR 7060
Final Action Effective	03/25/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gordon McKay
Phone: 202 708-2685

RIN: 2506–AB76

1285. COMMUNITY DEVELOPMENT BLOCK GRANTS AMENDMENTS (FR-2905)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Final Action	11/09/95	60 FR 56892
Final Action Effective	12/11/95	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Deirdre Maguire-Zinni
Phone: 202 708-1577

RIN: 2506–AB24

1286. COMMUNITY DEVELOPMENT BLOCK GRANTS—1992 ACT CHANGES (FR-3489)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 570.200; 24 CFR 570.202; 24 CFR 570.500

Completed:

Reason	Date	FR Cite
Withdrawn	03/06/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deirdre Maguire-Zinni
Phone: 202 708-1577

RIN: 2506–AB59

1287. • COMMUNITY DEVELOPMENT BLOCK GRANTS; STREAMLINING (FR-3978)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 3535(d); 42 USC 5301 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule streamlines HUD's regulations for the Community Development Block Grant Program. This rule is part of HUD's efforts to comply with the President's regulatory reform initiatives by producing concise regulations that are easy to use and understand. This rule will not change the substantive requirements of the CDBG regulations, but it will eliminate provisions that are redundant of the statute and therefore unnecessary.

Timetable:

Action	Date	FR Cite
Final Action	03/20/96	61 FR 11474
Final Action Effective	04/19/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deidre Maguire-Zinni, Director, Entitlement Communities Div., Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1577

RIN: 2506–AB77

1288. • STREAMLINING HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS PROGRAM (FR-4030)

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 574

Legal Deadline: None

Abstract: This rule streamlines the regulations for the Housing Opportunities for Persons with AIDS program, by removing provisions that are duplicative of statutory language or are otherwise unnecessary.

Timetable:

Action	Date	FR Cite
Final Action	02/29/96	61 FR 7962
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Fred Karnas, Jr., Director, Office of HIV/AIDS Housing, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1934

RIN: 2506–AB78

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Final Rule Stage

1289. • STREAMLINING OF FAIR HOUSING COMPLAINT PROCESSING (FR-4031)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3601 to 3619; 42 USC 3535(d)

CFR Citation: 24 CFR 103.215

Legal Deadline: None

Abstract: This rule streamlines HUD's regulations governing fair housing complaint processing by eliminating the provision allowing a respondent to request a subpoena during a fair housing investigation. Eliminating this provision represents a further step in HUD's continuing regulatory reinvention efforts. This rule eliminates delays associated with subpoena requests and expedites the investigation process. Further, the will prevent the appearance of a conflict of interest between HUD's dual role as an investigator and impartial arbiter of discovery disputes between complainants and respondents. This rule will also conform HUD's investigation practices with those of other Federal administrative agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan Forward, Deputy Assistant Secretary for Enforcement & Investigations, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-4211

RIN: 2529–AA79

1290. CERTIFICATION AND FUNDING OF STATE AND LOCAL FAIR HOUSING ENFORCEMENT AGENCIES (FR-3322)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3600 to 3620; 42 USC 3535(d)

CFR Citation: 24 CFR 115; 24 CFR 111

Legal Deadline: None

Abstract: Section 810 of the Fair Housing Act provides that the Secretary shall refer complaints alleging a discriminatory housing practice to local public agencies the Secretary has certified. Currently, 24 CFR part 115 sets forth the criteria under which the Secretary will certify such State and local agencies. HUD's regulations at 24 CFR part 111 establish the requirements for the Fair Housing Assistance Program, through which HUD provides assistance to fair housing enforcement agencies. This rule proposes to consolidate parts 111 and 115, thus providing all necessary requirements in a single part and eliminating unnecessary or repetitive regulatory provisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/28/96	61 FR 7674
Interim Final Rule Effective	03/29/96	
Interim Final Rule Comment Period End	04/29/96	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Marcella Brown, Director, Fair Housing Assistance Program, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-0455

RIN: 2529–AA60

1291. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS (FR-2898)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1450; 42 USC 3301; 12 USC 1701u; 42 USC 3535(d)

CFR Citation: 24 CFR 135

Legal Deadline: Final, Statutory, April 28, 1993.

Abstract: The regulations at 24 CFR 135 were revised substantially to incorporate the statutory amendments in the Housing and Community Development Act of 1992, to reflect certain changes in the design of the Department's programs that are subject to the section 3 regulations, to clarify the obligations of individuals and entities subject to the requirements of section 3, and to simplify the Department's administration of section 3 requirements. The final rule may make further revisions in response to public comment.

Timetable:

Action	Date	FR Cite
NPRM	10/06/93	58 FR 52534
Notice	11/09/93	58 FR 59423
NPRM Comment Period End	12/06/93	
Notice Comment Period End	12/08/93	
Interim Final Rule	06/30/94	59 FR 33886
Interim Final Rule Effective	08/01/94	
Interim Final Rule Comment Period End	08/29/94	
Final Action	06/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: Development of this regulation has been divided between RINs 2529-AA49 and 2501-AB64.

Agency Contact: John Waller, Director, Office of Economic Opportunity, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-2251

RIN: 2529–AA49

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Completed Actions

1292. SITE AND NEIGHBORHOOD STANDARDS FOR DEVELOPMENT OF HUD-ASSISTED RENTAL HOUSING (FR-3826)

Completed:

Reason	Date	FR Cite
Transfer Development to RIN 2501-AC15	01/24/96	

RIN: 2529–AA75

1293. METHODS OF PROOF OF DISCRIMINATION UNDER THE FAIR HOUSING ACT (FR-3534)

Priority: Other Significant

CFR Citation: 24 CFR 100

Completed:

Reason	Date	FR Cite
Withdrawn	02/02/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: Peter Kaplan
Phone: 202 708-2904

RIN: 2529–AA67

1294. PRESIDENT'S FAIR HOUSING COUNCIL RULE (FR-3958)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 100

Completed:

Reason	Date	FR Cite
Withdrawn	02/02/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Peter Kaplan
Phone: 202 708-2904

RIN: 2529–AA77

1295. • STREAMLINING AMENDMENTS TO HUD'S REGULATIONS IMPLEMENTING THE FAIR HOUSING ACT (FR-4029)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 3535(d); 42 USC 3600 to 3620

CFR Citation: 24 CFR 100

Legal Deadline: None

Abstract: This rule amends HUD's regulations implementing the Fair Housing Act. In an effort to comply with the President's regulations reform initiatives, this rule will streamline these regulations by eliminating

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provisions that are redundant or otherwise unnecessary. This rule will make HUD's regulations implementing the Fair Housing Act clearer and more concise.

Timetable:

Action	Date	FR Cite
Final Action	04/01/96	61 FR 14378
Final Action Effective	05/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan Forward, Deputy Assistant Secretary for Enforcement and Investigation, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-4211

RIN: 2529–AA78

1296. FAIR HOUSING INITIATIVES PROGRAM (FR-3480)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 125

Completed:

Reason	Date	FR Cite
Final Action	11/27/95	60 FR 58446
Final Action Effective	12/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maxine Cunningham
Phone: 202 708-0800

RIN: 2529–AA62

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA)

Final Rule Stage

1297. HUD ACQUISITION REGULATION (FR-3887)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 48 CFR 24

Legal Deadline: None

Abstract: The HUD Acquisition Regulation is being amended to reflect the Department's new field structure and to implement procurement reforms under the Federal Acquisition Streamlining Act (FASA); and augment HUD's efforts to streamline and simplify the procurement process by removing unnecessary restrictions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/05/95	60 FR 46152
Interim Final Rule Effective	10/05/95	
Action	Date	FR Cite
Interim Final Rule Comment Period End	11/06/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward L. Girovasi, Jr., Director, Policy & Evaluation Div., Office of Procurement & Contracts, Department of Housing and Urban Development, Office of Administration
Phone: 202 708-0294

RIN: 2535–AA23

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Policy Development and Research (PD&R)

Final Rule Stage

1298. COMMUNITY DEVELOPMENT WORK STUDY PROGRAM (FR-3902)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 5301 to 5320; 42 USC 3535(d)

CFR Citation: 24 CFR 570.415

Legal Deadline: None

Abstract: This rule would revise HUD's regulations governing the Community Development Work Study Program (CDWSP). Under the CDWSP, HUD awards grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in a community development work study program while enrolled in a full-time graduate or undergraduate Community Development Academic Program. This rule proposes to make several revisions to the CDWSP so that it can more effectively and efficiently meet its program objectives.

Timetable:

Action	Date	FR Cite
NPRM	11/06/95	60 FR 56104
NPRM Comment Period End	01/05/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Hartung, Office of University Partnerships, Department of Housing and Urban Development, Policy Development and Research
Phone: 202 708-3061

RIN: 2528–AA05

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Proposed Rule Stage

1299. REFORM OF PUBLIC HOUSING MANAGEMENT (FR-3447)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 1437d(j)

CFR Citation: 24 CFR 901

Legal Deadline: None

Abstract: This rule proposes an extensive revision of the Public Housing Management Authority Program, (PHMAP), which contains the policies and procedures used by the Department of Housing and Urban Development (HUD) to identify public housing authority (PHA) management capabilities and deficiencies; to designate high performing and troubled PHAs; and to enter into agreements and formulate plans to improve PHA management.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: MaryAnn Russ, Deputy Assistant Secretary for Public & Assisted Housing Operations, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0614

RIN: 2577–AB30

1300. • SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP) (FR-3986)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 985

Legal Deadline: None

Abstract: This rule would provide an objective system to measure public housing agency and Indian Housing authority (HA) performance in key Section 8 tenant-based assistance program areas to enable HUD to ensure program integrity and accountability. It would provide procedures for HUD to remotely identify HA management capabilities and deficiencies to improve its risk assessment and effectively target monitoring and program assistance. HAs could use the SEMAP performance analysis to assess their own program operations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Gerald Benoit, Director, Operations Div., Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0477

RIN: 2577–AB60

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Public and Indian Housing (PIH)

Final Rule Stage

1301. INDIAN HOME: REVISED PROGRAM REGULATIONS (FR-3567)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 5301

CFR Citation: 24 CFR 92

Legal Deadline: None

Abstract: This rule would streamline requirements and incorporate experience in program workings during the first two funding cycles. It will establish separate program regulations for Indian HOME and non-Indian HOME, for clarity, and will facilitate use of the program by client tribes. This rule relocates Indian HOME regulations to 24 CFR 954 and incorporates various legislative changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dominic Nessi, Director, Office of Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 755-0032

RIN: 2577–AB35

1302. COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKAN NATIVE VILLAGES (FR-2880)

Priority: Other Significant

Legal Authority: 42 USC 5301

CFR Citation: 24 CFR 571

Legal Deadline: None

Abstract: Section 702 of the HUD Reform Act of 1989 moved the grant authority for CDBG funding to Indian tribes from Section 107 to 106 of the Housing and Community Development Act. Paragraph (b) of Section 702 includes the following provision: "The Secretary shall provide for distribution of amounts under this paragraph pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment." This rule also relocates Indian CDBG regulations to 24 CFR 953 from 24 CFR 570 and 571, and incorporates comments received on the Interim Rule.

Timetable:

Action	Date	FR Cite
NPRM	06/21/91	56 FR 28666
NPRM Comment Period End	08/20/91	
Interim Final Rule	04/07/92	57 FR 11832
Interim Final Rule Effective	06/08/92	
Interim Final Rule Comment Period End	11/18/92	
Interim Final Rule	07/27/94	59 FR 38326
Interim Final Rule Effective	10/01/94	
Interim Final Rule Comment Period End	12/27/94	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Local

Additional Information: Notice of Extension published 02/28/96. Effective Date: This final rule, which extends the effective period of the interim rule, is effective March 29, 1996. The effective period for 24 CFR part 953 is extended from April 1, 1996, until the final rule adopting the regulations of part 953 is published and becomes effective.

Agency Contact: Dominic Nessi, Director, Office of Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 755-0032

RIN: 2577–AB31

1303. SECTION 8 MODERATE REHABILITATION; RENT ADJUSTMENTS; ANNUAL AND SPECIAL ADJUSTMENTS; COMPARABILITY STUDIES; RENT REDUCTION (FR-3709)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: This rule would revise the current regulations in 24 CFR part 882 on adjusting Section 8 Moderate Rehabilitation contract rents. The rule would modify the method used by housing agencies (HAs) to determine the amount of the annual increase in the contract rents by providing for HAs to conduct comparability studies for moderate rehabilitation projects, to prevent the application of the Annual Adjustment Factors from resulting in a material difference between rents charged for assisted units and similar unassisted units. The rule also would provide for special rent adjustments to cover the costs required for an owner to address the problems of drug-related criminal activity (subject to the availability of appropriations), and for special adjustments when an exemption from real property tax expires under certain circumstances, if appropriations are available. The rule also would add insurance to the categories of cost increases that may result in a special adjustment.

Timetable:

Action	Date	FR Cite
NPRM	10/02/95	60 FR 51658
NPRM Comment Period End	12/01/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Madeline Hastings, Rental Assistance Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-2841

RIN: 2577–AB48

1304. TURNKEY III HOMEOWNERSHIP PROGRAM (FR-3963)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1437 to 1437ee; 42 USC 3535(d)

CFR Citation: 24 CFR 904

Legal Deadline: None

Abstract: This part is to be reinvented and major portions eliminated. No new project development is expected; therefore, reinvented regulations will be limited to management of Federal funds and limitations on public housing authorities' use of Home Buyers' funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/96	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Gary Vanbuskirk, Director, Homeownership Div., Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-4233

RIN: 2577–AB56

1305. PUBLIC HOUSING DEVELOPMENT REGULATIONS (FR-3569)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1437c

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: This rule proposes a comprehensive revision of the public housing development and acquisition program regulation at 24 CFR 941. The purpose of the program redesign is to simplify the public housing development process to give housing authorities and localities maximum flexibility in developing public housing in their communities. The revised procedures will shift responsibilities to public housing authorities (PHAs) wherever possible; reduce the number and depth of HUD reviews; promote the development of units in mixed-income communities; create HUD/PHA/local government partnerships; and in the case of "high performing" PHAs, eliminate most HUD reviews of development activities. HUD anticipates that these changes will reduce average development times by 6 to 9 months.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: William Flood, Office of Distressed & Troubled Housing Recovery, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1800

RIN: 2577–AB37

1306. PUBLIC/PRIVATE PARTNERSHIPS FOR MIXED-FINANCE DEVELOPMENT OF PUBLIC HOUSING UNITS (FR-3919)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1437b; 42 USC 1427c; 42 USC 3535(d)

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: This interim rule adds a new subpart F to the public housing development regulations, authorizing a public housing authority (PHA) to enter into a partnership with an entity (or entities) for the purpose of developing and owning public housing properties. The resulting partnership would also be authorized to use a combination of public and private financing mechanisms, which may include borrowing public housing development funds from the PHA and/or the sale of low-income housing tax credits, to develop public housing projects. The rule includes requirements that must be met by the proposed partnership before HUD will approve a mixed-finance proposal and requirements that govern the development and operation of a project by the partnership.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Chris Horning, Office of Distressed & Troubled Housing Recovery, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0282

RIN: 2577–AB54

1307. DESIGNATED HOUSING (FR-3964)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1423; 42 USC 3535(d)

CFR Citation: 24 CFR 945

Legal Deadline: None

Abstract: Relatively new regulations will be streamlined to allow local autonomy and flexibility.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: MaryAnn Russ, Deputy Assistant Secretary for Public Assisted Housing Operations, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0614

RIN: 2577–AB57

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Long-Term Actions

Office of Public and Indian Housing (PIH)

1308. ADMINISTRATIVE GUIDELINES FOR PIH REGARDING SEC. 102(D) LIMITATIONS ON COMBINING OTHER GOVERNMENT ASSISTANCE ("SUBSIDY LAYERING") (FR-3100)

Priority: Other Significant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 000

Legal Deadline: None

Abstract: This notice sets forth the PIH administrative guidelines which HUD, or in certain circumstances Housing Credit Agencies (HCAs), will follow in implementing "subsidy layering" reviews in in implementing "subsidy layering" reviews in accordance with section 102(d) of the HUD Reform Act of 1989 and section 911 of the Housing and Community Development Act of 1992 for public and Indian housing programs. Such reviews are necessary to ensure that the amount of assistance being provided by HUD for a specific housing project is not more than is necessary to make the assisted activity feasible after taking into account assistance from other government sources.

Timetable:

Action	Date	FR Cite
Notice	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: G. Dewayne Kimbrough, Urban Revitalization Specialist, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0614

RIN: 2577–AB53

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) — Completed Actions

Office of Public and Indian Housing (PIH)

1309. PERFORMANCE FUNDING SYSTEMS; DEFINITION OF UNIT MONTHS AVAILABLE (FR-3747)

Priority: Other Significant

CFR Citation: 24 CFR 905; 24 CFR 990

Completed:

Reason	Date	FR Cite
Final Action	11/14/95	60 FR 57304
Final Action Effective	12/14/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: MaryAnn Russ
Phone: 202 708-0614

RIN: 2577–AB49

1310. LOAN GUARANTEES FOR INDIAN HOUSING (FR-3614)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 910

Completed:

Reason	Date	FR Cite
Final Action	03/06/96	61 FR 9052
Final Action Effective	04/05/96	

Small Entities Affected: Businesses

Government Levels Affected: Tribal

Agency Contact: Dominic D. Nessi
Phone: 202 755-0032

RIN: 2577–AB40

1311. PUBLIC AND INDIAN HOUSING CEILING RENTS (FR-3880)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 913.107; 24 CFR 950.325

Completed:

Reason	Date	FR Cite
Withdrawn	03/07/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Campbell
Phone: 202 708-0744

RIN: 2577–AB51

1312. PUBLIC HOUSING MODERNIZATION STREAMLINING (FR-3967)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. If will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 958; 24 CFR 950

Completed:

Reason	Date	FR Cite
Final Action	03/05/96	87 FR 12
Final Action Effective	04/04/96	

Small Entities Affected: None

Government Levels Affected: Local, Tribal

Agency Contact: William Flood
Phone: 202 708-1640

RIN: 2577–AB59

1313. STREAMLINING PUBLIC HOUSING MAINTENANCE AND OPERATION RULES (FR-3928)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 965

Completed:

Reason	Date	FR Cite
Final Action	02/29/96	61 FR 7966
Final Action Effective	04/29/96	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: William C. Thorson
Phone: 202 708-4703

RIN: 2577–AB55

1314. • STREAMLINING FAMILY SELF-SUFFICIENCY (FR-3989)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1435f; 42 USC 1437u

CFR Citation: 24 CFR 984; 24 CFR 962

Legal Deadline: None

Abstract: This rule will consolidate regulations currently in parts 962 and 984, which implement the public housing family self-sufficiency program and the Section 8 rental certificate and rental voucher program respectively. It will also eliminate obsolete provisions.

Timetable:

Action	Date	FR Cite
Final Action	03/05/96	61 FR 8814
Final Action Effective	04/04/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louise K. Hunt, Director, Policy & Procedures Div., Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-3887

RIN: 2577–AB61

1315. PERFORMANCE FUNDING SYSTEM—VACANCY RULE (NEGOTIATED RULEMAKING) (FR-3647)

Priority: Other Significant

CFR Citation: 24 CFR 990; 24 CFR 950

Completed:

Reason	Date	FR Cite
Final Action	02/28/96	61 FR 7586
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: MaryAnn Russ
Phone: 202 708-0614

RIN: 2577–AB44

1316. LOW-INCOME PUBLIC HOUSING—PERFORMANCE FUNDING SYSTEM (FR-3760)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 990

Completed:

Reason	Date	FR Cite
Final Action	04/19/96	61 FR 17538
Final Action Effective	05/20/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: MaryAnn Russ
Phone: 202 708-0614

RIN: 2577–AB50

1317. OPERATING SUBSIDY ADJUSTMENT FOR FRAUD RECOVERIES (FR-3965)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 24 CFR 990

Completed:

Reason	Date	FR Cite
Withdrawn	02/06/96	

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: MaryAnne Russ
Phone: 202 708-0614

RIN: 2577–AB58

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May 13, 1996

Part X

Department of the Interior

Semiannual Regulatory Agenda

DEPARTMENT OF THE INTERIOR (DOI)

DEPARTMENT OF THE INTERIOR

Office of the Solicitor

25 CFR Ch. I

30 CFR Chs. II and VII

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43 CFR Subtitle A, Chs. I and II

48 CFR Ch. 14

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Semiannual Agenda of Rules Scheduled for Review or Development

AGENCY: Office of the Solicitor, Interior.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between April 1996 and October 1996. An agenda is required by the Regulatory Flexibility Act and Executive Order 12866.

ADDRESSES: Unless otherwise indicated, all agency contacts are located at the Department of the Interior, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: All comments and inquiries with regard to these rules should be directed to the appropriate agency contact. General comments relating to the agenda should be directed to the Office of Solicitor, Division of Administration, Department of the Interior, at the address above or on 202-208-5257 or 202-208-3071.

SUPPLEMENTARY INFORMATION: With this publication, the Department satisfies the requirement of Executive Order 12866 that the Department publish an agenda of rules that have been issued or are expected to be issued and of currently effective rules that are scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that an agenda be published in April and October of each year identifying rules that will have significant economic effects on a substantial number of small entities. Rules that will have such effects are specifically identified in the agenda.

In addition, rules that were included in the Department's segment of The Regulatory Plan as published in the October 1995 agenda are also specifically identified in this agenda.

Dated: March 12, 1996.

Richard A. Stephan,

Federal Register Liaison Officer.

Assistant Secretary for Policy, Management and Budget—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1318	Natural Resource Damage Assessments; Type B—Biennial Review	1090-AA29
1319	Natural Resource Damage Assessments; Type B—Nonuse Values	1090-AA43

Assistant Secretary for Policy, Management and Budget—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1320	Principles of Ethical Conduct	1090-AA38

Assistant Secretary for Policy, Management and Budget—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1321	Natural Resource Damage Assessments; Type A—Great Lakes Environments	1090-AA21
1322	Natural Resource Damage Assessments; Type A—Coastal and Marine Environments	1090-AA23
1323	Protection for Products of Indian Art and Craftsmanship	1090-AA45
1324	Department of Interior Acquisition Regulation (DIAR) Solicitation Provisions and Contract Clauses	1090-AA56
1325	Department of the Interior Acquisition Regulation Part 1453	1090-AA57

Assistant Secretary for Policy, Management and Budget—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1326	Revised Statute 2477 Rights-of-Way	1090-AA44

Assistant Secretary for Policy, Management and Budget—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1327	Natural Resource Damage Assessments; Additional Type A Procedures	1090-AA51
1328	Department of the Interior Acquisition Regulation—Conflicts of Interest	1090-AA54
1329	Department of the Interior Acquisition Regulation—Foreign Acquisitions	1090-AA55

Office of the Solicitor—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1330	Subpart E—Compulsory Process and Testimony of Employees	1092-AA09

Office for Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1331	Requirements for Equal Opportunity During Construction and Operation of the Alaska Natural Gas Transportation System	1091-AA04
1332	Nondiscrimination in Activities Conducted Under Permits, Rights-of-Way, Public Land Orders, and Other Federal Authorizations Granted or Leased Under P.L. 93-153	1091-AA05

Office of Hearings and Appeals—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1333	Notice of Interim Alternative Dispute Resolution and Opportunity for Comment	1094-AA45

Office of Hearings and Appeals—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1334	Rules Applicable in Indian Affairs Hearings and Appeals	1094-AA38
1335	Rules Applicable to Indian Affairs Hearings and Appeals	1094-AA46

Office of Hearings and Appeals—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1336	Rules Applicable in Indian Affairs Hearings and Appeals	1094-AA39

Office of Hearings and Appeals—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1337	General Rules Applicable to Proceedings on Appeal Before the Interior Board of Indian Appeals	1094-AA47

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United States Fish and Wildlife Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1338	Consolidation of Lists of Wildlife of Federal Concern	1018-AD66

United States Fish and Wildlife Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1339	Endangered and Threatened Wildlife and Plants: Critical Habitat for the Pecos Pupfish	1018-AC18
1340	Migratory Bird Hunting and Migratory Bird Permits	1018-AC69
1341	Endangered and Threatened Wildlife and Plants: Armored Snail	1018-AC75
1342	Endangered and Threatened Wildlife and Plants: Tropical Butterflies	1018-AC76
1343	Endangered and Threatened Wildlife and Plants: Tropical Birds	1018-AC77
1344	Endangered and Threatened Wildlife and Plants: Holmgren's Milkvetch and Shem's Milkvetch	1018-AC92
1345	Revision of Migratory Bird Hunting Regulations, 50 CFR Part 20	1018-AD01
1346	Endangered and Threatened Wildlife and Plants: Northern and Southern Populations of the Bog Turtle	1018-AD05
1347	Endangered and Threatened Wildlife and Plants: Reintroduction of a Nonessential Experimental Population of Mexican Wolves	1018-AD07
1348	Marine Mammal Protection Act; Unintentional Take of Marine Mammals by Harassment Only in Activities Other Than Commercial Fishing	1018-AD18
1349	Marine Mammal Protection Act; Measures to Safely Deter Marine Mammals, Including Threatened and Endangered Marine Mammals	1018-AD19
1350	Endangered Species Listing Two Texas Plants	1018-AD51
1351	Endangered and Threatened Wildlife and Plants: 42 South American Birds	1018-AD59
1352	Export of River Otters Taken in Missouri in 1996-1997 and Subsequent Seasons	1018-AD63
1353	Export of Appendix I Specimens That Were Bred for Commercial Purposes	1018-AD64
1354	Findings on the Importation of Sport-Hunted Polar Bear Trophies Taken in Canada	1018-AD65
1355	Reclassification of Yacare Caiman From Endangered to Threatened With Special Rule	1018-AD67
1356	Subsistence Management Regulations for Public Lands in Alaska	1018-AD68
1357	Migratory Bird Hunting; Proposed 1996-97 Migratory Game Bird Hunting Regulations (Preliminary) With Requests for Indian Tribal Proposals	1018-AD69
1358	Addition of Canaan Valley National Wildlife Refuge to List of Open Areas for Hunting in West Virginia	1018-AD70
1359	Migratory Bird Hunting and Conservation Stamp (Federal Duck Stamp) Contest	1018-AD71
1360	Removal of Subchapter D, Management of Wildlife Research Areas From Title 50 CFR	1018-AD72
1361	Migratory Bird Harvest Information Program; Participating States in 1996-97	1018-AD73

United States Fish and Wildlife Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1362	Proposed Determination of Experimental Population Status for an Introduced Population of Colorado Squawfish	1018-AB09
1363	Captive-Bred Wildlife	1018-AB10
1364	Importation, Exportation, and Transportation of Wildlife	1018-AB49
1365	List of Migratory Birds	1018-AB72
1366	Migratory Bird Hunting; Hunting Regulations for Restriction of Shotshell Length and Maximum Shot Size	1018-AB80
1367	Eagle Permits	1018-AB81
1368	Alaska Refuges Visitor Services	1018-AC02
1369	Endangered and Threatened Wildlife and Plants; Reclassification of the Loch Lomond Coyote Thistle	1018-AC14
1370	Reclassifications of Some Populations of Saltwater Crocodiles With Special Rule for Saltwater and Nile Crocodiles	1018-AC30
1371	Endangered and Threatened Wildlife and Plants: Intercross Progeny Policy and Definitions	1018-AC54
1372	Export of American Ginseng Harvested in 1994-1996	1018-AC55
1373	General Provisions and General Permit Procedures	1018-AC57
1374	Endangered and Threatened Wildlife and Plants: Jaguar	1018-AC61
1375	Clean Vessel Act National Pumpout Symbol	1018-AC67
1376	Seizure and Forfeiture Procedures	1018-AC89
1377	Emergency Reclassification of the Snake River Spring/Summer Chinook Salmon	1018-AC97
1378	Importation of Polar Bear Trophies Taken in Canada	1018-AD04

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United States Fish and Wildlife Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1379	Endangered and Threatened Wildlife and Plants; Special Rule for the Northern Spotted Owl	1018-AD20
1380	Taxonomic Change From Subspecies to Vertebrate Population Segment for the Virgin River Chub	1018-AD22
1381	Endangered and Threatened Wildlife and Plants: Exemption of Small Private Landowners and Low Impact Activities From Endangered Species Act Requirements for Threatened Species	1018-AD24
1382	Public Use Regulations for Alaska Peninsula/Becharof National Wildlife Refuge Complex	1018-AD30
1383	Proposed Joint Counterpart Endangered Species Act Section 7 Consultation Regulations	1018-AD32
1384	Subsistence Management Regulations for Public Lands in Alaska—Subparts C and D—1996-1997 Subsistence Taking of Fish and Wildlife Regulations	1018-AD42
1385	Addition of Ohio River National Wildlife Refuge to the List of Open Areas for Fishing in West Virginia	1018-AD43
1386	Addition of Great Bay National Wildlife Refuge to the List of Open Areas for Hunting in New Hampshire	1018-AD44
1387	Endangered and Threatened Wildlife and Plants: Designation of Experimental Nonessential Whooping Crane Populations	1018-AD45
1388	Proposed Establishment of Nonessential Experimental Population of California Condors in Northern Arizona	1018-AD62

United States Fish and Wildlife Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1389	Endangered and Threatened Wildlife and Plants	1018-AA85
1390	Endangered and Threatened Wildlife and Plants	1018-AB52
1391	Endangered and Threatened Wildlife and Plants	1018-AB66
1392	Endangered and Threatened Wildlife and Plants	1018-AB73
1393	Endangered and Threatened Wildlife and Plants	1018-AB75
1394	Endangered and Threatened Wildlife and Plants	1018-AB83
1395	Endangered and Threatened Wildlife and Plants	1018-AB88
1396	Endangered and Threatened Wildlife and Plants	1018-AB97
1397	Endangered and Threatened Wildlife and Plants: Eight Vernal Pool Plants of the Central Valley of California	1018-AC00
1398	Endangered and Threatened Wildlife and Plants	1018-AC01
1399	Endangered and Threatened Wildlife and Plants: Three Puerto Rican Trees	1018-AC04
1400	Endangered and Threatened Wildlife and Plants: Flat-Tailed Horned Lizard	1018-AC10
1401	Endangered and Threatened Wildlife and Plants: San Xavier Talussnail	1018-AC13
1402	Endangered and Threatened Wildlife and Plants: Alaska Breeding Population of the Steller's Eiders	1018-AC19
1403	Endangered and Threatened Wildlife and Plants: Parish's Alkali Grass	1018-AC21
1404	Endangered and Threatened Wildlife and Plants: Barton Springs Salamander	1018-AC22
1405	Endangered and Threatened Species: Sacramento Splittail	1018-AC26
1406	Endangered and Threatened Wildlife and Plants: Two California Butterflies and a Snake	1018-AC32
1407	Marbled Murrelet Critical Habitat Designation	1018-AC33
1408	Endangered and Threatened Wildlife and Plants: California Red-Legged Frog	1018-AC34
1409	Endangered and Threatened Wildlife and Plants: Spring Creek Bladderpod	1018-AC42
1410	Endangered and Threatened Wildlife and Plants: Five California Sierran Foothills Plants	1018-AC47
1411	Endangered and Threatened Wildlife and Plants: Golden Paintbrush	1018-AC52
1412	Endangered and Threatened Wildlife and Plants: Delissea Undulata (No Common Name (NCN))	1018-AC56
1413	Endangered and Threatened Wildlife and Plants: Arkansas River Shiner	1018-AC62
1414	Endangered and Threatened Wildlife and Plants: Seven Freshwater Mussels from Alabama, Florida, and Georgia	1018-AC63
1415	Endangered and Threatened Wildlife and Plants: Five Freshwater Mussels	1018-AC64
1416	Endangered and Threatened Wildlife and Plants: Two Plants From Southwestern California	1018-AC65
1417	Endangered and Threatened Wildlife and Plants: Maguire Daisy	1018-AC71
1418	Endangered and Threatened Wildlife and Plants: Eggert's Sunflower	1018-AC74
1419	Endangered and Threatened Wildlife and Plants: San Diego Fairy Shrimp	1018-AC83
1420	Endangered and Threatened Wildlife and Plants: Two California Butterflies	1018-AC84
1421	Endangered and Threatened Wildlife and Plants: Cactus Ferruginous Pygmy-Owl	1018-AC85
1422	Endangered and Threatened Wildlife and Plants: Four Southwestern California Plants	1018-AC88
1423	Critical Habitat Designation for the Lost River and Shortnose Suckers	1018-AC90
1424	Endangered and Threatened Wildlife and Plants: Least Chub	1018-AC91
1425	Endangered and Threatened Wildlife and Plants: 4 California Plants from Vernal Pools	1018-AC96
1426	Endangered and Threatened Wildlife and Plants: Two San Francisco Plants	1018-AC98
1427	Endangered and Threatened Wildlife and Plants: 10 Plants From the California Sierra Nevada Mountains Foothills	1018-AC99

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United States Fish and Wildlife Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1428	Endangered and Threatened Wildlife and Plants: Brother's Island Tuatara	1018-AD06
1429	Endangered and Threatened Wildlife and Plants: for California Plants and the Black Legless Lizard	1018-AD09
1430	Endangered and Threatened Wildlife and Plants: Critical Habitat Designation for the Western Snowy Plover	1018-AD10
1431	Endangered and Threatened Wildlife and Plants: Three Southern Arizona Cienega Species	1018-AD11
1432	Endangered and Threatened Wildlife and Plants: U.S. Populations of Atlantic Salmon	1018-AD12
1433	Endangered and Threatened Wildlife and Plants: Two San Francisco Marsh Plants	1018-AD14
1434	Critical Habitat Proposal for Virgin River Fishes	1018-AD23
1435	Endangered and Threatened Wildlife and Plants: Proposed Endangered Status for 13 Plants From the Island of Hawaii	1018-AD25
1436	Endangered Species Listing: Three Aquatic Invertebrates in Comal and Hays Counties, Texas	1018-AD28
1437	Seven Plants From the Mountains of Southern California	1018-AD34
1438	Endangered and Threatened Wildlife and Plants: Pallid Manzanita	1018-AD35
1439	Endangered and Threatened Wildlife and Plants: Nine Plants From California	1018-AD36
1440	Endangered and Threatened Wildlife and Plants: Three Plants From the Channel Islands of Southern California	1018-AD37
1441	Endangered and Threatened Wildlife and Plants: Four Southwestern California Plants	1018-AD38
1442	Endangered and Threatened Wildlife and Plants: Sixteen Plant Taxa From the Northern Channel Islands, California	1018-AD39
1443	Endangered and Threatened Wildlife and Plants: Proposed Endangered or Threatened Status for 19 Plant Species From the Island of Kauai, Hawaii	1018-AD46
1444	Endangered Species Listing: Nogal or West Indian Walnut	1018-AD47
1445	Endangered Species Listing: Cordia Bellonis (No Common Name)	1018-AD48
1446	Endangered Species Listing: Three Plants From Molokai, Hawaii	1018-AD49
1447	Endangered and Threatened Wildlife and Plants: 25 Plants From Oahu, Hawaii	1018-AD50
1448	Endangered Species Listing: Guajon or Rock Frog	1018-AD52
1449	Endangered and Threatened Wildlife and Plants: Fourteen Plants From the Hawaiian Islands	1018-AD58
1450	Endangered and Threatened Wildlife and Plants: Four Plants From Interior Chaparral of Southwestern California and Northwestern Baja California, Mexico	1018-AD60

United States Fish and Wildlife Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1451	The National Coastal Wetland Conservation Grant Program	1018-AB68
1452	Humane and Healthful Transport Regulations	1018-AC08
1453	Incidental Take Provisions for Endangered and Threatened Migratory Birds	1018-AC29
1454	Rights-of-Way Management on National Wildlife Refuges	1018-AC45
1455	Endangered and Threatened Wildlife and Plants: Virgin Spinedace	1018-AC53
1456	Marine Mammal Protection Act Amendments of 1994	1018-AC68
1457	Export Finding for Bobcats, Lynx, and River Otters Harvested in 1994 and Subsequent Seasons	1018-AC70
1458	Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Changes to the Appendices	1018-AC78
1459	Refuge-Specific Hunting and Fishing Regulations	1018-AC80
1460	Marine Mammal Protection Act	1018-AD15
1461	Marine Mammal Protection Act; Lethal Take for Human Protection	1018-AD16
1462	Marine Mammal Protection Act; Importation of Marine Mammal Products Are Personal Effects for Non-Commercial Cultural Exchanges	1018-AD17
1463	Marine Mammals; Incidental Take During Specified Activities	1018-AD21
1464	Migratory Birds: Take Provisions for Bald Eagles	1018-AD26
1465	Addition of Deep Fork National Wildlife Refuge to the List of Open Areas for Sport Fishing in Oklahoma	1018-AD27
1466	Endangered and Threatened Wildlife and Plants: Establishment of Nonessential Experimental Population of Black-Footed Ferrets in Arizona	1018-AD29
1467	Addition of Ottawa National Wildlife Refuge to List of Open Areas for Big Game Hunting in Ohio	1018-AD31
1468	Conferring Designated Port Status on Atlanta, GA	1018-AD33
1469	Captive Wildlife Under the Endangered Species Act	1018-AD53
1470	Export of Ginseng Harvested in Washington State in 1995-97	1018-AD54
1471	Convention on International Trade in Endangered Species (CITES)	1018-AD55
1472	Transport of Marine Mammals Held for Public Display	1018-AD56

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United States Fish and Wildlife Service—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1473	General Authorization to Conduct Bona Fide Scientific Research Resulting Only in Level B Harassment of Marine Mammals	1018-AD57
1474	Amendment to Appendix III of Convention on International Trade in Endangered Species of Wild Fauna and Flora for Bigleaf Mahogany	1018-AD61

National Park Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1475	National Park Service Symbols: United States Park Police Insignia	1024-AB94
1476	Rights-of-Way	1024-AC01
1477	Rock Climbing	1024-AC13
1478	Voyageurs National Park: Aircraft Operations	1024-AC23
1479	Conveyance of Freehold and Leasehold Interests	1024-AC27
1480	Badlands National Park—Commercial Vehicles	1024-AC30
1481	Shenandoah National Park: Backcountry and Fishing Regulations	1024-AC33
1482	Applicability and Resource Protection Revisions	1024-AC38
1483	Procedures for State, Tribal, and Local Government Historic Preservation Programs	1024-AC44
1484	Big Thicket National Preserve; Moored Houseboats	1024-AC45
1485	Boating and Water Activities: Prohibited Operations	1024-AC46
1486	Off-Road Operation of Motor Vehicles	1024-AC47
1487	Native American Graves Protection and Repatriation Act Regulations; Civil Penalties	1024-AC48

National Park Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1488	National Natural Landmarks Program	1024-AB96
1489	Glacier Bay National Park, Alaska Fishing Regulations	1024-AB99
1490	Glacier Bay: Vessel Management Plan/Regulations	1024-AC05
1491	Visitor Services Under Section 1307 of ANILCA	1024-AC19
1492	General Regulations for Areas Administered by the National Park Service	1024-AC21
1493	Cape Lookout National Seashore: Special Regulations	1024-AC29
1494	Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway: Snowmobile and Snowplane Routes and Regulations	1024-AC34
1495	Appalachian National Scenic Trail: Powerless Flight	1024-AC42

National Park Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1496	Dry Tortugas National Park: Fishing; Boundary Adjustments	1024-AA96
1497	Minerals Management—Non-Federal Oil and Gas	1024-AB39
1498	Penalty Provisions	1024-AC05
1499	Native American Graves Protection and Repatriation Act Implementation	1024-AC07
1500	Yellowstone National Park—Special Revision	1024-AC18
1501	Glacier Bay: Regulation Applicability	1024-AC22
1502	Oregon Caves National Monument: Special Regulations	1024-AC26
1503	Mountain Climbing; 60-Day Preregistration Requirement	1024-AC39

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Bureau of Indian Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1504	Administration of the Higher Education Program	1076-AA10
1505	Leasing and Permitting	1076-AA29
1506	Financial Assistance and Social Services Program	1076-AC13
1507	Individual Indian Monies	1076-AC65
1508	Navajo Partitioned Lands Grazing Regulations	1076-AC81
1509	Family and Child Education Program (FACE)	1076-AC92
1510	Range Regulations	1076-AD04
1511	Grants to Tribally Controlled Community Colleges and Navajo Community College	1076-AD06
1512	Indian School Equalization Program	1076-AD09
1513	Land Acquisitions for Tribes and Individual Indians	1076-AD11
1514	Indian Tribal Justice Support	1076-AD15
1515	Tribal Self-Governance	1076-AD20
1516	Law and Order on Indian Reservations	1076-AD25
1517	American Indian Trust Fund Management Reform Act of 1994	1076-AD28
1518	Locality-Specific Regulations	1076-AD30
1519	Leasing Restricted Lands of Members of the Five Civilized Tribes, Oklahoma, for Mining	1076-AD33
1520	Leasing Osage Reservation Lands for Mining of Minerals Other Than Oil and Gas	1076-AD34
1521	Lead and Zinc Mining Operations, Quapaw Agency	1076-AD35
1522	Surface Exploration, Mining, and Reclamation of Lands	1076-AD36
1523	Management of the Tribal Assets of the Ute Indian Tribe	1076-AD37
1524	Leasing Wind River Reservation Lands for Oil and Gas Mining	1076-AD38
1525	Indian Fishing on the Hoopa Valley Reservation	1076-AD39
1526	Rights of Way Over Indian Lands	1076-AD40
1527	Osage Roll, Certificate of Competency	1076-AD41
1528	Patents in Fee, Certificates of Competency, and Sale of Indian Lands	1076-AD42
1529	Land Records and Title Documents	1076-AD43
1530	Operation and Maintenance	1076-AD44
1531	Indian Electric Power Utilities	1076-AD45
1532	Tribal Reorganization Under a Federal Statute	1076-AD46
1533	Petitioning Procedures	1076-AD47
1534	Elimination of Rules	1076-AD48
1535	Special Education	1076-AD49
1536	Appeals from Administrative Actions	1076-AD50
1537	Licensed Indian Traders	1076-AD51
1538	Housing Improvement program	1076-AD52
1539	Uniform Administrative Requirements for Grants	1076-AD53
1540	Contracts Under the Indian Self-Determination Act	1076-AD54
1541	Academic and Dormitory Standards	1076-AD55
1542	Indian Country Law Enforcement	1076-AD56
1543	Staffing	1076-AD57
1544	Education Contracts Under the Johnson-O'Malley Act	1076-AD58
1545	Loans, Grants, and Employment Assistance	1076-AD59
1546	Arrangement with States, Territories, or Other Agencies for Social Welfare and Relief of Distress of Indians	1076-AD61
1547	Estates of the Five Civilized Tribes	1076-AD62
1548	Off-Reservation Land Acquisitions	1076-AD63
1549	Applicability of Rules of the Bureau of Indian Affairs	1076-AD64

Bureau of Indian Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1550	Administration of the Indian Adult Education Programs	1076-AA15
1551	Oil, Gas, Solid Mineral, and Geothermal Mineral Agreements	1076-AA82
1552	Roads of the Bureau of Indian Affairs	1076-AB05
1553	Indian Child Protection and Family Violence Prevention Programs	1076-AC97
1554	Preference in Employment	1076-AD05
1555	Indian Self-Determination Act Amendments of 1994	1076-AD21

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Bureau of Indian Affairs—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1556	Tribal Self-Governance Program: Selection Criteria and Procedures for Awarding Planning/Negotiation Grants	1076-AD26
1557	Elimination of Obsolete Rules	1076-AD31
1558	Coal Leases: Terms and Conditions	1076-AD32
1559	Special Grants for Economic Development and Core Management Grants to Small Tribes	1076-AD60

Bureau of Indian Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1560	Courts of Indian Offenses	1076-AD29

Minerals Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1561	Valuation of Gas from Indian Leases	1010-AB57
1562	Royalties, Rentals, Bonuses, and Other Monies	1010-AC01
1563	Allowances for Transportation and Processing Costs Associated with Gas Valuation	1010-AC06
1564	Lease Extensions	1010-AC07
1565	Release of Third Party Proprietary Information	1010-AC08
1566	Valuation of Oil From Federal and Indian Mineral Leases	1010-AC09
1567	Geological and Geophysical Exploration of the Outer Continental Shelf	1010-AC10
1568	Civil Penalty Procedures	1010-AC11
1569	Safety and Pollution Prevention Equipment	1010-AC12
1570	Elimination of Drilling Requirements	1010-AC15
1571	Annual Inspections of Outer Continental Shelf Facilities	1010-AC16
1572	Seismic Reassessment of California Outer Continental Shelf Platforms	1010-AC17
1573	Extension of the Bid Acceptance/Rejection Period in the Final Notice of Sale	1010-AC18

Minerals Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1574	Payor Responsibilities	1010-AB45
1575	Amendments to 30 CFR 250.67—Hydrogen Sulfide	1010-AB50
1576	Credit Adjustments	1010-AB73
1577	Response Plans for Facilities Seaward of the Coastline	1010-AB81
1578	Revision of Requirements Governing Corporate Surety Bonds for Outer Continental Shelf Leases	1010-AB92
1579	Flaring or Venting Gas and Burning Liquid Hydrocarbons	1010-AB96
1580	Training of Lessee and Contractor Employees Engaged in Oil and Gas and Sulphur Operations in the Outer Continental Shelf	1010-AB99
1581	Valuation of Gas Production—Federal Leases	1010-AC02
1582	Updating Documents Incorporated by Reference	1010-AC03
1583	Fees for Lease Assignments and Pipeline Rights of Way	1010-AC04
1584	Royalty Relief for Outer Continental Shelf Leases in the Gulf of Mexico	1010-AC13
1585	Deep Water Royalty Relief—Tracts Offered Between November 28, 1995, and November 28, 2000	1010-AC14

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Minerals Management Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1586	Gas Measurement and Commingling	1010-AB97

Minerals Management Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1587	Safety Requirements Governing Production Platforms and Pipelines	1010-AB52
1588	Revision of Authorized Bidding Systems for Leases in the Outer Continental Shelf	1010-AB93
1589	Transportation and Processing Allowances for Oil and Gas	1010-AB94
1590	Transportation and Washing Allowances for Coal	1010-AC00

Office of Surface Mining Reclamation and Enforcement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1591	Definition and Criteria for Valid Existing Rights	1029-AB42
1592	Abandoned Coal Refuse Sites	1029-AB70
1593	Coal Moisture	1029-AB78
1594	Contemporaneous Reclamation	1029-AB79
1595	Notification and Permit Processing	1029-AB80
1596	Prohibitions Under Section 522(e) of SMCRA	1029-AB82
1597	Indian Lands	1029-AB83
1598	Cooperative Agreements	1029-AB84
1599	Alluvial Valley Floors	1029-AB85

Office of Surface Mining Reclamation and Enforcement—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1600	Applicant/Violator System Permit Information	1029-AB62
1601	Basis for Coal Weight Determination	1029-AB68
1602	State Program Amendments	1029-AB86

Office of Surface Mining Reclamation and Enforcement—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1603	Coal Remining	1029-AB74
1604	Definition of Coal	1029-AB75
1605	Affected Area (Haul Roads)	1029-AB76

Bureau of Reclamation—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1606	Central Valley Project of California—Purposes, Uses, and Allocation of Water Supplies	1006-AA34
1607	Management of Lake Berryessa	1006-AA36
1608	Adjustments to the 1988 Operating Criteria for the Newlands Irrigation Project, Nevada	1006-AA37

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Bureau of Reclamation—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1609	Revenues Management	1006-AA30
1610	Acreage Limitation and Water Conservation	1006-AA32

Bureau of Reclamation—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1611	Regulations for Administering Entitlements to Colorado River Water in the Lower Colorado River Basin	1006-AA24

Bureau of Land Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1612	Management of Designated Wilderness Area	1004-AB69
1613	Sales—Federal Land Policy and Management Act	1004-AB77
1614	Tramroads and Logging Roads	1004-AC24
1615	Law Enforcement—Criminal	1004-AC30
1616	Fire Management	1004-AC36
1617	Visitor Services	1004-AC42
1618	Natural History Resource Management; Procedures	1004-AC45
1619	Trespass	1004-AC46
1620	Management of Solid Minerals Other Than Coal	1004-AC49
1621	Recreation Management; Procedures; General	1004-AC50
1622	Recreation Programs	1004-AC51
1623	Special Areas; State Irrigation Districts	1004-AC53
1624	Oil and Gas Leasing; Drainage	1004-AC54
1625	Minerals Management	1004-AC55
1626	Desert Land Entries	1004-AC56
1627	Onshore Oil and Gas Geophysical Exploration	1004-AC57
1628	State Exchanges; National Park System Exchanges Wildlife Refuge Exchanges; Miscellaneous Exchanges	1004-AC58
1629	Bodie Bowl, California: Surface Management	1004-AC60
1630	Protection, Management, and Control of Wild Free-Roaming Horses and Burros; Private Maintenance; Adoption Fees	1004-AC61
1631	Onshore Oil and Gas Agreements	1004-AC62
1632	Land Withdrawals	1004-AC63
1633	Cost Recovery; Mineral Filings and Operations	1004-AC64
1634	Rights-of-Way Under the Mineral Leasing Act	1004-AC74
1635	Use; Rights-of-Way	1004-AC75

Bureau of Land Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1636	Leases, Permits, and Easements	1004-AB51
1637	Public Availability of Minerals Resources Information	1004-AB55
1638	Onshore Oil and Gas Operations	1004-AC09
1639	Logical Mining Units: General; LMU Application Procedures; LMU Approval Criteria; LMU Diligence; Administration of LMU Operations	1004-AC15
1640	Coalbed Methane Development	1004-AC27
1641	Coal Management	1004-AC37
1642	Public Law 167; Act of July 23, 1955 (Mining Claim Use and Occupancy)	1004-AC39
1643	Mining Claims Under the General Mining Laws (Bonding)	1004-AC40
1644	Disposal of Reserved Minerals Under the Stock Raising Homestead Act	1004-AC59

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Bureau of Land Management—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1645	Non-Mineral Entry on Mineral Land	1004-AC65
1646	Leases	1004-AC66
1647	Appeals Procedures/Hearings Procedures	1004-AC67
1648	Mineral Materials Disposal	1004-AC68
1649	Federal Timber Contract Payment Modification	1004-AC69
1650	Grazing Administration; Alaska; Livestock Grazing Administration; Alaska; Reindeer	1004-AC70
1651	State Grants	1004-AC71
1652	Alaska Native Selections	1004-AC72
1653	Definitions	1004-AC73
1654	Railroad Grants	1004-AC76
1655	Indian Allotments	1004-AC77
1656	Land Classifications	1004-AC78
1657	National Petroleum Reserve in Alaska	1004-AC79
1658	Carey Act Grants	1004-AC80
1659	Public Land Records	1004-AC81
1660	Conveyances, Disclaimers, and Correction Documents	1004-AC82
1661	Application Procedures	1004-AC83

Bureau of Land Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1662	Sales of Forest Products; General—Preparation for Sale	1004-AB34

Bureau of Land Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1663	Onshore Oil and Gas Operations; Special Provisions; Onshore Oil and Gas Order No. 5—Measurement of Gas	1004-AB22
1664	Rental Schedule for Communications Uses	1004-AC12
1665	Waiver, Suspension, or Reduction of Rental, Royalty, or Minimum Royalty	1004-AC26
1666	Onshore Oil and Gas Order No. 8, Well Workovers, Completions, and Abandonments	1004-AC33
1667	Application Procedures: Execution and Filing of Forms	1004-AC41
1668	Management Areas; Designated National Area	1004-AC43
1669	Fire Management	1004-AC44
1670	Public Land Orders	1004-AC47
1671	Protection and Preservation of Natural Values	1004-AC48
1672	Visual Resource Management	1004-AC52

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1673	Transportation and Utility Systems In and Across, and Access Into, Conservation System Units in Alaska	1093-AA07

DEPARTMENT OF THE INTERIOR (DOI)

Assistant Secretary for Policy, Management and Budget (ASPMB)

Prerule Stage

1318. NATURAL RESOURCE DAMAGE ASSESSMENTS; TYPE B—BIENNIAL REVIEW

Priority: Other Significant

Legal Authority: 42 USC 9651(c)

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: CERCLA and the Clean Water Act allow natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or a discharge of oil. CERCLA requires that natural resource damage assessment regulations be promulgated and that the regulations be reviewed, and revised as appropriate, every two years. This rulemaking is the biennial review of the administrative process for conducting assessments as well as the site-specific "type B" procedures for determining injury and damages. On January 5, 1996, the National Oceanic and Atmospheric Administration published a final rule for assessing natural resource damages caused by oil spills under the Oil Pollution Act of 1990 (OPA), 61 FR 439. The OPA rule adopts a new approach to several aspects of natural resource damage assessment. One particularly significant and promising feature of the OPA rule is its measure of damages based on unified restoration planning. The OPA rule extends the existing emphasis on restoration to all elements of a natural resource damage claim, including compensation for interim loss of injured resources. The claim is based on a unified restoration plan incorporating both "primary" and "compensatory" restoration. The Department is committed to ensuring the maximum consistency appropriate between the CERCLA and OPA natural resource damage assessment regulations during this biennial review.

Timetable:

Action	Date	FR Cite
ANPRM	10/19/94	59 FR 52749
ANPRM Comment Period End	01/17/95	
Second ANPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Willie R. Taylor, Director, Office of Environmental Policy and Compliance, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Room 2340, MIB, 1849 C Street NW., Washintton, DC 20240
Phone: 202 208-3891

RIN: 1090–AA29

1319. NATURAL RESOURCE DAMAGE ASSESSMENTS; TYPE B—NONUSE VALUES

Priority: Other Significant

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: CERCLA and the Clean Water Act allow natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or a discharge of oil. In 1986, the Department issued site-specific "type B" procedures for determining injury and damages. State of Ohio v. United States Department of the Interior, 880 F.2d 432 (D.C. Cir. 1989), ordered the Department to revise the type B procedures, among other things, to allow for the assessment of all reliably calculated lost economic values. This rulemaking addresses one aspect of the court remand--the reliable calculation of lost nonuse values of injured resources. On March 25, 1994, the Department issued a final rule complying with all other aspects of the court remand (59 FR 14261). On January 5, 1996, the National Oceanic and Atmospheric Administration published a final rule for assessing natural resource damages caused by oil spills under the Oil Pollution Act of 1990 (OPA), 61 FR 439. The OPA rule adopts a new approach to several aspects of natural resource damage assessment, including the role of economic valuation in developing claims for interim loss of injured resources. The Department is committed to ensuring the maximum consistency appropriate between the CERCLA and OPA natural resource damage assessment regulations and will be revising the CERCLA rules as needed during the ongoing biennial review. The Department believes that resolution of the rulemaking concerning nonuse values should be considered within this larger context. Therefore, the Department plans to issue a single advance notice of proposed rulemaking for the nonuse value rulemaking and the biennial review. The advance notice will solicit comment on how the Department should revise the CERCLA regulations both to ensure consistency with the OPA rule and to comply with the court remand.

Timetable:

Action	Date	FR Cite
NPRM	05/04/94	59 FR 23097
NPRM Comment Period End	10/07/94	59 FR 32175
ANPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willie R. Taylor, Director, Office of Environmental Policy and Compliance, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Room 2340 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3891

RIN: 1090–AA43

DEPARTMENT OF THE INTERIOR (DOI)

Assistant Secretary for Policy, Management and Budget (ASPMB)

Proposed Rule Stage

1320. PRINCIPLES OF ETHICAL CONDUCT

Priority: Other

Legal Authority: 5 USC 7301; 5 USC app (Ethics Reform Act of 1989); EO 12731

CFR Citation: 5 CFR 3501

Legal Deadline: None

Abstract: The U.S. Office of Government Ethics (OGE) has issued new standards of conduct regulations. The Department of the Interior (DOI) is preparing special conduct regulations (applies only to DOI employees) to supplement OGE's new standards of conduct. Interior's supplemental regulations, if approved by OGE, will be codified in 5 CFR Part 3501.

DOI—ASPMB

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: On June 10, 1993, the Department published a final rule that removed portions of 43 CFR 20 that have been superseded by Standards of Conduct regulations issued by the U.S. Office of Government Ethics (OGE). The remaining regulations in 43 CFR 20 are preserved until they can be recodified in 5 CFR 3501 on or before February 3, 1994. OGE recently extended this date until February 3, 1995. Draft proposed supplemental regulations have been submitted to OGE and it has agreed to extend the recodification deadline for the Department.

Agency Contact: Mason Tsai, Deputy Ethics Program Coordinator, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-5916

RIN: 1090–AA38

DEPARTMENT OF THE INTERIOR (DOI)

Final Rule Stage

Assistant Secretary for Policy, Management and Budget (ASPMB)

1321. NATURAL RESOURCE DAMAGE ASSESSMENTS; TYPE A—GREAT LAKES ENVIRONMENTS

Priority: Other Significant

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: NPRM, Judicial, August 8, 1994. Final, Judicial, April 17, 1996.
Settlement agreement

Abstract: The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Clean Water Act allow natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or a discharge of oil. CERCLA calls for the promulgation of simplified "type A" assessment procedures involving minimal fieldwork.

The Department is developing a new type A procedure for use in the Great Lakes. This procedure incorporates a computer model capable of calculating damages based on a small number of user-supplied data inputs.

Timetable:

Action	Date	FR Cite
ANPRM	09/22/89	54 FR 39015
ANPRM Comment Period End	10/23/89	
NPRM	08/08/94	59 FR 40319
NPRM Comment Period End	07/06/95	60 FR 7155
Final Action	04/17/96	
Final Action	04/17/96	
Coastal and Marine Environments (RIN 1090-AA23)		
ANPRM	09/22/89	54 FR 39015
ANPRM Comment Period End	10/23/89	
NPRM	12/08/94	59 FR 63300
NPRM Comment Period End	07/06/95	60 FR 7155)
Final Action	04/17/96	
Great Lakes (RIN 1090-AA21)		
ANPRM	09/22/89	54 FR 39015
ANPRM Comment Period End	10/23/89	
NPRM	08/08/94	59 FR 40319)
NPRM Comment Period End	07/06/95	60 FR 7155)

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willie R. Taylor, Director, Office of Environmental Policy and Compliance, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Room 2340 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3891

RIN: 1090–AA21

1322. NATURAL RESOURCE DAMAGE ASSESSMENTS; TYPE A—COASTAL AND MARINE ENVIRONMENTS

Priority: Other Significant

Legal Authority: 42 USC 9651(c) CERCLA

CFR Citation: 43 CFR 11

Legal Deadline: NPRM, Judicial, December 8, 1994. Final, Judicial, April 17, 1996.
Settlement agreement

Abstract: The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Clean Water Act allow natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance or a discharge of oil. CERCLA calls for the promulgation of simplified "type A" assessment procedures involving minimal fieldwork for use in cases of minor releases or discharges. In 1987, the Department issued a type A procedure for coastal and marine environments that incorporated a computer model capable of calculating damages based on a small number of user-supplied data inputs. CERCLA requires that assessment procedures be reviewed, and revised as appropriate, every two years. In 1989, the Department began the biennial review of the type A procedure for coastal and marine environments. Subsequently, State of Colorado v. United States Department of the Interior, 880 F.2d 481 (D.C. Cir. 1989), ordered the Department to revise the type A computer model to incorporate restoration costs as well as lost economic values.

Timetable:

Action	Date	FR Cite
ANPRM	09/22/89	54 FR 39015
ANPRM Comment Period End	10/23/89	
NPRM	12/08/94	59 FR 63300
NPRM Comment Period End	07/07/95	60 FR 7155
Final Action	04/17/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willie R. Taylor, Director, Office of Environmental Policy and Compliance, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Room 2340 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3891

RIN: 1090–AA23

DOI—ASPMB

Final Rule Stage

1323. PROTECTION FOR PRODUCTS OF INDIAN ART AND CRAFTSMANSHIP

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 305a; PL 101-644 Indian Arts and Crafts Act of 1990

CFR Citation: 25 CFR 309

Legal Deadline: None

Abstract: These regulations carry out the enforcement provisions of PL 101-644 to help ensure that American Indian and Alaska Native artists and craftspeople receive their fair share of the market by limiting unfair competition from products misrepresented as genuine Indian arts and crafts products.

Timetable:

Action	Date	FR Cite
NPRM	10/13/94	59 FR 51908
NPRM Comment Period End	02/10/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Geoffrey E. Stamm, Director, Indian Arts and Crafts Board, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., Room 4004 MIB, Washington, DC 20240
Phone: 202 208-3773
Fax: 202 208-5196

RIN: 1090–AA45

1324. • DEPARTMENT OF INTERIOR ACQUISITION REGULATION (DIAR) SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 63 Stat. 390, sec. 205(c); 40 USC 486(c); 5 USC 301; PL 103-355

CFR Citation: 48 CFR 1452.204-70; 48 CFR 1452.210-70; 48 CFR 1452.224-1; 48 CFR 1452.233-2; 48 CFR 1452.236-70; 48 CFR 1452.237-70

Legal Deadline: None

Abstract: Under the auspices of the National Performance Review, the DIAR was thoroughly reviewed. The reviewers determined that only a few DIAR sections require codification in the CFR. This action will remove six clauses from 48 CFR Chapter 14. The clauses that the Department will remove are: 1452.204-70, Release of Claims; 1452.210-70, Brand Name or Equal; 1452.224-1, Privacy Act Notification; 1452.233-2, Service of Protest; 1452.236-70, Prohibition Against Use of Lead-Based Paint; and 1452.237-70, Information Collection.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary L. McGarvey, Procurement Analyst, Department of the Interior, Assistant Secretary for Policy, Management and Budget, 1849 C Street NW., WAshington, DC 20240
Phone: 202 208-3148
Fax: 202 208-6301
Email: MMcGarvey@IOS.DOI.GOV

RIN: 1090–AA56

1325. • DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION PART 1453

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 63 Stat. 390, sec. 205(c); 40 USC 486(c); 5 USC 301; PL 103-355

CFR Citation: 48 CFR 1453

Legal Deadline: None

Abstract: Under the auspices of the National Performance Review, the DIAR was thoroughly reviewed. The reviewers determined that only a few DIAR sections require codification in 48 CFR chapter 14. This action will remove part 1453 from chapter 14.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary L. McGarvey, Procurement Analyst, Department of the Interior, Assistant Secretary for Policy, Management and Budget, Office of Acquisition and Property Mgmt., 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3148
Fax: 202 208-6301
Email: MMcGarvey@IOS.DOI.GOV

RIN: 1090–AA57

DEPARTMENT OF THE INTERIOR (DOI)

Long-Term Actions

Assistant Secretary for Policy, Management and Budget (ASPMB)

1326. REVISED STATUTE 2477 RIGHTS-OF-WAY

Priority: Other Significant

Legal Authority: 43 USC 1201; 43 USC 1732(b); 43 USC 1740; 43 USC 1457; 43 USC 1782(c); 16 USC 668dd; 16 USC 460k-3; 16 USC 1 to 4

CFR Citation: 43 CFR 39

Legal Deadline: None

Abstract: This proposed rule would implement the Secretary of the Interior's June 1, 1993, recommendation to Congress that the Department promulgate regulations addressing rights-of-way pursuant to R.S. 2477 across lands now administered by the Bureau of Land Management, the National Park Service, and the U.S. Fish and Wildlife Service. R.S. 2477--a provision adopted in 1866 that granted a right-of-way for the construction of highways across public land not reserved for public uses--was repealed in 1976, but valid existing rights-of-way were not terminated. This proposed rule is intended to clarify the meaning of the statute and provide a

DOI—ASPMB — Long-Term Actions

workable administrative process and standards for recognizing valid claims.

Timetable:

Action	Date	FR Cite
NPRM	08/01/94	59 FR 39216
NPRM Comment Period End	08/01/95	60 FR 4135

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information: Congress has placed a moratorium on the expenditure of funds to finalize this rule during Fiscal Year 1996. The moratorium is found in the Highway Act.

Agency Contact: Ron Montagna, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7782

RIN: 1090–AA44

DEPARTMENT OF THE INTERIOR (DOI) — Completed Actions

Assistant Secretary for Policy, Management and Budget (ASPMB)

1327. NATURAL RESOURCE DAMAGE ASSESSMENTS; ADDITIONAL TYPE A PROCEDURES

Priority: Other Significant

CFR Citation: 43 CFR 11

Completed:

Reason	Date	FR Cite
Withdrawn - No further action scheduled at this time.	03/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Willie R. Taylor
Phone: 202 208-3891

RIN: 1090–AA51

1328. DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION—CONFLICTS OF INTEREST

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 1403; 48 CFR 1403.570; 48 CFR 1425; 48 CFR 1452.203-70

Completed:

Reason	Date	FR Cite
Final Action	02/13/96	61 FR 5519
Final Action Effective	03/14/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary L. McGarvey
Phone: 202 208-3158
Fax: 202 208-6301
Email: MMCGarvey@IOS.DOI.GOV

RIN: 1090–AA54

1329. DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION—FOREIGN ACQUISITIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 1425.203; 48 CFR 1425.205; 48 CFR 1452.225-70

Completed:

Reason	Date	FR Cite
Final Action	04/08/96	61 FR 15389
Final Action Effective	05/08/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary L. McGarvey
Phone: 202 208-3158
Fax: 202 208-6301
Email: MMcGarvey@IOS.DOI.GOV

RIN: 1090–AA55

BILLING CODE 4310-RK-F

DEPARTMENT OF THE INTERIOR (DOI) — Completed Actions

Office of the Solicitor (OSOL)

1330. SUBPART E—COMPULSORY PROCESS AND TESTIMONY OF EMPLOYEES

Priority: Other

CFR Citation: 43 CFR 2.80

Completed:

Reason	Date	FR Cite
Withdrawn - No further action scheduled at this time.	03/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peg Romanik
Phone: 202 208-5216

RIN: 1092–AA09

BILLING CODE 4310-17-F

DEPARTMENT OF THE INTERIOR (DOI) — Proposed Rule Stage

Office for Equal Opportunity (OEO)

1331. REQUIREMENTS FOR EQUAL OPPORTUNITY DURING CONSTRUCTION AND OPERATION OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 719

CFR Citation: 43 CFR 34

Legal Deadline: None

Abstract: The purpose of this regulatory action is to rescind the equal opportunity and affirmative action regulations at 43 CFR 34. The regulations are obsolete and no longer applicable to activities associated with the construction of the Alaska Natural Gas Transportation System. This action is also intended to reduce unnecessary, costly, burdensome and duplicative Federal Affirmative Action reporting data collection and recordkeeping requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melvin C. Fowler, Process Manager, Department of the Interior, Office for Equal Opportunity, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3455

RIN: 1091–AA04

1332. NONDISCRIMINATION IN ACTIVITIES CONDUCTED UNDER PERMITS, RIGHTS-OF-WAY, PUBLIC LAND ORDERS, AND OTHER FEDERAL AUTHORIZATIONS GRANTED OR LEASED UNDER P.L. 93-153

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1651

CFR Citation: 43 CFR 27

Legal Deadline: None

Abstract: The purpose of this regulatory action is to rescind the nondiscrimination regulations at 43 CFR 27. The regulations have served their purpose and are obsolete and duplicative when compared to other existing and applicable Federal nondiscriminatory requirements. This action is also intended to reduce unnecessary, costly, burdensome, and duplicative Federal affirmative action reporting, data collection, and recordkeeping requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melvin C. Fowler, Process Manager, Department of the Interior, Office for Equal Opportunity, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3455

RIN: 1091–AA05

BILLING CODE 4310-RE-F

DEPARTMENT OF THE INTERIOR (DOI) — Prerule Stage

Office of Hearings and Appeals (OHA)

1333. NOTICE OF INTERIM ALTERNATIVE DISPUTE RESOLUTION AND OPPORTUNITY FOR COMMENT

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-552; 5 USC 301

CFR Citation: None

Legal Deadline: None

Abstract: This is not a regulatory action but a notice for publication in the Federal Register concerning the Department's interim policy on Alternative Dispute Resolution (ADR) and providing opportunity for the public to comment. This interim policy will be in effect for two years. During this interim phase, bureaus and offices of the Department will implement pilot initiatives to assess the applicability of ADR methods to a variety of disputes. At the conclusion of the interim phase, the results of these initiatives will be evaluated and a final ADR policy will be developed. This notice will establish the Department's interim policy on ADR and provide guidance on the establishment of ADR program initiatives. The use of ADR should reduce time and costs associated with resolution of disputes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/13/94	59 FR 30368
ANPRM	03/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry E. Hill, Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203
Phone: 703 235-3810

RIN: 1094–AA45

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Proposed Rule Stage

1334. RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: PL 96-274; PL 97-459; 5 USC 301

CFR Citation: 43 CFR 4.300; 43 CFR 4.301; 43 CFR 4.302; 43 CFR 4.303; 43 CFR 4.304; 43 CFR 4.305; 43 CFR 4.306; 43 CFR 4.307; 43 CFR 4.308

Legal Deadline: None

Abstract: The agency proposes to amend its regulations in 43 CFR 4.300 through 4.308 relating to Tribal Purchase of Interests Under Special Statutes in order to provide standard procedures for implementation of two recent statutes expanding tribal purchase rights and escheat requirements, namely, Pub. L. 96-274, applicable to the Standing Rock Sioux Reservation in North and South Dakota, and Pub. L. 97-459, applicable to the Devils Lake Sioux Reservation of North Dakota. The Department's current regulations in 43 CFR 4.300 through 4.308 apply to the Yakima, Warm Springs and Nez Perce Reservations. The proposed amendments to these regulations will incorporate provisions necessary for consideration of cases arising under the two statutes cited above.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Barry E. Hill, Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203 Phone: 703 235-3810

RIN: 1094–AA38

1335. RULES APPLICABLE TO INDIAN AFFAIRS HEARINGS AND APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 36 Stat 855, as amended; 36 Stat 856, as amended; 38 Stat 586; 42 Stat 1185, as amended; 56 Stat 1021 et seq; RS 463; RS 465; 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 374; 25 USC 373a; 25 USC 373b; ...

CFR Citation: 43 CFR 4.208; 43 CFR 4.210(b); 43 CFR 4.241(a); 43 CFR 4.242(d)

Legal Deadline: None

Abstract: The agency proposes to amend and update its regulations pertaining to the hearing and disposition of Indian probate cases by: (1) allowing, under 4.208, the renunciation of a probate interest by a beneficiary as young as 18 years instead of the current 21 years; (2) amending the period under 4.210(b) within which the BIA Superintendent may file with the Administrative Law Judge all records relevant to an Indian deceased and his property to 120 days from the receipt of the notice of death from the current 90 days; (3) amending the address under 4.241(a) for the filing of a petition for rehearing to the Administrative Law Judge from the current BIA Superintendent; and (4) clarifying under 4.242(d) that an estate may be reopened at a time beyond 3 years after the date of the original final decision in the estate at the instance of a petition by a BIA official or on the Administrative Law Judge's own motion.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry E. Hill, Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203 Phone: 703 235-3810

RIN: 1094–AA46

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Final Rule Stage

1336. RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 36 Stat 855, as amended; 38 Stat 586; 42 Stat 1185, as amended; 56 Stat 1021 to 1022; RS 463; RS 465; 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 373a; 25 USC 373b; 25 USC 374

CFR Citation: 43 CFR 4.207; 43 CFR 4.242; 43 CFR 4.274

Legal Deadline: None

Abstract: The agency proposes: (1) Amendment of 4.207 to permit acceptance of compromise settlements in probate of estates of Indians who died owning property in trust or restricted status when all parties are advised of all facts and are cognizant of effect of the compromise on their rights, and where no family member is coerced into the agreement. Such settlements are already provided for in disputed cases; (2) amendment of 4.242 to require petitioner for reopening of an estate which has been closed more than 3 years to show due diligence in pursuing the claim. This will place in the regulation case law developed over the past 18 years; (3) amendment of 4.274 by adding a new paragraph (c) for allowance of immediate payment of claims where appropriate for better conservation of assets of the estate, and a new paragraph (d) to permit partial distribution of an estate to provide funds for the maintenance of the family where the ultimate distribution is unlikely to be disputed.

Timetable:

Action	Date	FR Cite
NPRM	09/06/90	55 FR 36669
NPRM Comment Period End	10/09/90	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry E. Hill, Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203 Phone: 703 235-3810

RIN: 1094–AA39

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Completed Actions

1337. GENERAL RULES APPLICABLE TO PROCEEDINGS ON APPEAL BEFORE THE INTERIOR BOARD OF INDIAN APPEALS

Priority: Other Significant

CFR Citation: 43 CFR 4.310 to 4.340

Completed:

Reason	Date	FR Cite
Withdrawn - Further internal review necessary.	03/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathryn A. Lynn Phone: 703 235-3816

RIN: 1094–AA47

BILLING CODE 4310-79-F

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Prerule Stage

1338. • CONSOLIDATION OF LISTS OF WILDLIFE OF FEDERAL CONCERN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1531 et seq; 16 USC 703; 16 USC 1361; 16 USC 4901; 18 USC 42; 16 USC 3371

CFR Citation: 50 CFR 10

Legal Deadline: None

Abstract: The Service proposes to consolidate into this part 10 lists of plants and wildlife currently contained in various parts of Subchapter B (Parts 14, 15, 16, 17, 18, and 23).

Timetable:

Action	Date	FR Cite
ANPRM	03/19/96	61 FR 11180
ANPRM Comment Period End	05/03/96	
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marshall Jones, Assistant Director, International Affairs, Department of the Interior, United States Fish and Wildlife Service, U.S. Fish and Wildlife Service, 1849 C Street NW., Washington, DC 20240 Phone: 202 208-6393

RIN: 1018–AD86

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Proposed Rule Stage

1339. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: CRITICAL HABITAT FOR THE PECOS PUPFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be proposed that will determine the appropriate status for the Pecos pupfish and identify critical habitat.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240 Phone: 703 358-2171

RIN: 1018–AC18

1340. MIGRATORY BIRD HUNTING AND MIGRATORY BIRD PERMITS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 703 to 711; 16 USC 712; 16 USC 742(a) to 742 (d); 16 USC 742(e) to 742 (j)

CFR Citation: 50 CFR 20; 50 CFR 21

Legal Deadline: None

Abstract: In November 1991, the Service began a review of its regulations on migratory bird hunting and migratory bird permits. In a notice published in the Federal Register on December 1, 1993, (58 FR 63488) the issues were described and needed changes and possible alternatives were discussed. That notice also provided additional information that would facilitate public comment on the regulations being reviewed. The Service will develop regulations that will clarify the regulations in 50 CFR Parts 20 and 21 that are perceived by many individuals to be unclear, update any outdated information, and correct any technical errors.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas L. Striegler, Deputy Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS-500 Arlington Square, 1849 C Street NW., Washington, DC 20240 Phone: 703 358-1949

RIN: 1018–AC69

1341. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: ARMORED SNAIL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Armored snail under the Endangered Species Act. Where prudent, critical habitat will be identified. This snail is known from only two creeks in the Limestone Creek drainage in Limestone County, Alabama.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC75

1342. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TROPICAL BUTTERFLIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service will develop regulations that will determine the appropriate status for up to 27 species of tropical butterflies.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC76

1343. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TROPICAL BIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for up to 38 species of tropical birds.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC77

1344. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: HOLMGREN'S MILKVETCH AND SHEM'S MILKVETCH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend that rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for two plants--Holmgren's milkvetch and Shem's milkvetch--under the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC92

1345. REVISION OF MIGRATORY BIRD HUNTING REGULATIONS, 50 CFR PART 20

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 703 to 711; 16 USC 712; 16 USC 742a to 742d; 16 USC 742e to 742j

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service proposes to revise and update regulations governing migratory bird hunting. Changes will be proposed that will clarify and include all the specific prohibitions in Part 20 to apply to migratory game hunting during closed and open hunting seasons.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: John J. Doggett, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS-500 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1949

RIN: 1018–AD01

1346. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: NORTHERN AND SOUTHERN POPULATIONS OF THE BOG TURTLE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the northern population (ranges from New York to Maryland) of the bog turtle, and the southern population (ranges from southwestern Virginia to northern Georgia) as endangered due to similarity of appearance. This action is being taken because of constriction of the species' range, the declining size of remaining populations, and illegal collection. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD05

1347. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: REINTRODUCTION OF A NONESSENTIAL EXPERIMENTAL POPULATION OF MEXICAN WOLVES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed designating a nonessential experimental population of Mexican wolves, three family groups per year for five years, into the Blue Range Area (Arizona) primary wolf recovery zone and allow population expansion into secondary wolf recovery zones in the Apache and Gila National Forests in New Mexico.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD07

1348. MARINE MAMMAL PROTECTION ACT; UNINTENTIONAL TAKE OF MARINE MAMMALS BY HARASSMENT ONLY IN ACTIVITIES OTHER THAN COMMERCIAL FISHING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Marine Mammal Protection Act, as amended in April 1994, authorizes the Secretary to allow U.S. citizens to incidentally, unintentionally take small numbers of marine mammals by harassment only for periods up to one year during specified activities other than commercial fishing. This regulatory action would implement this statutory provision.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Peoples, Acting Chief, Division of Fish and Wildlife Management Assitance, Department of the Interior, United States Fish and Wildlife Service, MS-840 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1718

RIN: 1018–AD18

1349. MARINE MAMMAL PROTECTION ACT; MEASURES TO SAFELY DETER MARINE MAMMALS, INCLUDING THREATENED AND ENDANGERED MARINE MAMMALS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Marine Mammal Act as amended in April 1994, requires the Service to develop a list of guidelines to safely deter marine mammals for which the Service has statutory management responsibility, including threatened and endangered species. Such measures of deterrence are for use in protecting: (1) fishing gear or catch; (2) private property; (3) personal human safety, or (4) public property. This regulatory action would implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Peoples, Acting Chief, Division of Fish and Wildlife Management Assitance, Department of the Interior, United States Fish and Wildlife Service, MS-840 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1718

RIN: 1018–AD19

1350. ENDANGERED SPECIES LISTING TWO TEXAS PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 10 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533 the service must take action (list, withdraw or extend the rulemaking for six months) on a proposed listing no later than one year after this proposal.

Abstract: The Service will propose regulations that will determine appropriate status for 2 plants; Zapata bladderpod and Bushy whitlow-wort, occurring in southern Texas. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240

Phone: 703 358-2171

RIN: 1018–AD51

1351. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: 42 SOUTH AMERICAN BIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for 42 kinds of birds found in South America, including the Galapagos Islands. All have restricted distributions and are threatened by habitat destruction and various other factors.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD59

1352. • EXPORT OF RIVER OTTERS TAKEN IN MISSOURI IN 1996-1997 AND SUBSEQUENT SEASONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species. Exports of animals and plants listed on Appendix II of CITES require an export permit from the country of origin. The purpose of this rulemaking is to announce findings by the Scientific and Management Authorities of the United States on the proposed export of river otters harvested in the State of Missouri, and to add Missouri to the list of States and Indian Nations for which the export of river otters is approved. The Service intends to apply these findings to harvests in Missouri during the 1996-97 season and subsequent seasons, subject to the conditions applying to approved states.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Marshall Jones, Assistant Director, International Affairs, Department of the Interior, United States Fish and Wildlife Service, U.S. Fish and Wildlife Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-6393

RIN: 1018–AD63

1353. • EXPORT OF APPENDIX I SPECIMENS THAT WERE BRED FOR COMMERCIAL PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The regulations need to be updated to clarify the process of obtaining export permits for Appendix I specimens that are bred for commercial purposes including the procedure for becoming registered with the Convention on International Trade in Endangered Species (CITES) Secretariat.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret Tieger, Chief, Branch of Permits, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS-420 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2104
Fax: 703 358-2281

RIN: 1018–AD64

1354. • FINDINGS ON THE IMPORTATION OF SPORT-HUNTED POLAR BEAR TROPHIES TAKEN IN CANADA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Service is required by the Marine Mammal Protection Act to make legal and scientific findings prior to issuing permits to allow for the import of sport-hunted polar bears taken in Canada. Canada has new information that needs to be considered.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Tieger, Chief, Branch of Permits, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS-420 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2104
Fax: 703 358-2281

RIN: 1018–AD65

1355. • RECLASSIFICATION OF YACARE CAIMAN FROM ENDANGERED TO THREATENED WITH SPECIAL RULE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service will develop regulations to declassify populations of the Yacare caiman in South America. Also included in this rulemaking is a special rule to allow commercial trade in skins, other parts, and products of Yacare caimans from South America. The combination of actions proposed will have the effect of stimulated legal and responsible trade in Yacare caiman hides, and in this respect, constitutes removal of a barrier to trade.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Charles W. Dane, Chief, Office of Scientific Authority, U.S. Fish and Wildlife Service, Department of the Interior, United States Fish and Wildlife Service, MS-750 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1708

RIN: 1018–AD67

1356. • SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3101 to 3126

CFR Citation: 36 CFR 242; 50 CFR 100

Legal Deadline: None

Abstract: Identification of waters included within ANILCA definition of public lands and amendment of Federal Subsistence Board's authority.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The Department of Justice has advised the U.S. District Court that the proposed rulemaking will be published within 60 days of February 5, 1996.

Agency Contact: Tom Boyd, Office of Subsistence Management, U.S. Fish and Wildlife Service, Department of the Interior, United States Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503
Phone: 907 786-3447
Fax: 907 786-3898

RIN: 1018–AD68

1357. • MIGRATORY BIRD HUNTING; PROPOSED 1996-97 MIGRATORY GAME BIRD HUNTING REGULATIONS (PRELIMINARY) WITH REQUESTS FOR INDIAN TRIBAL PROPOSALS

Priority: Economically Significant

Legal Authority: 16 USC 703 to 711; 16 USC 712; 16 USC 742 a to j

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service annually publishes a series of documents establishing migratory bird hunting regulations for the current hunting season. This annual process consists of proposed frameworks providing outside limits for dates and hours of shooting, as well as bag and possession limits; final frameworks for hunting seasons from which States may select regulations; and final rules approving such State selections.

Timetable:

Action	Date	FR Cite
NPRM	03/22/96	61 FR 11986
NPRM Comment Period End	06/03/96	

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: Small entities likely to be affected by these rules include some sporting goods stores, hardware stores, motels and hotels, restaurants, clothing stores, gasoline stations, private hunting clubs, landowners' leasing hunting rights, and mail order houses selling hunting equipment and supplies.

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, MS-634 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1714

RIN: 1018–AD69

1358. • ADDITION OF CANAAN VALLEY NATIONAL WILDLIFE REFUGE TO LIST OF OPEN AREAS FOR HUNTING IN WEST VIRGINIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460k

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: The Service proposes to add Canaan Valley National Wildlife Refuge to the list of areas open for hunting (migratory game bird, upland game, and big game hunting) in West Virginia along with pertinent refuge-specific regulations for such activities. National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Robert Shallenberger, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, MS-670 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AD70

1359. • MIGRATORY BIRD HUNTING AND CONSERVATION STAMP (FEDERAL DUCK STAMP) CONTEST

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 718

CFR Citation: 50 CFR 91

Legal Deadline: None

Abstract: The Service is revising the regulations governing the conduct of the annual Migratory Bird Hunting and Conservation Stamp (Federal Duck Stamp) Contest. This proposed rule replaces and rescinds the notice published in the Federal Register on February 16, 1996 (51 FR 6254) and will allow the Service to keep pace with the increasing costs of running the 1996-97 Federal Duck Stamp Contest and cover expenses associated with the program. The following changes are proposed by the Service: (1) eligible species list; (2) deadline for submitting entry; (3) age requirement established to participate in contest; (4) entry fee increase; (5) subject matter of entry; and (6) contest voting procedures.

Timetable:

Action	Date	FR Cite
NPRM	03/14/96	61 FR 10557
NPRM Comment Period End	04/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Lesino, Chief, Duck Stamp Office, Department of the Interior, United States Fish and Wildlife Service, Room 2058, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4354

RIN: 1018–AD71

1360. • REMOVAL OF SUBCHAPTER D, MANAGEMENT OF WILDLIFE RESEARCH AREAS FROM TITLE 50 CFR

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing

DOI—FWS

Proposed Rule Stage

Government effort. It will eliminate existing text in the CFR.

Legal Authority: 16 USC 460k

CFR Citation: 50 CFR 60

Legal Deadline: None

Abstract: The Service removes Subchapter D, Management of Wildlife Research Areas from Title 50. Subchapter D (Part 60) provides special regulations for the Patuxent Wildlife Research Center (PWRC). Since PWRC is managed as a part of the National Wildlife Refuge System (50 CFR 32.39), and all public use must be compatible with the primary purpose of the area, future public use regulations will be published in Parts 25-33 of Title 50.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Shallenberger, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, MS-670 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AD72

1361. • MIGRATORY BIRD HARVEST INFORMATION PROGRAM; PARTICIPATING STATES IN 1996-97

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 to 711; 16 USC 712; 16 USC 742 a to j

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service proposes to amend the Migratory Bird Harvest Information Program regulations. The Service plans to add Alabama, Georgia, Idaho, Illinois, Maine, Minnesota, Mississippi, Pennsylvania, Tennessee, and Vermont to the list of participating states. This action will continue to require all licensed hunters who hunt migratory game birds in participating states to identify themselves as migratory bird hunters to the state licensing authority and to supply their name, address and date of birth to the state. Hunters will be required to have evidence of current participation in the program on their person while hunting migratory game birds in participating states. The quality and extent of information about harvests of migratory game birds must be improved in order to better manage these populations. Hunter's names and addresses are necessary to provide a sample frame for voluntary hunter surveys to improve harvest estimates for all migratory game birds. States will gather migratory bird hunters' names and addresses and the Service will conduct the harvest surveys.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, MS-634 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1714

RIN: 1018–AD73

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Final Rule Stage

1362. PROPOSED DETERMINATION OF EXPERIMENTAL POPULATION STATUS FOR AN INTRODUCED POPULATION OF COLORADO SQUAWFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to introduce Colorado squawfish (Ptychocheilus lucius) into the lower Colorado River in Arizona and to determine the population to be "nonessential experimental" population according to section 10(j) of the Endangered Species Act. The Service will propose a special rule to allow take in accordance with State law. In the past, Colorado squawfish were more widespread in the State of Arizona, occurring in several river drainages. This action is being taken in an effort to establish an additional population within the species' historic range.

Timetable:

Action	Date	FR Cite
NPRM	08/26/87	52 FR 32143
NPRM Comment Period End	10/26/87	
Final Action	03/00/97	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB09

1363. CAPTIVE-BRED WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service regulates certain activities involving non-native endangered or threatened wildlife species that are born in captivity in the United States. Currently, this is accomplished by requiring persons who wish to conduct otherwise prohibited activities with such wildlife to register with the Service to obtain a captive-bred wildlife or CBW registration. These regulations will be reviewed to determine if further action is necessary to relieve certain restrictions on the public that may have become burdensome, counterproductive, or outmoded.

Timetable:

Action	Date	FR Cite
ANPRM	01/07/92	57 FR 548
ANPRM Comment Period End	03/09/92	
NPRM	06/11/93	58 FR 32632
NPRM Comment Period End	09/09/93	
Interim Final Rule	12/27/93	58 FR 68323
Final Action	08/00/96	

DOI—FWS

Final Rule Stage

Captive-bred wildlife regulations, part 2
NPRM 12/27/93 (58 FR 68323)

Small Entities Affected: None

Government Levels Affected: None

Additional Information: On June 11, 1993, the Service published a proposed rule that would revise the captive-bred wildlife regulations and the definitions of the terms "harass" and "enhance the propagation or survival". During the 90-day comment period, extensive comments on the proposal were received. The Service has decided to eliminate education as the sole basis for justifying issuance of a captive-bred wildlife registration, and a final rule to that effect was published on December 27, 1993 (58 FR 68323). The Service will split this action into three final rules and reopen the comment period on the balance of the issues in the proposals, including the question of the value of education as it relates to endangered species permits.

Agency Contact: Kenneth Stansell, Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS-420 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2093

RIN: 1018–AB10

1364. IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 3371 et seq; 16 USC 1532 et seq; 16 USC 1382; 16 USC 703 et seq

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The Service will amend 50 CFR 14 to permit the use of the U.S. Customs Service's Automated Commercial System (ACS) for the declaration and clearance of importations and exportation of wildlife.

Timetable:

Action	Date	FR Cite
NPRM	09/14/94	59 FR 47212
NPRM (Reopening of Comment Period)	11/15/94	59 FR 56811
NPRM Comment Period End	12/15/94	
NPRM (Supplemental)	03/23/95	60 FR 15277
Final Action	04/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: The ACS system is being tested in several ports of entry. The Service will amend 50 CFR 14 when the system is fully implemented by the Customs Service.

Agency Contact: John J. Doggett, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS-500 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1949

RIN: 1018–AB49

1365. LIST OF MIGRATORY BIRDS

Priority: Other

Legal Authority: 16 USC 704; 16 USC 712

CFR Citation: 50 CFR 10.13

Legal Deadline: None

Abstract: The List of Migratory Birds found at 50 CFR 10.13 is being revised to (1) bring the list into conformity with generally accepted taxonomy and nomenclature--English (common) and scientific names, as reflected in four published supplements to the 6th (1983) edition of the American Ornithologists' Union Checklist of North American Birds; and (2) add species that are of regular occurrence in the United States that are not included on the current list.

Timetable:

Action	Date	FR Cite
NPRM	05/09/95	60 FR 24686
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, MS-634 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1714

RIN: 1018–AB72

1366. MIGRATORY BIRD HUNTING: HUNTING REGULATIONS FOR RESTRICTION OF SHOTSHELL LENGTH AND MAXIMUM SHOT SIZE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 et seq

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: Before the passage of the Migratory Bird Treaty Act (MBTA), there were no restrictions on firearms or ammunition used in the taking of migratory birds. The MBTA gave rise to regulations that required shotguns used in the sport hunting of migratory birds to be not larger than 10 gauge. Recently, there has been a trend toward long shotshells, which defeats the intent of the present regulatory restriction to limit firepower to reduce crippling and unretrieved harvest of migratory birds. The 10 gauge 3 1/2 inch shotshell now in use has a larger payload than the 8-gauge, 3-inch shotshell outlawed for use earlier in this century. The intent is to limit shotshell length to the current maximum (3 1/2) to stop market competition for ever longer shells and to eliminate any waste of migratory gamebird resources that added shell length would induce. Further, size "F" shot has been determined to be nonlethal on geese beyond 55 yards due to inadequate pattern density. This results in unacceptable crippling loss. The intent is to restrict the maximum shot size for hunting migratory birds to size "T," the largest size tested that has exhibited acceptable performance. Also, although the Service has a policy regarding regulating anticorrosive coatings of steel shot to ensure nontoxicity, the policy has not been codified. The Service will seek public comment on its regulation of shot coatings to prevent inadvertent toxicity problems for waterfowl and other migratory birds.

Timetable:

Action	Date	FR Cite
ANPRM	06/30/93	58 FR 35332
ANPRM Comment Period End	09/28/93	
NPRM	01/26/96	61 FR 2470
Final Action	02/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This RIN was completed in error in the October 1995 agenda.

Agency Contact: Keith Morehouse, Staff Specialist, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, MS-634, Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1714

RIN: 1018–AB80

1367. EAGLE PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 668

CFR Citation: 50 CFR 22

Legal Deadline: None

Abstract: Presently, the taking, possession, and transportation of bald or golden eagles, or their parts, nests, or eggs for the religious use of Native Americans is a permitted activity. The Service proposes to revise 50 CFR 22.22 to provide an import or export mechanism for eagle feathers legally possessed by Native Americans.

Timetable:

Action	Date	FR Cite
NPRM	06/16/94	59 FR 30892
NPRM Comment Period End	08/15/94	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas L. Striegler, Deputy Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS-500 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1949

RIN: 1018–AB81

1368. ALASKA REFUGES VISITOR SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460(k) et seq; 44 USC 3501 et seq

CFR Citation: 50 CFR 36

Legal Deadline: None

Abstract: The Service will propose regulations to implement section 1307 of the Alaska National Interest Lands Conservation Act (ANILCA). These regulations are needed to establish procedures for selecting and authorizing persons to provide visitor services, except guided sport fishing and hunting activities, on national wildlife refuges in Alaska. Such regulations are intended to ensure proper and uniform guidance on providing the preferences required by ANILCA in the solicitation, selection, and authorization of persons or Native Corporations to provide visitor services on refuge lands in Alaska, when such services must be limited to a level below the demand.

Timetable:

Action	Date	FR Cite
NPRM	04/25/95	60 FR 20380
NPRM Comment Period End	06/26/95	
Final Action	12/00/96	
Alaska refuges visitor services		
NPRM (Reopened comment period)	07/13/95 (60 FR 36093)	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard S. Pospahala, Office of Subsistence Management, Department of the Interior, United States Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503
Phone: 907 786-3467

RIN: 1018–AC02

1369. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; RECLASSIFICATION OF THE LOCH LOMOND COYOTE THISTLE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which will list, reclassify, or delist, as appropriate, the Loch Lomond coyote thistle under the Endangered Species Act. Where prudent, critical habitat will be identified for the species. Such actions are taken upon determination that the species is endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	11/29/93	58 FR 62629
NPRM Comment Period End	01/28/94	
Final Action	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC14

1370. RECLASSIFICATIONS OF SOME POPULATIONS OF SALTWATER CROCODILES WITH SPECIAL RULE FOR SALTWATER AND NILE CROCODILES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service will develop regulations to declassify populations of the Saltwater crocodile in Australia and determine the appropriate status for the Papua New Guinea populations. Also included in this rulemaking is a special rule to allow commercial trade in skins, other parts, and products of saltwater crocodiles from Australia and Papua New Guinea populations and from Nile crocodiles in Appendix II of CITES. The combination of actions proposed will have the effect of stimulating legal and responsible trade in crocodile hides, and in this respect, constitutes removal of a barrier to trade.

Timetable:

Action	Date	FR Cite
NPRM	04/19/94	59 FR 18652
NPRM Comment Period End	07/18/94	
Final Action	04/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC30

1371. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: INTERCROSS PROGENY POLICY AND DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service and the National Marine Fisheries Service propose to amend the regulations implementing the Endangered Species Act by adding definitions for intercross and intercross progeny (to include hybrids). Also, 50 CFR 17.11(g) and 17.12(g) will be amended by adding wording to indicate that the listing of a taxon as endangered or threatened would include all individuals that share characteristic traits of that taxon, including individuals produced under conditions of confinement. The amendments are necessary in order to proceed with the evaluation and implementation of intercrossing as a recovery technique for the Florida panther.

Timetable:

Action	Date	FR Cite
NPRM	02/07/96	61 FR 4710
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC54

1372. EXPORT OF AMERICAN GINSENG HARVESTED IN 1994-1996

Priority: Routine and Frequent

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: NPRM, Statutory.

Abstract: This proposed rule will announce findings on the export of American ginseng from the 1994-96 harvest season in 21 States. The Service reviews information and data as a basis for determining whether to continue approval of export from specified States for this harvest season, or to initiate changes. Also, North Dakota has applied to export cultivated ginseng under a State program, and Michigan has submitted draft legislation and is intending to apply soon to export ginseng.

Timetable:

Action	Date	FR Cite
NPRM	09/26/94	59 FR 49046
NPRM Comment Period End	10/26/94	
Final Action	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Marshall Jones, Assistant Director, International Affairs, Department of the Interior, United States Fish and Wildlife Service, U.S. Fish and Wildlife Service, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-6393

RIN: 1018–AC55

1373. GENERAL PROVISIONS AND GENERAL PERMIT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 10; 50 CFR 13; 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to amend 50 CFR part 13 which provides uniform permit procedures relating to the application, issuance, renewal, suspension, revocation and general administration of Service permits. The Service's criteria for suspension and revocation of permits and its review procedures will also be revised. Permit fee rates are amended to increase rates for the cost of processing certain permits. This change is necessary in order to recover a larger percentage of the cost of processing the permits. Several new permit fee exemptions will be added.

Timetable:

Action	Date	FR Cite
NPRM	09/05/95	60 FR 46087
Final Action	05/00/96	
General provisions and general permit procedures		
NPRM (Reopened comment period)	11/15/95 (60 FR 57386)	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas L. Striegler, Deputy Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS-500 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1949

RIN: 1018–AC57

1374. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: JAGUAR

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed to extend endangered status to the jaguar in the United States portion of its range, without critical habitat. The jaguar is currently listed as an endangered species from the U.S./Mexico border southward through Central and South America. Currently no known breeding population of jaguar is known in the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/13/94	59 FR 35674
NPRM Comment Period End	09/11/94	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240

Phone: 703 358-2171

RIN: 1018–AC61

1375. CLEAN VESSEL ACT NATIONAL PUMPOUT SYMBOL

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-587

CFR Citation: 50 CFR 85

Legal Deadline: None

Abstract: The Service proposes to develop regulations that will provide boaters with a national pumpout/dump station symbol. Currently there is a confusing array of state and private pumpout and dump station symbols. This program was authorized by Congress to provide incentives to public and private boating facilities to develop a system to properly handle human waste from boaters. A national pumpout/dump station symbol will provide boaters with a single nationwide symbol of pumpout and dump locations and provide a consistent message about the program nationally in education materials produced by each state.

Timetable:

Action	Date	FR Cite
NPRM	09/19/95	60 FR 48491
NPRM Comment Period End	11/20/95	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Lang, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS-420 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2156

RIN: 1018–AC67

1376. SEIZURE AND FORFEITURE PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 4222 to 4241; 16 USC 4901 to 4916; 18 USC 42

CFR Citation: 50 CFR 12

Legal Deadline: None

Abstract: The Service proposes to amend regulations in 50 CFR part 12 that establish procedures relating to property seized or subject to administrative forfeiture under various laws enforced by the Service. This revision is intended to provide uniform guidance for the bonded release, appraisement, administrative proceeding, petition for remission, and disposal of items subject to forfeiture. Also these revisions are intended to provide for greater consistency of Service seizure and forfeiture procedures with those of the U.S. Customs Service.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58468
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Thomas L. Striegler, Deputy Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, MS-500 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1949

RIN: 1018–AC80

1377. EMERGENCY RECLASSIFICATION OF THE SNAKE RIVER SPRING/SUMMER CHINOOK SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service is reclassifying the Snake River spring/summer chinook salmon and the Snake River fall chinook salmon from threatened to endangered under the emergency provisions of the Endangered Species Act. This action reflects a determination by the National Marine Fisheries Service, Department of Commerce, which has jurisdiction for these species, that the species warrant emergency reclassification based on a projected decline in adult Snake River salmon abundance. This determination by the National Marine Fisheries Service was published in the Federal Register on August 18, 1994.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/02/94	59 FR 54840
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: State

Additional Information: During the 240 days this emergency rule is in effect, National Marine Fisheries Service will initiate and complete a rulemaking (with public comment period) to extend the reclassification of Snake River spring/summer and fall chinook salmon to endangered status under the Act until such time as reclassification or delisting is warranted. The action of the Fish and Wildlife Service to amend the List in accordance with the determination by NMFS is nondiscretionary.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC97

1378. IMPORTATION OF POLAR BEAR TROPHIES TAKEN IN CANADA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Service proposes regulations concerning the importation of sport-hunted trophies of polar bears legally taken by the applicant while hunting in Canada. Further, these regulations provide application requirements, permit procedures, issuance criteria; permit conditions, and a fee for each permit issued as required by the Marine Mammal Protection Act for the Service to establish and charge a reasonable fee. This rule does not discuss legal and scientific findings required by the Act's 1994 amendments that need to be made prior to issuing an import permit.

Timetable:

Action	Date	FR Cite
NPRM	01/03/95	60 FR 70
NPRM Comment Period End	03/06/95	

Action	Date	FR Cite
NPRM Comment Period Extended to 11/06/95	10/20/95	60 FR 54210
Final Action	12/00/96	
Polar bear trophies taken in Canada NPRM (Supplemental) 07/17/95 (60 FR 36382)		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Tieger, Chief, Branch of Permits, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS-420 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2104

RIN: 1018–AD04

1379. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULE FOR THE NORTHERN SPOTTED OWL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service will propose a section 4(d) rule for the northern spotted owl under the Endangered Species Act that will define the conditions under which incidental take of the species through habitat modification would not be a violation of Section 9 of the Act. An environmental impact statement is also being prepared, and will be available for review concurrent with the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	02/17/95	60 FR 9484
NPRM Comment Period End	05/18/95	
Final Action	03/00/97	
Northern spotted owl NPRM (Reopened Comment Period) 05/18/95 (60 FR 26712)		
NPRM (Reopened Comment Period) 07/17/95 (60 FR 36382)		
NPRM (Reopened Comment Period) 09/25/95 (60 FR 49358)		
Comment Period Extended to 11/24/95		
NPRM (Reopened Comment Period) 11/27/95 (60 FR 58323)		
NPRM (Reopened Comment Period) 01/31/96 (61 FR 3369)		
NPRM (Reopened Comment Period) 02/23/96 (61 FR 6964)		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD20

1380. TAXONOMIC CHANGE FROM SUBSPECIES TO VERTEBRATE POPULATION SEGMENT FOR THE VIRGIN RIVER CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Recent taxonomic work concluded that specific rank is warranted for the Virgin River chub, a federally listed endangered species found in the Virgin River system of Arizona, Nevada, and Utah. Additionally, researchers concluded that the chub in the Muddy River of Nevada, is conspecific with the Virgin River chub. Previously this distinctive population of the Virgin River chub, a category 2 candidate for Federal listing, was considered a separate, unnamed subspecies of roundtail chub, and was referred to as the Moapa roundtail chub. Because of this recent taxonomic work, the Service accepts that specific rank is warranted for the Virgin River chub and proposes to change the listing of the Virgin River chub in the Virgin River from a subspecies to a vertebrate population segment in the List of Endangered and Threatened Wildlife. In addition, the Service initiates a status review of the Virgin River chub in the Muddy River to determine whether this vertebrate population warrants listing as a threatened or endangered species.

Timetable:

Action	Date	FR Cite
NPRM	07/24/95	60 FR 37866
NPRM Comment Period End	09/22/95	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Local

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD22

1381. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: EXEMPTION OF SMALL PRIVATE LANDOWNERS AND LOW IMPACT ACTIVITIES FROM ENDANGERED SPECIES ACT REQUIREMENTS FOR THREATENED SPECIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1361 to 1407; 16 USC 1531 to 1544; 16 USC 4201 to 4245; PL 99-625

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to amend the general regulations for threatened species under Endangered Species Act by establishing a new exemption for certain small landowners and low impact activities that are presumed to individually or cumulatively have little or no lasting effect on the likelihood of survival and recovery of threatened species of fish and wildlife, and, therefore, have only minor or negligible adverse effects. This exemption would be applied to all threatened species of fish and wildlife listed in the future unless the Service concluded for a given species that the exemption was inappropriate because its individual or cumulative biological effects would not be insignificant for the species as a whole. This proposal also seeks to establish an additional general exemption for activities that are conducted in accordance with a State-authorized or -developed habitat conservation strategy for threatened species which the Service has found to comprehensively address the threats to the species and promote the species' survival and recovery.

Timetable:

Action	Date	FR Cite
NPRM	07/20/95	60 FR 37419

DOI—FWS

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	09/18/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD24

1382. PUBLIC USE REGULATIONS FOR ALASKA PENINSULA/BECHAROF NATIONAL WILDLIFE REFUGE COMPLEX

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460k

CFR Citation: 50 CFR 36

Legal Deadline: None

Abstract: The Service proposes regulations to implement portions of the Alaska Peninsula/Becharof National Wildlife Refuge Complex Public Use Management Plan. The rulemaking would allow the Service to manage public uses by adopting regulations addressing off-road vehicles, camping, and temporary facilities. The regulations will also provide for continued public use of the refuge complex while protecting refuge resources and resolving conflicts between refuge users.

Timetable:

Action	Date	FR Cite
NPRM	07/17/95	60 FR 36576
Final Action	05/00/96	
Public use regulations for Alaska		
NPRM (Reopened comment period)	10/16/95 (60 FR 53626)	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert Shallenberger, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, MS-670 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AD30

1383. PROPOSED JOINT COUNTERPART ENDANGERED SPECIES ACT SECTION 7 CONSULTATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 402

Legal Deadline: None

Abstract: It is the consensus among the involved agencies that section 7 consultations should occur at the level or levels that would most efficiently address impacts to proposed or listed species and their critical habitats. Accordingly, the Fish and Wildlife Service will propose joint regulations with the Department of Commerce that will provide more streamlined Section 7 consultation process on land management planning decisions and site-specific actions implemented under the management framework established by those plans.

Timetable:

Action	Date	FR Cite
NPRM	08/04/95	60 FR 39921
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD32

1384. SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA—SUBPARTS C AND D—1996-1997 SUBSISTENCE TAKING OF FISH AND WILDLIFE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3111 to 3126

CFR Citation: 50 CFR 100

Legal Deadline: None

Abstract: Rules will be developed that provide for the seasonal bag limits and dates for subsistence hunting, trapping, and fishing on Federal lands in Alaska. The seasons and bag limits are developed in cooperation with State and local governmental entities to ensure that fish and wildlife populations in the State are adequately protected.

Timetable:

Action	Date	FR Cite
NPRM	08/15/95	60 FR 42085
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Richard S. Pospahala, Office of Subsistence Management, Department of the Interior, United States Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503
Phone: 907 786-3467

RIN: 1018–AD42

1385. ADDITION OF OHIO RIVER NATIONAL WILDLIFE REFUGE TO THE LIST OF OPEN AREAS FOR FISHING IN WEST VIRGINIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460k

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: The Service proposes to add Ohio River Islands National Wildlife Refuge to the list of areas open for sport fishing in West Virginia along with pertinent refuge-specific regulations for such activities. National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	11/29/95	60 FR 61239
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Shallenberger, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, MS-670 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AD43

1386. ADDITION OF GREAT BAY NATIONAL WILDLIFE REFUGE TO THE LIST OF OPEN AREAS FOR HUNTING IN NEW HAMPSHIRE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460k

CFR Citation: 50 CFR 32

Legal Deadline: None

DOI—FWS

Final Rule Stage

Abstract: The Service proposes to add Great Bay National Wildlife Refuge to the list of areas open for migratory game bird hunting and big game hunting in New Hampshire along with pertinent refuge-specific regulations for such activities. National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	11/29/95	60 FR 61237
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Shallenberger, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, MS-670 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AD44

1387. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: DESIGNATION OF EXPERIMENTAL NONESSENTIAL WHOOPING CRANE POPULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to designate the whooping crane population in the Rocky Mountains as an experimental nonessential population and to remove whooping crane critical habitat designations from four national wildlife refuges: Bosque del Apache in New Mexico, Monte Vista and Alamosa in Colorado, and Grays Lake in Idaho. The private lands involved are holdings inside refuge boundaries and a 1-mile buffer around Grays Lake National Wildlife Refuge. The Service further proposes to use this population, and captive-reared sandhill cranes and whooping cranes, in experiments to evaluate methods for introducing whooping cranes into the wild where migration is required.

Timetable:

Action	Date	FR Cite
NPRM	02/06/96	61 FR 4394
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD45

1388. • PROPOSED ESTABLISHMENT OF NONESSENTIAL EXPERIMENTAL POPULATION OF CALIFORNIA CONDORS IN NORTHERN ARIZONA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service, in cooperation with the Arizona Game and Fish Department and the Bureau of Land Management, proposes to reintroduce California condors into northern Arizona. This reintroduction will achieve a primary recovery goal for this endangered species, establishment of a second non-captive population, spatially disjunct from the non-captive population in southern California. This population is proposed to be designated a nonessential experimental population. Captive-reared condors will be released in early 1996 (target date) and additional releases will occur annually thereafter until a self-sustaining wild population is established. The release site will be on the Vermilion Cliffs, in the southwestern corner of the Paria Plateau, Coconino county.

Timetable:

Action	Date	FR Cite
NPRM	01/02/96	61 FR 35
Final Action	06/00/96	
Proposed established population of California condors in Arizona		
NPRM (Reopened comment period)	02/06/96 (61 FR 4394)	
NPRM (Reopened comment period)	02/29/96 (61 FR 7770)	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD62

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Long-Term Actions

1389. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed to list, reclassify, or delist certain species of wildlife and plants as endangered or threatened species. When prudent, critical habitat will also be identified.

Timetable:
Inyo brown towhee (critical habitat)
NPRM 08/03/87 (52 FR 28787)
Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: Originally scheduled: April 1985. The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AA85

1390. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened or neither, and are based solely on the biological information available to the Department.

Timetable:
Indus River dolphin
NPRM 01/14/91 (56 FR 1464)
NPRM (Reopening of Comment Period) 10/07/91 (56 FR 50550)
Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB52

1391. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:
Addax antelope
NPRM 11/05/91 (56 FR 56491)
NPRM (Reopened Comment Period) 06/08/92 (57 FR 24220)
Final Action 00/00/00
Dama gazelle
NPRM 11/05/91 (56 FR 56491)
NPRM (Reopened Comment Period) 06/08/92 (57 FR 24220)
Final Action 00/00/00
Ohio emerald dragonfly
NPRM 00/00/00
Final Action 00/00/00
Oryx antelope
NPRM 11/05/91 (56 FR 56491)
NPRM (Reopened Comment Period) 06/08/92 (57 FR 24220)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB66

1392. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Statutory.
Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:
Peninsular bighorn sheep
NPRM 05/08/92 (57 FR 19837)
Final Action 00/00/00
Santa Cruz wallflower
NPRM 10/24/91 (56 FR 55107)
NPRM (Reopening of Comment Period) 05/26/92 (57 FR 21933)
Final Action 00/00/00
Scott's Valley spineflower
NPRM 10/24/91 (56 FR 55107)
NPRM (Reopening of Comment Period) 05/26/92 (57 FR 21933)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB73

1393. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:
Clubshell mussel
NPRM 06/18/92 (57 FR 27203)
Final Action 00/00/00
Coachella Valley milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 00/00/00
Fish Slough milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 00/00/00
Lane Mountain milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 00/00/00
Northern copperbelly water snake
NPRM 08/19/93 (58 FR 43860)
Final Action 00/00/00
Northern riffleshell mussel
NPRM 06/18/92 (57 FR 27203)
Final Action 00/00/00
Pairson's milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 00/00/00
Shining milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 00/00/00
Sodaville milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 00/00/00
Triple-ribbed milk-vetch
NPRM 05/08/92 (57 FR 19844)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB75

1394. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:
(PR) Thelypteris inabonensis (NCN)
NPRM 07/02/93 (58 FR 35887)
Final Action 00/00/00
(PR) Thelypteris verecunda (NCN)
NPRM 07/02/93 (58 FR 35887)
Final Action 00/00/00
(PR) Thelypteris yaucoensis (NCN)
NPRM 07/02/93 (58 FR 35887)
Final Action 00/00/00
Arizona willow
NPRM 11/20/92 (57 FR 54747)
Final Action 04/28/95 (60 FR 20951)
Kodachrome pepper-grass
NPRM 11/03/92 (57 FR 49671)
Kodachrome pepper-grass (Withdrawal)
NPRM 10/06/93 (58 FR 52058)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB83

1395. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:
(Nihoa) Amaranthus brownii (NCN)
NPRM 03/24/93 (58 FR 15828)
Final Action 00/00/00
(Nihoa) Loulu
NPRM 03/24/93 (58 FR 15828)
Final Action 00/00/00
(Nihoa) Schiedea verticillata (NCN)
NPRM 02/24/93 (58 FR 15828)
Final Action 00/00/00
(Niihau) Wahane
NPRM 12/17/92 (57 FR 59970)
Final Action 00/00/00
Bidens cuneata, delisting
NPRM 07/07/93 (58 FR 36387)
Final Action 02/06/96 (61 FR 4372)
Braunton's milk-vetch
NPRM 11/30/92 (57 FR 56541)
Final Action 00/00/00
Conejo dudleya
NPRM 11/30/92 (57 FR 56541)
Final Action 00/00/00
Hartweg's golden sunburst
NPRM 11/30/92 (57 FR 56549)
Final Action 00/00/00
Hawaiian hawk
NPRM 08/05/93 (58 FR 41684)
Final Action 00/00/00
Lyon's pentachaeta
NPRM 11/30/92 (57 FR 56541)
Final Action 00/00/00
Marcescent dudleya
NPRM 11/30/92 (57 FR 56541)
Final Action 00/00/00
Rio Grande silvery minnow
NPRM 03/01/93 (58 FR 11821)
Final Action 07/20/94 (59 FR 36988)
San Joaquin adobe sunburst
NPRM 11/30/92 (57 FR 56549)
Final Action 00/00/00
Santa Monica Mountains dudleya
NPRM 11/30/92 (57 FR 56541)
Final Action 00/00/00

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United

States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB88

1396. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Appalachian elktoe
NPRM 09/03/93 (58 FR 46940)
Final Action 11/23/94 (59 FR 60324)
Arroyo southwestern toad
NPRM 08/03/93 (58 FR 41378)
NPRM (Reopening of Comment Period) 09/09/93 (58 FR 47428)
Final Action 12/16/94 (59 FR 64859)
Dugong
NPRM 08/05/93 (58 FR 41688)
Final Action 00/00/00
Louisiana black bear, critical habitat
NPRM 12/03/93 (58 FR 63560)
NPRM (Reopening of Comment Period) 03/07/94 (59 FR 10607)
Final Action 00/00/00
McFarlane's four-o'clock
NPRM 08/26/93 (58 FR 45085)
Final Action 03/15/96 (61 FR 10693)
Pahrump poolfish
NPRM 09/22/93 (58 FR 49279)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB97

1397. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: EIGHT VERNAL POOL PLANTS OF THE CENTRAL VALLEY OF CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Colusa grass
NPRM 08/05/93 (58 FR 41700)
NPRM (Reopening of Comment Period) 10/06/93 (58 FR 52063)
Final Action 00/00/00
Fleshy owl's grass
NPRM 08/05/93 (58 FR 41700)
NPRM (Reopening of Comment Period) 10/06/93 (58 FR 52063)
Final Action 00/00/00
Greene's tuctoria
NPRM 08/05/93 (58 FR 41700)
NPRM (Reopening of Comment Period) 10/06/93 (58 FR 52063)
Final Action 00/00/00
Hairy orcutt grass
NPRM 08/05/93 (58 FR 41700)
NPRM (Reopening of Comment Period) 10/06/93 (58 FR 52063)
Final Action 00/00/00
Hoover's spurge
NPRM 08/05/93 (58 FR 41700)
NPRM (Reopening of Comment Period) 10/06/93 (58 FR 52063)
Final Action 00/00/00
Sacramento orcutt grass
NPRM 08/05/93 (58 FR 41700)
NPRM (Reopening of Comment Period) 10/06/93 (58 FR 52063)
Final Action 00/00/00
San Joaquin Valley orcutt grass
NPRM 08/05/93 (58 FR 41700)
NPRM (Reopening of Comment Period) 10/06/93 (58 FR 52063)
Final Action 00/00/00
Slender orcutt grass
NPRM 08/05/83 (58 FR 41700)
NPRM (Reopening of Comment Period) 10/06/93 (58 FR 52063)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC00

1398. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Big-leaved crown-beard
NPRM 10/01/93 (58 FR 51302)
Final Action 00/00/00
Del Mar manzanita
NPRM 10/01/93 (58 FR 51302)
Final Action 00/00/00
Del Mar sand aster
NPRM 10/01/93 (58 FR 51302)
Final Action 00/00/00
Encinitas baccharis
NPRM 10/01/93 (58 FR 51302)
Final Action 00/00/00
Orcutt's spineflower
NPRM 10/01/93 (58 FR 51302)
Final Action 00/00/00
Short-leaved dudleya
NPRM 10/01/93 (58 FR 51302)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC01

1399. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: THREE PUERTO RICAN TREES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Ortegon
NPRM 09/24/93 (58 FR 49960)
NPRM (Reopening of Comment Period) 11/25/94 (59 FR 60598)
Final Action 00/00/00

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC04

1400. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FLAT-TAILED HORNED LIZARD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed to list the Flat-tailed horned lizard as an endangered or threatened species. When prudent, critical habitat will also be identified.

Timetable:

Action	Date	FR Cite
NPRM	11/29/93	58 FR 62624
NPRM Comment Period End	01/26/94	
NPRM (Reopening of Comment Period)	02/22/94	59 FR 8450
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC10

1401. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: SAN XAVIER TALUSSNAIL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, the San Xavier talussnail under the Endangered Species Act. Where prudent, critical habitat will be identified for the endangered or threatened species. Such actions are taken only upon determination that the species is endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	03/23/94	59 FR 13691
NPRM Comment Period End	05/23/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC13

1402. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: ALASKA BREEDING POPULATION OF THE STELLER'S EIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.

In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will list, reclassify, or delist, as appropriate the Alaska breeding populations of the Steller's eiders under the Endangered Species Act, and where prudent, would identify critical habitat. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	07/14/94	59 FR 35896
NPRM Comment Period End	11/14/94	
Barton Springs salamander		
NPRM (Reopening of Comment Period)	06/30/95 (60 FR 34225)	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC19

1403. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PARISH'S ALKALI GRASS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will list, reclassify, or delist, as appropriate, Parish's alkali grass, under the Endangered Species Act, and where prudent, critical habitat is identified. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	03/28/94	59 FR 14378
NPRM Comment Period End	05/27/94	
NPRM (Reopening of Comment Period)	08/30/94	59 FR 44700
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC21

1404. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: BARTON SPRINGS SALAMANDER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which will determine the appropriate status of the Barton Springs salamander under the Endangered Species Act, and where prudent, will identify critical habitat. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	02/17/94	59 FR 7968
NPRM Comment Period End	04/18/94	
Barton springs salamander		
NPRM (Reopening of Comment Period)	05/26/94 (59 FR 27257)	
NPRM (Reopening of Comment Period)	03/10/95 (60 FR 13105)	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC22

1405. ENDANGERED AND THREATENED SPECIES: SACRAMENTO SPLITTAIL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will list, reclassify, or delist, as appropriate, the Sacramento splittail under the Endangered Species Act, and where prudent, will identify critical habitat. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	01/06/94	59 FR 862
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC26

1406. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TWO CALIFORNIA BUTTERFLIES AND A SNAKE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing, no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Callippe silverspot butterfly, the Behren's silverspot butterfly, and the Alameda whipsnake. All three species, and the larval food plants on which the female butterflies lay their eggs are threatened by over-collection, commercial/residential development, alien plant competition, unsuitable levels of livestock grazing, trampling by hikers, livestock, and off-road vehicle use.

Timetable:

Action	Date	FR Cite
NPRM	02/04/94	59 FR 5377
NPRM Comment Period End	04/05/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC32

1407. MARBLED MURRELET CRITICAL HABITAT DESIGNATION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: NPRM, Judicial, January 21, 1994. Final, Statutory, January 27, 1995.
On November 2, 1993, the US District Court, Western District of Washington, ordered the Secretary to propose critical habitat for the marbled murrelet no later than January 21, 1994.

Abstract: Regulations will be developed to designate critical habitat for the marbled murrelet. Species ranges from Aleutian Archipelago in Alaska to central California. The species is listed as a threatened distinct vertebrate population segment in Washington, Oregon, and California.

Timetable:

Action	Date	FR Cite
NPRM	01/27/94	59 FR 3811
NPRM Comment Period End	04/27/94	
Marbled murrelet critical habitat		
NPRM (Supplemental)	08/10/95 (60 FR 40892)	
Next Action Undetermined		

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC33

1408. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: CALIFORNIA RED-LEGGED FROG

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing, no later than one year after such proposal.

Abstract: Regulations will be developed to determine the appropriate status of the California red-legged frog. Designation of critical habitat is not prudent at this time. This species occurs from Marin County south to Baja California, Mexico. Only 6 populations remain in the entire Central Valley hydrologic basin, the former stronghold of the species; extinction on the floor of the Central Valley occurred sometime before 1960.

Timetable:

Action	Date	FR Cite
NPRM	02/02/94	59 FR 4888
NPRM Comment Period End	04/04/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC34

1409. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: SPRING CREEK BLADDERPOD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list,

withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed to determine the appropriate status for the Spring Creek bladderpod. The Spring Creek bladderpod is an annual member of the mustard family that grows on the floodplain of a limited number of streams in Tennessee.

Timetable:

Action	Date	FR Cite
NPRM	08/23/94	59 FR 43322
NPRM Comment Period End	10/24/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC42

1410. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FIVE CALIFORNIA SIERRAN FOOTHILLS PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will list, reclassify, or delist, as appropriate, five California plant species the Stebbins' morning-glory, Pine Hill ceanothus, Pine Hill flannelbush, El Dorado bedstraw, and Layne's butterweed under the Endangered Species Act. Where prudent, critical habitat will be identified. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	04/20/94	59 FR 18774
NPRM Comment Period End	07/19/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC47

1411. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: GOLDEN PAINTBRUSH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will list, reclassify, or delist, as appropriate, the Golden paintbrush under the Endangered Species Act, and where prudent, will identify critical habitat. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	05/10/94	59 FR 24106
NPRM Comment Period End	07/04/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC52

1412. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: DELISSEA UNDULATA (NO COMMON NAME (NCN))

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, the Hawaiian plant, Delissea undulata (NCN) under the Endangered Species Act, and where prudent, would identify critical habitat.

Timetable:

Action	Date	FR Cite
NPRM	06/27/94	59 FR 32946
NPRM Comment Period End	08/26/94	
NPRM (Reopening of Comment Period)	09/30/94	59 FR 49907

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC56

1413. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: ARKANSAS RIVER SHINER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Arkansas River population of the Arkansas River shiner. This small minnow is endemic to the Arkansas River drainage in Arkansas, Kansas, New Mexico, Oklahoma, and Texas, but is presently almost entirely restricted to the Canadian/South Canadian River in Oklahoma, Texas, and New Mexico.

Timetable:

Action	Date	FR Cite
NPRM	08/03/94	59 FR 39532
NPRM Comment Period End	10/03/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC62

1414. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: SEVEN FRESHWATER MUSSELS FROM ALABAMA, FLORIDA, AND GEORGIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for seven freshwater mussels from the Apalachicolan Region of SE Alabama, SW Georgia and north Florida. The seven species are: Chipola slabshell, Purple bankclimber, Fat three-ridge, Shiny-rayed pocketbook Gulf moccasinshell, Ochlockonee moccasinshell, and Oval pigtoe. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	08/03/94	59 FR 39524
NPRM Comment Period End	11/01/94	
Final Action	00/00/00	
Seven freshwater mussels		
NPRM (Reopening of Comment Period)	12/12/94	(59 FR 63987)
7 freshwater mussels from AL, FL and GA		
NPRM (Reopening of Comment Period)	04/24/95	(60 FR 20072)

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC63

1415. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FIVE FRESHWATER MUSSELS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for five freshwater mussels under the Endangered Species Act. The five species are the Cumberland elktoe, Oyster mussel, Cumberlandian combshell, Purple bean, and Rough rabbitsfoot. Where prudent, critical habitat will be identified. Such actions are taken upon the determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	07/14/94	59 FR 35900
NPRM Comment Period End	09/12/94	
five freshwater mussels		
NPRM (Reopening of Comment Period)	11/16/94	(59 FR 59200)

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC64

1416. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TWO PLANTS FROM SOUTHWESTERN CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service will develop regulations that will determine the appropriate status for two plants the Cuyamaca Lake downingia and Parish's meadowfoam. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	08/04/94	59 FR 39879
NPRM Comment Period End	10/31/94	59 FR 49045

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC65

1417. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: MAGUIRE DAISY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Maguire daisy. This perennial herb is restricted to desert shrub-lands in south-central Utah. Critical habitat is not being recommended at this time

Timetable:

Action	Date	FR Cite
NPRM	09/07/94	59 FR 46219
NPRM Comment Period End	11/07/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC71

1418. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: EGGERT'S SUNFLOWER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Eggert's sunflower, a perennial member of the aster family. This species is presently known from Alabama, Tennessee, and Kentucky. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	09/09/94	59 FR 46607
NPRM Comment Period End	11/08/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC74

1419. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: SAN DIEGO FAIRY SHRIMP

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: The Service will propose regulations that will determine the appropriate status for the San Diego fairy shrimp. This species occurs in vernal pools within San Diego County in southwestern California, and its range extends into northwestern Baja California, Mexico. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	08/04/94	59 FR 39874
NPRM Comment Period End	10/26/94	59 FR 49025
San Diego fairy shrimp		
NPRM (Reopening of Comment Period)	01/03/95	(60 FR 69)

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC83

1420. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TWO CALIFORNIA BUTTERFLIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: The Service will propose regulations that will determine the appropriate status for two butterflies--the Laguna Mountains skipper, found in Laguna and Palomar Mountains of San Diego County, and the Quino checkerspot found in north-central and southern San Diego County and northwestern Baja California, Mexico. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	08/04/94	59 FR 39868
NPRM Comment Period End	10/31/94	59 FR 49045

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC84

1421. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: CACTUS FERRUGINOUS PYGMY-OWL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the cactus ferruginous pygmy-owl. The Service proposes to list the species as endangered in Arizona, with critical habitat, and as threatened in Texas.

Timetable:

Action	Date	FR Cite
NPRM	12/12/94	59 FR 63975
NPRM Comment Period End	02/10/95	
NPRM (Reopening of Comment Period)	04/14/95	60 FR 19013

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC85

1422. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR SOUTHWESTERN CALIFORNIA PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed to determine the appropriate status for four plants found in southwestern California and northwestern Baja California, Mexico. These species are: Munz's onion, San Jacinto Valley crownscale, Thread-leaved brodiaea, and Spreading navarretia. These four plants occur in vernal pools and other wetlands or on clay soils and moist grasslands throughout their range. Critical habitat will be proposed for the San Jacinto Valley crownscale, only at this time.

Timetable:

Action	Date	FR Cite
NPRM	12/15/94	59 FR 64794
NPRM Comment Period End	02/13/95	
NPRM (Reopening of Comment Period)	03/07/95	60 FR 12531

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC88

1423. CRITICAL HABITAT DESIGNATION FOR THE LOST RIVER AND SHORTNOSE SUCKERS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will identify critical habitat for the Lost River and Shortnose suckers, two species federally listed as endangered. Both species are endemic to the Upper Klamath River Basin of Oregon and California.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61744
NPRM Comment Period End	01/30/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC90

1424. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: LEAST CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend that rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Least chub under the Endangered Species Act.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC91

1425. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: 4 CALIFORNIA PLANTS FROM VERNAL POOLS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for four plants--Contra Costa gold fields, Few-flowered navarretia, Many-flowered navarretia, and the Lake County stone crop. These species grow in and around the margins of vernal pools and in seasonally wet areas in northern California.

Timetable:

Action	Date	FR Cite
NPRM	12/19/94	59 FR 65311
NPRM Comment Period End	02/17/95	
NPRM (Reopening of Comment Period)	03/16/95	60 FR 14253

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC96

1426. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TWO SAN FRANCISCO PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine appropriate status for 2 plants--San Francisco lessingia and the San Bruno Mountains manzanita. The San Francisco lessingia is currently restricted to the Presidio in San Francisco County. The San Bruno manzanita is currently found only on San Bruno Mountain in San Mateo County.

Timetable:

Action	Date	FR Cite
NPRM	10/04/94	59 FR 50550
NPRM Comment Period End	12/05/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC98

1427. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: 10 PLANTS FROM THE CALIFORNIA SIERRA NEVADA MOUNTAINS FOOTHILLS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine appropriate status for 10 plants: Chinese Camp brodiaea, Piute Mountains navarretia, Carpenteria, Springville clarkia, Kelso Creek monkeyflower, Red Hills vervain, Rawhide Hill onion, Mariposa lupine, Mariposa pussypaws, and Greenhorn adobe lily, under the Endangered Species Act. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	10/04/94	59 FR 50540
NPRM Comment Period End	12/05/94	
NPRM (Reopening of Comment Period)	12/29/94	59 FR 67268
NPRM (Reopening of Comment Period)	02/14/95	60 FR 8342

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC99

1428. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: BROTHER'S ISLAND TUATARA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed to determine the status for the reptile, Brother's Island tuatara. This reptile is known only from North Brother's Island in Cook Strait, New Zealand. Although legally covered by an endangered classification, this species previously was considered part of the related and more widespread tuatara (Sphenodon punctatus). Both species are threatened by various factors (excessive human hunting) especially predation from introduced rats.

Timetable:

Action	Date	FR Cite
NPRM	01/26/95	60 FR 5159
NPRM Comment Period End	04/26/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD06

1429. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOR CALIFORNIA PLANTS AND THE BLACK LEGLESS LIZARD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for five plants--Coastal dunes milk-vetch, Yadon's piperia, Hickman's potentilla, Monterey clovers, Gowen cypress, and the Black legless lizards--under the Endangered Species Act. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	06/02/95	60 FR 39326
NPRM Comment Period End	09/25/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD09

1430. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: CRITICAL HABITAT DESIGNATION FOR THE WESTERN SNOWY PLOVER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, June 1, 1995.

Abstract: The Service proposes to designate critical habitat for the Pacific coast population of the Western snowy plover. The plover was listed as a threatened species on March 5, 1993. Critical habitat for the plover is proposed in coastal areas of Washington, Oregon, and California.

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11768
Western snowy plover NPRM (Reopening of Comment Period)	05/15/95	(60 FR 25882)

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD10

1431. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: THREE SOUTHERN ARIZONA CIENEGA SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for three Arizona cienega plant species: Canela Hills ladies'-tresses (without critical habitat), Huachuca water umbel and Sonora tiger salamander, with critical habitat, under the Endangered Species Act. These species are located in three counties in southern Arizona and northern Sonora, Mexico.

Timetable:

Action	Date	FR Cite
NPRM	04/03/95	60 FR 16836
Three southern Arizona cienega species NPRM (Reopening of Comment Period)	06/22/95	(60 FR 32483)
NPRM (Reopening of Comment Period)	09/12/95	(60 FR 47340)

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily

suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD11

1432. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: U.S. POPULATIONS OF ATLANTIC SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for a distinct population segment (in seven eastern Maine river systems) of anadromous Atlantic salmon without critical habitat, under the Endangered Species Act. Where once the Atlantic salmon occurred from the Housatonic River, Connecticut to the St. Croix River on the Maine-New Brunswick, Canada border, now most salmon populations have been extirpated and some spawning habitat is no longer accessible or is unsuitable, due to dams or water pollution. Currently, remnant populations of anadromous Atlantic salmon are restricted to several rivers in eastern Maine. This is a joint Fish and Wildlife Service/National Marine Fisheries Service rule/finding with neither agency having the lead.

Timetable:

Action	Date	FR Cite
NPRM	09/29/95	60 FR 50530
NPRM Comment Period End	12/28/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD12

1433. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TWO SAN FRANCISCO MARSH PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for two San Francisco marsh plants, Suisun thistle and Soft bird's-beak, under the Endangered Species Act. These two species are restricted to either salt or brackish marshes within the greater San Francisco Bay area in northern California.

Timetable:

Action	Date	FR Cite
NPRM	06/12/95	60 FR 31000
NPRM Comment Period End	07/27/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD14

1434. CRITICAL HABITAT PROPOSAL FOR VIRGIN RIVER FISHES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: The Service proposes to designate critical habitat for the Virgin River Chub, the Woundfin and Virgin spinedace. The Virgin River chub and Woundfin are listed as endangered; the Virgin spinedace has been proposed for listing as threatened (May 18, 1994), but the listing has not been finalized as yet.

Timetable:

Action	Date	FR Cite
NPRM	04/05/95	60 FR 17296
NPRM Comment Period End	06/05/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: This rulemaking was inadvertently published as RIN 1018-AD22. The final rule will be published with the correct RIN 1018-AD23. The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD23

1435. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PROPOSED ENDANGERED STATUS FOR 13 PLANTS FROM THE ISLAND OF HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than 1 year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for 13 plant taxa from the Island of Hawaii, State of Hawaii. All of the 13 taxa and their habitats have been variously affected or are currently affected by several factors including competition from naturalized, introduced vegetation, habitat degradation by wild, feral, or domestic animals and habitat loss and damage from fires, predation, natural disasters, (volcanic activity).

Timetable:

Action	Date	FR Cite
NPRM	09/25/95	60 FR 49377

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Local

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD25

1436. ENDANGERED SPECIES LISTING: THREE AQUATIC INVERTEBRATES IN COMAL AND HAYS COUNTIES, TEXAS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for three aquatic invertebrates: Peck's cave amphipod, Comal Springs riffle beetle and Comal Springs dryopid beetle. These species are known only from springs in Comal County and Hays County, Texas. They are threatened by loss of necessary aquatic habitat due to increasing groundwater withdrawal by humans throughout the aquifer that supplies the springs and by the potential for contamination of their limited range.

Timetable:

Action	Date	FR Cite
NPRM	06/05/95	60 FR 29537

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD28

1437. SEVEN PLANTS FROM THE MOUNTAINS OF SOUTHERN CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: The Service will develop regulations that will determine the appropriate status for seven plants from the mountains of southern California: San Bernadino bluegrass, and California dandelion, Johnson's rock-cress, Bear Valley sandwort, Ash-grey Indian paintbrush, Southern mountain wild buckwheat, and Hidden Lake bluecurls.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39337

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD34

1438. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PALLID MANZANITA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory.
In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the Pallid manzanita. This plant species is found only in dry chaparral habitat within or near the northern Diablo Range of California in Alameda and Contra Costa Counties. The species is threatened by shading and competition from native and non-native plants, fire suppression, habitat regulatory mechanisms, and stochastic events by virtue of the small isolated nature of the remaining populations. All occurrences of this species are located on state, county and private lands.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39309

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240

Phone: 703 358-2171

RIN: 1018–AD35

1439. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: NINE PLANTS FROM CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for nine California plants: Sonoma alopecurus, Clara Hunt's milkvetch, white sedge, Vine Hill clarkia, Pitkin marsh lily, Calistoga allocarya, Napa bluegrass, Kenwood marsh checkermallow, and Showy Indian clover. These plants are found in the grasslands and mesic areas of the central coast of California. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39314

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD36

1440. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: THREE PLANTS FROM THE CHANNEL ISLANDS OF SOUTHERN CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for the three plants: Catalina Island mountain-mahogany, San Clemente Island woodland star, and the Santa Cruz Island rockcress. These three plants occur on the Southern California Channel Islands. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 37987

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD37

1441. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR SOUTHWESTERN CALIFORNIA PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for four California plants: San Diego thornmint, Laguna Beach liveforever, Otay tarweed and Willowy monardella. These species are found in San Diego County and northern Baja, California. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	08/09/95	60 FR 40549

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD38

1442. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: SIXTEEN PLANT TAXA FROM THE NORTHERN CHANNEL ISLANDS, CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for sixteen plant taxa from California: Hoffmann's rock-cress, Santa Rosa Island manzanita, Island barberry, Soft-leaved paintbrush, Santa Rosa Island dudleya, Munchkin dudleya, Santa Cruz Island dudleya, Island bedstraw, Hoffmann's slender-flowered gilia, Island rush-rose, Island alumroot, Santa Cruz Island bushmallow, Santa Cruz Island malacothrix, Island malacothrix, Island phacelia, and Santa Cruz Island fringepod. The plant taxa and their habitats have been affected by soil loss, habitat alteration by mammals alien to the Channel Islands, direct predation by these same alien mammals, habitat alteration by native seabirds, and seabirds and vehicular traffic, overcollection for scientific or recreational purposes, and competition from other plants. All 16 taxa are endemic to the northern Channel Islands (Anacapa, Santa Cruz, Santa Rosa, and San Miguel) with the exception of one population of island rush-rose that occurs on the more southerly island of Santa Catalina.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 37993

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD39

1443. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PROPOSED ENDANGERED OR THREATENED STATUS FOR 19 PLANT SPECIES FROM THE ISLAND OF KAUAI, HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for 22 plants from the Island of Kauai, Hawaii: Alsinidendron lychoides (kauawaaenohu); Alsinidendron viscosum (no common name ((NCN)); Cyanea recta (haha); Cyanea remyi (haha); Cyannea sa sp. nov.(ha ha) Cyrtandra cyaneoides (mapele) Delissea rivularis ('oha); Hibiscadelphus sp. nov. (hau kuahiwi); Hibiscus waimeae ssp. hannerae (koki'o ke'oke'o); Kokia kauaiensis (koki'o); Labordia tinifolia var. wahiawaensis (kamakahala); Myrsine linearfolia (kolea); Phyllostegia knudenii (NCN); Phyllostegia wawrana (NCN); Pritchardia napaliensis; (loulu); Pritchardia viscosa (loulu); Schiedea helleri (NCN); Schiedea membranacea (NCN); Schiedea stellarioides (lauliihilihi); Viola kauaiensis var. wahiawaensis (nani wai'ale'ale). Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	09/25/95	60 FR 49359

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD46

1444. ENDANGERED SPECIES LISTING: NOGAL OR WEST INDIAN WALNUT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: The Service will propose regulations that will determine the appropriate status for the Nogal or West Indian walnut. The large forest tree is known from the Islands of Hispaniola, Cuba and Puerto Rico. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	09/28/95	60 FR 50173

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD47

1445. ENDANGERED SPECIES LISTING: CORDIA BELLONIS (NO COMMON NAME)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: The Service will propose regulations that will determine the appropriate status for cordia bellonis (no common name) under the Endangered Species Act. This shrub is endemic to Puerto Rico. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	09/28/95	60 FR 50176

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD48

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1446. ENDANGERED SPECIES LISTING: THREE PLANTS FROM MOLOKAI, HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: The Service will propose regulations that will determine the appropriate status for 3 plants from the Island of Molokai, Hawaii; Cyanea du bariil (haha); Lysimachia maxima (No Common Name (NCN)); and Schiedea sarmentosa (NCN).

Timetable:

Action	Date	FR Cite
NPRM	10/02/95	60 FR 51436
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD49

1447. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: 25 PLANTS FROM OAHU, HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1633 the Service must take action (list withdraw or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: The Service will propose regulations that will determine the appropriate status for a plant taxa endemic to the Island of Oahu in Hawaii. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	10/02/95	60 FR 51398
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD50

1448. ENDANGERED SPECIES LISTING: GUAJON OR ROCK FROG

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw or extend the rulemaking for six months) on a proposed listing no later than-one year after such proposal.

Abstract: The Service will propose regulations that will determine the appropriate status for the guajon or rock frog. This frog is endemic to Puerto Rico and is known from the Pandura mountain range in the extreme southeastern part of the island. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	10/02/95	60 FR 51432
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD52

1449. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOURTEEN PLANTS FROM THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, The Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for fourteen plant taxa endemic to the Hawaiian Islands: Achyranthes mutica; Ccenchrus agrimonioides; Cyanea grimesiana ssp. grimesiana; Cyperus trachysanthos; Euphorbia haeleeleana; Isodendrion laufolium; Isodendrio longifolium; Panicum niihauense; Phyllostegia parviflora; Platanthera holochila; Sanicula purpurea; Schiedea hookeri; Schiedea kauaiensis; and Schiedea nuttallii. All plant taxa are endemic to the Hawaiian Islands and found or were found on more than one island. None of the taxa are located exclusively on Federal land. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	10/02/95	60 FR 51417
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD58

1450. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR PLANTS FROM INTERIOR CHAPARRAL OF SOUTHWESTERN CALIFORNIA AND NORTHWESTERN BAJA CALIFORNIA, MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory. In accordance with 16 USC 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed that will determine the appropriate status for four plants Nevin's barberry, Mexican flannelbush, Vail Lake ceanothus and Deheea beargrass. These perennial shrubs and plants are found in chaparral habitat west of the Peninsular Ranges in southwestern California and northwestern Baja California, Mexico. Critical habitat is not being proposed at this time.

Timetable:

Action	Date	FR Cite
NPRM	10/02/95	60 FR 51445
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Additional Information: The rulemaking action(s) listed under this RIN has(have) been temporarily suspended due to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: E. LaVerne Smith, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, MS-452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD60

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

Completed Actions

1451. THE NATIONAL COASTAL WETLAND CONSERVATION GRANT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 84

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Anticipated During this Agenda Period.	02/09/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Lang
Phone: 703 358-2156

RIN: 1018–AB68

1452. HUMANE AND HEALTHFUL TRANSPORT REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 14

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Anticipated During this Agenda Period.	02/09/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Susan Lieberman
Phone: 703 358-2095

RIN: 1018–AC08

1453. INCIDENTAL TAKE PROVISIONS FOR ENDANGERED AND THREATENED MIGRATORY BIRDS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 21

Completed:

Reason	Date	FR Cite
Withdrawn - No Further Action Required.	02/06/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul R. Schmidt
Phone: 703 358-1714

RIN: 1018–AC29

1454. RIGHTS-OF-WAY MANAGEMENT ON NATIONAL WILDLIFE REFUGES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 29

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Anticipated During this Agenda Period.	02/09/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Shallenberger
Phone: 703 358-1744

RIN: 1018–AC45

1455. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: VIRGIN SPINEDACE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	02/06/96	61 FR 4401

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AC53

1456. MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1994

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 13; 50 CFR 18

Completed:

Reason	Date	FR Cite
Withdrawn Action covered by other RINs	02/06/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Tieger
Phone: 703 358-2104

RIN: 1018–AC68

1457. EXPORT FINDING FOR BOBCATS, LYNX, AND RIVER OTTERS HARVESTED IN 1994 AND SUBSEQUENT SEASONS

Priority: Routine and Frequent

CFR Citation: 50 CFR 23

Completed:

Reason	Date	FR Cite
Final Action	01/26/96	61 FR 2454
Final Action Effective	01/26/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Marshall Jones
Phone: 202 208-6393

RIN: 1018–AC70

1458. CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (CITES); CHANGES TO THE APPENDICES

Priority: Other

CFR Citation: 50 CFR 10

Completed:

Reason	Date	FR Cite
Final Action	09/29/95	60 FR 50477
Final Action Effective	09/29/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles W. Dane
Phone: 703 358-1708

RIN: 1018–AC78

1459. REFUGE-SPECIFIC HUNTING AND FISHING REGULATIONS

Priority: Routine and Frequent

CFR Citation: 50 CFR 32

Completed:

Reason	Date	FR Cite
Final Action	12/04/95	60 FR 62035
Final Action Effective	12/04/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Shallenberger
Phone: 703 358-1744

RIN: 1018–AC80

1460. MARINE MAMMAL PROTECTION ACT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 18

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Anticipated During this Agenda Period.	02/09/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Peoples, Acting Chief
Phone: 703 358-1718

RIN: 1018–AD15

1461. MARINE MAMMAL PROTECTION ACT; LETHAL TAKE FOR HUMAN PROTECTION

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 18

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Anticipated During this Agenda Period.	02/09/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Peoples, Acting Chief
Phone: 703 358-1718

RIN: 1018–AD16

1462. MARINE MAMMAL PROTECTION ACT; IMPORTATION OF MARINE MAMMAL PRODUCTS ARE PERSONAL EFFECTS FOR NON-COMMERCIAL CULTURAL EXCHANGES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 18

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Anticipated During this Agenda Period.	02/09/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Peoples, Acting Chief
Phone: 703 358-1718

RIN: 1018–AD17

1463. MARINE MAMMALS; INCIDENTAL TAKE DURING SPECIFIED ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 18

Completed:

Reason	Date	FR Cite
Final Action	08/17/95	60 FR 42805
Final Action Effective	08/15/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Peoples, Acting Chief
Phone: 703 358-1718

RIN: 1018–AD21

1464. MIGRATORY BIRDS: TAKE PROVISIONS FOR BALD EAGLES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 22

Completed:

Reason	Date	FR Cite
Withdrawn - No Action Anticipated During this Agenda Period.	02/09/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul R. Schmidt
Phone: 703 358-1714

RIN: 1018–AD26

1465. ADDITION OF DEEP FORK NATIONAL WILDLIFE REFUGE TO THE LIST OF OPEN AREAS FOR SPORT FISHING IN OKLAHOMA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 32

Completed:

Reason	Date	FR Cite
Final Action	11/29/95	60 FR 61211
Final Action Effective	12/19/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Shallenberger
Phone: 703 358-1744

RIN: 1018–AD27

1466. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: ESTABLISHMENT OF NONESSENTIAL EXPERIMENTAL POPULATION OF BLACK-FOOTED FERRETS IN ARIZONA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	03/20/96	61 FR 11320

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: E. LaVerne Smith
Phone: 703 358-2171

RIN: 1018–AD29

1467. ADDITION OF OTTAWA NATIONAL WILDLIFE REFUGE TO LIST OF OPEN AREAS FOR BIG GAME HUNTING IN OHIO

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 32

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61490
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Shallenberger
Phone: 703 358-1744

RIN: 1018–AD31

1468. CONFERRING DESIGNATED PORT STATUS ON ATLANTA, GA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 14

Completed:

Reason	Date	FR Cite
Final Action	02/02/96	61 FR 3849
Final Action Effective	03/04/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas L. Striegler
Phone: 703 358-1949

RIN: 1018–AD33

1469. CAPTIVE WILDLIFE UNDER THE ENDANGERED SPECIES ACT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn - No action anticipated during this agenda period.	02/09/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Kenneth Stansell
Phone: 703 358-2093
Fax: 703 358-2080

RIN: 1018–AD53

1470. EXPORT OF GINSENG HARVESTED IN WASHINGTON STATE IN 1995-97

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 23.51

Completed:

Reason	Date	FR Cite
Withdrawn - No action anticipated during this agenda period.	02/09/96	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Susan Lieberman
Phone: 703 358-2095
Fax: 703 358-2281

RIN: 1018–AD54

1471. CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES (CITES)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 23

Completed:

Reason	Date	FR Cite
Withdrawn - No action anticipated during this agenda period.	02/09/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Susan Lieberman
Phone: 703 358-2095
Fax: 703 358-2080

RIN: 1018–AD55

1472. TRANSPORT OF MARINE MAMMALS HELD FOR PUBLIC DISPLAY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 18

Completed:

Reason	Date	FR Cite
Withdrawn - No action anticipated during this agenda period.	02/09/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Kenneth Stansell
Phone: 703 358-2093

RIN: 1018–AD56

1473. GENERAL AUTHORIZATION TO CONDUCT BONA FIDE SCIENTIFIC RESEARCH RESULTING ONLY IN LEVEL B HARASSMENT OF MARINE MAMMALS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn - No action anticipated during this agenda period.	02/09/96	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Margaret Tieger
Phone: 703 358-2104
Fax: 703 358-2281

RIN: 1018–AD57

1474. • AMENDMENT TO APPENDIX III OF CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA FOR BIGLEAF MAHOGANY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This document incorporates the addition to appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) of bigleaf mahogany from the Americas and its saw-lows, sawn wood and veneers only, into the CFR. The Service will consider any comments received on whether to enter a reservation on the addition of this species to Appendix III. Second, a phrase is revised to clarify that the regulated parts and derivatives of plants are in some cases presented categorically, and in others given with the particular species.

Timetable:

Action	Date	FR Cite
Final Action	02/22/96	61 FR 6793
Final Action Effective	02/22/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles W. Dane, Chief, Office of Scientific Authority, U.S. Fish and Wildlife Service, Department of the Interior, United

DOI—FWS

Completed Actions

States Fish and Wildlife Service, MS-750 Arlington Square, 1849 C Street NW., Washington, DC 20240

Phone: 703 358-1708

RIN: 1018–AD61

BILLING CODE 4310-55-F

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Proposed Rule Stage

1475. NATIONAL PARK SERVICE SYMBOLS: UNITED STATES PARK POLICE INSIGNIA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 11

Legal Deadline: None

Abstract: The National Park Service proposed rule and request for comments relates to the United States Park Police insignia. It will recognize an official United States Park Police insignia, provide for its future protection and prevent the unauthorized use of the insignia.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874
Fax: 202 208-6756
Email: Dennis—Burnett@nps.gov

RIN: 1024–AB94

1476. RIGHTS-OF-WAY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 3; 16 USC 5; 16 USC 79

CFR Citation: 36 CFR 14

Legal Deadline: None

Abstract: The regulations for rights-of-way found at 36 CFR part 14, subparts A to H were promulgated as interim regulations in 1980. The regulations no longer meet the needs of the Service or of rights-of-way applicants. Final regulations need to be developed through a revision of part 14.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dick Young; Park Ranger, Department of the Interior, National Park Service, Colonial National Park, P.O. Box 210, Yorktown, VA 23690
Phone: 804 898-3400

RIN: 1024–AC01

1477. ROCK CLIMBING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 2.63

Legal Deadline: None

Abstract: Rock climbing has long been an accepted recreational activity in many park areas. An explosive growth of rock climbing in recent years, along with increased impacts to park resources because of this activity, suggests that regulations and guidelines need to be developed to protect park resources while providing for a quality climbing experience. Information to address this issue will be sought from interested parties in an Advance Notice of Proposed Rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	06/11/93	58 FR 32878
ANPRM Comment Period End	09/13/93	
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874

RIN: 1024–AC13

1478. VOYAGEURS NATIONAL PARK: AIRCRAFT OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.33

Legal Deadline: None

Abstract: This proposed rulemaking amends the current special regulations for Voyageurs National Park by adding a section designating areas open to aircraft use within the Park. This addition is necessary because National Park Service general regulations require such special regulatory designations for areas in parks open to the operation or use of aircraft. The intended effects are to increase safety, protect resources, and provide appropriate enjoyment to park users.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/02/95	60 FR 39257
NPRM	01/31/96	61 FR 3360
NPRM Comment Period End	04/01/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

DOI—NPS

Proposed Rule Stage

Agency Contact: Bruce McKeeman, Chief Ranger, Department of the Interior, National Park Service, Voyageurs National Park, HCR 9, Box 600, International Falls, MN 56649-9701
Phone: 218 283-9821

RIN: 1024–AC23

1479. CONVEYANCE OF FREEHOLD AND LEASEHOLD INTERESTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 17

Legal Deadline: None

Abstract: The National Park Service proposes to modify the regulations for sale or lease of real estate that will allow bids on sales to be accompanied by earnest money equivalent to 1% of the appraised value or $1,000, whichever is greater, with the balance of the bid due within 45 days of the award; bids on leases must be accompanied by the first year's rent.

Timetable:

Action	Date	FR Cite
NPRM	02/12/96	61 FR 5356
NPRM Comment Period End	04/13/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Debo, Superintendent, Department of the Interior, National Park Service, Cuyahoga Valley National Recreation Area, 15610 Vaughn Road, Brecksville, OH 44141
Phone: 216 526-5256

RIN: 1024–AC27

1480. BADLANDS NATIONAL PARK—COMMERCIAL VEHICLES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(g); 16 USC 462(k)

CFR Citation: 36 CFR 7.23

Legal Deadline: None

Abstract: The National Park Service proposes to establish a special regulation to permit the operation of local commercial vehicles on 5.8 miles of park roads between the Northeast and Interior entrances to Badlands National Park. The park currently allows limited local commercial use of these roads and this rulemaking would exempt this portion of park roads from the general prohibition on commercial vehicles in National Park areas. The Superintendent will be provided the discretion to require permits and fees for this use. The proposed rule will prohibit transportation of hazardous materials and overwidth/overweight vehicles except in limited circumstances.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Donaldson, Chief Ranger, Department of the Interior, National Park Service, Badlands National Park, P.O. Box 6, Interior, SD 57750
Phone: 605 433-5361

RIN: 1024–AC30

1481. SHENANDOAH NATIONAL PARK: BACKCOUNTRY AND FISHING REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.15

Legal Deadline: None

Abstract: The National Park Service is proposing to remove the majority of the backcountry and fishing regulations specific to Shenandoah National Park. This rule will retain only those regulations not covered by parts 1 and 2 of 36 CFR and deemed necessary for the proper management of the park.

Timetable:

Action	Date	FR Cite
NPRM	02/12/96	61 FR 5354
NPRM Comment Period End	04/13/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874

RIN: 1024–AC33

1482. APPLICABILITY AND RESOURCE PROTECTION REVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462

CFR Citation: 36 CFR 2

Legal Deadline: None

Abstract: A major revision of 36 CFR part 2 was completed in 1983. This current review is to address clarification of the applicability of these regulations in National Park Service areas, and to update existing resource protection and visitor use regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Department of the Interior, National Park Service, Room 3315, MS 650, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874
Fax: 202 208-6756

RIN: 1024–AC38

DOI—NPS

Proposed Rule Stage

1483. PROCEDURES FOR STATE, TRIBAL, AND LOCAL GOVERNMENT HISTORIC PRESERVATION PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 61

Legal Deadline: None

Abstract: The National Park Service proposes to revise the requirements for State and local historic preservation programs as well as the way the NPS administers these programs. The proposed changes are intended to provide more flexibility in (1) State historic preservation office staffing; (2) State Historic Preservation Review Board membership and operations; and (3) carrying out State Historic Preservation Officer responsibilities. The revision streamlines the process for certification of local governments to participate officially in the national historic preservation program. This proposed revision also officially recognizes the growing role of tribal historic preservation programs. Some of the changes are necessary because of the 1992 amendments to the National Historic Preservation Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John W. Renaud, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 343-1059
Fax: 202 343-1836

RIN: 1024–AC44

1484. • BIG THICKET NATIONAL PRESERVE; MOORED HOUSEBOATS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(g); 16 USC 462(k)

CFR Citation: 36 CFR 7.85

Legal Deadline: None

Abstract: Big Thicket National Park is proposing regulations that will require all houseboat owners in the park to register their houseboats with the Office of the Superintendent and to adhere to park regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874
Fax: 202 208-6756

RIN: 1024–AC45

1485. • BOATING AND WATER ACTIVITIES: PROHIBITED OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 1a-2(h); 16 USC 3

CFR Citation: 36 CFR 3.6; 36 CFR 3.23

Legal Deadline: None

Abstract: The NPS is proposing to amend its boating regulations to include the authority to regulate access to NPS waters to individuals and vessels that have recently operated in waters infested with injurious, non-indigenous aquatic plant and animal species to protect park aquatic resources, ecosystems, and supporting infrastructure.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Department of the Interior, National Park Service, Room 3315, MS650, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874
Fax: 202 208-6756
Email: Dennis—Burnett@NPS.GOV

RIN: 1024–AC46

1486. • OFF-ROAD OPERATION OF MOTOR VEHICLES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(g); 16 USC 462(k)

CFR Citation: 36 CFR 7.67

Legal Deadline: None

Abstract: This proposed rule will amend the existing off-road vehicle use regulations at Cape Cod National Seashore through a negotiated rulemaking committee.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Canzanelli, Assistant Superintendent, Department of the Interior, National Park Service, Cape Cod National Seashore, South Wellfleet, MA 0663
Phone: 508 349-3785

RIN: 1024–AC47

1487. • NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT REGULATIONS; CIVIL PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 3001

CFR Citation: 43 CFR 10

Legal Deadline: None

Abstract: This proposed rule details procedures for assessing civil penalties upon institutions receiving Federal funds that fail to comply with applicable provisions of the Act and implementing regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

DOI—NPS

Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Francis P. McManamon, Departmental Consulting Archaeologist, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 343-4101

RIN: 1024–AC48

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Final Rule Stage

1488. NATIONAL NATURAL LANDMARKS PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 461 et seq

CFR Citation: 36 CFR 62

Legal Deadline: None

Abstract: This proposed rulemaking will amend the current regulations for the National Natural Landmarks Program. Proposed changes include strengthening and clarifying provisions for landowner notification, adding requirements for voluntary landowner consent for natural landmark designation, and providing for review of natural landmark nominations by the National Park System Advisory Board.

Timetable:

Action	Date	FR Cite
ANPRM	10/29/90	55 FR 43384
NPRM	11/21/91	56 FR 58790
NPRM Comment Period End	02/19/92	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Johnston, Chief, Wildlife and Vegetation Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 343-8115

RIN: 1024–AB96

1489. GLACIER BAY NATIONAL PARK, ALASKA FISHING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 3101 et seq

CFR Citation: 36 CFR 13.65

Legal Deadline: None

Abstract: The proposed regulations will allow commercial fishing in Glacier Bay National Park as an exemption from currently existing servicewide regulations until December 31, 1997. Non-commercial consumptive fishing methods are designated, and subsistence uses are prohibited pursuant to statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/05/91	56 FR 37262
NPRM Comment Period End	11/03/91	56 FR 46589
Final Action	10/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James M. Brady, Superintendent, Department of the Interior, National Park Service, Glacier Bay National Park, P.O. Box 140, Gustavus, AK 99826-0140
Phone: 907 697-2230

RIN: 1024–AB99

1490. GLACIER BAY: VESSEL MANAGEMENT PLAN/REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 3; 16 USC 3101; 16 USC 1361; 16 USC 1531

CFR Citation: 36 CFR 13.65

Legal Deadline: None

Abstract: Glacier Bay National Park is initiating a vessel management plan that will, during its formulation, review the existing vessel regulations for revisions.

Timetable:

Action	Date	FR Cite
NPRM	06/05/95	60 FR 29523
NPRM Comment Period End	08/25/95	60 FR 40798
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James M. Brady, Superintendent, Department of the Interior, National Park Service, Glacier Bay National Park, Gustavus, AK 99826
Phone: 907 697-2230

RIN: 1024–AC05

1491. VISITOR SERVICES UNDER SECTION 1307 OF ANILCA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 3197

CFR Citation: 36 CFR 13

Legal Deadline: None

Abstract: This proposed rule establishes procedures for granting rights and preferences in the award and renewal of competitive visitor service authorizations for visitor service providers to conduct business on certain National Park Service lands in Alaska. This rule implements section 1307 of the Alaska Lands Act (ANILCA), which protects certain visitor service providers in operation prior to January 1, 1979, and which directs that a right of preference for any future new visitor service be given to local residents and Native corporations.

Timetable:

Action	Date	FR Cite
NPRM	04/25/95	60 FR 20374
NPRM Comment Period End	09/11/95	60 FR 36082

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Action	Date	FR Cite
Final Action	10/00/96	
Final Action Effective	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeff Cobb, Chief, Division of Concessions, Department of the Interior, National Park Service, Alaska Regional Office, 2525 Gambell Street, Anchorage, AK 90225
Phone: 907 257-2594

RIN: 1024–AC19

1492. GENERAL REGULATIONS FOR AREAS ADMINISTERED BY THE NATIONAL PARK SERVICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 20(D); 16 USC 462; 16 USC 3101

CFR Citation: 36 CFR 1

Legal Deadline: None

Abstract: The NPS is revising portions of 36 CFR 1.2, 1.4, and 13.2. Section 1.2 defines the primary scope and applicability of 36 CFR parts 1-5, and parts 7 and 13. Section 1.4 contains definitions for terms used in the text of the regulations. Section 13.2 modifies section 1.2 as it relates to National Park System units in Alaska. This revision clarifies the applicability of those NPS regulations that apply in all National Park System areas to navigable waters located within park boundaries.

Timetable:

Action	Date	FR Cite
NPRM	12/05/95	60 FR 62233
NPRM Comment Period End	02/05/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874

RIN: 1024–AC21

1493. CAPE LOOKOUT NATIONAL SEASHORE: SPECIAL REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(g); 16 USC 462(k)

CFR Citation: 36 CFR 7.98

Legal Deadline: None

Abstract: The National Park Service proposes to close Portsmouth Village Airstrip to the operation of aircraft. The action is necessary to prevent aircraft accidents and eliminate a use that is incompatible with preserving the historic scene in Portsmouth Village, a historic district on the National Register of Historic Places. The primary intent of this proposed rule is to protect the flying public by closing an airstrip that does not comply with Federal Aviation Administration and North Carolina Department of Transportation safety standards.

Timetable:

Action	Date	FR Cite
NPRM	07/12/95	60 FR 35887
NPRM Comment Period End	09/11/95	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chuck Harris, Chief Ranger, Department of the Interior, National Park Service, Cape Lookout National Seashore, 131 Charles Street, Harkers Island, NC 28531
Phone: 919 728-2250

RIN: 1024–AC29

1494. GRAND TETON NATIONAL PARK AND JOHN D. ROCKEFELLER, JR. MEMORIAL PARKWAY: SNOWMOBILE AND SNOWPLANE ROUTES AND REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.22

Legal Deadline: None

Abstract: The National Park Service proposes to change the special regulations relating to the use of and designated routes for snowmobiles and snowplanes within Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway. The proposed rule will define more clearly the use of snowmobiles, snowplanes, and designated routes. This rule can eliminate the use of snowmobiles in the Potholes-Baseline Flats area at the discretion of the Superintendent and establish special regulations allowing snowmobile use on the Continental Divide Snowmobile Trail. The proposed rule will also establish a requirement for operators of snowmobiles within Grand Teton National Park to have a valid driver's license or learner's permit.

Timetable:

Action	Date	FR Cite
NPRM	10/25/95	60 FR 54633
NPRM Comment Period End	12/26/95	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874

RIN: 1024–AC34

1495. APPALACHIAN NATIONAL SCENIC TRAIL: POWERLESS FLIGHT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(q); 16 USC 462(k)

CFR Citation: 36 CFR 7.100

Legal Deadline: None

Abstract: The National Park Service is proposing a rule to allow hang gliding within the park. Special regulations are required for this recreational activity to take place in park areas. An interim rule was published in the Federal Register on July 14, 1995 (60 FR 36224). When this rule becomes final, it will replace the interim rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/14/95	60 FR 36224
NPRM	01/31/96	61 FR 3358
NPRM Comment Period End	03/02/96	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Burnett, Staff Park Ranger, Ranger Activities Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127
Phone: 202 208-4874
Fax: 202 208-6756

RIN: 1024–AC42

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Completed Actions

1496. DRY TORTUGAS NATIONAL PARK: FISHING; BOUNDARY ADJUSTMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 36 CFR 7.27

Completed:

Reason	Date	FR Cite
Withdrawn - No further action scheduled.	03/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Wayne Landrum
Phone: 813 695-3091

RIN: 1024–AA96

1497. MINERALS MANAGEMENT—NON-FEDERAL OIL AND GAS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 36 CFR 9

Completed:

Reason	Date	FR Cite
Withdrawn - No further action scheduled at this time.	03/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol McCoy
Phone: 303 969-2096

RIN: 1024–AB39

1498. PENALTY PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 36 CFR 1.3

Completed:

Reason	Date	FR Cite
Final Action	01/30/96	61 FR 2917
Final Action Effective	01/30/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Tiernan
Phone: 202 208-7957

RIN: 1024–AC06

1499. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT IMPLEMENTATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 10

Completed:

Reason	Date	FR Cite
Final Action	12/04/95	60 FR 62134
Final Action Effective	01/03/96	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Agency Contact: Francis P. McManamon
Phone: 202 343-4101

RIN: 1024–AC07

1500. YELLOWSTONE NATIONAL PARK—SPECIAL REVISION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 36 CFR 7.13

Completed:

Reason	Date	FR Cite
Withdrawn - No further action scheduled at this time.	03/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brian O'Dea
Phone: 307 344-2121

RIN: 1024–AC18

1501. GLACIER BAY: REGULATION APPLICABILITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 36 CFR 13.65

Completed:

Reason	Date	FR Cite
Withdrawn - Interim rule expired 01/01/96.	01/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James M. Brady
Phone: 907 697-2230

RIN: 1024–AC22

DOI—NPS

Completed Actions

1502. OREGON CAVES NATIONAL MONUMENT: SPECIAL REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 36 CFR 7.49

Completed:

Reason	Date	FR Cite
Final Action	04/03/96	61 FR 14617
Final Action Effective	05/03/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Craig W. Ackerman
Phone: 503 592-2100

RIN: 1024–AC26

1503. MOUNTAIN CLIMBING; 60-DAY PREREGISTRATION REQUIREMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 36 CFR 13.63

Completed:

Reason	Date	FR Cite
Final Action	02/23/96	61 FR 6943
Final Action Effective	03/25/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J.D. Swed
Phone: 907 683-2294

RIN: 1024–AC39

BILLING CODE 4310-70-F

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Indian Affairs (BIA)

Proposed Rule Stage

1504. ADMINISTRATION OF THE HIGHER EDUCATION PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 13; PL 67-85

CFR Citation: 25 CFR 40

Legal Deadline: None

Abstract: This rule will revise established policies and provide uniform procedures to govern the higher education program administered under the authority of 25 USC 13. This rule applies only to educational grants; Bureau educational loans are governed by 25 CFR part 91. This part has been redesignated from 25 CFR part 32.

Timetable:

Action	Date	FR Cite
Public Consultation	01/23/91	
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal, Federal

Additional Information: This rule is being reproposed due to a court decision on the definition of "Indian."

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs, Room 3512 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4871
Fax: 202 208-3312

RIN: 1076–AA10

1505. LEASING AND PERMITTING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 395; 25 USC 402; 25 USC 403; 25 USC 466

CFR Citation: 25 CFR 162

Legal Deadline: None

Abstract: This rule will reorganize the existing leasing and permitting rule into subparts and incorporate the provisions on range permits and leasing required by Public Law 103-177.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Bradford, Chief, Branch of Agriculture and Range, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3598
Fax: 202 501-1716

RIN: 1076–AA29

1506. FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 20

Legal Deadline: None

Abstract: The Bureau is amending existing Financial Assistance and Social Services program regulations to rewrite the requirements in plain English.

Timetable:

Action	Date	FR Cite
Proposed Rule published	04/07/94	59 FR 16720
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Larry L. Blair, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2721

RIN: 1076–AC13

1507. INDIVIDUAL INDIAN MONIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in

DOI—BIA

Proposed Rule Stage

the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 25 USC 29; 43 USC 1457

CFR Citation: 25 CFR 115

Legal Deadline: None

Abstract: This regulation will modify existing regulations governing the Individual Indian Monies Trust (IIM) Funds and establish guidelines on accepting new IIM accounts. The Federal Government has sole responsibility for the protection of Indian trust funds which have been either collected from receipts from Indian trust land or through judgment awards to tribes and/or individuals.

The Bureau of Indian Affairs has established the Office of Trust Funds Management to oversee Indian Trust Funds operations. The modified and new regulations will result in the added protection, and more efficient handling of the Indian trust funds.

Timetable:

Action	Date	FR Cite
Initial proposed rule published	08/15/94	59 FR 41948
NPRM	08/00/96	
NPRM Comment Period End	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pat Gerard, Program Analyst, Office of Trust Funds Management, Department of the Interior, Bureau of Indian Affairs, 505 Marquette NW., Suite 700, Albuquerque, NM 87102
Phone: 505 766-3223

RIN: 1076–AC65

1508. NAVAJO PARTITIONED LANDS GRAZING REGULATIONS

Priority: Other Significant

Legal Authority: 25 USC 640(d)

CFR Citation: 25 CFR 161

Legal Deadline: None

Abstract: These regulations are necessary for implementation of the livestock and grazing control provisions of 25 USC 640(d). In 1982 the Federal District Court for Arizona abolished 25 CFR 153, Grazing Regulation for the Joint Use Administrative Area and ordered the Secretary to promulgate new regulations for the control of grazing and livestock for the former Joint Use Administrative Area. Due to a lack of tribal concurrence, regulations were not promulgated for lands partitioned to the Navajo Tribe. Navajo tribal concurrence has been recently obtained; therefore, the BIA needs to move forward with publication of these regulations. Any cost associated with the implementation of these regulations will be assumed within the BIA annual budget. Cost associated with compliance of the provisions of these regulations will be borne by the Navajo Tribe or its members. There is no associated cost to the general public.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Bradford, Chief, Branch of Agriculture and Range, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3598
Fax: 202 501-1716

RIN: 1076–AC81

1509. FAMILY AND CHILD EDUCATION PROGRAM (FACE)

Priority: Other Significant

Legal Authority: 25 USC 2; 25 USC 2003; 25 USC 2002; 25 USC 13

CFR Citation: 25 CFR 35

Legal Deadline: None

Abstract: This rule will establish new standards and procedures for applications and approval of applications under family and child education programs. The proposed standards are intended to enhance and ensure fairness in the award of funds for these programs.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patsy Jones, Education Specialist, Office of Indian Education Programs, Department of the Interior, Bureau of Indian Affairs, Room 3512 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 219-1127

RIN: 1076–AC92

1510. RANGE REGULATIONS

Priority: Other Significant

Legal Authority: PL 103-177

CFR Citation: 25 CFR 162; 25 CFR 166

Legal Deadline: Final, Statutory, December 3, 1995.

Abstract: This rule implements the Education Trespass and Land Management portion of Public Law 103-177.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Bradford, Chief, Branch of Agriculture and Range, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Room 4559, Washington, DC 20240
Phone: 202 208-3598
Fax: 202 501-1716

RIN: 1076–AD04

1511. GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 1801 to 1852; 25 USC 640; 25 USC 1831

CFR Citation: 25 CFR 41

Legal Deadline: None

Abstract: This rule applies to the provision of financial assistance, technical assistance, and endowments to tribal colleges and Navajo Community College and will strengthen requirements relating to: (1) Criteria for satisfactory programs; (2) counting Indian students; (3) developing

planning grants; (5) forward funding; (6) renovation and construction of facilities; and (7) preparing construction feasibility reports.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs, Room 3522, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3312

RIN: 1076–AD08

1512. INDIAN SCHOOL EQUALIZATION PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 13; 25 USC 2008

CFR Citation: 25 CFR 39

Legal Deadline: None

Abstract: This rule will change the definitions of some disabling conditions so that they are consistent with Department of Education definitions of some disabling conditions and adjust the way schools are reimbursed for student transportation services.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joy Martin, Chief, Branch of Administrative Services, Department of the Interior, Bureau of Indian Affairs, Room 3515 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4555
TDD: 202 208-3271

RIN: 1076–AD09

1513. LAND ACQUISITIONS FOR TRIBES AND INDIVIDUAL INDIANS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 409a; 25 USC 465; 25 USC 501; 25 USC 574; 25 USC 576; 25 USC 608; 25 USC 467; 25 USC 450h; 25 USC 463e; 25 USC 451; 25 USC 464; 25 USC 487 to 489; 25 USC 573; 25 USC 610

CFR Citation: 25 CFR 151

Legal Deadline: None

Abstract: This rule will revise the regulations to comply with current statutes and Departmental policy. It will add provisions or clarify procedures for land acquisitions under part 151 and will provide stronger and more consistent guidelines for reviewing trust applications than the current case-by-case review, which uses general criteria. The streamlined regulations will benefit tribes and individual Indians who request real property acquisition for trust status. No additional costs will be incurred by applicants or the Bureau.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alice Harwood, Realty Specialist, Department of the Interior, Bureau of Indian Affairs, Division of Real Estate Services, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3604

RIN: 1076–AD11

1514. INDIAN TRIBAL JUSTICE SUPPORT

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-176; 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 13; 25 USC 200; 25 USC 3601, et seq

CFR Citation: 25 CFR 92

Legal Deadline: Final, Statutory, June 3, 1994.

Abstract: This rule will establish a base funding formula for the distribution of appropriations under the Indian Tribal Justice Act. BIA will use this formula to determine the funding levels to be awarded to eligible Indian tribes for use in establishing or enhancing traditional or contemporary justice systems.

Timetable:

Action	Date	FR Cite
Tribal Consultation	05/20/95	
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Bettie Rushing, Chief, Branch of Judicial Services, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Room 2611 MIB, Washington, DC 20240
Phone: 202 208-4400

RIN: 1076–AD15

1515. TRIBAL SELF-GOVERNANCE

Priority: Other Significant

Legal Authority: PL 103-413

CFR Citation: 25 CFR 1000

Legal Deadline: None

Abstract: This rule will clarify how the Department and tribes will carry out their respective responsibilities under the Tribal Self-Governance Act of 1994. At the request of a majority of Indian tribes with self-governance agreements, the Secretary has established a negotiated rulemaking committee to negotiate and promulgate such regulations as are necessary to carry out the Act.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish a Negotiated Rulemaking Committee	02/15/95	60 FR 8806
NPRM	09/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Tribal, Federal

Agency Contact: Kenneth D. Reinfeld, Senior Program/Policy Analyst, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Room 2548, Washington, DC 20240
Phone: 202 219-0240
Fax: 202 219-1404

RIN: 1076–AD20

1516. • LAW AND ORDER ON INDIAN RESERVATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 13; 25 USC 200

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: BIA is amending its regulations governing Courts of Indian offenses to clarify the authority of the Assistant Secretary - Indian Affairs to establish the courts, the jurisdiction of the courts, their relationship to tribal governments and the Department of the Interior, and to provide those courts with an updated code of laws.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Bettie Rushing, Chief, Branch of Judicial Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Room 2611 MIB, Washington, DC 20240
Phone: 202 208-4400

RIN: 1076–AD25

1517. • AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM ACT OF 1994

Priority: Other Significant

Legal Authority: PL 103-412

CFR Citation: 25 CFR 144

Legal Deadline: None

Abstract: This rule implements the American Indian Trust Fund Management Reform Act of 1994, which, for the first time, allows American Indian tribes to take restricted funds out of trust status with the Department of the Interior. Tribes may now manage funds by themselves, with the help of commercial fund managers. This rule affects only tribal funds, not Individual Indian Money (IIM) funds.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bird Ford, Analyst, Department of the Interior, Bureau of Indian Affairs, Office of Trust Funds Management, 505 Marquette Avenue NW., Suite 700, Albuquerque, NM 87102
Phone: 505 248-5751
Fax: 505 248-5782

RIN: 1076–AD28

1518. • LOCALITY-SPECIFIC REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 552

CFR Citation: 25 CFR 16; 25 CFR 17; 25 CFR 75; 25 CFR 76; 25 CFR 90; 25 CFR 91; 25 CFR 116; 26 CFR 117; 25 CFR 121; 25 CFR 122; 25 CFR 123; 25 CFR 124; 25 CFR 125; 25 CFR 135; 25 CFR 136; ...

Legal Deadline: None

Abstract: This rule will remove locality-specific regulations from the CFR and place them into manuals or other directives. Various sections throughout 25 CFR are affected.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harriet Brown, Special Assistant Deputy Commissioner, Indian Affairs, Department of the Interior, Bureau of Indian Affairs, 1952 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-5116
Fax: 202 208-6334

RIN: 1076–AD30

1519. • LEASING RESTRICTED LANDS OF MEMBERS OF THE FIVE CIVILIZED TRIBES, OKLAHOMA, FOR MINING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 356

CFR Citation: 25 CFR 213

Legal Deadline: None

Abstract: BIA is revising this rule to ensure consistency with existing law and to improve operating procedures. Issues to be addressed include authority to lease inherited restricted land, processing lease payments through the Minerals Management Service, and the approval process for division orders.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kim Snyder, Liaison Officer, Energy and Minerals, Office of Trust Responsibilities, Department of the Interior, Bureau of Indian Affairs, Room 4544 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3607
Fax: 202 208-6019

RIN: 1076–AD33

1520. • LEASING OSAGE RESERVATION LANDS FOR MINING OF MINERALS OTHER THAN OIL AND GAS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 59-321

CFR Citation: 25 CFR 214

Legal Deadline: None

Abstract: This revision eliminates royalties for minerals not found within the Osage Mineral Estate and gives the Osage tribal Council authority for setting applicable royalty rates. This revision also replaces outmoded methods of exchange with modern methods and designates officials responsible for management of non-oil and gas minerals within the Osage Mineral Estate. The revisions will enhance the Department's management of the production of these minerals and

eliminate inaccuracies in the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kim Snyder, Liaison Officer, Energy and Minerals, Office of Trust Responsibilities, Department of the Interior, Bureau of Indian Affairs, Room 4544 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3607
Fax: 202 208-6019

RIN: 1076–AD34

1521. • LEAD AND ZINC MINING OPERATIONS, QUAPAW AGENCY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 66-359; PL 75-39

CFR Citation: 25 CFR 215

Legal Deadline: None

Abstract: This rule will update the procedures for leasing and discovery, testing, processing, developing, and mining lead and zinc on lands under the jurisdiction of BIA's Miami Agency in Ottawa County, Oklahoma. The revisions will assist affected Indians with the efficient development of their lead and zinc deposits without waste, avoidable loss, or damage to their natural resources, the environment, or other resources. The rule will also retitle 25 CFR 215.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kim Snyder, Liaison Officer, Energy and Minerals, Office of Trust Responsibilities, Department of the Interior, Bureau of Indian Affairs, Room 4544 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3607
Fax: 202 208-6019

RIN: 1076–AD35

1522. • SURFACE EXPLORATION, MINING, AND RECLAMATION OF LANDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 355; 25 USC 396; 25 USC 473; 25 USC 501; 25 USC 396; 5 USC 301

CFR Citation: 25 CFR 216

Legal Deadline: None

Abstract: This rule will update part 216 to incorporate changes in regulations as well as the mining industry. It will bring the bureau into conformance with the standards of the Bureau of Land Management and the Office of Surface Mining and will protect the Indian mineral owners by giving them no less protection than what is given to Federal lands. Indian mineral owners will be protected through the regulation of exploration for minerals by adequate measures that avoid, minimize, or correct damage to the environment, land, water, and the public safety.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kim Snyder, Liaison Officer, Energy and Minerals, Department of the Interior, Bureau of Indian Affairs, Room 4544 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3607
Fax: 202 208-6019

RIN: 1076–AD36

1523. • MANAGEMENT OF THE TRIBAL ASSETS OF THE UTE INDIAN TRIBE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 677; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 217

Legal Deadline: None

Abstract: This rule provides procedures for joint management of undivided assets by the Tribal Business Committee, representing the full-blood group, and the Ute Distribution Corporation, representing the mixed-blood group. This action is required by law to divide net proceeds from the undivided assets between the two groups in proportion to the number of persons comprising the final membership roll of each group.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	06/00/96	

Small Entities Affected: Organizations

Government Levels Affected: Tribal

Agency Contact: Kim Snyder, Liaison Officer, Energy and Minerals, Office of Trust Responsibilities, Department of the Interior, Bureau of Indian Affairs, Room 4544 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3607
Fax: 202 208-6019

RIN: 1076–AD37

1524. • LEASING WIND RIVER RESERVATION LANDS FOR OIL AND GAS MINING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 301

CFR Citation: 25 CFR 227

Legal Deadline: None

Abstract: This revision will reflect organizational changes in the Bureau of Indian Affairs and the Bureau of Land management. The principal changes update the references to the Bureau of Land Management official who is assigned responsibilities by the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kim Snyder, Liaison Officer, Energy and Minerals,

Department of the Interior, Bureau of Indian Affairs, Room 4544 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3607
Fax: 202 208-6019

RIN: 1076–AD38

1525. • INDIAN FISHING ON THE HOOPA VALLEY RESERVATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1457; 25 USC 2; 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 250

Legal Deadline: None

Abstract: This revision will simplify 25 CFR 250 to conform with the President's effort to reinvent government. The revised regulations will govern Indian fishing on the Hoopa Valley Indian Reservation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rick Felitz, Area Forester, Sacramento Area Office, Department of the Interior, Bureau of Indian Affairs, 2 Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825
Phone: 916 979-2581
Fax: 916 978-4695

RIN: 1076–AD39

1526. • RIGHTS OF WAY OVER INDIAN LANDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 323 to 328

CFR Citation: 25 CFR 169

Legal Deadline: None

Abstract: This rule prescribes the procedures, terms, and conditions under which rights-of-way over Indian lands, individually owned lands and government lands may be granted.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Alice Harwood, Realty Specialist, Department of the Interior, Bureau of Indian Affairs, Room 4522 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-7737
Fax: 202 219-1065

RIN: 1076–AD40

1527. • OSAGE ROLL, CERTIFICATE OF COMPETENCY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 331

CFR Citation: 25 CFR 154

Legal Deadline: None

Abstract: This rule provides policy and procedures for exercise of the Secretary's discretionary authority with regard to trust property of Osage Indians.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Local, Tribal

Agency Contact: Alice Harwood, Realty Specialist, Department of the Interior, Bureau of Indian Affairs, Room 4522 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-7737
Fax: 202 219-1065

RIN: 1076–AD41

1528. • PATENTS IN FEE, CERTIFICATES OF COMPETENCY, AND SALE OF INDIAN LANDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 378; 25 USC 379; 25 USC 405; 25 USC 404; 25 USC 372; 25 USC 373; 25 USC 404; 25 USC 405; 25 USC 483; 25 USC 355

CFR Citation: 25 CFR 152

Legal Deadline: None

Abstract: This rule provides policy and procedures for exercise of the Secretary's discretionary authority on matters affecting the disposition of Indian lands. The rule is being reinvented as part of the President's reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Tribal, Federal

Agency Contact: Alice Harwood, Realty Specialist, Department of the Interior, Bureau of Indian Affairs, Room 4522 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-7737
Fax: 202 219-1065

RIN: 1076–AD42

1529. • LAND RECORDS AND TITLE DOCUMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 9; 25 USC 5

CFR Citation: 25 CFR 150

Legal Deadline: None

Abstract: This rule governs the recording, maintenance, custody, and certification of documents and the issuance of title status reports for Indian lands. It is being revised to incorporate new field office organization and delegations of authority. The revisions will also provide new procedures.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alice Harwood, Realty Specialist, Department of the Interior, Bureau of Indian Affairs, Room 4522 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-7737
Fax: 202 219-1065

RIN: 1076–AD43

1530. • OPERATION AND MAINTENANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 385

CFR Citation: 25 CFR 171

Legal Deadline: None

Abstract: This rule governs the operation and maintenance of BIA-owned irrigation projects. It is being revised as part of the President's reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ross Mooney, Civil Engineer, Department of the Interior, Bureau of Indian Affairs, Room 4559 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-5480
Fax: 202 208-5493

RIN: 1076–AD44

1531. • INDIAN ELECTRIC POWER UTILITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 385

CFR Citation: 25 CFR 175

Legal Deadline: None

Abstract: This rule contains procedures governing the operation of BIA-owned power utilities. It is being revised as part of the President's reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ross Mooney, Civil Engineer, Department of the Interior, Bureau of Indian Affairs, Room 4559 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-5480
Fax: 202 208-5493

RIN: 1076–AD45

1532. • TRIBAL REORGANIZATION UNDER A FEDERAL STATUTE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 473a; 25 USC 476; 25 USC 477; 25 USC 503

CFR Citation: 25 CFR 81

Legal Deadline: None

Abstract: This rule contains uniform procedures for conducting Secretarial elections for voting on proposed constitutions when tribes wish to reorganize, adopt constitutional amendments, ratify and amend charters, or revoke existing constitutions. This revision will incorporate changes to comply with Public Law 100-581.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Lathel F. Duffield, Department of the Interior, Bureau of Indian Affairs, Room 2611 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3702

RIN: 1076–AD46

1533. • PETITIONING PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 473a; 25 USC 476; 25 USC 477; 25 USC 503

CFR Citation: 25 CFR 82

Legal Deadline: None

Abstract: This rule contains procedures for submitting petitions that request the Secretary to call elections to amend tribal constitutions, issue charters, and other actions. The revision will allow the petitioners' spokesman to make technical changes to petitions in consultation with the Bureau and to change the petition format.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Lathel F. Duffield, Acting Chief, Branch of Tribal Relations, Department of the Interior, Bureau of Indian Affairs, Room 2611 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3702

RIN: 1076–AD47

1534. • ELIMINATION OF RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 44 USC 35; EO 12778

CFR Citation: 25 CFR 76; 25 CFR 65; 25 CFR 66

Legal Deadline: None

Abstract: These rules are no longer required. Members of the San Pasquale Band have been enrolled as required in satisfaction of judgments of the United States Claims Court Docket 80-A. The members of the Delaware Tribe of Indiana and the Absentee Delaware Tribe of Western Oklahoma have been enrolled as the basis for distribution of judgment funds awarded in Indian

Claims Commission Dockets 27-A and 241, 289, and 27-B and 338, 27-E and 202 and 27.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bettie Rushing, Chief, Branch of Judicial Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4400

RIN: 1076–AD48

1535. • SPECIAL EDUCATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 102-109 Individuals with Disabilities Act

CFR Citation: 25 CFR 45

Legal Deadline: None

Abstract: Part 45 is being eliminated because it does not comply with PL 102-119, the Individuals with Disabilities Act (IDEA). The Department of Education's rule at 34 CFR 300 already incorporates the requirements of IDEA. BIA management and clientele feel that using 34 CFR 300 is in the best interest of all concerned. For this reason, BIA is eliminating the rules in 25 CFR 45.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Lena Mills, Chief, Branch of Exceptional Education, Department of the Interior, Bureau of Indian Affairs, Room 3512, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-6675
TDD: 202 208-5993

RIN: 1076–AD49

1536. • APPEALS FROM ADMINISTRATIVE ACTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 2

Legal Deadline: None

Abstract: This rule changes the BIA delegations of authority and appeals process. The change will reduce burden on the tribes since there will be less confusion about how to file appeals and the processing of appeals within the Bureau. The revision will also clarify the rule and make it consistent with Bureau policy.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bettie Rushing, Tribal Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3463
Fax: 202 208-5113

RIN: 1076–AD50

1537. • LICENSED INDIAN TRADERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 140

Legal Deadline: None

Abstract: This rule is being revised to impose a trader's tax for trading on Indian reservations. The revision will give tribes more control over who trades on their land and will eliminate undesirable traders.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Jemison, Director, Eastern Area Office, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 703 235-2571
Fax: 703 235-8610

RIN: 1076–AD51

1538. • HOUSING IMPROVEMENT PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 13

Legal Deadline: None

Abstract: This revision will simplify, streamline, and update the Bureau's housing program to better reflect the needs of its customers and to better reflect current and proposed industry and Government housing standards.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal, Federal

Agency Contact: June Henkel, Chief, Division of Housing Assistance, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3671
Fax: 202 208-3086

RIN: 1076–AD52

1539. • UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 103-413 Indian Self Determination Act Amendments

CFR Citation: 25 CFR 276

Legal Deadline: None

Abstract: The Indian Self Determination Act Amendments of 1994 significantly amend numerous provisions of the Indian Self

Determination Act of 1975 (25 U.S.C. 450). For this reason, the regulations in this part will be replaced by the new regulations in 25 CFR 900.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: James Thomas, Chief, Division of Self-Determination Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3708

RIN: 1076–AD53

1540. • CONTRACTS UNDER THE INDIAN SELF-DETERMINATION ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 103-413 Indian Self Determination Act Amendments

CFR Citation: 25 CFR 271

Legal Deadline: Final, Statutory, April 24, 1996.

Abstract: The Indian Self Determination Act Amendments of 1994 (PL 103-413) significantly amend numerous provisions of the Indian Self Determination and Education Assistance Act of 1975. For this reason, the regulations in this part will be eliminated and replaced by the new regulations in 25 CFR 900 that will implement PL 103-413.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: James Thomas, Chief, Division of Self-Determination Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washingtom, DC 20240
Phone: 202 208-3708

RIN: 1076–AD54

1541. • ACADEMIC AND DORMITORY STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 25 USC 2001; 25 USC 2002; 25 USC 2003; PL 95-561; 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 36

Legal Deadline: None

Abstract: This rule will eliminate subparts A through G of 25 CFR 36. Of 189 Bureau schools, 179 have adopted State or regional academic standards. BIA will assist the remaining schools to achieve State or regional accreditation. This will render the rules in subparts A through G obsolete.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra Fox, Goals 2000 Coordinator, Department of the Interior, Bureau of Indian Affairs, Room 3512 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 273-2339
Fax: 202 208-3312

RIN: 1076–AD55

1542. • INDIAN COUNTRY LAW ENFORCEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 2801 TO 2809; 18 USC 1153; 18 USC 1157; 13 USC 18; EO 10450

CFR Citation: 25 CFR 12.100

Legal Deadline: None

Abstract: This revision will retitle part 12 and revise it to comply with the President's reinvention initiative. This revision is contingent upon revision of the BIA manual and publication of a detention handbook. The material that the Bureau formerly planned to publish as a separate part covering detention standards will now be shortened and incorporated into part 12.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Tribal, Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Harry DeLashmutt, Law Enforcement Specialist, Division of Law Enforcement, Department of the Interior, Bureau of Indian Affairs, Room 4443, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-5787
Fax: 202 208-6170

RIN: 1076–AD56

1543. • STAFFING

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 4762; 25 USC 450i

CFR Citation: 25 CFR 275

Legal Deadline: None

Abstract: The Bureau is proposing to eliminate regulations on methods for tribal use of Bureau employees. These regulations are obsolete.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: George Gover, Acting Director of Management and Administration, Department of the Interior, Bureau of Indian Affairs, Room 320 SIB, 1951 Constitution Avenue NW., Washington, DC 20245
Phone: 202 208-4174

RIN: 1076–AD57

1544. • EDUCATION CONTRACTS UNDER THE JOHNSON-O'MALLEY ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 455 to 457

CFR Citation: 25 CFR 273

Legal Deadline: None

Abstract: The rule will include guidelines and responsibilities related to agreements under the provisions of the Indian Self Determination Act Amendments of 1994. The new provisions will reduce the burden of reporting requirements by the tribes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4871
Fax: 202 208-3312

RIN: 1076–AD58

1545. • LOANS, GRANTS, AND EMPLOYMENT ASSISTANCE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 1469; 25 USC 1498; 25 USC 1524; 25 USC 309; 25 USC 26; 25 USC 27

CFR Citation: 25 CFR 101; 25 CFR 103; 25 CFR 286; 25 CFR 26; 25 CFR 27

Legal Deadline: None

Abstract: The direct loan program is being eliminated. We will eliminate most of 25 CFR 101 and will rewrite the rest. We will rewrite 25 CFR 103 applying to loan guarantees. We will eliminate most of 25 CFR 286, which applies to a defunct grant program. We are combining 25 CFR 26 and 27 to eliminate about half of the words.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Woody Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, Room 2063 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4796
Fax: 202 208-3664

RIN: 1076–AD59

1546. • ARRANGEMENT WITH STATES, TERRITORIES, OR OTHER AGENCIES FOR SOCIAL WELFARE AND RELIEF OF DISTRESS OF INDIANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 454

CFR Citation: 25 CFR 21

Legal Deadline: None

Abstract: The Bureau is revising these regulations by rewriting them in plain English so that they will be more user friendly.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Larry R. Blair, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-2721

RIN: 1076–AD61

1547. • ESTATES OF THE FIVE CIVILIZED TRIBES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 25 USC 355; 25 USC 375; 25 USC 501 to 509

CFR Citation: 25 CFR 16

Legal Deadline: None

Abstract: The Bureau is rewriting these regulations in plain English to make them more user friendly.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alice Harwood, Realty Specialist, Department of the Interior, Bureau of Indian Affairs, Room 4545 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-7737
Fax: 202 219-1065

RIN: 1076–AD62

1548. • OFF-RESERVATION LAND ACQUISITIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 25 USC 409a; 25 USC 450h; 25 USC 451

CFR Citation: 25 CFR 151

Legal Deadline: None

Abstract: This rule governs the acquisition of land by the United States in trust status for individual Indians and tribes. The rule is being rewritten in plain English to make it more user friendly.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Alice Harwood, Realty Specialist, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-7737
Fax: 202 219-1065

RIN: 1076–AD63

DOI—BIA

Proposed Rule Stage

1549. • APPLICABILITY OF RULES OF THE BUREAU OF INDIAN AFFAIRS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; R.S. 463; 25 USC 2

CFR Citation: 25 CFR 1

Legal Deadline: None

Abstract: This rule provides information on the applicability of the Bureau's regulations. It is being rewritten in plain English to make it more user friendly.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hilda Manuel, Deputy Commissioner of Indian Affairs, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-5116

RIN: 1076–AD64

DEPARTMENT OF THE INTERIOR (DOI)

Final Rule Stage

Bureau of Indian Affairs (BIA)

1550. ADMINISTRATION OF THE INDIAN ADULT EDUCATION PROGRAMS

Priority: Other Significant

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 46

Legal Deadline: None

Abstract: These proposed regulations are designed to provide standardized administrative procedures for administering and operating Indian adult education programs.

Timetable:

Action	Date	FR Cite
NPRM	12/30/87	12 FR 49172
NPRM Comment Period End	02/29/88	52 FR 49172
Public consultation	01/23/91	
NPRM	08/25/94	59 FR 44016
NPRM Comment Period End	01/31/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs, Office of Indian Education Programs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4871
TDD: 202 208-3312

RIN: 1076–AA15

1551. OIL, GAS, SOLID MINERAL, AND GEOTHERMAL MINERAL AGREEMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 2101 to 2108

CFR Citation: 25 CFR 211; 25 CFR 212

Legal Deadline: None

Abstract: The purpose of these revisions is to reflect the enactment of legislation, court decisions, changes, and reorganization with the Federal government and the evolution of usual and common business practices. The existing rule does not adequately reflect the provisions of the Federal Oil and Gas Royalty Management Act or the Surface Mining Control and Reclamation Act.

Timetable:

Action	Date	FR Cite
NPRM	10/21/87	52 FR 39332
NPRM Comment Period End	12/21/87	
NPRM	11/18/91	56 FR 58734
Reproposal	11/21/91	56 FR 58734
NPRM Comment Period End	01/19/92	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Additional Information: This regulation was formerly combined with material that will now be published separately under RIN 1076-AC98.

Agency Contact: Kim Snyder, Division of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3607

RIN: 1076–AA82

1552. ROADS OF THE BUREAU OF INDIAN AFFAIRS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 47; 25 USC 318a; 23 USC 202; 23 USC 204

CFR Citation: 25 CFR 170

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is proposing to revise 25 CFR part 170 to reflect the current Bureau of Indian Affairs and Federal Highway Administration policies for road systems on Indian reservations. This change is proposed to assure that funds are apportioned from the Highway Trust Fund for construction projects on Indian reservations roads in accordance with the relative needs of the reservation, and to encourage tribal self-determination.

Timetable:

Action	Date	FR Cite
NPRM	03/24/94	59 FR 14030
NPRM Comment Period End	05/23/94	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Paul Sunwood, Assistant Chief, Division of Transportation, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Room 4058, MIB, Washington, DC 20240

DOI—BIA

Final Rule Stage

Phone: 202 208-4359

RIN: 1076–AB05

1553. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 13; 25 USC 200; 25 USC 3201 et seq; 42 USC 13041

CFR Citation: 25 CFR 63

Legal Deadline: None

Abstract: The Bureau of Indian Affairs is proposing to establish regulations as mandated by the Indian Child Protection and Family Violence Prevention Act that prescribe minimum standards of character and suitability of employment for individuals whose duties and responsibilities allow them regular contact with or control over Indian children and establish the method for distribution of funds appropriated for Indian child protection and family violence prevention programs.

Timetable:

Action	Date	FR Cite
Tribal Consultation	08/31/94	
NPRM	09/01/95	60 FR 45982
NPRM Comment Period End	11/01/95	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betti A. Delrow, Child Protection Coordinator, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Room 4603 MIB, Washington, DC 20240
Phone: 202 208-3463

RIN: 1076–AC97

1554. PREFERENCE IN EMPLOYMENT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 479

CFR Citation: 25 CFR 5

Legal Deadline: None

Abstract: The Bureau is proposing to eliminate provisions relating to preference in employment because they expired on January 5, 1990.

Timetable:

Action	Date	FR Cite
NPRM	09/06/94	59 FR 47046
NPRM Comment Period End	12/06/94	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: George Gover, Acting Director of Management and, Administration, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Room 320-SIB, Washington, DC 20245
Phone: 202 208-4174

RIN: 1076–AD05

1555. INDIAN SELF-DETERMINATION ACT AMENDMENTS OF 1994

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 450 (PL 103-413)

CFR Citation: 25 CFR 900

Legal Deadline: Final, Statutory, June 24, 1996.
Negotiations for new regulations must be completed within 90 days of the Act's effective date unless the Secretary obtains written approval of an extension.

Abstract: The Indian Self-Determination Act Amendments of 1994 (Public Law 103-413) significantly amends numerous provisions of the Indian Self-Determination and Education Assistance Act of 1975 (25 USC 450). Its purpose is to limit the promulgation of regulations under 25 USC 450 and to specify the terms of self-determination contracts entered into between the United States and Indian tribal organizations. The Act adds a new definition of the term "construction contract," excludes tribes or tribal organizations from the provisions of the Davis-Bacon Act, and recognizes the applicability of tribal employment and contract preference laws to contracts benefitting a single tribe. The latter provision in effect permits the application of tribal ordinances providing preference in employment to tribal members or other individuals. The Act also amends substantially the scope of contractable programs and the grounds for declination.

Timetable:

Action	Date	FR Cite
NPRM	01/24/96	61 FR 2038
NPRM Comment Period End	03/25/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: A proposed rule for a new 25 CFR part 900 was published in the **Federal Register** on January 20, 1994. A new proposed rule was published on January 24, 1996, in response to extensive comments on the first proposal.

Agency Contact: James Thomas, Chief, Division of Self Determination, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Room 4627, Washington, DC 20240
Phone: 202 208-3708

RIN: 1076–AD21

1556. • TRIBAL SELF-GOVERNANCE PROGRAM: SELECTION CRITERIA AND PROCEDURES FOR AWARDING PLANNING/NEGOTIATION GRANTS

Priority: Other Significant

Legal Authority: PL 103-413

CFR Citation: 25 CFR 1000

Legal Deadline: None

Abstract: The Tribal Self-Governance Act of 1994 authorizes the Director of the Office of Self-Governance to select up to 20 additional tribes/consortia per year to participate in tribal self governance by negotiating and entering into an annual funding agreement. This rule establishes procedures for

DOI—BIA

Final Rule Stage

awarding grants that tribes will use to plan for their participation in tribal self governance and prepare for negotiations once they are selected to participate.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Tribal, Federal

Agency Contact: Kenneth D. Reinfeld, Senior Program/Policy Analyst, Department of the Interior, Bureau of Indian Affairs, Office of Self Governance, 1849 C Street NW., Washington, DC 20240
Phone: 202 219-0240
Fax: 202 219-1404

RIN: 1076–AD26

1557. • ELIMINATION OF OBSOLETE RULES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: EO 12866

CFR Citation: 25 CFR 65; 25 CFR 66; 25 CFR 76

Legal Deadline: None

Abstract: BIA is eliminating these rules in accordance with Executive Order 12866. The rules are no longer needed and their removal will shorten and simplify the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bettie Rushing, Chief, Branchof Judicial Services, Department of the Interior, Bureau of Indian Affairs, Room Room 2611 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4400

RIN: 1076–AD31

1558. • COAL LEASES: TERMS AND CONDITIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 25 CFR 200

Legal Deadline: None

Abstract: This rule deletes part 200 from 25 CFR. The rule is outdated and no longer used. Hard rock mining procedures can be found under 25 CFR 216.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kim Snyder, Liaison Officer, Energy and Minerals, Office of Trust Responsibilities, Department of the Interior, Bureau of Indian Affairs, Room 4544 MIB, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3607
Fax: 202 208-6019

RIN: 1076–AD32

1559. • SPECIAL GRANTS FOR ECONOMIC DEVELOPMENT AND CORE MANAGEMENT GRANTS TO SMALL TRIBES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 103-413 The Indian Self-Determination Act Amendments

CFR Citation: 25 CFR 278

Legal Deadline: None

Abstract: The Bureau is promulgating new rules at 25 CFR 900 to implement the Indian Self-Determination Act Amendments of 1994 (Public Law 103-413). When published, the new rules will replace the provisions of 25 CFR 278. At that time, the Bureau will rescind the rules in 25 CFR 278.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: James Thomes, Chief, Division of Self Determination Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Washington, DC 20240
Phone: 202 208-3708

RIN: 1076–AD60

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Indian Affairs (BIA)

Completed Actions

1560. • COURTS OF INDIAN OFFENSES

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 11.100

Legal Deadline: None

Abstract: This rule amends the provisions governing Courts of Indian Offenses by removing from the list of Courts of Indian Offenses the names of those tribes that have exercised their inherent sovereignty and established tribal courts.

Timetable:

Action	Date	FR Cite
Final Action	03/15/96	61 FR 10673

Small Entities Affected: Organizations

Government Levels Affected: Tribal

Agency Contact: Bettie Rushing, Acting Chief, Division of Tribal Government Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., Room 2611-MIB, Washington, DC 20240-4001
Phone: 202 208-7446

RIN: 1076–AD29

BILLING CODE 4310-02-F

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Proposed Rule Stage

1561. VALUATION OF GAS FROM INDIAN LEASES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: The rule will amend the regulations governing the valuation of gas produced from Indian leases. The primary purpose of these amendments is to ensure that Indian mineral lessors receive maximum revenues from mineral resources on their land consistent with the Department's trust responsibility and lease terms.

Timetable:

Action	Date	FR Cite
ANPRM	08/04/94	59 FR 39712
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rule is being developed using the negotiated rulemaking process which will include representatives of MMS, Indian tribes, States, and industry. Notice of public meetings will be published in the Federal Register.

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165
Phone: 303 231-3058

RIN: 1010–AB57

1562. ROYALTIES, RENTALS, BONUSES, AND OTHER MONIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 396; 25 USC 2101; 30 USC 181; 30 USC 351; 30 USC 1701; 31 USC 9701; 43 USC 1301; 43 USC 1331; 43 USC 1801

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: This rule implements changes in Treasury regulations that require agencies to use electronic collection and deposit of funds when cost effective, practical, and consistent with statutory authority. The rule will simplify industry's payments to MMS in compliance with the new Treasury requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165
Phone: 303 231-3058

RIN: 1010–AC01

1563. ALLOWANCES FOR TRANSPORTATION AND PROCESSING COSTS ASSOCIATED WITH GAS VALUATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 25 USC 396; 25 USC 2101; 30 USC 181; 30 USC 351; 30 USC 1001; 30 USC 1701; 31 USC 9701; 43 USC 1301; 43 USC 1331; 43 USC 1801

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: This rule amends the regulations governing valuation for royalty purposes of gas produced from Federal and Indian leases. It primarily addresses allowances for transportation of gas. The amendments would clarify the methods by which gas royalties and deductions for gas transportation are calculated. The rule will also clarify changes required by Federal Energy Regulatory Commission Order 636 which has caused significant changes in the natural gas transportation industry.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
NPRM Comment Period End	02/00/97	

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, Room 3000, Denver, CO 80225-0165
Phone: 303 231-3058

RIN: 1010–AC06

1564. LEASE EXTENSIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule will change the regulations governing extension of lease terms in response to current economic conditions, potential delays in scheduling of drilling activities, and the increased use of three-dimensional seismic data to supplement drilling activity. The changes would give more flexibility to lessees.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals

Management Service, 381 Elden Street, Room 4720, Herndon, VA 22070-4817
Phone: 703 787-1607

RIN: 1010–AC07

1565. RELEASE OF THIRD PARTY PROPRIETARY INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 30 USC 181 et seq; 31 USC 9701; 43 USC 1301 et seq

CFR Citation: 30 CFR 243

Legal Deadline: None

Abstract: This revision will allow MMS to provide appellants with documents containing proprietary information upon which assessments are based and which third parties furnished to MMS. This rule addresses only situations where MMS provides documents in administrative appeal. It does not address MMS providing any other type of document outside the administrative appeals process.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, PO Box 25165, Room 3000, Denver, CO 80225-0165
Phone: 303 231-3058

RIN: 1010–AC08

1566. VALUATION OF OIL FROM FEDERAL AND INDIAN MINERAL LEASES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 25 USC 396 et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: This rule will improve oil valuation and reporting procedures to reflect current oil selling arrangements in the oil and gas industry.

Timetable:

Action	Date	FR Cite
ANPRM	12/20/95	60 FR 65610
ANPRM Comment Period End	03/19/96	
NPRM	12/00/96	
NPRM Comment Period End	02/00/97	

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, PO Box 25165, Room 3000, Denver, CO 80225-0165
Phone: 303 231-3780

RIN: 1010–AC09

1567. • GEOLOGICAL AND GEOPHYSICAL EXPLORATION OF THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1331 et seq; 43 USC 4332 et seq

CFR Citation: 30 CFR 251

Legal Deadline: None

Abstract: This rule is being revised to reflect the current requirements and practices and to conform with new or changed laws and regulations. It expands the requirements for filing notice to include all geological and geophysical research not conducted under permit. It also clarifies that these regulations apply only to oil, gas, and sulphur, as all other minerals on the Outer Continental Shelf are covered by 30 CFR 280. This rule will provide other information, such as current filing location addresses.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, 381 Elden Street, Room 4700, Herndon, VA 22070
Phone: 703 787-1600
Fax: 703 787-1575

RIN: 1010–AC10

1568. • CIVIL PENALTY PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250 Subpart N

Legal Deadline: None

Abstract: This rule will be reinvented by rewriting it in plain English. The OCSLA provides MMS with significant flexibility in imposing civil penalties. MMS will rewrite the rule to state the process more clearly and remove provisions that are not needed.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	
NPRM Comment Period End	05/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Cook, Chief, Inspection and Enforcement Branch, Department of the Interior, Minerals Management Service, Room 4700, 381 Elden Street, Herndon, VA 22070
Phone: 703 787-1610

RIN: 1010–AC11

1569. • SAFETY AND POLLUTION PREVENTION EQUIPMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.1; 30 CFR 250.2; 30 CFR 250.124; 30 CFR 250.126

Legal Deadline: None

Abstract: This amendment revises the safety and pollution prevention equipment quality assurance program. It also clarifies existing rules for safety valves and establishes a new definition for the term "lessee."

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
NPRM Comment Period End	02/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, 381 Elden Street, Room 4700, Herndon, VA 22070
Phone: 703 787-1600
Fax: 703 787-1575

RIN: 1010–AC12

1570. • ELIMINATION OF DRILLING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 256.37

Legal Deadline: None

Abstract: This revision will eliminate the drilling requirement from 30 CFR 256.37 for future leases. The provision will only apply when stipulated in the notice of lease sale. This will allow MMS to issue leases for 8 years without the drilling provision.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, 381 Elden Street, Room 4700, Herndon, VA 22070-4817
Phone: 703 787-1600
Fax: 703 787-1575

RIN: 1010–AC15

1571. • ANNUAL INSPECTIONS OF OUTER CONTINENTAL SHELF FACILITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule will require lessees to conduct annual scheduled inspections of offshore facilities. These inspections are now conducted by MMS. As a result of this change, MMS will be able to focus its limited inspection resources on higher risk facilities and operators.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: William Cook, Chief, Inspection and Enforcement Branch, Department of the Interior, Minerals Management Service, 381 Elden Street, Room 4800, Herndon, VA 22070-4817
Phone: 703 787-1610

RIN: 1010–AC16

1572. • SEISMIC REASSESSMENT OF CALIFORNIA OUTER CONTINENTAL SHELF PLATFORMS

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 1334

CFR Citation: 30 CFR 250.145

Legal Deadline: None

Abstract: MMS has been investigating the need for platform seismic reassessment guidelines since the Loma Prieta earthquake. This rule will require an operator to ascertain the safety of a platform before making major modifications or after damage to a primary member.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, 381 Elden Street, Room 4700, Herndon, VA 22070-4817
Phone: 703 787-1600
Fax: 703 787-1575

RIN: 1010–AC17

1573. • EXTENSION OF THE BID ACCEPTANCE/REJECTION PERIOD IN THE FINAL NOTICE OF SALE

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 256.47

Legal Deadline: None

Abstract: The Outer Continental Shelf Lands Act authorizes the Secretary to administer leasing of the Outer Continental Shelf. The extension of the bid acceptance/rejection period will ensure that adequate time is available to evaluate all high bids received in the Central Gulf of Mexico Sale 157 and later sales.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Room 4700, 381 Elden Street, Herndon, VA 22075-4817
Phone: 703 787-1607

RIN: 1010–AC18

DEPARTMENT OF THE INTERIOR (DOI)
Minerals Management Service (MMS)

Final Rule Stage

1574. PAYOR RESPONSIBILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 211

Legal Deadline: None

Abstract: Responsibilities of Minerals Management Service include the collection of royalties, bonuses, rentals, and related revenues from Federal and Indian mineral leases. These monies are, for the most part, collected from the current designated payor on the lease. However, if MMS is unable to collect from the current payor, it must pursue collections from a prior payor(s), the lessee, or an assignee of the lease. Existing regulations are unclear as to the responsibilities and liabilities of the parties involved. Therefore, MMS is proposing to amend its regulations to clarify payor, lessee, and assignee requirements and responsibilities.

Timetable:

Action	Date	FR Cite
NPRM	04/13/94	59 FR 17504
NPRM	08/09/95	60 FR 30492
Comment Period Extended to 1/8/96	08/30/95	60 FR 45112
NPRM Comment Period End	01/26/96	60 FR 56033
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165
Phone: 303 231-3058

RIN: 1010–AB45

1575. AMENDMENTS TO 30 CFR 250.67—HYDROGEN SULFIDE

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.67

Legal Deadline: None

Abstract: This rule will revise the requirements for warning systems, personnel protection, hydrogen sulfide (H2S) and sulphur dioxide (SO2) detection and monitoring. A recent equipment failure at an H2S gas facility resulted in the flaring of gas containing high concentrations of H2S, which resulted in the risk of exposure to high concentrations of H2S and the discharge of large volumes of SO2. As a result of this incident, the current regulations are being revised to adequately address the flaring of gas containing H2S. Since the revisions are extensive, the rule was reproposed.

Timetable:

Action	Date	FR Cite
NPRM	08/15/90	55 FR 33326
NPRM Comment Period End	10/15/90	
NPRM	05/11/95	60 FR 25178
NPRM Comment Period End	07/10/95	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070
Phone: 703 787-1607

RIN: 1010–AB50

1576. CREDIT ADJUSTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: Section 10 of the Outer Continental Shelf Lands Act (OCSLA), 43 USC 1339, requires that a lessee or payor under an offshore lease submit a request to Minerals Management Service (MMS) for recoupment or refund of an overpayment (credit adjustment) within 2 years of the date of the original payment. However, current law does not provide for a time limitation on credit adjustments under onshore Federal or Indian leases similar to that provided in the OCSLA. This rule would add a new provision entitled "Limitations on Credit Adjustments" which would restrict credit adjustments without prior authorization to payments due within 5 years before the date of the adjustments. The rule provides that MMS could authorize credit adjustments with respect to payments made more than 5 years but less than 10 years before the date of the adjustments. However, credit adjustments with respect to any payment made more than 10 years before the date of the adjustment would be prohibited.

The Debt Collection Act of 1982 (DCA), 31 USC 3716, allows Federal agencies to collect outstanding claims by administrative offset. The DCA instructs each agency to prescribe regulations before collecting a claim by administrative offset, of royalties, interest, or other amounts due under Federal and Indian oil, gas, and other mineral leases.

Timetable:

Action	Date	FR Cite
NPRM	08/17/93	58 FR 43588
NPRM Comment Period End	11/01/93	58 FR 50301
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rule now includes the material formerly contained in RIN 1010-AB74.

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165
Phone: 303 231-3058

RIN: 1010–AB73

1577. RESPONSE PLANS FOR FACILITIES SEAWARD OF THE COASTLINE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1321; EO 12777

CFR Citation: 30 CFR 254

Legal Deadline: Final, Statutory, August 18, 1992.

DOI—MMS

Final Rule Stage

Abstract: Regulations are being developed to implement the authority of Minerals Management Service (MMS) under the Federal Water Pollution Control Act (FWPCA) as amended by the Oil Pollution Act of 1990. These regulations will address oil spill prevention and response in State submerged lands as well as in the Outer Continental Shelf. A nonregulatory alternative will not meet the mandate of the FWPCA as amended. The expected costs will depend on the extent to which existing practices in State and Federal waters meet the new mandated requirements. The expected benefits will be an assurance that oil spill prevention and response capability are being addressed on all facilities in both State and Federal waters.

Timetable:

Action	Date	FR Cite
ANPRM	08/12/92	57 FR 36032
ANPRM Comment Period End	10/28/92	
Interim Final Rule	02/08/93	58 FR 7489
NPRM	01/13/95	60 FR 3177
Interim Final Rule	02/21/95	60 FR 9626
NPRM Comment Period End	03/14/95	
Comment Period Extended to 5/15/95	03/14/95	60 FR 13652
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, VA 22070
Phone: 703 787-1607

RIN: 1010–AB81

1578. REVISION OF REQUIREMENTS GOVERNING CORPORATE SURETY BONDS FOR OUTER CONTINENTAL SHELF LEASES

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250; 30 CFR 251; 30 CFR 256

Legal Deadline: None

Abstract: This rule will amend current regulations requiring lessee surety bonds. The value of surety bonds required by current regulations for leases approved before November 27, 1993, is not adequate to protect the government from loss due to lessees' failure to comply with the terms of OCS leases. This rule embodies a comprehensive approach to the complex problems associated with the movement of smaller operators into the OCS. The potential costs are the increase in cost to obtain a higher level of bond coverage. Benefits would be the enhancement of smaller operators' ability to provide necessary surety, and to provide greater protection of the public interest by reducing the potential for losses to the government.

Timetable:

Action	Date	FR Cite
NPRM	12/08/95	60 FR 63011
NPRM Comment Period End	03/07/96	
Final Action	09/00/96	
Final Action Effective	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Room 4700, 381 Elden Street, Herndon, VA 22070
Phone: 703 787-1607

RIN: 1010–AB92

1579. FLARING OR VENTING GAS AND BURNING LIQUID HYDROCARBONS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1334(j)

CFR Citation: 30 CFR 250.175

Legal Deadline: None

Abstract: MMS regulations do not now address burning of liquid hydrocarbons. When the rules were written, liquid hydrocarbons were not burned and there was no need to address the subject. Economic changes, coupled with an increase in well test times and distances from shore, have caused some operators to ask to burn liquid hydrocarbons. Currently, MMS is citing its mandate to conserve resources to restrict this practice. However, to have clear regulatory backing for this policy, MMS issued a proposed rulemaking. This proposed rule gave the public the opportunity to comment on the proposed restrictions on burning liquid hydrocarbons.

Timetable:

Action	Date	FR Cite
NPRM	02/17/95	60 FR 9312
NPRM Comment Period End	04/18/95	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Buffington, Petroleum Engineer, Department of the Interior, Minerals Management Service, Room 4700, 381 Elden Street, Herndon, VA 22070-4817
Phone: 703 787-1147

RIN: 1010–AB96

1580. TRAINING OF LESSEE AND CONTRACTOR EMPLOYEES ENGAGED IN OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1332

CFR Citation: 30 CFR 250.210; 30 CFR 250.211; 30 CFR 250.212; 30 CFR 250.213; 30 CFR 250.214; 30 CFR 250.215

Legal Deadline: None

Abstract: MMS feels that the current regulations in 30 CFR 250 need to be updated to provide the flexibility to use new technology and innovative programs.

Timetable:

Action	Date	FR Cite
ANPRM	08/05/94	59 FR 39991
ANPRM Comment Period End	10/03/94	
NPRM	11/02/95	60 FR 55683
NPRM Comment Period End	01/31/96	
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Buffington, Petroleum Engineer, Department of the Interior, Minerals Management Service, Room 4800, 381 Elden Street, Herndon, VA 22070-4817
Phone: 703 787-1147

RIN: 1010–AB99

DOI—MMS

Final Rule Stage

1581. VALUATION OF GAS PRODUCTION—FEDERAL LEASES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 25 USC 396; 25 USC 2101; 30 USC 181; 30 USC 351; 30 USC 1001; 30 USC 1701; 31 USC 9701; 43 USC 1301; 43 USC 1331; 43 USC 1801

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: This rule amends regulations regarding the valuation of gas produced from Federal leases and agreements for arms-length and non-arms-length contracts. Due to the variety of situations in producing and marketing gas products, MMS's purpose is to provide a valuation procedure that closely reflects market conditions and allows royalty to be based upon information readily available to the lessee. The procedure will minimize the administrative burden on industry and MMS.

Timetable:

Action	Date	FR Cite
NPRM	11/06/95	60 FR 56007
NPRM Comment Period End	02/05/96	60 FR 64000
Final Action	07/00/96	
Final Action Effective	01/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: This rule was developed using the negotiated rulemaking process which included representatives of MMS, States, industry, and other interested parties. Public meetings were held in accordance with notices published in the Federal Register.

Agency Contact: James W. Shaw, Associate Director for Royalty Management, Department of the Interior, Minerals Management Service, P.O. Box 25165, MS 3000, Denver, CO 80225-0165
Phone: 303 231-3058

RIN: 1010–AC02

1582. UPDATING DOCUMENTS INCORPORATED BY REFERENCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.1; 30 CFR 250.180

Legal Deadline: None

Abstract: This rule amends the Minerals Management Service regulations by incorporating new editions of documents that have already been incorporated into the regulations by reference. The new editions will continue to ensure that lessees use the best available and safest technologies while operating on the Outer Continental Shelf.

Timetable:

Action	Date	FR Cite
NPRM	08/17/95	60 FR 42819
NPRM Comment Period End	10/16/95	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, 381 Elden Street, Room 4700, Herndon, VA22070
Phone: 703 787-1600

RIN: 1010–AC03

1583. FEES FOR LEASE ASSIGNMENTS AND PIPELINE RIGHTS OF WAY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1334; 43 USC 1331 et seq

CFR Citation: 30 CFR 250.160; 30 CFR 250.163; 30 CFR 256.64

Legal Deadline: None

Abstract: This rule amends the requirements governing filing fees for pipeline right of way applications and assignments and lease transfers. By increasing the filing fees, MMS will recover the costs of processing these documents. The amendment also establishes that future changes in these filing fees will be indexed to the Consumer Price Index "U."

Timetable:

Action	Date	FR Cite
NPRM	08/11/95	60 FR 41034
NPRM Comment Period End	10/10/95	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, 381 Elden Street, Room 4700, Herndon, VA 22070
Phone: 703 787-1600

RIN: 1010–AC04

1584. • ROYALTY RELIEF FOR OUTER CONTINENTAL SHELF LEASES IN THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-58 Outer Continental Shelf Deep Water Relief Act

CFR Citation: 30 CFR 202; 30 CFR 206; 30 CFR 210; 30 CFR 216; 30 CFR 217; 30 CFR 218; 30 CFR 250.175; 30 CFR 256.32; 30 CFR 260

Legal Deadline: Final, Statutory, May 28, 1996.

Abstract: The Act authorizes the Secretary of the Interior to modify royalty or net profit share terms of certain existing leases and to offer new leases subject to the Act's provisions for royalty suspension volumes in water depths of 200 meters or more in parts of the Central and Western Gulf of Mexico. The Act directs the Secretary to promulgate implementing regulations within 180 days of enactment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, 381 Elden Street, Room 4700, Herndon, VA 22075-4817
Phone: 703 787-1600
Fax: 703 787-1575

RIN: 1010–AC13

DOI—MMS

Final Rule Stage

1585. • DEEP WATER ROYALTY RELIEF—TRACTS OFFERED BETWEEN NOVEMBER 28, 1995, AND NOVEMBER 28, 2000

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-58 Outer Continental Shelf Deep Water Royalty Relief Act

CFR Citation: 30 CFR 202; 30 CFR 206; 30 CFR 210; 30 CFR 216; 30 CFR 217; 30 CFR 218; 30 CFR 250.175; 30 CFR 256.32; 30 CFR 260

Legal Deadline: Final, Statutory, May 28, 1996.

Abstract: The Act authorizes the Secretary of the Interior to modify royalty or net profit share terms of certain existing leases and to offer new leases subject to the Act's provisions for royalty suspension volumes in water depths of 200 meters or more in parts of the Central and Western Gulf of Mexico. The Act directs the Secretary to promulgate implementing regulations within 180 days of enactment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, 381 Elden Street, Room 4700, Herndon, VA 22075-4817
Phone: 703 787-1600
Fax: 703 787-1575

RIN: 1010–AC14

DEPARTMENT OF THE INTERIOR (DOI)

Minerals Management Service (MMS)

Long-Term Actions

1586. GAS MEASUREMENT AND COMMINGLING

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1334; 30 USC 1711

CFR Citation: 30 CFR 250.181; 30 CFR 250.182; 30 CFR 250.184

Legal Deadline: None

Abstract: This rule would amend and update regulations applicable to gas measurement, add a provision to an existing regulation that would clarify conditions under which surface commingling of gas would be approved, and add a new section to require measurement or estimation of gas volumes used on the leases or otherwise not saved for sale.

Timetable:

Action	Date	FR Cite
NPRM	04/00/97	
NPRM Comment Period End	06/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John Mirabella, Chief, Engineering and Standards Branch, Department of the Interior, Minerals Management Service, Room 4700, 381 Elden Street, Herndon, VA 22070-4817
Phone: 703 787-1607

RIN: 1010–AB97

DEPARTMENT OF THE INTERIOR (DOI)

Minerals Management Service (MMS)

Completed Actions

1587. SAFETY REQUIREMENTS GOVERNING PRODUCTION PLATFORMS AND PIPELINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 30 CFR 250

Completed:

Reason	Date	FR Cite
Withdrawn	10/24/95	60 FR 54465

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella
Phone: 703 787-1607

RIN: 1010–AB52

1588. REVISION OF AUTHORIZED BIDDING SYSTEMS FOR LEASES IN THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 30 CFR 256

Completed:

Reason	Date	FR Cite
Final Action	02/02/96	61 FR 3800

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Mirabella
Phone: 703 787-1607

RIN: 1010–AB93

1589. TRANSPORTATION AND PROCESSING ALLOWANCES FOR OIL AND GAS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 30 CFR 202

DOI—MMS

Completed Actions

Completed:

Reason	Date	FR Cite
Combined with RIN 1010-AC00	01/30/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: James W. Shaw
Phone: 303 231-3058

RIN: 1010–AB94

1590. TRANSPORTATION AND WASHING ALLOWANCES FOR COAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 30 CFR 202

Completed:

Reason	Date	FR Cite
Final Action	02/12/96	61 FR 5448
Final Action Effective	03/01/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: James W. Shaw
Phone: 303 231-3058

RIN: 1010–AC00

BILLING CODE 4310-MR-F

DEPARTMENT OF THE INTERIOR (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Proposed Rule Stage

1591. DEFINITION AND CRITERIA FOR VALID EXISTING RIGHTS

Priority: Other Significant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 740; 30 CFR 745; 30 CFR 761; 30 CFR 772

Legal Deadline: None

Abstract: This rule will amend the portions of the permanent program which address the circumstances which constitute valid existing rights to mine coal in areas where Congress has otherwise prohibited mining under section 522(e) of the Surface Mining Control and Reclamation Act of 1977. This revision is in response to a court decision in round III of the litigation on OSM's permanent program regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/18/91	56 FR 33152
NPRM Comment Period End	09/16/91	
Reproposal Anticipated	07/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Dennis Rice, Rules and Legislation Staff, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240
Phone: 202 208-2829

RIN: 1029–AB42

1592. ABANDONED COAL REFUSE SITES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 1201

CFR Citation: 30 CFR 785; 30 CFR 829; 30 CFR 830; 30 CFR 845; 30 CFR 870

Legal Deadline: NPRM, Statutory, October 24, 1993.

Abstract: OSM will propose new regulations governing permitting and performance standards for on-site processing of abandoned coal refuse piles and operations for removal of abandoned coal refuse piles. The rules are required to implement Section 2503(e) of the Energy Policy Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Doug Growitz, Hydrologist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2561

RIN: 1029–AB70

1593. COAL MOISTURE

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 870

Legal Deadline: None

Abstract: This rule adds specific criteria an operator must use in determining an excess moisture allowance claimed under 30 CFR 870.12. These criteria will codify technical guidance contained in AML Payer Letters issued since June 1988. The rule will identify acceptable methods and procedures for estimating total and inherent moisture contained in low rank coal. The criteria are based upon OSM experience and industry practices.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James K. Krawchyk, Chief, Division of Compliance Management, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Three Parkway Center, Pittsburgh, PA 15220
Phone: 412 921-2976

RIN: 1029–AB78

1594. CONTEMPORANEOUS RECLAMATION

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 780; 30 CFR 773

Legal Deadline: None

Abstract: This rule will amend regulations to ensure that coal mine operators reclaim their operations in a contemporaneous manner using site-based contemporaneous standards.

DOI—OSMRE

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Hunter, Office of Technology Development, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2802

RIN: 1029–AB79

1595. NOTIFICATION AND PERMIT PROCESSING

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201

CFR Citation: 30 CFR 773

Legal Deadline: None

Abstract: This rule would: (1) require that written findings be provided to all parties in an informal conference held during the permitting process regardless of the decision of the Regulatory Authority and (2) increase the protection afforded private landowners with property within the permit area of approved mining and reclamation permits. Preliminary information indicates that the rule may increase the costs of operations to the coal industry in certain states while protecting the property values of private homeowners.

Timetable:

Action	Date	FR Cite
NPRM	10/26/94	59 FR 53884
NPRM Comment Period End	02/27/95	59 FR 66287
Reopen Comment Period	04/00/96	
Final Action	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Scott Boyce, Environmental Protection Specialist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2986

RIN: 1029–AB80

1596. PROHIBITIONS UNDER SECTION 522(E) OF SMCRA

Priority: Other Significant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 761

Legal Deadline: None

Abstract: This rule will clarify the applicability of section 522 (e) of SMCRA to subsidence resulting from underground coal mining. Section 522 (e) prohibits surface coal mining operations in certain areas designated by Congress, subject to existing rights.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Broderick, Office of Title V Policy, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Washington, DC 20240
Phone: 202 208-2700

RIN: 1029–AB82

1597. INDIAN LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 25 CFR 200; 30 CFR 700

Legal Deadline: None

Abstract: This rule will amend regulations to allow OSM to contract to the Navajo and Hopi Tribes certain functions relating to permitting, mine plan review, bonding, and other functions authorized by the Indian land provisions of SMCRA. The rule is being proposed pursuant to a settlement agreement.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Suzy Hudak, Rules and Legislation Staff, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2713

RIN: 1029–AB83

1598. • COOPERATIVE AGREEMENTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 745; 30 CFR 900; 30 CFR 901; 30 CFR 906; 30 CFR 913; 30 CFR 926; 30 CFR 931; 30 CFR 934; 30 CFR 935; 30 CFR 936; 30 CFR 944; 30 CFR 946; 30 CFR 948; 30 CFR 950

Legal Deadline: None

Abstract: This rule revises OSM's procedures for entering into State-Federal cooperative agreements and removes from the CFR the entire text of approved agreements. This is being done to reduce the number of unnecessary pages in the CFR. Although the full text of the agreements is being removed, the cooperative agreements will remain in effect and will continue to govern the State regulation of surface coal mining and reclamation operations on Federal lands. This rule is not expected to result in any cost increases for the coal industry, the States, or members of the public.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andy DeVito, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2701
Fax: 202 219-3100
Email: adevito@OSMRE.gov

RIN: 1029–AB84

1599. • ALLUVIAL VALLEY FLOORS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 785

Legal Deadline: None

Abstract: This rule requires that a request for an alluvial valley floor (AVF) determination be accompanied by a permit application. Current procedures allow a permit applicant to request an AVF determination without

DOI—OSMRE — Proposed Rule Stage

submitting a permit application. The revision should result in fewer instances where a taking occurs as a result of the prohibition against mining in an AVF. The provisions may substantially lessen compensation costs for the government.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Andy DeVito, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2701
Fax: 202 219-3100
Email: adevito@OSMRE.gov

RIN: 1029–AB85

DEPARTMENT OF THE INTERIOR (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Final Rule Stage

1600. APPLICANT/VIOLATOR SYSTEM PERMIT INFORMATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701; 30 CFR 773; 30 CFR 774; 30 CFR 778; 30 CFR 843

Legal Deadline: None

Abstract: The Office of Surface Mining Reclamation and Enforcement proposes to establish new regulations and amend existing provisions to clarify the role of the Applicant/Violator System (AVS) in the permit application process; amend the definitions of ownership and control and of transfer, assignment or sale of permit rights; establish procedures for successor in interest; revise requirements for information to be submitted as part of the permit application process; and eliminate certain civil penalties as a basis for a permit block for owners and controllers of violators.

Timetable:

Action	Date	FR Cite
NPRM	06/28/93	58 FR 34652
NPRM Comment Period End	10/12/93	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Stephen Sheffield, Chief, Applicant/Violator System, Office, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Room 7424 MIB, Washington, DC 20240
Phone: 202 208-4655

RIN: 1029–AB62

1601. BASIS FOR COAL WEIGHT DETERMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 870

Legal Deadline: None

Abstract: Some processors purchase raw coal from operators on an estimated clean coal basis. The Office of Surface Mining Reclamation and Enforcement's rules require reclamation fee payment on the actual gross weight of the clean or raw coal at the time of sale, transfer or use. Records required to document the basis of a coal sale are not clearly defined. Legislative changes provide OSM the authority to audit coal preparation plants, tipples and loading facilities. Records a person operating a coal preparation plant must maintain on coal purchases are not specified in regulation. A person operating a preparation plant is not liable for fee payment on coal sales that exceed purchases. This rule would allow an operator who sells coal to a processor, who actually cleans the coal, to pay fees on the same basis on which the operator is paid by the processor. The person who operates a coal preparation plant would be liable for reclamation fee payment on all coal sold that exceeds coal purchased. Records to be maintained to document the basis for coal sales would be defined in regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/29/92	57 FR 62116
NPRM Comment Period End	03/01/93	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James K. Krawchyk, Chief, Division of Compliance Management, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Three Parkway Center, Pittsburgh, PA 15220
Phone: 412 921-2676

RIN: 1029–AB68

1602. • STATE PROGRAM AMENDMENTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 901 to 950

Legal Deadline: None

Abstract: This amendment will reduce the text of the state program amendment regulation. The rule will place State program amendment approvals/disapprovals into tabular format.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John A. Trelease, Program Specialist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240
Phone: 202 208-2617
Fax: 202 219-3100

RIN: 1029–AB86

DOI—OSMRE — Final Rule Stage

DEPARTMENT OF THE INTERIOR (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Completed Actions

1603. COAL REMINING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 30 CFR 701; 30 CFR 773; 30 CFR 785; 30 CFR 816; 30 CFR 817

Completed:

Reason	Date	FR Cite
Final Action	11/27/95	60 FR 58480
Final Action Effective	12/27/95	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Doug Growitz
Phone: 202 208-2561

RIN: 1029–AB74

1604. DEFINITION OF COAL

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 700.5; 30 CFR 870

Completed:

Reason	Date	FR Cite
Withdrawn - No further action will be taken at this time.	01/22/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Doug Growitz
Phone: 202 208-2561

RIN: 1029–AB75

1605. AFFECTED AREA (HAUL ROADS)

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 701

Completed:

Reason	Date	FR Cite
Withdrawn - No further action will be taken at this time.	01/30/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dan Stocker
Phone: 202 208-2802

RIN: 1029–AB76

BILLING CODE 4310-05-F

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB)

Proposed Rule Stage

1606. CENTRAL VALLEY PROJECT OF CALIFORNIA—PURPOSES, USES, AND ALLOCATION OF WATER SUPPLIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 553

CFR Citation: 43 CFR 432; 50 CFR 1

Legal Deadline: None

Abstract: The rule will address water for fish and wildlife, water conservation standards, water transfers, land retirement, tiered pricing, renewal of long-term contracts, and implementation of the restoration fund created by the Central Valley Improvement Act. This rule is being developed jointly by the Bureau of Reclamation and the Fish and Wildlife Service.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/94	59 FR 39316
ANPRM Comment Period End	02/01/95	59 FR 67265
NPRM	06/28/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frank Dimick, Assistant Regional Director, Department of the Interior, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825-1898
Phone: 916 979-2204
Fax: 916 979-2450

RIN: 1006–AA34

1607. • MANAGEMENT OF LAKE BERRYESSA

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 93-493

CFR Citation: 43 CFR 430

Legal Deadline: None

Abstract: This rule specifies that the procedures detailed in 43 CFR 4 are available to concessioners at Lake Berryessa, California, for appealing decisions made by the Bureau of Reclamation. This regulation is no longer needed since it merely refers the concessioners to another rule. Reclamation will notify the concessioners of the other rule by placing a statement in their contracts or by writing them letters.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Ed Cramer, Policy Analyst, Department of the Interior, Bureau of Reclamation, PO Box 25007, Denver, CO 80225
Phone: 303 236-1061
Fax: 303 236-6763

RIN: 1006–AA36

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DOI—RB — Proposed Rule Stage

1608. • ADJUSTMENTS TO THE 1988 OPERATING CRITERIA FOR THE NEWLANDS IRRIGATION PROJECT, NEVADA

Priority: Substantive, Nonsignificant

Legal Authority: 32 Stat 388 et seq; 43 USC 373; 70 Stat 775; 72 Stat 705; 104 Stat 3289

CFR Citation: 43 CFR 418

Legal Deadline: None

Abstract: The 1988 operating criteria for the Newlands Project were approved by the Deputy Secretary and the U.S. District Court for Nevada. They were, however, never promulgated as a rule. The criteria govern the Newlands Project with the goal of improving efficiency and maximizing use of water from the Carson River while minimizing use of water from the Truckee River as a supplemental supply. The proposed adjustments recognize changes in project acreage, provide greater management flexibility, and further reduce reliance on Truckee River water.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $300,000; Base Year for Dollar Estimates: 1994

Agency Contact: Jeffrey P. Zippin, Team Leader, Truckee-Carson Coordination Office, Department of the Interior, Bureau of Reclamation, 1000 E. William Street, Suite 100, Carson City, NV 89701-3116
Phone: 702 887-9640
Fax: 702 887-1898

RIN: 1006–AA37

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB)

Final Rule Stage

1609. REVENUES MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 43 USC 373; 43 USC 391; 43 USC 392a; 16 USC 835; 30 USC 355; 30 USC 1019; 43 USC 374; 43 USC 375; 43 USC 394; 43 USC 475; 43 USC 501; 43 USC 562; 43 USC 617; 43 USC 620; ...

CFR Citation: 43 CFR 403

Legal Deadline: None

Abstract: This rule governs the disposition of incidental revenues generated by the use of Bureau of Reclamation project lands and facilities in accordance with Reclamation law. It is being published so that water districts have access to the legal requirements that the Bureau of Reclamation applies in crediting.

Timetable:

Action	Date	FR Cite
NPRM	09/12/94	59 FR 46801
NPRM Comment Period End	01/13/95	59 FR 58808
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alonzo D. Knapp, Manager, Reclamation Law, Contracts, and Repayment Office, Department of the Interior, Bureau of Reclamation, P.O. Box 25007, Denver, CO 80225-0007
Phone: 303 236-1061

RIN: 1006–AA30

1610. ACREAGE LIMITATION AND WATER CONSERVATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 553; 16 USC 590z-11; 16 USC 590y et seq; 5 USC 553; 43 USC 390 to 544

CFR Citation: 43 CFR 426; 43 CFR 427

Legal Deadline: NPRM, Judicial, March 10, 1995. Final, Judicial, November 15, 1995.
Deadlines were established in a contract settlement contract. On the basis of this contract, the Federal District Court vacated its previous order on this rulemaking.

Abstract: A lawsuit settlement contract, signed in September 1993, requires the Bureau of Reclamation to propose new regulations implementing the Reclamation Reform Act of 1982 on a westwide basis. The contract also requires the Bureau to prepare an EIS considering the impact of the proposed regulation and alternatives. The contract specifies that the proposed rules and draft EIS be published by December 1, 1994, and the final rules and EIS be published by August 1, 1995. These dates have been extended by the litigants to February 2, 1996, for publication of the final EIS and March 8, 1996, for publication of the final rules.

Timetable:

Action	Date	FR Cite
ANPRM	12/06/93	58 FR 64336
NPRM	04/03/95	60 FR 16921
NPRM Comment Period End	06/05/95	60 FR 29532
Final Action	04/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Federal

Agency Contact: Rusty Schuster, Westwide Settlement Manager, Department of the Interior, Bureau of Reclamation, P.O. Box 25007, Mail Code D-5010, Denver, CO 80225-0007
Phone: 303 236-9336

RIN: 1006–AA32

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Reclamation (RB)

Completed Actions

1611. REGULATIONS FOR ADMINISTERING ENTITLEMENTS TO COLORADO RIVER WATER IN THE LOWER COLORADO RIVER BASIN

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 415

Completed:

Reason	Date	FR Cite
No further action at this time.	01/30/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Dale Ensminger
Phone: 702 293-8659

RIN: 1006–AA24

BILLING CODE 4310-06-F

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Proposed Rule Stage

1612. MANAGEMENT OF DESIGNATED WILDERNESS AREA

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1701 et seq; 16 USC 1131 et seq

CFR Citation: 43 CFR 8560

Legal Deadline: None

Abstract: This rule will amend the existing regulations to remove obsolete provisions, clarify and simplify the regulations, and add provisions on access to inholdings, rights-of-way, use of mechanized equipment by certain individuals, access by Native Americans.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rob Hellie, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7703

RIN: 1004–AB69

1613. SALES—FEDERAL LAND POLICY AND MANAGEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1701; 43 USC 1713

CFR Citation: 43 CFR 2710

Legal Deadline: None

Abstract: This rule will amend 43 CFR part 2710 to provide for improved administration of sales of public land under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jim Paugh, Realty Specialist, Department of the Interior, Bureau of Land Management, 2515 Warren Ave., P.O. Box 1828, Cheyenne, WY 82003
Phone: 307 775-6306

RIN: 1004–AB77

1614. TRAMROADS AND LOGGING ROADS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1732; 43 USC 1733; 43 USC 1740; 43 USC 1761 to 1771; 43 USC 1181a to 1181b

CFR Citation: 43 CFR 2810

Legal Deadline: None

Abstract: The rule will amend the regulations implementing title V of the Federal Land Policy and Management Act of 1976 with respect to tramroads and logging roads over the Oregon and California Railroad lands and Coos Bay Wagon Road lands. It will reflect current administrative requirements, facilitate environmental protection, and provide standards for recreational use.

Timetable:

Action	Date	FR Cite
ANPRM	11/16/95	60 FR 57561
ANPRM Comment Period End	01/15/96	60 FR 66246
NPRM	04/00/96	
Final Action	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: John Styduhar, Realty Specialist, Department of the Interior, Bureau of Land Management, BLM Oregon State Office, P.O. Box 2965, 1300 N.E. 44th, Portland, OR 97208-2965
Phone: 503 952-6422

RIN: 1004–AC24

1615. LAW ENFORCEMENT—CRIMINAL

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1701 et seq; 16 USC 668(a); 16 USC 670; 16 USC 707; 16 USC 1538(a); 16 USC 1540; 16 USC 3370(d)

CFR Citation: 43 CFR 9260

Legal Deadline: None

Abstract: This rule will update and combine into one subpart the law enforcement regulations of several different programs of the Bureau of Land Management.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis McLane, Chief Ranger, Division of Law Enforcement and Resource, Department of the Interior, Bureau of Land Management, 3905 Vista Avenue, Boise, ID 83705
Phone: 208 387-5127

RIN: 1004–AC30

1616. FIRE MANAGEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 315a et seq; 43 USC 1740

CFR Citation: 43 CFR 9240

Legal Deadline: None

Abstract: This rule will make emergency rehabilitation project decisions effective upon issuance to minimize unnecessary delay in repairing damage caused by fire and other natural disasters, and avoiding erosion and other adverse impacts on public lands resulting from natural disasters.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Dr. Robert Clark, State Fire Management Officer (Idaho), Department of the Interior, Bureau of Land Management, 3380 Americana Terrace, Boise, ID 83706-2544
Phone: 208 384-3090

RIN: 1004–AC36

1617. VISITOR SERVICES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 8360

Legal Deadline: None

Abstract: This rule will remove these regulations, which will be replaced by revised part 9260--Consolidated Prohibited Acts.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ian Senio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 208-4256
Fax: 202 208-3800
Email: !WO140@attmail.com

RIN: 1004–AC42

1618. NATURAL HISTORY RESOURCE MANAGEMENT; PROCEDURES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 8200

Legal Deadline: None

Abstract: This rule will put these regulations into plain English, move portions to non-regulatory policy, and remove prohibited acts to part 9260–Consolidated Prohibited Acts.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ian Senio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420); 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5049
Fax: 202 452-5002
Email: !WO140@attmail.com

RIN: 1004–AC45

1619. TRESPASS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 9230

Legal Deadline: None

Abstract: This rule will move prohibited acts provisions to part 9260--Consolidated Prohibited Acts.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ian Senio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5049
Fax: 202 452-5002
Email: !WO140@attmail.com

RIN: 1004–AC46

1620. MANAGEMENT OF SOLID MINERALS OTHER THAN COAL

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3500

Legal Deadline: None

Abstract: This rule will remove repetitive introductory material and combine the common provisions of the series of regulations of leasing of specific non-coal minerals.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Edna Taylor, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5068
Fax: 202 452-5002
Email: !WO140@attmail.com

RIN: 1004–AC49

1621. RECREATION MANAGEMENT; PROCEDURES; GENERAL

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing

Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 8300

Legal Deadline: None

Abstract: This rule will remove this part, which is merely another policy provision on recreation, and which will be handled through policy statements.

Timetable:

Action	Date	FR Cite
NPRM	04/09/96	61 FR 15763
NPRM Comment Period End	05/09/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Edna Taylor, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5068
Fax: 202 452-5002
Email: !WO140@attmail.com

RIN: 1004–AC50

1622. RECREATION PROGRAMS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 8000

Legal Deadline: None

Abstract: This rule will remove this part, which is merely a policy provision on recreation, and which will be handled through policy statements.

Timetable:

Action	Date	FR Cite
NPRM	04/09/96	61 FR 15753
NPRM Comment Period End	05/09/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Edna Taylor, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5068
Fax: 202 452-5002
Email: !WO140@attmail.com

RIN: 1004–AC51

1623. SPECIAL AREAS; STATE IRRIGATION DISTRICTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2780

Legal Deadline: None

Abstract: This rule will remove the establishment and operation of State irrigation districts from the regulations and relocate necessary provisions in the BLM Manual.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ian Senio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW.
Phone: 202 452-5049
Fax: 202 452-5002
Email: !WO140@attmail.com

RIN: 1004–AC53

1624. OIL AND GAS LEASING; DRAINAGE

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3100

Legal Deadline: None

Abstract: This rule will specify who has the responsibility for drainage protection, what it constitutes, and when it begins.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Erick Kaarlela, Compliance Team Leader, Department of the Interior, Bureau of Land Management, Bureau of Land Management, 1849 C Street NW.
Phone: 202 452-0340

RIN: 1004–AC54

1625. MINERALS MANAGEMENT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 1300; 43 CFR 2000; 43 CFR 3000; 43 CFR 4000; 43 CFR 5000; 43 CFR 8000; 43 CFR 9000

Legal Deadline: None

Abstract: This rule will establish a new central section of regulatory definitions common to all the programs of the Bureau of Land Management and also establish program definition sections containing all of the definitions specific to the respective programs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ted Hudson, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5042
Fax: 202 452-5002
Email: !WO140@attmail.com

RIN: 1004–AC55

1626. DESERT LAND ENTRIES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2520

Legal Deadline: None

Abstract: This rule will transfer much of the regulation on entries of desert land to the BLM Manual if the

underlying statute is not repealed as no longer practical.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sherry Oshives, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5034
Fax: 202 452-5002
Email: !WO140@attmail.com

RIN: 1004–AC56

1627. ONSHORE OIL AND GAS GEOPHYSICAL EXPLORATION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3150

Legal Deadline: None

Abstract: This rule will add cost recovery provisions to the regulations on onshore geophysical exploration for oil and gas.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Chuck Hunt, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5034
Fax: 202 452-5002
Email: !WO140@attmail.com

RIN: 1004–AC57

1628. STATE EXCHANGES; NATIONAL PARK SYSTEM EXCHANGES WILDLIFE REFUGE EXCHANGES; MISCELLANEOUS EXCHANGES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2210; 43 CFR 2240; 43 CFR 2250; 43 CFR 2270

Legal Deadline: None

Abstract: This rule will remove these subparts, which are merely cross-references to the basic exchange regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ted Hudson, Regulatory Analyst, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5042
Fax: 202 452-5002
Email: !WO140@attmail.com

RIN: 1004–AC58

1629. BODIE BOWL, CALIFORNIA: SURFACE MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 108 Stat. 4771 and 4509

CFR Citation: 43 CFR 3826

Legal Deadline: Final, Statutory, April 30, 1995.

Abstract: This rule will implement the provisions of title X of the Act of October 31, 1994, entitled the Bodie Protection Act of 1994. This rule will protect an historic mining district by setting forth procedures for operating mining claims and sites.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management, Regulatory Management Team (420), 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0355
Email: !W0140@attmail.com

RIN: 1004–AC60

1630. • PROTECTION, MANAGEMENT, AND CONTROL OF WILD FREE-ROAMING HORSES AND BURROS; PRIVATE MAINTENANCE; ADOPTION FEES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 47; 16 USC 1331 to 1340

CFR Citation: 43 CFR 4750.4-2

Legal Deadline: None

Abstract: This proposed rule will provide authority to increase adoption fees for wild horses and burros that have a higher market value due to their herd area and/or other characteristic or trait.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lili Thomas, Wild Horse and Burro Specialist, Department of the Interior, Bureau of Land Management, National Wild Horse and Burro Program Office, NV 960, 850 Harvard Way (P.O. Box 12000), Reno, NV 89520
Phone: 702 785-6583

RIN: 1004–AC61

1631. • ONSHORE OIL AND GAS AGREEMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 181; 30 USC 189; 30 USC 226(e); 30 USC 226(m)

CFR Citation: 43 CFR 3180

Legal Deadline: None

Abstract: This rule will entirely replace BLM's regulations on onshore oil and gas unit agreements. The rule will provide a more flexible format for agreements and allow negotiation of key development terms.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John W. Bebout, Senior Technical Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0340

RIN: 1004–AC62

1632. • LAND WITHDRAWALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1714; 43 USC 1740

CFR Citation: 43 CFR 2091; 43 CFR 2310; 43 CFR 2370

Legal Deadline: None

Abstract: This rule will revise the regulations on withdrawals and revocations of withdrawals to streamline operations and clarify the regulations. It will also amend the regulations to expedite the opening of formerly withdrawn lands to the operation of the public land laws.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Holdren, Supervisory Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7779

RIN: 1004–AC63

1633. • COST RECOVERY; MINERAL FILINGS AND OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 360; 30 USC 1001 et seq; 30 USC 22; 5 USC App; 31 USC 9701; 43 USC 1734

CFR Citation: 43 CFR 3100; 43 CFR 3200; 43 CFR 3400; 43 CFR 3500; 43 CFR 3600; 43 CFR 3700; 43 CFR 3800

Legal Deadline: None

Abstract: This rule will amend regulations for user fees for locatable minerals, mineral materials, and leasable minerals (solids and fluids) to adjust current fees or establish new fees in accordance with Title V of the Independent Offices Appropriations Act of 1952 (user charges), OMB Circular A-25 "User Charges" and section 304 of the Federal Land Policy and Management Act of 1976.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Durga N. Rimal, Geologist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0350
Fax: 202 452-0399

RIN: 1004–AC64

1634. • RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2880

Legal Deadline: None

Abstract: This rule will move much of the existing regulations to manuals, notices to applicants, etc. This action will ease update of cost recovery schedules. Materials will be combined with other rights-of-way guidance.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ron Montagna, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7782
Fax: 202 452-7708

RIN: 1004–AC74

1635. • USE; RIGHTS-OF-WAY

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2800

Legal Deadline: None

Abstract: This rule will move material from existing regulations to manuals, notices to applicants, etc. This action will ease update of cost recovery schedules.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ron Montagna, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7782
Fax: 202 452-7708

RIN: 1004–AC75

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DEPARTMENT OF THE INTERIOR (DOI) — **Final Rule Stage**

Bureau of Land Management (BLM)

1636. LEASES, PERMITS, AND EASEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1732; 43 USC 1740

CFR Citation: 43 CFR 2920

Legal Deadline: None

Abstract: This rule will amend the existing regulations to provide for improved administration of Leases, Permits and Easements under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	11/21/90	55 FR 48810
NPRM Comment Period End	01/22/91	
Second NPRM	02/09/95	60 FR 7878
Second NPRM Comment Period End	04/10/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rule is being reproposed in part. Complete final rule will be published upon consideration of public comments on partially reproposed rule.

Agency Contact: Vanessa Engle, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7776

RIN: 1004–AB51

1637. PUBLIC AVAILABILITY OF MINERALS RESOURCES INFORMATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 43 CFR 3000

Legal Deadline: None

Abstract: This rule will remove conflicts between existing mineral regulations relating to public availability of mineral resources information and the Freedom of Information Act. The rule will also remove discrepancies among the various mineral regulations regarding public release of information.

Timetable:

Action	Date	FR Cite
NPRM	05/31/91	56 FR 24767
NPRM Comment Period End	07/31/91	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marilyn Legnini, FOIA Coordinator, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-5001
Fax: 202 452-5002

RIN: 1004–AB55

1638. ONSHORE OIL AND GAS OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 301 to 306; 25 USC 396 et seq; 43 USC 1457; 30 USC 1701 et seq; 25 USC 2102 et seq

CFR Citation: 43 CFR 3160

Legal Deadline: None

Abstract: This rule will clarify the responsibilities of the Bureau of Land Management for lands administered by the Forest Service under the Federal Onshore Oil and Gas Leasing Reform Act of 1987, providing the BLM is responsible only for Applications for Permit to Drill, related subsurface impacts, and related appeals.

Timetable:

Action	Date	FR Cite
NPRM	11/28/95	60 FR 58590
NPRM Comment Period End	01/29/96	
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Erick Kaarlela, Leader, Compliance Team, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0340

RIN: 1004–AC09

1639. LOGICAL MINING UNITS: GENERAL; LMU APPLICATION PROCEDURES; LMU APPROVAL CRITERIA; LMU DILIGENCE; ADMINISTRATION OF LMU OPERATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 201 et seq

CFR Citation: 43 CFR 3400

Legal Deadline: None

Abstract: The rule will amend the regulations dealing with coal logical mining units (LMUs) to improve procedures for review of applications and administration of operations. The rule will place a greater emphasis on stewardship of the Federal coal resources and will be designed to ensure that coal resources are developed in a legal, efficient, economical and orderly manner with due regard for the conservation of coal reserves and other resources within the concept of ecosystem management. The rule will resolve the question whether LMU diligent development requirements can be substituted for statutory lease-specific diligent development requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/28/94	59 FR 66874
NPRM Comment Period End	02/27/95	
Final Action	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Bill LeSage, Mining Engineer, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0350

RIN: 1004–AC15

1640. COALBED METHANE DEVELOPMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing

DOI—BLM — **Final Rule Stage**

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 13368

CFR Citation: 43 CFR 3170

Legal Deadline: Final, Statutory, October 24, 1995.

Abstract: The rule will implement section 1339 of the Energy Policy Act of 1992. It will prevent conflicts in ownership of coalbed methane from impeding development of that resource by requiring pooling of development and payment of the proceeds into an escrow account until the ownership issue is resolved by a State entity of competent jurisdiction. The rule will also allow States to avoid the Federal regulations by promulgating their own regulations that substantially comply with Federal requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/15/95	60 FR 47920
NPRM Comment Period End	11/14/95	
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: David R. Stewart, Assistant Deputy State Director for Mineral Resources, Department of the Interior, Bureau of Land Management, BLM Eastern States, 7450 Boston Boulevard, Springfield, VA 22153
Phone: 703 440-1728

RIN: 1004–AC27

1641. COAL MANAGEMENT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359; 30 USC 521 to 531; 30 USC 1201 et seq; 43 USC 1701 et seq; 25 USC 396 to 399; 25 USC 2101 et seq; 42 USC 4321 et seq; 16 USC 470 et seq; 16 USC 1531 et seq; 43 USC 1457; 40 USC 471 et seq; 5 USC 552; 30 USC 811; 30 USC 877

CFR Citation: 43 CFR 3400; 43 CFR 3410; 43 CFR 3420; 43 CFR 3440; 43 CFR 3450; 43 CFR 3460; 43 CFR 3470; 43 CFR 3480

Legal Deadline: None

Abstract: This rule will amend the exploration and mining operations regulations, as well as other operations-related regulations, to streamline them and to have them reflect current policy and standard industry operating practices relating to Federal coal.

Timetable:

Action	Date	FR Cite
NPRM	07/12/91	56 FR 32002
NPRM Comment Period End	10/10/91	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill LeSage, Mining Engineer, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0350

RIN: 1004–AC37

1642. PUBLIC LAW 167; ACT OF JULY 23, 1955 (MINING CLAIM USE AND OCCUPANCY)

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 22 et seq; 30 USC 612; 43 USC 1701 et seq

CFR Citation: 43 CFR 3710

Legal Deadline: None

Abstract: This rule will enumerate the restrictions on use and occupancy of unpatented mining claims and mill sites on public lands.

Timetable:

Action	Date	FR Cite
NPRM	09/11/92	57 FR 41846
NPRM Comment Period End	11/10/92	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Deery, Geologist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0350

RIN: 1004–AC39

1643. MINING CLAIMS UNDER THE GENERAL MINING LAWS (BONDING)

Priority: Other Significant

Legal Authority: 30 USC 22 et seq; 43 USC 1201; 43 USC 1734; 43 USC 1740; 43 USC 1744

CFR Citation: 43 CFR 3809

Legal Deadline: None

Abstract: This rule will require submission of financial guarantees for reclamation for all mining operations greater than casual use, create additional financial instruments for this purpose, and require operators with a record of noncompliance to file plans of operations.

Timetable:

Action	Date	FR Cite
NPRM	07/11/91	56 FR 31602
NPRM Comment Period End	09/09/91	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Deery, Geologist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0350

RIN: 1004–AC40

1644. DISPOSAL OF RESERVED MINERALS UNDER THE STOCK RAISING HOMESTEAD ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 299

CFR Citation: 43 CFR 3814

Legal Deadline: Final, Statutory, October 13, 1993.

Abstract: This interim final rule will establish new procedures for mineral exploration and development under the General Mining Law of 1872 on lands where the surface was patented under the Stock Raising Homestead Act of 1916 and the mineral estate remains reserved to the Federal Government.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger Haskins, Mining Law Specialist, Department of

the Interior, Bureau of Land Management, Regulatory Management Team, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-0355
Fax: 202 452-5002
Email: lW0140@attmail.com

RIN: 1004–AC59

1645. • NON-MINERAL ENTRY ON MINERAL LAND

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 124; 30 USC 186

CFR Citation: 43 CFR 2093

Legal Deadline: None

Abstract: This action will remove portions of the regulations, thereby deleting outdated portions or those parts that are procedural in nature.

Timetable:

Action	Date	FR Cite
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry Moritz, Geologist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM-L St., 10th Floor, Washington, DC 20240
Phone: 202 452-0362

RIN: 1004–AC65

1646. • LEASES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 315a

CFR Citation: 43 CFR 2120

Legal Deadline: None

Abstract: The rule will transfer the regulations currently found in the Acquisitions Group (43 CFR 2100) to a new subpart at 43 CFR 4600. The former 2120 section concerns Grazing Administration and so is more properly located within 43 CFR 4100 (Grazing Administration).

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Frank Bruno, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM - LS-501, Washington, DC 20240
Phone: 202 452-0352
Fax: 202 452-0349

RIN: 1004–AC66

1647. • APPEALS PROCEDURES/HEARINGS PROCEDURES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 1840; 43 CFR 1850

Legal Deadline: None

Abstract: The rule will remove unnecessary cross-references to a substantive regulation.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Bruno, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM - LS501, Washington, DC 20240
Phone: 202 452-0352
Fax: 202 452-0349

RIN: 1004–AC67

1648. • MINERAL MATERIALS DISPOSAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 601 et seq

CFR Citation: 43 CFR 3600; 43 CFR 3610; 43 CFR 3620

Legal Deadline: None

Abstract: This rule will amend current regulations to simplify and make bonding requirements easier to follow. It also adds a provision under which certificates of deposit could be used as a bond. In addition, some editorial changes will be made to make the rules easier to understand.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Durga N. Rimal, Geologist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM-LS501, Washington, DC 20240
Phone: 202 452-0350
Fax: 202 452-0349

RIN: 1004–AC68

1649. • FEDERAL TIMBER CONTRACT PAYMENT MODIFICATION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 16 USC 618

CFR Citation: 43 CFR 5475

Legal Deadline: None

Abstract: The rule will eliminate this section because it is obsolete. Timber sales affected by the underlying statute have all been terminated.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Bruno, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM-LS501
Phone: 202 452-0352
Fax: 202 452-0349

RIN: 1004–AC69

1650. • GRAZING ADMINISTRATION; ALASKA; LIVESTOCK GRAZING ADMINISTRATION; ALASKA; REINDEER

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 315, 315(a) to 315(r); 43 USC 1181(d); 43 USC 1701

CFR Citation: 43 CFR 4200; 43 CFR 4300

Legal Deadline: None

Abstract: The rule will convert the current regulations into plain English. No change will be made to the legal or policy content of the regulations.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Bruno, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM-LS501, WAshington, DC 20240
Phone: 202 452-0352
Fax: 202 452-0349

RIN: 1004–AC70

1651. • STATE GRANTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 851, 852; 43 USC 870; 43 USC 852 NOTE

CFR Citation: 43 CFR 2620

Legal Deadline: None

Abstract: The rule will streamline the existing regulations where possible and eliminate portions that pertain to procedural matters.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Holdren, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM-10th Floor, Washington, DC 20240
Phone: 202 452-7779

RIN: 1004–AC71

1652. • ALASKA NATIVE SELECTIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1601

CFR Citation: 43 CFR 2650

Legal Deadline: None

Abstract: This rule will revise the regulations to clarify portions and remove those portions pertaining to procedural matters.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Holdren, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM-10th Floor
Phone: 202 452-7779

RIN: 1004–AC72

1653. • DEFINITIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 1800

Legal Deadline: None

Abstract: This rule will relocate definitions from various sections of BLM's portion of 43 CFR into a central section for general definitions. The new location will be in 43 CFR 1800. Several definitions that had been formerly repeated in various sections will appear as one consolidated definition.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Bruno, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM-LS501, Washington, DC 20240
Phone: 202 452-0352
Fax: 202 452-0349

RIN: 1004–AC73

1654. • RAILROAD GRANTS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1201; 49 USC 65

CFR Citation: 43 CFR 2630

Legal Deadline: None

Abstract: This rule will remove these regulations in their entirety due to their limited usage.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Holdren, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM LS-10th Floor, Washington, DC 20240
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC76

1655. • INDIAN ALLOTMENTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1201; 25 USC 334; 25 USC 336

CFR Citation: 43 CFR 2530

Legal Deadline: None

Abstract: This rule will convert existing regulations to plain English

and remove those portions that relate to procedural matters.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Holdren, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM LS-10th Floor
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC77

1656. • LAND CLASSIFICATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 315; EO 6910; EO 6964; 43 USC 1411 to 1418; 43 USC 869

CFR Citation: 43 CFR 2400

Legal Deadline: None

Abstract: This rule will remove those portions of the regulations that pertain to repealed acts or that can be placed in the BLM Manual system. Portions of the regulations relating to the Taylor Grazing Act of 1934 will be retained but will be updated.

Timetable:

Action	Date	FR Cite
Final Action Effective	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeff Holdren, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM-L St. 10th Floor
Phone: 202 452-7779
Fax: 202 452-7708

RIN: 1004–AC78

1657. • NATIONAL PETROLEUM RESERVE IN ALASKA

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 6501 et seq

CFR Citation: 43 CFR 2360

Legal Deadline: None

Abstract: This rule will remove the regulations in this part because the requirements are now contained in 43 CFR part 3130.

Timetable:

Action	Date	FR Cite
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Holdren, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW.,.Mail Stop BLM - L St.10th Floor
Phone: 202 452-7779

RIN: 1004–AC79

1658. • CAREY ACT GRANTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 641 et seq

CFR Citation: 43 CFR 2610

Legal Deadline: None

Abstract: This rule will remove these regulations as they are inconsistent with present day management policies. Application of these provisions of the Carey Act would not be feasible due to limited water and suitable lands.

Timetable:

Action	Date	FR Cite
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff Holdren, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM-L St.10th Floor, Washington, DC 20240
Phone: 202 452-7779

RIN: 1004–AC80

1659. • PUBLIC LAND RECORDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 13; 43 USC 1701

CFR Citation: 43 CFR 1813

Legal Deadline: None

Abstract: This rule will update the existing regulations to address modernization and automation.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Vanessa Engle, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM LS1000, Washington, DC 20240
Phone: 202 452-7780
Fax: 202 452-7708

RIN: 1004–AC81

1660. • CONVEYANCES, DISCLAIMERS, AND CORRECTION DOCUMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 15; 43 USC 1161; 43 USC 1201; 43 USC 1745; 43 USC 1746

CFR Citation: 43 CFR 1860

Legal Deadline: None

Abstract: This rule will update portions of the existing regulation and eliminate outdated provisions.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Vanessa Engle, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM-LS1000
Phone: 202 452-7780

Fax: 202 452-7708

RIN: 1004–AC82

1661. • APPLICATION PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 251; 43 USC 263; 43 USC 689; 43 USC 690; 43 USC 1201; 43 USC 1374; 43 USC 1740

CFR Citation: 43 CFR 1820

Legal Deadline: None

Abstract: This rule will revise the existing regulation to consolidate certain business practice rules and update to recognize modern technology.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Vanessa Engle, Realty Specialist, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Mail Stop BLM-LS1000
Phone: 202 452-7780
Fax: 202 452-7708

RIN: 1004–AC83

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Long-Term Actions

1662. SALES OF FOREST PRODUCTS; GENERAL—PREPARATION FOR SALE

Priority: Other Significant

Legal Authority: 16 USC 617

CFR Citation: 43 CFR 5400; 43 CFR 5420

Legal Deadline: None

Abstract: This rule will implement the Forest Resources Conservation and Shortage Relief Act of 1990 by prohibiting the export of unprocessed timber from western Federal timber lands and direct and indirect substitution for such timber.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: In the Continuing Budget Resolution, the Congress has imposed and the President has approved a moratorium on this rule. The rule is not being withdrawn at this time because the rule is required by another statute.

Agency Contact: Dwight Fielder, Forester, Department of the Interior, Bureau of Land Management, 1849 C Street NW., Washington, DC 20240
Phone: 202 452-7758

RIN: 1004–AB34

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Completed Actions

1663. ONSHORE OIL AND GAS OPERATIONS; SPECIAL PROVISIONS; ONSHORE OIL AND GAS ORDER NO. 5—MEASUREMENT OF GAS

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 3164.1

Completed:

Reason	Date	FR Cite
Withdrawn - No action scheduled at this time.	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ed Wyatt
Phone: 202 452-0348

RIN: 1004–AB22

1664. RENTAL SCHEDULE FOR COMMUNICATIONS USES

Priority: Other Significant

CFR Citation: 43 CFR 2800; 43 CFR 2810; 43 CFR 2880

Completed:

Reason	Date	FR Cite
Final Action	11/13/95	60 FR 57058
Final Action Effective	12/13/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Cavanaugh
Phone: 202 452-7774
Fax: 202 452-7708

RIN: 1004–AC12

1665. WAIVER, SUSPENSION, OR REDUCTION OF RENTAL, ROYALTY, OR MINIMUM ROYALTY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 3103.4-1

Completed:

Reason	Date	FR Cite
Final Action	02/08/96	61 FR 4748
Final Action Effective	03/11/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. John Bebout
Phone: 202 452-0340

RIN: 1004–AC26

1666. ONSHORE OIL AND GAS ORDER NO. 8, WELL WORKOVERS, COMPLETIONS, AND ABANDONMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 3160

Completed:

Reason	Date	FR Cite
Withdrawn - No action scheduled at this time.	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ed Wyatt
Phone: 202 452-0348

RIN: 1004–AC33

1667. APPLICATION PROCEDURES: EXECUTION AND FILING OF FORMS

Priority: Other

CFR Citation: 43 CFR 1820; 43 CFR 1821

Completed:

Reason	Date	FR Cite
Final Action	09/21/95	60 FR 48904
Final Action Effective	09/21/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ted Hudson
Phone: 202 452-5042
Fax: 202 452-5002
Email: !WO140@attmail.com

RIN: 1004–AC41

1668. MANAGEMENT AREAS; DESIGNATED NATIONAL AREA

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 43 CFR 8350

Completed:

Reason	Date	FR Cite
Merged With RIN 1004-AC30	02/05/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Annetta Cheek
Phone: 202 208-4256
Fax: 202 208-3800
Email: !WO140@attmail.com

RIN: 1004–AC43

1669. FIRE MANAGEMENT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 43 CFR 9210

Completed:

Reason	Date	FR Cite
Merged With RIN 1004-AC30	02/05/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Annetta Cheek
Phone: 202 452-5099
Fax: 202 452-5002
Email: !WO140@attmail.com

RIN: 1004–AC44

1670. PUBLIC LAND ORDERS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 43 CFR app

Completed:

Reason	Date	FR Cite
Final Action	01/25/96	61 FR 2137
Final Action Effective	02/26/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Matt Reed
Phone: 202 452-5069
Fax: 202 452-5002
Email: !WO140@attmail.com

RIN: 1004–AC47

1671. PROTECTION AND PRESERVATION OF NATURAL VALUES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 43 CFR 6220

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61487
Final Action Effective	01/02/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Matt Reed
Phone: 202 452-5069
Fax: 202 452-5002
Email: !WO140@attmail.com

RIN: 1004–AC48

1672. VISUAL RESOURCE MANAGEMENT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 43 CFR 8400

Completed:

Reason	Date	FR Cite
Final Action	04/09/96	61 FR 15722
Final Action Effective	05/09/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edna Taylor
Phone: 202 452-5068
Fax: 202 452-5002
Email: !WO140@attmail.com

RIN: 1004–AC52

BILLING CODE 4310-84-F

DEPARTMENT OF THE INTERIOR (DOI)

Office of the Secretary (OS)

Proposed Rule Stage

1673. TRANSPORTATION AND UTILITY SYSTEMS IN AND ACROSS, AND ACCESS INTO, CONSERVATION SYSTEM UNITS IN ALASKA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 668dd et seq; 16 USC 3101 et seq; 43 USC 1201

CFR Citation: 43 CFR 36

Legal Deadline: NPRM, Judicial, April 30, 1995.

Abstract: This rule will revise regulations implementing the provisions of Title IX of the Alaska National Interest Lands Conservation Act (ANILCA). The regulations concern transportation and utility systems

(TUS) in Alaska when any portion of the route of the TUS will be within any conservation system unit, national recreation area, or national conservation area. The regulations detail the procedures that must be followed to obtain Federal approval needed for a TUS. In addition, the regulations address special access, temporary access, and access to inholdings.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Russell Wilson, Paralegal, Department of the Interior, Office of the Secretary, Alaska Regional Office, 2525 Gambell Street, Anchorage, AK 99503
Phone: 907 257-2641

RIN: 1093–AA07

[FR Doc. 96-6552 Filed 05-10-96; 8:45 am]

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Part XI

Department of Justice

Semiannual Regulatory Agenda

DEPARTMENT OF JUSTICE (DOJ)

DEPARTMENT OF JUSTICE

8 CFR Ch. I

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Regulatory Agenda

AGENCY: Department of Justice.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Justice is publishing its April 1996 regulatory agenda pursuant to E.O. 12866 "Regulatory Planning and Review," 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. sections 601-612 (1988).

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Office of Policy Development, Department of Justice, Room 4256, 10th and Constitution Avenue NW., Washington, DC 20530, (202) 514-8059.

Eleanor D. Acheson,

Assistant Attorney General, Office of Policy Development.

Bureau of Prisons—Proposed Rule Stage

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Bureau of Prisons—Final Rule Stage

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Civil Rights Division—Final Rule Stage

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Drug Enforcement Administration—Final Rule Stage

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Drug Enforcement Administration—Long-Term Actions

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Drug Enforcement Administration—Completed Actions

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Executive Office for Immigration Review—Final Rule Stage

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Legal Activities—Final Rule Stage

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Legal Activities—Long-Term Actions

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Legal Activities—Completed Actions

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Sequence Number	Title	Regulation Identifier Number
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Office of Justice Programs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
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Office of Justice Programs—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
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Office of Justice Programs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
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1876	Criminal Justice Information Systems	1121-AA32

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)
Proposed Rule Stage

1674. RELEASE OF INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 552a; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 28 USC 509 to 510

CFR Citation: 28 CFR 513

Legal Deadline: None

Abstract: This document consolidates procedures for releasing requested records in the possession of the Bureau of Prisons. The rule has been developed to help ensure that the Bureau of Prisons is in compliance with the statutory requirements of the Freedom of Information Act (5 USC 552) and the Privacy Act (5 USC 552a) and to supplement Department of Justice regulations at 28 CFR 16 implementing those statutes.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA21

1675. POSTSECONDARY EDUCATION PROGRAMS

Priority: Routine and Frequent

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544

Legal Deadline: None

Abstract: This document restricts eligibility for Bureau payment of tuition for inmates who are refusing participation in the Inmate Financial Responsibility Program and for inmates who have a deportation detainer.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	
Final Action	01/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA25

1676. INMATE PERSONAL PROPERTY

Priority: Routine and Frequent

Legal Authority: 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 553.10 to 553.15

Legal Deadline: None

Abstract: This document revises procedures governing the transfer of inmate personal property between institutions.

Timetable:

Action	Date	FR Cite
NPRM	04/01/96	61 FR 14440
NPRM Comment Period End	05/31/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA46

1677. CORRESPONDENCE: RESTRICTED SPECIAL MAIL PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing

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Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 540.18

Legal Deadline: None

Abstract: This document provides for restricted special mail procedures in instances where the Warden has reason to believe that the special mail may pose or may threaten physical harm to the intended recipient.

Timetable:

Action	Date	FR Cite
NPRM	02/14/96	61 FR 5846
NPRM Comment Period End	04/15/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA48

1678. • CORRESPONDENCE: PRETRIAL INMATES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 540.14

Legal Deadline: None

Abstract: This document requires that general correspondence from pretrial inmates may not be sealed and may be read and inspected by staff.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA52

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Final Rule Stage

1679. VOLUNTEER COMMUNITY SERVICE PROJECTS

Priority: Routine and Frequent

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 551.60

Legal Deadline: None

Abstract: This document establishes provisions for Voluntary Community Service Projects. A volunteer community service project is a project designed to provide for the public good which has been developed by local government or by a nonprofit charitable organization for approval by the Bureau. This rule provides for the voluntary participation by an inmate in a volunteer community service project. The intent of this rule is to promote the public interest and provide for the security and good order of the institution by reducing inmate idleness.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/93	58 FR 5210
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA03

1680. INTENSIVE CONFINEMENT CENTERS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 524.31 to 524.34

Legal Deadline: None

Abstract: This document establishes procedures for the operation of a specialized program combining features of a military boot camp with the traditional correctional values of the Bureau of Prisons. Inmates who successfully complete this program may be placed in community-based programs for longer periods of time than ordinarily permitted.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA11

1681. RESEARCH

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

DOJ—BOP — **Final Rule Stage**

CFR Citation: 28 CFR 512.10 to 512.22

Legal Deadline: None

Abstract: This document will revise Bureau regulations in conformance with newly issued Departmental regulations on the Protection of Human Subjects. This action is necessary to provide for the establishment and operation of Bureau institutional review boards, to simplify the application process, and to clarify existing policy.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/23/94	59 FR 13860
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA14

1682. INCOMING PUBLICATIONS/INMATE LEGAL ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 28 USC 1346(b); 28 USC 2671 to 2680

CFR Citation: 28 CFR 540.71; 28 CFR 543.11

Legal Deadline: None

Abstract: This document amends Bureau regulations on Incoming Publications to require that inmates in medium security, high security, and administrative institutions may receive softcover publications only from the publisher, book club, or bookstore. A conforming amendment is made to the Bureau's regulations on Inmate Legal Activities.

Timetable:

Action	Date	FR Cite
NPRM	01/18/94	59 FR 2658
NPRM Comment Period End	03/21/94	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA15

1683. RELIGIOUS BELIEFS AND PRACTICES

Priority: Other Significant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 42 USC 1996

CFR Citation: 28 CFR 548.10 to 548.20

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on religious beliefs and practices in order to provide for the uniform implementation of a common fare religious diet menu and to simplify and update procedures relating to religious beliefs and practices.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/06/95	60 FR 46485
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6855

RIN: 1120–AA17

1684. ENGLISH AS A SECOND LANGUAGE PROGRAM

Priority: Routine and Frequent

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544.40 to 544.44

Legal Deadline: None

Abstract: This document incorporates statutory mandatory functional literacy requirements into Bureau regulations. These functional literacy requirements provide that inmates who are not proficient in English must participate in an English as a Second Language program until they function at the eighth grade level on a nationally recognized test.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/94	59 FR 14724
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA19

1685. INFECTIOUS DISEASES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 549

Legal Deadline: None

Abstract: This document combines existing regulations on HIV programs with provisions applicable to correctional management of tuberculosis and hepatitis B.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/95	60 FR 52278
Interim Final Rule Comment Period End	12/04/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA23

1686. PLASTIC SURGERY

Priority: Routine and Frequent

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

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CFR Citation: 28 CFR 549

Legal Deadline: None

Abstract: This document revises the Bureau's regulations on plastic surgery to allow for approval ordinarily only in cases where plastic surgery is a standard medical treatment for a current condition and for the protection of WITSEC inmate identities.

Timetable:

Action	Date	FR Cite
NPRM	10/20/95	60 FR 54288
NPRM Comment Period End	12/19/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA26

1687. FINES AND COSTS

Priority: Routine and Frequent

Legal Authority: 18 USC 3565; 18 USC 3568 to 3569; 18 USC 3621; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 4201 to 4218; 18 USC 5031 to 5042; 28 USC 509 to 510

CFR Citation: 28 CFR 571.50 to 571.56

Legal Deadline: None

Abstract: This document will revise Bureau regulations to update procedures for processing a fine or costs ordered by the court with respect to an inmate convicted of an offense committed before November 1, 1987.

Timetable:

Action	Date	FR Cite
Final Action	07/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA29

1688. BIRTH CONTROL, PREGNANCY, CHILD PLACEMENT, ABORTION

Priority: Routine and Frequent

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 551.22 to 551.24

Legal Deadline: None

Abstract: This document removes references to restrictions on Bureau funding of an elective abortion. Removal of these references is necessary to conform to changes in legislative authority. This document also makes various editorial or organizational changes for the sake of clarity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/06/94	59 FR 62968
Final Action	05/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA31

1689. LITERACY PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544.70 to 544.76

Legal Deadline: None

Abstract: This document implements statutory provisions which make an inmate's vesting of good conduct time contingent upon the inmate's obtaining or making satisfactory progress toward obtaining a General Educational Degree or high school diploma. Additional changes to the regulations on the Bureau's literacy program are made for the sake of clarification or simplification.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/96	
Final Action	12/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA33

1690. INMATE DISCIPLINE (GOOD CONDUCT TIME)

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 541

Legal Deadline: None

Abstract: This document implements provisions of the Violent Crime Control and Law Enforcement Act of 1994 which require that inmates sentenced for crimes of violence display "exemplary compliance" with institution regulations in order to earn good conduct time.

Timetable:

Action	Date	FR Cite
NPRM	10/26/95	60 FR 54922
NPRM Comment Period End	12/26/95	
Final Action	07/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA34

1691. POSTSECONDARY EDUCATION PROGRAMS

Priority: Routine and Frequent

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544.20 to 544.23

Legal Deadline: None

Abstract: This document clarifies requirements for tuition funding sources and makes various administrative changes in the operation of the program. The intent of this revision is to provide for the more efficient use of Bureau resources.

Timetable:

Action	Date	FR Cite
Final Action	07/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA35

1692. DRUG ABUSE TREATMENT PROGRAMS: EARLY RELEASE CONSIDERATION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4251 to 4255; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 550

Legal Deadline: None

Abstract: This document implements provisions of the Violent Crime Control and Law Enforcement Act of 1994 which allow for consideration of early release of eligible non-violent offenders who complete a residential drug abuse treatment program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/25/95	60 FR 27692
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA36

1693. SPECIAL FOOD

Priority: Routine and Frequent

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 547

Legal Deadline: None

Abstract: This document clarifies the Bureau's regulations on the introduction of special foods into an institution.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47648
NPRM Comment Period End	11/13/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA37

1694. TELEPHONE REGULATIONS AND INMATE FINANCIAL RESPONSIBILITY

Priority: Routine and Frequent

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039

CFR Citation: 28 CFR 540

Legal Deadline: None

Abstract: This document postpones the effective date for certain provisions of the final rule on Telephone Regulations and Inmate Financial Responsibility which was published on April 4, 1994.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/02/96	61 FR 90
Final Action	12/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA30

1695. USE OF FORCE

Priority: Routine and Frequent

Legal Authority: 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 552.24

Legal Deadline: None

Abstract: This document increases the frequency of staff monitoring of inmates in four-point restraints.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA41

1696. INMATE ORGANIZATIONS

Priority: Routine and Frequent

Legal Authority: 18 USC 1512; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4081; 18 USC 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 551.30 to 551.36

Legal Deadline: None

Abstract: This document generally revises the regulations governing inmate organizations. The revised provisions prohibit fund-raising activities by inmates and require the orderly disbursement of accumulated funds.

Timetable:

Action	Date	FR Cite
NPRM	10/20/95	60 FR 54289
NPRM Comment Period End	12/19/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

DOJ—BOP — Final Rule Stage

DOJ—BOP

Final Rule Stage

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA42

1697. CENTRAL INMATE MONITORING

Priority: Routine and Frequent

Legal Authority: 18 USC 3521 to 3528; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 524.70 to 524.78

Legal Deadline: None

Abstract: This document revises regulations on the Bureau's central inmate monitoring system for general clarity, to remove obsolete categories, to update staff responsibilities, and to make various changes in administrative procedures.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA43

1698. EDUCATION TESTS: MINIMUM STANDARDS FOR ADMINISTRATION, INTERPRETATION, AND USE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 544.10 to 544.13

Legal Deadline: None

Abstract: This document rescinds existing Bureau regulations on testing requirements, as guidelines established by test publishers are adequate for the administrative processing of education tests.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA44

1699. UNESCORTED TRANSFERS AND VOLUNTARY SURRENDERS

Priority: Other

Legal Authority: 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 522.30

Legal Deadline: None

Abstract: This document updates statutory citations and makes an editorial change in the heading of the subpart.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA45

1700. SCOPE OF RULES: NATIONAL SECURITY CONSIDERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 501

Legal Deadline: None

Abstract: This document allows for special administrative measures which may be taken with regard to a specific inmate when necessary to avoid the risk of disclosure of classified information that could endanger national security.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/13/95	60 FR 53490
Final Action	07/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA47

1701. • TELEPHONE REGULATIONS AND INMATE FINANCIAL RESPONSIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3013; 18 USC 3571; 18 USC 3572; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 3663; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; ...

CFR Citation: 28 CFR 540.105; 28 CFR 545.11

Legal Deadline: None

Abstract: This document establishes limitations on telephone privileges and commissary privileges for inmates who refuse to participate in the inmate financial responsibility program.

Timetable:

Action	Date	FR Cite
NPRM	01/02/96	61 FR 92
NPRM Comment Period End	03/04/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534

DOJ—BOP

Final Rule Stage

Phone: 202 514-6655

RIN: 1120–AA49

1702. • FEDERAL PRISON INDUSTRIES (FPI) WORK PROGRAM

Priority: Routine and Frequent

Legal Authority: 18 USC 4126

CFR Citation: 28 CFR 345.11

Legal Deadline: None

Abstract: This document clarifies the definition of "FPI Work Status."

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA50

1703. • RELEASE PREPARATION PROGRAM

Priority: Routine and Frequent

Legal Authority: 18 USC 3565; 18 USC 3568 to 3569; 18 USC 3582; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 4161 to 4166; 18 USC 4201 to 4218; 18 USC 5006 to 5024; 18 USC 5031 to 5042; 28 USC 509 to 510

CFR Citation: 28 CFR 571.10

Legal Deadline: None

Abstract: This document provides for exceptions in the operation of the inmate release preparation program at an administrative maximum security institution.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534
Phone: 202 514-6655

RIN: 1120–AA51

DEPARTMENT OF JUSTICE (DOJ)
Bureau of Prisons (BOP)

Completed Actions

1704. ADMINISTRATIVE REMEDY PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 28 CFR 542

Completed:

Reason	Date	FR Cite
Final Action	01/02/96	61 FR 86
Final Action Effective	02/05/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655

RIN: 1120–AA20

1705. HIV PROGRAMS; NOTIFICATION PROVISIONS

Priority: Other Significant

CFR Citation: 28 CFR 549.16

Completed:

Reason	Date	FR Cite
Superseded by RIN 1120-AA23	10/06/95	60 FR 52278

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655

RIN: 1120–AA22

1706. INMATE WORK AND PERFORMANCE PAY PROGRAM

Priority: Routine and Frequent

CFR Citation: 28 CFR 545.20 to 545.31

Completed:

Reason	Date	FR Cite
Final Action	01/04/96	61 FR 378
Final Action Effective	01/04/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655

RIN: 1120–AA28

1707. CORRESPONDENCE

Priority: Routine and Frequent

CFR Citation: 28 CFR 540

Completed:

Reason	Date	FR Cite
Final Action	12/18/95	60 FR 65204
Final Action Effective	12/18/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655

RIN: 1120–AA38

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Proposed Rule Stage

1708. AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES; CHILDREN'S FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12186; 5 USC 301; 28 USC 509; PL 101-336; 28 USC 510

CFR Citation: 28 CFR 36

Legal Deadline: None

Abstract: On July 26, 1991, the Department published its final rules implementing titles II and III of the Americans with Disabilities Act (ADA), which prohibits discrimination on the basis of disability by public entities (title II) and in places of accommodation and commercial facilities (title III). Those regulations included accessibility guidelines but did not specifically include guidelines for facilities designed for children.

This rule amends the ADA Standards for Accessible Design to include guidelines based on children's dimensions and anthropometrics and applies to newly constructed and altered facilities that are designed for use primarily by children. The rule ensures that newly constructed and altered children's facilities are readily accessible to and usable by children with disabilities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA38

1709. • REDRESS PROVISIONS FOR PERSONS OF JAPANESE ANCESTRY: GUIDELINES UNDER ISHIDA V. UNITED STATES

Priority: Other Significant

Legal Authority: 50 USC app. 1989; Ishida v. United States, No. 94-5151 (Fed. Cir. July 6, 1995)

CFR Citation: 28 CFR 74.3(b)(9)

Legal Deadline: None

Abstract: This rule revises the Department's regulations governing redress provisions for persons of Japanese ancestry under the Civil Liberties Act of 1988 to make eligible for payments of $20,000 those persons who were born after their parents "voluntarily" evacuated from the prohibited military zones of the West Coast of the United States as a result of military proclamations issued pursuant to Executive Order 9066. This change is being made as a result of a decision adverse to the Federal government in the Federal Circuit case Ishida v. United States.

This rule also makes eligible for redress those persons who were born outside the prohibited military zones in the United States after their parents were released from internment camps during the defined war period and whose parents had resided in the prohibited military zones on the West Coast immediately prior to their internment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Tink D. Cooper, Attorney, Department of Justice, Civil Rights Division, Office of Redress Administration, P.O. Box 66260, Washington, DC 20035-6260
Phone: 202 219-6900
TDD: 202 219-4710

RIN: 1190–AA40

1710. • REDRESS PROVISIONS FOR PERSONS OF JAPANESE ANCESTRY: GUIDELINES FOR THOSE WHO INVOLUNTARILY RETURNED TO JAPAN DURING THE WAR

Priority: Other Significant

Legal Authority: 50 USC app. 1989 et seq

CFR Citation: 28 CFR 74.4(b)

Legal Deadline: None

Abstract: This rule revises the Department's regulations governing redress provisions for persons of Japanese ancestry under the Civil Liberties Act of 1988 to make eligible for payments of $20,000 those persons who were otherwise eligible for redress under these regulations, but who involuntarily relocated (or who lacked the necessary capacity to relocate voluntarily) to Japan during World War II. In practice, this amendment will make potentially eligible those persons who were evacuated, relocated, or interned by the United States Government, and who, as minors, involuntarily relocated (or lacked the capacity to leave the custody and control of their parents or guardians who chose to relocate) to Japan during World War II.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Tink D. Cooper, Attorney, Department of Justice, Civil Rights Division, Office of Redress Administration, P.O. Box 66260, Washington, DC 20035-6260
Phone: 202 219-6900
TDD: 202 219-4710

RIN: 1190–AA42

1711. • AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES; DETECTABLE WARNINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 42 USC 12186(b)

CFR Citation: 28 CFR 36

Legal Deadline: None

Abstract: In 1991, the Architectural and Transportation Barriers Compliance Board (Access Board) issued the Americans with Disabilities Act Accessibility Guidelines (ADAAG), later codified at 36 CFR part 1191. Sections 1 through 10 of ADAAG were adopted as the accessibility standards for the Americans with Disabilities Act by the Department of Justice, codified at 28 CFR part 36, and by the Department of Transportation, codified 49 CFR part 37. These Standards for Accessible Design included a requirement that small raised truncated domes be used at curb ramps, hazardous vehicular areas, and certain reflecting pool edges in order to warn pedestrians who are blind or who have vision impairments of potential hazards in the circulation path.

By a joint final rule published on April 12, 1994, at 59 FR 17442, the Access Board, the Department of Justice (RIN 1190-AA25) and the Department of Transportation, suspended this requirement until July 26, 1996, in order to permit the Access Board to conduct further studies on the effectiveness of these detectable warnings. As a result of that initial study, the Access Board has determined that further research is needed. Therefore, the Department of Justice, the Access Board, and the Department of Transportation jointly propose to extend the suspension of this detectable warning requirement until July 26, 1998.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet L. Blizard, Supervisory Attorney, Department of Justice, Civil Rights Division, Disability Rights Section, P.O. Box 66738, Washington, DC 20035-6738
Phone: 202 514-0301
TDD: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA43

DOJ—CRT

Proposed Rule Stage

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Final Rule Stage

1712. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES; PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES; ACCESSIBILITY STANDARDS

Priority: Other Significant

Legal Authority: 42 USC 12134; 42 USC 12186; 5 USC 301; 28 USC 509; 28 USC 510; PL 101-336

CFR Citation: 28 CFR 35; 28 CFR 36; 28 CFR 37; 28 CFR 38

Legal Deadline: None

Abstract: On July 26, 1991, the Department published its final rules implementing titles II and III of the Americans with Disabilities Act (ADA), which prohibits discrimination on the basis of disability by public entities (title II) and in places of public accommodation and commercial facilities (title III). Those regulations included accessibility guidelines required for facilities covered by title III -- The ADA Standards for Accessible Design -- but did not specifically include guidelines for facilities covered by title II, such as courthouses or prisons. Title II entities now have the option of using the ADA standards (without certain exceptions applicable only to title III facilities) or another existing standard, the Uniform Federal Accessibility Standards.

The final rule will amend titles II and III to adopt a revised version of the ADA Standards, which incorporates new guidelines for facilities typically covered by title II. The new guidelines were issued as the interim final ADA Accessibility Guidelines by the Access Board and were published on the same day as the Department's proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31808
NPRM Comment Period End	08/19/94	
Final Action	09/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: John Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA26

1713. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 12134; 5 USC 301; 28 USC 509; 28 USC 510; PL 101-336

CFR Citation: 28 CFR 35

Legal Deadline: None

Abstract: This proposed amendment would revise the Department's regulation implementing Title II to clarify the requirement for installation of curb ramps at existing pedestrian walkways and to extend the time period for compliance beyond the current deadline of January 26, 1995. This amendment responds to public concerns about the unique and significant capital expense involved in the installation of curb ramps.

The amendment would establish a two-tier system under which public entities would be required to provide access to pedestrian walkways serving government offices, public transportation, public accommodations, places of employment, and the residences of individuals with disabilities by January 26, 2000. Access to existing pedestrian walkways in other areas would be required by January 26, 2005. The proposed rule would require public entities to included a schedule for the implementation of these requirements in their transition plans.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58462
NPRM Comment Period End	01/26/96	
Comment Period Extended to 3/1/96	02/06/96	61 FR 4389
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA36

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Long-Term Actions

1714. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Priority: Other Significant

CFR Citation: 28 CFR 42 subpart J (New)

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Merrily A. Friedlander
Phone: 202 307-2222
TDD: 202 307-2678
Fax: 202 307-0595

RIN: 1190–AA28

1715. PROCEDURES FOR COMPLAINTS OF EMPLOYMENT DISCRIMINATION FILED AGAINST RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE; RESCISSION OF LIMITATION ON PARTICIPATION OF THE DEPARTMENT OF EDUCATION

Priority: Other

CFR Citation: 28 CFR 42; 29 CFR 1691

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander
Phone: 202 307-2222
TDD: 202 307-2678

RIN: 1190–AA30

1716. AMENDMENT TO NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Other Significant

CFR Citation: 28 CFR 42.101 to 42.112

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander
Phone: 202 307-2222
TDD: 202 307-2678
Fax: 202 307-0595

RIN: 1190–AA31

1717. AMENDMENT TO COORDINATION OF ENFORCEMENT OF NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Other Significant

CFR Citation: 28 CFR 42.401 to 42.415

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander
Phone: 202 307-2222
TDD: 202 307-2678
Fax: 202 307-0595

RIN: 1190–AA32

1718. UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 44.100 to 44.305

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/14/91	56 FR 40247
Interim Final Rule Effective	08/14/91	
Interim Final Rule Comment Period End	10/15/91	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James S. Angus
Phone: 202 616-5594
TDD: 202 616-5525
Fax: 202 616-5509

RIN: 1190–AA33

1719. PROCEDURES FOR THE ADMINISTRATION OF SECTION 5 OF THE VOTING RIGHTS ACT OF 1965, AS AMENDED

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 51

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: George A. Schneider
Phone: 202 307-3153

RIN: 1190–AA35

1720. IMPLEMENTATION OF THE PROVISIONS OF THE VOTING RIGHTS ACT REGARDING LANGUAGE MINORITY GROUPS

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 55

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Susanna C. Lorenzo-Giguere
Phone: 202 514-9822
Fax: 202 307-3961

RIN: 1190–AA39

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Completed Actions

1721. AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES; CHILDREN'S FACILITIES

Completed:

Reason	Date	FR Cite
Duplicate of RIN 1190-AA38	03/29/96	

RIN: 1190–AA34

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA)

Proposed Rule Stage

1722. REMOVAL OF RESTRICTIONS ON EMPLOYING CERTAIN INDIVIDUALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 822

CFR Citation: 21 CFR 1301.76(a)

Legal Deadline: None

Abstract: This rule removes certain restrictions on the employment by registrants of individuals convicted of a felony offense relating to controlled substances, persons denied DEA registration or who had it revoked for cause.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: DEA-118

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA28

1723. EXEMPTION OF CHEMICAL MIXTURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: The Domestic Chemical Diversion Control Act of 1993 removed the exemption from regulation for chemical mixtures. Chemical mixtures are now regulated, unless specifically exempted by the Administrator. In the proposed rule regarding the implementation of the Domestic Chemical Diversion Control Act of 1993, DEA proposed regulations regarding exemption of chemical mixtures. Based on industry comments, the proposed regulations were subsequently withdrawn for reassessment and consultation with industry. These proposed regulations establish the new provisions regarding the exemption of chemical mixtures. Based on extensive consultations with industry, the regulations are intended to establish the least possible burden on industry while remaining consistent with the requirements of the law.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA-137

Agency Contact: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7183

RIN: 1117–AA31

1724. DIVERSION CONTROL FEE ACCOUNT

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 821; 21 USC 822; 21 USC 871(b)

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: In furtherance of the DEA's 1992 final rule regarding the increase of application fees (57 FR 60148), DEA is publishing this explanation of the components of the diversion control program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA Number 140P

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297

RIN: 1117–AA34

1725. • ESTABLISHMENT OF FREIGHT FORWARDING FACILITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 821 to 824; 21 USC 827; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 958(d); 21 USC 965

DOJ—DEA

Proposed Rule Stage

CFR Citation: 21 CFR 1301; 21 CFR 1304

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to define the term Freight Forwarding Facility and to exempt such facilities from the requirement of registration, in response to industry requests for recognition of such facilities. The proposed amendments will establish the regulatory guidelines under which registrants may utilize a freight forwarding facility while shipping controlled substances to another registrant.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA Number 143P

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297
Fax: 202 307-8570

RIN: 1117–AA36

1726. • REMOVAL OF EXEMPTION FOR PRODUCTS CONTAINING EPHEDRINE WITH GUAIFENESIN (WHICH ARE LAWFULLY MARKETED UNDER THE FDCA) FROM THE CHEMICAL CONTROL PROVISIONS OF THE CSA

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 811; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CKR 1309; 21 CFR 1310; 21 CFR 1313

Legal Deadline: None

Abstract: DEA is proposing to remove the exemption for certain products containing ephedrine in combination with guaifenesin (which are lawfully marketed under the Federal Food, Drug and Cosmetic Act (FDCA) from the provisions of the CSA. Due to the large-scale utilization of FDA-approved over-the-counter (OTC) ephedrine/guaifenesin products for the clandestine manufacture of controlled substances, DEA has determined that such products should be subject to the chemical control provisions of the CSA to prevent their diversion.

The Domestic Chemical Diversion Control Act of 1993 removed the exemption for single-entity ephedrine products lawfully marketed under the FDCA. In response to that, laboratory operators have searched for alternate sources of precursor material. This has led to the illicit use of OTC pseudoephedrine and ephedrine/guaifenesin products. The illicit use of pseudoephedrine is the subject of a Federal Register Notice published on 10/31/95 (60 FR 55348).

This action proposes to make certain products containing ephedrine and guaifenesin subject to the requirements of the CSA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: DEA Number 141P

Agency Contact: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7183
Fax: 202 307-8570

RIN: 1117–AA37

1727. • EXEMPTION FROM IMPORT/EXPORT REQUIREMENTS FOR PERSONAL MEDICAL USE

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 952; 21 USC 956 to 958

CFR Citation: 21 CFR 1311

Legal Deadline: None

Abstract: DEA is amending the exemption from the import/export requirements of the Controlled Substances Act (CSA) for individuals carrying personal use quantities of controlled substances into or out of the United States. The exemption is being amended to restrict the exemption to only those drugs that may be marketed or distributed exemption to only those controlled substances that may be marketed or distributed lawfully under the Federal Food, Drug and Cosmetic Act (FDCA). If a controlled substance is not approved under the FDCA, it will be subject to the import/export requirements of the CSA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA Number 146I

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297
Fax: 202 307-8570

RIN: 1117–AA38

DEPARTMENT OF JUSTICE (DOJ)

Drug Enforcement Administration (DEA)

Final Rule Stage

1728. PRESCRIPTIONS FOR CONTROLLED SUBSTANCES, REQUIREMENTS FOR USE OF AUTOMATED DATA PROCESSING SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 829; 21 USC 871(b)

CFR Citation: 21 CFR 1306.21; 21 CFR 1306.22; 21 CFR 1306.26; 21 CFR 1306.31

Legal Deadline: None

Abstract: This rule will amend existing regulations concerning the maintenance and retrieval of controlled substance prescription information stored in automated data processing systems. The rule is intended to clarify and simplify existing requirements. Some of these requirements are being met in another rule concerning the facsimile transmission of prescriptions.

This rule will be withdrawn, the remaining proposed amendments have been superseded by amendments made in the pending NPRM entitled Consolidation, Elimination, and Clarification of Various Regulations (RIN 1117-AA33).

Timetable:

Action	Date	FR Cite
NPRM	09/05/89	54 FR 36815
NPRM Comment Period End	11/24/89	54 FR 43436
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: G. Thomas Gitchel, Chief, State and Industry Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA03

DOJ—DEA

Final Rule Stage

1729. DEFINITION AND REGISTRATION OF DISPOSERS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 871(b); 21 USC 875; 21 USC 877

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: In years past, most pharmaceutical manufacturers and wholesalers, as a service to their customers, accepted returns of outdated/damaged merchandise. Also, agencies such as DEA and state Boards of Pharmacy accepted surrendered drugs or witnessed their disposal by controlled substance registrants. Over the past several years, environmental concerns and regulations have eliminated many of the disposal options which had been available. As a result, drug producers and government agencies alike are increasingly reluctant to be involved in the disposal process. Due to these factors and the time and resources expended by DEA and manufacturers, a disposer registration has become an essential link in the legitimate distribution chain. Therefore, DEA is proposing the establishment of a new category of controlled substance registrant as a disposer.

Timetable:

Action	Date	FR Cite
NPRM	08/23/95	60 FR 43732
NPRM Comment Period End	10/23/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA 108

Agency Contact: James A. Pacella, Chief, Policy Unit, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA19

1730. DISTRIBUTION OF CHEMICAL IMPORT/EXPORT DECLARATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b); 21 USC 971

CFR Citation: 21 CFR 1313

Legal Deadline: None

Abstract: The DEA is amending its regulations concerning the disposition of Copy 3 of the Precursor and Essential Chemical Import/Export Declaration (DEA Form 486). The amendment is being made to eliminate confusion between the regulation and the instructions set forth on the reporting form.

Timetable:

Action	Date	FR Cite
NPRM	09/23/93	58 FR 49455
NPRM Comment Period End	11/22/93	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA 110

Agency Contact: James A. Pacella, Chief, Policy Unit, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA21

1731. WAIVER OF REQUIREMENTS FOR DISTRIBUTION OF PRESCRIPTION DRUG PRODUCTS THAT CONTAIN LIST I CHEMICALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 802; 21 USC 822; 21 USC 871(b)

CFR Citation: 21 CFR 1309; 21 CFR 1310

Legal Deadline: None

Abstract: This rule would amend 21 CFR, parts 1309 and 1310, to waive the requirement for registration, and allow the use of records required to be kept under FDA regulations in lieu of maintaining separate DEA records, for the distribution of drug products that are subject to regulation as List I chemicals.

Timetable:

Action	Date	FR Cite
NPRM	09/26/95	60 FR 49527
NPRM Comment Period End	11/27/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA-133

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297

RIN: 1117–AA29

1732. MANUFACTURER REPORTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: This rule specifies the reporting requirements for bulk

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chemical manufacturers, as required by the Domestic Chemical Diversion Control Act of 1993. The rule provides that existing reports may be used to satisfy the reporting requirement.

Regulations concerning this requirement were previously proposed in the NPRM re: Implementation of the Domestic Chemical Diversion Control Act of 1993 (1117-AA23). Following industry comments, the reporting provisions were withdrawn for further consideration and consultation with industry. Based on consultations with industry new regulations are now being proposed.

Timetable:

Action	Date	FR Cite
NPRM	09/26/95	60 FR 49529
NPRM Comment Period End	11/27/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA-135

Agency Contact: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7183

RIN: 1117–AA30

1733. REMOVAL OF EXEMPTION FOR CERTAIN PSEUDOEPHEDRINE PRODUCTS MARKETED UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 811; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1309; 21 CFR 1310; 21 CFR 1313

Legal Deadline: None

Abstract: DEA is proposing to remove certain pseudoephedrine products from the exemption granted to drug products that are marketed under the Federal Food, Drug, and Cosmetic Act, based on evidence that the products are being diverted for the illicit manufacture of controlled substances. DEA is proposing to limit the regulation of these products to the distribution level through waiver of the registration requirement for retailers and establishment of a threshold that will not require recordkeeping and reporting for sales of personal use quantities to legitimate users. Further, the number of products to be regulated has been limited.

Timetable:

Action	Date	FR Cite
NPRM	10/31/95	60 FR 55347
NPRM Comment Period End	01/02/96	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA-138

Agency Contact: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7183

RIN: 1117–AA32

1734. CONSOLIDATION, ELIMINATION, AND CLARIFICATION OF VARIOUS REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 802; 21 USC 871(b)

CFR Citation: 21 CFR 1301; 21 CFR 1302; 21 CFR 1304; 21 CFR 1305; 21 CFR 1306; 21 CFR 1307; 21 CFR 1310; 21 CFR 1311; 21 CFR 1316

Legal Deadline: None

Abstract: Consistent with the White House National Performance Review initiative, DEA has conducted a review of Title 21, Code of Federal Regulations, Parts 1300 to End. In the course of this review, DEA has identified a number of areas in the regulations where steps can be taken to eliminate outdated requirements, consolidate related sections, and otherwise streamline the regulations. This action should reduce the regulations and provide a more consistent and easily understood framework of guidelines for industry to follow in complying with the requirements of the Controlled Substances Act.

Timetable:

Action	Date	FR Cite
NPRM	03/05/96	61 FR 8503
Correction	03/21/96	61 FR 11594
NPRM Comment Period End	07/31/96	61 FR 8503
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA Number 139P

Agency Contact: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration
Phone: 202 307-7297

RIN: 1117–AA33

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA) **Long-Term Actions**

1735. REPORTING ON PSYCHOTROPIC SUBSTANCES

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 1304

Timetable:

Action	Date	FR Cite
NPRM	10/18/93	58 FR 53680
NPRM Comment Period End	12/17/93	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Pacella
Phone: 202 307-7297

RIN: 1117–AA22

DEPARTMENT OF JUSTICE (DOJ)
Drug Enforcement Administration (DEA) **Completed Actions**

1736. REPORTS OF PRECURSOR AND ESSENTIAL CHEMICAL IMPORTS AND EXPORTS

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 1310; 21 CFR 1313

Completed:

Reason	Date	FR Cite
Withdrawn Prior to NPRM	12/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Pacella
Phone: 202 307-7297

RIN: 1117–AA17

1737. INFORMATION FOR EXPORTS OF PRECURSOR AND ESSENTIAL CHEMICALS

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 1313

Completed:

Reason	Date	FR Cite
Withdrawn	12/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James A. Pacella
Phone: 202 307-7297

RIN: 1117–AA18

DEPARTMENT OF JUSTICE (DOJ)
Executive Office for Immigration Review (EOIR) **Proposed Rule Stage**

1738. • DISCIPLINE OF ATTORNEYS AND REPRESENTATIVES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1252b; 8 USC 1362

CFR Citation: 8 CFR 3; 8 CFR 292

Legal Deadline: None

Abstract: This rule amends 8 CFR parts 3 and 292 by changing both the present procedures for disciplining attorneys and representatives who practice before the Executive Office for Immigration Review, which includes the Board of Immigration Appeals, and the Immigration Courts and the procedures for disciplining attorneys and representatives who practice before the Immigration and Naturalization Service (INS). This rule also includes a provision which as promulgated as an interim rule on April 6, 1992, pursuant to section 545 of the Immigration Act of 1990, Public Law 101-649 (IMMACT), concerning sanctions against attorneys or representatives who engage in frivolous behavior in immigration proceedings. This rule outlines the authority of EOIR to investigate and impose disciplinary sanctions against attorneys and representatives who practice before its tribunals. The rule clarifies the authority of the INS to investigate complaints regarding attorneys and representatives who practice before the INS and outlines the procedures by which the INS may initiate disciplinary proceedings before EOIR against practitioners who before the INS.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	05/00/96	
Interim Final Rule	07/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA13

DEPARTMENT OF JUSTICE (DOJ)
Executive Office for Immigration Review (EOIR) **Final Rule Stage**

1739. MOTIONS AND APPEALS IN IMMIGRATION PROCEEDINGS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Sec. 2, Reorg. Plan No. 2 of 1950; 3 CFR, 1949 to 1953 Comp, p 1002

CFR Citation: 8 CFR 1; 8 CFR 3; 8 CFR 103; 8 CFR 208; 8 CFR 212; 8 CFR 242

Legal Deadline: NPRM, Statutory, June 1991.

Abstract: Proposed regulations were published in the Federal Register on June 7, 1994 (59 FR 29386) (hereinafter referred to as the June proposed rulemaking), concerning motions and appeals in immigration proceedings and on May 13, 1994 (59 FR 24977) (hereinafter referred to as the May proposed rulemaking), concerning fees. The June proposed rulemaking was promulgated to implement section 545 of the Immigration Act of 1990, Public Law 101-649, which requires both time and number limitations on motions to reopen and reconsider and changes in the substantive and procedural aspects of motion and appeal practice. The May proposed rulemaking was promulgated to establish an alternative procedure for filing proof of fee payments with the Board of Immigration Appeals (Board).

Since the publication of these two proposed rules, the agency has further examined its current appeal procedures and has decided to establish a uniform central system for filing and tracking appeals before the Board. Under the proposed procedure, parties would file a notice of appeal from a decision of an Immigration Judge and remit the appeal fee or fee waiver petition with the notice of appeal directly to the Board. The rule would also require that motions to reopen and motions to

DOJ—EOIR — Final Rule Stage

reconsider decisions of the Board be filed directly with the Board accompanied by the appropriate fee or fee waiver petition. This rule would supersede the May and June proposed rulemakings.

This proposed centralization of the appeals procedure, published as a proposed rule, merges merges these substantive and procedural proposals into one rule with some changes to clarify certain provisions and to reflect many of the commenters' concerns. This rule addresses both the language of section 545(d) of the Immigration Act of 1990 and new procedural changes to the filing of appeals, motions, and their concomitant fees with the Board.

Timetable:

Action	Date	FR Cite
NPRM	06/07/94	59 FR 29386
NPRM Comment Period End	08/08/94	
Second NPRM	05/09/95	60 FR 24573
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: EOIR-102P

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA01

1740. RULES CONCERNING CONDITIONAL PERMANENT RESIDENCE FOR ALIEN ENTREPRENEURS IN DEPORTATION PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Reorg. Plan No. 2 of 1950, sec 2; 3 CFR, 1949 to 1953 Comp, p 1002

CFR Citation: 8 CFR 3

Legal Deadline: None

Abstract: The Immigration Act of 1990 provides that an alien entrepreneur and his or her family may obtain lawful permanent residence on a conditional basis, subject to the requirements of a timely petition and interview for removal of the condition two years after obtaining such status. Termination of such status is made reviewable in deportation proceedings before an Immigration Judge. This rule sets forth the procedures that an Immigration Judge will follow in reviewing the termination by the Immigration and Naturalization Service of conditional permanent resident status of alien entrepreneurs and their families.

Timetable:

Action	Date	FR Cite
NPRM	11/12/93	58 FR 59953
NPRM Comment Period End	12/13/93	
Final Action	05/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret M. Philbin, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA02

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM)

Final Rule Stage

1741. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF JUSTICE

Priority: Other

Legal Authority: 5 USC 301; 5 USC 7301; 5 USC app, Ethics in Government Act of 1978, as amended; 18 USC 207(h)(1); 18 USC 208; 28 USC 528; EO 12674; EO 12731; 5 CFR 735; 5 CFR 2634; 5 CFR 2635; 5 CFR 2641; DOJ Ord 1735.1

CFR Citation: 5 CFR 3801 (New); 28 CFR 45 (Removal)

Legal Deadline: None

Abstract: This rule would supplement the uniform Standards of Ethical Conduct for Employees of the Executive Branch for employees of the Department of Justice. This supplement is necessary because it addresses statutory requirements and issues that are unique to the Department. In addition, the rule would remove the existing Department standard-of-conduct regulations from 28 CFR part 45.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Rafael Alberto Madan, Attorney Advisor, Justice Management Division, Department of Justice, 10th & Constitution Avenue NW., Washington, DC 20530
Phone: 202 514-3452

RIN: 1103–AA25

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Prerule Stage

1742. F, J, AND M NONIMMIGRANT STUDENT REQUIREMENTS FOR ADMISSION, TRACKING, MAINTENANCE OF STATUS AND FOR EMPLOYMENT AUTHORIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a; 8 USC 1324a

CFR Citation: 8 CFR 214; 8 CFR 274a

Legal Deadline: None

Abstract: This rule amends title 8 of the Code of Federal Regulations to clarify current regulations affecting F-1, J-1, and M-1 nonimmigrant students and their dependants; and to make necessary changes regarding controls over all foreign students in the United States.

This regulation re-engineers existing policies and procedures affecting the control and tracking of foreign students and the schools which are authorized to admit them. It will establish effective controls for monitoring and tracking of all nonimmigrant students (F, J, and M classifications). (INS 1458)

A pilot test will be conducted to ascertain the practical feasibility and viability of the student/school re-engineering effort.(INS 1762)

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 7-20-92; Com. Due 9-18-92	07/20/92	57 FR 31954
Notice of Pilot Program (INS 1762)	09/00/96	
2nd Interim Final Rule (INS 1458)	12/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Nos. 1458 and 1762

Agency Contact: Maurice Berez, Adjudications Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3228

RIN: 1115–AD16

1743. EXPANSION OF DIRECT MAIL PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1101; 8 USC 1182; 8 USC 1255; 8 USC 1255a; 8 USC 1201; 8 USC 1201a; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305; 8 USC 1324a; 8 CFR 2; 8 USC 1356

CFR Citation: 8 CFR 103; 8 CFR 245; 8 CFR 264; 8 CFR 274a; 8 CFR 245a

Legal Deadline: None

Abstract: This rule conveys changes in filing procedures for certain petitions or applications for immigration benefits under the direct mail program. Filing will be done directly with the service centers rather than with the district offices thereby facilitating more expeditious processing of applications and/or petitions. (INS 1660)

The Service also will announce the expansion of the direct mail program to include the filing of Form N-400, Application for Naturalization. The Los Angeles, Miami, Chicago, and New York District Offices will be the pilot sites for this expanded program. Forms will be mailed to one of four Service Centers in an effort to expedite processing. (INS 1745)

Timetable:

Action	Date	FR Cite
Interim Final Rule INS No. 1660 Direct Mail Prog. Expansion Eff. 7-1-94; Com. Due 8-30-94	07/01/94	59 FR 33903
Final Rule INS No. 1660 Direct Mail Prog. Expansion	12/00/96	
Notice INS No. 1745	12/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1660 and 1745

Agency Contact: Maurice Berez, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD73

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Proposed Rule Stage

1744. REVISED GROUNDS OF EXCLUSION, PAROLE OF ALIENS INTO THE UNITED STATES, AND WAIVERS OF INADMISSIBILITY FOR IMMIGRANTS AND NONIMMIGRANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1201; 8 USC 1304; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1186A; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 238; 8 CFR 103; 8 CFR 204; 8 CFR 207; 8 CFR 208; 8 CFR 209; 8 CFR 210; 8 CFR 213; 8 CFR 223a; 8 CFR 235; 8 CFR 236; 8 CFR 238; 8 CFR 239; ...

Legal Deadline: None

Abstract: This regulation provides changes to the grounds of exclusion applicable to those seeking admission to the US either on a temporary or permanent basis, and sets forth the circumstances under which discretionary waivers of excludability are available. The amendments reflect statutory changes made by section 601 of the Immigration Act of 1990, IMMACT 90, as well as subsequent technical amendments to the statute. The rule is necessary to ensure implementation of, and regulatory compliance with, the statute as enacted by Congress.

This rule also changes language in 8 CFR 209.2(b) that pertains to the adjustment of status of aliens who, though granted asylum, are determined

to be inadmissible aliens pursuant to the provisions set forth in IMMACT.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1413-92

Consolidated INS Rules 1304, RIN 1115-AC01; 1235, RIN 1115-AB39; 1232, RIN 1115-AB45; and 1648, RIN 1115-AD62.

Agency Contact: Sophia Cox, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AB45

1745. VISA WAIVER PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1356; 8 USC 1187; 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 217

Legal Deadline: None

Abstract: The Visa Waiver Pilot Program allows nationals of designated countries to apply for admission to the US at land border ports, air and sea ports and to enter the US for business or pleasure for up to 90 days without first obtaining a nonimmigrant visa.

INS 1755 permits nationals of Argentina, the Czech Republic and Slovenia to participate in this program.

INS 1447 permits nationals of 13 additional designated countries, Andorra, Austria, Belgium, Denmark, Finland, Iceland, Liechtenstein, Luxembourg, Monaco, New Zealand, Norway, Spain, and San Marino to apply for admission for 90 days or less as nonimmigrant visitors for business or pleasure without first obtaining a nonimmigrant visa.

INS 1447R amends section 217 by removing Andorra, Austria, Italy, and Monaco as countries participating in the Visa Waiver Pilot Program. This action is necessary because these countries no longer meet the criteria for continued participation in the program.

INS 1674 provided notice of the Congressional extension of the VWPP through 9-30-96.

INS No. 1685 extends the VWPP to nationals of Ireland and also allows nationals of designated countries whose method of arrival at port-of-entry had previously precluded them from participating in the VWPP to now participate.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1447) Eff. 10-1-91; Com. Due 10-15-91	09/13/91	56 FR 46716
Public Notice (INS No. 1674) Eff. 10-25-94, Cut-off date 9-30-96	02/21/95	60 FR 9699
Interim Final Rule (INS No. 1685) Eff. 4/1/96; Com. due 5/30/95	03/28/95	60 FR 15855
Final Rule (INS No. 1447)	10/00/96	
Final Rule (INS No. 1685)	10/00/96	
Interim Final Rule (1755)	10/00/96	
NPRM (INS No. 1447R)	10/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1447-91, 1447R-93, 1674-94, 1685-95, and 1755-96

Final action pending (INS No. 1447 and 1447R); awaiting State Department review of concurrent regulations.

Interim rule will be promulgated upon DOJ and DOS joint designation of the countries cited in INS 1755.

The Visa Waiver Pilot Program is scheduled to expire on September 30, 1996 unless extended by Congress.

Agency Contact: Tom Graber, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 616-7496

RIN: 1115–AB93

1746. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE: CONDITIONAL RESIDENTS AND FIANCE(E)S

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1257; 8 CFR 2

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract:

This rule clarifies procedures for fiance(e)s who marry after the 90 day period of fiance(e) admission has ended; and also clarifies that persons who have had conditional residence terminated are not eligible to adjust status.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1353-91

Agency Contact: Rita A. Arthur, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AC70

1747. MEXICAN AND CANADIAN NONRESIDENT ALIEN BORDER CROSSING CARDS (BCCS)

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1183; 8 USC 1201; 8 USC 1102; 8 USC 1201a; 8 USC 1301; 8 USC 1305; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 264; 8 CFR 299

Legal Deadline: None

Abstract: This rule standardizes guidelines for the issuance of border crossing cards on the northern and southern borders to aliens who are citizens and residents of Mexico and Canada.

This rule will have minimal impact and should standardize guidelines for issuance of BCCs.

Timetable:

Action	Date	FR Cite
NPRM	02/06/96	61 FR 4374
NPRM Comment Period End	04/08/96	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1390

Agency Contact: Michael Jaromin, Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-2694

RIN: 1115–AD24

1748. J NONIMMIGRANTS: REQUIREMENTS FOR ADMISSION AND MAINTENANCE OF STATUS; EMPLOYMENT AUTHORIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1184; 8 USC 1324a

CFR Citation: 8 CFR 214; 8 CFR 274a

Legal Deadline: None

Abstract: The United States Information Agency (USIA) published regulations at 22 CFR 514 on March 19, 1993 (58 FR 15180) which made significant changes to the administration of the international educational and cultural exchange visitor category (J), including Service procedures for monitoring the authorized stay of program participants and authorizing employment for J aliens. 8 CFR 214.1, 214.2, and 274a.12 will be changed to implement these procedures and eliminate burdensome paperwork for both the Service and public.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1610

USIA published final ruling 3/19/93. INS awaiting inter-agency Memorandum of Understanding from USIA.

Agency Contact: Maurice Berez, Adjudications Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD37

1749. VALIDITY OF APPROVED PETITIONS AND APPEAL RIGHTS

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule reinstates and clarifies procedures which determine when a relative petition remains valid or becomes invalid and ceases to convey a priority date. It also reinstates and revises procedures relating to a petitioner's appellate rights by extending the period in which an appeal may be filed from 15 to 30 days. This will standardize the filing period given petitioners who file appeals with the Board of Immigration Appeals by conforming them with the 30-day filing period given applicants who appeal with the Service's Administrative Appeals Division.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1619-93

Agency Contact: Ramonia Law-Hill, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD45

1750. STANDARDIZED TESTING FOR NATURALIZATION; PROCEDURES FOR APPROVAL OF TEST PROVIDERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1423; 8 USC 1443; 8 USC 1447; 8 USC 1448

CFR Citation: 8 CFR 312

Legal Deadline: None

Abstract: The Immigration and Naturalization Service (Service) is proposing a change in the criteria currently used for approving testing entities to administer standardized United States government, history and written and oral English testing for persons applying to become naturalized United States citizens. Dramatic increases in the number of individuals filing to become citizens and the need to strengthen the approval criteria in order to prevent fraud necessitate this change. After implementation, this rule will provide permanent procedures for approving testing entities to administer the written English language, history and government test and will allow the Service to focus manpower resources of naturalization interviews warranting greater investigation. The rule will also implement provisions mandated by the 1994 Technical Corrections Act regarding 312 exemptions for persons with certain disabilities.

This rule while adding a section to 8 CFR, will assist the public by controlling the authorization of local testing centers, thereby eliminating fraud which is now plaguing the system.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1275-93

Agency Contact: Craig Howie, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD52

DOJ—INS

Proposed Rule Stage

1751. NONIMMIGRANT CLASSES; DIPLOMAT AND GOVERNMENT REPRESENTATIVES; TRANSITS; REQUIREMENTS FOR ADMISSION, EXTENSION AND MAINTENANCE OF STATUS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule clarifies status, employment, control, and travel limitations for diplomats and representatives of international organizations, including the United Nations. The rule will be undertaken as a result of a working relationship between the INS and the Department of State. The United States Mission to the United Nations will participate in drafting regulations pertaining to the United Nations Headquarters District.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
Final Action	06/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1631

INS No. 1706 (RIN 1115-AE05) will be incorporated in this rulemaking.

Agency Contact: Katharine A. Lorr, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD57

1752. PROCEDURES FOR FILING A DERIVATIVE PETITION (FORM I-730) FOR A SPOUSE AND UNMARRIED CHILDREN OF A REFUGEE/ASYLEE

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1157; 8 USC 1159; 8 USC 1182; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282; 8 CFR 2; 31 USC 9701

CFR Citation: 8 CFR 207; 8 CFR 208

Legal Deadline: None

Abstract: This rule responds to the family reunification needs of refugees by establishing an equitable and consistent following-to-join policy for refugees which parallels the current following-to-join procedures for asylees. This rule also proposes to amend asylum regulations by removing children born to or legally adopted by the principal alien and spouse after approval of the principal alien's asylum application from qualified relationship.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1639

Agency Contact: Ramonia Law-Hill, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD59

1753. EXECUTING FINAL ORDER OF EXCLUSION OR DEPORTATION; CONFORMING 72-HOUR NOTICE PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1227; 8 USC 1255; 8 USC 1253

CFR Citation: 8 CFR 237; 8 CFR 243

Legal Deadline: None

Abstract: This rule streamlines the regulatory process for executing a final order of exclusion by sliding forward the 72-hour waiting period, which currently falls after the Service assumes custody of the alien pursuant to a notice to surrender or arrest, to the period immediately after service of the decision upon the alien, in conformity to the current deportation procedure. The rule also eliminates the subsequent step of obtaining the alien's specific consent or request to waive the 72-hour period when the alien has already waived appeal of the Immigration Judge's exclusion or deportation order on the record of proceeding before the Immigration Judge. These revisions are necessary in order to eliminate unnecessary detention costs to the taxpayer and potential delays resulting from the current 72-hour provision.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1661-94

Additional INS contact: Robert K. Bingham

Agency Contact: Cristina Hamilton, Associate General Counsel, General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AD71

1754. NONIMMIGRANT CLASSES; S CLASSIFICATION; LAW ENFORCEMENT INITIATIVES; ALIEN WITNESSES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 274a; 8 CFR 299; 8 CFR 103

Legal Deadline: None

Abstract: Three regulatory initiatives dealing with the processing of alien witnesses have been prepared by the INS. INS No. 1683-94 provides the application and approval process for the admission of aliens in S nonimmigrant classification. It provides guidance to the various law enforcement agencies needing alien witnesses and informants to complete critical law enforcement initiatives in the United States. INS no. 1728-95 establishes a fee for the processing of Form I-854, Inter-Agency Alien Witness and Informant Record, for Law Enforcement Agency (LEA) requests for

DOJ—INS

Proposed Rule Stage

S nonimmigrant classification for eligible alien witnesses and informants. The fee recovers the costs of the processing of requests for immigration benefits, and is needed to comply with specific Federal immigration laws and Federal user fee statute and regulations. INS No. 1731 establishes procedures for temporary parole of witnesses using B-1 visa classification or the Attorney General's parole authority.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1683) Eff. 8-25-95; Com. due 12-4-95	08/25/95	60 FR 44260
Interim Final Rule (INS No. 1683) Correction	10/05/95	60 FR 52068
Interim Final Rule (INS No. 1683) Correction	10/05/95	60 FR 52248
NPRM (INS No. 1728)	04/00/96	
NPRM (INS No. 1731)	06/00/96	
Final Rule (INS No. 1683)	10/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: INS No. 1683-94; INS No. 1728-95; INS No. 1731-95

Agency Contact: Katherine Lorr, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536
Phone: 202 616-7446

RIN: 1115–AD86

1755. ARRIVAL/DEPARTURE RECORDS; RETENTION OF DEPARTURE PORTION OF THE FORM I-94 FOR SEAPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228; 8 USC 1229; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1252

CFR Citation: 8 CFR 235; 8 CFR 231

Legal Deadline: None

Abstract: This rule will allow the alien passenger to retain the departure Form I-94 while on vessels at sea instead of turning it in and having to prepare a new one for every entry into the US after departing from contiguous territory or adjacent islands. It is necessary to reduce INS resources expended on the inspection of non-immigrant aliens traveling on cruise vessels which originated in the US. It will reduce the cost to the INS while facilitating the entry of bona fide travelers, and enhance the image of the INS with the tourism industry.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1694-95

Agency Contact: Tom Graber, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 616-7496

RIN: 1115–AD94

1756. INSPECTION OF ALIEN CREW MEMBERS; 90-DAY WAIVER

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1184; 8 USC 1258; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 235; 8 CFR 252

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service ("the Service") regulations by establishing a procedure whereby bona fide alien crewmen actively serving on board a maritime ferry or a maritime commercial cruise ship may, at the discretion of the Service, be inspected one time during every ninety-day period during which the cruise ship conducts operations between Ports-Of-Entry (POEs) in the United States and a foreign country. This rule is necessary in order for the Service to formally codify the long-standing practice of authorizing certain maritime crewmen landing privileges in the United States without further inspection during the intervening time between 90-day full-crew inspections.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1695-95

Agency Contact: Tom Graber, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 616-7498

RIN: 1115–AD95

1757. SCREENING REQUIREMENTS OF CARRIERS FOR REDUCTION, REFUND, OR WAIVER OF FINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103

CFR Citation: 8 CFR 273

Legal Deadline: None

Abstract: This rule sets forth the requirements that a carrier must satisfy in order that the INS may reduce, refund, or waive a fine incurred by the carrier for the transportation of an improperly documented alien to the US. The rule notifies the public of the requirements the INS expects the carriers to implement at ports of embarkation to satisfy the INS that they have properly screened all passengers on their vessel or aircraft bound for the US. The rule also notifies the public of the circumstances under which the INS may reduce, refund, or waive fines imposed on the carrier for the boarding of improperly documented aliens.

Certain qualified carriers that have achieved an Acceptable Performance Level (APL) in the number of improperly documented aliens brought to the United States, as determined by the INS, and having a satisfactory fines payment record, will be eligible for fines mitigation, the extent of the mitigation being determined by the carrier's APL.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1697

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AD97

1758. BORDER SERVICES USER FEE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1356; 8 CFR 2

CFR Citation: 8 CFR 286

Legal Deadline: None

Abstract: Legislation currently pending would provide for the establishment of a border services user fee which would be applied to border-related services and enforcement. The fee is proposed to be $1.50 for each non-commercial conveyance and $0.75 for each pedestrian, for every land border entry, including persons arriving via ferries. This rule will, among other things, develop special discounted fee programs for frequent border crossers and establish penalties for non-payment of fees.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1700-95

Agency Contact: Michael Jaromin, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7223, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AE01

1759. INTRODUCTION OF SECURE EMPLOYMENT AUTHORIZATION DOCUMENT

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: This rule would provide for the centralized production of all employment authorization documents (EADs) at one or more service centers. Centralization will allow the INS to utilize new technology to produce more secure EADs. This will benefit employers, aliens with employment authorization and the INS.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: INS No. 1707

Agency Contact: Mayburn Deboe, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3040, Washington, DC 20536
Phone: 202 514-3156

RIN: 1115–AE06

1760. DISCLOSURE OF INFORMATION

Priority: Other

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186A; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule removes the current regulatory language conditioning an alien's nonimmigrant status on his or her providing full and truthful information requested by the INS, regardless of the requested information's materiality. This rule would clarify that the nonimmigrant's stay is conditioned on, among other things, the provision of all information deemed necessary to ensure that the alien has acquired, and is maintaining, lawful nonimmigrant status during the entire period of his or her stay, or is eligible to receive any other benefit under the INA.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1732-95

Agency Contact: Miriam Jawitz Hetfield, Senior Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE17

1761. DESIGNATION OF INS CERTIFIED CENTERS

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1252b; 8 USC 1362; 8 USC 1421; 8 USC 1443; 8 USC 1447; 8 USC 1448; 8 CFR 2.1

CFR Citation: 8 CFR 292; 8 CFR 310

Legal Deadline: None

Abstract: This regulatory change is part of the Immigration and Naturalization (INS) "Citizenship USA" Project to make the naturalization process more accessible to eligible immigrants. The change is intended to increase the availability of high-quality, low-cost assistance to applicants for naturalization and other immigration benefits. It will reduce the burden of current regulations and will clarify some regulatory provisions which have been confusing to affected parties. It will also expand the partnership between INS and organizations in local communities.

This rule amends INS regulations by providing procedures by which non-profit agencies, community-based organizations, and other special interest groups may be designated as INS Certified Centers on a provisional basis for the purpose of informing and assisting those eligible to apply for various immigration benefits.

Timetable:

Action	Date	FR Cite
NPRM (INS 1735)	08/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1735

Agency Contact: Jodi Martin, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536

Phone: 202 514-5014

RIN: 1115–AE18

1762. ACQUISITION OF CITIZENSHIP; EQUAL TREATMENT OF WOMEN IN CONFERRING CITIZENSHIP TO CHILDREN BORN ABROAD

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1401

CFR Citation: 8 CFR 301

Legal Deadline: None

Abstract: This interim rule implements the Immigration and Nationality Technical Corrections Act of 1994, by establishing procedures for certain United States women to confer citizenship to their foreign-born children. The purpose of the rule is to ensure that all women receive equal treatment under laws relating to nationality. Implementation of the rule would allow for the issuance of certificates of citizenship to certain foreign-born children previously ineligible to acquire citizenship from their U.S. citizen mothers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1736-95

Agency Contact: Jane Barker, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Room 3214
Phone: 202 514-5014

RIN: 1115–AE19

1763. • APPREHENSION, CUSTODY AND DETENTION; AGGRAVATED FELONY CONVICTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1251; 8 USC 1252; 8 USC 1252 note; 8 USC 1252a; 8 USC 1252b; 8 USC 1254; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 242

Legal Deadline: None

Abstract: This rule amends existing INS regulations by incorporating decisions of the Board of Immigration Appeals (BIA) and the courts that heighten bond test under section 242(a)(2)(B) of the Immigration and Nationality Act which applies retroactively to any aggravated felony conviction occurring before, on, or after November 18, 1988. (The rule will add the word "before" to the phrase which previously cited convictions occurring on or after November 18, 1988).

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1747-96

Agency Contact: Ira Frank, Senior Special Agent, Investigations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536
Phone: 202 514-0747

RIN: 1115–AE25

1764. • TEMPORARY PROTECTED STATUS; DESIGNATIONS AND EXTENSIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 8 USC 1103; 8 USC 1254a; 8 USC 1254a note; 8 USC 1362; 8 USC 1324a; 8 USC 1101; 8 USC 1303; 8 CFR 2; 5 USC 301; 5 USC 552; 5 USC 552a; 8 USC 1201; 28 USC 509; 31 USC 9701

CFR Citation: 8 CFR 103; 8 CFR 240; 8 CFR 299

Legal Deadline: None

Abstract: Regulations published under this RIN implement provisions of the Immigration and Nationality Act as established by section 302 of the Immigration Act of 1990, Pub. L. 101-649, which allow for the establishment and implementation of Temporary Protected Status (TPS).

Previously published TPS regulations were cited by RIN 1115-AC30.

Recent regulatory actions:

INS No. 1608 provides for exceptions to deadlines for registering for TPS and updates the application process.

INS No. 1612 provides for the removal of obsolete TPS language.

INS No. 1746 provides for the extension of designation of Liberia for TPS through 3-28-97.

Timetable:

Exceptions to Registration		
TPS Final Rule (INS No. 1608)	00/00/00	
Liberia TPS (INS No. 1746)		
Desig. Exten. 3-29-96 to 3-28-97; (61 FR 8076)	03/01/96	
8 CFR Part 240 Removal of Obsolete TPS Language (INS No. 1612)		
Proposed Rule	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: The Attorney General may designate other countries for TPS.

INS Nos. 1608, 1612, and 1746

Cross reference other TPS actions under RIN 1115-AC30.

Agency Contact: Ronald S. Chirlin, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE26

1765. • ELIGIBILITY OF PERSONS FOR REFUGEE STATUS AND WITHHOLDING OF DEPORTATION; ELIMINATION OF PAROLE REVIEW PROGRAM FOR EXCLUDABLE MARIEL CUBANS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1158; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1282; 8 CFR 2; 31 USC 9701

CFR Citation: 8 CFR 208; 8 CFR 212

Legal Deadline: None

Abstract: This rule would amend two of the existing sections of 8 CFR governing eligibility for refugee status and one of the sections governing eligibility for withholding of deportation. It also would modify sections pertaining to the parole review program for excludable Mariel Cubans.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1752

Additional INS contact Bo Cooper

Agency Contact: Scott Busby, Assistant General Counsel, General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE30

1766. • ELIMINATION OF LISTING OF TRANSPORTATION LINES SIGNATORY TO CONTRACTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 8 USC 1103; 8 USC 1228; 8 CFR 2

CFR Citation: 8 CFR 238

Legal Deadline: None

Abstract: This rule amends the Service regulations by removing the list of transportation lines signatory to the Immediate and Continuous Transit Agreement, also known as the TWOV agreement, or the preinspection agreement, from the Code of Federal Regulations. This will permit the Service to rapidly add or delete transportation lines signatory to these agreements to or from a list to be maintained at the Services's Headquarters Office of Inspections.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1760

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 616-7499

RIN: 1115–AE34

1767. • MANIFEST REQUIREMENTS FOR IN-TRANSIT PASSENGERS

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228; 8 USC 1229

CFR Citation: 8 CFR 231

Legal Deadline: None

Abstract: This rule will delete part 231, section 1(b) from title 8 of the Code of Federal Regulations. The rule will require the carrier to present an Arrival/Departure Manifest as required under Section 231 of the Immigration and Naturalization Act. This will necessitate the carrier to present an Arrival/Departure Record, Form I-94T, for each in-transit passenger coming to the United States. Under the current regulations, carriers are exempt presentation if the in-transit passenger arrives and departs on the same aircraft on a direct through flight. The rule will eliminate this exemption. The change is necessary so that the Service can identify and intercept those passengers who are listed in federal lookout systems as being ineligible for admission to the United States or wanted for past criminal action by a law enforcement agency.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1757

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 616-7499

RIN: 1115–AE37

1768. • CONTRACTS WITH TRANSPORTATION LINES; LIMITING TRANSFERS OF TRANSIT WITHOUT VISA ALIENS IN THE UNITED STATES TO ONE; ELECTRONIC TICKETING

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1228; 8 CFR 2

CFR Citation: 8 CFR 238

Legal Deadline: None

Abstract: This rule will limit the number of stops for Transit Without Visa (TWOV) applicants in the United States to one. It will allow TWOV passengers to present other than airline tickets to inspectors as evidence of continued transit through the United States.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1766

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-2694

RIN: 1115–AE41

1769. • EXAMINATIONS FEE ACCOUNT SCHEDULE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1356; PL 100-459; 31 USC 9701

CFR Citation: 8 CFR 103

Legal Deadline: Final, Statutory, October 1, 1997.

Abstract: INS No. 1767 proposes to adjust the INS' Immigration Examinations Fee Account fee schedule to include a surcharge to fund the Cuban-Haitian Entrant Program. The fee adjustment is necessary to comply with a Congressional directive to transfer funding of the Program from the Community Relations Service to the Immigration Examinations Fee Account. Implementation of this rule will ensure that sufficient revenue is generated through the various Immigration examinations Fee Account fees to fund the Cuban-Haitian Entrant Program.

INS No. 1768 proposes to adjust the Immigration Examinations Fee account to reflect the cost of providing immigration and naturalization services, plus surcharges for the Asylum Program, as directed by Congress. The fee adjustment is necessary to comply with Federal statutes and Federal cost accounting standards. Implementation of this rule will ensure that sufficient funds are available for immigration and naturalization services, the Asylum Program, and to improve the quality of services provided to users.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1767)	05/00/96	
NPRM (INS No. 1768)	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS Nos. 1767 and 1768

Agency Contact: Michael Natchuras, Chief, Fee Policy and Rate Setting Branch, Budget, Office of Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6240, Washington, DC 20536
Phone: 202 616-2754

RIN: 1115–AE42

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Final Rule Stage

1770. NONIMMIGRANT CLASSES; TEMPORARY EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1258

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: The Immigration Reform and Control Act of 1986 (IRCA) imposed sanctions against employers who hire aliens not authorized to work. Since many of the nation's agricultural employers have become dependent upon such workers to meet production and harvesting needs, Congress created the Special Agricultural Workers (SAW) Program and the Replenishment Agricultural Workers (RAW) Program to grant permanent resident status to certain agricultural workers. To clarify the process through which employers can employ nonimmigrant seasonal and temporary agricultural workers, Congress moved agricultural employment from H-2 classification into a separate H-2A class, and incorporated a labor certification process into the statute. This rule established special H-2A regulatory criteria, and supplemented the Department of Labor's rules covering the temporary agricultural labor certification process. This rule has amended Service regulations which pertain to temporary alien workers seeking classification under section 101(a)(15)(H) of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
NPRM; Com. Due 10-7-86	08/08/86	51 FR 28576
Interim Final Rule Eff. 6-1-87; Com. Due 7-31-87	06/01/87	52 FR 20554
2nd Interim Final Rule	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1302-90

Rule contingent upon Department of Labor final regulations.

Cross reference INS No. 1008-88

Agency Contact: Helen V. deThomas, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AA25

1771. ARREST AND DETENTION OF AGGRAVATED FELONS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1251; 8 USC 1252; 8 USC 1254; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 242; 8 CFR 244

Legal Deadline: None

Abstract: Changes to the current regulations are necessitated by the Anti-Drug Abuse Act of 1988 provisions relating to aliens convicted of aggravated felonies. The regulations delineate when a warrant of deportation may be used in lieu of a warrant of arrest to take an alien into custody.

Timetable:

Action	Date	FR Cite
Interim Final Rule; Eff. 6-19-90; Com. Due 7-19-90	06/19/90	55 FR 24858
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1209

Agency Contact: Ira L. Frank, Senior Special Agent, Investigations Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536
Phone: 202 514-0747

RIN: 1115–AB19

1772. NONIMMIGRANT CLASSES; NATO-1, 2, 3, 4, 5, 6, AND 7; CONTROL OF EMPLOYMENT OF ALIENS (SPECIAL REQUIREMENT FOR ADMISSION, EXTENSION AND MAINTENANCE OF STATUS; NATO)

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a

CFR Citation: 8 CFR 214; 8 CFR 274a; 8 CFR 248; 8 CFR 299

Legal Deadline: None

Abstract: Collaborative effort with INS, DOS, DOD and NATO on revising Service regulations relating to employment authorization for dependents of certain principal aliens in NATO status. The revision is necessary in order to expand and secure employment opportunities on the basis of reciprocity for dependents of US citizens in NATO status in NATO member countries and to make NATO dependent employment provisions conform with those of A and G nonimmigrants.

Timetable:

Action	Date	FR Cite
NPRM	02/07/94	59 FR 5533
NPRM Comment Period End	03/09/94	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1328-93

Agency Contact: Katharine A. Lorr, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AB52

1773. FIELD OFFICERS; POWERS AND DUTIES; SUBPOENA

Priority: Routine and Frequent

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1252; 8 USC 1357; 8 CFR 2

CFR Citation: 8 CFR 287

Legal Deadline: None

Abstract: This rule permits service of a subpoena to be made by an immigration officer except when the subpoena is issued by an immigration judge on behalf of a party other than the INS. The rule permits an immigration officer to ask for a subpoena from an immigration judge. It deletes the Regional Director, Office of Professional Responsibility, as an official who may issue a subpoena and/or designate service of same. The rule specifically permits the subpoenaing of demonstrative evidence.

Timetable:

Action	Date	FR Cite
NPRM	09/26/91	56 FR 48766
NPRM Comment Period End	10/28/91	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1242

Agency Contact: Ira L. Frank, Senior Special Agent, Investigations Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536
Phone: 202 514-0747

RIN: 1115–AB63

1774. NONIMMIGRANT CLASSES; NORTH AMERICAN FREE TRADE AGREEMENT (U.S.-CANADA FREE-TRADE AGREEMENT AMENDMENTS)

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 CFR 2

CFR Citation: 8 CFR 214; 8 CFR 103; 8 CFR 212; 8 CFR 274a

Legal Deadline: None

Abstract: This regulation provides amendments to part 214 in order to bring it into conformance with procedural changes effected by INS in the past year and provisions of the North American Free Trade Agreement.

Timetable:

Action	Date	FR Cite
Interim Final Rule; Eff. 1-1-94; Com. Due 2-28-94	12/30/93	58 FR 69205
Interim Final Rule; Correction	01/13/94	59 FR 1992
Final Action	04/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1611-93

Cross reference INS No. 1310 and INS No. 1258.

Agency Contact: Helen V. deThomas, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AB72

1775. CONTROL OF EMPLOYMENT OF ALIENS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1255a; 8 USC 1255a note; 8 USC 1324a; 8 USC 1160; 8 CFR 2

CFR Citation: 8 CFR 210; 8 CFR 245a; 8 CFR 274a

Legal Deadline: None

Abstract: The document reduction rule (INS No. 1399-93) reduces the number of Immigration and Naturalization Service (INS)-issued documents that are acceptable for purposes of completing the Employment Eligibility Verification Form (Form I-9). This rule proposes to further simplify compliance with the employment eligibility verification requirements and address the concerns of employers who allege confusion created by the multiplicity of acceptable documents on the Form I-9.

A supplemental proposed rule published on June 22, 1995, at 60 FR 32472 proposed creating a requirement on the part of the employee to sign an attestation in section 3 of Form I-9, during the reverification process indicating that they are still authorized to work in the United States (INS No. 1399S-94). The supplemental rule also proposed the elimination of Federal identification cards as acceptable List B identity documents.

Timetable:

Action	Date	FR Cite
NPRM (INS 1399); Comment Period End 12/23/93	11/23/93	58 FR 61846
Supplemental NPRM (INS 1339S) Comment Period End 7/24/95	06/22/95	60 FR 32472
Final Rule (INS 1399)	05/00/96	
Public Notice Pilot Demonstration Program (INS 1713)		
Applications Due 1-29-96	11/30/95	(60 FR 61630)
Appl. Extension Through 3-8-96	02/06/96	(61 FR 4378)

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1399-92

INS No. 1399S-94, Control of Employment of Aliens Supplemental Rule.

INS No. 1713-95, Demonstration Project for Electronic I-9s, contact Robert Atwater, 202-514-2998.

Agency Contact: Dea Carpenter, Associate General Counsel, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AB73

1776. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR PREFERENCE IMMIGRANT; ADJUSTMENT OF STATUS TO THAT OF A PERSON ADMITTED FOR PERMANENT RESIDENCE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 9 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204; 8 CFR 245

Legal Deadline: None

Abstract: This regulation allows a citizen or lawful permanent resident petitioner, or an alien applicant for permanent resident status, to seek an exemption from the general prohibition against approval of immigration benefits based upon a marriage entered into while the beneficiary or applicant was under deportation or exclusion proceedings. This regulation allows persons who have bona fide marriages to be excused from meeting the 2 year foreign residency requirement.

Timetable:

Action	Date	FR Cite
Interim Final Rule, Eff. 6-20-91; Com. Due 7-22-91	06/20/91	56 FR 28311
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1419-91

Agency Contact: Rita Arthur, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AC43

1777. CONDITIONAL BASIS OF LAWFUL PERMANENT RESIDENCE FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGHTERS; BATTERED AND ABUSED CONDITIONAL RESIDENTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1154; 8 USC 1184; 8 USC 1186a; 8 CFR 2

CFR Citation: 8 CFR 216

Legal Deadline: None

Abstract: This rule amends the existing waiver provisions and establishes a third basis for waiving the joint filing requirement to remove the conditional basis of lawful permanent residence for certain alien spouses, sons, and daughters. This rule also allows battered or abused conditional residents to request removal of conditions without filing a joint petition with the abuser.

Timetable:

Action	Date	FR Cite
Interim Final Rule, Eff. 5-16-91; Com. Due 6-17-91	05/16/91	56 FR 22635
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1423-91

Agency Contact: Rita Arthur, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AC47

1778. TREATY ALIENS, E CLASSIFICATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1184; 8 CFR 2

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule codifies existing policy guidelines on the classification of nonimmigrant treaty aliens. The regulation is necessary to fulfill U.S. treaty obligations, avoid confusion and ensure uniform adjudication of applications, and to facilitate change of status and stay of business traders and investors.

The rule responds to the need for uniformity between the Immigration and Naturalization Service and the Department of State, which have dual jurisdiction over E treaty aliens. Both the Service and the Department of State will use the same form for processing requests for E classification. It will encourage trade and investment in the United States by citizens of countries with whom the United States has treaties and ensure fair and consistent adjudication and enforcement by Service field offices throughout the United States and in the reviewing courts.

Timetable:

Action	Date	FR Cite
NPRM	08/30/91	56 FR 42952
NPRM Comment Period End	10/15/91	
Final Action	07/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1427-91

Agency Contact: Katharine A. Lorr, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AC51

1779. RELEASE PROCEDURES; LAWFUL PERMANENT RESIDENTS CONVICTED OF AGGRAVATED FELONIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1251; 8 USC 1252; 8 USC 1252 note; 8 USC 1252b; 8 USC 1254; 8 USC 1362; 8 CFR 2

CFR Citation: 8 CFR 242

Legal Deadline: None

Abstract: This regulation provides the procedures to be followed in determining release conditions for lawfully admitted aliens who are in deportation proceedings and who have been convicted of aggravated felonies as defined in section 101(a)(43) of the Immigration and Nationality Act.

DOJ—INS

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 5-21-91; Com. Due 6-20-91	05/21/91	56 FR 23214
2nd Interim Final Rule	05/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1439

Agency Contact: Leonard Loveless, Special Programs Branch, Detention & Deportation Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3008, Washington, DC 20536
Phone: 202 514-2871

RIN: 1115–AC60

1780. TEMPORARY ALIEN WORKERS SEEKING CLASSIFICATION UNDER THE IMMIGRATION AND NATIONALITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186A; 8 USC 1187; 8 CFR 2; 8 USC 1104; 8 USC 1182; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: These regulations implement provisions of the Immigration Act of 1990 (IMMACT), Pub. L. 101-649, as they relate to temporary alien workers seeking nonimmigrant classification and admission to the US under sections 101(a)(15)(H),(L),(O), and (P) of the Immigration and Nationality Act (Act).

INS Regulation No. 1653 proposes to bring the H, O, and P Classification regulations into conformity with the employer sanctions provisions of Section 274a of the Act. It precludes foreign employers from filing petitions for O and P nonimmigrant aliens. Prospective foreign employers seeking to utilize these classifications will be required to employ the services of an established US agent in order to file a petition for an O or P nonimmigrant. The rule also would amend the H nonimmigrant regulations by requiring foreign employers seeking to petition for H-2B nonimmigrants to also utilize the services of an established US agent.

Timetable:

Action	Date	FR Cite
NPRM (INS 1653-94) Com. Due 10-14-94	08/15/94	59 FR 41843
Final Action (INS 1653-94)	07/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1653-94

Agency Contact: John Brown, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3240

RIN: 1115–AC72

1781. REGISTRATION AND FINGERPRINTING OF NONIMMIGRANTS DESIGNATED BY THE ATTORNEY GENERAL; REMOVAL OF CERTAIN REQUIREMENTS FOR NONIMMIGRANTS BEARING IRAQI AND KUWAITI TRAVEL DOCUMENTS

Priority: Other

Legal Authority: 8 USC 1103; 8 USC 1201; 8 USC 1201a; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305

CFR Citation: 8 CFR 264

Legal Deadline: None

Abstract: INS No. 1606-93 provides for the removal of the requirement for the registration and fingerprinting of certain nonimmigrants bearing Iraqi and Kuwaiti travel documents who apply for admission to the United States. The rule also permits the Immigration and Naturalization Service, through the publication of a public notice in the Federal Register, to require the registration and fingerprinting of certain nonimmigrants.

This rule makes final an interim regulation which provides the Service with regulatory flexibility to respond swiftly to national security emergencies. It removes a requirement from the CFR and permits the Service to modify practice by Public Notice.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1606) Eff. 12-23-93; Com. Due 1-24-94	12/23/93	58 FR 68024
Final Action (INS No. 1606)	07/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1606-93

Agency Contact: Virginia Gorman, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AC83

1782. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE: INTERVIEW

Priority: Other

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1257; 8 CFR 2

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: Existing regulations require that most applicants for adjustment of status to that of permanent residence be interviewed by an immigration officer. This interim rule will amend the interview requirement to allow the Service to waive the requirement where it is determined that an interview is not necessary. This action is necessary to ease the burden of unproductive interviews on the Service and the public.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 11-2-92; Com. Due 12-2-92	11/02/92	57 FR 49374
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1373-92

Agency Contact: Gerard Casale, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536-0002
Phone: 202 514-5014

RIN: 1115–AD12

DOJ—INS

Final Rule Stage

1783. INSPECTION OF PERSONS APPLYING FOR ADMISSION

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1353a; 8 USC 1353b; 31 USC 9701

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This rule provides for the reimbursement to the INS for certain direct salary costs and administrative overhead charges in its overtime billing for arriving trains and vessels under 8 USC 1353b, for all immigration inspection services rendered to crews, and for services rendered to passengers not exempt under 8 USC 1353b or 1356(g).

Timetable:

Action	Date	FR Cite
Proposed Rule Com. Due 1-21-93	12/22/92	57 FR 60741
2nd Proposed Rule	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1512-92

Agency Contact: Larry Vogel, Financial Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6010, Washington, DC 20536
Phone: 202 616-7683

RIN: 1115–AD17

1784. CLASSIFICATION OF CERTAIN SCIENTISTS OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION AND BALTIC STATES AS EMPLOYMENT-BASED IMMIGRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule implements the provisions of the Soviet Scientists Immigration Act of 1992 (PL 102-509) by providing petitioning procedures to establish eligibility as immigrants for certain qualifying scientists.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 5-27-93; Com. Due 6-28-93	05/27/93	58 FR 30699
2nd Interim Final Rule, Eff. 10-19-95; Com. Due 12-18-95	10/19/95	60 FR 54027
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1602-92

Agency Contact: Michael Straus, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3228

RIN: 1115–AD29

1785. ADJUSTMENT OF STATUS; CERTAIN NATIONALS OF THE PEOPLES REPUBLIC OF CHINA

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1257

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: This regulation implements the provisions of Public Law 102-404, the Chinese Student Protection Act of 1992, by providing adjustment of status procedures for certain nationals of the Peoples Republic of China. This regulation allows qualified nationals of the Peoples Republic of China to become lawful permanent residents.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 7-1-93; Com. Due 8-2-93	07/01/93	58 FR 35832
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1607-93

Agency Contact: Rita A. Arthur, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD33

1786. PRIVILEGE OF COMMUNICATION

Priority: Other

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 242

Legal Deadline: None

Abstract: This rule updates the list of countries with which the United States has existing treaties requiring immediate communication with appropriate consular or diplomatic officers whenever nationals of those countries are detained in exclusion or expulsion proceedings.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/95	60 FR 16042
Interim Final Rule Effective	03/29/95	
Interim Final Rule Comment Period End	05/30/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1616

Agency Contact: Ira L. Frank, Senior Special Agent, Investigations, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536
Phone: 202 514-0747

RIN: 1115–AD50

1787. REVOCATION OF NATURALIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1443

CFR Citation: 8 CFR 340

Legal Deadline: None

Abstract: This rule will standardize procedures to be followed by the Service when revoking naturalization, or reopening naturalization decisions.

DOJ—INS

Final Rule Stage

This rule will bring Service procedures into conformance with changes brought about by the Immigration Act of 1990.

The rule specifies the administrative process by which the Attorney General may reopen and reconsider applications for naturalization pursuant to section 340(h) of the Immigration and Nationality Act. The rule will conform applicable regulations to the statutory changes made by the Immigration Act of 1990. The rule also clarifies the procedures by which the Service recommends judicial revocation of naturalization pursuant to section 340(a).

Timetable:

Action	Date	FR Cite
NPRM Comments Due 9-26-94	07/28/94	59 FR 38361
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1634-93

Agency Contact: Ronald Chirlin, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD54

1788. PETITIONS FOR EMPLOYMENT-BASED IMMIGRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186A; 8 USC 1255; 8 CFR 2; 8 USC 1153(b)

CFR Citation: 8 CFR 204; 8 CFR 214

Legal Deadline: None

Abstract: This proposed rule will make changes to the regulations governing employment-based immigrant petitions. These regulations were promulgated in November of 1991. Since then, the Service has discovered certain provisions in the regulations which need clarification or revision. The Service also needs to incorporate certain changes made by the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/06/95	60 FR 29771
NPRM Comment Period End	08/07/95	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1633-93

Agency Contact: Michael W. Straus, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD55

1789. INS FORMS AVAILABLE FROM THE SUPERINTENDENT OF DOCUMENTS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 282; 8 CFR 299; 8 CFR 499

Legal Deadline: None

Abstract: This rule updates the listing of INS forms, including information related to current edition dates, OMB control numbers, stock numbers for forms available from the Superintendent of documents, and general information concerning the reproduction of forms by private parties. The rule provides a direct benefit to the public by establishing standards which allow for the electronic generation of immigration forms. This effort will provide an alternative means to manually completing various applications/petitions. It will also ensure that the INS officials are aware of the standards and acceptability of certain electronically reproduced forms.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 5-17-94; Com. Due 7-18-94	05/17/94	59 FR 25555
Final Action	05/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1638-93

Agency Contact: Richard Sloan, Director, Policy Directives and Instructions Branch, Office of Policy and Planning, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 5307, Washington, DC 20536
Phone: 202 514-3291

RIN: 1115–AD58

1790. ISSUANCE OF CHARGING DOCUMENTS BY ASYLUM OFFICERS

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 31 USC 9701

CFR Citation: 8 CFR 103; 8 CFR 208; 8 CFR 236; 8 CFR 242; 8 CFR 274a

Legal Deadline: None

Abstract: INS No. 1343 established procedures to be used in filing for asylum under section 208, and withholding of deportation under section 243(h) of the Immigration and Nationality Act, as amended by the Refugee Act of 1980, PL 96-212. The rule modifies the final rule on asylum adjudication published on July 27, 1990 at 55 FR 30674. It establishes seven Asylum Offices and their jurisdictions; and also indicated how asylum and withholding of deportation applications should be filed by mail with these offices instead of with Service district offices and suboffices.

INS No. 1343 was further modified by INS No. 1651N (2-22-95, 60 FR 9774) which eliminated several of the practices established by the interim rule. This final rule solely delineates the issuance of charging documents by supervisory asylum officers, which is an essential step in the asylum reform process established by INS No. 1651/1651N.

DOJ—INS

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Rule (INS 1343) Eff. 10/09/91	10/01/95	56 FR 50810
Final Rule (INS 1343)	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1651-93 (Procedures for Adjudication of Applications for Asylum and for Withholding of Deportation and for Employment Authorization)

INS No. 1651N-94 (Form I-589, Request for Asylum and for Withholding of Deportation in the United States: Establishment of Compliance Date)

INS No. 1343-94 (Issuance of Charging Documents in Exclusion and Deportation Proceedings by Supervisory Asylum Officers), cross reference RIN 1115-AC67.

Agency Contact: Christine Davidson, Senior Policy Analyst, Asylum, International Affairs, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., ULLICO 3rd Floor, Washington, DC 20536
Phone: 202 633-4389

RIN: 1115–AD64

1791. REQUESTS FOR ADDITIONAL EVIDENCE TO SUPPORT IMMIGRANT VISA PETITIONS

Priority: Other

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule amends Immigration and Naturalization Service regulations by providing a petitioner in an immigrant visa petition proceeding with a period of 12 weeks to respond to the Service's request for additional information and/or documentation.

Timetable:

Action	Date	FR Cite
NPRM Com. Due 9-19-94	07/19/94	59 FR 36729
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1659-94

Agency Contact: Maurice Berez, Adjudication Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD70

1792. ADMISSION OF CERTAIN NURSES SEEKING NONIMMIGRANT CLASSIFICATION UNDER THE H-1A CATEGORY

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule amended existing regulations concerning admission of certain nurses seeking nonimmigrant classification under the H-1A category. This rule is necessary due to a change in the method that the National Council of State Boards of Nursing (NCLEX) uses to administer the permanent state licensure examination. With the change in testing procedures the rule will provide that nurses entering the US, on the basis of a temporary license issued by the state of intended employment, pass the NCLEX within 6 months after the date of their initial admission to the US.

(This class no longer exists and a final rule will be published to remove applicable reference).

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 10/07/94 Com. due 12/06/94	10/07/94	59 FR 51101
Final Action	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1663-94.

Cross Reference INS No. 1654-94, RIN 1115-AD66

Agency Contact: John Brown, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3240

RIN: 1115–AD74

1793. CERTIFICATION OF DESIGNATED FINGERPRINT SERVICES (OUTSIDE ENTITIES) TO TAKE FINGERPRINTS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1253 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This regulation would certify designated fingerprint services to take fingerprints of applicants for immigration benefits. The regulation would require the designated fingerprint services to receive training and to verify the identity of the applicants. The certification process would place the fingerprint services under INS oversight and protect the integrity of the fingerprinting process.

This rule will improve the integrity of the fingerprint collection system and relieve resources strains on the Service.

Timetable:

Action	Date	FR Cite
NPRM	05/15/95	60 FR 25856
NPRM Comment Period End	07/14/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS 1666-94

The rule previously referred to "designated outside entities"; the new terminology used in the text is "designated fingerprint services."

Agency Contact: Jack Rasmussen, Adjudication Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-3240

RIN: 1115–AD75

DOJ—INS

Final Rule Stage

1794. FEES FOR PARTICIPATION IN DEDICATED COMMUTER LANES AT SELECTED PORTS OF ENTRY; COLLECTION OF FEES UNDER THE DEDICATED COMMUTER LANE PROGRAM; PORT PASSENGER ACCELERATED SERVICE SYSTEM, PORTPASS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 8 USC 1182; 8 USC 1183; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 103; 8 CFR 235; 8 CFR 286; 8 CFR 299

Legal Deadline: None

Abstract: This rule allows for the collection of a fee at the time of application for participation in a Dedicated Commuter Lane (DCL), instead of at the time of approval of the application. The DCL program is a pilot project established at selected land border ports of entry to expedite the transborder movement of eligible, pre-screened, low-risk groups through designated traffic lanes. The rule clarifies the fee requirements for use of the DCL. (INS No. 1675)

A second rule will be promulgated which will formalize application procedures and eligibility requirements as well as fee requirements for participants in the INSPASS Program. This rule is necessary to facilitate the entry of authorized travelers at Ports of Entry to the United States while enhancing the ability of the Service to deny entry to inadmissible travelers. (INS No. 1756)

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS 1675) Eff. 9/29/95; Com. due 11/28/95	09/29/95	60 FR 50386
Interim Final Rule (INS 1756)	05/00/96	
Final Rule (INS 1675)	07/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1675 and 1756

(INS contact for rulemaking 1756 is Ronald Hays)

Agency Contact: Robert Mocny, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3275

RIN: 1115–AD82

1795. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE; TEMPORARY REMOVAL OF CERTAIN RESTRICTIONS ON ELIGIBILITY

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552(a); 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 8 USC 1102; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 217; 8 CFR 245

Legal Deadline: None

Abstract: This rule allows certain persons in the US to adjust status to that of a lawful permanent resident before October 1, 1997. These persons, although eligible for immigrant visa issuance abroad, have been barred from adjustment of status because they had entered the US without inspection or had violated the conditions of temporary nonimmigrant status. The rule allows prospective lawful permanent or conditional residents to avoid the difficulties and expense of travel to a US consulate or embassy abroad. It continues to penalize these violators of the immigration laws by requiring most adult applicants to pay an additional sum in excess of the standard adjustment filing fee. After adjusting status they may lawfully live and work in the US and may later be eligible to seek US citizenship through naturalization.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 10-1-94; Com. Due 12-6-94	10/07/94	59 FR 51091
Interim Final Rule Correction	10/20/94	59 FR 53020
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1676

Agency Contact: Rita Arthur, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD83

1796. REVOCATIONS AND DESIGNATION OF INTERNATIONAL AIRPORT STATUS FOR PORTS OF ENTRY FOR ALIENS ARRIVING BY AIRCRAFT

Priority: Other

Legal Authority: 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 100

Legal Deadline: None

Abstract: This rule removes Eagle Pass, TX from the port of entry lists for aliens arriving by vessel, land transportation or by aircraft. Future Texas transactions will be handled at Maverick County Airport.

This rule will have a minimal impact on the public and merely transfers workload from some location to another location.

Timetable:

Action	Date	FR Cite
NPRM	03/27/95	60 FR 15703
NPRM Comment Period End	05/26/95	
Final Rule	04/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: INS NO. 1677-94

Agency Contact: Andrea Sickler, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3275

RIN: 1115–AD84

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1797. ESTABLISHMENT OF FORM I-551, ALIEN REGISTRATION RECEIPT CARD, AS THE EXCLUSIVE FORM OF REGISTRATION FOR LAWFUL PERMANENT RESIDENTS

Priority: Other

Legal Authority: 8 USC 1103; 8 USC 1201; 8 USC 1201a; 8 USC 1301; 8 USC 1302; 8 USC 1303; 8 USC 1304; 8 USC 1305

CFR Citation: 8 CFR 264

Legal Deadline: None

Abstract: The rule would remove the obsolete Form I-151, Alien Registration Receipt Card, from the listing of forms recognized by the Service as evidence of registration for lawful permanent residence in 8 CFR 264.1. (A previous final rule, published on 9/20/93 at 58 FR 48775, had already removed I-151 from the list of prescribed Service forms in 8 CFR 299.) By removing from the regulations the last reference to Form I-151 as a valid document, this rule would complete the Services declared policy of establishing the current Form I-551 as the exclusive form of registration for lawful permanent residents.

Timetable:

Action	Date	FR Cite
NPRM	05/24/95	60 FR 27441
NPRM Comment Period End	07/24/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1686-95

Agency Contact: Gerard Casale, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20356
Phone: 202 514-5014

RIN: 1115–AD87

1798. WAIVER OF THE TWO-YEAR HOME COUNTRY PHYSICAL PRESENCE REQUIREMENT FOR CERTAIN FOREIGN MEDICAL GRADUATES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 CFR 2; 8 USC 1255; 8 USC 1187; 8 USC 1258

CFR Citation: 8 CFR 212; 8 CFR 245; 8 CFR 248

Legal Deadline: Final, Statutory, October 25, 1994.
Pub. L. 103-416, Section 220, statutory provisions in effect upon approval.

Abstract: This rule implements changes to INS regulations resulting from recent legislative changes instituted by the Immigration and Nationality Technical Corrections Act, Public Law 103-416. The changes allow certain foreign medical graduates who entered the US in J-1 status, and their J-2 dependent spouse and children to obtain a waiver of the 2 year home country physical presence requirement pursuant to a request by a State Department of Public Health, or its equivalent, thus allowing them to work at a health care facility in an area designated by the Secretary, Health and Human Services, as having a shortage of health care professionals. This rule will allow foreign medical graduates to change their nonimmigrant status in the US from J-1 exchange visitor to H-1B specialty occupation worker.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/18/95	60 FR 26676
Interim Final Rule Effective 05/18/95; Comm. due 07/17/95	05/18/95	
Interim Final Rule Correction to Interim Rule	05/24/95	60 FR 27598
Final Rule	09/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: INS No. 1688-95

Agency Contact: Sophia Cox, Senior Immigration Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD89

1799. FEES ASSESSED FOR DEFAULTED PAYMENTS

Priority: Other

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 5 USC 552; 5 USC 552a; 31 USC 9701; EO 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p 166; 8 CFR 2

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This document proposes to amend existing Immigration and Naturalization Service (Service) regulations to increase the fee imposed when a check submitted to the Service in payment of a fee is not honored by the bank upon which it is drawn, from $5.00 to $30.00. The purpose of the proposed change is to enable the Service to recoup the administrative costs incurred in processing all returned checks and other defaulted payments. This action will result in the Service no longer losing money as a result of bad check activity. The rule will apply to all returned checks, including Immigration User Fee payments bounce, fines, penalties, etc. The rule is necessary in order for the INS to recover the entire cost associated with the processing of defaulted payments.

Timetable:

Action	Date	FR Cite
NPRM	09/28/95	60 FR 50145
NPRM Comment Period End	11/27/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1692-95

Agency Contact: Allen Sinsheimer, Systems Accountant, Office of Finance Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6010, Washington, DC 20536
Phone: 202 616-7683

RIN: 1115–AD92

1800. PREINSPECTION SERVICES FOR AIRCRAFT, VESSELS, AND TRAINS OUTSIDE THE UNITED STATES (PREINSPECTION)

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC

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1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This rule addresses preinspection in other than adjacent islands and contiguous territories and also provides the regulatory authority to preinspect trains. The Service has expanded preinspection to Ireland which is neither a contiguous territory nor an adjacent island and plans to preinspect trains in Vancouver, B.C., Canada.

Timetable:

Action	Date	FR Cite
Proposed Rule; Comments due 6/19/95	05/18/95	60 FR 26696
Final Action	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1698-95

Agency Contact: Virginia Gorman, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AD98

1801. WAIVER OF EDUCATIONAL REQUIREMENTS FOR NATURALIZATION OF CERTAIN APPLICANTS

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1423; 8 USC 1443; 8 USC 1447; 8 USC 1448; PL 103-416

CFR Citation: 8 CFR 312

Legal Deadline: Final, Statutory, March 1, 1995.
PL 103-416, section 108

Abstract: This rule exempts persons over 65 years of age, who have been lawful permanent residents residing in the United States at least 20 years, from US history and government knowledge testing. The exemption would be the same as that which currently exists for the English language requirement. The rule would also exempt those persons unable to comply there with from all testing due to a physical or developmental disability or mental impairment. Provisions of this proposed rule have been incorporated into a policy statement expected to be released before the end of the calendar year. This agency decision has eliminated the need for an addition to 8 CFR.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: INS No. 1702

Additional INS contact Pearl Chang

Agency Contact: Craig S. Howie, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE02

1802. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A U.S. CITIZEN OR AS A PREFERENCE IMMIGRANT; SELF-PETITIONING FOR CERTAIN BATTERED OR ABUSED ALIEN SPOUSES AND CHILDREN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2; PL 103-322

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule allows battered and abused spouses and children of United States Citizens and Lawful Permanent Residents to petition for immigrant classification. The consent of the abuser would not be required.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/26/96	61 FR 13061
Interim Final Rule Effective	03/26/96	
Interim Final Rule Comment Period End	05/28/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1705-95

Agency Contact: Rita Arthur, Senior Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE04

1803. NATIONALITY AND NATURALIZATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1433; 8 USC 1443; 8 USC 1448

CFR Citation: 8 CFR 322; 8 CFR 337

Legal Deadline: Other, Statutory, October 25, 1994.
PL 103-416

Abstract: These regulations implement provisions of the Immigration and Nationality Technical Amendments Act of 1994.

INS No. 1763 implements changes to 8 CFR 322 by establishing procedures for a US citizen parent to apply for the expeditious naturalization of his or her children born outside the US. The purpose of the rule is to relax the requirements of US citizenship for children born to or adopted by US citizens abroad.

INS No. 1712 allows children born to US citizen parents who do not meet residence retention requirements to derive citizenship from their US citizen grandparents if they meet the residence retention requirements.

INS No. 1764 reverses the authority to schedule all administrative oath-taking ceremonies with the District Director. The rule will not impact the Immigration Judges authority to administer the oath at ceremonies conducted by the Service.

Various other issues addressed in these rulemakings include: procedures for obtaining citizenship for children born abroad to one or more US citizens;

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requirements and procedures for regaining citizenship; revision to Naturalization Certificate wording to reflect that naturalization eligibility no longer requires an intent to reside in the US permanently; changes in terminology relating to expatriation; administrative and judicial determinations relating to the loss of citizenship; and condition under which US Passports and Consular Reports of Birth may be cancelled.

Timetable:

Action	Date	FR Cite
Final Rule (INS 1764)	05/00/96	
Interim Final Rule (INS 1763)	05/00/96	
Proposed Rule (INS 1712)	12/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS Nos. 1763 and 1712 Contact, Jane Barker

INS No. 1764 Contact, Susan Arroyo

Agency Contact: Jane Barker, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE07

1804. NOTICE TO CARRIERS OF THE INS POLICY ON THE REQUIREMENTS OF ARRIVAL/DEPARTURE MANIFESTS, FORM I-94, AND FINES IMPLICATIONS UNDER SECTION 231(A)

Priority: Other

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228; 8 USC 1229

CFR Citation: 8 CFR 231

Legal Deadline: None

Abstract: This rule makes modifications to the current regulations at 8 CFR 231.1 regarding fines against carriers for violation of section 231(a) of the Act regarding the submission of properly completed arrival/departure manifests, Forms I-94. This rule modifies the criteria the INS will use to fine carriers under section 231 of the Act.

New criteria put forth in this policy notice will clarify the requirements regarding the carrier's submission of properly completed arrival/departure manifest Forms I-94, allowing the INS and carriers to improve cooperation to achieve rapid facilitation of the traveling public.

Timetable:

Action	Date	FR Cite
Notice of Policy with 30 day comment period	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1711-95

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-3019

RIN: 1115–AE11

1805. EMPLOYER SANCTIONS MODIFICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: The Service is considering further changes to streamline the verification and enforcement process requirements related to the Employer Sanctions provisions of the Immigration Control and Reform Act.

INS No. 1738 will allow INS to issue and service a notice of intent to fine upon an alleged violator after the INS has determined that a person or entity has violated section 274a of the Act. This rule will also allow interested parties to electronically generate blank copies of the Employment Eligibility Verification Form, (Form I-9).

INS No. 1737 will allow the INS to discontinue it's practice of providing any person or entity required to retain Forms I-9 with at least 3 days notice prior to an inspection of the Forms I-9. This practice is not mandated by law, and the INS believes that it may have impeded investigations by giving employers the opportunity to make changes or corrections to form or to fraudulently create or destroy Forms I-9.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS 1738)	04/00/96	
Proposed Rule (INS 1737)	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS Nos. 1737 and 1738

Agency Contact: Angelo Sorrento, Special Agent, Investigations, Enforcement, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 1000, Washington, DC 20536
Phone: 202 514-0747

RIN: 1115–AE21

1806. • PRIORITY DATES FOR EMPLOYMENT-BASED PETITIONS

Priority: Other

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule eliminates the requirement that an application for labor certification filed with a State employment office before October 1, 1991, must be filed with the Service in connection with a petition filed under section 203(B) of the Immigration and Nationality Act before October 1, 1993, in order to maintain a pre-October 1, 1991 priority date. This rule implements section 218 of the Immigration and Nationality Technical Corrections Act of 1994, Public Law 102-232, which amended section 161(C)(1) of the Immigration Act of 1990, Public Law 102-649.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS NO. 1647-95

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Agency Contact: Michael W. Straus, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE24

1807. • AMENDMENT TO LIMITATIONS ON DISCRETION TO GRANT AN APPLICATION FOR RELIEF UNDER SECTION 212(C)

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule amends part 212 of title 8 of the Code of Federal Regulations which apply to limitations on discretion to grant an application for relief under section 212(c) of the Immigration and Nationality Act. The changes will expand the class of aliens eligible for 212(c) relief. The rule allows an alien who has adjusted status pursuant to section 245A or section 210 of the Act to use the combined period of his or her status as a temporary permanent resident and lawful permanent resident to establish seven (7) years of continuous physical presence in the United States. The change will provide uniformity between the regulation and case law.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: INS No. 1748-96

Agency Contact: David Dixon, Appellate Counsel, General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 703 756-6257

RIN: 1115–AE27

1808. • EFFECT OF PAROLE OF CUBAN AND HAITIAN NATIONALS ON RESETTLEMENT ASSISTANCE ELIGIBILITY

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 CFR 2

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This regulation amends language in 8 CFR 212 to clarify that nationals of Cuba or Haiti who were paroled into the United States since October 1, 1991, are to be considered to have been paroled in a status that makes them eligible for assistance under Section 501 of the Refugee Education Assistance Act of 1980, as amended. This rule is necessary to ensure that these aliens are not inadvertently denied benefits for which they are eligible.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: INS No. 1751-96

Additional INS contact: Michael Sheridan

Agency Contact: Janice Podolny, Associate General Counsel, General Counsel, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 6100, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE29

1809. • REGULATIONS PERTAINING TO ADJUDICATIONS PROCESSING

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 552; 5 USC 552(a); 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 31 USC 9701; EO 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR 2

CFR Citation: 8 CFR 103; 8 CFR 204

Legal Deadline: None

Abstract: This rulemaking revises existing regulations by eliminating obsolete sections, and by reducing other sections through elimination of duplication and deletion of references to purely internal procedural matters and streamlining. All changes made are editorial and non-substantive in nature and have no impact on governmental or nongovernmental entities.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1753

Agency Contact: Lawrence J. Weinig, Director, Field Managment Project, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 616-7425

RIN: 1115–AE31

1810. • PROCESSING OF APPLICANTS FOR ADMISSION TO THE UNITED STATES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1181; 8 USC 1182; 8 USC 1203; 8 USC 1225; 8 USC 1257; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1221; ...

CFR Citation: 8 CFR 211; 8 CFR 235; 8 CFR 251; 8 CFR 252

Legal Deadline: None

Abstract: This rulemaking revises existing regulations by eliminating obsolete sections and by reducing other sections through elimination of duplication, deletion of references to purely internal procedural matters and streamlining. All changes are considered to be editorial and non-substantive in nature and have no impact on governmental or nongovernmental entities.

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Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1754

Agency Contact: Lawrence J. Weinig, Director, Field Manual Project, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street, NQ, Room 3214, Washington, DC 20536
Phone: 202 616-7425

RIN: 1115–AE32

1811. • ORPHAN PETITIONS; PETITIONS TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR PREFERENCE IMMIGRANT; CHANGE IN DEFINITION OF CHILD

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-51

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule amends the Service's existing regulations by replacing the phrase "legitimate child" with "child born in wedlock". This change also makes the criteria for immigration, based on orphan classification and on certain other parent-child relationships, much easier to understand and apply.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INS No. 1761 (Additional INS contact Ramonia Law-Hill)

Agency Contact: Rita Arthur, Adjudications Officer, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE33

1812. • CONTRACTS WITH TRANSPORTATION LINES; SIGNATORY AUTHORITY

Priority: Other

Legal Authority: 8 USC 1103; 8 USC 1228; 8 CFR 2

CFR Citation: 8 CFR 238

Legal Deadline: None

Abstract: This rule updates the list of transportation lines signatory to the immediate and continuous transit agreement with the Service. This agreement allows the carrier to transport aliens in-transit through the United States who are not in possession of a valid nonimmigrant visa or who are not exempt presentation of one. This rule is routine and will not impact any entities adversely.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INS No. 1758

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 616-7499

RIN: 1115–AE36

1813. • ADDING SANFORD, FLORIDA TO THE LIST OF PORTS OF ENTRY TO ACCEPT APPLICATIONS FOR DIRECT TRANSIT WITHOUT VISAS (TWOV)

Priority: Other

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule adds Sanford, Florida to the list of ports of entry where, except for transit from one part of foreign contiguous territory to another part of the same territory, an alien must make application for admission to the United States as a direct transit without visa. This change is made because of increased international commerce serving Sanford, Florida.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1765

Agency Contact: Robert Hutnick, Assistant Chief Inspector, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 7228, Washington, DC 20536
Phone: 202 514-2694

RIN: 1115–AE40

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Long-Term Actions

1814. SEIZURE AND FORFEITURE OF CONVEYANCES

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 274

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Joseph Travis
Phone: 202 616-2737

RIN: 1115–AA95

1815. TERMINATION OF TEMPORARY RESIDENT STATUS

Priority: Other

CFR Citation: 8 CFR 210

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 4-5-90; Com. Due 5-7-90	04/06/90	55 FR 12629
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael W. Straus

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Phone: 202 514-5014

RIN: 1115–AB74

1816. CONTRACTS WITH TRANSPORTATION LINES; INCREASING THE LIQUIDATED DAMAGES FOR CARRIER VIOLATIONS OF THE TWOV AGREEMENT TO $3000

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 238

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Robert Hutnick
Phone: 202 514-2694

RIN: 1115–AC17

1817. APPLICATION FOR THE EXERCISE OF DISCRETION UNDER 212C, AGGRAVATED FELONS

Priority: Routine and Frequent

CFR Citation: 8 CFR 212

Timetable:

Action	Date	FR Cite
Interim Final Rule, Eff. 10-3-91; Com. Due 11-4-91	10/03/91	56 FR 50033
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Sophia Cox
Phone: 202 514-5014

RIN: 1115–AC35

1818. CONSENT TO REAPPLY FOR ADMISSION AFTER DEPORTATION, REMOVAL, OR DEPARTURE AT GOVERNMENT EXPENSE

Priority: Routine and Frequent

CFR Citation: 8 CFR 212

Timetable:

Action	Date	FR Cite
Interim Final Rule, Eff. 5-21-91; Com. Due 6-20-91	05/21/91	56 FR 23212
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Sophia Cox
Phone: 202 514-5014

RIN: 1115–AC37

1819. UNAVAILABILITY OF TWOV TO CITIZENS OF THE FORMER SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA

Priority: Other

CFR Citation: 8 CFR 212

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS 1397R) Eff. 8-16-93; Com. Due 9-15-93	08/16/93	58 FR 43438
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Hutnick
Phone: 202 514-2694

RIN: 1115–AC87

1820. NONIMMIGRANT CLASSES; B VISITOR FOR BUSINESS OR PLEASURE

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 214; 8 CFR 274a

Timetable:

Action	Date	FR Cite
NPRM	11/05/93	58 FR 58982
NPRM Comment Period End	12/06/93	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Helen V. deThomas
Phone: 202 514-5014

RIN: 1115–AC89

1821. PHYSICAL AND MENTAL EXAMINATION OF ARRIVING ALIENS

Priority: Routine and Frequent

CFR Citation: 8 CFR 234

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Sophia Cox
Phone: 202 514-5014

RIN: 1115–AD10

1822. CITIZENSHIP DOCUMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 341; 8 CFR 342; 8 CFR 343; 8 CFR 343a; 8 CFR 343b; 8 CFR 343c

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pearl Chang
Phone: 202 514-5014

RIN: 1115–AD51

1823. ADMINISTRATIVE APPLICATION FOR SUSPENSION OF DEPORTATION PROCEDURE BEFORE A DISTRICT DIRECTOR

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 244

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Finkelstein
Phone: 202 514-3197

RIN: 1115–AD78

1824. REGULATION CHANGES NECESSITATED BY THE BREAK-UP OF THE SOVIET UNION AND CZECHOSLOVAKIA, THE UNIFICATION OF THE TWO GERMANIES, AND THE NAME CHANGE OF THE DEMOCRATIC REPUBLIC OF VIETNAM

Priority: Other

CFR Citation: 8 CFR 212

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Hutnick
Phone: 202 514-3019

RIN: 1115–AD96

1825. AUTOMATED ISSUANCE OF FORM I-94 ARRIVAL/DEPARTURE RECORD

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 231

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Claire Seglem
Phone: 202 514-0912

RIN: 1115–AD99

1826. COST OF DETENTION OF STOWAWAYS

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 235; 8 CFR 237; 8 CFR 253

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Linda Loveless
Phone: 202 514-3019

RIN: 1115–AE03

1827. NOTICE OF POLICY REGARDING FINES IMPOSED ON CARRIERS WHO BRING ALIENS TO THE UNITED STATES WITHOUT PROPER DOCUMENTATION

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 273

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Hutnick
Phone: 202 514-3019

RIN: 1115–AE09

1828. "MASTER EXHIBITS" CURRENTLY AVAILABLE

Priority: Other

CFR Citation: 8 CFR 208

Timetable:

Action	Date	FR Cite
Notice (to be published upon availability of new exhibits)	00/00/00	

Small Entities Affected: Organizations

Government Levels Affected: Federal

Agency Contact: John Evans
Phone: 202 633-1040

RIN: 1115–AE14

1829. • IMMIGRATION AND NATURALIZATION SERVICE P-1 NONIMMIGRANTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: The Service is establishing a P-1 Nonimmigrant Advisory Committee for the purpose of examining the question of whether United States based entertainment groups seeking to employ alien entertainers may file P-1 nonimmigrant petitions. The Advisory committee will also provide input regarding the appropriate use of the P-1 nonimmigrant classification as it relates to the employment of non-United States based circus personnel.

The result of this Committees effort may be the promulgation of revised Service regulations.

Timetable:

Action	Date	FR Cite
Notice of Establishment of an Advisory Committee; Statement of qualifications due 5-7-96	03/08/96	61 FR 9498
Next Action Undetermined		

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: INS No. 1741

Proposed rulemaking action undetermined.

Agency Contact: John Brown, Senior Examiner, Examinations, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3215, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AE38

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Completed Actions

1830. TEMPORARY PROTECTED STATUS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 3; 8 CFR 103; 8 CFR 240; 8 CFR 274a; 8 CFR 299

Completed:

Reason	Date	FR Cite
All actions final; new actions and actions still pending are reported under RIN 1115-AE26	01/30/96	61 FR 3053

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Ronald S. Chirlin
Phone: 202 514-5014

RIN: 1115–AC30

1831. APPLICANT PROCESSING FOR FAMILY UNITY BENEFITS

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 242; 8 CFR 103; 8 CFR 264; 8 CFR 274a; 8 CFR 299

Completed:

Reason	Date	FR Cite
Final Action	12/21/95	60 FR 66062
Final Action Effective	12/21/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jack Hartsoch
Phone: 202 514-3156

RIN: 1115–AC39

1832. APPELLATE JURISDICTION

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 3; 8 CFR 103; 8 CFR 204; 8 CFR 212; 8 CFR 236; 8 CFR 280

Completed:

Reason	Date	FR Cite
Final Action by INS Program Office and General Counsel	03/29/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Terrance M. O'Reilly
Phone: 202 786-4256

RIN: 1115–AD41

1833. ISSUANCE OF TRAVEL DOCUMENTS USING FORM I-131

Priority: Routine and Frequent

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 299

Completed:

Reason	Date	FR Cite
Withdrawn by INS Program Office	02/20/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael Straus
Phone: 202 514-5014

RIN: 1115–AD46

1834. RESUBMISSION OF REJECTED APPLICATIONS FOR LEGALIZATION

Priority: Other

CFR Citation: 8 CFR 245a

Completed:

Reason	Date	FR Cite
Withdrawn by INS Program Office	03/28/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael W. Straus
Phone: 202 514-5014

RIN: 1115–AD49

1835. TEMPORARY ALIEN WORKERS SEEKING H CLASSIFICATIONS FOR THE PURPOSE OF OBTAINING GRADUATE MEDICAL EDUCATION OR TRAINING

Priority: Routine and Frequent

CFR Citation: 8 CFR 214

Completed:

Reason	Date	FR Cite
Final Action	12/04/95	60 FR 62021
Final Action Effective	12/04/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John W. Brown
Phone: 202 514-3240

RIN: 1115–AD66

1836. REORGANIZATION OF THE IMMIGRATION AND NATURALIZATION SERVICE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 100

Completed:

Reason	Date	FR Cite
Final Action (INS No. 1682)	11/14/95	60 FR 57165
Final Action Effective	11/14/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Janet Taylor
Phone: 202 514-1989

RIN: 1115–AD72

1837. WAIVER OF CERTAIN TYPES OF VISAS UNFORESEEN EMERGENCY

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 212

Completed:

Reason	Date	FR Cite
Final Action	03/22/96	61 FR 11717
Final Action Effective	03/22/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Hutnick
Phone: 202 514-3019

RIN: 1115–AD77

1838. CLARIFICATION OF FILING VENUE, FEES, AND FILING REQUIREMENTS FOR CERTAIN APPLICATIONS FOR REPLACEMENT ALIEN REGISTRATION CARD, FORM I-551

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 264; 8 CFR 299; 8 CFR 204; 8 CFR 211; 8 CFR 223; 8 CFR 235; 8 CFR 251; 8 CFR 252; 8 CFR 274a; 8 CFR 316; 8 CFR 334

Completed:

Reason	Date	FR Cite
Withdrawn by INS Program Office	03/28/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Gerard Casale
Phone: 202 514-5014

RIN: 1115–AD81

1839. IMMIGRANT PETITIONS; CHILDREN OF WIDOWS AND WIDOWERS

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 204

Completed:

Reason	Date	FR Cite
Final Action	02/27/96	61 FR 7206
Final Action Effective	02/27/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Ramonia Law-Hill
Phone: 202 514-5014

RIN: 1115–AD91

1840. FORMER CITIZENS OF THE UNITED STATES REGAINING UNITED STATES CITIZENSHIP

Priority: Other

CFR Citation: 8 CFR 324

Completed:

Reason	Date	FR Cite
Withdrawn by INS Program Office	03/08/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Pearl Chang
Phone: 202 514-5014

RIN: 1115–AE00

1841. NONIMMIGRANT CLASSES; TRANSITS; REQUIREMENTS FOR ADMISSION, EXTENSION, AND MAINTENANCE OF STATUS

Priority: Routine and Frequent

CFR Citation: 8 CFR 214

Completed:

Reason	Date	FR Cite
Withdrawn by INS Program Office; merged with RIN 1115-AD57, INS 1631	02/20/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Katharine Lorr
Phone: 202 514-5014

RIN: 1115–AE05

1842. NOTICE OF POLICY REGARDING CONTRACTS BETWEEN THE IMMIGRATION AND NATURALIZATION SERVICE AND TRANSPORTATION LINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 8 CFR 238

Completed:

Reason	Date	FR Cite
Final Action	02/12/96	61 FR 5410
Final Action Effective	03/13/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Hutnick
Phone: 202 514-3019

RIN: 1115–AE08

1843. NOTICE TO CARRIERS OF THE INS POLICY REQUESTING THE U.S. CUSTOMS SERVICE (USCS) TO DENY OR REVOKE PERMISSION TO UNLADE PASSENGERS FOR THOSE THAT ARE DELINQUENT IN INS FINES LIQUIDATED DAMAGES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 122

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office due to external policy change by USCS.	02/07/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert Hutnick
Phone: 202 514-3019

RIN: 1115–AE10

1844. ORDER TO SHOW CAUSE AND NOTICE OF HEARING: APPREHENSION, CUSTODY, AND DETENTION

Priority: Other

CFR Citation: 8 CFR 242

Completed:

Reason	Date	FR Cite
Final Action	03/06/96	61 FR 8858
Final Action Effective	03/06/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ira L. Frank
Phone: 202 514-0747

RIN: 1115–AE13

1845. SUBPOENA ISSUANCE AUTHORITY

Priority: Other

CFR Citation: 8 CFR 287

Completed:

Reason	Date	FR Cite
Final Action	11/13/95	60 FR 56936
Final Action Effective	12/13/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Alan R. Conroy
Phone: 202 514-3073

RIN: 1115–AE15

1846. • RENEWAL OF IMMIGRATION AND NATURALIZATION SERVICE CITIZENS' ADVISORY PANEL

Priority: Other

Legal Authority: 00 USC 00

CFR Citation: 00 CFR 00

Legal Deadline: None

Abstract: The Service, in accordance with the provisions of the Federal Advisory Committee Act, with the concurrence of the Attorney General, is renewing, for a 2-year period of time, the Citizens' Advisory Panel (CAP). The CAP will provide recommendations to the Attorney General on ways to reduce the number of complaints of abuse made against employees of the Service and, most importantly, to minimize or eliminate the causes for those complaints. The CAP is seeking to address the complaints of impropriety by making recommendations on community policing and training initiatives for law enforcement personnel in order to strengthen the relationship between the Service and all members of the community.

Timetable:

Action	Date	FR Cite
Final Action	03/20/96	61 FR 11432

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: INS No. 1749

Notice establishing the CAP was published on 2-11-94 at 59 FR 6658 (RIN 1115-AD68)

Agency Contact: Susan Wilt, Coordinator, CAP, Internal Audit, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Room 3260, Washington, DC 20536
Phone: 202 514-2373

RIN: 1115–AE28

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DEPARTMENT OF JUSTICE (DOJ) — **Proposed Rule Stage**

Legal Activities (LA)

1847. PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 552a

CFR Citation: 28 CFR 16 subparts A and D

Legal Deadline: None

Abstract: Updating and revision of Department of Justice regulations implementing the Freedom of Information Act and the Privacy Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Janice Galli McLeod, Attorney, Department of Justice, Office of Information & Privacy, Flag Building, Suite 570, Washington, DC 20530
Phone: 202 514-4453
Fax: 202 514-1009

RIN: 1105–AA20

1848. VIOLENT CRIME AND DRUG EMERGENCY AREAS

Priority: Other Significant

Legal Authority: PL 103-322, sec 90107 Violent Crime Cntl & Law Enf Act of 1994

CFR Citation: 28 CFR 92 (New)

Legal Deadline: NPRM, Statutory, January 11, 1995.

Abstract: This rule provides consolidated procedures for requests for designations of violent crime or drug emergency areas and appropriate Federal Assistance under section 90107 of the Violent Crime Control and Law Enforcement Act of 1994. In general, section 90107 provides that the chief executive of a State or local government may make a written request to the Attorney General that the President designate a state or part of a state to be a "violent crime or drug emergency area." This rule specifies the information to be submitted in support of such a request, sets forth the procedures to be followed by the requesters, and provides the process and criteria for Attorney General review of such requests. Section 90107 also provides the President may (1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted it under Federal law in support of State or local assistance efforts and (2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Robert Hinchman, Attorney-Advisor, Department of Justice, Office of Policy Development, Room 4256, 10th Street & Constitution Avenue NW., Washington, DC 20530
Phone: 202 514-8059
Fax: 202 514-8639

RIN: 1105–AA29

1849. QUALIFICATIONS FOR CHAPTER 13 STANDING TRUSTEES

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 28 USC 586(e)(1)

CFR Citation: 28 CFR 58

Legal Deadline: None

Abstract: United States Trustees have the authority to appoint one or more individuals to serve as chapter 13 standing trustees in a judicial district if the number of chapter 13 cases warrants the appointment. Under 28 USC section 586(b) standing trustees receive a percentage of all funds paid under chapter 13 plans to pay for their compensation and actual necessary expenses. The Director of the Executive Office for United States Trustees, by virtue of authority delegated by the Attorney General, fixes each standing trustee's percentage fee and the maximum annual compensation. 28 USC section 586(e)(1). This rule is designed to eliminate conflicts of interest, curb unnecessary expenses, and ensure financial and management accountability.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Esther L Estryn, Deputy General Counsel, Department of Justice, Executive Office for United States Trustees, 901 E Street NW., Washington, DC 20530
Phone: 202 307-1399

RIN: 1105–AA32

1850. IMPLEMENTATION OF COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT

Priority: Other Significant

Legal Authority: PL 103-414 Communications Assistance for Law Enforcement Act

CFR Citation: 28 CFR 100

Legal Deadline: None

Abstract: The FBI intends to publish a notice of proposed rulemaking setting forth the Cost Recovery Regulations implementing the Communications Assistance for Law Enforcement Act (CALEA), which became effective October 25, 1994. The proposed Cost Recovery Regulations set forth the procedures by which telecommunications carriers may be reimbursed for all reasonable costs directly associated with the modifications performed by carriers in connection with equipment, facilities, and services installed or deployed on or before January 1, 1995.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Walter V. Meslar, Chief, Telecommunications Contracts and Audit Unit, Department of Justice, Federal Bureau of Investigation, 14800 Conference Center Dr., Suite 300, Chantilly, VA 22021
Phone: 703 814-4900

RIN: 1105–AA39

DOJ—LA — **Proposed Rule Stage**

1851. FALSE CLAIMS AMENDMENTS ACT OF 1986—CIVIL INVESTIGATIVE DEMANDS

Priority: Other

Legal Authority: 31 USC 3733

CFR Citation: 28 CFR 28

Legal Deadline: None

Abstract: This rule implements and clarifies the provisions concerning civil investigative demands (CIDs) in Section 6(a) of the False Claims Amendments Act of 1986, 31 USC 3733. In particular, this rule 1) delegates certain delegable powers and responsibilities that the statute vests in the Attorney General to the Assistant Attorney General for the Civil Division and to the U.S. Attorneys; 2) specifies which United States employees may have access to information produced in response to CIDs; 3) clarifies that Department trial attorneys, in certain circumstances, have authority unilaterally to alter certain features of oral examinations taken pursuant to CIDs, such as date, time, and place; and 4) clarifies the statutory provision allowing Department attorneys to make "official use" of CID material in connection with cases and proceedings, by defining "official use."

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael F. Hertz, Director, Commercial Litigation Branch, Department of Justice, Civil Division, P.O. Box 261, Washington, DC 20044
Phone: 202 514-7179

RIN: 1105–AA42

1852. • IMPLEMENTATION OF THE NATIONAL STOLEN PASSENGER MOTOR VEHICLE INFORMATION SYSTEM (NSPMVIS)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33109 to 33111

CFR Citation: 28 CFR Not yet determined

Legal Deadline: None

Abstract: The Attorney General is required to establish a National Stolen Passenger Motor Vehicle Information System pursuant to the Anti Car Theft Act of 1992 (49 USC 33109 to 33111). The FBI is coordinated efforts in this matter and under delegated authority from the Attorney General, the FBI is issuing this rule to establish a national system to verify the theft status of major motor vehicle component parts. The system will include certain information about each passenger motor vehicle reported to a law enforcement agency as stolen and not recovered. The rule provides how an individual or entity may obtain information from the system on whether a vehicle or part is listed as stolen. The rule also provides verification procedures to be followed by insurance carriers and certain motor vehicle part businesses.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
NPRM Comment Period End	01/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Mike Pritchard, NSPMVIS Project Coordinator, Department of Justice, Federal Bureau of Investigation, Room 11105, J. Edgar Hoover Bldg., 10th & Pennsylvania Ave. NW., Washington, DC 20535
Phone: 202 324-2741

RIN: 1105–AA44

1853. • FILING OF INFORMATIONAL MATERIALS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 611 et seq Foreign Agents Registration Act of 1938

CFR Citation: 28 CFR 5.400; 28 CFR 5.401; 28 CFR 5.402

Legal Deadline: None

Abstract: As a result of the passage of the Lobbying Disclosure Act of 1995 (LDA), the Foreign Agents Registration Unit of the Criminal Division is issuing a new regulation concerning which "informational materials" must be filed with the Attorney General under the Foreign Agents Registration Act of 1938, as amended, 22 USC 611, et seq (FARA). In addition to updating the terminology used in the existing regulations from "political propaganda" to "informational materials" as provided in the LDA, this rule makes other changes to 28 CFR 5.400, 5.401, and 5.402.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Frederick J. Close, Acting Chief, Registration Unit, Internal Security Section, Department of Justice, Criminal Division, 1400 NY Ave., NW., Room 9300, Washington, DC 20530
Phone: 202 514-1216
Fax: 202 514-2836

RIN: 1105–AA45

1854. • CHILD PROTECTION RESTORATION AND PENALTIES ENHANCEMENT ACT OF 1990

Priority: Other

Legal Authority: 18 USC 1028(d); 18 USC 2257

CFR Citation: 28 CFR 75

Legal Deadline: None

Abstract: This rule amends the regulations at 28 CFR 75 which set forth the requirements to be met by all producers of materials containing one or more visual depictions of actual sexually explicit conduct made after November 1, 1990, for the retention of records concerning the actual, previous, and assumed names and of the dates of birth of each performer portrayed in such visual depictions. This rule amends the time such records must be

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DOJ—LA — Proposed Rule Stage

retained, the list of persons excepted from compliance, and the effective date of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Terry R. Lord, Acting Chief, Child Exploitation and Obscenity Section, Department of Justice, Criminal Division, 1001 G Street NW., Suite 310, Washington, DC 20530
Phone: 202 514-5780
Fax: 202 514-1793

RIN: 1105–AA46

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Final Rule Stage

1855. REVISION OF REGULATIONS GOVERNING THE REMISSION OR MITIGATION OF CIVIL AND CRIMINAL FORFEITURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 28 USC 509; 28 USC 510; 28 USC 515 to 518; 28 USC 524; 8 USC 1324; 15 USC 1177; 17 USC 509; 18 USC 512; 18 USC 981; 18 USC 982; 18 USC 1467; 18 USC 1955; 18 USC 1963; 18 USC 2253; 18 USC 2254

CFR Citation: 28 CFR 9

Legal Deadline: None

Abstract: This regulation amends and adopts rules that govern the processing of petitions for remission and mitigation of forfeitures by the Criminal Division, the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, and the United States Marshals Service of the United States Department of Justice. It is intended to provide a basis for similar rules to be adopted by the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service, the United States Secret Service of the Department of the Treasury, and the United States Postal Service. The Department proposes this regulation in an effort to ameliorate the harsh results in individual forfeiture cases and to provide relief to innocent persons whose property is used by others for criminal purposes.

Timetable:

Action	Date	FR Cite
NPRM	06/29/94	59 FR 33457
NPRM Comment Period End	07/29/94	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: LEGAL AUTHORITY CONT: 18 USC 2513; 19 USC 1613; 19 USC 1618; 21 USC 853; 21 USC 881; 22 USC 401.

Agency Contact: Nancy L. Rider, Deputy Chief, Asset Forfeiture and Money Laundering Sect., Department of Justice, 1400 New York Avenue, Washington, DC 20530
Phone: 202 514-1263
Fax: 202 514-5522

RIN: 1105–AA23

1856. QUALIFICATIONS FOR TRUSTEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 28 USC 586(d)

CFR Citation: 28 CFR 58

Legal Deadline: None

Abstract: United States Trustees appoint private trustees to serve in bankruptcy cases filed under title 11, United States Code. Pursuant to 28 USC section 586(d), the Attorney General is required to prescribe by rule qualifications for membership on panels from which the United States Trustees appoint trustees to serve in specific bankruptcy cases filed under chapter 7 of the Bankruptcy Code. In addition, the Attorney General is required to prescribe by rule qualifications for appointment as a standing trustee in cases filed under chapters 12 and 13 of the Bankruptcy Code. The qualifications prescribed by the Attorney General pursuant to 28 USC section 586(d) are found at 28 CFR 58.3, 58.4. This rule amends those qualifications by adding a requirement that the applicant have three years of either bankruptcy experience or experience as a fiduciary. In addition, this rule clarifies that the United States Trustees have authority not only to establish panels of trustees in the first instance, but also to revise and periodically reconstitute such panels. Finally, the rule sets forth certain technical amendments to 28 CFR Part 58.

Timetable:

Action	Date	FR Cite
NPRM	09/16/93	58 FR 48472
NPRM Comment Period End	10/18/93	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Esther L. Estryn, Deputy General Counsel, Department of Justice, Executive Office for United States Trustees, 901 E Street NW., Washington, DC 29530
Phone: 202 307-1399

RIN: 1105–AA30

1857. GUIDELINES FOR REVIEWING APPLICATIONS FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES FILED UNDER 11 USC 330

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 28 USC 586(a)(3)(A)(i)

DOJ—LA — Final Rule Stage

CFR Citation: 28 CFR 58

Legal Deadline: None

Abstract: United States Trustees must comply with guidelines adopted by the Executive Office for United States Trustees in reviewing applications filed by case trustees and professionals under section 330 of title 11, United States Code. 28 USC 586(a)(3)(A)(i). These guidelines are made pursuant to 28 USC 586(a)(3)(A)(i).

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Martha L. Davis, General Counsel, Department of Justice, Executive Office for United States Trustees, 901 E Street NW., Washington, DC 20530
Phone: 202 307-1399

RIN: 1105–AA33

1858. MOTOR VEHICLE THEFT PREVENTION PROGRAM

Priority: Other Significant

Legal Authority: PL 103-322, sec 220001, Violent Crime Cntl & Law Enf Act, 1994

CFR Citation: Not yet determined

Legal Deadline: NPRM, Statutory, March 13, 1995.

Abstract: This rule develops, in cooperation with the States, a national voluntary motor vehicle theft prevention program under which the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner states that the vehicle is not normally operated under certain specified conditions. Under this program, the owner agrees to display program decals or devices on the owner's vehicle and to permit law enforcement officials in any State to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions.

Participating States and localities will authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under the specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

This rule establishes the specified conditions under which stops may be authorized by owners who state that they do not ordinarily operate their vehicles under such conditions: (1) driving a vehicle between 1:00 a.m. and 5:00 a.m.; and (2) driving a vehicle across a United States land border or into a United States port.

Timetable:

Action	Date	FR Cite
NPRM	10/25/95	59 FR 54459
NPRM Comment Period End	12/26/95	
Final Action	08/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Robert Hinchman, Attorney-Advisor, Department of Justice, Office of Policy Development, Room 4256, 10th & Constitution Ave. NW., Washington, DC 20530
Phone: 202 514-8059
Fax: 202 514-8639

RIN: 1105–AA34

1859. RECOMMENDATIONS TO THE PRESIDENT ON CIVIL AERONAUTICS BOARD DECISIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; EO 12597

CFR Citation: 28 CFR 25

Legal Deadline: None

Abstract: This rule eliminates an unnecessary provision which sets forth procedures for the Department of Justice to receive public comments from private parties on recommendations by the Department to the President concerning decisions by the Department of Transportation authorizing air carriers to engage in foreign air transportation. In practice, the Department of Justice rarely provides such recommendations to the President, making the establishment of formal procedures to receive public comments concerning such recommendations unnecessary.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard M. Blumenthal, Assistant Chief, Legal Policy Section, Department of Justice, Antitrust Division, Main Bldg., Room 3121, 10th & Constitution Ave. NW., Washington, DC 20530
Phone: 202 514-2513
Fax: 202 514-9082

RIN: 1105–AA41

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Long-Term Actions

1860. CRIMINAL FINES ENFORCEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 72

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Lynne Solien
Phone: 202 616-6444

RIN: 1105–AA16

1861. FEDERAL CLAIMS COLLECTION STANDARDS (FCCS)

Priority: Other

CFR Citation: 4 CFR 101 to 105

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

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DOJ—LA — Long-Term Actions

Agency Contact: Robert N. Ford
Phone: 202 514-5343
Fax: 202 514-1965
RIN: 1105–AA31

DEPARTMENT OF JUSTICE (DOJ)
Legal Activities (LA)

Completed Actions

1862. JACOB WETTERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER GUIDELINES

Priority: Other Significant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Guidelines	04/04/96	61 FR 15110

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: David J. Karp
Phone: 202 514-3273
Fax: 202 514-8639

RIN: 1105–AA36

1863. USE AND EXAMINATION OF MATERIALS SUBMITTED PURSUANT TO THE ANTITRUST CIVIL PROCESS ACT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 28 CFR 49

Completed:

Reason	Date	FR Cite
Final Action	01/25/96	61 FR 2116
Final Action Effective	01/25/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Howard M. Blumenthal
Phone: 202 514-2513
Fax: 202 514-9082

RIN: 1105–AA37

1864. DESIGNATION OF AGENCIES TO RECEIVE AND INVESTIGATE REPORTS REQUIRED UNDER THE VICTIMS OF CHILD ABUSE ACT

Priority: Other

CFR Citation: 28 CFR 81

Completed:

Reason	Date	FR Cite
Final Action	02/29/96	61 FR 7704
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: Tribal, Federal

Agency Contact: Terry R. Lord
Phone: 202 514-5780
Fax: 202 514-1793

RIN: 1105–AA38

1865. PROCEDURES FOR RECEIPT AND CONSIDERATION OF WRITTEN COMMENTS SUBMITTED UNDER SUBSECTION 2(B) OF THE ANTITRUST PROCEDURES AND PENALTIES ACT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 28 CFR 50.13

Completed:

Reason	Date	FR Cite
Final Action	03/28/96	61 FR 13763
Final Action Effective	03/28/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard M. Blumenthal
Phone: 202 514-2513
Fax: 202 514-9082

RIN: 1105–AA40

1866. • REVISION OF POLICY CONCERNING CONSENT TO TRY CIVIL MATTERS BEFORE MAGISTRATE JUDGES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 301; 18 USC 3401(f)

CFR Citation: 28 CFR 52

Legal Deadline: None

Abstract: A working group consisting of representatives from senior Justice Department offices and litigating divisions and the U.S. Attorneys Offices reviewed the Department's policy concerning consent to try civil matters before magistrate judges. As a result of this review, the Department reaffirms its existing policy of encouraging the use of magistrate judges to assist the district courts in resolving civil disputes whenever possible but, by this rule, makes several clarifying changes. This rule eliminates paragraphs (1) through (4) of 52.01 as merely summarizing provisions of federal statutory and case law set forth elsewhere; revises 52.01(b) to include the involvement of significant rights of large numbers of persons as a factor to be considered relating to the complexity of the case; amends 52.01(b) to require that the determination by the government attorney whether to consent to a trial before a magistrate judge be made "with the concurrence of his or her supervisor"; and conforms the terminology of 52.01 and 52.02 to the Judicial Improvements Act of 1990 which changed the designation of persons appointed under 28 USC 631 from U.S. magistrates to that of U.S. magistrate judges.

Timetable:

Action	Date	FR Cite
Final Action	03/05/96	61 FR 8472
Final Action Effective	03/05/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary C. Morgan, Deputy Assistant Attorney General, Office of Policy Development, Department of Justice, 10th & Pennsylvania Ave., NW., Room 4240, Washington, DC 20530
Phone: 202 514-0052

RIN: 1105–AA43

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Proposed Rule Stage

1867. ARREST POLICIES IN DOMESTIC VIOLENCE CASES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3796 hh et seq

CFR Citation: 28 CFR 90.60

Legal Deadline: NPRM, Statutory, January 1995. Final, Statutory, March 1995.

Abstract: A proposed rule is being issued for grants to encourage arrest policies pursuant to the Violence Against Women Act, title IV of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, 108 Stat. 1796. This Federal discretionary grant program is to encourage States, units of local government, and Indian tribal government to treat domestic violence as a serious violation of criminal law. The regulation is being published under section 801 of the Omnibus Crime Control and Safe Streets Act, as amended, 42 USC 3752.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal

Agency Contact: Kathy Schwartz, Administrator, Violence Against Women Program Office, Department of Justice, Office of Justice Programs, 633 Indiana Avenue NW., Room 444, Washington, DC 20531
Phone: 202 307-6026

RIN: 1121–AA35

1868. • PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT CERTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 1761

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Private Sector/Prison Industry Enterprise Certification (PIECP) exempts certified State and local industries from two Federal statutes regulating the interstate commerce and marketability of prison made goods. The Ashurst Sumners Act, codified at 18 USC section 1761 and the Walsh Healy Public Contracts Act, codified at 41 USC sections 35 to 45. Exempted industries must meet specific requirements aimed at preventing the unfair trade of prison made goods in order to receive Bureau of Justice Assistance certification. This guideline implements the statutory requirements set forth at 18 USC 1761(c) and sets forth the administrative procedures of this certification program.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Thomas Albrecht, Bureau of Justice Assistance, Department of Justice, Office of Justice Programs
Phone: 202 514-6236

RIN: 1121–AA36

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Final Rule Stage

1869. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM

Priority: Other Significant

Legal Authority: 8 USC 1365; PL 103-317

CFR Citation: 28 CFR 82

Legal Deadline: None

Abstract: The State Criminal Alien Assistance Program (SCAAP) provides Federal assistance to States for costs incurred for the imprisonment of an illegal alien convicted of a felony by the State.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/06/94	59 FR 50830
Final Action	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Linda J. McKay, State and Local Assistance Division Chief, East Branch, Department of Justice, Office of Justice Programs, 633 Indiana Avenue NW., Washington, DC 20531
Phone: 202 514-6638

RIN: 1121–AA24

1870. VIOLENT OFFENDER INCARCERATION AND TRUTH IN SENTENCING INCENTIVE GRANT PROGRAM

Priority: Other Significant

Legal Authority: Subtitle A title II Violent Crime Cont and Law Enf Act of 1994; PL 103-322; 108 Stat 1796

CFR Citation: 28 CFR 91

Legal Deadline: Other, Statutory, January 13, 1995.
Sec 20105 of title II of Violent Crime Cont and Law Enf Act of 1994 requires the Attorney General to issue rules and regulations re use of title II grant funds within 90 days of Act enactment.

Abstract: This regulation implements authorization for grants to States, and States organized in multistate compacts, for assistance to adult and juvenile correctional systems. The program recognizes that States and local jurisdictions have experienced substantial increases in jail, prison and juvenile confinement populations in recent years, resulting in escalating costs and serious difficulties in managing overcapacity correctional populations. Because of these constraints, correctional systems have often been unable to implement new programs, develop alternative confinement strategies, or open new facilities. This program seeks to provide funds to address the immediate needs of correctional facilities and programs.

In particular, the program emphasizes the need to make available both conventional jail and prison space for the confinement of violent offenders and to ensure that violent offenders remain incarcerated for substantial periods of time through the implementation of truth in sentencing laws. Accordingly, subtitle A directs the Attorney General to award grants to construct, develop, expand, modify, operate or improve correctional facilities and other correctional facilities that will free secure prison

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Final Rule Stage

space for the confinement of violent offenders.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/07/94	59 FR 63015
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Larry Meacham, Corrections Program Office, Department of Justice, Office of Justice Programs, 633 Indiana Avenue NW., Washington, DC 20531
Phone: 202 307-3914

RIN: 1121–AA25

1871. • YOUNG AMERICAN MEDALS PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 1921 et seq

CFR Citation: 28 CFR 0.12

Legal Deadline: None

Abstract: This interim rule provides an outline of the program governing awards of the Young American Medals for Bravery and Service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christine M. Craig, Office of the General Counsel, Department of Justice, Office of Justice Programs, 633 Indiana Avenue NW., Washington, DC 20531
Phone: 202 307-0790

RIN: 1121–AA37

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Long-Term Actions

1872. CONFIDENTIALITY OF IDENTIFIABLE RESEARCH AND STATISTICAL INFORMATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 28 CFR 22

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal

Agency Contact: Christine Craig
Phone: 202 307-0790

RIN: 1121–AA33

1873. CRIMINAL JUSTICE BLOCK GRANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 28 CFR 33

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Christine Craig
Phone: 202 307-0790

RIN: 1121–AA34

DEPARTMENT OF JUSTICE (DOJ)
Office of Justice Programs (OJP)

Completed Actions

1874. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 70

Completed:

Reason	Date	FR Cite
Final Action - (Correction to Final Rule on 11/24/95, 60 FR 57931)	07/26/95	60 FR 38241

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Cynthia Schwimer
Phone: 202 307-3186

RIN: 1121–AA18

1875. VICTIM ASSISTANCE GRANT PROGRAM GUIDELINES

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	10/27/95	60 FR 55051

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Carolyn A. Hightower
Phone: 202 307-5947

RIN: 1121–AA30

1876. CRIMINAL JUSTICE INFORMATION SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 28 CFR 20

Completed:

Reason	Date	FR Cite
Withdrawn by Program Office Before Publication of NPRM	02/01/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Christine Craig

DOJ—OJP

Completed Actions

Phone: 202 307-0790

RIN: 1121–AA32

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Part XII

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, VII, and IX

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Department's semiannual agenda of regulations that have been selected for review or development during the coming year. The agenda complies with the requirements of both Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists all regulations that are expected to be under review or development between April 1996 and April 1997, as well as those completed during the past 6 months.

In accordance with the President's 1995 directive, this agenda for the Department of Labor includes a significant number of items that will streamline existing regulations or eliminate unnecessary pages.

FOR FURTHER INFORMATION CONTACT: Roland Droitsch, Deputy Assistant Secretary for Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210, (202) 219-6197.

Note: Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations.

The Regulatory Flexibility Act became effective on January 1, 1981, and applies only to regulations for which a notice of proposed rulemaking was issued on or after that date. It requires the Department of Labor to publish an agenda listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities" (5 U.S.C. 602). Executive Order 12866 became effective September 30, 1993, and in substance, requires the Department of Labor to publish an agenda listing all the regulations it expects to have under active consideration for promulgation, proposal, or review during the coming 1-year period. The focus of all departmental regulatory activity will be on the development of effective rules that are understandable and usable to the employers and employees in all affected workplaces.

As permitted by law, the Department of Labor is combining the publication of its agendas under the Regulatory Flexibility Act and Executive Order 12866.

All interested members of the public are invited and encouraged to let departmental officials know how our regulatory efforts can be improved and, of course, to participate in and comment on the review or development of the regulations listed on the agenda.

Robert B. Reich,

Secretary of Labor.

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1877	Coordinated Enforcement of Farm Labor Protective Statutes	1290-AA11

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1878	Administrative Claims Under the Federal Torts Claims Act and Related Statutes	1290-AA13

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1879	Government Contractors: Nondiscrimination and Affirmative Action Obligations (ESA/OFCCP)	1215-AA01
1880	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)	1215-AA14
1881	Labor Standards for Federal Service Contracts	1215-AA78
1882	Standards for Waivers Under Section 503 of the Rehabilitation Act	1215-AA84
1883	Migrant and Seasonal Agricultural Worker Protection (29 CFR Part 500)	1215-AA93
1884	Regulations to Implement the Federal Acquisition Streamlining Act of 1994, 29 CFR Parts 4 and 5, 41 CFR Parts 50-201 and 50-206	1215-AA96

DOL

Employment Standards Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1885	Benefits Under the Federal Coal Mine Safety and Health Act of 1977, as Amended Affecting the Black Lung Benefits Act	1215-AA99
1886	Records To Be Kept by Employers Under the Fair Labor Standards Act	1215-AB03
1887	Assessment and Collection of User Fees	1215-AB06
1888	Federal Employees' Compensation Act; Claims for Compensation for Work-Related Injury/Death	1215-AB07
1889	Minimum Wages in American Samoa	1215-AB08
1890	Employment of Student-Learners, Apprentices, Learners, Messengers, and Student Workers Under Section 14 of the Fair Labor Standards Act	1215-AB10

Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1891	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215-AA62
1892	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Individuals With Disabilities	1215-AA76
1893	Application of the Fair Labor Standards Act to Domestic Service	1215-AA82
1894	Procedures for Handling Discrimination Complaints Under Federal "Whistleblower" Protection Statutes	1215-AA83
1895	Attestations by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports	1215-AA90
1896	Executive Order 12933 of October 20, 1994, "Nondisplacement of Qualified Workers Under Certain Conditions"	1215-AA95
1897	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models	1215-AB09

Employment Standards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1898	Child Labor Regulations, Orders, and Statements of Interpretation (ESA/W-H)	1215-AA09
1899	Enforcement of Contractual Obligations for Temporary Alien Agricultural Workers Admitted Under Section 216 of the Immigration and Nationality Act	1215-AA43
1900	Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5)	1215-AA94

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1901	Attestations by Employers for Off-Campus Work Authorization for Alien Students (F-1 Nonimmigrants)	1215-AA68
1902	Training Wage and Seasonal Industry Provisions of the Fair Labor Standards Act	1215-AB04
1903	Workers Employed in Seasonal Agricultural Services Under Section 210A of the Immigration and Nationality Act	1215-AB05

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1904	Job Training Partnership Act: Indian and Native American Programs	1205-AA96
1905	Job Training Partnership Act: Migrant and Seasonal Farmworker Programs	1205-AA98
1906	Disaster Unemployment Assistance Program, Amendment to Regulations	1205-AB02
1907	Amendments to the Labor Certification Process for Temporary Agricultural Employment in the United States (H-2A)	1205-AB09

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Employment and Training Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1908	Federal-State Unemployment Compensation Program; Unemployment Insurance Performance System	1205-AB10
1909	Labor Certification Process for the Permanent Employment of Aliens; Researchers Employed by Colleges and Universities	1205-AB11

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1910	Attestations by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports, the Alaska Exception	1205-AB03
1911	Trade Adjustment Assistance for Workers—Implementation of 1988 Amendments	1205-AB05
1912	Trade Adjustment Assistance for Workers—Transitional Adjustment Assistance NAFTA-TAA	1205-AB07

Employment and Training Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1913	Airline Deregulation: Employee Benefit Program	1205-AA07
1914	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement	1205-AA37
1915	Labor Certification Process for the Permanent Employment of Aliens in the United States	1205-AA66

Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1916	Qualified Domestic Relations Orders	1210-AA19
1917	Removal of Obsolete Regulations and Interpretive Bulletins	1210-AA51
1918	Revision of the Form 5500 Series and Implementing and Related Regulations Under the Employee Retirement Income Security Act of 1974 (ERISA)	1210-AA52

Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1919	Definition of Collective Bargaining Agreement (ERISA Section 3(40))	1210-AA48
1920	Interpretive Bulletin on Participant Education	1210-AA50
1921	Regulations Relating to Definition of Plan Assets: Participant Contributions	1210-AA53

Pension and Welfare Benefits Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1922	Adequate Consideration	1210-AA15
1923	Civil Penalties Under ERISA Section 502(l)	1210-AA37
1924	Reporting and Disclosure Under the Employee Retirement Income Security Act of 1974	1210-AA44

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Office of the American Workplace—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1925	Reporting by Labor Relations Consultants and Other Persons	1294-AA12

Office of the American Workplace—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1926	Eligibility Requirements for Candidacy for Union Office	1294-AA09
1927	Guidelines, Section 5333(b), Federal Transit Law	1294-AA14

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1928	Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners	1219-AA81
1929	Surface Haulage	1219-AA93
1930	Safety Standards for the Use of Roof Bolting Machines in Underground Coal Mines	1210-AA94

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1931	Noise Standard	1219-AA53
1932	Diesel Particulate	1219-AA74
1933	Belt Entry Use as Intake Aircourses to Ventilate Working Sections	1219-AA76
1934	Safety Standard Revisions for Underground Anthracite Mines	1219-AA96

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1935	Diesel-Powered Equipment for Underground Coal Mines	1219-AA27
1936	Hazard Communication	1219-AA47
1937	Air Quality, Chemical Substances, and Respiratory Protection Standards	1219-AA48
1938	Longwall Equipment (Including High-Voltage)	1219-AA75
1939	Single-Shift Sampling Notice	1219-AA82
1940	Safety Standards for Explosives at Metal and Nonmetal Mines	1219-AA84
1941	First-Aid at Metal and Nonmetal Mines	1219-AA97

Mine Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1942	Confined Spaces	1219-AA54
1943	Carbon Monoxide Monitor Approval	1219-AA72
1944	Decertification of Certified and Qualified Persons	1219-AA79
1945	Metal/Nonmetal Impoundments	1219-AA83
1946	Independent Laboratory Testing	1219-AA87
1947	Safety Standards for Methane in Metal and Nonmetal Mines	1219-AA90
1948	Requirements for Approval of Flame-Resistant Conveyor Belts	1219-AA92

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Mine Safety and Health Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
1949	Improving and Eliminating Regulations	1219-AA98
1950	Respirable Dust Standard for Underground and Surface Coal Mines; NIOSH Criteria Document	1219-AA99
1951	Safety Standards for Roof Bolts in Metal and Nonmetal Mines and Underground Coal Mines	1219-AB00

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1952	Underground Coal Mine Ventilation	1219-AA11

Office of the Assistant Secretary for Administration and Management—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1953	Department of Labor Acquisition Regulations	1291-AA20
1954	Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of Labor	1291-AA21

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1955	Steel Erection (Part 1926) (Safety Protection for Ironworking)	1218-AA65
1956	Recording and Reporting Occupational Injuries and Illnesses (Simplified Injury/Illness Recordkeeping Requirements)	1218-AB24
1957	Comprehensive Occupational Safety and Health Programs	1218-AB41
1958	Occupational Exposure to Tuberculosis	1218-AB48
1959	Confined Spaces for Construction (Part 1926) (Construction: Preventing Suffocation/Explosions in Confined Spaces)	1218-AB47
1960	General Working Conditions in Shipyards (Part 1915, Subpart F) (Phase II) (Shipyards: General Working Conditions)	1218-AB50
1961	Permissible Exposure Limits (PELS) for Air Contaminants	1218-AB54
1962	Revision of Certain Standards Promulgated Under Section 6(a) of the Williams-Steiger Occupational Safety and Health Act of 1970	1218-AB55

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1963	Respiratory Protection (Proper Use of Modern Respirators)	1218-AA05
1964	Scaffolds (Part 1926) (Construction: Safer Scaffolds)	1218-AA40
1965	Safety and Health Regulations for Longshoring (Part 1918) and Marine Terminals (Part 1917) (Shipyards: Protecting Longshoring Workers)	1218-AA56
1966	Scaffolds in Shipyards (Part 1915—Subpart N) (Phase I) (Shipyards: Safer Scaffolds)	1218-AA68
1967	Access and Egress in Shipyards (Part 1915, Subpart E) (Phase I) (Shipyards: Emergency Exits and Aisles)	1218-AA70
1968	Personal Protective Equipment in Shipyards (Part 1915) (Shipyards: Goggles, Gloves, and Other PPE)	1218-AA74
1969	1,3-Butadiene (Preventing Occupational Illness: Butadiene)	1218-AA83
1970	Methylene Chloride (Preventing Occupational Illnesses: Methylene Chloride)	1218-AA88
1971	Walking Working Surfaces and Personal Fall Protection Systems (Part 1910) (Slips, Trips, and Fall Prevention)	1218-AB04
1972	Abatement Verification (Hazard Correction)	1218-AB40
1973	Permit Required Confined Spaces (General Industry: Preventing Suffocation/Explosions in Confined Spaces)	1218-AB52

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Occupational Safety and Health Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
1974	Eliminating and Improving Regulations	1218-AB53

Occupational Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
1975	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol, and Their Acetates Protecting Reproductive Health	1218-AA84
1976	Accreditation of Training Programs for Hazardous Waste Operations (Part 1910)	1218-AB27
1977	Control of Hazardous Energy (Lockout)—Construction (Part 1926) (Preventing Construction Injuries/Fatalities: Lockout)	1218-AB30
1978	Powered Industrial Truck Operator Training (Industrial Truck Safety Training)	1218-AB33
1979	Prevention of Work-Related Musculoskeletal Disorders	1218-AB36
1980	Indoor Air Quality in the Workplace	1218-AB37
1981	Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium)	1218-AB45
1982	Fire Protection in Shipyard Employment (Part 1915, Subpart P) (Phase II) (Shipyards: Fire Safety)	1218-AB51

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1983	Grain Handling Facilities	1218-AB56

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)

Long-Term Actions

1877. COORDINATED ENFORCEMENT OF FARM LABOR PROTECTIVE STATUTES

Priority: Other

Legal Authority: 29 USC 49 et seq; 29 USC 201 et seq; 29 USC 651 et seq; 29 USC 1801 et seq; 8 USC 1188(g)(2); 5 USC 301

CFR Citation: 29 CFR 42

Legal Deadline: None

Abstract: The Department intends to revise its regulations for coordinated enforcement of farm protective statutes. The rule will clarify existing regulatory language and update the regulations by making nomenclature and other technical amendments. The sections also will be reorganized for clarification. These regulations were first promulgated in 1980 to coordinate the farm labor enforcement activities of the Department's Employment and Training Administration, the Employment Standards Administration, the Occupational Safety and Health Administration, and the Office of the Solicitor of Labor (45 FR 39489). The regulations establish a National Farm Labor Coordinated Enforcement Committee, which meets quarterly, consisting of the heads of the above DOL agencies, to oversee that coordination. A Regional Farm Labor Coordinated Enforcement Committee, which meets quarterly, is established in each DOL regional office. The Regional Committee is made up of the head of each of the above Agencies' regional offices. Each Regional Committee holds at least one annual public meeting to discuss farm labor issues.

Timetable:

Action	Date	FR Cite
ANPRM	07/24/92	57 FR 32939
ANPRM Comment Period End	08/24/92	
NPRM	01/19/93	58 FR 5158
NPRM Comment Period End	02/18/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Since 1980, a number of changes have taken place in DOL's farm labor activities, such as: The Farm Labor Contractor Registration Act has been replaced by the Migrant and Seasonal Agricultural Worker Protection Act; the title of the head of the National Committee has been changed from Under Secretary to Deputy Secretary; the Immigration Reform and Control Act of 1986 has amended the Immigration and Nationality Act, authorizing DOL to enforce work contracts executed by employers of alien (H-2A) farmworkers; the role of States in operating the Employment Service under the Wagner-Peyser Act was enhanced in 1982; regional offices of the Employment Standards Administration no longer exist and the regional farm labor enforcement role is now coordinated by the Regional Administrator for Wage and Hour; and the Assistant Secretary for Policy has assumed a role in farm labor programs at the national level. These and other changes necessitate

updating the coordinated enforcement regulations.

Agency Contact: Ruth Samardick, Chairman, National Farm Labor Coordinated Enforcement Committee Working Group, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room S2114, FP Building, Washington, DC 20210
Phone: 202 219-6026

RIN: 1290–AA11

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)

Completed Actions

1878. ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORTS CLAIMS ACT AND RELATED STATUTES

Priority: Other

Legal Authority: 28 USC 2672; 31 USC 3721; 29 USC 1706(b)

CFR Citation: 29 CFR 15

Legal Deadline: None

Abstract: This regulation will revise existing regulations issued pursuant to the Federal Tort Claims Act (FTCA) and the Military Personnel and Civilian Employees' Claims Act (MPCECA) to conform to previously issued delegations of authority. The regulation will revise the existing regulation to reflect delegations of authority to regional offices of the Office of the Solicitor to process and decide FTCA claims which seek damages up to $25,000 and which delegated authority to process and decide claims in excess of $25,000 to the Counsel for Claims. It will clarify procedures for submitting and processing claims and revise outdated addresses and telephone numbers. A number of changes are also necessary to clarify the manner in which claims are submitted and the manner in which an award is calculated. The existing regulation will be amended to reflect a change in underlying statutory authority for payment of claims arising out of the operation of Job Corps Centers, to reflect an increase in maximum amount payable on such claims and to clarify the manner in which such claims are submitted.

Timetable:

Action	Date	FR Cite
NPRM	07/22/94	59 FR 37540
NPRM Comment Period End	09/20/94	
Final Action	04/19/95	60 FR 19658
Final Action Effective	05/19/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey L. Nesvet, Counsel for Claims, Employee Benefits Division, Department of Labor, Office of the Secretary, 200 Constitution Avenue NW., Room S4325, FP Building, Washington, DC 20210
Phone: 202 219-4405

RIN: 1290–AA13

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Proposed Rule Stage

1879. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS (ESA/OFCCP)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 11246, as amended; 38 USC 4212; 29 USC 793

CFR Citation: 41 CFR 60-1; 41 CFR 60-2; 41 CFR 60-20; 41 CFR 60-30; 41 CFR 60-50; 41 CFR 60-60; 41 CFR 60-250; 41 CFR 60-741; 41 CFR 60-742; 41 CFR 60-4

Legal Deadline: None

Abstract: These regulations cover nondiscrimination and affirmative action obligations of Federal contractors under Executive Order 11246, as amended; the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 USC 4212), as amended; and Section 503 of the Rehabilitation Act of 1973, as amended. The NPRM published 08/25/81 and supplemented on 04/23/82 extended the effective date of a final rule published 12/30/80 and proposed amendments to that rule. OFCCP's review of regulatory options continues with emphasis on streamlining and clarifying the regulatory language and reducing paperwork requirements associated with compliance.

Statement of Need: Parts of the regulations implementing Executive Order 11246 need to be revised to reflect changes in the law that have occurred over time, streamlined, and clarified. Executive Order 11246 requires all Federal contractors and subcontractors and federally assisted construction contractors and subcontractors to apply a policy of nondiscrimination and affirmative action in employment with respect to race, color, religion, sex, and national origin. The regulatory revisions are necessary in order to allow the Department of Labor (DOL) to effectively and efficiently enforce the provisions of the Order. As a first step in updating its Executive Order 11246 regulations, the Department intends to propose changes to the provisions that govern the pre-award review requirements; recordkeeping and record retention requirements; certification requirements; and related provisions. In addition, revisions will be made that will conform Executive Order 11246 regulations to the recent changes made in the Department's regulations implementing Section 503 of the Rehabilitation Act.

A second phase of revision will contain proposals to change provisions that govern requirements for written affirmative action plans and the provisions concerning contractor evaluation procedures.

Alternatives: After careful review, it was decided that the most effective way to improve compliance with the Executive Order 11246 provisions, and reduce burdens on compliant contractors, was to propose revisions to these regulations. Administrative actions alone could not produce the desired results. A determination was also made to publish revisions to the remaining regulatory provisions of the Executive Order at a later date so that careful consideration can be given to what changes are needed in each of the parts of the regulations.

Anticipated Costs and Benefits: It is anticipated that the net effect of the proposed changes will be an increase in the rate of compliance with the nondiscrimination and affirmative action requirements of Executive Order 11246 and a reduction in compliance costs to Federal contractors. The Department will also be able to employ its resources more efficiently and more effectively.

Risks: An assessment of the magnitude of the risk addressed by this action and how it relates to other risks within the jurisdiction of DOL will be prepared once decisions are reached on specific proposed changes in the Executive Order 11246 regulations.

Timetable:

Action	Date	FR Cite
ANPRM	07/14/81	46 FR 36213
NPRM Compliance Reviews (60-1)	05/00/96	
NPRM Compliance Reviews (60-60)	05/00/96	
NPRM Affirmative Action Plans (60-2)	07/00/96	
FINAL Affirmative Action Plans (60-2)	12/00/96	
FINAL Compliance Reviews (60-1)	12/00/96	
FINAL Compliance Reviews (60-60)	12/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Joe N. Kennedy, Deputy Director, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, Room C3325, FP Bldg., Washington, DC 20210
Phone: 202 219-9475

RIN: 1215–AA01

1880. DEFINING AND DELIMITING THE TERM "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)

Priority: Economically Significant

Legal Authority: 29 USC 213(a)(1)

CFR Citation: 29 CFR 541

Legal Deadline: None

Abstract: These regulations set forth the criteria for exemption from the Fair Labor Standards Act's minimum wage and overtime requirements for "executive," "administrative," "professional" and "outside sales employees." To be exempt, employees must meet certain tests relating to duties and responsibilities and be paid on a salary basis at specified levels. A final rule increasing the salary test levels was published on January 13, 1981 (46 FR 3010), to become effective on February 13, 1981, but was indefinitely stayed on February 12, 1981 (46 FR 11972). On March 27, 1981, a proposal to suspend the final rule indefinitely was published (46 FR 18998), with comments due by April 28, 1981. As a result of numerous comments and petitions from industry groups on the duties and responsibilities tests, and as a result of recent case law developments, the Department concluded that a more comprehensive review of these regulations was needed. An ANPRM reopening the comment period and broadening the scope of review to include all aspects of the regulations was published on November 19, 1985, with the comment period subsequently extended to March 22, 1986.

The Department has revised these regulations since the ANPRM to address specific issues. In 1991, as the result of an amendment to the Fair Labor Standards Act (FLSA), the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6-1/2 times the applicable minimum wage. Also, in 1992 the Department issued a final rule which provided, in part, that an otherwise exempt public sector employee would not be disqualified from the exemption's requirement for payment on a "salary basis" solely because the employee is paid according to a public pay and leave system that, absent the use of paid leave, requires the employee's pay to be reduced for absences of less than one workday. These revisions were limited in nature and the regulations are still in need of updating and clarification. In addition, recent court rulings have caused confusion as to what constitutes compliance with the regulation's "salary basis" criteria in both the public and private sectors. All of these factors have led the Department to conclude that a review of these regulations is both necessary and appropriate.

Statement of Need: These regulations set forth the criteria used in the determination of the application of the FLSA exemption for "executive," "administrative," "professional," and "outside sales employees." The existing salary test levels used in determining which employees qualify as exempt from the minimum wage and overtime rules were adopted in 1975 on an interim basis. These salary level tests are outdated and offer little practical guidance in the application of the exemption. In addition, numerous comments and petitions have been received in recent years from industry groups regarding the duties and responsibilities tests in the regulations. These factors, as well as recent case law developments, have led the Department to conclude that a review of these regulations is needed.

These regulations have been revised in recent years to deal with specific issues. In 1991, as the result of an amendment to the FLSA, the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6 1/2 times the applicable minimum wage. Also in 1991, the Department undertook separate rulemaking on another aspect of the regulations, the definition of "salary basis" for public-sector employers. This interim final rule provided, in part, that an otherwise exempt public-sector employee would not be disqualified from the exemption's requirement for payment on a "salary basis" solely because the employee is paid according to a public pay and leave system that,

absent the use of paid leave, requires the employee's pay to be reduced for absences of less than one workday. In 1992, the Department issued its final rule on this matter.

Because of the limited nature of these revisions, the regulations are still in need of updating and clarification. In addition, recent court rulings have caused confusion as to what constitutes compliance with the regulation's "salary basis" criteria in both the public and private sectors.

Alternatives: The Department has met with affected interest groups in developing regulatory alternatives. Following completion of these outreach and consultation activities, full regulatory alternatives will be developed.

Although legislative proposals have been introduced in the Congress to address certain aspects of these regulations, the Department will continue to pursue revisions to the regulations as the appropriate response to the concerns raised. Alternatives likely to be considered include particular changes to address "salary basis" and salary level issues to a comprehensive overhaul of the regulations that also addresses the duties and responsibilities tests.

Anticipated Costs and Benefits: Some 23 million employees are estimated to be within the scope of these regulations. Legal developments in court cases are causing progressive loss of control of the guiding interpretations under this exemption and are creating law without considering a comprehensive analytical approach to current compensation concepts and workplace practices. These court rulings are creating apprehension in both the private and public sectors. Clear, comprehensive, and up-to-date regulations would provide for central, uniform control over the application of these regulations and ameliorate this apprehension. In the public sector, State and local government employers contend that the rules are based on production workplace environments from the 1940s and 1950s, and that they do not readily adapt to contemporary government functions. The Federal government also has concerns regarding the manner in which the courts and arbitration decisions are applying the exemption to the Federal workforce. Resolution of confusion over how the regulations are to be applied in the public sector will ensure that employees are protected, that employers are able to comply with their responsibilities under the law, and that the regulations are enforceable. Preliminary estimates of the specific costs and benefits of this regulatory action will be developed once the various regulatory alternatives are identified.

Risks: This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Indefinite Stay of Final Rule	02/12/81	46 FR 11972
Proposal To Suspend Rule Indefinitely	03/27/81	46 FR 18998
ANPRM	11/19/85	50 FR 47696
Extension of ANPRM Comment Period From 01/21/86 to 03/22/86	01/17/86	51 FR 2525
ANPRM Comment Period End	03/22/86	51 FR 2525
NPRM	01/00/97	
NPRM Comment Period End	03/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Bldg., Washington, DC 20210
Phone: 202 219-8305

RIN: 1215–AA14

1881. LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

Priority: Economically Significant

Legal Authority: 41 USC 351 et seq; 79 Stat 1034, as amended in 86 Stat 789; 90 Stat 2358; 41 USC 38; 41 USC 39; 5 USC 301

CFR Citation: 29 CFR 4

Legal Deadline: Final, Judicial, July 31, 1996.

Abstract: The Service Contract Act (SCA) applies to Federal contracts principally for the furnishing of services through the use of service employees and, on contracts over $2,500 where the predecessor contract was not subject to a collective bargaining agreement, requires the Department of Labor to determine prevailing wages and fringe benefits in the locality to be paid to various classifications of workers on the contract. Prevailing wage determinations issued by the Department, which become part of the Federal contract, establish the minimum compensation for employees performing on that contract. The Service Employees International Union (SEIU) sued DOL in March 1991 over DOL's methodology for determining health and welfare fringe benefits, and for not periodically updating fringe benefit levels. The District Court remanded the case to DOL for exhaustion of administrative remedies, which led to the DOL's Board of Service Contract Appeals decision that remanded the case to the Wage Hour Division to consider alternative methods of implementing the statute. DOL is developing information on the occupational mix of service contract employees utilizing procurement data in the Federal Procurement Data System, and a survey of SCA-covered contracts is expected to be completed in early 1996. This study is expected to provide information necessary to more fully develop proposed fringe benefit methodologies and will also provide data for purposes of economic impact analyses. A notice of proposed rulemaking will invite comment on alternatives for developing an appropriate SCA fringe benefit determination procedure.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AA78

1882. STANDARDS FOR WAIVERS UNDER SECTION 503 OF THE REHABILITATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 706; 29 USC 793, as amended by PL 99-506; PL 100-630; PL 100-259; PL 101-336; PL 102-569; EO 11758

CFR Citation: 41 CFR 60-741

Legal Deadline: None

Abstract: OFCCP is planning to issue regulations that will set forth standards for waivers (from provisions of Section 503 of the Rehabilitation Act) sought by federal contractors for facilities that they deem totally separate from and not involved in government contract work. OFCCP is required to issue these regulations by the 1992 Rehabilitation Act amendments.

Timetable:

Action	Date	FR Cite
NPRM	02/14/96	61 FR 5902
NPRM Comment Period End	04/15/96	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joe N. Kennedy, Deputy Director, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210
Phone: 202 219-9475

RIN: 1215–AA84

1883. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION (29 CFR PART 500)

Priority: Other Significant

Legal Authority: 29 USC 1801 to 1872, as amended

CFR Citation: 29 CFR 500

Legal Deadline: Final, Statutory, May 13, 1996.

Abstract: The legislative history of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) indicates that the principles found in *Hodgson* v. *Griffin and Brand*, 471 F.2d 235, are to be followed in determining whether a joint employment relationship exists in the employment of migrant and seasonal farm workers in a given fact situation. The Department intends to publish an NPRM to solicit comments on a clarification of the regulations to more closely comport with the legislative history of MSPA and the principles found in *Hodgson* v. *Griffin and Brand* and also possible modifications to the procedures for MSPA hearings, seeking more timely decisions. In addition, Public Law 104-49 (November 15, 1995) amended MSPA's private right of action, transportation insurance requirements, and disclosure obligations to agricultural workers. This enactment requires implementing rules under the transportation insurance requirements within 180 days of enactment (i.e., by 5/13/96).

Statement of Need: These regulations need to be revised in order to provide needed clarifications and to make the hearing process more efficient. In the legislative history to the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), Congress stated that the term "joint employment" in MSPA was to have the same meaning as is found in the Fair Labor Standards Act (FLSA). Further remarks in the legislative history indicate that the principles found in *Hodgson* v. *Griffin and Brand*, 471 F.2d 235, were to be determinative. However, subsequent legal developments have created confusion as to appropriate criteria for determining the existence of a joint employment relationship. In its rulemaking, the Department will solicit comments to clarify the regulatory criteria for determining when a joint employment relationship exists between two or more employers. The Department will also consider modifying the rules relating to procedures for hearings, seeking more timely decisions.

Alternatives: Regulatory alternatives will be developed as part of this review.

Anticipated Costs and Benefits: There is no identifiable cost impact to the contemplated clarifying change in the regulations. Employers in the agricultural community will benefit from the clearer, more definitive criteria provided regarding joint employment relationships. An expedited hearing process will also be beneficial to all parties.

Risks: This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	
Joint Employment		
NPRM	03/29/96	(61 FR 14035)
NPRM Comment Period End	05/12/96	
Worker's Compensation		
NPRM	03/18/96	(61 FR 10911)
NPRM Comment Period End	04/17/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305

RIN: 1215–AA93

1884. REGULATIONS TO IMPLEMENT THE FEDERAL ACQUISITION STREAMLINING ACT OF 1994, 29 CFR PARTS 4 AND 5, 41 CFR PARTS 50-201 AND 50-206

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355, 108 Stat. 3243

CFR Citation: 29 CFR 4; 29 CFR 5; 41 CFR 50 to 201; 41 CFR 50 to 206

Legal Deadline: NPRM, Statutory, May 11, 1995. Final, Statutory, October 1, 1995.

Abstract: The Federal Acquisition Streamlining Act of 1994, signed on October 13, 1994, amends several Acts administered by the Department of Labor: (1) It amends the Contract Work Hours and Safety Standards Act (CWHSSA) to limit its applicability to contracts in an amount of $100,000 or greater. (2) It amends the Davis-Bacon Act (DB) to provide waivers from the Act's prevailing wage requirements under selected laws for volunteers performing services to a State or local government or agency and for volunteers performing services to a public or private nonprofit recipient of Federal assistance. (3) It also amends the PCA to eliminate the requirements that contractors on covered contracts be either manufacturers or regular dealers

in the items to be supplied under the contract but retains the Secretary of Labor's authority to define the terms "regular dealer" and "manufacturer." Two separate regulatory actions are planned: (1) a notice of proposed rulemaking to implement the changes to CWHSSA and PCA (see 60 FR 46553; 9/7/95); and (2) proposed regulations governing the use of volunteers on certain federally-assisted construction projects subject to DB.

Timetable:

Action	Date	FR Cite
NPRM	09/07/95	60 FR 46553
NPRM Comment Period End	10/10/95	
NPRM Second	04/00/96	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: These legislative amendments will require revisions to Regulations, 29 CFR Parts 4 and 5 with respect to CWHSSA and DB, and Regulations, 41 CFR Part 50-201 and Part 50-206 with respect to PCA.

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AA96

1885. BENEFITS UNDER THE FEDERAL COAL MINE SAFETY AND HEALTH ACT OF 1977, AS AMENDED AFFECTING THE BLACK LUNG BENEFITS ACT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 901 et seq

CFR Citation: 20 CFR 718; 20 CFR 722; 20 CFR 725; 20 CFR 726; 20 CFR 727

Legal Deadline: None

Abstract: The Division of Coal Mine Workers' Compensation reviewed its existing regulations, pursuant to Executive Order 12866, with a goal of eliminating outdated and unnecessary rules and streamlining the processes. The result is a proposal to revise existing rules to facilitate alternative dispute resolution, including the informal conference process; streamline the litigation process by encouraging the early development and submission of evidence and decentralizing control; reduce the costs of copying and mailing; raise the dollar limit for prior approval for medical equipment; and rewrite existing rules to make them more customer-oriented.

There will be no additional costs associated with these changes, but savings can be expected through streamlining.

Statement of Need: The regulations implementing the Black Lung Benefits Act were last significantly revised in 1983. In the spirit of reinvention, the program proposes to update the rules to help improve services, streamline the adjudication process, and simplify the language.

Alternatives: Regulatory alternatives will be developed based on the public comments responding to the notice of proposed rulemaking.

Anticipated Costs and Benefits: Preliminary estimates of the anticipated costs and benefits of this regulatory action will be developed once decisions are reached on specific changes. Benefits will include a streamlined, more accessible process.

Risks: Groups with a vested interest in a lengthy and expensive adjudication process will complain.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. DeMarce, Director, Coal Mine Workers' Compensation, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3520, FP Building, Washington, DC 20210
Phone: 202 219-6692

RIN: 1215–AA99

1886. RECORDS TO BE KEPT BY EMPLOYERS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 211; 29 USC 201 et seq; 29 USC 207(g); 52 Stat 1066, sec 11; 52 Stat 1060, sec 11; 103 Stat 944, sec 7

CFR Citation: 29 CFR 516 et seq

Legal Deadline: None

Abstract: This regulation gives guidance to employers on the information they must keep in records deemed essential for determining compliance with the monetary requirements of the Fair Labor Standards Act (FLSA) regarding payment of minimum wages and overtime compensation to covered and nonexempt employees, or for determining that certain statutory exemptions to FLSA's requirements for payment of the minimum wage or overtime (or both) may apply. This regulation was included in the Department's regulatory reinvention initiative as a candidate for possible simplification of regulatory language and streamlining of regulatory requirements to ensure that applicable standards are easily understandable and reasonable.

Timetable:

Action	Date	FR Cite
NPRM	02/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB03

1887. ASSESSMENT AND COLLECTION OF USER FEES

Priority: Other

Legal Authority: PL 97-470; 96 Stat 2583; 29 USC 1801 to 1872; Secretary's Order No. 1-93 (58 FR 21190); PL 99-603, sec 210A(f); 100 Stat 3359; 8 USC 1161(f); 52 Stat 1068, sec 11 and 14; 75 Stat 74, sec 11; 29 USC 211; 29 USC 214; 52 Stat 1066, sec 11; 63 Stat 910, sec 9; 29 USC 211(d); 80 Stat 843 to 844, sec 501 and 602

CFR Citation: 29 CFR 500.45; 29 CFR 500.52; 29 CFR 519.3; 29 CFR 519.13; 29 CFR 530.4; 29 CFR 530.102

Legal Deadline: None

Abstract: In accordance with the authority provided by title V of the Independent Offices Appropriations Act of 1952, often referred to as the "user fee statute," and the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act of 1995 (PL 103-333), the Department is proposing to establish and collect user fees to recover the costs of providing certain services that are required by law and, without which, the recipients of the services would not legally be allowed to engage in particular employment practices. The services for which user fees are to be collected include processing applications and issuing farm labor contractor certificates of registrations under the Migrant and Seasonal Agricultural Workers Protection Act; processing applications and issuing certificates authorizing employers to employ certain students at special minimum wages under section 14(b) of the Fair Labor Standards Act; and processing applications and issuing certificates authorizing employers to employ homeworkers under section 11(d) of the Fair Labor Standards Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB06

1888. • FEDERAL EMPLOYEES' COMPENSATION ACT; CLAIMS FOR COMPENSATION FOR WORK-RELATED INJURY/DEATH

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 8101 et seq

CFR Citation: 20 CFR 1; 20 CFR 10

Legal Deadline: None

Abstract: The Office of Workers' Compensation Programs will carry out a comprehensive review of and revision to the regulations implementing the Federal Employees' Compensation Act (FECA) to eliminate outdated or unnecessary rules reflecting a streamlining of the claims process, updates to reflect legislative changes, modify the medical fee schedule to include hospital and pharmacy charges and simplify language.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas M. Markey, Director for Federal Employees' Compensation, OWCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3229, FP Building, Washington, DC 20210
Phone: 202 219-7552
Fax: 202 219-7250

RIN: 1215–AB07

1889. • MINIMUM WAGES IN AMERICAN SAMOA

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 205; 29 USC 208; 29 USC 208

CFR Citation: 29 CFR 511; 29 CFR 697

Legal Deadline: None

Abstract: The Fair Labor Standards Act minimum wage for American Samoa is determined industry-by-industry according to recommendations of special industry committees that examine economic and competitive conditions and propose minimum wage levels which will not substantially curtail employment. Part 511 contains procedures for convening industry committees; Part 697 defines industry classifications and prescribes the minimum wage rates to be paid. These separate regulations may be combined and consolidated to reduce unnecessary regulatory text as part of the regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB08

1890. • EMPLOYMENT OF STUDENT-LEARNERS, APPRENTICES, LEARNERS, MESSENGERS, AND STUDENT WORKERS UNDER SECTION 14 OF THE FAIR LABOR STANDARDS ACT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 214

CFR Citation: 29 CFR 520; 29 CFR 521; 29 CFR 522; 29 CFR 523; 29 CFR 527

Legal Deadline: None

Abstract: Section 14(a) of the Fair Labor Standards Act provides that the Secretary of Labor shall by regulations

or orders provide for the employment of learners, apprentices and messengers under special certificates at wages lower than the applicable minimum wage, as needed to prevent curtailment of employment opportunities. Five separate parts of the CFR implement these statutory provisions, which can be consolidated and streamlined to reduce duplicative text as part of the regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB10

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Employment Standards Administration (ESA)

1891. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 4211; 38 USC 4212; PL 93-508 Amended; PL 94-502; PL 95-520; PL 96-466; PL 101-237; EO 11758; PL 97-306; PL 98-223; PL 102-16; PL 102-127; PL 102-484

CFR Citation: 41 CFR 60-250

Legal Deadline: None

Abstract: OFCCP is planning to revise its regulations implementing 38 USC 4212 (formerly 2012) the affirmative action provision of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 to: (1) make its provisions for special disabled veterans consistent with section 503 of the Rehabilitation Act of 1973 (2) incorporate some legislative and other changes that have occurred, and (3) generally clarify 38 USC 4212 Affirmative Action Program (AAP) requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule Invitation to Self-Identify (41 CFR 60-250 5(d))	04/00/96	
NPRM	06/00/96	
Final Action	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joe N. Kennedy, Deputy Director, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210
Phone: 202 219-9475

RIN: 1215–AA62

1892. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR INDIVIDUALS WITH DISABILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 706; 29 USC 793; PL 99-506 Amended; PL 100-630; PL 100-259; PL 101-336; EO 11758; PL 102-569

CFR Citation: 41 CFR 60-741

Legal Deadline: None

Abstract: OFCCP is planning to revise its regulations implementing Section 503 of the Rehabilitation Act of 1973: (1) to make them consistent with the Americans with Disabilities Act, (2) to incorporate legislative and other changes that have occurred, and (3) to generally clarify Section 503 Affirmative Action Program requirements. These revisions should greatly assist the public, and employers in particular, by providing a comprehensive set of up-to-date regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/21/92	57 FR 48084
NPRM Comment Period End	11/20/92	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joe N. Kennedy, Deputy Director, OFCCP, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room C3325, FP Building, Washington, DC 20210
Phone: 202 219-9475

RIN: 1215–AA76

1893. APPLICATION OF THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: Sec 13(a)(15), Fair Labor Standards Act (FLSA), as amended; Sec 13(b)(21), FLSA, as amended; 29 USC 213(a)(15); 29 USC 213(b)(21) 88 Stat 62; Sec 29(b), FLSA of 1974; PL 93-259 88 Stat 76

CFR Citation: 29 CFR 552

Legal Deadline: None

Abstract: Section 13(a)(15) of the Fair Labor Standards Act (FLSA) provides an exemption from minimum wage and overtime compensation for domestic service employees engaged in providing companionship services. Section 13(b)(21) of the FLSA provides an exemption from overtime compensation for live-in domestic service employees. DOL proposed certain technical amendments to update the regulations, 29 CFR Part 552, Application of the Fair Labor Standards Act to Domestic Service, and to clarify that these exemptions are applicable to third-party employers or temporary help agencies only where the domestic service worker is jointly employed by the third-party employer or temporary help agency and the family or household using their services. (58 FR 69310) After reviewing the public comments, the Department intends to adopt the technical changes to update the regulations, including a revision necessitated by recently-enacted amendments to Title II of the Social Security Act under Public Law 103-387 (Social Security Domestic Employment Reform Act; 10/22/94, (see 60 FR 46766) and to reopen and extend the period for filing written comments on proposed revisions affecting third-party employers (Section 552.109).

Timetable:

Action	Date	FR Cite
NPRM	12/30/93	58 FR 69310
NPRM Comment Period End	02/28/94	
NPRM Second	09/08/95	60 FR 46797
NPRM Comment Period Second	09/08/95	60 FR 46797
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AA82

1894. PROCEDURES FOR HANDLING DISCRIMINATION COMPLAINTS UNDER FEDERAL "WHISTLEBLOWER" PROTECTION STATUTES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5851; PL 102-486 sec 2902, 106 Stat 2776

CFR Citation: 29 CFR 24

Legal Deadline: None

Abstract: The Energy Policy Act of 1992, Public Law 102-486, was enacted on October 24, 1992. Among other provisions, this law amended the employee protection provisions for nuclear whistleblowers under former Section 210 of the ERA. The amendments affect only ERA whistleblower complaints and do not extend to the procedures established in 29 CFR Part 24 for handling employee whistleblower complaints under the Federal statutory employee protection provisions other than the ERA. The legislative amendments to ERA apply to whistleblower claims filed under section 211(b)(1) of the ERA as amended (42 USC section 5851(b)(1)) on or after October 24, 1992, the date of enactment of section 2902 of the Energy Policy Act of 1992 (section 2902, Public Law 102-486; 106 Stat. 2776). The Department proposes to establish modified procedures and time frames for handling ERA complaints under 29 CFR Part 24 to implement the statutory amendments.

Timetable:

Action	Date	FR Cite
NPRM	03/16/94	59 FR 12506
NPRM Comment Period End	05/16/94	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AA83

1895. ATTESTATIONS BY EMPLOYERS USING ALIEN CREWMEMBERS FOR LONGSHORE ACTIVITIES IN U.S. PORTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1288(c); PL 103-198, Sec 8; PL 103-206, Sec 323

CFR Citation: 29 CFR 506

Legal Deadline: None

Abstract: Under the 1990 Amendments to the Immigration and Nationality Act (INA), DOL is responsible for implementing Section 258 of INA, which establishes certain requirements for, and places certain limitations on, foreign crewmembers performing longshore work in U.S. ports. These regulations govern the filing and enforcement of attestations by employers seeking to use foreign crewmembers, which are filed with DOL in order to be allowed by the Immigration and Naturalization Service to use these crewmembers to perform specified longshore activities. ETA administers the attestation process, while complaints and investigations regarding the attestations are handled by ESA. In two separate enactments (PL 103-198 (107 Stat. 2304) and PL 103-206 (107 Stat. 2419)), Congress recently enacted exceptions to the limitations on performance of longshore work by foreign crewmembers in the State of Alaska. The Department intends to promulgate rules as necessary to implement the statutory exception.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/95	60 FR 3950
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305

RIN: 1215–AA90

1896. EXECUTIVE ORDER 12933 OF OCTOBER 20, 1994, "NONDISPLACEMENT OF QUALIFIED WORKERS UNDER CERTAIN CONDITIONS"

Priority: Other Significant

Legal Authority: EO 12933

CFR Citation: 29 CFR 9

Legal Deadline: None
EO 12933 requires that regulations be issued within 180 days of the date the order was issued, or by April 17, 1995.

Abstract: Executive Order 12933 of October 20, 1994, requires a new clause be inserted in service contracts for maintenance of public buildings which imposes an obligation on successor contractors to offer the employees of predecessor contractors (other than managerial or supervisory personnel) a right of first refusal to employment under the follow-on contract.

Timetable:

Action	Date	FR Cite
NPRM	07/18/95	60 FR 36756

DOL—ESA — Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	09/01/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AA95

1897. • LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(H)(i)(b); 8 USC 1182(n); 8 USC 1184; 29 USC 49 et seq; PL 102-232

CFR Citation: 29 CFR 507

Legal Deadline: None

Abstract: This proposed rule is a republication for notice and public comment of various provisions of the Department's final rule implementing provisions of the Immigration and Nationality Act as it relates to the temporary employment in the United States of nonimmigrants admitted under H-1B visas.

Timetable:

Action	Date	FR Cite
NPRM	10/31/95	60 FR 55339
NPRM Comment Period End	11/30/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB09

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Long-Term Actions

1898. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 203(l)

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: Section 3(l) of the Fair Labor Standards Act requires the Secretary of Labor to issue regulations with respect to minors between 14 and 16 years of age ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being. The Secretary is also directed to designate occupations that may be particularly hazardous for minors 16 and 17 years of age. Child Labor Regulation No. 3 sets forth the permissible industries and occupations in which 14- and 15-year-olds may be employed, and specifies the number of hours in a day and in a week, and time periods within a day, that such minors may be employed. The Department has invited public comment in considering whether changes in technology in the workplace and job content over the years require new hazardous occupations orders, and review of some of the applicable hazardous occupation orders and the method of their promulgation. Comment has also been solicited on whether revisions should be considered in the permissible hours and time of day standards for 14- and 15-year-olds. Comment has been sought on appropriate changes required to implement school-to-work transition programs.

Statement of Need: Because of changes in the workplace and the introduction of new processes and technologies, the Department is undertaking a comprehensive review of the regulatory criteria applicable to child labor. Other factors necessitating a review of the child labor regulations are changes in places where young workers find employment opportunities, the existence of differing Federal and State standards, and the divergent views on how best to correlate school and work experiences.

Under the Fair Labor Standards Act, the Secretary of Labor is directed to provide by regulation or by order for the employment of youth between 14 and 16 years of age under periods and conditions which will not interfere with their schooling, health and well-being. The Secretary is also directed to designate occupations that may be particularly hazardous for youth between the ages of 16 and 18 years or detrimental to their health or well-being. The Secretary has done so by specifying, in regulations, the permissible industries and occupations in which 14- and 15-year-olds may be employed, and the number of hours per day and week and the time periods within a day in which they may be employed. In addition, these regulations designate the occupations declared particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being.

Public comment has been invited in considering whether changes in technology in the workplace and job content over the years require new hazardous occupation orders or necessitate revision to some of the existing hazardous orders. Comment has also been invited on whether revisions should be considered in the permissible hours and time-of-day standards for the employment of 14- and 15-year-olds, and whether revisions should be considered to facilitate school-to-work transition programs. When developing regulatory proposals (after receipt of public comment on the advance notice of proposed rulemaking), the Department's focus will be on assuring healthy, safe and

DOL—ESA — Long-Term Actions

fair workplaces for young workers, and at the same time promoting job opportunities for young people and making regulatory standards less burdensome to the regulated community.

Alternatives: Regulatory alternatives will be developed based on the public comments responding to the advance notice of proposed rulemaking. Alternatives likely to be considered include specific additions or modifications to the hazardous occupation orders and changes to the hours 14- and 15-year-olds may work.

Anticipated Costs and Benefits: Preliminary estimates of the anticipated costs and benefits of this regulatory action will be developed once decisions are reached on particular proposed changes in the child labor regulations. Benefits will include safer working environments and the avoidance of injuries with respect to young workers.

Risks: An assessment of the magnitude of the risk addressed by this action will be prepared once decisions are reached on particular proposed changes in the child labor regulations.

Timetable:

Action	Date	FR Cite
Final Action on HCs 2, 10, 12	11/20/91	56 FR 58626
Final Action Effective Date	12/20/91	
ANPRM	05/13/94	59 FR 25167
ANPRM Comment Period End	08/11/94	59 FR 40318
NPRM	04/00/97	
NPRM Comment Period End	06/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Rm S3502, FP Bldg., Washington, DC 20210
Phone: 202 219-8305

RIN: 1215–AA09

1899. ENFORCEMENT OF CONTRACTUAL OBLIGATIONS FOR TEMPORARY ALIEN AGRICULTURAL WORKERS ADMITTED UNDER SECTION 216 OF THE IMMIGRATION AND NATIONALITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-603

CFR Citation: 29 CFR 501

Legal Deadline: Final, Statutory, June 1, 1987.

Abstract: The Immigration Reform and Control Act of 1986 contains certain labor standards requirements for foreign agricultural workers employed under the H-2A foreign agricultural worker program, as well as for U.S. workers hired by employers who utilize foreign agricultural workers. The standards relate to pay, working conditions, housing, transportation and recruitment. The Employment Standards Administration issued an interim final rule on June 1, 1987 (53 FR 20524) that incorporates the labor standards issued by the Employment and Training Administration (ETA) and sets forth procedures for enforcement of these labor standards.

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16795
NPRM Comment Period End	05/19/87	
Interim Final Rule	06/01/87	52 FR 20524
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Rm S3502, FP Bldg., Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AA43

1900. PROCEDURES FOR PREDETERMINATION OF WAGE RATES (29 CFR PART 1) AND LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5)

Priority: Economically Significant

Legal Authority: 40 USC 276a to 276a(7)

CFR Citation: 29 CFR 1; 29 CFR 5

Legal Deadline: None

Abstract: The Department attempted to implement revised rules governing the circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act in May 1982 (see 47 FR 23644, 23658 (May 28, 1982); 47 FR 32090 (July 20, 1982)). After protracted litigation, a final rule was published in January 1989 (see 54 FR 4234) which became effective on February 4, 1991. Thereafter, on two occasions, Congress acted to prevent the Department from expending any funds to implement these revised helper regulations--through the Dire Emergency Supplemental Appropriations Act of 1991, PL 102-27, 105 Stat. 130,151 (1991), and then through section 104 of the DOL Appropriations Act of 1994, PL 103-112. Given the uncertainty of continuation of such moratoriums, the Department has determined that the helper issue may need to be addressed through rulemaking.

Statement of Need: The current helper rules are difficult to administer and enforce, and--as evidenced by the prolonged litigation history and subsequent Congressional actions--are highly controversial. In May 1982, the Department attempted to implement revised rules governing the circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act. After protracted litigation, a final rule was published in January 1989 and became effective on February 4, 1991. Thereafter, on two occasions, Congress acted to prevent the Department from expending any funds to implement these revised helper regulations through appropriations riders. Given the uncertainty of continuation of such moratoriums, the Department has determined that the helper issue may need to be addressed through further rulemaking.

Alternatives: The Administration has determined that there are only limited alternatives to addressing this issue through rulemaking, in addition to possible legislative changes. Specific regulatory alternatives have not yet been developed pending current appropriations actions in the Congress.

Anticipated Costs and Benefits: A new rulemaking regarding the helper criteria

will seek to make administration of the Davis-Bacon Act more efficient by establishing reasonable "helper" criteria and methodology--thus resolving the controversy and uncertainty currently experienced by interested parties. Changes in the helper regulations may affect prior estimates of potential construction procurement cost savings anticipated from the earlier rulemaking. Estimates of the financial impacts of revised "helper" regulations will be prepared for inclusion in the NPRM.

Risks: This action does not affect public health, safety, or the environment.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AA94

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Completed Actions

1901. ATTESTATIONS BY EMPLOYERS FOR OFF-CAMPUS WORK AUTHORIZATION FOR ALIEN STUDENTS (F-1 NONIMMIGRANTS)

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-649, Sec 221(a); 104 Stat 4978 and 5027; PL 102-232

CFR Citation: 29 CFR 508

Legal Deadline: Final, Statutory, October 1, 1991.

Abstract: This rule implements regulations governing the filing and enforcement of attestations by employers seeking to use aliens admitted as students on F-1 visas (hereafter F-1 student) in off-campus work. Under the Immigration and Nationality Act (INA), as amended by the Immigration Act of 1990, employers are required to submit these attestations to DOL and the educational institution in order for such students, if otherwise qualified, to receive work authorizations from the Attorney General. The attestation process has been administered by ETA, while complaints and investigations regarding violations are handled by ESA. Statutory authority for the initial program expired on September 30, 1994, but on October 25, 1994, Public Law 103-416 revived and extended the program through September 30, 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/06/91	56 FR 56860
Joint Interim Final Rule	12/15/94	59 FR 64776
Extension of Joint Interim Final Rule	06/30/95	60 FR 34132
Extension of Joint Interim Final Rule	07/31/95	60 FR 38957
Extension of Joint Interim Final Rule	09/27/95	60 FR 49753
Final Action	11/29/95	60 FR 61209
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Bldg., Washington, DC 20210
Phone: 202 219-8305
Fax: 202 210-5122

RIN: 1215–AA68

1902. TRAINING WAGE AND SEASONAL INDUSTRY PROVISIONS OF THE FAIR LABOR STANDARDS ACT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 101-157, sec 6; 103 Stat 938; 29 USC 210 et seq; 52 Stat 1060, sec 1; 29 USC 201; 29 USC 207

CFR Citation: 29 CFR 517; 29 CFR 526

Legal Deadline: None

Abstract: The regulations at 29 CFR parts 517 and 526 were promulgated under the Fair Labor Standards Act. These regulations implement provisions of the Act which have expired or have been repealed by subsequent amendments. The training wage authorization under 29 CFR Part 517 expired March 31, 1993, and the partial exemptions from the Act's overtime requirements for employees in industries of a seasonal nature or for employees in industries with annual recurring seasonal peaks of operation were repealed by the 1974 amendments effective December 31, 1976. The regulations do not affect the current operations of any program and are being removed from the CFR.

Timetable:

Action	Date	FR Cite
Final Action	10/26/95	60 FR 54804
Final Action Effective	11/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB04

1903. WORKERS EMPLOYED IN SEASONAL AGRICULTURAL SERVICES UNDER SECTION 210A OF THE IMMIGRATION AND NATIONALITY ACT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 8 USC 1160; 8 USC 1161; 8 USC 1801 et seq

CFR Citation: 29 CFR 502; 29 CFR 503

Legal Deadline: None

Abstract: The regulations at 29 CFR parts 502 and 503 were promulgated under section 210A of the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986 (ICRA), and implement requirements of a special program for aliens in seasonal agricultural services which ended with fiscal year 1992, or September 30, 1992. The regulations do not affect the current operation of any program and are being removed from the CFR.

Timetable:

Action	Date	FR Cite
Final Action	10/26/95	60 FR 54803
Final Action Effective	11/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maria Echaveste, Administrator, Wage and Hour Division, Department of Labor, Employment Standards Administration, 200 Constitution Avenue NW., Room S3502, FP Building, Washington, DC 20210
Phone: 202 219-8305
Fax: 202 219-5122

RIN: 1215–AB05

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Proposed Rule Stage

1904. JOB TRAINING PARTNERSHIP ACT: INDIAN AND NATIVE AMERICAN PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Title IV, sec 401 of the JTPA

CFR Citation: 20 CFR 632; 20 CFR 636

Legal Deadline: None

Abstract: The purpose of title IV, section 401 of the Job Training Partnership Act is to provide job training and employment activities to Indians and other Native Americans. Such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives for the communities and groups served by this section, including furtherance of the policy of Indian Self-Determination.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	
Final Action	02/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Tribal

Agency Contact: Paul A. Mayrand, Director, Office of Special Targeted Program, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4641, FP Building, Washington, DC 20210
Phone: 202 219-5500

RIN: 1205–AA96

1905. JOB TRAINING PARTNERSHIP ACT: MIGRANT AND SEASONAL FARMWORKER PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Title IV, sec 402 of the JTPA

CFR Citation: 20 CFR 633; 20 CFR 636

Legal Deadline: None

Abstract: It is the purpose of title IV, section 402, of the Job Training Partnership Act to provide job training, employment opportunities, and other services for those individuals who suffer chronic seasonal unemployment and underemployment in the agriculture industry. These conditions have been substantially aggravated by continual advancements in technology and mechanization, resulting in displacement, and contribute significantly to the Nation's rural employment problem. This problem is Federal in scope. No alternative solutions are under consideration at this time. Benefits include fuller rural employment. Over $75 million is appropriated annually by Congress for this program. This rule would implement changes made by the 1992 amendments to JTPA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul A. Mayrand, Office of Special Targeted Programs, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4641, FP Building, Washington, DC 20210
Phone: 202 219-5500

RIN: 1205–AA99

1906. DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM, AMENDMENT TO REGULATIONS

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 5177; EO 12673

CFR Citation: 20 CFR 625

Legal Deadline: None

Abstract: Experience in several recent disasters has highlighted the complexity and time-consuming nature of the monetary benefit provisions of the current regulations and brought into question other provisions of the current regulations which are perceived to be unduly restrictive and/or result in perceived inequities in some disaster situations. These issues will be addressed in two stages. First, an ANPRM was published, with a 60-day comment period, on 12/08/94 at 59 FR 63670. This ANPRM outlined provisions in the Disaster Unemployment Assistance (DUA) program regulations (20 CFR Part 625), other than the monetary benefit provisions, that have come into question and solicits public comment and suggestions relative to these provisions and on other provisions for review and potential revision in a future NPRM. Second, an interim final rule was published May 11, 1995, with a 60-day comment period. This rule simplified the monetary assistance provisions by removing cumbersome

DOL—ETA — Proposed Rule Stage

administrative provisions and inconsistencies in the computation of a weekly amount. A final rule will be published to incorporate comments and other minor technical amendments.

Timetable:

Action	Date	FR Cite
ANPRM	12/06/94	59 FR 63670
ANPRM Comment Period End	02/06/95	
Interim Final Rule	05/11/95	60 FR 25560
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	
Final Action	11/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: Robert Gillham, Chief, Federal Programs Group, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Washington, DC 20210
Phone: 202 219-5312

RIN: 1205–AB02

1907. AMENDMENTS TO THE LABOR CERTIFICATION PROCESS FOR TEMPORARY AGRICULTURAL EMPLOYMENT IN THE UNITED STATES (H-2A)

Priority: Other Significant

Legal Authority: 8 USC 1101(a)(H)(ii)(a); 8 USC 1184(c)

CFR Citation: 20 CFR 655 subpart B

Legal Deadline: None

Abstract: Based on six years of experience with the current regulations, the Department has concluded that they should be amended to clarify a number of regulatory provisions to simplify the administration of the program, and to provide additional protection to U.S. workers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Flora Richardson, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4456, FP Building, Washington, DC 20210
Phone: 202 219-4369

RIN: 1205–AB09

1908. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; UNEMPLOYMENT INSURANCE PERFORMANCE SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 503(a)(1); 42 USC 503(a)(6); 42 USC 503(b)

CFR Citation: 20 CFR 602; 20 CFR 640; 20 CFR 650

Legal Deadline: None

Abstract: This regulation will formally establish a comprehensive system for helping ensure continuous improvement in UI operational performance. It will enunciate as the system's building blocks principles for Federal and State cooperation, key nationwide performance measures, criteria distinguishing satisfactory from unsatisfactory performance, an annual planning process, and actions which the Department may take when a State fails to perform satisfactorily. This regulation will be as brief and general as possible; detail and measures, standards, criteria and plans will be contained in implementing handbooks.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Virginia Chupp, Chief, Division of Legislation, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room S4015, FP Building, Washington, DC 20210
Phone: 202 219-5220
Fax: 202 219-8506

RIN: 1205–AB10

1909. • LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS; RESEARCHERS EMPLOYED BY COLLEGES AND UNIVERSITIES

Priority: Other Significant

Legal Authority: 8 USC 1182(a)(5)(A)

CFR Citation: 20 CFR 656.40

Legal Deadline: None

Abstract: The Employment and Training Administration is proposing to amend its regulations relating to labor certification for permanent employment of immigrant aliens in the United States. The proposed amendments would change the way prevailing wage determinations are made for researchers employed by colleges and universities. The amendments would also change the way prevailing wages are determined for colleges and universities filing H-1B labor condition applications on behalf of researchers, since the regulations governing prevailing wage determinations for the permanent are followed in determining prevailing wages for the H-1B program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Beverly, Deputy Director, U.S. Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4470, FP Building, Washington, DC 20210
Phone: 202 219-5257
Fax: 202 219-6643
Email: Beverlyj@doleta.gov

RIN: 1205–AB11

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA) — Final Rule Stage

1910. ATTESTATIONS BY EMPLOYERS USING ALIEN CREWMEMBERS FOR LONGSHORE ACTIVITIES IN U.S. PORTS, THE ALASKA EXCEPTION

Priority: Other Significant

Legal Authority: PL 103-98, sec 8; PL 103-206, sec 323

CFR Citation: 29 CFR 655 subparts F and G; 29 CFR 506 subparts F and G

Legal Deadline: None

Abstract: This proposed rule is necessary because of amendments to section 258 of the Immigration and Nationality Act. Section 258 establishes a general prohibition on the prohibition of longshore work by alien crewmen. The amendment of section 258 establishes an "Alaska exception" whereby employees in Alaska would be permitted to use an alien crewmen after: (1) requesting a dispatch of U.S. longshoremen from qualified stevedoring companies and private dock operators; and (2) determining that U.S. longshore workers are not available in sufficient numbers from those resources in response to a request for dispatch.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/95	60 FR 3920
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John M. Robinson, Deputy Assistant Secretary, U.S. Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4470, FP Building, Washington, DC 20210
Phone: 202 219-5257

RIN: 1205–AB03

1911. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—IMPLEMENTATION OF 1988 AMENDMENTS

Priority: Other Significant

Legal Authority: 19 USC 2320

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: The final rule implementing the 1988 Amendments to the TAA program was published in the Federal Register on January 6, 1994. Although published as final, comments were requested on several material changes, being made in the final rule which differ from the November 1988 proposed rule and on a number of other changes which were not included in the proposed rule. Comments have been received and another final rule will be published relating to these substantive changes.

Timetable:

Action	Date	FR Cite
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Columbo, Director, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 219-5555

RIN: 1205–AB05

1912. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—TRANSITIONAL ADJUSTMENT ASSISTANCE NAFTA-TAA

Priority: Other Significant

Legal Authority: PL 103-182 title V

CFR Citation: 20 CFR 617

Legal Deadline: Final, Statutory, January 1, 1995.
Final regulation to be issued to the maximum extent feasible by 12/31/95.

Abstract: Title V of the North American Free Trade Agreement Implementation Act (PL 103-182) amends Chapter 2 of Title II of the Trade Act of 1974 by adding a new Transitional Adjustment Assistance Program (NAFTA-TAA) for workers who lose their jobs because of increased imports from or a shift of production to Mexico and Canada. Most of the provisions of Title V are in the form of amendments to Chapter 2, Title II, of the Trade Act. While some of the provisions are not in the form of amendments to the Trade Act, they nonetheless must be given effect in implementing the NAFTA-TAA program. A proposed rule to amend the regulations on the trade adjustment assistance program for workers was published in the Federal Register on January 17, 1995. Comments on this proposed rule are requested before March 20, 1995.

Timetable:

Action	Date	FR Cite
NPRM	01/17/95	60 FR 3472
NPRM Comment Period End	03/20/95	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Columbo, Director, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4318, FP Building, Washington, DC 20210
Phone: 202 219-5555

RIN: 1205–AB07

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA) — Long-Term Actions

1913. AIRLINE DEREGULATION: EMPLOYEE BENEFIT PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 1552

CFR Citation: 20 CFR 618

Legal Deadline: None

Abstract: U.S. District Court for the District of Columbia held that Section 43 of the Airline Deregulation Act was unconstitutional. On July 16, 1985, the U.S. Court of Appeals decided that the employee protection provisions of Section 43 were severable from the legislative veto provisions. The U.S. Supreme Court ruled on March 25, 1987 that the legislative veto provisions were unconstitutional but the first right-to-hire provisions were constitutional, therefore, rulemaking can proceed on the monetary benefits aspect of the employee protection provisions. In 1991 the DOT determined there were no job losses due to deregulation. In September 1993,

the U.S. District Court for the District of Columbia ordered the DOT to develop broader guidelines to apply to the air carriers, which may result in a finding of job losses due to deregulation. Rulemaking is pending Departmental review of the monetary provisions of the employee protection program due to the provision in S.143 repealing this program

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: Next action is undetermined pending Departmental review due to provision repealing Airline Employee Protection Program contained in S.143.

Agency Contact: Sandra T. King, Chief, Division of Program Development and Implementation, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C4514, FP Bldg., Washington, DC 20210
Phone: 202 219-5309

RIN: 1205–AA07

1914. SERVICES TO MIGRANT AND SEASONAL FARMWORKERS, JOB SERVICE COMPLAINT SYSTEM, MONITORING, AND ENFORCEMENT

Priority: Other Significant

Legal Authority: 29 USC 49k

CFR Citation: 20 CFR 653; 20 CFR 658; 20 CFR 651

Legal Deadline: None

Abstract: ETA is reviewing services to migrant and seasonal farmworkers under the Wagner-Peyser Act as a result of amendments to Wagner-Peyser under Title V of the Job Training Partnership Act. It is anticipated that an ANPRM will be published and subsequent rulemaking may result.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: John R. Beverly, Deputy Director, USES, Department of Labor, Employment and Training Administration, 200 Constitution Ave. NW., Rm N4470, FP Building, Washington, DC 20210
Phone: 202 219-8174

RIN: 1205–AA37

1915. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: INA 212(a)(5)(A)

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: The Department of Labor (DOL) is currently re-engineering the labor certification process that is set forth in DOL regulations at 20 CFR 656. DOL's goals are to make fundamental changes and refinements that will (a) better serve customers, (b) streamline the process, (c) improve effectiveness, and (d) save resources. The re-engineering effort is a collaborative effort of Federal and State staff who are involved in the administration of alien certification programs. The re-engineering effort also involves consultation throughout the process with sponsors, stakeholders, State partners, and outside interest groups to solicit ideas and suggestions for change.

Statement of Need: The labor certification process has been criticized as being complicated and time-consuming. It can take up to 2 years or more to complete the process; the process requires substantial government resources to administer, and it is reportedly costly and burdensome to employers. The Employment and Training Administration (ETA), therefore, is reexamining the effectiveness of the various regulatory requirements and the application processing procedure, with a view to achieving considerable savings in resources both for the Government and employers, without diminishing the significant protections now afforded U.S. workers by the current regulatory and administrative requirements.

Summary of the Legal Basis: Before the Department of State and the Immigration and Naturalization Service may issue visas and admit certain immigrant aliens to work permanently in the United States, the Secretary of Labor, pursuant to section 212(a)(5)(A) of the Immigration and Nationality Act (INA), must certify to the Secretary of State and to the Attorney General that: (a) there are not sufficient U.S. workers who are able, willing, qualified, and available at the time of the application for a visa and admission into the United States and at the place where the alien is to work: and (b) the employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers (8 USC 1182(a)(5)(A)). The Department of Labor has promulgated regulations at 20 CFR 656 pursuant to and to implement section 212(a)(5)(A) of the INA. These regulations set forth the fact-finding process designed to support the granting or denial of a permanent labor certification.

Anticipated Costs and Benefits: As indicated above, it is anticipated that the re-engineering effort will result in significant cost savings to the Government and to the regulated community. DOL will be able to provide a more precise estimation of anticipated cost reductions after the re-engineering of the permanent labor certification process is completed.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Flora Richardson, Chief, Division of Foreign Labor Certifications, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N4456, FP Building, Washington, DC 20210
Phone: 202 219-5263

RIN: 1205–AA66

1916. QUALIFIED DOMESTIC RELATIONS ORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1056(d)(3)(L); 29 USC 1135

CFR Citation: 29 CFR 2530

Legal Deadline: None

Abstract: This regulation would clarify the application of the qualified domestic relations order provisions of section 206(d)(3) of ERISA and related provisions contained in section 414(p) of the Internal Revenue Code which were added by the Retirement Equity Act of 1984.

Timetable:

Action	Date	FR Cite
ANPRM	10/21/93	58 FR 54444
Extension of Comment Period	01/12/94	58 FR 1692
ANPRM Comment Period End	02/18/94	
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Lahne, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave. NW., Rm N5669, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210–AA19

1917. REMOVAL OF OBSOLETE REGULATIONS AND INTERPRETIVE BULLETINS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 29 USC 1135; 29 USC 1021 to 1025; 29 USC 1029 to 1031; 29 USC 1107; 29 USC 1112; 29 USC 1114

CFR Citation: 29 CFR 2509; 29 CFR 2520; 29 CFR 2550

Legal Deadline: None

Abstract: PWBA plans to propose the removal from the Code of Federal Regulations certain regulations and interpretive bulletins under the Employee Retirement Income Security Act of 1974 (ERISA) that have been determined to be obsolete and unnecessary. Many of these obsolete regulations and interpretive bulletins provided transitional rules to assist plan sponsors, plan administrators, and others subject to the requirements of title I of ERISA, in coming into compliance with ERISA's requirements following ERISA's enactment in 1974.

Timetable:

Action	Date	FR Cite
NPRM	04/03/96	61 FR 14690
NPRM Comment Period End	06/03/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Katherine D. Lewis, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210–AA51

1918. REVISION OF THE FORM 5500 SERIES AND IMPLEMENTING AND RELATED REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1021; 29 USC 1022; 29 USC 1023; 29 USC 1024; 29 USC 1025; 29 USC 1026; 29 USC 1027; 29 USC 1029; 29 USC 1030; 29 USC 1059; 29 USC 1135; 29 USC 1166; 29 USC 1168

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Each year, pension and welfare benefit plans subject to title I of ERISA are generally required to file an annual return/report, the Form 5500 Series, regarding their financial condition, investments, and operations. The Form 5500 Series is the primary source of information concerning the operation, funding, assets, and investments of pension and other employee benefit plans. The Form 5500 Series is not only an important compliance and research tool for the Department, but is also a disclosure document for plan participants and beneficiaries and a source of information and data for use by other Federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies. As part of the President's Pension Simplification proposal, the agencies are undertaking a comprehensive review of the annual return/report forms in an effort to streamline the information required to be reported and the methods by which such information is filed and processed.

Statement of Need: In the 20 years since Congress enacted ERISA to protect pension and other employee benefit promises made to employees, the laws and regulations have become more complex. There are many reasons for this: the desire for employers to have a high degree of flexibility in designing plans that best suit their work force; policies designed to ensure that all employees receive tax and savings benefits from retirement and other benefit plans that are comparable to those available to highly compensated employees and business owners; the need to protect the integrity of Federal tax revenues; and the prevention of tax-shelter abuses.

While each of these causes may have merit, and the private sector employee benefit system has been greatly strengthened as a result of ERISA, the cumulative result--together with frequent legislative changes--has been to raise compliance and administrative costs to a level that has created a disincentive for employers, and particularly small employers, to offer pension and other benefit plans to their employees.

A source of complexity and costs has been the Form 5500 Annual Return/Report Series, which is filed annually by an estimated 750,000 employee benefit plans. The Form 5500 Series is a joint Department of Labor, Internal Revenue Service, and Pension Benefit Guaranty Corporation form and serves as the principal source of financial information and data available to the Agencies, and participants and beneficiaries, concerning the operations of employee benefit plans. The proposed revision to the Form 5500 Series is being coordinated with the Internal Revenue Service, the Treasury Department, and the Pension Benefit Guaranty Corporation as part of the

process of implementing the President's pension simplification proposal.

Title I of ERISA, sections 101 through 105, 107, 209, and 606, impose specific reporting and disclosure obligations on administrators of employee benefit plans. Section 104(a)(3) and 110 of ERISA provide the Secretary with the authority to prescribe exemptions and alternative methods of compliance for employee welfare benefit plans and employee pension benefit plans. Section 505 provides the Secretary with general authority to prescribe regulations necessary or appropriate to carry out the provisions of Title I of ERISA.

Alternatives: The annual reporting requirement could be left unaltered. However, the Pension and Welfare Benefits Administration (PWBA) believes that compliance with the requirement may be facilitated without harming the security of the employment-based benefits system. Simplifying the Form 5500 Series is one step in improving ERISA's reporting and disclosure system. This initiative includes revision of the Form 5500 Series and related regulations. Filer costs from preparing forms and government costs for processing the Form 5500 Series can be reduced while enhancing the ability of the Government to protect workers' benefits by receiving more accurate and timely information on the operation, funding, investments, usefulness, and safety of employee pension and welfare benefit plans.

Anticipated Costs and Benefits: Meaningful burden hour, and cost reductions can be achieved only through an integrated implementation of changes to both the Form 5500 Series and the processing system. By simplifying the Form 5500 and creating an automated processing system for the filed reports, it is anticipated that filer costs of preparing forms, as well as Government processing costs, will be reduced. It is the goal of the Department to eliminate reporting requirements for information that is not needed to discharge its statutory responsibilities, while ensuring that participants and beneficiaries have access to the information they need to protect their rights and benefits under ERISA.

Risks: The Form 5500 Series is part of ERISA's reporting and disclosure framework, which is intended to assure that employee benefit plans are operated and managed in accordance with certain prescribed standards and that participants and beneficiaries, as well as regulators, are provided or have access to sufficient information to protect the rights and benefits of participants and beneficiaries under employee benefit plans. Better focused annual reporting, through regulatory changes, should serve to facilitate compliance by plan administrators, thereby reducing litigation and penalty risks to plan administrators, fiduciaries, and sponsors, without increasing risks of benefit losses by participants and beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210–AA52

DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA)
Final Rule Stage

1919. DEFINITION OF COLLECTIVE BARGAINING AGREEMENT (ERISA SECTION 3(40))

Priority: Other Significant

Legal Authority: 29 USC 1002(40)

CFR Citation: 29 CFR 2510.3-40

Legal Deadline: None

Abstract: The regulation will establish standards for determining whether an employee benefit plan is established or maintained pursuant to one or more collective bargaining agreements for purposes of its exclusion from the Multiple Employer Welfare Arrangement (MEWA) definition in section 3(40) of ERISA, and thus exempted from state regulation. The regulation will clarify the scope of the exception from the MEWA definition for plans maintained under or pursuant to one or more collective bargaining agreements by providing criteria which will serve to distinguish health benefit arrangements which are maintained by legitimate unions pursuant to bona fide collective bargaining agreements from health insurance arrangements promoted and marketed under the guise of ERISA-covered plans exempt from state insurance regulation. The regulation will also serve to limit the extent to which health plans maintained pursuant to bona fide collective bargaining agreements may extend plan coverage to individuals not covered by such agreements.

Timetable:

Action	Date	FR Cite
NPRM	08/01/95	60 FR 39208
NPRM Comment Period Extended to 11/16/95	09/29/95	60 FR 50508
NPRM Comment Period End	10/02/95	60 FR 39208
Final Action	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Connor, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N-5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA48

1920. INTERPRETIVE BULLETIN ON PARTICIPANT EDUCATION

Priority: Other Significant

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2509

Legal Deadline: None

Abstract: This interpretive bulletin will provide guidance to plan sponsors, fiduciaries, participants and beneficiaries concerning the circumstances under which the provision of investment-related educational information, programs and materials to plan participants and

beneficiaries will not give rise to fiduciary liability under ERISA.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bette Briggs, Supervisory Pension Law Specialist, Office of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA50

1921. • REGULATIONS RELATING TO DEFINITION OF PLAN ASSETS: PARTICIPANT CONTRIBUTIONS

Priority: Other Significant

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2510.3-102

Legal Deadline: None

Abstract: This regulation will revise the definition of when participant monies paid to or withheld by an employer for contribution to an employee benefit plan, including a plan complying with section 401(k) of the Internal Revenue Code, constitute "plan assets" for purposes of Title I of ERISA. In addition to making clear that participant contributions become plan assets as soon as they can reasonably be segregated from the employer's general assets, the regulation will shorten the 90-day maximum period permitted under the current regulation for segregation of participant contributions from the employers' general assets.

Timetable:

Action	Date	FR Cite
NPRM	12/20/95	60 FR 66036
Public Hearing Scheduled 2/22/96	01/24/96	61 FR 1879
NPRM Comment Period End	02/05/96	
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Rudy Nuissl, Supervisory Pension Law Specialist, Office of Regulations and Interpretations, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210–AA53

DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA)
Long-Term Actions

1922. ADEQUATE CONSIDERATION

Priority: Other Significant

Legal Authority: 29 USC 1002(3)(18); 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes "adequate consideration" under section 3(18) of ERISA for assets other than securities for which there is a generally recognized market.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17632
NPRM Comment Period End	07/18/88	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Mannina, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N4611, FP Building, Washington, DC 20210
Phone: 202 219-4592

RIN: 1210–AA15

1923. CIVIL PENALTIES UNDER ERISA SECTION 502(L)

Priority: Other Significant

Legal Authority: 29 USC 1132

CFR Citation: 29 CFR 2570.80 (Procedural); 29 CFR 2560.502(l)-1 (Substantive)

Legal Deadline: None

Abstract: Section 502(l) of ERISA requires the Secretary of Labor to assess a civil penalty against a fiduciary who breaches a fiduciary duty under, or commits a violation of, part 4 of Title I of ERISA, or any other person who knowingly participates in such breach or violation. The Department has published an interim rule setting forth the procedures for the assessment of penalties under ERISA section 502(l) and for petitioning the Secretary to exercise his or her discretion to waive or reduce the mandated assessment, as well as a proposed rule that defines the following pivotal terms contained in section 502(l): "applicable recovery amount," "breach of fiduciary responsibility or violation," "settlement agreement," and "court order." The Department intends to finalize these two regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/20/90	55 FR 25284
Interim Final Rule	06/20/90	55 FR 25284
NPRM Comment Period End	08/20/90	55 FR 25284

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Vicki Shtelr-Dunn, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N4611, FP Building, Washington, DC 20210
Phone: 202 219-8610

RIN: 1210–AA37

1924. REPORTING AND DISCLOSURE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

DOL—PWBA

Long-Term Actions

Legal Authority: 29 USC 1135; 29 USC 1029; 29 USC 1143; 29 USC 1021; 29 USC 1022; 29 USC 1024; 29 USC 1025; 29 USC 1059

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: PWBA has undertaken a comprehensive review of the current reporting and disclosure framework to identify changes that will serve to assure the disclosure of useful and timely information, while eliminating any unnecessary administrative burdens and costs on plans and plan sponsors attendant to compliance with these requirements. As an initial step in this process, PWBA solicited comments, recommendations and information from the public concerning the need for regulatory and legislative changes in the disclosure area. PWBA concluded that only marginal changes to the disclosure requirements can be accomplished through the regulatory process and, therefore, reform efforts should focus on regulatory changes relating to the streamlining of the Form 5500 Series, and related annual reporting regulations, in addition to possible legislative changes to both the reporting and disclosure provisions.

Timetable:

Action	Date	FR Cite
ANPRM	12/27/93	58 FR 68339
ANPRM Comment Period End	02/25/94	
End Review	06/30/95	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N5669, FP Building, Washington, DC 20210
Phone: 202 219-7461

RIN: 1210–AA44

DEPARTMENT OF LABOR (DOL)
Office of the American Workplace (OAW)

Long-Term Actions

1925. REPORTING BY LABOR RELATIONS CONSULTANTS AND OTHER PERSONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 433; 29 USC 438

CFR Citation: 29 CFR 406.3

Legal Deadline: None

Abstract: The Office of Labor-Management Standards (OLMS) is proposing to amend Receipts and Disbursements Report (Form LM-21) to narrow the scope of reporting. A Receipts and Disbursements Report is required in the circumstances specified in Section 203(b) of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). It is required to be filed by any labor relations consultant, or other individual or organization, who has made or received payment as a party to an agreement or arrangement with an employer, pursuant to which he has undertaken persuader or information-supplying activities on behalf of the employer. The proposed amendment would reflect reporting guidelines established in Donovan v. The Rose Law Firm, 768 F.2d 964 (8th Cir. 1985). This judicial decision narrowed the scope of reporting to eliminate reporting of receipts and disbursements in connection with labor relations advice and services rendered to employers for whom no persuader or information-supplying activities were undertaken.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, Department of Labor, Office of the American Workplace, 200 Constitution Avenue NW., Room N5605, FP Building, Washington, DC 20210
Phone: 202 219-7373
Fax: 202 219-6459

RIN: 1294–AA12

DEPARTMENT OF LABOR (DOL)
Office of the American Workplace (OAW)

Completed Actions

1926. ELIGIBILITY REQUIREMENTS FOR CANDIDACY FOR UNION OFFICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 481; 29 USC 482

CFR Citation: 29 CFR 452.38

Legal Deadline: None

Abstract: The OAW has revised the Department's regulation on the reasonableness of a union's meeting attendance requirement for union officer candidacy to reference the decision of the D.C. Circuit Court in Doyle v. Brock, 821 F.2d 788 (1987). 29 CFR 452.38 currently provides that the reasonableness of a union rule requiring candidates to have attended a specified number of membership meetings during the period immediately preceding the election must be gauged in the light of all the circumstances of the particular case, including the impact of the rule (i.e., the number or percentage or members disqualified by its application). A new footnote summarizes the holding in Doyle that a meeting attendance requirement may be unreasonable solely because it disqualifies a large portion of members from candidacy.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/94	59 FR 30834
ANPRM Comment Period End	08/15/94	
NPRM	05/17/95	60 FR 26388
NPRM Comment Period End	07/17/95	
Final Action	11/14/95	60 FR 57177
Final Action Effective	12/14/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, Department of Labor, Office of the American Workplace, 200 Constitution Avenue NW., Room N5605, FP Building, Washington, DC 20210
Phone: 202 219-7373

RIN: 1294–AA09

DOL—OAW

Completed Actions

1927. GUIDELINES, SECTION 5333(B), FEDERAL TRANSIT LAW

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5333(b) Federal Transit Law

CFR Citation: 29 CFR 215

Legal Deadline: None

Abstract: The Office of the American Workplace proposes to revise the guidelines concerning its procedures for administering Section 5333(b) of the Federal Transit law, commonly known as Section 13(c). These revised guidelines will replace the existing guidelines in their entirety. Section 5333(b) requires that certain protective arrangements for transit employees be in place as a condition of Federal financial assistance for transit projects. The proposed changes have been developed to standardize the certification process, thereby insuring certification of protective arrangements in a prompt manner after an application has been submitted, and to make the certification process more predictable for the parties involved.

Timetable:

Action	Date	FR Cite
NPRM	06/29/95	60 FR 34072
NPRM Comment Period End	07/31/95	
Final Action	12/07/95	60 FR 62984
Final Action Effective	01/29/96	61 FR 2117

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This effort was not part of a formal reinventing government activity, but it is designed specifically to reduce the regulatory burden and streamline requirements.

Agency Contact: Charles L. Smith, Deputy Assistant Secretary, Department of Labor, Office of the American Workplace, 200 Constitution Avenue NW., Room S2203, FP Building, Washington, DC 20210
Phone: 202 219-6045
Fax: 202 219-4315

RIN: 1294–AA14

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Prerule Stage

1928. ADVISORY COMMITTEE ON THE ELIMINATION OF PNEUMOCONIOSIS AMONG COAL MINERS

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 812; 5 USC app

CFR Citation: 30 CFR 70; 30 CFR 71; 30 CFR 90

Legal Deadline: None
The Committee will terminate 180 days from the date of its appointment.

Abstract: The Federal Coal Mine Health and Safety Act of 1969 established the first comprehensive respirable dust standards for coal mines. These standards were designed to reduce the incidence of coal workers' pneumoconiosis ("black lung") and silicosis and eventually eliminate these diseases. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners continue to be at risk of developing occupational lung disease, according to the National Institute for Occupational Safety and Health (NIOSH). On January 31, 1995, Secretary of Labor Robert Reich announced his intention to appoint an advisory committee to make recommendations for the elimination of black lung and silicosis among coal miners. The advisory committee convened in February 1996 and should deliver its recommendations to the Secretary by September 1996.

Timetable:

Action	Date	FR Cite
Recommendations Expected	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA81

1929. SURFACE HAULAGE

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 77

Legal Deadline: None

Abstract: Accidents involving surface haulage equipment constitute a major safety problem in the mining industry. A review of fatal mining accidents during the past 3 years shows that 30% of the deaths involved surface haulage equipment. This equipment includes large 240 ton haulage vehicles, over-the-road trucks, front-end loaders, and other equipment. Causes of surface haulage accidents include brake failures, unsafe grades, overloaded vehicles, and "blindspots." To address this problem, MSHA intends to issue an advance notice of proposed rulemaking which would request information on the safe operation of surface haulage equipment and which would focus on these and other factors

linked to accidents involving surface haulage equipment.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA93

1930. SAFETY STANDARDS FOR THE USE OF ROOF BOLTING MACHINES IN UNDERGROUND COAL MINES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: Recent fatalities in underground coal mines involving roof-bolting machines indicate the need to both modify the design of such machines and take additional precautions in their use. MSHA has evaluated roof-bolting machines currently in use focusing on potential hazards to the machine operators during the drilling and roof-bolt installation procedures. MSHA believes that machine design features may contribute to or cause accidents, and that changes in machine design and operating procedures would make operating the equipment safer for the machine operator. The Agency intends to issue an Advance Notice of Proposed Rulemaking to obtain additional information and data on mine operators' experiences with these machines. The Agency is exploring the use of negotiated rulemaking to address this issue.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA94

DEPARTMENT OF LABOR (DOL)

Proposed Rule Stage

Mine Safety and Health Administration (MSHA)

1931. NOISE STANDARD

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71

Legal Deadline: None

Abstract: Many miners are exposed to noise levels that are at or near maximum levels currently permitted by Mine Safety and Health Administration (MSHA) regulations. Notwithstanding MSHA's enforcement of its current noise regulations, miners are continuing to incur hearing impairment. Data indicate that protective action needs to be taken at a lower noise level than is currently required. MSHA is developing a proposed rule that would establish uniform noise standards to apply to all mining, and which will consider requiring additional measures to protect miners, such as hearing protection and audiometric testing.

Statement of Need: MSHA's experience under its current standards for occupational exposure to hazardous noise levels indicates that current standards do not provide the protection intended. Many miners are exposed to noise levels that are near the maximum currently permitted by MSHA regulations. Notwithstanding MSHA's enforcement of existing noise standards, miners continue to suffer hearing impairment. This proposed rule will consider establishing a lower action level for requiring hearing protection and will address methods for controlling exposure. The proposed rule also will consider requiring hearing conservation programs to determine the effectiveness of control measures in reducing the amount of hearing damage in exposed miners.

In addition, MSHA's current noise standards for coal mines differ from those for metal and nonmetal mines. MSHA's proposed rule would provide consistent requirements for all mines.

Alternatives: MSHA published an advance notice of proposed rulemaking which requested industry comments and data on a number of issues. Based upon its own research and experience, and data and information submitted to the record, MSHA is considering numerous alternatives on a wide variety of complex issues. For example, MSHA is considering (a) the respective roles of personal hearing protection and engineering controls in controlling miners' exposures; (b) lowering the permissible exposure level; and (c) whether or not to require a hearing conservation program, including audiometric testing, exposure monitoring, and miner training. This proposed rule will be derived from MSHA's deliberations and decisions on these issues and alternatives.

Anticipated Costs and Benefits: Depending on the form of the rule, MSHA expects costs could be incurred for engineering controls, personal hearing protection, exposure monitoring, audiometric testing, training, and recordkeeping. The major benefit of implementing the protection sought would be an average annual reduction of several hundred cases of hearing impairment from occupational noise exposure in mining, assuming that existing exposure levels and the number of miners remained constant and that miners were exposed for 20 years at these levels. The scope and nature of the proposed rule is currently under development and, thus, estimates of costs and benefits are preliminary.

Risks:

Noise is a serious occupational hazard in the mining industry. Occupational exposure to loud noises results in hearing loss and hearing impairment, which affects both quality of life and functional capacity. The Agency believes that the health evidence forms a reasonable basis for proposing revisions to MSHA's existing noise standards. In addition, cases of hearing loss reported to MSHA indicate that a significant number of these miners received all of their noise exposure under existing standards.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/89	54 FR 50209
ANPRM Comment Period End	06/22/90	55 FR 6011
NPRM	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA53

1932. DIESEL PARTICULATE

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Epidemiological studies have found that diesel exhaust presents potential health risks to workers. These possible health effects range from headaches and nausea to respiratory disease and cancer. In 1988, the National Institute for Occupational Safety and Health recommended that "whole diesel exhaust be regarded as a potential occupational carcinogen." In addition, in 1989 the International Agency for Research on Cancer concluded that "diesel engine exhaust is probably carcinogenic to humans."

In 1988, a Secretarial advisory committee made recommendations to the Secretary of Labor concerning safety and health standards for the use of diesel-powered equipment in underground coal mines. One of the recommendations was for the Secretary of Labor to set in motion a mechanism whereby a diesel particulate standard could be set. Based on that recommendation, the Mine Safety and Health Administration (MSHA) published an advance notice of proposed rulemaking, in January 1992, seeking information relative to exposure limits, risk assessment, sampling and monitoring methods, and control feasibility. Because of the potential health risk to miners from exposure to diesel particulate, MSHA is investigating a variety of approaches that would control the exposure of miners to diesel particulate.

Timetable:

Action	Date	FR Cite
ANPRM	01/06/92	57 FR 500
ANPRM Comment Period End	07/10/92	57 FR 7906
NPRM	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA74

1933. BELT ENTRY USE AS INTAKE AIRCOURSES TO VENTILATE WORKING SECTIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: Since 1970, Mine Safety and Health Administration (MSHA) regulations have generally prohibited belt haulage entries from being used to ventilate active working places. The intention of this prohibition is to prevent smoke from a belt conveyor fire from being coursed to miners in their workplace. Improved technology, including sophisticated atmospheric monitoring systems, has since made it possible to safely use "belt air" to ventilate active working places. This rulemaking would permit the use of belt air, provided that certain safety requirements are met. In many cases, the use of belt air may result in more efficient and effective ventilation systems, enhancing the health and safety of miners. Additionally, because this regulation will eliminate the need for mine operators to seek regulatory variances from MSHA, costs and burdens on both industry and MSHA will be reduced.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	06/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A public hearing was held in April 1990.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA76

1934. SAFETY STANDARD REVISIONS FOR UNDERGROUND ANTHRACITE MINES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: There are two major types of coal mines – bituminous and anthracite. The mining methods used and hazards encountered in underground anthracite mines are significantly different from underground bituminous coal mines. Mining methods in anthracite mines include minimal use of mechanized

equipment, slow rate of advance into the coal seam, pitching and undulating seams, and non-explosiveness of coal dust. Because of these differences, some mine operators find it difficult to comply with existing safety standards at their anthracite mines. These individual anthracite mine operators must request a variance from existing standards to change the requirements. The variance process costs time and money. Because anthracite mines are usually small operations, this burden can be significant. MSHA has received 300 variance requests from anthracite mine operators since January 1993. MSHA intends to issue a proposed rule to modify several existing safety standards to address more appropriately the specific conditions of the anthracite mining industry.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd, Room 631, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551

RIN: 1219–AA96

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Mine Safety and Health Administration (MSHA)

1935. DIESEL-POWERED EQUIPMENT FOR UNDERGROUND COAL MINES

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 7; 30 CFR 70; 30 CFR 75

Legal Deadline: None

Abstract: The use of diesel-powered equipment in underground coal mines poses a risk of fire or explosion from two sources: internal combustion engines that introduce an ignition source into an environment where methane can be present; and underground handling and storage of diesel fuel. The Mine Safety and Health Administration (MSHA) currently has limited approval, safety, and health regulations that address the use of diesel-powered equipment in underground coal mines. In addition, some hazards are currently addressed in the mine ventilation plan. In 1988, a Secretarial advisory committee made recommendations concerning safety and health standards for the use of diesel-powered equipment in underground coal mines. In 1989, MSHA published a proposed rule based on those recommendations. This final rule will address criteria for the approval of diesel equipment and provisions for the safe use of such equipment in underground coal mines.

Statement of Need: The use of diesel-powered equipment is increasing steadily in underground coal mines across the United States, from 175 units in 30 mines in 1977 to more than 2,885 units in 170 mines in 1995. Given the current state of the industry and assuming no change in existing regulations, MSHA projects that the presence of diesel equipment in the industry would increase to about 3,520 units in 250 underground coal mines by the year 2000.

Currently, MSHA regulations do not specifically regulate this type of equipment, in contrast to other more conventional mining equipment. Diesel equipment in underground coal mines poses a risk of fire or explosion, as a result of the introduction of an ignition source (the diesel engine) into an environment that may contain methane gas. Poor fuel handling and fuel transfer procedures underground present significant fire hazards. Between 1979 and 1992, MSHA investigated 10 diesel-equipment-related fires in underground coal mines. Because of the methane gas and coal dust present in the underground coal mining environment, any fire presents a significant risk of loss of life. Without rules for the design, use, and maintenance of diesel-powered equipment, the Agency also lacks an effective means to regulate health and safety hazards associated with diesel equipment.

Under current regulations, diesel-powered equipment is not required to have a number of important safety features that have long been required on electric equipment, such as cabs and canopies (which protect equipment operators from roof falls), automatic emergency parking brakes, and methane monitors, which shut equipment off when methane concentrations reach certain levels.

In July 1988, a Federal advisory committee convened by the Secretary of Labor made recommendations to the Secretary concerning safety and health standards for the use of diesel-powered equipment in underground coal mines. Based on those recommendations, in 1989 MSHA published a proposed rule that: included criteria for the approval of diesel engines and other related equipment; addressed exposure limits, monitoring, and recordkeeping requirements for certain diesel emissions; and provided corresponding safety standards for the use of diesel-powered equipment in underground coal mines, including the safe storage and transport of diesel fuel and the training of mechanics. MSHA is working on a final rule which will provide increased protection for miners, allow for flexibility in control technology, and minimize recordkeeping requirements.

Alternatives: On January 6, 1992, MSHA published an advance notice of proposed rulemaking soliciting comments on the potential health effects from occupational exposure to diesel exhaust particulates, especially in the closed environment of the underground mine. MSHA has decided to continue to address the potential health effects from exposure to diesel particulates in a separate rulemaking.

MSHA considered third-party testing and certification of the results as an alternative to MSHA testing for the approval of diesel-powered equipment. The final rule may contain a combination of approaches to address this issue.

Anticipated Costs and Benefits: The scope and nature of the final rule is currently under development and, thus, final estimates of costs and benefits have not been determined. MSHA had made a preliminary assessment in 1989 that the proposed rule would have had an incremental annual impact of over $20 million on the mining industry. Subsequent estimates, however, project the incremental annual cost to be from $16 million to $35 million, depending upon the alternatives selected.

MSHA projects that one benefit of implementing this regulatory protection will be a reduction in the risk of fires and explosions, and corresponding injuries, resulting from the use of diesel-powered equipment in underground gassy mines, as well as a reduction in the incidence of potential adverse health effects that result from exposure to diesel exhaust.

The final rule also will encourage the use of advanced diesel technology, such as flame arresters, spark arresters, water scrubbers, and exhaust filters in the approval of diesel engine design, all of which would improve the safety and health of miners. Also, because some hazards are currently addressed in the mine ventilation plan, the final rule will reduce the resources and paperwork associated with the submission and approval of this aspect of the ventilation plan. It also will provide for more uniform requirements, resulting in more consistent enforcement.

Risks: The use of diesel-powered equipment in underground coal mines poses a risk of fire or explosion by introducing an ignition source through the engine itself and from the underground handling and storage of diesel fuel. Without rules for the design, use, and maintenance of diesel-powered equipment, the Agency lacks an effective means to control safety and health hazards associated with diesel-powered equipment in the confined environment of the underground coal mine.

Timetable:

Action	Date	FR Cite
NPRM	10/04/89	54 FR 40950
NPRM Comment Period End	05/10/91	56 FR 13404
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA27

1936. HAZARD COMMUNICATION

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Today's complex mining environment subjects miners to well-known hazards, such as coal mine dust and crystalline silica; to emerging hazards, including hazardous wastes burned as fuel supplements at cement kilns; and to changing hazards from the many chemicals brought onto mine property. This rule would provide miners with the means to receive necessary information on the hazards of chemicals to which they are exposed and the actions necessary to protect them from such hazards. In developing this rule, MSHA has reviewed OSHA's hazard communication standard, information collected by NIOSH, and public comments. For its final rule, MSHA intends to publish a user-friendly regulation which will facilitate compliance by mine operators, while providing increased health and safety protection to miners.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/88	53 FR 10257
ANPRM Comment Period End	07/31/88	
NPRM	11/02/90	55 FR 46400
NPRM Commeht Period End	01/31/92	56 FR 48720
Final Action	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standard, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA47

1937. AIR QUALITY, CHEMICAL SUBSTANCES, AND RESPIRATORY PROTECTION STANDARDS

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 58; 30 CFR 70; 30 CFR 71; 30 CFR 72; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: The Mine Safety and Health Administration's (MSHA's) current air quality standards for exposure to hazardous airborne contaminants were promulgated over 20 years ago. They do not fully protect today's miners, who are potentially exposed to an array of toxic chemicals, including lead, cyanide, arsenic, benzene, asbestos, and other well-documented hazards. Some miners have developed occupational illness (e.g., lead poisoning, acute cyanide poisoning, and silicosis) as a result of their exposure. The proposed rule would update permissible exposure limits (PELs) applicable to hazards encountered in metal and nonmetal and coal mines, revise requirements for exposure monitoring, improve precautions for handling restricted-use chemicals, provide for miner observation of monitoring, and establish provisions for medical surveillance and transfer of miners required to use respirators and miners exposed to certain carcinogens. At this point, MSHA is exploring issuing the final rule in phases. For this phase of the final rule, MSHA is considering alternatives which may address PELs applicable to some of the most serious hazards found in metal and nonmetal and coal mines, thereby expediting the rulemaking and providing for more immediate protection. This phase may include provisions in addition to PELs, e.g., respiratory protection. MSHA has concluded that a gradual phase-in of provisions in the air quality rulemaking will be less burdensome for the industry and provide more immediate protection for the miners exposed to the most serious hazards.

Timetable:

Action	Date	FR Cite
ANPRM	07/06/83	48 FR 31171
ANPRM	11/19/85	50 FR 47702
NPRM	08/29/89	54 FR 35760
NPRM Comment Period End	08/30/91	56 FR 29201
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health

Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA48

1938. LONGWALL EQUIPMENT (INCLUDING HIGH-VOLTAGE)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: Since 1970 MSHA regulations have required that high-voltage cables and transformers be kept at least 150 feet from the coal extraction area. The objective of this requirement is to prohibit the use of high-voltage cables and equipment that could serve as an ignition source for methane and coal dust in close proximity to the work area.

The modern development of highly productive longwall mining systems has resulted in their widespread use in the mining industry. Mine operators, however, currently must apply to MSHA for a variance from the existing standards in order to use this high-voltage equipment. The increased use of high-voltage longwalls in underground coal mines in recent years has led to the design of safe high-voltage electrical equipment and associated cables. These improvements have occurred specifically in the area of design and construction of explosion-proof equipment; insulation, short circuit, ground fault, and mechanical protection of cables; and equipment for safe handling of cables. For these reasons, in August 1992 MSHA published a proposed rule to establish safety requirements for the design, construction, installation, use, and maintenance of high-voltage longwall equipment and associated cables. The proposal would eliminate the need for a variance to use this equipment.

Statement of Need: Because of the existing regulatory prohibition against using high-voltage cables and transformers within 150 feet of the extraction area, underground coal mine operators who wish to use high-voltage longwall equipment must apply for a variance from the standard. Over the years, MSHA has granted high-voltage longwall variances which require that the mine operator comply with certain requirements, including the use of explosion-proof high-voltage equipment, specially designed cable, cable-handling systems, and state-of-the-art ground fault and short-circuit protective devices. Since 1985 MSHA has granted about 90 variances for use of high-voltage longwalls and has denied only one. Since 1992, when the proposed rule was published, MSHA has granted about 33 variances for use of high-voltage longwalls.

The variance process involves substantial costs to the industry and MSHA. Most mine operators engage an attorney to prepare and submit a variance for the use of high-voltage longwall equipment. This part of the process alone can cost thousands of dollars. After receipt of the variance, MSHA processes the request, publishes a brief description in the **Federal Register**, has an inspector conduct an onsite investigation and prepare a report to the Administrator, and prepares a Proposed Decision and Order. Costs are incurred by industry in order to submit the appropriate documentation to support the variance. Agency costs are associated with processing, publication, and investigation of variances.

Alternatives: MSHA intends to revise its regulations to allow underground coal mine operators to use high-voltage longwall equipment and associated cables. The regulations would be based on the Agency's experience with variances, and would require the use of properly designed and constructed equipment and cables, as well as electrical and mechanical protective devices.

Anticipated Costs and Benefits: It is estimated that the rule would result in a cost savings. In the absence of the need to apply for variances, mine operators wishing to use high-voltage longwall equipment would realize reduced paperwork and significant savings associated with legal and administrative costs. In addition, high-voltage longwall equipment could be installed without waiting for MSHA to approve a variance. The normal length of time for preparing and processing a variance and issuing a decision is about 6 months to a year; but, on occasion, the entire process has taken several years. Eliminating the need to process and investigate variances would increase the resources available to both industry and MSHA personnel that could be directed to the proper installation, inspection, and maintenance of the equipment.

High-voltage longwall systems improve miners' safety from electrical hazards through improved technology in the areas of cable design and construction, circuit and equipment electrical protection, and cable handling and support systems. Additional benefits are realized from the convenient location of disconnect devices for the purpose of performing electrical work, and the use of barriers and interlock switches in electrical equipment to help guard against accidental contact with energized circuits.

Risks: The mining industry, through the variance process, has been using high-voltage longwalls and associated cables since 1985. The Agency is unaware of any accidents attributable to the use of such equipment allowed under conditions approved through the variance process.

Timetable:

Action	Date	FR Cite
NPRM	08/27/92	57 FR 39036
NPRM Comment Period End	11/13/92	57 FR 46350
Reopen Record	10/18/95	60 FR 53891
Extended Comment Period	11/14/95	60 FR 57203
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA75

1939. SINGLE-SHIFT SAMPLING NOTICE

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 842(f)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Secretaries of Labor and Health and Human Services have issued a joint proposed finding that the average concentration of respirable dust to which each miner is exposed can be measured accurately over a single shift. This joint finding would also rescind their earlier joint finding published in July 1971 and affirmed in February 1972. MSHA believes that enforcement based on single, full-shift samples will enhance mine operators' compliance with the requirement to maintain the average concentration of respirable dust in the mine atmosphere during each shift where miners work or travel at or below the applicable standard.

Timetable:

Action	Date	FR Cite
Notice of Coal Mine Respirable Dust Standard Noncompliance Determinations	02/18/94	59 FR 8356
Notice of Extension of Comment Period to 5/20/94	04/08/94	59 FR 16958
Notice of Public Hearing	06/06/94	59 FR 29348
Notice of Public Hearing	07/07/94	59 FR 34868
Notice of Extension of Comment Period; Close of Record 9/30/94	08/01/94	59 FR 38968
Notice Re-opening Record	03/12/96	61 FR 10012
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA82

1940. SAFETY STANDARDS FOR EXPLOSIVES AT METAL AND NONMETAL MINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: MSHA's final rule will address changes to safety standards for the use of explosives at metal and nonmetal mines. This rule arises from on-going litigation and the Agency's enforcement experience with the current explosives standards.

Timetable:

Action	Date	FR Cite
NPRM	01/05/95	60 FR 1866
NPRM Comment Period End	03/06/95	
Final Action	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA84

1941. FIRST-AID AT METAL AND NONMETAL MINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: Existing standards for metal and nonmetal mines require that selected supervisors be trained in first aid and that first-aid training be made available to all interested persons. The intent of this standard was to ensure that, in the event of an emergency, a person competent to administer first aid was available at the mine site during each working shift. MSHA recognizes that there are persons highly trained and competent to administer first aid other than supervisors; yet, the standard, as written, does not allow the mine operator this flexibility. MSHA, therefore, is developing a proposed rule to revise this standard to remove the requirement that selected supervisors have to be trained in first aid, and to substitute the requirement that a person trained and capable of administering first aid be available at the mine on all shifts. This proposal would be consistent with a petition for rulemaking submitted to the Secretary by a large segment of the mining industry. A public hearing is requested.

Timetable:

Action	Date	FR Cite
NPRM	10/27/95	60 FR 55150
NPRM Comment Period End	12/11/95	
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551

RIN: 1219–AA97

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Long-Term Actions

1942. CONFINED SPACES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 77

Legal Deadline: None

Abstract: In mining operations, the majority of the fatalities associated with confined spaces occur in storage bins, hoppers, tanks, and stockpiles. The primary hazards to miners occur from

being trapped by shifting piles of loose materials, falling into materials, and being struck by overhanging materials. Due to the many chemicals used and stored in mining, the toxic and physical hazards encountered in mining are identical to those confined space hazards that exist in general industry. MSHA intends to explore both regulatory and non-regulatory options to address the hazards associated with working in confined spaces at mines.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/91	56 FR 67364
ANPRM Comment Period End	05/01/92	57 FR 8102
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA54

1943. CARBON MONOXIDE MONITOR APPROVAL

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 12

Legal Deadline: None

Abstract: The use of carbon monoxide monitoring systems in underground coal mines can be effective in monitoring mine atmospheres to detect fires in the early stages of development. This rulemaking would address minimum performance criteria for these systems. MSHA intends to explore the use of negotiated rulemaking to address this regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA72

1944. DECERTIFICATION OF CERTIFIED AND QUALIFIED PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 42; 30 CFR 48; 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 77; 30 CFR 90

Legal Deadline: None

Abstract: MSHA regulations require the certification or qualification of individuals to perform certain tasks at mines. However, the Agency has no formal procedures for revoking a person's certification or qualification when evidence indicates that the individual has not adhered to required regulatory procedures. The final rule would establish generic procedures for decertification of individuals who no longer meet the requirements to be certified or qualified, or who have failed to comply with the regulations in their role as a certified or qualified person.

Timetable:

Action	Date	FR Cite
NPRM	11/02/94	59 FR 54855
NPRM Comment Period End	02/06/95	59 FR 60101
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA79

1945. METAL/NONMETAL IMPOUNDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: Water, sediment, and slurry impoundments for metal and nonmetal mining and milling operations are located throughout the country, and some are within flood range of homes and well traveled roads. Failure of an impoundment could endanger lives and cause property damage. This rulemaking addresses, among other issues, proper design and construction of impoundments. MSHA intends to explore negotiated rulemaking to address this action.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA83

1946. INDEPENDENT LABORATORY TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 6; 30 CFR 18; 30 CFR 19; 30 CFR 20; 30 CFR 21; 30 CFR 22; 30 CFR 23; 30 CFR 24; 30 CFR 26; 30 CFR 27; 30 CFR 28; 30 CFR 29; 30 CFR 33; 30 CFR 35

Legal Deadline: None

Abstract: To ensure that only safe products are used in mines, MSHA sets approval requirements and tests products itself. This rulemaking would allow MSHA to accept testing of certain mine equipment performed by independent laboratories. It also would allow MSHA to approve products which satisfied alternative testing and evaluation requirements, provided that the alternative requirements were equivalent to MSHA's own, or could be enhanced to be equivalent. By reducing its testing activities, MSHA could direct more resources toward verifying that products in use have been manufactured in compliance with the relevant approval. This rulemaking is consistent with a recommendation of the National Performance Review. Public hearing scheduled for November 1995 was cancelled due to funding lapse. The hearing will be rescheduled.

Timetable:

Action	Date	FR Cite
NPRM	11/30/94	59 FR 61376
NPRM Comment Period End	02/21/95	
Public Hearing Notice	10/10/95	60 FR 52640
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA87

1947. SAFETY STANDARDS FOR METHANE IN METAL AND NONMETAL MINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: Current MSHA regulations place metal and nonmetal mines with a history of, or a potential for, methane liberation (gassy mines) into several categories. Safety standards for methane detection and prevention apply to a mine depending on its category. Recent legal decisions have narrowed the application of existing gassy mine standards, leading MSHA to conclude that the standards may need to be revised to protect adequately all miners who work in gassy mines. This action would revise the existing safety standards for methane in metal and nonmetal mines to address dangerous levels of methane in outburst cavities in abandoned, idle, and worked out areas of category II-A mines. It would further address the use of approved equipment in category III mines. The Agency is exploring the use of negotiated rulemaking to address this issue.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA90

1948. REQUIREMENTS FOR APPROVAL OF FLAME-RESISTANT CONVEYOR BELTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957; 30 USC 811

CFR Citation: 30 CFR 14; 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: The final rule would implement new procedures and requirements for testing and approval of flame-resistant conveyor belts to be used in underground mines. These revisions would replace the existing flame test for conveyor belts. Current regulations require that conveyor belts be flame resistant in accordance with specifications of the Secretary. As part of this rulemaking, the Agency also would promulgate conforming amendments to safety standards.

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61524
NPRM Comment Period End	03/26/93	58 FR 8028
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA92

1949. • IMPROVING AND ELIMINATING REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR ch 1

Legal Deadline: None

Abstract: In response to the President's directive, the Mine Safety and Health Administration (MSHA) conducted a review of its existing regulations to identify provisions that are outdated, redundant, unnecessary, or otherwise in need of changing. Many of the changes require notice and comment rulemaking while other non-substantive changes can be implemented upon publication. So far, the Agency has identified nine regulations that could be removed entirely without any adverse impact on miner safety and health. In general, these regulations are obsolete or redundant. MSHA also has identified provisions in over 80 other regulations that need overhauling or the cleanup of non-substantive language. MSHA considers this project to be an evolving, ongoing process and will continue to accept recommendations from the public as the review progresses.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: As part of its regulatory improvement project, MSHA published final technical amendments updating addresses in 30 CFR Chapter 1 on July 11, 1995 (60 FR 35692).

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Room 631, BT, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA98

1950. • RESPIRABLE DUST STANDARD FOR UNDERGROUND AND SURFACE COAL MINES; NIOSH CRITERIA DOCUMENT

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 70; 30 CFR 71

Legal Deadline: None

DOL—MSHA — Long-Term Actions

Abstract: The Mine Safety and Health Administration (MSHA) received a criteria document from the National Institute for Occupational Safety and Health (NIOSH) entitled "Criteria for a Recommended Standard: Occupational Exposure to Respirable Coal Mine Dust" (criteria document). The NIOSH criteria document contains a number of recommendations, including a reduction of the existing MSHA permissible exposure limit (PEL) for respirable coal mine dust. In addition, NIOSH recommends a separate PEL for respirable crystalline silica. The Federal Mine Safety and Health Act of 1977 (Mine Act) obligates MSHA to issue a public response to the NIOSH criteria document. This proposed rule is MSHA's response to the NIOSH criteria document. It would revise MSHA's existing PEL for respirable coal mine dust and would establish a separate PEL for respirable crystalline silica as recommended by NIOSH. The scientific justification for MSHA's proposal is based upon the health effects evidence in the NIOSH criteria document.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA99

1951. • SAFETY STANDARDS FOR ROOF BOLTS IN METAL AND NONMETAL MINES AND UNDERGROUND COAL MINES

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 957; 30 USC 961

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 75

Legal Deadline: None

Abstract: MSHA is revising its safety standards for metal and nonmetal mines and underground coal mines by substituting a new reference to the 1995 ASTM standard for roof bolts and accessories (ASTM F432-95). The new standard reflects technological advances in the design of roof and rock bolts and support materials and would improve the level of protection provided to miners. The safety standards for ground control and roof control at mines currently require that mine operators obtain a certification from the manufacturer that rock bolts and accessories are manufactured and tested in accordance with an American Society for Testing and Material (ASTM) publication "Standard Specification for Roof and Rock Bolts and Accessories." MSHA regulations reference the 1983 revision (ASTM F432-83 for metal and nonmetal mines and the 1988 revision (ASTM 432-88) for coal mines. The ASTM standard is a consensus standard used throughout the United States. It contains specifications for the chemical, mechanical, and dimensional requirements for roof and rock bolts and accessories used for ground support systems.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AB00

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Completed Actions

1952. UNDERGROUND COAL MINE VENTILATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: The final rule revises certain provisions of MSHA's ventilation standards for underground coal mines. Proper mine ventilation provides basic protection against mine explosions involving methane gas and coal dust and against unhealthy concentrations of airborne contaminants. The application of 3 provisions of the existing rule had been stayed. The final rule revised the stayed and other provisions to respond to the mining community and improve the protections provided to miners.

Timetable:

Action	Date	FR Cite
Extension of Administrative Stay	12/30/93	58 FR 69312
NPRM	05/19/94	59 FR 26356
NPRM Comment Period End	08/08/94	59 FR 35071
Notice of Public Hearing and Extension of Comment Period to 11/18/94	08/17/94	59 FR 42193
Final Action	03/11/96	61 FR 9764
Final Action Effective	06/10/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203
Phone: 703 235-1910

RIN: 1219–AA11

DEPARTMENT OF LABOR (DOL)
Office of the Assistant Secretary for Administration and Management (OASAM)

Long-Term Actions

1953. DEPARTMENT OF LABOR ACQUISITION REGULATIONS

Priority: Other

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 2900 to 2999

Legal Deadline: None

Abstract: Revisions to DOLAR reflect changes in the Federal Acquisition Regulations and organizational changes within DOL.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Additional Information: Revision of the Department of Labor Acquisition Regulation is awaiting the final publication of revisions to the Federal Acquisition Regulation as the result of changes being implemented pursuant to passage of the Federal Acquisition Streamlining Act of 1994 enacted October 13, 1994.

Agency Contact: Melvin Goldberg, Director, Office of Procurement and Grant Policy, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N5425, FP Bldg., Washington, DC 20210
Phone: 202 219-9174

RIN: 1291–AA20

1954. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6101 et seq Age Discrimination Act of 1975

CFR Citation: 45 CFR 90

Legal Deadline: NPRM, Statutory, September 10, 1979.
45 CFR 90 requires publication of the NPRM no later than 90 days after publication of government-wide rule, and submission to HHS of final rule within 120 days of NPRM.

Abstract: The proposed regulatory action is necessary to comply with the Department's statutory and regulatory obligations under the Age Discrimination Act of 1975, as amended (the "Act"). The Act and the general, government-wide implementing rule issued by the Department of Health and Human Services (HHS) (45 CFR 90) require each Federal agency providing financial assistance to any program or activity to publish proposed regulations implementing the Act no later than 90 days after the publication date of the government-wide rule, and to submit final agency regulations to HHS no later than 120 days after publication of the NPRM. As a practical matter, while DOL has not issued proposed or final regulations under the Age Discrimination Act, it has complied with its enforcement obligations. Furthermore, discrimination on the basis of age is prohibited under Section 167 of the Job Training Partnership Act of 1982, and the implementing regulations at 29 CFR 34.

Timetable:

Action	Date	FR Cite
NPRM	04/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Annabelle T. Lockhart, Director, Directorate of Civil Rights, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Avenue NW., Room N4123, FP Building, Washington, DC 20210
Phone: 202 219-8927

RIN: 1291–AA21

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

1955. STEEL ERECTION (PART 1926) (SAFETY PROTECTION FOR IRONWORKING)

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655; 40 USC 333

CFR Citation: 29 CFR 1926.750 (Revision); 29 CFR 1926.751 (Revision); 29 CFR 1926.752 (Revision)

Legal Deadline: None

Abstract: On December 29, 1992, the Occupational Safety and Health Administration (OSHA) announced its intention to form a negotiated rulemaking advisory committee to negotiate issues associated with a revision of the existing steel erection standard. Four of the primary issues to be negotiated include the need to expand the scope and application of the existing standard, construction specifications and work practices, written construction safety erection plan, and fall protection. The Steel Erection Negotiated Rulemaking Advisory Committee (SENRAC), a 20-member committee, was established, and the SENRAC charter was signed by Secretary Reich on May 26, 1994. The first meeting was held in the Washington area on June 14-16, 1994, and the Committee has met nine times since.

The negotiated rulemaking process has been successful in bringing together the interested parties that will be affected by the proposed revision to the steel erection rule to work out contrasting positions, find common ground on the major issues, and achieve consensus on a proposed rule. The use of this process and a neutral facilitator allowed the stakeholders to develop an ownership stake in the proposal that they would not have had without the use of this process.

The process has led to a draft revision to Subpart R of 29 CFR 1926 that contains innovative provisions that will help to minimize the major causes of steel erection injuries and fatalities. Many of these provisions could not have been developed without this process, which has brought together industry experts, via face-to-face negotiations, to discuss different approaches to resolving the issues. This process has proved mutually beneficial

to all the parties involved (including OSHA), with each Committee member participating in resolving the issues and developing practical and effective rules to make the steel erection industry safer.

The Agency benefitted from this process by having industry members participate and add to the Agency's knowledge about steel erection. Also, the Agency has been able to work together constructively with the various parties and has avoided the adversarial environment that sometimes develops during OSHA rulemaking. The negotiated rulemaking process will enable the Agency to publish a proposal and go from proposal to final rule more quickly and with less controversy than would otherwise have been possible.

Statement of Need: In 1989, OSHA was petitioned by the Iron Workers Union and National Erectors Association to revise its construction safety standard for steel erection through the negotiated rulemaking process. OSHA asked an independent consultant to review the issues involved in a steel erection revision, render an independent opinion, and recommend a course of action to revise the standard. The consultant recommended that OSHA address the issues by using the negotiated rulemaking process. Based on the consultant's findings and the continued requests for negotiated rulemaking, OSHA decided to use the negotiated rulemaking process to develop a proposed revision of Subpart R. The use of negotiated rulemaking was thought to be the best approach to resolving steel erection safety issues, some of which have proven intractable in the past.

Alternatives: An alternative to using the negotiated rulemaking process is to publish a notice of proposed rulemaking developed by Agency staff and consider the concerns of the affected interests through the public comment and public hearing process. It is anticipated that using this alternative would result in an extremely long and contentious rulemaking proceeding, with subsequent challenge in the Court of Appeals. This alternative was therefore rejected. Another alternative would be not to revise the Agency's current steel erection rules for construction. This alternative was rejected because it would permit steel erection-related injuries and fatalities to continue.

Anticipated Costs and Benefits: The scope and nature of the proposed rule are currently under development, and thus estimates of costs and benefits have not been determined at this time. Costs are not likely to exceed $100 million annually, and benefits will include the prevention of numerous fatalities and hundreds of injuries associated with steel erection activities.

Risks: The magnitude of the risk associated with steel erection activities is great. It is estimated that about 40 workers are killed every year during steel erection activities. Falls are currently the number one killer of construction workers, and since the erection of buildings necessarily involves high exposure to fall hazards, the central focus of this rule will be to eliminate or reduce the risks associated with falls. All other construction trades are afforded a higher level of protection from falls by other rules in the construction safety and health standards.

Timetable:

Action	Date	FR Cite
Notice of Committee Establishment	05/11/94	59 FR 24389
NPRM	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AA65

1956. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES (SIMPLIFIED INJURY/ILLNESS RECORDKEEPING REQUIREMENTS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 657; 29 USC 673

CFR Citation: 29 CFR 1904.1

Legal Deadline: None

Abstract:

Over the years, concerns about the reliability and utility of injury and illness data derived from the employer-maintained OSHA records have been raised by Congress, NIOSH, BLS, the National Statistics (BLS), the National Academy of Sciences, the Office of Management and Budget (OMB), the General Accounting Office, business, and labor, as well as OSHA. In the late 1980s, to facilitate national policy dialogues, OSHA brought together representatives of industry, labor, government, and academia in a year-long effort to discuss problems with OSHA's injury and illness recordkeeping system. Keystone issued a report with specific recommendations on how to improve the system. Despite this effort, a regulatory revision was not formally begun. Earlier this year OSHA initiated an intensified effort to revive the revision process. Several meetings were again held with stakeholders from business, labor, and government in order to obtain feedback on a draft OSHA recordkeeping proposal and to gather related information. As a result of these meetings, OSHA is now planning to issue a proposed rule that will contain revised recordkeeping requirements, new recordkeeping forms, and new interpretive material to improve the Nation's injury and illness statistics, simplify the injury and illness recordkeeping system, and reduce the burden of the new rule on employers. Benefits will include: (1) a system that is more compatible with modern computer technology and is easier for employers, employees and government to use; (2) more reliable and useful records; (3) for the first time, comprehensive injury and illness records for construction sites; and (4) greater employee involvement in and awareness of safety and health matters.

Statement of Need: A revision to OSHA's outdated recordkeeping system has been contemplated for some time. The process of revision originated in BLS in 1987 and moved in 1990 to OSHA, when the recordkeeping function was transferred to the Agency.

The proposed rule reflects the input of many stakeholders, including OSHA field and national office staff, the participants in the 1987 Keystone policy dialogue, staff from other government agencies (BLS, MSHA, the Federal Railroad Administration (FRA) NIOSH and the States), and members of OSHA's advisory committees. OSHA has discussed the proposed revision with thousands of employers and representatives of the safety/health community in over 100 presentations for employer groups, trade associations, safety councils, and union groups.

Recently, OSHA shared copies of the draft proposal with stakeholders from labor, industry, trade associations, and other government agencies. The proposal also was reprinted in several occupational safety and health trade publications, and OSHA held two stakeholder meetings to discuss the proposal and obtain feedback. As a result of this recent stakeholder input, OSHA made over 50 changes to the document. Although the various stakeholders did not agree on every detail of the proposal, OSHA is confident that the multiphase process followed in developing this proposal has resulted in substantial agreement on the issues and consensus on the desirability of publishing the proposal in the *Federal Register* to enable OSHA to obtain input from the public at large.

The occupational injury and illness records maintained by employers are an important component of OSHA's program. The records are used by employers and employees to discover and evaluate workplace safety and health hazards, and they provide OSHA personnel with necessary information during workplace inspections. The records also provide the source data for the Annual Survey of Occupational Injuries and Illnesses conducted by the BLS.

The records have their greatest value when they are used by employers and employees to manage and develop workplace safety and health programs. These records are an effective way to quantify a firm's injury and illness experience. When problems are quantified and presented to employers and employees, they are much more likely to be solved. Hazardous conditions, departments and jobs also can be identified by reviewing injury and illness records. Once hazards are discovered and corrective actions are taken, the records can be used to monitor the effectiveness of control approaches taken. Employers and employees can also use injury and illness records to develop and operate safety and health programs. When information on workplace injuries and illnesses is not available or is incorrect, the ability to identify problems and take corrective action is diminished.

The Government also has several uses for injury and illness records. These records are used by OSHA safety and health inspectors during worksite visits to highlight potential problems that require additional scrutiny. The records are the source documents for the Bureau of Labor Statistics Annual Survey of Occupational Injuries and Illnesses, the nation's primary source of information on workplace injury and illness. The resulting statistics on the frequency, rate, and factors contributing to job-related injury and illness are used to measure the performance of the Nation's safety and health policies, determine regulatory actions, and provide a point of comparison for an individual company's safety and health performance. The statistics are also used by NIOSH, academia, and other safety and health researchers to determine trends, discover emerging occupational conditions, and evaluate occupational safety and health policies.

The records will also be the source documents for OSHA's data collection initiative. This program will allow OSHA to use limited resources to focus intervention efforts (e.g., consultation, training, outreach, and enforcement) on worksites with the highest injury and illness rates. The data collection initiative will also provide OSHA with a means for measuring its performance in terms of outcomes—changes in workplace injury and illness—rather than activities.

Alternatives: One alternative to publication of the proposed revision is to take no action and continue to administer the injury and illness recordkeeping system using the current regulation, forms and guidelines. Another alternative is to publish the proposal without changing the coverage and scope of the rule (i.e., continue the current rule's small employer and Standard Industrial Classification exemptions).

The first alternative is unacceptable because it does not address the recognized problems of the current system. The second alternative is also unacceptable. Evaluation of the most current injury and illness data available shows that modification of the existing coverage (of small employers and employers in certain Standard Industrial Classification Codes) will lead to the collection of more injury and illness information and reduce the paperwork burden on employers with smaller-sized establishments and those operating in less hazardous private industry sectors.

Anticipated Costs and Benefits: The average establishment affected by the proposed changes to the recordkeeping requirements would incur a net reduction in recordkeeping costs. Thus the proposed rule will not impose adverse economic impacts on firms in the regulated community. The proposed exemption from the regulation of all nonconstruction establishments with fewer than 20 employees will mean that small entities are likely to experience the greatest cost savings.

Risks: Benefits will include: (a) a system that is more compatible with and easier for government to use; (b) more reliable and useful records; (c) construction sites; and (d) greater employee involvement.

Timetable:

Action	Date	FR Cite
NPRM	02/02/96	61 FR 4030
NPRM Comment Period End	05/02/96	
Final Action	10/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Sectors Affected: All

Agency Contact: Stephen A. Newell, Director, Office of Statistics, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3507, FP Building, Washington, DC 20210
Phone: 202 219-6463

RIN: 1218–AB24

1957. COMPREHENSIVE OCCUPATIONAL SAFETY AND HEALTH PROGRAMS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918; 29 CFR 1926; 29 CFR 1928

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA), many of the States, members of the safety and health community, insurance companies, professional organizations, companies participating in the Agency's Voluntary Protection Program, and many proactive employers in all industries have recognized the value of worksite-specific safety and health programs in preventing job-related injuries, illnesses, and fatalities. The effectiveness of these programs is seen most dramatically in the reductions in job-related injuries and illnesses, workers' compensation costs, and absenteeism that occur after employers implement such programs. To assist employers in establishing safety and health programs, OSHA in 1989 (54 FR 3904) published nonmandatory guidelines that were based on a distillation of the best safety and health management practices observed by OSHA in the years since the Agency was established. OSHA's decision to expand on these guidelines by developing a safety and health programs rule is based on the Agency's recognition that occupational injuries, illnesses, and fatalities are continuing to occur at an unacceptably high rate. In fact, in the most recent year for which data are available--1993--fatalities rose by 1.7 percent over 1992, and injuries and illnesses continued at approximately the same rate as in the past.

Although the precise scope of the standard (e.g., what industries will be covered, what sizes of firms will be covered) has not yet been determined, the safety and health programs contained in the proposed rule will include at least the following elements: management leadership of the program; active employee participation in the program; analysis of the worksite to identify safety and health hazards of all types; requirements that employers eliminate or control those hazards in an effective and timely way; safety and health training for employees, supervisors, and managers; and regular evaluation of the effectiveness of the safety and health program. In addition, in response to preliminary meetings with OSHA stakeholders, the Agency has decided to incorporate several program elements into this rule that were under consideration for separate rulemaking action. These elements include exposure assessment and medical surveillance for workers exposed to chemical hazards in their places of work. In the last Regulatory Plan (see 59 FR 57138, November 14, 1994), for example, OSHA presented separate entries for a proposed rule addressing Exposure Assessment Programs for Employees Exposed to Hazardous Chemicals and for a proposed rule on Medical Surveillance Programs for Employees. At the present time, however, OSHA intends to address exposure assessment as part of the worksite analysis that will be required of employers by the proposed safety and health programs rule and to obtain additional input from stakeholders about the need for a medical surveillance module in this rulemaking. OSHA has also decided, in response to President Clinton's April 24, 1995, Regulatory Reinvention Initiative, to undertake a general consolidation of duplicative elements across current standards. For example, OSHA plans to consolidate hundreds of training and records maintenance provisions, that are currently found throughout OSHA's general industry, construction, and maritime standards, into the proposed safety and health programs rule. This means that, once the programs rule has been promulgated, all of the Agency's procedural requirements for training and records maintenance (e.g., who must be trained, how often training must be conducted, how long training records must be kept) will be found in one place--in the programs rule--rather than in hundreds of individual standards, as is current practice. In keeping with the President's directive, this regulatory consolidation will eliminate duplicative paperwork, make compliance easier for employers, and standardize the procedural aspects of training and records maintenance. OSHA is also developing a program evaluation directive and a program evaluation profile to be used by compliance officers to evaluate the completeness and effectiveness of an employer's safety and health program. Those employers who can demonstrate effective and comprehensive programs will receive penalty reductions for any cited violations found by the compliance officer. OSHA believes that the effect of these enforcement initiatives, coupled with the regulatory requirements of the safety and health programs rule, will act as incentives to employers to establish safety and health programs that protect workers, enhance productivity, and decrease employer costs.

Statement of Need: Worksite-specific safety and health programs are increasingly being recognized as the most effective way of reducing job-related accidents, injuries, and illnesses. Ten States have to date passed legislation and/or regulations mandating such programs for some or all employers, and insurance companies have also been encouraging their client companies to implement these programs, because the results they have achieved have been so dramatic. In addition, all of the companies in OSHA's Voluntary Protection Program have established such programs and are reporting injury and illness rates that are sometimes only 20 percent of the average for other establishments in their industry. Safety and health programs apparently achieve these results by actively engaging front-line employees, who are closest to operations in the workplace and have the highest stake in preventing job-related accidents, in the process of identifying and correcting occupational hazards. Finding and fixing workplace hazards is a cost-effective process, both in terms of the avoidance of pain and suffering and the prevention of the expenditure of large sums of money to pay for the direct and indirect costs of these injuries and illnesses. For example, many employers report that these programs return between $5 and $9 for every dollar invested in the program, and almost all employers with such programs experience substantial reductions in their workers' compensation premiums. OSHA believes that having employers evaluate the job-related safety and health hazards in their workplace and address any hazards identified before they cause occupational injuries, illnesses, or deaths is an excellent example of "regulating smarter," because all parties will benefit: workers will avoid the injuries and illnesses they are currently experiencing; employers will save substantial sums of money and increase their productivity and competitiveness; and OSHA's scarce resources will be leveraged as employers and employees join together to identify, correct, and prevent job-related safety and health hazards.

Alternatives: In the last few years, OSHA has considered both nonregulatory and regulatory alternatives in the area of safety and health program management. First, OSHA published, in 1989, a set of voluntary management guidelines designed to assist employers to establish and maintain programs such as the one envisioned by the proposed safety and health programs rule. Although these guidelines have received widespread praise from many employers and professional safety and health associations, they have not been effective in stemming the growing tide of job-related deaths, injuries, and illnesses, which have continued to occur at unacceptably high levels. Many of the States have also recognized the value of these programs and have mandated that some or all covered employers establish them; however, this has led to inconsistent coverage from State-to-State, with many States having no coverage and others imposing stringent program requirements. OSHA believes that this experience clearly points to the need for a national regulation that will be consistent across State lines, will apply to all or to a clearly identified group of employers, will have provisions that are widely recognized as being effective, and will be cost-effective in implementation.

Anticipated Costs and Benefits: The scope and nature of the proposed rule are currently under development, and thus estimates of costs and benefits have not been determined at this time. Costs are likely to exceed $1 billion annually, and benefits will include the prevention of many of the thousands of fatalities and millions of injuries and illnesses associated with a broad spectrum of occupational hazards.

Risks: Workers in all major industry sectors in the United States continue to experience an unacceptably high rate of occupational fatalities, injuries, and illnesses. In 1993, the latest year for which statistics are available, the Bureau of Labor Statistics reports that 5,590 fatalities and 6.7 million injuries and illnesses occurred within private industry. There is increasing evidence that addressing hazards in a piecemeal fashion, as employers tend to do in the absence of a comprehensive safety and health program, is considerably less effective in reducing accidents than a systematic approach. Dramatic evidence of the seriousness of this problem can be found in the staggering workers' compensation bill paid by America's employers and employees: $54 billion annually. These risks can be reduced by the implementation of safety and health programs, as evidenced by the experience of OSHA's Voluntary Protection Program participants, who regularly achieve injury and illness rates averaging one-fifth to one-third those of competing firms in their industries. Other benefits of reducing accidents include enhanced productivity, improved employee morale, and reduced absenteeism. Because these programs address all job-related hazards--including those that are covered by OSHA standards as well as those not currently addressed by these standards--the proposed rule will be effective in ensuring a systematic approach to the control of long-recognized hazards, such as lead, and emerging hazards, such as lasers and heat stress.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210 Phone: 202 219-8061

RIN: 1218–AB41

1958. OCCUPATIONAL EXPOSURE TO TUBERCULOSIS

Priority: Economically Significant

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On August 25, 1993, the Occupational Safety and Health Administration (OSHA) was petitioned by the Labor Coalition to Fight TB in the Workplace to initiate rulemaking for a permanent standard to protect workers against occupational transmission of tuberculosis (TB). Although the Centers for Disease Control and Prevention (CDC) have developed recommendations for controlling the spread of TB in several work settings (correctional institutions, health-care facilities, homeless shelters, long-term care facilities for the elderly, and drug treatment centers), the petitioners stated that in every recent TB outbreak investigated by the CDC noncompliance with CDC's TB control guidelines was evident. After reviewing the available information, OSHA has preliminarily concluded that significant risk of occupational transmission of TB does exist for some workers and has decided to initiate a standard 6(b) rulemaking. The Agency is currently developing a proposed rule which would require certain employers to take steps to eliminate or minimize employee exposure to TB. OSHA already regulates the biological hazard of bloodborne pathogens (e.g., HIV, hepatitis B) under 29 CFR 1910.1030 and believes that development of a TB standard is consistent with the Agency's mission and previous activity.

OSHA is currently pursuing a dialog with parties outside of the Agency with regard to the developing proposal. The draft preliminary Risk Assessment is being peer-reviewed by four individuals with specific knowledge in the areas of tuberculosis and risk assessment. One reviewer is from the Centers for Disease Control and Prevention (CDC) and three are from academia. In addition, OSHA is conducting stakeholder meetings with representatives of relevant professional organizations, trade associations, labor unions, and other groups. These meetings provide the opportunity for both general and frontline stakeholder representatives to present OSHA with their individual comments, observations, and concerns about the contents of the draft proposal. OSHA is also remaining cognizant of the activities of other Federal agencies relative to TB. In October of 1994, CDC published revised guidelines for protection against transmission of TB. Similarly, the National Institute for Occupational Safety and Health published new respirator certification procedures in June 1995. OSHA will give careful consideration to these documents during development of the proposed standard.

Statement of Need: For centuries, TB has been responsible for the deaths of millions of people throughout the world. TB is a contagious disease caused by the bacterium

Mycobacterium tuberculosis. Infection is generally acquired by the inhalation of airborne particles carrying the bacterium. These airborne particles, called droplet nuclei, can be generated when persons with pulmonary or laryngeal tuberculosis in the infectious state of the disease cough, sneeze, speak, or sing. In some individuals exposed to droplet nuclei, TB bacilli enter the alveoli and establish an infection. In most cases, the bacilli are contained by the individual's immune response. However, in some cases, the bacilli are not contained by the immune system and continue to grow and invade the tissue, leading to the progressive destruction of the organ involved. While in most cases this organ is the lung (i.e., pulmonary tuberculosis), other organs outside of the lung may also be infected and become diseased (i.e., extrapulmonary tuberculosis).

From 1953, when active cases began to be reported in the United States, until 1984, the number of annual reported cases declined 74 percent, from 84,304 to 22,255. However, this steady decline in TB cases has not continued. Instead, from 1985 through 1992, the number of reported TB cases increased 20.1 percent. In 1992, more than 26,000 new cases of active TB were reported in the United States. In New York City alone, 3,700 cases of active TB were reported in 1991. Although a 5.1 percent decrease was observed in 1993, this number still represents a 14 percent increase over the number of cases reported in 1985. In addition to the resurgence of TB, strains of tuberculosis have emerged that are resistant to several of the first-line anti-TB drugs. This multidrug-resistant TB (MDR-TB) has a higher probability of being fatal due to the difficulty of halting the progression of the disease. Individuals with MDR-TB often remain infectious for longer periods of time due to delays in diagnosing resistance patterns and initiating proper treatment. This lengthened period of infectiousness increases the risk that the organism will be transmitted to other persons coming in contact with such individuals.

As the number of individuals with tuberculosis who require health care for the disease increases, so does occupational exposure to TB among health care workers. In fact, several outbreaks of tuberculosis, including MDR-TB, have recently occurred in health care facilities, resulting in transmission to both patients and health care workers. CDC found that factors contributing to these outbreaks included delayed diagnosis of TB, delayed recognition of drug resistance, delayed initiation of effective therapy, delayed initiation and inadequate duration of TB isolation, inadequate ventilation in TB isolation rooms, lapses in TB isolation practices, inadequate precautions for cough-inducing procedures, and lack of adequate respiratory protection. CDC's analysis of data collected from three of the health care facilities involved in the outbreaks indicated that transmission of TB decreased significantly or ceased entirely in areas where recommended TB control measures were implemented.

Alternatives: Before deciding to publish a proposal, OSHA considered a number of options, including whether or not to develop an emergency temporary standard, publish an advance notice of proposed rulemaking, or enforce existing regulations.

Anticipated Costs and Benefits: Costs will be incurred by employers for engineering controls, respiratory protection, medical surveillance, training, exposure control, recordkeeping, and work practice controls. Benefits will include the prevention of occupationally related TB transmissions and infections, and a corresponding reduced risk of exposure among the general population. The scope and nature of the proposed rule are currently under development and thus estimates of costs and benefits have not been determined at this time.

Risks: Since 1985, the number of reported cases of TB in the United States increased, reversing a previous 30-year downward trend. In addition to the resurgence of TB, strains of multidrug-resistant TB have emerged which are even more likely to be fatal. Along with the increase of TB among the general population is an increased risk of occupational transmission to employees in work settings such as health care or correctional facilities who have contact with infectious individuals. TB is a contagious disease spread by airborne particles known as droplet nuclei. Active disease can cause signs and symptoms such as fatigue, weight loss, fever, night sweats, loss of appetite, persistent cough, and shortness of breath, and may possibly result in serious respiratory illness or death.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210
Phone: 202 219-7075

RIN: 1218–AB46

1959. CONFINED SPACES FOR CONSTRUCTION (PART 1926) (CONSTRUCTION: PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: In January 1993, OSHA issued a general industry rule on preventing suffocation/explosions in confined spaces (58 FR 4462). This standard did not apply to the construction industry because of differences in the nature of the worksite. In discussions with the United Steel Workers of America on a settlement agreement for the general industry standard, OSHA agreed to issue a standard to extend the protection to construction workers, appropriate to their work environment. 1,000,000 construction workers are exposed to this hazard annually.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Russell B. Swanson, Director, Construction Standards,

Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3306, FP Building, Washington, DC 20210
Phone: 202 219-8644

RIN: 1218–AB47

1960. GENERAL WORKING CONDITIONS IN SHIPYARDS (PART 1915, SUBPART F) (PHASE II) (SHIPYARDS: GENERAL WORKING CONDITIONS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.1 et seq; 29 CFR 1915.31 et seq; 29 CFR 1915.91 et seq; 29 CFR 1915.111 et seq; 29 CFR 1915.131 et seq; 29 CFR 1915.161 et seq; 29 CFR 1915.171 et seq; 29 CFR 1915.181; 29 CFR 1910.13 et seq; 29 CFR 1910.14; 29 CFR 1910.15; 29 CFR 1910.95; 29 CFR 1910.96; 29 CFR 1910.97; 29 CFR 1910.141; ...

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA embarked on a project to update and consolidate the varying OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. A shipyard employer was subject to both the "shipyard" standards that applied only to shipboard hazards and OSHA's general industry standards for landside operations. This resulted in inconsistent, and sometimes contradictory, requirements for essentially the same operation. Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts of shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general work practices and fire safety). This action is endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards. This particular proposal will consolidate and update the provisions of 29 CFR 1910 (general industry) and 29 CFR (shipyard employment) into one comprehensive Part 1915 that will apply to all activities and areas in shipyards. The operations that are addressed in this subpart relate to housekeeping, illumination, sanitation, first aid, and lockout/tagout. About 75,000 workers are exposed annually to these hazards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB50

1961. PERMISSIBLE EXPOSURE LIMITS (PELS) FOR AIR CONTAMINANTS

Priority: Economically Significant

Legal Authority: 29 USC 655 (b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: OSHA enforces hundreds of permissible exposure limits (PELs) for toxic air contaminants found in U.S. workplaces. These PELs set OSHA-enforceable limits on the magnitude and duration of employee exposure to each contaminant. The amount of exposure permitted by a given PEL depends on the toxicity and other characteristics of the particular substance. OSHA's PELs for air contaminants are codified in 29 CFR 1910.1000, Tables Z-1, Z-2, and Z-3. The air contaminant limits were adopted by OSHA in 1971 from existing national consensus standards issued by the American Conference of Governmental Industrial Hygienists and the American National Standards Institute. These PELs, which have not been updated since 1971, thus reflect the results of research conducted in the 1950s and 1960s. Since then, much new information has become available that indicates that, in most cases, these early limits are outdated and insufficiently protective of worker health. To correct this situation, OSHA published a proposal in 1988 updating the air contaminant limits in general industry. That proposal became a final rule in 1989 (54 FR 2332); it lowered the existing PEL for 212 toxic air contaminants and established PELs for 164 previously unregulated air contaminants. On June 12, 1992 (57 FR 26001), OSHA proposed a rule that would have extended these limits to workplaces in the construction, maritime, and agriculture industries. However, on July 10, 1992, the Eleventh Circuit Court of Appeals vacated the 1989 final rule on the grounds that "(1) OSHA failed to establish that existing exposure limits in the workplace presented significant risk of material health impairment or that new standards eliminated or substantially lessened the risk; (2) OSHA did not meet its burden of establishing that its 428 new permissible exposure limits (PELs) were either economically or technologically feasible." The Court's decision to vacate the rule forced the Agency to return to the earlier, insufficiently protective limits.

OSHA continues to believe that establishing a rulemaking approach that will permit the Agency to update existing air contaminant limits and establish new ones as toxicological evidence of the need to do so becomes available is a high priority. The rulemaking described in this Regulatory Plan entry reflects OSHA's intention to move forward with this process. In determining how to proceed, OSHA is being guided by the OSH Act and the Eleventh District Court decision regarding the extent of the risk and feasibility analyses required to support revised and new air contaminant limits. OSHA is planning to propose new PELs for a smaller number of substances (substantially fewer than in the 1989 rulemaking) by July of 1996. The Agency will rely on a risk-based prioritization system to identify those air contaminants that present significant risks to exposed employees and for which technologically and economically feasible controls exist. State-of-the-art risk assessment methodologies will be utilized for both carcinogens and noncarcinogens, and the determinations of feasibility

contained in the economic analysis accompanying the proposal will be extensive. The specific hazards associated with the air contaminants to be regulated will depend on the particular contaminants selected for rulemaking. Using priority planning criteria, such as the severity of the health effect, either acute or chronic, and the number of exposed workers, will ensure that significant risks are addressed and that workers will experience substantial benefits in the form of enhanced health and safety. Publication of the proposal will allow OSHA to institutionalize a mechanism for updating and extending its air contaminant limits, which will, at the same time, provide added protection to many workers who are currently being overexposed to toxic substances in the workplace.

Statement of Need: OSHA's current Tables Z-1, Z-2, and Z-3 contain approximately 470 PELs for various forms (e.g., dust, fumes, vapors) of the regulated contaminants, many of which are widely used in industrial settings. These PELs, which were adopted wholesale by OSHA in 1971 and have not been revised since then, are in many cases seriously unprotective of worker health. In addition, new chemicals are constantly being introduced into the working environment, and exposure to these substances can result in both acute and chronic health effects, with chronic effects being the more frequent and serious. Acute effects include respiratory and sensory irritation, chemical burns, and ocular damage; chronic effects include cardiovascular disease, respiratory, liver and kidney disease, reproductive effects, neurological damage, and cancer. For these reasons, it is a high OSHA priority to establish an ongoing regular process that will allow OSHA routinely to update existing PELs and establish limits for previously unregulated substances. The first step in achieving this goal is to publish an air contaminants proposal for a limited number of substances that will establish streamlined but scientifically sound and defensible procedures for conducting risk assessments and performing feasibility analyses that will permit regular updating and review of permissible exposure limits for air contaminants. The ability to lower existing limits and establish limits for new contaminants is an essential component of OSHA's mandate to protect the health and functional well-being of America's workers.

Alternatives: OSHA has considered a variety of nonregulatory approaches to address the problem of the Agency's outdated exposure limits for air contaminants. These include the issuance of nonmandatory guidelines, enforcing lower limits through the "general duty" cause of the OSH Act in cases where substantial evidence exists that exposure presents a recognized hazard of serious physical harm, and the issuance of hazard alerts. OSHA believes, however, that the problem of overexposure to hazardous air contaminants is so widespread, and the Agency's current limits are so out of date, that only a regulatory approach will achieve the necessary level of protection. The regulatory approach also has advantages for employers, because it gives them the information they need to establish appropriate control strategies to protect their workers and reduce the costs of job-related illnesses. This first phase of an ongoing air contaminants updating and revision process thus will begin to resolve a problem of long-standing and major occupational health import.

Anticipated Costs and Benefits: The scope of the proposed rule is currently under development, and thus quantitative estimates of costs and benefits have not been determined at this time. Implementation costs associated with the proposed standard include primarily those related to identifying and correcting over-exposures using engineering controls and work practices. Additional costs may be incurred for the implementation of administrative controls and the purchase and use of personal protective equipment. Estimates of the magnitude of the problem of occupational illnesses, both acute and chronic, vary considerably. In 1989, OSHA concluded that its Air Contaminants rule in general industry, which lowered 212 exposure limits and added 164 where none had previously existed, would result in a reduction of approximately 55,000 illnesses and over 23,300 lost-workday illnesses annually. Chronic effects include cardiovascular disease, respiratory, liver and kidney disease, reproductive effects, neurological damage, and cancer. Acute effects include respiratory and sensory irritation, chemical burns, and ocular effects.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210
Phone: 202 219-7075

RIN: 1218–AB54

1962. REVISION OF CERTAIN STANDARDS PROMULGATED UNDER SECTION 6(A) OF THE WILLIAMS-STEIGER OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 5 USC 533

CFR Citation: 29 CFR 1910.106; 29 CFR 1910.107; 29 CFR 1910.108; 29 CFR 1910.94(c); 29 CFR 1910.94(d); 29 CFR 1911

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) adopted its initial package of workplace safety and health standards from various nationally recognized consensus standards and from standards that had already been promulgated by other Federal agencies. These standards reflected technologies that were current at the time the Williams-Steiger Occupational Safety and Health Act of 1970 (the Act) became law. Section 6(a) of the Act permitted OSHA to adopt significant nationally recognized consensus standards, developed by groups such as the National Fire Protection Association (NFPA) and the American National Standards Institute (ANSI), and existing Federal standards for use as OSHA standards without public participation or public comment. OSHA refers to the standards it adopted under section 6(a) of the Act as "6(a) standards." Since their adoption, many of these 6(a) standards have been identified by the regulated community as being overly complex, difficult to read and follow, and out of date with current technology.

This project is part of a Presidential initiative to respond to the general criticism concerning the complexity and obsolescence of certain Federal regulations. OSHA believes that some of the Agency's section 6(a) standards in subpart H of part H of part 1910 meet the criteria for critical review set forth in the Presidential initiative. OSHA has identified three standards from subpart H that need to be revised and updated to eliminate their complexity and obsolescence. These standards include 29 CFR 1910.106, Flammable and Combustible Liquids; 29 CFR 1910.107, Spray Finishing Using Flammable and Combustible Materials; and 29 CFR 1910.108, Dip Tanks Containing Flammable or Combustible Materials.

With this project, OSHA is initiating three separate rulemakings that will revise and update three of OSHA's most complex and out-of-date section 6(a) standards. These specific sections address flammable and combustible liquid storage, handling, and use; spray finishing using flammable and combustible liquids; and dip tanks containing flammable and combustible liquids. The regulations contained in 29 CFR 1910.106, 1910.107, and 1910.108 have long been criticized by labor, management, and government for their complexity, duplicative nature, and obsolescence. 29 CFR 1910.106 contains outdated and duplicative standards as well. 29 CFR 1910.107 and 1910.108 also contain substantive ventilation requirements that are duplicative with ventilation requirements contained in 29 CFR 1910.104, paragraphs (c) and (d).

OSHA intends to issue three separate proposals individually addressing 29 CFR 1910.106; 29 CFR 1910.107 and 1910.94(c); and 29 CFR 1910.108 and 1910.94(d). The purpose of these rulemakings will be to solicit public participation in the revision and updating of these standards to current levels of technology. It is also the purpose of the rulemakings to eliminate the complexity, duplicative nature, and obsolescence of the current existing standards and to write them in "plain language," as directed by the President's report.

Statement of Need: These three OSHA safety standards are being revised and updated as part of the President's initiative on Federal regulations discussed in the U.S. Department of Labor report of June 15, 1995. The Department of Labor report was issued in response to the President's Regulatory Reform Initiative dated April 24, 1995.

Fire hazards in the workplace associated with exposure to flammable and combustible liquids create a variety of safety and health problems, including thermal burns, chemical burns, smoke inhalation, respiratory inflammations, nausea, dizziness, other serious physical injuries and death. Overexposure to vapors, fumes, and mists created during spray applications or dipping processes involving flammable or combustible liquids create a variety of health problems, including respiratory infections, nausea, dizziness, respiratory allergies, heart disease, lung cancer, decreases in pulmonary function, other serious illnesses, and death.

Fires and explosions continue to occur frequently in the industrial environment. Such fires, which are often catastrophic, are often caused by improper storage, handling and use of flammable and combustible liquids, including improper or inadequate ventilation of their vapors, fumes, or mists. Control of the fire and health hazards that employees are exposed to during operations involving flammable and combustible liquids requires adequate fire control and ventilation procedures. These procedures can protect employees from the adverse physical safety or health effects resulting from exposure to flammable and combustible liquids and their vapor, fumes, or mists.

Employees are also exposed to significant health hazards when they work around spray finishing operations or dip tank operations that use nonflammable or noncombustible liquids. Many employers will use such nonflammable or noncombustible liquids in spray finishing or dipping operations to eliminate fire or explosion hazards. However, some chemicals, such as perchlorethylene, create significant health hazards to employees when used by spray finishing and dip tank operations. Health problems such as respiratory infections, nausea, dizziness, respiratory allergies, heart disease, lung cancer, decreases in pulmonary function, other serious illnesses, and death may occur if employee exposure to toxic, nonflammable or toxic noncombustible liquids are not controlled.

When 29 CFR 1910.94(c), 1910.94(d), 1910-106, 1910.107, and 1910.108 were promulgated, many of the protective technologies and work practices recognized today in industries using flammable and combustible liquids did not exist. Advances in fire prevention strategies and equipment and in ventilation techniques and equipment necessitate the updating of these OSHA standards. Revising and updating these sections of Subpart H to recognize these new technologies and work practices will improve the occupational safety and health of employees by introducing new fire control and ventilation techniques into the workplace. The revision of these standards will also make them consistent with current nationally recognized consensus standards adopted by various authorities having jurisdiction over fire safety and health hazards. A consistent set of standards will make compliance with these rules easier for the regulated populations of employees and employers.

Alternatives: OSHA has considered several alternative approaches to controlling these hazards, including issuing guidelines, using the "general duty clause" of the OSHA Act to cite serious and unsafe work practices not regulated by the existing standards, issuing hazard alerts, issuing program directives, and revising and updating the current OSHA standards to reflect the updated national consensus standards. OSHA believes that, in this case, revising and updating these standards is the most appropriate way to proceed. It is the only approach that will assure public participation in the updating and revision of outdated, complex, and obsolete rules. It will also assure that employers will provide the most recent technologies to protect their employees from fire and explosion hazards.

Anticipated Costs and Benefits: The benefits and costs associated with these revisions are undetermined at this time; however, OSHA anticipates that cost savings and increased benefits will be associated with these actions due to the use of newer technologies, equipment,

and procedures to reduce employee injuries and fatalities in the workplace.

Risks: Physical injuries and fatalities caused by thermal burns, chemical burns, smoke inhalation and traumatic injuries are common among employees exposed to fire or explosion hazards in the workplace. In addition, overexposure to vapors, fumes, and mists created during spray applications or dipping processes involving flammable or combustible liquids can create a variety of health problems, including respiratory infections, nausea, dizziness, respiratory allergies, heart disease, lung cancer, decreases in pulmonary function, other serious illnesses, and death.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Access/Egress	05/00/96	
NPRM Flammable and Combustible	07/00/96	
NPRM Dip Tanks	09/00/96	
NPRM Spray Finishing	09/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: Flammable and Combustible Liquids, 29 CFR 1910.106, Spray Finishing Using Flammable and Combustible Materials, 29 CFR 1910.107, Dip Tanks Containing Flammable and Combustible Liquids, 29 CFR 1010.108 are three standards selected for revision and updating under a Presidential Initiative to revise and update outdated, duplicative, or obsolete federal regulations. These standards were adopted under section 6(a) of the Williams-Steiger Occupational Safety and Health Act of 1970. 29 CFR 1910.106 will be revised and updated to be consisted with the current National Fire Protection Association source standard. It will also be formatted to make it easier to read. 29 CFR 1910.94(d) will be combined with 29 CFR 1910.108 to eliminate duplicative standards.

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061
Fax: 202 219-7477

RIN: 1218–AB55

DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Occupational Safety and Health Administration (OSHA)

1963. RESPIRATORY PROTECTION (PROPER USE OF MODERN RESPIRATORS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.134; 29 CFR 1915.152; 29 CFR 1918.102; 29 CFR 1926.103

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA issued an ANPRM on respirators to address 6,850-11,000 cancer fatalities and 66,500 illnesses occurring annually. Existing standards had been in place for more than 20 years and did not take into consideration the current state-of-the-art for respiratory protection. In addition, the general industry standard for respirators contains redundancies and includes several advisory provisions which should be eliminated or changed. OSHA reviewed the current standards and issued a proposal to modernize the requirements on November 15, 1994 (59 FR 58884). In developing the proposal, OSHA worked closely with the National Institute for Occupational Safety and Health (NIOSH) and the Mine Safety and Health Administration (MSHA). On April 17, 1995 (60 FR 19162), OSHA extended the comment period until May 15, 1995. On May 25, 1995 (60 FR 27707), OSHA published a notice to schedule a technical panel discussion on assigned protection factors as part of the pending rulemaking hearing. Hearings began on June 6, 1995 and ended on June 20, 1995. The post-hearing comment period ended on September 20, 1995.

Timetable:

Action	Date	FR Cite
ANPRM	05/14/82	47 FR 20803
ANPRM Comment Period End	09/13/82	
Public Comment Period on Preproposal Draft Ends	11/29/85	
NPRM	11/15/94	59 FR 58884
Final Action	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave. NW., Rm N3718, FP Bldg., Washington, DC 20210
Phone: 202 219-7075

RIN: 1218–AA05

1964. SCAFFOLDS (PART 1926) (CONSTRUCTION: SAFER SCAFFOLDS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.451; 29 CFR 1926.452; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1926.752(k)

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA issued a proposal (51 FR 42680) to address the 23 fatalities and 15,600 injuries still occurring annually from scaffolds in the construction industry. The existing OSHA standard is poorly formatted and contains unnecessary specific coverage for certain types of scaffolds. The proposal raises several significant issues including (1) the use of crossbraces as guardrails, (2) the use of fall protection during scaffold erection and dismantling operations, and (3) the role of engineers in scaffold design.

Timetable:

Action	Date	FR Cite
NPRM	11/25/86	51 FR 42680
NPRM Comment Period End	06/14/87	52 FR 20616
Record Reopened	03/29/93	58 FR 16509
Record Reopened	02/01/94	59 FR 4615
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AA40

1965. SAFETY AND HEALTH REGULATIONS FOR LONGSHORING (PART 1918) AND MARINE TERMINALS (PART 1917) (SHIPYARDS: PROTECTING LONGSHORING WORKERS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655 Occupational Safety and Health Act of 1970; 33 USC 941 Longshore and Harborworkers Compensation Act

CFR Citation: 29 CFR 1910.16; 29 CFR 1918 (Revision); 29 CFR 1917 (Revision and Corrections)

Legal Deadline: None

Abstract: Current longshoring standards have been in place since 1960. The language in many instances addresses the hazards of cargo handling involving methods long since abandoned and fails to address the serious hazards of newer methods. Since much of the current standard is out-of-date, there are problems with compliance. Settlement agreements following the 1983 Marine Terminal standard (49 FR 30886), identified problems with OSHA's existing longshoring standard. Also, the International Longshoremen's and Warehousemen's Union and the National Maritime Safety Association requested revisions to the current standard. On June 6, 1994, (59 FR 28594) OSHA issued a proposal to address the 18 fatalities and 7,593 injuries occurring annually. The proposed revised requirements will provide both employers and employees with a blueprint for modern, effective, and safe work practices in the cargo handling industry. OSHA held public hearings on this proposal and the record closed 4/30/95.

Timetable:

Action	Date	FR Cite
NPRM	06/06/94	59 FR 28594
NPRM Comment Period End	09/23/94	
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 44 Water Transportation

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605 FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AA56

1966. SCAFFOLDS IN SHIPYARDS (PART 1915—SUBPART N) (PHASE I) (SHIPYARDS: SAFER SCAFFOLDS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.71; 29 CFR 1910.28; 29 CFR 1910.29

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA embarked on a project to update and consolidate the varying OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. A shipyard employer was subject to both the "shipyard" standards that applied only to shipboard hazards and OSHA's general industry standards for landside operations. This resulted in inconsistent, and sometimes contradictory, requirements for essentially the same operation.

Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts of shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general work practices and fire safety). This action is endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

This particular regulatory action will revise the existing shipyard employment standards covering scaffolds and will consolidate all related and applicable 29 CFR part 1910 provisions. It will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48182
NPRM Comment Period End	02/27/89	
Reopened Record Comment Period Ended 6/13/94	04/12/94	59 FR 17290
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Applicable part 1910 provisions under consideration: 29 CFR 1910.28 - 1910.29.

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AA66

1967. ACCESS AND EGRESS IN SHIPYARDS (PART 1915, SUBPART E) (PHASE I) (SHIPYARDS: EMERGENCY EXITS AND AISLES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.72; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.76

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA embarked on a project to update and consolidate the varying OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. A shipyard employer was subject to both the "shipyard" standards that applied only to shipboard hazards and OSHA's general industry standards for landside operations. This resulted in inconsistent, and sometimes contradictory, requirements for essentially the same operation.

Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project including general work practices and fire safety). This action is endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

This particular standard will revise the existing shipyard employment standards covering access and egress and will consolidate all related and applicable 29 CFR part 1910 provisions into 29 CFR part 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions. 75,000 workers are potentially exposed to these hazards annually.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48130
NPRM Comment Period End	02/27/89	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: Applicable part 1910 provisions under consideration: 29 CFR 1910.24-1910.27; 29 CFR 1910.36-1910.37.

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AA70

1968. PERSONAL PROTECTIVE EQUIPMENT IN SHIPYARDS (PART 1915) (SHIPYARDS: GOGGLES, GLOVES, AND OTHER PPE)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.151; 29 CFR 1915.152; 29 CFR 1915.153; 29 CFR 1915.154; 29 CFR 1915.155; 29 CFR 1915.156; 29 CFR 1915.157; 29 CFR 1915.158; 29 CFR 1915.159

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA embarked on a project to update and consolidate the varying OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. A shipyard employer was subject to both the "shipyard" standards that applied only to shipboard hazards and OSHA's general industry standards for landside operations. This resulted in inconsistent, and sometimes contradictory, requirements for essentially the same operation.

Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts of shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general work practices and fire safety). This action is endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards.

This particular standard will be, in part, performance-oriented and will address current gaps in coverage, recognizing new technology, and eliminate outmoded or redundant provisions. It will consolidate 29 CFR part 1915 and applicable 29 CFR part 1910 standards into one set of provisions regarding gloves, goggles, and other personnel protective equipment.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48150
NPRM Comment Period End	02/27/89	
Reopened Record Comment Period Ends 8/22/94	07/06/94	59 FR 34586
Comment Period Ended 1/25/95	12/13/94	59 FR 64173
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Applicable part 1910 provisions under consideration: 29 CFR 1910.132-1910.138. The public record has been reopened for 45 days to incorporate the general industry records for PPE (S-060) and personal fall protection equipment (S-057) so that final regulations for PPE used in shipyards and in general industry can be consistent where appropriate.

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave. NW., Rm N3605, FP Bldg., Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AA74

1969. 1,3-BUTADIENE (PREVENTING OCCUPATIONAL ILLNESS: BUTADIENE)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000 (Table Z-1); 29 CFR 1910.1051

Legal Deadline: None

Abstract: On October 10, 1985, EPA referred 1,3-butadiene (BD) to OSHA for possible regulatory action under section 9(a) of the Toxic Substance Control Act. On April 11, 1986, OSHA responded to the EPA referral indicating that the Agency has preliminarily concluded that BD poses risk to the occupationally exposed population at the current OSHA permissible exposure limit and that the risk can be reduced or prevented through the promulgation of a revised standard. On October 1, 1986 (51 FR 35003), OSHA published an ANPRM initiating regulatory action within the meaning of section 9(a) of TSCA. Comments were submitted to OSHA by December 30, 1986. Based on the comments received in response to the ANPRM, OSHA developed a proposal which was published on August 10, 1990. Hearings were held in Washington, D.C. on January 15, 1991, and in New Orleans, Louisiana on February 20, 1991. Submission of the post-hearing comments and briefs were scheduled to end on June 22, and July 22, 1991 respectively; however, OSHA extended the dates to September 27, and October 28, 1991. The post-hearing comments and briefs were again extended and finally closed on November 26, 1991, and February 10, 1992, respectively. In March 1996, OSHA reopened the rulemaking record to receive comments on safety and health information presented to the Agency by business and labor. Work on a final rule is continuing

Timetable:

Action	Date	FR Cite
EPA Referral	10/10/85	50 FR 41393
Request for Comments	12/27/85	50 FR 52952
Response to EPA Referral	04/11/86	51 FR 12526
ANPRM	10/01/86	51 FR 35003
ANPRM Comment Period End	12/30/86	
NPRM	08/10/90	55 FR 32736
NPRM Comment Period End	10/19/90	
Limited Reopening of Rulemaking Record - Comments due by 4/8/96	03/08/96	61 FR 9381
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3718, FP Bldg., Washington, DC 20210
Phone: 202 219-7075

RIN: 1218–AA83

1970. METHYLENE CHLORIDE (PREVENTING OCCUPATIONAL ILLNESSES: METHYLENE CHLORIDE)

Priority: Other Significant

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.1052; 29 CFR 1926.1162

Legal Deadline: None

Abstract: In July 1985, OSHA was petitioned by the UAW to issue a hazard alert; issue an emergency temporary standard; and to begin work on a new permanent standard for methylene chloride. This request was based on information obtained from the EPA and the National Toxicology Program indicating that DCM is an animal carcinogen and may have the potential to cause cancer in humans. An estimated 209,479 workers are exposed to the hazards of MC annually. In November 1986, OSHA notified the UAW that its petition had been granted, in part, and denied, in part. Specifically, OSHA issued a set of guidelines for controlling occupational exposure to MC and OSHA denied that portion of the petition requesting the issuance of an emergency temporary standard. OSHA published an ANPRM on November 24, 1986 (51 FR 42257). After reviewing and analyzing the comments received in response to the ANPRM, OSHA published a proposal in the Federal Register on November 7, 1991 (56 FR 57036). The comment period closed on April 6, 1992. On June 9, 1992, OSHA published a notice of informal public hearings that were held in Washington, DC September 16-24 and in San Francisco, CA on October 14-16, 1992. The post-hearing comment period for new evidence closed on January 14, 1993, and the final date for submitting post-hearing summations and briefs was March 15, 1993. The record was reopened on March 11, 1994, for 45 days to address MC exposure in the furniture stripping industry, an NCI study relating brain cancer to occupational exposure to MC, and information regarding the use of MC as a solvent in adhesive formulation in flexible foam manufacturing. The record was also reopened in late 1995 to receive new data and information on MC-related risks. Work on a final rule is continuing.

Timetable:

Action	Date	FR Cite
ANPRM	11/24/86	51 FR 42257
ANPRM Comment Period End	02/23/87	
NPRM	11/07/91	56 FR 57036
NPRM Comment Period End	04/06/92	
Final Action	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave. NW., Rm N3718, FPBldg., Washington, DC 20210
Phone: 202 219-7075

RIN: 1218–AA98

1971. WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (PART 1910) (SLIPS, TRIPS, AND FALL PREVENTION)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.21; 29 CFR 1910.22; 29 CFR 1910.23; 29 CFR 1910.24; 29 CFR 1910.25; 29 CFR 1910.26; 29 CFR 1910.27; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1910.30; 29 CFR 1910.31; 29 CFR 1910.32; 29 CFR 1910.128; 29 CFR 1910.129; 29 CFR 1910.130; ...

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Legal Deadline: None

Abstract: Standards for walking and working surfaces and personal fall protection systems will be issued concurrently as a final rule. The Occupational Safety and Health Administration's (OSHA's) existing standards for walking and working surfaces need to be revised because they are out of date and limit technological innovation in the means employers can use to comply. The final rule is performance-oriented, written in plain language, and flexible in the means of compliance permitted. In addition, OSHA's existing standards do not contain criteria for personal fall protection systems. Consequently, requirements containing criteria for such systems will be added to 29 CFR Part 1910, Subpart I, Personal Protection Equipment, to enhance employee protection from injury and death due to falls to different elevations.

Statement of Need: The existing standards for walking/working surfaces were originally adopted in 1971 under Section 6(a) rulemaking procedures. These standards are now out of date, restrict technological innovation, and contain gaps in coverage. Currently, there are also no standards for personal fall protection systems that cover all general industry applications. This rulemaking action will thus revise and update OSHA's existing regulations for walking/working surfaces (29 CFR Part 1910, Subpart D) and add new coverage for personal fall protection systems to the current personal protective equipment standards (29 CFR Part 1910, Subpart I). The revised rules will be written in plain English so that they will be easier for employers and employees to understand.

The new standard will use a performance-oriented approach to permit flexibility in the means of compliance and to encourage innovation. New criteria for personal fall protection systems will be added to allow these systems to be used as additional alternatives to provide fall protection and to ensure that this type of equipment functions properly and is used correctly.

The legal basis for this action is that employees in general industry are exposed to a significant risk of falls, both falls on the same level and falls from an elevation. However, this action is not specifically required by statute, and is not required by court order.

The new standard will reduce risks to workers by providing clearer, up-to-date requirements to minimize fall hazards. The standard will also cover new areas of fall protection such as special surfaces and manhole steps, and the use of qualified climbers. The new standard will also recognize personal fall protection systems as an acceptable option for fall protection, as well as provide the criteria to ensure that such systems will safely stop a worker's fall.

Alternatives: The following alternatives were considered for analysis:

1. Retaining the existing regulation unchanged. A number of the existing requirements are specification-oriented provisions that in some situations are inappropriate, unnecessarily costly, and inflexible. For example, the existing standard mandates guardrails for most roof perimeters and requires that fixed ladders on most towers and other structures be fitted with cages or ladder safety devices; but in some limited circumstances, such requirements are unnecessarily restrictive. Also, personal fall protection systems, which are suited to many difficult fall protection situations, are not permitted under the existing rule.

2. Issuing the final rule without an exemption for qualified climbers. This option would require that all fixed ladders over 24 feet in height utilize cages or ladder-safety devices. Under this option, the benefits of the standard would be about the same as they are for the version reflected in the final rule, but the first-year capital cost of compliance would be increased by more than a factor of eleven.

3. Issuing the revised final rule as a final standard, including the exemption for qualified climbers, requirements for fall protection systems, and other flexible provisions for such protective devices as guardrails. OSHA believes that this alternative will result in the greatest amount of employee protection at the least cost to employers of all the alternatives considered.

Anticipated Costs and Benefits: Modifications to existing requirements are expected to involve annual costs of less than $20 million. Benefits include the prevention of dozens of fatalities and thousands of injuries associated with falls and other work-surface-related incidents.

Risks: Nearly all workplaces and employees covered by the OSHA general-industry standards are affected by the standards for walking and working surfaces. These standards cover about 84 million workers. Examples of walking and working surfaces included in these standards are stairs, step bolts, manhole steps, ramps, ladders, floors, fall-protection systems, scaffolds, and mobile ladder stands.

The Bureau of Labor Statistics (BLS) reported from the 1987 and 1988 annual surveys that falls accounted for 12 percent of all deaths of employees in workplaces with 11 or more employees.

The National Institute of Occupational Safety and Health (NIOSH) publication, "Fatal Injuries to Workers in the United States, 1980-1989: A Decade of Surveillance," reports that deaths from falls are the fourth leading cause of occupational fatalities, accounting for 10 percent of all deaths in the workplace. According to the Insurance Institute for Highway Safety, falls are the second largest cause of occupational fatalities, next after death due to over-the-road motor vehicle accidents. Falls are also second only to motor vehicle accidents as a cause of brain injuries.

OSHA has determined that hazards associated with walking and working surfaces persist and must be addressed with improved standards. OSHA's preliminary regulatory impact analysis estimated that as many as 105,000 disabling injuries and 132 fatalities that occur annually are potentially preventable by compliance with the revised final rule.

A number of special studies have also been conducted to gain a better understanding of the nature and causes of employee injuries, and the methods required for reducing their numbers. One such study on ladders, conducted by BLS, indicated that in about 55 percent of ladder-related accidents where employee injuries occurred, the ladder either moved, slipped, fell or broke. The study also indicated that ladders were not secured or braced in about 50 percent of these injury incidents. Furthermore, in nearly 60 percent of the incidents, employees were carrying something in their hands at the time of the incident. The final standard will address these problems by requiring design criteria and employee training in the use of ladders.

Another study of scaffold fatalities and catastrophes developed by OSHA indicated that 90 percent of fatally injured employees were performing their normal job activities at the time of the accident, and 55 percent of these employees were performing their basic or primary work tasks.

Timetable:

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13360
NPRM Comment Period End	08/22/90	
Hearing	09/11/90	55 FR 29224
Final Action	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Because RINs 1218-AB05 and 1218-AA48 will be issued concurrently, they have been combined under this RIN 1218-AB04.

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3605, FP Bldg., Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB04

1972. ABATEMENT VERIFICATION (HAZARD CORRECTION)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 657; 29 USC 658; 5 USC 553

CFR Citation: 29 CFR 1903

Legal Deadline: None

Abstract: A critical element of OSHA's comprehensive enforcement strategy under the Occupational Safety and Health Act is assurance that employers have abated cited hazards. A May 1991, General Accounting Office report entitled, "Options to Improve Hazard-Abatement Procedures in the Workplace," pointed out deficiencies in OSHA's abatement verification procedures and how they could be improved. The Department of Labor Inspector General, as well as OSHA's internal audits, also identified similar problems. Currently, unless an employer voluntarily complies with OSHA's request to submit documentation, OSHA has no means to require employers to submit proof of hazard abatement. From 1972 to the present, OSHA has implemented several administrative measures to induce employers to provide abatement documentation, but at least 30 percent of cited employers still do not voluntarily do so. OSHA's April 19, 1994, proposal (29 FR 18508) would require cited employers to provide hazard abatement documentations. The NPRM addressed the kinds of evidence to be required, what notice to employees is needed, potential penalties for non-reporting, possible certification forms for compliance, and other questions. Work on the final regulation is continuing.

Timetable:

Action	Date	FR Cite
NPRM	04/19/94	59 FR 18508
NPRM Comment Period End	07/18/94	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State

Sectors Affected: All

Analysis: Regulatory Flexibility Analysis

Agency Contact: Raymond E. Donnelly, Director, General Industry Compliance Assistance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3119, FP Building, Washington, DC 20210
Phone: 202 219-8041

RIN: 1218–AB40

1973. PERMIT REQUIRED CONFINED SPACES (GENERAL INDUSTRY: PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910-146

Legal Deadline: None

Abstract: OSHA issued a final standard on preventing suffocation/explosions in confined spaces in general industry on January 14, 1993 (58 FR 4462). OSHA reached a settlement agreement with the United Steel Workers of America in June 1994. As part of this settlement agreement, OSHA issued a proposal on November 28, 1994 (59 FR 60735) proposing minimal revisions to paragraph (k) of the existing rule to clarify the standard and to make compliance easier. OSHA has proposed to state more clearly the employer's duty to ensure effective rescue capability for employees who enter permit-required confined spaces and to allow more flexibility in the point of a retrieval line attachment. OSHA is also asking whether the standard should have provisions to provide affected employees or their representatives with the opportunity to observe the evaluation of confined spaces, including atmospheric testing or monitoring, and to have access to evaluation results. Hearings are scheduled to be held September 27, 1995 - October 2, 1995.

Timetable:

Action	Date	FR Cite
NPRM	11/28/94	59 FR 60735
NPRM Comment Period End	02/27/95	
Final Action	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB52

1974. ELIMINATING AND IMPROVING REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1901; 29 CFR 1910; 29 CFR 1926; 29 CFR 1928; 29 CFR 1950; 29 CFR 1951

Legal Deadline: None

Abstract: OSHA has made a continuing effort to eliminate confusing, outdated, and duplicative regulations. In 1978 and again in 1984, the Agency conducted comprehensive revocation and revision projects that resulted in the elimination of hundreds of

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unnecessary rules. In response to the President's Memorandum of March 4, 1995, and the April 24, 1995, Presidential Directive, the Agency is again renewing its effort to eliminate unnecessary regulations and improve others. Following a page-by-page review of regulations that was required as part of the President's April 24, 1995 regulatory reform initiative, OSHA developed a list of standards it proposes to revoke or revise. These standards were deemed to be out of date, duplicative, inconsistent with other OSHA standards, or preempted by the regulations of other Federal agencies. Administrative changes will also be addressed in this rulemaking.

Statement of Need: This rulemaking is part of OSHA's response to the President's Regulatory Reform Initiative, as embodied in the Department of Labor's report of June 15, 1995. In carrying out OSHA's responsibilities under the Presidential directive, and as part of OSHA's reinvention efforts, the Agency is reworking many health and safety standards, particularly those that were first adopted by OSHA in 1971, into standards that are more understandable to employers and employees, are flexible in their means of compliance, and are founded in common-sense approaches to preventing or controlling workplace safety and health hazards. This standards project is a key part of the Agency's initial effort to meet this objective.

Workplace safety and health standards should be both protective of workers and user-friendly for employers and employees. If OSHA standards are duplicative, employers have more difficulty in achieving compliance. For example, rubber insulating equipment requirements in 29 CFR 1910.268(f) should be revoked, because these same requirements appear in a more up-to-date form in 29 CFR 1910.137. Similarly, information given in respirator fit test procedures contained in 29 CFR 1910.1000 is repeated in a number of other locations in OSHA health standards and could be eliminated by the addition of a cross reference to a single source.

In addition, any OSHA standards that are out of date as a result of industry changes in the use of materials or equipment should be revised to accommodate these changes. For example, only approved metal safety cans can be used for the storage and handling of flammable and combustible liquids in the construction industry, as required in 29 CFR 1926.152(a)(1). Since plastic cans are now also approved and acceptable for this purpose, the OSHA standard should be revised to allow this industry to use such equipment if desired.

OSHA standards that are preempted by similar standards enforced by other Federal agencies (as specified in Section 4(b)(1) of the OSH Act) should also be removed from OSHA's regulations. For example, the capacity limits for liquefied petroleum gas (LPG) cylinders addressed in 29 CFR 1910.110(e)(10) are preempted by regulations enforced by the Department of Transportation for the same equipment. The inclusion of such standards in OSHA regulations unnecessarily increases the burden on employers trying to understand and comply with applicable standards.

There are also some OSHA standards that conflict with the rules of other Federal agencies. For example, OSHA requires empty boxes that previously contained high explosives that are being disposed of to be burned (29 CFR 1910.109(e)(2)), although some employers have been prohibited from burning these boxes by local air pollution requirements. OSHA will be revising these standards to allow flexibility and common-sense alternative methods and procedures.

Administrative actions will also be proposed in this rulemaking to reduce employer burden. These actions include the elimination of obsolete standards that address such matters as effective dates and sources of standards.

Alternatives: OSHA has considered issuing de minimis citations for noncompliance with many of the duplicative, outdated, or confusing standards that would be addressed in this notice. Such enforcement actions, however, do not eliminate the continuing problem for employers who must attempt to identify the standards that apply to their worksites. OSHA believes that the selective elimination of unnecessary standards and the revision and updating of others is the most satisfactory approach to resolving this problem.

Anticipated Costs and Benefits: No additional costs are anticipated for employers. Employers should benefit from this action because it will enhance their ability to comply with OSHA standards that are more user-friendly.

Risks: Employee protection is likely to be enhanced to some extent by this action, which will clarify and update regulatory requirements.

Timetable:

Action	Date	FR Cite
Final - Consolidation of Similar Requirements	03/07/96	61 FR 9228
Final - Consolidation of Similar Requirements Effective Date 5/6/96	03/07/96	
Final - Longshoring	04/00/96	
NPRM - Elimination of Duplicative Pages	07/00/96	
NPRM - Elimination of Problem Regulations	07/00/96	
Final - Respirators	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB53

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)
Long-Term Actions

1975. GLYCOL ETHERS: 2-METHOXYETHANOL, 2-ETHOXYETHANOL, AND THEIR ACETATES PROTECTING REPRODUCTIVE HEALTH

Priority: Other Significant

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None

Abstract: On May 20, 1986, the Environmental Protection Agency (EPA) issued a report to OSHA, under Section 9(a) of the Toxic Substances Control Act, stating that EPA has reasonable basis to conclude that the risk of injury to worker health from exposure to four glycol ethers during their manufacture, processing and use is unreasonable, and that this risk may be prevented or reduced to a significant extent by OSHA regulatory action. EPA gave OSHA 180 days in which to respond to its report. OSHA published its response on December 11, 1986, stating that OSHA had preliminarily concluded that occupational exposures to the subject glycol ethers at the current OSHA permissible exposure limits may present significant risks to the health of workers. OSHA published an Advance Notice of Proposed rulemaking (ANPRM) on April 2, 1987, (52 FR 10586). OSHA used the information received in response to the ANPRM, as well as other information and analysis, and published a proposal, March 23, 1993 (58 FR 15526), that would reduce the permissible exposure limits for four glycol ethers and provide protection for approximately 46,000 workers exposed to the substances.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/87	52 FR 10586
ANPRM Comment Period End	07/31/87	
NPRM	03/23/93	58 FR 15526
NPRM Comment Period End	06/07/93	
Final Action	06/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Rm N3718, FP Bldg., Washington, DC 20210
Phone: 202 219-7075

RIN: 1218–AA84

1976. ACCREDITATION OF TRAINING PROGRAMS FOR HAZARDOUS WASTE OPERATIONS (PART 1910)

Priority: Other Significant

Legal Authority: 29 USC 655(b); PL 101-549 (November 15, 1990); 5 USC 552(a); 5 USC 533

CFR Citation: 29 CFR 1910.121, subpart H

Legal Deadline: None

Abstract: The Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499) established the criteria under which OSHA should develop and promulgate the Hazardous Waste Operations and Emergency Response standards. OSHA issued an interim final standard on December 19, 1986, (51 FR 45654) to comply with the law requirements. OSHA issued a permanent final rule for provisions on training to replace this interim rule on March 9, 1989 (29 CFR 1910.120).

On December 22, 1987, as part of an omnibus budget reconciliation bill (PL 100-202), section 126(d)(3) of SARA was amended to include accreditation of training programs for hazardous waste operations. OSHA issued a proposal on January 26, 1990 (55 FR 2776) addressing this issue. OSHA held a public comment period following the issuance of the proposal and held a limited reopening of the public record in June 1992 to allow additional public comment on an effectiveness of training study conducted by OSHA. OSHA has also developed nonmandatory guidelines to further address minimum training criteria.

Timetable:

Action	Date	FR Cite
NPRM	01/26/90	55 FR 2776
NPRM Comment Period End	04/26/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Bldg, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB27

1977. CONTROL OF HAZARDOUS ENERGY (LOCKOUT)—CONSTRUCTION (PART 1926) (PREVENTING CONSTRUCTION INJURIES/FATALITIES: LOCKOUT)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA was petitioned by UAW in May 1979 to issue an emergency temporary standard for locking out machinery and equipment. OSHA did not issue an emergency temporary standard, but did issue a general industry rule on September 1, 1989 (54 FR 36644). Still, OSHA has not yet issued a rule for the preventing accidents during equipment repair and maintenance for the construction industry. 4,000,000 workers annually are exposed to this hazard in the workplace. As a result, OSHA intends to issue a proposal to address this industry.

Hazards at construction sites resulting from the absence of effective lockout/tagout procedures to control hazardous energy appear to be caused by several factors, all associated with the nature of the construction industry. These factors basically related to such considerations as the types of machines and equipment found in construction; the makeup of the industry in which employment is relatively "short term," lasting only as long as the length of the current project; the presence of multiple employers having different employer/employee relationships and the temporary nature of the "in-the-field" maintenance activity. OSHA expects the proposal to address lockout-related hazards in those construction work-site areas in which the available data indicate these hazards to be major.

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Timetable:

Action	Date	FR Cite
NPRM	06/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russell B. Swanson, Director, Construction Standards, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3306, FP Building, Washington, DC 20210
Phone: 202 219-8644

RIN: 1218–AB30

1978. POWERED INDUSTRIAL TRUCK OPERATOR TRAINING (INDUSTRIAL TRUCK SAFETY TRAINING)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.178; 29 CFR 1915.120; 29 CFR 1917.43; 29 CFR 1918.77; 29 CFR 1926.602

Legal Deadline: None

Abstract: This is the second leading cause of fatalities in the private sector, behind only highway vehicle fatalities. On average, there are 107 fatalities and 38,330 injuries annually in the workplace.

The present standard has proven to be ineffective in reducing the number of accidents involving powered industrial trucks. As a result, there has been strong Congressional interest that OSHA issue a new standard to more effectively address this hazard. OSHA intends to revise the present standard to increase its effectiveness by requiring, in performance language, initial and refresher training as necessary. The frequency of the refresher training will be based upon the ability of the vehicle operator to retain the knowledge, skills and abilities to perform the job safely. OSHA will also give guidance as to what information the instruction should include. There will also be other amendments to the standard to increase its effectiveness. This proposal, if adopted, would apply to general industry, the maritime industries and construction.

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13782
NPRM Comment Period End	07/12/95	
NPRM Second and Hearing	01/30/96	61 FR 3092
Final Action	09/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Hearing to be held 4/30/96 and May 1, 1996.

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB33

1979. PREVENTION OF WORK-RELATED MUSCULOSKELETAL DISORDERS

Priority: Economically Significant

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918; 29 CFR 1926; 29 CFR 1928

Legal Deadline: None

Abstract: Work-related musculoskeletal disorders are a leading cause of pain, suffering, and disability in American workplaces. Since the 1980's, the Occupational Safety and Health Administration (OSHA) has had a number of initiatives related to addressing these problems, including enforcement under the general duty clause, issuance of guidelines for the meatpacking industry, and development of other compliance-assistance materials.

Ultimately, the Agency decided that, given the increasing magnitude of the problem, a regulatory approach should be explored to ensure that the largest possible number of employers and employees become aware of the problems and ways of preventing work-related musculoskeletal disorders. The Agency was precluded from issuing a standard or guidelines in this area by a rider on its fiscal year 1995 rescission bill. It is unclear at this point whether similar Congressional restrictions will prevent OSHA from addressing this issue in fiscal year 1996.

An open process to develop and consider regulatory alternatives was initiated by the Bush Administration with the publication of an advance notice of proposed rulemaking on August 3, 1992 (57 FR 34192). About 300 comments were received in response to that request. In addition to the public comments, OSHA has examined and analyzed the extensive scientific literature documenting the problem of work-related musculoskeletal disorders, the causes of the problem, and effective solutions; conducted a telephone survey of over 3,000 establishments regarding their current practices to prevent work-related musculoskeletal disorders; and completed a number of site visits to facilities with existing programs. The Agency has also held numerous stakeholder meetings to solicit input from individuals regarding the possible contents of a standard to prevent work-related musculoskeletal disorders, and on a draft proposed regulatory text and supporting documents. Agency representatives have delivered numerous outreach presentations to people who are interested in this subject; consulted professionals in the field to obtain expert opinions on various aspects of the options considered by the Agency; and had some employers field-test certain requirements under consideration for the standard. A quantitative risk assessment has been drafted, as well as a preliminary assessment of potential costs and benefits.

OSHA is in the process of refining its regulatory approach based on stakeholder input and other information for inclusion in an NPRM. The Agency believes that the scientific evidence supports the need for a standard and that the availability of effective and reasonable means to control these hazards has been demonstrated. The criteria that have been developed for setting OSHA priorities support the Agency's determination that action is needed now to stop the escalating occurrence of work-related musculoskeletal disorders.

Statement of Need: OSHA estimates that the occurrence of work-related musculoskeletal disorders in the United States ranges from more than 700,000 lost workday injuries and illnesses (30% of all lost workdays reported to the Bureau of Labor Statistics (BLS)) to more than 2.7 million annually awarded workers' compensation claims. These disorders now account for one out of every three dollars spent on workers' compensation. It is estimated that employers spend $20 billion a year on direct costs for workers' compensation, and up to five times that much for indirect costs, such as those associated with hiring and training replacement workers. In addition to these monetary effects, these disorders often impose a substantial personal toll on workers who experience their effects, and as a result are no longer able to work or to perform simple personal tasks like buttoning their clothes or brushing their hair.

Scientific evidence associates these disorders with stresses to various body parts caused by the way certain tasks are performed. The positioning of the body and the type of physical work that must be done to complete the tasks of a job may cause persistent pain and lead over time to deterioration of the affected joints, tissues, and muscles. The longer the time the worker must maintain a fixed or awkward posture, exert force, repeat the same movements, experience vibration, or handle heavy items, the greater the chance that such a disorder will occur. These job-related stresses are referred to as "workplace risk factors," and the scientific literature demonstrates that exposure to these risk factors, particularly in combination with each other, significantly increases an employee's risk of developing a work-related musculoskeletal disorder. Jobs involving exposure to workplace risk factors appear in all types of industries and in all sizes of facilities. Musculoskeletal disorders occur in all parts of the body--the upper extremity, the lower extremity, and the back.

The evidence OSHA has assembled and analyzed indicates that there are technologically and economically feasible measures available that can significantly reduce exposures to workplace risk factors and the risk of developing work-related musculoskeletal disorders. Many companies that have voluntarily implemented ergonomics programs have demonstrated that effective ergonomic interventions are available and implementation of them is beneficial to the employer and the employee. Many of these interventions are simple and inexpensive, but nevertheless have a significant effect on the occurrence of work-related musculoskeletal disorders. Substantial savings in workers' compensation costs, increased productivity, and decreased turnover are among the benefits found.

Alternatives: OSHA has considered many different regulatory alternatives since initiating the rulemaking process. These include variations in the scope of coverage, particularly with regard to industrial sectors; various phasing options related to the size of facility; and limitations to the types of disorders to be covered by the proposed rule. In particular, OSHA is examining scope options that would narrow or focus coverage to a similar percentage of the population at risk. The Agency is also looking at different ways to address the issue, such as having a program-oriented approach rather than focusing on the process for identifying and controlling hazards.

Anticipated Costs and Benefits: Implementation costs associated with a regulatory approach would include those related to identifying and correcting problem jobs using engineering and administrative controls. Benefits expected include reduced pain and suffering, both from prevented disorders as well as reduced severity in those disorders that do occur, fewer workers' compensation claims and lower associated costs, and reduced lost work time. Secondary benefits may accrue from improved quality and productivity due to better designed work systems.

Risks: The data OSHA has obtained and analyzed indicate that employees are at a significant risk of developing or aggravating musculoskeletal disorders due to exposure to risk factors in the workplace. In addition, information OSHA has obtained from site visits, scientific literature, compliance experience, and other sources indicates that there are economically and technologically feasible means of addressing and reducing these risks to prevent the development or aggravation of such disorders, or to reduce their severity. These data and analyses will be presented in the preamble to any proposed standard published in the Federal Register.

Timetable:

Action	Date	FR Cite
ANPRM	08/03/92	57 FR 34192
ANPRM Comment Period End	02/01/93	
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210
Phone: 202 219-7075

RIN: 1218–AB36

1980. INDOOR AIR QUALITY IN THE WORKPLACE

Priority: Economically Significant

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1910.1033

Legal Deadline: None

Abstract: OSHA was petitioned in March 1987 by the Action on Smoking or Health (ASH), Public Citizen, and the American Public Health Association to issue an emergency temporary standard on environmental tobacco smoke (ETS) in the workplace. In March 1992, OSHA was petitioned by the AFL-CIO to establish workplace IAQ standards. In December 1992, ASH again petitioned for rulemaking on ETS. In January 1993, Labor Secretary Lynn Martin, under the Bush Administration, directed OSHA to begin rulemaking to address the hazards of exposure to ETS.

Everyday, more than 20 million American workers face an unnecessary health threat because of poor indoor air quality (IAQ) and ETS in the workplace. Thousands of heart disease deaths, hundreds of lung cancer deaths, respiratory disease, legionnaire's disease, asthma, and other ailments are linked to this occupational hazard. More specifically, it is estimated that each year, there are approximately 700 cases of lung cancer and 13,000 deaths from heart disease among nonsmoking workers exposed to ETS. Further, America's workers are at risk of developing over a hundred thousand upper respiratory symptoms, as well as many thousands of headaches from poor indoor air quality. EPA estimates

that 20 to 35 percent of all workers in modern mechanically ventilated buildings may experience air-quality problems that could result in illnesses, absenteeism, lost productivity, and discomfort.

Surveys have estimated that as many as 85 percent of the polled companies had some sort of smoking restriction in place, due to either concerns about production safety or employee health and safety. The fact that this is a national problem suggests that it should be solved at the Federal level.

OSHA published a Request for Information on September 20, 1991, to collect information to determine if a standard regulating indoor air quality is justified and feasible. Information was requested on the ventilation system performance necessary to optimize indoor air quality, techniques for improving ventilation, building maintenance programs, existing workplace indoor air policies, and local and State laws addressing indoor air quality.

After reviewing and analyzing available information, OSHA published a proposed rule on April 5, 1994. The proposal would require employers to write and implement indoor air quality compliance plans that would include inspection and maintenance of current building ventilation systems to ensure they are functioning as designed. In buildings where smoking is allowed, the proposal would require designated smoking areas that would be separate, enclosed rooms where the air would be exhausted directly to the outside. Other proposed provisions would require employers to maintain healthy air quality during renovation, remodeling and similar activities. The provisions for indoor air quality would apply to 70 million workers and more than 4.5 million nonindustrial indoor work environments, including schools and training centers, offices, commercial establishments, health care facilities, cafeterias and factory break rooms. ETS provisions would apply to all 6 million industrial and nonindustrial work environments under OSHA jurisdiction. OSHA preliminarily estimates that 5,583 to 32,502 cancer deaths and 97,700 to 577,818 coronary heart diseases related to occupational exposure to ETS will be prevented over the next 45 years. This represents 140 to 722 cancer deaths and 2,094 to 13,001 heart diseases each year. OSHA preliminarily estimates that the proposed standard will prevent 4.5 million upper respiratory problems over the next 45 years. This is approximately 105,000 upper respiratory symptoms per year. These estimates understate the prevalence of building-related symptoms since they only reflect excess risk in air conditioned buildings.

Timetable:

Action	Date	FR Cite
Request for Information	09/20/91	56 FR 47892
Comment Period End	01/21/92	
NPRM	04/05/94	59 FR 15968
NPRM Comment Period End	08/13/94	59 FR 30560
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210
Phone: 202 219-7075

RIN: 1218–AB37

1981. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM (PREVENTING OCCUPATIONAL ILLNESS: CHROMIUM)

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: 29 CFR 655(b); 29 CFR 657

Legal Deadline: None

Abstract: On July 19, 1993, the Oil, Chemical, and Atomic Workers International Union (OCAW) and Public Citizen's Health Research Group (HRG) petitioned for an emergency temporary standard to lower the permissible exposure limit (PEL) for hexavalent chromium compounds (CrCL) to 0.5 micrograms of hexavalent chromium per cubic meter of air (ug/ms) as an eight hour, time weighted average (TWA). The current PEL is 100 ug/m3, as an 8-hour time-weighted average. Occupational exposure to hexavalent chromium is known to cause lung cancer, bronchial asthma, nasal septum perforations, skin ulcers, and irritative dermatitis. CrVL includes chromic acid, chromates, lead chromate, and zinc chromate, all measured as Cr03. OSHA thoroughly reviewed the petition. While OSHA agrees that there is clear evidence that exposure to CrVL at the current PEL of 100 ug/m3 can result in significant risk of lung cancer and other CrVL-related illnesses, based on the Agency's analysis, OSHA finds that the currently available data are not sufficiently definitive in certain critical areas to support the need for an ETS, particularly in light of the extremely stringent statutory criteria for issuing and sustaining such action. While OSHA is denying the petition for an ETS, the Agency will issue a Section 6(b) rulemaking action to be responsible to the stakeholders' requests and to protect the 200,000-700,000 workers exposed to hazards of chromium annually.

Timetable:

Action	Date	FR Cite
NPRM	06/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Adam Finkel, Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3718, FP Building, Washington, DC 20210
Phone: 202 219-7075

RIN: 1218–AB45

1982. FIRE PROTECTION IN SHIPYARD EMPLOYMENT (PART 1915, SUBPART P) (PHASE II) (SHIPYARDS: FIRE SAFETY)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.1 et seq; 29 CFR 1915.31 et seq; 29 CFR 1915.91 et seq; 29 CFR 1915.111 et seq; 29 CFR 1915.131 et seq; 29 CFR 1915.161 et seq; 29 CFR 1915.171 et seq; 29 CFR 1915.181; 29 CFR 1910.13 et seq; 29 CFR 1910.14; 29 CFR 1910.15; 29 CFR 1910.95; 29 CFR 1910.96; 29 CFR 1910.97; 29 CFR 1910.141; ...

Legal Deadline: None

Abstract: Under the Reagan Administration, OSHA embarked on a project to update and consolidate the varying OSHA standards that were applied in the shipbuilding, ship repair, and shipbreaking industry. A shipyard employer was subject to both the "shipyard" standards that applied only to shipboard hazards and OSHA's general industry standards for landslide operations. This resulted in inconsistent, and sometimes contradictory, requirements for essentially the same operation. Phase 1 of this project aimed at establishing a truly vertical standard for shipyard employment and addressed six subparts of shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these hazards were issued in November 1988 (53 FR 48092). The remaining hazards were categorized as Phase II of the consolidation project (including general work practices and fire safety). This action is endorsed by the Shipyard Advisory Committee which was chartered in 1989 to update and consolidate existing shipyard standards. This particular proposal will consolidate and update the provisions of 29 CFR 1910 and 29 CFR 1915 into one comprehensive Part 1915 that will apply to all activities and areas in shipyards. The operations that are addressed in this subpart relate to fire brigades, fire extinguishers, sprinkler systems, detection systems, alarm systems, fire watches, and emergency plans. 100,000 workers are potentially exposed to these hazards annually.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061

RIN: 1218–AB51

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

Completed Actions

1983. GRAIN HANDLING FACILITIES

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 533

CFR Citation: 29 CFR 1910.272; 29 CFR 1911

Legal Deadline: None

Abstract: Paragraph (g) of OSHA's standard for grain handling facilities (section 1910.272) covers employee entry into bins, silos, and tanks. Formerly, paragraph (g) did not apply to certain grain storage buildings or to certain tanks unless entry into such tanks was made from the top of the structure. This rule amended paragraph (g) of section 1910.272 to assure and to clarify OSHA's original intent that this paragraph apply to all entries into structures that are made above the level of the grain.

Timetable:

Action	Date	FR Cite
NPRM	10/19/95	60 FR 54047
NPRM Comment Period End	11/20/95	
Final Action	03/08/96	61 FR 9578
Final Action Effective	04/08/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 272 Periodicals: Publishing, or Publishing and Printing; 422 Public Warehousing and Storage; 515 Farm-product Raw Materials; 204 Grain Mill Products

Analysis: Regulatory Flexibility Analysis

Agency Contact: Thomas H. Seymour, Acting Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3605, FP Building, Washington, DC 20210
Phone: 202 219-8061
Fax: 202 219-7477

RIN: 1218–AB56

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federal register

Monday
May 13, 1996

Part XIII

Department of State

Semiannual Regulatory Agenda

DEPARTMENT OF STATE (STATE)

DEPARTMENT OF STATE

22 CFR Ch. I

[Public Notice 2355]

Unified Agenda of Federal Regulations

AGENCY: Department of State.

ACTION: Semiannual regulatory agenda.

SUMMARY: Consistent with the Regulatory Flexibility Act of 1980, 5 U.S.C. 602, the Office of Federal Procurement Policy Act Amendments of 1988, 41 U.S.C. 421(g), and OMB guidance to the Department of State pursuant to Executive Order 12866, the April 1996 agenda of regulations of the Department of State is set forth below. The purpose of this publication is to provide information to the public on the Department's regulatory plans. Consistent with OMB guidance, this agenda includes active continuing items from prior agendas.

FOR FURTHER INFORMATION CONTACT: Mary Beth West, Assistant Legal Adviser for Legislation and General Management, Department of State, Room 5425, 2201 C Street NW., Washington, DC 20520-6310; telephone (202) 647-5154.

Dated: March 14, 1996.

Richard M. Moose,

Under Secretary for Management.

DEPARTMENT OF STATE (STATE)

Prerule Stage

1984. PERSONS AUTHORIZED TO ADJUDICATE NATIONALITY CLAIMS

Priority: Routine and Frequent

Legal Authority: 22 USC 211a

CFR Citation: 22 CFR 51.1; 22 CFR 51.21(b); 22 CFR 51.21(d)

Legal Deadline: None

Abstract: This regulation implements a statute authorizing designated State Department employees to issue passports and adjudicate nationality claims overseas.

Timetable:

Action	Date	FR Cite
ANPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carmen A. DiPlacido, Director, Office of Policy Review and Interagency Liaison, Department of State, Bureau of Consular Affairs
Phone: 202 647-3666
Fax: 202 647-6289

RIN: 1400–AA62

1985. RESUMPTION OF NATIONALITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-416, sec 324(d), Immigration and Nationality Act

CFR Citation: 22 CFR 50.30

Legal Deadline: None

Abstract: This regulation implements a statute restoring U.S. citizenship to persons who failed to fulfill citizenship retention requirements.

Timetable:

Action	Date	FR Cite
ANPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carmen A. DiPlacido, Director, Office of Policy Review, Under Interagency Liaison, Department of State, Bureau of Consular Affairs
Phone: 202 647-3666
Fax: 202 647-6201

RIN: 1400–AA63

1986. • REVISION TO DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR)

Priority: Substantive, Nonsignificant

Legal Authority: PL 93-400; PL 96-83

CFR Citation: 48 CFR 6

Legal Deadline: None

Abstract: The Department is revising the DOSAR to comply with changes to the procurement system as a result of the Federal Acquisition Streamlining Act. The Department also plans to make several administrative changes to reflect current policy and procedures.

Timetable:

Action	Date	FR Cite
ANPRM	11/15/96	
ANPRM Comment Period End	01/15/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Gladys Gines, Procurement Analyst, Department of State, Office of the Procurement Executive, Room 603, SA-6, Washington, DC 20520-0602
Phone: 703 516-1691
Fax: 703 875-6155

RIN: 1400–AA71

DEPARTMENT OF STATE (STATE)

Proposed Rule Stage

1987. MISCELLANEOUS REGULATIONS BEING ELIMINATED OR REINVENTED AS PART OF REGULATORY REINVENTION INITIATIVE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2651a

CFR Citation: 22 CFR 2a; 22 CFR 2; 22 CFR 4; 22 CFR 9b; 22 CFR 10; 22 CFR 31; 22 CFR 33; 22 CFR 111; 22 CFR 112; 22 CFR 133; 22 CFR 171; 22 CFR 181

Legal Deadline: None

Abstract: The Department will be eliminating or modifying the above rules in response to the President's Regulatory Reinvention Initiative. The rules affected include rules concerning protection of foreign missions, notification of foreign official status, obtaining press building passes, employee responsibilities and conduct, settlement of property damage and tort claims, fisherman's protective act procedures, reparations and removal of alien enemies, disposal of surplus government property in foreign areas, freedom of information, and coordination and reporting of international agreements.

Timetable:

Action	Date	FR Cite
Final Rule Reinventing Notarial and Related Services	10/03/95	60 FR 51719
NPRM Reinventing Coordination and Reporting of Int'l Agreements	10/23/95	60 FR 54319
Final Rule Eliminating Regs on Admin. Settlement of Tort Claims and Property Damage Claims	01/30/96	61 FR 2915
Final Rule Reinventing Regulations on Press Building Passes	02/02/96	61 FR 3800
Final Rule Elim. Regs on Removal of Alien Enemies, WWII Repar. and Disposal of Surplus Property	02/21/96	61 FR 6506
Final Rule Reinventing Coordination and Reporting of Int'l Agreements	02/26/96	61 FR 7070
Final Rule Reinventing Guidelines on Protection of Foreign Missions	03/14/96	61 FR 10447
NPRM	12/00/96	
NPRM International Child Abduction Procedures Under Hague Convention 05/15/95 (60 FR 25843) Final Rule 02/26/96 (61 FR 7069)		
NPRM Reinventing Passport Application – Minors 10/03/95 (60 FR 51760) Correction NPRM 10/19/95 (60 FR 54103) Final Rule 02/21/96 (61 FR 6505)		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Beth West, Assistant Legal Adviser, Department of State, Office of the Legal Adviser, Washington, DC 20520-0602
Phone: 202 647-5154
Fax: 202 647-6794

RIN: 1400–AA67

DEPARTMENT OF STATE (STATE)

Final Rule Stage

1988. REVISION OF REPORTING REQUIREMENTS AND ERRORS UNDER THE ITAR

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2778

CFR Citation: 22 CFR 120.10; 22 CFR 123.22; 22 CFR 124.12; 22 CFR 128; 22 CFR 130

Legal Deadline: None

Abstract: These changes are being made as part of regulatory reinvention.

Timetable:

Action	Date	FR Cite
Published Administrative Changes to the International Traffic in Arms Regulations	10/17/89	54 FR 42496
New License Exemptions Under ITAR	06/26/90	53 FR 25981
NPRM - Amending the ITAR (Two Rules)	09/05/91	56 FR 43894
NPRM - Two Rule Changes to the ITAR	09/16/91	56 FR 46753
Amend Prohibited Destination List	10/29/91	56 FR 55630
Amend USML	01/16/92	57 FR 1886
Designate Non-Significant Military Equipment	01/16/92	57 FR 1888
NPRM - Amends USML	04/13/92	57 FR 12774
NPRM - Amends USML	04/22/92	57 FR 14671
Final Rule - Amends Section 121 of ITAR	04/27/92	57 FR 15227
NPRM - Revision of ITAR	05/07/92	57 FR 19666
NPRM	07/20/92	57 FR 32148
NPRM - Global Position Systems Receivers	09/09/92	57 FR 41077
Final Rule - Amends USML	10/23/92	57 FR 48315
NPRM - Space	12/28/92	57 FR 61589
Final Rule	07/22/93	58 FR 39280
Final Rule - Clarify U.S. Person	05/18/94	59 FR 25811
Final Rule - Rwanda Embargo	06/02/94	59 FR 28533
Final Rule - 3 Changes to ITAR	06/10/94	59 FR 16681
Final Rule - Termination of South Africa Embargo	06/20/94	59 FR 31667
Final Rule - Prohibit Lethal Items to Peru	06/23/94	59 FR 32481
Final Rule Amending Proscribed Country List	08/17/94	59 FR 42158
Final Rule Revising Encryption Controls	09/02/94	59 FR 45621
Final Rule Amending USML	09/09/94	59 FR 46548
Final Rule	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rose Biancanello, Deputy Director, Office of Defense and Trade Controls, Department of State,

STATE — **Final Rule Stage**

Room 200, SA-6, Washington, DC 20522-0602
Phone: 703 875-7050
Fax: 703 875-6643

RIN: 1400–AA23

1989. FOREIGN PROHIBITIONS ON LONGSHORE WORK BY U.S. NATIONALS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1288(d)

CFR Citation: 22 CFR 89 (Revision)

Legal Deadline: Final, Statutory, December 31, 1995.
Legal deadline reflects the statutory requirement that the list be updated on an annual basis.

Abstract: The above-mentioned statute requires the Secretary of State to compile, and update annually through Notice-and-Comment rulemaking procedures, a list, by particular longshore activity, of countries where performance of such activity is prohibited by law, regulation, or in practice in the country concerned. According to the statute cited above, the Attorney General will use this list for enforcing restrictions on work performed by crewmembers of vessels from such countries. Compilation of the list itself does not involve any significant costs and is based upon information being provided to the Department of State by U.S. diplomatic missions overseas as well as by the public. Questions regarding the policy justification for the list and its use are best directed to the Departments of Labor, Transportation, and Justice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/30/91	56 FR 24338
Final Rule	12/27/91	56 FR 66970
Final Rule Effective	01/01/92	
Final Rule Correction	01/04/92	57 FR 1384
Updated List of Countries		
NPRM 11/04/92 (57 FR 52600)		
NPRM Comment Period End 12/04/92		
Final Rule 12/13/93 (58 FR 65118)		
Final Rule Effective 12/13/93		
NPRM 03/24/94 (59 FR 13904)		
NPRM Comment Period End 04/25/94		
NPRM 11/24/95 (60 FR 58026)		
NPRM Comment Period End 12/26/95		
NPRM Comment Period Extended to 01/26/96 (60 FR 65609)		
NPRM Comment Period Extended to 02/02/96 (61 FR 2915)		
Final Rule 06/00/96		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: In accordance with the mandate to maintain annually the list of countries, the Department will issue Final Rules to amend the list as appropriate.

Agency Contact: Stephen Miller, Office of Maritime and Land Transport, Bureau of Economic and Business Affairs, Department of State, 2201 C Street NW., Washington, DC 20520-5816
Phone: 202 647-6961

RIN: 1400–AA34

1990. TRANSIT WITHOUT VISA (TWOV)

Priority: Substantive, Nonsignificant

Legal Authority: Section 212(d)(4)(C) of the Immigration & Nationality Act (INA)

CFR Citation: 22 CFR 41.2(i)

Legal Deadline: None

Abstract: Under the provision of section 212(d)(4)(C), the Secretary of State and the Attorney General acting jointly have the authority to waive nonimmigrant visa requirements for aliens in continuous and direct transit through the United States. Yugoslavia was removed from the list of countries participating in this program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/16/93	58 FR 43438
Interim Final Rule Comment Period End	09/15/93	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cornelius D. Scully, III, Office Director, Legislation, Regulations and Advisory Assistance, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1184

RIN: 1400–AA48

1991. VISA WAIVER PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-603, sec 313; PL 101-649, sec 201; PL 102-232, sec 303

CFR Citation: 22 CFR 41.2(l)

Legal Deadline: None

Abstract: Section 313 of PL 99-603 amended the Immigration and Nationality Act by adding section 217 which established the nonimmigrant Visa Waiver Pilot Program (VWPP). This program waives the nonimmigrant visa requirements, to facilitate the admission of certain nonimmigrant alien visitors under the VWPP. Section 217, as amended by PL 101-649 and PL 102-232, revises from time to time the list of countries designated by the Secretary of State and the Attorney General, acting jointly, to participate in the Visa Waiver Pilot Program. Brunei has been added to that list. Ireland has also been added as a probationary country.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/29/93	58 FR 40585
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cornelius D. Scully, III, Office Director, Legislation, Regulations and Advisory Assistance, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1184

RIN: 1400–AA49

1992. REVISION OF U.S. MUNITIONS LIST

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2778

CFR Citation: 22 CFR 121.1; 22 CFR 121.16

Legal Deadline: None

Abstract: Review and revision as appropriate of USML on compliance with AECA.

Timetable:

Action	Date	FR Cite
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rose Biancanello, Deputy Director, Office of Defense Trade Controls, Department of State,

STATE — **Final Rule Stage**

Room 200, SA-6, Washington, DC 20522-0602
Phone: 703 875-7050
Fax: 703 875-6643

RIN: 1400–AA64

1993. COMSAT REVIEW CATEGORY XV OF USML

Priority: Routine and Frequent

Legal Authority: 22 USC 2778

CFR Citation: 22 CFR 121.1

Legal Deadline: None

Abstract: Review of technical parameters to determine whether licensing jurisdiction is appropriate (State v. Commerce).

Timetable:

Action	Date	FR Cite
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rose Biancanello, Deputy Director, Office of Defense Trade Control, Department of State, Room 200, SA-6, Washington, DC 20520-0602
Phone: 703 875-7050
Fax: 703 875-6640

RIN: 1400–AA65

DEPARTMENT OF STATE (STATE) — Long-Term Actions

1994. VISAS; PART 41 DOCUMENTATION OF NONIMMIGRANTS UNDER THE INA, AS AMENDED

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-603, sec 313; PL 101-649, sec 201; PL 102-232, sec 303; 8 USC 1104

CFR Citation: 22 CFR 41.51; 22 CFR 41.58; 22 CFR 41.31

Legal Deadline: None

Abstract: The Immigration Act of 1990 (the Act), Pub. L. 101-649, enacted on November 29, 1990, constitutes a comprehensive revision of the United States immigration law. This law modified certain nonimmigrant visa (NIV) classifications and created others. The Immigration and Nationality Act at section 104 (8 U.S.C. 1104) grants the Secretary of State general authority over the issuance and refusal of visas and to promulgate necessary regulations. This regulation also incorporated RIN 1400-AA52, Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended; Business and Media Visas, Treaty Trader, and Treaty Investors.

Timetable:

Creation of New NIV Classification (R Visa)		
Interim Final Rule 01/06/92 (57 FR 341)		
Comment Period End 02/05/92		
Modification of E Visa Classification		
NPRM 09/03/91 (56 FR 43565)		
Comment Period End 11/04/91		
Final Rule 08/15/95 (60 FR 42034)		
Final Action 12/00/97		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Division Chief, Legislation and Regulation Division, Department of State, 2401 E Street, NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA36

1995. NORTH AMERICAN FREE TRADE AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: North American Free Trade Agreement (NAFTA); NAFTA Implementation Act, sec 341 and 342

CFR Citation: 22 CFR 41.51; 22 CFR 41.52; 22 CFR 41.59 (New)

Legal Deadline: NPRM, Statutory, January 11, 1994.

Abstract: Implements chapter 16 of the North American Free Trade Agreement (NAFTA), and sections 341 and 342 of the North American Free Trade Agreement Implementation Act (the Implementation Act), signed December 8, 1993, which addressed the movement of business persons among the United States, Canada, and Mexico. This rule amends regulations concerning two nonimmigrant visa classifications, treaty traders and investors and intracompany transfers, and promulgates new regulations for a category for professionals under INA section 214(e) as amended by the Implementation Act. Regulations spell out requirements for classification as a NAFTA professional.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/28/93	58 FR 68526
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Chief, Division of Legislation and Regulations, Visa Office, Department of State, 2401 E Street NW., SA-1, Washington, DC 20522-0113
Phone: 202 663-1204

RIN: 1400–AA51

1996. B-1 VISA CLASSIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-649, Immigration Act of 1990

CFR Citation: 22 CFR 4131

Legal Deadline: NPRM, Statutory, October 1, 1991.

Abstract: B Visa Regulation revisions which incorporate 9FAM notes and INS OI reflect changes in interpretation of B Visa classes resulting from enactment of Immigration and Naturalization Act of 1990 and MATINA.

Timetable:

Action	Date	FR Cite
NPRM	07/26/93	58 FR 40024
NPRM Comment Period Extended to 11/23/93	09/23/93	58 FR 49456
NPRM Comment Period End	09/24/93	
NPRM Comment Period Extended to 12/06/93	11/23/93	58 FR 61856
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Chief, Division of Legislation and Regulations, Department of State, 2401 E Street NW. (SA-1), Washington, DC 20522-0113
Phone: 202 663-1204

RIN: 1400–AA54

STATE

Long-Term Actions

1997. ESTABLISHING OF REGISTRY IN STATE DEPARTMENT FOR INFORMATION ABOUT EXECUTION OF INTERNATIONAL WILLS

Priority: Substantive, Nonsignificant

Legal Authority: International Legal Materials, vol XII, no.6, Nov. 1973, p 1302

CFR Citation: 22 CFR 92.81(b)(3)

Legal Deadline: None

Abstract: By resolution of the international diplomatic conference that adopted the final text of the 1973 convention on the forms of international wills, there was a recommendation that States establish an internal system to permit the optional registration of information to facilitate the discovery of international wills. The President transmitted the convention to the Senate on July 2, 1986, with the recommendation that the Senate give its advice and consent to U.S. ratification of the convention, and information about the intention to establish the Registry in the Department of State (Senate Treaty Doc. 99-29). The Senate gave advice and consent on August 2, 1991. Implementing legislation (the International Wills Act) is required before the United States can take further action to ratify the convention.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: U.S. ratification of the 1973 convention providing a uniform law on the form of an international will provides the basis for establishment of the registry.

Agency Contact: Carmen A. DiPlacido, Director, Office of Policy Review and Interagency Liaison, Department of State, Bureau of Consular Affairs, 2201 C Street NW., Washington, DC 20520-5816
Phone: 202 647-3666
Fax: 202 647-6201

RIN: 1400–AA56

DEPARTMENT OF STATE (STATE)

Completed Actions

1998. PART 40—REGULATIONS PERTAINING TO BOTH NONIMMIGRANTS AND IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 22 CFR 40.1(d); 22 CFR 40.1(f) to 40.1(l); 22 CFR 40.1(m); 22 CFR 40.6; 22 CFR 40.9; 22 CFR 40.21(a); 22 CFR 40.22(b) and 40.22(c); 22 CFR 40.41(b) and 40.41(c); 22 CFR 40.51; 22 CFR 40.52; 22 CFR 40.63(b); 22 CFR 40.81; 22 CFR 40.93; 22 CFR 40.101(a)(5) and 40.101(b)

Completed:

Reason	Date	FR Cite
Final Action	01/24/96	61 FR 1832

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA58

1999. PART 41-VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 22 CFR 41

Completed:

Reason	Date	FR Cite
Final Action	01/24/96	61 FR 1834

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA59

2000. PART 42-VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 22 CFR 42 to 45; 22 CFR 47

Completed:

Reason	Date	FR Cite
Final Action	01/24/96	61 FR 1834

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA60

2001. 96 OLYMPICS - VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED; APPLICATION FOR NONIMMIGRANT VISA

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 41.101(c); 22 CFR 41.104(e); 22 CFR 41.105(c)(3)(iv); 22 CFR 41.113(k)(3)

Completed:

Reason	Date	FR Cite
Final Action	01/22/96	61 FR 1521

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen K. Fischel
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA61

STATE

Completed Actions

2002. PERSONAL USE EXEMPTION FOR ENCRYPTION, CATEGORY XIII

Priority: Routine and Frequent

CFR Citation: 22 CFR 123.27

Completed:

Reason	Date	FR Cite
Final Action	02/16/96	61 FR 6111

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rose Biancanello
Phone: 703 875-7050
Fax: 703 875-6640

RIN: 1400–AA66

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May 13, 1996

Part XIV

Department of Transportation

Semiannual Regulatory Agenda

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DEPARTMENT OF TRANSPORTATION (DOT)

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

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46 CFR Chs. I-III

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49 CFR Subtitle A, Chs. I-VI

[OST Docket No. 59; Notice 96-6]

Department Regulatory Agenda; Semiannual Summary

AGENCY: Office of the Secretary, DOT.

ACTION: Semiannual regulatory agenda.

SUMMARY: The regulatory agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The agenda provides the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of and allow it to more effectively participate in the Department's regulatory activity. The public is also invited to submit comments to continuously open regulatory review dockets, suggesting items for consideration as part of the Department's ongoing review of existing regulations.

ADDRESSES: The mailing address for the initiating offices of the Department which appear in the agenda is 400 7th Street SW., Washington, DC 20590; except for the Federal Aviation Administration, which is located at 800 Independence Avenue SW., Washington, DC 20591, and the U.S. Coast Guard, which is located at 2100 2nd Street SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT:

General

For further information on the agenda in general, contact: Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-4723.

Specific

For further information about any particular item on the agenda, contact the individual listed in the column headed "Agency Contact" for that item.

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Agenda

SUPPLEMENTARY INFORMATION:

Background

Improvement of Government regulations is a prime goal of the Clinton Administration. There should be no more regulations than necessary, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportation (Department) achieve these goals and in accordance with Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the Department prepares a semiannual regulatory agenda for publication in the **Federal Register**. The agenda summarizes all current and projected rulemaking, reviews of existing regulations, and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding 12 months or such longer period as may be anticipated or for which action has been completed since the last agenda.

The agendas are based on reports submitted by the initiating offices in January and July each year. After these reports are consolidated for and reviewed by the Department Regulations Council, the Department's regulations agenda is prepared and published in the **Federal Register**. The Department's last agenda was published in the **Federal Register** on November 28, 1995 (60 FR 60296). The next one is scheduled for publication in the **Federal Register** in October 1996.

Last fall, the Department's most significant regulatory actions were included in **The Regulatory Plan**, which was published together with the Agenda and cross-referenced in the Agenda. This agenda includes those entries with the extra information included for the Plan entry, since the Plan is only published annually.

As a result of the ICC Termination Act of 1995, the Surface Transportation Board, successor to the ICC, has become part of this Department. However, the Surface Transportation Board will publish its rulemaking activities with other independent regulatory agencies in the Unified Agenda.

Regulatory Flexibility Act

In 1980, Congress passed the Regulatory Flexibility Act (RFA); Public Law 96-354, which requires the designation of those regulations for which a Regulatory Flexibility Analysis will be prepared; i.e., those regulations that would have a significant economic impact on a substantial number of small entities. A Regulatory Flexibility Analysis is required for a rulemaking which, in the heading "Small Entities Affected," indicates an effect on small businesses, governmental jurisdictions, or organizations. If a Regulatory Flexibility Analysis will be prepared for a particular rulemaking, that fact also will be noted under the heading "Analysis."

The RFA also requires that, each year, the Department publish a list of those regulations that have a significant economic impact on a substantial number of small entities and are to be reviewed under the Act during the succeeding 12 months. The agenda includes those regulations to be reviewed under the RFA or those for which review has been concluded since the last agenda. However, it should be noted that, after a preliminary assessment of the regulations listed for RFA review, it may be found that the regulations, in fact, do not have a significant economic impact on a substantial number of small entities, and a full RFA review will be unnecessary.

Economic Assessment/Evaluation

DOT requires an economic analysis for all its rulemakings. A preliminary and final economic assessment (similar to what used to be identified as a "Regulatory Impact Analysis") is required for each proposed and final regulation, respectively, that is likely to be very costly. For other rulemakings, a regulatory evaluation is prepared.

Definitions

The agenda covers all rules and regulations of the Department, including those that establish conditions for financial assistance. The following definitions are provided for ease in understanding the information in this document.

Initiating office means an operating administration or other organizational element within the Department that formulates regulations.

Significant rulemaking is now being referred to in this agenda as an agency priority. This means a rulemaking that is very costly, controversial, or of substantial public interest; would have a major impact on another Federal agency; would have a substantial effect on State and/or local or tribal governments; would have a substantial impact on a major transportation safety problem; would initiate a substantial regulatory program or change in policy; would be substantially different from international requirements or standards; would materially alter budgetary impacts; or otherwise involves important legal or policy issues.

Office of Management and Budget (OMB)/Secretarial Review

Any rulemaking document OMB identifies as significant is subject to its review and will be classified as significant by DOT. A few rulemakings identified as agency priority by DOT, but not significant by OMB, and some rulemaking documents (e.g., extensions of compliance dates), although part of an otherwise significant rulemaking, are not subject to OMB review. All DOT agency priority rulemaking documents are subject to review by the Secretary of Transportation.

Explanation of Information on the Agenda

The format for this agenda is required by Office of Management and Budget memorandum of January 2, 1996.

First, the agenda is divided by initiating offices. Then, in accordance with the OMB memorandum, for each initiating office, the agenda is divided into five categories: (1) Prerule stage, (2) proposed rule stage, (3) final rule stage, (4) long-term actions, and (5) completed actions. For each entry, the agenda provides the following information: (1) The "significance" of the action; (2) a short descriptive title; (3) the legal basis for the action being taken or the regulation being reviewed; (4) the related regulatory citation in the Code of Federal Regulations; (5) an indication of any legal deadline and, if so, for what type of action (e.g., NPRM, final rule); (6) an abstract of the review or the proposed or final regulation; (7) a timetable, including the earliest expected date for a decision, on whether to issue the proposed or final regulation or complete the review and determine the corrective action to be taken. (The action taken can be revocation or revision of the regulation, or it can be a determination that no regulatory action is necessary because the regulation is found to be achieving its goals and the goals and objectives of Executive Order 12866 and the Department's Regulatory Policies and Procedures.); (8) an indication as to whether the rulemaking will affect small entities and/or levels of government and which categories of small entities or governments will be impacted; (9) if there is information that does not fit in the other categories, it will be included under a separate heading entitled "Additional Information" (which will also note any differences between OMB's "significant" and DOT's "agency priority" classification); (10) a listing, where determined, of any analyses an initiating office will prepare or has prepared for the rulemaking document; e.g., an Economic Assessment, an Environmental Impact Statement (EIS), or a Regulatory Flexibility Analysis; (11) an agency contact office or official who can provide further information, including advice on how to obtain documents referenced in the agenda; (12) a Regulation Identifier Number (RIN) assigned to identify an individual rulemaking in the agenda and facilitate tracing further action on the issue in the **Federal Register** which may occur between agenda publications; and (13) an indication of whether the item is part of the Reinventing Government effort and, if so, whether it would revise existing text in the Code of Federal Regulations or eliminate text.

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules), to keep those requirements operationally current, only the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations are included; individual regulations are not listed.

If a regulatory docket number has already been established, it may be provided under the "Additional Information" heading. If a member of the public desires further information regarding a particular proposal or regulation, reference should be made to this docket number.

In the "Timetable" column, abbreviations are used to indicate the particular documents being considered for issuance by that date. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, NPRM for Notice of Proposed Rulemaking, and FR for Final Rule. Listing a future date in this column is not an indication that a proposed or a final rule will be issued on that date; it is the earliest date on which a decision is expected to be made on whether to issue the document listed. Submittal of any proposed or final rule to the Office of Management and Budget for review under Executive Order 12866 must follow such a decision. If any document is issued, publication in the **Federal Register** would follow within a few days of completion of this review. In addition, these dates are based on current schedules. Information received subsequent to the issuance of this agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (•) preceding an entry indicates that the entry appears in the agenda for the first time.

DOT

Request for Comments

Our agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information, as well as make the agenda easier to use. We would like you, the public, to make suggestions or comments on how the agenda could be further improved.

In an effort to comply further with the spirit of Executive Order 12866 and the Regulatory Flexibility Act, we are also seeking suggestions on which existing regulations issued by an operating administration of the Department or the Office of the Secretary you believe need to be reviewed to determine whether they should be revised or revoked. The Department is particularly interested in obtaining information on requirements that have a "significant economic impact on small entities" and, therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please send them, along with your explanation of why they should be reviewed, to the concerned operating administration or the Office of the Secretary.

Purpose

The Department is publishing this regulatory agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity. Knowledge of the nature and scope of this activity, as well as the specific proposals and reviews being considered, should result in more effective public participation in the Department's regulatory activity. For example, awareness of the dates when notices may be issued seeking public comment should allow appropriate planning and more efficient use of the comment period. By providing the expected date for a decision on whether to issue a final rule, the Department expects that more appropriate planning by those concerned with the regulation will also be possible. This publication in the **Federal Register** does not impose any binding obligation on the Department or any of the offices within the Department with regard to any specific item on the agenda. Regulatory action, in addition to the items listed, is not precluded. If further information is desired on any of the items listed in the agenda, the public is encouraged to contact the individual listed for the particular item. Additional information concerning the agenda in general or the Department's Regulatory Policies and Procedures may be obtained from Neil R. Eisner, whose address and telephone number appear above.

Issued in Washington, DC, on April 5, 1996.

Federico Peña,

Secretary of Transportation.

Appendix A - Instructions for Obtaining Copies of Regulatory Documents

Some Administrations within the Department differ in procedures or as to inclusion on a mailing list. For the offices listed below, persons desiring to obtain a copy of a specific regulatory document to be issued that is listed in this agenda should communicate, either by telephone or by letter, with the contact person listed with the regulation at the addresses below.

United States Coast Guard (USCG)

(Name of contact person), United States Coast Guard, 2100 2nd Street SW., Washington, DC 20593.

Federal Highway Administration (FHWA)

(Name of contact person), Federal Highway Administration, 400 7th Street SW., Washington, DC 20590.

Federal Railroad Administration (FRA)

(Name of contact person), Federal Railroad Administration, 400 7th Street SW., Washington, DC 20590.

National Highway Traffic Safety Administration (NHTSA)

(Name of contact person), National Highway Traffic Safety Administration, 400 7th Street SW., Washington, DC 20590.

Federal Transit Administration (FTA)

(Name of contact person), Federal Transit Administration, 400 7th Street SW., Washington, DC 20590.

Saint Lawrence Seaway Development Corporation (SLSDC)

(Name of contact person), Saint Lawrence Seaway Development Corporation, 400 7th Street SW., Room 5424, Washington, DC 20590.

Research and Special Programs Administration (RSPA)

(Name of contact person), Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590.

Maritime Administration (MARAD)

Joel C. Richard, Secretary, Maritime Administration, 400 7th Street SW., Room 7210, Washington, DC 20590, (202) 366-5746.

Federal Aviation Administration (FAA)

The FAA has a mailing list system for notices and advance notices of proposed rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11-2, which describes the application procedure, by calling (202) 267-3484 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591.

Office of the Secretary (OST)

Persons desiring to receive future copies of the Department's regulatory agenda should submit their request to: Assistant General Counsel for Regulation and Enforcement, C-50, Office of the General Counsel, Department of Transportation, Washington, DC 20590, (202) 366-4723.

Persons who have an interest in specific regulatory documents to be issued by the Office of the Secretary should forward requests for copies of those documents to the same address. These requests should fully identify the document desired.

Appendix B - General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

USCG - P. M. Pelcovits, Office of Chief Counsel, USCG Headquarters Building, Room 3406, 2100 2nd Street SW., Washington, DC 20593; telephone: (202) 267-1534.

FAA - Donald Byrne, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Avenue SW., Room 915A, Washington, DC 20591; telephone: (202) 267-3073.

FHWA - Thomas Holian, Office of Chief Counsel, 400 7th Street SW., Room 4223, Washington, DC 20590; telephone: (202) 366-1383.

FRA - Lisa Levine, Office of Chief Counsel, 400 7th Street SW., Room 8128, Washington, DC 20590; telephone: (202) 366-0621.

NHTSA - Walter K. Myers, Office of Chief Counsel, 400 7th Street SW., Room 5219, Washington, DC 20590; telephone: (202) 366-2992.

FTA - Nancy Zaczek, Office of Chief Counsel, 400 7th Street SW., Room 9316, Washington, DC 20590; telephone: (202) 366-4011.

SLSDC - Marc Owen, General Counsel's Office, 400 7th Street SW., Room 5424, Washington, DC 20590; telephone: (202) 366-0108.

RSPA - Edward Bonekemper, Office of Chief Counsel, 400 7th Street SW., Room 8405, Washington, DC 20590; telephone: (202) 366-4400.

MARAD - Edmund T. Sommer, Jr., Assistant Chief Counsel, Maritime Administration, 400 7th Street SW., Room 7230, Washington, DC 20590; telephone: (202) 366-5746.

BTS - David Mednick, 400 7th Street SW., Room 3430, Washington, DC 20590; telephone: (202) 366-8871.

OST - Neil Eisner, Office of Regulation and Enforcement, 400 7th Street SW., Room 10424, Washington, DC 20590; telephone: (202) 366-4723.

Appendix C - Public Rulemaking Dockets

The following is a list of Rule Docket locations for the various operating administrations where the public may review regulatory dockets and hand-deliver comments on advance notices and notices of proposed rulemaking:

USCG - Marine Safety Council, 2100 2nd Street SW., Room 3406, Washington, DC 20593. Working Hours: 8:00-3:00 (Monday-Friday).

FAA - Rules Docket (AGC-10), Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Avenue SW., Room 915G, Washington, DC 20591. Working Hours: 8:30-5:00.

FHWA - Docket Room, 400 7th Street SW., Room 4232, Washington, DC 20590. Working Hours: 8:30-3:30.

FRA - Docket Clerk, 400 7th Street SW., Room 8201, Washington, DC 20590. Working Hours: 8:30-5:00.

NHTSA - Docket Room, 400 7th Street SW., Room 5109, Washington, DC 20590. Working Hours: 9:30-4:00.

FTA - Docket Branch, 400 7th Street SW., Room Pl. 401, Washington, DC 20590. Working Hours: 8:30-5:00.

SLSDC - 400 7th Street SW., Room 5424, Washington, DC 20590. Working Hours: 8:15-4:45.

BTS - 400 7th Street SW., Room Pl. 401, Washington, DC 20590. Working Hours: 9:00-5:00.

RSPA - Docket Branch, 400 7th Street SW., Room 8421, Washington, DC 20590. Working Hours: 8:30-5:00.

MARAD - Docket Clerk, 400 7th Street SW., Room 7210, Washington, DC 20590. Working Hours: 8:30-5:00.

OST - Docket Branch, 400 7th Street SW., Room Pl. 401, Washington, DC 20590. Working Hours: 9:00-5:00.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2003	+Update of Drug and Alcohol Procedural Rules	2105-AC49

+ DOT-designated significant regulation.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2004	+Proposed Policy on Peak Period Pricing of Airport Landing Fees	2105-AB63
2005	+Procedures for Transportation Workplace Drug-Testing Programs (Miscellaneous Amendments)	2105-AB71
2006	+Passenger Manifest Information	2105-AB76
2007	+Accessibility of Passenger Vessels to Individuals With Disabilities	2105-AB87
2008	+Transportation for Individuals With Disabilities (Over the Road Buses)	2105-AC00
2009	Governmentwide Debarment and Suspension (Nonprocurement) and Requirements for Drug-Free Workplace (Grants)	2105-AC24
2010	Air Carrier Access Act: Miscellaneous Amendments	2105-AC28
2011	Use of Oxygen by Air Carrier Passengers	2105-AC29
2012	Amendment to Definition of Substance Abuse Professional	2105-AC33
2013	Changes to International Data Submissions by Large Air Carriers	2105-AC34
2014	+Computer Reservations System Regulations and Amendments	2105-AC35
2015	Amendments to Laboratory Certification	2105-AC37
2016	Use of the Official Seal	2105-AC39
2017	Medals of Honor	2105-AC41
2018	Overbooking of Flights: Elimination of Airport Notice Signs	2105-AC45
2019	Fees and Charges for Special Services: Reinvention	2105-AC47
2020	Rules of Practice in Aviation Economic Proceedings: Reinvention	2105-AC48

DOT

Office of the Secretary—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2021	Amendments to Modal Alcohol Testing Rules: Pre-Employment Testing	2105-AC50

+ DOT-designated significant regulation.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2022	Direct Air Carrier Responsibility for Returning Stranded Charter Passengers	2105-AA40
2023	Air Travelers: Age Discrimination	2105-AA45
2024	Direct Flights	2105-AA73
2025	Diversion of Flights Within a Metropolitan Area	2105-AA78
2026	Simplified Aviation Exemption Procedures	2105-AA82
2027	Simplified Airline Counter—Sign Notices	2105-AA88
2028	+Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	2105-AB46
2029	+New Restrictions on Lobbying	2105-AB57
2030	+Nondiscrimination on the Basis of Handicap in Air Travel (Air Carrier Access Act)	2105-AB61
2031	+Nondiscrimination on the Basis of Handicap in Federally Assisted Programs and in Air Travel (Air Carrier Access Act)	2105-AB62
2032	Aviation Charter Rules	2105-AB91
2033	+Disadvantaged Business Enterprise (DBE) Regulation; General Update	2105-AB92
2034	+Participation by Disadvantaged Business Enterprises in Airport Concessions	2105-AB99
2035	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	2105-AC02
2036	+Transportation for Individuals With Disabilities (Accessibility Guidelines)	2105-AC06
2037	Domestic Baggage Liability	2105-AC07
2038	Disclosure of Code-Sharing Arrangements and Long-Term Wet Leases	2105-AC10
2039	Use of Direct Final Rulemaking	2105-AC11
2040	+Transportation for Individuals With Disabilities (Misc. Amendments)	2105-AC13
2041	Disinsection of Aircraft	2105-AC14
2042	Disclosure of Change-of-Gauge Services	2105-AC17
2043	+Great Lakes Pilotage Rate Methodology	2105-AC21
2044	Procedures for Transportation Workplace Drug and Alcohol Testing: Shy Bladder and Other Clarifications	2105-AC22
2045	Electronic Filing of International Air Passenger Service Rules	2105-AC23
2046	Nonprocurement Debarment and Suspension	2105-AC25
2047	Revised Filing Procedures for OST Docket	2105-AC26
2048	Coast Guard Board for Correction of Military Records: Procedural Regulation	2105-AC31
2049	Staff Assignments and Review of Action Under Assignments	2105-AC38
2050	National Security Information	2105-AC40
2051	Release of Internal Staff Memoranda Relating to Public Meetings of the Civil Aeronautics Board	2105-AC42
2052	Policies Relating to Accounts and Reports	2105-AC43
2053	Audits of State and Local Governments	2105-AC44
2054	Aviation Economic Rules: Correcting Obsolete References	2105-AC46

+ DOT-designated significant regulation.

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2055	Policy Statement on Airline Preemption	2105-AA46
2056	Baggage Liability Notices in International Air Transportation	2105-AA84
2057	+Statement of Enforcement Policy on Rebating	2105-AB39
2058	+Price Advertising	2105-AB50
2059	Smoking Aboard Aircraft	2105-AB58
2060	Implementation of Amendments to the Equal Access to Justice Act	2105-AB73

DOT

Office of the Secretary—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2061	Ticketless Travel: Passenger Notices	2105-AC36

+ DOT-designated significant regulation.

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2062	Nondiscrimination on the Basis of Age in DOT Financial Assistance Programs	2105-AA09
2063	+Commercial Space Transportation: Financial Responsibility Requirements for Licensed Launch Activities	2105-AA26
2064	Price Advertising	2105-AB25
2065	+Licensing Commercial Space Launch Activities	2105-AB85
2066	Exemption from Property Tariff-Filing Requirements	2105-AC09
2067	Data Collection and Prohibition Against Marketing	2105-AC30
2068	Administrative and Editorial Corrections to Acquisition Regulations	2105-AC32

+ DOT-designated significant regulation.

U.S. Coast Guard—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2069	+Facility Response Plans for Hazardous Substances (CGD 94-048)	2115-AE87
2070	+Tank Vessel Response Plans for Hazardous Substances (CGD 94-032)	2115-AE88
2071	Propeller Injury Prevention Aboard Rental Boats (CGD 95-041)	2115-AF28

+ DOT-designated significant regulation.

U.S. Coast Guard—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2072	Reporting Marine Casualties (C[illegible]216)	2115-AD98
2073	+User Fees for Approvals of Equipment, Laboratories, and Servicing Facilities (CGD 92-013)	2115-AE18
2074	Handling of Explosives or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities (CGD 92-026)	2115-AE22
2075	Amendments to Hull Identification Number Regulations and New Requirements for Certificates of Origin (CGD 92-065)	2115-AE37
2076	+Escort Vessels in Certain U.S. Waters (91-202a)	2115-AE56
2077	Electronic Records of Shipping Articles and Certificates of Discharge (CGD 94-004)	2115-AE72
2078	Harmonization With International Safety Standards (CGD 95-028)	2115-AF10
2079	Numbering of Undocumented Barges (CGD 93-091)	2115-AF13
2080	U.S. ATON Systems: Western Rivers Marking System and Private Aids to Navigation (CGD 94-091)	2115-AF14
2081	ATON on Artificial Islands and Fixed Structures (CGD 95-052)	2115-AF15
2082	Regattas and Marine Parades: Permit Application Requirements (CGD 95-054)	2115-AF17
2083	Advance Notice of Arrivals, Departures, and Certain Dangerous Cargoes (CGD 94-089)	2115-AF19
2084	Licensing and Manning for Operators of Towing Vessels (CGD 94-055)	2115-AF23
2085	Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) (CGD 95-062)	2115-AF2[illegible]

+ DOT-designated significant regulation.

DOT

U.S. Coast Guard—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2086	Tankermen (CGD 79-116)	2115-AA03
2087	+Offshore Supply Vessel Regulations (CGD 82-004 & CGD 86-074)	2115-AA77
2088	Safety/Security Zone Regulations	2115-AA97
2089	Anchorage Area Regulations	2115-AA98
2090	Lifesaving Equipment—Implementation of 1983 Amendments to SOLAS 1974 (CGD 84-069)	2115-AB72
2091	+Small Passenger Vessel Inspection and Certification (CGD 85-080)	2115-AC22
2092	+Implementation of the Commercial Fishing-Industry Vessel Safety Act (CGD 88-079)	2115-AD12
2093	Permits for the Transportation of Municipal and Commercial Wastes (CGD 89-014)	2115-AD23
2094	+Security for Passenger Vessels and Passenger Terminals (CGD 91-012)	2115-AD75
2095	Claims Procedures Under the Oil Pollution Act of 1990 (CGD 91-035)	2115-AD90
2096	+Structural and Operational Measures To Reduce Oil Spills From Existing Tank Vessels Without Double Hulls (CGD 91-045)	2115-AE01
2097	+State Access to the Oil Spill Liability Trust Fund (CGD 92-014)	2115-AE19
2098	New York Vessel Traffic Service (CGD 92-052)	2115-AE36
2099	Regatta Regulations	2115-AE46
2100	Drawbridge Regulations	2115-AE47
2101	Facilities Transferring Oil and Hazardous Material in Bulk (CGD 93-056)	2115-AE59
2102	Inland Navigation Rules; Lighting Provisions (CGD 94-011)	2115-AE71
2103	Regulated Navigation Areas	2115-AE84
2104	+Vessel Rebuild Determinations (CGD 94-040)	2115-AE85
2105	Navigation Safety Equipment for Towing Vessels (CGD 94-020)	2115-AE91
2106	Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel: Removal of Foreign Implementation Date (CGD 95-011)	2115-AF02
2107	Adoption of Industry Standards (CGD 95-027)	2115-AF09
2108	Alternate Compliance Via Recognized Classification Society and U.S. Supplement to Rules (CGD 95-010)	2115-AF11
2109	Electrical Engineering Regulations for Merchant Vessels (CGD 94-108)	2115-AF24
2110	+Structural Measures To Reduce Oil Spills From Existing Tank Vessels Without Double Hulls (91-045a)	2115-AF27

+ DOT-designated significant regulation.

U.S. Coast Guard—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2111	Revision to Inflatable Life Raft Approval: SOLAS 74/83 (CGD 85-205)	2115-AC51
2112	Vessel Identification System (CGD 89-050)	2115-AD35
2113	+Discharge-Removal Equipment for Vessels Carrying Oil (CGD 90-068)	2115-AD66
2114	Tank Level or Pressure Monitoring Devices (CGD 90-071)	2115-AD69
2115	+Overfill Devices (CGD 90-071a)	2115-AD87
2116	+Escort Vessels for Certain Tankers (CGD 91-202)	2115-AE10
2117	+Federal Agency Access to the Oil Spill Liability Trust Fund (CGD 92-074)	2115-AE34
2118	Notice of Hazardous Conditions (CGD 94-027)	2115-AE82
2119	Immediate Reporting of Casualties (CGD 94-030)	2115-AE89
2120	Radar-Observer Endorsement for Operators of Uninspected Towing Vessels (CGD 94-041)	2115-AE92
2121	Modernization of Examination Methods (CGD 94-029)	2115-AE94

+ DOT-designated significant regulation.

U.S. Coast Guard—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2122	Training in the Use of Automatic Radar Plotting Aids (ARPA) (CGD 85-089)	2115-AB99
2123	Regattas and Marine Parades (CGD 87-087)	2115-AC84
2124	+Financial Responsibility for Water Pollution (Vessels) (CGD 91-005)	2115-AD76
2125	+Tank Vessel Response Plans (CGD 91-034)	2115-AD81
2126	+Facility Response Plans (CGD 91-036)	2115-AD82

DOT

U.S. Coast Guard—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2127	Criminal Record Reviews and Access to the National Driver Register (CGD 91-212)	2115-AD93
2128	Suspension and Revocation of Licenses, Certificates of Registry, and Merchant Mariners' Documents (CGD 94-101)	2115-AD94
2129	Approval of Inflatable Personal Flotation Devices (PFDs) for Recreational Boaters (CGD 93-055)	2115-AE58
2130	Revision of Damage Stability Requirements for New Passenger Ship Designs (CGD 94-010)	2115-AE75
2131	Aleutian Trade Act (CGD 94-025)	2115-AE77
2132	Inland Waterways Navigation Regulations; Wrangell Narrows, AK (CGD 94-026)	2115-AE78
2133	Recreational Inflatable Personal Flotation Device Standards (CGD 94-110)	2115-AE96
2134	International Navigation Rules (CGD 95-053)	2115-AF16
2135	Recreational Vessel Fees (CGD 95-055)	2115-AF18
2136	Fifth and Eighth Coast Guard District Marine Inspection and Captain of the Port Zone Boundaries (CGD 95-081)	2115-AF22
2137	Programs for Chemical and Alcohol Testing of Commercial Vessel Personnel; Delay of Implementation Dates (CGD 95-090)	2115-AF25

+ DOT-designated significant regulation.

Federal Aviation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2138	Airworthiness Standards; Crash-Resistant Fuel Systems	2120-AA57
2139	Review of Part 47, Aircraft Registration, and Part 49, Recording of Aircraft Titles and Security Documents	2120-AC17
2140	+Part 145 Review: Repair Stations	2120-AC38
2141	1-G Stalling Speed as a Basis for Compliance With Part 25 of the Federal Aviation Regulations	2120-AD40
2142	+Revision of Part 108, Airplane Operator Security	2120-AD45
2143	+Revision of Part 107, Airport Security	2120-AD46
2144	+Alternative Means of Compliance	2120-AD66
2145	+Cost of Services and Transfer of Fees to Part 187 From Parts 47, 49, 61, 63, 65, and 143	2120-AD91
2146	Visual Descent Points	2120-AE34
2147	+Aging Aircraft Safety	2120-AE42
2148	+Reduced Altitude Separation	2120-AE51
2149	+Airport Noise Compatibility Planning	2120-AE64
2150	Mode S Transponder Requirement for Part 135 Operators	2120-AE81
2151	Nashville, TN, Class B Airspace	2120-AE93
2152	Cincinnati, OH, Class B Airspace	2120-AE97
2153	Flight Operational Quality Assurance Program	2120-AF04
2154	+Air Tour Standards	2120-AF07
2155	Orlando, FL, Class B Airspace	2120-AF17
2156	Aviation Insurance	2120-AF23
2157	Normal Category Maximum Weight	2120-AF33
2158	+Controlled Rest on the Flight Deck	2120-AF54
2159	Proposed Modification of the Phoenix, AZ, Class B Airspace	2120-AF58
2160	+Submission to Drug Tests	2120-AF64
2161	Type Certification Procedures for Changed Products	2120-AF68
2162	+Passenger Facility Charges	2120-AF69
2163	Water and Hail Ingestion Standards	2120-AF75
2164	+Flight Data Recorders	2120-AF76
2165	Miscellaneous Cabin Safety Changes	2120-AF77
2166	Revision of Hydraulics Systems Airworthiness Standards To Harmonize With European Airworthiness Standards for Transport Category Airplanes	2120-AF79
2167	Braked Roll Conditions	2120-AF83
2168	Bird Ingestion Standards	2120-AF84
2169	Houston, Texas, Class B Airspace	2120-AF88
2170	Non-Federal Air Traffic Control Facilities	2120-AF91
2171	+Airspace Management Over Grand Canyon National Park	2120-AF93
2172	National Security Areas	2120-AF97
2173	+Commercial Space Transportation: Financial Responsibility Requirements for Licensed Launch Activities	2120-AF98
2174	+Licensing Commercial Space Launch Activities	2120-AF99

DOT

Federal Aviation Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2175	Alteration of the Dallas-Fort Worth International (DFW) Airport Class B Airspace Area, Dallas, Texas	2120-AG00
2176	Revision of Certification Requirements: Aircraft Dispatchers	2120-AG04
2177	Removal of Part 159: National Capital Airports	2120-AG05
2178	+Duration Between Examinations for First- and Second-Airman Medical Certificates	2120-AG06
2179	Fees for Aeromedical Education Training Services	2120-AG07
2180	+False and Misleading Statements Regarding Aircraft Parts	2120-AG08
2181	+Special Flight Rules in the Vicinity of the Rocky Mountain National Park	2120-AG11

+ DOT-designated significant regulation.

Federal Aviation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2182	+Fuel System Vent Fire Protection	2120-AA49
2183	Miscellaneous Amendments	2120-AA50
2184	Part 95 Instrument Flight Rules	2120-AA63
2185	Airworthiness Directives	2120-AA64
2186	Standard Instrument Approach Procedures	2120-AA65
2187	Airspace Actions	2120-AA66
2188	+Aircraft Flight Simulator Use in Pilot Training, Testing, and Checking and at Training Centers	2120-AA83
2189	+Improved Standards for Determining Rejected Takeoff and Landing Performance	2120-AB17
2190	Standards for Approval for High-Altitude Operation of Subsonic Transport Airplanes	2120-AB18
2191	Airworthiness Standards; Transport Category Rotorcraft Performance	2120-AB36
2192	Low Fuel Quantity Alerting System	2120-AB46
2193	+Flight Attendant Requirements	2120-AC32
2194	+Type and Number of Passenger Emergency Exits Required in Transport Category Airplanes	2120-AC43
2195	+Improved Survival Equipment for Inadvertent Water Landings	2120-AC72
2196	+Retrofit of Improved Seats in Air Carrier Transport Category Airplanes	2120-AC84
2197	Installation of Crashworthy Fuselage Fuel Tanks and Fuel Lines	2120-AC87
2198	+Drug Enforcement Assistance	2120-AD16
2199	Airworthiness Standards: Aircraft Engines; Proposal for New One-Engine-Inoperative Ratings, Definitions, and Type Certification Standards	2120-AD21
2200	+Sole Radio Navigation System; Minimum Standards for Certification	2120-AD26
2201	+Airworthiness Standards; Occupant Protection Standards for Commuter Category Airplanes	2120-AD27
2202	Airplane Engine Cowling Retention	2120-AD34
2203	+Fatigue Evaluation of Structure	2120-AD42
2204	Allowable Carbon Dioxide Concentration in Transport Category Airplane Cabins	2120-AD47
2205	Protective Breathing Equipment; Cargo-Only Airplanes	2120-AD74
2206	Revisions to Maintenance and Preventive Maintenance Rule	2120-AE57
2207	+Aircraft Ground Deicing and Anti-Icing Program	2120-AE70
2208	+Pilot, Flight Instructor, Ground Instructor, and Pilot School Certification Rules	2120-AE71
2209	Stage 2 Airplane Operations in Hawaii	2120-AE83
2210	+Civil Penalty Assessment Procedures	2120-AE84
2211	Manned Free Balloons	2120-AE87
2212	+Revised Access to Type III Exits	2120-AF01
2213	Training and Qualification Requirements for Checking Airmen and Flight Instructors	2120-AF08
2214	+Training and Checking in Ground Icing Conditions	2120-AF09
2215	Amendment of the Type Certification Procedures for Changes in Type Design To Attach or Remove External Equipment (Helicopter)	2120-AF10
2216	Los Angeles, CA, Class B Airspace	2120-AF16
2217	Minimum Altitudes for the Use of an Autopilot	2120-AF19
2218	+Revision of Emergency Evacuation Demonstration Procedures to Improve Participant Safety	2120-AF21
2219	Advanced Simulation Plan Revisions	2120-AF29
2220	+Suspension of Certain Aircraft Operations From the Transponder With Automatic Pressure Altitude Reporting Capability Requirement	2120-AF30
2221	+Procedures for Complaints Involving Federally Assisted Airports	2120-AF43
2222	Sensitive Security Information	2120-AF48

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Federal Aviation Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2223	+Child Restraint Systems	2120-AF52
2224	Windmilling and Rotor Blocking Tests; and Vibration Tests	2120-AF57
2225	+Flight Crewmember Duty Limitations and Rest Requirements	2120-AF63
2226	Rotorcraft Regulatory Changes Based on European Joint Airworthiness Requirements Proposals	2120-AF65
2227	Revised Structural Loads Requirements for Transport Airplanes	2120-AF70
2228	+Policy Regarding Airport Rates and Charges	2120-AF90
2229	Criteria for an Explosive Detection System (EDS), Standards for Detonator Detection	2120-AF95
2230	+Policy and Procedures Concerning the Use of Airport Revenue	2120-AG01
2231	Small Airplane Airworthiness Review Program Amendment No. 3; Correction	2120-AG09
2232	Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan	2120-AG10

+ DOT-designated significant regulation.

Federal Aviation Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2233	Objects Affecting Navigable Airspace	2120-AA09
2234	Aircraft Engines: Fuel and Induction Systems	2120-AB78
2235	Type Certificates for Some Surplus Aircraft of the Armed Forces	2120-AE41
2236	+Anti-Drug and Alcohol Misuse Prevention Programs for Employees of Foreign Air Carriers Engaged in Specified Aviation Activities	2120-AE79
2237	+Corrosion Control Program	2120-AE82
2238	Flight Attendant English Language Proficiency	2120-AE98
2239	Tampa, FL, Class B Airspace	2120-AF18
2240	Revision of Certification Requirements: Mechanics and Repairmen	2120-AF22
2241	Streamlined Enforcement Process Test Program	2120-AF36
2242	+Overflights of Units of the National Park System	2120-AF46
2243	+Mountain Flying	2120-AF67
2244	Operational and Structural Difficulty Reports	2120-AF71
2245	Bird Strike	2120-AF80
2246	Repair Assessment for Pressurized Fuselages	2120-AF81
2247	Revision of Gate Requirements for High-Lift Device Controls	2120-AF82
2248	Two Approach Charts	2120-AF86

+ DOT-designated significant regulation.

Federal Aviation Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2249	+Revision of Medical Standards and Certification Procedures	2120-AA70
2250	Airworthiness Standards; Turboshaft Engine Rotor Burst Protection	2120-AB91
2251	+Passenger-Carrying and Cargo Air Operations for Compensation or Hire	2120-AC08
2252	+Air Carrier Training Programs	2120-AC79
2253	+Child Restraint Systems	2120-AD90
2254	+Airworthiness Standards: Systems and Equipment Rules Based on European Joint Aviation Requirements	2120-AE59
2255	+Airworthiness Standards: Powerplant Rules Based on European Joint Aviation Requirements	2120-AE60
2256	+Airworthiness Standards: Flight Rules Based on European Joint Aviation Requirements	2120-AE61
2257	+Airworthiness Standards: Airframe Rules Based on European Joint Aviation Requirements	2120-AE62
2258	Accelerated Stalls in Commuter Category Airplanes	2120-AE86
2259	Occupant Protection in Normal and Transport Category Rotorcraft	2120-AE88
2260	Niagara Falls	2120-AE95
2261	Extended Overwater Operations With a Single High-Frequency Communication System (HF) and a Single Long-Range Navigation System (LRNS)	2120-AF12
2262	Raleigh/Durham, NC, Class B Airspace	2120-AF20
2263	Revised Discrete Gust Load Design Requirement; Transport Category Airplanes	2120-AF27

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Federal Aviation Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2264	+Operations of Jet Aircraft in Commuter Slots at LaGuardia Airport and John F. Kennedy International Airport	2120-AF31
2265	Notification to ATC of Deviations from ATC Clearance and Instructions in Response to Traffic Alert and Collision Avoidance System Resolution Advisories	2120-AF35
2266	Powerplant Instruments; Fuel Pressure Indication	2120-AF41
2267	Direct Final Rulemaking Procedure	2120-AF55
2268	Proposed Modification of the Salt Lake City, UT, Class B Airspace	2120-AF56
2269	+Commuter Operations and General Certification and Operations Requirements	2120-AF62
2270	Salt Lake City, Utah, Class B Airspace	2120-AF89
2271	Definitions of Special Use Airspace	2120-AF92
2272	Indefinite Suspension of the Prohibition Against Certain Flights Between the United States and the Federal Republic of Yugoslavia (Serbia and Montenegro)	2120-AF94
2273	The Age 60 Rule	2120-AF96
2274	Airspace and Flight Operations Requirements for the 1996 Summer Olympic Games, Atlanta, GA	2120-AG02
2275	Operating Requirements: Domestic, Flag, Supplemental, Commuter, On-Demand Operations: Editorial and Terminology Changes	2120-AG03

+ DOT-designated significant regulation.

Federal Highway Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2276	Highway Beautification	2125-AD24
2277	+Advanced Technology in Commercial Motor Vehicle Operations	2125-AD65
2278	Inspection, Repair, and Maintenance	2125-AD82

+ DOT-designated significant regulation.

Federal Highway Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2279	Acquisition of Real Property for Rights-of-Way	2125-AC17
2280	Truck Length and Width Exclusive Devices	2125-AC30
2281	Periodic Inspection Requirements	2125-AC47
2282	Commercial Learner Permits and CDL Effectiveness	2125-AC54
2283	Revision of Medical Examination Form and Procedures	2125-AC63
2284	+Minimum Training Requirements for Operators and Training Instructors of Multiple Trailer Combination Vehicles	2125-AC92
2285	+Commercial Driver Physical Fitness as Part of the CDL Process	2125-AD20
2286	+Department of Transportation (FHWA, FTA, FRA and USCG) NEPA and Related Procedures for Transportation Decision Making	2125-AD32
2287	Parts and Accessories Necessary for Safe Operation; General Amendments	2125-AD40
2288	Parts and Accessories Necessary for Safe Operation; Manufactured Home Tires	2125-AD41
2289	Antilock Brake Systems	2125-AD42
2290	+Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking	2125-AD49
2291	+Hours of Service of Drivers; Supporting Document Recordkeeping	2125-AD52
2292	Federal Aid Project Agreement and Contract Procedures	2125-AD58
2293	Rules of Practice for Motor Carrier Proceedings; Investigations; Disqualifications and Penalties	2125-AD64
2294	Safety Performance History of New Drivers	2125-AD66
2295	Standards for Center Line and Edge Line Markings on Streets and Highways	2125-AD68
2296	Zero-Base Review of the Federal Motor Carrier Safety Regulations: Regulatory Removals and Substantive Amendments	2125-AD72
2297	Highway Systems	2125-AD74
2298	Parts and Accessories Necessary for Safe Operation; Television Receivers and Data Display Units	2125-AD76
2299	Mitigation of Impacts to Privately Owned Wetlands	2125-AD78
2300	Uniform Procedures for State Highway Safety Programs	2125-AD79
2301	Transportation of Hazardous Materials; Driving/Parking Rules	2125-AD80

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Federal Highway Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2302	+Transportation of Migrant Workers	2125-AD81

+ DOT-designated significant regulation.

Federal Highway Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2303	+Management and Monitoring Systems	2125-AC97
2304	+Value Engineering	2125-AD33
2305	Design Standards for Highways; A Policy on Geometric Design of Highways and Streets; Design and Construction Criteria	2125-AD38
2306	Federal Aid Project Authorization	2125-AD43
2307	Maximum Driving and Off-Duty Time; Hours of Service for Farmers and Retail Farm Suppliers	2125-AD44
2308	National Standards for Traffic Control Devices; Revision of the Manual on Uniform Traffic Control Devices	2125-AD57
2309	Emergency Relief Program	2125-AD60
2310	General Material Requirements; Warranty Clauses	2125-AD61
2311	Certification Acceptance	2125-AD62
2312	National Standards for Traffic Control Devices; Metric Conversion	2125-AD63
2313	Public Lands Highways Discretionary Funds Program; Elimination of Regulations	2125-AD69
2314	Railroad Grade Crossing Safety	2125-AD75
2315	Railroad Highway Projects	2125-AD86
2316	Acquisition of Real Property for Rights-of-Way; Revisions	2125-AD87
2317	Highway Beautification: Amendments of Dire Emergency Supplemental Appropriations Act	2125-AD88

+ DOT-designated significant regulation.

Federal Highway Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2318	+Qualification of Drivers; Diabetes	2125-AB91
2319	+Commercial Driver's License Standards; Biometric Identifier	2125-AC24
2320	+Federal Motor Carrier Safety Regulations; General; Periodic Registration Requirements for Motor Carriers	2125-AC28
2321	Certification of Size and Weight Enforcement	2125-AC60
2322	+Qualification of Drivers; Vision	2125-AC62
2323	+Safety Fitness Procedures; Safety Ratings	2125-AC71
2324	Parts and Accessories Necessary for Safe Operation: Intermodal Cargo Containers	2125-AC74
2325	+Federal Motor Carrier Safety Regulations; General Transportation of Hazardous Materials	2125-AC78
2326	Transportation of Hazardous Materials; Routing of Class 7 (Radioactive) Materials	2125-AD00
2327	+Training for Entry-Level Drivers of Commercial Motor Vehicles	2125-AD05
2328	+Qualifications of Drivers: Hearing Deficiencies	2125-AD22
2329	Parts and Accessories Necessary for Safe Operation; Sleeper Berths on Motor Coaches	2125-AD25
2330	Parts and Accessories Necessary for Safe Operation; Lighting Devices, Reflectors, and Electrical Equipment	2125-AD27
2331	Motor Carrier Safety Assistance Program (MCSAP) Allocation Formula	2125-AD30
2332	National Standards for Traffic Control Devices; Temporary Traffic Signals	2125-AD45
2333	Advanced Construction of Federal Aid Projects	2125-AD59

+ DOT-designated significant regulation.

Federal Highway Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2334	Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts (Including Supportive Services); Report Requirements	2125-AB15

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Federal Highway Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2335	Commercial Driver's License Program and Controlled Substances and Alcohol Use and Testing	2125-AD46
2336	Private Motor Carriers of Passengers: Technical Amendments	2125-AD54
2337	Zero-Base Review of the Federal Motor Carrier Safety Regulations; Technical Corrections	2125-AD55
2338	State Compliance With Commercial Driver's License Program	2125-AD70
2339	Federal Motor Carrier Safety Regulations: Hazardous Materials: Technical Amendments	2125-AD71
2340	Qualification of Drivers: Vision and Diabetes	2125-AD73
2341	Certification of Speed Limit Enforcement	2125-AD77
2342	Exemptions from Federal Motor Carrier Safety Regulations	2125-AD83

National Highway Traffic Safety Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2343	+Review: Passenger Car Front Seat Occupant Protection (Federal Motor Vehicle Safety Standard No. 208)	2127-AD82
2344	Review: Passenger-Car Back Seat Occupant Protection	2127-AE95
2345	Rescind Controls and Displays	2127-AF86
2346	Rescind Windshield Defrosting and Defogging Systems	2127-AF87
2347	Rescind Windshield Wiping and Washing Systems	2127-AF88
2348	+Occupant Protection in Interior Impact	2127-AG07

+ DOT-designated significant regulation.

National Highway Traffic Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2349	+Truck Rear Underride Protection	2127-AA43
2350	Procedures for Considering Environmental Impacts	2127-AB79
2351	Driving Range Determination for Dual Fuel Electric Passenger Automobiles	2127-AF37
2352	Test Device Placement	2127-AF40
2353	Theft Data for Calendar Year 1994	2127-AF57
2354	Automatic Drain Valve for Air Reservoir Tanks	2127-AF72
2355	Regulatory Negotiation for Visual Headlamp Aimability Requirements	2127-AF73
2356	Alternative Geometric Visibility Requirements for Lamps	2127-AF75
2357	Current and Future State of the Art Innovation for Accelerator Controls	2127-AF76
2358	Rescission of Warning Devices	2127-AF77
2359	Alternative Motorcycle Headlamp Performance Requirements	2127-AF78
2360	Truck Camper Loading	2127-AF81
2361	Power-Operated Windows: Roof Panels	2127-AF83
2362	Energy-Absorbing Sun-Visors	2127-AF85
2363	Sealed Beam Headlamps	2127-AF89
2364	Rescind Headlamp Concealment Devices	2127-AF90
2365	Voluntarily-Installed Shoulder Belts	2127-AF91
2366	Insurer Reporting Requirements for October 1996	2127-AF92
2367	Automotive Fuel Economy Reports	2127-AG00
2368	Highway Safety Program Standards: Applicability to Federally Administered Areas	2127-AG10
2369	Rules of Procedure for Invoking Sanctions Under the Highway Safety Act of 1966	2127-AG11
2370	+Upgraded Request for Aircraft-Certified Child Seats	2127-AG12
2371	+Undesired Side Effects of Air Bags	2127-AG14
2372	Wheelchair Lifts and Ramps	2127-AG16
2373	Dummy Containment During Compliance Testing	2127-AG17
2374	Operation of Motor Vehicles by Intoxicated Minors	2127-AG20
2375	Transition Procedures From Current to New National Driver Register	2127-AG21
2376	Simplify Occupant Crash Protection Standard	2127-AG29
2377	Theft Data for Calendar Year 1995	2127-AG33

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National Highway Traffic Safety Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2378	Extend Applicability to All Light Vehicles	2127-AG35

+ DOT-designated significant regulation.

National Highway Traffic Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2379	+Reduce Head Injuries Due to Contact With Upper Vehicle Interior	2127-AB65
2380	+School Bus Body Joint Strength	2127-AC19
2381	Fuel Spillage	2127-AC52
2382	Brake Lining	2127-AC56
2383	Incentive Grant Criteria for Drunk-Driving-Prevention Programs (Section 410)	2127-AD01
2384	Dynamic Testing of Light Trucks and Vans for Side Impact	2127-AE49
2385	Consumer Information Regulation - Vehicle Stopping Distance	2127-AE61
2386	Miniature and Nonfilament Light Sources	2127-AE97
2387	Test Dummies and Requirements for Testing Child Restraint Systems	2127-AF02
2388	Compressed Natural Gas (CNG) Fuel Containers	2127-AF14
2389	+Light Truck Average Fuel Economy Standards for MYs After 1997	2127-AF16
2390	+Uniform Tire Quality Grading	2127-AF17
2391	Equivalent Measurements for Gaseous Fuels	2127-AF18
2392	Rigid Plastics in Windows	2127-AF28
2393	Improved Back Door Latch	2127-AF35
2394	Increase Femur Flexion Motion of the Hybrid III Test Dummy	2127-AF41
2395	+Certification of Child Restraints for Use on Aircraft	2127-AF46
2396	Retroreflective Conspicuity System	2127-AF59
2397	Air Brake Systems; Air Compressor Cut-In Pressure	2127-AF63
2398	Relieving Design Restrictions to Accommodate New Light Sources	2127-AF65
2399	Seat Belt Exemption for Law Enforcement Vehicles	2127-AF66
2400	Colorfastness Requirements for Seatbelts	2127-AF67
2401	Safety Belt Anchorages: Owner's Manual Requirements	2127-AF68
2402	Combine Vehicle Identification Requirements	2127-AF69
2403	Remove Obsolete Requirements for Head Restraints	2127-AF70
2404	Rescind Standard for Unnecessary Design Restrictions: Wheel Nuts, Wheel Discs, and Hubcaps	2127-AF71
2405	Rescission of Reflecting Surfaces Requirements	2127-AF74
2406	Specifications for Content of Aluminum Alloys	2127-AF79
2407	Rescission of Non-Pneumatic Spare Tire Requirements	2127-AF80
2408	Heavy Duty Vehicle Brake Systems	2127-AF96
2409	Exemption From Rearward Displacement Requirements	2127-AG01
2410	Whip Resistance Test for Brake Hoses	2127-AG02
2411	+Motor Vehicle Content Labeling	2127-AG03
2412	Brake System for Electric Vehicles	2127-AG05
2413	Air Brake System Malfunction Lamp for Trailers	2127-AG06
2414	State Matching of Planning and Administration Costs	2127-AG09
2415	Defect and Noncompliance Reports; Record Retention; and Defect and Noncompliance Notification	2127-AG15
2416	Incentive Grant Criteria for Alcohol Traffic Safety Programs	2127-AG22
2417	Use of Safety Belts and Motorcycle Helmets—Compliance and Transfer-of-Funds Procedures	2127-AG23
2418	Long Stroke Brake Chambers	2127-AG25
2419	Administrative Corrections to the Tire Standards	2127-AG26
2420	Dealer Notification of Defect or Noncompliance Determination	2127-AG27
2421	Technical Amendment for the Hydraulic Brake Systems	2127-AG28
2422	Fuel System Integrity	2127-AG30
2423	Air Brake Systems	2127-AG31
2424	High-Theft Lines for Model Year 1997	2127-AG34

+ DOT-designated significant regulation.

DOT

National Highway Traffic Safety Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2425	+Crashworthiness Ratings	2127-AA03
2426	+Flammability of Interior Materials - School Buses	2127-AA44
2427	Review: Lamps, Reflective Devices, and Associated Equipment	2127-AB76
2428	+Rollover Protection	2127-AC64
2429	+Film Transmittance of Glazing Materials	2127-AC85
2430	Seating Systems Performance	2127-AD08
2431	+Wheelchair Lifts	2127-AD50
2432	Seat Adjustment Position	2127-AE22
2433	Certification Requirements of Multistage Vehicles	2127-AE27
2434	+Extend Antilock Brake System to Passenger Cars	2127-AE47
2435	Radiator Safety Cap	2127-AE59
2436	Tires on New Trailers	2127-AF05
2437	Upgrade Performance Requirements	2127-AF36
2438	Electric Vehicle Safety	2127-AF43
2439	Conversion of Vehicles to Compressed Natural Gas	2127-AF50
2440	Cylinder Requirements	2127-AF51
2441	Review: Odometer Fraud	2127-AF53
2442	+Review: Side Impact Protection	2127-AF54
2443	Review: Theft Prevention—5-Year Report to Congress	2127-AF55
2444	Review: American Automobile Labeling Act	2127-AG18
2445	Review: Heavy Truck Conspicuity	2127-AG19
2446	Seat Belts Installed at Adjustable Seats	2127-AG24

+ DOT-designated significant regulation.

National Highway Traffic Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2447	+Lighting Simplification—Potential Amendments on Long-Term Issues	2127-AB87
2448	Issuance, Amendment, and Revocation of Rules: Procedural Regulations	2127-AD78
2449	Redefine Replaceable Bulb Headlamps	2127-AF00
2450	Materials Used in Tests	2127-AF22
2451	Compressed Natural Gas (CNG)	2127-AF29
2452	Driving Range for Dual Energy and Natural Gas Dual Energy Passenger Automobiles	2127-AF38
2453	Theft Data for Calendar Year 1993	2127-AF56
2454	Replaceable Light Source Information: Transfer of	2127-AF62
2455	Phase-in Requirements for Side Impact Protection	2127-AF84
2456	State Highway Safety Pilot Program	2127-AF94
2457	National Minimum Drinking Age Act	2127-AF95
2458	Air Brake Systems: Stopping-Distance Performance	2127-AF97
2459	Antilock Warning Signals	2127-AF98
2460	Stopping Distance Performance Requirements	2127-AF99
2461	Rulemaking Procedures	2127-AG04
2462	Innovative Project Grants	2127-AG08
2463	Importation of Vehicles and Equipment Subject to Federal Safety, Bumper, and Theft Prevention Standards	2127-AG13
2464	Brake Hoses	2127-AG32

+ DOT-designated significant regulation.

Federal Railroad Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2465	+Locomotive Crashworthiness and Working Conditions	2130-AA89
2466	+Passenger Equipment Standards	2130-AA95

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Federal Railroad Administration—Prerule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2467	+Hours of Service Electronic Recordkeeping Project	2130-AB04

+ DOT-designated significant regulation.

Federal Railroad Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2468	Alcohol/Drug Regulations; Miscellaneous Technical Amendments and Corrections	2130-AA63
2469	+Whistle Bans at Highway-Rail Grade Crossings	2130-AA71
2470	+Power Brake Regulations; Miscellaneous Revisions	2130-AA73
2471	Qualification and Certification of Locomotive Engineers	2130-AA74
2472	+Track Safety Standards	2130-AA75
2473	+Roadway Worker Protection	2130-AA85
2474	+Environmental Impact and Related Procedures (FRA, FTA, FHWA)	2130-AA93
2475	+Rail Passenger Service: Emergency Preparedness	2130-AA96
2476	Statement of Policy Regarding Safety of Railroad Bridges	2130-AA99

+ DOT-designated significant regulation.

Federal Railroad Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2477	Railroad Accident Reporting	2130-AA58
2478	Local Rail Freight Assistance to States	2130-AA60
2479	+Freight Car Safety Standards: Maintenance-of-Way Equipment	2130-AA65
2480	FRA Hazardous Materials Penalty Guidelines	2130-AB00
2481	Reinvention of Regulations Addressing Discontinuance or Modification of Signal Systems	2130-AB05
2482	Reinvention of Signal System Reporting Requirements	2130-AB06
2483	Reinvention of Steam Locomotive Inspection Regulations	2130-AB07
2484	Reinvention of State Safety Participation Regulations	2130-AB08
2485	Reinvention of Regulations Addressing Railroad User Fees	2130-AB09

+ DOT-designated significant regulation.

Federal Railroad Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2486	AMTRAK Waste Disposal	2130-AA84
2487	Protection of Utility Employees	2130-AA90
2488	+Selection and Installation of Grade Crossing Warning Systems	2130-AA92
2489	+Radio Communication-Advanced Train Control System	2130-AA94
2490	Maintenance, Inspection, and Testing of Grade-Crossing Signal Systems	2130-AA97

+ DOT-designated significant regulation.

Federal Railroad Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2491	Locomotive Visibility; Minimum Standards for Auxiliary External Lights	2130-AA80
2492	+Generic Standards for Corridors up to 160 MPH	2130-AA88
2493	Elimination of Part 251 and Part 258 Regulations	2130-AB03

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Federal Railroad Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
2494	Alcohol/Drug Regulations; Random Drug Testing	2130-AB10
2495	Revision of Locomotive Engineer Qualification and Certification Regulations: Hearing Procedures	2130-AB11

+ DOT-designated significant regulation.

Federal Transit Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2496	+Department of Transportation (FTA, FRA, FHWA, and USCG), NEPA, and Related Procedures for Transportation Decision-Making	2132-AA43
2497	Capital Leases	2132-AA55

+ DOT-designated significant regulation.

Federal Transit Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2498	+Bus Testing	2132-AA30
2499	Transportation for the Elderly and Persons With Disabilities	2132-AA46
2500	+Management and Monitoring Systems	2132-AA47

+ DOT-designated significant regulation.

Federal Transit Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2501	+New Starts Criteria	2132-AA50

+ DOT-designated significant regulation.

Federal Transit Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2502	+State Responsibility for Fixed-Guideway System Safety	2132-AA39
2503	Buy America	2132-AA42
2504	Temporary Local Match Waiver for Sections 9 and 18	2132-AA49
2505	Buy America Requirements	2132-AA54

+ DOT-designated significant regulation.

Research and Special Programs Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2506	Pipeline Safety Program Procedures: Updates and Corrections	2137-AC79

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Research and Special Programs Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2507	Requirements for Cylinders	2137-AA92
2508	+Gas Gathering Line Definition	2137-AB15
2509	+Qualification of Pipeline Personnel	2137-AB38
2510	+Maps and Records of Pipeline Location and Characteristics; Notification of State Agencies; Pipe Inventory	2137-AB48
2511	DOT 3AL Aluminum Cylinders; Safety Problems	2137-AB51
2512	Design and Construction of Welded Breakout Tanks	2137-AC11
2513	Underwater Abandoned Pipeline Facilities	2137-AC33
2514	+Increased Inspection Requirements	2137-AC38
2515	+Emergency Flow-Restricting Devices	2137-AC39
2516	Transportation of Hazardous Materials Miscellaneous Amendments	2137-AC41
2517	Labeling Requirements for Poisonous Materials	2137-AC47
2518	Regulated Gas and Hazardous Liquid Gathering Lines: Rural Areas	2137-AC53
2519	Permanent Underwater Inspections	2137-AC54
2520	Excess Flow Valve Customer Notification	2137-AC55
2521	Retention of Shipping Papers	2137-AC64
2522	Applicability of the Hazardous Materials Regulations	2137-AC68
2523	Periodic Updates to Pipeline Safety Regulations	2137-AC74
2524	Revision of Miscellaneous Hazardous Materials Regulations: Regulatory Review	2137-AC76
2525	+Risk-Based Alternative to Pressure Testing Rule	2137-AC78
2526	Performance-Oriented Packaging Standards; Final Transitional Provisions	2137-AC80
2527	Restructuring of Cylinder Specification Requirements	2137-AC81
2528	Harmonization With United Nations Recommendations, International Maritime Goods Code and International Civil Aviation Organization's Technical Instructions	2137-AC82
2529	Drug and Alcohol Testing: Substance Abuse Professional Evaluation for Drug Use	2137-AC84

+ DOT-designated significant regulation.

Research and Special Programs Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2530	+Hazardous Materials in Intrastate Commerce	2137-AB37
2531	Determining the Extent of Corrosion on Exposed Gas Pipelines	2137-AB50
2532	Passage of Internal Inspection Devices	2137-AB71
2533	+Improvements to Hazardous Materials Identification Systems	2137-AB75
2534	+Excess Flow Valve—Performance Standards	2137-AB97
2535	Tank Cars and Cargo Tank Motor Vehicles: Attendance Requirements	2137-AC24
2536	+Regulatory Review: Gas Pipeline Safety Standards	2137-AC25
2537	Regulatory Review: Administrative Practices, Reporting Pipeline Incidents, Gas Pipeline Standards, and Liquefied Natural Gas Facility Standards	2137-AC28
2538	+Response Plans for Onshore Oil Pipelines	2137-AC30
2539	+Oil Spill Prevention and Response Plans	2137-AC31
2540	Mandatory Participation in Qualified One-Call Systems by Pipeline Operators	2137-AC57
2541	Revision of Cylinder Qualification Requirements	2137-AC59
2542	Revision of Exemption, Approval, Registration, and Reporting Procedures	2137-AC63
2543	Pipeline Safety User Fees	2137-AC65
2544	Transportation of Hazardous Materials by Railroad; Miscellaneous Amendments	2137-AC66
2545	Control of Drug Use and Alcohol Misuse in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations	2137-AC67
2546	Elimination of Unnecessary, Obsolete, and Duplicative Requirements	2137-AC69
2547	Ticketing Program for Hazardous Materials Violations	2137-AC70
2548	Direct Final Rule Procedure; Petitions for Rulemaking	2137-AC75
2549	Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines	2137-AC83

+ DOT-designated significant regulation.

DOT

Research and Special Programs Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2550	Quantity Limitations Aboard Aircraft	2137-AA85
2551	+Safeguarding Food From Contamination During Transportation	2137-AC00
2552	Areas Unusually Sensitive to Environmental Damage	2137-AC34
2553	Safety Permits—Shipper's Responsibility	2137-AC45

+ DOT-designated significant regulation.

Research and Special Programs Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2554	Transportation of Hydrogen Sulfide by Pipeline	2137-AB63
2555	Hazardous Liquid Gathering Line Definition	2137-AC52
2556	Hazardous Materials Regulations: Editorial Corrections and Clarifications	2137-AC72
2557	Extension of Authority for Open-Head Fiber Drum Packaging for Liquid Hazardous Materials	2137-AC77

Maritime Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2558	+Fair and Reasonable Rates: Bulk and Packaged Preference Cargoes	2133-AB19
2559	Cargo Preference: Available U.S.-Flag Commercial Vessels	2133-AB25

+ DOT-designated significant regulation.

Maritime Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2560	+Obligation Guarantees: Program Administration	2133-AB14
2561	+Guideline Rates: Less-Than-Shipload Lots of Bulk Preference Cargoes on Liner Vessels	2133-AB16
2562	+Maritime Security Program Regulation	2133-AB24

+ DOT-designated significant regulation.

Maritime Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2563	+Cargo Preference—U.S.-Flag Vessels: Uniform Contracting Requirements for Federal Program Participants	2133-AA95
2564	War Risk Insurance	2133-AB23

+ DOT-designated significant regulation.

Bureau of Transportation Statistics—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2565	Modernizing the Passenger Origin-Destination Survey	2139-AA01

DOT

Bureau of Transportation Statistics—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2566	Amendment to Passenger Origin-Destination Survey	2139-AA04

Bureau of Transportation Statistics—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2567	+Amendments to the On-Time Disclosure Rule	2139-AA00

+ DOT-designated significant regulation.

Bureau of Transportation Statistics—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2568	Technical Amendments; Organizational Changes	2139-AA03

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Prerule Stage

2003. • +UPDATE OF DRUG AND ALCOHOL PROCEDURAL RULES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 45101; 49 USC 45106

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: The Department is reviewing its procedural rules for drug and alcohol testing. This review is intended to lead to a notice of proposed rulemaking that will not include major substantive changes to how we test but rather to update and clarify provisions of the rules. This ANPRM seeks suggestion for possible changes to the regulation and the focus is expected to be on drug testing.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20593
Phone: 202 366-9306

RIN: 2105–AC49

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Proposed Rule Stage

2004. +PROPOSED POLICY ON PEAK PERIOD PRICING OF AIRPORT LANDING FEES

Priority: Other Significant

Legal Authority: 49 USC 1301 et seq

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: The Department proposes to establish a set of guidelines to encourage the voluntary development of peak and off-peak pricing systems for airport landing fees at congested U.S. airports. The guidelines would encourage the application of economic incentive to promote more efficient use of existing airport facilities, which would reduce congestion and delays. This policy statement is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Larry Phillips, Chief, Industry Economics and Finance Div., Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4382

RIN: 2105–AB63

2005. +PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG-TESTING PROGRAMS (MISCELLANEOUS AMENDMENTS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 101; 49 USC 102; 49 USC 301; 49 USC 302; 49 USC 322

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: This action would propose technical changes in the procedures to improve administration of the drug-testing program. The NPRM in 1990 concerned the question of to whom reports of negative drug test results may be sent. The SNPRM will address comments to the NPRM as well as proposing technical changes in procedures. This action is significant because of substantial public and congressional interest, and multimodal impact.

Timetable:

Action	Date	FR Cite
NPRM	07/13/90	55 FR 28782
NPRM Comment Period End	08/13/90	
SNPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/13/90 (55 FR 28782)

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB71

2006. +PASSENGER MANIFEST INFORMATION

Priority: Other Significant

Legal Authority: 49 USC 44909

CFR Citation: 14 CFR 243

Legal Deadline: Final, Statutory, March 16, 1991.

Abstract: In 1990, Congress mandated by statute that the Secretary of Transportation require all U.S. airlines to comply with a Passenger Manifest Collection Regulation for international flights. Comments were requested on the most cost-effective methods. This rulemaking is considered significant because of substantial public interest and the congressional mandate.

Timetable:

Action	Date	FR Cite
ANPRM	01/31/91	56 FR 3810
ANPRM Correction	02/12/91	56 FR 5665
ANPRM Comment Period End	02/19/91	
Notice: Public Meeting 3/29/96	03/15/96	61 FR 10706
NPRM	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This entry was formerly titled Aviation Security: Passenger Manifest Information.

Agency Contact: Arnold Levine, Director, Office of International Transportation and Trade, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4368

RIN: 2105–AB78

2007. +ACCESSIBILITY OF PASSENGER VESSELS TO INDIVIDUALS WITH DISABILITIES

Priority: Other Significant

Legal Authority: 42 USC 12101 et seq; PL 101-336, Americans with Disabilities Act

CFR Citation: 49 CFR 37

Legal Deadline: Final, Statutory, July 26, 1991.

Abstract: The Department's Americans with Disabilities Act (ADA) final rule, published September 6, 1991 (56 FR 45584), reserved portions of the rule concerning passenger vessels. The ADA covers passenger vessels, but issuing accessibility requirements for vessels involves complex issues unlike those affecting land transportation. This action will address these issues and propose feasible requirements to make passenger vessels accessible to, and usable by, individuals with disabilities. This rulemaking is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB87

2008. +TRANSPORTATION FOR INDIVIDUALS WITH DISABILITIES (OVER THE ROAD BUSES)

Priority: Other Significant

Legal Authority: 49 USC 322; PL 101-336, Americans with Disabilities Act (ADA)

CFR Citation: 49 CFR 27

Legal Deadline: Final, Statutory, May 16, 1994.

Abstract: The Department is seeking responses to questions concerning requirements for accessibility of over-the-road buses (OTRBs). DOT is required to consider the recent report of the Office of Technology Assessment in drafting OTRB access rules. This project is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	10/12/93	58 FR 52735
ANPRM Comment Period End	11/26/93	
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Telephone number for TDD is (202) 755-7687.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC00

2009. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 701 et seq; 49 USC 322(a)

CFR Citation: 49 CFR 29

Legal Deadline: None

Abstract: This rule allows for submission of annual certifications by grantees. The current rule requires individual project-by-project certifications. This action would implement a National Performance Review recommendation, reduce administrative requirements and promote the automation of the grant application and award process. This action would also provide for consistency with Federal Acquisition Regulation (48 CFR 14.213) which allows annual certifications.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Paul Larsen, Office of the General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9161

RIN: 2105–AC24

2010. AIR CARRIER ACCESS ACT: MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 374(a); 49 USC 374(c)

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: This action proposes additional accommodations for disabled air carrier passengers with respect to seat assignments and storage of portable electric wheelchairs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC28

2011. USE OF OXYGEN BY AIR CARRIER PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1324(a); 49 USC 1324(c)

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: The Department is considering the use of regulatory negotiation to seek consensus among air carrier, consumer, airports, equipment manufacturers, oxygen suppliers, and safety regulators concerning the use of oxygen by passengers on air carriers when individuals need special private supplies. The need for action stems from a current situation where all carriers do not allow passengers to bring their own oxygen aboard. Issues involve conforming with FAA hazardous materials rules and the question of providing oxygen during long layovers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Robert Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC29

2012. • AMENDMENT TO DEFINITION OF SUBSTANCE ABUSE PROFESSIONAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5331; 49 USC 20140; 49 USC 45102; 49 USC 31306

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: This rule consolidates the definition of a substance abuse professional in each of the Department's alcohol testing rules into its Department-wide testing procedures rule. It also adds to the definition substance abuse professionals certified by the International Certification Reciprocity Consortium.

Timetable:

Action	Date	FR Cite
NPRM	03/12/96	61 FR 9960
NPRM Comment Period End	04/11/96	
Final Action	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking includes FAA, FHWA, FRA, RSPA and FTA rules.

Agency Contact: Robert Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC33

2013. • CHANGES TO INTERNATIONAL DATA SUBMISSIONS BY LARGE AIR CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 329; 49 USC 40109; 49 USC 40113; 49 USC 41701; 49 USC 41708; 49 USC 41709 et seq

CFR Citation: 14 CFR 217.5(b); 14 CFR 241

Legal Deadline: None

Abstract: This rulemaking would reduce the period of confidentiality for T-100 data from three years to six months. It would also require foreign

carriers to report capacity data regarding available seats and available payload weight. Finally, it would consolidate reporting of international revenue passenger and capacity data by large U.S. carriers.

Timetable:

Action	Date	FR Cite
NPRM	02/15/96	61 FR 5963
NPRM Comment Period End	04/15/96	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Harman, Deputy Director, Office of Aviation Analysis, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1059

RIN: 2105–AC34

2014. • +COMPUTER RESERVATIONS SYSTEM REGULATIONS AND AMENDMENTS

Priority: Other Significant

Legal Authority: 49 USC 41712

CFR Citation: 49 CFR 255.6

Legal Deadline: None

Abstract: This rulemaking would prohibit contract clauses unreasonably restricting an airline's ability to choose the level of service it wishes to purchase from a computer reservation system (CRS). These contract clauses bar airlines participating in a CRS from participating at a higher level in other systems. This action is expected to increase competition in both the Airline and CRS industries. The rule is significant because the affected aviation travel industries have substantial interest in it.

Timetable:

Action	Date	FR Cite
Request for Comments by 1/9/95	12/09/94	59 FR 63736
NPRM	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Ray, Office of General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4731

RIN: 2105–AC35

2015. • AMENDMENTS TO LABORATORY CERTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 322; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 45101 to 45106

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: This rule would permit drug testing laboratories located outside the U.S. to participate in the Department's drug testing program.

Timetable:

Action	Date	FR Cite
NPRM	03/28/96	61 FR 13809
NPRM Comment Period End	05/13/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC37

2016. • USE OF THE OFFICIAL SEAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 102(e)

CFR Citation: 49 CFR 3

Legal Deadline: None

Abstract: This rule would remove regulations governing what uses may be made of the Department's Official Seal and which officials have the authority to affix it. This information already exists in DOT's internal directives and it will continue to appear in those directives.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Ross, Office of the General Counsel, C-10, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9156

RIN: 2105–AC41

2017. • MEDALS OF HONOR

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 80504

CFR Citation: 49 CFR 79

Legal Deadline: None

Abstract: This rulemaking revises regulations regarding award of Medals of Honor for bravery in land transportation accidents/incidents. These regulations were last amended in 1968. These revisions simplify language and otherwise make them easier to understand.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Ross, Office of the General Counsel, C-10, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9156

RIN: 2105–AC39

2018. • OVERBOOKING OF FLIGHTS: ELIMINATION OF AIRPORT NOTICE SIGNS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: Not yet determined

CFR Citation: 14 CFR 250

Legal Deadline: None

Abstract: This action would eliminate a consumer notice about airline overbooking of flights that is required to appear on signs at airports, city ticket offices, and travel agencies. However, that information must accompany every ticket.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Other related rulemakings are RIN 2105-AA88, Simplified Airline Counter-Sign Notices, and RIN 2105-AC36, Ticketless Travel: Passenger Notices.

Agency Contact: Tim Kelly, Aviation Consumer Protection Division, Office of the General Counsel C-75, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5952

RIN: 2105–AC45

2019. • FEES AND CHARGES FOR SPECIAL SERVICES: REINVENTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 9701; 49 USC 40101; 49 USC 46101

CFR Citation: 14 CFR 389

Legal Deadline: None

Abstract: This action would remove or update obsolete provisions and organizational references, and adjust the fee schedule for certain special services related to aviation economic proceedings that the Department makes available to the public. The regulation has not been comprehensively updated since 1985 and the revisions will take the form of a complete reissuance of part 389.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Carol A. Woods, Analyst, Air Carrier Fitness Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2340

RIN: 2105–AC47

2020. • RULES OF PRACTICE IN AVIATION ECONOMIC PROCEEDINGS: REINVENTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 511; 39 USC 5402; 42 USC 4321; 49 USC 40101; 49 USC 41101; 49 USC 41301; 49 USC 41501; 49 USC 41701; 49 USC 41901; 49 USC 46101; 49 USC 46301

CFR Citation: 14 CFR 302

Legal Deadline: None

Abstract: This action would reorganize in a more logical fashion, regulations that govern the conduct of all aviation economic proceedings before the Department. It would also streamline the regulation to remove redundancies. Procedures relating only to oral evidentiary hearings are being grouped together separate from procedures pertaining only to non-hearing cases. Updates to terminology will be made to reflect the revision and recodification of the Federal Aviation Act. This rule has not been comprehensively updated since 1985 and the revisions will take the form of a complete reissuance of part 302.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol A. Woods, Analyst, Air Carrier Fitness Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2340

RIN: 2105–AC48

2021. • AMENDMENTS TO MODAL ALCOHOL TESTING RULES: PRE-EMPLOYMENT TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 45101; 49 USC 45106

CFR Citation: 49 CFR 121; 49 CFR 219; 49 CFR 382; 49 CFR 653; 49 CFR 654

Legal Deadline: None

Abstract: This rule would implement a recent statutory change required by the National Highway Systems Act of 1995, Section 342, to the existing pre-employment alcohol testing provisions. It would make pre-employment testing voluntary.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC50

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Final Rule Stage

2022. DIRECT AIR CARRIER RESPONSIBILITY FOR RETURNING STRANDED CHARTER PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371

CFR Citation: 14 CFR 207; 14 CFR 208

Legal Deadline: None

Abstract: This action proposed to make direct air carriers responsible for returning charter passengers stranded by strikes or other service interruptions, by eliminating the force majeure clause from charter contracts. However, the CAB subsequently issued an interpretive rule (ER-1387, 49 FR 33436) which was affirmed in court. (Arrow Air, Inc. v. Dole, 784 F2d 1118 (1986).) Therefore, this action is now moot; the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	07/11/80	45 FR 46812
NPRM Comment Period End	09/25/80	
Reply Comment Period End	10/10/80	
To Be Withdrawn	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EDR 405, Docket 37169.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA40

2023. AIR TRAVELERS: AGE DISCRIMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6102

CFR Citation: 14 CFR 376

Legal Deadline: None

Abstract: This rulemaking action was initiated by the Civil Aeronautics Board to implement the Age Discrimination Act of 1975. A draft final rule was submitted to HHS, as required by that Act, and was approved. However, in view of current airline practices with respect to travel by the elderly, and the absence of complaints of discrimination based on age, there no longer appears to be a need for further rulemaking action, and the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	09/26/79	44 FR 55383
Final Action Adopted by the Board	04/10/80	
HHS Approved Final Rule With Changes	07/13/84	
To Be Withdrawn	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SPDR-74, Docket 36639.

Agency Contact: Robert Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA45

2024. DIRECT FLIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: Donald L. Pevsner petitioned the CAB to institute a rulemaking proceeding to ban use of the term "direct flight" because it is deceptive, and to declare use of the term to be a prima facie violation of section 411 of the Federal Aviation Act of 1958. The Department is now considering what action to take in response to the petition.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The petition is filed in Docket 41217.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA73

2025. DIVERSION OF FLIGHTS WITHIN A METROPOLITAN AREA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1305; 49 USC 1324; 49 USC 1371; 49 USC 1375; 49 USC 1377 to 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 253; 14 CFR 399

Legal Deadline: None

Abstract: The CAB proposed to amend its rules requiring notice of contract terms for domestic travel to require that actual notice be given passengers of terms absolving carriers from any responsibility to transport a passenger to the destination named on the ticket, or to reimburse the passenger for expenses in reaching the airport noted on the ticket when a flight is diverted to another airport in the same metropolitan area. Alternatively, the Board proposed to declare it to be an unfair and deceptive practice to divert a passenger without arranging and paying for alternate transportation to the destination airport named on the passenger's ticket. The Board considered a final rule but did not decide what action to take. DOT is terminating this proceeding as unnecessary since it appears that carriers no longer have the policies that promoted the CAB's concern.

Timetable:

Action	Date	FR Cite
NPRM	09/23/83	48 FR 43343
NPRM Comment Period End	11/07/83	
To Be Withdrawn	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL LEGAL AUTHORITIES: PL 96-354; 5 USC 601. Docket 41683, EDR 468/PSDR-81.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA78

DOT—OST

Final Rule Stage

2026. SIMPLIFIED AVIATION EXEMPTION PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1386

CFR Citation: 14 CFR 302; 14 CFR 389; 14 CFR 399

Legal Deadline: None

Abstract: A Civil Aeronautics Board rulemaking proposed to revise and simplify the requirements and procedures for applying for exemptions under section 416(b) of the Federal Aviation Act. This action has become unnecessary since the Department included most of its provisions in its rule transferring the CAB's rules to DOT. Therefore, the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	10/05/84	49 FR 39337
NPRM Comment Period End	12/04/84	
To Be Withdrawn	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PDR-88/ODR-27/PSDR-83.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA82

2027. SIMPLIFIED AIRLINE COUNTER—SIGN NOTICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221; 14 CFR 250; 14 CFR 256

Legal Deadline: None

Abstract: The American Association of Airport Executives, the Airport Operators Council International, and the Air Transport Association of America petitioned the CAB to simplify its counter-sign requirements. Presently, airlines are required to display four different consumer protection notices on their ticket counters. The petitioners alleged that the current notices are hard to read and, therefore, do not provide much notice to passengers. They proposed replacing the four notices with one simplified counter sign. A CAB NPRM proposed a number of alternatives, such as a long and/or short notice, where the notices would be required to be posted, and whether a smoking notice should be included. DOT decided not to act on these "counter signs" separately, but rather to consider whether there should be a comprehensive re-examination of all forms of notice to passengers, including notices on tickets. This NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	08/01/84	49 FR 30742
NPRM Comment Period End	09/17/84	
Reply Comment Period End	10/02/84	
To Be Withdrawn	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket 41971; EDR-474

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA88

2028. +UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Priority: Other Significant

Legal Authority: 49 USC 322(a)

CFR Citation: 49 CFR 18

Legal Deadline: None

Abstract: This action would have revised the Administration's requirements on grants to State and local governments. It was part of a governmentwide common rule effort which ceased in January 1993. There has been no activity on this NPRM since, and most Federal agencies have already removed this item from their Agendas. Therefore, the Department is also withdrawing this action.

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 44716
NPRM Comment Period End	01/03/89	
To Be Withdrawn	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Analysis: Regulatory Evaluation 11/04/88 (53 FR 44716)

Additional Information: This RIN was completed in error in the 5/8/95 Agenda. In a related, nonsignificant action, (RIN 2105-AC12) the Department raised the threshold for local governments to use small-purchase procedures and to increase procurement review levels.

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, M-62, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AB46

2029. +NEW RESTRICTIONS ON LOBBYING

Priority: Other Significant

Legal Authority: 49 USC 322(a); 31 USC 1352

CFR Citation: 49 CFR 20

Legal Deadline: Final, Statutory, March 22, 1990.

Abstract: This regulation will implement the provisions of a new section 1352 to title 31, United States Code, that prohibits the use of appropriated funds to influence certain Federal contracting and financial transactions. Organizations that use their own funds to pay for lobbying activities are required to disclose such activity. The rule will be issued as a common rule based on guidance issued by the Office of Management and Budget on December 20, 1989 (54 FR 52305). Final action is awaiting revisions to OMB guidance based on changes to section 1352 in the Lobbying Disclosure Act of 1995. This action is considered significant because it involves agencies or departments governmentwide.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736

DOT—OST

Final Rule Stage

Action	Date	FR Cite
Comment Period End	04/27/90	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: OMB has control of development of the final rule. Proposed revisions to OMB guidance were published January 19, 1996, (61 FR 1412).

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, M-62, Office of Acquisition and Grant Management, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AB57

2030. +NONDISCRIMINATION ON THE BASIS OF HANDICAP IN AIR TRAVEL (AIR CARRIER ACCESS ACT)

Priority: Other Significant

Legal Authority: 49 USC 1374(a); 49 USC 1374(c)

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: An SNPRM proposed three additions to part 382 to implement the Air Carrier Access Act of 1986. The additions concern standards for boarding chairs; airport terminal transportation systems; and substitute service for persons denied the opportunity to fly because of inaccessible small aircraft. In view of other rulemaking concerning airport and small aircraft accessibility, the Department has determined that further action on these proposals is unnecessary.

Timetable:

Action	Date	FR Cite
SNPRM: Final Rule Amendments: Comment Period End 06/04/90	03/06/90	55 FR 8075
Comment Period Extended to 07/20/90	06/06/90	55 FR 23450
To Be Withdrawn	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/06/90 (55 FR 8076)

Additional Information: The telephone number for TDD is (202) 755-7687; a taped copy of the SNPRM is available on request.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB61

2031. +NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS AND IN AIR TRAVEL (AIR CARRIER ACCESS ACT)

Priority: Other Significant

Legal Authority: 29 USC 794

CFR Citation: 49 CFR 27; 14 CFR 382

Legal Deadline: None

Abstract: The pending final action addresses three issues: harmonizing section 504, Air Carrier Access Act (ACAA) and the American's With Disabilities Act (ADA) requirement for airport accessibility (action on this issue commenced under RIN 2105-AB62); boarding assistance on small commuter aircraft (action commenced under RIN 2105-AB60); and communicable diseases (action commenced under RIN 2105-AB60/AB62). The Department is commencing proposed action on other ACAA-related subjects under RINs 2105-AC28 and AC29.

Timetable:

Action	Date	FR Cite
NPRM	03/06/90	55 FR 8081
NPRM Comment Period End	06/04/90	
Second NPRM	09/10/93	58 FR 47681
NPRM Comment Period Extended to 01/07/94	11/30/93	58 FR 63154
Second NPRM Comment Period End	12/09/93	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/06/90 (55 FR 8081)

Additional Information: The telephone number for TDD is (202) 755-7687; a taped copy of the NPRM is available on request. The issue of lifts for small commuter aircraft was removed from RIN 2105-AB60 and consolidated into this proceeding.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB62

2032. AVIATION CHARTER RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 85-726, as amended

CFR Citation: 14 CFR 207 to 208; 14 CFR 212; 14 CFR 294; 14 CFR 298; 14 CFR 380; 14 CFR 389

Legal Deadline: None

Abstract: This rule governs the activities of public charter operators, a type of indirect air carrier that sells charter air transportation to consumers, and airlines that perform the direct air transportation. DOT is revising and updating the rules to recognize: (1) current usage of credit cards for payment to charter operators, and (2) certain changes in procedural practices.

Timetable:

Action	Date	FR Cite
NPRM	09/16/92	57 FR 42864
NPRM Comment Period End	10/16/92	
Comment Period Extended to 11/16/92	10/22/92	57 FR 48193
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/16/92 (57 FR 42864)

Agency Contact: C. W. McGuire, Chief, Regulatory Affairs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590

DOT—OST

Final Rule Stage

Phone: 202 366-1037

RIN: 2105–AB91

2033. +DISADVANTAGED BUSINESS ENTERPRISE (DBE) REGULATION; GENERAL UPDATE

Priority: Other Significant

Legal Authority: Intermodal Surface Transportation Efficiency Act (ISTEA); PL 102-240; 49 USC 47017(e); 49 USC 47113

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: This rule would revise the Department's regulations for the disadvantaged business enterprise program to clarify regulatory provisions and revise program elements in light of experience in administering the program since 1980 and the Administration's review of affirmative action programs. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/09/92	57 FR 58288
NPRM Comment Period Extended to 4/6/93	03/03/93	58 FR 12207
NPRM Comment Period End	03/09/93	
Final Action	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Analysis: Regulatory Evaluation 12/09/92 (57 FR 58288)

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB92

2034. +PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN AIRPORT CONCESSIONS

Priority: Other Significant

Legal Authority: PL 102-581; PL 97-248

CFR Citation: 49 CFR 23

Legal Deadline: Final, Statutory, April 30, 1993.

Abstract: This action would implement recent changes to the Airport and Airway Improvement Act to allow airport sponsors to count new forms of disadvantaged business enterprise (DBE) participation toward the overall goals of a DBE concession plan. These new forms include purchases from DBEs of goods and services used in operating a concession, as well as management contracts and subcontracts with DBEs. This action is significant because of substantial public interest. Final action may be combined with RIN 2105-AB92, DBE Regulation: General Update.

Timetable:

Action	Date	FR Cite
NPRM	10/06/93	58 FR 52050
NPRM Comment Period End	11/22/93	
NPRM Comment Period Extended to 12/14/93	11/30/93	58 FR 63153
Final Action	04/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Analysis: Regulatory Evaluation 10/06/93 (58 FR 52050)

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB99

2035. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322(a)

CFR Citation: 49 CFR 19

Legal Deadline: None

Abstract: This action will implement OMB Circular A-110, providing uniform guidance for administering grants to institutions of higher education, hospitals, and other nonprofit organizations. The regulation is essentially a word-for-word issuance of the requirements in OMB Circular A-110. An interim final rule was issued because of the limited ability to change the requirements from those in the Circular.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/04/94	59 FR 15637
Comment Period End	06/03/94	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, M-62, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AC02

2036. +TRANSPORTATION FOR INDIVIDUALS WITH DISABILITIES (ACCESSIBILITY GUIDELINES)

Priority: Other Significant

Legal Authority: 5 USC 552a

CFR Citation: 49 CFR 27; 49 CFR 37

Legal Deadline: None

Abstract: This action would amend the rules implementing the Americans with Disabilities Act by adopting the revised accessibility guidelines issued by the Architectural and Transportation Barriers Compliance Board, published June 20, 1994 (59 FR 31676) as interim final rules. The proposed rule herein would also conform the Department's rule implementing section 504 of the Rehabilitation Act of 1973. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31818
NPRM Comment Period End	08/19/94	
Final Action	10/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Analysis: Regulatory Flexibility Analysis

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC.

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Phone: 202 366-9306

RIN: 2105–AC06

2037. DOMESTIC BAGGAGE LIABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 app USC 1324; 49 app USC 1373 to 1374; 49 app USC 1381

CFR Citation: 14 CFR 254.4; 14 CFR 254.5

Legal Deadline: None

Abstract: The Department is proposing to amend its rule governing the amount by which certain U.S. air carriers may limit their liability to passengers for lost, damaged, and delayed baggage. This action is in response to a petition by Public Citizen and Aviation Consumer Action Project to increase the minimum liability limit from $1,250 to $1,850 per passenger. The Department is also requesting comment on two alternate proposals: (1) to raise the limit to $1,850 with a mechanism that automatically provides for periodic future increases, or (2) to raise the minimum liability limit to $2,000.

Timetable:

Action	Date	FR Cite
NPRM	09/30/94	59 FR 49867
NPRM Comment Period End	11/29/94	
Comment Period Extended	11/29/94	59 FR 60926
Notice Summarizing Aggregated Data	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Carrier data was due 11/29/94. The comment period would end 30 days after the data has been aggregated and placed in the docket.

Agency Contact: Joanne Petrie, Senior Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC07

2038. DISCLOSURE OF CODE-SHARING ARRANGEMENTS AND LONG-TERM WET LEASES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40113; 49 USC 41712

CFR Citation: 14 CFR 257

Legal Deadline: None

Abstract: The action would strengthen the Department's current rules requiring airlines to notify passengers of a code-sharing arrangement or long-term wet lease. In these operations, the operator of the aircraft differs from the airline in whose name the transportation was sold. The Department would require that the name of the transporting carrier be disclosed. This action is being undertaken to ensure that consumers have pertinent information about airline code-sharing arrangements on domestic and international flights.

Timetable:

Action	Date	FR Cite
NPRM	08/10/94	59 FR 40836
NPRM Comment Period End	10/11/94	
SNPRM Comment Period End 2/16/95	01/17/95	60 FR 3359
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laura Trejo, Attorney Advisor, Department of Transportation, Office of the Secretary, 400 Seventh Stteet SW., Washington, DC 20590
Phone: 202 366-9183

RIN: 2105–AC10

2039. USE OF DIRECT FINAL RULEMAKING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1657

CFR Citation: 49 CFR 5.21; 49 CFR 5.35

Legal Deadline: None

Abstract: The Department is considering a new rulemaking procedure to expedite the processing of noncontroversial changes to its regulations. Rules that the Secretary judges to be unlikely to result in public comment would be published as "direct final" rules. Such direct final rules would advise the public that no adverse comment is anticipated and that, unless written adverse comment or notice of intent to submit such comment is received within a specified number of days, the rule will become effective 60 days from the date of publication in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	08/04/95	60 FR 39919
NPRM Comment Period End	10/03/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neil Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC11

2040. +TRANSPORTATION FOR INDIVIDUALS WITH DISABILITIES (MISC. AMENDMENTS)

Priority: Other Significant

Legal Authority: 42 USC 12101 to 12213; 49 USC 322

CFR Citation: 49 CFR 37; 49 CFR 38

Legal Deadline: None

Abstract: This rulemaking would create an exception to the provisions requiring transit providers to allow persons with disabilities to use every stop in the system, change the requirements affecting certain private schools that provide fixed route transportation, change the DOT technical standards concerning gaps for higher-speed people-mover vehicles, and eliminate the provision requiring paratransit systems to allow reservations 14 days in advance. Certain minor or technical clarifications will also be made. This action is significant since it involves issues of potential controversy.

Timetable:

Action	Date	FR Cite
NPRM	07/21/94	59 FR 37208
NPRM Comment Period End	10/19/94	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement,

Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC13

2041. DISINSECTION OF AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40113; 49 USC 41712

CFR Citation: 14 CFR 259

Legal Deadline: None

Abstract: The Department is considering a rule that would require airlines and ticket agents (including travel agents) to notify prospective passengers if the country to which they are traveling requires the passenger cabin to be sprayed with insecticide. Currently, about 5 countries routinely require such spraying. This rulemaking is being undertaken by departmental initiative.

Timetable:

Action	Date	FR Cite
NPRM	01/18/95	60 FR 3596
NPRM Comment Period End	03/20/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Arnold Konheim, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4849

RIN: 2105–AC14

2042. DISCLOSURE OF CHANGE-OF-GAUGE SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41712

CFR Citation: 14 CFR 257

Legal Deadline: None

Abstract: To ensure that consumers are given pertinent information on the nature of change-of-gauge services, the Department is proposing to codify and augment its current disclosure requirements for itineraries with one flight number that involve a change of aircraft. The Department requested comments on the following three proposed requirements, which would apply to U.S. air carriers, foreign air carriers, and, where appropriate, ticket agents (including travel agents) doing business in the United States: (1) that transporting carriers include notice of aircraft changes in their written or electronic schedule information provided to the public, in the Official Airline Guide, and in computer reservation systems; (2) that consumers be given reasonable and timely notice before they book transportation that a particular service with a single flight number entails a change of aircraft en route, and (3) that written notice of the aircraft change be provided on or with each ticket for such service. This proposal, in part, responds to the petition of American Airlines in Docket 47546 to ban the practice of "funnel flights." The Department intends also to address the complaints of TACA International Airlines, Aviateca, and Nicaraguense de Aviacion (NICA) in Dockets 49511, 49512, and 49513, respectively, against Continental Airlines for operating funnel flights.

Timetable:

Action	Date	FR Cite
NPRM	01/19/95	60 FR 3778
NPRM Comment Period End	03/20/95	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Further action on this rule is awaiting the final rule in a related code share issue in RIN 2105-AC10.

Agency Contact: Betsy L. Wolf, Senior Trial Attorney, Office of Aviation Enforcement & Proceedings, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9356

RIN: 2105–AC17

2043. +GREAT LAKES PILOTAGE RATE METHODOLOGY

Priority: Other Significant

Legal Authority: 46 USC 2103; 46 USC 6101; 46 USC 7701; 46 USC 9303; 46 USC 9304; 46 USC 3507

CFR Citation: 46 CFR 401; 46 CFR 403; 46 CFR 404

Legal Deadline: None

Abstract: The Department amended the regulations concerning Great Lakes pilotage by revising the procedures for determining Great Lakes pilotage rates and revising the financial reporting requirements mandated for Great Lakes pilot associations. The purpose of these changes was to improve the ratemaking process. The final rule with request for comments was issued in April, 1995. A final rulemaking document responding to the comments received will be issued shortly. The Department considers this action to be significant because the setting of pilotage rates is controversial and of significant interest to the public and Congress.

Timetable:

Action	Date	FR Cite
NPRM	04/12/94	59 FR 17303
Notice of Meetings	04/20/94	59 FR 18744
NPRM Comment Period End	07/11/94	
Final Rule: Request for Comments by 5/11/95	04/11/95	60 FR 18366
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/12/94 (59 FR 17303)

Additional Information: This had been Coast Guard RIN 2115-AE45. In the last Agenda, this item was entered as a completed action in error.

Agency Contact: Scott A. Poyer, Project Manager, Office of Great Lakes Pilotage, Department of Transportation, Saint Lawrence Seaway Development Corporation, 400 Seventh Street SW., Washington, DC 20590
Phone: 800 785-2779

RIN: 2105–AC21

2044. PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING: SHY BLADDER AND OTHER CLARIFICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 322; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 45101 to 45106

CFR Citation: 49 CFR 40

Legal Deadline: None

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DOT—OST

Final Rule Stage

Abstract: This rule would revise DOT drug testing procedures in so-called "shy bladder" situations. It would also remove an obsolete provision that can potentially cause confusion concerning the proper relationship of laboratories and medical review officers, add language concerning unresolved laboratory positive test results, and provide guidance concerning the role of consortia and third party administrators in the DOT drug and alcohol testing programs. The Department is undertaking a regulatory evaluation.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 38200
NPRM Comment Period End	09/25/95	
Final Action	10/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: The Department published a Notice: Guidance on the Role of Consortia and Third-Party Administrators in DOT Drug and Alcohol Testing Programs 7/25/95 (60 FR 38204).

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC22

2045. ELECTRONIC FILING OF INTERNATIONAL AIR PASSENGER SERVICE RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 40101; 49 USC 40109; 49 USC 40113; 49 USC 40101 to 41112; 49 USC 40301 to 41310; 49 USC 41501 to 41511; 49 USC 41701 to 41713; 49 USC 46101 to 46102

CFR Citation: 14 CFR 221; 49 CFR 1.56(j)(2)(ii)

Legal Deadline: None

Abstract: This rule permits official filing of international air carrier rules tariffs in an electronic format. Currently they are filed in paper form. Nearly all official filings are filed for effect on less than bilateral/statutory notice, with an accompanying Special Tariff Permission Application. The carriers are thus filing each rule provision on paper twice. This rule allows a single electronic filing to replace two paper filings. About 43,000 rule pages are changed each year in 9,000 submissions.

Timetable:

Action	Date	FR Cite
NPRM	05/19/95	60 FR 26848
NPRM Comment Period End	06/19/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Responsibility for this rule was transferred to the Office of the Secretary from RSPA.

Agency Contact: John H. Kiser, Chief, Pricing and Multilateral Affairs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20509-0001
Phone: 202 366-2435

RIN: 2105–AC23

2046. NONPROCUREMENT DEBARMENT AND SUSPENSION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; EO 12549; EO 12689; 31 USC 6101

CFR Citation: 49 CFR 29

Legal Deadline: None

Abstract: This revision to the nonprocurement common rule is issued in response to Executive Order 12689 and section 2455 of the Federal Acquisition Streamlining Act of 1994. The Executive Order requires agencies to establish regulations for reciprocal governmentwide effect across procurement and nonprocurement debarment and suspension actions, after technical differences between the procurement and nonprocurement regulations are resolved. This regulation establishes that reciprocity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/26/95	60 FR 33036
Comment Period End	07/26/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Paul B. Larsen, Office of the General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9161

RIN: 2105–AC25

2047. REVISED FILING PROCEDURES FOR OST DOCKET

Priority: Other

Legal Authority: 5 USC 551 et seq; 49 USC 40101 et seq

CFR Citation: 14 CFR 302

Legal Deadline: None

Abstract: The Office of the Secretary is revising its document filing requirements to conform to its new electronic docket system. Documents will be scanned into images and stored on unalterable disks. The changes will facilitate one physical scanning process and ensure that the highest quality image is captured. The rule will also reduce the required number of paper copies and provide for submission of a disk copy in one of several specified formats.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: See explanation of the centralization and computerization of DOT dockets, March 15, 1995 (60 FR 14050).

Agency Contact: Paulette Twine, Chief, Documentary Services Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590

DOT—OST

Final Rule Stage

Phone: 202 366-9329

RIN: 2105–AC26

2048. COAST GUARD BOARD FOR CORRECTION OF MILITARY RECORDS: PROCEDURAL REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 1552

CFR Citation: 32 CFR 52

Legal Deadline: None

Abstract: This action is being taken on the Department's initiative in order to streamline processing of these cases and to clarify the circumstances under which final decisions can be reconsidered. This rule would make it possible for the Board to expedite reconsideration and increase the resources available to meet the requirement that all cases be decided within ten months of the receipt of a completed application.

Timetable:

Action	Date	FR Cite
NPRM	12/11/95	60 FR 63489
NPRM Comment Period End	02/09/96	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Joost, Chairman, Board of Correction of Military Records, (C-60), Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9335

RIN: 2105–AC31

2049. • STAFF ASSIGNMENTS AND REVIEW OF ACTION UNDER ASSIGNMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 40101; 49 USC 41101; 49 USC 41301; 49 USC 41501; 49 USC 41701

CFR Citation: 49 CFR 385

Legal Deadline: None

Abstract: This action removes or updates obsolete provisions and organizational references. It reorders the sequence of assignments in a more logical manner and to more closely reflect the Department's staff organization.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol Woods, Air Carrier Fitness Division, X-56, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9721

RIN: 2105–AC38

2050. • NATIONAL SECURITY INFORMATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: EO 12958; EO 12968

CFR Citation: 14 CFR 311

Legal Deadline: None

Abstract: This rule would eliminate regulations regarding National Security Information that the Department inherited from the Civil Aeronautics Board. These regulations merely reference DOT's own rules on the same subject.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Ross, Office of the General Counsel, C-10, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9156

RIN: 2105–AC40

2051. • RELEASE OF INTERNAL STAFF MEMORANDA RELATING TO PUBLIC MEETINGS OF THE CIVIL AERONAUTICS BOARD

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 40101 to 40102; 49 USC 40105; 49 USC 40109; 49 USC 40113 to 40115; 49 USC 41101 to 41110; 49 USC 41301 to 41310; 49 USC 41501; 49 USC 41503 to 41504; 49 USC 41506 to 41511; 49 USC 41701 to 41702; 49 USC 41705 to 41709; 49 USC 41711 to 41713; 49 USC 41901 to 41912; 49 USC 42111 to 42112; 49 USC 46301; ...

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: This rulemaking would remove provisions concerning release of internal staff memoranda after public meetings of the Civil Aeronautics Board (CAB). The CAB was sunsetted in 1985 and the provisions no longer have any relevancy. Analogous information is available from DOT via the Freedom of Information Act process.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Ross, Office of General Counsel, C-10, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9156

RIN: 2105–AC42

2052. • POLICIES RELATING TO ACCOUNTS AND REPORTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 40101 et seq

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: The Department is amending its regulations to eliminate superfluous and redundant provisions relating to aviation accounts and reports.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

DOT—OST — Final Rule Stage

Agency Contact: Bernie Stankus, Systems Accountant, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4387
Fax: 202 366-3383

RIN: 2105–AC43

2053. • AUDITS OF STATE AND LOCAL GOVERNMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322(a)

CFR Citation: 49 CFR 90; 49 CFR 18

Legal Deadline: None

Abstract: This action will eliminate part 90 which is merely a re-publication of OMB Circular A-128, the audit requirements for State and local grantees. The requirements will be replaced by a reference to the circular in Part 18, Non-Federal Audits.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Robert G. Taylor, Chief, Grants Management Division (M-62), Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AC44

2054. • AVIATION ECONOMIC RULES: CORRECTING OBSOLETE REFERENCES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 40101; 49 USC 41101; 49 USC 41301; 49 USC 41701

CFR Citation: 14 CFR 205; 14 CFR 323

Legal Deadline: None

Abstract: This action corrects obsolete references in field office addresses and terminology that requires updating due to revisions and recodification of the Federal Aviation Act.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol A. Woods, Analyst, Air Carrier Fitness Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2340

RIN: 2105–AC46

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Long-Term Actions

2055. POLICY STATEMENT ON AIRLINE PREEMPTION

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 399

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/79	44 FR 9946
Request for Comments on Interim Rule (PSDR-56, Docket 34684)	02/15/79	44 FR 9953
Comment Period End	04/16/79	
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Paul Smith
Phone: 202 366-9285

RIN: 2105–AA48

2056. BAGGAGE LIABILITY NOTICES IN INTERNATIONAL AIR TRANSPORTATION

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 221

Timetable:

Action	Date	FR Cite
NPRM	12/18/84	49 FR 49111
NPRM Comment Period End	03/19/85	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joanne Petrie
Phone: 202 366-9306

RIN: 2105–AA84

2057. +STATEMENT OF ENFORCEMENT POLICY ON REBATING

Priority: Other Significant

CFR Citation: 14 CFR 399.80; 14 CFR 399.85

Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41353
NPRM Comment Period End	12/20/88	
Comment Period Extended to 2/21/89	02/03/89	54 FR 5497
Correction	02/10/89	54 FR 6475
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Betsy Wolf
Phone: 202 366-9356

RIN: 2105–AB39

2058. +PRICE ADVERTISING

Priority: Other Significant

CFR Citation: 14 CFR 380; 14 CFR 399

Timetable:

Action	Date	FR Cite
NPRM	07/26/89	54 FR 31052
Comment Period Extended to 9/25/89	08/23/89	54 FR 35005
NPRM Comment Period End	08/25/89	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Farbman
Phone: 202 366-9307

RIN: 2105–AB50

DOT—OST — Long-Term Actions

2059. SMOKING ABOARD AIRCRAFT

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 252

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/13/90	55 FR 4991
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joanne Petrie
Phone: 202 366-9306

RIN: 2105–AB58

2060. IMPLEMENTATION OF AMENDMENTS TO THE EQUAL ACCESS TO JUSTICE ACT

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 6; 48 CFR 6301; 14 CFR 14

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joanne Petrie
Phone: 202 366-9306

RIN: 2105–AB73

2061. • TICKETLESS TRAVEL: PASSENGER NOTICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41712

CFR Citation: 14 CFR 221; 14 CFR 250; 14 CFR 253; 14 CFR 254

Legal Deadline: None

Abstract: This action is a request for comments on passenger notice requirements as applied to ticketless air travel. Current DOT rules require notices in tickets that give information about baggage liability limits, overbooking, and other matters.

Timetable:

Action	Date	FR Cite
Request for Comments by 3/19/96	01/19/96	61 FR 1309
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Tim Kelly, Office of the General Counsel, C-75, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5952

RIN: 2105–AC36

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Completed Actions

2062. NONDISCRIMINATION ON THE BASIS OF AGE IN DOT FINANCIAL ASSISTANCE PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: PL 94-135

CFR Citation: 29 CFR 1691

Legal Deadline: None

Abstract: The NPRM proposed to prohibit age discrimination by recipients of DOT financial assistance programs. However, it was concluded that exceptions to the statute would result in no substantive coverage of DOT programs. Moreover, the paperwork requirements of recipients, without substantive coverage, would have been counterproductive. Therefore, the NPRM was withdrawn. However, the Department indicated an intention to consider, in light of any changes in DOT programs, whether resultant substantive coverage would then warrant a new rulemaking proceeding. Currently, the Department is in the process of undertaking such considerations and will reinstate the NPRM or take another course of action if it is determined that such action is warranted.

Timetable:

Action	Date	FR Cite
NPRM	10/22/79	44 FR 60946
NPRM Comment Period End	01/21/80	
Action Withdrawn	04/23/90	55 FR 16442

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/22/79 (44 FR 60946)

Agency Contact: Marc Brenman, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1119

RIN: 2105–AA09

2063. +COMMERCIAL SPACE TRANSPORTATION: FINANCIAL RESPONSIBILITY REQUIREMENTS FOR LICENSED LAUNCH ACTIVITIES

Completed:

Reason	Date	FR Cite
Transfer Development to RIN 2120-AF98	12/08/95	

RIN: 2105–AA26

2064. PRICE ADVERTISING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1381

CFR Citation: 14 CFR 380.30(e); 14 CFR 399.84

Legal Deadline: None

Abstract: The DOT rules cited above state that any price stated for air transportation, a tour or a tour component must be the entire price for that transportation, tour or component. In this petition, Mr. Donald Pevsner complains that some tour operators advertise prices which do not include additional features which must be purchased and which cost extra. He asks that the rules be amended to state that such additional features may only be priced separately if they may be purchased separately, i.e., if they are optional rather than mandatory. The petition was denied in a letter of 9/6/95. An explanation of the Department's current guidance on how these charges should be advertised was also provided.

Timetable:

Action	Date	FR Cite
Petition for Rulemaking (Okt 43147)	05/22/85	
Petition for Rulemaking Denied	09/06/95	

Small Entities Affected: Businesses

Government Levels Affected: None

DOT—OST

Completed Actions

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB25

2065. +LICENSING COMMERCIAL SPACE LAUNCH ACTIVITIES

Completed:

Reason	Date	FR Cite
Transfer Development to RIN 2120-AF99	12/13/95	

RIN: 2105–AB85

2066. EXEMPTION FROM PROPERTY TARIFF-FILING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 40101; 49 USC 40105; 49 USC 40109; 49 USC 40113; 49 USC 40114; 49 USC 41504; 49 USC 41701; 49 USC 41707 to 41709; 49 USC 41712; 49 USC 46101

CFR Citation: 14 CFR 221; 49 CFR 1.56(j)(2)(ii)

Legal Deadline: None

Abstract: This rulemaking grants an exemption to United States and foreign air carriers from the requirement in 14 CFR Part 221 that they file with the Department tariffs applicable to the foreign air transportation of property. This information is no longer necessary to fulfill departmental policy objectives and, because of the common practice of using freight forwarders, does not necessarily reflect actual prices paid by the public.

Timetable:

Action	Date	FR Cite
NPRM	10/24/94	59 FR 53377
NPRM Comment Period End	12/23/94	
Final Action	11/30/95	60 FR 61472

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Responsibility for this rule was transferred to OST from RSPA on 6/30/94. The NPRM of 10/24/94 inadvertently indicated the RSPA RIN 2137-AC48.

Agency Contact: John H. Kiser, Chief, Pricing and Multilateral Affairs Division, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20509-0001
Phone: 202 366-2435

RIN: 2105–AC09

2067. DATA COLLECTION AND PROHIBITION AGAINST MARKETING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 41 USC 418(b)

CFR Citation: 48 CFR 1213; 48 CFR 1237; 48 CFR 1252; 48 CFR 3.1

Legal Deadline: None

Abstract: This action amends transportation acquisition regulation to require contractors who provide training services to the Department to sign a certification that the background data submitted with their contract proposal is accurate, complete, and current at the time of submission. In addition, contractors providing training services under contract to DOT are prohibited from soliciting, advertising, or otherwise marketing other training they offer during the conduct of the contracted-for training services.

Timetable:

Action	Date	FR Cite
NPRM	11/03/95	60 FR 55827
NPRM Comment Period End	12/04/95	
Final Action	01/05/96	61 FR 391

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Barbara Weakley, Procurement Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4967
Fax: 202 366-7510

RIN: 2105–AC30

2068. ADMINISTRATIVE AND EDITORIAL CORRECTIONS TO ACQUISITION REGULATIONS

Priority: Other

Legal Authority: 5 USC 301; 41 USC 418(b)

CFR Citation: 48 CFR 1201.403; 48 CFR 1201.404; 48 CFR 1215.413; 48 CFR 1252; 48 CFR 3.1; 48 CFR 1253

Legal Deadline: None

Abstract: This rulemaking revises the Transportation Acquisition Regulation (TAR) to make minor editorial or administrative corrections including changes to the TAR Matrix to adhere to Federal Acquisition Regulation guidance for incorporating provisions and clauses in solicitations and contracts by reference to the maximum practical extent.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/03/95	60 FR 55801
Final Action	01/04/96	61 FR 273

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Elaine Wheeler, Procurement Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW. Room 9401, Washington, DC 20590
Phone: 202 366-4272
Fax: 202 366-7510

RIN: 2105–AC32

DEPARTMENT OF TRANSPORTATION (DOT)

U.S. Coast Guard (USCG)

Prerule Stage

2069. +FACILITY RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-048)

Priority: Economically Significant

Legal Authority: 33 USC 1321(j); PL 101-380

CFR Citation: 33 CFR 154

Legal Deadline: None

Abstract: This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a marine transportation-related facility transferring bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to marine transportation-related facilities that, because of their location, could cause substantial or significant and substantial harm to the environment by discharging a hazardous substance into or on the navigable waters or adjoining shoreline. This would be defined as any facility capable of transferring hazardous substances regulated under 46 CFR Subchapters D and O to or from a vessel with a capacity of 250 barrels or more. A separate rulemaking under RIN 2115-AE88 would address hazardous response plan requirements for tank vessels. This action is considered significant because of substantial public interest.

Statement of Need: This rulemaking is intended to reduce the impact from hazardous substance spills from vessels and marine transportation-related facilities.

Summary of the Legal Basis: Section 4202(a) of the Oil Pollution Act of 1990 (OPA 90), codified at 33 USC 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate interim rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under section 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. However, the Coast Guard has identified only 83 hazardous substances currently transferred in bulk by marine transportation-related facilities.

Alternatives: The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the appropriate response. However, some spilled substances may not be recoverable from the water and other actions may be necessary. Plans would be required, by statute, to address responses to a "worst case discharge." For facilities, a "worst case discharge" is "the largest foreseeable discharge in adverse weather conditions." The Coast Guard is considering requirements for response plans for less than "worst case discharges," similar to the requirements adopted in the vessel and facility response plans rules for oil discharges. Additionally, as in the vessel and facility response plans for oil discharges, owners or operators are required by statute to maintain contracts or other acceptable arrangements with spill-response organizations.

Anticipated Costs and Benefits: The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts with spill response organizations, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include enhanced environmental quality from improved ability to respond to, contain, and recover spilled hazardous substances and a reduction in the severity of the impact of accidental hazardous substance discharges. The Coast Guard does not yet have sufficient information to estimate the potential monetary costs and benefits of this rule. A key element in developing effective regulations for hazardous substance response plans will be the development of an approach for addressing different types of hazardous substances.

Risks: Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and, in certain cases, help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of facilities involved in transferring hazardous substances in bulk or have a significant impact on the volume of hazardous substances shipped by marine transportation-related facilities. Most facilities involved in transferring hazardous substances in bulk have developed plans, but there have not been requirements for standardization.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysts: Regulatory Evaluation

Agency Contact: LT Cliff Thomas, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1099

RIN: 2115–AE87

2070. +TANK VESSEL RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-032)

Priority: Other Significant

Legal Authority: 33 USC 1231; 33 USC 1321(j); PL 101-380

CFR Citation: 33 CFR 155

Legal Deadline: None

Abstract: This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a tank vessel carrying bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to vessels operating on the navigable waters or within the Exclusive Economic Zone (EEZ) of the U.S. that carry bulk hazardous substances regulated under 46 CFR Subchapters D and O. A separate rulemaking under RIN 2115-AE87 would address hazardous substances response plan requirements for marine transportation-related facilities. This action is considered significant because of substantial public interest.

Statement of Need: This rulemaking is intended to reduce the impact from hazardous substance spills from vessels.

Summary of the Legal Basis: Section 4202(a) of the Oil Pollution Act of 1990

DOT—USCG — Prerule Stage

(OPA 90), codified at 33 USC 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate interim rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under section 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. However, the Coast Guard has identified only 83 hazardous substances currently transferred in bulk by marine transportation-related facilities.

Alternatives: The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the appropriate response. However, some spilled substances may not be recoverable from the water and other actions may be necessary. Plans would be required, by statute, to address responses to a "worst case discharge." For vessels, a "worst case discharge" is "a discharge in adverse weather conditions of its entire cargo." The Coast Guard is considering requirements for response plans for less than "worst case discharges," similar to the requirements adopted in the vessel and facility response plans rules for oil discharges. Additionally, as in the vessel and facility response plans for oil discharges, owners or operators are required by statute to maintain contracts or other acceptable arrangements with spill response organizations.

Anticipated Costs and Benefits: The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts with spill-response organizations, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include enhanced environmental quality from improved ability to respond to, contain, and recover spilled hazardous substances and a reduction in the severity of the impact of accidental hazardous substance discharges. The Coast Guard does not yet have sufficient information to estimate the potential monetary costs and benefits of this rule. A key element in developing effective regulations for hazardous substance response plans will be the development of an approach for addressing different types of hazardous substances.

Risks: Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and, in certain cases, help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of vessels involved in transferring hazardous substances in bulk, or have a significant impact on the volume of hazardous substances shipped by vessel. Most vessels carrying hazardous substances in bulk have developed plans, but there have not been requirements for standardization.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LT Cliff Thomas, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1099

RIN: 2115–AE88

2071. • PROPELLER INJURY PREVENTION ABOARD RENTAL BOATS (CGD 95-041)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4302 et seq

CFR Citation: 33 CFR S

Legal Deadline: None

Abstract: The Coast Guard published a notice of inquiry on this subject on May 11, 1995. It received 1983 comments, most of which were very general. It is clear that two boating accidents involving fatalities caused by propeller strikes on rented houseboats on Lake Shasta and Lake Havasu and several instances of crippling injuries in the last several years have generated a great deal of concern. This rulemaking would examine the number and nature of injuries sustained from vessel propellers and help the Coast Guard to determine the need for Federal or State regulation of these vessels, the livery companies leasing these vessels, or the operators of these vessels. Any regulation issued would be implemented to reduce future injuries and fatalities involving houseboats.

Timetable:

Action	Date	FR Cite
Request for Comments, Comment Period End 7/10/95	05/11/95	60 FR 25191
Comment Period Reopened to 11/7/95	08/09/95	60 FR 40545
ANPRM	03/26/96	61 FR 13123
ANPRM Comment Period End	09/01/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Randolph J. Doubt, Project Manager, G-NAB-6, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6810

RIN: 2115–AF28

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG) — Proposed Rule Stage

2072. REPORTING MARINE CASUALTIES (CGD 91-216)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 6101; 33 USC 1901 et seq

CFR Citation: 33 CFR 151; 46 CFR 4

Legal Deadline: None

Abstract: This action would add to the definition of a reportable marine casualty "significant harm to the environment." Some casualty reporting requirements are extended to include foreign tank vessels operating in U.S. waters, including the exclusive economic zone.

Timetable:

Action	Date	FR Cite
Notice of Meeting; Request for Comments, Comment Period End 2/20/95	12/20/94	59 FR 65522
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: ENS Quan Nguyen, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1100

RIN: 2115–AD98

2073. +USER FEES FOR APPROVALS OF EQUIPMENT, LABORATORIES, AND SERVICING FACILITIES (CGD 92-013)

Priority: Other Significant

Legal Authority: 46 USC 2110; 46 USC 664; 31 USC 9701

CFR Citation: 33 CFR 159

Legal Deadline: None

Abstract: This regulatory project would establish direct user fees for Coast Guard services relating to equipment approvals, factory inspections, acceptance of independent laboratories and acceptance of servicing, repair, and testing facilities. The proposed fees are based on average workload, personnel, and overhead costs. The fees collected will be deposited in the general funds of the U.S. Treasury as offsetting receipts for Coast Guard activities. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This project is being reviewed for cost-effectiveness and may be withdrawn in a future edition of the Regulatory Agenda.

Agency Contact: Mr. Jack Klingel, Project Manager, G-MES-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1044

RIN: 2115–AE18

2074. HANDLING OF EXPLOSIVES OR OTHER DANGEROUS CARGOES WITHIN OR CONTIGUOUS TO WATERFRONT FACILITIES (CGD 92-026)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 126

Legal Deadline: None

Abstract: This action would update regulations governing the handling of breakbulk, containerized, and dry bulk dangerous cargoes on waterfront facilities.

Timetable:

Action	Date	FR Cite
ANPRM	01/13/93	58 FR 4127
ANPRM Comment Period End	04/13/93	
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Independent study has been completed and incorporated with comments from the public in the preparation of the proposed rulemaking.

Agency Contact: CDR Dennis Haise, Project Manager, G-MOS-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6451

RIN: 2115–AE22

2075. AMENDMENTS TO HULL IDENTIFICATION NUMBER REGULATIONS AND NEW REQUIREMENTS FOR CERTIFICATES OF ORIGIN (CGD 92-065)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4302; 46 USC 12501

CFR Citation: 33 CFR 181

Legal Deadline: None

Abstract: This rulemaking would expand the length of the hull identification number (HIN) to include information about a vessel and function as a vessel identification number. The rulemaking would also require manufacturers to supply a Certificate of Origin (COO) with each vessel produced to ensure documented certification of this information and establish a chain of ownership. These regulations to provide information identifying vessels and establishing evidence of vessel ownership are needed to help develop a Vessel Identification System (VIDS).

Timetable:

Action	Date	FR Cite
NPRM	05/06/94	59 FR 23651
NPRM Comment Period End	09/06/94	
Notice of Workshop; Comment Period Reopened to 01/09/95	11/09/94	59 FR 55823
SNPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Alston Colihan, Project Manager, G-NAB-6, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0984

RIN: 2115–AE37

2076. +ESCORT VESSELS IN CERTAIN U.S. WATERS (91-202A)

Priority: Other Significant

Legal Authority: PL 101-380; 46 USC 3703

CFR Citation: 33 CFR 168

Legal Deadline: None

Abstract: This regulation would designate those U.S. waters, other than Prince William Sound and Puget

Sound, where tankers and other vessels must be escorted by a towing vessel or other appropriate vessel. This action is considered significant because of substantial public and State government interest.

Timetable:

Action	Date	FR Cite
ANPRM	04/27/93	58 FR 25766
ANPRM Comment Period End	06/28/93	
Notice of Meeting; Request for Comments, Comment Period End 2/13/95	12/21/94	59 FR 65741
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This rulemaking is a companion to 2115-AE10, which concerns Prince William Sound and Puget Sound.

Agency Contact: Tom Jordan, Project Manager, G-MMS-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593
Phone: 202 267-2988

RIN: 2115–AE56

2077. ELECTRONIC RECORDS OF SHIPPING ARTICLES AND CERTIFICATES OF DISCHARGE (CGD 94-004)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 2113; 46 USC 3306; 46 USC 10104; 46 USC 10302; 46 USC 10320

CFR Citation: 46 CFR 14

Legal Deadline: None

Abstract: The Coast Guard proposes to eliminate the requirement for maritime operating companies to submit to it shipping articles, copies of certificates of discharge, and other documents on the employment of seamen. Companies will still have to submit information contained in the certificates of discharge, but may submit the required information electronically.

Timetable:

Action	Date	FR Cite
NPRM	03/28/96	61 FR 13796
NPRM Comment Period End	05/28/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Funding to maintain shipping articles and certificates of discharge has been eliminated beginning October 01, 1994. The amount is $460,000 per year.

Agency Contact: Justine Bunnell, Project Manager, NMC, Department of Transportation, U.S. Coast Guard, National Maritime Center, 4200 Wilson Boulevard, Suite 510, Arlington, VA 22203
Phone: 703 235-1951

RIN: 2115–AE72

2078. HARMONIZATION WITH INTERNATIONAL SAFETY STANDARDS (CGD 95-028)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 4104

CFR Citation: 46 CFR 26; 46 CFR 30 to 35

Legal Deadline: None

Abstract: This rulemaking will revise or remove sections of 46 CFR that are excessive when compared to various international standards.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LCDR R. K. Butturini, Project Manager, G-MMS-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0027

RIN: 2115–AF10

2079. NUMBERING OF UNDOCUMENTED BARGES (CGD 93-091)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 12301

CFR Citation: 33 CFR 189

Legal Deadline: None

Abstract: The rulemaking would establish a mandatory numbering system, as required by law, for the numbering of undocumented barges over 100 gross tons. The numbering of undocumented barges will allow identification of owners of barges found abandoned and help to prevent future marine pollution from abandoned barges.

Timetable:

Action	Date	FR Cite
Notice of Request for Comments	10/18/94	59 FR 52646
Comment Period Ends	01/17/95	
NPRM	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation

Agency Contact: Carlton Perry, Project Manager, G-NAB, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AF13

2080. U.S. ATON SYSTEMS: WESTERN RIVERS MARKING SYSTEM AND PRIVATE AIDS TO NAVIGATION (CGD 94-091)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 14 USC 83; 14 USC 85; 33 USC 1233; 43 USC 1333

CFR Citation: 33 CFR 62.45; 33 CFR 62.51; 33 CFR 66.10

Legal Deadline: None

Abstract: Regulations will be revised to: (1) allow the Western Rivers Marking System to use all six flash characteristics that are in use in the US ATON system; and (2) remove some of the characteristics of the Uniform State Waterway Marking System (USWMS) so that it is similar to the US Aids to Navigation System. This change will allow the Coast Guard to provide more flash characteristics to ATON to enable the mariner to better differentiate between Federal and private aids to navigation.

Timetable:

Action	Date	FR Cite
ANPRM	12/29/95	60 FR 67345
ANPRM Comment Period End	02/12/96	
NPRM	03/27/96	61 FR 13470
NPRM Comment Period End	04/26/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Evaluation

Agency Contact: LTJG Chad Asplund, Project Manager, G-NSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1386

RIN: 2115–AF14

2081. ATON ON ARTIFICIAL ISLANDS AND FIXED STRUCTURES (CGD 95-052)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 14 USC 85; 33 USC 1233; 43 USC 1333

CFR Citation: 33 CFR 67.05; 33 CFR 67.10

Legal Deadline: None

Abstract: Regulations will be revised to make the light flashing scheme less confusing for the mariner. This will also change the procedure for marine industry manufacturers to have their products (fog signal emitters) inspected. Industry will send their fog signal emitters to independent laboratories instead of Coast Guard District Offices. (sec. 67.05-10 & 67.10-15).

Timetable:

Action	Date	FR Cite
Request for Comments; Comment Period End 02/09/96	01/10/96	61 FR 708
NPRM	03/27/96	61 FR 13472
NPRM Comment Period End	04/26/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LTJG Chad Asplund, Project Manager, G-NSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1386

RIN: 2115–AF15

2082. REGATTAS AND MARINE PARADES: PERMIT APPLICATION REQUIREMENTS (CGD 95-054)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100

Legal Deadline: None

Abstract: The Coast Guard is conducting a regulatory review of regatta and marine parade permitting. This regulatory review will develop appropriate amendments to the current regatta and marine parade permitting regulations to acquire needed permit application information related to potential impacts on navigation safety and sensitive environment areas in the event area in the permit application process. This would enable the Coast Guard to process marine event permit applications in a timely manner.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/95	60 FR 67345
ANPRM Comment Period End	02/09/96	
NPRM	04/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Analysis: Regulatory Evaluation

Agency Contact: Carlton Perry, Project Manager, G-NAB, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AF17

2083. ADVANCE NOTICE OF ARRIVALS, DEPARTURES, AND CERTAIN DANGEROUS CARGOES (CGD 94-089)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223; 33 USC 1231

CFR Citation: 33 CFR 160

Legal Deadline: None

Abstract: This project will amend the requirements for notice of arrival and departure in 33 CFR 160, Subpart C. Section 160.207 will now apply to non-excepted vessels over 300 gross tons destined for or departing from all ports and places of the United States, and to all non-excepted foreign vessels, regardless of tonnage, destined for or departing from all ports and places of the Seventh District. A vessel's owner, operator, classification society, International Maritime Organization (IMO) Number, and 24-hour point of contact will become reportable under the requirements of notice in sections 160.207 through .213, with exceptions for barges carrying certain dangerous cargo. These changes will aid in the elimination of substandard ships from U.S. waters, improve emergency response, and facilitate the enforcement of requirements for Certificate of Financial Responsibility.

Timetable:

Action	Date	FR Cite
NPRM	01/17/96	61 FR 1183
NPRM Comment Period End	04/16/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: CDR Dennis Haise, Project Manager, G-MOS-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6451

RIN: 2115–AF19

2084. • LICENSING AND MANNING FOR OPERATORS OF TOWING VESSELS (CGD 94-055)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 633; 31 USC 9701; 44 USC 3507; 46 USC 2103; 46 USC 7101; 46 USC 7106; 46 USC 7107; 46 USC 7701

CFR Citation: 46 CFR 10; 46 CFR 15

Legal Deadline: None

Abstract: This rulemaking is necessary as part of an overall initiative by the Coast Guard to improve navigational safety for towing vessels. It will help ensure that the mariner piloting a

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towing vessel has the proper training and qualifications to handle the tug and tow. It will introduce levels of licenses where there has been only one license. Each level will require greater experience and proficiency. This will prevent the new operator with minimal experience from commanding the largest flotillas; it will prevent any operator with any experience from commanding the largest flotillas until he or she has gained, and shown, the necessary competence. This rulemaking also introduces a requirement for demonstration of proficiency as a prerequisite to being issued a license. This will be in addition to the current requirements for sea service and successful testing.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: LCDR Don Darcy, Project Manager, G-MOS-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0021

RIN: 2115–AF23

2085. • IMPLEMENTATION OF THE 1995 AMENDMENTS TO THE INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS, 1978 (STCW) (CGD 95-062)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701; 44 USC 3507; 46 USC 2103; 46 USC 7101; 46 USC 7107

CFR Citation: 46 CFR 10; 46 CFR 12; 46 CFR 15

Legal Deadline: None

Abstract: The International Maritime Organization (IMO) comprehensively amended the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), in 1995. The amendments come into force on February 1, 1997. This project is intended to implement them by revising 46 CFR Parts 10, 12, and 15 to ensure that the United States complies with their requirements on (1) the training of merchant mariners, (2) the documenting of their qualifications, and (3) watch-standing and other arrangements aboard seagoing merchant ships of the United States.

Timetable:

Action	Date	FR Cite
Notice of Meeting; Request for Comments; Comments Due 9/29/95	08/02/95	60 FR 39306
Notice of Inquiry; Comment Period End 1/12/96	11/13/95	60 FR 56970
NPRM	03/26/96	61 FR 13284
NPRM Comment Period End	07/24/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Christopher Young, Project Manager, G-MOS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0216

RIN: 2115–AF26

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

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2086. TANKERMEN (CGD 79-116)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3703; 46 USC 7317; 46 USC 8703; 46 USC 9101; 46 USC 9102

CFR Citation: 33 CFR 154; 33 CFR 155; 46 CFR 7; 46 CFR 12; 46 CFR 13; 46 CFR 30; 46 CFR 31; 46 CFR 35; 46 CFR 78; 46 CFR 90; 46 CFR 97; 46 CFR 98; 46 CFR 105; 46 CFR 151; 46 CFR 153; ...

Legal Deadline: None

Abstract: This Rulemaking redefines and establishes more stringent qualifying criteria for individuals engaged in transporting and transferring various categories of oil and dangerous liquid cargoes. The Port and Tanker Safety Act of 1978 mandated the establishment of personnel qualification and manning standards for tank vessels. In addition, the International Convention on the Standards for Training, Certification, and Watchkeeping for Seafarers 1978 (STCW) has entered into effect and establishes international standards for tank vessel personnel qualifications. In view of the length of time since publication of the NPRM, a supplemental NPRM was issued.

Timetable:

Action	Date	FR Cite
NPRM	12/18/80	45 FR 83268
NPRM Comment Period End	03/18/81	
SNPRM; Comment Period End 01/16/90	10/17/89	54 FR 42624
Interim Final Rule	04/04/95	60 FR 17134
Interim Final Rule Comment Period End	06/30/95	
Comment Period Reopened	03/26/96	61 FR 13098
Comment Period End	05/18/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/18/80 (45 FR 83268)

Additional Information: Former title: Qualifications of the Person in Charge of Oil Transfer Operations: Tankerman Requirements (79-116). Public meetings were held during January and February of 1981. Docket 79-116a (RIN 2115-AD18) has been included in this project and will no longer be listed as a separate Regulatory Agenda item.

Agency Contact: Mark Gould, Project Manager, G-MOS-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6890

RIN: 2115–AA03

2087. +OFFSHORE SUPPLY VESSEL REGULATIONS (CGD 82-004 & CGD 86-074)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

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Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306

CFR Citation: 46 CFR 90; 46 CFR 125 to 136; 46 CFR 170; 46 CFR 174; 46 CFR 175

Legal Deadline: None

Abstract: These regulations consolidate existing Offshore Safety Vessel standards and policy into a single subchapter and make specific revisions to accommodate the unique characteristics and methods of operation and the service in which the vessels are engaged. Rules specifically applicable to liftboats are included. Because of substantial public interest in certain aspects of this rulemaking, it has been classified as significant.

Timetable:

Action	Date	FR Cite
ANPRM	02/14/83	48 FR 6636
Comment Period Extended to 09/12/83	06/09/83	48 FR 26831
ANPRM Comment Period End	06/14/83	
ANPRM of Consolidated RIN 2115-AC63	04/16/87	52 FR 12439
NPRM	05/09/89	54 FR 20006
Comment Period Extended to 12/06/89	08/31/89	54 FR 36040
NPRM Comment Period End	09/06/89	
Interim Final Rule	11/16/95	60 FR 57630
Comment Period Reopened to 3/31/96	02/28/96	61 FR 7425
Interim Final Rule Effective	03/15/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/09/89 (54 FR 20006)

Additional Information: Coast Guard Docket 86-074 (RIN 2115-AC63) titled Regulations for Self-Elevating Offshore Service and Support Vessels was combined with this project. Public hearing was held in New Orleans 09/13/89 in response to House subcommittee request.

Agency Contact: Jim Magill, Project Manager, G-MOS-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1082

RIN: 2115–AA77

2088. SAFETY/SECURITY ZONE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233; 33 USC 1225

CFR Citation: 33 CFR 100; 33 CFR 165

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to continue through October 1996: 300.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Margie G. Hegy, Project Manager, G-MVO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0415

RIN: 2115–AA97

2089. ANCHORAGE AREA REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 471; 33 USC 2030; 33 USC 2035; 33 USC 2071

CFR Citation: 33 CFR 110

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to continue through October 1996: 6.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Margie G. Hegy, Project Manager, G-MVO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0415

RIN: 2115–AA98

2090. LIFESAVING EQUIPMENT—IMPLEMENTATION OF 1983 AMENDMENTS TO SOLAS 1974 (CGD 84-069)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 31; 46 CFR 33; 46 CFR 35; 46 CFR 70; 46 CFR 71; 46 CFR 75; 46 CFR 78; 46 CFR 91; 46 CFR 94; 46 CFR 97; 46 CFR 107; 46 CFR 108; 46 CFR 109; 46 CFR 154; 46 CFR 160; ...

Legal Deadline: None

Abstract: This project would implement the provisions of the 1983 amendments to SOLAS 1974 (Safety of Life at Sea) which came into force in July of 1986. It would also reorganize the lifesaving equipment regulations in order to simplify, clarify, and reduce redundancy. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/84	49 FR 50745
ANPRM Comment Period End	03/01/85	
NPRM	04/21/89	54 FR 16198
NPRM Comment Period End	08/21/89	
Comment Period Reopened to 01/03/90	10/05/89	54 FR 41124
Notice of Public Hearing in Seattle 10/17/89	10/05/89	54 FR 41124
Interim Final Rule	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/21/89 (54 FR 16198)

Additional Information: CFR CITATION CONT: 46 CFR 30; 46 CFR 90; 46 CFR 112; 46 CFR 125; 46 CFR 133; 46 CFR 161; 46 CFR 167; 46 CFR 168; 46 CFR 188; 46 CFR 192; 46 CFR 196; 46 CFR 199.

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Agency Contact: Bob Markle, Project Manager, G-MMS-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1076

RIN: 2115–AB72

2091. +SMALL PASSENGER VESSEL INSPECTION AND CERTIFICATION (CGD 85-080)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 170; 46 CFR 171; 46 CFR 173; 46 CFR 175 to 185

Legal Deadline: None

Abstract: This rulemaking revises subchapters S and T, creates a new subchapter K to reflect statutory changes, incorporates new technology, and improves safety requirements. Among the changes are changes in inspection intervals, drydocking intervals, lifesaving equipment requirements, and fire protection requirements. This action is considered significant because it affects a broad class of vessels, and there has been substantial public interest evidenced.

Timetable:

Action	Date	FR Cite
NPRM	01/30/89	54 FR 4412
Notice of Hearings and Comment Period Extended to 07/31/89	04/26/89	54 FR 17997
Notice of Public Hearing Change	05/25/89	54 FR 22608
NPRM Comment Period End	05/30/89	
Notice of Intent to Publish SNPRM	09/18/89	54 FR 38410
SNPRM Comment Period End 6/13/94	01/13/94	59 FR 1994
Notice of Public Hearing	03/25/94	59 FR 14132
Interim Final Rule	01/10/96	61 FR 864
Notice of Meeting	02/23/96	61 FR 6961
Interim Final Rule Effective	03/11/96	
Comment Period End	06/10/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/30/89 (54 FR 4412)

Additional Information: On January 13, 1994 the Coast Guard published a Supplemental Notice of Proposed Rulemaking (SNPRM) containing the proposed completed revision of the regulations governing small passenger vessels. A new Subchapter K was introduced for small passenger vessels carrying more than 150 passengers or more than 49 overnight passengers. Seven public hearings were held throughout the country and the comment period closed June 13, 1994. An Interim Final Rule (IFR) was published on January 10, 1996. It provides an opportunity for public comment on those solutions.

Agency Contact: LT Eric P. Christensen, Project Manager, G-MOS-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1055

RIN: 2115–AC22

2092. +IMPLEMENTATION OF THE COMMERCIAL FISHING-INDUSTRY VESSEL SAFETY ACT (CGD 88-079)

Priority: Other Significant

Legal Authority: 46 USC 4502; 46 USC 4506; 46 USC 6104(c); 46 USC 10603(b)

CFR Citation: 46 CFR 28

Legal Deadline: Final, Statutory, January 1, 1993.

Abstract: The Commercial Fishing Industry Act of 1988 requires the Secretary of Transportation to prescribe regulations for certain safety equipment and vessel operating procedures. A final rule establishing requirements for navigation, radio, firefighting, and lifesaving equipment, and fuel, ventilation, and electrical systems was published in August, 1991. Regulations have also been proposed to address lifesaving appliances. Additionally, an interim final rule established immersion suit requirements. Regulations for immersion suits on vessels operating on seasonally cold waters have also been proposed. This rulemaking is considered significant because of its impact on the commercial fishing industry.

Timetable:

Action	Date	FR Cite
ANPRM of Consolidated RIN 2115-AC34	07/09/87	52 FR 25890
ANPRM Correction of Consolidated RIN 2115-AC34	08/10/87	52 FR 29556
ANPRM	12/29/88	53 FR 52735
ANPRM Comment Period End	02/27/89	
ANPRM Comment Period Extended to 04/15/89	03/02/89	54 FR 8765
NPRM	04/19/90	55 FR 14924
NPRM Comment Period End	06/20/90	
Notice of Intent to Publish SNPRM	08/31/90	55 FR 35694
Final Action Except SNPRM Issues; Final Action Effective 09/15/91	08/14/91	56 FR 40364
Final Rule Correction	09/20/91	56 FR 47679
Correcting Amendments to Final Action of 08/14/91	01/06/92	57 FR 363
Interim Final Rule Immersion Suits	08/03/92	57 FR 34188
SNPRM To Address Stability and Other Small Fishing Vessel Issues	10/27/92	57 FR 48670
SNPRM Correction	12/03/92	57 FR 57129
SNPRM Comment Period Extended to 02/28/93	12/18/92	57 FR 60158
SNPRM Correction	01/06/93	58 FR 630
NPRM Seasonally Cold Waters	05/20/93	58 FR 29502
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/27/92 (57 FR 48670)

Additional Information: The final rule published 08/14/91 addressed most issues raised in the NPRM. A final rule implementing provisions of the Aleutian Trade Act is being handled under RIN 2115-AE77. Stability for vessels less than 79 feet in length, survival for vessels operating near shore with less than four persons on board, and requirements for carriage of immersion suits have been addressed separately. These remaining issues will be subject of a combined final rule. Coast Guard docket 86-024 titled Uninspected Fish Processing Vessels (RIN 2115-AC34) has been incorporated into this project.

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Final Rule Stage

Agency Contact: LCDR Mark D. Bobal, Project Manager, G-MOS-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0836

RIN: 2115–AD12

2093. PERMITS FOR THE TRANSPORTATION OF MUNICIPAL AND COMMERCIAL WASTES (CGD 89-014)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2602

CFR Citation: 33 CFR 151

Legal Deadline: Final, Statutory, June 15, 1989.
See discussion in the Abstract.

Abstract: In May 1989, the Coast Guard began a rulemaking to incorporate into regulation certain elements of the Shore Protection Act. Its objective was to help prevent trash, medical debris, and other unsightly and potentially harmful materials from being deposited into the coastal waters of the United States as a result of sloppy waste-handling procedures. Because no additional regulations are needed, the Coast Guard is discontinuing rulemaking under docket number 89-014.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/24/89	54 FR 22546
Interim Final Rule Correction	06/05/89	54 FR 24078
Notice	12/13/96	60 FR 64001
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/24/89 (54 FR 22546)

Additional Information: Further action depends on Environmental Protection Agency's regulatory decisions and/or legislation to define classes of vessels to be permitted and the appeal process for denial or revocation. This project was formerly known as Implementation of the Shore Protection Act of 1988.

Agency Contact: LTJG Lauren Kabler, Project Manager, G-MRO-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0423

RIN: 2115–AD23

2094. +SECURITY FOR PASSENGER VESSELS AND PASSENGER TERMINALS (CGD 91-012)

Priority: Other Significant

Legal Authority: 33 USC 1226

CFR Citation: 33 CFR 120; 33 CFR 128

Legal Deadline: None

Abstract: The purpose of this action is to improve security measures on passenger vessels engaged in international voyages of 24 hours or more, and on the port facilities serving those vessels. This rulemaking is significant because of substantial public interest and safety implications. It is a high-priority project and involves important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	03/25/94	59 FR 14290
NPRM Comment Period End	06/23/94	
Comment Period Reopened to 11/30/94	09/07/94	59 FR 46211
Notice of Public Hearings	09/07/94	59 FR 46211
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $546,368; Yearly Recurring Cost: $28,000; Base Year for Dollar Estimates: 1996

Analysis: Regulatory Evaluation 03/25/94 (59 FR 14290)

Agency Contact: CDR Dennis Haise, Project Manager, G-MOS-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6451

RIN: 2115–AD75

2095. CLAIMS PROCEDURES UNDER THE OIL POLLUTION ACT OF 1990 (CGD 91-035)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2713; 33 USC 2714

CFR Citation: 33 CFR 136

Legal Deadline: None

Abstract: This rulemaking will implement section 1013 (Claims Procedures) and section 1014 (Designation of Source and Advertisement) of the Oil Pollution Act of 1990. This rulemaking was designated significant because of anticipated public interest. However, few comments were received on the interim final rule, and there has been limited claims activity. Since the final rule will consist of clarifications and editorial corrections, this action is now considered nonsignificant.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/12/92	57 FR 36314
Interim Final Rule Correction	09/09/92	57 FR 41104
Interim Final Rule Comment Period End	12/10/92	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/12/92 (57 FR 36314)

Additional Information: On October 30, 1995, the Comptroller General of the U.S. issued a decision on natural resource damage claims under the Oil Pollution Act of 1990. In his decision, he determined that the Trustees for natural resources may not submit claims against the Oil Spill Liability Trust Fund for natural resources damages pursuant to the general claims provisions of the Oil Pollution Act. Claims previously held in abeyance will be processed or returned as appropriate. Development of the final rule may now proceed.

Agency Contact: Robert M. Skall, Project Manager, National Pollution Fund Center, Department of Transportation, U.S. Coast Guard, 4200 Wilson Blvd, Suite 1000, Arlington, VA 22203-1804
Phone: 703 235-4704

RIN: 2115–AD90

2096. +STRUCTURAL AND OPERATIONAL MEASURES TO REDUCE OIL SPILLS FROM EXISTING TANK VESSELS WITHOUT DOUBLE HULLS (CGD 91-045)

Priority: Economically Significant

Legal Authority: 46 USC 3703; PL 101-380

CFR Citation: 33 CFR 157

Legal Deadline: Final, Statutory, August 26, 1991.

Abstract: This rulemaking will address the interim measures existing vessels

must take to provide substantial protection to the environment. The interim measures will apply to existing vessels until the vessel must comply with the double-hull regulations. No tank vessel without a double hull may operate after January 15, 2015. Interim measures are to include structural and operational standards to provide substantial protection to the environment that are economically and technologically feasible. This rulemaking is considered significant due to substantial public interest and environmental impact.

Statement of Need: This rulemaking is intended to reduce the likelihood of, and impact from, oil spills from existing tank vessels.

Summary of the Legal Basis: Section 4115(b) of OPA 90, codified at 46 USC 3703a, mandates that the Secretary of Transportation "... issue a final rule to require that tank vessels over 5,000 gross tons ... comply until January 1, 2015, with structural and operational requirements that the Secretary determines will provide as substantial protection to the environment as is economically and technologically feasible."

Alternatives: In 1989, the Coast Guard commissioned the National Academy of Sciences to conduct a study of alternative tank vessel designs. The study addressed the feasibility and ramifications of implementing various design options. An advance notice of proposed rulemaking (ANPRM) was published on November 1, 1991, and solicited comments on a number of possible structural and operational measures. Comments were specifically solicited on the number of vessels affected, technical feasibility, and costs of various measures. Based on comments received and the Coast Guard's own analysis, the range of possible alternatives was narrowed. Remaining options included protectively located noncargo tanks (PL/Spaces), emergency rapid transfer systems, emergency rescue systems, under pressure systems, and hydrostatically balanced loading (HBL). Following publication of a notice of proposed rulemaking (NPRM) on October 22, 1993, the Coast Guard conducted a public meeting and received additional comments. Several comments expressed concern over the effectiveness of some of the proposed structural and operational measures, such as protectively located spaces and hydrostatic balance loading. Therefore, the Coast Guard is considering a three-prong approach. A partial final rule addressed emergency lightering equipment and prearrival notification requirements. Two SNPRMs addressed operational and structural measures respectively and solicit additional comments.

Anticipated Costs and Benefits: The costs of the proposed rule will depend on what combination of alternatives is eventually selected. Costs may range from approximately $50,000 to create PL/Spaces on a small, pre-MARPOL ship to approximately $25 million to add a double bottom to a very large crude carrier. Lost cargo capacity may also impose substantial costs for certain alternatives, especially HBL, double sides, and double bottoms. The principal benefit of the proposed rule will be a potential reduction in oil spillage into U.S. waters. This should result in reduced cleanup costs and natural resource damages. The proposed regulation would provide environmental benefits during the period of time that single-hull vessels remain in service.

Risks: The effectiveness of this rulemaking will depend on the combination of alternatives selected.

Timetable:

Action	Date	FR Cite
ANPRM	11/01/91	56 FR 56284
ANPRM Comment Period End	12/31/91	
ANPRM Comment Period Extended to 01/30/92	01/13/92	57 FR 1243
NPRM	10/22/93	58 FR 54870
NPRM Correction	11/19/93	58 FR 61143
Notice of Meeting and Comment Period Extended to 02/21/94	12/16/93	58 FR 65683
NPRM Comment Period End	12/20/93	
Final Rule Arrival Notice and Lightering Equipment	08/05/94	59 FR 40186
SNPRM Operational Measures, Comment Period End 2/1/96	11/03/95	60 FR 55904
SNPRM Structural Measures, Comment Period End 3/27/96	12/28/95	60 FR 67226
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation; Environmental Impact

Additional Information: This entry was previously titled Existing Tank Vessel Hull Requirements. The correct docket number is 91-045. The rulemaking project has been divided into three distinct parts: A final rule was published that requires an advance notice of arrival for all tank vessels 5,000 GT or more entering U.S. ports and the carriage of lightering equipment on these vessels. Two separate supplemental notices of proposed rulemakings were published for Structural Measures and Operational Measures using RIN 2115-AE01. Further action on Operational Measures will continue under RIN 2115-AE01. Structural Measures will use RIN 2115-AF27.

Agency Contact: LCDR S Englebert, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6490

RIN: 2115–AE01

2097. +STATE ACCESS TO THE OIL SPILL LIABILITY TRUST FUND (CGD 92-014)

Priority: Other Significant

Legal Authority: 33 USC 2712

CFR Citation: 33 CFR 133

Legal Deadline: NPRM, Statutory, February 18, 1991.

Abstract: Pursuant to the Oil Pollution Act of 1990 (OPA 90), this action will specify how the authority to obligate the pollution trust fund for oil spill response and cleanup efforts and to enter into agreements with the States will be exercised.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/13/92	57 FR 53968
Interim Final Rule Comment Period End	02/11/93	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/13/92 (57 FR 53968)

Additional Information: Based on experience under the interim rule, the Coast Guard is reconsidering whether further rulemaking is necessary.

Agency Contact: Al Thuring, Project Manager, National Pollution Fund Center, Department of Transportation, U.S. Coast Guard, 4200 Wilson Blvd, Suite 1000, Arlington, VA 22203-1804
Phone: 703 235-4746

RIN: 2115–AE19

2098. NEW YORK VESSEL TRAFFIC SERVICE (CGD 92-052)

Priority: Other

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 161

Legal Deadline: None

Abstract: The Coast Guard originally intended to expand the geographic boundaries of VTS New York in two phases. An Interim Final Rule was published on 09/01/93 implementing the first phase of the expansion. The planned final phase will not be completed due to Fiscal Year 1996 operating budget cutbacks. As a result, the Final Rule will encompass the geographic boundaries described in the 1993 Interim Final Rule.

Timetable:

Action	Date	FR Cite
NPRM	05/25/93	58 FR 30098
NPRM Comment Period End	07/09/93	
Interim Final Rule	09/01/93	58 FR 46081
Interim Final Rule Effective	10/18/93	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/01/93 (58 FR 46081)

Agency Contact: Irene Hoffman, Project Manager, G-MVO-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6277

RIN: 2115–AE36

2099. REGATTA REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently to ensure the safety of life on navigable waters before, during and after approved regatta and marine parade events. Total actions expected to continue through October 1996: 250.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Carlton Perry, Project Manager, G-NAB, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AE46

2100. DRAWBRIDGE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 499

CFR Citation: 33 CFR 117

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to continue through October 1996: 50.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Alesia Steinberger, Project Manager, G-NBR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6215

RIN: 2115–AE47

2101. FACILITIES TRANSFERRING OIL AND HAZARDOUS MATERIAL IN BULK (CGD 93-056)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231; 33 USC 1321

CFR Citation: 33 CFR 154

Legal Deadline: None

Abstract: The object of this rulemaking is to revise the provisions of 33 CFR part 154 to provide regulations covering facilities transferring oil or hazardous materials that are clearer than the current regulations and promote a high level of safety and environmental protection.

Timetable:

Action	Date	FR Cite
NPRM	02/23/95	60 FR 10044
NPRM Comment Period End	05/24/95	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LCDR John Farthing, Project Manager, G-MCO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593
Phone: 202 267-0505

RIN: 2115–AE59

2102. INLAND NAVIGATION RULES; LIGHTING PROVISIONS (CGD 94-011)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 2; 14 USC 633; 33 USC 151(a); 33 USC 2071

CFR Citation: 33 CFR 80; 33 CFR 82; 33 CFR 84; 33 CFR 87; 33 CFR 88; 33 CFR 90

Legal Deadline: None

Abstract: This rulemaking would amend certain technical lighting provisions and interpretive regulations which supplement the Inland Navigation Rules and the International Regulations for Preventing Collisions at Sea (72 COLREGS). These changes would bring certain technical rules into conformity with amendments to the 72 COLREGS scheduled to become effective in November, 1995. The Coast Guard is also proposing several interpretive regulations to clarify ambiguities in the rules.

DOT—USCG

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/20/94	59 FR 37003
NPRM Correction	08/24/94	59 FR 43620
NPRM Comment Period End	09/19/94	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Final effective date will be no earlier than October 1995 to correspond with effective date of COLREGS amendments. The NPRM of 07/20/94 erroneously indicated RIN 2115-AE72.

Agency Contact: Diane Appleby, Project Manager, G-MVO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0352

RIN: 2115–AE71

2103. REGULATED NAVIGATION AREAS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233; 50 USC 191; 33 CFR 1.05-1(g); 33 CFR 6.04-1; 33 CFR 6.04-6; 33 CFR 160.5

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: Nonsignificant local regulations issued routinely and frequently as part of an established body of technical requirements to keep those requirements operationally current. Occasionally, Regulated Navigation Areas which are more extensive will be listed separately. Fifteen actions expected to continue through October 1996.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Margie G. Hegy, Project Manager, G-MVO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0415

RIN: 2115–AE84

2104. +VESSEL REBUILD DETERMINATIONS (CGD 94-040)

Priority: Other Significant

Legal Authority: 14 USC 664; 31 USC 9701; 42 USC 9118; 46 USC 2103; 46 USC 2107; 46 USC 2110; 46 app USC 841a; 46 app USC 876

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: This rulemaking would define relevant terms and develop a standard to determine the character and scope of work on a vessel that will result in a determination that the vessel has been rebuilt. Initiation of this proceeding is contemplated under the North American Free Trade Agreement. It is significant because it is of substantial interest to the maritime industry and the Canadian government.

Timetable:

Action	Date	FR Cite
NPRM	04/05/95	60 FR 17290
NPRM Comment Period End	07/05/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: A policy statement published May 10, 1994 (59 FR 24060), described the Coast Guard's regulatory standard for rebuild determinations and related practices and procedures, pending publication of a final rule.

Agency Contact: Patricia Williams, Project Manager, Department of Transportation, U.S. Coast Guard, National Vessel Documentation Center, Martinsburg, WV 25401
Phone: 800 799-8362

RIN: 2115–AE85

2105. NAVIGATION SAFETY EQUIPMENT FOR TOWING VESSELS (CGD 94-020)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223; 33 USC 1231

CFR Citation: 33 CFR 164

Legal Deadline: None

Abstract: This regulation will require towing vessels to carry certain navigation safety equipment such as radar, compasses, depth sounders, charts and publications. This rulemaking is necessary as part of a comprehensive initiative to improve navigation safety for towing vessels.

Timetable:

Action	Date	FR Cite
NPRM	11/03/95	60 FR 55890
NPRM Comment Period End	02/01/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LCDR Suzanne Englebert, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6490

RIN: 2115–AE91

2106. PROGRAMS FOR CHEMICAL DRUG AND ALCOHOL TESTING OF COMMERCIAL VESSEL PERSONNEL: REMOVAL OF FOREIGN IMPLEMENTATION DATE (CGD 95-011)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 7101; 46 USC 7301; 46 USC 7701

CFR Citation: 46 CFR 16

Legal Deadline: None

Abstract: This project would remove the effective date of regulations governing drug testing onboard vessels within waters subject to a foreign jurisdiction.

Timetable:

Action	Date	FR Cite
NPRM	08/21/95	60 FR 43426
NPRM Comment Period End	10/20/95	
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LCDR D. Darcy, Project Manager, G-MOS-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0221

RIN: 2115–AF02

DOT—USCG

Final Rule Stage

2107. ADOPTION OF INDUSTRY STANDARDS (CGD 95-027)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 46 USC 3306; 46 USC 4104

CFR Citation: 46 CFR 26; 46 CFR 31; 46 CFR 32; 46 CFR 34; 46 CFR 35; 46 CFR 38; 46 CFR 54; 46 CFR 56; 46 CFR 61; 46 CFR 72; 46 CFR 76 to 78; 46 CFR 92; 46 CFR 95 to 97; 46 CFR 108; 46 CFR 109; ...

Legal Deadline: None

Abstract: This rulemaking will revise or remove sections of 46 CFR that are obsolete, unnecessary or excessive when compared to International Marine Safety Standards. In many cases regulations will be replaced by incorporated industry standards.

Timetable:

Action	Date	FR Cite
NPRM	12/20/95	60 FR 65988
NPRM Comment Period End	02/20/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LCDR R. K. Butturini, Project Manager, G-MMS-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0027

RIN: 2115–AF09

2108. ALTERNATE COMPLIANCE VIA RECOGNIZED CLASSIFICATION SOCIETY AND U.S. SUPPLEMENT TO RULES (CGD 95-010)

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1333; 46 USC 3306; 46 USC 5115

CFR Citation: 46 CFR 30 to 31; 46 CFR 70 to 71; 46 CFR 90 to 91; 46 CFR 107

Legal Deadline: None

Abstract: This rulemaking will provide owners of U.S. tank vessels, passenger vessels, cargo vessels, miscellaneous vessels and mobile offshore drilling units an alternative method to fulfill the requirements for vessel design, inspection, and certification. Under the rule, the Coast Guard will issue a certificate of inspection based upon a recognized classification society's report that the vessel complies with the International Convention for the Safety of Life at Sea, as amended (SOLAS), other applicable international conventions, classification society rules, and other specified requirements. This will reduce the burden on vessel owners and operators by eliminating duplicative plan reviews and inspections by the classification society and the Coast Guard.

Timetable:

Action	Date	FR Cite
NPRM	06/22/95	60 FR 32478
NPRM Comment Period End	09/20/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LCDR G. Cummings, Project Manager, G-MMS, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0171

RIN: 2115–AF11

2109. • ELECTRICAL ENGINEERING REGULATIONS FOR MERCHANT VESSELS (CGD 94-108)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 USC 2103; 46 USC 2113; 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 108; 46 CFR 110 to 113; 46 CFR 161

Legal Deadline: None

Abstract: The Coast Guard needs to revise the technical content of subchapter J and related material to address changes in technology, to implement new requirements of international conventions to which the U.S. is signatory and to reflect experiences gained since the previous revision in 1982. Some special purpose cable is not readily available to show compliance with flame propagation resistance standards. The Coast Guard must modify regulations to provide appropriate, but attainable, fire safety for these cable installations. The contracting governments to the International Convention for the Safety of Life at Sea (SOLAS 74) have adopted amendments since 1982; the Coast Guard may integrate them into our regulations. The increased tendency toward overseas construction of U.S. flag vessels and the variety of equipment manufactured abroad have created a need to more readily recognize design and installation in accordance with international standards. To eliminate needless regulatory burden, the Coast Guard is deleting and extensively revising obsolete or confusing regulation. Engine order telegraphs, sound powered phones and fire protective systems are but a few of the areas affected.

Timetable:

Action	Date	FR Cite
NPRM	02/02/96	61 FR 4132
Correction	02/23/96	61 FR 7050
Notice of Meeting and Comment Period Extended to 4/2/96	02/26/96	61 FR 7090
Correction to NPRM	03/05/96	61 FR 8539
NPRM Comment Period End	03/18/96	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald P. Miante, Project Manager, G-MMS-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-2206

RIN: 2115–AF24

2110. • +STRUCTURAL MEASURES TO REDUCE OIL SPILLS FROM EXISTING TANK VESSELS WITHOUT DOUBLE HULLS (91-045A)

Priority: Economically Significant

Legal Authority: 46 USC 3703; PL 101-380

CFR Citation: 33 CFR 157

Legal Deadline: Final, Statutory, August 18, 1991.

Abstract: This rulemaking will address the interim measures existing vessels must take to provide substantial protection to the environment. The interim measures will apply to existing vessels until the vessel must comply with the double-hull regulations. No

tank vessel without a double hull may operate after January 15, 2015. Interim measures may include structural standards to provide substantial protection to the environment that are economically and technologically feasible. This rulemaking is considered significant due to substantial public interest and environmental impact.

Timetable:

Action	Date	FR Cite
ANPRM	11/01/91	56 FR 56284
ANPRM Comment Period End	12/31/91	
NPRM	10/22/93	58 FR 54870
NPRM Comment Period End	12/20/93	
SNPRM	12/28/95	60 FR 67226
Notice of Meeting and Comment Period Extended to 4/10/96	02/20/96	61 FR 6334
Notice of Correction to SNPRM	02/21/96	61 FR 6590
SNPRM Comment Period End	03/27/96	
Final Action	03/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This action was part of RIN 2115-AE01 until the SNPRM stage. Correction published 2/21/96, 61 FR 6590, under this RIN corrects Table 2. The public meeting was 3/19/96.

Agency Contact: LCDR S. Englebert, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6490

RIN: 2115–AF27

DEPARTMENT OF TRANSPORTATION (DOT)
U.S. Coast Guard (USCG)

2111. REVISION TO INFLATABLE LIFE RAFT APPROVAL: SOLAS 74/83 (CGD 85-205)

Priority: Substantive, Nonsignificant

CFR Citation: 46 CFR 159; 46 CFR 160

Timetable:

Action	Date	FR Cite
ANPRM; RIN 2115-AA50	06/29/81	46 FR 33341
NPRM; RIN 2115-AA50	01/11/85	50 FR 7558
Comment Period Extended to 10/14/85; RIN 2115-AA50	07/05/85	50 FR 27628
Comment Period Extended to 01/10/86; RIN 2115-AA50	09/09/85	50 FR 36639
ANPRM; RIN 2115-AA57	08/14/86	51 FR 29117
Notice of Public Meeting; RIN 2115-AA57	12/22/86	51 FR 45783
NPRM	10/18/94	59 FR 52590
NPRM Comment Period End	02/15/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mr. Kurt Heinz
Phone: 202 267-1079

RIN: 2115–AC51

2112. VESSEL IDENTIFICATION SYSTEM (CGD 89-050)

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 187

Timetable:

Action	Date	FR Cite
ANPRM	09/15/89	54 FR 38358
ANPRM Comment Period End	12/14/89	
NPRM	10/05/93	58 FR 51920
NPRM Correction	10/15/93	58 FR 53624
NPRM Comment Period End	01/03/94	
NPRM Comment Period Reopened to 03/28/94	02/24/94	59 FR 8881
Interim Final Rule	04/25/95	60 FR 20310
Interim Final Rule Comment Period End	07/24/95	
Interim Final Rule Comment Period Reopened to 12/31/95	10/17/95	60 FR 53727
Interim Final Rule: Change in Effective Date	02/23/96	61 FR 6943
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR Rick Ferraro
Phone: 202 267-0386

RIN: 2115–AD35

2113. +DISCHARGE-REMOVAL EQUIPMENT FOR VESSELS CARRYING OIL (CGD 90-068)

Priority: Other Significant

CFR Citation: 46 CFR 165

Timetable:

Action	Date	FR Cite
ANPRM	08/30/91	56 FR 43534
ANPRM Comment Period End	10/16/91	
NPRM	09/29/92	57 FR 44912
NPRM Comment Period Extended to 11/16/92	10/26/92	57 FR 48489
NPRM Comment Period End	10/29/92	
Interim Final Rule	12/22/93	58 FR 67988
Interim Final Rule Effective	01/22/94	
Interim Final Rule Correction	01/26/94	59 FR 3749
Interim Final Rule Comment Period End	02/22/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LT Cliff Thomas
Phone: 202 267-1099

RIN: 2115–AD66

2114. TANK LEVEL OR PRESSURE MONITORING DEVICES (CGD 90-071)

Priority: Substantive, Nonsignificant

CFR Citation: 46 CFR 32

Timetable:

Action	Date	FR Cite
ANPRM	05/07/91	56 FR 21116
ANPRM Comment Period End	10/04/91	
Notice of Availability of Technical Feasibility Study	02/05/93	58 FR 2292
Notice of Public Meeting	11/15/94	59 FR 58810
NPRM	08/21/95	60 FR 43427
NPRM Comment Period End	11/20/95	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Randy Crenwelge
Phone: 202 267-6220

RIN: 2115–AD69

2115. +OVERFILL DEVICES (CGD 90-071A)

Priority: Other Significant

CFR Citation: 33 CFR 155 to 156

Timetable:

Action	Date	FR Cite
NPRM	01/12/93	58 FR 4040
NPRM Comment Period End	03/15/93	
Notice of Public Meeting	10/21/93	58 FR 54315
Interim Final Rule	10/21/94	59 FR 53286
Interim Final Rule Comment Period End	01/19/95	
Interim Final Rule Effective	01/19/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Randy Crenwelge
Phone: 202 267-6220

RIN: 2115–AD87

2116. +ESCORT VESSELS FOR CERTAIN TANKERS (CGD 91-202)

Priority: Other Significant

CFR Citation: 33 CFR 168

Timetable:

Action	Date	FR Cite
NPRM	07/07/92	57 FR 30058
NPRM Comment Period End	09/08/92	
NPRM Comment Period Reopened to 07/24/93	03/26/93	58 FR 16391
ANPRM: Further Comments Due 6/28/93	04/27/93	58 FR 25766
Notice of Public Hearings	04/29/93	58 FR 25959
Notice of Public Hearings Correction	05/19/93	58 FR 29157
Notice of Availability of Part 1 of Study	01/10/94	59 FR 1411
Final Rule: Effective 11/17/94	08/19/94	59 FR 42962
Final Rule: Partial Suspension: Effective 11/17/94	11/01/94	59 FR 54519
Final Rule: Request for Comments: Comment Period to 01/30/95	11/01/94	59 FR 54519
Notice of Availability of Part II of Study	02/01/95	60 FR 6345

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Jordan
Phone: 202 267-0142

RIN: 2115–AE10

2117. +FEDERAL AGENCY ACCESS TO THE OIL SPILL LIABILITY TRUST FUND (CGD 92-074)

Priority: Other Significant

CFR Citation: 33 CFR 134; 33 CFR 137; 33 CFR 153

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Al Thuring
Phone: 703 235-4746

RIN: 2115–AE34

2118. NOTICE OF HAZARDOUS CONDITIONS (CGD 94-027)

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 160

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/03/94	59 FR 39458
Interim Final Rule Effective	08/03/94	
Interim Final Rule Comment Period End	12/01/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: CDR Dennis Haise
Phone: 202 267-6451

RIN: 2115–AE82

2119. IMMEDIATE REPORTING OF CASUALTIES (CGD 94-030)

Priority: Substantive, Nonsignificant

CFR Citation: 46 CFR 4

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/03/94	59 FR 39469
Interim Final Rule Effective	08/03/94	
Interim Final Rule Comment Period End	11/01/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR P. A. Jensen
Phone: 202 267-6134

RIN: 2115–AE89

2120. RADAR-OBSERVER ENDORSEMENT FOR OPERATORS OF UNINSPECTED TOWING VESSELS (CGD 94-041)

Priority: Substantive, Nonsignificant

CFR Citation: 46 CFR 10; 46 CFR 15

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/26/94	59 FR 53754
Interim Final Rule Effective 11/25/94	10/26/94	
Interim Final Rule Comment Period End	01/24/95	
Comment Period Reopened to 6/1/95	02/14/95	60 FR 8308

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: LCDR Don Darcy
Phone: 202 267-0221

RIN: 2115–AE92

2121. MODERNIZATION OF EXAMINATION METHODS (CGD 94-029)

Priority: Other

CFR Citation: 46 CFR 10; 46 CFR 12

Timetable:

Action	Date	FR Cite
NPRM	02/23/95	60 FR 10053
NPRM Comment Period End	05/24/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Gould
Phone: 202 267-6890

RIN: 2115–AE94

DEPARTMENT OF TRANSPORTATION (DOT)

U.S. Coast Guard (USCG)

Completed Actions

2122. TRAINING IN THE USE OF AUTOMATIC RADAR PLOTTING AIDS (ARPA) (CGD 85-089)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223; 46 USC 3703

CFR Citation: 33 CFR 164; 46 CFR 10

Legal Deadline: None

Abstract: This rulemaking was initiated to establish a requirement for training in the use of ARPA for licensed deck officers on vessels fitted with ARPA units. Existing International Maritime Organization (IMO) guidelines were used in drafting the proposed requirements. These IMO guidelines are being replaced with the implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (STCW). As a result, the Coast Guard is withdrawing this rulemaking with the intention of initiating another rulemaking implementing the new requirements when they become effective in February 1997.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/85	50 FR 43258
ANPRM Comment Period End	12/23/85	
NPRM	03/07/90	55 FR 8155
NPRM Comment Period End	06/05/90	
Withdrawn	10/24/95	60 FR 54466

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/07/90 (55 FR 8155)

Agency Contact: Robert S. Spears, Jr., Project Manager, NMC, Department of Transportation, U.S. Coast Guard, National Maritime Center, 4200 Wilson Boulevard, Suite 510, Arlington, VA 22203
Phone: 703 235-1864

RIN: 2115–AB99

2123. REGATTAS AND MARINE PARADES (CGD 87-087)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100.15

Legal Deadline: None

Abstract: This proposal would amend current regatta and marine parade regulations to increase the minimum time requirement for submitting regatta permit applications. The rulemaking would allow the Coast Guard additional time to review regatta permit applications, conduct appropriate coordination, and provide necessary public notice relating to regattas and marine events. The Coast Guard has reconsidered the benefits of proceeding with this single issue regulatory project and has decided instead to withdraw the rulemaking and reexamine the issue of permit application submission times as part of a broader regulatory review of the entire regatta and marine parade permitting process. The rulemaking docket 87-087 is being merged with the rulemaking docket 95-054.

Timetable:

Action	Date	FR Cite
NPRM	02/04/88	53 FR 3221
NPRM Comment Period End	04/04/88	
Withdrawn	12/26/95	60 FR 66772

Small Entities Affected: Organizations

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/04/88 (53 FR 3221)

Agency Contact: Carlton Perry, Project Manager, G-NAB, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AC84

2124. +FINANCIAL RESPONSIBILITY FOR WATER POLLUTION (VESSELS) (CGD 91-005)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 33 USC 2716; 42 USC 9608

CFR Citation: 33 CFR 130 to 132; 33 CFR 137

Legal Deadline: None

Abstract: This rulemaking implements the provisions concerning financial responsibility for vessels in the Oil Pollution Act of 1990 and the Comprehensive Environmental Response Compensation and Liability Act. It prescribes the means by which owners and operators of vessels establish and maintain evidence of insurance or other evidence of financial responsibility sufficient to meet their potential limits of liability under these Acts. This rule is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/26/91	56 FR 49006
NPRM Comment Period End	11/25/91	
NPRM Comment Period Extended to 01/24/92	12/02/91	56 FR 61216
Notice of Availability of Draft Regulatory Impact Analysis	07/21/93	58 FR 38993
Interim Final Rule	07/01/94	59 FR 34210
Interim Final Rule Comment Period End	09/29/94	
Final Action	03/07/96	61 FR 9264

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/01/94 (59 FR 34210)

Additional Information: The Oil Pollution Act of 1990 (OPA) repealed or superseded certain oil spill liability provisions under the Federal Water Pollution Control Act (33 USC 1321), title III of the Outer Continental Shelf Lands Act Amendments of 1978 (43 USC 1814), the Trans-Alaska Pipeline Authorization Act (43 USC 1653), and the Deepwater Port Act of 1974 (33 USC 1517). The financial responsibility provisions of those Acts were replaced by a single financial responsibility regime under OPA and keyed to the broader liability of OPA. In addition to financial responsibility requirements under OPA, which is limited to oil, this project would include financial responsibility requirements under the Comprehensive Environmental Response, Compensation, and Liability Act, which concerns hazardous substances. This consolidation would allow the issuance of a single, unified Certificate of Financial Responsibility for vessels, replacing separate certificates and financial responsibility regimes under the previously mentioned Acts.

DOT—USCG

Completed Actions

Agency Contact: Robert M. Skall, Project Manager, G-NPFC, Department of Transportation, U.S. Coast Guard, National Pollution Funds Center, 4200 Wilson Blvd, Suite 1000, Arlington, VA 22203-1804
Phone: 703 235-4704

RIN: 2115–AD76

2125. +TANK VESSEL RESPONSE PLANS (CGD 91-034)

Priority: Other Significant

Legal Authority: 33 USC 1231; 33 USC 1321(j); 33 USC 1903(b); 33 USC 2735; 46 USC 3715; PL 101-380

CFR Citation: 33 CFR 155

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: This rulemaking partially implements sections 4202(b)(4) and 5005 of the Oil Pollution Act of 1990, P.L. 101-380 (OPA-90), concerning tank vessel and facility response plans. Section 4202(b)(4) of the OPA-90 amends section 311(j)(5) of the Federal Water Pollution Control Act (FWPCA), which requires owners and operators of tank vessels and facilities to develop response plans for responding to worst-case discharges (or substantial threat thereof) of oil or hazardous substances. Section 5005 requires that response plans for tank vessels operating in Prince William Sound, Alaska, and facilities permitted under the Trans-Alaska Pipeline Authorization Act provide for additional measures of oil spill preparedness. This action is considered significant because of substantial public interest and environmental considerations. This rulemaking covers tank vessel requirements for oil-spill response plans. A separate rulemaking under RIN 2115-AE88 will address tank vessel response plans for hazardous substances. Facility response plan requirements for oil and hazardous substances will also be addressed by separate rulemakings under RINs 2115-AD82 and 2115-AE87, respectively.

Timetable:

Action	Date	FR Cite
ANPRM	08/30/91	56 FR 43534
ANPRM Comment Period End	10/16/91	
NPRM	06/19/92	57 FR 27514
NPRM Correction	07/01/92	57 FR 29354
Notice of Meetings	07/28/92	57 FR 33287
NPRM Comment Period End	08/03/92	
Interim Final Rule	02/05/93	58 FR 7376
Interim Final Rule Correction	03/15/93	58 FR 13708
Interim Final Rule Comment Period End	04/06/93	58 FR 7376
Final Action	01/12/96	61 FR 1052
Final Action Effective	04/11/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 02/05/93 (58 FR 7376)

Additional Information: The status of development of response plans was published 08/21/92 (57 FR 37920). A workshop notice was published 07/16/93 (58 FR 38450), and an additional day added 07/22/93 (58 FR 39272).

Agency Contact: LT Cliff Thomas, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1099

RIN: 2115–AD81

2126. +FACILITY RESPONSE PLANS (CGD 91-036)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1321(j); PL 101-380

CFR Citation: 33 CFR 154

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: This rulemaking partially implements sections 4202(b)(4) and 5005 of the Oil Pollution Act of 1990, P.L. 101-380 (OPA 90), concerning tank vessel and facility response plans. Section 4202(b)(4) of OPA-90 amends section 311(j)(5) of the Federal Water Pollution Control Act (FWPCA), which requires owners and operators of tank vessels and facilities to develop response plans for responding to worst-case discharges (or substantial threat thereof) of oil or hazardous substances. Section 5005 requires that response plans for tank vessels operating in Prince William Sound, Alaska, and facilities permitted under the Trans-Alaska Pipeline Authorization Act provide for additional measures of oil spill preparedness. This action is considered significant because of substantial public interest and environmental considerations. This rulemaking covers facility requirements for oil-spill response plans. A separate rulemaking under RIN 2115-AE87 will address facility response plans for hazardous substances. Tank vessel response plan requirements for oil and hazardous substances will also be addressed by separate rulemakings under RINs 2115-AD81 and 2115-AE88, respectively.

Timetable:

Action	Date	FR Cite
ANPRM	03/11/92	57 FR 8708
ANPRM Comment Period End	04/27/92	
Interim Final Rule	02/05/93	58 FR 7330
Interim Final Rule Correction	03/12/93	58 FR 13550
Interim Final Rule Comment Period End	04/06/93	58 FR 7330
Final Action	02/29/96	61 FR 7890
Final Action Effective	05/29/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/05/93 (58 FR 7330)

Additional Information: A workshop notice was published 07/16/93 (58 FR 38450), and an additional day added 07/22/93 (58 FR 39272).

Agency Contact: LT Cliff Thomas, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1099

RIN: 2115–AD82

2127. CRIMINAL RECORD REVIEWS AND ACCESS TO THE NATIONAL DRIVER REGISTER (CGD 91-212)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 7101; 46 USC 7109; 46 USC 7302

CFR Citation: 46 CFR 10; 46 CFR 12

Legal Deadline: None

Abstract: This action provides the Coast Guard discretionary authority to review the criminal record of each applicant for a merchant mariner credential and require that each

merchant mariner credential applicant make available information contained in the National Driver Register (NDR). The regulation creates procedures to allow an applicant for a license, Certificate of Registry, or merchant mariner document to comment upon any data received from the NDR before the data could be used against an individual merchant mariner's application. RIN-AD96, concerning national driver registry data, has been consolidated into this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	03/13/95	60 FR 13570
NPRM Comment Period End	06/12/95	
Final Action	12/19/95	60 FR 65478
Final Action Effective	01/18/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Jim Cratty, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6742

RIN: 2115–AD93

2128. SUSPENSION AND REVOCATION OF LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS' DOCUMENTS (CGD 94-101)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2101; 46 USC 7701; 46 USC 7702; 46 USC 7703

CFR Citation: 46 CFR 1; 46 CFR 5

Legal Deadline: None

Abstract: Amendments to 46 CFR 5 would add (1) guidance for prehearing suspension of licenses, certificates of registry, and merchant mariners' documents (credentials); (2) two new provisions under which a merchant mariner's credentials may be suspended or revoked; and (3) a new requirement that must be satisfied before a merchant mariner's credentials can be issued after revocation or surrender. The subject matter of this rulemaking will be addressed in a new project entitled "Consolidation of Procedures for Administrative Hearings on Suspension and Revocation of Merchant Mariners' Credentials and on Class II Civil Penalties" (CGD 94-111). Therefore, this project is terminated.

Timetable:

Action	Date	FR Cite
Action Terminated	12/20/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Janet Walton, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0257

RIN: 2115–AD94

2129. APPROVAL OF INFLATABLE PERSONAL FLOTATION DEVICES (PFDS) FOR RECREATIONAL BOATERS (CGD 93-055)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 USC 4302; 46 USC 4310

CFR Citation: 33 CFR 175; 33 CFR 179; 33 CFR 181; 46 CFR 2; 46 CFR 159; 46 CFR 160

Legal Deadline: None

Abstract: The Coast Guard is establishing approval procedures for recreational inflatable personal flotation devices (PFDs), revising the approval procedures for other kinds of recreational PFDs, and making editorial changes to the equipment approval procedures. These procedures are intended to establish an efficient approval procedure for PFDs and other equipment relying more heavily on accepted independent or recognized laboratories. The Coast Guard anticipates that recreational boaters will be more likely to wear inflatable PFDs than currently approved devices, thereby increasing use of PFDs by the boating public and saving lives.

Timetable:

Action	Date	FR Cite
ANPRM	11/09/93	58 FR 59428
Notice of Meeting	02/24/94	59 FR 9015
ANPRM Comment Period End	03/09/94	
NPRM	06/23/95	60 FR 32861
NPRM Comment Period End	10/23/95	
Final Action	03/28/96	61 FR 13924
Final Action Effective	04/29/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Related item is Recreational Inflatable Personal Flotation Device Standards (CGD 94-110) RIN 2115-AE96 published 3/28/96, 61 FR 13931.

Agency Contact: Kurt Heinz, Project Manager, G-MMS-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593
Phone: 202 267-1444

RIN: 2115–AE58

2130. REVISION OF DAMAGE STABILITY REQUIREMENTS FOR NEW PASSENGER SHIP DESIGNS (CGD 94-010)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 1333(d); 46 USC 3306; 46 USC 3703; 46 USC 5115; 50 USC 198

CFR Citation: 46 CFR 171.080(d); 46 CFR 171.080(e); 46 CFR 171.080(f); 46 CFR 171.080(g)

Legal Deadline: None

Abstract: This rule revises the passenger vessel damage stability criteria in 46 CFR 171.080 for new domestic passenger vessels.

Timetable:

Action	Date	FR Cite
NPRM	06/10/94	59 FR 40855
Notice of Public Hearing	06/10/94	59 FR 40855
Notice of Meeting and Comment Period Extended to 12/16/94	11/04/94	59 FR 55232
NPRM Comment Period End	12/16/94	
Final Action	10/17/95	60 FR 53710
Final Action Effective	04/15/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: LCDR R. Holzman, Project Manager, G-MMS-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0143

RIN: 2115–AE75

2131. ALEUTIAN TRADE ACT (CGD 94-025)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3316; 46 USC 4502; 46 USC 4506; 46 USC 6104; 46 USC 10603; 49 app USC 1804

CFR Citation: 46 CFR 28

Legal Deadline: None

Abstract: This rulemaking creates a separate project limited to implementation of the Aleutian Trade Act (ATA). It establishes safety requirements for common carriers. Regulations proposed for these vessels in a Supplemental Notice of Proposed Rulemaking published October 27, 1992 (57 FR 48670), are modified and published separately under this rulemaking.

Timetable:

Action	Date	FR Cite
SNPRM; Comment Period End 11/14/94	09/13/94	59 FR 47034
SNPRM Comment Period Extended to 12/31/94	11/22/94	59 FR 60110
Final Action	10/24/95	60 FR 54441
Final Action Effective	04/22/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: The rulemaking initiated under RIN 2115-AD12 addressed seven separate topics related to improving commercial fishing vessel safety, including stability, equipment, and carriage of exposure suits. It also addressed implementation of the Aleutian Trade Act provisions. This rulemaking addresses only the implementation of the Aleutian Trade Act. The remaining topics will remain under RIN 2115-AD12.

Agency Contact: LCDR Mark D. Bobal, Project Manager, G-MOS-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0836

RIN: 2115–AE77

2132. INLAND WATERWAYS NAVIGATION REGULATIONS; WRANGELL NARROWS, AK (CGD 94-026)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 162

Legal Deadline: None

Abstract: This rule allows single barge tows of up to 100 feet in width overall to transit Wrangell Narrows, AK. Previous size restriction is 80 feet in width overall.

Timetable:

Action	Date	FR Cite
NPRM	09/15/95	60 FR 47905
NPRM Comment Period End	11/14/95	
Final Action	12/12/95	60 FR 63623
Final Action Effective	01/11/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Diane Appleby, Project Manager, G-MVO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0352

RIN: 2115–AE78

2133. RECREATIONAL INFLATABLE PERSONAL FLOTATION DEVICE STANDARDS (CGD 94-110)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4302; 46 USC 4310

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This rule adds regulations for the approval of inflatable personal flotation devices (PFDs) for use on recreational boats. These new regulations establish structural and performance standards for these inflatable PFDs, as well as the procedures for Coast Guard approval of such inflatable PFDs. Most of the technical requirements are based on an industry consensus standard. The costs to the industry include such items as approval testing and production testing similar to other approved lifesaving equipment, and are optional since no one will be required to replace an existing PFD with one of these devices. Costs will be minimal.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/23/95	60 FR 32836
Notice of Meeting; Request for Comments, Comment Period End 10/23/95	08/02/95	60 FR 39268
Interim Final Rule Comment Period Reopened to 11/6/95	10/10/95	60 FR 52631
Interim Final Rule Comment Period End	10/23/95	
Final Action	03/28/96	61 FR 13931
Final Action Effective	09/24/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: See related item Approval of Inflatable Personal Flotation Devices for Recreational Boaters (CGD 93-055) published 3/28/96, 61 FR 13924.

Agency Contact: Samuel E. Wehr, Project Manager, G-MMS-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1444

RIN: 2115–AE96

2134. INTERNATIONAL NAVIGATION RULES (CGD 95-053)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1051 to 1094

CFR Citation: 33 CFR 81

Legal Deadline: None

Abstract: This administrative rulemaking removes unnecessary appendix A which contains the text of the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS); and updates the list of U.S. Territories and possessions where the treaty applies. This administrative action has no impact on the marine industry as it does not change any requirements imposed upon them.

DOT—USCG **Completed Actions**

Timetable:

Action	Date	FR Cite
Direct Final Rule Comment Period End 3/4/96	01/02/96	61 FR 8
Final Action	03/14/96	61 FR 10466
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Diane Appleby, Project Manager, G-MVO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0352

RIN: 2115–AF16

2135. RECREATIONAL VESSEL FEES (CGD 95-055)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 46 USC 2110; PL 102-582

CFR Citation: 33 CFR 1

Legal Deadline: None

Abstract: The Coast Guard removed regulations requiring payment of recreational vessel fees (RVF). The High Seas Driftnet Fisheries Enforcement Act of 1992 repealed the authority for RVF beginning with fiscal year 1995. The Coast Guard stopped collecting the fees on October 1, 1994. The RVF regulations are no longer valid and will be removed from the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
Final Action	02/21/96	61 FR 6542

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carlton Perry, Project Manager, G-NAB, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AF18

2136. • FIFTH AND EIGHTH COAST GUARD DISTRICT MARINE INSPECTION AND CAPTAIN OF THE PORT ZONE BOUNDARIES (CGD 95-081)

Priority: Other

Legal Authority: 14 USC 633

CFR Citation: 33 CFR 3

Legal Deadline: None

Abstract: This rule amends descriptions of Marine Inspection and Captain of the Port zone boundaries in Title 33 CFR. The Coast Guard is reorganizing its Marine Safety Office Baltimore and Group Baltimore units by consolidating them into a single unit, Activities Baltimore. Concurrently, this rulemaking redefines the Philadelphia and Hampton Roads marine inspection zones and Captain of the Port zones to cover those areas of Delaware, eastern Maryland, northern Virginia, and the Atlantic Ocean, which were, but are no longer, within the Baltimore Marine Inspection Zone and Captain of the Port zone boundaries. Additionally, this rulemaking revises Title 33 CFR to reflect the merger of the former OCMI and COTP zones for Houston, TX and Galveston, TX into one OCMI and COTP zone designated as Houston-Galveston, TX.

Timetable:

Action	Date	FR Cite
Final Action	12/28/95	60 FR 67060
Final Action Effective	12/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet Walton, Project Manager, G-MES-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0257

RIN: 2115–AF22

2137. • PROGRAMS FOR CHEMICAL AND ALCOHOL TESTING OF COMMERCIAL VESSEL PERSONNEL; DELAY OF IMPLEMENTATION DATES (CGD 95-090)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 7101; 46 USC 7301; 46 USC 7701

CFR Citation: 46 CFR 16

Legal Deadline: None

Abstract: The Coast Guard is delaying the effective date of regulations governing drug testing, insofar as those regulations would require testing of persons onboard U.S. vessels in waters that are subject to the jurisdiction of a foreign government. Under this final rule, the Coast Guard continues to delay the effective date for foreign implementation to allow completion of a permanent change to the regulations affecting foreign implementation of its drug testing rules.

Timetable:

Action	Date	FR Cite
Final Action	12/28/95	60 FR 67062
Final Action Effective	12/28/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This final rule is related to RIN 2115-AF02, CGD 95-011, NPRM published August 21, 1995.

Agency Contact: LT J. Hilton, Project Manager, G-MAO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0686

RIN: 2115–AF25

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA) **Proposed Rule Stage**

2138. AIRWORTHINESS STANDARDS; CRASH-RESISTANT FUEL SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 40 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action proposes changes to the airworthiness standards to improve the crash resistance of fuel systems on normal, utility, acrobatic, and commuter category airplanes. The FAA has determined that improved crash resistance of these fuel systems is necessary to prevent deaths and injuries due to fire in survivable crashes. The proposed design changes would limit fuel spillage near ignition sources and would provide additional time for the survivors to evacuate the airplane.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/85	50 FR 8948
ANPRM Comment Period End	07/03/85	
NPRM	02/28/90	55 FR 7280
NPRM Comment Period End	06/28/90	
SNPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/28/90 (55 FR 7280)

Additional Information: Formerly titled "Amend part 23 To Include Requirements for Crash-Resistant Fuel Systems." Project No. ACE-82-005R.

Agency Contact: Norman Vetter, Standards Office, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106
Phone: 816 426-5688

RIN: 2120–AA57

2139. REVIEW OF PART 47, AIRCRAFT REGISTRATION, AND PART 49, RECORDING OF AIRCRAFT TITLES AND SECURITY DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44713; 49 USC 45302; 49 USC 46104; 49 USC 46301

CFR Citation: 14 CFR 47; 14 CFR 49

Legal Deadline: None

Abstract: This notice would propose to update parts 47 and 49 of the Federal Aviation Regulations to reflect changes in the law, legal interpretations, other recent rulemaking actions, and the FAA's current aircraft registry practices. The intent of these proposed changes is to articulate, modernize, and simplify the existing regulations rather than alter established procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/96

Additional Information: Project Number AFS-89-201R.

Agency Contact: Sharon Ashford, Flight Standards Service, Department of Transportation, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Boulevard, Oklahoma City, Oklahoma 73125
Phone: 405 954-7038

RIN: 2120–AC17

2140. +PART 145 REVIEW: REPAIR STATIONS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44703; 49 USC 44705; 49 USC 44707; 49 USC 44709; 49 USC 44710; 49 USC 44711; 49 USC 44713; 49 USC 44717; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 43; 14 CFR 65; 14 CFR 145

Legal Deadline: None

Abstract: The FAA proposes to update and revise the regulations for repair stations. This action is necessary because many portions of the current repair station regulations do not reflect technical advances in aircraft maintenance practices or aircraft technology. The revisions would reorganize the repair station rules to reduce duplication of regulatory language and eliminate obsolete information. The proposal also would establish new requirements that relate to repair station ratings and classes, manual requirements, recordkeeping, and personnel. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Public Meetings	07/24/89	54 FR 30866
Notice Correction	08/08/89	54 FR 32563
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/96

Additional Information: Project No. AFS-87-045R. This project was formerly entitled Review and Revision of Repair Station Requirements, and Repair Station and Repairmen Certification Rules.

Agency Contact: Richard Nowak, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7228

RIN: 2120–AC38

2141. 1-G STALLING SPEED AS A BASIS FOR COMPLIANCE WITH PART 25 OF THE FEDERAL AVIATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321; 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44715

CFR Citation: 14 CFR 25; 14 CFR 36

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations to redefine the airplane reference stalling speed as the 1-g stalling speed in lieu of the minimum stalling speed. It would: (1) provide for a consistent, repeatable reference stalling speed; (2) ensure consistent and dependable maneuvering margins; (3) clarify the requirement for the use of 1-g stalling speeds in determining structural design speeds; (4) increase the head-on gust structural design requirement; and (5) provide for adjusted multiplying factors to maintain essentially equivalent requirements in areas where the use of minimum stalling speed has proven adequate. These changes are needed since the stalling characteristics of modern jet transports as determined by current methods can result in

inconsistent reference stalling speeds. These changes may result in a higher level of safety where current methods have resulted in artificially low reference stalling speeds.

Timetable:

Action	Date	FR Cite
NPRM	01/18/96	61 FR 1260
Correction	02/26/96	61 FR 7157
NPRM Comment Period End	05/17/96	
Final Action	01/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/18/96 (61 FR 1260)

Additional Information: Project No. ANM-86-041R.

Agency Contact: Don Stimson, Flight Test and Systems Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-1320

RIN: 2120–AD40

2142. +REVISION OF PART 108, AIRPLANE OPERATOR SECURITY

Priority: Other Significant

Legal Authority: 40 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: This action would amend part 108 of the Federal Aviation Regulations to incorporate new requirements in response to worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Additional Information: Project Number ACS-87-107R.

Agency Contact: Craig Stier, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3413

RIN: 2120–AD45

2143. +REVISION OF PART 107, AIRPORT SECURITY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44706; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 107

Legal Deadline: None

Abstract: This notice would propose to amend part 107 of the Federal Aviation Regulations to incorporate new requirements in response to the worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Additional Information: Project Number ACS-87-106R.

Agency Contact: Linda Bruce, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8553

RIN: 2120–AD46

2144. +ALTERNATIVE MEANS OF COMPLIANCE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40101; 49 USC 40103; 40 USC 40105; 49 USC 40109; 49 USC 40113; 49 USC 44110; 49 USC 44502; 49 USC 44701 to 44702; 49 USC 44711; 49 USC 45102

CFR Citation: 14 CFR 11

Legal Deadline: None

Abstract: This action would revise the Federal Aviation Regulations to provide for the granting of relief from the literal compliance with certain rules provided the applicant justifies this relief and that the FAA finds that the provisions not complied with are compensated for by factors that have an equivalent level of safety or that there will be no adverse effect on safety. This action is considered significant because of a substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/96

Additional Information: Project Number ARM-90-045R. Formerly titled "Exemption Process."

Agency Contact: Linda Williams, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9685

RIN: 2120–AD66

2145. +COST OF SERVICES AND TRANSFER OF FEES TO PART 187 FROM PARTS 47, 49, 61, 63, 65, AND 143

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44701; 49 USC 44702; 49 USC 44703 to 44704; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 45102 to 45103; 49 USC 45106; 49 USC 45301; ...

CFR Citation: 14 CFR 47; 14 CFR 49; 14 CFR 61; 14 CFR 63; 14 CFR 65; 14 CFR 143; 14 CFR 187

Legal Deadline: None

Abstract: This action would assess reasonable charges for certain services provided by the FAA. The charges would be set at a level approximating the cost to the Government to provide these services and would be adjusted periodically as the cost of these services change or as prescribed in the Anti-Drug Abuse Act of 1988. The cost of providing services for aircraft registration and recording and replacement of airmen certificates is not being fully recouped in accordance with the changes reflected in the Consumer Price Index of All Urban Consumers, which was published by the Bureau of Labor Statistics of the Department of Labor, or as set by the Anti-Drug Abuse Act of 1988. This rulemaking would also consolidate all service fees by placing them in part 187 of the Federal Aviation Regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/96

Additional Information: Project Number AFS-90-347R.

Agency Contact: Sharon Ashford, Registry Modernization Staff, Mike Monroney Aeronautical Center, Department of Transportation, Federal Aviation Administration, 6500 South MacArthur Boulevard, Oklahoma City, Oklahoma 73125-4939
Phone: 405 954-7038

RIN: 2120–AD91

2146. VISUAL DESCENT POINTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; ...

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This notice would propose to incorporate visual descent point (VDP) requirements into Part 135 of the Federal Aviation Regulations (FAR). In addition, this notice would amend the VDP requirements in Part 121 of the FAR to be consistent with the VDP requirements in Part 135 of the FAR.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/96

Additional Information: Project Number AFS-91-206R.

Agency Contact: Alberta Brown, Regulations Branch, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8321

RIN: 2120–AE34

2147. +AGING AIRCRAFT SAFETY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901 to 44904; 49 USC 44906; ...

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline: Other, Statutory, April 24, 1992.
Aging Aircraft Safety Act of 1991; action must be initiated by 04/24/92.

Abstract: This action would require air carriers of certain aircraft used in air transportation to demonstrate that the aircraft's maintenance has been adequate to ensure the highest degree of safety. Based on the comments received to the notice of proposed rulemaking, the FAA is considering other actions in lieu of the operational limit requirement, certain reporting requirements, and maintenance check requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/05/93	58 FR 51944
NPRM Comment Period End	02/02/94	
NPRM Comment Period Extended to 03/04/94	02/08/94	59 FR 5741
SNPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 10/05/93 (58 FR 51944)

Additional Information: Project Number AFS-92-029R.

Agency Contact: Frederick Sobeck, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-7355

RIN: 2120–AE42

2148. +REDUCED ALTITUDE SEPARATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306; ...

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: In the 1950's, a vertical separation minimum of 2,000 feet was established for use between aircraft operating above flight level 290. Reducing the 2,000-foot separation requirement to 1,000 feet would increase flight level availability, increase en route airspace capacity, enable aircraft to fly at more fuel efficient altitudes, and increase air traffic controller flexibility. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Public Meeting Notice	07/22/93	58 FR 39273
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Additional Information: Project Number: AFS-92-279R

Agency Contact: Roy Grimes, Technical Programs Division, Flight

Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3755

RIN: 2120–AE51

2149. +AIRPORT NOISE COMPATIBILITY PLANNING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44715; 49 USC 471-1; 49 USC 47501 to 47504

CFR Citation: 14 CFR 150

Legal Deadline: None

Abstract: This action would revise the requirements for developing noise exposure maps and noise compatibility programs and submitting them for FAA approval. The revisions are intended to expedite and simplify the part 150 process. Under the revised process, the mandatory set of noise abatement measures which are presently required to be considered by each airport sponsor would be limited in scope depending on the characteristics of each airport and its surrounding community. The new process would be supported by appropriate guidance, training, review, standardization, and consultation requirements. This project is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/97

Additional Information: Project Number: AEE-90-410R.

Agency Contact: Alan V. Trickey, Policy and Regulations Division, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3496

RIN: 2120–AE64

2150. MODE S TRANSPONDER REQUIREMENT FOR PART 135 OPERATORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; ...

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would revise the Mode S transponder requirement for all aircraft operating under part 135 and certain aircraft operating under part 121 based on the expected availability of operational capabilities of Mode S ground sensors. For part 121 operators, the action would affect only those aircraft not required to have Traffic Alert and Collision Avoidance System II. An aviation rulemaking advisory committee has recommended that the FAA conduct a study of the installed Mode S ground sensor to determine the extent of the benefits derived and the costs involved in equipage. This action is a relieving action made necessary by the fact that ground sensors are not in place to support the requirement. Further, FAA is studying the need for Mode S transponders in Part 135 and certain Part 121 operations in light of the fact that transponders may not substantially increase ATC ability to view air traffic. This rulemaking is considered significant because of the substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Additional Information: Project Number: AFS-92-297R.

Agency Contact: Daniel V. Meier, Jr., Airplane Rules and Aeronautical Information Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3749

RIN: 2120–AE81

2151. NASHVILLE, TN, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This notice proposes to establish Nashville Class B airspace and revoke Nashville Class C airspace in Tennessee. The Nashville Class B Airspace would consist of an area up to and including 6,000 feet mean sea level from the surface or higher within a 27-mile radius of the Nashville International Airport. This action is intended to increase the capability of the air traffic control system to separate aircraft in the terminal airspace around the Nashville International Airport.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/96

Additional Information: Project Number: ATP-93-361T

Agency Contact: Patricia Crawford, Airspace and Obstruction Evaluation Branch, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9255

RIN: 2120–AE93

2152. CINCINNATI, OH, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40101; 49 USC 40103; 49 USC 40105; 49 USC 40109; 49 USC 40113; 49 USC 44110; 49 USC 44502; 49 USC 44701 to 44702; 49 USC 44711; 49 USC 46102

CFR Citation: 14 CFR 11

Legal Deadline: None

Abstract: This action would alter the Cincinnati, OH, Terminal Control Area (TCA) to redefine the airspace around the Cincinnati/Northern International Airport. The objective of this proposal is to substantially increase safety while accommodating the legitimate concerns of airspace users.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Additional Information: Project Number: ATP-93-476T

Agency Contact: Patricia Crawford, Airspace and Obstruction Evaluation Branch, Airspace Rules & Aeronautical Info Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9255

RIN: 2120–AE97

2153. FLIGHT OPERATIONAL QUALITY ASSURANCE PROGRAM

Priority: Other

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; ...

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action would codify the Federal Aviation Administration's policy not to use information from voluntary Flight Operational Quality Assurance programs in any enforcement actions taken against operators or pilots. The proposed amendment responds to industry groups that have been reluctant to participate. These programs benefit aviation safety by providing information that can lead to improvements in training and operations. In 1995 the FAA will initiate a two-year concept demonstration study in partnership with industry. Based on the study, the FAA will issue an Advisory Circular. The FAA will use the information from the study to determine if it is appropriate to codify in the rules the immunity provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/96

Additional Information: Project Number: AFS-93-154R

Agency Contact: Dan Meier, Flight Standards Service, Regulations Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3789

RIN: 2120–AF04

2154. +AIR TOUR STANDARDS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716; ...

CFR Citation: 14 CFR 91; 14 CFR 135

Legal Deadline: None

Abstract: FAA is seeking information on air tour and sightseeing operations that are currently allowed to operate under less stringent regulations than those applied to other types of commercial operations. Over the past decade the number of these operations and the number of accidents and incidents associated with these operations have increased. Hot air balloons and gliders would not be included in this amendment. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/96

Additional Information: Project Number: AFS-91-012R. RIN 2120-AF61 which was proposed as a new item for this agenda was a duplicate of this rulemaking and has been terminated. This rulemaking was previously titled, "Sightseeing Operations."

Agency Contact: Dave Metzbower, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3749

RIN: 2120–AF07

2155. ORLANDO, FL, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action will propose to alter the Orlando, FL, Class B airspace area. This action would maintain the altitude of the upper limit of the Class B airspace area at 10,000 feet mean sea level and redefine several existing subareas to improve safety while providing the most efficient use of the terminal airspace.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/96

Additional Information: Project Number: ATP-94-150T

Agency Contact: Patricia Crawford, Airspace and Obstruction Evaluation Branch, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9258

RIN: 2120–AF17

2156. AVIATION INSURANCE

Priority: Other

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44301 to 44310

CFR Citation: 14 CFR 198

Legal Deadline: None

Abstract: This rulemaking would revise and update the aviation insurance requirements. This action is being taken to reflect current legislative language, to be current with industry practices, to reflect industry concerns, and to recapture administrative expenses incurred. This action will clarify the language and make it conform with the current legislative language and intent.

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/97

Additional Information: Project Number: APO-93-512R

Agency Contact: Ellie Eilenberg, Office of Policy, Plans, and Management Analysis, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3090

RIN: 2120–AF23

2157. NORMAL CATEGORY MAXIMUM WEIGHT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: The FAA announced a public meeting to discuss the use of Aviation Rulemaking Advisory Commission procedures in future harmonized rulemaking. One specific rulemaking discussed was a proposed increase in the current maximum gross weight limitation of 6,000 pounds for certification as a normal category rotorcraft. This project has been assigned to ARAC.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	02/05/94	59 FR 554
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/96

Agency Contact: Kim Smith, Rotorcraft Standards Staff, Rotorcraft Directorate, Department of Transportation, Federal Aviation Administration, ASW-110, FAA, Fort Worth, TX 76193-0110 Phone: 817 222-5128

RIN: 2120–AF33

2158. +CONTROLLED REST ON THE FLIGHT DECK

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This proposal would allow part 121 certificate holders who operate aircraft that require three flight crewmembers, two pilots and a flight engineer, to implement a controlled rest on the flight deck program. Under the program, when cockpit workload permits, one flight crewmember at a time would be given the opportunity to sleep for a brief period of time at his or her duty station during the cruise portion of a flight. Before using the controlled rest concept, however, the certificate holder would have to obtain approval for its program from the FAA. This proposal originated as a recommendation from the Aviation Rulemaking Advisory Committee and responds to industry interest in developing a controlled rest program that is approved by the FAA. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/96

Additional Information: Project Number: AFS-92-764A

Agency Contact: Larry Youngblut, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3755

RIN: 2120–AF54

2159. PROPOSED MODIFICATION OF THE PHOENIX, AZ, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action will propose to alter the Phoenix, AZ, Class B airspace area by redefining several existing subareas to improve air traffic procedures. The goal of this action is to improve safety while providing the most efficient use of the terminal airspace.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/96

Additional Information: Project Number: ATP-94-623R

Agency Contact: Norman W. Thomas, Airspace and Obstruction Evaluation Branch, Rules and Aeronautical Information Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9230

RIN: 2120–AF58

2160. +SUBMISSION TO DRUG TESTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 45102 to 45103; ...

CFR Citation: 14 CFR 61; 14 CFR 63; 14 CFR 91

Legal Deadline: None

Abstract: This action would propose amendments to require aircraft crewmembers to submit to tests that show the presence of alcohol, drugs, or drug metabolites when requested by Federal, State, or local law enforcement officers investigating violations of Federal, State, or local law. The proposed amendments are intended to reduce aircraft accidents and incidents attributed to the use of drugs by crewmembers. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Additional Information: Project Number: AFS-90-082

Agency Contact: Thomas K. Glista, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8150

RIN: 2120–AF64

2161. TYPE CERTIFICATION PROCEDURES FOR CHANGED PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40101; 49 USC 40103; 49 USC 40105; 49 USC 40109; 49 USC 40113; 49 USC 44110; 49 USC 44502; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715; ...

CFR Citation: 14 CFR 11; 14 CFR 21; 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the procedural regulations for the certification of changes to type certificated products. The amendments are needed to accommodate the trend toward fewer products that are of completely new design and more products with repeated changes of previously approved designs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/96

Additional Information: Project Number: AIR-95-053A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: Lyle Davis, Office of Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9583

RIN: 2120–AF68

2162. +PASSENGER FACILITY CHARGES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40116 to 40117; 49 USC 47111; 49 USC 47114 to 47116

CFR Citation: 14 CFR 158

Legal Deadline: None

Abstract: This action proposes to increase the amount of compensation that a carrier may earn for collecting and remitting a passenger facility charge from eight cents to ten cents. In addition, the NPRM proposes to clarify that monthly remittances must be received by airport public agencies collecting PFCs on the last day of each month. The NPRM also proposes to amend the regulation to reflect the statutory prohibition on collection of PFCs from passengers using frequent flyer bonus awards. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Additional Information: Project Number: APP-94-568P.

Agency Contact: Sheryl Scarborough, Airport Financial Assistance Division, Office of Airports Planning and Programming, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8825

RIN: 2120–AF69

2163. WATER AND HAIL INGESTION STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action proposes changes to the water and hail ingestion standards for aircraft turbine engines. This proposal addresses an engine power-loss instability phenomena attributed to operation in extreme rain or hail that is not adequately addressed by current requirements. This proposal also harmonizes with requirements being drafted by the Joint Aviation Authorities (JAA). The proposed changes, if adopted, will establish one set of common requirements, thereby reducing the hardship on the United States and worldwide aviation industry, by eliminating the need for manufacturers to comply with different sets of standards when seeking validation from the FAA and JAA.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/96

Additional Information: Project Number: ANE-93-734A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: John Golinski, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803-5299
Phone: 617 238-7114

RIN: 2120–AF75

2164. +FLIGHT DATA RECORDERS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901 to 44904; 49 USC 44906; 49 USC 44912; ...

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline: None

Abstract: This notice would revise the Federal Aviation Regulations to require additional recorded parameters on Flight Data Recorders. This action follows a recommendation from the National Transportation Safety Board. If adopted, these amendments would allow for more comprehensive accident and incident information to be gathered, thereby potentially reducing future accidents and incidents. This rulemaking is considered significant because of anticipated costs and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Additional Information: Project Number: AIR-95-267R.

Agency Contact: Frank Rock, Office of Aircraft Certification, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9567

RIN: 2120–AF76

2165. MISCELLANEOUS CABIN SAFETY CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to revise the airworthiness standards for transport category airplanes relating to flight attendant assist space, flight attendant assist handles, door hold open features, outside viewing means, interior compartment doors and portable oxygen equipment. With one exception, these proposals are not the result of any specific incident or recommendation, but are part of the FAA's continuing effort to upgrade the regulations to improve the overall level of safety in areas where the state-of-the-art and good design practice have indicated that such upgrades are warranted. These proposals would result in both new type design regulations as well as requirements applicable to existing designs implemented bia the operating rules.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/96

Additional Information: Project Number: ANM-90-016R.

Agency Contact: Jeff Gardlin, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98059-4056
Phone: 206 227-2114

RIN: 2120–AF77

2166. REVISION OF HYDRAULICS SYSTEMS AIRWORTHINESS STANDARDS TO HARMONIZE WITH EUROPEAN AIRWORTHINESS STANDARDS FOR TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposes to amend the airworthiness standards for transport category airplanes to harmonize hydraulic systems design and test requirements with standards proposed for the European Joint Aviation Requirements. These proposals were developed in cooperation with the Joint Aviation Authorities of Europe and the US and European aviation industry through the Aviation Rulemaking Advisory Committee (ARAC). These changes are intended to benefit the public interest by standardizing certain requirements, concepts, and procedures contained in the airworthiness standards without reducing and potentially enhancing the current level of safety.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/00/96

Additional Information: Project Number: ANM-93-730A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: Manhidner Wahi, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2112

RIN: 2120–AF79

2167. BRAKED ROLL CONDITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This proposed rulemaking would amend the requirements for landing gear braking on transport category airplanes to require that the airplane be designed to withstand main landing gear maximum braking forces during ground operations. This action would ensure that the landing gear and fuselage are capable of withstanding the dynamic loads associated with the maximum dynamic braking condition, and would also relieve a burden on industry by eliminating differences between the Federal Aviation Regulations (FAR) and European Joint Aviation Requirements (JAR).

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/00/96

Additional Information: Project Number: ANM-94-462A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: Iven Connally, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2120

RIN: 2120–AF83

2168. BIRD INGESTION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action proposes changes to amend the type certification standards for aircraft turbine engines that concern bird ingestion. This proposal updates the current bird ingestion standards to reflect recent analysis defining the actual bird threat encountered by turbine engines. This proposal also harmonizes the FAA's type certification standards on this issue with requirements being drafted by the Joint Aviation Authorities (JAA). The proposed changes, if adopted, would establish one set of common requirements, and thereby reduce the regulatory hardship on the aviation industry by eliminating the need for manufacturers to comply with different sets of standards when seeking type certification from the FAA and validation from the JAA.

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/97

Additional Information: Project Number: ANE-93-733A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: John Golinski, Engine and Propeller Directorate, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803-5299
Phone: 617 238-7119

RIN: 2120–AF84

2169. HOUSTON, TEXAS, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action will propose to modify the Houston, Texas, Class B Airspace area. This action would maintain the altitude of the upper limit of the Class B airspace area at 10,000 feet mean sea level and redefine several existing subareas to improve safety while providing the most efficient use of the terminal airspace.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/96

Additional Information: Project Number: ATP-95-417T.

Agency Contact: William C. Nelson, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9295

RIN: 2120–AF88

2170. • NON-FEDERAL AIR TRAFFIC CONTROL FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: Not yet determined

CFR Citation: None

Legal Deadline: None

Abstract: The FAA proposes to establish rules governing the minimum operational requirements for those air traffic control facilities not operated by the United States (non-Federal). The FAA is taking this action to ensure that these entities operate at a level equivalent to those facilities presently being operated by the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/96

Additional Information: Project Number: ATP-95-021R.

Agency Contact: Joseph C. White, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8783

RIN: 2120–AF91

2171. • +AIRSPACE MANAGEMENT OVER GRAND CANYON NATIONAL PARK

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306; ...

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: On August 18, 1987, Congress enacted legislation that

required a study of aircraft noise impacts at a number of National parks and imposed flight restrictions at three parks, including Grand Canyon National Park (Pub.L 100-91). Among other requirements, Pub.L. 100-91 mandated the Department of Interior/National Park Service (DOI/NPS) to submit a final report and recommendations to Congress on the effectiveness of the airspace management plan over Grand Canyon National Park. This proposed rulemaking is the result of the Federal Aviation Administration's (FAA) review of the DOI/NPS report and recommendations, which were submitted to Congress on September 14, 1995. The FAA is considering proposing to restrict flight operations in certain areas of the park and modify some of the current flight areas. The proposed rule is considered significant because of its potential impact on air tour operators.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Additional Information: Project Number: ATP-95-236R.

Agency Contact: Ellen Crum, Air Traffic Rules Branch, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9859

RIN: 2120–AF93

2172. • NATIONAL SECURITY AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40120; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; ...

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action will propose to add a new section to part 91 of the Code of Federal Regulations that would address National Security Areas and the associated NOTAM responsibility of the FAA Administrator in issuing temporary flight restrictions governing the operational responsibilities of pilots operating aircraft near national security areas.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/96

Agency Contact: Joseph C. White, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8783

RIN: 2120–AF97

2173. +COMMERCIAL SPACE TRANSPORTATION: FINANCIAL RESPONSIBILITY REQUIREMENTS FOR LICENSED LAUNCH ACTIVITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 70101 to 70119

CFR Citation: None

Legal Deadline: None

Abstract: Persons authorized to conduct commercial launch activities by a license issued by the Office of Commercial Space Transportation (OCST) are required to obtain insurance or demonstrate financial responsibility, in amounts and on terms prescribed by OCST, to protect against third-party or government property damage claims resulting from the licensed activities. Licensees and other launch participants are also required to enter into reciprocal waivers of claims arising out of licensed activities. In addition, persons engaged in commercial launch operations must provide proof of financial responsibility, or offer other assurances, adequate to protect the Government when its property or personnel are involved in such operations. This rulemaking codifies the procedures by which OCST sets appropriate levels and terms of insurance and financial responsibility required to be carried by persons subject to its authority. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/85	50 FR 19290
ANPRM Comment Period End	07/08/85	
Public Meeting Notice and Request for Comments	10/13/94	59 FR 52020
Comment Period Extended to 12/16/94	12/05/94	59 FR 62359
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation

Additional Information: The rulemaking entitled Commercial Space Transportation: Reciprocal Waiver of Claims, RIN 2105-AB76, has been consolidated into this rulemaking.

This rule was transferred from the Office of the Secretary, Department of Transportation, to the Federal Aviation Administration due to Transfer of Delegations. See 60 FR 62762, December 7, 1995, for information of the delegation.

Project Number: AST-96-142R.

Agency Contact: Esta Rosenberg, Attorney Advisor, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-9305

RIN: 2120–AF98

2174. +LICENSING COMMERCIAL SPACE LAUNCH ACTIVITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 400 to 415

Legal Deadline: None

Abstract: The Commercial Space Launch Act of 1984, as amended, grants the Department of Transportation's Office of Commercial Space Transportation authority to license and otherwise regulate commercial launches and the commercial operation of launch sites. The Office must ensure that commercial space launch activities are conducted in a manner that does not jeopardize public health and safety and the safety of property, without, however, imposing unnecessary regulatory burdens on the commercial launch industry. The industry has grown in size and complexity since the original regulations were published in 1988, and the Office's licensing program continues to evolve to reflect these changes. This rulemaking would modify the current regulations to reflect a streamlined and more mature licensing regime developed over the past few years. Such changes would benefit the industry by reducing regulatory burdens, thus reducing costs.

This rulemaking is significant because of substantial public interest.

Statement of Need: On April 4, 1988, the Office of Commercial Space Transportation (OCST) published final regulations for licensing commercial space launch activities. The regulations include the general administrative procedures of OCST as well as revised and expanded policies for licensing commercial launch activities. The industry has grown in size and complexity since the licensing regulations were first published in 1988. As a result, the Office has continued to refine its approach to licensing launch proposals in a manner that facilitates private sector launch activities. This rulemaking would modify the current regulations to reflect a more efficient licensing regime. In addition, the rulemaking will address the procedures and requirements applicable to the licensing of commercial spaceport operators.

Summary of the Legal Basis: The Commercial Space Launch Act of 1984, as amended, 49 USC 70101 to 70119, confers upon the Department of Transportation the responsibility to license and otherwise regulate launches by the private sector of launch vehicles and the commercial operation of launch sites. The Department's Office of Commercial Space Transportation carries out this responsibility for ensuring that these commercial launch activities do not jeopardize public health and safety, the safety of property, and national security and foreign policy interests of the United States.

Alternatives: No alternatives were considered. OCST is required by the Commercial Space Launch Act to review and act upon applications for licenses to conduct commercial launches and commercial launch site operations. The Act does not permit OCST to follow alternative approaches in carrying out this responsibility. Therefore, although this rulemaking will make further refinements to the licensing process, the basic regulatory approach will not change.

Anticipated Costs and Benefits: The rule should impose no additional costs on the commercial space transportation industry. By streamlining the licensing process that is already in place, the rule should benefit the industry by reducing the regulatory burden. The rule should benefit the Office by establishing a more efficient licensing mechanism, thereby reducing staff time.

Risks: DOT's Office of Commercial Space Transportation must ensure that commercial space launch activities do not jeopardize public health and safety and the safety of property and also ensure compliance with international obligations of the United States. Although the historical safety record of government and commercial launch firms is excellent, significant risks or hazards are presented by the launch of launch vehicles. Risks or hazards include possible explosions and fires involving liquid or solid rocket propellants and ordnance, as well as the generation of launch vehicle and payload debris. Launch accidents, including in-flight failures of guidance or destruction systems, may result in injury to launch personnel and the public and in damages to or loss of government and private property. The potential maximum probable loss for injuries and damages from a single launch typically is in the tens of millions of dollars. The OCST licensing process, in conjunction with U.S. Government launch facilities' range safety control procedures, are directed at ensuring that these launch activities do not jeopardize public safety or U.S. national interests. In addition, OCST imposes financial responsibility requirements on licensees to protect the public and the government, pursuant to the 1988 amendments to the Commercial Space Launch Act.

Timetable:

Action	Date	FR Cite
Public Meeting Notice and Request for Comments	10/13/94	59 FR 52020
Comment Period Extended to 12/16/94	12/05/94	59 FR 62359
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Evaluation

Additional Information: This rule was transferred from the Office of the Secretary, Department of Transportation, to the Federal Aviation Administration due to Transfer of Delegations. See 60 FR 62762, December 7, 1995, for information of the delegation.

Project Number: AST-96-142R.

Agency Contact: Frank Weaver, Director, Office of Commercial Space Transportation, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2937

RIN: 2120–AF99

2175. • ALTERATION OF THE DALLAS-FORT WORTH INTERNATIONAL (DFW) AIRPORT CLASS B AIRSPACE AREA, DALLAS, TEXAS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action will alter the existing Class B airspace area. This alteration redefines several existing sub-areas and will raise the upper limit of the Dallas-Fort Worth airspace area from 10,000 feet to 11,000 feet mean sea level (MSL), except for the reconfigured northern and southern sections. This action will improve safety, air traffic procedures, and air traffic flow in Dallas-Fort Worth area.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/96

Additional Information: Project Number: ATP-95-271T.

Agency Contact: William Nelson, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9295

RIN: 2120–AG00

2176. • REVISION OF CERTIFICATION REQUIREMENTS: AIRCRAFT DISPATCHERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 65

Legal Deadline: None

Abstract: This action proposes to amend the regulations that prescribe the certification and training requirements for aircraft dispatchers. Current regulations prescribing these certification requirements do not reflect the significant technological advances that have occurred in the aviation industry and the enhancements in training and instructional methods that have affected all aircraft dispatchers. The proposal would consolidate and clarify all certification, training, and experience requirements for aircraft dispatchers in newly revised part 65, subpart C, and appendix A of part 65.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Additional Information: Project Number: AFS-94-171A.

Agency Contact: Tom Toula, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3718

RIN: 2120–AG04

2177. • REMOVAL OF PART 159: NATIONAL CAPITAL AIRPORTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 2402; 49 USC 2404; PL 99-591

CFR Citation: 14 CFR 159

Legal Deadline: None

Abstract: This action would remove a rule from the Code of Federal Regulations that is no longer needed. Part 159 deals with airport rules and regulations at Washington and Dulles Airports when they were owned and operated by the Federal Aviation Administration. As these airports are no longer part of the agency, and the current airport operator, Metropolitan Washington Airport Authority, has adequate statutory authority to regulate operations, this regulation is unnecessary.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/96

Additional Information: Project Number: ASS-96-147R.

Agency Contact: Donald P. Byrne, Assistant Chief Counsel, Regulations Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20707 Phone: 202 267-3073

RIN: 2120–AG05

2178. • +DURATION BETWEEN EXAMINATIONS FOR FIRST- AND SECOND-AIRMAN MEDICAL CERTIFICATES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This proposed action would reduce the required frequency of medical examinations for many holders of first- and second-class airman medical certifications, based on the age of the airman. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	02/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/00/97

Additional Information: Project Number: AAM-95-065R.

Agency Contact: Dennis McEachen, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 493-4075

RIN: 2120–AG06

2179. • FEES FOR AEROMEDICAL EDUCATION TRAINING SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701; 49 USC 106(g); 49 USC 40104; 49 USC 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44702; 49 USC 45301 to 45303

CFR Citation: 14 CFR 187

Legal Deadline: None

Abstract: This action would establish (1) a schedule of fees for all aeromedical education training services, (2) the methodology for computing user fees, and (3) a timetable for periodical updates of established fees. The proposal is necessary to permit the FAA to recover the costs incurred in sponsoring aeromedical education training services.

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/97

Additional Information: Project Number: AAM-95-065R.

Agency Contact: B. J. Hudson, Aeromedical Standards Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 493-4077

RIN: 2120–AG07

2180. • +FALSE AND MISLEADING STATEMENTS REGARDING AIRCRAFT PARTS

Priority: Other Significant

Legal Authority: 49 USC 44913

CFR Citation: None

Legal Deadline: None

Abstract: This action proposes additional rules that would prohibit certain false or misleading statements regarding civil aircraft, airframes, aircraft engines, propellers, appliances, component parts, and materials, including standard parts, that are used, or may be used, on civil aircraft. The proposals would also permit increased inspection by the FAA of records regarding the quality of aircraft parts. The additional rules are needed to help prevent persons from representing parts as suitable for use on civil aircraft when in fact they may not be. The proposals are intended to provide assurance that aircraft owners and operators, and persons who maintain aircraft, have truthful information on which to determine whether a part may be used in a given civil aircraft application.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/00/97

Additional Information: Project Number: AGC-94-549R.

Agency Contact: Mardi Ruth Thompson, Regulations Division, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3073

RIN: 2120–AG08

2181. • +SPECIAL FLIGHT RULES IN THE VICINITY OF THE ROCKY MOUNTAIN NATIONAL PARK

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; ...

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 127; 14 CFR 135

Legal Deadline: None

Abstract: The FAA is considering whether to propose an SFAR that would be of limited duration and would propose certain operating procedures for air tour flights operated in the airspace over Rocky Mountain National Park (RMNP). The purpose of the NPRM is to solicit comments on the need for Federal intervention and the appropriateness of various alternative actions listed in the NPRM. The NPRM is in response to several requests for action from various individuals and local, State, and Federal elected officials. This is considered significant because of interagency effect and important policy.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Additional Information: Project Number: ATO-96-207R

Agency Contact: Terry Brown, Airspace and Rules Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9193

RIN: 2120–AG11

DEPARTMENT OF TRANSPORTATION (DOT) — Final Rule Stage

Federal Aviation Administration (FAA)

2182. +FUEL SYSTEM VENT FIRE PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44721; 49 USC 44722; 49 USC 44901; ...

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require fuel vent system protection during post-crash ground fires. This proposed rule would apply to air carriers, air taxi operators, and commercial operators of transport category airplanes, as well as the manufacturers of such airplanes. This action is considered significant because of substantial public interest and the safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	09/26/84	49 FR 38078
ANPRM Comment Period End	01/25/85	
NPRM	02/02/95	60 FR 6632
NPRM Comment Period End	06/02/95	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/96

Additional Information: Docket 24251. Formerly entitled Implementation of SAFER Propulsion System Recommendations. Project No. ANM-82-050R.

Agency Contact: Mike McRae, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056 Phone: 206 227-2116

RIN: 2120–AA49

2183. MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 5103; 49 USC 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44703; 49 USC 44705; 49 USC 44706; 49 USC 44707; 49 USC 44709; 49 USC 44710; 49 USC 44711; 49 USC 44712; ...

CFR Citation: 14 CFR 21; 14 CFR 65; 14 CFR 107; 14 CFR 121; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: This FAA is withdrawing a previously published Notice of Proposed Rulemaking (NPRM) that proposed to amend various sections of the regulations. The proposal was to clarify language, correct improper or obsolete references, and to relax certain existing requirements. Since publication of the NPRM, many other completed, in-process, or planned actions have addressed or will address many of the issues involved. The FAA has determined that all unresolved issues should be included in more recent actions dealing with the specific sections of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/03/83	48 FR 45214
NPRM Comment Period End	12/02/83	
Withdrawal Notice	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/03/83 (48 FR 45214)

Additional Information: Docket No. 23781. Project No. ARM-81-128R.

Agency Contact: Jean Casciano, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9683

RIN: 2120–AA50

2184. PART 95 INSTRUMENT FLIGHT RULES

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40113; 49 USC 40114; 49 USC 40120; 49 USC 44502; 49 USC 44514; 49 USC 44719; 49 USC 44721

CFR Citation: 14 CFR 95

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--1,000. 10/00/95 - 10/00/96.

Timetable:

Action	Date	FR Cite
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louis C. Cusimano, General Aviation and Commercial Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8212

RIN: 2120–AA63

2185. AIRWORTHINESS DIRECTIVES

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701

CFR Citation: 14 CFR 39

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently in order to correct known or expected safety problems on type certificated products. Total actions expected--400. 10/00/95 to 10/00/96.

Timetable:

Action	Date	FR Cite
Final Action	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Jack McGrath, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9580

RIN: 2120–AA64

2186. STANDARD INSTRUMENT APPROACH PROCEDURES

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40113 to 40114; 49 USC 40120; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 44721 to 44722

CFR Citation: 14 CFR 97

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--1,000. 10/00/95 - 10/00/96.

Timetable:

Action	Date	FR Cite
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louis C. Cusimano, General Aviation and Commercial Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8212

RIN: 2120–AA65

2187. AIRSPACE ACTIONS

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71; 14 CFR 73; 14 CFR 75

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--240. 10/00/95 through 10/00/96.

Timetable:

Action	Date	FR Cite
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Huff, Manager, Airspace Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3075

RIN: 2120–AA66

2188. +AIRCRAFT FLIGHT SIMULATOR USE IN PILOT TRAINING, TESTING, AND CHECKING AND AT TRAINING CENTERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44703; 49 USC 44705; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44712 to 44713; 49 USC 44713; 49 USC 44715 to 44717; 49 USC 44722; ...

CFR Citation: 14 CFR 61; 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135; 14 CFR 141; 14 CFR 142

Legal Deadline: None

Abstract: This action would amend the pilot and flight instructor certification rules to include additional use of aircraft, aircraft flight simulators, and flight training devices for pilot training, testing, and checking. This action also would establish a new part 142 that would govern a new concept called training centers. This new concept will emphasize the use of flight simulators in training applicants for pilot certificates. This rulemaking is considered significant because of substantial public interest; it involves a major change in the way industry trains applicants.

Statement of Need: The training roles of several elements of the aviation community have expanded during the past 10 years. In October 1989, an advisory committee studying matters relating to training and qualification recommended that the FAA standardize the use of flight simulators and flight training devices, provide a means to certificate entities called training centers, and permit the training centers to apply for national approval of core curriculums that could be used by individuals receiving training. This rulemaking project responds to this recommendation by including the concept of a certificated training center.

Summary of the Legal Basis: Secs. 601 and 602 of the Federal Aviation Act: section 601 empowers the Administrator to prescribe the minimum standards governing appliances such as simulators; section 602 empowers the Administrator to issue airmen certificates.

Alternatives: Since the FAA accepted the recommendations of the advisory committee, it will not pursue any nonregulatory options.

Anticipated Costs and Benefits: The total 10-year cost to implement part 142 is estimated to be about $1.3 million discounted. The benefits of this rule, however, far outweigh its costs. Most of the cost savings come from lowered operations costs. The estimated savings from existing simulator training centers training pilots will be $808 million, discounted over the next 10 years.

Risks: Flight simulators will expand under the changes in the simulator rule. The future use of simulators should reduce the need for pilot instructional flights and the incidence of instructional flight accidents. Each year many student pilots and their instructors die in instructional flight accidents. In the 10-year period 1983 through 1993, the National Transportation Safety Board reported 307 fatal instructional accidents resulting in 553 fatalities. The FAA estimates the average value of such an accident equals $4.8 million. Instructional flight accidents are a risk that would follow in the absence of the simulator rule.

Timetable:

Action	Date	FR Cite
NPRM	08/11/92	57 FR 35888
NPRM Comment Period End	12/09/92	
SNPRM Comment Period End 3/22/93	02/19/93	58 FR 9514
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/11/92 (57 FR 35888)

Additional Information: This project was formerly entitled "Aircraft Simulator Use in Airman Training and Certification." Project Number AFS-83-105R.

The SNPRM clarified or eliminated certain provisions found to be unclear or inappropriate for present consideration.

Agency Contact: Warren Robbins, Manager, Regulations Branch, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8150

RIN: 2120–AA83

2189. +IMPROVED STANDARDS FOR DETERMINING REJECTED TAKEOFF AND LANDING PERFORMANCE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716; ...

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135; 14 CFR 1; 14 CFR 91

Legal Deadline: None

Abstract: This action would amend parts 25, 121, and 135 of the Federal Aviation Regulations to add new standards for transport category airplanes which would provide for approval of a reduced takeoff decision speed (V1) methodology for takeoff on wet and contaminated runways. As a result of extensive review and due to the increasing emphasis on harmonizing certification standards with the Joint Aviation Authorities (JAA) of Europe, the NPRM of 11/30/87 was withdrawn and a revised one published. This rulemaking is significant because of substantial public interest in both the United States and Europe.

Timetable:

Action	Date	FR Cite
NPRM	11/30/87	52 FR 45576
NPRM Comment Period End	03/30/88	
NPRM Withdrawn	07/02/93	58 FR 36116
Second NPRM	07/08/93	58 FR 36738
Second NPRM Comment Period End	11/05/93	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/08/93 (58 FR 36738)

Additional Information: This project was formerly entitled "Standards for Approval of a Wet Runway Reduced V1 Methodology and Improved Takeoff and Landing Braking Performance." Project Number ANM-83-030R.

DOT—FAA — Final Rule Stage

Agency Contact: Don Stimson, Flight Test and Systems Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-1129

RIN: 2120–AB17

2190. STANDARDS FOR APPROVAL FOR HIGH-ALTITUDE OPERATION OF SUBSONIC TRANSPORT AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations to specify airplane and equipment airworthiness standards for subsonic transport airplanes to be operated up to an altitude of 51,000 feet. This proposal was prompted by an increase in the number of applications received to raise the maximum certificated operating altitude for transport category airplanes. This action is intended to ensure an acceptable level of safety for airplanes operated at high altitudes.

Timetable:

Action	Date	FR Cite
NPRM	11/22/89	54 FR 48538
NPRM Comment Period End	05/21/90	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Analysis: Regulatory Evaluation 11/22/89 (54 FR 48538)

Additional Information: Project No. ANM-83-022R.

Agency Contact: Bob McCracken, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2118

RIN: 2120–AB18

2191. AIRWORTHINESS STANDARDS; TRANSPORT CATEGORY ROTORCRAFT PERFORMANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: This action would revise the performance requirements for transport category rotorcraft. The changes are needed to define more clearly the factors for determining takeoff distances for transport category rotorcraft and to add several other relevant standards. These changes would provide for an improved level of safety achievable because of recent technological advances in turboshaft engine design and associated rotorcraft design. The SNPRM proposed to add a minimum descent height of 15 feet.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/85	50 FR 42126
ANPRM Comment Period End	06/06/86	
NPRM	01/08/90	55 FR 698
NPRM Comment Period End	07/09/90	
SNPRM	06/29/94	59 FR 33598
SNPRM Comment Period End	08/29/94	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/08/90 (55 FR 698)

Additional Information: Project No. ASW-83-006R.

Agency Contact: Thomas Archer, Regulations Group, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, TX 76193
Phone: 817 222-5112

RIN: 2120–AB36

2192. LOW FUEL QUANTITY ALERTING SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require a means to alert the flight crew of potentially unsafe low fuel quantities. There have been several fuel depletion incidents involving loss of power or thrust on all engines that could have resulted in forced landings and injury or loss of life. Most of these incidents resulted from improper fuel management techniques. This proposed amendment would require new transport category airplane designs to incorporate a low fuel quantity alert system that would allow for correction of certain fuel management errors or provide the flightcrew the opportunity to make a safe landing prior to engine fuel starvation.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17890
NPRM Comment Period End	09/09/87	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/12/87 (52 FR 17890)

Additional Information: Docket No. 25213. Project No. ANM-83-039R.

Agency Contact: Neil Schalekamp, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056
Phone: 206 227-2135

RIN: 2120–AB46

2193. +FLIGHT ATTENDANT REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

DOT—FAA — Final Rule Stage

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: The FAA is withdrawing a previously published Notice of Proposed Rulemaking (NPRM) that proposed to clarify or change the number of flight attendants required when passengers are on board an airplane, including at stops. In view of the fact that the NPRM was issued in 1989, and in view of the opposition and alternative proposals presented by a number of commenters, the FAA wants to reanalyze its proposal in view of current operating practices.

Timetable:

Action	Date	FR Cite
NPRM	04/14/89	54 FR 15134
NPRM Comment Period End	07/13/89	
Withdrawal Notice	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/14/89 (54 FR 15134)

Additional Information: Project No. AFS-86-077R.

Agency Contact: Donnell Pollard, Air Transportation Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8096

RIN: 2120–AC32

2194. +TYPE AND NUMBER OF PASSENGER EMERGENCY EXITS REQUIRED IN TRANSPORT CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44703; 49 USC 44705; 49 USC 44707; 49 USC 44711; 49 USC 44713; 49 USC 44717

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the current requirements for passenger emergency exits and adopt two new exit types into the regulations. These proposals are intended to provide more consistent standards with respect to passenger seating allowed for each exit type, and the type and number of exits required for passenger seating configurations. This notice proposed to reduce the maximum inflation time of an escape slide to reflect the current state of the art. These changes resulted from the Public Technical Conference on Emergency Evacuation of Transport Airplanes held in Seattle, Washington, on September 3-6, 1985. This rulemaking is considered significant because it involves an important cabin-safety issue.

Timetable:

Action	Date	FR Cite
NPRM	02/22/90	55 FR 6344
NPRM Comment Period End	08/21/90	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/22/90 (55 FR 6344)

Additional Information: Project No. ANM-87-006R.

Agency Contact: Gary Killion, Regulations Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2114

RIN: 2120–AC43

2195. +IMPROVED SURVIVAL EQUIPMENT FOR INADVERTENT WATER LANDINGS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; ...

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: NPRM, Statutory, June 28, 1988.
PL 100-223, Section 303, Airport and Airway Safety and Capacity Enhancement Act of 1987.

Abstract: This action would add new requirements for water survival equipment carried aboard airplanes and rotorcraft. The requirements would apply, after specified dates, to U.S.-certificate holders that conduct common-carriage operations with airplanes and rotorcraft. This action is in response to the Airport and Airway Safety and Capacity Enhancement Act of 1987 (PL 100-223) and relates to safety recommendations by the National Transportation Safety Board. The requirements are intended to increase the likelihood of aircraft passengers surviving a crash landing in water and, thus, this rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24890
NPRM Comment Period End	11/28/88	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/30/88 (53 FR 24890)

Additional Information: Project No. AIR-85-265R.

Agency Contact: John Petrakis, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9574

RIN: 2120–AC72

2196. +RETROFIT OF IMPROVED SEATS IN AIR CARRIER TRANSPORT CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; ...

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: NPRM, Statutory, April 28, 1988.
PL 100-223 Sec 303

Abstract: This action would require that all seats of transport category airplanes used in air carrier operations and transport category airplanes used

in scheduled intrastate service comply with improved crashworthiness standards. The Airport and Airways Safety and Capacity Expansion Act of 1987 directs the Secretary of Transportation to initiate a rulemaking proceeding to consider requiring all seats onboard all air carrier aircraft to meet improved crashworthiness standards based upon the best available testing standards. The intended effect of this action is to increase passenger protection and survivability in survivable impact accidents. This rulemaking is considered significant because of its safety implications and statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17650
NPRM Comment Period End	10/14/88	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/17/88 (53 FR 17650)

Additional Information: Docket 25611. Project No. AIR-88-136R.

Agency Contact: John Petrakis, Aircraft Engineering Division, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9274

RIN: 2120–AC84

2197. INSTALLATION OF CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: NPRM, Statutory, February 3, 1989.
Public Law 100-591, Aviation Safety Research Act of 1988.

Abstract: This preliminary action was initiated to determine the feasibility of installing, in all air carrier aircraft, crashworthy fuselage fuel tanks and fuselage fuel lines which are rupture resistant and which disconnect and seal in the event of an accident. This notice solicited public participation in identifying and selecting a regulatory course of action by inviting interested persons to submit specific comments and arguments concerning this proposed regulatory action. Originally this rulemaking was considered significant. However, because there is no substantial public interest, this rulemaking is no longer significant.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/89	54 FR 18824
ANPRM Comment Period End	10/30/89	
Final Action	02/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Project No. ANM-89-005R.

Agency Contact: Mike Dostert, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056 Phone: 206 227-2132

RIN: 2120–AC87

2198. +DRUG ENFORCEMENT ASSISTANCE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44702 to 44703; 49 USC 44704; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111; ...

CFR Citation: 14 CFR 13; 14 CFR 47

Legal Deadline: Final, Statutory, September 18, 1989.
FAA Drug Enforcement Assistance Act of 1988.

Abstract: This action would revise certain requirements concerning registration of aircraft, certification of pilots, and penalties associated with registration and certification violations. This notice also announced new procedures for processing major repair and alteration forms which pertain to fuel system modifications. Actions announced in this notice respond to the FAA Drug Enforcement Assistance Act. The requirements and adopted procedures are intended to assist law enforcement agencies in their efforts to stop drug trafficking in general aviation aircraft. This rulemaking is significant because of substantial and public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/12/90	55 FR 9270
NPRM Comment Period End	05/11/90	
Comment Period Extended to 07/11/90	05/16/90	55 FR 20394
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/12/90 (55 FR 9270)

Additional Information: Project No. AFS-89-035R.

Agency Contact: Sharon Ashford, Flight Standards Service, Department of Transportation, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 MacArthur Boulevard, Oklahoma City, Oklahoma 73125
Phone: 405 954-7038

RIN: 2120–AD16

2199. AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES; PROPOSAL FOR NEW ONE-ENGINE-INOPERATIVE RATINGS, DEFINITIONS, AND TYPE CERTIFICATION STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 1; 14 CFR 33

Legal Deadline: None

Abstract: The Aerospace Industries Association of America, Inc., petitioned the FAA to provide new one-engine-inoperative ratings for rotorcraft engines and their application to rotorcraft. This action responds to that petition and defines and establishes type certification standards for new one-engine-inoperative ratings for rotorcraft engines.

Timetable:

Action	Date	FR Cite
NPRM	09/22/89	54 FR 39080
Notice of Public Hearing	10/13/89	54 FR 41986
NPRM Comment Period End	03/27/90	
SNPRM Comment Period End	02/07/95	60 FR 7380
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/22/89 (54 FR 39080)

Additional Information: Project No. ANE-85-001R.

Agency Contact: Chung Hsieh, Engine and Propeller Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803 Phone: 617 238-7116

RIN: 2120–AD21

2200. +SOLE RADIO NAVIGATION SYSTEM; MINIMUM STANDARDS FOR CERTIFICATION

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91

Legal Deadline: Final, Statutory, September 30, 1989.
Airway Safety and Capacity Expansion Act of 1987 (PL 100-223)

Abstract: The FAA is withdrawing a previously published Advance Notice of Proposed Rulemaking (ANPRM) that proposed to establish minimum standards under which a radio navigation system may be certified as the sole radio navigation system required in an aircraft conducting Instrument Flight Rules en route and terminal area operations, including nonprecision approach, in controlled airspace of the United States. This rulemaking was considered to be significant because of a congressional mandate. However, the provision was REPEALED in 1994 as part of the recodification of Title 49. The provision was originally enacted as Section 310(c) in FAA's 1987 Reauthorization bill, Pub. L. No. 100-123.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/90	55 FR 2206
ANPRM Comment Period End	05/22/90	
Withdrawal Notice	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Project No. AFS-89-215R. This project was formerly entitled Solo Means Radio Navigation System.

Agency Contact: James Crowling, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-5215

RIN: 2120–AD26

2201. +AIRWORTHINESS STANDARDS; OCCUPANT PROTECTION STANDARDS FOR COMMUTER CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for normal, utility, acrobatic, and commuter category airplanes by upgrading the requirements for both seat/restraint systems and for flammability standards for seat cushions used in commuter category airplanes. These amendments are needed to improve the occupant protection provisions for these types of airplanes. These new requirements would result in a level of safety commensurate with that provided by the seat/restraint requirements and the flammability standards for transport category airplanes. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/14/93	58 FR 38028
NPRM Correction	07/28/93	58 FR 40389
NPRM Comment Period End	11/12/93	
Reopening of Comment Period	11/04/94	59 FR 55225
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/14/93 (58 FR 38028)

Additional Information: Project No. ACE-87-014R. This project was formerly entitled "Improved Seat Safety Standards for Commuter Category Airplanes."

Agency Contact: Michael Downs, Standards Office, Small Airplane Directorate, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106
Phone: 816 426-5688

RIN: 2120–AD27

2202. AIRPLANE ENGINE COWLING RETENTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require improved cowling retention devices. A review of a number of inflight incidents where engine cowlings were lost revealed that the largest single cause of such losses was improper latching of the cowlings. If adopted, this proposal would provide additional design standards to detect improperly latched cowlings and ensure the integrity of the latching system.

Timetable:

Action	Date	FR Cite
NPRM	09/19/89	54 FR 38610
NPRM Comment Period End	03/19/90	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/19/89 (54 FR 38610)

Additional Information: Project No. ANM-87-004R.

Agency Contact: Mike McRae, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056

Phone: 206 227-2133

RIN: 2120–AD34

2203. +FATIGUE EVALUATION OF STRUCTURE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would revise the fatigue requirements for damage-tolerant structures on transport category airplanes to require full-scale fatigue testing and to require that the thresholds for inspections be based on crack growth from initial flaws in the structure. These proposed changes are based on the service history of airplanes evaluated to the current damage tolerance requirements and are intended to ensure that, should serious fatigue damage occur within the operational life of the airplane, the remaining structure can withstand reasonable loads without failure until the damage is detected. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/19/93	58 FR 38642
Notice: Additional Compliance Guidance	10/19/93	58 FR 53987
NPRM Comment Period End	11/16/93	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/19/93 (58 FR 38642)

Additional Information: Project Number ANM-88-013R.

Agency Contact: Rich Yarges, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2143

RIN: 2120–AD42

2204. ALLOWABLE CARBON DIOXIDE CONCENTRATION IN TRANSPORT CATEGORY AIRPLANE CABINS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action has been reestablished to review part 25 to determine if the current allowable concentration of carbon dioxide in the airplane cabin and flight deck is appropriate in light of standards established for air quality in buildings occupied by the general public and with workplace exposure limits adopted by other regulatory agencies. This rulemaking is no longer considered significant since no actual incremental costs are expected to be incurred as a result of this action.

Timetable:

Action	Date	FR Cite
NPRM	05/02/94	59 FR 22718
NPRM Comment Period End	08/30/94	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/02/94 (59 FR 22718)

Additional Information: This project was formerly entitled "Carbon Dioxide Concentration." Project ANM-87-017R. This entry was temporarily removed from the Agenda and is now reactivated to resume rulemaking.

Agency Contact: Bob McCracken, Flight Test and Systems Branch, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2118

RIN: 2120–AD47

2205. PROTECTIVE BREATHING EQUIPMENT; CARGO-ONLY AIRPLANES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action would revise the Federal Aviation Regulations governing portable protective breathing equipment (PBE) required for crewmembers' use in combatting in-flight fires. This action addresses concerns and issues identified by the Air Transport Association and several operators regarding required portable PBE for cargo-only operations. This action also would clarify the Federal Aviation Regulations governing required portable PBE in passenger compartments. Originally this rulemaking was considered significant. However, because there is no substantial public interest, this rulemaking is no longer significant.

Timetable:

Action	Date	FR Cite
NPRM	03/29/93	58 FR 16584
NPRM Comment Period End	05/28/93	
SNPRM: Comment Period End 05/11/94	04/11/94	59 FR 17166
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/11/94 (59 FR 17166)

Additional Information: Project Number AFS-90-324R.

Agency Contact: Gary Davis, Air Transportation Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3747

RIN: 2120–AD74

2206. REVISIONS TO MAINTENANCE AND PREVENTIVE MAINTENANCE RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44703; 49 USC 44705; 49 USC 44707; 49 USC 44711; 49 USC 44713; 49 USC 44717

CFR Citation: 14 CFR 43

Legal Deadline: None

Abstract: This action would amend the maintenance rules to allow, under certain conditions, properly trained pilots of rotorcraft and small (nine passengers or less) airplanes that are used in on-demand types of air carrier or commercial operations to perform certain preventive maintenance tasks on their aircraft. It also would add to the definition of preventive maintenance the removal and installation of approved seats, litters, and doors, and the removal and replacement of medical oxygen bottles under certain conditions.

Timetable:

Action	Date	FR Cite
NPRM	07/18/95	60 FR 36926
NPRM Comment Period End	09/18/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/00/96

Additional Information: Project No.: AFS-92-070R. This rulemaking was formerly titled, "Persons Authorized to Perform Maintenance, Preventive Maintenance, Rebuilding, and Alterations."

Agency Contact: Ed Ortiz, Aircraft Maintenance Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9952

RIN: 2120–AE57

2207. +AIRCRAFT GROUND DEICING AND ANTI-ICING PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action establishes a requirement for part 121 certificate holders to develop an FAA-approved ground deicing/anti-icing program and to comply with that program any time conditions are such that frost, ice, or snow could adhere to the aircraft's wings, control surfaces, or propellers. This action is necessary because several accidents and the recent International Conference on Airplane Ground Deicing indicate that, under present procedures, the pilot in command may be unable to effectively determine whether critical airplane components are free of all frost, ice, or snow prior to attempting a takeoff. The action provides an added level of safety to flight operations in adverse weather conditions, and is considered significant because of its safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/23/92	57 FR 32646
NPRM Comment Period End	08/07/92	
Interim Final Rule	09/29/92	57 FR 44924
Interim Final Rule Effective	11/01/92	
Interim Final Rule Correction	11/09/92	57 FR 53385
Interim Final Rule Comment Period End	04/15/93	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/29/92 (57 FR 44924)

Additional Information: Project Number: AFS-92-280-R.

A proposed advisory circular providing guidance on the program elements that should be included in an air carrier's approved ground deicing and anti-icing program was published September 29, 1992, requesting comments (57 FR 44944).

Various documents of this proceeding were erroneously published under RIN 2120-AE51.

Agency Contact: Larry Youngblut, Regulations Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591

Phone: 202 267-3755

RIN: 2120–AE70

2208. +PILOT, FLIGHT INSTRUCTOR, GROUND INSTRUCTOR, AND PILOT SCHOOL CERTIFICATION RULES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This action would update and revise part 61, Certification: Pilots and Flight Instructors; part 141, Pilots Schools; and part 143, Ground Instructors. In order to be more compatible with the current operating environment and evolving demands of the national airspace system, this action would update training, certification, and recency-of-experience requirements. It is considered significant because of substantial public interest in pilot and instructor certification and training issues.

Timetable:

Action	Date	FR Cite
NPRM	08/11/95	60 FR 41160
NPRM Comment Period End	12/11/95	
NPRM Comment Period Extended to 02/12/96	12/14/95	60 FR 64129
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/11/95 (60 FR 41160)

Additional Information: Project No.: AFS-90-025R. RIN 2120-AD59 entitled, "Operations Over the High Seas and Within the North Atlantic Minimum Navigation Performance Specification Airspace," has been incorporated into this document (previous Project No.: AFS-89-175R). The present action was formerly entitled "Part 61, Phase II."

Agency Contact: John Lynch, Flight Standards Service, Department of

Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3844

RIN: 2120–AE71

2209. STAGE 2 AIRPLANE OPERATIONS IN HAWAII

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 39 USC 46306; ...

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action would revise the airplane operating rules to provide reporting requirements for operators of Stage 2 airplanes in Hawaii. These revisions would require any U.S. operator or foreign air carrier that operated Stage 2 airplanes in Hawaii on November 5, 1990, to include certain information in its annual progress reports to the FAA.

Timetable:

Action	Date	FR Cite
NPRM	05/11/95	60 FR 25554
Correction	06/27/95	60 FR 33163
NPRM Comment Period End	08/09/95	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/00/96

Additional Information: Project Number: AEE-92-265R

Agency Contact: Alan V. Trickey, Policy and Regulatory Division, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3496

RIN: 2120–AE83

2210. +CIVIL PENALTY ASSESSMENT PROCEDURES

Priority: Other Significant

Legal Authority: 18 USC 6002; 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44103 to 44106; 49 USC 44702 to 44703; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111; 49 USC 47122; ...

CFR Citation: 14 CFR 13

Legal Deadline: None

Abstract: This action would revise the procedures for the assessment of civil penalties for violations of the Federal Aviation Regulations and other provisions. The procedures proposed would implement the requirements of the FAA Civil Penalty Administrative Assessment Act of 1992, as they modify the procedures for adjudicating a civil penalty against a person acting in the capacity of a pilot, flight engineer, mechanic, or repairman. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/05/94	59 FR 40192
NPRM Comment Period End	10/04/94	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/05/94 (59 FR 40192)

Additional Information: Project Number: AGC-93-076R

Agency Contact: Mardi Ruth Thompson, Regulations Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3073

RIN: 2120–AE84

2211. MANNED FREE BALLOONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 31

Legal Deadline: None

Abstract: This action would amend the test requirements for burners used on manned free balloons. The current test requirements do not test the burner's most critical operating conditions. This amendment reduces the costs to balloon manufacturers seeking certification, and increases the current level of safety by requiring more realistic tests.

Timetable:

Action	Date	FR Cite
NPRM	12/07/93	58 FR 64450
NPRM Comment Period End	02/07/94	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/07/93 (58 FR 64450)

Additional Information: Project Number: ACE-92-021R

Agency Contact: J. Lowell Foster, Central Region Headquarters, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106
Phone: 816 426-5688

RIN: 2120–AE87

2212. +REVISED ACCESS TO TYPE III EXITS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This action would adjust recently adopted requirements for access to type III emergency exits in transport category airplanes with 60 or more passenger seats. The adjustments would reflect new data from tests conducted at the FAA's Civil Aeromedical Institute and are intended to improve the ability of occupants to evacuate an airplane under emergency conditions. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/30/95	60 FR 5794

Action	Date	FR Cite
NPRM Comment Period End	05/01/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: ANM-93-005R

Agency Contact: Gary Killion, Transport Airplane and Engine Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2114

RIN: 2120–AF01

2213. TRAINING AND QUALIFICATION REQUIREMENTS FOR CHECKING AIRMEN AND FLIGHT INSTRUCTORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; ...

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This rule would amend the training and testing requirements for check airmen and flight instructors who perform their functions in training programs conducted by part 121 and part 135 certificate holders. The proposed amendments are needed to allow check airmen and flight instructors who perform their functions only in flight simulators and flight training devices to do so without having to possess a current medical certificate. The proposed amendments are also needed to make these regulations compatible with proposed regulations for simulator training centers and with the regulations for advanced qualification training programs. Upon reevaluation by FAA, it was determined that this action is not considered significant.

Timetable:

Action	Date	FR Cite
NPRM	02/22/96	61 FR 6898
NPRM Comment Period End	03/25/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/22/96 (61 FR 6898)

Additional Information: Project Number: AFS-92-747A

Agency Contact: Tom Toula, Air Carrier Training Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3718

RIN: 2120–AF08

2214. +TRAINING AND CHECKING IN GROUND ICING CONDITIONS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44710 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722

CFR Citation: 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This proposed amendment would require parts 125 and 135 certificate holders to provide pilot training or testing in ground deicing/anti-icing procedures and to check the airplane for contamination by frost, ice, or snow during ground icing conditions. The proposal is intended to provide an added level of safety to flight operations in adverse weather conditions under parts 125 and 135. This rulemaking is significant because it affects a substantial portion of the aviation industry.

Timetable:

Action	Date	FR Cite
NPRM	09/21/93	58 FR 49164
NPRM Comment Period End	10/06/93	
Interim Final Rule	12/30/93	58 FR 69620
Advisory Circular Published	12/30/93	58 FR 69631
Interim Final Rule: Effective Date	01/31/94	58 FR 69620
Interim Final Rule Comments Due	04/15/94	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 12/30/93 (58 FR 69620)

Additional Information: Project Number: AFS-93-459R

Agency Contact: Larry Youngblut, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3755

RIN: 2120–AF09

2215. AMENDMENT OF THE TYPE CERTIFICATION PROCEDURES FOR CHANGES IN TYPE DESIGN TO ATTACH OR REMOVE EXTERNAL EQUIPMENT (HELICOPTER)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40105; 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715; 49 USC 45303

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This action would provide an exclusion for the attachment, or removal, of external equipment for specific purposes from the existing noise certification requirements for changes in type design of helicopters.

Timetable:

Action	Date	FR Cite
NPRM	09/20/95	60 FR 48790
Correction	09/28/95	60 FR 50244
NPRM Comment Period End	11/20/95	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/00/96

Additional Information: Project Number: AEE-93-558R

Agency Contact: Kenneth Jones, Technical Division, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 10592
Phone: 202 267-5594

RIN: 2120–AF10

2216. LOS ANGELES, CA, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action proposed to alter the Los Angeles, CA, Class B airspace area. This action would lower certain ceilings while raising others to provide more visual flight rules altitudes to circumnavigate the Los Angeles Class B airspace and to provide for better containment of arrival turbojets. This action is intended to improve safety while providing the most efficient use of the terminal airspace.

Timetable:

Action	Date	FR Cite
NPRM	11/22/94	59 FR 60244
NPRM Comment Period End	01/23/95	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/22/94 (59 FR 60244)

Additional Information: Project Number: ATP-94-035T RIN number 2120-AF38 was inadvertently used when this rulemaking was published in the Federal Register on November 22, 1994. The correct RIN number is 2120-AF16.

Agency Contact: Norman W. Thomas, Airspace and Obstruction Evaluation Branch, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9250

RIN: 2120–AF16

2217. MINIMUM ALTITUDES FOR THE USE OF AN AUTOPILOT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 40709 to 40711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; ...

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action would amend the regulations governing the use of approved flight control guidance systems with automatic capability (autopilot). The current regulations prohibit the use of an autopilot at altitudes less than 500 feet above ground level during the takeoff and initial climb phases of flight. The FAA proposes to amend the regulations to permit air carriers to take advantage of technological improvements in the capabilities of autopilot systems and thus enhance safety by decreasing pilot workload during the critical takeoff phase of flight.

Timetable:

Action	Date	FR Cite
NPRM	12/09/94	59 FR 63868
NPRM Comment Period End	01/09/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/09/94 (59 FR 63868)

Additional Information: Project Number: AFS-92-608R

Agency Contact: Richard A. Temple, Technical Programs Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-5824

RIN: 2120–AF19

2218. +REVISION OF EMERGENCY EVACUATION DEMONSTRATION PROCEDURES TO IMPROVE PARTICIPANT SAFETY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25; 49 CFR 1.47

Legal Deadline: None

Abstract: This action would amend part 25 of the FAR by revising Appendix J, Emergency Evacuation, to allow certain alternative procedures in conducting full-scale emergency evacuation demonstrations for transport category airplanes. This is in response to recommendations from the Aviation Rulemaking Advisory Committee. The changes, which are intended to make full-scale emergency evacuation demonstrations safer for participants and to codify existing practices, would also affect manufacturers and operators of transport category airplanes. This action is considered significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/18/95	60 FR 36932
Correction	08/25/95	60 FR 44387
NPRM Comment Period End	10/16/95	
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/00/97

Additional Information: Project Number: ANM-94-124A

Agency Contact: Franklin Tiangsing, Regulations Branch, ANM-114, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056 Phone: 206 227-2121

RIN: 2120–AF21

2219. ADVANCED SIMULATION PLAN REVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action would revise certain requirements of the Advanced Simulation Plan for air carriers to allow certain initial training for second-in-command pilots to be conducted in simulators; to redefine some of the experience and training required for an upgrade from second-in-command to pilot-in-command; and to remove the current 1-year employment requirement for instructor and check airmen used in advanced simulation training programs.

Timetable:

Action	Date	FR Cite
NPRM	02/14/95	60 FR 8490
NPRM Comment Period End	03/16/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: AFS-94-005R. Correction to rule published 03/09/95 60 FR 13008.

Agency Contact: Gary Davis, Regulations Branch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8096

RIN: 2120–AF29

2220. +SUSPENSION OF CERTAIN AIRCRAFT OPERATIONS FROM THE TRANSPONDER WITH AUTOMATIC PRESSURE ALTITUDE REPORTING CAPABILITY REQUIREMENT

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306; ...

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action would extend and modify SFAR 62, issued December 5, 1990, which suspends the Mode C transponder requirement for operations to and from certain specific airports located within 30 miles of a Class B airspace primary airport. The operations and routings approved under SFAR 6 include routes within 2 nautical miles of the specified airports and at altitudes that were not excluded from the Mode C transponder requirement. Airports that are served primarily by aircraft required to install Traffic Alert and Collision Avoidance Systems are not included in this exception. This rulemaking was accomplished in 1990 because the scheduled radar system upgrades, required to provide Mode C transponder coverage, have not been placed into full service in all Class B sites. The present action would extend the current exclusions to those airports that have not received the improved radar coverage, and amend the exclusions provided airports that have received improved radar coverage through operational verification of the new radar systems.

Timetable:

Action	Date	FR Cite
NPRM	08/25/94	59 FR 43994
NPRM Correction	09/14/94	59 FR 47210
NPRM Comment Period Extended to 11/25/94	09/28/94	59 FR 49360
NPRM Comment Period End	10/11/94	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/25/94 (59 FR 43994)

Additional Information: Project Number: ATP-93-474R. As this action merely involves extension of a suspension of a requirement, it is not a rulemaking requiring OMB review in the context of EO 12866. However, it is significant under DOT's regulatory policies and procedures.

Agency Contact: Reginald Matthews, Air Traffic Branch, Airspace Rules and Aeronautical Info. Div., Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3731

RIN: 2120–AF30

2221. +PROCEDURES FOR COMPLAINTS INVOLVING FEDERALLY ASSISTED AIRPORTS

Priority: Other Significant

Legal Authority: 18 USC 6002; 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44103 to 44106; 49 USC 44702 to 44703; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111; 49 USC 47122; ...

CFR Citation: 14 CFR 13; 14 CFR 16

Legal Deadline: None

Abstract: This action would establish rules of practice for the filing of complaints and adjudication of compliance matters involving federally assisted airports. This action is intended to expedite substantially the handling and disposition of airport-related complaints, and to provide an efficient process for the agency to resolve disputes between air carriers and airport proprietors regarding whether airport fees and charges comply with Federal requirements. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/09/94	59 FR 29880
Proposed Policy Notice	05/09/94	59 FR 29874
NPRM Comment Period End	08/08/94	
NPRM Comment Period Extended to 09/15/94	08/10/94	59 FR 41192
Proposed Policy Comment Period Extended to 09/15/94	08/10/94	59 FR 41194
NPRM Partial Withdrawal and Comment Period Extended	09/16/94	59 FR 47568
Proposed Policy Notice Comment Period Extended	09/16/94	59 FR 47668
NPRM Comment Period Extended to	12/01/94	
Proposed Policy Notice Comment Period End	12/01/94	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/09/94 (59 FR 29880)

Additional Information: A notice of public meeting was published June 29, 1994 (59 FR 33567), in connection with the proposed policy notice. Intent to issue a supplemental notice was published September 16, 1994 (59 FR 47668). The NPRM-proposed special procedures for handling of airport fee complaints (subpart J) were withdrawn and will be handled in separate rulemaking under a new RIN.

Project Number: AGC-94-319R.

Agency Contact: Barry Molar, Airport Law Branch, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3473

RIN: 2120–AF43

2222. SENSITIVE SECURITY INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44706; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44906; ...

CFR Citation: 14 CFR 107 to 109; 14 CFR 121; 14 CFR 191

Legal Deadline: None

Abstract: The FAA proposes to strengthen the rules protecting information from release to unauthorized persons. This rule would specify all sensitive security information that must be protected and would require air carriers, airport operators, indirect air carriers, foreign air carriers, and individuals to be responsible for protecting it from disclosure to unauthorized persons.

Timetable:

Action	Date	FR Cite
NPRM	12/06/94	59 FR 62956
NPRM Comment Period End	02/06/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/06/94 (59 FR 62956)

Additional Information: Project No.: ACS-94-221R

Agency Contact: Eugene Cunningham, Office of Aviation Security Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8701

RIN: 2120–AF49

2223. +CHILD RESTRAINT SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; ...

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action proposes to amend the Federal Aviation Regulations by withdrawing approval for the use of booster seats and vest and harness-type child restraint systems on aircraft. Recent research shows that these systems are a hazard to children in the event of an accident. This rule would increase safety for children on board aircraft. The FAA has already taken action, by way of press releases, pamphlets, and advisories to U.S. airlines, to notify the public and the aviation industry that these seats should no longer be used on aircraft. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Availability of Study	09/27/94	59 FR 49276
NPRM	06/09/95	60 FR 30690
NPRM Comment Period End	07/10/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/09/95 (60 FR 30690)

Additional Information: Project Number: AFS-94-526R

Agency Contact: Donell Pollard, Air Transportation Division, AFS-200, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9685

RIN: 2120–AF52

2224. WINDMILLING AND ROTOR BLOCKING TESTS; AND VIBRATION TESTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action proposes changes to the windmilling and vibration airworthiness standards for the issue of type certificates, and changes to type certificates, for aircraft engines. This proposal resulted from an effort to harmonize FAA requirements with European (JAA) requirements to create one set of common requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/06/95	60 FR 12360
NPRM Comment Period End	06/05/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/06/95 (60 FR 12360)

Additional Information: Project Number: ANE-94-588A

Agency Contact: John Golinski, Engine & Propeller Standards Staff, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803 Phone: 617 238-7114

RIN: 2120–AF57

2225. +FLIGHT CREWMEMBER DUTY LIMITATIONS AND REST REQUIREMENTS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44701; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; ...

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would amend the pilot rest and duty requirements for pilots operating under Parts 121 and 135 by ensuring that pilots receive adequate rest opportunities while assigned to reserve status and by preventing lengthy duty periods that could contribute to acute and cumulative fatigue. Specifically, the rulemaking will propose a definition of rest period. This action also proposes that all commercial flying or flying under Part 91 that is done by a pilot for a certificate holder will be included in the total flight time limitations of Parts 121 or 135, as applicable. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/20/95	60 FR 65951
NPRM Comment Period End	03/19/96	
NPRM Comment Period Extended to 6/19/96	03/20/96	61 FR 11492
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/29/95 (60 FR 65951)

Additional Information: Project Number AFS-94-443R

Agency Contact: Larry Youngblut, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3755

RIN: 2120–AF63

2226. ROTORCRAFT REGULATORY CHANGES BASED ON EUROPEAN JOINT AIRWORTHINESS REQUIREMENTS PROPOSALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44701

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This action proposes changes to the type certification requirements for both normal and transport category aircraft. These changes are based on standards that are being incorporated by the European Joint Aviation Authorities for the Joint Aviation Requirements (JAR) 27 and 29. These proposed changes are intended to harmonize the Federal Aviation Regulations rotorcraft type certification requirements and the European JAR.

Timetable:

Action	Date	FR Cite
NPRM	12/28/94	59 FR 67068
NPRM Comment Period End	03/28/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/28/94 (59 FR 67068)

Additional Information: Project Number: ASW-94-536A. RIN Number 2120-AC27 was inadvertently used when this rulemaking was published in the Federal Register on December 28, 1994. The correct RIN Number is 2120-AF65.

Agency Contact: Carroll Wright, Rotorcraft Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 2601 Meacham Blvd., Fort Worth, TX 76193-0111 Phone: 817 222-5120

RIN: 2120–AF65

2227. REVISED STRUCTURAL LOADS REQUIREMENTS FOR TRANSPORT AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action proposes to revise the structural loads design requirements of the Federal Aviation Regulations (FAR) for transport category airplanes by incorporating changes developed in cooperation with the Joint Aviation Authorities of Europe, and the U.S. and European aviation industry through the Aviation Rulemaking Advisory Committee. This action is necessary because differences between current U.S. and European requirements impose unnecessary costs on airplane manufacturers. These proposals are intended to achieve common requirements and language between the requirements of the FAR and the Joint Aviation Requirements without reducing the level of safety provided by the regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/29/95	60 FR 44968
NPRM Comment Period End	11/27/95	
Final Action	01/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/00/97

Additional Information: Project Number ANM-95-238A.

Agency Contact: James Haynes, Airframe and Propulsion Branch, ANM-112, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056 Phone: 206 227-2131

RIN: 2120–AF70

2228. +POLICY REGARDING AIRPORT RATES AND CHARGES

Priority: Other Significant

Legal Authority: 49 USC 47129

CFR Citation: None

Legal Deadline: None

Abstract: This statement of policy was required by Congress as part of the DOT authorization Act of 1994. The statement announces DOT and FAA policy on the fees charged by Federally-assisted airports to air carriers and other aeronautical users. While the policy statement was issued in February 1995, the department requested further comments and will be issuing a supplemental statement to address the comments received. This policy statement is considered significant due to substantial industry interest.

Timetable:

Action	Date	FR Cite
Policy Statement: Comments Due 5/4/95	02/03/95	60 FR 6906

Action	Date	FR Cite
SNPP: Comment Period End 10/23/95	09/08/95	60 FR 47012
Notice: Comments Due 11/07/95	10/10/95	60 FR 54282
Supplemental Statement	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The Department issued a final rule 2/3/95 (60 FR 6919), RIN 2105-AC18, Rules of Practice for Proceedings Concerning Airport Fees. This rulemaking had its origins in two related notices on the subject of Federal policy on airport rates and charges.

A notice of meeting was published 9/12/95 (60 FR 47433).

A notice of meeting was published 9/29/95 (60 FR 50661).

Agency Contact: Barry Molar, Manager, Airports Law Branch, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3473

RIN: 2120–AF90

2229. • CRITERIA FOR AN EXPLOSIVE DETECTION SYSTEM (EDS), STANDARDS FOR DETONATOR DETECTION

Priority: Substantive, Nonsignificant

Legal Authority: Not yet determined

CFR Citation: None

Legal Deadline: None

Abstract: This action would result in the issuance of a performance standard for the certification of equipment, designed to locate improvised explosive devices through automatic detection of detonators, as an Explosive Detection System (EDS). Establishment of minimum performance requirements is a prerequisite to the testing and ultimate deployment of EDS equipment. The proposed notice will include portions of the criteria that do not contain sensitive security information. This notice deals only with the standards for the certification of the equipment and any ultimate deployment decision would be the basis for separate rulemaking.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Quint Johnson, Office of Civil Aviation Security, Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8058

RIN: 2120–AF95

2230. • +POLICY AND PROCEDURES CONCERNING THE USE OF AIRPORT REVENUE

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This document proposes a statement of policy and procedures concerning the use of airport revenue. This statement of policy discusses in detail the requirement that revenue at public airports that have received Federal grants generally be used only for airport purposes. A statement of policy is required by the Federal Aviation Administration Authorization Act of 1994. The FAA is issuing a proposed policy and requesting public comment because of substantial public and industry interest in the subject matter.

Timetable:

Action	Date	FR Cite
Notice of Proposed Policy: Comment Period End 04/26/96	02/26/96	61 FR 7134
Final Policy	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry Molar, Manager, Airports Law Branch, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3473

RIN: 2120–AG01

2231. • SMALL AIRPLANE AIRWORTHINESS REVIEW PROGRAM AMENDMENT NO. 3; CORRECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This final rule contains corrections to the final regulation which was published April 9, 1993 (58 FR 18958). The regulation amended the powerplant and equipment airworthiness standards for normal, utility, acrobatic, and commuter category airplanes. This action replaces two paragraphs that were inadvertently deleted in the April 19, 1993, final rule.

Timetable:

Action	Date	FR Cite
Correction; FR Request For Comments Comment Period End 04/03/96	01/04/96	61 FR 252
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The final rule published April 9, 1993, used RIN 2120-AD30. That RIN was incorrectly used for this rulemaking published on January 4, 1996 (61 FR 252).

Agency Contact: Norman Vetter, Small Airplane Directorate, ACE-111, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106 Phone: 816 426-5688

RIN: 2120–AG09

2232. • PROHIBITION AGAINST CERTAIN FLIGHTS WITHIN THE TERRITORY AND AIRSPACE OF AFGHANISTAN

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306; ...

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: Special Federal Aviation Regulation (SFAR) 67, which prohibited flight operations over Afghanistan, was issued on May 10, 1995, and expires on May 10, 1996. Conditions that warranted the imposition of SFAR 67 still remain. Therefore, this action amends SFAR 67 to extend the prohibition on flight operations within the territory and airspace of Afghanistan by any United States air carrier and commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA, or by an operator using an aircraft registered in the United States unless the operator of such an aircraft is a foreign air carrier. This action is taken to prevent an undue hazard to persons and aircraft engaged in such flight operations as a result of the ongoing civil war in Afghanistan.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/00/96

Agency Contact: Reginald Mathews, Manager, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 2-591 Phone: 202 267-8783

RIN: 2120–AG10

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Long-Term Actions

2233. OBJECTS AFFECTING NAVIGABLE AIRSPACE

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 77

Timetable:

Action	Date	FR Cite
Notice of Review	06/19/78	43 FR 26322
Review Conference	12/08/80	
National Airspace Review Begins	07/09/84	
NPRM	08/03/90	55 FR 31722
NPRM Correction	08/13/90	55 FR 32999
NPRM Correction	08/16/90	55 FR 33577
NPRM Correction	08/28/90	55 FR 35152
NPRM Correction	09/10/90	55 FR 37287
NPRM Comment Period End	12/31/90	
SNPRM Comment Period End 11/30/95	10/16/95	60 FR 53680
Final Action	07/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet Apple Phone: 202 267-8783

RIN: 2120–AA09

2234. AIRCRAFT ENGINES: FUEL AND INDUCTION SYSTEMS

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 33

Timetable:

Action	Date	FR Cite
ANPRM	02/28/86	51 FR 7224
ANPRM Comment Period End	04/29/86	
NPRM	10/20/92	57 FR 47934
NPRM Comment Period End	02/17/93	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Locke Easton Phone: 617 273-7088

RIN: 2120–AB76

2235. TYPE CERTIFICATES FOR SOME SURPLUS AIRCRAFT OF THE ARMED FORCES

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 21

Timetable:

Action	Date	FR Cite
NPRM	04/21/94	59 FR 19114
NPRM Comment Period End	06/20/94	
NPRM Comment Period Reopened: Comment Period End 08/26/94	07/07/94	59 FR 34779
Final Action	05/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brian Yanez Phone: 202 267-6561

RIN: 2120–AE41

2236. +ANTI-DRUG AND ALCOHOL MISUSE PREVENTION PROGRAMS FOR EMPLOYEES OF FOREIGN AIR CARRIERS ENGAGED IN SPECIFIED AVIATION ACTIVITIES

Priority: Other Significant

CFR Citation: 14 CFR 121; 14 CFR 129

Timetable:

Action	Date	FR Cite
ANPRM	12/15/92	57 FR 59473
ANPRM Comment Period End	02/16/93	
ANPRM Comment Period Extended to 04/01/93	02/18/93	58 FR 8917
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Julie B. Murdoch Phone: 202 267-6584

RIN: 2120–AE79

2237. +CORROSION CONTROL PROGRAM

Priority: Other Significant

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Timetable:

Action	Date	FR Cite
NPRM	05/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frederick Sobeck Phone: 202 267-7355

RIN: 2120–AE92

2238. FLIGHT ATTENDANT ENGLISH LANGUAGE PROFICIENCY

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Timetable:

Action	Date	FR Cite
ANPRM	04/18/94	59 FR 18456

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Action	Date	FR Cite
ANPRM Comment Period End	07/18/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donell Pollard
Phone: 202 267-3735

RIN: 2120–AE98

2239. TAMPA, FL, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 71

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lewis W. Still
Phone: 202 267-9250

RIN: 2120–AF18

2240. REVISION OF CERTIFICATION REQUIREMENTS: MECHANICS AND REPAIRMEN

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 65; 14 CFR 66

Timetable:

Action	Date	FR Cite
NPRM	08/17/94	59 FR 42430
NPRM Comment Period End	10/17/94	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leslie Vipond
Phone: 202 267-3269

RIN: 2120–AF22

2241. STREAMLINED ENFORCEMENT PROCESS TEST PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 13

Timetable:

Action	Date	FR Cite
Test and Evaluation Program Established, Comment Period Ends 10/25/94	08/26/94	59 FR 44266
Test and Evaluation Correction	09/09/94	59 FR 46533
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brian Reed
Phone: 202 267-5998

RIN: 2120–AF36

2242. +OVERFLIGHTS OF UNITS OF THE NATIONAL PARK SYSTEM

Priority: Other Significant

CFR Citation: 14 CFR 91; 14 CFR 135

Timetable:

Action	Date	FR Cite
ANPRM	03/17/94	59 FR 12740
ANPRM Correction	04/01/94	59 FR 15350
ANPRM Comment Period End	06/15/94	
ANPRM Comment Period Extended to 07/15/94	06/20/94	59 FR 31883
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Reginald Matthews
Phone: 202 267-9239

RIN: 2120–AF46

2243. +MOUNTAIN FLYING

Priority: Other Significant

CFR Citation: 14 CFR 91

Timetable:

Action	Date	FR Cite
NPRM	04/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Wensel
Phone: 202 267-7771

RIN: 2120–AF67

2244. OPERATIONAL AND STRUCTURAL DIFFICULTY REPORTS

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 127; 14 CFR 135; 14 CFR 145

Timetable:

Action	Date	FR Cite
NPRM	08/14/95	60 FR 41992
NPRM Comment Period End	11/13/95	
Final Action	06/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Benjamin Burton
Phone: 202 267-3797

RIN: 2120–AF71

2245. BIRD STRIKE

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 25

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Perrella
Phone: 206 227-2116

RIN: 2120–AF80

2246. REPAIR ASSESSMENT FOR PRESSURIZED FUSELAGES

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 129

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dayton Curtis
Phone: 206 227-2109

RIN: 2120–AF81

2247. REVISION OF GATE REQUIREMENTS FOR HIGH-LIFT DEVICE CONTROLS

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 25

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Don Stimson
Phone: 206 227-1129

RIN: 2120–AF82

2248. TWO APPROACH CHARTS

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 121; 14 CFR 135

Timetable:

Action	Date	FR Cite
NPRM	04/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernie Busby
Phone: 202 267-8086

RIN: 2120–AF86

2249. +REVISION OF MEDICAL STANDARDS AND CERTIFICATION PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45303

CFR Citation: 14 CFR 67

Legal Deadline: None

Abstract: This action revised the medical standards and the medical certification procedures of the Federal Aviation Regulations. This action follows the completion of a comprehensive review of the medical standards which was announced in previous notices. These revised standards for airman medical certification and associated administrative procedures will better provide for safety in the aviation system and reflect current medical knowledge, practice, and terminology. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/21/94	59 FR 53226
Notice of Public Meetings	01/04/95	60 FR 395
NPRM Comment Period End	02/21/95	
Final Action	03/19/96	61 FR 11238
Final Action Effective	09/16/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/21/94 (59 FR 53226)

Additional Information: The FAA contracted with the American Medical Association (AMA) on August 29, 1983, to develop a comprehensive report which was used by the FAA as part of its evaluation of Part 67 standards. AMA completed a professional review of the medical standards for civil airmen. The FAA announced the availability of the AMA report in the Federal Register on May 23, 1986 (51 FR 19040). RIN 2120-AB13 has been combined into this review. Project No. AAM-82-288R.

Agency Contact: Dennis P. McEachen, Special Projects Officer, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 493-4075

RIN: 2120–AA70

2250. AIRWORTHINESS STANDARDS; TURBOSHAFT ENGINE ROTOR BURST PROTECTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: This rulemaking amends the Federal Aviation Regulations to minimize the failure hazards of high speed powerplant rotor systems used in turboshaft engines in newly designed transport category rotorcraft. Engine rotor failures have occurred resulting in the release of high energy rotor fragments or other engine component fragments. These fragments have impacted and damaged critical rotorcraft structures, systems, controls, and adjacent engines, as well as caused serious or fatal injuries to passengers and crewmembers. This rule is intended to eliminate these hazards.

Timetable:

Action	Date	FR Cite
NPRM	10/17/89	54 FR 42716
Comment Period Extended to 10/16/90	03/08/90	55 FR 8474
NPRM Comment Period End	04/16/90	
NPRM Comment Period Reopened to 3/15/93	01/14/93	58 FR 4566
Final Action	11/02/95	60 FR 55774
Final Action Effective	01/31/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/17/89 (54 FR 42716); Regulatory Evaluation 11/02/95 (60 FR 55774)

Additional Information: Formerly entitled "Turbine Burst Protection for Transport Category Helicopters." Project No. ASW-84-002.

Agency Contact: Ron Dalton, Rotorcraft Directorate, Rotorcraft Standards Staff, Department of Transportation, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, TX 76193
Phone: 817 222-5127

RIN: 2120–AB91

2251. +PASSENGER-CARRYING AND CARGO AIR OPERATIONS FOR COMPENSATION OR HIRE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 46105

CFR Citation: 14 CFR 119; 14 CFR 121; 14 CFR 125; 14 CFR 127; 14 CFR 135

Legal Deadline: None

Abstract: This action amends the Federal Aviation Regulations to update, clarify, and consolidate into one part, new part 119, the certification and operations specifications requirements for persons who conduct passenger-carrying or cargo-carrying air operations for compensation or hire. Significant changes included defining what must be included in operations specifications; defining "scheduled" and "domestic" operations; increasing the lead-time period for application for a certificate; defining a "wet lease" operation; including in the regulations criteria to determine who has operational control of an operation; and standardizing the requirements and qualifications for management personnel. This action establishes permanent minimum safety standards following the "sunset" of the Civil Aeronautics Board on December 31, 1984, and the enactment of the Airline Deregulation Act of 1978. This action will replace SFAR 38, as amended, which has provided interim certification and operations specifications regulation. This rulemaking is considered significant because of substantial public interest.

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Timetable:

Action	Date	FR Cite
NPRM	10/12/88	53 FR 39852
NPRM Comment Period End	01/10/89	
Comment Period Reopened To 05/17/90	04/17/90	55 FR 14404
SNPRM Comment Period End 07/23/93	06/08/93	58 FR 32248
Final Action	12/20/95	60 FR 65832
Final Action Effective	01/19/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 06/08/93 (58 FR 32248)

Additional Information: Project No. AFS-84-190R. This new part is contained in the proposed rule, RIN number: 2120-AF62, entitled, "Commuter Operations and General Certification and Operations Requirements."

Agency Contact: Gary Davis, Air Transportation Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3750

RIN: 2120–AC08

2252. +AIR CARRIER TRAINING PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44703; 49 USC 44705; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; ...

CFR Citation: 14 CFR 61; 14 CFR 63; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This rulemaking revises and upgrades parts 121 and 135 training, checking, certification, and qualification requirements, including cockpit resource management. In addition, commuter air carriers conducting part 135 commuter operations in airplanes that require two pilots would be required to meet the proposed upgraded part 121 requirements. This rule is in response to recommendations of the joint Government/Industry Task Force on Flight Crew Performance and is significant because of its safety implications.

Timetable:

Action	Date	FR Cite
NPRM	12/13/94	59 FR 64272
NPRM Comment Period End	03/14/95	
Final Action	12/20/95	60 FR 65940
Correction	01/29/96	61 FR 2869
Final Action Effective	03/19/96	60 FR 65940

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/13/94 (49 FR 64272); Regulatory Evaluation 12/20/95 (60 FR 65940)

Additional Information: Project No. AFS-88-301R. Former title: "parts 121 and 135--Training, Checking, Certification, and Qualifications Requirements."

Agency Contact: Larry Youngblood, Project Development Branch, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8096

RIN: 2120–AC79

2253. +CHILD RESTRAINT SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; ...

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action would have amended several sections of the Federal Aviation Regulations related to the seating and restraint of children in child restraint systems. The FAA is considering whether rulemaking is needed on this issue. If it is determined to be needed, the FAA will submit an entry to the Agenda.

Timetable:

Action	Date	FR Cite
Action Terminated	02/13/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number AFS-90-323R.

Agency Contact: Donell Pollard, Air Transportation Division, Office of Flight Standards, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8096

RIN: 2120–AD90

2254. +AIRWORTHINESS STANDARDS: SYSTEMS AND EQUIPMENT RULES BASED ON EUROPEAN JOINT AVIATION REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: The FAA established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The committee has been tasked to provide advice and recommendations to the Director, Aircraft Certification Service, regarding the airworthiness standards for standard and commuter category airplanes and engines in part 23 of the Federal Aviation Regulations. These revisions will reduce the regulatory burden on U.S. and European airplane manufacturers by relieving them of the need to show compliance with different standards each time they seek certification approval of an airplane in a different country.

Timetable:

Action	Date	FR Cite
NPRM	07/22/94	59 FR 37620

Action	Date	FR Cite
NPRM Comment Period End	11/21/94	
Final Action	02/09/96	61 FR 5151
Final Rule Correction	02/28/96	61 FR 7410
Final Action Effective	03/11/96	
Final Rule Correction	03/13/96	61 FR 10269

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/22/94 (59 FR 37620); Regulatory Evaluation 02/09/96 (61 FR 5151)

Additional Information: Project No.: ACE-94-288A. Refer to Regulatory Plan entry for RIN 2120-AE61. This rulemaking was formerly titled, "JAR/FAR Harmonization Initiatives -- Systems and Equipment."

Agency Contact: Earsa Tankesley, Aircraft Certification Service, ACE-100, Small Planes Directorate, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106 Phone: 816 426-6932

RIN: 2120–AE59

2255. +AIRWORTHINESS STANDARDS: POWERPLANT RULES BASED ON EUROPEAN JOINT AVIATION REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: The FAA established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The committee has been tasked to provide advice and recommendations to the Director, Aircraft Certification Service, regarding the Airworthiness standards for standard and commuter category airplanes and engines in part 23 of the Federal Aviation Regulations. These revisions will reduce the regulatory burden on U.S. and European airplane manufacturers by relieving them of the need to show compliance with different standards each time they seek certification approval of an airplane in a different country.

Timetable:

Action	Date	FR Cite
NPRM	06/30/94	59 FR 33822
NPRM Comment Period End	10/28/94	
Final Action	02/09/96	61 FR 5130
Final Action Effective	03/11/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/30/94 (59 FR 33822); Regulatory Evaluation 02/09/96 (61 FR 5130)

Additional Information: Project No.: ACE-94-287A. Refer to Regulatory Plan entry RIN 2120-AE61. This rulemaking was formerly titled, "JAR/FAR Harmonization Initiatives -- Propulsion.

Agency Contact: Norman Vetter, Aircraft Certification Service, ACE-111, Small Planes Directorate, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106 Phone: 816 426-5688

RIN: 2120–AE60

2256. +AIRWORTHINESS STANDARDS: FLIGHT RULES BASED ON EUROPEAN JOINT AVIATION REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: The FAA established an Aviation Rulemaking Advisory Committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the full range of aviation-related issues. The ARAC has been tasked to recommend airworthiness standards for standard and commuter category airplanes in part 23 of Title 14 of the CFR. The FAA has also committed to harmonizing its requirements applicable to type certification of new airplanes, rotocraft, aircraft engines, and propellers with those of the European members of the Joint Aviation Authorities (JAA). This final rule and the three related final rules, which resulted from recommendations from the ARAC, will harmonize the airworthiness requirements of part 23 with those of the JAA, and will result in significant cost savings to applicants for type certification for part 23 airplanes.

Timetable:

Action	Date	FR Cite
NPRM	07/25/94	59 FR 37878
NPRM Comment Period End	11/22/94	
Final Action	02/09/96	61 FR 5171
Final Action Effective	03/11/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/25/94 (59 FR 37878); Regulatory Evaluation 02/09/96 (61 FR 5171)

Additional Information: Project No.: ACE-94-286A.

Agency Contact: Lowell Foster, Aircraft Certification Service, ACE-111, Small Planes Directorate, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106 Phone: 816 426-5688

RIN: 2120–AE61

2257. +AIRWORTHINESS STANDARDS: AIRFRAME RULES BASED ON EUROPEAN JOINT AVIATION REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: The FAA established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991), to provide advice and recommendations to the FAA on the

full range of aviation-related issues. The committee has been tasked to provide advice and recommendations to the Director, Aircraft Certification Service, regarding the airworthiness standards for standard and commuter category airplanes and engines in part 23 of the Federal Aviation Regulations. These revisions will reduce the regulatory burden on U.S. and European airplane manufacturers by relieving them of the need to show compliance with different standards each time they seek certification approval of an airplane in a different country.

Timetable:

Action	Date	FR Cite
NPRM	07/08/94	59 FR 35196
NPRM Comment Period End	11/07/94	
Final Action	02/09/96	61 FR 5138
Final Action Effective	03/11/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/08/94 (59 FR 35196); Regulatory Evaluation 02/09/96 (61 FR 5138)

Additional Information: Project Number: ACE-94-28SA. Refer to Regulatory Plan entry RIN 2120-AE61. This rulemaking was formerly titled, "JAR/FAR Harmonization Initiatives – Airframe."

Agency Contact: Kenneth W. Payauys, Aircraft Certification Service, ACE-111, Small Planes Directorate, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106
Phone: 816 426-5688

RIN: 2120–AE62

2258. ACCELERATED STALLS IN COMMUTER CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: The FAA is withdrawing a previously published Notice of Proposed Rulemaking (NPRM) that proposed to eliminate the certification requirement to demonstrate an accelerated entry stall for commuter category airplanes. The proposed rule would have removed an unwarranted hazard during flight demonstrations required for airplane type certification, and would not compromise passenger safety. This hazard was a direct result of the high power-to-weight ratios of new commuter airplanes. The FAA has proposed a similar requirement in the Airworthiness Standards; Flight Proposals Based on European Joint Aviation Requirements, Docket No. 27807, Notice No. 94-22 (59 FR 37878), published on July 25, 1994.

Timetable:

Action	Date	FR Cite
NPRM	06/07/93	58 FR 32034
NPRM Comment Period End	09/07/93	
Final Action Withdrawal Notice	11/01/95	60 FR 55491

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/07/93 (58 FR 32034)

Additional Information: Project No. ACE-92-683A.

Agency Contact: J. Lowell Foster, Small Airplane Directorate, ACE-112, Department of Transportation, Federal Aviation Administration, 601 East Twelfth Street, Room 1544, Kansas City, MO 64106
Phone: 816 426-5688

RIN: 2120–AE86

2259. OCCUPANT PROTECTION IN NORMAL AND TRANSPORT CATEGORY ROTORCRAFT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44704

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: The Federal Aviation Administration (FAA) established an aviation rulemaking advisory committee (56 FR 20492, May 3, 1991) to provide advice and recommendations to the FAA on the full range of aviation-related issues. The committee has been tasked to provide advice and recommendations to the Director, Aircraft Certification Service, regarding the airworthiness standards for occupant protection in normal and transport category rotorcraft in parts 27 and 29 of the Federal Aviation Regulations. The occupant protection requirements eliminate the unnecessary cost burden that would be imposed by separate European and U.S. standards. The proposed standard is harmonized with the European Joint Airworthiness Authority. While it was being worked through the advisory committee, final wording was developed which is noncontroversial. Therefore, this project is no longer considered significant.

Timetable:

Action	Date	FR Cite
NPRM	04/11/94	59 FR 17156
NPRM Comment Period End	07/11/94	
Final Action	03/13/96	61 FR 10436
Final Action Effective	06/11/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/11/94 (59 FR 17156)

Additional Information: Project Number: ASW-93-771A

Agency Contact: Mike Mathias, Regulations Group, ASW-111, Rotorcraft Directorate, Department of Transportation, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193-0111
Phone: 817 222-5123

RIN: 2120–AE88

2260. NIAGARA FALLS

Priority: Other

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: The FAA is evaluating comments from a public meeting to determine whether to propose rulemaking to implement special flight rules in the vicinity of Niagara Falls, New York. The FAA is considering the issues related to this project. If it is determined that rulemaking is appropriate, any proposal will be issued under RIN 2120-AF07, the Air Tour Standards project.

Timetable:

Action	Date	FR Cite
Withdrawn	02/13/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: ATP-93-155R

Agency Contact: Melodie M. DeMarr, Air Traffic Rules Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9247

RIN: 2120–AE95

2261. EXTENDED OVERWATER OPERATIONS WITH A SINGLE HIGH-FREQUENCY COMMUNICATION SYSTEM (HF) AND A SINGLE LONG-RANGE NAVIGATION SYSTEM (LRNS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; ...

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action revised the Federal Aviation Regulations for certain overwater operations for air carriers, commercial operators, and general aviation operators of large and turbine-powered multiengine airplanes. This rule will authorize air carriers and commercial operators to use a single high-frequency communication system (HF) and a single LRNS for extended overwater routes detailed in their operation specifications. This action gives the FAA greater flexibility in responding to advances in aviation technology and changes in the operational environment and to allow operators to conduct extended overwater operations without carrying unnecessary communication and navigation equipment.

Timetable:

Action	Date	FR Cite
NPRM	10/05/93	58 FR 51938
NPRM Comment Period End	10/20/93	
Final Action	02/26/96	61 FR 7186
Correction	03/13/96	61 FR 10430

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/05/93 (58 FR 51938)

Additional Information: Project Number: AFS-93-130R

Agency Contact: Dan Meier, Project Development Branch, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3749

RIN: 2120–AF12

2262. RALEIGH/DURHAM, NC, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action was to establish the Raleigh/Durham Class B airspace area and revoke the Class C airspace area in North Carolina. The FAA has determined that the Raleigh/Durham does not meet the criteria for Class B airspace.

Timetable:

Action	Date	FR Cite
Action Terminated	02/13/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: ATP-93-57ST

Agency Contact: Patricia Crawford, Airspace and Obstruction Evaluation Branch, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9250

RIN: 2120–AF20

2263. REVISED DISCRETE GUST LOAD DESIGN REQUIREMENT; TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This final rule revised the gust load design requirements of the Federal Aviation Regulations. The changes will: (1) replace the current discrete gust requirement with a new requirement for a discrete tuned gust; (2) modify the method of establishing the design airspeed for maximum gust intensity; and, (3) provide for an operational rough air speed. These changes were needed in order to provide a more rational basis to account for the aerodynamic and structural dynamic characteristics of the airplane. These changes will also provide for harmonization of the discrete gust requirements with the Joint Aviation Requirements of Europe as recently amended.

Timetable:

Action	Date	FR Cite
NPRM	09/16/94	59 FR 47756
NPRM Comment Period End	12/15/94	
Final Action	02/09/96	61 FR 5218
Correction	03/06/96	61 FR 9533
Final Action Effective	03/11/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/09/96 (61 FR 5218)

Additional Information: Project Number: ANM-94-108A

Agency Contact: James R. Haynes, Airframe and Propulsion Branch, ANM-112, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 206 227-2131

RIN: 2120–AF27

2264. +OPERATIONS OF JET AIRCRAFT IN COMMUTER SLOTS AT LAGUARDIA AIRPORT AND JOHN F. KENNEDY INTERNATIONAL AIRPORT

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC

40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This proposal would have amended the definition of commuter operator slots (i.e., allocated instrument flight rules takeoff and landing reservations) at LaGuardia Airport and John F. Kennedy International Airport to expand the category of aircraft that may be used in those slots. The FAA has determined this rulemaking is not needed at this time. Priorities have allocated the resources to other projects ahead of this one.

Timetable:

Action	Date	FR Cite
Action Terminated	02/14/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: AGC-93-090P

Agency Contact: Patricia Lane, Airspace and Air Traffic Law Branch, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3491

RIN: 2120–AF31

2265. NOTIFICATION TO ATC OF DEVIATIONS FROM ATC CLEARANCE AND INSTRUCTIONS IN RESPONSE TO TRAFFIC ALERT AND COLLISION AVOIDANCE SYSTEM RESOLUTION ADVISORIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306; ...

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This rule codified the authority previously granted to pilots in command during the initial testing of TCAS to deviate from an air traffic control clearance or instruction in non-emergency situations in response to a traffic alert and collision avoidance system (TCAS) resolution advisory (RA). The FAA has consistently encouraged pilots to comply with TCAS RAs. The language contained in current regulations suggests that deviation from an ATC clearance is only authorized in an emergency situation. This rulemaking action added the TCAS RA as a reason to deviate from a clearance, and would require that whenever a pilot deviates from an ATC clearance or instruction, ATC would be advised as soon as possible.

Timetable:

Action	Date	FR Cite
NPRM	04/29/94	59 FR 22142
NPRM Comment Period End	05/31/94	
Final Action	09/29/95	60 FR 50676
Final Action Effective	10/30/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/29/94 (59 FR 22142); Regulatory Evaluation 09/29/95 (60 FR 50676)

Agency Contact: Ellen Crum, Air Traffic Branch, ATP-230, Airspace Rules and Aeronautical Info. Div., Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW. Phone: 202 267-9859

RIN: 2120–AF35

2266. POWERPLANT INSTRUMENTS; FUEL PRESSURE INDICATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action amends the certification requirement for fuel pressure indicators on pump-fed engines to permit other regulatory alternatives to warn pilots of imminent fuel pressure loss. A fuel pressure indicator is not the only means currently available in the marketplace to warn the pilot of a fuel pump failure. The proposed change will allow manufacturers to utilize new technology to improve operation, economy, and engine life.

Timetable:

Action	Date	FR Cite
NPRM	12/28/94	59 FR 67114
NPRM Comment Period End	02/27/95	
Final Action	03/27/96	61 FR 13642
Final Action Effective	07/25/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/28/94 (59 FR 67114)

Additional Information: Project No: ACE-94-266A This is a recommendation of the Aviation Rulemaking Advisory Committee, received February 15, 1994; accepted March 8, 1994.

Agency Contact: J. Lowell Foster, Standards Office, ACE-112, Airplane Certification Service, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106 Phone: 816 426-5688

RIN: 2120–AF41

2267. DIRECT FINAL RULEMAKING PROCEDURE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40101; 49 USC 40103; 49 USC 40105; 49 USC 40109; 49 USC 40113; 49 USC 44110; 49 USC 44502; 49 USC 44701 to 44702; 49 USC 44711; 49 USC 46102

CFR Citation: 14 CFR 11

Legal Deadline: None

Abstract: This rule responds to the President's Executive Order on Regulatory Planning and Review, the Vice President's National Performance Review, and the Administration's Civil Aviation Initiative. It implements a new and more efficient procedure for adopting non-controversial or consensual rules. This "direct final rulemaking" procedure involves issuing a rule with a statement that the FAA anticipates no public comment. If the FAA receives no adverse or negative comment, or notice of intent to file such a comment within a specified time period, the the rule will become effective on a designated date. If the FAA does receive such a comment or notice of intent, a notice of withdrawal of the direct final rule will be published in the Federal Register, and a notice of proposed rulemaking will be published with a new comment period. This new procedure is expected to reduce significantly the time needed to publish routine or non-controversial final rules.

Timetable:

Action	Date	FR Cite
NPRM	10/04/94	59 FR 50676
Final Action	03/19/96	61 FR 11278
Final Action Effective	04/18/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/04/94 (59 FR 50676)

Agency Contact: Donald P. Byrne, Assistant Chief Counsel for Regulations, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3073

RIN: 2120–AF55

2268. PROPOSED MODIFICATION OF THE SALT LAKE CITY, UT, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: This action alters the Salt Lake City, UT, Class B airspace area by redefining several existing subareas to improve air traffic procedures. The goal of this action is to improve safety while providing the most efficient use of the terminal airspace.

Timetable:

Action	Date	FR Cite
Final Action	09/18/95	60 FR 48350
Final Action Effective	11/09/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/18/95 (60 FR 48350)

Additional Information: Project Number: ATP-94-361R

Agency Contact: Norman W. Thomas, Airspace and Obstruction Evaluation Branch, AIr Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9230

RIN: 2120–AF56

2269. +COMMUTER OPERATIONS AND GENERAL CERTIFICATION AND OPERATIONS REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; ...

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action responded to the 10 recommendations from the National Transportation Safety Board dated November 15, 1994. The primary objective of this action is to revise the Federal Aviation Regulations (FAR) to require all scheduled passenger operations conducted with airplanes with more than nine passenger seats to be conducted under the requirements of Part 121. Other projects that the FAA already has ongoing include: Part 142, Training Centers; Flight Crewmember Duty Limitations and Rest Requirements; and the 121/135 Training Program. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/29/95	60 FR 16230
NPRM Comment Period End	06/27/95	
Final Action	12/20/95	60 FR 65832
Final Action Effective	01/19/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/20/96 (60 FR 65832)

Additional Information: Project Number: AES-95-064

Agency Contact: Alberta Brown, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8321

RIN: 2120–AF62

2270. SALT LAKE CITY, UTAH, CLASS B AIRSPACE

Completed:

Reason	Date	FR Cite
Terminated - Duplicate of RIN 2120-AF56	02/13/96	

RIN: 2120–AF89

2271. • DEFINITIONS OF SPECIAL USE AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701

CFR Citation: 14 CFR 1

Legal Deadline: None

Abstract: This action amended the Federal Aviation Regulations by adding the definitions of the various forms of special use airspace. This action is needed to consolidate and define those categories in a single part, including the definitions of warning area and non-regulatory warning area found in Special Federal Aviation Regulation (SFAR) No. 53.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58494
NPRM Comment Period End	12/27/95	
Final Action Effective	01/15/96	
Final Action	01/24/96	61 FR 2080

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/27/95 (60 FR 58494)

Additional Information: Project Number: ATP-96-003R.

Agency Contact: Joseph White, Air Traffic Rules Branch, ATP-230, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8783

RIN: 2120–AF92

2272. • INDEFINITE SUSPENSION OF THE PROHIBITION AGAINST CERTAIN FLIGHTS BETWEEN THE UNITED STATES AND THE FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306; ...

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action suspends indefinitely the provisions of SFAR No. 66-2, which prohibits, with certain exceptions, the takeoff from, landing, or overflight of the territory of the United States by any aircraft on a flight to or from the territory of Federal Republic of Yugoslavia (Serbia and Montenegro).

Timetable:

Action	Date	FR Cite
Notice Suspension of Effectiveness	01/09/96	61 FR 629

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The previous RIN for this rulemaking was 2120-AF72.

Agency Contact: Patricia R. Lane, Airspace and Air Traffic Law Branch, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3491

RIN: 2120–AF94

2273. • THE AGE 60 RULE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action responds to the comments requested in 1993 (April 20, 1993, 58 FR 21336) regarding various aspects of the Age 60 Rule. After reviewing all of the comments, studies and other pertinent information, the Federal Aviation Administration (FAA) has determined not to initiate rulemaking to change the Age 60 Rule at this time. The FAA also has decided not to grant any of the pending petitions for exemption or rulemaking.

Timetable:

Action	Date	FR Cite
Final Action - Disposition of Comments and Notice of Agency Decisions.	12/20/95	60 FR 65977

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel V. Meier, Jr., Regulations Branch, AFS-240, Department of Transportation, Federal Aviation Administration Phone: 202 267-3749

RIN: 2120–AF96

2274. • AIRSPACE AND FLIGHT OPERATIONS REQUIREMENTS FOR THE 1996 SUMMER OLYMPIC GAMES, ATLANTA, GA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action establishes a Special Federal Aviation Regulation for the period July 5 through August 11, 1996, to establish temporary flight restricted (TFR) areas overlying the various competition venues for the XXVI Olympic Games. In addition, this action announces other Federal Aviation Administration (FAA) services that will be available to the National and International air commerce community prior to and during the games. The FAA finds that this action is necessary for the protection of security and law enforcement aircraft operating within these areas.

Timetable:

Action	Date	FR Cite
NPRM	12/29/95	60 FR 67506
NPRM Comment Period End	01/22/96	
Final Action	02/12/96	61 FR 5492
Correction	02/29/96	61 FR 7855
Final Action Effective	03/13/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/29/95 (60 FR 67506); Regulatory Evaluation 02/12/96 (61 FR 5492)

Additional Information: Project Number: ATP-96-076R.

Agency Contact: Janet Apple, Air Traffic Rules Branch(ATP-230), Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-8783

RIN: 2120–AG02

2275. • OPERATING REQUIREMENTS: DOMESTIC, FLAG, SUPPLEMENTAL, COMMUTER, ON-DEMAND OPERATIONS: EDITORIAL AND TERMINOLOGY CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40101; 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This amendment adopts changes to certain references and language in the regulations governing the operations of certificate holders under parts 121 and 135. Many of these changes are made necessary as a result of the issuance of new part 119, which has made numerous references in parts 121 and 135 incorrect or obsolete. The changes to parts 121 and 135 in this amendment will not impose any additional restrictions or requirements on persons affected by these regulations.

Timetable:

Action	Date	FR Cite
Final Action	01/26/96	61 FR 2608
Final Action Effective	02/26/96	
Correction	03/11/96	61 FR 9612

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Project Number: ARM-96-137R. Correction published on 3/11/96 refers to RIN 2120-AC79, which was published on 12/20/95.

Agency Contact: Linda Williams, Office of Rulemaking, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591

Phone: 202 267-9685

RIN: 2120–AG03

DEPARTMENT OF TRANSPORTATION (DOT) — Prerule Stage

Federal Highway Administration (FHWA)

2276. HIGHWAY BEAUTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 131; 23 USC 315; 49 USC 1651

CFR Citation: 23 CFR 750, subpart B; 23 CFR 750, subpart E; 23 CFR 750, subpart G

Legal Deadline: None

Abstract: The revision of these subparts will reduce their complexity, recognize the existence of State laws, regulations, and organizations implementing 23 USC 131, and emphasize the position of the State as the initial, primary, and principal focal point regarding the requirement of effective control. Potential costs should be reduced, albeit minimally. The principal benefit will be to give the States greater ability, in the context of the broad requirements of 23 USC 131, to respond to concepts and issues relevant to the States. We are reviewing these regulations and we intend to focus on changes necessitated by ISTEA.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: The FHWA has determined that changes to 23 CFR part 750 should be made to conform these regulations to the Dire Emergency Supplemental Appropriations Act of 1992. These changes will be made under 2125-AD88. Meanwhile, FHWA will continue its rulemaking under RIN2125-AD24 to propose additional changes to reduce the complexity of the highway beautification regulations and to emphasize the role of the State.

Agency Contact: Robert P. Harter, Realty Specialist, Special Programs and Evaluation Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington DC 20590 Phone: 202 366-2026

RIN: 2125–AD24

2277. +ADVANCED TECHNOLOGY IN COMMERCIAL MOTOR VEHICLE OPERATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 395

Legal Deadline: None

Abstract: Current Federal Motor Carrier Safety Regulations limit the hours of service of commercial motor vehicle (CMV) drivers in order to reduce fatigue-related accidents. These regulations include substantial recordkeeping requirements to monitor drivers' hours of service. The Federal Highway Administration (FHWA) is considering ways to reduce the recordkeeping burden while maintaining or improving safety. This is significant because of the broad industry impact.

Statement of Need: The hours-of-service regulations adopted by the FHWA are intended to address the issue of driver fatigue and to enhance highway safety by reducing the number and severity of accidents caused by fatigue. The recordkeeping associated with this regulation, primarily the requirement for drivers to maintain daily records of duty status, imposes a significant burden on drivers and motor carriers.

The FHWA believes that advances in technology may hold the promise for substantially reducing the paperwork burden of this rule while improving compliance with the underlying hours-of-service limitations, thus enhancing highway safety.

Summary of the Legal Basis: The FHWA is authorized to regulate hours of service of CMV drivers in order to enhance highway safety. Beginning in 1935, the Federal Government (first the Interstate Commerce Commission and then the Federal Highway Administration) has regulated the hours of service of interstate drivers. See 49 USC 31502. In 1984, the Congress directed the Secretary of Transportation to prescribe regulations to ensure that commercial motor vehicles are operated safely and that the physical condition of operators of CMVs is adequate to enable them to operate safely. See 49 USC 31136. Finally the Congress has provided that, if the Secretary prescribes a regulation about the use of monitoring devices in CMVs to increase compliance with hours of service regulations, the regulation is to ensure that the devices are not used to harass vehicle operators. See 49 USC 31137(a).

Alternatives: Current Federal safety regulations require drivers to maintain records of duty status on handwritten forms or alternatively, at a motor carrier's option, electronically through the use of on-board recording devices (49 CFR 395).

The FHWA has considered the use of satellite tracking technology to replace handwritten records of duty status. The FHWA believes that system modifications necessary to allow the use of this technology for this purpose is not cost effective at this time. Satellite tracking systems, as currently configured, are primarily designed to track vehicle location. They do not provide driver identification or supporting documentation for roadside enforcement.

The FHWA is now planning further study of the use of on-board recording devices to monitor drivers' hours of service. This study will include recent

advances in technology and current costs.

Anticipated Costs and Benefits: Current recordkeeping requirements directly affect 3.3 million drivers who are required to complete records of duty status. The motor carrier industry expends 14.8 million burden hours at an estimated cost of $340 million annually.

Risks: Hours of service recordkeeping requirements are intended to reduce safety risks associated with driver fatigue. No risks have been identified with increased use of onboard recording devices.

Timetable:

Action	Date	FR Cite
Notice: Request for Information	09/07/95	60 FR 46682
Comments Period End	11/06/95	
Study To Be Completed	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bryan Price, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5720

RIN: 2125–AD65

2278. • INSPECTION, REPAIR, AND MAINTENANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31133; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 396

Legal Deadline: None

Abstract: This action involves the use of technology to reduce recordkeeping. The FHWA issued a notice (60 FR 46682) requesting comments from motor carriers, vehicle and component manufacturers, technology vendors and the public on the use of advanced driver, vehicle and inspection technology. The FHWA plans to evaluate existing technologies to determine if they could be used to simplify or automate compliance with any of the FMCSRs without compromising public safety.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Minor, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2125–AD82

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Proposed Rule Stage

2279. ACQUISITION OF REAL PROPERTY FOR RIGHTS-OF-WAY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 315; PL 100-17, sec 126; PL 100-17, sec 146; 42 USC 4601 et seq

CFR Citation: 23 CFR 172; 23 CFR 710; 23 CFR 712; 23 CFR 713; 23 CFR 720; 23 CFR 740; 23 CFR 620; 23 CFR 635; 23 CFR 645

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) is proposing to revise and consolidate several right-of-way regulations to improve the organization of the subject matter and update the content. This action will also implement sections 126 and 146 (airspace and donations) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

Timetable:

Action	Date	FR Cite
ANPRM	11/06/95	60 FR 56004
ANPRM Comment Period End	01/05/96	
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Analysis: Regulatory Evaluation

Additional Information: Two related rulemaking actions are: (1) a proposed rule entitled "Right-of-Way" which appeared in a prior Agenda under RIN 2125-AB58 and (2) a proposed rule entitled "Property Management; Disposals and Airspace" which appeared in a prior Agenda under RIN 2125-AB60. Those entries have been consolidated into this rulemaking. The FHWA has determined that several right-of-way regulations are duplicated or otherwise covered elsewhere in DOT regulations. Accordingly, the FHWA has decided to remove these provisions from its regulations. Meanwhile, the FHWA intends to issue an ANPRM in this rulemaking action to propose additional changes to reduce burdens in State and local governments.

Agency Contact: Marshall Schy, Chief, Policy Development Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2021

RIN: 2125–AC17

2280. TRUCK LENGTH AND WIDTH EXCLUSIVE DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 315; PL 97-424, sec 411; PL 97-424, sec 416

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA requested public comment on how, under section 411(h) and 416(b) of the Surface Transportation Act of 1982 (STA) (PL 97-424, 96 Stat. 2097), the Secretary may determine which safety or efficiency-enhancing devices are to be excluded when measuring the length and width of vehicles for compliance with federally mandated dimensions. The present system of employing

rulemaking proceedings is too time-consuming and cumbersome to meet the needs of industry and is needlessly burdensome for FHWA. Therefore, a new approach will be proposed.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/89	54 FR 52951
ANPRM Comment Period Extended to 06/01/90	03/21/90	55 FR 10468
ANPRM Comment Period End	03/26/90	
ANPRM Docket Reopened; Comment Period Extended to 08/21/90	06/22/90	55 FR 25673
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation

Agency Contact: Max Pieper, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4029

RIN: 2125–AC30

2281. PERIODIC INSPECTION REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31131; 49 USC 31137; 49 USC 31142

CFR Citation: 49 CFR 396

Legal Deadline: None

Abstract: The FHWA is proposing to rescind the periodic inspection requirements for commercial motor vehicles (CMVs). Under the President's Regulatory Reinvention Initiative and the FHWA's Zero-Based Regulatory Review, the FHWA has examined the effectiveness of the periodic inspection requirements established in response to the Motor Carrier Safety Act of 1984 (The Act) and determined that the requirements can be rescinded without reducing safety. The periodic inspection requirements have not provided any greater assurance of the safety of operation of CMVs than the driver vehicle inspection and systematic repair and inspection requirements, which were in existence prior to the passage of the Act. This action would not relieve motor carriers of their responsibility to ensure that CMVs subject to their control are in safe and proper operating conditions at all times. It is the intent of this action to eliminate unnecessary regulations and achieve performance-based inspection, repair, and maintenance requirements under the Federal Motor Carrier Safety Regulations.

Timetable:

Action	Date	FR Cite
Notice: Request for Comments	03/16/89	54 FR 11020
Final Rule: Delay in Compliance Date	12/08/89	54 FR 50722
Notice: State Inspection Programs	12/08/89	54 FR 50726
Petition: Comments Invited Through 07/02/90	05/02/90	55 FR 18355
Notice: State Inspection Programs	09/23/91	56 FR 47982
Denial of Petition	07/02/92	57 FR 29457
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: Larry W. Minor, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2981

RIN: 2125–AC47

2282. COMMERCIAL LEARNER PERMITS AND CDL EFFECTIVENESS

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-570; 49 USC 3102; 49 USC 31136; 49 CFR 1.48

CFR Citation: 49 CFR 383; 49 CFR 384; 49 CFR 386; 49 CFR 395

Legal Deadline: None

Abstract: To reconcile the training needs of the motor carrier industry with the requirements of the Commercial Driver's License (CDL) program and the Commercial Motor Vehicle Safety Act of 1986, the FHWA is proposing additional minimum Federal standards for State-issued learner's permits that allow drivers to be trained in the operation of commercial motor vehicles (CMVs). Among the alternatives under consideration: Applicants for Commercial Driver Instruction Permits (CDIPs) might need to possess drivers' licenses and undergo record checks analogous to those now required for CDLs; CDIP transactions might be entered in the Commercial Driver's License Information System (CDLIS); and CDIP holders might be explicitly subject to the same disqualifications as CDL holders. Since driver training is nationwide in scope, the FHWA is proposing options that would allow a State to issue a CDIP to a driver trainee. In addition, the FHWA is proposing to amend existing regulations to incorporate interpretations made since the original CDL regulations were issued. This will also address some issues currently under consideration for increased effectiveness of the CDL program.

Timetable:

Action	Date	FR Cite
NPRM	08/22/90	55 FR 34478
NPRM Comment Period End	10/22/90	
NPRM Comment Period Extended to 11/30/90	10/23/90	55 FR 42741
SNPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/22/90 (55 FR 34478)

Additional Information: Because other regulatory changes have been made since the NPRM was published in 1990, the FHWA intends to issue a supplemental NPRM to solicit comments on including additional requirements consistent with changes in the CDL program.

Agency Contact: David Goettee, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001

RIN: 2125–AC54

2283. REVISION OF MEDICAL EXAMINATION FORM AND PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 2505; 49 USC 3102

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: This rulemaking action will seek information for the redesign of the existing medical examination form as well as amend the examination procedures to reflect the latest medical and technological advances.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation

Additional Information: This action was formerly titled "Qualification of Drivers; Medical Examination Form."

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2981

RIN: 2125–AC63

2284. +MINIMUM TRAINING REQUIREMENTS FOR OPERATORS AND TRAINING INSTRUCTORS OF MULTIPLE TRAILER COMBINATION VEHICLES

Priority: Other Significant

Legal Authority: PL 102-240, sec 4007(b)(2); Intermodal Surface Transportation Efficiency Act (ISTEA)

CFR Citation: 49 CFR 383

Legal Deadline: Final, Statutory, December 18, 1993.

Abstract: This action will establish minimum training requirements for operators of multiple trailer combination vehicles and the instructors who train these operators. The training would include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary of Transportation. This action is significant due to public interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/15/93	58 FR 4638
ANPRM Comment Period End	03/16/93	
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Robert Redmond, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5014

RIN: 2125–AC92

2285. +COMMERCIAL DRIVER PHYSICAL FITNESS AS PART OF THE CDL PROCESS

Priority: Other Significant

Legal Authority: 49 USC app 2704(a)(8); 49 USC app 2505; 49 USC app 3102

CFR Citation: 49 CFR 391; 49 CFR 383; 49 CFR 1.48; 49 CFR 391.11; 49 CFR 391.45

Legal Deadline: None

Abstract: The FHWA is proposing to include the certification of fitness to operate a CMV in the commercial driver's license (CDL) process. Incorporating the commercial driver fitness determination into State administered CDL procedures could allow elimination of the requirement that CMV drivers carry a separate medical certificate. The CDL would be evidence that the CMV driver is physically fit as well as operationally qualified to operate CMVs safely. This action addresses the driver's physical qualifications as they relate to the CDL process; it does not address whether those standards are correct or should be changed. The FHWA has determined that the negotiated rulemaking process will be used to provide a proposed rule. Action is being taken to obtain a convener/facilitator to contact prospective participants to represent affected parties and the convener/facilitator will oversee the process. After the FHWA has secured a contract with a convener/facilitator, a notice of intent to establish a negotiated rulemaking committee will be published in the Federal Register with time allowed for comments.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/94	59 FR 36338
ANPRM Comment Period End	11/14/94	
Notice of Intent to Establish Advisory Committee	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: The FHWA considers this a significant action due to anticipated substantial public interest.

Agency Contact: Teresa Doggett, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2990

RIN: 2125–AD20

2286. +DEPARTMENT OF TRANSPORTATION (FHWA, FTA, FRA AND USCG) NEPA AND RELATED PROCEDURES FOR TRANSPORTATION DECISION MAKING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4321; 23 USC 109; 23 USC 128; 23 USC 138; 23 USC 315; PL 102-240; 49 USC 303(c); 49 USC 1602(d); 49 USC 1604(h); 49 USC 1604(i); 49 USC 1610; 33 USC 401; 33 USC 491 et seq; 33 USC 511 et seq; 33 USC 525 et seq; ...

CFR Citation: 23 CFR 771; 49 CFR 622; 40 CFR 1500 to 1508; 49 CFR 1.48(b); 49 CFR 1.51; 33 CFR 114.05

Legal Deadline: None

Abstract: The Federal Highway Administration and the Federal Transit Administration have a joint environmental regulation at 23 CFR 771, "Environmental Impact and Related Procedures." Nevertheless, each agency's guidance for implementing those regulations is procedurally different. This causes difficulties and inconsistencies for sponsors of transportation projects, particularly where joint FHWA and FTA funds are involved. In the ISTEA, the Congress recognized the importance of providing uniformity and consistency between FHWA and FTA environmental procedures. This is needed to accommodate the increased funding flexibility for surface transportation provided by ISTEA. Because of an increased emphasis on intermodal planning and proposals to advance a high speed rail program, the proposed, new joint regulations will include the

Federal Railroad Administration (FRA), and the United States Coast Guard (USCG) bridge permit program. Section 134(h)(4) of title 23, United States Code and section 8(h)(4) of the Federal Transit Act, as amended, direct the Secretary of Transportation to initiate a a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements for highway projects. This action is considered significant because of potential public, congressional and environmental concerns and because it involves several interested departmental modes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Analysis: Regulatory Evaluation

Agency Contact: Harold Peaks, Senior Staff Specialist, Office of Environment and Planning, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1598

RIN: 2125–AD32

2287. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; GENERAL AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 390; 49 CFR 392; 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is proposing to amend part 393 of the Federal Motor Carrier Safety Regulations (FMCSRs), Parts and Accessories Necessary for Safe Operation. The proposed amendments are intended to : remove obsolete and redundant regulatory language; respond to several petitions for rulemaking; provide improved definitions of vehicle types and vehicle components; resolve inconsistencies between part 393 and the National Highway Traffic Safety Administration's Federal Motor Vehicle Safety Standards (49 CFR 571); and codify certain FHWA interpretations of the requirements of part 393.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: Larry W. Minor, Mechanical Engineer, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD40

2288. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; MANUFACTURED HOME TIRES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502; 42 USC 5403; 42 USC 3535(d)

CFR Citation: 49 CFR 393.75; 24 CFR 3280.904; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA and HUD are proposing amendments to the Federal Motor Carrier Safety Regulations (FMCSRs) and the Manufactured Home Construction and Safety Standards concerning the transportation of manufactured homes. The FHWA and HUD propose to adopt mutually consistent and readily enforceable regulations that promote the safe and effective transportation of manufactured homes. These changes would clarify FHWA and HUD respective regulations to resolve differences between Federal regulations for the overloading of tires used in the transportation of manufactured homes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: Larry Minor, Mechanical Engineer, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD41

2289. ANTILOCK BRAKE SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: This rulemaking requests comments on the intent of the FHWA to initiate a rulemaking concerning requirements for antilock brake systems (ABS) on commercial motor vehicles engaged in interstate commerce. The National Highway Traffic Safety Administration (NHTSA) has proposed requiring certain newly manufactured vehicles to be equipped with ABS. The FHWA intends to initiate a rulemaking addressing requirements for motor carriers to maintain the ABS on those vehicles which would be subject to the NHTSA's final rule and address certain other ABS issues related to vehicles subject to the Federal Motor Carrier Safety Regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Larry W. Minor, Mechanical Engineer, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD42

2290. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; MOTOR VEHICLE MARKING

Priority: Other Significant

Legal Authority: 49 USC 104; 49 USC 504; 49 USC 521(b)(5)(A); 49 USC 31502; 49 USC 5113; 49 USC 31136; 49 USC 31144; 49 USC 5113

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: The FHWA is proposing to revise its regulations dealing with the identification and marking of commercial motor vehicles (CMVs). Five changes are being proposed which would: (1) Apply the marking requirements to all CMVs operated in interstate commerce, including those common and contract motor carriers of property or passengers authorized by the Interstate Commerce Commission(ICC); (2) require motor carriers to mark both sides of each CMV with a specific legal name or name under which it does business (DBA name); (3) require motor carriers to mark each CMV with the city and State of its principal place of business; (4) require all new motor carriers to file Form MCS-150 within 30 days after beginning operations; and (5) move sec. 385.21, and sec. 385.23 and the appendix to part 385 to a new section in part 390. The States would also be allowed and encouraged to use United States Department of Transportation (USDOT) identification numbers to identify intrastate motor carriers. The proposed changes would improve the identification of motor carriers and CMVs, aid enforcement, and enhance data collection and analysis.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Phillip J. Forjan, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6817

RIN: 2125–AD49

2291. +HOURS OF SERVICE OF DRIVERS; SUPPORTING DOCUMENT RECORDKEEPING

Priority: Other Significant

Legal Authority: PL 103-311

CFR Citation: 49 CFR 395.8

Legal Deadline: NPRM, Statutory, August 1995. Final, Statutory, February 1996.

Abstract: A record of duty status (49 CFR 395.8) is required to be prepared for each day a driver operates a commercial motor vehicle in interstate commerce. All motor carriers are required to maintain the record of duty status for at least 6 months along with all documents that support the accuracy of the record of duty status (sec. 395.8(k)). The Hazardous Materials Transportation Authorization Act of 1994 (Pub. L. 103-311) mandates the Federal Highway Administration (FHWA) to specify what documents must be maintained to support the accuracy of the record of duty status. This rule will implement the statutory mandate that requires the agency to describe the type of supporting documents to be generated and maintained, as well as specify the quantity and length of time to maintain the supporting documents.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Miller, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC
Phone: 202 366-1790

RIN: 2125–AD52

2292. FEDERAL AID PROJECT AGREEMENT AND CONTRACT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 110; 23 USC 121(c); 23 USC 315

CFR Citation: 23 CFR 630; 23 CFR 635; 49 CFR 1.48

Legal Deadline: None

Abstract: This action presents FHWA policies and procedures related to the formal agreement between a State highway agency and the FHWA required for Federal-aid projects. Changes are proposed to provide more flexibility in the format of the agreement document, to shorten its length, and to incorporate provisions reflecting recent changes in Federal statute. This action also proposes to amend FHWA's regulation on contract procedures by incorporating into it provisions regarding overruns in contract time for Federal-aid projects that are currently set forth in the project agreement regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/30/96	61 FR 2973
NPRM Comment Period End	04/01/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 10/00/95

Agency Contact: Jack Wasley, Federal-Aid Program Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4658

RIN: 2125–AD58

2293. RULES OF PRACTICE FOR MOTOR CARRIER PROCEEDINGS; INVESTIGATIONS; DISQUALIFICATIONS AND PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 104; 49 USC 307

CFR Citation: 49 CFR 301; 49 CFR 302; 49 CFR 303; 49 CFR 304; 49 CFR 385; 49 CFR 386

Legal Deadline: None

Abstract: The FHWA proposes to amend its rules of practice for motor carrier safety, hazardous materials, and other enforcement proceedings, motor carrier safety ratings, driver qualification proceedings and its schedule of penalties for violations of the FMCSRs and the Hazardous Materials Regulations. The FHWA further proposes to add provisions on investigative authority and procedures and general motor carrier responsibilities. These rules would increase the efficiency of the procedures, enhance due process and the awareness of the public and regulated community, and accommodate recent programmatic changes. The rules would apply to all motor carriers, other business entities and individuals involved in motor carrier safety and hazardous materials administrative actions on the effective date of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Paul Brennan, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0834

RIN: 2125–AD64

2294. • SAFETY PERFORMANCE HISTORY OF NEW DRIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31133; 49 USC 31136; 49 USC 31301 et seq; 49 USC 31502; PL 103-311

CFR Citation: 49 CFR 382; 49 CFR 383; 49 CFR 390; 49 CFR 391; 49 CFR 1.46

Legal Deadline: NPRM, Statutory, February 1996.

Abstract: This action proposes amending FHWA regulations to specify minimum safety information that new or prospective employers must seek from former employers during the investigation of a driver's employment record. This action also proposes to increase the period of time for which carriers must record accident information in the accident register from one to three years. This proposal was mandated by section 114 of the Hazardous Materials Reauthorization Act of 1994.

Timetable:

Action	Date	FR Cite
NPRM	03/14/96	61 FR 10548
NPRM Comment Period End	05/13/96	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Valerie Height, Office of Motor Carrier, Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AD66

2295. • STANDARDS FOR CENTER LINE AND EDGE LINE MARKINGS ON STREETS AND HIGHWAYS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a); PL 102-388

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated by reference in 23 CFR part 655, subpart F, and recognized as the national standard for traffic control on all public roads. The DOT and Related Agencies Appropriations Act of 1992, Pub. L. 102-388, sec. 406, requires that the MUTCD include a national standard to define the roads that must have center line or edge line markings or both. The MUTCD amendments proposed in this action are intended to improve traffic operations and safety-providing national standards and guidance to establish uniform application and use of center line and edge line markings on streets and highways.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ernest D.L. Huckaby, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AD68

2296. • ZERO-BASE REVIEW OF THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS: REGULATORY REMOVALS AND SUBSTANTIVE AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31502; 49 USC 31101 et seq; 49 USC 31136

CFR Citation: 49 CFR 383; 49 CFR 387; 49 CFR 390; 49 CFR 391; 49 CFR 392; 49 CFR 395; 49 CFR 396; 49 CFR 397

Legal Deadline: None

Abstract: This action requests comments on the intent of the FHWA to remove, amend, and redesignate certain regulations on a variety of subjects. (Ex: commercial driver's licenses; general applicability and definitions; accident recordkeeping requirements; transportation of hazardous materials.) This action is in response to the FHWA's Zero Base Regulatory Review.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter C. Chandler, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5763

RIN: 2125–AD72

2297. • HIGHWAY SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 103(b); 23 USC 103(e)(1); 23 USC 103(e)(3); 23 USC 103(f); 23 USC 315

CFR Citation: 23 CFR 470

Legal Deadline: None

Abstract: The proposed regulatory action will amend 23 CFR 470 in accordance with legislation enacted in 1991 and 1995. The Intermodal Surface Transportation Efficiency Act of 1991 rescinded the Federal-aid Primary and Secondary and Urban Systems; established an interim National Highway System (NHS); and defined Federal-aid highways. The NHS Designation Act of 1995 authorized the initial National Highway System and also authorized the Secretary to approve modifications.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Weeks, Team Leader, NHS Team, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5002
Fax: 202 493-2198

RIN: 2125–AD74

2298. • PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; TELEVISION RECEIVERS AND DATA DISPLAY UNITS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is proposing to rescind restrictions on the locations of television viewers or screens within commercial motor vehicles (CMVs). The FHWA has determined that current restrictions concerning such devices are unnecessary since the unsafe behavior the regulation is intended to discourage is more effectively deterred through motor carrier management policies. The current regulation may have the unintended effect of discouraging the use of certain Intelligent Transportation System Technologies (ITS), such as collision avoidance and traveler information systems which could improve the safety and efficiency of CMV operations. This action is not intended to encourage motor carriers to install display screens for entertainment purposes or otherwise reduce the safety of CMVs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Minor, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD76

2299. • MITIGATION OF IMPACTS TO PRIVATELY OWNED WETLANDS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4321; 23 USC 109(h), 138, 315(i)(1B), 133(b)(11); EO 11990

CFR Citation: 23 CFR 777; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: Revision to the existing rule will bring FHWA's wetland mitigation policies and requirements into full agreement with the provisions of ISTEA sections 1007(b)(11) and section 1006(1)(13). In addition, the revised rule will reflect recent recent policy issued by the Corps of Engineers and EPA on wetland mitigation banking. FHWA internal policy development on wetland mitigation is also indicated by the proposed revision.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Additional authority DOT Order 5660.1A

Agency Contact: Fred Bank, Leader, Natural and Cultural Resource Team, HEP-40, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC
Phone: 202 366-5004
TDD: 202 366-3409
Fax: 202 366-3409
Email: FBANK@INTERGATE.DOT.GOV

RIN: 2125–AD78

2300. • UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20; 49 USC 320; 49 USC 913; 49 USC 1012

CFR Citation: 49 CFR 1200

Legal Deadline: None

Abstract: In this action, the FHWA proposes to streamline the Sec. 402 grant approval process. In a separate notice (60 FR 47418) the FHWA announced the creation of a pilot highway safety program for FY 1996 State highway programs under 23 USC 402 and the waiver of certain procedures for States that have elected to participate in the pilot program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mila Plosky, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6902

RIN: 2125–AD79

2301. • TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING/PARKING RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 31132; 49 USC 31136; 49 USC 31502; 49 USC 31504

CFR Citation: 49 CFR 397; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is proposing to reorganize subpart A of part 397 of the FMCSRs. In response to the President's Regulatory Reinvention initiative, the FHWA has reviewed part 397 and believes this subpart contains requirements that are obsolete and redundant, and should be reorganized in a more understandable format. In addition, the FHWA is proposing to revise the title of part 397 and provide a title for subpart A.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nathan Root, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8759

RIN: 2125–AD80

2302. • +TRANSPORTATION OF MIGRANT WORKERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5901 to 5907; 49 USC 31132; 49 USC 31133; 49 USC 31136; 49 USC 31502; 49 USC 31504

CFR Citation: 49 CFR 390; 49 CFR 392; 49 CFR 398; 49 CFR 1.48

Legal Deadline: None

Abstract: The Federal Highway Administration will propose to remove 49 CFR part 398 "Transportation of Migrant Workers" and to expand the definition of "commercial motor vehicle" in part 390 to include smaller vehicles operated by private motor carriers of migrant agricultural workers and contract carriers of migrant agricultural workers. This action also proposes transferring certain definitions and driving requirements from part 398 to parts 390 and 392. These changes would eliminate redundant regulations in part 398 and enhance the safety of migrant workers transported in interstate commerce.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Miller, Transportation Specialist, Department of Transportation, Federal Highway Administration, Room 3107, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AD81

DEPARTMENT OF TRANSPORTATION (DOT) — Final Rule Stage

Federal Highway Administration (FHWA)

2303. +MANAGEMENT AND MONITORING SYSTEMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 303; 23 USC 315; 23 USC 135; 23 USC 134

CFR Citation: 23 CFR 500; 49 CFR 614

Legal Deadline: Final, Statutory, December 16, 1992.

Abstract: 23 U.S.C. 303 requires the Secretary of Transportation to issue regulations for State development, establishment, and implementation of systems for managing: highway pavement of Federal-aid highways; bridges on and off Federal-aid highways; highway safety; traffic congestion; public transportation facilities and equipment; and intermodal transportation facilities and systems. The Secretary also must issue guidelines and requirements for the State development, establishment, and implementation of a traffic monitoring system for highways and public transportation facilities and equipment. States must be implementing each management system in Federal fiscal year 1995, or the Secretary may withhold up to 10 percent of funds apportioned under title 23, U.S.C., or under the Federal Transit Act for any fiscal year beginning after September 30, 1995. The primary purpose of these systems is to improve the efficiency of, and protect the investment in, existing and future transportation infrastructure. The systems will provide additional information needed to make informed decision for optimum utilization of limited resources.

The economic impact of the regulations is expected to be minimal. The regulations will be issued jointly with the Federal Transit Administration (RIN 2132-AA47). This regulation is considered significant because of substantial State and local government, congressional, and public interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/03/92	57 FR 23460
ANPRM Comment Period End	08/03/92	
NPRM	03/02/93	58 FR 12096
Request for Comments	03/24/93	58 FR 15816
NPRM Comment Period End	05/03/93	
Interim Final Rule	12/01/93	58 FR 63442
Interim Final Rule; Correction	12/07/93	58 FR 64374
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Evaluation 12/01/93 (58 FR 63442)

Additional Information: The interim final rule was effective on 1/3/94; comments were due by 1/31/94. The issue of replacement of sections 511.1 through 511.10, formerly a part of this RIN, has been removed and consolidated into RIN 2125-AD21. The National Highway System Designation Act of 1995 (P.L. 104-59) enacted on November 28, 1995, allows States to elect to not implement any of the management systems in whole or in part and prohibits the Secretary from imposing any penalties for such elections. The final rule will effect these changes.

Agency Contact: Tony Solury, Community Planner, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5003

RIN: 2125–AC97

2304. +VALUE ENGINEERING

Priority: Economically Significant

Legal Authority: 23 USC 106(d); 23 USC 302; 23 USC 307; 23 USC 315; 23 USC 106(e)

CFR Citation: 23 CFR 627; 49 CFR 18

Legal Deadline: None

Abstract: In this action, the FHWA proposes the application of value engineering (VE) in the design and construction of Federal-aid highway projects funded under the grant-in-aid process. This proposal would require State highway agencies (SHAs) to establish VE programs in accordance

with section 303 of the NHS Designation Act of 1995 and provides guidance on establishing such programs. This action is considered necessary to implement the provisions of 23 USC 106(e), which provides that the Secretary establish a program to require a value engineering analysis for proposed projects on Federal-aid highway projects on the NHS with estimated value of $25 million or more. This rulemaking is considered economically significant because FHWA has determined that a savings of more than $100 million per year is likely to occur as a result of the implementation of the regulation.

Timetable:

Action	Date	FR Cite
NPRM	11/16/94	59 FR 59182
NPRM Comment Period End	01/17/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Keith Borkenhagen, Value Engineering Coordinator, Department of Transportation, Federal Highway Administration
Phone: 202 366-4630

RIN: 2125–AD33

2305. DESIGN STANDARDS FOR HIGHWAYS; A POLICY ON GEOMETRIC DESIGN OF HIGHWAYS AND STREETS; DESIGN AND CONSTRUCTION CRITERIA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 625

Legal Deadline: None

Abstract: The standards, policies and standard specifications that have been approved by the FHWA for application of projects located on the National Highway System (NHS) are incorporated by reference in 23 CFR Part 625. The American Association of State Highway and Transportation Officials (AASHTO) has revised "A Policy of Geometric Design of Highways and Streets" to incorporate the latest information on geometric design and to change the numeric values used in the policy exclusively to metric units. Through this rulemaking, the FHWA is proposing to incorporate this revised AASHTO publication into the regulations on design standards for highways, thus adopting controlling metric criteria for use in the design of projects on the NTS.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: RIN 2125-AD23 "Design Standards for Highways, Interim Selected Metric Values for Geometric Design; Design and Construction Criteria," has been consolidated into this action. By notice published June 27, 1994 (59 FR 33037), FHWA announced its decision to delay implementation of any national metric sign conversion until after 1996, or until further indication of the intent of Congress on this subject is received. Section 205(c)(2) of Pub. L. 104-59, the National Highway System Designation Act of 1995, provides that conversion to the metric system may not be required until September 30, 2000.

Agency Contact: Seppo I. Sillan, Chief, Geometric And Roadside Design Branch, Department of Transportation, Federal Highway Administration
Phone: 202 366-1327

RIN: 2125–AD38

2306. FEDERAL AID PROJECT AUTHORIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 106; 23 USC 118; 23 USC 315

CFR Citation: 23 CFR 630; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: This action presents FHWA policies and procedures related to authorization of Federal-aid highway projects. Changes are proposed to provide more flexibility in establishing funding arrangements, to further clarify the authorization process, and to reflect recent modifications in Federal statutes.

Timetable:

Action	Date	FR Cite
ANPRM	12/08/94	59 FR 63322
ANPRM Comment Period End	02/06/95	
Final Action	05/00/96	

Small Entities Affected: Undetermined

Timetable:

Action	Date	FR Cite
NPRM	02/17/95	60 FR 9306
NPRM Comment Period End	04/18/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation

Agency Contact: Jack Wasley, Federal-Aid Program Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4658

RIN: 2125–AD43

2307. MAXIMUM DRIVING AND OFF-DUTY TIME; HOURS OF SERVICE FOR FARMERS AND RETAIL FARM SUPPLIERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-311

CFR Citation: 49 CFR 395.3

Legal Deadline: None

Abstract: The Hazardous Materials Transportation Authorization Act of 1994 requires the Secretary of Transportation to initiate a rulemaking proceeding to determine whether or not the requirements of section 395.3 of Title 49, Code of Federal Regulations, relating to hours of service, may be waived for farmers and retail farm suppliers when such farmers and retail farm suppliers are transporting crops or farm supplies for agricultural purposes within a 50 mile radius of their distribution point or farm. Based on the information received in response to this notice, the FHWA intends, in compliance with the Regulatory Flexibility Act, to carefully consider the economic impacts of these potential changes on small entities.

Timetable:

Action	Date	FR Cite
NPRM	02/17/95	60 FR 9306
NPRM Comment Period End	04/18/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation

Agency Contact: Jack Wasley, Federal-Aid Program Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4658

RIN: 2125–AD43

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This action will be modified according to the requirements contained in Section 345 of the National Highway System Designation Act of 1995 (Pub. L. 104-59)

Agency Contact: Philip J. Roke, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5884

RIN: 2125–AD44

2308. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; REVISION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 217; 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 1.32; 23 CFR 655.601; 23 CFR 655.602; 23 CFR 655.603; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA announced its intent to rewrite and reformat the MUTCD published on January 10, 1992, at 57 FR 1134. This effort is currently underway and as work progresses, many changes and modifications are being identified. This action will invite comments on these proposed changes to the MUTCD. These changes are intended to expedite traffic, promote uniformity, and improve safety as well as provide a clearer understanding of the principles contained in the MUTCD.

Timetable:

Action	Date	FR Cite
NPRM	06/12/95	60 FR 31008
NPRM Comment Period End	09/11/95	
Comment Period Extended to 3/11/96	09/21/95	60 FR 49136
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda L. Brown, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AD57

2309. EMERGENCY RELIEF PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101; 23 USC 120(e); 23 USC 125; 23 USC 315

CFR Citation: 23 CFR 668; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA proposes to amend its regulation on the emergency relief program in order to incorporate changes made in 23 U.S.C. 120 and 125 by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). The time period in which the Federal share payable for certain eligible emergency repairs is 100 percent would be extended from 90 days to 180 days; the limit for total obligations for ER projects in any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands would be increased from $5 million to $20 million; and the term "Federal-aid highway systems" would be replaced with the term "Federal-aid highways" to conform with terminology now used to describe highways eligible for Federal-aid ER assistance. In addition, various statements clarifying eligible uses of ER funding would be incorporated into the regulation.

Timetable:

Action	Date	FR Cite
NPRM	11/13/95	60 FR 56962
NPRM Comment Period End	01/12/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mohan Pillay, Office of Engineering, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4655

RIN: 2125–AD60

2310. GENERAL MATERIAL REQUIREMENTS; WARRANTY CLAUSES

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 112; 23 USC 113; 23 USC 114; 23 USC 117; 23 USC 128; 23 USC 315; PL 102-240, sec 10; 23 USC 109; 23 USC 116; 23 USC 119

CFR Citation: 23 CFR 635

Legal Deadline: None

Abstract: The FHWA is revising its regulation that generally prohibits the use of guaranty and warranty clauses on Federal-aid construction contracts. This action will permit greater use of warranties in Federal-aid highway construction contracts within prescribed limits.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/25/95	60 FR 44271
Comment Period End	10/24/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation
10/00/95

Additional Information: The FHWA has determined that prior notice and opportunity for comment are unnecessary under 5 USC 553(b)(3)(B), because this action, in amending the FHWA's regulation on guaranty and warranty clauses in Federal-aid highway construction contracts to permit States to include such clauses, does not impose any new obligation or requirement on the States or highway contractors.

Agency Contact: James Daves, Office of Engineering, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0355

RIN: 2125–AD61

2311. CERTIFICATION ACCEPTANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 101(e); 23 USC 117; 23 USC 315

CFR Citation: 23 CFR 640

Legal Deadline: None

Abstract: Comments and suggested clarifications were received on the FHWA interim policy for certification acceptance which was published in the

Federal Register on October 12, 1978. A final policy will be issued to allow State Highway agencies to use certification acceptance procedures to supplement the flexibility provided in ISTEA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/13/95	60 FR 47480
Comment Period End	12/12/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The FHWA has determined that prior notice of this action to the public is unnecessary and contrary to the public interest because the changes being adopted in this rulemaking involve streamlining and providing more administrative flexibility in the use of the regulation.

Agency Contact: Donald J. Marttila, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4637

RIN: 2125–AD62

2312. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; METRIC CONVERSION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 105; 23 USC 109(d); 23 USC 114(a); 23 USC 135; 23 USC 217; 23 USC 307; 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: Based on the National Highway System (NHS) Designation Act of 1995, the Federal Highway Administration (FHWA) no longer requires metric legends on highway signs. After FY 1996, if a State desires to install metric legend signs, the FHWA will not restrict the use of Federal-aid funds. The NHS Designation Act also revises the Metric Conversion Policy to extend the compliance date to September 30, 2000, for having plans, specifications, and estimates PS&E's in metric units (previously September 30, 1996). It is the intent of this rulemaking action to assure that those States and other FHWA partners desiring to convert to metric units will have available a source for formulating their plans in a consistent manner. Therefore, the FHWA is adopting the following two American Association of State Highway and Transportation Officials (AASHTO) publications as its policy for metric conversion: "Guide to Metric Conversion" and "Traffic Engineering Metric Conversion Factors." The FHWA has determined that the interim metric values selected by the AASHTO documents are functionally equivalent to English system measurements previously adopted by notice and comment rulemaking.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The FHWA initiated a phased five year plan to convert its activities and business operations to the metric system of weights and measures as required by the Metric Conversion Act of 1975 (Pub. L. 94-168, 89 Stat. 1007), as amended by sec. 5164 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418, 102 Stat. 1107, 1451).

Agency Contact: Ernest Huckaby, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AD63

2313. • PUBLIC LANDS HIGHWAYS DISCRETIONARY FUNDS PROGRAM; ELIMINATION OF REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 23 USC 315

CFR Citation: 23 CFR 667; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is proposing to eliminate its regulations outlining the procedures to be followed in administering Public Lands Highways funds. These provisions have become unnecessary as a result of amendments made by the Intermodal Surface Transportation Efficiency Act of 1991 to statutory provisions in title 23 of the United States Code which authorize distribution of some of the funds appropriated for Public Lands Highways among the States on the basis of need.

Timetable:

Action	Date	FR Cite
NPRM	12/06/95	60 FR 62359
NPRM Comment Period End	02/05/96	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mohan Pillay, Office of Engineering, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4655

RIN: 2125–AD69

2314. • RAILROAD GRADE CROSSING SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240; PL 103-311; 49 USC 5101; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 392; 49 CFR 1.48

Legal Deadline: Final, Statutory, February 26, 1995.
See P.L. 103-311; sec. 112.

Abstract: In this action, the FHWA is amending the Federal Motor Carrier Safety Regulations (FMCSRs) to prohibit operators of commercial motor vehicles (CMVs) from driving onto a railroad grade crossing unless there is sufficient space to drive completely through the crossing without stopping. The intent of this action is to reduce the incidence of collisions between trains and CMVs. This action is required by the Hazardous Materials Transportation Authorization Act of 1994 (PL 103-311; sec. 112).

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter C. Chandler, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5763

RIN: 2125–AD75

2315. • RAILROAD HIGHWAY PROJECTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 315; 23 USC 109(e); 23 USC 120(c); 23 USC 130

CFR Citation: 23 CFR 140; 23 CFR 646

Legal Deadline: None

Abstract: The FHWA proposes to amend its regulations on railroad highway projects. The proposed amendments would require railroads to submit final billings within one year following completion of work, delete the requirements of a State's certification that work was completed, increase the ceiling for lump sum agreements from $25,000 to $100,000 and incorporate changes brought about by ISTEA. The FHWA proposes these changes to conform railroad/highway regulations to more recent laws or regulations, and provide State highway agencies clarification and more flexibility in implementing them.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: The FHWA intends to dispense with prior notice and opportunity for comment and to publish an interim final rule. The FHWA believes that prior notice and opportunity for comments are unnecessary because the changes it is making to existing regulations deal with billing procedures to be followed by the States, provide States greater flexibility with respect to an option already available to them to use lump sum agreements. The FHWA does not expect to receive useful comment on these changes. Nevertheless, in issuing an interim final rule, the FHWA is affording interested persons an opportunity to comment on these changes, and the FHWA will carefully consider any comments it receives before making this regulations final.

Agency Contact: Robert Winans, HNG-12, Department of Transportation, Federal Highway Administration, Federal-aid Programs Branch, 400 7th Street SW., Washington, DC 20590
Phone: 202 366-0450

RIN: 2125–AD86

2316. • ACQUISITION OF REAL PROPERTY FOR RIGHTS-OF-WAY; REVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 23 USC 315; PL 100-17; PL 100-17; 42 USC 4601

CFR Citation: 23 CFR 710; 23 CFR 712; 23 CFR 720; 23 CFR 740

Legal Deadline: None

Abstract: The Federal Highway Administration is deleting several right-of way regulations whose provisions are essentially duplicated or effectuated elsewhere in FHWA/DOT regulations. The FHWA intends to continue its rulemaking action under 2125-AC17 to propose additional changes to reduce burdens on State and local governments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Prior notice and opportunity for comment would not be in the public interest since the changes to title 23 are intended to remove duplicative text.

Agency Contact: Robert A. Johnson, Realty Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2020

RIN: 2125–AD87

2317. • HIGHWAY BEAUTIFICATION: AMENDMENTS OF DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 131; 23 USC 315; 49 USC 1651

CFR Citation: 23 CFR 750.304; 23 CFR 750, subpart E

Legal Deadline: None

Abstract: Subpart E sets forth the procedures by which a State may seek an exemption from the acquisition requirements of 23 USC 131 for signs giving directional information about goods and services in the interest of the traveling public. The deletion of this subpart in its entirety is consistent with the Dire Emergency Supplemental Appropriations Act of 1992. The Dire Emergency Act amended 23 USC 131(n) and made the expenditure of section 104 funds for the purpose of acquiring and removing nonconforming signs entirely discretionary with the States. This means that a State may use Federal-aid funds to acquire nonconforming signs but if it chooses not to do so, there is no risk of penalty. The principal benefit in repealing this subpart is that it eliminates a regulation that has become obsolete due to later Federal legislative action. The lead paragraph of 23 CFR 750.304 and 23 CFR 750.304(a) are being deleted in view of the Dire Emergency Act noted above and 23 CFR 750.705 which otherwise requires State laws, regulations and enforcement procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: See also RIN 2125-AD24 "Highway Beautification".

Agency Contact: Marshall Schy, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2035

RIN: 2125–AD88

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Long-Term Actions

2318. +QUALIFICATION OF DRIVERS; DIABETES

Priority: Other Significant

CFR Citation: 49 CFR 391.41(b)(3)

Timetable:

Action	Date	FR Cite
ANPRM	11/25/87	52 FR 45204
ANPRM Comment Period End	12/28/87	
ANPRM Comment Period Extended to 02/01/88	01/04/88	53 FR 42
NPRM	10/05/90	55 FR 41028
NPRM Comment Period Extended to 01/03/91	11/01/90	55 FR 46080
NPRM Comment Period End	12/04/90	
Notice of Intent to Issue Waivers: Comment Request	10/21/92	57 FR 48011
Final Action To Accept Waivers	07/29/93	58 FR 40690
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra L. Zywokarte
Phone: 202 366-2981

RIN: 2125–AB91

2319. +COMMERCIAL DRIVER'S LICENSE STANDARDS; BIOMETRIC IDENTIFIER

Priority: Other Significant

CFR Citation: 49 CFR 383

Timetable:

Action	Date	FR Cite
ANPRM	05/15/89	54 FR 20875
ANPRM Comment Period End	07/14/89	
Information Notice	03/08/91	56 FR 9925
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Phil Forjan
Phone: 202 366-8759

RIN: 2125–AC24

2320. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; PERIODIC REGISTRATION REQUIREMENTS FOR MOTOR CARRIERS

Priority: Other Significant

CFR Citation: 49 CFR 390

Timetable:

Action	Date	FR Cite
ANPRM	07/17/89	54 FR 29912
ANPRM Comment Period End	09/15/89	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Philip Roke
Phone: 202 366-5884

RIN: 2125–AC28

2321. CERTIFICATION OF SIZE AND WEIGHT ENFORCEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 23 CFR 657

Timetable:

Action	Date	FR Cite
ANPRM	12/16/93	58 FR 65830
ANPRM Comment Period Extended to 05/18/94	03/15/94	59 FR 11956
ANPRM Comment Period End	03/16/94	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Kathy Busby
Phone: 202 366-4026

RIN: 2125–AC60

2322. +QUALIFICATION OF DRIVERS; VISION

Priority: Other Significant

CFR Citation: 49 CFR 391

Timetable:

Action	Date	FR Cite
ANPRM	02/28/92	57 FR 6793
ANPRM Comment Period End	04/28/92	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Sandra L. Zywokarte
Phone: 202 366-2981

RIN: 2125–AC62

2323. +SAFETY FITNESS PROCEDURES; SAFETY RATINGS

Priority: Other Significant

CFR Citation: 49 CFR 385

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/16/91	56 FR 40801
Notice: Request for Comments	09/14/94	59 FR 47203
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Hill
Phone: 202 366-6347

RIN: 2125–AC71

2324. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION: INTERMODAL CARGO CONTAINERS

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 393; 49 CFR 1.48

Timetable:

Action	Date	FR Cite
ANPRM	08/23/93	58 FR 44485
ANPRM Comment Period End	11/22/93	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Peter C. Chandler
Phone: 202 366-5763

RIN: 2125–AC74

2325. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL TRANSPORTATION OF HAZARDOUS MATERIALS

Priority: Other Significant

CFR Citation: 49 CFR 390.3; 49 CFR 397

Timetable:

Action	Date	FR Cite
NPRM	08/17/93	58 FR 33418
NPRM Comment Period End	08/16/93	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Singer
Phone: 202 366-4009

RIN: 2125–AC78

DOT—FHWA

Long-Term Actions

2326. TRANSPORTATION OF HAZARDOUS MATERIALS; ROUTING OF CLASS 7 (RADIOACTIVE) MATERIALS

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 397; 49 CFR 1.48

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/24/92	57 FR 44129
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela K. Deadrick
Phone: 202 366-2159

RIN: 2125–AD00

2327. +TRAINING FOR ENTRY-LEVEL DRIVERS OF COMMERCIAL MOTOR VEHICLES

Priority: Other Significant

CFR Citation: 49 CFR 383

Timetable:

Action	Date	FR Cite
ANPRM	06/21/93	58 FR 33874
ANPRM Comment Period End	08/20/93	
Report to Congress	02/05/96	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ron Finn
Phone: 202 366-0647

RIN: 2125–AD05

2328. +QUALIFICATIONS OF DRIVERS: HEARING DEFICIENCIES

Priority: Other Significant

CFR Citation: 49 CFR 391; 49 CFR 1.48

Timetable:

Action	Date	FR Cite
ANPRM	12/15/93	58 FR 65634
ANPRM Comment Period Extended to 04/05/94	02/04/94	59 FR 5376
ANPRM Comment Period End	02/14/94	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Sandra Zywokarte
Phone: 202 366-2987

RIN: 2125–AD22

2329. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; SLEEPER BERTHS ON MOTOR COACHES

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 393; 49 CFR 1.48

Timetable:

Action	Date	FR Cite
ANPRM	01/12/94	59 FR 1706
ANPRM Comment Period End	03/14/94	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Richard Singer
Phone: 202 366-2994

RIN: 2125–AD25

2330. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; LIGHTING DEVICES, REFLECTORS, AND ELECTRICAL EQUIPMENT

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 393

Timetable:

Action	Date	FR Cite
ANPRM	01/19/94	59 FR 2811
ANPRM Comment Period End	03/21/94	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Richard Singer
Phone: 202 366-4009

RIN: 2125–AD27

2331. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM (MCSAP) ALLOCATION FORMULA

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 350

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/03/94	59 FR 5262
Interim Final Rule Effective	03/07/94	
Interim Final Rule Comment Period End	04/04/94	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Linda Taylor
Phone: 202 366-6308

RIN: 2125–AD30

2332. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; TEMPORARY TRAFFIC SIGNALS

Priority: Substantive, Nonsignificant

CFR Citation: 23 CFR 655

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/04/95	60 FR 363
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael E. Robinson
Phone: 202 366-2193

RIN: 2125–AD45

2333. ADVANCED CONSTRUCTION OF FEDERAL AID PROJECTS

Priority: Substantive, Nonsignificant

CFR Citation: 23 CFR 630; 23 CFR 1.32; 49 CFR 1.48

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/19/95	60 FR 36991
Comment Period End	09/18/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Max Inman
Phone: 202 366-2853

RIN: 2125–AD59

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Completed Actions

2334. EQUAL EMPLOYMENT OPPORTUNITY ON FEDERAL AND FEDERAL-AID CONSTRUCTION CONTRACTS (INCLUDING SUPPORTIVE SERVICES); REPORT REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101; 23 USC 112; 23 USC 117; 23 USC 140; 23 USC 315

CFR Citation: 23 CFR 230

Legal Deadline: None

Abstract: This document amends the current regulation on recordkeeping and reporting requirements for on-the-job training on Federal-aid construction contracts. This amendment eliminates these reporting requirements in order to reduce the administrative burden on contractors as well as States. Additionally, the OMB approval of these forms under the Paperwork Reduction Act has lapsed, and as a matter of common industry practice, compliance by contruction contractors and States is not required.

Timetable:

Action	Date	FR Cite
NPRM	11/22/82	47 FR 52470
NPRM Comment Period End	12/22/82	
Final Action	04/03/96	61 FR 14615
Final Action Effective	05/03/96	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 11/22/82 (47 FR 52470)

Additional Information: The recordkeeping and reporting requirements for the On-The-Job Training (OJT) Program included in Federal-aid contracts will be addressed during an accelerated review and update of all civil rights regulations. This effort will include updating the OJT Program and will address recordkeeping and reporting requirements.

Agency Contact: Linda Brown, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1593

RIN: 2125–AB15

2335. COMMERCIAL DRIVER'S LICENSE PROGRAM AND CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31136; 49 USC 31301 et seq; 49 USC 31502; 49 USC 3102; 49 USC 31101 et seq; 49 USC 504

CFR Citation: 49 CFR 382; 49 CFR 383; 49 CFR 391; 49 CFR 392; 49 CFR 1.48

Legal Deadline: None

Abstract: The Federal Highway Administration is making technical amendments to its alcohol and drug testing rules and its regulations implementing the commercial driver's license program. The testing rules require employers to test drivers who are required to obtain commercial driver's licenses (CDLs) for the illegal use of alcohol and controlled substances. The amendments are necessary to correct minor errors in the final rule, codify final dispositions of waivers of the commercial driver's license program, and make metrification changes (i.e., correcting English measurements such as weight of commercial motor vehicle in pounds to metric system measurements such as kilograms, while retaining the English measurement parenthetically).

Timetable:

Action	Date	FR Cite
Final Action	03/08/96	61 FR 9546
Technical Correction	04/03/96	61 FR 14677

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This action amends prior drug and alcohol testing rules issued under the following RINs: 2125-AA79; 2125-AC85; 2125-AD06; 2125-AB68.

Agency Contact: David Miller, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington DC 20590
Phone: 202 366-1790

RIN: 2125–AD46

2336. PRIVATE MOTOR CARRIERS OF PASSENGERS: TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5901; 49 USC 31132; 49 USC 31136; 49 USC 31502; 49 USC 31504; 49 USC 31133

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: This action is being terminated since the information collections affecting private motor carriers of passengers will be covered by other specific information collection activities. (OMB Control No. 2125-0561 will be phased out.)

Timetable:

Action	Date	FR Cite
Action Terminated	02/23/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dan Hartman, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD54

2337. ZERO-BASE REVIEW OF THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS; TECHNICAL CORRECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4917; 49 USC 104; 49 USC 501 et seq; 49 USC 5101 et seq; 49 USC 5113; 49 USC 5901 et seq; 49 USC 31101; 49 USC 31102; 49 USC 31103; 49 USC 31104; 49 USC 31108; 49 USC 31131 et seq; 49 USC 31161; 49 USC 31301 et seq; 49 USC 31501 et seq

CFR Citation: 49 CFR 325; 49 CFR 350; 49 CFR 382; 49 CFR 385; 49 CFR 390; 49 CFR 391; 49 CFR 392; 49 CFR 395; 49 CFR 396; 49 CFR 397; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is making technical corrections to keep the Federal Motor Carrier Safety Regulations accurate and up to date. This rulemaking action is one part of the FHWA's Zero Base Regulatory Review.

Timetable:

Action	Date	FR Cite
Final Action	07/28/95	60 FR 38738

DOT—FHWA

Completed Actions

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Chandler, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5763

RIN: 2125–AD55

2338. • STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31301 et seq; 49 USC 31502

CFR Citation: 49 CFR 384; 49 CFR 1.48

Legal Deadline: None

Abstract: In this action, the FHWA is changing the effective date of 49 CFR 384.231(b)(2) from Oct. 1, 1995, to May 18, 1997, in order to allow the States additional time to solve the problem of disqualifying commercial motor vehicle operators convicted of a disqualifying offense or offenses who do not possess a commercial driver's license and for whom the State cannot identify a social security number.

Timetable:

Action	Date	FR Cite
Final Action	11/16/95	60 FR 57543

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Please note that this action is a technical amendment to rulemaking activity listed in prior regulatory agenda under RIN 2125-AC53.

Agency Contact: Ronald Finn, Office of Motor Carrier Research & Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0647

RIN: 2125–AD70

2339. • FEDERAL MOTOR CARRIER SAFETY REGULATIONS: HAZARDOUS MATERIALS: TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 et seq

CFR Citation: 49 CFR 382; 49 CFR 385; 49 CFR 391; 49 CFR 393; 49 CFR 397; 49 CFR 1.48

Legal Deadline: None

Abstract: This action makes technical amendments to various sections of the Federal Motor Carrier Safety Regulations to correct erroneous cross-references and to amend references within Chapter III that have been redesignated or removed. In addition, this rulemaking adds a subject heading for Subpart A of the part in title 49, Code of Federal Regulations, that addresses transportation of hazardous materials.

Timetable:

Action	Date	FR Cite
Final Action	01/24/96	61 FR 1842

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The FHWA believes that prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(B) since this action simply amends or corrects cross references, inserts a missing subpart heading and is purely editorial in nature.

Agency Contact: Neill Thomas, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD71

2340. • QUALIFICATION OF DRIVERS: VISION AND DIABETES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 504; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: In this action, the FHWA announces a final determination and final rule to allow drivers holding valid waivers from either the vision or the diabetes standards contained in the Federal Motor Carrier Safety Regulations to continue to operate in interstate commerce after March 31, 1996. (This action is necessary because the waiver program termination date is March 31, 1996, and without this action the drivers would no longer be permitted to operate in interstate commerce.) This extension would apply only to those drivers who have been granted temporary waivers to participate in either the Federal vision waiver study or in the Federal diabetes waiver study as of November 1, 1995. The FHWA's review of its qualification standards for vision and diabetes will continue under RINS 2125-AC82 and 2125-AB91 respectively.

Timetable:

Action	Date	FR Cite
NPRM	01/08/96	61 FR 606
NPRM Comment Period End	02/07/96	
Final Action	03/26/96	61 FR 13338
Final Action Effective	03/31/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra Zywokarte, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2987

RIN: 2125–AD73

2341. • CERTIFICATION OF SPEED LIMIT ENFORCEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 118; 23 USC 141; 23 USC 154; 23 USC 315; PL 104-59

CFR Citation: 23 CFR 1260; 49 CFR 1.48; 49 CFR 1.50

Legal Deadline: None

Abstract: Section 205(d) of the National Highway System Designation Act of 1995 repealed the National Maximum Speed Limit (NMSL) Compliance Program. It made the repeal effective on December 8, 1995, except that it provided that the Governors of certain States could delay the effective date of the repeal. This action provides that 23 CFR part 1260, which contains the procedures for implementing the NMSL, is now applicable only to those States whose Governor delayed the effective date of the repeal of the NMSL. In effect, the regulation is rescinded for all other States. This action also rescinds the provisions of part 1260 concerning speed monitoring, certification requirements and compliance standards.

DOT—FHWA — Completed Actions

Timetable:

Action	Date	FR Cite
Final Action	03/20/96	61 FR 11305

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Brennan, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC
Phone: 202 366-0834

RIN: 2125–AD77

2342. • EXEMPTIONS FROM FEDERAL MOTOR CARRIER SAFETY REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-59; 49 USC 3102; 49 USC app 2505; 49 USC 2701

CFR Citation: 49 CFR 383; 49 CFR 395; 49 CFR 1.48

Legal Deadline: None

Abstract: The National Highway System Designation Act of 1995 creates exemptions from certain requirements of the Federal Motor Carrier Safety Regulations (FMCSRs) for employers engaged in: (1) the transportation of agricultural commodities and farm supplies; (2) the transportation of ground water drilling rigs; (3) the transportation of construction materials and equipment; (4) the operation of utility service vehicles and (5) the operation of snow and ice removal equipment. These exemptions relate to the hours-of-service and the commercial driver's license requirements of the regulations. This action amends the FMCSRs to conform to these statutory exemptions.

Timetable:

Action	Date	FR Cite
Final Action	04/03/96	61 FR 14677

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The FHWA has determined that prior opportunity for notice and comment are not in the public interest since the changes in the regulations are statutorily mandated.

Agency Contact: Robert F. Schultz, Jr., Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2718

RIN: 2125–AD83

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Prerule Stage

2343. +REVIEW: PASSENGER CAR FRONT SEAT OCCUPANT PROTECTION (FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 208)

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This standard requires the provision of automatic occupant protection in the front outboard seats of passenger cars after September 1, 1989. Air bags and automatic safety seat belts are being installed to meet the standard. The agency will analyze the actual road experience of vehicles equipped with automatic occupant protection to measure the reduction of fatalities and injuries, observe operational performance, and assess public acceptance and costs. The regulation was selected for review because of its costs, potential benefits, and public interest; this review is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Begin Review	01/17/90	55 FR 1586
Interim Evaluation Report	07/08/92	57 FR 30293
End Review	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Automatic occupant protection, State belt laws, and greater voluntary belt use amount to a winning combination that saves lives and reduces injury severity. Fatality risk of occupants in cars with air bags plus manual belts (at 1991 use rates) is 23 percent lower than in "baseline" cars with manual belts at 1983 use rates. Interim Evaluation Report comments reviewed and docketed 10/28/92.

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AD82

2344. REVIEW: PASSENGER-CAR BACK SEAT OCCUPANT PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Federal Motor Vehicle Safety Standard No. 208 requires passenger cars manufactured after December 11, 1989, to have Type 2 (lap-and-shoulder) belts at the rear outboard seats. The agency will analyze the actual on-the-road experience of vehicles equipped with lap-and-shoulder belts in the rear seats to measure the reduction of fatalities and injuries relative to cars equipped only with lap belts. The regulation was selected for review because of public interest.

Timetable:

Action	Date	FR Cite
Begin Review	07/01/93	
End Review	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AD84

DOT—NHTSA — Prerule Stage

2345. RESCIND CONTROLS AND DISPLAYS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.101

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to rescind this standard. The agency has tentatively concluded that market forces will continue current practices of specifying the location, identification, and illumination of motor vehicle controls and displays. This would afford the vehicle manufacturers more flexibility to provide safety related information in a format that is not design-restrictive.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF86

2346. RESCIND WINDSHIELD DEFROSTING AND DEFOGGING SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.103

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to rescind this standard. The agency has tentatively concluded that market forces will continue current practices.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Standard, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF87

2347. RESCIND WINDSHIELD WIPING AND WASHING SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.104

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to rescind this standard. The agency has tentatively concluded that market forces will continue current practices.

Timetable:

Action	Date	FR Cite
ANPRM	03/07/96	61 FR 9136
ANPRM Comment Period End	04/22/96	
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Hackney, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AG07

2348. • +OCCUPANT PROTECTION IN INTERIOR IMPACT

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.201

Legal Deadline: None

Abstract: In response to petitions for rulemaking of a final rule published August 18, 1995 (60 FR 43031), the agency is initiating a new rulemaking to allow more flexible test procedures and not impede innovative designs for head protection. A technical workshop was held in December 1995 to discuss issues concerning the test procedures. This action is considered significant because of public interest.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF88

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Proposed Rule Stage

2349. +TRUCK REAR UNDERRIDE PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: This action establishes two Federal Motor Vehicle Safety Standards which will operate together to reduce the number of injuries and fatalities resulting from the collision of passenger vehicles with the rear end of heavy trailers and semitrailers. The first is Standard No. 223, Rear Guards, or the "equipment standard" which specifies performance requirements that rear impact guards must meet before they can be installed on new trailers and semitrailers. It specifies strength requirements as well as test procedures to be used for compliance. The second is Standard No. 224, Rear Impact Protection, or the "vehicle standard" which requires that most new trailers and semitrailers with a Gross Vehicle Weight Rating of 10,000 lbs. or more be equipped with a rear impact guard meeting the equipment standard, requirements for the location, and requirements that the guard be mounted on the trailer or semitrailer in accordance with the instructions of the guard manufacturer. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/08/81	46 FR 21361
NPRM Comment Period End	04/08/81	
Comment Period End 03/04/92	01/03/92	57 FR 252
Comment Period Extended to 6/08/92	04/09/92	57 FR 12289
Final Rule: Effective 01/26/98	01/24/96	61 FR 2003
Petitions Due	03/11/96	
Action on Petitions	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/24/96 (61 FR 2004)

Additional Information: Docket No. 1-11. NPRM, Notice 8.

Agency Contact: Leon DeLarm, Division Chief, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AA43

2350. PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 et seq (National Environmental Policy Act-NEPA)

CFR Citation: 49 CFR 520

Legal Deadline: None

Abstract: NHTSA's regulation will be reviewed and reissued, as necessary, where it conflicts with or is duplicative of the regulations of Council on Environmental Quality (CEQ), 40 CFR parts 1500-1508, and with DOT Order 5610.1C, each of which implements the National Environmental Policy Act (NEPA), 42 USC 4321, et seq.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Paul Atelsek, Attorney Advisor, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992

RIN: 2127–AB79

2351. DRIVING RANGE DETERMINATION FOR DUAL FUEL ELECTRIC PASSENGER AUTOMOBILES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32901; 49 USC 32905; 49 USC 32906

CFR Citation: 49 CFR 538

Legal Deadline: None

Abstract: The agency has requested comments to assist in developing a proposal for a minimum driving range for dual-fueled electric passenger automobiles or hybrid electric vehicles.

Timetable:

Action	Date	FR Cite
Request for Comments by 11/24/94	09/22/94	59 FR 48589
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Agency Contact: Orron Kee, Chief, Motor Vehicle Requirements Division, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AF37

2352. TEST DEVICE PLACEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30111; 49 USC 30168

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: In response to petitions for rulemaking, this action is requesting comments on what changes, if any, are needed to the roof crush compliance testing. Petitions were granted.

Timetable:

Action	Date	FR Cite
Request for Comments Due 2/10/95	12/27/94	59 FR 66504
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Hackney, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AF40

2353. THEFT DATA FOR CALENDAR YEAR 1994

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104(b)(4)

CFR Citation: 49 CFR 541

DOT—NHTSA

Proposed Rule Stage

Legal Deadline: None

Abstract: This action will publish the final theft data on passenger motor vehicles that occurred in calendar year 1994. The theft data will indicate the overall vehicle theft rate in 1994. Publication of this data fulfill the agency's obligation to periodically obtain accurate and timely data and publish the information for review and comment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Gray, Group Leader, Theft Prevention Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4808
Fax: 202 366-4329

RIN: 2127–AF57

2354. AUTOMATIC DRAIN VALVE FOR AIR RESERVOIR TANKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 20166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is requesting information about devices that remove water and other contaminants from air brake systems. These devices include automatic drain valves and air dryers. It appears from the agency's analysis of the comments that such devices are a cost-effective method of improving heavy vehicle safety, the agency will publish a notice of proposed rulemaking to require such equipment.

Timetable:

Action	Date	FR Cite
Request for Comments by 9/24/95	07/24/95	60 FR 37864
Correction Published	08/17/95	60 FR 42830
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Agency Contact: Robert Clarke, Division Chief, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5279
Fax: 202 366-4329

RIN: 2127–AF72

2355. REGULATORY NEGOTIATION FOR VISUAL HEADLAMP AIMABILITY REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: This action proposes to establish a Negotiated Rulemaking Advisory Committee under the Negotiated Rulemaking Act of 1990 and the Federal Advisory Committee Act to develop recommended specifications for altering the U.S. lower headlamp beam pattern to be more sharply defined. Such a pattern would facilitate visual aimability of headlamps and might be the basis for a world-wide lower beam pattern. The Committee would develop its recommendations through a negotiation process. The Committee would be composed of persons who represent the interests affected by the rule such as domestic and foreign manufacturers of motor vehicles, headlamps, and headlamp aimers, motor vehicle inspection facilities, consumers, and State and Federal governments.

Timetable:

Action	Date	FR Cite
Notice to Conduct a Regulatory Negotiation	06/09/95	60 FR 30506
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action terminates RIN 2127-AF24. The agency announced the establishment of the advisory committee for regulatory negotiation and notice of the first meeting (07/14/95 (60 FR 36253)). On August 16, 1995 (60 FR 42496) the schedule of the Advisory Committee meetings was published. On November 16, 1995 (60 FR 57562) a change in the dates and location of the November Advisory Committee meeting was published. On December 21, 1995 (60 FR 66247) the final dates and locations of the three remaining Advisory Committee meetings were published. Change in the time and location of the next series of meetings published February 12, 1996 (61 FR 5370).

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF73

2356. ALTERNATIVE GEOMETRIC VISIBILITY REQUIREMENTS FOR LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to harmonize the lighting standard's geometric visibility requirements for signal lamps and rear side marker color with those of the ECE. Harmonization of the standard worldwide, without reducing safety, would allow manufacturers to reduce costs by producing to a single world vehicle standard rather than several, thus reducing costs and improving the flow of trade.

Timetable:

Action	Date	FR Cite
NPRM	10/26/95	60 FR 54833
Comment Period Extended to 05/16/96	12/27/95	60 FR 66953
NPRM Comment Period End	05/16/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/26/95 (60 FR 54833)

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety

Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF75

2357. CURRENT AND FUTURE STATE OF THE ART INNOVATION FOR ACCELERATOR CONTROLS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.124

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency is requesting comments in anticipation of a complete overhaul of the standard to accommodate current, new technology, and future accelerator control strategies and systems. The standard was last revised in 1973, when only mechanical systems were common on motor vehicles.

Timetable:

Action	Date	FR Cite
Request for Comments Comment Period End 02/02/96	12/04/95	60 FR 62061
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF76

2358. RESCISSION OF WARNING DEVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.125

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to rescind the warning device standard for all motor vehicles. The agency cannot justify the existence or show the benefit to society by retaining the standard. The standard is referenced by Federal Highway Administration for Motor Carrier Use Regulations. FHWA has stated that an industry standard would be as suitable for this purpose. The Society of Automotive Engineers is updating its standard to reflect the performance stated in the federal standard. FHWA will then use the SAE standard.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF77

2359. ALTERNATIVE MOTORCYCLE HEADLAMP PERFORMANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to permit optional photometric performances for motorcycle and motor-driven cycle headlamps. The benefits are to reduce the risk of accidents associated with night time driving. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	02/21/96	61 FR 6616
NPRM Comment Period End	04/22/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/20/96 (61 FR 6616)

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AF78

2360. TRUCK CAMPER LOADING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.126; 49 CFR 575

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to combine the requirements in Standard No. 126 into the Consumer Information Regulations, Part 575. This will enable the consumer to locate all truck camper loading requirements in one place.

Timetable:

Action	Date	FR Cite
NPRM	02/14/96	61 FR 5730
NPRM Comment Period End	04/15/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/14/96 (61 FR 5730)

Agency Contact: Robert Clarke, Division Chief, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5279
Fax: 202 366-4329

RIN: 2127–AF81

2361. POWER-OPERATED WINDOWS: ROOF PANELS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to amend the test procedure used to demonstrate compliance by adding an alternative testing specification for non-contact automatic reversal system, in order to provide a more meaningful and realistic method for evaluating the compliance of such systems which do not rely on contact to sense an obstruction. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Agency Contact: Richard Van Iderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF83

2362. ENERGY-ABSORBING SUN-VISORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.201

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to remove unenforceable requirements for energy-absorbing sun-visors. The dynamic requirements of the agency's new Upper Interior Head Protection rule, to be applicable to both passenger cars and light trucks (<=8,500 pounds) will eliminate the need for the current S3.4 Sun Visor padding requirement, which is not a performance standard.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Agency Contact: James Hackney, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AF85

2363. SEALED BEAM HEADLAMPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to remove the sealed beam headlamp requirements in the standard. Manufacturers will no longer have to petition for rulemaking to change the specifications of sealed beam lamps.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF89

2364. RESCIND HEADLAMP CONCEALMENT DEVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.112

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to rescind this standard. The requirements will be simplified and incorporated in the lighting standard no. 108. The current standard requires that when headlamps are on, the concealment devices remain fully opened during a power loss or short circuit.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF90

2365. VOLUNTARILY-INSTALLED SHOULDER BELTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to permit an optional test procedure for the anchorages of a voluntarily-installed shoulder belt on a motor vehicle safety belt. Currently, if a shoulder belt is voluntarily-installed, only the lap belt anchorages are subject to a performance test. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Agency Contact: James Hackney, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AF91

2366. INSURER REPORTING REQUIREMENTS FOR OCTOBER 1996

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 33112

CFR Citation: 49 CFR 544

Legal Deadline: None

Abstract: The agency is proposing to update its lists of passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experiences. Each insurer included on the agency's final list must file a report for the 1993 calendar year not later than October 25, 1996. As long as they remain listed, they must submit reports by each subsequent October 25.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Gray, Group Leader, Theft Prevention Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4808
Fax: 202 366-4329

RIN: 2127–AF92

2367. AUTOMOTIVE FUEL ECONOMY REPORTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 32907

CFR Citation: 49 CFR 537

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to remove obsolete reporting requirements. These submission requirements include factors such as "breakover angles" for light trucks and essentially are never used by NHTSA. Revising this Part would reduce the costs to the industry of reporting to NHTSA and could be reduced without substantially affecting NHTSA's legitimate data needs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Agency Contact: Orron Kee, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AG00

2368. • HIGHWAY SAFETY PROGRAM STANDARDS: APPLICABILITY TO FEDERALLY ADMINISTERED AREAS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 402

CFR Citation: 23 CFR 1230

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, NHTSA and FHWA propose to replace the outdated rules of procedure contained in 23 CFR 1206 with new procedures. The action would change the regulation to reflect the current sanction authority of 23 USC 402 and would replace the present burdensome hearing process with a simplified review process. NHTSA and Federal Highway Administration have the ability to work cooperatively with Federal agencies to promote highway safety activities without the need for the compliance and reporting requirements contained in this regulation.

Timetable:

Action	Date	FR Cite
NPRM	03/22/96	61 FR 11794
NPRM Comment Period End	05/06/96	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Gary Butler, Highway Safety Specialist, State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AG10

2369. • RULES OF PROCEDURE FOR INVOKING SANCTIONS UNDER THE HIGHWAY SAFETY ACT OF 1966

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 402

CFR Citation: 23 CFR 1206

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency is proposing changes to Part 1206, the regulation on rules of procedure for invoking sanctions under the Highway Safety Act of 1966. This proposal will revise the regulation to reflect changes that have taken place in the Section 402 program (including the change from uniform standards to guidelines), and will propose to streamline and simplify the sanction procedures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Gary Butler, Highway Safety Specialist, State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AG11

2370. • +UPGRADED REQUEST FOR AIRCRAFT-CERTIFIED CHILD SEATS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: The agency intends to upgrade the requirements for child seats certified for use on aircraft. It would require child restraints certified for use on aircraft to meet compatibility (fit) requirements and to meet performance criteria when sled tested under conditions more representative of the aircraft environment. This action is considered significant because of the substantial public interest in issues involving child seats on aircraft and because of special interest to another modal Administration.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/00/96

Agency Contact: James Hackney, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh St. SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AG12

2371. • +UNDESIRED SIDE EFFECTS OF AIR BAGS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Air bags are now standard equipment in millions of passenger cars, light trucks, sport utility vehicles, and vans and widely regarded to be a noteworthy safety advance, especially in higher speed crashes. However, air bags - even air bags with a lap/shoulder belt being used - are not a cure-all for every type of injury in crashes. The agency is aware of situations in which current air bag designs have undesired side effects. These include situations in which an air bag appears to have contributed to serious injuries and even death to vehicle occupants. This action is intended to inform the public about the agency's actions to minimize these adverse side effects and to invite the public to share information and views with the agency. This is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Request for Comments by 12/26/95	11/09/95	60 FR 56554
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steve Kratzke, Division Chief, Planning and Review Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5203
Fax: 202 366-4329

RIN: 2127–AG14

2372. • WHEELCHAIR LIFTS AND RAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.206

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to modify the "Door Locks and Door Retention Components" requirements by exempting wheelchair lifts and to establish uniform requirements for wheelchair lifts and ramps. These modifications are necessary because of changes in the types of vehicles equipped with wheelchair lifts/ramps and changes in lift/ramp structural designs which have come to pass in recent years. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Agency Contact: James Hackney, Director, Office of Crashworthiness, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AG16

2373. • DUMMY CONTAINMENT DURING COMPLIANCE TESTING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to modify the dummy containment area requirements in the vehicle used for occupant protection compliance testing. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

DOT—NHTSA

Proposed Rule Stage

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Agency Contact: James Hackney, Director, Office of Crashworthiness, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AG17

2374. • OPERATION OF MOTOR VEHICLES BY INTOXICATED MINORS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-59

CFR Citation: 23 CFR 1210

Legal Deadline: None

Abstract: The agency is proposing to implement a new program enacted by the National Highway System Designation Act of 1995, which provides for the withholding of Federal-aid highway funds from any State that does not enact and enforce a "Zero Tolerance" law.

Timetable:

Action	Date	FR Cite
NPRM	03/07/96	61 FR 9121
NPRM Comment Period End	04/22/96	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Gary Butler, Highway Safety Specialist, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AG20

2375. • TRANSITION PROCEDURES FROM CURRENT TO NEW NATIONAL DRIVER REGISTER

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 23 USC 401

CFR Citation: 23 CFR 1325

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency proposes to remove part 1325 from title 23 of the CFR. Part 1325 provided procedures for the orderly transition from the National Driver Register (NDR) system established by PL 86-660 to the new NDR system established by PL 97-354. The transition is expected to be completed by July 31, 1996.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Bill Holden, Chief, Driver Register Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4800
Fax: 202 366-2746

RIN: 2127–AG21

2376. • SIMPLIFY OCCUPANT CRASH PROTECTION STANDARD

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency is proposing to remove provisions regarding past time periods and to simplify the standard.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Agency Contact: James Hackney, Office Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AG29

2377. • THEFT DATA FOR CALENDAR YEAR 1995

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104(b)(4)

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: This action will publish the final theft rate data on passenger motor vehicles that occurred in calendar year 1995 for model year 1995 vehicles. The theft data indicate the overall vehicles' theft rate in 1995. Publication of this data fulfills the agency's obligation to periodically obtain accurate and timely data and publish the information for review and comment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Program Analyst, Theft Prevention Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AG33

2378. • EXTEND APPLICABILITY TO ALL LIGHT VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 332; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.135

Legal Deadline: None

Abstract: The agency is proposing to extend the braking requirements to all light vehicles with gross vehicle weight ratings (GVWR) less than or equal to 10,000 lbs. This decision reflects the agency's policy of achieving international harmonization whenever possible, and be consistent with the statutory mandate to ensure motor vehicle safety.

DOT—NHTSA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Agency Contact: Robert Clarke, Division Chief, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5279
Fax: 202 366-4329

RIN: 2127–AG35

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Final Rule Stage

2379. +REDUCE HEAD INJURIES DUE TO CONTACT WITH UPPER VEHICLE INTERIOR

Priority: Economically Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.201; 49 CFR 571.205; 49 CFR 571.206; 49 CFR 571.214

Legal Deadline: NPRM, Statutory, January 31, 1993. Final, Statutory, February 28, 1995.

Abstract: This action requires passenger cars, trucks, buses, and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less, to provide protection when an occupant's head strikes upper interior components, including pillars, side rails, headers, and the roof, during a crash. This amendment adds procedures and performance requirements for a new in-vehicle component test. Insofar as this rulemaking applies to passenger cars, it is required by the NHTSA Authorization Act of 1991. This action is considered significant because of safety and cost implications.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/88	53 FR 31712
ANPRM Comment Period End	10/18/88	
Notice of Intent	05/05/92	57 FR 24008
NPRM	02/08/93	58 FR 7506
NPRM Comment Period End	04/09/93	
Final Rule: Effective 09/18/95	08/18/95	60 FR 43031
Petitions Due	09/18/95	
Action on Petitions	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/18/95 (60 FR 43031)

Additional Information: This entry was formerly titled: Side-Impact Protection, Head/Neck Protection, and Occupant Ejection Mitigation. The agency published on 10/20/93 (58 FR 54099) a notice of a public hearing and reopened the comment period until 12/01/93. This title has since been revised the second time.

Agency Contact: James Hackney, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AB85

2380. +SCHOOL BUS BODY JOINT STRENGTH

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.221

Legal Deadline: None

Abstract: In response to NTSB recommendations on body joint strength and maintenance access panels and the agency's own analyses, the agency initiated rulemaking to improve the test requirements and test procedures for body joints and to limit the number and size of maintenance access panels. It is estimated that between 15 to 20 injuries per year could be prevented by this rulemaking. This rulemaking is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	08/15/87	52 FR 23314
ANPRM Comment Period End	09/03/87	
Comment Period Extended to 10/15/87	09/12/87	52 FR 29873
NPRM	03/15/91	56 FR 11142
NPRM Comment Period End	05/14/91	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/15/91 (56 FR 11142)

Agency Contact: James Hackney, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AC19

2381. FUEL SPILLAGE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 552; 49 CFR 571

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to require vehicles equipped with a crossover line connecting dual fuel tanks to comply with requirements that would reduce the likelihood of fuel spillage. Petition was granted. Comments have been requested on the difference between the agency's proposed test procedures and requirements and those of the Society of Automotive Engineers.

Timetable:

Action	Date	FR Cite
NPRM	05/17/94	59 FR 25590

Action	Date	FR Cite
NPRM Comment Period End	07/18/94	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/17/94 (59 FR 25590)

Additional Information: This entry was formerly titled Fuel System Integrity, Fuel Spillage.

Agency Contact: Leon DeLarm, Division Chief, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AC62

2382. BRAKE LINING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Petitions from R. Grabowsky and American Trucking Association (ATA) requested initiation of rulemaking concerning brake linings (all vehicles and aftermarket). Mr. Grabowsky petitioned relative to stability, friction level, fade, wear, and identification of linings. ATA petitioned relative to friction level and identification of linings for heavy vehicles only. Petitions concerned both performance levels and test procedures, and were granted.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Agency Contact: Robert Clarke, Division Chief, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5279
Fax: 202 366-4329

RIN: 2127–AC66

2383. INCENTIVE GRANT CRITERIA FOR DRUNK-DRIVING-PREVENTION PROGRAMS (SECTION 410)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 410; PL 104-59

CFR Citation: 23 CFR 1313

Legal Deadline: None
NHTSA was required to publish a final rule by November 18, 1989.

Abstract: In response to the President's Regulatory Reinvention Initiative, an interim final rule was published on 08/09/94 (59 FR 40470) to provide guidance to the States before the end of fiscal year 1994, regarding a supplemental grant criterion for States that consider drivers under the age of 21 years, who operate a vehicle while having a BAC of 0.02 or greater, to be driving while intoxicated. The agency requested comments on the interim final rule. A notice reopening the comment period was published on 03/24/95 (60 FR 15479). A final rule was not published, because additional legislative changes that would have affected this supplemental grant criterion were being considered by Congress.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/09/94	59 FR 40470
Interim Final Rule Comment Period Due 10/11/94	08/09/94	59 FR 40470
Comment Period Extended to 05/23/95	03/24/95	60 FR 15479
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Evaluation 08/09/94 (59 FR 40470)

Agency Contact: Marlene Markison, Chief, Program Support, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 7th St. SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AD01

2384. DYNAMIC TESTING OF LIGHT TRUCKS AND VANS FOR SIDE IMPACT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.214

Legal Deadline: NPRM, Statutory, May 31, 1992. Final, Statutory, August 5, 1994.
Action must be completed within 26 months of ANPRM publication.

Abstract: This action extends the dynamic testing requirements to light trucks, multipurpose passenger vehicles, and buses with a gross vehicle weight rating of 6,000 pounds or less (LTVs). Based on current vehicle sales data, the agency estimates that the percentage of LTVs will increase significantly in the future. Small LTVs, which are potentially vulnerable in side crashes, will comprise much of the LTV fleet by the year 2000. This extension ensures these vehicles provide side impact protection for the same crash conditions under which passenger cars provide such protection. It also furthers the goal of the NHTSA Authorization Act of 1991 which directed the agency to initiate rulemaking on LTV side impact safety.

Timetable:

Action	Date	FR Cite
ANPRM	06/05/92	57 FR 24009
ANPRM Comment Period End	08/04/92	
NPRM	06/15/94	59 FR 30756
NPRM Comment Period End	08/15/94	
Final Rule	07/28/95	60 FR 38749
Petitions Due	08/28/95	
Action on Petitions	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/28/95 (60 FR 38749)

Additional Information: No petitions for reconsideration received.

Agency Contact: Dr. Patricia Breslin, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400

Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AE49

2385. CONSUMER INFORMATION REGULATION - VEHICLE STOPPING DISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 575.101

Legal Deadline: None

Abstract: This action amends the Consumer Information Regulations by rescinding the requirement that motor vehicle manufacturers provide information about vehicle stopping distance. The agency concludes that this information is of little safety value to consumers and might even be misleading. This action also eliminates an unnecessary Federal regulatory burden to industry.

Timetable:

Action	Date	FR Cite
NPRM	11/23/92	57 FR 54962
NPRM Comment Period End	01/07/93	
Final Rule: Effective 07/26/95	06/26/95	60 FR 32918
Petitions Due	07/26/95	
Action on Petitions	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/23/92 (57 FR 54962)

Agency Contact: Henrietta Spinner, Program Analyst, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4802
Fax: 202 366-4329

RIN: 2127–AE61

2386. MINIATURE AND NONFILAMENT LIGHT SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency has proposed to relieve design restrictions that may inadvertently prevent the implementation of certain new-technology light sources in signal lamps.

Timetable:

Action	Date	FR Cite
NPRM	04/08/94	59 FR 16788
NPRM Comment Period End	06/07/94	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/08/94 (59 FR 16788)

Additional Information: This action answers a petition for rulemaking under RIN 2127-AF20, the issues of which have been consolidated, herein. The title of RIN 2127-AF20: Specifications for Light Emitting Diode.

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AE97

2387. TEST DUMMIES AND REQUIREMENTS FOR TESTING CHILD RESTRAINT SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: In response to petitions for reconsideration, the agency delays until September 1, 1996, the date on which manufacturers of add-on (portable) child restraint systems must comply with a final rule that was published July 6, 1995 (60 FR 35126), and corrected September 29, 1995 (60 FR 50477). The rule added a greater array of sizes and weights of test dummies for use in compliance tests. The delay provides needed leadtime to manufacturers of add-on (portable) child restraint systems to make necessary design changes to conform to the new requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/16/94	59 FR 12225
NPRM Comment Period End	05/16/94	
Final Rule	07/06/95	60 FR 35126
Petitions Due	08/07/95	
Response to Petitions and Further Petitions due by 1/11/96	12/12/95	60 FR 63651
Action on Petitions	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/12/95 (60 FR 63651)

Additional Information: The effective date for add-on (portable) child restraint systems is January 3, 1996. The effective date for built-in systems is September 1, 1996. However, for manufacturers of add-on child restraint systems, the compliance date has been changed to September 1, 1996. Clarification of compliance date published February 9, 1996 (61 FR 4938).

Agency Contact: Leon DeLarm, Division Chief, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AF02

2388. COMPRESSED NATURAL GAS (CNG) FUEL CONTAINERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.303

Legal Deadline: None

Abstract: The agency amends the standards for Fuel System Integrity of Compressed Natural Gas Vehicles and Compressed Natural Gas Fuel containers to allow any appropriate fuel to be used for the bonfire test for compressed natural gas (CNG) containers and adds new labeling requirements for CNG vehicles and containers. The agency also terminates rulemaking on additional performance requirements for CNG containers that had been proposed. Rulemaking may be

resumed once revisions to the current voluntary industry standard for CNG containers are completed.

Timetable:

Action	Date	FR Cite
NPRM	12/29/93	58 FR 68846
NPRM Comment Period End	01/28/94	
Partial Final Rule Effective 03/27/95	09/26/94	59 FR 49010
Comment Period End 02/17/95	12/19/94	59 FR 65299
Final Rule: Effective 12/26/95	11/24/95	60 FR 57943
Petitions Due	12/26/95	
Action on Petitions	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/24/95 (60 FR 57943)

Agency Contact: Leon DeLarm, Division Chief, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AF14

2389. +LIGHT TRUCK AVERAGE FUEL ECONOMY STANDARDS FOR MYS AFTER 1997

Priority: Economically Significant

Legal Authority: 49 USC 32902

CFR Citation: 49 CFR 533

Legal Deadline: Final, Statutory, March 30, 1996.

Abstract: This final rule establishes the average fuel economy standard for light trucks manufactured in model year (MY) 1998. The issuance of a standard is required by statue. Pursuant to section 330 of the FY 1996 DOT Appropriations Act, the light truck standard for MY 1998 is 20.7 mpg.This rule is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace. The Energy Policy and Conservation Act requires the agency to set fuel economy standards for each model year. Standards had been established only through MY 1997.

Timetable:

Action	Date	FR Cite
ANPRM	04/06/94	59 FR 16324
ANPRM Comment Period End	08/04/94	
NPRM	01/03/96	61 FR 145
Correction Comment Period End Date	01/25/96	61 FR 2228
NPRM Comment Period End	02/20/96	
Final Rule	04/03/96	61 FR 14680
Effective	05/03/96	
Petitions Due	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/03/96 (61 FR 145)

Agency Contact: Orron Kee, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AF16

2390. +UNIFORM TIRE QUALITY GRADING

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 575.104

Legal Deadline: None

Abstract: This action proposes to improve the Uniform Tire Quality Grading Standard (UTQGS) to revise treadwear testing procedures to maintain the base course wear rate of course monitoring tires at its current value. That revision should eliminate treadwear grade inflation, reduce testing expenses, and reduce the adverse environmental consequences of operating testing convoys; create a new traction grading category of "AA" in addition to the current traction grades of A, B, C to differentiate those tires with the highest traction characteristics from lower performing tires; and replace the temperature resistance grade with a rolling resistance/fuel economy grade. This change would provide a measure of a key fuel economy characteristic of tires, and responds to the President's Climate Change Action Plan. This action is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	04/25/94	59 FR 19686
ANPRM Comment Period End	06/24/94	
NPRM	05/24/95	60 FR 27472
SNPRM Comment Period Extended to 08/14/95	07/05/95	60 FR 34961
NPRM Comment Period End	07/10/95	
Correction Comment Period Extended to 09/01/95	08/16/95	60 FR 42896
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/24/95 (60 FR 27472)

Additional Information: On July 5, 1995 (60 FR 34961) a supplemental notice of proposed rulemaking was published extending the comment period and announcing a public meeting. On July 14, 1995 (60 FR 36255) a correction to the supplemental notice of proposed rulemaking and change in date of the public meeting was published. At the request of commenters at the public meeting and petitioners, the agency on August 16, 1995 (60 FR 42496) extended the comment period to September 1, 1995.

Agency Contact: Orron Kee, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AF17

2391. EQUIVALENT MEASUREMENTS FOR GASEOUS FUELS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32901; 49 USC 32905; 49 USC 32906

CFR Citation: 49 CFR 536

Legal Deadline: None

Abstract: Under the corporate average fuel economy program, certain incentives are provided for the manufacture of alternative fuel vehicles, including dual fuel vehicles. Among other things, dual fuel passenger automobiles which meet a minimum driving range qualify for special treatment in the calculation of fuel economy. In order to implement a new statutory requirement, this notice is proposing to amend the existing regulation concerning minimum driving range. The minimum driving range for all dual fuel passenger automobiles other than electric vehicles would be set at 200 miles. The agency is also proposing to establish gallons equivalent measurements for certain gaseous fuels. These measurements are needed to calculate the fuel economy of alternative fueled vehicles.

Timetable:

Action	Date	FR Cite
NPRM	12/19/94	59 FR 65295
NPRM Comment Period End	02/17/95	
Final Rule	04/02/96	61 FR 14507
Petitions Due	05/00/96	
Effective	06/03/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/19/94 (59 FR 65295)

Additional Information: This action is being combined with action 2127-AF38.

Agency Contact: Henrietta Spinner, Program Analyst, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4602

RIN: 2127–AF18

2392. RIGID PLASTICS IN WINDOWS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: In response to a petition for rulemaking, this action proposes to permit the installation of a new item of motor vehicle glazing, Item 4A - Rigid Plastic for Use in Side Windows Rearward of the "C" Pillar, in hatchbacks and station wagons. The agency is seeking to provide greater flexibility for manufacturers to develop and use more aerodynamic, lighter weight glazing designs, resulting in lower fuel consumption.

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13688
NPRM Comment Period End	05/15/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/14/95 (60 FR 13688)

Agency Contact: James Hackley, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AF28

2393. IMPROVED BACK DOOR LATCH

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.206

Legal Deadline: None

Abstract: This action extends the existing side door requirements to back doors of passenger cars and multipurpose passenger vehicles, including hatchbacks, station wagons, sport utility vehicles, and passenger vans. The purpose is to reduce the likelihood of occupants being ejected from vehicles in crashes and to reduce the fatalities and serious injuries resulting from such ejections. Agency reviewing petitions for reconsideration.

Timetable:

Action	Date	FR Cite
Request for Comments by 3/28/94	01/27/94	59 FR 3924
NPRM	08/30/94	59 FR 44891
NPRM Comment Period End	10/31/94	
Final Rule: Effective 9/01/97.	09/28/95	60 FR 50124
Petitions Due	10/30/95	
Action on Petitions	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/28/95 (60 FR 50124)

Agency Contact: James Hackney, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AF35

2394. INCREASE FEMUR FLEXION MOTION OF THE HYBRID III TEST DUMMY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: In response to petitions for rulemaking, this action is proposing to provide a more precise charecterization of the femur motion range to assure uniform flexion between right and left femurs and between dummies made by different manufacturers. Petitions were granted.

Timetable:

Action	Date	FR Cite
NPRM	06/30/95	60 FR 34213
NPRM Comment Period End	08/29/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/30/95 (60 FR 34213)

Agency Contact: James Hackney, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AF41

2395. +CERTIFICATION OF CHILD RESTRAINTS FOR USE ON AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: This action and a companion proposed rule (RIN 2120-AF52) issued

by the Federal Aviation Administration (FAA) address the use of child harnesses and backless child restraints in aircraft. The agency proposes to no longer permit those restraints to be certified for use in both motor vehicles and aircraft. Under the current FAA regulations, aircraft-certified child restraints may be used on aircraft. However, because testing has raised concerns about the safety of using harnesses and backless child restraint systems on the types of seats found in aircraft, FAA is publishing an action that would prohibit the use of booster seats, and vest-and harness- type child restraint systems on aircraft even if they are certified for aircraft use. This action is considered significant because of the substantial public interest in issues involving child seats on aircraft and because of special interest to another model Administration.

Timetable:

Action	Date	FR Cite
NPRM	06/09/95	60 FR 30696
NPRM Comment Period End	07/10/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/09/95 (60 FR 30696)

Agency Contact: Leon DeLarm, Division Chief, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AF46

2396. RETROREFLECTIVE CONSPICUITY SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: This action proposes that the rear of truck tractors be equipped with retroreflective sheeting similar to that required for the rear of heavy trailers. The agency tentatively concludes that the addition of such a conspicuity treatment would result in a reduction of deaths, injuries, and property costs.

Timetable:

Action	Date	FR Cite
NPRM	06/12/95	60 FR 30820
NPRM Comment Period End	09/11/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/12/95 (60 FR 30820)

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF59

2397. AIR BRAKE SYSTEMS; AIR COMPRESSOR CUT-IN PRESSURE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is requiring the automatic activation of the air compressor on a powered vehicle whenever the pressure in the air brake system drops below 100 pounds per square inch (psi). This will ensure that new truck tractors provide trailers with sufficient air pressure for release of the trailer parking brakes; provide adequate service braking; and provide air reserves on all air brake vehicles.

Timetable:

Action	Date	FR Cite
NPRM	06/13/95	60 FR 31135
NPRM Comment Period End	08/14/95	
Final Rule Effective 03/18/96	02/16/96	61 FR 6173
Petitions Due	04/01/96	
Action on Petitions	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/13/95 (60 FR 31135)

Agency Contact: Robert Clarke, Division Chief, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5279
Fax: 202 366-4329

RIN: 2127–AF63

2398. RELIEVING DESIGN RESTRICTIONS TO ACCOMMODATE NEW LIGHT SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108; 49 CFR 564

Legal Deadline: None

Abstract: This action proposes to allow high intensity discharge (HID) light sources to be used in replaceable bulb headlamp systems, in addition to their presently-allowed use in integral beam headlamp systems. If the life of the light source approaches that of the vehicle, as is the case with HIDs, interchangeability will no longer be so important. Therefore, this action also proposes to allow a manufacturer to submit fewer items of dimensional information if it can demonstrate that the average rated laboratory life of its light source is not less than 2,000 hours.

Timetable:

Action	Date	FR Cite
NPRM	06/19/95	60 FR 31939
NPRM Comment Period End	08/18/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/19/95 (60 FR 31939)

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF65

2399. SEAT BELT EXEMPTION FOR LAW ENFORCEMENT VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking, this action proposes to provide greater flexibility to design safety belt systems that are better suited for restraining prisoners being transported in the rear seats of law enforcement vehicles.

Timetable:

Action	Date	FR Cite
NPRM	06/13/95	60 FR 31132
NPRM Comment Period End	08/14/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/13/95 (60 FR 31132)

Agency Contact: James Hackney, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AF56

2400. COLORFASTNESS REQUIREMENTS FOR SEATBELTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.209

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, this action proposes to delete the colorfastness requirements for seat belt assemblies. The agency tentatively concludes that the manufacturers' concerns about public acceptance are sufficient by themselves to ensure that manufacturers will make their belts colorfast. Colorfastness means the safety belt webbing dye will not come off onto clothing.

Timetable:

Action	Date	FR Cite
NPRM	06/19/95	60 FR 31946
NPRM Comment Period End	08/18/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/19/95 (60 FR 31946)

Agency Contact: James Hackney, Director, Office of Crashworthiness, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AF67

2401. SAFETY BELT ANCHORAGES: OWNER'S MANUAL REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency is proposing to remove obsolete owner's manual requirements dealing with instructions for the installation of child restraints in vehicles equipped with automatic safety belts. These requirements will become redundant after the rules on retractor lockability and manual belts with air bags become effective for all vehicles in September 1999. This will also permit international harmonization.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Agency Contact: James Hackney, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AF68

2402. COMBINE VEHICLE IDENTIFICATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.115; 49 CFR 565

Legal Deadline: None

Abstract: The agency's identification number (VIN) requirements are established in two regulations, Federal Motor Vehicle Safety Standard No. 115 and Part 565. The agency is proposing to incorporate Standard No. 115 in Part 565. This proposed action is part of the Regulatory Reinvention Initiative and will make the VIN requirements easier to understand and to apply.

Timetable:

Action	Date	FR Cite
NPRM	10/25/95	60 FR 54658
NPRM Comment Period End	12/26/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/25/95 (60 FR 54658)

Agency Contact: Leon DeLarm, Division Chief, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AF69

2403. REMOVE OBSOLETE REQUIREMENTS FOR HEAD RESTRAINTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.202

Legal Deadline: None

Abstract: This action proposes to delete one of two alternative performance requirements for head restraints. That alternative involves a testing procedure that is more cumbersome than the one in the other alternative and has rarely, if ever, been used by manufacturers. Removing this alternative would not adversely affect the manufacturers, but would simplify the language of the standard. This action is part of the Regulatory Reinvention Initiative.

Timetable:

Action	Date	FR Cite
NPRM	10/24/95	60 FR 54467
NPRM Comment Period End	12/26/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 10/24/95 (60 FR 54467)

Agency Contact: James Hackney, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AF70

2404. RESCIND STANDARD FOR UNNECESSARY DESIGN RESTRICTIONS: WHEEL NUTS, WHEEL DISCS, AND HUBCAPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.211

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, this action is proposing to rescind this standard. The agency has tentatively concluded that this standard is unnecessarily design-restrictive. Moreover, to the extent that there are safety concerns in this area, the agency believes they are more appropriately addressed by State laws concerning vehicle use than by Federal motor vehicle safety standard.

Timetable:

Action	Date	FR Cite
NPRM	06/19/95	60 FR 31947
NPRM Comment Period End	08/03/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/19/95 (60 FR 31947)

Agency Contact: James Hackney, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AF71

2405. RESCISSION OF REFLECTING SURFACES REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.107

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, this action proposes to rescind this standard. The agency has tentatively concluded that due to market forces and product liability concerns, the manufacturers will continue to minimize glare causing reflections from vehicle surfaces within the field of view of the driver. Eliminating the standard will remove the need to certify compliance with it. NHTSA believes that the standard can be rescinded without affecting safety.

Timetable:

Action	Date	FR Cite
NPRM	06/26/95	60 FR 32935
Comment Period Extended to 8/25/95	07/25/95	60 FR 37986
Final Rule Effective 5/6/96	03/21/96	61 FR 11587
Petitions Due	05/06/96	
Response to Petitions	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/26/95 (60 FR 32935)

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF74

2406. SPECIFICATIONS FOR CONTENT OF ALUMINUM ALLOYS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.304

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to amend the requirements for compressed natural gas (CNG) containers made with aluminum alloys. The proposed changes would make Standard No. 304 consistent with the most recent aluminum industry specifications for those materials.

Timetable:

Action	Date	FR Cite
NPRM	11/16/95	60 FR 57567
NPRM Comment Period End	01/02/96	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/16/95 (60 FR 57567)

Agency Contact: Leon DeLarm, Division Chief, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AF79

2407. RESCISSION OF NON-PNEUMATIC SPARE TIRE REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.129

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to rescind the new non-pneumatic spare tires requirements for passenger cars. To the knowledge of the agency, these spare tires have not been produced, none are being planned for production in the future and, therefore the standard is not needed.

Timetable:

Action	Date	FR Cite
NPRM	09/26/95	60 FR 49541
NPRM Comment Period End	11/27/95	
To be Terminated	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/26/95 (60 FR 49541)

Agency Contact: Robert Clarke, Division Chief, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5279
Fax: 202 366-4329

RIN: 2127–AF80

2408. HEAVY DUTY VEHICLE BRAKE SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: This action responds to petitions for reconsideration of a final rule published December 13, 1995 (60 FR 63965)286, that amended FMVSS No. 105 and FMVSS No. 121 to require medium and heavy vehicles to be equipped with an antilock brake system (ABS). This action requires continuous power for trailer ABS systems, in place of the dedicated power and separate ground previously required, delays the implementation date for the in-cab trailer malfunction indicator by four years. This action also extends by three years the period in which exterior ABS failure indicators are required on trailers.

Timetable:

Action	Date	FR Cite
Final Rule Effective 03/01/97	12/13/95	60 FR 63965
Response to Petitions	02/15/96	61 FR 5949
Further Responses to Petitions Due	04/01/96	
Further Action on Petitions	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 02/15/96 (61 FR 5949)

Additional Information: RINs 2127-AF97, AF98, and AF99 are consolidated into this action. Compliance dates: Std. No. 121 antilock malfunction signal - March 1, 2001; Std. No. 121 antilock power circuit for towed vehicles - each truck tractor March 1, 1997, and single unit vehicles March 1, 1998; and Std. No. 121 antilock system power trailers - March 1, 1998.

Agency Contact: Robert Clarke, Division Chief, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5279
Fax: 202 366-4329

RIN: 2127–AF96

2409. EXEMPTION FROM REARWARD DISPLACEMENT REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.204

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, this action proposes to exempt vehicles under 8,500 pounds gross vehicle weight rating (GVWR) from compliance with the rearward displacement requirements of FMVSS No. 204 if they comply with Standard 208 air bag requirements. Standard 208 specifies performance requirements for vehicle occupants and all passenger vehicles below 8,500 pounds GVWR will have air bags by MY 1999, passing this dynamic test should provide the necessary impact protection, in a serious impact. This exemption will save certification costs and second stage manufacturers would benefit from any change.

Timetable:

Action	Date	FR Cite
NPRM	11/16/95	60 FR 57565
NPRM Comment Period End	01/16/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/16/95 (60 FR 57565)

Agency Contact: James Hackney, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AG01

2410. WHIP RESISTANCE TEST FOR BRAKE HOSES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.106

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to revise the whip resistance test. Under this proposal, it would be permissible, for the purpose of the test, to mount such brake hose assemblies using a supplemental support. This proposal also serves to amend a provision that has the unintended consequence of prohibiting the manufacture and sale for use on the public roads of a type of brake hose that has significant safety advantages.

Timetable:

Action	Date	FR Cite
NPRM	11/16/95	60 FR 57562
NPRM Comment Period End	01/16/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/16/95 (60 FR 57562)

Agency Contact: Robert Clarke, Division Chief, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington DC 20590
Phone: 202 366-5279
Fax: 202 366-4329

RIN: 2127–AG02

2411. +MOTOR VEHICLE CONTENT LABELING

Priority: Other Significant

Legal Authority: 49 USC 32304

CFR Citation: 49 CFR 583

Legal Deadline: None

Abstract: In response to petitions for reconsideration of a final rule published on July 21, 1994 (59 FR 39724) this action amends the Automobile Parts Content Labeling Law by reducing the burdens associated with making content calculations which will result in more accurate information. This action was considered significant due to public interest and the relationship to other Federal programs and agencies, particularly those related to international trade.

Timetable:

Action	Date	FR Cite
Final Rule: Effective 10/16/95	09/15/95	60 FR 47878
Petitions Due	10/16/95	
Action on Petitions	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/15/95 (60 FR 47878)

Additional Information: Petition for reconsideration of the final rule published 09/15/95 (60 FR 47878) pending.

Agency Contact: Orron Kee, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AG03

2412. • BRAKE SYSTEM FOR ELECTRIC VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 CFR 571.135

Legal Deadline: None

Abstract: This action proposes brake requirements for electric vehicles (EVs). The amendments would apply to electric trucks, buses, and multipurpose passenger vehicles. They would also apply to electric passenger cars which had not complied with the option of conforming to Standard No. 135 which will become mandatory on and after September 1, 2000, published February 2, 1995 (60 FR 6411 RIN 2127-AA13). Passenger cars manufactured, including EVs, have the choice of compliance with either braking standard between now and September 1, 2000. At that time, Standard No. 135 will become the sole brake standard that applies to passenger cars. Standard No. 105 will continue to apply to vehicles other than passenger cars. Because EVs are not restricted to passenger cars, and include pickup trucks, vans, and buses, amendments to Standard No. 105 are required to accommodate them.

Timetable:

Action	Date	FR Cite
NPRM	09/26/95	60 FR 49544
NPRM Comment Period End	11/27/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/26/95 (60 FR 49544)

Additional Information: This action inadvertently published under RIN 2127-AA13.

Agency Contact: Robert Clarke, Division Chief, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5279
Fax: 202 366-4329

RIN: 2127–AG05

2413. • AIR BRAKE SYSTEM MALFUNCTION LAMP FOR TRAILERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to petitions for reconsideration of a final rule published March 10, 1995 (60 FR 13216), this action proposes to specify the location, color, activation protocol, and intensity of the malfunction lamp for trailers. This will ensure that the antilock brake system (ABS) is properly working. Petitions are pending.

Timetable:

Action	Date	FR Cite
NPRM	12/13/95	60 FR 64010
NPRM Comment Period End	02/12/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/13/95 (60 FR 64010)

Agency Contact: Robert Clarke, Division Chief, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety

Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5279
Fax: 202 366-4329

RIN: 2127–AG08

2414. • STATE MATCHING OF PLANNING AND ADMINISTRATION COSTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 402

CFR Citation: 23 CFR 1252

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency plans to eliminate Part 1252, the regulation on State matching of planning and administration (P&A) costs. Part 1252 contains NHTSA and Federal Highway Administration policies regarding P&A costs. (These policies are not statutorily mandated.) Both Administrations plan to retain their policies. However, these policies can and will be published in an agency directive and need not appear in the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Gary Butler, Highway Safety Specialist, State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AG09

2415. • DEFECT AND NONCOMPLIANCE REPORTS; RECORD RETENTION; AND DEFECT AND NONCOMPLIANCE NOTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30102; 49 USC 30103; 49 USC 30111; 49 USC 30112; 49 USC 30115; 49 USC 30117; 49 USC 30118; 49 USC 30119; 49 USC 30120; 49 USC 30121; 49 USC 30162; 49 USC 30165; 49 USC 30166; 49 USC 30167

CFR Citation: 49 CFR 573; 49 CFR 576; 49 CFR 577

Legal Deadline: None

Abstract: This action is granting in part petitions for reconsideration of a final rule published on April 5, 1995 (60 FR 17254). The agency is amending provisions of that final rule concerning submission by manufacturers of schedules for recall campaigns, recordkeeping regarding recalls of leased vehicles, record retention period, and notification to lessees of recall campaigns. The agency has concluded that these changes will reduce manufacturer burdens without adversely affecting the agency's recall program.

Timetable:

Action	Date	FR Cite
Final Rule: Effective 01/04/96	01/04/96	61 FR 274
Petitions Due	02/05/96	
Action on Petitions	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jonathan White, Safety Defects Engineer, Office of Defects and Investigation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5227

RIN: 2127–AG15

2416. • INCENTIVE GRANT CRITERIA FOR ALCOHOL TRAFFIC SAFETY PROGRAMS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 408

CFR Citation: 23 CFR 1309

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency plans to remove Part 1309 from title 23 of the CFR. Part 1309 established criteria and administrative procedures for awards of alcohol traffic safety grants, in accordance with 23 USC 408. The regulation is being removed because it is unnecessary and obsolete. Funds for the Section 408 program have not been authorized since 1994.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Gary Butler, Highway Safety Specialist, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AG22

2417. • USE OF SAFETY BELTS AND MOTORCYCLE HELMETS—COMPLIANCE AND TRANSFER-OF-FUNDS PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 153; PL 104-59

CFR Citation: 23 CFR 1215

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency will amend the regulation to reflect recent statutory changes. Under these changes, States are no longer required to enact motorcycle helmet use laws in order to avoid transfers of highway construction funds. In addition, New Hampshire and Maine are provided an alternative means of statutory compliance.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Gary Butler, Highway Safety Specialist, Office of State and

Community Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AG23

2418. • LONG STROKE BRAKE CHAMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to petitions for reconsideration of a final rule published January 12, 1995 (60 FR 2892), the agency is considering whether to revise the air volume in the service reservoirs and air brake chambers. The petitioners claimed that the final rule did not fully remove a design restriction that tends to discourage the use of long stroke brake chambers. Such brake chambers reduce the likelihood that brakes will be out of adjustment. Petitions are pending.

Timetable:

Action	Date	FR Cite
Response to Petitions	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Clarke, Division Chief, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5279
Fax: 202 366-4329

RIN: 2127–AG25

2419. • ADMINISTRATIVE CORRECTIONS TO THE TIRE STANDARDS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.109; 49 CFR 571.117; 49 CFR 571.119; 49 CFR 571.120; 49 CFR 574

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency is issuing this technical amendment to remove obsolete dates, correct administrative and typographic errors, update statutory citations, and update office designations to which requests and reports are to be submitted pursuant to the tire standards. These changes will not adversely affect safety.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Walter Myers, Attorney-Advisor, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992
Fax: 202 366-3820

RIN: 2127–AG26

2420. • DEALER NOTIFICATION OF DEFECT OR NONCOMPLIANCE DETERMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30102; 49 USC 30103; 49 USC 30111; 49 USC 30112; 49 USC 30115; 49 USC 30116; 49 USC 30118; 49 USC 30119; 49 USC 30120; 49 USC 30163; 49 USC 30165; 49 USC 30166

CFR Citation: 49 CFR 577

Legal Deadline: None

Abstract: The final rule will implement an amendment to 49 USC chapter 301 which prohibits dealers of motor vehicles or motor vehicle equipment that has been determined to contain a safety-related defect or noncompliance with a Federal motor vehicle safety standard from selling such vehicles or equipment until the defect or noncompliance is remedied. The rule will require manufacturers to notify dealers of a defect or noncompliance determination within 5 days of notifying NHTSA, or longer with agency approval. The notice must inform the dealers of their statutory rights and duties with respect to unsold vehicles or items of equipment determined to be defective or noncomplying. The rule will minimize the regulatory burden by permitting notice to be sent electronically and by not imposing any new recordkeeping requirements.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jonathan D. White, Defects Investigator, Office of Defects Investigation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5227

RIN: 2127–AG27

2421. • TECHNICAL AMENDMENT FOR THE HYDRAULIC BRAKE SYSTEMS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency is planning to remove past time periods. This will not affect the safety requirements of the standard.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Clarke, Division Chief, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5279
Fax: 202 366-4329

RIN: 2127–AG28

2422. • FUEL SYSTEM INTEGRITY

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency plans to delete several obsolete sections of Standard No. 301. The sections are obsolete because the time period which they specify are all in the past. This will not affect the safety requirements of the Standard.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marvin Shaw, Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992
Fax: 202 366-3820

RIN: 2127–AG30

2423. • AIR BRAKE SYSTEMS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency is planning to delete obsolete sections of Standard No. 121. It also includes recent amendments to the Standard.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marvin Shaw, Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992
Fax: 202 366-3820

RIN: 2127–AG31

2424. • HIGH-THEFT LINES FOR MODEL YEAR 1997

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104

CFR Citation: 49 CFR 541

Legal Deadline: Final, Statutory, April 1996.

Abstract: This action will list the likely high-theft vehicle lines that are subject to the parts-marking requirements of the theft prevention standard and high-theft lines that are exempted from the parts-marking for model year 1997.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Program Analyst, Theft Prevention Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AG34

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Long-Term Actions

2425. +CRASHWORTHINESS RATINGS

Priority: Other Significant

CFR Citation: 49 CFR 5

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7025
Comment Period Extended to 10/22/81	04/02/81	46 FR 19947
NPRM Comment Period End	04/22/81	46 FR 7025
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dr. Patricia Breslin
Phone: 202 366-0842
Fax: 202 366-4329

RIN: 2127–AA03

2426. +FLAMMABILITY OF INTERIOR MATERIALS - SCHOOL BUSES

Priority: Other Significant

CFR Citation: 49 CFR 571.302

Timetable:

Action	Date	FR Cite
ANPRM	11/04/88	53 FR 44627
ANPRM Comment Period End	01/03/89	
Request for Comments by 4/29/91	02/26/91	56 FR 7826
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leon DeLarm
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AA44

2427. REVIEW: LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 571.108

Timetable:

Action	Date	FR Cite
Begin Review	10/01/85	
Preliminary Evaluation Report Published	03/20/87	52 FR 9609
Interim Evaluation Report Published	08/04/89	54 FR 32153
Interim Evaluation Report Comments Reviewed and Docketed	02/21/90	
End Review	06/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AB76

2428. +ROLLOVER PROTECTION

Priority: Other Significant

CFR Citation: 49 CFR 575

Timetable:

Action	Date	FR Cite
ANPRM	01/03/92	57 FR 242
ANPRM Comment Period End	04/03/92	
NPRM	06/28/94	59 FR 33254
NPRM Correction	07/26/94	59 FR 38038
Comment Period Extended to 10/21/94	08/26/94	59 FR 44121

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gayle Dalrymple
Phone: 202 366-6559
Fax: 202 366-4329

RIN: 2127–AC84

2429. +FILM TRANSMITTANCE OF GLAZING MATERIALS

Priority: Other Significant

CFR Citation: 49 CFR 571.205

Timetable:

Action	Date	FR Cite
ANPRM	07/20/89	54 FR 30427
Petition for Rulemaking Granted	07/20/89	54 FR 30427
ANPRM Comment Period End	09/18/89	54 FR 30427
NPRM	01/22/92	57 FR 2496
NPRM Comment Period End	03/23/92	
Comment Period Extended to 05/22/92	03/25/92	57 FR 10327
Correction	04/09/92	57 FR 12286

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Richard VanIderstine
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AC85

2430. SEATING SYSTEMS PERFORMANCE

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 571.207

Timetable:

Action	Date	FR Cite
ANPRM	10/04/89	54 FR 40896
ANPRM Comment Period End	12/04/89	
Request for Comments by 1/22/93	11/23/92	57 FR 54958

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James Hackney
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AD08

2431. +WHEELCHAIR LIFTS

Priority: Other Significant

CFR Citation: 49 CFR 571

Timetable:

Action	Date	FR Cite
NPRM	02/26/93	58 FR 11562
NPRM Comment Period End	04/27/93	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gayle Dalrymple
Phone: 202 366-6559
Fax: 202 366-4329

RIN: 2127–AD50

2432. SEAT ADJUSTMENT POSITION

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 571.210

Timetable:

Action	Date	FR Cite
NPRM	12/04/91	56 FR 63473
Correction	12/17/91	56 FR 65541
NPRM Comment Period End	02/03/92	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Hackney
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AE22

2433. CERTIFICATION REQUIREMENTS OF MULTISTAGE VEHICLES

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 567; 49 CFR 568; 49 CFR 1.50

Timetable:

Action	Date	FR Cite
NPRM	12/03/91	56 FR 61392
NPRM Comment Period End	01/31/92	
Comment Period Extended to 03/02/92	02/03/92	57 FR 3983
Announced Public Meeting	11/17/95	60 FR 57694

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Leon DeLarm
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AE27

2434. +EXTEND ANTILOCK BRAKE SYSTEM TO PASSENGER CARS

Priority: Other Significant

CFR Citation: 49 CFR 571.105; 49 CFR 571.135

Timetable:

Action	Date	FR Cite
ANPRM	01/04/94	59 FR 281
ANPRM Comment Period End	03/07/94	
ANPRM Comment Period Extended to 04/06/94	03/08/94	59 FR 10779

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Clarke
Phone: 202 366-5279
Fax: 202 366-4329

RIN: 2127–AE47

2435. RADIATOR SAFETY CAP

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 571

Timetable:

Action	Date	FR Cite
Request for Comments by 8/09/93	06/10/93	58 FR 32503

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard VanIderstine
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AE59

2436. TIRES ON NEW TRAILERS

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 571.120

Timetable:

Action	Date	FR Cite
ANPRM	06/01/95	60 FR 28561
ANPRM Comment Period End	09/29/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Clarke
Phone: 202 366-5279
Fax: 202 366-4329

RIN: 2127–AF05

2437. UPGRADE PERFORMANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 571.301

Timetable:

Action	Date	FR Cite
Request for Comments by 2/12/93	12/14/92	57 FR 59041
ANPRM	04/12/95	60 FR 18568
ANPRM Comment Period End	06/12/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leon DeLarm
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AF36

2438. ELECTRIC VEHICLE SAFETY

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 1.50; 49 CFR 501.8

Timetable:

Action	Date	FR Cite
Request for Comments Comment Period End 11/29/94	09/30/94	59 FR 49901

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leon DeLarm
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AF43

2439. CONVERSION OF VEHICLES TO COMPRESSED NATURAL GAS

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 571.303

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leon DeLarm
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AF50

2440. CYLINDER REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 571.304

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leon DeLarm
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AF51

2441. REVIEW: ODOMETER FRAUD

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 580

Timetable:

Action	Date	FR Cite
Begin Review	10/01/95	
End Review	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AF53

2442. +REVIEW: SIDE IMPACT PROTECTION

Priority: Other Significant

CFR Citation: 49 CFR 571.214

Timetable:

Action	Date	FR Cite
Begin Review	10/01/94	
End Review	12/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AF54

2443. REVIEW: THEFT PREVENTION—5-YEAR REPORT TO CONGRESS

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 541

Timetable:

Action	Date	FR Cite
Begin Review	10/01/95	
End Review	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AF55

2444. • REVIEW: AMERICAN AUTOMOBILE LABELING ACT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32304

CFR Citation: 49 CFR 583

Legal Deadline: None

Abstract: The American Automobile Labeling Act requires new passenger cars and light trucks, beginning October 1, 1994, to bear labels providing information on the extent to which their parts are of domestic origin. The objective of this review is to determine the extent to which new-vehicle buyers know about, understand and use this information, and to estimate the effect of the labels on vehicle production and sales.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/95	
End Review	12/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560

Fax: 202 366-2559

RIN: 2127–AG18

2445. • REVIEW: HEAVY TRUCK CONSPICUITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Standard No. 108 was amended in December 10, 1992 (57 FR 58406) to require that heavy truck trailers be equipped with retroreflective materials to enhance their visibility. This study will evaluate the safety benefits, costs, and effectiveness of the amended rule.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/95	
Preliminary Evaluation Report	09/00/97	
Interim Evaluation Report	09/00/98	
End Review	09/00/99	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AG19

2446. • SEAT BELTS INSTALLED AT ADJUSTABLE SEATS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to extend the effective date, for vehicles with a GVWR between 8,500 and 10,000 pounds, of the final rule which requires that Type 2 safety belts installed at adjustable seats either be integrated with the vehicle seat or be equipped with a means of adjustment to improve the fit and increase the comfort of the belt for a variety of different sized occupants. Petition is pending.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Hackney, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AG24

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Completed Actions

2447. +LIGHTING SIMPLIFICATION—POTENTIAL AMENDMENTS ON LONG-TERM ISSUES

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency is terminating rulemaking action on the effort known as the Vehicle-Based Roadway Illumination Performance Requirement. It was begun as an attempt to move toward a more performance-oriented, less design-restrictive regulation solution for assuring safe roadway environment illumination. The agency has not been able to adequately explore the myriad solutions to this problem to the extent necessary to satisfy the public's demand for achieving an objective decision on performance. As a consequence, the agency has decided to temporarily cease rulemaking in this area.

Timetable:

Action	Date	FR Cite
ANPRM	10/22/85	50 FR 42735
Comment Period Extended to 03/06/86	01/14/86	51 FR 1542
ANPRM Comment Period End	01/21/86	
NPRM	12/29/87	52 FR 49038
NPRM Comment Period End	03/28/88	
Second SNPRM	06/09/89	54 FR 20084
Correction to Second SNPRM	06/19/89	54 FR 21727
Action Terminated	11/24/95	60 FR 58038

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/24/95 (60 FR 58038)

Additional Information: Docket No. 85-15, Notice 1.

Docket No. 85-15, Notice 2. In response to comments to the SNPRM, additional research has been initiated as to vehicle-based roadway illumination performance requirements. RIN 2127-AD69, Vehicle Based Roadway Illumination Performance Requirement, was terminated as a duplicate entry in the April 1991 Agenda.

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AB87

2448. ISSUANCE, AMENDMENT, AND REVOCATION OF RULES: PROCEDURAL REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 32302; 49 USC 32502; 49 USC 32705; 49 USC 32711

CFR Citation: 49 CFR 553.39

Legal Deadline: None

Abstract: The agency is amending its procedural regulations that apply to judicial review of regulations issued under Chapters 301, 325, 329, and 331 of Title 49 of the United States Code. The provisions at issue address the time within which affected persons may seek judicial review of a final rule issued by the agency under those statutes if a petition for agency reconsideration of that rule has been filed. This amendment will make the regulation consistent with the judicial review provisions of the statutes and with recent judicial decisions.

Timetable:

Action	Date	FR Cite
NPRM	10/31/90	55 FR 45825
Correction	11/08/90	55 FR 47028
NPRM Comment Period End	12/17/90	
Final Action	12/12/95	60 FR 63648
Final Action Effective	01/11/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/12/95 (60 FR 63648)

Agency Contact: Kenneth Weinstein, Assistant Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263

RIN: 2127–AD78

2449. REDEFINE REPLACEABLE BULB HEADLAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 39 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency amends the Federal motor vehicle safety standard on lighting to permit replaceable lenses on integral beam and replaceable bulb headlamps that incorporate on-board headlamp aimers, provided that such headlamps meet more rigorous environmental tests. The benefit of headlamps with replaceable lenses is that the lens or reflector could be replaced in the event of breakage of either without the present necessity to replace both components if only one is damaged.

Timetable:

Action	Date	FR Cite
Request for Comments Comment Period End 09/27/93	06/12/93	58 FR 42924
NPRM	11/21/94	59 FR 59975
NPRM Comment Period End	02/21/95	
Final Action	11/24/95	60 FR 57949
Final Action Effective	12/26/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/24/95 (60 FR 57949)

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF00

2450. MATERIALS USED IN TESTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, this action substitutes SAE J576 JUL91 for the currently incorporated J576c as the referenced standard on plastics materials, to substitute ASTM D 1003-92 for ASTM D 1003-61 in the test procedures, to allow alternative processing techniques, sample sizes and thickness tolerance to those presently specified in the lighting standard.

Timetable:

Action	Date	FR Cite
NPRM	11/02/94	59 FR 54881
NPRM Comment Period End	01/03/95	
Final Rule: Effective 3/1/96	09/05/95	60 FR 46064
Final Action	09/05/95	60 FR 46064
Petitions Due	10/15/95	
Final Action Effective	03/01/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/05/95 (60 FR 46064)

Additional Information: No petitions for reconsideration received.

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF22

2451. COMPRESSED NATURAL GAS (CNG)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.303

Legal Deadline: None

Abstract: The agency is requesting comments to assess the need to regulate the fuel system integrity of vehicles with a gross vehicle weight rating (GVWR) of greater than 10,000 pounds that are fueled with compressed natural gas (CNG).

Timetable:

Action	Date	FR Cite
Request for Comments by 7/05/94	05/06/94	59 FR 23662
Withdrawn	12/20/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: It was announced at the agency's public meeting held on 12/12/95, that the agency has decided not to pursue rulemaking in this area and that a Federal Register notice would not be published.

Agency Contact: Leon DeLarm, Division Chief, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4920
Fax: 202 366-4329

RIN: 2127–AF29

2452. DRIVING RANGE FOR DUAL ENERGY AND NATURAL GAS DUAL ENERGY PASSENGER AUTOMOBILES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32901; 49 USC 32905; 49 USC 32906

CFR Citation: 49 CFR 538

Legal Deadline: None

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Abstract: Under the corporate average fuel economy program, certain incentives are provided for the manufacture of alternative fuel vehicles, including dual fuel vehicles. Among other things, dual fuel passenger automobiles which meet a minimum driving range qualify for special treatment in the calculation of fuel economy. This action is proposing to amend the existing regulation concerning minimum driving range.

Timetable:

Action	Date	FR Cite
NPRM	12/19/94	59 FR 65295
Consolidated into RIN 2127-AF18	12/19/94	59 FR 65295
NPRM Comment Period End	02/17/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 12/19/94 (59 FR 65295)

Additional Information: This action is being combined with 2127-AF18. The final rule will be under 2127-AF18.

Agency Contact: Orron Kee, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-4329

RIN: 2127–AF38

2453. THEFT DATA FOR CALENDAR YEAR 1993

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104(b)(4)

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: This action publishes the final data on thefts of model year (MY) 1993 passenger motor vehicles that occurred in calendar year (CY) 1993. The final 1993 theft data indicate a decrease in the vehicle theft rate when compared to the theft rate experienced in CY/MY 1992. The final theft rate for MY 1993 passenger vehicles stolen in calendar year 1993 decreased to 3.98 thefts per thousand vehicles produced. Publication of these data fulfills the agency's statutory obligation to periodically obtain accurate and timely theft data and publish the information for review and comment. The data was calculated for informational purposes only.

Timetable:

Action	Date	FR Cite
Request for Comments Due 11/13/95	09/12/95	60 FR 47429
Final Theft Data	01/18/96	61 FR 1228

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action was inadvertently published under RIN 2127-AE92.

Agency Contact: Barbara Gray, Group Leader, Theft Prevention Group, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4808
Fax: 202 366-4329

RIN: 2127–AF56

2454. REPLACEABLE LIGHT SOURCE INFORMATION: TRANSFER OF

Priority: Other

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 564; 49 CFR 571.108

Legal Deadline: None

Abstract: This action amends the lighting standard to facilitate the transfer by the agency of all dimensional and specification information on HB Type replaceable light sources for headlamps to Docket No. 93-11. This docket has been established as the information docket specified in the regulations for replaceable light source information. This action is intended to simplify the lighting standard while ensuring consistent regulatory treatment of all headlamp replaceable light sources. This action also adopts the regulation for replaceable light source information.

Timetable:

Action	Date	FR Cite
NPRM	03/16/95	60 FR 14247
NPRM Comment Period End	05/15/95	
Final Action	11/28/95	60 FR 58522
Final Action Effective	01/29/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/28/95 (60 FR 58522)

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Controls Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF62

2455. PHASE-IN REQUIREMENTS FOR SIDE IMPACT PROTECTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.214

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, this action deletes several obsolete dates in the phase-in requirements for side impact protection for passenger cars.

Timetable:

Action	Date	FR Cite
Final Action	11/22/95	60 FR 57838
Final Action Effective	12/22/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Hackney, Director, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1740
Fax: 202 366-4329

RIN: 2127–AF84

2456. STATE HIGHWAY SAFETY PILOT PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 402

CFR Citation: 23 CFR 1200; 23 CFR 1205

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) and the National Highway Traffic Safety Administration (NHTSA) are announcing the creation of a pilot highway safety program for fiscal year 1996 State highway safety programs and the waiver of certain procedures for States that have elected to participate in the pilot program. The pilot program replaces the requirements for State submission and Federal approval of a Highway Safety Plan with a benchmarking process by which the States sets its own performance goals. This action lists those States that have chosen to become participants and waives existing procedures for these participants, to the extend that they are inconsistent with the pilot program, for the duration of fiscal year 1996. This waiver does not affect any provisions specifically imposed by statute or by publications of Government-wide applicability.

Timetable:

Action	Date	FR Cite
Notice of Waiver	09/12/95	60 FR 47418

Small Entities Affected: None

Government Levels Affected: State, Tribal

Agency Contact: John Donaldson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834

RIN: 2127–AF94

2457. NATIONAL MINIMUM DRINKING AGE ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 158

CFR Citation: 23 CFR 1208

Legal Deadline: None

Abstract: This action amends part 1208 of title 23 of the Code of Federal Regulations. Part 1208 prescribes the requirements necessary to implement 23 USC 158 which established the National Minimum Drinking Age Act. This amendment removes outdated and obsolete provisions from that regulation.

Timetable:

Action	Date	FR Cite
Final Action	12/21/95	60 FR 66074
Final Action Effective	01/22/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: James Fell, Action Office Director, Office of Alcohol and State Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6979

RIN: 2127–AF95

2458. AIR BRAKE SYSTEMS: STOPPING-DISTANCE PERFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to several petition for reconsideration of a final rule published on March 10, 1995 (60 FR 13286) the agency modified the stopping distance braking performance requirements for heavy vehicles. Details of this final rule are under RIN 2127-AF96.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 2127-AF96	12/13/95	60 FR 63965

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action, 2127-AF98, and 2127-AF99 are being consolidated into 2127-AF96.

Agency Contact: Robert Clarke, Division Chief, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5279
Fax: 202 366-4329

RIN: 2127–AF97

2459. ANTILOCK WARNING SIGNALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to several petitions for reconsideration of a final rule published on March 10, 1995 (60 FR 13216) the agency modified the antilock warning lamp requirements. Details of this final rule are under RIN 2127-AF96.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 2127-AF96	12/13/95	60 FR 63965

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action, 2127-AF97 and 2127-AF99 are being consolidated into 2127-AF96.

Agency Contact: Robert Clarke, Division Chief, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5279
Fax: 202 366-4329

RIN: 2127–AF98

2460. STOPPING DISTANCE PERFORMANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: In response to several petitions for reconsideration to a final rule published on March 10, 1995 (60 FR 13297) the agency modified the stopping distance requirements. Details of this final rule are under RIN 2127-AF96.

Timetable:

Action	Date	FR Cite
Consolidated into RIN 2127-AF96	12/13/95	60 FR 63965

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Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action, 2127-AF97 and 2127-AF98 are being consolidated into 2127-AF96.

Agency Contact: Robert Clarke, Division Chief, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5279
Fax: 202 366-4329

RIN: 2127–AF99

2461. • RULEMAKING PROCEDURES

Priority: Other

Legal Authority: 49 USC 322; 49 USC 1657; 49 USC 30101 et seq; 49 USC 30301 et seq; 49 USC 30501 et seq; 49 USC 32101 et seq; 49 USC 32301 et seq; 49 USC 32501 et seq; 49 USC 32701 et seq; 49 USC 32901 et seq; 49 USC 33101 et seq

CFR Citation: 49 CFR 553

Legal Deadline: None

Abstract: This action makes two amendments to the agency's procedural rules. The first amendment requires petitions for extension of the period for submitting written comments on a notice such as a notice of proposed rulemaking to be submitted at least 15 days before the closing date for the comment period. Previously, petitions could be submitted up to 10 days before the closing date. This change will give the agency additional time to process these petitions and thus ensure that, when a petition is granted, the notice extending the comment period can be published well before the original closing date. The second amendment provides that the agency will accept petitions for reconsideration of a final rule if they are received not more than 45 days after the publication of the final rule. Previously, petitions for reconsideration had to be received not more than 30 days following publication of the final rule. This extension is warranted by the complexity of many of its final rules. Additional time will allow interested parties to review the rules more effectively and better prepare their petitions for reconsideration.

Timetable:

Action	Date	FR Cite
Final Action	12/05/95	60 FR 62221
Final Action Effective	01/04/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Versailles, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992

RIN: 2127–AG04

2462. • INNOVATIVE PROJECT GRANTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 23 USC 407

CFR Citation: 23 CFR 1317

Legal Deadline: None

Abstract: This action removes part 1317 from title 23 of the Code of Federal Regulations. Part 1317 established criteria and administrative procedures for awards of innovative project grants to States and their political subdivisions, and to non-profit organizations including volunteer groups, in accordance with 23 USC 407. The regulation is being removed because it is unnecessary and obsolete. Funds for the section 407 program have not been authorized since 1981. This is in response to the Regulatory Reinvention Initiative.

Timetable:

Action	Date	FR Cite
Final Action	11/24/95	60 FR 57930
Final Action Effective	12/26/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Gary Butler, Highway Safety Specialist, State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121
Fax: 202 366-7394

RIN: 2127–AG08

2463. • IMPORTATION OF VEHICLES AND EQUIPMENT SUBJECT TO FEDERAL SAFETY, BUMPER, AND THEFT PREVENTION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-562; 49 USC 322; 49 USC 30117

CFR Citation: 49 CFR 591

Legal Deadline: None

Abstract: In response to a petition for reconsideration of a final rule published October 14, 1994 (59 FR 52095), which amended Part 591 to adopt a continuous entry bond as an alternative to the single entry bond that is otherwise required to accompany the permanent importation of nonconforming motor vehicles to ensure their eventual compliance with the Federal motor vehicle safety standards, this action makes minor changes regarding the new bond to reflect the bond's true nature as a bond covering more than one vehicle under a single entry.

Timetable:

Action	Date	FR Cite
Final Action	11/24/95	60 FR 57953
Final Action Effective	12/26/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Taylor Vinson, Senior Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
Fax: 202 366-3820

RIN: 2127–AG13

2464. • BRAKE HOSES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.106

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency has updated several addresses and dates in the Standard. These amendments reflect the new name of the office to which a person should write when filing a designation that it is a manufacture of a brake hose or brake hose assembly.

Timetable:

Action	Date	FR Cite
Final Action	03/12/96	61 FR 9953
Final Action Effective	04/11/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marvin Shaw, Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992
Fax: 202 366-3820

RIN: 2127–AG32

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Prerule Stage

2465. +LOCOMOTIVE CRASHWORTHINESS AND WORKING CONDITIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 21301 to 21311; PL 103-272, sec 4(b)

CFR Citation: 49 CFR 229

Legal Deadline: Final, Statutory, March 3, 1995.

Abstract: The agency has proposed to address the crashworthiness of locomotives and working conditions on locomotives, as required by the Rail Safety Enforcement and Review Act (1992). The agency will report its findings to Congress at the conclusion of its investigation. If it is determined that there is a safety problem addressable through regulatory action, the agency will promulgate rules addressing this issue. This project is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Open Meeting Notice	07/22/94	59 FR 37528
Future Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: This action is being considered for possible referral to a Railroad Safety Advisory Committee that the agency is in the process of establishing.

Agency Contact: Christine Beyer, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0628
Fax: 202 366-7718

RIN: 2130–AA89

2466. +PASSENGER EQUIPMENT STANDARDS

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20133; 49 USC 20111 to 20113; 49 USC 20301 to 21311; PL 103-440, sec 215

CFR Citation: 49 CFR 238

Legal Deadline:
NPRM, Statutory, November 2, 1997, Initial regulations.
Final, Statutory, November 2, 1999, Final regulations.

Abstract: Pursuant to the Federal Railroad Safety Authorization Act of 1994, FRA is proposing to prescribe regulations establishing minimum passenger equipment standards for the safety of cars used by railroad carriers to transport passengers. This is considered significant due to public interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel Alpert, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0635
Fax: 202 366-7718

RIN: 2130–AA95

2467. +HOURS OF SERVICE ELECTRONIC RECORDKEEPING PROJECT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103; 49 USC 21101 to 21108; 49 USC 21303 to 21304; 49 USC 21311

CFR Citation: 49 CFR 228

Legal Deadline: None

Abstract: The Federal Railroad Administration (FRA) will launch a major project to facilitate maintenance of hours-of-service records and submission of "excess service" reports in an electronic, rather than a paper, format. FRA will host an industry forum and propose to issue a model waiver to railroads interested in maintaining electronic records for train and engine service employees. These employees compose the vast majority of those subject to the statutory limitations on hours of service. This project will eventually lead to the formal revision of 49 CFR 228.

Statement of Need: Two of the goals of FRA's Strategic Plan are to increase our customer focus by giving our best to the customer's needs and priorities and to "advance technological innovation in rail transportation through leadership and partnership." It is consistent with these goals to allow greater flexibility in the maintenance of hours-of-service records and to encourage the railroads' use of electronic recordkeeping. Moreover, when meeting with sectors of the industry pursuant to the President's March 4, 1995 Reinvention Initiative, FRA learned that the industry is

DOT—FRA — Prerule Stage

interested in obtaining greater flexibility in this area. Consequently, it is anticipated that FRA will change the hours-of-service regulations' paper records and reports requirements for subscribing railroads. This will improve these regulations by providing flexibility in the generation of payroll and hours-of-service records from the same databases, by facilitating electronic filing of excess service records, and by providing data to FRA in a format that can be more readily analyzed.

Summary of the Legal Basis: Under the Federal railroad safety laws, the FRA (by delegation from the Secretary), has regulatory and enforcement authority over all areas of railroad safety. This plenary authority certainly covers a modification of the method employed in the maintenance of hours-of-service records. There is currently no statutory or judicial requirement to make this modification.

Alternatives: Because this rulemaking is at such a formative stage, it is premature to discuss alternatives. However, during the process of developing this waiver project, FRA will consider all reasonable alternatives.

Anticipated Costs and Benefits: While FRA cannot yet conclusively provide an analysis of the costs and benefits of this project, it is estimated that this project will, after the initial cost of systems is recovered, yield savings to the industry of 2.3 million dollars annually for Class I railroads. These savings will flow from the elimination of the requirement to create 3.6 million paper records each year and to store 7.3 million records at any given time.

Risks: As this project is designed to allow railroads to make technological improvements in the manner of creating and maintaining hours-of-service records, it is not anticipated that there will be any risks associated with allowing participating railroads to waive the requirements of paper recordkeeping.

Timetable:

Action	Date	FR Cite
Grant or Deny Master Waiver Application	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Kasminoff, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0638
Fax: 202 366-7718
Email: dkasmino@intergate.dot.gov

RIN: 2130–AB04

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Proposed Rule Stage

2468. ALCOHOL/DRUG REGULATIONS; MISCELLANEOUS TECHNICAL AMENDMENTS AND CORRECTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103; 49 USC 20107; 49 USC 20111 to 20113; 49 USC 20140; 49 USC 21301; 49 USC 21304; PL 103-272 (July 5, 1994)

CFR Citation: 49 CFR 219; 49 CFR 217; 49 CFR 1.49(m)

Legal Deadline: None

Abstract: The action would make technical amendments/corrections to regulations concerning the control of alcohol and drug use in railroad operations.

Timetable:

Action	Date	FR Cite
Final Corrective Action	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Final Rule suspending pre-employment alcohol testing, promulgated with all DOT modes, and published by FRA on 5/10/95. Final rule amending procedures for post-accident toxicological testing published 4/19/95, (60 FR 19538).

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0635

RIN: 2130–AA63

2469. +WHISTLE BANS AT HIGHWAY-RAIL GRADE CROSSINGS

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20153; 49 USC 20111 to 20113; 49 USC 21301 to 21311

CFR Citation: 49 CFR 234; 49 CFR 1.49(f); 49 CFR 1.49(g); 49 CFR 1.49(m)

Legal Deadline: NPRM, Statutory, November 2, 1996. Final, Statutory, November 2, 1998.

Abstract: FRA is preparing an NPRM governing the use of train whistles at grade crossings. FRA will be soliciting comments and suggestions from the public and the railroad industry regarding this action. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0628
Fax: 202 366-7718

RIN: 2130–AA71

2470. +POWER BRAKE REGULATIONS; MISCELLANEOUS REVISIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

DOT—FRA — Proposed Rule Stage

Legal Authority: 49 USC 101; 49 USC 20103; 49 USC 20111 to 20113; 49 USC 20141; 49 USC 21301 to 21311

CFR Citation: 49 CFR 232; 49 CFR 231; 49 CFR 229

Legal Deadline: Final, Statutory, December 31, 1993.

Abstract: The regulation proposes to revise the existing power brake regulations and add standards for locomotive dynamic brakes. The proceeding focuses on such issues as whether to mandate the use of end-of-train devices in lieu of cabooses, whether these devices should be two-way, and whether to require additional testing of train air brake systems during extremely cold weather conditions. This rulemaking is considered significant because of its potential economic impact and congressional and public interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/92	57 FR 62546
ANPRM Comment Period End	03/31/93	
NPRM	09/16/94	59 FR 47676
NPRM Comment Period End	12/31/94	
NPRM Comment Period Extended to 2/27/95 for Passenger Brake Issues	01/17/95	60 FR 3375
NPRM Comment Period Extended to 4/01/95 for Freight Issues	01/17/95	60 FR 3375
Public Regulatory Conference	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Freight Issues: This action is being considered for possible referral to a Railroad Safety Advisory Committee that the agency is in the process of establishing. Passenger Brake Issues: This action may be separated from the freight issues, in which case a NPRM would be developed with the assistance of a passenger equipment standards working group. Two-Way End of Train (EOT) devices: This action will be the focus of a Public Regulatory Conference, which will be held in March of 1996.

Agency Contact: Thomas Herrmann, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0628
Fax: 202 366-7718

RIN: 2130–AA73

2471. QUALIFICATION AND CERTIFICATION OF LOCOMOTIVE ENGINEERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 20135; 49 USC 21301 to 21311; 49 USC 30301 to 30308

CFR Citation: 49 CFR 240

Legal Deadline: None

Abstract: Based on petitions to reconsider several aspects of its previous rules addressing locomotive engineer qualifications, the agency is proposing to revise certain aspects of Part 240: (1) the application of this rule to service vehicles; and (2) the process for revoking the certification of locomotive engineers.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/09/93 (58 FR 18982)

Additional Information: This rulemaking will amend the final rule issued on 06/19/91 (56 FR 28228). This action originally combined several proposed activities. For clarification, they have been separated into separate entries. The action making changes to the hearing procedures has been completed and moved to RIN 2130-AB11. This entry will address future revisions to the rule. In addition, an interim final rule modifying locomotive engineer decertification hearing procedures was published published 10/12/95 (60 FR 5313) and became effective 11/13/95. The original rule was already modified once by an interim final rule that was published 04/09/93 (58 FR 18982) and has been effective since 05/10/93. This current action is being considered for possible referral to a Railroad Safety Advisory Committee that the agency is in the process of establishing.

Agency Contact: Alan Nagler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0621
Fax: 202 366-7718

RIN: 2130–AA74

2472. +TRACK SAFETY STANDARDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20111 to 20113; 49 USC 20142; 49 USC 20301 to 20311

CFR Citation: 49 CFR 213

Legal Deadline: Final, Statutory, September 1, 1995.

Abstract: The track regulations have not been comprehensively reviewed in the past decade. This regulatory action will consist of a revision of existing track safety standards, as mandated by Congress in the Rail Safety Enforcement and Review Act (PL 102-365). With this revision FRA will also respond to a Brotherhood of Maintenance of Way petition regarding numerous changes to the existing track standards. FRA will also incorporate input from research on internal rail defects and continuous welded rail. This action is significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	11/16/92	57 FR 54038
ANPRM Comment Period End	03/12/93	
NPRM	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Evaluation

Additional Information: A Public Workshop Notice and Schedule was published 01/05/93 (58 FR 338) and subsequently corrected twice, on 1/19/93 (58 FR 4975) and 2/18/93 (58 FR 8928). This action is being considered for possible referral to a Railroad Safety Advisory Committee that the agency is in the process of establishing.

Agency Contact: Nancy Lummen Lewis, Trial Attorney, Department of

DOT—FRA — Proposed Rule Stage

Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0635
Fax: 202 366-7718

RIN: 2130–AA75

2473. +ROADWAY WORKER PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 20142; 49 USC 21301 to 21311; PL 103-440, sec 208

CFR Citation: 49 CFR 214

Legal Deadline: Final, Statutory, September 1, 1995.

Abstract: The agency intends to establish minimum mandatory requirements to provide roadway workers with on-track safety. This rulemaking represents the agency's first use of regulatory-negotiation in its rulemaking process. The rule is considered significant due to substantial public interest and safety considerations.

Timetable:

Action	Date	FR Cite
ANPRM	11/16/92	57 FR 54038
ANPRM Comment Period End	05/04/93	
Negotiations Begin	01/23/95	
Negotiations End	07/28/95	
NPRM	03/14/96	61 FR 10528
NPRM Comment Period End	05/13/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: On August 17, 1994 (59 FR 42200), FRA published a notice proposing to form a negotiated rulemaking advisory committee and invited requests for representation, to be received by September 16, 1994. On January 5, 1995 (60 FR 1761), FRA published a notice of the establishment of an advisory committee and announced the first committee meeting. A schedule of further Advisory Committee meetings was published 2/15/95 (60 FR 8619), 5/8/95 (60 FR 22542) and 8/15/95 (60 FR 42214). The Committee met on the following dates: February 16 to 17, 1995 ; March 7 to 8, 1995; March 23 to 24, 1995; April 3 to 4, 1995; April 19 to 21, 1995; May 16 to 17, 1995, and August 30-31, 1995. The Advisory Committee submitted its report, which formed the basis of the NPRM, to Secretary Pena and Administrator Molitoris on May 17, 1995. This action was originally contained in our comprehensive track safety standards revision, RIN 2130-AA75 but was placed in Part 214 as it is more directly related to worker safety than to track standards.

Agency Contact: Cynthia Walters, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0621
Fax: 202 366-7718

RIN: 2130–AA86

2474. +ENVIRONMENTAL IMPACT AND RELATED PROCEDURES (FRA, FTA, FHWA)

Priority: Other Significant

Legal Authority: 49 USC 322; 42 USC 4332

CFR Citation: 49 CFR 267; 49 CFR 622; 23 CFR 771

Legal Deadline: None

Abstract: The Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA) currently have a joint environmental regulation at 23 CFR 771, "Environmental Impact and Related Procedures," that outlines requirements for complying with the National Environmental Policy Act and related laws and regulations. The Federal Railroad Administration (FRA) has "Procedures for Considering Environmental Impacts" (45 FR 40854, June 16, 1980) which serve the same purposes. FTA and FHWA are revising their regulation to serve program needs. In order to achieve consistency in environmental analysis for surface transportation modes and to update its existing environmental procedures which were issued in 1980, the FRA will join with FTA and FHWA in developing an environmental regulation that applies to all three modal Administrations. This action is considered significant because of public, congressional, and environmental concerns and because it involves several departmental modes. The FTA RIN is 2132-AA43; the FHWA RIN is 2125-AD32.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Economic Assessment

Agency Contact: William R. Fashouer, Senior Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC.
Phone: 202 366-0616
Fax: 202 366-7718

RIN: 2130–AA93

2475. +RAIL PASSENGER SERVICE: EMERGENCY PREPAREDNESS

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20133; 49 USC 20111 to 20113; 49 USC 20301 to 20306; 49 USC 21301 to 21302; 49 USC 21304 to 21311; PL 103-440, sec 215

CFR Citation: 49 CFR 239

Legal Deadline: Final, Statutory, November 2, 1997.
NPRM, Statutory, November 2, 1997, Initial regulations.
Final, Statutory, November 2, 1999, Final regulations.

Abstract: Pursuant to the Federal Railroad Safety Authorization Act of 1994, FRA is proposing to prescribe regulations establishing minimum emergency preparedness standards to ensure that railroads involved in passenger train operations can effectively and officially manage emergencies. This is considered significant due to public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David H. Kasminoff, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0635
Fax: 202 366-7718
Email: dkasmino@intergate.dot.gov

RIN: 2130–AA96

DOT—FRA — Proposed Rule Stage

2476. STATEMENT OF POLICY REGARDING SAFETY OF RAILROAD BRIDGES

Priority: Other

Legal Authority: 49 USC 20103; 49 USC 21301 to 21311; 49 USC 20142; PL 103-44, sec 208

CFR Citation: 49 CFR 213

Legal Deadline: None

Abstract: FRA proposes to publish a policy statement containing maintenance guidelines based on certain common, basic principles that characterize effective bridge management practices. The guidelines are meant to be advisory in nature. They will not have the force of regulations under which FRA ordinarily issues violations and assesses civil penalties.

Timetable:

Action	Date	FR Cite
Statement of Interim Policy Regarding the Safety of Rail Bridges	04/27/95	60 FR 20654
Comment Period End	06/26/95	
Final Policy Statement	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy L. Lewis, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0621

RIN: 2130–AA99

DEPARTMENT OF TRANSPORTATION (DOT) — Final Rule Stage
Federal Railroad Administration (FRA)

2477. RAILROAD ACCIDENT REPORTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 21301 to 21311

CFR Citation: 49 CFR 225

Legal Deadline: None

Abstract: Based on comments and suggestions from the public, FRA proposes to improve its injury and accident reporting system by simplifying recordkeeping requirements and providing for internal controls in the reporting process. This action is not considered significant since it has minimal safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	03/14/90	55 FR 9469
ANPRM Comment Period End	05/25/90	
NPRM	08/15/94	59 FR 42880
NPRM Comment Period End	03/10/95	
Notice of a Decision to Issue a SNPRM	07/03/95	60 FR 34498
Notice of a Decision to not Issue a SNPRM	01/24/96	61 FR 1892
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Open meetings were held in Washington, D.C. 6/13/91, 8/12/91, 10/22/91, and 8/18/92. A public hearing was held in Washington DC on October 5-6, 1994, in Kansas City, MO on October 19, 1994, and in Portland, OR on November 3, 1994. A public regulatory conference was held January 30, 1995- February 3, 1995 in Washington, D.C. While FRA considered issuing an SNPRM, after a thorough review of the comments received addressing this possibility, it has decided that doing so would be unwarranted. The intended subject(s) of the SNPRM, instead, will be addressed in the final rule.

Agency Contact: Marina C. Appleton, Trial Attorney, Office of Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0628
Fax: 202 366-7718

RIN: 2130–AA58

2478. LOCAL RAIL FREIGHT ASSISTANCE TO STATES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 22101

CFR Citation: 49 CFR 266

Legal Deadline: None

Abstract: This action is to revise the procedures and requirements for the receipt of financial assistance contained in Part 266. These changes are required to reflect statutory modifications resulting from the Local Rail Service Reauthorization Act of 1989. Although the Local Freight Assistance Program has not been resuthorized after FY 1995, final regulations are necessary because states continue to submit applications for new projects from reprogrammed funds and repaid loan funds.

Timetable:

Action	Date	FR Cite
NPRM	11/30/90	55 FR 49648
NPRM Comment Period End	12/31/90	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 401 Railroads

Analysis: Regulatory Evaluation 11/30/90 (58 FR 49648)

Additional Information: While this action was to be terminated in October of 1995, the agency reconsidered and has decided to move forward with a final rule.

Agency Contact: Laurence Fitzgerald, Program Analyst, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1677

RIN: 2130–AA60

2479. +FREIGHT CAR SAFETY STANDARDS: MAINTENANCE-OF-WAY EQUIPMENT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

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duplication, or streamline requirements.

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 21301 to 21311

CFR Citation: 49 CFR 215

Legal Deadline: None

Abstract: This action proposes to amend the freight car safety standards to subject all maintenance-of-way vehicles to FRA's safety standards, with the exception of stenciled cars not used in revenue service and restricted to a speed of less than 20 miles per hour. This action is considered significant because of substantial public and industry interest.

Timetable:

Action	Date	FR Cite
NPRM	03/10/94	59 FR 11238
NPRM Comment Period End	02/27/95	
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/10/94 (59 FR 11238)

Additional Information: The original NPRM Comment period ended on 4/11/94 but was twice extended; first, to 11/28/94 (59 FR 49374) and then, to 02/27/95 (59 FR 67266). This action is being considered for possible referral to a Railroad Safety Advisory Committee that the agency is in the process of establishing.

Agency Contact: Billie Stultz, Deputy Assistant Chief Counselfor Safety, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0628
Fax: 202 366-7718

RIN: 2130–AA68

2480. FRA HAZARDOUS MATERIALS PENALTY GUIDELINES

Priority: Other

Legal Authority: 49 USC 20103; 49 USC 5103; 49 USC 5123

CFR Citation: 49 CFR 209; 49 CFR 1.49(m); 49 CFR 1.49(s); 49 CFR 1.49(gg)

Legal Deadline: Final, Statutory, May 1, 1995.

Abstract: FRA plans to provide penalty guidelines for violations of the hazardous materials regulations enforced by the agency, similar to the guidelines it provides in other areas such as those dealing with safety appliances and signals.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas A. Phemister, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0628
Fax: 202 366-7718

RIN: 2130–AB00

2481. • REINVENTION OF REGULATIONS ADDRESSING DISCONTINUANCE OR MODIFICATION OF SIGNAL SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20501 to 20505

CFR Citation: 49 CFR 235

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Reform Initiative, FRA intends to revise Part 235 by reducing the list of circumstances for which signal system discontinuance approval is required.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0623
Fax: 202 366-7718

RIN: 2130–AB05

2482. • REINVENTION OF SIGNAL SYSTEM REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20501 to 20505

CFR Citation: 49 CFR 233

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Reform Initiative, FRA intends to modify Part 233 by lengthening railroad system reporting intervals.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0623
Fax: 202 366-7718

RIN: 2130–AB06

2483. • REINVENTION OF STEAM LOCOMOTIVE INSPECTION REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20701

CFR Citation: 49 CFR 230

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Reform Initiative, FRA intends to amend Part 230 to allow greater flexibility in the steam locomotive inspection waiver process.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action is being considered for possible referral to a Railroad Safety Advisory Committee that the agency is in the process of establishing.

Agency Contact: Nancy Goldman, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4781
Fax: 202 366-7718

RIN: 2130–AB07

2484. • REINVENTION OF STATE SAFETY PARTICIPATION REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 20103; 49 USC 20105 to 20106; 49 USC 20113

CFR Citation: 49 CFR 212

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Reform Initiative, FRA is eliminating portions of Part 212 of the federal safety regulations. From FY 1983 to FY 1988, Congress phased out the funding for the Grants-in-Aid for Railroad Safety (State Participation) Program. Since FY 1989, no funds at all have been available for this program. Thus, because they are obsolete, Subpart D and the Appendices of Part 212 will be eliminated in their entirety.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cynthia Walters, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8083
Fax: 202 366-7718

RIN: 2130–AB08

2485. • REINVENTION OF REGULATIONS ADDRESSING RAILROAD USER FEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 421

CFR Citation: 49 CFR 245

Legal Deadline: None

Abstract: The Department intends to submit a request to Congress for legislation to permit FRA to assess and collect railroad user fees. If enacted, FRA would reexamine the burden of the program on small railroads. In the Omnibus Budget Reconciliation Act of 1990, Congress had authorized FRA to assess and collect railroad user fees for a 5-year period which ended September 30, 1995.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elizabeth Sorrells, Attorney Advisor, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4782
Fax: 202 366-7718

RIN: 2130–AB09

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Long-Term Actions

2486. AMTRAK WASTE DISPOSAL

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Fashouer
Phone: 202 366-0616
Fax: 202 366-7718

RIN: 2130–AA84

2487. PROTECTION OF UTILITY EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 218

Timetable:

Action	Date	FR Cite
Final Rule Amendments: Comments by 5/1/95	03/01/95	60 FR 11047
Final Rule Amendments: Comment Period End	05/01/95	
Amendment to Final Rule Suspended: Comment Period Reopened Indefinitely	06/09/95	60 FR 30469
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kyle M. Mulhall
Phone: 202 366-0443
Fax: 202 366-7718

RIN: 2130–AA90

2488. +SELECTION AND INSTALLATION OF GRADE CROSSING WARNING SYSTEMS

Priority: Other Significant

CFR Citation: 49 CFR 234

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11649
NPRM Comment Period End	05/16/95	
Public Hearings	06/06/95	
Public Hearings	06/07/95	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Mark Tessler
Phone: 202 366-0628

RIN: 2130–AA92

2489. +RADIO COMMUNICATION-ADVANCED TRAIN CONTROL SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 49 CFR 220

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Cynthia Walters
Phone: 202 366-0621
Fax: 202 366-7718

RIN: 2130–AA94

2490. MAINTENANCE, INSPECTION, AND TESTING OF GRADE-CROSSING SIGNAL SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 49 CFR 234; 49 CFR 1.49(f); 49 CFR 1.49(g); 49 CFR 1.49(m)

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Agency Contact: Mark H. Tessler
Phone: 202 366-0628
Fax: 202 366-7718

RIN: 2130–AA97

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Railroad Administration (FRA)

Completed Actions

2491. LOCOMOTIVE VISIBILITY; MINIMUM STANDARDS FOR AUXILIARY EXTERNAL LIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 20143; 49 USC 21301 to 21311

CFR Citation: 49 CFR 229

Legal Deadline:
Other, Statutory, December 31, 1992, Interim final rule.
Final, Statutory, June 30, 1995, Final rule.

Abstract: This action requires that certain locomotives be equipped with auxiliary lights to enable motorists, railroad employees and pedestrians to recognize approaching trains at a greater distance. The rule requires that locomotives operated over public highway-rail crossings at greater speeds than 20 miles per hour be equipped with auxiliary lights.

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44457
NPRM Comment Period End	10/27/95	
Comment Period Extended to 12/12/95	11/27/95	60 FR 58322
Public Hearing on 11/28/95	11/27/95	60 FR 58322
Final Action	03/06/96	61 FR 8881
Final Action Effective	05/06/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Evaluation 05/13/94 (59 FR 24960)

Additional Information: There have been two interim rules published addressing locomotive visibility: (1) Interim Rule 1 (IR-1), published 2/3/93; and (2) Interim Rule 2 (IR-2), published 5/13/94. IR-2 relaxed the standards in IR-1 concerning auxiliary external lights on locomotives. The lighting arrangements in IR-1 were deemed acceptable interim locomotive conspicuity measures. IR-2 contains detailed and specific performance standards regarding color, intensity, operation, mounting location and flash rate for ditch lights, crossing lights, strobe lights and oscillating lights. Lighting devices installed in conformance to the specifications in IR-1 or IR-2 will not be immediately rendered obsolete when FRA issues final standards in this area.

Agency Contact: Kyle M. Mulhall, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0635
Fax: 202 366-7718

RIN: 2130–AA80

2492. +GENERIC STANDARDS FOR CORRIDORS UP TO 160 MPH

Priority: Other Significant

Legal Authority: 49 USC 20103; 49 USC 20111 to 20113; 49 USC 21301 to 21311; 49 USC 26103; PL 103-440, sec 203(a)(2)

CFR Citation: 49 CFR 209 to 245

Legal Deadline: None

Abstract: Consistent with the Secretary of Transportation's Strategic Plan, which highlights his vision to develop high speed rail in select corridors,and as mandated by the Swift Rail Development Act of 1994, FRA has incorporated, and intends to incorporate, high speed rail issues within the following rulemakings: Power brake (RIN 2130-AA73); Track (RIN 2130-AA75); Passenger Equipment Standards (RIN 2130-AA95); and Rail Passenger Service: Emergency Preparedness Rules (RIN 2130-AA96). The agency concluded that there is no need to continue to retain an agenda entry for generic standards; rather, specific safety standards within the high speed rail context will be addressed in future rulemakings. If the agency determines that a comprehensive rule focused exclusively on high speed rail issues is warranted at a later date, it will initiate a rulemaking at that time. Where system safety plans for potential high speed rail projects are made, they will be considered on their own merits.

Timetable:

Action	Date	FR Cite
Action Terminated	12/31/95	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Daniel Smith, Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0635

Fax: 202 366-7718

RIN: 2130–AA88

2493. ELIMINATION OF PART 251 AND PART 258 REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 24101; 49 USC 1651; PL 103-272

CFR Citation: 49 CFR 251; 49 CFR 258

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Reform Initiative, the agency proposed to remove obsolete regulations in 49 CFR Chapter II. Part 251 (Loans and Guarantees of Loans) was eliminated in its entirety due to the repeal of its statutory authority. Part 258 (Regulations governing Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended) will be eliminated because authorization for it has expired and no reauthorization is anticipated.

Timetable:

Action	Date	FR Cite
Final Action	02/09/96	60 FR 4937

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This RIN was previously published as "Miscellaneous Amendments to Federal Railroad Regulations Pursuant to Regulatory Reform," encompassing Parts 212, 230, 233, 235 and 251.

Agency Contact: Elizabeth Sorrells, Attorney Advisor, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4782
Fax: 202 366-7718

RIN: 2130–AB03

2494. • ALCOHOL/DRUG REGULATIONS; RANDOM DRUG TESTING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103; 49 USC 20107; 49 USC 20111 to 20113; 49 USC 20140; 49 USC 21301 to 21304

CFR Citation: 49 CFR 219

Legal Deadline: None

Abstract: Using data from Management Information System (MIS) annual reports, FRA has calculated that the rail industry random drug testing positive rate for 1994 was 0.808 percent. Since the industry-wide random drug positive rate continues to be below 1.0 percent, the Federal Railroad Administrator has determined that the minimum annual random drug testing rate for the period January 1, 1996 through December 31, 1996 will remain at 25 percent of covered railroad employees. In addition, FRA intends to award a contract to Northwest Toxicology, Inc. (Northwest) to conduct post-accident toxicological analysis, effective December 1, 1995.

Timetable:

Action	Date	FR Cite
Final Action	12/01/95	60 FR 61664

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This final rule is effective December 1, 1995. This was originally published under RIN 2130-AA81. In addition, although previous rules involving alcohol and drug regulations have appeared under RIN 2130-AA63, FRA has decided to treat separate actions as separate entries.

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0635
Fax: 202 366-7718

RIN: 2130–AB10

2495. • REVISION OF LOCOMOTIVE ENGINEER QUALIFICATION AND CERTIFICATION REGULATIONS: HEARING PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 2103; 49 USC 20111 to 20113; 49 USC 20135; 49 USC 21301 to 21311; 49 USC 30301 to 30308

CFR Citation: 49 CFR 240

Legal Deadline: None

Abstract: Based on petitions for reconsideration of several aspects of its final rule on locomotive engineer qualifications, the agency revised the locomotive engineer decertification hears procedures by: (1) permitting agency employees to serve as hearing officers; (2) by clarifying existing procedural rules; (3) by adding provisions previously omitted; and (4) by making changes to correct typographical errors and minor ambiguities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/12/95	60 FR 53133
Interim Final Rule Effective	11/13/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This action originally appeared as part of RIN 2130-AA74. For clarification purposes, however, the agency decided to separate its locomotive engineer entries. The original engineer qualification rule was published 06/19/91 (56 FR 28228) and was amended with an interim final rule on 04/09/93 (58 FR 18982), which has been effective since 05/10/93. RIN 2130-AA74 will address the rest of the modifications warranted by the petitions to reconsider (primarily issues involving the rule's applicability to service vehicles).

Agency Contact: Alan Nagler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0621
Fax: 202 366-7718

RIN: 2130–AB11

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Proposed Rule Stage

2496. +DEPARTMENT OF TRANSPORTATION (FTA, FRA, FHWA, AND USCG), NEPA, AND RELATED PROCEDURES FOR TRANSPORTATION DECISION-MAKING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5304(e); 42 USC 4321; 23 USC 109; 23 USC 128; 23 USC 138; 23 USC 315; 49 USC 303(c); 33 USC 401; 33 USC 491 et seq; 33 USC 511 et seq; 33 USC 525 et seq; 33 USC 535

CFR Citation: 49 CFR 622; 23 CFR 771; 40 CFR 1500 to 1508; 49 CFR 1.48(b); 49 CFR 1.51; 33 CFR 114.05

Legal Deadline: Final, Statutory, May 18, 1992.

Abstract: The Federal Transit Administration and the Federal Highway Administration currently have a joint environmental regulation at 23 CFR 771, "Environmental Impact and Related Procedures". The agencies first issued an environmental regulation together in 1980. The joint regulation was amended in 1987 and again in 1991. Even though FTA and FHWA have joint regulations, each agency's guidance for implementing those regulations is procedurally different. This causes difficulties and inconsistencies for sponsors of transportation projects, particularly where joint FTA and FHWA funds are involved. In the ISTEA, the Congress recognized the importance of providing uniformity and consistency between FTA and FHWA environmental procedures. This is needed to accommodate the increased funding flexibility for surface transportation provided by ISTEA. Because of an increased emphasis on intermodal planning and proposals to advance a high-speed rail program, the proposed, new joint regulations will include the Federal Railroad Administration (FRA) and the United States Coast Guard (USCG) bridge permit program. The regulations will therefore be applied to all four modal administrations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Analysis: Regulatory Evaluation

Additional Information: Section 134(h)(4) of title 23, United States Code and section 8(h)(4) of the Federal Transit Act, as amended (now 49 USC 5304(e)), direct the Secretary of Transportation to initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969, to comparable requirements for highway projects. This action is considered significant because of potential public, congressional, and environmental concerns, and because it involves several interested departmental modes.

Agency Contact: Scott Biehl, Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0952

RIN: 2132–AA43

2497. • CAPITAL LEASES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 100-17, sec 308

CFR Citation: 49 CFR 639

Legal Deadline: None

Abstract: The FTA is amending its capital leases regulation to treat maintenance costs under a commercial lease of a capital asset as an eligible capital expense. This rulemaking implements section 308 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, which allows capital grants under the Federal transit laws to be used for leasing facilities or equipment if a lease is more cost effective than purchase or construction of such items. This proposal is consistent with industry practice and recent Federal initiatives to streamline federally assisted procurement practices.

Timetable:

Action	Date	FR Cite
NPRM	01/31/96	61 FR 3532
NPRM Comment Period End	04/01/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Rita Daguillard, Deputy Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Room 9316, Washington, DC 20590
Phone: 202 366-1936

RIN: 2132–AA55

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Final Rule Stage

2498. +BUS TESTING

Priority: Other Significant

Legal Authority: 49 USC 5323(c)

CFR Citation: 49 CFR 665

Legal Deadline: None

Abstract: This regulation implements a statutory provision that requires any new bus model purchased after September 30, 1989, to be tested at a facility established by the Secretary in Altoona, PA. This regulation is significant because of the large amount of public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/25/89	54 FR 22716

DOT—FTA

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	07/24/89	
Interim Final Rule	08/23/89	54 FR 35158
Interim Final Rule: Comment Period Reopened	11/30/89	54 FR 49297
Interim Final Rule: Second	10/09/90	55 FR 41174
Interim Final Rule Extending Interim Procedures	09/13/91	56 FR 46572
Interim Final Rule New Vehicle Types	07/28/92	57 FR 33394
Interim Final Rule Partial Effectiveness Postponed	10/13/92	57 FR 46814
Interim Final Rule Comment Period Reopened to 01/29/93	01/07/93	58 FR 2989
Interim Final Rule Partial Effectiveness Postponed	02/23/93	58 FR 10989
Notice of Meeting	02/26/93	58 FR 11549
Interim Final Rule Small Vehicle Testing, Phase-in of Effective Date	11/03/93	58 FR 58732
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 07/28/92 (57 FR 33394)

Additional Information: Former section 12(h) of the FT Act, as amended (now 49 USC 5302(a)(9)), defines a "new bus model" as a bus model which has not been used in mass transportation service in the United States before the date of production of such model, or a bus model which has been used in such service, but which is being produced with a major change in configuration or components. A third interim final rule, published on 07/28/92, added two new categories of buses required to be tested. On 10/13/92 FTA published a notice postponing the application of the interim final rule for these vehicle types until 02/10/93. The FTA's fourth interim final rule, issued on 11/3/93, established four subcategories of small vehicles to facilitate the phase-in of testing. The final rule will add the two tests mandated by ISTEA, brake performance and emissions, to the seven tests currently performed at the bus testing facility. In addition, the final rule will clarify the partial testing with regard to what constitutes a "major change" on a bus that has been fully tested, but is later produced with a change in configuration or component.

Agency Contact: Richard Wong, Attorney-Advisor, Department of Transportation, Federal Transit Administration, Office of Chief Counsel, Room 9316, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936

RIN: 2132–AA30

2499. TRANSPORTATION FOR THE ELDERLY AND PERSONS WITH DISABILITIES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5301(d)

CFR Citation: 49 CFR 609

Legal Deadline: None

Abstract: The regulation sets forth requirements regarding transportation for the elderly and persons with disabilities mandated by 49 USC 5301(d), formerly section 16 of the Federal Transit Act, as amended. The regulation also sets forth accessibility standards for rapid and light rail vehicles that predate passage of the Americans with Disabilities Act of 1990 (ADA) and DOT's implementing regulations (49 CFR Parts 27,37, and 38). The Federal Transit Administration will revise part 609 to acknowledge new ADA provisions emanating from Federal transit laws.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Richard Wong, Attorney Advisor, Legislation and Rulemaking Division, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4011

RIN: 2132–AA46

2500. +MANAGEMENT AND MONITORING SYSTEMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 102-240, sec 1034; 23 USC 303; 23 USC 315; 23 USC 135; 23 USC 134

CFR Citation: 49 CFR 614; 23 CFR 500

Legal Deadline: Final, Statutory, December 18, 1992.

Abstract: The Intermodal Surface Transportation Efficiency Act mandates the FTA and FHWA to issue regulations for State development and implementation of systems for managing: (1) highway pavement of Federal-aid highways; (2) bridges on and off Federal-aid highways; (3) highway safety; (4) traffic congestion; (5) public transportation facilities and equipment; (6) intermodal transportation facilities and systems. States must be implementing each management system in Federal fiscal year 1995 or the Secretary may withhold up to 10 percent of funds apportioned under Title 23, U.S.C., or under 49 USC chapter 53 (mass transportation), for any fiscal year beginning after September 30, 1995. The primary purpose of these systems is to improve the efficiency of, and protect the investment in, existing and future transportation infrastructure. The systems will provide additional information needed to make informed decisions for optimum utilization of limited resources. The economic impact of the regulation is expected to be minimal. This regulation is issued jointly with the Federal Highway Administration (RIN 2125-AC97). The regulation is considered significant because of substantial State and local government, public, and congressional interest. The interim final rule was effective January 3, 1994; comments were due by January 31, 1994.

Timetable:

Action	Date	FR Cite
ANPRM	06/03/92	57 FR 23460
ANPRM Comment Period End	08/03/92	
NPRM	03/02/93	58 FR 12096
Request for Comments	03/24/93	58 FR 15816

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DOT—FTA — Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	05/03/93	
Interim Final Rule	12/01/93	58 FR 63442
Interim Final Rule Correction	12/07/93	58 FR 64374
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 12/01/93 (58 FR 63442)

Additional Information: The National Highway System Designation Act of 1995 (P.L. 104-59) enacted on 11/28/95 allows States to elect not to implement any of the management systems in whole or in part and prohibits the Secretary from imposing any penalties for such election. The final rule will reflect these changes.

Agency Contact: Ron Jensen-Fisher, Senior Community Planner, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0257

RIN: 2132–AA47

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Long-Term Actions

2501. +NEW STARTS CRITERIA

Priority: Other Significant

CFR Citation: 49 CFR 611

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ron Jensen-Fisher
Phone: 202 366-0096

RIN: 2132–AA50

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Transit Administration (FTA)

Completed Actions

2502. +STATE RESPONSIBILITY FOR FIXED-GUIDEWAY SYSTEM SAFETY

Priority: Other Significant

Legal Authority: 49 USC 5330

CFR Citation: 49 CFR 659

Legal Deadline: Final, Statutory, October 28, 1992.

Abstract: As required by the Intermodal Surface Transportation Efficiency Act of 1991, the FTA issued a rule requiring States to oversee the safety of rail fixed guideway systems not regulated by the Federal Railroad Administration. This rule sets forth the FTA's State safety oversight program, which is intended to improve the safety of rail fixed guideway systems.

Timetable:

Action	Date	FR Cite
Public Hearing Notice	06/11/92	57 FR 24768
ANPRM	06/25/92	57 FR 28572
ANPRM Comment Period End	08/24/92	
NPRM	12/09/93	58 FR 64856
NPRM Comment Period End	02/07/94	
Hearing Notice: Comment Period End 3/8/94	02/28/94	59 FR 9460
Final Action	12/27/95	60 FR 67034
Final Action Effective	01/26/96	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 12/09/93 (58 FR 64856)

Agency Contact: Nancy Zaczek, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4011

RIN: 2132–AA39

2503. BUY AMERICA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 5323(j)

CFR Citation: 49 CFR 661

Legal Deadline: Final, Statutory, May 30, 1992.

Abstract: The Intermodal Surface Transportation Efficiency Act of 1991 amended section 165(a) of the Surface Transportation Assistance Act of 1982 (now 49 USC 5323(j)) by adding "iron" to the list of products subject to "Buy America" provisions. FTA is publishing this document to amend this document accordingly. This rule also makes other amendments intended to update and clarify FTA's Buy America regulation, including adding the definition of "component" of manufactured products, updating the domestic content requirements for rolling stock, and eliminating an obsolete provision grandfathering the domestic content requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/12/95	60 FR 47442
NPRM Comment Period End	11/13/95	
Final Action	02/16/96	61 FR 6300

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: FTA recently published two notices, non-regulatory in nature, relating to FTA's Buy America regulation. First, FTA published an immediate public interest waiver exempting micro-purchases from requirements of Buy America, thus alleviating administrative burdens on FTA recipients and staff. (3/15/95, 60 FR 14174) Further, FTA published a notice of waiver from Buy America requirements for small purchases by FTA grantees and made with capital and planning assistance and for all purchases by FTA grantees made with operating assistance. It proposed to add iron to the list of products subject to the Buy America requirement. (7/24/95, 60 FR 37930) The goal of this public interest waiver is to eliminate some of the procurement delays, "red tape," and paperwork from FTA grantees' procurement processes.

Agency Contact: Rita Daguillard, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936

RIN: 2132–AA42

DOT—FTA — Completed Actions

2504. TEMPORARY LOCAL MATCH WAIVER FOR SECTIONS 9 AND 18

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 102-240, sec 1054; PL 102-388; PL 102-302

CFR Citation: 49 CFR 671

Legal Deadline: None

Abstract: Because the supporting statutory authority has expired, FTA is removing Temporary Local Match Waivers for sections 9 and 18 from the Code of Federal Regulations. FTA made this determination as part of the President's reinventing government initiative.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/11/93	58 FR 42690
Interim Final Rule Effective	09/10/93	
Interim Final Rule Comment Period End	10/12/93	
Final Action	03/11/96	61 FR 9650

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Analysis: Regulatory Evaluation 08/11/93 (58 FR 42690)

Additional Information: The comment period ended on October 12, 1993, and the FTA anticipates issuing a final rule based on the interim final rule. A policy statement providing general guidance on local share issues was published on July 10, 1992 (57 FR 30880).

Agency Contact: Nancy Zaczek, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4011

RIN: 2132–AA49

2505. • BUY AMERICA REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 5323

CFR Citation: 49 CFR 660

Legal Deadline: None

Abstract: This rule removes the Buy America requirements which are now obsolete and have been superseded by 49 CFR part 661.

Timetable:

Action	Date	FR Cite
Final Action	12/20/95	60 FR 65597

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rita Daguillard, Deputy Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Room 9316, Washington, DC 20590
Phone: 202 366-1936

RIN: 2132–AA54

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Prerule Stage

2506. • PIPELINE SAFETY PROGRAM PROCEDURES: UPDATES AND CORRECTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 94 USC 60101 to 60125

CFR Citation: 49 CFR 190

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention, this rulemaking updates and corrects 49 CFR 190 (Pipeline Safety Program Procedures) by amending nomenclature, addresses, and penalty amounts. These amendments are related to pipeline safety program administration and do not impact specific pipeline safety technical requirements.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Docket No. PS-145

Agency Contact: L.E. Herrick, Department of Transportation, Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590
Phone: 202 366-5523
Fax: 202 366-4566

RIN: 2137–AC79

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DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Proposed Rule Stage

2507. REQUIREMENTS FOR CYLINDERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 173; 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking involves a proposal to revise requirements for the manufacture of new DOT specification cylinders and for the maintenance, requalification, repair and use of all DOT specification cylinders. This action is needed to recognize new cylinder manufacturing technology and to clarify and simplify requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Formerly entitled Review: Consolidation of Specifications for High-Pressure Seamless Cylinders. Docket No. HM-220.

Agency Contact: Hattie Mitchell, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553

RIN: 2137–AA92

2508. +GAS GATHERING LINE DEFINITION

Priority: Other Significant

Legal Authority: 49 USC 60101 et seq

CFR Citation: 49 CFR 192

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: The existing definition of "gathering line" would be clearly defined to eliminate confusion in distinguishing these pipelines from transmission lines in rural areas. The costs should be minimal since the definition will conform to prevailing practices in government and industry. Action is significant because the definition is of Congressional interest and is required by the Pipeline Safety Act of 1992. Because of the complexity in defining gas gathering lines, RSPA is now considering alternative rulemaking approaches to fully consider the interests of all industry segments.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48505
NPRM Comment Period End	11/25/91	
SNPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/25/91 (56 FR 48505)

Additional Information: Docket No. PS-122.

Agency Contact: Richard D. Huriaux, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4595

RIN: 2137–AB15

2509. +QUALIFICATION OF PIPELINE PERSONNEL

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: Training and qualification standards have been proposed for personnel involved in the operation and maintenance of gas and hazardous liquid pipelines. Special consideration would be given to operators of small gas systems to alleviate the burden of compliance. This rulemaking is considered significant because of substantial State and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/23/87	52 FR 9189
ANPRM Comment Period End	05/07/87	
NPRM	08/03/94	59 FR 39506
NPRM Comment Period Extended to 10/31/94	09/07/94	59 FR 46219
Public Meeting Notice	09/07/94	59 FR 46219
NPRM Comment Period End	10/03/94	
NPRM	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/03/94 (59 FR 39506)

Additional Information: Docket No. PS-94. Formerly entitled: Pipeline Operator Qualifications. The proposals regarding certification of personnel and emergency response in "Proposals for Pipeline Safety," RIN 2137-AB27, have been consolidated into this rulemaking. A negotiated rulemaking procedure is being planned.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2036

RIN: 2137–AB38

2510. +MAPS AND RECORDS OF PIPELINE LOCATION AND CHARACTERISTICS; NOTIFICATION OF STATE AGENCIES; PIPE INVENTORY

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, November 1, 1989.
Deadline pertains to pipeline inventory and State agency information.

Abstract: This action proposes to equalize as far as possible the requirements that gas and liquid operators keep maps and records to show the location and other characteristics of pipelines. Operators would also be required to keep an inventory of pipe and annually report mileage and other facts. In addition, operators would be required to provide certain information to State agencies upon request. This is a significant action because of congressional and State concerns about the need for appropriate public officials to have pipeline information.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: L.M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559

RIN: 2137–AB48

DOT—RSPA

Proposed Rule Stage

2511. DOT 3AL ALUMINUM CYLINDERS; SAFETY PROBLEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: Certain DOT 3AL cylinders made of aluminum alloy 6351 were discovered developing cracks during service and occasionally leaks developed resulting in loss of contents. The ANPRM was to alert and inform all persons possessing these cylinders of the problems, identify those cylinders at risk, and suggest steps to minimize risks.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/87	52 FR 26027
ANPRM Comment Period End	08/10/87	
NPRM	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: Docket No. HM-176A

Agency Contact: Charles Hochman, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4545

RIN: 2137–AB51

2512. DESIGN AND CONSTRUCTION OF WELDED BREAKOUT TANKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking proposes to add safety standards for the design and construction of pipeline breakout tanks.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: This action would incorporate by reference the applicable standards for breakout tank design and construction that are contained in American Petroleum Institute Standard 650-653. This standard is already widely followed in the pipeline industry.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-2036

RIN: 2137–AC11

2513. UNDERWATER ABANDONED PIPELINE FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, April 24, 1994.

Abstract: This action would result in regulations specifying procedures for operators to report on underwater pipelines abandoned prior to October 24, 1992.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 04/00/96

Agency Contact: L.E. Herrick, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-5523

RIN: 2137–AC33

2514. +INCREASED INSPECTION REQUIREMENTS

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1995.

Abstract: This rulemaking would require gas and hazardous liquid pipelines in high-density, environmentally sensitive, or navigable waterway areas to be inspected by internal inspection devices or equivalent means. The regulations shall prescribe circumstances under which the inspection shall be conducted. This action is is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Public Workshop	10/16/95	60 FR 44821
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/00/96

Additional Information: Docket No. PS-141.

Agency Contact: L. M. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4559

RIN: 2137–AC38

2515. +EMERGENCY FLOW-RESTRICTING DEVICES

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1996.

Abstract: This rulemaking would specify those circumstances under which operators of hazardous liquid pipelines are required to use emergency flow-restricting devices, and other procedures, systems, and equipment to detect and locate pipeline ruptures and minimize releases. This action is considered significant because of substantial public interest.

Statement of Need: The adverse safety and environmental effects of pipeline accidents are often the result of an operator's failure to rapidly detect and locate a leak and to rapidly shut down the pipeline. Quicker response to pipeline leaks through the strategic placement and use of emergency flow-restricting devices, with a reliable leak detection capability, can reduce the amount of liquid spilled into the environment and the consequent damages to life and property.

Summary of the Legal Basis: 49 U.S.C. 60102 requires the Secretary to survey

and assess the effectiveness of emergency flow-restricting devices (including remotely controlled valves and check valves) and other equipment used to detect and locate pipeline ruptures and minimize product releases. 49 U.S.C. 60102 requires the Secretary, within 2 years after completing the survey and assessment, to issue regulations prescribing the circumstances under which operators of hazardous liquid pipeline facilities must use emergency flow-restricting devices or other equipment. equipment.

Alternatives: The alternatives under consideration are different types of emergency flow-restricting devices and associated leak detection systems, and the sites that would maximize the usefulness of these devices and systems.

Anticipated Costs and Benefits: The potential costs and benefits of this action have not yet been determined.

Risks: This action addresses the increased risks to safety and the environment that result from the lack of prompt response to a line leak. Although the magnitude of potential risk reduction has not yet been determined, an example of the type of accident that this action might mitigate is the 1989 spill from an Exxon pipeline in the harbor between New York and New Jersey. Over 500,000 gallons of No. 2 fuel oil entered the water from a gash in the pipeline. A leak detection system that had been malfunctioning for 12 years failed to alert the operator to shut down the pipeline immediately.

This action is related to an action required by the Oil Pollution Act of 1990. This other action, now in effect under an interim final rule, but subject to change, requires operators to develop and execute approved oil spill response plans. Both actions are directed toward improving operators' accident response capabilities and minimizing accident consequences.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/94	59 FR 2802
ANPRM Comment Period End	04/19/94	
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Docket No. PS-133; Regulatory Evaluation 04/00/96

Additional Information: Docket No. PS-133. Public workshop 10/19/95 (60 FR 44822).

Agency Contact: L. Ulrich, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4556

RIN: 2137–AC39

2516. TRANSPORTATION OF HAZARDOUS MATERIALS MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171 to 178

Legal Deadline: None

Abstract: RSPA plans to make minor changes to its hazardous materials regulations on an on-going basis. This periodic (usually annual) rulemaking provides a mechanism to update and correct noncontroversial and technical requirements in response to petitions for rulemaking, industry complaints, technological developments and RSPA's enforcement experience.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-166Y. RSPA intends to maintain this RIN for actions that it will periodically issue.

Agency Contact: Joan McIntyre, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4488

RIN: 2137–AC41

2517. LABELING REQUIREMENTS FOR POISONOUS MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 174 to 177

Legal Deadline: None

Abstract: This action considers changes to certain labeling provisions of the Hazardous Materials Regulations to require the use of a POISON label on packages containing materials meeting the toxicity criteria for poisonous materials in Division 6.1, Packing Group III.

Timetable:

Action	Date	FR Cite
ANPRM	11/08/93	58 FR 59224
ANPRM Comment Period End	01/10/94	
NPRM	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: Docket No. HM-217.

Agency Contact: Beth Romo, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh St. SW., Washington, DC 20590-0001
Phone: 202 366-4488

RIN: 2137–AC47

2518. REGULATED GAS AND HAZARDOUS LIQUID GATHERING LINES: RURAL AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1995.

Abstract: This action would establish regulations for gas and hazardous liquid gathering lines in rural areas for which there are at present no safety regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Huriaux, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4595

RIN: 2137–AC53

2519. PERMANENT UNDERWATER INSPECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline:
Final, Statutory, May 16, 1993.
Final, Statutory, April 24, 1995.
Final, Statutory, October 24, 1995.

Abstract: This action would require operators of natural gas and hazardous liquid pipelines to conduct periodic underwater inspections of offshore pipelines and those in navigable waterways. This action would also define what constitutes an exposed underwater pipeline and what constitutes a hazard to navigation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Agency Contact: L.E. Herrick, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-5523

RIN: 2137–AC54

2520. EXCESS FLOW VALVE CUSTOMER NOTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: This action would require operators of natural gas distribution systems to notify their customers, with lines in which excess flow valves are not required by law, of the availability of excess flow valves, safety benefits of these valves, and the costs of installation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation

Additional Information: Docket No. PS-118A

Agency Contact: M. Israni, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4571

RIN: 2137–AC55

2521. RETENTION OF SHIPPING PAPERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177

Legal Deadline: None

Abstract: This action proposes to amend the Hazardous Materials Regulations by requiring shippers and carriers to retain a copy of the hazardous material shipping paper or an electronic image of the shipping paper for a period of one year after the hazardous material is no longer in transportation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-207B.

Agency Contact: Jackie Smith, Transportation Regulation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4488

RIN: 2137–AC64

2522. APPLICABILITY OF THE HAZARDOUS MATERIALS REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106 to 107; 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking proposes to clarify the applicability of Federal Hazardous Materials Regulations, 49 CFR Parts 171-180, thereby clarifying the relationship among Federal, State, local and tribal agencies in the regulation of hazardous materials transportation.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	06/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: Docket No. HM-207F.

Agency Contact: Nancy Machado, Attorney, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW., Room 8405, Washington, DC 20590
Phone: 202 366-4400
Fax: 202 366-7041

RIN: 2137–AC68

2523. PERIODIC UPDATES TO PIPELINE SAFETY REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 190 to 199

Legal Deadline: None

Abstract: This action proposes to update the pipeline safety regulations and the existing references to voluntary specifications and standards cited to reflect more recently published editions of each document that are acceptable. This NPRM will enable pipeline operators to utilize current technology, materials, and practices, thereby reducing costs and enhancing economic growth.

Timetable:

Action	Date	FR Cite
NPRM	03/04/96	61 FR 8231
NPRM Comment Period End	04/03/96	
Final Action	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Docket No. PS-143.

Agency Contact: Eben Wyman, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0918

RIN: 2137–AC74

2524. • REVISION OF MISCELLANEOUS HAZARDOUS MATERIALS REGULATIONS: REGULATORY REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 175; 49 CFR 176; 49 CFR 177

Legal Deadline: None

Abstract: This rulemaking proposes to revise miscellaneous provisions contained in the Hazardous Materials Regulations based on RSPA's review of these regulations and written and oral comments received at several public meetings held nationwide. This rulemaking action is in response to President Clinton's directive for all agencies to review their respective regulations for obsolete and unduly burdensome requirements and to get out of Washington and create grassroots partnerships with people affected by the regulations. The intended effect of this proposed rule is to reduce unnecessary burdens on industry without compromising public safety.

Timetable:

Action	Date	FR Cite
NPRM	02/20/96	61 FR 6478
NPRM Comment Period End	04/19/96	
Final Action	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-222B

Agency Contact: John A. Gale, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Fax: 202 366-8700

RIN: 2137–AC76

2525. • +RISK-BASED ALTERNATIVE TO PRESSURE TESTING RULE

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking proposes to assess a risk-based alternative to the existing pressure testing rule for older hazardous liquid and carbon dioxide pipelines. On June 7, 1994, RSPA issued a final rule requiring the hydrostatic pressure testing of certain older pipelines. This rulemaking is considered significant because of the substantial industry interest.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	03/08/96	61 FR 9415
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: Docket No. PS-144.

Agency Contact: Mike Israni, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571
Fax: 202 366-4566

RIN: 2137–AC78

2526. • PERFORMANCE-ORIENTED PACKAGING STANDARDS; FINAL TRANSITIONAL PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: This rulemaking proposes changes to the classification of certain hazardous materials that are poisonous by inhalation, provisions for the manufacture of non-bulk packagings, and other requirements of the hazardous materials regulations. The proposals generally are intended to make the regulations easier to use and correct errors. They are based on agency initiative, petitions for rulemaking and comments received at public meetings.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket HM-181H

Agency Contact: Beth Romo, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 7th Street SW., Washington, DC 10590
Phone: 202 366-8553
Fax: 202 366-3753

RIN: 2137–AC80

2527. • RESTRUCTURING OF CYLINDER SPECIFICATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce redundancy in the various cylinder inspections.

Timetable:

Action	Date	FR Cite
NPRM	03/04/96	61 FR 8328
NPRM Comment Period End	04/26/96	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-220B

Agency Contact: Theresa Gwynn, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Fax: 202 366-3753

RIN: 2137–AC81

2528. • HARMONIZATION WITH UNITED NATIONS RECOMMENDATIONS, INTERNATIONAL MARITIME GOODS CODE AND INTERNATIONAL CIVIL AVIATION ORGANIZATION'S TECHNICAL INSTRUCTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 175; 49 CFR 176; 49 CFR 178; 49 CFR 180

Legal Deadline: None

Abstract: This rulemaking proposes changes to the Hazardous Materials Regulations to maintain alignment with corresponding provisions of international standards. Recent revisions incorporated in the ninth revised edition of the United Nations Recommendations on the Transport of Dangerous Goods necessitates the adoption of parallel provisions domestically to ensure basic consistency between domestic and international regulations and to facilitate the international transportation of hazardous materials.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-215B

Agency Contact: Beth Romo, Senior Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC
Phone: 202 366-8553
Fax: 202 366-8700

RIN: 2137–AC82

2529. • DRUG AND ALCOHOL TESTING: SUBSTANCE ABUSE PROFESSIONAL EVALUATION FOR DRUG USE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 199

Legal Deadline: None

Abstract: This action results from the need to make the RSPA drug testing regulations conform with those of the other Departmental operating administrations that fall under the Omnibus Transportation Employee Testing Act of 1991. It would make drug testing among the operating administrations as consistent as possible and simplify the drug testing process for pipeline operations. It will require that an employee who tests positive for drugs would be required to be evaluated by a substance abuse professional prior to returning to performing his/her covered function.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. PS-102. This will modify the existing drug regulations. No regulatory analysis was done because there are few, if any, small entities that operate hazardous liquid or carbon dioxide pipelines subject to part 195, or liquid natural gas facilities subject to part 193.

Agency Contact: Catrina Pavlik, Drug/Alcohol Program Analyst, Room 2335, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6199
Fax: 202 366-4566

RIN: 2137–AC84

DEPARTMENT OF TRANSPORTATION (DOT)

Research and Special Programs Administration (RSPA)

Final Rule Stage

2530. +HAZARDOUS MATERIALS IN INTRASTATE COMMERCE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107; 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking proposes to extend the application of the hazardous materials regulations (HMR) to all intrastate transportation of hazardous materials in commerce. The 1990 amendments to Federal hazardous material transportation law mandate that the Research and Special Programs Administration (RSPA) regulate the safe transportation of hazardous materials in intrastate, in addition to interstate and foreign, commerce. The goal of this action is to raise the safety level of hazardous transportation by promoting national uniformity of the regulations. Currently the regulations generally do not apply to intrastate carriage by highway, with the exception of hazardous waste, hazardous substances, and flammable cryogenic liquids in portable tanks and cargo tanks. The supplemental notice would propose to extend the mandatory compliance date for regulations applicable to certain cargo tanks, and propose a "materials of trade" exception for relatively small quantities of hazardous materials contained on service vehicles operated by plumbing, welding, and lawn service companies.

Statement of Need: Section 5103(b)(1) of Title 49, USC, specifies that the Secretary shall prescribe regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce. This statutory mandate follows the Department's long-standing policy of encouraging the States to adopt the HMR as a means of promoting national uniformity and transportation safety. In addition, the Federal Highway Administration (FHWA) requires States to adopt and enforce the highway-related portions of the HMR to qualify for grants under FHWA's Motor Carrier Safety Assistance Program.

Comments submitted in response to the original notice of proposed rulemaking

advised RSPA that many cargo tank motor vehicles currently used by farmers and small businesses would need to be removed from hazardous materials service far in advance of the useful life of the tanks, or require extensive retrofitting. Other commenters noted the potential for significant adverse impact on small businesses that engage in the incidental transportation of hazardous materials used in support of their non-transportation-related commercial activities. To adequately address these concerns, RSPA is considering certain proposals that would require prior notice to the regulated community.

Summary of the Legal Basis: Section 5103(b)(1) of Title 49 USC, specifies that the Secretary shall prescribe regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce.

Alternatives: The statutory mandate to regulate the transportation of hazardous materials in intrastate commerce requires RSPA to take affirmative action. The alternative to the proposed action is to require immediate and uniform application of hazardous materials by motor vehicle.

Anticipated Costs and Benefits: A preliminary regulatory evaluation prepared by RSPA considered potential costs and benefits in seven States (California, Georgia, Iowa, Illinois, Kansas, Texas, and Wyoming) having State regulations that are not in full conformance with the HMR. The preliminary estimate of costs and benefits for these seven States (where the regulatory cost impact would be the greatest) demonstrates a favorable benefit/cost ratio of approximately 3:1. The supplemental notice for "materials of trade" has the potential for annual savings by small businesses on the order of $50 million.

Risks: There are several major considerations involved in developing uniform intrastate/interstate regulations for the transportation of hazardous materials in commerce. Most hazardous materials are of such a nature that no useful distinction can be made as to why intrastate transportation should be subject to less demanding safety standards than interstate counterparts. For example, the transportation of gasoline in a cargo tank presents the same level of risk to the public regardless of whether the transportation is intrastate or interstate. It is neither economical nor efficient for each of the 50 states to duplicate RSPA's expertise and safety research efforts with respect to classification of hazardous materials; determination of transportation risks; and development of effective transportation safety standards. Economically and administratively, it is more efficient for State and local emergency response and enforcement personnel to focus on and become more proficient in one set of regulations that uniformly apply to the transportation of hazardous materials regardless of whether intrastate or interstate.

Emergency response personnel may not be able to make distinctions as to whether hazardous materials carriers are in intrastate or interstate service. Emergency response personnel reacting to incidents involving hazardous materials must first identify the specific hazards before determining a proper response. An inappropriate response involving an unfamiliar hazardous material carried intrastate by a cargo tank not subject to the HMR can significantly endanger the public, community, and environment. Also response to an incident involving materials, carried intrastate by a cargo tank, which are found to be nonhazardous, may cause inconvenience and needless economic hardship on the public and surrounding community. Communities have been evacuated on the mere suspicion that hazardous materials are present. Major roads and arteries have been closed and transportation patterns and delivery schedules have been disrupted or delayed because of poor or inadequate emergency planning and response. By adopting and becoming more proficient in one set of regulations, the effectiveness of State and local emergency response and enforcement programs will be increased, and transportation safety will be enhanced with respect to both intrastate and interstate transportation of hazardous materials.

This rule will address legitimate public concerns about incidents involving hazardous materials in intrastate commerce. Such incidents now lead to public concern regarding the transportation of hazardous materials and the risks associated with such movements in the form of increased State activity and Congressional pressure to further regulate both intrastate and interstate carriers of hazardous materials without regard to the underlying costs and benefits.

Timetable:

Action	Date	FR Cite
ANPRM	06/29/87	52 FR 24195
Comment Period Extended to 11/28/87	09/21/87	52 FR 35484
ANPRM Comment Period End	09/28/87	
NPRM	07/09/93	58 FR 36920
NPRM Correction	07/15/93	58 FR 38111
NPRM Comment Period End	10/13/93	
SNPRM	03/20/96	61 FR 11484
SNPRM Comment Period End	06/17/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Evaluation 07/09/93 (58 FR 36920)

Additional Information: Docket No. HM-200. Regarding Small Entities Affected by this rule, RSPA is working with the Small Business Administration to identify the small entities affected and to minimize the impact on them. Public meeting 5/14/96.

Agency Contact: Jacquelyn Smith, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4488

RIN: 2137–AB37

2531. DETERMINING THE EXTENT OF CORROSION ON EXPOSED GAS PIPELINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Corrosion is a major cause of gas and hazardous liquid pipeline accidents. A safety standard applicable to liquid pipelines requires operators to examine exposed pipe for evidence of external corrosion and, if harmful corrosion is found, to investigate further to determine the extent of the corrosion. This action proposes that exposed gas pipelines with evidence of harmful corrosion be investigated to determine the extent of the corrosion.

Timetable:

Action	Date	FR Cite
NPRM	06/27/89	54 FR 27041
NPRM Comment Period End	09/25/89	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/27/89 (54 FR 27041)

Additional Information: Docket No. PS-107. National Transportation Safety Board Recommendation P.87-3 provides a basis for this action.

Agency Contact: C. Sames, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4561

RIN: 2137–AB50

2532. PASSAGE OF INTERNAL INSPECTION DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking established minimum Federal pipeline safety standards requiring that new and replacement gas transmission and hazardous liquid pipelines be designed to accommodate the passage of internal inspection devices. This rulemaking is mandated by 49 U.S.C. 60101 et seq. In response to petitions for reconsideration of the final rule, an additional NPRM was issued proposing to limit the rule with respect to replacement of offshore gas transmission lines in rural areas.

Timetable:

Action	Date	FR Cite
NPRM	11/20/92	57 FR 54745
Final Rule	04/12/94	59 FR 17275
NPRM	09/30/94	59 FR 49896
NPRM Correction	10/19/94	59 FR 52863
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/12/94 (59 FR 17275)

Additional Information: Docket No. PS-126. The integrity testing proposal in "Proposals for Pipeline Safety," RIN 2137-AB27, was consolidated, in part, in this rulemaking.

Agency Contact: A. Garnett, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2036

RIN: 2137–AB71

2533. +IMPROVEMENTS TO HAZARDOUS MATERIALS IDENTIFICATION SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172

Legal Deadline:
Final, Statutory, June 16, 1992, complete rulemaking on central reporting system and computerized telecommunications data center.
Final, Statutory, May 16, 1993, complete rulemaking oncontinually monitored telephone systems.
Final, Statutory, May 16, 1993, final rule on improving system for placarding vehicles transporting hazardous materials.

Abstract: This rulemaking proposes incremental improvements to the hazardous materials identification system addressing placarding and identification number marking displays on transport vehicles, fumigated materials marking requirements, and carrier requirements for notification of incidents. This rulemaking is considered significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	06/09/92	57 FR 24532
ANPRM Comment Period Extended to 10/09/92	06/05/92	57 FR 34542
ANPRM Comment Period End	08/10/92	
NPRM	08/15/94	59 FR 41848
Public Hearing Notice	08/15/94	59 FR 41848
NPRM Correction	08/26/94	59 FR 44230
Further NPRM Correction	08/30/94	59 FR 44795
NPRM Comment Period End	12/02/94	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/15/94 (59 FR 41848)

Additional Information: Docket HM-206. Formerly entitled "Improving Hazardous Materials Identification: Placarding; Reporting/Tracking; and Continually Monitored Telephone Systems."

Agency Contact: H. Engrum, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4488

RIN: 2137–AB75

2534. +EXCESS FLOW VALVE—PERFORMANCE STANDARDS

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: Final, Statutory, April 24, 1994.

Abstract: Service line breaks due to excavation damage and other causes continue to be a threat to public safety, despite the precautions being taken through one-call damage prevention programs and line surveys for corrosion or leaks. This rulemaking is considered significant because it concerns a matter of substantial public and congressional interest. This final rule specifies performance standards for EFV's that are installed in single- residences gas service lines.

Timetable:

Action	Date	FR Cite
ANPRM	12/20/90	55 FR 52188
ANPRM Comment Period End	03/20/91	
NPRM	04/21/93	58 FR 21524
NPRM Notice of meeting and extension of comment period to 7/6/93	06/15/93	58 FR 33064
NPRM Comment Period End	06/21/93	
NPRM Comment Period Extended to 10/03/94	08/02/94	59 FR 39319
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 04/21/93 (58 FR 21524)

Additional Information: Docket No. PS-118.

Agency Contact: M. Israni, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571

RIN: 2137–AB97

2535. TANK CARS AND CARGO TANK MOTOR VEHICLES: ATTENDANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 174; 49 CFR 177

Legal Deadline: None

Abstract: This action proposes to establish standards to allow the use of electronic surveillance and monitoring equipment (signalling systems) for unloading tank cars and loading cargo tank motor vehicles, and to revise other unloading requirements for tank cars. This action would recognize recent technological innovations and improve safety during the loading/unloading of bulk quantities of hazardous materials.

Timetable:

Action	Date	FR Cite
NPRM	09/14/92	57 FR 42466
NPRM Comment Period End	12/14/92	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 09/14/92 (57 FR 42466)

Additional Information: Docket No. HM-212.

Agency Contact: Jennifer Karim, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4488

RIN: 2137–AC24

2536. +REGULATORY REVIEW: GAS PIPELINE SAFETY STANDARDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Gas pipeline safety standards would be amended or clarified to eliminate burdensome requirements without reducing safety. This action is significant because it would reduce regulatory burden that could hinder economic growth, and because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/31/92	57 FR 39572
NPRM Comment Period End	09/30/92	
Notice of Request for Information	11/09/93	58 FR 59431
Extension of Comment Period on Request for Information	12/27/93	58 FR 68382
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 08/31/92 (57 FR 39572)

Additional Information: Docket No. PS-124. Certain proposals in "Alternative Weld Defect Acceptance Criteria," RIN 2137-AC03; "Petroleum Gas Systems," RIN 2137-AC04; and "Temperature Limits for Plastic Gas Pipelines," RIN 2137-AC20 have been consolidated into this rulemaking.

Agency Contact: B. Furrow, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4559

RIN: 2137–AC25

2537. REGULATORY REVIEW: ADMINISTRATIVE PRACTICES, REPORTING PIPELINE INCIDENTS, GAS PIPELINE STANDARDS, AND LIQUEFIED NATURAL GAS FACILITY STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 190; 49 CFR 191; 49 CFR 192; 49 CFR 193

Legal Deadline: None

Abstract: Administrative practices and various gas pipeline and liquefied natural gas facility requirements would be amended to eliminate burdensome requirements without reducing safety. This action would reduce regulatory impediments to economic growth.

Timetable:

Action	Date	FR Cite
NPRM	11/06/92	57 FR 53085
NPRM Comment Period End	12/07/92	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 11/06/92 (57 FR 53085)

Additional Information: Docket No. PS-125. Proposals in "Regulatory Review: Liquefied Natural Gas Facilities," RIN 2137-AC29, were consolidated into this rulemaking.

Agency Contact: L.E. Herrick, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-6223

RIN: 2137–AC28

2538. +RESPONSE PLANS FOR ONSHORE OIL PIPELINES

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 194

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: This interim final rule establishes regulations requiring response plans for certain onshore oil pipelines. Those regulations are mandated by the Federal Water Pollution Control Act as amended by the Oil Pollution Act of 1990 (Pub. L. 101-380). The purpose of these requirements is to improve response capabilities and minimize the impact of onshore oil spills from pipelines.

This rule is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/93	58 FR 244

Action	Date	FR Cite
Interim Final Rule Comment Period End 02/19/93	01/05/93	
Notice of Public Meeting on 6/28/94 to Discuss Issues	06/15/94	59 FR 30755
Public Meeting Comment Period End	08/01/94	
Final Action	03/00/97	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 01/05/93 (58 FR 244)

Additional Information: Docket No. PS-130.

Agency Contact: Jim Taylor, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8860

RIN: 2137–AC30

2539. +OIL SPILL PREVENTION AND RESPONSE PLANS

Priority: Other Significant

Legal Authority: 33 USC 1321(j)(5)

CFR Citation: 49 CFR 130

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: This action requires owners and operators of cargo tanks and tank cars used to transport oil to prepare plans addressing how they would respond to incidents involving release of oil. These regulations are required by the Oil Pollution Act of 1990 (PL 101-380). The purpose of these regulations is to improve response capabilities and minimize the impact of onshore oil spills. This rule is significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/02/93	58 FR 6864
Interim Final Rule; Correction	02/17/93	58 FR 8820
Interim Final Rule; Public Hearing Notice; Comments Due 06/00/93	04/20/93	58 FR 21260
Interim Final Rule; Comment Period End 7/30/93	06/16/93	58 FR 33302
Interim Final Rule; Agenda for Public Meeting	06/22/93	58 FR 33918
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 06/16/93 (58 FR 33302)

Additional Information: Docket Nos. HM-214 and PC-1. All rulemaking now under Docket No. PC-1. Formerly entitled "Oil and Hazardous Substances: Spill Prevention, Containment, and Response Plans."

Agency Contact: Diane LaValle, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4488

RIN: 2137–AC31

2540. MANDATORY PARTICIPATION IN QUALIFIED ONE-CALL SYSTEMS BY PIPELINE OPERATORS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This action would require operators of gas and hazardous liquid pipelines to participate in qualified one-call damage prevention systems.

Timetable:

Action	Date	FR Cite
NPRM	03/20/95	60 FR 14714
NPRM Comment Period End	05/19/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Additional Information: Docket No. PS-101A.

Agency Contact: C. Sames, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4561

RIN: 2137–AC57

2541. REVISION OF CYLINDER QUALIFICATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 173; 49 CFR 178

Legal Deadline: None

Abstract: This action would revise the existing cylinder periodic inspection, testing, and requalification requirements contained in the Hazardous Materials Regulations. By clarifying regulatory language, incorporating legal interpretations, and recognizing reliable industry practices that have developed over time, this action would provide guidance to the regulated public and improve the enforceability of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/18/95	60 FR 54008
Comment period	12/15/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket HM-220A

Agency Contact: Theresa Gwynn, Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4488

RIN: 2137–AC59

2542. REVISION OF EXEMPTION, APPROVAL, REGISTRATION, AND REPORTING PROCEDURES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1321; 49 USC 5101 to 5127

CFR Citation: 49 CFR 106; 49 CFR 107; 49 CFR 171

Legal Deadline: None

DOT—RSPA — Final Rule Stage

Abstract: This action proposes to make necessary revisions to update and clarify the rulemaking, exemption, and approval processes. In addition, this action would codify interpretations of several terms concerning hazardous materials transportation jurisdiction (e.g., "in commerce").

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47723
NPRM Comment Period End	11/28/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-207C.

Agency Contact: J. Antonielli, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-8553

RIN: 2137–AC63

2543. PIPELINE SAFETY USER FEES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60301

CFR Citation: 49 CFR 190

Legal Deadline: None

Abstract: This action proposes changes in procedures for administering user fee assessments for natural gas, liquefied natural gas, and hazardous liquid pipeline facilities. The proposed changes are needed to clarify definitions and procedures for fee assessment.

Timetable:

Action	Date	FR Cite
Notice: Request for Comments by 3/6/95	02/03/95	60 FR 6767
Notice: Response to Comments	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. PS-138.

Agency Contact: Lisa Kokoszka, Management and Program Analyst, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4554

RIN: 2137–AC65

2544. TRANSPORTATION OF HAZARDOUS MATERIALS BY RAILROAD; MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 174; 49 CFR 179

Legal Deadline: None

Abstract: This rulemaking would implement miscellaneous changes to rail requirements for transportation of hazardous materials. It would reduce markings on tank cars and other regulatory burdens based on petitions from industry and other agencies and RSPA initiative.

Timetable:

Action	Date	FR Cite
NPRM	12/19/95	60 FR 65492
NPRM Comment Period End	02/22/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-216

Agency Contact: Beth Romo, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590-0001
Phone: 202 366-8553

RIN: 2137–AC66

2545. CONTROL OF DRUG USE AND ALCOHOL MISUSE IN NATURAL GAS, LIQUEFIED NATURAL GAS, AND HAZARDOUS LIQUID PIPELINE OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 et seq

CFR Citation: 49 CFR 199

Legal Deadline: None

Abstract: This action would delete a requirement covering drug testing of persons located outside the United States who perform pipeline safety operations.

Timetable:

Action	Date	FR Cite
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. PS-102, Amendment 13.

Agency Contact: Catrina Pavlik, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6199

RIN: 2137–AC67

2546. ELIMINATION OF UNNECESSARY, OBSOLETE, AND DUPLICATIVE REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106 to 107; 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking responds to the President's directive to all heads of departments and agencies to review and eliminate all unnecessary, obsolete and duplicative regulations. The regulations identified in this action are being proposed to be deleted because they meet the criteria established by the President.

Timetable:

Action	Date	FR Cite
NPRM	10/13/95	60 FR 53321
NPRM Comment Period End	12/18/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-222A

Agency Contact: J. Gale, Department of Transportation, Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590
Phone: 202 366-4488

RIN: 2137–AC89

DOT—RSPA — Final Rule Stage

2547. TICKETING PROGRAM FOR HAZARDOUS MATERIALS VIOLATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106 to 107; 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking establishes a ticketing program for certain less serious hazardous materials violations which would result in imposition of reduced penalties for those violations. It is consistent with National Performance Review recommendations for new approaches to enforcement. It will eliminate the necessity for civil penalty case processing of certain violations and result in cost savings for industry and government.

Timetable:

Action	Date	FR Cite
NPRM	08/21/95	60 FR 43430
NPRM Comment Period End	10/20/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-207E

Agency Contact: Nancy Machado, Attorney, Department of Transportation, Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590
Phone: 202 366-4400
Fax: 202 366-7041

RIN: 2137–AC70

2548. • DIRECT FINAL RULE PROCEDURE; PETITIONS FOR RULEMAKING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106

Legal Deadline: None

Abstract: The proposed amendments set forth "direct final rule" procedures, which allow the agency to issue a final rule that provides notice and an opportunity to comment in certain non-controversial rulemakings. If adverse comment is received, the agency will withdraw the direct final rule and may issue a Notice of Proposed Rulemaking. The proposed amendments also specify the required contents of a petition for rulemaking; provide that petitions for rulemaking and petitions for reconsideration be filed with the appropriate Associate Administrator instead of the Administrator; add a new right of appeal to the Administrator; and clarify that the Chief Counsel has delegated rulemaking authority.

Timetable:

Action	Date	FR Cite
NPRM	12/18/95	60 FR 65210
NPRM Comment Period End	02/16/96	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Machado, Attorney, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4400
Fax: 202 366-7041

RIN: 2137–AC75

2549. • PRESSURE TESTING OLDER HAZARDOUS LIQUID AND CARBON DIOXIDE PIPELINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This action proposes to extend the time for compliance with the requirements to plan and schedule pressure testing of older hazardous liquid and carbon dioxide pipelines. The deadline of December 7, 1995 that establishes regulations for planning and scheduling pressure testing is proposed to be extended to December 7, 1996. If RIN 2137-AC78 is issued as a final rule, then this rulemaking will not be needed.

Timetable:

Action	Date	FR Cite
NPRM	10/23/95	60 FR 54328
NPRM Comment Period End	11/22/95	
Final Action	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: The NPRM was published under the RIN used for the final rule of June 1994 (RIN 2137-AB46). A related rulemaking is RIN 2137-AC78, Risk-Based Alternative to Pressure Testing Rule.

Agency Contact: Mike Israni, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571
Fax: 202 366-4566

RIN: 2137–AC83

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Long-Term Actions

2550. QUANTITY LIMITATIONS ABOARD AIRCRAFT

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 175

Timetable:

Action	Date	FR Cite
ANPRM	04/06/84	49 FR 13717
ANPRM Comment Period End	09/01/84	
NPRM	02/13/85	50 FR 6013
NPRM Comment Period End	05/30/85	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

DOT—RSPA — Long-Term Actions

Agency Contact: Jennifer Antonielli
Phone: 202 366-4488

RIN: 2137–AA85

2551. +SAFEGUARDING FOOD FROM CONTAMINATION DURING TRANSPORTATION

Priority: Other Significant

CFR Citation: 49 CFR 1

Timetable:

Action	Date	FR Cite
ANPRM	02/20/91	56 FR 6934
ANPRM Comment Period Extended to 04/29/91	03/21/91	56 FR 11982
ANPRM Comment Period End	03/26/91	
NPRM	05/21/93	58 FR 29698
Public Hearings Notice	05/21/93	58 FR 29698
NPRM Comment Period End	10/18/93	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. Richards/J. Gale
Phone: 202 366-0656

RIN: 2137–AC00

2552. AREAS UNUSUALLY SENSITIVE TO ENVIRONMENTAL DAMAGE

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 195

Timetable:

Action	Date	FR Cite
Public Meeting and Supplemental Notice	06/22/94	59 FR 32178
Public Meeting Comment Period End	08/01/94	
Extended comment period end	06/26/95	
Comment Period Extended to 8/25/95	07/10/95	60 FR 35549
NPRM	04/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christina Sames
Phone: 202 366-4561

RIN: 2137–AC34

2553. SAFETY PERMITS—SHIPPER'S RESPONSIBILITY

Priority: Substantive, Nonsignificant

CFR Citation: 49 CFR 171

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Helen Engrum
Phone: 202 366-4488

RIN: 2137–AC45

DEPARTMENT OF TRANSPORTATION (DOT) — Completed Actions
Research and Special Programs Administration (RSPA)

2554. TRANSPORTATION OF HYDROGEN SULFIDE BY PIPELINE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: In a few reported instances, excessive amounts of hydrogen sulfide were introduced into natural gas pipelines. High concentrations of hydrogen sulfide are very detrimental to steel pipelines and extremely toxic. This action examined the need to establish a maximum allowable concentration and other control measures. Based upon public comments and the views of its gas pipeline advisory committee, RSPA has withdrawn this proposed rule.

Timetable:

Action	Date	FR Cite
ANPRM	06/07/89	54 FR 24361
ANPRM Comment Period End	09/05/89	
NPRM	03/18/91	56 FR 11490
NPRM Comment Period End	06/17/91	
Withdrawn	03/07/96	61 FR 9133

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation 03/18/91 (56 FR 11490)

Additional Information: Docket No. PS-106. As a result of public comments, this action will be withdrawn.

Agency Contact: M. Israni, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571

RIN: 2137–AB63

2555. HAZARDOUS LIQUID GATHERING LINE DEFINITION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: The existing definition of liquid "gathering line" was thought to need a clearer definition to distinguish gathering lines from other liquid pipelines. It has been decided that this is not the case and no further activity is contemplated.

Timetable:

Action	Date	FR Cite
Action Terminated	02/14/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Evaluation

Agency Contact: Richard Huriaux, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590-0001
Phone: 202 366-4595

RIN: 2137–AC52

2556. HAZARDOUS MATERIALS REGULATIONS: EDITORIAL CORRECTIONS AND CLARIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106 to 180

Legal Deadline: None

Abstract: Published annually, this action corrects typographical and editorial errors and makes minor regulatory changes. This facilitates the correction of errors immediately prior to the annual updating of the CFR.

DOT—RSPA — Completed Actions

Timetable:

Action	Date	FR Cite
Final Action	09/21/95	60 FR 49106
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-189L.

Agency Contact: Joan McIntyre, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553

RIN: 2137–AC72

2557. • EXTENSION OF AUTHORITY FOR OPEN-HEAD FIBER DRUM PACKAGING FOR LIQUID HAZARDOUS MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171

Legal Deadline: Final, Statutory, February 27, 1996.
60 days from enactment of ICC Sunset Act (Pub. L. 104-88)

Abstract: This rule authorizes continued use of open-head fiber drums as an authorized packaging for liquid hazardous materials through the later of September 30, 1997, or the reauthorization of the hazardous materials program, pending results and recommendations of an independent organization's consideration of alternative standards that are intended to assure an equivalent level of safety to that specified in the HMR.

Timetable:

Action	Date	FR Cite
NPRM	01/09/96	61 FR 688
NPRM Comment Period End	02/05/96	
Final Action	02/29/96	61 FR 7956
Final Action Effective	10/01/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Docket No. HM-221A

Agency Contact: Diane LaValle, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Fax: 202 366-3753

RIN: 2137–AC77

DEPARTMENT OF TRANSPORTATION (DOT) — Proposed Rule Stage
Maritime Administration (MarAd)

2558. +FAIR AND REASONABLE RATES: BULK AND PACKAGED PREFERENCE CARGOES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 app USC 1114(b); 46 app USC 1241(b)

CFR Citation: 46 CFR 382

Legal Deadline: None

Abstract: In an effort to encourage the development of a modern and efficient U.S. flag bulk fleet and to help lower government-wide cargo preference program costs, MARAD is considering changes in its methodology for the determination of fair and reasonable rates. MARAD has identified three alternative methodologies which it might consider. Fair and reasonable rate determinations are now provided to U.S. government shippers of preference cargo, thereby creating ceiling rates which limit government costs and the revenue U.S. flag operators receive for ocean cargo transportation. This is significant due to substantial industry and government interest. Common carrier liner services are being considered in a rulemaking RIN 2133-AB16.

Timetable:

Action	Date	FR Cite
ANPRM	04/19/95	60 FR 19559
ANPRM Comment Period End	06/19/95	
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael P. Ferris, Director, Office of Costs and Rates, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2324

RIN: 2133–AB19

2559. • CARGO PREFERENCE: AVAILABLE U.S.-FLAG COMMERCIAL VESSELS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 app USC 1114(b); 46 app USC 1241(b)

CFR Citation: 46 CFR 381

Legal Deadline: None

Abstract: This amendment to the cargo preference regulation of MARAD would provide that during the five year period beginning with 1996 Great Lakes shipping season when the St. Lawrence Seaway is in use, MARAD will consider the legal requirement for the carriage of bulk agricultural commodity preference cargoes on privately- owned "available" U.S.-flag commercial vessels to have been satisfied where the cargo is initially loaded at a Great Lakes port on one or more U.S.-flag or foreign-flag vessels, transferred to a U.S.-flag commercial vessel at a Canadian transshipment point outside the St. Lawrence Seaway, and carried on that U.S.-flag vessel to a foreign destination. This provision would allow U.S. Great Lakes ports to compete for certain agricultural commodity preference cargoes under agricultural assistance programs administered by the USDA and USAID. MARAD issued rules in 1994 (see RIN 2133-AB13) and 1995 (see RIN 2133-AB17) related to the Great Lakes season for each of those years. This rule would extend the provision for an additional five years.

DOT—MarAd — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/11/96	61 FR 9670
NPRM Comment Period End	04/10/96	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Lance Shirley, Chief, Division of Agricultural Cargoes, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1915

RIN: 2133–AB25

DEPARTMENT OF TRANSPORTATION (DOT) — Final Rule Stage
Maritime Administration (MarAd)

2560. +OBLIGATION GUARANTEES: PROGRAM ADMINISTRATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 app USC 1114(b); 46 app USC 1271 et seq

CFR Citation: 46 CFR 298; 49 CFR 1.66

Legal Deadline: None

Abstract: This action amends regulations implementing title XI of the Merchant Marine Act, 1936, to improve administration of the entire "obligation guarantees" program. MARAD administers financial assistance in the form of obligation guarantees for all types of vessel construction and shipyard modernization and improvement, except for fishing vessels. This rulemaking would significantly shorten the time for processing applications for guarantees and reduce information required. This action is considered significant because of substantial public interest in financial assistance for the U.S. shipbuilding industry.

Timetable:

Action	Date	FR Cite
NPRM	04/26/95	60 FR 20592
NPRM Comment Period End	05/26/95	
NPRM Comment Period Extended to 6/13/95	05/30/95	60 FR 28077
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight; 442 Deep Sea Domestic Transportation of Freight

Additional Information: In an earlier action with the same title (RIN 2133-AB09), MARAD issued a final rule (9/16/94) to implement the National Shipbuilding Initiative which was part of the National Defense Authorization Act for 1994.

Agency Contact: Mitchell D. Lax, Director, Office of Ship Financing, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5744

RIN: 2133–AB14

2561. +GUIDELINE RATES: LESS-THAN-SHIPLOAD LOTS OF BULK PREFERENCE CARGOES ON LINER VESSELS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 app USC 1114(b); 46 app USC 1241(b)

CFR Citation: 46 CFR 383

Legal Deadline: None

Abstract: At the request of the U.S. Department of Agriculture (USDA) and the Agency for International Development (AID), the major U.S. government shipping agencies, MARAD is providing those agencies with guideline rates for bagged and packaged agriculture commodities carried on liner vessels. MARAD already provides guideline rates to USDA and AID for such commodities carried on bulk vessels under similar regulations at 46 CFR Part 382. This amendment to 46 CFR 383 extends the scope of the rule to include bagged or packaged agricultural commodities in parcels of 5,000 tons or greater carried on vessels in liner service. It is significant because it would affect other Federal agencies which have requested that MARAD provide them with such guideline rates.

Timetable:

Action	Date	FR Cite
NPRM	04/26/95	60 FR 20069
NPRM Comment Period End	06/23/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael P. Ferris, Director, Office of Cost and Rates Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2324

RIN: 2133–AB16

2562. • +MARITIME SECURITY PROGRAM REGULATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Not yet determined

CFR Citation: 46 CFR 295

Legal Deadline: None

Abstract: This rule would provide procedures to implement the provisions of the Maritime Security Act of 1995 which would establish a new 10-year Maritime Security Program to support U.S.-flag vessel operations in foreign commerce through assistance payments. This rule is significant because it represents an important policy change and because of substantial industry interest in it.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

DOT—MarAd — Final Rule Stage

Agency Contact: James E. Caponiti, Director, Office of Sealift Support, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2323

RIN: 2133–AB24

DEPARTMENT OF TRANSPORTATION (DOT) — Completed Actions
Maritime Administration (MarAd)

2563. +CARGO PREFERENCE—U.S.-FLAG VESSELS: UNIFORM CONTRACTING REQUIREMENTS FOR FEDERAL PROGRAM PARTICIPANTS

Priority: Other Significant

Legal Authority: 46 app USC 1241(b)

CFR Citation: 46 CFR 381

Legal Deadline: None

Abstract: MARAD considered amendments to its cargo preference regulations intended to ensure that U.S.-flag carriers be allowed to carry preference cargoes subject to standard commercial contract and contract tender terms. While action is needed to eliminate charter party terms that are at variance with generally accepted commercial terms and which discriminate against U.S.-flag carriers of agricultural commodity preference cargoes, this will be accomplished through cooperation between MARAD, USDA, and USAID. Because of this accommodation of MARAD's concerns and objectives, the rulemaking is being terminated.

Timetable:

Action	Date	FR Cite
Action Terminated	12/31/95	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 441 Deep Sea Foreign Transportation of Freight

Agency Contact: Ted Bembenek, Jr., Director, Office of Cargo Preference, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4610

RIN: 2133–AA95

2564. • WAR RISK INSURANCE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 46 app USC 1114(b)

CFR Citation: 46 CFR 308

Legal Deadline: None

Abstract: This rulemaking removes voluminous forms from MARAD's war risk regulations. It also makes minor nonsubstantive changes regarding agency organization and procedure with respect to application for war risk insurance, payment of premiums and payment for loss claims. The regulations had included many lengthy forms and now they provide a general description of the content of the various forms. The actual forms may be obtained from MARAD.

Timetable:

Action	Date	FR Cite
Final Action	01/16/96	61 FR 1130

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edmond Fitzgerald, Director, Office of Subsidy and Insurance, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2400

RIN: 2133–AB23

DEPARTMENT OF TRANSPORTATION (DOT) — Prerule Stage
Bureau of Transportation Statistics (BTS)

2565. MODERNIZING THE PASSENGER ORIGIN-DESTINATION SURVEY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41708; 49 USC 41709

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: Historically, the source document for the Passenger Origin-Destination Survey was the auditor's coupon of the ticket. Until recently, these coupons provided all the information that was needed for the Survey. In the last few years, the carriers have begun using trip passes in conjunction with the tickets, thereby eliminating some of the data that is required to be reported in the Survey. Other innovations used by the industry, such as funnel flights and code-sharing, have impacted the Survey and obscured some of the data that is required to be reported, such as change of planes and junction points. This rulemaking will explore whether there are alternative sources for the data and modernize the collection system to keep pace with the industry.

Timetable:

Action	Date	FR Cite
ANPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: This rulemaking is now being administered by the Bureau of Transportation Statistics (BTS) since the Office of Aviation Information has been transferred to BTS from RSPA. (Formerly RIN 2137-AB92)

Agency Contact: M. Clay Moritz, Jr., Acting Chief, Regulations Division, Office of Airline Information, K-25, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4385

RIN: 2139–AA01

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS)

Proposed Rule Stage

2566. • AMENDMENT TO PASSENGER ORIGIN-DESTINATION SURVEY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41708; 49 USC 41709

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: This rulemaking proposes that large certificated U.S. air carriers participating in code-share arrangements report both the ticketing and operating air carrier in their quarterly Passenger Origin-Destination Survey reports. The rule also proposes to standardize the character record layout that is used for electronic submissions.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: A notice on this subject was published 10/23/95 (60 FR 54407).

Agency Contact: M. Clay Moritz, Jr., Acting Chief, Regulations Division, Office of Airline Information, K-25, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4385

RIN: 2139–AA04

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS)

Final Rule Stage

2567. +AMENDMENTS TO THE ON-TIME DISCLOSURE RULE

Priority: Other Significant

Legal Authority: 49 USC 40101; 49 USC 40114; 49 USC 41702; 49 USC 41708; 49 USC 41712; 5 USC 553(e)

CFR Citation: 14 CFR 234; 14 CFR 302.38

Legal Deadline: None

Abstract: This action proposes to reinstate the exclusion of flights delayed or cancelled because of mechanical problems from air carriers on-time flight reports.

Timetable:

Action	Date	FR Cite
NPRM	06/05/95	60 FR 29514
NPRM Comment Period End	07/05/95	
Comment Period Extended to 8/5/95	07/06/95	60 FR 35158
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The NPRM was published under RSPA RIN 2137-AC67. However, since BTS is now separate from RSPA this new RIN 2139-AAOO has been assigned and will be used for future actions. This rule is significant under DOT regulatory policies and procedures due to the potential impact on safety. However, it is not considered significant under EO 12866.

Agency Contact: Bernie Stankus, Systems Accountant, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4387
Fax: 202 366-3383

RIN: 2139–AA00

DEPARTMENT OF TRANSPORTATION (DOT)
Bureau of Transportation Statistics (BTS)

Completed Actions

2568. • TECHNICAL AMENDMENTS; ORGANIZATIONAL CHANGES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 329; 49 USC 40101 et seq

CFR Citation: 49 CFR 200 to 399

Legal Deadline: None

Abstract: This rule amends BTS regulations in order to reflect recent Departmental organizational changes, correct outdated organizational and statutory references, and eliminate obsolete provisions. It also makes editorial changes to correct addresses and make other technical corrections. This rule makes no substantive changes to current regulations.

Timetable:

Action	Date	FR Cite
Final Action	12/26/95	60 FR 66721

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernie Stankus, Systems Accountant, K-25, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4387

RIN: 2139–AA03

[FR Doc. 96-9133 Filed 05-10-96; 8:45 am]
BILLING CODE 4910-62-P

federal register

Monday
May 13, 1996

Part XV

Department of the Treasury

Semiannual Regulatory Agenda

DEPARTMENT OF THE TREASURY (TREAS)

DEPARTMENT OF THE TREASURY

31 CFR Subtitle A, Chs. I and II

Semiannual Agenda

AGENCY: Departmental Offices, Treasury.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12866 ("Regulatory Planning and Review," September 30, 1993), which require the publication of a semiannual agenda of regulations. The semiannual agenda of the Department of the Treasury conforms to the Unified Agenda format developed by the Regulatory Information Service Center (RISC).

FOR FURTHER INFORMATION CONTACT: For additional information about a specific regulation, contact the "Agency Contact" listed in the specific regulatory action.

Dated: March 15, 1996.

Neal Comstock,

Deputy Executive Secretary.

Departmental Offices—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2569	31 CFR 500.704 Administrative Hearings	1505-AA59
2570	17 CFR 404 Amendments to the Government Securities Act Regulations; Recordkeeping Rules for Noticed Financial Institution Broker-Dealers	1505-AA70

Departmental Offices—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2571	17 CFR 400 Amendments Under the Government Securities Act; Large Position Reporting	1505-AA53
2572	31 CFR 411 Color Illustration of U.S. Currency	1505-AA69
2573	12 CFR 1805 (New) Community Development Financial Institutions Program; Bank Enterprise Award Program Regulations	1505-AA71

Financial Crimes Enforcement Network—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2574	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Definitions	1506-AA03
2575	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Requirement That Financial Institutions Carry Out Anti-Money-Laundering Programs	1506-AA05
2576	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Delegation of Authority To Assess Civil Money Penalties on Depository Institutions	1506-AA08
2577	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Registration Requirement for Certain Non-Bank Financial Institutions	1506-AA09
2578	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Mandatory Exemption of Certain Transactions From Currency Transaction Reporting Requirements	1506-AA11
2579	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Discretionary Exemption of Certain Transactions From Currency Transaction Reporting Requirements	1506-AA12
2580	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Requirement To Report the Cross-Border Transportation of Certain Negotiable Instruments	1506-AA15

Financial Crimes Enforcement Network—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2581	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Notice of Exemption of Certain Transactions From Currency Transaction Reporting Requirements	1506-AA10
2582	31 CFR 103 Amendment to Bank Secrecy Act Regulations Relating to Recordkeeping for Funds Transfers and Transmittals of Funds by Banks and Other Financial Institutions	1506-AA16

Financial Crimes Enforcement Network—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2583	31 CFR 103 Amendment to Bank Secrecy Act Regulations Relating to Orders for Transmittals of Funds by Banks and Other Financial Institutions	1506-AA17

Financial Crimes Enforcement Network—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2584	31 CFR 103 Amendment to the Bank Secrecy Act Regulations Affecting Tribal and State-Licensed Gaming Establishments	1506-AA07
2585	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Requirement To Report Suspicious Transactions	1506-AA13
2586	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Designation of Single Recipient for Suspicious Transaction Reports	1506-AA14

Financial Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2587	31 CFR 210 Federal Government Participation in the Automated Clearing House	1510-AA17
2588	31 CFR 225 Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties	1510-AA36
2589	31 CFR 203 Treasury Tax and Loan Depositaries	1510-AA37
2590	31 CFR 205 Rules and Procedures for Funds Transfers	1510-AA38
2591	31 CFR 202 Depositaries and Financial Agents of the Government	1510-AA42
2592	31 CFR 240 Indorsement and Payment of Checks Drawn on the United States Treasury	1510-AA45
2593	31 CFR 206 Management of Federal Agency Receipts, Disbursements, and Operation of the Cash Management Improvements Fund	1510-AA47
2594	31 CFR 226 Recognition of Insurance Covering Treasury Tax and Loan Depositaries	1510-AA53

Financial Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2595	31 CFR 209 Payment to Financial Institutions for Credit to Accounts of Employees and Beneficiaries	1510-AA30
2596	31 CFR 281 Foreign Exchange Operations	1510-AA48
2597	31 CFR 224 Federal Process Agents of Surety Companies	1510-AA49
2598	31 CFR 235 Issuance of Settlement Checks for Forged Checks Drawn on Designated Depositaries	1510-AA50
2599	31 CFR 245 Claims on Account of Treasury Checks	1510-AA51
2600	31 CFR 256 Payments Under Judgment and Private Relief Acts	1510-AA52
2601	31 CFR 214 Depositaries for Federal Taxes	1510-AA54

Bureau of Alcohol, Tobacco and Firearms—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2602	27 CFR 7 Labeling and Advertising of Malt Beverages	1512-AB46

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Bureau of Alcohol, Tobacco and Firearms—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2603	27 CFR 9 American Viticultural Areas	1512-AA07
2604	27 CFR 7 Standards of Identity for Malt Beverages	1512-AA95
2605	27 CFR 252 Exportation of Liquors	1512-AA98
2606	27 CFR 7 Alcoholic Content Labeling for Malt Beverages	1512-AB17
2607	27 CFR 25.205 Production of Beer for Personal or Family Use at Brew-on-Premises Facilities	1512-AB18
2608	27 CFR 4.25a(d) to 4.25a(e) Multistate Appellations of Origin for Contiguous States	1512-AB28
2609	27 CFR 25 Revision of Brewery Regulations and Issuance of Regulations for Taverns on Brewery Premises (Brewpubs)	1512-AB37
2610	27 CFR 5 Labeling of Unaged Grape Brandy	1512-AB46
2611	27 CFR 178 Definition for the Category of Persons Prohibited From Receiving Firearms	1512-AB41
2612	27 CFR 53 Manufactures Excise Tax—Firearms and Ammunition Exemption Certificates/Statements	1512-AB42
2613	27 CFR 290 Exportation of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax	1512-AB03

Bureau of Alcohol, Tobacco and Firearms—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2614	27 CFR 4 Grape Wine Designation—Gamay Beaujolais	1512-AB08
2615	27 CFR 24.246 New Wine Treating Materials and Processes	1512-AB26
2616	27 CFR 4 Alteration of Labels on Containers of Distilled Spirits, Wine, Beer	1512-AB32
2617	27 CFR 4.40 Procedures for Revoking Previously Approved Certificates of Label Approval, Exemptions From Label Approval, or Distinctive Liquor Bottle Approvals	1512-AB34
2618	27 CFR 5.26 Registration of Formulas and Statements of Process for Domestically Produced Alcoholic Beverages	1512-AB40
2619	27 CFR 1 Basic Permit Requirements Under the Federal Alcohol Administration Act, Nonindustrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits	1512-AB43
2620	27 CFR 70 Miscellaneous Regulations Relating to Liquor	1512-AB44
2621	27 CFR 1 Technical Amendments	1512-AB47
2622	27 CFR 53 Firearms and Ammunition Excise Taxes	1512-AB33
2623	27 CFR 55 Implementation of Public Law 103-322, the Violent Crime Control and Law Enforcement Act of 1994	1512-AB35
2624	27 CFR 70.511 to 70.526 27 CFR Part 70—Conference and Practice Requirements for the Bureau of Alcohol, Tobacco, and Firearms	1512-AB11

Bureau of Alcohol, Tobacco and Firearms—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2625	27 CFR 197 Nonbeverage Drawback	1512-AA20

Bureau of Alcohol, Tobacco and Firearms—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2626	27 CFR 4 Winegrape Varietal Designations	1512-AA67
2627	27 CFR 4 Use of Term "Reserve" on Wine Labels	1512-AB25

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Comptroller of the Currency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2628	12 CFR 3 Capital Rules	1557-AB14
2629	12 CFR 8 Assessment of Fees; National Banks; District of Columbia Banks	1557-AB41
2630	12 CFR Not yet determined Interstate Deposit Production Offices	1557-AB50
2631	00 CFR Not yet determined Government Securities Sales Practices	1557-AB52
2632	12 CFR 32 Lending Limits	1557-AB55

Comptroller of the Currency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2633	12 CFR 9 Fiduciary Activities of National Banks; Regulation Review	1557-AB12
2634	12 CFR 30 Standards for Safety and Soundness	1557-AB17
2635	12 CFR 20 International Operations and Federal Branches and Agencies; Regulation Review	1557-AB26
2636	12 CFR 1 Investment Securities; Regulation Review	1557-AB37
2637	12 CFR 26 Management Official Interlocks; Regulation Review	1557-AB39
2638	12 CFR 31 Extensions of Credit to National Bank Insiders; Regulation Review	1557-AB40
2639	12 CFR 12 Recordkeeping and Confirmation Requirements for Securities Transactions; Regulation Review	1557-AB42
2640	12 CFR 19 Uniform Rules of Practice and Procedure; Regulation Review	1557-AB43
2641	12 CFR 23 Leasing; Regulation Review	1557-AB45
2642	12 CFR 24 Community Development Corporation and Project Investments; Regulation Review	1557-AB46
2643	12 CFR 22 Loans in Areas Having Special Flood Hazards; Regulation Review	1557-AB47
2644	12 CFR 2 Disposition of Credit Life Insurance Income; Regulation Review	1557-AB49
2645	12 CFR 25 Community Reinvestment Act Regulation	1557-AB51

Comptroller of the Currency—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2646	12 CFR 5 Rules, Policies, and Procedures for Corporate Activities; Regulation Review	1557-AB27
2647	12 CFR 27 Fair Housing Home Loan Data System	1557-AB53
2648	00 CFR Not yet determined Salesperson Testing and Filing Requirements for Retail Sales of Non-Deposit Investment Products	1557-AB54

Comptroller of the Currency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2649	12 CFR 4 Description of Office, Procedures, Public Information; Regulation Review	1557-AA87
2650	12 CFR 21 Minimum Security Devices and Procedures, Reports of Suspicious Activities, and Bank Secrecy Act Compliance	1557-AB19
2651	12 CFR 7 Interpretive Rulings; Regulation Review	1557-AB38
2652	12 CFR 34 Real Estate Lending and Appraisals; Regulation Review	1557-AB48

United States Customs Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2653	19 CFR 7.8 U.S. Insular Possessions—Duty-Free Treatment	1515-AB14
2654	19 CFR 142 Publication of Filer Codes	1515-AB27
2655	19 CFR 133 Parallel Imports and Other Trademarked Goods	1515-AB40
2656	19 CFR 12 Textiles and Textile Products Subject to Textile Trade Agreements	1515-AB54

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United States Customs Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2657	19 CFR 10 Andean Trade Preference	1515-AB59
2658	19 CFR 113 Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers	1515-AB60
2659	19 CFR 134 Country-of-Origin Marking Requirements for Frozen Produce Packages	1515-AB61
2660	19 CFR 159 Liquidation; Extension; Suspension	1515-AB66
2661	19 CFR 12 Detention, Seizure, and Forfeiture of "Bootleg" Sound Recording and Music Videos of Live Musical Performances	1515-AB74
2662	19 CFR 151 Detention of Merchandise	1515-AB75
2663	19 CFR 12 Interest on Underpayments and Overpayments of Customs Duties Fees and Interest	1515-AB76
2664	19 CFR 162 Recordkeeping Requirements	1515-AB77
2665	19 CFR 10 Use of Containers Designated as Instruments of International Traffic in Point-to-Point Local Traffic	1515-AB79
2666	19 CFR 142 Reconciliation	1515-AB85
2667	19 CFR 19 Duty-Free Stores	1515-AB86
2668	19 CFR 123 Foreign-Based Commercial Motor Vehicles in International Traffic	1515-AB88
2669	19 CFR 103 Electronic Requests for Confidential Treatment of Export Manifest Data	1515-AB89
2670	19 CFR 123 Port Passage Excel Service System (PORTPASS)	1515-AB90
2671	19 CFR 7 Drawback	1515-AB95

United States Customs Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2672	19 CFR 4 Harbor Maintenance Fee	1515-AA57
2673	19 CFR 24 Donated Cargo Exemption From Harbor Maintenance Fee	1515-AA87
2674	19 CFR 133 Disclosure of Information to Intellectual Property Rights Owners	1515-AB22
2675	19 CFR 12 Rules for Determining the Country of Origin of a Good for Purposes of Annex 311 of the North American Free Trade Agreement	1515-AB34
2676	19 CFR 24 Fees Assessed for Defaulted Payments	1515-AB38
2677	19 CFR 12 Importer Certification Regarding Country of Origin of Textiles and Textile Products	1515-AB43
2678	19 CFR 10 Treatment of Reusable Shipping Devices Arriving From Canada or Mexico	1515-AB51
2679	19 CFR 103 Disclosure or Production of Customs Information Pursuant to Legal Process	1515-AB58
2680	8 CFR 100 Customs/INS Service Field Organizations; Revocations and Designations of International Airport Status for Customs Services and Ports of Entry for Aliens Arriving by Aircraft	1515-AB64
2681	19 CFR 10 Warehouse Withdrawals; Aircraft Fuel Supplies; Pipeline Transportation in Bond of Merchandise	1515-AB67
2682	19 CFR 134 Country-of-Origin Marking	1515-AB82
2683	19 CFR 118 Centralized Examination Stations; Immediate Suspension or Permanent Revocation as Operator Upon Indictment for Any Felony	1515-AB83
2684	19 CFR 10 North American Free Trade Agreement (NAFTA)—Implementation of Duty-Deferral Program Provisions	1515-AB87
2685	19 CFR 12 Prohibited/Restricted Merchandise; Foreign Assets Control Regulations	1515-AB91
2686	19 CFR 148 Treatment of Merchandise Imported by Foreign Governments or Designated International Organizations	1515-AB92
2687	19 CFR 10 Suspension of United States-Canada Free Trade Agreement Implementing Regulations	1515-AB93
2688	19 CFR 12 Emissions Standards for Imported Nonroad Engines	1515-AB94

United States Customs Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
2689	19 CFR 102 (New) Rules of Origin	1515-AB19
2690	19 CFR 113 Automated Surety Interface	1515-AB25
2691	19 CFR 191 Substitution Unused Merchandise Drawback	1515-AB48
2692	19 CFR 134 Country-of-Origin Marking for Watches	1515-AB68

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United States Customs Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2693	19 CFR 4 Preliminary Vessel Entry and Permits To Lade and Unlade	1515-AB37
2694	19 CFR 12 Enforcement of ITC Exclusion Orders	1515-AB44
2695	19 CFR 12 North American Free Trade Agreement—Submission of Certificates of Eligibility for Textile and Apparel Goods Under the Tariff Preference Level Provisions	1515-AB50
2696	19 CFR 123 Examination of Baggage	1515-AB56
2697	19 CFR 162 Seizure of Merchandise	1515-AB62
2698	19 CFR 12 Rules of Origin for Textile and Apparel Products	1515-AB71
2699	19 CFR 182 Search Warrants	1515-AB72
2700	19 CFR 132 Export Certificates for Beef Subject to Tariff-Rate Quota	1515-AB73
2701	19 CFR 12 UNESCO Cultural Property Convention Signatories	1515-AB78
2702	19 CFR 4 Removal of Cambodia and Vietnam From List of "Non-Entrant" Countries	1515-AB81

Internal Revenue Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2703	26 USC 0041 Definition of Qualified Research and Computation of Research Credit Under Section 41 of the Code, After 1986, 1989 and 1993 Acts	1545-AO61
2704	26 USC 0042(h) Available Unit Rule	1545-AT60
2705	26 USC 0061 Amendment to the Regulations Under Section 61 To Conform the Treatment of Bond Premium Income to the Constant Yield Method	1545-AL92
2706	26 USC 0104 Personal Injury Damages	1545-AT20
2707	26 USC 0162(k) Continuation Coverage Requirements of Group Health Plans	1545-AI83
2708	26 USC 0163 Qualified Residence Interest	1545-AL67
2709	26 USC 0168(i)(5) Changes in Use Under Section 168(i)(5)	1545-AJ36
2710	26 USC 0171 Bond Premium Amortization	1545-AU02
2711	26 USC 0179A Determination of Section 30 Credit and Section 179A Deduction	1545-AR66
2712	26 USC 0263A Rules for Farmers	1545-AQ91
2713	26 USC 0263A Production of Creative Property	1545-AQ92
2714	26 USC 0263A Foreign Taxpayers	1545-AQ93
2715	26 USC 0263A Method Change Rules for the Uniform Capitalization Rules	1545-AQ94
2716	26 USC 0269B Rules for Treatment of Foreign Corporation Whose Stock Is Stapled to the Stock of a Domestic Corporation	1545-AN20
2717	26 USC 0274(d) Substantiation of Expenses—Receipt Threshold	1545-AT97
2718	26 USC 0274(d) Substantiation of Expenses—Receipt Threshold	1545-AT98
2719	26 USC 0280B Demolition of Structures Definitions	1545-AR63
2720	26 USC 0337(d) Scope of General Utilities Repeal	1545-AN21
2721	26 USC 0337(d) Corporate Inversion Transactions	1545-AS91
2722	26 USC 0361(a)(3) Fringe Benefit Sourcing Under Section 861	1545-AO72
2723	26 USC 0367 Section 361 Outbound Transfers of Property to Foreign Corporations	1545-AM97
2724	26 USC 0381 Carryovers of Methods of Accounting	1545-AT38
2725	26 USC 0403 Nondiscrimination and Other Rules Applicable to Section 403(b) Annuities	1545-AI90
2726	26 USC 0412 Revising the Definition of the Full Funding Limitation for Purposes of the Minimum Funding Requirement for Pension Plans	1545-AL53
2727	26 USC 0419 Treatment of Funded Welfare Benefit Plans	1545-AG14
2728	26 USC 0446 Hybrid Instruments	1545-AR13
2729	26 USC 0453 Installment Obligations Received From Liquidating Corporations	1545-AB43
2730	26 USC 0460 Definition of a Long-Term Contract	1545-AQ30
2731	26 USC 0467 Section 467 Rental Agreements	1545-AU11
2732	26 USC 0468B Escrow Funds and Other Similar Funds	1545-AR82
2733	26 USC 0472 Definition of an Item for LIFO	1545-AT39
2734	26 USC 0475 Mark-to-Market for Dealers in Securities: Equity Interests in Related Parties and the Dealer-Customer Relationship	1545-AT94
2735	26 USC 0482 Intercompany Transfer Pricing for Services	1545-AR32
2736	26 USC 0672 Income Taxation of Trusts and Estates	1545-AJ20
2737	26 USC 0679 Foreign Grantor Trusts	1545-AO75
2738	26 USC 0736 Payments to a Retiring Partner or a Deceased Partner's Successor in Interest	1545-AT31

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Internal Revenue Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
2739	26 USC 0743 Adjustments Following Sales of Partnership Interests	1545-AS39
2740	26 USC 0842(b) Foreign Insurance Companies	1545-AL82
2741	26 USC 0860E REMIC Regulations	1545-AR88
2742	26 USC 0863 Transportation Income Source Rules	1545-AJ68
2743	26 USC 0863 Sourcing Rule Applicable to Certain Insurance Income	1545-AQ37
2744	26 USC 0864 Tiered Partnership Rules	1545-AQ26
2745	26 USC 0864 Integrated Financial Transaction	1545-AR20
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2748	26 USC 0865 Determination of Source of Loss Resulting From Sale of Stock - Section 865	1545-AT41
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2751	26 USC 0884 Proposed Regulations Under Section 1.884-3	1545-AQ72
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2756	26 USC 0905 Section 905(b) Regulations	1545-AP36
2757	26 USC 0931 Exclusion of Possession Source Income From Gross Income of Certain Individuals	1545-AS42
2758	26 USC 0932 Coordination of U.S. and Virgin Islands Income Taxes	1545-AS41
2759	26 USC 0936 OBRA 1993 Section 936 Reg	1545-AS43
2760	26 USC 0952 Subpart F—Use of Deficits	1545-AJ71
2761	26 USC 0953(d) Foreign Insurance Company—Domestic Election	1545-AO25
2762	26 USC 0955 Subpart F Shipping Amendments	1545-AM46
2763	26 USC 0956A Earnings Invested in Excess Passive Assets	1545-AS47
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2765	26 USC 0960 Coordination of Pre-1987 Deemed Paid Taxes	1545-AT85
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2769	26 USC 1059A Amendment of Regulations Under IRC Section 1059A	1545-AS89
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2771	26 USC 1248 Section 1248 - Gain From Sale or Exchange of Stock in Foreign Corporations	1545-AC31
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2780	26 USC 1504 Income Tax—Includibility in an Affiliated Group of Subsidiaries Formed To Comply With Foreign Laws	1545-AC58
2781	26 USC 2032A Estate Tax-Valuation of Certain Farm, Etc., Real Property	1545-AT66
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2795	26 USC 7701 Simplification of Entity Classification Rules	1545-AT91
2796	26 USC 7805 Extension of Statute of Limitations in John Doe Summons Disputes	1545-AM67
2797	26 USC 7805 Suspension of Running of Period of Limitations During Proceeding To Enforce Designated Summons	1545-AQ01
2798	26 USC 7805 Disclaimer of Interests and Power	1545-AR52
2799	26 USC 7805 Automatic Extension of Time for Filing Individual Tax Returns	1545-AS04
2800	26 USC 7805 Intangible Amortization	1545-AS77
2801	26 USC 7805 Reissuance of Qualified Tender Bonds	1545-AT09
2802	26 USC 7805 Effect of the Family and Medical Leave Act on the Operation of Cafeteria Plans	1545-AT47
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2804	26 USC 7805 Excise Tax on Heavy Trucks, Truck Trailers and Semitrailers, and Tractors	1545-AT63
2805	26 USC 7805 Extension of 45-day Interest-Free Period for Refunds of Overpayments of Tax	1545-AU04
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2807	26 USC 7805 Magnetic Media Filing Requirements	1545-AU08
2808	26 USC 7805 Bond Premium Amortization	1545-AU09
2809	* 26 USC 7811 Authority To Modify or Rescind Taxpayer Assistance Orders	1545-AU01

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2811	26 USC 0025 Reissuance of Mortgage Credit Certificates (Cross-Reference to Temporary Regulations)	1545-AR76
2812	26 USC 0072 Loans Treated as Distributions	1545-AE41
2813	26 USC 0101(a) The Treatment of Accelerated Death Benefits Under Sections 101, 7702 and 7702A of the Internal Revenue Code	1545-AQ70
2814	26 USC 0141 Definition of "Private Activity Bond", "Qualified Bond"	1545-AM01
2815	26 USC 0163 Earnings Stripping Payments	1545-AO24
2816	26 USC 0165 Section 165	1545-AP33
2817	26 USC 0168 Like-Kind Exchanges Involving Tax-Exempt Use Property: Lease Term	1545-AT33
2818	26 USC 0170(f)(8) Self-Employment Tax Treatment of Members of Certain Limited Liability Companies	1545-AS94
2819	26 USC 0170(f)(8) Deductibility, Substantiation, and Disclosure of Certain Charitable Contributions	1545-AS85
2820	26 USC 0280G Golden Parachute Payments	1545-AH49
2821	26 USC 0337(d) Guidance in Notice 89-37, Which Treats the Receipt of a Corporate Partner's Stock by the Corporate Partner as a Circumvention of General Utilities Repeal	1545-AP52
2822	26 USC 0338 Deemed Purchase Price When Certain Stock Purchases Are Treated as Asset Acquisitions	1545-AF29
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2826	26 USC 0367 Transfers of Stock or Securities by U.S. Persons to Foreign Corporations	1545-AP81
2827	26 USC 0367 Certain Outbound Transfers of Domestic Stock or Securities (Corporate Inversions)	1545-AT42
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2831	26 USC 0411 Allocation of Accrued Benefits Between Employer and Employee Contributions	1545-AT82
2832	26 USC 0414(q) Definition of "Highly Compensated Employee"	1545-AQ74
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2834	26 USC 0469(l) Limitations on Passive Activity Losses and Credits—Self-Charged Items	1545-AN64
2835	26 USC 0475(a) Mark-to-Market Upon Disposition	1545-AS85
2836	26 USC 0482 Taxation of Global Trading	1545-AP01
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2842	26 USC 0864 Allocation and Apportionment of Interest Expense and Certain Other Expenses	1545-AM20
2843	26 USC 0864(d) Treatment of Related Person Factoring Income; Certain Investments in United States Property; and Stock Redemptions Through Related Corporations	1545-AH85
2844	26 USC 0882 Computation of Interest Expense Deduction	1545-AL84
2845	26 USC 0884 Amendments to the Branch Profits Tax Under Sections 884 and 864	1545-AQ58
2846	26 USC 0892 Income of Foreign Governments and International Organizations	1545-AL93
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2849	26 USC 0902 Deemed Paid Credit Under Section 902 Determined on Accumulated Basis	1545-AL98
2850	26 USC 0904(d)(5) Application of Section 904 to Income Subject to Separate Limitations and Section 864(e) Affiliated Group Expert Allocation Rules	1545-AQ43
2851	26 USC 0905 Income Tax—Taxpayer's Obligation To File a Notice of Redetermination of Foreign Tax and Civil Penalties for Failure to File	1545-AC09
2852	26 USC 0924 FSC Transfer Pricing Rules, Distributions, Dividends Received, Deduction, and Other Special Rules for FSC	1545-AI16
2853	26 USC 0936 Income Tax—Definition of Qualified Possession Source Investment Income for Purposes of Puerto Rico and Possession Tax Credit	1545-AC10
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2855	26 USC 0936(d)(4) CBI Investments of Section 936 Funds	1545-AM91
2856	26 USC 0953(c) Insurance Income	1545-AJ70
2857	26 USC 0954 Amendment to Subpart F Definitions	1545-AR31
2858	26 USC 0964 Earnings and Profits of Controlled Foreign Corporations	1545-AM90
2859	26 USC 0964 Use of GAAP Earnings as E&P of Foreign Corporations	1545-AQ55
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2861	26 USC 0987 Computation of a Branch's Taxable Income Taxation of Exchange Gain or Loss on Branch Remittances	1545-AM12
2862	26 USC 0988 Mark-to-Market Method of Accounting Under Section 988	1545-AF78
2863	26 USC 0995 Income Tax—Tax Reform Act of 1984 Relating to Interest Charge DISCs	1545-AG71
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2865	26 USC 1058 Certain Payments Made Pursuant to a Securities Lending Transaction	1545-AP71
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2867	26 USC 1275 Contingent and Variable Debt Instruments	1545-AQ86
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2875	26 USC 1502 Member Stock Transactions	1545-AT51
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2879	26 USC 3402 Electronic Filing of Form W-4	1545-AR67
2880	26 USC 3406 Information Reporting and Backup Withholding	1545-AL99
2881	26 USC 4001 Retail Excise Taxes on Certain Luxury Items	1545-AP24
2882	26 USC 4081 Diesel Fuel Excise Tax	1545-AR92
2883	26 USC 4611 Tax on Petroleum	1545-AJ23
2884	26 USC 501(c)(5) Requirements for Tax Exempt Labor Organizations	1545-AT95
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2891	26 USC 6205 Interest-Free Adjustments	1545-AQ61
2892	26 USC 6231 Selection of Tax Matters Partner for Limited Liability Companies	1545-AS09
2893	26 USC 6302 Federal Tax Deposits by Electronic Funds Transfer	1545-AS79
2894	26 USC 6302 Deposits of Excise Tax	1545-AT25
2895	26 USC 7503 Update of List of Legal Holidays for Purposes of Time for Performance of Acts	1545-AT22
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2897	26 USC 7701(b) Special Rules for S Corps Under 301.7701(b)-7	1545-AS88
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2899	26 USC 7805 Arbitrage Restriction on Tax-Exempt Bonds	1545-AS49
2900	26 USC 7805 Disclosure of Return Information to the U.S. Customs Service	1545-AS52
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2902	26 USC 7805 Debt Instruments With OID; Annuity Contracts	1545-AS76
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2904	26 USC 7805 Modifications of Bad Debts	1545-AT14
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2915	26 USC 0469 Application of Passive Activity Loss and Credit Limitations to Trusts, Estates, and Their Beneficiaries	1545-AN62
2916	26 USC 0471 Inventories by Dealers in Securities Section 1.471-5	1545-AS57
2917	26 USC 2039 Estate Tax—Annuity Exclusion Repeal	1545-AP60
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2920	26 USC 6302 Railroad Unemployment Repayment Tax	1545-AN40
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2923	26 USC 7805 Technical Corrections for Chapter 14	1545-AR49
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2925	26 USC 7805 Certain Fringe Benefits	1545-AT45
2926	26 USC 7805 Property Distributed in Kind and Treatment of Multiple Trusts	1545-AT68
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2930	26 USC 7805 Timing of Notice and Consent Requirements	1545-AU05
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2935	26 USC 0162(M) Million-Dollar Cap on Deduction for Executive Compensation	1545-AS23
2936	26 USC 0170 Substantiation of Contributions Made by Payroll Deduction	1545-AS27
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2938	26 USC 0305(c)(1) Treatment of Premiums on Stock Callable at the Option of the Issuer	1545-AQ42
2939	26 USC 0337(d) YOC Heating	1545-AT15
2940	26 USC 0358 Income Tax—Triangular Reorganizations, Basis and Other Consequences	1545-AB21
2941	26 USC 0367 Certain Outbound Transfers; Domestic Stock or Securities (Corporate Inversions)	1545-AT44
2942	26 USC 0402(c) Twenty Percent Withholding on Eligible Rollover Distribution	1545-AR01
2943	26 USC 0411 Allocation of Accrued Benefits Between Employer and Employee Contributions	1545-AT83
2944	26 USC 0412(l) Current Liability for Mortality Tables for the Disabled	1545-AT90
2945	26 USC 0417 Disclosure Guidelines for QJSA Waiver	1545-AQ36
2946	26 USC 0469 Rules for Certain Rental Real Estate Activities	1545-AS38
2947	26 USC 0482 Section 482, Cost Sharing Regulations	1545-AM00
2948	26 USC 0597 Tax Consequences of Federal Financial Assistance Provided in Connection With Taxable Asset Acquisitions of Troubled Financial Institutions	1545-AN71
2949	26 USC 0704(c) Recognition of Pre-Contribution Gain or Loss	1545-AR93
2950	26 USC 0737 Section 737 Distributions	1545-AR48
2951	26 USC 0861 Recomputation of Allocation and Apportionment of Deduction for State Income Taxes	1545-AP86
2952	26 USC 0861 Allocation and Apportionment of Research and Experimental Expenditures	1545-AT49
2953	26 USC 0863 Section 863 Regulations	1545-AT40
2954	26 USC 0863 Source of Income From Sales of Inventory in Natural Resources Produced in One Jurisdiction and Sold in Another Jurisdiction	1545-AT93
2955	26 USC 0881 Bank Exclusion From Portfolio Interest	1545-AQ39
2956	26 USC 0883(c)(3) Clarification of Section 883(c) Publicly Traded Exception	1545-AR77
2957	26 USC 0904 Resourcing Income To Prevent Avoidance of Foreign Tax Credit Limitation Rules Relating to Foreign Losses	1545-AN87
2958	26 USC 1258 Conversion Transactions	1545-AS87
2959	26 USC 1441 Withholding on Items of Income Covered by an Income Tax Convention	1545-AH86
2960	26 USC 1441 Withholding of Tax on Nonresident Aliens	1545-AN75
2961	26 USC 1445 Section 1445 Regulation Revisions Due to 1993 Tax Act	1545-AS51
2962	26 USC 1502 Hedging Transactions by Members of Consolidated Groups	1545-AS75
2963	26 USC 2653(b) Estate Tax—Generation Skipping Transfer Tax	1545-AJ11
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2966	26 USC 4682 Exports of Ozone-Depleting Chemicals	1545-AQ23
2967	26 USC 4941 Excise Tax on Self-Dealing by Private Foundations	1545-AT03
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2969	26 USC 6033 Amendment of Section 1.6033-2(g)(5) Relating to Returns by an Integrated Auxiliary of a Church	1545-AI52
2970	26 USC 6050I Cash Reporting by Court Clerks	1545-AT06
2971	26 USC 6051 IRC Section 6051	1545-AN57
2972	26 USC 6109 Authority of the FCIC To Require Employer Identification Numbers for Certain Taxpayers	1545-AQ49
2973	26 USC 6109 Authority of the Secretary of Agriculture To Share Employer Identification Numbers	1545-AT21
2974	26 USC 6231(a)(7) Selection of Tax Matters Partner for Limited Liability Companies	1545-AQ47
2975	26 USC 6302 Federal Tax Deposits by Electronic Funds Transfer	1545-AU10
2976	26 USC 6662 Imposition of Accuracy-Related Penalty	1545-AS24
2977	26 USC 7409 Political Activity Injunction	1545-AO77
2978	26 USC 7520 Actuarial Tables Exceptions	1545-AR56
2979	26 USC 7704 Certain Publicly Traded Partnerships Treated as Corporations	1545-AL57
2980	26 USC 7805 Automatic Extension of Time for Filing Individual Tax Returns	1545-AS05
2981	26 USC 7805 Information Reporting for Discharges of Indebtedness	1545-AS21
2982	26 USC 7805 Seals of Office in Connection With IRC Section 7514	1545-AS61
2983	26 USC 7805 Nonbank Trustee Net Worth Requirements	1545-AS92
2984	26 USC 7805 Timing of Notice and Consent Requirements	1545-AT75
2985	26 USC 7805 Backup Withholding	1545-AT76
2986	26 USC 7805 ERISA Sec. 204(h) Notice	1545-AT79
2987	26 USC 7805 Current Liability for Charity Tables for the Disabled	1545-AT89

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Sequence Number	Title	Regulation Identifier Number
2988	26 USC 7805 Returns of Information With Respect to REMIC Regular Interests and Collateralized Debt Instruments	1545-AU00
2989	26 USC 7805 Telefile Voice Signature Alternative	1545-AU07

Office of Thrift Supervision—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2990	12 CFR 566 Liquidity	1550-AA77
2991	12 CFR 543 Regulatory Review: Corporate Governance	1550-AA87
2992	12 CFR 545 Regulatory Review: Subsidiaries	1550-AA88
2993	12 CFR 545 Regulatory Review: Conflicts of Interest and Usurpation of Corporate Opportunity	1550-AA89

Office of Thrift Supervision—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2994	12 CFR 563 Capital Distributions	1550-AA72
2995	12 CFR 543 "De Novo" Applications for a Federal Savings Association Charter	1550-AA76
2996	12 CFR 509 Uniform Rules of Practice and Procedure	1550-AA79
2997	12 CFR 567 Risk-Based Capital Requirements, Small Business Loan Recourse Obligations	1550-AA81
2998	12 CFR 563 Flood Insurance	1550-AA86
2999	12 CFR 545 Lending and Investment (Formerly RIN 1550-AA91)	1550-AA94
3000	12 CFR 563f Management Official Interlocks	1550-AA95

Office of Thrift Supervision—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3001	12 CFR 567 Risk-Based Capital Standards—Recourse Obligations	1550-AA70
3002	12 CFR 543 Community Reinvestment Act Hearing Procedures	1550-AA83
3003	12 CFR 565 Risk-Based Capital Guidelines: Originated Mortgage Servicing Rights	1550-AA84

Office of Thrift Supervision—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3004	12 CFR 563 Small and Medium-Sized Business and Farm Loan Documentation Exemption for Qualifying Associations	1550-AA61
3005	12 CFR 563 Suspicious Activity Reports and Other Statements	1550-AA62
3006	12 CFR 563 Classification of Assets	1550-AA65
3007	12 CFR 563 Loans to One Borrower	1550-AA78
3008	12 CFR 500 Regulatory Review	1550-AA85
3009	12 CFR 545 Regulatory Review: Adjustable Rate Mortgages	1550-AA90
3010	12 CFR 545 Regulatory Review: Federal Preemption	1550-AA92
3011	12 CFR 563e Community Reinvestment Act Regulations	1550-AA93

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DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)

Proposed Rule Stage

2569. ADMINISTRATIVE HEARINGS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 50 USC app 1 to 44, Trading With the Enemy Act; 22 USC 6001 to 6010, The Cuban Democracy Act of 1992

CFR Citation: 31 CFR 500.704; 31 CFR 515.704

Legal Deadline: None

Abstract: The Foreign Assets Control Regulations, 31 CFR part 500, and the Cuban Assets Control Regulations, 31 CFR part 515, are being amended to provide for detailed procedures governing administrative hearings, as provided in section 1710(c) of the Cuban Democracy Act of 1992 (the CDA). Because the CDA amends section 16 of the Trading with the Enemy Act to permit the imposition of civil monetary penalties and civil forfeiture, subpart G is revised to establish the procedures governing administrative hearings. The regulations impose no obligations or duties, but rather make available administrative hearing procedures for those persons wishing to appeal the assessment of a civil administrative penalty issued under parts 500 or 515.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	07/00/96	
Final Action	10/00/96	
Final Action Effective	10/00/96	
Begin Review	10/00/96	
End Review	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Benjamin J. Bornstein, Attorney-Advisor, Department of the Treasury, MT Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-2410

RIN: 1505–AA59

2570. AMENDMENTS TO THE GOVERNMENT SECURITIES ACT REGULATIONS; RECORDKEEPING RULES FOR NOTICED FINANCIAL INSTITUTION BROKER-DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o-5(b)

CFR Citation: 17 CFR 404

Legal Deadline: None

Abstract: The Department, under the authority granted it by the Government Securities Act of 1986 (GSA), will amend the recordkeeping rules for financial institutions that have filed notice or are required to file notice as Government securities brokers or dealers. The rule amendment will clarify any ambiguity resulting from the interplay of the GSA rules and the rules of the bank regulatory agencies with respect to recordkeeping requirements for the Government securities transactions of financial institutions that are subject to the GSA recordkeeping rules.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ALTERNATE AGENCY CONTACT: Kurt Eidemiller

Agency Contact: Kerry Lanham, Government Securities Specialist, Government Securities Regulations Staff, Department of the Treasury, Bureau of the Public Debt, Room 515, 999 E Street NW., Washington, DC 20239-0001
Phone: 202 219-3632

RIN: 1505–AA70

DEPARTMENT OF THE TREASURY (TREAS)
Departmental Offices (DO)

Final Rule Stage

2571. AMENDMENTS UNDER THE GOVERNMENT SECURITIES ACT; LARGE POSITION REPORTING

Priority: Other Significant

Legal Authority: 15 USC 78o-5(f)

CFR Citation: 17 CFR 400; 17 CFR 420

Legal Deadline: None

Abstract: These rules would provide a mechanism for the maintaining and reporting of information about large positions in to-be-issued or recently issued Treasury securities. The rules will define what constitutes a large position and how positions should be aggregated across affiliates and subsidiaries, and the recordkeeping and reporting requirements. The scope of the reporting requirement would extend to any entity whose positions in the covered securities would meet the definition of a large position.

Timetable:

Action	Date	FR Cite
ANPRM	01/24/95	60 FR 4576
ANPRM Comment Period End	05/24/95	60 FR 20065
NPRM	12/18/95	60 FR 65214
NPRM Comment Period End	03/18/96	61 FR 4944
Final Action	06/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ken Papaj, Director, Government Securities Regulations Staff, Department of the Treasury, Bureau of the Public Debt, Room 515, 999 E Street NW., Washington, DC 20239-0001
Phone: 202 219-3632

RIN: 1505–AA53

2572. COLOR ILLUSTRATION OF U.S. CURRENCY

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 504

CFR Citation: 31 CFR 411

Legal Deadline: None

Abstract: To permit color illustration of U.S. currency while maintaining the safeguards needed to prevent counterfeiting of United States currency.

Timetable:

Action	Date	FR Cite
NPRM	06/26/95	60 FR 32929

TREAS—DO

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	08/25/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Mulligan, Attorney-Advisor, Department of the Treasury, Office of Chief Counsel, U.S. Secret Service, 1800 G Street NW., Room 842, Washington, DC 20223
Phone: 202 435-5771

RIN: 1505–AA69

2573. COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS PROGRAM; BANK ENTERPRISE AWARD PROGRAM REGULATIONS

Priority: Other Significant

Legal Authority: 12 USC 4703; 12 USC 4713; PL 104-19; 42 USC 4332

CFR Citation: 12 CFR 1805 (New); 12 CFR 1806 (New); 12 CFR 1815 (New)

Legal Deadline: None

Abstract: Not applicable; any costs and benefits associated with this rule are derived from the CDFI and BEA provisions of the Community Development Banking and Financial Institutions Act of 1994 as enacted by the Congress.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/19/95	60 FR 54110
Interim Final Rule Comment Period End	01/15/96	
Interim Final Rule Comment Period End	03/15/96	
Finial Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Maurice Jones, Legal Counsel, Department of the Treasury, CDFI Fund, 1500 Pennsylvania Avenue NW., Room 5116, Washington, DC 20220
Phone: 202 566-6656
Fax: 202 622-7754

RIN: 1505–AA71

BILLING CODE 4810-25-F

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN)

Proposed Rule Stage

2574. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DEFINITIONS

Priority: Other

Legal Authority: 12 USC 1829b Bank Secrecy Act; 12 USC 1951 to 1959; 31 USC 5311 to 5330

CFR Citation: 31 CFR 103

Legal Deadline: NPRM, Statutory, March 23, 1995.
Section 408 of PL 103-325 requires money-transmitting businesses to register by March 23, 1995.

Abstract: This NPRM will propose to clarify and reorganize the definitions used in the Bank Secrecy Act regulations. Existing CFR section 103.11 would be subdivided into several sections. A separate section containing the definition of financial institutions will propose changes to the definition of non-bank financial institutions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA03

2575. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—REQUIREMENT THAT FINANCIAL INSTITUTIONS CARRY OUT ANTI-MONEY-LAUNDERING PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5318

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This regulation would require financial institutions subject to the Bank Secrecy Act (BSA) to implement BSA compliance and anti-money-laundering programs and procedures. These programs and procedures would include, among other things, customer identification procedures, enhanced recordkeeping, and related training of financial institution personnel.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Peter G. Djinis, Associate Director, Office of Regulatory Policy and Enforcement, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA05

2576. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DELEGATION OF AUTHORITY TO ASSESS CIVIL MONEY PENALTIES ON DEPOSITORY INSTITUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5321(e) Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This NPRM proposes to delegate to the appropriate Federal banking regulatory agencies the authority to assess civil money penalties on depository institutions for violations of the Bank Secrecy Act. The regulation would prescribe the parameters of the delegated authority.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

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TREAS—FINCEN — Proposed Rule Stage

Government Levels Affected: Federal

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA08

2577. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—REGISTRATION REQUIREMENT FOR CERTAIN NON-BANK FINANCIAL INSTITUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5330

CFR Citation: 31 CFR 103

Legal Deadline: NPRM, Statutory, March 23, 1995.
Section 408 of PL 103-325 requires money transmitting businesses to register by March 23, 1995.

Abstract: This NPRM will identify money-transmitting and other businesses that must register with the Secretary, and will prescribe procedures for registration.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA09

2578. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—MANDATORY EXEMPTION OF CERTAIN TRANSACTIONS FROM CURRENCY TRANSACTION REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 5313(d) Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This NPRM would exempt depository institutions from the currency transaction reporting obligations of 31 USC 5313 with respect to transactions with certain businesses.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA11

2579. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DISCRETIONARY EXEMPTION OF CERTAIN TRANSACTIONS FROM CURRENCY TRANSACTION REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 5313(d) Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None
31 USC 5313(e)(6) permits a phase-in of discretionary exemptions over a 2-year period ending September 23, 1996.

Abstract: This NPRM proposes to exempt depository institutions from the currency transaction reporting obligations of 31 USC 5313 with respect to transactions with certain customers.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA12

2580. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—REQUIREMENT TO REPORT THE CROSS-BORDER TRANSPORTATION OF CERTAIN NEGOTIABLE INSTRUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5312(a)(3) Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This NPRM proposes to require reporting of cross-border transportation of certain negotiable instruments.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA15

DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN) — Final Rule Stage

2581. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—NOTICE OF EXEMPTION OF CERTAIN TRANSACTIONS FROM CURRENCY TRANSACTION REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 5313(d) Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This notice of exemption will exempt depository institutions from the currency transaction reporting obligations of 31 USC 5313 with respect to transactions with other depository institutions and Government entities.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA10

2582. AMENDMENT TO BANK SECRECY ACT REGULATIONS RELATING TO RECORDKEEPING FOR FUNDS TRANSFERS AND TRANSMITTALS OF FUNDS BY BANKS AND OTHER FINANCIAL INSTITUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 18296 Bank Secrecy Act; 12 USC 1951 to 1959; 31 USC 5311 to 5330

CFR Citation: 31 CFR 103

Legal Deadline: Final, Statutory, December 31, 1993.
Title XV, PL 102-550

Abstract: Amendments to final rules of January 3, 1995 (60 FR 220), which were issued jointly by the Treasury and the Federal Reserve Board requiring banks and non-bank financial institutions to collect and retain information about wire transmittals of funds in the amount of $3,000 or more and to verify the identity of non-account holders that are parties to such wire transmittals of funds, are necessary to conform applicable definitions to Uniform Commercial Code and industry practice, and to relieve industry from certain obligations with respect to transmittals of funds through the Fedwire funds transfer system prior to the completion of the new Fedwire system.

Timetable:

Action	Date	FR Cite
NPRM	08/24/95	60 FR 44146
NPRM Comment Period End	09/25/95	
Final Action	03/29/96	
Final Action Effective	05/28/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA16

2583. AMENDMENT TO BANK SECRECY ACT REGULATIONS RELATING TO ORDERS FOR TRANSMITTALS OF FUNDS BY BANKS AND OTHER FINANCIAL INSTITUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 18296 Bank Secrecy Act; 12 USC 1951 to 1959; 31 USC 5311 to 5330

CFR Citation: 31 CFR 103

Legal Deadline: Final, Statutory, December 31, 1993.
Title XV, PL 102-550

Abstract: Amendments to final rules of January 3, 1995, (60 FR 220), which required the first financial institution in a wire transfer chain to pass on certain information about the wire transfer and the parties to it and required each intermediary financial institution to pass on, if received, similar information, are necessary to conform applicable definitions to Uniform Commercial Code and industry practice, and to relieve industry from certain obligations with respect to transmittals of funds through the Fedwire funds transfer system prior to the completion of the new Fedwire system.

Timetable:

Action	Date	FR Cite
NPRM	08/24/95	60 FR 44151
NPRM Comment Period End	09/25/95	
Final Action	03/29/96	
Final Action Effective	05/28/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinis, Associate Director, Office of Regulatory Policy and Enforcement, Department of the Treasury, Financial Crimes Enforcement Network, Treasury Annex, Room 3210, 1500 Pennsylvania Avenue NW., Washington, DC 20220
Phone: 202 622-0400

RIN: 1506–AA17

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DEPARTMENT OF THE TREASURY (TREAS)
Financial Crimes Enforcement Network (FINCEN)

Completed Actions

2584. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS AFFECTING TRIBAL AND STATE-LICENSED GAMING ESTABLISHMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 103

Completed:

Reason	Date	FR Cite
Final Action	02/23/96	61 FR 7054
Final Action Effective	08/01/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Peter Djinis
Phone: 202 622-0400

RIN: 1506–AA07

2585. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—REQUIREMENT TO REPORT SUSPICIOUS TRANSACTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 31 CFR 103

Completed:

Reason	Date	FR Cite
Final Action	02/05/96	61 FR 4326
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinis
Phone: 202 622-0400

RIN: 1506–AA13

2586. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DESIGNATION OF SINGLE RECIPIENT FOR SUSPICIOUS TRANSACTION REPORTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 31 CFR 103

Completed:

Reason	Date	FR Cite
Final Action	02/05/96	61 FR 4326
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Djinis
Phone: 202 622-0400

RIN: 1506–AA14

BILLING CODE 4820-03-F

DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Proposed Rule Stage

2587. FEDERAL GOVERNMENT PARTICIPATION IN THE AUTOMATED CLEARING HOUSE

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720; 31 USC 3335; 31 USC 321; 5 USC 5525; 31 USC 3322; 31 USC 3332; 31 USC 3321; 31 USC 3301; 31 USC 3302; 12 USC 391

CFR Citation: 31 CFR 210

Legal Deadline: None

Abstract: This revision of 31 CFR part 210 will attempt reconciliation of Government Automated Clearing House (ACH) regulations and private industry rules as set forth by the National Automated Clearing House Association. The revision will broaden the use of the ACH method through establishing the Government as an ACH receiver. Also, the provision will pursue a totally electronic environment by establishing a regulatory framework for automation of all related parts of the ACH process.

Timetable:

Action	Date	FR Cite
NPRM	09/30/94	59 FR 50112
Extension of Comment Period	11/25/94	59 FR 60576
Comment Period End	01/03/95	
NPRM	06/00/96	
NPRM Comment Period End	09/00/96	
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Cynthia L. Johnson, Manager, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-6657

RIN: 1510–AA17

2588. ACCEPTANCE OF BONDS SECURED BY GOVERNMENT OBLIGATIONS IN LIEU OF BONDS WITH SURETIES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 321; 31 USC 9301; 31 USC 9303; 12 USC 391

CFR Citation: 31 CFR 225

Legal Deadline: None

Abstract: This regulation was last updated in 1978. Since that time, several significant changes have taken place in pledging securities. The most significant has been the advent of book-entry securities. There have been no identified costs to government, business or individuals. The benefit of this revision will be the addition of flexibility to federal agencies to design operating procedures that consider the unique characteristics of their operations, systems, policies, legislation, regulations and expectations of their customers and programs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Donald Clark, Financial Program Specialist, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-7105

RIN: 1510–AA36

TREAS—FMS

Proposed Rule Stage

2589. TREASURY TAX AND LOAN DEPOSITARIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 6302(h); 31 USC 321; 31 USC 323; 12 USC 266; 31 USC 3301; 31 USC 3302; 31 USC 3720; 12 USC 90; 12 USC 265; 12 USC 391; 12 USC 266; 12 USC 1452(d); 12 USC 1464(k); 12 USC 1767; 12 USC 1789a

CFR Citation: 31 CFR 203

Legal Deadline: None

Abstract: This revision of 31 CFR part 203 will reflect the development and implementation of the Electronic Federal Tax Payment System. This new system will replace the current Treasury Tax and Loan Tax Deposit system. This revision will add the necessary rules for financial institutions' and Federal Reserve Banks' use of electronic funds transfer mechanisms to process Federal taxes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	05/00/96	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald Clark, Financial Program Specialist, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-7106

RIN: 1510–AA37

2590. RULES AND PROCEDURES FOR FUNDS TRANSFERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 31 USC 321; 31 USC 3335; 31 USC 6501; 31 USC 6503

CFR Citation: 31 CFR 205

Legal Deadline: None

Abstract: This regulation governs the transfer of Federal assistance funds to state governments and implements the Cash Management Improvement Act of 1990, as amended. Revisions to the regulation will address concerns raised by both states and Federal agencies about intergovernmental financing. Rules and procedures for funds transfers will be revised to provide more options and greater flexibility.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Donald Clark, Financial Program Specialist, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-7106

RIN: 1510–AA38

2591. DEPOSITARIES AND FINANCIAL AGENTS OF THE GOVERNMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 265; 12 USC 266; 12 USC 1464(k); 12 USC 1789a; 12 USC 3102; 12 USC 90

CFR Citation: 31 CFR 202

Legal Deadline: None

Abstract: This regulatory action revises regulations governing (1) the designation of depositaries and financial agents of the Government and their authorization to accept deposits of public money and perform other specific services; and (2) the securing of public moneys in those depositaries. The revision removes references to financial institution insurance provided by the Federal Savings and Loan Insurance Corporation, which no longer exists; clarifies existing language regarding the valuation of collateral securities and depositary authorization to perform services other than acceptance of insured deposits; and updates authorities for the regulation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Donald Clark, Financial Program Specialist, Cash Management Planning & Policy Division, Department of the Treasury, Financial Management Service, 401 14th Street SW., Room 420, Washington, DC 20227
Phone: 202 874-7106

RIN: 1510–AA42

2592. INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES TREASURY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 12 USC 391; 31 USC 321; 31 USC 3328; 31 USC 3331; 31 USC 3343; 31 USC 3711; 31 USC 3716; 31 USC.3717; 31 USC 3334; 31 USC 3712; 31 USC 3328 note; 31 USC 3702 note; 318 US 363 (1943)

CFR Citation: 31 CFR 240

Legal Deadline: None

Abstract: This rule amends existing regulations governing the indorsement and payment of checks drawn on the United States Treasury. The changes are intended both to fix the time by which the Department of the Treasury can decline payment on Treasury checks and to provide financial institutions with a date certain for final payments. The revisions will also provide greater clarity by defining previously undefined terms and by ensuring symmetry with current Treasury regulations governing Federal payments utilizing the Automated Clearing House method. The revisions

provide that the Department of the Treasury may instruct Federal Reserve Banks to intercept benefit payment checks to deceased payees and to return, unpaid, those checks.

Timetable:

Action	Date	FR Cite
NPRM	09/21/95	60 FR 48940
NPRM Comment Period End	11/06/95	
NPRM	04/00/96	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Ronald Brooks, Senior Program Analyst, Financial Information, Department of the Treasury, Financial Management Service, Room 725-D, 3700 East-West Highway, Hyattsville, MD 20782
Phone: 202 874-8480

RIN: 1510–AA45

2593. MANAGEMENT OF FEDERAL AGENCY RECEIPTS, DISBURSEMENTS, AND OPERATION OF THE CASH MANAGEMENT IMPROVEMENTS FUND

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 31 USC 321; 31 USC 3301; 31 USC 3302; 31 USC 3321; 31 USC 3327; 31 USC 3328; 31 USC 3332; 31 USC 3335; 31 USC 3335 note; 31 USC 3720; 31 USC 6501; 31 USC 6503 note

CFR Citation: 31 CFR 206

Legal Deadline: None

Abstract: This revision to 31 CFR part 206 implements section 402 of the Government Management Reform Act of 1994, PL 103-356, which requires that all Federal wage, salary and retirement payments be disbursed by electronic funds transfer (EFT), unless another disbursement method is determined to be appropriate under the waiver standards promulgated by the Department of the Treasury. This mandatory EFT provision only applies to recipients of Federal wage, salary and retirement payments who begin to receive such payments on or after January 1, 1995. The revision to 31 CFR part 206 will establish appropriate group waiver standards and provide for the efficient, effective and orderly implementation of the Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Aurora Kassalow, Financial Program Specialist, Cash Management Policy Planning Division, Department of the Treasury, Financial Management Service, 401 14th St SW., Room 420, Washington, DC 20227
Phone: 202 874-5742

RIN: 1510–AA47

2594. • RECOGNITION OF INSURANCE COVERING TREASURY TAX AND LOAN DEPOSITARIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 31 USC 323; 31 USC 321; 31 USC 3303

CFR Citation: 31 CFR 226

Legal Deadline: None

Abstract: This regulation governs the actions of state sponsored insurance organizations which cover public money of the United States held by financial institutions designated as treasury tax and loan depositaries under 31 CFR part 203. The need for this regulation is being reviewed because it governs fewer than six financial institutions. These financial institutions may move to another insurer or may secure these deposits through the pledge of collateral.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald Clark, Financial Program Specialist, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, 401 14th St. SW., Room 420, Washington, DC 20227
Phone: 202 874-7106

RIN: 1510–AA53

DEPARTMENT OF THE TREASURY (TREAS)

Final Rule Stage

Financial Management Service (FMS)

2595. PAYMENT TO FINANCIAL INSTITUTIONS FOR CREDIT TO ACCOUNTS OF EMPLOYEES AND BENEFICIARIES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 321; 31 USC 3322; 31 USC 3332

CFR Citation: 31 CFR 209

Legal Deadline: None

Abstract: This proposed revision is a separate action from the revision to 31 CFR part 209 published December 12, 1992, in a notice of proposed rulemaking. This revision proposes to remove part 209 in its entirety. This part governs the regular remittance to financial institutions of Treasury checks which are for credit to the accounts of employees and beneficiaries. Regulations at 31 CFR part 210, implemented July 1, 1994, require that financial institutions receive Government Automated Clearing House transactions through electronic means. This regulatory change made a separate part 209 regarding checks unnecessary. In addition, proposed revisions to 31 CFR part 210, Federal Government Participation in the Automated Clearing House, make substantive changes that supersede the savings allotment provisions of part 209, because savings allotment and recurring benefit payments formerly made under the terms of part 209 are made by the

Automated Clearing House method under the terms of part 210.

Timetable:

Action	Date	FR Cite
NPRM	12/04/92	57 FR 57400
NPRM Comment Period End	01/04/93	
NPRM	08/04/93	58 FR 41449
Comment Period End	09/03/93	
NPRM	01/04/95	60 FR 416
Comment Period End	02/03/95	
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald Clark, Financial Program Specialist, Cash Management Policy & Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW., Washington, DC 20227
Phone: 202 874-7106

RIN: 1510–AA30

2596. FOREIGN EXCHANGE OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3513; 31 USC 321; 31 USC 3301; 31 USC 3302; 31 USC 3303; EO 10488; EO 10900; 22 USC 2363

CFR Citation: 31 CFR 281

Legal Deadline: None

Abstract: This regulation governs the administration of the purchase, custody, deposit, transfer, sale and reporting of foreign exchange (including credits and currencies) by executive departments and agencies. Currently, this regulation allows the purchase of foreign currency to the maximum of the estimated requirements for a thirty day period. This revision will restrict departments and agencies to a 5 to 7 day supply of funds in the operating account unless they have obtained a specific waiver of this requirement from the Department of the Treasury.

Timetable:

Action	Date	FR Cite
NPRM	01/29/96	61 FR 2750
NPRM Comment Period End	02/28/96	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce Riedl, Senior Advisor, International Funds Branch, Department of the Treasury, Financial Management Service, Room 5A19, PGCII, 3700 East West Highway, Hyattsville, MD 20782
Phone: 202 874-8916

RIN: 1510–AA48

2597. FEDERAL PROCESS AGENTS OF SURETY COMPANIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 9306

CFR Citation: 31 CFR 224

Legal Deadline: None

Abstract: This amendment is intended to update the regulation. The regulation currently requires surety companies to report their Federal process agent appointments to the Department of the Treasury. In practice, the Department of the Treasury no longer monitors Federal process agent appointments. Therefore, the revision eliminates this requirement.

Timetable:

Action	Date	FR Cite
NPRM	11/09/95	60 FR 56551
NPRM Comment Period End	12/11/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dorothy Martin, Manager, Surety Branch, Department of the Treasury, Financial Management Service, 3700 East West Highway, Room 6F04, Hyattsville, MD 20782
Phone: 202 874-6850

RIN: 1510–AA49

2598. ISSUANCE OF SETTLEMENT CHECKS FOR FORGED CHECKS DRAWN ON DESIGNATED DEPOSITARIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3343

CFR Citation: 31 CFR 235

Legal Deadline: None

Abstract: This revision proposes to amend 31 CFR part 235, which governs the issuance of settlement checks for checks drawn on designated depositaries of the United States by accountable officers of the United States that have been negotiated and paid on a forged or unauthorized indorsement. These amendments are intended to clarify the type of claim for which settlement checks will be issued under this section. The change will differentiate between a forgery claim and a nonreceipt inquiry. The revisions accommodate the concerns of disbursing agents regarding the necessary steps involved in the settlement check process. A better understanding of the process should result in settlement checks being issued in a more timely manner.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephanie Murray, Customer Liaison Specialist, Department of the Treasury, Financial Management Service, 3700 East West Highway, Room 800-D, Hyattsville, MD 20782
Phone: 202 874-8445

RIN: 1510–AA50

2599. CLAIMS ON ACCOUNT OF TREASURY CHECKS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

TREAS—FMS — **Final Rule Stage**

Legal Authority: 31 USC 321; 31 USC 3328; 31 USC 3331; 31 USC 3702; 31 USC 3702 note; 31 USC 3328 note

CFR Citation: 31 CFR 245

Legal Deadline: None

Abstract: 31 CFR part 245 governs the issuance of replacement checks for checks drawn on the United States when (1) the original check has been lost, stolen, destroyed or mutilated or defaced to such an extent that it is rendered non-negotiable; (2) the original check has been negotiated and paid on a forged or unauthorized indorsement; and (3) the original check has been cancelled pursuant to 31 CFR part 240. The regulation is being revised to update the regulation definitions to make them consistent with the language of the proposed revisions to the definitions in 31 CFR part 240. Making the definitions of 31 CFR part 245 consistent with the definitions found in 31 CFR part 240 will provide for a better understanding of the claims process for Federal agencies, financial institutions and any persons or entities to which a check may be issued.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephanie Murray, Customer Liaison Specialist, Department of the Treasury, Financial Management Service, 3700 East West Highway, Room 800-D, Hyattsville, MD 20782
Phone: 202 874-8445

RIN: 1510–AA51

2600. PAYMENTS UNDER JUDGMENT AND PRIVATE RELIEF ACTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 28 USC 2414; 31 USC 1304

CFR Citation: 31 CFR 256

Legal Deadline: None

Abstract: This regulation governs the procedure for securing payment for money judgments against the United States. The proposed revision will update the procedure for making claims. This will benefit claimants and others in understanding the claims process. This regulation currently sets a threshold for judgment claims greater than $100,000, and judgment claims equal to or less than $100,000. The change would eliminate the $100,000 threshold distinction for processing a claim. This change in the regulation would make it consistent with current practices for claimants securing money judgments against the United States.

Timetable:

Action	Date	FR Cite
NPRM	01/08/96	61 FR 552
NPRM Comment Period End	02/07/96	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jennifer Fitzmaurice, Chief, International Credit Section, Credit Accounting Branch, Department of the Treasury, Financial Management Service, 3700 East West Highway, Room 6D37, Hyattsville, MD 20782
Phone: 202 874-8740

RIN: 1510–AA52

2601. • DEPOSITARIES FOR FEDERAL TAXES

Priority: Other

Legal Authority: 12 USC 265; 12 USC 391; 31 USC 3122; 31 USC 323

CFR Citation: 31 CFR 214

Legal Deadline: None

Abstract: This regulation governed the designation of financial institutions as depositaries for Federal taxes and the handling of deposits of Federal taxes by such depositaries and by Federal Reserve Banks. On July 1, 1993, portions of this regulation were combined with 31 CFR part 203 "Treasury Tax and Loan Depositaries." (See 58 FR 35395). Part 214 should have been eliminated at that time. This action eliminates Part 214.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald Clark, Financial Program Specialist, Cash Management Policy and Planning Division, Department of the Treasury, Financial Management Service, Room 408, 401 14th St. SW., Washington, DC 20227
Phone: 202 874-7106

RIN: 1510–AA54

BILLING CODE 4810-35-F

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Prerule Stage

ALCOHOL

2602. • LABELING AND ADVERTISING OF MALT BEVERAGES

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205(e); 27 USC 205(f)

CFR Citation: 27 CFR 7

Legal Deadline: None

Abstract: ATF is considering revising its regulations in order to provide more information concerning the producer of a malt beverage, and better identification of the person for whom a malt beverage is produced in cases when a malt beverage is brewed under contract by a brewer for another person.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB45

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Proposed Rule Stage

ALCOHOL

2603. AMERICAN VITICULTURAL AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Legal Deadline: None

Abstract: Establishes grape-growing regions as American viticultural areas for purposes of labeling and advertising of wine.

Timetable:

Action	Date	FR Cite
Extension of Paso Robles, CA (contact Mary Lou Blake)		
NPRM 01/10/96 (61 FR 706)		
Comment Period End 04/09/96		
Final Rule 07/00/96		
Malibu-Newton Canyon, CA (contact David Brokaw)		
NPRM 12/22/95 (60 FR 66535)		
Comment Period End 02/20/96		
Final Rule 07/00/96		
Mendocino Ridge, CA (contact David Brokaw)		
NPRM 07/00/96		
San Francisco Bay, CA (contact David Brokaw)		
NPRM 07/00/96		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: See Timetable, American Viticultural Areas, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AA07

2604. STANDARDS OF IDENTITY FOR MALT BEVERAGES

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 7

Legal Deadline: None

Abstract: A coalition of consumer organizations has petitioned ATF to establish a standard of identity for the labeling of malt liquor. Currently there are no standards of identity for any malt beverages. ATF is considering regulatory action relating to a standard of identity or the use of the term Malt Liquor for designating a Malt Beverage. ATF is also considering changes to 27 CFR 7.24, Class and Type, to recognize new categories of malt beverages as class and type designations for malt beverages with flavorings and other materials added.

Timetable:

Action	Date	FR Cite
ANPRM	04/19/93	58 FR 21126
ANPRM Comment Period End	07/19/93	
ANPRM Comment Period Extended	07/19/93	58 FR 38542
ANPRM Comment Period Extended End	09/17/93	
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AA95

2605. EXPORTATION OF LIQUORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 252

Legal Deadline: None

Abstract: ATF is proposing recodification of 27 CFR part 252 to eliminate obsolete or unnecessary rules and forms and streamline export processing, while providing adequate protection for the revenue.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40887
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	10/15/92	57 FR 47320
ANPRM Comment Period Extended End	12/07/92	
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AA98

2606. ALCOHOLIC CONTENT LABELING FOR MALT BEVERAGES

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 7

Legal Deadline: None

Abstract: A 10/28/92 Decision in the U.S. District Court for the District of Colorado held that the Federal Alcohol Administration Act prohibition against the statement of Alcoholic content on malt beverage labels is unconstitutional under the first amendment. ATF issued an interim rule on 4/19/93 which permits the optional labeling of malt beverages with their alcoholic content. The Supreme Court heard oral arguments in the appeal of this court decision on 11/30/94. The Supreme Court decided this case on April 19, 1995, in favor of Coors, and unanimously found the FAA Act prohibition against labeling malt beverages with their alcohol content unconstitutional. ATF will issue an NPRM on the subject of malt beverage labeling to request information on tolerances, type size, placement, and whether such an alcoholic content labeling requirement should be mandatory.

Timetable:

Action	Date	FR Cite
NPRM	04/19/93	58 FR 21233
Interim Final Rule	04/19/93	58 FR 21228
NPRM Comment Period End	07/19/93	
NPRM Comment Period Extended	07/19/93	58 FR 38543
NPRM Comment Period Extended End	09/17/93	
NPRM	05/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230

Fax: 202 927-8602

RIN: 1512–AB17

2607. PRODUCTION OF BEER FOR PERSONAL OR FAMILY USE AT BREW-ON-PREMISES FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5051; 26 USC 5053(e)

CFR Citation: 27 CFR 25.205; 27 CFR 25.206

Legal Deadline: None

Abstract: ATF is considering issuing regulations relating to the production of beer and the operation of Brew-on-Premises Business. Under the statutory exemption provided at 26 U.S.C. 5053(e), adults may produce beer for personal or family use without payment of tax. Since there is no restriction on the place where such beer may be produced, Brew-on-Premises have come into existence as commercial establishments where adults may produce such beer. Regulations may require proprietors of brew-on-premises to provide notice to ATF and to keep certain records.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB18

2608. MULTISTATE APPELLATIONS OF ORIGIN FOR CONTIGUOUS STATES

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.25a(d) to 4.25a(e)

Legal Deadline: None

Abstract: ATF is issuing an NPRM requesting comments and addressing additional issues in response to comments received on the previous notice. Temporary regulations are not being issued at this time.

Timetable:

Action	Date	FR Cite
NPRM	12/14/93	58 FR 65295
NPRM Comment Period End	01/13/94	
NPRM Comment Period Extended	01/18/94	59 FR 2548
NPRM Comment Period Extended End	03/21/94	
NPRM	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: David Brokaw, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB28

2609. REVISION OF BREWERY REGULATIONS AND ISSUANCE OF REGULATIONS FOR TAVERNS ON BREWERY PREMISES (BREWPUBS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 27 USC 5401 to 5417

CFR Citation: 27 CFR 25

Legal Deadline: None

Abstract: ATF intends to streamline regulations applying to breweries. ATF will eliminate obsolete regulatory provisions. A formula system for manufactured beer products will replace statements of process attached to the brewers notice. The annual notice for small brewers to pay reduced rate of tax will be eliminated. Separate regulations for brewpubs will be added to part 25.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles N. Bacon, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB37

2610. • LABELING OF UNAGED GRAPE BRANDY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations to permit the use of the word "unaged" as an alternative to "immature", to describe grape brandy which has not been stored in oak containers.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB46

FIREARMS

2611. • DEFINITION FOR THE CATEGORY OF PERSONS PROHIBITED FROM RECEIVING FIREARMS

Priority: Other Significant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations to provide definitions for the categories of persons prohibited from receiving or possessing firearms. The proposed definitions will facilitate the implementation of the national instant criminal background check system (NICS) required under the Brady Law.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB41

2612. • MANUFACTURES EXCISE TAX—FIREARMS AND AMMUNITION EXEMPTION CERTIFICATES/STATEMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 4181

CFR Citation: 27 CFR 53

Legal Deadline: None

Abstract: Exemption certificates and vendor/vendee statements are required documents to support the taxpayers claim for refund or credit of Federal excise tax. The Bureau has prepared these documents in a printed format and will make them available for use by the taxpayer. Currently industry must draft their own documents according to guidelines in the regulations. The pre-printed documents relieve industry from the burden of drafting these documents.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Lou Blake, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB42

TOBACCO PRODUCTS

2613. EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 290

Legal Deadline: None

Abstract: ATF is proposing the recodification of 27 CFR part 290 to eliminate obsolete or unnecessary rules and forms and streamline export processing, while providing adequate protection for the revenue.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40889
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	01/08/93	58 FR 3247
ANPRM Comment Period Extended End	03/09/93	
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marjorie Ruhf, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB03

DEPARTMENT OF THE TREASURY (TREAS) — Final Rule Stage
Bureau of Alcohol, Tobacco and Firearms (BATF)

ALCOHOL

2614. GRAPE WINE DESIGNATION—GAMAY BEAUJOLAIS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: Gamay Beaujolais has been used as a term to identify certain wines made from Pinot noir or Napa Gamay grapes. Since Gamay Beaujolais is not the name of a grape variety, its usage on wine labels has been questioned. A notice of proposed rulemaking was published in the Federal Register on 4/5/94. Comment period was closed on 7/5/94. This rulemaking project was formerly included in rulemaking for winegrape varietal designation, RIN 1512-AA67.

Timetable:

Action	Date	FR Cite
NPRM	04/05/94	59 FR 15878
NPRM Comment Period End	07/05/94	
Final Action	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Busey, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB08

2615. NEW WINE TREATING MATERIALS AND PROCESSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5382; 26 USC 5368; 26 USC 5388

CFR Citation: 27 CFR 24.246; 27 CFR 24.248

Legal Deadline: None

Abstract: This regulation will allow winemakers to use new wine treating materials and processes in the production, cellar treatment, and finishing off wine, if such materials and processes are found by the wine industry to be in accordance with

"good commercial practice." No alternatives are being considered. No cost is associated with this action. This action will benefit winemakers by giving them more tools to produce quality wine and will benefit consumers by ensuring that more quality wine is available for purchase.

Timetable:

Action	Date	FR Cite
NPRM	09/30/94	59 FR 49870
NPRM Comment Period End	11/29/94	
Reopening of Comment Period	01/18/95	60 FR 3598
Reopening of Comment Period End	03/20/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert White, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB26

2616. ALTERATION OF LABELS ON CONTAINERS OF DISTILLED SPIRITS, WINE, BEER

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205(e); 26 USC 5301; 26 USC 7805

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: Proposed regulations will make it unlawful to relabel a distilled spirits, wine, or malt beverage container if the effect of such action is to remove from the container or label any information code placed on the product by the producer for tracing purposes.

Timetable:

Action	Date	FR Cite
NPRM	01/13/95	60 FR 3171
NPRM Comment Period End	03/14/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel J. Hiland, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB32

2617. PROCEDURES FOR REVOKING PREVIOUSLY APPROVED CERTIFICATES OF LABEL APPROVAL, EXEMPTIONS FROM LABEL APPROVAL, OR DISTINCTIVE LIQUOR BOTTLE APPROVALS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205; 26 USC 5301; 26 USC 7805

CFR Citation: 27 CFR 4.40; 27 CFR 4.50; 27 CFR 5.56; 27 CFR 5.51; 27 CFR 5.55; 27 CFR 7.31; 27 CFR 7.41; 27 CFR 13 (New); 27 CFR 19.633; 27 CFR 19.641

Legal Deadline: None

Abstract: This notice of proposed rulemaking proposes to establish regulatory procedures to revoke previously approved certificates of label approval, exemptions from label approval, or distinctive liquor bottle approvals. These revocation procedures are necessary where label approvals, etc., have been approved in error. Adoption of these procedures will allow ATF to revoke, in an orderly and efficient manner, label approvals, exemptions from label approval, or distinctive liquor bottle approvals which have been approved in error and will provide for appeals by industry members.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47506
NPRM Comment Period End	12/12/95	
Reopening of Comment Period	01/22/96	61 FR 1545
Reopening of Comment Period End	02/21/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tami Light, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB34

2618. REGISTRATION OF FORMULAS AND STATEMENTS OF PROCESS FOR DOMESTICALLY PRODUCED ALCOHOLIC BEVERAGES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 81c; 19 USC 1311; 26 USC 5001; 26 USC 5002; 26 USC 5004 to 5006; 26 USC 5008; 26 USC 5010; 26 USC 5041; 26 USC 5061; 26 USC 5062; 26 USC 5066; 26 USC 5081; 26 USC 5101; 26 USC 5111 to 5113; 27 USC 205; ...

CFR Citation: 27 CFR 5.26; 27 CFR 5.28; 27 CFR 19.187; 27 CFR 19.324; 27 CFR 19.331; 27 CFR 19.378; 27 CFR 24.80 to 24.83; 27 CFR 24.127; 27 CFR 24.201; 27 CFR 24.211; 27 CFR 25.67; 27 CFR 25.71(b)(2); 27 CFR 70.421; 27 CFR 70.423 to 428; 27 CFR 250.56

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations to require the registration, rather than approval, of formulas and statements of process for certain domestically produced wines, distilled spirits, and malt beverages. ATF believes that the proposed regulations will provide greater flexibility to the industry by enabling proprietors to commence production operations in a more expeditious manner.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 52311
NPRM Comment Period End	01/26/96	
NPRM Comment Period Extended	01/26/96	61 FR 2459
NPRM Comment Period Extended End	02/26/96	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB40

2619. • BASIC PERMIT REQUIREMENTS UNDER THE FEDERAL ALCOHOL ADMINISTRATION ACT, NONINDUSTRIAL USE OF DISTILLED SPIRITS AND WINE, BULK SALES AND BOTTLING OF DISTILLED SPIRITS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 27 USC 202; 27 USC 203; 27 USC 204; 27 USC 206

CFR Citation: 27 CFR 1; 27 CFR 2; 27 CFR 3

Legal Deadline: None

Abstract: As part of a regulatory reform initiative, ATF is revising and recodifying the regulations covering the basic permit requirements, the nonindustrial use of spirits and wine, and the bulk sales and bottling of distilled spirits. Changes include consolidating 27 CFR Parts 1, 2, and 3 into a single Part 1 for ease of use and minor technical corrections.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Brokaw, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB43

2620. • MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 6423; 26 USC 5064

CFR Citation: 27 CFR 70; 27 CFR 170

Legal Deadline: None

Abstract: The proposed final rule amends the regulations in 27 CFR by transferring the regulations in Subpart E and O from part 170 to part 70. ATF has also reviewed the regulations within 27 CFR part 170 and determined that the bond requirements, provided for in Sections 170.94 - 170.99 are no longer needed. Consequently, the bonding provisions found in 27 CFR part 170, Subpart E have been eliminated.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel Hiland, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB44

2621. • TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805; 27 USC 205; 27 USC 206; 27 USC 215

CFR Citation: 27 CFR 1; 27 CFR 4; 27 CFR 7; 27 CFR 16; 27 CFR 19; 27 CFR 20; 27 CFR 22; 27 CFR 24; 27 CFR 25; 27 CFR 53; 27 CFR 55; 27 CFR 71; 27 CFR 170; 27 CFR 178; 27 CFR 179; ...

Legal Deadline: None

Abstract: These technical amendments are intended to provide uniformity and improve the clarity of title 27.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Angela Shanks, Technical Aide, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB47

FIREARMS

2622. FIREARMS AND AMMUNITION EXCISE TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 4181

CFR Citation: 27 CFR 53

Legal Deadline: None

Abstract: Regulations will simplify the deposit rules for firearms and ammunition manufacturers excise taxes by revising the method for making deposits of these taxes.

Timetable:

Action	Date	FR Cite
NPRM	06/28/95	60 FR 33664
Interim Final Rule	06/28/95	60 FR 33665
NPRM Comment Period End	09/26/95	
Final Action	01/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tami Light, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AB33

2623. IMPLEMENTATION OF PUBLIC LAW 103-322, THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

Priority: Other Significant

Legal Authority: 5 USC 522(a); 18 USC 847; 18 USC 921 to 930; 18 USC 1261; 19 USC 1607; 19 USC 1610; 19 USC 1612 to 1613; 19 USC 1618; 26 USC 7101; 26 USC 7322 to 7326; 31 USC 9301; 31 USC 9303 to 9304; 31 USC 9306; 40 USC 304(k); 44 USC 3504(h); ...

CFR Citation: 27 CFR 55; 27 CFR 72; 27 CFR 178; 27 CFR 179

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco, and Firearms (ATF) is issuing this temporary rule to implement the provisions of Public Law 103-322, the Violent Crime Control and Law

TREAS—BATF — **Final Rule Stage**

Enforcement Act of 1994, enacted September 13, 1994. These regulations implement the law by restricting the manufacture, transfer, and possession of certain semiautomatic assault weapons and large-capacity ammunition feeding devices. Regulations are also prescribed with regard to reports of theft or loss of firearms from a licensee's inventory or collection, new requirements for Federal firearms licensing, responses by firearms licensees to requests for gun trace information, possession of firearms by persons subject to restraining orders, and possession of a handgun, or ammunition for a handgun, by juveniles.

Timetable:

Action	Date	FR Cite
NPRM	04/06/95	60 FR 17494
Interim Final Rule	04/06/95	60 FR 17446
NPRM Comment Period End	07/05/95	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB35

PROCEDURAL

2624. 27 CFR PART 70—CONFERENCE AND PRACTICE REQUIREMENTS FOR THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 70.511 to 70.526

Legal Deadline: None

Abstract: To document the adoption of certain conference and practice rules from IRS regulations in 26 CFR part 600 to ATF regulations in 27 CFR part 70. Currently the conference and practice regulations for ATF are still found in 26 CFR part 600 which is administered by IRS. By this final rule Sections 601.521 through 601.525 are adopted in whole and applicable sections of 601.501 through 601.509 are adopted in part and placed in 27 CFR part 70 which is administered by ATF.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Bryce, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226
Phone: 202 927-8220
Fax: 202 927-8602

RIN: 1512–AB11

DEPARTMENT OF THE TREASURY (TREAS) — **Long-Term Actions**
Bureau of Alcohol, Tobacco and Firearms (BATF)

2625. NONBEVERAGE DRAWBACK

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 27 CFR 197

Timetable:

Action	Date	FR Cite
NPRM	07/29/87	52 FR 28286
NPRM Comment Period End	10/29/87	
NPRM	08/31/92	57 FR 39536
NPRM Comment Period End	09/30/92	
NPRM Comment Period Extended	10/01/92	57 FR 45357
NPRM Comment Period Extended End	10/30/92	
Final Action	06/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steve Simon
Phone: 202 927-8210
Fax: 202 927-8602

RIN: 1512–AA20

DEPARTMENT OF THE TREASURY (TREAS) — **Completed Actions**
Bureau of Alcohol, Tobacco and Firearms (BATF)

2626. WINEGRAPE VARIETAL DESIGNATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 4

Completed:

Reason	Date	FR Cite
Final Action	01/08/96	61 FR 522
Final Action Effective	02/07/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Bacon
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AA67

2627. USE OF TERM "RESERVE" ON WINE LABELS

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 4

Completed:

Reason	Date	FR Cite
Withdrawn - Further Study Required.	01/30/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Ficaretta
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AB25

BILLING CODE 4810-31-F

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC) — **Proposed Rule Stage**

2628. CAPITAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1828 Note; 12 USC 1828(n); 12 USC 1831n Note; 12 USC 1835; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: None

Abstract: As part of the OCC's ongoing efforts to develop and refine capital standards to ensure the safety and soundness of the national banking system and to implement statutory requirements, the OCC is proposing to amend various provisions of the capital rules for national banks. Specifically, these changes include: (1) collateralized transactions; (2) mortgage servicing rights; (3) market risk; (4) market risk backtesting; and (5) two rules on recourse arrangements ((a) recourse arrangements and direct credit substitutes; and (b) small business loans).

Timetable:

Collateralized Transactions
NPRM 06/00/96
Market Risk
NPRM 07/25/95 (60 FR 38082)
SNPRM 03/07/96 (61 FR 9114)
SNPRM Comment Period End 04/08/96
Final Rule 06/00/96
Mortgage Servicing Rights
Interim Rule 08/01/95 (60 FR 39226)
Final Rule 06/00/96
OECD Membership
NPRM 10/14/94 (59 FR 52100)
Final Rule 12/20/95 (60 FR 66042)
Recourse: Recourse and Direct Credit Substitutes
ANPRM/NPRM 05/25/94 (59 FR 27116)
NPRM 06/00/96
Recourse: Small Business Loans
Interim Rule 09/13/95 (60 FR 47455)

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Roger Tufts, Senior Economic Advisor, or Christina Benson, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 874-5270, fax (202)874-5417, 250 E Street SW., Washington, DC 20219.

Agency Contact: Ronald Shimabukuro, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889

RIN: 1557–AB14

2629. ASSESSMENT OF FEES; NATIONAL BANKS; DISTRICT OF COLUMBIA BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 481; 12 USC 482; 12 USC 5102; 15 USC 78c and 78l; 26 DC Code 102

CFR Citation: 12 CFR 8

Legal Deadline: None

Abstract: This rulemaking would reconsider assessments and fees on national banks.

Timetable:

Assessments Review
NPRM 11/00/96
Trust Fees
Interim Rule 11/18/94 (59 FR 59640)
Final Rule 11/00/96

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACTS: Patricia Grady, Senior Attorney, Administrative and Internal Law Division, (202)874-4460, fax (202)874-4555, and Mark Tenhundfeld, Senior Attorney, Legislative and Regulatory Activities Division, (202)874-5090, fax (202)874-4889, 250 E Street SW., Washington, DC 20219.

Agency Contact: Roy Madsen, Assistant Chief Financial Officer, Department of the Treasury, Comptroller of the Currency, Financial Systems Management Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5130
Fax: 202 874-5171

RIN: 1557–AB41

2630. INTERSTATE DEPOSIT PRODUCTION OFFICES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1835a

CFR Citation: 12 CFR Not yet determined

Legal Deadline: Other, Statutory, June 1, 1997.
Regulation must be effective.

Abstract: The OCC, as part of a joint agency rulemaking effort with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision, is promulgating a new regulation required by section 109 of the Reigle-Neal Interstate Banking and Branching Efficiency Act of 1994, Pub. L. 103-328, 108 Stat. 2338 (12 USC 1835a). The statute is intended to insure that out-of-State banks do not use their new interstate branching authority primarily for the purpose of deposit production.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Kevin Lee, Senior Attorney, Community and Consumer Law Division, (202)874-5750, fax (202)874-5322, 250 E Street SW., Washington, DC 20219.

Agency Contact: Andrew Gutierrez, Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889

RIN: 1557–AB50

2631. GOVERNMENT SECURITIES SALES PRACTICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o-3; 15 USC 78o-5

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The OCC, in conjunction with the FRB and FDIC, is considering issuing rules regarding the responsibilities of banks that are Government securities brokers or dealers when making recommendations to their customers concerning Government securities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACTS: Daniel Cooke, Attorney, Legislative and Regulatory Activities Division, (202)874-5090, fax (202)874- 4889, and Elizabeth Malone, Senior Attorney, Securities and Corporate Practices Division, (202)874-

5210, fax (202)874-5279, 250 E Street SW., Washington, DC 20219.

Agency Contact: Mark Tenhundfeld, Senior Attorney, Legislative & Regulatory Activities Division, Department of the Treasury, Comptroller of the Currency, 250 E Street SW., Washington, DC 20219 Phone: 202 874-5090 Fax: 202 874-4889

RIN: 1557–AB52

2632. • LENDING LIMITS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 84; 12 USC 93a

CFR Citation: 12 CFR 32

Legal Deadline: None

Abstract: The OCC intends to make several technical corrections to the current lending limit regulation and to expand the exception for loans made to protect collateral to include personal property as well as real property.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Aline Henderson, Senior Attorney, Bank Activities & Structure Division, (202)874-5300, fax (202)874-5322, 250 E Street SW., Washington, DC 20219.

Agency Contact: Mark Tenhundfeld, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities Division, 250 E Street SW., Washington, DC 20219 Phone: 202 874-5090 Fax: 202 874-4889

RIN: 1557–AB55

DEPARTMENT OF THE TREASURY (TREAS)

Comptroller of the Currency (OCC)

Final Rule Stage

2633. FIDUCIARY ACTIVITIES OF NATIONAL BANKS; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 24(Seventh); 12 USC 92a; 12 USC 93a; 12 USC 481; 15 USC 78c(a)(34)(B); 15 USC 78q; 15 USC 78q-1; 15 USC 78w

CFR Citation: 12 CFR 9

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review Program, is reviewing all its rules and eliminating or modifying regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is conducting an overall review of its rules regarding fiduciary powers of national banks and collective investment funds. The OCC would update and clarify its rules, codify recent court decisions, codify administrative decisions, streamline processes, and eliminate any unnecessary regulatory burden.

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66163
NPRM Comment Period End	02/20/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Dean E. Miller, Senior Advisor for Fiduciary Responsibilities, (202)874-4852, fax (202)874-5221, 250 E Street SW., Washington, DC 20219.

Agency Contact: Andrew Gutierrez, Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219 Phone: 202 874-5090 Fax: 202 874-4889

RIN: 1557–AB12

2634. STANDARDS FOR SAFETY AND SOUNDNESS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 1831p-1

CFR Citation: 12 CFR 30

Legal Deadline: Final, Statutory, August 1, 1993.

Abstract: The OCC has initiated a rulemaking soliciting public comment on proposed standards for asset quality and earnings. These standards implement section 132 of the Federal Deposit Insurance Corporation Improvement Act of 1991, as amended by section 318 of the Riegle Community Development and Regulatory Improvement Act of 1994.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/92	57 FR 31336
ANPRM Comment Period End	09/16/92	
NPRM	11/18/93	58 FR 60802
NPRM Comment Period End	01/03/94	
Asset Quality and Earnings		
Proposed Guidelines 07/10/95 (60 FR 35674)		
Final Rule 04/00/96		
Standards for Safety and Soundness		
Final Rule 07/10/95 (60 FR 35674)		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Mark Tenhundfeld, Senior Attorney, Legislative and Regulatory Activities Division, (202)874-5090, fax (202)874-4889, 250 E Street SW., Washington, DC 20219.

Agency Contact: Emily R. McNaughton, National Bank Examiner, Department of the Treasury, Comptroller of the Currency, Office of the Chief National Bank Examiner, 250 E Street SW., Washington, DC 20219 Phone: 202 874-5170 Fax: 202 874-5417

RIN: 1557–AB17

2635. INTERNATIONAL OPERATIONS AND FEDERAL BRANCHES AND AGENCIES; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1 et seq; 12 USC 24(Seventh); 12 USC 93a; 12 USC 161; 12 USC 602; 12 USC 3101 et seq; 12 USC 3901 et seq

CFR Citation: 12 CFR 20; 12 CFR 28; 12 CFR 5

Legal Deadline: Final, Statutory, September 29, 1995.

Abstract: The OCC, as part of the OCC Regulation Review Program, is reviewing all its rules and eliminating regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is conducting an overall review of its rules regarding national banks' international activities in Part 20 and the activities of Federal branches and agencies of foreign banks in the United States in Part 28. The OCC will update and clarify its rules, streamline processes, and eliminate any unnecessary regulatory burden. The OCC will work to insure that its changes do not erode public protection or bank safety and soundness. Sec. 107(b) of the Riegle-Neal Interstate Act, P.L. 103-328, 12 USC 3104 note, requires the OCC to revise its regulations governing the types of deposits that may be accepted by uninsured Federal branches of foreign banks.

Timetable:

Action	Date	FR Cite
NPRM	07/05/95	60 FR 34907
NPRM Comment Period End	09/05/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LEGAL DEADLINE CONT: that may be accepted by uninsured Federal branches of foreign banks.

Agency Contact: Raija Bettauer, Counselor for International Activities, Department of the Treasury, Comptroller of the Currency, 250 E Street SW., Washington, DC 20219 Phone: 202 874-0680 Fax: 202 874-5221

RIN: 1557–AB26

2636. INVESTMENT SECURITIES; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1 et seq; 12 USC 24(Seventh); 12 USC 93a

CFR Citation: 12 CFR 1; 12 CFR 7

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review Program, is reviewing all its rules and eliminating regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is conducting an overall review of its rules regarding investment securities. Consistent with safety and soundness requirements, the OCC would update and clarify its rules, codify recent court decisions and administrative decisions, incorporate statutory changes, streamline processes, and eliminate any unnecessary regulatory burden.

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66152
NPRM Comment Period End	02/20/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stuart Feldstein, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities, 250 E Street SW., Washington, DC 20219 Phone: 202 874-5090 Fax: 202 874-4889

RIN: 1557–AB37

2637. MANAGEMENT OFFICIAL INTERLOCKS; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 3207; 12 USC 93a

CFR Citation: 12 CFR 26

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review program, is reviewing all its rules and eliminating regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is conducting a comprehensive review of the Management Interlocks regulations. The OCC would update and clarify its regulation in order to eliminate any provisions that impose unnecessary regulatory burdens relative to the anticompetitive concerns that underlie the regulation. The OCC also intends to amend its regulation to conform to the changes brought about by the Riegle Community Development and Regulation Improvement Act of 1994 (CDRI).

Timetable:

Action	Date	FR Cite
NPRM	12/29/95	60 FR 67424
NPRM Comment Period End	02/27/96	
Final Action	09/00/96	
Management Interlocks Small Market Share Exemption		
NPRM 06/09/94 (59 FR 29740)		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The Small Market Share Exemption NPRM was withdrawn as part of the 12/29/95 NPRM.

Agency Contact: Mark Tenhundfeld, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219 Phone: 202 874-5090 Fax: 202 874-4889

RIN: 1557–AB39

2638. EXTENSIONS OF CREDIT TO NATIONAL BANK INSIDERS; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 375a(4); 12 USC 375b(3); 12 USC 1817(k); 12 USC 1972(2)(G)(ii)

CFR Citation: 12 CFR 31

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review Program, is reviewing all its rules and eliminating or modifying regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is conducting an overall review of its rules regarding loans to insiders. The OCC would also update the insider lending rules as needed.

Timetable:

Action	Date	FR Cite
NPRM	12/11/95	60 FR 63461
NPRM Comment Period End	02/09/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Tenhundfeld, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889

RIN: 1557–AB40

2639. RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 24; 12 USC 92a

CFR Citation: 12 CFR 12

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review Program, is reviewing all its rules and eliminating regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is conducting an overall review of its rules regarding recordkeeping and confirmation requirements for securities transactions. The OCC would update and streamline its regulations to reduce unnecessary burden and regulatory costs. The proposed revision to Part 12 will reorganize the regulation by placing related subjects together, clarify areas where rules are unclear or confusing, and update various provisions to address market developments.

Timetable:

Action	Date	FR Cite
NPRM	12/22/95	60 FR 66517
NPRM Comment Period End	02/20/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Suzette Greco, Senior Attorney, Securities and Corporate Practices Division, (202)874-5210, fax (202)874-5279, 250 E Street SW., Washington, DC 20219.

Agency Contact: Mark Tenhundfeld, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889

RIN: 1557–AB42

2640. UNIFORM RULES OF PRACTICE AND PROCEDURE; REGULATION REVIEW

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 504; 5 USC 554 to 557; 12 USC 93(b); 12 USC 164; 12 USC 505; 12 USC 1817; 12 USC 1818; 12 USC 1820; 12 USC 1831o; 12 USC 1972; 12 USC 3102; 12 USC 3108; 12 USC 3909

CFR Citation: 12 CFR 19

Legal Deadline: None

Abstract: The OCC would: (1) implement section 112(g)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 to develop joint agency procedures for the suspension and debarment of accountants, upon a showing of good cause, from performing certain audit services; and (2) amend the Uniform Rules to increase efficiency in the administrative adjudication process. Further, the OCC would make technical changes including minor changes to increase the efficiency of the administrative adjudication process.

Timetable:

Action	Date	FR Cite
Suspension and Debarment of Accountants NPRM	00/00/00	
Uniform Rules – Administrative Adjudication Process NPRM	08/23/95	60 FR 32882)
Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel Cooke, Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889

RIN: 1557–AB43

2641. LEASING; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1; 12 USC 24(Seventh and Tenth); 12 USC 93a

CFR Citation: 12 CFR 23

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review Program, is reviewing all its rules and eliminating or modifying regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is conducting an overall review of its rules regarding lease financing transactions. The OCC would update and clarify its regulation in order to eliminate any provisions that impose unnecessary regulatory burdens.

Timetable:

Action	Date	FR Cite
NPRM	09/06/95	60 FR 46246
NPRM Comment Period End	11/06/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACTS: Morris Morgan, Credit and Management Policy, Chief National Bank Examiner's Office, (202)874-5170, fax (202)874-5350, 250 E Street, SW., Washington, DC 20219.

Agency Contact: Jacqueline Lussier, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889

RIN: 1557–AB45

2642. COMMUNITY DEVELOPMENT CORPORATION AND PROJECT INVESTMENTS; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 24(Eleventh); 12 USC 93a; 12 USC 161; 12 USC 481; 12 USC 1818

CFR Citation: 12 CFR 24

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review program, is reviewing all its rules and eliminating regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is conducting a comprehensive review of Part 24 to eliminate unnecessary regulatory burdens while encouraging national banks to make prudent investments in community development corporations and projects.

Timetable:

Action	Date	FR Cite
NPRM	12/28/95	60 FR 67091
NPRM Comment Period End	02/26/96	
Final Action	05/00/96	
Reinvestment Provision NPRM	10/26/95	(60 FR 54819)
Final Rule	12/28/95	(60 FR 67049)

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Michele Meyer, Attorney, Community and Consumer Law Division, (202)874-5750, fax (202)874-5322, 250 E Street SW., Washington, DC 20219.

Agency Contact: Karen McSweeney, Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities Division, 250 E Street SW., Washington, DC 20291
Phone: 202 874-5090
Fax: 202 874-4889

RIN: 1557–AB46

2643. LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 93a; 42 USC 4012a; 42 USC 4104a; 42 USC 4104b; 42 USC 4106; 42 USC 4128

CFR Citation: 12 CFR 22

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review Program, is reviewing all its rules and eliminating regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that Program, the OCC is reviewing its rules, policies, and procedures governing loans in areas having special flood hazards. The OCC would update and clarify its regulation in order to eliminate any provisions that impose unnecessary regulatory burdens. In addition, this rulemaking would implement the National Flood Insurance Reform Act of 1994.

Timetable:

Action	Date	FR Cite
NPRM	10/18/95	60 FR 53962
NPRM Comment Period End	12/18/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Carol Workman, Compliance Specialist, Compliance Management Division, (202)874-4858, fax (202)874-5221, and Margaret Hesse, Attorney, Community & Consumer Law Division, (202)874-5750, fax (202)874-5322, 250 E Street, SW., Washington, DC 20219.

Agency Contact: Jacqueline Lussier, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889

RIN: 1557–AB47

2644. DISPOSITION OF CREDIT LIFE INSURANCE INCOME; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 24(Seventh); 12 USC 93a; 12 USC 1818

CFR Citation: 12 CFR 2

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review Program, is reviewing all its rules and eliminating or modifying regulations that impose unnecessary burdens relative to maintaining safety and soundness and accomplishing other statutory responsibilities of the OCC. As part of that program, the OCC is conducting an overall review of its rules regarding the disposition of credit life insurance income.

TREAS—OCC

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47498
NPRM Comment Period End	11/13/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stuart E. Feldstein, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities, Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889

RIN: 1557–AB49

2645. COMMUNITY REINVESTMENT ACT REGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 21; 12 USC 22; 12 USC 26; 12 USC 27; 12 USC 30; 12 USC 36; 12 USC 93a; 12 USC 161; 12 USC 215; 12 USC 481; 12 USC 1814; 12 USC 1816; 12 USC 1828(c); 12 USC 2901 to 2907

CFR Citation: 12 CFR 25

Legal Deadline: None

Abstract: The OCC, with the other Federal financial regulators, has revised the Community Reinvestment Act Regulations to provide clearer guidance to financial institutions on how their CRA performance will be assessed. Additionally, the agencies are considering making a technical correction and minor technical changes to clarify the transition rules.

Timetable:

Action	Date	FR Cite
Final Rule	12/20/95	60 FR 66048
Final Rule Effective	04/01/96	
Final Rule	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Matthew Roberts, Director, Department of the Treasury, Comptroller of the Currency, Community and Consumer Law Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5750
Fax: 202 874-5322

RIN: 1557–AB51

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Long-Term Actions

2646. RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 5; 12 CFR 7; 12 CFR 16

Timetable:

Action	Date	FR Cite
NPRM	11/29/94	59 FR 61034
NPRM Comment Period End	01/30/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stuart Feldstein
Phone: 202 874-5090
Fax: 202 874-4889

RIN: 1557–AB27

2647. • FAIR HOUSING HOME LOAN DATA SYSTEM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 12 USC 1 et seq; 12 USC 93a; 12 USC 161; 12 USC 481; 12 USC 1818; 15 USC 1691 et seq; 42 USC 3601 et seq

CFR Citation: 12 CFR 27

Legal Deadline: None

Abstract: The OCC, as part of the OCC Regulation Review Program, is reviewing all its rules and eliminating or modifying regulations that impose unnecessary burdens. As part of that Program, the OCC is conducting a comprehensive review of its Fair Housing Home Loan Data System. The OCC would update and clarify its regulation in order to eliminate any provision that imposes unnecessary regulatory burdens.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Tenhundfeld, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889

RIN: 1557–AB53

2648. • SALESPERSON TESTING AND FILING REQUIREMENTS FOR RETAIL SALES OF NON-DEPOSIT INVESTMENT PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The regulation will require bank employees to meet certain qualification standards before selling non-deposit investment products in a bank.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Joel Miller, Senior Attorney, Securities and Corporate Practices Division, (202)874-5210, fax (202)874-5279, 250 E Street SW., Washington, DC 20219.

Agency Contact: Mark Tenhundfeld, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative & Regulatory Activities

TREAS—OCC

Long-Term Actions

Division, 250 E Street SW., Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889

RIN: 1557–AB54

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Completed Actions

2649. DESCRIPTION OF OFFICE, PROCEDURES, PUBLIC INFORMATION; REGULATION REVIEW

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 4; 12 CFR 10; 12 CFR 11; 12 CFR 18; 31 CFR 1

Completed:

Reason	Date	FR Cite
Final Action	11/15/95	60 FR 57315
Final Action Effective	01/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew Gutierrez
Phone: 202 874-5090
Fax: 202 874-4889

RIN: 1557–AA67

2650. MINIMUM SECURITY DEVICES AND PROCEDURES, REPORTS OF SUSPICIOUS ACTIVITIES, AND BANK SECRECY ACT COMPLIANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 7; 12 CFR 31

Completed:

Reason	Date	FR Cite
Final Action	02/09/96	61 FR 4849
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert S. Pasley
Phone: 202 874-4800
Fax: 202 874-5301

RIN: 1557–AB19

2651. INTERPRETIVE RULINGS; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 21

Completed:

Reason	Date	FR Cite
Final Action	02/05/96	61 FR 4332
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert S. Pasley
Phone: 202 874-4800
Fax: 202 874-5301

RIN: 1557–AB19

2652. REAL ESTATE LENDING AND APPRAISALS; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 34

Completed:

Reason	Date	FR Cite
Final Action	03/20/96	61 FR 11294
Final Action Effective	04/19/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Tenhundfeld
Phone: 202 874-5090
Fax: 202 874-4889

RIN: 1557–AB48

BILLING CODE 4810-33-F

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Proposed Rule Stage

2653. U.S. INSULAR POSSESSIONS—DUTY-FREE TREATMENT

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624

CFR Citation: 19 CFR 7.8

Legal Deadline: None

Abstract: Rule setting forth in detail the criteria which must be met to obtain duty-free treatment for products imported from U.S. insular possessions.

Timetable:

Action	Date	FR Cite
NPRM	07/27/93	58 FR 40095
NPRM Comment Period End	09/27/93	
New NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Craig Walker, Attorney-Advisor, Department of the Treasury, United States Customs Service, Special Classification and Marking Branch, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 482-6980

RIN: 1515–AB14

2654. PUBLICATION OF FILER CODES

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 142; 19 CFR 143

Legal Deadline: None

Abstract: Provides for the publication of a list of filer codes and the identity

of individuals, licensed Customs brokers or importers assigned the specific number. Publication will improve control for various components of the trade community and reduce numerous problems for Customs relating to entry processing requirements, but could also provide a means to access commercial import information heretofore treated as confidential by Customs.

Timetable:

Action	Date	FR Cite
ANPRM	01/13/93	58 FR 4115
ANPRM Comment Period End	03/15/93	
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Hegland, Attorney, Entry and Carrier Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 482-7040

RIN: 1515–AB27

2655. PARALLEL IMPORTS AND OTHER TRADEMARKED GOODS

Priority: Substantive, Nonsignificant

Legal Authority: 17 USC 101; 17 USC 601; 17 USC 602; 17 USC 603; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 133

Legal Deadline: None

Abstract: Amendment to provide for restrictions on the importation of certain foreign-made articles bearing genuine trademarks identical to or substantially indistinguishable from a valid, recorded U.S. trademark where the imported articles and the articles bearing the authorized U.S. trademark are materially and physically different.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karl Wm. Means, Attorney, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6960

RIN: 1515–AB49

2656. TEXTILES AND TEXTILE PRODUCTS SUBJECT TO TEXTILE TRADE AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 7 USC 1854

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment to the country of origin standards and documentary requirements applicable to textiles and textile products subject to section 204 of the Agricultural Act of 1956. Amendment involves simplification of regulatory text, has no substantive effect on the U.S. textile import program as administered by Customs and is intended to ensure that the wording of the Customs Regulations is consistent with the product coverage of section 204.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dick Crichton, Operations Officer, Office of Strategic Trade, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0162

RIN: 1515–AB54

2657. ANDEAN TRADE PREFERENCE

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1624; 19 USC 3203

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amendment to implement the duty preference provisions of the Andean Trade Preference Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol Argentine, Import Specialist, Office of Field Operations, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0021

RIN: 1515–AB59

2658. ACCREDITATION OF COMMERCIAL TESTING LABORATORIES; APPROVAL OF COMMERCIAL GAUGERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1499; 19 USC 1624

CFR Citation: 19 CFR 113; 19 CFR 151

Legal Deadline: None

Abstract: Amendment to set forth procedures for the accreditation of commercial laboratories and the approval of commercial gaugers and the suspension and revocation of such accreditations and the approvals. Amendments are pursuant to authority of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ira Reese, Chief, Technical Branch, Office of Laboratories & Scientific Services, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-1060

RIN: 1515–AB60

2659. COUNTRY-OF-ORIGIN MARKING REQUIREMENTS FOR FROZEN PRODUCE PACKAGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Advance notice of proposed rulemaking regarding the marking of country of origin on packages of frozen produce. Purpose of document is to help determine whether a rulemaking is needed to ensure a uniform standard for conspicuous and legible country-of-origin marking, and if needed, the contents of that rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	02/02/95	60 FR 6464
ANPRM Comment Period End	03/20/95	
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Cohen, Attorney, Special Classification and Marking Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 482-6980

RIN: 1515–AB61

2660. LIQUIDATION: EXTENSION: SUSPENSION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1500; 19 USC 1504; 19 USC 1624

CFR Citation: 19 CFR 159

Legal Deadline: None

Abstract: Document would amend the Customs Regulations to implement amendments to section 504 of the Tariff Act of 1930, as amended, which pertains to limitations on the liquidation of entries, that were contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. Amendments would allow the reconciliation of entries to be treated as if they were entry summaries, subject to normal liquidation requirements; authorize the electronic transmittal of notices of extension and suspension of liquidation; extend the time period in which customs must liquidate a suspended entry after the suspension is removed; remove the application of the four-year limitation to suspended entries; and provide that Customs must also inform sureties when an entry is suspended or extended.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan J. Stevenson, Attorney, Entry Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-7040

RIN: 1515–AB66

2661. DETENTION, SEIZURE, AND FORFEITURE OF "BOOTLEG" SOUND RECORDING AND MUSIC VIDEOS OF LIVE MUSICAL PERFORMANCES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 17 USC 101; 17 USC 601; 17 USC 602; 17 USC 603; 31 USC 9701

CFR Citation: 19 CFR 12; 19 CFR 24; 19 CFR 133

Legal Deadline: None

Abstract: Amendment to provide for the detention, seizure, and forfeiture of unauthorized (bootleg) copies of sound recordings and music videos of live musical performances recorded outside of and imported into the United States, as provided by section 513(a) of the Uruguay Round Agreements Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George F. McCray, Attorney - Advisor, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6960

RIN: 1515–AB74

2662. DETENTION OF MERCHANDISE

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1499; 19 USC 1624

CFR Citation: 19 CFR 151

Legal Deadline: None

Abstract: Amendment to provide for procedures regarding the detention of merchandise that is undergoing Customs examination. Amendment will reflect Customs Modernization Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Attorney - Advisor, Penalties Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6950

RIN: 1515–AB75

2663. INTEREST ON UNDERPAYMENTS AND OVERPAYMENTS OF CUSTOMS DUTIES FEES AND INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 1202; 19 USC 1505; 19 USC 1623; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 12; 19 CFR 113

Legal Deadline: None

Abstract: Amendment to reflect the provisions of section 505 of the Tariff Act of 1930 as amended by section642(c) of the North American Free Trade Agreement Implementation Act, regarding the assessment of interest due to underpayments or overpayments to Customs of duties and fees pertaining to imported merchandise, including interest thereon. Amendment will also pertain to the payment of interest due to underpayments or overpayments of fees and other charges, including interest thereon, that are not expressly covered by the terms of 19 USC 1505, but to which the same principles should apply. Interest, per the amendment, would accrue from the date the duties, fees, or other charges are deposited, or are required to be deposited, with

Customs rather than from the date appearing on the bill for payment subsequently issued by Customs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dave Kahne, Operations Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0159

RIN: 1515–AB76

2664. RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1624; 19 USC 1508; 19 USC 1509; 19 USC 1510

CFR Citation: 19 CFR 162; 19 CFR 163 (New)

Legal Deadline: None

Abstract: Amendment to reflect statutory amendments contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act covering recordkeeping, examination of books and witnesses, regulatory audit procedures, and judicial enforcement.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cindy Covell, Supervisory Regulatory Auditor, Office of Regulatory Audit, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0736

RIN: 1515–AB77

2665. USE OF CONTAINERS DESIGNATED AS INSTRUMENTS OF INTERNATIONAL TRAFFIC IN POINT-TO-POINT LOCAL TRAFFIC

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1322; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amendment to provide that certain containers which are designated as instruments of international traffic are deemed to remain in international traffic regardless of the fact that the containers may engage in point-to-point local traffic within the United States provided that such containers engage in at least one international movement within 365 days of the date on which they are admitted to the United States.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Glen Vereb, Attorney-Advisor, Entry and Carrier Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6940

RIN: 1515–AB79

2666. RECONCILIATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1484; 19 USC 1500; 19 USC 1624

CFR Citation: 19 CFR 142; 19 CFR 159

Legal Deadline: None

Abstract: Amendment to allow those elements of an entry, other than those elements relating to the admissibility of the merchandise, that are undetermined at the time an entry summary or an import activity summary is required to be submitted, to be provided to Customs at a later date.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Durant, Director, Tariff Classification Appeals Division, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 482-6990

RIN: 1515–AB85

2667. • DUTY-FREE STORES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1311; 19 USC 1312; 19 USC 1555; 19 USC 1556; 19 USC 1557; 19 USC 1560; 19 USC 1561; 19 USC 1562; 19 USC 1624

CFR Citation: 19 CFR 19; 19 CFR 144

Legal Deadline: None

Abstract: Document would amend the Customs Regulations principally with respect to duty-free stores in order to reduce the overall paperwork burden for proprietors thereof as well as for Customs. In particular, for purposes of Customs audit of and control over such facilities, greater reliance would be placed on the use of records generated and maintained by proprietors and importers in the ordinary course of business, instead of on the use of specially prepared Customs forms.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Jackson, Customs Officer, Department of the Treasury, United States Customs

Service, Customs Management Center, Seattle, Washington
Phone: 206 553-6944

RIN: 1515–AB86

2668. • FOREIGN-BASED COMMERCIAL MOTOR VEHICLES IN INTERNATIONAL TRAFFIC

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1431; 19 USC 1433; 19 USC 1322; 19 USC 1624

CFR Citation: 19 CFR 123

Legal Deadline: None

Abstract: Document would amend the Customs Regulations to allow certain foreign-based commercial motor vehicles, which are admitted to the United States as instruments of international traffic, to retain such status provided they exit the United States within 365 days of the date of their admission, and provided the country in which such vehicles are based accords corresponding United States-based vehicles reciprocal treatment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Glen Vereb, Attorney, Entry and Carrier Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6940

RIN: 1515–AB88

2669. • ELECTRONIC REQUESTS FOR CONFIDENTIAL TREATMENT OF EXPORT MANIFEST DATA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552; 5 USC 552a; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 103

Legal Deadline: None

Abstract: Document would amend Customs Regulations concerning export manifest data to enable shippers to request confidential treatment of their name and address information on the Automated Export System.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Benjamin, Automated Export System Team, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0280

RIN: 1515–AB89

2670. • PORT PASSAGE EXCEL SERVICE SYSTEM (PORTPASS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1431; 19 USC 1433; 19 USC 1624

CFR Citation: 19 CFR 123

Legal Deadline: None

Abstract: Document would amend Customs Regulations to reference certain Immigration and Naturalization Service land border inspection programs, jointly developed with Customs and provided for in the Immigration and Naturalization Service's regulations. These land border inspection programs--collectively known as Port Passenger Acceleration Service System (PORTPASS)--are designed to facilitate the processing of certain pre-registered low-risk travelers and local residents along the United States border who frequently cross at certain areas by exempting them from normal report of arrival and presentation for inspection requirements, while still safeguarding the integrity of the United States land border.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph O'Gorman, Operations Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0543

RIN: 1515–AB90

2671. • DRAWBACK

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1309; 19 USC 1313; 19 USC 1514; 19 USC 1557; 19 USC 81c; 18 USC 1550

CFR Citation: 19 CFR 7; 19 CFR 10; 19 CFR 145; 19 CFR 173; 19 CFR 174; 19 CFR 181; 19 CFR 191

Legal Deadline: None

Abstract: Amendment to implement extensive substantive changes to the drawback law pursuant to the Customs Modernization Act. The goals of the changes are to expedite the filing and processing of drawback claims, while maintaining effective Customs enforcement and control over the drawback program.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce Friedman, Operations Officer, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0916

RIN: 1515–AB95

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Final Rule Stage

2672. HARBOR MAINTENANCE FEE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 81a to 81u; 19 USC 623; 19 USC 1202; 19 USC 1624; 31 USC 9701; PL 99-272; PL 99-509; PL 99-662

CFR Citation: 19 CFR 4; 19 CFR 24; 19 CFR 146; 19 CFR 178

Legal Deadline: Final, Statutory, April 1, 1987.

Abstract: Amendments to the Customs Regulations to implement provisions of the Water Resources Development Act of 1986 which authorizes Customs to assess a harbor maintenance fee of 0.125 percent (.00125) on the value of commercial cargo loaded on or unloaded from a commercial vessel at a port unless specifically exempted from the fee. Proceeds of the fee are deposited in a trust fund for the U.S. Army Corps of Engineers to use for the improvement and maintenance of U.S. ports and harbors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/87	52 FR 10198
Interim Final Rule Public Comment Period End	08/28/87	
Comments Being Analyzed	02/08/88	
Final Action	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Patricia Barbare, Department of the Treasury, United States Customs Service, Room 4128, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0034

RIN: 1515–AA57

2673. DONATED CARGO EXEMPTION FROM HARBOR MAINTENANCE FEE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 66; 19 USC 1202; 19 USC 1624; 31 USC 9701; 19 USC 58b; 19 USC 58c

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amends interim Customs Regulations relating to harbor maintenance fees. The interim regulations established a shipping fee for transporting cargo on specified U.S. waterways. The Act was amended to include an exemption for nonprofit organizations or cooperatives which own or finance cargo determined by Customs to be intended for use in humanitarian or development assistance overseas. This amendment sets forth the applicability and terms of this exemption.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/08/92	57 FR 607
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia Barbare, Operations Officer, User Fee Task Force, Department of the Treasury, United States Customs Service, Room 4128, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0034

RIN: 1515–AA87

2674. DISCLOSURE OF INFORMATION TO INTELLECTUAL PROPERTY RIGHTS OWNERS

Priority: Substantive, Nonsignificant

Legal Authority: 17 USC 101; 17 USC 601; 17 USC 602; 17 USC 603; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 133

Legal Deadline: None

Abstract: Provides intellectual property rights owners with information regarding importations so that they may pursue injunctive relief or other civil remedies against the party involved in infringing transactions.

Timetable:

Action	Date	FR Cite
NPRM	08/23/93	58 FR 44476
NPRM Comment Period End	10/22/93	
New NPRM	07/14/95	60 FR 36249
New NPRM Comment Period End	09/12/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karl Means, Attorney, Intellectual Property Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6960

RIN: 1515–AB28

2675. RULES FOR DETERMINING THE COUNTRY OF ORIGIN OF A GOOD FOR PURPOSES OF ANNEX 311 OF THE NORTH AMERICAN FREE TRADE AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202, Gen Note 20, Harmonized Tariff Schedule of the US; 19 USC 1624; PL 103-182

CFR Citation: 19 CFR 12; 19 CFR 102; 19 CFR 134

Legal Deadline: Final, Statutory, January 1, 1994.

Abstract: Amendment establishes the rules for determining when the country of origin of a good is one of the parties to the North American Free Trade Agreement for purposes of Annex 311 of that Agreement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/03/94	59 FR 110
Correction	02/03/94	59 FR 5082
Interim Final Rule Comment Period End	04/04/94	
Proposed Changes to Interim Final Rule	05/05/95	60 FR 22312
Comment Period End for Proposed Changes to Interim Final Rule	06/05/95	60 FR 29520
Additional NPRM	07/12/95	60 FR 35878
Additional NPRM Comment Period End	08/28/95	
Additional NPRM Comment Period End	08/28/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra L. Gethers, Chief, Special Classification and Marking Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6980

RIN: 1515–AB34

2676. FEES ASSESSED FOR DEFAULTED PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 19 USC 1202; 19 USC 1624; 31 USC 9701

TREAS—CUSTOMS

Final Rule Stage

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amendment authorizes the assessment of a $30 fee for any defaulted payment resulting from a check or other monetary instrument returned unpaid by a financial institution, including Automated Clearinghouse defaulted payments, which were presented for duties, taxes and other charges incurred in connection with any commercial or noncommercial importation or other Customs transaction whether or not backed by a Customs bond.

Timetable:

Action	Date	FR Cite
NPRM	03/23/94	59 FR 13664
NPRM Comment Period End	05/23/94	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David Baker, Officer, Office of the Comptroller, Department of the Treasury,.United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0620

RIN: 1515–AB38

2677. IMPORTER CERTIFICATION REGARDING COUNTRY OF ORIGIN OF TEXTILES AND TEXTILE PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment to require that an importer of textiles or textile products submit to Customs a certification stating that he has used reasonable care to ascertain the true country of origin of the imported merchandise and to verify the accuracy of the declaration prepared by the manufacturer, producer or exporter and filed by the importer with the entry.

Timetable:

Action	Date	FR Cite
NPRM	03/30/94	59 FR 14806
NPRM Comment Period End	05/31/94	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dick Crichton, Operations Officer, Office of Strategic Trade, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0162

RIN: 1515–AB43

2678. TREATMENT OF REUSABLE SHIPPING DEVICES ARRIVING FROM CANADA OR MEXICO

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Amendment to allow certain foreign-manufactured shipping devices arriving from Canada or Mexico to be released under specified conditions, without entry and payment of duty at the time of arrival and without the devices being serially numbered or marked, if they are always transported on or within either intermodal and similar containers or containers which are themselves vehicles or vehicle appurtenances and accessories.

Timetable:

Action	Date	FR Cite
NPRM	11/01/94	59 FR 54537
NPRM Comment Period End	01/03/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louis Hryniw, Supervisory Auditor, Office of Regulatory Audit, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-1100

RIN: 1515–AB51

2679. DISCLOSURE OR PRODUCTION OF CUSTOMS INFORMATION PURSUANT TO LEGAL PROCESS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 5 USC 552; 5 USC 552a; 18 USC 1905; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 103

Legal Deadline: None

Abstract: Amendment to clarify the procedures to be followed when subpoenas or other demands of courts and other authorities, except Congress, are issued to compel the disclosure or production of Customs documents or information for use in Federal, State, local and foreign proceedings.

Timetable:

Action	Date	FR Cite
NPRM	09/06/94	59 FR 46007
NPRM Comment Period End	11/07/94	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Matthew McConkey, Attorney, Office of the Chief Counsel, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-6900

RIN: 1515–AB58

2680. CUSTOMS/INS SERVICE FIELD ORGANIZATIONS; REVOCATIONS AND DESIGNATIONS OF INTERNATIONAL AIRPORT STATUS FOR CUSTOMS SERVICES AND PORTS OF ENTRY FOR ALIENS ARRIVING BY AIRCRAFT

Priority: Routine and Frequent

Legal Authority: 8 USC 1103; 5 USC 301; 19 USC 58b; 19 USC 66; 19 USC 1433; 19 USC 1436; 19 USC 1459; 19 USC 1590; 19 USC 1594; 19 USC 1623; 19 USC 1624; 19 USC 1644; 49 USC app 1509

CFR Citation: 8 CFR 100; 19 CFR 122

Legal Deadline: None

Abstract: Document would amend the Customs and Immigration and

Naturalization Service regulations pertaining to their respective field organizations. Customs would revoke the international airport designations for Ranier International Seaplane Base located in Ranier, Minnesota, and the Eagle Pass Municipal Airport located in Eagle Pass, Texas. Immigration and Naturalization Service would remove Ranier, Minnesota, and Eagle Pass, Texas, from the port of entry lists for aliens arriving by vessel, land transportation, or by aircraft.

Timetable:

Action	Date	FR Cite
NPRM	03/27/95	60 FR 15703
NPRM Comment Period End	05/26/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Priscilla Frink, Customs Officer, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-1323

RIN: 1515–AB64

2681. WAREHOUSE WITHDRAWALS; AIRCRAFT FUEL SUPPLIES; PIPELINE TRANSPORTATION IN BOND OF MERCHANDISE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 1557; 19 USC 1551; 19 USC 1552; 19 USC 1553; 19 USC 1553a

CFR Citation: 19 CFR 10; 19 CFR 18

Legal Deadline: None

Abstract: Document implements certain statutory amendments to the Customs laws regarding recordkeeping for merchandise transported by pipeline and duty-free withdrawals from Customs bonded warehouses of aircraft turbine fuel. These statutory amendments are contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. The document also clarifies the procedures applicable to aircraft turbine fuel which is withdrawn from a Customs bonded warehouse for certain duty-free use and is commingled with other lots of fuel before being so used.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Rosoff, Chief, Entry and Carrier Rulings Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-7040

RIN: 1515–AB67

2682. COUNTRY-OF-ORIGIN MARKING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Amendment to ease the requirement that whenever words appear on an imported article indicating the name of a geographic location other than the true country of origin of the article, the country-of-origin marking always must appear in close proximity to those words. Amendment would require the country of origin to be in close proximity to the name of the other geographic location on the imported article only if the name of the other geographic location would mislead or deceive the ultimate purchaser as to the actual country of origin of the imported article.

Timetable:

Action	Date	FR Cite
NPRM	11/16/95	60 FR 57559
NPRM Comment Period End	02/15/96	60 FR 66952
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony Tonucci, Attorney-Advisor, Special Classification and Marking Branch, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-6980

RIN: 1515–AB82

2683. CENTRALIZED EXAMINATION STATIONS; IMMEDIATE SUSPENSION OR PERMANENT REVOCATION AS OPERATOR UPON INDICTMENT FOR ANY FELONY

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1499; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 118

Legal Deadline: None

Abstract: Amendment to enable Customs port directors to immediately suspend operations at a Centralized Examination Station (CES) whenever the operator, entity or other person exercising substantial ownership or control over the operator is indicted for, convicted of, or has committed acts which would constitute any felony. Amendment would also state specifically that the failure of a CES operator to follow the terms of the CES written agreement constitutes a ground for proposed permanent revocation of the CES and cancellation of the written agreement to operate the facility.

Timetable:

Action	Date	FR Cite
NPRM	01/24/96	61 FR 1877
NPRM Comment Period End	03/25/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Walfish, Operations Officer, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-1167

RIN: 1515–AB83

2684. • NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)—IMPLEMENTATION OF DUTY-DEFERRAL PROGRAM PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1481; 19 USC 1484; 19 USC 1202; 19 USC 1315; 19 USC 1624; 19 USC 3314

CFR Citation: 19 CFR 10; 19 CFR 113; 19 CFR 141; 19 CFR 144; 19 CFR 181

Legal Deadline: Final, Statutory, January 1996.

Abstract: Document amends regulations to establish procedural and other requirements that apply to the collection, waiver, and reduction of duties under the duty-deferral program provisions of the North American Free Trade Agreement. The document prescribes the documentary and other requirements that must be followed when merchandise is withdrawn from a U.S. duty-deferral program either for exportation to another NAFTA country or for entry into a duty-deferral program of another NAFTA country, the procedures that must be followed in filing a claim for a waiver or reduction of duties collected on such merchandise, and the procedures for finalization of duty collections and duty waiver or reduction claims.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/96	61 FR 2908
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Angela Downey, Operations Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-1082

RIN: 1515–AB87

2685. • PROHIBITED/RESTRICTED MERCHANDISE; FOREIGN ASSETS CONTROL REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1600; 19 USC 1619; 19 USC 1624; 19 USC 1646a

CFR Citation: 19 CFR 12; 19 CFR 145; 19 CFR 161

Legal Deadline: None

Abstract: Document would amend the Customs Regulations to more clearly provide that Customs enforces the regulations of the Office of Foreign Assets Control of the Department of the Treasury regarding prohibitions or restrictions on the entry of merchandise from certain countries that have been designated by the President as constituting a national security threat to the United States.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Louis Alfano, Operations Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0005

RIN: 1515–AB91

2686. • TREATMENT OF MERCHANDISE IMPORTED BY FOREIGN GOVERNMENTS OR DESIGNATED INTERNATIONAL ORGANIZATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1496; 19 USC 1498

CFR Citation: 19 CFR 148

Legal Deadline: None

Abstract: Document amends the Customs Regulations in order to reflect the longstanding practice of permitting property belonging to foreign governments or designated international organizations which is admitted free of duty at the request of the Department of State, to be so admitted using the approved Department of State request as the Customs entry.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Sequeira, Office of International Affairs, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-1480

RIN: 1515–AB92

2687. • SUSPENSION OF UNITED STATES-CANADA FREE TRADE AGREEMENT IMPLEMENTING REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1321; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1508; 19 USC 1623; 19 USC 1624; 19 USC 3314

CFR Citation: 19 CFR 10

Legal Deadline: None

Abstract: Document amends the Customs Regulations implementing the duty preference provisions of the U.S.-Canada Free-Trade Agreement (CFTA) to reflect that operation of the CFTA was suspended by agreement of the Governments of the United States and Canada as a result of the entry into force of the North American Free Trade Agreement on January 1, 1994.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Myles Harmon, Director, International Trade Compliance Staff, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Franklin Court, Washington, DC 20229
Phone: 202 482-7000

RIN: 1515–AB93

TREAS—CUSTOMS — Final Rule Stage

2688. • EMISSIONS STANDARDS FOR IMPORTED NONROAD ENGINES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 1484; 42 USC 7522; 42 USC 7601

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Document amends the Customs Regulations in conformance with the regulations that have already been adopted by Environmental Protection Agency (EPA) in order to ensure the compliance of imported nonroad engines with applicable EPA emissions standards required by law.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leo Wells, Operation Officer, Office of Trade Compliance, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229
Phone: 202 927-0771

RIN: 1515–AB94

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Long-Term Actions

2689. RULES OF ORIGIN

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 102 (New); 19 CFR 4.80b(a); 19 CFR 10.12(e); 19 CFR 10.14(b); 19 CFR 10.171(c); 19 CFR 10.191(b)(3); 19 CFR 134.1(b), (d), and (e); 19 CFR 134.35; 19 CFR 177.22(a)

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48448
NPRM Comment Period End	01/09/92	56 FR 61214
New NPRM	05/05/95	60 FR 22312
Additional NPRM	07/12/95	60 FR 35878
New NPRM Comment Period End	07/19/95	60 FR 29520
Additional NPRM Comment Period End	08/28/95	60 FR 35878
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra L. Gethers
Phone: 202 482-6980

RIN: 1515–AB19

2690. AUTOMATED SURETY INTERFACE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 113

Timetable:

Action	Date	FR Cite
NPRM	01/22/93	58 FR 5680
NPRM Comment Period End	03/23/93	
NPRM Comment Period Extended to 04/22/93	03/30/93	58 FR 16632
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diane Hundertmark
Phone: 202 927-0355

RIN: 1515–AB25

2691. SUBSTITUTION UNUSED MERCHANDISE DRAWBACK

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 191

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William G. Rosoff
Phone: 202 482-7040

RIN: 1515–AB48

2692. COUNTRY-OF-ORIGIN MARKING FOR WATCHES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 134

Timetable:

Action	Date	FR Cite
ANPRM	03/20/95	60 FR 14705
ANPRM Comment Period End	05/04/95	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Burton Schlissel
Phone: 202 482-6980

RIN: 1515–AB68

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Completed Actions

2693. PRELIMINARY VESSEL ENTRY AND PERMITS TO LADE AND UNLADE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 19 CFR 4

Completed:

Reason	Date	FR Cite
Final Action	01/26/96	61 FR 2412
Final Action Effective	02/26/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lou Samenfink
Phone: 202 927-0042

RIN: 1515–AB37

2694. ENFORCEMENT OF ITC EXCLUSION ORDERS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12

Completed:

Reason	Date	FR Cite
Final Action	10/27/95	60 FR 54939
Final Action Effective	11/27/95	

Small Entities Affected: None

Government Levels Affected: None

TREAS—CUSTOMS — Completed Actions

Agency Contact: Vicki Allums
Phone: 202 482-6960

RIN: 1515–AB44

2695. NORTH AMERICAN FREE TRADE AGREEMENT—SUBMISSION OF CERTIFICATES OF ELIGIBILITY FOR TEXTILE AND APPAREL GOODS UNDER THE TARIFF PREFERENCE LEVEL PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12

Completed:

Reason	Date	FR Cite
Final Action	11/28/95	60 FR 58516
Final Action Effective	11/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dick Crichton
Phone: 202 927-0162

RIN: 1515–AB50

2696. EXAMINATION OF BAGGAGE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 123; 19 CFR 148

Completed:

Reason	Date	FR Cite
Final Action	10/20/95	60 FR 54187
Final Action Effective	11/20/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lars-Erik Hjelm
Phone: 202 927-6900

RIN: 1515–AB56

2697. SEIZURE OF MERCHANDISE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 162

Completed:

Reason	Date	FR Cite
Final Action	12/28/95	60 FR 67057
Final Action Effective	01/29/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Todd Schneider
Phone: 202 482-6950

RIN: 1515–AB62

2698. RULES OF ORIGIN FOR TEXTILE AND APPAREL PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12; 19 CFR 102; 19 CFR 10

Completed:

Reason	Date	FR Cite
Final Action	09/05/95	60 FR 46188
Final Action Effective	10/05/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phil Robins
Phone: 202 482-7029

RIN: 1515–AB71

2699. SEARCH WARRANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 19 CFR 162

Completed:

Reason	Date	FR Cite
Final Action	01/04/96	61 FR 258
Final Action Effective	02/05/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lars-Erik Hjelm
Phone: 202 927-6900

RIN: 1515–AB72

2700. EXPORT CERTIFICATES FOR BEEF SUBJECT TO TARIFF-RATE QUOTA

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 132

Completed:

Reason	Date	FR Cite
Final Action	02/01/96	61 FR 3569
Final Action Effective	02/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Cooper
Phone: 202 927-5401

RIN: 1515–AB73

2701. UNESCO CULTURAL PROPERTY CONVENTION SIGNATORIES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12

Completed:

Reason	Date	FR Cite
Final Action	09/13/95	60 FR 47466
Final Action Effective	09/13/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donnette Rimmer
Phone: 202 482-6960

RIN: 1515–AB78

2702. REMOVAL OF CAMBODIA AND VIETNAM FROM LIST OF "NON-ENTRANT" COUNTRIES

Priority: Routine and Frequent

CFR Citation: 19 CFR 4

Completed:

Reason	Date	FR Cite
Final Action	09/18/95	60 FR 48027
Final Action Effective	09/18/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Whiting
Phone: 202 482-6940

RIN: 1515–AB81

BILLING CODE 4820-02-F

DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Proposed Rule Stage

2703. DEFINITION OF QUALIFIED RESEARCH AND COMPUTATION OF RESEARCH CREDIT UNDER SECTION 41 OF THE CODE, AFTER 1986, 1989 AND 1993 ACTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; PL 101-239, sec 7110

CFR Citation: 26 CFR 602; 26 CFR 1

Legal Deadline: None

Abstract: The regulations clarify and implement the section 41 research credit including the trade or business requirement, the computation of the credit, the definition of qualified research, and the computation of basic research payments. The regulations reflect changes made by the 1986 Tax Reform Act and the Revenue Reconciliation Acts of 1989 and 1993.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-016-90.

Drafting attorney: Lisa Shuman (202) 622-3120.

Reviewing attorney: Christine Ellison (202) 622-3120.

Agency Contact: Lisa Shuman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3120
Fax: 202 622-4743

RIN: 1545–AO51

2704. AVAILABLE UNIT RULE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0042(h)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will provide guidance regarding the available unit rule of section 42(g)(2)(D) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-29-95

Drafting attorney: David Selig (202) 622-3040.

Reviewing attorney: Barbara Walker (202) 622-3040.

Agency Contact: David Selig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service
Phone: 202 622-3040
Fax: 202 622-4524

RIN: 1545–AT60

2705. AMENDMENT TO THE REGULATIONS UNDER SECTION 61 TO CONFORM THE TREATMENT OF BOND PREMIUM INCOME TO THE CONSTANT YIELD METHOD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide a method for determining how to include bond premium into income. The method is the constant yield method.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-70-88.

Drafting attorney: William Cejudo (202) 622-3940.

Drafting attorney: Jeffrey Maddrey (202) 622-3920.

Reviewing attorney: William E. Blanchard (202) 622-3950.

Agency Contact: William Cejudo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3920

RIN: 1545–AL92

2706. PERSONAL INJURY DAMAGES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations would provide guidance to taxpayers with regard to what types of compensation are excluded from gross income under section 104(a)(2) as damages received on account of personal injuries or sickness.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-13-95

Drafting attorney: Sheldon Iskow (202) 622-4920.

Reviewing attorney: Mike Montemurro (202) 622-4920.

Agency Contact: Sheldon Iskow, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4920

RIN: 1545–AT29

2707. CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 106(b); 26 USC 162(i)(2); 26 USC 162(k); 26 USC 4980B

CFR Citation: 26 CFR 1; 26 CFR 54

Legal Deadline: None

Abstract: These regulations will provide guidance relating to the requirement that a group health plan provide continuation coverage to individuals who would otherwise lose coverage as a result of certain events.

Timetable:

Action	Date	FR Cite
NPRM	06/15/87	52 FR 22716
NPRM Comment Period End	08/14/87	
Hearing	11/04/87	
Second NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-143-86.

Drafting attorney: Russell Weinheimer (202) 622-6060.

Review attorney: Mark Schwimmer (202) 622-6060.

Treasury attorney: Mark Hamelburg (202) 622-1341.

Agency Contact: Russell Weinheimer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–AI93

TREAS—IRS

Proposed Rule Stage

2708. QUALIFIED RESIDENCE INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance regarding the definition of qualified residence interest, including the definition of acquisition debt and guidance regarding the computation of the limitation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-27-88.

Drafting attorney: Sharon L. Hall (202) 622-4930.

Reviewing attorney: Linda M. Kroening (202) 622-4800.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, Washington, DC 20224
Phone: 202 622-4930

RIN: 1545–AL67

2709. CHANGES IN USE UNDER SECTION 168(I)(5)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 168

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules relating to the treatment of changes in use of property subject to section 168, as amended by the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-86-86.

Drafting attorney: Kathleen Reed (202) 622-3110.

Reviewing attorney: Susan Reaman (202) 622-3110.

Agency Contact: Kathleen Reed, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3110

RIN: 1545–AJ38

2710. • BOND PREMIUM AMORTIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 0171; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project updates section 171 regulations and incorporate changes made by 1986 Act (requiring premium to be amortized on constant yield method) and by 1988 Act (providing premium is an offset to income not a deduction).

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-48-95

Drafting attorney: William Cejudo (202) 622-3920.

Drafting attorney: Jeffrey Maddrey (202) 622-3940.

Reviewing attorney: Sharon Galm (202) 622-3920.

Agency Contact: William P. Cejudo, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3920

RIN: 1545–AU02

2711. DETERMINATION OF SECTION 30 CREDIT AND SECTION 179A DEDUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 179A; 26 USC 30

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will assist taxpayers in determining what costs are eligible for the section 30 credit and for the section 179A deduction and how to compute this credit and this deduction.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/93	58 FR 32317
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: PS-43-93

Drafting attorney: Winston Douglas (202) 622-3110.

Reviewing attorney: Susan Reaman (202) 622-3110.

Agency Contact: Winston Douglas, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3110

RIN: 1545–AR66

2712. RULES FOR FARMERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 263A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules provide general rules regarding the application of the uniform capitalization rules to taxpayers engaged in farming.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-65-91.

Drafting attorney: Jan Skelton (202) 622-4970.

Reviewing attorney: Don Barnes (202) 622-4970.

Agency Contact: Jan Skelton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AQ91

2713. PRODUCTION OF CREATIVE PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 263A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules provide general rules regarding the application of the uniform capitalization rules to creative properties.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-66-91.

Drafting attorney: Jan Skelton (202) 622-4970.

Reviewing attorney: Don Barnes (202) 622-4970.

Agency Contact: Jan Skelton, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AQ92

2714. FOREIGN TAXPAYERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 263A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These rules provide guidance regarding the application of the uniform capitalization rules to foreign taxpayers.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/87	52 FR 10118
ANPRM Comment Period End	05/29/87	
Hearing	12/08/87	
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-67-91.

Drafting attorney: Jeffery G. Michell (202) 622-4970.

Reviewing attorney: Don Barnes (202) 622-4970.

Agency Contact: Jeffery G. Mitchell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AQ93

2715. METHOD CHANGE RULES FOR THE UNIFORM CAPITALIZATION RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 263A

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: These rules provide guidance regarding the method change requirement of section 263A.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/87	52 FR 10118
ANPRM Comment Period End	05/29/87	
Hearing	12/08/87	
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-68-91.

Drafting attorney: Cheryl L. Oseekey (202) 622-4970.

Reviewing attorney: Don Barnes (202) 622-4970.

Agency Contact: Cheryl L. Oseekey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AQ94

2716. RULES FOR TREATMENT OF FOREIGN CORPORATION WHOSE STOCK IS STAPLED TO THE STOCK OF A DOMESTIC CORPORATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 268B

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide a general rule that where a U.S.-owned foreign corporation and a U.S.-owned domestic corporation are stapled entities, the foreign corporation will be treated as a domestic corporation and that the deemed conversion will be treated as a reorganization under section 368(a)(1)(F) of the Code. The regulations will also provide exceptions to this general rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-237-89.

Drafting attorney: Patricia A. Bray (202) 622-3840.

Reviewing attorney: Steven Musher (202) 622-3840.

Treasury attorney: Patricia Brown (202) 622-1781.

Completed in error in the October 1995 Unified Agenda.

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AN20

2717. • SUBSTANTIATION OF EXPENSES—RECEIPT THRESHOLD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 0274(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations proposes to raise the level at which certain expenditures which are required to be substantiated under section 274(d) of the Internal Revenue Code must be documented by a receipt or other evidence.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-36-95

Drafting attorney: Donna M. Crisalli (202) 622-4920.

Reviewing attorney: George Baker (202) 622-4920.

Treasury attorney: Annette Smith (202) 622-0868.

Agency Contact: Donna Crisalli, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4920
Fax: 202 622-6316

RIN: 1545–AT97

2718. • SUBSTANTIATION OF EXPENSES—RECEIPT THRESHOLD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 0274(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These temporary regulations raise the level at which certain expenditures which are required to be substantiated under section 274(d) of the Internal Revenue Code must be documented by a receipt or other evidence.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-36-95

Drafting attorney: Donna M. Crisalli (202) 622-4920.

Reviewing attorney: George Baker (202) 622-4920.

Treasury attorney: Annette Smith (202) 622-0868.

Agency Contact: Donna Crisalli, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4920
Fax: 202 622-6316

RIN: 1545–AT98

2719. DEMOLITION OF STRUCTURES DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 280B

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation will provide definitions of the terms "structure" and "loss sustained on account of demolition" for purposes of section 280B of the Code.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-39-93

Drafting attorney: Bernard Harvey (202) 622-3110.

Reviewing attorney: Peter Friedman (202) 622-3110.

Agency Contact: Bernard Harvey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3110
Fax: 202 622-4524

RIN: 1545–AR63

2720. SCOPE OF GENERAL UTILITIES REPEAL

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 337(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Tax Reform Act of 1986 (the "Act") repealed the last vestiges of the General Utilities doctrine ("GU repeal"), and corporations must recognize gain, in most cases, upon the distribution of appreciated property to their shareholders. The Act granted the Secretary authority to promulgate regulations necessary to carry out the purposes of the Act. It has been determined that GU repeal can be circumvented by conversion of for-profit corporations to tax-exempt entities and other transactions involving tax-exempt entities. This project will develop regulations to prevent the circumvention of corporate-level gain in such transactions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: CO-014-89.

Drafting attorney: Stephen R. Cleary (202) 622-7530.

Reviewing attorney: Wayne T. Murray (202) 622-7530.

Agency Contact: Stephen R. Cleary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-7530

RIN: 1545–AN21

2721. CORPORATE INVERSION TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 337(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Treatment of corporate inversion transaction where subsidiary issues disproportionate number of new shares (shares with a value in excess of the value of the parent stock received by the subsidiary) to the shareholder of the inverted parent, thereby diluting the parent corporation's pre-inversion value.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: CO-35-94

Drafting attorney: Kirsten L. Simpson (202) 622-7790.

Reviewing attorney: Ken Cohen (202) 622-7790.

Treasury attorney: David Weisbach (202) 622-1129.

Agency Contact: Kirsten L. Simpson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-7790

RIN: 1545–AS91

2722. FRINGE BENEFIT SOURCING UNDER SECTION 861

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 861

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address the clarification that an allocation of income of an individual for the performance of services both within and without the United States is

appropriately made only on the time basis.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-107-90.

Drafting attorney: Robert W. Lorence (202) 622-3880.

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Unassigned.

Agency Contact: Robert W. Lorence, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AO72

2723. SECTION 361 OUTBOUND TRANSFERS OF PROPERTY TO FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The income tax regulations under section 367(a) will be amended to reflect the changes made to that section by the Technical and Miscellaneous Corrections Act of 1988. Section 367(a)(5) now provides that a transfer of assets to a foreign corporation in an exchange described in section 361 is subject to section 367(a)(1) unless certain ownership requirements and other conditions are met. The regulations will provide guidance regarding the application of this section. The change in the statute was necessitated by the repeal of "General Utilities."

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-089-89.

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Bernard T. Bress (202) 622-3850.

Treasury attorney: Unassigned.

Agency Contact: Philip Tretiak, Attorney-Adviser, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AM97

2724. CARRYOVERS OF METHODS OF ACCOUNTING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance to taxpayers with respect to carryovers of methods of accounting in certain corporate acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-013-93

Drafting attorney: Grant Gabriel (202) 622-4970.

Reviewing attorney: Tom Luxner (202) 622-4970.

Agency Contact: Grant Gabriel, Attorney-Adviser (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AT38

2725. NONDISCRIMINATION AND OTHER RULES APPLICABLE TO SECTION 403(B) ANNUITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 403(b)(12); 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance regarding the nondiscrimination and other rules applicable to tax-sheltered section 403(b) annuities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-163-86.

Drafting attorney: Richard M. Lent (202) 622-6030.

Reviewing attorney: Nancy Marks (202) 622-6000.

Agency Contact: Richard M. Lent, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AI90

2726. REVISING THE DEFINITION OF THE FULL FUNDING LIMITATION FOR PURPOSES OF THE MINIMUM FUNDING REQUIREMENT FOR PENSION PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 412(c)(7); 26 USC 401(a)(2)

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, August 5, 1988.

Abstract: This project will interpret the full funding limitation on deductible contributions to pension plans.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-62-88.

Drafting attorney: Linda Marshall (202) 622-6030.

Reviewing attorney: Mary E. Oppenheimer (202) 622-6010.

Treasury attorney: Harlan Weller (202) 622-1001.

Agency Contact: Linda Marshall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AL53

2727. TREATMENT OF FUNDED WELFARE BENEFIT PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 419; 26 USC 419A; 26 USC 1239 (d); 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance concerning the treatment of contributions made by an employer to a welfare benefit plan.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-66-84.

Drafting attorney: Janet Laufer (202) 622-6060.

Reviewing attorney: Mark Schwimmer (202) 622-6060.

Agency Contact: Janet Laufer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–AG14

2728. HYBRID INSTRUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 446

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides accounting rules for hybrid financial instruments that contain a significant debt component.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-70-92.

Drafting attorney: Alan Munro (202) 622-3950.

Reviewing attorney: Alice Bennett (202) 622-3950.

Treasury attorney: David Weisbach (202) 622-1129.

Agency Contact: Alan Munro, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AR13

2729. INSTALLMENT OBLIGATIONS RECEIVED FROM LIQUIDATING CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0453

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting gain in respect of installment obligations received as liquidating distributions from corporations under a plan of complete liquidation. Additionally includes rules regarding the allocation of consideration received in a multiple asset sale if a disposition of any one of the properties would qualify for installment sale treatment.

Timetable:

Action	Date	FR Cite
NPRM	01/13/84	49 FR 1742
NPRM Comment Period End	03/16/84	
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-184-80

Drafting attorney: George Wright (202) 622-4950.

Reviewing attorney: Doug Fahey (202) 622-4950.

Treasury attorney: P. Val Strehlow (202) 622-0869.

Agency Contact: George Wright, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4950

RIN: 1545–AB43

2730. DEFINITION OF A LONG-TERM CONTRACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805; 26 USC 460(h)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will address the definition of a "long-term contract" for purposes of IRC section 460. This definition is necessary for taxpayers to determine whether their activities must be accounted for under IRC section 460 in determining their taxable income.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-58-91.

Drafting attorney: Leo F. Nolan II (202) 622-4970.

Reviewing attorney: Eric Fleet (202) 622-4970.

Agency Contact: Leo F. Nolan II, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AQ30

2731. • SECTION 467 RENTAL AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 467; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations amend the Income Tax Regulations relating to section 467 of the Internal Revenue Code in general, section 467 requires parties to certain rental agreements to accrue rent and interest in accordance with section 467. The proposed regulations provide guidance regarding the applicability of section 467 and the amount of rent and interest required to be accrued under section 467.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IA-292-84

Drafting attorney: Forest Boone (202) 622-4960.

Reviewing attorney: Steve Toomey (202) 622-4960.

Treasury attorney: Kevin Anderson (202) 622-1981.

Agency Contact: Forest Boone, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4960

RIN: 1545–AU11

2732. ESCROW FUNDS AND OTHER SIMILAR FUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0468

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Further guidance relating to certain escrow funds and other similar funds.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-017-93

Drafting attorney: Michael L. Gompertz (202) 622-4910.

Reviewing attorney: Debra Carlisle (202) 622-4910.

Agency Contact: Michael L. Gompertz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AR82

2733. DEFINITION OF AN ITEM FOR LIFO

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance to taxpayers with respect to the definition of an "item" for purposes of LIFO computations and the LIFO inventory price index methods.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-014-93

Drafting Attorney: Grant Gabriel (202) 622-4970.

Reviewing Attorney: Don Barnes (202) 622-4970.

Agency Contact: Grant Gabriel, Attorney-Advisor (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AT39

2734. • MARK-TO-MARKET FOR DEALERS IN SECURITIES: EQUITY INTERESTS IN RELATED PARTIES AND THE DEALER-CUSTOMER RELATIONSHIP

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0475; 26 USC 6001

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations relate to mark-to-market accounting for equity interests in related entities and the dealer-customer relationship.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: FI-32-95

Drafting attorney: Jo Lynn Ricks (202) 622-3920.

Agency Contact: Jo Lynn Ricks, Attorney-Advisor, Department of the Treasury, Internal Revenue Service
Phone: 202 622-3920
Fax: 202 622-4425

RIN: 1545–AT94

2735. INTERCOMPANY TRANSFER PRICING FOR SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will address the transfer pricing of services between related parties.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-051-92.

Drafting attorney: Lisa G. Sams (202) 622-3840.

Reviewing attorney: George Sellinger (202) 874-1490.

Treasury attorney: Warren Crowdus (202) 622-1779.

Agency Contact: Lisa G. Sams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AR32

2736. INCOME TAXATION OF TRUSTS AND ESTATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 672; 26 USC 673

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding taxation of certain grantor trusts.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-108-86.

Drafting attorney: James Quinn (202) 622-3060.

Reviewing attorney: Grace Kim (202) 622-3060.

Agency Contact: James Quinn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4524

RIN: 1545–AJ20

2737. FOREIGN GRANTOR TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 679

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance to taxpayers concerning the income tax treatment of transfers by U.S. persons to foreign trusts having U.S. beneficiaries. The amendments will conform to changes made by section 1013 of the Tax Reform Act of 1976.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-243-89.

Drafting attorney: Joseph Henderson (202) 622-3850.

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Unassigned.

Completed in error in the October 1995 Unified Agenda.

Agency Contact: Joseph Henderson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AO75

2738. PAYMENTS TO A RETIRING PARTNER OR A DECEASED PARTNER'S SUCCESSOR IN INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 0736; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance for the treatment under section 736(b)(3) of certain payments to a retiring partner or to a deceased partner's successor in interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-17-95

Drafting attorney: Terri A. Belanger (202) 622-3080.

Reviewing attorney: William P. O'Shea (202) 622-3070.

Agency Contact: Terri A. Belanger, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3080

RIN: 1545–AT31

2739. ADJUSTMENTS FOLLOWING SALES OF PARTNERSHIP INTERESTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 743; 26 USC 751; 26 USC 755

CFR Citation: 26 CFR 743; 26 CFR 751; 26 CFR 755

Legal Deadline: None

Abstract: The regulations provide guidance with respect to adjustments relating to book/tax disparities when partnership interests are sold.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: PS-002-94

Drafting attorney: Brian M. Blum (202) 622-3050.

Reviewing attorney: David R. Haglund (202) 622-3050.

Agency Contact: Brian M. Blum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AS39

2740. FOREIGN INSURANCE COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 842; 26 USC 864(c)(4)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation will prescribe rules for determining investment income effectively connected with the conduct of an insurance business in the United States by a foreign company.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-024-88.

Drafting attorney: Mary Gillmarten (202) 622-3870.

Reviewing attorney: Jacob Feldman (202) 622-3870.

Treasury attorney: Carol Dunshoo (202) 622-0726.

Completed in error in the October 1995 Unified Agenda.

Agency Contact: Mary Gillmarten, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AL82

2741. REMIC REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 860E; 26 USC 860G

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will provide guidance to REMICS and to their investors concerning the operation, formation, and taxation of the entity and the investors.

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-31-93

Drafting attorney: William P. Cejudo (202) 622-3920.

Reviewing attorney: Marshall Feiring (202) 622-3960.

Treasury attorney: P. Val Strehlow (202) 622-0869.

Agency Contact: William P. Cejudo, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3920

RIN: 1545–AR88

2742. TRANSPORTATION INCOME SOURCE RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 863

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the source of income attributable to transportation which begins or ends in the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-947-86.

Drafting attorney: Patricia A. Bray (202) 622-3840.

Reviewing attorney: Steven Musher (202) 622-3840.

Treasury attorney: David Sutherland (202) 622-1754.

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AJ68

2743. SOURCING RULE APPLICABLE TO CERTAIN INSURANCE INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will source insurance product income comprising amounts paid or credited to foreign policy holders of qualified and failed insurance annuity contracts sold by US insurance companies through foreign branches.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-0093-91.

Drafting attorney: Mary Gillmarten (202) 622-3870.

Reviewing attorney: Barbara A. Felker (202) 622-3850.

Treasury attorney: Carol Dunahoo (202) 622-0726.

Agency Contact: Mary Gillmarten, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AQ37

2744. TIERED PARTNERSHIP RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address whether a foreign partner in a tiered partnership arrangement is engaged in a trade or business in the United States by virtue of membership in that tiered partnership where the lower tier partnership meets the requirements of being in U.S. trade or business.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-063-90.

Drafting attorney: Ramon Camacho (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870.

Treasury attorney: Unassigned.

Agency Contact: Ramon Camacho, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AO26

2745. INTEGRATED FINANCIAL TRANSACTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 864(e)

CFR Citation: 26 CFR 1.861-10(c)

Legal Deadline: None

Abstract: The regulation addresses whether matched book sale and repurchase transactions conducted by securities dealers qualify as integrated financial transactions under section 1.861-10(c).

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-662-88.

Drafting attorney: Kristine K. Schlaman (202) 622-3840.

Reviewing attorney: Charles C. Saverude (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: Kristine K. Schlaman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AM53

2746. TREATMENT OF DEFERRED PAYMENTS AND APPRECIATION ARISING OUT OF BUSINESS CONDUCTED WITHIN THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the treatment of certain deferred payments and property transactions in sourcing effectively connected income under section 864(c)(6) and (7).

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-001-93.

Drafting attorney: Karl T. Walli (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870.

Treasury attorney: Unassigned.

Agency Contact: Karl T. Walli, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AR20

2747. SOURCE RULES FOR PERSONAL PROPERTY SALES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 865

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for determining the source of income from sales of personal property. The regulation will set forth rules for sales by U.S. residents and non-residents and specify special rules for depreciable personal property, intangibles, sales connected with an office or other fixed place of business, and sales of a foreign affiliate by a U.S. corporation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-046-86.

Drafting attorney: Carol P. Tello (202) 622-3880.

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Unassigned.

Agency Contact: Carol P. Tello, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AJ83

2748. DETERMINATION OF SOURCE OF LOSS RESULTING FROM SALE OF STOCK - SECTION 865

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0865

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations will provide rules for determining the source of loss realized on the sale of stock.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-004-95

Drafting attorney: Seth Goldstein (202) 622-3850.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: Carol Doran-Klein (202) 622-1762.

Agency Contact: Seth Goldstein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AT41

2749. INCOME TAX—RECIPROCAL EXEMPTIONS FOR CERTAIN TRANSPORTATION INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 883; 26 USC 872

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide rules with respect to whether a foreign country will be considered to grant a reciprocal Aircraft/Shipping exemption to U.S. corporations for purposes of section 883 of the Code, or to U.S. citizens for purposes of section 872 of the Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-948-86.

Drafting attorney: Patricia A. Bray (202) 622-3840.

Reviewing attorney: Steven Musher (202) 622-3840.

Treasury attorney: David Sutherland (202) 622-1754.

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AJ57

2750. • PROPOSED REGULATION UNDER SECTION 882 AND 884

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0882

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance relating to the treatment of financial instruments and loans between partners and partnerships for purposes of sections 882 and 884.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-054-95

Drafting attorney: Gwendolyn Stanley (202) 622-3860.

Reviewing attorney: Elizabeth Karzon (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: Gwendolyn Stanley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AT96

2751. PROPOSED REGULATIONS UNDER SECTION 1.884-3

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 884

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance on the coordination of the branch profits with second-tier withholding tax on dividends.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-028-92.

Drafting attorney: Sharon Bomgardner (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Completed in error in the October 1995 Unified Agenda.

Agency Contact: Sharon Bomgardner, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AQ72

2752. FINAL REGULATIONS UNDER SECTION 1.884-2

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 884

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will finalize temporary regulations that provide special rules for termination or incorporation of a U.S. trade or business or liquidation or reorganization of a foreign corporation or its domestic subsidiary.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-027-92.

Drafting attorney: Sharon Bomgardner (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: Patricia Brown (202) 622-1781.

Agency Contact: Sharon Bomgardner, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AQ73

2753. INCOME TAX—PARTNERSHIP RULES REGARDING TAXATION OF FOREIGN INVESTMENT IN UNITED STATES REAL PROPERTY INTERESTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 897(g); 26 USC 897(e)(2); 26 USC 1445(e)(5)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide rules for foreign partners disposing of an interest in a partnership holding United States real property interests, to determine the amount of gain or loss from such disposition for purposes of section 897(a).

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-384-88.

Drafting attorney: Robert Lorence (202) 622-3880.

Reviewing attorney: Charles Besecky (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: Robert Lorence, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AL77

2754. FIRPTA CLEANUP

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 897; 26 USC 1445

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Reporting requirements for 5 percent shareholders; equity kickers; establish securities market definition; other related issues.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-785-87.

Drafting attorney: Gwendolyn A. Stanley (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: Gwendolyn A. Stanley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AJ72

2755. CLARIFICATION OF TREATMENT OF SEPARATE LIMITATION LOSSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1203 of the Tax Reform Act of 1986 amends section 904(f) by adding paragraph (5) at the end thereof which requires that foreign source losses with respect to any income category first offset a taxpayer's other foreign source income before such losses offset the taxpayer's U.S. source income. The regulation will provide rules for the allocation of foreign source losses.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-338-89.

Drafting attorney: Willard W. Yates (202) 622-3870.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: Joni Walser (202) 622-1752.

Agency Contact: Willard W. Yates, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AM11

2756. SECTION 905(B) REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 905

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address the substantiation of foreign tax credits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-087-90.

Drafting attorney: Carl M. Cooper (202) 622-3840.

Reviewing attorney: Phyllis E. Marcus (202) 622-3840.

Treasury attorney: Unassigned.

Completed in error in the October 1995 Unified Agenda.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AP36

2757. EXCLUSION OF POSSESSION SOURCE INCOME FROM GROSS INCOME OF CERTAIN INDIVIDUALS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document contains temporary Income Tax Regulations relating to the determination of bona fide residency of individuals of the U.S. Virgin Islands.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-069-93.

Drafting attorney: Lilo A. Hester (202) 874-1490.

Reviewing attorney: George Sellinger (202) 874-1490.

Treasury attorney: Unassigned.

Agency Contact: Lilo A. Hester, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South SW., Suite 3319, Washington, DC 20024
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AS42

2758. COORDINATION OF U.S. AND VIRGIN ISLANDS INCOME TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 932; 26 USC 931

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document contains temporary Income Tax Regulations relating to the determination of bona fide residency of individuals of American Samoa, the Northern Mariana Islands, Guam and the Virgin Islands. This action is necessary because changes to the applicable tax law were made by the Tax Reform Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-070-93

Drafting attorney: Lilo A. Hester (202) 874-1490.

Reviewing attorney: George M. Sellinger (202) 874-1490

Treasury attorney: Unassigned.

Agency Contact: Lilo A. Hester, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South SW., Suite 3319, Washington, DC 20024
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AS41

2759. OBRA 1993 SECTION 936 REG

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 936(a)(4)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will prescribe rules for electing the 60% wage limitation on the section 936 credit for computing the limitation, and will prescribe rules for electing affiliated group status as well as rules to prevent tax avoidance using such affiliated status.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-073-93

Drafting attorney: Mary Gillmarten (202) 622-3870.

Reviewing attorney: Jacob Feldman (202) 622-3870.

Treasury attorney: unassigned (202) 622-1950.

Agency Contact: Mary Gillmarten, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AS43

2760. SUBPART F—USE OF DEFICITS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 952; 26 USC 954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for determining the extent to which current year deficits in unrelated income categories or prior year deficits may reduce the amount included in the gross income of any U.S. shareholder under section 951(a)(1)(A)(i) for taxable years after 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-954-86.

Drafting attorney: Valerie A. Mark (202) 622-3840.

Reviewing attorney: Phyllis E. Marcus (202) 622-3840.

Treasury attorney: Unassigned.

Completed in error in the October 1995 Unified Agenda.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AJ71

2761. FOREIGN INSURANCE COMPANY—DOMESTIC ELECTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 953(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide substantive and procedural rules regarding the election under section 953(d) to treat certain controlled foreign corporations engaged in the insurance business as domestic corporations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-765-89.

Drafting attorney: Valerie A. Mark (202) 622-3840.

Reviewing attorney: Steven Musher (202) 622-3840.

Treasury attorney: Carol Dunahoo (202) 622-0726.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AO25

2762. SUBPART F SHIPPING AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address statutory changes under the Tax Reform Act of 1986, with respect to foreign base company shipping income and amounts invested in and withdrawn from foreign base company shipping operations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-654-88.

Drafting attorney: Valerie A. Mark (202) 622-3840.

Reviewing attorney: Phyllis Marcus (202) 622-3840.

Treasury attorney: Unassigned.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AM46

2763. EARNINGS INVESTED IN EXCESS PASSIVE ASSETS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 956A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the treatment of earnings in excess passive assets.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-067-93.

Drafting attorney: Kristine K. Schlaman (202) 622-3840.

Reviewing attorney: Steven Musher (202) 622-3840.

Treasury attorney: Patricia Brown (202) 622-1781.

Agency Contact: Kristine K. Schlaman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AS47

2764. DEEMED-PAID CREDIT UNDER SECTION 960, DETERMINED ON ACCUMULATED BASIS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 902(c)(7)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will modify the existing regulations to reflect changes in the computation of the indirect credit under the 1986 Act. The regulations will incorporate a pooling mechanism (rather than year-by-year) and will also reflect the separate basket computations under section 904(d).

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-0084-91.

Drafting attorney: Caren S. Shein (202) 622-3850.

Reviewing attorney: Barbara A. Felker (202) 622-3850.

Treasury attorney: Carol Doran Klein (202) 622-1762.

Completed in error in the October 1995 Unified Agenda

Agency Contact: Caren S. Shein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AQ34

2765. COORDINATION OF PRE-1987 DEEMED PAID TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will state coordination rules for computing deemed paid taxes on distributions and deemed distributions of foreign corporations' earnings and profits from the same pre-1987 year.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-037-95

Drafting attorney: Irwin Halpern (202) 622-3850.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: Carol Doran Klein (202) 622-1762.

Agency Contact: Irwin Halpern, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AT85

2766. CHANGE FROM THE DOLLAR APPROXIMATE SEPARATE TRANSACTIONS METHOD (DASTM) TO THE PROFIT-AND-LOSS METHOD OF ACCOUNTING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 985

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules for qualified business units ("QBU's") whose currency is no longer hyperinflationary including any necessary adjustment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-066-92.

Drafting attorney: Jacob Feldman (202) 622-3870.

Reviewing attorney: Jeffrey Dorfman (202) 622-3870.

Treasury attorney: Bruce Cohen (202) 622-0871.

Agency Contact: Jacob Feldman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AS68

2767. DETERMINATION OF FOREIGN TAXES AND FOREIGN CORPORATIONS' EARNINGS AND PROFITS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 986

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules for translating foreign earnings and profits and taxes into dollars, as well as timing and computation rules relating to the taxation of exchange gain or loss on previously taxed income that is distributed through a chain of controlled foreign corporations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-107-89.

Drafting attorney: Jacob Feldman (202) 622-3870.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: Unassigned.

Agency Contact: Jacob Feldman, Attorney Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AN37

2768. STOCK REDEMPTION INCIDENT TO DIVORCE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance regarding whether transfers of property to third parties on behalf of a spouse or former spouse qualify for section 1041 no-gain treatment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-011-95

Drafting Attorney: Susie Bird (202) 622-4960.

Reviewing Attorney: William A. Jackson (202) 622-4960.

Agency Contact: Susie Bird, Attorney-Adviser (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4960

RIN: 1545–AT24

2769. AMENDMENT OF REGULATIONS UNDER IRC SECTION 1059A

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will amend the regulations under section 1059A to reflect changes in the section 482 regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-009-94.

Drafting attorney: W. Edward Williams (202) 874-1490.

Reviewing attorney: George M. Sellinger (202) 874-1490.

Treasury attorney: Unassigned.

Agency Contact: W. Edward Williams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South SW., Washington, DC 20024
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AS89

2770. PARTNERSHIPS AND DEPRECIATION RECAPTURE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on how partnerships shall allocate depreciation recapture income.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-15-95

Drafting attorney: Deborah A. Harrington (202) 622-3050.

Reviewing attorney: Claire E. Toth (202) 622-3050.

Treasury attorney: John Rooney (202) 622-1335.

Agency Contact: Deborah A. Harrington, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AT32

2771. SECTION 1248 - GAIN FROM SALE OR EXCHANGE OF STOCK IN FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1248; 26 USC 751

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would amend existing regulations with respect to the section 1248 amount attributable to stock of lower tier subsidiaries and stock in less developed country corporations. The regulations would also provide rules for determining the section 1248 amount due to certain dispositions on which gain is not recognized. The regulations would also expand the foreign tax credit available with respect to the section 1248 amount attributable to third-tier subsidiaries.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-42-86.

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Elizabeth Karzon (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: Philip Tretiak, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AC31

2772. GAINS FROM CERTAIN SALES OR EXCHANGES IN CERTAIN FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Temporary regulations that amend the regulations under section 1248 to partially suspend the application of section 1248(e) and to limit the application of section 1248(f) to those situations in which gain is not required.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-039-87.

Drafting attorney: David F. Bergkuist (202) 622-3860.

Reviewing attorney: Charles Saverude (202) 622-3800.

Treasury attorney: Unassigned.

Agency Contact: David F. Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AL89

2773. DISPOSITION GAIN REPRESENTING ACCRUED MARKET DISCOUNT TREATED AS ORDINARY INCOME; DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED MARKET DISCOUNT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1276; 26 USC 1278

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the treatment of gain realized on the disposition of any Market Discount Bond as ordinary income. These regulations will also prescribe the extent to which a deduction for interest allocable to accrued market discount is deferred.

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: FI-21-85.

Drafting attorney: William Cejudo (202) 622-3920.

Drafting attorney: Jeffrey Maddrey (202) 622-3940.

Reviewing attorney: William E. Blanchard (202) 622-3920.

Treasury attorney: P. Val Strehlow (202) 622-0869.

Agency Contact: William Cejudo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3920

RIN: 1545–AH82

2774. QEF SHAREHOLDER ELECTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1295

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address QEF shareholder election as it applies to section 1295.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-579-88.

Drafting attorney: Joseph S. Henderson (202) 622-3860.

Reviewing attorney: Margaret O'Connor (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: Joseph S. Henderson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AO27

2776. REGULATIONS UNDER SECTIONS 1491, 1492, AND 1494

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1491; 26 USC 1492; 26 USC 1494

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The purpose of these regulations is to provide guidance to taxpayers regarding both the types of outbound property transfers that are subject to the tax imposed by section 1491 and the types of outbound property transfers that are exempt from the tax by reasons of section 1492.

Timetable:

Action	Date	FR Cite
ANPRM	04/25/90	55 FR 17455
NPRM	12/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: INTL-062-90.

Drafting attorney: Robert Lorence (202) 622-3880.

Reviewing attorney: Christine Halphen (202) 622-3810.

Treasury attorney: Carol Doran Klein (202) 622-1762 and

Ann Fisher (202) 622-1755.

Agency Contact: Robert Lorence, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AM41

2775. GENERAL REVISION OF SECTION 1441 REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: General revision of section 1441 withholding regulations to accommodate changes to the tax law since these rules were issued.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: INTL-102-89.

Drafting attorney: Gwendolyn A. Stanley (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: Gwendolyn A. Stanley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AN39

2777. SECTION 1.1502-47 REGULATIONS—SUPPLEMENTAL

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the proper computation of the foreign tax credit limitation amount for life/non-life consolidated returns.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-025-93

Drafting attorney: Mary Gillmarten (202) 622-3870.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: Unassigned.

Agency Contact: Mary Gillmarten, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AR89

2778. • MEMBER STOCK TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1502

CFR Citation: 26 CFR 1502

Legal Deadline: None

Abstract: Regulations relating to member stock transactions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-2-96

Drafting attorney: Roy Hirschhorn (202) 622-7770.

Agency Contact: Roy Hirschhorn, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-7770

RIN: 1545–AU03

2779. APPLICATIONS OF SECTION 1503(D) TO PARTNERSHIPS AND OTHER ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Determination of when and how section 1503(d), treatment of dual consolidated losses, will apply to partnerships.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-037-92.

Drafting attorney: Joan M. Thomsen (202) 622-3840.

Reviewing attorney: Steven A. Musher (202) 622-3840.

Treasury attorney: Unassigned.

Agency Contact: Joan M. Thomsen, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840

Fax: 202 622-4476

RIN: 1545–AR26

2780. INCOME TAX—INCLUDIBILITY IN AN AFFILIATED GROUP OF SUBSIDIARIES FORMED TO COMPLY WITH FOREIGN LAWS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1504

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to an election to treat a foreign subsidiary of a United States corporation as a domestic corporation if the subsidiary is formed in a contiguous country to comply with foreign law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-338-88.

Drafting attorney: Kenneth Allison (202) 622-3860.

Reviewing attorney: Charles Saverude (202) 622-3800.

Treasury attorney: Joni Walser (202) 622-1781.

Completed in error in the October 1995 Unified Agenda.

Agency Contact: Kenneth Allison, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AC58

2781. ESTATE TAX-VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 2032A; 26 USC 2013(f); 26 USC 1040; 26 USC 1016(c)

CFR Citation: 26 CFR 20; 26 CFR 25

Legal Deadline: None

Abstract: Special use valuation of certain farm closely held business real property is available to qualifying estates. The regulation will contain definitions and rules relating to the various requirements which an estate must satisfy and will provide rules covering the imposition and payment of the "Additional Estate Tax" should a qualified heir fail to meet the post-death requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-209-81

Drafting attorney: Deborah Ryan (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Agency Contact: Deborah Ryan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service
Phone: 202 622-3090
Fax: 202 622-4524

RIN: 1545–AT66

2782. SITUS OF PARTNERSHIP INTERESTS HELD BY A NONRESIDENT ALIEN FOR ESTATE TAX PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 2104; 26 USC 2105

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: This regulation will determine the amount of partnership interests that will have a United States situs for estate tax purposes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-079-90.

Drafting attorney: Leslie A. Cracraft (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: Leslie A. Cracraft, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AP07

2783. AMEND SECTION 25.2662-1(C) OF THE TEMPORARY REGULATIONS TO INCREASE THE AMOUNT FOR WHICH THE EXECUTOR IS LIABLE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 2663; 26 USC 2662

CFR Citation: 26 CFR 26

Legal Deadline: None

Abstract: The regulations will provide rules with respect to liability for the generations-skipping transfer tax when a direct skip occurs at death with respect to property held in a trust arrangement. The regulations will also provide rules relating to the circumstances under which the exercise of a nongeneral power of appointment will constitute an addition to a grandfathered generation-skipping trust.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-032-90

Drafting Attorney: John Franklin (202) 622-3090.

Reviewing Attorney: George Masnik (202) 622-3090.

Treasury Attorney: Robert Weaver (202) 622-0871.

Agency Contact: John Franklin, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AO89

2784. • SALE OF RESIDENCE FROM QUALIFIED PERSONAL RESIDENCE TRUST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 2702

CFR Citation: 26 CFR 25

Legal Deadline: None

Abstract: The proposed regulations provide additional rules for qualification as a qualified personal residence trust.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-4-96

Drafting attorney: Dale Carlton (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Treasury attorney: Beth Kaufman (202) 622-1766.

Agency Contact: Dale Carlton, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AU12

2785. EXCEPTION FROM SUPPLEMENTAL TAX

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations will provide guidance to railroad employers in applying the exception to supplemental annuity tax with respect to employees covered by a supplemental pension plan.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: EE-22-95.

Drafting attorney: Linda Marshall (202) 622-6030.

Reviewing attorney: Mary F. Oppenheimer (202) 622-6010.

Treasury attorney: Kevin Knopf (202) 622-2329.

Agency Contact: Linda Marshall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AT56

2786. LUXURY EXCISE TAX CHANGES UNDER OBRA 1993

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4003

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations implement the exemption from luxury tax for accessories for handicapped individuals and other matters.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: PS-75-93

Drafting attorney: Edward Madden (202) 622-3130.

Reviewing attorney: Richard Kocak (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Edward Madden, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AS34

2787. DIESEL FUEL EXCISE TAX; DYE INJECTION SYSTEMS AND MARKERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4082

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: Diesel fuel excise tax;rules relating to the use of dye injection systems and markers.

Timetable:

Action	Date	FR Cite
NPRM	03/14/96	61 FR 10490
NPRM Comment Period End	06/12/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-6-95.

Drafting attorney: Frank K. Boland (202) 622-3130.

Reviewing attorney: Richard A. Kocak (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Frank K. Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AT18

2788. EXCISE TAX ON AVIATION FUEL

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4091 to 4093

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: This regulation provides rules on aviation fuel taxes under the Revenue Act of 1987, the Technical and Miscellaneous Revenue Act of 1988, and OBRA 1993.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: PS-3-88.

Drafting attorney: Frank Boland (202) 622-3130.

Reviewing attorney: Dick Kocak (202) 622-3130.

Treasury attorney: John Purcell (202) 622-3130.

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AL43

2789. COMMUNICATIONS TAX REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4251; 26 USC 4252; 26 USC 4253; 26 USC 4254

CFR Citation: 26 CFR 49

Legal Deadline: None

Abstract: The regulations will provide rules with respect to the application of the communications excise tax.

Timetable:

Action	Date	FR Cite
ANPRM	07/31/92	57 FR 33918
NPRM	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: PS-017-91.

Drafting attorney: Bernard Weberman (202) 622-3130.

Reviewing attorney: Edward Madden (202) 622-3130.

Agency Contact: Bernard Weberman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3163
Fax: 202 622-4537

RIN: 1545–AP67

2790. CHEMICAL TAX UNDER SECTION 4661 AND IMPORTED SUBSTANCE TAX UNDER SECTION 4671

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4671; 26 USC 4661

CFR Citation: 26 CFR 52

Legal Deadline: None

Abstract: These proposed regulations relate to taxable chemicals and taxable imported substances.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-71-88.

Drafting attorney: Ruth Hoffman (202) 622-3130.

Reviewing attorney: Jeff Nelson (202) 622-3130.

Treasury attorney: Elizabeth Wagner (202) 622-1778.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AL73

2791. INFORMATION REPORTING AND RECORD MAINTENANCE UNDER SECTION 6038C

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7801; 26 USC 6038(c)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will implement the directives of section 6038C.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-102-90.

Drafting attorney: Richard Hoge (202) 622-3870.

Reviewing attorney: Karl Walli (202) 622-3870.

Treasury attorney: Patricia Brown (202) 622-1781.

Agency Contact: Richard C. Hoge, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AP10

2792. 6046A - RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6046A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would give guidance for determining which United States persons who acquire, dispose of or change their interests in foreign partnerships must report their activities. Additionally, guidance would be given as to how, when and where such persons must report and what information they must supply.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-067-92.

Drafting attorney: Joseph S. Henderson (202) 622-3880.

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Unassigned.

Completed in error in the October 1995 Unified Agenda.

Agency Contact: Joseph S. Henderson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4479

RIN: 1545–AR25

2793. SECTION 6048 REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6048

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Revision of regulations under section 6048, return as to certain foreign trusts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-879-86.

Drafting attorney: Sharon Bomgardner (202) 622-3860.

Reviewing attorney: Charles Besecky (202) 622-3860.

Treasury attorney: Joni Walser (202) 622-1752.

Completed in error in the October 1995 Unified Agenda.

Agency Contact: Sharon Bomgardner, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AK75

2794. REVISION OF SECTION 6114 REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To revise the final regulations under section 6114 to require reporting for certain recipients of fixed or determinable annual or periodic income when no reporting is presently required.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-052-94.

Drafting attorney: David F. Bergkuist (202) 622-3880.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: David F. Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AT00

2795. • SIMPLIFICATION OF ENTITY CLASSIFICATION RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 7701

Legal Deadline: None

Abstract: The proposed regulations will replace the existing regulations under section 7701 of the Internal Revenue Code for classifying unincorporated business entities with a simplified election mechanism.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-43-95

Drafting attorney: Armando Gomez (202) 622-3050.

Reviewing attorney: Dianna Miosi (202) 622-3050.

Agency Contact: Armando Gomez, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3050
Fax: 202 622-4524

RIN: 1545–AT91

2796. EXTENSION OF STATUTE OF LIMITATIONS IN JOHN DOE SUMMONS DISPUTES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Under the Tax Reform Act of 1986, statutes of limitations are suspended in certain cases in which there is no resolution of a third-party recordkeeper's response to a summons. Section 7609(e)(2) was amended by the Technical and Miscellaneous Revenue Act of 1988 so that the suspension applies to all John Doe summonses, whether or not the summoned party is a third-party recordkeeper as defined in IRC section 7609(a)(3). The new regulations will make changes to 26 CFR 301.7609 to conform with the 1986 and 1988 amendments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-723-88.

Drafting attorney: Jerome D. Sekula (202) 622-3640.

Reviewing attorney: Robert Miller (202) 622-3640.

Agency Contact: Jerome D. Sekula, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3640

RIN: 1545–AM67

2797. SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS DURING PROCEEDING TO ENFORCE DESIGNATED SUMMONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to taxpayers with regard to the changes made to section 6503 by the Omnibus Budget Reconciliation Act of 1990. Under those changes, the period of limitations for assessment with respect to a corporation is suspended when a court proceeding is instituted to enforce or quash a designated summons or related summons issued within 30 days of the issuance of the designated summons.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: GL-026-91.

Drafting attorney: Jerome D. Sekula (202) 622-3640.

Reviewing attorney: Robert A. Miller (202) 622-3640.

Agency Contact: Jerome D. Sekula, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3640

RIN: 1545–AQ01

2798. DISCLAIMER OF INTERESTS AND POWER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 25

Legal Deadline: None

Abstract: These regulations contain amendments regarding the disclaimer of jointly owned property.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-002-91

Drafting attorney: Dale Carlton (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

Agency Contact: Dale Carlton, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AR52

2799. AUTOMATIC EXTENSION OF TIME FOR FILING INDIVIDUAL TAX RETURNS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1.6081-4; 26 CFR 301

Legal Deadline: None

Abstract: The regulations reflect new simpler procedures for an individual to obtain an automatic extension of time to file an individual income tax return.

Timetable:

Action	Date	FR Cite
NPRM	01/04/96	61 FR 338
NPRM Comment Period End	04/01/96	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-41-93

Drafting Attorney: Margaret Owens (202) 622-4940.

Reviewing Attorney: Norlyn Miller (202) 622-4940.

Agency Contact: Margaret Owens, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AS04

2800. INTANGIBLE AMORTIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; PL 103-66

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: An advance notice of proposed rulemaking invited written comments from the public on issues that the IRS may address in proposed regulations under section 197 and section 167, relating to the amortization of goodwill and certain other intangibles. This notice was intended to help develop guidance to assist taxpayers in applying the rules relating to section 197. Based on internal analysis of the written comments proposed regulations are now in development.

Timetable:

Action	Date	FR Cite
ANPRM	06/24/94	59 FR 32670
ANPRM Comment Period End	08/23/94	
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-29-94

Drafting attorney: John Huffman (202) 622-3110.

Reviewing attorney: Susan Roaman (202) 622-3110.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: John Huffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Consitution Ave. NW., Washington, DC 20224
Phone: 202 622-3110

RIN: 1545–AS77

2801. REISSUANCE OF QUALIFIED TENDER BONDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1.150

Legal Deadline: None

Abstract: The proposed regulations provide rules for determining whether certain events will cause "qualified tender bonds" to be treated as retired and reissued for purposes of applying sections 103, 141-150, 1394, and 7871 and whether banks have acquired tax exempt bonds under section 265.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Additional Information: FI-58-94.

Drafting attorney: Nancy M. Leshnits (202) 622-3980.

Reviewing attorney: Lon Smith (202) 622-3980.

Agency Contact: Nancy M. Leshnits, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington DC 20224
Phone: 202 622-3980

RIN: 1545–AT09

2802. EFFECT OF THE FAMILY AND MEDICAL LEAVE ACT ON THE OPERATION OF CAFETERIA PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation contains proposed additions to the Income Tax regulations under section 125 of the Internal Revenue Code, relating to cafeteria plans, to answer a number of questions that have been raised about how the requirements under the Family and Medical Leave Act of 1993, PL 103-3, affect the operations of cafeteria plans.

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66229
NPRM Comment Period End	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-20-95.

Reviewing attorney: Harry Beker (202) 622-6080.

Treasury attorney: Mark Hamelburg (202) 622-1341.

Agency Contact: Catherine Fuller, Paralegal Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, CC:EBEO:6
Phone: 202 622-6080
Fax: 202 622-3912

RIN: 1545–AT47

2803. PASS THROUGH ITEMS OF S CORPORATION TO ITS SHAREHOLDERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation deals with the pass through of items of an S corporation to its shareholders, the character of those items, and the basis limitation on losses and deductions taken into account by the shareholders.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: PS-261-82

Drafting attorney: Deane Burke (202) 622-3080.

Reviewing attorney: Donna Young (202) 622-3080.

Treasury attorney: Seth Green (202) 622-0865.

Agency Contact: Deane M. Burke, Attorney-Advisor, Department of the Treasury, Internal Revenue Service
Phone: 202 622-3080

RIN: 1545–AT52

2804. EXCISE TAX ON HEAVY TRUCKS, TRUCK TRAILERS AND SEMITRAILERS, AND TRACTORS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations relate to the retailers excise tax on certain heavy vehicles.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-17-86

Drafting attorney: Edward Madden (202) 622-3130.

Reviewing attorney: Jeffrey Nelson (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Edward Madden, Department of the Treasury, Internal Revenue Service
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AT63

2805. • EXTENSION OF 45-DAY INTEREST-FREE PERIOD FOR REFUNDS OF OVERPAYMENTS OF TAX

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These proposed regulations will provide guidance under section 6611(e) of the Internal Revenue Code, as amended by section 13271 of Pub. L. No. 103-66.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-77-93

Drafting attorney: Michael L. Compertz (202) 622-4910.

Reviewing attorney: John Coulter (202) 622-4910.

Agency Contact: Michael L. Compertz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AU04

2806. • MODIFICATION OF BAD DEBTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will provide guidance to taxpayers that modify the terms of a debt instrument after deducting an amount for partial worthlessness.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-59-94

Drafting attorney: Craig Wojay (202) 622-3018.

Reviewing attorney: Bernita Thigpen (202) 622-3491.

Agency Contact: Craig Wojay, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3018

RIN: 1545–AU06

2807. • MAGNETIC MEDIA FILING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This document proposes regulations relating to the filing requirements for information returns on magnetic media or in other machine - readable form under 6011(e) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: IA-52-95

Drafting attorney: Donna Welch (202) 622-4910.

Agency Contact: Donna Welch, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AU08

2808. • BOND PREMIUM AMORTIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The notice of proposed rulemaking updates section 171 and incorporates changes made by 1986 (requiring premium to be amortized on constant yield method) and by 1988 Act (providing premium is an offset to income not a deduction).

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

TREAS—IRS

Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-48-95

Drafting attorney: William Cejudo (202) 622-3970.

Reviewing attorney: William E. Blanchard (202) 622-3970.

Agency Contact: William Cejudo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3920

RIN: 1545–AU09

2809. • AUTHORITY TO MODIFY OR RESCIND TAXPAYER ASSISTANCE ORDERS

Priority: Routine and Frequent

Legal Authority: 26 USC 7811

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This proposed regulation provides that only the Commissioner, Deputy Commissioner, or Ombudsman can modify or rescind taxpayer assistance order issued under section 7811.

Timetable:

Action	Date	FR Cite
NPRM	04/19/96	61 FR 17265
NPRM Comment Period End	07/18/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: GL-001-96

Drafting attorney: Robert Miller (202) 622-3640.

Agency Contact: Robert Miller, Technical Assistant, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3640

RIN: 1545–AU01

DEPARTMENT OF THE TREASURY (TREAS)

Final Rule Stage

Internal Revenue Service (IRS)

2810. STATEMENT OF PROCEDURAL RULES—PART 601.702

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 301

CFR Citation: 26 CFR 601.702

Legal Deadline: None

Abstract: The document contains final rules amending the Statement of Procedural Rules (SPR) (26 CFR 601.702). Some amendments reflect procedures heretofore only made available to the public in the Internal Revenue Manual, which is maintained in Internal Revenue Service reading rooms. The SPR also reflects changes in the title and nomenclature and changes of addresses to be contacted for Freedom of Information requests. The rules affect persons requesting records from the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
Statement of Procedural Rules	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DL-041-95

Drafting attorney: Margo L. Stevens (202) 622-4570.

Agency Contact: Margo L. Stevens, Attorney, Department of the Treasury, Internal Revenue Service
Phone: 202 622-4570

RIN: 1545–AR99

2811. REISSUANCE OF MORTGAGE CREDIT CERTIFICATES (CROSS-REFERENCE TO TEMPORARY REGULATIONS)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 25(e)(4)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation is a cross-reference to temporary regulations (RIN 1545-AR57) which provides guidance to issuers and holders of mortgage credit certificates on the reissuance of mortgage credit certificates.

Timetable:

Action	Date	FR Cite
NPRM	12/22/93	58 FR 67744
NPRM Comment Period End	02/22/94	59 FR 807
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-47-92.

Drafting attorney: L. Michael Wachtel (202) 622-4437.

Agency Contact: L. Michael Wachtel, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4437

RIN: 1545–AR76

2812. LOANS TREATED AS DISTRIBUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 72

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the application of rules for determining the income tax treatment to be accorded loans to participants or beneficiaries from qualified employer plans. The loan rules are provided in section 72(p) of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66233
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-106-82.

Drafting attorney: Vernon S. Carter (202) 622-6070.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Agency Contact: Vernon S. Carter, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AE41

TREAS—IRS

Final Rule Stage

2813. THE TREATMENT OF ACCELERATED DEATH BENEFITS UNDER SECTIONS 101, 7702 AND 7702A OF THE INTERNAL REVENUE CODE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 101(a); 26 USC 7702; 26 USC 7702A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding the exclusion of accelerated death benefits from gross income and the treatment of accelerated death benefits under section 7702 and 7702A of the Internal Revenue Code. The regulations also provide rules relating to the cash value taken into account in determining whether a contract qualifies as a life insurance contract for purposes of the Code.

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59319
NPRM Comment Period End	02/26/93	57 FR 59324
Hearing	03/19/93	57 FR 59324
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-25-92.

Drafting attorney: Ann H. Logan (202) 622-3970.

Reviewing attorney: Stephen D. Hooe (202) 622-3970.

Treasury attorney: Louise Epstein (202) 622-1778.

Agency Contact: Ann H. Logan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3970

RIN: 1545–AQ70

2814. DEFINITION OF "PRIVATE ACTIVITY BOND", "QUALIFIED BOND"

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 141; 26 USC 142; 26 USC 145; 26 USC 1344; 26 USC 148; 26 USC 150

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides a definition of the term "private activity bond".

Timetable:

Action	Date	FR Cite
NPRM	12/30/94	59 FR 67658
NPRM Comment Period End	05/01/95	
Hearing	06/06/95	59 FR 67658
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Additional Information: FI-72-88.

Drafting attorney: Loretta J. Finger (202) 622-3980.

Reviewing attorney: Mike Bailey (202) 622-3980.

Agency Contact: Loretta J. Finger, Attorney/Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3980

RIN: 1545–AM01

2815. EARNINGS STRIPPING PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation addresses the deductibility of interest under section 163 being limited when paid by a corporation to related persons not subject to U.S. tax.

Timetable:

Action	Date	FR Cite
NPRM	06/18/91	56 FR 27907
Hearing	09/25/91	56 FR 27927
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-870-89.

Drafting attorney: Jacob Feldman (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870.

Treasury attorney: Bruce Cohen (202) 622-0871.

Agency Contact: Jacob Feldman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AO24

2816. SECTION 165

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 165(f)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will finalize all outstanding proposed and temporary regulations under section 1.165-5.

Timetable:

Action	Date	FR Cite
NPRM	01/21/93	58 FR 5316
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-115-90.

Drafting attorney: Carl M. Cooper (202) 622-3840.

Reviewing attorney: Phyllis E. Marcus (202) 622-3840.

Treasury attorney: Unassigned.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AP33

2817. LIKE-KIND EXCHANGES INVOLVING TAX-EXEMPT USE PROPERTY: LEASE TERM

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0168

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance on the length of a lease term for purposes of the tax-exempt use property rules and on the effect of certain like kind exchanges involving tax-exempt use property on depreciation deductions.

Timetable:

Action	Date	FR Cite
NPRM	04/21/95	60 FR 19868
Hearing	06/02/95	60 FR 10868
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-18-95

Drafting attorney: John M. Aramburu (202) 622-4960.

Reviewing attorney: William A. Jackson (202) 622-4960.

Treasury attorney: Seth Green (202) 622-0865.

Agency Contact: John M. Aramburu, Attorney—Adviser (Tax), Department of the Treasury, Internal Revenue Service, 1111 Consititution Ave. NW., Washington, DC 20224
Phone: 202 622-4960

RIN: 1545–AT33

2818. SELF-EMPLOYMENT TAX TREATMENT OF MEMBERS OF CERTAIN LIMITED LIABILITY COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation described the self-employment tax treatment of members of limited liability companies.

Timetable:

Action	Date	FR Cite
NPRM	12/29/94	59 FR 67253
NPRM Comment Period End	03/29/95	60 FR 7488
Final Action	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: EE-45-94.

Drafting attorney: Marie Cashman (202) 622-6040.

Reviewing attorney: Jerry E. Holmes (202) 622-6040.

Treasury attorney: Mark Hamelburg (202) 622-1341.

Agency Contact: Marie Cashman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6040

RIN: 1545–AS94

2819. DEDUCTIBILITY, SUBSTANTIATION, AND DISCLOSURE OF CERTAIN CHARITABLE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 170(f)(8)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations provide guidance regarding the allowance of certain charitable contribution deductions, the substantiation requirements for charitable contributions of $250 or more, and the disclosure requirements for quid pro quo contributions in excess $75.

Timetable:

Action	Date	FR Cite
NPRM	08/04/95	60 FR 39896
Hearing	11/01/95	60 FR 39896
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-44-94

Drafting attorney: Jefferson K. Fox (202) 622-4930.

Reviewing attorney: Karin Gross (202) 622-4930.

Treasury attorney: Catherine Livingston (202) 622-1343.

Agency Contact: Jefferson K. Fox, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4930
Fax: 202 622-6316

RIN: 1545–AS95

2820. GOLDEN PARACHUTE PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 280G

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to restrictions on golden parachute payments. The regulations will provide guidance to taxpayers, who must comply with section 280G, by delineating the circumstances under which payments may be considered excess parachute payments.

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19390
NPRM Comment Period End	07/05/89	
Hearing	11/21/89	54 FR 39648
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-30-90.

Drafting attorney: Robert Misner (202) 622-6060.

Agency Contact: Robert Misner, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–AH49

2821. GUIDANCE IN NOTICE 89-37, WHICH TREATS THE RECEIPT OF A CORPORATE PARTNER'S STOCK BY THE CORPORATE PARTNER AS A CIRCUMVENTION OF GENERAL UTILITIES REPEAL

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 337(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will implement the guidance provided in Notice 89-37, 1989-1 C.B. 679, concerning the treatment of certain partnership transactions involving the stock of a corporate partner.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	01/20/92	57 FR 59327
NPRM	12/15/92	57 FR 59324
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-91-90.

Drafting attorney: Keith E. Stanley (202) 622-7530.

Reviewing attorney: Vicki Hyche (202) 622-7530.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7530

RIN: 1545–AP52

2822. DEEMED PURCHASE PRICE WHEN CERTAIN STOCK PURCHASES ARE TREATED AS ASSET ACQUISITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 338

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will prescribe rules for computing the basis of stock purchased in certain stock acquisitions and for allocating this basis among the assets of the corporation whose stock was thus acquired.

Timetable:

Action	Date	FR Cite
NPRM	07/29/86	51 FR 23790
NPRM Comment Period End	09/02/86	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-191-82.

Drafting attorney: Andrew Eisenberg (202) 622-7790.

Reviewing attorney: William Alexander (202) 622-7780.

Agency Contact: Andrew Eisenberg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-7790

RIN: 1545–AF29

2823. AMENDMENT OF SECTION 1.338-5T REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 338

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address problems that have surfaced in the section 1.338-5T regulations since their publication, issues raised by the repeal of the General Utilities doctrine, as well as issues presented by the passage of section 338(h)(16) in 1988.

Timetable:

Action	Date	FR Cite
NPRM	01/20/94	59 FR 3045
Final Action	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-177-90.

Drafting attorney: Kenneth D. Allison (202) 622-3860.

Reviewing attorney: Charles Bosecky (202) 622-3860.

Treasury attorney: Unassigned.

Agency Contact: Kenneth D. Allison, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AO73

2824. SECTION 351E: DIVERSIFICATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805; 26 USC 351(e)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Determination of when transfers of stocks and securities do not result in diversification.

Timetable:

Action	Date	FR Cite
NPRM	08/10/95	60 FR 40794
NPRM Comment Period End	11/08/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-19-95.

Drafting attorney: Andrew M. Eisenberg (202) 622-7790.

Reviewing attorney: John N. Geracimos (202) 622-7790.

Treasury attorney: David Weisbach (202) 622-1129

Agency Contact: Andrew M. Eisenberg, Attorney/Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7790
Fax: 202 622-6834

RIN: 1545–AT43

2825. AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 367 OF THE CODE (TRANSFERS TO FOREIGN CORPORATIONS) TO REFLECT SECTION 131 OF THE TAX REFORM ACT OF 1984 (P.L. 98-369)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Income Tax Regulations under section 367 will be amended to reflect the changes made to that section by the Tax Reform Act of 1984. Section 367 now provides generally that a foreign corporation will not be considered to be a corporation, for purposes of certain nonrecognition provisions of the Code, upon the transfer of property to such corporation by a U.S. person. The statute provides certain exceptions to that rule, exemptions to those exceptions, and special rules applicable to certain specified transfers. The regulations will provide guidance concerning the applicability of the general rule and its exceptions and special rules, including guidance concerning transfers of assets for use in the active conduct of a trade or business, stock transfers, transfers of intangible assets, and transfers of branch operations that have operated at a loss.

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17990
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-610-86.

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Bernard Bress (202) 622-3850.

Treasury attorney: Unassigned.

Agency Contact: Philip Tretiak, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AK74

2826. TRANSFERS OF STOCK OR SECURITIES BY U.S. PERSONS TO FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations will replace, when finalized, the temporary income tax regulations under section 1.367(a)-1T(c)(2) and section 1.367(a)-3T. They provide guidance on the application of section 367(a) to transfers of stock or securities by U.S. persons to foreign corporations. This regulation has been broken out of a larger regulation project (listed under INTL-610-86, RIN 1545-AK74) that will amend the remainder of the temporary income tax regulations under section 367(a).

Timetable:

Action	Date	FR Cite
NPRM	08/26/91	56 FR 41993
Hearing	11/22/91	56 FR 41992
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-54-91.

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Bernard Bress (202) 622-3850.

Treasury attorney: Joni Walser (202) 622-1752.

Agency Contact: Philip Tretiak, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AP81

2827. CERTAIN OUTBOUND TRANSFERS OF DOMESTIC STOCK OR SECURITIES (CORPORATE INVERSIONS)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will incorporate the principles of Notice 94-46 into the Internal Revenue Code. This regulation will provide rules governing the transfer of domestic stock or securities to a foreign corporation under section 367(a).

Timetable:

Action	Date	FR Cite
NPRM	12/26/95	60 FR 66771
Hearing	04/11/96	60 FR 66771
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-009-95.

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Bernard Bress (202) 622-3850.

Treasury attorney: Joni Walser (202) 622-1752.

Agency Contact: Philip Tretiak, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AT42

2828. INCOME TAX—PART 1—STOCK TRANSFER RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367 (b)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The extent to which a foreign corporation shall be considered to be a corporation in connection with an exchange described in sections 332, 351, 354, 355, 356 or 361.

Timetable:

Action	Date	FR Cite
NPRM	08/26/91	56 FR 41993
NPRM Comment Period End	10/25/91	
Hearing	11/22/91	56 FR 41992
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: INTL-178-86.

Drafting attorney: Irwin Halpern (202) 622-3850.

Reviewing attorney: Bernard Bress (202) 622-3850.

Treasury attorney: Joni Walser (202) 622-1752.

Agency Contact: Irwin Halpern, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AI32

2829. CERTAIN CORPORATE DISTRIBUTIONS TO FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367(e)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal deals with whether gain should be recognized under section 367(e)(2) on distributions in liquidation under section 332 to foreign corporations.

Timetable:

Action	Date	FR Cite
NPRM	01/16/90	55 FR 1472
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-704-87.

Drafting attorney: Philip Tretiak (202) 622-3860.

Reviewing attorney: Bernard Bress (202) 622-3850.

Treasury attorney: Unassigned.

Agency Contact: Philip Tretiak, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AL35

2830. INCOME TAX—DEDUCTION FOR CERTAIN FOREIGN DEFERRED COMPENSATION PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 404A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance relating to the limitations on deductions and adjustments to earnings and profits (or accumulated profits) with respect to certain foreign deferred compensation plans.

Timetable:

Action	Date	FR Cite
NPRM	05/07/93	58 FR 27219
NPRM Comment Period End	05/07/93	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-14-81.

Drafting attorney: Robin Ehrenberg (202) 622-6080.

Reviewing attorney: Michael A. Thrasher (202) 622-6000.

Agency Contact: Robin Ehrenberg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6080

RIN: 1545–AD81

2831. ALLOCATION OF ACCRUED BENEFITS BETWEEN EMPLOYER AND EMPLOYEE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Modification of Reg. section 1.411(c)-1 to reflect GATT provisions affecting the allocation of accrued benefits between employer and employee contributions.

Timetable:

Action	Date	FR Cite
NPRM	12/22/95	60 FR 66532
NPRM Comment Period End	03/21/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-35-95

Drafting attorney: Janet Laufer (202) 622-6060.

Reviewing attorney: Mark Schwimmer (202) 622-6060.

Agency Contact: Janet Laufer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6060
Fax: 202 622-4617

RIN: 1545–AT02

2832. DEFINITION OF "HIGHLY COMPENSATED EMPLOYEE"

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 414(q)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed and temporary regulations define the term "highly compensated employee" under section 414(q) of the Code.

Timetable:

Action	Date	FR Cite
NPRM	02/19/88	
NPRM Comment Period End	04/19/88	53 FR 4999
Partially Closed by TD 8548	06/27/94	59 FR 32911
Final Action	03/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: EE-32-92.

Drafting attorney: Patricia McDermott (202) 622-6030.

Reviewing attorney: Mary E. Oppenheimer (202) 622-6010.

Treasury attorney: Mark Iwry (202) 622-2647.

Temporary and proposed regulations under sections 414(g) and and 414(s) were published February 19, 1988 (53 FR 4965); and final regulations under section 414(s) were published September 19, 1991 (56 FR 47659), under project EE-129-86. The regulations under section 414(q) were split off from project EE-129-86. It is anticipated that final regulations under section 414(q) will be published in the future under project EE-32-92.

Agency Contact: Patricia McDermott, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AQ74

2833. VALUATION OF PLAN DISTRIBUTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 417

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance to employees in determining the present value of an employee's benefit in a qualified defined benefit plan.

Timetable:

Action	Date	FR Cite
NPRM	04/05/95	60 FR 17286
NPRM Comment Period End	07/05/95	
Hearing	07/25/95	60 FR 17286
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-12-95

Drafting attorney: Linda Marshall (202) 622-6030.

Reviewing attorney: Mary E. Oppenheimer (202) 622-6010.

Treasury attorney: Harlan Weller (202) 622-1001.

Agency Contact: Linda Marshall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AT27

2834. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS—SELF-CHARGED ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 0469 (l)

CFR Citation: 26 CFR 1.469-7

Legal Deadline: None

Abstract: The regulation will address the treatment of self-charged items of income and expense in connection with transactions between passthrough entities and owners of interests in those entities.

Timetable:

Action	Date	FR Cite
NPRM	04/05/91	56 FR 14034
Hearing	09/06/91	56 FR 14040
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: PS-039-89.

Drafting attorney: Ann Veninga (202) 622-3080.

Reviewing attorney: Donna M. Young (202) 622-3070.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Ann Veninga, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3080
Fax: 202 622-4524

RIN: 1545–AN64

2835. MARK-TO-MARKET UPON DISPOSITION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 475(a); 26 USC 475(b)(2); 26 USC 475(e); 26 USC 860G(e)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations to address the relationship between mark-to-market accounting and accrual of stated interest, discount and premium, and between mark-to-market accounting and the tax treatment of bad debts. Proposed regulations also provide securities are to be marked to market upon disposition by a dealer and provide rules relating to acquisitions of securities by a dealer. The exemption from marking to market in certain securitization transactions, and the identification requirement for obtaining exemption. Proposed regulations also provide guidance relating to the exclusion of REMIC residual interests from the definition of security and to the relationship between the mark-to-market provisions and the integrated transaction rules in the proposed regulations on debt instruments with contingent payments.

Timetable:

Action	Date	FR Cite
NPRM	01/04/95	60 FR 397
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-42-94

Drafting attorney: Robert Williams (202) 622-4425.

Reviewing attorney: Michael Novey (202) 622-3900.

Treasury attorney: Clarissa Potter (202) 622-0999.

Agency Contact: Robert Williams, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4425

RIN: 1545–AS85

2836. TAXATION OF GLOBAL TRADING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 864; 26 USC 482; 26 USC 863

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations to improve the taxation of global trading.

Timetable:

Action	Date	FR Cite
NPRM	08/28/90	55 FR 35152
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-070-90.

Drafting attorney: Elissa Shendalman (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870.

Treasury attorney: Patricia Brown (202) 622-1781.

Agency Contact: Elissa Shendalman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AP01

2837. MERGER OR DIVISION OF COMMON TRUST FUNDS—SECTION 584

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 584

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amendment of section 1.584-4 of the regulations relating to the diversification requirement for mergers or divisions of common trust funds.

Timetable:

Action	Date	FR Cite
NPRM	08/10/95	60 FR 40798
NPRM Comment Period End	11/18/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-29-92.

Drafting attorney: Steven R. Schneider (202) 622-3060.

Reviewing attorney: Arthur H. Ernst (202) 622-3060.

Treasury attorney: David Weisbach (202) 622-1129.

Agency Contact: Steven R. Schneider, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4524

RIN: 1545–AQ64

2838. PARTNERSHIP DISTRIBUTIONS OF MARKETABLE SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 731(c)(7)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Partnerships distributions of marketable securities.

Timetable:

Action	Date	FR Cite
NPRM	01/02/96	61 FR 28
NPRM Comment Period End	03/13/96	
Public Hearing	04/03/96	61 FR 28
Final Action	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-2-95.

Drafting attorney: William Kostak (202) 622-3080.

Reviewing attorney: William O'Shea (202) 622-3070.

Agency Contact: William M. Kostak, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224

Phone: 202 622-3080

RIN: 1545–AT19

2839. EXTENSION OF TIME FOR REAL ESTATE MORTGAGE INVESTMENT CONDUITS TO PROVIDE REPORTING INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 860F; 26 USC 6049

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This proposed regulation would extend the deadline for REMICs or issuers of CDOs to furnish reporting information.

Timetable:

Action	Date	FR Cite
NPRM	09/30/91	56 FR 49525
Hearing	12/05/91	56 FR 49526
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-38-91.

Drafting attorney: Kenneth P. Christman (202) 622-3950.

Reviewing attorney: Marshall D. Feiring (202) 622-3960.

Treasury attorney: Val P. Strehlow (202) 622-0869.

Agency Contact: Kenneth P. Christman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AP73

2840. CHARITABLE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 861

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed section 1.861-8(e) would provide new guidance regarding the allocation of charitable deductions to U.S. or foreign source income. A taxpayer would allocate such a deduction solely to U.S. source income if he designated the contribution for U.S. use and reasonably believed that it would be so used. He would allocate such a deduction solely to foreign source income if he knows or has reason to know that it would be used solely outside the United States or that it must necessarily be so used. In all other cases, he would ratably apportion such a deduction.

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 10395
Hearing	08/01/91	56 FR 23823
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-116-90.

Drafting attorney: Carl M. Cooper (202) 622-3840.

Reviewing attorney: Charles C. Saverude (202) 622-3800.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AP30

2841. • SOURCE OF INCOME FROM SALES OF NATURAL RESOURCES PRODUCED IN ONE JURISDICTION AND SOLD IN ANOTHER JURISDICTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 0863

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To amend regulations under section 863 governing the source of income for property produced in one jurisdiction and sold in another.

Timetable:

Action	Date	FR Cite
NPRM	12/11/95	60 FR 63478
Hearing	04/10/96	60 FR 63478
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-003-95

Drafting attorney: Anne Shelburne (202) 622-3880.

Reviewing attorney: Margaret O'Connor (202) 622-3860.

Treasury attorney: David Sutherland (202) 622-1754.

Agency Contact: Anne Shelburne, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AT92

2842. ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE AND CERTAIN OTHER EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 864

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of proposed rulemaking by cross-reference to temporary regulations providing rules for affiliated group allocation and apportionment of expenses other than interest that are not traceable to specific income-producing activities or property of corporations.

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 10397
Hearing	06/21/91	56 FR 21640
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-952-86.

Drafting attorney: David F. Bergkuist (202) 622-3860.

Reviewing attorney: Charles Saverude (202) 622-3800.

Treasury attorney: Carol Doran-Klein (202) 622-1762.

Agency Contact: David F. Bergkuist, Attorney-Advisors, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AM20

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TREAS—IRS

Final Rule Stage

2843. TREATMENT OF RELATED PERSON FACTORING INCOME; CERTAIN INVESTMENTS IN UNITED STATES PROPERTY; AND STOCK REDEMPTIONS THROUGH RELATED CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 864 (d); 26 USC 956; 26 USC 304; 26 USC 7805; 26 USC 864 (d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These rules will relate to the treatment of income derived by foreign corporations from factoring the receivables of related persons, rules relating to certain investments in U.S. property and stock redemptions through related corporations.

Timetable:

Action	Date	FR Cite
NPRM	06/14/88	53 FR 22186
NPRM Comment Period End	08/15/88	
Hearing	02/09/89	53 FR 49895
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-49-86.

Drafting attorney: Jeffrey L. Vinnik (202) 622-3840.

Reviewing attorney: Steven Musher (202) 622-3840.

Treasury attorney: Carol Dunahoo (202) 622-0726.

Agency Contact: Jeffrey L. Vinnik, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AH85

2844. COMPUTATION OF INTEREST EXPENSE DEDUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 882

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will revise the rules for the computation of the interest expense deduction of a foreign corporation.

Timetable:

Action	Date	FR Cite
NPRM	04/24/92	57 FR 15038
NPRM Comment Period End	10/14/92	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-309-88.

Drafting attorney: Karl T. Walli (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870

Treasury attorney: Unassigned.

Agency Contact: Karl T. Walli, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AL84

2845. AMENDMENTS TO THE BRANCH PROFITS TAX UNDER SECTIONS 884 AND 864

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 884; 26 USC 864

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will revise the "asset-use" test under section 864 to exclude stock. This regulation will explain what percentage of an interest in a partnership, trust or estate is a U.S. asset under section 884. In addition, this regulation amends the definition of "branch interest" under section 884.

Timetable:

Action	Date	FR Cite
NPRM	09/11/92	57 FR 41707
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-003-92.

Drafting attorney: Gwendolyn A. Stanley (202) 622-3860.

Reviewing attorney: Elizabeth U. Karzon (202) 622-3860.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Gwendolyn A. Stanley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AQ58

2846. INCOME OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 892 (c)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of Proposed Rulemaking by cross-reference to temporary regulations regarding the taxation of income of foreign governments and international organizations.

Timetable:

Action	Date	FR Cite
NPRM	06/27/88	53 FR 24100
NPRM Comment Period End	08/26/88	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-285-88.

Drafting attorney: David A. Juster (202) 622-3850.

Reviewing attorney: Bernard T. Bress (202) 622-3850.

Treasury attorney: Unassigned.

Agency Contact: David A. Juster, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AL93

2847. NONRECOGNITION OF CORPORATE DISTRIBUTIONS AND REORGANIZATIONS UNDER THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 897

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules concerning the effect of certain distributions including dividends, redemptions, distributions pursuant to reorganizations, and liquidations on corporations and their shareholders under the Foreign Investment in Real Property Tax Act. Proposal would also provide rules for determining the extent to which nonrecognition would apply to certain transfers of real property interests and the extent to which certain reorganizations will be treated as sales of property at fair market value.

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16233
Hearing	03/01/89	54 FR 1109
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-491-87.

Drafting attorney: Leslie A. Cracraft (202) 622-3860.

Reviewing attorney: Charles P. Besecky (202) 622-3860.

Treasury attorney: David Sutherland (202) 622-1754.

Agency Contact: Leslie A. Cracraft, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AK79

2848. CONFORMING TAXABLE YEARS OF CFCS AND FPHCS: 1989 CHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 898; 26 USC 902

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides guidance to taxpayers concerning new section 898 of the Internal Revenue Code, added to the Code by the Omnibus Budget Reconciliation Act of 1989. Section 898 requires the taxable years of certain specified foreign corporations to conform to the taxable years of their majority U.S. shareholders.

Timetable:

Action	Date	FR Cite
NPRM	01/05/93	58 FR 290
Final Action	12/00/96	

TREAS—IRS

Final Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-848-89.

Drafting attorney: Michael E. Hara (202) 622-3840.

Reviewing attorney: Charlie C. Saverude (202) 622-3800.

Treasury attorney: Carol Doran Klein (202) 622-1762.

Agency Contact: Michael E. Hara, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AO22

2849. DEEMED PAID CREDIT UNDER SECTION 902 DETERMINED ON ACCUMULATED BASIS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 902(c)(7)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will modify the existing regulations to reflect changes in the computation of the indirect credit under the 1986 Act. The regulations will incorporate a pooling mechanism (rather than year-by-year) and will also reflect the separate basket computations under section 904(d).

Timetable:

Action	Date	FR Cite
NPRM	01/05/95	60 FR 2049
NPRM Comment Period End	04/10/95	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-933-86.

Drafting attorney: Caren S. Shein (202) 622-3850.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: Carol Doran Klein (202) 622-1762.

Agency Contact: Caren S. Shein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3850

Fax: 202 622-4476

RIN: 1545–AL98

2850. APPLICATION OF SECTION 904 TO INCOME SUBJECT TO SEPARATE LIMITATIONS AND SECTION 864(E) AFFILIATED GROUP EXPERT ALLOCATION RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 904(d)(5); 26 USC 864(e)(7)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations modify proposed income tax regulations relating to affiliated group expense allocation rules of section 864(e)(5) and (6). In addition, the regulations propose changes to the section 904(d) final foreign tax credit limitation regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/14/92	57 FR 20660
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-001-92.

Drafting attorney: Caren S. Shein (202) 622-3850.

Reviewing attorney: Barbara A. Felker (202) 622-3850.

Treasury attorney: Carol Doran Klein (202) 622-1762.

Agency Contact: Caren S. Shein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AQ43

2851. INCOME TAX—TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 905 (c); 26 USC 6689

CFR Citation: 26 CFR 1; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulations will establish procedures for taxpayers by which they

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must notify the Service of a change in foreign tax liability for a taxable year for which they claimed the foreign tax credit. The regulations provide special rules for redetermining the taxpayer's United States tax liability when the dollar value of the foreign currency fluctuates between the time for which the foreign tax credit is originally claimed and the time for which the foreign tax credit is redetermined. In addition, the regulations set forth deadlines for compliance with the notification requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/23/88	53 FR 23659
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-61-86.

Drafting attorney: Caren Shein (202) 622-3850.

Reviewing attorney: Barbara A. Felker (202) 622-3850.

Treasury attorney: Carol Doran Klein (202) 622-1762.

Agency Contact: Caren Shein, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AC09

2852. FSC TRANSFER PRICING RULES, DISTRIBUTIONS, DIVIDENDS RECEIVED, DEDUCTION, AND OTHER SPECIAL RULES FOR FSC

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 925(b)(1); 26 USC 925(b)(2); 26 USC 927(d)(2)(B); 26 USC 927(e)(1) to 927(e)(2)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for application of the FSC transfer pricing rules, distributions, dividends received, deductions and other special FSC provisions.

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 6467
NPRM Comment Period End	05/02/87	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-153-86.

Drafting attorney: Richard L. Chewning (202) 622-3870.

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870.

Treasury attorney: Unassigned.

Completed in error in the October 1995 Unified Agenda.

Agency Contact: Richard L. Chewning, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AI16

2853. INCOME TAX—DEFINITION OF QUALIFIED POSSESSION SOURCE INVESTMENT INCOME FOR PURPOSES OF PUERTO RICO AND POSSESSION TAX CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 936(d)(2)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules with respect to what constitutes qualified possession source investment income for purposes of the Puerto Rico and possession tax credit.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2726
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-44-86.

Drafting attorney: W. Edward Williams (202) 874-1490.

Reviewing attorney: Christine Halphen (202) 622-3810.

Treasury attorney: Warren Crowdus (202) 622-1779.

Agency Contact: W. Edward Williams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South SW., Washington, DC 20024
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AC10

2854. SECTION 936 REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 936(h)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will simplify the computation of combined taxable income for companies making an election under section 936(h) of the Code; it will revise the determination of the deemed sales price for purposes of the leasing rules applicable to such corporations.

Timetable:

Action	Date	FR Cite
NPRM	01/12/94	59 FR 1690
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-68-92.

Drafting attorney: Mary Gillmarten (202) 622-3870.

Reviewing attorney: Jacob Feldman (202) 622-3870.

Treasury attorney: Carol Doran Klein (202) 622-1762.

Agency Contact: Mary Gillmarten, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AR18

2855. CBI INVESTMENTS OF SECTION 936 FUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 936(d)(4)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Will define investments made in qualified Caribbean Basin countries that give rise to interests or dividends available for the section 936 credit.

Timetable:

Action	Date	FR Cite
NPRM	05/13/91	56 FR 21963
Hearing	07/12/91	56 FR 21963
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-088-89.

Drafting attorney: W. Edward Williams (202) 874-1490.

Reviewing attorney: Christine Halphen (202) 622-3810.

Treasury attorney: Unassigned.

Agency Contact: W. Edward Williams, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South SW., Washington, DC 20024
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AM91

2856. INSURANCE INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 953

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation defines related person insurance income; and sets forth rules regarding the amount of related person insurance income to be included in gross income. In addition, the regulation defines insurance income under section 953(a), prescribes rules of allocation and apportionment of deductions, and prescribes rules for the interaction of subchapter L and subchapter N.

Timetable:

Action	Date	FR Cite
NPRM	04/17/91	56 FR 15540
Hearing	06/21/91	56 FR 15570
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-939-86.

Drafting attorney: Valerie A. Mark (202) 622-3840.

Reviewing attorney: Steven Musher (202) 622-3840.

Treasury attorney: Carol Dunahoo (202) 622-0726.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AJ70

2857. AMENDMENT TO SUBPART F DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 954

CFR Citation: 26 CFR 1.954-2(b); 26 CFR 1.954-2(g); 26 CFR 1.954-2(h)

Legal Deadline: None

Abstract: These proposed regulations contain provisions governing the definitions of foreign base company income and foreign personal holding company income of a CFC. The regulations are necessary because of changes to the prior law by the Tax Reform Act of 1986, the Technical and Miscellaneous Revenue Act of 1988, and the Revenue Reconciliation Act of 1989.

Timetable:

Action	Date	FR Cite
NPRM	09/07/95	60 FR 46548
Hearing	01/04/96	60 FR 46548
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: INTL-75-92.

Drafting attorney: Valerie A. Mark (202) 622-3840.

Reviewing attorney: Phyllis E. Marcus (202) 622-3840.

Treasury attorney: Carol Dunahoo (202) 622-0726.

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AR31

2858. EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 964

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will develop procedures for foreign corporations or U.S. shareholders to make tax elections in computing functional currency earnings and profits under the 1986 Code.

Timetable:

Action	Date	FR Cite
NPRM	01/25/90	55 FR 2535
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-087-89.

Drafting attorney: M. Grace Freeman (202) 622-3650.

Reviewing attorney: Barbara A. Felker (202) 622-3850.

Treasury attorney: Unassigned.

Agency Contact: M. Grace Freeman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 202224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AM90

2859. USE OF GAAP EARNINGS AS E&P OF FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 964; 26 USC 952

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations are proposed as part of Treasury's ongoing simplification efforts. The proposed regulations would modify the computation of earnings and profits (E&P) of foreign corporations by allowing taxpayers to account for inventory costs using capitalization methods used for financial accounting purposes rather than the uniform capitalization rules required by section 263A. The proposed regulations would also permit reliance on financial accounting conventions in computing

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depreciation for foreign corporations deriving less than 20% of gross income from U.S. sources and maintaining assets with tax bases not materially different from financial book bases. Use of these simplified rules may result in an accounting method change which would ordinarily require the filing of Form 3115 (Application for Change in Accounting Method). However, the proposed regulations waive this filing requirement if its conditions are met.

Timetable:

Action	Date	FR Cite
NPRM	07/01/92	57 FR 29246
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-018-92.

Drafting attorney: M. Grace Fleeman (202) 622-3850.

Reviewing attorney: Barbara A. Felker (202) 622-3850.

Treasury attorney: Unassigned.

Agency Contact: M. Grace Fleeman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AQ55

2860. RULES FOR A QBU CHANGING FROM THE PROFIT-AND-LOSS METHOD TO DASTM

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for a qualified business unit ("QBU") changing from the profit and loss method of accounting to DASTM and also rules for any adjustments required due to the change in method.

Timetable:

Action	Date	FR Cite
NPRM	01/05/93	58 FR 300
Final Action	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-045-92.

Drafting attorney: Jacob Feldman (202) 622-3870.

Reviewing attorney: Jeffrey Dorfman (202) 622-3870.

Treasury attorney: Bruce Cohen (202) 622-0871.

Agency Contact: Jacob Feldman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AR28

2861. COMPUTATION OF A BRANCH'S TAXABLE INCOME TAXATION OF EXCHANGE GAIN OR LOSS ON BRANCH REMITTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Branch rules on how to translate branch income. Taxation of exchange gain or loss on branch remittances.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48457
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-965-86.

Drafting attorney: Richard Hoge (202) 622-3870.

Reviewing attorney: Jeffrey Dorfman (202) 622-3870.

Treasury attorney: Unassigned.

Agency Contact: Richard Hoge, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AM12

2862. MARK-TO-MARKET METHOD OF ACCOUNTING UNDER SECTION 988

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 989(c)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations allow taxpayers to elect to account for exchange gains and losses under a mark-to-market method of accounting. The proposed regulation also addresses other matters including dual currency bonds, contingent payment bonds denominated in a nonfunctional currency, hyperinflationary instruments and certain hedging transactions.

Timetable:

Action	Date	FR Cite
NPRM	03/17/92	57 FR 9217
Final Action	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: INTL-015-91.

Drafting attorney: Ramon Camacho (202) 622-3870.

Reviewing attorney: Jacob Feldman (202) 622-3870.

Treasury attorney: Unassigned.

Agency Contact: Ramon Camacho, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AP78

2863. INCOME TAX—TAX REFORM ACT OF 1984 RELATING TO INTEREST CHARGE DISCS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 995

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Regulations will provide guidance relating to the Interest Charge imposed on DISC shareholders for taxable years ending after 1984. The regulations will explain how the Deemed Distribution is computed and how the Interest Charge is computed.

Timetable:

Action	Date	FR Cite
NPRM	02/02/87	52 FR 3256
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-043-86.

Drafting attorney: David Bergkuist (202) 622-3860.

Reviewing attorney: Jacob Feldman (202) 622-3870.

Treasury attorney: Unassigned.

Completed in error in the October 1995 Unified Agenda.

Agency Contact: David Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AG71

2864. MODIFICATIONS OF DEBT INSTRUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1001

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document relates to the treatment of modifications of debt instruments as realization events under section 1001 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	12/02/92	57 FR 57034
Hearing	02/17/93	57 FR 57033
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-31-92.

Drafting attorney: Tom Kelly (202) 622-3940.

Reviewing attorney: Bill Coppersmith (202) 622-3930.

Agency Contact: Tom Kelly, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3940

RIN: 1545–AR04

2865. CERTAIN PAYMENTS MADE PURSUANT TO A SECURITIES LENDING TRANSACTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 861; 26 USC 871; 26 USC 881; 26 USC 894; 26 USC 1058; 26 USC 1441

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations concern the source, character and income tax treaty treatment of substitute interest and dividend payments made pursuant to a transfer of securities described in section 1058(a) or a substantially similar transaction between a U.S. person and a foreign person. To determine the source and character of cross-order substitute payments, a substitute payment will be treated as interest or dividend income received with respect to the transferred security. Where a treaty looks to U.S. law to define a payment subject to a withholding tax, a substitute payment will be treated as interest or dividend income with respect to the transferred security.

Timetable:

Action	Date	FR Cite
NPRM	01/09/92	57 FR 860
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-106-89.

Drafting attorney: Ramon Camacho (202) 622-3870.

Reviewing attorney: Karl Walli (202) 622-3870.

Treasury attorney: Patricia A. Brown (202) 622-1781.

Agency Contact: Ramon Camacho, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AP71

2866. INCOME TAX—GAIN FROM DISPOSITION OF INTEREST IN OIL, GAS, GEOTHERMAL, OR OTHER MINERAL PROPERTIES BY S CORPORATIONS AND THEIR SHAREHOLDERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1254; 26 USC 751

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will determine the tax treatment by S corporations and their shareholders from the disposition of certain oil, gas, geothermal, or other mineral properties. Gain subject to recapture under section 1254 will be accorded ordinary income treatment. The regulations also will determine the tax treatment of sales of shares of stock in an S corporation that holds oil, gas, geothermal, or other mineral properties.

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66238
Final Action	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-7-89.

Drafting attorney: James A. Quinn (202) 622-3060.

Reviewing attorney: Arthur H. Ernst (202) 622-6060.

Treasury attorney: Seth Green (202) 622-0865.

Agency Contact: James A. Quinn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4524

RIN: 1545–AM98

2867. CONTINGENT AND VARIABLE DEBT INSTRUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1275(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address the proper accrual of original issue discount on debt instruments that provide for contingent or variable payments. This regulation will clarify existing uncertainties under the present law.

Timetable:

Action	Date	FR Cite
NPRM	12/16/94	59 FR 64884
NPRM Comment Period End	03/16/95	
Hearing	03/16/95	60 FR 64884
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-059-91.

Drafting attorney: William E. Blanchard (202) 622-3950.

Treasury attorney: David Weisbach (202) 622-1129.

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Agency Contact: William E. Blanchard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AQ86

2868. DEBT INSTRUMENTS WITH ORIGINAL ISSUE DISCOUNT: ANTI-ABUSE RULE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1275(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides an anti-abuse rule relating to the tax treatment of debt instruments with original issue discount.

Timetable:

Action	Date	FR Cite
NPRM	02/02/94	59 FR 4878
NPRM Comment Period End	04/04/94	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-5-94

Drafting attorney: William E. Blanchard (202) 622-3950.

Treasury attorney: David Weisbach (202) 622-1129.

Agency Contact: William E. Blanchard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AS35

2869. TREATMENT OF SHAREHOLDERS OF PASSIVE FOREIGN INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0446; 26 USC 1291; 26 USC 1293; 26 USC 1295; 26 USC 1297

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation relates to the treatment of shareholders of passive foreign investment companies.

Timetable:

Action	Date	FR Cite
NPRM	04/01/92	57 FR 11024
NPRM Comment Period End	07/30/92	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-656-87.

Drafting attorney: Gayle Novig (202) 622-3880.

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Patricia Brown (202) 622-1781.

Agency Contact: Gayle Novig, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3880

RIN: 1545–AC06

2870. PASSIVE FOREIGN INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1294; 26 USC 1297(b)(1); 26 USC 1291(d)(2)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance to passive foreign investment companies and their shareholders that are United States persons about the time, manner and other requirements for making certain elections.

Timetable:

Action	Date	FR Cite
NPRM	03/02/88	53 FR 6781
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-941-86.

Drafting attorney: Carolyn Fanaroff (202) 622-3880.

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Patricia Brown (202) 622-1781.

Agency Contact: Carolyn Fanaroff, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AI33

2871. PASSIVE FOREIGN INVESTMENT COMPANIES—SPECIAL RULES FOR FOREIGN BANKS AND SECURITIES DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1296(b)(2)(A); 26 USC 1296(b)(3)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance for qualifying foreign banks and securities dealers for the exception to passive income characterization for purposes of the income and asset tests of the PFIC provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/28/95	60 FR 20922
Hearing	09/11/95	60 FR 39902
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-0065-93.

Drafting attorney: Ramon Camacho (202) 622-3870

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Patricia Brown (202) 622-1781.

Agency Contact: Ramon Camacho, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AS46

2872. INCOME TAX—DEFINITIONS AND SPECIAL RULES PERTAINING TO S CORPORATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1377

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will define and interpret special rules contained in Section 1377 of the Code, including pro rata share, the election to terminate a year and post-termination period.

Timetable:

Action	Date	FR Cite
NPRM	07/12/95	60 FR 35882
NPRM Comment Period End	10/10/95	
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-268-82.

Drafting attorney: Laura Howell (202) 622-3060.

Reviewing attorney: H. Grace Kim (202) 622-3060.

Treasury attorney: John Rooney (202) 622-1335.

Agency Contact: Laura Howell, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3060
Fax: 202 622-4524

RIN: 1545–AE94

2873. TEMPORARY REGULATION ON WITHHOLDING TAX ON PAYMENTS FROM PARTNERSHIPS TO FOREIGN PARTNERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1446

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation explains under what circumstances withholding is required under section 1446. It also explains the timing of withholding and how to pay over the withheld amounts to the Internal Revenue Service. Section 1446 was substantially amended by the Technical and Miscellaneous Revenue Act of 1988.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: INTL-938-86.

Drafting attorney: Ronald Gootzeit (202) 622-3880.

Reviewing attorney: Margaret O'Connor (202) 622-3880.

Treasury attorney: Unassigned.

Agency Contact: Ronald Gootzeit, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AL32

2874. CONSOLIDATED ALTERNATIVE MINIMUM TAX

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1502; 26 USC 53; 26 USC 55; 26 USC 56; 26 USC 57; 26 USC 58; 26 USC 59; 26 USC 59A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide corporate taxpayers joining in the filing of a consolidated federal income tax return with guidance necessary to calculate their alternative minimum tax liability.

Timetable:

Action	Date	FR Cite
NPRM	12/30/92	57 FR 62251
Final Action	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IA-057-89.

Drafting attorney: Martin Scully (202) 622-4960.

Reviewing attorney: Stephen Toomey (202) 622-4960.

Agency Contact: Martin Scully, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4960

RIN: 1545–AN73

2875. MEMBER STOCK TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules disallow loss and exclude gain for certain dispositions and other transactions involving stock of the common parent of a consolidated group. The rules prevent taxpayers from recognizing certain gains and losses on common parent stock that would not be recognized if a consolidated group were treated as a single entity.

Timetable:

Action	Date	FR Cite
NPRM	07/12/95	60 FR 36755
NPRM Comment Period End	10/16/95	
Hearing	11/16/95	60 FR 36755
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-24-95.

Drafting attorney: David Kessler (202) 622-7770.

Reviewing attorney: Victor Penico (202) 622-7750.

Treasury attorney: David Weisbach (202) 622-1129.

Agency Contact: Victor Penico, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7750
Fax: 202 622-6834

RIN: 1545–AT51

2876. QDOT SECURITY REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 2056A

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: The proposed regulation provides guidance regarding qualification of a trust as a qualified domestic trust.

Timetable:

Action	Date	FR Cite
NPRM	08/22/95	60 FR 43574
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-25-94

Drafting attorney: Susan B. Hurwitz (202) 622-3090.

Reviewing attorney: George Masnik (202) 622-3090.

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Agency Contact: Susan Hurwitz, Department of the Treasury, Internal Revenue Service
Phone: 202 622-3090

RIN: 1545–AT64

2877. TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6302 (c)

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Proposal would provide rules concerning the treatment of certain deferred compensation and salary reduction arrangements under section 3121 (v) and section 3306 (r) of the Internal Revenue Code of 1954, thereby giving needed guidance to the public on how the Internal Revenue Service intends to interpret those sections of the Code.

Timetable:

Action	Date	FR Cite
NPRM	01/25/96	61 FR 2194
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-142-87.

Drafting attorney: David Pardys (202) 622-6040.

Reviewing attorney: Jerry Holmes (202) 622-6040.

Treasury attorney: Elizabeth Buchbinder (202) 622-1352.

Agency Contact: David Pardys, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6040

RIN: 1545–AF97

2878. • FUTA TAXATION OF AMOUNTS UNDER EMPLOYEE BENEFIT PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 3306(r)(2)

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Guidance of FUTA tax of nonqualified deferred compensation.

Timetable:

Action	Date	FR Cite
NPRM	01/25/96	61 FR 2214
NPRM Comment Period End	04/24/96	
Final Action	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-55-95

Drafting attorney: David Pardys (202) 622-6040.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Agency Contact: David Pardys, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6040

RIN: 1545–AT99

2879. ELECTRONIC FILING OF FORM W-4

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The statute and existing regulations require employees to furnish employers with withholding exemption certificates (Forms W-4). The regulation would permit employees to file Forms W-4 electronically under certain circumstances.

Timetable:

Action	Date	FR Cite
NPRM	12/21/94	59 FR 65740
NPRM Comment Period End	02/21/95	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: EE-45-93

Drafting attorney: Karin Loverud (202) 622-6060.

Reviewing attorney: Mark Schwimmer (202) 622-6060.

Agency Contact: Karin Loverud, Tax Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–AR67

2880. INFORMATION REPORTING AND BACKUP WITHHOLDING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 35a

Legal Deadline: None

Abstract: This regulation relates to the requirement that certain payments must be reported to the Internal Revenue Service and that in certain instances 31 percent of a reportable payment must be deducted and withheld under section 3406 of the Internal Revenue Code. However, where a foreign person is an exempt recipient or has submitted a Form W-8, 1001 or 4224, no reporting or backup withholding generally is required.

Timetable:

Action	Date	FR Cite
NPRM	02/29/88	53 FR 05991
Hearing	06/15/89	54 FR 11236
Partial Withdrawal	12/21/95	60 FR 66227
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-052-86.

Drafting attorney: Teresa B. Hughes (202) 622-3880.

Reviewing attorney: Philip Garlett (202) 622-3880.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Teresa B. Hughes, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AL99

2881. RETAIL EXCISE TAXES ON CERTAIN LUXURY ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4004

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations relate to the retailers excise taxes on certain luxury items.

Timetable:

Action	Date	FR Cite
NPRM	01/02/91	56 FR 36
NPRM Comment Period End	03/04/91	
Hearing	04/29/91	56 FR 11979
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: PS-094-90.

Drafting attorney: Edward Madden (202) 622-3130.

Reviewing attorney: Jeffrey Nelson (202) 622-3130.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Edward Madden, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AP24

2882. DIESEL FUEL EXCISE TAX

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4081; 26 USC 6427

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: These regulations relate to the diesel fuel excise tax effective January 1, 1994. Determination of taxable events; person liable for the tax; exemptions including dying; and the rules for ultimate vendors who claim credit or refund.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/93	58 FR 45061
NPRM	11/30/93	58 FR 63131
NPRM Comment Period End	01/31/94	
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: PS-52-93

Drafting attorney: Frank Boland (202) 622-3130.

Reviewing attorney: Richard Kocak (202) 622-3130.

Treasury attorney: John Purcell (202) 622-2578.

Agency Contact: Frank Boland, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington DC 20224
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AR92

2883. TAX ON PETROLEUM

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4611; 26 USC 4612

CFR Citation: 26 CFR 52

Legal Deadline: None

Abstract: The regulations relate to tax on petroleum under section 4611 of the Code.

Timetable:

Action	Date	FR Cite
NPRM	06/25/93	58 FR 21963
Hearing	03/03/94	59 FR 5161
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: PS-158-86.

Drafting attorney: Ruth Hoffman (202) 622-3130.

Reviewing attorney: Dick Kocak (202) 622-3130.

Treasury attorney: John Purcell (202) 622-2578.

Agency Contact: Ruth Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AJ23

2884. • REQUIREMENTS FOR TAX EXEMPT LABOR ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 501(c)(5)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance to clarify the scope of the exemption from income tax provided in section 501(c)(5) of the Internal Revenue Code for labor, agricultural and horticultural organizations.

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66228
NPRM Comment Period End	03/20/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-53-95

Drafting attorney: Robin Ehrenberg (202) 622-6080.

Reviewing attorney: Elizabeth Purcell (202) 622-6010.

Agency Contact: Robin Ehrenberg, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6080

RIN: 1545–AT95

2885. • REPORTING ON NONPAYROLL WITHHELD TAX LIABILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6011

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Regulations that relate to reporting on nonpayroll withheld tax liabilities.

Timetable:

Action	Date	FR Cite
NPRM	10/16/95	60 FR 53561
NPRM Comment Period End	12/15/95	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: IA-30-95

Drafting attorney: Vincent Surabian (202) 622-4940.

Reviewing attorney: Norlyn Miller (202) 622-4940.

Treasury attorney: Chris Rizek (202) 622-1338.

Agency Contact: Vincent Surabian, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AT86

2886. INFORMATION FROM PASSPORT AND IMMIGRATION APPLICANTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6039E

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation will prescribe the information to be gathered by the State Department and Immigration and Naturalization Service on passport and green card applicants and the penalties to be imposed on such applicants if they do not supply the information.

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61373
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-978-86.

Drafting attorney: Ricardo A. Cadenas (202) 874-1490.

Reviewing attorney: George Sellinger (202) 874-1490.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Ricardo A. Cadenas, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South SW., Suite 3319, Washington, DC 20024
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AJ93

2887. VOICE SIGNATURES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6061; 26 USC 6012

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will enable the Service to accept a voice signature in lieu of a handwritten signature. This will allow the Service to test the feasibility of voice signatures for one year with certain taxpayers who live in the geographic area of the Cincinnati district office. The regulations also address the effect of a taxpayer using a voice signature.

Timetable:

Action	Date	FR Cite
NPRM	01/13/93	58 FR 4125
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-39-95.

Drafting attorney: Celia Gabrysh (202) 622-4940.

Reviewing attorney: Rudolf Planert (202) 622-4940.

Agency Contact: Celia Gabrysh, Atorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AQ68

2888. DISCLOSURE OF RETURNS AND RETURN INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6103

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This document amends existing regulation 26 CFR 301.6103(n)-1 and would add officers and employees of the Justice Department having tax administration duties to those persons and agencies authorized to disclose returns and return information in connection with the procurement of property and services for tax administration purposes. Currently, such disclosures by the Justice Department are limited to the Tax Division.

Timetable:

Action	Date	FR Cite
NPRM	12/15/95	60 FR 64402
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DL-40-95

Drafting attorney: Donald Squires (202) 622-4570.

Reviewing attorney: Joseph Urban (202) 622-4570.

Agency Contact: Donald Squires, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4570

RIN: 1545–AT48

2889. AMENDMENT TO SECTION 6109 REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6109

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will amend I.R.C. section 6109 regarding tax identification numbers.

Timetable:

Action	Date	FR Cite
NPRM	06/08/95	60 FR 30211
Hearing	09/28/95	60 FR 30211
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: INTL-0024-94

Drafting attorney: Lilo A. Hester (202) 874-1490.

Reviewing attorney: Christine Halphen (202) 622-3810.

Treasury attorney: P. Ann Fisher (202) 622-1755.

Agency Contact: Lilo A. Hester, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza South SW., Washington, DC 20024
Phone: 202 874-1490

RIN: 1545–AS83

2890. 6114 REPORTING REQUIREMENTS WAIVED

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6114

CFR Citation: 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulation will provide that reporting under section 6114 is required in situations where the residency of an individual is determined under a treaty and apart from the Code.

Timetable:

Action	Date	FR Cite
NPRM	04/27/92	57 FR 15272
NPRM Comment Period End	06/26/92	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: INTL-121-90.

Drafting attorney: David A. Juster (202) 622-3850.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: P. Ann Fisher (202) 622-1755.

This regulation project has been split with INTL-40-94.

Agency Contact: David A. Juster, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AP35

2891. INTEREST-FREE ADJUSTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6205

CFR Citation: 26 CFR 31.6205-1(a)(3); 26 CFR 31.6205-1(b); 26 CFR 31.6205-1(c); 26 CFR 31.6205-1(d)

Legal Deadline: None

Abstract: Under section 6205(a)(1) of the Code if less than the correct amount of tax imposed under the FICA, the RRTA, or the income tax withholding provisions is paid with respect to any payment of wages or compensation, proper adjustments; with respect to both the tax and amount to be deducted, must be made without interest in such manner and in such times as the Secretary may by regulations prescribe. The proposed amendments would add language to clarify that an interest-free adjustment can be made in certain situations in which th error is ascertained before the appropriate return is filed. The proposed amendments are intended to apply only to situations in which no return was filed because the employer improperly failed to treat its workers as employees.

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	57 FR 58423
NPRM Comment Period End	02/08/93	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-12-92.

Drafting Tax Law Specialist: Karin Loverud (202) 622-6060.

Reviewing attorney: Mary Oppenheimer (202) 622-6010.

Agency Contact: Karin Loverud, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–AQ61

2892. SELECTION OF TAX MATTERS PARTNER FOR LIMITED LIABILITY COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6230(i); 26 USC 6230(k); 26 USC 7805(a)

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide (1) who an LLC may designate as its tax matters partner for a specific taxable year, (2) how the designation is made and (3) how the designation is terminated.

Timetable:

Action	Date	FR Cite
NPRM	10/30/95	60 FR 55228
Final Action	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: PS-34-92

Drafting attorney: D. Lindsay Russell (202) 622-3050.

Reviewing attorney: Dianna K. Miosi (202) 622-3050.

Treasury attorney: John Rooney (202) 622-1335.

Agency Contact: D. Lindsay Russell, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AS09

2893. FEDERAL TAX DEPOSITS BY ELECTRONIC FUNDS TRANSFER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6302(h)

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 40

Legal Deadline: NPRM, Statutory, July 6, 1994.

Abstract: Proposes to adopt as final regulations temporary regulations that describe taxpayers that must make deposits of taxes by means of electronic funds transfer, the types of taxes that must be deposited and when the deposits must commerce.

Timetable:

Action	Date	FR Cite
NPRM	07/11/94	59 FR 35418
Hearing	09/12/94	59 FR 35418
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-003-94

Drafting attorney: Vincent G. Surabian (202) 622-4940.

Reviewer attorney: Norlyn Miller (202) 622-4940.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Vincent G. Surabian, Attorney-Adviser (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AS79

2894. DEPOSITS OF EXCISE TAX

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6302

CFR Citation: 26 CFR 40

Legal Deadline: None

Abstract: Safe harbor rules relating to additional deposit of excise taxes required by section 6302(e) and (f).

Timetable:

Action	Date	FR Cite
NPRM	08/29/95	60 FR 44788
NPRM Comment Period End	11/27/95	
Final Action	05/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: PS-8-95

Drafting attorney: Ruth E. Hoffman (202) 622-3130.

Reviewing attorney: Jeffrey M. Nelson (202) 622-3130.

Agency Contact: Ruth E. Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AT25

2895. UPDATE OF LIST OF LEGAL HOLIDAYS FOR PURPOSES OF TIME FOR PERFORMANCE OF ACTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These regulations will update existing regulations section 301.7503-1 by deleting the list of legal holidays.

Timetable:

Action	Date	FR Cite
NPRM	09/25/95	60 FR 49356
NPRM Comment Period End	12/26/95	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-36-91

Drafting attorney: Judith Lintz (202) 622-4940.

Reviewing attorney: Peter Frederick (202) 622-4940.

Agency Contact: Judith A. Lintz, Attorney-Adviser (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AT22

2896. ENVIRONMENTAL SETTLEMENT FUNDS—CLASSIFICATION 7701

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations address the classification for Federal tax purposes of an organization established as a trust pursuant to State law that has as its primary purpose the remediation of a hazardous waste site pursuant to an order of the Environmental Protection Agency (EPA) or comparable State or local governmental entity.

Timetable:

Action	Date	FR Cite
NPRM	08/04/95	60 FR 39903
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: PS-54-94

Drafting attorney: James A. Quinn (202) 622-3060.

Reviewing attorney: J. Thomas Hines (202) 622-3060.

Treasury attorney: John Rooney (202) 622-1335.

Agency Contact: James A. Quinn, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC
Phone: 202 622-3060

RIN: 1545–AT02

2897. SPECIAL RULES FOR S CORPS UNDER 301.7701(B)-7

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701(b)

CFR Citation: 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: The regulation will provide rules that will permit a dual resident S Corp shareholder, who has claimed a treaty benefit, to be treated as a U.S. resident for purposes of section 1361(a)(1) of the Code.

Timetable:

Action	Date	FR Cite
NPRM	04/27/92	57 FR 15272
NPRM Comment Period End	06/26/92	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: INTL-40-94

Drafting attorney: David A. Juster (202) 622-3850.

Reviewing attorney: Barbara Felker (202) 622-3850.

Treasury attorney: P. Ann Fisher (202) 622-1755.

This regulation project was previously part of INTL-121-90

RIN: 1545-AP35.

Agency Contact: David A. Juster, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3870
Fax: 202 622-4476

RIN: 1545–AS88

2898. CERTAIN ELECTIONS UNDER THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provides guidance to the public relating to the time and manner of making certain elections enacted as part of the Omnibus Budget Reconciliation Act of 1993.

Timetable:

Action	Date	FR Cite
NPRM	12/27/93	58 FR 68336
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-62-93

Drafting attorney: George Bradley (202) 622-4920.

Reviewing attorney: Linda Kroening (202) 622-4800.

Agency Contact: George Bradley, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4920

RIN: 1545–AS14

2899. ARBITRAGE RESTRICTION ON TAX-EXEMPT BONDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 148(f); 26 USC 148(i); 26 USC 149(d)(7); 26 USC 150

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project clarifies and revises certain provisions of the final arbitrage regulations published in June 1993.

Timetable:

Action	Date	FR Cite
NPRM	05/10/94	59 FR 24094
Hearing	10/12/95	60 FR 42819
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Additional Information: FI-7-94.

Drafting attorney: Loretta J. Finger (202) 622-3980.

Reviewing attorney: Michael G. Bailey (202) 622-3980.

Agency Contact: Loretta J. Finger, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3980

RIN: 1545–AS49

2900. DISCLOSURE OF RETURN INFORMATION TO THE U.S. CUSTOMS SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; PL 103-182, sec 522

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The proposed regulations specify the procedure by which return information may be disclosed to the U.S. Customs Service as authorized by section 6103(l)(14) of the Code and describe the conditions and restrictions on the use and redisclosure of that information. The regulations limit the return information to be disclosed to that relevant to the purpose authorized by the statute, i.e. ascertaining the correctness of entries in Customs audits and describe several aspects of this purpose to which requested return information may relate. The regulations also provide for Customs' use and redisclosure of the information to the extent necessary to collect amounts due and owing as a result of those audits. The regulations will result in some administrative costs to the IRS in retrieving the requested data and is expected to result in increased revenues through more effective enforcement of the Customs laws.

Timetable:

Action	Date	FR Cite
NPRM	03/11/94	59 FR 11566
NPRM Comment Period End	05/10/94	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DL-21-94.

Drafting attorney: Donald Squires (202) 622-4570.

Reviewing attorney: Joseph Urban (202) 622-4570.

Treasury attorney: Elizabeth Wagner (202) 622-1778.

Agency Contact: Donald Squires, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4570

RIN: 1545–AS52

2901. CLUB DUES UNDER SECTION 274

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposes amendments to existing regulations to eliminate deductions for club membership fees.

Timetable:

Action	Date	FR Cite
NPRM	12/16/94	59 FR 64909
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-17-94

Drafting Attorney: John Sapienza (202) 622-4920.

Reviewing Attorney: Robert Berkowsky (202) 622-4920.

Agency Contact: John Sapienza, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4920

RIN: 1545–AS74

2902. DEBT INSTRUMENTS WITH OID; ANNUITY CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1275(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations determine which annuity contracts issued by banks are debt instruments for purposes of OID regs.

Timetable:

Action	Date	FR Cite
NPRM	04/07/95	60 FR 17731
NPRM Comment Period End	07/18/95	
Hearing	08/08/95	60 FR 17731
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: FI-33-94.

Drafting attorney: Jeffrey Maddrey (202) 622-3940.

Reviewing attorney: William E. Blanchard (202) 622-3950.

Agency Contact: Jeff Maddrey, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3940

RIN: 1545–AS76

2903. REISSUANCE OF QUALIFIED TENDER BONDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1.150

Legal Deadline: None

Abstract: The proposed regulation provides rules for determining whether certain events will cause "qualified tender bonds" to be treated as retired and reissued for purposes of applying sections 103, 141-150, 1394, and 7871 and whether banks have acquired tax-exempt bonds under section 265.

Timetable:

Action	Date	FR Cite
Temporary Regulation	12/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Additional Information: FI-58-94.

Drafting attorney: Nancy M. Lashnits (202) 622-3980.

Reviewing attorney: Lon Smith (202) 622-3980.

Agency Contact: Nancy M. Lashnits, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3980

RIN: 1545–AT10

TREAS—IRS

Final Rule Stage

2904. MODIFICATIONS OF BAD DEBTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will provide guidance to taxpayers that modify the terms of a debt instrument after deducting an amount for partial worthlessness.

Timetable:

Action	Date	FR Cite
Temporary Regulation	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-59-94.

Drafting attorney: Craig Wojay (202) 622-3018.

Reviewing attorney: Bernita Thigpen (202) 622-3491.

Agency Contact: Craig Wojay, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-3018

RIN: 1545–AT14

2905. METHODS OF SIGNING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301; 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance to the public for filing returns, statements, or other documents electronically with an electronic signature.

Timetable:

Action	Date	FR Cite
NPRM	07/21/95	60 FR 37621
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-10-95

Drafting attorney: Celia Gabrysh (202) 622-4940.

Reviewing attorney: Norlyn Miller (202) 622-4940.

Agency Contact: Celia Gabrysh, Attorney-Adviser (Tax), Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6316

RIN: 1545–AT23

2906. STRADDLES - MISCELLANEOUS ISSUES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project holds equity swaps to be straddles.

Timetable:

Action	Date	FR Cite
NPRM	05/02/95	60 FR 21482
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-21-95.

Drafting attorney: Robert Williams (202) 622-3960.

Reviewing attorney: Alice Bennett (202) 622-3960.

Treasury attorney: Clarissa Potter (202) 622-0999.

Agency Contact: Robert Williams, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224,
Phone: 202 622-3960
Fax: 202 622-4425

RIN: 1545–AT46

2907. TREATMENT OF UNDERWRITERS IN SECTION 351 AND SECTION 721

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 351; 26 USC 721

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation relates to underwriters who will be ignored for purposes of section 351 and section 721.

Timetable:

Action	Date	FR Cite
NPRM	08/10/95	60 FR 40792
NPRM Comment Period End	11/18/95	
Hearing	01/17/96	60 FR 40792
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: CO-26-95.

Drafting attorney: Susan Edlavitch (202) 622-7750.

Drafting attorney: Brian O'Connor (202) 622-3060.

Reviewing attorney: Nelson Crouch (202) 622-7750.

Agency Contact: Susan T. Edlavitch, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–AT55

2908. ERISA SEC. 204(H) NOTICE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 2

Legal Deadline: None

Abstract: The regulations provide guidance on the requirement of section 204(h) of ERISA that advance notice be given to qualified plan participants of an amendment that provides for a significant reduction in the rate of future benefit accruals.

Timetable:

Action	Date	FR Cite
NPRM	12/15/95	60 FR 64401
Final Action	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: EE-34-95

Drafting attorney: Betty Clary (202) 622-6070.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Agency Contact: Betty Clary, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AT78

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Long-Term Actions

2909. DISABLED ACCESS CREDIT

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Mark Pitzer
Phone: 202 622-3040
Fax: 202 622-4524

RIN: 1545–AT72

2910. SECTION 79, TABLE I, UPDATE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Betty Clary
Phone: 202 622-6070

RIN: 1545–AN54

2911. EXCLUSION FROM INCOME OF CERTAIN COST-SHARING PAYMENTS UNDER GOVERNMENT PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: A. Michael Santoro
Phone: 202 622-4743

RIN: 1545–AT73

2912. SECTION 338(H)(10) AND INSURANCE COMPANIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Geisler
Phone: 202 622-3970

RIN: 1545–AS56

2913. GUIDANCE ON WHAT CONSTITUTES AN INTEREST OTHER THAN THAT OF A CREDITOR

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey Erickson
Phone: 202 622-3080

RIN: 1545–AO32

2914. GUIDANCE ON SECTION 468

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary A. Berman
Phone: 202 622-4743

RIN: 1545–AT59

2915. APPLICATION OF PASSIVE ACTIVITY LOSS AND CREDIT LIMITATIONS TO TRUSTS, ESTATES, AND THEIR BENEFICIARIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Katherine Mellody
Phone: 202 622-3090

RIN: 1545–AN62

2916. INVENTORIES BY DEALERS IN SECURITIES SECTION 1.471-5

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Nicholas G. Bogos
Phone: 202 622-3920

RIN: 1545–AS57

2917. ESTATE TAX—ANNUITY EXCLUSION REPEAL

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 20; 26 CFR 25

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William L. Blodgett
Phone: 202 622-3090

RIN: 1545–AP60

2918. REFORMATION OF CHARITABLE TRANSFERS-DEFINITION OF GUARANTEED ANNUITY AND LEAD UNITRUST INTEREST

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 20

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Esther Woodworth
Phone: 202 622-3090
Fax: 202 622-4524

RIN: 1545–AT65

2919. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS AS NONEMPLOYEES FOR EMPLOYMENT TAX PURPOSES—REPORTING REQUIREMENTS WITH RESPECT TO DIRECT SELLERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	01/07/86	51 FR 619
NPRM Comment Period End	03/10/86	
Hearing	06/18/86	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alfred Kelley
Phone: 202 622-4631

RIN: 1545–AE62

2920. RAILROAD UNEMPLOYMENT REPAYMENT TAX

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	05/13/93	58 FR 28374
NPRM Comment Period End	07/12/93	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Casey
Phone: 202 622-6040

RIN: 1545–AN40

2921. • DEFINITION OF REASONABLE BASIS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6662

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Definition of reasonable basis for purposes of the accuracy - related penalty under section 6662.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-42-95

Drafting attorney: Rochelle Hodes (202) 622-4940.

Reviewing attorney: Norlyn Miller (202) 622-4940.

Agency Contact: Rochelle Hodes, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4940
Fax: 202 622-6316

RIN: 1545–AT88

2922. INTERIM FISHING VESSEL CAPITAL CONSTRUCTION FUND PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 3

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Agency Contact: David Selig
Phone: 202 622-3040
Fax: 202 622-4524

RIN: 1545–AS69

2923. TECHNICAL CORRECTIONS FOR CHAPTER 14

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 25

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dale Carlton
Phone: 202 622-3090

RIN: 1545–AR49

2924. GUIDANCE FOR AIR CARGO CARRIERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 49

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patrick S. Kirwan
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AT30

2925. CERTAIN FRINGE BENEFITS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Janine Cook
Phone: 202 622-6040
Fax: 202 622-4631

RIN: 1545–AT45

2926. PROPERTY DISTRIBUTED IN KIND AND TREATMENT OF MULTIPLE TRUSTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Laura Howell
Phone: 202 622-3060
Fax: 202 622-4524

RIN: 1545–AT68

2927. AMORTIZATION-GOODWILL INTANGIBLES 197

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/15/94	59 FR 11957
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Huffman
Phone: 202 622-3110

RIN: 1545–AT70

2928. TO ADD PROVISIONS RELATING TO START-UP EXPENDITURES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David Selig
Phone: 202 622-3040
Fax: 202 622-4524

RIN: 1545–AT71

2929. EFFECTIVE DATE OF TEMPORARY BACKUP WITHHOLDING REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31; 26 CFR 35a

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66243
NPRM Comment Period End	03/20/96	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Renay France
Phone: 202 622-4910

RIN: 1545–AT77

2930. • TIMING OF NOTICE AND CONSENT REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide relief to employers on timing of notice and consent requirements under section 411(a) and 417.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	09/22/95	60 FR 49236
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: EE-24-93

Drafting attorney: Marjorie Hoffman (202) 622-6030.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Agency Contact: Marjorie Hoffman, Department of the Treasury, Internal Revenue Service, 1111 Constituition Ave. NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AU05

2931. • SALE OF SEIZED PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation contains proposed amendments relating to the sale of seized properly under section 6445 of the Internal Revenue Code. The Tax Reform Act of 1986 amended section 6335(e) relating to the manner and conditions of sale, to authorize the secretary to determine whether it would be in the best interest of the United States to buy seized properly at the minimum price set by the secretary. The proposed regulations reflect this change.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: GL-007-96

Drafting attorney: Kevin B. Connelly (202) 622-3660.

Reviewing attorney: Robert A. Miller (202) 622-3660.

Agency Contact: Kevin B. Connelly, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington DC 20224
Phone: 202 622-3640

RIN: 1545–AU13

2932. REGULATIONS ON INCOME TAX UNDER THE TAX REFORM ACT OF 1984, RELATING TO BELOW-MARKET LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	08/20/85	50 FR 33553
NPRM Comment Period End	10/20/85	
Hearing	01/09/86	50 FR 46460
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David B. Silber
Phone: 202 622-3930

RIN: 1545–AH72

DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Completed Actions

2933. GRANTOR TRUST REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 25; 26 CFR 301; 26 CFR 602

Completed:

Reason	Date	FR Cite
Final Action TD 8633	12/21/95	60 FR 66085

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Schneider
Phone: 202 622-3060
Fax: 202 622-4513

RIN: 1545–AS37

2934. TEN PERCENT ADDITIONAL TAX ON EARLY DISTRIBUTION FROM QUALIFIED PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	02/09/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rebecca Wilson
Phone: 202 622-6040

RIN: 1545–AN16

2935. MILLION-DOLLAR CAP ON DEDUCTION FOR EXECUTIVE COMPENSATION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8650	12/20/95	60 FR 65534

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Misner
Phone: 202 622-6060

RIN: 1545–AS23

2936. SUBSTANTIATION OF CONTRIBUTIONS MADE BY PAYROLL DEDUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8623	10/12/95	60 FR 53126
Final Action Effective	01/01/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jefferson K. Fox
Phone: 202 622-4930
Fax: 202 622-6316

RIN: 1545–AS27

2937. RECEIPT THRESHOLD FOR TRAVELING EXPENSES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	12/21/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: G. Channing Horton
Phone: 202 622-4940

RIN: 1545–AT84

2938. TREATMENT OF PREMIUMS ON STOCK CALLABLE AT THE OPTION OF THE ISSUER

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1.305-5(b)(1); 26 CFR 1.305-5(b)(2)

Completed:

Reason	Date	FR Cite
Final Action TD 8643	12/21/95	60 FR 66134

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kirsten L. Simpson
Phone: 202 622-7790

RIN: 1545–AQ42

2939. YOC HEATING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8626	10/27/95	60 FR 54942
Final Action Effective	10/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Flanagan
Phone: 202 622-7790

RIN: 1545–AT15

2940. INCOME TAX—TRIANGULAR REORGANIZATIONS, BASIS AND OTHER CONSEQUENCES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8648	12/21/95	60 FR 66077

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Curt Cutting
Phone: 202 622-7550

RIN: 1545–AB21

2941. CERTAIN OUTBOUND TRANSFERS; DOMESTIC STOCK OR SECURITIES (CORPORATE INVERSIONS)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8638	12/26/95	60 FR 66739

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Philip Tretiak
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AT44

2942. TWENTY PERCENT WITHHOLDING ON ELIGIBLE ROLLOVER DISTRIBUTION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 31

Completed:

Reason	Date	FR Cite
Final Action TD 8619	09/22/95	60 FR 49199
Final Action Effective	10/19/95	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Marjorie Hoffman
Phone: 202 622-6030

RIN: 1545–AR01

2943. ALLOCATION OF ACCRUED BENEFITS BETWEEN EMPLOYER AND EMPLOYEE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Regulations	03/04/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet Laufer
Phone: 202 622-6060
Fax: 202 622-4617

RIN: 1545–AT83

2944. • CURRENT LIABILITY FOR MORTALITY TABLES FOR THE DISABLED

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0412(l)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The temporary regulations will provide mortality tables to be used in determining current liability under section 412(l) for individuals who are entitled to benefits under the plan on account of disability. The temporary regulations will also provide guidance regarding the use of these mortality tables.

Timetable:

Action	Date	FR Cite
Closed without regulations	01/04/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-45-95

Drafting attorney: Linda Marshall (202) 622-6030.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: Harlan Weller (202) 622-1001.

Agency Contact: Linda Marshall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AT90

2945. DISCLOSURE GUIDELINES FOR QJSA WAIVER

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	02/13/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terri Harris
Phone: 202 622-6070

RIN: 1545–AQ36

2946. RULES FOR CERTAIN RENTAL REAL ESTATE ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 469

Completed:

Reason	Date	FR Cite
Final Action TD 8645	12/22/95	60 FR 66496

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William M. Kostak
Phone: 202 622-3080

RIN: 1545–AS38

2947. SECTION 482, COST SHARING REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8632	12/20/95	60 FR 65553

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lisa L. Sams
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AM00

2948. TAX CONSEQUENCES OF FEDERAL FINANCIAL ASSISTANCE PROVIDED IN CONNECTION WITH TAXABLE ASSET ACQUISITIONS OF TROUBLED FINANCIAL INSTITUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 602

Completed:

Reason	Date	FR Cite
Final Action	12/21/95	60 FR 66091
Final Action Effective	12/21/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bernita Thigpen
Phone: 202 622-3920

RIN: 1545–AN71

2949. RECOGNITION OF PRE-CONTRIBUTION GAIN OR LOSS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8642	12/26/95	60 FR 66727

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen Coleman
Phone: 202 622-3060
Fax: 202 622-4524

RIN: 1545–AR93

2950. SECTION 737 DISTRIBUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8642	12/26/95	60 FR 66727

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen Coleman
Phone: 202 622-3060
Fax: 202 622-4524

RIN: 1545–AR48

2951. RECOMPUTATION OF ALLOCATION AND APPORTIONMENT OF DEDUCTION FOR STATE INCOME TAXES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1.861-8

Completed:

Reason	Date	FR Cite
Closed without regulations	09/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David F. Chan
Phone: 202 622-3620
Fax: 202 622-4476

RIN: 1545–AP86

2952. ALLOCATION AND APPORTIONMENT OF RESEARCH AND EXPERIMENTAL EXPENDITURES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8646	12/22/95	60 FR 66502

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carl Cooper
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AT49

2953. SECTION 883 REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	02/06/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne Shelburne
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AT40

2954. • SOURCE OF INCOME FROM SALES OF INVENTORY IN NATURAL RESOURCES PRODUCED IN ONE JURISDICTION AND SOLD IN ANOTHER JURISDICTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0863

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The temporary regulations provides rules for determining the source of a taxpayer's income from sales of inventory produced in one jurisdiction and sold in another.

Timetable:

Action	Date	FR Cite
Closed without regulations	02/06/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IL-003-95

Drafting attorney: Anne Shelburne (202) 622-3880.

Agency Contact: Anne Shelburne, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3880

RIN: 1545–AT93

2955. BANK EXCLUSION FROM PORTFOLIO INTEREST

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	01/31/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leslie B. Van Der Wal
Phone: 202 622-3850
Fax: 202 622-4476

RIN: 1545–AQ39

2956. CLARIFICATION OF SECTION 883(C) PUBLICLY TRADED EXCEPTION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	10/20/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Bray
Phone: 202 622-3840
Fax: 202 622-4476

RIN: 1545–AR77

2957. RESOURCING INCOME TO PREVENT AVOIDANCE OF FOREIGN TAX CREDIT LIMITATION RULES RELATING TO FOREIGN LOSSES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8627	11/07/95	60 FR 56117

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kenneth D. Allison
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AN87

2958. CONVERSION TRANSACTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8649	12/21/95	60 FR 66083

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan B. Munro
Phone: 202 622-3950

RIN: 1545–AS87

2959. WITHHOLDING ON ITEMS OF INCOME COVERED BY AN INCOME TAX CONVENTION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 301

Completed:

Reason	Date	FR Cite
Closed without regulations	09/14/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lilo A. Hester
Phone: 202 874-1490
Fax: 202 874-1896

RIN: 1545–AH86

2960. WITHHOLDING OF TAX ON NONRESIDENT ALIENS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed without regulations	09/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol P. Tello
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AN75

2961. SECTION 1445 REGULATION REVISIONS DUE TO 1993 TAX ACT

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8647	12/21/95	60 FR 66076

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gwendolyn Stanley
Phone: 202 622-3860
Fax: 202 622-4476

RIN: 1545–AS51

2962. HEDGING TRANSACTIONS BY MEMBERS OF CONSOLIDATED GROUPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8653	01/08/96	61 FR 517

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jo Lynn Ricks
Phone: 202 622-3920

RIN: 1545–AS75

2963. ESTATE TAX—GENERATION SKIPPING TRANSFER TAX

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 26; 26 CFR 26a

Completed:

Reason	Date	FR Cite
Final Action TD 8644	12/27/95	60 FR 66898

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James F. Hogan
Phone: 202 622-3090

RIN: 1545–AJ11

2964. ESTATE TAX—GENERATION-SKIPPING TRANSFER TAX

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 26

Completed:

Reason	Date	FR Cite
Final Action TD 8644	12/27/95	60 FR 66898

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James F. Hogan
Phone: 202 622-3090

RIN: 1545–AL75

2965. WITHHOLDING ON DISTRIBUTIONS OF INDIAN GAMING PROFITS TO TRIBAL MEMBERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8634	12/19/95	60 FR 65237

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Rebecca Wilson
Phone: 202 622-6040

RIN: 1545–AT11

2966. EXPORTS OF OZONE-DEPLETING CHEMICALS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 52

Completed:

Reason	Date	FR Cite
Final Action TD 8622	10/11/95	60 FR 52848

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ruth Hoffman
Phone: 202 622-3130
Fax: 202 622-4524

RIN: 1545–AQ23

2967. EXCISE TAX ON SELF-DEALING BY PRIVATE FOUNDATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 53

Completed:

Reason	Date	FR Cite
Final Action TD 8639	12/20/95	60 FR 65566
Final Action Effective	12/20/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terri Harris
Phone: 202 622-6070

RIN: 1545–AT03

2968. • REPORTING OF NONPAYROLL WITHHELD TAX LIABILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6011

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Regulations relating to reporting of nonpayroll withheld tax liabilities.

Timetable:

Action	Date	FR Cite
Final Action TD 8624	10/16/95	60 FR 53509

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: IA-30-95

Drafting attorney: Vincent Surabian (202) 622-4940.

Reviewing attorney: Norlyn Miller (202) 622-4940.

Treasury attorney: Chris Rizek (202) 622-1338.

Agency Contact: Vincent Surabian, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AT87

2969. AMENDMENT OF SECTION 1.6033-2(G)(5) RELATING TO RETURNS BY AN INTEGRATED AUXILIARY OF A CHURCH

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8640	12/20/95	60 FR 65550

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terri Harris
Phone: 202 622-6070

RIN: 1545–AI52

2970. CASH REPORTING BY COURT CLERKS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8652	01/02/96	61 FR 6

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Susie K. Bird
Phone: 202 622-4960

RIN: 1545–AT06

2971. IRC SECTION 6051

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31; 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action TD 8636	12/21/95	60 FR 66139

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Casey
Phone: 202 622-6040

RIN: 1545–AN57

2972. AUTHORITY OF THE FCIC TO REQUIRE EMPLOYER IDENTIFICATION NUMBERS FOR CERTAIN TAXPAYERS

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 301

Completed:

Reason	Date	FR Cite
Withdrawn	10/30/95	60 FR 55228

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beverly Baughman
Phone: 202 622-4940

RIN: 1545–AQ49

2973. AUTHORITY OF THE SECRETARY OF AGRICULTURE TO SHARE EMPLOYER IDENTIFICATION NUMBERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action TD 8621	10/03/95	60 FR 51724
Final Action Effective	10/03/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Basso
Phone: 202 622-4940

RIN: 1545–AT21

2974. SELECTION OF TAX MATTERS PARTNER FOR LIMITED LIABILITY COMPANIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Closed Without Regulations	02/06/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Lindsay Russell
Phone: 202 622-3050

RIN: 1545–AQ47

2975. • FEDERAL TAX DEPOSITS BY ELECTRONIC FUNDS TRANSFER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6302; 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 31

Legal Deadline: None

Abstract: Amendments are being made to temporary regulations TD 8553 relating to the deposit of federal taxes by electronic funds transfer.

Timetable:

Action	Date	FR Cite
Final Action	03/21/96	61 FR 11548
Final Action Effective	03/21/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: IA-003-94

Drafting attorney: Vincent Surabian (202) 622-4940.

Reviewing attorney: Norlyn Miller (202) 622-4940.

Treasury attorney: John Parcell (202) 622-2578.

Agency Contact: Vincent Surabian, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AU10

2976. IMPOSITION OF ACCURACY-RELATED PENALTY

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8656	02/09/96	61 FR 4876

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carolyn D. Fanaroff
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AS24

2977. POLITICAL ACTIVITY INJUNCTION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 53; 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action TD 8628	12/05/95	60 FR 62209

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Cynthia Morton
Phone: 202 622-6070

RIN: 1545–AO77

2978. ACTUARIAL TABLES EXCEPTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1.7520-3; 26 CFR 20.7520-3; 26 CFR 25.7520-3

Completed:

Reason	Date	FR Cite
Final Action TD 8630	12/13/95	60 FR 63913

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William L. Blodgett
Phone: 202 622-3090
Fax: 202 622-4524

RIN: 1545–AR56

2979. CERTAIN PUBLICLY TRADED PARTNERSHIPS TREATED AS CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301; 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8629	12/04/95	60 FR 62026

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher Kelley
Phone: 202 622-3080

RIN: 1545–AL57

2980. AUTOMATIC EXTENSION OF TIME FOR FILING INDIVIDUAL TAX RETURNS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action TD 8651	01/04/96	61 FR 260

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Owens
Phone: 202 622-4940

RIN: 1545–AS05

2981. INFORMATION REPORTING FOR DISCHARGES OF INDEBTEDNESS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 602

Completed:

Reason	Date	FR Cite
Final Action TD 8654	01/04/96	61 FR 262

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Michael Schmit
Phone: 202 622-4960
Fax: 202 622-6298

RIN: 1545–AS21

2982. SEALS OF OFFICE IN CONNECTION WITH IRC SECTION 7514

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action TD 8625	10/27/95	60 FR 54944
Final Action Effective	10/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert A. Walker
Phone: 202 622-3640

RIN: 1545–AS61

2983. NONBANK TRUSTEE NET WORTH REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8635	12/20/95	60 FR 65547
Final Action Effective	12/20/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marjorie Hoffman
Phone: 202 622-6030

RIN: 1545–AS92

2984. TIMING OF NOTICE AND CONSENT REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action TD 8620	09/22/95	60 FR 49218
Final Action Effective	09/22/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marjorie Hoffman
Phone: 202 622-6030

RIN: 1545–AT75

2985. BACKUP WITHHOLDING

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 35a; 26 CFR 301; 26 CFR 602

Completed:

Reason	Date	FR Cite
Final Action TD 8637	12/21/95	60 FR 66105
Final Action Effective	12/31/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Renay France
Phone: 202 622-4910
Fax: 202 622-6316

RIN: 1545–AT76

2986. ERISA SEC. 204(H) NOTICE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 2

Completed:

Reason	Date	FR Cite
Final Action TD 8631	12/15/95	60 FR 64320

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Betty Clary
Phone: 202 622-6070

RIN: 1545–AT79

2987. • CURRENT LIABILITY FOR CHARITY TABLES FOR THE DISABLED

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0412(l)(7)(C)(iii)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide mortality tables to be used in determining current liability under section 412(l) for individuals who are entitled to benefits under the plan on account of disability. The regulations will also provide guidance regarding the use of these mortality tables.

Timetable:

Action	Date	FR Cite
Closed without regulations	01/04/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: EE-45-95

Drafting attorney: Linda Marshall (202) 622-6030.

Reviewing attorney: Alan Tawshunsky (202) 622-6000.

Treasury attorney: Harlan Weller (202) 622-1001.

Agency Contact: Linda Marshall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave NW., Washington, DC 20224'
Phone: 202 622-6030

RIN: 1545–AT89

2988. • RETURNS OF INFORMATION WITH RESPECT TO REMIC REGULAR INTERESTS AND COLLATERALIZED DEBT INSTRUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project amends section 1.6049-7 to change reporting requirements for OID accrual with respect to REMIC regular interests and interests in collateralized debt obligations.

Timetable:

Action	Date	FR Cite
Closed Without Regulations	09/29/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FI-61-91

Drafting attorney: Kenneth Christman (202) 622-3950.

Reviewing attorney: Marshall Fiering (202) 622-3960.

Treasury attorney: Val Strehlow (202) 622-0869.

Agency Contact: Kenneth Christman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AU00

2989. • TELEFILE VOICE SIGNATURE ALTERNATIVE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The temporary regulations provide that an individual income tax return completed as part of the Telefile Voice Signature test will be treated as a return that is signed, authenticated, verified, and filed by the taxpayer as required by the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
Closed without regulations	03/04/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: IA-39-95

Drafting attorney: Celia Gabrysh (202) 622-4940.

Agency Contact: Celia Garbrysh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AU07

BILLING CODE 4830-01-F

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Proposed Rule Stage

2990. LIQUIDITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1465; 12 USC 1467a; 12 USC 1691; 12 USC 1691a

CFR Citation: 12 CFR 566

Legal Deadline: None

Abstract: The OTS is considering issuance of a notice of proposed rulemaking that would amend its liquidity regulation to reduce regulatory burden.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Francis Raue, Policy Analyst, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5750

RIN: 1550–AA77

2991. REGULATORY REVIEW: CORPORATE GOVERNANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 2901 et seq

CFR Citation: 12 CFR 543; 12 CFR 552

Legal Deadline: None

Abstract: The OTS is currently reviewing its corporate governance regulations, for both mutual and stock savings associations, in order to determine which regulations can be eliminated or improved, reducing regulatory burden for the thrift industry.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mary Jo Johnson, Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5739

RIN: 1550–AA87

2992. REGULATORY REVIEW: SUBSIDIARIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 559; 12 USC 375b; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 545; 12 CFR 563; 12 CFR 571

Legal Deadline: None

Abstract: This rulemaking will involve the review and reform of the OTS's existing subsidiary regulations and related policy with a view toward streamlining and reducing burden. The entities to be affected by the regulation are (i) service corporations and their joint ventures, (ii) operating subsidiaries, (iii) finance subsidiaries, (iv) pass-through entities, and (v) special purpose corporations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Debra S. Merkle, Policy Analyst, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5688

RIN: 1550–AA88

2993. REGULATORY REVIEW: CONFLICTS OF INTEREST AND USURPATION OF CORPORATE OPPORTUNITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1828

CFR Citation: 12 CFR 545; 12 CFR 556; 12 CFR 563; 12 CFR 571

Legal Deadline: None

Abstract: The OTS is reviewing its regulations on (i) usurpation of a savings association's corporate opportunity to engage in the insurance business, (ii) hazard insurance coverage, and (iii) loan services and fees. The OTS intends to delete duplicative regulations, eliminate unnecessary requirements and consolidate appropriate provisions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Francis Raue, Policy Analyst, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5750

RIN: 1550–AA89

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Final Rule Stage

2994. CAPITAL DISTRIBUTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 563

Legal Deadline: None

Abstract: The OTS has issued a notice of proposed rulemaking that would amend its capital distributions regulation to incorporate the definition of "capital distributions" used under prompt corrective action. It would allow capital distributions without notice to the OTS by associations that are not held by a holding company and that receive a composite rating of 1 or 2. Associations that will remain at least adequately capitalized after making a capital distribution would be permitted to make a capital distribution upon notice to the OTS. Applications for capital distributions would be accepted from troubled associations and undercapitalized associations but would be approved only under strict conditions, described in the preamble to the proposal.

Timetable:

Action	Date	FR Cite
NPRM	12/05/94	59 FR 62356
NPRM Comment Period End	02/03/95	
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Edward J. O'Connell, Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5694

RIN: 1550–AA72

2995. "DE NOVO" APPLICATIONS FOR A FEDERAL SAVINGS ASSOCIATION CHARTER

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 552; 12 USC 559; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 2901 et seq

CFR Citation: 12 CFR 543; 12 CFR 552; 12 CFR 571

Legal Deadline: None

Abstract: The OTS has issued a notice of proposed rulemaking to update its statement of policy regarding "de novo" applications for a Federal savings association charter. Much of the current rule has become obsolete, redundant or otherwise unnecessary due to amendments to Federal laws and regulations concerning capital adequacy, business plans, director and officer qualifications, conflicts of interest and transactions with affiliates.

Timetable:

Action	Date	FR Cite
NPRM	03/06/95	60 FR 12103
NPRM Comment Period End	05/05/95	
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Edward J. O'Connell, Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5694

RIN: 1550–AA76

2996. UNIFORM RULES OF PRACTICE AND PROCEDURE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 556; 12 USC 1464; 12 USC 1467; 12 USC 1467a; 12 USC 1813; 15 USC 78l

CFR Citation: 12 CFR 509

Legal Deadline: None

Abstract: The Federal banking agencies have issued a notice of proposed rulemaking to update their uniform rules of practice and procedure. The changes are primarily technical revisions, but several of them would increase efficiency in the administrative process by (i) ensuring that parties have a representative available to accept service of process at all times; (ii) prohibiting multiple counsel from examining a single witness; and (iii) clarifying time deadlines and other matters.

Timetable:

Action	Date	FR Cite
NPRM	06/23/95	60 FR 32882
NPRM Comment Period End	08/22/95	
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Karen Osterloh, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6639

RIN: 1550–AA79

2997. RISK-BASED CAPITAL REQUIREMENTS, SMALL BUSINESS LOAN RECOURSE OBLIGATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1835; 12 USC 1848; 12 USC 4808

CFR Citation: 12 CFR 567

Legal Deadline: Final, Statutory, March 22, 1995.

Abstract: The OTS has issued an interim final rule with request for comment that revises its risk-based capital standards as required by sections 208 and 350 of the Riegle Community Development and Regulatory Improvement Act of 1994. The rule modifies the risk-based capital treatment of small business loans and leases of personal property with recourse in accordance with the new statutory requirement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/31/95	60 FR 45618
Final Action	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Karen Osterloh, Counsel (Banking and Finance), Regulations & Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-6639

RIN: 1550–AA81

2998. FLOOD INSURANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4012a; 42 USC 4104a; 42 USC 4104b; 42 USC 4106; 42 USC 4128

CFR Citation: 12 CFR 563; 12 CFR 572

Legal Deadline: None

TREAS—OTS

Final Rule Stage

Abstract: The OTS and the other Federal banking agencies have issued a notice of proposed rulemaking to ensure that institutions comply with relevant provisions of the National Flood Insurance Reform Act of 1994. The Act requires that the agencies promulgate regulations concerning (i) mandatory flood insurance purchase requirements, (ii) notice requirements, and (iii) escrow requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/18/95	60 FR 53962
NPRM Comment Period End	12/18/95	
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry Clark, Program Manager, Compliance Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5628

RIN: 1550–AA86

2999. • LENDING AND INVESTMENT (FORMERLY RIN 1550-AA91)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 559; 12 USC 375b; 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1701j-3; 12 USC 1817; 12 USC 1828; 12 USC 3806; 15 USC 1693 to 1693r; 42 USC 4106

CFR Citation: 12 CFR 545; 12 CFR 556; 12 CFR 560; 12 CFR 563; 12 CFR 571

Legal Deadline: None

Abstract: The OTS has issued a notice of proposed rulemaking to revise its lending regulations with a view toward making them more concise and less burdensome for both federally and state-chartered savings associations. This rulemaking follows a review of each of OTS's lending regulations and related policy statements to determine whether it is necessary, imposes the least possible burden consistent with safety and soundness, and is written in a clear, straightforward manner.

The final stage of this rulemaking will include the final adoption of the OTS's interim final Loan Documentation rule (see RIN 1550-AA61), and its proposed rule concerning Classification of Assets (see RIN 1550-AA65). Descriptions of these rules can be found in the April, 1995 Agenda of Regulations.

The OTS's Regulatory Review rulemakings on Adjustable Rate Mortgages and Federal Preemption formerly reported under RIN 1550-AA90 and RIN 1550-AA92 have also been merged into this rulemaking. The descriptions of the amendments can be found in the October, 1995 Agenda of Regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/17/96	61 FR 1162
NPRM Comment Period End	04/16/96	
Final Action	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Magrini, Project Manager for Credit Policy, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-5744

RIN: 1550–AA94

3000. • MANAGEMENT OFFICIAL INTERLOCKS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 3201 to 3208

CFR Citation: 12 CFR 563f

Legal Deadline: None

Abstract: The Federal banking agencies have issued a notice of proposed rulemaking to revise their rules regarding management interlocks. It conforms the interlocks rules to recent statutory changes, modernizes and clarifies the rules, and reduces unnecessary burdens where feasible, consistent with statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/29/95	60 FR 67425
NPRM Comment Period End	02/27/96	
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Donna Miller, Program Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7488

RIN: 1550–AA95

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Long-Term Actions

3001. RISK-BASED CAPITAL STANDARDS—RECOURSE OBLIGATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 567

Timetable:

Action	Date	FR Cite
ANPRM Asset Securitizations	05/25/94	59 FR 27116
NPRM Recourse Arrangements and Direct Credit Substitutes	05/25/94	59 FR 27116
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John F. Connolly
Phone: 202 906-6465

RIN: 1550–AA70

TREAS—OTS

Long-Term Actions

3002. COMMUNITY REINVESTMENT ACT HEARING PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 543

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John M. Flannery
Phone: 202 906-7293

RIN: 1550–AA83

3003. RISK-BASED CAPITAL GUIDELINES: ORIGINATED MORTGAGE SERVICING RIGHTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 563; 12 CFR 567

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/01/95	60 FR 39226
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John F. Connolly
Phone: 202 906-6465

RIN: 1550–AA84

DEPARTMENT OF THE TREASURY (TREAS)
Office of Thrift Supervision (OTS)

Completed Actions

3004. SMALL AND MEDIUM-SIZED BUSINESS AND FARM LOAN DOCUMENTATION EXEMPTION FOR QUALIFYING ASSOCIATIONS

Priority: Other

CFR Citation: 12 CFR 563

Completed:

Reason	Date	FR Cite
Merged with RIN 1550-AA94	01/17/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ellen Sazzman
Phone: 202 906-7133

RIN: 1550–AA61

3005. SUSPICIOUS ACTIVITY REPORTS AND OTHER STATEMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 563

Completed:

Reason	Date	FR Cite
Final Action	02/16/96	61 FR 6100
Final Action Effective	04/01/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary Sutton
Phone: 202 906-5761

RIN: 1550–AA62

3006. CLASSIFICATION OF ASSETS

Priority: Other

CFR Citation: 12 CFR 563

Completed:

Reason	Date	FR Cite
Merged with RIN 1550-AA94	01/17/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Magrini
Phone: 202 906-5744

RIN: 1550–AA65

3007. LOANS TO ONE BORROWER

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 563

Completed:

Reason	Date	FR Cite
Final Action	12/27/95	60 FR 66866
Final Action Effective	12/27/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William Magrini
Phone: 202 906-5744

RIN: 1550–AA78

3008. REGULATORY REVIEW

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 12 CFR 500; 12 CFR 504; 12 CFR 510; 12 CFR 515; 12 CFR 529; 12 CFR 533; 12 CFR 543; 12 CFR 545; 12 CFR 552; 12 CFR 556; 12 CFR 562; 12 CFR 563; 12 CFR 563d; 12 CFR 563g; 12 CFR 567; ...

Completed:

Reason	Date	FR Cite
Final Action	12/27/95	60 FR 66866
Final Action Effective	12/27/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Valerie J. Lithotomos
Phone: 202 906-6439

RIN: 1550–AA85

3009. REGULATORY REVIEW: ADJUSTABLE RATE MORTGAGES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 545; 12 CFR 563

Completed:

Reason	Date	FR Cite
Merged with RIN 1550-AA94	01/17/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John M. Flannery
Phone: 202 906-7293

RIN: 1550–AA90

3010. REGULATORY REVIEW: FEDERAL PREEMPTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 545; 12 CFR 590; 12 CFR 591

Completed:

Reason	Date	FR Cite
Merged with RIN 1550-AA94	01/17/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Evelyne Bonhomme
Phone: 202 906-7052

RIN: 1550–AA92

3011. • COMMUNITY REINVESTMENT ACT REGULATIONS

Priority: Other

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1814; 12 USC 1816; 12 USC 1828(c); 12 USC 2901 to 2907

CFR Citation: 12 CFR 563e

Legal Deadline: None

Abstract: The Federal banking agencies have jointly amended their recently adopted regulations implementing the Community Reinvestment Act to make technical corrections and clarifications. The implementing regulations were published in May, 1995 under RIN 1550-AA69.

Timetable:

Action	Date	FR Cite
Final Action	12/20/95	60 FR 66048
Final Action Effective	01/01/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Theresa A. Stark, Program Analyst, Compliance Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552
Phone: 202 906-7054

RIN: 1550–AA93

[FR Doc. 96-7473 Filed 05-10-96; 8:45 am]
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federal register

Monday
May 13, 1996

Part XVI

Department of Veterans Affairs

Semiannual Regulatory Agenda

DEPARTMENT OF VETERANS AFFAIRS (VA)

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Ch. I

Agenda of Federal Regulations

AGENCY: Department of Veterans Affairs.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations that the Department of Veterans Affairs (VA) will have under development or review during the 12-month period beginning April 1996. The purpose in publishing the Department's regulatory agenda is to allow all interested persons the opportunity to participate in VA's regulatory planning.

ADDRESSES: Interested persons are invited to comment on the entries listed in the agenda by contacting the individual agency contact listed for each entry or by writing to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Christy Fick or Gloria Armstrong, (202) 565-7625.

SUPPLEMENTARY INFORMATION: This document is issued pursuant to Executive Order 12866 "Regulatory Planning and Review" (and implementing guidance) and the Regulatory Flexibility Act, which require that executive agencies semiannually publish in the **Federal Register** an agenda of regulations under development or review.

Dated: February 22, 1996.

Thomas O. Gessel,

Director, Office of Regulations Management.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3012	Disposition of Veteran's Personal Funds and Effects on Facility Upon Death, or Discharge, or Unauthorized Absence, and of Funds and Effects Found on Facility	2900-AB61
3013	Payments for Outpatients and Ancillary Medical Services Provided by Non-VA Providers	2900-AH66
3014	Informed Consent for Patient Care	2900-AH72
3015	Contract Program for Veterans With Alcohol and Drug Dependence Disorders	2900-AH77
3016	Homeless Providers Grant and Per Diem Program, Clarification of Per Diem Eligibility	2900-AH89
3017	Schedule for Rating Disabilities—The Orthopedic System	2900-AE91
3018	Schedule for Rating Disabilities—Neurological Conditions and Convulsive Disorders	2900-AF23
3019	Schedule for Rating Disabilities—Digestive System	2900-AF24
3020	Reduction of Debt Through the Performance of Work-Study Services	2900-AF29
3021	Veterans' Education; Suspension and Discontinuance of Payments	2900-AF85
3022	Individual Unemployability	2900-AH21
3023	Loan Guaranty: Authority To Close VA-Guaranteed Loans on an Automatic Basis, Withdrawal of Automatic Processing Authority and Elimination of Late Reporting Waivers	2900-AH23
3024	Veterans Education: Course Measurement for Graduate Courses	2900-AH39
3025	Service Connection for Dental Conditions for Treatment Purposes	2900-AH41
3026	Evidence in File at Date of Death	2900-AH42
3027	Vision	2900-AH43
3028	Evidence Dependency and Age	2900-AH51
3029	Claims Based on Tobacco Use During Active Service	2900-AH58
3030	Abandoned Claims	2900-AH65
3031	Loan Guaranty: Electronic Payment of Funding Fee	2900-AH73
3032	Medical Evidence That a Disability Has Improved	2900-AH82
3033	Election of Education Benefits	2900-AH88
3034	Computation of Income	2900-AH94
3035	Department of Veterans Affairs Acquisition Regulation (VAAR): Part 801, Veterans Affairs Acquisition Regulation System	2900-AH28

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3036	Health Professionals' Educational Assistance Program	2900-AF87
3037	Adult Day Health Care Program; Community Residential Care Program; and Contract Program for Veterans With Alcohol and Drug Dependence Disorders	2900-AH61
3038	Schedule for Rating Disabilities—The Cardiovascular System	2900-AE40
3039	Schedule for Rating Disabilities—The Endocrine System	2900-AE41
3040	Educational Assistance for Members of the Selected Reserve	2900-AE43
3041	Schedule for Rating Disabilities—The Muscular System	2900-AE89
3042	Schedule for Rating Disabilities—The Respiratory System	2900-AE94

VA

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3043	Schedule for Rating Disabilities—Systemic Conditions	2900-AE95
3044	Schedule for Rating Disabilities—The Skin	2900-AF00
3045	Schedule for Rating Disabilities—Mental Disorders	2900-AF01
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3085	Delegation of Subpoena Authority and Description of Means of Service	2900-AH00
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Long-Term Actions

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VA

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
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3093	Loan Guaranty: Title Evidence Requirements and Occupancy Requirements for Conveyance of Properties to VA	2900-AE20
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3095	Revised Definition of Net Value and Revised Criteria for Pre-Foreclosure Debt Waivers	2900-AG20
3096	Appeals Regulations; Rules of Practice	2900-AE78
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3098	Rules of Practice: Medical Opinions; Appeal Processing and Submission of Additional Evidence	2900-AG90
3099	Appeals Regulations: Rules of Practice; Board of Veterans' Appeals Administrative Procedures Improvement Act of 1994	2900-AH16
3100	Nondiscrimination on the Basis of Sex Under Federally Assisted Education Programs and Activities	2900-AB51
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Sequence Number	Title	Regulation Identifier Number
3102	Confidentiality of Certain Medical Records	2900-AE28
3103	Veterans' Education; Suspension and Discontinuance of Payments Under the Post-Vietnam Era Veterans' Educational Assistance Program	2900-AG04
3104	Reservists' Education; Suspension and Discontinuance of Payments Under the Montgomery GI Bill—Selected Reserve	2900-AG05
3105	Veterans' Training Under the Service Members Occupational Conversion and Training Act	2900-AG56
3106	Determination of Incompetency and Competency	2900-AH10
3107	Eligibility Reporting Requirements	2900-AH18
3108	Veterans Education: The Veterans Benefits Improvement Act of 1994 and Post-Vietnam Era Veterans Educational Assistance Program	2900-AH33
3109	Duty Period	2900-AH70
3110	Department of Veterans Affairs Acquisition Regulation (VAAR): Part 847, Transportation	2900-AH56
3111	Department of Veterans Affairs Acquisition Regulation (VAAR) Senior Procurement Executive and Procurement Executive	2900-AH62
3112	Burial and Headstone or Marker Eligibility	2900-AH11

DEPARTMENT OF VETERANS AFFAIRS (VA)

Proposed Rule Stage

VETERANS HEALTH ADMINISTRATION

3012. DISPOSITION OF VETERAN'S PERSONAL FUNDS AND EFFECTS ON FACILITY UPON DEATH, OR DISCHARGE, OR UNAUTHORIZED ABSENCE, AND OF FUNDS AND EFFECTS FOUND ON FACILITY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 8501; 38 USC 8502; 38 USC 8503; 38 USC 8504; 38 USC 8506; 38 USC 8507; 38 USC 8508; 38 USC 8509; 38 USC 8510; 38 USC 8520; 38 USC 8521; 38 USC 8522; 38 USC 8523; 38 USC 8524; 38 USC 8525; ...

CFR Citation: 38 CFR 12.0 to 12.24

Legal Deadline: None

Abstract: Section 208 of Public Law 94-581 provides that unclaimed property or funds and effects left by a dependent or survivor of a veteran receiving medical care at a Department of Veterans Affairs (VA) facility as a CHAMPVA beneficiary will be disposed of in the same or similar manner as such property left by a veteran. Also, estates of dependents or survivors of a veteran who dies intestate and without legal heirs while a patient in any VA facility or any hospital, while being furnished care or treatment therein by VA, will escheat to the U.S. Government. Some of these regulations have not been updated since 1948; therefore, editorial changes will be made, which will not affect policy.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

VA

Proposed Rule Stage

Government Levels Affected: None

Agency Contact: Roscoe Butler, Headquarters Health Administration Service (161A), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-7436

RIN: 2900-AB61

3013. PAYMENTS FOR OUTPATIENTS AND ANCILLARY MEDICAL SERVICES PROVIDED BY NON-VA PROVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1703

CFR Citation: 38 CFR 17.50f(h) (Revision); 38 CFR 17.50g(New)

Legal Deadline: None

Abstract: This rule will amend part 17.50f(h) to change payment methodology for ancillary medical care service from usual and customary to Medicare's Fee Schedule for Physicians' Services. Part 17.50g will be added to fully describe the payment methodology for outpatient and ancillary medical care services provided by non-VA providers. Payments under this fee schedule would be based on national uniform relative value units, based on the resources used in furnishing a service and adjusted for local economic conditions. Use of this fee schedule will enable VA to overcome payment discrepancies between geographic localities and various specialties and will relate payments to the value of the procedure that is identified on a claim by a current procedural terminology code. VA payment would be consistent with payment for similar medical services provided by other Government agencies.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phyllis A. Franks, Program Specialist (161A1), Headquarters Health Administration Svc, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-7390
Fax: 202 565-7761

RIN: 2900-AH66

3014. INFORMED CONSENT FOR PATIENT CARE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 7331; 38 USC 7332; 38 USC 7333

CFR Citation: 38 CFR 17.34

Legal Deadline: None

Abstract: VA proposes to amend its regulations concerning informed consent for patient care. It is proposed to describe the requirements for obtaining and documenting informed consent. It is also proposed to describe the types of treatments or procedures for which the patient's signature on a VA authorized form would be required and to establish a list and priority of surrogates authorized to act on behalf of patients who lack decisionmaking capacity. Further, it is proposed to establish an internal decisionmaking process for patients who lack decisionmaking capacity and have no authorized surrogate. This action is intended to protect patient rights and to ensure that the patient (or the patient's surrogate or representative) receives sufficient information to make an informed health care decision.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ruth-Ann Phelps, Ph.D., Health Systems Specialist (11B), Department of Veterans Affairs, Veterean Health Administration, Department of Veterans Administration, 810 Vermont Ave. NW., Washington, DC 20420
Phone: 202 565-7646

RIN: 2900-AH72

3015. • CONTRACT PROGRAM FOR VETERANS WITH ALCOHOL AND DRUG DEPENDENCE DISORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 5705

CFR Citation: 38 CFR 17.53a

Legal Deadline: None

Abstract: The Department of Veterans Affairs proposes to modify eligibility criteria for veterans participating in the Department's program of alcohol and drug dependence treatment and rehabilitation in residential and nonresidential facilities by contract. Current regulations stipulate that prior to participation in contract care under this program veterans must be provided hospital care. It is proposed to change the regulations to stipulate that prior to participation in contract care, veterans must have been or must be receiving care (regardless of whether it was or is hospital care) by professional staff over whom the Secretary has jurisdiction regardless of whether it is direct supervision.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Karen Boies, PhD., Deputy Associate Director for Addictive Disorders, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-7314

RIN: 2900-AH77

3016. • HOMELESS PROVIDERS GRANT AND PER DIEM PROGRAM, CLARIFICATION OF PER DIEM ELIGIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-590

CFR Citation: 38 CFR 17.700

Legal Deadline: None

Abstract: We are proposing to amend the rules pursuant to the Homeless Providers Grant and Per Diem Program. These regulations were established pursuant to Homeless Veterans Comprehensive Services Act of 1992. The regulations set forth provisions to assist public or nonprofit private entities in establishing new programs to furnish supportive services and supportive housing for homeless veterans through grants. The regulations also provide for per diem payments, or in-kind assistance in lieu of per diem payments, to entities that are receiving grants or to entities eligible to receive a grant that established supportive services or a supportive housing program for homeless veterans after November 10, 1992. It is proposed to amend the regulations concerning per diem

assistance by: (1) clarifying the definition of eligible entity; (2) establishing a priority for funding eligible entities; and (3) clarifying the maximum amount payable for per diem assistance. These amendments and changes will enable VA to more closely review applications for per diem assistance thus providing better assurances of the quality of services offered to homeless veterans by public or nonprofit entities. Additionally, the rate of payments will be clarified to reflect legislative intent. This regulatory action is important because it allows VA to determine which programs will best serve the homeless veteran.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Roger Casey, Program Manager, VA Homeless Providers Grant and Per Diem Prgm, Mental Health and Behavioral Science, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-7311
Fax: 202 565-5486

RIN: 2900–AH89

VETERANS BENEFITS ADMINISTRATION

3017. SCHEDULE FOR RATING DISABILITIES—THE ORTHOPEDIC SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the orthopedic system.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/90	55 FR 53315
ANPRM Comment Period End	02/26/91	
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AE91

3018. SCHEDULE FOR RATING DISABILITIES—NEUROLOGICAL CONDITIONS AND CONVULSIVE DISORDERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.120; 38 CFR 4.121; 38 CFR 4.122; 38 CFR 4.123; 38 CFR 4.124; 38 CFR 4.124a

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the neurological system.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20169
ANPRM Comment Period End	07/01/91	
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, MD, Consultant, Regulations Staff (213A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF23

3019. SCHEDULE FOR RATING DISABILITIES—DIGESTIVE SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.114

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the digestive system.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20168
ANPRM Comment Period End	07/01/91	
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF24

3020. REDUCTION OF DEBT THROUGH THE PERFORMANCE OF WORK-STUDY SERVICES

Priority: Other Significant

Legal Authority: PL 102-16

CFR Citation: 38 CFR 1.929

Legal Deadline: None

Abstract: There is a section of PL 102-16 which is designed to eliminate some VA debts. The Secretary of Veterans Affairs is given the authority to enter into an agreement with an individual who has incurred an overpayment of VA educational or rehabilitation benefits. Pursuant to the agreement the individual may reduce the resulting debt through performance of work-study services. The law gives VA considerable latitude in administering this program. The regulation will state the way in which VA will implement this provision of law.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AF29

3021. VETERANS' EDUCATION; SUSPENSION AND DISCONTINUANCE OF PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3690

CFR Citation: 38 CFR 21.4133; 38 CFR 21.4134; 38 CFR 21.4135; 38 CFR 21.4146; 38 CFR 21.4152; 38 CFR 21.4202; 38 CFR 21.4207; 38 CFR 21.4208; 38 CFR 21.4210; 38 CFR 21.4211; 38 CFR 21.4212; 38 CFR 21.4213; 38 CFR 21.4214; 38 CFR 21.4215; 38 CFR 21.4216; ...

Legal Deadline: None

Abstract: Under certain conditions VA can suspend or discontinue payments of educational assistance to individuals even though the course in which they are enrolled is approved for VA training. Current regulations provide for a review of the circumstances at the local VA facility and another de novo review at VA Central Office. The proposal would gather in one place the procedures which VA follows in deciding whether to suspend or discontinue payments; would make a part of the Code of Federal Regulations the rules at the hearing which may be conducted in making this decision; and would eliminate the de novo Central Office review.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: June Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AF85

3022. INDIVIDUAL UNEMPLOYABILITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.16

Legal Deadline: None

Abstract: This action will amend the Schedule for Rating Disabilities as it addressed the issue of individual unemployability, in order to establish a more objective standard for making unemployability determinations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorna Weston, Consultant (213A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH21

3023. LOAN GUARANTY: AUTHORITY TO CLOSE VA-GUARANTEED LOANS ON AN AUTOMATIC BASIS, WITHDRAWAL OF AUTOMATIC PROCESSING AUTHORITY AND ELIMINATION OF LATE REPORTING WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 3702(d)(3); 38 USC 3702(e)

CFR Citation: 38 CFR 36.4346; 38 CFR 36.4349; 38 CFR 36.4303(a); 38 CFR 36.4303(d); 38 CFR 36.4335(a)

Legal Deadline: None

Abstract: VA is proposing to amend its loan guaranty regulations regarding criteria used to approve nonsupervised lenders to process VA-guaranteed loans on the automatic basis. The Department is considering changes in the following requirements for lender participation in the automatic authority program: lender experience, working capital, lines of credit, and VA-approved underwriter eligibility and training. The Department is also considering changes in the regulation regarding annual recertification of lenders and standards for withdrawal of automatic authority. VA is also proposing to amend the requirements pertaining to lenders' reporting of VA-guaranteed loans to the Secretary within 60 days following full disbursement. The revised regulation will provide that if the lender does not report the loan within 60 days, the late report must be accompanied by a statement signed by a corporate officer of the lending institution, certifying that the loan is current and offering an explanation for the late reporting. This change will eliminate the current requirement for VA regional office to go through the formality of making a decision on whether or not to waive the requirement and instead either issue the guaranty or not, as appropriate under the circumstances.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Caden, Assistant Director, Loan Policy, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7368

RIN: 2900–AH23

3024. VETERANS EDUCATION: COURSE MEASUREMENT FOR GRADUATE COURSES

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-484

CFR Citation: 38 CFR 21.4273

Legal Deadline: None

Abstract: By regulation students enrolled in VA-administered education programs receive benefits based on the assessment of their training time. This revised regulation will provide a new method of assessing training time when a graduate student is enrolled in at least one undergraduate course.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

VA — Proposed Rule Stage

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AH39

3025. SERVICE CONNECTION FOR DENTAL CONDITIONS FOR TREATMENT PURPOSES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.381

Legal Deadline: None

Abstract: This action will clarify the term "reasonable period of service" (Manio v. Brown).

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorna Weston, Consultant (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Ave. NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH41

3026. EVIDENCE IN FILE AT DATE OF DEATH

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.1000

Legal Deadline: None

Abstract: This action will clarify the definition of "medical evidence on file at time of death" (Hayes v. Brown).

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorna Weston, Consultant (213A), Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH42

3027. VISION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.75

Legal Deadline: None

Abstract: This action will amend the vision portion of the rating schedule to provide current medical terminology, clarify ambiguous evaluation criteria, and add medical conditions not presently in the rating schedule.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Ave. NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH43

3028. EVIDENCE DEPENDENCY AND AGE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.204

Legal Deadline: None

Abstract: This action is taken to make regulatory the discretionary authority of Public Law 103-446 to accept the claimants' statements as part of certain relationships.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Thornberry, Consultant, Regulations Staff (213A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH51

3029. CLAIMS BASED ON TOBACCO USE DURING ACTIVE SERVICE

Priority: Economically Significant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.304

Legal Deadline: None

Abstract: This proposed rule will establish criteria for determining service connection of disability/death due to the use of tobacco products during active service.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH58

3030. ABANDONED CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.109; 38 CFR 3.155

Legal Deadline: None

Abstract: This action is taken to make clear the time after which VA considers a claim abandoned.

VA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Thornberry, Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH65

3031. LOAN GUARANTY: ELECTRONIC PAYMENT OF FUNDING FEE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 36.4312

Legal Deadline: None

Abstract: VA is proposing to require that all funding fee collections be made electronically through the Automated Clearing House (ACH) program. The ACH program provides VA-approved lenders the opportunity to pay the funding fee electronically instead of sending checks and the Loan Guaranty Funding Fee Transmittal by mail.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Juith Caden, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7368

RIN: 2900–AH73

3032. • MEDICAL EVIDENCE THAT A DISABILITY HAS IMPROVED

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.344

Legal Deadline: None

Abstract: To remove redundancies and unnecessary material, simplify the language, and clarify basic principles of the regulation.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Thornberry, Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH82

3033. • ELECTION OF EDUCATION BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3562; 38 USC 3221; 38 USC 3033; 10 USC 16132

CFR Citation: 38 CFR 21.3023; 38 CFR 21.5041; 38 CFR 21.7040; 38 CFR 21.7540

Legal Deadline: None

Abstract: An individual may be eligible for educational assistance under more than one of the education programs VA administers. Often the individual must elect which benefit she or he wants. Current regulations state that these elections are final once the individual negotiates a check issued under the program he or she has chosen. These regulations must be revised to allow for a different method of determining when an election is final because VA will soon begin converting from paying educational assistance with paper checks to paying these benefits electronically.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AH88

3034. • COMPUTATION OF INCOME

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.260

Legal Deadline: None

Abstract: Proposes to amend VA adjudication regulations concerning income computations to remove obsolete instructions for determining income limitations in section 306 pension cases. Eliminates proportionate computation instructions for section 306 pension.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge, Consultant, Compensation and Pension Service, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7218

RIN: 2900–AH94

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3035. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION (VAAR): PART 801, VETERANS AFFAIRS ACQUISITION REGULATION SYSTEM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501

CFR Citation: 48 CFR 801

Legal Deadline: None

Abstract: This rule will revise the dollar thresholds specified in VAAR 801.602-70, legal/technical review requirements to be met prior to contract execution. Many of the dollar thresholds are unrealistically low, given

VA — Proposed Rule Stage

the economy and the volume of contractual actions VA contracting officers execute. These dollar thresholds hinder the ability of VA contracting officers to execute many of the documents and award contracts in a timely manner. This rule is consistent with the Department's goal of enhancing its competitiveness in the health care industry and this Administration's commitment to streamline the bureaucracy.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Sherry Patton (95A), Senior Procurement Analyst, Department of Veterans Affairs, Ofc. of Acquisition & Materiel Management, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-4424
Email: patton@mail.va.gov

RIN: 2900–AH28

DEPARTMENT OF VETERANS AFFAIRS (VA) — Final Rule Stage

VETERANS HEALTH ADMINISTRATION

3036. HEALTH PROFESSIONALS' EDUCATIONAL ASSISTANCE PROGRAM

Priority: Other

Legal Authority: PL 96-330; 38 USC 76; PL 101-366; PL 102-405

CFR Citation: 38 CFR 17.613; 38 CFR 17.614; 38 CFR 17.615; 38 CFR 17.616; 38 CFR 17.617; 38 CFR 17.618; 38 CFR 17.607(c)

Legal Deadline: None

Abstract: VA is amending its medical regulations by adding new sections to implement the provisions of Pub. L. 101-366. Section 205 of that law creates the "Stipend Program for Members of the Selected Reserve" codified at 38 U.S.C., chapter 76, subchapter V. Public Law 102-405, section 202, changes the minimum period of service obligation from 1 year to 2 years for all students receiving awards.

Timetable:

Action	Date	FR Cite
NPRM	07/29/92	57 FR 33471
NPRM Comment Period End	09/28/92	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eliza M. Wolff, RN, Dr.P.H. ., Acting Director, Graduate Medical Education, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-7106

RIN: 2900–AF87

3037. ADULT DAY HEALTH CARE PROGRAM; COMMUNITY RESIDENTIAL CARE PROGRAM; AND CONTRACT PROGRAM FOR VETERANS WITH ALCOHOL AND DRUG DEPENDENCE DISORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501

CFR Citation: 38 CFR 17.51e(c)(2); 38 CFR 17.51j(a)(2); 38 CFR 17.53b(a)(1)(i); 38 CFR 17.53c(a)(1)(i)

Legal Deadline: None

Abstract: The Department of Veterans Affairs proposes to update references to material incorporated by reference in regulations concerning the Adult Day Health Care Program, the Community Residential Care Program and the Contract Program for Veterans with Alcohol and Drug Dependence Disorders. These regulations incorporate by reference various editions of the National Fire Protection Association Life Safety Code (NFPA 101, Life Safety Code and NFPA 101A, Guide on Alternative Approaches to Life Safety). References will be made to the 1995 editions.

Timetable:

Action	Date	FR Cite
NPRM	09/11/95	60 FR 47133
NPRM Comment Period End	11/13/95	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Karen Boies, Ph.D., Deputy Assoc. Director for Addictive Disorders, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-7314

RIN: 2900–AH61

VETERANS BENEFITS ADMINISTRATION

3038. SCHEDULE FOR RATING DISABILITIES—THE CARDIOVASCULAR SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.100; 38 CFR 4.101; 38 CFR 4.102; 38 CFR 4.103; 38 CFR 4.104

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is conducting the first comprehensive review of its rating schedule since 1945. These revisions will update the rating schedule to ensure that it uses current medical terminology and unambiguous criteria, and that it reflects medical advances that have occurred since the last review.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/90	55 FR 6658
ANPRM Comment Period End	04/27/90	
NPRM	01/19/93	58 FR 4954
NPRM Comment Period End	03/22/93	
Final Action	06/00/96	

Small Entities Affected: None

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Government Levels Affected: None

Additional Information: This umbrellas RIN's: AE40, AF23, AE95, AE41, AF00, AF02, AE94, AE89, AF24, AH43, AF22

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AE40

3039. SCHEDULE FOR RATING DISABILITIES—THE ENDOCRINE SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.119

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the endocrine system.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/90	55 FR 6658
ANPRM Comment Period End	04/27/90	
NPRM	01/22/93	58 FR 5691
NPRM Comment Period End	03/23/93	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AE41

3040. EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE

Priority: Other Significant

Legal Authority: PL 101-189; PL 101-237; PL 102-16; PL 102-484; PL 102-568; PL 103-66; PL 103-160; PL 103-446

CFR Citation: 38 CFR 21.7520; 38 CFR 21.7540; 38 CFR 21.7576; 38 CFR 21.7612; 38 CFR 21.7620; 38 CFR 21.7622; 38 CFR 21.7624; 38 CFR 21.7631; 38 CFR 21.7635; 38 CFR 21.7636; 38 CFR 21.7639; 38 CFR 21.7640; 38 CFR 21.7642; 38 CFR 21.7645; 38 CFR 21.7653; ...

Legal Deadline: None

Abstract: The Veterans Education and Employment Amendments of 1989, the National Defense Authorization Act for Fiscal Years 1990 and 1991, the Veterans Education and Employment Programs Amendments, the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, the Veterans' Benefits Act of 1992, the National Defense Authorization Act for Fiscal Year 1993, the National Defense Authorization Act for Fiscal Year 1994, the Omnibus Budget Reconciliation Act of 1993, and the Veterans' Benefits Improvement Act of 1994 all contain provisions that significantly changed the Montgomery GI Bill, Selected Reserve. These acts expanded this program by adding new types of permissible training such as apprenticeship and on-the-job training, cooperative training, and flight training. Furthermore, the eligibility provisions were significantly liberalized, and the rates of payment were increased. This final rule will restate statutory requirements and set forth VA's statutory interpretations.

Timetable:

Action	Date	FR Cite
NPRM	09/02/94	59 FR 45644
NPRM Comment Period End	11/01/94	59 FR 45645
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: RIN 2900-AE47 has been merged with this RIN.

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AE43

3041. SCHEDULE FOR RATING DISABILITIES—THE MUSCULAR SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.73

Legal Deadline: None

Abstract: These amendments will contain additions, deletions and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the muscular system.

Timetable:

Action	Date	FR Cite
ANPRM	11/08/90	55 FR 46950
ANPRM Comment Period End	01/07/91	
NPRM	06/16/93	58 FR 33235
NPRM Comment Period End	07/15/93	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AE89

3042. SCHEDULE FOR RATING DISABILITIES—THE RESPIRATORY SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

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CFR Citation: 38 CFR 4.96; 38 CFR 4.97

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the respiratory system.

Timetable:

Action	Date	FR Cite
ANPRM	01/08/91	56 FR 667
ANPRM Comment Period End	03/11/91	
NPRM	01/19/93	58 FR 4962
NPRM Comment Period End	03/22/93	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, MD, Consultant, regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AE94

3043. SCHEDULE FOR RATING DISABILITIES—SYSTEMIC CONDITIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.88; 38 CFR 4.88a

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate systemic conditions.

Timetable:

Action	Date	FR Cite
ANPRM	01/25/91	56 FR 2884
ANPRM Comment Period End	03/26/91	
NPRM	04/30/93	58 FR 26083
NPRM Comment Period End	06/29/93	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AE95

3044. SCHEDULE FOR RATING DISABILITIES—THE SKIN

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.118

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate skin conditions.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20171
ANPRM Comment Period End	07/01/91	
NPRM	01/19/93	58 FR 4969
NPRM Comment Period End	03/22/93	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF00

3045. SCHEDULE FOR RATING DISABILITIES—MENTAL DISORDERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.125; 38 CFR 4.126; 38 CFR 4.127; 38 CFR 4.128; 38 CFR 4.129; 38 CFR 4.130; 38 CFR 4.131; 38 CFR 4.132

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate mental disorders.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20170
ANPRM Comment Period End	07/01/91	
NPRM	10/26/95	60 FR 54825
NPRM Comment Period End	12/26/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, MD, Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF01

3046. SCHEDULE FOR RATING DISABILITIES—DISEASES OF THE EAR AND OTHER SENSE ORGANS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.75; 38 CFR 4.76; 38 CFR 4.77; 38 CFR 4.78; 38 CFR 4.79; 38 CFR 4.80; 38 CFR 4.83; 38 CFR 4.84; 38 CFR 4.85; 38 CFR 4.86; 38 CFR 4.87

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate impairments of the eye, ear, and other sense organs.

VA — Final Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20170
ANPRM Comment Period End	07/01/91	
NPRM	04/12/94	59 FR 17295
NPRM Comment Period End	06/13/94	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AF22

3047. RESERVISTS' EDUCATION; COMMENCING DATE OF AWARD OF EDUCATIONAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2136

CFR Citation: 38 CFR 21.7631

Legal Deadline: None

Abstract: In response to the final report of the Commission to Assess Veterans' Education Policy, VA stated it would make various changes in response to the Commission's recommendations. These regulatory changes will include amendments to adjust the beginning dates of awards of educational assistance. This proposed action will implement the commitments VA made in its response with respect to the Montgomery GI Bill, Selected Reserve.

Timetable:

Action	Date	FR Cite
NPRM	05/02/95	60 FR 21485
NPRM Comment Period End	07/03/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AF74

3048. AMENDMENTS TO TRAINING AND REHABILITATION PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 102-568

CFR Citation: 38 CFR 21.40; 38 CFR 21.260; 38 CFR 21.6005; 38 CFR 21.6042; 38 CFR 21.6050; 38 CFR 21.6052; 38 CFR 21.6054; 38 CFR 21.6056; 38 CFR 21.6058; 38 CFR 21.6420; 38 CFR 21.6501; 38 CFR 21.6503; 38 CFR 21.6505; 38 CFR 21.6507; 38 CFR 21.6523; ...

Legal Deadline: None

Abstract: The Veterans' Benefits Act of 1992 extends the termination date for the program of vocational training for certain pensioners through December 31, 1995; makes permanent the programs protecting health care benefits for pensioners who lose their benefits due to income from work or training and the special counseling and employment services program for veterans with total disability ratings because of individual unemployability. In addition the law authorizes a 10 percent increase in subsistence allowance for participants in the vocational rehabilitation program, and extends eligibility for vocational rehabilitation to veterans with service-connected disability of 10 percent under certain conditions. The change also includes revisions to implement regulatory reform.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles Graffam, Veterans Claims Examiner (281), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Ave. NW., Washington, DC 20420
Phone: 202 273-7410

RIN: 2900–AG00

3049. VETERANS' EDUCATION; IMPLEMENTATION OF THE VETERANS' BENEFITS ACT OF 1992 AND THE NATIONAL DEFENSE AUTHORIZATION ACT FOR 1993

Priority: Other Significant

Legal Authority: PL 102-484; PL 102-568

CFR Citation: 38 CFR 21.3145; 38 CFR 21.4131; 38 CFR 21.4135; 38 CFR 21.4233; 38 CFR 21.4234; 38 CFR 21.4252; 38 CFR 21.4253; 38 CFR 21.4254; 38 CFR 21.4265; 38 CFR 21.4267; 38 CFR 21.4270; 38 CFR 21.4271; 38 CFR 21.4272; 38 CFR 21.4273; 38 CFR 21.4280; ...

Legal Deadline: None

Abstract: The Veterans' Benefits Act of 1992 contains many provisions that affect the educational programs VA administers. Among these is a change in the rate of payment made to individuals who are pursuing independent study, a change in the eligibility rules for veterans and servicemembers receiving educational assistance under the Montgomery GI Bill, Active Duty. The National Defense Authorization Act for fiscal year 1993 also contains provisions which affect the Montgomery GI Bill, Active Duty. For example, certain individuals who have voluntarily separated from the military are given an opportunity to become eligible for the Montgomery GI Bill, Active Duty. These regulations will implement these Acts with respect to the Montgomery GI Bill, Active Duty and Dependents' Educational Assistance.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AG22

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3050. VETERANS' EDUCATION; VETERANS' BENEFITS ACT OF 1992 AND THE NATIONAL DEFENSE AUTHORIZATION ACT OF 1993 IN THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-484; PL 102-568

CFR Citation: 38 CFR 21.5023; 38 CFR 21.5058; 38 CFR 21.5145; 38 CFR 21.5232; 38 CFR 21.5250; 38 CFR 21.5270

Legal Deadline: None

Abstract: The Veterans' Benefits Act of 1992 contains some provisions which affect the educational programs VA administers. Among these are changes affecting measurement of courses and VA's work-study program. The National Defense Authorization Act for fiscal year 1993 permits certain voluntarily separated veterans who contributed to the Veterans' Educational Assistance Program (VEAP) fund to instead receive benefits under the Montgomery GI Bill, Active Duty. These regulations will implement these two laws with respect to VEAP.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AG23

3051. FIBROMYALGIA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: This action will add a diagnostic code and criteria for a rheumatologic condition characterized by pain and tender points.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Caroll McBrine, Consultant, Regulations Staff (213A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 272-7210

RIN: 2900–AH05

3052. VETERANS EDUCATION: INCREASE IN RATES PAYABLE UNDER THE MONTGOMERY GI BILL ACTIVE DUTY, 1994-95

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3015

CFR Citation: 38 CFR 21.7136; 38 CFR 21.7137

Legal Deadline: None

Abstract: By statute, veterans and servicemembers pursuing a program of education under the Montgomery GI Bill, Active Duty are entitled to receive an increase in the monthly rate of basic educational assistance, effective October 1 of each year. The increase to take effect on October 1, 1994, is one-half the increase in the consumer price index (U) from June 1993 to June 1994, or 1.25 percent. These amended regulations will implement the increase due October 1, 1994, for the Montgomery GI Bill, Active Duty.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Shaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AH14

3053. DELEGATION OF AUTHORITY TO PROVIDE RELIEF ON ACCOUNT OF ADMINISTRATIVE ERROR

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 512(a)

CFR Citation: 38 CFR 2.7

Legal Deadline: None

Abstract: This action will make explicit the implied delegation of authority to deny equitable relief claims that was noted in OGC Prec. 11-94.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge, Consultant (213A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH19

3054. VETERANS EDUCATION: IMPLEMENTATION OF THE VETERANS BENEFITS IMPROVEMENT ACT OF 1994

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-466; PL 103-337

CFR Citation: 38 CFR 21.3333; 38 CFR 21.4137; 38 CFR 21.4152; 38 CFR 21.4155; 38 CFR 21.4200; 38 CFR 21.4201; 38 CFR 21.4252; 38 CFR 21.4256; 38 CFR 21.4260; 38 CFR 21.4279; 38 CFR 21.7020; 38 CFR 21.7045; 38 CFR 21.7120; 38 CFR 21.4820; 38 CFR 21.4822

Legal Deadline: None

Abstract: The Veterans Benefits Improvement Act of 1994 and the National Defense Authorization Act for Fiscal Year 1995 contain provisions that affect the various education programs VA administers. This includes making flight training a permanent part of many of these programs and providing for approval of courses leading to alternate teacher certification. This proposal will acquaint the public with the way in which VA will implement these programs.

Timetable:

Action	Date	FR Cite
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187

RIN: 2900–AH31

3055. COMPENSATION FOR DISABILITY RESULTING FROM HOSPITALIZATION, TREATMENT, EXAMINATION, OR VOCATIONAL REHABILITATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.358

Legal Deadline: None

Abstract: This action is taken to reflect that the former rule regarding payment under 38 USC 1151 precluded payment under certain circumstances and remove these prohibitions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/16/95	60 FR 14222
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge, Consultant (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH44

3056. EXAMINATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.326

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations as to when a VA medical examination will be authorized and when a compensation or pension claim may be raised without a VA examination. Recent legislation and regulatory changes have expanded the number of situations in which a claim may be based without a VA examination. The intended effect of the proposal is to rewrite the examination rule for clarity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/11/95	60 FR 52863
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge, Consultant, Department of Veterans Affairs, Veterans Benefits Administration (213A), 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH48

3057. SERVICEMEN'S AND VETERANS' GROUP LIFE INSURANCE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 38 USC 1965 to 1977

CFR Citation: 38 CFR 9.1 to 9.36

Legal Deadline: None

Abstract: Servicemen's and Veterans' Group Life Insurance regulations are being amended to eliminate those provisions that are simply restatements of statutes or are obsolete and unnecessary. Additionally, some regulations are being rewritten for clarity.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Poole, Chief, Insurance Program Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, Dc 20420
Phone: 215 951-5718

RIN: 2900–AH50

3058. UNITED STATES GOVERNMENT LIFE INSURANCE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 38 USC 1940 to 1963; 38 USC 1981 to 1988

CFR Citation: 38 CFR 6.2 to 6.211

Legal Deadline: None

Abstract: United States Government Life Insurance regulations are being amended by eliminating provisions that simply restate statutory law or are obsolete and unnecessary. Some provisions are being revised for clarity.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Poole, Chief, Insurance Program Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 215 951-5718

RIN: 2900–AH52

3059. SOLDIERS' AND SAILORS' CIVIL RELIEF

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 50 USC app 540 to 548

CFR Citation: 38 CFR 7.2 to 7.33

Legal Deadline: None

Abstract: Regulations pertaining to this program are being amended by eliminating obsolete provisions that no longer apply and revising text so that it is more understandable.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

VA — Final Rule Stage

Agency Contact: George Poole, Chief, Insurance Program Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 215 951-5718

RIN: 2900–AH53

3060. VETERANS MORTGAGE LIFE INSURANCE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 38 USC 2106

CFR Citation: 38 CFR 8a.1 to 8a.7

Legal Deadline: None

Abstract: Rules relating to Veterans Mortgage Life Insurance are being amended by eliminating regulations that are simply restatements of statutes, or are obsolete and unnecessary. Regulations are also being rewritten for clarity.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Poole, Chief, Insurance Program Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 215 951-5718

RIN: 2900–AH54

3061. NATIONAL SERVICE LIFE INSURANCE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501; 38 USC 1901 to 1929; 38 USC 1981 to 1988

CFR Citation: 38 CFR 8.0 to 8.119

Legal Deadline: None

Abstract: Regulations relating to National Service Life Insurance are being amended by eliminating provisions that simply restate statutory law or are obsolete and unnecessary. Additionally, some regulations are being rewritten for clarity.

Timetable:

Action	Date	FR Cite
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Poole, Chief, Insurance Program Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 215 951-5718

RIN: 2900–AH55

3062. RESERVISTS' EDUCATION: TECHNICAL AMENDMENT TO THE MONTGOMERY GI BILL—SELECTED RESERVE PROGRAM

Priority: Other

Legal Authority: 10 USC 16131; 10 USC 16132; 10 USC 16133; 10 USC 16134; 10 USC 16135; 10 USC 16136; 10 USC 16137

CFR Citation: 38 CFR 21.4005; 38 CFR 21.4020; 38 CFR 21.4022; 38 CFR 21.4134; 38 CFR 21.4151; 38 CFR 21.4153; 38 CFR 21.4201; 38 CFR 21.4206; 38 CFR 21.4207; 38 CFR 21.4209; 38 CFR 21.4250; 38 CFR 21.4251; 38 CFR 21.4263; 38 CFR 21.5040; 38 CFR 21.5741; ...

Legal Deadline: None

Abstract: The National Defense Authorization Act for fiscal year 1993 reorganized a portion of title 10 U.S. Code by moving sections 2131 through 2137, placing them within chapter 1606, and redesignating them as sections 16131 through 16137. This final rule will conform the authority citations in 38 CFR to the new designations in the law.

Timetable:

Action	Date	FR Cite
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AH59

3063. VETERANS AND DEPENDENTS EDUCATION: REVISION AND RESCISSION OF OBSOLETE AND DUPLICATE REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 512(e); 38 USC 510; 38 USC 3680; 38 USC 3501; 38 USC 3681; 38 USC 3520; 38 USC 3536; 38 USC 3541; 38 USC 3561; 38 USC 3533; 38 USC 3684; 38 USC 5113; 38 USC 3532; 38 USC 3565; 38 USC 3687; ...

CFR Citation: 38 CFR 21.1020; 38 CFR 21.1021; 38 CFR 21.1022; 38 CFR 21.1025; 38 CFR 21.1040; 38 CFR 21.1041; 38 CFR 21.1042; 38 CFR 21.1043; 38 CFR 21.1044; 38 CFR 21.1045; 38 CFR 21.3021; 38 CFR 21.3025; 38 CFR 21.3032; 38 CFR 21.3042; 38 CFR 21.3044; ...

Legal Deadline: None

Abstract: VA has determined that some of the sections in 38 CFR part 21 are obsolete, duplicative, or unnecessary, and that other sections contain paragraphs or sections that are obsolete, duplicative, or unnecessary. Moreover, there are sections in part 21, subpart D that more properly belong in part 21, subpart C. This rule will revise and rescind these obsolete, duplicative, and unnecessary sections, paragraphs, and sentences and will restate paragraphs currently in part 21, subpart D so that they will appear in part 21, subpart C.

Timetable:

Action	Date	FR Cite
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AH60

VA — Final Rule Stage

3064. LOAN GUARANTY FLOOD INSURANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 40122; 42 USC 1364; 42 USC 1365; 42 USC 4128

CFR Citation: 38 CFR 36.4222; 38 CFR 36.4326; 38 CFR 36.4402; 38 CFR 36.4500; 38 CFR 36.4512; 38 CFR 36.4600

Legal Deadline: None

Abstract: The Department of Veterans Affairs is amending its loan guaranty regulations to comply with certain provisions of the National Flood Insurance Reform Act of 1994, title V of Public Law 103-325. These amendments strengthen requirements for procuring and maintaining flood insurance on properties which secure loans guaranteed or made by VA and which are located in areas identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards. The amendments also include new procedural requirements for VA to follow in making, servicing, or selling loans, which Public Law 103-325 requires all "Federal agency lenders" to incorporate into regulations.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Caden, Assistant Director for Loan Policy (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7368

RIN: 2900–AH63

3065. REVISION AND RESCISSION OF OBSOLETE AND DUPLICATE REGULATIONS GOVERNING POST-VIETNAM ERA VETERANS EDUCATIONAL ASSISTANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 3201; 38 USC 3241; 38 USC 3680; 38 USC 3492

CFR Citation: 38 CFR 21.5020; 38 CFR 21.5064; 38 CFR 21.5074; 38 CFR 21.5135; 38 CFR 21.5141; 38 CFR 21.5200; 38 CFR 21.5292; 38 CFR 21.5300

Legal Deadline: None

Abstract: VA and the Department of Defense have determined that some of the sections in 38 CFR part 21, subpart G are obsolete, duplicative, or unnecessary. This final rule will revise and rescind these obsolete, duplicative, and unnecessary sections, paragraphs, and sentences.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AH64

3066. VET ED: EFFECTIVE DATE FOR THE AWARD OF EDUCATIONAL ASSISTANCE

Priority: Other

Legal Authority: 38 USC 3018B

CFR Citation: 38 CFR 21.7131

Legal Deadline: None

Abstract: The provisions of 38 U.S.C. allow a veteran who was voluntarily separated from active military, naval, or air service under either 10 U.S.C. 1174a or 1175 before October 23, 1992, to elect to receive educational assistance under the Montgomery GI Bill, Active Duty. He or she was given until October 23, 1993, to make the election. The provisions of 38 U.S.C. 3018B also require the veteran to submit $1,200 to the Department of Veterans Affairs (VA) as a condition of receiving the educational assistance. The statute does not contain a deadline for paying the $1,200. This document amends the VA's Vocational Rehabilitation and Education regulations to explain that an individual who made the election before October 23, 1993, must still submit the $1,200 to VA as a condition of receiving educational assistance under the Montgomery GI Bill, Active Duty.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AH76

3067. ● VETERANS EDUCATION: INCREASED ALLOWANCES FOR THE EDUCATIONAL ASSISTANCE TEST PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2143

CFR Citation: 38 CFR 21.5820; 38 CFR 21.5822

Legal Deadline: None

Abstract: By statute the rates of subsistence allowance and educational assistance payable under the Educational Assistance Test Program must be adjusted annually by the Secretary of Defense based upon the average actual cost of attendance at public institutions of higher education in the twelve-month period since the rates were last adjusted. After consultation with the Department of Education, the Department of Defense has concluded that the rates for the 1995-96 academic year should be increased by 6 percent over the rates payable for the 1994-95 academic year. The regulations dealing with these rates will be amended accordingly.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AH78

3068. • VETERANS EDUCATION: INCREASE IN RATES PAYABLE UNDER THE MONTGOMERY GI BILL ACTIVE DUTY, 1995 - 1996

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3015; 38 USC 3032

CFR Citation: 38 CFR 21.7136; 38 CFR 21.7137

Legal Deadline: None

Abstract: By statute the monthly rates of basic educational assistance payable to veterans and servicemembers under the Montgomery GI Bill - Active Duty must be increased each fiscal year by the percentage that the Consumer Price Index - W for the previous June exceeds the Consumer Price Index - W for June of the year before. The June 1994 to June 1995 increase in the Consumer Price Index - W was 2.9 percent. The regulations governing rates of basic educational assistance payable under the Montgomery GI Bill - Active Duty will be revised to show a 2.9 percent increase in these rates.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AH79

3069. • ADJUDICATION REGULATIONS; MISCELLANEOUS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.23; 38 CFR 3.24; 38 CFR 3.25; 38 CFR 3.250; 38 CFR 3.252; 38 CFR 3.458; 38 CFR 3.460; 38 CFR 3.461; 38 CFR 3.702; 38 CFR 3.852; 38 CFR 3.901; 38 CFR 3.902; 38 CFR 3.1612

Legal Deadline: None

Abstract: To update various cross-references and authority citations and make other nonsubstantive changes in 38 CFR part 3 identified during a review of all VA regulations.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge, Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH83

3070. • LUMP SUM PAYMENT UNDER PUBLIC LAW 93-177

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.811

Legal Deadline: None

Abstract: To remove obsolete provisions for making lump sum payments based on an incident that occurred in Brownsville, TX, on August 13, 1906.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH85

3071. • TRAVEL TIME; REMOVAL OF OBSOLETE PROVISIONS FROM THE CFR

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.6

Legal Deadline: None

Abstract: To remove effective date provisions that were previously deleted from 38 CFR 3.6 but which were later inadvertently reinserted into the regulation.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge, Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH86

3072. • REMOVAL OF REFERENCES TO "VICIOUS HABITS"

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.3; 38 CFR 3.314; 38 CFR 3.323

Legal Deadline: None

Abstract: To remove language that was inadvertently left in 38 CFR 3.3, 3.314, and 3.323 after a 1978 statutory change.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge, Consultant, Regulations Staff (213A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH87

3073. • LOAN GUARANTY: LIMITATION ON DISCOUNT POINTS FINANCED IN CONNECTION WITH INTEREST RATE REDUCTION REFINANCING LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3703; 38 USC 3710; 38 USC 3712

CFR Citation: 38 CFR 36.4223; 38 CFR 36.4306(a)

Legal Deadline: None

Abstract: This regulatory amendment would limit the number of points included in an interest rate reduction refinancing loans. Veterans would still be able to pay more than two points if they choose to do so, but the additional points could not be included in the loan.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Caden, Assistant Director for Loan Policy, (264), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7368

RIN: 2900–AH90

3074. • RESERVIST EDUCATION: ADDITIONAL EDUCATIONAL ASSISTANCE FOR RESERVISTS WITH CERTAIN SKILLS FOR SPECIALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16131

CFR Citation: 38 CFR 21.7636; 38 CFR 21.7639

Legal Deadline: None

Abstract: The National Defense Authorization Act for Fiscal Year 1996 contains a provision that affects payment of benefits under the Montgomery GI Bill - Selected Reserve. Reservists with skills or specialties for which there is a critical shortage may receive an increase in their monthly rate of educational assistance. Regulations will have to be revised to implement this new provision of law.

Timetable:

Action	Date	FR Cite
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AH91

3075. • VETERANS EDUCATION: ADDITIONAL EDUCATIONAL ASSISTANCE WHILE SERVING IN THE SELECTED RESERVE

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16131

CFR Citation: 38 CFR 21.7136; 38 CFR 21.7137; 38 CFR 21.7139

Legal Deadline: None

Abstract: The National Defense Authorization Act for Fiscal Year 1996 contains a provision that affects payment of benefits under the Montgomery GI Bill - Active Duty. Certain individuals may receive an increase in their monthly rate of educational assistance if they make a commitment to serve in the Selected Reserve for six years. Regulations will have to be revised to implement this new provision of law.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, Dc 20420
Phone: 202 273-7187
Fax: 202 275-2636

RIN: 2900–AH92

3076. • VETERANS BENEFITS ADMINISTRATION, FIDUCIARY ACTIVITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 5502(e); 38 USC 8520(a)

CFR Citation: 38 CFR 13.110

Legal Deadline: None

Abstract: Removes regulations that in essence restate provisions of 38 USC 5502(e) and 38 USC 8520(a) concerning escheat and post fund activities.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Douglas L. Bragg, Program Analyst (273), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-6616

RIN: 2900–AH93

3077. • CRITERIA FOR DETERMINING NEED FOR AID AND ATTENDANCE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.352

Legal Deadline: None

Abstract: This regulation implements a General Counsel opinion holding that a claimant's need for aid and attendance does not have to be permanent to permit payment of the increased aid and attendance benefit.

Timetable:

Action	Date	FR Cite
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge, Consultant, Compensation and Pension Service (211B), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AH96

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3078. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION—LOAN GUARANTY AND VOCATIONAL REHABILITATION AND COUNSELING PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 871

Legal Deadline: None

Abstract: This change will increase the amount which property holders and

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management brokers may spend for emergency repairs. Title changes and deletion of duplicative coverage are also being made.

Timetable:

Action	Date	FR Cite
NPRM	02/14/94	59 FR 6942
NPRM Comment Period End	04/15/94	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Wanza Lewis (95A), Senior Procurement Analyst, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-4424
Email: lewisw@mail.va.gov

RIN: 2900–AG65

3079. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION—SERVICE CONTRACTING AND CONTRACT CLAUSES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 837; 48 CFR 852

Legal Deadline: None

Abstract: This change will implement a class deviation from Federal Acquisition Regulation (FAR) section 37.401(c) and FAR Clause 52.237-7.

Timetable:

Action	Date	FR Cite
NPRM	10/22/93	58 FR 54548
NPRM Comment Period End	12/20/93	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Wanza Lewis (95A), Senior Procurement Analyst, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-4424
Email: lewisw@mail.va.gov

RIN: 2900–AG67

3080. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION (VAAR): ADMINISTRATIVE CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501

CFR Citation: 48 CFR 801; 48 CFR 814; 48 CFR 833; 48 CFR 836; 48 CFR 852

Legal Deadline: None

Abstract: This rule will correct and update office names and designations due to administrative changes within the Department. It will also correct monetary thresholds for scarce/specialized medical contracts, reviews which are listed in error, and small purchase thresholds, to be consistent with Federal Acquisition Regulation.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald Kaliher (95A), Senior Procurement Analyst, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-4424
Email: kaliher@mail.va.gov

RIN: 2900–AH27

NATIONAL CEMETERY SYSTEM

3081. HEADSTONE AND MARKER INSCRIPTION POLICY

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501; 38 USC 2306

CFR Citation: 38 CFR 1.630; 38 CFR 1.632

Legal Deadline: None

Abstract: The proposed rule revises 38 CFR, section 1.630 to implement Department of Veterans Affairs (VA) regulations on its inscription policy for use on Government-provided headstones or markers. The amendment formalizes and updates previous and current policies to reflect changes in VA's Simplified Inscription Policy based on inscription information authorized at Government (specific valor awards) or at private (additional inscription items) expense. The rule is published as proposed in the Federal Register to provide information to the public on expanded inscription policy for Government-furnished headstones and markers. A 60-day public comment period is provided. This action is subject to the requirements of the Administrative Procedures Act and E.O. 12866 as the rule is an interpretation of statute as approved by the then-Administrator now Secretary of Veterans Affairs in 1974. The proposed rule will not have a significant economic impact on a substantial number of small entities and only individual VA beneficiaries could be directly affected.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ken Greenberg, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5179
Fax: 202 273-6695

RIN: 2900–AH45

3082. STATE CEMETERY GRANTS: AID TO STATES FOR ESTABLISHMENT, EXPANSION AND IMPROVEMENT OF VETERANS CEMETERIES

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 2408

CFR Citation: 38 CFR 39.1; 38 CFR 39.2; 38 CFR 39.3; 38 CFR 39.7; 38 CFR 39.8; 38 CFR 39.9

Legal Deadline: None

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Abstract: The proposed rule revises 38 CFR, part 39, to amend Department of Veterans Affairs (VA) regulations for the State Cemetery Grants Program to implement and update information on program requirements and the application process for participants. The amendment formalizes new standards and provides guidance on how States may obtain funding for grants to expand, establish, or improve State veterans cemeteries. The rule is published as proposed in the Federal Register to provide information to the public on how to apply for Federal funding for State veterans cemeteries. A 60-day public comment period is provided. It is subject to the requirements of the Administrative Procedures Act and E.O. 12866 because the rule is an interpretation of statute. The proposed rule will have a significant economic impact on a substantial number of small entities; only those States that apply for funding may be direct beneficiaries.

Timetable:

Action	Date	FR Cite
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Ken Greenberg, Program Analyst (402B1), NCS Communications Division, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-5179
Fax: 202 273-6695

RIN: 2900–AH46

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

3083. DELEGATION OF AUTHORITY TO ORDER PAID ADVERTISING FOR USE IN RECRUITMENT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 302(b)(2); 44 USC 3702

CFR Citation: 38 CFR 2.4 (Revision)

Legal Deadline: None

Abstract: This regulatory action amends the delegation of authority to order paid advertising for use in recruitment by updating organizational titles, providing clarity, and authorizing further delegations.

Timetable:

Action	Date	FR Cite
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gloria C. Oliver, Chief, Recruitment and Examining Division, Department of Veterans Affairs, Human Resources Management (054), 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-8231
Fax: 202 565-8866
Email: olivglo@s101vac02.vaco.va.gov.

RIN: 2900–AH74

3084. PART-TIME CAREER EMPLOYMENT PROGRAM

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 3401; 5 USC 3402

CFR Citation: 38 CFR 1.891 to 1.897

Legal Deadline: None

Abstract: This revision removes the reporting requirements for a manual report by field stations under the Part-Time Career Employment Program and makes minor editorial revisions. The program will be reviewed through regular employment reports generated by the automated personnel system and personnel management reviews.

Timetable:

Action	Date	FR Cite
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellen Kollar, Personnel Staffing Specialist, Title 5 Staffing Division, Department of Veterans Affairs, Human Resources Managmennt (054C), Department of Veterans AFfairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-8848
Fax: 202 565-8866

RIN: 2900–AH75

OFFICE OF THE GENERAL COUNSEL

3085. DELEGATION OF SUBPOENA AUTHORITY AND DESCRIPTION OF MEANS OF SERVICE

Priority: Other Significant

Legal Authority: 38 USC 501; 38 USC 1711

CFR Citation: 38 CFR 2.1

Legal Deadline: None

Abstract: This action will clarify authority for the use of subpoena power and means of service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/10/95	60 FR 40756
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barry Tapp, Attorney (023A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-6334

RIN: 2900–AH00

3086. ● STANDARDS OF ETHICAL CONDUCT AND RELATED RESPONSIBILITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 38 USC 501; EO 12674

CFR Citation: 38 CFR 0

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs (VA) regulations captioned "Standards of Ethical Conduct and Related Responsibilities." It removes VA regulations that in essence restate Governmentwide standards contained in 5 CFR part 735 and chapter XVI. It also amends the VA regulations to refer VA employees to the Governmentwide standards. The

intended effect of this final rule is to delete unnecessary and repetitive material in VA regulations and to refer VA employees to the Governmentwide standards.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James E. Adams, Deputy Assistant General Counsel, (023), Department of Veterans Affairs, Office of General Counsel, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 273-6354
Fax: 202 273-6403

RIN: 2900–AH80

3087. • DELEGATION OF AUTHORITY TO REGIONAL COUNSELS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 512

CFR Citation: 38 CFR 0; 38 CFR 1; 38 CFR 2; 38 CFR 3; 38 CFR 13; 38 CFR 14; 38 CFR 14.501; 38 CFR 14.518; 38 CFR 15; 38 CFR 36

Legal Deadline: None

Abstract: The Office of General Counsel has changed its field structure from 52 District Counsel offices to 23 Regional Counsel offices. Previously, each District Counsel office was headed by a District Counsel who was authorized to take various actions on behalf of the Department of Veterans Affairs (VA). The new Regional Counsel offices are each headed by a Regional Counsel. In accordance with the provisions of 38 USC 512, this document delegates to the Regional Counsels the same authority and responsibility to act for VA as was previously granted to District Counsels. This document also sets for the jurisdiction and address of each Regional Counsel.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard Lem, Assistant General Counsel (026), Department of Veterans Affairs, Office of General Counsel, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-4885

RIN: 2900–AH81

3088. • RULEMAKING PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 1.12; 38 CFR 1.551

Legal Deadline: None

Abstract: This document amends the "General Provisions" in 38 CFR part 1 by removing sections 1.12 and 1.551. The regulatory history of section 1.12 indicates that, despite a statutory exemption, VA intended to self-impose the notice-and-comment provisions of 5 USC 553 on VA rulemaking concerning public property, loans, grants, benefits, or contracts (see 37 FR 3552, FEB 17, 1972). Subsequent to the promulgation of section 1.12 statutory provisions were established that specifically applied the public notice-and-comment provisions of 5 USC 553 to VA rulemaking concerning "loans, grants, or benefits" (see 38 USC 501(d)). These statutory provisions did not impose the same notice-and-comment provisions for rulemaking concerning public property or contracts. In our view, notice-and-comment requirements for rulemaking concerning public property and contracts should only be those imposed by statute. Also, there is no need to retain the provisions of section 1.551. In large part section 1.551 merely contained restatements of 5 USC 552. In addition section 1.551 contained internal instructions to agency components which were not required to be promulgated as rules.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas O. Gessel, Director, Office of Regulations Management (02D), Department of Veterans Affairs, Office of General Counsel, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-7625
Fax: 202 565-7873

RIN: 2900–AH84

DEPARTMENT OF VETERANS AFFAIRS (VA) — Long-Term Actions

3089. CHAMPVA REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17.54 to 17.54f

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Susan K. Schmetzer
Phone: 303 331-7552
Fax: 303 331-7800

RIN: 2900–AE64

3090. AID TO STATES FOR CARE OF VETERANS IN STATE HOMES AND GRANTS TO STATES FOR CONSTRUCTION OR ACQUISITION OF STATE HOME FACILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 17.165; 38 CFR 17.166; 38 CFR 17.167; 38 CFR 17.183

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: L. Nan Stout
Phone: 202 565-7166
Fax: 202 565-7006

RIN: 2900–AE87

3091. TREATMENT OF RESEARCH—RELATED INJURIES TO HUMAN SUBJECTS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 16

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ted Lorei
Phone: 202 565-7181
Fax: 202 565-5159

RIN: 2900–AH68

VETERANS HEALTH ADMINISTRATION

3092. • MEDICAL; NONSUBSTANTIVE MISCELLANEOUS CHANGES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501

CFR Citation: 38 CFR 17

Legal Deadline: None

Abstract: The rulemaking is part of VA's reinventing government effort. It revises text in the CFR to eliminate redundancy, redesignate certain sections, and eliminates language that restates statutes.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leroy Cossett, Acting Director, Headquarters Health, Administration Service, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420
Phone: 202 565-8384

RIN: 2900–AH95

3093. LOAN GUARANTY: TITLE EVIDENCE REQUIREMENTS AND OCCUPANCY REQUIREMENTS FOR CONVEYANCE OF PROPERTIES TO VA

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4320

Timetable:

Action	Date	FR Cite
NPRM	08/06/90	55 FR 31847
NPRM Comment Period Extended	10/05/90	55 FR 35325
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy
Phone: 202 273-7344

RIN: 2900–AE20

3094. ACCEPTANCE OF PARTIAL PAYMENTS; INDEMNIFICATION OF DEFAULT

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 4202; 38 CFR 4275; 38 CFR 4301; 38 CFR 4315; 38 CFR 4323

Timetable:

Action	Date	FR Cite
NPRM	03/02/94	59 FR 9944
NPRM Comment Period End	05/02/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard A. Levy
Phone: 202 273-7344

RIN: 2900–AE60

3095. REVISED DEFINITION OF NET VALUE AND REVISED CRITERIA FOR PRE-FORECLOSURE DEBT WAIVERS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4301; 38 CFR 36.4323

Timetable:

Action	Date	FR Cite
NPRM	09/22/93	58 FR 49251
NPRM Comment Period End	10/22/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Len Levy
Phone: 202 273-7344

RIN: 2900–AG20

3096. APPEALS REGULATIONS; RULES OF PRACTICE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 19.3 (Revision); 38 CFR 19.10; 38 CFR 19.15 (Revision; 38 CFR 19.39; 38 CFR 20.3; 38 CFR 20.101 (Revision); 38 CFR 20.102 (Revision); 38 CFR 20.201 (Revision); 38 CFR 20.605 (Revision); 38 CFR 20.609 (Revision); 38 CFR 20.903 (Revision); 38 CFR 20.1000; 38 CFR 20.1001; 38 CFR 20.1002; 38 CFR 20.1100 (Revision); ...

Timetable:

Action	Date	FR Cite
NPRM	02/03/92	57 FR 4131
NPRM Comment Period End	03/04/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AE78

3097. RULES OF PRACTICE; HEARINGS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 20.3; 38 CFR 20.700; 38 CFR 20.702; 38 CFR 20.703; 38 CFR 20.704; 38 CFR 20.707; 38 CFR 20.710; 38 CFR 20.711; 38 CFR 20.713; 38 CFR 20.714; 38 CFR 20.716; 38 CFR 20.717; 38 CFR 20.1003; 38 CFR 2.1; 38 CFR 19.75

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AG07

3098. RULES OF PRACTICE: MEDICAL OPINIONS; APPEAL PROCESSING AND SUBMISSION OF ADDITIONAL EVIDENCE

Priority: Other Significant

CFR Citation: 38 CFR 19.9; 38 CFR 19.36; 38 CFR 20.3; 38 CFR 20.800; 38 CFR 20.801; 38 CFR 20.802; 38 CFR 20.901; 38 CFR 20.903; 38 CFR 20.1304

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AG90

VA — Long-Term Actions

3099. APPEALS REGULATIONS: RULES OF PRACTICE; BOARD OF VETERANS' APPEALS ADMINISTRATIVE PROCEDURES IMPROVEMENT ACT OF 1994

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 19; 38 CFR 20

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven L. Keller
Phone: 202 565-5978

RIN: 2900–AH16

3100. NONDISCRIMINATION ON THE BASIS OF SEX UNDER FEDERALLY ASSISTED EDUCATION PROGRAMS AND ACTIVITIES

Priority: Other Significant

CFR Citation: 38 CFR 18

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: R. Lamont Johnson
Phone: 202 482-6715

RIN: 2900–AB51

3101. OPERATION OF CHILD CARE CENTERS AT VA FACILITIES

Priority: Other

CFR Citation: 38 CFR 17

Timetable:

Action	Date	FR Cite
NPRM	12/27/89	54 FR 53078
NPRM Comment Period End	01/26/90	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Alan T. Maurer
Phone: 202 273-5846

RIN: 2900–AD48

DEPARTMENT OF VETERANS AFFAIRS (VA) — Completed Actions

3102. CONFIDENTIALITY OF CERTAIN MEDICAL RECORDS

Priority: Other Significant

CFR Citation: 38 CFR 1.460-499

Completed:

Reason	Date	FR Cite
Final Action	12/13/95	60 FR 63926
Final Action Effective	01/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Celia Winter
Phone: 202 273-6274

RIN: 2900–AE28

3103. VETERANS' EDUCATION; SUSPENSION AND DISCONTINUANCE OF PAYMENTS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.5130; 38 CFR 21.5200

Completed:

Reason	Date	FR Cite
Withdrawn Merged with 2900-AF85	08/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer
Phone: 202 273-7187

RIN: 2900–AG04

3104. RESERVISTS' EDUCATION; SUSPENSION AND DISCONTINUANCE OF PAYMENTS UNDER THE MONTGOMERY GI BILL—SELECTED RESERVE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.7633; 38 CFR 21.7635; 38 CFR 21.7658

Completed:

Reason	Date	FR Cite
Withdrawn Merged with 2900-AF85	08/25/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: June C. Schaeffer
Phone: 202 273-7187

RIN: 2900–AG05

3105. VETERANS' TRAINING UNDER THE SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING ACT

Priority: Other Significant

CFR Citation: 38 CFR 21.4800; 38 CFR 21.4802; 38 CFR 21.4810; 38 CFR 21.4812; 38 CFR 21.4820; 38 CFR 21.4822; 38 CFR 21.4823; 38 CFR 21.4824; 38 CFR 21.4830; 38 CFR 21.4832; 38 CFR 21.4834; 38 CFR 21.4840; 38 CFR 21.4842; 38 CFR 21.4844; 38 CFR 21.4850

Completed:

Reason	Date	FR Cite
Final Action	11/06/95	60 FR 55995
Final Action Effective	11/06/95	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: June C. Schaeffer
Phone: 202 273-7187

RIN: 2900–AG56

3106. DETERMINATION OF INCOMPETENCY AND COMPETENCY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 3.353

Completed:

Reason	Date	FR Cite
Final Action	11/03/95	60 FR 55791
Final Action Effective	11/03/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge
Phone: 202 273-7210

RIN: 2900–AH10

VA — Completed Actions

3107. ELIGIBILITY REPORTING REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 3.256; 38 CFR 3.277

Completed:

Reason	Date	FR Cite
Final Action	10/04/95	60 FR 51921
Final Action Effective	10/04/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge
Phone: 202 273-7210

RIN: 2900–AH18

3108. VETERANS EDUCATION: THE VETERANS BENEFITS IMPROVEMENT ACT OF 1994 AND POST-VIETNAM ERA VETERANS EDUCATIONAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.5021; 38 CFR 21.5150; 38 CFR 21.5200; 38 CFR 21.5250

Completed:

Reason	Date	FR Cite
Final Action	01/22/96	61 FR 1525
Final Action Effective	01/22/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: June C. Schaeffer
Phone: 202 273-7187

RIN: 2900–AH33

3109. DUTY PERIOD

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.6

Completed:

Reason	Date	FR Cite
Final Action	11/14/95	60 FR 57178
Final Action Effective	10/03/94	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Trowbridge
Phone: 202 273-7210

RIN: 2900–AH70

3110. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION (VAAR): PART 847, TRANSPORTATION

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 847; 41 CFR 101-41.304-2

Completed:

Reason	Date	FR Cite
Withdrawn Dept of Transportation rewriting applicable regs.	11/21/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Ramona Jones (95A)
Phone: 202 565-4424

RIN: 2900–AH56

3111. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION (VAAR) SENIOR PROCUREMENT EXECUTIVE AND PROCUREMENT EXECUTIVE

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 802; 48 CFR 803; 48 CFR 806

Completed:

Reason	Date	FR Cite
Final Action	01/22/96	61 FR 1526
Final Action Effective	01/22/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Wanza Lewis (95A)
Phone: 202 565-4424

RIN: 2900–AH62

3112. BURIAL AND HEADSTONE OR MARKER ELIGIBILITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 38 CFR 1.620; 38 CFR 1.631

Completed:

Reason	Date	FR Cite
Withdrawn	02/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ken Greenberg
Phone: 202 273-5179
Fax: 202 273-6695

RIN: 2900–AH11

[FR Doc. 96-5649 Filed 05-10-96; 8:45 am]
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Monday
May 13, 1996

Part XVII

Advisory Council on Historic Preservation

Semiannual Regulatory Agenda

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP)

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Ch. VIII

Unified Agenda of Federal Regulations

AGENCY: Advisory Council on Historic Preservation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Advisory Council on Historic Preservation regulations are scheduled for development. They are submitted herein for publication in the Unified Agenda of Federal Regulations.

FOR FURTHER INFORMATION CONTACT: See person listed below for specific agenda information.

Advisory Council on Historic Preservation.

Robert D. Bush,

Executive Director.

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP) — Proposed Rule Stage

3113. PROTECTION OF HISTORIC PROPERTIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 470

CFR Citation: 36 CFR 800

Legal Deadline: None

Abstract: The Advisory Council is in the process of revising its regulations in light of its responsibilities under 16 USC 470 and the 1992 amendments to the National Historic Preservation Act, PL 102-575, and in accordance with the National Performance Review's streamlining initiative.

Timetable:

Action	Date	FR Cite
NPRM	10/03/94	59 FR 50396
NPRM Comment Period End	01/03/95	
Second NPRM	06/00/96	
Second NPRM Comment Period End	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Adina Kanefield, Assistant General Counsel, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., Suite 809, Washington, DC 20004
Phone: 202 606-8672

RIN: 3010–AA04

[FR Doc. 96-6948 Filed 05-10-96; 8:45 am]

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Monday
May 13, 1996

Part XVIII

Agency for International Development

Semiannual Regulatory Agenda

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID)

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Ch. II

Federal Regulations; USAID Regulatory Agenda Semiannual Summary

AGENCY: Agency for International Development, IDCA.

ACTION: Semiannual regulatory agenda.

SUMMARY: The U.S. Agency for International Development (USAID) is publishing this agenda as required by Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735, October 4, 1993) and the Regulatory Flexibility Act. This agenda reports the status of those regulations currently under review and gives USAID's plan for the issuance of proposed regulations during the next 12 months. It is expected that the information provided in this agenda will enable the public to be more aware of and to participate more effectively in USAID's regulatory process.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda or the review list in general, contact: Genease E. Pettigrew, Chief, Information Support Services Division, Office of Administrative Services, Bureau for Management, U.S. Agency for International Development, Washington, DC 20523; telephone (202) 736-4743, e-mail address MABALL@USAID.GOV.

Specific: For further information about any particular item on the agenda, contact the individual listed as the contact for that item.

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations. The Regulatory Flexibility Act applies only to regulations for which a notice of proposed rulemaking was issued on or after September 19, 1980. USAID is required to publish an agenda listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities." The Executive order became effective on September 30, 1993, and it is required that USAID publish a listing of all the regulations it expects to have under active consideration for proposal or review during the coming 1-year period.

Dated: April 3, 1996.

Catharine Smith,

Acting Director, Bureau for Management, Office of Administrative Services.

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Proposed Rule Stage

3114. RULES ON SOURCE, ORIGIN, AND NATIONALITY FOR COMMODITIES AND SERVICES FINANCED BY AID

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 228

Legal Deadline: None

Abstract: This regulation establishes rules for determining whether commodities are eligible for financing with USAID program funds based on their source and origin (i.e., where they were shipped from and where they were mined, grown, or produced). It also establishes requirements concerning nationality of suppliers and contractors that determine whether an individual or organization is eligible to supply commodities or provide services under AID program-funded contracts, regardless of whether the contracts are entered into by AID, or by another entity which receives funding from AID.

Timetable:

Action	Date	FR Cite
NPRM	02/05/96	61 FR 4240
NPRM Comment Period End	04/05/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kathleen O'Hara, Chief, Policy Division, Office of Procurement, Agency for International Development, Room 1600 I, SA-14, Washington, DC 20523-1423
Phone: 703 875-1534
Fax: 703 875-1243

RIN: 0412–AA28

AGENCY FOR INTERNATIONAL DEVELOPMENT (AID) — Final Rule Stage

3115. ADMINISTRATION OF GRANTS AND COOPERATIVE AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 226

Legal Deadline: None

Abstract: This regulation will implement the Governmentwide uniform administrative requirements for grants and agreements with institutions of higher education, hospitals and other nonprofit organizations issued by the Office of Management and Budget.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/95	60 FR 3743
Final Action	04/00/96	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Kathleen O'Hara, Chief, Policy Division, Office of Procurement, Agency for International Development, Room 1600 I, SA-14, Washington, DC 20523-1435
Phone: 703 875-1534

RIN: 0412–AA21

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Monday
May 13, 1996

Part XIX

Architectural and Transportation Barriers Compliance Board

Semiannual Regulatory Agenda

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Ch. XI

Unified Agenda of Federal Regulations

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Architectural and Transportation Barriers Compliance Board submits the following agenda of proposed regulatory activities which may be conducted by the Agency during the next 12 months. This regulatory agenda may be revised by the Agency during the coming months as a result of action taken by the Board.

ADDRESSES: Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111.

FOR FURTHER INFORMATION CONTACT: For information concerning Board regulations and proposed actions, contact James J. Raggio, General Counsel, (202) 272-5434 (voice) or (202) 272-5449 (TDD).

Lawrence W. Roffee,

Executive Director, Architectural and Transportation Barriers Compliance Board.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Prerule Stage

3116. • TELECOMMUNICATIONS ACT ACCESSIBILITY GUIDELINES: TELECOMMUNICATIONS EQUIPMENT AND CUSTOMER PREMISES EQUIPMENT

Priority: Other Significant

Legal Authority: PL 104-104, sec 255 Telecommunications Act of 1996

CFR Citation: 36 CFR 1193

Legal Deadline: Final, Statutory, August 8, 1997.

Abstract: To establish accessibility guidelines for telecommunications equipment and customer premises equipment.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Advisory Committee	04/00/96	
NPRM	03/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447

RIN: 3014–AA19

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Proposed Rule Stage

3117. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES: CHILDREN'S ENVIRONMENTS

Priority: Other Significant

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for children's environments.

Timetable:

Action	Date	FR Cite
ANPRM	02/03/93	58 FR 6924
ANPRM Comment Period End	06/01/93	58 FR 17175
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434

RIN: 3014–AA17

3118. • AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES: DETECTABLE WARNINGS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191.2

Legal Deadline: None

Abstract: To extend suspension of requirements for detectable warnings at certain locations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434
TDD: 202 272-5449
Fax: 202 272-5447

RIN: 3014–AA18

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Final Rule Stage

3119. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES, STATE AND LOCAL GOVERNMENT FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities to include additional requirements for judicial, legislative, and regulatory facilities; detention and correctional facilities; residential housing; and public rights-of-way.

Timetable:

Action	Date	FR Cite
NPRM	12/21/92	57 FR 60612
NPRM Comment Period End	03/22/93	
Interim Final Rule	06/20/94	59 FR 31676
Final Action	11/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Elizabeth A. Stewart, Attorney, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434

RIN: 3014–AA13

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB) — Long-Term Actions

3120. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR TRANSPORTATION VEHICLES

Priority: Other Significant

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1192

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles to include additional requirements for ferries, excursion boats, and other vehicles.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434

RIN: 3014–AA11

3121. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities to include additional requirements for boat and ferry docks.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434

RIN: 3014–AA12

3122. AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: RECREATIONAL FACILITIES AND OUTDOOR DEVELOPED AREAS

Priority: Other Significant

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for recreational facilities and outdoor developed areas.

Timetable:

Action	Date	FR Cite
Notice of Intent To Form Advisory Committee	02/03/93	58 FR 6949
Notice of Appointment of Advisory Committee Members	06/10/93	58 FR 32511
ANPRM	09/21/94	59 FR 48542
ANPRM Comment Period End	12/20/94	
Notice of Intent To Conduct Regulatory Negotiation	12/22/95	60 FR 66538
Establishment of Regulatory Negotiation Committee	02/14/96	61 FR 5723
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111
Phone: 202 272-5434

RIN: 3014–AA16

[FR Doc. 96-7474 Filed 05-10-96; 8:45 am]
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Part XX

Commission on Civil Rights

Semiannual Regulatory Agenda

COMMISSION ON CIVIL RIGHTS (CCR)

COMMISSION ON CIVIL RIGHTS

45 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: Commission on Civil Rights.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations the U.S. Commission on Civil Rights will have under development during the 6-month period from April 1, 1996, through September 30, 1996. The purpose for publishing this agenda is to give notice of any regulatory activity by the Commission in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For further information on any items in the agenda, contact: Stephanie Y. Moore, Acting Solicitor, U.S. Commission on Civil Rights, Room 620, 624 Ninth Street NW., Washington, DC 20425, (202) 376-8351.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. 605), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The regulations being considered by the Commission are not "significant" rules within the meaning of E.O. 12866, and no regulatory impact analysis is required. The Commission has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public nor will the regulations have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory analysis is required.

Stephanie Y. Moore,
Acting Solicitor.

COMMISSION ON CIVIL RIGHTS (CCR) — Long-Term Actions

3123. COMMISSION ON CIVIL RIGHTS—UPDATE AND REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1975 to 1975f; 5 USC 552(a); 5 USC 552(b)

CFR Citation: 45 CFR 701; 45 CFR 702; 45 CFR 703; 45 CFR 705

Legal Deadline: None

Abstract: The regulation updates and revises most of the Commission's current regulations, specifically 45 CFR 701, 702, 703, and 705. 45 CFR 701 identifies the organization and functions of the Commission. 45 CFR 702 specifies the rules on hearings, reports, and meetings of the Commission. 45 CFR 703 identifies the operations and functions of the Commission's State Advisory Committees. 45 CFR 705 states the Commission's obligations under the Privacy Act.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephanie Y. Moore, Acting Solicitor, Commission on Civil Rights, 624 Ninth Street NW., Suite 620, Washington, DC 20425
Phone: 202 376-8351

RIN: 3035–AA02

COMMISSION ON CIVIL RIGHTS (CCR) — Completed Actions

3124. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE COMMISSION ON CIVIL RIGHTS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 706

Completed:

Reason	Date	FR Cite
Withdrawn Pending Further Review	06/07/95	60 FR 30058

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephanie Y. Moore
Phone: 202 376-8351

RIN: 3035–AA04

[FR Doc. 96-6949 Filed 05-10-96; 8:45am]
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Part XXI

Corporation for National and Community Service

Semiannual Regulatory Agenda

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS)

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Ch. XXV

Executive Order 12866 "Regulatory Planning and Review"; Semiannual Agenda of Regulations

AGENCY: Corporation for National and Community Service.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations that the Corporation will have under development, revision, or review during the next year. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to provide the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning Corporation regulations or this semiannual agenda, contact Norman E. Franklin, Director, Procurement Administration Services, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525, (202) 606-5000, ext. 403.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. 601), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The Corporation for National and Community Service has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory analysis is required under 5 U.S.C. 602.

Dated: March 14, 1996.

Shirley S. Sagawa,

Executive Director.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNCS) — Long-Term Actions

3125. NATIONAL SERVICE TRUST

Priority: Other

CFR Citation: 45 CFR 2525 to 2529

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/94	59 FR 30709
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gary Kowalczyk

Phone: 202 606-5000

RIN: 3045–AA09

[FR Doc. 96-7475 Filed 05-10-96; 8:45 am]

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Part XXII

Environmental Protection Agency

Semiannual Regulatory Agenda

ENVIRONMENTAL PROTECTION AGENCY (EPA)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL-5450-1]

Regulatory Agenda

AGENCY: Environmental Protection Agency.

ACTION: Semiannual regulatory agenda.

SUMMARY: The regulatory agenda is a semiannual summary of current and projected rulemakings, reviews of existing regulations, and completed actions of the Environmental Protection Agency (EPA). By providing the public with information about regulatory actions scheduled for issuance within the following year, the Agency hopes to encourage public participation in the regulatory process.

The rules and schedules presented here reflect EPA's plans based on the best current information. However, legislative proposals now under consideration by the Congress, as well as continuing budget uncertainties, may affect the Agency's authority to undertake or capacity to complete any activity listed in this agenda within the schedule presented.

ADDRESSES: To be placed on the agenda mailing list, either write to USEPA/NCEPI at P.O. Box 42419, Cincinnati, Ohio 45242, or fax your request to (513) 489-8695. If you need confirmation that your request was received, you may call (513) 489-8190.

If you have suggestions to improve this publication, comments on rules that substantially impact small entities, or need general information about the agenda, contact Angela Suber, Regulatory Development Branch (2136), EPA, 401 M Street SW., Washington, DC 20460, (202) 260-7205.

FOR FURTHER INFORMATION CONTACT: If you need detailed information about a particular entry, the name, address, and telephone number of the agency contact who is most familiar with the subject matter is listed for each action.

SUPPLEMENTARY INFORMATION:

Regulatory Priorities and Schedules

Government shutdowns and reduced funding for EPA under continuing resolutions have already delayed many of EPA's regulatory actions. While EPA continues to devote its best efforts toward full protection of human health and the environment, further delays should be expected if the budget reductions continue throughout the year. EPA, however, remains fully committed and places priority on reinventing environmental regulations to provide greater protection at less cost. EPA's reinvention efforts are described more fully in its regulatory plan, 60 FR 59658 (November 28, 1995). EPA will continue efforts to reduce paperwork burden, to develop commonsense regulatory actions, and to delete or modify regulations currently in place. EPA will also give priority to initiatives that offer novel solutions to real environmental problems posed by an industry or locality when generally applicable mandates may prove ineffective or inefficient in a specific application. However, despite the priority EPA places on these initiatives, regulatory actions implementing them may also necessarily be delayed.

How the Agenda Is Organized

Each agenda entry includes the title, legal authority, CFR reference, legal deadline, abstract, and timetable. Each entry also indicates the categories of small entities and levels of government that may be affected by the rulemaking and whether the Agency plans to prepare a Regulatory Flexibility Analysis. In addition, the Agency indicates whether an entry is part of the Reinventing Government effort. Lastly, the agenda includes an agency contact person for each entry.

The agenda is organized by statute and ordered numerically within each statute. Entries within each statute are divided into five categories: (1) Prerule, (2) proposed rule, (3) final rule, (4) long-term actions (i.e., actions under preparation that will not be published until after the 1-year horizon for this agenda), and (5) completed actions (i.e., regulations that EPA is deleting from the agenda because the Agency has completed, withdrawn, or postponed them indefinitely). Detailed information on each of these categories is presented below. A bullet (•) preceding an entry indicates that this is the first time an action is appearing in the agenda.

I. Prerulemakings

Prerulemaking actions are activities intended to determine whether to initiate rulemaking. These activities include anything that influences or leads to rulemaking, such as advance notices of proposed rulemaking, significant studies or analyses of the possible need for regulatory action, requests for public comment on the need for regulatory action, or important preregulatory policy proposals.

II. Proposed and Final Rules

This section includes all substantial EPA regulations. To focus the public's attention on the most imminent actions, EPA lists regulations in this category of the agenda that are within a year of proposal or promulgation. The listings, however, generally exclude (a) specialized categories of actions (e.g., EPA approvals of State plans and other actions that do not apply nationally) and (b) routine actions (e.g., pesticide tolerances and minor amendments to existing rules).

The Agency has attempted to list all regulations and regulatory reviews except those considered as minor, routine, or repetitive actions. There is no legal significance to the inadvertent omission of an item from the listing. The agenda reflects dates for actions on each item; these dates are estimates that should not be construed as an Agency commitment to act on or by the date shown. The Administrator of EPA will review the items contained in this agenda over the next 6 months. Items in this agenda may be deleted, or new items may be added as a result of that review.

EPA also seeks to enhance public participation in development of proposed rules by potentially affected stakeholders. We therefore invite expressions of interest to be directed to the contact person listed for each rule.

III. Long-Term Actions

This section includes actions with publication dates beyond the next 12 months. Please note that the Agency will continue to work with the public to develop partnerships and information necessary to support these rulemakings with long-term publication dates.

IV. Completed Actions

This section contains actions that appeared in the previous agenda but which EPA is deleting because they are completed or are no longer under consideration for rulemaking. If an action appears in the completed section, it may not appear in future agendas, unless the Agency decides to initiate action again, and then it will appear as a new entry.

EPA

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires the identification of those regulations which are likely to have a "significant economic impact on a substantial number of small entities" (i.e., small governments, small businesses, and small nonprofit organizations). Under the requirements of the Act, such regulations are subject to a "Regulatory Flexibility Analysis." This analysis must consider the likely economic impacts on small entities, as well as any significant alternatives to the rule which accomplish the objectives of applicable statutes and which minimize significant economic impacts of the rulemaking on small entities.

In April 1992, EPA adopted a policy which exceeds the requirements of the RFA (this policy applies to rulemakings that were initiated on or after April 9, 1992). For rulemakings subject to this policy, EPA will perform a Regulatory Flexibility Analysis if the rule is likely to have *any* economic impact on *any* small entity. For rulemakings *not* subject to this policy (i.e., initiated prior to April 9, 1992), a Regulatory Flexibility Analysis will be conducted only if the rulemaking will meet the RFA's standard of having a "significant impact on a substantial number of small entities."

Each rulemaking listed in this agenda indicates in the "Analysis" section whether EPA expects to conduct a Regulatory Flexibility Analysis. If EPA believes small entities will be affected by a rulemaking, this is indicated under the "Small Entities Affected" and/or the "Government Levels Affected" section of the summary for each listed rule. EPA invites public comment regarding EPA's assessment of which of the listed rulemakings are appropriate for Regulatory Flexibility Analysis. (See "Small Entities Index to the Environmental Protection Agency Agenda" at the end of this document. It lists the regulatory actions EPA believes may have effects on small businesses, small governmental jurisdictions, or small organizations.)

The RFA requires that existing regulations with significant economic impact on a substantial number of small entities are to be reviewed within 10 years of promulgation of the regulations. As part of that process, as well as under the requirements of the Regulatory Flexibility Act, EPA invites public comment identifying any existing EPA rules believed to have a significant economic impact on a substantial number of small entities. Comments should be provided in the following format:

- Title
- Authorizing statute and CFR citation
- Description of economic effects on small entities, especially on the commenting person or organization
- Recommendations for changes

Any additional detailed comments or data are welcome.

When EPA completes its review of an existing rule, it will indicate in the agenda whether that rulemaking will be continued without change or will be amended or rescinded consistent with the stated objectives of applicable statutes to minimize any significant economic impact of the regulations upon a substantial number of small entities.

Dated: March 28, 1996.

Rob Wolcott,

Acting Deputy Assistant Administrator, Office of Policy, Planning, and Evaluation.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3126	Data Consolidation Initiative; Key Identifiers Reporting	2070-AD01

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3127	SAN No. 3154. Pesticide Tolerance Decisions Under the Delaney Clause	2070-AC55
3128	SAN No. 3430. Pesticides: Tolerance Program Revisions	2070-AC74
3129	SAN No. 3735. The 10-Acre Limitation for Pesticide Small-Scale Field Testing	2070-AC99
3130	Pesticides; Self-Certification	2070-AD00
3131	SAN No. 2687. Pesticide Data Requirements for Registration (Revision)	2070-AC12
3132	SAN No. 3222. Pesticides and Groundwater State Management Plan Regulation	2070-AC46
3133	SAN No. 2725. FIFRA Books and Records of Pesticide Production and Distribution (Revision)	2070-AC07
3134	SAN No. 3731. Modifications to Pesticide Worker Protection Standard	2070-AC93
3135	SAN No. 3318. Exemption of Sterilant Pesticide Products From Regulation Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)	2070-AC58
3136	SAN No. 3736. Pesticide Export Policy	2070-AD02

EPA

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3137	SAN No. 3734. Pesticides; Revision of Notification Procedure	2070-AC96
3138	SAN No. 3739. Cross-Contamination of Pesticide Products	2070-AD03
3139	SAN No. 2684. Regulation of Plant-Produced Pesticides Under FIFRA and FFDCA	2070-AC02
3140	SAN No. 3135. Pesticide Flammability Labeling Requirements for Total Release Foggers	2070-AC60
3141	SAN No. 2371. Restricted Use Criteria for Pesticides in Groundwater	2070-AB60
3142	SAN No. 2338. Reporting Requirements for Risk/Benefit Information (Revision)	2070-AB50
3143	SAN No. 2720. Policy or Procedures for Notification to the Agency of Stored Pesticides With Cancelled or Suspended Registration	2070-AC08
3144	SAN No. 3733. Scope and Clarification of the WPS Exceptions Process	2070-AC96
3145	SAN No. 3432. Pesticide Management and Disposal	2070-AC81
3146	SAN No. 3320. Regulatory Relief for Low-Risk Pesticides	2070-AC67

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3147	SAN No. 2444. Pesticide Tolerances; Portion of Food Commodities To Be Analyzed for Pesticide Residues	2070-AC45
3148	SAN No. 3113. Endangered Species Protection Program	2070-AC42
3149	SAN No. 2351. Classification of Certain Pesticides for Restricted Use Due to Groundwater Concerns	2070-AC33
3150	SAN No. 1640. Worker Protection Standards; Pesticide Hazard Communication	2070-AC34
3151	SAN No. 3636. Pesticide Labeling Claims	2070-AC85
3152	SAN No. 3732. Exceptions to Pesticide Worker Protection Standard	2070-AC95
3153	SAN No. 2659. Pesticide Management and Disposal: Standards for Pesticide Containers and Containment	2070-AB95
3154	SAN No. 2639. Child-Resistant Packaging Regulations (Revision)	2070-AB96

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3155	SAN No. 3199. Interpretation of Raw Agricultural Commodity	2070-AC54

Toxic Substances Control Act (TSCA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3156	SAN No. 3301. TSCA Chemical Use Inventory Project	2070-AC61
3157	SAN No. 3034. Facility Coverage Amendment; Toxic Chemical Release Reporting; Community Right-To-Know	2070-AC71
3158	SAN No. 3388. Deletion of Isopropyl Alcohol; Toxic Chemical Release Reporting; Community Right-To-Know	2070-AC77
3159	SAN No. 2425. Responses to Petitions Received To Add to or Delete Chemicals From the List of Toxic Chemicals Subject to Toxic Release Reporting Under EPCRA Section 313	2070-AC00
3160	SAN No. 2847. Mandatory Pollution Prevention Reporting for Toxic Release Inventory (TRI)	2070-AC24
3161	SAN No. 3243. Lead Hazard Standards	2070-AC83
3162	SAN No. 3631. Evaluation of Products for Lead-Based Paint Activities	2070-AC88
3163	SAN No. 3755. CFR Regulatory Review Related Initiatives	2070-AC97
3164	SAN No. 3494. Proposed Decisions on Test Rules	2070-AB07
3165	SAN No. 2563. ATSDR Substances Test Rule	2070-AB79
3166	SAN No. 2865. Multichemical Endpoint(s) Test Rule; Developmental and Reproductive Toxicity, and Neurotoxicity	2070-AC27
3167	SAN No. 2865. Multichemical Endpoint Test Rule; Chemical Fate and Environmental Effects	2070-AC36
3168	SAN No. 3504. Hazardous Air Pollutants Test Rule	2070-AC76
3169	SAN No. 2245. Negotiated Consent Order and Test Rule Procedures	2070-AB30
3170	SAN No. 3047. Amendments to the Asbestos-Containing Materials in Schools Rule	2070-AC82

EPA

Toxic Substances Control Act (TSCA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3171	SAN No. 1923. Significant New Use Rules on National Program Chemicals; Asbestos, Lead, and Refractory Ceramic Fibers	2070-AC37
3172	SAN No. 3559. Notice of TSCA Section 4 Reimbursement Period and TSCA Section 12(b) Export Notification Period Sunset Dates for TSCA Section 4 Substances	2070-AC84

Toxic Substances Control Act (TSCA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3173	SAN No. 3244. Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule	2070-AC84
3174	SAN No. 3242. Lead-Based Paint Disclosure Requirements at Renovation of Target Housing	2070-AC85
3175	SAN No. 2249. Amendments to the Asbestos Worker Protection Rule	2070-AC86
3176	SAN No. 3508. TSCA Requirements for the Disposal of Lead-Based Paint Abatement Waste	2070-AC72
3177	SAN No. 3480. Development of Guidance as Mandated by Executive Order 12873, Section 503 on "Environmentally Preferable Products"	2070-AC78
3178	Selected Rulemakings for Abating Lead Hazards	2070-AD06
3179	SAN No. 3493. Final Decisions on Test Rules	2070-AB94
3180	SAN No. 1923. Follow-Up Rules on Existing Chemicals	2070-AA58
3181	SAN No. 1976. Follow-Up Rules on Non-5(e) New Chemical Substances	2070-AA59
3182	SAN No. 3495. Chemical-Specific Significant New Use Rules (SNURs) To Extend Provisions of Section 5(e) Orders	2070-AB27
3183	SAN No. 2247. Generic Significant New Use Rule (SNUR) for Acrylate Compounds	2070-AB56
3184	SAN No. 2326. Rulemaking Concerning Certain Microbial Products ("Biotechnology") Under the Toxic Substances Control Act (TSCA)	2070-AB61
3185	SAN No. 2150. Polychlorinated Biphenyls (PCBs): Applications for Exemptions From the Ban on Manufacturing, Processing, and Distribution	2070-AB20
3186	SAN No. 2878. Polychlorinated Biphenyls (PCBs) Disposal Amendments	2070-AC01
3187	SAN No. 2779. Use of Acrylamide for Grouting	2070-AC17
3188	SAN No. 3021. Polychlorinated Biphenyls (PCBs) Transformer Reclassification Rule	2070-AC38
3189	SAN No. 3148. Revised Asbestos Model Accreditation Plan	2070-AC51
3190	SAN No. 3860. Polychlorinated Biphenyls (PCBs) Disposal Amendments	2070-AD04
3191	SAN No. 2178. Section 8(a) Preliminary Assessment Information Rules	2070-AB08
3192	SAN No. 1139. Section 8(d) Health and Safety Data Reporting Rules	2070-AB11
3193	SAN No. 3118. TSCA Section 8(e); Notice of Clarification and Solicitation of Public Comment	2070-AC80

Toxic Substances Control Act (TSCA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3194	SAN No. 3007. Chemical List Expansion; Emergency Planning and Community Right-To-Know Act Section 313	2070-AC47
3195	SAN No. 3252. Regulatory Investigation Under the Toxic Substances Control Act (TSCA) To Reduce Lead (Pb) Consumption and Use	2070-AC21
3196	SAN No. 2146. Regulatory Investigation of Formaldehyde	2070-AB14
3197	SAN No. 2560. Procedures and Criteria for Termination of Polychlorinated Biphenyls (PCBs) Disposal Permits	2070-AB81
3198	SAN No. 2844. Regulatory Investigation of Dioxin in Pulp and Paper Mill Sludge	2070-AC05
3199	SAN No. 3557. Lead-Based Paint Activities, Training, and Certification: Renovation and Remodeling	2070-AC83

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Toxic Substances Control Act (TSCA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3200	SAN No. 3499. Lead-Based Paint Hazard Information Requirements at the Transfer of Target Housing (Section 1018); Joint Rule With the Dept. of HUD	2070-AC75

Clean Water Act (CWA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3201	SAN No. 3662. Water Quality Standards Regulation—Revision	2040-AC56

Clean Water Act (CWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3202	SAN No. 3504. Establishment of Numeric Criteria for Priority Toxic Pollutants and Toxicity for the State of California	2040-AC44
3203	SAN No. 3618. Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act	2040-AC54
3204	SAN No. 3788. Streamlining the State Sewage Sludge Management Regulations	2040-AC87
3205	SAN No. 3497. Amendments to Round I Final Sewage Sludge Use or Disposal Rule - Phase Two	2040-AC53
3206	SAN No. 3881. Streamlining National Pollutant Discharge Elimination System Requirements, Including General Pretreatment Requirements	2040-AC69
3207	SAN No. 3209. Effluent Guidelines and Standards for the Industrial Laundries Category	2040-AB97
3208	SAN No. 3204. Effluent Guidelines and Standards for the Transportation Equipment Cleaning Category	2040-AB98
3209	SAN No. 3489. Effluent Guidelines and Standards for Landfills and Incinerators	2040-AC23
3210	SAN No. 3762. NPDES Streamlining Rule—Round II	2040-AC70
3211	SAN No. 3786. NPDES Streamlining Rule—Round III	2040-AC84
3212	SAN No. 3804. Streamlining 301(h) Waiver Renewal Requirements	2040-AC89
3213	SAN No. 3625. Streamlined Procedures for Developing and Maintaining Approved Publicly-Owned Treatment Works Pretreatment Programs	2040-AC57
3214	SAN No. 3700. Streamlining Revisions to the Water Quality Planning and Management Regulations	2040-AC65
3215	SAN No. 3702. Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act	2040-AC75
3216	SAN No. 3701. Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act	2040-AC76
3217	SAN No. 3767. Reformatting of Effluent Guidelines and Standards in 40 CFR Parts 405 through 471	2040-AC79
3218	SAN No. 3847. 1996 Effluent Guidelines Plan	2040-AC86
3219	SAN No. 3666. Clarification of the Application Requirements for States Wanting to Designate Drinking Water Intake Zones, Thereby Prohibiting the Discharge of Vessel Sewage Within Those Zones	2040-AC61
3220	SAN No. 3234. Revision of NPDES Industrial Permit Application Requirements and Form 2C—Wastewater Discharge Information	2040-AC26
3221	SAN No. 2804. Clean Water Act Section 404 Program Definition of the Waters of the United States—Isolated Waters and Artificial Waters	2040-AB74
3222	SAN No. 2737. Revisions to Ocean Dumping Regulations for Dredged Material	2040-AB62

Clean Water Act (CWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3223	SAN No. 3497 and SAN No. 3442 (RIN 2040-AC46) Amendments to Round I Final Sewage Sludge Use or Disposal Rule—Phase One (Includes Continuous Emission Monitoring and Other Incinerator Requirements)	2040-AC29
3224	SAN No. 3581. Leather Tanning and Finishing Effluent Guidelines—Pretreatment Standards for Existing and New Sources	2040-AC48
3225	SAN No. 3803. Analytic Methods for Measuring Radionuclides in the Drinking Water Program	2040-AC88
3226	SAN No. 1427. Effluent Guidelines and Standards for the Pharmaceutical Manufacturing Category	2040-AA13

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Clean Water Act (CWA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3227	SAN No. 2712. Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category	2040-AB53
3228	SAN No. 2747. Effluent Guidelines and Standards for the Coastal Subcategory of the Oil and Gas Extraction Category	2040-AB72
3229	SAN No. 2805. Effluent Guidelines and Standards for the Centralized Waste Treatment Industry	2040-AB78
3230	SAN No. 2806. Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phase I	2040-AB79
3231	SAN No. 3391. Effluent Guidelines and Standards for Pesticide Formulating, Packaging, and Repackaging	2040-AC21
3232	SAN No. 3661. Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance	2040-AC55
3233	SAN No. 3727. Modification of Secondary Treatment Requirements for Dischargee Into Marine Waters; Change to Eligibility for Different Averaging Period	2040-AC72
3234	SAN No. 3722. Amendment to Effluent Guidelines and Standards for Ore Mining and Dressing Point Source Category, New Source Performance Standards	2040-AC74
3235	SAN No. 3617. Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act	2040-AC63
3236	SAN No. 3679. Guidelines Establishing Test Procedures for the Analysis of 2,3,7,8-Substituted Dibenzo-P-Dioxins and Dibenzo Furans Under the Clean Water Act	2040-AC64
3237	SAN No. 3224. Comparison of Dredged Material to Reference Sediment	2040-AC14
3238	SAN No. 3783. Ocean Dumping Testing Requirements Clarification	2040-AC81
3239	SAN No. 2620. Shore Protection Act, Section 4103(b) Regulations	2040-AB85

Clean Water Act (CWA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3240	SAN No. 3448. Standards for the Use or Disposal of Sewage Sludge (Round II)	2040-AC25
3241	SAN No. 3496. Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phase II	2040-AC30
3242	SAN No. 3444. Criteria and Standards Reflecting Best Technology Available (BTA) for Cooling Water Intake Structures Under Section 316(b) of the Clean Water Act	2040-AC34
3243	SAN No. 3833. Effluent Guidelines and Standards for Iron and Steel Manufacturing Point Source Category	2040-AC90
3244	SAN No. 3766. Water Quality Standards to Replace Portions of Existing State Water Quality Standards; i.e., State Antidegradation Policy for Pennsylvania	2040-AC78
3245	SAN No. 3663. Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution	2040-AC58
3246	SAN No. 2501. NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal	2040-AB39
3247	SAN No. 3785. Comprehensive NPDES Stormwater Phase II Regulations	2040-AC82

Clean Water Act (CWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3248	SAN No. 3768. NPDES Streamlining Rule (Phase III)	2040-AC80
3249	SAN No. 3621. Marine Sanitation Device: Establishment of Drinking Water Intake Zones in Two Portions of the Hudson River, New York State	2040-AC51
3250	SAN No. 3664. Storm Water Permit Application Regulations for Municipal Separate Storm Sewers	2040-AC59

Atomic Energy Act (AEA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3251	SAN No. 1727. Environmental Protection Standards for Low-Level Radioactive Waste	2060-AA04
3252	SAN No. 2073. Environmental Protection Agency Radiation Site Cleanup Regulation	2060-AB31

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Atomic Energy Act (AEA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3253	SAN No. 3602. Protective Action Guidance for Drinking Water	2060-AF39
3254	SAN No. 3321 (was 2073). Federal Radiation Protection Guidance for Exposure of the General Public	2060-AE61

Atomic Energy Act (AEA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3255	SAN No. 3232. Criteria for the Certification and Re-Certification of the Waste Isolation Pilot Plant's Compliance With 40 CFR 91 Disposal Regulations	2060-AE30

Safe Drinking Water Act (SDWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3256	SAN No. 3563. Reformatting of Drinking Water Regulations	2040-AC41
3257	SAN No. 3862. Streamlining Revisions to the National Primary Drinking Water Regulations	2040-AC66
3258	SAN No. 3726. Analytical Methods for Regulated Drinking Water Contaminants	2040-AC77
3259	SAN No. 3784. Underground Injection Control Program Streamlining Rule	2040-AC83
3260	SAN No. 3761 Streamlining Drinking Water Monitoring Requirements	2040-AC73

Safe Drinking Water Act (SDWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3261	SAN No. 3562. Amendments to Requirements for Authorized State Permit Programs Under Section 402 of the Clean Water Act	2040-AC43
3262	SAN No. 3445. Drinking Water Microbial and Disinfection By-Product Monitoring Rule (Formerly Called the "Information Collection Disinfection By-Products Rule")	2040-AC24
3263	SAN No. 2778. Management of Class V Injection Wells Under Part C of the Safe Drinking Water Act	2040-AB83

Safe Drinking Water Act (SDWA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3264	SAN No. 3440. National Primary Drinking Water Regulations for Lead and Copper (Revision)	2040-AC27
3265	SAN No. 2281. National Primary Drinking Water Regulations: Radionuclides	2040-AA94
3266	SAN No. 2340. National Primary Drinking Water Regulations: Groundwater Disinfection	2040-AA97
3267	SAN No. 2807. National Primary Drinking Water Regulations: Arsenic	2040-AB75
3268	SAN No. 2772/2304. National Primary Drinking Water Regulations: 25 Contaminants From Drinking Water Priority List (Phase VIA)—Disinfection By-Products Rule and Enhanced Surface Water Treatment Rule	2040-AB82
3269	SAN No. 3176. National Primary Drinking Water Regulations: Sulfate	2040-AC07
3270	SAN No. 3238. National Primary Drinking Water Standards (NPDWRs) for Aldicarb	2040-AC13
3271	SAN No. 3509. National Primary Drinking Water Regulations: 25 Contaminants From Drinking Water Priority List (Phase VI-B)—Organic and Inorganic Contaminants	2040-AC22

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Safe Drinking Water Act (SDWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3272	SAN No. 3565. Revision of Current Requirements for Triggering Increased Drinking Water Monitoring	2040-AC52

Resource Conservation and Recovery Act (RCRA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3273	SAN No. 2390. Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities	2050-AB80

Resource Conservation and Recovery Act (RCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3274	SAN No. 3856. Management of Cement Kiln Dust (CKD)	2050-AE34
3275	SAN No. 2634. Revisions to the Oil Pollution Prevention Regulation	2050-AC62
3276	SAN No. 3668. Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards	2050-AE26
3277	SAN No. 2872. Modifications to the Definition of Solid Waste and Regulations of Hazardous Waste Recycling: General	2050-AD10
3278	SAN No. 3134. Spent Solvents Listing Determination	2050-AD84
3279	SAN No. 3151. Chlorinated Aliphatics Listing Determination	2050-AD65
3280	SAN No. 2982. Requirements for Management of Hazardous Contaminated Media Commonly Referred to as "Hazardous Waste Identification Rule for Contaminated Media or HWIR—Media"	2050-AE22
3281	SAN No. 2827. RCRA Subtitle C Indian Program Authorization	2050-AD07
3282	SAN No. 3545. Revisions to the Comprehensive Guideline for Procurement of Products Containing Recovered Materials	2050-AE23

Resource Conservation and Recovery Act (RCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3283	SAN No. 3428. Standards for the Management and Use of Slag Residues Derived from High Temperature Metals Recovery (HTMR) Treatment of KO61, KO62 and F006 Wastes	2050-AE16
3284	SAN No. 3546. Alternatives for Ground-Water Monitoring for Municipal Solid Waste Landfills Located in Either Dry or Remote Areas	2050-AE24
3285	SAN No. 3328. Identification and Listing of Hazardous Wastes: Hazardous Waste Identification Rule (HWIR); Waste	2050-AE07
3286	SAN No. 3042. Hazardous Waste Management System: Post-Closure Requirements	2050-AD56
3287	SAN No. 3065. Listing Determination for Hazardous Wastes—Organobromines Chemical Industry	2050-AD79
3288	SAN No. 3427. New and Revised Testing Methods Approved for RCRA Subtitle C, in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846), Third Edition, Update III	2050-AE13
3289	SAN No. 3179. RCRA Subtitle D Corporate Financial Test and Guarantee	2050-AD77
3290	SAN No. 3416. Revisions to Criteria Applicable to Solid Waste Disposal Facilities That May Accept CESQG Hazardous Wastes Excluding Municipal Solid Waste Landfills	2050-AE11
3291	SAN No. 3189. Final Determination of the Applicability of the Toxicity Characteristic Rule to Underground Storage Tanks, Contaminated Media, and Debris	2050-AD80
3292	SAN No. 3066/3068/3069. Listing Determination of Wastes Generated During the Manufacture of Azo, Anthraquinone, and Triarylmethane Dyes and Pigments	2050-AD80
3293	SAN No. 3064. Identification and Listing of Hazardous Waste: Petroleum Refining Process Wastes	2050-AD86
3294	SAN No. 3333. Revised Standards for Hazardous Waste Combustion Facilities	2050-AE01
3295	SAN No. 3366. Land Disposal Restrictions—Phase IV: Treatment Standards for Certain Mineral Processing Wastes; TC Metals; Newly Listed Wastes From Wood Preserving and Dyes and Pigments	2050-AE06
3296	SAN No. 2647. RCRA Subtitle C Financial Test Criteria (Revision)	2050-AC71

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Resource Conservation and Recovery Act (RCRA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3297	SAN No. 3235. Rule Identifying When Military Munitions Become Hazardous Wastes and Management Standards for Such Wastes; Explosives Emergencies; Redefinition of On-site	2050-AD90
3298	SAN No. 2761. Financial Test for Local Governments That Own/Operate Municipal Solid Waste Landfills	2050-AD04
3299	SAN No. 2751. RCRA Subtitle D Solid Waste Facilities; State/Tribal Permit Program—Determination of Adequacy	2050-AD03

Resource Conservation and Recovery Act (RCRA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3300	SAN No. 3805. Paint Manufacturing Wastes Listing: Hazardous Waste Management System: Identification and Listing of Hazardous Waste	2050-AE32
3301	SAN No. 3425. Facility Response Planning for Delegated Offshore Facilities	2050-AE18
3302	SAN No. 3547. New and Revised Testing Methods Approved for RCRA Subtitle C, Hazardous Waste Testing Manual, SW-846, Third Edition, Update IV	2050-AE25
3303	SAN No. 3201. Regulatory Determination on Remaining Wastes From the Combustion of Fossil Fuels	2050-AD91
3304	SAN No. 3237. Hazardous Waste Management System; Modification of the Hazardous Waste Program; Mercury-Containing Lamps	2050-AD93
3305	SAN No. 3147. Hazardous Waste Manifest Regulation	2050-AE21
3306	SAN No. 3433. Underground Storage Tanks Containing Hazardous Substances - Financial Responsibility Requirements	2050-AC15

Resource Conservation and Recovery Act (RCRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3307	SAN No. 3801. Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Definition of Solid Waste (Recovered Oil)	2050-AE31
3308	SAN No. 3426. Regulations To Control Imports and Exports of Hazardous and Other Wastes	2050-AE13
3309	SAN No. 2524. No-Migration Variance for Prohibited Hazardous Waste Land Disposal	2050-AC44
3310	SAN No. 2780. Causes for Permit Modifications to Hazardous Waste Management Facilities	2050-AD05
3311	SAN No. 3114. Imports and Exports of Hazardous Waste: Implementation of the OECD Decision for Recyclable Wastes	2050-AD87
3312	SAN No. 3315. RCRA Expanded Public Participation	2050-AD97
3313	SAN No. 3334. Cement Kiln Dust	2050-AE02
3314	SAN No. 3365. Land Disposal Restrictions—Phase III: Decharacterized Wastewaters, Carbamate Wastes, and Spent Aluminum Potliners	2050-AD38
3315	SAN No. 3094. Extension of States' Interim Authorization Option To Carry Out Post-HSWA Regulations	2050-AD57
3316	SAN No. 3150. Field Filtering of Groundwater Samples	2050-AD86
3317	SAN No. 3032. Guideline for Federal Procurement of Paper and Paper Products Containing Recovered Materials	2050-AD41

Clean Air Act (CAA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3318	SAN No. 3553. Development of Ozone, Particulate Matter and Regional Haze Implementation Programs	2060-AF34
3319	SAN No. 3795. Acid Rain Program: Elimination of Direct Sale Program and IPP Written Guarantee; and ANPRM to Modify Allowance Auction	2060-AG41
3320	SAN No. 3795. Acid Rain Program: SO2 Allowance Auction and Electronic Allowance Transfer	2060-AG75
3321	SAN No. 3552. Regional Haze Protection Rule	2060-AF32
3322	SAN No. 3389. Fuels and Fuel Additives Waiver Application Criteria	2060-AE68

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Clean Air Act (CAA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3323	SAN No. 2909. Revisions to the New Source Review Regulations	2060-AD13
3324	SAN No. 2961. Locomotive Emission Standards	2060-AD33
3325	SAN No. 3259. New Source Review (NSR) Reform	2060-AE11
3326	SAN No. 3263. Performance Warranty and Inspection/Maintenance Test Procedures	2060-AE20
3327	SAN No. 3262. Inspection/Maintenance Recall Requirements	2060-AE22
3328	SAN No. 3302. Consolidated Emission Reporting	2060-AE32
3329	SAN No. 3353. NAAQS: Ozone (Review)	2060-AE57
3330	SAN No. 3448. NAAQS: Particulate Matter (Review)	2060-AE66
3331	SAN No. 3407. Method 301: Field Validation of Pollution Measurement Methods for Various Medias	2060-AF00
3332	SAN No. 3549. NESHAP: Petroleum Refineries - FCC Units, Reformers and Sulfur Plants	2060-AF28
3333	SAN No. 3082. NESHAP: Ferroalloy Industry	2060-AF29
3334	SAN No. 3569. Federal Implementation Plan To Control Emissions From Two Power Stations Located on Navajo Nation Lands	2060-AF42
3335	SAN No. 3572. Acid Rain Program: Revisions to Applicability, Exemptions, Allocations, and Small Diesel Refineries	2060-AF45
3336	SAN No. 3573. Acid Rain Program: Deletion of Certain Units	2060-AF46
3337	SAN No. 3574. Acid Rain Program: Revisions to the Permits Regulations Under Title IV of the Clean Air Act To Make Technical Corrections	2060-AF47
3338	SAN No. 3576. Control of Air Pollution From Aircraft and Aircraft Engines; Emission Standards and Test Procedures	2060-AF50
3339	SAN No. 3649. Amendments to Method 24 (Water-Based Coatings)	2060-AF72
3340	SAN No. 3637. Federal Implementation Plan (FIP) To Control Emissions From Sources Located on the Fort Hall Indian Reservation	2060-AF84
3341	SAN No. 3642. NESHAP for Perchloroethylene Dry Cleaning Facilities: Amendments	2060-AF90
3342	SAN No. 3698. Amendment of Enhanced Inspection/Maintenance Performance Standard	2060-AG07
3343	SAN No. 3599. Fourier Transform Infrared Spectroscopy (FTIR) Extractive Test Method - Self-Validating Procedure and CEM Performance Specification	2060-AG08
3344	SAN No. 3740. Transportation Conformity Rule Amendments: Flexibility and Streamlining	2060-AG16
3345	SAN No. 3725. Revision to the Maximum Oxygen Standard for Reformulated Gasoline	2060-AG17
3346	SAN No. 3756. Protection of Stratospheric Ozone: Reconsideration of Ban on Fire Extinguishers Containing HCFCs	2060-AG19
3347	SAN No. 3743. Amendments to Appendix A of Part 60, Appendix B of Part 61, and Appendix A of Part 63	2060-AG21
3348	SAN No. 3745. Revision to Definition of Volatile Organic Compounds - Exclusion of HFC 4310me and HCFC 225ca and cb	2060-AG24
3349	SAN No. 3748. Consolidated Federal Air Rule for the Synthetic Organic Chemical Manufacturing Industry	2060-AG26
3350	SAN No. 3750. Regulation Review/Burden Reduction	2060-AG30
3351	SAN No. 3845. Transitional Lock-In Procedures for Phase II Reformulated Gasoline (RFG) Program	2050-AG43
3352	SAN No. 3793. Regulation of Fuel and Fuel Additives: Controls Applicable to Gasoline Retailers and Wholesale Purchaser-Consumers; 10 Gallon per Minute Fuel Dispensing Limit Requirement	2060-AG45
3353	SAN No. 3808. Acid Rain Program: Continuous Emission Monitoring Rule Revisions for Technical Issues	2060-AG46
3354	SAN No. 3810. Protection of Strat. Ozone: Reconsideration of Petition Criteria/Incorporation of 1995 Protocol Decisions	2060-AG48
3355	SAN No. 3811. Radionuclide Dose Methodology Update	2060-AG49
3356	SAN No. 3832. Revision of PSI (Part 58 Appendix G)	2060-AG62
3357	SAN No. 3838. Revision to Definition of Volatile Organic Compounds (VOC) - Exclusion of Compounds	2060-AG70
3358	SAN No. 3568. Environmental Radiation Protection Standards for Yucca Mountain	2060-AG14
3359	SAN No. 3470. Next Revision of Appendix W to 40 CFR Part 51	2060-AF01
3360	SAN No. 3106. NSPS for Sulfur Dioxide (SO2) - Revision	2060-AD04
3361	SAN No. 3753. Revision to NSPS: Nonmetallic Minerals Processing	2060-AG33
3362	SAN No. 3105 (was 2914) for NESHAP and SAN No. 2712 for Effluent Integrated NESHAP and Effluent Guidelines: Pulp and Paper	2060-AD03
3363	SAN No. 3373/2993. Radionuclide Major Source Definition	2060-AD60
3364	SAN No. 3215. NESHAP: Mineral Wool Production Industry	2060-AE06
3365	SAN No. 3229. NESHAP: Oil and Natural Gas Production	2060-AE34
3366	SAN No. 3228. NESHAP for Formaldehyde-Based Resins (Polymers and Resins Group III)	2060-AE36
3367	SAN No. 3303. NESHAP: Phosphoric Acid Manufacturing	2060-AE40
3368	SAN No. 3345. NESHAP: Steel Pickling, HC1 Process	2060-AE41
3369	SAN No. 3304. NESHAP: Phosphate Fertilizers Production	2060-AE44
3370	SAN No. 3341. NESHAP—Cyanide Chemical Manufacturing	2060-AE45

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Clean Air Act (CAA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3371	SAN No. 3340. NESHAP: Primary Copper Smelting	2060-AE45
3372	SAN No. 3479. Amendments to Parts 51, 52, 63, and 70 To Revise the Provisions for Determining Potential To Emit	2060-AE63
3373	SAN No. 3123. NESHAP: Wool Fiberglass Manufacturing Industry	2060-AE75
3374	SAN No. 3072. NESHAP: Primary Aluminum Plants	2060-AE76
3375	SAN No. 3078. NESHAP: Secondary Aluminum Industry	2060-AE77
3376	SAN No. 3079. NESHAP: Portland Cement Manufacturing	2060-AE78
3377	SAN No. 3408. NESHAP: Polyether Polyols Production	2060-AE81
3378	SAN No. 3451. NESHAP: Pharmaceuticals Production	2060-AE83
3379	SAN No. 3450. NESHAP: Pesticide Production (Production of Agricultural Chemicals)	2060-AE84
3380	SAN No. 3449. NESHAP: Chlorine Production	2060-AE85
3381	SAN No. 3338. NESHAP: Flexible Polyurethane Foam Production	2060-AE86
3382	SAN No. 3467. NESHAP: Primary Lead Smelters	2060-AE97
3383	SAN No. 2547. National Emission Standard for Radon Emissions from Phosphogypsum Stacks	2060-AF04
3384	SAN No. 3378. NESHAP: Manufacturers of Acrylic/Modacrylic Fibers	2060-AF06
3385	SAN No. 3465. NESHAP: Polycarbonates Production	2060-AF09
3386	SAN No. 3377. Publicly Owned Treatment Works (POTW) NESHAP	2060-AF26
3387	SAN No. 3550. NESHAP: Baker's Yeast Manufacturing Industry	2060-AF30
3388	SAN No. 3551. Amendments to General Provisions for 40 CFR 63	2060-AF31
3389	SAN No. 3829. Revisions to the Regulation for Approval of State Programs and Delegation of Federal Authorities	2060-AG60
3390	SAN No. 3830. Revision to the Rule for Approval of State Programs and Delegation of Federal Authroities, and New Rule for Partial Delegation of Federal Authorities and Partial Approval of State	2060-AG61
3391	SAN No. 3836. Technical Amendments to Aerospace NESHAP	2060-AG65
3392	SAN No. 3613. New Source Performance Standards (NSPS) and Emission Guidelines for Industrial and Commercial Waste Incinerators	2060-AF91
3393	SAN No. 3610. Transportation Conformity Rule Amendment and Solicitation for Participation in the Transportation Conformity Pilot Program	2060-AG79
3394	SAN No. 3029: Aerospace SAN 3726; Shipbuilding SAN 3729; Wood Control Technology Guidelines (CTG)	2060-AD05
3395	SAN No. 3281. National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings	2060-AE35
3396	SAN No. 3351. VOC Regulation for Architectural Coatings	2060-AE55
3397	SAN No. 3659. Aerosol Spray Paints VOC Rule	2060-AF61
3398	SAN No. 3658 and 3822 National VOC Emission Standards for Consumer Products and Amendment to Add Flexible Compliance Plan	2060-AF62
3399	SAN No. 3838. Reduction of Volatile Organic Compound (VOC) Emissions from Coatings Used in the Aerospace, Wood Furniture, and Shipbuilding Industries Under Clean Air Act Section 183(e)	2060-AG59
3400	SAN No. 2869. Revised Light-Duty Durability Procedures for Model Year 1999 and Later	2060-AE06
3401	SAN No. 3646. National 49-State Low-Emission Vehicles Program	2060-AF75
3402	SAN No. 3645. Control of Nitrogen Oxide and Particulate Emissions From Heavy-Duty Engines	2060-AF76
3403	SAN No. 3139. Amendment Concerning the Location of Selective Enforcement Audits of Foreign Manufactured Vehicles and Engines	2060-AD90
3404	SAN No. 3091. "Substantially Similar" Definition for Diesel Fuels	2060-AD77
3405	SAN No. 3844. Modifications to Standards for Reformulated and Conventional Gasoline	2060-AG76
3406	SAN No. 3842. Amendment Concerning Applicability of On Highway Heavy-Duty Certified Engines for Use in Nonroad Heavy-Duty Vehicles and Equipment	2060-AG78
3407	SAN No. 3361. Nonroad Spark-Ignition Engines At or Below 19 Kilowatts (25 Horsepower)(Phase 2)	2060-AE29
3408	SAN No. 3789. Outer Continental Shelf Air Regulations Delegation Remand	2060-AG39
3409	SAN No. 3790. Outer Continental Shelf Air Regulations Offset Remand	2060-AG40
3410	SAN No. 3352. NSPS: Nitrogen Oxide Emissions From Fossil-Fuel Fired Steam Generating Units—Revision	2060-AE56
3411	SAN No. 3560. Amendment to the Refrigerant Recycling Rule To Include All Refrigerants	2060-AF37
3412	SAN No. 3673. Protection of Stratospheric Ozone: Reconsideration of Section 608 Sales Restriction	2060-AG20
3413	SAN No. 3840. Supplemental Rule To Require Certain Products Made With HCFCs To Bear Warning Label	2060-AF93
3414	SAN No. 3525 (generic). Update of the Acceptability List Under the Significance New Alternatives Policy (SNAP) Program	2060-AG12
3415	SAN No. 3792. Hazardous Waste Treatment, Storage and Disposal Facilities (TSDF) and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers	2060-AG44

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Clean Air Act (CAA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3416	SAN No. 2942. Compliance Assurance Monitoring Program (Previously Enhanced Monitoring Program)	2060-AD18
3417	SAN No. 3369. Federal Operating Permit Rules	2060-AD66
3418	SAN No. 2939. Regulations Governing Awards Under Section 113(f) of the Clean Air Act	2060-AD81
3419	SAN No. 3264. Inspection/Maintenance Program Requirements—Onboard Diagnostic Checks	2060-AE19
3420	SAN No. 3146. NESHAPS Pertaining to Facilities Other Than Commercial Nuclear Power Reactors Licensed by the Nuclear Regulatory Commission (NRC) or by NRC Agreement States	2060-AE39
3421	SAN No. 3506. Addition of Methods 204, 204A - 204F for Measurement of VOC Emissions From Stationary Sources	2060-AF02
3422	SAN No. 3570. Acid Rain Program: Revisions to the Administrative Appeal Regulations Under Title IV of the Clean Air Act	2060-AF43
3423	SAN No. 3412. Operating Permits: Revisions (Part 70)	2060-AF70
3424	SAN No. 2915. Methods for Measurement of Visible Emissions - The addition of Methods 203A, 203B, and 203C to Appendix M of Part 51	2060-AF83
3425	SAN No. 3638. Revision of EPA's Radiological Emergency Response Plan	2060-AF85
3426	SAN No. 3643. Sales Volume Limit Provisions for Small-Volume Manufacture Certification for Clean Fuel and Conventional Vehicle Conversions and Related Provisions	2060-AF87
3427	SAN No. 3538. Compliance Application Guidance for 40 CFR 194	2060-AG09
3428	SAN No. 3675. Determining Conformity of General Federal Actions to State or Federal Implementation Plans (for Attainment and Unclassifiable Areas)	2060-AG10
3429	SAN No. 3744. Amendment to Standards of Performance for New Stationary Sources; Monitoring Requirements	2060-AG22
3430	SAN No. 3650. Ambient Air Quality Surveillance, Recension of NAMS Ambient Air Quality Monitoring Requirements for Lead	2060-AG23
3431	SAN No. 3674. Amendments to the Final Rules NESHAP for Chromium Electroplating, NESHAP for Commercial Sterilization, NESHAP for Dry Cleaners, and NESHAP for Secondary Lead Smelters	2060-AG36
3432	SAN No. 3835. Amendment to the User Fees for Radon Proficiency Programs Rule	2060-AG64
3433	SAN No. 3831. Revision to Appendix W of 40 CFR Part 51	2060-AG71
3434	SAN No. 3446. Revisions to Part 35, Subpart A Section 105 Air Grant Regulations	2060-AF03
3435	SAN No. 3087. Indian Tribes: Air Quality Planning and Management	2060-AF79
3436	SAN No. 1002 (Primary Standard) and SAN No. 3588 (Implementation) NAAQS: Sulfur Dioxide (Review)	2060-AA61
3437	SAN No. 1004. NAAQS: Nitrogen Dioxide (Review)	2060-AC06
3438	SAN No. 2535. NSPS: Municipal Solid Waste Landfills	2060-AC42
3439	SAN No. 2719. Medical Waste Incinerators (MWI)	2060-AC62
3440	SAN No. 2932. Guidance for the Implementation of Section 112(g)—Modifications	2060-AD06
3441	SAN No. 3077. NESHAP: Printing/Publishing Industry	2060-AD95
3442	SAN No. 3166. NESHAP: Polymers and Resins, Group I	2060-AD96
3443	SAN No. 3159. NESHAP for Off-Site Waste and Recovery Operations	2060-AE05
3444	SAN No. 3187. NESHAP: Polymers and Resins, Group IV	2060-AE37
3445	SAN No. 3469. NESHAP: Manufacture of Tetrahydrobenzaldehyde	2060-AE99
3446	SAN No. 3466. Delisting of Source Categories Under 112(c): Stainless and Non-Stainless Steel Manufacturing and Electric Arc Furnace (EAF) Operation, Wood Treatment, and Chromium Chemicals	2060-AF11
3447	SAN No. 3046. Decision on the Petition To Remove Caprolactam From the List of Hazardous Air Pollutants	2060-AF33
3448	SAN No. 3791. Revision of Initial List of Categories of Sources and Schedule for Standards Under Section 112(c) and (e) of the Clean Air Act Amendments of 1990	2060-AG42
3449	SAN No. 2937. Field Citation Program	2060-AD82
3450	SAN No. 3604. Standards for Reformulated and Conventional Gasoline, Individual Baseline Fuel Adjustments	2060-AG80
3451	SAN No. 3841. Adjustment of Reid Vapor Pressure Lower Limit for Reformulated Gasoline Sold in the State of California	2060-AG82
3452	SAN No. 3627. Integrated Rule for Paper, Film and Foil Coating and Coatings: MACT for NESHAP; and BAC for National VOC Rule	2060-AG58
3453	SAN No. 3660. Open-Market Trading Rule for Ozone Precursors	2060-AF60
3454	SAN No. 3300. Revised Carbon Monoxide (CO) Standard for Class I and II Nonhandheld New Nonroad Phase I Small Spark-Ignited Engines	2060-AG61
3455	SAN No. 3541. On-Board Diagnostics: Revision to Requirements for Storage of Engine Conditions Associated With Extinguishing a Malfunction Indicator Light	2060-AF20
3456	SAN No. 3323. Review of the Federal Test Procedure for Emissions From Motor Vehicles and Motor Vehicle Engines	2060-AE27
3457	SAN No. 2637. Alternative Test Procedure for the Voluntary Aftermarket Part Certification Program	2060-AC50
3458	SAN No. 3597. Regulation of Fuel and Fuel Additives: Certification Requirements for Deposit Control Additives	2060-AG06
3459	SAN No. 3843. Revision to the Covered Areas Provision for Reformulated Gasoline	2060-AG77

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Clean Air Act (CAA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3460	SAN No. 3350. Emission Standards for Gasoline Spark-Ignition and Diesel Compression-Ignition Marine Engines	2060-AE54
3461	SAN No. 2888. Acid Rain Nitrogen Oxides Control Regulation	2060-AD45
3462	SAN No. 3575 (combined with SAN 3571). Acid Rain Phase II Nitrogen Oxides Reduction Program	2060-AF48
3463	SAN No. 3555. Amendment to the MVAC Rule To Include All Refrigerants	2060-AF35
3464	SAN No. 3556. Protection of Stratospheric Ozone: Supplemental Rule Regarding a Recycling Standard Under Section 608	2060-AF36
3465	SAN No. 3809. Technical Amendment to Regulations Promulgated Under Section 608 of the Clean Air Act Amendments	2060-AG47

Clean Air Act (CAA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3466	SAN No. 3009/3357. Acid Rain Opt-In Regulations	2060-AD43
3467	SAN No. 3380. NSPS: Synthetic Organic Chemicals Manufacturing Industry - Wastewater	2060-AE94
3468	SAN No. 3516. Radiation Waste Management Regulations	2060-AF41
3469	SAN No. 3741. Service Information Availability	2060-AG13
3470	SAN No. 3819. NESHAP for Sewage Sludge Incinerators	2060-AG50
3471	SAN No. 3812. Radiation Protection Standards for Scrap Metal	2060-AG51
3472	SAN No. 3820. NESHAP for Plywood and Particle Board Manufacturing	2060-AG52
3473	SAN No. 3814. Guidance for the Implementation of EPA's Radiation Protection Standards for the Management and Storage of Transuranic Radioactive Waste at the Waste Isolation Pilot Plant (WIPP)	2060-AG74
3474	SAN No. 3656. Internal Combustion Engine NESHAP/NSPS	2060-AG63
3475	SAN No. 3657. Combustion Turbine NESHAP/NSPS	2060-AG67
3476	SAN No. 3343. NESHAP—Iron Foundries and Steel Foundries	2060-AE43
3477	SAN No. 3346. NESHAP: Integrated Iron and Steel	2060-AE48
3478	SAN No. 3326. NESHAP: Reinforced Plastic Composites Production	2060-AE79
3479	SAN No. 3452. NESHAP: Miscellaneous Organic Chemical Production and Processes	2060-AE82
3480	SAN No. 3548. NESHAP: Nylon 6 Production	2060-AF27
3481	SAN No. 3746. National Emission Standard for Hazardous Air Pollutants for Paint Stripper Users	2060-AG26
3482	SAN No. 3747. NESHAP for Boat Manufacturing	2060-AG27
3483	SAN No. 3749. NESHAP for Tire Manufacturing	2060-AG29
3484	SAN No. 3752. NESHAP for Aerosol Can Production	2060-AG32
3485	SAN No. 3754. Petroleum Solvent Dry Cleaners MACT Standard	2060-AG34
3486	SAN No. 3821. NESHAP for Ethylene Processes	2060-AG53
3487	SAN No. 3823. Large Appliance Coatings Integrated Regulation	2060-AG54
3488	SAN No. 3655. Asphalt Roofing and Processing NESHAP	2060-AG66
3489	SAN No. 3652. NESHAP Chromium Refractories	2060-AG68
3490	SAN No. 3837. NESHAP for Industrial, Commercial and Institutional Boilers and Process Heaters	2060-AG69
3491	SAN No. 3851. NESHAP: Lime Manufacturing	2060-AG72
3492	SAN No. 3751. New Source Performance Standards and Emission Guidelines for Other Solid Waste Incinerators	2060-AG31
3493	SAN No. 3824. Metal Furniture Coatings Integrated Regulation	2060-AG55
3494	SAN No. 3825. Surface Coating of Miscellaneous Metal Parts and Products—Integrated	2060-AG56
3495	SAN No. 3826. Plastic Parts Coating Integrated Rule for Volatile Organic Compounds (VOC) and Hazardous Air Pollutants (HAPs)	2060-AG57
3496	SAN No. 2940. Regulations Governing Prior Notice of Citizen Suits Brought Under Section 304 of the Clean Air Act	2060-AD80

Clean Air Act (CAA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3497	SAN No. 3111. Prohibition of Leaded Gasoline for Highway Use	2060-AD55
3498	SAN No. 3018. Regulation of Fuels and Fuel Additives: Interim Requirements for Deposit Control Gasoline Additives	2060-AD71

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Clean Air Act (CAA)—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3499	SAN No. 3354. State Implementation Plan Completeness Criteria	2060-AE58
3500	SAN No. 3375. Addendum to the General Preamble for Title I of the Clean Air Act Amendments; Serious PM-10 Nonattainment Areas and PM-10 Nonattainment Area Attainment Date Waivers	2060-AE62
3501	SAN No. 3457. On-Board Diagnostics Service Information Available	2060-AE93
3502	SAN No. 3500. Application of Mandatory Sanctions Under Title V of the Clean Air Act	2060-AE96
3503	SAN No. 3468. Establishment of Lesser Quantity Emission Rates for Hazardous Air Pollutants	2060-AE98
3504	SAN No. 3474. Ammonia Test Method, 40 CFR Part 51, Appendix M	2060-AF22
3505	SAN No. 3472. Technical Corrections to Appendix A of 40 CFR Part 60, Appendix B of Part 61, Appendix A of Part 63, and Part 60	2060-AF24
3506	SAN No. 3540. Technical Amendments to Evaporative Emission Procedure	2060-AF49
3507	SAN No. 3419. NSPS Appendix A - Reference Methods; Amendments to Method 24 for the Determination of Volatile Matter Contents, Water Content, Density, Volume and Weight Solids of Surface Coatings	2060-AG00
3508	SAN No. 3306. Revision to the Definition of Volatile Organic Compound - Exclusion of Perchloroethylene	2060-AG25
3509	SAN No. 2916. NSPS: Municipal Waste Combustion—Phase II and Phase III	2060-AD00
3510	SAN No. 2892. NESHAP: Asbestos Processing (Delisting)	2060-AB51
3511	SAN No. 2965. NESHAP for Wood Furniture Manufacturing	2060-AD57
3512	SAN No. 3074. NESHAP: Surface Coating Operations in Shipbuilding and Ship Repair	2060-AD98
3513	SAN No. 3459. Criteria and Procedures for Determining Transportation Conformity in Attainment Areas	2060-AE90
3514	SAN No. 2665. Amendments to Regulations Governing the Importation of Nonconforming Vehicles	2060-AC56
3515	SAN No. 3097. Nonconformance Penalties for 1998 Model Year Emission Standards for Heavy-Duty Engines and Vehicles	2060-AE07
3516	SAN No. 3571. Acid Rain Program: Revised Group 1, Phase II, NOx Emission Limitations	2060-AF44
3517	SAN No. 3715. Protection of Stratospheric Ozone: Listing of Global Warming Potentials for Ozone-Depleting Substances	2060-AG35
3518	SAN No. 3639. Amendment to the Refrigerant Recycling Rule To Modify the Sales Restrictions of Split Systems	2060-AF81
3519	SAN No. 3673. Protection of Stratospheric Ozone: Direct Final Rule Extending Reclamation Requirements of the Section 608 Refrigerant Recycling Rule	2060-AF97

Superfund (CERCLA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3520	SAN No. 3806. Grants for Technical Assistance Rule Reform - 40 CFR Part 35 Subpart M	2050-AE33
3521	SAN No. 3423. Reportable Quantity Adjustments for Carbamates	2050-AE12
3522	SAN No. 3439. National Priorities List for Uncontrolled Hazardous Waste Sites: Proposed and Final Rules	2050-AD75
3523	SAN No. 3215. Amendments to the Emergency Planning and Community Right-To-Know Act, Sections 302 Through 312	2050-AE17

Superfund (CERCLA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3524	SAN No. 2979. Risk Management Program for Chemical Accidental Release Prevention	2050-AD26
3525	SAN No. 3054. Administrative Reporting Exemptions for Certain Radionuclide Releases	2050-AD46
3526	SAN No. 3036. Amendments to the Extremely Hazardous Substances List Under Section 302 of the Emergency Planning and Community Right-To-Know Act	2050-AD50

Superfund (CERCLA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3527	SAN No. 2394. Reporting Exemptions for Federally-Permitted Releases of Hazardous Substances	2050-AB82

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Superfund (CERCLA)—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3528	SAN No. 3050. Deletion of Saccharin From the List of Hazardous Wastes Under RCRA and the List of Hazardous Substances Under CERCLA	2050-AD45
3529	SAN No. 3424. Reportable Quantity Adjustment for Radon-222	2050-AE20

Superfund (CERCLA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3530	SAN No. 3422. Response Action Contractor Indemnification	2050-AE19

General—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3531	SAN No. 3671. Final Guidelines for Carcinogen Risk Assessment	2080-AA06
3532	SAN No. 3670. Proposed Guidelines for Ecological Risk Assessment	2080-AA07
3533	SAN No. 3624. Guidelines for Neurotoxicity Risk Assessment	2080-AA08
3534	SAN No. 3765. Comprehensive Environmental Response Compensation and Liability Act (CERCLA) Cost Recovery	2020-AA25
3535	SAN No. 3486. Rules of Practice for Enforcement Actions Not Governed by the Administrative Procedure Act	2020-AA23
3536	SAN No. 3580. Incorporation of Class Deviation into EPAAR	2030-AA37
3537	SAN No. 3629. EPA Mentor-Protege Program	2030-AA40
3538	SAN No. 3816. Agency Implementation of Federal Acquisition Streamlining Act (FASA) Changes to Truth in Negotiations Act (TINA)	2030-AA47
3539	SAN No. 3255. Source Selection Procedures	2030-AA29
3540	SAN No. 2662. Amendments to Part 22 Consolidated Procedural Rules	2020-AA13
3541	SAN No. 3817. Governmentwide Implementation of Federal Acquisition Streamlining Act (FASA) and Changes to OMB Suspension and Debarment Common Rule	2030-AA48
3542	SAN No. 3807. Consolidation of Good Laboratory Practice Standards (GLPS) Regulations Currently Under TSCA and FIFRA Into One Rule	2020-AA26

General—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3543	Final Guidelines for Reproductive Toxicity Risk Assessment	2080-AA05
3544	SAN No. 2702. Comprehensive Environmental Response Compensation and Liability Act (CERCLA) Cost Recovery	2050-AC98
3545	SAN No. 3578. Revision to Submission of Invoices Clause	2030-AA35
3546	SAN No. 3579. EPA Policies for Information Resources Management	2030-AA36
3547	SAN No. 3587. Merger of 40 CFR Parts 15 and 32 Into a Single Regulation	2030-AA38
3548	SAN No. 3815. Conforming Amendments to the EPAAR From the Federal Acquisition Streamlining Act	2030-AA46
3549	SAN No. 3367. Amend Subpart H Supplemental Rules To Ensure 40 CFR Part 22 Rule Conforms to the New Federal Facility Compliance Act	2020-AA22

General—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3550	SAN No. 3240. Public Information and Confidentiality Regulations	2020-AA21

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General—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3551	SAN No. 2512. Administrative Hearing Procedures for Class II Penalties Under CERCLA and Emergency Planning and Community Right-to-Know Act	2050-AC39

General—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3552	SAN No. 3577. Grants and Cooperative Agreements With State, Local, and Indian Tribal Governments	2030-AA34
3553	SAN No. 3436. Uniform Administration Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	2030-AA32
3554	SAN No. 3628. Confidential Business Information Provisions and Clauses	2030-AA41
3555	SAN No. 3098. Implementation of Procurement Integrity	2030-AA25

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Prerule Stage

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3126. DATA CONSOLIDATION INITIATIVE; KEY IDENTIFIERS REPORTING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: FIFRA, TSCA, RCRA, CAA, SDWA, PPA, etc.

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Using the various EPA regulatory authorities, the Environmental Protection Agency (EPA) is developing a proposed regulation for collecting uniform facility identification information under one regulation. The uniform facility information will be used to link data reported under various Federal environmental laws, and is expected to reduce regulatory burden for facilities. This action will provide more meaningful access to environmental data and is the foundation for moving forward the longer-term vision of full data integration and uniform reporting.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/96	
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Agency Contact: Mary Hanley, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, (7405), Washington, DC 20460
Phone: 202 260-1624

RIN: 2070–AD01

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3127. PESTICIDE TOLERANCE DECISIONS UNDER THE DELANEY CLAUSE

Priority: Other Significant

Legal Authority: 21 USC 348/FFDCA 409; 21 USC 346/FFDCA 408

CFR Citation: 40 CFR 185; 40 CFR 186; 40 CFR 180

Legal Deadline: Other, Judicial, September 30, 2009.
ariable. Court-ordered deadlines beginning September 1995.

Abstract: The Agency will make decisions whether to revoke processed food and raw food tolerances for a number of pesticide carcinogens because of the Delaney clause. The Delaney clause prohibits chemicals in processed foods that induce cancer in man or animals. These decisions are required by a settlement agreement between EPA and the Natural Resources Defense Council et al, and will be in compliance with a decision by the Ninth Circuit Court of Appeals which ruled that the Federal Food, Drug and Cosmetic Act requires a strict interpretation schedule set out in the consent order approved by the Court.

Timetable:

Appendix I (Group A)
NPRM 07/01/94 (59 FR 33941)
Final Action 03/15/96
Appendix I (Group B/D)
NPRM 01/18/95 (60 FR 3602)
Final Action 07/18/96
Appendix I (Group C)
NPRM 09/15/95 (60 FR 49142)
Final Action 03/15/97

Appendix II (Group E)
NPRM 12/31/95
Appendix II (Group F)
NPRM 04/30/96
Appendix II (Group G)
NPRM 04/30/97

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3154.

Agency Contact: Jean M. Frane, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7501C, Washington, DC 20460
Phone: 703 305-5944

RIN: 2070–AC55

3128. PESTICIDES: TOLERANCE PROGRAM REVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 346 to 346(a); 21 USC 348; 21 USC 371

CFR Citation: 40 CFR 177; 40 CFR 180; 40 CFR 185; 40 CFR 186

Legal Deadline: None

Abstract: EPA is reassessing the pesticide tolerance-setting process with the goal of improving public health protection provided by the tolerance process, increasing public confidence in the safety of the food supply, clarifying and simplifying the process for all affected parties, and utilizing the most cost-efficient methods for implementation and compliance.

Timetable:

Action	Date	FR Cite
Pesticides; Tolerance Program Revisions Tolerance Policy Document	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3430.

Agency Contact: Christine Gillis, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7501C, Washington DC 20460
Phone: 703 305-7102

RIN: 2070–AC74

3129. THE 10-ACRE LIMITATION FOR PESTICIDE SMALL-SCALE FIELD TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136c

CFR Citation: 40 CFR 172

Legal Deadline: None

Abstract: EPA will propose a modification to its pesticide experimental use permit (EAP) regulations that will permit field testing of new pesticides or existing pesticides for new uses on a greater number of acres without an experimental use permit. Currently such testing is limited to 10 acres cumulative total per pesticide under a presumption that this limited testing poses no adverse effects, and therefore does not warrant the Agency's oversight under the EUP program. This action would reduce burdens on pesticide producers who currently must obtain an experimental use permit for greater than 10 acres testing. Little impact would be expected on small businesses, because they rarely engage in pesticide field testing of new chemicals or new uses.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Tribal

Additional Information: SAN No. 3735.

Agency Contact: Jim Tompkins, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M St SW., 7505C, Washington DC 20460
Phone: 703 305-5697
Fax: 703 308-1825
Email: Tompkins.James@epamail.epa.gov

RIN: 2070–AC99

3130. PESTICIDES; SELF-CERTIFICATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136 to 136y

CFR Citation: 40 CFR 152

Legal Deadline: None

Abstract: The Environmental Protection Agency (EPA) is evaluating self-certification as a possible approach to reinventing the registration process for pesticides. The goal of this effort is to simplify, speed up, and increase the efficiency of the registration process while maintaining protection to human health and the environment.

Timetable:

Action	Date	FR Cite
Draft PR Notices Self-Certification of Acute Toxicity and Product Chemistry Data	05/00/96	
Final FR Notices Self-Certification of Acute Toxicity and Product Chemistry Data	07/00/96	
Final Notification Rule	01/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Agency Contact: Jeff Kempter, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, (7505C), Washington, DC 20460
Phone: 703 305-5448

RIN: 2070–AD00

3131. PESTICIDE DATA REQUIREMENTS FOR REGISTRATION (REVISION)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136a; 7 USC 136w

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: This amendment will update the existing data requirements (40 CFR 158) for evaluating the registerability of pesticide products. Reasons for the revisions include recent health and environmental concerns (e.g., groundwater contamination, worker exposure and neurotoxicity) advancements in testing technology, and new ecological risk testing approaches. The revisions will clarify all data requirements to reflect current practice. Procedural and explanatory sections of 40 CFR 158 will be amended to make them consistent with the revised data requirements and new use indexing implemented pursuant to 1988 FIFRA amendments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2687.

Agency Contact: Amy Rispin, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7501c, Washington, DC 20460
Phone: 703 305-5989

RIN: 2070–AC12

3132. PESTICIDES AND GROUNDWATER STATE MANAGEMENT PLAN REGULATION

Priority: Economically Significant

Legal Authority: 7 USC 136/FIFRA 3

CFR Citation: 40 CFR 152.170

Legal Deadline: None

Abstract: The regulation will designate certain individual pesticides to be subject to EPA approved State Management Plans (SMPs) as a condition of legal sale and use. This regulation would establish SMPs as a new regulatory requirement for those pesticides; absent an EPA-approved state plan specifying risk-reduction measures, use of the chemical would be prohibited. The rule would also specify procedures and deadlines for development, approval and implementation of SMPs.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3222.

Agency Contact: Arden Calvert, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7501C, Washington, DC 20460
Phone: 703 305-7099

RIN: 2070–AC46

3133. FIFRA BOOKS AND RECORDS OF PESTICIDE PRODUCTION AND DISTRIBUTION (REVISION)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136f/FIFRA 8

CFR Citation: 40 CFR 169

Legal Deadline: None

Abstract: This action would amend the recordkeeping requirements for registrants and applicants for registration under FIFRA Section 8. It will also examine recordkeeping affected by the 1988 amendments to FIFRA and amend 40 CFR 169, as necessary.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2725.

Agency Contact: Steve Howie, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, 2225A, Washington, DC 20460
Phone: 703 308-8383

RIN: 2070–AC07

3134. MODIFICATIONS TO PESTICIDE WORKER PROTECTION STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136w

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: Since the issuance of the 1992 WPS and the January 1, 1995 implementation, farmworker groups have expressed an interest in enhancing specific protection measures, while grower groups, the National Association of State Departments of Agriculture and others have expressed an interest in addressing practical, operational concerns. The Agency received various requests and comments in the form of letters, petitions, and individual and public meetings to address the concerns with the WPS. As a result, there may be a need to make further changes of a minor nature to the WPS rule. EPA will take such actions as rules, policy statements or other documents as appropriate. Currently planned actions are listed below:

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	12/00/96	
Decontamination requirements NPRM 09/29/95 (60 FR 50686) Final Action 04/00/96		
Glove requirements NPRM 04/00/96		
Language and size requirements for warning signs NPRM 09/29/95 (60 FR 50682) Final Action 04/00/96		

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3731.

Agency Contact: Don Eckerman, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M St SW (7506C), Washington DC 20460
Phone: 703 305-7666
Fax: 703 308-2962

RIN: 2070–AC93

3135. EXEMPTION OF STERILANT PESTICIDE PRODUCTS FROM REGULATION UNDER THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136/FIFRA 25

CFR Citation: 40 CFR 152.20

Legal Deadline: None

Abstract: EPA will propose to exempt from regulation under FIFRA sterilant products used to control microorganisms on treated

EPA—FIFRA — **Proposed Rule Stage**

environmental surfaces. EPA currently regulates sterilant products as pesticides; concurrently FDA regulates chemical germicides used as sterilants for medical devices under the Federal Food, Drug and Cosmetic Act (FFDCA). Under a Memorandum of Understanding signed June 4, 1993 and amended June 20, 1994 EPA and FDA agreed to eliminate this redundant regulatory jurisdiction. By exempting sterilants under FIFRA, sole jurisdiction will reside with FDA.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3318.

Agency Contact: Michele E. Wingfield, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7505C, Washington DC 20460
Phone: 703 305-6661

RIN: 2070–AC58

3136. PESTICIDE EXPORT POLICY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136f/FIFRA 25; 7 USC 136o; 7 USC 136w

CFR Citation: 40 CFR 168; 40 CFR 169

Legal Deadline: None

Abstract: EPA is considering revisions to its pesticide export policy. EPA believes that certain modifications are necessary because (1) EPA's current policy has resulted in too many export notices on pesticides of little or no concern to other governments; (2) the increasing numbers of export notices undermines the effectiveness of the international Prior Informed Consent (PIC) procedures, an international information and exchange and chemical management program developed by the Food and Agriculture Organizations and the United National Environment Programme (UNEP); (3) the costs of implementing the existing program on the U.S. government, other governments, and industry, should be reduced.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3736.

Agency Contact: Deborah J. Hartman, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M St SW., 7501C, Washington DC 20460
Phone: 703 305-7100
Fax: 703 305-6244
Email: hartman.deborah@epamail.epa.gov

RIN: 2070–AD02

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) — **Final Rule Stage**

3137. PESTICIDES; REVISION OF NOTIFICATION PROCEDURE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136a

CFR Citation: 40 CFR 152.44; 40 CFR 152.46

Legal Deadline: None

Abstract: This rule streamlines and accelerates the review of certain registration amendments by allowing EPA to notify registrants directly of types of registration amendments that may be accomplished through notification and non-notification. EPA believes this streamlining change will speed up the registration process while maintaining protection of the public health and the environment. The rule changes are procedural. The revised rule also clarifies when sale and distribution of a product changed by notification are permitted.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAN No. 3734.

Agency Contact: Jeff Kempter, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, SE., 7505C, Washington DC 20460
Phone: 703 305-5448
Fax: 703 305-6920
Email: Kempter.Carlton@epamail.epa.gov

RIN: 2070–AC98

3138. CROSS-CONTAMINATION OF PESTICIDE PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136a

CFR Citation: 40 CFR 158.167

Legal Deadline: None

Abstract: EPA is evaluating its current policy on allowable limits on cross-contamination of pesticide products. EPA's current policy is that any amount of a pesticide active ingredient in another pesticide product must be reported to EPA as part of the registration process. This zero tolerance is a problem because cross-contamination is an inevitable outcome in the manufacture of chemicals. EPA is attemping to clarify situation in which the producer will be required to report cross-contamination. The expected output of this exercise will be clear guidance to the regulated community as to the levels of contamination that will be allowed for pesticides in other pesticide products. EPA is using a risk-based approach to determining acceptable levels of cross-contamination; the levels the Agency will establish should in most cases, protect users and the environment from adverse effects. The adverse effect that can occur at the lowest levels in most cases is phytotoxicity.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3739.

Agency Contact: Jim Jones, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7505W, 401 M St SW., Washington DC 20460
Phone: 703 308-8799
Fax: 703 308-8369

RIN: 2070–AD03

3139. REGULATION OF PLANT-PRODUCED PESTICIDES UNDER FIFRA AND FFDCA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136 et seq; 21 USC 346a et seq

CFR Citation: 40 CFR 152.20; 40 CFR 180; 40 CFR 174

Legal Deadline: None

Abstract: EPA will make clear that the substances that plants produce to protect themselves against pests and disease are pesticides under FIFRA. The Agency designates these substances along with the genetic material necessary to produce them, as "plant-pesticides." The Agency will clarify that the focus of EPA's regulation will be on these substances rather than on the plants that produce the pesticidal substance. The Agency will define the categories of plant-pesticides that would be regulated and those that would be exempt under FIFRA and FFDCA. For those plant-pesticides that would be subject to Agency requirements, the Agency will outline the process by which these pesticides will be regulated and the information that would be needed in the Agency's review.

Timetable:

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60496
Final Action	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2684.

Agency Contact: Flora Chow, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, (7501W), Washington, DC 20460
Phone: 703 308-8290

RIN: 2070–AC02

3140. PESTICIDE FLAMMABILITY LABELING REQUIREMENTS FOR TOTAL RELEASE FOGGERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136/FIFRA 2; 7 USC 137/FIFRA 3

CFR Citation: 40 CFR 156.10

Legal Deadline: None

Abstract: This rule would require that pesticide total release foggers be labeled with additional flammability precautionary statements (including a graphic symbol) and more precise use directions. Total release foggers have been implicated in a number of fires and explosions because of their flammable propellants. The labeling of these products has been determined to be inadequate to mitigate this potential hazard.

Timetable:

Action	Date	FR Cite
NPRM	04/15/94	59 FR 18058
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3135.

Agency Contact: Jim Downing, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7505W, Washington, DC 20460
Phone: 703 308-8641

RIN: 2070–AC60

3141. RESTRICTED USE CRITERIA FOR PESTICIDES IN GROUNDWATER

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136a /FIFRA 3

CFR Citation: 40 CFR 152.170

Legal Deadline: None

Abstract: This rule amends the existing Restricted Use Classification (RUC) regulations to add criteria pertaining to pesticides' groundwater contamination potential. Restricted pesticides may only be used by trained and certified applicators. Once promulgated, criteria will serve as the basis for subsequent rule-making (RIN 2070-AC33) to actually classify selected pesticides.

Timetable:

Action	Date	FR Cite
NPRM	05/13/91	56 FR 22070
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2371.

Agency Contact: Christine Gillis, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7501C, Washington, DC 20460
Phone: 703 305-5131

RIN: 2070–AB60

3142. REPORTING REQUIREMENTS FOR RISK/BENEFIT INFORMATION (REVISION)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136d/FIFRA6

CFR Citation: 40 CFR 153; 40 CFR 159

Legal Deadline: None

Abstract: Section 6(a)(2) of FIFRA requires pesticide registrants to report to EPA additional factual information regarding unreasonable adverse effects of their products. By statutory

definition, "unreasonable risk" includes risk and benefit information. In 1992 EPA proposed to revise its 1979 enforcement policy on section 6(a)(2) by expanding upon the types of information which must be reported. This final rule includes modifications to the 1992 proposals made by EPA in response to comments received on the proposed rule.

Timetable:

Action	Date	FR Cite
Final Action Interpretive and Policy Rule	08/23/78	43 FR 37611
Final Action Enforcement Policy	07/12/79	44 FR 40716
Final Action Codified Interpretive Rule	09/20/85	50 FR 38115
NPRM	09/24/92	57 FR 44290
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2338.

Agency Contact: James V. Roelofs, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7501C, Washington, DC 20460
Phone: 703 305-7102

RIN: 2070–AB50

3143. POLICY OR PROCEDURES FOR NOTIFICATION TO THE AGENCY OF STORED PESTICIDES WITH CANCELLED OR SUSPENDED REGISTRATION

Priority: Other Significant

Legal Authority: 7 USC 136/FIFRA 6

CFR Citation: 40 CFR 168

Legal Deadline: None

Abstract: This policy will clarify the requirements of section 6(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The policy will provide procedures for certain persons who possess cancelled or suspended pesticides to notify the EPA and State and local officials of (1) such possessions; (2) the quantity possessed; and (3) the place the pesticide is stored.

Timetable:

Action	Date	FR Cite
NPRM	03/28/91	56 FR 13042
Final Action	03/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 2720.

Agency Contact: David Stangel, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2225-A), Washington, DC 20460
Phone: 202 560-4162

RIN: 2070–AC08

3144. SCOPE AND CLARIFICATION OF THE WPS EXCEPTIONS PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136(w)

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: The Scope and Clarification of the WPS Exceptions Process will involve will involve an analysis of the existing scope of the WPS exceptions process, an opportunity for public comment on the analysis, and consideration of whether the scope should be expanded. In addition, guidance will be issued to clarify the types of information needed for each individual exception request in order for the Agency to be able to make a risk/benefit decision.

Timetable:

Action	Date	FR Cite
Worker Protection Standard Exceptions Process		
Scope and Clarification Document	01/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3733.

Agency Contact: Don Eckerman, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M St SW (7506C)
Phone: 703 305-7666
Fax: 703 308-2962

RIN: 2070–AC96

3145. PESTICIDE MANAGEMENT AND DISPOSAL

Priority: Other Significant

Legal Authority: 7 USC 136 et seq

CFR Citation: 40 CFR 165

Legal Deadline: None

Abstract: This action develops procedures for mandatory and voluntary recall actions under section 19(b) of FIFRA and would establish criteria for acceptable storage and disposal plans which registrants may submit to this Agency to become eligible for reimbursement of storage costs. This action establishes procedures for indemnification of owners of suspended and cancelled pesticides for disposal.

Timetable:

Action	Date	FR Cite
NPRM	05/05/93	58 FR 26856
Final Action	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3432.

Agency Contact: David Stangel, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2225-A), Washington DC 20460
Phone: 202 564-4162

RIN: 2070–AC81

3146. REGULATORY RELIEF FOR LOW-RISK PESTICIDES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136/FIFRA 25

CFR Citation: 40 CFR 152

Legal Deadline: None

Abstract: Pesticides which are substances or mixtures intended to control or mitigate pests, are regulated under FIFRA and are required to be registered prior to sale or distribution in the United States. Some pesticides may also be widely used in foods or for other non-pesticidal purposes. These pesticides are considered innocuous or are otherwise some of a character that do not require registration. EPA intends to exempt appropriate pesticides from registration.

Timetable:

Action	Date	FR Cite
List of Other Pesticides and Criteria		
NPRM 09/15/94 (59 FR 47289)		
Final Action 04/06/96		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3320.

Agency Contact: Robert Brennis, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7505C, Washington, DC 20460
Phone: 703 305-7501

RIN: 2070–AC67

ENVIRONMENTAL PROTECTION AGENCY (EPA) Long-Term Actions

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3147. PESTICIDE TOLERANCES; PORTION OF FOOD COMMODITIES TO BE ANALYZED FOR PESTICIDE RESIDUES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 180

Timetable:

Action	Date	FR Cite
NPRM	09/29/93	58 FR 50888
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Frane
Phone: 703 305-5944

RIN: 2070–AC45

3148. ENDANGERED SPECIES PROTECTION PROGRAM

Priority: Economically Significant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
Proposed Notice	07/03/89	54 FR 27984
Final Notice	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Larry Turner
Phone: 703 305-5007

RIN: 2070–AC42

3149. CLASSIFICATION OF CERTAIN PESTICIDES FOR RESTRICTED USE DUE TO GROUNDWATER CONCERNS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 152.170

Timetable:

Action	Date	FR Cite
NPRM	05/31/91	56 FR 22076
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Chris Gillis
Phone: 703 305-5131

RIN: 2070–AC33

3150. WORKER PROTECTION STANDARDS; PESTICIDE HAZARD COMMUNICATION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 170

Timetable:

Action	Date	FR Cite
NPRM	08/21/92	57 FR 38167
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Agency Contact: Don Eckerman
Phone: 703 305-7666

RIN: 2070–AC34

3151. PESTICIDE LABELING CLAIMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 156.10

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Melissa L. Chun
Phone: 703 308-8318

RIN: 2070–AC85

3152. EXCEPTIONS TO PESTICIDE WORKER PROTECTION STANDARD

Priority: Routine and Frequent

CFR Citation: 40 CFR 170

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Don Eckerman
Phone: 703 305-7666
Fax: 703 308-2962

RIN: 2070–AC95

3153. PESTICIDE MANAGEMENT AND DISPOSAL: STANDARDS FOR PESTICIDE CONTAINERS AND CONTAINMENT

Priority: Other Significant

CFR Citation: 40 CFR 165; 40 CFR 156

Timetable:

Action	Date	FR Cite
NPRM (Container Design, Residue Removal, Bulk Containment)	02/11/94	59 FR 6712
Final Action	10/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Janice Jensen
Phone: 703 305-7706

RIN: 2070–AB95

3154. CHILD-RESISTANT PACKAGING REGULATIONS (REVISION)

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 157

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rosalind L. Gross
Phone: 703 308-8354

RIN: 2070–AB96

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Completed Actions

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3155. INTERPRETATION OF RAW AGRICULTURAL COMMODITY

Priority: Other

CFR Citation: 40 CFR 180.1; 40 CFR 180; 40 CFR 185

Completed:

Reason	Date	FR Cite
Interpretive Rule	01/25/96	61 FR 2386

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Frane
Phone: 703 305-5944

RIN: 2070–AC54

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Toxic Substances Control Act (TSCA)

3156. TSCA CHEMICAL USE INVENTORY PROJECT

Priority: Other Significant

Legal Authority: 15 USC 2607(a)

CFR Citation: 40 CFR 710

Legal Deadline: None

Abstract: This action would require chemical manufacturers to report to EPA data on exposures and the industrial and consumer end uses of chemicals they produce. Currently, EPA requires chemical manufacturers to report the names of the chemicals they produce, as well as the locations of manufacturing facilities and quantities produced. About 2,400 facilities reported data on about 8,300 unique chemicals during the last reporting cycle under the TSCA Inventory Update Rule (IUR). Data obtained would be used by EPA and others to: better understand the potential for chemical exposures and then screen the chemicals now in commerce and identify those of highest concern; establish priorities and goals for their chemical assessment, risk management and prevention programs and monitor their progress; encourage pollution prevention by identifying potentially safer substitute chemicals for uses of potential concern; and enhance the effectiveness of chemical risk communication efforts. EPA has held meetings with representatives of the chemical industry, environmental groups, environmental justice leaders, labor groups, State governments and other Federal agencies to insure public involvement in the Chemical Use Inventory project. EPA plans to hold additional meetings with stakeholders to further discuss technical issues associated with the development of a chemical use inventory.

Timetable:

Action	Date	FR Cite
NPRM	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3301.

Agency Contact: Ward Penberthy, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW., Washington, DC 20460
Phone: 202 260-1664

RIN: 2070–AC61

3157. FACILITY COVERAGE AMENDMENT; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Priority: Other Significant

Legal Authority: 42 USC 11013; 42 USC 11023; 42 USC 11048; 42 USC 11076; EPCRA 313

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The original Toxics Release Inventory (TRI) required reporting from facilities in Standard Industrial Classification (SIC) codes 20-39. These SIC codes cover manufacturing facilities only. This requirement was imposed under the Emergency Planning and Community Right-To-Know Act (EPCRA) section 313(b)(1)(A). The Environmental Protection Agency (EPA) is considering expanding this original list. EPCRA section 313(b)(1)(B) and (b)(2) provide the Administrator with the authority to add or delete SIC codes and the discretion to add particular facilities based on a broad set of factors. EPA is currently conducting analysis to determine which SIC codes (or portions thereof) should be considered for coverage in TRI. Facilities in a broad set of industries are under consideration, including but not limited to, electric utilities, waste management facilities, mining, oil and gas production, materials recovery and recycling, and some warehousing activities.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3034.

Agency Contact: Susan B. Hazen, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7408), Washington, DC 20460
Phone: 202 260-1024

RIN: 2070–AC71

3158. DELETION OF ISOPROPYL ALCOHOL; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 11013/EPCRA 313

CFR Citation: 40 CFR 372.65

Legal Deadline: None

Abstract: Isopropyl alcohol (IPA) itself does not meet the toxicity criteria for listing on the Toxic Release Inventory (TRI). It is the strong acid process itself which is associated with an increased cancer incidence. The proposed action would remove IPA from the list of chemicals for which reporting is required under the Emergency Planning and Community Right-to-Know Act (EPCRA) section 313. Because IPA is not manufactured by the strong-acid process and thus there are no releases of IPA reportable under section 313, deletion of IPA from the list would eliminate erroneous IPA reports.

Timetable:

Action	Date	FR Cite
NPRM	06/00/95	
Final Action	12/00/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3388.

Agency Contact: Susan B. Hazen, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7408), Washington, DC 20460
Phone: 202 260-1024

RIN: 2070–AC77

3159. RESPONSES TO PETITIONS RECEIVED TO ADD TO OR DELETE CHEMICALS FROM THE LIST OF TOXIC CHEMICALS SUBJECT TO TOXIC RELEASE REPORTING UNDER EPCRA SECTION 313

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 11013/SARA (EPCRA) 313

CFR Citation: 40 CFR 372

Legal Deadline: Other, Statutory. Within 180 days of receipt of these petitions, the Agency must either initiate rulemaking or provide an explanation in the Federal Register for the denial.

Abstract: These actions grant or deny petitions received to add or delete chemicals from the list of toxic chemicals under Section 313 of the Emergency Planning and Community Right to Know Act, EPCRA. The actions cover individual chemicals or groups of chemicals for which petitions have been received.

Timetable:

Action	Date	FR Cite
Acetone (delete)		
NPRM	09/30/94	59 FR 49686
Final	06/16/95	60 FR 31643
Alloys—Chromium, Nickel, and Copper in Alloys (modify)		
Response	06/00/96	
Ammonium Sulfate/Ammonia (delete/modify)		
NPRM	03/30/90	55 FR 12144
Final	06/30/95	60 FR 34172
Copper Pigments (delete)		
NPRM	06/06/94	59 FR 29252
Final	04/11/95	60 FR 18361
Di(2-ethylhexyl) Adipate (DEHA) (delete)		
Response	08/01/95	60 FR 39132
Diethylphthlate (delete)		
Response	05/00/96	
Ethylene Glycol (delete)		
Response	05/00/96	
Hydrochloric Acid (modify)		
Response	05/00/96	
Manganese in Slags (delete)		
Response (denial)	08/25/95	
Metallic Copper (modify)		
Response	05/00/96	
Monosodium and disodium arsenate (delete)		
Response (denial)	04/20/95	60 FR 19702
Phosphates and Phosphorous Acid		
NPRM	06/00/96	
Polymeric Diphenylmethane Diisocyanate		
Response	05/00/96	
Sulfuric Acid		
NPRM	07/26/91	56 FR 34156
Final	06/30/95	60 FR 34182
Zinc Oxide (delete)		
Response	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2425.

Note regarding the reinventing government effort: The following actions are not part of the reinventing government effort: Manganese in Slags (denial), Monosodium and Disodium Arsenate (denial), Zinc Oxide, Polymeric Diphenylmethane Diisocyanate, and Metallic Copper.

Agency Contact: Susan B. Hazen, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7408), Washington, DC 20460
Phone: 202 260-1024

RIN: 2070–AC00

3160. MANDATORY POLLUTION PREVENTION REPORTING FOR TOXIC RELEASE INVENTORY (TRI)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 11013/Pollution Prevention Act of 1990

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: This proposed regulation would implement the "Source Reduction and Recycling Report" provision of the Pollution Prevention Act of 1990. Under this current data collection facilities that file EPA Form R must include information on the amounts of the chemical recycled,combusted for energy recovery,treated,and released both on-site and off-site for the reporting year, the prior year and the following two years. Facilities must also indicate changes in production from year to year and what source reduction activities were implemented. This proposed regulation would also redesign form R to make it easier and more logical to complete.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48475
Supplementary NPRM	09/00/96	
Finalization of Form R	04/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2847.

Agency Contact: Susan B. Hazen, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7408), Washington, DC 20460
Phone: 202 260-1024

RIN: 2070–AC24

3161. LEAD HAZARD STANDARDS

Priority: Other Significant

Legal Authority: 15 USC 2683

CFR Citation: 40 CFR 745

Legal Deadline: Final, Statutory, April 28, 1994.

Abstract: The Residential Lead-Based Paint Hazard Reduction Act of 1992 requires EPA to promulgate regulations which identify lead-based paint hazards, lead-contaminated soil, and lead-contaminated dust. EPA is to identify the paint conditions and lead levels in dust and soil that would result in adverse human health effects. On July 14, 1994, EPA issued guidance on

this topic to provide information while a proposal is being developed.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
Final Action	09/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3243. Previously listed under RIN 2070-AC53.

Agency Contact: Doreen Cantor, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7404), Washington, DC 20460
Phone: 202 260-1777

RIN: 2070–AC63

3162. EVALUATION OF PRODUCTS FOR LEAD-BASED PAINT ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-550, sec 405(f)

CFR Citation: None

Legal Deadline: Final, Statutory, April 28, 1995.

Abstract: The Residential Lead-Based Paint Hazard Reduction Act of 1992 requires the President to establish by rule, criteria, testing protocols, and performance characteristics to ensure that lead-based paint hazard evaluation and reduction products are effective. The statute urges the use of independent testing laboratories in implementing the rule. The statute also allows the President to delegate authority for this rulemaking. While the authority has not yet been delegated, it is likely to be delegated to EPA. The timetable below reflects such a potential delegation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	12/00/97	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: SAN No. 3631.

Agency Contact: Doreen Cantor, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7404), Washington, DC 20460
Phone: 202 260-1777

RIN: 2070–AC88

3163. CFR REGULATORY REVIEW RELATED INITIATIVES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 11013 EPCRA 313

CFR Citation: 40 CFR 150 to 189; 40 CFR 372; 40 CFR 700 to 799

Legal Deadline: None

Abstract: On March 4, 1995, the President directed all Federal agencies and departments to conduct a comprehensive review of the regulations they administer, and by June 1, 1995, to identify those rules that are obsolete or unduly burdensome. The Office of Prevention Pesticides, and Toxic Substances (OPPTS) has reviewed regulations under its purview, that is, those issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Toxic Substances Control Act (TSCA), and the Emergency Planning and Community Right-to-Know Act (EPCRA). As a result of that review, OPPTS identified a number of regulations that can be eliminated from the CFR; in addition, OPPTS also identified a significant number of potential burden-reduction and streamlining opportunities through modifications to regulations and is further evaluating other regulations to determine if they can be simplified or streamlined. The Agency plans to involve the public as much as possible by soliciting comments and conducting stakeholder meetings and consultations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3755.

A number of program activities and regulations are being evaluated for the regulatory reform initiative. As these activities are developed, they will be included in the Regulatory Agenda when appropriate. Current regulatory reform initiatives are identified in the Regulatory Agenda individually.

Agency Contact: Allan Abramson, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, (7101), Washington, DC 20460
Phone: 202 260-2906

RIN: 2070–AC07

3164. PROPOSED DECISIONS ON TEST RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline: Other, Statutory. NPRM must be published within one year of ITC designation.

Abstract: EPA is proposing to require testing, or will obtain testing through negotiated enforceable consent agreements (ECAs) or publish a notice which provides the reasons for not doing so. These chemicals have been designated for priority testing consideration by the ITC, recommended for testing consideration (for which the 12-month statutory requirement does not apply), or they have been identified for testing consideration by other EPA program offices and through EPA review processes.

Timetable:

IRIS II Chemicals (ITC List 28)
NPRM 06/00/96
OSHA Chemicals with Insuf. Skin Absorption Data (ITC List 32)
NPRM or ECA 06/00/96
OSHA Chemicals with No Skin Absorption Data (ITC List 31)
NPRM or ECA 06/00/96
OSHA Chemicals with No Skin Absorption Data (ITC List 35)
NPRM or ECA 06/00/96

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3494.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7405), Washington, DC 20460
Phone: 202 260-8130

RIN: 2070–AB07

3165. ATSDR SUBSTANCES TEST RULE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603/TSCA 4; 42 USC 9604(i)/CERCLA 104(i)

CFR Citation: 40 CFR 795 to 799

Legal Deadline: None

Abstract: EPA is using its authority under TSCA section 4 to require health effects testing on 11 chemical substances to fulfill data needs identified by the Agency for Toxic Substances and Disease Registry (ATSDR), the National Toxicology Program (NTP) and EPA pursuant to CERCLA section 104(i). ATSDR is charged with developing "Toxicological Profiles" for hazardous substances most commonly found at Superfund NPL sites and which pose a significant potential threat to health. This involves identifying data gaps and needs, and developing a testing program to meet identified needs. ATSDR's data needs were reviewed by NTP and EPA to avoid duplicative testing. Other Federal agencies were given an opportunity to indicate their interest in testing specific endpoints for chemicals on the list.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2563.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7405), Washington, DC 20460
Phone: 202 260-8130

RIN: 2070–AB79

3166. MULTICHEMICAL ENDPOINT(S) TEST RULE; DEVELOPMENTAL AND REPRODUCTIVE TOXICITY, AND NEUROTOXICITY

Priority: Other Significant

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 799.5050

Legal Deadline: None

Abstract: A multi-chemical endpoint test rule will require the testing of many chemicals for a specific effect or endpoint, e.g., neurotoxicity. This type of rule is an alternative to single chemical rules which require testing of one chemical for many effects. The multi-chemical endpoint rule approach will obtain a significant amount of testing while conserving Agency resources. The multi-chemical rule for developmental and reproductive toxicity testing will require testing of twelve chemicals for developmental and/or reproductive effects; the multi-chemical rule neurotoxicity testing will obtain base set neurotoxicity testing of certain production solvents. These rules may be amended in the future to require the same testing for other chemicals. Also, future multi-chemical rules will require testing of additional endpoints and chemicals. The testing requirements for each chemical in a multi-chemical rule will be listed in a single table by chemical under section 799.5050. This table will be amended with each publication of a new multi-chemical rule.

Timetable:

Multi-Chemical Rule for Developmental and Reproductive Toxicity
NPRM 03/04/91 (56 FR 9092)
Reproposal 09/00/96
Multi-Chemical Rule for Neurotoxicity
Stay 06/27/94 (59 FR 33184)
ECA (for 7 Substances) 01/23/95 (60 FR 4515)
Final Revocation 01/23/95 (60 FR 4514)

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2865.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7405), Washington, DC 20460
Phone: 202 260-8130

RIN: 2070–AC27

3167. MULTICHEMICAL ENDPOINT TEST RULE; CHEMICAL FATE AND ENVIRONMENTAL EFFECTS

Priority: Other Significant

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 799.5055

Legal Deadline: None

Abstract: Multi-chemical endpoint test rules require the testing of many chemicals for a specific effect or endpoint, e.g., chemical fate and environmental effects (formerly identified in this Agenda as "persistent bioaccumulators") . They are an alternative to single chemical rules which require testing of one chemical for many effects. A multi-chemical endpoint rule for chemical fate and environmental effects will include chemicals that EPA expects will persist and bioaccumulate in the environment. In the past, chemicals such as dioxins, dichlorodiphenyltrichloroethane, and the polychlorinated biphenyls that persist (do not degrade), bioaccumulate (may enter the human food chain), and may be toxic have created widespread environmental concerns. EPA has evaluated chemicals on the Toxic Substances Control Act (TSCA) inventory for these characteristics and has identified chemicals for chemical fate and environmental effects testing for additional evaluation of their potential risks.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2865.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7405), Washington, DC 20460
Phone: 202 260-8130

RIN: 2070–AC36

3168. HAZARDOUS AIR POLLUTANTS TEST RULE

Priority: Other Significant

Legal Authority: 15 USC 2603/TSCA 4; 42 USC 7412/CAA 112; 42 USC 7403/CAA 103

CFR Citation: 40 CFR 789 to 795

Legal Deadline: None
Section 112 of the CAA indirectly imposes deadlines on this test rule, inasmuch as the test data is needed to carry out programs and activities that have statutory deadlines.

Abstract: EPA is proposing health effects testing under TSCA section 4 in support of programs and activities required under section 112 of the Clean Air Act (CAA), governing Hazardous Air Pollutants (HAPs). Section 112 of the CAA directs EPA to determine the risk to health and the environment remaining after application of a technology-based standard to major and area sources. Section 112 also sets forth a mechanism for revising and modifying the statutory list of 189 HAPs under section 112(b), and requirements for an accidental release control program. These data will also be important for the right-to-know program given the large release of these

chemicals to the atmosphere. In order to implement these and other programs and requirements under section 112, EPA must identify the health and environment effects of potential concern from exposure to HAPs, ascertain the minimum data needed to adequately characterize those health and environmental effects, and assess the risks posed by HAPs. In addition, under section 103(d), EPA is required to conduct a research program on the short- and long-term effects of air pollutants on human health, ascertain the minimum data needed to adequately characterize those health and environmental effects, and assess the risks posed by HAPs. In addition, under section 103(d), EPA is required to conduct a research program on the short- and long-term effects of air pollutants on human health.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3504.

Agency Contact: Gary Timm, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW., Washington, DC 20460
Phone: 202 260-1859

RIN: 2070–AC76

3169. NEGOTIATED CONSENT ORDER AND TEST RULE PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 790

Legal Deadline: None

Abstract: This action will amend the testing consent order and test rule development process to increase efficiency. The consent order process was adopted by the Agency in June 1986. Based on experience to date, the Agency needs to make changes in the process to reduce the resources required for consent order negotiation. This rule would propose appropriate procedural changes. Obsolete provisions will be eliminated for test rule development activities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/85	50 FR 20652
Interim Final Rule	06/30/86	51 FR 23706
Interim Final Rule (Technical Modification)	09/01/89	54 FR 36311
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2245.

Includes SAN No. 2657.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7405), Washington, DC 20460
Phone: 202 260-8130

RIN: 2070–AB30

3170. AMENDMENTS TO THE ASBESTOS-CONTAINING MATERIALS IN SCHOOLS RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605/TSCA 4; 15 USC 2607/TSCA 6; 15 USC 2647/TSCA 7

CFR Citation: 40 CFR 763

Legal Deadline: None

Abstract: EPA is proposing to amend the Asbestos-Containing Materials in Schools Rule in order to provide clarifications regarding several definitions, air clearance monitoring techniques, and response actions. For the first time, this rulemaking will be chaired by an EPA Regional office.

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3047.

Agency Contact: Brion Cook, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7404), Washington, DC 20460
Phone: 202 260-1878

RIN: 2070–AC62

3171. SIGNIFICANT NEW USE RULES ON NATIONAL PROGRAM CHEMICALS; ASBESTOS, LEAD, AND REFRACTORY CERAMIC FIBERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2604/TSCA 5; 15 USC 2607/TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under the Toxic Substances Control Act (TSCA) sections 5 and/or 8 to require reporting by the manufacturers, importers and/or processors of these chemicals. Proposed rules may be published on at least the chemicals listed on the timetable below.

Timetable:

Asbestos
NPRM 12/00/96
Lead
ANPRM 09/28/94 (59 FR 49484)
NPRM 12/00/96
Refractory Ceramic Fiber
NPRM 03/21/94 (59 FR 13294)
Final Action 12/00/96

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 1923.

Agency Contact: Doreen Cantor, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7404), Washington, DC 20460
Phone: 202 260-1777

RIN: 2070–AC37

3172. NOTICE OF TSCA SECTION 4 REIMBURSEMENT PERIOD AND TSCA SECTION 12(B) EXPORT NOTIFICATION PERIOD SUNSET DATES FOR TSCA SECTION 4 SUBSTANCES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2603/TSCA 2; 15 USC 2611/TSCA 12

CFR Citation: 40 CFR 707; 40 CFR 790; 40 CFR 791; 40 CFR 799

Legal Deadline: None

Abstract: EPA is developing a list of substances that are or have been subject to TSCA section 4 testing actions which required testing under rules or Enforceable Consent Orders. EPA will identify sunset, or termination dates that will identify:

(1) The end of section 4 reporting requirements (40 CFR 790)

(2) The end of the reimbursement period under which persons subject to test rules are subject to an obligation to reimburse test sponsors (40 CFR 791)

(3) The end of the period during which export notification requirements under TSCA section 12(b) are triggered.

Additionally, the notice will solicit comment on the method used by EPA to calculate the sunset dates for multi-chemical test rules.

Timetable:

Action	Date	FR Cite
Solicitation	06/00/96	
Final Action	01/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3559.

Agency Contact: Frank D. Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7405), Washington, DC 20460
Phone: 202 260-8130

RIN: 2070–AC84

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Toxic Substances Control Act (TSCA)

Final Rule Stage

3173. LEAD-BASED PAINT ACTIVITIES RULES; TRAINING, ACCREDITATION, AND CERTIFICATION RULE AND MODEL STATE PLAN RULE

Priority: Economically Significant

Legal Authority: PL 102-550, sec 402; PL 102-550, sec 404; Title IV of TSCA

CFR Citation: 40 CFR 745

Legal Deadline: Final, Statutory, April 28, 1994.

Abstract: The Residential Lead-based Paint Hazard Reduction Act of 1992 mandates EPA to promulgate regulations governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that contractors engaged in such activities are certified. In addition, EPA must promulgate a Model State program which may be adopted by any State which seeks to administer and enforce a State Program.

Timetable:

Action	Date	FR Cite
NPRM	09/02/94	59 FR 45872
Final Action	06/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3244.

Agency Contact: Brion Cook, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7404), Washington, DC 20460
Phone: 202 260-1878

RIN: 2070–AC64

3174. LEAD-BASED PAINT DISCLOSURE REQUIREMENTS AT RENOVATION OF TARGET HOUSING

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-550, sec 406

CFR Citation: 40 CFR 745; 24 CFR 35

Legal Deadline: Final, Statutory, October 28, 1994.

Abstract: Section 406 of the Residential Lead-based Paint Hazard Reduction Act of 1992 requires EPA to develop two products: (1) a lead hazard information pamphlet, to be developed in consultation with HUD and CDC; and (2) an EPA regulation requiring renovators to provide the information pamphlet to clients before beginning work.

Timetable:

Action	Date	FR Cite
NPRM	03/02/94	59 FR 11108
Final Action	06/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3242.

Agency Contact: Doreen Cantor, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7404), Washington, DC 20460
Phone: 202 260-1777

RIN: 2070–AC65

3175. AMENDMENTS TO THE ASBESTOS WORKER PROTECTION RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605/TSCA 4; 15 USC 2607/TSCA 6

CFR Citation: 40 CFR 763

Legal Deadline: None

Abstract: EPA is proposing to amend the Asbestos Abatement Projects, Worker Protection Rule (WPR), by incorporating certain revisions to the Occupational Safety and Health Administration (OSHA) asbestos workplace standards issued since EPA's WPR was promulgated in 1987. The

proposal would generally extend the coverage provided under the OSHA Asbestos Standard for Construction to State and local government employees who are not covered by OSHA or EPA-approved State plans. It would also extend coverage provided under OSHA's Asbestos Standard for general industry for brake and clutch repair to such employees, and would clarify that they include prisoners and students employed by the State and/or local government. EPA also proposes to delegate authority to grant or deny State exclusions under the WPR to EPA Regional Administrators and to add compliance and enforcement requirements for State exclusions. In addition, EPA is proposing to amend the Asbestos-Containing Materials in Schools Rule by relocating certain worker protection provisions in the WPR. EPA plans to further update this rule to make it consistent with the most recent OSHA rule.

Timetable:

Action	Date	FR Cite
NPRM	11/01/94	59 FR 54746
Final Action	06/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2249.

Agency Contact: Doreen Cantor, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7404), Washington, DC 20460
Phone: 202 260-1777

RIN: 2070–AC66

3176. TSCA REQUIREMENTS FOR THE DISPOSAL OF LEAD-BASED PAINT ABATEMENT WASTE

Priority: Economically Significant

Legal Authority: 15 USC 2601 to 2671; 42 USC 6901 to 6992

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: Currently, waste derived from lead-based paint (LBP) abatements is managed under the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. Other Federal agencies (Department of Housing and Urban Development, Department of Health and Human Services) and several States and advocacy groups have expressed concern that the costs associated with the disposal of large volume architectural components (e.g., doors and windows) may interfere with abatement activities. EPA's Office of Prevention, Pesticides and Toxic Substances and the Office of Solid Waste have initiated a joint rulemaking to address the disposal of these architectural components. This rulemaking would develop disposal standards for these components under the Toxic Substances Control Act (TSCA) Title IV, (the definition of abatement under TSCA Title IV, section 401(1)(B), includes disposal). The TSCA regulations would establish appropriate disposal standards for LBP architectural components and identify recycling and incineration activities that would be controlled or prohibited.

Timetable:

Action	Date	FR Cite
Final Action	09/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3508.

Agency Contact: Brion Cook, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7404), Washington, DC 20460
Phone: 202 260-1878

RIN: 2070–AC72

3177. DEVELOPMENT OF GUIDANCE AS MANDATED BY EXECUTIVE ORDER 12873, SECTION 503 ON "ENVIRONMENTALLY PREFERABLE PRODUCTS"

Priority: Other Significant

Legal Authority: EO 12873

CFR Citation: None

Legal Deadline: None
EO requests proposal by April 18, 1994.

Abstract: As mandated by Executive Order 12873; OPPTS is developing guidance to direct Federal agencies in their procurement of "Environmentally Preferable Products."

Timetable:

Action	Date	FR Cite
NPRM	09/29/95	60 FR 50722
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3480.

Agency Contact: Eun-Sook Goidel, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW., Washington, DC 20460
Phone: 202 260-3296

RIN: 2070–AC78

3178. SELECTED RULEMAKINGS FOR ABATING LEAD HAZARDS

Priority: Economically Significant

Legal Authority: 15 USC 2683; PL 102-550

CFR Citation: 40 CFR 745

Legal Deadline: Final, Statutory, April 28, 1994. Other, Statutory, October 28, 1994.
Final Statutory, April 28, 1994 (Sections 403, 402, 404) Final Statutory, October 28, 1994 (Sections 406, 1018)

Abstract: The Residential Lead-Based Hazard Reduction Act of 1992 requires EPA to promulgate regulations that establish standards for determining hazards associated with lead-based paint, lead-contaminated soil, and lead-contaminated dust. EPA is to (a)identify the paint conditions and lead levels in dust and soil that would result in adverse human health effects (on July 14, 1994, EPA issued guidance on section 403 to provide preliminary information while a proposal is being developed); (b) promulgate regulations (section 402) governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that contractors engaged in such activities are certified (in addition, EPA must promulgate a Model State program (section 404) which may be adopted by any State which seeks to administer and enforce a State Program); (c) promulgate regulations (section 406) requiring renovators to provide a lead hazard information brochure (developed separately by EPA) to clients before beginning work; (d) promulgate, with HUD, regulations (Section 1018) that require the following before the sale or lease of pre-1978 housing: disclosure of lead-based paint hazards, provisions of a lead-paint information brochure to the prospective buyer or renter, and for buyers, and the opportunity to conduct a lead risk assessment or inspection.

Timetable:

Action	Date	FR Cite
NPRM Section 406	03/02/94	59 FR 11108
NPRM Sections 402 and 404	09/02/94	59 FR 45872
NPRM Section 1018	11/02/94	59 FR 54984
Final Action Section 1018	03/06/96	61 FR 9064
Final Action Section 406	06/00/96	
Final Action Sections 402 and 404	06/00/96	
NPRM Section 403	11/00/96	
Final Action Section 403	09/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis; Regulatory Impact Analysis

Additional Information: Lead Hazard Standards (Section 403) (RIN 2070-AC63)

Lead-Based Paint Activities Rules: Training, Accreditation and Certification Rule and Model State Plan Rule (Sections 402 and 404) (RIN: 2070-AC64)

Lead-Based Paint Disclosure Requirements at Renovation of Target Housing (Section 406) (RIN: 2070-AC65)

Lead-Based Paint Hazard Information Requirements at the Transfer of Target Housing; Joint with HUD (Section 1018) (RIN: 2070-AC75)

Agency Contact: Doreen Cantor, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7404), Washington, DC 20460
Phone: 202 260-1777

RIN: 2070–AD06

3179. FINAL DECISIONS ON TEST RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline: None

Abstract: EPA is requiring testing via rules, or will obtain testing through enforceable consent agreements (ECAs) or publish a notice which provides the reasons for not doing so for chemicals listed herein. These chemicals have been designated for priority testing consideration by the ITC or recommended for testing consideration (for which the 12-month statutory requirement does not apply). The list also includes chemicals or categories of chemicals which have been identified for testing consideration by other EPA offices and through EPA review processes.

Timetable:

Alkyl (C 12-C 14) Glycidyl Ethers
ECA 05/00/96
Aryl Phosphates (ITC List 2)
ANPRM 12/29/83 (48 FR 57452)
NPRM 01/17/92 (57 FR 2136)
Final Action (ECA) 07/00/96
Brominated Flame Retardants
NPRM 06/25/91 (56 FR 29140)
Final Action (ECA) 09/00/96
DIBbasic Esters (CPSC)
Final Action (ECA) 06/00/96
Hexamethylene Diisocyanate (ITC List 22)
NPRM 05/17/89 (54 FR 21240)
Final Action 06/00/96
IRIS I Chemicals (ITC List 27)
Final Action 06/00/96
Mesityl Oxide
Withdrawal of Test Rule 05/00/96
Silicon-Based Glycidyl Ethers
Final Action (ECA) 06/00/96
TAME (OAR Request)
Final Action (ECA) 03/21/95 (60 FR 14910)
White Phosphorus (ITC List 34)
Final Action (ECA) 06/00/96

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3493.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7405), Washington, DC 20460
Phone: 202 260-8130

RIN: 2070–AB94

3180. FOLLOW-UP RULES ON EXISTING CHEMICALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2604/TSCA 5; 15 USC 2607/TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has established a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support planned or ongoing risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under the Toxic Substances Control Act (TSCA) sections 5 and/or 8 to require reporting of appropriate needed information by the manufacturers, importers and/or processors of these chemicals. Individual proposed or final rules will be published on at least the chemicals listed below.

Timetable:

Benzidene-based Chemical Substances
Final 09/00/96 (60 FR 45119)
Chloranil
NPRM 06/12/93 (58 FR 27980)
Final Action 02/00/97
Heavy Metal-Based Pigments in Aerosol Spray Paints
NPRM 06/00/96
2-Ethoxyethanol, 2-Methoxyethanol, & 2-methoxyethanol Acetate
NPRM 04/00/97
2,4-Pentanedione
NPRM 09/27/89 (54 FR 39548)
Final Action 05/00/96

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 1923.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7405), Washington, DC 20460
Phone: 202 260-8130

RIN: 2070–AA58

3181. FOLLOW-UP RULES ON NON-5(E) NEW CHEMICAL SUBSTANCES

Priority: Routine and Frequent

Legal Authority: 15 USC 2604/TSCA 5; 15 USC 2607/TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to regulate the commercial development of new chemicals that

have completed premanufacture notice (PMN) review, where activities described in the PMN did not present an unreasonable risk but uncontrolled manufacture, import, processing, distribution, use, or disposal outside the activities described in the PMN may present an unreasonable risk. EPA will issue Significant New Use Rules (SNURs) requiring 90-day notification to EPA from any manufacturer, importer, or processor who would engage in activities that are designated as significant new uses. Under the Expedited Follow-up Rule (EFUR) which became effective on October 12, 1989, EPA will identify such new chemicals and publish them in a batch SNUR 3-4 times per year. Chemicals that were subject to a proposed SNUR before the effective date of the EFUR or do not qualify under the EFUR, may be regulated individually by notice and comment rulemaking and are listed below.

Timetable:

Alkyl, Sulfonic Acid, Ammonium Salt (84-1058)
NPRM 06/11/86 (51 FR 21199)
Final Action 06/00/96
Aluminum Cross-linked Sodium Carboxymethylcellulose
NPRM 06/11/93 (58 FR 32628)
Final Action 06/00/96
Diphenyl-2,4,6-Trimethylbenzol Phosphine Oxide (87-586)
NPRM 02/02/88 (53 FR 2857)
Final Action 06/00/96
1-Decanimine-N-Decyl-N-Methyl-N-Oxide (86-566)
NPRM 12/08/87 (52 FR 46496)
Final Action 06/00/96

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 1976.

Agency Contact: James Alwood, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7405), Washington, DC 20460
Phone: 202 260-1857

RIN: 2070–AA59

3182. CHEMICAL-SPECIFIC SIGNIFICANT NEW USE RULES (SNURS) TO EXTEND PROVISIONS OF SECTION 5(E) ORDERS

Priority: Routine and Frequent

Legal Authority: 15 USC 2604/TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: When the Agency determines that uncontrolled manufacture, import, processing, distribution, use or disposal of a premanufacture notification notice (PMN) substance may present an unreasonable risk, it may issue a section 5(e) consent order to limit these activities. However, such orders apply only to the PMN submitter. Once the new substance is entered on the Toxic Substances Control Act (TSCA) chemical inventory, others can manufacture, import or process the substance without controls. Therefore, EPA extends the controls to apply to others by designating manufacture, import or processing of the substances for uses without the specified controls as significant new uses. Under the Expedited Follow-Up Rule, which became effective on October 10, 1989 (54 FR 31314), EPA routinely publishes batch SNURs containing routine section 5(e) and non-5(e) SNURs. However, certain activities, such as modifications, withdrawals, revocations, and SNURs upon which comments are received in the direct final publication process, are subject to notice and comment rulemaking and are listed below.

Timetable:

Aromatic Amino Ether (P90-1840)
NPRM 06/06/94 (59 FR 29255)
Final Action 05/00/96
Batch SNUR: 84-560/-704, 84-105/-106 & -107, 85-433
NPRM 05/27/93 (58 FR 30744)
Final Action 05/00/96
Polyalkylene Polyamine
NPRM 12/19/94 (59 FR 65245)
Final Action 05/00/96

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3495.

Agency Contact: James Alwood, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7405), Washington, DC 20460
Phone: 202 260-1857

RIN: 2070–AB27

3183. GENERIC SIGNIFICANT NEW USE RULE (SNUR) FOR ACRYLATE COMPOUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2604/TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: The generic acrylate significant new use rule may require any person who proposes to manufacture, import, or process an acrylate/methacrylate subject to the category definition contained within the proposed rule to notify EPA at least 90 days in advance of the initiation of manufacture or processing for a significant new use. The significant new use rule will apply to a subset of acrylates added to the inventory after the effective date of the rule. It will no longer be necessary to issue routine 5(e) orders or chemical specific SNURs for those acrylates covered by the rule.

Timetable:

Action	Date	FR Cite
NPRM	11/22/93	58 FR 61649
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 2247.

Agency Contact: James Alwood, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7405), Washington, DC 20460
Phone: 202 260-1857

RIN: 2070–AB56

3184. RULEMAKING CONCERNING CERTAIN MICROBIAL PRODUCTS ("BIOTECHNOLOGY") UNDER THE TOXIC SUBSTANCES CONTROL ACT (TSCA)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2604/TSCA 5

CFR Citation: 40 CFR 700; 40 CFR 720; 40 CFR 721

Legal Deadline: None

Abstract: EPA is proposing a regulation under the Toxic Substances Control Act (TSCA) for the oversight of certain microbial products of biotechnology. The proposed rule would be issued under the authority of Section 5 of TSCA, which generally requires that new chemical substances must be reviewed by EPA before they are introduced into commerce.

The proposed rule will contain mechanisms for exemption as well as actual proposed exemptions, guidance on how the TSCA Inventory will be used, and EPA's approach to Research and Development with biotechnology microorganisms.

Timetable:

Action	Date	FR Cite
NPRM	09/01/94	59 FR 45526
Final Action	06/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2326.

(PMN for Certain Biotech Products)

Agency Contact: Paul Campanella, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M St SW (7405), Washington, DC 20460
Phone: 202 260-3725

RIN: 2070–AB61

3185. POLYCHLORINATED BIPHENYLS (PCBS): APPLICATIONS FOR EXEMPTIONS FROM THE BAN ON MANUFACTURING, PROCESSING, AND DISTRIBUTION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2605TSCA 6(e)(3)(B)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA) provides that the Administrator may grant, by rule, exemptions from the prohibitions on the manufacturing, processing, and distribution in commerce of PCBs upon finding: 1) that granting the exemption will not pose an unreasonable risk of injury to health or the environment; and 2) that good faith efforts have been made to develop a PCB substitute which does not pose an unreasonable risk of injury to health or the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/06/94	59 FR 62875
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2150.

Agency Contact: Tony Baney, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7404), Washington, DC 20460
Phone: 202 260-3933

RIN: 2070–AB20

3186. POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL AMENDMENTS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605(e)(1)(A)/TSCA 6(e)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: After analyzing the comments received in response to an ANPRM issued in 1991, EPA issued a proposed rule on December 6, 1994 to address alternative disposal methods for newly identified scenarios such as large volume solids; mixed wastes such as PCB/radioactive wastes; and other issues, such as disposal of household wastes, small capacitors, and used paints. The notice also solicited comments on a modification to the disposal regulations which would allow for the recognition of PCB waste management activities under other Federal or State authorities and the transboundary movement of PCB wastes. Roughly 270 sets of comments were received in response to the NPRM, a final rule will be drafted promulgating more than 50 changes, additions and deletions to the current regulations. Finally, the rule incorporated a reproposal of the April 6, 1990 proposed rule (55 FR 12866), which intended to clarify questions on whether the analysis of PCBs is to be conducted "on a dry weight basis."

Timetable:

Action	Date	FR Cite
ANPRM	06/10/91	56 FR 26738
NPRM	12/06/94	59 FR 62788
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2878.

Agency Contact: Tony Baney, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7404), Washington, DC 20460
Phone: 202 260-3933

RIN: 2070–AC01

3187. USE OF ACRYLAMIDE FOR GROUTING

Priority: Other Significant

Legal Authority: 15 USC 2605/TSCA 6

CFR Citation: 40 CFR 764

Legal Deadline: None

Abstract: On October 2, 1991, EPA proposed a regulation of acrylamide and NMA grouts based on the unreasonable risk associated with their usage. EPA's rule would prohibit the manufacture, distribution in commerce, and use of acrylamide grout. In February 1996, EPA reopened the record for 30 days to take additional comments, specifically to seek data on the durability of acrylamide and NMA grouts.

Timetable:

Action	Date	FR Cite
NPRM	10/02/91	56 FR 49863
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2779.

Agency Contact: Robert C. McNally, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW., Washington, DC 20460
Phone: 202 260-3945

RIN: 2070–AC17

3188. POLYCHLORINATED BIPHENYLS (PCBS) TRANSFORMER RECLASSIFICATION RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605/TSCA 6(e)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: This rule would relax the regulatory requirements for reclassifying PCB transformers to a lower regulatory status by modifying the current reclassification requirements of 50 degree centigrade temperature and 90-day testing. Results of a preliminary analysis indicate that many transformers never reach the required temperature, but still reduce PCB concentrations and that safety risks to employees and to the general public occur in mandating the continued adherence to the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/18/93	58 FR 60970
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3021.

Agency Contact: Tony Baney, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7404), Washington, DC 20460 Phone: 202 260-3933

RIN: 2070–AC39

3189. REVISED ASBESTOS MODEL ACCREDITATION PLAN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2646/TSCA 6

CFR Citation: 40 CFR 763

Legal Deadline: Final, Statutory, November 28, 1992.

Abstract: The Asbestos School Hazard Abatement Reauthorization Act (ASHARA) amended TSCA to require that EPA revise its asbestos model accreditation plan to extend training and accreditation requirements to include persons performing certain asbestos-related work in public and commercial buildings, to increase the minimum number of training hours required for accreditation purposes and to effect other changes necessary to implement the amendments. This action will increase regulatory costs for the owners and managers of public and commercial building, but will also reduce asbestos exposures in these buildings.

Timetable:

Action	Date	FR Cite
NPRM	05/13/92	57 FR 20438
Interim Final Rule	02/03/94	59 FR 5236
Final Action	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3148.

Agency Contact: Brion Cook, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7404), Washington, DC 20460 Phone: 202 260-1878

RIN: 2070–AC51

3190. POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL AMENDMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605(e)/TSCA 6(e)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: This rulemaking will make over 50 modifications, additions, and deletions to the existing PCB management program under the Toxic Substances Control Act (TSCA). A notice of proposed rulemaking was published on December 6, 1994 and covered the manufacture (including import) processing, distribution in commerce, export use, disposal, and marking of PCBs.

Timetable:

Action	Date	FR Cite
NPRM	12/06/94	59 FR 62786
Final Action	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3860.

Agency Contact: Tony Baney, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7404), Washington, DC 20460 Phone: 202 260-3933

RIN: 2070–AD04

3191. SECTION 8(A) PRELIMINARY ASSESSMENT INFORMATION RULES

Priority: Routine and Frequent

Legal Authority: 15 USC 2607a/TSCA 8(a)

CFR Citation: 40 CFR 712

Legal Deadline: None

Abstract: These rules add chemicals to the list of chemicals and designated mixtures subject to the requirements of the Toxic Substances Control Act Section 8(a) Preliminary Assessment Information Rule (40 CFR part 712). These chemicals have been identified by the Office of Pollution Prevention and Toxics, other EPA offices, and other Federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee. Manufacturers and importers are required to submit exposure-related data (EPA Form No. 7710-35) on the chemicals. These data will be used to monitor the levels of production, import and/or processing of these substances and the avenues of human and environmental exposure to these substances. These data will also support risk assessment and test rule decisions.

Timetable:

Action	Date	FR Cite
Final Action 35th ITC List	07/05/95	60 FR 34879
Final Action 37th ITC List	05/00/96	
Final Action 38th ITC List	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2178.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7405), Washington, DC 20460 Phone: 202 260-8130

RIN: 2070–AB08

3192. SECTION 8(D) HEALTH AND SAFETY DATA REPORTING RULES

Priority: Routine and Frequent

Legal Authority: 15 USC 2607(d)/TSCA 8(d)

CFR Citation: 40 CFR 716

Legal Deadline: None

Abstract: These rules require manufacturers, importers and processors to submit unpublished health and safety data on chemicals added to the requirements of the Toxic Substances Control Act Section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716). These chemicals have been identified by the Office of Pollution Prevention and Toxics, other EPA offices, and other Federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee.

Timetable:

Action	Date	FR Cite
Final Action 35th ITC List	07/05/95	60 FR 34879
Final Action 37th ITC List	05/00/96	
Final Action 38th ITC List	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 1139.

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 401 M Street SW. (7405), Washington, DC 20460 Phone: 202 260-8130

RIN: 2070–AB11

3193. TSCA SECTION 8(E); NOTICE OF CLARIFICATION AND SOLICITATION OF PUBLIC COMMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2607(e)/TSCA 8(e)

CFR Citation: None

Legal Deadline: None

Abstract: The TSCA section 8(e) "Notice of Clarification and Solicitation of Public Comment" would amend certain aspects of the 1978 TSCA section 8(e) Statement of Interpretation and Enforcement Policy (1978 Policy Statement). The 1978 Policy Statement describes the types of information that EPA considers reportable under section 8(e), the "substantial risk" reporting provision of TSCA, and describes the procedures for reporting such information to EPA. This clarification effort derives from a review of the existing section 8(e) guidance done in the context of questions raised by companies considering participating in the Section 8(e) Compliance Audit Program (CAP). As a result of this review, EPA determined that parts of the 1978 Policy Statement concerning the reportability of information on "widespread and previously unsuspected distribution in environmental media" and "emergency incidents of environmental contamination" needed some refinement. The subject Federal Register action solicited comment on refined reporting guidance concerning widespread and previously unsuspected distribution in environmental media and provides additional circumstances where information is not reportable because it is considered known to the Administrator; refined reporting guidance on emergency incidents of environmental contamination will be developed, as appropriate, by the Office of Solid Waste and Emergency Response. Finally, the notice solicited comments on changes to the section 8(e) reporting deadline, and reaffirmed the standards for claims of confidentiality for information contained in a notice of substantial risk under section 8(e).

Timetable:

Action	Date	FR Cite
NPRM	07/13/93	58 FR 37735
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3118.

Note: This action will not revise CFR text because it is not included in the CFR. It will, however, streamline requirements.

Agency Contact: Richard Hefter, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, (7402), Washington, DC 20460 Phone: 202 260-3470

RIN: 2070–AC80

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Toxic Substances Control Act (TSCA)

Long-Term Actions

3194. CHEMICAL LIST EXPANSION; EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT SECTION 313

Priority: Other Significant

CFR Citation: 40 CFR 372

Timetable:

Action	Date	FR Cite
NPRM	01/12/94	59 FR 1788
Final Rule	11/30/94	59 FR 61432
Final Action Deferred Chemicals	05/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Susan B. Hazen Phone: 202 260-1024

RIN: 2070–AC47

3195. REGULATORY INVESTIGATION UNDER THE TOXIC SUBSTANCES CONTROL ACT (TSCA) TO REDUCE LEAD (PB) CONSUMPTION AND USE

Priority: Other Significant

CFR Citation: 40 CFR 721; 40 CFR 750; 40 CFR 745

Timetable:

Action	Date	FR Cite
ANPRM	05/13/91	56 FR 22096
Fishing Sinkers		
NPRM 03/09/94 (59 FR 11122)		
Final Action 12/00/97		

EPA—TSCA — Long-Term Actions

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Doreen Cantor
Phone: 202 260-1777

RIN: 2070–AC21

3196. REGULATORY INVESTIGATION OF FORMALDEHYDE

Priority: Other

CFR Citation: 40 CFR 765

Timetable:

Action	Date	FR Cite
ANPRM	05/23/84	49 FR 21870
NPRM	00/00/00	

Termination for Apparel Workers Section 9(d) Notice 03/19/84 (49 FR 21870)

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Kover
Phone: 202 260-8130

RIN: 2070–AB14

3197. PROCEDURES AND CRITERIA FOR TERMINATION OF POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL PERMITS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 761

Timetable:

Action	Date	FR Cite
NPRM	11/02/90	55 FR 46470
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tony Baney
Phone: 202 260-3933

RIN: 2070–AB81

3198. REGULATORY INVESTIGATION OF DIOXIN IN PULP AND PAPER MILL SLUDGE

Priority: Other Significant

CFR Citation: 40 CFR 744

Timetable:

Action	Date	FR Cite
NPRM	05/10/91	56 FR 21802
Response letter to EDF & NWF	12/14/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert C. McNally
Phone: 202 260-3945

RIN: 2070–AC05

3199. LEAD-BASED PAINT ACTIVITIES, TRAINING, AND CERTIFICATION: RENOVATION AND REMODELING

Priority: Economically Significant

CFR Citation: 40 CFR 745

Timetable:

Action	Date	FR Cite
NPRM	06/00/97	
Final Action	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Doreen Cantor
Phone: 202 260-1777

RIN: 2070–AC83

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Toxic Substances Control Act (TSCA)

Completed Actions

3200. LEAD-BASED PAINT HAZARD INFORMATION REQUIREMENTS AT THE TRANSFER OF TARGET HOUSING (SECTION 1018); JOINT RULE WITH THE DEPT. OF HUD

Priority: Other Significant

CFR Citation: 40 CFR 745; 24 CFR 35

Completed:

Reason	Date	FR Cite
Final Action	03/06/95	61 FR 9064

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Doreen Cantor
Phone: 202 260-1777

RIN: 2070–AC75

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Water Act (CWA)

Prerule Stage

3201. WATER QUALITY STANDARDS REGULATION—REVISION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1313/CWA 303(c)

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: Water quality standards set by States and Indian Tribes establish the water quality goals for surface waters of the US. They are the foundation for protecting public health and welfare and the ecological integrity of the nation's waters. Water quality standards regulations govern the development, review, and revision of water quality standards under section 303 of the Clean Water Act by States and Indian Tribes and the review and approval of those standards by EPA. The regulations are being revised to reflect the experience gained in the program by EPA, States and Tribes. All major components of the Water Quality Standards Program will be reviewed for potential regulatory and implementation improvements to provide increased State/Tribal flexibility and further strengthen the Standards Program as a key element of watershed based programs. This includes the process for establishing and revising use classifications; establishing and revising numeric and narrative criteria, including chemical specific criteria, nutrient criteria, wildlife criteria, and biological criteria; expansion and clarification of the antidegradation policy; more explicit requirements for optional policies such as mixing zones and variances.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/96	
NPRM	03/00/97	
Final Action	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3662.

Agency Contact: Rob Wood, Environmental Protection Agency, Water, (4305), Washington, DC 20460
Phone: 202 260-9536

RIN: 2040–AC56

EPA—CWA — Prerule Stage

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Clean Water Act (CWA)

Proposed Rule Stage

3202. ESTABLISHMENT OF NUMERIC CRITERIA FOR PRIORITY TOXIC POLLUTANTS AND TOXICITY FOR THE STATE OF CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251/CWA 101; 33 USC 1313/CWA 303

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: Several municipal entities and one industry in California sued the California State Water Resources Control Board (SWRCB) in State court over whether the SWRCB's water quality control plans for inland surface waters and enclosed bays and estuaries were adopted in compliance with authorizing State law. The court issued its final decision in March 1994; the Court agreed with the plaintiffs and found that the plans could not remain in effect. The SWRCB has been ordered to rescind its plans. In the absence of approved State criteria, the Clean Water Act requires EPA to promulgate water quality criteria for priority toxic pollutants. EPA Region IX will promulgate water quality criteria for priority toxic pollutants for the State of California.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
Final Action	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3504.

Agency Contact: Diane Frankel, Environmental Protection Agency, Water, EPA - Region IX, 75 Hawthorne Street, San Francisco, CA 95105
Phone: 415 744-2004

RIN: 2040–AC44

3203. GUIDELINES ESTABLISHING WHOLE EFFLUENT TOXICITY WEST COAST TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1316/CWA 306

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This rule will amend 40 CFR part 136, by adding new West Coast test procedures for the analysis of pollutants under section 304(h) of the Clean Water Act. This list of approved biological test methods would be amended by adding methods for measuring chronic toxicity in estuarine and marine species exposed to pollutants in effluents and receiving waters. State, local and tribal governments and small businesses on the West Coast are already using variations of these methods in NPDES permits. This rule will not have a significant impact on State, local or Tribal governments or small businesses on the West Coast.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
Final Action	06/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3618.

Agency Contact: Debra Denton, Environmental Protection Agency, Water, 75 Hawthorne Street (W-5-1), San Francisco, CA 94105-3901
Phone: 415 744-1919

RIN: 2040–AC54

3204. • STREAMLINING THE STATE SEWAGE SLUDGE MANAGEMENT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251/CWA 101

CFR Citation: 40 CFR 123; 40 CFR 124; 40 CFR 501

Legal Deadline: None

Abstract: The requirements for States seeking authorization of their sewage sludge programs are located at 40 CFR parts 123 (for National Pollutant Discharge Elimination System (NPDES) programs) and 501 (for non-NPDES programs). Both sets of requirements were modeled on the NPDES requirements for authorization of wastewater effluent discharge programs. Many States manage sewage sludge through their solid waste programs, which are often structured differently than NPDES programs. As a result, States are not always able to meet all the requirements of parts 123 or 501. The Agency wants States with well-run sewage sludge management programs to be eligible for authorization without having to make unnecessary administrative changes to their programs. Proposed changes would streamline the existing regulations to ease the authorization process for States and ensure that decisions are made based on true environmental and public health considerations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3788.

Agency Contact: Wendy Bell, Environmental Protection Agency, Water, (4203), Washington, DC 20460
Phone: 202 260-9534

RIN: 2040–AC87

3205. AMENDMENTS TO ROUND I FINAL SEWAGE SLUDGE USE OR DISPOSAL RULE - PHASE TWO

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1251/33 USC 1345

CFR Citation: 40 CFR 503

Legal Deadline: None

Abstract: EPA is amending the Round I Final Sewage Sludge Use and Disposal Regulations in two phases (i.e., Phase One and Phase Two). Phase Two will address issues presented by judicial remand of specific requirements in the final rule (part 503) and modify technical and implementation requirements. Some of the issues that may be addressed in this action include: land application pollutant limits for molybdenum and selenium, the total hydrocarbon (THC) operational standard for sewage sludge incinerators, and measuring temperature in lieu of measuring THC for incineration. The proposed changes will impact Federal, State, local and tribal governments as well as small businesses. EPA expects that these changes will increase flexibility and thus reduce the regulatory burden.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	06/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3497.

Agency Contact: Robert M. Southworth, Environmental Protection Agency, Water, (4304), Washington, DC 20460
Phone: 202 260-7157

RIN: 2040–AC53

3206. STREAMLINING NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM REQUIREMENTS, INCLUDING GENERAL PRETREATMENT REQUIREMENTS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1251/CWA 101; 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1317/CWA 307; 33 USC 1328/CWA 318; 33 USC 1342/CWA 402; 33 USC 1345/CWA 405

CFR Citation: 40 CFR 122; 40 CFR 403

Legal Deadline: None

Abstract: The Environmental Protection Agency (EPA) is revising regulations, guidance documents, and forms to streamline procedures for compliance with the National Pollutant Discharge Elimination System (NPDES) requirements. The rule and form revisions will eliminate redundant regulations, provide clarification, and remove unnecessary procedures which do not provide any environmental benefit. Revising and reducing burdensome procedures will promote efficiency and simplify the operation of the NPDES programs. Where possible, through the reliance on existing data and collection of data in electronic form, the burden on small businesses and other entities will be reduced.

Timetable:

Action	Date	FR Cite
General Pretreatment for Existing and New Sources of Pollution		
NPRM	03/00/97	
Final Action	03/00/98	
NPDES and Sludge Municipal Permit Application Forms and Rules		
NPRM	04/00/96	
Final Action	06/00/97	
NPDES Industrial Permit Application Form and Regulations		
NPRM	09/00/96	
Final Action	01/00/98	
Procedures for Developing and Maintaining Approved POTW Program		
NPRM	04/00/96	
Final Action	12/00/96	
Round II NPDES Streamlining Rule		
NPRM	04/00/96	
Final Action	08/00/96	
Round III NPDES Streamlining Rule		
NPRM	08/00/96	
Final Action	12/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3861.

Agency Contact: Traci Brown, Environmental Protection Agency, Water, (4203), Washington, DC 20460
Phone: 202 260-8487

RIN: 2040–AC69

3207. EFFLUENT GUIDELINES AND STANDARDS FOR THE INDUSTRIAL LAUNDRIES CATEGORY

Priority: Other Significant

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1311/CWA 307; 33 USC 1314/CWA 304; 33 USC 1361/CWA 501; 33 USC 1316/CWA 306

CFR Citation: 40 CFR 441

Legal Deadline: NPRM, Judicial, December 31, 1996. Final, Judicial, December 31, 1998.
Dates contained in Consent Decree (NRDC v. Reilly).

Abstract: EPA is developing effluent limitation guidelines for Industrial Laundries, which supply laundered and dry-cleaned work uniforms, wiping towels, safety equipment (such as gloves and flame-resistant clothing), dust covers and cloths, and similar items to industrial and commercial users. EPA is negotiating an extension of the judicial deadline for this rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	12/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3209.

Agency Contact: Martha Jordan, Environmental Protection Agency, Water, (4303), Washington, DC 20460
Phone: 202 260-0817

RIN: 2040–AB97

3208. EFFLUENT GUIDELINES AND STANDARDS FOR THE TRANSPORTATION EQUIPMENT CLEANING CATEGORY

Priority: Economically Significant

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1317/CWA 307; 33 USC 1314/CWA 304; 33 USC 1361/CWA 501; 33 USC 1316/CWA 306

CFR Citation: 40 CFR 442

Legal Deadline: NPRM, Judicial, December 31, 1996. Final, Judicial, December 31, 1998.
Dates contained in Consent Decree (NRDC v. Reilly).

Abstract: EPA will propose effluent limitation guidelines for transportation equipment cleaning facilities, which clean the interiors of tank trucks, rail tank cars, intermodal tank containers, intermediate bulk containers, ocean/sea tankers, and tank barges. EPA is negotiating an extension of the judicial deadline for this rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	12/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3204.

Agency Contact: Gina Matthews, Environmental Protection Agency, Water, (4303), Washington, DC 20460
Phone: 202 260-6036

RIN: 2040–AB98

3209. EFFLUENT GUIDELINES AND STANDARDS FOR LANDFILLS AND INCINERATORS

Priority: Other Significant

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 437

Legal Deadline: NPRM, Judicial, March 31, 1997. Final, Judicial, March 31, 1999.
Dates contained in Consent Decree (NRDC v. Reilly)

Abstract: EPA is developing effluent guidelines and standards for: a) industrial incinerators and thermal destruction units; and b) all landfills with leachate collection systems. This rule was formerly titled "Waste Treatment, Phase II." EPA is negotiating an extension to the judicial deadline for this rule.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	
Final Action	03/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3489.

John Tinger (Landfills), US Environmental Protection Agency, Office of Water, (4303), Washington, D.C. 20460 202-260-4992

Agency Contact: Samantha Hopkins, (Incinerators), Environmental Protection Agency, Water, (4303), Washington, DC 20460
Phone: 202 260-7149

RIN: 2040–AC23

3210. NPDES STREAMLINING RULE—ROUND II

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1312/CWA 302; 33 USC 1316/CWA 306; 33 USC 1318/CWA 308; 33 USC 1342/CWA 402; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 125

Legal Deadline: None

Abstract: On February 21, 1995, President Clinton issued a directive requesting that Federal agencies review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. In response to that directive, the Office of Wastewater Management plans to issue a comprehensive rulemaking package revising certain NPDES requirements in parts 122, 123 and 124 to eliminate redundant regulations, provide clarification, and remove or streamline unnecessary procedures which do not provide any environmental benefits. Some of these revisions include: 1) consolidating regulatory definitions; 2) removal of Part 124 Subpart F non-adversary panel hearings; 3) possible removal of storm water group application requirements; 4) streamlining permit termination procedures; and 5) possibly revising Part 124 evidentiary hearing procedures.

This rulemaking is expected to affect entities who operate the NPDES program or who are regulated by it. This includes small businesses and State and local governments. Most of these effects are expected to be deregulatory or streamlining in nature.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	12/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3762.

Agency Contact: Thomas Charlton, Environmental Protection Agency, Water, (4203)
Phone: 202 260-8960
Fax: 202 260-1460

RIN: 2040–AC70

3211. NPDES STREAMLINING RULE—ROUND III

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1312/CWA 302; 33 USC 1314/CWA 304; 33 USC 1316/CWA

306; 33 USC 1318/CWA 308; 33 USC 1342/CWA 402; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124

Legal Deadline: None

Abstract: On February 21, 1995, President Clinton issued a directive requesting that Federal agencies review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. In response to that directive, EPA plans to issue several rulemaking packages to revise NPDES requirements in parts 122, 123, and 124 to eliminate redundant regulations, provide clarification, and remove or streamline unnecessary procedures. Revisions under consideration in this rule include adding additional permit modifications that can be considered minor modifications at 122.63, and changes to requirements concerning EPA's review of State permits. Other revisions may be considered as work on this rule progresses. This rulemaking is expected to affect entities which implement the NPDES program or are regulated by it. This includes small businesses and State and local governments. Most of these effects are expected to be deregulatory or streamlining in nature.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	12/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3786.

Agency Contact: Thomas Charlton, Environmental Protection Agency, Water, (4203), Washington, DC 20460
Phone: 202 260-6960
Fax: 202 260-1460

RIN: 2040–AC84

3212. • STREAMLINING 301(H) WAIVER RENEWAL REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311/CWA 301

CFR Citation: 40 CFR 125

Legal Deadline: None

Abstract: EPA is proposing an amendment to the regulations contained in 40 CFR Part 125, Subpart G. These regulations implement Section 301(h) of the Clean Water Act, 33 USC Section 1311(h). Section 301(h) provides publicly owned treatment works (POTWs) discharging to marine waters an opportunity to obtain a modification of secondary treatment requirements if they demonstrate to EPA that they comply with a number of criteria aimed at protecting the marine environment. This proposal is designed to streamline the renewal process for POTWs with 301(h) modified permits. The action would eliminate unnecessary paperwork. It specifies that a completed application would not be required for renewals in cases where EPA already has the required information. Additional information would only be required as necessary to determine ongoing compliance with the 301(h) criteria. This regulation should reduce paperwork submissions from municipalities, which should save time and resources.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	12/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: SAN No. 3804.

Agency Contact: Deborah Lebow, Environmental Protection Agency, Water, (4504F), Washington, DC 20460
Phone: 202 260-6419
Fax: 202 260-9960

RIN: 2040–AC89

3213. STREAMLINED PROCEDURES FOR DEVELOPING AND MAINTAINING APPROVED PUBLICLY-OWNED TREATMENT WORKS PRETREATMENT PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1314/CWA 304

CFR Citation: 40 CFR 403

Legal Deadline: None

Abstract: Under the current regulations, many changes to approved publicly owned treatment works (POTW) pretreatment program are not effective until formally approved by EPA or the State. The formal approval procedures require two public notices of program changes. The entire approved POTW pretreatment program is also made a part of the National Pollutant Discharge Elimination System (NPDES) permit of the POTW that administers the pretreatment program. This means that the POTW's NPDES permit must be modified when the pretreatment program is revised. There are State and EPA backlogs of pretreatment program changes for approval. The double notice procedure is expense and normally elicits little public comment.

Under the new regulations, the POTW's NPDES permit will include only certain significant elements of the approved POTW pretreatment program. EPA or the State will need to approve changes to the POTW pretreatment program only where the program is made less restrictive or when EPA or the State requests approval. In many cases, only a single public notice of a change to the POTW pretreatment program will be required.

The new regulations will reduce the administrative burden and cost associated with approving and maintaining approved pretreatment programs without affecting environmental protection. Impacts on State, local and tribal governments and small businesses are expected to be positive. The rule is deregulatory.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	03/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3625.

Agency Contact: Jeff Smith, Environmental Protection Agency, Water, (4203), Washington, DC 20460
Phone: 202 260-5586

RIN: 2040–AC57

3214. STREAMLINING REVISIONS TO THE WATER QUALITY PLANNING AND MANAGEMENT REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1313/CWA 303

CFR Citation: 40 CFR 130

Legal Deadline: None

Abstract: Section 303(d) of the Clean Water Act (CWA) requires States to identify waters still requiring total maximum daily loads (TMDLs). The TMDL is a tool for achieving State water quality standards. The TMDL process provides a framework for solving point and nonpoint source pollution problems in an integrated fashion. Current regulations implementing section 303(d) require States to submit their list of waters requiring TMDLs to the Environmental Protection Agency (EPA) every 2 years. This action would revise existing regulations to require States to submit their 303(d) list of waters still requiring TMDLs to EPA every 5 years rather than every 2 years. This revision is part of EPA's goal to comprehensively characterize State waters every five years. Currently, waters are identified on a number of lists as required by the CWA sections 303(d), 305(b), 314(a), and 319 (a). The **Federal Register** notice proposing the revision will also announce the availability of supplemental TMDL guidance which will clarify the definition of a TMDL.

Timetable:

Action	Date	FR Cite
NPRM	02/00/97	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3700.

Agency Contact: Mimi Dannel, Environmental Protection Agency, Water, (4503F), Washington, DC 20460
Phone: 202 260-1897

RIN: 2040–AC65

3215. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF TRACE METALS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h)/CWA 304(h); 33 USC 1361(a)/CWA 501

CFR Citation: 40 CFR 136; 40 CFR 122.21; 40 CFR 122.41; 40 CFR 122.44; 40 CFR 123.25; 40 CFR 403.7; 40 CFR 403.12

Legal Deadline: None

Abstract: This regulatory action would propose to amend the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" under 40 CFR Part 136 to approve new EPA methods for the determination of trace metals at EPA's water quality criteria levels. These methods are necessary for the implementation of water quality-based permits under the National Pollutant Discharge Elimination System (NPDES) of the CWA. Water quality-based permits are necessary when technology-based controls do not allow a particular water body to meet the state's designated water quality standard. Since the methods currently approved under 40 CFR Part 136 were designed to meet technology-based permitting needs, and since these technology-based levels are as much as 280 times higher than water quality-based criteria for metals, approval of new EPA test procedures is necessary.

This action will not have a significant economic impact on state, local, or tribal governments or small businesses. This regulation would approve a test procedure to be used in measuring trace metals under the National Pollution Discharge Elimination System unless the Regional Administrator approves an alternative procedure.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3702.

Agency Contact: William A. Telliard, Environmental Protection Agency, Water, (4303), Washington, DC 20460
Phone: 202 260-7134

RIN: 2040–AC75

3216. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF CYANIDE UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h)/CWA 304(h); 33 USC 1361(a)/CWA 501(a)

CFR Citation: 40 CFR 136; 40 CFR 122.21; 40 CFR 122.41; 40 CFR 122.44; 40 CFR 123.25

Legal Deadline: None

Abstract: This regulatory action would amend the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" under 40 CFR Part 136 to approve new procedures for the analysis of cyanide under the Clean Water Act.

Total cyanide is a toxic (priority) pollutant as defined in the Clean Water Act and listed at 40 CFR 423, Appendix A. The term "total cyanide" refers to all forms of cyanide, including those forms that are readily bioavailable such as free and weakly bound cyanide and those forms that are less bioavailable because the cyanide is strongly bound to a metal ion. Method 335.1, Cyanides Amenable to Chlorination (CATC), is currently approved for the measurement of free and weakly complexed forms of cyanides. Methods 335.2 and 335.3 are currently approved for measurement of total cyanides.

Subsequent to approval of Methods 335.1 and 335.3 under 40 CFR Part 136, it has been shown that these methods may not accurately reflect actual cyanide concentrations found in wastewaters. Additionally, the approved analytical methods call for hour-long distillation, chlorination requiring an hour, and two separate aliquots of a given sample distilled and analyzed independently to determine the CATC levels. In order to improve the accuracy and reduce the costs of cyanide measurements, EPA plans to develop and propose new test procedures for the determination of cyanides.

This action will not have a significant economic impact on state, local or tribal governments or small businesses. This regulation approves a test procedure to be used in measuring cyanide under the National Pollution Discharge Elimination System unless the Regional Administrator approves an alternative test procedure.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3701.

Agency Contact: William A. Telliard, Environmental Protection Agency, Water, (4303), Washington, DC 20460 Phone: 202 260-7134

RIN: 2040–AC76

3217. REFORMATTING OF EFFLUENT GUIDELINES AND STANDARDS IN 40 CFR PARTS 405 THROUGH 471

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1251/CWA 303; 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307

CFR Citation: 40 CFR 405 to 471 as amended

Legal Deadline: None

Abstract: This regulatory action would re-format the existing Effluent Limitation Guidelines and Standards found in 40 CFR Parts 405 through 471 without making any changes to the requirements therein. The purpose of this action is to streamline the CFR and establish a format that is easier for Federal, State, and local regulators and the regulated community to read and understand. This action does not require State, local, or tribal governments or the regulated community to do anything beyond what is currently required. This rule, will, therefore, not impose any economic burden.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	05/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3767.

Agency Contact: Jan Goodwin, Environmental Protection Agency, Water, (4303), Washington, DC 20460 Phone: 202 260-7152 Fax: 202 260-7185

RIN: 2040–AC79

3218. • 1996 EFFLUENT GUIDELINES PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314/CWA 304(m)

CFR Citation: 40 CFR subchapter N

Legal Deadline: Final, Judicial, August 28, 1996.
Consent Decree requires that the final Plan be signed on or before August 28, 1996.

Abstract: The Effluent Guidelines Plan is published biennially. It lists ongoing and planned effluent guidelines and standards, and preliminary industry studies. Public comment is invited on industries that should be studied and/or regulated by effluent guidelines.

Timetable:

Action	Date	FR Cite
Proposed 1996 Plan	06/00/96	
Final 1996 Plan	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3847.

Agency Contact: Eric Strassler, Environmental Protection Agency, Water, SE., Washington, DC 20460 Phone: 202 260-7150 Fax: 202 260-7185 Email: strassler.eric@epamail.epa.gov

RIN: 2040–AC86

3219. CLARIFICATION OF THE APPLICATION REQUIREMENTS FOR STATES WANTING TO DESIGNATE DRINKING WATER INTAKE ZONES, THEREBY PROHIBITING THE DISCHARGE OF VESSEL SEWAGE WITHIN THOSE ZONES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1322/CWA 312

CFR Citation: 40 CFR 140

Legal Deadline: None

Abstract: Section 312 of the Clean Water Act entitled "Marine Sanitation Devices" was established in the Federal Water Pollution Control Act of 1972 to regulate discharges of vessel sewage. EPA is developing a technical amendment to clarify the regulations implementing section 312. This proposed regulatory amendment to 40 CFR Part 140.4(b) would clarify the information required in a State application requesting EPA to designate State-specified surface water as a drinking water intake zone, thereby making it unlawful for vessels to discharge sewage within that zone. This amendment would provide guidance to EPA Regions and States on the specific information necessary for the designation of a drinking water intake zone.

This amendment will have no impact on small businesses and would only affect those State's choosing to request designation of no discharge zones. The amendment will not impact local and tribal governments. (The Clean Water Act section 518 does not include Tribes under "Treatment as States" in regards to section 312 of the Clean Water Act). State and local governments and public water supply systems should benefit from improved water quality near their drinking water intakes.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	09/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3666.

Agency Contact: Deb Lebow, Environmental Protection Agency, Water, (4504F), Washington, DC 20460 Phone: 202 260-6419

RIN: 2040–AC61

3220. REVISION OF NPDES INDUSTRIAL PERMIT APPLICATION REQUIREMENTS AND FORM 2C—WASTEWATER DISCHARGE INFORMATION

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1342/CWA 402

CFR Citation: 40 CFR 122.21(g)

Legal Deadline: None

Abstract: All existing manufacturing, commercial, mining, and silvicultural operations are required to submit an application in order to obtain a National Pollutant Discharge Elimination System (NPDES) permit. The existing industrial application form has not been revised since 1984 and must be updated to reflect statutory and regulatory changes in the NPDES program, advances in scientific methods and an increased emphasis on toxic control. The purpose of this action is to revise and consolidate existing application forms and requirements for industries, and to streamline the permit application process for these facilities. The Agency seeks to establish a unified process that minimizes the need for additional information from applicants while providing permit writers the necessary information, including toxics data, to ensure that permits adequately address concerns of permittees and environmental protection. The Agency seeks to allow the use of existing data and to avoid unnecessary reporting. The Agency is also considering how to utilize electronic data submission. Although these forms will increase the burden on permittees not already required to provide these data, many other permittees are already required to submit data. The Agency is minimizing the need for information from small entities, including tribal facilities. The burden on States would be minimized and even reduced because of improvements to the application forms.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	01/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3234.

Agency Contact: Brian Bell, Environmental Protection Agency, Water, (4203), Washington, DC 20460 Phone: 202 260-6057

RIN: 2040–AC26

3221. CLEAN WATER ACT SECTION 404 PROGRAM DEFINITION OF THE WATERS OF THE UNITED STATES—ISOLATED WATERS AND ARTIFICIAL WATERS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1344/CWA 404

CFR Citation: 40 CFR 232

Legal Deadline: None

Abstract: This joint action by EPA and Department of Army (Army) would clarify two aspects of the regulatory definition of "waters of the United States" under the Clean Water Act (CWA). First, EPA and Army are proposing to clarify CWA jurisdiction over isolated waters and wetlands by adding to the regulatory definition four examples of isolated waters and wetlands, the "use, degradation, or destruction of which would or could affect interstate commerce." Second, the agencies are proposing to clarify that five specific categories of artificial waters created out of dry land are generally not considered to be waters of the United States and, therefore, not subject to permit requirements. This action is consistent with existing agency guidance interpreting the regulatory definition of "waters of the United States" and, therefore, will not change the agencies' interpretation of the definition as is currently applied to CWA regulatory programs. The purpose of this action is merely to incorporate this existing guidance within EPA's and Army's regulatory definitions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	09/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2804.

Agency Contact: Hazel Groman, Environmental Protection Agency, Water, (4502F), Washington, DC 20460 Phone: 202 260-8798

RIN: 2040–AB74

3222. REVISIONS TO OCEAN DUMPING REGULATIONS FOR DREDGED MATERIAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1401 et seq/MPRSA 2 et seq

CFR Citation: 40 CFR 225; 40 CFR 227; 40 CFR 228

Legal Deadline: None

Abstract: This rulemaking would revise the regulations applicable to the ocean dumping of dredged material. Issuance of these regulations is necessary to respond to the decision in National Wildlife Federation v Costle, 629 F. 2d. 118 (DC Cir.1980) and to incorporate program experience gained since 1977. The revisions will make necessary technical changes and will improve the clarity of the regulations, with supporting technical guidance on disposal site selection, site management, and site monitoring. These revisions will clarify issues that have caused delays in the evaluation of permit applications. The regulations will improve environmental assessments of permit applications, and improve the protection of benthic communities in the vicinity of a dump site. The regulations will affect local governments if they are responsible for maintenance of navigable waters by dredging and request a permit for disposal of dredged material in the ocean.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	09/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2737.

Agency Contact: John Heisler, Environmental Protection Agency, Water, (4504F), Washington, DC 20460 Phone: 202 260-8448

RIN: 2040–AB62

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ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

Clean Water Act (CWA)

3223. AMENDMENTS TO ROUND I FINAL SEWAGE SLUDGE USE OR DISPOSAL RULE—PHASE ONE (INCLUDES CONTINUOUS EMISSION MONITORING AND OTHER INCINERATOR REQUIREMENTS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1251/CWA 101; 33 USC 1345/CWA 405

CFR Citation: 40 CFR 503

Legal Deadline: None

Abstract: EPA is amending the Round I Final Sewage Sludge Use or Disposal Regulations in two phases (i.e., Phase One and Phase Two). Phase I will respond to minor comments received on the Final Sewage Sludge Use or Disposal Round I Rule (Part 503), correct some publication errors, and include some technical amendments. This action will modify the existing regulations to make the portion governing sewage sludge incinerators self-implementing and allow the regulated community of less than 200 incinerators flexibility in selecting among appropriate requirements. The proposed changes should not have any adverse impact on State,local, or tribal government or small businesses because no additional requirements are being imposed. Phase Two will address litigation issues and will be proposed later.

Timetable:

Action	Date	FR Cite
NPRM	10/25/95	60 FR 54771
Final Action	09/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3497 and SAN No. 3442 (RIN 2040-AC46)

Agency Contact: Robert M. Southworth, Environmental Protection Agency, Water, (4304), Washington, DC 20460
Phone: 202 260-7157

RIN: 2040–AC29

3224. LEATHER TANNING AND FINISHING EFFLUENT GUIDELINES—PRETREATMENT STANDARDS FOR EXISTING AND NEW SOURCES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 425

Legal Deadline: None

Abstract: This action is in response to an industry trade association petition for rulemaking. This is a minor technical amendment of previously promulgated pretreatment standards for existing sources (PSES) and for new sources (PSNS) to allow local POTWs to change (or delete) the upper pH limitation for plants in three subcategories.

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3581.

Agency Contact: Ed Terry, Environmental Protection Agency, Water, (4303), Washington, DC 20460
Phone: 202 260-7128

RIN: 2040–AC48

3225. • ANALYTIC METHODS FOR MEASURING RADIONUCLIDES IN THE DRINKING WATER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300/SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 143

Legal Deadline: None

Abstract: EPA approves analytical methods for analyzing regulated drinking water contaminants. EPA approved methods include EPA methods, Standard Methods (methods evaluated and recommended for use by the American Public Health Association), ASTM (American Society for Testing and Materials) Methods, USGS (United States Geological Survey) Methods and others. Periodically, the Agency updates and revises methods to incorporate newer technologies. Standard setting organizations such as APHA, ASTM and USGS also routinely revise and update methods.

In this regulatory effort, EPA proposes to approve new methods or newer versions of existing methods and at the same time withdraw approval of older outdated methods for regulated radionuclides.

The rule would would allow the use of low cost, easy to use and technologically advanced methods for monitoring for regulated radionuclides in drinking water. Laboratory acceptance limits and other method performance requirements that were specified under previous rules will not be changed in this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	07/18/91	56 FR 33050
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3803.

Agency Contact: Dr. Jitendra Saxena, Environmental Protection Agency, Water, (4603), Washington, DC 20460
Phone: 202 260-9579

RIN: 2040–AC88

3226. EFFLUENT GUIDELINES AND STANDARDS FOR THE PHARMACEUTICAL MANUFACTURING CATEGORY

Priority: Other Significant

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 439

Legal Deadline: NPRM, Judicial, February 28, 1995. Final, Judicial, August 31, 1996.
Dates contained in Consent Decree (NRDC v. Reilly).

Abstract: EPA is developing revised effluent limitation guidelines and standards for the pharmaceutical manufacturing industry, including limitations on toxic and non-conventional volatile organic pollutants. EPA is negotiating an extension of the judicial deadline for this rule.

Timetable:

Action	Date	FR Cite
NPRM (NSPS)	10/27/83	48 FR 49632
NPRM	05/02/95	60 FR 21592
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 1427.

Agency Contact: Frank Hund, Environmental Protection Agency, Water, (4303), Washington, DC 20460
Phone: 202 260-7182

RIN: 2040–AA13

EPA—CWA

Final Rule Stage

3227. EFFLUENT GUIDELINES AND STANDARDS FOR THE PULP, PAPER, AND PAPERBOARD CATEGORY

Priority: Economically Significant

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 430; 40 CFR 431

Legal Deadline: NPRM, Judicial, October 31, 1993.

Abstract: EPA is revising existing Best Practicable Technology (BPT), Best Conventional Pollutant Control Technology (BCT), Best Available Technology (BAT), New Source Performance Standards (NSPS), Pretreatment Standards for Existing Sources (PSES), and Pretreatment Standards for New sources (PSNS). The Agency is developing these revised effluent limitations in conjunction with development of maximum achievable control technology (MACT) standards, which limit air emissions under the Clean Air Act. (See separate Agenda entry, "NESHAP: Pulp and Paper, in the Clean Air Act section, RIN: 2060-AD03.)

Timetable:

Action	Date	FR Cite
NPRM	12/17/93	58 FR 66078
Final Action	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

3228. EFFLUENT GUIDELINES AND STANDARDS FOR THE COASTAL SUBCATEGORY OF THE OIL AND GAS EXTRACTION CATEGORY

Priority: Other Significant

Legal Authority: 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501; 33 USC 1311/CWA 301

CFR Citation: 40 CFR 435

Legal Deadline: NPRM, Judicial, January 31, 1995. Final, Judicial, July 31, 1996.
Dates contained in Consent Decree (NRDC v. Reilly).

Abstract: EPA is developing effluent limitation guidelines based on Best Available Technology (BAT), Best Conventional Technology (BCT), and New Source Performance Standards (NSPS) for coastal oil and gas extraction facilities. This regulation will apply to the facilities involved in exploration, development and production operations. EPA is negotiating an extension of the judicial deadline for this rule.

Timetable:

Action	Date	FR Cite
Notice	11/08/89	54 FR 46919
NPRM	02/17/95	60 FR 9428
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2747.

Agency Contact: Charles White, Environmental Protection Agency, Water, (4303), Washington, DC 20460
Phone: 202 260-5411

RIN: 2040–AB72

3229. EFFLUENT GUIDELINES AND STANDARDS FOR THE CENTRALIZED WASTE TREATMENT INDUSTRY

Priority: Other Significant

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 437

Legal Deadline: NPRM, Judicial, December 15, 1994. Final, Judicial, September 15, 1996.
Dates contained in Consent Decree (NRDC v. Reilly).

Abstract: Centralized Waste Treatment (CWT) facilities receive hazardous and non-hazardous waste from off-site for treatment or recovery (excluding solvent recovery). EPA is developing effluent limitations based on Best Available Technology (BAT), Best Practicable Control Technology (BPT), New Source Performance Standards (NSPS), Pretreatment Standards for Existing Sources (PSES), and Pretreatment Standards for New Sources (PSNS). This rule was formerly titled "Waste Treatment, Phase I." EPA is negotiating an extension of the judicial deadline for this rule.

Timetable:

Action	Date	FR Cite
NPRM	01/27/95	60 FR 5464
Final Action	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2805.

Agency Contact: Jan Matuszko, Environmental Protection Agency, Water, (4303), Washington, DC 20460
Phone: 202 260-9126

RIN: 2040–AB78

3230. EFFLUENT GUIDELINES AND STANDARDS FOR THE METAL PRODUCTS AND MACHINERY CATEGORY, PHASE I

Priority: Economically Significant

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 438

Legal Deadline: NPRM, Judicial, March 31, 1995. Final, Judicial, September 30, 1996.
Dates contained in Consent Decree (NRDC v. Reilly)

Abstract: The Environmental Protection Agency (EPA) is developing

effluent limitation guidelines for facilities that generate wastewater while processing metal parts; metal products; and machinery, including manufacture, assembly, rebuilding, repair, and maintenance. The phase I regulation will cover seven industrial groups: aircraft, aerospace, hardware, ordnance, stationary industrial equipment, mobile industrial equipment, and electronic equipment. This regulation is performance-based and does not specify a method of compliance. EPA is negotiating an extension of the judicial deadline for this rule.

Timetable:

Action	Date	FR Cite
NPRM	05/30/95	60 FR 28210
Final Action	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2806.

Agency Contact: Steven Geil, Environmental Protection Agency, Water, (4303), Washington, DC 20460 Phone: 202 260-9817

RIN: 2040–AB79

3231. EFFLUENT GUIDELINES AND STANDARDS FOR PESTICIDE FORMULATING, PACKAGING, AND REPACKAGING

Priority: Other Significant

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1361/CWA 501

CFR Citation: 40 CFR 455

Legal Deadline: NPRM, Judicial, March 31, 1994. Final, Judicial, July 31, 1996.

Abstract: EPA is developing effluent guidelines and standards for facilities that formulate, package, or repackage registered pesticide products, excluding the active ingredient sodium hypochlorite (bleach).

Timetable:

Action	Date	FR Cite
NPRM	04/14/94	59 FR 17850
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3391.

Agency Contact: Shari Zuskin, Environmental Protection Agency, Water, (4303), Washington, DC 20460 Phone: 202 260-7130

RIN: 2040–AC21

3232. WATER QUALITY STANDARDS; ESTABLISHMENT OF NUMERIC CRITERIA FOR PRIORITY TOXIC POLLUTANTS; STATES' COMPLIANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1313/CWA 303

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: EPA is revising its rule promulgated on December 22, 1992, (National Toxics Rule or NTR) that established water quality criteria for 14 States that had failed to fully comply with section 303(2)(B) of the Clean Water Act. The NTR promulgated total recoverable metals criteria for 11 of these 14 States. In October 1993, the Office of Water issued a policy memorandum recommending a shift to the use of dissolved metals criteria because they more accurately reflect the bioavailable fraction of waterborne metals for aquatic life. This revision will convert the total recoverable metals criteria to dissolved metals criteria and bring the 11 States into alignment with the current policy on the use of dissolved metals.

This action is de-regulatory in nature, but is not expected to impact the health of aquatic life in the water column. EPA expects this rule to result in less stringent permit limits and therefore a potential cost savings in wastewater treatment for dischargers of metals in the 11 covered States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/04/95	60 FR 22229
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: State

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3661.

Agency Contact: Jackie Romney, Environmental Protection Agency, Water, (4203), Washington, DC 20460 Phone: 202 260-9687

RIN: 2040–AC55

3233. MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS FOR DISCHARGES INTO MARINE WATERS; CHANGE TO ELIGIBILITY FOR DIFFERENT AVERAGING PERIOD

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251/CWA 303

CFR Citation: 40 CFR 125, subpart G

Legal Deadline: None

Abstract: EPA is proposing to amend the regulations that implement section 301(h) of the Clean Water Act. Section 301(h) provides an opportunity for modifications of secondary treatment requirements for publicly owned treatment works (POTWs) that discharge to marine waters. This proposed rule would amend one specific section of the section 301(h) regulations in order to respond to a petition from Anchorage and other Alaskan municipalities, challenging the August 1994 301(h) regulations.

In response to public comments, the August 1994 regulations allowed applicants to request longer than monthly averaging, to calculate compliance with removal of 30 percent of biochemical oxygen demanding material (BOD). The longer averaging period was not available to plants that met the 30 percent BOD removal requirement on a monthly-average basis for the calendar year prior to the promulgation of the regulations. The lawsuit challenged the restriction on a POTW's eligibility to apply for flexibility regarding the averaging period that can be used for calculating compliance with the 30 percent BOD removal requirement. The proposed rule would delete the restriction and thus broaden a POTW's ability to take advantage of flexibility provisions.

Timetable:

Action	Date	FR Cite
NPRM	02/27/96	61 FR 7403
Interim Final Rule	06/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3727.

Agency Contact: Virginia Fox-Norse, Environmental Protection Agency, Water, (4505F), Washington, DC 20460 Phone: 202 260-9129

RIN: 2040–AC72

3234. AMENDMENT TO EFFLUENT GUIDELINES AND STANDARDS FOR ORE MINING AND DRESSING POINT SOURCE CATEGORY, NEW SOURCE PERFORMANCE STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1316/CWA 306

CFR Citation: 40 CFR 440

Legal Deadline: None

Abstract: This proposed rule amends the applicability of best practicable control technology (BPT), best available technology economically achievable (BAT), and new source performance standards (NSPS) for Subpart J-Copper, Lead, Zinc, Gold, Silver, and Molybdenum Ores Subcategory of the Ore Mining and Dressing Point Source Category,40 CFR Part 440 with respect to the site of the A-J Gold Mine Project located near Juneau, Alaska.

This proposal excludes dewatered tailings from coverage for the frothe-flotation process alone, or in conjunction with other processes (40 CFR 440.100(2)). Process wastewaters separated from the dewatered tailings and mine drainage wastewater would continue to be covered by the Subpart. This proposed revision of the applicability is being done by revising the definition of process wastewater to exclude dewatered tailing at the A-J Project site which exhibits certain extreme topographical and climatic conditions not considered in the previous rulemaking. The conditions which exist at this project location limit the diversion of natural stream-flow and runoff around the tailings impoundment. The tailings impoundment is a significant part of the technology basis considered in the above rule to contain the process wastewater from the mine and mill process. Because of the topography in the A-J Project location, a dam to contain the tailings and treat the various wastewater sources must be constructed across the entire valley floor which results in the inability to divert natural stream-flow and runoff without causing potentially unacceptable non-water quality environmental impacts not considered in the previous rulemaking. In addition, because of the inability to divert stream-flow, the entire receiving water body must be contained within the impoundment and any discharge must also meet water quality standards without any mixing zone. This notice of proposed rulemaking also solicits information and data on whether there are any other potential sites with these conditions and what criteria could be used to identify sites for which the revised definition would be applicable.

Timetable:

Action	Date	FR Cite
NPRM	02/12/96	61 FR 5364
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3722.

Agency Contact: Ronald G. Kirby, Environmental Protection Agency, Water, (4303), Washington, DC 20460 Phone: 202 260-7168

RIN: 2040–AC74

3235. GUIDELINES ESTABLISHING OIL AND GREASE TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1316(h)/CWA 304(h); 33 USC 1361(a)/CWA 501(a)

CFR Citation: 40 CFR 136; 40 CFR 122.21; 40 CFR 122.41; 40 CFR 122.44; 40 CFR 123.25; 40 CFR 403.7; 40 CFR 403.12

Legal Deadline: None

Abstract: This proposed regulation amends the Guidelines establishing Test Procedures for the Analysis of Pollutants under section 304(h) of the Clean Water Act to replace existing gravimetric test procedures for the conventional pollutants, Oil and Grease (40 CFR 401.16) with EPA Method 1664 consistent with the Chlorofluorocarbon (CFC) phaseout requirements of the Clean Air Act Amendments of 1990. Method 1664 uses normal hexane (n-hexane) as the extraction solvent in place of 1,1,2-trichloro-1,2, 2-tribluoroethane (CFC-113; Freon-113), which is used in current 40 CFR 136 approved methods for the determination of oil and grease. Presently approved methods are EPA Method 413.1 in "Methods for Chemical Analysis of Water and Wastes" (EPA-600/4-79-020) and Method 5520B in "Standard Methods for the Examination of Water and Wastewater, 18th edition. This proposal would withdraw approval of Methods 413.1 and 5520B in order to avoid unacceptable inconsistency between results produced by these methods and the proposed Method 1664.

Timetable:

Action	Date	FR Cite
NPRM	01/23/96	61 FR 1730
Final Action	10/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3617.

Agency Contact: William A. Telliard, Environmental Protection Agency, Water, (4304), Washington, DC 20460 Phone: 202 260-7134

RIN: 2040–AC83

3236. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF 2,3,7,8-SUBSTITUTED DIBENZO-P-DIOXINS AND DIBENZO FURANS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h)/CWA 304(h); 33 USC 1361(a)/CWA 501

CFR Citation: 40 CFR 136; 40 CFR 122; 40 CFR 122.21; 40 CFR 122.41; 40 CFR 122.44; 40 CFR 123.25; 40 CFR 403.7; 40 CFR 403.12

Legal Deadline: None

Abstract: This regulatory action would amend the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" under 40 CFR part 136 to approve EPA Method 1613 for the determination of 2,3,7,8-substituted

dibenzo-p-dioxins and dibenzo furans (CDDs/CDFs). Method 1613 is necessary to extend minimum levels of quantitation of CDDs/CDFs into the low part-per-quadrillion (PPQ) range to support the development of effluent limitations guidelines and for compliance monitoring under the Clean Water Act National Pollutant Discharge Elimination System (NPDES) program and pretreatment program. This regulation approves a test procedure to be used in measuring 2,3,7,8 substituted dibenzo-p-dioxins and dibenzo furans under the National Pollutant Discharge Elimination System unless the Regional Administrator approves an alternate test procedure.

Timetable:

Action	Date	FR Cite
NPRM	02/07/91	56 FR 5090
Final Action	10/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3679.

Agency Contact: William A. Telliard, Environmental Protection Agency, Water, (4303), Washington, DC 20460 Phone: 202 260-7134

RIN: 2040–AC64

3237. COMPARISON OF DREDGED MATERIAL TO REFERENCE SEDIMENT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1344/CWA 404

CFR Citation: 40 CFR 230

Legal Deadline: None

Abstract: This action would revise the testing provisions of the Clean Water Act section 404(b)(1) Guidelines to provide for comparisons between dredged material proposed for discharge and reference sediment. "Reference sediment" would be defined as sediment that reflects conditions at the disposal site had no dredged material disposal ever occurred there. Because the disposal site itself is currently used as the point of comparison, this action would make a technical improvement in assessing cumulative impacts and make dredged material testing under section 404 consistent with that conducted for ocean disposal which currently employs a reference sediment approach. This action is not expected to have a significant impact on state, local, or tribal governments or small business, as the action will be limited to Corps projects and permit applications for which dredged material testing is necessary.

Timetable:

Action	Date	FR Cite
NPRM	01/04/95	60 FR 419
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3224.

Agency Contact: John Goodin, Environmental Protection Agency, Water, (4502F), Washington, DC 20460 Phone: 202 260-9910

RIN: 2040–AC14

3238. OCEAN DUMPING TESTING REQUIREMENTS CLARIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1401 et seq /MPRSA 2 et seq

CFR Citation: 40 CFR 227

Legal Deadline: None

Abstract: This action would amend the testing provisions of the ocean dumping regulations. Those regulations utilize biological testing to evaluate the suitability of material proposed for ocean dumping. The proposed action will clarify the language of the existing regulations and will help reduce potential uncertainties about testing requirements. The activities are being taken for the purpose of improving the clarity of the regulations and will not make substantive changes in the current testing procedures.

Timetable:

Action	Date	FR Cite
NPRM	02/29/96	61 FR 7765
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3783.

Agency Contact: Dave Redford, Environmental Protection Agency, Water, (4504F), Washington, DC 20460 Phone: 202 260-9179 Fax: 202 260-9920

RIN: 2040–AC81

3239. SHORE PROTECTION ACT, SECTION 4103(B) REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2601/Shore Protection Act of 1988 (PL 100-6-88),4103(b)

CFR Citation: 40 CFR 237

Legal Deadline: None

Abstract: This rule will implement the Shore Protection Act (SPA) and is designed to prevent the deposit of municipal and commercial waste into U.S. Coastal Waters. The regulations may require certain vessels and waste handling facilities to adopt a manual identify ing procedures to prevent, report, and clean up deposits of waste into coastal waters. Municipalities and businesses involved with the vessel transportation and shore side handling of these wastes would be affected by this rule.

State governments in the business of transporting municipal or commercial waste by vessel would have to comply with the minimum waste handling standards. Currently no Tribes are known to be involved in waste handling of this type, therefore none would be affected by this rule. In regards to small businesses, EPA has provided guidance on development of operation and maintenance manuals and encourages the use and documentation of existing industry practices that meet or exceed the EPA proposed minimum waste handling standards. All indications are that this regulation as proposed would have a minimal economic impact. This regulation will result in reduction of municipal and commercial wastes deposited in coastal waters.

Timetable:

Action	Date	FR Cite
NPRM	08/30/94	59 FR 44798
Final Action	09/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2820.

Agency Contact: Deb Lebow, Environmental Protection Agency, Water, (4504F), Washington, DC 20460 Phone: 202 260-6419

RIN: 2040–AB85

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Water Act (CWA)

Long-Term Actions

3240. STANDARDS FOR THE USE OR DISPOSAL OF SEWAGE SLUDGE (ROUND II)

Priority: Other Significant

CFR Citation: 40 CFR 503

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/01	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: Robert M. Southworth Phone: 202 260-7157

RIN: 2040–AC25

3241. EFFLUENT GUIDELINES AND STANDARDS FOR THE METAL PRODUCTS AND MACHINERY CATEGORY, PHASE II

Priority: Other Significant

CFR Citation: 40 CFR 438

Timetable:

Action	Date	FR Cite
NPRM	12/00/97	
Final Action	12/00/99	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Mark Ingle Phone: 202 260-7191

RIN: 2040–AC30

3242. CRITERIA AND STANDARDS REFLECTING BEST TECHNOLOGY AVAILABLE (BTA) FOR COOLING WATER INTAKE STRUCTURES UNDER SECTION 316(B) OF THE CLEAN WATER ACT

Priority: Other Significant

CFR Citation: 40 CFR 125; 40 CFR 401

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	08/00/01	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah Nagle Phone: 202 260-2656

RIN: 2040–AC34

3243. • EFFLUENT GUIDELINES AND STANDARDS FOR IRON AND STEEL MANUFACTURING POINT SOURCE CATEGORY

Priority: Other Significant

Legal Authority: 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1316/CWA 306; 33 USC 1317/CWA 307; 33 USC 1362/CWA 502

CFR Citation: 40 CFR 420

Legal Deadline: NPRM, Judicial, December 31, 1998. Final, Judicial, December 31, 2000.

Abstract: EPA will propose amendments to the effluent limitations guidelines for the Iron and Steel Manufacturing Point Source Category to reflect significant industry changes related to consolidation and modernization within the U.S. steelmaking industry as well as advances in manufacturing technologies, in process pollution prevention, water conservation practices, and end-of-pipe wastewater treatment. A preliminary study of the Iron & Steel Industry (EPA 821-R-96-037, September 1995) indicates that revised limitations and standards based on current manufacturing, treatment and control techniques of better performing iron and steel mills would reduce wastewater pollutant loadings to the environment by approximately 1.9 million pounds of toxic equivalents per year.

Timetable:

Action	Date	FR Cite
NPRM	12/00/98	
Interim Final Rule	12/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3833.

Agency Contact: George M. Jett, Environmental Protection Agency, Water, (4303), Washington, DC 20460 Phone: 202 260-7151 Fax: 202 260-7185 Email: Jett.George@EPAMAIL.EPA.GOV

RIN: 2040–AC90

3244. WATER QUALITY STANDARDS TO REPLACE PORTIONS OF EXISTING STATE WATER QUALITY STANDARDS; I.E., STATE ANTIDEGRADATION POLICY FOR PENNSYLVANIA

Priority: Other Significant

CFR Citation: 40 CFR 131

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Evelyn S. MacKnight Phone: 215 597-4491 Fax: 215 597-3359

RIN: 2040–AC78

3245. STREAMLINING THE GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 403

Timetable:

Action	Date	FR Cite
NPRM	06/00/97	
Final Action	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

EPA—CWA — Long-Term Actions

Agency Contact: Louis Eby
Phone: 202 260-6814

RIN: 2040–AC58

3246. NPDES WASTEWATER PERMIT APPLICATION FORMS AND REGULATORY REVISIONS FOR MUNICIPAL DISCHARGES AND SEWAGE SLUDGE USE OR DISPOSAL

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 122.21(j)

Timetable:

Action	Date	FR Cite
NPRM	12/06/95	60 FR 62545
Final Action	08/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: George Utting
Phone: 202 260-9530

RIN: 2040–AB39

3247. COMPREHENSIVE NPDES STORMWATER PHASE II REGULATIONS

Priority: Other Significant

CFR Citation: 40 CFR 122; 40 CFR 124

Timetable:

Action	Date	FR Cite
NPRM	09/00/97	
Final Action	03/00/99	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Pamela Mazakas
Phone: 202 260-6599
Fax: 202 260-1460

RIN: 2040–AC82

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Completed Actions

Clean Water Act (CWA)

3248. NPDES STREAMLINING RULE (PHASE III)

Completed:

Reason	Date	FR Cite
Duplicate of RIN 2040-AC84	04/01/96	

RIN: 2040–AC80

3249. MARINE SANITATION DEVICE: ESTABLISHMENT OF DRINKING WATER INTAKE ZONES IN TWO PORTIONS OF THE HUDSON RIVER, NEW YORK STATE

Priority: Routine and Frequent

CFR Citation: 40 CFR 140.4(b)(1)

Completed:

Reason	Date	FR Cite
Final Action	12/13/95	60 FR 63941

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Phil Sweeney
Phone: 212 637-3765

RIN: 2040–AC51

3250. STORM WATER PERMIT APPLICATION REGULATIONS FOR MUNICIPAL SEPARATE STORM SEWERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 122.26

Completed:

Reason	Date	FR Cite
Withdrawn	04/01/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Bill Swietlik
Phone: 202 260-9529

RIN: 2040–AC59

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

Atomic Energy Act (AEA)

3251. ENVIRONMENTAL PROTECTION STANDARDS FOR LOW-LEVEL RADIOACTIVE WASTE

Priority: Other Significant

Legal Authority: 42 USC 2201/AEA 274; 15 USC 2625

CFR Citation: 40 CFR 193

Legal Deadline: None

Abstract: Under 40 CFR 193, the Agency intends to set generally applicable standards for the management and disposal of low-level radioactive wastes under the purview of the Atomic Energy Act, as amended.

Timetable:

Action	Date	FR Cite
ANPRM	08/31/83	48 FR 39563
NPRM	12/00/96	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 1727.

Agency Contact: Tara Chhay Cameron, Environmental Protection Agency, Air and Radiation, (6602J), Washington, DC 20460
Phone: 202 233-9310

RIN: 2060–AA04

EPA—AEA — Proposed Rule Stage

3252. ENVIRONMENTAL PROTECTION AGENCY RADIATION SITE CLEANUP REGULATION

Priority: Economically Significant

Legal Authority: 42 USC 2201/AEA 161; 42 USC 2021/AEA 274; Reorganization Plan No. 3 of 1970; 42 USC 2011-2296

CFR Citation: 40 CFR 196

Legal Deadline: None

Abstract: The Agency is developing regulations to set standards limiting the amount of radiation that members of the public may receive from a contaminated site if released from federal control or from a Nuclear Regulatory Commission (NRC) license or an agreement state license. This rule will propose to eliminate the uncertainty associated with determining what level of cleanup is needed to protect human health and the environment, where cleanup is required under regulatory authorities other than this rule. By eliminating the uncertainties this rule will streamline the cleanup process. The rule is only one part of an overall regulatory approach that EPA, NRC, and the Department of Energy (DOE), are developing to address the risk from radioactively contaminated material. The rule will propose a dose limit that is protective of human health and the environment, and will establish a standard that allows a cleaned up federal or NRC regulated site to be released for public use. This rule will not mandate the cleanup of any sites, nor will it provide criteria for selecting remedies when cleanup is appropriate. The decision whether to clean up a site for release to the public, to manage wastes on site and not release the site to the public, or to continue operations will continue to be made on site-specific basis by the same agencies, under the same cleanup programs, that are currently making these decisions.

Timetable:

Action	Date	FR Cite
ANPRM	10/21/93	58 FR 54474
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 2073.

Agency Contact: Stuart Walker, Environmental Protection Agency, Air and Radiation, (6603J), Washington, DC 20460
Phone: 202 233-9234
Fax: 202 233-9650

RIN: 2060–AB31

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

Atomic Energy Act (AEA)

3253. PROTECTIVE ACTION GUIDANCE FOR DRINKING WATER

Priority: Other Significant

Legal Authority: 42 USC 2021(h)/AEA(h)/Reorganization Plan No. 3 of 1970; PL 96-295, sec 304; EO 12241

CFR Citation: 41 CFR 351

Legal Deadline: None

Abstract: This action will result in Federal protective action guidance (PAG) for State and local officials to use in the event of a nuclear accident to protect the general public from the adverse health affects associated with the ingestion of drinking water that is contaminated with radioactive material. As soon as the draft guidance is developed it will be submitted to the PAG Subcommittee of the Federal Radiological Preparedness Coordinating Committee (FRPCC) for review and comment. Members of the PAG subcommittee include representatives from DOE, DOD, FEMA, NRC, HHS, USDA, DOT, and the Conference of Radiation Control Program Directors (CRCPD). When a consensus among the representatives is reached, the guidance is recommended to the full FRPCC for endorsement. After that endorsement is obtained a notice of the availability of a revised EPA 400-R-92-001, "Manual of Protective Action Guides and Protective Actions for Nuclear Incidents" will be published in the Federal Register.

Timetable:

Action	Date	FR Cite
Submission to FRPCC for endorsement	05/30/96	
Notice of Availability	09/30/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3602.

Agency Contact: Lisa Ratcliff, Office of Radiation and Indoor Air, Environmental Protection Agency, Air and Radiation, 6602J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9448

RIN: 2060–AF39

3254. FEDERAL RADIATION PROTECTION GUIDANCE FOR EXPOSURE OF THE GENERAL PUBLIC

Priority: Other Significant

Legal Authority: 42 USC 2021(h)/AEA 274(h)/Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This action will update and replace existing Presidential guidance for all Federal agencies in the formulation of radiation standards for protection of the public from ionizing radiation that was issued in 1960.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/86	51 FR 22264
NPRM	12/23/94	59 FR 66414
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3321 (was 2073).

Agency Contact: Allan Richardson, Environmental Protection Agency, Air and Radiation, (6602J), Washington, DC 20460, 202-233-9213 or
Phone: 202 254-3826

RIN: 2060–AE61

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Completed Actions

Atomic Energy Act (AEA)

3255. CRITERIA FOR THE CERTIFICATION AND RE-CERTIFICATION OF THE WASTE ISOLATION PILOT PLANT'S COMPLIANCE WITH 40 CFR 91 DISPOSAL REGULATIONS

Priority: Other Significant

CFR Citation: 40 CFR 194

Completed:

Reason	Date	FR Cite
Final Action	02/01/96	61 FR 5224

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Radiation Protection Division
Phone: 202 233-9310
Fax: 202 233-9626

RIN: 2060–AE30

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Safe Drinking Water Act (SDWA)

3256. REFORMATTING OF DRINKING WATER REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 300g-1 /SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: This rule reformats the current drinking water regulations to make them easier to understand and follow. This rule is not intended to change any of the regulatory requirements. The rule affects state, local and tribal governments in that it makes the rules easier to implement and thus facilitates their jobs.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	06/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3563.

Agency Contact: Carl Kessler, Environmental Protection Agency, Water, (4603), Washington, DC 20460
Phone: 202 260-3995

RIN: 2040–AC41

3257. STREAMLINING REVISIONS TO THE NATIONAL PRIMARY DRINKING WATER REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 300/SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: None

Abstract: As part of the Environmental Protection Agency's (EPA's) efforts to realign regulatory development priorities for the Drinking Water Program to maximize risk reduction and to focus and improve implementation of the existing regulatory program, EPA is initiating work on several streamlining rules. First, EPA is reorganizing/reformatting Part 141 to make it easier for public water systems to understand and comply with and for States, local, and tribal governments to implement. EPA is also undertaking a comprehensive review of numerous monitoring and reporting requirements to identify opportunities to reduce the monitoring and reporting burden associated with both regulated and unregulated contaminants. Along with the comprehensive review of monitoring requirements, EPA is reexamining existing requirements that trigger increased monitoring of individual pollutants to try to raise the trigger and, thereby, reduce particular increased monitoring requirements. Finally, EPA is reviewing and streamlining existing public notification (PN) requirements which apply to systems which do not comply with drinking water standards. EPA plans to streamline PN requirements to allow States increased flexibility to design programs which will ensure notice to the public in a timely and effective manner.

Timetable:

Action	Date	FR Cite
NPRM Reformatting of Existing Drinking Water Regulations	09/00/96	
NPRM Streamlining Drinking Water Monitoring Requirements	09/00/96	
NPRM Streamlining Drinking Water Public Notification Requirements	12/00/96	
Final Action Requirements for Triggering Increased Drinking Water Monitoring	01/00/97	
Final Action Reformatting of Existing Drinking Water Regulations	06/00/97	
Final Action Streamlining Drinking Water Monitoring Requirements	12/00/97	
Final Action Streamlining Drinking Water Public Notification Requirements	12/00/98	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3862.

Revision of Current Requirements for Triggering Increased Drinking Water Monitoring (SAN 3565)

Reformatting of Existing Drinking Water Regulations (SAN 3563)

Comprehensive Review of Drinking Water Monitoring Requirements (SAN)

Revisions to Drinking Water Public Notification Requirements (SAN)

Agency Contact: George Hoessel, Environmental Protection Agency, Water, (4602), Washington, DC 20460
Phone: 202 260-7097

RIN: 2040–AC66

3258. ANALYTICAL METHODS FOR REGULATED DRINKING WATER CONTAMINANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300f/SDWA 1401; 42 USC 300g-1/SDWA 1412; 42 USC 300j-9/SDWA 1450

CFR Citation: 40 CFR 141; 40 CFR 143

Legal Deadline: None

Abstract: In promulgating National Primary Drinking Water Regulations, EPA includes analytical methods for determination of regulated drinking water contaminants. EPA approved methods include EPA methods, Standard Methods (methods evaluated and recommended for use by the America Public Health Association (APHA)), American Society for Testing and Materials (ASTM) Methods, United States Geological Survey (USGS) Methods and others. Periodically, the Agency updates and revises methods to incorporate newer technologies. Standard setting organizations such as APHA, ASTM, and USGS also routinely revise and update methods.

In this regulatory effort, EPA proposes to approve new methods or newer versions of existing methods and at the same time withdraw approval of older outdated methods. The new additional methods to be proposed for approval will include immunoassays. Immunoassays detect target compounds using an antibody which binds only to that substance. These assays are increasingly applied to environmental analysis because of their selectivity, accuracy, speed, low limit of detection and economy.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	06/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3726.

Agency Contact: Dr. Jitendra Saxena, Environmental Protection Agency, Water, (4603), Washington, DC 20460
Phone: 202 260-9579

RIN: 2040–AC77

3259. UNDERGROUND INJECTION CONTROL PROGRAM STREAMLINING RULE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 300h /SDWA 1421

CFR Citation: 40 CFR 144; 40 CFR 146

Legal Deadline: None

Abstract: On March 16, 1995 President Clinton issued a directive to reduce existing paperwork burdens by 25%. To help meet this 25% reduction goal, the UIC program will try to reduce approximately 90,000 hours of the paperwork burden on State and injection well operators. The UIC program plans to reduce the frequency of a number of regularly scheduled reports by 50%. The Program will include these reductions in the overall 25% reduction. In order to meet the 25% reduction EPA will consider the following changes: (1) reduction in monitoring and reporting frequency, and (2) reduction in requirements for state reviews of lifetime permits.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	06/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3784.

Agency Contact: Denny Cruz, Environmental Protection Agency, Water, (4602), Washington, DC 20460
Phone: 202 260-7776
Fax: 202 260-0732

RIN: 2040–AC83

3260. STREAMLINING DRINKING WATER MONITORING REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 300j-4 /SDWA 1445

CFR Citation: 40 CFR 141

Legal Deadline: None

Abstract: The current drinking water monitoring requirements vary by contaminant (e.g., inorganic vs. organic), the source of the supply (i.e., surface water vs. ground water) and by system size. After an initial series of samples, the sampling frequency increases or decreases based on the results of the initial series. Because there are numerous permutations to the possible frequencies at any one sampling point, the requirements are difficult to understand. And because the requirements presume all systems are contaminated, many systems have conducted expensive monitoring without finding any contamination.

EPA intends to simplify and improve the cost effectiveness of the current requirements by reducing the number of variables upon which the sampling frequencies turn, by providing greater latitude for state discretion in customizing the sampling frequencies to local circumstances (i.e., vulnerability to contamination) and by consolidating subsections wherever possible.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	12/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3761

(Combining with SAN 3565 and RIN 2040-AC52)

Agency Contact: Mike Muse, Environmental Protection Agency, Water, (4604), Washington, DC 20460
Phone: 202 260-3874
Fax: 202 260-4656

RIN: 2040–AC73

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

Safe Drinking Water Act (SDWA)

3261. AMENDMENTS TO REQUIREMENTS FOR AUTHORIZED STATE PERMIT PROGRAMS UNDER SECTION 402 OF THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251/CWA 101; 33 USC 1341/CWA 402

CFR Citation: 40 CFR 123.25

Legal Deadline: None

Abstract: At present, not all States provide standing to citizens to challenge final State-issued NPDES permits in State courts. This rulemaking would amend EPA's existing regulations governing the approval of State NPDES programs. These regulations are found at 40 CFR Part 123. EPA has proposed to insert an explicit requirement that State law must grant any "interested person" in that State "standing" to bring an action in State Court to challenge NPDES permits issued by the State. The new provision would make it clear that a State must provide standing in State courts to the same extent that standing is granted to citizens in Federal courts when EPA issues an NPDES permit. This approach would ensure that as EPA moves away from permit-by-permit oversight of State programs, there remains direct accountability on a permit-by-permit basis to the public.

Timetable:

Action	Date	FR Cite
NPRM	03/17/95	60 FR 14588
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3562.

Formerly titled "Clarification of Standing Requirement for State NPDES Programs"

Agency Contact: Bob Klepp, Environmental Protection Agency, Water, (4203), Washington, DC 20460 Phone: 202 260-5805

RIN: 2040–AC43

3262. DRINKING WATER MICROBIAL AND DISINFECTION BY-PRODUCT MONITORING RULE (FORMERLY CALLED THE "INFORMATION COLLECTION DISINFECTION BY-PRODUCTS RULE")

Priority: Other Significant

Legal Authority: 42 USC 300g-1 /SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: None

Abstract: EPA has negotiated two rules regulating disinfectants, disinfection byproducts, and microbial contaminants. As part of the negotiation, EPA also committed to promulgating a Microbial and Disinfection By-Product Monitoring Rule to provide more occurrence and technology treatment data. The data will enable EPA to promulgate the Enhanced Surface Water Treatment Rule and will enable the negotiators to meet again to consider long term standards. This action fulfills that commitment. Public surface water systems serving 100,000 or more people and groundwater systems serving 50,000 or more people are required to generate data, with the most extensive data requirements levied on systems serving 100,000 people or more. Governments are not affected by this rule unless they operate a public water system.

Timetable:

Action	Date	FR Cite
NPRM	02/10/94	59 FR 6332
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3445.

Agency Contact: Tom Grubbs, Environmental Protection Agency, Water, (4603), Washington, DC 20460 Phone: 202 260-7270

RIN: 2040–AC24

3263. MANAGEMENT OF CLASS V INJECTION WELLS UNDER PART C OF THE SAFE DRINKING WATER ACT

Priority: Other Significant

Legal Authority: 42 USC 300h /SDWA 1421 to 1425

CFR Citation: 40 CFR 144; 40 CFR 145; 40 CFR 146

Legal Deadline: NPRM, Judicial, August 15, 1995. Final, Judicial, November 15, 1996.

Abstract: In the Safe Drinking Water Act, Congress required that EPA protect current and future underground sources of drinking water (USDWs) from the environmental and public health threats posed by the subsurface emplacement of fluids through injection wells. A Report to Congress entitled Class V Injection Wells -- Current Inventory; Effects on Ground Water; and Technical Recommendations, September 1987 (EPA Document Number 570/9-87-006) indicated that some types of Class V wells have the potential to contaminate USDWs. Class V injection wells are generally shallow waste disposal wells, storm water and agricultural drainage systems, or other devices that are used to release fluids either directly into USDWs. In some instances, the fluids released by these wells contain elevated concentrations of contaminants that may endanger drinking water supplies. PEPA responded to the threats posed by these wells by developing and implementing a comprehensive strategy for the management of Class V injection wells. The strategy involves a tailored combination of guidance, education, and outreach, and enhancing the use of existing regulatory authorities through some minor changes to existing regulations. The overall goal of the strategy is to speed up the closure of potentially endangering Class V wells using current authorities and to promote the use of Best Management Practices (BMPs) to ensure that other Class V wells do not endanger USDWs.

The proposed regulatory changes are a key component of the comprehensive strategy for managing Class V wells The minor regulatory changes to 40 CFR parts 144 and 146 would improve the effectiveness of the current Class V regulations by making it easier for the regulated community to understand the existing requirements applicable to shallow disposal wells. The proposed changes include a simplification of the current categories of Class V wells, the clarification of certain key definitions to make it clear to the regulated community which types of shallow disposal systems are Class V wells and which are not, and the reclassification of deep low-level radioactive wells to Class I.

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44652
Final Action	11/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2778.

Agency Contact: Lee Whitehurst, Environmental Protection Agency, Water, (9602), Washington, DC 20460 Phone: 202 260-5532

RIN: 2040–AB83

EPA—SDWA

Final Rule Stage

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Long-Term Actions

Safe Drinking Water Act (SDWA)

3264. NATIONAL PRIMARY DRINKING WATER REGULATIONS FOR LEAD AND COPPER (REVISION)

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	04/12/96	61 FR 16348
Final Action	06/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local; Tribal, Federal

Agency Contact: Judy Lebowich Phone: 202 260-7595

RIN: 2040–AC27

3265. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADIONUCLIDES

Priority: Economically Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
ANPRM	09/30/86	51 FR 34836
NPRM	07/18/91	56 FR 33050
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Dave Huber Phone: 202 260-9566

RIN: 2040–AA94

3266. NATIONAL PRIMARY DRINKING WATER REGULATIONS: GROUNDWATER DISINFECTION

Priority: Economically Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Bruce Macler Phone: 415 744-1884

RIN: 2040–AA97

3267. NATIONAL PRIMARY DRINKING WATER REGULATIONS: ARSENIC

Priority: Economically Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Heather Shank-Givens Phone: 202 260-0063

RIN: 2040–AB75

3268. NATIONAL PRIMARY DRINKING WATER REGULATIONS: 25 CONTAMINANTS FROM DRINKING WATER PRIORITY LIST (PHASE VIA)—DISINFECTION BY-PRODUCTS RULE AND ENHANCED SURFACE WATER TREATMENT RULE

Priority: Other Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	07/29/94	59 FR 38668
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Stig Regli Phone: 202 260-7379

RIN: 2040–AB82

3269. NATIONAL PRIMARY DRINKING WATER REGULATIONS: SULFATE

Priority: Other Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	12/20/94	59 FR 65578
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Jan Auerbach Phone: 202 260-7575

RIN: 2040–AC07

3270. NATIONAL PRIMARY DRINKING WATER STANDARDS (NPDWRS) FOR ALDICARB

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Heather Shank-Givens Phone: 202 260-0063

RIN: 2040–AC13

EPA—SDWA — Long-Term Actions

3271. NATIONAL PRIMARY DRINKING WATER REGULATIONS: 25 CONTAMINANTS FROM DRINKING WATER PRIORITY LIST (PHASE VI-B)—ORGANIC AND INORGANIC CONTAMINANTS

Priority: Economically Significant

CFR Citation: 40 CFR 141; 40 CFR 142

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: David Huber
Phone: 202 260-9566

RIN: 2040–AC22

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Completed Actions

Safe Drinking Water Act (SDWA)

3272. REVISION OF CURRENT REQUIREMENTS FOR TRIGGERING INCREASED DRINKING WATER MONITORING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 141

Completed:

Reason	Date	FR Cite
Merged With RIN 2040-AC73	04/01/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Bruce Macler
Phone: 415 744-1884

RIN: 2040–AC52

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Prerule Stage

Resource Conservation and Recovery Act (RCRA)

3273. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS (SWMUS) AT HAZARDOUS WASTE MANAGEMENT FACILITIES

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6924/RCRA 3004(u), 3004(v)

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: Past and present waste management practices at Resource Conservation and Recovery Act (RCRA) facilities have resulted in releases of hazardous constituents from some waste management units. These releases may cause contamination of soils, groundwater, surface water, and air. This regulation provides a framework for investigating and remediating releases at RCRA facilities as necessary to protect human health and the environment.

The Agency plans to issue the corrective action regulations in several phases. Phase I was issued in February 1993 (i.e., regulations concerning Corrective Action Management Units (CAMU)). The next task will include issuing an advance notice of proposed rulemaking (ANPRM). The following phase (Phase II) will include finalizing certain provisions of the July 27, 1990, proposal at the same time as issuing a proposal that includes a reproposal of some provisions from the July 1990 notice plus some new provisions. The last phase (Phase III) will involve finalizing the newly proposed provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/27/90	55 FR 30798
Final Rule (Phase I)	02/16/93	58 FR 8658
ANPRM	05/00/96	
NPRM	03/00/97	
Final Action	00/00/00	
(Phase II/Reproposal)		
Final Action	03/00/97	
(Phase III)		
Final Action	03/00/98	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2390.

The rule was highlighted as one of the top regulatory reform initiatives in the President's March 16, 1995 report, "Reinventing Environmental Regulations." The Subpart S rule is an important component of EPA's regulatory efforts to refocus hazardous waste regulation on high-risk wastes and to expedite cleanups.

Agency Contact: Guy Tomassoni, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460
Phone: 703 308-8622

RIN: 2050–AB80

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage

Resource Conservation and Recovery Act (RCRA)

3274. • MANAGEMENT OF CEMENT KILN DUST (CKD)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6921/RCRA 3001(b)(3)(A)(iii); RCRA 8002(o)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: CKD is a high volume material by-product of the cement manufacturing process. While it contains potentially hazardous constituents such as lead, cadmium and chromium, it has been exempted since November 1980 from regulation under RCRA Subtitle C as a hazardous waste by the Bevill Amendment, which modified Section 3001 of RCRA to exempt certain "special wastes" until further studies could be completed. In December 1993, EPA submitted a Report to Congress with its findings on the nature of and practices associated with CKD. This was followed in January 1995 by an EPA regulatory determination published in the Federal Register (60 FR 7366, 2/7/95), which concluded that additional control of CKD is warranted. EPA committed in the regulatory determination to develop additional tailored regulations under RCRA Subtitle C and, if necessary, the Clean Air Act. After further study and informal discussions with stakeholders, the Office of Solid Waste within EPA's Office of Solid Waste and Emergency Response has determined to initiate the development of regulations under RCRA Subtitle C for the management of CKD. The proposed regulations will be tailored to protect human health and the environment while imposing minimal burden on the regulated community.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	12/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3856.

Agency Contact: Bill Schoeborn, Environmental Protection Agency, Solid Waste and Emergency Response, (5306W)
Phone: 703 308-8483

RIN: 2050–AE34

3275. REVISIONS TO THE OIL POLLUTION PREVENTION REGULATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1321/CWA 311(j)(l)(C)

CFR Citation: 40 CFR 112

Legal Deadline: None

Abstract: Following a major inland oil spill with substantial environmental impacts (i.e., Ashland Oil in Floreffe, PA, in January 1988), and interagency task force recommended steps to improve EPA's oil spill prevention program (40 CFR part 112). This program requires oil storage facilities to prevent and contain discharges that could reach waters of the United States. On October 22, 1991, the Agency proposed revisions to implement some of the task force recommendations. This action supplements the 1991 proposed revisions, and proposes to reduce burdens associated with the rule by reducing the recordkeeping provisions or exempting some facilities from some or all recordkeeping requirements. In proposing these burden reductions, EPA will consider available data on how factors, such as facility type, size, throughput, and location, may affect the threat of discharging oil to waters of the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/22/91	56 FR 54612
Supplemental NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2634.

Agency Contact: Kevin Mould, Environmental Protection Agency, Solid Waste and Emergency Response, (5202G), Washington, DC 20460
Phone: 703 603-8728

RIN: 2050–AC62

3276. HAZARDOUS WASTE MANAGEMENT SYSTEM: IDENTIFICATION AND LISTING OF HAZARDOUS WASTE; RECYCLED USED OIL MANAGEMENT STANDARDS

Priority: Other Significant

Legal Authority: 42 USC 9601(37); 42 USC 9614(c); 42 USC 6905; 42 USC 6912(a); 42 USC 6921through 6927, 6930, 6934, and 6974

CFR Citation: 40 CFR 279

Legal Deadline: None

Abstract: This action is being taken in response to a Court remand of mixture provisions contained in the Used Oil Management Standards. The remanded provisions exempt mixtures of used oil and characteristic hazardous waste (e.g., spent mineral spirits) from the Land Disposal Restrictions. An effect of the existing LDR exemption is to encourage mixing of used oil and characteristic hazardous waste and, consequently, to discourage segregation and recycling the used oil and spent solvents as separate waste streams. Mixtures of used oil and spent solvents are virtually always burned. The proposed rule would address the applicability of the LDR to decharacterized mixtures of used oil and characteristic hazardous waste. We expect that any changes resulting from the proposed rule will have minimal impact on state/local/tribal governments and small businesses (e.g., service stations, quick lubes).

Timetable:

Action	Date	FR Cite
NPRM	02/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3668.

Agency Contact: Tracy Bone, Environmental Protection Agency, Solid Waste and Emergency Response, (5304)
Phone: 202 260-3509

RIN: 2050–AE28

3277. MODIFICATIONS TO THE DEFINITION OF SOLID WASTE AND REGULATIONS OF HAZARDOUS WASTE RECYCLING: GENERAL

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905/RCRA 1004; 42 USC 6921 to 6928/RCRA 3001 to 3008

CFR Citation: 40 CFR 261; 40 CFR 266

Legal Deadline: None

Abstract: The benefits include lessening the burden on the regulated community by clarifying requirements for all hazardous waste recyclers, and reducing those requirements for many recyclers. Costs will be determined as the Agency decides which recycling facilities will be under Resource Conservation and Recovery Act (RCRA) jurisdiction.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 2872.

Agency Contact: Marilyn Goode, Environmental Protection Agency, Solid Waste and Emergency Response, (5304), Washington, DC 20460
Phone: 202 260-8551

RIN: 2050–AD18

3278. SPENT SOLVENTS LISTING DETERMINATION

Priority: Other Significant

Legal Authority: 42 USC 6921/RCRA 3001; 42 USC 9602/CERCLA 102

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, April 19, 1996. Final, Judicial, May 31, 1997.

Abstract: This action addresses the potential human health and environmental risks posed by certain used solvents and waste residues from their recovery, and determines whether these wastes should be listed as hazardous wastes under RCRA. If listed under RCRA these wastes would also be added to the CERCLA list of hazardous substances. As part of this effort, EPA is also considering opportunities for pollution prevention and recycling. This action will be implemented by States authorized under RCRA. Impacts on local and tribal governments are not expected, and small business impacts are undetermined at this time. The date for the proposed rule is based on current settlement discussions with plaintiffs in EDF v. Browner, Civil Action No. 89-0598 (D.D.C.).

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3134.

Agency Contact: Ron Josephson, Environmental Protection Agency, Solid Waste and Emergency Response, (5304), Washington, DC 20460
Phone: 202 260-4770

RIN: 2050–AD84

3279. CHLORINATED ALIPHATICS LISTING DETERMINATION

Priority: Other Significant

Legal Authority: 42 USC 6921/RCRA 3001; 42 USC 9602/CERCLA 102

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, April 19, 1996. Final, Judicial, October 31, 1996.

Abstract: This action addresses the potential risks posed by wastes from the production of 25 chlorinated aliphatics, and determines whether these wastes should be listed as hazardous wastes under RCRA to control these risks. Any new wastes listed as hazardous will also be added to the CERCLA list of hazardous substances. This action will be implemented by EPA and States authorized under RCRA. Impacts on local governments are not expected, and small business impacts are undetermined. This action is currently on hold pending further settlement discussions with litigants. The date for the proposed rule is based on current settlement discussions with plaintiffs in EDF v. Browner, Civil Action No. 89-0598 (D.D.C.).

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3151.

Agency Contact: Anthony Carrell, Environmental Protection Agency, Solid Waste and Emergency Response, (5304), Washington, DC 20460
Phone: 202 260-6607

RIN: 2050–AD85

3280. REQUIREMENTS FOR MANAGEMENT OF HAZARDOUS CONTAMINATED MEDIA COMMONLY REFERRED TO AS "HAZARDOUS WASTE IDENTIFICATION RULE FOR CONTAMINATED MEDIA OR HWIR—MEDIA"

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6912(a)/RCRA 3001; 42 USC 6905; 42 USC 6921; 42 USC 6922; 42 USC 6926

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 268; 40 CFR 269; 40 CFR 271

Legal Deadline: None

Abstract: The goal of this regulation is to establish a new regulatory framework under the Resource Conservation and Recovery Act (RCRA) for the management of contaminated media that are generated from remediating hazardous waste sites. The new regulation will reform the current standards by creating more flexibility for Agency and State decisionmakers in setting cleanup requirements, and by better aligning the RCRA regulations with the actual risks posed by managing contaminated media. The proposed rule would exempt certain lower risk contaminated media from the traditional RCRA regulations and will set treatment standards for higher risk media that reflect the inherent differences between contaminated media (e.g., soils, groundwater) and newly generated hazardous wastes. The regulations would also simplify and streamline RCRA permit requirements for cleanups that involve managing hazardous materials, and State Authorization requirements for RCRA revisions. Also in this proposal, the Agency will propose an exemption from RCRA Subtitle C for dredged materials managed by the US Army Corps of Engineers under Clean Water Act or Marine Protection, Research and Sanctuaries Act permits. Finally, the Agency will propose to withdraw the regulations for Corrective Action Management Units.

Timetable:

Action	Date	FR Cite
NPRM	05/20/92	57 FR 21450
NPRM Withdrawal	10/30/92	57 FR 49280
Reproposal	05/00/96	
Final Action	06/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2982.

Reinventing Government: The rule was highlighted as one of the Agency's top regulatory reform initiatives in the President's March 16, 1995 report, "Reinventing Environmental Regulations." The HWIR Media rule is an important component of EPA's regulatory efforts to make the RCRA hazardous waste program more risk based and to expedite cleanups at RCRA, UST, and CERCLA and State cleanup sites.

Agency Contact: Carolyn Loomis Hoskinson, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460
Phone: 703 308-8626

RIN: 2050–AE22

3281. RCRA SUBTITLE C INDIAN PROGRAM AUTHORIZATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6926(b)/3006(b)

CFR Citation: 40 CFR 271; 40 CFR 270

Legal Deadline: None

Abstract: The RCRA statute is silent on approval of Tribal hazardous waste programs. This regulatory action would clarify that Indian Tribes may become authorized for the RCRA Subtitle C hazardous waste program and will also make available to Tribes RCRA grant funds to assist in implementation of authorized hazardous waste programs. Currently, authorization and grant funding is only available to States. The action would establish criteria which a Tribe must meet for authorization. This rule furthers EPA's recognition of Tribal sovereignty and furthers the Agency's goal of delegating environmental programs to Tribes. This action will impact the amount of grants given to States since the level of funding is likely to remain constant but the number of grantees is anticipated to increase. It will also impact the Tribes by allowing them an increased role in environmental regulation on Indian Country.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	06/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 2827.

Agency Contact: Felicia Wright, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460
Phone: 703 308-8634

RIN: 2050–AD07

3282. REVISIONS TO THE COMPREHENSIVE GUIDELINE FOR PROCUREMENT OF PRODUCTS CONTAINING RECOVERED MATERIALS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6912(a)/RCRA 6002(e)

CFR Citation: 40 CFR 247

Legal Deadline: None

Abstract: RCRA section 6002 requires EPA to issue guidelines for procuring recycled products. EPA is to designate items that are made with recovered materials and to recommend practices for government procurement. Once designated, procuring agencies are required to purchase these items with the highest percentage of recovered materials practicable. On May 1, 1995, under RCRA and Executive Order 12873, "Federal Acquisition, Recycling, and Waste Prevention," EPA designated 19 items in a Comprehensive Procurement Guideline (CPG) (60 FR 21370). EPA also issued purchasing recommendations in a related Recovered Materials Advisory Notice (RMAN) (60 FR 21386). The Order requires EPA to update the CPG and issue RMANs annually. The Agency consolidated EPA's five existing procurement guidelines (for paper and paper products, retread tires, re-refined lubricating oil, building insulation, and cement and concrete containing fly ash) into the CPG and RMAN. This action would propose the first update to the CPG, in which additional items would be designated, and additional recommendations would be discussed in the RMAN.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
Final Action	11/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3545.

Agency Contact: Terry Grist, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460
Phone: 703 308-7257

RIN: 2050–AE23

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

Resource Conservation and Recovery Act (RCRA)

3283. STANDARDS FOR THE MANAGEMENT AND USE OF SLAG RESIDUES DERIVED FROM HIGH TEMPERATURE METALS RECOVERY (HTMR) TREATMENT OF KO61, KO62 AND F006 WASTES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6905/RCRA 1006921, 6922, 6924, 6934, and 6938; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6922RCRA 3002; 42 USC 6924/RCA 3004

CFR Citation: 40 CFR 261; 40 CFR 266

Legal Deadline: NPRM, Judicial, December 13, 1994. Final, Judicial, June 13, 1996.

Abstract: This action addresses the potential human health and environmental impacts from the use of slag residues (slags) resulting from high temperature metals recovery (HTMR) treatment of specified hazardous wastes (i.e., electric arc furnace dust, steel finishing pickle liquor, and electroplating sludges). This action would reclassify these slags as nonhazardous when they meet certain exclusion levels and are managed and used in a certain manner. The date for final action is the subject of further settlement negotiations with the parties involved in a settlement agreement.

Timetable:

Action	Date	FR Cite
NPRM	12/29/94	59 FR 67256
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3428.

Agency Contact: Narendra K. Chaudhari, Environmental Protection Agency, Solid Waste and Emergency Response, (5304), Washington DC 20460
Phone: 202 260-4787

RIN: 2050–AE15

3284. ALTERNATIVES FOR GROUND-WATER MONITORING FOR MUNICIPAL SOLID WASTE LANDFILLS LOCATED IN EITHER DRY OR REMOTE AREAS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6944/RCRA 4010

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: On October 9, 1991 the Agency promulgated final solid waste disposal facility criteria (40 CFR Part 258), setting in place national minimum standards for municipal solid waste landfills (MSWLFs). In that rulemaking, the Agency provided an exemption from ground-water monitoring for small MSWLF units located in dry or remote locations. The Agency provided this relief as it sought to balance the protection of human health and the environment with the practicable capability of these small community landfill owners and operators. In 1993, the U.S. Court of Appeals for the District of Columbia Circuit vacated this ground-water monitoring exemption.

On August 10, 1995, the Agency published a new proposed rule to address ground water monitoring at small MSWLFs located in dry or remote areas. The proposed rule would provide States and Tribes with EPA-approved permit programs under RCRA subtitle D the flexibility to determine alternative ground-water monitoring requirements on a site-specific basis, for small MSWLFs that are located in either dry or remote areas.

The proposed rule also solicited comment on a delay of the general compliance date of the MSWLF criteria for qualifying small MSWLFs located in dry or remote locations. On October 6, 1995, EPA finalized a two-year delay of the compliance date until October 9, 1997.

On March 26, 1996, the President signed into law H.R. 2036 reinserting the groundwater monitoring exemption for qualifying small MSWLFs located in dry and remote areas. The President's action thus obviates the need to issue this final action. The Agency will take final action by codifying the exemption in H.R. 2036. In addition, H.R. 2036 requires that EPA provide flexibility to small MSWLFs regarding requirements for daily cover, final cover, frequency of soil gas monitoring and financial assurance. EPA will begin work in a separate rulemaking to provide this flexibility while still ensuring protection of human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	08/10/95	60 FR 40799
Final Action on Delay of Compliance Date	10/06/95	60 FR 52337
Final Action to Codify Legislation	12/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3546.

Agency Contact: Dana Arnold, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460
Phone: 703 308-7279

RIN: 2050–AE24

3285. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: HAZARDOUS WASTE IDENTIFICATION RULE (HWIR); WASTE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905/1006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6921/RCRA 3001; 42 USC 6922/RCRA 3002; 42 USC 6926/RCRA 3006

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 268

Legal Deadline: Final, Judicial, February 13, 1997.

Abstract: Under the current Resource Conservation and Recovery Act (RCRA) "mixture" and "derived from" rules, some low-risk wastes are currently regulated by the Environmental Protection Agency's (EPA's) hazardous waste regulations. To address this problem, this deregulatory action will make modifications to the "mixture" and "derived from" rules, and establish new criteria that would exempt certain low-risk wastes from the hazardous waste regulations. In developing this action, EPA is considering the views of all members of a Federal Advisory Committee Act (FACA) committee. This action will be implemented by EPA and authorized States.

EPA—RCRA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/20/92	57 FR 21450
NPRM Withdrawn	10/30/92	57 FR 49280
NPRM Reproposal	12/21/95	60 FR 66344
Final Action	02/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 3328.

Reinventing Government: The rule was highlighted as one of the top regulatory reform initiatives in the President's March 16, 1995 Report, "Reinventing Environmental Regulations."

Agency Contact: William A. Collins, Jr., Environmental Protection Agency, Solid Waste and Emergency Response, (5304), Washington, DC 20460
Phone: 202 260-4791

RIN: 2050–AE07

3286. HAZARDOUS WASTE MANAGEMENT SYSTEM: POST-CLOSURE REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6926/RCRA 3006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6924/RCRA 3004; 42 USC 6925/RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 124

Legal Deadline: None

Abstract: Under the current RCRA regulations, a facility that needs post-closure care must obtain a permit. In many cases, the post-closure permit is an appropriate mechanism for the regulatory agency to use to address the environmental needs at the facility. In other cases, however, a permit may not be appropriate. And, in some cases, the facility's post-closure care needs may have already been addressed through other legal mechanisms, such as enforcement actions or Superfund actions. In these cases, subsequent issuance of a post-closure permit would not provide any environmental benefit, although, under the current regulations, it is still required. This rule would remove the requirements to issue a permit to address post-closure care in all cases. A permit would remain an option, but EPA Regions and authorized States would be able to use other mechanisms as well, depending on the circumstances at the facility. States authorized to implement the RCRA program are currently required to adopt authority to compel corrective action at permitted facilities. They are not required to have similar authority at interim status facilities, though many States do. As a result, the corrective action program is implemented by the State, at some facilities, and by the EPA Regions at other. This rule would require States to adopt, as part of their authorized RCRA programs, authority to address corrective action at interim status facilities. This would result in a more consistent implementation of the corrective action program in the States.

Timetable:

Action	Date	FR Cite
NPRM	11/08/94	59 FR 55778
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3042.

Agency Contact: Barbara Foster, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460
Phone: 703 308-7057

RIN: 2050–AD55

3287. LISTING DETERMINATION FOR HAZARDOUS WASTES—ORGANOBROMINES CHEMICAL INDUSTRY

Priority: Other Significant

Legal Authority: 42 USC 6922/RCRA 3001; 42 USC 9602/CERCLA 102; 33 USC 1361/CERCLA 311

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, April 30, 1994. Final, Judicial, April 30, 1996.

Abstract: This action proposes to list as a hazardous waste under RCRA one additional waste stream generated during the production of organobromine compound chemicals used as fire retardants. These wastes would then have to be managed in accordance with the RCRA hazardous waste requirements. The date for final action is based on current settlement negotiations with plaintiffs in EDF v. Browner, Civil Action No. 89-0598 (D.D.C.). landfills.

Timetable:

Action	Date	FR Cite
NPRM	05/11/94	59 FR 24530
Final Action	01/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3065.

Agency Contact: Anthony Carrell, Environmental Protection Agency, Solid Waste and Emergency Response, (5304), Washington, DC 20460
Phone: 202 260-6607

RIN: 2050–AD79

3288. NEW AND REVISED TESTING METHODS APPROVED FOR RCRA SUBTITLE C, IN "TEST METHODS FOR EVALUATING SOLID WASTE, PHYSICAL/CHEMICAL METHODS" (SW-846), THIRD EDITION, UPDATE III

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6912/RCRA 2002; 42 USC 6921/RCRA 3001; 42 USC 6924/RCRA 3004; 42 USC 6925/RCRA 3005; 42 USC 6926/RCRA 3006

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 270

Legal Deadline: None

Abstract: This action will revise certain testing methods and add other new testing methods that are approved or required under Subtitle C of RCRA. These new and revised methods will be added to EPA's solid waste testing guidance ("Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA publication SW-846). The revision to the manual is necessary to provide improved and more complete analytical methods for RCRA-relating testing. This action will assist States and Tribal governments in implementing the RCRA program. Impacts on small businesses and local governments are not expected.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 37974
Final Action	03/00/97	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3427.

Agency Contact: Kim Kirkland, Environmental Protection Agency, Solid Waste and Emergency Response, (5307), Washington DC 20460 Phone: 202 260-6722

RIN: 2050–AE14

3289. RCRA SUBTITLE D CORPORATE FINANCIAL TEST AND GUARANTEE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6907/RCRA 1008; 42 USC 6944/RCRA 4004; 42 USC 6949a/RCRA 4010

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: On October 9, 1991 the Agency promulgated revised criteria for municipal solid waste landfills (MSWLFs) which included financial assurance requirements to ensure that adequate funds are readily available to cover the costs of closure, post-closure care, and corrective action associated with MSWLFs without incurring government response costs. The proposal would add a corporate financial test to the financial assurance mechanisms currently available to owners and operators of RCRA Subtitle D MSWLFs. EPA estimates that the rule would save owners and operators of MSWLFs approximately $45 million annually by allowing the use of a financial test rather than more expensive mechanisms such as surety bonds or letters of credit. Finally, the rule would revise the domestic asset requirement of the subtitle C corporate financial test. The rule would have no impacts on local governments but could be implemented by state or tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	10/12/94	59 FR 51523
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3179.

Agency Contact: Dale Ruhter, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460 Phone: 703 308-8192

RIN: 2050–AD77

3290. REVISIONS TO CRITERIA APPLICABLE TO SOLID WASTE DISPOSAL FACILITIES THAT MAY ACCEPT CESQG HAZARDOUS WASTES EXCLUDING MUNICIPAL SOLID WASTE LANDFILLS

Priority: Other Significant

Legal Authority: 42 USC 6907/RCRA 1008; 33 USC 1345/RCRA 4010; 42 USC 6944/RCRA 4004; 42 USC 6912/RCRA 2002

CFR Citation: 40 CFR 257

Legal Deadline: NPRM, Judicial, May 15, 1995. Final, Judicial, July 1, 1996.

Abstract: EPA will revise existing Criteria for facilities that may receive hazardous household wastes (HHW) or Conditionally Exempt Small Quantity Generator (CESQG) hazardous wastes. In October 1991, EPA promulgated the Municipal Solid Waste Landfill Criteria, thereby satisfying part of the statutory mandate. EPA is under a settlement agreement with the Sierra Club to fulfill the remainder of the statutory mandate by promulgating regulations pertaining to the disposal of CESQG hazardous wastes at non-municipal waste disposal facilities. Depending on actual practices at specific facilities, these regulations might be applicable to commercial and private industrial waste facilities and construction and demolition waste facilities managing non-hazardous wastes. States will be responsible for implementing the rule, although a number of States already have comparable requirements and will not have an increased workload.

Timetable:

Action	Date	FR Cite
NPRM	06/12/95	60 FR 30964
Final Action	07/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3416.

Agency Contact: Paul F. Cassidy, Environmental Protection Agency, Solid Waste and Emergency Response, (5304W), Washington DC 20460 Phone: 703 308-7281

RIN: 2050–AE11

3291. FINAL DETERMINATION OF THE APPLICABILITY OF THE TOXICITY CHARACTERISTIC RULE TO UNDERGROUND STORAGE TANKS, CONTAMINATED MEDIA, AND DEBRIS

Priority: Other Significant

Legal Authority: 42 USC 6921/RCRA 3001

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: In the final hazardous waste Toxicity Characteristic (TC) rule published in June 1990, EPA decided to temporarily defer application of the TC rule to petroleum-contaminated media and debris, such as soils and groundwater, that result from underground storage tank (UST) corrective actions. This rule would make permanent the current temporary deferral of UST petroleum-contaminated media and debris from the RCRA hazardous waste TC rule. This rule is part of the Agency's commitment to make a "final determination" regarding the UST temporary deferral. Without the deferral, UST cleanup procedures would be adversely affected, resulting in delays in remedial action and increases in remediation costs. EPA believes states are in the best position to continue their oversight of the management of contaminated media and debris from UST cleanups. Since this action is deregulatory, there are no adverse effects on small businesses, or on state, local, or tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	02/12/93	58 FR 8504
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3189.

Agency Contact: John Heffelfinger, Environmental Protection Agency, Solid Waste and Emergency Response, (5401W), Washington, DC 20460 Phone: 703 308-8881

RIN: 2050–AD69

3292. LISTING DETERMINATION OF WASTES GENERATED DURING THE MANUFACTURE OF AZO, ANTHRAQUINONE, AND TRIARYLMETHANE DYES AND PIGMENTS

Priority: Other Significant

Legal Authority: 42 USC 6921/RCRA 3001; 42 USC 9602/CERCLA 102

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, November 30, 1994. Final, Judicial, April 19, 1996.
Two waste streams are subject to later judicial deadlines: Proposed, 3/31/96; Final, 06/30/96.

Abstract: This action addresses the potential human health and environmental risks posed by wastes from the manufacture of dyes and pigments, and determines whether these wastes should be listed as hazardous wastes under RCRA to control any unacceptable risks. If listed under RCRA, these wastes would also be added to to the CERCLA list of hazardous substances. As part of this effort, EPA is also considering opportunities for pollution prevention and recycling. This action will be implemented by EPA and States authorized under RCRA. Impacts on local governments are not expected, and small business impacts are undetermined at this time. Two waste streams are subject to later deadlines for proposed and final action. The dates for the proposed rules are based on current settlement discussions with plaintiffs in EDF v. Browner, Civil Action No. 89-0598 (D.D.C.)

Timetable:

Action	Date	FR Cite
NPRM	12/22/94	59 FR 66072
Additional NPRM	01/00/97	
Final Action	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3066/3068/3069.

Agency Contact: Wanda Levine, Environmental Protection Agency, Solid Waste and Emergency Response, (5304), Washington, DC 20460 Phone: 202 260-7458

RIN: 2050–AD80

3293. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: PETROLEUM REFINING PROCESS WASTES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6921/RCRA 3001; 42 USC 9602/CERCLA 102

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, October 31, 1995. Final, Judicial, October 31, 1996.

Abstract: This action addresses the potential human health and environmental risks posed by 14 waste streams from petroleum refining processes, and determines whether these wastes should be listed as hazardous wastes under RCRA. If listed under RCRA, these wastes would also be added to the CERCLA list of hazardous substances. As part of this action, the Agency is considering opportunities for source reduction, recycling, reclamation or reuse in other manufacturing processes. This action will be implemented by EPA and authorized States under RCRA. Impacts on local and tribal governments are unknown and small business impacts are not expected. The date for final action is the subject of further settlement negotiations with plaintiffs in EDF v. Browner, Civil Action No. 89-0598 (D.D.C.).

Timetable:

Action	Date	FR Cite
NPRM	11/20/95	60 FR 57747
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3064.

Agency Contact: Maximo (Max) Diaz, Jr., Environmental Protection Agency, Solid Waste and Emergency Response, (5304), Washington, DC 20460 Phone: 202 260-4770

RIN: 2050–AD88

3294. REVISED STANDARDS FOR HAZARDOUS WASTE COMBUSTION FACILITIES

Priority: Economically Significant

Legal Authority: 42 USC 6924/RCRA 3004; 42 USC 6925/RCRA 3005; Clean Air Act Amendments section 112

CFR Citation: 40 CFR 60; 40 CFR 61; 40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270

Legal Deadline:
Final, Judicial, December 1996, (Incinerators).
Final, Judicial, December 1999, (Boilers).

Abstract: The Environmental Protection Agency's (EPA's) strategy for hazardous waste minimization and combustion and a judicial settlement agreement commit EPA to upgrade its standards for burning hazardous waste in incinerators, boilers, and industrial furnaces. These standards would be applicable during the construction and operation of these combustion facilities.

Timetable:

Action	Date	FR Cite
NPRM - Industrial Furnaces and Incinerators	04/19/96	61 FR 17358
Final Rule	12/00/96	
NPRM - Boilers	09/00/98	
Final Rule	12/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3333.

Agency Contact: Larry Denyer, Environmental Protection Agency, Solid Waste and Emergency Response, 5302W, Washington, DC 20460 Phone: 703 308-8770

RIN: 2050–AE01

3295. LAND DISPOSAL RESTRICTIONS—PHASE IV: TREATMENT STANDARDS FOR CERTAIN MINERAL PROCESSING WASTES; TC METALS; NEWLY LISTED WASTES FROM WOOD PRESERVING AND DYES AND PIGMENTS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905/RCRA 1006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6921/RCRA 3001; 42 USC 6924/RCRA 3004

CFR Citation: 40 CFR 268

Legal Deadline: Final, Judicial, June 1996.
The Agency will likely seek to extend the deadline.

Abstract: The Hazardous and Solid Waste Amendments of 1984 require the Environmental Protection Agency (EPA) to promulgate regulations establishing treatment standards that must be met before hazardous waste may be disposed of on land. The proposed rulemaking establishes treatment standards for certain characteristic mineral processing wastes, wood preserving wastes, and TC metals. It also addresses issues arising from a September 25, 1992 decision of the U.S. Court of Appeals in Chemical Waste Management v. EPA, 976 F. 2d (D.C. Cir. 1992) on the equivalency of treatment in wastewater treatment systems regulated under the Clean Water Act to treatment of wastes under the Resource Conservation and Recovery Act (RCRA). On March 26, 1996, the President signed into law H.R. 2036, the Land Disposal Program Flexibility Act, which moots the equivalency section of the rule.

Timetable:

Action	Date	FR Cite
ANPRM	10/24/91	56 FR 55160
NPRM	08/22/95	60 FR 43654
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3366.

Reinventing Government: The options that were proposed for addressing cross-media transfers would encourage pollution prevention by allowing facilities to comply by reducing mass loadings of toxics to the environment through source reduction from wastestreams not directly at issue. An exemption from the options was proposed for de minimis levels of waste. Importantly, EPA seeks to preserve its partnership with States and Tribes by embracing their programs that control the cross-media transfer problems at issue. EPA also took the common-sense approach of crafting its options for cross-media transfers to fulfill its obligations and protect environmental resources without undue disruption to waste treatment systems that are already adequately protective of the environment. Additionally, the rule will focus on environmental risk by isolating for regulation those waste management scenarios that pose risks rather than imposing controls across the board. The Agency built in maximum flexibility so that those complying with the requirements can choose the most cost-effective means of limiting toxic releases or for treating wastes to meet LDR treatment standards. Furthermore, the Agency is mindful of the multi-media context of environmental problems and has designed the proposed rule to defer to existing federal programs to avoid duplication of regulation. Furthermore, this rule will reduce the paperwork burden on the regulated community by revising a number of the LDR program's administrative requirements. Other regulatory changes will eliminate outdated regulations and clarify areas of the regulations that are confusing.

Agency Contact: Sue Slotnick, Environmental Protection Agency, Solid Waste and Emergency Response, 5302W, Washington, DC 20460
Phone: 703 308-8462

RIN: 2050–AE05

3296. RCRA SUBTITLE C FINANCIAL TEST CRITERIA (REVISION)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905/RCRA 1006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6924/RCRA 3004; 42 USC 6925/RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 280; 40 CFR 761

Legal Deadline: None

Abstract: The proposed revised financial responsibility test would be better than the current test at predicting which firms will enter bankruptcy and not be able to cover their financial obligations for liability and closure costs of hazardous waste treatment, storage and disposal facilities. A bankrupt firm may be unable to afford the proper closure of a facility which would require the government to incur response costs at the facility. The rule would also qualify more owners and operators of RCRA Treatment, Storage, and Disposal Facilities which must currently use more expensive ways, such as surety bonds or letters of credit, of demonstrating financial assurance, to use the less expensive corporate financial responsibility test. The combined savings from screening out riskier firms and making the test more available to viable firms would be approximately $19 million annually in public and private costs. These regulatory amendments would have no effect on local or tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	07/01/91	56 FR 30201
Final Action (3rd Party Liability; Closure/Post Closures)	09/16/92	57 FR 42832
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2647.

Agency Contact: Dale Ruhter, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460
Phone: 703 308-8192

RIN: 2050–AC71

3297. RULE IDENTIFYING WHEN MILITARY MUNITIONS BECOME HAZARDOUS WASTES AND MANAGEMENT STANDARDS FOR SUCH WASTES; EXPLOSIVES EMERGENCIES; REDEFINITION OF ON-SITE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6924(y)/RCRA 3004(y)

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 270

Legal Deadline: NPRM, Statutory, April 6, 1993. NPRM, Judicial, October 31, 1995. Final, Statutory, October 6, 1994. Final, Judicial, December 2, 1996.

Abstract: EPA will issue a rule clarifying when military munitions (including chemical munitions) become hazardous wastes subject to Federal hazardous waste storage, treatment, and disposal rules. The rule will assure transportation and storage of such wastes are safe and protective of human health and the environment. The rule will address munitions in the military stockpile to be demilitarized, burning of excess propellants, emergency responses involving both military and non-military explosives, and unexploded ordnance on firing ranges. State National Guard units as well as Federal DOD, DOE, and DOT (Coast Guard) units will be subject to these rules. The rule will also revise the definition of "on-site." EPA and EPA-authorized States will implement the standards.

Timetable:

Action	Date	FR Cite
NPRM	11/08/95	60 FR 56468
Final Action	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3235.

Agency Contact: Ken Shuster, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460
Phone: 703 308-8759

RIN: 2050–AD90

3298. FINANCIAL TEST FOR LOCAL GOVERNMENTS THAT OWN/OPERATE MUNICIPAL SOLID WASTE LANDFILLS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6907/RCRA 1008; 42 USC 6944/RCRA 4004; 42 USC 6949(a)/RCRA 4010(a)

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: The criteria for Municipal Solid Waste Landfills require landfill owners/operators to assure that they can cover the costs of closure and post-closure care of their landfills and the costs of cleaning up any known releases from their landfills. This rule would allow local governments to meet all or part of their financial assurance requirements based on their financial strength. EPA estimates that the local government financial test would save local governments $138 million annually. Small local governments and Tribal governments that own or operate landfills would share in this savings.

Timetable:

Action	Date	FR Cite
NPRM	12/27/93	58 FR 68353
Final Action	08/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: SAN No. 2761.

Agency Contact: George Garland, Environmental Protection Agency, Solid Waste and Emergency Response, (5303W), Washington, DC 20460
Phone: 703 308-7272

RIN: 2050–AD04

3299. RCRA SUBTITLE D SOLID WASTE FACILITIES; STATE/TRIBAL PERMIT PROGRAM—DETERMINATION OF ADEQUACY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6945/RCRA 4005; 42 USC 6912/RCRA 2002

CFR Citation: 40 CFR 239

Legal Deadline: None

Abstract: This action known as the "State/Tribal Implementation Rule" or "STIR", will delegate to States and Indian Tribes the authority to control the human health and environmental risks associated with municipal solid waste (MSW) landfill management, particularly groundwater contamination. The STIR will do so by establishing criteria and procedures for EPA to use to determine whether State and tribal MSW landfill permit programs are adequate to ensure compliance with the Solid Waste Disposal Facility Criteria. While the Disposal Facility Criteria automatically apply to all MSW landfills, States and tribes with permit programs deemed adequate under the STIR can provide some flexibility on design standards and other requirements to landfill owners and operators who meet the Criteria's performance standards. In providing this flexibility, the STIR offers an opportunity to reduce the regulatory burden on State, tribal and local governments and on landfill owners and operators.

Timetable:

Action	Date	FR Cite
NPRM	01/26/96	61 FR 2584
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: State, Tribal

Additional Information: SAN No. 2751.

Agency Contact: Mia Zmud, Environmental Protection Agency, Solid Waste and Emergency Response, (5306W), Washington DC 20460
Phone: 703 308-7263

RIN: 2050–AD03

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Long-Term Actions

Resource Conservation and Recovery Act (RCRA)

3300. • PAINT MANUFACTURING WASTES LISTING: HAZARDOUS WASTE MANAGEMENT SYSTEM: IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Priority: Other Significant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6926; 42 USC 6936; 42 USC 9602; 42 USC 9603; 42 USC 9604; 33 USC 1321; 33 USC 1361

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, December 31, 1996. Final, Judicial, December 31, 1997.

Abstract: This action addresses the potential risks posed by wastes from the production of paints, and determines whether these wastes should be listed as hazardous under RCRA to control these risks. Any new wastes listed as hazardous will also be added to the CERCLA list of hazardous substances. This action will be implemented by EPA and States authorized under RCRA. Impacts on local governments are not expected, and small business impacts are undetermined.

Timetable:

Action	Date	FR Cite
NPRM	09/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 3805.

Agency Contact: Dr. Cate Jenkins, Environmental Protection Agency, Solid Waste and Emergency Response, (5304)
Phone: 202 260-4792
Fax: 202 260-0225

RIN: 2050–AE32

3301. FACILITY RESPONSE PLANNING FOR DELEGATED OFFSHORE FACILITIES

Priority: Other Significant

CFR Citation: 40 CFR 112

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Bobbie Lively-Diebold
Phone: 703 356-8774

RIN: 2050–AE18

3302. NEW AND REVISED TESTING METHODS APPROVED FOR RCRA SUBTITLE C, HAZARDOUS WASTE TESTING MANUAL, SW-846, THIRD EDITION, UPDATE IV

Priority: Other

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 270

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Tribal, Federal

Agency Contact: Kim Kirkland
Phone: 202 260-6722

RIN: 2050–AE25

3303. REGULATORY DETERMINATION ON REMAINING WASTES FROM THE COMBUSTION OF FOSSIL FUELS

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
Notice of Data Availability	02/12/93	58 FR 8273
Regulatory Determination (Phase I Four Fossil Fuel Wastes)	08/09/93	58 FR 42466
Regulatory Determination (Phase II Remaining Wastes)	04/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rich Kinch
Phone: 703 308-8424

RIN: 2050–AD91

3304. HAZARDOUS WASTE MANAGEMENT SYSTEM; MODIFICATION OF THE HAZARDOUS WASTE PROGRAM; MERCURY-CONTAINING LAMPS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 261

Timetable:

Action	Date	FR Cite
NPRM	07/27/94	59 FR 38288
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Kristina Meson
Phone: 202 260-5736

RIN: 2050–AD93

3305. HAZARDOUS WASTE MANIFEST REGULATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 271

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Tribal, Federal

Agency Contact: Ann Codrington
Phone: 202 260-4777

RIN: 2050–AE21

3306. UNDERGROUND STORAGE TANKS CONTAINING HAZARDOUS SUBSTANCES - FINANCIAL RESPONSIBILITY REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 280

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: Mark Barolo
Phone: 703 308-8874

RIN: 2050–AC15

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Completed Actions

Resource Conservation and Recovery Act (RCRA)

3307. • HAZARDOUS WASTE MANAGEMENT SYSTEM: IDENTIFICATION AND LISTING OF HAZARDOUS WASTE; AMENDMENT TO DEFINITION OF SOLID WASTE (RECOVERED OIL)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6912; 42 USC 6921

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: EPA is correcting the text of a regulatory exclusion from the definition of solid waste for recovered oil which is inserted into the petroleum refining process (40 CFR 261.4(a)(12)). The direct final rule would reflect the result EPA initially intended, which was to condition the exclusion of recovered oil on that oil being reinserted into the petroleum refining process at a point where that process removes or will remove at least some contaminants. Concurrent with this direct final rule, EPA will propose this correction for public comment. In the event that adverse comments are received, EPA will withdraw the direct final rule and address the comments received in a subsequent final rule based on the related proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	03/26/96	61 FR 13129
Direct Final Rule	03/26/96	61 FR 13103

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3801.

Agency Contact: Steve Silverman, Environmental Protection Agency, Solid Waste and Emergency Response, Office of General Counsel, (2366)
Phone: 202 260-7716

RIN: 2050–AE31

3308. REGULATIONS TO CONTROL IMPORTS AND EXPORTS OF HAZARDOUS AND OTHER WASTES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 266

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency does not plan any further action.	03/14/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Julie Gourley
Phone: 202 260-7944

RIN: 2050–AE13

3309. NO-MIGRATION VARIANCE FOR PROHIBITED HAZARDOUS WASTE LAND DISPOSAL

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 268

Completed:

Reason	Date	FR Cite
Withdrawn - No Rule Planned. Agency Will Issue Guidance.	03/13/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Chris Rhyne
Phone: 703 308-8658

RIN: 2050–AC44

3310. CAUSES FOR PERMIT MODIFICATIONS TO HAZARDOUS WASTE MANAGEMENT FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 270.41

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency Does Not Plan Any Further Action.	03/13/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ken Amaditz
Phone: 703 308-7056

RIN: 2050–AD05

3311. IMPORTS AND EXPORTS OF HAZARDOUS WASTE: IMPLEMENTATION OF THE OECD DECISION FOR RECYCLABLE WASTES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 266

Completed:

Reason	Date	FR Cite
Final Action	04/12/96	61 FR 16290

Small Entities Affected: None

Government Levels Affected: State, Federal

Agency Contact: Julie Gourley
Phone: 202 260-7944

RIN: 2050–AD87

3312. RCRA EXPANDED PUBLIC PARTICIPATION

Priority: Other Significant

CFR Citation: 40 CFR 270.41; 40 CFR 270.42; 40 CFR 270.10

Completed:

Reason	Date	FR Cite
Final Action	12/11/95	60 FR 63417

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Patricia Buzzell
Phone: 703 308-8632

RIN: 2050–AD97

3313. CEMENT KILN DUST

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Final Determination	02/07/95	60 FR 7366

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bill Schoenborn
Phone: 703 308-8483

RIN: 2050–AE02

3314. LAND DISPOSAL RESTRICTIONS—PHASE III: DECHARACTERIZED WASTEWATERS, CARBAMATE WASTES, AND SPENT ALUMINUM POTLINERS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 268

Completed:

Reason	Date	FR Cite
Partial Withdrawal and Amendment of Final Rule	04/08/96	61 FR 15566

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peggy Vyas
Phone: 703 308-8594

RIN: 2050–AD38

3315. EXTENSION OF STATES' INTERIM AUTHORIZATION OPTION TO CARRY OUT POST-HSWA REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 271.24

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency does not plan any further action.	03/13/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrew Teplitzky
Phone: 703 308-8300

RIN: 2050–AD86

3316. FIELD FILTERING OF GROUNDWATER SAMPLES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 258.51(b)

Completed:

Reason	Date	FR Cite
Withdrawn - No further regulatory action. Guidance being prepared.	03/14/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Andrew Teplitzky
Phone: 703 308-8300

RIN: 2050–AD57

3317. GUIDELINE FOR FEDERAL PROCUREMENT OF PAPER AND PAPER PRODUCTS CONTAINING RECOVERED MATERIALS

Priority: Other

CFR Citation: 40 CFR 247

Completed:

Reason	Date	FR Cite
Withdrawn - No rule planned. Guidelines being prepared.	03/14/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Dana Arnold
Phone: 703 308-7279

RIN: 2050–AD41

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Air Act (CAA)

3318. DEVELOPMENT OF OZONE, PARTICULATE MATTER AND REGIONAL HAZE IMPLEMENTATION PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: PL 95-95; PL 101-549

CFR Citation: 40 CFR 51; 40 CFR 81

Legal Deadline: None

Abstract: The action identifies the requirements for preparation, adoption and submittal of ozone and particulate matter State implementation plans under potentially new ozone and particulate matter national ambient air quality standards and a regional haze program.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/96	
- Phase I		
NPRM	06/00/97	
Final Action	06/00/98	
- Phase II		
NPRM	06/00/98	
Final Action	06/00/99	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3553.

Agency Contact: Denise Gerth, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning & Standards, MD-15, Research Triangle Park, NC 27711
Phone: 919 541-5550

RIN: 2060–AF34

3319. • ACID RAIN PROGRAM: ELIMINATION OF DIRECT SALE PROGRAM AND IPP WRITTEN GUARANTEE; AND ANPRM TO MODIFY ALLOWANCE AUCTION

Priority: Other Significant

Legal Authority: 42 USC 76510

CFR Citation: 40 CFR 73

Legal Deadline: None

Abstract: This rule and ANPRM would make technical modifications to minor features of the Acid Rain Allowance Trading Program. The rule would eliminate a small "direct sale" program for acid rain allowances; this program has never been used and is not needed. The ANPRM would make technical changes in the related auction program.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/96	
Direct Final and Proposal	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3795.

Agency Contact: Eugene Casey, Environmental Protection Agency, Air and Radiation, 6204J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9194

RIN: 2060–AG41

3320. • ACID RAIN PROGRAM: SO2 ALLOWANCE AUCTION AND ELECTRONIC ALLOWANCE TRANSFER

Priority: Other Significant

Legal Authority: 42 USC 7651 et seq

CFR Citation: 40 CFR 73

Legal Deadline: None

Abstract: Title IV of the Clean Air Act, as amended (the Act), authorized the EPA to establish the Acid Rain Program to reduce the adverse health and ecological effects of acidic deposition. Under the Acid Rain Program, electric utilities must have an allowance for each ton of sulfur dioxide (SO2) that their generating facilities emit.

Title IV mandates that EPA hold or sponsor yearly auctions and direct sales of allowances for a small portion of the total allowances allocated each year. The United States General Accounting Office has recommended that EPA change the design of the auction so that it is a single-price auction, in which each bidder would pay the market-clearing price. Currently the auction is a "price-discriminating" action, meaning that all bids are ranked beginning with the highest dollar amount and that each winning bidder pays what he or she bids until all allowances are sold. EPA is proposing to change the current design and timing of the acid rain allowance auctions. EPA is also proposing to change the requirement that additional allowances offered in EPA auctions have a set minimum price in whole dollars.

Title IV also provides for the transfer of allowances and states that a transfer will not be effective until EPA receives and records a written certification of the transfer signed by a responsible official of each party. EPA is considering development of a system to allow electronic submittal of allowance transfers. Under one option, the seller alone would submit the transfer without involving the buyer. EPA is proposing to allow such electronic transfers.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/96	
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3795.

This action resulted from RIN 2060-AG41.

Agency Contact: Linda Critchfield, Environmental Protection Agency, Air and Radiation, 401 M Street SW., 6204J, Washington, DC 20460
Phone: 202 233-9087
Fax: 202 233-9585

RIN: 2060–AG75

3321. REGIONAL HAZE PROTECTION RULE

Priority: Other Significant

Legal Authority: Clean Air Act section 169A and 169B

CFR Citation: 40 CFR 51.300 to 51.306

Legal Deadline: NPRM, Statutory, January 1998.

Abstract: Mandatory Federal Class I areas throughout the United States are being impaired by regional haze. Section 169A of the Clean Air Act requires the Environmental Protection Agency to issue regulations to protect these Class I areas from man-made visibility impairment. These regulations would require States to show reasonable progress toward reducing the effects of regional haze on these sensitive areas. Since 1980, technical knowledge of the causes of visibility impairment (i.e., emissions of sulfur dioxide, nitrogen oxides, certain organic compounds, and particulate matter) has progressed so that innovative programs can be developed to address regional pollution. This rulemaking will require regional (multi-state) planning to address regional visibility in groupings of Class I areas. Control activities will be balanced with review of cost and visibility/environmental benefits analysis.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/96	
NPRM	06/00/97	
Final Action	06/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 491 Electric Services

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3552.

Agency Contact: Bruce Polkowsky, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711
Phone: 919 541-5532

RIN: 2060–AF32

3322. FUELS AND FUEL ADDITIVES WAIVER APPLICATION CRITERIA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7545/CAA 211

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This rulemaking will establish regulatory criteria and procedures for making determinations on fuel and fuel additive waiver applications under section 211(f)(4) of the Clean Air Act.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/96	
NPRM	06/00/97	
Final Action	06/00/98	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 291 Petroleum Refining; 371 Motor Vehicles and Motor Vehicle Equipment

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3389.

Agency Contact: Joseph Sopata, Environmental Protection Agency, Air and Radiation, 6406J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9034

RIN: 2060–AE68

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Proposed Rule Stage

Clean Air Act (CAA)

3323. REVISIONS TO THE NEW SOURCE REVIEW REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4111/Clean Air Act Amendments of 1990, section 110(n)(3)

CFR Citation: 40 CFR 51.160 to 51.166; 40 CFR 52.24; 40 CFR 52.10

Legal Deadline: None

Abstract: EPA plans to amend its new source review rules to comply with the more stringent requirements in the Clean Air Act as amended in 1990 for preconstruction review of new and modified major sources in areas that have been designated by EPA as failing to attain one or more of the national ambient air quality standards.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	06/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2909.

In order to expedite the completion of the nonattainment new source review (NSR) rulemaking, this action has been split from the broader NSR rulemaking (RIN 2060-AE11).

Agency Contact: Mike Sewell, New Source Review Section, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711
Phone: 919 541-0873

RIN: 2060–AD13

3324. LOCOMOTIVE EMISSION STANDARDS

Priority: Economically Significant

Legal Authority: 42 USC 7547

CFR Citation: 40 CFR 92

Legal Deadline: Final, Statutory, November 15, 1995.

Abstract: The Clean Air Act Amendments of 1990 require EPA to promulgate emission standards for railroad locomotives. It is likely that railroad locomotives are significant contributors of pollution in some areas of the country for some pollutants. This rulemaking may allow for uniform control of locomotive emissions on the national level.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	10/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2961.

Agency Contact: Charles Maulis, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 741-7826

RIN: 2060–AD33

3325. NEW SOURCE REVIEW (NSR) REFORM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Clean Air Act as amended in 1990, title I

CFR Citation: 40 CFR 51.160 to 51.166; 40 CFR 52.21; 40 CFR 52.24

Legal Deadline: None

Abstract: The purpose of this action is to revise the Clean Air Act new source review (NSR) regulations, which govern the preconstruction air quality review and permitting programs that are implemented by States and the Federal Government for new and modified major stationary sources of air pollution. This rulemaking seeks to deregulate, that is, exclude from major NSR program requirements those activities of sources that, with respect to air pollution, have little environmental impact. The rulemaking will encourage pollution control and pollution prevention projects at existing sources. Control technology requirements will be clarified with respect to when and how they apply to sources that are covered. The action will more clearly define the roles and requirements of sources, permitting authorities and Federal land managers in the protection of air-quality-related values in Federal Class I areas (i.e., certain national parks and wilderness areas) under the new source review regulations. State, local, and tribal permitting agencies will be given more flexibility to implement program requirements in a manner that meet their specific air quality management needs. Consequently, the rulemaking decreases the number of activities that are subject to NSR requirements and also expedites the permitting process for those sources that are subject to NSR. This action is designed to reduce the regulatory burden over all industries without respect to commercial size or capacity; therefore, it should have no detrimental impact on small businesses. Finally, this action also addresses several pending petitions for judicial review and administrative action pertaining to new source review applicability requirements and control technology review requirements. Regulations that will be affected are State implementation plan requirements for review of new sources and modifications to existing sources (40 CFR 51.160-166), the Federal prevention of significant deterioration program (40 CFR 52.21), and Federal restriction on new source construction (40 CFR 52.24) to be proposed in another rulemaking action.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	04/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3259.

Agency Contact: Dennis Crumpler, New Source Review Section, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711
Phone: 919 541-5433

RIN: 2060–AE11

3326. PERFORMANCE WARRANTY AND INSPECTION/MAINTENANCE TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7541; 42 USC 7601

CFR Citation: 40 CFR 51; 40 CFR 85

Legal Deadline: None

EPA—CAA

Proposed Rule Stage

Abstract: This action establishes a new short test procedure for use in I/M programs required by the Clean Air Act Amendments of 1990. Vehicles that are tested and failed using this procedure and that meet eligibility requirements established by the act would be eligible for free warranty repair from the manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3263.

Agency Contact: Eugene J. Tierney, Chief, Inspection/Maintenance Section, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4456

RIN: 2060–AE20

3327. INSPECTION/MAINTENANCE RECALL REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7511 (A)(2)(b) and (A)(2)(b)(2)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This action specifies requirements for enhanced I/M programs to establish a program to ensure compliance with recall notices. This is pursuant to the Clean Air Act Amendments of 1990.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAN No. 3262.

Agency Contact: Eugene J. Tierney, Chief, Inspecion/Maintenance Section, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4456

RIN: 2060–AE22

3328. CONSOLIDATED EMISSION REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7511; 42 USC 7410

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: Emission statements and periodic inventories are new programs addressed in the 1990 Amendments to the Clean Air Act that call for emissions reporting. In addition, requirements for the annual reporting of emissions from stationary sources are contained in 40 CFR 51.321 - 51.323. Each of these programs requires either sources or states to report emissions and other supporting data. The data reporting intervals, type of pollutant source, pollutant type, and geographic coverage varies for the three programs. This rule will address the streamlining and consolidation of reporting requirements of each of these programs. The emissions data made available by these programs will also provide a mechanism for tracking emissions.

Rule is on hold pending action on the "One-Stop" Data Reporting Rule.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Public Compliance Cost: Initial Cost: $2,000,000; Yearly Recurring Cost: $12,000,000; Base Year for Dollar Estimates: 1993

Sectors Affected: Multiple

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3302.

Agency Contact: David Misenheimer, Environmental Protection Agency, Air and Radiation, Emission, Modeling and Analysis, MD-14, Research Triangle Park, NC 27711
Phone: 919 541-5473

RIN: 2060–AE32

3329. NAAQS: OZONE (REVIEW)

Priority: Economically Significant

Legal Authority: 42 USC 7408 section 108 Clean Air Act; 42 USC 7409 Section 109 Clean Air Act

CFR Citation: 40 CFR 50.9

Legal Deadline: Final, Statutory, December 31, 1980.
Review at 5-year intervals thereafter.

Abstract: The Environmental Protection Agency (EPA) is reviewing and updating the air quality criteria for ozone to incorporate new scientific and technical information. Based on the revised criteria, the EPA will determine whether revisions to the standards are appropriate.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	07/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3353.

Agency Contact: John Haines, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711
Phone: 919 541-5533

RIN: 2060–AE57

3330. NAAQS: PARTICULATE MATTER (REVIEW)

Priority: Economically Significant

Legal Authority: 42 USC 7408 to 7409

CFR Citation: 40 CFR 50.6

Legal Deadline: NPRM, Judicial, November 29, 1996. Final, Judicial, June 28, 1997.

Abstract: The Environmental Protection Agency (EPA) is reviewing and updating the air quality criteria for particulate matter to incorporate new scientific and technical information that has become available since the last review. Based on the revised criteria, EPA will determine whether revisions to the standards are appropriate.

Timetable:

Action	Date	FR Cite
NPRM	11/29/96	
Final Action	06/28/97	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 10 Metal Mining; 12 Coal Mining; 14 Mining and Quarrying

of Nonmetallic Minerals, Except Fuels; 33 Primary Metal Industries; 491 Electric Services

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3448.

Agency Contact: John Haines, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711
Phone: 919 541-5533

RIN: 2060–AE66

3331. METHOD 301: FIELD VALIDATION OF POLLUTION MEASUREMENT METHODS FOR VARIOUS MEDIAS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq, as amended PL 101-549; 42 USC 7410 et seq, as amended by PL 101-549

CFR Citation: 40 CFR 60; 40 CFR 63

Legal Deadline: None

Abstract: After promulgation of Method 301, questions were raised about the statistical calculations and clarifying the procedure for determining the quality of the data.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	09/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3407.

Agency Contact: Gary McAlister, Environmental Protection Agency, Air and Radiation, Emission Measurement Branch (MD-19), Research Triangle Park, NC 27302
Phone: 919 541-1062

RIN: 2060–AF00

3332. NESHAP: PETROLEUM REFINERIES - FCC UNITS, REFORMERS AND SULFUR PLANTS

Priority: Other Significant

Legal Authority: 42 USC 7401, et seq, as amended by PL 101-549, 104 Stat. 2399

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Title III of the Clean Air Act amendments of 1990 requires EPA to develop emission standards for hazardous air pollutants (HAPS). EPA proposed NESHAP rules for petroleum refineries on June 30, 1994 (RIN 2060-AD94) and is under court order to promulgate final rules by June 30, 1995. This action covers three process vents not covered under RIN 2060-AD94. These are the catalyst regeneration vents from fluid catalytic cracking units (FCCU) and catalytic reformers and the tail gas vents from sulfur recovery plants.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 291 Petroleum Refining

Additional Information: SAN No. 3549.

Agency Contact: Bob Lucas, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-0884

RIN: 2060–AF28

3333. NESHAP: FERROALLOY INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857, et seq; 44 USC 350 et seq; 5 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 1997.

Abstract: The Clean Air Act, as amended November 1990, requires the EPA to develop emission standards for each major source category of hazardous air pollutants. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of EPA. The EPA has determined that some plants in the ferroalloy production industry may be major sources for one or more hazardous air pollutants. As a consequence, production facilities are among the HAP-emitting source categories selected for regulation.

Timetable:

Action	Date	FR Cite
NPRM	05/31/96	
Final Action	05/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3082.

Agency Contact: Conrad Chin, Environmental Protection Agency, Air and Radiation, Industrial Studies Branch (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-1512

RIN: 2060–AF29

3334. FEDERAL IMPLEMENTATION PLAN TO CONTROL EMISSIONS FROM TWO POWER STATIONS LOCATED ON NAVAJO NATION LANDS

Priority: Other Significant

Legal Authority: 42 USC 1740

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA proposes to federalize standards from the Arizona and New Mexico State Implementation Plans (SIPS) applicable to the Navajo generating station and the Four Corners Plant, respectively. Where necessary, EPA's proposed emission standards modify the standards extracted from the States' regulatory programs to ensure comprehensive emission control and Federal consistency.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3569.

Agency Contact: Kenneth Bigos (A-5), Environmental Protection Agency, Air and Radiation, Region 9, 75 Hawthorne Street, San Francisco, CA 94105
Phone: 415 744-1240

RIN: 2060–AF42

3335. ACID RAIN PROGRAM: REVISIONS TO APPLICABILITY, EXEMPTIONS, ALLOCATIONS, AND SMALL DIESEL REFINERIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7651 et seq

CFR Citation: 40 CFR 72; 40 CFR 73

Legal Deadline: None

Abstract: This regulatory revision would streamline several portions of the Acid Rain Program rules and make minor revisions to the small diesel allowance program. Based on experience implementing the Acid Rain Program, EPA would make the process for exempting new units and retired units easier. EPA would also allow units to be deleted from the tables of affected units if those units could be demonstrated to be unaffected or if the units will not be constructed. The eligibility provision and allowance calculation equation for small diesel refineries will be corrected.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 491 Electric Services; 29 Petroleum Refining and Related Industries

Additional Information: SAN No. 3572.

Agency Contact: Kathy Barylski, Environmental Protection Agency, Air and Radiation, 6204J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9074

RIN: 2060–AF45

3336. ACID RAIN PROGRAM: DELETION OF CERTAIN UNITS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7651, et seq

CFR Citation: 40 CFR 73.10

Legal Deadline: None

Abstract: The Acid Rain Program requires affected utility units to hold allowances sufficient to cover emissions of SO2, have an Acid Rain Permit under part 72, and meet appropriate monitoring requirements under part 75. Many affected units are listed in 40 CFR 73.10 tables 2 and 3. In the process of implementing the Acid Rain Program, EPA has learned that several units listed in the tables should not be affected by the Acid Rain Program requirements. This action would delete specific named units from the tables.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Interim Final Rule	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3573.

Agency Contact: Kathy Barylski, Environmental Protection Agency, Air and Radiation, 6204J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9074

RIN: 2060–AF46

3337. ACID RAIN PROGRAM: REVISIONS TO THE PERMITS REGULATIONS UNDER TITLE IV OF THE CLEAN AIR ACT TO MAKE TECHNICAL CORRECTIONS

Priority: Other Significant

Legal Authority: 42 USC 7601, 7651g

CFR Citation: 40 CFR 72

Legal Deadline: None

Abstract: This action would make technical corrections in order to improve issuance of Phase I acid rain permits and facilitate approval of State or local permitting authorities' Phase II acid rain permitting programs.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	12/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3574.

Agency Contact: Dwight C. Alpern, Environmental Protection Agency, Air and Radiation, 6204J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9151

RIN: 2060–AF47

3338. CONTROL OF AIR POLLUTION FROM AIRCRAFT AND AIRCRAFT ENGINES; EMISSION STANDARDS AND TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: CAA 231

CFR Citation: 40 CFR 87

Legal Deadline: None

Abstract: This action proposes to establish CO and NOx standards for aircraft gas turbine engines with equal to or greater than 26.7 kilonewtons rated thrust. These standards, which most of the affected engines are already achieving, will be added to current federal aircraft engine standards for HC emission so as to align federal standards with the standards established by the international community.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3576.

Agency Contact: Bryan Manning, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Rd., Ann Arbor, MI 48105
Phone: 313 741-7832

RIN: 2060–AF50

3339. AMENDMENTS TO METHOD 24 (WATER-BASED COATINGS)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The determination of volatile organic compounds (VOCs) content ofa surface coating by reference method 24 involves determination of its water content, and calculation of its VOC content as the difference of the two measurements (volatile content minus water content). Method 24 is inherently less precise for water-based coatings than it is for solvent-based coatings and the imprecision increases as water content increases. This action will amend Method 24 by adding a direct measurement procedure for measuring VOC content of water-based coatings. This amendment will improve the precision of method 24 for water-based coatings.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
Final Action	10/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3649.

Agency Contact: Candace Sorrell, Environmental Protection Agency, Air and Radiation, (MD-19), Research Triangle Park, NC 27711
Phone: 919 541-1064

RIN: 2060–AF72

3340. FEDERAL IMPLEMENTATION PLAN (FIP) TO CONTROL EMISSIONS FROM SOURCES LOCATED ON THE FORT HALL INDIAN RESERVATION

Priority: Other Significant

Legal Authority: Clean Air Act title I

CFR Citation: None

Legal Deadline: None

Abstract: EPA will propose federal rulemaking for sources located on fee lands to implement the intent of the Clean Air Act (CAA) Title I program to bring about attainment of the PM-10 NAAQS both on and off the Fort Hall Indian Reservation.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3637.

Agency Contact: Steve Body (AT-082), Environmental Protection Agency, Air and Radiation, Region 10, 1200 Sixth Avenue, Seattle, WA 98101
Phone: 206 553-0782

RIN: 2060–AF84

3341. NESHAP FOR PERCHLOROETHYLENE DRY CLEANING FACILITIES: AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401, 7412, 7414, 7416, 7601

CFR Citation: 40 CFR 63 subpart M

Legal Deadline: Other, Judicial, October 1995.
It is anticipated that a consent decree will be issued by 10/95, requiring proposal by April 1996 and promulgation by 11/96.

Abstract: The International Fabricare Institute (IFI) litigated on several issues that involved the NESHAP. A settlement agreement was reached and the Agency has agreed to amend the standard. As part of the settlement, the Agency will be "grandfathering" transfer machines installed between proposal and promulgation, as existing sources. The Agency has lodged the settlement agreement with the court.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3642.

Agency Contact: George Smith, Environmental Protection Agency, Air and Radiation, ESD, Combustion Group, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-1549

RIN: 2060–AF90

3342. AMENDMENT OF ENHANCED INSPECTION/MAINTENANCE PERFORMANCE STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act

CFR Citation: 40 CFR 51, subpart S

Legal Deadline: None

Abstract: This action is a technical amendment to the enhanced inspection/ maintenance (I/M) performance standard included in the November 5, 1992 I/M rule (40 CFR part 51, subpart S). The amendment is in response to a court ruling and will have no net effect on existing requirements for state and local I/M programs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3598.

Agency Contact: Eugene J. Tierney, Chief, I/M Section, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4456

RIN: 2060–AG07

3343. FOURIER TRANSFORM INFRARED SPECTROSCOPY (FTIR) EXTRACTIVE TEST METHOD - SELF-VALIDATING PROCEDURE AND CEM PERFORMANCE SPECIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 63 app A; 40 CFR 60 app F

Legal Deadline: None

Abstract: A generic test procedure that any industry can follow using FTIR analysis will be developed. This procedure would be self-validating. Generic procedures for using an FTIR as a continuous emission monitor would include several alternatives for sampling which would differ depending on the source.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
Final Action	03/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3599.

Agency Contact: Rima Dishakjian, Environmental Protection Agency, Air and Radiation, Source Characterization Group A (MD-19), Research Triange Park, NC 27711
Phone: 919 541-0443

RIN: 2060–AG08

3344. TRANSPORTATION CONFORMITY RULE AMENDMENTS: FLEXIBILITY AND STREAMLINING

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7521(a)/CAA 176(c)

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: None

Abstract: The Clean Air Act Amendments (CAAA) of 1990 recognized that transportation planning and air quality planning must be coordinated towards achieving the National Ambient Air Quality Standards (NAAQS). The transportation conformity rule was promulgated in November of 1993, in response to CAAA concerns. Conformity ensures that transportation planning does not (a) produce new air quality violations, (b) worsen existing violations, and (c) delay timely attainment of the NAAQS. This rulemaking is the third in a series of amendments to the original transportation conformity rule. This rulemaking will streamline the original rule to simplify the conformity process in response to conformity stakeholder concerns. Flexibility will be added for rural nonattainment areas. Difficulties associated with the build/no-build test and adding transportation projects to plans will be resolved, and non-Federal projects will have additional flexibility through these amendments.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3740.

Agency Contact: Kathryn Sargeant, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48104
Phone: 313 668-4441

RIN: 2060–AG16

3345. REVISION TO THE MAXIMUM OXYGEN STANDARD FOR REFORMULATED GASOLINE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7545; 42 USC 7601(a)

CFR Citation: 40 CFR 80.41(g)

Legal Deadline: None

Abstract: The final rule for reformulated gasoline limits the amount of oxygen allowed under VOC controlled gasoline subject to the simple model to 2.7 percent by weight. States may petition to the Administrator to increase the maximum allowable oxygen content to 3.5 provided that there have been no ozone exceedances during the prior three years within covered areas in that State. Since the complex model for reformulated gasoline does not show a negative impact on NOx of increased oxygen content (the primary argument for restricting oxygen content), it is reasonable to change this simple model requirement. The EPA is proposed and received comments on several alternatives which would increase the maximum oxygen content of summertime REG.

Timetable:

Action	Date	FR Cite
NPRM	10/05/95	60 FR 52135
NPRM Comment Period End	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3725.

Agency Contact: Christine Brunner, Environmental Protection Agency, Air and Radiation, NVFEL, 2565 Plymouth Rd., Ann Arbor, MI 48105
Phone: 313 668-4287

RIN: 2060–AG17

3346. PROTECTION OF STRATOSPHERIC OZONE: RECONSIDERATION OF BAN ON FIRE EXTINGUISHERS CONTAINING HCFCS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq sec 610(d)

CFR Citation: 40 CFR 82 subpart C

Legal Deadline: None

Abstract: EPA will reconsider the exception for the use of class II substances in portable fire extinguishers under the Nonessential Products Ban. The current regulations provide an exemption until an alternative substance is "commercially available." At the time the regulations were promulgated (December 30, 1993), EPA was aware of several potential substances under development and testing. These substances are continuing to be tested tested and developed. EPA believes that once these substances are available, they will be able to replace the use of both halon and HCFCs in portable fire extinguishers.

EPA intends to reconsider the expiration of the exemption to provide better guidance to the regulated community. The regulated community is concerned with the use of the term "commercially available" in the regulatory text. Therefore, EPA will propose revising the language by providing a date-certain exemption. EPA believes it can provide this type of certainty to the regulated community without compromising the goals of protecting public health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3756.

Agency Contact: Cindy Newberg, Environmental Protection Agency, Air and Radiation, Mailcode 6205J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9729
TDD: 202 233-9577

RIN: 2060–AG19

3347. AMENDMENTS TO APPENDIX A OF PART 60, APPENDIX B OF PART 61, AND APPENDIX A OF PART 63

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7410-12; 42 USC 7414; 42 USC 7416

CFR Citation: 40 CFR 60; 40 CFR 61; 40 CFR 63

Legal Deadline: None

Abstract: This action will revise the format of emission test methods in Parts 60, 61, and 63 of Title 40 to follow the outline established by the Emission Monitoring Management Council to create uniformity among program test methods. This action also corrects errors and updates procedures in the noted parts.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3743.

Agency Contact: Foston Curtis, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-19, Research Triangle Park, NC 27711
Phone: 919 541-1063
Fax: 919 541-1039

RIN: 2060–AG21

3348. REVISION TO DEFINITION OF VOLATILE ORGANIC COMPOUNDS - EXCLUSION OF HFC 4310ME AND HCFC 225CA AND CB

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 to 7671q

CFR Citation: 49 CFR 51.100(s)

Legal Deadline: None

Abstract: The definition of volatile organic compound (VOC) at 40 CFR 51.100(s) is being revised to add HFC 43-10me and HCFC 225ca and cb to the list of compounds having negligible photochemical reactivity. This will have the effect of removing these compounds from regulation as VOC.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3745.

Agency Contact: William Johnson, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-15, Research Triangle Park, NC 27711
Phone: 919 541-5245
Fax: 919 541-0824

RIN: 2060–AG24

3349. CONSOLIDATED FEDERAL AIR RULE FOR THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURING INDUSTRY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 60; 40 CFR 61; 40 CFR 63

Legal Deadline: None

Abstract: On March 16, 1995, President Clinton and Vice President Gore issued a report entitled, "Reinventing Environmental Regulation," that identified 25 initiatives to improve the current regulatory system and to initiate innovative pilot programs designed to move toward a new system of environmental management. One of these initiatives, consolidated federal air rules, is intended to eliminate duplicative, near duplicative, and overlapping federal air pollution requirements that apply to a source, resulting in a regulation that will be simpler to implement and comply with than the underlying individual rules.

The Chemical Manufacturer's Association, representing the Synthetic Organic Chemical Manufacturing Industry (SOCMI) and the Air Pollution Regulatory Authorities of Louisiana and Texas (where many chemical plants are located) have agreed to work with the Environmental Protection Agency (EPA) on a pilot project to explore solutions to crafting a consolidated rule that would combine and simplify various aspects of existing federal air rules that apply to the chemical industry.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Federal

Sectors Affected: 286 Industrial Organic Chemicals

Additional Information: SAN No. 3748.

Agency Contact: Rick Colyer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5262
Fax: 919 541-3470

RIN: 2060–AG28

3350. REGULATION REVIEW/BURDEN REDUCTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Clean Air Act, section 407

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On March 16, 1995, President Clinton issued a report entitled, "Reinventing Environmental Regulation," that identified 25 initiatives to improve the current regulatory system. This action is part of the regulatory review process to reduce unnecessary recordkeeping and reporting requirements. Existing rules are being reviewed for excess and/or duplicative requirements. The Agency will publish a list of those regulations that will be revised or amended to reduce unnecessary recordkeeping and reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3750.

Agency Contact: Dave Markwordt, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-0837
Fax: 919 541-0942

RIN: 2060–AG30

3351. • TRANSITIONAL LOCK-IN PROCEDURES FOR PHASE II REFORMULATED GASOLINE (RFG) PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7545

CFR Citation: 40 CFR 80.2; 40 CFR 80.70; 40 CFR 80.72

Legal Deadline: None

Abstract: This action will provide proposed procedures for states to opt-out of the Reformulated Gasoline (RFG) Program before implementation of Phase II RFG. States will be required to announce by July 1997 whether their voluntary opt-in area(s) will remain in the RFG program. If a state decides to keep an opt-in area in the program, the area will be required to remain in the program for a specified period of time (i.e., lock-in to the program) to enable refiners to recover a portion of the capital investments associated with complying with Phase II gasoline requirements. This action provides the states the flexibility to opt-out of the program before implementation of Phase II while providing incentives to industry to supply Phase II RFG which provides environmental and health benefits (e.g., Phase II RFG reduces NOx, a precursor to ozone).

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	03/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3845.

Agency Contact: Mark Coryell, Environmental Protection Agency, Air and Radiation, (6406J), Washington, DC 20460
Phone: 202 233-9014
Fax: 202 233-9557

RIN: 2060–AG43

3352. • REGULATION OF FUEL AND FUEL ADDITIVES: CONTROLS APPLICABLE TO GASOLINE RETAILERS AND WHOLESALE PURCHASER-CONSUMERS; 10 GALLON PER MINUTE FUEL DISPENSING LIMIT REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7545; 42 USC 7601

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: On January 20, 1993, EPA finalized a requirement limiting vehicle service station fuel dispensing rates to 10 gallons per minute maximum, beginning January 1, 1996 for retailers and wholesalers handling over 10,000 gallons per month. The proposal/direct final package described in this notice would amend the January 20 rule by extending the implementation date of the 10-gallon requirement from January 1, 1996, until July 1, 1996. In addition, the package contains clarifications regarding hardware/software for controlling the fuel dispensing rate, and it clarifies that refueling facilities are exempt from the 10-gallon requirement if used exclusively to refuel heavy-duty vehicles, boats or airplanes. If, as expected, there are not comments on the package, no further action will be required. If there are comments on the Direct Final, it will be withdrawn and a final rule wil be issued after any comments are considered.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3793.

Agency Contact: Karl J. Simon, Environmental Protection Agency, Air and Radiation, (6405J), Washington, DC 20460
Phone: 202 233-9299
Fax: 202 233-9596

RIN: 2060–AG45

3353. • ACID RAIN PROGRAM: CONTINUOUS EMISSION MONITORING RULE REVISIONS FOR TECHNICAL ISSUES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7651 et seq

CFR Citation: 40 CFR 75 (Revision)

Legal Deadline: None

Abstract: On January 11, 1993, EPA promulgated the final "core" acid rain rules, including the CEM regulation at 40 CFR Part 75. Since the rule was promulgated, the 263 Phase I and 783 Phase II utility units have already complied with this regulation by installing and completing certification testing by the January 1, 1995 statutory deadline. During implementation of the January 11, 1993 rule and of the technical revisions published May 17, 1995, EPA and industry found a small number of additional issues requiring policy guidance and rule changes. These issues include: using monitoring equipment capable of reading both controlled and uncontrolled emissions (dual range monitors); clarification of span language; a variation of the existing Appendix D method for determining SO2 emissions; an alternative method of determining flow (Appendix I); and greater flexibility in scheduling quality assurance testing.

These technical revisions will provide greater flexibility to the regulated community and will clarify parts of the rule. This action raises no major issues, but rather simplifies implementation by providing industry with more options and flexibility. This action is necessary because of the experience and additional information both EPA and industry has gained from 1993 to the present. Industry views this action as positive because it provides industry with more implementation flexibility.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3808.

Agency Contact: Monika Chandra, Environmental Protection Agency, Air and Radiation, 401 M Street SW., 6204J, Washington, DC 20460
Phone: 202 233-9781
Fax: 202 233-9595
Email: chandra.monika@epamail.epa.gov

RIN: 2060–AG46

3354. • PROTECTION OF STRAT. OZONE: RECONSIDERATION OF PETITION CRITERIA/INCORPORATION OF 1995 PROTOCOL DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401

CFR Citation: 40 CFR 82

Legal Deadline: None

Abstract: This action would reconsider a certain reporting requirement in the petition process to import previously used ozone-depleting substances in response to a legal stay. In addition, technical changes that reflect international decisions made in Vienna, Austria in 1995 by countries that are signatories of the Montreal Protocol.

Timetable:

Action	Date	FR Cite
Notice of Stay	01/31/96	61 FR 3316
Proposed Extension	01/31/96	61 FR 3361
NPRM	04/00/96	
Direct Final	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3810.

Agency Contact: Tom Land, Environmental Protection Agency, Air and Radiation, Stratospheric Protection Division, 401 M Street SW., 6205J, Washington, DC 20460
Phone: 202 233-9185
Fax: 202 233-9577
Email: land.tom@epamail.epa.gov

RIN: 2060–AG48

3355. • RADIONUCLIDE DOSE METHODOLOGY UPDATE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2001 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The primary purpose of this rule is to propose more accurate controls of radioactivity in drinking water through a technical correction in does methodology for beta and photon emitters only.

EPA has decided to use the Federal Guidance Report (FGR)-11 (1988) as the method for dose conversion for beta and photon emitters. Use of this method will provide consistency with other federal agencies. The newly revised concentrations in water using the FGR-11 method will replace the values published earlier in the National Bureau of Standards (NBS) Handbook 69, as amended in August 1963. The current beta and photon emitters MCL, as calculated in NBS 69 (1963), is 4 millirem/year total body or organ dose equivalent dose methodology. EPA is proposing a 4 mrem/year effective dose equivalent (EDE) dose methodology.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
Final Action	09/00/97	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Federal

Sectors Affected: 494 Water Supply

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3811.

Agency Contact: John Karhnak, Environmental Protection Agency, Air and Radiation, 401 M Street SW., 6603J, Washington, DC 20460
Phone: 202 233-9761
Fax: 202 233-9650
Email: karhnak.jogn@epamail.epa.gov

RIN: 2060–AG49

3356. • REVISION OF PSI (PART 58 APPENDIX G)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7403, 7410, 7511a

CFR Citation: 40 CFR 58

Legal Deadline: None

Abstract: Revision of appendix G to part 58 (Pollutant Standards Index or PSI) is needed to reflect changes in the PM and Ozone standards set by the standards review process. The main focus is the revision of the PSI function for both PM and Ozone. The changes are considered because the reviews for both pollutants have revealed that there is no real threshold for the onset of health effects for these pollutants. This will be reflected in the new PSI function by adding points just above and below the standards with appropriate language classifying the new intervals.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3832.

Agency Contact: Terence Fitz-Simons, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-14, Research Triangle Park, NC 27711
Phone: 919 541-0889
Fax: 919 541-1903
Email: ftz@tethys.rtpnc.epa.gov

RIN: 2060–AG62

3357. • REVISION TO DEFINITION OF VOLATILE ORGANIC COMPOUNDS (VOC) - EXCLUSION OF COMPOUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 to 7671 q

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This action is deregulatory in nature as it removes compounds from control as volatile organic compounds for purposes of preparing State Implementation Plans (SIPs) to attain the national ambient air quality standards for ozone under Title 1 of the Clean Air Act. These compounds are being deregulated because of scientific evidence of their low photochemical reactivity. States will no longer include control provisions for these compounds in their SIPs. Small businesses will not be affected, except that they may more freely use these compounds.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 367 Electronic Components and Accessories; 372 Aircraft and Parts

Additional Information: SAN No. 3838.

Agency Contact: William L. Johnson, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-15, Research Triangle Park, NC 27711
Phone: 919 541-5245
Fax: 919 541-0824
Email: johnson.williaml@epamail.epa.gov

RIN: 2060–AG70

3358. ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR YUCCA MOUNTAIN

Priority: Other Significant

Legal Authority: Energy Policy Act, section 801

CFR Citation: 40 CFR 197

Legal Deadline: Final, Statutory, August 1, 1996.

Abstract: The Agency is developing the standards which will set the acceptable levels of radiation exposure in the general environment around the potential repository to be located at Yucca Mountain, Nevada. These standards will protect human health and the environment from exposure to radioactive wastes disposed of in the Yucca Mountain repository.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3568.

Previously listed under RIN 2060-AF38.

Agency Contact: Ray Clark, Environmental Protection Agency, Air and Radiation, 401 M Street SW., Mail Code: 6602J, Washington, DC 20460
Phone: 202 233-9198
Fax: 202 233-9626
Email: CLARK.RAY@EPAMAIL.EPA.GOV

RIN: 2060–AG14

3359. NEXT REVISION OF APPENDIX W TO 40 CFR PART 51

Priority: Substantive, Nonsignificant

Legal Authority: Section 110(a)(2) of the 1990 Clean Air Act amendments; Section 165(e) of the 1990 Clean Air Act amendments; Section 172(a) and (c) of the 1990 Clean Air Act amendments; Section 301(a)(1) of the 1990 Clean Air Act amendments; Section 320 of the 1990 Clean Air Act amendments

CFR Citation: 40 CFR 51.112; 40 CFR 51.160; 40 CFR 51.166; 40 CFR 52.21

Legal Deadline: None

Abstract: This action proposes revisions to the regulatory requirements for air quality models. Such models are used to predict ambient concentrations of pollutants for programs ranging from Prevention of Significant Deterioration (PSD) to State Implementation Plans' (SIPs) for controlling air pollution sources. The Guideline fulfills a Clean Air Act mandate for EPA to specify models for air management purposes. This proposed rulemaking enhances the Guideline with new and/or improved techniques.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	
Final Action	03/00/98	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3470.

Agency Contact: Joseph A. Tikvart, Environmental Protection Agency, Air and Radiation, Air Quality Modeling Group (MD-14), Research Triangle Park, NC 27711
Phone: 919 541-5562

RIN: 2060–AF01

3360. NSPS FOR SULFUR DIOXIDE (SO2) - REVISION

Priority: Other Significant

Legal Authority: 42 USC 7411/CAA 111; Clean Air Act Amendments of 1990, sec 403

CFR Citation: 40 CFR 60

Legal Deadline: Final, Statutory, November 1993.

Abstract: Subpart Da of 40 CFR part 60 applies to large electric utility steam generating facilities. EPA is required to revise this NSPS, pursuant to Section 403 of the Clean Act Amendments of 1990. This section requires the SO2 emission limitations be revised to reflect changes in Section 111 which repeal the percent reduction requirements. The revised emission limitations are to result in emissions compliance with the existing NSPS. No regulatory schedule has been developed.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3106.

Agency Contact: Jim Eddinger, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5426

RIN: 2060–AD04

3361. REVISION TO NSPS: NONMETALLIC MINERALS PROCESSING

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7411

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: Section 111(b)(1)(B) requires EPA to "at least every 8 years, review and, if appropriate, revise" NSPS. Comments and suggested revisions have been received from the National Stone Association (NSA) on this NSPS. The main concerns of NSA are some emission testing requirements and notification requirements. This revision will address NSA's concerns as well as other comments on this NSPS.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Sectors Affected: 144 Sand and Gravel; 142 Crushed and Broken Stone, Including Riprap; 145 Clay, Ceramic, and Refractory Minerals; 149 Miscellaneous Nonmetallic Minerals, Except Fuels

Additional Information: SAN No. 3753.

Agency Contact: Bill Neuffer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5435
Fax: 919 541-5600

RIN: 2060–AG33

3362. INTEGRATED NESHAP AND EFFLUENT GUIDELINES: PULP AND PAPER

Priority: Economically Significant

Legal Authority: 42 USC 7412; 42 USC 7414; 42 USC 7601; Clean Air Act Amendments of 1990 section 112, 114, and 301; 33 USC 1311, 1314, 1316, 1317, 1318, and 1361; Clean Water Act section 301, 304, 306, 307, 308, and 501

CFR Citation: 40 CFR 63; 40 CFR 430

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: The Clean Air Act (CAA) Amendments of 1990 direct the Environmental Protection Agency (EPA) to set National Emission Standards for Hazardous Air Pollutants (NESHAP) for new and existing sources under section 112 and to base these standards on maximum achievable control technology (MACT). The Clean Water Act (CWA) directs EPA to develop effluent guidelines for certain categories and classes of point sources. These guidelines are used for setting discharge limits for specific facilities that discharge to surface waters or municipal sewage treatment systems. For the pulp and paper industry, EPA is developing an integrated regulation that includes both effluent guidelines and air emission standards to control the release of pollutants to both the water and the air. The regulations are being developed jointly to provide greater protection to human health and the environment, to promote the concept of pollution prevention, and to enable the industry to more effectively plan compliance via a multimedia approach.

Timetable:

For NESHAP Sources
Final Action 11/30/97
NESHAP for Combustion Sources - Phase II
NPRM 08/30/96
Final 11/30/97

NESHAP for Nonchemical and Other Pulp and Paper Mills - Phase III
NPRM 03/08/96
NESHAP for Noncombustion and Effluent Guidelines - Phase I
Final 08/30/96
NESHAP for Noncombustion Sources and Effluent Guidelines -Phase 1
NPRM 12/17/93 (58 FR 66078)

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3105 (was 2914) for NESHAP and SAN No. 2712 for Effluent Guidelines

ADDITIONAL AGENCY CONTACT: Jeff Telander (Combustion Sources)

ADDITIONAL AGENCY CONTACT: Elaine Manning (Nonchemical and other Pulp and Paper Mills)

ADDITIONAL AGENCY CONTACT: Debra Nicoll (Effluent Guidelines) Office of Water, 4303, Washington, DC 20460, 202-260-5386

See also RIN 2040-AB53.

Agency Contact: Penny Lassiter (Noncombustion Sources, etc.), Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, Lassiter 919/541-5396 & Telander Phone: 919 541-5427

RIN: 2060–AD03

3363. RADIONUCLIDE MAJOR SOURCE DEFINITION

Priority: Other Significant

Legal Authority: 42 USC 7607/CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Section 112(a) of the CAA Amendments of 1990 defines major source as any source that emits 10 tons or more per year of any hazardous air pollutant (HAP) or 25 tons or more per year of any combination of HAP. The ton quantities are inappropriate for radionuclides, as very small emissions of radiation may be extremely hazardous. The statute authorizes different criteria to be established for radionuclides. This rulemaking will establish these criteria.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3373/2993.

Agency Contact: Gale Bonanno, Attorney Advisor, Environmental Protection Agency, Air and Radiation, 401 M Street, SW., ORIA - 6602J, Washington, DC 20460 Phone: 202 233-9219

RIN: 2060–AD60

3364. NESHAP: MINERAL WOOL PRODUCTION INDUSTRY

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 4 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: The Clean Air Act, as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in Section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emissions standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the mineral wool production industry may reasonably be anticipated to emit several of the 189 HAPs listed in Section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the mineral wool production industry to promulgate emission standards within 7 years of enactment of the Clean Air Act Amendments.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
Final Action	10/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3215.

Agency Contact: Mary K. Johnson, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, (MD-13), Research Triangle Park, NC 27711 Phone: 919 541-5025

RIN: 2060–AE08

3365. NESHAP: OIL AND NATURAL GAS PRODUCTION

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.
This standard must be promulgated within seven years of enactment of the Clean Air Act.

Abstract: Hazardous air pollutants (HAPs) known to be emitted from oil and gas production, storage, and transmission facilities include benzene, toluene, ethyl benzene, and xylene isomers (collectively referred to as BTEX), along with 2,2,4-trimethylpentane and n-hexane. Potential HAP emission sources are glycol dehydrator reboilers (stand-alone and co-located); condensate storage vessels; and equipment leaks at natural gas processing plants and off-shore production platforms.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	09/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAN No. 3229.

Agency Contact: Martha Smith, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711 Phone: 919 541-2421

RIN: 2060–AE34

3366. NESHAP FOR FORMALDEHYDE-BASED RESINS (POLYMERS AND RESINS GROUP III)

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Title III of the amended Clean Air Act requires development of

emission standards for all major sources, and selected area sources, emitting any of the 189 hazardous air pollutants identified in Section 112(b) of the Act. Amino, acetal, and phenolic resins productions have been listed as categories of major sources based on documented emissions of phenol and/or formaldehyde. The purpose of the Formaldehyde-based Resin (Polymers and Resins Group III) project is to initiate the regulatory process for sources engaged in the production of amino, acetal, and phenolic resins, and to ultimately develop a NESHAP based on candidate Maximum Achievable Control Technology. This standard is a 7-year standard, required to be promulgated by November 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 282 Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Manmade Fibers, Except Glass

Additional Information: SAN No. 3228.

Agency Contact: Peter J. Hofmann, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Research Triangle Park, NC 27711, MD-13 Phone: 919 541-3713

RIN: 2060–AE36

3367. NESHAP: PHOSPHORIC ACID MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.
Clean Air Act Amendments of 1990

Abstract: The CAAA required EPA to publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in Section 112(b) of the CAAA and, to establish dates for the promulgation of emission standards for each of the listed categories of HAP emission sources and develop emission standards for each source of HAPs such that the schedule is met. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the phosphoric acid manufacturing industry may reasonably be anticipated to emit several of the 189 HAPs listed in Section 112(b) of the CAAA. As a consequence, the source category is included on the initial list of HAP-emitting categories scheduled for standards promulgation within 10 years of enactment of the CAAA. The purpose of this action is to pursue a regulatory development program such that emission standards may be proposed and promulgated according to the mandated schedule.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	09/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3303.

Agency Contact: David F. Painter, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, (MD-13), Research Triangle Park, NC 27711 Phone: 919 541-5515

RIN: 2060–AE40

3368. NESHAP: STEEL PICKLING, HC1 PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act, sec 112 as amended, November 1990

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.
EPA is required to promulgate national emission standards for 50% of the source categories listed in Sec. 112a) by Nov. 15, 1997. EPA plans to promulgate this standard by November 30, 1996.

Abstract: Hydrochloric acid (HC1) and chlorine are among the pollutants listed as hazardous air pollutants in Section 112 of the Clean Air Act, as amended in November of 1990. Steel pickling processes that use HC1 solution and HC1 regeneration processes have been identified by the EPA as potentially significant sources of HC1 and chlorine air emissions and, as such, a source category for which national emission standards may be warranted.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	06/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3345.

Agency Contact: James H. Maysilles, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, ESD/ISB (mail code MD-13), Research Triangle Park, NC 27711 Phone: 919 541-3265

RIN: 2060–AE41

3369. NESHAP: PHOSPHATE FERTILIZERS PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.
Clean Air Act Amendments of 1990

Abstract: EPA is required to publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in Section 112(b) of the CAAA and, to establish dates for the promulgation of emission standards for each of the listed categories of HAP emission sources and develop emission standards for each source of HAPs such that the schedule is met. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the phosphate fertilizer production industry may reasonable be anticipated to emit several of the 189 HAPs listed in Section 112(b) of the CAAA. As a consequence, the source category is included on the initial list of HAP-emitting categories scheduled for standards promulgation within 10 years of enactment of the CAAA. The purpose of this action is to pursue a regulatory development program such that emission standards may be proposed and promulgated according to the mandated schedule.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	09/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3304.

Agency Contact: David F. Painter, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5515

RIN: 2060–AE44

3370. NESHAP—CYANIDE CHEMICAL MANUFACTURING

Priority: Other Significant

Legal Authority: Clean Air Act, sec 112 as amended November 1990

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Cyanide compounds are among the pollutants listed as hazardous air pollutants in Section 112 of the Clean Air Act Amendments of 1990. As a consequence, the EPA has determined that sources that manufacture cyanide compounds may reasonable be anticipated to emit cyanide compounds in quantities sufficient to qualify them as major sources. Three source categories that either produce hydrogen cyanide or use it in the production of other chemicals, specifically cyanuric chloride and sodium cyanide, are on the initial list of HAP emitting source categories selected for regulation. The results of an initial assessment of the three source categories conducted by the Agency indicated that the facilities comprising each of the three source categories qualify as SOCMI sources. An interim final notice will be prepared proposing the addition of the cyanide chemical manufacturing source categories to the list of SOCMI processes to be regulated under the Hazardous Organic NESHAP.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3341.

Agency Contact: Philip B. Mulrine, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, ESD/ISB, Research Triangle Park, NC 27711
Phone: 919 541-5289

RIN: 2060–AE45

3371. NESHAP: PRIMARY COPPER SMELTING

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act, sec 112 as amended November 1990

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.
EPA is required to promulgate 50% of the source categories listed in Section 112(e) by 11/15/97. Primary copper smelter is one of the source categories included in the 50%.

Abstract: The primary copper smelting industry is known to emit a number of the hazardous air pollutants listed in Section 112 of the Clean Air Act, as amended November 1990. Most smelters have extensive control systems for oxides of sulfur and HAPs. However, fugitive emissions may cause several smelters to exceed major source levels.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	09/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3340.

Agency Contact: Eugene P. Crumpler, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711
Phone: 919 541-0881

RIN: 2060–AE46

3372. AMENDMENTS TO PARTS 51, 52, 63, AND 70 TO REVISE THE PROVISIONS FOR DETERMINING POTENTIAL TO EMIT

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract:

This action proposes to amend regulations already established to implement the new Federal air toxics program under section 112, including the General Provisions, the Federal operating permit program under title V, and the major source preconstruction programs under Parts C and D of Title I.

The proposed rule will address issues related to the determination of a stationary source's potential to emit in response to two court decisions.

This action resulted from splitting of RINs 2060-AC98 and 2060-2918.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3479.

Agency Contact: Tim Smith, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 2771
Phone: 919 541-4718

RIN: 2060–AE63

3373. NESHAP: WOOL FIBERGLASS MANUFACTURING INDUSTRY

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 4 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: The Clean Air Act (CAA), as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in Section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emissions standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the wool fiberglass manufacturing industry may reasonably be anticipated to emit several of the 189 HAPs listed in Section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the wool fiberglass manufacturing industry to promulgate emission standards within 7 years of enactment of the CAA amendments.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Sectors Affected: 327 Concrete, Gypsum, and Plaster Products

Additional Information: SAN No. 3123.

Agency Contact: William J. Neuffer, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5435

RIN: 2060–AE75

3374. NESHAP: PRIMARY ALUMINUM PLANTS

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of EPA. The EPA has determined that plants in the Primary Aluminum industry may be major sources for one or more hazardous air pollutants. As a consequence, a regulatory development program is being conducted such that emission standards will be proposed and promulgated by November 15, 1997.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: 333 Primary Smelting and Refining of Nonferrous Metals

Additional Information: SAN No. 3072.

Agency Contact: Steve Fruh, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-2837

RIN: 2060–AE76

3375. NESHAP: SECONDARY ALUMINUM INDUSTRY

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: The Act requires EPA to publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in Section 112(b) of the Act, to promulgate a schedule establishing a date for the promulgation of emission standards for each of the listed categories of HAP emission sources, and develop emission standards for each source of HAPs such that the schedule is met. The standards are to be technology based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the secondary aluminum industry may reasonably be anticipated to emit several of the 189 HAPs listed in Section 112(b) of the Act. As a consequence, the source category is included on the initial list of HAP emitting categories and is on the list of categories scheduled for standards promulgation within seven years of enactment of the Act. The purpose of this action is to pursue a regulatory development program such that emission standards may be proposed and promulgated according to the mandated schedule.

Timetable:

Action	Date	FR Cite
NPRM	10/30/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Sectors Affected: 334 Secondary Smelting and Refining of Nonferrous Metals

Additional Information: SAN No. 3078.

Agency Contact: Juan E. Santiago, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, ESD/MICG (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-1084

RIN: 2060–AE77

3376. NESHAP: PORTLAND CEMENT MANUFACTURING

Priority: Other Significant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of EPA. The EPA has determined that some plants in the Portland cement manufacturing industry may be major sources for one or more hazardous air pollutants. As a consequence, a regulation (emission standards) is being developed for the Portland cement manufacturing industry, to be promulgated by November 15, 1997. Cement kilns which burn RCRA hazardous waste would be subject to a separate rule being developed by the EPA Office of Solid Waste.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
Final Action	11/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Sectors Affected: 324 Cement, Hydraulic

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3079.

Agency Contact: Joseph P. Wood, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5446

RIN: 2060–AE78

3377. NESHAP: POLYETHER POLYOLS PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990, section 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Title III of the CAA requires development of emission standards for all major sources emitting any of the 189 hazardous air pollutants (HAPs) identified in Section 112(b) of the CAA. "Polyether Polyol Production" has been listed as a category of major sources based on documented emissions of propylene oxide and ethylene oxide. This action will explore alternatives for controlling the release of HAPs from the following process areas located at polyether polyol manufacturing facilities: process vents (e.g. reactors), storage, equipment leaks and other fugitive sources, and wastewater operations. There are no anticipated impacts on small businesses.

Timetable:

Action	Date	FR Cite
NPRM	02/00/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 286 Industrial Organic Chemicals

Additional Information: SAN No. 3408.

Agency Contact: David Svendsgaard, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, ESD (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-2380
Fax: 919 541-3470

RIN: 2060–AE81

3378. NESHAP: PHARMACEUTICALS PRODUCTION

Priority: Other Significant

Legal Authority: Clean Air Act as Amended in 1990, section 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: This regulation would control emissions of hazardous air pollutants from production of pharmaceuticals. Pharmaceuticals production was included on the initial list of categories of sources that was published by EPA in July 1992. Emissions from process vents, equipment leaks, storage tanks, and wastewater systems will be addressed by this regulation for both new and existing facilities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
Final Action	01/00/98	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 283 Drugs

Additional Information: SAN No. 3451.

Agency Contact: Randy McDonald, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5402

RIN: 2060–AE83

3379. NESHAP: PESTICIDE PRODUCTION (PRODUCTION OF AGRICULTURAL CHEMICALS)

Priority: Other Significant

Legal Authority: Clean Air Act of 1990 section 112

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: The following ten source categories (which are all pesticides) are listed under the Production of Agricultural Chemicals (PAC) industry group: 1) 2,4-D Salts and Esters Production; 2) 4-Chloro-2-Methylphenoxyacetic Acid Production; 3) 4, 6-Dinitro-o-Cresol Production; 4) Captafol Production; 5) Captan Production; 6) Chloroneb Production; 7) Chlorothalonil Production; 8) Dacthal (tm) Production; 9) Sodium Pentachlorophenate Production; 10) Tordon (tm) Acid Production.

The EPA will propose to develop standards for all pesticide producers including the 10 categories listed above. Any other pesticide production plant which produces or uses any of the 189 listed hazardous air pollutants will also be included. A variety of HAPs are emitted including, toluene, formaldehyde, methanol, chlorinated compounds, etc.

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	
Final Action	03/15/98	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3450.

Agency Contact: Lalit Banker, Environmental Protection Agency, Air and Radiation, ESD/MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5420

RIN: 2060–AE84

3380. NESHAP: CHLORINE PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act as amended, section 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Section 112 of the Clean Air Act (CAA), as amended November 1990, requires the EPA to regulate categories of major and area sources of hazardous air pollutants (HAPs) listed in Section 112(b). The EPA has determined that sources that manufacture chlorine may reasonably be anticipated to emit several of the 189 HAP's listed (including chlorine, carbon tetrachloride and mercury) in quantities sufficient to designate them as a major source. As a consequence, chlorine production is among the HAP-emitting source categories selected for regulation and is in the group of categories for which final rules are scheduled to be promulgated by November 15, 1997 (58 FR 63941, December 3, 1993).

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3449.

Agency Contact: Iliam D. Rosario, Environmental Protection Agency, Air and Radiation, ESD/MG/MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5308

RIN: 2060–AE85

3381. NESHAP: FLEXIBLE POLYURETHANE FOAM PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990, section 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Title III of the amended Clean Air Act (CAA) requires development of emission standards for all major sources, and selected area sources, emitting any of the 189 hazardous air pollutants (HAP) identified in Section 112(b) of the CAA. "Flexible Polyurethane Foam Production" has been listed as a category of major sources based on documented emissions of methylene chloride and 2,4-toluene diisocyanate. This action will explore alternatives for controlling the release of HAP from the following emission sources located at both slabstock and molded polyurethane foam production facilities: process vents, storage, equipment leaks and other fugitive sources, and transfer operations. This action, however, will not cover emissions from foam fabrication. The Agency plans to add a separate source category to address HAP from fabrication operations.

Ultimately, a NESHAP for foam production will be developed based on candidate Maximum Achievable Control Technology. This is a 7-year standard, required to be promulgated by November 1997.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
Final Action	08/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Sectors Affected: 306 Fabricated Rubber Products, Not Elsewhere Classified; 308 Miscellaneous Plastics Products

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3338.

Agency Contact: David Svendsgaard, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, ESD (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-2380
Fax: 919 541-3470

RIN: 2060–AE86

3382. NESHAP: PRIMARY LEAD SMELTERS

Priority: Substantive, Nonsignificant

Legal Authority: CAA section 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Primary lead smelters are a major source category of hazardous air pollutants. Potential emissions include compounds of lead, and other metallic HAPs as well as organic HAPs. Emission standards would establish maximum achievable control technology requirements for affected process units and fugitive dust sources. This industry is comprised of two companies which operate three smelters in two states.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Sectors Affected: 333 Primary Smelting and Refining of Nonferrous Metals

Additional Information: SAN No. 3467.

Agency Contact: Kevin Cavender, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-2364

RIN: 2060–AE97

3383. NATIONAL EMISSION STANDARD FOR RADON EMISSIONS FROM PHOSPHOGYPSUM STACKS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401/CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA has granted a petition for reconsideration for the portion of the rule which regulates phosphogypsum for research and development uses. This regulatory proceeding would result in a proposed rule which may increase the limit and reduce the certification requirements for that use.

Timetable:

Action	Date	FR Cite
Final	12/00/96	
- Notice of Reconsideration NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2547.

Agency Contact: Jacolyn Dziuban, Environmental Protection Agency, Air and Radiation, (6602J), Washington, DC 20460
Phone: 202 233-9474

RIN: 2060–AF04

3384. NESHAP: MANUFACTURERS OF ACRYLIC/MODACRYLIC FIBERS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990 section 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: This NESHAP will control hazardous air pollutant emissions from facilities that manufacture acrylic or modacrylic fibers. Principal pollutants identified are vinyl acetate and acrylonitrile. The majority of emissions occur during the polymerization reaction. There are only two major sources in the United States that will be affected by this regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 282 Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Manmade Fibers, Except Glass

Additional Information: SAN No. 3378.

Agency Contact: Lynn Hutchinson, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5624

RIN: 2060–AF06

3385. NESHAP: POLYCARBONATES PRODUCTION

Priority: Other Significant

Legal Authority: 42 USC 7401/CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: This NESHAP will control hazardous air pollutant (HAP) emissions from the production of polycarbonate resins.

Timetable:

Action	Date	FR Cite
NPRM	10/30/96	
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3465.

Agency Contact: Mark Morris, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5416

RIN: 2060–AF09

3386. PUBLICLY OWNED TREATMENT WORKS (POTW) NESHAP

Priority: Other Significant

Legal Authority: Clean Air Act, sec 112(e)(5) and 112(n)(3)

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1995.

Abstract: This rule will specify maximum achievable control technology for publicly owned treatment works (POTW)- also known as sewage/wastewater treatment plants, or water reclamation facilities. Hazardous air pollutant emissions from the headworks, primary and secondary treatment, solids handling, and other operations will be considered in developing the rule.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	05/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Local

Additional Information: SAN No. 3377.

Agency Contact: Bob Lucas, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-0884

RIN: 2060–AF26

3387. NESHAP: BAKER'S YEAST MANUFACTURING INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act section 112

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: Section 112 of the Act requires major sources of hazardous air pollutants to achieve a maximum degree of emission reduction based on the maximum achievable control technology (MACT). This regulatory action will establish this level of control for both new and existing sources in the baker's yeast manufacturing industry. This industry is currently comprised of 11 sources of 5 different manufacturers located in 8 different states. The only known HAP emission from this source is acetaldehyde. It is produced as a by-product during the fermentation process. It is likely that regulatory options will be based on improved process control to reduce formation of this by-product.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 209 Miscellaneous Food Preparations and Kindred Products

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3550.

Agency Contact: Lynn E. Hutchinson, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5624

RIN: 2060–AF30

3388. AMENDMENTS TO GENERAL PROVISIONS FOR 40 CFR 63

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-549; Section 112, Clean Air Act

CFR Citation: 40 CFR 63.1

Legal Deadline: Other, Judicial. Court schedule being developed

Abstract: The General Provisions were promulgated on March 16, 1994 (59 FR 12408). The General Provisions create the technical and administrative framework and establish general procedures and criteria for implementing MACT standards. On May 16, 1994, six litigants filed petitions for EPA to review certain provisions of the General Provisions. As a result of the litigation, it is anticipated that a number of technical and administrative amendments to the General Provisions will be proposed.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	07/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Sectors Affected: Multiple

Additional Information: SAN No. 3551.

Agency Contact: James Szykman, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, ESD-PPSG (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-0164

RIN: 2060–AF31

3389. • REVISIONS TO THE REGULATION FOR APPROVAL OF STATE PROGRAMS AND DELEGATION OF FEDERAL AUTHORITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Clean Air Act section112(l)

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Guidance in the form of rulemaking is being developed in accordance with the requirements of section 112(l) of the Clean Air Act Amendments of 1990 for the approval of State air toxic programs and the delegation of federal authorities to the States for the implementation and enforcement of section 112 emission standards and other requirements. This regulatory document will provide more flexibility to States in the following areas: minimum requirements for EPA approval of State air toxics regulations that are equivalent to or more stringent than the federal standards; and minimum requirements for EPA approval of State air toxics programs that are equivalent to or more stringent than the federal program. Specific issues that will be addressed include: alternative work practice standards; alternative monitoring, recordkeeping and reporting; alternative test method approval process; equivalency by Part 70 permits; and mechanisms and requirements for approval of State air toxics programs.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	10/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: Multiple

Additional Information: SAN No. 3829.

Agency Contact: Vickie Booth, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-12, Research Triangle Park, NC 27711
Phone: 919 541-5795
Fax: 919 541-0072

RIN: 2060–AG60

3390. • REVISION TO THE RULE FOR APPROVAL OF STATE PROGRAMS AND DELEGATION OF FEDERAL AUTHROITIES, AND NEW RULE FOR PARTIAL DELEGATION OF FEDERAL AUTHORITIES AND PARTIAL APPROVAL OF STATE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7412/CAA 112

CFR Citation: 40 CFR 63 subpart E

Legal Deadline: None

Abstract: This direct final rulemaking is being developed in accordance with the requirements of section 112(l) of the Clean Air Act Amendments of 1990 for the approval of State air toxic programs and the delegation of federal authorities to the States for the implementation and enforcement of section 112 emission standards and other requirements. This regulatory document will make appropriate corrections, delete duplicative reporting requirements, establish a process for straight delegation of future MACT standards and add provisions to approve State rules and programs that limit Potential to Emit. At the same time EPA will propose a mechanism to allow for partial approval of delegation of authorities and partial approval of State air toxics regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Direct Final	04/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Sectors Affected: Multiple

Additional Information: SAN No. 3830.

Agency Contact: Sheila Milliken, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-12, Research Triangle Park, NC 27711
Phone: 919 541-5391
Fax: 919 541-5509

RIN: 2060–AG61

3391. • TECHNICAL AMENDMENTS TO AEROSPACE NESHAP

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act section 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: The NESHAP for Aerospace Manufacturing and Rework Facilities was promulgated in August of 1995. Afterwards, we discovered a few problems with the rule and still need to publish the CTG for this industry. This action would correct these problems and announce the CTG.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	07/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Sectors Affected: 372 Aircraft and Parts

Additional Information: SAN No. 3836.

Agency Contact: Jim Szykman, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-2452
Fax: 919 541-0942

RIN: 2060–AG65

3392. NEW SOURCE PERFORMANCE STANDARDS (NSPS) AND EMISSION GUIDELINES FOR INDUSTRIAL AND COMMERCIAL WASTE INCINERATORS

Priority: Other Significant

Legal Authority: Clean Air Act section 129

CFR Citation: 40 CFR 60

Legal Deadline: NPRM, Judicial, May 1, 1996. Final, Statutory, November 15, 1994. Other, Judicial, December 20, 1994.
:ANPRM

Abstract: Section 129 of the Clean Air Act Amendments requires the Agency to finalize New Source Performance

Standards (NSPS) and Emission Guidelines (EG) for Industrial and Commercial Waste Incinerators (ICWIs). The Agency is under court order to propose NSPS and EG by May 1, 1996. The Agency has little information on what ICWI sources may be or where they are located. The Agency is attempting to get a longer extension to the court order.

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	12/26/94	59 FR 66850
NPRM	05/01/96	
Final Action	03/01/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3613.

Agency Contact: George Smith, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-1549

RIN: 2060–AF91

3393. • TRANSPORTATION CONFORMITY RULE AMENDMENT AND SOLICITATION FOR PARTICIPATION IN THE TRANSPORTATION CONFORMITY PILOT PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401 to 7671/CAA 176

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: None

Abstract: The Transportation Conformity rule promulgated in November 1993 ensures that transportation and air quality planning are consistent with Clean Air Act air quality standards. This action is part of an Agency effort to streamline the existing conformity regulation and offer flexibility in the conformity process. This action would amend the conformity regulation to allow EPA to create and implement a conformity pilot program.

The rule amendment would allow EPA to exempt up to six areas from certain requirements of the conformity rule. The main objective of the pilot program is to offer State and local air and transportation agencies the flexibility to identify the conformity procedures that work best for their area. This action will enable EPA to test out innovative methods of streamlining the conformity regulation's requirements while ensuring that Clean Air Act objectives are met. In addition to the rule amendment, this action also includes the pilot program's proposed eligibility and application requirements, selection criteria, and implementation procedures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3610.

Agency Contact: Elizabeth Cummings, Environmental Protection Agency, Air and Radiation, 2565 Plymouh Road, Ann Arbor, MI 48105
Phone: 313 741-7857
Fax: 313 668-4531
Email: cummings.elizabethp@epamail.epa.gov

RIN: 2060–AG79

3394. CONTROL TECHNOLOGY GUIDELINES (CTG)

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act, sec 183(a)

CFR Citation: Not applicable

Legal Deadline: Final, Statutory, November 1993.

Abstract: The Clean Air Act required EPA to issue control technology guidelines (CTG's) for 13, including two specifically named, source categories by November 15, 1993. The CTG's address volatile organic compounds (VOC) that are precursors to ozone formation. A CTG covering two of the source categories - chemical plant distillation and reactor process vents - was published by that date. Meanwhile, the States were required to develop rules for the CTG source categories by November 15, 1994. The EPA decided to issue Alternative Control Techniques (ACT) documents for the remaining source categories to help the States. ACT's differ from CTG's in that they are information documents only; they do not contain recommended control levels. ACT's were issued for volatile organic liquid storage, batch operations, wastewater operations, cleanup solvents, lithographic printing, coating of plastic parts, shipbuilding and repair coating operations, wood furniture coatings, and autobody refinishing. In addition, hazardous air pollutant rules are being developed for three of the CTG source categories under Section 112 of the Clean Air Act. These three source categories are aerospace manufacture, wood furniture manufacture, and shipbuilding and repair. CTG-related requirements are being addressed in concert with these hazardous air pollutant rulemakings. EPA also plans to write a national rule to limit the amount of VOC contained in coatings sold to autobody refinishing shops.

Timetable:

Action	Date	FR Cite
Notice of Draft Document (Aerospace)	04/00/96	
Final Notice and Document (Wood Furniture)	05/00/96	
Final Notice and Document (Shipbuilding)	06/00/96	
Final Notice and Document (Aerospace)	07/31/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3029: Aerospace SAN 3728; Shipbuilding SAN 3729; Wood Furniture SAN 3730

Agency Contacts:

Susan Wyatt (general questions) 919-541-5674

Mohamed Serageldin (shipbuilding) 919-541-5674

Jim Szykman (aerospace) 919-541-2452

Paul Almodovar (wood furniture) 919-541-0283

Agency Contact: Susan Wyatt, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5674

RIN: 2060–AD05

3395. NATIONAL VOLATILE ORGANIC COMPOUND EMISSION STANDARDS FOR AUTOMOBILE REFINISH COATINGS

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990, sec 183(e)

CFR Citation: 40 CFR 59

Legal Deadline: Final, Statutory, March 1997.

Abstract: Section 183(e) requires EPA to study the emissions of volatile organic compounds (VOC) from consumer and commercial products, list those categories of products that account for at least 80 percent of the total VOC emissions from consumer and commercial products in areas classified as nonattainment for ozone, divide the list into four groups, and regulate one group every 2 years using best available controls (BAC). Based on the criteria described in the consumer and commercial product study (March 1995), and category listing (March 1995), EPA has determined that VOC emissions from automobile refinish coatings should be regulated by March 1997. Automobile refinish coatings can be generally classified as primers and topcoats, each consisting of several different types. the proposed rule divides automobile refinish coatings into 6 categories, and contains VOC content limits for each category. Automobile refinish coatings are used by body shops and by "do-it yourselfers." However, the proposed rule does not directly affect these small businesses. Rather, the rule would apply to coating manufacturers and importers, and would limit the VOC content of coatings that are produced for sale in the United States.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3281.

Agency Contact: Mark Morris, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5416

RIN: 2060–AE35

3396. VOC REGULATION FOR ARCHITECTURAL COATINGS

Priority: Other Significant

Legal Authority: 42 USC 7511/CAA 183

CFR Citation: 40 CFR 59

Legal Deadline: Final, Statutory, March 15, 1997.

Abstract: This regulation will control volatile organic compound (VOC) emissions from architectural coatings. These coatings are applied to stationary structures and their appurtenances, to portable buildings, to pavements, or to curbs. Traditional VOC limitations, market-based approaches, and phased-in approaches are all being considered.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: SAN No. 3351.

Docket Number A-92-18

Agency Contact: Ellen Ducey, Environmental Protection Agency, Air and Radiation, Research Triangle Park, NC 27711
Phone: 919 541-5408

RIN: 2060–AE55

3397. AEROSOL SPRAY PAINTS VOC RULE

Priority: Other Significant

Legal Authority: Clean Air Act, section 183(e)

CFR Citation: 40 CFR 59

Legal Deadline: NPRM, Statutory, March 1996. Final, Statutory, March 1997.

Abstract: Section 183(e) of the Clean Air Act of 1990 (the Act) required that the EPA study volatile organic compound (VOC) emissions from consumer and commercial products. The objectives of this study were to determine the potential of consumer and commercial products to contribute to ozone levels which violate the national ambient air quality standards (NAAQS) for ozone; and to establish criteria for regulating consumer and commercial products under section 183(e). Upon completion of the study, the EPA submitted a report to Congress that documents the results of the study.

The EPA has determined that aerosol spray paints is one of the source categories to be regulated under section 183(e) of the Act. For spray paints, VOC volatilize during air-drying or bake-film forming, and include solvents and propellants, as well as other volatiles used to dissolve resins and additives. Options for VOC reductions from aerosol spray paints include reformulation and limits on the VOC content. Regulatory action for this source category is being reconsidered, since acetone has been exempted from the list of VOC. Acetone is a major component in the formulation of aerosol spray paints. Therefore, the potential for VOC emission reductions from this source category has diminished.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	05/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3659.

Agency Contact: Paul Almodovar, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-0283

RIN: 2060–AF61

3398. NATIONAL VOC EMISSION STANDARDS FOR CONSUMER PRODUCTS AND AMENDMENT TO ADD FLEXIBLE COMPLIANCE PLAN

Priority: Other Significant

Legal Authority: Clean Air Act, section 183(e); 42 USC 7511b

CFR Citation: 40 CFR 59

Legal Deadline: Final, Statutory, March 1997.
The compliance date for the consumer products rule is anticipated to be Sept. 1996. It is important to promulgate this

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amendment close to this date so that manufacturers can take advantage of it

Abstract: Section 183(e) of the Clean Air Act requires that EPA list those categories of consumer and commercial products (CCPs) that account for at least 80 percent of volatile organic compounds (VOC) from all CCPs in ozone nonattainment areas. The list is to be divided into 4 groups by priority. The EPA is to regulate one group of categories every 2 years until all 4 groups are regulated. The first group must be regulated no later than 2 years after the EPA publishes the list and regulatory schedule.

The EPA has listed for regulation a group of 24 products which are currently regulated by California and several other States. The rule would set VOC content limits for the 24 categories of products. These limitations are currently being met by product manufacturers marketing products in California and other States. A Federal rule would provide consistency and would assist other States in achieving VOC reductions toward their 15-percent rate-of-progress requirements. This rule is supported by both the States and by the consumer products industry.

An Amendment to Add a Flexible Compliance Plan to the National VOC Emission Standards for Consumer Products is also being developed. This rulemaking would add a flexible compliance plan to the consumer products rule. The plan would be a mechanism by which manufacturers could produce consumer products that have more VOC than the levels in the rule, provided that the increased VOC emissions are balanced by decreased emissions from products that are below the required levels. Participation in the flexible compliance plan would be optional. The flexibility added by the plan would help to achieve the emission reductions at a lower cost. During plan development, the EPA is examining how to make the plan amenable for use by small and one-product businesses, as well as large multi-product ones.

Timetable:

Amendment to Add Flexible Compliance Plan (SAN 3822)
NPRM 07/00/96
Final 01/00/97
National VOC for Consumer Products (SAN 3656)
NPRM 04/02/96 (61 FR 14531)
Final 09/00/96

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Sectors Affected: 284 Soaps, Detergents, and Cleaning Preparations, Perfumes, Cosmetics, and Other Toilet Preparations; 287 Agricultural Chemicals; 289 Miscellaneous Chemical Products

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3658 and 3822

Agency Contact for Amendment is Gail Lacy, 919-541-5261.

Agency Contact: Bruce Moore, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5460

RIN: 2060–AF62

3399. • REDUCTION OF VOLATILE ORGANIC COMPOUND (VOC) EMISSIONS FROM COATINGS USED IN THE AEROSPACE, WOOD FURNITURE, AND SHIPBUILDING INDUSTRIES UNDER CLEAN AIR ACT SECTION 183(E)

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-549, sec 183

CFR Citation: 40 CFR 59

Legal Deadline: Final, Statutory, March 1997.

Abstract: This action would result in the reduction of volatile organic compound (VOC) emissions from the coatings used by the Aerospace, Wood Furniture and Shipbuilding industries. The Agency will study the various VOC pollutants contained in these coatings and will evaluate pollution prevention and control techniques which can reduce these emissions; Control Techniques Guidelines can be issued in lieu of regulations if they are significantly as effective in reducing VOC emissions from the use of these coatings in ozone nonattainment areas. This rulemaking will be conducted in accordance with statutory requirements for VOC emission reduction under Section 183(e) of the Clean Air Act. The development of these VOC rules will use data recently gathered for the development of National Emission Standards for Hazardous Air Pollutants (NESHAP) for these industries. This will maximize resources and avoid duplication of data gathering efforts. There are small businesses in these industries, but at this time it is not known how many will be affected by these rules or guidelines.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	07/00/97	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Sectors Affected: 37 Transportation Equipment; 45 Transportation by Air; 243 Millwork, Veneer, Plywood, and Structural Wood Members; 25 Furniture and Fixtures; 57 Home Furniture, Furnishings, and Equipment Stores; 373 Ship and Boat Building and Repairing

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3838.

Agency Contact: Daniel Brown, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5305
Fax: 919 541-5689
Email: brown.dan@epamail.epa.gov

RIN: 2060–AC59

3400. REVISED LIGHT-DUTY DURABILITY PROCEDURES FOR MODEL YEAR 1999 AND LATER

Priority: Other Significant

Legal Authority: 42 USC 7521/CAA 202

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This action will establish procedures under which vehicle manufacturers will demonstrate durability of their emission control systems during certification of passenger cars and light-duty trucks beginning with the 1999 model year. Under separate actions, EPA has promulgated revised light-duty durability procedures for certification of model years 1994 through 1998, procedures that are necessary to implement revised useful life levels mandated by the Clean Air Act Amendments of 1990. The long term durability program will translate into ongoing efforts by the EPA and vehicle manufacturers to develop durability procedures that will more accurately predict the emissions deterioration of vehicles in actual use.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2869.

Agency Contact: Eldert Boutekoe, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, Michigan 48105
Phone: 313 668-4442

RIN: 2060–AE06

3401. NATIONAL 49-STATE LOW-EMISSION VEHICLES PROGRAM

Priority: Economically Significant

Legal Authority: Clean Air Act secs 202 and 301(a)

CFR Citation: None

Legal Deadline: None

Abstract: This rulemaking is a voluntary emissions standards program applicable to manufacturers of light-duty vehicles and trucks beginning in model year 1997. This program would apply only to those manufacturers that chose to opt into the program. This program is designed to be an alternative national program that provides emissions reductions equivalent to the Northeast Ozone Transport Commission's (OTC's) low-emission vehicle (LEV) program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	01/00/97	

Small Entities Affected: None

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3646.

Agency Contact: Mike Shields, Environmental Protection Agency, Air and Radiation, (6401), Washington, DC 20460
Phone: 202 260-7757
Fax: 202 260-6011

RIN: 2060–AF75

3402. CONTROL OF NITROGEN OXIDE AND PARTICULATE EMISSIONS FROM HEAVY-DUTY ENGINES

Priority: Economically Significant

Legal Authority: Clean Air Act secs 202(a), 211(c), 213(a), 301(a)

CFR Citation: None

Legal Deadline: None

Abstract: The primary focus of this action will be on the potential for reduced nitrogen oxide non-methane hydrocarbon, (NMHC) diesel and gasoline fuels heavy-duty on highway engines. Nitrogen oxides are a significant contributor to urban ozone pollution (smog), acid rain, and particulate pollution. Particulates, including those emitted directly and "secondary" particulates formed in the atmosphere, have been associated with increased death and illness rates as well as impaired visibility. Non-Methane hydrocarbons also contribute to ozone pollution. The advance notice of proposed rulemaking notified the public of the Agency's intent to investigate the feasibility of reducing emissions of ozone and secondary particulate precursors from heavy-duty on highway engines. It is also solicited involvement and input from a broad cross-section of the public, including potentially affected industries, States, regional air management organizations, public health and environmental protection interest groups, and the general public.

Timetable:

Action	Date	FR Cite
ANPRM	08/30/95	60 FR 45580
NPRM	06/00/96	
Final Action	01/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3645.

Agency Contact: Tad Wysor, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4332

RIN: 2060–AF76

3403. AMENDMENT CONCERNING THE LOCATION OF SELECTIVE ENFORCEMENT AUDITS OF FOREIGN MANUFACTURED VEHICLES AND ENGINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7525/CAA 206(b)

CFR Citation: 40 CFR 86 subpart G (Revision); 40 CFR 86 subpart K (Revision)

Legal Deadline: None

Abstract: This action would consider an amendment to the existing regulations to include ports of entry as a location for EPA selection of foreign produced vehicles and engines for SEA emissions testing at laboratories in the U.S. While the regulations do not specify EPA authority to conduct such port selections, the increased flexibility provided by port selections warrants amending the regulations. Presently, EPA must travel overseas to conduct SEA audits of foreign manufactured vehicles and engines, even though most manufacturers now have access to laboratory facilities in the U.S. The benefits include a reduction in Agency cost since fewer overseas trips would be necessary. Also, EPA would be able to conduct more audits of foreign manufactured vehicles and engines.

Separate from the provisions proposed in this NPRM for amendments to allow port selection for SEAs, EPA is also proposing to make two other amendments to 40 CFR Part 86. The first would amend current Selective Enforcement Auditing regulations to change the minimum annual limit of Selective Enforcement Audits per manufacturer to two (2) per year. Currently, the minimum annual limit is one audit per manufacturer. Under the proposed amendments EPA would be able to perform a second audit on those manufacturers that might otherwise be limited to one audit.

The second additional proposed amendment to Part 86 would delete from Subparts A and E references to the Agency representation in certain types of administrative hearings. The two provisions state that the Office of General Counsel will represent the Agency in administrative procedures governing hearings on certification for light-duty vehicles, light-duty trucks, heavy-duty engines and motorcycles. The Agency is proposing to delete these two provisions in order to be consistent

with other hearing procedures in Part 86.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3139.

Agency Contact: Richard Gezelle, Environmental Protection Agency, Air and Radiation, 6403-J), Washington, DC 20460
Phone: 202 233-9267

RIN: 2060–AD90

3404. "SUBSTANTIALLY SIMILAR" DEFINITION FOR DIESEL FUELS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7545/CAAA 211(f)

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: Section 211(f)(1)(A) of the Clean Air Act prohibits for use in light-duty vehicles, fuels and fuel additives which are not "substantially similar" to fuels or additives used to certify vehicles to emissions standards. Section 211(f)(1)(B) expands these prohibitions to all motor vehicles. Since the term "substantially similar" is not defined in the Act, the intent of this rulemaking is to interpret the term "substantially similar" in regard to diesel fuel and diesel fuel additives and thus make more explicit which products are prohibited by section 211(f)(1)(B). The definition of "substantially similar" enables manufacturers to determine whether their fuels or fuel additives are covered by, or excluded from, the section 211(f)(1)(B) prohibitions.

Timetable:

Action	Date	FR Cite
ANPRM	05/30/91	56 FR 24362
NPRM	12/00/96	
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3091.

Agency Contact: James W. Caldwell, Environmental Protection Agency, Air and Radiation, 401 M Street SW., Mail Code 6406J, Washington, DC 20460
Phone: 202 233-9303

RIN: 2060–AD77

3405. • MODIFICATIONS TO STANDARDS FOR REFORMULATED AND CONVENTIONAL GASOLINE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7545/CAA 211

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: Under authority of the Clean Air Act, as amended in 1990, EPA promulgated regulations to require a cleaner burning "reformulated gasoline" (RFG) in nine mandated areas of the country with the worst ozone air pollution problems. These areas are designated as "covered areas," (e.g., areas in which non-RFG ("conventional gasoline") is prohibited from being sold or dispensed to the ultimate consumers of the gasoline. Other ozone nonattainment areas may "opt-in" to the RFG program upon petition by the Governor of the state in which the area is located.

Since the RFG program became effective in January 1995, many enforcement related issues have been raised concerning the implementation of the program. Some of these issues have required the exercise of enforcement discretion through the use of informal question and answer guidance documents. This action will codify those guidances which are appropriate for incorporation into the RFG regulations. This action will also "streamline," the regulations where appropriate, and include certain typographical and other minor corrections.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3844.

Agency Contact: Marilyn Bennett, Environmental Protection Agency, Air and Radiation, (6406J), Washington, DC 20460
Phone: 202 233-9006
Fax: 202 233-9557

RIN: 2060–AG76

3406. • AMENDMENT CONCERNING APPLICABILITY OF ON HIGHWAY HEAVY-DUTY CERTIFIED ENGINES FOR USE IN NONROAD HEAVY-DUTY VEHICLES AND EQUIPMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7521 to 7525; 42 USC 7541 to 7543; 42 USC 7547

CFR Citation: 40 CFR 9; 40 CFR 89

Legal Deadline: None

Abstract: This action would consider an amendment to the existing regulations to allow the use of on-highway heavy-duty certified engines in nonroad heavy-duty vehicles and equipment. This will eliminate hardships caused by the imposition of nonroad heavy-duty rules of specialty vehicles and equipment that have historically elected to use cleaner on-highway heavy-duty engines.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
Final Action	06/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3842.

Agency Contact: John Guy, Environmental Protection Agency, Air and Radiation, (6403J), Washington, DC 20460
Phone: 202 233-9276
Fax: 202 233-9596

RIN: 2060–AG78

3407. NONROAD SPARK-IGNITION ENGINES AT OR BELOW 19 KILOWATTS (25 HORSEPOWER)(PHASE 2)

Priority: Other Significant

Legal Authority: 42 USC 7547/CAA 213

CFR Citation: 40 CFR 90

Legal Deadline: NPRM, Judicial, April 30, 1996. Final, Statutory, November 15, 1992. Final, Judicial, April 30, 1997.

Abstract: This action will establish the second phase of emissions standards for new nonroad spark-ignition engines at or below 19 kilowatts (25 horsepower), as required by section 213(a)(3) of the Clean Air Act as Amended. The Environmental Protection Agency (EPA) had been developing the second phase of small-engine regulations through a negotiated rulemaking, with representation by engine manufacturers, equipment manufacturers, emissions control manufacturers, equipment dealers, environment and public health interests, and State air programs. The negotiations came to an end on February 16, 1996 with no consensus reached. EPA will now develop the rulemaking through other means.

The affected engines are used in lawn, garden, and utility equipment, such as lawnmowers, string trimmers, chain saws, and small pumps and generators. The first phase was established July 3, 1995 (60 FR 34582), effective for the 1997 model year, and was very similar to the tier 1 small-engine regulations developed by California for the same engines. Regulated pollutants are hydrocarbons, carbon monoxide, and oxides of nitrogen.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3361.

Agency Contact: Betsy McCabe, Environmental Protection Agency, Air and Radiation, National Vehicle and Fuel Emissions Lab, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4344

RIN: 2060–AE29

3408. • OUTER CONTINENTAL SHELF AIR REGULATIONS DELEGATION REMAND

Priority: Substantive, Nonsignificant

Legal Authority: CAA 328

CFR Citation: 40 CFR 55

Legal Deadline: None

Abstract: The EPA promulgated the Outer Continental Shelf (OCS) Air Regulations on September 4, 1992. The regulations allowed States to request delegation of the authority to implement and enforce the regulations for sources located within 25 miles of the State's seaward boundary, but prohibited such delegation of the authority for sources locating beyond that limit. Since section 328(a)(3) of the Clean Air Act requires EPA to allow delegation for both types of sources, EPA requested and received a remand on this issue. The notice proposes revision to the OCS Air Regulations to allow delegation of the implementation and enforcement authority to State and local air pollution control agencies for sources locating beyond 25 mile of the States' seaward boundaries.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3789.

Agency Contact: David H. Stonefield, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711
Phone: 919 541-5350

RIN: 2060–AG39

3409. • OUTER CONTINENTAL SHELF AIR REGULATIONS OFFSET REMAND

Priority: Substantive, Nonsignificant

Legal Authority: CAA 328

CFR Citation: 40 CFR 55

Legal Deadline: None

Abstract: The EPA promulgated the Outer Continental Shelf (OCS) Air Regulations on September 4, 1992. As a result of a challenge, the court vacated the special offset provision which EPA had included in the OCS regulations and remanded that issue to EPA for reconsideration. This interim final rule revises the OCS regulations to require that new or modified OCS sources meet the same offset requirements as imposed in the corresponding onshore area. As a result some OCS sources may be required to obtain additional offset credits.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Interim Final Rule	06/00/96	
Final Action	06/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3790.

Agency Contact: David H. Stonefield, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711
Phone: 919 541-5350

RIN: 2060–AG40

3410. NSPS: NITROGEN OXIDE EMISSIONS FROM FOSSIL-FUEL FIRED STEAM GENERATING UNITS—REVISION

Priority: Economically Significant

Legal Authority: Clean Air Act Amendments of 1990, sec 407(c)

CFR Citation: 40 CFR 60.40

Legal Deadline: NPRM, Statutory, January 1, 1993. NPRM, Judicial, September 1, 1996. Final, Statutory, January 1, 1994. Final, Judicial, November 3, 1997.

Abstract: The current NSPS for electric utility and nonutility steam generating units were promulgated in 1979 and 1986, respectively. A major feature of the NSPS is NOx control through the use of low NOx burners or overfired air. Section 407 of the Clean Air Act requires the EPA to revise existing NSPS for NOx emissions from fossil-fuel fired steam generating units, including both electric utility and nonutility units. These revised standards are to reflect improvements in methods for the reduction of NOx emissions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	11/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 491 Electric Services; 20 Food and Kindred Products

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3352.

Agency Contact: James A. Eddinger, Environmental Engineer, Environmental Protection Agency, Air and Radiation,

Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5426
Fax: 919 541-0072

RIN: 2060–AE56

3411. AMENDMENT TO THE REFRIGERANT RECYCLING RULE TO INCLUDE ALL REFRIGERANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-54, section 608 of the Clean Air Act Amendments of 1990; 42 USC 7401 et seq Section 608 CAA

CFR Citation: 40 CFR 82, subpart F

Legal Deadline: Final, Statutory, November 15, 1994.
The venting prohibition is extended to all refrigerants as of 11/15/95; rules are necessary to inform the regulated community of the means by which to prevent venting. recovery/recycling.

Abstract: This action would facilitate fulfillment of the statutory mandate to apply the venting prohibition to substitute refrigerants. The action would provide regulations covering recovery/recycling equipment, recovery/recycling practices, and applicable certifications that would be required to accomplish compliance with the no-venting prohibition. Requirements would parallel those of the current section 608 regulations, expanding applicability, where appropriate, to all refrigerants.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	11/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Sectors Affected: All

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3560.

Agency Contact: Debbie Ottinger, Environmental Protection Agency, Air and Radiation, 401 M Street SW., 6205J, Washington, DC 20460
Phone: 202 233-9149

RIN: 2060–AF37

3412. PROTECTION OF STRATOSPHERIC OZONE: RECONSIDERATION OF SECTION 608 SALES RESTRICTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq; Clean Air Act section 608

CFR Citation: 40 CFR 82 subpart F

Legal Deadline: None

Abstract: The rule will include the reconsideration of the sales restriction as it relates to split systems. The Agency was petitioned to reconsider the part of the sales restriction that included the sale of pre-charged split systems. It restricted such sales to certified technicians. Since then, EPA stayed that portion of the sales restriction in response to the petition. This rule will include the determination of the Agency related to the reconsideration. It addresses environmental problems of ozone depletion resulting from emissions of CFCs, HCFCs, and other ozone-depleting substances. Through restricting sales of certain pre-charged items to persons certified as technicians, emissions to the atmosphere are decreased. The impact on small businesses and governments would be negligible, since persons can become certified if the EPA determination is a full restriction. Most businesses and governments will have at least one certified technician on board.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Sectors Affected: 358 Refrigeration and Service Industry Machinery; 52 Building Materials, Hardware, Garden Supply, and Mobile Home Dealers

Additional Information: SAN No. 3673.

Agency Contact: Mavis Sanders, Environmental Protection Agency, Air and Radiation, 401 M Street SW., Mail 6205J, Washington, DC 20460
Phone: 202 233-9737
Fax: 202 233-9577

RIN: 2060–AG20

3413. SUPPLEMENTAL RULE TO REQUIRE CERTAIN PRODUCTS MADE WITH HCFCS TO BEAR WARNING LABEL

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq, section 611

CFR Citation: 40 CFR 82 subpart F

Legal Deadline: None

Abstract: EPA has been petitioned by Friends of the Earth to expand our labeling requirements to include products containing or manufactured with HCFCs. We are bound by statute to respond by 180 days (mid-May). If EPA grants the petition, the proposed rulemaking will be the response.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	05/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3640.

Deadline is based on the statutory 180-day response time to petitions.

Agency Contact: Mavis Sanders, Environmental Protection Agency, Air and Radiation, 6205J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9737

RIN: 2060–AF93

3414. UPDATE OF THE ACCEPTABILITY LIST UNDER THE SIGNIFICANCE NEW ALTERNATIVES POLICY (SNAP) PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7414, 7601, 7671 / Clean Air Act section 612

CFR Citation: 40 CFR 9 and 82

Legal Deadline: None

Abstract: Section 612 of the Clean Air Act requires EPA to identify alternatives to Class I and II ozone depleting substances and to publish lists of acceptable and unacceptable substitutes. Producers of substitutes must notify EPA at least 90 days before alternatives are introduced into interstate commerce. Unlike acceptable alternatives (see Notices), substitutes which are deemed by EPA to be unacceptable or acceptable subject to use restrictions must go through notice and comment rulemaking. Substitute lists are updated intermittently depending on the volume of notifications.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/92	57 FR 1984
NPRM	05/12/93	58 FR 28094
Final Rule	03/18/94	59 FR 13044
Notice - 1	08/26/94	59 FR 44240
NPRM - 1	09/26/94	59 FR 49108
Notice - 2	01/13/95	60 FR 3318
Final Rule - 1	06/13/95	60 FR 31092
Notice - 3	07/28/95	60 FR 38729
NPRM - 2	10/02/95	60 FR 51383
Notice - 4	02/08/96	61 FR 4736
Final Rule - 2	05/00/96	
NPRM - 3	05/00/96	
NPRM - 4	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3525 (generic).

Agency Contact: Sally Rand, Environmental Protection Agency, Air and Radiation, 6205J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9739

RIN: 2060–AG12

3415. • HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES (TSDF) AND HAZARDOUS WASTE GENERATORS; ORGANIC AIR EMISSION STANDARDS FOR TANKS, SURFACE IMPOUNDMENTS, AND CONTAINERS

Priority: Substantive, Nonsignificant

Legal Authority: RCRA 3002 and RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 265

Legal Deadline: None

Abstract: These standards were promulgated on December 6, 1994 and will be effective on June 6, 1996. The final standards control organic air emissions from hazardous waste TSDF and generator sites. These emissions have been shown to contribute greatly to ground-level ozone formation and to cancer incidence among exposed populations.

Following promulgation, several affected sources contacted the EPA for clarification on certain requirements of the final standards and to dispute the necessity of certain technical requirements. The EPA has reviewed the final provision to determine whether the intended requirements are correctly conveyed in the final rule language.

The EPA has identified certain provisions for which the published language suggests a requirement that is more stringent than our intent, and in which the intended emission reductions can be achieved with less burdensome standards. The EPA intends to amend the final rule to include several revised provisions, including the following: certain fixed-roof tanks may be equipped with pressure relief devices that vent to the atmosphere; containers may be vented during loading and emptying operations; a facility may comply with the final rule using an implementation schedule in several different circumstances; and the frequency of monitoring for certain equipment shall be semi-annual rather than annual. These amendments will be published in two Federal Register notices; one for clarifying amendments and one for revisions. Any amendments published by the action will be deregulatory and will result in less extensive requirements than the published rule.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3792.

Agency Contact: Michele Aston, Environmental Protection Agency, Air and Radiation, (MD-13), OAQPS/ESD/WCPG, Research Triangle Park, NC 27711
Phone: 919 541-2363

RIN: 2060–AG44

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

Clean Air Act (CAA)

3416. COMPLIANCE ASSURANCE MONITORING PROGRAM (PREVIOUSLY ENHANCED MONITORING PROGRAM)

Priority: Economically Significant

Legal Authority: Clean Air Act Amendments of 1990, sections 114(a)(3), 503(b),; 504(b)

CFR Citation: 40 CFR 64; 40 CFR 70

Legal Deadline: NPRM, Judicial, September 30, 1993. Final, Statutory, November 1992. Final, Judicial, July 1, 1996.

Abstract: This action is required by the 1990 Clean Air Act (the Act) Amendments to assure better compliance with existing rules. This rule will require major stationary sources who must obtain permits under title V of the Act to conduct monitoring that provides reasonable assurance of ongoing compliance of the significant emission units with applicable requirements. Affected sources will use the monitoring data in conjunction with other compliance-related data to certify compliance with emission standards and other permit conditions.

Timetable:

Action	Date	FR Cite
NPRM	10/22/93	58 FR 54648
Supplemental Proposal	12/28/94	59 FR 66844
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2942.

Agency Contact: Peter R. Westlin, Environmental Protection Agency, Air and Radiation, OAQPS - MD19, Research Triangle Park, NC 27711
Phone: 919 541-1058

RIN: 2060–AD18

3417. FEDERAL OPERATING PERMIT RULES

Priority: Economically Significant

Legal Authority: Clean Air Act Amendments of 1990, title V

CFR Citation: 40 CFR 71

Legal Deadline: Final, Statutory, November 15, 1995.

Abstract: Title V of the Clean Air Act Amendments of 1990 requires EPA to promulgate regulations setting forth requirements for States to develop and implement operating permits programs for major stationary sources of air pollutants regulated under the Clean Air Act. These regulations were promulgated on July 21, 1992 (57 FR 32250). Title V also requires EPA to establish a federal permit program where States fail to submit an appropriate State program, fail to adequately implement an approved program, or fail to issue good Title V permits to individual sources. These regulations also address issuance of permits to outer continental shelf sources, acid rain sources and sources located on Tribal lands. This program is established by regulation promulgated in this notice. EPA will approve applications and issue Federal operating permits, as well as enforce the program.

Timetable:

Action	Date	FR Cite
NPRM	04/27/95	60 FR 20804
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3369.

Agency Contact: Candace Carraway, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711
Phone: 919 541-3189

RIN: 2060–AD68

3418. REGULATIONS GOVERNING AWARDS UNDER SECTION 113(F) OF THE CLEAN AIR ACT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7413(f)

CFR Citation: 40 CFR 65

Legal Deadline: None

Abstract: Section 113(f) of the Clean Air Act granted to the Administrator authority to pay an award to any person who furnishes information or services which lead to a criminal conviction or a civil penalty for any violation of Title I, III, IV, V, or VI of the Act enforced under section 113. Section 113(f) authorizes the Administrator to prescribe, by regulation, additional criteria for eligibility for such an award. EPA intends that the rule set forth such additional criteria. The rule also describes criteria for assessing the value of information and services when considering paying an award, and what is needed to adequately petition the Administrator for consideration of payment. The rule will also address confidentiality matters; some citizens provide information or services on a confidential basis. Furthermore, to implement the goal of the program, the rule will provide direction for providing information or services to the Agency.

Timetable:

Action	Date	FR Cite
NPRM	05/03/94	59 FR 22795
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2939.

Agency Contact: Cary Secrest, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2242-A), Washington, DC 20460
Phone: 202 564-8661

RIN: 2060–AD61

3419. INSPECTION/MAINTENANCE PROGRAM REQUIREMENTS—ONBOARD DIAGNOSTIC CHECKS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401, Clean Air Act Amendments of 1990

CFR Citation: 40 CFR 51; 40 CFR 85

Legal Deadline: None

Abstract: This action establishes requirements for checking onboard diagnostic systems as part of the Inspection/Maintenance program pursuant to Clean Air Act Amendments of 1990. This action will establish test procedures and State Implementation Plan requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/18/95	60 FR 43092
Final Action	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAN No. 3264.

Agency Contact: Eugene J. Tierney, Chief, Inspection Maintenance Section, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4456

RIN: 2060–AE19

3420. NESHAPS PERTAINING TO FACILITIES OTHER THAN COMMERCIAL NUCLEAR POWER REACTORS LICENSED BY THE NUCLEAR REGULATORY COMMISSION (NRC) OR BY NRC AGREEMENT STATES

Priority: Other Significant

Legal Authority: 42 USC 7607(d)(7)(B)

CFR Citation: 40 CFR 61 subpart I

Legal Deadline: None

Abstract: In accordance with section 112(d)(9) of the Clean Air Act Amendments of 1990 (CAAA), EPA is considering whether or not to issue a final rule to rescind Subpart I of 40 CFR Part 61, as it applies to facilities licensed by the Nuclear Regulatory Commission (NRC) or NRC Agreement States which are not engaged in the generation of nuclear power (57 FR 56877, December 1, 1992). Section 112(d)(9) gives EPA the authority to decline to regulate NRC-licensees after the Administrator makes a determination, by rule, and in consultation with the Nuclear Regulatory Commission (NRC), that the regulatory program established by the NRC pursuant to the Atomic Energy Act provides an ample margin of safety to protect the public health.

Timetable:

Action	Date	FR Cite
NPRM	12/01/92	57 FR 56877
Notice	09/28/95	60 FR 50161
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3146.

Agency Contact: Gale Bonanno, Attorney Advisor, Environmental Protection Agency, Air and Radiation, 401 M Street SW., ORIA - 6602J, Washington, DC 20460
Phone: 292 233-9219

RIN: 2060–AE39

3421. ADDITION OF METHODS 204, 204A - 204F FOR MEASUREMENT OF VOC EMISSIONS FROM STATIONARY SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: The Reasonably Available Control Technology (RACT) fix up rule requires States to adopt enforceable VOC rules. An accurate technique for determining capture efficiency (CE) had not been available in the past. This action would add seven methods to determine VOC emissions from stationary sources. These methods can be used to determine CE when used in various combinations.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39297
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3506.

Agency Contact: Candace Sorrell, Environmental Protection Agency, Air and Radiation, Source Characterization Group A (MD-19), Research Triangle Park, NC 27711
Phone: 919 541-1064

RIN: 2060–AF02

3422. ACID RAIN PROGRAM: REVISIONS TO THE ADMINISTRATIVE APPEAL REGULATIONS UNDER TITLE IV OF THE CLEAN AIR ACT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7601

CFR Citation: 40 CFR 78.1

Legal Deadline: None

Abstract: Revisions to clarify whether administrative appeals are prerequisite for judicial review of final actions by the administrator under the Acid Rain Program.

Timetable:

Action	Date	FR Cite
Final Action	07/00/96	
NPRM	12/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3570.

Agency Contact: Dwight C. Alpern, Environmental Protection Agency, Air and Radiation, 6204J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9151

RIN: 2060–AF43

3423. OPERATING PERMITS: REVISIONS (PART 70)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7661 et seq

CFR Citation: 40 CFR 70; 40 CFR 71; 40 CFR 51

Legal Deadline: None

Abstract: In response to litigation on the part 70 regulations, to several problems identified through implementation of part 70, and to comments provided in response to notices of proposed rulemaking, parts 51, 70, and 71 are being revised. The changes include the following: streamlined procedures for revising stationary-source operating permits issued by State and local permitting authorities or the Environmental Protection Agency (EPA) under title V of the Clean Air Act; changes to the certification of compliance that is required to be submitted as part of the permit documentation; clarification of the title I and title V permitting requirements for certain smaller research and development facilities; and changes in procedural requirements in order to clarify the flexibility States possess in processing minor new source review actions under title I of the Act.

Timetable:

Action	Date	FR Cite
NPRM	08/29/94	59 FR 44460
NPRM Supplemental Proposal	04/27/95	60 FR 20804
FINAL	09/00/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3412.

Agency Contact: Ray Vogel, Environmental Protection Agency, Air and Radiation, Information Transfer and Program Integration, Division, OAQPS, MD-12, Research Triangle Park, NC 27711
Phone: 919 541-3153
Fax: 919 541-5509

RIN: 2060–AF70

3424. METHODS FOR MEASUREMENT OF VISIBLE EMISSIONS - THE ADDITION OF METHODS 203A, 203B, AND 203C TO APPENDIX M OF PART 51 .

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401(b)(1); 42 USC 7410; 42 USC 7470 to 7479; 42 USC 7501 to 7508; 42 USC 7601(a)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This rulemaking adds Test Methods 203A, 203B, and 203C to 40 CFR Part 51, Appendix M (entitled "Example Test Methods for State Implementation Plans"). These methods describe procedures for estimating the opacity of visible emissions. States have requested that EPA promulgate these methods so that they can use them in State Implementation Plans in enforcing visible emissions regulations from Stationary Sources.

Timetable:

Action	Date	FR Cite
NPRM	11/22/93	51 FR 61639
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 2915.

Agency Contact: Roy Huntley, Environmental Protection Agency, Air and Radiation, (MD-14), Research Triangle Park, NC 27711
Phone: 919 541-1060

RIN: 2060–AF83

3425. REVISION OF EPA'S RADIOLOGICAL EMERGENCY RESPONSE PLAN

Priority: Other Significant

Legal Authority: PL 96-295,sec304; EO 12777

CFR Citation: None

Legal Deadline: None

Abstract: The U.S. Environmental Protection Agency (EPA) Radiological Emergency Response Plan (RERP) establishes a framework for timely, coordinated EPA action to protect public health and safety and the environment in response to a peacetime radiological incident. The original EPA RERP was approved in 1986. This new revision updates authorities, responsibilities, capabilities, and procedures for implementing effective radiological emergency response actions by EPA Offices. The RERP presents the EPA organizational structure and concept of operations for responding to radiological incidents as a participant in a Federal multi-agency response using the Federal Radiological Emergency Response Plan (FRERP) and the Federal Response Plan (FRP), and independently using the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This revision incorporates recent changes to the FRERP and NCP, and many other policy updates. In short, this revision ensures that EPA maintains a comprehensive strategy to provide organized, effective assistance to State and local governments in the event of a radiological emergency.

Timetable:

Action	Date	FR Cite
Revise Radiological Emergency Response Plan	06/00/96	
Notice of Availability	09/30/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3638.

Agency Contact: Jonathan D. Edwards, Environmental Protection Agency, Air and Radiation, 401 M St SW Mailcode 6602J, Washington, DC 20460
Phone: 202 233-9366

RIN: 2060–AF85

3426. SALES VOLUME LIMIT PROVISIONS FOR SMALL-VOLUME MANUFACTURE CERTIFICATION FOR CLEAN FUEL AND CONVENTIONAL VEHICLE CONVERSIONS AND RELATED PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: CAA section 202,203,247, 301(a)

CFR Citation: 40 CFR 85; 40 CFR 86; 40 CFR 88

Legal Deadline: None

Abstract: This action will temporarily raise the 10,000 vehicle sales volume limit for vehicle converters seeking certification under the small volume manufacturers provisions. In addition this action will adopt provisions to provide flexibility in assigned deterioration factors for alternative fuel vehicles. fuel vehicles.

Timetable:

Action	Date	FR Cite
NPRM	01/03/96	61 FR 140
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3643.

Agency Contact: Cliff Tyree, Environmental Protection Agency, Air and Radiation, National Fuel & Emissions Vehicle Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4310

RIN: 2060–AF87

3427. COMPLIANCE APPLICATION GUIDANCE FOR 40 CFR 194

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-579; Land Withdrawal Act

CFR Citation: 40 CFR 191; 40 CFR 194

Legal Deadline: None

Abstract: The Compliance Application Guidance (previously titled Format and Content Guide) will be a guidance document for 40 CFR 194 compliance criteria. These criteria are being developed pursuant to the Waste Isolation Pilot Plant (WIPP) Land Withdrawal Act and EPA's radioactive waste disposal standards (40 CFR 191). The compliance criteria are proceeding separately in the regulatory process. These criteria include a number of requirements that will be used by EPA to determine if the Department of Energy's (DOE) application to open the WIPP complies with 40 CFR 191. The Format and Content Guide for 40 CFR 194 will 1) provide more detailed information on the completeness requirements discussed in the criteria, and it will 2) be used by EPA to judge if DOE has submitted in its application the information required by 40 CFR 194. There may be overlap in this Format and Content Guide and RCRA information needs.

Timetable:

Action	Date	FR Cite
Notice of Availability of Draft Guidance	10/18/95	60 FR 53921
Notice of Availability of Final Guidance	05/00/96	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3538.

Agency Contact: Tom Peake, Environmental Protection Agency, Air and Radiation, 401 M Street SW., 6602J, Washington, DC 20460
Phone: 202 233-9765

RIN: 2060–AG09

3428. DETERMINING CONFORMITY OF GENERAL FEDERAL ACTIONS TO STATE OR FEDERAL IMPLEMENTATION PLANS (FOR ATTAINMENT AND UNCLASSIFIABLE AREAS)

Priority: Economically Significant

Legal Authority: 42 USC 7401/et seq

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: NPRM, Judicial, December 7, 1995. Final, Judicial, April 14, 1996.
EPA plans to withdraw this notice and have order vacated.

Abstract: EPA plans to withdraw this notice. However, since this rule was court ordered, proper procedures must be followed to have the order vacated. Until the order is vacated, EPA cannot legally remove this notice from the Federal Register.

The purpose of this rule is to supplement a previous regulation published on November 30, 1993, which applies to determining conformity of general Federal actions to State or Federal implementation plans ("general conformity"). The previous regulation applies to geographic areas of the country designated (for air quality purposes) as nonattainment or maintenance areas. A nonattainment area is one which is not attaining one or more National Ambient Air Quality Standards (NAAQS). A maintenance area is one which now attains the NAAQS and was redesignated as a maintenance area after the 1990 Clean Air Act Amendments (CAAA). States must follow a maintenance plan for such areas which ensure that the area will continue to attain the NAAQS for a specified period of time.

The purpose of conformity regulations is to ensure that actions taken by Federal entities do not cause or contribute to a violation of the NAAQS and thereby undermine the State Implementation Plan (SIP) for that area.

The rule EPA is now proposing would apply the concept of conformity to geographic areas of the country which are designated as attainment or unclassifiable areas (i.e., those areas of the country not currently covered by the existing general conformity regulations).

This proposed rule will establish the criteria and procedures governing the determination of conformity for all Federal actions occurring in attainment or unclassifiable areas, except Federal highway and transit actions ("transportation conformity"). Transportation conformity requirements are being established in a separate rulemaking action.

Timetable:

Action	Date	FR Cite
Final Action	04/14/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3675.

Agency Contact: Gary Blais, Environmental Protection Agency, Air and Radiation, 401 M Street SW., MC 6301, Washington, DC 20460
Phone: 202 260-4491

RIN: 2060–AG10

3429. AMENDMENT TO STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES; MONITORING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act, section 407

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This action proposes to clarify and update requirements for source owners and operators who must install and use continuous stack or duct opacity monitoring equipment. This action also proposes amendments regarding design and performance validation requirements for continuous opacity monitoring system (COMS) equipment in appendix B, PS-1. These amendments to subpart A and PS-1 will not change the affected facilities' applicable emission standards or requirement to monitor. The amendments will: (1) clarify owner and operator and monitor vender obligations, (2) reaffirm and update COMS design and performance requirements, and (3) provide EPA and affected facilities with equipment assurances for carrying out effective monitoring. The specifications shall apply to all COMS's installed or replaced after the date of promulgation. Following promulgation, a source owner, operator, or manufacturer will be subject to these performance specifications if installing a new COMS, relocating a COMS, replacing a COMS, recertifying a COMS that has undergone substantial refurbishing, or has been specifically required to recertify the COMS with these revisions.

Timetable:

Action	Date	FR Cite
NPRM	11/24/94	59 FR 60585
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3744.

Agency Contact: Solomon Ricks, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-19, Research Triangle Park, NC 27711
Phone: 919 541-5242
Fax: 919 541-1039

RIN: 2060–AG22

3430. AMBIENT AIR QUALITY SURVEILLANCE, RECENSION OF NAMS AMBIENT AIR QUALITY MONITORING REQUIREMENTS FOR LEAD

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7409; 42 USC 7601(a); 42 USC 7410; 42 USC 7613; 42 USC 7619

CFR Citation: 40 CFR 50; 40 CFR 53; 40 CFR 58

Legal Deadline: None

Abstract: Because of the success in the reduction of ambient lead levels due to the elimination of lead in gasoline and the shift towards focusing on point sources, the Office of Air Quality Planning and Standards (OAQPS) is revising the Part 58 Air Monitoring Regulations for Lead which would allow lead national ambient monitoring stations (NAMS) monitors to be discontinued. At the same time monitoring around point sources will be encouraged, for sources with emissions greater than 5 tons/year. This action is at the direct request of numerous State and local agencies whose NAMS lead monitors are recording values at the minimum detectable (MDL) of the methodology. Since small point sources are so variable in their emissions/impacts, that to prevent over-estimating ambient lead levels, complete sampling coverage is recommended. Complete sampling is defined as continuous or daily sampling. To provide complete everyday sampling at lead point sources at the same relative cost as the current procedure (one sample every 6 days followed by individual filter analysis), the regulation will be modified to allow: (1)use 2 or 3 high-volume samplers at each location; (2)sample for 48 instead of 24 hours; (3)use a convenient continuous sampling schedule, i.e., noon-to-noon or 9a.m.-9a.m., etc.; (4) follow the AREAL approved procedure for compositing up to 8 filters in a single analysis; and (5) report monthly averages which will be averaged together to produce the quarterly concentration to compare with the standard. This rule serves as both a regulation and as a guideline for State and local agencies in establishing and maintaining their ambient air monitoring networks. Much of the language within this rule has not changed since it was originally written in 1979, with a few exception. Because this rule provides guidance as well as regulatory requirements, there are several sections of text that should be updated to reflect current ambient air monitoring information and references.

Timetable:

Action	Date	FR Cite
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3650.

Agency Contact: Neil Berg, Jr., Environmental Protection Agency, Air and Radiation, Monitoring and Quality Assurance Group, MD-14, Research Triangle Park, NC 27711
Phone: 919 541-5520

Fax: 919 541-1903

RIN: 2060–AG23

3431. AMENDMENTS TO THE FINAL RULES NESHAP FOR CHROMIUM ELECTROPLATING, NESHAP FOR COMMERCIAL STERILIZATION, NESHAP FOR DRY CLEANERS, AND NESHAP FOR SECONDARY LEAD SMELTERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This action proposed an amendment to the final rules for chromium electroplating, commercial sterilization, drycleaners, and clarified the rule for secondary lead smelters. The proposal would allow States to defer nonmajor sources in these source categories from the Title V permit requirements for five years (December 1999), except for secondary lead smelters where the rule was clarified to specifically require a Title V permit for all sources (major and nonmajor). Also, this action included an exemption from the Title V permit requirements for a segment of the chromium electroplating source category.

Timetable:

Action	Date	FR Cite
NPRM	12/13/95	60 FR 64002
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Sectors Affected: Multiple

Additional Information: SAN No. 3674.

Agency Contact: Lalit Banker, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5420

RIN: 2060–AG36

3432. • AMENDMENT TO THE USER FEES FOR RADON PROFICIENCY PROGRAMS RULE

Priority: Other Significant

Legal Authority: 15 USC 2661-2665

CFR Citation: 40 CFR 195 and 700 (revision)

Legal Deadline: None

Abstract: The User Fees for Radon Proficiency Programs Final Rule established fees in 1994 that EPA will collect annually to support its voluntary Radon Proficiency Programs. The rule requires individuals and organizations applying to or participating in the Radon Proficiency Program (RPP) to pay annual fees. The final rule states that EPA shall adjust the fees over the next three years to a level that will ultimately be sufficient to recover the full annual costs of the program. Through this technical amendment, EPA will revise its fee schedule to collect a larger percentage of its annual (FY 95) operating costs. The annual fees will also reflect changes in the proficiency programs, participation, inflation, etc. In the calculation of the annual fees, the Agency will take into consideration the impact of the second year of fee collection on the radon industry.

Timetable:

Action	Date	FR Cite
Final Action	06/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Sectors Affected: 152 General Building Contractors-Residential Buildings; 171 Plumbing, Heating and Air-Conditioning; 382 Laboratory Apparatus and Analytical, Optical, Measuring, and Controlling Instruments; 873 Research, Development, and Testing Services

Additional Information: SAN No. 3835.

Agency Contact: James W. Long, Environmental Protection Agency, Air and Radiation, 401 M Street SW., 6604J, Washington, DC 20460
Phone: 202 233-9433
Fax: 202 233-9652
Email: long.james@epamail.epa.gov

RIN: 2060–AG64

3433. • REVISION TO APPENDIX W OF 40 CFR PART 51

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410(a)(2), 7475(a), 7502(a) and (b), 7503; 42 USC 7601(a)(1), 7620; 7401-7671q

CFR Citation: 40 CFR 51.112; 40 CFR 51.160; 40 CFR 52.166; 40 CFR 52.21

Legal Deadline: None

Abstract: This action is intended to be of a maintenance nature for the test of Appendix W to 40 CFR Part 51. The main task is to sequentially number Appendix W paragraphs to conform with a format imposed by the Office of the Federal Register (OFR). As a practical matter, such a format should streamline the process by which future revisions of Appendix W are made. In addition, there are a few typos made by OFR when it first published the appendix in 1993, and there are places where page numbers are incorrect (conforming with the earlier edition of the Guideline on Air Quality Models, when it was incorporated by reference and maintained as a separate EPA document). These need to be corrected. Another major element of this action involves models that are listed in Appendix B of Appendix W which are available for use on a case-by-case basis. Of 30-odd models listed, 10 or so have been identified for removal because they have seen little or no use in recent years and have been superseded by other modeling techniques. Finally, two models, HOTMAC/RAPTAD and PANACHE, will be added to Appendix B. These models were presented by their developers at the 6th Conference on Air Quality Modeling, August 10, 1995 in Washington, DC. No adverse public comments were received in the docket established for this conference.

Timetable:

Action	Date	FR Cite
Interim/Direct Final	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Additional Information: SAN No. 3831.

Agency Contact: Tom Coulter, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-14, Research Triangle Park, NC 27711
Phone: 919 541-0832
Fax: 919 541-0044

Email: coulter.tom@epamail.epa.gov

RIN: 2060–AG71

3434. REVISIONS TO PART 35, SUBPART A SECTION 105 AIR GRANT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act section 105

CFR Citation: 40 CFR 35, subpart A

Legal Deadline: None
In order to assure that state, local, and tribal agencies are still eligible to receive a section 105 air grant in FY 1995, the interim final rule must be in place before October 1, 1994.

Abstract: The purpose of this action is to revise the current air grant regulations contained in 40 CFR 35, subpart A, so that they are consistent to the changes made to section 105 as a result of enactment of the 1990 Clean Air Act. The Act also directed EPA to reexamine and revise, as necessary, certain aspects of the air grant cost-sharing relationship that must now be revised to reflect the impact of: (1) the Title V permit fee provisions contained in 40 CFR 20 and (2) a recent OGC opinion prohibiting the use of Title V fees to help meet the nonfederal contribution requirements of the section 105 air grant program. This revision includes the introduction of a provision to allow recipients to receive (upon demonstration to, and approval by, the Administrator) a waiver from certain cost-sharing requirements for a limited time.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 3446.

Agency Contact: William Houck, Environmental Protection Agency, Air and Radiation, (6101), Washington, DC 20460
Phone: 202 260-1754

RIN: 2060–AF03

3435. INDIAN TRIBES: AIR QUALITY PLANNING AND MANAGEMENT

Priority: Other Significant

Legal Authority: 42 USC 7405/CAA 105

CFR Citation: 40 CFR 35

Legal Deadline: Final, Statutory, April 15, 1992.

Abstract: The Clean Air Act of 1990 requires EPA to promulgate regulations identifying those provisions of the CAA for which it is appropriate to treat tribes in the same manner as States. For the provisions specified, a Tribe may develop and implement one or more of its own air quality programs. In addition to specifying the CAA provisions for which it is appropriate to treat Tribes in the same manner as States, the rule also establishes the requirements that Indian Tribes must meet if they choose to seek such treatment, and provides for awards of Federal financial assistance to the Tribes.

Timetable:

Action	Date	FR Cite
NPRM	08/25/94	59 FR 43956
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Additional Information: SAN No. 3087.

Agency Contact: David R. LaRoche, Environmental Protection Agency, Air and Radiation, Mail Code 6102, Washington, DC 20460
Phone: 202 260-7652

RIN: 2060–AF79

3436. NAAQS: SULFUR DIOXIDE (REVIEW)

Priority: Economically Significant

Legal Authority: 42 USC 7409/CAA 109

CFR Citation: 40 CFR 50.4; 40 CFR 50.5

Legal Deadline: NPRM, Judicial, November 1, 1994. Final, Judicial, April 15, 1996.

Abstract: On November 15, 1994, the Environmental Protection Agency (EPA) published a notice announcing a proposed decision not to revise the existing 24-hour and annual primary standards. In that notice EPA sought public comment on the possible need to adopt additional regulatory measures to address short-term peak sulfur dioxide exposure and thereby further reduce the health risk to asthmatic individuals.

On March 7, 1995, EPA published the proposed requirements for implementation plans and ambient air quality surveillance for sulfur dioxide. The action proposes implementation strategies for reducing short-term high concentrations of sulfur dioxide emissions in the ambient air.

Timetable:

Action	Date	FR Cite
NPRM	11/15/94	59 FR 58958
NPRM NAAQS SO2 Implementation Plans(Part 51)	03/07/95	60 FR 12492
Final Action	05/00/96	
Final NAAQS SO2 Implementation Plans (Part 51)	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 1002 (Primary Standard) and SAN No. 3588 (Implementation)

Docket No. A-84-25.

Agency Contact: John Haines, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711
Phone: 919 541-5533

RIN: 2060–AA61

3437. NAAQS: NITROGEN DIOXIDE (REVIEW)

Priority: Other Significant

Legal Authority: 42 USC 7408/CAA 108; 42 USC 7409/CAA 109

CFR Citation: 40 CFR 50.11

Legal Deadline: NPRM, Judicial, October 2, 1995. Final, Judicial, October 1, 1996.

Abstract: Based on the revised air quality criteria, EPA will determine whether revisions to the standards are appropriate.

Timetable:

Action	Date	FR Cite
NPRM	10/02/95	60 FR 52874
Final Action	10/01/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 1004.

Agency Contact: John Haines, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, AQSSD/HESG, MD-15, Research Triangle Park, NC 27711

Phone: 919 541-5533

RIN: 2060–AC06

3438. NSPS: MUNICIPAL SOLID WASTE LANDFILLS

Priority: Economically Significant

Legal Authority: 42 USC 7411/CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The purpose of this action is to develop standards for regulating non-methane organic compounds (NMOC) emissions from new and modified municpal solid waste (MSW) landfills under Section 111(b). Section 111(d) requires States to develop emission standards for existing landfills based on EPA guidelines. The intended effect of the standards and guidelines is to require certain municipal solid waste landfills to control emissions to the level achievable by the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

EPA has worked with landfill owners and operators, including local governments and private owners, to produce a regulation based on common-sense techniques, providing maximum flexibility for owners and operators, and achieving the desired emissions reductions in the most cost-effective way. The rule focuses on only the largest sources of emissions, thereby avoiding regulation of small landfills where controls would be inefficient and onerous. The rule also provides complete flexibility to design a control system based on the particular, site-specific conditions at each landfill.

Timetable:

Action	Date	FR Cite
NPRM	05/30/91	56 FR 24468
Notice of Availability	06/21/93	58 FR 33790
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2535.

Agency Contact: Martha Smith, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-2421

RIN: 2060–AC42

3439. MEDICAL WASTE INCINERATORS (MWI)

Priority: Economically Significant

Legal Authority: Clean Air Act of 1990, section 129

CFR Citation: 40 CFR 60

Legal Deadline: NPRM, Judicial, February 1995. Final, Statutory, November 1992. Final, Judicial, April 1996.

Abstract: The Environmental Protection Agency (EPA) is developing new source performance standards (NSPS) for new MWIs and emission guidelines (EG) for existing MWIs under sections 111 and 129 of the Clean Air Act. The NSPS are to reflect the maximum degree of reduction in emissions that is achievable for new units. The EG may be less stringent than the standards for new units. States must submit plans for implementing and enforcing the guidelines. Section 129 requires that emission limits be established for particulate matter, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, dioxins, and dibenzofurans. These standards are being developed under EPA's integrated combustion strategy, whereby EPA will regulate various forms of combustion under a coordinated plan. Two other elements of this strategy, the emission standards for municipal waste combustion and hazardous waste combustion, are summarized elsewhere in this Regulatory Plan.

EPA is working intensively with MWI owners and operators, as well as with other stakeholders, to assure that this rule is based on the best understanding of the industry, and that it affords the flexibility to achieve the necessary emission reductions in the most sensible, cost-effective ways, including the transfer of wastes to larger, more efficient regional facilities.

Timetable:

Action	Date	FR Cite
NPRM	02/27/95	60 FR 10654
Final Action	05/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 2719.

Agency Contact: Rick Copland, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5265

RIN: 2060–AC62

3440. GUIDANCE FOR THE IMPLEMENTATION OF SECTION 112(G)—MODIFICATIONS

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990, sec 112(g)

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, May 1992.

Abstract: Guidance in the form of a rulemaking is being developed in accordance with the requirements of section 112(g) of the Clean Air Act Amendments of 1990 for modified, constructed and reconstructed major sources of hazardous air pollutants (HAPs). This regulatory document will include guidance for case-by-case MACT determinations that apply to constructed and reconstructed major sources.

Timetable:

Action	Date	FR Cite
NPRM	04/01/94	59 FR 15504
Final Action	08/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2932.

Agency Contact: Kathy Kaufman, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711
Phone: 919 541-0102

RIN: 2060–AD06

3441. NESHAP: PRINTING/PUBLISHING INDUSTRY

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Judicial, March 1, 1995. Final, Statutory, November 15, 1994. Final, Judicial, May 15, 1996.

Abstract: This regulation will control hazardous air pollutant emissions from publication rotogravure, package/product rotogravure, and wide-web flexographic printing facilities.

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13664
Correction Notice	04/03/95	60 FR 16920
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3077.

Agency Contact: David Salman, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-0859

RIN: 2060–AD95

3442. NESHAP: POLYMERS AND RESINS, GROUP I

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1994. Final, Judicial, July 15, 1996.

Abstract: The regulation under development would control emissions of hazardous air pollutants (HAPs) from the manufacture of butyl rubber, epichlorohydrin elastomer, ethylene propylene rubber, Hypalon (TM), neoprene, nitrite butadiene rubber, polybutadiene rubber, polysulfide rubber and styrene butadiene rubber and latex. Emissions from process vents, equipment leaks, wastewater and storage will be addressed by this regulation for both new and existing sources.

Timetable:

Action	Date	FR Cite
NPRM	06/12/95	60 FR 30801
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3166.

Agency Contact: Leslie Evans, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5410

RIN: 2060–AD96

3443. NESHAP FOR OFF-SITE WASTE AND RECOVERY OPERATIONS

Priority: Other Significant

Legal Authority: Clean Air Act, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Judicial, November 15, 1995.

Abstract: This rule (formerly titled "Solid Waste Treatment, Storage, and Disposal Facilities") will specify maximum achievable control technology (MACT) for facilities that treat, store, dispose of, recycle, recover and/or refine waste and recoverable materials received from off-site. These facilities include commercial waste treatment facilities, used oil refining, solvent recovery plants, and waste transfer stations.

Timetable:

Action	Date	FR Cite
ANPRM	12/20/93	58 FR 66336
NPRM	10/13/94	59 FR 51913
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3159.

Agency Contact: Michele Aston, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5032

RIN: 2060–AE05

3444. NESHAP: POLYMERS AND RESINS, GROUP IV

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990, sec 112

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Judicial, March 15, 1995. Final, Judicial, March 15, 1996.
EPA requested the judicial deadline be moved to May 15, 1996.

Abstract: This action will control emissions of hazardous air pollutants (HAPs) from the manufacturer of Acrylonitrile Butadiene Styrene (ABS) Resin, Styrene Acrylonitrile (SAN) Resin, Methyl Methacrylate Acrylonitrile Butadiene Styrene (MABS) Resin, Methyl Methacrylate Butadiene Styrene (MBS) Resin, Polystyrene, Poly (ethylene terephthalate) (PET) Resin, and Nitrile Resin Production. Emissions from process vents, equipment leaks, wastewater and storage will be addressed by this regulation for both new and existing sources.

Timetable:

Action	Date	FR Cite
NPRM	03/29/95	60 FR 16090
Final Action	05/15/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Additional Information: SAN No. 3187.

Agency Contact: Leslie Evans, Environmental Engineer, Environmental Protection Agency, Air and Radiation, Research Triangle Park, NC 27711
Phone: 919 541-5410

RIN: 2060–AE37

3445. NESHAP: MANUFACTURE OF TETRAHYDROBENZALDEHYDE

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act section 112(d)

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: The purpose of this action is to develop a MACT standard for the production of Tetrahydrobenzaldehyde. (Referred to in the initial Source Category List as Butadiene Dimers). The emissions sources that will be controlled are process vents (e.g. reactors); storage; equipment leaks and other fugitive sources; transfer operations; and wastewater operations.

Timetable:

Action	Date	FR Cite
Direct Final	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 286 Industrial Organic Chemicals

Additional Information: SAN No. 3469.

Agency Contact: John M. Schaefer, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-0296

RIN: 2060–AE99

3446. DELISTING OF SOURCE CATEGORIES UNDER 112(C): STAINLESS AND NON-STAINLESS STEEL MANUFACTURING AND ELECTRIC ARC FURNACE (EAF) OPERATION, WOOD TREATMENT, AND CHROMIUM CHEMICALS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401/CAA 112

CFR Citation: None

Legal Deadline: None

Abstract: An analysis of information obtained from each source in both categories supports a determination that neither category includes a "major" source. Consequently, both source categories will be removed from the source category list pursuant to section 112(c) of the Clean Air Act.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAN No. 3466.

Agency Contact: David Svendsgaard, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-2380

RIN: 2060–AF11

3447. DECISION ON THE PETITION TO REMOVE CAPROLACTAM FROM THE LIST OF HAZARDOUS AIR POLLUTANTS

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act section 112(b)(3).

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This action will address the Agency's decision on the petition to remove caprolactam from the list of hazardous air pollutants under section 112(b)(3)(C) of the Clean Air Act amendments.

Timetable:

Action	Date	FR Cite
NPRM	09/18/95	60 FR 48081
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3046.

Statutory decision to delist 02/20/95

Agency Contact: Nancy Pate, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711
Phone: 919 541-5347

RIN: 2060–AF33

3448. • REVISION OF INITIAL LIST OF CATEGORIES OF SOURCES AND SCHEDULE FOR STANDARDS UNDER SECTION 112(C) AND (E) OF THE CLEAN AIR ACT AMENDMENTS OF 1990

Priority: Other

Legal Authority: CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Section 112 of the Clean Air Act requires the EPA to publish a list of major and area source categories which emit one or more of the 189 hazardous air pollutants identified in Section 112. The list of source categories was finalized in July 1992, and contained 174 categories. Section 112 further requires the Agency to prioritize the listed categories such that standards are promulgated for 40 source categories within 2 years of enactment, 25% of all initially listed categories within 4 years, 50% within 7 years, and 100% within 10 years. The schedule for the promulgation of emissions standards was published in December 1993. This action revises the initial list of source categories and the corresponding schedule for emission standards. This is in accordance with the statute, which requires the Agency to periodically amend the list in response to public comment or new information, and no less often than every eight years. As a result of several additions and deletions of source categories, the "list" now contains 175 categories. Categories may be added at any time contingent upon showing that the category is a category of major sources or that a category of area sources poses a threat of adverse effect and warrants regulation under Section 112. Actions to add or remove area source categories are excluded from this notice in order to provide the opportunity for public comment on them. Actions included within this action are: 1) adding categories of major sources, where major sources have been identified; 2) deleting categories of major sources which, upon further study, have been found to not contain major sources; 3) moving categories to different, more appropriate industry groups for purposes of clarity; 4) modifying titles and definitions of listed source categories to clarify applicability; and 5) reporting other relevant source category actions that were published independently of this action.

Timetable:

Action	Date	FR Cite
Notice of Revision	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3791.

Agency Contact: David J. Svendsgaard, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-2380

RIN: 2060–AG42

3449. FIELD CITATION PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7413(d)/CAAA 113(d)

CFR Citation: 40 CFR 59

Legal Deadline: None

Abstract: The Clean Air Act Amendments gives EPA the authority to issue on-the-spot field citations for minor violations of the Clean Air Act, with penalties of up to $5,000 per day of violation. Section 113(d) of the Act requires the field citation program to be implemented through regulations which provide the informal hearing procedures. These hearing procedures are not required to be as rigorous as those imposed by the Administrative Procedures Act (APA), but nevertheless must provide due process. Agency guidance providing appropriate penalties for specific minor violations will be prepared for EPA employees and made available to the regulated community. Training on the issuance of field citations will also be developed.

Timetable:

Action	Date	FR Cite
NPRM	05/03/94	59 FR 22776
Final Action	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 2937.

Agency Contact: Cary Secrest, Environmental Protection Agency, Air and Radiation, (2242-A), Washington, DC 20460
Phone: 202 260-8661

RIN: 2060–AD82

3450. • STANDARDS FOR REFORMULATED AND CONVENTIONAL GASOLINE, INDIVIDUAL BASELINE FUEL ADJUSTMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7414/CAA 114; 42 USC 7545(c)/CAA 211(c); 42 USC 7601/CAA 301

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: This rule would establish criteria by which a refiner could receive an adjustment to its baseline under certain circumstances. Baseline adjustments reduce the cost of compliance (primarily with the anti-dumping requirements of the reformulated gasoline program) for those refiners which would otherwise be extremely burdened.

Baseline adjustments under certain circumstances were provided for in the December 1993 final Reformulated Gasoline and Anti- Dumping rule. However, baseline adjustments are only allowed under certain narrowly defined circumstances; broad adjustments are beyond EPA's discretion. The circumstances for which baseline adjustments would be allowed under this rule are as follows: 1) production of JP-4 in 1990; 2) use of an extremely low-sulfur crude in 1990; 3) having extremely low baseline values for sulfur andolefins. Refiners must meet specific criteria in order to qualify for one or more of these adjustments.

Timetable:

Action	Date	FR Cite
NPRM	08/04/95	60 FR 40009
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3604.

Agency Contact: Christine M. Brunner, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4267
Fax: 313 741-7869

RIN: 2060–AG80

3451. • ADJUSTMENT OF REID VAPOR PRESSURE LOWER LIMIT FOR REFORMULATED GASOLINE SOLD IN THE STATE OF CALIFORNIA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7414/CAA 114; 42 USC 7545/CAA 211; 42 USC 7601(a)/CAA 301(a)

CFR Citation: 40 CFR 80.42(c)(1)

Legal Deadline: None

Abstract: EPA is amending the lower limit of the valid range for Reid Vapor Pressure (RVP) for reformulated gasoline (RFG) certified under the simple model and sold in the State of California. EPA is taking this action because it believes there will be no negative environmental impact and because it it proper in the limited case of California gasoline.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3841.

Agency Contact: Anne Pastorkovich, Environmental Protection Agency, Air and Radiation, (6406J), Washington, DC 20460
Phone: 202 233-9013
Fax: 202 233-9556
Email: Pastorkovich.Anne-Marie@EPAMail.EPA.Gov

RIN: 2060–AG82

3452. • INTEGRATED RULE FOR PAPER, FILM AND FOIL COATING AND COATINGS: MACT FOR NESHAP; AND BAC FOR NATIONAL VOC RULE

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-549 /Clean Air Act sections 112 and 183

CFR Citation: 40 CFR 63; 40 CFR 59

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action would result in the reduction of hazardous air pollutants (HAPs) emitted by the paper, film and foil coating industries and the reduction of volatile organic compound (VOC) emissions from the coatings used by these industries. The Agency will study the various HAP and VOC pollutants emitted by the industry and will evaluate pollution prevention and control techniques which can reduce these emissions. Although separate rulemakings will be required to meet the statutory requirements for HAP emission reduction (Section 112 of the Clean Air Act) and VOC emission reduction (Section 183(e) of the Clean Air Act), the development of the individual rules will be integrated to maximize resources and avoid duplication of data gathering efforts. There are likely to be many small businesses in the paper, film, and foil coating industry, but at this time it is not known how many of these small businesses will be subject to these rules.

Timetable:

Action	Date	FR Cite
Other Presumptive MACT	07/00/96	
NPRM	11/00/97	
Final Action	11/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Sectors Affected: 071 Soil Preparation Services; 26 Paper and Allied Products; 27 Printing, Publishing, and Allied Industries; 329 Abrasive, Asbestos, and Miscellaneous Nonmetallic Mineral Products; 349 Miscellaneous Fabricated Metal Products; 386 Photographic Equipment and Supplies; 395 Pens, Pencils, and Other Artists' Materials; 399 Miscellaneous Manufacturing Industries

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3827.

Agency Contact: Daniel Brown, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5303
Fax: 919 541-5689
Email: brown.dan@epamail.epa.gov

RIN: 2060–AG58

3453. OPEN-MARKET TRADING RULE FOR OZONE PRECURSORS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Clean Air Act, sections 182 and 187

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: The Environmental Protection Agency (EPA) will issue a final policy and model rule for open-market trading of ozone smog precursors (volatile organic compounds and oxides of nitrogen) that will provide more flexibility than ever before for companies to trade emission credits without prior State or Federal approval. After issuance by EPA, any State that adopts an identical rule will receive automatic EPA approval of its rule. Once the rule is in the State implementation plan (SIP), companies could engage in emissions trades without prior regulatory approval as long as accountability is ensured in accordance with the rule. The intended benefits of an active market in emissions trading are compliance with the ozone standard at far less cost and an increased incentive to develop innovative emission-reduction technologies.

Timetable:

Action	Date	FR Cite
NPRM	08/03/95	60 FR 39668
Final	06/00/96	
Final Action	09/00/96	
Inclusion of Model Rule		
Notice 08/25/95 (60 FR 44290)		

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3660.

Agency Contact: Nancy Mayer, Environmental Protection Agency, Air and Radiation, OAQPS, AQSSD (MD-15), Research Triangle Park, NC 27711
Phone: 919 541-5310
Fax: 919 541-0839

RIN: 2060–AF60

3454. • REVISED CARBON MONOXIDE (CO) STANDARD FOR CLASS I AND II NONHANDHELD NEW NONROAD PHASE I SMALL SPARK-IGNITED ENGINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7521CAA 201

CFR Citation: 40 CFR 90

Legal Deadline: None

Abstract: This direct final rule revises the existing new nonroad Phase I small spark-ignited (SI) engine regulations. Briggs and Stratton Corporation submitted a petition to the Administrator on March 4, 1996, asking the Agency to reconsider the existing regulation and to either allow the use of oxygenated certification fuels with the current CO standard or revise the existing carbon monoxide (CO) emission standard for class I and II nonhandheld engines. Briggs and Stratton argues that the majority of nonhandheld engines sold in the United States can not meet the current CO standard when tested on the monoxygenated certification test fuel specified in the regulations. EPA has finalized the CO standard on the basis of data provided to the Agency by Briggs and Stratton. The Agency had assumed that the data was collected using Indolene (a monoxygenated, nonreformulated gasoline) as the test fuel. In fact, Briggs and Stratton had used California's Phase II Reformulated Gasoline (RFG) in the testing, but had not informed EPA of this before the rule was finalized. The use of an oxygenated fuel has an effect on the emissions from these engines, particularly CO, and Briggs and Stratton had used California's Phase II Reformulated Gasoline (RFG) in the testing, but had not informed EPA of this before the rule was finalized. The use of an oxygenated fuel has an effect on the emissions from these engines, particularly CO, and Briggs and Stratton has suggested that the CO standard that the Agency finalized was thus more stringent than is feasible based on their data.

EPA staff are analyzing new data provided by Briggs and Stratton concerning the amount of the CO emission offset between Indolene and RFG for nonhandheld engines. Based on data analysis and documentation provided by Briggs and Stratton in support of their petition, EPA intends to determine the amount of the emission offset and consider raising the Phase I CO emission standard for nonhandheld engines accordingly. In their petition to EPA, Briggs and Stratton assert that raising the CO standard should result in reduced emissions of hydrocarbons and oxides of nitrogen, which are the primary pollutants of concern under the Phase I small SI rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3300.

Agency Contact: Laurel Horne, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 741-7803
Fax: 313 741-7816

RIN: 2060–AG81

3455. ON-BOARD DIAGNOSTICS: REVISION TO REQUIREMENTS FOR STORAGE OF ENGINE CONDITIONS ASSOCIATED WITH EXTINGUISHING A MALFUNCTION INDICATOR LIGHT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7521/CAA 202(m)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Federal On-Board Diagnostic (OBD) final rulemaking section 86.094-17(d), requires that, "If a malfunction has previously been detected, the MIL may be extinguished if the malfunction does not reoccur during three subsequent sequential trips during which engine speed is within 375 rpm, engine load is within 10 percent, and the engine's warm-up status is the same as that under which the malfunction was first detected, and no new malfunctions have been detected," California has adopted the same requirement, but has limited its applicability to fuel system and engine misfire malfunctions while the federal requirement applies to all malfunctions. California allows MIL illumination associated with all other malfunctions to be extinguished after undergoing three subsequent trips without recurrence of the malfunction regardless of undergoing similar engine conditions. In the interest of minimizing the differences between Federal OBD and California OBD II requirements, and because recent information made available to the Agency suggests that limiting similar conditions data storage to misfire and fuel system malfunctions is most appropriate, we intend to issue this rulemaking to require the same similar conditions data storage as required by the OBD II rulemaking.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Additional Information: SAN No. 3541.

Agency Contact: Todd Sherwood, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4405

RIN: 2060–AF20

3456. REVIEW OF THE FEDERAL TEST PROCEDURE FOR EMISSIONS FROM MOTOR VEHICLES AND MOTOR VEHICLE ENGINES

Priority: Economically Significant

Legal Authority: PL 101-549, Sec 208

CFR Citation: 40 CFR 86

Legal Deadline: NPRM, Judicial, January 31, 1995. Final, Statutory, May 15, 1992. Final, Judicial, July 30, 1996. Other, Judicial, May 15, 1993. Original statutory deadline (5/15/92) is from 11/90 Clean Air Act Amendments. Other Judicial date: per U.S. District Court Consent Decree, EPA issued a preliminary technical report on 5/15/93.

Abstract: Section 206(h) of the Clean Air Act requires the Environmental Protection Agency (EPA) to "review and revise as necessary" the regulations governing the Federal Test Procedure (FTP) to "insure that vehicles are tested under circumstances which reflect the actual current driving conditions under which motor vehicles are used, including conditions relating to fuel, temperature, acceleration, and altitude." The driving behavior used for the FTP was adopted over 20 years ago, and accumulated research suggests that it no longer adequately represents overall vehicle emission control performance under current driving conditions.

This action revises the FTP used to design all Federal emissions test methods, as well as all federally approved methods of estimating and projecting emissions from automobiles. This revision will advance the Agency's strategic aim of using better science and better data by assuring that automobiles can be accurately tested for compliance with Federal standards, and it will also enable EPA and others to obtain accurate emission inventories and projections to assist in planning for attainment of national air quality standards.

Timetable:

Action	Date	FR Cite
NPRM	02/07/95	60 FR 7404
Final Action	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3323.

Agency Contact: John German, Chief, Special Projects Staff, Environmental Protection Agency, Air and Radiation, National Vehicle and Fuel Emissions Lab, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4214

RIN: 2060–AE27

3457. ALTERNATIVE TEST PROCEDURE FOR THE VOLUNTARY AFTERMARKET PART CERTIFICATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7541(b)/CAA 207(b)

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action would adopt an alternative testing procedure to be used in the voluntary aftermarket part certification program for certifying aftermarket parts. Currently only the full Federal Test Procedure and Emission Critical Parameters for Specified Parts are acceptable test procedures for this program. A proposed rulemaking was published on August 8, 1989. Based on the public comments received and further analysis, EPA developed a supplemental notice of proposed rulemaking which was published on January 30, 1991. Analysis of all public comments are complete and work on the final rulemaking is under way.

Timetable:

Action	Date	FR Cite
NPRM	08/08/89	54 FR 32598
NPRM (Supplemental)	01/30/91	56 FR 3746
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Additional Information: SAN No. 2637.

Agency Contact: John L. Wehrly, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4286

RIN: 2060–AC50

3458. REGULATION OF FUEL AND FUEL ADDITIVES: CERTIFICATION REQUIREMENTS FOR DEPOSIT CONTROL ADDITIVES

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act 211(1), 211(c), 114

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: This final rule implements the certification requirements for deposit control additives. These requirements will replace the interim requirements for deposit control additives. (San No.3018) improved fuel economy. The control of engine and fuel supply deposits is expected to result in reduced vehicle emissions and improved fuel economy.

Timetable:

Action	Date	FR Cite
NPRM	12/06/93	58 FR 64213
Interim Final Rule	11/01/94	59 FR 54678
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Sectors Affected: 291 Petroleum Refining; 517 Petroleum and Petroleum Products; 461 Pipelines, Except Natural Gas; 421 Trucking and Courier Services, Except Air; 554 Gasoline Service Stations; 289 Miscellaneous Chemical Products

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3597.

Agency Contact: Jeff Herzog, Environmental Protection Agency, Air and Radiation, National Vehicle and Fuel Emissions Lab, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4227
Fax: 313 741-7869

RIN: 2060–AG06

3459. • REVISION TO THE COVERED AREAS PROVISION FOR REFORMULATED GASOLINE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7545/CAA 211

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: Under authority of the Clean Air Act as amended in 1990, EPA promulgated regulations to require a cleaner burning "reformulated gasoline" (RFG) in nine mandated areas of the country with the worst ozone air pollution problems. These areas are designated as "covered areas," (e.g., areas in which non-RFG ("conventional gasoline") is prohibited from being sold or dispensed to the ultimate consumers of the gasoline.

The RFG regulations also include a provision which allows a State, upon petition by the Governor, to have other areas designated as nonattainment for ozone included as "covered areas" under the Federal RFG program (the "opt-in" provision).

This action will expand the opt-in provision to include areas that that formerly were in nonattainment for ozone as well as areas presently in nonattainment for ozone. This action will give States the flexibility to use the RFG program in their maintenance plans and as contingency measures for those areas that have been redesignated to attainment status, but are in need of ozone controls to maintain that status.

Timetable:

Action	Date	FR Cite
Direct Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3843.

Agency Contact: Marylin Bennett, Environmental Protection Agency, Air and Radiation, (6406J), Washington, DC 20460
Phone: 202 233-9006
Fax: 202 233-9557

RIN: 2060–AG77

3460. EMISSION STANDARDS FOR GASOLINE SPARK-IGNITION AND DIESEL COMPRESSION-IGNITION MARINE ENGINES

Priority: Economically Significant

Legal Authority: PL 101-549, Sec 222; 42 USC 7547

CFR Citation: 40 CFR 91

Legal Deadline: NPRM, Judicial, September 30, 1994. Final, Judicial, November 22, 1995.

Abstract: This action will implement emission standards and test procedures for currently unregulated marine engines. Section 213 of the Clean Air Act (CAA) as amended requires the EPA to conduct a study to determine whether emissions of carbon monoxide (CO), oxides of nitrogen (NOx), and volatile organic compounds (VOCs) from nonroad engines and vehicles contribute to levels of ambient ozone and CO in more than one area not in compliance with the National Ambient Air Quality Standards (NAAQS) for these pollutants. EPA has determined (59 FR 31306) that emissions from such sources significantly contribute to nonattainment of the NAAQS for ozone and CO in more than one area. Since the Agency made this positive determination, section 213 requires EPA to promulgate regulations that will result in reductions in emissions from non-road sources. Consequently, EPA is this proposal to reduce emissions from marine engines.

Timetable:

Action	Date	FR Cite
NPRM	11/09/94	59 FR 55930
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAN No. 3350.

Agency Contact: Deanne North, Environmental Protection Agency, Air and Radiation, National Vehicle & Fuel Emissions Lab, 2565 Plymouth Road, Ann Arbor, MI 48105
Phone: 313 668-4331

RIN: 2060–AE54

3461. ACID RAIN NITROGEN OXIDES CONTROL REGULATION

Priority: Economically Significant

Legal Authority: PL 101-549, sec 407; Clean Air Act Amendments of 1990, Title IV

CFR Citation: 40 CFR 76

Legal Deadline:
NPRM, Statutory, May 15, 1992, for Group I boilers.
Final, Judicial, October 31, 1993, for Group I boilers.
NPRM, Statutory, January 1, 1996, for Group II boilers.
Final, Statutory, January 1, 1997, for Group II boilers.

Abstract: This regulatory action establishes NOx emission limitations for Phase I tangentially fired and dry bottom wall-fired boilers (Group I - Section 407(b)(1)) which must be met by January 1, 1995. Emissions limits for all other types of boilers Group II, Section 407(b)(2)), including cyclones and wet bottom wall-fired units, will be effective in 2000 and will be set in a later rulemaking (2060-AF48). Boilers from both groups that are listed under Phase II will be subject to their relevant emissions limits after 2000. In addition, the rule will determine conditions of applications for emission averaging and alternative emission limits for both groups of boilers. The final action (59 FR 13538) on Group I Phase I Boilers was vacated by the U.S. Court of Appeals on 11/22/94. A direct final rule was promulgated April 13, 1995.

Timetable:

Group I Phase I Boilers
NPRM 11/25/92 (57 FR 228)
Final Action 03/22/94 (59 FR 13538)
Direct Final Action 04/13/95 (60 FR 18751)
Group I Phase II Boilers
NPRM 01/19/96 (61 FR 1442)
Group II Boilers
Final Action 01/00/97

Small Entities Affected: Undetermined

Government Levels Affected: Local

Additional Information: SAN No. 2888.

Agency Contact: Larry Kertcher, Environmental Protection Agency, Air and Radiation, (6204J), Washington, DC 20460
Phone: 202 233-9180

RIN: 2060–AD45

3462. ACID RAIN PHASE II NITROGEN OXIDES REDUCTION PROGRAM

Priority: Economically Significant

Legal Authority: Section 407 of the Clean Air Act Amendments of 1990

CFR Citation: 40 CFR 76 (Revision)

Legal Deadline: Final, Statutory, January 1, 1997.

Abstract: Title IV of the Act authorizes EPA to establish the Acid Rain Program to reduce the adverse effects of acidic deposition. Specifically, the Act mandates a 10 million ton reduction in SO2, to be achieved in two phases through the use of an innovative emissions of NOx. On April 13, 1995, EPA promulgated a rule establishing emission limits for emissions of NOx from Group 1 boilers (o.50 lb/mmBtu for dry bottom wall-fired boilers and 0.45 lb/mmBtu for tangentially fired boilers). (2060-AF45). Compliance with the rule would be achieved in two phases: Phase I affected units were required to meet the applicable limits by 1996, while Phase II affected units by 2000. Section 407 also provides for revisions to the Group 1 emission limitations established in the April 13, 1995 rule for Phase II affected units, and for the establishment of emission limits for Group 2 boilers (wet bottom wall-fired boilers, cyclones, units applying cell burner technology, and all other types of utility boilers not classified as dry bottom wall-fired and tangentially fired boilers). This action revises NOx emission limitations for certain Group 1 boilers as well as establishes limitations for certain Group 2 boilers, as listed above. A proposed rule was promulgated on January 19, 1996.

Timetable:

Action	Date	FR Cite
NPRM	01/19/96	61 FR 1442
Final Action	01/00/97	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 491 Electric Services

Additional Information: SAN No. 3575 (combined with SAN 3571).

This action resulted from merging RIN 2060-AF44 (SAN 3571) with RIN 2060-AF48 (SAN 3575).

Agency Contact: Peter Tsirigotis, Environmental Protection Agency, Air and Radiation, 6204J, 401 M Street SW., Washington, Dc 20460
Phone: 202 233-9133
Fax: 202 233-9595

RIN: 2060–AF48

3463. AMENDMENT TO THE MVAC RULE TO INCLUDE ALL REFRIGERANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq; Title VI, Section 609

CFR Citation: 42 CFR 82, subpart B

Legal Deadline: Final, Statutory, November 15, 1994.
Both the venting prohibition and the MVAC "refrigerant" definition expand to cover all refrigerants, beginning 11/15/95, according to sections 608 and 609 of the Clean Air Act.

Abstract: This action would facilitate fulfillment of two statutory requirements; the extension of the no-venting prohibition to all refrigerants under section 608 and the section 609 requirement that the term "refrigerant," after November 15, 1995, include substitute refrigerants. The action would extend the applicable current requirements of the motor vehicle air-conditioning rule to the substitute refrigerants. This would require recovery and recycling of these refrigerants, in addition to the class I and class II refrigerants already covered under the MVAC rule. It would also require approved recycling equipment and specific certifications of equipment and technicians. The MVAC "refrigerant" definition was expanded to cover all refrigerants, beginning November 15, 1995, according to sections 608 and 609 of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	03/08/96	61 FR 9014
Final Action	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Sectors Affected: 75 Automotive Repair, Services, and Parking

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3555.

Agency Contact: Christine Dibble, Environmental Protection Agency, Air and Radiation, 401 M Street SW., 6205J, Washington, DC 20460
Phone: 202 233-9147

RIN: 2060–AF35

3464. PROTECTION OF STRATOSPHERIC OZONE: SUPPLEMENTAL RULE REGARDING A RECYCLING STANDARD UNDER SECTION 608

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq, section 608

CFR Citation: 40 CFR 82, subpart F

Legal Deadline: Other, Statutory, May 15, 1995.
The current rule sunsets the reclamation standard after May 15, 1995. Industry is requesting a change to that sunset, which would require a final rule by that 5/15/95 date.

Abstract: The current rule sunsets the requirement that a reclamation standard be met, as of May 1, 1995. Several members of the regulated community have approached EPA requesting that the requirement not be sunsetted or that it be replaced with a somewhat less stringent standard. This amendment will incorporate a level of continued required reclamation and/or recycling standard that the majority of the affected industry agrees is beneficial in order to encourage compliance.

Timetable:

Action	Date	FR Cite
NPRM	02/29/96	61 FR 7858
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3556.

Agency Contact: Debbie Ottinger, Environmental Protection Agency, Air and Radiation, 401 M Streets SW., 6205J, Washington, DC 20460
Phone: 202 233-9149

RIN: 2060–AF36

3465. • TECHNICAL AMENDMENT TO REGULATIONS PROMULGATED UNDER SECTION 608 OF THE CLEAN AIR ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: CAA 608

CFR Citation: 40 CFR 82

Legal Deadline: None

Abstract: This amendment would correct errors and provide clarification concerning the leak repair requirements for industrial process refrigeration equipment. That regulation was in response to a suit by the Chemical Manufacturing Association and it provided greater flexibility in complying with provisions to reduce leaks from equipment containing ozone-depleting substances.

This action has no impacts on small businesses, and state/local/tribal governments. This action will be undertaken as part of an agreement with CMA concerning the dismissal of their lawsuit.

Timetable:

Action	Date	FR Cite
Interim/Direct Final	06/30/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: 28 Chemicals and Allied Products; 358 Refrigeration and Service Industry Machinery

Additional Information: SAN No. 3809.

Agency Contact: Cindy Newberg, Environmental Protection Agency, Air and Radiation, 401 M Street SW., 6205J, Washington, DC 20460
Phone: 202 233-9729
Fax: 202 233-9577
Email: newberg.cindy@epamail.epa.gov

RIN: 2060–AG47

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Clean Air Act (CAA)

3466. ACID RAIN OPT-IN REGULATIONS

Priority: Other Significant

CFR Citation: 40 CFR 74

Timetable:

Action	Date	FR Cite
Combustion Sources		
NPRM	09/24/93	58 FR 50088)
Final	04/04/95	(60 FR 17100)
Process Sources		
NPRM	00/00/00	
Final	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Local

Agency Contact: Adam Klinger
Phone: 202 233-9122

RIN: 2060–AD43

3467. NSPS: SYNTHETIC ORGANIC CHEMICALS MANUFACTURING INDUSTRY - WASTEWATER

Priority: Other Significant

CFR Citation: 40 CFR 60

Timetable:

Action	Date	FR Cite
NPRM	09/12/94	59 FR 46780
Final Action	11/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Mary Toni Kissell
Phone: 919 541-4516

RIN: 2060–AE94

3468. RADIATION WASTE MANAGEMENT REGULATIONS

Priority: Other Significant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	10/00/97	
Final Action	10/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ambika Bathija
Phone: 202 233-9445

RIN: 2060–AF41

3469. SERVICE INFORMATION AVAILABILITY

Priority: Other Significant

CFR Citation: 40 CFR 86

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Dickinson
Phone: 202 233-9256
Fax: 202 233-9596
Email: Dickinson.David@EPA.Gov.Com

RIN: 2060–AG13

3470. • NESHAP FOR SEWAGE SLUDGE INCINERATORS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401 to 7626

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action will identify the hazardous air pollutants (HAPs) listed in Title III of the Clean Air Act being emitted from municipal sewage sludge incinerators. If any of the HAPs are found to exceed the 10 ton/23 ton/year limits in Title II, then a NESHAP standard will be developed. The standard may be either limitations on emissions of HAPs or a technology standard established under the MACT definition.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Sectors Affected: 495 Sanitary Services

Additional Information: SAN No. 3819.

Agency Contact: Eugene P. Crumpler, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-0881
Fax: 919 541-5600

RIN: 2060–AG50

3471. • RADIATION PROTECTION STANDARDS FOR SCRAP METAL

Priority: Other Significant

Legal Authority: 42 USC 2011 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Presently, radioactive materials, particularly metals, are being released for recycling under standards that are not based on protection of human health. The proposed rule will establish protective risk-based standards for recycling; provide economic benefits through recovering the value of recycled metals; and reduce the need for disposal.

We use radioactive materials for purposes such as making smoke alarms, generating electricity, and diagnosing and treating medical problems. Radioactive materials are used for military purposes as well, particularly in developing nuclear weapons and providing power for submarines and surface ships. These uses generate materials which may contain some level of radioactivity.

Due to their ready recyclability, scrap metals may be released for recycling if the residual radioactive contamination is below certain levels. These release levels are currently specified in guidance developed by the Nuclear Regulatory Commission and federal agencies. However, current release criteria are not based on protection of human health. The current standards are based on measurement technologies and historical practices. Moreover, the release criteria were not intended to apply to recycling of materials.

The Agency is developing standards for scrap recycling which would be protective of public health. The rule would be based on the risks from recycling metals with residual radioactive contaminants. Scrap metals from site cleanups and ongoing operations of federal facilities and licensees of the NRC would be covered by the rule. EPA expects that these materials will be produced in sufficient quantities to warrant a standard, and while it is anticipated that much of this metal will not contain radioactivity, none should be recycled without a risk-based standard. Material that cannot be released for recycling would continue to be processed for LLW disposal.

Radiation protection standards for scrap metals would fill a regulatory vacuum. But most importantly, they would insure that the public is adequately protected from exposure to residual radioactivity in recycled metals. In addition, risk-based release standards would: (1)promote recovery of scrap metal, (2)reduce the disposal of materials that may not warrant disposal as low-level radioactive waste, and (cont.)

Timetable:

Action	Date	FR Cite
NPRM	08/00/97	
Final Action	07/00/98	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Sectors Affected: 491 Electric Services; 963 Regulation and Administration of Communications, Electric, Gas, and Other Utilities; 331 Steel Works, Blast Furnaces, and Rolling and Finishing Mills

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3812.

ABSTRACT CONT: (3) potentially reduce mining and processing of virgin ore and the accompanying environmental consequences by making metal scrap available to industry.

Agency Contact: John Karhnak, Environmental Protection Agency, Air and Radiation, 6603J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9761
Fax: 202 233-9650
Email: karhnak.john@epamail.epa.gov

RIN: 2060–AG51

3472. • NESHAP FOR PLYWOOD AND PARTICLE BOARD MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412(d)

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This project is to develop national emission standards for hazardous air pollutants (NESHAP) by establishing maximum achievable control technology (MACT) for facilities manufacturing plywood and particle board, or having other processes using wood and binder systems. MACT standards are under development to reduce the release of hazardous air pollutants (HAP) from all industries to protect the public health and environment. Emissions of HAP from this industry have been associated with, but are not limited to, the drying of wood and binders. The scope of the rule has not been determined. However this project should include, but is not limited to, facilities that manufacture chip waferboard, strandboard, waferboard, hardboard/cellulosic fiber board, oriented strandboard (OSB), medium density fiberboard, particle board, hardwood and softwood plywood, or other processes using wood and binder systems. This project is now scheduled to start in the fall of 1996. The initial stage of this project is to gather preliminary information on the industry to establish a presumptive MACT by June 1997. That work will be followed by development of a regulatory package to propose and promulgate MACT standards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	11/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Sectors Affected: 243 Millwork, Veneer, Plywood, and Structural Wood Members; 244 Wood Containers; 249 Miscellaneous Wood Products; 251 Household Furniture; 252 Office Furniture

Additional Information: SAN No. 3820.

Agency Contact: Stephen A. Shedd, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, Emission Standards Division (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5397
Fax: 919 541-3470

RIN: 2060–AG52

3473. • GUIDANCE FOR THE IMPLEMENTATION OF EPA'S RADIATION PROTECTION STANDARDS FOR THE MANAGEMENT AND STORAGE OF TRANSURANIC RADIOACTIVE WASTE AT THE WASTE ISOLATION PILOT PLANT (WIPP)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 20211 to 2296; PL 102-579

CFR Citation: 40 CFR 191

Legal Deadline: None

Abstract: The guidance will describe how EPA's existing standards for environmental radiation protection will be applied to the Department of Energy's Waste Isolation Pilot Plant (WIPP), a proposed facility for the disposal of transuranic radioactive waste, a highly radioactive waste generated during the construction of nuclear weapons. The WIPP must comply with EPA's radiation protection standards for the management and storage of transuranic radioactive wastes. By publishing this guidance, EPA will apply these generally applicable standards to the specific case of the WIPP so as to consider that facility's technical and operational characteristics. In part, EPA will use the guidance within the framework established by the WIPP Land Withdrawal Act of 1992. The Act requires EPA to determine on a biennial basis whether the WIPP complies with subpart A of 40 CFR Part 191, the standards for management and storage. In addition, EPA may conduct this determination at any other time as necessary.

The guidance will apply to the 25 to 30 year period during which packaged waste arrives at the above-ground portion of the WIPP, is unloaded and further handled, and ultimately lowered down a mechanical hoist and emplaced in the mined-out repository. During this period, the annual doses from radiation received by members of the public must not exceed the limits specified by EPA's radiation protection standards for management and storage. Such doses could occur, for example, through the airborne transmission of radioactive dust which is subsequently inhaled by a member of the public. In the event that the WIPP fails to be in compliance with the dose standards at any time after the emplacement of waste has begun, the WIPP Land Withdrawal Act authorizes EPA to request a remedial plan from the Department of Energy (DOE). If EPA determines that remedial plan is inadequate, or if DOE defaults on the plan's submission, the the Act requires that DOE retrieve the waste that has already been emplaced for disposal to the extent practicable.

This action will have no impact on small businesses or governmental entities other than the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3814.

Agency Contact: Martin Offutt, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, 6602J, 401 M Street SW., Washington, DC 20460
Phone: 202 233-9766
Fax: 202 233-9626
Email: offutt.martin@epamail.epa.gov

RIN: 2060–AG74

3474. • INTERNAL COMBUSTION ENGINE NESHAP/NSPS

Priority: Other Significant

Legal Authority: PL 101-549; 42 USC 7411/CAA 111; 42 USC 7412/CAA 112

CFR Citation: 40 CFR 60; 40 CFR 63

Legal Deadline: Final, Statutory, November 2000.

Abstract: The internal combustion engine source category is listed as a major source of hazardous air pollutants (HAPs) under section 112 of the Clean Air Act (CAA). A major source is one which emits more than 10 tons/yr of one HAP or more than 25 tons/yr of a combination of 189 HAPs. Internal Combustion Engines also emit NOx, SO2, CO and PM. The EPA will gather information on HAP emissions from internal combustion engines and determine the appropriate maximum achievable control technology (MACT) to reduce HAP emissions, if any. The EPA will also gather information for NOx, SO2, CO, and PM and decide whether standards are required to reduce these emissions. The EPA will use information that has already been developed, if possible using information it has gathered, and by gathering information by working with State/local agencies, vendor, manufacturers of internal combustion engines, owners and operators of internal combustion engines, and environmentalists. Some small business that use internal combustion engines may be directly impacted as well as a few small government entities who produce their own power. The number of small entities that would be affected is not known at this time.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final Action	11/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, Tribal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3656.

Agency Contact: Amanda Agnew, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5268

RIN: 2060–AG63

3475. • COMBUSTION TURBINE NESHAP/NSPS

Priority: Other Significant

Legal Authority: CAA 111 and 112

CFR Citation: 44 CFR 60

Legal Deadline: Final, Statutory, November 2000.

Abstract: The combustion turbine source category is listed as a major source of hazardous air pollutants (HAPs) under section 112 of the Clean Air Act (CAA). A major source is one which emits more than 10 tons/yr of one HAP or more than 25 tons/yr of a combustion of 189 HAPs. Gas turbines also emit NOx, SO2, CO and PM. Gas turbines are already regulated for NOx and SO2 emissions under section 111 of the CAA. The EPA will gather information on HAP emissions from gas turbines and determine the appropriate maximum achievable control technology (MACT) to reduce HAP emissions, if any. The EPA will also gather information to revise the 1979 NSPS for NOx and SO2 and decide whether CO and PM standards are required for gas turbines. The EPA information that has already been developed if possible using information it has gathered, and by gathering information by working with State/Local agencies, vendor, manufacturers of gas turbines, owners and operators of gas turbines, and environmentalists. Some small businesses that use gas turbines may be directly impacted by this rule. Some of the smaller independent energy producers could be impacted as well as a few small government entities who produce their own power. The number of small entities that would be affected is not known at this time.

Timetable:

Action	Date	FR Cite
NPRM	05/00/99	
Final Action	11/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3657.

Agency Contact: Sims Roy, Environmental Protection Agency, Air and Radiation, (MD-13), RTP, NC 27711
Phone: 919 541-5263

RIN: 2060–AG67

3476. NESHAP—IRON FOUNDRIES AND STEEL FOUNDRIES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Agency Contact: James H. Maysilles
Phone: 919 541-3265

RIN: 2060–AE43

3477. NESHAP: INTEGRATED IRON AND STEEL

Priority: Economically Significant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	11/00/99	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Phil Mulrine
Phone: 919 541-5289

RIN: 2060–AE48

3478. NESHAP: REINFORCED PLASTIC COMPOSITES PRODUCTION

Priority: Other Significant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	04/00/97	
Final Action	04/00/98	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Madeleine Strum
Phone: 919 541-2383

RIN: 2060–AE79

3479. NESHAP: MISCELLANEOUS ORGANIC CHEMICAL PRODUCTION AND PROCESSES

Priority: Other Significant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Randy McDonald
Phone: 919 541-5402

RIN: 2060–AE82

3480. NESHAP: NYLON 6 PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Morris
Phone: 919 541-5416

RIN: 2060–AF27

3481. NATIONAL EMISSION STANDARD FOR HAZARDOUS AIR POLLUTANTS FOR PAINT STRIPPER USERS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/15/99	
Final Action	11/15/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Vickie Boothe
Phone: 919 541-0164
Fax: 919 541-0072

RIN: 2060–AG26

3482. NESHAP FOR BOAT MANUFACTURING

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Madelein Strum
Phone: 919 541-2383
Fax: 919 541-5689

RIN: 2060–AG27

3483. NESHAP FOR TIRE MANUFACTURING

Priority: Other Significant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	11/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Fred Dimmick
Phone: 919 541-5624
Fax: 919 541-0942

RIN: 2060–AG29

3484. NESHAP FOR AEROSOL CAN PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/98	
Final Action	11/00/99	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Fred Dimmick
Phone: 919 541-5625
Fax: 919 541-0942

RIN: 2060–AG32

3485. PETROLEUM SOLVENT DRY CLEANERS MACT STANDARD

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Fred Dimmick
Phone: 919 541-5625
Fax: 919 541-0942

RIN: 2060–AG34

3486. • NESHAP FOR ETHYLENE PROCESSES

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act section 112

CFR Citation: Not yet determined

Legal Deadline: Final, Statutory, November 20, 2000.

Abstract: Title III of the Clean Air Act requires development of emission standards for all major sources emitting any of the 189 hazardous air pollutants (HAPs) identified in Section 112(b) of the CAA. "Ethylene Processes" is being listed as a category of major sources based on process knowledge emissions of benzene and butadiene. This action will explore alternatives controlling the release of HAPs from the following process areas located at ethylene process facilities: process vents, storage, equipment leaks and other fugitive sources, and wastewater operations. There are no anticipated impacts on small businesses.

Timetable:

Action	Date	FR Cite
NPRM	06/30/98	
Final Action	11/30/99	

Small Entities Affected: None

Government Levels Affected: Undetermined

Sectors Affected: 286 Industrial Organic Chemicals

Additional Information: SAN No. 3821.

Agency Contact: Warren R. Johnson, Jr., Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5124
Fax: 919 541-0072
Email: johnson.warren@epamail.epa.gov

RIN: 2060–AG53

3487. • LARGE APPLIANCE COATINGS INTEGRATED REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act section 183 (e); Clean Air Act section 112

CFR Citation: 40 CFR 63; 40 CFR 59

Legal Deadline: Final, Statutory, November 2000.

Abstract: This regulation will apply to surface coating of large appliance products and parts, for household, commercial or recreational use. Application of a prime coat or a top coat to a large appliance product or part results in emissions of volatile organic compounds (VOCs) which contribute to formation of low-level ozone. When inhaled ozone can damage the lungs. Ozone reduces the ability of the trees to fight disease. Some of the VOCs are alo hazardous air pollutants (HAPs) and include aromatics such as xylene, alcohols such as methanol, and others such as glycols. Such pollutants can cause reversible or irreversible toxic effects following exposure. The health effects are associated with a wide range of ambient concentrations and exposure time. This regulation will reduce nationwide emissions of both VOCs and HAPs from surface coating of large appliances, a measure required by Section 183(e) and 112 of the Clean Air Act, respectively.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	11/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Sectors Affected: 346 Metal Forgings and Stampings; 363 Household Appliances

Additional Information: SAN No. 3823.

Agency Contact: Mohamed Serageldin, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-2379
Fax: 919 541-5689
Email: serageldin.mohamed@epamail.epa.gov

RIN: 2060–AG54

3488. • ASPHALT ROOFING AND PROCESSING NESHAP

Priority: Other Significant

Legal Authority: Clean Air Act Amendments of 1990, section 112 EO 12866

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The CAA required EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112 (b) of the CAA and to establish and meet dates for promulgation of emissions standards for each of the listed categories of HAP emissions sources. The standards are to be technology-based and are to require the maximum degree of reduction determined to be achievable by the Administrator. The EPA has determined that the asphalt roofing and processing industry may be reasonably anticipated to emit one of the pollutants listed in section 112 (b) of the CAA. As a consequence, the source category is included on the initial list of HAP-emitting categories scheduled for standards promulgation within ten years of enactment of the CAA Amendments of 1990. The purpose of this action is to pursue a regulatory development program such that emission standards may be proposed and promulgated according to the mandated schedule.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Interim Final Rule	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Additional Information: SAN No. 3655.

Agency Contact: Juan E. Santiago, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-1084

RIN: 2060–AG66

3489. • NESHAP CHROMIUM REFRACTORIES

Priority: Other Significant

Legal Authority: CAA Section 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act requires EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112 (b) of the Act and to establish and meet dates for promulgation of emission standards for each of the listed categories of HAP emission sources. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The EPA has determined that the chromium refractory manufacturing industry emits at least one of the HAPs listed in Section 112 (b) of the Act, specifically total chromium in the forms of hexavalent and trivalent chromium. As a result, the source category is included on the initial list of HAP-emitting categories scheduled for promulgation within ten years of enactment of the Clean Air Act Amendments of 1990. The purpose of this action is to begin a regulatory development program such that any emission standards may be promulgated according to the mandated schedule. It is now unknown to what extent this action will impact small businesses.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3652,

Agency Contact: Susan Fairchild-Zapata, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5167

RIN: 2060–AG68

3490. • NESHAP FOR INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL BOILERS AND PROCESS HEATERS

Priority: Economically Significant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act, as amended 1990, requires EPA to develop emission standards for sources of hazardous air pollutants (HAPs). Industrial boilers, institutional/commercial boilers, and process heaters are among the potential source categories to be regulated under Section 112 of the CAA. Emissions of HAPs will be addressed by this rulemaking for both new and existing sources. EPA promulgated an NSPS for these source categories in 1987 and 1990. The standards for the NESHAP are to be technology-based and are to require the maximum achievable control technology (MACT) as described in Section 112 of the CAA.

Timetable:

Action	Date	FR Cite
Final Action	11/00/00	
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Sectors Affected: 28 Chemicals and Allied Products; 261 Pulp Mills; 262 Paper Mills; 242 Sawmills and Planing Mills; 33 Primary Metal Industries

Additional Information: SAN No. 3837.

Agency Contact: James Eddinger, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5426
Fax: 919 541-0072

RIN: 2060–AG69

3491. • NESHAP: LIME MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants (HAPs). The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of the EPA. The EPA has determined that some lime manufacturing plants may be major sources for one or more HAPs. As a consequence, a regulation (emission standards) is being developed for the lime manufacturing industry, to be promulgated by November 15, 2000.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3651.

Agency Contact: Joseph Wood, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711
Phone: 919 541-5446

RIN: 2060–AG72

3492. NEW SOURCE PERFORMANCE STANDARDS AND EMISSION GUIDELINES FOR OTHER SOLID WASTE INCINERATORS

Priority: Other Significant

CFR Citation: 40 CFR 60

Timetable:

Action	Date	FR Cite
ANPRM	12/26/94	59 FR 66850
NPRM	12/01/99	
Final Action	11/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: George Smith
Phone: 919 541-1549
Fax: 919 541-0072

RIN: 2060–AG31

3493. • METAL FURNITURE COATINGS INTEGRATED REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act section 183 (e); Clean Air Act section 112

CFR Citation: 40 CFR 63; 40 CFR 59

Legal Deadline: Final, Statutory, November 2000.

Abstract: This regulation will apply to surface coating of metal furniture products and parts, for household or commercial use. Application of a prime

coat or a top coat product or part (e.g.,) results in emissions of volatile organic compounds (VOCs) which contribute to formation of low-level ozone. Some of the VOCs are also hazardous air pollutants (HAPs) and include aromatics such as oxylene, alcohols such as methanol, and others such as glycos. Such pollutants can cause reversible or irreversible toxic effects following exposure. The health effects are associated with a wide range of ambient concentrations and exposure time. This regulation will reduce nationwide emissions of both VOCs and HAPs from surface coating of metal furniture products and parts, which is required under sections 183(e) and 112 of the Clean Air Act, respectively.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	11/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Sectors Affected: 251 Household Furniture

Additional Information: SAN No. 3824.

Agency Contact: Dr. Mohamed Serageldin, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-2379
Fax: 919 541-5689
Email: serageldin.mohamed@epamail.epa.gov

RIN: 2060–AG55

3494. • SURFACE COATING OF MISCELLANEOUS METAL PARTS AND PRODUCTS—INTEGRATED

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7511(b); 42 USC 7412

CFR Citation: 40 CFR 63; 40 CFR 59

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This regulation will control emissions of volatile organic compounds (VOC) and hazardous air pollutants (HAPs) from operations that apply surface coatings to metal parts and products. Although this rule would cover a wide variety of coating operations, it would not apply to specific coating operations for which regulations and/or control techniques guidelines (CTGs) have been developed (e.g., plastic parts coating, can coating, large appliance coating, etc.). This regulation is required under sections 183(e) and 112 of the Clean Air Act of 1990.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	11/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Sectors Affected: 33 Primary Metal Industries; 34 Fabricated Metal Products, Except Machinery and Transportation Equipment; 35 Industrial and Commercial Machinery and Computer Equipment; 36 Electronic and Other Electrical Equipment and Components, Except Computer Equipment; 37 Transportation Equipment; 38 Measuring, Analyzing, and Controlling Instruments, Photographic, Medical and Optical Goods, Watches and Clocks; 39 Miscellaneous Manufacturing Industries; 40 Railroad Transportation; 41 Local and Suburban Transit and Interurban Highway Passenger Transportation

Additional Information: SAN No. 3825.

Agency Contact: Bruce Moore, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, MD-13, Research Triangle Park, NC 27711
Phone: 919 541-5460
Fax: 919 541-5689
Email: moore.bruce@epamail.epa.gov

RIN: 2060–AG56

3495. • PLASTIC PARTS COATING INTEGRATED RULE FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND HAZARDOUS AIR POLLUTANTS (HAPS)

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Amendments of 1990, section 183(e) and 112

CFR Citation: 40 CFR 59; 40 CFR 63

Legal Deadline: Final, Statutory, November 2000.

Abstract: This action would address both the volatile organic compounds (VOC) and hazardous air pollutants (HAP) emissions from the coating of plastic parts. Pollution prevention approaches will be considered. Specific sectors of the plastic parts industry to be included in this action have not yet been determined.

Timetable:

Action	Date	FR Cite
NPRM	07/00/99	
Final Action	11/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Sectors Affected: 30 Rubber and Miscellaneous Plastics Products

Additional Information: SAN No. 3826.

Agency Contact: Ellen Ducey, Environmental Protection Agency, Air and Radiation, Office of Air Quality Planning and Standards, Emission Standards Division (MD-13), Research Triangle Prk, NC 27711
Phone: 919 541-5408
Fax: 919 541-5689
Email: ducey.ellen@epamail.epa.gov

RIN: 2060–AG57

3496. REGULATIONS GOVERNING PRIOR NOTICE OF CITIZEN SUITS BROUGHT UNDER SECTION 304 OF THE CLEAN AIR ACT

Priority: Other

CFR Citation: 40 CFR 54

Timetable:

Action	Date	FR Cite
NPRM	02/10/93	58 FR 7870
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marie Miller
Phone: 202 564-2260

RIN: 2060–AD80

3497. PROHIBITION OF LEADED GASOLINE FOR HIGHWAY USE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 80

Completed:

Reason	Date	FR Cite
Final Action	02/02/96	61 FR 3823

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pat Childers
Phone: 202 233-9415

RIN: 2060–AD55

3498. REGULATION OF FUELS AND FUEL ADDITIVES: INTERIM REQUIREMENTS FOR DEPOSIT CONTROL GASOLINE ADDITIVES

Priority: Economically Significant

CFR Citation: 40 CFR 80

Completed:

Reason	Date	FR Cite
Merged With RIN 2060-AG06	03/31/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Jeffery A. Herzog
Phone: 313 668-4227
Fax: 313 741-7869

RIN: 2060–AD71

3499. STATE IMPLEMENTATION PLAN COMPLETENESS CRITERIA

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 51 app V (Revision)

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency plans no further action.	03/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phyllis Wright
Phone: 919 541-5369

RIN: 2060–AE58

3500. ADDENDUM TO THE GENERAL PREAMBLE FOR TITLE I OF THE CLEAN AIR ACT AMENDMENTS; SERIOUS PM-10 NONATTAINMENT AREAS AND PM-10 NONATTAINMENT AREA ATTAINMENT DATE WAIVERS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	08/16/94	59 FR 41998

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charlene Spells
Phone: 919 541-5255

RIN: 2060–AE62

3501. ON-BOARD DIAGNOSTICS SERVICE INFORMATION AVAILABLE

Priority: Other Significant

CFR Citation: 40 CFR 86

Completed:

Reason	Date	FR Cite
Final Action	08/09/95	60 FR 40474

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Cheryl Adelman
Phone: 313 668-4434

RIN: 2060–AE93

3502. APPLICATION OF MANDATORY SANCTIONS UNDER TITLE V OF THE CLEAN AIR ACT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 71

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency plans no further action.	03/15/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Scott Voorhees
Phone: 919 541-5348

RIN: 2060–AE96

3503. ESTABLISHMENT OF LESSER QUANTITY EMISSION RATES FOR HAZARDOUS AIR POLLUTANTS

Priority: Other Significant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency does not plan any further action.	03/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Amy B. Vasu
Phone: 919 541-0107

RIN: 2060–AE98

3504. AMMONIA TEST METHOD, 40 CFR PART 51, APPENDIX M

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 51

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency plans no further action.	03/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rima Dishakjian
Phone: 919 541-0443

RIN: 2060–AF22

3505. TECHNICAL CORRECTIONS TO APPENDIX A OF 40 CFR PART 60, APPENDIX B OF PART 61, APPENDIX A OF PART 63, AND PART 60

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 60; 40 CFR 61; 40 CFR 63

Completed:

Reason	Date	FR Cite
Withdrawn - This action is the same as RIN 2050-AG21 (SAN 3743).	03/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Foster Curtis
Phone: 919 541-1063

RIN: 2060–AF24

3506. TECHNICAL AMENDMENTS TO EVAPORATIVE EMISSION PROCEDURE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 86

Completed:

Reason	Date	FR Cite
Direct Final Rule	08/23/95	60 FR 43880

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan Stout
Phone: 313 741-7805

RIN: 2060–AF49

3507. NSPS APPENDIX A - REFERENCE METHODS; AMENDMENTS TO METHOD 24 FOR THE DETERMINATION OF VOLATILE MATTER CONTENTS, WATER CONTENT, DENSITY, VOLUME AND WEIGHT SOLIDS OF SURFACE COATINGS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	09/11/95	60 FR 47095

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Candace Sorrell
Phone: 919 541-1064

RIN: 2060–AG00

3508. REVISION TO THE DEFINITION OF VOLATILE ORGANIC COMPOUND - EXCLUSION OF PERCHLOROETHYLENE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 51.100(s)

Completed:

Reason	Date	FR Cite
Final Action	02/07/96	61 FR 4588

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Johnson
Phone: 919 541-5245

RIN: 2060–AG25

3509. NSPS: MUNICIPAL WASTE COMBUSTION—PHASE II AND PHASE III

Priority: Economically Significant

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	12/19/95	60 FR 65387

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Walt Stevenson
Phone: 919 541-5264

RIN: 2060–AD00

3510. NESHAP: ASBESTOS PROCESSING (DELISTING)

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	11/30/95	60 FR 61550

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Susan Fairchild-Zapata
Phone: 919 541-5167

RIN: 2060–AB51

3511. NESHAP FOR WOOD FURNITURE MANUFACTURING

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	12/07/95	60 FR 62930

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: Paul Almodovar
Phone: 919 541-0283

RIN: 2060–AD57

3512. NESHAP: SURFACE COATING OPERATIONS IN SHIPBUILDING AND SHIP REPAIR

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	11/15/95	60 FR 64330

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: Mohamed Serageldin
Phone: 919 541-2379

RIN: 2060–AD98

3513. CRITERIA AND PROCEDURES FOR DETERMINING TRANSPORTATION CONFORMITY IN ATTAINMENT AREAS

Priority: Other Significant

CFR Citation: 40 CFR 51; 40 CFR 93

Completed:

Reason	Date	FR Cite
Withdrawn	03/31/96	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Kathryn Sargeant
Phone: 313 668-4441

RIN: 2060–AE90

3514. AMENDMENTS TO REGULATIONS GOVERNING THE IMPORTATION OF NONCONFORMING VEHICLES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 85

Completed:

Reason	Date	FR Cite
Withdrawn - No further action planned	03/31/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Len Lazarus
Phone: 202 233-9281

RIN: 2060–AC58

3515. NONCONFORMANCE PENALTIES FOR 1998 MODEL YEAR EMISSION STANDARDS FOR HEAVY-DUTY ENGINES AND VEHICLES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 86.1105

Completed:

Reason	Date	FR Cite
Final Action	02/23/96	61 FR 6944

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gregory Orehowsky
Phone: 202 233-9292

RIN: 2060–AE07

3516. ACID RAIN PROGRAM: REVISED GROUP 1, PHASE II, NOX EMISSION LIMITATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 76 (Revision)

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency plans no further action.	03/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter Tsirigotis
Phone: 202 233-9133

RIN: 2060–AF44

3517. PROTECTION OF STRATOSPHERIC OZONE: LISTING OF GLOBAL WARMING POTENTIALS FOR OZONE-DEPLETING SUBSTANCES

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	10/06/95	60 FR 52357

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Debbie Ottinger
Phone: 202 233-9149

RIN: 2060–AF81

3518. AMENDMENT TO THE REFRIGERANT RECYCLING RULE TO MODIFY THE SALES RESTRICTIONS OF SPLIT SYSTEMS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 82 subpart F

Completed:

Reason	Date	FR Cite
Withdrawn - Duplication of SAN 3873, RIN 2060-AF97	03/14/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Debbie Ottinger
Phone: 202 233-9149

RIN: 2060–AF97

3519. PROTECTION OF STRATOSPHERIC OZONE: DIRECT FINAL RULE EXTENDING RECLAMATION REQUIREMENTS OF THE SECTION 608 REFRIGERANT RECYCLING RULE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 82 subpart F

Completed:

Reason	Date	FR Cite
Final Action	02/29/96	61 FR 7724

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Debbie Ottinger
Phone: 202 233-9149

RIN: 2060–AF97

ENVIRONMENTAL PROTECTION AGENCY (EPA)
Superfund (CERCLA)

Proposed Rule Stage

3520. • GRANTS FOR TECHNICAL ASSISTANCE RULE REFORM - 40 CFR PART 35 SUBPART M

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 9617(e)/CERCLA 117

CFR Citation: 40 CFR 35

Legal Deadline: None

Abstract: The proposed revisions to the Technical Assistance Grants (TAG) Rule contain four main components that will simplify the application and administrative processes. The first component to the TAG Rule would eliminate the condition that response action be underway or scheduled to begin for EPA to provide formal notice that a grant may soon be awarded. TAG eligibility would be triggered once the site is proposed for listing on the NPL. A second component would eliminate the requirement that budget periods may not exceed 3 years. Budget periods would be negotiated with TAG applicants so that they have flexibility to synchronize the period of time during which the recipient anticipates having a technical advisor involved with the schedule of work at a site. A third component would eliminate the 20 percent ceiling for administrative costs of a grant so that recipients do not need to differentiate between programmatic and administrative cost. This will reduce information collection burden. A fourth component to the TAG Rule is the elimination of the distinction between sole and multiple applicants, since both must meet identical criteria. The requirement that the applicant demonstrate that there is an actual or potential health threat posed to group members by the site would also be deleted since EPA believes that there is a potential health threat at all Superfund sites. EPA also believes that all Superfund sites pose potential economic and recreational threats to adjacent communities, and that there is no need for the applicant to provide evidence of those threats. Furthermore, EPA may already have sufficient information from various sources concerning the potential health, economic, and recreational threats posed by Superfund sites.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3806.

Agency Contact: Nicole Lacoste, Environmental Protection Agency, Solid Waste and Emergency Response, 5203G
Phone: 703 603-8842
Fax: 703 603-9100

RIN: 2050–AE33

3521. REPORTABLE QUANTITY ADJUSTMENTS FOR CARBAMATES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 96-510, sec 102(a); PL 99-499

CFR Citation: 40 CFR 302

Legal Deadline: None

Abstract: EPA has listed carbamate waste streams as hazardous wastes under the Resource Conservation and Recovery Act (RCRA). RCRA listed wastes, by statute, automatically become hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and are assigned a one pound statutory reportable quantity (RQ) unless EPA adjusts them. These substances also become subject to reporting requirements under the Emergency Planning and Community Right to Know Act (EPCRA) with a one pound threshold. EPA, in this action, will propose RQ adjustments for the carbamates. Most RQ adjustments are expected to be greater than one pound. Raising the RQs for these substances would decrease the burden on 1) the regulated community for complying with the reporting requirements under CERCLA and EPCRA; 2) Federal, State, and local authorities for program implementation; and 3) Federal, State, or local authorities, if they release hazardous substances at the RQ level or greater.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	04/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3423.

Agency Contact: Jack Arthur, Environmental Protection Agency, Solid Waste and Emergency Response, (5202G), Washington DC 20460 Phone: 703 603-8732

RIN: 2050–AE12

3522. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES: PROPOSED AND FINAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9605/CERCLA 105

CFR Citation: 40 CFR 300.425

Legal Deadline: None

Abstract: This action proposes to revise the sites included on the National Priorities List (NPL) of uncontrolled waste sites in the National Contingency Plan (NCP). CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substance releases and to delete sites that have been cleaned up.

Timetable:

Action	Date	FR Cite
NPRM Proposal 17	08/23/94	59 FR 43314
Final Action Final 13	12/16/94	59 FR 65206
NPRM Proposal 18	02/13/95	60 FR 8212
Final Action Final 14	04/25/95	60 FR 20330
Final Action (Southern Shipbuilding)	05/26/95	60 FR 27896
Final 15	09/29/95	60 FR 50435
NPRM Proposal 19	10/02/95	60 FR 51390
NPRM Proposal 20	04/00/96	
Final 16	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3439.

Statute provides for an annual update.

Agency Contact: Terry Keidan, Environmental Protection Agency, Solid Waste and Emergency Response, (5204G), Washington, DC 20460 Phone: 703 603-8852

RIN: 2050–AD75

3523. AMENDMENTS TO THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT, SECTIONS 302 THROUGH 312

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 99-499

CFR Citation: 40 CFR 355; 40 CFR 370

Legal Deadline: None

Abstract: This proposal will include a modification to the chemical inventory reporting forms under Section 312 of the Emergency Planning and Community Right-to-Know Act, as well as modifications to other sections (302-312) of the law.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3215.

Agency Contact: John Ferris, Environmental Protection Agency, Solid Waste and Emergency Response, (5101) Phone: 202 260-4043

RIN: 2050–AE17

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Final Rule Stage

Superfund (CERCLA)

3524. RISK MANAGEMENT PROGRAM FOR CHEMICAL ACCIDENTAL RELEASE PREVENTION

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-549; Clean Air Act Section 112(r)

CFR Citation: 40 CFR 68

Legal Deadline: Final, Statutory, November 15, 1993. Other, Judicial, May 24, 1996. Court Decree - Settlement Agreement

Abstract: Section 112(r)(7) of the Clean Air Act (CAA), as amended, required the Environmental Protection Agency (EPA) to promulgate by November 15, 1993, reasonable regulations and appropriate guidance to provide for prevention and detection of accidental releases of chemicals and for response to such releases. The regulations shall require the owner or operator of stationary sources at which a regulated substance is present to prepare and implement a risk management plan (RMP) that must include a hazard assessment to evaluate the potential effects of an accidental release of any regulated substance and must also include a five-year accident release history. The RMP must document a prevention program and document a response program that provides specific actions to be taken to protect human health and the environment in response to a release. The RMPs must be registered with EPA, the implementing agency, and any local agency with responsibility for planning for or responding to chemical accidents. EPA must establish a system for auditing the RMPs to ensure that plans are periodically updated.

Following promulgation of the final rule, regulated sources will have three years to comply with the RMP requirements.

EPA promulgated a list of substances and thresholds on January 30, 1994 (59 FR 4478), which determines which facilities must comply with the accident prevention regulations. In order to minimize the impact on smaller sources, EPA is developing model RMPs for industry sectors that utilize similar equipment and handle a single chemical. To further reduce the burden, EPA is developing "lookup tables" to assist facilities in evaluating the offsite consequence associated with the release of the most ubiquitous chemicals.

Timetable:

Action	Date	FR Cite
NPRM	10/22/93	58 FR 54190
Supplemental NPRM	03/13/95	60 FR 13526
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2979.

Agency Contact: Lyse Helsing, Environmental Protection Agency, Solid Waste and Emergency Response, (5101), Washington, DC 20460 Phone: 202 260-6128

RIN: 2050–AD26

3525. ADMINISTRATIVE REPORTING EXEMPTIONS FOR CERTAIN RADIONUCLIDE RELEASES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 9602 to 9604; 42 USC 9615; 33 USC 1321; 33 USC 1361

CFR Citation: 40 CFR 302.6(c); 40 CFR 355.40(a)(2)(vi)

Legal Deadline: None

Abstract: This rule affects the requirement in Superfund and the Emergency Planning and Community Right-to-Know Act that facilities immediately report to state, local and federal authorities the release of a hazardous substances in an amount that equals or exceeds a "reportable quantity." In 1989, the Environmental Protection Agency (EPA) set reportable quantities for radionuclides (a category of hazardous substances) by regulation. In that same rule, EPA also established four exemptions to the general reporting requirement, to exclude from it certain releases of naturally occurring radionuclides for which the government does not need reports. These exemptions are for releases from: (1) large land holdings; (2) disturbances of land for purposes other than mining; (3) the dumping of coal and coal ash at utility and industrial facilities with coal-fired boilers; and (4) coal and ash piles at those facilities.

Later, a court ruled that the Agency had promulgated the four exemptions without giving the public opportunity to comment. The Agency subsequently provided the opportunity for public notice and comment on these exemptions. Based on those comments, the Agency is now seeking further comments on the possibility of broadening the exemptions. Depending upon the Agency's analysis of comments received, it could either reaffirm or modify the exemptions. Modification of the exemptions would further reduce the burden on facilities which must report, and on the State and local authorities which must receive and evaluate reports to determine whether reported releases pose a threat to human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/30/92	57 FR 56726
Supplemental Notice	08/04/95	60 FR 40042
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Sectors Affected: 49 Electric, Gas, and Sanitary Services; 16 Heavy Construction Other Than Building Construction-Contractors; 01 Agricultural Production-Crops; 10 Metal Mining; 12 Coal Mining; 14 Mining and Quarrying of Nonmetallic Minerals, Except Fuels; 15 Building Construction-General Contractors and Operative Builders; 33 Primary Metal Industries; 40 Railroad Transportation; 44 Water Transportation; Multiple

Additional Information: SAN No. 3054.

Agency Contact: Jack Arthur, Environmental Protection Agency, Solid Waste and Emergency Response, (5202G), Washington, DC 20460 Phone: 703 603-8732

RIN: 2050–AD46

3526. AMENDMENTS TO THE EXTREMELY HAZARDOUS SUBSTANCES LIST UNDER SECTION 302 OF THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 99-499/SARA title III

CFR Citation: 40 CFR 355

Legal Deadline: None

Abstract: EPA will finalize adjustments to the reportable quantities (RQs) for approximately 230 chemicals on the extremely hazardous substance (EHS) list under section 302 of the Emergency Planning and Community Right-to-Know Act. This modification would make these RQs consistent with the methodology under section 103 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). EPA is delisting several EHSs as a result of errors found in

EPA—CERCLA — **Final Rule Stage**

studies used to place the chemicals on the EHS list. The original list became final in the Federal Register on April 22, 1987 (52 FR 13378).

Timetable:

Action	Date	FR Cite
NPRM	10/12/94	59 FR 51816
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: State, Local

Additional Information: SAN No. 3036.

Agency Contact: John Ferris, Environmental Protection Agency, Solid Waste and Emergency Response, (5101), Washington, DC 20460
Phone: 202 260-4043

RIN: 2050–AD50

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Long-Term Actions
Superfund (CERCLA)

3527. REPORTING EXEMPTIONS FOR FEDERALLY-PERMITTED RELEASES OF HAZARDOUS SUBSTANCES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 117; 40 CFR 302; 40 CFR 355

Timetable:

Action	Date	FR Cite
NPRM	07/19/88	53 FR 27268
Supplemental Notice	07/11/89	54 FR 29306
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Arthur
Phone: 703 603-8732

RIN: 2050–AB82

3528. DELETION OF SACCHARIN FROM THE LIST OF HAZARDOUS WASTES UNDER RCRA AND THE LIST OF HAZARDOUS SUBSTANCES UNDER CERCLA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

CFR Citation: 40 CFR 261.33(f); 40 CFR 261; 40 CFR 302.4

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wanda L. Levine
Phone: 202 260-7458

RIN: 2050–AD45

3529. REPORTABLE QUANTITY ADJUSTMENT FOR RADON-222

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 302

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Arthur
Phone: 703 603-8732

RIN: 2050–AE20

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Completed Actions
Superfund (CERCLA)

3530. RESPONSE ACTION CONTRACTOR INDEMNIFICATION

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn - The Agency does not plan any further action.	03/14/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Barbara McDonough
Phone: 202 260-6674

RIN: 2050–AE19

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Proposed Rule Stage
General

3531. FINAL GUIDELINES FOR CARCINOGEN RISK ASSESSMENT

Priority: Other

Legal Authority: Not applicable

CFR Citation: None

Legal Deadline: None

Abstract: The Agency will use these guidelines to evaluate suspect carcinogens in line with the policies and procedures established in the statutes administered by the EPA. These guidelines revise and replace EPA Guidelines for Carcinogen Risk Assessment published at 51 FR 33992, September 24, 1986. These guidelines provide EPA staff and decision-makers with the directions and perspectives necessary to develop and use risk assessments. The guidelines also provide the general public with basic information about the Agency's approaches to risk assessment.

To develop guidelines the Agency must find a balance between consistency and innovation. Consistent risk assessments provide consistent bases to support regulatory decision-making. On other hand, innovation is necessary so the Agency will base its decisions on current scientific thinking. In balancing these and other science policies, the Agency relies on input from the general scientific community through established scientific peer review processes. The guidelines incorporate basic principles and science policies based on evaluation of the currently available information. The revisions place increased emphasis on the role of carcinogenic mechanisms in risk assessment and clearer explication of underlying assumptions in risk assessment.

These Guidelines will have minimal to no impact on small businesses or state, local, and tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	08/27/86	51 FR 33992
Reproposal	04/00/96	
Implementation Policy	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3671.

Agency Contact: William P. Wood, Environmental Protection Agency, Office of Research and Development, Risk Assessment Forum (8101), Washington, DC 20460
Phone: 202 260-6743

RIN: 2080–AA06

EPA—GENERAL — **Proposed Rule Stage**

3532. PROPOSED GUIDELINES FOR ECOLOGICAL RISK ASSESSMENT

Priority: Other

Legal Authority: Not applicable

CFR Citation: None

Legal Deadline: None

Abstract: The proposed Guideline for Ecological Risk Assessment is intended to guide Agency evaluations of ecological risks in line with the policies and procedures established in the statutes administered by EPA. These Guidelines set forth principles and procedures to guide EPA scientists in the conduct of Agency risk assessments and to inform Agency decision makers and the public about these procedures. In particular, the Guidelines expand on the general ecological risk assessment process described in the Agency report"Framework for Ecological Risk Assessment," (EPA/630/R-92/001) and covers a broad range of ecological concerns. The Guideline stresses the need for sound initial planning of the ecological risk assessment as well as appropriate characterization of the risks, including identification of the major assumptions, uncertainties, and limitations of the assessment.

These guidelines will have minimal to no impact on small businesses or state, local and tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3670.

Agency Contact: William P. Wood, Environmental Protection Agency, Office of Research and Development, Risk Assessment Forum (8101), Wasington, DC 20460
Phone: 202 260-6743

RIN: 2080–AA07

3533. GUIDELINES FOR NEUROTOXICITY RISK ASSESSMENT

Priority: Other Significant

Legal Authority: Not applicable

CFR Citation: None

Legal Deadline: None

Abstract: These proposed Guidelines for Neurotoxicity Risk Assessment (hereafter "Guidelines") are intended to guide Agency evaluation of suspect neurotoxicants in line with the policies and procedures established in the statutes administered by the EPA. These Guidelines set forth principles and procedures to guide EPA scientists in the conduct of Agency risk assessments and to inform Agency decision makers and the public about these procedures. In particular, the Guidelines emphasize that risk assessments will be conducted on a case-by-case basis, giving full consideration to all relevant scientific information. This case-by-case approach means that Agency experts study scientific information on each chemical under review and use the most scientifically appropriate interpretation to assess risk. The Guidelines also stress that this information will be fully presented in Agency risk assessment documents, and that Agency scientists will identify the strengths and weaknesses of each assessment by describing uncertainties, assumptions, and limitations, as well as the scientific basis and rationale for each assessment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3624.

Agency Contact: William P. Wood, Environmental Protection Agency, Office of Research and Development, (8101), Washington, DC 20460
Phone: 202 260-6743

RIN: 2080–AA08

3534. COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT (CERCLA) COST RECOVERY

Priority: Economically Significant

Legal Authority: 42 USC 9665 to 9857/CERCLA 115; 33 USC 1321(c)(2)/CERCLA 107

CFR Citation: 40 CFR 308

Legal Deadline: None

Abstract: This rule would establish a new methodology for allocating EPA's indirect costs to individual Superfund sites for cost recovery. The proposed methodology would allocate 100% of recoverable indirect costs to sites for potential recovery, compared to the current methodology which allocates approximately 33% of indirect costs to sites.

Timetable:

Action	Date	FR Cite
NPRM	02/00/97	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3785.

Agency Contact: Chad Littleton, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2273A), Washington, DC 20460
Phone: 703 603-9068

RIN: 2020–AA25

3535. RULES OF PRACTICE FOR ENFORCEMENT ACTIONS NOT GOVERNED BY THE ADMINISTRATIVE PROCEDURE ACT

Priority: Other

Legal Authority: 33 USC 1319/CWA 309; 33 USC 1321/CWA 311; 42 USC 9609/CERCLA 109; 42 USC 7413/CAA 113; 42 USC 11045/EPCRA 325; 42 USC 300/SDWA 1423

CFR Citation: 40 CFR 22

Legal Deadline: None

Abstract: This action will consolidate and harmonize in a single regulation the various procedural guidances and regulations which EPA presently employs in response to Congressional direction to provide streamlined procedure for the assessment of certain administrative penalties. Although the substantive requirements of various statutes differ, each authorizes the Administrator to assess civil penalties without recourse to the Administrative Procedure Act.

Timetable:

Action	Date	FR Cite
NPRM	07/01/91	56 FR 29996
Reproposal	04/00/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 3486.

Agency Contact: Robert Kinney, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2243A), Washington, DC 20460
Phone: 202 564-3712

RIN: 2020–AA23

3536. INCORPORATION OF CLASS DEVIATION INTO EPAAR

Priority: Other

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1506; 48 CFR 1537; 48 CFR 1552

Legal Deadline: None

Abstract: The Agency has approved a number of class deviations (e.g. changes to reporting requirements and monthly progress reports) to the EPAAR since its promulgation in April 1994. This proposed rule would incorporate most of the class deviations to the EPAAR.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	02/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a paperwork burden associated with this action.

Additional Information: SAN No. 3580.

Agency Contact: Edward Chambers, Environmental Protection Agency, Administration and Resource Management, 3802F, Washington, DC 20460
Phone: 202 260-6028

RIN: 2030–AA37

3537. EPA MENTOR-PROTEGE PROGRAM

Priority: Other

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1544; 48 CFR 1552

Legal Deadline: None

Abstract: This proposed rule will amend EPA's Acquisition Regulation (EPAAR) to establish a Mentor-Protege Program. Participating prime contractors serving as Mentors will provide technical and managerial support to Protege small disadvantaged business subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	03/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3629.

Agency Contact: Edward Chambers, Environmental Protection Agency, Administration and Resource Management, 3802F, Washington, DC 20460
Phone: 202 260-6028

RIN: 2030–AA40

3538. • AGENCY IMPLEMENTATION OF FEDERAL ACQUISITION STREAMLINING ACT (FASA) CHANGES TO TRUTH IN NEGOTIATIONS ACT (TINA)

Priority: Other

Legal Authority: 40 USC 390/EPAAR 205

CFR Citation: 48 CFR 1523

Legal Deadline: None

Abstract: The Federal Acquisition Streamlining Act (FASA), P.L. 103-355, changed the nature of contract pricing information that contractors must submit in their proposals. Specifically, the term "cost of pricing information" is being introduced and differentiated from the current requirements for "cost or pricing data." This action will amend EPA's acquisition rules and provide guidance for contractors.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3816.

Agency Contact: Larry Wyborski, Environmental Protection Agency, Administration and Resource Management, (3802F), Washington, DC 20460
Phone: 202 260-6482
Fax: 202 260-1203

RIN: 2030–AA47

3539. SOURCE SELECTION PROCEDURES

Priority: Other

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1515

Legal Deadline: None

Abstract: This action will revise EPA's source selection procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3255.

Agency Contact: Louise Senzel, Environmental Protection Agency, Administration and Resource Management, (3802F), Washington, DC 20460
Phone: 202 260-6204

RIN: 2030–AA29

3540. AMENDMENTS TO PART 22 CONSOLIDATED PROCEDURAL RULES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136l; 15 USC 2615(a); 15 USC 2647; 33 USC 1319(g); 33 USC 1415(a); 33 USC 1418; 42 USC 6912; 42 USC 7413(d)(1); 42 USC 7601; 42 USC 7607(a); 42 USC 9609; 42 USC 11045; 42 USC 300g-3(b)

CFR Citation: 40 CFR 22

Legal Deadline: None

Abstract: The Agency is proposing amendments to the Consolidated Rules of Practice under 40 CFR Part 22 which are the procedural rules used in administrative hearings and practice. These amendments will include technical corrections as well as substantive amendments. The proposed substantive amendments pertain to the handling and use of Confidential Business Information, burdens of proof, motion practice, cross appeals, and more.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: SAN No. 2662.

Agency Contact: Helene Ambrosino, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2201A), Washington, DC 20460
Phone: 202 564-2626

RIN: 2020–AA13

3541. • GOVERNMENTWIDE IMPLEMENTATION OF FEDERAL ACQUISITION STREAMLINING ACT (FASA) AND CHANGES TO OMB SUSPENSION AND DEBARMENT COMMON RULE

Priority: Other

Legal Authority: EO 12549, EO 12689 and FASA

CFR Citation: 40 CFR 32

Legal Deadline: None

Abstract: Periodically OMB amends the Governmentwide Common Rule for Suspension and Debarment. All agencies must issue changes to their individual codified versions to conform to those changes. Currently, the Interagency Suspension and Debarment Coordinating Committee is considering changes that will conform to those made to the Federal Acquisition Regulation (FAR) as a result of the Federal Acquisition Streamlining Act (FASA). In addition, several proposals to reduce paperwork burden and improve the rule are being considered. If OMB approves those recommendations, a drafting committee would likely have a proposed rule ready for publication in the Federal Register by early to midsummer 1996.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3817.

Agency Contact: Robert F. Meunier, Environmental Protection Agency, Administration and Resource Management, (3901F), Washington, DC 20460
Phone: 202 260-8030
Fax: 202 260-9575

RIN: 2030–AA48

3542. • CONSOLIDATION OF GOOD LABORATORY PRACTICE STANDARDS (GLPS) REGULATIONS CURRENTLY UNDER TSCA AND FIFRA INTO ONE RULE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136 et seq; 15 USC 2601 et seq

CFR Citation: 40 CFR 160; 40 CFR 792

Legal Deadline: None

Abstract: On November 29, 1983, EPA published Good Laboratory Practice Standards (GLPS) regulations intended to help ensure data integrity for studies required to support marketing and research permits under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Toxic Substances Control Act (TSCA). These rules were last amended on August 17, 1989. GLPS data integrity measures can be applied to a wide variety of scientific studies. Although the TSCA and FIFRA GLPS contain identical provisions they were published as separate rules to account for statutory and program differences between TSCA and FIFRA, such as differences in records retention requirements. EPA believes it will be able to address the differences between TSCA and FIFRA, such as differences in records retention requirements. EPA believes it will be able to address the differences of those programs without duplicating the entire GLP standard in two places.

This action is intended to consolidate EPA's GLPS into one rule. Program-specific requirements will be addressed in either separate sections of the consolidated rule, or in separate rules as is determined appropriate. This action is not intended to change the requirements, applicability, or enforceability of GLPS with respect to any statute.

EPA has received comments from stakeholders regarding the understandability of many aspects of the GLPS, and over the years has issued numerous clarifications. EPA believes that some clarifications, if included directly in the rule, would make the rule easier to understand and enhance compliance. Therefore, EPA intends to

include such clarifications where appropriate in this rulemaking. Finally, in the interest of maintaining consistency between EPA's and Food and Drug Administration's regulations, EPA will determine any modifications that have occurred to the FDA GLP rule and consider incorporation of such changes into the EPA rule. This action will serve to reduce the total regulatory text in the Code of Federal Regulations by an estimated ten pages, by consolidating 23 pages of text to approximately 13. In the process it will provide a generic GLP rule that may be used by other programs in the Agency.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3807.

Agency Contact: Stephen J. Howie, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2225A), Washington, DC 20460
Phone: 202 564-4146
Fax: 202 564-0028
Email: howie.stephen@epamail.epa.gov

RIN: 2020–AA26

ENVIRONMENTAL PROTECTION AGENCY (EPA) — Final Rule Stage

General

3543. FINAL GUIDELINES FOR REPRODUCTIVE TOXICITY RISK ASSESSMENT

Priority: Other

Legal Authority: Not applicable

CFR Citation: None

Legal Deadline: None

Abstract: These proposed Guidelines for Reproductive Toxicity Risk Assessment (hereafter "Guidelines") are intended to guide Agency evaluation of suspect reproductive toxicants in line with the policies and procedures established in the statutes administered by the EPA. These Guidelines set forth principles and procedures to guide EPA scientists in the conduct of Agency risk assessments and to inform Agency decision makers and the public about these procedures. In particular, the Guidelines emphasize that risk assessments will be conducted on a case-by-case basis, giving full consideration to all relevant scientific information. This case-by-case approach means that Agency experts study scientific information on each chemical under review and use the most scientifically appropriate interpretation to assess risk. The Guidelines also stress that this information will be fully presented in Agency risk assessment documents, and that Agency scientists will identify the strengths and weaknesses of each assessment by describing uncertainties, assumptions, and limitations, as well as the scientific basis and rationale for each assessment. They incorporate current scientific thinking and sound science policies based on evaluation of the currently available information.

Timetable:

Action	Date	FR Cite
Proposed Guidelines for Females	06/30/88	53 FR 24834
Proposed Guidelines for Males	06/30/88	53 FR 24850
Final Guidelines for Males and Females	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William P. Wood, Environmental Protection Agency, Office of Research and Development, Risk Assessment Forum (8101), Washington, DC 20460
Phone: 202 260-6743

RIN: 2080–AA05

3544. COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT (CERCLA) COST RECOVERY

Priority: Economically Significant

Legal Authority: 42 USC 9605/CERCLA 105; 42 USC 9615/CERCLA 115

CFR Citation: 40 CFR 300; 40 CFR 308

Legal Deadline: None

Abstract: This rule would (1) establish a new methodology for calculating EPA's indirect cost, thus allowing for full recovery of indirect costs; (2) list categories of documentation of response actions which EPA will maintain, thus adopting unified cost recovery documentation standards for the entire Agency; (3) clarify CERCLA statute of limitations for cost recovery actions; and (4) specify when prejudgment interest begins to accrue.

Timetable:

Action	Date	FR Cite
NPRM	08/06/92	57 FR 34742
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 2702.

Agency Contact: Lisa Comer, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2244), Washington, DC 20460
Phone: 703 603-9068

RIN: 2050–AC98

3545. REVISION TO SUBMISSION OF INVOICES CLAUSE

Priority: Other

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1532; 48 CFR 1552

Legal Deadline: None

Abstract: This action will revise EPA's invoicing requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/04/95	60 FR 51964
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3578.

Agency Contact: Larry Wyborski, Environmental Protection Agency, Administration and Resource Management, 3802F, Washington, DC 20460
Phone: 202 260-6482

RIN: 2030–AA35

3546. EPA POLICIES FOR INFORMATION RESOURCES MANAGEMENT

Priority: Other

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1552

Legal Deadline: None

Abstract: Proposed Rule will amend EPA Acquisition Regulation (EPAAR) to relocate references to applicable IRM directives from EPAAR to Internet, and to incorporate new directives.

Timetable:

Action	Date	FR Cite
NPRM	07/11/95	60 FR 35719
Final Action	07/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3579.

Agency Contact: Edward Chambers, Environmental Protection Agency, Administration and Resource Management, 3802F, Washington, DC 20460
Phone: 202 260-8026

RIN: 2030–AA36

3547. MERGER OF 40 CFR PARTS 15 AND 32 INTO A SINGLE REGULATION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 7401 et seq; 33 USC 1251/CWA 303; EO 11738; EO 12549

CFR Citation: 40 CFR 15; 40 CFR 32

Legal Deadline: None

Abstract: This proposed rule will merge existing statutory and discretionary listing procedures under 40 CFR part 15 into the uniform governmentwide suspension and debarment procedures at 40 CFR part 32, thus eliminating duplicate provisions in the rules and providing clarity for the public and private sector.

Timetable:

Action	Date	FR Cite
NPRM	09/11/95	60 FR 47135
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3587.

Agency Contact: Robert F. Meunier, Environmental Protection Agency, Administration and Resource Management, (3902F), Washington, DC 20460
Phone: 202 260-8030

RIN: 2030–AA38

3548. • CONFORMING AMENDMENTS TO THE EPAAR FROM THE FEDERAL ACQUISITION STREAMLINING ACT

Priority: Other

Legal Authority: 40 USC 390

CFR Citation: 48 CFR 1523

Legal Deadline: None

Abstract: The Federal Acquisition Streamlining Act (FASA) requires changes to administrative procedures set forth in the Agency's Acquisition Regulation (EPAAR) in areas such as contract protest and debarment actions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3815.

Agency Contact: Larry Wyborski, Environmental Protection Agency, Administration and Resource Management, (3802F), Washington, DC 20460
Phone: 202 260-6482
Fax: 202 260-1203

RIN: 2030–AA46

3549. AMEND SUBPART H SUPPLEMENTAL RULES TO ENSURE 40 CFR PART 22 RULE CONFORMS TO THE NEW FEDERAL FACILITY COMPLIANCE ACT

Priority: Other

Legal Authority: 42 USC 6961(b)(2)

CFR Citation: 40 CFR 22.37(g)

Legal Deadline: None

Abstract: In October 1992, Congress passed the FFCA which amended the Resource Conservation and Recovery Act (RCRA). The FFCA provided EPA with administrative order authority. When issuing these orders, EPA will use the 40 CFR section 22 hearing procedures. In the part 22 procedures, Sections 31 and 32, the Environmental Appeals Board (EAB) issues a final order. However, in the FFCA, Congress stated that no order would be final until the Federal agency has an opportunity to confer with the Administrator. As the procedures are currently structured, the Federal agency only gets the opportunity to confer after appealing to the EAB. Thus, there is a direct contradiction between the rules promulgated and the FFCA. We would propose an amendment to state that, in the case of a Federal agency, an EAB order is not final for purposes of the FFCA.

Timetable:

Action	Date	FR Cite
NPRM	03/22/95	60 FR 15208
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: SAN No. 3367.

Agency Contact: Sally Dalzell, Environmental Protection Agency, Office of Enforcement and Compliance Assurance, (2232), Washington, DC 20460
Phone: 202 260-9808

RIN: 2020–AA22

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Long-Term Actions

General

3550. PUBLIC INFORMATION AND CONFIDENTIALITY REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 2; 40 CFR 57; 40 CFR 122; 40 CFR 123; 40 CFR 145; 40 CFR 233; 40 CFR 260; 40 CFR 270; 40 CFR 271; 40 CFR 281; 40 CFR 350; 40 CFR 403; 40 CFR 85; 40 CFR 86

Timetable:

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60446
Final Action	06/00/97	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Donald A. Sadowsky
Phone: 202 260-5469

RIN: 2020–AA21

3551. ADMINISTRATIVE HEARING PROCEDURES FOR CLASS II PENALTIES UNDER CERCLA AND EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

Priority: Other

CFR Citation: 40 CFR 22

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/89	54 FR 21174
Final Action	12/00/97	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Sandra Connors
Phone: 202 564-4200

RIN: 2050–AC39

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Completed Actions

General

3552. GRANTS AND COOPERATIVE AGREEMENTS WITH STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 31

Completed:

Reason	Date	FR Cite
Final Action	04/19/95	60 FR 19638

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Agency Contact: Ellen Haffa
Phone: 202 260-5268

RIN: 2030–AA34

3553. UNIFORM ADMINISTRATION REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 40 CFR 30

Completed:

Reason	Date	FR Cite
Final Action	02/15/96	61 FR 6066

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Mitchell
Phone: 202 260-6077

RIN: 2030–AA32

3554. CONFIDENTIAL BUSINESS INFORMATION PROVISIONS AND CLAUSES

Priority: Other

CFR Citation: 48 CFR 1535; 48 CFR 1552; 40 CFR 2

Completed:

Reason	Date	FR Cite
Final Action	04/01/96	61 FR 14264

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Louise Senzel
Phone: 202 260-6204

RIN: 2030–AA41

3555. IMPLEMENTATION OF PROCUREMENT INTEGRITY

Priority: Other

CFR Citation: 48 CFR 1503

Completed:

Reason	Date	FR Cite
Withdrawn	04/22/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Larry Wyborski
Phone: 202 260-6482

RIN: 2030–AA25

[FR Doc. 96-8413 Filed 05-10-96; 8:45 am]
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federal register

Monday
May 13, 1996

Part XXIII

Equal Employment Opportunity Commission

Semiannual Regulatory Agenda

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Equal Employment Opportunity Commission (EEOC or Commission) is publishing its semiannual regulatory agenda pursuant to Executive Order 12866, 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. chapter 6. The agenda lists all regulations that are scheduled for review or development during the next 12 months or that have been finalized since the publication of the last agenda.

FOR FURTHER INFORMATION CONTACT: Ellen J. Vargyas, Legal Counsel, Office of the Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507; telephone (202) 663-4637.

SUPPLEMENTARY INFORMATION: The Commission has identified nine current or projected rulemakings for inclusion in this regulatory agenda.

Signed in Washington, DC, this 16th day of February 1996.
For the Commission.
Gilbert F. Casellas,
Chairman.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3556	Regulations Interpreting Title II of the Older Workers Benefit Protection Act of 1990 (OWBPA)	3046-AA58

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3557	Supplemental Standards of Ethical Conduct for Employees of the Equal Employment Opportunity Commission	3046-AA61
3558	Recordkeeping and Reporting Requirements Under Title VII and the ADA	3046-AA63

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3559	Guidelines on the Application of the Americans With Disabilities Act of 1990 to Employer Provided Health Insurance	3046-AA53
3560	Procedures—The Age Discrimination in Employment Act	3046-AA54
3561	Procedures on Interagency Coordination of Equal Employment Opportunity Issuances	3046-AA55
3562	Procedures for Handling Complaints of Employment Discrimination Under the Government Employee Rights Act of 1991	3046-AA56
3563	Federal Sector Equal Employment Opportunity	3046-AA57

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3564	Interpretation Relating to Apprenticeship Programs Under the Age Discrimination in Employment Act (ADEA)	3046-AA59

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Proposed Rule Stage

3556. REGULATIONS INTERPRETING TITLE II OF THE OLDER WORKERS BENEFIT PROTECTION ACT OF 1990 (OWBPA)

Priority: Other Significant

Legal Authority: 29 USC 628

CFR Citation: 29 CFR 1625

Legal Deadline: None

Abstract: The Age Discrimination in Employment Act of 1967 (ADEA) was amended in 1990 by OWBPA. Title II of OWBPA sets forth the statutory requirements for a valid waiver of rights under the ADEA.

Regulations under title II would provide guidance on implementing OWBPA's requirements for unsupervised ADEA waivers. As part of the development of this regulation, the Commission is engaging in a regulatory negotiation on waivers of rights and claims under the ADEA.

Timetable:

Action	Date	FR Cite
ANPRM	03/27/92	57 FR 10626
ANPRM Comment Period End	07/27/92	
Notice of Intent To Form Rulemaking Advisory Committee	08/31/95	60 FR 45388
Notice of Establishment of Rulemaking Advisory Committee	10/20/95	60 FR 54207
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4690
TDD: 202 663-7026

RIN: 3046–AA58

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Final Rule Stage

3557. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 7301; 5 USC app; EO 12674; EO 12731; 5 USC 5514

CFR Citation: 29 CFR 1600; 5 CFR 7201; 29 CFR 1650

Legal Deadline: None

Abstract: With the concurrence of the U.S. Office of Government Ethics (OGE), EEOC is issuing supplemental ethical standards for EEOC employees. These standards supplement OGE's Standards of Conduct for Employees of the Executive Branch. The OGE regulations and the EEOC supplemental regulations supersede subparts A through D of 29 CFR 1600, which are therefore being deleted. Subpart E of 29 CFR 1600, concerning debt collection, is being moved and redesignated as subpart A of 29 CFR 1650.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/96	61 FR 7085
Interim Final Rule Comment Period End	04/26/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046–AA61

3558. • RECORDKEEPING AND REPORTING REQUIREMENTS UNDER TITLE VII AND THE ADA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2000e-8; 42 USC 2000e-12; 44 USC 3501 et seq; 42 USC 12117

CFR Citation: 29 CFR 1602.41; 29 CFR 1602.43; 29 CFR 1602.44

Legal Deadline: None

Abstract: Currently, elementary and secondary public school systems and districts are required to submit EEO-5 reports to the EEOC. Two types of EEO-5 reports have been used: EEOC Form 168A covering the entire school system or district; and EEOC form 168B covering each individual school and annex within the system or district. On October 5, 1995, the Commission voted to discontinue the Form 168B for individual schools and annexes in order to streamline the collection of information. This rulemaking process implements that vote.

Timetable:

Action	Date	FR Cite
NPRM	12/06/95	60 FR 63010
NPRM Comment Period End	02/06/96	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: Joachim Neckere, Director, Program Research and Surveys Division, Office of Program Operations, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4958
TDD: 202 663-7063

RIN: 3046–AA63

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Long-Term Actions

3559. GUIDELINES ON THE APPLICATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990 TO EMPLOYER PROVIDED HEALTH INSURANCE

Priority: Other Significant

Legal Authority: 42 USC 12111 et seq

CFR Citation: 29 CFR 1631

Legal Deadline: None

Abstract: The Commission proposes to issue guidelines to explain how the Americans with Disabilities Act (ADA) applies to employer provided health insurance plans. The guidelines will reexamine the issues addressed in the Commission's "Interim Enforcement Guidance on the Application of the ADA to Disability-Based Distinctions in Employer Provided Health Insurance," issued on June 8, 1993. The guidelines will also address a number of issues that were not addressed in either the Interim Enforcement Guidance or in the Commission regulations implementing title I of the ADA, including the ADA's application to corporate "wellness" programs. The proposed guidelines will be published for public comment. After consideration of the comments, the Commission will issue final guidelines.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Peggy R. Mastroianni, Associate Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4503
TDD: 202 663-7026

RIN: 3046–AA53

3560. PROCEDURES—THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 628, sec 115, Civil Rights Act of 1991

CFR Citation: 29 CFR 1626

Legal Deadline: None

Abstract: Section 115 of the Civil Rights Act of 1991 deleted references to the Portal to Portal Act from the private suit provisions of the Age Discrimination in Employment Act (ADEA) and replaced them with a requirement that suit be filed no later than 90 days after termination of proceedings or dismissal of a charge by EEOC. Accordingly, section 1626.7(a) is being deleted and section 1626.15(b) is being revised because they were both based upon the Portal to Portal Act. New sections are being added concerning termination of EEOC proceedings and the issuance of notices of the new 90-day limitation period.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046–AA54

3561. PROCEDURES ON INTERAGENCY COORDINATION OF EQUAL EMPLOYMENT OPPORTUNITY ISSUANCES

Priority: Substantive, Nonsignificant

Legal Authority: EO 12067

CFR Citation: 29 CFR 1690

Legal Deadline: None

Abstract: Executive Order 12067 requires the Equal Employment Opportunity Commission and other Federal agencies to informally and formally coordinate with each other when they develop rules, policies, procedures, and other issuances affecting equal employment opportunity. 29 CFR part 1690 sets forth specific procedures for this interagency coordination. These amendments to 29 CFR part 1690 will update the coordination process to suit the broad range of materials now being presented to EEOC for review, and also formalize existing practices as to the sequence of review between the EEOC under Executive Order 12067; the Department of Justice under Executive Order 12250; and the Office of Management and Budget under Executive Order 12866 and the Paperwork Reduction Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Ellen J. Vargyas, Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4637
TDD: 202 663-7026

RIN: 3046–AA55

3562. PROCEDURES FOR HANDLING COMPLAINTS OF EMPLOYMENT DISCRIMINATION UNDER THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991

Priority: Substantive, Nonsignificant

Legal Authority: 2 USC 1219 to 1220, Government Employee Rights Act of 1991; 42 USC 2000e et seq, Title VII of the Civil Rights Act; 29 USC 621 et seq, Age Discrimination in Employment Act; 42 USC 12112 to 12114, Americans With Disabilities Act

CFR Citation: 29 CFR 1603

Legal Deadline: None

Abstract: Under title VII of the Civil Rights Act of 1964, the ADEA and the ADA, certain staff members of State and local elected officials were exempt from protection against employment discrimination. Section 321 of the Government Employee Rights Act of 1991 extends employment discrimination protections to the employment of persons who have been chosen or appointed by a State or local elected public official to serve on his or her personal staff, to serve the elected official on the policymaking level, or to serve as an immediate advisor with respect to the exercise of the constitutional or legal powers of the official's office.

Section 320 of the Government Employee Rights Act of 1991 extends protection to certain presidential appointees who were not otherwise protected under the ADEA, title VII, or the ADA. Section 320 does not cover individuals whose appointment is made by and with the advice and consent of the Senate, advisory committee members or members of the uniformed services. These are procedural regulations for processing such complaints of discrimination by previously exempt or uncovered individuals.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046–AA56

EEOC

Long-Term Actions

3563. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-569, The Rehabilitation Act Amendments of 1992; 42 USC 2000e-16; 29 USC 633a; 29 USC 794a

CFR Citation: 29 CFR 1614

Legal Deadline: None

Abstract: The proposed amendments to this regulation implement the Rehabilitation Act Amendments of 1992. Those amendments provide that the standards used to determine if title I of the Americans With Disabilities Act has been violated will apply to complaints of nonaffirmative action employment discrimination under the Rehabilitation Act. The Commission may also make other changes to the Federal Sector complaint processing regulations as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507
Phone: 202 663-4669
TDD: 202 663-7026

RIN: 3046–AA57

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Completed Actions

3564. INTERPRETATION RELATING TO APPRENTICESHIP PROGRAMS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

Priority: Other Significant

CFR Citation: 29 CFR 1625.13

Completed:

Reason	Date	FR Cite
Final Action	04/08/96	61 FR 15374

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph N. Cleary
Phone: 202 663-4690
TDD: 202 663-7026

RIN: 3046–AA59

[FR Doc. 96-5650 Filed 05-10-96; 8:45 am]
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Part XXIV

Federal Emergency Management Agency

Semiannual Regulatory Agenda

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Ch. I

Unified Regulatory Agenda

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Emergency Management Agency publishes its regulatory agenda in April and October to inform interested parties of progress on FEMA regulations. The agenda lists regulations that we expect to develop or review during the period April 1, 1996, to September 30, 1996.

ADDRESSES: For information about specific regulations, please contact the person listed as the agency contact in the agenda.

FOR FURTHER INFORMATION CONTACT: For general information on FEMA's regulatory agenda, contact H. Crane Miller, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3340.

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review" directs each executive agency to publish only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need. Publication of an agenda of regulations is called for semiannually in order to give the public adequate notice of agency rulemaking activities; also, publication of a regulatory agenda concerning rules likely to be significant regulatory actions must be published.

In fulfillment of the requirements of Executive Order 12866, this agenda describes current and projected regulatory actions and rules that we expect to develop or review during the period April 1, 1996, to September 30, 1996. This agenda also contains information on regulations completed or withdrawn since the last FEMA regulatory agenda was published Tuesday, November 28, 1995, 60 FR 60726 to 60730.

Public comment on the agenda, including comments by State and local governments, is invited and should be submitted to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472; FAX (202) 646-4536. Please refer to the title and the Regulation Identifier Number (RIN) of the rule about which you are inquiring or commenting.

The agenda is not limited to significant regulatory actions and contains information concerning FEMA regulations to be developed, reviewed, or published in the next 6 months except for routine flood elevation determinations, listings of eligible communities under the National Flood Insurance Program and the National Crime Insurance Program, listings of suspended communities and similar designations under the National Flood Insurance Program, and FEMA organizational and management matters.

Dated: March 22, 1996.

Spence W. Perry,

Acting General Counsel.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3565	National Flood Insurance Program; Audit Program Revision	3067-AC40

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3566	FEMA; Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	3067-AC08
3567	Disaster Assistance; Public Assistance Eligibility	3067-AC12
3568	Establish Flood Insurance Rate Zone AR	3067-AC17
3569	Enforcement of Nondiscrimination on the Basis of Disability in Programs Receiving Federal Financial Assistance	3067-AC18
3570	National Flood Insurance Program; Assistance to Private-Sector Property Insurers	3067-AC26
3571	Group Flood Insurance Policy for Individual and Family Grant Program	3067-AC35
3572	Disaster Assistance; Restoration of Damaged Facilities	3067-AC36
3573	Flood Mitigation Assistance Program	3067-AC45
3574	Disaster Assistance; Hazard Mitigation	3067-AC46

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3575	National Defense Executive Reserve Guidance	3067-AB51
3576	Environmental Considerations/Categorical Exclusions (CATEX)	3067-AC21
3577	Disaster Assistance; Individual and Family Grant Program	3067-AC28

FEMA

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3578	Review of Determinations Regarding Required Purchase of Flood Insurance	3067-AC38
3579	Exemption from Garnishment for Temporary Housing Assistance	3067-AC39
3580	Environmental Considerations/Categorical Exclusions	3067-AC41
3581	National Flood Insurance Program; Insurance Rates	3067-AC42
3582	Flood Mitigation Assistance Program	3067-AC44

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Final Rule Stage

3565. NATIONAL FLOOD INSURANCE PROGRAM; AUDIT PROGRAM REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4081

CFR Citation: 44 CFR 62

Legal Deadline: None

Abstract: Revises manner in which FEMA's audits are conducted under the National Flood Insurance Program's Write Your Own Program.

Timetable:

Action	Date	FR Cite
NPRM	02/01/96	61 FR 3635
NPRM Comment Period End	03/18/96	
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roland E. Holland, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3439

RIN: 3067–AC40

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Long-Term Actions

3566. FEMA; UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 1111; 31 USC 503

CFR Citation: 44 CFR 13

Legal Deadline: None

Abstract: FEMA proposes to adopt revisions to "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," previously published at 53 FR 8078, 3/11/88, 44 CFR 13.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Charles F. McNulty, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-2976

RIN: 3067–AC08

3567. DISASTER ASSISTANCE; PUBLIC ASSISTANCE ELIGIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would remove permanent beach and related restoration work that occurs within coastal high hazard areas from eligibility for funding under the Stafford Act, 42 USC 5121 et seq, as amended.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Greg Ormsby, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3684

RIN: 3067–AC12

3568. ESTABLISH FLOOD INSURANCE RATE ZONE AR

Priority: Other Significant

Legal Authority: 42 USC 4002; EO 12127

CFR Citation: 44 CFR 59; 44 CFR 60; 44 CFR 61; 44 CFR 65

Legal Deadline: NPRM, Statutory, October 28, 1994.

Abstract: This rule would establish criteria for determining a community's eligibility for Zone AR designation (areas of special flood hazard resulting from the disaccreditation of a flood protection system that was previously credited with providing 100-year flood protection) and for mapping special flood hazard areas as Zone AR. The rule would also establish flood insurance rates and floodplain management requirements to be applied in areas designated as Zone AR.

Timetable:

Action	Date	FR Cite
NPRM	04/01/94	59 FR 15351
NPRM Comment Period End	05/16/94	
Interim Final Rule	10/25/94	59 FR 53592
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Local

Agency Contact: William R. Locke, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-2717

RIN: 3067–AC17

3569. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794

CFR Citation: 44 CFR 7

Legal Deadline: None

Abstract: This proposed rule would require all recipients of Federal financial assistance from the Federal Emergency Management Agency to ensure nondiscrimination against qualified individuals with disabilities in all FEMA programs and activities. It would establish standards for what constitutes discrimination on the basis of mental or physical disability, define "individual with disabilities" and "qualified individual with disabilities," and would establish a complaint mechanism for resolving allegations of discrimination.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan Clive, Equal Rights Officer, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3957

RIN: 3067–AC18

3570. NATIONAL FLOOD INSURANCE PROGRAM; ASSISTANCE TO PRIVATE-SECTOR PROPERTY INSURERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5102

CFR Citation: 44 CFR 62

Legal Deadline: None

Abstract: This interim final rule amends the interim final rule, National Flood Insurance Program, Assistance to Private Sector Property Insurers, published at 59 FR 26965 on 5/23/94.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/29/94	59 FR 38571
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles M. Plaxico, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3422

RIN: 3067–AC26

3571. GROUP FLOOD INSURANCE POLICY FOR INDIVIDUAL AND FAMILY GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5174; 42 USC 5178

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule establishes a Group Flood Insurance Policy to be issued by the National Flood Insurance Program when Federal disaster assistance for flood damage to real or personal property, or both, is provided under the Individual and Family Grant Program following a major disaster declaration by the President.

Timetable:

Action	Date	FR Cite
NPRM	03/15/95	60 FR 13945
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laurence W. Zensinger, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-4262

RIN: 3067–AC35

3572. DISASTER ASSISTANCE; RESTORATION OF DAMAGED FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq; 42 USC 5172

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule would limit to 60 days after a disaster the period during which a community may adopt more stringent building codes and standards than existed before the disaster and under which FEMA will pay for restoration of damaged facilities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
NPRM Comment Period End	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Craig S. Wingo, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3026

RIN: 3067–AC36

3573. • FLOOD MITIGATION ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4104c; 42 USC 4104d

CFR Citation: 44 CFR 78

Legal Deadline: None

Abstract: This interim final rule implements secs. 553 and 554 of the National Flood Insurance Reform Act of 1994 to provide grants under the National Flood Mitigation Fund to States and communities for planning assistance and for mitigation projects that reduce the risk of flood damages to structures covered under contracts for flood insurance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Donna M. Dannels, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472
Phone: 202 646-3662
Fax: 202 646-3104

RIN: 3067–AC45

3574. • DISASTER ASSISTANCE; HAZARD MITIGATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5170c

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This proposed rule would streamline and improve implementation of the Hazard Mitigation Grant Program under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. It would clarify program eligibility, simplify program administration, and allow States the maximum flexibility under current law.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local, Tribal

Agency Contact: Donna M. Dannels, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472
Phone: 202 646-3662
Fax: 202 646-3104

RIN: 3067–AC46

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Completed Actions

3575. NATIONAL DEFENSE EXECUTIVE RESERVE GUIDANCE

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 337

Completed:

Reason	Date	FR Cite
Withdrawn	02/28/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Linda Matticks
Phone: 202 646-2703

RIN: 3067–AB51

3576. ENVIRONMENTAL CONSIDERATIONS/CATEGORICAL EXCLUSIONS (CATEX)

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 10

Completed:

Reason	Date	FR Cite
Withdrawn - Same as 3067-AC41	02/28/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Hirsch
Phone: 202 646-4099

RIN: 3067–AC21

3577. DISASTER ASSISTANCE; INDIVIDUAL AND FAMILY GRANT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 206

Completed:

Reason	Date	FR Cite
Withdrawn - Same as 3067-AC35	03/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laurence W. Zensinger
Phone: 202 646-4262

RIN: 3067–AC28

3578. REVIEW OF DETERMINATIONS REGARDING REQUIRED PURCHASE OF FLOOD INSURANCE

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 65

Completed:

Reason	Date	FR Cite
Final Action	12/05/95	60 FR 62213
Final Action Effective	01/02/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Michael K. Buckley
Phone: 202 646-2756

RIN: 3067–AC38

3579. EXEMPTION FROM GARNISHMENT FOR TEMPORARY HOUSING ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 206.101

Completed:

Reason	Date	FR Cite
Final Action	02/27/96	61 FR 7224
Final Action Effective	03/28/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laurence W. Zensinger
Phone: 202 646-4262

RIN: 3067–AC39

3580. ENVIRONMENTAL CONSIDERATIONS/CATEGORICAL EXCLUSIONS

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 10

Completed:

Reason	Date	FR Cite
Final Action	02/05/96	61 FR 4227
Final Action Effective	02/05/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rick Shivar
Phone: 202 646-3610

RIN: 3067–AC41

3581. NATIONAL FLOOD INSURANCE PROGRAM; INSURANCE RATES

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 61

Completed:

Reason	Date	FR Cite
Final Action	03/04/96	61 FR 8222
Final Action Effective	04/30/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles M. Plaxico
Phone: 202 646-3422

RIN: 3067–AC42

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FEMA — Completed Actions

3582. FLOOD MITIGATION ASSISTANCE PROGRAM

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of 3067-AC45.	03/12/96	

RIN: 3067–AC44

[FR Doc. 96-8414 Filed 05-10-96; 8:45 am]

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Part XXV

General Services Administration

Semiannual Regulatory Agenda

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GENERAL SERVICES ADMINISTRATION (GSA)

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 1, 101, 105, 201, 301, 302, 303, and 304

48 CFR Ch. 5

Unified Agenda of Federal Regulations

AGENCY: General Services Administration (GSA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those that were completed since October 1995. This agenda was developed under the guidelines in an Office of Management and Budget memorandum dated January 2, 1996. GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process. GSA also invites interested persons to recommend existing significant regulations for review to determine whether they should be modified or eliminated.

FOR FURTHER INFORMATION CONTACT: Rodney P. Lantier, Chief, Directives and Correspondence Management Branch, (202) 501-2647.

Dated: March 14, 1996.

Martha N. Johnson,

Associate Administrator, Management Services and Human Resources (C).

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3583	Reissuance of the General Services Administration Acquisition Regulation (GSAR)	3090-AE90

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3584	Federal Travel Regulation (FTR) Amendment (Unassigned), Acceptance of Payment From a Non-Federal Source for Travel Expenses	3090-AE19
3585	Update of Transportation Documentation and Audit Regulations	3090-AE77
3586	Federal Travel Regulation (FTR) Amendment (Unassigned), Use of Government Aircraft and Government-Negotiated Rental Agreement Automobiles	3090-AE82
3587	Amend FIRMR Procedures To Allow Agencies To Screen and Reassign All Excess FIP Resources	3090-AF32
3588	Disclosure and Use of Proprietary Information	3090-AF47
3589	FTR Amendment (Unassigned), Last Move Home Benefit for Veterans Affairs Medical Center Directors and Members of the Immediate Family of a Deceased Employee	3090-AF63
3590	Implementation of FASA Commercial Items and Truth in Negotiation Act Rules, GSAR 5-408, CHGE 70	3090-AF86
3591	Amendment of FIRMR Schedule Provisions	3090-AF89
3592	Federal Travel Regulation Amendment (Unassigned); Privately Owned Vehicle Mileage Reimbursement	3090-AF93
3593	Federal Property Management Regulations Part 101-17, Assignment and Utilization of Space	3090-AD42

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3594	Nondiscrimination on the Basis of Race, Color, National Origin, and, Where Applicable, Sex	3090-AC49
3595	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs	3090-AE32
3596	Office Copying Machines	3090-AF08
3597	Criteria for Reporting Excess Personal Property	3090-AF39
3598	Amendment of the FIRMR Provisions To Modify Requirements for Obtaining Delegations of Procurement Authority	3090-AE71
3599	Implement Requirements for Energy-Efficient Computers	3090-AF03
3600	Implementation of Federal Acquisition Streamlining Act	3090-AF51
3601	Federal Supply Schedule Contracts—Cooperative Purchasing	3090-AF68
3602	Smoking	3090-AF02
3603	Location of Federal Facilities in Urban Areas	3090-AF94

GSA

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3604	Federal Travel Regulation (FTR) Amendment 44, Increase in Maximum Reimbursement Limitations for Real Estate Sale and Purchase Expenses	3090-AF73
3605	Federal Travel Regulation (FTR) Amendment 46, Relocation Income Tax (RIT) Allowance Tax Tables	3090-AF78
3606	Federal Travel Regulation (FTR) Amendment 47, Maximum Per Diem Rates	3090-AF79
3607	Use and Replacement Standards for Electronic Typewriters and Electronic Office Machines	3090-AF91
3608	Amendment of FIRMR Provisions To Ensure Currency and Relevancy	3090-AF31
3609	Amendment of FIRMR Provisions Regarding Multi-Agency Use of Contracts for FIP Resources	3090-AF57
3610	Amendment of FIRMR Provisions Regarding the Standard and Optional Forms Program	3090-AF72
3611	Amendment To Revise FIRMR Inventory Provisions	3090-AF74
3612	Amendment of FIRMR Provisions Regarding Local Telecommunications Service	3090-AF81
3613	Amendment To Revise the FIRMR To Reflect FAR and Other Changes	3090-AF82
3614	Amendment of FIRMR Provisions Regarding GSA's Local Telecommunications Program	3090-AF83
3615	Amendment To Revise FIRMR Provisions To Reflect GSA Organizational Changes	3090-AF84
3616	Warranty Clause for Multiple Award Schedule Contracts	3090-AF45
3617	Qualifications of Employees Working on Building Service Contracts	3090-AF46
3618	Miscellaneous Changes, GSAR 5-401, CHGE 68	3090-AF80
3619	General Services Administration Acquisition Regulation; Implementation of FAC 90-31 (GSAR 5-403) CHGE 67	3090-AF85
3620	Implementation of FASA Small Business; Protest, Disputes, and Appeals; Subcontractor Payment Rules, and Service Contract Funding, CHGE 69	3090-AF87
3621	Federal Travel Regulation Amendment 45; Increase in the Maximum Travel Expense Amount Which May Be Claimed Without Requirement for a Supporting Receipt	3090-AF88
3622	Tobacco Vending	3090-AF90

GENERAL SERVICES ADMINISTRATION (GSA) — Proposed Rule Stage

OFFICE OF POLICY, PLANNING AND EVALUATION

3583. REISSUANCE OF THE GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501; 48 CFR 502; 48 CFR 503; 48 CFR 504; 48 CFR 505; 48 CFR 506; 48 CFR 507; 48 CFR 508; 48 CFR 509; 48 CFR 510; 48 CFR 511; 48 CFR 512; 48 CFR 513; 48 CFR 514; 48 CFR 515; ...

Legal Deadline: None

Abstract: The General Services Administration (GSA) proposes to revise and reissue chapter 5, 48 CFR, in its entirety. The reissuance will represent the culmination of the Total Quality Management project to review GSA's acquisition regulation/directive system.

Statement of Need: GSA plans to publish a proposal to revise the entire GSAR. The proposal will redefine the objectives of the procurement system and its regulatory base, establish very narrow standards for the scope and nature of the regulation, eliminate provisions that impede productivity or unnecessarily increase administrative costs, reduce rigid rules in favor of guiding principles, delegate authority and accountability to the lowest level consistent with competency, and reduce the overall volume of the regulation by at least 50 percent. After consideration of public comments, the entire regulation will be issued in final form.

Alternatives: Alternatives considered include an approach that would continue to include nonregulatory internal guidance in the GSAR rather than putting the internal guidance in a separate internal directive to be distributed to contracting personnel within the agency.

Anticipated Costs and Benefits: Issuance of the final regulation will facilitate GSA's ability to operate in a competitive environment by enabling GSA contracting offices to deliver services in a more timely, efficient, and cost-effective manner. A specific dollar savings cannot be calculated.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Sectors Affected: All

Analysis: Regulatory Flexibility Analysis

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Washington, DC 20405

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GSA — Proposed Rule Stage

Phone: 202 501-3822
Fax: 202 501-3341
RIN: 3090–AE90

GENERAL SERVICES ADMINISTRATION (GSA) — Final Rule Stage

OFFICE OF POLICY, PLANNING AND EVALUATION

3584. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), ACCEPTANCE OF PAYMENT FROM A NON-FEDERAL SOURCE FOR TRAVEL EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709; EO 11609, 36 FR 13747, 3 CFR 1971 to 1975 Comp, p 586; 31 USC 1353; 40 USC 486(c)

CFR Citation: 41 CFR 301-1; 41 CFR 304-1

Legal Deadline: None

Abstract: This amendment finalizes the interim rule governing the acceptance of payment for travel, subsistence and related expenses from a non-Federal source. This rule supersedes Interim Rule 4, published at 57 FR 53283, November 9, 1992, with request for comments. The economic impact of this amendment is favorable on all Federal agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/92	57 FR 53283
Final Action	10/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Travel & Transportation Policy Division (MTM), General Services Administration, Office of Policy, Planning & Evaluation, Washington, DC 20405
Phone: 202 501-0282
Fax: 202 219-9739

RIN: 3090–AE19

3585. UPDATE OF TRANSPORTATION DOCUMENTATION AND AUDIT REGULATIONS

Priority: Other

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None

Abstract: This regulation will update the policy and procedures governing the audit of payments for domestic and foreign freight transportation services furnished for the account of the United States.

Timetable:

Action	Date	FR Cite
NPRM	02/18/94	59 FR 8151
NPRM Comment Period End	04/19/94	
Interim Final Rule	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John W. Sandfort, Travel and Transportation Policy Div. (MTM), General Services Administration, Office of Policy, Planning & Evaluation, Washington, DC 20405
Phone: 202 219-3164

RIN: 3090–AE77

3586. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT (UNASSIGNED), USE OF GOVERNMENT AIRCRAFT AND GOVERNMENT-NEGOTIATED RENTAL AGREEMENT AUTOMOBILES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709; 31 USC 1353; 40 USC 486(c); EO 11609, 36 FR 13747, 3 CFR, 1971 to 1975 Comp, p 586

CFR Citation: 41 CFR 301-1; 41 CFR 301-2; 41 CFR 301-3

Legal Deadline: None

Abstract: This amendment finalizes the interim rule implementing OMB Circular A-126, revised May 26, 1992, 57 FR 22150, to allow authorization of Federal civilian employee travel by Government aircraft in the conduct of official business. The amendment also modifies the FTR to reflect that the Government car rental program is governed by a negotiated car rental agreement instead of contract. The estimated economic impact of this amendment has not been determined to date.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/18/92	57 FR 54305
Final Action	10/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Travel and Transportation Policy Div. (MTM), General Services Administration, Office of Policy, Planning & Evaluation, Washington, DC 20405
Phone: 202 501-0282
Fax: 202 219-9739

RIN: 3090–AE82

3587. AMEND FIRMR PROCEDURES TO ALLOW AGENCIES TO SCREEN AND REASSIGN ALL EXCESS FIP RESOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: Currently, the FIRMR requires Governmentwide screening by GSA of Federal Information Processing (FIP) resources with an original acquisition cost of $1 million or more. This amendment will delegate authority to the agencies to screen all FIP resources. GSA will provide an electronic bulletin board to facilitate screening of resources originally valued at $1 million or more. This proposed change is expected to improve Government efficiency by streamlining the screening process.

Timetable:

Action	Date	FR Cite
NPRM	05/04/95	60 FR 22019
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

GSA — Final Rule Stage

Agency Contact: Stewart Randall, Management Analyst, Policy and Regulations Division (MKR), General Services Administration, Office of Policy, Planning & Evaluation, Washington, DC 20405
Phone: 202 501-3194
TDD: 202 501-0652
Fax: 202 208-1757
Email: STEWART.RANDALL@GSA.GOV

RIN: 3090–AF32

3588. DISCLOSURE AND USE OF PROPRIETARY INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 503; 48 CFR 515; 48 CFR 552

Legal Deadline: None

Abstract: This proposed rule to the General Services Administration Acquisition Regulation (GSAR) would authorize the release of proprietary information to nongovernment employees in certain circumstances and prescribe a new contract clause entitled "Restrictions on Disclosure of Information" for use in service contracts when the contractor will be authorized access to or use of proprietary information in the performance of a contract.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	08/11/93	58 FR 42715
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AF47

3589. FTR AMENDMENT (UNASSIGNED), LAST MOVE HOME BENEFIT FOR VETERANS AFFAIRS MEDICAL CENTER DIRECTORS AND MEMBERS OF THE IMMEDIATE FAMILY OF A DECEASED EMPLOYEE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709; 5 USC 5721 to 5734; 5 USC 5741 to 5742; 20 USC 905(a); 31 USC 1353; 40 USC 486(c); EO 11609, 36 FR 13747, 3 CFR, 1971 to 1975 Comp, p 586; EO 12466, 49 FR 7349, 3 CFR, 1984 Comp, p 165; EO 12522, 50 FR 26337, 3 CFR, 1985 Comp, p 375

CFR Citation: 41 CFR 301-1; 41 CFR 302-1; 41 CFR 303

Legal Deadline: None

Abstract: This amendment implements provisions of the Jerry Litton Post Office Building Act (PL 103-338), October 6, 1994, which provides "last move home" benefits to members of the immediate family of a Senior Executive Service (SES) career appointee who dies while in service and would otherwise have been eligible for "last move home" benefits. The Act also provides "last move home" benefits for Veterans Affairs medical center directors who are now SES career appointees, but who transferred prior to November 18, 1988, when medical center directors were not in the SES. This amendment also revises FTR provisions to clarify that personal funds and personal frequent flyer mileage may be used to upgrade to first-class transportation accommodations. The estimated annual economic impact of this amendment on all Federal agencies has not been determined to date.

Final action is proposed to be retroactive to 1/1/94.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/94	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker, Travel and Transportation Policy Div. (MTM), General Services Administration, Office of Policy, Planning & Evaluation, Washington, DC 20405
Phone: 202 501-0282
Fax: 202 219-9739

RIN: 3090–AF63

3590. • IMPLEMENTATION OF FASA COMMERCIAL ITEMS AND TRUTH IN NEGOTIATION ACT RULES, GSAR 5-403, CHGE 70

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501; 48 CFR 504; 48 CFR 507; 48 CFR 510; 48 CFR 511; 48 CFR 512; 48 CFR 514; 48 CFR 515; 48 CFR 536; 48 CFR 539; 48 CFR 543; 48 CFR 546; 48 CFR 552; 48 CFR 570

Legal Deadline: None

Abstract: This interim rule amends the GSAR to implement Items I and II of FAC 90-32 which amended the FAR to implement the portions of the Federal Acquisition Streamlining Act of 1994 (PL 103-355) dealing with the Truth in Negotiations Act and with the acquisition of commercial items. The Multiple Award Schedule Policy Statement of October 1, 1982 (47 FR 50242, 11/5/85) is canceled.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/16/96	61 FR 6164
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AF86

3591. • AMENDMENT OF FIRMR SCHEDULE PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: This change to the FIRMR recognizes the recent consolidation of

the Federal Supply and the Federal Information Processing (FIP) schedule programs. It changes several FIRMR provisions to make the FIP schedule program consistent with the Federal supply schedules.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Judy Steele, Procurement Analyst, Policy and Regulations Division (MKR), General Services Administration, Office of Policy, Planning & Evaluation, Washington, DC 20405
Phone: 202 501-3194
TDD: 202 501-0852
Fax: 202 208-1757
Email: JUDY.STEELE@GSA.GOV

RIN: 3090–AF89

3592. • FEDERAL TRAVEL REGULATION AMENDMENT (UNASSIGNED); PRIVATELY OWNED VEHICLE MILEAGE REIMBURSEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5702; 5 USC 5707; EO 11609, 36 FR 13747, 3 CFR, 1971 to 1975 Comp, p 586

CFR Citation: 41 CFR 301-4

Legal Deadline: None

Abstract: The Travel Expense Amendments Act of 1975 (5 USC 5707(b)(1) (1980)) requires the Administrator of General Services, in consultation with the Comptroller General of the United States, the Secretaries of Defense and Transportation and representatives of Government employee organizations, to conduct periodic investigations of the cost of operating privately owned vehicles (automobiles, airplanes, and motorcycles) to Government employees while on official travel and report the results to Congress at least once a year. This amendment revises the mileage allowance for advantageous use of a privately owned vehicle. The economical impact of this amendment has not been determined to date.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Vella Cloyd, Director, Travel and Transportation Policy Div. (MTM), General Services Administration, Washington, DC 20405
Phone: 202 273-3471
Fax: 202 219-9739

RIN: 3090–AF93

PUBLIC BUILDINGS SERVICE

3593. FEDERAL PROPERTY MANAGEMENT REGULATIONS PART 101-17, ASSIGNMENT AND UTILIZATION OF SPACE

Priority: Other Significant

Legal Authority: 40 USC 481; 40 USC 601; 7 USC 1924; 40 USC 490; 40 USC 531; 42 USC 3601; 42 USC 4321; 42 USC 4201; EO 12072; EO 12411; EO 12512; PL 100-678

CFR Citation: 41 CFR 101-17

Legal Deadline: None

Abstract: Federal Property Management Regulation Temporary Regulation D-76, Part 101-17, Assignment and Utilization of Space, was published in August 1991. It is intended that this regulation will become permanent. Its purpose is to improve space delivery process for Federal agencies by making the process more efficient, more timely, and better able to deliver quality space that supports agency mission needs. The regulation does the following: implements a new space-assignment process that emphasizes client service; establishes a new comprehensive move policy that clarifies roles and responsibilities; revises the General Services Administration (GSA) location policy to be more responsive to agency mission needs; revises the standard alterations which agencies receive upon an initial move, to recognize modern office needs; and revises the space classification definitions to eliminate ambiguity. These changes will result in a more efficient space delivery process and improve the overall efficiency of Government operations.

Statement of Need: The purpose of this regulation is to improve the space delivery process for Federal customer agencies by making the process more efficient, more timely, and better able to deliver quality space that supports customer agencies' mission needs.

Summary of the Legal Basis: GSA has statutory authority and responsibility for issuing Governmentwide guidance and regulations to ensure economy and efficiency in the assignment and utilization of space for its customer agencies.

Alternatives: GSA examined the Federal Property Management Regulations (FPMR) provisions dealing with assignment and utilization of space to its customer agencies. In order to remove ambiguity, GSA also examined the new space assignment process that emphasizes customer service; the new comprehensive move policy that clarifies roles and responsibilities; a more user-friendly location policy that is more responsive to customer agencies' mission needs; the level of standard level alterations that agencies receive upon initial move and also in recognition of modern office needs; and space classification standards. Based upon the results of this review, GSA determined that it was in the best interest of the Government to issue revised Governmentwide guidance and regulations to ensure economy and efficiency in the space delivery process to our customer agencies, and to improve the overall efficiency of Government operations.

Anticipated Costs and Benefits: The proposed regulation should improve the space delivery process for Federal customer agencies by making the process more efficient, more timely, and better able to deliver quality space that supports customer agencies' needs; thereby improving the overall efficiency of Government operations. The regulation was based on adequate information gathered from review and analysis of FPMR provisions and their impact on customer agencies' apace requests. The proposed regulation will not have any major impact on the economy.

Risks: None

Timetable:

Action	Date	FR Cite
NPRM	12/05/89	54 FR 50251
NPRM Comment Period End	01/04/90	

Action	Date	FR Cite
Extension of Expiration Date of FPMR Amendment	08/30/95	60 FR 45085
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Additional Information: At the request of OMB, GSA extended FPMR Temporary Regulation D-76 for a period of 90 days (from 08/26/95 through 11/26/95). D-76 expired on 11/26/95. On 12/01/95, GSA requested a one-year extension which has not been approved by OMB.

Agency Contact: Kathy Geisler, Director, Real Estate Mgt. Div. (PER), Public Buildings Service, General Services Administration, 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-2465
Fax: 202 501-3203

RIN: 3090–AD42

GENERAL SERVICES ADMINISTRATION (GSA) Long-Term Actions

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

3594. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, AND, WHERE APPLICABLE, SEX

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 476; 42 USC 2000d-1; 20 USC 1681

CFR Citation: 41 CFR 101-6.2

Legal Deadline: None

Abstract: The General Services Administration proposes this regulation to implement all of the above cited Federal laws. These statutes prohibit discrimination, in whole or in part, so that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program activity receiving Federal assistance from the General Services Administration. In addition, the objectives of the regulation are to streamline certain administrative procedural requirements by consolidating prohibitions of discrimination into one regulation and to make requirements clear and convenient for applicants and recipients to comply with, as well as making the regulation manageable for GSA to administer.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: James M. Taylor, Program Manager, Office of Equal Employment Opportunity, General Services Administration, 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-0767

RIN: 3090–AC49

3595. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794

CFR Citation: 41 CFR 101-8.3

Legal Deadline: None

Abstract: The General Services Administration (GSA) proposes this regulation to implement the above cited law. This regulation would amend GSA's regulation for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a cross-reference to the Uniform Federal Accessibility Standards.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: James M. Taylor, Program Manager, Office of Equal Employment Opportunity, General Services Administration, 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-0767

RIN: 3090–AE32

FEDERAL SUPPLY SERVICE

3596. OFFICE COPYING MACHINES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-25

Legal Deadline: None

Abstract: Amend the Federal Property Management Regulations to direct all prospective customers to select the most appropriate and economical procurement method through the use of life-cycle cost techniques.

Timetable:

Action	Date	FR Cite
NPRM	07/26/93	58 FR 39720
NPRM Comment Period End	08/25/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Nicholas Economou, Director, FSS Acquisition Management Center (FCO), General Services Administration, Federal Supply Service, Washington, DC 20406
Phone: 703 305-6936

RIN: 3090–AF08

3597. CRITERIA FOR REPORTING EXCESS PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-42; 41 CFR 101-43; 41 CFR 101-44; 41 CFR 101-45

Legal Deadline: None

Abstract: This regulation establishes revised criteria for reporting excess personal property to GSA, redefines terms, and updates addresses associated with reporting excess personal property. There should be no significant costs to the public as a result of this regulatory action. The rule will provide Federal agencies relief from certain reporting requirements and make identification of property which is to be reported easier for both the reporting and requisitioning activities.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Deidre Huber, Director, Property Management Division (FBP), General Services Administration, Federal Supply Service, Washington, DC 20406
Phone: 703 305-7240

RIN: 3090–AF39

OFFICE OF POLICY, PLANNING AND EVALUATION

3598. AMENDMENT OF THE FIRMR PROVISIONS TO MODIFY REQUIREMENTS FOR OBTAINING DELEGATIONS OF PROCUREMENT AUTHORITY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: Users of the Federal Information Resources Management Regulation (FIRMR) have mentioned some confusion regarding the interpretations of provisions regarding delegation of procurement authority thresholds. Specific concerns involve the applicability of the thresholds to certain General Services Administration (GSA) programs. This rule addresses these issues by establishing new delegations thresholds for all agencies and clarifying which GSA programs do not require delegations of procurement authority.

Statement of Need: The FIRMR currently contains regulatory thresholds that are inconsistent with Governmentwide specific agency thresholds granted by GSA. This rule will correct this inconsistency.

Summary of the Legal Basis: GSA has statutory authority and responsibility for issuing Governmentwide guidance and regulations to ensure economy and efficiency in the acquisition, management, and use of Federal information processing (FIP) resources.

Alternatives: GSA examined FIRMR provisions dealing with delegations thresholds to determine their adequacy. GSA also reviewed agency acquisition actions to determine the impact of FIRMR provisions. Based on the results of this review, GSA wrote to each agency in July 1995 delegating them procurement authority for FIP resources of $100,000,000. This supplement to FIRMR Interim Rule 2 of October 1994 was developed to codify $100,000,000 as the regulatory threshold for FIP resources, to be consistent with GSA's July 1995 action.

Anticipated Costs and Benefits: The proposed amendment should streamline the acquisition process by clarifying FIRMR regulatory provisions. It was based on adequate information garnered from review and analysis of FIRMR provisions and their impact on agency procurement requests. The amendment will not have any effect on the economy.

Risks: None

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/29/96	61 FR 2723
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Margaret Truntich, Director, Policy & Regulations Div. (MKR), General Services Administration, Office of Policy, Planning & Evaluation, Washington, DC 20405
Phone: 202 501-3194
TDD: 202 501-0652
Fax: 202 208-1757

RIN: 3090–AE71

3599. IMPLEMENT REQUIREMENTS FOR ENERGY-EFFICIENT COMPUTERS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 40 USC 751(f)

CFR Citation: 41 CFR 201

Legal Deadline: None

Abstract: Executive Order (E.O.) 12845 required executive agencies to ensure that by October 18, 1993, all acquisitions of microcomputers meet Environmental Protection Agency's "Energy Star" specification for energy efficiency. E.O. 12845 requires agencies to report any exemptions to this requirement to GSA for consolidation in an annual report to the President. An interim rule will be issued to provide specific information on energy efficiency requirements in acquisition and to further implement E.O. 12845.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/07/94	59 FR 952
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stewart Randall, Management Analyst, Policy and Regulations Division (MKR), General Services Administration, Office of Policy, Planning & Evaluation, 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-3194
TDD: 202 501-0652
Fax: 202 208-1757
Email: STEWART.RANDALL@GSA.GOV

RIN: 3090–AF03

3600. IMPLEMENTATION OF FEDERAL ACQUISITION STREAMLINING ACT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR ch 5

Legal Deadline: Final, Statutory, October 1, 1995.

Abstract: The Federal Acquisition Streamlining Act of 1994 (PL 103-355) was enacted October 13, 1995. The Act made major changes in the laws that impact the Federal procurement process in order to streamline procedures. Primarily implementation of the Act was affected at the Federal Acquisition Regulation (FAR) level. However, the Act contains certain GSA-unique provisions which require implementation in the GSA Acquisition Regulation (GSAR). In addition, other changes in the GSAR were needed to conform agency regulation to Governmentwide regulations that were revised to implement the Act.

The GSAR has been revised to implement all rules (see RINS 3090-AF76, 3090-AF80, 3090-AF85, 3090-AF86, and 3090-AF87), except RIN 3090-AF88.

Statement of Need: Certain provisions in PL 103-355 apply to GSA only and have been or will be implemented in the GSAR. For example, the authorization for GSA to establish simplified procedures for small leases of real property (see RIN 3090-AF67) and the provision in section 1555 on cooperative purchasing (see RIN 3090-AF68) which allows GSA to open Federal Supply Schedule contracts for use by State, local and Indian tribal governments and the Commonwealth of Puerto Rico. As a result of changes in the FAR, GSA also needs to revise the GSAR to conform to the FAR as revised to implement the Federal Acquisition Streamlining Act of 1994. (See RINs 3090-AF76, AF80, AF85, AF86 and AF87).

Summary of the Legal Basis: PL 103-355

Alternatives: Alternatives are outlined in the individual regulatory items.

Anticipated Costs and Benefits: The rules issued implementing the Federal Acquisition Streamlining Act of 1994 facilitate GSA's ability to operate in a competitive environment by enabling GSA contracting offices to deliver services in a more timely, efficient, and cost-effective manner. A specific dollar savings cannot be calculated.

Risks: Cannot be established at this time.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AF51

3601. FEDERAL SUPPLY SCHEDULE CONTRACTS—COOPERATIVE PURCHASING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 510; 48 CFR 532; 48 CFR 538; 48 CFR 552

Legal Deadline: None

Abstract: The General Services Administration (GSA) proposes to make changes to the General Services Administration Acquisition Regulation (GSAR) that would implement Section 1555 of the Federal Acquisition Streamlining Act of 1994 (PL 103-355) which deals with cooperative purchasing.

Statement of Need: Section 1555 amends subsection (b) of section 201 of the Federal Property and Administrative Services Act of 1949 (40 USC 481) to authorize the Administrator of General Services to provide for use of Federal Supply Schedules of the GSA upon request from a State or local government, the government of an Indian tribe, or the Commonwealth of Puerto Rico.

GSA plans to publish a proposal to add Subpart 538.70 to provide the policies and procedures for cooperative purchasing and to add to or revise the prescription for use of, or text of several solicitation provisions and contract clauses in other parts of the regulation, including Parts 510, 532, and 552, in order to accommodate use of the schedule contracts by State, local, and Indian tribal governments, and the Commonwealth of Puerto Rico. After consideration of public comments, the regulation will be issued in final form.

Alternatives: Alternatives were considered regarding different aspects of the proposed change. With respect to the process for identifying entities eligible to use GSA sources of supply including Federal Supply Schedules, GSA considered and rejected the idea of using a contract clause to provide a blanket authorization to eligible entities, with provisions for governmental entities to provide evidence to support their eligibility at the request of schedule contractors. The idea was rejected for several reasons. First, it placed a greater burden on both contractors and eligible governmental entities. Instead of a one-time application to GSA, governmental entities would be required to provide evidence of eligibility with virtually every order placed against schedule contracts. In addition, schedule contractors would be unable to gauge the level of interest on the part of State, local, and Indian tribal governments in participating in the schedule contracts. In addition, every contractor would be faced with determining whether the evidence of eligibility provided by governmental entities was adequate. In addition, such an approach limits GSA's ability to control the program in order to ensure that service to executive agencies of the Federal Government is maintained. Instead, a one-time application process was determined to be the best approach. The proposal also encourages electronic submission (rather than paper copies) of the application form, as that is deemed the most cost-effective mechanism. The list of entities authorized to use GSA sources of supply will also be available electronically for use by schedule contractors.

Some consideration was given to requiring Federal Supply Schedule contractors to accept orders from State and local governments, Indian tribes, and the Commonwealth of Puerto Rico, but that approach was ultimately rejected. The foremost consideration of GSA in implementing cooperative purchasing is to ensure that the Federal Supply Schedule Program continues to be an efficient and cost-effective acquisition mechanism for executive agencies of the Federal Government, and it was felt that mandating contractor participation in cooperative purchasing could, in some instances, negatively impact the program. For that reason, it was decided to allow contractors to decide individually whether they want to open their contracts to cooperative purchasing, or to allow them not to do so. Similarly, GSA will look at each schedule and make a case-by-case determination that the schedule should be opened for ordering by State and local governments, Indian tribes, and the Commonwealth of Puerto Rico. This will allow GSA to exclude individual or classes of schedules from the program.

To militate against the potential adverse impact on dealers/ distributors, the proposal also provides for schedule contractors to maintain their dealer/distributor networks by allowing for their participation in the performance of schedule contracts.

Anticipated Costs and Benefits: The Federal Acquisition Streamlining Act of 1994 authorizes the Administrator of GSA to require the authorized non-Federal users of the Federal Supply Schedules to reimburse GSA for any administrative costs for using the schedules. GSA is in the process of concerting the Federal Supply Schedule Program, which is currently funded through congressional appropriations, to an industrially funded operation. Non-Federal users will be assessed the same user charge as Federal users. Schedule contract prices will be included in the administrative fee.

Federal Supply Schedule contracts are negotiated as volume purchase agreements, with generally favorable pricing. The ability of small governmental entities to order from the Federal Supply Schedules holds out the potential for significant cost savings for those organizations.

Risks: None

Timetable:

Action	Date	FR Cite
ANPRM	04/07/95	60 FR 17764
ANPRM Comment Period End	06/06/95	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AF68

PUBLIC BUILDINGS SERVICE

3602. SMOKING

Priority: Other

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-20.105-3

Legal Deadline: None

Abstract: Passive environmental tobacco smoke has been classified as a Class A human carcinogen by EPA. Current FPMRs ban smoking in GSA-controlled buildings, except in designated smoking areas determined by the occupant agency head. In view of EPA's classification of passive smoke as a carcinogen, legislation has been introduced in the Congress to ban smoking in Federal buildings and an Executive order is being considered to also ban smoking in the executive branch. Upon enactment of legislation or issuance of an Executive order, GSA will revise current policy to address the EPA findings.

There should be no costs associated with the implementation of a proposed rule other than the posting of new signs prohibiting smoking.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph I. Gerber, Director, Regional Customer Team 2, Public Buildings Service, General Services Administration, 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-2465
Fax: 202 501-3203

RIN: 3090–AF94

3603. • LOCATION OF FEDERAL FACILITIES IN URBAN AREAS

Priority: Other Significant

Legal Authority: 40 USC 481; 40 USC 6017; 7 USC 1924; 40 USC 490; 40 USC 531; 42 USC 3601; 42 USC 4321; 42 USC 4201; EO 12072; EO 12411; EO 12512; PL 100-678

CFR Citation: 41 CFR 101-17

Legal Deadline: None

Abstract: This interim rule begins the process of replacing 101-17 of the Federal Property Management Regulations (FPMR). Policy and procedures regarding the assignment and utilization of space have been provided by a series of temporary regulations since 1982, the most current being FPMR Temporary Regulation D-76 which went into effect on August 26, 1991. This interim rule repeals the outdated and superseded permanent FPMR 101-17 and provides new guidance concerning the location of Federal facilities in urban areas.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/07/96	61 FR 9110
Final Action	04/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kathy Geisler, Director, Real Estate Mgt. Div. (PER), Public Buildings Service, General Services Administration, 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-0971

RIN: 3090–AF02

GENERAL SERVICES ADMINISTRATION (GSA) — Completed Actions

3604. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT 44, INCREASE IN MAXIMUM REIMBURSEMENT LIMITATIONS FOR REAL ESTATE SALE AND PURCHASE EXPENSES

Priority: Routine and Frequent

CFR Citation: 41 CFR 302-6

Completed:

Reason	Date	FR Cite
Final Action	09/25/95	60 FR 49347
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jane Groat
Phone: 202 501-4318
Fax: 202 219-9739

RIN: 3090–AF73

3605. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT 46, RELOCATION INCOME TAX (RIT) ALLOWANCE TAX TABLES

Priority: Routine and Frequent

CFR Citation: 41 CFR 302-11

Completed:

Reason	Date	FR Cite
Final Action	02/02/96	61 FR 3838
Final Action Effective	01/01/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Larry A. Tucker
Phone: 202 501-0282
Fax: 202 219-9739

RIN: 3090–AF78

3606. FEDERAL TRAVEL REGULATION (FTR) AMENDMENT 47, MAXIMUM PER DIEM RATES

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 301

Completed:

Reason	Date	FR Cite
Final Action	03/12/96	61 FR 10252
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Vella J. Cloyd
Phone: 202 501-3471
Fax: 202 219-9739

RIN: 3090–AF79

3607. • USE AND REPLACEMENT STANDARDS FOR ELECTRONIC TYPEWRITERS AND ELECTRONIC OFFICE MACHINES

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-25

Legal Deadline: None

Abstract: This regulation amends the Federal Property Management Regulations (FPMR) to delete the use and replacement standards for electronic typewriters and office machines. Over time, these instructions have become obsolete and no longer are necessary to retain in the FPMR. Removing these instructions from the FPMR will carry out the principles of the National Performance Review by unburdening all Federal agencies from unnecessary regulation.

Timetable:

Action	Date	FR Cite
Final Action	04/04/96	61 FR 14978
Final Action Effective	04/04/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nicholas M. Economou, Director, FSS Acquisition Management Center (FCO), General Services Administration, Federal Supply Service, Washington, DC 20406
Phone: 703 305-6936

RIN: 3090–AF91

3608. AMENDMENT OF FIRMR PROVISIONS TO ENSURE CURRENCY AND RELEVANCY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 41 CFR 201

Completed:

Reason	Date	FR Cite
Final Action	01/02/96	61 FR 10
Final Action Effective	02/01/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Judy Steele
Phone: 202 501-3194
TDD: 202 501-0652
Fax: 202 208-1757
Email: JUDYA.STEELE@GSA.GOV

RIN: 3090–AF31

3609. AMENDMENT OF FIRMR PROVISIONS REGARDING MULTI-AGENCY USE OF CONTRACTS FOR FIP RESOURCES

Priority: Routine and Frequent

CFR Citation: 41 CFR 201

Completed:

Reason	Date	FR Cite
Final Action	11/08/95	60 FR 56248
Final Action Effective	12/08/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Judy Steele
Phone: 202 501-3194
TDD: 202 501-0652
Fax: 202 208-1757
Email: JUDYA.STEELE@GSA.GOV

RIN: 3090–AF57

3610. AMENDMENT OF FIRMR PROVISIONS REGARDING THE STANDARD AND OPTIONAL FORMS PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 41 CFR 201

Completed:

Reason	Date	FR Cite
Final Action	11/02/95	60 FR 55660
Final Action Effective	12/04/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stewart Randall
Phone: 202 501-3194
TDD: 202 501-0652
Fax: 202 208-1757
Email: STEWART.RANDALL@GSA.GOV

RIN: 3090–AF72

3611. AMENDMENT TO REVISE FIRMR INVENTORY PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 201

Completed:

Reason	Date	FR Cite
Withdrawn	01/11/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Doris Farmer
Phone: 202 501-3194
TDD: 202 501-0652
Fax: 202 208-1757
Email: DORIS.FARMER@GSA.GOV

RIN: 3090–AF74

3612. AMENDMENT OF FIRMR PROVISIONS REGARDING LOCAL TELECOMMUNICATIONS SERVICE

Priority: Routine and Frequent

CFR Citation: 41 CFR 201

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Doris Farmer
Phone: 202 501-3194
TDD: 202 501-0657
Fax: 202 208-1757
Email: DORIS.FARMER@GSA.GOV

RIN: 3090–AF82

3613. AMENDMENT TO REVISE THE FIRMR TO REFLECT FAR AND OTHER CHANGES

Priority: Routine and Frequent

CFR Citation: 41 CFR 201

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Doris Farmer
Phone: 202 501-3194
TDD: 202 501-0657
Fax: 202 208-1757
Email: DORIS.FARMER@GSA.GOV

RIN: 3090–AF81

3614. AMENDMENT OF FIRMR PROVISIONS REGARDING GSA'S LOCAL TELECOMMUNICATIONS PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 201

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Doris Farmer
Phone: 202 501-3194
TDD: 202 501-0657
Fax: 202 208-0657
Email: DORIS.FARMER@GSA.GOV

RIN: 3090–AF83

3615. AMENDMENT TO REVISE FIRMR PROVISIONS TO REFLECT GSA ORGANIZATIONAL CHANGES

Priority: Other

CFR Citation: 41 CFR 201

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Doris Farmer
Phone: 202 501-3194
TDD: 202 501-0657
Fax: 202 208-1757
Email: DORIS.FARMER@GSA.GOV

RIN: 3090–AF84

3616. WARRANTY CLAUSE FOR MULTIPLE AWARD SCHEDULE CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 546; 48 CFR 552

Completed:

Reason	Date	FR Cite
Withdrawn - Incorporated in RIN 3090-AF86	02/06/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AF46

3618. MISCELLANEOUS CHANGES, GSAR 5-401, CHGE 68

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 501; 48 CFR 504; 48 CFR 507; 48 CFR 508; 48 CFR 509; 48 CFR 515; 48 CFR 516; 48 CFR 519; 48 CFR 528; 48 CFR 536; 48 CFR 541; 48 CFR 549; 48 CFR 552

Completed:

Reason	Date	FR Cite
Final Action	10/27/95	60 FR 54955
Final Action Effective	10/27/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AF80

3619. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; IMPLEMENTATION OF FAC 90-31 (GSAR 5-403) CHGE 67

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 502; 48 CFR 514; 48 CFR 525; 48 CFR 542

Completed:

Reason	Date	FR Cite
Final Action	10/27/95	60 FR 54956
Final Action Effective	10/27/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AF85

3617. QUALIFICATIONS OF EMPLOYEES WORKING ON BUILDING SERVICE CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 552

Completed:

Reason	Date	FR Cite
Withdrawn	02/06/96	

Small Entities Affected: None

Government Levels Affected: None

3620. • IMPLEMENTATION OF FASA SMALL BUSINESS; PROTEST, DISPUTES, AND APPEALS; SUBCONTRACTOR PAYMENT RULES, AND SERVICE CONTRACT FUNDING, CHGE 69

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 505; 48 CFR 519; 48 CFR 520; 48 CFR 532; 48 CFR 533; 48 CFR 552

Legal Deadline: None

Abstract: This rule implements several sections of the Federal Acquisition Streamlining Act of 1994 (PL 103-355) which related to protests, disputes and appeals, subcontractor payments, service contract funding and small business programs, and makes changes to reflect current organizational changes.

Timetable:

Action	Date	FR Cite
Final Action Effective	12/29/95	61 FR 1150
Final Action	01/17/96	61 FR 1150

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Washington, DC 20405
Phone: 202 501-3822
Fax: 202 501-3341

RIN: 3090–AF87

3621. • FEDERAL TRAVEL REGULATION AMENDMENT 45; INCREASE IN THE MAXIMUM TRAVEL EXPENSE AMOUNT WHICH MAY BE CLAIMED WITHOUT REQUIREMENT FOR A SUPPORTING RECEIPT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709; EO 11609, 36 FR 13747, 3 CFR 1971 to 1975 Comp. p 586

CFR Citation: 41 CFR 301-11

Legal Deadline: None

Abstract: This final rule amends the Federal Travel Regulation (FTR) to increase to $75 the maximum travel expense amount which may be claimed without requirement that a supporting receipt be attached to the travel voucher. This rule reflects an Internal Revenue Service (IRS) change, effective October 1, 1995, to receipt requirements for Federal income tax purposes. This amendment is intended to reduce agency administrative costs by decreasing the number of receipts that must be attached to the travel voucher and reviewed.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/01/95	
Final Action	12/06/95	60 FR 62332

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robert A. Clauson, Travel and Transportation Policy Div. (MTM), General Services Administration, 18th and F Streets NW., Washington, DC 20405
Phone: 202 501-0299
Fax: 202 501-2149

RIN: 3090–AF88

3622. • TOBACCO VENDING

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-20

Legal Deadline: None

Abstract: General Services Administration's Appropriations Act, Public Law 104-52, section 636, referred to as the "Prohibition of Cigarette Sales to Minors in Federal Buildings and Land Act," requires the Administrator of General Services to promulgate regulations that prohibit the sale of tobacco products in vending machines and the distribution of free samples of tobacco products in Government-owned and leased space under the custody and control of the GSA. GSA intends to have tobacco-product vending machines removed from Government property.

Timetable:

Action	Date	FR Cite
Final Action	01/25/96	61 FR 2121
Final Action Effective	01/25/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dan J. Shipley, Regional Customer Service Team 3 (PM3), Public Buildings Service, General Services Administration, Washington, DC 20405
Phone: 202 501-1968
Fax: 202 501-3451

RIN: 3090–AF90

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Part XXVI

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: NASA's regulatory agenda describes those regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of a knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

ADDRESSES: Director, Management Assessment Division (Code JM), Office of Management Systems and Facilities, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Margaret M. Herring, (202) 358-2264.

SUPPLEMENTARY INFORMATION: OMB guidelines dated January 2, 1996, "April 1996 Unified Agenda of Federal Regulations," and Executive Order 12866 "Regulatory Planning and Review" require a regulatory agenda of those regulations under development and review be published in the **Federal Register** each April and October.

Dated: February 22, 1996.

Timothy M. Sullivan,

Director, Management Assessment Division.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3623	Contract Financing	2700-AC19
3624	Contract Financing	2700-AC20

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3625	Grants and Cooperative Agreements to State and Local Governments	2700-AC16
3626	NASA FAR Supplement; Rewrite of NASA Policy on Contractor Qualifications, Cost Accounting Standards Administration, and Contract Cost Principles and Procedures	2700-AC17
3627	Shared Savings Clause	2700-AC24
3628	Revision to NASA FAR Supplement Coverage on Government Property	2700-AC25

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3629	Tracking and Data Relay Satellite System (TDRSS); Use and Reimbursement Policy for Non-U.S. Government Users	2700-AA29
3630	Uniform Administrative Requirements for Grants and Cooperative Agreements	2700-AA95
3631	New Restrictions on Lobbying	2700-AB06
3632	NASA Research Grant Handbook Directive 93-1	2700-AB30
3633	Increasing Contractor Liability	2700-AB41
3634	Procedures for NASA Drug Testing and Alcohol Testing Programs	2700-AB46
3635	Crime Control for Child Care Programs	2700-AB49
3636	Cross-Waiver of Liability	2700-AB51
3637	Procurement Plan Contents Regarding Strategies To Encourage Cost Realism	2700-AB53
3638	Restrictions on Printing and Duplication by Contractors	2700-AB58
3639	Drug and Alcohol Testing for Contractor Employees	2700-AB68
3640	Statement of Organization and General Information	2700-AB71
3641	NASA FAR Supplement; Contractor Cost Reporting	2700-AB79
3642	NASA FAR Supplement Rewrite	2700-AB86
3643	Deviation to FAR clause 52.232-12, Advance Payment, That Will Amend the Language in Alternate V to the Clause	2700-AB87
3644	Electronic Funds Transfer	2700-AB88
3645	Allowability of Facilities Capital Cost of Money (FCCM) for Educationals and Nonprofits	2700-AB89
3646	Termination Liability	2700-AB90
3647	Increased Signature Levels for Approvals	2700-AB91
3648	Minor Clarifying Changes to Existing Award Fee Coverage	2700-AB92

NASA

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3649	Revisions to Existing Coverage on Contract Audit Followup Procedures	2700-AB93
3650	Contracting and Subcontracting Policies and Procedures To Achieve Goals for Small Disadvantaged Businesses	2700-AB94
3651	Quality Assurance	2700-AB97
3652	Contract Adjustment Board	2700-AB98
3653	NASA Research Grant Handbook, Inventory Listings; Reporting Period and Due Date	2700-AC03
3654	Cooperative Agreements for Profit-Making Organizations	2700-AC07
3655	Duty-Free Entry of Space Articles	2700-AC12
3656	Modification of Test of Midrange Procurement Procedures	2700-AC18

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3657	Assignment of Copyright in Software	2700-AB72
3658	Deviation from FAR 31.205-18	2700-AB78
3659	NASA FAR Supplement; Undefinitized Contract Action	2700-AB80
3660	NASA FAR Supplement Directive (NFSD) 89-20	2700-AB85
3661	NASA Federal Acquisition Regulation (FAR) Supplement, Government-Owned/Contractor-Held Property; Reporting Period and Due Date	2700-AC04
3662	Addition of Coverage to NASA FAR Supplement on NASA Ombudsman Program	2700-AC15
3663	Cost or Pricing Data	2700-AC21
3664	Approval of Contractor Overtime	2700-AC22
3665	Reduction of Subcontract Reporting	2700-AC23

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Proposed Rule Stage

3623. • CONTRACT FINANCING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1832; 48 CFR 1852

Legal Deadline: None

Abstract: This rule revises agency procedures on contract financing as a result of Federal-wide changes made by Federal Acquisition Regulation Case 94-764. In response to the National Performance Review, this rule also delegates the required approval of advance payments and unusual progress payments. This rule also allows special advance payments (or a 100 percent progress payment rate) and incremental funding for Small Business Technology Transfer contracts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph Le Cren, Procurement Analyst, National Aeronautics and Space Administration, Code HC, NASA Headquarters, Washington, DC 20546
Phone: 202 358-0444

RIN: 2700–AC19

3624. • CONTRACT FINANCING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1832; 48 CFR 1852

Legal Deadline: None

Abstract: This rule revises NASA contract financing policies in order to make them more in line with recently revised Federal-wide policies. In addition, it amends the requirements for certain agency approvals. It also codifies certain deviations to implement the NASA Small Business Technology Transfer Program, and makes technical corrections to certain parts of NASA policies.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph Le Cren, Procurement Analyst, National

Aeronautics and Space Administration, Code HC, NASA Headquarters, Washington, DC 20546
Phone: 202 358-0444
RIN: 2700–AC20

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Final Rule Stage

3625. GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2451; 31 USC 6301 to 6308

CFR Citation: 14 CFR 1273

Legal Deadline: None

Abstract: This rule is NASA's adoption of the Common Rule, under Office of Management and Budget Circular No. A-102, on grants and cooperative agreements to state and local governments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/29/95	60 FR 33694
Interim Final Rule Effective Date	07/31/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Richard Kall, Procurement Analyst, National Aeronautics and Space Administration, Office of Procurement, Code HK, NASA Headquarters, Washington, DC 20546
Phone: 202 358-0449

RIN: 2700–AC16

3626. NASA FAR SUPPLEMENT; REWRITE OF NASA POLICY ON CONTRACTOR QUALIFICATIONS, COST ACCOUNTING STANDARDS ADMINISTRATION, AND CONTRACT COST PRINCIPLES AND PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1809; 48 CFR 1830; 48 CFR 1831

Legal Deadline: None

Abstract: This is a proposed revision of the NASA FAR Supplement in order to rewrite NASA policy on Contractor Qualifications, Cost Accounting Standards Administration, and Contract Cost Principles and Procedures. The changes are intended to streamline the regulation. This regulation is part of the overall project described under RIN 2700-AB86.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 37983
NPRM Comment Period End	09/25/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David Beck, Procurement Analyst, National Aeronautics and Space Administration, Office of Procurement, Code HK, NASA Headquarters, Washington, DC 20546
Phone: 202 358-0482

RIN: 2700–AC17

3627. • SHARED SAVINGS CLAUSE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1816; 48 CFR 1852

Legal Deadline: None

Abstract: This rule proposes to amend the NASA Federal Acquisition Regulation Supplement in order to establish the procedures for a "Shared Savings Clause" to be used in solicitations and contracts. The intent of the clause is to provide an incentive for contractors to identify and implement significant cost reduction programs. In return they would be eligible for a share of realized savings which result from those cost-cutting projects once the projects are approved by the contracting officer.

Timetable:

Action	Date	FR Cite
NPRM	10/20/95	60 FR 54208
NPRM Comment Period End	12/19/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: James A. Balinskas, Procurement Analyst, National Aeronautics and Space Administration, Code HC, NASA Headquarters, Washington, DC 20546
Phone: 202 358-0445

RIN: 2700–AC24

3628. • REVISION TO NASA FAR SUPPLEMENT COVERAGE ON GOVERNMENT PROPERTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1845; 48 CFR 1852

Legal Deadline: None

Abstract: This rule proposes to amend the regulations pertaining to Government property reporting by contractors, due to revisions of the reporting form, to clarify and simplify the reporting requirements and instructions, and make necessary changes to affected provisions and clauses. NASA has made extensive changes to its process of financial reporting of Government-Owned/Contractor-Held property. These changes were made necessary by the Chief Financial Officers Act of 1990, streamlining required by the National Performance Review, the need for more uniformity in reporting requirements between NASA and the Department of Defense (DOD), and changing internal management needs for information with NASA.

Timetable:

Action	Date	FR Cite
NPRM	10/25/95	60 FR 54651
NPRM Comment Period End	12/26/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Larry G. Pendleton, Procurement Analyst, National Aeronautics and Space Administration, Code HK, NASA Headquarters, Washington, DC 20546
Phone: 202 358-0487

RIN: 2700–AC25

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Long-Term Actions

3629. TRACKING AND DATA RELAY SATELLITE SYSTEM (TDRSS); USE AND REIMBURSEMENT POLICY FOR NON-U.S. GOVERNMENT USERS

Priority: Other

CFR Citation: 14 CFR 1215

Timetable:

Action	Date	FR Cite
Final Action for CY 1993 Rate Change	05/15/92	57 FR 20746
Final Action for CY 1994 Rate Change	09/28/93	58 FR 50515
Final Action for CY 1995 Rate Change	10/31/94	59 FR 54385
Final Action for CY 1996 Rate Change	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eugene Ferrick
Phone: 202 358-2030

RIN: 2700–AA29

3630. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS

Priority: Other

CFR Citation: 14 CFR 1270

Timetable:

Action	Date	FR Cite
NPRM	11/04/88	53 FR 214
Begin Review	04/01/91	
Second NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Richard Kall
Phone: 202 358-0459

RIN: 2700–AA95

3631. NEW RESTRICTIONS ON LOBBYING

Priority: Other

CFR Citation: 14 CFR 1271

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6748
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: David K. Beck
Phone: 202 358-0482

RIN: 2700–AB06

3632. NASA RESEARCH GRANT HANDBOOK DIRECTIVE 93-1

Priority: Other

CFR Citation: 14 CFR 1260

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Kall
Phone: 202 358-0459

RIN: 2700–AB30

3633. INCREASING CONTRACTOR LIABILITY

Priority: Other

CFR Citation: 48 CFR 18

Timetable:

Action	Date	FR Cite
NPRM	02/17/94	59 FR 7966
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck
Phone: 202 358-0482

RIN: 2700–AB41

3634. PROCEDURES FOR NASA DRUG TESTING AND ALCOHOL TESTING PROGRAMS

Priority: Other

CFR Citation: 14 CFR 1272 (New)

Timetable:

Action	Date	FR Cite
NPRM	07/06/93	58 FR 36159
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Joan S. Peterson
Phone: 202 358-1216

RIN: 2700–AB46

3635. CRIME CONTROL FOR CHILD CARE PROGRAMS

Priority: Other

CFR Citation: 14 CFR 1231

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Joan S. Peterson
Phone: 202 358-1216

RIN: 2700–AB49

3636. CROSS-WAIVER OF LIABILITY

Priority: Other

CFR Citation: 14 CFR 1266

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jay Steptoe
Phone: 202 358-2432

RIN: 2700–AB51

3637. PROCUREMENT PLAN CONTENTS REGARDING STRATEGIES TO ENCOURAGE COST REALISM

Priority: Other

CFR Citation: 48 CFR 1807

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/10/94	59 FR 11200
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Deborah O'Neill
Phone: 202 358-0440

RIN: 2700–AB53

3638. RESTRICTIONS ON PRINTING AND DUPLICATION BY CONTRACTORS

Priority: Other

CFR Citation: 48 CFR 1808; 48 CFR 1852

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/08/93	58 FR 47219
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Thomas L. Deback
Phone: 202 358-0431

RIN: 2700–AB58

3639. DRUG AND ALCOHOL TESTING FOR CONTRACTOR EMPLOYEES

Priority: Other

CFR Citation: 48 CFR 1823; 48 CFR 1852

Timetable:

Action	Date	FR Cite
NPRM	07/13/93	58 FR 37697
NPRM Comment Period End	09/13/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: David K. Beck
Phone: 202 358-0482

RIN: 2700–AB68

3640. STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

Priority: Other

CFR Citation: 14 CFR 1201

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret M. Herring
Phone: 202 358-2264

RIN: 2700–AB71

3641. NASA FAR SUPPLEMENT; CONTRACTOR COST REPORTING

Priority: Other

CFR Citation: 48 CFR 1804; 48 CFR 1842; 48 CFR 1852

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/09/94	59 FR 23800
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: William T. Childs
Phone: 202 358-0454

RIN: 2700–AB79

3642. NASA FAR SUPPLEMENT REWRITE

Priority: Other

CFR Citation: 48 CFR 18

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Bruce King
Phone: 202 358-0461

RIN: 2700–AB86

3643. DEVIATION TO FAR CLAUSE 52.232-12, ADVANCE PAYMENT, THAT WILL AMEND THE LANGUAGE IN ALTERNATE V TO THE CLAUSE

Priority: Other

CFR Citation: 48 CFR 1832; 48 CFR 1852

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph Le Cren
Phone: 202 358-0444

RIN: 2700–AB87

3644. ELECTRONIC FUNDS TRANSFER

Priority: Other

CFR Citation: 48 CFR 1832; 48 CFR 1852

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph Le Cren
Phone: 202 358-0444

RIN: 2700–AB88

3645. ALLOWABILITY OF FACILITIES CAPITAL COST OF MONEY (FCCM) FOR EDUCATIONALS AND NONPROFITS

Priority: Other

CFR Citation: 48 CFR 1815; 48 CFR 1831

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph Le Cren
Phone: 202 358-0447

RIN: 2700–AB89

3646. TERMINATION LIABILITY

Priority: Other

CFR Citation: 48 CFR 1852

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph Le Cren
Phone: 202 358-0444

RIN: 2700–AB90

3647. INCREASED SIGNATURE LEVELS FOR APPROVALS

Priority: Other

CFR Citation: 48 CFR 1816; 48 CFR 1831; 48 CFR 1832; 48 CFR 1837

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Reginald Walker
Phone: 202 358-0443

RIN: 2700–AB91

3648. MINOR CLARIFYING CHANGES TO EXISTING AWARD FEE COVERAGE

Priority: Other

CFR Citation: 48 CFR 1816

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Anne Guenther
Phone: 202 358-0447

RIN: 2700–AB92

3649. REVISIONS TO EXISTING COVERAGE ON CONTRACT AUDIT FOLLOWUP PROCEDURES

Priority: Other

CFR Citation: 48 CFR 1842

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph Le Cren
Phone: 202 358-0444

RIN: 2700–AB93

3650. CONTRACTING AND SUBCONTRACTING POLICIES AND PROCEDURES TO ACHIEVE GOALS FOR SMALL DISADVANTAGED BUSINESSES

Priority: Other

CFR Citation: 48 CFR 1815; 48 CFR 1819; 48 CFR 1852; 48 CFR 1870

Timetable:

Action	Date	FR Cite
NPRM	10/07/94	59 FR 51154
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Carol Saric
Phone: 202 358-0476

RIN: 2700–AB94

3651. QUALITY ASSURANCE

Priority: Other

CFR Citation: 48 CFR 1846; 48 CFR 1870

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: William T. Childs
Phone: 202 358-0454

RIN: 2700–AB97

3652. CONTRACT ADJUSTMENT BOARD

Priority: Other

CFR Citation: 14 CFR 1209

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pamela J. Werner

Phone: 202 358-2085

RIN: 2700–AB98

3653. NASA RESEARCH GRANT HANDBOOK, INVENTORY LISTINGS; REPORTING PERIOD AND DUE DATE

Priority: Other

CFR Citation: 14 CFR 1260

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/01/94	59 FR 38900
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Dussault
Phone: 202 358-0463

RIN: 2700–AC03

3654. COOPERATIVE AGREEMENTS FOR PROFIT-MAKING ORGANIZATIONS

Priority: Other

CFR Citation: 14 CFR 1274

Timetable:

Action	Date	FR Cite
NPRM	06/27/95	60 FR 33163
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tom Deback
Phone: 202 358-0431

RIN: 2700–AC07

3655. DUTY-FREE ENTRY OF SPACE ARTICLES

Priority: Other

CFR Citation: 14 CFR 1217

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John F. Hall, Jr.
Phone: 202 358-2432
Fax: 202 358-4355
Email: jhall@GCNSL.HQ.NASA.GOV

RIN: 2700–AC12

3656. MODIFICATION OF TEST OF MIDRANGE PROCUREMENT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 48 CFR 1871

Timetable:

Action	Date	FR Cite
Temporary Rule	10/02/95	60 FR 51368
Expiration of Temporary Rule	06/30/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Tom Deback
Phone: 202 358-0431

RIN: 2700–AC18

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) Completed Actions

3657. ASSIGNMENT OF COPYRIGHT IN SOFTWARE

Priority: Other

CFR Citation: 48 CFR 1827; 48 CFR 1852

Completed:

Reason	Date	FR Cite
Final Action	09/12/95	60 FR 47310
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Tom Deback
Phone: 202 358-0431

RIN: 2700–AB72

3658. DEVIATION FROM FAR 31.205-18

Priority: Other

CFR Citation: 48 CFR 1816; 48 CFR 1831; 48 CFR 1852

Completed:

Reason	Date	FR Cite
Final Action	09/08/94	59 FR 46360

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph Le Cren
Phone: 202 358-0444

RIN: 2700–AB78

3659. NASA FAR SUPPLEMENT; UNDEFINITIZED CONTRACT ACTION

Priority: Other

CFR Citation: 48 CFR 1843

Completed:

Reason	Date	FR Cite
Final Action	06/10/94	59 FR 29963

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Thomas L. Deback
Phone: 202 358-0431

RIN: 2700–AB80

3660. NASA FAR SUPPLEMENT DIRECTIVE (NFSD) 89-20

Priority: Other

CFR Citation: 48 CFR 18

Completed:

Reason	Date	FR Cite
Final Action	09/14/95	60 FR 47704
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck
Phone: 202 358-0482

RIN: 2700–AB85

3661. NASA FEDERAL ACQUISITION REGULATION (FAR) SUPPLEMENT, GOVERNMENT-OWNED/CONTRACTOR-HELD PROPERTY; REPORTING PERIOD AND DUE DATE

Priority: Other

CFR Citation: 48 CFR 1845; 48 CFR 1852

Completed:

Reason	Date	FR Cite
Final Action	08/01/94	59 FR 38937

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Larry G. Pendleton
Phone: 202 358-0487

RIN: 2700–AC04

3662. ADDITION OF COVERAGE TO NASA FAR SUPPLEMENT ON NASA OMBUDSMAN PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 1803; 48 CFR 1815; 48 CFR 1852

Completed:

Reason	Date	FR Cite
Final Action	09/11/95	60 FR 47099
Final Action Effective	10/01/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph LeCren
Phone: 202 358-0444

RIN: 2700–AC15

3663. • COST OR PRICING DATA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1815; 48 CFR 1816; 48 CFR 1852; 48 CFR 1870

Legal Deadline: None

Abstract: This rule revises NASA policies on cost or pricing data in order to make the policies consistent with recently revised Federal- wide policies.

Timetable:

Action	Date	FR Cite
Final Action	10/18/95	60 FR 53878
Final Action Effective	10/18/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: William T. Childs, Procurement Analyst, National Aeronautics and Space Administration, Code HC, NASA Headquarters, Washington, DC 20546
Phone: 202 358-0454

RIN: 2700–AC21

3664. • APPROVAL OF CONTRACTOR OVERTIME

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1822

Legal Deadline: None

Abstract: This rule amends NASA's acquisition regulation in order to authorize the Contracting Officer to approve contractor requests for overtime. This change will allow NASA to give approvals more quickly when overtime is needed.

Timetable:

Action	Date	FR Cite
Final Action	10/05/95	60 FR 52121
Final Action Effective	10/05/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David K. Beck, Procurement Analyst, National Aeronautics and Space Administration, Code HK, NASA Headquarters, Washington, DC 20546
Phone: 202 358-0482

RIN: 2700–AC22

3665. • REDUCTION OF SUBCONTRACT REPORTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 1819; 48 CFR 1852

Legal Deadline: None

Abstract: This rule amends acquisition regulations in response to a Presidential memorandum on regulatory reform. This rule reduces the frequency of subcontract reporting.

Timetable:

Action	Date	FR Cite
Final Action	10/18/95	60 FR 53880
Final Action Effective	10/18/95	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: David K. Beck, Procurement Analyst, National Aeronautics and Space Administration, Code HK, NASA Headquarters, Washington, DC 20546
Phone: 202 358-0482

RIN: 2700–AC23

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Monday
May 13, 1996

Part XXVII

National Archives and Records Administration

Semiannual Regulatory Agenda

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Ch. XII

Unified Agenda of Federal Regulations

AGENCY: National Archives and Records Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the National Archives and Records Administration (NARA) plans for the next 12 months and those actions that have been completed since October 1995. This agenda was developed under the guidelines in OMB's Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions, dated January 2, 1996. NARA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of NARA's regulatory plans and to provide a systematic means of monitoring regulatory activity in NARA. Some of the regulations listed in the agenda are considered significant under Executive Order 12866 "Regulatory Planning and Review."

FOR FURTHER INFORMATION CONTACT: Mary Ann Hadyka, Regulatory Contact, Policy and Planning Division, (301) 713-6730.

Dated: February 28, 1996.

John W. Carlin,

Archivist of the United States.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3666	NARA Facilities	3095-AA06
3667	Federal Records Centers	3095-AA27
3668	Domestic Distribution of United States Information Agency Materials in the Custody of the National Archives	3095-AA55
3669	Maintenance of Magnetic Computer Tape	3095-AA57
3670	Standards for Agency Recordkeeping Requirements—Records, Nonrecord Materials, and Personal Papers	3095-AA61
3671	NARA Privacy Act	3095-AA66
3672	Records Declassification	3095-AA67
3673	NARA Reproduction Services	3095-AA68
3674	Researcher Registration and Research Room Procedures	3095-AA69
3675	Transfer of Electronic Records	3095-AA70
3676	NARA Fee Schedule	3095-AA71
3677	NARA Freedom of Information Act Regulations	3095-AA72

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3678	Audiovisual Records Management	3095-AA18
3679	Preservation and Protection of and Access to the Presidential Historical Materials of the Nixon Administration, Amendment of Public Access Regulations	3095-AA59
3680	NARA Policy on Outside Employment	3095-AA60
3681	Disposition of Federal Records	3095-AA65

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3682	National Historical Publications and Records Commission; Grant Procedures	3095-AA43
3683	Location of Records and Hours of Use; Suitland Research Room	3095-AA64

3666. NARA FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2110

CFR Citation: 36 CFR 1280

Legal Deadline: None

Abstract: NARA is updating its regulations on the use of NARA facilities and property to remove obsolete material and to clarify existing provisions, and to add provisions for the new facility in College Park, Maryland (Archives II).

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Mary Ann Hadyka, Regulatory Contact, Policy and IRM Services, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6730
Fax: 301 713-7270

RIN: 3095–AA06

3667. FEDERAL RECORDS CENTERS

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2907; 44 USC 3103

CFR Citation: 36 CFR 1228

Legal Deadline: None

Abstract: NARA is updating regulations in subpart I of part 1228 relating to transfer of records to Federal records centers to clarify provisions, update addresses, and remove outdated material. NARA is adding the Pittsfield Federal Records Center to the list of records centers in 36 CFR 1228.150 and 36 CFR 1253.6. The center, located at 100 Dan Fox Drive in Pittsfield, Massachusetts is designated for storage of long-term records of Federal agencies. NARA is adding a new procedure under 36 CFR 1228.152 (e) stipulating that new accessions of Top Secret records will only be accepted at the Washington National Records Center.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Debra Lenhy, Deputy Director, Field Operations Division, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7210
Fax: 301 713-7205

RIN: 3095–AA27

3668. DOMESTIC DISTRIBUTION OF UNITED STATES INFORMATION AGENCY MATERIALS IN THE CUSTODY OF THE NATIONAL ARCHIVES

Priority: Other Significant

Legal Authority: PL 101-246, sec 202

CFR Citation: 36 CFR 1256

Legal Deadline: None

Abstract: This rule will establish procedures for making available USIA produced motion pictures, films, videotapes, and other materials when the materials become eligible for domestic dissemination.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Michael J. Kurtz, Assistant Archivist, Office of the National Archives, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7000
Fax: 301 713-6915

RIN: 3095–AA55

3669. MAINTENANCE OF MAGNETIC COMPUTER TAPE

Priority: Other Significant

Legal Authority: 44 USC 2904; 44 USC 3101; 44 USC 3102; 44 USC 3105

CFR Citation: 36 CFR 1234.30

Legal Deadline: None

Abstract: NARA will revise 36 CFR 1234.30 to address the increasing diversity of digital storage media used to store electronic records. The current regulation contains several specifications that are applicable only to open reel magnetic tape. NARA will replace these specifics with general guidelines applicable to a variety of media. This regulation applies to Federal agencies which maintain Federal records on digital media.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kenneth Thibodeau, Director, Center for Electronic Records, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6630
Fax: 301 713-6911

RIN: 3095–AA57

3670. STANDARDS FOR AGENCY RECORDKEEPING REQUIREMENTS—RECORDS, NONRECORD MATERIALS, AND PERSONAL PAPERS

Priority: Other Significant

Legal Authority: 44 USC 2904; 44 USC 2905; 44 USC 3101; 44 USC 3102; 44 USC 3301; 44 USC 3314

CFR Citation: 36 CFR 1222

Legal Deadline: None

Abstract: This revision of the regulation expands the guidance on personal papers and adds a requirement for agencies to protect against the removal of Federal records by issuing written procedures for the removal of nonrecord and personal materials. It also adds a requirement that agencies document the removal of nonrecord

and personal materials and certify that no Federal records were taken. Finally, this revision provides more explicit guidance on records in electronic form.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jean Keeting, Chief, Policy and Outreach Branch, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6677
Fax: 301 713-6850

RIN: 3095–AA61

3671. NARA PRIVACY ACT

Priority: Other

Legal Authority: 44 USC 2104(a); 5 USC 552(a)

CFR Citation: 36 CFR 1202

Legal Deadline: None

Abstract: NARA is updating its Privacy Act regulations governing NARA-created (administrative) records to reflect organizational and procedural changes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy Allard, Regulatory Contact, Policy and IRM Services, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6730
Fax: 301 713-7270

RIN: 3095–AA66

3672. RECORDS DECLASSIFICATION

Priority: Other Significant

Legal Authority: 44 USC 2101 to 2118; 5 USC 552; EO 12600; EO 12958; EO 12356

CFR Citation: 36 CFR 1254; 36 CFR 1260

Legal Deadline: None

Abstract: NARA plans to revise its regulations on mandatory review and declassification of its archival holdings to reflect the provision of EO 12958, Classified National Security Information. The revised regulations will affect Federal agencies as well as the public.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, Policy and IRM Services, National Archives and Records Administration, National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6730
Fax: 301 713-7270

RIN: 3095–AA67

3673. NARA REPRODUCTION SERVICES

Priority: Other

Legal Authority: 44 USC 2101 to 2118

CFR Citation: 36 CFR 1254

Legal Deadline: None

Abstract: NARA is updating its regulations regarding refunds by mail of unused amounts on debit cards used by researchers for self service copiers in the National Archives Building, the Washington National Records Center and the National Archives at College Park. In addition, this update shall include the hours of operation for the cashiers office at the National Archives at College Park location.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	10/00/96	
Final Action	12/00/96	
Final Action Effective	01/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sonia R. Rudo, National Archives Trust Fund Branch, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6405
Fax: 301 713-7311

RIN: 3095–AA68

3674. RESEARCHER REGISTRATION AND RESEARCH ROOM PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2111

CFR Citation: 36 CFR 1254

Legal Deadline: None

Abstract: NARA is updating its regulations to lower the age at which a student may be granted full research privileges from 16 years old to 14 years old; to extend the valid period of researcher cards issued by the automated application system from 2 years to 3 years; and to revise the list of equipment permitted in research rooms.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon K. Fawcett, Director, User Services Division, National Archives and Records Administration, National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6770
Fax: 301 713-6920

RIN: 3095–AA69

3675. TRANSFER OF ELECTRONIC RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2107

CFR Citation: 36 CFR 1228.188

Legal Deadline: None

Abstract: NARA is updating its regulations relating to transfer of electronic records to the National Archives. The revision will clarify timing of transfers of electronic records and provide updated requirements for transfer media and data formats.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kenneth Thibodeau, Director, Center for Electronic Records, National Archives and Records Administration, National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6630
Fax: 301 713-6911

RIN: 3095–AA70

3676. • NARA FEE SCHEDULE

Priority: Other

Legal Authority: 44 USC 2104(a); 44 USC 2116(c)

CFR Citation: 36 CFR 1258

Legal Deadline: None

Abstract: NARA is revising the fees for reproduction services provided to the public for copies of records in its custody.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Sonia J. Rudo, National Archives Trust Fund Branch, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6405
Fax: 301 713-7311
Email: sonia.rudo@arch2.nara.gov

RIN: 3095–AA71

3677. • NARA FREEDOM OF INFORMATION ACT REGULATIONS

Priority: Other

Legal Authority: 5 USC 552; 44 USC 2101 to 2118; EO 12600

CFR Citation: 36 CFR 1250; 36 CFR 1254

Legal Deadline: None

Abstract: NARA is updating its FOIA regulations governing NARA-created (administrative) records and records accessioned into the National Archives of the United States to reflect organizational and procedural changes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: NARA has decided to issue revised Privacy Act and FOIA regulations in separate rulemakings.

Agency Contact: Mary Ronan, Team Leader, Policy and Planning Division, National Archives and Records Administration, The National Archives, Washington, DC 40408
Phone: 202 501-5461
Fax: 202 501-5244

RIN: 3095–AA72

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Final Rule Stage

3678. AUDIOVISUAL RECORDS MANAGEMENT

Priority: Other Significant

Legal Authority: 44 USC 2104(a); 44 USC 2904; 44 USC 3101

CFR Citation: 36 CFR 1228; 36 CFR 1232

Legal Deadline: None

Abstract: NARA is revising and expanding the regulations pertaining to audiovisual records management and the transfer of permanent audiovisual records to NARA from Federal agencies. The revisions are necessary in order to provide for new audiovisual media that are used in the creation of Federal records and to reflect the transfer to the Department of Commerce's National Technical Information Services of the centralized audiovisual distribution services formerly performed by the National Audiovisual Center.

Timetable:

Action	Date	FR Cite
Final Rule - Organizational Name Change	05/14/93	58 FR 28506
NPRM	09/28/95	60 FR 50158
NPRM Comment Period End	11/27/95	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jean Keeting, Chief, Policy and Outreach Branch, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7100
Fax: 301 713-6850

RIN: 3095–AA18

3679. PRESERVATION AND PROTECTION OF AND ACCESS TO THE PRESIDENTIAL HISTORICAL MATERIALS OF THE NIXON ADMINISTRATION, AMENDMENT OF PUBLIC ACCESS REGULATIONS

Priority: Other Significant

Legal Authority: 44 USC 2104; 44 USC 2111

CFR Citation: 36 CFR 1275

Legal Deadline: None

Abstract: NARA proposes to amend procedures for preserving and protecting the Presidential historical materials of the Nixon administration and for providing public access to these materials. The proposed amendments would clarify various terms that appear

NARA — Final Rule Stage

in 36 CFR part 1275; clarify the nature of the archival processing being conducted on the Nixon Presidential Materials; and provide for the reproduction of the Nixon White House tape recordings.

Timetable:

Action	Date	FR Cite
NPRM	03/25/94	59 FR 14128
NPRM Comment Period End	05/24/94	
Final Action	04/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Amy Krupsky, Office of General Counsel, National Archives and Records Administration, Washington, DC 20408
Phone: 202 501-5535
Fax: 202 501-5955

RIN: 3095–AA59

3680. NARA POLICY ON OUTSIDE EMPLOYMENT

Priority: Other

Legal Authority: 5 USC 7301; EO 12674; EO 12731

CFR Citation: 5 CFR 7600

Legal Deadline: None

Abstract: The new Office of Government Ethics regulations in 5 CFR part 2635 require agencies to reissue their internal regulations on outside employment by agency personnel as a supplement to the OGE regulations. NARA will reissue its internal regulations on outside employment as 5 CFR part 7600. These regulations will affect only NARA employees.

Timetable:

Action	Date	FR Cite
Final Action	04/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Christopher Runkel, Designated Ethics Official, National Archives and Records Administration, The National Archives, Washington, DC 20408
Phone: 202 501-5535
Fax: 202 501-5955

RIN: 3095–AA60

3681. DISPOSITION OF FEDERAL RECORDS

Priority: Other Significant

Legal Authority: 44 USC 2101 et seq; 44 USC 2901 et seq; 44 USC 3101 et seq

CFR Citation: 36 CFR 1228.32; 36 CFR 1228.54

Legal Deadline: None

Abstract: NARA is amending its regulations to require reimbursement for all temporary records maintained in Federal records centers that have exceeded the authorized disposal date.

Timetable:

Action	Date	FR Cite
NPRM	09/26/95	60 FR 49532
NPRM Comment Period End	11/27/95	
Final Action	04/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Debra Leahy, Deputy Director, Field Operations Division, National Archives and Records Administration, The National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7210
Fax: 301 713-7205

RIN: 3095–AA65

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Completed Actions

3682. NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION; GRANT PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 1206

Completed:

Reason	Date	FR Cite
Final Action	02/13/96	61 FR 5656
Final Action Effective	03/14/96	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Nancy Sahli
Phone: 202 501-5610
Fax: 202 501-5601

RIN: 3095–AA43

3683. LOCATION OF RECORDS AND HOURS OF USE; SUITLAND RESEARCH ROOM

Priority: Other

CFR Citation: 36 CFR 1253

Completed:

Reason	Date	FR Cite
Final Action	01/05/96	61 FR 390
Final Action Effective	09/09/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Hadyka
Phone: 301 713-6730
Fax: 301 713-7270

RIN: 3095–AA64

[FR Doc. 96-6553 Filed 05-10-96; 8:45 am]
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Part XXVIII

National Foundation on the Arts and the Humanities

Federal Council on the Arts and the Humanities

Semiannual Regulatory Agenda

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FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES (FCAH)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities

45 CFR Ch. XI

Unified Agenda of Regulations

AGENCY: Federal Council on the Arts and the Humanities, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, and Executive Order 12866 "Regulatory Planning and Review," dated September 30, 1993, the Federal Council on the Arts and the Humanities is required to publish, in April and October of each year, an agenda of proposed regulations that the Council has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Michael S. Shapiro, General Counsel, Federal Council on the Arts and the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 606-8322.

Juan E. Mestas,

Deputy Chairman, National Endowment for the Humanities.

FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES (FCAH) — Completed Actions

3684. INDEMNITIES UNDER THE ARTS AND ARTIFACTS INDEMNITY ACT

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1160

Completed:

Reason	Date	FR Cite
Final Action	08/16/95	60 FR 42464
Final Action Effective	09/15/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alice M. Whelihan

Phone: 202 682-5442

RIN: 3134–AA00

[FR Doc. 96-7476 Filed 05-10-96; 8:45 am]

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Part XXIX

National Foundation on the Arts and the Humanities

Institute of Museum Services

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INSTITUTE OF MUSEUM SERVICES (IMS)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services

45 CFR Ch. XI

Unified Agenda of Regulations

AGENCY: Institute of Museum Services, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 605), the Institute of Museum Services publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Ms. Mamie Bittner, Congressional Liaison and Public Affairs Officer, Institute of Museum Services, 1100 Pennsylvania Ave. NW., Washington, DC 20506, or call (202) 606-8536.

Diane B. Frankel,

Director, Institute of Museum Services.

INSTITUTE OF MUSEUM SERVICES (IMS)

Completed Actions

3685. TECHNICAL AMENDMENTS FOR COMPETITIVE GRANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 45 CFR 1180

Completed:

Reason	Date	FR Cite
Final Action	12/13/95	60 FR 63963

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Mamie Bittner
Phone: 202 606-8536

RIN: 3137–AA06

[FR Doc. 96-5652 Filed 05-10-96; 8:45 am]
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Part XXX

National Foundation on the Arts and the Humanities

National Endowment for the Arts

Semiannual Regulatory Agenda

NATIONAL ENDOWMENT FOR THE ARTS (NEA)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Ch. XI

Semiannual Regulatory Agenda

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 605), the National Endowment for the Arts publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Christenson, General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call (202) 682-5418.

L. Hope O'Keeffe,

Deputy General Counsel.

NATIONAL ENDOWMENT FOR THE ARTS (NEA) — Prerule Stage

3686. COLLECTION OF CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-365; 31 USC 3711; 31 USC 3716 to 3718; 5 USC 5514; 5 USC 552a; 31 USC 3701

CFR Citation: 45 CFR 1150

Legal Deadline: None

Abstract: The proposed rule amends the National Endowment for the Arts regulation for collecting debts. Principally, the amendments implement the Debt Collection Act of 1982 (PL 97-365) and the 1983 amendments (PL 97-452), both of which amended the Federal Claims Collection Act of 1966 (31 USC 3711, 3716 to 3718) to authorize, among other things, charging of interest penalties and administrative costs, and the use of administrative offset, private collection agencies, and credit agencies by the Government. The amendments also implement Governmentwide regulations issued by the Department of Justice and the General Accounting Office (49 FR 8889) and Office of Personnel Management (49 FR 27470).

Timetable:

Action	Date	FR Cite
ANPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: RIN 3135-AA04 was merged with RIN 3135-AA01 on 01/29/91.

Agency Contact: Karen K. Christensen, General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 682-5418

RIN: 3135–AA01

NATIONAL ENDOWMENT FOR THE ARTS (NEA) — Long-Term Actions

3687. NONDISCRIMINATION ON THE BASIS OF AGE

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1156

Timetable:

Action	Date	FR Cite
NPRM	10/02/79	44 FR 56725
NPRM Comment Period End	11/15/79	
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Karen K. Christensen
Phone: 202 682-5418

RIN: 3135–AA03

3688. COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen K. Christensen
Phone: 202 682-5418

RIN: 3135–AA08

3689. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES; EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1140

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	
ANPRM Comment Period End	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Karen K. Christensen
Phone: 202 682-5418

RIN: 3135–AA10

[FR Doc. 96-7477 Filed 05-10-96; 8:45 am]
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Part XXXI

National Foundation on the Arts and the Humanities

National Endowment for the Humanities

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NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Ch. XI

Unified Agenda of Regulations

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, and Executive Order 12866 "Regulatory Planning and Review," dated September 30, 1993, the National Endowment for the Humanities is required to publish, in April and October of each year, an agenda of proposed regulations that the Endowment has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Michael S. Shapiro, General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 606-8322.

Juan E. Mestas,

Deputy Chairman, National Endowment for the Humanities.

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Long-Term Actions

3690. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1110; 45 CFR 1173

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Margaret Horne
Phone: 202 606-8399

RIN: 3136–AA11

3691. IMPLEMENTATION OF TITLE IX OF THE EDUCATION ACT AMENDMENTS OF 1972

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 1171

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Horne
Phone: 202 606-8399

RIN: 3136–AA14

3692. STANDARDS OF CONDUCT OF EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1105

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael S. Shapiro
Phone: 202 606-8322

RIN: 3136–AA16

3693. PRIVACY ACT REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1115

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael S. Shapiro
Phone: 202 606-8322

RIN: 3136–AA18

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Completed Actions

3694. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS WITH STATE AND LOCAL GOVERNMENTS (THRESHOLDS)

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1174

Completed:

Reason	Date	FR Cite
Final Action	04/19/95	60 FR 19638
Final Action Effective	05/19/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael S. Shapiro
Phone: 202 606-8322

RIN: 3136–AA19

[FR Doc. 96-7478 Filed 05-10-96; 8:45 am]

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Part XXXII

National Science Foundation

Semiannual Regulatory Agenda

NATIONAL SCIENCE FOUNDATION (NSF)

NATIONAL SCIENCE FOUNDATION

45 CFR Ch. VI

Regulatory Agenda

AGENCY: National Science Foundation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The National Science Foundation is publishing its April 1996 regulatory agenda pursuant to Executive Order 12866 "Regulatory Planning and Review" (3 CFR 1993 Comp., p. 638), the Regulatory Flexibility Act (5 U.S.C. 601-612), and the Office of Management and Budget Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions (January 2, 1996).

FOR FURTHER INFORMATION CONTACT: For further information on a particular item, call or write the individual identified as agency contact. General comments or inquiries about this agenda may be directed to Leslie Crawford, Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306-1060.

Dated: February 5, 1996.

Leslie Crawford,

Legal Analyst.

NATIONAL SCIENCE FOUNDATION (NSF) — Long-Term Actions

3695. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE NATIONAL SCIENCE FOUNDATION

Priority: Other

CFR Citation: 5 CFR 5301

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles S. Brown
Phone: 703 306-1060

RIN: 3145–AA20

3696. REPEAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE NATIONAL SCIENCE FOUNDATION AND RULES OF PRACTICE FOR THE FOUNDATION

Priority: Other

CFR Citation: 45 CFR 680; 45 CFR 681; 45 CFR 682; 45 CFR 683; 45 CFR 684

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles S. Brown
Phone: 703 306-1060

RIN: 3145–AA29

3697. • REVISED RESTRICTIONS ON LOBBYING

Priority: Other

Legal Authority: 31 USC 1352; PL 104-65

CFR Citation: 45 CFR 604

Legal Deadline: None

Abstract: Publication of Governmentwide common rule to reflect recent changes in Federal lobbying statutes.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jean Feldman, Deputy Head, Policy Office, Division of Contracts, Policy & Oversight, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230
Phone: 703 306-1243

RIN: 3145–AA30

[FR Doc. 96-5653 Filed 05-10-96; 8:45 am]
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Part XXXIII

Office of Federal Housing Enterprise Oversight

Semiannual Regulatory Agenda

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO)

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

12 CFR Ch. XVII

Semiannual Agenda

AGENCY: Office of Federal Housing Enterprise Oversight.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12866 ("Regulatory Planning and Review," September 30, 1993), which require the publication of a semiannual agenda of regulations.

FOR FURTHER INFORMATION CONTACT: Gary L. Norton, Deputy General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552, (202) 414-3800.

Dated: March 4, 1996.

Aida Alvarez,

Director, Office of Federal Housing Enterprise Oversight.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Proposed Rule Stage

3698. RISK-BASED CAPITAL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4611; 12 USC 4513(b)(1)

CFR Citation: 12 CFR 1750

Legal Deadline: Final, Statutory, December 1, 1994.

Abstract: Title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102-550, known as the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, 12 USC 4501 et seq., gives the Office of Federal Housing Enterprise Oversight (OFHEO) the responsibility for developing a risk-based capital regulation for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises). To discharge this responsibility, OFHEO must develop and implement a risk-based capital "stress test" that determines the amount of capital that an Enterprise must hold initially to maintain positive capital throughout a ten-year period of economic stress (stress period).

An advance notice of proposed rulemaking solicited public comment on a variety of issues prior to the publication of a proposed rule. The comment period ended on May 9, 1995. OFHEO will consider the comments in developing its proposed regulation. The proposed regulation will include a discussion of the basis for calculating credit losses during the stress period. The proposed regulation will also discuss OFHEO's housing price index which will be proposed to be used to calculate the seasoning of mortgages. A subsequent second proposed regulation will include the details of all other aspects of the risk-based capital stress test.

Timetable:

Action	Date	FR Cite
ANPRM	02/08/95	60 FR 7466
ANPRM Comment Period End	05/09/95	
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552 Phone: 202 414-3800

RIN: 2550–AA02

3699. • RULES OF PRACTICE AND PROCEDURE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4631 to 4641

CFR Citation: 12 CFR ch XVII

Legal Deadline: None

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) intends to issue a proposed regulation setting forth rules of practice and procedure related to OFHEO's statutory enforcement provisions found in subtitle C of title XIII of the Housing and Community Development Act of 1992, known as the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, 12 USC 4501 et seq. The proposed regulation will describe procedures for answering notices of charges, filing and service of papers, the designation of a presiding officer, the conduct of formal hearings, access to agency process of parties afforded a hearing, and various time requirements. In addition, the proposed regulation will set rules and procedures for assessment and collection of civil money penalties. OFHEO intends to issue the proposed regulation in December 1996.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552 Phone: 202 414-3800

RIN: 2550–AA04

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT (OFHEO) — Final Rule Stage

3700. RELEASING INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 12 USC 4513; 12 USC 4526; 12 USC 4639; EO 12600

CFR Citation: 12 CFR 1710

Legal Deadline: None

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) issued a proposed rule to set forth the basic policies of OFHEO regarding information it maintains and the procedures for obtaining access to such information. The rule contains regulations of OFHEO implementing the Freedom of Information Act (FOIA) and establishes a schedule of fees that will be charged for the processing of document requests under the FOIA. In addition, the proposed rule sets forth procedures to be followed with respect to testimony and the production of documents in legal proceedings in which OFHEO is not a named party as well as procedures for service of process upon OFHEO in any legal proceeding. After reviewing and considering public comments, OFHEO intends to issue a final rule in July 1996.

Timetable:

Action	Date	FR Cite
NPRM	05/11/95	60 FR 25162
NPRM Comment Period End	07/10/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552 Phone: 202 414-3800

RIN: 2550–AA01

3701. MINIMUM CAPITAL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4513(b)(1); 12 USC 4514; 12 USC 4612; 12 USC 4614

CFR Citation: 12 CFR 1750

Legal Deadline: Final, Statutory, December 1, 1994.

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) issued a proposed regulation setting forth minimum capital levels for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises). The proposed regulation defines the necessary terms and sets forth the methodology for computing minimum capital levels. The proposed regulation establishes procedures for the filing of quarterly minimum capital level reports by the Enterprises. In addition, the proposed regulation establishes procedures under which OFHEO will make capital classifications of the Enterprises. After considering public comments on the proposed regulation, OFHEO intends to issue a final regulation in July 1996.

Timetable:

Action	Date	FR Cite
NPRM	06/08/95	60 FR 30201
NPRM Comment Period End	08/07/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552 Phone: 202 414-3800

RIN: 2550–AA03

[FR Doc. 96-6554 Filed 05-10-96; 8:45 am]

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Part XXXIV

Office of Government Ethics

Semiannual Regulatory Agenda

OFFICE OF GOVERNMENT ETHICS (OGE)

OFFICE OF GOVERNMENT ETHICS

5 CFR Ch. XVI

Semiannual Regulatory Agenda, April 1996

AGENCY: Office of Government Ethics.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Office of Government Ethics (OGE) substantive and procedural regulations are scheduled for development or review during the period from April 1, 1996, through March 31, 1997. This agenda fulfills OGE's responsibility to publish a semiannual regulatory agenda under Executive Order 12866 "Regulatory Planning and Review" and has been prepared in accordance with guidance received from the Office of Management and Budget. None of the OGE regulations in this April 1996 agenda will have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. chapter 6. In addition, none of the listed OGE regulatory actions is procurement-related.

This publication in the **Federal Register** does not impose a binding obligation on the Office of Government Ethics with respect to any particular item on its agenda. The dates shown for the future steps of each action are estimates and not commitments to act by the date shown. Moreover, other OGE regulatory actions, in addition to the entries listed, are not precluded.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917; telephone: 202-208-8000, extension 1110; FAX: 202-208-8036.

Approved: March 19, 1996.

Stephen D. Potts,

Director, Office of Government Ethics.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3702	Privacy Act Rules	3209-AA18
3703	Limitations on Outside Employment; Confidential Reporting of Payments to Charities in Lieu of Honoraria	3209-AA13
3704	Executive Agency Ethics Training Programs	3209-AA07

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3705	Public Financial Disclosure, Conflicts of Interest, and Certificates of Divestiture for Executive Branch Officials	3209-AA06
3706	Standards of Ethical Conduct for Employees of the Executive Branch	3209-AA04
3707	Interpretation, Exemptions, and Waiver Guidance Concerning 18 USC 208 (Acts Affecting a Personal Financial Interest)	3209-AA09
3708	Post-Employment Conflict of Interest Restrictions	3209-AA14

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3709	Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees	3209-AA00
3710	Executive Agency Supplemental Financial Disclosure Regulations Issued Jointly With the Concurrence of the Office of Government Ethics	3209-AA16
3711	Executive Agency Supplemental Standards of Ethical Conduct Regulations Issued Jointly With the Concurrence of the Office of Government Ethics	3209-AA15
3712	Interpretation of 18 USC 209, the Constraint Against Private Supplementation of Salaries of Executive Branch Officials and Employees	3209-AA12

3702. PRIVACY ACT RULES

Priority: Other Significant

Legal Authority: 5 USC 552a; 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2606 (New)

Legal Deadline: None

Abstract: This proposed rule would establish for the Office of Government Ethics (OGE) regulatory procedures to implement the Privacy Act of 1974, including requests for access and amendment and appeals, and would reference certain OGE systems of records (which will also be updated and revised).

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Heather N. Sigrist, Attorney Advisor, Office of Government Ethics, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000

RIN: 3209–AA18

3703. LIMITATIONS ON OUTSIDE EMPLOYMENT; CONFIDENTIAL REPORTING OF PAYMENTS TO CHARITIES IN LIEU OF HONORARIA

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12671

CFR Citation: 5 CFR 2636

Legal Deadline: None

Abstract: Regulation implemented, effective January 1, 1991, the prohibition on honoraria (now declared unconstitutional by the courts as to most rank and file executive branch employees and hence determined to be eviscerated as to all other Federal employees by the Office of Legal Counsel of the Justice Department), as well as the new limitations on outside employment as provided in the 1989 Ethics Reform Act revisions to the Ethics in Government Act, as amended. A separate provision (not yet effective) of the regulation will govern reports by certain executive branch officials of payments, in lieu of honoraria, donated on their behalf to charities. The regulation will be amended in light of the above-noted litigation and any other pertinent developments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/17/91	56 FR 1721
Deferral of Effective Date of 5 CFR 2636.205	05/10/91	56 FR 21589
Deferral of Effective Date of 5 CFR 2636.205	10/11/91	56 FR 51319
Revision of Honorarium Definition in 5 CFR 2636.203(a)	01/08/92	57 FR 601
Deferral of Effective Date of 5 CFR 2636.205	02/14/92	57 FR 5369
Technical Correction to Interim Final Rule	12/30/93	58 FR 69176
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Make 5 CFR 2636.205 Effective and Revise Section	09/00/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stuart D. Rick, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000

RIN: 3209–AA13

3704. EXECUTIVE AGENCY ETHICS TRAINING PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2638.701 to 2638.704

Legal Deadline: None

Abstract: Regulation specifying the responsibilities of executive branch agencies and their designated agency ethics officials to develop and implement orientation and annual ethics training courses and to distribute appropriate guidance materials to their employees under sections 301(b) and (c) of E.O. 12674, as modified by E.O. 12731.

Timetable:

Action	Date	FR Cite
NPRM	09/18/90	55 FR 38335
NPRM Comment Period End	11/17/90	
Final Rule on Executive Agency Ethics Training Programs	04/07/92	57 FR 11886
Correction	04/27/92	57 FR 15219
Amendment	12/10/92	57 FR 58399
Correction	12/28/92	57 FR 61612
Interim Amendments to Liberalize Certain Training Requirements	03/16/94	59 FR 12145
Interim Final Rule Comment Period End	05/16/94	59 FR 12145
Final Amendments To Refine Certain Training Requirements	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John C. Condray, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000

RIN: 3209–AA07

OFFICE OF GOVERNMENT ETHICS (OGE)

Final Rule Stage

3705. PUBLIC FINANCIAL DISCLOSURE, CONFLICTS OF INTEREST, AND CERTIFICATES OF DIVESTITURE FOR EXECUTIVE BRANCH OFFICIALS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 26 USC 1043

CFR Citation: 5 CFR 2634.1001 to 2634.1004

Legal Deadline: None

Abstract: Regulation implementing a provision of the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended by Pub. L. 101-280, providing for tax deferral if sale of property by an executive branch official (or related person) is deemed necessary to comply with conflict of interest requirements pursuant to a certificate of divestiture issued by the Office of Government Ethics.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/18/90	55 FR 14407
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Norman B. Smith, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000

RIN: 3209–AA06

3706. STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

Priority: Other Significant

Legal Authority: 5 USC 7301; 5 USC 7351; 5 USC 7353; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2635

Legal Deadline: None

Abstract: Regulation implementing certain provisions of Executive Order 12674 on Principles of Ethical Conduct, as modified by EO 12731, and the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Effective February 3, 1993, this new ethical conduct standards regulation generally superseded executive branch employee conduct and gifts rules, as well as pertinent portions of agency-specific conduct regulations issued thereunder. For certain existing agency regulatory standards setting forth financial interest prohibitions and prior approval for outside employment/activities, an extended grace period is in effect until August 7, 1996, or until individual concerned agencies issue supplemental regulations, with Office of Government Ethics concurrence.

Timetable:

Action	Date	FR Cite
NPRM	07/23/91	56 FR 33778
NPRM Comment Period End	09/20/91	
Final Overall Regulation on Standards of Ethical Conduct	08/07/92	57 FR 35006
Correction	10/27/92	57 FR 48557
Correction	11/04/92	57 FR 52583
5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/94	59 FR 4779
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/95	60 FR 6390
NPRM on Widely Attended Gatherings	06/15/95	60 FR 31415
Minor Correction to One Citation	10/03/95	60 FR 51667
Further 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	12/27/95	60 FR 66857
Final Rule on Widely Attended Gatherings	07/00/96	
Interim Rule on Travel Expenses for Certain Unofficial Teaching, Speaking, and Writing	10/00/96	
NPRM on Gifts From Political Organizations	10/00/96	
NPRM on Participation in Professional Associations	10/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stuart D. Rick, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000

RIN: 3209–AA04

3707. INTERPRETATION, EXEMPTIONS, AND WAIVER GUIDANCE CONCERNING 18 USC 208 (ACTS AFFECTING A PERSONAL FINANCIAL INTEREST)

Priority: Other Significant

Legal Authority: 18 USC 208; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2640 (New)

Legal Deadline: None

Abstract: Proposed regulation to interpret section 208(a) of title 18, U.S.C., which prohibits officers and employees of the executive branch from officially participating personally and substantially in a particular matter in which there is a personal financial interest or a financial interest of a related person or organization (absent a waiver under 18 U.S.C. 208(b)). It also lists and describes interests proposed to be considered too remote or too inconsequential to affect the integrity of the services of executive branch officers or employees, in accordance with 18 U.S.C. 208(b)(2). Such interests will be exempt from the restrictions of 18 U.S.C. 208(a), generally requiring disqualification. The proposed regulation also would provide guidance to executive branch agencies as to the kinds of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from an employee and which, therefore, may be waived from the general rule of disqualification under 18 U.S.C. 208(a) pursuant to 18 U.S.C. 208(b)(1). In addition, proposed guidance is provided concerning the issuance of waivers to special Government employee advisory committee members pursuant to 18 U.S.C. 208(b)(3). A separate interim final rule has been published exempting certain financial interests arising from Federal Government executive branch employment as well as from Social Security or veterans' benefits, from the general prohibition in section 208(a).

Timetable:

Action	Date	FR Cite
Govt. Interests and Social Security or Veterans' Benefits Exemptions	08/28/95	60 FR 44706
NPRM	09/11/95	60 FR 47208
NPRM Comment Period End	11/13/95	
Final Action	11/00/96	

OGE

Final Rule Stage

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marilyn L. Glynn, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000

RIN: 3209–AA09

3708. POST-EMPLOYMENT CONFLICT OF INTEREST RESTRICTIONS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 18 USC 207; EO 12674; EO 12731

CFR Citation: 5 CFR 2641; 5 CFR 2637 (Continuation)

Legal Deadline: None

Abstract: Interpretive regulation giving guidance for the executive branch on the various substantive restrictions of the current version of the post-Government employment conflict of interest statute 18 U.S.C. 207, which became effective January 1, 1991, pursuant to title I of the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Parts of the regulation, dealing with procedures for waivers by the Office of Government Ethics of certain senior official constraints (based on executive agency hardship), designated senior employees, and separate agency designations, have already been published in the Federal Register; such designations are periodically updated by the Office of Government Ethics. The Office of Governments Ethics also has continued to publish in the CFR the interpretive regulation, 5 CFR part 2637 (but now without the no-longer-effective former Senior Employee and old agency component designation listings), under the lifetime bar of the prior version of the post-employment law which still applies to executive branch employees who left the Government before January 1, 1991. Once a complete current post-employment law regulation is published, the old part 2637 regulation will be removed from the CFR.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/01/91	56 FR 3951
Designation of Senior Employees and Separate Agency Components	01/28/92	57 FR 3115
Designation of Additional Separate Agency Component	04/07/92	57 FR 11673
Amendment to Prior Post-employment Regulation (Part 2637)	12/31/92	57 FR 62467
Amendment to Interim Final Rule (Part 2641)	06/21/93	58 FR 33755
Technical Amendment to Authority Citation of 5 CFR Part 2637	12/30/93	58 FR 69176
Technical Amendments to Interim Final Rule	07/07/94	59 FR 34755
Agency Separate Component Designations Update	06/00/96	
Interim Final Rule	02/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Julia Loring Eirinberg, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000

RIN: 3209–AA14

OFFICE OF GOVERNMENT ETHICS (OGE)

Long-Term Actions

3709. FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE FOR EXECUTIVE BRANCH EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 26 USC 1043; EO 12674; EO 12731

CFR Citation: 5 CFR 2634

Legal Deadline: None

Abstract: Regulation revising the executive branch public and confidential financial disclosure report systems for high-level officials and certain mid-level employees, respectively, in light of the changes to the Ethics in Government Act effected by the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. These disclosure provisions apply to public reports filed since January 1, 1991. Subpart I of the regulation, effective October 5, 1992, superseded prior executive branchwide and agency-specific regulations and established a revised system of confidential reporting, modeled generally on the public reporting system, for executive branch agency mid-level employees with sensitive duties and special Government employees.

Timetable:

Action	Date	FR Cite
NPRM	12/02/86	51 FR 43359
Interim Final Rule	04/07/92	57 FR 11800
Correction	05/22/92	57 FR 21854
Correction	12/31/92	57 FR 62605
Revised Interim Final Rule	07/21/93	58 FR 38911
Proposed Amendment to Interim Final Rule	09/01/93	58 FR 46096
Technical Amendments to Interim Final Rule	11/30/93	58 FR 63023
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Final Action	06/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: G. Sid Smith, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000

RIN: 3209–AA00

3710. EXECUTIVE AGENCY SUPPLEMENTAL FINANCIAL DISCLOSURE REGULATIONS ISSUED JOINTLY WITH THE CONCURRENCE OF THE OFFICE OF GOVERNMENT ETHICS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7301; 5 USC app (Ethics in Government Act of 1978); 26 USC 1043; EO 12674; EO 12731; 5 CFR 2634.103

CFR Citation: 5 CFR 2634; 5 CFR ch XXI et seq

Legal Deadline: None

Abstract: The supplemental executive agency financial disclosure regulations, once issued jointly with the concurrence of the Office of Government Ethics (OGE) at agency expense in new chapters at the end of 5 CFR, after OGE approval, supplement for each individual agency concerned the new OGE executive branch financial disclosure regulations, as codified in 5 CFR part 2634. The supplemental regulations, as they are issued in accordance with sections 201(d) and 301(a) of EO 12674, as modified by EO 12731, will set forth those agency-specific provisions as are needed under particular laws and regulations for certain agencies in order to complement the executive branchwide financial disclosure provisions.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	
FDIC Employees (5 CFR Ch. XXII)		
Interim Final Rule 07/26/93 (58 FR 39625)		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: G. Sid Smith, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000

RIN: 3209–AA16

3711. EXECUTIVE AGENCY SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT REGULATIONS ISSUED JOINTLY WITH THE CONCURRENCE OF THE OFFICE OF GOVERNMENT ETHICS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7301; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731; 5 CFR 2635.105

CFR Citation: 5 CFR 2635; 5 CFR ch XXI et seq

Legal Deadline: None

Abstract: The supplemental executive agency standards of ethical conduct regulations, once issued jointly with the concurrence of the Office of Government Ethics (OGE) at agency expense in new chapters at the end of 5 CFR, after OGE approval, supplement for each individual agency concerned the new OGE executive branch standards of ethical conduct, as codified at 5 CFR part 2635. The supplemental regulations, as they are issued in accordance with section 201(a) and 301(a) of EO 12674, as modified by EO 12731, set forth those agency-specific provisions under applicable law and regulation, such as regulatory restrictions on holding certain financial interests and designation of departmental subunits, which are needed for certain agencies to round out the executive branchwide ethical standards for employees of particular departments and agencies.

Timetable:

Action	Date	FR Cite
5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	02/02/94	59 FR 4779
NASA Employees (5 CFR Ch. LIX)	09/28/94	59 FR 49335
FRTIB Employees (5 CFR Ch. LXXXIV)	10/06/94	59 FR 50816
Education Employees (5 CFR Ch. LIII)	01/30/95	60 FR 5816
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	02/02/95	60 FR 6390
USPS Employees (5 CFR Ch. LX)	03/27/95	60 FR 15700
Eximbank Employees (5 CFR Ch. LII)	04/07/95	60 FR 17625
FDIC Employees (5 CFR Ch. XXII)	04/25/95	60 FR 20171
Treasury Employees (5 CFR Ch. XXI)(Final Rule)	05/05/95	60 FR 22249
FCA Employees (5 CFR Ch. XXXI)	06/12/95	60 FR 30778
FCSIC Employees (5 CFR Ch. XXX)	06/12/95	60 FR 30773
HUD Employees (5 CFR Ch. LXV)	06/30/95	60 FR 34420
OPIC Employees (5 CFR Ch. XXXIII)(Final Rule)	07/21/95	60 FR 37555
USPS Employees (5 CFR Ch. LX)(Final Rule)	09/11/95	60 FR 47240
FCA Employees (5 CFR Ch. XXXI)(Final Rule)	09/13/95	60 FR 47453
OGE Concurrence in FCA Employees (5 CFR Ch.XXXI)(Final Rule)	12/06/95	60 FR 62319
BGFRS Employees (5 CFR Ch. LVIII)	12/19/95	60 FR 65249
Further 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	12/27/95	60 FR 66857
FCSIC Employees (5 CFR Ch. XXX)(Final Rule)	02/06/96	61 FR 4349
EEOC Employees (5 CFR Ch. LXII)	02/26/96	61 FR 7065
Final Action	12/00/97	
CFTC Employees (5 CFR Ch. XLI)		
Final Rule 10/12/93 (58 FR 52637)		
DoD Employees (5 CFR Ch. XXVI)		
Interim Final Rule 09/10/93 (58 FR 47619)		
FDIC Employees (5 CFR Ch. XXII)		
NPRM 07/12/94 (59 FR 35480)		
FTC Employees (5 CFR Ch. XLVII)		
Interim Final Rule 05/27/93 (58 FR 30695)		
IAF Employees (5 CFR Ch. LXIII)		
Final Rule 01/27/94 (59 FR 3771)		
ICC Employees (5 CFR Ch. XL)		
Final Rule 08/06/93 (58 FR 41989)		
NRC Employees (5 CFR Ch. XLVIII)		
Final Rule 04/13/94 (59 FR 17457)		
OMB Employees (5 CFR Ch. LXXVII)		
Final Rule 03/07/95 (60 FR 12396)		
OPIC Employees (5 CFR Ch. XXXIII)		
Interim Final Rule 06/17/93 (58 FR 33319)		
PRC Employees (5 CFR Ch. XLVI)		
Final Rule 08/12/93 (58 FR 42839)		
Treasury Employees (5 CFR Ch. XXI)		
NPRM 08/03/93 (58 FR 41193)		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stuart D. Rick, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000

RIN: 3209–AA15

3712. INTERPRETATION OF 18 USC 209, THE CONSTRAINT AGAINST PRIVATE SUPPLEMENTATION OF SALARIES OF EXECUTIVE BRANCH OFFICIALS AND EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2639 (New)

Legal Deadline: None

Abstract: Proposed regulation to interpret section 209 of title 18, U.S.C., prohibiting the private supplementation of the Government salary of executive branch officers and employees.

Timetable:

Action	Date	FR Cite
NPRM	06/00/97	
NPRM Comment Period End	08/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen J. McCleary, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000

RIN: 3209–AA12

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Office of Management and Budget

Semiannual Regulatory Agenda

OFFICE OF MANAGEMENT AND BUDGET (OMB)

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Ch. III and 48 CFR Ch. 99

Federal Regulations; OMB Circulars, OFPP Policy Letters, and CASB Cost Accounting Standards Included in the Semiannual Agenda of Federal Activities

AGENCY: Office of Management and Budget.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities for OMB Circulars, Office of Federal Procurement Policy (OFPP) Policy Letters, and Cost Accounting Standards Board (CASB) Cost Accounting Standards.

OMB Circulars and OFPP Policy Letters are published in accordance with OMB's internal procedures for implementing Executive Order No. 12866 (October 4, 1993; 58 FR 51735). OMB policy guidelines are issued under authority derived from several sources including: Subtitles I, II, and V of title 31, United States Code; Executive Order No. 11541; and other specific authority as cited. OMB Circulars and OFPP Policy Letters communicate guidance, instructions, and information of a continuing nature to executive branch agencies. As such, most OMB Circulars and OFPP Policy Letters are not regulations. Nonetheless, because these issuances are typically of public interest, they are generally published in the **Federal Register** in both proposed (for public comment) and final stages. For this reason, they are presented below in the standard format of "prerule," "proposed rule," and "final rule" stages.

CASB Cost Accounting Standards are issued under authority derived from 41 U.S.C. 422. Cost Accounting Standards are rules governing the measurement, assignment, and allocation of costs to contracts with the United States Government.

For purposes of this agenda, we have excluded directives that outline procedures to be followed in connection with the President's budget and legislative programs and directives that affect only the internal functions, management, or personnel of Federal agencies.

FOR FURTHER INFORMATION CONTACT: See agency person listed for each entry in the agenda, c/o Office of Management and Budget, Washington, DC 20503. On the overall agenda, contact John B. Arthur, (202) 395-3060, at the above address.

Dated: April 8, 1996.

John B. Arthur,

Associate Director for Administration.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3713	Classification, Downgrading, Declassification and Safeguarding of National Security Information	0348-AB34
3714	Release of Official Information in Litigation and Testimony by OMB Personnel as Witnesses	0348-AB35
3715	Federal Participation in the Development and Use of Voluntary Standards (Circular A-119)	0348-AB37
3716	Policies on Management of Federal Information Resources (Circular No. A-130)	0348-AB36
3717	Cost Accounting Standards Administration	0348-AB25

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3718	Order Providing for the Confidentiality of Statistical Information	0348-AB38
3719	Cost Principles for Educational Institutions (OMB Circular A-21)	0348-AB23
3720	A Guide for Writing and Administering Performance Statements of Work for Service Contracts (OFPP Pamphlet No. 4)	0348-AA34
3721	Rescission of OMB Circular No. A-88	0348-AB07
3722	Cost Principles for Non-Profit Organizations (Circular No. A-122)	0348-AB01
3723	Audits of Institutions of Higher Education and Other Non-Profit Organizations (Circular No. A-133)	0348-AB22
3724	Subcontracting Plans	0348-AB31

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3725	Audit Followup (Circular No. A-50)	0348-AB09
3726	Performance of Commercial Activities (Circular No. A-76)	0348-AA45
3727	Rescission of OMB Circular No. A-106	0348-AB32
3728	Policies on Management of Federal Information Resources (Circular No. A-130)	0348-AA76
3729	Recognition and Pricing of Changing Capital Asset Values Resulting From Mergers and Business Combinations	0348-AB20

OMB

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3730	Cost Accounting Standards Board Disclosure Statement Form (CASB DS-1)	0348-AB24

OFFICE OF MANAGEMENT AND BUDGET (OMB)

Proposed Rule Stage

3713. • CLASSIFICATION, DOWNGRADING, DECLASSIFICATION AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION

Priority: Other

Legal Authority: EO 12958

CFR Citation: 05 CFR 1312

Legal Deadline: None

Abstract: OMB is revising its regulations on the classification, downgrading, declassification and safeguarding of National Security Information. This is done pursuant to Executive Order 12958, "Classified National Security Information".

Timetable:

Action	Date	FR Cite
Proposed revision	05/00/96	
Final revision	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Darrell A. Johnson, Deputy Assistant Director for Administration, Office of Management and Budget
Phone: 202 395-5715

RIN: 0348–AB34

3714. • RELEASE OF OFFICIAL INFORMATION IN LITIGATION AND TESTIMONY BY OMB PERSONNEL AS WITNESSES

Priority: Other

Legal Authority: 31 USC 502

CFR Citation: 05 CFR 1305 (New)

Legal Deadline: None

Abstract: This directive establishes policy, assigns responsibilities, and prescribes procedures for the release of official OMB information in litigation and for testimony by OMB personnel as witnesses during litigation.

Timetable:

Action	Date	FR Cite
Proposed	06/00/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steve Aitken, Assistant General Counsel, Office of Management and Budget, Room 464 OEOB, 17th and Pennsylvania Ave. NW., Washington, DC 20503
Phone: 202 395-4728
Fax: 202 395-7294

RIN: 0348–AB35

3715. • FEDERAL PARTICIPATION IN THE DEVELOPMENT AND USE OF VOLUNTARY STANDARDS (CIRCULAR A-119)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 1111; 44 USC 35; PL 104-113, sec 12

CFR Citation: None

Legal Deadline: None

Abstract: This Circular encompasses Federal participation in the development and use of voluntary standards in procurement, regulatory, and other applications. This Circular is being revised to reflect new requirements in PL 104-113 and to strengthen Federal policy with respect to reliance on voluntary, consensus based standards and conformity assessment procedures.

Timetable:

Action	Date	FR Cite
Proposed Revision	07/00/96	
Final Revision	12/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Virginia Huth, Policy Analyst, Office of Management and Budget, 725 17th St. NW., Room 10236, Washington, DC 20503
Phone: 202 395-6929
Fax: 202 395-5167
Email: huth-v@a1.eop.gov

RIN: 0348–AB37

3716. • POLICIES ON MANAGEMENT OF FEDERAL INFORMATION RESOURCES (CIRCULAR NO. A-130)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-106

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular A-130, Management of Federal Information Resources, establishes policies for the management of federal information resources and provides certain procedures and analytical guidelines for implementing specific aspects of these policies. OMB is reviewing the Circular for consistency with the Information Technology Management Reform Act (ITMRA) of 1996, P.L. 104-106. This proposed revision is part of the reinventing government effort.

Timetable:

Action	Date	FR Cite
Proposed Revision	05/00/96	
Final Revision	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jasmeet Seehra, Senior Policy Analyst, Office of Management and Budget, Room 10236, NEOB, 725 17th St. NW., Washington, DC 20503
Phone: 202 395-3785
Fax: 202 395-5167

RIN: 0348–AB36

OMB — Proposed Rule Stage

3717. COST ACCOUNTING STANDARDS ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 422

CFR Citation: 48 CFR 99

Legal Deadline: None

Abstract: The Cost Accounting Standards Board is proposing to revise its rules concerning cost accounting practice changes.

Timetable:

Action	Date	FR Cite
ANPRM	04/25/95	60 FR 20252
ANPRM Comment Period End	07/10/95	
NPRM	08/00/96	
NPRM Comment Period End	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Rudolph Schuhbauer, Project Director, Cost Accounting Standards Board, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-3254

RIN: 0348–AB25

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Final Rule Stage

3718. • ORDER PROVIDING FOR THE CONFIDENTIALITY OF STATISTICAL INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 1104(d); EO 10253; 44 USC ch 35

CFR Citation: None

Legal Deadline: None

Abstract: The proposed order is intended to clarify, and make consistent, government policy protecting the privacy and confidentiality interests of individuals or organizations who furnish data for Federal statistical programs.

Timetable:

Action	Date	FR Cite
Proposed Order	01/29/96	61 FR 2876
Final Order	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Katherine Wallman, Chief, Statistical Policy Branch, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St. NW., Rm. 10201 NEOB, Washington, DC 20503
Phone: 202 395-3093
Fax: 202 395-7245

RIN: 0348–AB38

3719. COST PRINCIPLES FOR EDUCATIONAL INSTITUTIONS (OMB CIRCULAR A-21)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: This Circular establishes cost accounting principles and specifies the allowability of costs charged to federally-funded sponsored agreements. The proposal makes certain standards of the Cost Accounting Standards Board applicable to awards made to institutions, and may amend other provisions of the Circular.

Timetable:

Action	Date	FR Cite
Two Proposed Revisions	02/06/95	60 FR 7104
Final Revision	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gilbert Tran, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-3993

RIN: 0348–AB23

3720. A GUIDE FOR WRITING AND ADMINISTERING PERFORMANCE STATEMENTS OF WORK FOR SERVICE CONTRACTS (OFPP PAMPHLET NO. 4)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 405(a)

CFR Citation: None

Legal Deadline: None

Abstract: The OFPP performance-based service contracting team is developing a best practices/lessons learned guidebook. At that time, OFPP Pamphlet No. 4 will be rescinded.

Timetable:

Action	Date	FR Cite
To Be Withdrawn	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Linda Mesaros, Management Analyst, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-4821

RIN: 0348–AA34

3721. RESCISSION OF OMB CIRCULAR NO. A-88

Priority: Other

Legal Authority: 31 USC 503 et seq, CFOs Act; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: This Circular provides policies for: (a) establishing indirect cost rates, (b) auditing, (c) correcting systems deficiencies, and (d) resolving questioned cost. This Circular will be rescinded.

Timetable:

Action	Date	FR Cite
Notice of Proposed Rescission	02/06/95	60 FR 7105
Rescission	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gilbert Tran, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-3993

RIN: 0348–AB01

OMB — Final Rule Stage

3722. COST PRINCIPLES FOR NON-PROFIT ORGANIZATIONS (CIRCULAR NO. A-122)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; 31 USC 3111

CFR Citation: None

Legal Deadline: None

Abstract: This circular establishes cost principles for non-profit organizations. The 1995 proposed revision will be finalized.

Timetable:

Action	Date	FR Cite
Proposed Revision	09/25/94	59 FR 49090
Final Revision	10/06/95	60 FR 52516
Second Proposed Revision	10/06/95	60 FR 52522
Final Revision of 2nd Proposal	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gilbert Tran, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-3993

RIN: 0348–AB01

3723. AUDITS OF INSTITUTIONS OF HIGHER EDUCATION AND OTHER NON-PROFIT ORGANIZATIONS (CIRCULAR NO. A-133)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, CFOs Act; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: This circular establishes requirements for audits of institutions of higher education and other non-profit organizations. Agencies will implement the revision by codifying it in their own regulations.

Timetable:

Action	Date	FR Cite
Proposed Revision	03/17/95	60 FR 14594
Final Revision	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheila Conley, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-3993

RIN: 0348–AB22

3724. SUBCONTRACTING PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 637(d); PL 103-355, sec 1091; 41 USC 405

CFR Citation: 48 CFR 19.7

Legal Deadline: None

Abstract: OFPP proposes to issue a Policy Letter that covers subcontracting plans. This Policy Letter supersedes and cancels OFPP Policy Letter 80-1, 80-2, Supplement No. 1 to 80-2, and 80-4.

Timetable:

Action	Date	FR Cite
Proposed Policy Letter	09/26/95	60 FR 49644
Final Policy Letter	05/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Linda Mesaros, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-4821
Fax: 202 395-5105

RIN: 0348–AB31

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Completed Actions

3725. AUDIT FOLLOWUP (CIRCULAR NO. A-50)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC app 3, the Inspector General Act of 1978, as amended; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: Circular A-50 establishes policies and procedures to be used by Federal agencies in the review of audit reports. OMB previously stated a proposed revision would be issued. This action has been withdrawn.

Timetable:

Action	Date	FR Cite
Withdrawn	02/15/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Suzanne Murrin, Management Analyst, Office of Management and Budget, Office of Federal Financial Management, Washington, DC 20503
Phone: 202 395-6911

RIN: 0348–AB09

3726. PERFORMANCE OF COMMERCIAL ACTIVITIES (CIRCULAR NO. A-76)

Priority: Other Significant

Legal Authority: 31 USC 503(b); 31 USC 1111; 41 USC 405(a), sec. 6(a), The OFPP Act, as amended; EO 8248, sec. 2, as amended; Reorganization Plan No. 2 of 1970; EO 11541, sec. 1, as amended; EO 12615, sec. 2

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-76, last revised in August 1983, sets forth the policy of acquiring commercial products and services from the private sector. The Circular's Supplemental Handbook provides guidance on the development of performance work statements and on comparing the cost of Government performance with contractor performance. The Supplemental Handbook to Circular A-76 has been revised this year to incorporate changes including those recommended by the President's Council for Management Improvement. This revision is part of the Reinventing Government effort.

Timetable:

Action	Date	FR Cite
Proposed Revision	10/25/95	60 FR 54394
Final Revision	04/01/96	61 FR 14338

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David C. Childs, Policy Analyst, Office of Management and Budget, Budget Review Division, Washington, DC 20503
Phone: 202 395-6104
Fax: 202 395-7230

RIN: 0348–AA45

3727. RESCISSION OF OMB CIRCULAR NO. A-106

Priority: Other

Legal Authority: 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: This circular provided procedures to be followed by Federal agencies in developing reports and plans pertaining to the control of environmental pollution from existing Federal facilities. This circular will be rescinded and, for ongoing data requirements, agencies will report under E.O. 12088, "Federal Compliance With Pollution Control Standards" using their own in-house data systems. This action is part of the Reinventing Government effort. The rescission will be effective April 8,1996, unless otherwise noted in the Federal Register.

Timetable:

Action	Date	FR Cite
Notice of Proposed Rescission	01/22/96	61 FR 1654
Rescission Effective	04/08/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kevin Neyland, Office of Management and Budget, Natural Resources Division, Washington, DC 20503
Phone: 202 395-3703

RIN: 0348–AB32

3728. POLICIES ON MANAGEMENT OF FEDERAL INFORMATION RESOURCES (CIRCULAR NO. A-130)

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 3504; 5 USC 552a; 40 USC 759; 40 USC 487; EO 12046; EO 12472

CFR Citation: None

Legal Deadline: None

Abstract: OMB Circular No. A-130, "Management of Federal Information Resources," issued December 12, 1985, establishes policy for the management of Federal information resources, and provides certain procedural and analytic guidelines for implementing specific aspects of these policies. OMB has reviewed the Circular for consistency with the Computer Security Act of 1987 (PL 100-235) and the Computer Matching and Privacy Protection Act of 1988. On June 25, 1993, OMB completed the first of three revisions to the Circular. On July 15, 1994, OMB completed the second revision and on February 8, 1996, OMB completed the third revision which consisted of changes to the computer security Appendix of the Circular. This revision was part of the Reinventing Government effort. A separate proposal in response to recent legislation is being included in the "Proposed" section of the Agenda.

Timetable:

Action	Date	FR Cite
Begin Review	01/04/88	
Advance Proposal of Changes	01/04/89	54 FR 214
Comment Period End	04/10/89	
Second Advance Proposal To Replace Circular	06/15/89	54 FR 25554
Third Advance Proposal To Replace Circular	03/04/91	56 FR 9026
Proposal To Replace Circular	04/29/92	57 FR 18296
First Phase Revision Final	06/25/93	58 FR 36068
Second Phase Revision Proposed	09/10/93	58 FR 47790
Second Phase Revision Final	07/25/94	59 FR 37905
Third Phase Revision Proposed	04/03/95	60 FR 16970
Final Action	02/20/96	61 FR 6428

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter N. Weiss, Senior Policy Analyst, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503
Phone: 202 395-3630

RIN: 0348–AA76

3729. RECOGNITION AND PRICING OF CHANGING CAPITAL ASSET VALUES RESULTING FROM MERGERS AND BUSINESS COMBINATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 422

CFR Citation: 48 CFR 9900

Legal Deadline: None

Abstract: This rule deals with the measurement and assignment of the costs resulting from the recognition of changing capital asset values established subsequent to mergers and business combinations by Government contractors.

Timetable:

Action	Date	FR Cite
ANPRM	05/24/94	59 FR 26774
ANPRM Comment Period End	07/25/94	
NPRM	03/08/95	60 FR 12725
NPRM Comment Period End	05/08/95	
Final Action	02/13/96	61 FR 5520
Final Action Effective	04/15/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rein Abel, Director of Research, Cost Accounting Standards Board, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-3254

RIN: 0348–AB20

3730. COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT FORM (CASB DS-1)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 422

CFR Citation: 48 CFR 99

Legal Deadline: None

Abstract: The Cost Accounting Standards Board (CASB) has revised its Disclosure Statement Form (CASB DS-1).

Timetable:

Action	Date	FR Cite
ANPRM	04/04/94	59 FR 15695
ANPRM Comment Period End	06/20/94	
NPRM	11/29/94	59 FR 60948
NPRM Comment Period End	02/13/95	
Final Action	02/28/96	61 FR 7616
Final Action Effective	02/28/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Rein Abel, Director of Research, Cost Accounting Standards Board, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-3254

RIN: 0348–AB24

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Part XXXVI

Office of Personnel Management

Semiannual Regulatory Agenda

OFFICE OF PERSONNEL MANAGEMENT (OPM)

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Office of Personnel Management.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Office of Personnel Management (OPM) regulations are scheduled for development or review from April 1, 1996, through March 31, 1997. This agenda carries out OPM's responsibilities to publish a semiannual agenda under E.O. 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. chapter 6). This publication in the **Federal Register** does not impose a binding obligation on the Office of Personnel Management about any specific item on the agenda. Additional regulatory action is not precluded.

FOR FURTHER INFORMATION CONTACT: Jacquline D. Carter, (202) 606-1973.

Office of Personnel Management.

James B. King,

Director.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3731	Availability of Official Information	3206-AG92
3732	Performance Appraisal for the Senior Executive Service	3206-AG91

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3733	Summer Employment	3206-AG21
3734	Personnel Records	3206-AH24
3735	Temporary Assignments of Employees Between Federal Agencies, State, Local, and Indian Tribal Governments, Institutions of Higher Learning, and Other Eligible Organizations	3206-AG61
3736	RIF and Performance Management	3206-AH32
3737	Training	3206-AF99
3738	Performance Appraisal in the Senior Executive Service	3206-AH34
3739	Classification Appeals	3206-AH38
3740	Pay Administration: Miscellaneous Changes	3206-AH11
3741	Prevailing Rate Systems: Clarification of Responsibilities of Participating Organizations	3206-AG99
3742	Prevailing Rate Systems; Redefinition of the Oneida, New York, Nonappropriated Fund Wage Area	3206-AH41
3743	Lump-Sum Payments for Annual Leave	3206-AF38
3744	Severance Pay: Miscellaneous	3206-AH12
3745	Pay Administration Under the FLSA	3206-AG70
3746	Cost-of-Living Allowance in Nonforeign Areas: Survey Results	3206-AH07
3747	Retirement; CSRS and FERS Amendments Relating to Health Care Professionals	3206-AG57
3748	Retirement; Credit for Military Service	3206-AG58
3749	Retirement; Determinations of Marital Status for Survivor Annuities	3206-AG60
3750	Retirement; Service Credit	3206-AH37
3751	Retirement; Debt Collection	3206-AE72
3752	Retirement; Court Orders Awarding Survivor Annuities; Correcting or Supplementing the First Order Dividing Marital Property	3206-AG28
3753	Retirement; FERS Elections of Coverage	3206-AG96
3754	Federal Employees Group Life Insurance Program: Miscellaneous Changes	3206-AG63
3755	Federal Employees Health Benefits Program (FEHBP); Preemption	3206-AF70
3756	Federal Employees Health Benefits Program (FEHBP); Opportunities To Enroll and Change Enrollment	3206-AG32
3757	Establishing a Merit Requirement	3206-AH39
3758	Federal Employees Health Benefits (FEHBP) Acquisition Regulation; Preemption of Taxes	3206-AF95

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3759	Claims Collections Standards; Debt Collection Act of 1982; Salary Offset	3206-AG64
3760	Agency Relationships With Organizations Representing Federal Employees and Other Organizations	3206-AG38
3761	Use of Private Sector Temporaries	3206-AE80

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3762	Promotion and Internal Placement; Accelerated Qualifications	3206-AG19
3763	Executive, Management, and Supervisory Development	3206-AF96
3764	Job Listings; Full Consideration of Displaced Defense Employees	3206-AF36
3765	Career Transition Assistance for Surplus and Displaced Federal Employees	3206-AH26
3766	Delegation of Competitive Examining Authority; Reimbursable Examining Services	3206-AH31
3767	Reduction in Force; Retreat Rights	3206-AG77
3768	Restoration to Duty From Military Service or Compensable Injury	3206-AG02
3769	Presidential Management Intern Program	3206-AG17
3770	Employee Responsibilities and Conduct	3206-AG87
3771	Pay Under the General Schedule: Termination of Interim Geographic Adjustments	3206-AH09
3772	Pay Under the General Schedule; Locality Pay Areas for 1997	3206-AG88
3773	Prevailing Rate Systems; Abolishment of Philadelphia, PA, Nonappropriated Fund Wage Area	3206-AH22
3774	Prevailing Rate Systems; Changes in Survey Responsibilities for Certain Appropriated Fund Federal Wage System Federal Wage Areas	3206-AH28
3775	Prevailing Rate Systems; Abolishment of Franklin, OH, Nonappropriated Fund Wage Area	3206-AH29
3776	Voluntary Separation Incentive Repayment Waivers	3206-AG20
3777	Pay Administration; Availability Pay for Criminal Investigators	3206-AG47
3778	Severance Pay; Panama Canal Commission Employees	3206-AF89
3779	Separate Maintenance Allowance for Duty at Johnston Island	3206-AH17
3780	Family and Medical Leave	3206-AH10
3781	Political Activity—Federal Employees Residing in Designated Localities	3206-AF78
3782	Political Activities of Federal Employees	3206-AH33
3783	Retirement Coverage for D.C. Financial Control Board Employees	3206-AG78
3784	Retirement; Alternative Form of Annuity	3206-AG16
3785	Retirement; FERS Basic Annuity	3206-AE73
3786	Federal Employees' Group Life Insurance Program; Merging of Parts of CFR Pertaining to Life Insurance (FEGLI)	3206-AF32
3787	Federal Employees Health Benefits Program (FEHBP); Limitation on Physician Charges and FEHBP Payments; Omnibus Budget Reconciliation Act (OBRA) of 1993 Provision	3206-AG31
3788	Federal Employees Health Benefits Program; Payment of Premiums for Periods of Leave Without Pay or Insufficient Pay	3206-AG66
3789	Federal Employees Health Benefits Program: Acquisition Regulation; Truth in Negotiation Act and Related Changes	3206-AH14

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3790	Time-In-Grade Restrictions	3206-AG06
3791	Amendment to Selective Service Registration Requirements	3206-AD68
3792	Career and Career-Conditional Employment	3206-AG22
3793	Career and Career-Conditional Appointment Under Special Authorities	3206-AG90
3794	Interagency Placement Program	3206-AG11
3795	Performance Management Reform	3206-AF57
3796	Classification Simplification	3206-AG27
3797	Pay Administration Under the FLSA; Compliance	3206-AA40
3798	Suitability—Suitability Disqualification/Rating Actions	3206-AC19
3799	Personnel Security and Related Programs	3206-AC21
3800	Investigations	3206-AB92
3801	Debarments, Civil Monetary Penalties, and Assessments Imposed Against Providers	3206-AD76

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3802	Other Than Full-time Employment (Part-time, Seasonal, and Intermittent)	3206-AG89

OPM

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3803	Other Than Full-Time Employment (Part-Time, Seasonal, and Intermittent)	3206-AH19
3804	Federal Employees Health Benefits Acquisition Regulations: Filing Claims; Addition of Contract Clause	3206-AG30
3805	Appointment of Nonstatus Employees Entitled to Placement in a Different Agency Upon Restoration to Duty From Uniformed Service	3206-AH15
3806	Revocation of Schedule A Authority	3206-AH18
3807	Personnel Records	3206-AF85
3808	Career and Career Conditional Employment	3206-AG81
3809	Funding of Administrative Law Judge Examination	3206-AH42
3810	Merit Promotion Placement	3206-AG54
3811	Repayment of Student Loans	3206-AE51
3812	Format Changes in Compensation Regulations	3206-AH23
3813	Prevailing Rate Systems; Abolishment of Marquette, MI Nonappropriated Fund Wage Area	3206-AG82
3814	Prevailing Rate System; Technical Correction and Clarification	3206-AG83
3815	Prevailing Rate Systems; Redefinition of Guaynabo-San Juan, PR, Nonappropriated Fund Wage Area	3206-AG93
3816	Prevailing Rate Systems; Survey Responsibility Changes	3206-AG98
3817	Prevailing Rate Systems: Redefinition of Certain Federal Wage System Wage Areas	3206-AH00
3818	Prevailing Rate System: Redefinition of the Ocean, NJ, Nonappropriated Fund Wage Area	3206-AH01
3819	Prevailing Rate Systems: Redefinition of the Philadelphia, PA, Nonappropriated Fund Wage Area	3206-AH02
3820	Prevailing Rate Systems: Redefinition of the Guaynabo-San Juan, Puerto Rico, Nonappropriated Fund Wage Area	3206-AH03
3821	Prevailing Rate Systems: Abolishment of the Marin-Sonoma, CA, Nonappropriated Fund Wage Area	3206-AH04
3822	Prevailing Rate Systems: Abolishment of Certain Special Wage Schedules for Printing Positions	3206-AH05
3823	Prevailing Rate Systems; Abolishment of Marin-Sonoma, CA, Nonappropriated Fund Wage Area	3206-AH16
3824	Prevailing Rate Systems: Abolishment of Ocean, NJ, Nonappropriated Fund Wage Area	3206-AH20
3825	Prevailing Rate Systems: Redefining of Certain Federal Wage Systems	3206-AH27
3826	Prevailing Rate Systems; Abolishment of Merced, CA, Nonappropriated Fund Wage Area	3206-AH30
3827	Prevailing Rate Systems; Abolishment of Merced, CA, Nonappropriated Fund Wage Area	3206-AH40
3828	Cost-of-Living Allowance in Nonforeign Areas; Winter 1995 Surveys	3206-AH06
3829	Cost-of-Living Allowance in Nonforeign Areas: Summer 1994 Surveys	3206-AH08
3830	Separate Maintenance Allowance for Duty at Johnston Island	3206-AG72
3831	FEGLI; Assignment of Life Insurance Coverage	3206-AG68
3832	FEGLIP: Living Benefits	3206-AG79
3833	Federal Employees Health Benefits Program: HMO Plan Applications	3206-AG97
3834	Federal Employees Health Benefits Program; Filing Claims: Disputed Claims Provisions	3206-AH36
3835	Solicitation of Federal Civilian and Uniformed Service Personnel for Contributions for Private Voluntary Organizations	3206-AG50
3836	FEHBP; Interest Assessment on Audit Findings	3206-AG35
3837	Agency Funding for Federal Employment Information	3206-AH25

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Prerule Stage

3731. AVAILABILITY OF OFFICIAL INFORMATION

Priority: Other

Legal Authority: 5 USC 552 Freedom of Information Act

CFR Citation: 5 CFR 294

Legal Deadline: None

Abstract: The proposed rulemaking will make minor changes to subpart A of 5 CFR 294, Availability of Official Information Act. The rulemaking will provide additional information on the definition of terms used in the search and review process, update office addressees, and clarify that any written request that meets the specified marking and content requirements will be recognized as an official FOIA request. These changes are designed to benefit the public by providing updated information on where to direct FOIA requests, and improve the wording of the regulation to fully and accurately meet the provisions of the FOIA. There will be no significant change to the existing operational procedures in place at OPM.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/96	
Final Action	03/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert M. Huley, Ofc of Information Technology, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-0001
Phone: 202 418-3210
Fax: 202 418-3251
Email: RMHuley@MAIL.OPM.GOV

RIN: 3206–AG92

OPM — Prerule Stage

3732. PERFORMANCE APPRAISAL FOR THE SENIOR EXECUTIVE SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 4315

CFR Citation: 5 CFR 430(c)

Legal Deadline: None

Abstract: Proposed revision of SES regulations in 5 CFR 430, subpart C, will focus on: 1) changes which increase agency flexibility to develop SES appraisal systems tailored to their needs; 2) elimination of language which merely repeats statutory provisions; and, 3) simplification of agency submission requirements for approval of their SES appraisal systems.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: William C. Collins, Office of Executive Resources, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2246

RIN: 3206–AG91

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Proposed Rule Stage

3733. SUMMER EMPLOYMENT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 338.202(b)(2); 5 CFR 213.3101(c); 5 CFR 213.3101(e); 5 CFR 213.3101(f); 5 CFR 338.2029(e)

Legal Deadline: None

Abstract: OPM abolished the Federal Personnel Manual (FPM) December 31, 1993. In support of the reinventing Government effort, OPM will revise or eliminate text in the CFR that refers to summer employment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elnora Wright, Employment Service, Staffing Management Service Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-1248

RIN: 3206–AG21

3734. • PERSONNEL RECORDS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 4315; EO 12107; 5 USC 1103; 5 USC 1104; 5 USC 1302; EO 9830; 5 USC 2951; 5 USC 3301; EO 12107

CFR Citation: 5 CFR 293

Legal Deadline: None

Abstract: The regulatory changes will: (1) simplify the requirements for maintaining employee personnel records, (2) clarify agency responsibility for personnel recordkeeping as delegated by the regulation, and (3) give greater latitude to agencies in establishing and maintaining employee medical and performance records.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	06/30/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dorothy Vernon, Human Resources Systems Service, Personnel Records and Systems, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-1976

RIN: 3206–AH24

3735. TEMPORARY ASSIGNMENTS OF EMPLOYEES BETWEEN FEDERAL AGENCIES, STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS, INSTITUTIONS OF HIGHER LEARNING, AND OTHER ELIGIBLE ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 33

CFR Citation: 5 CFR 334

Legal Deadline: None

Abstract: Changes in the regulations to incorporate revisions to the Intergovernmental Personnel Act (IPA) contained in the Defense Authorization Act for Fiscal Year 1995; and incorporate any requirements in Federal Personnel Manual (FPM) Chapter 334 that need to be continued following abolishment of the Chapter under FPM Sunset. Other procedural guidance from FPM Chapter 334 will be issued in an information handbook or manual.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony Ryan, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, Office of Merit Systems Effectiveness, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-1181
Fax: 202 606-3577

RIN: 3206–AG61

3736. • RIF AND PERFORMANCE MANAGEMENT

Priority: Other Significant

Legal Authority: 5 USC 1302; 5 USC 3502; 5 USC 3503

CFR Citation: 5 CFR 351; 5 CFR 430

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing regulations that provide agencies with new options to award employees retention service credit in reduction in force based on the employees' performance ratings. These regulations reflect the new flexibility agencies have to use as few as two summary rating levels for appraisals of non-SES employees provided in final performance management regulations OPM published on 8/23/95, at 60 FR 43936. These proposed regulations also make other conforming technical and editorial changes in parts 351 and 430.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ed McHugh, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AH32

3737. TRAINING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 41

CFR Citation: 5 CFR 410

Legal Deadline: None

Abstract: Changes in the regulations to: (1) incorporate revisions to the Government Employees Training Act (GETA) contained in the Federal Workforce Restructuring Act of 1994; (2) incorporate any requirements in Federal Personnel Manual (FPM) chapter 410 that need to be continued following abolishment of the chapter under FPM sunset; and (3) incorporate authority granted to agency heads in FPM Letter 410-34 (provisionally retained) to designate Presidential appointees, other than agency heads, for training. Other procedural guidance from chapter 410 will be issued in an information handbook or manual.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Judith Lombard, Office of Human Resource Development, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415-0001
Phone: 202 606-2431
Fax: 202 606-0824
Email: Judith.Lombard@opm.gov

RIN: 3206–AF99

3738. • PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 4315

CFR Citation: 5 CFR 430, subpart C

Legal Deadline: None

Abstract: Proposed revision of SES regulations will focus on changes that will increase agency flexibility to develop SES appraisal systems tailored to their needs; elimination of language that merely repeats statutory provisions; and simplification of agency submission requirements for approval of appraisal systems.

Timetable:

Action	Date	FR Cite
NPRM	06/30/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William C. Collins, Office of Executive Resources, Office of Personnel Management, SES Operation Division, Washington, DC 20415
Phone: 202 606-2246
Fax: 202 606-2126

RIN: 3206–AH34

3739. • CLASSIFICATION APPEALS

Priority: Other

Legal Authority: 5 USC 5112

CFR Citation: 5 CFR 511

Legal Deadline: None

Abstract: The classification appeals regulations require updating because of changes in the classification appeals procedures resulting from reorganizations within OPM. Agencies are by law required to apply classification criteria in accordance with guidelines and standards issued by OPM. Agencies and employees may request OPM to review the classification of a position under chapter 51 of title 5, United States Code. Changes in the organizational structure of OPM have necessitated that procedures be amended to streamline the appeals process to insure that OPM appeal decisions are responsive and timely.

Timetable:

Action	Date	FR Cite
NPRM	09/01/96	
Final Action	12/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey D. Miller, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, Office of Merit Systems Oversight, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2530
Fax: 202 606-2663

RIN: 3206–AH38

3740. PAY ADMINISTRATION: MISCELLANEOUS CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5304; 5 USC 5365; 5 USC 5753; 5 USC 5527; 5 USC 5596; 5 USC 5941; 5 USC 5754

CFR Citation: 5 CFR 531; 5 CFR 536; 5 CFR 550; 5 CFR 551; 5 CFR 591; 5 CFR 575; 5 CFR 610; 5 CFR 630; 5 CFR 304

Legal Deadline: None

Abstract: This proposed regulation amends 5 CFR 531, 536, 550, 551, 575, 591 and 630 with miscellaneous technical corrections and clarifying changes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bryce Baker, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AH11

3741. PREVAILING RATE SYSTEMS: CLARIFICATION OF RESPONSIBILITIES OF PARTICIPATING ORGANIZATIONS

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The proposed regulation is to clarify responsibilities of Federal agencies for providing certain technical and survey sampling services necessary to conduct Federal Wage System local wage surveys.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Allen, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-0824

RIN: 3206–AG99

3742. • PREVAILING RATE SYSTEMS; REDEFINITION OF THE ONEIDA, NEW YORK, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM plans regulatory actions to abolish the Oneida, NY, nonappropriated fund (NAF) wage area and to establish a new Jefferson, NY, NAF wage area with a survey area consisting of Jefferson County--currently an unsurveyed county in the Oneida wage area. This change is necessary because the closing of the wage area host activity, Griffiss Air Force Base, left Oneida County without an activity having the capability to conduct a wage survey.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields, Human Resources Systems Service, Office of Personnel Management, Office of Compensation Policy/Wage Stystem Division, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2848

RIN: 3206–AH41

3743. LUMP-SUM PAYMENTS FOR ANNUAL LEAVE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5553

CFR Citation: 5 CFR 550, subpart L

Legal Deadline: None

Abstract: The Technical and Miscellaneous Civil Service Amendments Act of 1992 (Pub. L. 102-378, October 2, 1992) created a new provision, 5 U.S.C. 5553, to provide OPM with regulatory authority for administering lump-sum payments for annual leave.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	04/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: JoAnn Perrini, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AF38

3744. SEVERANCE PAY: MISCELLANEOUS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5595

CFR Citation: 5 CFR 550, subpart G

Legal Deadline: None

Abstract: The proposed regulation makes changes in the severance pay regulations to clarify policy and make miscellaneous technical corrections.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Derby, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AH12

3745. PAY ADMINISTRATION UNDER THE FLSA

Priority: Routine and Frequent

Legal Authority: 29 USC 204(f)

CFR Citation: 5 CFR 551

Legal Deadline: None

Abstract: Proposed revisions to regulations would delete nonexistent sections under Subpart B, update antiquated references, simplify regulatory language, and add special exemption categories stemming from court decisions, such as computer specialists under professional exemption criteria.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey D. Miller, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, Office of Merit Systems Oversight, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2530
TDD: 202 606-2663

RIN: 3206–AG70

OPM — Proposed Rule Stage

3746. COST-OF-LIVING ALLOWANCE IN NONFOREIGN AREAS: SURVEY RESULTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591

Legal Deadline: None

Abstract: The Office of Personnel Management will issue proposed regulations implementing any increases in nonforeign area cost-of-living allowance (COLA) rates indicated by COLA survey results. Section 5941 of title 5, United States Code, provides for the payment of nonforeign area cost-of-living allowances (COLA's) in Alaska, Hawaii, and other nonforeign overseas areas. The Office of Personnel Management conducts living-cost surveys to set COLA rates. Reductions in nonforeign area COLA rates are prohibited by the Treasury, Postal Service, and General Government Appropriations Act, 1992, as amended, through December 31, 1998, and will not be proposed during the restricted period.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald L. Paquin, Human Resources and Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2838
Fax: 202 606-4264

RIN: 3206–AH07

3747. RETIREMENT; CSRS AND FERS AMENDMENTS RELATING TO HEALTH CARE PROFESSIONALS

Priority: Other

Legal Authority: 5 USC 8347(a); 5 USC 8461(g)

CFR Citation: 5 CFR 831; 5 CFR 841; 5 CFR 842

Legal Deadline: None

Abstract: These regulations implement the special retirement provisions applicable to certain health care professionals employed by the Veterans Health Service and other designated agencies.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cynthia Reinhold, Retirement and Insurance Service, Office of Retirement Policy Development, Office of Personnel Management, 1900 E St. NW., Washington DC 20415
Phone: 202 606-0299

RIN: 3206–AG57

3748. RETIREMENT; CREDIT FOR MILITARY SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8461(g); 38 USC 4331

CFR Citation: 5 CFR 8347(a); 5 CFR 8461(g); 5 CFR 842.306; 5 CFR 842.307

Legal Deadline: None

Abstract: These regulations implement changes in the treatment of certain military service under CSRS and FERS required under the Uniformed Services Employment and Reemployment Act of 1994 (USERA).

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Howard T. Newland, Jr., Retirement and Insurance Service, Office of Retirement Policy Development, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299

RIN: 3206–AG58

3749. RETIREMENT; DETERMINATIONS OF MARITAL STATUS FOR SURVIVOR ANNUITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831; 5 CFR 842; 5 CFR 843

Legal Deadline: None

Abstract: These regulations would establish the standards of evidence that OPM will require to prove entitlement to a survivor annuity as the surviving spouse of a deceased employee or retiree.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
Final Action	01/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Service, Office of Retirement Policy Development, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299

RIN: 3206–AG60

3750. • RETIREMENT; SERVICE CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, subpart C

Legal Deadline: None

Abstract: These regulations would provide that no retirement credit could be granted for periods of service for which retirement deductions were refunded and not repaid even when the refund was paid based on an erroneous separation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Federal Retirement Benefits Specialist, Retirement and Insurance Service, Office of Personnel Management, Retirement Policy Division, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299

RIN: 3206–AH37

3751. RETIREMENT; DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 835(e)

Legal Deadline: None

OPM — Proposed Rule Stage

Abstract: These regulations will amend the Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) regulations by consolidating existing regulations in three different subparts of the CSRS regulations and 5 CFR 845 in the FERS regulations to eliminate duplication of the provisions governing debt collection. This item is for subpart E of the new part 835, which will address collections of Government claims from payments made by OPM.

Timetable:

Action	Date	FR Cite
NPRM	10/05/92	57 FR 45753
NPRM	06/00/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Office of Retirement and Insurance Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299

RIN: 3206–AE72

3752. RETIREMENT; COURT ORDERS AWARDING SURVIVOR ANNUITIES; CORRECTING OR SUPPLEMENTING THE FIRST ORDER DIVIDING MARITAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 838

Legal Deadline: None

Abstract: These regulations would establish standards for determining which supplemental or correcting court orders are not "modifications" and the procedures applicable to such orders. They also provide for the continuation of the former spouse's survivor coverage and the reduction in the retiree's annuity until the State court decides the extent of the former spouse's rights to retirement benefits.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Group, Office of Retirement Policy Development, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299

RIN: 3206–AG28

3753. RETIREMENT; FERS ELECTIONS OF COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8461(g); PL 99-335, sec 301(d)(3)

CFR Citation: 5 CFR 846

Legal Deadline: None

Abstract: These regulations implement title III of the Federal Employees Retirement System Act of 1986, as amended, dealing with the election of FERS coverage by employees under the Civil Service Retirement System and certain other employees. The regulations contain regulatory and interpretative rules concerning employees' eligibility to elect FERS coverage, procedures for electing FERS coverage, and basic benefits based on the service for employees who elect FERS coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/87	52 FR 19235
Interim Final Rule	09/13/93	58 FR 47821
NPRM	08/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Service, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-0001
Phone: 202 606-2299

RIN: 3206–AG96

3754. FEDERAL EMPLOYEES GROUP LIFE INSURANCE PROGRAM: MISCELLANEOUS CHANGES

Priority: Other

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870

Legal Deadline: None

Abstract: These regulations include a group of changes to FEGLI regulations that will clarify procedures for signing and witnessing designations of beneficiary, accepting designations of beneficiary by facsimile, accepting DNA evidence to establish paternity, etc.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	06/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Leibach, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AG63

3755. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP); PREEMPTION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulation to clarify the scope of the FEHBP statutory preemption of taxes, fees, and other monetary payments imposed by States, the District of Columbia, the Commonwealth of Puerto Rico, and any political subdivisions or other governmental authorities and to dispel any confusion regarding the applicability of the preemption to both the FEHBP carriers and the enrollees.

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	
Final Action	07/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert G. Iadicicco, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, Office of Insurance Programs, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AF70

OPM — Proposed Rule Stage

3756. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP); OPPORTUNITIES TO ENROLL AND CHANGE ENROLLMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: The primary purpose of these regulations is to clarify and simplify the rules governing the opportunities to enroll or change enrollment and thereby improve our service to our customers, the individuals enrolled and eligible to enroll in the FEHBP. The regulations: (1) organize the opportunities to enroll and change enrollment into separate categories for employees, annuitants, former spouses enrolled under Spouse Equity provisions, and individuals enrolled under Temporary Continuation of Coverage; (2) further group these opportunities together based on similar characteristics, such as opportunities based on a change of employment status, or a loss of health benefits coverage; (3) standardize as much as possible the requirements for each opportunity, for example permitting individuals to enroll or change enrollment within the period beginning 31 days before and ending 60 days after the qualifying event.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Myers, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, Office of Insurance Programs, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AG32

3757. • ESTABLISHING A MERIT REQUIREMENT

Priority: Other Significant

Legal Authority: PL 91-648

CFR Citation: 5 CFR 900, subpart F

Legal Deadline: None

Abstract: The Intergovernmental Personnel Act, Pub. L. 91-648, vests OPM with the authority to determine compliance with the Law and with resolving allegations of non-compliance through advice and assistance to Chief executives of the jurisdictions and Heads of grantor agencies. Proposed revisions to the regulations would establish a mechanism to resolve complaints regarding merit system standards required of State and local governments that receive grants-in-aid from Federal agencies. Complaints would be initially directed to the grantor agencies. Currently, there are no means for complainants to resolve issues except to make allegations to OPM.

Timetable:

Action	Date	FR Cite
NPRM	06/01/96	
Final Action	09/30/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Gary L. Smith, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, Office of Merit Systems Effectiveness, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2762

RIN: 3206–AH39

3758. FEDERAL EMPLOYEES HEALTH BENEFITS (FEHBP) ACQUISITION REGULATION; PREEMPTION OF TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913; 40 USC 486(c)

CFR Citation: 48 CFR 1629; 48 CFR 1631; 48 CFR 1652

Legal Deadline: None

Abstract: Regulations to clarify the scope of the Federal Employees Health Benefits (FEHB) Program statutory preemption of taxes, fees, and other monetary payments imposed by States, the District of Columbia, the Commonwealth of Puerto Rico, and any political subdivisions or other governmental authorities; and to provide guidance for the FEHB Program carriers to identify them.

Timetable:

Action	Date	FR Cite
NPRM	01/00/97	
Final Action	07/00/97	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert G. Iadicicco, Retirement and Insurance Service, Insurance Policy Division, Office of Personnel Management, Office of Insurance Programs, 1900 E St. NW. 5, Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AF95

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Final Rule Stage

3759. CLAIMS COLLECTIONS STANDARDS; DEBT COLLECTION ACT OF 1982; SALARY OFFSET

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 952; PL 95-454; 5 USC 5514

CFR Citation: 5 CFR 179

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) is revising the regulations it issued on July 11, 1994, that govern the collection of debts owed to OPM by Federal employees. These regulations implement the debt collection procedures provided under section 5 of the Debt Collection Act of 1982.

OPM — Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bob Loring, Office of the Chief Financial Officer, Office of Financial Management, Office of Personnel Management, 1900 E St NW., Washington, DC
Phone: 202 606-5028

RIN: 3206–AG64

3760. AGENCY RELATIONSHIPS WITH ORGANIZATIONS REPRESENTING FEDERAL EMPLOYEES AND OTHER ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1104; 5 USC 71; 5 USC 7135; 5 USC 7301; EO 11491

CFR Citation: 5 CFR 251

Legal Deadline: None

Abstract: Regulations governing agency relations with managerial, supervisory, professional, and other organizations that are not labor organizations. The regulations are being issued as part of the implementation of the FPM sunset. The regulations incorporate certain provisions that existed in former FPM chapters 251 and 252.

Timetable:

Action	Date	FR Cite
NPRM	10/02/95	60 FR 51371
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Hal Fibish, Labor-Management Relations Division, Office of Personnel Management, Human Resources Systems Service, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1170

RIN: 3206–AG38

3761. USE OF PRIVATE SECTOR TEMPORARIES

Priority: Other

Legal Authority: 5 USC 552; 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 300(e)

Legal Deadline: None

Abstract: Revises limitations on the use of private sector temporaries, based on comments from Federal agencies, temporary help service firms, and other interested parties.

Timetable:

Action	Date	FR Cite
NPRM	09/08/95	60 FR 46780
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Ellen Russell, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-2329

RIN: 3206–AE80

3762. PROMOTION AND INTERNAL PLACEMENT; ACCELERATED QUALIFICATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 3329; EO 10577

CFR Citation: 5 CFR 316; 5 CFR 335; 5 CFR 338

Legal Deadline: None

Abstract: Gives agencies greater flexibility to design internal selection systems consistent with merit principles and other applicable status. NPR recommendation.

Timetable:

Action	Date	FR Cite
NPRM	02/20/96	61 FR 6324
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Supersedes RIN 3206-AG54.

Agency Contact: Leota Edwards, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AG19

3763. EXECUTIVE, MANAGEMENT, AND SUPERVISORY DEVELOPMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 3397; 5 USC 4100; 5 USC 3392; 5 USC 3393; 5 USC 3393a; 5 USC 3395; 5 USC 3593; 5 USC 3595; 5 USC 4100 et seq

CFR Citation: 5 CFR 317; 5 CFR 412

Legal Deadline: None

Abstract: These changes in part 412 are proposed to foster a corporate perspective among Government managers, particularly the Senior Executive Service, by providing training and development opportunities for the managerial workforce of sufficient breadth and scope to broaden the individual's vision of the Government. These revisions incorporate changes to the Government Employees Training Act that are contained in the Federal Workforce Restructuring Act of 1994 and incorporate any requirements from former Federal Personnel Manual Chapter 412 that need to be continued. The changes in part 317 eliminate the 3-year limitation on the validity of the Qualifications Review Board certification for appointment to the Senior Executive Service. Taken as a whole, these changes should improve the quality of management Governmentwide.

Timetable:

Action	Date	FR Cite
NPRM	12/11/95	60 FR 63454
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Constance Maravell, Office of Executive Resources, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1832

RIN: 3206–AF96

3764. JOB LISTINGS; FULL CONSIDERATION OF DISPLACED DEFENSE EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3329; PL 102-484, sec 4432

CFR Citation: 5 CFR 330; 5 CFR 335

Legal Deadline: None

Abstract: Requires agencies to report to OPM announcements of vacancies for which they will accept applications from outside their own work forces. Requires agencies to give full consideration to displaced DOD employees, Pub. L. 102-484, 5 U.S.C. 3329.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/93	58 FR 18139
Final Action Effective	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leota Edwards, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AF36

3765. • CAREER TRANSITION ASSISTANCE FOR SURPLUS AND DISPLACED FEDERAL EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC 1202; 5 USC 3301; 5 USC 3302; 5 USC 3310; 5 USC 3315; 5 USC 3327; 5 USC 3502; 5 USC 3503; 5 USC 8151; 5 USC 8337(h); 5 USC 8457(b); EO 10577; EO 12828

CFR Citation: 5 CFR 330; 5 CFR 332; 5 CFR 351

Legal Deadline: None

Abstract: Implements a presidential directive requiring agencies to provide services and special selection priority to surplus and displaced Federal employees. Effective 2/29/96.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/27/94	60 FR 67281
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diane Bohling, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E St NW., Washington, DC 20415
Phone: 202 606-0960

RIN: 3206–AH26

3766. • DELEGATION OF COMPETITIVE EXAMINING AUTHORITY; REIMBURSABLE EXAMINING SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1104

CFR Citation: 5 CFR 332; 5 CFR 930

Legal Deadline: None

Abstract: Sets forth the requirement for agencies employing administrative law judges to reimburse OPM for the cost of conducting examinations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leota Edwards, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AH31

3767. REDUCTION IN FORCE; RETREAT RIGHTS

Priority: Other

Legal Authority: 5 USC 3502(a)

CFR Citation: 5 CFR 351

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing interim retention regulations that clarify existing policy on employees' "Retreat" rights. These interim regulations also clarify existing policy concerning the content of specific written reduction in force notices, and issuance of a Certification of Expected Separation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/25/95	60 FR 44253
Final Action Effective	03/01/96	
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Agency Contact: Thomas A. Glennon or Ed McHugh, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-0001
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AG77

3768. RESTORATION TO DUTY FROM MILITARY SERVICE OR COMPENSABLE INJURY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8151; 38 USC 4301

CFR Citation: 5 CFR 353

Legal Deadline: None

Abstract: Restoration rights of Federal employees who leave employment to perform duty with the uniformed services, implementing USERRA Act of 1994, 48 U.S.C. Chapter 43.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/01/95	60 FR 45650
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Raleigh Neville, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AG02

3769. PRESIDENTIAL MANAGEMENT INTERN PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: EO 12364

CFR Citation: 5 CFR 362

Legal Deadline: None

Abstract: Federal Personnel Manual (FPM) chapter 362 provides policy and guidance to agencies on the Presidential Management Intern Program. This Chapter is provisionally retained under the FPM Sunset until December 31, 1994. We are developing new regulations for the program to maintain Government-wide uniformity in certain program policies and procedures. Topics that will be covered under new regulations include eligibility, selection, appointment, promotion, pay and benefits, extensions, conversion, termination and resignation. Without regulations, agencies will have only the general guidance from the Executive order to assist them. Other procedural guidance from FPM Chapter 362 will be issued in an information handbook or manual.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/01/95	60 FR 11017
Interim Final Rule Effective Date	03/01/95	
NPRM	10/17/95	60 FR 53716
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara Smith, Office of Executive Resources, Office of Personnel Management, 1900 E St. NW 1400WB, Washington, DC 20415-0001
Phone: 703 802-0322

RIN: 3206–AG17

3770. EMPLOYEE RESPONSIBILITIES AND CONDUCT

Priority: Routine and Frequent

Legal Authority: 5 USC 552(a); 5 USC 7301

CFR Citation: 5 CFR 4501; 5 CFR 1001

Legal Deadline: None

Abstract: Supplements for OPM employees the Executive Branch standards of ethical conduct.

Timetable:

Action	Date	FR Cite
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lorraine Lewis, Office of the General Counsel, Office of Personnel Management, 1900 E St. NW.
Phone: 202 606-1700
Fax: 202 606-0082

RIN: 3206–AG87

3771. PAY UNDER THE GENERAL SCHEDULE: TERMINATION OF INTERIM GEOGRAPHIC ADJUSTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: Federal Employees Pay Comparability Act of 1990; PL 101-509

CFR Citation: 5 CFR 530; 5 CFR 531; 5 CFR 534; 5 CFR 550; 5 CFR 575; 5 CFR 581; 5 CFR 582; 5 CFR 630

Legal Deadline: None

Abstract: These proposed regulations revise the interim geographic adjustment (IGA) regulations under 5 CFR 531, by terminating IGAs in the Los Angeles-Riverside-Orange County, CA CMSA and the New York-Northern New Jersey-Long Island, NY-NJ-CT-PA CMSA . The locality pay percentages in these areas now exceeds the 8 percent IGA rate. Technical conforming changes are made in other affected parts of the regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/01/96	61 FR 3539
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeanne Jacobson, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AH09

3772. PAY UNDER THE GENERAL SCHEDULE; LOCALITY PAY AREAS FOR 1997

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5304

CFR Citation: 5 CFR 531, subpart F

Legal Deadline: NPRM, Statutory, January 1, 1997.

Abstract: The proposed regulations would amend 5 CFR 531, subpart F, by removing five metropolitan areas from the "Rest of the U.S." locality pay areas and establishing five new locality pay areas corresponding to these metropolitan areas for the January 1997 locality payments. The Federal Salary Council recommended the five new areas at its meeting on July 31, 1995

Timetable:

Action	Date	FR Cite
NPRM	10/16/95	60 FR 53545
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeanne Jacobson, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AG88

3773. • PREVAILING RATE SYSTEMS; ABOLISHMENT OF PHILADELPHIA, PA, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The proposed regulation redefines the Philadelphia OPA, nonappropriated fund (NAF) wage area. This change is made necessary by the declining NAF Federal Wage System employment in the wage area.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/14/95	60 FR 57145
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields, Human Resources Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-0824

RIN: 3206–AH22

3774. • PREVAILING RATE SYSTEMS; CHANGES IN SURVEY RESPONSIBILITIES FOR CERTAIN APPROPRIATED FUND FEDERAL WAGE SYSTEM FEDERAL WAGE AREAS

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM, on behalf of the Departments of Defense and Veterans Affairs, proposes to change survey responsibilities for several appropriated fund Federal Wage System wage areas in recognition of shifting employment patterns among agencies and the need for lead agencies to balance their wage survey workloads throughout the 2-year survey cycle.

Timetable:

Action	Date	FR Cite
NPRM	02/09/96	61 FR 4940
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Angela Graham Humes, Human Resources Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-0824

RIN: 3206–AH28

3775. • PREVAILING RATE SYSTEMS; ABOLISHMENT OF FRANKLIN, OH, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM plans regulatory actions to abolish the Franklin, OH, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and redefine the five counties having continuing FWS employment as areas of application to the Greene-Montgomery, OH NAF wage area for pay-setting purposes. This change is necessary because the closing of the wage area host activity, Newark Air Force Base, leaves the Franklin wage area without an activity having the capability to conduct a wage survey.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/96	61 FR 3175
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields, Human Resources Systems Servico, Office of Personnel Management, Office of Compensation Policy/Wage Systems Division, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2848

RIN: 3206–AH29

3776. VOLUNTARY SEPARATION INCENTIVE REPAYMENT WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-226

CFR Citation: 5 CFR 550

Legal Deadline: None

Abstract: Public Law 103-226 authorizes OPM to waive repayment of a voluntary separation incentive payment if a former employee who accepted the incentive payment is reemployed by an executive agency of the U.S. within 5 years of separation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/94	59 FR 55807
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan Shelton, Employment Service, Federal Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AG20

3777. PAY ADMINISTRATION; AVAILABILITY PAY FOR CRIMINAL INVESTIGATORS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5545 a(h); 5 USC 5548

CFR Citation: 5 CFR 550

Legal Deadline: None

Abstract: Regulations on implementation of availability pay, a new form of premium pay for criminal investigators who are required to work, or be available to work substantial amounts of unscheduled overtime duty based on the needs of the employing agency.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/23/94	59 FR 66149
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kevin Kitchelt, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AG47

3778. SEVERANCE PAY; PANAMA CANAL COMMISSION EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5595

CFR Citation: 5 CFR 550, subpart G

Legal Deadline: None

Abstract: To amend the severance pay regulations to address the rights of employees who are employed by the Panama Canal Commission when the United States transfers full responsibility for the management, operation, and maintenance of the Panama Canal to the Republic of Panama.

Timetable:

Action	Date	FR Cite
NPRM	07/07/95	60 FR 35342
NPRM Comment Period End	09/05/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Derby, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1413

RIN: 3206–AF89

3779. • SEPARATE MAINTENANCE ALLOWANCE FOR DUTY AT JOHNSTON ISLAND

Priority: Routine and Frequent

Legal Authority: 5 USC 5942a

CFR Citation: 5 CFR 591, subpart D

Legal Deadline: None

Abstract: The proposed regulations would make the non-foreign separate maintenance allowance (SMA) rates on Johnston Island (a nonforeign area) the same as the SMA rates established by the State Department standardized regulations for foreign areas.

Timetable:

Action	Date	FR Cite
NPRM	10/17/95	60 FR 53716
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roger Knadle, Human Resources Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AH17

3780. FAMILY AND MEDICAL LEAVE

Priority: Other Significant

Legal Authority: 5 USC 6387

CFR Citation: 5 CFR 630(l)

Legal Deadline: None

Abstract: Sections 6381 through 6387 of Title 5, United States Code as added by Title II of the Family and Medical Leave Act of 1993 (FMLA), Public Law 103-3, Feb. 5, 1993, provide certain Federal employees a total of 12 administrative work weeks of unpaid leave during any 12-month period for: the birth of a child and care of the newborn; placement of a child with the employee for adoption or foster care; care of an employee's spouse, son, daughter, or parent with a serious health condition; or the serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/23/93	58 FR 39596
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jo Ann Perrini, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AH10

3781. POLITICAL ACTIVITY—FEDERAL EMPLOYEES RESIDING IN DESIGNATED LOCALITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7325

CFR Citation: 5 CFR 733

Legal Deadline: Final, Statutory, February 3, 1994.

Abstract: OPM has issued interim regulations pursuant to 5 U.S.C. 7325, as amended by the Hatch Act Reform Amendments of 1993, to continue in effect OPM's existing exemptions from the political activity provisions of the Hatch Act for employees residing in certain municipalities. There are no new budgetary effects, impacts such as benefits and costs, or interagency or intergovernmental effects.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/04/94	59 FR 5313
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jo-Ann Chabot, Office of the General Counsel, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-1701
Fax: 202 606-0082

RIN: 3206–AF78

3782. • POLITICAL ACTIVITIES OF FEDERAL EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1103; 5 USC 1104; 5 USC 7325; EO 12107,3 CFR 1978 Comp. p. 264

CFR Citation: 5 CFR 734

Legal Deadline: None

Abstract: Congress amended the Hatch Act through the Hatch Act Reform Amendments of 1993; interim regulations with a request for comments were issued in September 1994. The interim regulations addressed employee coverage and specifically described, both in regulatory text and detailed examples, political activities which the Reform Amendments permit and prohibit. A final version of these regulations is required to advise Federal, Postal Service, and District of Columbia employees regarding the specific political activities that the Reform Amendments permit and prohibit, and to resolve issues raised in comments concerning the interim regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/23/94	59 FR 48765
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joann Chabot, Attorney, Office of the General Counsel, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-1701

RIN: 3206–AH33

3783. RETIREMENT COVERAGE FOR D.C. FINANCIAL CONTROL BOARD EMPLOYEES

Priority: Other

Legal Authority: PL 104-8

CFR Citation: 5 CFR 831; 5 CFR 842

Legal Deadline: None

Abstract: These regulations implement the District of Columbia Financial Responsibility and Management Assistance Act of 1995. They establish standards by which some former Federal employees may carry civil service retirement coverage to employment with the D.C. Financial Control Board.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Patrick Jennings, Retirement and Insurance Service, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415-0001
Phone: 202 606-0299

RIN: 3206–AG78

3784. RETIREMENT; ALTERNATIVE FORM OF ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8343a; 5 USC 8420a

CFR Citation: 5 CFR 831(v); 5 CFR 842(g)

Legal Deadline: None

Abstract: These regulations are needed to change the date for expiration of the alternative form of annuity (AFA) for most retirees as a result of Pub. L. 103-66. They also revise the list of critical medical conditions considered as prima facie evidence of a life threatening condition for AFA.

Timetable:

Action	Date	FR Cite
NPRM	11/04/94	59 FR 55211
Interim Final Rule	10/25/95	60 FR 54585
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Service, Office of Retirement Policy Development, Office of Personnel

Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299

RIN: 3206–AG16

3785. RETIREMENT; FERS BASIC ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 842(b) to (g)

Legal Deadline: None

Abstract: These final regulations will amend FERS Basic Annuity regulations governing Eligibility (subpart B), Credit for Service (subpart C), Computations (subpart F), and Alternative Forms of Annuity (subpart G). These regulations have been published at various times in interim final form, and have been affected by statutory changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/16/87	52 FR 2061
Interim Final Rule	01/16/87	52 FR 2067
Interim Final Rule	02/11/87	52 FR 4473
Interim Final Rule	02/11/87	52 FR 4479
Interim Final Rule	05/14/87	52 FR 18193
Interim Final Rule	04/08/88	53 FR 11635
Interim Final Rule	02/09/90	55 FR 4598
Final Rule	12/27/90	55 FR 53136
Interim Final Rule	02/19/91	56 FR 6549
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harold L. Siegelman, Retirement and Insurance Service, Office of Retirement Policy Development, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0299

RIN: 3206–AE73

3786. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM; MERGING OF PARTS OF CFR PERTAINING TO LIFE INSURANCE (FEGLI)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870; 5 CFR 871; 5 CFR 872; 5 CFR 873; 5 CFR 874

Legal Deadline: None

Abstract: Regulations to merge and consolidate the four parts of the Code pertaining to FEGLI in order to simplify and facilitate understanding of the FEGLI Program.

Timetable:

Action	Date	FR Cite
NPRM	05/13/95	60 FR 21759
NPRM Comment Period End	07/03/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Leibach, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, Office of Insurance Programs, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AF32

3787. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP); LIMITATION ON PHYSICIAN CHARGES AND FEHBP PAYMENTS; OMNIBUS BUDGET RECONCILIATION ACT (OBRA) OF 1993 PROVISION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to implement the OBRA of 1993 which sets a limit on the charges and FEHBP benefit payments for certain physician services received by a retired enrolled individual.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/18/95	60 FR 26667
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert G. Iadicicco, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, Office of Insurance Programs, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AG31

3788. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; PAYMENT OF PREMIUMS FOR PERIODS OF LEAVE WITHOUT PAY OR INSUFFICIENT PAY

Priority: Other

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations that establish a requirement that Federal agencies counsel employees entering nonpay status, or whose pay is insufficient to cover their FEHB premium payments, of the options of continuing or terminating their FEHB coverage, and if continuing, of paying premiums directly on a current basis or incurring a debt to be withheld from future salary. These regulations are intended to ensure employees are fully aware of these alternatives.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert G. Iadicicco, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, Office of Insurance Programs, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AG66

3789. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: ACQUISITION REGULATION; TRUTH IN NEGOTIATION ACT AND RELATED CHANGES

Priority: Other

Legal Authority: 5 USC 8913; 40 USC 486(c); PL 103-355

CFR Citation: 48 CFR 1602; 48 CFR 1608; 48 CFR 1615; 48 CFR 1652

Legal Deadline: None

Abstrsct: Regulation to amend the Federal Employees Health Benefits Acquisition Regulation (FEHBAR) to implement those portions of the Federal Acquisition Streamlining Act of 1994 (FAS) that make specific changes to the Truth in Negotiations Act (TINA) or that impact other areas of the FEHBAR affecting contract pricing.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary Ann Mercer, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, Office of Insurance Programs, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AH14

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Long-Term Actions

3790. TIME-IN-GRADE RESTRICTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 300

Legal Deadline: None

Abstract: Eliminates requirement that employees serve 1 year in grade to be eligible for promotion above the GS-5 level. This is separate from the qualifications requirement for 1 year experience at the next lowest grade or equivalent for promotion.

Timetable:

Action	Date	FR Cite
NPRM	06/15/94	59 FR 30717
NPRM Comment Period End	01/10/95	60 FR 2546
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leota Edwards, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 292 606-2329

RIN: 3206–AG06

3791. AMENDMENT TO SELECTIVE SERVICE REGISTRATION REQUIREMENTS

Priority: Other

Legal Authority: 5 USC 3328

CFR Citation: 5 CFR 300(g)

Legal Deadline: None

Abstract: Delegates to agencies determination whether a Federal job applicant's failure to register with the Selective Service was knowing and willful. This change is authorized by an amendment to 5 U.S.C. 3328.

Timetable:

Action	Date	FR Cite
NPRM	04/29/88	53 FR 15400
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Larry Lorenz, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AD68

3792. CAREER AND CAREER-CONDITIONAL EMPLOYMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3304

CFR Citation: 5 CFR 315

Legal Deadline: None

Abstract: Drops time limit on reinstatement eligibility and would link career tenure to completion of probation.

Timetable:

Action	Date	FR Cite
NPRM	10/20/94	59 FR 52925
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Interim rule effective date 01/01/95

Agency Contact: Leota Edwards, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AG22

3793. CAREER AND CAREER-CONDITIONAL APPOINTMENT UNDER SPECIAL AUTHORITIES

Priority: Other

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3304(d); 5 USC 8151; 5 USC 11219; EO 10577; EO 12034; EO 12721; 22 USC 2506; 22 USC 3651; 22 USC 3652

CFR Citation: 5 CFR 315

Legal Deadline: None

Abstract: Revises a group of special appointment authorities to clarify requirements and to eliminate obsolete provisions.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leota Edwards, Employment Service, Office of Personnel Management, Staffing Reinvention Office, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AG90

3794. INTERAGENCY PLACEMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3310; 5 USC 3315; 5 USC 3327; 5 USC 3502; 5 USC 3503; 5 USC 8151; 5 USC 8337(h); 5 USC 8457(b); EO 10577; EO 12828

CFR Citation: 5 CFR 330; 5 CFR 332; 5 CFR 351

Legal Deadline: None

Abstract: Originally implemented new Interagency Placement Program, which supersedes Displaced Employee Program and Interagency Placement Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/27/94	59 FR 32871

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: These provisions were superseded by 60 FR 67281 which established Career Transition Assistance for surplus and displaced Federal employees. Effective 2/29/96.

Agency Contact: Diane Bohling, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0960

RIN: 3206–AG11

3795. PERFORMANCE MANAGEMENT REFORM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 43; 5 USC 45

CFR Citation: 5 CFR 430; 5 CFR 451

Legal Deadline: None

Abstract: Regulatory changes to comply with legislative reforms in support of the National Performance Review (NPR) recommendations that decentralize performance management and incentive awards programs to the agencies.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Doris Hausser, Chief, Performance Management and Incentive Awards Division, OLRWP, Office of Personnel Management, Human Resource Systems Service, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2720

RIN: 3206–AF57

3796. CLASSIFICATION SIMPLIFICATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 51

CFR Citation: 5 CFR 511

Legal Deadline: None

Abstract: Legal and regulatory changes needed for simplification of the current General Schedule (white collar) position classification system.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Raymond Moran, Chief, Standards Development Staff, Human Resources Systems Service, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1321

RIN: 3206–AG27

3797. PAY ADMINISTRATION UNDER THE FLSA; COMPLIANCE

Priority: Other

Legal Authority: 29 USC 204(f); 5 USC 1103(a)(5)

CFR Citation: 5 CFR 551(f)

Legal Deadline: None

Abstract: Proposed new regulation covering the FLSA Compliance Program and simplifying the FLSA claims handling process.

Timetable:

Action	Date	FR Cite
NPRM	01/10/95	60 FR 2549

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey D. Miller, Ofc of Merit Sys. Oversight & Effectiveness, Program Development Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2530
Fax: 202 606-2663

RIN: 3206–AA40

3798. SUITABILITY—SUITABILITY DISQUALIFICATION/RATING ACTIONS

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7301; EO 10577; EO 11222

CFR Citation: 5 CFR 731(b) to (c)

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, some of them will be published in pamphlets for users and other more significant items will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we see no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Interim Final Rule	09/16/94	59 FR 47527

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard A. Ferris, Acting Associate Director, Investigations Service, Office of Personnel Management, P.O. Box 886, Washington, DC 20044-0886
Phone: 202 376-3800

RIN: 3206–AC19

3799. PERSONNEL SECURITY AND RELATED PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7312; 50 USC 403; EO 10450; EO 10577

CFR Citation: 5 CFR 732

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, some of them will be published in pamphlets for users and other more significant items will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we see no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Interim Final Rule	09/16/94	59 FR 47527
Interim Final Rule Effective Date	10/17/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard A Ferris, Acting Associate Director, Investigations Service, Office of Personnel Management, P. O. Box 886, Washington, DC 20044-0886
Phone: 202 376-3800

RIN: 3206–AC21

3800. INVESTIGATIONS

Priority: Other Significant

Legal Authority: PL 93-579; 5 USC 552a

CFR Citation: 5 CFR 736

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, some of them will be published in pamphlets for users and other more significant items will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we foresee no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Begin Review	10/01/93	
Interim Final Rule	09/16/94	59 FR 47527
Interim Final Rule Effective Date	10/17/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard A.Ferris, Acting Associate Director, Investigations Service, Office of Personnel Management, P.O. Box 886, Washington, DC 20044-0886
Phone: 202 376-3800

RIN: 3206–AB92

3801. DEBARMENTS, CIVIL MONETARY PENALTIES, AND ASSESSMENTS IMPOSED AGAINST PROVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8902a

CFR Citation: 5 CFR 890(j)

Legal Deadline: None

Abstract: These regulations will implement title I of Pub. L. 100-654, the "Federal Employees Health Benefits Amendments Act of 1988," which authorizes OPM to debar health care providers who are culpable of certain offenses from participation in the FEHBP, and to levy monetary penalties and assessments against individuals who have submitted false claims to FEHBP carriers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/89	54 FR 43939
NPRM	02/04/93	58 FR 7052
NPRM	02/04/93	58 FR 7052

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. David Cope, Asst. Inspector General for Policy, Office of the Inspector General, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2851

RIN: 3206–AD76

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Completed Actions

3802. OTHER THAN FULL-TIME EMPLOYMENT (PART-TIME, SEASONAL, AND INTERMITTENT)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 5 CFR 110

Completed:

Reason	Date	FR Cite
Withdrawn	03/12/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Raleigh Neville, Ellen Russell
Phone: 202 606-0830
Fax: 202 606-2329

RIN: 3206–AG89

3803. • OTHER THAN FULL-TIME EMPLOYMENT (PART-TIME, SEASONAL, AND INTERMITTENT)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3401; 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 340; 5 CFR 110

Legal Deadline: None

Abstract: Proposal would give agencies and employees more flexibility by clarifying agency authority to schedule part-time employees on a pay period rather than a weekly basis. duplicative authorities by combining on-call and seasonal.

Timetable:

Action	Date	FR Cite
Withdrawn	03/07/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Withdrawn, combined with RIN 3206-AH19.

Agency Contact: Raleigh Neville, Ellen Russell, Employment Service, Office of Personnel Management, 1900 E St. NW., Washington, DC20415
Phone: 202 606-0830

Fax: 202 606-2329

RIN: 3206–AH19

3804. FEDERAL EMPLOYEES HEALTH BENEFITS ACQUISITION REGULATIONS: FILING CLAIMS; ADDITION OF CONTRACT CLAUSE

Priority: Other

CFR Citation: 48 CFR 1604; 48 CFR 1652

Completed:

Reason	Date	FR Cite
Final Action	04/05/96	61 FR 15196
Final Action Effective	03/06/96	

Small Entities Affected: None

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Margaret Sears
Phone: 202 606-0004
Fax: 292 606-0633

RIN: 3206–AG30

3805. • APPOINTMENT OF NONSTATUS EMPLOYEES ENTITLED TO PLACEMENT IN A DIFFERENT AGENCY UPON RESTORATION TO DUTY FROM UNIFORMED SERVICE

Priority: Other

Legal Authority: 38 USC 4314; 38 USC 4315

CFR Citation: 5 CFR 213

Legal Deadline: None

Abstract: To permit Schedule A appointments of excepted service employees who are entitled to placement in a different agency if their original employing agency cannot reemploy them following uniformed service. Implements Pub. L. 103-353.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/95	60 FR 55173
Final Action	11/02/95	60 FR 55653
Final Action Effective	11/02/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Raleigh Neville, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-2329

RIN: 3206–AH15

3806. • REVOCATION OF SCHEDULE A AUTHORITY

Priority: Other

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 213

Legal Deadline: None

Abstract: Revoked Schedule A authority for President's Commission on Executive Exchange, which no longer exists.

Timetable:

Action	Date	FR Cite
Final Action	11/02/95	60 FR 55653
Final Action Effective	11/02/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Amond A. Grant, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0930

RIN: 3206–AH18

3807. PERSONNEL RECORDS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 5 CFR 293

Completed:

Reason	Date	FR Cite
Withdrawn	03/13/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Dorothy Vernon
Phone: 202 606-1976

RIN: 3206–AF85

3808. CAREER AND CAREER CONDITIONAL EMPLOYMENT

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 315

Completed:

Reason	Date	FR Cite
Final Action	03/08/96	61 FR 9321
Final Action Effective	04/08/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Ellen Russell
Phone: 202 606-0830
Fax: 202 606-2329

RIN: 3206–AG81

3809. • FUNDING OF ADMINISTRATIVE LAW JUDGE EXAMINATION

Priority: Other

Legal Authority: 5 USC 1104

CFR Citation: 5 CFR 332; 5 CFR 930

Legal Deadline: None

Abstract: OPM is issuing interim regulations to require agencies employing administrative law judges to reimburse OPM for the cost of conducting examinations for judge positions. The regulations implement Public Law 104-52 (November 19, 1995), which amended 5 U.S.C. 1104 to authorize OPM to delegate examining authority for all competitive service positions except for administrative law judges, and to require employing agencies to reimburse OPM for the cost of administrative law judge examinations.

Timetable:

Action	Date	FR Cite
Withdrawn	03/13/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Withdrawn, duplicate of RIN 3206-AH31.

Agency Contact: Leota S. Edwards, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AH42

3810. MERIT PROMOTION PLACEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 335

Completed:

Reason	Date	FR Cite
Withdrawn	03/07/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leota Edwards
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AG54

3811. REPAYMENT OF STUDENT LOANS

Priority: Routine and Frequent

CFR Citation: 5 CFR 537

Completed:

Reason	Date	FR Cite
Withdrawn	03/07/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellie Miller
Phone: 202 606-0830

RIN: 3206–AE51

3812. • FORMAT CHANGES IN COMPENSATION REGULATIONS

Priority: Other

Legal Authority: 5 USC 5338; 5 USC 5532; 5 USC 5533; 5 USC 5542(C); 5 USC 5548; 5 USC 6101; 5 USC 6104; 5 USC 6305; 5 USC 6311; 5 USC 6387; PL 93-259 Fair Labor Standards Act of 1938; PL 103-3, sec 107; EO 11228

CFR Citation: 5 CFR 531; 5 CFR 550; 5 CFR 551; 5 CFR 610; 5 CFR 630

Legal Deadline: None

Abstract: These regulations revise the format of certain regulatory provisions related to Federal employees' compensation so that all definitions of terms are listed in alphabetical order.

Timetable:

Action	Date	FR Cite
Final Action	12/29/95	60 FR 67286
Final Action Effective	12/29/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bryce Baker, Human Resources Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AH23

3813. PREVAILING RATE SYSTEMS; ABOLISHMENT OF MARQUETTE, MI NONAPPROPRIATED FUND WAGE AREA

Priority: Other

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	11/28/95	60 FR 58497
Final Action Effective	12/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields
Phone: 202 606-2848

RIN: 3206–AG82

3814. PREVAILING RATE SYSTEM; TECHNICAL CORRECTION AND CLARIFICATION

Priority: Routine and Frequent

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	11/28/94	60 FR 58497
Final Action Effective	12/28/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields
Phone: 202 606-2848

RIN: 3206–AG83

3815. PREVAILING RATE SYSTEMS; REDEFINITION OF GUAYNABO-SAN JUAN, PR, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	02/15/96	61 FR 5922
Final Action Effective	03/18/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields
Phone: 202 606-2848
Fax: 202 606-0824

RIN: 3206–AG93

3816. PREVAILING RATE SYSTEMS; SURVEY RESPONSIBILITY CHANGES

Priority: Other

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Angela Graham Humes
Phone: 202 606-2848

RIN: 3206–AG98

3817. PREVAILING RATE SYSTEMS: REDEFINITION OF CERTAIN FEDERAL WAGE SYSTEM WAGE AREAS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Allen
Phone: 202 606-2848

RIN: 3206–AH00

3818. PREVAILING RATE SYSTEM: REDEFINITION OF THE OCEAN, NJ, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields
Phone: 202 606-2848

RIN: 3206–AH01

3819. PREVAILING RATE SYSTEMS: REDEFINITION OF THE PHILADELPHIA, PA, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields
Phone: 202 606-2848

RIN: 3206–AH02

3820. PREVAILING RATE SYSTEMS: REDEFINITION OF THE GUAYNABO-SAN JUAN, PUERTO RICO, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields
Phone: 202 606-2848

RIN: 3206–AH03

3821. PREVAILING RATE SYSTEMS: ABOLISHMENT OF THE MARIN-SONOMA, CA, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields
Phone: 202 606-2848

RIN: 3206–AH04

3822. PREVAILING RATE SYSTEMS: ABOLISHMENT OF CERTAIN SPECIAL WAGE SCHEDULES FOR PRINTING POSITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	11/24/95	60 FR 57889
Final Action Effective	12/26/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields
Phone: 202 606-2848
Fax: 202 606-0824

RIN: 3206–AH05

3823. • PREVAILING RATE SYSTEMS; ABOLISHMENT OF MARIN-SONOMA, CA, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: This proposed regulation redefines the Marin-Sonoma, CA nonappropriated fund (NAF) wage area. This change is made necessary by declining NAF Federal Wage System employment in the wage area.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/95	60 FR 55174
Final Action	02/15/96	61 FR 5922
Final Action Effective	03/18/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields, Human Resources Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-0824

RIN: 3206–AH16

3824. • PREVAILING RATE SYSTEMS: ABOLISHMENT OF OCEAN, NJ, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: This regulation redefined the Ocean, NJ nonappropriated fund (NAF) wage area. This change is made necessary by declining NAF Federal Wage System employment in the wage area.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/01/95	60 FR 5523
Final Action	02/15/96	61 FR 5922
Final Action Effective	03/18/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul Shields, Human Resources Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-0824

RIN: 3206–AH20

3825. • PREVAILING RATE SYSTEMS: REDEFINING OF CERTAIN FEDERAL WAGE SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM plans to redefine several Federal Wage System wage areas for pay-setting purposes. OPM is engaged in an ongoing project to review the geographic definitions of selected wage areas. Based on recent review of wage and survey area boundaries, this regulation proposes redefining and/or renaming 10 wage areas.

Timetable:

Action	Date	FR Cite
NPRM	12/19/95	60 FR 65245
Final Action	03/18/96	61 FR 10879
Final Action Effective	04/17/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Allen, Human Resources Systems Service, Office of Compensation Policy, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2848

RIN: 3206–AH27

3826. • PREVAILING RATE SYSTEMS; ABOLISHMENT OF MERCED, CA, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM plans regulatory actions to abolish the Merced, Ca, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and redefine the county having continuing

FWS employment (Fresno County) as an area of application to the Kern, CA, NAF wage area for pay-setting purposes. This change is necessary because the closing of the wage area host activity, Castle Air Force Base, leaves the Merced wage area without an activity having the capability to conduct a wage survey.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/96	61 FR 5921
Withdrawn	03/14/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Withdrawn, duplicate of RIN 3206-AH40.

Agency Contact: Paul Shields, Human Resorces Systems Service, Office of Personnel Management, Office of Compensation Policy/Wage Systems Division, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2848

RIN: 3206–AH30

3827. • PREVAILING RATE SYSTEMS; ABOLISHMENT OF MERCED, CA, NONAPPROPRIATED FUND WAGE AREA

Priority: Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: OPM plans regulatory actions to abolish the Merced, CA, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and redefine the county having continuing FWS employment (Fresno County) as an area of application to the Kern, CA, NAF wage area for pay-setting purposes. This change is necessary because the closing of the wage area host activity, Castle Air Force Base, leaves the Merced wage area without an activity having the capability to conduct a wage survey.

Timetable:

Action	Date	FR Cite
Withdrawn	03/13/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Withdrawn, duplicate of RIN 3206-AH30

Agency Contact: Paul Shields, Human Resorces Systems Service, Office of Personnel Management, Office of Compensation Policy/Wage Systems Division, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-2848

RIN: 3206–AH40

3828. COST-OF-LIVING ALLOWANCE IN NONFOREIGN AREAS; WINTER 1995 SURVEYS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 591

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald L. Paquin
Phone: 202 606-2838
Fax: 202 606-4264

RIN: 3206–AH06

3829. COST-OF-LIVING ALLOWANCE IN NONFOREIGN AREAS: SUMMER 1994 SURVEYS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 591

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Hearne
Phone: 202 606-2838
Fax: 202 606-4264

RIN: 3206–AH08

3830. SEPARATE MAINTENANCE ALLOWANCE FOR DUTY AT JOHNSTON ISLAND

Priority: Routine and Frequent

CFR Citation: 5 CFR 591(d)

Completed:

Reason	Date	FR Cite
Withdrawn	02/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roger Knadle
Phone: 202 606-2858
Fax: 202 606-0824

RIN: 3206–AG72

3831. FEGLI; ASSIGNMENT OF LIFE INSURANCE COVERAGE

Priority: Other

CFR Citation: 5 CFR 870

Completed:

Reason	Date	FR Cite
Withdrawn	02/16/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Sears
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AG68

3832. FEGLIP: LIVING BENEFITS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 870

Completed:

Reason	Date	FR Cite
Withdrawn	02/16/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Karen Leibach
Phone: 202 606-0004

RIN: 3206–AG79

3833. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: HMO PLAN APPLICATIONS

Priority: Other

CFR Citation: 5 CFR 890

Completed:

Reason	Date	FR Cite
Final Action	12/08/95	60 FR 62987
Final Action Effective	02/06/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Faith Hannon
Phone: 202 606-0727
Fax: 202 606-0633

RIN: 3206–AG97

3834. • FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; FILING CLAIMS: DISPUTED CLAIMS PROVISIONS

Priority: Other

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations to clarify provisions with regard to disputed

Federal Employees Health Benefits (FEHB) Program Claims

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/95	60 FR 16037
Final Action	04/05/96	61 FR 15177
Final Action Effective	05/06/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Margaret Sears, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AH36

3835. SOLICITATION OF FEDERAL CIVILIAN AND UNIFORMED SERVICE PERSONNEL FOR CONTRIBUTIONS FOR PRIVATE VOLUNTARY ORGANIZATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 950

Completed:

Reason	Date	FR Cite
Final Action	11/24/95	60 FR 57889
Final Action Effective	11/24/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeff C. Lee
Phone: 202 606-2564

RIN: 3206–AG50

3836. FEHBP; INTEREST ASSESSMENT ON AUDIT FINDINGS

Priority: Other

CFR Citation: 48 CFR 1652.215-70

Completed:

Reason	Date	FR Cite
Withdrawn	02/16/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Ann Mercer
Phone: 202 606-0004
Fax: 202 606-0633

RIN: 3206–AG35

3837. • AGENCY FUNDING FOR FEDERAL EMPLOYMENT INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3327; 5 USC 3330

CFR Citation: 5 CFR 330; 5 CFR 333; 5 CFR 335

Legal Deadline: None

Abstract: Requires each agency to pay a fee for its share of the cost of providing employment information through OPM to Federal employees and to the public.

Timetable:

Action	Date	FR Cite
NPRM	01/08/96	61 FR 546
NPRM Comment Period End	02/07/96	
Final Action	03/21/96	61 FR 11499
Final Action Effective	03/21/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lee Edwards, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E St. NW., Washington, DC 20415
Phone: 202 606-0830
TDD: 202 606-0023
Fax: 202 606-2329

RIN: 3206–AH25

[FR Doc. 96-7480 Filed 05-10-96; 8:45 am]
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Part XXXVII

Panama Canal Commission

Semiannual Regulatory Agenda

PANAMA CANAL COMMISSION (PANAMA)

PANAMA CANAL COMMISSION

35 CFR Ch. I

Semiannual Regulatory Agenda, April 1996

AGENCY: Panama Canal Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Panama Canal Commission. This information will allow the public to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For information about a particular regulatory project, contact the person listed in the subheading "Agency Contact" for that project. For general information, contact John A. Mills, Secretary, Panama Canal Commission, International Square, 1825 I Street NW., Suite 1050, Washington, DC 20006-5402, (202) 634-6441 TDD; or John L. Haines, Jr., Esquire, General Counsel, Panama Canal Commission, Unit 2300, APO AA 34011-2300, 011/507-272-7511.

SUPPLEMENTARY INFORMATION: Executive Order 12666 "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, require that executive agencies publish in the **Federal Register** a semiannual notice of regulations which are under development or review or for which action has been completed. The Panama Canal Commission agenda contains certain regulations which are limited in public impact, but they are included to increase public awareness of Commission activities and to allow for increased public participation in the Agency's regulatory review and development process. This agenda was prepared pursuant to guidelines established by the Office of Management and Budget.

Dated: March 15, 1996.

John A. Mills,

Secretary, Panama Canal Commission.

PANAMA CANAL COMMISSION (PANAMA) — Final Rule Stage

3838. DANGEROUS CARGOES; RADIO COMMUNICATION

Priority: Other Significant

Legal Authority: 22 USC 3811; EO 12215

CFR Citation: 35 CFR 101; 35 CFR 103; 35 CFR 105; 35 CFR 107; 35 CFR 109; 35 CFR 111; 35 CFR 113; 35 CFR 115; 35 CFR 117; 35 CFR 119; 35 CFR 121; 35 CFR 123; 35 CFR 113.49(b) (Revision)

Legal Deadline: None

Abstract: The Panama Canal Commission is proposing to make the following change and clarification:

35 CFR 113.49(b): Explosive cargo to be used for other than official U.S. Government purposes may not be loaded or offloaded at facilities of the Panama Canal Commission. Explosive anchorages prescribed in sections 101.8(a)(2)(3) and 101.8(c)(2), respectively, may be used upon approval of the Marine Safety Advisor, or his designee and concurrence of Canal Ops Captain.

The Commission also proposes to make minor technical changes and clarifications to: 35 CFR sections 101, 103, 105, 107, 109, 111, 113, 115, 117, 119, 121, and 123 for internal operating procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/96	
Final Action	07/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Capt. George T. Hull, Marine Director, Panama Canal Commission, Marine Bureau, Unit 2300, APO AA 34011-2300
Phone: 202 634-6441

RIN: 3207–AA26

3839. PANAMA CANAL COMMISSION ACQUISITION REGULATION

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 35

Legal Deadline: None

Abstract: The interim final rule will update the Panama Canal Commission Acquisition Regulation to conform to changes in the Federal Acquisition Regulation and to incorporate minor changes to internal operating procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/02/96	61 FR 3846
Interim Final Rule Comment Period End	04/02/96	
Final Action	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: Multiple

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: Phone number for James N. Doyle in Panama, Republic of Panama, is 011/507 272-7511.

Agency Contact: James N. Doyle, Assistant Procurement Executive, Panama Canal Commission, Unit 2300, APO AA 34011-2300
Phone: 202 634-6441

RIN: 3207–AA30

3840. RADIO COMMUNICATION

Priority: Other Significant

Legal Authority: 22 USC 3811; EO 12215; 45 FR 36043

CFR Citation: 35 CFR 123.4(a) (Revision)

Legal Deadline: None

Abstract: The Panama Canal Commission is proposing to make the following changes and clarification to 35 CFR 123.4(a): CHARLIE–Estimated draft upon arrival, and estimated transit draft if scheduled to work cargo or take bunker prior to transiting, in meters, fore and aft, in Tropical Fresh Water.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/96	
Final Action	07/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Capt. George T. Hull, Marine Director, Panama Canal Commission, Marine Bureau, Unit 2300, APO AA 34011-2300
Phone: 202 634-6441

RIN: 3207–AA34

PANAMA — Final Rule Stage

3841. HEALTH, SANITATION, AND COMMUNICABLE DISEASE SURVEILLANCE

Priority: Other Significant

Legal Authority: 22 USC 3811; EO 12215

CFR Citation: 35 CFR 61.155

Legal Deadline: None

Abstract: The Panama Canal Commission is proposing to amend 35 CFR 61.155 by adding a new paragraph to clarify disinsecting requirements. The new paragraph reads as follows: "(e) The disinfecting required under paragraph (a) of this section shall not be required when the index of Aedes aegypti in Panama exceeds the 1.0 limit established by the World Health Organization (WHO)."

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/96	
Final Action	07/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: J. M. Eberenz, Director of Admeasurement, Panama Canal Commission, Unit 2300, APO AA 34011-2300
Phone: 202 634-6441

RIN: 3207–AA35

PANAMA CANAL COMMISSION (PANAMA) — Completed Actions

3842. • PROCEDURES FOR CHANGING RULES OF MEASUREMENT OR RATES OF TOLLS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 22 USC 3791; 22 USC 3792; 22 USC 3793; 22 USC 3794; EO 12215

CFR Citation: 35 CFR 70

Legal Deadline: None

Abstract: The Panama Canal Commission is proposing to amend 35 CFR 70 to incorporate changes set out in Public Law 104-106 to procedures for changing rules of measurement or rates of tolls. These changes transfer the authority for effecting changes from the President to the Commission.

Timetable:

Action	Date	FR Cite
Final Action	04/17/96	61 FR 16718
Final Action Effective	04/17/96	

Small Entities Affected: None

Government Levels Affected: None

Sectors Affected: None

Agency Contact: J. M. Eberenz, Director of Admeasurement, Panama Canal Commission, Unit 2300, APO AA 34011-2300
Phone: 202 634-6441
Fax: 202 634-6439

RIN: 3207–AA37

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Part XXXVIII

Peace Corps

Semiannual Regulatory Agenda

PEACE CORPS (PEACE)

PEACE CORPS

22 CFR Ch. III

Regulatory Agenda

AGENCY: Peace Corps.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations the Peace Corps will have under development during the 12-month period from April 1, 1996, through March 30, 1997. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning Peace Corps' regulations or this semiannual agenda, contact Brian J. Sexton, General Counsel, Peace Corps, 1990 K Street NW., Washington, DC 20526, (202) 606-3114.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 entitled "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 601-612, executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year. The regulations being considered by the Peace Corps are not "significant" rules within the meaning of Executive Order 12866, and no regulatory impact analysis is required. In addition, the Peace Corps has determined, under the Regulatory Flexibility Act, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis is required. The Agency has also determined that the regulations will not impose compliance costs or reporting burdens on the public.

Dated: March 8, 1996.

Kirby Mullen,

Acting General Counsel.

PEACE CORPS (PEACE) — Proposed Rule Stage

3843. RESPONSIBILITIES AND ETHICAL STANDARDS FOR PEACE CORPS EMPLOYEES

Priority: Other

Legal Authority: 5 USC 7301; 5 USC app, Ethics in Government Act of 1978; EO 12674; 5 CFR 2635.105; 5 CFR 2635.403; 5 CFR 2635.803

CFR Citation: 22 CFR 307

Legal Deadline: None

Abstract: The Peace Corps, in compliance with the Office of Government Ethics, is issuing its own agency-specific regulations for employees of the Peace Corps. These regulations are in addition to the Supplemental Standards of Ethical Conduct for Peace Corps Employees, which supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kirby Mullen, Associate General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 606-3114
Fax: 202 606-3729

RIN: 0420–AA12

PEACE CORPS (PEACE) — Long-Term Actions

3844. IMPLEMENTATION OF REHABILITATION ACT OF 1973, PART 504—HANDICAPPED DISCRIMINATION PROHIBITION

Priority: Other

Legal Authority: 29 USC 794

CFR Citation: 22 CFR 312

Legal Deadline: None

Abstract: The regulation implements section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination on the basis of handicap in programs or activities conducted by executive agencies or the Postal Service.

Timetable:

Action	Date	FR Cite
NPRM	10/08/91	56 FR 50684
NPRM Comment Period End	12/09/91	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kirby Mullen, Associate General Counsel, Peace Corps, Room 8302, 1990 K Street NW., Washington, DC 20526
Phone: 202 606-3114
Fax: 202 606-3729

RIN: 0420–AA03

3845. CLAIMS COLLECTION

Priority: Other

Legal Authority: 31 USC 3701 to 3719; 5 USC 5514; 22 USC 2503(b); 31 USC 3720A

CFR Citation: 22 CFR 309

Legal Deadline: None

Abstract: The section of the claims collection regulation regarding salary offset is under revision to remove unnecessary references to the Department of Defense and the United States Postal Service.

Timetable: Next Action Undetermined

Small Entities Affected: Governmental Jurisdictions

PEACE — Long-Term Actions

Government Levels Affected: State, Federal

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: Leroy Larkins, Claims Officer, Peace Corps, Fiscal Services Division, Room 6316, 1990 K Street NW., Washington, DC 20526
Phone: 202 606-3044

RIN: 0420–AA08

3846. SUPPLEMENTAL STANDARDS OF CONDUCT FOR PEACE CORPS EMPLOYEES

Priority: Other

Legal Authority: EO 12674; 5 CFR 2635.105

CFR Citation: 22 CFR 307; 5 CFR 67 (New)

Legal Deadline: None

Abstract: The Office of Government Ethics has issued Governmentwide standards of conduct which pertain to all executive branch employees, including Peace Corps employees. The Peace Corps incorporates these standards and pursuant to section 2635.105 of the executive standards is issuing its own Supplemental Agency Regulations.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kirby Mullen, Associate General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 606-3114
Fax: 202 606-3729

RIN: 0420–AA09

3847. ELIGIBILITY AND STANDARDS FOR PEACE CORPS VOLUNTEER SERVICE RE: PROCEDURES—APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 75 Stat 612, secs 4(b), 5(a), and 22; 22 USC 2504; EO 12137, May 16, 1979; International Security & Development Coop. Act of 1981, sec 601; 95 Stat 1519 and 1540; 42 USC 5057(c)(1) Domestic Volunteer Service Act, sec 417(c)(1)

CFR Citation: 22 CFR 305

Legal Deadline: None

Abstract: The Peace Corps is reviewing its Eligibility and Standards for Peace Corps Service, specifically with regard to establishing and publishing an appeals procedure for administrative and medical deselection.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kirby Mullen, Associate General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 606-3114
Fax: 202 606-3729

RIN: 0420–AA10

3848. VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURE

Priority: Other

Legal Authority: 22 USC 2503; 5 USC 553 and 554

CFR Citation: 22 CFR 306; 45 CFR 1225

Legal Deadline: None

Abstract: The Peace Corps is promulgating its own regulations regarding the Volunteer Discrimination Complaint Procedure to replace the current cross-reference to ACTION's regulations applicable to Peace Corps Volunteers, which appear in 45 CFR part 1225.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Kirby Mullen, Associate General Counsel, Peace Corps, Office of General Counsel, Suite 8300, 1990 K Street NW., Washington, DC 20526
Phone: 202 606-3114
Fax: 202 606-3729

RIN: 0420–AA11

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Part XXXIX

Pension Benefit Guaranty Corporation

Semiannual Regulatory Agenda

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Agenda of Regulations Under Development

AGENCY: Pension Benefit Guaranty Corporation (PBGC).

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's regulatory agenda issued under Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or review or that PBGC expects to have under development or review during the next 12 months. The effect of this agenda is to advise the public of PBGC's current and future regulatory activities.

ADDRESSES: Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, (202) 326-4024. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's order on Regulatory Planning and Review, Executive Order 12866 (58 FR 51735, October 4, 1993), each agency is required to prepare an agenda of all regulations under development or review. The Regulatory Flexibility Act, Public Law 98-354, 5 U.S.C. 601, has a similar agenda requirement. Under that law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3849	Mergers and Transfers Between Multiemployer Plans	1212-AA69
3850	Submission of Premium-Related Information	1212-AA66
3851	Reinvention	1212-AA83
3852	Calculation and Payment of Unfunded Nonguaranteed Benefits	1212-AA54
3853	Amendments to Valuation of Plan Benefits	1212-AA55
3854	Miscellaneous Statutory Amendments	1212-AA79
3855	Reportable Event Requirements	1212-AA80
3856	Standard Terminations	1212-AA82

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3857	Payment of Premiums	1212-AA58
3858	Reorganizing and Renumbering of Regulations	1212-AA75

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3859	Payment of Benefits in PBGC-Trusteed Plans	1212-AA35

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3860	Financial Assistance to Multiemployer Plans	1212-AA74
3861	Disclosure and Amendment of Records Under the Privacy Act	1212-AA63
3862	Funds for Administrative Expenses of Section 4049 Trusts	1212-AA65
3863	Guaranteed Benefits	1212-AA76

PBGC

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3864	Financial and Actuarial Information Reporting	1212-AA78
3865	Missing Participants	1212-AA81

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Proposed Rule Stage

3849. MERGERS AND TRANSFERS BETWEEN MULTIEMPLOYER PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1411

CFR Citation: 29 CFR 2672

Legal Deadline: None

Abstract: ERISA section 4231 sets basic guidelines for mergers and transfers between multiemployer plans, including a provision for a 120-day notice to the PBGC. The PBGC's regulation on Mergers and Transfers Between Multiemployer Plans contains implementing rules. Neither the statute nor the regulation makes clear whether or how the merger and transfer rules apply where one or more of the plans involved is terminated. This regulation would amend 29 CFR part 2672 to clarify its application to mergers and transfers involving one or more terminated multiemployer plans and to specify the criteria that a merger or transfer involving terminated plans must satisfy in order to protect participants and beneficiaries in the affected plans, as well as the PBGC, from risk of loss as a result of the merger or transfer. The regulation would also liberalize the 120-day notice requirement for all multiemployer mergers and transfers so that such transactions can proceed more expeditiously.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212–AA69

3850. SUBMISSION OF PREMIUM-RELATED INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1306; 29 USC 1307

CFR Citation: 29 CFR 2610

Legal Deadline: None

Abstract: The PBGC's regulation on Payment of Premiums (29 CFR part 2610) currently requires plan administrators to retain, for six years, all records necessary to support or validate premium payments and to make those records available to the PBGC, upon request, for inspection and photocopying. The PBGC intends to propose amendments to provide for the submission to the PBGC of information in those records and for the supplementation of information submitted in premium filings. By improving the PBGC's ability to tailor its decisionmaking to the variety of situations presented by the administration of premium requirements, the PBGC expects these changes to increase the agency's efficiency and effectiveness.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024

RIN: 1212–AA66

3851. REINVENTION

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3)

CFR Citation: 29 CFR 2601 to 2677

Legal Deadline: None

Abstract: Consistent with the President's Regulatory Reinvention Initiative, the PBGC has reviewed all of its regulations to determine whether they can be simplified or updated. The PBGC intends to make appropriate changes to its regulations to reflect the results of this review.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marc L. Jordan, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179
Fax: 202 326-4112

RIN: 1212–AA83

3852. CALCULATION AND PAYMENT OF UNFUNDED NONGUARANTEED BENEFITS

Priority: Other Significant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322(c)

CFR Citation: 29 CFR 2623; 29 CFR 2627

PBGC — Proposed Rule Stage

Legal Deadline: None

Abstract: In the Pension Protection Act, Congress created a scheme by which to channel employer liability recoveries to plan participants and beneficiaries (amended ERISA section 4022(c)). Under section 4022(c), participants no longer have a direct claim for employer liability. Instead, the PBGC's claim covers both its shortfall (unfunded guaranteed benefits) and participants' losses (unfunded nonguaranteed benefits (UNBs)). In turn, the PBGC is to use a portion of its employer liability recovery to pay UNBs to participants and beneficiaries.

Section 4022(c) contains several ambiguities and also leaves to the PBGC the development of specific rules and procedures to make this system work. Thus, a regulation is needed to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
NPRM Comment Period End	01/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter H. Gould, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4116
TDD: 202 326-4179

RIN: 1212–AA54

3853. AMENDMENTS TO VALUATION OF PLAN BENEFITS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341

CFR Citation: 29 CFR 2619

Legal Deadline: None

Abstract: The Retirement Equity Act of 1984 ("REA") requires plans to provide certain benefits, prohibits the elimination of benefit options and certain early retirement benefits and retirement type subsidies, and mandates the range of interest rates that may be used in calculating the amount of a non-consensual lump sum benefit. The Tax Reform Act of 1986 ("TRA '86") slightly modified the interest rate restrictions and extended them to the calculation of all lump sum benefits.

These rules necessitate several amendments to the PBGC's valuation of benefits regulation (29 CFR part 2619). The PBGC also plans to update its mortality tables and to amend the regulation to reflect changes made by the Single-Employer Pension Plan Amendments Act of 1986 (SEPPAA), the Pension Protection Act of 1987 (PPA), and the Retirement Protection Act of 1994 (RPA).

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter H. Gould, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4116
TDD: 202 326-4179

RIN: 1212–AA55

3854. MISCELLANEOUS STATUTORY AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1301 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Statutory amendments to various provisions of ERISA have modified rules that underlie certain PBGC regulations. The PBGC has undertaken several projects that address the effects of a number of these amendments. This rulemaking will address others. In particular, it will amend the regulations to reflect changes made by the Retirement Protection Act of 1994 that are not the subject of other PBGC rulemakings. These include amendments to the rules for determining the variable rate portion of the premium payable by certain single-employer plans (see ERISA section 4006(a)(3)) and to the rules under which the PBGC issues notices of noncompliance with standard termination requirements (see ERISA section 4041(b)(2)).

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marc L. Jordan, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212–AA79

3855. REPORTABLE EVENT REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3); 29 USC 1343

CFR Citation: 29 CFR 2615 subpart A

Legal Deadline: None

Abstract: The Retirement Protection Act of 1994 amended the reportable event requirements in ERISA section 4043 by: (1) applying to contributing sponsors (as well as plan administrators) the requirement to notify the PBGC of a reportable event within 30 days after a person knows or has reason to know of its occurrence; (2) specifying four additional types of events for which notice is required (except as waived by the PBGC); and (3) requiring that, under limited circumstances, a contributing sponsor must notify the PBGC in advance of the occurrence of an event specified in the RPA or prescribed by PBGC regulations. This rule will amend the PBGC's reportable event regulations to implement these statutory changes. The rulemaking will also consider when notice should be required in various situations that may indicate the need to terminate a plan.

Timetable:

Action	Date	FR Cite
Notice of Intent (Negotiated Rulemaking)	08/11/95	60 FR 41033
Notice of Intent Comment/ Application Period End	09/15/95	
Notice of First Meeting (Negotiated Rulemaking)	09/26/95	60 FR 49531
Notice of Establishment of Negotiated Rulemaking Advisory Committee	10/05/95	60 FR 52135
Notice of Meetings (Negotiated Rulemaking)	10/25/95	60 FR 54619
Notice of Meeting (Negotiated Rulemaking)	03/26/96	61 FR 13117
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212–AA80

3856. STANDARD TERMINATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341

CFR Citation: 29 CFR 2617

Legal Deadline: None

Abstract: The PBGC's standard termination regulations (29 CFR part 2617) provide rules and procedures plan administrators must follow to terminate a defined benefit pension plan that has sufficient assets to pay all benefit obligations to participants at the time of termination. The PBGC is reviewing experience under this regulation to determine whether the procedures and time periods for processing a standard termination are appropriate.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Catherine B. Klion, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179
Fax: 202 326-4112

RIN: 1212–AA82

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Final Rule Stage

3857. PAYMENT OF PREMIUMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3); 29 USC 1306; 29 USC 1307

CFR Citation: 29 CFR 2610

Legal Deadline: None

Abstract: Under sections 4006 and 4007 of ERISA, the PBGC has issued its regulation governing the payment of premiums for pension plans subject to Title IV of ERISA (29 CFR part 2610). PBGC studies of ways to simplify premium calculation and filing and to improve premium processing and accounting by PBGC have yielded suggestions for changes in that regulation. As a result, the PBGC has issued a proposed regulation to implement certain changes, relating mainly to filing due dates, treatment of short plan years, simplification of the alternative calculation method, and premium payment requirements for large plans (including what plans are considered large plans for this purpose). The purpose of the changes would be primarily to simplify the premium payment system for plans and the PBGC.

Timetable:

Action	Date	FR Cite
NPRM	04/10/92	57 FR 12666
NPRM Comment Period End	05/26/92	
NPRM Comment Period Extended to 11/16/92	09/17/92	57 FR 42910
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212–AA58

3858. REORGANIZING AND RENUMBERING OF REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1301 et seq

CFR Citation: 29 CFR 2601 - 2677

Legal Deadline: None

Abstract: This rule will reorganize and renumber the PBGC's regulations to track the statutory provisions to which they relate so as to make it easier for the public to locate regulations implementing particular statutory provisions. The other agencies with significant regulatory responsibilities in the pension area (the Internal Revenue Service and the Department of Labor) already track statutory provisions in numbering their regulations, and practitioners are therefore accustomed to searching for pension regulations under statute-based numbering systems.

PBGC — Final Rule Stage

Timetable:

Action	Date	FR Cite
Notice of Intent to Renumber Regulations	07/08/94	59 FR 35067
Notice of Intent Comment Period End	09/06/94	
Final Action	06/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marc L. Jordan, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212–AA75

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Long-Term Actions

3859. PAYMENT OF BENEFITS IN PBGC-TRUSTEED PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 29 CFR 2624

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter H. Gould
Phone: 202 326-4116

RIN: 1212–AA35

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Completed Actions

3860. FINANCIAL ASSISTANCE TO MULTIEMPLOYER PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1431

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: ERISA section 4261(a) provides that the PBGC shall pay financial assistance to insolvent multiemployer plans described in sections 4245(f) and 4281(d) who submit an application for the payment of assistance. The PBGC's regulation on Powers and Duties of Plan Sponsor of Plan Terminated by Mass Withdrawal (29 CFR part 2675) specifies the information that plans described in section 4281(d) (i.e., a plan terminated by the withdrawal of all employers) are required to submit in their application for financial assistance; however, the PBGC has not prescribed regulations specifying the information that a plan subject to section 4245(f) (i.e., a plan that has not terminated by the withdrawal of all employers) is required to file. This regulation would, among other things, (1) specify the information for applications for financial assistance from plans described in section 4245(f); (2) incorporate and revise, as appropriate, the requirements in 29 CFR part 2675 that relate to applications for financial assistance for plans described in section 4281(d); and (3) specify the obligation of the sponsor of a plan that has applied for financial assistance to maintain and make available to the PBGC plan records and other information necessary for the PBGC to determine the plan's eligibility for financial assistance and where assistance has been provided, that such funds have been used solely for the purposes of paying guaranteed benefits and reasonable administrative expenses.

Timetable:

Action	Date	FR Cite
Withdrawn	03/26/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212–AA74

3861. DISCLOSURE AND AMENDMENT OF RECORDS UNDER THE PRIVACY ACT

Priority: Other

Legal Authority: 5 USC 552a

CFR Citation: 29 CFR 2607

Legal Deadline: None

Abstract: The PBGC is dividing one of its systems of records that are subject to the Privacy Act into two systems, and is therefore amending its regulations to describe accurately the pertinent exemption from statutory provisions under the systems of records as so modified. The PBGC is also amending its regulations to reflect its current organization and to increase its standard copying fee (which has not been modified since 1975). The rule also includes several editorial changes.

Timetable:

Action	Date	FR Cite
NPRM	11/15/95	60 FR 57372
NPRM Comment Period End	12/15/95	
Final Action	12/29/95	60 FR 67327
Final Action Effective	01/29/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce Campbell, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212–AA63

3862. FUNDS FOR ADMINISTRATIVE EXPENSES OF SECTION 4049 TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341(c)(3)(B) (Supp. IV 1986); 29 USC 1342(i) (Supp. IV 1986); 29 USC 1349(a) (Supp. IV 1986) as amd. by sec. 9312, PL 100-203; 29 USC 1349(d) (Supp. IV 1986)

PBGC — Completed Actions

CFR Citation: 29 CFR 2626

Legal Deadline: None

Abstract: The Single-Employer Pension Plan Amendments Act of 1986 ("SEPPAA") added to ERISA (in section 4049) a requirement that a "4049 trust" be set up to provide unfunded benefits not guaranteed by the PBGC to participants and beneficiaries of terminated insufficient single-employer plans; SEPPAA also added section 4062(c) to provide for employer liability to a 4049 trust. These provisions were repealed by the Pension Protection Act ("PPA"), but still apply to plans that terminated while they were in effect (roughly 1986-87). PPA also added to section 4049 a requirement that employers liable to a 4049 trust provide funding for administrative expenses of the trust before the section 4062(c) liability is collected, in accordance with regulations to be issued by the PBGC. This regulation would provide a summary procedure for collection of such administrative funding by a 4049 trustee.

Timetable:

Action	Date	FR Cite
Withdrawn	03/26/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas H. Gabriel, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4023
TDD: 202 326-4179

RIN: 1212–AA65

3863. GUARANTEED BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322

CFR Citation: 29 CFR 2613

Legal Deadline: None

Abstract: Under ERISA section 4022, the PBGC guarantees the payment of certain nonforfeitable benefits under single-employer plans that terminate without sufficient assets to fund such benefits. Part 2613 of the PBGC's regulations describes the benefits that are guaranteed, the limitations on the guarantee, and the manner in which guaranteed benefits are paid.

This regulation would amend part 2613 to make it clear the PBGC determines whether a participant is entitled to a guarantee of his or her benefit under a terminated plan based on the participant's age, length of service, disability, or death as of the plan's termination date, rather than as of the day before that date.

Timetable:

Action	Date	FR Cite
Merged With RIN 1212-AA35	03/26/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter H. Gould, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4116
TDD: 202 326-4179

RIN: 1212–AA76

3864. FINANCIAL AND ACTUARIAL INFORMATION REPORTING

Priority: Other Significant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1310

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: ERISA section 4010, added by the Retirement Protection Act of 1994, requires that contributing sponsors of certain underfunded single-employer plans and members of their controlled groups provide the PBGC, annually by a date specified in PBGC regulations, with: (1) records, documents, or other information that PBGC regulations specify as necessary to determine the liabilities and assets of plans covered by the termination insurance program, and (2) copies of their financial statements and other financial information as PBGC regulations may prescribe. This rule implements section 4010.

Timetable:

Action	Date	FR Cite
NPRM	07/05/95	60 FR 35308
NPRM Comment Period End	09/05/95	
Final Action	12/20/95	60 FR 66054
Final Action Effective	01/19/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank H. McCulloch, Senior Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4026
TDD: 202 326-4179

RIN: 1212–AA78

3865. MISSING PARTICIPANTS

Priority: Other Significant

Legal Authority: 29 USC 1302(b); 29 USC 1350

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: ERISA section 4050, added by the Retirement Protection Act of 1994, provides for a procedure whereby the plan administrator of a terminating single-employer plan could give the PBGC information about any missing participant and either transfer the participant's benefits to the PBGC or annuitize the benefits, and the PBGC would pay the benefits, or give the participant the information needed to obtain payment of the annuity, if and when the participant was located or reappeared. The PBGC is required to issue implementing regulations covering the amount to be paid by the plan to the PBGC and by the PBGC to the participant as well as what steps plan administrators are to take in searching for participants. The purpose of the regulations is to provide standards and procedures for carrying out the new missing participants provision.

Timetable:

Action	Date	FR Cite
NPRM	08/24/95	60 FR 44158
NPRM Comment Period End	10/10/95	
Final Action	12/01/95	60 FR 61740
Final Action Effective	01/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212–AA81

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Part XL

Railroad Retirement Board

Semiannual Regulatory Agenda

RAILROAD RETIREMENT BOARD (RRB)

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Semiannual Agenda of Regulations Under Development or Review

AGENCY: Railroad Retirement Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda contains lists of regulations that the Board is developing or proposes to develop in the next 12 months and regulations that are scheduled to be reviewed in that period.

ADDRESSES: 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Assistant General Counsel, Railroad Retirement Board, (312) 751-4513.

SUPPLEMENTARY INFORMATION: Regulations that are routine in nature or pertain solely to internal agency management have not been included in the agenda. Current regulations that are proposed to be modified based on a completed review of the regulations are listed in the agenda.

Dated: February 23, 1996.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3866	Representative Payment	3220-AB14
3867	Railroad Employers' Reports and Responsibilities	3220-AB16
3868	Evidence Required for Payment	3220-AB17
3869	Railroad Employers' Reports and Responsibilities	3220-AB21

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3870	Recovery of Overpayments	3220-AA44
3871	Reduction and Non-Payment of Annuities by Reason of Work	3220-AA61
3872	Employers' Contributions and Contribution Reports	3220-AA79
3873	Determining Disability	3220-AA99
3874	Creditable Railroad Compensation	3220-AB10
3875	Finality of Decisions Regarding Railroad Retirement Annuities	3220-AB15
3876	Availability of Information to Public	3220-AB19
3877	Prohibition of Cigarette Sales to Minors	3220-AB20

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3878	Employers Under the Railroad Retirement Act; Employers Under the Railroad Unemployment Insurance Act	3220-AA51
3879	Employees Under the Railroad Retirement Act	3220-AA52
3880	Voluntary Quit	3220-AA75
3881	Requests for Reconsideration and Appeals Within the Board	3220-AB03
3882	Determining Disability	3220-AB18

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3883	Collection of Debts	3220-AB09

RAILROAD RETIREMENT BOARD (RRB)

Proposed Rule Stage

3866. REPRESENTATIVE PAYMENT

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 355; 45 USC 231k

CFR Citation: 20 CFR 348

Legal Deadline: None

Abstract: This regulation provides guidelines regarding the selection, payment, responsibilities, and monitoring of representative payees under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB14

3867. RAILROAD EMPLOYERS' REPORTS AND RESPONSIBILITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 209

Legal Deadline: None

Abstract: This regulation permits employers to destroy payroll records kept for purposes of crediting compensation under the Railroad Retirement Act after 5 years and explains when payroll records may be used to establish compensation under the Railroad Retirement Act in lieu of the prescribed report.

Timetable:

Action	Date	FR Cite
NPRM	02/15/96	61 FR 5970
NPRM Comment Period End	04/15/96	
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB16

3868. EVIDENCE REQUIRED FOR PAYMENT

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 219

Legal Deadline: None

Abstract: The Railroad Retirement Board amends its regulations to permit the use of noncertified and facsimile copies of records or documents needed to establish eligibility for benefits.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB17

3869. • RAILROAD EMPLOYERS' REPORTS AND RESPONSIBILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 209

Legal Deadline: None

Abstract: The Board's regulations are amended to modernize reporting requirements and to require certain Canadian citizens to obtain a social security number so that their creditable railroad service can be properly reported to the Board.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB21

RAILROAD RETIREMENT BOARD (RRB)

Final Rule Stage

3870. RECOVERY OF OVERPAYMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 255

Legal Deadline: None

Abstract: The Board plans to issue a final regulation dealing with collection and waiver of overpayments under the Railroad Retirement Act. This regulation clarifies the agency's policy and practice with respect to debt collection.

Statement of Need: The agency's policy and practice with respect to recovery and waiver of recovery of overpayments, as established through normal adjudication, has evolved beyond the current regulation and the regulation is being updated to reflect this current policy and practice.

Summary of the Legal Basis: The general authority for issuance of regulations under the Railroad Retirement Act is provided for in section 7(b)(5) of the Act (45 USC 231f(b)(5)).

Alternatives: None.

Anticipated Costs and Benefits: This regulation should result in savings in administrative costs associated with protests and appeals in debt recovery cases.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	09/19/91	56 FR 47426
ANPRM Comment Period End	10/21/91	
NPRM	12/28/95	60 FR 67108
NPRM Comment Period End	01/29/96	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA44

3871. REDUCTION AND NON-PAYMENT OF ANNUITIES BY REASON OF WORK

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 230

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) proposes to amend 20 CFR Part 230 to explain how annuity deductions on account of work are assessed in accordance with current law.

Timetable:

Action	Date	FR Cite
NPRM	08/16/95	60 FR 42482
NPRM Comment Period End	09/25/95	60 FR 43999
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA61

3872. EMPLOYERS' CONTRIBUTIONS AND CONTRIBUTION REPORTS

Priority: Other Significant

Legal Authority: 45 USC 362(l); 45 USC 358(a)(19)

CFR Citation: 20 CFR 345

Legal Deadline: None

Abstract: These regulations define how a contribution rate is determined in the case of merger, sale, or partition of two or more rail employers and describe generally how experience-rated contribution rates are determined under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	08/18/95	60 FR 43300
NPRM Comment Period End	10/17/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA79

3873. DETERMINING DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231a; 45 USC 231f

CFR Citation: 20 CFR 220.114

Legal Deadline: None

Abstract: Section 114 of part 220 is being amended to expand the Board's description of the manner in which symptoms, including pain, are evaluated for purposes of determining disability.

Timetable:

Action	Date	FR Cite
NPRM	09/11/95	60 FR 47122
NPRM Comment Period End	11/13/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA99

3874. CREDITABLE RAILROAD COMPENSATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 211

Legal Deadline: None

Abstract: This regulation explains when the Board will correct a record of compensation after the four-year limit provided for in section 9 of the Railroad Retirement Act.

Timetable:

Action	Date	FR Cite
NPRM	12/26/95	60 FR 66770
NPRM Comment Period End	02/26/96	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB10

3875. FINALITY OF DECISIONS REGARDING RAILROAD RETIREMENT ANNUITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 261

Legal Deadline: None

Abstract: This new part explains when the Board may reopen a claim for benefits under the Railroad Retirement Act.

Statement of Need: The rules governing finality are presently contained in Board Orders which are not readily available to the public. The Board Order regarding finality of decisions provides that finality of certain decisions is based on a number of factors; adjudication based on these factors is difficult to administer. Also the Board Order does not contain any time limits on reopening.

Summary of the Legal Basis: The general authority for issuance of regulations under the Railroad Retirement Act is provided for in section 7(b)(5) of the Act (45 USC 231f(b)(5)).

Alternatives: None.

Anticipated Costs and Benefits: There will be no additional costs or burdens imposed by this regulation over and above those imposed by the statute or existing regulation.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66203
NPRM Comment Period End	02/20/96	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB15

3876. • AVAILABILITY OF INFORMATION TO PUBLIC

Priority: Routine and Frequent

Legal Authority: 45 USC 231f(b)(3); 45 USC 231f(b)(5); 45 USC 362

CFR Citation: 20 CFR 200.4

Legal Deadline: None

Abstract: The Board's regulations establishing fees to be assessed in connection with the search for records and the provision of documents are amended to eliminate the exemption from charges for reproduction of records and search time for certain groups of requesters.

Timetable:

Action	Date	FR Cite
NPRM	01/18/96	61 FR 1252
NPRM Comment Period End	03/18/96	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB19

3877. • PROHIBITION OF CIGARETTE SALES TO MINORS

Priority: Other

Legal Authority: PL 104-52, sec 636

CFR Citation: 20 CFR 368

Legal Deadline: Final, Statutory, February 17, 1996.

Abstract: The Board amends its regulations to prohibit tobacco product vending machine sales and the distribution of free tobacco product samples on Federal Government property.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/04/96	61 FR 8213
Interim Final Rule Effective	03/04/96	
Interim Final Rule Comment Period End	04/03/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB20

RAILROAD RETIREMENT BOARD (RRB) — Long-Term Actions

3878. EMPLOYERS UNDER THE RAILROAD RETIREMENT ACT; EMPLOYERS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Priority: Other Significant

Legal Authority: 45 USC 231f(b)(5); 45 USC 362(l)

CFR Citation: 20 CFR 202; 20 CFR 301

Legal Deadline: None

Abstract: The Board is considering revisions to existing parts 202 and 301 of the Board's regulations defining entities covered as employers under the Railroad Retirement and Railroad Unemployment Insurance Acts to reflect case-by-case adjudications that have occurred since the regulations were originally adopted. The Board will seek input from rail employers and rail labor on the need to revise the regulations as well as on the revisions to be made. In addition, any revisions will be referred for review and comment to the Internal Revenue Service, which administers a companion statute, the Railroad Retirement Tax Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Sectors Affected: 40 Railroad Transportation

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513

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RRB — Long-Term Actions

TDD: 312 751-4701
Fax: 312 751-7102
RIN: 3220–AA51

3879. EMPLOYEES UNDER THE RAILROAD RETIREMENT ACT

Priority: Other Significant

Legal Authority: 45 USC 231f(b)(5); 45 USC 362(l)

CFR Citation: 20 CFR 203

Legal Deadline: None

Abstract: The Board is considering revising existing part 203 of the Board's regulations defining individuals covered as employees under the Railroad Retirement Act to reflect case-by-case adjudications that have occurred since the regulations were originally adopted. The Board will seek input from rail employers and rail labor on the need to revise the regulations as well as on the revisions to be made. In addition, any revisions will be referred for review and comment to the Internal Revenue Service, which administers a companion statute, the Railroad Retirement Tax Act.

Timetable:

Action	Date	FR Cite
NPRM	01/05/89	54 FR 318
NPRM Comment Period End	02/06/89	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: State, Federal

Sectors Affected: 40 Railroad Transportation

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102
RIN: 3220–AA52

3880. VOLUNTARY QUIT

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 328

Legal Deadline: None

Abstract: A new part 328 is added to explain when unemployment insurance benefits are not payable because the employee voluntarily left employment.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102
RIN: 3220–AA75

3881. REQUESTS FOR RECONSIDERATION AND APPEALS WITHIN THE BOARD

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 231f(b)(5); 45 USC 231g; 45 USC 355

CFR Citation: 20 CFR 260

Legal Deadline: None

Abstract: The RRB is amending its regulations to provide for its field offices to make timeliness determinations on requests for reconsideration of decisions of the RRB's various adjudicating units.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102
RIN: 3220–AB03

3882. DETERMINING DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 220

Legal Deadline: None

Abstract: The Board amends its regulations to update and revise its standards for determining occupational disability under the Railroad Retirement Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102
RIN: 3220–AB18

RAILROAD RETIREMENT BOARD (RRB) — Completed Actions

3883. COLLECTION OF DEBTS

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 366; 20 CFR 367

Completed:

Reason	Date	FR Cite
Final Action	12/21/95	60 FR 66072
Final Action Effective	12/21/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler
Phone: 312 751-4513
TDD: 312 751-4701
Fax: 312 751-7102
RIN: 3220–AB09

[FR Doc. 96-5654 Filed 05-10-96; 8:45 am]
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federal register

Monday
May 13, 1996

Part XLI

Selective Service System

Semiannual Regulatory Agenda

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SELECTIVE SERVICE SYSTEM (SSS)

SELECTIVE SERVICE SYSTEM

32 CFR Ch. XVI

Regulatory Agenda

AGENCY: Selective Service System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Selective Service System that might affect the processing of registrants under the Military Selective Service Act (50 U.S.C. app. 451 *et seq.*). This information will allow the public to participate in the System's decisionmaking at an early stage.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, 1515 Wilson Boulevard, Arlington, Virginia 22209-2425; telephone (703) 235-2050.

SUPPLEMENTARY INFORMATION: The agenda is published in accord with the requirements of E.O. 12866. Selective Service regulations appear in 32 CFR chapter XVI.

Dated: February 13, 1996.

Gil Coronado,

Director of Selective Service.

SELECTIVE SERVICE SYSTEM (SSS) — Long-Term Actions

3884. SELECTIVE SERVICE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 451 et seq, Military Selective Service Act

CFR Citation: 32 CFR ch XVI

Legal Deadline: None

Abstract: Various sections of 32 CFR chapter XVI will be revised to increase clarity of expression or change procedures for registrant processing.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Henry N. Williams, General Counsel, Selective Service System, 1515 Wilson Boulevard, Arlington, VA 22209-2425
Phone: 703 235-2050

RIN: 3240–AA01

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Monday
May 13, 1996

Part XLII

Small Business Administration

Semiannual Regulatory Agenda

SMALL BUSINESS ADMINISTRATION (SBA)

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: Small Business Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: This is SBA's 34th semiannual agenda of regulations. Although SBA is not a regulatory agency, it has attempted to draft agendas that meet both the criteria and the spirit of the regulatory review process. This agenda is published pursuant to Executive Order 12866 and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and Public Law 96-354, effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, SBA encourages the public to contact the individual agency official listed for the particular item.

For information concerning SBA's overall Regulatory Review and Development Program or general semiannual agenda questions, contact Martin D. Teckler, Deputy General Counsel, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 205-6642.

SUPPLEMENTARY INFORMATION: This SBA agenda highlights the agency's ambitious program to streamline its present and prospective regulatory activity. In response to President Clinton's regulatory review initiative, SBA completed a page-by-page, line-by-line review of all its existing regulations to determine which should be revised or eliminated. As a result, SBA revised 100 percent of the regulations within its power to change. It eliminated as unnecessary more than 50 percent of those pages of regulatory text, restructuring the regulations and writing them in plain language. Users of SBA's regulations can now locate applicable rules more readily and understand their terms more clearly.

The SBA agenda contains many regulations that are limited in public impact, but they are included to increase public knowledge of all SBA regulatory activities and allow for increased public participation in the review and development process. Public comments on SBA's previous agendas have been general, and all were positive. They were not directed at specific content nor were any changes suggested or recommended.

The SBA agenda format has three parts. Part I, Proposed Rules, includes rulemakings that will be proposed during the 12-month period covered by the agenda. Part II, Final Rules, includes proposed rules that will be finalized during the period covered by the agenda. Part III, Completed Actions, includes regulations completed or withdrawn and reviews completed since the preceding agenda.

Publication of the agenda does not impose any binding obligation on SBA with regard to any specific item in the agenda. Additional regulatory action not listed on the agenda is not precluded.

SBA's regulations will be developed in a manner that promotes growth in the economy while imposing no unnecessary regulatory burdens on the public. SBA's regulatory streamlining initiative served this goal by improving the Agency's ability to provide services quickly and at minimum cost to its small business customers.

Dated: March 29, 1996.

Philip Lader,

Administrator.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3885	Nondiscrimination in Federally Assisted Programs	3245-AB36
3886	Nondiscrimination in Financial Assistance Programs	3245-AB37
3887	Minority Small Business and Capital Ownership Development Program; Eligibility and Contractual Assistance	3245-AC30
3888	Small Business Size Standards; Health Care Services Industries	3245-AC68
3889	Surety Bond Guarantee; Multiyear Guaranty Authority	3245-AD15
3890	Business Loan Policy; Care and Preservation of Collateral (CPCs)	3245-AD21
3891	Nondiscrimination by Recipients of SBA Assistance and SBA	3245-AD68
3892	Minority Enterprise Development/Small Disadvantaged Business	3245-AD70
3893	Small Business Size Standards; Size Standards by the North American Industry Classification System	3245-AD81

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3894	Supplemental Standards of Ethical Conduct for Employees of the Small Business Administration	3245-AC96
3895	Business Loans Policy; SBA Guaranty	3245-AD22
3896	Amendments to the Amount of Flood Insurance Coverage Required of Recipients of Certain SBA Assistance	3245-AD28
3897	Small Business Size Standards (Ostensible Subcontractor Rule)	3245-AD45

SBA

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3898	Small Business Size Standards for Natural Gas Distribution	3245-AB94

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3899	Certificate of Competency	3245-AA74
3900	Loans to State and Local Development Companies; Section 502 Loan Program	3245-AB35
3901	User Fees for SBA Programs	3245-AB44
3902	Business Loans	3245-AB99
3903	Regulations for the Implementation of New 301(d) SBIC Funding Authority and Terms Contained in Public Law 101-162	3245-AC09
3904	Amendments to Administration Regulations	3245-AC20
3905	Small Business Size Regulations	3245-AC31
3906	Surety Bond Guarantee; Regulations	3245-AC60
3907	Small Business Size Standards; Adjustment and Collection Agencies	3245-AC64
3908	Small Business Size Standards; Advertising Services Industries	3245-AC78
3909	Small Business Size Regulation	3245-AC87
3910	Veterans' Program	3245-AC95
3911	Women-Owned Business Definition and Protest and Appeal Process	3245-AC98
3912	Small Business Size Standards; Establishment of Size Standards	3245-AD07
3913	Small Business Investment Company Leverage	3245-AD29
3914	Business Loans-Alter Ego; Development Companies—Alter Ego	3245-AD31
3915	Export Working Capital Program	3245-AD43
3916	Business Loans: Microloans	3245-AD48
3917	Prepayment of Certain Debentures	3245-AD51
3918	Loans to State and Local Development Companies; Computer-Generated Facsimiles of SBA Forms	3245-AD52
3919	Loans to State and Local Development Companies; Premier Certified Lenders Program	3245-AD54
3920	Small Business Size Regulations; Nonmanufacturer Rule	3245-AD57
3921	Physical Disaster and Economic Injury Loan (Agriculture)	3245-AD59
3922	Loans to State and Local Development Companies; Section 504 Loans Program Amendments	3245-AD60
3923	Small Business Size Standards; Conference Planners	3245-AD63
3924	Elimination of Parts 106, 109, 110, 111, 128, 129, 144 of Chapter 1 of Title 13, and Part 2209 of Title 48 of CFR	3245-AD65
3925	Freedom of Information and Privacy Act of 1974	3245-AD66
3926	Policies of General Application/Standards for Conducting Business with SBA	3245-AD67
3927	Small Business Size Standards	3245-AD69
3928	Disaster - Physical Disaster and Economic Injury Loans	3245-AD71
3929	Policies of General Application/Administrative Tort Claims	3245-AD72
3930	Debt Collection	3245-AD73
3931	Surety Bond Guerantee	3245-AD74
3932	Business Loans	3245-AD75
3933	Small Business Investment Companies	3245-AD76
3934	Standards of Conduct and Other Employee Responsibilities	3245-AD77
3935	Government Contracting Assistance	3245-AD78
3936	Rules of Procedure Governing Cases Before the Office of Hearings and Appeals	3245-AD79
3937	Program Fraud Civil Remedies Act Regulations	3245-AD80

3885. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Priority: Other

Legal Authority: 15 USC 634(b)(6); 42 USC 2000d-1

CFR Citation: 13 CFR 112

Legal Deadline: None

Abstract: Technical amendment to SBA's current regulation to clarify that if recipients of assistance under any of SBA's programs are found to have discriminated, SBA is authorized to take certain actions such as withholding further assistance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Erline M. Patrick, Assistant Administrator for Equal Employment Opportunity & Compliance, Small Business Administration, 409 Third Street SW., 4th Floor, Washington, DC 20416
Phone: 202 205-6750

RIN: 3245–AB36

3886. NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS

Priority: Other

Legal Authority: 15 USC 634(b)(6); PL 85-536; 15 USC 633; 15 USC 634; 15 USC 687; 15 USC 1691; 20 USC 1681 et seq; 29 USC 794

CFR Citation: 13 CFR 113

Legal Deadline: None

Abstract: Technical amendment to SBA's current regulation to clarify that if a beneficiary of one of SBA's financial assistance programs is found to have discriminated, SBA is authorized to take certain actions such as withholding further assistance or accelerating a loan.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Erline M. Patrick, Assistant Administrator for Equal Employment Opportunity & Compliance, Small Business Administration, 409 Third Street SW., 4th Floor, Washington, DC 20416
Phone: 202 205-6750

RIN: 3245–AB37

3887. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM; ELIGIBILITY AND CONTRACTUAL ASSISTANCE

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(j); 15 USC 637(a); 15 USC 637(d); PL 99-661, sec 1207; PL 100-656; PL 101-37; PL 101-574

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This rule is an amendment to the program regulations governing appeals of denials of certain program actions, and denials of requests for waiver of the requirement that, subject to certain certain conditions, an 8(a) contract must be performed by the contractor to which it was awarded.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Herbert L. Mitchell, Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6410

RIN: 3245–AC30

3888. SMALL BUSINESS SIZE STANDARDS; HEALTH CARE SERVICES INDUSTRIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(a); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise some or all of the 11 size standards within the health care services industries. The current size standard of $5 million in average annual receipts applies to each health care industry.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AC68

3889. SURETY BOND GUARANTEE; MULTIYEAR GUARANTY AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: See Additional Information.

CFR Citation: 13 CFR 115

Legal Deadline: None

Abstract: Legislation has been enacted to allow small business access to Office of Surety Guarantee funds on a revolving basis instead of availability per annual budget. Regulatory changes will result.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This rule will be published upon enactment of legislation which has been proposed to Congress.

Agency Contact: Robert J. Moffitt, Assistant Administrator, Office of Surety Guarantees, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6540

RIN: 3245–AD15

3890. BUSINESS LOAN POLICY; CARE AND PRESERVATION OF COLLATERAL (CPCS)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 631; 41 USC 403(11)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: Section 5(b)(4) of the Small Business Act sets a limit of $1,000 on the amount of CPC which can be obtained without competitive bid. This section was based on procurement legislation which was in effect at the time the Act was drafted (40 years ago). Since then, the amount contained in procurement regulations has steadily increased. It is currently $25,000. Unfortunately, the Small Business Act was never amended and remains at $1,000. This unrealistic limit greatly impedes the field offices' ability to perform their required tasks efficiently. To correct this oversight and to prevent a recurrence, the end of the second sentence of the Small Business Act will be amended to read ". . . or the amount thereof does not exceed the small purchase threshold as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 USC 403(11))." The Agency will use SOP 50 50 1 to set limits on amounts within the small purchase threshold.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
Final Action	12/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Arnold Rosenthal, Acting Assistant Administrator, Office of Portfolio Management, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6481

RIN: 3245–AD21

3891. NONDISCRIMINATION BY RECIPIENTS OF SBA ASSISTANCE AND SBA

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); 42 USC 2000d-1; 20 USC 1681 to 1686; 29 USC 794; 42 USC 6101 et seq

CFR Citation: 13 CFR 112; 13 CFR 113; 13 CFR 117; 13 CFR 136

Legal Deadline: None

Abstract: In response to President Clinton's Governmentwide Regulatory Reform initiative, the SBA has completed a page-by-page, line-by-line review of all its existing regulations to determine which might be revised or eliminated. This proposed rule would consolidate into one part, four existing parts of SBA's regulations pertaining to compliance by SBA and recipients of SBA assistance with the various applicable civil rights laws of the United States. This consolidation of parts 112, 113, 117 and 136 avoids unnecessary duplication in the regulations and leaves one regulation involving civil rights compliance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Cheri Wolff, Chief Counsel for General Litigation, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6643

RIN: 3245–AD68

3892. MINORITY ENTERPRISE DEVELOPMENT/SMALL DISADVANTAGED BUSINESS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); 15 USC 637(a); 15 USC 637(d)

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: This proposed rule would amend both eligibility requirements for and contractual assistance provisions within the SBA's minority enterprise development program. It is designed to streamline the operation of the MED program, to ease certain restrictions perceived to be burdensome on program participants, to clarify certain eligibility requirements, and to delete obsolete regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John W. Klein, Chief Counsel for Procurement, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6645

RIN: 3245–AD70

3893. • SMALL BUSINESS SIZE STANDARDS; SIZE STANDARDS BY THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 644(c)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: The SBA establishes small business definitions by industry category. The present standard industrial classification system is being replaced by the North American industry classification system effective January 1977. This rule would convert SBA size standards to the new classification system.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
Final Action	01/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AD81

SMALL BUSINESS ADMINISTRATION (SBA) — Final Rule Stage

3894. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE SMALL BUSINESS ADMINISTRATION

Priority: Other Significant

Legal Authority: 15 USC 684; 15 USC 637(a)(18); 15 USC 637(a)(19); EO 12674

CFR Citation: 5 CFR 5400

Legal Deadline: None

Abstract: The Small Business Administration and the Office of Government Ethics are jointly issuing this proposed rule which is designed to establish uniform standards of ethical conduct for the officers and employees of the SBA. This proposed rule will be published at 5 CFR ch XLIV and will supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics (57 FR 35006; Aug. 7, 1992). This proposed rulé is necessary to supplement the standards issued by OGE because it addresses ethical issues which are unique to SBA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Robinson S. Nunn, Chief Counsel for Ethics, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6645

RIN: 3245–AC96

3895. BUSINESS LOANS POLICY; SBA GUARANTY

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 631

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: In a previous ruling, the Office of General Counsel stated that the Small Business Act limited the Agency's guaranty to loans only. For this reason, when a participating lender servicing a liquidation account finds a term buyer for assets acquired through foreclosure, the Agency is forced to expend funds to purchase the guaranty and establish the account as an immediate participation even if such action is not in the government's best interest. The first sentence of section 5(b)(7) of the Small Business Act will be amended to read "...dealing with or realizing on loans made under the provisions of this Act and receivables relating thereto or emanating therefrom...." The Agency will use SOP 50 51 1 to establish operating parameters for the loan servicing offices.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/96	
Final Action	12/00/97	
Final Action Effective	12/00/98	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Arnold Rosenthal, Acting Assistant Administrator, Office of Portfolio Management, Small Business Administration, 409 Third Street SW., Suite 8000, Washington, DC 20416
Phone: 202 205-6481

RIN: 3245–AD22

3896. AMENDMENTS TO THE AMOUNT OF FLOOD INSURANCE COVERAGE REQUIRED OF RECIPIENTS OF CERTAIN SBA ASSISTANCE

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(b); 15 USC 636(c); 15 USC 636(f); PL 102-395; PL 103-75

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: Under the proposed rule, flood insurance would be required in an amount equal to the lesser of (1) the sum of all liens on the property (including any SBA lien) plus, if the SBA assistance is unsecured, the outstanding balance of the SBA assistance or (2) the insurable value of the property, but in no event would the required insurance exceed the maximum flood insurance available under the National Flood Insurance Act of 1968.

Timetable:

Action	Date	FR Cite
Final Action	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Bernard Kulik, Assistant Administrator for Disaster Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6734

RIN: 3245–AD28

3897. SMALL BUSINESS SIZE STANDARDS (OSTENSIBLE SUBCONTRACTOR RULE)

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Ostensible subcontractor and affiliation rule. The rule would permit small businesses to enter into subcontracts with certain public utilities for the lease and use of distribution facilities without being considered affiliated with the public utility where the small business prime contractor adds meaningful value to the contract.

Timetable:

Action	Date	FR Cite
NPRM	01/23/95	60 FR 4389
NPRM Comment Period End	03/24/95	
Final Action	05/00/96	
Final Action Effective	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., Suite 8100, Washington, DC 20416
Phone: 202 205-6840

RIN: 3245–AD45

SMALL BUSINESS ADMINISTRATION (SBA) — Long-Term Actions

3898. SMALL BUSINESS SIZE STANDARDS FOR NATURAL GAS DISTRIBUTION

Priority: Routine and Frequent

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); PL 99-591; PL 99-661

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: SBA is imposing a size standard of 500 employees for the recently deregulated natural gas distribution industry firms which now compete for Federal natural gas contracts.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/25/88	53 FR 47663
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AB94

SMALL BUSINESS ADMINISTRATION (SBA) — Completed Actions

3899. CERTIFICATE OF COMPETENCY

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 31 USC 9701; 31 USC 9702

CFR Citation: 13 CFR 125.5

Legal Deadline: None

Abstract: Overall revision to Certificate of Competency regulations. Additionally, this rule includes guidelines for application of subcontracting limitations imposed by PL 99-591 and PL 99-661.

Timetable:

Action	Date	FR Cite
NPRM	08/21/92	57 FR 37909
NPRM Comment Period End	10/20/92	
NPRM - General Revision of Part 125	11/27/95	60 FR 58276
Final Action - Merged with RIN 3245-AD78	01/31/96	61 FR 3310
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: RIN 3245-AB62 has been merged with this rulemaking action.

Agency Contact: Thomas A. Dumaresq, Associate Administrator for Government Contracting, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6460

RIN: 3245–AA74

3900. LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES; SECTION 502 LOAN PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: The regulations governing the section 502 loan program are revised to include the same project eligibility provisions which currently appear in the 503/504 regulations. Additionally, the revised regulations reflect that the focus of the 502 loan program is to facilitate and encourage lending in rural areas, which is one of SBA's current priorities.

Timetable:

Action	Date	FR Cite
NPRM	12/15/95	60 FR 64356
NPRM Comment Period End	01/15/96	
Withdrawn	03/18/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Additional Information: The language in the abstract has been revised to more accurately represent the proposed changes.

Agency Contact: Michael Dowd, Office of Loan Programs, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6570

RIN: 3245–AB35

3901. USER FEES FOR SBA PROGRAMS

Priority: Routine and Frequent

Legal Authority: 15 USC 687(c); 15 USC 687d; 15 USC 687g; 15 USC 694a; 15 USC 694b; 5 USC app 1; 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 631; 15 USC 637(b); 15 USC 636(i); 15 USC 636(j); PL 93-113

CFR Citation: 13 CFR 101; 13 CFR 107; 13 CFR 115; 13 CFR 121; 13 CFR 124; 13 CFR 125; 13 CFR 129

Legal Deadline: None

Abstract: Establishment or modification of user fees for the following: use of SBA's Office of Advocacy database; guaranty of debentures issued by Small Business Investment Companies; guaranty of surety bonds, appeals of size determinations and standard industrial classification code designations; application to the Minority Small Business (Section 8(a)) Program; SBA's Office of Women's Business Ownership, and SBA's Office of Veterans Affairs; and application for a Certificate of Competency.

Timetable:

Action	Date	FR Cite
Withdrawn	03/06/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Martin D. Teckler, Deputy General Counsel, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6642

RIN: 3245–AB44

3902. BUSINESS LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(h); 31 USC 3717(e)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: This rule allows SBA to recover its collection costs from borrowers who have failed to satisfy their loan agreements and to assess additional penalties permitted by law.

Timetable:

Action	Date	FR Cite
NPRM	08/28/89	54 FR 35499
NPRM Comment Period End	09/27/89	
NPRM	05/19/93	58 FR 29152
NPRM - General Revision of Part 120	12/15/95	60 FR 64356
Final Action - Merged with RIN 3245-AD75	01/31/96	61 FR 3226
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: A second notice of proposed rulemaking was published May 19, 1993 (58 FR 29152). However, the second NPRM only addressed Business Loans (13 CFR 120).

Agency Contact: John Cox, Assistant Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AB99

3903. REGULATIONS FOR THE IMPLEMENTATION OF NEW 301(D) SBIC FUNDING AUTHORITY AND TERMS CONTAINED IN PUBLIC LAW 101-162

Priority: Other Significant

Legal Authority: 15 USC 681 et seq, as amended; PL 100-590; PL 101-162

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This rule changes the present regulations governing the Small Business Investment Company (SBIC) program in order to implement amendments made to the Small Business Investment Act (15 USC 661 et seq) by Public Laws 100-590 and 101-162 with regard to funds invested in private capital, provisions followed by SBA to buy down leverage in 301(d) SBICs and to set the interest rate on preferred securities purchased by SBA after November 20, 1988.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/10/90	55 FR 28166
NPRM - Revision of Entire Part 107	11/28/95	60 FR 58530
Final Action	01/31/96	61 FR 3177
Final Action Effective	01/31/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Ronald C. Cibolski, Director, Office of Investment, Small Business Administration, 409 Third Street SW., Washington, DC 20416
Phone: 202 205-6510

RIN: 3245–AC09

3904. AMENDMENTS TO ADMINISTRATION REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); 5 USC 552; 15 USC 633; 15 USC 687; 44 USC 3512; EO 12372; EO 12416

CFR Citation: 13 CFR 101

Legal Deadline: None

Abstract: These amendments to 13 CFR part 101 update the rules for the administration of the Agency.

Timetable:

Action	Date	FR Cite
NPRM	11/24/95	60 FR 57965
NPRM Comment Period End	12/24/95	
Final Action	01/26/96	61 FR 2394
Final Action Effective	02/26/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Mary Ann Gladden, Special Assistant to the Director of Personnel, Small Business Administration, 409 Third Street SW., 4th Floor, Washington, DC 20416
Phone: 202 205-6782

RIN: 3245–AC20

3905. SMALL BUSINESS SIZE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); PL 100-590

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule contains revisions to the size regulations to address employee leasing arrangements, altering the jurisdiction of OHA, and other miscellaneous changes.

Timetable:

Action	Date	FR Cite
NPRM	11/24/95	60 FR 57982
NPRM Comment Period End	12/24/95	
Final Action - Merged with RIN 3245-AD69	01/31/96	61 FR 3280
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Catherine Thomas, Program Manager, Size Determination Program, Office of Procurement Policy and Liaison, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6460

RIN: 3245–AC31

3906. SURETY BOND GUARANTEE; REGULATIONS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 687b; 15 USC 694a; 15 USC 694b; 5 USC app 1; PL 100-590

CFR Citation: 13 CFR 115

Legal Deadline: None

Abstract: The entire program regulations are revised and reorganized to include substantive policy and procedural modifications which will be implemented. This revision is intended to eliminate inconsistencies, clarify procedures, reflect program experience and industry changes, and result in more efficient program operation. Regulatory changes include regulations pertaining to both the prior approval and preferred programs, fees, and premiums and claims for losses.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58263
NPRM Comment Period End	12/26/95	
Final Action	01/31/96	61 FR 3266
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: RIN 3245-AC97 has been merged into this entry.

Agency Contact: Robert Moffitt, Assistant Administrator for Surety Guarantees, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6540

RIN: 3245–AC60

3907. SMALL BUSINESS SIZE STANDARDS; ADJUSTMENT AND COLLECTION AGENCIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(a); PL 100-656

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to revise the size standard for the Adjustment and Collection Agencies. The current size standard is $5 million in gross receipts. The proposal will also address the issue of receipts calculated on a net income or gross income basis.

Timetable:

Action	Date	FR Cite
Withdrawn	03/06/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AC64

3908. SMALL BUSINESS SIZE STANDARDS; ADVERTISING SERVICES INDUSTRIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 644(c)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule increases the size standard for four advertising services industries from $3.5 million in annual receipts (defined to include all revenue in whatever form received or accrued from whatever source) to $6 million in annual receipts (excluding amounts remitted to other firms).

Timetable:

Action	Date	FR Cite
NPRM	08/25/92	57 FR 38452
NPRM Comment Period End	09/24/92	
NPRM - Revision of Entire Part 121	11/24/95	60 FR 57982
Final Action - Merged with RIN 3245-AD69	01/31/96	61 FR 3280
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AC78

3909. SMALL BUSINESS SIZE REGULATION

Priority: Other Significant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 644(c); PL 101-574

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Rule to establish procedures for requesting/granting waivers of the nonmanufacturer rule on specific solicitations, based on contracting officer determinations.

Timetable:

Action	Date	FR Cite
NPRM	09/21/93	58 FR 48981
NPRM Comment Period End	10/21/93	
NPRM - Revision of Entire Part 121	11/24/95	60 FR 57982
Final Action - Merged with RIN 3245-AD69	01/31/96	61 FR 3280
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Judith Roussel, Associate Administrator for Government Contracting, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6460

RIN: 3245–AC87

3910. VETERANS' PROGRAM

Priority: Other Significant

Legal Authority: PL 93-237; 15 USC 634(b)(6)

CFR Citation: 13 CFR 116.2; 13 CFR 116.3

Legal Deadline: None

Abstract: PL 93-237 requires that SBA provide special consideration to veterans, their survivors or dependents in the administration of Agency programs. This rule amends the current definition of veteran and special consideration. The rule is part of the revised Part 120. Part 116 is no longer in effect.

Timetable:

Action	Date	FR Cite
NPRM	12/15/95	60 FR 64356
NPRM Comment Period End	01/15/96	
Final Action - Merged with RIN 3245-AD75	01/31/96	61 FR 3226
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Leon Bechet, Director, Office of Veterans Affairs, Small Business Administration, 409 Third Street SW., 6th Floor, Washington, DC 20416
Phone: 202 205-6773

RIN: 3245–AC95

3911. WOMEN-OWNED BUSINESS DEFINITION AND PROTEST AND APPEAL PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 631; 15 USC 632(a); 15 USC 634(b)(6); 15 USC 656; EO 12138

CFR Citation: 13 CFR 126

Legal Deadline: None

Abstract: Executive Order 12138 created a national women's business enterprise policy and prescribed arrangements for developing, coordinating, and implementing a national program for women's business enterprise. This EO states that each department and agency of the executive branch "shall take appropriate action to facilitate, preserve, and strengthen" women-owned businesses. SBA proposed these regulations to establish a definition of "women-owned business" and to provide a process to expeditiously resolve challenges to a self-certification of a women-owned business.

Timetable:

Action	Date	FR Cite
Withdrawn	03/06/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Ellen Thrasher, Deputy Director for Women's Business Ownership, Small Business Administration, 409 Third Street SW., Room 6250, Washington, DC 20416 Phone: 202 205-6673

RIN: 3245–AC98

3912. SMALL BUSINESS SIZE STANDARDS; ESTABLISHMENT OF SIZE STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(c); PL 102-366

CFR Citation: 13 CFR 121

Legal Deadline: NPRM, Statutory, March 4, 1993. Final, Statutory, March 4, 1993.

Abstract: Rule to establish procedures for the development of small business size standards by other Federal agencies and for SBA's review of those standards.

Timetable:

Action	Date	FR Cite
Notice	08/24/93	58 FR 44620
NPRM	11/24/95	60 FR 57982
NPRM Comment Period End	12/25/95	
Final Action - Merged with RIN 3245-AD69	01/31/96	61 FR 3280
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416 Phone: 202 205-6618

RIN: 3245–AD07

3913. SMALL BUSINESS INVESTMENT COMPANY LEVERAGE

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 681 et seq; 15 USC 687(c); 15 USC 683; 15 USC 687d; 15 USC 687g; 15 USC 687b; 15 USC 687m

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This regulation exempts non-leveraged licensees from certain regulations primarily intended to safeguard SBA's interests as a creditor of, guarantor of, and/or investor in, leveraged licensees.

Timetable:

Action	Date	FR Cite
NPRM	11/29/95	60 FR 58530
NPRM Comment Period End	12/29/95	
Final Action - Merged with RIN 3245-AD76	01/31/96	61 FR 3177
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Donald Christensen, Associate Administrator for Investment, Small Business Administration, 409 Third Street SW., 6th Floor, Washington, DC 20416 Phone: 202 205-6510

RIN: 3245–AD29

3914. BUSINESS LOANS-ALTER EGO; DEVELOPMENT COMPANIES—ALTER EGO

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 687(c); 15 USC 695; 15 USC 696; 15 USC 697a; 15 USC 697b; 15 USC 697c; 15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(h)

CFR Citation: 13 CFR 108; 13 CFR 120

Legal Deadline: None

Abstract: This rule allows certain passive businesses to be eligible for SBA financial assistance under both the SBA's development company and 7(a) business loan programs if that assistance is used only to acquire and/or improve real or personal property leased to a small business and is used in that small business' operations. The rule eliminates certain requirements and restrictions which previously limited the use of real estate holding entities in SBA's business loan and development company programs.

Timetable:

Action	Date	FR Cite
NPRM	12/15/95	60 FR 64356
NPRM Comment Period End	01/15/96	
Final Action - Merged with RIN 3245-AD75	01/31/96	61 FR 3226
Final Action Effective	03/01/96	

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: John Cox, Assistant Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416 Phone: 202 205-6490

RIN: 3245–AD31

3915. EXPORT WORKING CAPITAL PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 636(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 122

Legal Deadline: None

Abstract: The entire Export Revolving Line of Credit program regulations is revised and reorganized to include policy and procedural modifications resulting from a pilot program ending September 30, 1995. The revision is intended to result in more efficient and effective program operation. Regulatory changes include regulations pertaining to fees, interest rates, use of proceeds and percentage of loan guarantee. The revised regulations are included in new Part 120. Part 122 is no longer in effect.

Timetable:

Action	Date	FR Cite
NPRM	12/15/95	60 FR 64356
NPRM Comment Period End	01/15/96	
Final Action - Merged with RIN 3245-AD75	01/31/96	61 FR 3226
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Eileen Cassidy, Assistant Administrator, Office of International Trade, Small Business Administration, 409 Third Street SW., Suite 8500, Washington, DC 20416 Phone: 202 205-6720

RIN: 3245–AD43

3916. BUSINESS LOANS: MICROLOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 122

Legal Deadline: None

Abstract: Rules regarding provision of assistance to micro lenders. These revised regulations are included in new Part 120. Part 122 is no longer in effect.

Timetable:

Action	Date	FR Cite
NPRM	12/15/95	60 FR 64356
NPRM Comment Period End	01/15/96	
Final Action - Merged with RIN 3245-AD75	01/31/96	61 FR 3226
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John R. Cox, Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., Suite 8300, Washington, DC 20416 Phone: 202 205-6490

RIN: 3245–AD48

3917. PREPAYMENT OF CERTAIN DEBENTURES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 109

Legal Deadline: Final, Statutory, November 23, 1995.

Abstract: Rules regarding prepayment of certain debentures. This rule was incorporated in Part 109 which was deleted on October 25, 1995.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/23/94	59 FR 60305
Final Action - Deletion of Part 109	10/25/95	60 FR 54588

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: LeAnn Oliver, Acting Director, Office of Rural Affairs and Economic Development, Small Business Administration, 409 Third Street SW., Suite 8300, Washington, DC 20416 Phone: 202 205-6485

RIN: 3245–AD51

3918. LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES; COMPUTER-GENERATED FACSIMILES OF SBA FORMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: Permits development companies to use computer generated facsimiles of SBA forms. The revised regulation is incorporated in new Part 120. Part 108 is no longer in effect.

Timetable:

Action	Date	FR Cite
NPRM	03/24/95	60 FR 15525
NPRM - Revision of Part 120	12/15/95	60 FR 64356
Final Action - Merged with RIN 3245-AD75	01/31/96	61 FR 3226
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael Dowd, Director, Office of Loan Programs, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416 Phone: 202 205-6570

RIN: 3245–AD52

3919. LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES; PREMIER CERTIFIED LENDERS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 687(c); 15 USC 695; 15 USC 696; 15 USC 697(a); 15 USC 697(b); 15 USC 697(c)

CFR Citation: 13 CFR 108

Legal Deadline: Final, Statutory, April 22, 1995.

Abstract: This rule implements section 217 of Pub. L. 103-403, which added a new section 508 to the Small Business Act authorizing SBA to establish a premier certified lenders program for certified development companies. The rule is in new Part 120. Part 108 is no longer in effect.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/26/95	60 FR 20392
NPRM - Revision of Part 120	12/15/95	60 FR 64356
Final Action - Merged with RIN 3245-AD75	01/31/96	61 FR 3226
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Michael Dowd, Director, Office of Loan Programs, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416

Phone: 202 205-6570

RIN: 3245–AD54

3920. SMALL BUSINESS SIZE REGULATIONS; NONMANUFACTURER RULE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 644(c); PL 102-486

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule requires a dealer (nonmanufacturer) to provide the product of a domestic small business manufacturer on a small business set-aside and 8(a) contract (the nonmanufacturer rule) awarded under the Government's new simplified acquisition procedures, unless a waiver of that requirement is granted by SBA. The nonmanufacturer rule is applicable to all 8(a) procurements and small business set-asides.

Timetable:

Action	Date	FR Cite
NPRM	05/26/95	60 FR 27924
NPRM Comment Period End	07/26/95	
NPRM - General Revision of Part 121	11/24/95	60 FR 57982
Final Action - Merged with RIN 3245-AD69	01/31/96	61 FR 3280
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AD57

3921. PHYSICAL DISASTER AND ECONOMIC INJURY LOAN (AGRICULTURE)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(b); 15 USC 636(c); 15 USC 636(f)

CFR Citation: 13 CFR 123

Legal Deadline: None

Abstract: This rule makes clear that businesses primarily engaged in agriculture are not eligible for such assistance and that such assistance may not be used to further the alleviation of physical or economic injury to property associated with agricultural enterprise caused by a disaster.

Timetable:

Action	Date	FR Cite
NPRM	06/13/95	60 FR 31121
NPRM Comment Period End	07/13/95	
NPRM - General Revision of Part 123	11/24/95	60 FR 58014
Final Action - Merged with RIN 3245-AD71	01/31/96	61 FR 3304
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Kulik, Associate Administrator for Disaster Assistance, Small Business Administration, 409 Third Street SW., 6th Floor, Washington, DC 20416
Phone: 202 205-6734

RIN: 3245–AD59

3922. LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES; SECTION 504 LOANS PROGRAM AMENDMENTS

Priority: Other

Legal Authority: 15 USC 687(c); 15 USC 695; 15 USC 696; 15 USC 697

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: This rule is technical in nature and is intended to conform the 504 program regulations to reflect practices developed to expedite delivery of the program. The rule is incorporated in new Part 120. Part 108 is no longer in effect.

Timetable:

Action	Date	FR Cite
NPRM	09/08/95	60 FR 46789
NPRM Comment Period End	10/10/95	
NPRM - General Revision of Part 120	12/15/95	60 FR 64356
Final Action Merged with RIN 3245-AD75	01/31/96	61 FR 3226
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael Dowd, Director, Office of Loan Programs, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6570

RIN: 3245–AD60

3923. SMALL BUSINESS SIZE STANDARDS; CONFERENCE PLANNERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 644(c)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule excludes certain forms of pass-through revenues from the computation of gross annual revenues for businesses engaged in providing conference planning services.

Timetable:

Action	Date	FR Cite
NPRM	11/24/95	60 FR 51982
Final Action - Merged with RIN 3245-AD69	01/31/96	61 FR 3280
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, Assistant Administrator for Size Standards, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AD63

3924. ELIMINATION OF PARTS 106, 109, 110, 111, 128, 129, 144 OF CHAPTER 1 OF TITLE 13, AND PART 2209 OF TITLE 48 OF CFR

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 106; 13 CFR 109; 13 CFR 110; 13 CFR 111; 13 CFR 128; 13 CFR 129; 13 CFR 144; 48 CFR 2209

Legal Deadline: None

Abstract: Elimination of parts regarding lease guarantees, prepayment rules for SBICs and CDCs, investigations, small business investment companies, pollution control, grants for small business research, management assistance, discounted prepayment of disaster home loans, and contractor's qualifications as obsolete, unnecessary and duplicative.

Timetable:

Action	Date	FR Cite
Final Action	10/25/95	60 FR 54588
Final Action Effective	10/25/95	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David R. Kohler, Associate General Counsel for General Law, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6645

RIN: 3245–AD65

3925. FREEDOM OF INFORMATION AND PRIVACY ACT OF 1974

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 44 USC 3501 et seq; 5 USC 552(a); 18 USC 5203(a)(1); 31 USC 1 et seq; 31 USC 67 et seq; EO 12600; 15 USC 634(b)(6)

CFR Citation: 13 CFR 102

Legal Deadline: None

Abstract: In response to President Clinton's Governmentwide Regulatory Reform initiative, the Small Business Administration has completed a page-by-page, line-by-line review of all of its existing regulations to determine which might be revised or eliminated. This rule eliminates over 25 percent of Part 102, principally by deleting duplicative language and rewriting the remainder in plain language. The rule includes other changes to improve the procedural efficiency of Part 102.

Timetable:

Action	Date	FR Cite
NPRM	11/24/95	60 FR 57970
NPRM Comment Period End	12/24/95	
Final Action	01/29/96	61 FR 2671
Final Action Effective	02/28/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Timothy Treanor, Attorney Advisor, Office of General Counsel, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6645

RIN: 3245–AD66

3926. POLICIES OF GENERAL APPLICATION/STANDARDS FOR CONDUCTING BUSINESS WITH SBA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 637; 15 USC 642

CFR Citation: 13 CFR 103

Legal Deadline: None

Abstract: In response to President Clinton's Regulatory Reform initiative, the SBA has completed a page-by-page, line-by-line review of its regulations in order to determine which might be revised or eliminated. This rule reorganizes and streamlines the entire Part 103, which governs standards one must meet to conduct business with SBA. It makes the standards more understandable to those who are regulated and easier for SBA to enforce.

Timetable:

Action	Date	FR Cite
NPRM	11/24/95	60 FR 57980
NPRM Comment Period End	12/24/95	
Final Action	01/29/96	61 FR 2679
Final Action Effective	02/28/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Michael Dowd, Director, Office of Loan Programs, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6570

RIN: 3245–AD67

3927. SMALL BUSINESS SIZE STANDARDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 632; 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule amends SBA's regulations governing its size standards program. It is designed to streamline the size standards operation by streamlining and clarifying existing regulatory language and by eliminating unnecessary, irrelevant or obsolete provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/24/95	60 FR 57982
NPRM Comment Period End	12/24/95	
Final Action	01/31/96	61 FR 3280
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John W. Klein, Chief Counsel for Procurement, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6645

RIN: 3245–AD69

3928. DISASTER - PHYSICAL DISASTER AND ECONOMIC INJURY LOANS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); 15 USC 636(b); 15 USC 636(c); 15 USC 636(f)

CFR Citation: 13 CFR 123

Legal Deadline: None

Abstract: This rule reorganizes the entire part 123 covering the disaster loan program to make it more clear and easier to use.

Timetable:

Action	Date	FR Cite
NPRM	11/24/95	60 FR 58014
NPRM Comment Period End	12/24/95	
Final Action	01/31/96	61 FR 3304
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Stephens, Associate General Counsel for SBIC Litigation, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6489

RIN: 3245–AD71

3929. POLICIES OF GENERAL APPLICATION/ADMINISTRATIVE TORT CLAIMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(1); 15 USC 634(b)(6); 28 USC 2672

CFR Citation: 13 CFR 114; 28 CFR 14.11

Legal Deadline: None

Abstract: This rule reorganizes the entire part 114 covering administrative claims under the Tort Claims Act to make it more clear and easier to use. It would also amend the part to streamline the review and adjustment of claims and provide for the use of alternative dispute resolution in appropriate cases.

Timetable:

Action	Date	FR Cite
NPRM	11/03/95	60 FR 55808
NPRM Comment Period End	12/03/95	
Final Action	01/26/96	61 FR 2401
Final Action Effective	02/26/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Jeff Lane, Office of General Counsel, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6879

RIN: 3245–AD72

3930. DEBT COLLECTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 634(b)(6); 31 USC 3720A; 31 USC 3711; 5 USC 5514; 31 USC 3716

CFR Citation: 13 CFR 140

Legal Deadline: None

Abstract: This rule revises several sections of part 140 to consolidate certain sections and to reword certain sections so as to make them simpler and more understandable to the public.

Timetable:

Action	Date	FR Cite
Final Action	12/05/95	60 FR 62190
Final Action Effective	01/04/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Cheri Wolff, Chief Counsel for Special Litigation, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6643

RIN: 3245–AD73

3931. SURETY BOND GUARANTEE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 687b; 15 USC 687c; 15 USC 694a; 15 USC 694b; 5 USC app 3; PL 101-574

CFR Citation: 13 CFR 115

Legal Deadline: None

Abstract: This rule revises part 115 governing the surety bond program to eliminate redundant provisions, consolidate and reorganize sections where appropriate, clarify ambiguous language and propose substantive changes.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58263
NPRM Comment Period End	12/27/95	
Final Action	01/31/96	61 FR 3266
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barbara Brannan, Office of Surety Guarantees, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6540

RIN: 3245–AD74

3932. BUSINESS LOANS

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 636; 15 USC 697

CFR Citation: 13 CFR 108; 13 CFR 120; 13 CFR 122

Legal Deadline: None

Abstract: This rulemaking is designed to facilitate access by the small business community to information about SBA's business loan program and development company loan program. No costs to the government or the small businesses are associated with its promulgation. However, benefits from improving access to SBA loan programs will accrue to the general economy through the creation of jobs and increased tax revenues. The rulemaking incorporates the provisions of Parts 108, 120 and 122 into a revised Part 120.

Timetable:

Action	Date	FR Cite
NPRM	12/15/95	60 FR 64356
NPRM Comment Period End	01/15/96	
Final Action	01/31/96	61 FR 3226
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: John R. Cox, Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AD75

3933. SMALL BUSINESS INVESTMENT COMPANIES

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 681 et seq; 15 USC 683; 15 USC 687(c); 15 USC 687b; 15 USC 687d; 15 USC 687g; 15 USC 687m

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This rule is a complete revision of the regulations governing the small business investment company program.

Timetable:

Action	Date	FR Cite
NPRM	11/28/95	60 FR 58530
NPRM Comment Period End	12/28/95	
Final Action	01/31/96	61 FR 3177
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Don Christenson, Associate Administrator for Investment, Small Business Administration, 409 Third Street SW., 6th Floor, Washington, DC 20416
Phone: 202 205-6510

RIN: 3245–AD76

3934. STANDARDS OF CONDUCT AND OTHER EMPLOYEE RESPONSIBILITIES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 7301; 15 USC 634; 15 USC 637(a)(18); 15 USC 637(a)(19); 15 USC 645(a)

CFR Citation: 13 CFR 105

Legal Deadline: None

Abstract: This rule eliminates provisions that are superseded by the Office of Government Ethics uniform standards of conduct for Executive branch employees and reorganizes the remaining provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58260
NPRM Comment Period End	12/27/95	
Final Action	01/26/96	61 FR 2394
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robinson S. Nunn, Chief Counsel for Ethics, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6787

RIN: 3245–AD77

3935. GOVERNMENT CONTRACTING ASSISTANCE

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-515; PL 100-202; 15 USC 634(b)(6); 15 USC 634(b)(8); 15 USC 634(b)(15); 31 USC 9701; 31 USC 9702

CFR Citation: 13 CFR 125

Legal Deadline: None

Abstract: This rule reorganizes and simplifies present part 125. It eliminates seven sections that were unnecessary, duplicative, or obsolete. The remaining five sections were rewritten for clarity and ease of use.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58276
NPRM Comment Period End	12/27/95	
Final Action	01/31/96	61 FR 3310
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John W. Klein, Chief Counsel for Special Programs, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6645

RIN: 3245–AD78

3936. RULES OF PROCEDURE GOVERNING CASES BEFORE THE OFFICE OF HEARINGS AND APPEALS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 5 USC 504

CFR Citation: 13 CFR 134

Legal Deadline: None

Abstract: This rule revises, reorganizes, simplifies, and unifies into new part 134 all of present part 134, all of part 132, and those provisions in part 124 that pertain to proceedings before the office arising out of certain aspects of the Agency's 8(a) program, size determinations, and SIC code designations.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58282
NPRM Comment Period End	12/27/95	
Final Action	01/29/96	61 FR 2682
Final Action Effective	02/28/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Gary Fox, Chief Counsel for Special Litigation, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6852

RIN: 3245–AD79

3937. PROGRAM FRAUD CIVIL REMEDIES ACT REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

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SBA **Completed Actions**

Legal Authority: 15 USC 634(b); 31 USC 3803(b)(2)

CFR Citation: 13 CFR 142

Legal Deadline: None

Abstract: This rule reorganizes and clarifies present part 142 to make it more clear and easier to use.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58297
NPRM Comment Period End	12/27/95	
Final Action	01/29/96	61 FR 2691
Final Action Effective	03/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Cheri Wolff, Chief Counsel for General Litigation, Small Business Administration, 409 Third Street SW., 7th Floor, Washington, DC 20416
Phone: 202 205-6855

RIN: 3245–AD80

[FR Doc. 96-8416 Filed 05-10-96; 8:45 am]
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federal register

Monday
May 13, 1996

Part XLIII

Social Security Administration

Semiannual Regulatory Agenda

SOCIAL SECURITY ADMINISTRATION (SSA)

SOCIAL SECURITY ADMINISTRATION

Office of the Commissioner

20 CFR Ch. III

Semiannual Unified Regulatory Agenda

AGENCY: Social Security Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: Executive Order 12866 entitled "Regulatory Planning and Review," issued September 30, 1993, and the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) require each Federal agency to publish semiannually a brief description of all regulatory actions then under development or review, expected to be under development or review for the next 12 months, or completed since the previous publication of the agenda. Our last agenda of regulations was published on November 28, 1995.

FOR FURTHER INFORMATION CONTACT: For further information about a specific regulatory action, contact the person identified as the agency contact for that action. Comments or inquiries of a general nature should be directed to Martin J. Sussman, Acting Regulations Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235; telephone (410) 965-1767.

SUPPLEMENTARY INFORMATION: The Social Security Administration (SSA) has responsibility for the old-age, survivors, and disability insurance programs under title II of the Social Security Act (the Act) and the supplemental security income program under title XVI of the Act. We are not a regulatory agency. For the most part, SSA's regulations do not impose burdens on the private sector or on State, local, or tribal governments. Our regulations document the rules under which we make eligibility determinations and set forth both the responsibilities of the Agency towards the public and beneficiary's rights and responsibilities under the programs we administer.

Our regulatory efforts can be placed into one of the following three categories: 1) legislative implementation; 2) program improvements to provide better service to SSA customers; and 3) improvements or clarifications to fulfill commitments made as part of the President's Regulatory Reinvention Initiative.

We continue to seek legislative improvements for the programs we administer. However, because of the complexity of our programs, statutory language is rarely detailed enough to govern the actions of agency adjudicative decisionmakers. Supporting regulations are often required. In some instances, the Congress directs SSA to issue implementing regulations. For other legislative provisions, SSA regulations provide program information to applicants for benefits, current beneficiaries, and their legal counsels.

Providing world-class service to our customers is a principal objective of the Social Security Administration. Our regulatory program supports this overarching Agency goal. One of the areas in which we are working hard to deliver high quality service is our disability determination process. Several of our agenda items support improvements to disability program administration. Also, some of the regulatory items support SSA's Disability Redesign Plan. The Disability Redesign aims to streamline our disability determination process and provide better service to applicants for disability benefits.

SSA's regulatory program supports the President's Reinventing Government (REGO II) initiative to create a Federal Government that works better and costs less. We list three regulations which would carry out REGO II initiatives.

Cycling Payment of Social Security Benefits for future beneficiaries is designed to pay social security benefits on several payment dates each month instead of making all the payments on the same date, as is our current practice. The current use of one payment date creates a workload spike each month for SSA, for other Federal agencies, and for financial institutions and other businesses which participate in or depend on issuance of social security benefits. Spreading the issuance of payments throughout the month and reducing workload spikes for SSA and others will result in better service to our customers. We expect that our customers will have better access to SSA personnel and services in our field facilities and through use of our national 1-800 teleservice network. Current beneficiaries can expect to continue to receive their benefit payments on the third of each month. The additional payment dates will be assigned to new beneficiaries as their benefit awards are processed.

Two other agenda items support the following REGO II initiatives: Providing "One-Stop" Service for Aliens Applying for Social Security Cards and Reducing Burden Associated With Reporting Wages. The goal of each of these initiatives and the supporting regulations is to streamline service to our customers by improving the efficiency of current processes.

Consistent with the President's Regulatory Reinvention Initiative, we are working diligently to improve our program benefit regulations and to develop partnerships with large segments of the community of stakeholders interested in Social Security programs. Our aim is to clarify or improve over 50 percent of the Code of Federal Regulations pages for which we are responsible. The remainder of our Unified Agenda items are such improvements and clarifications.

The April 1996 regulatory agenda for the Social Security Administration follows.

Dated: March 14, 1996.

Martin J. Sussman,

Acting SSA Regulations Officer.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3938	Standards of Conduct for Claimant Representatives (431P)	0960-AD73
3939	Fees for Federal Administration of State Supplementary Payments in the SSI Program; Interest Charging on State Supplementary Payment Funds (376P)	0960-AD75

SSA

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
3940	Benefits for Spouses, Divorced Spouses, and Children (455P)	0960-AD83
3941	Federal OASDI and SSI for the Aged, Blind, and Disabled; Representative Payment Provisions for Individuals Disabled Based on Drug Addiction or Alcoholism (507P)	0960-AD98
3942	Definition of United States Resident; Evidence of Citizenship (515P)	0960-AE05
3943	Hearing Procedures for Civil Monetary Penalty Cases (579P)	0960-AE41

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3944	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Musculoskeletal System (143F)	0960-AB01
3945	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs, Determining Disability and Blindness; Substantial Gainful Activity Guides (147F)	0960-AB73
3946	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Representative Payee Reforms (295F)	0960-AD22
3947	Supplemental Security Income for the Aged, Blind, and Disabled; Payment for VR Services Furnished Individuals During Certain Months of Nonpayment of SSI Benefits (315F)	0960-AD39
3948	Statement of Earnings and Benefit Estimate (415F)	0960-AD74
3949	Valuation of Certain In-Kind Support and Maintenance (ISM) Where There Is a Cost-of-Living Adjustment in SSI Benefits (454F)	0960-AD82
3950	Technical Changes to Title XVI (466F)	0960-AD89
3951	Supplemental Security Income for the Aged, Blind, or Disabled; Evidence of Lawful Admission for Permanent Residence in the United States (468F)	0960-AD90
3952	Waiver of Recovery of Overpayments; Notice of Appeal and Waiver Rights and Right to a Pre-Recoupment Oral Hearing Before Denial of Waiver (491F)	0960-AD99
3953	Coverage Provisions of Social Security Independence and Program Improvements Act of 1994 and of the Domestic Employment Reform Act of 1994 (503F)	0960-AE00
3954	When You Are a Full-Time Elementary or Secondary School Student (552F)	0960-AE21
3955	Income Exclusions in the SSI Program (502F)	0960-AE22
3956	Authority To Impose Civil Money Penalties (532F)	0960-AE23
3957	Cycling Payment of Social Security Benefits (558F)	0960-AE31
3958	Elimination of Rounding Distortion in the Calculation of the Contribution and Benefit Base and Earnings Test Exempt Amounts (512F)	0960-AE40

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3959	Old-Age, Survivors, and Disability Insurance Program; Medical Criteria for Evaluating Mental Disorders for Adults (222F)	0960-AC74
3960	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Fees for Representation of Claimants (296P)	0960-AD23
3961	Code of Conduct for Administrative Law Judges and Administrative Appeals Judges of the Social Security Administration (341P)	0960-AD54
3962	Election of Benefits Based on Age by Disabled Widow, Widower, and Surviving Divorced Spouse Beneficiaries (343P)	0960-AD56
3963	Reliable Information Which Is Currently Available for Determining Benefit Amounts in the Supplemental Security Income Program (382F)	0960-AD65
3964	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Hemic and Lymphatic System, and Malignant Neoplastic Diseases (399P)	0960-AD67
3965	Reliable Information Which Is Currently Available for Determining Benefit Amounts in the Supplemental Security Income Program (NEWMAN) (434P)	0960-AD77
3966	Revised Medical Criteria for Determination of Disability, Endocrine System and Obesity and Related Criteria (436P)	0960-AD78

SSA

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3967	Temporary Increase in Sponsorship Period for Aliens Under the SSI Program (457P)	0960-AD84
3968	Prevention of Adverse Effects on Eligibility and Benefit Amount When Spouse or Parent Absent Due to Active Military Service (462P)	0960-AD86
3969	Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income, Acceptable Medical Sources (469P)	0960-AD91
3970	Old-Age, Survivors, and Disability Insurance Program; Contributions for Support (475P)	0960-AD92
3971	Computation of SSI Benefits for the First Three Months of Payment (476P)	0960-AD93
3972	Definition of "Largest Benefit Amount" for Purposes of Determining the Earnings Record on Which a Person Who Is Simultaneously Entitled to Child's Insurance Benefits (481P)	0960-AD95
3973	Federal OASDI and SSI for the Aged, Blind, and Disabled; Benefit Reforms for Individuals Disabled Based on Drug Addiction or Alcoholism (496F)	0960-AD96
3974	SSI Eligibility for Students Temporarily Abroad (505P)	0960-AE01
3975	Repeal of Facility of Payment Provision (508F)	0960-AE02
3976	Guaranteed Family Maximums (510F)	0960-AE03
3977	Supplemental Security Income for the Aged, Blind, and Disabled; Income and Resources, Deeming of Parental Income and Resources When Children Are Hospitalized (522P)	0960-AE08
3978	Old-Age, Survivors, and Disability Insurance; Overpayment Debt Collection Procedures (523P)	0960-AE09
3979	Determinations and Administrative Review Process—Applicability of Administrative Res Judicata (526P)	0960-AE11
3980	SSA Acquisition Regulations (527F)	0960-AE12
3981	Misuse of Symbols, Emblems, or Names in Reference to the Social Security Administration (530P)	0960-AE15
3982	OASDI; Nonpayment of Benefits to Incarcerated Individuals and Individuals Confined in Criminal Cases, Pursuant to Conviction or by Court Order Based on Findings of Insanity (531P)	0960-AE16
3983	Supplemental Security Income; Plans for Achieving Self-Support (506I)	0960-AE17
3984	Old-Age, Survivors, and Disability Insurance Benefits; Replacing Social Security Number Cards (543F)	0960-AE18
3985	Lump Sum Death Payment and Living in the Same Household (548F)	0960-AE20
3986	Freedom of Information and Availability of Information Regulations for Independent SSA (546F)	0960-AE24
3987	Requirements for Awards and Subawards to Institutions of Higher Education; Certain Grants and Agreements with States, Local, and Indian Tribal Governments (547F)	0960-AE25
3988	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) (554F)	0960-AE27
3989	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and Indian Tribal Governments (555F)	0960-AE28
3990	Restrictions on Lobbying in Connection With the Award of Grants, Contracts, and Cooperative Agreements (556F)	0960-AE29
3991	Status of Legally Adopted Child (557P)	0960-AE30
3992	Privacy and Disclosure of Official Records and Information (566F)	0960-AE34
3993	Reduction of Disability Benefits—Workers' Compensation/Public Disability Benefits (567P)	0960-AE35
3994	Provide "One-Stop" Service for Aliens Applying for Social Security Cards (569P)	0960-AE36

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3995	Supplemental Security Income Program; Continuation of Full Benefit Standard for Certain Persons Temporarily Institutionalized (198F)	0960-AC55
3996	Supplemental Security Income for the Aged, Blind, and Disabled; Exclusion From Income and Resources of Victims' Compensation Payments and State Relocation Assistance (311F)	0960-AD36
3997	Extension of Time Period for Not Counting as Resources, Funds Received for Repair or Replacement of Damaged or Destroyed Excluded Resources in the SSI Program (486F)	0960-AD87
3998	Federal OASDI and SSI for the Aged, Blind, and Disabled; Signature Requirements for State Agency Medical and Psychological Consultants in Disability Determinations (465F)	0960-AD88
3999	Government Pension Offset, Windfall Elimination Provision, and Annual Earnings Report (514F)	0960-AE04
4000	Assigning SSNs to Undocumented Aliens Who Are Representative Payees or SSI Deemors (549P)	0960-AE26
4001	Revision of Authority Citations (562F)	0960-AE32
4002	Social Security Programs: Fraud and Abuse; Establishment of New Part 498 To Address Civil Money Penalties, Assessment and Exclusions (563F)	0960-AE33
4003	Promote One-Stop Benefit Application (572P)	0960-AE38

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Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4004	Determining Disability and Blindness; Extension of Expiration Dates for Hemic and Lymphatic System, Childhood Mental Disorders, and Malignant Neoplastic Diseases Listing (573F)	0960-AE39

SOCIAL SECURITY ADMINISTRATION (SSA)

Proposed Rule Stage

3938. STANDARDS OF CONDUCT FOR CLAIMANT REPRESENTATIVES (431P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405(a); 42 USC 406; 42 USC 902(a)(5); 42 USC 1383(d)(1); 42 USC 1383(d)(2)

CFR Citation: 20 CFR 404.1700ff; 20 CFR 416.1500ff

Legal Deadline: None

Abstract: We proposed to amend our regulations to establish standards of conduct and responsibility for persons serving as representatives of claimants seeking a right or benefit under titles II or XVI of the Social Security Act. These regulations are part of SSA's Disability Redesign.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Richard M. Bresnick, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AD73

3939. FEES FOR FEDERAL ADMINISTRATION OF STATE SUPPLEMENTARY PAYMENTS IN THE SSI PROGRAM; INTEREST CHARGING ON STATE SUPPLEMENTARY PAYMENT FUNDS (376P)

Priority: Other

Legal Authority: 42 USC 1302; 42 USC 1382(e); 42 USC 1383; PL 93-66, sec 212; PL 101-453; PL 102-589

CFR Citation: 20 CFR 416.2010; 20 CFR 416.2090

Legal Deadline: None

Abstract: Section 13731 of Pub. L. 103-66 (the Omnibus Budget Reconciliation Act of 1993) enacted August 10, 1993, requires the Commissioner to assess each State an administration fee for processing the State's mandatory and optional supplementary payments. The fee will be charged for all State supplementary payments issued on or after October 1, 1993. Also, the Commissioner may charge a State an additional services fee if, at the request of the State, the Commissioner provides services beyond the level customarily provided in the administration of such payments. The Cash Management Improvement Act, Pub. L. 101-453 as amended by Pub. L. 102-589, sets forth rules regarding the transfer of funds from States to SSA for use in making supplementary payments and authorizes the imposition of an interest liability on either the States or SSA under certain circumstances. These proposed rules will reflect these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AD75

3940. BENEFITS FOR SPOUSES, DIVORCED SPOUSES, AND CHILDREN (455P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402; 42 USC 403(a); 42 USC 403(b); 42 USC 405(a); 42 USC 416; 42 USC 423; 42 USC 428(a); 42 USC 428(b); 42 USC 428(c); 42 USC 428(d); 42 USC 428(e); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.331; 20 CFR 404.332; 20 CFR 404.341; 20 CFR 404.357; 20 CFR 404.361; 20 CFR 404.366

Legal Deadline: None

Abstract: This regulation will make technical changes to several sections. Most of the changes correct problems with wording which occurred during the 1980 recodification.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD83

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SSA — Proposed Rule Stage

3941. FEDERAL OASDI AND SSI FOR THE AGED, BLIND, AND DISABLED; REPRESENTATIVE PAYMENT PROVISIONS FOR INDIVIDUALS DISABLED BASED ON DRUG ADDICTION OR ALCOHOLISM (507P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-296, sec 201; 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.2001; 20 CFR 404.2010; 20 CFR 404.2021; 20 CFR 404.2040; 20 CFR 404.2040a; 20 CFR 404.2053; 20 CFR 416.621; 20 CFR 416.640; 20 CFR 416.640a; 20 CFR 416.655

Legal Deadline: None

Abstract: We propose to revise our regulations to extend the representative payee requirement, which now applies only to recipients of supplemental security income (SSI) benefit payments, to Social Security disability insurance (DI) beneficiaries whose drug addiction or alcoholism is material to a finding of disability.

Statement of Need: These regulations are needed to implement the representative payment requirements of the Social Security Independence and Program Improvements Act of 1994.

Summary of the Legal Basis: Section 2 of P.L. 103-296 extends the representative payee requirement, which now applies only to supplemental security income recipients, to Social Security disability insurance beneficiaries.

Alternatives: None

Anticipated Costs and Benefits: Effective stewardship of SSA programs requires mechanisms to assure that benefits are used to meet the needs of beneficiaries who are not able to manage their own benefits due to legal incompetence or medical infirmity. As part of the Social Security Improvements Act of 1994 Congress determined that individuals who receive social security disability insurance benefits whose drug addiction or alcoholism is material to the finding of disability must have representative payees. Preliminary estimates are that these regulations will have no effect on SSA program costs. Any administrative costs are part of legislative implementation and further our program integrity efforts.

Risks: Since basically all these regulations do is implement the statute, we see no risks associated with them.

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
Final Action	06/00/97	

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AD98

3942. DEFINITION OF UNITED STATES RESIDENT; EVIDENCE OF CITIZENSHIP (515P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 1381a; 42 USC 1382; 42 USC 1382(f); 42 USC 1382c(f); 42 USC 1382j; 42 USC 1383

CFR Citation: 20 CFR 416.1180; 20 CFR 416.1603; 20 CFR 416.1610

Legal Deadline: None

Abstract: These proposed regulations will define more precisely the concept of "living within the geographical limits of the United States." The others will state the requirements for religious records as proof of U.S. citizenship. We propose also to amend section 416.1180, because there is an obvious error in the wording.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE05

3943. • HEARING PROCEDURES FOR CIVIL MONETARY PENALTY CASES (579P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405(a); 42 USC 405(b); 42 USC 1320a-8; 42 USC 1320b-10; 42 USC 902(a)(5)

CFR Citation: 20 CFR 498.200 to 498.223

Legal Deadline: None

Abstract: These proposed regulations add new rules that would establish hearing procedures for the Social Security Administration's civil monetary penalty cases. These rules will implement the provisions of section 1129 and section 1140 of the Social Security Act which require an opportunity to be heard on the record before a determination, to impose penalties or assessments, or to recommend an exclusion of a physician or medical provider from the Medicare program, becomes final.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AE41

SOCIAL SECURITY ADMINISTRATION (SSA) — Final Rule Stage

3944. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MUSCULOSKELETAL SYSTEM (143F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Sections 1.00 and 101.00 of appendix 1 to the disability regulations at 20 CFR 404.1501 through 404.1599 describe those musculoskeletal impairments which are considered severe enough to prevent a person from doing any gainful activity or age-appropriate activities. Comprehensive revisions to these sections are proposed to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medicine. The SSI program incorporates by reference and uses the same medical criteria as the old-age, survivors, and disability insurance program.

Statement of Need: These regulations are necessary to update the musculoskeletal listing to reflect advances in medical knowledge, treatment, and methods of evaluating musculoskeletal impairments.

Summary of the Legal Basis: Administrative--not required by statute or court order.

Alternatives: None--Medical advances require that this listing be updated.

Anticipated Costs and Benefits: These final regulations will have negligible program and administrative cost impact because, despite changes in terminology and emphasis, the proposed musculoskeletal system listings describe a level of severity comparable to the level of severity contained in the current listings.

Risks: Since all this regulation will do is update the medical listing, we see no risks associated with these changes.

Timetable:

Action	Date	FR Cite
NPRM	12/21/93	58 FR 67574
NPRM Comment Period End	02/22/94	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AB01

3945. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS, DETERMINING DISABILITY AND BLINDNESS; SUBSTANTIAL GAINFUL ACTIVITY GUIDES (147F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 98-460, sec 10; PL 99-643; PL 100-203; PL 101-508

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: These final regulations will clarify how the Social Security Administration evaluates a person's work activity to determine whether work is substantial gainful activity and whether an individual is entitled to a trial work period. These regulations also reflect statutory changes with respect to the trial work period and the re-entitlement period.

Timetable:

Action	Date	FR Cite
NPRM	03/06/95	60 FR 12166
NPRM Comment Period End	05/15/95	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandy Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AB73

3946. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; REPRESENTATIVE PAYEE REFORMS (295F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-508, sec 5105

CFR Citation: 20 CFR 404.902; 20 CFR 404.2001; 20 CFR 404.2011; 20 CFR 404.2022; 20 CFR 404.2024; 20 CFR 404.2025; 20 CFR 404.2030; 20 CFR 404.2041; 20 CFR 404.2050; 20 CFR 416.601; 20 CFR 416.611; 20 CFR 416.622; 20 CFR 416.624; 20 CFR 416.625; 20 CFR 416.630; ...

Legal Deadline: None

Abstract: Effective stewardship at SSA programs requires mechanisms to assure that benefits are used to meet the needs of beneficiaries who are not able to manage their own benefits due to legal incompetence or medical infirmity. Congress determined that improvements to the representative payment procedures were needed to assure program integrity as part of P.L. 101-508. Any costs associated with these regulations are reflected in the President's budget as part of legislative in implementation. They are required to further our program integrity efforts.

Statement of Need: These regulations, which reflect certain provisions of PL 101-508, modify existing representative payee procedures by requiring the Social Security Administration to do a more extensive investigation of representative payee applicants; generally limiting to 1 month the deferral or suspension of direct payment of benefits pending selection of a payee; providing stricter standards in determining the fitness of representative payee applicants to manage benefit payments on behalf of beneficiaries; requiring SSA to repay to the beneficiary or an alternate payee, an amount equal to any miaused funds resulting from SSA's negligent failure to investigate or monitor a representative payee; and requiring SSA to compile and maintain a centralized file of certain beneficiary and payee information.

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These regulations are needed to reflect certain provisions of PL 101-508 (OBRA '90). Sections 205(a), 1102, and 1631(d of the Act give the Commissioners broad power to make rules and carry out these provisions.

Summary of the Legal Basis: These regulations implement section 5105 of Public Law 101-508.

Alternatives: None

Anticipated Costs and Benefits: Effective stewardship of SSA programs requires mechanisms to assure that benefits are used to meet the needs of beneficiaries who are not able to manage their own benefits due to legal incompetence or medical infirmity. Congress determined that improvements to the representative payment procedures were needed to assure program integrity as part of P.L. 101-508. Any costs associated with these regulations are reflected in the President's budget as part of legislative implementation. They are required to further our program integrity efforts.

Risks: Since basically all these regulations do is implement the statute, we see no risks associated with these regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/15/94	59 FR 11949
NPRM Comment Period End	05/15/94	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AD22

3947. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; PAYMENT FOR VR SERVICES FURNISHED INDIVIDUALS DURING CERTAIN MONTHS OF NONPAYMENT OF SSI BENEFITS (315F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-508, Sec 5037

CFR Citation: 20 CFR 404.2113; 20 CFR 404.2115; 20 CFR 404.2116; 20 CFR 416.2201; 20 CFR 416.2203; 20 CFR 416.2209; 20 CFR 416.2212; 20 CFR 416.2213; 20 CFR 416.2215; 20 CFR 416.2216; 20 CFR 416.2217

Legal Deadline: None

Abstract: These regulations reflect section 5037 of Pub. L. 101-508, which amends section 1615 of the Act, to provide for reimbursement for VR services furnished during certain months of nonpayment of Supplemental Security Income benefits. Prior to these amendments there was no provision in the law for such reimbursement.

Timetable:

Action	Date	FR Cite
NPRM	09/11/95	60 FR 47126
NPRM Comment Period End	11/13/95	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AD39

3948. STATEMENT OF EARNINGS AND BENEFIT ESTIMATE (415F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1320b-13

CFR Citation: 20 CFR 404.811; 20 CFR 404.812 (New); 20 CFR 422.125

Legal Deadline: None

Abstract: Section 1143(c) of the Social Security Act requires that by not later than September 30, 1995, we must furnish a social security account statement to each eligible individual who has attained age 60 by October 1, 1994, is not receiving social security benefits, and for whom we can determine a current mailing address. During fiscal years 1995 through 1999, we must furnish such a statement to eligible individuals attaining age 60. Similarly, beginning no later than October 1, 1999, we must provide such a statement annually to eligible individuals age 25 or over. In these regulations, we provide who will be sent a statement, who will not be sent a statement, how we will determine addresses, and the contents of the statements. We have not yet compiled all the costs. These regulations will benefit the public by implementing section 1143(c) which will help individuals verify that we have entered their correct earnings into our records and by showing the benefits to which such individuals may become entitled.

Timetable:

Action	Date	FR Cite
NPRM	01/19/95	60 FR 3787
NPRM Comment Period End	03/20/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jack Schanberger, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-8471

RIN: 0960–AD74

3949. VALUATION OF CERTAIN IN-KIND SUPPORT AND MAINTENANCE (ISM) WHERE THERE IS A COST-OF-LIVING ADJUSTMENT IN SSI BENEFITS (454F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-66, sec 13735

CFR Citation: 20 CFR 416.420; 20 CFR 416.1130(a)

Legal Deadline: None

Abstract: This final regulation will reflect the amendment to section 1611(c) of the Act, effective January 1, 1995, that the current Federal benefit rate be used in determining the value of certain in-kind support and maintenance for the first 2 months in which a cost-of-living adjustment in SSI benefits applies.

Timetable:

Action	Date	FR Cite
NPRM	08/09/95	60 FR 40542
NPRM Comment Period End	10/10/95	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1759

RIN: 0960–AD82

3950. TECHNICAL CHANGES TO TITLE XVI (466F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1382; 42 USC 1382a; 42 USC 1382b; 42 USC 1382j

CFR Citation: 20 CFR 416.1236; 20 CFR 416 app

Legal Deadline: None

Abstract: We are amending the supplemental security income regulations by making technical changes to update the appendix at the end of subpart K which lists exclusions from income in statutes other than the Social Security Act and to update the lists of statutory exclusions from resources contained in subpart L.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AD89

3951. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, OR DISABLED; EVIDENCE OF LAWFUL ADMISSION FOR PERMANENT RESIDENCE IN THE UNITED STATES (468F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 1382c(a)(1)(B); 42 USC 1382c(e); 42 USC 1383

CFR Citation: 20 CFR 416.1615

Legal Deadline: None

Abstract: On September 20, 1993, the Immigration and Naturalization Service (INS) published a regulatory change concerning the documents which certify the alien status of a lawful permanent resident within the United States. The change which establishes INS Form I-551, Alien Registration Receipt Card, as the definitive evidence of lawful permanent resident status was to be effective September 20, 1994. Since aliens who apply for SSI benefits as lawful permanent residents must submit evidence of this status, we are revising the title XVI regulations to reflect the change in the INS regulations. INS delayed the effective date of its regulation until March 1996.

Timetable:

Action	Date	FR Cite
NPRM	08/30/95	60 FR 45110
NPRM Comment Period End	10/30/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD90

3952. WAIVER OF RECOVERY OF OVERPAYMENTS; NOTICE OF APPEAL AND WAIVER RIGHTS AND RIGHT TO A PRE-RECOUPMENT ORAL HEARING BEFORE DENIAL OF WAIVER (491F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 404(a) to 404(d); 42 USC 405(a); 42 USC 1302; 42 USC 402(i); 42 USC 402(j); 42 USC 402(o); 42 USC 402(p); 42 USC 402(v); 42 USC 416(i)(2); 42 USC 423(b); 42 USC 428(a)

CFR Citation: 20 CFR 404.502a; 20 CFR 404.506; 20 CFR 404.907; 20 CFR 404.930; 20 CFR 410.561; 20 CFR 410.561a; 20 CFR 410.623; 20 CFR 410.630

Legal Deadline: NPRM, Judicial, October 13, 1995. Final, Judicial, April 13, 1997.

Abstract: In these proposed regulations we state procedures resulting from the 1974 court decision in Buffington, et al. v. Weinberger, No 734-73C2 (W.D. Wash. October 22, 1974), and the Supreme Court decision in Califano v. Yamasaki, 442 U.S. 682 (1979). The effects are to publish in regulations pursuant to the court order the rights of overpaid individuals to certain procedures currently afforded individuals under court oversight.

Timetable:

Action	Date	FR Cite
NPRM	06/02/95	60 FR 28767
NPRM Comment Period End	08/01/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

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SSA — Final Rule Stage

3953. COVERAGE PROVISIONS OF SOCIAL SECURITY INDEPENDENCE AND PROGRAM IMPROVEMENTS ACT OF 1994 AND OF THE DOMESTIC EMPLOYMENT REFORM ACT OF 1994 (503F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402(v); 42 USC 405(a); 42 USC 409; 42 USC 410; 42 USC 411; 42 USC 418; 42 USC 429(a); 42 USC 430; 42 USC 431; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.1004; 20 CFR 404.1012; 20 CFR 404.1018; 20 CFR 404.1018b; 20 CFR 404.1020; 20 CFR 404.1034; 20 CFR 404.1036; 20 CFR 404.1042; 20 CFR 404.1055; 20 CFR 404.1056; 20 CFR 404.1057; 20 CFR 404.1068; 20 CFR 404.1206; 20 CFR 404.1210; 20 CFR 404.1038 (New); ...

Legal Deadline: None

Abstract: Pub. L. 103-296, the Social Security Independence and Program Improvements Act of 1994, contains the following coverage provisions (along with numerous other provisions) in a section called Miscellaneous Program Improvements: Sec. 303. Expansion of State option to exclude service of election officials or election workers from coverage: Sec. 305. Authorization for all States to extend coverage to State and local police officers and firefighters under existing coverage agreements. Sec. 319. Coverage under FICA of Federal employees transferred temporarily to international organizations; and Sec. 320. Extension of the FICA tax exemption and certain tax rules to individuals who enter the United States under a visa issued under section 101 of the Immigration and Nationality Act. In addition, Pub. L. 103-387, the Social Security Domestic Employment Reform Act of 1994, made several changes with respect to the coverage of domestic services. Final rules will be published to reflect these two statutes.

Timetable:

Action	Date	FR Cite
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE00

3954. WHEN YOU ARE A FULL-TIME ELEMENTARY OR SECONDARY SCHOOL STUDENT (552F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402; 42 USC 403; 42 USC 405(a); 42 USC 416; 42 USC 423; 42 USC 428; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.350; 20 CFR 404.351; 20 CFR 404.352; 20 CFR 404.353; 20 CFR 404.367; 20 CFR 404.369

Legal Deadline: None

Abstract: These final regulations revise our rules on full-time elementary or secondary school students to include students enrolled in home schooling or independent study programs authorized by State or local law, e.g., political subdivision, tribal government, or the District of Columbia. Prior rules covered only students in traditional institutional educational settings; however, many States (or other jurisdictions) provide for home schooling and independent study programs considered equivalent to traditional schools. These rules will show that nonpayment provisions apply to certain prisoners and certain other inmates of publicly funded institutions who otherwise would meet student benefit requirements. In addition, we have removed outdated rules on student benefits relating to months before August 1982.

Timetable:

Action	Date	FR Cite
NPRM	12/07/95	60 FR 62783
NPRM Comment Period End	02/05/96	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-3298

RIN: 0960–AE21

3955. INCOME EXCLUSIONS IN THE SSI PROGRAM (502F)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 1383

CFR Citation: 20 CFR 416.1124; 20 CFR 416.1161

Legal Deadline: None

Abstract: These final supplemental security income (SSI) regulations update existing regulations to reflect the statutory amendment of the exclusion from income of Alaska Longevity Bonus payments. They also update existing regulations to reflect the statutory exclusion from income of hostile fire pay received by an SSI claimant or recipient and to reflect current operating procedure of excluding hostile fire pay when determining the countable income of an ineligible spouse or ineligible parent. In addition, they update existing regulations to reflect the current operating procedure of excluding impairment-related work expenses, and interest on an appreciation in the value of excluded burial funds and interest on excluded burial space purchase agreements, when determining the countable income of an ineligible spouse or ineligible parent.

Timetable:

Action	Date	FR Cite
NPRM	12/06/95	60 FR 62356
NPRM Comment Period End	02/05/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AE22

SSA — Final Rule Stage

3956. AUTHORITY TO IMPOSE CIVIL MONEY PENALTIES (532F)

Priority: Other

Legal Authority: 42 USC 902(a)(5); 42 USC 1320a; 42 USC 1320b

CFR Citation: 20 CFR 498.100 to 498.104; 20 CFR 498.106; 20 CFR 498.108 to 498.110; 20 CFR 498.127 to 498.129; 20 CFR 498.132

Legal Deadline: None

Abstract: These final regulations add new rules that establish the authority to impose civil money penalties against third parties, medical professionals, Old-Age, Survivors, and Disability Insurance (OASDI) beneficiaries, supplemental security income (SSI) recipients and other individuals and entities who engage in fraudulent schemes to enroll ineligible individuals in the OASDI and SSI programs.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58305
NPRM Comment Period End	01/26/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AE23

3957. CYCLING PAYMENT OF SOCIAL SECURITY BENEFITS (558F)

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405(a); 42 USC 407; 42 USC 902(a)(5); 42 USC 401(j); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 421(d); 42 USC 405(i); 42 USC 909

CFR Citation: 20 CFR 404.1805; 20 CFR 404.903

Legal Deadline: None

Abstract: This Reinventing Government initiative will result in staggered payment to new beneficiaries over a number of payment dates throughout the month to eliminate workload spikes and allow the Social Security Administration to provide better customer service without adding staff. Current beneficiaries and all Supplemental Security Income recipients will be unaffected by these regulatory changes.

Statement of Need: This regulation is necessary to implement a Reinventing Government initiative.

Summary of the Legal Basis: These changes are not required by statute or court order.

Alternatives: None

Anticipated Costs and Benefits: Payment cycling is proposed as both an immediate and long-term strategy to help the Agency improve service and better manage its resources. By leveling workloads, it will allow the public better access to SSA's field office and toll-free 800 number services. While the proposed change in payment patterns may result in some incidental savings from management and operational efficiencies, cycling is not expected to produce significant workyear savings. Cycling will benefit the business and banking communities in that they will be better able to utilize their resources throughout the month to serve their customers. Cycling will reduce the risk to the Federal government, the financial community, and to beneficiaries by reducing the volume of financial transactions passing through the payment system at any one time in the month.

Risks: This change in payment cycling, which will affect new beneficiaries who file claims, should pose no risks to our claimant population.

Timetable:

Action	Date	FR Cite
NPRM	01/26/96	61 FR 2654
NPRM Comment Period End	03/26/96	
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE31

3958. • ELIMINATION OF ROUNDING DISTORTION IN THE CALCULATION OF THE CONTRIBUTION AND BENEFIT BASE AND EARNINGS TEST EXEMPT AMOUNTS (512F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.211(c); 20 CFR 404.430(c); 20 CFR 404.1047 to 1048; 20 CFR 404, subpart C, app 1; 20 CFR 404.403(d); 20 CFR 404.408ff; 20 CFR 404.1048(c); 20 CFR 404.1918(b)

Legal Deadline: None

Abstract: Section 321(g) of Pub. L. 103-296 designates 1994 as the base year to be used in calculating increases in the OASDI contribution and benefit base and earnings test exempt amounts for all years after 1994. (Increases in these amounts will no longer be based on the rounded amounts applicable in the previous year, which can distort the base and exempt amounts over time.) The provision is effective for the contribution and benefit base beginning in 1995 and for earnings test exempt amounts for taxable years ending after 1994.

Timetable:

Action	Date	FR Cite
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1759

RIN: 0960–AE40

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3959. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; MEDICAL CRITERIA FOR EVALUATING MENTAL DISORDERS FOR ADULTS (222F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 1382c

CFR Citation: 20 CFR 404.1500, app 1; 20 CFR 404.1520a; 20 CFR 404.1528; 20 CFR 416.920a; 20 CFR 416.928

Legal Deadline: None

Abstract: These amendments revise the medical evaluation criteria for mental disorders for the Social Security and Supplemental Security Income disability programs. The revisions will reflect advances in medical treatment and in methods of evaluating certain mental impairments and will provide up-to-date medical criteria for use in the evaluation of disability claims based on mental disorders.

Timetable:

Action	Date	FR Cite
NPRM	07/18/91	56 FR 33130
NPRM Comment Period End	09/18/91	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AC74

3960. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; FEES FOR REPRESENTATION OF CLAIMANTS (296P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-508, Sec 5106

CFR Citation: 20 CFR 404.1703; 20 CFR 404.1713; 20 CFR 404.1720; 20 CFR 404.1715 to 404.1717; 20 CFR 404.1725; 20 CFR 416.1503; 20 CFR 416.1513; 20 CFR 416.1520; 20 CFR 416.1515 to 416.1517; 20 CFR 416.1525

Legal Deadline: None

Abstract: We propose to amend the regulations to reflect section 5106(a) of Pub. L. 101-508 which modifies the manner in which past-due benefits are calculated and the process by which SSA approves fees charged by persons representing claimants before the Agency.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1759

RIN: 0960–AD23

3961. CODE OF CONDUCT FOR ADMINISTRATIVE LAW JUDGES AND ADMINISTRATIVE APPEALS JUDGES OF THE SOCIAL SECURITY ADMINISTRATION (341P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: EO 12674 as modified by EO 12731;; 42 USC 405

CFR Citation: 20 CFR 422.215

Legal Deadline: None

Abstract: These regulations would establish a Code of Conduct for OHA Administrative Law Judges and Administrative Appeals Judges.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandy Bond, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AD54

3962. ELECTION OF BENEFITS BASED ON AGE BY DISABLED WIDOW, WIDOWER, AND SURVIVING DIVORCED SPOUSE BENEFICIARIES (343P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 404.335; 20 CFR 404.336; 20 CFR 404.337

Legal Deadline: None

Abstract: We propose to amend our regulations to permit the election of benefits based on age by widows, widowers and surviving divorced spouses (hereinafter, collectively widows) who are at least age 60 and who are already entitled to widow's benefits based on disability. This proposal would allow the widow to choose which of the two types of widow's benefits is more advantageous. The estimated increase in benefit payments is less than $500,000 per year for fiscal years 1992-1995.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AD56

3963. RELIABLE INFORMATION WHICH IS CURRENTLY AVAILABLE FOR DETERMINING BENEFIT AMOUNTS IN THE SUPPLEMENTAL SECURITY INCOME PROGRAM (382F)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1382(a) to 1382(c); 42 USC 1382(e); 42 USC 1382a; 42 USC 1382f; 42 USC 1383

CFR Citation: 20 CFR 416.420

Legal Deadline: NPRM, Judicial, March 16, 1993.

Abstract: Pursuant to the Court order in Gould, et al. v. Sullivan, No. C2-87-964 (S.D. Ohio, October 2, 1992), we proposed a rule for determining benefits in the SSI program. Under section 1611(c)(4)(A) of the Social Security Act, if the Secretary determines that reliable information is currently available concerning the income and other circumstances of an individual for a month, the Secretary may use that information to determine an individual's SSI benefit amount for that month. This discretionary method of determining SSI benefit amounts is an exception to the use of information from a prior month, known as retrospective monthly accounting (RMA), as provided in section 1611(c)(1) of the Act. The proposed rule explained that the Secretary has determined that no information exists which is reliable and currently available to use in computing SSI benefit amounts pursuant to section 1611(c)(4).

Timetable:

Action	Date	FR Cite
NPRM	03/16/93	58 FR 14191
NPRM Comment Period End	05/17/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AD65

3964. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; HEMIC AND LYMPHATIC SYSTEM, AND MALIGNANT NEOPLASTIC DISEASES (399P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Sections 7.00 and 107.00 (hemic and lymphatic system), and 13.00 and 113.00 (malignant neoplastic diseases) of appendix 1 to Subpart P of Part 404 of the Disability Regulations (404.1501 through 404.1599) describe those impairments which are considered severe enough to prevent a person from engaging in any gainful activity, or in the case of a child under age 18, age-appropriate activities. We are proposing revisions to these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment. The Supplemental Security Income program incorporates and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AD67

3965. RELIABLE INFORMATION WHICH IS CURRENTLY AVAILABLE FOR DETERMINING BENEFIT AMOUNTS IN THE SUPPLEMENTAL SECURITY INCOME PROGRAM (NEWMAN) (434P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1382(a) to 1382(c); 42 USC 1383

CFR Citation: 20 CFR 416.420

Legal Deadline: None

Abstract: The Social Security Act (the Act) provides that if the Commissioner of Social Security (the Commissioner) determines that reliable information is currently available concerning the income of an individual, the Commissioner may use that information to determine an individual's current month's supplemental security income (SSI) benefit amount. This method of determining SSI benefit amounts is an exception to the use of income from a prior month, known as retrospective monthly accounting (RMA). The Commissioner has determined that no reliable information exists which is currently available for determining SSI benefit amounts for a current month using any method other than RMA. These rules are applicable only in California pursuant to a court order issued in Newman v. Shalala.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AD77

3966. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, ENDOCRINE SYSTEM AND OBESITY AND RELATED CRITERIA (436P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing

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Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Sections 9.00 and 109.00 of appendix 1 to subpart P of part 404 of the Disability Regulations (404.1501 through 404.1599) describe those impairments which are considered severe enough to prevent a person from engaging in any gainful activity, or in the case of a child under age 18, age-appropriate activities. We are proposing to revise the criteria in these sections to reflect advances in medical knowledge, treatment, and methods of evaluating endocrine impairments. The Supplemental Security Income program incorporates and uses the same medical criteria as the Old-Age, Survivors and Disability Insurance program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AD78

3967. TEMPORARY INCREASE IN SPONSORSHIP PERIOD FOR ALIENS UNDER THE SSI PROGRAM (457P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-152, sec 7

CFR Citation: 20 CFR 416.1160; 20 CFR 416.1204

Legal Deadline: None

Abstract: Section 7 of Pub. L. 103-152 amended section 1621 of the Social Security Act to temporarily increase the sponsorship period for aliens under the SSI program from 3 years to 5 years following the alien's date of lawful admission to the U.S. The increase in the sponsorship period is effective January 1, 1994. Beginning October 1, 1996, the 3-year sponsorship period will be reinstated. We will amend our regulations to conform to the statutory changes. Any costs/savings are associated with the legislation and not with the regulations themselves.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD84

3968. PREVENTION OF ADVERSE EFFECTS ON ELIGIBILITY AND BENEFIT AMOUNT WHEN SPOUSE OR PARENT ABSENT DUE TO ACTIVE MILITARY SERVICE (462P)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-66, sec 13733; 42 USC 902(a)(5)

CFR Citation: 20 CFR 416.1167

Legal Deadline: None

Abstract: These proposed regulations reflect the provisions of section 13733 of Pub. L. 103-66 which allows us to consider, absent evidence to the contrary, an ineligible parent or spouse who is absent from a deeming household due solely to an active duty military assignment, to be living in the same household as the eligible individual for deeming purposes. This will prevent possible adverse SSI effects which could otherwise result when a military deemor is absent from the household.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-3298

RIN: 0960–AD86

3969. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME, ACCEPTABLE MEDICAL SOURCES (469P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1513; 20 CFR 416.913

Legal Deadline: None

Abstract: We propose to add speech and language pathologists to the list of acceptable medical sources in our current regulations. These sources will assist us in establishing the existence of speech and language impairments. We also propose to make other changes in our regulations to clarify what we mean by an acceptable medical source.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AD91

3970. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; CONTRIBUTIONS FOR SUPPORT (475P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402(d)(3); 42 USC 416(b)(3); 42 USC 405(a); 42 USC 1302

CFR Citation: 20 CFR 404.366

Legal Deadline: None

Abstract: To provide more uniformity in our decision making, we are proposing to amend our rules on the contributions for support that must be provided by the insured to certain categories of claimants for child's benefits.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD92

3971. COMPUTATION OF SSI BENEFITS FOR THE FIRST THREE MONTHS OF PAYMENT (476P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.320

Legal Deadline: None

Abstract: SSI eligibility and payment are calculated by taking into account income received by the applicant/recipient. Two calculations must be made for each month. The first is the eligibility computation and is based on the current (payment) month's income. The second is the payment computation, which, under retrospective monthly accounting, is based (usually) on the income of a prior month called the budget month. Generally the budget month is 2 months prior to the payment month. The transitional computation for the first 3 months of SSI payment is an exception to the general rule described above. While the eligibility computation continues to apply to the current month's income, the budget month on which each of the first 3 months' payments are based is the first month of eligibility. This policy was intended to facilitate the transition into 2 month retrospective accounting cycle and to avoid penalizing the recipient for income received prior to initial SSI eligibility. However, the policy also has the effect of counting income which is only received in one month more than one time. In Jones v. Shalala the Ninth Circuit Court of Appeals ruled that SSA's transitional computation for the first 3 months of eligibility is not permissible because it will result in the triple counting of nonrecurring income received only in the first month of eligibility. The proposed policy addresses the triple counting of nonrecurring income.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AD93

3972. DEFINITION OF "LARGEST BENEFIT AMOUNT" FOR PURPOSES OF DETERMINING THE EARNINGS RECORD ON WHICH A PERSON WHO IS SIMULTANEOUSLY ENTITLED TO CHILD'S INSURANCE BENEFITS (481P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402(d); 42 USC 402(k); 42 USC 902(a)(5); 42 USC 405(a)

CFR Citation: 20 CFR 404.304; 20 CFR 404.353b; 20 CFR 404.407d

Legal Deadline: None

Abstract: Section 202(k)(2)(A) of the Act (42 U.S.C. 402(k)(2)(A)) contains the statutory requirements for determining the earnings record on which SSA will pay a person, who is simultaneously entitled to child's insurance benefits on the earnings records of more than one worker. Generally, the child's benefits will be paid on the earnings record that yields the highest primary insurance amount (PIA). However, under certain circumstances, the child's benefits will be paid on the earnings record that yields a lower PIA if that record produces the "largest benefit" to which the child could be entitled under section 202(d) without the application of the reduction under the "family maximum" provisions. In implementing section 202(k)(2)(A), SSA has determined the "largest benefit" under section 202(k)(2)(A) by comparing the original benefit amount (i.e., 50 percent of the PIA of a living worker and 75 percent of the PIA of a deceased worker) calculated on the dependent and/or survivor claim of the child on the earnings record of each worker without applying any reductions or deductions. The United States District Court for the Northern District of Alabama in Agee v. Sullivan rejected this interpretation and held that SSA must compare the amounts payable to the child under each earnings record after considering all applicable deductions and reductions other than the reduction under the family maximum provisions. Legal support for both interpretations can be found in the statutory language and legislative history of section 202(k)(2)(A). We have found current regulations implementing section 202(k)(2)(A) to be ambiguous. We propose to amend these regulations to reflect the longstanding SSA interpretation, rather than the interpretation adopted by the district court in the Agee decision.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AD95

3973. FEDERAL OASDI AND SSI FOR THE AGED, BLIND, AND DISABLED; BENEFIT REFORMS FOR INDIVIDUALS DISABLED BASED ON DRUG ADDICTION OR ALCOHOLISM (496F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.315; 20 CFR 404.316; 20 CFR 404.321; 20 CFR 404.332; 20 CFR 404.335; 20 CFR 404.337; 20 CFR 404.350; 20 CFR 404.352; 20 CFR 404.402; 20 CFR 404.470; 20 CFR 404.480; 20 CFR 404.902; 20 CFR 404.1535; 20 CFR 404.1536; 20 CFR 404.1537; ...

Legal Deadline: Final, Statutory, February 11, 1995.
Section 201 of Public Law 103-296.

Abstract: The Social Security Independence and Program Improvements Act of 1994 (Public Law 103-296) contains provisions affecting the payment of benefits under titles II and XVI of the Social Security Act to individuals whose drug addiction or alcoholism is a contributing factor material to the determination of disability. These final rules implement certain provisions related to limitations on benefit payments and the nonpayment and termination of benefits to these individuals.

Timetable:

Action	Date	FR Cite
Notice of Intent with Request for Comments	10/17/94	59 FR 52380
Interim Final Rule	02/10/95	60 FR 8140
Interim Final Rule Comment Period End	04/11/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard M. Bresnick, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1758

RIN: 0960–AD96

3974. SSI ELIGIBILITY FOR STUDENTS TEMPORARILY ABROAD (505P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.202; 20 CFR 416.270 (New)

Legal Deadline: None

Abstract: These regulatory changes are required by section 204 of P.L. 103-296, the Social Security Independence and Program Improvements Act of 1994. This provision allows individuals who leave the United States temporarily as part of an educational program that is not available in the United States, that is designed for gainful employment, and that is sponsored by a school, college, or university in the United States, to continue receiving SSI benefits for up to 1 year if they were eligible for SSI benefits for the month they left the country.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AE01

3975. REPEAL OF FACILITY OF PAYMENT PROVISION (508F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 403

CFR Citation: 20 CFR 404.402(b); 20 CFR 404.458

Legal Deadline: None

Abstract: This regulation will reflect section 309 of P.L. 103-296 which repeals the facility of payment provision under which Social Security benefits subject to the family maximum would not be redistributed in certain cases and provides that the reduction for the family maximum will be made prior to a temporary suspension for work when the non-working auxiliary resides in a separate household from the working auxiliary.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AE02

3976. GUARANTEED FAMILY MAXIMUMS (510F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 403(a)

CFR Citation: 20 CFR 404.403

Legal Deadline: None

Abstract: This regulation will reflect effect section 310 of P.L. 103-296 which provides that the guaranteed primary insurance amount is to be used in establishing the maximum family benefit for workers who had previously been entitled to disability insurance benefits and became reentitled to retirement or disability benefits on or after December 1995.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235

Phone: 410 965-1794

RIN: 0960–AE03

3977. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; INCOME AND RESOURCES, DEEMING OF PARENTAL INCOME AND RESOURCES WHEN CHILDREN ARE HOSPITALIZED (522P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1382c(f)(2); 42 USC 1383(d)

CFR Citation: 20 CFR 416.1165; 20 CFR 416.1167; 20 CFR 416.1202

Legal Deadline: None

Abstract: Current SSI regulations reflect the concept that deeming (the process of considering another person's income to be your own) applies only in household situations. Currently, children in medical care facilities are not subject to parental deeming because they are not considered to be in the same household as their parents. While maintaining the concept of "household" for deeming purposes, these proposed rules will expand upon current policy from the household and, as a result, subject to parental deeming. This extends the current policy that is applicable to children away at school to children in medical care facilities. That is, a child who is born in or enters a medical care facility and who is subject to the control of a parent will be considered temporarily absent from the parental household. During this absence, deeming will apply.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1759

RIN: 0960–AE08

3978. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; OVERPAYMENT DEBT COLLECTION PROCEDURES (523P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-387

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation will implement section 5 of Pub. L. 103-387, the Social Security Domestic Employment Act of 1994 which authorizes SSA to use certain delinquent debt collection procedures available to other Federal agencies, but which were not available to SSA under the Debt Collection Act of 1982. The procedures include reporting delinquent debtors to credit agencies, contracting with private debt collection agencies, and recovering debts by administrative offset of other Federal payments to which the debtor may be entitled. The procedures may be applied only if the overpayment was paid to a person after he or she attained age 18, the debt is not recoverable by other means provided by the Social Security Act, and the debtor is no longer a beneficiary. Authority to use such debt collection procedures sunsets September 30, 1999.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1759

RIN: 0960–AE09

3979. DETERMINATIONS AND ADMINISTRATIVE REVIEW PROCESS—APPLICABILITY OF ADMINISTRATIVE RES JUDICATA (526P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405(a) to 405(b); 42 USC 405(d) to 405(h); 42 USC 421(d); 42 USC 902(a)(5); 42 USC 1383; 42 USC 1383b

CFR Citation: 20 CFR 404.903; 20 CFR 404.950; 20 CFR 404.957; 20 CFR 416.1403; 20 CFR 416.1450; 20 CFR 416.1457

Legal Deadline: None

Abstract: This regulation implements section 5107 of Pub. L. 101-508 which provides that SSA may not deny a new application on the basis that the claimant did not timely appeal an earlier determination, if the claimant relied upon incorrect, incomplete or misleading information provided by SSA in deciding not to appeal. In addition, the regulation explains in more detail our res judicata policy.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE11

3980. SSA ACQUISITION REGULATIONS (527F)

Priority: Other

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The regulation will establish the acquisition rules for the newly independent SSA. The regulation will largely duplicate the HHS acquisition regulation, except for modifications to reflect SSA and its organizational structure. Program and administrative costs are expected to be minimal.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1759

RIN: 0960–AE12

3981. MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO THE SOCIAL SECURITY ADMINISTRATION (530P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-296, sec 312

CFR Citation: 20 CFR 422.527

Legal Deadline: None

Abstract: This regulation will implement section 312 of P.L. 103-296 which expands prohibitions on the use of certain letters and symbols and also the reproduction for a fee of forms and publications of SSA and HHS.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandy Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AE15

3982. OASDI; NONPAYMENT OF BENEFITS TO INCARCERATED INDIVIDUALS AND INDIVIDUALS CONFINED IN CRIMINAL CASES, PURSUANT TO CONVICTION OR BY COURT ORDER BASED ON FINDINGS OF INSANITY (531P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402(x); 42 USC 405; 42 USC 902

CFR Citation: 20 CFR 404.468

Legal Deadline: None

Abstract: The regulation will implement section 4 of P.L. 103-387 which modifies and expands the current prisoner nonpayment provisions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1794

RIN: 0960–AE16

3983. SUPPLEMENTAL SECURITY INCOME; PLANS FOR ACHIEVING SELF-SUPPORT (506I)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-296, sec 203; 42 USC 1383b(d)

CFR Citation: 20 CFR 416.1180; 20 CFR 416.1181; 20 CFR 416.1182; 20 CFR 416.1224; 20 CFR 416.1225; 20 CFR 416.1226

Legal Deadline: None

Abstract: These regulations revise our rules on plans to achieve self-support (PASS) to take into account the time period an individual will need for completion of his or her PASS and other factors determined to be appropriate.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Secuarity Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE17

3984. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS; REPLACING SOCIAL SECURITY NUMBER CARDS (543F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 422.103

Legal Deadline: None

Abstract: These final rules will support our pilot test for replacing social security number cards when we receive a request by telephone. We will test replacing the card based on information furnished by telephone, without requiring additional documentation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/22/95	60 FR 32444
Interim Final Rule Comment Period End	08/21/95	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-3298

RIN: 0960–AE18

3985. LUMP SUM DEATH PAYMENT AND LIVING IN THE SAME HOUSEHOLD (548F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405(a); 42 USC 416; 42 USC 902(a)(5); 42 USC 402; 42 USC 403; 42 USC 423; 42 USC 428

CFR Citation: 20 CFR 404.2; 20 CFR 404.3; 20 CFR 404.347; 20 CFR 404.390; 20 CFR 404.392; 20 CFR 404.393; 20 CFR 404.394; 20 CFR 404.395; 20 CFR 404.612; 20 CFR 404.615; 20 CFR 404.765

Legal Deadline: None

Abstract: These final regulations revise our rules on "living in the same household" (LISH) and the lump-sum death payment (LSDP) to bring them into accord with legislation that restricted the payment of the LSDP. This revision includes the removal from our regulations of several outdated sections and paragraphs. We are also incorporating into our rules the policy established previously in a Social Security Ruling (SSR) that interpreted the definition of LISH to allow for extended separations that are based solely on medical reasons.

Timetable:

Action	Date	FR Cite
NPRM	12/06/95	60 FR 62354
NPRM Comment Period End	02/05/96	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-3298

RIN: 0960–AE20

3986. FREEDOM OF INFORMATION AND AVAILABILITY OF INFORMATION REGULATIONS FOR INDEPENDENT SSA (548F)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 902(a)(5); 42 USC 1306; 5 USC 552; 5 USC 552(a); 8 USC 1360; 18 USC 1905; 26 USC 6103; 31 USC 9701; 30 USC 923(b)

CFR Citation: 20 CFR 402.5 to 402.205

Legal Deadline: None

Abstract: These regulations adopt the DHHS Freedom of Information Regulations and the SSA availability of information and records to the public regulations into a new 20 CFR part 402.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AE24

3987. REQUIREMENTS FOR AWARDS AND SUBAWARDS TO INSTITUTIONS OF HIGHER EDUCATION; CERTAIN GRANTS AND AGREEMENTS WITH STATES, LOCAL, AND INDIAN TRIBAL GOVERNMENTS (547F)

Priority: Other

Legal Authority: 5 USC 301; 31 USC 7505; 41 USC 403(11)

CFR Citation: 20 CFR 435.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 74 into a new SSA regulation at 20 CFR 435 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE25

3988. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS) (554F)

Priority: Other

Legal Authority: 5 USC 301; 41 USC 403(11); 41 USC 701 et seq

CFR Citation: 20 CFR 436.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 76 into a new SSA regulation at 20 CFR part 436 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE27

3989. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS AND INDIAN TRIBAL GOVERNMENTS (555F)

Priority: Other

Legal Authority: 5 USC 301; 41 USC 403(ii)

CFR Citation: 20 CFR 437.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 92 into a new SSA regulation at 20 CFR part 437 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE28

3990. RESTRICTIONS ON LOBBYING IN CONNECTION WITH THE AWARD OF GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS (556F)

Priority: Other

Legal Authority: 5 USC 301; 31 USC 1352

CFR Citation: 20 CFR 438.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 93 into a new SSA regulation at 20 CFR part 438 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE29

3991. STATUS OF LEGALLY ADOPTED CHILD (557P)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402; 42 USC 403(a); 42 USC 403(b); 42 USC 405(a); 42 USC 416; 42 USC 423; 42 USC 428(a) to 428(e); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.354; 20 CFR 404.355; 20 CFR 404.365

Legal Deadline: None

Abstract: These proposed regulations will amend our present regulations to clarify that we determine the status of an adopted child by applying State adoption law, not the State law on inheritance.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1713

RIN: 0960–AE30

3992. PRIVACY AND DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION (566F)

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 552a; 26 USC 6103; 30 USC 923; 42 USC 405(a); 42 USC 1302; 42 USC 1306

CFR Citation: 20 CFR 401.5 to 401.200

Legal Deadline: None

Abstract: This final regulation migrates the HHS privacy regulation at 45 CFR part 5b into a new SSA regulation at 20 CFR part 401 which now includes SSA's regulations on disclosure.

Timetable:

Action	Date	FR Cite
Final Action Effective	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1762

RIN: 0960–AE34

3993. REDUCTION OF DISABILITY BENEFITS—WORKERS' COMPENSATION/PUBLIC DISABILITY BENEFITS (567P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402 to 405; 42 USC 424a; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.408

Legal Deadline: None

Abstract: We propose to revise our rules on reduction of Social Security benefits based on disability on account of receipt of workers' compensation and/or public disability benefits provided under Federal (other than Social Security), State, or local laws or plans to clarify our existing policies. We also propose to adopt a uniform method of proration of workers' compensation and public disability benefit settlements. In addition, we propose to incorporate into our rules the policy interpretations established previously in relevant Social Security Rulings (SSRs), and we will update provisions that have not been changed since 1984.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-3298

RIN: 0960–AE35

3994. PROVIDE "ONE-STOP" SERVICE FOR ALIENS APPLYING FOR SOCIAL SECURITY CARDS (569P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 1383

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Aliens will apply for Social Security cards at the same time they complete Immigration and Naturalization Services (INS) paperwork. Currently, alien applicants are required to furnish almost the same information to both SSA and INS. This one-stop service will reduce the potential for issuing Social Security cards based on fraudulent INS documents, and will result in efficiencies for the Government.

Statement of Need: This regulation is necessary to implement a Reinventing Government initiative.

Summary of the Legal Basis: These changes are not required by statute or court order.

Alternatives: Not yet determined

Anticipated Costs and Benefits: While the full impact of this change has not yet been determined, it is expected to reduce fraud based on false INS documents and to result in efficiencies for the Government of approximately $18 million over 5 years.

Risks: At this time we have not identified any risks associated with the proposal.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Martin Sussman, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-1767

RIN: 0960–AE36

SOCIAL SECURITY ADMINISTRATION (SSA) Completed Actions

3995. SUPPLEMENTAL SECURITY INCOME PROGRAM; CONTINUATION OF FULL BENEFIT STANDARD FOR CERTAIN PERSONS TEMPORARILY INSTITUTIONALIZED (198F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 416.211; 20 CFR 416.413; 20 CFR 416.414; 20 CFR 416.1149; 20 CFR 416.1167; 20 CFR 416.1325; 20 CFR 416.2040; 20 CFR 416.410; 20 CFR 416.412; 20 CFR 416.640; 20 CFR 416.1147

Completed:

Reason	Date	FR Cite
Final Action	03/13/96	61 FR 10274

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar
Phone: 410 965-1759

RIN: 0960–AC55

3996. SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; EXCLUSION FROM INCOME AND RESOURCES OF VICTIMS' COMPENSATION PAYMENTS AND STATE RELOCATION ASSISTANCE (311F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 416.1124; 20 CFR 416.1161(a); 20 CFR 416.1204(a); 20 CFR 416.1210; 20 CFR 416.1229 (New); 20 CFR 416.1239 (New)

Completed:

Reason	Date	FR Cite
Final Action	01/23/96	61 FR 1711
Final Action Effective	02/22/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short
Phone: 410 965-1753

RIN: 0960–AD36

3997. EXTENSION OF TIME PERIOD FOR NOT COUNTING AS RESOURCES, FUNDS RECEIVED FOR REPAIR OR REPLACEMENT OF DAMAGED OR DESTROYED EXCLUDED RESOURCES IN THE SSI PROGRAM (486F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 416.1232

Completed:

Reason	Date	FR Cite
Final Action	02/15/96	61 FR 5943
Final Action Effective	02/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Henry D. Lerner
Phone: 410 965-1762

RIN: 0960–AD87

3998. FEDERAL OASDI AND SSI FOR THE AGED, BLIND, AND DISABLED; SIGNATURE REQUIREMENTS FOR STATE AGENCY MEDICAL AND PSYCHOLOGICAL CONSULTANTS IN DISABILITY DETERMINATIONS (465F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 404.1615; 20 CFR 416.1015

Completed:

Reason	Date	FR Cite
Final Action	03/19/96	61 FR 11133

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short
Phone: 410 965-6243

RIN: 0960–AD88

3999. GOVERNMENT PENSION OFFSET, WINDFALL ELIMINATION PROVISION, AND ANNUAL EARNINGS REPORT (514F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 404.213; 20 CFR 404.408a; 20 CFR 404.452

Completed:

Reason	Date	FR Cite
Final Action	11/09/95	60 FR 56511
Final Action Effective	11/09/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Jack Schanberger
Phone: 410 965-8471

RIN: 0960–AE04

4000. ASSIGNING SSNS TO UNDOCUMENTED ALIENS WHO ARE REPRESENTATIVE PAYEES OR SSI DEEMORS (549P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 20 CFR 422.104

Completed:

Reason	Date	FR Cite
Withdrawn	03/21/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois Berg
Phone: 410 965-1713

RIN: 0960–AE26

4001. REVISION OF AUTHORITY CITATIONS (562F)

Priority: Other

CFR Citation: 20 CFR 401.100 to 401.600; 20 CFR 401.1 to 404.2127; 20 CFR 416.101 to 416.227; 20 CFR 422.1 to 422.607; 20 CFR 423.1 to 423.9

Completed:

Reason	Date	FR Cite
Final Action	02/15/96	61 FR 5939
Final Action Effective	02/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater
Phone: 410 965-3298

RIN: 0960–AE32

4002. SOCIAL SECURITY PROGRAMS: FRAUD AND ABUSE; ESTABLISHMENT OF NEW PART 498 TO ADDRESS CIVIL MONEY PENALTIES, ASSESSMENT AND EXCLUSIONS (563F)

Priority: Other

CFR Citation: 20 CFR 498.100 to 498.103; 20 CFR 498.106; 20 CFR 498.108 to 498.110; 20 CFR 498.126 to 498.128; 20 CFR 498.132

Completed:

Reason	Date	FR Cite
Final Action	11/27/95	60 FR 58225
Final Action Effective	11/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Cassandra A. Bond
Phone: 410 965-1794

RIN: 0960–AE33

4003. PROMOTE ONE-STOP BENEFIT APPLICATION (572P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn	03/21/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Daniel T. Bridgewater
Phone: 410 965-3298

RIN: 0960–AE38

4004. • DETERMINING DISABILITY AND BLINDNESS; EXTENSION OF EXPIRATION DATES FOR HEMIC AND LYMPHATIC SYSTEM, CHILDHOOD MENTAL DISORDERS, AND MALIGNANT NEOPLASTIC DISEASES LISTING (573F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 1382c

CFR Citation: 20 CFR 404.1501

Legal Deadline: None

Abstract: This rule extends the expiration dates for the hemic and lymphatic system childhood mental disorders, and malignant neoplastic diseases listings for a period of 2 years. It makes no revisions to the medical criteria in the listings; they remain the same as they now appear in the Code of Federal Regulations. This extension will ensure that we continue to have medical evaluation criteria in the listings to adjudicate claims for disability based on hemic and lymphatic system impairments, childhood mental disorders, and malignant neoplastic diseases at step three of our sequential evaluation process.

Timetable:

Action	Date	FR Cite
Final Action	12/06/95	60 FR 62329

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry J. Short, Legal Assistant, Social Security Administration, Division of Regulations and Rulings, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-6243

RIN: 0960–AE39

[FR Doc. 96-6952 Filed 05-10-96; 8:45 am]
BILLING CODE 4190-29-F

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Part XLIV

Tennessee Valley Authority

Semiannual Regulatory Agenda

TENNESSEE VALLEY AUTHORITY (TVA)

TENNESSEE VALLEY AUTHORITY

18 CFR Ch. XIII

Regulatory Agenda

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Semiannual regulatory agenda.

SUMMARY: As a nonregulatory agency, TVA originates few regulations. However, TVA has one regulation under development. TVA is therefore publishing a regulatory agenda in voluntary compliance with Executive Order No. 12866.

FOR FURTHER INFORMATION CONTACT: For further information, please contact the persons listed.

Edward S. Christenbury,

General Counsel.

TENNESSEE VALLEY AUTHORITY (TVA) — Long-Term Actions

4005. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED EDUCATIONAL PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1682; 16 USC 831 to 831dd

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This regulation implements 20 USC 1681 which assures nondiscrimination on the basis of sex in educational programs or activities receiving financial assistance from Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Provost, Manager, Tennessee Valley Authority, Office of Small and Disadvantaged Business Utilization and Federally Assisted Programs, 1101 Market Street EB 2B, Chattanooga, TN 37402-2801 Phone: 423 751-6269

RIN: 3316–AA13

[FR Doc. 96-6953 Filed 05-10-96; 8:45 am]

BILLING CODE 8120-08-F

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Monday
May 13, 1996

Part XLV

United States Information Agency

Semiannual Regulatory Agenda

UNITED STATES INFORMATION AGENCY (USIA)

UNITED STATES INFORMATION AGENCY

22 CFR Ch. V

Unified Agenda of Federal Regulations

AGENCY: United States Information Agency.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the United States Information Agency (USIA) plans for the next 12 months. USIA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of USIA's regulatory plans and to provide a systematic means of monitoring regulatory activity in USIA. None of the regulations listed in the agenda are considered major under Executive Order 12866 "Regulatory Planning and Review."

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Assistant General Counsel, Office of General Counsel, (202) 619-6531.

Stanley S. Colvin,

Assistant General Counsel.

UNITED STATES INFORMATION AGENCY (USIA) — Proposed Rule Stage

4006. • EXCHANGE VISITOR PROGRAM EXTENSIONS; REPEAT PARTICIPATION; TRANSFER OF PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(J); 8 USC 1182; 8 USC 1258; 22 USC 1431 to 1442; 22 USC 2451 to 2460; Reorganization Plan No. 2 of 1977; EO 12048 of March 27, 1978; USIA Delegation Order No. 85.5 (50 FR 27393)

CFR Citation: 22 CFR 514.43; 22 CFR 514.42; 22 CFR 514.20

Legal Deadline: None

Abstract: The Agency intends to adopt new rules or modify existing rules to ensure that J visa holders return to their home country in a timely fashion. Further, the Agency intends to adopt new or modify existing rules to prevent or severely restrict the serial use of the J visa. Finally, the Agency will modify its existing rules on the extension of allowable program duration.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stanley S. Colvin, Assistant General Counsel, United States Information Agency, Office of the General Counsel, 301 4th Street SW., Room 700, Washington, DC 20547
Phone: 202 619-6531
Fax: 202 619-4573
Email: scolvin@usia.gov

RIN: 3116–AA09

UNITED STATES INFORMATION AGENCY (USIA) — Final Rule Stage

4007. INSURANCE REQUIREMENTS; THE EXCHANGE VISITOR PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(J); 8 USC 1182; 8 USC 1258; 22 USC 1431 to 1442; 22 USC 2451 to 2460; Reorganization Plan No. 2 of 1977; EO 12048 of March 27, 1978; USIA Delegation Order No. 85.5 (50 FR 27393)

CFR Citation: 22 CFR 514.14(c)

Legal Deadline: None

Abstract: The Agency issued a final rule on March 19, 1993, which included a requirement that all exchange visitors and their spouses and dependents on J visas have insurance to cover themselves for sickness and accidents, effective September 1, 1994. In response to concerns raised by the public, the Agency is amending the types of insurance allowed under the Exchange Visitor Program regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/07/94	59 FR 34760
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local, Federal

Agency Contact: Stanley S. Colvin, Assistant General Counsel, United States Information Agency, Office of the General Counsel, 301 4th Street SW., Room 700, Washington, DC 20547
Phone: 202 619-6531

RIN: 3116–AA05

[FR Doc. 96-5656 Filed 05-10-96; 8:45 am]

BILLING CODE 8230-01-F

federal register

Monday
May 13, 1996

Part XLVI

Department of Defense
General Services Administration
National Aeronautics and Space Administration

Federal Acquisition Regulation; Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Regulatory Agenda

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in compliance with Executive Order 12866 "Regulatory Planning and Review." This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process.

The Federal Acquisition Regulation (FAR) Secretariat has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Fayson, FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501-4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR and prescribe the FAR system. Revisions to the FAR are made through periodic issuance of Federal Acquisition Circulars (FACs).

Dated: March 20, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4008	FAR Case 95-303, Restrictions on Certain Foreign Purchases	9000-AG82
4009	FAR Case 92-613, Contractor Overhead Certification	9000-AG85
4010	FAR Case 94-008, OFPP Policy Letter 93-1, Management Oversight of Service Contracting	9000-AG86
4011	FAR Case 95-17, Final Overhead Settlement	9000-AG87
4012	FAR Case 95-019, Consideration of Late Offers	9000-AG89

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4013	FAR Case 91-31, Contract Award-Sealed Bidding	9000-AE41
4014	FAR Case 91-106, Child Care Services	9000-AF31
4015	FAR Case 92-301, Federal Courts Administration Act	9000-AF35
4016	FAR Case 93-606, Implementation of MOU Between the USA and the EEC on Government Procurement and Sanctions Imposed on the European Economic Community	9000-AF39
4017	FAR Case 92-46, Prompt Payment Overseas	9000-AF41
4018	FAR Case 92-45, Interest Clause Revisions	9000-AF44
4019	FAR Case 91-95, Postponement of Bid Openings or Closing Dates	9000-AF48
4020	FAR Case 93-305, Small Business Innovation Research Rights in Data	9000-AF54
4021	FAR Case 91-102, Inconsistencies—Termination for Convenience	9000-AF55
4022	FAR Case 93-310, Implementation of the North American Free Trade Agreement (NAFTA) Implementation Act	9000-AF60
4023	FAR Case 92-27, Quality Assurance Nonconformance	9000-AF80
4024	FAR Case 92-48, Fluctuating Exchange Rates	9000-AF83
4025	FAR Case 93-6, Legislative Lobbying Costs	9000-AF98
4026	FAR Case 93-20, Records Retention	9000-AF99
4027	FAR Case 93-22, Travel Costs	9000-AG00
4028	FAR Case 93-615, Use of Convict Labor	9000-AG02
4029	FAR Case 92-31, Quality Assurance Actions, Electronic Screening	9000-AG06
4030	FAR Case 92-39, Master Subcontracting Plans	9000-AG07
4031	FAR Case 92-302, Small Business Competitiveness Demonstration Program	9000-AG10
4032	FAR Case 93-304, Defense Production Act Amendments	9000-AG11
4033	FAR Case 94-771; Micro-Purchase Procedures	9000-AG26
4034	FAR Case 94-753; Travel Costs	9000-AG27
4035	FAR Case 92-50, Double-Sided Copy	9000-AG41
4036	FAR Case 93-307, Ozone Executive Order	9000-AG42

FAR

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4037	FAR Case 95-9 Quick Closeout Procedures	9000-AG57
4038	FAR Case 94-712, Multiyear Contracting	9000-AG63
4039	FAR Case 95-002, Application of Cost Accounting Standards Board Regulations to Educational Institutions	9000-AG71
4040	FAR Case 94-723, Modification of Existing Contracts	9000-AG90
4041	FAR Case 94-767, Assignment of Claims—Presidential Delegation	9000-AG91
4042	FAR Case 94-011, Predetermined Indirect Cost Rates	9000-AG92
4043	94-606, Part 31 Agency Supplements	9000-AG93
4044	FAR Case 92-001, Inspection Clauses—Fixed	9000-AG94
4045	FAR Case 95-004, National Industrial Security Program Operating Manual (NISPOM)	9000-AG95
4046	FAR Case 95-030, Caribbean Basin Countries	9000-AG96
4047	FAR Case 95-027, Armed Services Pricing Manual	9000-AG97
4048	FAR Case 95-603, Solicitation Provisions - Contract Clauses	9000-AG98
4049	FAR Case 95-301, Irrevocable Letters of Credit (ILCs) and Alternatives to Miller Act Bonds	9000-AG99
4050	FAR Case 96-302, Justification and Approval Thresholds	9000-AH00

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4051	FAR Case 89-12, Pay-As-You-Go Pension Costs	9000-AC90
4052	FAR Case 89-23, Procurement Integrity	9000-AD01
4053	FAR Case 89-42, Liquidated Damages	9000-AD20
4054	FAR Case 89-93, Implementation of the Anti-Lobbying Statute	9000-AD76
4055	FAR Case 91-27, Performance and Payment Bonds	9000-AE47
4056	FAR Case 91-28, Indian-Owned Enterprises	9000-AE52
4057	FAR Case 91-91, Prompt Payment Act	9000-AF61
4058	FAR Case 91-109, Architect-Engineer Services	9000-AF72
4059	FAR Case 93-5, Employee Compensation Costs	9000-AF97
4060	FAR Case 91-78, Small Business Subcontracting Reporting	9000-AG04
4061	FAR Case 94-3: Termination Inventory Schedules	9000-AG13
4062	FAR Case 94-9, Interdivisional Transfers	9000-AG14
4063	FAR Case 92-54, Environmentally Preferable Products	9000-AG40
4064	FAR Case 91-118, Payment by Electronic Fund Transfer	9000-AG49
4065	FAR Case 93-26, Business Meals	9000-AG59
4066	FAR Case 92-34, FAR Certifications	9000-AG61
4067	FAR Case 93-19, Contingent Fee	9000-AG64
4068	FAR Case 93-10, Legal Proceedings Costs	9000-AG65
4069	FAR Case 95-007, Responsibility Determinations	9000-AG66
4070	FAR Case 95-305, Federal Acquisition and Community Right-To-Know	9000-AG68
4071	FAR Case 93-308, Mentor Protege Program	9000-AG70
4072	FAR Case 95-003, Impairment of Long-Lived Assets	9000-AG73
4073	FAR Case 93-024, Allowable Cost and Payment Clause	9000-AG74
4074	FAR Case 94-605, Contractors' Purchasing Systems Reviews	9000-AG75
4075	FAR Case 92-035, Clause Flowdown	9000-AG76
4076	FAR Case 93-303, Disaster Relief Act	9000-AG77
4077	FAR Case 95-304, Uruguay Round	9000-AG80
4078	FAR Case 91-119, Buy American Act-Construction (Grimberg Decision)	9000-AG81
4079	FAR Case 93-009, Contingent Fee Representation	9000-AG83

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4080	FAR Case 90-52, Evaluation Factors	9000-AE21
4081	FAR Case 91-18, Multiyear Contracting	9000-AE65

FAR

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4082	FAR Case 92-616, Service of Protest	9000-AF36
4083	FAR Case 93-301, Made in America Labels; FAR Case 93-306, Unfair Trade Practices	9000-AF40
4084	FAR Case 92-19, Subcontracting Plans	9000-AF45
4085	FAR Case 92-51, Inherently Governmental Functions	9000-AF46
4086	FAR Case 92-615, Debarment and Suspension Certificate	9000-AF57
4087	FAR Case 91-108, Javits-Wagner-O'Day Program	9000-AF71
4088	FAR Case 92-2, Subcontract Proposal Audits	9000-AF74
4089	FAR Case 92-10, Nonprofit Institutions Clause Prescription	9000-AF77
4090	FAR Case 92-14, Insurance—Liability to Third Persons	9000-AF78
4091	FAR Case 92-17, Overhead Should-Cost Reviews	9000-AF79
4092	FAR Case 92-40, Contractors' Purchasing Systems Reviews and Subcontractor Consent	9000-AF82
4093	FAR Case 92-604, Nonallowability of Excise Taxes on Nondeductible Contributions to Deferred Compensation Plans	9000-AF85
4094	FAR Case 94-602, GSBCA Rules	9000-AG03
4095	FAR Case 92-24, Employee Stock Ownership Plans	9000-AG53
4096	FAR Case 93-18, Definition of Bid and Proposal Costs	9000-AG58
4097	FAR Case 95-008, Competitive Range	9000-AG67
4098	FAR Case 95-006, Field Pricing Support Request	9000-AG69
4099	FAR Case 92-606, SBA Responsibility, Certificates of Competency Requests	9000-AG78
4100	FAR Case 94-002, Availability of Accounting Guide	9000-AG79
4101	FAR Case 91-70, Insurance	9000-AG84

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Proposed Rule Stage

4008. • FAR CASE 95-303, RESTRICTIONS ON CERTAIN FOREIGN PURCHASES

Priority: Other Significant

Legal Authority: EO 12959

CFR Citation: 48 CFR 25.7; 48 CFR 52.225-11

Legal Deadline: None

Abstract: This proposed rule amends the FAR to implement Executive Order 12959, Prohibiting Certain Transactions with Respect to Iran, and to conform the FAR to other current restrictions of the Department of the Treasury.

Timetable:

Action	Date	FR Cite
NPRM	02/22/96	61 FR 6910
NPRM Comment Period End	04/21/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG82

4009. • FAR CASE 92-613, CONTRACTOR OVERHEAD CERTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.205-1; 48 CFR 31.205-13

Legal Deadline: None

Abstract: This proposed rule modifies the allowability criteria for the cost of gifts and entertainment. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG85

4010. • FAR CASE 94-008, OFPP POLICY LETTER 93-1, MANAGEMENT OVERSIGHT OF SERVICE CONTRACTING

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 9.505-3; 48 CFR 9.507-1; 48 CFR 35.017-2; 48 CFR 37.000; 48 CFR 37.102; 48 CFR 37.5

Legal Deadline: None

Abstract: This proposed rule amends the FAR to provide agency guidance on the management of service contracts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
NPRM Comment Period End	06/00/96	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG86

FAR

Proposed Rule Stage

4011. • FAR CASE 95-17, FINAL OVERHEAD SETTLEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 42.705; 48 CFR 52.216-7; 48 CFR 52.216-13; 48 CFR 52.216-15

Legal Deadline: None

Abstract: This proposed rule amends the FAR to improve the process of final settlement of contractor overhead rates. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1996.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG87

4012. • FAR CASE 95-019, CONSIDERATION OF LATE OFFERS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473

CFR Citation: 48 CFR 14.304; 48 CFR 15.412; 48 CFR 52.214-5; 48 CFR 52.214-7; 48 CFR 52.214-32; 48 CFR 52.214-33; 48 CFR 52.215-9; 48 CFR 52.215-10; 48 CFR 52.215-36

Legal Deadline: None

Abstract: This proposed rule amends the FAR to acknowledge hand-carried offers (bids and proposals) in the FAR and broaden the conditions under which late offers for negotiated procurements can be considered.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat, 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG89

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Final Rule Stage

4013. FAR CASE 91-31, CONTRACT AWARD-SEALED BIDDING

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: This final rule amends the FAR to inform offerors that the Government may reject bids as nonresponsive if the prices are materially unbalanced. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	06/27/91	56 FR 29539
NPRM Comment Period End	08/26/91	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755

RIN: 9000–AE41

4014. FAR CASE 91-106, CHILD CARE SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-647, sec 231; PL 102-190, sec 1094

CFR Citation: 48 CFR 37.101; 48 CFR 37.103

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense

Acquisition Regulations Council are amending the Federal Acquisition Regulation to add a definition of child care services and to require contracting officers to ensure that contracts for child care services include requirements for criminal history background checks of employees in accordance with 42 U.S.C. 13041. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/28/94	59 FR 67050
Final Action	05/00/96	

Small Entities Affected: Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF31

4015. FAR CASE 92-301, FEDERAL COURTS ADMINISTRATION ACT

Priority: Other Significant

Legal Authority: PL 102-572

CFR Citation: 48 CFR 33.201; 48 CFR 33.202; 48 CFR 33.204; 48 CFR 33.207; 48 CFR 33.208; 48 CFR 33.210; 48 CFR 33.211; 48 CFR 33.214; 48 CFR 42.302; 48 CFR 52.233-1

Legal Deadline: Other, Statutory, October 29, 1992.
This RIN implements PL 102-572, sec 907(a) which was enacted on October 29, 1992.

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to revise Federal Acquisition Regulation Part 33 and the clause at 52.233-1 to implement the Administrative Dispute Resolution Act (PL 101-552) and the Federal Courts Administration Act of 1992 (PL 102-572). This revision will encourage the use of Alternative Dispute Resolution techniques and will resolve problems that have arisen under currently existing Contract Disputes Act resolution procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/10/94	59 FR 11380
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: RIN 9000-AE96 was merged with this RIN and published as an interim rule in Federal Acquisition Circular 90-20.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF35

4016. FAR CASE 93-606, IMPLEMENTATION OF MOU BETWEEN THE USA AND THE EEC ON GOVERNMENT PROCUREMENT AND SANCTIONS IMPOSED ON THE EUROPEAN ECONOMIC COMMUNITY

Priority: Other Significant

Legal Authority: EO 12849

CFR Citation: 48 CFR 14.201-6; 48 CFR 15.407; 48 CFR 17.203(h); 48 CFR 25.109; 48 CFR 25.202; 48 CFR 25.205; 48 CFR 25.4; 48 CFR 25.10; 48 CFR 52.214-34; 48 CFR 52.214-35; 48 CFR 52.225-8; 48 CFR 52.225-9; 48 CFR 52.225-15 to 52.225-19

Legal Deadline: Other, Statutory, May 25, 1993.
RIN is based on publication of interim rule.

Abstract: The Department of Defense, General Services Administration, and National Aeronautics and Space Administration have agreed to a final rule implementing the Memorandum of Understanding Between the United States of America and the European Economic Community on Government Procurement (MOU) and implementing the sanctions imposed by the President on the European Community (EC) prohibiting the award of certain contracts for EC products, services, and construction.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/28/93	58 FR 31140
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755

RIN: 9000–AF39

4017. FAR CASE 92-46, PROMPT PAYMENT OVERSEAS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 32.901; 48 CFR 52.232-25; 48 CFR 52.232-26

Legal Deadline: None

Abstract: This final rule amends the FAR to reflect that the Prompt Payment Act applies to overseas contracts. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/10/94	59 FR 11379
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF41

4018. FAR CASE 92-45, INTEREST CLAUSE REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 32.610; 48 CFR 32.613; 48 CFR 32.614-1; 48 CFR 52.232-17

Legal Deadline: None

Abstract: FAR 32.610(b)(2), 32.613(h)(3), 32.614-1(c), and the clause at 52.232-17 are amended to make it clear that the Cost Accounting Standards clauses at 52.230-2 and 52.230-3 provide for the use of different interest rates under different circumstances. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF44

4019. FAR CASE 91-95, POSTPONEMENT OF BID OPENINGS OR CLOSING DATES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 14.402-3(c); 48 CFR 15.411(a); 48 CFR 15.412(b); 48 CFR 52.214-7(h); 48 CFR 52.215-10

Legal Deadline: None

Abstract: This final rule amends the FAR to clarify the time for receipt of bids or proposals when an emergency or unanticipated event interrupts normal processes at a Government installation on the date scheduled for receipt of bids or proposals.

Timetable:

Action	Date	FR Cite
NPRM	11/09/93	58 FR 59618
NPRM Comment Period End	01/10/94	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF48

4020. FAR CASE 93-305, SMALL BUSINESS INNOVATION RESEARCH RIGHTS IN DATA

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 52.227-20

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to a final rule that amends the Federal Acquisition Regulation (FAR) under the clause Rights in Data-Small Business Innovation Research Program, to increase the small business concern's data rights retention period from 2 to 4 years. This amendment implements Section 15(f) of the revised Small Business Innovation Research (SBIR) Program Policy Directive, published by the Small Business Administration (SBA) in the Federal Register at 58 FR 6144, January 26, 1993. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/10/94	59 FR 11386
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF54

4021. FAR CASE 91-102, INCONSISTENCIES—TERMINATION FOR CONVENIENCE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 52.249-2(e); 48 CFR 52.249-2(i)

Legal Deadline: None

Abstract: This final rule amends the FAR to clarify language in the "Termination for Convenience of the Government (Fixed-Price)" clause.

Timetable:

Action	Date	FR Cite
NPRM	12/09/93	58 FR 64826
NPRM Comment Period End	02/07/94	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755

RIN: 9000–AF55

4022. FAR CASE 93-310, IMPLEMENTATION OF THE NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) IMPLEMENTATION ACT

Priority: Economically Significant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 5.202(a); 48 CFR 14; 48 CFR 15; 48 CFR 17; 48 CFR 25; 48 CFR 27; 48 CFR 52.225

Legal Deadline: Other, Statutory, January 1, 1994.

Deadline is for an interim rule.

Abstract: The Department of Defense, General Services Administration, and National Aeronautics and Space Administration have agreed to a revised interim rule implementing the North American Free Trade Agreement (NAFTA) Implementation Act. While the North American Free Trade Agreement (NAFTA) remains in effect, the Canadian Free Trade Agreement (CFTA) is suspended. This interim rule revises and updates the FAR concerning Canadian products. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/94	59 FR 544
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755

RIN: 9000–AF60

4023. FAR CASE 92-27, QUALITY ASSURANCE NONCONFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 46.101; 48 CFR 46.103(c) to 46.103(e); 48 CFR 46.407(c)(1); 48 CFR 46.407(d); 48 CFR 46.407(f)

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to amend the Federal Acquisition Regulation concerning quality assurance to include definitions of the terms "critical nonconformance," "major nonconformance," and "minor nonconformance" and make other conforming amendments as a result of recommendations made by the DOD IG.

Timetable:

Action	Date	FR Cite
NPRM	03/28/94	59 FR 14466
NPRM Comment Period End	05/27/94	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755

RIN: 9000–AF80

4024. FAR CASE 92-48, FLUCTUATING EXCHANGE RATES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 25.501; 48 CFR 25.502; 48 CFR 52.225-4

Legal Deadline: None

Abstract: This final rule amends the FAR to provide guidance and a provision regarding evaluation of foreign currency offers. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	04/06/94	59 FR 16391
NPRM Comment Period End	06/06/94	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755

RIN: 9000–AF83

4025. FAR CASE 93-6, LEGISLATIVE LOBBYING COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.205-22; 48 CFR 31.205-30

Legal Deadline: None

Abstract: The allowability criteria for contractor legislative lobbying costs are amended.

Timetable:

Action	Date	FR Cite
NPRM	09/16/94	59 FR 47776
NPRM Comment Period End	11/15/94	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755 Fax: 202 501-4067

RIN: 9000–AF98

4026. FAR CASE 93-20, RECORDS RETENTION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.201-2

Legal Deadline: None

Abstract: This final rule amends the FAR to explicitly state that contractors must maintain adequate cost records in order to be reimbursed for all claimed costs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	09/16/94	59 FR 47776
NPRM Comment Period End	11/15/94	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755 Fax: 202 501-4067

RIN: 9000–AF99

4027. FAR CASE 93-22, TRAVEL COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.205-46

Legal Deadline: None

Abstract: This final rule amends the FAR to specify the documentation required to support the allowability of contractors' claimed travel costs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	09/16/94	59 FR 47777
NPRM Comment Period End	11/15/94	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755 Fax: 202 501-4067

RIN: 9000–AG00

4028. FAR CASE 93-615, USE OF CONVICT LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 22.201; 48 CFR 52.222-3

Legal Deadline: None

Abstract: This final rule amends the FAR to reflect changes in the statutory restrictions on employment of convict labor in the performance of Government contracts. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	09/06/94	59 FR 46020
NPRM Comment Period End	11/07/94	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755 Fax: 202 501-4067

RIN: 9000–AG02

4029. FAR CASE 92-31, QUALITY ASSURANCE ACTIONS, ELECTRONIC SCREENING

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 46.101

Legal Deadline: None

Abstract: This rule revises 46.101, Definitions, to include definitions of the terms "latent defect" and "patent defect." The case implements a DODIG mediation agreement on Audit Report 92-099, Quality Assurance Actions Resulting from Electronic Component Screening.

Timetable:

Action	Date	FR Cite
NPRM	09/08/94	59 FR 46386
NPRM Comment Period End	11/07/94	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755

RIN: 9000–AG06

4030. FAR CASE 92-39, MASTER SUBCONTRACTING PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 19.704(b); 48 CFR 52.219-9

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to amend the FAR to permit master subcontracting plans to be written for a 3-year period and to emphasize that it is incumbent upon contractors to maintain and update master plans.

Timetable:

Action	Date	FR Cite
NPRM	09/08/94	59 FR 46385
NPRM Comment Period End	11/07/94	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755 Fax: 202 501-4067

RIN: 9000–AG07

4031. FAR CASE 92-302, SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-366

CFR Citation: 48 CFR 19.1001; 48 CFR 19.1005; 48 CFR 19.1006

Legal Deadline: None

Abstract: Amends the Federal Acquisition Regulation to specify that agencies may reinstate the use of small business set-asides as necessary to meet assigned goals, but only within the organizational unit(s) that failed to meet the small business goals, and revises the description of Architect and Engineering services as a designated industry group. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/28/94	59 FR 67047
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG10

4032. FAR CASE 93-304, DEFENSE PRODUCTION ACT AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-558; 50 USC 2091

CFR Citation: 48 CFR 34.1; 48 CFR 52.234-1

Legal Deadline: Final, Statutory, July 26, 1993.

Abstract: FAR is amended to add policy and procedures for testing and qualification of industrial resources developed under Title III, Defense Production Act (DPA) Amendments of 1992 (PL 102-558). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/28/94	59 FR 67047
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG11

4033. FAR CASE 94-771; MICRO-PURCHASE PROCEDURES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 1.603-3; 48 CFR 3.104-4; 48 CFR 4.800; 48 CFR 13.101; 48 CFR 13.105; 48 CFR 13.106; 48 CFR 13.502; 48 CFR 13.601; 48 CFR 13.603; 48 CFR 25.100

Legal Deadline: Final, Statutory, October 1, 1995.

Abstract: A final rule is being issued pursuant to the Federal Acquisition Streamlining Act of 1994 to implement the new micro-purchase requirements of the Act. This regulatory action is subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/15/94	59 FR 64786
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG26

4034. FAR CASE 94-753; TRAVEL COSTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 31.205-46

Legal Deadline: Final, Statutory, October 1, 1995.
The Federal Acquisition Streamlining Act eliminated the statutory requirement to the travel cost principle concerning the Federal Travel Regulations. No regulatory implementation was required.

Abstract: This rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994, Public Law 103-355 (the Act). The Federal Acquisition Regulatory Council is considering amending the Federal Acquisition Regulation (FAR) as a result of changes to 41 USC 22 by Section 2191 of the Act. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. However, the proposed rule would permit contractors to propose alternative rates to those prescribed in the FTR/JTR.

Timetable:

Action	Date	FR Cite
NPRM	12/14/94	59 FR 64542
NPRM Comment Period End	02/13/95	
Final Action	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG27

4035. FAR CASE 92-50, DOUBLE-SIDED COPY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 4.000; 48 CFR 4.3; 48 CFR 52.204-4

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to a final rule amending the FAR to encourage contractors to maximize the use of double-sided copying on recycled paper when submitting documents related to an acquisition. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/31/95	60 FR 28492
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG41

4036. FAR CASE 93-307, OZONE EXECUTIVE ORDER

Priority: Substantive, Nonsignificant

Legal Authority: EO 12843

CFR Citation: 48 CFR 23.8; 48 CFR 52.223-11; 48 CFR 52.223-12

Legal Deadline: Other, Statutory, March 11, 1994.
RIN published as an interim rulemaking in Federal Acquisition Circular 90-27.

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to a final rule which amends the FAR to provide policy for the acquisition of items that contain, use, or are manufactured with ozone-depleting substances. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/31/95	60 FR 28492
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG42

4037. FAR CASE 95-9 QUICK CLOSEOUT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 42.708(a); 48 CFR 52.216-7; 48 CFR 52.216-13

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to a final rule to amend the FAR to ensure maximum use of the quick-closeout procedures. This regulatory action was not subject to E.O. 12866 Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 38196
NPRM Comment Period End	09/25/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA/VRS-FAR Secretariat, 18th & F Street NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG57

4038. FAR CASE 94-712, MULTIYEAR CONTRACTING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: Final, Statutory, October 1, 1995.

Abstract: This rule provides authority for certain agencies to conduct certain multiyear contracting.

Timetable:

Action	Date	FR Cite
NPRM	03/16/95	60 FR 14340
NPRM Comment Period End	05/15/95	
Final Action	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4225
Fax: 202 501-4067

RIN: 9000–AG63

4039. • FAR CASE 95-002, APPLICATION OF COST ACCOUNTING STANDARDS BOARD REGULATIONS TO EDUCATIONAL INSTITUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 30.201; 48 CFR 30.202-7; 48 CFR 30.202-8; 48 CFR

30.5; 48 CFR 30.602; 48 CFR 30.603; 48 CFR 42.302; 48 CFR 52.230

Legal Deadline: None

Abstract: This final rule amends the FAR to implement changes made to the Cost Accounting Standards (CAS). It applies to educational institutions receiving a negotiated Federal contract or subcontract award in excess of $500,000 (excluding contracts awarded for the operation of Federally Funded Research and Development Centers (FFRDCs) which are already subject to CAS Board regulations), and requires that such educational institutions comply with certain specified CAS Board rules, regulations and standards. The revisions to the FAR are based on the CAS Board's amendments to 48 CFR, Chapter 99. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG71

4040. • FAR CASE 94-723, MODIFICATION OF EXISTING CONTRACTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355, sec 1002

CFR Citation: 48 CFR 1.103; 48 CFR 43.102

Legal Deadline: Other, Statutory, October 1, 1995.
Rule published as interim rulemaking in Federal Acquisition Circular 90-38.

Abstract: This interim rule amends the FAR to implement section 1002 of the Federal Acquisition Streamlining Act (Public Law 103-355) which authorizes regulations to provide for modification of existing contracts without requiring consideration, upon request of the contractor, to incorporate changes authorized by FASA. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG90

4041. • FAR CASE 94-767, ASSIGNMENT OF CLAIMS—PRESIDENTIAL DELEGATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 32.803; 48 CFR 32.806

Legal Deadline: Final, Statutory, October 5, 1996.

Abstract: This final rule reflects the Presidential delegation of authority to make determinations of need and to provide guidance for determinations of need made in accordance with the Presidential Delegation dated October 3, 1995. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG92

4042. • FAR CASE 94-011, PREDETERMINED INDIRECT COST RATES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 16.307; 48 CFR 42.705-3; 48 CFR 52.216-15

Legal Deadline: None

Abstract: This final rule amends the FAR to implement revisions to OMB Circular A-21 that permit predetermined indirect cost rates for educational institutions to be established for periods of up to four years. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG91

4043. • 94-606, PART 31 AGENCY SUPPLEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.100; 48 CFR 31.101

Legal Deadline: None

Abstract: This final rule amends the FAR to remove the requirement for Civilian Agency Acquisition Council approval for agency supplements to FAR Part 31, as recommended by the Department of Transportation. The change does not amend the requirement for approval of class deviations. Accordingly, supplementary coverage will be consistent with the FAR Part 31 coverage, unless a class deviation is approved. Therefore, advance approval of supplements is considered to be unnecessary. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG94

4044. • FAR CASE 92-001, INSPECTION CLAUSES—FIXED

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 52.246-2; 48 CFR 52.246-4; 48 CFR 52.246-7; 48 CFR 52.246-12; 48 CFR 52.246-13

Legal Deadline: None

Abstract: This final rule amends the FAR to provide clarification in the clauses pertaining to Inspection of Supplies--Fixed Price, Inspection of Services--Fixed Price, Inspection of Research and Development--Fixed Price, Inspection of Construction, and Inspection--Dismantling, Demolition, or Removal of Improvements, by replacing the phrase "without additional charge" with "at no increase in contract price". This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG93

4045. • FAR CASE 95-004, NATIONAL INDUSTRIAL SECURITY PROGRAM OPERATING MANUAL (NISPOM)

Priority: Substantive, Nonsignificant

Legal Authority: EO 12829

CFR Citation: 48 CFR 4.402; 48 CFR 4.403; 48 CFR 4.404; 48 CFR 27.207-1; 48 CFR 52.204-2

Legal Deadline: None

Abstract: This final rule amends the FAR to reflect the applicability of the National Industrial Security Program Operating Manual (NISPOM).The NISPOM updates and replaces the DOD Industrial Security Manual for Safeguarding Classified Information (DOD) 5220.22-M).

This rule revises the FAR to replace references to the Defense Industrial Security Program with references to the National Industrial Security Program. The revisions also replace references to the DOD Industrial Security Manual for Safeguarding Classified Information with references to the NISPOM. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG95

4046. • FAR CASE 95-030, CARIBBEAN BASIN COUNTRIES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 25.402

Legal Deadline: None

Abstract: This final rule amends the FAR to implement the extension by the U.S. Trade Representative of the date of eligibility under the Trade Agreements Act of products of Caribbean Basin Countries. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG96

FAR — Final Rule Stage

4047. • FAR CASE 95-027, ARMED SERVICES PRICING MANUAL

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15.805-1

Legal Deadline: None

Abstract: This final rule amends the FAR to replace the Armed Services Pricing Manual as the reference guide for pricing and negotiation personnel, with five desk references jointly prepared by the Air Force Institute of Technology and the GSA Federal Acquisition Institute. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG97

4048. • FAR CASE 95-603, SOLICITATION PROVISIONS - CONTRACT CLAUSES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 52.210-1

Legal Deadline: None

Abstract: This final rule amends the FAR to delete the statement advising offerors to obtain copies of specifications from General Services Administration Service Centers. The substance of the provision set forth at FAR 52.211-1 is not changed. Specifications are no longer available at the Business Service Centers. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GDA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG98

4049. • FAR CASE 95-301, IRREVOCABLE LETTERS OF CREDIT (ILCS) AND ALTERNATIVES TO MILLER ACT BONDS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 28.001; 48 CFR 28.1; 48 CFR 28.2; 48 CFR 52.228

Legal Deadline: None

Abstract: This interim rule amends the FAR due to the requirement to implement OFPP Policy Letter 91-4 (previously considered under FAR Case 91-113, Irrevocable Letters of Credit) and provide alternatives to Miller Act Bonds, as required by Section 4104(b) of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103-355).

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG99

4050. • FAR CASE 96-302, JUSTIFICATION AND APPROVAL THRESHOLDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-106

CFR Citation: 48 CFR 6

Legal Deadline: Final, Statutory, January 7, 1997.

Abstract: This final rule amends the FAR to raise the dollar thresholds pertaining to approval for the use of other than full and open competition in the acquisition process. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AH00

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR) — Long-Term Actions

4051. FAR CASE 89-12, PAY-AS-YOU-GO PENSION COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 30; 48 CFR 31

Legal Deadline: None

Abstract: To amend the FAR to revise the cost allowability criteria for pension costs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/29/89	54 FR 13022
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AC90

4052. FAR CASE 89-23, PROCUREMENT INTEGRITY

Priority: Other Significant

Legal Authority: 41 USC 423

CFR Citation: 48 CFR 1; 48 CFR 3; 48 CFR 4; 48 CFR 9; 48 CFR 15; 48 CFR 37; 48 CFR 43; 48 CFR 52

Legal Deadline: Other, Statutory, July 16, 1989.
Other deadline is for an interim final rule.

Abstract: To amend the FAR to implement the procurement integrity requirements of section 27 of the Office of Federal Procurement Policy Act.

Timetable:

Action	Date	FR Cite
NPRM	03/27/89	54 FR 12556
Interim Final Rule	05/11/89	54 FR 20488
Suspension of Interim Final Rule	12/08/89	54 FR 50718
Interim Final Rule - 2nd Publication	09/06/90	55 FR 36782
Interim Final Rule Effective	09/06/90	
Amendment to Interim Final Rule	11/30/90	55 FR 49852
Amendment to Interim Final Rule Effective	12/30/90	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AD01

4053. FAR CASE 89-42, LIQUIDATED DAMAGES

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-656, Sec 304

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: Amends the FAR to require a prime contractor to pay liquidated damages upon a lack of good faith effort to meet its small business subcontracting goals.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/21/89	54 FR 30703
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AD20

4054. FAR CASE 89-93, IMPLEMENTATION OF THE ANTI-LOBBYING STATUTE

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-121, Sec 319

CFR Citation: 48 CFR 3; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to implement section 319 of PL 101-121, which added a new section 1352 to title 31 USC entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions." Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, or cooperative agreement, in excess of $100,000, or a loan or Federal commitment to insure or guarantee a loan, in excess of $150,000, must disclose lobbying with other than appropriated funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/90	55 FR 3190
Next Action Undetermined		

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4067

RIN: 9000–AD76

4055. FAR CASE 91-27, PERFORMANCE AND PAYMENT BONDS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 28; 48 CFR 52

Legal Deadline: None

Abstract: To amend parts 28 and 52 to standardize policies governing bonding. The principal revisions include adding standard clauses when performance or payment bonds are required, and a standard form, Performance and Payment Bonds--Other Than Construction.

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Timetable:

Action	Date	FR Cite
NPRM	07/09/91	56 FR 31278
NPRM Comment Period End	09/09/91	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755

RIN: 9000–AE47

4056. FAR CASE 91-28, INDIAN-OWNED ENTERPRISES

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-442, Sec 7

CFR Citation: 48 CFR 26; 48 CFR 52

Legal Deadline: None

Abstract: To amend the FAR to allow contractors to recover certain costs of subcontracting with Indian organizations and Indian-owned economic enterprises.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/22/91	56 FR 41728

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755

RIN: 9000–AE52

4057. FAR CASE 91-91, PROMPT PAYMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 32.102(d); 48 CFR 32.902; 48 CFR 32.903; 48 CFR 32.904; 48 CFR 32.905; 48 CFR 32.906(a); 48 CFR 32.907-1; 48 CFR 32.910; 48 CFR 52.232-5; 48 CFR 52.232-8(b); 48 CFR 52.232-25; 48 CFR 52.232-26; 48 CFR 52.232-27; 48 CFR 52.232-28

Legal Deadline: None

Abstract: Revises FAR for compliance with OMB Circular A-125, Prompt Payment Act.

Timetable:

Action	Date	FR Cite
NPRM	05/06/94	59 FR 23776
NPRM Comment Period End	07/05/94	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755

RIN: 9000–AF61

4058. FAR CASE 91-109, ARCHITECT-ENGINEER SERVICES

Priority: Other Significant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 36.601-3; 48 CFR 36.601-4

Legal Deadline: None

Abstract: The Office of Federal Procurement Policy has directed revision of the Federal Acquisition Regulation to clarify the description of services considered to be architect-engineer services.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755

RIN: 9000–AF72

4059. FAR CASE 93-5, EMPLOYEE COMPENSATION COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 22.101-2; 48 CFR 31.001; 48 CFR 31.205-6; 48 CFR 42.302(a)(1); 48 CFR 42.1300 to 42.1306

Legal Deadline: None

Abstract: Cost allowability criteria for employee compensation costs are amended.

Timetable:

Action	Date	FR Cite
NPRM	10/11/94	59 FR 51399
NPRM Comment Period End	12/12/94	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755

RIN: 9000–AF97

4060. FAR CASE 91-78, SMALL BUSINESS SUBCONTRACTING REPORTING

Priority: Other Significant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 53.219

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend FAR 53.219 to authorize the addition of a column to the Standard Form 295, Summary Subcontract Report, to report the number of subcontracts awarded to small business concerns, small disadvantaged business concerns, and women-owned small business enterprises.

Timetable:

Action	Date	FR Cite
NPRM	09/26/94	59 FR 49037
NPRM Comment Period End	11/25/94	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755 Fax: 202 501-4067

RIN: 9000–AG04

4061. FAR CASE 94-3: TERMINATION INVENTORY SCHEDULES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 49.105; 48 CFR 49.206-3; 48 CFR 49.303-2; 48 CFR 52.249-2; 48 CFR 52.249-3; 48 CFR 52.249-5; 48 CFR 52.249-6; 48 CFR 52.249-11

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing changes concerning termination of contracts to preclude excessive delays in processing terminations for the convenience of the Government. The proposed change will require contractors to prepare and submit termination inventory schedules within 120 days from the effective date of termination, unless otherwise extended by the Termination Contracting Officer (TCO). This will enable the TCO to initiate early inventory screening and final disposition, thereby substantially reducing the time required to achieve termination settlement.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61734
NPRM Comment Period End	01/30/95	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755 Fax: 202 501-4067

RIN: 9000–AG13

4062. FAR CASE 94-9, INTERDIVISIONAL TRANSFERS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.205-26

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule amending the Federal Acquisition Regulation (FAR). The cost principle criteria for cost of interdivisional transfers are amended to permit interdivisional transfers at price rather than cost under criteria that more closely approximate those applied to subcontracts eligible for exemption or waiver of cost or pricing data. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/31/95	60 FR 28503

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755 Fax: 202 501-4067

RIN: 9000–AG14

4063. FAR CASE 92-54, ENVIRONMENTALLY PREFERABLE PRODUCTS

Priority: Other Significant

Legal Authority: 42 USC 6901; EO 12873

CFR Citation: 48 CFR 7.1; 48 CFR 10.0; 48 CFR 11.004; 48 CFR 15.605; 48 CFR 23.201; 48 CFR 23.203; 48 CFR 23.4; 48 CFR 23.7; 48 CFR 36.6; 48 CFR 42.302; 48 CFR 52.210-5 to 52.210-7; 48 CFR 52.223-4; 48 CFR 52.223-8 to 52.223-10

Legal Deadline: Other, Statutory, April 18, 1994.
RIN published as an interim rulemaking in Federal Acquisition Circular 90-27.

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule amending the FAR to incorporate policies for the acquisition of environmentally preferable and energy-efficient products and services. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/31/95	60 FR 28492

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405 Phone: 202 501-4755 Fax: 202 501-4067

RIN: 9000–AG40

4064. FAR CASE 91-118, PAYMENT BY ELECTRONIC FUND TRANSFER

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 32.9; 48 CFR 52.232

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense

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Acquisition Regulations Council are considering changes to the FAR to amend Subpart 32.9 and to add solicitation provisions and contract clauses at 52.232 to implement guidance to address the use of electronic fund transfers for Federal contract payments.

Timetable:

Action	Date	FR Cite
NPRM	10/03/95	60 FR 51766
NPRM Comment Period End	12/04/95	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG49

4065. FAR CASE 93-26, BUSINESS MEALS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: To clarify when the costs of meals for contractor employees are allowable. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	08/21/95	60 FR 43508
NPRM Comment Period End	10/20/95	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat)
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG59

4066. FAR CASE 92-34, FAR CERTIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 3; 48 CFR 4; 48 CFR 8; 48 CFR 9; 48 CFR 25; 48 CFR 36; 48 CFR 42; 48 CFR 47; 48 CFR 52; 48 CFR 53

Legal Deadline: None

Abstract: To amend the FAR to eliminate unnecessary requirements for offerors and contractors to provide certified information to the Government. A revision to Standard Form 129, Solicitation Mailing List Application, is associated with this proposed rule. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG61

4067. FAR CASE 93-19, CONTINGENT FEE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.205-38

Legal Deadline: None

Abstract: This rule amends the FAR to limit the allowability of contingent fees. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	10/26/95	60 FR 54920
NPRM Comment Period End	12/26/95	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG64

4068. • FAR CASE 93-10, LEGAL PROCEEDINGS COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.205-47

Legal Deadline: None

Abstract: This proposed rule amends the FAR to address costs related to legal and other proceedings to make the costs of pre- or post-award protests (except for costs incurred by an intervenor on the side of the Government) an unallowable cost. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	10/26/95	60 FR 54918
NPRM Comment Period End	12/26/95	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG65

4069. • FAR CASE 95-007, RESPONSIBILITY DETERMINATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 9.105-1; 48 CFR 9.106-1

Legal Deadline: None

Abstract: This proposed rule amends the FAR to emphasize the use of commercial sources of information in determining the responsibility of prospective contractors. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

A correction was published in the "Federal Register" at 60 FR 62806, December 7, 1995, to reflect amendments implemented by FAR Case 94-790, Acquisition of Commercial items.

Timetable:

Action	Date	FR Cite
NPRM	11/03/95	60 FR 55960
Correction	12/07/95	60 FR 62806
NPRM Comment Period End	01/02/96	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG66

4070. • FAR CASE 95-305, FEDERAL ACQUISITION AND COMMUNITY RIGHT-TO-KNOW

Priority: Other Significant

Legal Authority: EO 12869

CFR Citation: 48 CFR 23; 48 CFR 52

Legal Deadline: None

Abstract: To implement the Executive Order 12869, Federal Acquisition and Community Right-to-Know, which establishes the policy that contracting agencies contract with companies that report in a public manner on toxic chemicals released to the environment. This interim rule provides a solicitation provision which requires certification of compliance with the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001-11050) (EPCRA) and the Pollution Prevention Act of 1990 (42 U.S.C. 13101-13109) (PPA), and a contract clause which incorporates the reporting requirements of EPCRA and PPA into Federal Government contracts.

This regulatory action is subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/95	60 FR 55306
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG68

4071. • FAR CASE 93-308, MENTOR PROTEGE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-190; PL 101-510

CFR Citation: 48 CFR 19.702; 48 CFR 52.244-5

Legal Deadline: None

Abstract: This interim rule amends the FAR to allow mentor firms under the Department of Defense Pilot Mentor-Protege Program to be granted credit toward subcontracting goals under small business subcontracting plans entered into with any executive agency. The rule also will permit mentor firms to award subcontracts on a noncompetitive basis to protege firms under Department of Defense or other contracts. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/26/96	61 FR 2637
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG70

4072. • FAR CASE 95-003, IMPAIRMENT OF LONG-LIVED ASSETS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: To clarify the allowability of losses recognized when carrying values of impaired assets are written down for financial reporting purposes. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/14/95	60 FR 64254
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR),

GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG73

4073. • FAR CASE 93-024, ALLOWABLE COST AND PAYMENT CLAUSE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 52.216-7; 48 CFR 52.232-7

Legal Deadline: None

Abstract: This proposed rule clarifies payment provisions for large business prime contractors which are awarded cost-type contracts. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66472
NPRM Comment Period End	02/20/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG74

4074. • FAR CASE 94-605, CONTRACTORS' PURCHASING SYSTEMS REVIEWS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 44.302

Legal Deadline: None

Abstract: This proposed rule amends the FAR concerning requirements under Contractors' Purchasing Systems Reviews (CPSRs). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66472
NPRM Comment Period End	02/20/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG75

4075. • FAR CASE 92-035, CLAUSE FLOWDOWN

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 46; 48 CFR 52

Legal Deadline: None

Abstract: This proposed rule amends the FAR to reduce the number of contract clauses requiring flowdown to subcontractors. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	12/27/95	60 FR 67024
NPRM Comment Period End	02/26/96	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG76

4076. • FAR CASE 93-303, DISASTER RELIEF ACT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 48 CFR 6; 48 CFR 26

Legal Deadline: None

Abstract: This proposed rule amends the FAR to address competition requirements for acquisitions of major disaster or emergency assistance activities. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	12/12/95	60 FR 63876
NPRM Comment Period End	02/12/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG77

4077. • FAR CASE 95-304, URUGUAY ROUND

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-465

CFR Citation: 48 CFR 25; 48 CFR 52

Legal Deadline: Other, Statutory, January 1, 1996.
Rule published as Interim in Federal Acquisition Circular 90-36.

Abstract: To amend the FAR to implement the renegotiated General Agreement on Tariffs and Trade (GATT) Government Procurement Agreement (1996 Code) (Uruguay Round) which becomes effective January 1, 1996. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/95	60 FR 67514
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG80

4078. • FAR CASE 91-119, BUY AMERICAN ACT-CONSTRUCTION (GRIMBERG DECISION)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 25; 48 CFR 52

Legal Deadline: None

Abstract: This proposed rule amends FAR parts 25 and 52 to add guidance on requests for exceptions to the Buy American Act for construction. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	12/27/95	60 FR 67028
NPRM Comment Period End	02/26/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG81

4079. • FAR CASE 93-009, CONTINGENT FEE REPRESENTATION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 1.1; 48 CFR 3.4; 48 CFR 4.803; 48 CFR 13.111; 48 CFR 31.205-38; 48 CFR 52.203-4; 48 CFR 52.203-5; 48 CFR 53.203; 48 CFR 53.301-119

Legal Deadline: None

Abstract: This proposed rule amends the FAR to delete the provision requiring an offeror to provide a contingent fee representation and agreement and to submit a statement of contingent or other fees. Also, this rule rescinds the information collection requirement under Office of Management and Budget Clearance Number 9000-0003, Contingent Fee Representation. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	11/07/95	60 FR 56216
NPRM Comment Period End	01/08/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Sts. NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG83

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR) — Completed Actions

4080. FAR CASE 90-52, EVALUATION FACTORS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 15.605

Completed:

Reason	Date	FR Cite
Withdrawn	03/15/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755

RIN: 9000–AE21

4081. FAR CASE 91-18, MULTIYEAR CONTRACTING

Priority: Other

CFR Citation: 48 CFR 17; 48 CFR 52

Completed:

Reason	Date	FR Cite
Withdrawn	03/07/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755

RIN: 9000–AE65

4082. FAR CASE 92-616, SERVICE OF PROTEST

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 33.102; 48 CFR 52.233-2

Completed:

Reason	Date	FR Cite
Withdrawn	01/22/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF36

4083. FAR CASE 93-301, MADE IN AMERICA LABELS; FAR CASE 93-306, UNFAIR TRADE PRACTICES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 9.403; 48 CFR 9.406-2; 48 CFR 9.407-2

Completed:

Reason	Date	FR Cite
Final Action	01/26/96	61 FR 2631
Final Action Effective	01/26/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF40

4084. FAR CASE 92-19, SUBCONTRACTING PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 19.705-2(d); 48 CFR 19.708(b)(1); 48 CFR 52.219-9

Completed:

Reason	Date	FR Cite
Final Action	01/26/96	61 FR 2638
Final Action Effective	03/26/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF45

4085. FAR CASE 92-51, INHERENTLY GOVERNMENTAL FUNCTIONS

Priority: Other Significant

CFR Citation: 48 CFR 7.000; 48 CFR 7.103; 48 CFR 7.105; 48 CFR 7.5; 48 CFR 11.105; 48 CFR 37.102; 48 CFR 37.114

Completed:

Reason	Date	FR Cite
Final Action	01/26/96	61 FR 2627
Final Action Effective	03/26/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF46

4086. FAR CASE 92-615, DEBARMENT AND SUSPENSION CERTIFICATE

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 9.406-2; 48 CFR 9.407-2; 48 CFR 52.209-5; 48 CFR 52.212-3

Completed:

Reason	Date	FR Cite
Final Action	01/26/96	61 FR 2632
Final Action Effective	03/26/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF57

4087. FAR CASE 91-108, JAVITS-WAGNER-O'DAY PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 8.001(a)(2)(ii) & (iii); 48 CFR 8.001(c); 48 CFR 8.003; 48 CFR 51.101(c); 48 CFR 51.102(a); 48 CFR 51.102(c)(3); 48 CFR 52.208-9

Completed:

Reason	Date	FR Cite
Final Action	01/26/96	61 FR 2630
Final Action Effective	03/26/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF71

4088. FAR CASE 92-2, SUBCONTRACT PROPOSAL AUDITS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 15.806-3(a)(3) to 15.806-3(a)(6)

Completed:

Reason	Date	FR Cite
Final Action	01/26/96	61 FR 2634
Final Action Effective	03/26/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF74

4089. FAR CASE 92-10, NONPROFIT INSTITUTIONS CLAUSE PRESCRIPTION

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 15.804-8(e) to 15.804-8(f); 48 CFR 52.215-27; 48 CFR 52.215-39

Completed:

Reason	Date	FR Cite
Final Action	01/26/96	61 FR 2633
Final Action Effective	03/26/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no

paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF77

4090. FAR CASE 92-14, INSURANCE—LIABILITY TO THIRD PERSONS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 28.311-1 to 28.311-3; 48 CFR 52.228-6 to 52.228-7; 48 CFR 52.245-7; 48 CFR 52.245-10

Completed:

Reason	Date	FR Cite
Final Action	01/26/96	61 FR 2639
Final Action Effective	03/26/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF78

4091. FAR CASE 92-17, OVERHEAD SHOULD-COST REVIEWS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 15.810; 48 CFR 15.810-1; 48 CFR 15.810-2; 48 CFR 15.810-3

Completed:

Reason	Date	FR Cite
Final Action	01/26/96	61 FR 2635
Final Action Effective	03/26/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF79

4092. FAR CASE 92-40, CONTRACTORS' PURCHASING SYSTEMS REVIEWS AND SUBCONTRACTOR CONSENT

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 44.201-2; 48 CFR 44.302; 48 CFR 52.244-2

Completed:

Reason	Date	FR Cite
Final Action	01/26/96	61 FR 2641
Final Action Effective	03/26/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF82

4093. FAR CASE 92-604, NONALLOWABILITY OF EXCISE TAXES ON NONDEDUCTIBLE CONTRIBUTIONS TO DEFERRED COMPENSATION PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 31.205-41(b)(6)

Completed:

Reason	Date	FR Cite
Final Action	01/26/96	61 FR 2641
Final Action Effective	03/26/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AF85

4094. FAR CASE 94-602, GSBCA RULES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 33.105(a)(2)(ii); 48 CFR 33.105(c); 48 CFR 33.105(f)(1)(i); 48 CFR 33.105(f)(3)

Completed:

Reason	Date	FR Cite
Withdrawn	02/09/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG03

4095. FAR CASE 92-24, EMPLOYEE STOCK OWNERSHIP PLANS

Priority: Other Significant

CFR Citation: 48 CFR 31

Completed:

Reason	Date	FR Cite
Withdrawn	03/07/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG53

4096. FAR CASE 93-18, DEFINITION OF BID AND PROPOSAL COSTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 31

Completed:

Reason	Date	FR Cite
Withdrawn	03/05/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG58

4097. • FAR CASE 95-008, COMPETITIVE RANGE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15.609

Legal Deadline: None

Abstract: This proposed rule amended the FAR guidance on competitive range determinations. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Due to the establishment of FAR Case 96-303, Competitive Range Determinations, which contributes towards the implementation of the Federal Acquisition Reform Act of 1996, this proposed rule has been closed. FAR Case 96-303 concerns the allowability of contracting officers, in procurement involving competitive negotiations, to limit the number of proposals in the competitive range to the greatest number that would permit an efficient competition among the most highly rated competitors. This proposed rule has not been published as of this date.

Timetable:

Action	Date	FR Cite
NPRM	11/06/95	60 FR 56035
NPRM Comment Period End	01/05/96	
Withdrawn	03/08/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG67

4098. • FAR CASE 95-006, FIELD PRICING SUPPORT REQUEST

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15.805-5

Legal Deadline: None

Abstract: This final rule amends the FAR to clarify internal Government procedures for requesting field pricing support. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Final Action	01/26/96	61 FR 2634
Final Action Effective	03/26/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG69

4099. • FAR CASE 92-606, SBA RESPONSIBILITY, CERTIFICATES OF COMPETENCY REQUESTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 19.602-2

Legal Deadline: None

Abstract: This final rule amends the FAR to reflect approval authority of the Small Business Administration regional offices to issue Certificate of Competency Determinations as provided in 13 CFR Part 125. This regulatory action was not subject of Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Final Action	01/26/96	61 FR 2636
Final Action Effective	03/26/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG78

4100. • FAR CASE 94-002, AVAILABILITY OF ACCOUNTING GUIDE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31.002

Legal Deadline: None

Abstract: This final rule amends the FAR to advise contractors on how to obtain an informational accounting guide entitled "Guidance for New Contractors." This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
Final Action	01/26/96	61 FR 2640
Final Action Effective	03/26/96	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG79

4101. • FAR CASE 91-70, INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 28.3; 48 CFR 52.228

Legal Deadline: None

Abstract: This proposed rule amends the FAR relating to Insurance. As a result of the Defense Management Regulatory Reform initiative, clauses relating to Capture and Detention, Reimbursement for War Hazard Losses, Ground and Flight Risk, and Flight Risks, have been removed from the Defense Federal Acquisition Regulation Supplement and proposed to be inserted in the FAR.

Timetable:

Action	Date	FR Cite
Withdrawn	11/01/95	

Small Entities Affected: None

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Beverly Fayson, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets NW., Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

RIN: 9000–AG84

[FR Doc. 96-7481 Filed 05-10-96; 8:45 am]

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Part XLVII

Commodity Futures Trading Commission

Semiannual Regulatory Agenda

COMMODITY FUTURES TRADING COMMISSION (CFTC)

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Commodity Futures Trading Commission, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of significant rules which the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

ADDRESSES: Comments should be sent to: Gerald P. Smith, Special Assistant to the Executive Director, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581, (202) 418-5156.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that:

(a) During the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

5 U.S.C. 602(a). The Commission has prepared an agenda of significant rules which it presently expects may be considered during the course of the next year, irrespective of their potential impact on small entities.[1]

The Commission's agenda represents its best estimate of significant rules which will be considered over the next 12 months.[2] In this regard, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Commission's April 1996 regulatory flexibility agenda is set forth below.

Issued in Washington, DC, on March 12, 1996, by the Commission.

Jean A. Webb,

Secretary of the Commission.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4102	Procedures for Involuntary Bulk Transfers or Liquidations of Customer Accounts	3038-AA77
4103	Prohibition on Voting by Interested Members	3038-AB03
4104	Self-Regulatory Organization Automated Systems	3038-AB14

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4105	Risk Assessment for Holding Company Systems	3038-AB01
4106	Account Identification for Orders Submitted on Behalf of Multiple Customer Accounts	3038-AB08
4107	Ethics Training for Registrants: Proficiency Training for Providers	3038-AB10
4108	Minimum Financial Requirements, Prepayment of Subordinated Debt and Gross Collection of Exchange-Set Margin for Omnibus Accounts	3038-AB12
4109	Financial Reporting and Debt-Equity Ratio Requirements for Futures Commission Merchants and Introducing Brokers	3038-AB13

[1] The Commission has published its definition of small entity to be used by the Commission in connection with rulemaking proceedings. 47 FR 18618 (April 30, 1982). Pursuant to those definitions, the Commission is not required to list many of the agenda items contained in this regulatory flexibility agenda. *See* 5 U.S.C. 602(a)(1). Moreover, the Commission has previously certified, pursuant to section 605 of the RFA, 5 U.S.C. 605, that certain items contained in this agenda will not have a significant economic impact on a substantial number of small entities. Accordingly, listing of a rule in this regulatory flexibility agenda should not in any event be taken as a determination that a rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. However, the Commission hopes that the publication of an agenda, which includes significant rules, regardless of their potential impact on small entities, may serve the public generally by providing an early and meaningful opportunity to participate in and comment on the formulation of new or revised regulations.

[2] In addition to publishing the regulatory flexibility agenda, the Commission also makes available to the public, on a monthly basis, a calendar and, on a weekly basis, an advisory, which list rules that the Commission is considering or will consider in the near future.

CFTC

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4110	Early Warning Reporting Requirements for Futures Commission Merchants	3038-AB11

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4111	Ethics Training for Registrants	3038-AB09

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Proposed Rule Stage

4102. PROCEDURES FOR INVOLUNTARY BULK TRANSFERS OR LIQUIDATIONS OF CUSTOMER ACCOUNTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6d; 7 USC 6f; 7 USC 6g; 7 USC 6k; 7 USC 12a

CFR Citation: 17 CFR 1.68

Legal Deadline: None

Abstract: The CFTC will undertake a rulemaking proceeding to establish requirements concerning procedures to be followed by futures commission merchants and introducing brokers when bulk transfers or liquidations of customer accounts are made due to cessation or suspension of business or other special circumstances affecting the registrant.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5439

RIN: 3038–AA77

4103. PROHIBITION ON VOTING BY INTERESTED MEMBERS

Priority: Other Significant

Legal Authority: 7 USC 7a(17)

CFR Citation: 17 CFR 1.67

Legal Deadline: None

Abstract: The regulation will implement the provisions of section 217 of the Futures Trading Practices Act of 1992, which require contract markets to adopt rules to avoid conflicts of interest in deliberations and voting by members of the governing board and disciplinary and other oversight committees. The rulemaking will define the relationships between a named party in interest and a member of the governing board or committee that would require abstention from deliberations and voting. The rulemaking will also provide guidelines on situations that would require a member to abstain from voting on a significant action because of a substantial financial interest in the outcome of the vote, based on positions held personally or at an affiliated firm, as well as on other matters addressed by the statute. The action potentially impacts the selection and composition of contract market governing boards and committees.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David P. Van Wagner, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5481

RIN: 3038–AB03

4104. • SELF-REGULATORY ORGANIZATION AUTOMATED SYSTEMS

Priority: Other Significant

Legal Authority: 7 USC 5; 7 USC 6; 7 USC 7; 7 USC 12; 7 USC 12a; 7 USC 21

CFR Citation: 17 CFR 1.68

Legal Deadline: None

Abstract: The proposed regulation would require due diligence by self-regulatory organizations (SROs) in oversight and review of automated trading systems, recordkeeping, reporting and demonstration of compliance with due diligence requirements with periodic independent reviews of systems.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lois J. Gregory, Attorney-Advisor, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5483
Fax: 202 418-5536

RIN: 3038–AB14

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Final Rule Stage

4105. RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS

Priority: Other Significant

Legal Authority: 7 USC 6f(c)

CFR Citation: 17 CFR 1.14; 17 CFR 1.15

Legal Deadline: None

Abstract: On December 21, 1994, the Commission adopted, as phase 1 of the risk assessment rulemaking, final rules with respect to maintenance and filing of organizational charts, risk management policies, procedures and systems, and consolidated and consolidating financial statements. It also proposed "trigger" event reporting in the event of a 20 percent decline in a futures commission merchant's (FCM's) adjusted net capital. The Commission deferred action on the balance of the proposed rules, which related to reporting of position data and other data concerning FCM affiliates. With respect to the second phase of the rulemaking process, the Commission's staff will continue to work with other financial regulators, particularly the Securities and Exchange Commission, to design a reporting framework that is harmonized across regulatory structures and, to the extent possible, reflective of a consensus as to which data are most meaningful to regulators and can be provided without undue burden.

Timetable:

Action	Date	FR Cite
NPRM	03/01/94	59 FR 9689
NPRM Comment Period End	07/01/94	
Final Action	12/31/96	
Risk Assessment for Holding Company Systems		
Phase I	12/28/94	(59 FR 66674)

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence T. Eckert, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5449

RIN: 3038–AB01

4106. ACCOUNT IDENTIFICATION FOR ORDERS SUBMITTED ON BEHALF OF MULTIPLE CUSTOMER ACCOUNTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 7; 7 USC 7a; 7 USC 7b; 7 USC 8; 7 USC 12a; 7 USC 12c

CFR Citation: 17 CFR 1.35

Legal Deadline: None

Abstract: These rule amendments permit consolidated futures orders for multiple accounts to be placed and executed on contract markets without individual customer identification at time of entry or execution. Depending on the accounts, the person placing the order would identify accounts and either pre-file an allocation plan or certify certain facts.

Timetable:

Action	Date	FR Cite
NPRM	05/03/93	58 FR 26270
NPRM Comment Period End	06/17/93	
Final Action	11/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane C. Andresen, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5492

RIN: 3038–AB08

4107. ETHICS TRAINING FOR REGISTRANTS: PROFICIENCY TRAINING FOR PROVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1a; 7 USC 6d; 7 USC 6e; 7 USC 6g; 7 USC 6m; 7 USC 6p; 7 USC 12a; 7 USC 21

CFR Citation: 17 CFR 3.34

Legal Deadline: None

Abstract: The CFTC has proposed additional amendments to its rules governing ethics training for registrants that would require that persons who seek to provide ethics training must: (1) present satisfactory evidence that they meet a proficiency testing requirement established by a registered futures association; and (2) possess a minimum of three years relevant experience. The CFTC also proposed to amend Rule 3.34 to eliminate the provision which permits State-accredited entities to provide ethics training without being subject to the requirements pertaining to other providers under the rule.

Timetable:

Action	Date	FR Cite
NPRM	12/14/95	60 FR 64132
NPRM Comment Period End	01/16/96	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Myra R. Silberstein, Attorney/Advisor, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5443

RIN: 3038–AB10

4108. • MINIMUM FINANCIAL REQUIREMENTS, PREPAYMENT OF SUBORDINATED DEBT AND GROSS COLLECTION OF EXCHANGE-SET MARGIN FOR OMNIBUS ACCOUNTS

Priority: Other Significant

Legal Authority: 7 USC 6f; 7 USC 6g; 7 USC 12a

CFR Citation: 17 CFR 1.12; 17 CFR 1.17; 17 CFR 1.58

Legal Deadline: None

Abstract: The CFTC is proposing (1) to increase the minimum dollar amount of adjusted net capital for FCMs and IBs to $250,000 and $30,000, respectively; (2) to codify a staff no-action letter which provides generally that prepayment of subordinated debt by FCMs and IBs need be approved only by a firm's designated self-regulatory organization and not also be the CFTC (although CFTC approval would be required if the prepayment would result in a reduction of 20 percent or more of a firm's adjusted net capital); and (3) to require that omnibus accounts carried by FCMs for foreign brokers be margined on a gross basis. These proposals are intended to conform Commission rules with those of industry self-regulatory organizations and codify an existing staff interpretation.

Timetable:

Action	Date	FR Cite
NPRM	12/13/95	60 FR 63995

CFTC

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	01/12/96	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5439

RIN: 3038–AB12

4109. • FINANCIAL REPORTING AND DEBT-EQUITY RATIO REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS

Priority: Other Significant

Legal Authority: 17 USC 6f; 17 USC 6g; 17 USC 12a

CFR Citation: 17 CFR 1.10; 17 CFR 1.12; 17 CFR 1.17; 17 CFR 1.18; 17 CFR 1.52; 17 CFR 3.33; 17 CFR 145.5; 17 CFR 147.3

Legal Deadline: None

Abstract: The CFTC is proposing: (1) to amend its financial reporting cycle such that, among other things, FCMs and IBs would be required to submit unaudited financial reports within 17 business days, and certified year-end financial reports within 60 calendar days, of the "as of" date of the report (currently 45 calendar days and 90 calendar days are permitted, respectively); and (2) to amend its debt-equity ratio rule such that the 30 percent minimum equity requirement would apply to all of a firm's capital, rather than only to that portion of a firm's capital necessary to meet the minimum financial requirement. The proposals follow discussions at a capital roundtable held in September 1995 where it was suggested that the CFTC explore ways to further harmonize its financial rules with those of the Securities and Exchange Commission. These proposals would achieve that objective and the CFTC also believes that it is appropriate to propose these amendments given the speed and complex nature of today's financial markets.

Timetable:

Action	Date	FR Cite
NPRM	02/26/96	61 FR 7080
NPRM Comment Period End	03/27/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5439

RIN: 3038–AB13

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Long-Term Actions

4110. • EARLY WARNING REPORTING REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS

Priority: Other Significant

Legal Authority: 7 USC 6f; 7 USC 6g; 7 USC 12a

CFR Citation: 17 CFR 1.12

Legal Deadline: None

Abstract: The CFTC is proposing to amend its early warning reporting requirements (Rule 1.12) in three respects. First, the CFTC would extend to all futures commission merchants (FCMs) the requirement to report any reduction in adjusted net capital in excess of 20 percent of the amount of adjusted net capital in its last financial report. Currently, this requirement is only applicable to FCMs subject to the CFTC's risk assessment reporting requirements. The CFTC is also proposing two new early warning notice requirements for all FCMs, which would require an FCM to report: (a) a margin call that exceeds its excess adjusted net capital which remains unanswered by the close of business on the day following issuance of the call; and (2) whenever its excess adjusted net capital is less than six percent of the maintenance margin required to support proprietary and non-customer positions carried by the FCM.

Timetable:

Action	Date	FR Cite
NPRM	12/28/94	59 FR 66822
NPRM Comment Period End	02/27/95	60 FR 7925

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581
Phone: 202 418-5439

RIN: 3038–AB11

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Completed Actions

4111. ETHICS TRAINING FOR REGISTRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 3.34

Completed:

Reason	Date	FR Cite
Final Action	12/13/95	60 FR 63907
Final Action Effective	01/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence B. Patent
Phone: 202 418-5439

RIN: 3038–AB09

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Part XLVIII

Consumer Product Safety Commission

Semiannual Regulatory Agenda

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual Regulatory Flexibility and Unified Agendas

AGENCY: Consumer Product Safety Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Regulatory Flexibility Act (RFA) requires each Federal agency to publish, twice each year, a regulatory flexibility agenda listing the rules expected to be proposed or promulgated which are likely to have a significant economic impact on a substantial number of small entities, including small businesses, small organizations, and small governmental units. In this document, the Commission publishes its semiannual regulatory flexibility agenda.

Additionally, Executive Order 12866 requires each agency to publish an agenda of regulatory actions expected to be under development or review by the agency during the next year and provides that such an agenda may be combined with an agency's regulatory flexibility agenda published in accordance with the RFA.

DATES: The Commission welcomes comments on each subject area of the agenda, particularly from small entities. Written comments concerning the agenda should be received in the Office of the Secretary by June 30, 1996.

ADDRESSES: Comments on the regulatory flexibility agenda should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504-0800, or delivered to the Office of the Secretary, Room 501, 4330 East-West Highway, Bethesda, Maryland 20814. Comments should be captioned "Regulatory Flexibility Agenda."

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact: Allen F. Brauninger, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0980. For further information regarding a particular item on the agenda, consult the individual listed in the column headed "Contact" for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the RFA (5 U.S.C. 602) requires each agency to publish, twice each year, a regulatory flexibility agenda containing a brief description of the subject area of any rule expected to be proposed or promulgated which is likely to have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the nature of the rule and a schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking. The regulatory flexibility agenda shall also contain the name and address of the agency official knowledgeable about the items listed. Further, agencies are required to provide notice of their agendas to small entities and to solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities. Additionally, Executive Order 12866 requires each agency to publish, twice each year, a regulatory agenda of regulations under development or review during the next year and states that such an agenda may be combined with the agenda published in accordance with the RFA.

The regulatory flexibility agenda published below lists the regulatory activities expected to be under development or review during the next 12 months. It includes all such activities, whether or not they may have a significant economic impact on a substantial number of small entities.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda. All agency contacts have the same address: Consumer Product Safety Commission, Washington, DC 20207.

Dated: March 19, 1996.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4112	Petition HP 95-1 Requesting Development of a Safety Standard for Protective Batting Helmets	3041-AB43
4113	Petition HP 93-1 Requesting Development of a Rule To Ban Certain Back Yard Play Sets	3041-AB47
4114	Petition HP 95-3 Requesting Rule To Ban Sulfuric Acid Drain Cleaners	3041-AB53
4115	Requirements for Child-Resistant Packaging of Ketoprofen	3041-AB55
4116	Requirements for Child-Resistant Packaging of Household Products Containing Ammonia	3041-AB56
4117	Requirements for Child-Resistant Packaging of Household Products Containing Petroleum Distillates	3041-AB57
4118	Petition HP 96-1 Requesting Amendment of Regulations Applicable to Fuse-Burn Time of Fireworks	3041-AB58

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4119	Flammability Standard for Upholstered Furniture	3041-AB35

CPSC

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4120	Baby Walkers	3041-AB40
4121	Safety Standard for Bicycle Helmets	3041-AB42

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4122	Labeling Requirements for Packages of Charcoal	3041-AB16
4123	Amendment of Flammability Standards for Children's Sleepwear	3041-AB27

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4124	Multiple Tube Mine and Shell Fireworks	3041-AB39
4125	Regulation of Products Subject to Other Acts Under the Consumer Product Safety Act	3041-AB59
4126	Requirements for Bicycles	3041-AB60
4127	Children's Sleepwear: Sizes 0 Through 6X	3041-AB61
4128	Children's Sleepwear: Sizes 7 Through 14	3041-AB62

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Prerule Stage

4112. PETITION HP 95-1 REQUESTING DEVELOPMENT OF A SAFETY STANDARD FOR PROTECTIVE BATTING HELMETS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: 16 CFR 00

Legal Deadline: None

Abstract: A petition from the Academy of Facial Plastic and Reconstructive Surgery requests the Commission to develop a safety standard for protective batting helmets intended for children younger than 15 years of age. The standard requested by the petition would require all protective batting helmets subject to its provisions to be manufactured with a face guard that conforms to Standard F 910 published by ASTM (formerly the American Society for Testing and Materials). On November 1, 1994, the Commission published a notice in the Federal Register inviting comments on the petition from interested parties. On July 14, 1995, the Commission voted to defer a decision on the petition until additional information becomes available about circumstances surrounding facial injuries associated with baseball and softball. The Commission's decision to grant or deny the petition is expected in May, 1996.

Timetable:

Action	Date	FR Cite
Notice to Solicit Comments	11/01/94	59 FR 54548
Comment Period Ends	01/03/95	
Commission Decision	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Kyle, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC 20207 Phone: 301 504-0470

RIN: 3041-AB43

4113. PETITION HP 93-1 REQUESTING DEVELOPMENT OF A RULE TO BAN CERTAIN BACK YARD PLAY SETS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: None

Legal Deadline: None

Abstract: A petition from the New York City Department of Consumer Affairs requests the Commission to develop a rule to ban certain back yard play sets. The petition asserts that back yard play sets present unreasonable risks of injury to children if they do not meet the requirements of a voluntary standard for home playground equipment published by ASTM (formerly the American Society for Testing and Materials); are not accompanied with adequate information about ground surfacing; or lack specific features described in the petition. The staff is preparing a briefing package for consideration by the Commissioners of the agency which they will use in deciding whether to

CPSC — Prerule Stage

grant or deny the petition. If the Commission grants the petition, it will publish an advance notice of proposed rulemaking to begin the rulemaking proceeding requested by the petition.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	02/20/96	
Commission Decision	03/28/96	
Staff Implements Commission Decision	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Preston, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0494

RIN: 3041–AB47

4114. PETITION HP 95-3 REQUESTING RULE TO BAN SULFURIC ACID DRAIN CLEANERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1500 Poison Prevention Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: A petition from Roger L. Wabeke requests the Commission to issue a rule under the Federal Hazardous Substances Act to ban sulfuric acid drain cleaners intended for household use. In his petition Mr. Wabeke states that he has investigated several accidents which resulted from the explosion and eruption of hot, concentrated sulfuric acid used to clean clogged drain pipes. The petition asserts that sulfuric acid is too dangerous for sale to the general public. The Commission staff will prepare a briefing package for consideration by the Commissioners of the agency which they will use in deciding whether to grant or deny the petition.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	04/00/96	
Commission Decision	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Suzanne Barone, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC 20207
Phone: 301 504-0477

RIN: 3041–AB53

4115. • REQUIREMENTS FOR CHILD-RESISTANT PACKAGING OF KETOPROFEN

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: A regulation issued under the Poison Prevention Packaging Act (PPPA) and codified at 16 CFR 1700.14(a)(10) requires that most prescription drugs in oral dosage form must be in child-resistant packaging. Until recently, Ketoprofen, a nonsteroidal anti-inflammatory drug was available only by prescription. In 1995, the Food and Drug Administration reclassified Ketoprofen to allow its sale as a non-prescription drug. Because Ketoprofen is no longer a prescription drug, it is not subject to the requirements of 16 CFR 1700.14(a)(10) for child-resistant packaging. The staff is scheduled to transmit a briefing package in September, 1996, for consideration by the Commissioners of the agency when deciding whether to propose a rule under the PPPA to require child-resistant packaging of Ketoprofen.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Suzanne Barone, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC
Phone: 301 504-0477

RIN: 3041–AB55

4116. • REQUIREMENTS FOR CHILD-RESISTANT PACKAGING OF HOUSEHOLD PRODUCTS CONTAINING AMMONIA

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: Ammonia has both irritant and corrosive properties. Some household products containing ammonia are subject to requirements for cautionary labeling by the Federal Hazardous Substances Act. The staff is preparing a briefing package on the issue of whether household products containing ammonia should be subject to requirements for child-resistant packaging under the Poison Prevention Packaging Act. The staff is scheduled to transmit the briefing package to the Commissioners of the agency in July, 1996.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jacqueline Ferrante, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC
Phone: 301 504-0477

RIN: 3041–AB56

4117. • REQUIREMENTS FOR CHILD-RESISTANT PACKAGING OF HOUSEHOLD PRODUCTS CONTAINING PETROLEUM DISTILLATES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14(a)

Legal Deadline: None

Abstract: Some household products containing ten per cent or more by weight of petroleum distillates are subject to requirements for child-resistant packaging by regulations issued under the Poison Prevention Packaging Act and codified at 16 CFR 1700.14(a). These products include liquid furniture polish (section 1700.14(a)(2)), lighter fluid (section 1700.14(a)(7)), and prepackaged solvents for paint (section 1700.14(a)(15)). However, many other household products containing petroleum distillates are not required to be in child-resistant packaging. The Commission staff is evaluating whether child-resistant packaging should be required for some or all household products containing petroleum distillates which are not currently subject to requirements for such packaging. In April 1996, the staff is scheduled to transmit a briefing package to the Commissioners of the agency with options for Commission action.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	04/00/96	
Commission Decision	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Suzanne Barone, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC
Phone: 301 504-0477

RIN: 3041–AB57

4118. • PETITION HP 96-1 REQUESTING AMENDMENT OF REGULATIONS APPLICABLE TO FUSE-BURN TIME OF FIREWORKS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1507.3(a)(3)

Legal Deadline: None

Abstract: A petition from the American Fireworks Standards Laboratory requests the Commission to amend a regulation codified at 16 CFR 1507.3(a)(3) requiring fireworks devices to have a fuse which burns at least three seconds and not more than six seconds.The petition requests amendment of this regulation to extend the maximum allowable fuse-burn time to nine seconds. The petition asserts that the requested amendment will allow some variability of fuse-burn time caused by temperature and humidity conditions without diminishing safety to consumers. The staff is preparing a briefing package for consideration by the Commissioners of the agency when deciding whether to grant or deny the petition.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carolyn Meiers, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC
Phone: 301 504-0468

RIN: 3041–AB58

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Proposed Rule Stage

4119. FLAMMABILITY STANDARD FOR UPHOLSTERED FURNITURE

Priority: Economically Significant

Legal Authority: 15 USC 1293 Flammable Fabrics Act

CFR Citation: 16 CFR 1640

Legal Deadline: None

Abstract: On June 15, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding for development of a flammability standard for upholstered furniture. The ANPRM announced that the regulatory alternatives under consideration include issuance of a mandatory standard to address risks of death, injury, and property damage from fires associated with ignition of upholstered furniture by small open-flame sources. (Fire hazards associated with ignition of upholstered furniture by cigarettes or large open-flame sources are outside the scope of this proceeding.) The Commission staff is now conducting a field study, product testing, and other technical research to determine whether it is advisable to propose a standard to address ignition of upholstered furniture by small open-flame sources. The staff is preparing a briefing package for consideration by Commissioners of the agency when deciding whether to publish a proposed standard.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/94	59 FR 30735
ANPRM Comment Period End	08/15/94	
Staff Sends Briefing Package to Commission	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dale R. Ray, Project Manager, Directorate for Economic Analysis, Consumer Product Safety Commission, Washington, DC 20207
Phone. 301 504-0962

RIN: 3041–AB35

4120. BABY WALKERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: On August 2, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding which may result in the issuance of mandatory design or performance requirements for baby walkers. A baby walker is a device that supports a child so that the child can use his or her feet to move about before or while learning to walk. Typically, a baby walker consists of a fabric seat which has leg openings and is mounted to a rigid plastic deck. The deck is attached to a base which usually is mounted on wheels to allow mobility. In 1994, an estimated 25,500 children younger than 15 months of age were treated in emergency rooms for injuries associated with baby walkers. The majority of

these injuries resulted from falls down stairs or steps. Among the regulatory options under consideration by the Commission are mandatory performance or design requirements to reduce risks of injury associated with baby walkers, particularly those resulting to children from falls down stairs. In May, 1996, the staff is scheduled to send a briefing package to the Commissioners of the agency with options for their consideration. Those options include publication of a notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/94	59 FR 39309
ANPRM Comment Period End	10/03/94	
Staff Sends Briefing Package to the Commission	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barbara Jacobson, Project Manager, Consumer Product Safety Commission, Dir. for Epidemiology & Health Sciences, Washington, DC 20207
Phone: 301 504-0477

RIN: 3041–AB40

4121. SAFETY STANDARD FOR BICYCLE HELMETS

Priority: Other Significant

Legal Authority: 5 USC 553 Administrative Procedure Act

CFR Citation: 16 CFR 1203

Legal Deadline: NPRM, Statutory, August 15, 1994.

Abstract: The Children's Bicycle Helmet Safety Act of 1994 directs the Commission to begin a proceeding to issue a safety standard for bicycle helmets. That legislation also directs the Commission to designate appropriate existing standards for bicycle helmets as interim safety standards.

On August 15, 1994, the Commission published a notice of proposed rulemaking to begin a proceeding for issuance of a safety standard for bicycle helmets. The proposed standard includes impact-attenuation requirements, and other requirements derived from existing voluntary standards for bicycle helmets. The proposed standard also contains requirements to prevent helmets from coming off the rider's head during an accident, and other provisions specifically applicable to helmets intended for children.

In March 1995, the Commission designated the following standards as interim safety standards for bicycle helmets: (1) American National Standards Institute (ANSI) standard Z90.4-1984, Protective Headgear for Bicyclists; (2) ASTM standards F 1447-93 or F 1447-94, Standard Specification for Protective Headgear Used in Bicycling, incorporating relevant provisions of ASTM F 1446-93 or F 1446-94, Standard Test Methods for Evaluating the Performance Characteristics of Protective Headgear, respectively; (3) Canadian Standard Association standard Cycling Helmets, CAN/CSA-D113.2-M89; (4) Snell Memorial Foundation (Snell) 1990 Standard for Protective Headgear for Use in Bicycling (designation B-90); (5) Snell 1990 Standard for Protective Headgear for Use in Bicycling, including March 9, 1994 Supplement (designation B-90S); (6) Snell 1994 Standard for Protective Headgear for Use in Non-Motorized Sports (designation N-94); (7) Snell 1995 Standard for Protective Headgear for Use With Bicycles B-95. Bicycle helmets manufactured after March 16, 1995, must conform with the requirements of one of these interim standards until the Commission issues a final standard for bicycle helmets.

After considering public comments on the 1994 proposal and an additional review by the staff of research on brain injury and skull development in young children, the Commission decided to revise its proposed standard for bicycle helmets. On December 6, 1995, the Commission published the revised proposed (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/15/94	59 FR 41719
NPRM Comment Period End	10/31/94	
Designation of Interim Standards	03/23/95	60 FR 15231
Revised NPRM	12/06/95	60 FR 62662
NPRM Comment Period End	02/20/96	60 FR 62662
Staff Sends Briefing Package to Commission	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT CONT: standard for comment. In August, 1996, the staff is scheduled to transmit a briefing package to the Commissioners of the agency for their consideration when deciding whether to issue a final standard.

Agency Contact: Scott Heh, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0494

RIN: 3041–AB42

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Final Rule Stage

4122. LABELING REQUIREMENTS FOR PACKAGES OF CHARCOAL

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1262(b) Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: On August 10, 1995, the Commission proposed to amend requirements for labeling of packages of charcoal intended for household use. Existing regulations require packages of charcoal intended for household use to be labeled with the following statement enclosed within a heavy ruled border: "WARNING: Do Not Use for Indoor Heating or Cooking Unless Ventilation is Provided for Exhausting Fumes to Outside. Toxic Fumes May Accumulate and Cause Death." The proposed amendment would change the labeling statement to: "CARBON MONOXIDE HAZARD - Burning charcoal indoors can kill you. It gives off carbon monoxide, which has no odor. NEVER burn charcoal inside homes, vehicles, or tents." The proposed amendment also requires a hazard alert symbol, the word "WARNING," a pictogram showing the places where charcoal should not be burned, and other features to enhance the conspicuousness of the safety messages and make them easier to understand. In March, 1996, the staff is scheduled to send a briefing package to the Commissioners of the agency for their consideration when deciding whether to issue a final amendment.

Timetable:

Action	Date	FR Cite
NPRM	08/10/95	60 FR 40785
NPRM Comment Period End	10/24/95	
Staff Sends Briefing Package to Commission	03/12/96	
Commission Decision	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon White, Project Manager, Consumer Product Safety Commission, Dir. for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0468

RIN: 3041–AB16

4123. AMENDMENT OF FLAMMABILITY STANDARDS FOR CHILDREN'S SLEEPWEAR

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1193 Flammable Fabrics Act; 15 USC 2079(b) Consumer Product Safety Act

CFR Citation: 16 CFR 1615; 16 CFR 1616

Legal Deadline: None

Abstract: The flammability standards for children's sleepwear are applicable to children's sleepwear garments in sizes 0 through 14, and to fabrics intended for use in such garments. The standards were issued to eliminate or reduce unreasonable risks of deaths and burn injuries to children associated with ignition of sleepwear garments. On October 25, 1994, the Commission published proposed amendments of the standards to exempt tight-fitting sleepwear garments and garments for infants from the requirements of the standards. On October 11, 1995, the staff sent a briefing package to the Commission on the issue of whether to issue final amendments of the standard. The staff presented an oral briefing to the Commissioners of the agency on December 7, 1995.

Timetable:

Action	Date	FR Cite
ANPRM	01/13/93	58 FR 4111
ANPRM Comment Period End	03/13/93	
NPRM	10/25/94	59 FR 53616
NPRM Comment Period End	01/09/95	
Staff Sends Briefing Package to Commission	10/11/95	
Commission Decision	12/00/96	
Staff Implements Commission Decision	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Terrance R. Karels, Project Manager, Consumer Product Safety Commission, Directorate for Economic Analysis, Washington, DC 20207
Phone: 301 504-0962

RIN: 3041–AB27

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Completed Actions

4124. MULTIPLE TUBE MINE AND SHELL FIREWORKS

Priority: Substantive, Nonsignificant

CFR Citation: 16 CFR 1500

Completed:

Reason	Date	FR Cite
Final Action	03/26/96	61 FR 13084
Final Action Effective	03/26/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Samuel B. Hall
Phone: 301 504-0400

RIN: 3041–AB39

4125. • REGULATION OF PRODUCTS SUBJECT TO OTHER ACTS UNDER THE CONSUMER PRODUCT SAFETY ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 2079(d) Consumer Product Safety Act

CFR Citation: 16 CFR 1145.9; 16 CFR 1145.10; 16 CFR 1145.11; 16 CFR 1145.12; 16 CFR 1145.13; 16 CFR 1145.14; 16 CFR 1145.15

Legal Deadline: None

Abstract: On December 4, 1995, the Commission revoked seven rules issued from 1982 through 1984 to transfer regulation of risks of injury associated with toys and children's articles from the Federal Hazardous Substances Act (FHSA) to the Consumer Product Safety Act (CPSA). The products which were the subjects of these rules were stuffed toys suspended from cords which presented a risk of strangulation death or injury; squeeze toys which presented a risk of suffocation death or injury; mesh-sided play pens which presented a risk of asphyxia to children; mesh-sided portable cribs which presented a risk of asphyxia to children; expandable enclosures which presented a strangulation hazard to children; cribs with hardware failures or omissions which presented risks of death or injury to children; and bassinets with legs that collapsed and presented risks of death or injury to infants. When the Commission issued these seven transfer rules, provisions of the FHSA did not authorize the Commission to order corrective action without first issuing a banning rule. In 1984, the FHSA was amended to make its provisions for corrective action with regard to toys and children's articles substantively similar to the corresponding provisions of the CPSA. After the transfer rules were issued, the Commission accepted voluntary plans from the manufacturers of the products which were the subjects of these rules. Those manufacturers have taken all actions specified in the corrective actions plans. The Commission and for that reason revoked them.

Timetable:

Action	Date	FR Cite
Final Action	12/04/95	60 FR 62023
Final Action Effective	12/04/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allen F. Brauninger, Attorney, Consumer Product Safety Commission, Office of the General Counsel, Washington, DC
Phone: 301 504-0980

RIN: 3041–AB59

4126. • REQUIREMENTS FOR BICYCLES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1512.19(e); 16 CFR 1519.50

Legal Deadline: None

Abstract: On December 8, 1995, the Commission revoked two labeling rules applicable to bicycles introduced into interstate commerce between May 11, 1976, and May 11, 1978. In 1976, the Commission issued regulations to establish safety requirements for bicycles, to become effective on May 11, 1976. Bicycles introduced into interstate commerce before the effective date of the regulations were not subject to their requirements. To help consumers identify bicycles manufactured to comply with the regulations, the Commission included a requirement in the regulations that bicycles introduced into interstate commerce between May 11, 1976, and May 11, 1978, must be labeled with a hang tag or other removable label stating: "Meets U.S. Consumer Product Safety Commission Regulations for Bicycles." After the effective date of the bicycle regulations, the Commission issued a statement of policy and interpretation to allow minor variations in the size of the hang tags and labels required by the regulations. Because no bicycles introduced into interstate commerce now or in the future are or will be subject to these labeling rules, the Commission decided to revoke them.

Timetable:

Action	Date	FR Cite
Final Action	12/08/95	60 FR 62989
Final Action Effective	12/08/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allen F. Brauninger, Attorney, Consumer Product Safety Commission, Office of the General Counsel, Washington, DC
Phone: 301 504-0980

RIN: 3041–AB60

4127. • CHILDREN'S SLEEPWEAR: SIZES 0 THROUGH 6X

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 1193 Flammable Fabrics Act; 15 USC 1194 Flammable Fabrics Act

CFR Citation: 16 CFR 1615.5(b); 16 CFR 1615.31(b)(3); 16 CFR 1615.31(c); 16 CFR 1615.31(d)

Legal Deadline: None

Abstract: On January 16, 1996, the Commission revoked provisions of the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X and enforcement regulations applicable to the labeling, advertising, and retail display of noncomplying items of children's sleepwear in sizes 0 through 6X manufactured between July 29, 1972, and July 29, 1973. The manufacture and sale of noncomplying sleepwear garments in sizes 0 through 6x after July 29, 1973 is prohibited by the flammability standard for sizes 0 through 6x and the Flammable Fabrics Act. Because noncomplying sleepwear in sizes 0 through 6X is not now offered for sale and will not be in the future, the requirements for labeling, advertising, and retail display of noncomplying items in these sizes are no longer necessary. Consequently, the Commission has revoked them.

Timetable:

Action	Date	FR Cite
Final Action	01/16/96	61 FR 1115
Final Action Effective	01/16/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allen F. Brauninger, Attorney, Consumer Product Safety Commission, Office of the General Counsel, Washington, DC
Phone: 301 504-0980

RIN: 3041–AB61

4128. • CHILDREN'S SLEEPWEAR: SIZES 7 THROUGH 14

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 1193 Flammable Fabrics Act; 15 USC 1194 Flammable Fabrics Act

CFR Citation: 16 CFR 1616.6(b); 16 CFR 1616.31(b)(8); 16 CFR 1616.31(c)

Legal Deadline: None

Abstract: On January 16, 1996, the Commission revoked provisions of the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 and enforcement regulations applicable to the labeling and retail display of items of children's sleepwear in sizes 7 through 14 manufactured between May 1, 1975, and May 1, 1978. Because sleepwear in sizes 7 through 14 manufactured between May 1, 1975, and May 1, 1978, is not now offered for sale and will not be in the future, the requirements for labeling and retail display of those items are no longer necessary. Consequently, the Commission has revoked them.

Timetable:

Action	Date	FR Cite
Final Action	01/16/96	61 FR 1116
Final Action Effective	01/16/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allen F. Brauninger, Attorney, Consumer Product Safety Commission, Office of the General Counsel, Washington, DC
Phone: 301 504-0980

RIN: 3041–AB62

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federal register

Monday
May 13, 1996

Part XLIX

Farm Credit Administration

Semiannual Regulatory Agenda

FARM CREDIT ADMINISTRATION (FCA)

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Unified Agenda of Regulations

AGENCY: Farm Credit Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Farm Credit Administration (FCA), as an independent regulatory agency in compliance with Executive Order 12866, sets forth the following agenda of regulations which it will have under development and review during the period of April 1996 through October 1996.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4498, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. FCA regulations, which apply to Farm Credit banks and associations and certain other federally chartered entities, generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act.

The FCA, as an independent regulatory agency, is exempt from certain provisions of Executive Order 12866. It participates in this joint publication to further the public interest by including FCA in a single source of information concerning current and projected rulemaking and reviews of existing regulations, pursuant to section 4 of the Executive Order 12866.

Dated: February 22, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4129	Loan Policies and Operations (Other Financing Institutions)	3052-AB67

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4130	Loan Policies and Operations (General Financing Agreement)	3052-AB09
4131	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Capital—Phase III)	3052-AB58
4132	Loan Policies and Operations; Lending Authorities (Secondary Market Participations)	3052-AB59
4133	Organization; Loan Policies and Operations; General Provisions; Definition (Regulatory Review and Deletions)	3052-AB61
4134	Disclosure to Shareholders (Quarterly Report)	3052-AB62
4135	Leasing Authorities	3052-AB63
4136	Loan Policies and Operations (Loan Underwriting Standards)	3052-AB64
4137	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Non-Dollar Debt)	3052-AB68
4138	Organization (Organization Issues)	3052-AB71
4139	Farm Credit System Reform Act Regulations	3052-AB72

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4140	Eligibility and Scope of Financing; Loan Policies and Operations; General Provisions; Definitions; Nondiscrimination in Lending (Eligibility)	3052-AB10
4141	Referral of Crimes and Suspected Crimes (Criminal Referral)	3052-AB33
4142	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; General Provisions; Disclosure to Shareholders; Capital Adequacy (Capital - Phase II)	3052-AB48
4143	Loan Policies and Operations; Loans in Areas Having Special Flood Hazards (Flood Insurance)	3052-AB57
4144	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Book-Entry Farm Credit Securities)	3052-AB70

FCA

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4145	Federal Agricultural Mortgage Corporation Risk-Based Capital Regulation	3052-AB56
4146	Loan Policies and Operations (Uninsured Voluntary and Involuntary Accounts)	3052-AB65
4147	Loan Policies and Operations (Borrower Rights - Effective Interest Rate)	3052-AB69

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4148	Loan Policies and Operations (Borrower Rights - Phase I)	3052-AB52
4149	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Disclosure to Shareholders (Director Elections)	3052-AB60
4150	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Global Debt)	3052-AB66

FARM CREDIT ADMINISTRATION (FCA) — Prerule Stage

4129. LOAN POLICIES AND OPERATIONS (OTHER FINANCING INSTITUTIONS)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Would revise existing policies and procedures for the establishment of a funding relationship between Farm Credit System banks and other financing institutions.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Eric Howard, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB67

FARM CREDIT ADMINISTRATION (FCA) — Proposed Rule Stage

4130. LOAN POLICIES AND OPERATIONS (GENERAL FINANCING AGREEMENT)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Would clarify existing policies and procedures for the establishment of a funding relationship between the Farm Credit banks and their affiliated direct lending institutions. Would provide uniform guidelines upon which the general financing agreements shall be developed and executed, and eliminate FCA prior approval.

Timetable:

Action	Date	FR Cite
NPRM	11/03/88	53 FR 44438
NPRM Comment Period End	12/05/88	
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Robert Coleman, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090

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Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB09

4131. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (CAPITAL—PHASE III)

Priority: Other Significant

Legal Authority: 12 USC 2154; 12 USC 2154a; 12 USC 2252; 12 USC 2154 note; PL 100-233, sec 301

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Would revise the current capital regulations taking into consideration safety and soundness concerns and similar regulations of other commercial bank regulators.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Dennis K. Carpenter, Senior Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB58

4132. LOAN POLICIES AND OPERATIONS; LENDING AUTHORITIES (SECONDARY MARKET PARTICIPATIONS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096

CFR Citation: 12 CFR 614.4000; 12 CFR 614.4010; 12 CFR 614.4030; 12 CFR 614.4040; 12 CFR 614.4050

Legal Deadline: None

Abstract: Would amend regulations on lending authorities with respect to participation in the agricultural secondary market by System banks and associations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Eric Howard, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB59

4133. ORGANIZATION; LOAN POLICIES AND OPERATIONS; GENERAL PROVISIONS; DEFINITION (REGULATORY REVIEW AND DELETIONS)

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2209; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279aa; 12 USC 2279aa-5(e)

CFR Citation: 12 CFR 611; 12 CFR 614; 12 CFR 618; 12 CFR 619

Legal Deadline: None

Abstract: Would review regulations to determine unnecessary, outdated, duplicative or burdensome requirements that can be deleted or revised.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Linda C. Sherman, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB61

4134. DISCLOSURE TO SHAREHOLDERS (QUARTERLY REPORT)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2252; 12 USC 2254; 12 USC 2279aa-11; PL 100-233, sec 424

CFR Citation: 12 CFR 620

Legal Deadline: None

Abstract: Would revise the current regulation to address the regulatory burden comments regarding the distribution requirements of the quarterly report to shareholders.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Laurie A. Rea, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB62

4135. LEASING AUTHORITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2252

CFR Citation: 12 CFR Not yet determined

Legal Deadline: None

Abstract: Would develop comprehensive leasing regulations for all Farm Credit System institutions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Robert G. Magnuson, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB63

4136. LOAN POLICIES AND OPERATIONS (LOAN UNDERWRITING STANDARDS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4012a; 42 USC 4104a; 42 USC 4104b; 42 USC 4106; 42 USC 4128; 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2071; 12 USC 2073; 12 USC 2074; ...

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Would clarify existing loan underwriting guidance and provide flexibility where appropriate.

Timetable:

Action	Date	FR Cite
NPRM	04/15/96	61 FR 16403
NPRM Comment Period End	05/15/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: John J. Hays, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB64

4137. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (NON-DOLLAR DEBT)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2013; 12 USC 2122; 12 USC 2153; 12 USC 2154; 12 USC 2160; 12 USC 2252

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Would authorize Farm Credit System institutions to issue debt in foreign currency.

Timetable:

Action	Date	FR Cite
ANPRM	11/24/95	60 FR 57963
ANPRM Comment Period End	01/31/96	
NPRM	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Michael J. LaVerghetta, Senior Financial Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22101-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB68

4138. • ORGANIZATION (ORGANIZATION ISSUES)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2011; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2209; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a to 2279f-1; 12 USC 2279aa-5(e)

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: Would address regulatory burden issues concerning corporate restructuring and voter secrecy in the election of directors.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4125.

Agency Contact: Eric Howard, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB71

4139. • FARM CREDIT SYSTEM REFORM ACT REGULATIONS

Priority: Other Significant

Legal Authority: PL 104-105

CFR Citation: 12 CFR 600 to 650

Legal Deadline: NPRM, Statutory, May 10, 1996.

Abstract: Would amend regulations to provide regulatory relief, and address new authorities of the Federal Agricultural Mortgage Corporation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

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FCA — Proposed Rule Stage

Agency Contact: Gaylon Dykstra, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 Phone: 703 883-4498 TDD: 703 883-4444

RIN: 3052–AB72

FARM CREDIT ADMINISTRATION (FCA) — Final Rule Stage

4140. ELIGIBILITY AND SCOPE OF FINANCING; LOAN POLICIES AND OPERATIONS; GENERAL PROVISIONS; DEFINITIONS; NONDISCRIMINATION IN LENDING (ELIGIBILITY)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2073; 12 USC 2075; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2129; 12 USC 2143; 12 USC 2243; 12 USC 2252; 42 USC 3601 et seq

CFR Citation: 12 CFR 613; 12 CFR 614; 12 CFR 618; 12 CFR 619; 12 CFR 626

Legal Deadline: None

Abstract: Would clarify existing policies and procedures with respect to borrower eligibility and scope of financing as provided for in the Farm Credit Act 1971, as amended.

Timetable:

Action	Date	FR Cite
NPRM	09/11/95	60 FR 47103
NPRM Comment Period End	12/11/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: John J. Hays, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 Phone: 703 883-4498 TDD: 703 883-4444

RIN: 3052–AB10

4141. REFERRAL OF CRIMES AND SUSPECTED CRIMES (CRIMINAL REFERRAL)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2243; 12 USC 2252; 12 USC 2254

CFR Citation: 12 CFR 617

Legal Deadline: None

Abstract: Would revise regulations covering the referral of crimes and suspected crimes by implementing the uniform process and referral form developed by the Bank Fraud Working Group.

Timetable:

Action	Date	FR Cite
NPRM	10/13/92	57 FR 46819
NPRM Comment Period End	11/12/92	
Resolicitation of Comments Regarding Criminal Referral	06/20/94	59 FR 31562
Comment Period End Regarding Criminal Referral	08/19/94	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Eric Howard, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 Phone: 703 883-4498 TDD: 703 883-4444

RIN: 3052–AB33

4142. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS; GENERAL PROVISIONS; DISCLOSURE TO SHAREHOLDERS; CAPITAL ADEQUACY (CAPITAL - PHASE II)

Priority: Other Significant

Legal Authority: 12 USC 2013; 12 USC 2019; 12 USC 2020; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2076; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2132; 12 USC 2146; 12 USC 2154; 12 USC 2160; 12 USC 2202b

CFR Citation: 12 CFR 615; 12 CFR 618; 12 CFR 620

Legal Deadline: None

Abstract: Would amend regulations to address capital directives and surplus requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/27/95	60 FR 38521
NPRM Comment Period End	10/25/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498

Agency Contact: Dennis K. Carpenter, Senior Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 Phone: 703 883-4498 TDD: 703 883-4444

RIN: 3052–AB48

4143. LOAN POLICIES AND OPERATIONS; LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS (FLOOD INSURANCE)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2098; 12 USC 2121

CFR Citation: 12 CFR 614

Legal Deadline: Other, Statutory, June 20, 1995.
Statutory deadline of June 20, 1995 for coordinated adoption with other Federal financial institution regulators of FEMA Standard Flood Hazard Determination Form.

Abstract: Would develop flood insurance regulations required by title V--National Flood Insurance Reform of the Riegle Community Development and Regulatory Improvement Act of 1994.

Timetable:

Action	Date	FR Cite
Final Action on Determination Form	07/06/95	60 FR 35286
NPRM	10/18/95	60 FR 53962
NPRM Comment Period End	12/18/95	
Effective Date of Determination Form	01/02/96	60 FR 35286
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Robert G. Magnuson, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 Phone: 703 883-4498 TDD: 703 883-4444

RIN: 3052–AB57

FCA — Final Rule Stage

4144. • FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (BOOK-ENTRY FARM CREDIT SECURITIES)

Priority: Other Significant

Legal Authority: 12 USC 2013; 12 USC 2122; 12 USC 2153; 12 USC 2154; 12 USC 2160; 12 USC 2252

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: Would revise sections of Farm Credit securities book-entry regulations to reflect changes to the Treasury book-entry regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4125.

Agency Contact: Michael LaVerghetta, Senior Financial Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 Phone: 703 883-4498 TDD: 703 883-4444

RIN: 3052–AB70

FARM CREDIT ADMINISTRATION (FCA) — Long-Term Actions

4145. FEDERAL AGRICULTURAL MORTGAGE CORPORATION RISK-BASED CAPITAL REGULATION

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Suzanne J. McCrory Phone: 703 883-4280 TDD: 703 883-4444

RIN: 3052–AB56

4146. LOAN POLICIES AND OPERATIONS (UNINSURED VOLUNTARY AND INVOLUNTARY ACCOUNTS)

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 614

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert G. Magnuson Phone: 703 883-4498 TDD: 703 883-4444

RIN: 3052–AB65

4147. • LOAN POLICIES AND OPERATIONS (BORROWER RIGHTS - EFFECTIVE INTEREST RATE)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: Would revise effective interest rate disclosure regulations to provide clarification/consistency throughout the Farm Credit System.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, Regulation Development, Office of Examination, 703-883-4498.

Agency Contact: Eric Howard, Policy Analyst, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 Phone: 703 883-4498 TDD: 703 883-4444

RIN: 3052–AB69

4148. LOAN POLICIES AND OPERATIONS (BORROWER RIGHTS - PHASE I)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 614

Completed:

Reason	Date	FR Cite
Final Action	03/20/96	61 FR 11303

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert S. Child
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB52

4149. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS; DISCLOSURE TO SHAREHOLDERS (DIRECTOR ELECTIONS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 615; 12 CFR 620

Completed:

Reason	Date	FR Cite
Final Action	11/24/95	60 FR 57919
Final Action Effective	01/02/96	61 FR 1274

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Hays
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB60

4150. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (GLOBAL DEBT)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 12 CFR 615

Completed:

Reason	Date	FR Cite
Final Action	03/25/96	61 FR 12015
Final Action Effective	01/02/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Laurie A. Rea
Phone: 703 883-4498
TDD: 703 883-4444

RIN: 3052–AB66

[FR Doc. 96-5657 Filed 05-10-96; 8:45 am]
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federal register

Monday
May 13, 1996

Part L

Farm Credit System Insurance Corporation

Semiannual Regulatory Agenda

FARM CREDIT SYSTEM INSURANCE CORPORATION (FCSIC)

FARM CREDIT SYSTEM INSURANCE CORPORATION

12 CFR Ch. XIV

Unified Agenda of Regulations

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Farm Credit System Insurance Corporation (Corporation), in compliance with Executive Order 12866, sets forth the following agenda of regulations which it will have under development and review during the period of April 1996 through October 1996.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102, (703) 883-4498, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. Corporation regulations, which apply to Farm Credit banks and associations, generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act.

The Corporation, as an independent regulatory agency, is exempt from certain provisions of Executive Order 12866. It participates in this joint publication to further the public interest by including the Corporation in a single source of information concerning current and projected rulemaking and reviews of existing regulations, pursuant to section 4 of the Executive Order 12866.

Dated: February 23, 1996.

Floyd Fithian,

Secretary, Farm Credit System Insurance Corporation Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4151	Farm Credit System Reform Act of 1996	3055-AA04

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4152	Enforcement of Nondiscrimination on the Basis of Handicap	3055-AA01
4153	Referral of Known and Suspected Criminal Violations	3055-AA02

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4154	Supplemental Standards of Ethical Conduct for Employees of the Farm Credit System Insurance Corporation	3055-AA03

FARM CREDIT SYSTEM INSURANCE CORPORATION (FCSIC) — Proposed Rule Stage

4151. • FARM CREDIT SYSTEM REFORM ACT OF 1996

Priority: Other Significant

Legal Authority: PL 104-105

CFR Citation: 12 CFR 1400 to 1410

Legal Deadline: None

Abstract: Would address the new authorities provided in the Farm Credit System Reform Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Paralegal Specialist, 703-883-4125.

Agency Contact: Dorothy L. Nichols, General Counsel, Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, VA 22102
Phone: 703 883-4380
Fax: 703 790-9088

RIN: 3055–AA04

FARM CREDIT SYSTEM INSURANCE CORPORATION (FCSIC) — Long-Term Actions

4152. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP

Priority: Other

CFR Citation: 12 CFR 1406

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dorothy L. Nichols
Phone: 703 883-4380
TDD: 703 883-4444

RIN: 3055–AA01

4153. REFERRAL OF KNOWN AND SUSPECTED CRIMINAL VIOLATIONS

Priority: Other

CFR Citation: 12 CFR 1417

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dorothy L. Nichols
Phone: 703 883-4380
TDD: 703 883-4444

RIN: 3055–AA02

FARM CREDIT SYSTEM INSURANCE CORPORATION (FCSIC) — Completed Actions

4154. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FARM CREDIT SYSTEM INSURANCE CORPORATION

Priority: Other

CFR Citation: 5 CFR 4001; 12 CFR 1401

Completed:

Reason	Date	FR Cite
Final Action	02/06/96	60 FR 4349
Final Action Effective	02/06/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Wendy R. Laguarda
Phone: 703 883-4234
TDD: 703 883-4444

RIN: 3055–AA03

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Federal Communications Commission

Semiannual Regulatory Agenda

FEDERAL COMMUNICATIONS COMMISSION (FCC)

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Unified Agenda of Federal Regulations; April 1996

AGENCY: Federal Communications Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: Twice a year, the Commission publishes a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act. The Agenda also provides the CFR citations and legal authorities which govern these proceedings. The Regulatory Flexibility Act (94 Stat. 1167; 5 U.S.C. 605) includes notations on the applicability of the Regulatory Flexibility Act to each item. The Unified Agenda will be published in the **Federal Register** in April and October of each year.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Camp, Office of Managing Director, (202) 418-0442.

SUPPLEMENTARY INFORMATION:

Unified Agenda of Major and Other Significant Proceedings

The Commission encourages public participation in the FCC rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared an agenda of important proceedings now in progress. OMB will publish the Unified Agenda in the **Federal Register** in April and October of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

Docket Number - assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry concerning the matter under consideration. The Commission has used docket numbers since January 1, 1978. Docket numbers consist of the last two digits of the calendar year in which the docket was established, plus a sequential number, which begins at 1 with the first docket initiated during a calendar year (e.g., Docket 80-1 or Docket 83-1). The abbreviation for the responsible Bureau usually precedes the docket number, as in "MM Docket 79-164," which indicates that the responsible Bureau is the Mass Media Bureau. A docket number consisting of only five digits (e.g., Docket 29622) indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI) - issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Further Notice of Inquiry (FNOI)

Notice of Proposed Rulemaking (NPRM) - issued by the Commission when it is proposing a specific change to the FCC Rules and Regulations. Before any changes are actually made, interested parties may submit written comments on the proposals.

Further Notice of Proposed Rulemaking (FNPRM)

Memorandum Opinion and Order (MO&O) - issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or deny a petition for reconsideration of a decision.

Rulemaking (RM) Number - assigned to a proceeding after the appropriate Bureau/Office has reviewed a petition for rulemaking but before the Commission has taken action on the petition.

Report and Order (R&O) - issued by the Commission to state a new or amended rule or state that the FCC Rules will not be changed.

William F. Caton,

Acting Secretary,

Federal Communications Commission.

CABLE SERVICES BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4155	Open Video Systems	3060-AG25
4156	Video Programming Accessibility	3060-AG26
4157	Cable Act Reform	3060-AG27

CABLE SERVICES BUREAU—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4158	Over the Air Reception Devices (All Devices Except DBS)	3060-AG24

CABLE SERVICES BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4159	Cable Television Rate Regulation	3060-AF41

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CABLE SERVICES BUREAU—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4160	Cable Act: Cost of Service	3060-AF48
4161	Customer Service Standards	3060-AF69
4162	Small Systems	3060-AF71
4163	Cable Home Wiring	3060-AG02
4164	Competitive Availability of Navigation Devices	3060-AG28

CABLE SERVICES BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4165	Telephone Company Provision of Video Dialtone	3060-AF83

COMMON CARRIER BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4166	Telephone Company/Cable Television Cross-Ownership Rules Sections 63.54-63.56	3060-AE40
4167	Expanded Interconnection With Local Telephone Company Facilities	3060-AF04
4168	Transport Rate Structure and Pricing	3060-AF06
4169	Rules and Policies Regarding Calling Number Identification Services (CC Docket 91-281)	3060-AF07
4170	In the Matter of Intelligent Networks	3060-AF08
4171	Administration of the North American Numbering Plan	3060-AF50
4172	The Use of N11 Codes and Other Abbreviated Dialing Arrangements	3060-AF51
4173	In the Matter of Billed Party Preference for 0+ InterLATA Calls	3060-AF60
4174	Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board	3060-AF85
4175	Telephone Number Portability	3060-AG01
4176	Pay Telephone Compensation for Originating 1-800 Subscriber Calls	3060-AG06
4177	Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers	3060-AG07
4178	Integrated Services Digital Network (ISDN)	3060-AG08
4179	Price Cap Review for Local Exchange Carriers Second Further Notice of Proposed Rulemaking (CC Docket Nos. 94-1, 93-124, 93-197)	3060-AG09
4180	Price Cap Performance Review for Local Exchange Carriers, Fourth Further Notice of Proposed Rulemaking (CC Docket No. 94-1)	3060-AG10
4181	In the Matter of Toll Free Service Access Codes First Report and Order	3060-AG11

COMMON CARRIER BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4182	Reform of the Interstate Rate of Return Prescription and Enforcement Processes	3060-AF12

COMPLIANCE AND INFORMATION BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4183	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System	3060-AF21
4184	In the Matter of the Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules To Incorporate the Forfeiture Guidelines	3060-AF65
4185	In the Matter of Part 80 of the Commission's Rules Regarding the Inspection of Great Lakes Agreement Ships	3060-AG12

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COMPLIANCE AND INFORMATION BUREAU—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4186	In the Matter of Amendment of the Commission's Rules Concerning the Inspection of Radio Installations on Large Cargo and Small Passenger Ships	3060-AG13

OFFICE OF ENGINEERING AND TECHNOLOGY—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4187	RF Exposure Standard	3060-AF32
4188	Millimeter Wave Spectrum Allocation	3060-AF61
4189	Microwave Antenna Flexibility	3060-AG14
4190	Arecibo Coordination Zone	3060-AG15
4191	Spread Spectrum Rules	3060-AG17
4192	Medical Care Telemetry Devices	3060-AG18

OFFICE OF ENGINEERING AND TECHNOLOGY—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4193	Cable System Compatibility With TV Receivers and VCRs	3060-AF36

OFFICE OF ENGINEERING AND TECHNOLOGY—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4194	Digital LMSS in L-Band Spectrum	3060-AE68
4195	Digital Audio Broadcasting	3060-AE81
4196	Standards for ISM Equipment	3060-AE97
4197	Streamline of Equipment Authorization Proces	3060-AF29
4198	Wind Profiler Radar Systems	3060-AF45
4199	Pioneer's Preference Rules	3060-AF53
4200	Digital Equipment Deregulation	3060-AF73
4201	MSS Spectrum Allocation	3060-AF75
4202	38 GHz Channel Plan	3060-AG16
4203	Apple/WINFORUM (5 GHz)	3060-AG19

INTERNATIONAL BUREAU—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4204	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures	3060-AD70

INTERNATIONAL BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4205	Deregulation of International Receive-Only Earth Stations	3060-AF33
4206	Satellite Communications	3060-AF42
4207	Regulation of International Accounting Rates, CC Dkt 90-337, Second Further Notice of Proposed Rulemaking	3060-AF86
4208	Streamlining the International Section 214 Authorization Process and Tariff Requirements	3060-AF88

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INTERNATIONAL BUREAU—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4209	Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the L-Band	3060-AF89
4210	Amendment to the Commission's Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems	3060-AF90
4211	Preemption of Local Zoning Regulation of Satellite Earth Stations	3060-AF92
4212	Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band	3060-AF93
4213	Redesignation of the 27.5-29.5 Frequency Band	3060-AF94

INTERNATIONAL BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4214	Market Entry and Regulation of Foreign-Affiliated Entities	3060-AF87

MASS MEDIA BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4215	Broadcast EEO: Reconsideration	3060-AD73
4216	Advanced Television Service (MM Docket 87-268)	3060-AE24
4217	Comparative Renewal Criteria	3060-AE27
4218	Transfer of Control of Non-Stock Entities	3060-AE31
4219	Children's Television Programming (MM Docket 93-48)	3060-AF77
4220	Commercial Practices of Broadcast Television Networks and Affiliates (MM Docket Nos. 95-40, 95-90 and 95-92)	3060-AF78
4221	Review of the Commission's Regulations Governing Television Broadcasting	3060-AF79
4222	Filing of Television Network Affiliation Contracts	3060-AF80
4223	Rules Governing Broadcast Television Advertising	3060-AF81
4224	Attribution of Broadcast Interests	3060-AF82
4225	EEO Streamlining Proposals	3060-AG29
4226	Minor Modifications of Broadcast Licenses Without Prior Construction Permit	3060-AG30

MASS MEDIA BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4227	Broadcast Station Operator Requirements	3060-AF83

OFFICE OF MANAGING DIRECTOR—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4228	Assessment and Collection of Regulatory Fees for FY 1996	3060-AG05

WIRELESS TELECOMMUNICATIONS BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4229	Amendment of Part 80 of the Commission's Rules Concerning VHF Maritime Operations	3060-AF14

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WIRELESS TELECOMMUNICATIONS BUREAU—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4230	Rulemaking to Amend Part 1 and Part 21 to Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service	3060-AF26
4231	Reframing	3060-AF35
4232	Wide Area SMR Licensing	3060-AF47
4233	Implementation of Sections 3(n) and 332 of the Communications Act —Regulatory Treatment of Mobile Services	3060-AF49
4234	Regulatory Treatment of Mobile Services	3060-AF52
4235	Interconnection Obligations Pertaining to Commercial Mobile Radio Services	3060-AF58
4236	Revision of Part 24 of the Commission's Rules Pertaining to Personal Communications Service	3060-AF59
4237	Reorganization of Parts 1, 2, 21 and 94 to Establish a New Part 101 Governing Terrestrial Microwave Radio Services	3060-AF95
4238	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; 800 MHz SMR Competitive Bidding Rules	3060-AF98
4239	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; Narrowband PCS Competitive Bidding Rules	3060-AF99
4240	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; IVDS Competitive Bidding Rules	3060-AG00
4241	Implementation of Section 309(j) of the Communications Act, Cellular Unserved Areas Competitive Bidding Rules	3060-AG20
4242	Implementation of Section 309(j) of the Communications Act, Competitive Bidding Broadband PCS F Block Rules	3060-AG21
4243	Report and Order (Second) to Allow 220 MHz Licenses to Relocate Their Base Stations	3060-AG23

WIRELESS TELECOMMUNICATIONS BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4244	Frequency Coordination-Alternatives and Options to the Present Frequency Coordination System	3060-AE60

FEDERAL COMMUNICATIONS COMMISSION (FCC)
CABLE SERVICES BUREAU
Proposed Rule Stage

4155. • OPEN VIDEO SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 302

CFR Citation: 47 CFR 76

Legal Deadline: Final, Statutory, August 8, 1996.

Abstract: The FCC will take actions necessary to prescribe regulations to govern operations of open video systems.

Timetable:

Action	Date	FR Cite
R&O/NPRM	03/14/96	61 FR 10496
Order	06/00/96	
Final Action	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Rick Chessen, Attorney, Federal Communications Commission
Phone: 202 416-0809

RIN: 3060–AG25

4156. • VIDEO PROGRAMMING ACCESSIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 305

CFR Citation: 47 CFR 76

Legal Deadline: Final, Statutory, August 8, 1997.

Abstract: The FCC will ascertain the extent of video programming with closed captions and video descriptions, and then prescribe regulations to ensure the accessibility of video programming to persons with impairments.

Timetable:

Action	Date	FR Cite
Order	03/12/96	61 FR 9963
Report	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marcia Glauberman, Statistician, Federal Communications Commission
Phone: 202 416-1184

RIN: 3060–AG26

4157. • CABLE ACT REFORM

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 301

CFR Citation: 47 CFR 76

Legal Deadline: NPRM, Statutory, June 1996. Final, Statutory, December 1996.

Abstract: This proceeding addresses several issues, including: definitions, rate uniform structure, CPST rate complaint process, effective competition, small cable operators, subscriber notices.

FCC—CABLE
Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	11/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Thomas Power, Attorney, Federal Communications Commission
Phone: 202 416-1188

RIN: 3060–AG27

FEDERAL COMMUNICATIONS COMMISSION (FCC)
CABLE SERVICES BUREAU
Final Rule Stage

4158. • OVER THE AIR RECEPTION DEVICES (ALL DEVICES EXCEPT DBS)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 76

Legal Deadline: Final, Statutory, August 8, 1996.

Abstract: The FCC will prescribe regulations to prohibit restrictions that inhibit a viewers ability to receive video programming services through signal receiving devices designed for off-the-air reception of television broadcast signals, or multichannel or multipoint distribution service.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: State, Local

Agency Contact: Jackie Spindler, Deputy Chief, Financial Analysis and Compliance Division, Federal Communications Commission
Phone: 202 418-1027

RIN: 3060–AG24

FEDERAL COMMUNICATIONS COMMISSION (FCC)
CABLE SERVICES BUREAU
Long-Term Actions

4159. CABLE TELEVISION RATE REGULATION

Priority: Other Significant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	01/04/93	58 FR 48
NPRM	01/04/93	58 FR 48
1st R&O	05/21/93	58 FR 29736
MO&O and FNPRM	08/18/93	58 FR 43816
1st Order on Recon, 2nd R&O	09/02/93	58 FR 46718
3rd FNPRM	09/02/93	58 FR 46737
Third R&O	11/30/93	58 FR 63087
2nd Order on Recon, 4th R&O, 5th NPRM	04/15/94	59 FR 17943
3rd Order on Recon	04/15/94	59 FR 17961
5th Order on Recon & FNPRM	10/13/94	59 FR 51869
4th Order on Recon	10/21/94	59 FR 53113
6th Order on Recon, 5th R&O	12/06/94	59 FR 62614
7th NPRM	12/06/94	59 FR 62614
7th Order on Recon	01/25/95	60 FR 4863
8th Order on Recon	03/17/95	60 FR 14373
9th Order on Recon	03/27/95	60 FR 10512
6th R&O, 11th Order on Recon	07/12/95	60 FR 35854
13th Order on Recon	10/05/95	60 FR 52106
12th Order on Recon	10/26/95	60 FR 54815
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Nancy Stevenson
Phone: 202 418-1180

RIN: 3060–AF41

4160. CABLE ACT: COST OF SERVICE

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	07/30/93	58 FR 40762
R&O	04/15/94	59 FR 17975
2nd NPRM	04/15/94	59 FR 18066
MO&O	10/14/94	59 FR 52087
2nd R&O/1st Order on Recon/FNPRM	01/26/96	
Final Order	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Thomas Power
Phone: 202 416-1188

RIN: 3060–AF48

4161. CUSTOMER SERVICE STANDARDS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61038
R&O	04/19/93	53 FR 21107
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Margo Domon
Phone: 202 416-0801

RIN: 3060–AF69

4162. SMALL SYSTEMS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
R&O	05/21/93	58 FR 29736
FNPRM	08/18/93	58 FR 43853
MO&O	08/18/93	58 FR 43853
2nd Order on Recon/4th R&O	04/15/94	59 FR 17943
5th Order on Recon/FNPRM	10/13/94	59 FR 59519
4th Order on Reconsideration	10/21/94	59 FR 53113
5th R&O/6th Order on Recon/7th NPRM	12/06/94	59 FR 62614
7th Order on Reconsideration	01/25/95	60 FR 4863
6th R&O/11th Order on Recon	07/12/95	60 FR 3854

FCC—CABLE — Long-Term Actions

Action	Date	FR Cite
To Be Merged With Cable Act Reform With NPRM	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Thomas Power
Phone: 202 416-0877

RIN: 3060–AF71

4163. CABLE HOME WIRING

Priority: Other Significant

CFR Citation: 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	11/17/92	57 FR 54209
R&O	03/02/93	58 FR 11970
1st Order on Recon & FNPRM	02/16/96	61 FR 6210

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lynn Crakes
Phone: 202 416-1187

RIN: 3060–AG02

4164. • COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 304

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: The FCC will adopt regulations to assure commercial consumer availability of equipment used to access services provided by multichannel video programming distributors.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Barret Brick, Attorney, Federal Communications Commission
Phone: 202 418-1065

RIN: 3060–AG28

FEDERAL COMMUNICATIONS COMMISSION (FCC) — Completed Actions
CABLE SERVICES BUREAU

4165. TELEPHONE COMPANY PROVISION OF VIDEO DIALTONE

Priority: Other Significant

CFR Citation: 47 CFR 63

Completed:

Reason	Date	FR Cite
Merged With Open Video Systems With NPRM	03/11/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry Walke
Phone: 202 416-0847

RIN: 3060–AF83

FEDERAL COMMUNICATIONS COMMISSION (FCC) — Long-Term Actions
COMMON CARRIER BUREAU

4166. TELEPHONE COMPANY/CABLE TELEVISION CROSS-OWNERSHIP RULES SECTIONS 63.54-63.56

Priority: Other Significant

CFR Citation: 47 CFR 63.54; 47 CFR 63.55; 47 CFR 63.56; 47 CFR 63.57; 47 CFR 63.58

Timetable:

Action	Date	FR Cite
NOI	09/15/87	52 FR 34818
FNOI/NPRM	09/29/88	53 FR 38042
First R&O	12/17/91	56 FR 65445
FNPRM/SFNOI	12/17/91	56 FR 65464
Recommendations to Congress	08/14/92	
Reconsideration of First R&O	09/09/92	57 FR 41109
Second R&O	09/09/92	57 FR 41106
SFNPRM	09/09/92	57 FR 41118
Recon of 2nd R&O	12/12/94	59 FR 63909
Third FNPRM	12/12/94	59 FR 63971
Fourth FNPRM	01/20/95	
Third R&O	05/16/95	60 FR 31924
Fourth R&O	08/14/95	60 FR 44280

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mindy Ginsburg
Phone: 202 418-1591

RIN: 3060–AE40

4167. EXPANDED INTERCONNECTION WITH LOCAL TELEPHONE COMPANY FACILITIES

Priority: Other Significant

CFR Citation: 47 CFR 69; 47 CFR 61; 47 CFR 64

Timetable:

Action	Date	FR Cite
NPRM & NOI	07/26/91	56 FR 34159
ANPRM	09/20/91	56 FR 44053
ANPRM Comment Period End	11/06/91	56 FR 34159
R&O and NPRM	11/18/92	57 FR 54323
2nd NPRM	12/01/92	57 FR 56888
MO&O	12/31/92	57 FR 62481
NPRM Comment Period End	03/09/93	57 FR 58767
2nd MO&O	09/17/93	58 FR 48752
2nd MO&O and 3rd NPRM	09/17/93	58 FR 48756
3rd R&O	06/27/94	59 FR 32925
MO&O	08/01/94	59 FR 38922
Carriers required to file collocation tariffs on	09/01/94	
Effective Date	12/15/94	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Schlichting
Phone: 202 418-1580

RIN: 3060–AF04

4168. TRANSPORT RATE STRUCTURE AND PRICING

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 61; 47 CFR 69

Timetable:

Action	Date	FR Cite
NPRM	11/22/91	56 FR 57301

FCC—CCB — Long-Term Actions

Action	Date	FR Cite
NPRM Comment Period End	01/22/92	
FNPRM	11/17/92	57 FR 54205
R&O	11/20/92	57 FR 54717
First MO&O on Recon. of R&O	08/03/93	58 FR 41184
Second MO&O on Reconsideration	08/18/93	58 FR 45266
Second R&O	01/31/94	59 FR 10300
Supp. NPRM	12/15/94	60 FR 2068
Third MO&O on Recon	12/15/94	60 FR 4107
Fourth MO&O on Recon	09/22/95	60 FR 50120

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Matt Harthun
Phone: 202 418-1590

RIN: 3060–AF06

4169. RULES AND POLICIES REGARDING CALLING NUMBER IDENTIFICATION SERVICES (CC DOCKET 91-281)

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64.1600 to 64.1604

Timetable:

Action	Date	FR Cite
NPRM	09/26/91	56 FR 57300
FNPRM	04/18/94	59 FR 18349
R&O	04/18/94	59 FR 18318
Second R&O and Third NPRM	06/02/95	60 FR 28775
Order	10/30/95	
Order	11/30/95	
Order & Fourth NPRM	11/30/95	60 FR 63491

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Specht
Phone: 202 418-2378

RIN: 3060–AF07

4170. IN THE MATTER OF INTELLIGENT NETWORKS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64

Timetable:

Action	Date	FR Cite
NOI	11/21/91	56 FR 65721
NPRM	08/03/93	58 FR 48623

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Rose Crellin
Phone: 202 418-1571

RIN: 3060–AF08

4171. ADMINISTRATION OF THE NORTH AMERICAN NUMBERING PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 151; 47 CFR 154; 47 CFR 201 to 205; 47 CFR 403

Timetable:

Action	Date	FR Cite
NOI	11/10/92	57 FR 53462
NPRM	05/10/94	59 FR 24103
R&O	07/28/95	60 FR 58737

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Specht
Phone: 202 418-2378

RIN: 3060–AF50

4172. THE USE OF N11 CODES AND OTHER ABBREVIATED DIALING ARRANGEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 1.415; 47 CFR 1.419

Timetable:

Action	Date	FR Cite
NPRM	05/29/92	57 FR 22681

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elizabeth Nightingale
Phone: 202 418-2352
Fax: 202 418-0454

RIN: 3060–AF51

4173. IN THE MATTER OF BILLED PARTY PREFERENCE FOR 0+ INTERLATA CALLS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64.703(c)(Revision)

Timetable:

Action	Date	FR Cite
NPRM	05/08/92	57 FR 24574
NPRM Comment Period End	06/27/92	
Further NPRM	06/06/94	59 FR 30754
Further NPRM Comment Period End	09/14/94	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Adrien Auger
Phone: 202 418-0960
Fax: 202 418-0236

RIN: 3060–AF60

4174. AMENDMENT OF PART 36 OF THE COMMISSION'S RULES AND ESTABLISHMENT OF A JOINT BOARD

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 36

Timetable:

Action	Date	FR Cite
NPRM	07/13/94	60 FR 46803
ANPRM	08/30/94	
ANPRM Comment Period End	12/02/94	
NPRM Comment Period End	11/09/95	60 FR 46803

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah Dupont
Phone: 202 418-0850
Fax: 202 418-0167
Email: ddupont@fcc.gov

RIN: 3060–AF85

4175. TELEPHONE NUMBER PORTABILITY

Priority: Other Significant

CFR Citation: 47 CFR 61; 47 CFR 64; 47 CFR 69

Timetable:

Action	Date	FR Cite
NPRM	07/13/95	60 FR 39136

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Matthew J. Harthun
Phone: 202 418-1590
Fax: 202 418-1413

RIN: 3060–AG01

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4176. • PAY TELEPHONE COMPENSATION FOR ORIGINATING 1-800 SUBSCRIBER CALLS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 226 (Telephone Operator Consumer Improvement Act)

CFR Citation: 47 CFR 64.1301

Legal Deadline: None

Abstract: The Commission will consider whether calls placed to 1-800 subscriber numbers from competitive payphones should be compensated under the existing payphone compensation scheme adopted by the Commission in the Second Report and Order in CC Docket No. 91-35. This action is the result of a remand by the U.S. Court of Appeals for the District of Columbia in Florida Public Telecomm. v. FCC.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael Carowitz, Attorney, Federal Communications Commission, Enforcement Division, 2025 M Street NW.
Phone: 202 418-0960
Fax: 202 418-0236
Email: marowit@fcc.gov

RIN: 3060–AG06

4177. • INTERCONNECTION BETWEEN LOCAL EXCHANGE CARRIERS AND COMMERCIAL MOBILE RADIO SERVICE PROVIDERS

Priority: Economically Significant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 201 to 205; 47 USC 215; 47 USC 218; 47 USC 220; 47 USC 303 (r); 47 USC 332

CFR Citation: 47 CFR 20; 47 CFR 61; 47 CFR 69

Legal Deadline: None

Abstract: The Commission released a Notice of Proposed Rulemaking seeking comment on proposed changes to the rules governing compensation for calls transferred between LEC and CMRS networks, and proposed that, at least for an interim period, interconnection should be priced on a "bill and keep" basic (i.e., each carrier reciprocally terminates from the other at no charge) with respect to local switching facilities and connections to end users. The Notice also tentatively concluded that information about LEC-CMRS interconnection arrangements should be made publicly available, and invited parties to comment on whether it should adopt an interconnection model that is not binding on state regulatory commissions, a mandatory model with broad parameters, or specific requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/11/96	61 FR 3644
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kathleen Franco, Attorney Advisor, Federal Communications Commission, Policy & Program Planning Division
Phone: 202 418-1932

RIN: 3060–AG07

4178. • INTEGRATED SERVICES DIGITAL NETWORK (ISDN)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201 to 205

CFR Citation: 47 CFR 69

Legal Deadline: None

Abstract: On May 30, 1995, the Commission released a Notice of Proposed Rulemaking seeking comment on the application of Subscriber Line Charges (SLCs) to services that provide multiple voice-grade-equivalent channels over a single facility. These services, such as integrated services digital network (ISDN) service, permit customers to obtain digital transmission over existing copper wire, through the use of advanced equipment. In addition to obtaining multiple channels over a single local loop or T-1 facility, these services can transmit data at higher speeds and with greater accuracy. Also on May 30, 1995, the Common Carrier Bureau released a Public Notice stating that, pending Commission action in the rulemaking, the Bureau generally would not initiate enforcement action against LECs that are not complying with existing Commission rules regarding the application of SLCs to ISDN service.

Timetable:

Action	Date	FR Cite
NPRM	05/30/95	60 FR 21274
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lisa Gelb, Attorney Advisor, Federal Communications Commission, Policy & Planning Division, Room 544
Phone: 202 428-1592

RIN: 3060–AG08

4179. • PRICE CAP REVIEW FOR LOCAL EXCHANGE CARRIERS SECOND FURTHER NOTICE OF PROPOSED RULEMAKING (CC DOCKET NOS. 94-1, 93-124, 93-197)

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 151; 47 USC 154 (i); 47 USC 154 (j); 47 USC 201 to 205; 47 USC 403; 47 USC 553

CFR Citation: 47 CFR 61.41 to 61.49; 47 CFR 69(a)(b)

Legal Deadline: None

Abstract: In this Second Further Notice of Proposed Rulemaking, the Commission sought comment on how the price cap rules should be adjusted (a) as the competition faced by local exchange carriers (LECs) develops in the future, and (b) to strengthen the existing incentives for LECs to become efficient and innovative.

Timetable:

Action	Date	FR Cite
NPRM	09/27/95	60 FR 52362
NPRM Comment Period End	03/01/96	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Lerner, Federal Communications Commission
Phone: 202 418-1530
Fax: 202 418-1567

RIN: 3060–AG09

4180. • PRICE CAP PERFORMANCE REVIEW FOR LOCAL EXCHANGE CARRIERS, FOURTH FURTHER NOTICE OF PROPOSED RULEMAKING (CC DOCKET NO. 94-1)

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 151; 47 USC 154 (i); 47 USC 154 (j); 47 USC 201 to 205; 47 USC 403; 47 USC 553

CFR Citation: 47 CFR 61.41 to 61.49

Legal Deadline: None

Abstract: In the First Report and Order in this docket, the FCC adopted revisions to its price cap regulations applicable to local exchange carriers (LECs). In that Order, the Commission also stated that it would consider adopting further rule revisions in the near future. In the Fourth Further Notice, the Commission sought comment on revising its rules governing calculation of the "X-Factor" in the price cap index (PCI) formula, and revising the rules governing sharing obligations. The Commission also sought comment on revising the rules governing the price cap common line formula, and the rules governing treatment of exogenous costs.

Timetable:

Action	Date	FR Cite
NPRM	09/20/95	60 FR 49539
NPRM Comment Period End	02/06/96	
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Steven Spaeth, Federal Communications Commission
Phone: 202 418-1530
Fax: 202 418-1567

RIN: 3060–AG10

4181. • IN THE MATTER OF TOLL FREE SERVICE ACCESS CODES FIRST REPORT AND ORDER

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 201 et seq; 47 USC 154(i)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This rulemaking seeks to assure that toll free numbers are allocated on a fair, equitable, and orderly basis. This rulemaking proceeding is the result of a Notice of Proposed Rulemaking, which was initiated by the imminent exhaust of 800 toll free numbers and addresses those issues that were crucial to the opening of the new 888 service access code on the schedule date, March 1, 1996. These issues included: (1) a determination that Responsible Organizations can begin reserving 888 numbers on February 10, 1996; (2) that "vanity numbers," as defined by Responsible Organizations, will not be available for reservation pending further action the by Commission; (3) that toll free service using the 888 service access code is functionally equivalent to toll free service using 800 service access code; and (4) that LECs that are regulated under price caps will not be allowed to treat costs and investments associated with deployment of 888 as exogenous.

Timetable:

Action	Date	FR Cite
NPRM	10/05/95	60 FR 57157
NPRM Comment Period End	11/15/95	
Interim Final Rule	01/25/96	
Next Action Undetermined		

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Irene Flannery, Attorney, Federal Communications Commission, 2025 M Street NW.
Phone: 202 418-2373
Fax: 202 418-2345
Email: iflanner@fcc.gov

RIN: 3060–AG11

FEDERAL COMMUNICATIONS COMMISSION (FCC)
COMMON CARRIER BUREAU

Completed Actions

4182. REFORM OF THE INTERSTATE RATE OF RETURN REPRESCRIPTION AND ENFORCEMENT PROCESSES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 65; 47 CFR 69

Completed:

Reason	Date	FR Cite
Final Action Report and Order	06/01/95	60 FR 28542
Final Action Effective	07/03/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Kehoe III
Phone: 202 418-0850

RIN: 3060–AF12

FEDERAL COMMUNICATIONS COMMISSION (FCC)
COMPLIANCE AND INFORMATION BUREAU

Long-Term Actions

4183. IN THE MATTER OF AMENDMENT OF PART 73, SUBPART G, OF THE COMMISSION'S RULES REGARDING THE EMERGENCY ALERT SYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 11; 47 CFR 73; 47 CFR 76

Timetable:

Action	Date	FR Cite
NPRM	10/09/91	
NPRM/FNPRM	09/17/92	57 FR 53874
FNPRM	12/28/94	59 FR 67104
R&O	12/28/94	59 FR 67090
MO&O	11/06/95	60 FR 55996

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Frank Lucia
Phone: 202 418-1220

RIN: 3060–AF21

4184. IN THE MATTER OF THE COMMISSION'S FORFEITURE POLICY STATEMENT AND AMENDMENT OF SECTION 1.80 OF THE RULES TO INCORPORATE THE FORFEITURE GUIDELINES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	02/23/95	60 FR 10056
NPRM Comment Period End	03/17/95	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Magalie Salas
Phone: 202 418-1150

RIN: 3060–AF65

4185. • IN THE MATTER OF PART 80 OF THE COMMISSION'S RULES REGARDING THE INSPECTION OF GREAT LAKES AGREEMENT SHIPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 80; 47 CFR 0.311

Legal Deadline: None

Abstract: The FCC proposes to amend its rules to allow owners and operators of ships subject to the annual inspection requirements of the Agreement between the United States and Canada for the Promotion of Safety on the Great Lakes by means of Radio (Great Lakes Agreement) to have the inspection performed by a private sector classification society instead of by Commission staff. The proposed changes would reduce economic burdens on the public and the Commission by allowing mariners to arrange for inspections at their convenience. The FCC also proposes a joint maritime safety study to be conducted with the U.S. and Canadian Coast Guards. Comments are also sought regarding whether other designated private sector entities or persons should be permitted to perform inspections.

Timetable:

Action	Date	FR Cite
NPRM	06/05/95	60 FR 29535

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: George R. Dillon, Compliance & Information Bureau, Federal Communications Commission, Room 734
Phone: 202 418-1113

RIN: 3060–AG12

4186. • IN THE MATTER OF AMENDMENT OF THE COMMISSION'S RULES CONCERNING THE INSPECTION OF RADIO INSTALLATIONS ON LARGE CARGO AND SMALL PASSENGER SHIPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 80; 47 CFR 0

Legal Deadline: None

Abstract: The FCC is issuing a Notice of Inquiry to review its current Rules regarding the inspection of ships for compliance with the Communications Act and the International Convention for the Safety of Life at Sea. The Commission seeks information that will allow it to streamline ship inspection procedures, remove unnecessary rules, improve service to the maritime community, and preserve maritime safety.

Timetable:

Action	Date	FR Cite
Notice of Inquiry	06/20/95	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George R. Dillon, Federal Communications Commission, Compliance and Information Bureau, Room 734
Phone: 202 418-1113

RIN: 3060–AG13

FEDERAL COMMUNICATIONS COMMISSION (FCC)
OFFICE OF ENGINEERING AND TECHNOLOGY

Proposed Rule Stage

4187. RF EXPOSURE STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 1

Legal Deadline: None

Abstract: Guidelines for evaluating the environmental effect of radiofrequency radiation.

Timetable:

Action	Date	FR Cite
NPRM	04/08/93	58 FR 19393
FNPRM & R&O	06/00/96	

FCC—OET

Proposed Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: Local

Additional Information: ET 93-62

Agency Contact: Robert Cleveland, Federal Communications Commission
Phone: 202 418-2322

RIN: 3060–AF32

4188. MILLIMETER WAVE SPECTRUM ALLOCATION

Priority: Economically Significant

Legal Authority: 47 USC 4; 47 USC 302; 47 USC 303; 47 USC 307; 47 USC 154; 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 2; 47 CFR 15; 47 CFR 21

Legal Deadline: None

Abstract: Amendment of the Commission's rules to permit use of radio frequencies above 40 GHz.

Timetable:

Action	Date	FR Cite
NPRM	11/08/94	59 FR 61304
Public Notice	06/23/95	60 FR 35166
2nd NPRM	03/29/96	61 FR 14041
1st R&O	04/02/96	61 FR 14500
Comment Period End	05/28/96	
Reply Comments	06/27/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Doc. 94-124

Agency Contact: John Reed, Federal Communications Commission
Phone: 202 418-2455
Email: jreed@fcc.gov

RIN: 3060–AF61

4189. • MICROWAVE ANTENNA FLEXIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 74; 47 CFR 78; 47 CFR 101

Legal Deadline: None

Abstract: Commission action to amend part 21 and 94 (or part 101 if adopted) to permit the optional use of new microwave antenna technologies which are implicitly prohibited by current rules.

Timetable:

Action	Date	FR Cite
NPRM	03/14/96	61 FR 11796
NPRM Comment Period End	04/26/96	
Reply Comments	05/13/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ET Doc. 96-35

Agency Contact: Michael Marcus, Federal Communications Commission
Phone: 202 418-2418
Email: mmarcus@fcc.gov

RIN: 3060–AG14

4190. • ARECIBO COORDINATION ZONE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 5; 47 CFR 21 to 23; 47 CFR 25; 47 CFR 73 to 74; 47 CFR 80; 47 CFR 87; 47 CFR 90; 47 CFR 94 to 95; 47 CFR 97

Legal Deadline: None

Abstract: Action in response to a petition from Cornell University to Establish a Radio Astronomy Coordination Zone in Puerto Rico.

Timetable:

Action	Date	FR Cite
NPRM	02/06/96	61 FR 10709
NPRM Comment Period End	04/01/96	
Reply Comments	04/16/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 96-2, RM-8165

Agency Contact: Tom Derenge, Federal Communications Commission
Phone: 202 418-2451
Email: tderenge@fcc.gov

RIN: 3060–AG15

4191. • SPREAD SPECTRUM RULES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: Response to petitions from Western Multiplex, Symbol Technologies and Spectralink requesting changes in Part 15 spectrum rules.

Timetable:

Action	Date	FR Cite
NPRM	02/05/96	61 FR 15206
NPRM Comment Period End	06/19/96	
Reply Comments	07/19/96	
R&O	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ET DOC. 96-8, RM-8608, RM-8609, RM-8435

Agency Contact: John Reed, Federal Communications Commission
Phone: 202 418-2455
Email: jreed@fcc.gov

RIN: 3060–AG17

4192. • MEDICAL CARE TELEMETRY DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: Responds to a petition from the Critical Care Telemetry Group proposing to amend Part 15 of the rules to expand the available frequencies and increase the permitted power for unlicensed biomedical telemetry device operation on VHF and UHF television channels. ET Docket No. 95-177

Timetable:

Action	Date	FR Cite
NPRM	01/25/96	61 FR 3367
NPRM Comment Period End	04/16/96	
Reply Comments	05/16/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: ET Docket No. 95-177

Agency Contact: Anthony Serafini, Federal Communications Commission
Phone: 202 418-2456
Email: tserafini@fcc.gov

RIN: 3060–AG18

FEDERAL COMMUNICATIONS COMMISSION (FCC)
OFFICE OF ENGINEERING AND TECHNOLOGY

Final Rule Stage

4193. CABLE SYSTEM COMPATIBILITY WITH TV RECEIVERS AND VCRS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 624

CFR Citation: 47 CFR 76

Legal Deadline: Other, Statutory, October 4, 1993.
In accordance with the Cable Television Consumer Protection and Competition Act of 1992, Section 17, a report to Congress is mandated by October 1993.

Abstract: Implementation of section 17 of the Cable Television Consumer Protection and Competition Act of 1992; compatibility between Cable Systems and consumer electronic equipment.

Timetable:

Action	Date	FR Cite
NOI	01/29/93	58 FR 7205
Technical Report	10/31/93	
NPRM	12/01/93	58 FR 65153
R&O	05/04/94	59 FR 25339
MO&O	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Doc. 93-7

Agency Contact: Alan Stillwell, Federal Communications Commission
Phone: 202 418-2925

RIN: 3060–AF38

FEDERAL COMMUNICATIONS COMMISSION (FCC)
OFFICE OF ENGINEERING AND TECHNOLOGY

Long-Term Actions

4194. DIGITAL LMSS IN L-BAND SPECTRUM

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	03/05/90	55 FR 08964
First R&O/FNPRM	06/11/93	58 FR 34920
R&O	07/06/95	60 FR 37828
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Tom Mooring
Phone: 202 418-2450

RIN: 3060–AE68

4195. DIGITAL AUDIO BROADCASTING

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NOI	08/21/90	55 FR 34940
FNOI/NPRM	11/06/92	57 FR 57049
FNPRM/R&O	01/18/95	60 FR 8309
MO&O	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Sean White
Phone: 202 418-2453

RIN: 3060–AE81

4196. STANDARDS FOR ISM EQUIPMENT

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 18

Timetable:

Action	Date	FR Cite
NOI	11/06/91	56 FR 58863
Item Postponed	07/15/92	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Rick Engelman
Phone: 202 418-2445

RIN: 3060–AE97

4197. STREAMLINE OF EQUIPMENT AUTHORIZATION PROCESS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	06/09/94	59 FR 31966
R&O	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Rick Engelman
Phone: 202 418-2445

RIN: 3060–AF29

4198. WIND PROFILER RADAR SYSTEMS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	04/01/93	58 FR 19644
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Sean White
Phone: 202 418-2453

RIN: 3060–AF45

4199. PIONEER'S PREFERENCE RULES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	10/21/93	58 FR 57578
First R&O	01/28/94	59 FR 8413
Second R&O/FNPRM	03/01/95	60 FR 13396
R&O	06/08/95	60 FR 32116
MO&O	01/30/96	61 FR 4916
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Rodney Small
Phone: 202 418-2452

RIN: 3060–AF53

FCC—OET

Long-Term Actions

4200. DIGITAL EQUIPMENT DEREGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 15

Timetable:

Action	Date	FR Cite
NPRM	02/07/95	60 FR 15116
R&O	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Reed
Phone: 202 418-2455

RIN: 3060–AF73

4201. MSS SPECTRUM ALLOCATION

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	01/31/95	60 FR 11644
Order	03/08/95	60 FR 13687
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sean White
Phone: 202 418-2453

RIN: 3060–AF75

4202. • 38 GHZ CHANNEL PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Action is in response to petition from TIA to address service rules re channelization of the 37.0-38.6 GHz band.

Timetable:

Action	Date	FR Cite
NPRM	01/26/96	61 FR 2465
NPRM Comment Period End	02/12/96	
Reply Comments	02/27/96	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 95-183, RM-8553; PP Docket No. 93-253

Agency Contact: Fred Thomas, Federal Communications Commission
Phone: 202 418-2449
Email: fthomas@fcc.gov

RIN: 3060–AG16

4203. • APPLE/WINFORUM (5 GHZ)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 15

Legal Deadline: None

Abstract: Address petitions from Wireless Information Networks Forum to allocate the 5.1-5.35 GHz band and adopt service rules for a shared unlicensed Personal Radio Network; and a petition from Apple Computer to allocate spectrum in the 5 GHz band to establish a wireless component of the NII.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: RM-8468 and RM-8653

Agency Contact: Fred Thomas, Federal Communications Commission
Phone: 202 418-2449

RIN: 3060–AG19

FEDERAL COMMUNICATIONS COMMISSION (FCC)
INTERNATIONAL BUREAU

Final Rule Stage

4204. STREAMLINING THE COMMISSION'S RULES AND REGULATIONS FOR SATELLITE APPLICATION AND LICENSING PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 47 USC 154; 47 USC 701 to 744; 47 USC 554; 47 USC 303; 47 USC 4

CFR Citation: 47 CFR 25

Legal Deadline: None

Abstract: The Commission seeks to develop a record and to solicit comments on proposed rules. The proposed rules and policies are designed to streamline application and licensing requirements for satellite space and earth stations under part 25 of the Commission's rules. The rules proposed waiving the construction permit requirement for satellite space stations and modifying the license term for temporary fixed earth stations and the implementation period for very small aperture terminal earth stations. Also proposed are amendments concerning minor modifications for earth stations, including orbit operations of space stations, and application and licensing terms. The proposed rules also modify basic application requirements for satellite services. The proposed rules are designed to reduce burden by eliminating and streamlining several requirements. In order to be effective, these rules must apply to all licensees and thus there is no significant alternative.

Timetable:

Action	Date	FR Cite
Final Action	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Tracey Weisler, Staff Attorney, Federal Communications Commission, 2000 M Street, NW., Suite 590, Washington, DC 20554
Phone: 202 418-0744

RIN: 3060–AD70

FEDERAL COMMUNICATIONS COMMISSION (FCC)
INTERNATIONAL BUREAU

Long-Term Actions

4205. DEREGULATION OF INTERNATIONAL RECEIVE-ONLY EARTH STATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 25

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 13433
NPRM Comment Period End	05/27/93	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paula Ford
Phone: 202 418-0771

RIN: 3060–AF33

4206. SATELLITE COMMUNICATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 25; 47 CFR 93; 47 CFR 2

Timetable:

Action	Date	FR Cite
NPRM	01/19/94	
NPRM Comment Period End	06/06/94	
Final Rule	10/14/94	59 FR 53294
Begin Review	12/01/94	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Bell
Phone: 202 418-0741

RIN: 3060–AF42

4207. REGULATION OF INTERNATIONAL ACCOUNTING RATES, CC DKT 90-337, SECOND FURTHER NOTICE OF PROPOSED RULEMAKING

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 64.1001

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	02/05/92	58 FR 3522
NPRM	11/27/92	
Public Notice	01/31/96	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maureen C. McLaughlin
Phone: 202 418-1399
Fax: 202 418-2824
Email: mmclaugh@fcc.gov

RIN: 3060–AF86

4208. STREAMLINING THE INTERNATIONAL SECTION 214 AUTHORIZATION PROCESS AND TARIFF REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 37980
NPRM Comment Period End	09/07/95	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Helene Schrier
Phone: 202 418-1466
Fax: 202 418-2824
Email: hschrier@fcc.gov

RIN: 3060–AF88

4209. ESTABLISHING RULES AND POLICIES FOR THE USE OF SPECTRUM FOR MOBILE SATELLITE SERVICE IN THE L-BAND

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Paula Ford
Phone: 202 418-0760
Fax: 202 418-0765
Email: pford@fcc.gov

RIN: 3060–AF89

4210. AMENDMENT TO THE COMMISSION'S REGULATORY POLICIES GOVERNING DOMESTIC FIXED SATELLITES AND SEPARATE INTERNATIONAL SATELLITE SYSTEMS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 25

Timetable:

Action	Date	FR Cite
NPRM	04/25/95	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John M. Coles
Phone: 202 418-0771
Fax: 202 418-0765
Email: jcoles@fcc.gov

RIN: 3060–AF90

4211. PREEMPTION OF LOCAL ZONING REGULATION OF SATELLITE EARTH STATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 25104

Timetable:

Action	Date	FR Cite
ANPRM	05/15/95	60 FR 28077
ANPRM Comment Period End	08/15/95	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rosalee Chiara
Phone: 202 418-0754
Fax: 202 418-0765

RIN: 3060–AF92

4212. ESTABLISHMENT OF RULES AND POLICIES FOR THE DIGITAL AUDIO RADIO SATELLITE SERVICE IN THE 2310-2360 MHZ FREQUENCY BAND

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 25; 47 CFR 87

Timetable:

Action	Date	FR Cite
ANPRM	06/15/95	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

FCC—IB

Long-Term Actions

Agency Contact: Rosalee Chiara
Phone: 202 418-0754
Fax: 202 418-0765

RIN: 3060–AF93

4213. REDESIGNATION OF THE 27.5-29.5 FREQUENCY BAND

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 25; 47 CFR 21; 47 CFR 1; 47 CFR 2

Timetable:

Action	Date	FR Cite
ANPRM	07/13/95	60 FR 43740
ANPRM Comment Period End	09/07/95	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jennifer M. Gilsenan
Phone: 202 418-0757
Fax: 202 418-0765

RIN: 3060–AF94

FEDERAL COMMUNICATIONS COMMISSION (FCC)
INTERNATIONAL BUREAU

Completed Actions

4214. MARKET ENTRY AND REGULATION OF FOREIGN-AFFILIATED ENTITIES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	11/28/95	60 FR 67332
Final Action Effective	01/29/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Troy Tanner
Phone: 202 418-1468
Fax: 202 418-2824
Email: ttanner@fcc.gov

RIN: 3060–AF87

FEDERAL COMMUNICATIONS COMMISSION (FCC)
MASS MEDIA BUREAU

Long-Term Actions

4215. BROADCAST EEO: RECONSIDERATION

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 73.2080

Timetable:

Action	Date	FR Cite
NPRM	10/31/86	51 FR 43854
R&O	04/16/87	52 FR 26683

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Judy Herman
Phone: 202 418-2170

RIN: 3060–AD73

4216. ADVANCED TELEVISION SERVICE (MM DOCKET 87-268)

Priority: Economically Significant

CFR Citation: 47 CFR 73

Timetable:

Action	Date	FR Cite
Tentative Decision/FNOI	09/01/88	53 FR 38747
R&O	08/24/90	55 FR 39275
FNPRM	10/24/91	56 FR 58207
Second R&O & FNPRM	04/09/92	57 FR 21744
Third R&O & FNPRM	09/17/92	57 FR 53588
FNPRM4/NOI3	07/28/95	60 FR 42130

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Roger Holberg
Phone: 202 418-2130

RIN: 3060–AE24

4217. COMPARATIVE RENEWAL CRITERIA

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 73.3525; 47 CFR 73.3584

Timetable:

Action	Date	FR Cite
FNOI/NPRM	06/23/88	53 FR 31894
Policy Statement	03/30/89	54 FR 22595
FNOI/FNPRM	08/16/90	54 FR 35357

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Charles Logan
Phone: 202 418-2130

RIN: 3060–AE27

4218. TRANSFER OF CONTROL OF NON-STOCK ENTITIES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 73

Timetable:

Action	Date	FR Cite
NOI	03/16/89	54 FR 15957

Next Action Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Charles Logan
Phone: 202 418-2130

RIN: 3060–AE31

4219. CHILDREN'S TELEVISION PROGRAMMING (MM DOCKET 93-48)

Priority: Other Significant

CFR Citation: 47 CFR 73

Timetable:

Action	Date	FR Cite
Notice of Inquiry	03/03/93	58 FR 14367
Notice of Proposed Rulemaking	04/05/95	60 FR 20586

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kim Matthews

Phone: 202 418-2130

RIN: 3060–AF77

4220. COMMERCIAL PRACTICES OF BROADCAST TELEVISION NETWORKS AND AFFILIATES (MM DOCKET NOS. 95-40, 95-90 AND 95-92)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 73

Timetable:

Action	Date	FR Cite
NPRM	06/14/95	60 FR 34959
NPRM	06/15/95	60 FR 35369

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Kieschnick Phone: 202 418-2170

RIN: 3060–AF78

4221. REVIEW OF THE COMMISSION'S REGULATIONS GOVERNING TELEVISION BROADCASTING

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 73.3555

Timetable:

Action	Date	FR Cite
NOI	07/11/91	56 FR 40847
NPPM	05/14/92	57 FR 28163
FNPRM	12/15/94	60 FR 6490

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Kieschnick Phone: 202 418-2170

RIN: 3060–AF79

4222. FILING OF TELEVISION NETWORK AFFILIATION CONTRACTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 73.3613(a)

Timetable:

Action	Date	FR Cite
NPRM	04/05/95	60 FR 19564

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Robert Keischnick Phone: 202 428-2170

RIN: 3060–AF80

4223. RULES GOVERNING BROADCAST TELEVISION ADVERTISING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 73.658(h); 47 CFR 73.658(i)

Timetable:

Action	Date	FR Cite
NPRM	06/14/95	60 FR 34959

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Gordon Phone: 202 418-2130

RIN: 3060–AF81

4224. ATTRIBUTION OF BROADCAST INTERESTS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 73.3555

Timetable:

Action	Date	FR Cite
NPRM	12/15/94	60 FR 6483
FNPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roger Holberg Phone: 202 418-2130

RIN: 3060–AF82

4225. • EEO STREAMLINING PROPOSALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 503(b)

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: On February 8, 1996, the Commission adopted an Order and Notice of Proposed Rulemaking in MM Docket No. 96-16 which vacates the EEO Forfeiture Policy Statement, seeks comment on proposals to streamline Broadcast EEO requirements without diminishing the effectiveness of our EEO program and seeks comments on proposed EEO Forfeiture Guidelines.

Timetable:

Action	Date	FR Cite
NPRM	03/12/96	61 FR 9964
Report & Order	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Hope Cooper, Federal Communications Commission Phone: 202 418-1450

RIN: 3060–AG29

4226. • MINOR MODIFICATIONS OF BROADCAST LICENSES WITHOUT PRIOR CONSTRUCTION PERMIT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154(i); 47 USC 155(c)(1); 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: This proceeding will implement the Commission's new authority to eliminate the present requirement for a construction permit for a broadcast station in certain instances where the changed facilities would not have an adverse impact on other broadcast facilities. In these instances, licensees or permittees will be able to initiate the change without prior authority and file a license application to cover the change afterwards.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard Waysdorf, Federal Communications Commission Phone: 202 418-2670

RIN: 3060–AG30

FEDERAL COMMUNICATIONS COMMISSION (FCC) MASS MEDIA BUREAU — Completed Actions

4227. BROADCAST STATION OPERATOR REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 73; 47 CFR 74

Completed:

Reason	Date	FR Cite
Final Action	10/02/95	60 FR 11479
Final Action Effective	12/01/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gordon Godfrey Phone: 202 418-2190

RIN: 3060–AF63

FEDERAL COMMUNICATIONS COMMISSION (FCC) OFFICE OF MANAGING DIRECTOR — Proposed Rule Stage

4228. ASSESSMENT AND COLLECTION OF REGULATORY FEES FOR FY 1996

Priority: Other

Legal Authority: 47 USC 159

CFR Citation: 47 CFR 1.1151 et seq

Legal Deadline: None

Abstract: The Commission is developing a Notice of Proposed Rulemaking in order to implement section 9 of the Communications Act, which requires the Commission to recover the costs of certain of its activities by assessing and collecting annual regulatory fees from the beneficiaries of those activities. The item will address how the Commission plans to implement the fee requirement for FY 1996.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	06/30/96	
Final Action Effective	09/30/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Peter W. Herrick, Acting, Associate Managing Director for Program Analysis, Federal Communications Commission Phone: 202 418-0443 Fax: 202 418-2826

RIN: 3060–AG05

FEDERAL COMMUNICATIONS COMMISSION (FCC) WIRELESS TELECOMMUNICATIONS BUREAU — Long-Term Actions

4229. AMENDMENT OF PART 80 OF THE COMMISSION'S RULES CONCERNING VHF MARITIME OPERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 80

Timetable:

Action	Date	FR Cite
NOI/NPRM	11/05/92	57 FR 57717
First R&O	04/26/95	60 FR 34198
FNPRM	04/26/95	60 FR 35507

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Roger Noel Phone: 202 632-7175

RIN: 3060–AF14

4230. RULEMAKING TO AMEND PART 1 AND PART 21 TO REDESIGNATE THE 27.5-29.5 GHZ BAND AND TO ESTABLISH RULES AND POLICIES FOR LOCAL MULTI-POINT DISTRIBUTION SERVICE

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 25; 47 CFR 21

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	58 FR 6400
NPRM Comment Period End	04/15/93	
Third NPRM	07/13/95	60 FR 43740

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Susan Magnotti Phone: 202 634-1773

RIN: 3060–AF26

4231. REFARMING

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 90

Timetable:

Action	Date	FR Cite
NPRM	01/08/92	57 FR 54034
R&O	06/15/95	60 FR 37152
R&O FNPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Kathryn Hosford

Phone: 202 632-6497

RIN: 3060–AF35

4232. WIDE AREA SMR LICENSING

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 90

Timetable:

Action	Date	FR Cite
NPRM	05/13/93	58 FR 33062
FNPRM	10/20/94	59 FR 6011
Eighth R&O	12/15/95	
First R&O	12/15/95	
FNPRM	12/15/95	
Second FNPRM	12/15/95	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: D'Wana Speight
Phone: 202 428-0620

RIN: 3060–AF47

4233. IMPLEMENTATION OF SECTIONS 3(N) AND 332 OF THE COMMUNICATIONS ACT —REGULATORY TREATMENT OF MOBILE SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 20; 47 CFR 22; 47 CFR 24; 47 CFR 25; 47 CFR 80; 47 CFR 87; 47 CFR 90; 47 CFR 95

Timetable:

Action	Date	FR Cite
NPRM	10/14/93	58 FR 53169
NPRM Comment Period End	11/23/93	
First R&O	01/10/94	59 FR 01285
Second R&O	04/19/94	59 FR 18493
Further NPRM	05/31/94	59 FR 28042
Comment Period End	07/05/94	
Third R&O	08/09/94	59 FR 59945
Fourth R&O	10/20/94	59 FR 61828

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Jane Phillips
Phone: 202 418-1310

RIN: 3060–AF49

4234. REGULATORY TREATMENT OF MOBILE SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 90

Timetable:

Action	Date	FR Cite
NPRM	09/23/93	58 FR 53169
First R&O	01/10/94	59 FR 1285
FNPRM	04/20/94	59 FR 28042
To Be Consolidated With Wide-Area License	00/00/00	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: David Furth
Phone: 202 418-0620

RIN: 3060–AF52

4235. INTERCONNECTION OBLIGATIONS PERTAINING TO COMMERCIAL MOBILE RADIO SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 20

Timetable:

Action	Date	FR Cite
NPRM	06/09/94	59 FR 35664
NOI	07/01/94	
NPRM Comment Period End	09/29/94	
ANPRM	04/04/95	60 FR 20949
ANPRM Comment Period End	07/14/95	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Agency Contact: Pam Megna
Phone: 202 418-1310

RIN: 3060–AF58

4236. REVISION OF PART 24 OF THE COMMISSION'S RULES PERTAINING TO PERSONAL COMMUNICATIONS SERVICE

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 24

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Steve Markendorff
Phone: 202 418-1320

RIN: 3060–AF59

4237. REORGANIZATION OF PARTS 1, 2, 21 AND 94 TO ESTABLISH A NEW PART 101 GOVERNING TERRESTRIAL MICROWAVE RADIO SERVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 47 CFR 1; 47 CFR 2; 47 CFR 21; 47 CFR 94

Timetable:

Action	Date	FR Cite
NPRM	12/09/94	60 FR 2722
Report and Order	02/08/96	

Next Action Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Robert James
Phone: 202 418-0680

RIN: 3060–AF95

4238. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; 900 MHZ SMR COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 90

Timetable:

Action	Date	FR Cite
NPRM	04/04/94	59 FR 60111

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lisa Warner
Phone: 202 418-0620

RIN: 3060–AF98

4239. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; NARROWBAND PCS COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 24

Timetable:

Action	Date	FR Cite
3rd MO&O	08/16/94	59 FR 44058

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lisa Warner
Phone: 202 418-0620

RIN: 3060–AF99

4240. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; IVDS COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 95

Timetable:

Action	Date	FR Cite
R&O	04/25/94	59 FR 24947

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Aaron Goldschmidt
Phone: 202 418-0660
Fax: 202 634-7651

RIN: 3060–AG00

4241. • IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, CELLULAR UNSERVED AREAS COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 22

Legal Deadline: None

Abstract: Report and Order to establish competitive bidding rules for unserved cellular areas.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Diane Law, Staff Attorney, Federal Communications Commission, 2025 M Street, Room 5322
Phone: 202 418-0660
Fax: 202 634-7651

RIN: 3060–AG20

4242. • IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING BROADBAND PCS F BLOCK RULES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 24

Legal Deadline: None

Abstract: NPRM to modify the competitive bidding rules for the Broadband PCS F Block.

Timetable: Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Bollinger, Staff Attorney, Federal Communications Commission, 2025 M Street, Room 5322
Phone: 202 418-0660
Fax: 202 418-7651

RIN: 3060–AG21

4243. • REPORT AND ORDER (SECOND) TO ALLOW 220 MHZ LICENSES TO RELOCATE THEIR BASE STATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303(d); 47 USC 303(r); 47 USC 332

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: Amendment of part 90 of the Commission's rules to allow 220 MHz licenses to relocate their base stations to currently unauthorized sites.

Timetable:

Action	Date	FR Cite
ANPRM	11/28/89	55 FR 00326
ANPRM Comment Period End	03/15/90	
Report and Order	03/14/91	56 FR 19588
NPRM	01/12/92	57 FR 04180
NPRM Comment Period End	03/02/92	
FNPRM	08/28/95	60 FR 46566

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marty Liebman, Engineer/Attorney, Federal Communications Commission, 2025 M Street NW.
Phone: 202 418-1310

RIN: 3060–AG23

FEDERAL COMMUNICATIONS COMMISSION (FCC)
WIRELESS TELECOMMUNICATIONS BUREAU

Completed Actions

4244. FREQUENCY COORDINATION-ALTERNATIVES AND OPTIONS TO THE PRESENT FREQUENCY COORDINATION SYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 47 CFR 90

Completed:

Reason	Date	FR Cite
Final Action	10/11/95	60 FR 52894
Final Action Effective	09/13/95	

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Gene Thomson
Phone: 202 428-0680

RIN: 3060–AE80

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Monday
May 13, 1996

Part LII

Federal Deposit Insurance Corporation

Semiannual Regulatory Agenda

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is hereby publishing items for the April 1996 regulatory agenda. The agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. Unless otherwise noted, the address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with both the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and the FDIC statement of policy entitled "Development and Review of FDIC Rules and Regulations" (44 FR 31007, May 30, 1979; 44 FR 32353, June 6, 1979; 44 FR 76858, December 28, 1979; 49 FR 7288, February 28, 1984).

The FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

In accordance with the Federal Home Loan Bank Act, the RTC terminated on December 31, 1995, and the FDIC succeeded the RTC as receiver for any remaining RTC receiverships and is responsible for managing any remaining assets and liabilities of the RTC transferred to the FSLIC Resolution Fund. Congress did not include any provision transferring the RTC's regulations to the FDIC. The two Corporations considered these issues and published a joint notice of status of regulations (60 FR 66483) to inform the public that, when the FDIC assumed responsibility for the RTC's functions at termination, the RTC's regulations generally would not govern the FDIC's performance of those functions for occurrences that arise post-termination and that the FDIC's regulatory scheme generally will govern former RTC activities on a prospective basis.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), and the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI) contain reforms that significantly restructure the regulation of financial institutions. As a consequence, many of the regulations included in this agenda are in response to FIRREA, FDICIA, and CDRI. The FDIC is continuing to develop regulations implementing the most recent legislative requirements. These include the requirement in section 303 of CDRI that the Federal banking regulators conduct a review of all their regulations and written policies to streamline them, remove inconsistencies, improve efficiency, reduce unnecessary costs, and make uniform all regulations and guidelines implementing common statutory or supervisory policies. Proposed changes to the FDIC's regulations will be noted in future semiannual agendas as they emerge from these reviews.

Interested persons may petition the FDIC for the issuance, amendment, or repeal of any regulation by submitting a written petition to the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429. Petitioners should include complete and concise statements of their interest in the subject matter and reasons why the petitions should be granted.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4245	12 CFR ch III Eligibility for Deposit Insurance; Being Engaged in the Business of Receiving Deposits Other Than Trust Funds and Related Items	3064-AB40

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4246	12 CFR 325 Capital Maintenance—Recourse Arrangements and Direct Credit Substitutes	3064-AB31
4247	12 CFR 340 Restrictions on Sale of Assets by the FDIC	3064-AB37
4248	12 CFR 308 Program Fraud Civil Remedies	3064-AB41
4249	12 CFR 325 Capital Maintenance—Backtesting	3064-AB72

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4250	12 CFR 308 Uniform Rules of Practice and Procedure	3064-AB49
4251	12 CFR 325 Capital Maintenance; Risk-Based Capital Standards: Market Risk	3064-AB54
4252	12 CFR 339 Loans in Areas Having Special Flood Hazards	3064-AB66
4253	12 CFR 364 Standards of Safety and Soundness	3064-AB68
4254	12 CFR 348 Management Official Interlocks	3064-AB71

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4255	12 CFR 308 Censure, Suspension, and Debarment of Independent Public Accountants	3064-AA84
4256	12 CFR 357 Determination of Economically Depressed Regions	3064-AB08
4257	12 CFR 327 Assessments—Assessment Base	3064-AB46

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4258	12 CFR 354 Deposit Liabilities	3064-AA92
4259	12 CFR 359 Golden Parachute and Indemnification Payments	3064-AB11
4260	12 CFR 366 Contractor Conflicts of Interest	3064-AB39
4261	12 CFR 363 Independent Audits and Reporting Requirements	3064-AB47
4262	12 CFR 325 Capital Maintenance—OECD Countries	3064-AB54
4263	12 CFR 346 Foreign Banks	3064-AB62
4264	12 CFR 353 Reports of Apparent Crimes Affecting Insured Nonmember Banks	3064-AB63
4265	12 CFR 309 Disclosure of Information	3064-AB67
4266	12 CFR 360 Receivership Rules	3064-AB69

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Prerule Stage

4245. ELIGIBILITY FOR DEPOSIT INSURANCE; BEING ENGAGED IN THE BUSINESS OF RECEIVING DEPOSITS OTHER THAN TRUST FUNDS AND RELATED ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1819

CFR Citation: 12 CFR ch III

Legal Deadline: None

Abstract: Being "engaged in the business of receiving deposits other than trust funds" is a necessary condition for consideration of an application for deposit insurance and for continued insurance after an application has been granted. However, the FDIC has never defined by way of regulation or policy statement what constitutes being "engaged in the business of receiving deposits other than trust funds." The FDIC is now considering a rulemaking to do that; this regulatory action will assist the FDIC in that effort.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Melinda West Schwartzstein, Review Examiner, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6919

RIN: 3064–AB40

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FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Proposed Rule Stage

4246. CAPITAL MAINTENANCE—RECOURSE ARRANGEMENTS AND DIRECT CREDIT SUBSTITUTES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: The FDIC, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision ("Agencies") are revising their risk-based capital standards to address the regulatory capital treatment of recourse arrangements and direct credit substitutes that expose banks, bank holding companies, and thrifts to credit risk. One portion of the NPRM addressing the risk-based capital treatment of low-level recourse transactions is required to be published as a separate final rule by CDRI.

In addition, the Agencies published, in an ANPRM, a preliminary proposal to use credit ratings to match the risk-based capital assessment more closely to an institution's relative risk of loss in certain asset securitizations. The Agencies are also seeking comment on the need for a similar system for unrated asset securitizations and on how such a system would be designed. The Agencies intend that any final rules adopted in connection with these regulatory actions that result in increased risk-based capital requirements would apply only to transactions that are consummated after the effective dates of such final rules.

Timetable:

Action	Date	FR Cite
Credit Ratings		
ANPRM	05/25/94	59 FR 27116
ANPRM Comment Period End	07/25/94	
NPRM	06/00/96	
Recourse/Direct Credit Substitutes		
NPRM	05/25/94	59 FR 27116
NPRM Comment Period End	07/25/94	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert F. Storch, Chief, Accounting Section, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8906

RIN: 3064–AB31

4247. RESTRICTIONS ON SALE OF ASSETS BY THE FDIC

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819; PL 103-204

CFR Citation: 12 CFR 340

Legal Deadline: None

Abstract: This regulatory action implements provisions in the Resolution Trust Corporation Completion Act of 1993 that require assets held by the FDIC in the course of liquidating federally insured depository institutions not to be sold to persons who, in ways specified in the Act, contributed to the demise of the institution.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph Fellerman, Senior Liquidation Specialist (Credit), Division of Depositor and Asset Services, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6879

RIN: 3064–AB37

4248. PROGRAM FRAUD CIVIL REMEDIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819; PL 103-204

CFR Citation: 12 CFR 308

Legal Deadline: None

Abstract: The Program Fraud Civil Remedies Act ("PFCRA") requires specified Federal agencies to follow certain procedures to recover penalties and assessments against persons who file false claims and statements. The Resolution Trust Corporation Completion Act (PL 103-204) subjects the FDIC to the requirements of the PFCRA. An interagency task force was established by the President's Council on Integrity and Efficiency to develop model regulations for implementing the PFCRA. This regulatory action adopts, with minor variations, the model regulations set forth by the Council's task force.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark A. Mellon, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6919

RIN: 3064–AB41

4249. • CAPITAL MAINTENANCE—BACKTESTING

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; 12 USC 3907; 12 USC 3909; 12 USC 4808; PL 102-233; PL 102-242

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the FDIC are issuing this rule to provide additional guidance to institutions about how the multiplication factor used to calculate capital requirements for market risk under the internal models approach would be adjusted if ex post comparisons of internal model estimates with actual trading results indicate that the internal model does not produce satisfactory results. The effect of this rule is that an institution with an unsatisfactory model could have increased capital requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/07/96	61 FR 9114
NPRM Comment Period End	04/05/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Stark, Assistant Director, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6972

RIN: 3064–AB72

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Final Rule Stage

4250. UNIFORM RULES OF PRACTICE AND PROCEDURE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1817; 12 USC 1818; 12 USC 1820; 12 USC 1972

CFR Citation: 12 CFR 308

Legal Deadline: None

Abstract: The Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the FDIC, the Office of Thrift Supervision, and the National Credit Union Administration are jointly proposing this regulatory action to clarify provisions that have given rise to confusion and to increase the efficiency and fairness of administrative hearings. The changes are primarily technical in nature.

Timetable:

Action	Date	FR Cite
NPRM	06/23/95	60 FR 32882
NPRM Comment Period End	08/22/95	
Final Action	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Andrea Winkler, Counsel, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3764

RIN: 3064–AB49

4251. CAPITAL MAINTENANCE; RISK-BASED CAPITAL STANDARDS: MARKET RISK

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; PL 102-233; PL 102-242

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: The Office of the Comptroller of the Currency, the Federal Reserve System, and the FDIC are jointly amending their risk-based capital requirements to incorporate a measure for market risk. The amendments generally apply only to institutions that have (1) total assets exceeding $5 billion and either on-balance-sheet trading activities representing at least 3 percent of total assets or a volume of off-balance-sheet trading activities with notional amounts exceeding $5 billion, or (2) total assets of $5 billion or less and a volume of trading activities representing at least 10% of total assets. Capital charges for market risk will be calculated by such institutions using either their own internal value-at-risk model(s), or, alternatively, risk measurement techniques developed by supervisors. The effect of this measure is to require certain institutions to hold capital based on the measure of their market risk exposure.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 38082
NPRM Comment Period End	09/18/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William A. Stark, Assistant Director, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6972

RIN: 3064–AB64

4252. LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-325

CFR Citation: 12 CFR 339

Legal Deadline: None

Abstract: The OCC, FRB, FDIC, OTS, and NCUA are jointly sponsoring this regulatory action regarding loans in areas having special flood hazards. This regulation is required by CDRI.

Timetable:

Action	Date	FR Cite
NPRM	10/18/95	60 FR 53962
NPRM Comment Period End	12/18/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Mellon, Senior Attorney, Federal Deposit Insurance Corporation, Washington, DC 24029
Phone: 202 898-3854

RIN: 3064–AB66

4253. STANDARDS OF SAFETY AND SOUNDNESS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-242; PL 103-325; 12 USC 1831p-1

CFR Citation: 12 CFR 364

Legal Deadline: None

Abstract: The FDIC, the Office of the Comptroller of the Currency, the Federal Reserve System, and the Office of Thrift Supervision, jointly proposed asset quality and earnings standards to be added to the Interagency Guidelines Establishing Standards for Safety and Soundness, appearing as an appendix to each of the agencies' standard for safety and soundness regulations. The agencies may require an insured depository institution to file a compliance plan for failure to meet these asset quality and earnings standards when adopted in final form.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35688
NPRM Comment Period End	08/24/95	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert W. Walsh, Manager, Planning and Program Development, Division of Supervision, Federal Deposit Insurance Corporation, WAshington, DC 20429
Phone: 202 898-6911

RIN: 3064–AB68

4254. • MANAGEMENT OFFICIAL INTERLOCKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1823; 12 USC 3201; 12 USC 3207

CFR Citation: 12 CFR 348

Legal Deadline: None

Abstract: This proposal conforms the interlock rules to recent statutory changes, modernizes and clarifies the rules, and reduces unnecessary regulatory burdens where feasible.

Timetable:

Action	Date	FR Cite
NPRM	12/29/95	60 FR 67424
NPRM Comment Period End	02/27/96	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Curtis Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429

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FDIC — Final Rule Stage

Phone: 202 898-6759
RIN: 3064–AB71

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Long-Term Actions

4255. CENSURE, SUSPENSION, AND DEBARMENT OF INDEPENDENT PUBLIC ACCOUNTANTS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 308

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Doris L. Marsh
Phone: 202 898-8905

RIN: 3064–AA64

4256. DETERMINATION OF ECONOMICALLY DEPRESSED REGIONS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 357

Timetable:

Action	Date	FR Cite
NPRM	12/18/92	57 FR 60140
NPRM Comment Period End	02/16/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alice Weicher
Phone: 202 898-7096

RIN: 3064–AB08

4257. ASSESSMENTS—ASSESSMENT BASE

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 327

Timetable:

Action	Date	FR Cite
ANPRM	10/05/94	59 FR 50710
ANPRM Comment Period End	02/02/95	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: William Farrell
Phone: 703 516-5546

RIN: 3034–AB46

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Completed Actions

4258. DEPOSIT LIABILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1813; 12 USC 1819

CFR Citation: 12 CFR 354

Legal Deadline: None

Abstract: The FDIC issued for public comment a proposed regulation expanding the definition of the term "deposit." The proposed rule would have found that a bank's liability on a promissory note, bond, acknowledgement of advance, or similar obligation that is issued or undertaken by the insured bank as a means of obtaining funds is a deposit liability for insurance and assessment purposes. The proposal was withdrawn on 12/27/95.

Timetable:

Action	Date	FR Cite
NPRM	11/25/88	53 FR 47723
NPRM Comment Period End	01/24/89	
Withdrawn	12/27/95	60 FR 66951

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Alan J. Kaplan, Assistant General Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3734

RIN: 3064–AA92

4259. GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1828

CFR Citation: 12 CFR 359

Legal Deadline: None

Abstract: This rulemaking limits golden parachute and indemnification payments made to institution-affiliated parties by depository institutions and depository institution holding companies. The purpose of this rule is to prevent the improper distribution of institution assets and to protect the financial soundness of insured depository institutions, depository institution holding companies, and the federal deposit insurance funds.

Timetable:

Action	Date	FR Cite
NPRM	10/07/91	56 FR 50529
NPRM Comment Period End	12/06/91	
Second NPRM	03/29/95	60 FR 16069
Second NPRM Comment Period End	05/30/95	
Final Action	02/15/96	61 FR 5926
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jeffrey M. Kopchik, Counsel, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429
Phone: 202 898-3872

RIN: 3064–AB11

4260. CONTRACTOR CONFLICTS OF INTEREST

Priority: Other

Legal Authority: 12 USC 1819; 12 USC 1822

CFR Citation: 12 CFR 366

Legal Deadline: None

FDIC — Completed Actions

Abstract: This regulatory action establishes standards regarding conflicts of interest and ethical responsibilities for independent contractors doing business with the FDIC. The rule is required by the Resolution Trust Corporation Completion Act of 1993.

Timetable:

Action	Date	FR Cite
NPRM	06/24/94	59 FR 32661
NPRM Comment Period End	08/23/94	
Interim Final Rule	03/11/96	61 FR 9590
Interim Final Rule Effective Date	04/10/96	
Interim Final Rule Comment Period End	05/10/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Lantelme, Assistant General Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 736-0120

RIN: 3064–AB39

4261. INDEPENDENT AUDITS AND REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831; PL 103-325

CFR Citation: 12 CFR 363

Legal Deadline: None

Abstract: This regulatory action implements section 314 of the CDRI. It provides relief from certain duplicative reporting requirements for sound, well-managed institutions with over $9 billion in assets which are subsidiaries of multibank holding companies. It also provides that the FDIC will notify a large insured institution in writing if it decides a review by an independent public accountant of the institution's quarterly financial reports is required. This regulatory action also includes several minor technical amendments to the guidelines and interpretations concerning compliance with the audit requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/15/95	60 FR 8583
NPRM Comment Period End	04/17/95	
Final Action	02/21/96	61 FR 6487
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Doris L. Marsh, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8905

RIN: 3064–AB47

4262. CAPITAL MAINTENANCE—OECD COUNTRIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; PL 102-203; PL 102-242

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This regulatory action modifies the definition of the OECD-based group of countries in the FDIC's risk-based capital guidelines. Claims on the governments and banks of this group generally receive lower risk weights than corresponding claims on the governments and banks of non-OECD based countries. This amendment is based on an announcement by the Basle Committee on Banking Supervision that, subject to national consultation, the Basle Committee plans to introduce a change to the Basle Accord in 1995. The effect of this modification is to exclude from the OECD-based group of countries which are eligible for the lower risk weights any country that has rescheduled its external sovereign debt within the previous five years.

Timetable:

Action	Date	FR Cite
NPRM	02/15/95	60 FR 8582
NPRM Comment Period End	03/17/95	
Final Action	12/20/95	60 FR 66042
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904

RIN: 3064–AB54

4263. FOREIGN BANKS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-328

CFR Citation: 12 CFR 346

Legal Deadline: Final, Statutory, September 29, 1995.

Abstract: This rulemaking implements section 107 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (PL 103-328), which provides that the FDIC restrict the amounts and types of initial deposits of less than $100,000 which could be accepted by an uninsured state-licensed branch of a foreign bank. This rulemaking is intended to afford equal competitive opportunity to foreign and domestic banks.

Timetable:

Action	Date	FR Cite
NPRM	07/13/95	60 FR 36074
NPRM Comment Period End	09/11/95	
Final Action	02/14/96	61 FR 5671
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charles V. Collier, Assistant Director, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6850

RIN: 3064–AB62

4264. REPORTS OF APPARENT CRIMES AFFECTING INSURED NONMEMBER BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 248; 12 USC 625; 12 USC 1818; 12 USC 1844; 12 USC 1881 to 1884; 12 USC 3401 to 3422

CFR Citation: 12 CFR 353

Legal Deadline: None

Abstract: This regulatory action implements a new interagency suspicious activity referral process and updates and clarifies various portions of the underlying reporting regulation. It reduces the reporting burden while enhancing access to such information by both the federal law enforcement and the federal financial institutions supervisory agencies.

Timetable:

Action	Date	FR Cite
NPRM	09/14/95	60 FR 47719

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Action	Date	FR Cite
NPRM Comment Period End	11/13/95	
Final Action	02/16/96	61 FR 6095
Final Action Effective	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carol A. Mesheske, Chief, Special Activities Section, Division of Supervision, Federal Deposit Insurance Corporation
Phone: 202 898-6750

RIN: 3064–AB63

4265. DISCLOSURE OF INFORMATION

Priority: Other

Legal Authority: 5 USC 552

CFR Citation: 12 CFR 309

Legal Deadline: None

Abstract: This rulemaking accommodates changes in the organizational structure of the FDIC, provides clearer guidance to requesters of information on how to obtain records under the Freedom of Information Act, and allows the FDIC to charge appropriate fees for records.

Timetable:

Action	Date	FR Cite
NPRM	07/06/95	60 FR 35148
NPRM Comment Period End	09/05/95	
Final Action	11/30/95	60 FR 61465
Final Action Effective	01/02/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Paul A. Jeddeloh, Senior Program Attorney, Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-7161

RIN: 3064–AB67

4266. RECEIVERSHIP RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1821; PL 101-73

CFR Citation: 12 CFR 360

Legal Deadline: None

Abstract: This rulemaking defines (1) spot and other short-term foreign exchange agreements and (2) repurchase agreements on qualified foreign government securities to be qualified financial contracts "QFCs" under the FDI Act, 12 USC 1811 et seq. The promulgation of this rule is not intended to exclude other agreements which otherwise may qualify as QFCs. The FDI Act provides special rules for the treatment of QFCs in the event that the FDIC is appointed receiver or conservator for an insured depository institution in default. Parties to QFCs are permitted to liquidate, terminate, and net their agreements.

Timetable:

Action	Date	FR Cite
NPRM	09/21/95	60 FR 48935
NPRM Comment Period End	11/20/95	
Final Action	12/27/95	60 FR 66863
Final Action Effective	12/27/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon Powers Sivertsen, Assistant General Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 736-0112

RIN: 3064–AB69

[FR Doc. 96-6557 Filed 05-10-96; 8:45 am]
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federal register

Monday
May 13, 1996

Part LIII

Federal Energy Regulatory Commission

Semiannual Regulatory Agenda

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FEDERAL ENERGY REGULATORY COMMISSION (FERC)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

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Semiannual Regulatory Agenda

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with guidance issued by the Office of Management and Budget (OMB), the Federal Energy Regulatory Commission voluntarily submits information about rulemakings under development. Of the 15 rulemakings listed, 11 are current or projected rulemakings, and 4 are completed actions.

DATES: The dates provided represent goals, not commitments, and may be revised due to shifts in workload, changes in priorities, or extensive public comments. See the various dates listed for each specific rulemaking.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Person listed for each specific rulemaking.

Lois D. Cashell,
Secretary.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4267	Administrative Determination of Full Avoided Costs, Sales of Power to Qualifying Facilities and Interconnection Facilities	1902-AB00
4268	Revisions to the Certification Statement and Regulations and to the Basic Financial Statements of FERC Annual Reports for Electric Utilities and Licensees	1902-AB20
4269	Modification of Steam-Electric Plant Schedules, Hydroelectric Plant Schedules, and Pumped Storage Plant Schedules in the FERC Form No. 1	1902-AB21
4270	Elimination of Unneeded Pages in the FERC Form No. 1	1902-AB33
4271	Revision of the Commission's Preservation of Records Regulations for Public Utilities, Licensees, Natural Gas Companies, and Oil Pipeline Companies	1902-AB34
4272	Elimination of Unnecessary Filing Requirements From the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees	1902-AB35
4273	Treatment of Responses to FERC Form No. 580 Interrogatories	1902-AB57
4274	Revision of Fuel Cost-Adjustment Clause Regulation Relating to Fuel Purchases From Company-Owned or Controlled Source	1902-AB58
4275	Alternative Power Pooling Institutions Under the Federal Power Act	1902-AB59
4276	Promoting Wholesale Competition Through Open Access Non- discriminatory Transmission Service by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities	1902-AB65
4277	Real-Time Information Networks and Standards of Conduct	1902-AB66

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4278	Recovery of Stranded Costs by Public Utilities and Transmitting Utilities	1902-AB56
4279	Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs	1902-AB62
4280	Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies	1902-AB64
4281	Minimum Filing Requirements for FERC Form No. 6, Annual Report for Oil Pipelines	1902-AB67

4267. ADMINISTRATIVE DETERMINATION OF FULL AVOIDED COSTS, SALES OF POWER TO QUALIFYING FACILITIES AND INTERCONNECTION FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 18 CFR 292

Timetable:

Action	Date	FR Cite
NPRM	03/22/88	53 FR 9331
NPRM Comment Period End	06/14/88	
Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Larcamp
Phone: 202 208-2088

RIN: 1902–AB00

4268. REVISIONS TO THE CERTIFICATION STATEMENT AND REGULATIONS AND TO THE BASIC FINANCIAL STATEMENTS OF FERC ANNUAL REPORTS FOR ELECTRIC UTILITIES AND LICENSEES

Priority: Other

CFR Citation: 18 CFR 41

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James G. Baird
Phone: 202 219-2613

RIN: 1902–AB20

4269. MODIFICATION OF STEAM-ELECTRIC PLANT SCHEDULES, HYDROELECTRIC PLANT SCHEDULES, AND PUMPED STORAGE PLANT SCHEDULES IN THE FERC FORM NO. 1

Priority: Other

CFR Citation: 18 CFR 41

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph M. Harkins
Phone: 202 219-2617

RIN: 1902–AB21

4270. ELIMINATION OF UNNEEDED PAGES IN THE FERC FORM NO. 1

Priority: Other

CFR Citation: 18 CFR 141

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Audrey C. Wong
Phone: 202 219-3017

RIN: 1902–AB33

4271. REVISION OF THE COMMISSION'S PRESERVATION OF RECORDS REGULATIONS FOR PUBLIC UTILITIES, LICENSEES, NATURAL GAS COMPANIES, AND OIL PIPELINE COMPANIES

Priority: Other

CFR Citation: 18 CFR 125; 18 CFR 225; 18 CFR 356

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert J. Lynch
Phone: 202 219-3012

RIN: 1902–AB34

4272. ELIMINATION OF UNNECESSARY FILING REQUIREMENTS FROM THE COMMISSION'S UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES

Priority: Other

CFR Citation: 18 CFR 101

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James G. Baird
Phone: 202 219-2613

RIN: 1902–AB35

4273. TREATMENT OF RESPONSES TO FERC FORM NO. 580 INTERROGATORIES

Priority: Other

CFR Citation: 18 CFR 141; 18 CFR 388

Timetable:

Action	Date	FR Cite
NPRM	12/01/93	58 FR 63312
NPRM Comment Period End	03/04/94	59 FR 1690
Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Cohen
Phone: 202 208-2046

RIN: 1902–AB57

4274. REVISION OF FUEL COST-ADJUSTMENT CLAUSE REGULATION RELATING TO FUEL PURCHASES FROM COMPANY-OWNED OR CONTROLLED SOURCE

Priority: Substantive, Nonsignificant

CFR Citation: 18 CFR 35

Timetable:

Action	Date	FR Cite
NPRM	10/01/93	58 FR 51259
NPRM Comment Period End	11/01/93	
Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Wayne W. Miller
Phone: 202 208-0466

RIN: 1902–AB58

4275. ALTERNATIVE POWER POOLING INSTITUTIONS UNDER THE FEDERAL POWER ACT

Priority: Other

CFR Citation: 18 CFR ch 1

Timetable:

Action	Date	FR Cite
Notice of Inquiry (NOI)	11/02/94	59 FR 54851
NOI Comment Period End	03/02/95	59 FR 54851
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Janice MacPherson
Phone: 202 208-0921

RIN: 1902–AB59

4276. PROMOTING WHOLESALE COMPETITION THROUGH OPEN ACCESS NON- DISCRIMINATORY TRANSMISSION SERVICE BY PUBLIC UTILITIES; RECOVERY OF STRANDED COSTS BY PUBLIC UTILITIES AND TRANSMITTING UTILITIES

Priority: Economically Significant

CFR Citation: 18 CFR 35

Timetable:

Action	Date	FR Cite
NPRM	04/07/95	60 FR 17662
NPRM Comment Period End	10/04/95	
Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dave Withnell
Phone: 202 208-2063

RIN: 1902–AB65

4277. REAL-TIME INFORMATION NETWORKS AND STANDARDS OF CONDUCT

Priority: Other

CFR Citation: 18 CFR 37

Timetable:

Action	Date	FR Cite
ANPRM	04/07/95	60 FR 17726
ANPRM Comment Period End	07/06/95	60 FR 31428
NPRM	12/21/95	60 FR 66182
NPRM Comment Period End	02/05/96	
Final Rule	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gary Cohen
Phone: 202 208-0321

RIN: 1902–AB66

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Completed Actions

4278. RECOVERY OF STRANDED COSTS BY PUBLIC UTILITIES AND TRANSMITTING UTILITIES

Priority: Routine and Frequent

Legal Authority: 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 35

Legal Deadline: None

Abstract: The Commission has proposed to amend its regulations to establish provisions concerning the recovery of stranded costs by public utilities and transmitting utilities. (Docket No. RM94-7-000.)

Timetable:

Action	Date	FR Cite
NPRM	07/11/94	59 FR 35274
NPRM Comment Period End	12/09/94	59 FR 41739
Supplemental NPRM	04/07/95	60 FR 17662
NPRM Comment Period End	06/07/95	
Merged With RIN 1902-AB65	02/22/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah Leahy, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-2039

RIN: 1902–AB56

4279. FILING AND REPORTING REQUIREMENTS FOR INTERSTATE NATURAL GAS COMPANY RATE SCHEDULES AND TARIFFS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 717 to 717w; 31 USC 9701; 42 USC 7102 to 7352

CFR Citation: 18 CFR 154

Legal Deadline: None

Abstract: The Commission has adopted procedural rules governing the form and composition of interstate natural gas pipeline tariffs and the filing of rates and charges for the transportation of natural gas in interstate commerce. (Docket No. RM95-3-000.)

Timetable:

Action	Date	FR Cite
NPRM	01/13/95	60 FR 3111
NPRM Comment Period End	04/13/95	
Final Rule	10/11/95	60 FR 52960
Final Rule Effective	11/13/95	
Final Action Order on Rehearing	03/11/96	61 FR 9613
Final Action Effective	04/10/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard A. White, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-0491

RIN: 1902–AB62

4280. REVISIONS TO UNIFORM SYSTEM OF ACCOUNTS, FORMS, STATEMENTS, AND REPORTING REQUIREMENTS FOR NATURAL GAS COMPANIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 717 to 717w; 15 USC 3301 to 3432; 42 USC 7101 to 7352; 42 USC 7651 to 7651o; 43 USC 1331 to 1356

CFR Citation: 18 CFR 201; 18 CFR 284

Legal Deadline: None

Abstract: The Commission has amended its Uniform System of Accounts, its forms, and its reports and statements for natural gas companies. (Docket No. RM95-4-000.)

Timetable:

Action	Date	FR Cite
NPRM	01/13/95	60 FR 3141
NPRM Comment Period End	04/13/95	
Final Rule	10/11/95	60 FR 53019
Final Rule Effective	11/13/95	
Final Action Order on Rehearing	03/06/96	61 FR 8860
Final Action Effective	04/05/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Erica Yanoff, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-0708

RIN: 1902–AB64

4281. MINIMUM FILING REQUIREMENTS FOR FERC FORM NO. 6, ANNUAL REPORT FOR OIL PIPELINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 551 to 557; 15 USC 717 to 717w; 15 USC 3301 to 3432; 16 USC 791a to 825r; 16 USC 2601 to 2645; 42 USC 7101 to 7352; 49 USC 60502; 49 USC 1 to 85 (app)

CFR Citation: 18 CFR 357; 18 CFR 382

Legal Deadline: None

Abstract: The Commission has exempted from filing Form No. 6, Annual Report of Oil Pipelines, and from paying annual charges, those pipelines whose jurisdictional operating revenues are at or below $350,000 for each of the three preceding calendar years. (Docket No. RM95-12-000.)

Timetable:

Action	Date	FR Cite
NPRM	06/14/95	60 FR 31262
NPRM Comment Period End	07/14/95	
Final Action	10/12/95	60 FR 53114
Final Action Effective	11/13/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harris S. Wood, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426
Phone: 202 208-0224

RIN: 1902–AB67

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Part LIV

Federal Housing Finance Board

Semiannual Regulatory Agenda

FEDERAL HOUSING FINANCE BOARD (FHFB)

FEDERAL HOUSING FINANCE BOARD

12 CFR Ch. IX

Agenda of Federal Regulations

AGENCY: Federal Housing Finance Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Housing Finance Board (Finance Board) hereby publishes items for the Unified Agenda of Federal Regulations. These items reflect the status of the regulatory agenda of the Finance Board as of April 1, 1996. The Finance Board is an independent agency in the executive branch of the Government and is the regulator of the Federal Home Loan Bank System and the Financing Corporation. The Finance Board has an ongoing need to adopt various regulations dealing with the Agency's internal administration and with Federal Home Loan Bank System issues.

ADDRESSES: Executive Secretariat, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2837.

FOR FURTHER INFORMATION CONTACT: Eric M. Raudenbush, Attorney-Advisor, Office of General Counsel, Room 324, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2932.

Dated: March 15, 1996.

By the Federal Housing Finance Board.

Elaine L. Baker,

Executive Secretary.

FEDERAL HOUSING FINANCE BOARD (FHFB) — Proposed Rule Stage

4282. AFFORDABLE HOUSING PROGRAM

Priority: Economically Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422b(a)(1); 12 USC 1430(j)

CFR Citation: 12 CFR 960

Legal Deadline: None

Abstract: The Federal Housing Finance Board (Finance Board) will issue a second proposed rule revising its regulation governing the Affordable Housing Program (AHP) in order to simplify and clarify the AHP's requirements for the Federal Home Loan Banks (FHLBanks) and their members.

Statement of Need: The Finance Board is revising its AHP Regulation in order to address operational issues that have arisen during the 6 years the program has been in existence. The proposed AHP amendments will help enhance the AHP's compatibility with various State and Federal housing programs that provide funds in conjunction with AHP funds. In addition, the amendments would make the AHP more responsive to local low-income housing needs in each of the 12 FHLBank districts and increase efficiency in administration of the program.

Summary of the Legal Basis: Section 10(j) of the Federal Home Loan Bank Act requires the Finance Board to promulgate regulations governing the AHP. See 12 U.S.C. 1430(j).

Alternatives: During the development of the proposed AHP amendments, the Finance Board considered various alternative approaches to dealing with the operational issues that have arisen over the 6 years of the AHP's existence. In addition, the Finance Board will consider all alternatives suggested by the public during the notice-and-comment process.

Anticipated Costs and Benefits: At this time, it is not possible to quantify the expected costs and benefits of the revised AHP regulation. In general, the Finance Board expects the revised AHP regulation to reduce the FHLBanks' administrative costs of operating the AHP.

Risks: The revised AHP regulation does not address issues of financial risk to the FHLBanks. The advances made by the FHLBanks through the AHP, like all FHLBank advances, are governed by the Finance Board's Advances regulation, which addresses the safety and soundness issues involved in making advances. Because advances made through the AHP are overcollateralized, there is a low magnitude of risk of loss to the FHLBanks in making such advances.

Timetable:

Action	Date	FR Cite
NPRM	01/10/94	59 FR 1323
NPRM Comment Period End	03/11/94	
Second NPRM	06/00/96	
Second NPRM Comment Period End	08/00/96	
Final Action	10/00/96	
Final Action Effective	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Diane E. Dorius, Deputy Director, Office of Housing Finance, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2576

RIN: 3069–AA28

4283. PRACTICE BEFORE THE BOARD OF DIRECTORS

Priority: Other

Legal Authority: 12 USC 1422b; 5 USC 504; 5 USC 554 to 557

CFR Citation: 12 CFR 914

Legal Deadline: None

Abstract: The Finance Board is proposing to adopt a regulation setting forth the rules for adjudicatory proceedings before the Finance Board.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David A. Guy, Associate General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2536

RIN: 3069–AA31

FHFB — Proposed Rule Stage

4284. MODIFICATION OF COMMUNITY SUPPORT REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1430(g)

CFR Citation: 12 CFR 936

Legal Deadline: None

Abstract: The Finance Board issued an advance notice of proposed rulemaking requesting public comment to assist the Finance Board in amending its Community Support regulations to provide standards for the community support requirements for insurance company and credit union members of the Federal Home Loan Bank System.

Timetable:

Action	Date	FR Cite
ANPRM	09/02/93	58 FR 46469
ANPRM Comment Period End	12/31/93	58 FR 58305
NPRM	12/00/96	
NPRM Comment Period End	02/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brandon B. Straus, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2589

RIN: 3069–AA35

4285. SELECTION AND COMPENSATION OF FEDERAL HOME LOAN BANK EMPLOYEES

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1432(a)

CFR Citation: 12 CFR 932

Legal Deadline: None

Abstract: The Finance Board is proposing to amend its regulation on Organization of the Federal Home Loan Banks to transfer to the Banks specific responsibilities for selection and compensation of Bank employees.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	
Final Action	09/00/96	
Final Action Effective	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David A. Guy, Associate General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2536
Fax: 202 408-2580

RIN: 3069–AA42

4286. FEDERAL HOME LOAN BANK DIVIDENDS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1436

CFR Citation: 12 CFR 932

Legal Deadline: None

Abstract: The Finance Board intends to amend its regulations to establish the standards and conditions under which the Federal Home Loan Banks may pay dividends without prior Finance Board approval.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	
NPRM Comment Period End	11/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas D. Sheehan, Director, Office of Policy and Research, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2870

RIN: 3069–AA46

4287. • FEDERAL HOME LOAN BANK DIRECTORS FEES AND EXPENSES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422b; 12 USC 1427

CFR Citation: 12 CFR 932.27

Legal Deadline: None

Abstract: The Finance Board is considering the promulgation of a new regulation governing fees and expenses for Federal Home Loan Bank directors. The new regulation would replace the existing Finance Board policy on directors fees and expenses and would allow the Banks more freedom in developing policies on payment of fees and expenses to their board directors.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Eric M. Raudenbush, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2932
Fax: 202 408-2580

RIN: 3069–AA49

FEDERAL HOUSING FINANCE BOARD (FHFB) — Final Rule Stage

4288. ADVANCES TO NONMEMBER MORTGAGEES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422a(a)(3); 12 USC 1422b(a)(1); 12 USC 1430b

CFR Citation: 12 CFR 935

Legal Deadline: None

Abstract: The Federal Housing Finance Board adopted an interim regulation amending its regulation on Federal Home Loan Bank advances to establish revised and new requirements governing advances to nonmember mortgagees and to implement provisions of the Housing and Community Development Act of 1992 regarding special advances to qualified nonmember mortgagees that are state housing finance agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/20/93	58 FR 29474
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah F. Silberman, Deputy General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2570

RIN: 3069–AA27

4289. MODIFICATION OF DEFINITION OF DEPOSITS IN BANKS OR TRUST COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422b; 12 USC 1431(g)

CFR Citation: 12 CFR 931.5

Legal Deadline: None

Abstract: The Finance Board issued a proposed rule amending the definition of "deposits in banks or trust companies" in section 931.5 of its regulations in order to include sales of Federal funds to banks in the category of investments that are eligible to fulfill the Federal Home Loan Banks' liquidity requirement contained in section 11(g) of the Federal Home Loan Bank Act.

Timetable:

Action	Date	FR Cite
NPRM	09/29/93	58 FR 50867
NPRM Comment Period End	11/29/93	
Final Action	04/00/96	
Final Action Effective	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janice A. Kaye, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2505

RIN: 3069–AA33

4290. MEMBERS OF THE FEDERAL HOME LOAN BANKS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1424; 12 USC 1426; 12 USC 1442

CFR Citation: 12 CFR 933

Legal Deadline: None

Abstract: The Finance Board is amending its regulation on members of the Banks to allow the 12 Federal Home Loan Banks, rather than the Finance Board, to approve applications for Bank membership.

Statement of Need: The proposed rule permits the FHLBanks, rather than the Finance Board, to approve applications for FHLBank membership. It requires the FHLBanks to apply most of the tests and criteria for membership currently used by the Finance Board in approving applications. The regulation, as amended, would further the Finance Board's policy to devolve to the FHLBanks as many functions of corporate governance as are practicable under the current statutory scheme.

Summary of the Legal Basis: Section 4 of the Bank Act sets forth eligibility criteria for membership in FHLBanks, but does not require expressly that the Finance Board approve individual applications for membership. (See 12 USC 1424.) Section 2B(a)(1) of the Bank Act authorizes the Finance Board to promulgate regulations necessary to carry out the provisions of the Bank Act (see 1422b(a)(1)), including those necessary to fulfill the Finance Board's duties to ensure the safety and soundness of the FHLBank system (see 1424a(3)(A)), and to ensure that the FHLBanks carry out their housing finance mission (see 1422a(3)(B)(i)). Therefore, the Finance Board has the statutory power both to devolve to the FHLBanks approval authority regarding membership applications and to establish regulatory guidelines to govern the FHLBanks' exercise of such authority.

Alternatives: In deciding whether to amend its regulation on members of the FHLBanks, the Finance Board considered the possibility of retaining final approval authority over FHLBank membership applications. However, the Finance Board determined that such a course would continue to cause unnecessary delay in the processing of membership applications and would maintain a layer of bureaucracy in the application process that is not necessary to ensure the safety and soundness of the FHLBank System or to ensure that the FHLBanks are carrying out their housing finance mission.

Anticipated Costs and Benefits: The regulation on members of the FHLBanks, as amended, will not impose any additional costs on either the Finance Board, the FHLBanks, or potential FHLBank members and will render benefits to each. Applicants for membership will continue to submit application materials, but will do so pursuant to streamlined procedures. FHLBanks will continue to review membership applications, as they do currently, but will not need to prepare the materials for Finance Board review. With the elimination of the membership application review function, Finance Board staffing levels may be reduced, or staff time may be devoted to other priorities. Ultimately, this will benefit the FHLBanks, which fund Finance Board operations through the payment of annual assessments.

Risks: The only risk to which the amendment of the regulation on members of the FHLBank System applies is the financial risk assumed by FHLBanks in accepting financial institutions as members. The amended regulation will minimize this risk by requiring that the FHLBanks apply the same safety and soundness guidelines in assessing membership applications that are applied now by the Finance Board.

Timetable:

Action	Date	FR Cite
NPRM	10/27/95	60 FR 54958
NPRM Comment Period End	12/26/95	

FHFB — Final Rule Stage

Action	Date	FR Cite
Final Action	06/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Amy R. Maxwell, Associate Director, District Banks Secretariat, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2882

RIN: 3069–AA41

4291. AFFORDABLE HOUSING PROGRAM APPLICATION SUBSIDY LIMITS

Priority: Routine and Frequent

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1430(j)

CFR Citation: 12 CFR 960

Legal Deadline: None

Abstract: The Finance Board is amending its Affordable Housing Program (AHP) Regulation to permit the Federal Home Loan Banks to establish uniform limits on the amount of AHP subsidy available to Bank members under a Bank's AHP.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	60 FR 55487
NPRM Comment Period End	12/18/95	
Final Action	04/00/96	
Final Action Effective	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon B. Like, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580

RIN: 3069–AA45

FEDERAL HOUSING FINANCE BOARD (FHFB) — Long-Term Actions

4292. COMMUNITY INVESTMENT PROGRAM

Priority: Economically Significant

CFR Citation: 12 CFR 961

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sylvia Martinez
Phone: 202 408-2825

RIN: 3069–AA05

FEDERAL HOUSING FINANCE BOARD (FHFB) — Completed Actions

4293. PAPERWORK REDUCTION ACT—COLLECTION OF INFORMATION CONTROL NUMBERS

Priority: Other

Legal Authority: 44 USC 3506

CFR Citation: 12 CFR 908

Legal Deadline: None

Abstract: The Finance Board has considered adopting a new part 908 to its general regulations to display its current information control numbers issued by the Office of Management and Budget for the Finance Board's forms that require the collection of data.

Timetable:

Action	Date	FR Cite
Withdrawn	02/09/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David A. Guy, Associate General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2536

RIN: 3069–AA25

4294. CLAIMS REGULATION

Priority: Other

Legal Authority: 12 USC 1422b; 12 USC 1438(b); 12 USC 1833e; 31 USC 3711(e); 31 USC 3721

CFR Citation: 12 CFR 902

Legal Deadline: None

Abstract: The Finance Board had considered issuing a regulation governing the procedures and standards for the administrative collection, compromise, and termination of agency collection, and the referral of claims to the General Accounting Office of the Department of Justice for litigation of civil claims. The regulation also would have established the Finance Board's procedures and standards governing claims filed against the Finance Board by employees for loss or damage to personal property.

Timetable:

Action	Date	FR Cite
Withdrawn	02/09/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David A. Guy, Associate General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2536

RIN: 3069–AA30

4295. PRICING OF COMMUNITY INVESTMENT PROGRAM ADVANCES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422b; 12 USC 1430

CFR Citation: 12 CFR 935

Legal Deadline: None

Abstract: The Finance Board had considered amending its regulations to establish guidelines for pricing Community Investment Program advances.

Timetable:

Action	Date	FR Cite
Withdrawn	02/09/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brandon B. Straus, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2589

RIN: 3069–AA32

4296. AFFORDABLE HOUSING MAXIMUM SUBSIDY LIMITATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422b; 12 USC 1430(j)

CFR Citation: 12 CFR 960.9

Legal Deadline: None

Abstract: The Finance Board has adopted an interim rule which amends its Affordable Housing Program (AHP) regulation by revising the maximum subsidy requirements applicable to projects receiving subsidized advances or other assistance from the Federal Home Loan Banks under the AHP.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/07/93	58 FR 17968
Merged into RIN 3069-AA28	02/09/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sharon B. Like, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930

RIN: 3069–AA34

4297. AMENDMENT OF AFFORDABLE HOUSING PROGRAM AND COMMUNITY SUPPORT REQUIREMENTS REGULATIONS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1429; 12 USC 1430(a); 12 USC 1430(g); 12 USC 1430(j)

CFR Citation: 12 CFR 936; 12 CFR 960

Legal Deadline: None

Abstract: The Federal Housing Finance Board issued a proposed rule amending the definitions of "very low-income household" and "low- or moderate-income household" in its Affordable Housing Program (AHP) and Community Support Requirements (CSR) regulations. The proposed rule also adds a definition of "adjustment for family size" to the AHP and CSR regulations as well as removes the definition of "median income" from the AHP and CSR regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/05/93	58 FR 58983
NPRM Comment Period End	01/04/94	
Merged into RIN 3069-AA28	02/09/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brandon B. Straus, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2589

RIN: 3069–AA38

4298. AMENDMENT OF AFFORDABLE HOUSING PROGRAM REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1430(j)

CFR Citation: 12 CFR 960

Legal Deadline: None

Abstract: The Finance Board adopted a final rule amending its Affordable Housing Program (AHP) regulation to permit the Federal Home Loan Banks to set aside a limited amount of AHP funds for assistance to first-time homebuyers and, with the Board's prior approval, other homeownership goals of the President's National Homeownership strategy.

Timetable:

Action	Date	FR Cite
NPRM	07/28/95	60 FR 38768
NPRM Comment Period End	08/28/95	
Final Action	09/25/95	60 FR 49327
Final Action Effective	10/25/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brandon B. Straus, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2589
Fax: 202 408-2580

RIN: 3069–AA43

4299. COMMUNITY SUPPORT REQUIREMENTS; RESTRICTIONS ON ACCESS TO NEW LONG-TERM ADVANCES

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1429; 12 USC 1430(a); 12 USC 1430(g)

CFR Citation: 12 CFR 936

Legal Deadline: None

Abstract: The Finance Board is amending its regulation on Community Support Requirements to clarify and streamline the procedures governing restriction of access to new long-term advances for Federal Home Loan Bank members that fail to meet community support requirements.

Timetable:

Action	Date	FR Cite
Withdrawn	02/09/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janice A. Kaye, Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2505
Fax: 202 408-2580

RIN: 3069–AA44

4300. • CHARITABLE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 12 USC 1422b; 12 USC 1442

CFR Citation: 12 CFR 934

Legal Deadline: None

Abstract: The Finance Board rescinded its regulation limiting the dollar amount that a Federal Home Loan Bank may contribute to charitable organizations during a calendar year.

Timetable:

Action	Date	FR Cite
Final Action	12/20/95	60 FR 65515
Final Action Effective	12/20/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: E. Ellen Hancock, Assistant Director, Office of Policy and Financial Reporting, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2906

RIN: 3069–AA47

4301. • PRICING SERVICES

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1431(e)

CFR Citation: 12 CFR 943.6

Legal Deadline: None

Abstract: The Finance Board amended its regulation regarding item processing services by the Federal Home Loan Banks by eliminating the requirement of prior Finance Board approval of prices for such services

Timetable:

Action	Date	FR Cite
Final Action	11/17/95	60 FR 57681
Final Action Effective	11/17/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edward J. Reedy, Associate Director, Regulatory Oversight Division, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2959

RIN: 3069–AA48

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Part LV

Federal Maritime Commission

Semiannual Regulatory Agenda

FEDERAL MARITIME COMMISSION (FMC)

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

Unified Regulatory Agenda

AGENCY: Federal Maritime Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to section 4(b) of E.O. 12866 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission anticipates having under consideration, during the period from April 1, 1996, to March 30, 1997, actions in the areas listed below.

FOR FURTHER INFORMATION CONTACT: For further information concerning Commission rulemaking proceedings or the status of any matter listed below, contact: Joseph C. Polking, Secretary, 800 North Capitol Street NW., Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Section 602 of the Regulatory Flexibility Act (5 U.S.C. 602) requires the publication of an agenda of items for which regulatory agencies may propose or promulgate a rule which is likely to have a significant economic impact on a substantial number of small entities. Section 4(b) of Executive Order 12866 also requires agencies to publish a regulatory agenda. The agendas include information on regulatory activities being conducted or reviewed during the succeeding 12 months by the Commission.

The following is the Commission's unified regulatory agenda. The agenda does not necessarily include all petitions for rulemakings which are under staff review.

In addition, the Commission maintains a compilation of the status of pending rulemaking proceedings and a listing of rules that have become final since the publication of the most recent regulatory agenda. This will be made available to the public, including the press and interested persons.

Joseph C. Polking,

Secretary.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4302	Financial Responsibility Requirements for Nonperformance of Transportation and Inquiry Into Alternative Forms (Docket Nos. 94-06 and 94-21)	3072-AB80

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4303	Coloading Practices and Possible Section 16 Exemption for Coloading (Docket Nos. 93-22 and 94-26)	3072-AB75
4304	Availability of the Annual Financial and Operating Statements Filed by Domestic Offshore Carriers (Docket No. 95-15)	3072-AB89
4305	Marine Terminal Tariff Provisions Regarding Liability of Vessel Agents; Petition for Rulemaking (Petition P3-95)	3072-AB90

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4306	Information Form and Post-Effective Reporting Requirements for Agreements Among Ocean Common Carriers Subject to the Shipping Act of 1984 (Docket No. 94-31)	3072-AB85
4307	Service Contract Filing Requirements—Miscellaneous Revisions (Docket No. 95-08)	3072-AB86
4308	Automated Tariff Filing and Information System (Docket No. 95-13)	3072-AB87

FEDERAL MARITIME COMMISSION (FMC)

Proposed Rule Stage

4302. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR NONPERFORMANCE OF TRANSPORTATION AND INQUIRY INTO ALTERNATIVE FORMS (DOCKET NOS. 94-06 AND 94-21)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552 to 553; PL 89-777 (46 USC app 817e); 46 USC app 841a; 46 USC app 1716

CFR Citation: 46 CFR 540.5; 46 CFR 540.9

Legal Deadline: None

Abstract: The Commission is issuing another proposed rule in this matter. This action would amend financial responsibility requirements regarding nonperformance by passenger vessel operators by eliminating the $15 million unearned passenger revenue ceiling and revising the existing sliding scale for coverage. Comment also is sought on an alternative sliding scale available to passenger vessel operators with an acceptable financial rating, five years' operations in U.S. trades, and a satisfactory explanation of any claims of nonperformance. Action also seeks comments with regard to self-insurers, as to requiring third-party coverage for a percentage of unearned passenger revenue and reestablishing a working capital requirement.

Timetable:

Action	Date	FR Cite
NPRM	03/31/94	59 FR 15149
NPRM Comment Period End	05/02/94	
Comment Period Extended to 06/10/94	05/05/94	59 FR 23182
Comment Period Extended to 06/24/94	06/14/94	59 FR 30567
Notice of Inquiry (Docket No. 94-21)	10/14/94	59 FR 52133
Clarification of Notice of Inquiry	11/02/94	59 FR 54878
Comment Period End for Notice of Inquiry	11/28/94	59 FR 52133
Second NPRM	05/00/96	
Second NPRM Comment Period End	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5796
Fax: 202 523-5830

RIN: 3072–AB80

Final Rule Stage

4303. COLOADING PRACTICES AND POSSIBLE SECTION 16 EXEMPTION FOR COLOADING (DOCKET NOS. 93-22 AND 94-26)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552 and 553; 46 USC app 1707; 46 USC app 1716; PL 102-582, 106 Stat 4910

CFR Citation: 46 CFR 514.15; 46 CFR 580.5; 46 CFR 581.1; 46 CFR 581.3

Legal Deadline: None

Abstract: Action redefines "coloading" to limit the term to the combining of cargo under an agreement between non-vessel-operating common carriers (NVOCCs) and makes other changes involving coloading, including prohibiting coloaded cargo from being carried under a service contract. This action has been held in abeyance pending a Notice of Inquiry which is exploring whether current coloading practices are consistent with statutory requirements, and if not, whether an exemption should be initiated.

Timetable:

Action	Date	FR Cite
NPRM	11/24/93	58 FR 62077
NPRM Comment Period End	03/11/94	59 FR 5974
Notice of Inquiry (Docket No. 94-26)	11/09/94	59 FR 55826
Comment Period End for NOI (Docket No. 94-26)	12/27/94	
NOI Comment Period Extended to 01/23/95	12/28/94	59 FR 66880
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5740
Fax: 202 523-5738

RIN: 3072–AB75

4304. AVAILABILITY OF THE ANNUAL FINANCIAL AND OPERATING STATEMENTS FILED BY DOMESTIC OFFSHORE CARRIERS (DOCKET NO. 95-15)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 46 USC app 817; 46 USC app 841(a); 46 USC app 844; 46 USC app 845

CFR Citation: 46 CFR 552

Legal Deadline: None

Abstract: Action would amend regulations governing financial reporting requirements applicable to vessel-operating common carriers by water in the domestic offshore trades to allow access to the annual statements of financial and operating data filed with the Commission by domestic offshore carriers.

Timetable:

Action	Date	FR Cite
NPRM	10/16/95	60 FR 53572
NPRM Comment Period End	11/15/95	
Final Action	08/00/96	
Final Action Effective	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anne M. McAloon, Bureau of Economic and Agreement Analysis, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5790
Fax: 202 523-3782

RIN: 3072–AB89

FMC — Final Rule Stage

4305. MARINE TERMINAL TARIFF PROVISIONS REGARDING LIABILITY OF VESSEL AGENTS; PETITION FOR RULEMAKING (PETITION P3-95)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 46 USC app 1709; 46 USC app 1716; 46 USC app 815; 46 USC app 816; 46 USC app 820; 46 USC app 841a

CFR Citation: 46 CFR 514

Legal Deadline: None

Abstract: This petition for rulemaking seeks establishment of a rule which would declare unlawful any marine terminal tariff provision that holds the vessel agent liable for terminal charges of its disclosed principal.

Timetable:

Action	Date	FR Cite
Comment Period End 08/14/95	07/12/95	60 FR 35906
Notice of Filing of Petition	07/12/95	60 FR 35906
Comment Period Extended to 09/15/95	08/15/95	60 FR 42159
Final Action	07/00/96	
Final Action Effective	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5740
Fax: 202 523-5738

RIN: 3072–AB90

FEDERAL MARITIME COMMISSION (FMC) — Completed Actions

4306. INFORMATION FORM AND POST-EFFECTIVE REPORTING REQUIREMENTS FOR AGREEMENTS AMONG OCEAN COMMON CARRIERS SUBJECT TO THE SHIPPING ACT OF 1984 (DOCKET NO. 94-31)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717

CFR Citation: 46 CFR 572

Legal Deadline: None

Abstract: Action would change the type of information required of ocean common carriers when filing certain agreements pursuant to the Shipping Act of 1984, and would require members of such agreements to submit periodic reports on their operations. Certain other types of agreements no longer would face an information filing requirement and would not have to file operating reports.

Timetable:

Action	Date	FR Cite
NPRM	12/05/94	59 FR 62372
NPRM Comment Period End	02/03/95	
Comment Period Extended to	02/17/95	60 FR 6482
Final Action	03/21/96	61 FR 11564
Final Action Effective	04/19/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5740
Fax: 202 523-5738

RIN: 3072–AB85

4307. SERVICE CONTRACT FILING REQUIREMENTS—MISCELLANEOUS REVISIONS (DOCKET NO. 95-08)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 553; 46 USC app 1702; 46 USC app 1707; 46 USC app 1716

CFR Citation: 46 CFR 514

Legal Deadline: None

Abstract: Action would provide an optional abbreviated service contract form and require service contracts to include certain identifying information concerning the signatories, reducing duplication and costs and facilitating automation of the Commission's service contract records.

Timetable:

Action	Date	FR Cite
NPRM	05/23/95	60 FR 27248
NPRM Comment Period End	06/22/95	
Final Action	02/12/96	61 FR 5308
Final Action Effective	03/13/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5796
Fax: 202 523-5830

RIN: 3072–AB86

4308. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM (DOCKET NO. 95-13)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552 to 553; 31 USC 9701; 46 USC app 804; 46 USC app 812; 46 USC app 814 to 817(a); 46 USC app 820; 46 USC app 833a; 46 USC app 841a; 46 USC app 843 to 845b; 46 USC app 847; 46 USC app 1702 to 1712; 46 USC app 1714 to 1716; 46 USC app 1718; 46 USC app 1721 to 1722; PL 101-92, sec 2(b)

CFR Citation: 46 CFR 514

Legal Deadline: None

Abstract: Action would amend FMC's rules pertaining to the Automated Tariff Filing and Information System to clarify that no individual may file or retrieve ATFI data until a User Registration Form and supporting documents, together with the proper fee, are submitted to the Commission and he/she receives a logon ID and password. Action would also amend rules to permit the on-line downloading of daily subscriber data.

Timetable:

Action	Date	FR Cite
NPRM	08/30/95	60 FR 45126
NPRM Comment Period End	09/19/95	
Final Action	11/07/95	60 FR 56122
Final Action Effective	12/07/95	

FMC — Completed Actions

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bruce A. Dombrowski, Deputy Managing Director, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573
Phone: 202 523-5800
Fax: 202 523-3782

RIN: 3072–AB87

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Federal Reserve System

Semiannual Regulatory Agenda

FEDERAL RESERVE SYSTEM (FRS)

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Board is issuing this agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period April 1 through October 1, 1996. The next semiannual agenda will be published in October 1996.

DATES: Comments about the form or content of the agenda may be submitted any time during the next 6 months.

ADDRESSES: Comments should be addressed to William W. Wiles, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its April 1996 agenda as part of the April 1996 Unified Agenda of Federal Regulations, which is coordinated by the Office of Management and Budget under Executive Order 12866. Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's agenda is divided into three sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next 6 months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. A third section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further. Matters begun and completed between issues of the agenda have not been included.

A dot (•) preceding an entry indicates a new matter that was not a part of the Board's previous agenda and which the Board has not completed.

Barbara R. Lowrey,

Associate Secretary of the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4309	Regulation: E—Electronic Fund Transfers	7100-AC06
4310	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control	7100-AB39
4311	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control	7100-AB41
4312	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0835)	7100-AB77
4313	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control	7100-AB87
4314	Section 303 Regulatory Review	7100-AC09

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4315	Regulation: B—Equal Credit Opportunity (Docket Number: R-0876)	7100-AB99
4316	Regulation: E—Electronic Fund Transfers (Docket Number: R-0830)	7100-AA77
4317	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-0897)	7100-AB86
4318	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-0909)	7100-AC07
4319	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Numbers: R-0884 and R-0886)	7100-AC01
4320	Regulation: K—International Banking Operations (Docket Number: R-0916)	7100-AB88
4321	Regulation: K—International Banking Operations (Docket Number: R-0911)	7100-AB89
4322	Regulation: L—Management Official Interlocks (Docket Number: R-0907)	7100-AB90
4323	Regulation: M—Consumer Leasing (Docket Number: R-0892)	7100-AB74
4324	Regulation: S—Reimbursement for Providing Financial Records; Recordkeeping Requirements for Certain Financial Records (Docket Number: R-0888)	7100-AC03
4325	Regulation: S—Reimbursement for Providing Financial Records; Recordkeeping Requirements for Certain Financial Records (Docket Number: R-0906)	7100-AC10
4326	Regulation: T—Credit by Brokers and Dealers (Docket Number: R-0772)	7100-AB28
4327	Regulation: U—Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks (Docket Number: R-0905)	7100-AB65

FRS

Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4328	Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0868)	7100-AB95
4329	Regulation: DD—Truth in Savings (Docket Number: R-0836 and Docket Number: R-0869)	7100-AB80
4330	Federal Reserve Bank Book-Entry Securities Transfer Services (Docket Number: R-0866)	7100-AB97
4331	Federal Reserve Payments System Risk Policy (Docket Number: R-0889)	7100-AC04
4332	Risk-Based Capital Standards: Interest Rate Risk (Docket Number: R-0802)	7100-AB50
4333	Rules of Practice for Hearings (Docket Number: R-0878)	7100-AC05
4334	Section 23A of the Federal Reserve Act (Docket Number: R-0902)	7100-AC08
4335	Standards for Safety and Soundness (Docket Number: R-0766)	7100-AB52
4336	Ten Percent Revenue Limit on Bank-Ineligible Activities of Subsidiaries of Bank Holding Companies (Docket Number: R-0841)	7100-AB82

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4337	Reg.: H—Membership of State Banking Institutions in F.R.S.; Reg.: K—International Banking Operations; and Reg.: Y—Bank Holding Companies and Change in Bank Control (Docket No.:R-0885)	7100-AC00
4338	Regulation: H—Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y—Bank Holding Companies and Change in Bank Control (Docket Number: R-0849)	7100-AB92
4339	Regulation: K—International Banking Operations (Docket Number: R-0754)	7100-AB31
4340	Regulation: K—International Banking Operations (Docket Number: R-0862)	7100-AB58
4341	Regulation: K—International Banking Operations (Docket Number: R-0896)	7100-AC02
4342	Regulation: L—Management Official Interlocks (Docket Number: R-0825)	7100-AB72

FEDERAL RESERVE SYSTEM (FRS) — Proposed Rule Stage

4309. • REGULATION: E—ELECTRONIC FUND TRANSFERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1693 et seq

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: In 1994, the Board issued a proposed comprehensive revision to Regulation E under the Board's Regulatory Planning and Review Program (Docket Number: R-0830; RIN: 7100-AA77). In the proposal, the Board also requested comment on whether Regulation E should apply to stored-value cards. Stored-value cards (also known as prepaid cards) maintain, typically in a computer chip or magnetic strip, a "stored value" of funds available to the cardholder. The balance recorded on the card is debited at a merchant's terminal when the cardholder makes a purchase. Many persons commenting on the 1994 proposal asked the Board to consider proposing an exemption from Regulation E, or modifications in regulatory requirements under Regulation E, for stored-value cards and other stored-value devices.

In the 1994 proposed revision, the Board also requested comment on a proposed amendment that would permit electronic debits to an account to be authorized in electronic form, such as by personal computer and modem. Commenters asked the Board to consider proposing to permit electronic communications to substitute generally for oral or written communications required under Regulation E.

Finally, commenters on the 1994 proposal requested that the Board consider proposing extension of the error resolution time limits under Regulation E for new accounts to avoid the possibility of fraud.

Within the next two months, the Board will consider issuing for public comment a proposal on these subjects. The proposal is part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. It is not expected that any proposed amendment would have a significant economic impact on small institutions.

Timetable:

Action	Date	FR Cite
Board is expected to consider a proposal within the next two months	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John C. Wood, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC06

4310. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831m

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: Final, Statutory, January 3, 1993.

Abstract: During 1992, the Board's staff consulted with the other Federal banking agencies regarding the implementation of section 112, the bank auditing requirements, of the Federal Deposit Insurance Corporation Improvement Act of 1991. The section includes requirements for insured commercial banks to receive audits of their annual reports by independent public accountants, requirements for banks and their auditors to report certain information to the Board, and requirements for independent audit committees for banks. In some cases, these requirements can be satisfied by comparable arrangements at the bank holding company level. The Act generally exempts insured depository institutions from these requirements when their total assets are less than $150 million, unless a higher threshold is chosen by the Federal Deposit Insurance Corporation (FDIC).

The FDIC, the agency with primary responsibility for implementing this mandate through regulations, finalized its regulation in May 1993, which applied to all FDIC-insured banks and thrifts. The FDIC's regulation applied these requirements to depository institutions with total assets of $500 million or more. Subsequently in February 1996, the FDIC approved amendments to its rules implementing section 112 that were largely required by the Riegle Community Development and Regulatory Improvement Act of 1994. These amendments expand opportunities for holding companies to file a single report covering multiple subsidiary banking organizations, conform the rule's references to the Federal Reserve's Regulation O, and make other technical revisions.

The Board has joint rulemaking authority with the other banking agencies regarding the enforcement provisions of section 112. It is expected that the Board and the other agencies will develop a notice of proposed rulemaking for public comment by year-end.

Timetable:

Action	Date	FR Cite
Board may consider amendments to Regulations H and Y by	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gerald A. Edwards, Jr., Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2741

RIN: 7100–AB39

4311. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831n; 12 USC 1833d

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: Final, Statutory, December 19, 1992.

Abstract: During 1992 and 1993, the Board's staff consulted with the other Federal banking agencies regarding the implementation of section 121, the bank accounting requirements, of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). These requirements include the implementation of disclosures of the fair market value of assets, liabilities, and certain projects, which may result in the revision of reporting requirements for banks and bank holding companies. The accounting provisions of the Act do not include exemptions for small institutions. Thus, any changes to regulations and reporting requirements would likely affect smaller State member banks.

The Federal Financial Institutions Examination Council (FFIEC) requested public comment on proposed reporting requirements, and the comment period expired on June 14, 1993. Furthermore, the FFIEC proposed on March 9, 1994, new Call Report items for derivative instruments, including new information on their market values. The comment period for this proposal expired on May 9, 1994, and the FFIEC included new information about market values of derivative instruments in its Call Report requirements for March 1995. Market value information about on- and off-balance-sheet financial instruments is also reported in the banks' annual financial statements filed with the Board and the other Federal banking agencies pursuant to FDICIA section 112. Following final action by the FFIEC, the Board may consider requesting public comment by year-end on changes to its regulations in order to implement certain aspects of section 121.

Timetable:

Action	Date	FR Cite
Board may consider amendments to Regulations H and Y by	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gerald A. Edwards, Jr., Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2741

RIN: 7100–AB41

4312. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0835)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831i

CFR Citation: 12 CFR 208, app A; 12 CFR 225, app A

Legal Deadline: None

Abstract: In May 1994, the Board issued for public comment two proposals on the capital treatment of recourse arrangements and direct credit substitutes. The first proposal: (1) formally defines recourse and direct credit substitutes; (2) reduces the risk-based capital charge for low-level recourse arrangements to the maximum amount of possible loss under the recourse obligation up to the effective capital charge; and (3) requires the same risk-based capital charge for first loss direct credit substitutes as is currently applied to recourse transactions (59 FR 27115, May 25, 1994).

Subsequent to the issuance of this proposal, the Congress mandated, under section 350 of the Riegle Community Development and Regulatory Improvement Act of 1994, that the Board issue regulations limiting, as of March 22, 1995, the amount of risk-based capital an insured depository institution is required to hold for assets transferred with recourse to the maximum amount of recourse for which the institution is contractually liable. The portion of the Board's proposal dealing with low-level recourse transactions satisfies the minimum requirements of section 350, and, accordingly, in February 1995, the Board adopted that portion of the proposal (60 FR 8177, February 13, 1995).

The second proposal, an advance notice of proposed rulemaking, sought public comment on an approach to assessing risk-based capital on banking organizations' risk exposures associated with certain asset securitizations. Under this approach, the capital charge would be based upon the relative risk of loss. The Board will continue to consider the advanced notice of proposed rulemaking, as well as the outstanding issues addressed in the first proposal, and is expected to take further action within the next four months. Small entities would be affected by the final rule and the two proposals only to the extent that they engage in extending recourse arrangements or direct credit substitutes; it is not expected that the proposals will have a significant economic impact.

Timetable:

Action	Date	FR Cite
Board requested comment	05/25/94	59 FR 27115
Board adopted one aspect of the proposal	02/13/95	60 FR 8177
Further Board action within the next four months	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas R. Boemio, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2982

RIN: 7100–AB77

4313. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 321; 12 USC 1828; 12 USC 1831u; 12 USC 1842

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: Sections 101, 102, and 103 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 establish conditions under which bank holding companies and national banks will be permitted to engage in interstate banking and branching through acquisitions, mergers, and establishment of de novo branches. Under section 9 of the Federal Reserve Act, the limitations and conditions on branching by national banks also are applicable to State member banks. Section 101 of the Riegle-Neal Act also permits a bank to receive deposits and provide certain other services as agent for any affiliated depository institution without the bank being considered to be a branch of the affiliated depository institution.

The Board is considering whether it is necessary to amend its Regulations H and Y to reflect the statutory changes. If amendments are necessary, they will be proposed as part of any proposals concerning Regulations H and Y following the Board's overall review of these rules under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

The statutory changes reduce restrictions currently applicable to bank holding companies and state member banks of all sizes, including small institutions, and will not significantly increase regulatory burden on small banks.

Timetable:

Action	Date	FR Cite
Board is expected to act on Regulation H by	10/00/96	
Board is expected to act on Regulation Y by	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lawranne Stewart, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3513

RIN: 7100–AB87

4314. • SECTION 303 REGULATORY REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4803(a)(1)

CFR Citation: 12 CFR ch II

Legal Deadline: Other, Statutory, September 23, 1996.
Progress Report due to Congress.

Abstract: In response to the requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, the Board is reviewing its regulations for purposes of streamlining, improving efficiency, reducing unnecessary costs, and removing inconsistencies and outmoded/duplicative requirements. The Board is also working jointly with the other banking agencies to make uniform regulations and guidelines implementing common statutory and supervisory policies. A regulatory review timetable was published in the Federal Register in October 1995 (60 FR 53546, October 16, 1995).

Within the next six months, it is expected that the Board will seek public comment during the course of the reviews of the following regulations/policy statements/other regulatory guidance. Reviews already put out for public comment appear elsewhere in the Agenda.

Reg. D, Reserve Requirements of Depository Institutions.

Reg. G, Securities Credit by Persons Other Than Banks, Brokers, or Dealers.

Reg. O, Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks.

Reg. R, Relationships with Dealers in Securities Under Section 32 of the Banking Act of 1933.

Reg. AA, Unfair or Deceptive Acts or Practices.

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Reg. Y, Bank Holding Companies and Change in Bank Control.

Reg. X, Borrowers of Securities Credit.

Reg. CC, Availability of Funds and Collection of Checks.

Reg. H, Membership of State Banking Institutions in the Federal Reserve System.

Regs. H and Y, Appendices, Capital Adequacy Guidelines.

Reg. K, International Banking Operations (Overall Comprehensive Review).

Reg. B, Equal Credit Opportunity.

Timetable:

Action	Date	FR Cite
Board action expected during the next six months	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Thomas A. Durkin, Regulatory Planning and Review Director, Federal Reserve System, Office of the Secretary
Phone: 202 452-3236

RIN: 7100–AC09

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4315. REGULATION: B—EQUAL CREDIT OPPORTUNITY (DOCKET NUMBER: R-0876)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1691

CFR Citation: 12 CFR 202

Legal Deadline: None

Abstract: In April 1995, the Board issued for public comment a proposed amendment to Regulation B to eliminate the general prohibition on collecting data relating to an applicant's race, color, sex, religion, and national origin, giving creditors the option to ask applicants to provide the information on a voluntary basis (60 FR 20436, April 26, 1995). This amendment would allow data collection only; creditors still would be prohibited from considering an applicant's race, color, sex, religion, and national origin in their credit decisions.

Compliance with the proposed amendment is voluntary and would not be expected to have a significant economic impact on small institutions. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	04/26/95	60 FR 20436
Further Board action by	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sheilah Goodman, Staff Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AB99

4316. REGULATION: E—ELECTRONIC FUND TRANSFERS (DOCKET NUMBER: R-0830)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1693b

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: The Board is conducting a review of Regulation E, which implements the Electronic Fund Transfer Act and establishes the basic rights, liabilities, and responsibilities of consumers who use electronic fund transfer services and of financial institutions that offer these services (whether or not these institutions hold the consumer's account). The review is part of the Board's Regulatory Planning and Review Program, which provides for the periodic review of Board regulations to determine whether a regulation should be eliminated, simplified, updated, or otherwise revised.

In February 1994, the Board approved issuing for public comment a revised Regulation E that includes, among other things, simplified language and format (59 FR 10684, March 7, 1994). As part of the proposal, the scope of several exemptions would be expanded. A small institution exemption would apply to institutions with assets under $100,000; currently the exemption applies to institutions with assets under $25,000. Also under the proposal, the staff commentary to Regulation E would be significantly improved to facilitate compliance. As a whole, the proposed changes to Regulation E would likely reduce regulatory burden within the limits of a very specific statute, without sacrificing consumer benefits.

The proposals are not expected to have a significant economic impact on small institutions. The proposals also are considered a part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board approved requesting public comment	03/07/94	59 FR 10684
Further Board action by	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Adrienne D. Hurt, Managing Counsel, Financial Services Section, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AA77

4317. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (DOCKET NUMBER: R-0897)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: The National Flood Insurance Reform Act of 1994 (title V of the Riegle Community Development and

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Regulatory Improvement Act of 1994) includes a number of amendments to the Flood Disaster Protection Act of 1973. The amendments are intended to improve compliance with existing flood insurance purchase requirements, including provisions concerning forced placement of policies, escrowing of insurance premiums, standard determination forms, notification requirements, penalties for noncompliance, and compliance examination requirements. All State member banks, including small institutions, will be subject to the amended provisions.

Under the statute, the Federal banking agencies are to consult and coordinate on the development of implementing regulations through the Federal Financial Institutions Examination Council.

In October 1995, the Board issued for public comment a proposed rule developed jointly by the banking agencies to implement the provisions of the statute concerning flood insurance purchase, escrow of flood insurance premiums, and notification requirements (60 FR 53962, October 18, 1995). The proposal is part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. Following review of the public comments the Board is expected to take further action within the next four months. The proposed rule is not expected to have a significant economic impact on small institutions.

Timetable:

Action	Date	FR Cite
Board requested comment	10/18/95	60 FR 53962
Further Board action by	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawranne Stewart, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3513

RIN: 7100–AB86

4318. • REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (DOCKET NUMBER: R-0909)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321-338a; 12 USC 371d; 12 USC 461; 12 USC 481-486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831o; 12 USC 1831p-1; 12 USC 3105; ...

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: In December 1995, the Board issued for public comment proposed amendments to Regulation H pertaining to the recordkeeping and confirmation disclosures for certain securities transactions effected by State member banks (60 FR 66759, December 26, 1995). These disclosures cover transactions effected for customers involving debt and asset-backed securities and generally require three-day settlement for these transactions.

It is not expected that the revisions will have a significant economic impact on a substantial number of small institutions. Following review of the public comments, the Board is expected to take further action within the next three months. The proposal is part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

Timetable:

Action	Date	FR Cite
Board requested comment	12/26/95	60 FR 66759
Further Board action expected by	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Susan S. Meyers, Senior Securities Regulation Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2781

RIN: 7100–AC07

4319. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBERS: R-0884 AND R-0886)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831o; 12 USC 1831p-1; 12 USC 3105; ...

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: None

Abstract: In July 1995, the Board published for comment proposed amendments to its risk-based capital guidelines for State member banks and bank holding companies (60 FR 38081, July 25, 1995; Docket No. R-0884). The proposed amendments would incorporate a measure for market risk in foreign exchange and commodity activities and in the trading of debt and equity instruments. Institutions would calculate market risk capital charges using either their own internal models or techniques developed by supervisors. The amendments are consistent with proposed international market risk standards and with similar standards being developed by the other Federal bank regulatory agencies.

The Board also requested comment on an alternative "pre-commitment" approach for setting market risk capital requirements (60 FR 38142, July 25, 1995; Docket No. R-0886). Under this approach, an institution would specify the amount of capital it chose to allocate to support market risk over a specified period of time. The Board could provide incentives for institutions to allocate sufficient market risk capital by methods such as public disclosure of market risk capital levels or penalties when losses exceed allocated capital.

The market risk capital proposals would affect only institutions with relatively large trading activities and therefore would have little or no effect on small entities. Following review of the public comments, the Board is expected to take further action within the next two months.

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Timetable:

Action	Date	FR Cite
Board requested comment on R-0884	07/25/95	60 FR 38081
Board requested comment on R-0886	07/25/95	60 FR 38142
Further Board action by	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James Houpt, Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3358

RIN: 7100–AC01

4320. REGULATION: K—INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0916)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 3105(k)

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: In February 1996, the Board approved issuing for public comment a proposed amendment to Regulation K to implement the provision of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 that amended the International Banking Act of 1978 by adding a new subsection regarding the management of shell branches (61 FR 6956, February 23, 1996). The relevant subsection prohibits foreign banks from using their U.S. branches or agencies to manage types of activities through offshore shell branches that could not be managed by a U.S. bank at its foreign branches or subsidiaries.

It is not anticipated that the proposal will have a significant economic impact on a substantial number of small entities subject to the Board's regulation. Following review of the public comments, the Board is expected to take further action within the next six months. The proposal is part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

Timetable:

Action	Date	FR Cite
Board requested comment	02/23/96	61 FR 6956
Further Board action by	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Janet Crossen, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3281

RIN: 7100–AB88

4321. REGULATION: K—INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0911)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1841 et seq; 12 USC 3101 et seq

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: The Riegle-Neal Interstate Banking and Branching Act of 1994 (the Interstate Act) contains provisions affecting foreign banks with U.S. operations, including, among other matters, interstate banking and branching and the selection of home states by foreign banks. In December 1995, the Board issued for public comment proposed rules concerning home state selection, removing certain outdated restrictions and making other changes needed to implement these statutory changes (60 FR 67100, December 28, 1995). Further, the Board requested comment on other issues raised for foreign banks under the Interstate Act. The proposals are part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

It is not expected that the proposals will have a significant economic impact on a substantial number of small banks. Following review of the public comments, the Board is expected to take further action within the next four months.

Timetable:

Action	Date	FR Cite
Board requested comment	12/28/95	60 FR 67100
Further action by	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Douglas M. Ely, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-5289

RIN: 7100–AB89

4322. REGULATION: L—MANAGEMENT OFFICIAL INTERLOCKS (DOCKET NUMBER: R-0907)

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-325

CFR Citation: 12 CFR 212

Legal Deadline: None

Abstract: Regulation L implements provisions of the Depository Institutions Management Interlocks Act (DIMIA), which regulates management interlocks among depository institutions. Section 338 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act) amended certain sections of DIMIA. In December 1995, the Board, along with the Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, and Office of Thrift Supervision, issued for public comment a joint proposed rule (60 FR 67424, December 29, 1995); the National Credit Union Association is expected to issue an identical proposal later this year. The proposed rule revises each agency's regulation implementing DIMIA to conform with the statutory changes set forth in section 338 and, in order to comply with section 303 of the CDRI Act, streamlines and modifies the regulations to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability.

Following review of the public comments, it is expected that the Board, with the other regulatory agencies, will take further action by mid-year. It is not anticipated that the proposal will have a significant impact on a substantial number of small institutions.

Timetable:

Action	Date	FR Cite
Board requested comment	12/29/95	60 FR 67424
Further Board action expected by	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

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Final Rule Stage

Agency Contact: Tina Woo, Staff Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3890

RIN: 7100–AB90

4323. REGULATION: M—CONSUMER LEASING (DOCKET NUMBER: R-0892)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1604

CFR Citation: 12 CFR 213

Legal Deadline: None

Abstract: The Board is undertaking a complete review of Regulation M under the Board's Regulatory Planning and Review Program. The Program calls for the periodic review of Board regulations to determine whether a regulation should be eliminated, simplified, updated, or otherwise revised. To gather information needed for this review and to ensure the participation of interested parties at the beginning of the process, in November 1993, the Board approved issuing for public comment an advance notice of the proposed rulemaking, soliciting comment, generally, on revisions to the regulation, while also soliciting comment on specific issues dealing with early termination penalties, advertising, and segregation of disclosure terms from other information. In August 1995, following review of the comments, the Board approved the issuance of a proposed rule revising Regulation M (60 FR 48752, September 20, 1995). The Riegle Community Development and Regulatory Improvement Act (CDRI Act) amendment to the Consumer Leasing Act to allow an alternative disclosure scheme for radio advertisements is a part of the proposal. The proposed rulemaking is included in the Board's overall review of its regulations as required by section 303 of the CDRI Act.

It is not anticipated that the proposed revisions will have s significant economic impact on a substantial number of small entities. Following review of the public comments, the Board is expected to take further action with the next three months.

Timetable:

Action	Date	FR Cite
Board approved requesting comment	11/19/93	58 FR 61035
Board approved issuance of a proposed rule	09/20/95	60 FR 48752
Further Board action within the next three months	05/00/96	
Comment period extended until 02/15/96	12/06/96	60 FR 62349

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Adrienne D. Hurt, Managing Counsel, Financial Services Section, Federal Reserve System
Phone: 202 452-2412

RIN: 7100–AB74

4324. REGULATION: S—REIMBURSEMENT FOR PROVIDING FINANCIAL RECORDS; RECORDKEEPING REQUIREMENTS FOR CERTAIN FINANCIAL RECORDS (DOCKET NUMBER: R-0688)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1829b; 12 USC 1951 to 1959; 31 USC 5311 to 5330

CFR Citation: 12 CFR 219; 12 CFR 103.33

Legal Deadline: None

Abstract: In January 1995, the Department of the Treasury and the Board jointly adopted a final rule that requires enhanced recordkeeping related to certain funds transfers and transmittals of funds by financial institutions (the joint rule). Also in January 1995, the Treasury adopted a companion rule, known as the travel rule, that requires financial institutions to include in transmittal orders certain information that must be maintained under the joint rule. The joint rule sets forth definitions of terms used in both rules. The original effective date of these rules was January 1, 1996. Subsequent to adoption of these rules, several banks have expressed concerns that compliance with the joint rule and the travel rule would be complicated if the parties to an international transfer were defined differently in the Bank Secrecy Act regulations than they are defined in the Uniform Commercial Code Article 4A. In response to these concerns, in August 1995, the Board approved issuing for public comment proposed amendments to the joint rule's definitions and technical conforming changes to the substantive provisions to conform the meanings of the definitions of the parties to an international transfer to their meanings under Article 4A of the Uniform Commercial Code (60 FR 44144, August 24, 1995).

The proposed amendments are intended to reduce confusion of banks and nonbank financial institutions (including small institutions) as to the applicability of the joint rule and the travel rule and to reduce the cost of complying with the rules' requirements. Due to the uncertainties resulting from these proposed amendments, the Treasury and the Board have deferred the effective date of the joint rule until April 1, 1996.

Following review of the public comments, the Board is expected to take final action within the next two months. It is not anticipated that the proposal will have a significant adverse economic impact on small institutions.

Timetable:

Action	Date	FR Cite
Board requested comment	08/24/95	60 FR 44144
Final Board action by	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elaine Boutilier, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-2418

RIN: 7100–AC03

4325. • REGULATION: S—REIMBURSEMENT FOR PROVIDING FINANCIAL RECORDS; RECORDKEEPING REQUIREMENTS FOR CERTAIN FINANCIAL RECORDS (DOCKET NUMBER: R-0906)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 3415

CFR Citation: 12 CFR 219

Legal Deadline: None

Abstract: In December 1995, the Board requested public comment on a revision to subpart A of Regulation S, which implements the requirement under the Right to Financial Privacy Act (RFPA) that the Board establish the rates and conditions under which payment shall be made by a government authority to a financial institution for providing financial records pursuant to RFPA (60 FR 65599, December 20, 1995). The

proposed amendments update the fees to be charged and reflect statutory changes in the exemptions. Also, as part of the overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, the Board has streamlined the regulation by eliminating unnecessary provisions.

Following review of the public comments, the Board is expected to take further action within the next two months. It is not anticipated that the proposal will have a significant adverse economic impact on small institutions.

Timetable:

Action	Date	FR Cite
Board requested comment	12/20/95	60 FR 65599
Further Board action by	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elaine M. Boutilier, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-2418

RIN: 7100–AC10

4326. REGULATION: T—CREDIT BY BROKERS AND DEALERS (DOCKET NUMBER: R-0772)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78h Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 220

Legal Deadline: None

Abstract: The Board is conducting a periodic review of Regulation T, which regulates extensions of credit by and to brokers and dealers. In August 1992, the Board approved a general request for comments to aid in its review (57 FR 37109, August 18, 1992). In July 1994, the Board proposed amendments in two specific areas of Regulation T (Docket Number R-0840; RIN 7100-AB78). Those amendments were adopted in October 1994.

In June 1995, the Board proposed additional amendments that further reflect the comments submitted in response to the Board's Advance Notice of Proposed Rulemaking (60 FR 33673, June 29, 1995).

Many of the proposed amendments feature increased reliance on rules of the Securities and Exchange Commission and self-regulatory organizations. Others would make Regulation T consistent with Regulations G and U, the regulations covering securities credit by lenders other than broker-dealers. It is not anticipated that the revisions would have a significant economic impact on the overall lending activities of a substantial number of small brokerage firms.

Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board issued advance notice and request for comment	08/18/92	57 FR 37109
Board requested comment on amendments	06/29/95	60 FR 33763
Further Board action by	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Scott J. Holz, Senior Attorney, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2781

RIN: 7100–AB28

4327. REGULATION: U—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS (DOCKET NUMBER: R-0905)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78h Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 221

Legal Deadline: None

Abstract: The Board is conducting a periodic review of Regulation U, which generally regulates bank extensions of credit that are secured by publicly traded stock. In December 1995, the Board proposed amendments for public comment that would (1) reduce the regulatory burden associated with loans secured by margin stock and other collateral and (2) clarify the circumstances under which a bank may finance the purchase of customer securities bought on a cash basis at a broker-dealer (60 FR 63660, December 12, 1995). Comment was also invited on all other areas of the regulation. The proposals also satisfy requirements under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. It is not anticipated that the revisions will have a significant economic impact on the overall lending activities of a substantial number of small banks. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	12/12/95	60 FR 63660
Further Board action by	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Scott J. Holz, Senior Attorney, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2781

RIN: 7100–AB65

4328. REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0868)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1831(i); 12 USC 1843(c)(8); 12 USC 1844(b); 12 USC 3106; 12 USC 3108; 12 USC 3907; 12 USC 3909; 12 USC 3310; 12 USC 3331 to 3351

CFR Citation: 12 CFR 225.125(g)

Legal Deadline: None

Abstract: Section 225.25(b)(4) of the Board's Regulation Y authorizes bank holding companies to act as investment adviser to registered investment companies. Bank holding companies that provide such services are subject to certain restrictions set forth in the Board's interpretation regarding investment adviser activities. In December 1994, the Board approved

issuing for public comment a proposal to amend the limitations in the investment adviser interpretation to permit bank holding companies that advise an investment company to purchase, in a fiduciary capacity, securities of the investment company if the purchase is specifically authorized by the terms of the instrument creating the fiduciary relationship, by court order, or by the law of the jurisdiction under which the trust is administered (59 FR 67654, December 30, 1994).

It is not anticipated that amending the investment adviser interpretation will have a significant impact on a substantial number of small institutions as it will relax an existing restriction. Following review of the public comments, the Board is expected to take final action within the next six months.

Timetable:

Action	Date	FR Cite
Board requested comment	12/30/94	59 FR 67654
Further Board action by	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas M. Corsi, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3275

RIN: 7100–AB95

4329. REGULATION: DD—TRUTH IN SAVINGS (DOCKET NUMBER: R-0836 AND DOCKET NUMBER: R-0869)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4301 et seq

CFR Citation: 12 CFR 230

Legal Deadline: None

Abstract: Sections 261 to 275 of the Federal Deposit Insurance Corporation Improvement Act of 1991 require depository institutions to provide a schedule of terms, rates, and fees for deposit accounts offered by the institution. The law also sets forth rules for advertisements for deposit accounts.

In January 1995, the Board issued for public comment proposed amendments to Regulation DD that would produce an annual percentage yield (APY) that reflects the timing of interest payments as well as the timing of compounding. The proposal also solicits comment on an alternative method of calculating the APY (an internal rate of return formula) (60 FR 5142, January 26, 1995). The January 1995 proposal is an outgrowth of a May 1994 proposal that would have affected institutions' compounding and crediting practices in addition to changing the APY (59 FR 24378, May 11, 1994). The Board also adopted in January 1995 an interim rule that permits institutions and deposit brokers advertising noncompounding multiyear time accounts that require interest payouts at least annually to disclose an APY equal to the interest rate (60 FR 5128, January 26, 1995; Docket No. R-0836). Public comment on the approach was solicited in a July 1994 notice extending the comment period for the May 1994 proposal (59 FR 35271, July 11, 1994). The economic impact on small institutions will depend upon the variety of deposit products offered, the extent of the disclosures, and the options for compliance offered by the final rule.

The Congress is considering legislation that would require substantial revisions to Regulation DD, including eliminating the APY. Further action by the Board is deferred, pending action by the Congress on Truth in Savings legislation.

Timetable:

Action	Date	FR Cite
Board requested comment	05/11/94	59 FR 24378
Board extended comment period	07/11/94	59 FR 35271
Board adopted an interim rule	01/26/95	60 FR 5128
Board requested further comment	01/26/95	60 FR 5142
Further Board action following any Congressional action	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Ahrens, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AB80

4330. FEDERAL RESERVE BANK BOOK-ENTRY SECURITIES TRANSFER SERVICES (DOCKET NUMBER: R-0866)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 221 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In January 1995, the Board requested public comment on the effects of opening the Fedwire on-line book-entry securities transfer service earlier in the day, on new service capabilities related to earlier opening, and on establishment of a firm closing time for the service (60 FR 123, January 3, 1995). An earlier opening time could benefit the financial markets by facilitating international transactions, providing increased liquidity, and reducing risk. Participation in the proposed early-hour service would be voluntary; therefore, the service should not have a significant economic effect on a substantial number of small entities.

In August 1995, following review of the public comments, the Board adopted a firm closing time of 3:15 p.m. (ET) for transfer originations and 3:30 p.m. (ET) for reversals, effective January 2, 1996 (60 FR 42410, August 15, 1995).

Following further review of the public comments, the Board is expected to take further action regarding earlier opening and new service capabilities by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	01/03/95	60 FR 123
Board adopted firm closing time	08/15/95	60 FR 42410
Further Board action by	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lisa Hoskins, Project Leader, Federal Reserve System, Division of Reserve Bank Operations and Payment Systems
Phone: 202 452-3437

RIN: 7100–AB97

4331. FEDERAL RESERVE PAYMENTS SYSTEM RISK POLICY (DOCKET NUMBER: R-0889)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 221 et seq

CFR Citation: None

Legal Deadline: None

Abstract: In August 1995, the Board requested public comment on a policy to control access to Federal Reserve Bank automated clearing house (ACH) services by entities other than the depository institutions whose Federal Reserve accounts will be debited (60 FR 42413, August 15, 1995). The proposed policy is intended to help ensure the safety and soundness of the ACH system.

The proposed policy could have a significant economic impact on a substantial number of small depository institutions that use Federal Reserve ACH services or third-party ACH service providers. The proposal would require those institutions to originate ACH credit transfers, set credit limits for those customers, and transmit those limits to a monitoring facility operated by either the Federal Reserve or the third-party service provider. Following review of the public comments, the Board is expected to take further action within the next four months.

Timetable:

Action	Date	FR Cite
Board requested comment	08/15/95	60 FR 42413
Further Board action by	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Scott E. Knudson, Senior Financial Services Analyst, Federal Reserve System, Division of Reserve Bank Operations and Payment Systems
Phone: 202 452-3959

RIN: 7100–AC04

4332. RISK-BASED CAPITAL STANDARDS: INTEREST RATE RISK (DOCKET NUMBER: R-0802)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1823(j); 12 USC 3105; 12 USC 3310; 12 USC 3331 to 3351; 12 USC 3906 to 3909; 15 USC 78(b)

CFR Citation: 12 CFR 208; 12 CFR 225

Legal Deadline: Final, Statutory, June 19, 1993.

Abstract: Section 305 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) requires each Federal banking agency to revise its risk-based capital standards for the depository institutions it regulates in order to ensure that those standards take adequate account of interest rate risk (IRR), concentration of credit risk, and the risks of nontraditional activities.

In March 1993, following a review of comments received from an advance notice of proposed rulemaking issued in 1992 and after staff discussions with the other agencies, the Board approved for public comment a notice of proposed rulemaking for IRR. In September 1994, the Riegle Community Development and Regulatory Improvement Act of 1994 amended section 305 of FDICIA by adding a new subparagraph instructing the banking agencies to "take into account the size and activities of the institutions and do not cause undue reporting burdens." Following review of the public comments and the recently enacted legislation, the Board approved a final rule in June 1995 amending its risk-based capital standards to consider explicitly "a bank's exposure to declines in the economic value of its capital due to changes in interest rates" when evaluating capital adequacy (60 FR 39490, August 2, 1995). It is not expected that the rule will have a significant economic impact on small institutions.

Also in June 1995, the Board approved requesting public comment on a proposed Joint Agency Policy Statement regarding the measurement and assessment of interest rate risk (60 FR 39495, August 2, 1995). The proposed Policy Statement describes a measurement framework comprised of exemption screens, a supervisory model, and use of a bank's own internal model.

Small banks would be exempted from the proposed Policy Statement and associated reporting requirements in order to lessen regulatory burden on small, well-managed banks.

Following review of the public comments, the Board is expected to take further action within the next six months.

Timetable:

Action	Date	FR Cite
Board requested public comment on an ANPRM	08/10/92	57 FR 35507
Board approved requesting comment on proposed rulemaking	09/14/93	58 FR 48206
Board approved final rule implementing section 305	08/02/95	60 FR 39490
Board approved requesting comment on proposed Joint Agency Policy Statement	08/02/95	60 FR 39495
Further Board action by	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James Embersit, Manager, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-5249

RIN: 7100–AB50

4333. RULES OF PRACTICE FOR HEARINGS (DOCKET NUMBER: R-0878)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 554 to 557; 12 USC 248; 12 USC 1817(j); 12 USC 1818; 12 USC 1847

CFR Citation: 12 CFR 263, subpart A

Legal Deadline: None

Abstract: Section 916 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 required the Federal financial institutions regulatory agencies to develop uniform rules and procedures for administrative hearings. The agencies each adopted final Uniform Rules in August 1991. Based on their experience since then, the agencies have identified sections of the Uniform Rules that should be modified. In June 1995, amendments to those provisions were published for comment (60 FR 32882, June 23, 1995). In addition to technical modifications or clarifications, the proposals also make some substantive changes relating to the scope of document discovery and the examination of witnesses by multiple counsel for a party. The proposed amendments will not have a significant economic impact on a substantial number of small entities. They affect only those persons and entities who are the subject of litigated enforcement actions by the Board.

Following review of the public comments, the Board is expected to take further action within the next two months. This proposal has been included in the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

Timetable:

Action	Date	FR Cite
Board requested comment	06/23/95	60 FR 32882
Further Board action by	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Katherine Wheatley, Assistant General Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3779

RIN: 7100–AC05

4334. • SECTION 23A OF THE FEDERAL RESERVE ACT (DOCKET NUMBER: R-0902)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 248(i); 12 USC 371c(e)

CFR Citation: 12 CFR 250.242

Legal Deadline: None

Abstract: Section 23A of the Federal Reserve Act regulates certain transactions between insured depository institutions and their affiliates. In general, it prohibits insured depository institutions from engaging in covered transactions with a single affiliate in excess of 10 percent of the institution's capital stock and surplus (aggregately, the limit is 20 percent). Section 23A does not, however, include a definition of capital stock and surplus.

In November 1995, the Board issued for public comment a proposal that would define capital stock and surplus for section 23A as Tier 1 and Tier 2 capital plus the balance of the allowance for loan and lease losses (60 FR 62050, December 4, 1995). This definition would conform to the definition of capital and surplus in Regulation O and to the definition used by the Comptroller of the Currency for national bank lending limits. It is not expected that the proposed definition will have a significant adverse economic impact on a substantial number of small institutions. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	12/04/95	60 FR 62050
Further Board action by	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Pam Nardolilli, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3289

RIN: 7100–AC08

4335. STANDARDS FOR SAFETY AND SOUNDNESS (DOCKET NUMBER: R-0766)

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-242

CFR Citation: 12 CFR ch II

Legal Deadline: Final, Statutory, December 1, 1993.

Abstract: Section 132 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) directs each Federal banking agency to prescribe standards regarding operations, management, asset quality, earnings, stock valuation (to the extent feasible), and employee compensation. In July 1992, the Board requested public comment on an interagency advance notice of proposed rulemaking. After considering the public's comments, a notice of proposed rulemaking was issued for comment that contained broad principle-based standards that leave the method for meeting such standards largely in the province of management.

In September 1994, the Riegle Community Development and Regulatory Improvement Act of 1994 modified section 132 by: (1) providing the agencies with the option to promulgate standards as guidelines rather than regulations; (2) removing bank holding companies from the scope of section 132; and (3) giving each agency discretion to prescribe standards relating to earnings, asset quality, and stock valuation that it deems appropriate.

Although the legislative changes allow the standards to be issued as guidelines, the enforcement provisions relating to compliance plans must be issued as regulations. Accordingly, in February 1995, the Board adopted a final rule and guidelines for section 132 taking into account these changes. The final rule is not expected to have a significant economic impact on small institutions.

The Board also approved for comment proposed guidelines for asset quality and earnings that represent broader, more comprehensive standards than the rigid ratios or minimums originally mandated by section 132. The final rule and guidelines and proposed guidelines were published in a joint agency notice in July 1995 (60 FR 35673 and 35688, July 10, 1995).

Following review of the public comments, the Board is expected to take further action on the proposed asset quality and earnings guidelines within the next six months. The proposal is part of the Board's overall review of Regulation H as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

Timetable:

Action	Date	FR Cite
Board requested public comment	07/15/92	57 FR 31336
Board issued notice of proposed rulemaking	11/18/93	58 FR 60802
Board adopted rule and guidelines	07/10/95	60 FR 35678
Board requested comment on additional guidelines	07/10/95	60 FR 35688
Further Board action by	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roger T. Cole, Deputy Associate Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2618

RIN: 7100–AB52

FRS — Final Rule Stage

4336. TEN PERCENT REVENUE LIMIT ON BANK-INELIGIBLE ACTIVITIES OF SUBSIDIARIES OF BANK HOLDING COMPANIES (DOCKET NUMBER: R-0841)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 377

CFR Citation: None

Legal Deadline: None

Abstract: Section 20 of the Glass-Steagall Act prohibits a member bank from being affiliated with a company that is "engaged principally" in underwriting and dealing in securities that a bank may not underwrite and deal in directly ("ineligible securities"). In July 1994, the Board issued for public comment a proposal to provide an alternative to the current indexed revenue test used to measure compliance with the "engaged principally" standard (59 FR 35516, July 12, 1994). The current test limits to 10 percent revenue earned from ineligible securities activities relative to the total revenue of a bank holding company subsidiary engaged, to a limited extent, in underwriting and dealing in ineligible securities ("section 20 subsidiary"). Comments were solicited on whether asset values or sales volume data, or a combination of both measures, should be used as a new alternative test. In 1993, the Board solicited comment on a proposed test based on asset values, then deferred a decision to adopt such a test. The current proposal would allow section 20 subsidiaries additional flexibility in the conduct of their securities operations and arises due to the Board's increased experience in reviewing and monitoring the activities and operations of these subsidiaries. The proposal would not have a significant economic impact on small entities nor on a substantial number of bank holding companies.

Following review of the public comments, the Board is expected to take further action within the next six months.

Timetable:

Action	Date	FR Cite
Board requested comment	07/12/94	59 FR 35516
Further Board action by	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas Corsi, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3275

RIN: 7100–AB82

FEDERAL RESERVE SYSTEM (FRS) — Completed Actions

4337. REG.: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN F.R.S.; REG.: K—INTERNATIONAL BANKING OPERATIONS; AND REG.: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NO.:R-0885)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831o; 12 USC 1831p-1; 12 USC 3105; ...

CFR Citation: 12 CFR 208.20; 12 CFR 211.8; 12 CFR 211.24(f); 12 CFR 225.4(g)

Legal Deadline: None

Abstract: In July 1995, the Board approved issuing for public comment proposed revisions to its regulations on reporting of suspicious activities by the domestic and foreign banking organizations supervised by the Federal Reserve, including the reporting of suspicious financial transactions such as suspected violations of the Bank Secrecy Act (60 FR 34481, July 3, 1995). The rules implement a new interagency suspicious activity referral process. The rules also reduce substantially the burden on banking organizations (including small institutions) in reporting suspicious activities while enhancing access to such information by the Federal law enforcement agencies, the Federal financial institutions supervisory agencies and the Department of the Treasury. It is not anticipated that the proposal will have a significant adverse economic impact on small institutions.

In February 1996, following review of the public comments and in coordination with the other Federal financial institutions supervisory agencies and the Department of the Treasury, the Board adopted the proposals with additional clarifications and burden reduction measures (61 FR 4338, February 5, 1996).

Timetable:

Action	Date	FR Cite
Board approved request for comment	07/03/95	60 FR 34481
Board adopted proposal	02/05/96	61 FR 4338

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Herbert A. Biern, Deputy Associate Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2620

RIN: 7100–AC00

4338. REGULATION: H—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0849)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831i; ...

CFR Citation: 12 CFR 208, app A; 12 CFR 208, app B; 12 CFR 225, app A

Legal Deadline: None

Abstract: In October 1994, the Board, in conjunction with the Office of the Comptroller of the Currency, issued for public comment a proposal that would amend its risk-based capital guidelines for State member banks and bank holding companies by modifying the criteria used to define the Organization for Economic Cooperation and Development (OECD)-based group of countries (59 FR 52100, October 14, 1994). Under the guidelines, claims on the OECD-based group of countries are eligible for lower risk weight treatment. The OECD-based group of countries would continue to be defined as countries that are full members of the OECD (or that have concluded special lending arrangements with the International Monetary Fund (IMF) associated with the IMF's General Arrangement to Borrow), but the guidelines would exclude any country within this group that has rescheduled its external sovereign debt within the previous five years. The proposed amendment was based on an announcement by the Basle Supervisors' Committee that it intended to revise the Basle Accord definition of the OECD-based group of countries.

In December 1995, following review of the public comments and final action by the Basle Supervisors' Committee, the Board, in conjunction with the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation, adopted the proposal in substantially the form proposed (60 FR 66042, December 20, 1995).

The revision is not expected to have a significant economic impact on a substantial number of small business entities.

Timetable:

Action	Date	FR Cite
Board requested public comment	10/14/94	59 FR 52100
Board adopted proposal	12/20/95	60 FR 66042

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Motyka, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3621

RIN: 7100–AB92

4339. REGULATION: K—INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0754)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 3105; 12 USC 3108

CFR Citation: 12 CFR 211

Legal Deadline: None

FRS — Completed Actions

Abstract: In January 1993, following review of the public comments, the Board issued a final rule implementing sections 202-204 and 206 of title II of the Federal Deposit Insurance Corporation Improvement Act of 1991, which, among other things, require prior approval of the Board for the establishment of branches, agencies, commercial lending companies, and representative offices by foreign banks in the United States (58 FR 6348, January 28, 1993).

The Board also requested additional public comment on those portions of the final rule that deal with representative offices of foreign banks. Comments were sought on the definition of representative office and on the standards that should govern the activities that a representative office may conduct. In January 1996, following review of the public comments, the Board adopted a final rule which allows foreign banks meeting certain criteria to utilize the Board's prior notice procedures; clarifies which foreign banks may establish general consent representative offices; and establishes a means by which "special purpose foreign government banks" may seek exemptions from the definition of "foreign bank" under the Foreign Banks Supervision Enhancement Act (61 FR 2899, January 30, 1996).

The amendments are not expected to have a significant economic impact on small institutions. The final rule also was a part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

Timetable:

Action	Date	FR Cite
Board issued an interim rule	04/15/92	57 FR 12992
Board issued a final rule and request for comment	01/28/93	58 FR 6348
Board issued final rule	01/30/96	61 FR 2899

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ann Misback, Managing Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3788

RIN: 7100–AB31

4340. REGULATION: K—INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0862)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 211

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: In December 1994, the Board issued for public comment proposed criteria to implement a portion of section 202(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 with respect to the criteria to be used in evaluating the operations of foreign banks that the Board has determined are not subject to comprehensive supervision or regulation on a consolidated basis (59 FR 64171, December 18, 1994). The criteria, as proposed, would not have a significant economic impact on a substantial number of small entities subject to the Board's regulation. In February 1996, following review of the public comments, the Board, in consultation with the Secretary of the Treasury, adopted the proposal substantially as proposed (61 FR 6918, February 23, 1996). The final rule also was reviewed as part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

Timetable:

Action	Date	FR Cite
Board requested public comment	12/13/94	59 FR 64171
Board adopted proposal	02/23/96	61 FR 6918

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra Richardson, Managing Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-6406

RIN: 7100–AB58

4341. REGULATION: K—INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0896)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 221 et seq; 12 USC 1841 et seq; 12 USC 3101 et seq

CFR Citation: 12 CFR 211

FRS

Completed Actions

Legal Deadline: None

Abstract: In September 1995, the Board issued for public comment proposed amendments to Regulation K to provide expanded general consent authority for de novo investments in foreign companies by U.S. banking organizations that are strongly capitalized and well managed (60 FR 49350, September 25, 1995). Following review of the public comments, the Board issued a final rule adopting the proposed amendments as modified to reflect the public comments (60 FR 67050, December 28, 1995). This expanded general consent authority is designed to permit U.S. banking organizations that are strongly capitalized and well managed to make larger investments without the need for prior approval or review. Certain investments or activities, however, are not eligible for the expanded authority. Investments under the expanded authority are subject to an annual aggregate limit and to a post-investment notice requirement. In addition, for those investments requiring prior notice to the Board, the final rule streamlines the processing of such notices.

The final rule is not expected to have a significant adverse economic impact on a substantial number of small entities. It affects only those U.S. banking organizations with foreign operations or that are engaged in foreign investment activities. The final rule also was reviewed as part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

Timetable:

Action	Date	FR Cite
Board requested comment	09/25/95	60 FR 49350
Board adopted proposal	12/28/95	60 FR 67050

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra L. Richardson, Managing Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-6406

RIN: 7100–AC02

4342. REGULATION: L—MANAGEMENT OFFICIAL INTERLOCKS (DOCKET NUMBER: R-0825)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 3207

CFR Citation: 12 CFR 212

Legal Deadline: None

Abstract: Regulation L implements provisions of the Depository Institution Management Interlock Act (DIMIA), which regulates management interlocks among depository institutions. Among DIMIA's prohibitions are provisions barring management interlocks between depository organizations with offices in the same community or metropolitan statistical area (MSA). In November 1993, the Board approved soliciting comment on an amendment to Regulation L that would permit interlocks otherwise prohibited under the community or MSA provisions if the institutions involved hold in the aggregate less than 20 percent of the deposits in the community or MSA (59 FR 7909, February 17, 1994). The amendment should benefit smaller organizations by giving them access to a larger pool of potential management officials. It is not expected that the proposal will have a significant adverse economic impact on a substantial number of depository institutions.

Subsequently, the Riegle Community Development and Regulatory Improvement Act of 1994 amended the Board's broad rulemaking authority by authorizing it to grant exemptions only in more narrow circumstances. In light of this statutory change, the Board withdrew its proposal as part of a new proposed joint agency rulemaking regarding management interlocks (Docket Number: R-0907; RIN 7100-AB90).

Timetable:

Action	Date	FR Cite
Board requested public comment	02/17/94	59 FR 7909
Board withdrew proposal	12/29/95	60 FR 67426

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas M. Corsi, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3275

RIN: 7100–AB72

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federal register

Monday
May 13, 1996

Part LVII

Federal Trade Commission

Semiannual Regulatory Agenda

FEDERAL TRADE COMMISSION (FTC)

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published in accordance with section 22(d)(1) of the Federal Trade Commission Act, 15 U.S.C. 57b-3(d)(1), and section 610(c) of the Regulatory Flexibility Act, 5 U.S.C. 610(c). Except for notice of completed actions, the information in this agenda represents the judgment of Commission staff based upon information now available, and each projected date of action reflects an assessment by the FTC staff of the likelihood that the specified event will occur during the coming year. No final determination by the staff or the Commission respecting the need for or the substance of a trade regulation rule or any other procedural option should be inferred from the notation of projected events in this agenda.

In most instances, the dates of future events are listed by month, not by a specific day. Acquisition of new information, change of circumstances, or changes in the law may alter the information set forth in this agenda. Several agenda items concern rulemaking proceedings that may affect a substantial number of small businesses as that term is used in the Regulatory Flexibility Act. Whether the likely economic impact on such entities is significant will depend upon the outcome of the particular proceeding.

FOR FURTHER INFORMATION CONTACT: Further details may be obtained from the agency contact person listed for each particular proceeding.

By direction of the Commission.

Donald S. Clark,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4343	Trade Regulation Rule on Franchising and Business Opportunity Ventures	3084-AA63
4344	Deceptive Advertising and Labeling of Previously Used Lubricating Oil	3084-AA71
4345	Rule Governing the Pre-Sale Availability of Written Warranty Terms	3084-AA73

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4346	Premerger Notification Rules and Report Form	3084-AA23
4347	Games of Chance in the Food Retailing and Gasoline Industries Rule	3084-AA24
4348	Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986	3084-AA48
4349	Rules and Regulations Under the Wool Products Labeling Act of 1939	3084-AA50
4350	Rules and Regulations Under the Fur Products Labeling Act	3084-AA51
4351	Rules and Regulations Under the Textile Fiber Products Identification Act	3084-AA52
4352	The Care Labeling Rule	3084-AA54
4353	Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation	3084-AA60
4354	Trade Regulation Rule for the Incandescent Lamp (Light Bulb) Industry	3084-AA61
4355	Trade Regulation Rule Concerning Misbranding and Deception as to Leather Content of Waist Belts	3084-AA62
4356	Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions	3084-AA72
4357	Appliance Labeling Rule—Energy Policy and Conservation Act	3084-AA74

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4358	Amended Federal Deposit Corporation Improvement Act	3084-AA44
4359	Regulatory Review	3084-AA47

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4360	Cooling-Off Period for Sales Made at Homes or at Certain Other Locations	3084-AA53
4361	The Used Motor Vehicle Trade Regulation Rule	3084-AA56

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4362	Test Procedures and Labeling Standard for Recycled Oil	3084-AA64
4363	Deception as to Non-Prismatic and Partially Prismatic Instruments Being Prismatic Instruments	3084-AA65
4364	Advertising and Labeling of Sleeping Bags	3084-AA66
4365	Failure To Disclose the Lethal Effects of Inhaling Quick-Freeze Spray Products Used for Frosting Cocktail Glasses	3084-AA67
4366	Failure To Disclose That Skin Irritation May Result From Washing or Handling Glass Fiber Curtains and Draperies and Glass Fiber Curtain and Drapery Fabrics	3084-AA68
4367	Deceptive Advertising and Labeling as to Size of Tablecloths and Related Products	3084-AA69
4368	Deceptive Advertising and Labeling as to Length of Extension Ladders	3084-AA70

FEDERAL TRADE COMMISSION (FTC) — Prerule Stage

4343. TRADE REGULATION RULE ON FRANCHISING AND BUSINESS OPPORTUNITY VENTURES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 to 58

CFR Citation: 16 CFR 436

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule on Franchising and Business Opportunity Ventures (Franchise Rule) became effective on October 21, 1979. The Rule is designed to reduce deceptive and unfair practices in the sale of franchises and business opportunities by requiring the pre-sale disclosure of material information about the franchise. For example, the Rule requires franchisors to disclose their business background and litigation history, as well as the number of failed and terminated franchise units. The Rule also requires the disclosure of material terms of the franchise relationship, such as recurring fees and termination and renewal rights. The Rule further requires the franchisor to provide an audited financial statement for the past three fiscal years. Finally, the Rule requires any franchisor who makes earnings representations to provide the prospective franchisee with an earnings claims document that substantiates those claims. As part of its systematic review of all current Commission rules and guides, the Commission is requesting comments about the overall costs and benefits of the Rule and what effects, if any, have changes in relevant technology, economic conditions, and industry practices had on the Rule. The Commission may also consider other areas of the Rule, as appropriate. Two public workshops have been held, one on September 12, 1995, and the other on March 11, 1996.

Timetable:

Action	Date	FR Cite
Request for Comments	04/15/95	
Comment Period End	08/11/95	
Public Workshop	09/12/95	
Public Workshop	03/11/96	
Recommendations to the Commission	04/15/96	
Final Commission Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Steven Toporoff, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-3135

RIN: 3084–AA63

4344. • DECEPTIVE ADVERTISING AND LABELING OF PREVIOUSLY USED LUBRICATING OIL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 406

Legal Deadline: None

Abstract: The Used Oil Rule was promulgated by the Commission on August 14, 1964, to prevent deception of consumers who prefer new and unused lubricating oil. The Rule requires that advertising, promotional material, and labels for lubricant made from used oil disclose such previous use. The Rule prohibits any representation that used lubricating oil is new or unused. In addition, it prohibits use of the term "re-refined," or any similar term, to describe previously used lubricating oil unless the physical and chemical contaminants have been removed by a refining process. The Commission will request public comment on the Rule in 1996. In 1980, the Rule's labeling disclosure requirements were suspended by the Used Oil Recycling Act until the Commission issued rules under the Energy Policy and Conservation Act (EPCA). Based on that suspension, in 1981, the Commission suspended the Rule's advertising and promotional materials disclosure requirements. In July 1995, the Commission received the test procedures from the National Institute of Standards and Technology that triggered promulgation of the Rule under EPCA. On October 31, 1995, the Commission published the Recycled Oil Rule (covering recycled engine oil). Under EPCA, the Recycled Oil Rule preempts the Used Oil Rule's labeling and advertising requirements for engine oils. For non-engine oils, the Used Oil Rule's labeling disclosure provisions continue to be subject to the Congressional stay, and the advertising disclosure provisions continue to be subject to the Commission's stay. When it published the Recycled Oil Rule, the Commission stated that as part of its regulatory review process, it would

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consider the continuing need for the Used Oil Rule. Therefore, this proceeding has been included as part of the Reinventing Government Initiative because it may eliminate or revise CFR text to reduce burden or duplication, or streamline requirements.

Timetable:

Action	Date	FR Cite
Recommendation to Commission	03/01/96	
ANPRM	04/03/96	61 FR 14686
ANPRM Comment Period End	05/03/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neil Blickman, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-3038

RIN: 3084–AA71

4345. • RULE GOVERNING THE PRE-SALE AVAILABILITY OF WRITTEN WARRANTY TERMS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 460

Legal Deadline: None

Abstract: The Rule Governing the Pre-Sale Availability of Written Warranty Terms (Rule 702) establishes requirements for sellers and warrantors for making the terms of a written warranty available to the consumer prior to sale. Among other things, the Rule requires sellers to make warranty information readily available either by (1) displaying it in close proximity to the product or (2) furnishing it on request and posting signs in prominent locations advising consumers that warranty information is available. The rule requires warrantors to provide materials to enable sellers to comply with the rule's requirements, and also sets out the methods by which warranty information can be made available prior to the sale of the product in instances where the product is sold through catalogs, through mail order or through door-to-door sales. The Commission is reviewing this rule as part of its systematic review of all current Commission regulations and guides. The Commission will seek comments on, among other things, the economic impact of, and the continuing need for, this rule.

Timetable:

Action	Date	FR Cite
Begin Review	05/00/96	
Comment Period End	07/00/96	
Recommendation to the Commission	11/00/96	
Final Commission Action	02/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carole I. Danielson, Division of Marketing Practices, Bureu of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-3115

RIN: 3084–AA73

FEDERAL TRADE COMMISSION (FTC) — Proposed Rule Stage

4346. PREMERGER NOTIFICATION RULES AND REPORT FORM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 18a Clayton Act

CFR Citation: 16 CFR 801 to 803

Legal Deadline: None

Abstract: The Premerger Notification Rules and the Antitrust Improvements Act Notification and Report Form were adopted pursuant to Section 7A of the Clayton Act. Section 7A requires firms of a certain size contemplating mergers or acquisitions of a specified size to file notification with the Federal Trade Commission (FTC) and the Department of Justice (DOJ) and to wait a designated period before consummating the transaction. It also requires the FTC, with the concurrence of the Assistant Attorney General for Antitrust, to promulgate rules requiring that notification be in a form and contain information necessary to enable the FTC and DOJ to determine whether the proposed acquisition may, if consummated, violate the antitrust laws. These rules are continually reviewed in order to improve the program's effectiveness and reduce the paperwork burden on the business community. The Commission proposed modifications to the Premerger Notification and Report form during fiscal year 1994. In July 1995, the Commission proposed to amend the Rule's treatment of acquisitions of goods or realty made in the ordinary course of business. The Commission will reconsider what action, if any, to take on possible amendments regarding such acquisitions. In addition, on August 9, 1995, the Commission published a final rule that removed 16 CFR part 800, the transitional rule addressing the treatment of acquisitions consummated before, and notification filed on or before September 5, 1978.

Timetable:

Action	Date	FR Cite
Begin Review	09/30/81	
NPRM - Ordinary Course	09/24/85	50 FR 38742
NPRM - HSR Form Changes	06/14/94	59 FR 30545
NPRM - Ordinary Course	07/28/95	60 FR 38930
Part 800 Repealed	08/09/95	60 FR 40704
NPRM - Ordinary Course	04/00/96	
NPRM - HSR Form Changes	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Sipple, Assistant Director, Pre-Merger Notification, Federal Trade Commission, Bureau of Competition, Washington, DC 20580 Phone: 202 326-2862

RIN: 3084–AA23

4347. GAMES OF CHANCE IN THE FOOD RETAILING AND GASOLINE INDUSTRIES RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 41 et seq

FTC — Proposed Rule Stage

CFR Citation: 16 CFR 419

Legal Deadline: None

Abstract: The Commission's trade regulation rule concerning games of chance became effective on October 17, 1969. The Rule establishes requirements for food and gasoline retailers in conducting and advertising games of chance by requiring disclosure of odds-of-winning and prize information in broadcast and print advertisements, as well as in point of sale information. In January, 1983, the Commission granted a temporary partial exemption to allow supermarkets and gas stations to advertise their games on radio and television without disclosing full information on prizes and odds-of-winning. In addition, the Commission also published an Advance Notice of Proposed Rulemaking on whether to make the broadcast exemption permanent. Finally, the Commission proposed to reduce the recordkeeping requirements of the Rule from three years to one year in keeping with the goals of the Paperwork Reduction Act, and requested public comment on other possible areas where amendments to the Rule may be appropriate. The Commission issued an NPRM on July 7, 1988 to consider amendments that would reduce the burden of the Rule's recordkeeping and disclosure requirements. On July 26, 1995, the presiding officer reopened the record for additional public comment, particularly with regard to whether there is a continuing need for this Rule. Although this rulemaking was commenced prior to the Reinventing Government Initiative, it has been included as part of that Initiative because further proceedings in this matter will be consistent with that Initiative.

Timetable:

Action	Date	FR Cite
Promulgation of Original Rule	08/19/69	34 FR 13302
ANPRM	01/04/83	48 FR 265
Temporary Partial Exemption	01/10/83	48 FR 1046
NPRM	07/07/88	53 FR 25503
Reopened Record	07/26/95	60 FR 38474
Comment Period End.	09/25/95	
Presiding Officer's Report	04/00/96	
Staff Report	04/00/96	
Comment Period End	06/00/96	
Commission Consideration of Staff Recommendations	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John M. Mendenhall, Federal Trade Commission, Cleveland Regional Office, Suite 520A, 668 Euclid Ave., Cleveland, Ohio 44114 Phone: 216 522-4207

RIN: 3084–AA24

4348. REGULATIONS UNDER THE COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 4401

CFR Citation: 16 CFR 307

Legal Deadline: None

Abstract: The Comprehensive Smokeless Tobacco Health Education Act of 1986 requires health warnings on all packages and advertising for smokeless tobacco. The Commission published an NPR on February 14, 1995 seeking public comment on whether the regulations governing the rotation schedule for utilitarian objects should be amended. The comment period expired on April 14, 1995. On a separate point, the Coalition on Smoking OR Health petitioned the Commission to enforce the Smokeless Tobacco Act by requiring smokeless tobacco health warnings on sponsored racing cars, banners, flags, and other related objects bearing smokeless tobacco product brand names, logos, or selling messages. On October 26, 1993, the Commission issued an NPR, proposing a requirement that sponsored auto racing vehicles and all other event-related objects that bear the brand name or selling message of smokeless tobacco products display health warning labels. Staff is preparing its recommendations to the Commission.

Timetable:

Action	Date	FR Cite
NPRM (Promotional Items)	01/15/93	54 FR 4875
NPRM (Racing Cars)	11/04/93	58 FR 58810
Comment Period End (Racing Cars)	02/01/94	
NPRM (Utilitarian Items)	02/14/95	60 FR 8312
Comment Period End (Utilitarian Items)	04/14/95	
Final Staff Recommendation (Promotional Items)	04/00/96	
Final Staff Recommendation (Racing Cars)	04/00/96	
Final Staff Recommendations (Utilitarian Items)	04/00/96	
Commission Action (Promotional Items)	06/00/96	
Commission Action (Utilitarian Items)	06/00/96	
Commission Action (Racing Cars)	10/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Phillip Priesman, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-2484

RIN: 3084–AA48

4349. RULES AND REGULATIONS UNDER THE WOOL PRODUCTS LABELING ACT OF 1939

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 68 Wool Products Labeling Act of 1939

CFR Citation: 16 CFR 300

Legal Deadline: None

Abstract: The Wool Products Labeling Act of 1939 (Wool Act) requires covered wool products to be marked with (1) the generic names and percentages by weight of the constituent fibers present in the wool product; (2) the name under which the manufacturer or another responsible USA company does business, or in lieu thereof, the registered identification number (RN) of such a company; and (3) the name of the country where the wool product was processed or manufactured. Pursuant to Section 6(a) of the Wool Act, "the Commission is authorized and directed to make rules and regulations for the manner and form of disclosing information required by this Act ... and to make such further

rules and regulations under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement." These implementing rules and regulations are set forth at 16 CFR 300. As part of its systematic review of all current Commission regulations and guides, the Commission requested comments on, among other things, the economic impact of and the continuing need for, these rules, possible conflict between the rules and State, local and other federal laws, and the effect on the rules of any technological, economic, or other industry changes. Although this rulemaking was commenced prior to the Reinventing Government Initiative, it has been included as part of that Initiative because further proceedings in connection with this matter will be consistent with that Initiative.

Timetable:

Action	Date	FR Cite
Begin Reg Review	05/06/94	59 FR 23645
Extension of Comment Period	09/12/94	59 FR 46778
Comment Period End	10/15/94	
NPRM	04/00/96	
Recommendation to Commission	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bret S. Smart, Federal Trade Commission, Los Angeles Regional Office, 11000 Wilshire Boulevard, Ste. 13209, Los Angeles, CA 90024
Phone: 310 235-7975

RIN: 3084–AA50

4350. RULES AND REGULATIONS UNDER THE FUR PRODUCTS LABELING ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 69 Fur Products Labeling Act

CFR Citation: 16 CFR 301

Legal Deadline: None

Abstract: The Fur Products Labeling Act (Fur Act) requires covered furs and fur products to be labeled, invoiced, and advertised to show (1) the name(s) of the animal that produced the fur(s); (2) where such is the case, that the fur is used fur or contains used fur; (3) where such is the case, that the fur is bleached, dyed, or otherwise artificially colored; and (4) the name of the country of origin of any imported furs used in the fur product. Pursuant to Section 8(b) of the Fur Act, "The Commission is authorized and directed to prescribe rules and regulations governing the manner and form of disclosing information required by this Act and such further rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act." These implementing rules are set forth at 16 CFR 301. As part of its systematic review of all current Commission regulations and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, these rules, possible conflict between the rules and state, local and other federal laws, and the effect on the rules of any technological, economic, or other industry changes. Although this rulemaking was commenced prior to the Reinventing Government Initiative, it has been included as part of that Initiative because further proceedings in connection with this matter will be consistent with that Initiative.

Timetable:

Action	Date	FR Cite
Begin Reg Review	05/06/94	59 FR 23645
Extension of Comment Period	09/12/94	59 FR 46778
Comment Period End	10/15/94	
NPRM	04/00/96	
Recommendations to Commission	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Bret S. Smart, Federal Trade Commission, Los Angeles Regional Office, 11000 Wilshire Boulevard, Ste. 13209, Los Angeles, CA 90024
Phone: 310 235-7975

RIN: 3084–AA51

4351. RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 70 Textile Fiber Products Identification Act

CFR Citation: 16 CFR 303

Legal Deadline: None

Abstract: The Textile Fiber Products Identification Act (Textile Act) requires wearing apparel and other covered household textile articles to be marked with (1) the generic names and percentages by weight of the constituent fibers present in the textile fiber product; (2) the name under which the manufacturer or another responsible USA company does business, or in lieu thereof, the registered identification number (RN) of such a company; and (3) the name of the country where the textile product was processed or manufactured. Pursuant to Section 7(c) of the Textile Act, "the Commission is authorized and directed to make such rules and regulations, including the establishment of generic names of manufactured fibers, under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement." These implementing rules are set forth at 16 CFR 303. As part of its systematic review of all current Commission regulations and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, these rules, possible conflict between the rules and State, local and other Federal laws, and the effect on the rules of any technological, economic, or other industry changes. Although this rulemaking was commenced prior to the Reinventing Government Initiative, it has been included as part of that Initiative because further proceedings in connection with this matter are consistent with that Initiative. The Commission is seeking further comments on proposals to revise the Rule to eliminate unnecessary disclosures and to streamline labeling requirements in a manner that will facilitate uniform labels for products sold in NAFTA countries.

Timetable:

Action	Date	FR Cite
Begin Reg Review	05/06/94	59 FR 23646
Extension of Comment Period	09/12/94	59 FR 46779
Comment Period End	10/15/94	
Recommendations to Commission	12/15/95	
NPRM	02/12/96	61 FR 5340
NPRM Comment Period End	05/13/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Bret S. Smart, Federal Trade Commission, Los Angeles Regional Office, 11000 Wilshire Boulevard, Ste. 13209, Los Angeles, CA 90024
Phone: 310 235-7975

RIN: 3084–AA52

4352. THE CARE LABELING RULE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 423

Legal Deadline: None

Abstract: The Care Labeling Rule requires manufacturers and importers of textile wearing apparel to attach cleaning instructions stating what regular care is needed for the ordinary use of the product. If dry cleaning is recommended, the label must state at least one type of solvent that may be used, (unless all commercially available types of solvent can be used) and must contain a warning against the use of any part of the normal dry cleaning procedure that would harm the product. The Rule also requires that the manufacturer or importer possess, prior to sale, a reasonable basis for the care instructions. The Rule currently requires that care instructions be stated in "appropriate terms." It also states that "any appropriate symbols may be used on care labels or care instructions, in addition to the required appropriate terms so long as the terms fulfill the requirements of this regulation." Although the Rule does not specifically state that the instructions must be in English, they usually are. The Commission has tentatively decided to grant a conditional exemption allowing the use, in lieu of words, of the symbol system developed by the American Society for Testing and Manufacturing and has solicited comment on this tentative decision. The Commission has also published an Advance Notice of Proposed Rulemaking soliciting comment on whether it is desirable to require washing instructions for all washable garments; on whether the reasonable basis requirements of the Rule should be changed; and on other technical issues. Although this rulemaking was commenced prior to the Reinventing Government Initiative, it has been included as part of that Initiative because further proceedings in this matter are consistent with the Initiative.

Timetable:

Action	Date	FR Cite
Begin Reg Review	06/15/94	59 FR 30733
Comment Period End	10/15/94	
Recommendation to Commission	10/17/95	
Request for Comment/ Exemption	11/16/95	60 FR 57552
ANPRM	12/28/95	60 FR 67102
Comment Period End/Exemption	01/31/96	
ANPRM Comment Period End	03/13/96	
Recommendation to Commission/ Exemption	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Constance Vecellio, Care Labeling Rule Coordinator, Division of Enforcement, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-2966

RIN: 3084–AA54

4353. TRADE REGULATION RULE CONCERNING THE LABELING AND ADVERTISING OF HOME INSULATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 460

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation ("R-Value Rule") became effective on September 29, 1980. The Rule is designed to assist consumers in evaluating and comparing the thermal performance characteristics of competing home insulation products. Specifically, the Rule requires manufacturers of home insulation products to provide information about the product's degree of resistance to the flow of heat (R-Value). The Rule also establishes uniform standards for testing, information disclosure and substantiation of product performance claims. As part of its systematic review of all current Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, this Rule, possible conflicts between the Rule and state, local and other federal laws, and the effect on the Rule of any technological, economic, or other industry changes. The staff intends to report to the Commission in two parts. Part I will address the comments on the continuing need for the Rule. Part II will address the comments that recommend the Commission adopt substantive revisions to the Rule.

Timetable:

Action	Date	FR Cite
Request for Comments	04/06/95	60 FR 17492
Comment Period End	06/06/95	
Recommendations to the Commission/Part I	01/26/96	
Commission Action/Part I	04/00/96	
Recommendations to the Commission/Part II	07/00/96	
Commission Action/Part II	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kent C. Howerton, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3013

RIN: 3084–AA60

4354. TRADE REGULATION RULE FOR THE INCANDESCENT LAMP (LIGHT BULB) INDUSTRY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in

the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 409

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule for the Incandescent Lamp (Light Bulb) Industry became effective on January 25, 1971. The Rule is designed to assist consumers in making informed purchases of light bulbs for specific needs. Specifically, the Rule requires the disclosures of, in accordance with uniform specifications, the electrical power consumed (expressed as average initial wattage), the light output (expressed as average initial lumens), and the average laboratory life (expressed in hours) on light bulb packages. In addition, the average initial wattage and design voltage must appear on the bulbs themselves. As part of its systematic review of all current Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, this Rule, possible conflicts between the Rule and state, local and other federal laws, and the effect on the Rule of any technological, economic, or other industry changes. In addition, the Commission requested comment as to whether it should modify provisions of the Rule that duplicate or overlap with provisions in the Appliance Labeling Rule. This rulemaking has been included as part of the Reinventing Government Initiative because further proceedings in this matter may result in revisions to CFR text to reduce burden or duplication, or streamline requirements, and therefore, will be consistent with that Initiative.

Timetable:

Action	Date	FR Cite
Request for Comments	04/06/95	60 FR 17491
Comment Period End	08/07/95	
Recommendation to the Commission	11/09/95	
Commission Action	12/27/95	
NPRM	02/06/96	61 FR 4382
Comment Period End	03/07/96	
Recommendation to the Commission	04/00/96	
Commission Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kent C. Howerton, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-3013

RIN: 3084–AA61

4355. TRADE REGULATION RULE CONCERNING MISBRANDING AND DECEPTION AS TO LEATHER CONTENT OF WAIST BELTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 405

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule Concerning Misbranding and Deception as to Leather Content of Waist Belts (Leather Belt Rule) makes it an unfair method of competition and an unfair and deceptive act or practice to misrepresent a belt's leather content or the type of animal hide or skin from which the belt is made. The Rule also prohibits the sale or distribution of belts without adequate disclosures as to their leather content or type of animal hide or skin if the appearance of the product would deceive consumers. As part of its systematic review of all current Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, this Rule, possible conflicts between the Rule and state, local and other federal laws, and the effect on the Rule of any technological, economic, or other industry changes. After reviewing the comments, the Commission announced that, in order to avoid unnecessary duplication, it had decided to initiate a rulemaking proceeding to repeal the Rule. Proposed new Guides for Select Leather and Imitation Leather Products (See 60 FR 48056, September 18, 1995) will cover leather belts, as well as various other leather products. The Commission seeks public comment on its proposed repeal of the Rule.

Timetable:

Action	Date	FR Cite
Request for Comments	03/27/95	60 FR 15725
Comment Period End	05/26/95	
Recommendation to the Commission	07/21/95	
ANPRM	09/18/95	60 FR 48070
ANPRM Comment Period End	10/18/95	
NPRM	03/05/96	61 FR 8499
NPRM Comment Period End	04/04/96	
Recommendation to the Commission	05/00/96	
Final Commission Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ADDITIONAL AGENCY CONTACT: Edwin Rodriguez. Phone: 202 326-2981.

Agency Contact: Lemuel Dowdy, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580 Phone: 202 326-2981

RIN: 3084–AA62

4356. • RULE GOVERNING DISCLOSURE OF WRITTEN CONSUMER PRODUCT WARRANTY TERMS AND CONDITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 460

Legal Deadline: None

Abstract: The Rule Governing the Disclosure of Written Consumer Product Warranty Terms and Conditions (Rule 701) establishes requirements for warrantors for disclosing the terms and conditions of written warranties on consumer products actually costing the consumer more than $15.00. Rule 701 specifies the information that must appear in the written warranty, as well as the exact language that must be used for certain items. Under Rule 701, the information must be disclosed in simple, easily understood, and concise language in a single document. In addition to specifying the information that must appear in a written warranty, Rule 701 also requires that, in instances where the warrantor uses a warranty registration or owner registration card, the warranty must disclose whether

that registration card is a condition precedent to warranty coverage. Finally, it provides that, in connection with "seal of approval" programs, the disclosures do not have to be given in the actual seal itself, if they are made in a general circulation publication. The Regulatory Flexibility Act, 5 USC 601 et seq., requires that an agency rule be reviewed within ten years of its publication. In addition, as part of its systematic review of all current Commission regulations and guides, the Commission has determined, as part of its oversight responsibilities, to review trade regulation rules at least once every ten years. These reviews seek comments on, among other things, the economic impact of, and the continuing need for, the Commission's rules, possible conflict between the rules and State, local, and other Federal laws, and the effect on the rules of any technological, economic, or other industry changes.

Timetable:

Action	Date	FR Cite
Comment Period End	05/00/96	
Begin Review	05/00/96	
Recommendation to the Commission	11/00/96	
Final Commission Action	02/00/97	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carole I. Danielson, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-3115

RIN: 3084–AA72

4357. • APPLIANCE LABELING RULE—ENERGY POLICY AND CONSERVATION ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Sec 324 of the Energy Policy and Conservation Act; PL 94-163; 42 USC 6294

CFR Citation: 16 CFR 305

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act was enacted to enable consumers to conserve energy by comparing the energy use of competing appliances (and other products) and to use that information in their purchasing decisions. The statute required the Commission to issue a labeling rule prescribing the disclosure of the estimated annual cost of operation (or another measure of energy use) for certain categories of major household appliances. The statute was later amended to apply to plumbing and lamp products. The statute required that the disclosures for all covered products be based on standardized test procedures prescribed by the Department of Energy (DOE). In 1979, the Commission promulgated the Appliance Labeling Rule, which was amended substantively in 1987, 1990, 1993, and twice in 1994. The rule now covers 11 product categories: (1) refrigerators, refrigerator-freezers and freezers; (2) dishwashers; (3) clothes washers; (4) water heaters; (5) room air conditioners; (6) furnaces (7) central air conditioners and heat pumps; (8) fluorescent lamp ballasts; (9) certain plumbing products; (10) certain lamp products; and (11) pool heaters. For household appliances, the rule requires that energy consumption or efficiency information be disclosed in catalogs and at the point of sale in the form of yellow and black EnergyGuide labels. In addition, fact sheets or listing in an industry directory are required for furnaces, central air conditioners and heat pumps. For fluorescent lamp ballasts, the rule requires disclosure of an encircled E logo; for plumbing products, a marking of the water use rate on the product, and, for lamp products, the disclosure of energy usage and performance information on packages and in catalogs. The rule also mandates that energy-use-related advertisements for covered products be based on the DOE test procedures. The Commission proposes to amend the rule to permit placement of energy use labels required by Canada and Mexico adjacent to the EnergyGuide label, thus facilitating trade among the North American Free Trade Agreement countries.

Timetable:

Action	Date	FR Cite
Recommendation to Commission	01/26/96	
NPRM	02/22/96	61 FR 6801
NPRM Comment Period End	04/08/96	
Recommendation to Commission	04/00/96	
Final Commission Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: James Mills, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-3035

RIN: 3084–AA74

FEDERAL TRADE COMMISSION (FTC) Long-Term Actions

4358. AMENDED FEDERAL DEPOSIT CORPORATION IMPROVEMENT ACT

Priority: Substantive, Nonsignificant

CFR Citation: Not yet determined

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: State

Agency Contact: Carole Reynolds Phone: 202 326-3230

RIN: 3084–AA44

4359. REGULATORY REVIEW

Priority: Other

CFR Citation: 16 CFR 10 et seq

Timetable:

Action	Date	FR Cite
Rule Review Continuing	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kent Howerton

FTC — Long-Term Actions

Phone: 202 326-3013
RIN: 3084–AA47

FEDERAL TRADE COMMISSION (FTC) — Completed Actions

4360. COOLING-OFF PERIOD FOR SALES MADE AT HOMES OR AT CERTAIN OTHER LOCATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 429

Legal Deadline: None

Abstract: On October 20, 1995, the Commission, as part of its Regulatory Review program, published a notice announcing its decision to issue nonsubstantive amendments to the Rule. Specifically, the Commission amended the Rule by renaming it so that it more clearly identifies the kinds of sales it covers and by inserting two notes, formerly at the end of the Rule, into the Rule itself. Moreover, the Commission amended the Rule by adding a new section containing two exemptions to the Rule that the Commission granted in November 1988 to certain sellers of arts and crafts and of automobiles. The Commission also expanded the exemption for automobiles to include vans, trucks and other motor vehicles sold at temporary places of business by dealers having a permanent place of business. Further, the Commission amended the Rule by adding a parenthetical statement to the Rule's definition of the term "Door-to-Door Sale." This new statement gives examples of kinds of sales locations covered by the Rule. The Commission also amended the Rule's definition of "Business Day" to reflect changes in federal holidays. Finally, the Commission amended the Rule to make the typeface used in the sample "Notice of Cancellation" more readable and to substitute the gender neutral words "the buyer" or "the buyer's" for the pronouns "he," "his," and "him."

Timetable:

Action	Date	FR Cite
Begin Reg Review	04/15/94	59 FR 18007
Comment Period End	06/14/94	
Recommendations to the Commission	08/24/95	
Final Action	10/20/95	60 FR 54180
Final Action Effective	12/19/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lemuel W. Dowdy, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-2981

RIN: 3084–AA53

4361. THE USED MOTOR VEHICLE TRADE REGULATION RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 455

Legal Deadline: None

Abstract: The purpose of the Used Car Rule, which became effective on May 9, 1985, is to prevent and discourage oral misrepresentations and omissions of material facts by used car dealers concerning warranty coverage. The Rule provides a uniform method for written disclosure of warranty information on a window sticker called a "Buyers Guide." The Rule requires sellers to disclose on the Buyers Guide the basic terms and conditions of any warranty offered in connection with the sale of a used car, including the duration of coverage, the percentage of total repair costs to be paid by the dealer, and the systems covered by the warranty. The Rule also requires certain other disclosures that must be printed on the Buyers Guide, including: a suggestion that consumers ask the dealer if a pre-purchase inspection is permitted; a warning against reliance on spoken promises that are not confirmed in writing; and a list of the 14 major systems of an automobile and the major problems that may occur in these systems. The Rule also provides that the Buyers Guide disclosures are to be incorporated by reference into the sales contract, and are to govern in the event of an inconsistency between the Buyers Guide and the sales contract. As part of the Commission's ongoing project to review all rules periodically, the Commission published a Federal Register Notice seeking public comment on the cost and benefits and other impacts of the Rule. Pursuant to the Regulatory Flexibility Act, the Commission also solicited comments on the Rule's impact on small business, and on whether the Rule should be amended to minimize any significant impact upon small economic entities. Following the review, the Commission adopted certain non-substantive amendments to the Rule. These included a provision allowing posting of the "Buyer's Guide" anywhere on the vehicle, as long as it is prominently and conspicuously displayed. Although this rulemaking was commenced prior to the Reinventing Government Initiative, it has been included as part of that Initiative because proceedings in this matter were consistent with that Initiative.

Timetable:

Action	Date	FR Cite
Begin Reg Flex and Periodic Review	05/06/94	59 FR 23647
Comment Period End	07/06/94	
Recommendations to Commission	08/21/95	
Final Action	12/05/95	60 FR 62195
Final Action Effective	01/04/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Brent Mickum IV, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3132

RIN: 3084–AA56

FTC — Completed Actions

4362. TEST PROCEDURES AND LABELING STANDARD FOR RECYCLED OIL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6363(d)

CFR Citation: 16 CFR 311

Legal Deadline: Final, Statutory, October 25, 1995.

Abstract: Section 383 of the Energy Policy and Conservation Act of 1975 directs the FTC to promulgate a rule prescribing test procedures and labeling standards applicable to containers of recycled oil. The Commission is required to prescribe the Rule within 90 days after the National Institute of Standards and Technology reports to the Commission the test procedures to determine the substantial equivalency of processed used oil with new oil distributed for a particular end use. On July 27, 1995, NIST reported to the Commission test procedures for processed used engine oil. The Commission conducted a rulemaking proceeding to implement the statutory directive. The final Rule permits a manufacturer to label processed used engine oil as substantially equivalent to new oil only if that determination has been based on the test procedures certified by NIST and prescribed in the Rule.

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44712
Comment Period End	09/28/95	
Final Action	10/31/95	60 FR 55414
Final Action Effective	11/30/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neil Blickman/Laura Koss, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3038

RIN: 3084–AA64

4363. DECEPTION AS TO NON-PRISMATIC AND PARTIALLY PRISMATIC INSTRUMENTS BEING PRISMATIC INSTRUMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 57

CFR Citation: 16 CFR 402

Legal Deadline: None

Abstract: The binocular rule, promulgated in 1964, required a clear and conspicuous disclosure on any advertising or packaging for non-prismatic or partially prismatic binoculars that the instruments were not fully prismatic. Fully prismatic binoculars rely on a prism within the instrument to reverse the visual image entering the lens so that it appears right-side up to the user. Other binoculars rely partially or entirely on mirrors to reverse the visual image. To prevent consumer deception, the rule proscribed the use of the term "binocular" to describe anything other than a fully prismatic instrument, unless the term was modified to indicate the true nature of the item. Under the rule, nonprismatic instruments could be identified as binoculars only if they incorporated a descriptive term such as "binocular-nonprismatic," "binocular-mirror prismatic," or "binocular-nonprismatic mirror." It appears that most binoculars manufactured today are fully prismatic. Generally, the only nonprismatic binoculars available are marketed and sold as either toys or opera glasses, or field glasses, not binoculars. Therefore, the Commission initiated a rulemaking proceeding to determine whether the Binocular Rule should be repealed. The rulemaking has been completed. The Commission concluded that there was no continuing need for the Rule, and the Rule has been rescinded.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/95	60 FR 27240
ANPRM Comment Period End	06/22/95	
NPRM	09/18/95	60 FR 48065
NPRM Comment Period End	10/18/95	
Final Action	12/20/95	60 FR 65529
Final Action Effective	12/20/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Phillip S. Priesman, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-2484

RIN: 3084–AA65

4364. ADVERTISING AND LABELING OF SLEEPING BAGS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 400

Legal Deadline: None

Abstract: The Sleeping Bag Rule, promulgated by the Commission on October 11, 1963, regulated the use of a "cut size" measurement of materials from which a sleeping bag is made to describe the size of a finished sleeping bag in advertising, labeling, or marking. The Commission reviewed the Sleeping Bag Rule as part of a periodic review to seek information about the costs and benefits of its rules and guides and their regulatory and economic impact. Based on this review, the Commission concluded that there may be no continuing need for this Rule. It appears that industry practice is to label sleeping bags with their finished size. Moreover, the National Conference on Weights and Measures' Uniform Packaging and Labeling Regulation, adopted by 47 states, provides that sleeping bags must be labeled with their finished size. Accordingly, the Commission initiated a rulemaking proceeding to determine whether the Sleeping Bag Rule should be repealed. The rulemaking has been completed. The Commission concluded that there is no continuing need for the Rule, and the Rule has been rescinded.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/95	60 FR 27240
ANPRM Comment Period End	06/22/95	
NPRM	09/18/95	60 FR 48063
NPRM Comment Period End	10/18/95	
Final Action	12/20/95	60 FR 65528
Final Action Effective	12/20/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neil Blickman, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3038

RIN: 3084–AA66

4365. FAILURE TO DISCLOSE THE LETHAL EFFECTS OF INHALING QUICK-FREEZE SPRAY PRODUCTS USED FOR FROSTING COCKTAIL GLASSES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC et seq

CFR Citation: 16 CFR 417

Legal Deadline: None

Abstract: The Quick Freeze Spray Rule was promulgated by the Commission on February 20, 1969. The Rule required a clear and conspicuous warning on aerosol spray products used for frosting beverage glasses which contained a compound known as Fluorocarbon 12 (Dichlorodifluoromethane), also used as a coolant for automobile air conditioners and refrigerators. The warning stated that the contents should not be inhaled because inhalation could cause death or injury. Although the product is not harmful when used as directed, there had been several instances when death had occurred because individuals inhaled the quick-freeze spray for its intoxicating effects. Accordingly, the Commission concluded that it was in the public interest to caution consumers who might not be aware of the lethal effects of inhaling the product. Today, however, the products are no longer produced because the active ingredient is banned under the Clean Air Act. Accordingly, the Commission initiated a rulemaking proceeding to determine whether the Rule should be repealed. The rulemaking has been completed. The Commission concluded that there is no continuing need for the Rule, and the Rule has been rescinded.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/95	60 FR 27244
ANPRM Comment Period End	06/22/95	
NPRM	09/18/95	60 FR 48073
NPRM Comment Period End	10/18/95	
Final Action	12/21/95	60 FR 66071
Final Action Effective	12/21/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Brent Mickum IV, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-3132

RIN: 3084–AA67

4366. FAILURE TO DISCLOSE THAT SKIN IRRITATION MAY RESULT FROM WASHING OR HANDLING GLASS FIBER CURTAINS AND DRAPERIES AND GLASS FIBER CURTAIN AND DRAPERY FABRICS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 413

Legal Deadline: None

Abstract: The Fiberglass Curtain Rule was promulgated by the Commission on July 28, 1967. The Rule required marketers of fiberglass curtains or draperies and fiberglass curtain or drapery cloth to disclose that skin irritation may occur from handling these materials and from contact with clothing or other articles that have been washed with glass fiber products or in a container used for washing glass fiber products unless the container has been cleaned and the fibers removed. At the time the Rule was promulgated, members of the public had experienced skin irritation after washing or handling glass fiber curtains and draperies and glass fiber curtain and drapery fabrics. The Commission concluded that it was in the public interest to disclose to consumers that skin irritation could occur from handling these products and from body contact with clothing or other articles that had been washed with these products or in a container previously used for washing these products. Today, however, fiberglass fabric has been replaced by polyester and modacrylics in the drapery industry, and fiberglass fabrics are now used almost exclusively for specialized industrial purposes. Accordingly, the Commission initiated a rulemaking proceeding to determine whether the Rule should be repealed. The rulemaking has been completed. The Commission concluded that there is no continuing need for the Rule, and the Rule has been rescinded.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/95	60 FR 27243
ANPRM Comment Period End	06/22/95	
NPRM	09/18/95	60 FR 48071
NPRM Comment Period End	10/18/95	
Final Action	12/20/95	60 FR 65532
Final Action Effective	12/20/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Edwin Rodriguez, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-3147

RIN: 3084–AA68

4367. DECEPTIVE ADVERTISING AND LABELING AS TO SIZE OF TABLECLOTHS AND RELATED PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 404

Legal Deadline: None

Abstract: The Tablecloth Rule was promulgated by the Commission on October 1, 1963. The Rule regulated the use of the "cut size" measurement of materials from which a tablecloth is made to describe the size of a finished tablecloth in advertising, labeling, or marking. The Commission reviewed the Tablecloth Rule as part of a periodic review to seek information about the costs and benefits of its rules and guides and their regulatory and economic impact. Based on this review, the Commission concluded that there may be no continuing need for this Rule. It appears that industry practice is to label tablecloths with their finished size. Moreover, the National Conference on Weights and Measures' Uniform Packaging and Labeling Regulation, adopted by 47 states, provides that tablecloths must be labeled with their finished size. Accordingly the Commission initiated a rulemaking proceeding to determine whether the Rule should be repealed. The rulemaking has been completed. The Commission concluded that there is no continuing need for the Rule, and the Rule has been rescinded.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/95	60 FR 27242
ANPRM Comment Period End	06/22/95	
NPRM	09/18/95	60 FR 48067
NPRM Comment Period End	10/18/95	
Final Action	12/20/95	60 FR 65530
Final Action Effective	12/20/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neil Blickman, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-3038

RIN: 3084–AA69

4368. DECEPTIVE ADVERTISING AND LABELING AS TO LENGTH OF EXTENSION LADDERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 418

Legal Deadline: None

Abstract: The Extension Ladder Rule was promulgated by the Commission on October 11, 1963. The Rule addressed representations regarding the length of extension ladders, requiring that any description of the length of the sections be accompanied by the maximum length of the ladder when fully extended. The Commission reviewed the Extension Ladder Rule as part of a periodic review to seek information about the costs and benefits of its rules and guides and their regulatory and economic impact. Based on this review, the Commission concluded that there may be no continuing need for this Rule. The American National Standards Institute (ANSI) standard A14, which addresses the labeling of ladders, requires specification of the maximum working length of an extension ladder. Moreover, it appears that industry practice is to label extension ladders in accordance with this industry standard. Accordingly, the Commission initiated a rulemaking proceeding to determine whether the Rule should be repealed. The rulemaking has been completed. The Commission concluded that there is no continuing need for the Rule, and the Rule has been rescinded.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/95	60 FR 27242
ANPRM Comment Period End	06/22/95	
NPRM	09/18/95	60 FR 48075
NPRM Comment Period End	10/18/95	
Final Action	12/20/95	60 FR 65533
Final Action Effective	12/20/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Neil Blickman, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 Phone: 202 326-3038

RIN: 3084–AA70

[FR Doc. 96-6558 Filed 05-10-96; 8:45 am]

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Part LVIII

National Credit Union Administration

Semiannual Regulatory Agenda

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NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to its ongoing policy of reviewing regulations, NCUA is publishing a list of current and projected rulemakings, reviews of existing regulations, and completed actions as of February 23, 1996. NCUA will also include this agenda in the Unified Agenda of Federal Regulations.

DATES: This information is current as of February 23, 1996.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

FOR FURTHER INFORMATION CONTACT: For each regulation listed, the person(s) named in the listing at the above address, unless otherwise noted, or listed telephone number.

SUPPLEMENTARY INFORMATION: The purpose of this agenda is to enable credit unions and the public to follow regulatory development and review at NCUA and to enable interested parties to more effectively participate in that process. The agenda is divided into three parts: (1) Actions completed since the last agenda; (2) actions proposed but not completed; and (3) actions planned but not yet proposed by the NCUA Board.

The agenda is published pursuant to NCUA Interpretive Ruling and Policy Statement Number 87-2 ("Developing and Reviewing Government Regulations," 54 FR 35231; September 18, 1987). Executive Order 12866, signed by President Clinton on September 30, 1993, now requires independent executive agencies such as NCUA to publish a regulatory agenda. This agenda will be included in the Office of Management and Budget's next publication of its Unified Agenda of Federal Regulations.

Approved by the NCUA Board on February 29, 1996.

Becky Baker,

Secretary of the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4369	Credit Union Service Contracts/Correspondent Services/Credit Union Service Organizations	3133-AA95
4370	Golden Parachute and Indemnification Payments	3133-AB28
4371	Part 708—Mergers of Federally Insured Credit Unions; Voluntary Termination or Conversion of Insured Status	3133-AB70
4372	Part 705—Community Development Revolving Loan Program for Credit Unions	3133-AB71

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4373	Corporate Credit Unions	3133-AB67
4374	Part 701—Organization and Operations of Federal Credit Unions	3133-AB72
4375	Investment and Deposit Activities	3133-AB73
4376	Uniform Rules of Practice and Procedure	3133-AB79
4377	Supervisory Committee Audits and Verifications	3133-AB82
4378	Organization and Operations of Federal Credit Unions	3133-AB84

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4379	Share Insurance and Appendix	3133-AB15
4380	Excerpts From the Uniform Standards of Professional Appraisal Practice Applicable to Federally Related Transactions	3133-AB20
4381	Requirements for Insurance	3133-AB31
4382	Organization and Operations of Federal Credit Unions—Loan Incentives—Prohibited Fee Exception	3133-AB60
4383	Loan Participation	3133-AB77
4384	Fees Paid by Federal Credit Unions	3133-AB78
4385	Appraisals	3133-AB80
4386	Loan Interest Rates	3133-AB81
4387	Truth in Savings	3133-AB83

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Proposed Rule Stage

4369. CREDIT UNION SERVICE CONTRACTS/CORRESPONDENT SERVICES/CREDIT UNION SERVICE ORGANIZATIONS

Priority: Other

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.27

Legal Deadline: None

Abstract: The proposed rule clarifies the limits on the authority for an FCU to provide services and activities to other credit unions. In response to comments, staff is preparing a proposed revision which would permit, and set safety and soundness standards for, correspondent credit union services between credit unions, as well as address the issues of shared branching and request comments for other related issues.

Timetable:

Action	Date	FR Cite
ANPRM	11/15/89	54 FR 48110
ANPRM Comment Period End	02/20/90	
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Martin S. Conrey, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AA95

4370. GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS

Priority: Other

Legal Authority: 12 USC 1786(t)

CFR Citation: 12 CFR 701.34

Legal Deadline: None

Abstract: The Crime Control Act of 1990 amended the Federal Credit Union Act to strictly limit the use of golden parachute payments and indemnification by credit unions. NCUA staff is considering whether proposed rules are necessary to implement this statutory amendment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Allan Meltzer, Associate General Counsel, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540

RIN: 3133–AB28

4371. PART 708—MERGERS OF FEDERALLY INSURED CREDIT UNIONS; VOLUNTARY TERMINATION OR CONVERSION OF INSURED STATUS

Priority: Other

Legal Authority: 12 USC 1785(c)

CFR Citation: 12 CFR 708

Legal Deadline: None

Abstract: The NCUA Board will propose that proposed merger plans address the six statutory criteria contained in section 205(c) of the Federal Credit Union Act which the Board is required to consider before granting or withholding approval of a proposed merger involving at least one federally insured credit union.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB70

4372. PART 705—COMMUNITY DEVELOPMENT REVOLVING LOAN PROGRAM FOR CREDIT UNIONS

Priority: Other

Legal Authority: PL 97-35; 42 USC 9822; PL 101-144; 12 USC 1766(k)

CFR Citation: 12 CFR 705

Legal Deadline: None

Abstract: The proposed rule eliminates the limits on technical assistance that may be provided per year to participating credit unions; clarifies that student credit unions may not participate in the program; clarifies that credit unions may receive up to $300,000 in loans in the aggregate at any one time; and requires additional documentation from nonfederally insured credit unions that may wish to participate in the program.

Timetable:

Action	Date	FR Cite
NPRM	01/25/96	61 FR 4238
NPRM Comment Period End	04/05/96	

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB71

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Final Rule Stage

4373. CORPORATE CREDIT UNIONS

Priority: Other

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 704

Legal Deadline: None

Abstract: The proposed rule would strengthen the capital of corporate credit unions, reduce the risk of their investments, and improve asset-liability management. It would return corporate credit unions to their primary functions of serving as liquidity centers and service providers and would protect the safety and soundness of the corporate credit union system.

NCUA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/26/95	60 FR 20438
NPRM Comment Period End	08/25/95	60 FR 27240
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robert Schafer, Acting Director, Office of Corporate Credit Unions, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6640
Fax: 703 518-6439

RIN: 3133–AB67

4374. PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Priority: Other

Legal Authority: 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789; 12 USC 1798

CFR Citation: 12 CFR 701

Legal Deadline: None

Abstract: NCUA is planning to propose an amendment regarding the authority of Federal credit unions to add senior citizen/retiree groups formed solely for the purpose of acquiring credit unions service to a Federal credit unions field of membership. NCUA staff also plans to propose amendments to clarify operational issues.

Timetable:

Action	Date	FR Cite
NPRM	10/04/95	60 FR 51936
NPRM Comment Period End	12/04/95	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB72

4375. INVESTMENT AND DEPOSIT ACTIVITIES

Priority: Other

Legal Authority: 12 USC 1757(7); 12 USC 1757(8); 12 USC 1757(15); 12 USC 1757(17); 12 USC 1766(a); 12 USC 1789(ii)

CFR Citation: 12 CFR 703

Legal Deadline: None

Abstract: The proposed regulation clarifies a number of areas, adds restrictions on some securities which have been determined to be too risky for credit unions, broadens authority in certain areas, and requires that a credit union's staff and board of directors fully understand the potential risk characteristics of its investment options.

Timetable:

Action	Date	FR Cite
NPRM	11/29/95	60 FR 61219
NPRM Comment Period End	03/28/96	
Final Action	10/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kimberly Iverson, Program Officer, Office of Examination and Insurance, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6360
Fax: 703 518-6499

RIN: 3133–AB73

4376. UNIFORM RULES OF PRACTICE AND PROCEDURE

Priority: Other

Legal Authority: 12 USC 1766; 12 USC 1784; 12 USC 1786; 12 USC 1787; 42 USC 4012a

CFR Citation: 12 CFR 747

Legal Deadline: None

Abstract: The Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board of Governors), Federal Deposit Insurance Corporation (FDIC), Office of Thrift Supervision (OTS), and National Credit Union Administration (NCUA) are proposing changes to the Uniform Rules and Practice and Procedure for Administrative Hearings (Uniform Rules) and to their agency specific rules of administrative practice and procedure (Local Rules). The proposal is intended to clarify certain provisions and to increase the efficiency and fairness of administrative hearings.

Timetable:

Action	Date	FR Cite
NPRM	08/23/95	60 FR 32882
NPRM Comment Period End	08/22/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Steven Widerman, Trial Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB79

4377. • SUPERVISORY COMMITTEE AUDITS AND VERIFICATIONS

Priority: Other

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789; 12 USC 1798; PL 101-73

CFR Citation: 12 CFR 701.12

Legal Deadline: None

Abstract: The NCUA Board is proposing to amend the regulations to clarify existing audit scope; expand audit scope and reporting requirements in certain areas; clarify existing working paper access requirements and strengthen administrative remedies for denial of access; require a comprehensive engagement letter setting forth minimum contracting terms and conditions; and add relevant definitions of accounting/auditing terms used throughout the regulation.

Timetable:

Action	Date	FR Cite
NPRM	11/02/95	60 FR 55663
NPRM Comment Period End	01/18/96	60 FR 66952
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael McKenna, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB79

NCUA

Final Rule Stage

4378. • ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Priority: Other

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789; PL 101-73

CFR Citation: 12 CFR 701; 12 CFR 709; 12 CFR 741

Legal Deadline: None

Abstract: This interim final rule authorizes credit unions serving predominantly low-income members to raise secondary capital from foundations and other philanthropic-minded institutional investors. This rule also establishes a new section in NCUA regulations providing authority for secondary capital accounts and amending existing regulatory provisions concerning designation of low-income status; amends an existing rule to address the authority of federally insured State credit unions to issue secondary capital accounts; and amends another rule to establish that secondary capital accounts are paid after all other claims in the event of liquidation.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	01/25/96	
Interim Final Rule	02/02/96	61 FR 3788
Interim Final Rule Comment Period End	04/01/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joyce Jackson, Special Assistant, Office of Community Development Credit Unions, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6610
Fax: 703 518-6439

RIN: 3133–AB84

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

Completed Actions

4379. SHARE INSURANCE AND APPENDIX

Priority: Other

Legal Authority: 12 USC 1766; 12 USC 1781; 12 USC 1789

CFR Citation: 12 CFR 745, subpart A

Legal Deadline: None

Abstract: On May 15, 1990, the FDIC issued final rules on deposit insurance (55 FR 20111). The FDIC rules differ in some respects from NCUA's current rules and/or policies. NCUA staff will be analyzing the changes and clarifications to deposit insurance coverage rules made by the FDIC, in order to determine whether changes in NCUA's insurance regulations are warranted. Staff is also reviewing the entire section for a general update.

Timetable:

Action	Date	FR Cite
Withdrawn	02/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard S. Schulman, Associate General Counsel, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB15

4380. EXCERPTS FROM THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE APPLICABLE TO FEDERALLY RELATED TRANSACTIONS

Priority: Other

Legal Authority: 12 USC 1766; 12 USC 1789; PL 101-73

CFR Citation: 12 CFR 722, app A

Legal Deadline: None

Abstract: The interim "common rule," issued jointly with other Federal financial institution regulators (FRB, OTS, RTC, OCC, and FDIC), was eliminated by the NCUA Board. On September 27, 1995, the Board issued a final rule to eliminate the appendix and make some technical amendments to simplify regulatory compliance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/31/90	55 FR 53610
NPRM	03/07/95	60 FR 13388
NPRM Comment Period End	05/12/95	
Final Action	10/04/95	60 FR 51889
Final Action Effective	10/04/95	

Small Entities Affected: None

Government Levels Affected: State

Agency Contact: Michael J. McKenna, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB20

4381. REQUIREMENTS FOR INSURANCE

Priority: Other

Legal Authority: 12 USC 1766(a); 12 USC 1781 to 1790

CFR Citation: 12 CFR 701.26; 12 CFR 701.21

Legal Deadline: None

Abstract: The final rule reorganizes part 741 in order to clarify which of the NCUA regulations currently apply to State-chartered, NCUSIF-insured credit unions.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39274
NPRM Comment Period End	10/02/95	
Final Action	11/28/95	60 FR 58502
Final Action Effective	01/29/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Linda Groth, State Program Officer, Office of Examination and Insurance, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428

Phone: 703 518-6360

RIN: 3133–AB31

4382. ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS—LOAN INCENTIVES—PROHIBITED FEE EXCEPTION

Priority: Other

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.21(c)(8)

Legal Deadline: None

Abstract: The final rule amends NCUA's lending regulations to give member-elected credit union boards more flexibility to determine compensation policies, including the use of incentive pay.

Timetable:

Action	Date	FR Cite
ANPRM	03/15/94	59 FR 11937
ANPRM Comment Period End	05/16/94	
NPRM	04/20/95	60 FR 19690
NPRM Comment Period End	06/19/95	
Final Action	10/04/95	60 FR 51886
Final Action Effective	10/04/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lisa Henderson, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB60

4383. LOAN PARTICIPATION

Priority: Other

Legal Authority: 12 USC 1757; 12 USC 1766

CFR Citation: 12 CFR 701.22

Legal Deadline: None

Abstract: The final rule amends NCUA's regulation on loan participations to broaden loan participation authority by removing the requirement that the participation agreement precede loan disbursement.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39273
NPRM Comment Period End	10/02/95	
Final Action	11/28/95	60 FR 58503
Final Action Effective	01/26/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary F. Rupp, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540

RIN: 3133–AB77

4384. FEES PAID BY FEDERAL CREDIT UNIONS

Priority: Other

Legal Authority: 12 USC 1755; 31 USC 3717

CFR Citation: 12 CFR 701.6

Legal Deadline: None

Abstract: On November 16, 1995, the NCUA Board adopted a policy of restructuring the operating fee scale for natural person Federal credit unions. All such credit unions with assets of $500,000 and less will be exempt from paying any operating fee. In addition, all natural person Federal credit unions with assets over $500,000 but equal to or less than $750,000 will pay a minimum operating fee of $100.

Timetable:

Action	Date	FR Cite
NPRM	06/26/95	60 FR 32925
NPRM Comment Period End	08/25/95	
NCUA Board Adopted - No Regulation Required.	11/16/95	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ronald M. Aaron, Deputy Director, Office of Chief Financial Officer, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6570

RIN: 3133–AB78

4385. APPRAISALS

Priority: Other

Legal Authority: 12 USC 1766; 12 USC 1789; PL 101-73

CFR Citation: 12 CFR 722

Legal Deadline: None

Abstract: The NCUA Board issued final amendments to its regulation regarding the appraisal of real estate, adopted pursuant to title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. The final amendments simplify compliance with regulatory requirements for credit unions by changing provisions of the appraisal regulation that govern: the publication of the Uniform Standards of Professional Appraisal Practice; minimum appraisal standards; appraisals to address safety and soundness concerns; unavailable information; additional appraisal standards developed by the credit unions; and appraiser independence. The final amendments should reduce costs without affecting the reliability of appraisals used in connection with federally related transactions.

Timetable:

Action	Date	FR Cite
NPRM	03/13/95	60 FR 13388
NPRM Comment Period End	05/12/95	
Final Action	10/04/95	60 FR 51889
Final Action Effective	10/04/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Fax: 703 518-6569

RIN: 3133–AB80

4386. • LOAN INTEREST RATES

Priority: Other

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789; 12 USC 1798

CFR Citation: 12 CFR 701.21

Legal Deadline: None

Abstract: The NCUA Board continues an 18 percent Federal credit union loan rate ceiling for the period from March 9, 1996, through September 8, 1997. Loans and lines of credit balances existing prior to May 15, 1987, may continue to bear their contractual rate of interest, not to exceed 21 percent. The Board is prepared to reconsider the 18 percent ceiling at any time should changes in economic conditions warrant.

Timetable:

Action	Date	FR Cite
Final Action	02/05/96	61 FR 4213
Final Action Effective	03/09/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James F. Feeney, Senior Investment Officer, Office of Investment Services, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6620
Fax: 703 518-6429

RIN: 3133–AB81

4387. • TRUTH IN SAVINGS

Priority: Other

Legal Authority: 12 USC 4311

CFR Citation: 12 CFR 707

Legal Deadline: None

Abstract: The NCUA Board has extended the compliance date for nonautomated and insufficiently automated credit unions that have assets of $2 million or less as reported to, or determined by, the NCUA until January 1, 1997. The extension gives the smaller, automation-impaired credit unions continued immunity from compliance until Congress has acted on its contemplated regulatory relief initiatives, which might ultimately exempt their compliance with Truth in Savings.

Timetable:

Action	Date	FR Cite
Final Action	11/14/95	60 FR 57173
Final Action Effective	01/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Martin Conrey, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
TDD: 703 518-6569

RIN: 3133–AB83

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Part LIX

National Indian Gaming Commission

Semiannual Regulatory Agenda

NATIONAL INDIAN GAMING COMMISSION (NIGC)

NATIONAL INDIAN GAMING COMMISSION

25 CFR Ch. III

Semiannual Regulatory Agenda

AGENCY: National Indian Gaming Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The National Indian Gaming Commission is today publishing an agenda of its open and anticipated rulemaking actions. The agenda is a general announcement to the public intended to provide notice of rulemaking actions in which the public may wish to participate. The Commission intends to issue Notices of Proposed Rulemaking for rules concerning definitions and practice before the Commission in June 1996; rules concerning hearings and appeals procedure in July 1996; and rules concerning enforcement in August 1996. The Commission invites questions and public comment on individual agenda items.

FOR FURTHER INFORMATION CONTACT: Thomas R. Acevedo, National Indian Gaming Commission, 1441 L Street NW., 9th Floor, Washington, DC 20005, (202) 632-7003 (not a toll-free number).

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 605, executive agencies are required to publish semiannual regulatory agendas in the **Federal Register** in April and October of each year.

The regulations being considered by the Commission are not "significant" rules within the meaning of E.O. 12866, and no regulatory impact analysis is required. The Commission also has determined, under the Regulatory Flexibility Act, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis is required.

Harold A. Monteau,

Chairman, National Indian Gaming Commission.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4388	Practice Before the Commission	3141-AA07
4389	Hearings and Appeals Procedure	3141-AA08
4390	Enforcement	3141-AA09
4391	Definitions	3141-AA10

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4392	Review of Petitions for Certificate of Self-Regulation Under the Indian Gaming Regulatory Act	3141-AA04
4393	Procedures Under the National Environmental Policy Act	3141-AA06

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Proposed Rule Stage

4388. PRACTICE BEFORE THE COMMISSION

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2706(b)(10)

CFR Citation: None

Legal Deadline: None

Abstract: This rule will establish guidelines and procedures for attorneys and nonattorneys who represent tribes or private companies before the Commission.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Michael D. Cox, General Counsel, National Indian Gaming Commission, 1441 L Street NW., 9th Floor, Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA07

4389. HEARINGS AND APPEALS PROCEDURE

Priority: Other Significant

Legal Authority: 25 USC 2706

CFR Citation: 25 CFR 522; 25 CFR 523; 25 CFR 524; 25 CFR 533; 25 CFR 535; 25 CFR 539; 25 CFR 573; 25 CFR 575; 25 CFR 577

Legal Deadline: None

Abstract: This rule will amend the current appeal regulations and combine them into one part.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Michael D. Cox, General Counsel, National Indian Gaming Commission, 1441 L Street NW., 9th Floor, Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA08

NIGC — Proposed Rule Stage

4390. ENFORCEMENT

Priority: Other Significant

Legal Authority: 25 USC 2713

CFR Citation: 25 CFR 573

Legal Deadline: None

Abstract: This rule will modify the existing enforcement regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	
NPRM Comment Period End	09/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Michael D. Cox, General Counsel, National Indian Gaming Commission, 1441 L Street NW., 9th Floor, Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA09

4391. • DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USCA 2706(b)(10)

CFR Citation: 25 CFR 502 (Revision)

Legal Deadline: None

Abstract: The rule will amend certain definitions in the Commission's regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Michael D. Cox, General Counsel, National Indian Gaming Commission, 1441 L Street NW., 9th Floor, Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA10

NATIONAL INDIAN GAMING COMMISSION (NIGC) — Long-Term Actions

4392. REVIEW OF PETITIONS FOR CERTIFICATE OF SELF-REGULATION UNDER THE INDIAN GAMING REGULATORY ACT

Priority: Other Significant

CFR Citation: 25 CFR 581

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Michael Cox
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA04

4393. PROCEDURES UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT

Priority: Other Significant

CFR Citation: 25 CFR 518

Timetable:

Action	Date	FR Cite
NPRM	04/09/93	58 FR 18353
NPRM Comment Period End	06/30/93	58 FR 27967

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Tribal

Agency Contact: Terry Heide
Phone: 202 632-7003
Fax: 202 632-7066

RIN: 3141–AA06

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National Labor Relations Board

Semiannual Regulatory Agenda

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NATIONAL LABOR RELATIONS BOARD (NLRB)

NATIONAL LABOR RELATIONS BOARD

29 CFR Ch. I

Unified Agenda of Federal Regulations

AGENCY: National Labor Relations Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The National Labor Relations Board is publishing its semiannual regulatory agenda pursuant to section 4(b) of Executive Order 12866. The agenda contains all rulemakings which are currently scheduled for consideration during the next 12 months or which have been issued as a final rule or withdrawn since the last regulatory agenda was published.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570; telephone (202) 273-1940.

SUPPLEMENTARY INFORMATION: The Board identified seven rulemakings for inclusion in the agenda. Three are under consideration and have not yet been published, one has been published as an ANPRM and an NPRM, and three have been published as NPRMs. Of the latter three rulemakings that have been published as NPRMs, one has recently been published as a Final Rule, and one has recently been withdrawn.

Dated, Washington, DC, March 19, 1996.

By direction of the Board.

John J. Toner,

Executive Secretary.

NATIONAL LABOR RELATIONS BOARD (NLRB) — Proposed Rule Stage

4394. MISCONDUCT RULES

Priority: Other Significant

Legal Authority: 29 USC 156

CFR Citation: 29 CFR 102.44

Legal Deadline: None

Abstract: The Board is currently reviewing its regulations governing misconduct by attorneys or other party representatives at hearings in order to determine whether to broaden the rules to cover misconduct outside of hearings and to establish certain procedures for processing allegations of misconduct.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570 Phone: 202 273-1940

RIN: 3142–AA00

4395. REPRESENTATION CASE PROCEDURES

Priority: Other Significant

Legal Authority: 29 USC 156

CFR Citation: 29 CFR 102.60 et seq

Legal Deadline: None

Abstract: The Board is undergoing a review of its current representation case rules in order to eliminate any that are antiquated and to streamline its procedures so as to minimize litigation and enhance the possibility of stipulated election agreements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570 Phone: 202 273-1940

RIN: 3142–AA01

4396. APPROPRIATENESS OF REQUESTED SINGLE LOCATION BARGAINING UNITS IN REPRESENTATION CASES

Priority: Other Significant

Legal Authority: 29 USC 156

CFR Citation: 29 CFR 103

Legal Deadline: None

Abstract: The Board published an advance notice of proposed rulemaking and a notice of proposed rulemaking on the issue of the appropriateness of requested single location bargaining units in representation cases. The Board is seeking to promulgate a rule or rules to limit to the extent possible the necessity to adjudicate the appropriateness of petitioned-for single facility units in each case.

Timetable:

Action	Date	FR Cite
ANPRM	06/02/94	59 FR 28501
ANPRM Comment Period End	07/29/94	
NPRM	09/28/95	60 FR 50146
NPRM Comment Period End	11/27/95	
NPRM Comment Period Extended	03/15/96	61 FR 10709
NPRM Comment Period Extended to	04/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570 Phone: 202 273-1940

RIN: 3142–AA05

4397. • SUMMARY JUDGMENT PROCEDURES

Priority: Other

Legal Authority: 29 USC 156

CFR Citation: 29 CFR 102.24

Legal Deadline: None

Abstract: The Board is undergoing a review of its current summary judgment rules and procedures in order to streamline its procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570

NLRB — Proposed Rule Stage

Phone: 202 273-1940

RIN: 3142–AA06

NATIONAL LABOR RELATIONS BOARD (NLRB) — Long-Term Actions

4398. CODIFICATION OF STANDARDIZED REMEDIAL PROVISIONS IN BOARD DECISIONS REGARDING OFFERS OF REINSTATEMENT, MAKE-WHOLE REMEDIES, COMPUTATION OF INTEREST, AND POSTING OF NOTICES

Priority: Other Significant

Legal Authority: 29 USC 156

CFR Citation: 29 CFR 103.101; 29 CFR 103.102; 29 CFR 103.103; 29 CFR 103.104

Legal Deadline: None

Abstract: The Board issued a notice of proposed rulemaking to require that interest on backpay and other monetary awards in unfair labor practice proceedings be compounded daily in order to compensate discriminatees for the delay in receiving their wages, and to promote prompt payment of legal obligations. The notice also proposed to amend the Board's rules to incorporate certain remedial provisions frequently appearing in Board decisions.

Timetable:

Action	Date	FR Cite
NPRM	03/05/92	57 FR 7897
NPRM Comment Period End	04/30/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570 Phone: 202 273-1940

RIN: 3142–AA03

NATIONAL LABOR RELATIONS BOARD (NLRB) — Completed Actions

4399. NOTICE OF PROPOSED RULEMAKING AND NOTICE OF ORAL ARGUMENT

Priority: Other Significant

Legal Authority: 29 USC 156

CFR Citation: 29 CFR 103.40; 29 CFR 103.41; 29 CFR 103.42; 29 CFR 103.43

Legal Deadline: None

Abstract: The Board published a notice of proposed rulemaking and notice of oral argument in order to address the statutory duties of labor organizations under the Supreme Court's decision in Communications Workers v. Beck, 487 U.S. 735 (1988). However, the Board recently decided, effective March 19, 1996, to withdraw the proposed rulemaking and to address the issues raised following the Beck decision on a case-by-case basis through its adjudicatory procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/22/92	57 FR 43635
NPRM Comment Period End	10/22/92	
Withdrawn	03/19/96	61 FR 11167

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570 Phone: 202 273-1940

RIN: 3142–AA02

4400. MODIFICATIONS TO ROLE OF NLRB ALJS INCLUDING: USE OF ALJS AS SETTLEMENT JUDGES; DISCRETION OF ALJS TO DISPENSE WITH BRIEFS, HEAR ORAL ARGUMENT IN LIEU OF BRIEFS, AND ISSUE BENCH DECISIONS

Priority: Other Significant

Legal Authority: 29 USC 156

CFR Citation: 29 CFR 102.35; 29 CFR 102.42; 29 CFR 102.45

Legal Deadline: None

Abstract: As part of its ongoing review of ways to expedite its unfair labor practice proceedings, the Board modified its rules, on a one-year experimental basis, to permit the assignment of Administrative Law Judges to serve as settlement judges, and to give its ALJs the discretion, in appropriate cases, to dispense with post-hearing briefs or proposed findings and conclusions, to hear oral argument, and to issue bench decisions. The rule was recently implemented by the Board on a permanent basis effective March 1, 1996.

Timetable:

Action	Date	FR Cite
NPRM	09/08/94	59 FR 46375
NPRM Comment Period End	10/07/94	
Final Rule	12/22/94	59 FR 65942
Final Action - Implemented Experiment on Permanent Basis	02/23/95	61 FR 6940
Final Action Effective	03/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Suite 11600, Washington, DC 20570 Phone: 202 273-1940

RIN: 3142–AA04

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Part LXI

Nuclear Regulatory Commission

Semiannual Regulatory Agenda

NUCLEAR REGULATORY COMMISSION (NRC)

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing its semiannual regulatory agenda in accordance with Public Law 96-354 "The Regulatory Flexibility Act" and Executive Order 12866 "Regulatory Planning and Review." The agenda is a compilation of all rules on which the NRC has recently completed action or has proposed or is considering action. This issuance updates any action occurring on rules since publication of the last semiannual agenda on November 28, 1995 (60 FR 61040).

ADDRESSES: Comments on any rule in the agenda may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Docketing and Service Branch. Comments may also be hand delivered to the One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Comments received on rules for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the agenda.

The agenda and any comments received on any rule listed in the agenda are available for public inspection and copying for a fee at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555-0001. Single copies of the NRC agenda can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082. Customers may call (202) 512-2249.

FOR FURTHER INFORMATION CONTACT: For further information concerning NRC rulemaking procedures or the status of any rule listed in this agenda, contact Michael Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone (301) 415-7163. Persons outside the Washington, DC, metropolitan area may call, toll-free: (800) 368-5642. For further information on the substantive content of any rule listed in the agenda, contact the individual listed under the heading "Agency Contact" for that rule.

SUPPLEMENTARY INFORMATION: The information contained in this semiannual publication is updated to reflect any action which has occurred on rules since publication of the last NRC semiannual agenda on November 28, 1995 (60 FR 61040). Within each group, the rules are ordered according to the Regulation Identifier Number (RIN).

The information in this agenda has been updated through March 15, 1996. The date for the next scheduled action under the heading "Timetable" is the date the rule is scheduled to be published in the **Federal Register**. The date is considered tentative and is not binding on the Commission or its staff. The regulatory agenda is intended to provide the public early notice and opportunity to participate in the NRC rulemaking process. However, the NRC may consider or act on any rulemaking even though it is not included in the regulatory agenda.

Rulemakings Approved by the Executive Director for Operations (EDO)

The EDO initiated a procedure for review of the regulations being prepared by staff offices that report to him to ensure that staff resources are allocated most effectively to achieve NRC's regulatory priorities. This procedure requires EDO approval before staff resources may be expended on the development of any new rulemaking. Furthermore, all existing rules must receive EDO approval prior to the commitment of additional resources.

The NRC agenda lists rulemaking actions. Of these, no rulemaking items are considered to be priority or major as defined in section 3(f) of Executive Order 12866.

Three rules potentially will have a "significant economic impact on a substantial number of small entities" as defined in the Regulatory Flexibility Act.

Dated at Rockville, Maryland, this 11th day of March 1996.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4401	Addition of Radon-222 and Technetium-99 Values to Table S-3 and Revisions Resulting From Consideration of Higher-Burnup Fuel	3150-AA31
4402	Shutdown and Low-Power Operations	3150-AE97
4403	Revision to Nuclear Power Reactor Decommissioning Financial Assurance Implementation Requirements	3150-AF41

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4404	Steam Generator Tube Integrity for Operating Nuclear Power Plants	3150-AF04

NRC

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4405	Fitness for Duty	3150-AF12
4406	Reporting Reliability and Availability Information for Risk-Significant Systems and Equipment	3150-AF33
4407	Deliberate Misconduct by Unlicensed Persons Regarding Applications	3150-AF35
4408	Protection of and Access to Classified Information for Licensee, Certificate Holder and Other Personnel	3150-AF37
4409	Revision to Nuclear Power Reactor Decommissioning Cost Requirements	3150-AF40
4410	Minor Corrections and Clarifying Changes	3150-AF46
4411	Removal of Obsolete 10 CFR Part 53	3150-AF47

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4412	Codes and Standards for Nuclear Power Plants (ASME Code, Section XI, Division 1, Subsection IWE and Subsection IWL)	3150-AC93
4413	Disposal of High-Level Radioactive Wastes in Geologic Repositories; Design Basis Events	3150-AD51
4414	License Renewal for Nuclear Power Plants; Scope of Environmental Effects	3150-AD63
4415	Radiological Criteria for Decommissioning of Nuclear Facilities	3150-AD65
4416	Reactor Site Criteria; Including Seismic and Earthquake Engineering Criteria for Nuclear Power Plants	3150-AD93
4417	Radiography and Radiation Safety Requirements for Radiographic Operations	3150-AE07
4418	Criteria for the Release of Patients Administered Radioactive Material	3150-AE41
4419	Design Certification for Advanced Boiling Water Reactor (ABWR)	3150-AE87
4420	Decommissioning of Nuclear Power Reactors	3150-AE96
4421	Design Certification for System 80+	3150-AF15
4422	Termination or Transfer of Licensed Activities: Recordkeeping Requirements	3150-AF17
4423	Production and Utilization Facilities; Emergency Planning and Preparedness Exercise Requirements	3150-AF20
4424	Constraint Level for Air Emissions of Radionuclides	3150-AF31
4425	Safeguards for Spent Nuclear Fuel or High-Level Radioactive Waste	3150-AF32
4426	Deletion of Outdated References and Minor Changes	3150-AF43
4427	Reporting Requirements for Unauthorized Use of Licensed Radioactive Material	3150-AF44

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4428	Criteria for an Extraordinary Nuclear Occurrence	3150-AB01
4429	Elimination of Inconsistencies Between NRC Regulations and EPA HLW Standards	3150-AC03
4430	Availability of Official Records	3150-AC07
4431	Comprehensive Quality Assurance in Medical Use and a Standard of Care	3150-AC42
4432	Reasserting NRC's Sole Authority for Approving On-Site Low-Level Waste Disposal in Agreement States	3150-AC57
4433	Requirements for Possession of Industrial Devices Containing Byproduct Material	3150-AD34
4434	Requirements Concerning the Accessible Air Gap for Generally Licensed Devices	3150-AD82
4435	Clarification of Reporting of Defects and Noncompliance for Materials Facilities	3150-AE18
4436	Standardized Plant Designs, Early Review of Site Suitability Issues; Clarifying Amendments	3150-AE25
4437	Codes and Standards for Nuclear Power Plants	3150-AE26
4438	Distribution of Source and Byproduct Material: Licensing and Reporting Requirements	3150-AE33
4439	Acceptability of Plant Performance for Severe Accidents; Scope of Consideration in Safety Regulations	3150-AE38
4440	Clarification of Assessment Requirements for Siting Criteria and Performance Objectives	3150-AE40
4441	Administration of Byproduct Material or Radiation to Patients Who May Be Pregnant	3150-AE44
4442	Disposal by Release Into Sanitary Sewerage	3150-AE90
4443	Nuclear Power Reactor Physical Protection Requirements Update	3150-AF11
4444	Fitness for Duty (Scope Change)	3150-AF13
4445	Power Reactor Facilities Under a Possession Only License	3150-AF16
4446	Domestic Licensing of Special Nuclear Material—Revision	3150-AF22
4447	Performance-Oriented Requirements for Fire Protection of Nuclear Power Facilities	3150-AF29

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4448	Criteria and Procedures for Determining Eligibility for Access to Restricted Data or National Security Information or an Employment Clearance	3150-AF48

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4449	Fracture Toughness Requirements for LWR Pressure Vessels	3150-AD57
4450	Revision of Specific Exemptions	3150-AD83
4451	Clarification of Decommissioning Funding Requirements	3150-AE95
4452	Procedures for Submission of Petitions for Rulemaking	3150-AF23
4453	Physical Security Plan Format Changes	3150-AF27
4454	One-Time Extension of Certain By-product, Source, and Special Nuclear Material Licenses	3150-AF38
4455	Revision of Fee Schedules; 100% Fee Recovery, FY 1996	3150-AF39
4456	Minor Correcting Amendments	3150-AF42
4457	Employee Protection Policies; Minor Amendments	3150-AF45

NUCLEAR REGULATORY COMMISSION (NRC)

Prerule Stage

4401. ADDITION OF RADON-222 AND TECHNETIUM-99 VALUES TO TABLE S-3 AND REVISIONS RESULTING FROM CONSIDERATION OF HIGHER-BURNUP FUEL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2011; 42 USC 2201; 42 USC 4321; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 51

Legal Deadline: None

Abstract: The proposed rule would amend the Table of Uranium Fuel Cycle Environmental Data (Table S-3) by adding new estimates for potential releases of technetium-99 and radon-222 and by updating other estimates. The proposed rule's narrative explanation (NUREG-1481) also describes the basis for the values contained in Table S-3, explains the environmental effects of these potential releases from the LWR Fuel Cycle, and postulates the potential radiation doses, health effects, and environmental impacts of these potential releases. The proposed rule would also amend 10 CFR 51.52 to modify the enrichment value of U-235 and the maximum level of average fuel irradiation (burnup in megawatt-days of thermal power per metric ton of uranium). The narrative explanation also addresses important fuel cycle impacts and the cumulative impacts of the nuclear fuel cycle for the whole nuclear power industry so that it may be possible to consider these impacts generically rather than repeatedly in individual licensing proceedings, thus reducing potential litigation time and costs for both NRC and applicants.

The proposed revision of 10 CFR 51.51 and the narrative explanation was published for public review and comment on March 4, 1981 (46 FR 15154). The final rulemaking was deferred pending the outcome of a suit (Natural Resources Defense Council, et al. v. NRC, No. 74-1486) in the U.S. Circuit Court of Appeals. The U.S. Court of Appeals (D.C. Circuit) decision of April 27, 1982, invalidated the entire Table S-3 rule. The Supreme Court reversed this decision on June 6, 1983.

The proposed rule and the explanatory narrative for Table S-3, NUREG-1481, have been revised to reflect new modeling developments during the time the rulemaking was deferred. Final action on the Table S-3 rule was held in abeyance until new values for radon-222 and technetium-99 could be added to the table and covered in the narrative explanation. The rule is being reissued as a proposed rule because the scope has been expanded to include radiation values for radon-222 and technetium-99 and the narrative explanation has been extensively revised from that published on March 4, 1981 (46 FR 15154).

Timetable:

Action	Date	FR Cite
NPRM	03/04/81	46 FR 15154
NPRM Comment Period End	05/04/81	
Second NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stanley Turel, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6234

RIN: 3150–AA31

4402. SHUTDOWN AND LOW-POWER OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by adding regulatory requirements for shutdown and low power operations of commercial nuclear power stations. Specific operational areas addressed by the proposed rule include: 1) outage planning and control; 2) availability of equipment needed for key safety functions; 3) decay heat removal capability during a fire; and 4) water level indication in pressurized water reactors when in reduced inventory.

Prior to its analysis of comments received and a public meeting held on April 7, 1995, the staff determined that the rule, regulatory analysis and regulatory guide would be rewritten. The rewritten rule would specify minimum requirements for safety during shutdown operation, require a contingency plan to address a failure to satisfy these requirements, and require controls that manage both the minimum requirements and the contingency plan.

Timetable:

Action	Date	FR Cite
NPRM	10/19/94	59 FR 52707
NPRM Comment Period End	01/03/95	
Second NPRM	04/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Kalman, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555
Phone: 301 415-1308

RIN: 3150–AE97

4403. • REVISION TO NUCLEAR POWER REACTOR DECOMMISSIONING FINANCIAL ASSURANCE IMPLEMENTATION REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking would amend the Commission's regulations to modify the financial assurance requirements for the decommissioning of nuclear power plants. The impact of deregulation of the power generating industry has created uncertainty with respect to the availability of decommissioning funds and would likely require a modification of the financial mechanism required by the NRC to provide decommissioning funds when needed. The ANPRM would also require power reactor licensees to report periodically on the status of their decommissioning trust funds during an extended safe storage period. The ANPRM would invite public comment on issues pertaining to the form and content of the nuclear power plant decommissioning financial assurance requirements as they related to electric utility deregulation.

Timetable:

Action	Date	FR Cite
ANPRM	04/08/96	61 FR 15427
ANPRM Comment Period End	06/24/96	
NPRM	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brian J. Richter, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research
Phone: 301 415-6221

RIN: 3150–AF41

NUCLEAR REGULATORY COMMISSION (NRC)

Proposed Rule Stage

4404. STEAM GENERATOR TUBE INTEGRITY FOR OPERATING NUCLEAR POWER PLANTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) was published to request public comment on the Commission's regulations pertaining to steam generator tube integrity. The objective of the rule would be to maintain adequate assurance of steam generator tube integrity while allowing a more appropriate approach to steam generator surveillance and maintenance activities at nuclear power plants. Steam generator degradation is a significant issue affecting current pressurized water reactors.

Timetable:

Action	Date	FR Cite
ANPRM	09/19/94	59 FR 47817
ANPRM Comment Period End	12/05/94	
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Tim Reed, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555
Phone: 301 415-1462

RIN: 3150–AF04

4405. FITNESS FOR DUTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 26

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's fitness for duty regulations. This proposed rule would also address the petition for rulemaking from Virginia Electric and Power Company (PRM-26-1), and address the Regulatory Review Group items on audit frequency and annual submittal of data. The Virginia Electric and Power Company requested that the Commission amend its fitness-for-duty

requirements to change the frequency that licensees are required to audit their fitness-for-duty programs from annually to biennially. The Commission and the EDO approved the staff proposals in SECY-92-308, but asked that the staff resubmit the SECY paper to address a backfit analysis. The staff proposals presented in SECY-92-308 have been revised. The revised Commission paper (SECY-95-262) was sent to the Commission in October 1995.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
Final Action	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mohan C. Thadani, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555
Phone: 301 415-1485

RIN: 3150–AF12

4406. REPORTING RELIABILITY AND AVAILABILITY INFORMATION FOR RISK-SIGNIFICANT SYSTEMS AND EQUIPMENT

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Nuclear Regulatory Commission's (NRCs) regulations to require that licensees for commercial nuclear power reactors report summary reliability and availability data for risk-significant systems and equipment to the NRC. The proposed rule would also require licensees to maintain onsite, and to make available for NRC inspection, records and documentation that provide the basis for the summary data reported to the NRC. This proposed rule is necessary to improve public health and safety, to reduce economic burden by focusing NRC and licensee attention on the most risk-significant issues, and to support generic and plant-specific regulatory actions. The proposed rule would substantially improve licensee implementation of the evaluation and goal setting aspects required by the maintenance rule and NRC's oversight of licensee's implementation of the maintenance rule.

Timetable:

Action	Date	FR Cite
NPRM	02/12/96	61 FR 5318
NPRM Comment Period End	06/11/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Dennis Allison, Nuclear Regulatory Commission, Office for Analysis and Evaluation of, Operational Data, Washington, DC 20555
Phone: 301 415-6835

RIN: 3150–AF33

4407. DELIBERATE MISCONDUCT BY UNLICENSED PERSONS REGARDING APPLICATIONS

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 030; 10 CFR 040; 10 CFR 050; 10 CFR 060; 10 CFR 061; 10 CFR 070; 10 CFR 072; 10 CFR 150

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to put applicants for NRC licenses and other unlicensed persons doing work for applicants on notice that they may be subject to enforcement action under the Commission's existing regulations regarding deliberate misconduct. The current regulations require that all information submitted to the Commission be complete and accurate. This proposed rulemaking would correct an apparent oversight from when the Deliberate Misconduct rule was adopted in 1991 and make that rule apply to applicants and to their employees, contractors, and subcontractors, including consultants.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tony DiPalo, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6191

RIN: 3150–AF35

4408. PROTECTION OF AND ACCESS TO CLASSIFIED INFORMATION FOR LICENSEE, CERTIFICATE HOLDER AND OTHER PERSONNEL

Priority: Other Significant

Legal Authority: 42 USC 2165; 42 USC 2201; 42 USC 2273; 42 USC 5841; EO 12829; EO 12958; EO 10865

CFR Citation: 10 CFR 010; 10 CFR 025; 10 CFR 095

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations conforming NRC policy for access to and protection of National Security Information and Restricted Data to new national policies for the protection of this type of information. The existing regulations were issued before the October 31, 1994, approval of the National Industrial Security Program Operating Manual (NISPOM) by the Deputy Secretary of Defense and the April 17, 1995, and August 2, 1995, signature of Executive Orders 12958, "Classified National Security Information," and 12968, "Access to Classified Information," by the President. The NISPOM establishes a uniform Government policy for the protection of classified National Security Information and Restricted Data within industrial facilities under a contractural or other (e.g., license) legal relationship with the Government. Executive Order 12958 revises the government-wide requirements for classification and protection of National Security Information, and Executive Order 12968 revises the government-wide requirements for access to National Security Information. The current 10 CFR Parts 25 and 95 are not fully compliant with the requirements of the NISPOM and the new Executive Orders. Some areas of inconsistency are revised accountability requirements for secret information, revised requirements for review of foreign ownership, control and influence considerations, new locking mechanism requirements, etc. These regulations must be amended to ensure their consistency with established national policy for the protection of classified information.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane G. Kidd, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555
Phone: 301 415-7403

RIN: 3150–AF37

4409. • REVISION TO NUCLEAR POWER REACTOR DECOMMISSIONING COST REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The notice of proposed rulemaking would amend the Commission's regulations to allow licensees greater flexibility by allowing site-specific funding amounts different from the NRC's generic values by both lesser and greater amounts. The current regulations only allow amounts greater than the generic values. This action was originally included in "Rulemaking Plan for Amending Nuclear Power Reactor Decommissioning Financial Assurance Implementation Requirements" (SECY-95-223). However, in a December 20, 1995, memorandum to the EDO, the Chairman directed the staff to delay work on amending the regulations to lower financial assurance requirements, until completing decommissioning cost studies. The Chairman did, however, encourage the staff to pursue amendments to the regulations that would permit site-specific funding amounts as described in SECY-95-223. Therefore the staff is continuing work on this action.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Brian J. Richter, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research
Phone: 301 415-6221

RIN: 3150–AF40

4410. • MINOR CORRECTIONS AND CLARIFYING CHANGES

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 020; 10 CFR 032; 10 CFR 035; 10 CFR 036; 10 CFR 039

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to incorporate minor corrections and clarifying changes to 10 CFR Part 20 and also make conforming changes to 10 CFR Parts 32, 35, 36, and 39.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jayne M. McCausland, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research
Phone: 301 415-6219

RIN: 3150–AF46

4411. • REMOVAL OF OBSOLETE 10 CFR PART 53

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 053

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations by removing 10 CFR Part 53, "Criteria and Procedures for Determining the Adequacy of Available Spent Nuclear Fuel Storage Capacity," from the Code of Federal Regulations. The current regulations establish procedures for nuclear plant owners to follow for obtaining a determination from the NRC that the plant cannot provide adequate spent fuel storage capacity. The NRC determination was needed for DOE to enter into negotiations for providing interim Federal storage of spent fuel. This determination had to be made prior to January, 1990, therefore, the regulation is now obsolete. There would be no impact on NRC licensees, safety, or the public.

Timetable:

Action	Date	FR Cite
NPRM	04/00/96	
Final Action	10/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Gorden Gundersen, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research
Phone: 301 415-6195

RIN: 3150–AF47

NUCLEAR REGULATORY COMMISSION (NRC) — Final Rule Stage

4412. CODES AND STANDARDS FOR NUCLEAR POWER PLANTS (ASME CODE, SECTION XI, DIVISION 1, SUBSECTION IWE AND SUBSECTION IWL)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would incorporate by reference Subsection IWE, "Requirements for Class MC Components of Light-Water Cooled Power Plants," and Subsection IWL, "Requirements for Class CC Concrete Components of Light-Water Cooled Power Plants," of Section XI (Division 1) of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code). Subsection IWE provides the rules and requirements for inservice inspection, repair, and replacement of Class MC pressure retaining components and

their integral attachments in light-water cooled power plants. Subsection IWL provides the rules and requirements for inservice inspection and repair of the reinforced concrete and post tensioning systems of Class CC components.

Incorporation by reference of Subsection IWE and Subsection IWL will provide systematic examination rules for containment structure for meeting Criterion 53 of the General Design Criteria (appendix A of 10 CFR part 50) and appendix J of 10 CFR part 50. Age-related degradation of containments has occurred, and additional and potentially more serious degradation mechanisms can be anticipated as nuclear power plants age.

If the NRC did not take action to endorse the Subsection IWE and Subsection IWL rules, the NRC position on examination practices for containment structure would have to be established on a case-by-case basis and improved examination practices for steel containment structures might not be implemented. The other alternatives of incorporating these detailed examination requirements into the American National Standard ANSI/ANS 56.8-1981 or into appendix J are not feasible.

Incorporating by reference the latest edition and addenda of Subsection IWE and Subsection IWL will save applicants/licensees and the NRC staff both time and effort by providing uniform detailed criteria against which the staff can review any single submission. Adoption of the proposed amendment would permit the use of improved methods for containment inservice inspection.

Timetable:

Action	Date	FR Cite
NPRM	01/07/94	59 FR 979
NPRM Comment Period End	04/25/94	59 FR 14373
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Wallace E. Norris, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6796

RIN: 3150–AC93

4413. DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES; DESIGN BASIS EVENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 060

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to clarify preclosure regulatory requirements for high-level waste geologic repositories. Several issues associated with preclosure regulatory requirements have been raised due to different interpretations of the rulemaking record for 10 CFR Part 60. These involve: (1) the lack of clearly prescribed requirements for the establishment of a preclosure controlled area intended to protect public health and safety in the event of a postulated radionuclide release; and (2) the definition of structures, systems, and components important to safety for which certain design and quality assurance criteria apply. In order to meet the milestones mandated by the Nuclear Waste Policy Act of 1983, as amended, and milestones pertaining to DOE's production schedule in the Mission Plan amendments, guidance is needed from NRC on these matters to enable DOE to proceed with the development of a proposed design for a geologic repository.

Timetable:

Action	Date	FR Cite
NPRM	03/22/95	60 FR 15180
NPRM Comment Period End	06/20/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard A. Weller, Nuclear Regulatory Commission, Office of Nuclear Material Safety, and Safeguards, Washington, DC 20555
Phone: 301 415-7287

RIN: 3150–AD51

4414. LICENSE RENEWAL FOR NUCLEAR POWER PLANTS; SCOPE OF ENVIRONMENTAL EFFECTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 051

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to establish new requirements for environmental review of applications for renewal of nuclear power plant operating licenses. The proposed rule would define the number and scope of environmental issues which would need to be addressed as part of a license renewal application.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/90	55 FR 29964
ANPRM Comment Period End	10/22/90	
NPRM	09/17/91	56 FR 47016
NPRM Comment Period End	03/16/92	56 FR 59898
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Donald P. Cleary, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6263

RIN: 3150–AD83

4415. RADIOLOGICAL CRITERIA FOR DECOMMISSIONING OF NUCLEAR FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 020; 10 CFR 030; 10 CFR 040; 10 CFR 050; 10 CFR 051; 10 CFR 070; 10 CFR 072

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to codify the basic principles and radiological criteria that would allow decommissioned lands and structures to be released for unrestricted public use. In the final rule entitled, "General Requirements for Decommissioning Nuclear Facilities" (June 27, 1988; 53 FR 24018), the need and urgency for guidance with respect to residual contamination criteria were expressed. At that time, it was anticipated that an interagency working group organized by the Environmental Protection Agency (EPA) would develop necessary Federal guidance. However, in the absence of significant progress by the interagency working group, the Commission has directed that the NRC expedite rulemaking because the requirements, once final, will provide licensees with an incentive to complete site decommissioning.

The proposed rule would establish basic radiological criteria for release of lands and structures. Measurables, in the form of surface and volume radioactive concentrations and site radioactivity inventory values, would be provided in supporting regulatory guidance. These combined activities should benefit the public, industry, and the NRC, providing a risk-based framework upon which decommissioning activities and license terminations can be accomplished. The framework will ensure adequate protection of public health and safety and identify residual radioactivity criteria upon which licensees can confidently develop reasonable and responsible decommissioning plans.

Timetable:

Action	Date	FR Cite
NPRM	08/22/94	59 FR 43200
NPRM Comment Period End	12/20/94	
Final Action	06/00/96	

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Agency Contact: Frank Cardile, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6185

RIN: 3150–AD65

4416. REACTOR SITE CRITERIA; INCLUDING SEISMIC AND EARTHQUAKE ENGINEERING CRITERIA FOR NUCLEAR POWER PLANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050; 10 CFR 052; 10 CFR 100

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to update the criteria used in decisions regarding power reactor siting, including geologic, seismic, and earthquake engineering considerations for future nuclear power plants. The proposed rule would allow NRC to benefit from experience gained in the application of the procedures and methods set forth in the current regulation and to incorporate the rapid advancements in the earth sciences and earthquake engineering. The proposed rule primarily consists of two separate changes, namely, the source term and dose considerations, and the seismic and earthquake engineering considerations of reactor siting.

The Commission is also proposing to deny the remaining issue in a petition for rulemaking filed by Free Environment, Inc., et al. (PRM-50-20).

Timetable:

Action	Date	FR Cite
NPRM	10/20/92	57 FR 47802
NPRM Comment Period End	05/12/95	60 FR 10810
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leonard Soffer, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6574

RIN: 3150–AD93

4417. RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 034

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations on licenses for radiography and radiation safety requirements for radiographic operations. The proposed rule would revise 10 CFR Part 34 to clarify the requirements in section 34.27 and conform Part 34 with the approach developed by the Conference of Radiation Control Program Directors, Inc. (Part E of the "Suggested State Regulations for Control of Radiation"), and the State of Texas in Part 31 of the Texas Regulations for Control of Radiation. Comments and suggestions from regulatory groups, users, and manufacturers will be considered in the overall revision. The NRC will also consult Canadian atomic energy control regulations that relate to radiography. The proposed rule is necessary because of frequent misinterpretations of the provisions of Part 34 and the need to clarify the requirements of 10 CFR 34.27. The staff is currently preparing an options paper which will examine the issues, set priorities, and provide direction for the proposed rulemaking. This proposed rule would also respond to a petition for rulemaking from International Union of Operating Engineers - Local No. 2 (PRM-34-4).

Timetable:

Action	Date	FR Cite
NPRM	02/28/94	59 FR 9429
NPRM Comment Period End	05/31/94	
Final Action	04/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Donald Nellis, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6257

RIN: 3150–AE07

4418. CRITERIA FOR THE RELEASE OF PATIENTS ADMINISTERED RADIOACTIVE MATERIAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 020; 10 CFR 035

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to revise the patient release criteria contained in 10 CFR 35.75, and the applicability of the dose limits for members of the public in 10 CFR 20.1301.

The Commission has received three petitions for rulemaking, PRM-20-20, PRM-35-10, and PRM-35-11 to amend its regulations regarding radiation exposure that individuals may receive from patients who have been medically administered radioactive materials, and the criteria under which this patient may be released from confinement. The petitioners believe that the current requirements of Parts 20 and 35 would cause patients to be confined unnecessarily beyond the time needed for medical reasons.

Timetable:

Action	Date	FR Cite
NPRM	06/15/94	59 FR 30724
NPRM Comment Period End	08/29/94	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stewart Schneider, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6225

RIN: 3150–AE41

4419. DESIGN CERTIFICATION FOR ADVANCED BOILING WATER REACTOR (ABWR)

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 052

Legal Deadline: None

Abstract: The proposed rule would revise the Nuclear Regulatory Commission's (NRCs) regulations by certifying the U.S. Advanced Boiling Water Reactor (ABWR) standard design in accordance with the requirements of Part 52. If a standard design is certified, then an applicant for a combined license that references the certified design will be assured of receiving an approval for the portion of the plant that was approved in the certification rulemaking. This amendment references the design control document (DCD) and sets forth the process for changing information in the DCD. GE Nuclear Engineering is currently preparing the DCD for ABWR design, which will contain the design information that will be certified by the rule and approved by the rule (so-called Tier 1 and 2 information). The NRC is reviewing two applications for standard design certifications for two evolutionary nuclear power plant designs pursuant to Part 52 (see "Design Certification for System 80+" (RIN 3150-AF15)

Timetable:

Action	Date	FR Cite
ANPRM	11/03/93	58 FR 58664
ANPRM Comment Period End	01/03/94	
NPRM	04/07/95	60 FR 17902
NPRM Comment Period End	08/07/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry N. Wilson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555-0001
Phone: 301 415-3145

RIN: 3150–AE87

4420. DECOMMISSIONING OF NUCLEAR POWER REACTORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations on the decommissioning procedures that lead to the termination of an operating license for a nuclear power plant and release of the property for unrestricted use. The proposed amendments would clarify ambiguities that have arisen in the past and codify practices which have been used for other licensees on a case-by-case basis.

Timetable:

Action	Date	FR Cite
NPRM	07/20/95	60 FR 37374
NPRM Comment Period End	10/18/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carl Feldman, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6194

RIN: 3150–AE96

4421. DESIGN CERTIFICATION FOR SYSTEM 80+

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 052

Legal Deadline: None

Abstract: The proposed rule would revise the Nuclear Regulatory Commission's (NRCs) regulations by certifying the System 80+ standard design in accordance with the requirements of Part 52. If a standard design is certified, then an applicant for a combined license that references the certified design will be assured of receiving an approval for the portion of the plant that was approved in the certification rulemaking. This amendment references the design control document (DCD) and sets forth the process for changing information in the DCD. ABB-Combustion Engineering is currently preparing the DCD for the System 80+ design, which will contain the design information that will be certified by the rule and approved by the rule (so-called Tier 1 and 2 information). The NRC is reviewing two applications for standard design certifications for two evolutionary nuclear power plant designs pursuant to part 52 (See "Design Certification for

Advanced Boiling Water Reactor (ABWR)" (RIN 3150-AE87).

Timetable:

Action	Date	FR Cite
ANPRM	11/03/93	58 FR 58664
ANPRM Comment Period End	01/03/94	
NPRM	04/07/95	60 FR 17924
NPRM Comment Period End	08/07/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Jerry N. Wilson, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555
Phone: 301 415-3145

RIN: 3150–AF15

4422. TERMINATION OR TRANSFER OF LICENSED ACTIVITIES: RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 70; 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations pertaining to the disposition of certain records when a licensee terminates licensed activities or licensed activities are transferred to another licensee. The proposed rule would require a licensee to transfer records necessary to evaluate offsite consequences and to decommission the facility effectively to the new licensee if licensed activities will continue at the same location and to forward records, such as waste disposal and dose records, to the NRC once the license is terminated.

Timetable:

Action	Date	FR Cite
NPRM	12/28/94	59 FR 66814
NPRM Comment Period End	03/28/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary L. Thomas, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6230

RIN: 3150–AF17

4423. PRODUCTION AND UTILIZATION FACILITIES; EMERGENCY PLANNING AND PREPAREDNESS EXERCISE REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations governing domestic licensing of production and utilization facilities, as necessary, to facilitate greater flexibility in the licensee's activities associated with the annual "off-year" exercise. This exercise is conducted to evaluate major portions of licensees' emergency response capabilities. The proposed amendment would preserve the existing requirement that each licensee, at each site, exercise biennially with participation by States and local governments within the plume exposure pathway emergency planning zone (EPZ). The proposed rule would also require licensees to continue enabling State and local governments in plume exposure pathway EPZs to participate in exercises and in drills in the interval between exercises. This proposed rule also addresses a petition for rulemaking submitted by the Virginia Electric and Power Company (PRM-50-58).

Timetable:

Action	Date	FR Cite
NPRM	04/14/95	60 FR 19002
NPRM Comment Period End	07/13/95	
Final Action	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6534

RIN: 3150–AF20

4424. CONSTRAINT LEVEL FOR AIR EMISSIONS OF RADIONUCLIDES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 020

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to provide a constraint level for air emissions of radionuclides of 10 mrem/yr, similar to the program developed pursuant to 10 CFR part 50, appendix I, for power reactors. The rulemaking would apply to NRC licensees other than power reactor licensees. This action is part of an ongoing effort to develop a basis for rescission of the Environmental Protection Agency's regulations in 40 CFR part 61.

Timetable:

Action	Date	FR Cite
NPRM	12/13/95	60 FR 63964
NPRM Comment Period End	03/12/96	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Charleen T. Raddatz, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6215

RIN: 3150–AF31

4425. SAFEGUARDS FOR SPENT NUCLEAR FUEL OR HIGH-LEVEL RADIOACTIVE WASTE

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 060; 10 CFR 072; 10 CFR 073; 10 CFR 075

Legal Deadline: None

NRC — Final Rule Stage

Abstract: The proposed rule would amend the Commission's regulations to clarify safeguards requirements for spent nuclear fuel or high-level radioactive waste stored at independent spent fuel storage installations, power reactors that have permanently ceased reactor operations, monitored retrievable storage installations, and geologic repository operations areas. This rule would allow general licensees the option of implementing the proposed safeguards requirements for spent nuclear fuel stored in approved casks at operating power reactor sites. This action is necessary to reduce the regulatory uncertainty regarding the safeguards requirements for the storage of spent nuclear fuel and high-level radioactive waste without reducing the level of protection for public health and safety.

Timetable:

Action	Date	FR Cite
NPRM	08/15/95	60 FR 42079
NPRM Comment Period End	11/13/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Telford, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6229

RIN: 3150–AF32

4426. • DELETION OF OUTDATED REFERENCES AND MINOR CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 002; 10 CFR 051

Legal Deadline: None

Abstract: The direct final rule would amend the Commission's regulations by deleting outdated references. This direct final rule would clarify that the NRC may use discretion to not require a written statement from a licensee in response to a notice of violation if the NRC believes that the licensee had already adequately addressed all the issues contained in that notice.

Timetable:

Action	Date	FR Cite
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Au, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research
Phone: 301 415-6181

RIN: 3150–AF43

4427. • REPORTING REQUIREMENTS FOR UNAUTHORIZED USE OF LICENSED RADIOACTIVE MATERIAL

Priority: Other Significant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 020

Legal Deadline: None

Abstract: The proposed rule would add a new requirement for licensees to notify the NRC Operations Center of any diversion of licensed radioactive material from its intended or authorized use. The proposed rule would require licensees to notify the NRC as soon as possible of such incidents, that are either intentional or allegedly intentional, or where the licensee is unable within 48 hours of discovery to rule out that the use was intentional. The proposed rule would require reporting of events that could lead to an exposure of individuals whether or not the exposure exceeds the regulatory limits.

Timetable:

Action	Date	FR Cite
NPRM	01/31/96	61 FR 3334
NPRM Comment Period End	03/31/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Thomas, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research
Phone: 301 415-6230

RIN: 3150–AF44

NUCLEAR REGULATORY COMMISSION (NRC) — Long-Term Actions

4428. CRITERIA FOR AN EXTRAORDINARY NUCLEAR OCCURRENCE

Priority: Other

CFR Citation: 10 CFR 140

Timetable:

Action	Date	FR Cite
NPRM	04/09/85	50 FR 13978
NPRM Comment Period End	09/06/85	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Harry Tovmassian
Phone: 301 415-6231

RIN: 3150–AB01

4429. ELIMINATION OF INCONSISTENCIES BETWEEN NRC REGULATIONS AND EPA HLW STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 60

Timetable:

Action	Date	FR Cite
NPRM	06/19/86	51 FR 22288
NPRM Comment Period End	08/18/86	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sher Bahadur
Phone: 301 415-6237

RIN: 3150–AC03

4430. AVAILABILITY OF OFFICIAL RECORDS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 2

NRC — Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61013
NPRM Comment Period End	03/08/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Catherine M. Holzle
Phone: 301 415-1560

RIN: 3150–AC07

4431. COMPREHENSIVE QUALITY ASSURANCE IN MEDICAL USE AND A STANDARD OF CARE

Priority: Other

CFR Citation: 10 CFR 35

Timetable:

Action	Date	FR Cite
ANPRM	10/02/87	52 FR 36949
ANPRM Comment Period End	12/31/87	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Anthony Tse
Phone: 301 415-6233

RIN: 3150–AC42

4432. REASSERTING NRC'S SOLE AUTHORITY FOR APPROVING ON-SITE LOW-LEVEL WASTE DISPOSAL IN AGREEMENT STATES

Priority: Other

CFR Citation: 10 CFR 150

Timetable:

Action	Date	FR Cite
NPRM	08/22/88	53 FR 31880
NPRM Comment Period End	10/21/88	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph J. Mate
Phone: 301 415-6202

RIN: 3150–AC57

4433. REQUIREMENTS FOR POSSESSION OF INDUSTRIAL DEVICES CONTAINING BYPRODUCT MATERIAL

Priority: Other Significant

CFR Citation: 10 CFR 031; 10 CFR 032

Timetable:

Action	Date	FR Cite
NPRM	12/27/91	56 FR 67011
NPRM Comment Period End	03/12/92	
Final Action	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Joseph J. Mate
Phone: 301 415-6202

RIN: 3150–AD34

4434. REQUIREMENTS CONCERNING THE ACCESSIBLE AIR GAP FOR GENERALLY LICENSED DEVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 031; 10 CFR 032

Timetable:

Action	Date	FR Cite
NPRM	11/27/92	57 FR 56287
NPRM Comment Period End	03/29/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Stephen McGuire
Phone: 301 415-6204

RIN: 3150–AD82

4435. CLARIFICATION OF REPORTING OF DEFECTS AND NONCOMPLIANCE FOR MATERIALS FACILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 021

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Clark Prichard
Phone: 301 415-6203

RIN: 3150–AE18

4436. STANDARDIZED PLANT DESIGNS, EARLY REVIEW OF SITE SUITABILITY ISSUES; CLARIFYING AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 050; 10 CFR 052; 10 CFR 140

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Geary S. Mizuno
Phone: 301 415-1639

RIN: 3150–AE25

4437. CODES AND STANDARDS FOR NUCLEAR POWER PLANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 050

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank Cherny
Phone: 301 415-6786

RIN: 3150–AE26

4438. DISTRIBUTION OF SOURCE AND BYPRODUCT MATERIAL: LICENSING AND REPORTING REQUIREMENTS

Priority: Other

CFR Citation: 10 CFR 032; 10 CFR 040

Timetable:

Action	Date	FR Cite
ANPRM	10/28/92	57 FR 48749

Action	Date	FR Cite
ANPRM Comment Period End	01/26/93	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Catherine R. Mattsen
Phone: 301 415-6264

RIN: 3150–AE33

4439. ACCEPTABILITY OF PLANT PERFORMANCE FOR SEVERE ACCIDENTS; SCOPE OF CONSIDERATION IN SAFETY REGULATIONS

Priority: Other

CFR Citation: 10 CFR 050

Timetable:

Action	Date	FR Cite
ANPRM	09/28/92	57 FR 44513
ANPRM Comment Period End	12/28/92	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Leonard Soffer
Phone: 301 415-6574

RIN: 3150–AE38

4440. CLARIFICATION OF ASSESSMENT REQUIREMENTS FOR SITING CRITERIA AND PERFORMANCE OBJECTIVES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 060

Timetable:

Action	Date	FR Cite
NPRM	07/09/93	58 FR 36902
NPRM Comment Period End	10/07/93	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra Wastler
Phone: 301 415-6724

RIN: 3150–AE40

4441. ADMINISTRATION OF BYPRODUCT MATERIAL OR RADIATION TO PATIENTS WHO MAY BE PREGNANT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 035

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Samuel Z. Jones
Phone: 301 415-6198

RIN: 3150–AE44

4442. DISPOSAL BY RELEASE INTO SANITARY SEWERAGE

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 020

Timetable:

Action	Date	FR Cite
ANPRM	02/25/94	59 FR 9146
ANPRM Comment Period End	05/26/94	
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: George Powers
Phone: 301 415-6212

RIN: 3150–AE90

4443. NUCLEAR POWER REACTOR PHYSICAL PROTECTION REQUIREMENTS UPDATE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 073

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sandra Frattali
Phone: 301 415-6261

RIN: 3150–AF11

4444. FITNESS FOR DUTY (SCOPE CHANGE)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 26

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mohan C. Thadani
Phone: 301 415-1485

RIN: 3150–AF13

4445. POWER REACTOR FACILITIES UNDER A POSSESSION ONLY LICENSE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 50

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carl Feldman
Phone: 301 415-6194

RIN: 3150–AF16

4446. DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL—REVISION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 070

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles Nilsen
Phone: 301 415-6209

RIN: 3150–AF22

4447. PERFORMANCE-ORIENTED REQUIREMENTS FOR FIRE PROTECTION OF NUCLEAR POWER FACILITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

CFR Citation: 10 CFR 050

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Moni Dey
Phone: 301 415-6443

RIN: 3150–AF29

4448. • CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO RESTRICTED DATA OR NATIONAL SECURITY INFORMATION OR AN EMPLOYMENT CLEARANCE

Priority: Other Significant

Legal Authority: 42 USC 2165; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 010

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations conforming NRC policy for access to and protection of National Security Information and Restricted Data to new national policies for the protection of this type of information. The existing regulations were issued before the October 31, 1994, approval of the National Industrial Security Program Operating Manual (NISPOM) by the Deputy Secretary of Defense and the April 17, 1995 and August 2, 1995, signature of Executive Orders 12958, "Classified National Security Information," and 12968, "Access to Classified Information," by the President. The NISPOM establishes a uniform Government policy for the protection of classified National Security Information and Restricted Data within industrial facilities under a contractual or other (e.g. license) legal relationship with the Government. Executive Order 12958 revises the governmentwide requirements for classification and protection of National Security Information and Executive Order 12968 revises the governmentwide personnel security requirements for access to National Security Information. The current 10 CFR Part 10 is not fully compliant with the requirements of the NISPOM and Executive Order 12968. Some areas or inconsistency are the NRC Criteria for Determining Eligibility for Access to Restricted Data or National Security Information or an Employment Clearance and the NRC Due process Appeal Procedures. 10 CFR Part 10 must be amended to ensure its consistency with established national policy for the protection of classified information and due process.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James J. Dunleavy, Nuclear Regulatory Commission, Office of Administration
Phone: 301 415-7404

RIN: 3150–AF48

NUCLEAR REGULATORY COMMISSION (NRC) — Completed Actions

4449. FRACTURE TOUGHNESS REQUIREMENTS FOR LWR PRESSURE VESSELS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The final rule amended the Commission's regulations concerning fracture toughness requirements to resolve a number of issues that have resulted from technological improvements and other factors.

Timetable:

Action	Date	FR Cite
Final Action	12/19/95	60 FR 65456
Final Action Effective	01/18/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Al Taboada, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6014

RIN: 3150–AD57

4450. REVISION OF SPECIFIC EXEMPTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 009

Legal Deadline: None

Abstract: The final rule amended the Commission's regulations pertaining to specific Privacy Act exemptions. This final rule added exemption (j)(2) of the Privacy Act to the regulations that describe exempt systems of records. These amendments make NRC's regulations consistent with the majority of statutorily appointed Inspectors General and clearly link each system of records to the specific exemption(s) of the Privacy Act under which each system is exempt.

Timetable:

Action	Date	FR Cite
Final Action	12/13/95	60 FR 63897
Final Action Effective	01/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Russell A. Powell, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555
Phone: 301 415-7169

RIN: 3150–AD83

4451. CLARIFICATION OF DECOMMISSIONING FUNDING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 030; 10 CFR 040; 10 CFR 070; 10 CFR 072

Legal Deadline: None

Abstract: The final rule amended the Commission's regulations for nonreactor licensees on the expiration and termination of licensees. These amendments clarify that financial assurance must be in place and updated when the licensee decides to cease operation and begin decommissioning. These amendments explicitly describe the implementation and timing requirements for licensees who have been in timely renewal since the promulgation of the 1988 decommissioning funding rules and for licensees who cease operations without adequate funding arrangements in place.

Timetable:

Action	Date	FR Cite
Final Action	07/26/95	60 FR 38235
Final Action Effective	11/24/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mary Thomas, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6230

RIN: 3150–AE95

4452. PROCEDURES FOR SUBMISSION OF PETITIONS FOR RULEMAKING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 002

Legal Deadline: None

Abstract: The proposed rule would have amended the Commission's regulations pertaining to petitions for rulemaking. The Commission has determined that this rulemaking is unnecessary and is withdrawing this proposed rule.

Timetable:

Action	Date	FR Cite
Withdrawn	02/06/96	61 FR 4378

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: T. Y. Chang, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555
Phone: 301 415-6430

RIN: 3150–AF23

4453. PHYSICAL SECURITY PLAN FORMAT CHANGES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 050; 10 CFR 070

Legal Deadline: None

Abstract: The final rule amended the Commission's regulations to remove an unnecessary security plan format requirement. Applicants for power reactor and fuel cycle licenses may now submit their physical security plans in a format that provides for a quicker and more efficient review.

Timetable:

Action	Date	FR Cite
Final Action	10/16/95	60 FR 53505
Final Action Effective	11/15/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carrie Brown, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington DC 20555
Phone: 301 415-8092

RIN: 3150–AF27

4454. ONE-TIME EXTENSION OF CERTAIN BY-PRODUCT, SOURCE, AND SPECIAL NUCLEAR MATERIAL LICENSES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 030; 10 CFR 040; 10 CFR 070

Legal Deadline: None

Abstract: The final rule authorized, on a one-time basis, a five-year extension of certain byproduct, source, and special nuclear material licenses. The provisions of the licenses, under the extension, provide the same authorizations and limits on licensee activities as they do now. The final rule specifies those licenses whose license expiration dates are not extended.

Timetable:

Action	Date	FR Cite
Final Action	01/16/96	61 FR 1109
Final Action Effective	02/15/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: John Pelchat, Nuclear Regulatory Commission, Region II, 101 Marietta Street NW., Atlanta, GA 30323
Phone: 404 331-5083

RIN: 3150–AF38

4455. REVISION OF FEE SCHEDULES; 100% FEE RECOVERY, FY 1996

Priority: Economically Significant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 170; 10 CFR 171

Legal Deadline: Final, Statutory, September 30, 1996.
Omnibus Budget Reconciliation Act of 1990

Abstract: This final rule amends the Nuclear Regulatory Commission's (NRCs) regulations regarding the licensing, inspection, and annual fees charged to NRC licensees and applicants for an NRC license. The amendments are necessary to recover approximately 100 percent of the NRC budget authority for fiscal year 1996 less the amounts appropriated from the Nuclear Waste Fund. The Omnibus Budget Reconciliation Act of 1990 (OBRA-90) requires that the NRC accomplish the 100 percent recovery through the assessment of fees.

Timetable:

Action	Date	FR Cite
NPRM	01/30/96	61 FR 2948
NPRM Comment Period End	02/29/96	
Final Action	04/12/96	61 FR 16203
Final Action Effective	06/11/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: C. James Holloway, Jr., Office of the Controller, Nuclear Regulatory Commission, Washington, DC 20555
Phone: 301 415-7724

RIN: 3150–AF39

4456. • MINOR CORRECTING AMENDMENTS

Priority: Other

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 019; 10 CFR 030; 10 CFR 051; 10 CFR 052; 10 CFR 055

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to correct several miscellaneous errors in regulatory text in the Code of Federal Regulations (CFR). These changes in the CFR text occurred in the process of preparing and printing rulemaking documents.

Timetable:

Action	Date	FR Cite
Final Action	03/12/96	61 FR 9901
Final Action Effective	03/12/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Michael T. Lesar, Nuclear Regulatory Commission, Office of Administration
Phone: 301 415-7163

RIN: 3150–AF42

4457. • EMPLOYEE PROTECTION POLICIES; MINOR AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 019; 10 CFR 030; 10 CFR 040; 10 CFR 050; 10 CFR 060; 10 CFR 061; 10 CFR 070; 10 CFR 072

Legal Deadline: None

Abstract: The direct final rule amends the Commission's regulations related to notices to workers and to employee protection policies. This direct final rule updates a telephone number, clarifies the applicability of employment discrimination policies, and updates NRC form 3.

Because the NRC considers this action controversial and routine, we are approving it without seeking public comments on proposed amendments. This action will become effective on April 22, 1996. However, if the NRC receives significant adverse comments by March 25, 1996, then the NRC will publish a document that withdraws this action, and will address the comments received in response to the requested revisions which have been proposed for approval and published in the Federal Register on February 22, 1996 (61 FR 6796). Comments would be addressed in the final rule on this proposal.

Timetable:

Action	Date	FR Cite
Final Action	02/22/96	61 FR 6762
Final Action Effective	04/22/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Mark Haisfield, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research
Phone: 301 415-6196

RIN: 3150–AF45

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Part LXII

Securities and Exchange Commission

Semiannual Regulatory Agenda

SECURITIES AND EXCHANGE COMMISSION (SEC)

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

[Release Nos. 33-7270, 34-36915, 35-26481, 39-2338, IC-21795, IA-1558; File No. S7-5-96]

Regulatory Flexibility Agenda

AGENCY: Securities and Exchange Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Securities and Exchange Commission is publishing an agenda of its rulemaking actions pursuant to the Regulatory Flexibility Act. Information in the agenda is believed to be accurate as of March 1, 1996, the date on which the Commission's staff completed compilation of the data. To the extent possible, however, rulemaking actions by the Commission since that date have been reflected in the agenda. The Commission invites questions and public comment on the agenda and on the individual agenda entries.

DATES: Public comments are due by June 30, 1996.

ADDRESSES: Persons wishing to submit written comments should file three copies of their comments with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street NW., Room 6184, Stop 6-9, Washington, DC 20549. All submissions should refer to File No. S7-5-96 and will be available for public inspection and copying at the Commission's Public Reference Room, Room 1026, at the same address.

FOR FURTHER INFORMATION CONTACT: Anne H. Sullivan, Office of the General Counsel, 202-942-0954.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (Pub. L. No. 96-354, 94 Stat. 1164 (September 19, 1980)) requires each Federal agency, during April and October of each year, to publish in the **Federal Register** an agenda identifying rules which the agency expects to propose or adopt that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602(a)). The RFA specifically provides that publication of the agenda does not preclude an agency from considering or acting on any matter not included in the agenda and that an agency is not required to consider or act on any matter which is included in the agenda (5 U.S.C. 602(d)). The agenda includes new entries, entries carried over from previous publications, and rulemaking actions which have been completed (or withdrawn) since publication of the last agenda.

The following abbreviations for the acts administered by the Commission are used throughout the agenda:

"Securities Act" - Securities Act of 1933

"Exchange Act" - Securities Exchange Act of 1934

"PUHCA" - Public Utility Holding Company Act of 1935

"Investment Company Act" - Investment Company Act of 1940

"Investment Advisers Act" - Investment Advisers Act of 1940

The Commission's regulatory flexibility agenda is set forth below. The Commission invites public comment on the agenda and on the individual agenda entries.

Dated: March 4, 1996.

By the Commission.

Jonathan G. Katz,

Secretary.

DIVISION OF CORPORATION FINANCE—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4458	Form S-4: Elimination of General Instruction G	3235-AG22
4459	Extension of Reporting Requirements for Certain Issuers of Debt Securities	3235-AG33
4460	Regulation S	3235-AG34

DIVISION OF CORPORATION FINANCE—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4461	Disclosure of Security Ratings	3235-AG20
4462	Ownership Reports and Trading by Officers, Directors, and Principal Security Holders	3235-AF66
4463	Disclosure of Legal Proceedings Involving Management, Promoters, Control Persons and Others	3235-AG32
4464	Streamlining and Consolidation of Executive and Director Compensation Disclosure	3235-AG50
4465	Exemption for Certain California Limited Issues	3235-AG51
4466	Solicitations of Interest Prior to an Initial Public Offering	3235-AG52
4467	Use of Electronic Media for Delivery Purposes	3235-AG67
4468	Phase One Recommendations of Task Force on Disclosure Simplification	3235-AG75
4469	Streamlining Disclosure Requirements Relating to Significant Business Acquisitions and Requiring Quarterly Reporting of Unregistered Equity Sales	3235-AG47
4470	Relief From Reporting by Small Issuers	3235-AG48
4471	Revision of Holding Period Requirements in Rule 144	3235-AG53

SEC

DIVISION OF CORPORATION FINANCE—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4472	Asset-Backed Securities Disclosure	3235-AF74
4473	Safe Harbor for Forward-Looking Statements	3235-AG35
4474	Streamlining Financial Statement Disclosure—Abbreviated Financial Statements	3235-AG49
4475	Small Issue Exemptive Rule and Registration Forms for Certain Rights Offerings	3235-AD44
4476	Forms for Information Filed by Exempt Foreign Private Issuers	3235-AD72
4477	International Tender and Exchange Offers	3235-AD97

DIVISION OF INVESTMENT MANAGEMENT—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4478	Investment Advisers: Registration and Annual Supplement Forms	3235-AD21
4479	Registration Fees for Certain Investment Companies	3235-AG73
4480	Unit Investment Trusts: Simplification of Registration Statements and Advertising Rules	3235-AA47
4481	Certain Investment Company Registration Forms	3235-AE46
4482	Proposed Definition of "Small Entity" for Purposes of the Regulatory Flexibility Act	3235-AG62
4483	Shareholder Report and Financial Statement Revisions	3235-AG64
4484	Exemption for Finance Subsidiaries of Certain Banks and Insurance Companies	3235-AE95
4485	Custody of Investments by a Registered Management Investment Company	3235-AF70
4486	Mergers of Certain Affiliated Investment Companies	3235-AG31
4487	Improving Descriptions of Risk by Mutual Funds and Other Investment Companies	3235-AG43
4488	Exemption of Certain Purchase or Sale Transactions Between an Investment Company and Certain Affiliated Persons Thereof	3235-AG57
4489	Bonding of Officers and Employees of Registered Management Investment Companies	3235-AG58
4490	Mutual Fund Prospectuses Provided to Participants in Certain Defined Contribution Plans and Form Amendments	3235-AG60
4491	Exemption of Acquisition of Securities During the Existence of Underwriting Syndicates	3235-AG61
4492	Deposits of Securities in Securities Depositories	3235-AG71
4493	Multiple Class Companies	3235-AG72
4494	Amendments to Form N-SAR, Semiannual Report of Registered Investment Companies	3235-AF93
4495	Deregistration Form Amendments	3235-AG29
4496	Insurance Products: New Form N-6 for Registration of Separate Accounts Offering Variable Life Insurance Contracts	3235-AG37
4497	Insurance Products: Rule Regarding Mortality and Expense Risk Charges	3235-AG38
4498	Insurance Products: Rule To Permit (1) Deductions From Premium Payments to Compensate for Certain Increases in Federal Tax Liability, and (2) Mixed and Shared Funding	3235-AG39
4499	PUHCA: Exemption for Certain Acquisitions of Foreign Utility Companies	3235-AF78
4500	Status of Subsidiary Companies Formed To Hold Interests in Foreign Utility Companies	3235-AF79

DIVISION OF INVESTMENT MANAGEMENT—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4501	Money Market Fund Prospectuses	3235-AG55
4502	Performance Advertising by Unit Investment Trusts	3235-AG63
4503	Exemptions for Certain Investment Companies To Impose Deferred Sales Loads	3235-AE97
4504	Custody of Investment Company Assets Outside the United States	3235-AE98
4505	Custody of Investment Company Assets With Futures Commission Merchants and Commodity Clearing Organizations	3235-AF97
4506	Requirements Relating to Codes of Ethics With Respect to Registered Investment Companies; Records To Be Maintained by Investment Advisers	3235-AG27
4507	Distribution of Shares by Registered Open-End Management Investment Company	3235-AG59
4508	Status of Investment Advisory Programs Under the Investment Company Act of 1940	3235-AG07
4509	PUHCA: Subsidiaries Performing Services or Construction or Selling Goods	3235-AF87
4510	PUHCA: Exemption for Transactions With Foreign Associates	3235-AG19

SEC

DIVISION OF INVESTMENT MANAGEMENT—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
4511	Exemption of Issuance and Sale of Securities by Public Utility and Nonutility Subsidiary Companies of Registered Public Utility Holding Companies	3235-AG45
4512	Exemption of Acquisition by Registered Public Utility Holding Companies of Securities of Nonutility Companies Engaged in Certain Energy Related and Gas Related Activities	3235-AG46

DIVISION OF INVESTMENT MANAGEMENT—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4513	Suitability of Investment Adviser Advice; Quarterly Account Statements	3235-AG06
4514	Disclosure by Investment Advisers Regarding Soft Dollar Practices	3235-AG36
4515	Money Market Fund Quarterly Reporting	3235-AG56
4516	Off-the-Page Prospectuses for Open-End Management Investment Companies	3235-AF58
4517	Repurchase Offers by Closed-End Management Investment Companies; Disclosure of Sales Charges	3235-AG74

DIVISION OF INVESTMENT MANAGEMENT—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4518	Tax-Exempt Money Market Fund Rule Proposals	3235-AE17
4519	Amendments to Proxy Rules for Registered Investment Companies	3235-AG54
4520	Expedited Procedure for Exemptive Orders	3235-AF56
4521	Assignments of Advisory Contracts: Temporary Exemptions	3235-AF57
4522	Certain Research and Development Companies	3235-AF69
4523	Exemption From Disqualification for Certain Affiliated Persons	3235-AF89
4524	Exemption From Certain Filing Requirements for Certain Affiliated Persons of Investment Advisers	3235-AF81
4525	PUHCA: Annual Report of Mutual and Subsidiary Service Companies	3235-AG05

DIVISION OF MARKET REGULATION—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4526	Stabilizing To Facilitate a Distribution	3235-AE11
4527	Definitions Principally Relating to International Transactions	3235-AE15
4528	Distributions of Securities: Limitations on Trading and Stabilizing	3235-AF54
4529	Amendment to Form BDW and Amendment to Exchange Act Rule 15b6-1	3235-AG69
4530	Nationally Recognized Statistical Rating Organizations	3235-AG41

DIVISION OF MARKET REGULATION—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4531	Customer Protection Reserves and Custody of Securities	3235-AD60
4532	Net Capital Requirements for Brokers or Dealers	3235-AD79
4533	Theoretical Pricing To Determine Haircuts on Options	3235-AG14
4534	Market Risk Haircuts for Instruments Subject to Interest Rate Risk	3235-AG18
4535	Form BD Amendments	3235-AG25
4536	Prohibition on Market-Makers Trading Ahead of Customer Limit Orders	3235-AG21
4537	Proposed Amendments to Transfer Agent Rules	3235-AG24
4538	Amendments to Rule 11Ac1-1 (Quote Rule), Proposed Rule 11Ac1-4 Limit Order Display	3235-AG66

SEC

DIVISION OF MARKET REGULATION—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4539	Disclosure of Mark-ups: New Rule 15c2-13	3235-AG12
4540	Large Trader Reporting System	3235-AE42

DIVISION OF MARKET REGULATION—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4541	Definition of "Short Sale"	3235-AE41
4542	Exemption for Designated Foreign Government Securities for Purposes of Futures Trading	3235-AG65
4543	Exemption for Designated Foreign Government Securities for Purposes of Futures Trading	3235-AG68
4544	Proposed Amendments To Tender Offer Rules: Soliciting Dealer's Fees	3235-AG44

OFFICES AND OTHER PROGRAMS—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4545	Disclosure of Accounting Policies for Derivative Instruments and Disclosure of Qualitative and Quantitative Information About Market Risk in Certain Instruments	3235-AG42

OFFICES AND OTHER PROGRAMS—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4546	Proposed Rule To Implement Section 10A of the Securities Exchange Act of 1934	3235-AG70

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF CORPORATION FINANCE

Proposed Rule Stage

4458. FORM S-4: ELIMINATION OF GENERAL INSTRUCTION G

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c; 15 USC 77e; 15 USC 77f; 15 USC 77h; 15 USC 77j; 15 USC 77q; 15 USC 77s

CFR Citation: 17 CFR 230.406; 17 CFR 230.464; 17 CFR 230.473; 17 CFR 230.475a; 17 CFR 230.477; 17 CFR 239.25

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose eliminating General Instruction G from Form S-4 in view of the exemption from registration for securities issued in bank holding company formations recently enacted as part of the Riegle Community Development and Regulatory Improvement Act.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Peggy Fisher, Division of Corporation Finance, Securities and Exchange Commission Phone: 202 942-1762

RIN: 3235–AG22

4459. EXTENSION OF REPORTING REQUIREMENTS FOR CERTAIN ISSUERS OF DEBT SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77nnn

CFR Citation: 17 CFR 260

Legal Deadline: None

Abstract: In June 1994, the Commission published a release soliciting comment as to whether it is advisable to expand reporting requirements to issuers of debt securities that are traded in the over-the-counter market under certain circumstances where the issuer is not otherwise subject to periodic reporting requirements. The Division is considering whether to recommend that the Commission issue proposals to require certain obligors on debt securities to file reports with the Commission containing current information regarding their obligations.

SEC—DIVISION OF CORPORATION FINANCE

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	06/07/94	59 FR 29398
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph Babits, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AG33

4460. REGULATION S

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.901 et seq

Legal Deadline: None

Abstract: In connection with the issuance of an interpretive release relating to Regulation S, the Commission solicited comment as to whether Regulation S should be amended to impose additional restrictions on its use to impede attempts to use the regulation to evade the registration requirements of the Securities Act of 1933. The Division will consider the comments received in considering its recommendation for further Commission action.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/95	60 FR 35563
ANPRM Comment Period End	09/08/95	
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul M. Dudek, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2990

RIN: 3235–AG34

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF CORPORATION FINANCE

Final Rule Stage

4461. DISCLOSURE OF SECURITY RATINGS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77e to 77g; 15 USC 77j to 77k; 15 USC 77q; 15 USC 77s(a); 15 USC 78m; 15 USC 78w(a)

CFR Citation: 17 CFR 228.10; 17 CFR 228.202; 17 CFR 229.10; 17 CFR 229.202; 17 CFR 230.134; 17 CFR 230.430A; 17 CFR 230.436; 17 CFR 249.308

Legal Deadline: None

Abstract: The Commission issued a release proposing new rules regarding disclosure with respect to security ratings in prospectuses under the Securities Act and material changes in security ratings on Form 8-K under the Exchange Act. The proposals would require disclosure of ratings obtained by or on behalf of an issuer from a Nationally Recognized Statistical Rating Organization (NRSRO) for registered securities or any rating (whether or not assigned by an NRSRO) that is used by a participant in an offering of securities.

Timetable:

Action	Date	FR Cite
NPRM	09/07/94	59 FR 46304
NPRM Comment Period End	12/06/94	
Final Action	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian Miller, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-1997

RIN: 3235–AG20

4462. OWNERSHIP REPORTS AND TRADING BY OFFICERS, DIRECTORS, AND PRINCIPAL SECURITY HOLDERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78n(d); 15 USC 78p(a); 15 USC 78p(b); 15 USC 78p(c); 15 USC 78w(a)

CFR Citation: 17 CFR 240.16a-1 to 240.16a-11; 17 CFR 240.16b-1 to 240.16b-11

Legal Deadline: None

Abstract: The Commission has proposed amendments to rules under section 16 of the Exchange Act designed to streamline reporting by a public company's officers, directors and significant shareholders of transactions in the company's securities.

Timetable:

Action	Date	FR Cite
NPRM	08/17/94	59 FR 42449
Additional NPRM Comment Period for All Proposals Extended to 11/01/94	09/22/94	59 FR 48579
NPRM Comment Period End	10/17/94	
Additional NPRM Comment Period for All Proposals Extended to 12/05/95	10/11/95	60 FR 53832
Correcting Release	10/20/95	60 FR 54823
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth M. Murphy, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2848

RIN: 3235–AF66

4463. DISCLOSURE OF LEGAL PROCEEDINGS INVOLVING MANAGEMENT, PROMOTERS, CONTROL PERSONS AND OTHERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 228.401; 17 CFR 229.401; 17 CFR 239.90; 17 CFR 240.13d-101; 17 CFR 240.13e-100; 17 CFR 240.14d-100

Legal Deadline: None

Abstract: The Commission has proposed amendments that would expand disclosure requirements relating to legal proceedings involving management, promoters, control persons and others by enlarging the classes of legal proceedings that are subject to disclosure and by extending the period during which disclosure is required from the current five to ten years.

Timetable:

Action	Date	FR Cite
NPRM	11/07/94	59 FR 55385
NPRM Comment Period End	01/06/95	
Final Action	12/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James R. Budge, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AG32

SEC—DIVISION OF CORPORATION FINANCE

Final Rule Stage

4464. STREAMLINING AND CONSOLIDATION OF EXECUTIVE AND DIRECTOR COMPENSATION DISCLOSURE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c(b); 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 228.402; 17 CFR 229.402; 17 CFR 240.14a-101; 17 CFR 249.310; 17 CFR 249.310b

Legal Deadline: None

Abstract: The Commission proposed amendments that would permit registrants to provide in the Form 10-K some of the executive compensation disclosure that is currently required in the proxy statement furnished to shareholders. In addition, amendments to the format of disclosure regarding director compensation were proposed in order to improve the presentation.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35633
NPRM Comment Period End	09/08/95	
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth M. Murphy, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AG50

4465. EXEMPTION FOR CERTAIN CALIFORNIA LIMITED ISSUES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c(b); 15 USC 77s

CFR Citation: 17 CFR 230.144; 17 CFR 230.1001(New)

Legal Deadline: None

Abstract: In order to reduce regulatory burdens associated with certain offers and sales of securities, the Commission proposed a new exemption from its registration requirements for limited offerings of up to $5 million that are exempt from qualification under recently enacted California State securities law.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35638
NPRM Comment Period End	09/08/95	
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James R. Budge, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AG51

4466. SOLICITATIONS OF INTEREST PRIOR TO AN INITIAL PUBLIC OFFERING

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77b; 15 USC 77c; 15 USC 77d; 15 USC 77e; 15 USC 77s

CFR Citation: 17 CFR 230.135d(New); 17 CFR 230.254; 17 CFR 232.101; 17 CFR 230.100

Legal Deadline: None

Abstract: The Commission published for comment a proposed rule that would allow issuers contemplating initial public offerings to solicit indications of investor interest in their companies prior to the filing of a registration statement under the Securities Act of 1933. The proposed rule would allow an issuer to assess potential investor interest in the company before incurring possibly significant costs associated with the preparation of offering disclosure documents. The proposals are intended to reduce the regulatory impediments and cost of accessing public markets consistent with investor protection interests.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35648
NPRM Comment Period End	09/08/95	
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James R. Budge, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AG52

4467. • USE OF ELECTRONIC MEDIA FOR DELIVERY PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 228.502; 17 CFR 229.502; 17 CFR 200.80; 17 CFR 230.120; 17 CFR 230.253; 17 CFR 230.420; 17 CFR 230.481-482; 17 CFR 230.605; 17 CFR 232.304; 17 CFR 239.37; 17 CFR 239.38; 17 CFR 239.39; 17 CFR 239.40; 17 CFR 239.41; 17 CFR 240.12b-12; ...

Legal Deadline: None

Abstract: The Commission proposed minor clarifying and technical amendments to its rules governing distribution of disclosure documents to security holdings and others to reflect its position relating to the use of electronic media for dissemination of information under the federal securities laws.

Timetable:

Action	Date	FR Cite
NPRM	10/13/95	60 FR 53468
NPRM Comment Period End	11/27/95	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

SEC—DIVISION OF CORPORATION FINANCE — Final Rule Stage

Additional Information: CFR CITATION CONT: 17 CFR 240.13e-3; 17 CFR 240.13e-4; 17 CFR 240.13e-102; 17 CFR 240.14a-3; 17 CFR 240.14a-5; 17 CFR 240.14a-7; 17 CFR 240.14c-4; 17 CFR 240.14c-7; 17 CFR 240.14d-5; 17 CFR 240.14d-102; 17 CFR 240.14d-103; 17 CFR 270.8b-12; 17 CFR 270.30d-1; 17 CFR 270.30d-2

Agency Contact: James Budge, Special Counsel, Office of Disclosure Policy, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AG67

4468. • PHASE ONE RECOMMENDATIONS OF TASK FORCE ON DISCLOSURE SIMPLIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 210; 17 CFR 228; 17 CFR 229; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: Having considered several of the recommendations of the Task Force on Disclosure Simplification, the Commission proposed to eliminate a number of rules and forms that may no longer be necessary or appropriate for the protection of investors, as well as proposed other minor or technical rule changes. Other rule proposals designed to improve the disclosure progress, both to investors and those subject to the Commission's disclosure requirements, may be forthcoming in future releases following the Commission's further consideration of the remaining Task Force recommendations.

Timetable:

Action	Date	FR Cite
NPRM	03/05/96	61 FR 9848
NPRM Comment Period End	04/10/96	
Final Action	08/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James R. Budge, Special Counsel, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AG75

4469. STREAMLINING DISCLOSURE REQUIREMENTS RELATING TO SIGNIFICANT BUSINESS ACQUISITIONS AND REQUIRING QUARTERLY REPORTING OF UNREGISTERED EQUITY SALES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77b; 15 USC 77c; 15 USC 77d; 15 USC 77s; 15 USC 78c(b); 15 USC 78d; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78w

CFR Citation: 17 CFR 210.3-05; 17 CFR 228.310; 17 CFR 239.25; 17 CFR 239.34; 17 CFR 249.308; 17 CFR 249.308a; 17 CFR 249.308b; 17 CFR 249.310; 17 CFR 249.310b; 17 CFR 230.901 to 230.904

Legal Deadline: None

Abstract: In connection with its review of problematic practices relating to Regulation S, the Commission published for comment rule revisions that would reduce the need for reliance on Regulation S by eliminating certain impediments to registered offerings of securities under the Securities Act of 1933 by streamlining requirements with respect to financial statements of significant acquisitions. Also, rule revisions were proposed that would require registrants to report on a quarterly basis recent sales of equity securities that have not been registered under the Securities Act.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35656
NPRM Comment Period End	09/08/95	
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Annemarie Tierney, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2990

RIN: 3235–AG47

4470. RELIEF FROM REPORTING BY SMALL ISSUERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 230.157; 17 CFR 240.0-10; 17 CFR 240.12g-1; 17 CFR 240.12g-4; 17 CFR 240.12h-3; 17 CFR 249.323(a); 17 CFR 260.0-7

Legal Deadline: None

Abstract: The Commission issued proposals designed to reduce burdens on small business by doubling the asset threshold that subjects companies to registration and periodic reporting under the Securities Exchange Act of 1934 from $5 million to $10 million.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35642
NPRM Comment Period End	09/08/95	
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard K. Wulff, Office of Small Business Policy, Division of Corporate Finance, Securities and Exchange Commission
Phone: 202 942-2950

RIN: 3235–AG48

4471. REVISION OF HOLDING PERIOD REQUIREMENTS IN RULE 144

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77b(11); 15 USC 77d(1),(4); 15 USC 77s

CFR Citation: 17 CFR 230.144

Legal Deadline: None

Abstract: The Commission proposed amendments to the holding period requirements contained in Rule 144(d) and (k) to permit resales of "restricted" securities after a 1-year, rather than a 2-year, holding period, if the sale complies with all of the other provisions of Rule 144. Securities held by nonaffiliated shareholders could be resold without restriction after a holding period of 2, rather than 3 years. In addition, the Commission requested comment on whether Rule 144 should be revised to address new trading strategies, such as equity swaps, and is reminding persons subject to reporting under section 16 of the Securities Exchange Act of 1934 that reporting of these transactions is required under the current rules.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35645
NPRM Comment Period End	09/06/95	
Final Action	05/00/96	

SEC—DIVISION OF CORPORATION FINANCE — Final Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard K. Wulff, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950

RIN: 3235–AG53

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF CORPORATION FINANCE — Long-Term Actions

4472. ASSET-BACKED SECURITIES DISCLOSURE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77e; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 229; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: The Division of Corporation Finance is considering whether to recommend to the Commission amendments to revise rules and forms which would specify disclosure requirements for asset-backed securities transactions.

Timetable: Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael H. Mitchell, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900

RIN: 3235–AF74

4473. SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 230.175

Legal Deadline: None

Abstract: The Commission issued a concept release in October 1994 regarding disclosure of forward-looking information and the effectiveness of the safe harbor provisions for that type of disclosure. The concept release requested public comments and announced that public hearings would be held.

Timetable:

Action	Date	FR Cite
ANPRM	10/19/94	59 FR 52723

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James Budge, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AG35

4474. STREAMLINING FINANCIAL STATEMENT DISCLOSURE—ABBREVIATED FINANCIAL STATEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78w

CFR Citation: 17 CFR 230.435; 17 CFR 230.502; 17 CFR 239.9; 17 CFR 239.10; 17 CFR 239.11; 17 CFR 239.12; 17 CFR 239.13; 17 CFR 239.16; 17 CFR 239.16b; 17 CFR 239.18; 17 CFR 239.25; 17 CFR 239.31; 17 CFR 239.32; 17 CFR 239.33; 17 CFR 239.34; ...

Legal Deadline: None

Abstract: In its continuing effort to streamline corporate disclosure requirements, the Commission proposed a number of modifications to its financial statement disclosure requirements in the annual report to security holders and other disclosure documents, including prospectuses, that are required to be delivered to investors. In light of the public response to the proposals, the Commission is reevaluating the proposals and considering various alternatives for simplifying financial statement disclosure.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35604
NPRM Comment Period End	10/10/95	

Next Action Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: CFR Citations Cont: 17 CFR 239.37; 17 CFR 239.38; 17 CFR 239.39; 17 CFR 239.40; 17 CFR 239.41; 17 CFR 239.90; 17 CFR 240.13e-3; 17 CFR 240.13e-4;17 CFR 240.13e-102; 17 CFR 240.14a-3; 17 CFR 240.14a-6;17 CFR 240.14a-101; 17 CFR 240.14c-3; 17 CFR 240.14c-8;17 CFR 240.14d-1; 17 CFR 240.14d-6; 17 CFR 240.14d-102; 17 CFR 240.14d-103; 17 CFR 249.310; 17 CFR 249.310b; 17 CFR 239.34.

Agency Contact: Elizabeth M. Murphy, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2910

RIN: 3235–AG49

4475. SMALL ISSUE EXEMPTIVE RULE AND REGISTRATION FORMS FOR CERTAIN RIGHTS OFFERINGS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c(b); 15 USC 77s

CFR Citation: 17 CFR 230.801(New)

Legal Deadline: None

Abstract: The Commission has proposed a small issue exemptive rule that would provide an exemption from the registration requirements of the Securities Act for certain rights offerings and a Securities Act registration form for certain non-exempt rights offerings.

Timetable:

Action	Date	FR Cite
NPRM	06/14/91	56 FR 27564
NPRM Comment Period End	09/09/91	

Next Action Undetermined

Small Entities Affected: Undetermined

SEC—DIVISION OF CORPORATION FINANCE

Long-Term Actions

Government Levels Affected: Undetermined

Agency Contact: Paul M. Dudek, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2990

RIN: 3235–AD44

4476. FORMS FOR INFORMATION FILED BY EXEMPT FOREIGN PRIVATE ISSUERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78l; 15 USC 78w

CFR Citation: 17 CFR 240.12g3-2(b); 17 CFR 249

Legal Deadline: None

Abstract: The Commission has proposed forms for use by persons furnishing information under Exchange Act Rule 12g3-2(b).

Timetable:

Action	Date	FR Cite
NPRM	06/06/91	56 FR 27612
NPRM Comment Period End	09/09/91	

Next Action Undetermined

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul M. Dudek, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2990

RIN: 3235–AD72

4477. INTERNATIONAL TENDER AND EXCHANGE OFFERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77b; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 77sss; 15 USC 78c; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w; 15 USC 79t; 15 USC 80a-37

CFR Citation: 17 CFR 200; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 260

Legal Deadline: None

Abstract: The Commission issued for comment rule proposals to facilitate the extension of international tender offers to U.S. holders. The proposed rules would provide exemptions from the tender offer rules, securities registration and reporting requirements, and trust indenture provisions, as well as allow the registration of foreign exchange offers on the basis of foreign disclosure.

Timetable:

Action	Date	FR Cite
ANPRM	06/12/90	55 FR 23751
ANPRM Comment Period End	09/21/90	
NPRM	06/14/91	56 FR 27582
NPRM Comment Period End	09/09/91	

Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Gregg Corso, Office of Tender Offers, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2920

RIN: 3235–AD97

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF INVESTMENT MANAGEMENT

Proposed Rule Stage

4478. INVESTMENT ADVISERS: REGISTRATION AND ANNUAL SUPPLEMENT FORMS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o(b)(1); 15 USC 78w(a); 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-6A; 15 USC 80b-11

CFR Citation: 17 CFR 275; 17 CFR 279

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission revise Form ADV, the investment adviser registration form, and related rules to: (1) improve disclosure of information regarding an advisers disciplinary history, (2) enhance disclosure of information about the advisory relationship provided to clients and prospective clients, and (3) require annual amendment of the form.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph E. Price, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AD21

4479. • REGISTRATION FEES FOR CERTAIN INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-37; 15 USC 80a-39; 15 USC 80a-24

CFR Citation: 17 CFR 270.24f-2

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose amendments to rule 24f-2 under the Investment Company Act of 1940 and to Form 24f-2, the rule and form that permit certain investment companies to register an indefinite number of securities under the Securities Act of 1933, and to propose a new form, Form 24f-2 UIT, which would serve as the form for annual notices filed under rule 24f-2 for unit investment trusts. The proposed amendments and new form would simplify the way unit investment trusts register securities and pay registration fees and relieve some of the administrative burden imposed by these requirements. The proposed rule and form amendments also would make technical amendments intended to clarify the application of certain provisions of rule 24f-2.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Anthony R. Bosch, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AG73

SEC—DIVISION OF INVESTMENT MANAGEMENT

Proposed Rule Stage

4480. UNIT INVESTMENT TRUSTS: SIMPLIFICATION OF REGISTRATION STATEMENTS AND ADVERTISING RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-8; 15 USC 77g; 15 USC 77j

CFR Citation: 17 CFR 239.16; 17 CFR 274.12

Legal Deadline: None

Abstract: The Commission has reproposed for public comment Form N-7, a new form for registering unit investment trusts (UITs) and their securities under the Investment Company Act and the Securities Act. Adoption of Form N-7 would: (1) codify the disclosure requirements for UITs into one form; (2) codify the disclosure standards that have been developed for UITs; and (3) shorten and simplify the prospectus used in connection with the sale of units in both the initial offering and in the secondary market maintained by the sponsor. The requirement for audited financial statements would be eliminated under certain circumstances. Under the reproposal, the requirement that registrants include certain third-party financial statements in the registration statement would be extended to insurers as well as guarantors of portfolio securities of the trust.

Timetable:

Action	Date	FR Cite
NPRM	03/17/87	52 FR 82682
NPRM Comment Period End	05/15/87	
NPRM	03/00/97	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Anthony Bosch, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0528

RIN: 3235–AA47

4481. CERTAIN INVESTMENT COMPANY REGISTRATION FORMS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 230.482; 17 CFR 239.15; 17 CFR 274.11; 17 CFR 239.23; 17 CFR 239.15A; 17 CFR 274.11A; 17 CFR 239.17a; 17 CFR 274.11b; 17 CFR 239.17b; 17 CFR 274.11c

Legal Deadline: None

Abstract: The Division of Investment Management is reviewing the requirements of Form N-1A, the registration form for all open-end management investment companies registering under the Securities Act and the Investment Company Act. The review will focus on ways to update and improve the disclosure requirements of the form. The Division will also be addressing the incorporation by reference rules in the investment company registration forms.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Martha Platt, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0725

RIN: 3235–AE46

4482. PROPOSED DEFINITION OF "SMALL ENTITY" FOR PURPOSES OF THE REGULATORY FLEXIBILITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 601 et seq

CFR Citation: 17 CFR 270.0-10

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission issue a release requesting public comment on a proposed amendment to Rule 0-10 under the Investment Company Act of 1940. The proposal would amend the definition of the term "Small Entity".

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jonathan F. Cayne, Office of Disclosure and Investment Adviser, Regulation,Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0577

RIN: 3235–AG62

4483. SHAREHOLDER REPORT AND FINANCIAL STATEMENT REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77f; 15 USC 77j; 15 USC 80a-29

CFR Citation: 17 CFR 210; 17 CFR 270.30d-1

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose revisions to the shareholder report and financial statement requirements for investment companies to improve the quality of updates and simplify investment company financial statement presentation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kathleen K. Clarke, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AG64

4484. EXEMPTION FOR FINANCE SUBSIDIARIES OF CERTAIN BANKS AND INSURANCE COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.3a-5

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose amendments to expand rule 3a-5 to permit, among other things, finance subsidiaries of U.S. banks and

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insurance companies to rely on the rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Holly Hill-Little, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0978

RIN: 3235–AE95

4485. CUSTODY OF INVESTMENTS BY A REGISTERED MANAGEMENT INVESTMENT COMPANY

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-2

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose amendments to rule 17f-2 under the Investment Company Act, which governs the circumstances under which the securities and similar investments of a registered management investment company may be maintained in the custody of such company.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0692

RIN: 3235–AF70

4486. MERGERS OF CERTAIN AFFILIATED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-17(a); 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.17a-8

Legal Deadline: None

Abstract: Rule 17a-8 presently allows a merger, consolidation, or purchase or sale of substantially all of the assets involving registered investment companies which may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers. The Division of Investment Management is considering whether to recommend to the Commission that it expand the applicability of the rule to other affiliate relationships.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0692

RIN: 3235–AG31

4487. IMPROVING DESCRIPTIONS OF RISK BY MUTUAL FUNDS AND OTHER INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 230.482; 17 CFR 239.15A; 17 CFR 274.11A; 17 CFR 239.14; 17 CFR 274.11a-1

Legal Deadline: None

Abstract: The Commission issued a concept release seeking public comment on the ways in which investment company risk disclosure can be improved. Currently open-end and closed-end companies are required to provide narrative risk disclosure in their prospectuses. The concept release requests comment on both narrative and quantitative methods for providing information to investors about the risks of investment companies. This replaces RIN 3235-AG30.

Timetable:

Action	Date	FR Cite
ANPRM	03/29/95	60 FR 17172
Extension of Comment Period	06/28/95	60 FR 33375
ANPRM Comment Period End	07/28/95	
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Martha Platt, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0725

RIN: 3235–AG43

4488. EXEMPTION OF CERTAIN PURCHASE OR SALE TRANSACTIONS BETWEEN AN INVESTMENT COMPANY AND CERTAIN AFFILIATED PERSONS THEREOF

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-37; 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.17a-7

Legal Deadline: None

Abstract: Rule 17a-7 permits purchase and sale transactions of portfolio securities among affiliated funds. The staff of the Division of Investment Management is evaluating whether to recommend that the Commission propose amendments to the pricing conditions of the rule.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Marilyn Mann, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0582

RIN: 3235–AG57

4489. BONDING OF OFFICERS AND EMPLOYEES OF REGISTERED MANAGEMENT INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-17(g); 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: 17 CFR 270.17g-1

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose amendments to modernize and clarify the provisions of rule 17g-1, which governs the bonding of officers and employees of registered management investment companies.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth R. Krentzman, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0687

RIN: 3235–AG58

4490. MUTUAL FUND PROSPECTUSES PROVIDED TO PARTICIPANTS IN CERTAIN DEFINED CONTRIBUTION PLANS AND FORM AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-1 et seq; 15 USC 77a et seq

CFR Citation: 17 CFR 239.15A; 17 CFR 274.11A

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission issue a release requesting public comment on proposed amendments to Form N-1A. The proposal would permit mutual funds that are offered as investment options in participant-directed defined contribution plans to modify the disclosure requirements for prospectuses provided to plan participants. The Division will also be addressing the incorporation by reference rules in the investment company registration forms as well as updating and improving the requirements of Form N-1A and the guidelines to form N-1A for all mutual fund investors. The proposed amendments would also rescind Form N-1.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jonathan F. Cayne, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0577

RIN: 3235–AG60

4491. EXEMPTION OF ACQUISITION OF SECURITIES DURING THE EXISTENCE OF UNDERWRITING SYNDICATES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-10(f); 15 USC 80a-30(a); 15 USC 80a-37; 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.10f-3; 17 CFR 270.17a-10

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is evaluating whether to recommend that the Commission propose amendments to rule 10f-3, which permits an investment company, during the existence of an underwriting syndicate, to purchase securities underwritten by certain fund affiliates that are members of the underwriting syndicate. The Division is evaluating the rule in light of changes in the securities industry since 1979, the last time the rule was substantively amended. The Division also is considering whether the rule should be amended to cover foreign and U.K. Government securities. The Division also is evaluating whether to recommend that the Commission propose a new companion rule, rule 17a-10, that would exempt certain purchases of municipal securities made in reliance upon rule 10f-3 from the prohibitions against affiliated transactions of section 17(a) of the Investment Company Act.

Timetable:

Action	Date	FR Cite
NPRM	03/27/96	61 FR 13630
NPRM Comment Period End	06/03/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David M. Goldenberg, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-4525

RIN: 3235–AG61

4482. • DEPOSITS OF SECURITIES IN SECURITIES DEPOSITORIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-06(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-4

Legal Deadline: None

Abstract: Rule 17f-4 governs the use of securities depositories as custodians of the assets of management investment companies. The staff is considering whether to recommend that the Commission propose amendments that would, among other things, expand the types of entities that may be used as securities depositories and permit investment company officers to authorize depository arrangements.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0692

RIN: 3235–AG71

4493. • MULTIPLE CLASS COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-37; 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.18f-3

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is evaluating whether to recommend that the Commission propose technical amendments to rule 18f-3, which permits registered open-end investment companies to issue multiple classes of shares. The amendments would clarify the permissibility under the rule of using certain methods of allocating income, capital items, and expenses other than class expenses and clarify when a shareholder vote is required for classes with a conversion feature.

Timetable:

Action	Date	FR Cite
NPRM	05/00/96	

Small Entities Affected: Undetermined

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SEC—DIVISION OF INVESTMENT MANAGEMENT — Proposed Rule Stage

Government Levels Affected: Undetermined

Agency Contact: Marilyn Mann, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0582

RIN: 3235–AG72

4494. AMENDMENTS TO FORM N-SAR, SEMIANNUAL REPORT OF REGISTERED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: 17 CFR 249.330; 17 CFR 274.101

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission amend Form N-SAR, the semi-annual report for registered investment companies, to update the items of the form.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carolyn Miller, Office of Financial Analysis, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0510

RIN: 3235–AF93

4495. DEREGISTRATION FORM AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-37(a)

CFR Citation: 17 CFR 274.218; 17 CFR 270.8F-1

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending to the Commission amendments for Form N-8F, the deregistration form used by those registered investment companies defined in rule 8f-1 under the Investment Company Act. The proposed amendments to Form N-8F would seek to simplify and expedite the deregistration process for investment companies by (1) reorganizing the information reported on the Form, (2) deleting any questions that are unnecessary and adding questions that are frequently asked by the Division, and (3) clarifying the meaning and scope of items.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Sarah A. Wagman, Office of Investment Company Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0654

RIN: 3235–AG29

4496. INSURANCE PRODUCTS: NEW FORM N-6 FOR REGISTRATION OF SEPARATE ACCOUNTS OFFERING VARIABLE LIFE INSURANCE CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The staff of the Office of Insurance Products is planning to recommend that the Commission propose a new Form N-6 to be used for separate accounts offering variable life insurance contracts to register under both the Investment Company Act and the Securities Act. Currently, most insurance company separate accounts are organized as unit investment trusts (UITs) and register their interests on Form S-6. Form S-6 was developed for UITs generally, and not specifically for insurance company separate accounts that offer interests in variable life insurance contracts.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kevin M. Kirchoff, Office of Insurance Products, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0672

RIN: 3235–AG37

4497. INSURANCE PRODUCTS: RULE REGARDING MORTALITY AND EXPENSE RISK CHARGES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-1 et seq; 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Division is planning to recommend that the Commission repropose for public comment a rule under the Investment Company Act for variable annuity separate accounts that would permit the deduction of certain risk charges from account assets. If adopted, the proposed rule would eliminate the need for individual exemptive orders in connection with these matters.

Timetable:

Action	Date	FR Cite
NPRM	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kevin M. Kirchoff, Office of Insurance Products, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0672

RIN: 3235–AG38

4498. INSURANCE PRODUCTS: RULE TO PERMIT (1) DEDUCTIONS FROM PREMIUM PAYMENTS TO COMPENSATE FOR CERTAIN INCREASES IN FEDERAL TAX LIABILITY, AND (2) MIXED AND SHARED FUNDING

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-1 et seq; 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The staff of the Office of Insurance Products is planning to recommend that the Commission propose for public comment a rule under the Investment Company Act applicable to insurance company separate accounts. The rule would codify standards the staff has developed in processing applications from insurance companies and their separate accounts seeking exemptions to (1) deduct from premium payments for variable life insurance an amount approximately equal to the increase in the Federal tax liability of the insurance company resulting from the receipt of such premium payments, and (2) permit shares of investment companies to be sold to and held by variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies. If adopted, the proposed rule would eliminate the need for individual exemptive orders in connection with these matters.

Timetable:

Action	Date	FR Cite
NPRM	03/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Kevin M. Kirchoff, Office of Insurance Products, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0672

RIN: 3235–AG39

SEC—DIVISION OF INVESTMENT MANAGEMENT — Proposed Rule Stage

4499. PUHCA: EXEMPTION FOR CERTAIN ACQUISITIONS OF FOREIGN UTILITY COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 79(t); 15 USC 79(n)

CFR Citation: 17 CFR 250.55; 17 CFR 259.5s0 (Revision)

Legal Deadline: None

Abstract: The proposed rule is intended to provide a safe harbor for the acquisition of one or more foreign utility companies by a registered holding company.

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 13719
NPRM Comment Period End	04/14/93	
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David LaRoche, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0559

RIN: 3235–AF78

4500. STATUS OF SUBSIDIARY COMPANIES FORMED TO HOLD INTERESTS IN FOREIGN UTILITY COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 79(t)

CFR Citation: 17 CFR 250.56

Legal Deadline: None

Abstract: The proposed rule clarifies that a subsidiary of a registered holding company which is engaged exclusively in the business of owning an interest in one or more foreign utility companies shall be deemed to be a foreign utility company.

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 13719
NPRM Comment Period End	04/14/93	
NPRM	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David LaRoche, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0559

RIN: 3235–AF79

SECURITIES AND EXCHANGE COMMISSION (SEC) DIVISION OF INVESTMENT MANAGEMENT — Final Rule Stage

4501. MONEY MARKET FUND PROSPECTUSES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 239.15A; 17 CFR 239.17a; 17 CFR 274.11a; 17 CFR 239.14; 17 CFR 274.11a-1

Legal Deadline: None

Abstract: The Commission proposed for comment amendments to Forms N-1A and N-3 applicable to money market funds. The amendments would permit money market funds to significantly shorten and simplify money market fund and separate account prospectuses. More detailed information would continue to be available in the Statement of Additional Information. Such amendments are also intended to reduce the cost to funds of preparing, printing, and distributing prospectuses. The proposals would also make conforming rule and form amendments and revisions to staff guides to Form N-1A and Form N-3.

Timetable:

Action	Date	FR Cite
NPRM	07/26/95	60 FR 38454
NPRM Comment Period End	09/27/95	
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Previously reported as RIN 3235-AF95.

Agency Contact: John Ganley, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AG55

4502. PERFORMANCE ADVERTISING BY UNIT INVESTMENT TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq

CFR Citation: 17 CFR 230.482; 17 CFR 239.16; 17 CFR 270.34b-1

Legal Deadline: None

Abstract: On November 22, 1995 the Commission published Investment Company Act Release No. 21538 which requested public comment on a proposal that would standardize yields advertised by certain unit investment trusts (UITs). The proposal would amend Form S-6, the form used by UITs to register under the Securities Act of 1933 (1933 Act), rule 482 under the 1933 Act, which governs investment company sales materials not accompanied or preceded by a prospectus (advertisements), and rule

34b-1 under the Investment Company Act of 1940, which governs sales materials that accompany or follow the delivery of a statutory prospectus (sales literature). The proposal would require UITs to use a standardized formula for calculating yield in their prospectuses, advertisements, and sales literature. In a later release, Investment Company Act Release No. 21663, the Commission extended from January 29, 1996 to March 29, 1996 the comment period on the proposed rule and form amendments.

Timetable:

Action	Date	FR Cite
NPRM	11/22/95	60 FR 61454
NPRM Comment Period End	01/29/96	
NPRM Comment Period Extended to	03/29/96	61 FR 1312
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This item was previously part of item 3235-AA47, Unit Investment Trusts: Simplification of Registration Statements.

Agency Contact: Anthony Bosch, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0528

RIN: 3235–AG63

4503. EXEMPTIONS FOR CERTAIN INVESTMENT COMPANIES TO IMPOSE DEFERRED SALES LOADS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37; 15 USC 77a-et seq

CFR Citation: 17 CFR 270.6c-10; 17 CFR 239.15A

Legal Deadline: None

Abstract: The Commission proposed amendments to rule 6c-10 which would allow certain open-end management investment companies to impose deferred sales loads other than contingent deferred sales loads, including sales loads payable in installments. The Commission also proposed amendments to the Form N-1A registration statement to modify the prospectus disclosure requirements to reflect the changes made in the proposed rule amendments.

Timetable:

Action	Date	FR Cite
NPRM	02/23/95	60 FR 11890
NPRM Comment Period End	04/17/95	
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Proposals and rules described in this item were published under RIN 3235-AD18.

Agency Contact: Holly Hill-Little, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0978

RIN: 3235–AE97

4504. CUSTODY OF INVESTMENT COMPANY ASSETS OUTSIDE THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-5

Legal Deadline: None

Abstract: The Commission has proposed amendments to rule 17f-5 that would revise the findings that currently must be made in establishing foreign custody arrangements to focus exclusively on the safekeeping of investment company assets, permit a company's board of directors to delegate its responsibilities under the rule to evaluate these arrangements, and expand the class of foreign banks and securities depositories that could serve as investment company custodians.

Timetable:

Action	Date	FR Cite
NPRM	08/02/95	60 FR 39592
NPRM Comment Period End	11/06/95	
Final Action	07/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robin S. Gross, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0640

RIN: 3235–AE98

4505. CUSTODY OF INVESTMENT COMPANY ASSETS WITH FUTURES COMMISSION MERCHANTS AND COMMODITY CLEARING ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-6

Legal Deadline: None

Abstract: The Commission has proposed a rule that would permit registered management investment companies to use certain futures commission merchants and commodity clearing organizations as custodians of their assets in connection with investment company commodity transactions.

Timetable:

Action	Date	FR Cite
NPRM	06/01/94	59 FR 28286
NPRM Comment Period End	08/01/94	59 FR 39311
Final Action	05/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Allan J. Oster, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0650

RIN: 3235–AF97

4506. REQUIREMENTS RELATING TO CODES OF ETHICS WITH RESPECT TO REGISTERED INVESTMENT COMPANIES; RECORDS TO BE MAINTAINED BY INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-17(j); 15 USC 80a-37; 15 USC 80b-4; 15 USC 80b-6(4); 15 USC 80b-11(a); 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.17j-1; 17 CFR 275.204-2

Legal Deadline: None

Abstract: The Commission has proposed amendments to Rule 17j-1 under the Investment Company Act, Rule 204-2 under the Investment Advisers Act, and investment company registration forms under the Investment Company Act and the Securities Act of 1933. The amendments to Rule 17j-1 would enhance oversight of personal

investment activities of investment company personnel by boards of directors and would require access persons to report to their employers all securities owned by them at the time they become access persons. Additional amendments would make the scope of the rule more consistent with its purpose. Amendments to Rule 204-2 under the Investment Advisers Act would expand the list of securities exempt from the recordkeeping requirements of that rule. The amendments to fund registration forms would require investment companies to provide disclosure in their registration statements relating to codes of ethics and to file copies of their codes of ethics with the Commission as exhibits to their registration statements.

Timetable:

Action	Date	FR Cite
NPRM	09/14/95	60 FR 47844
NPRM Comment Period End	11/13/95	
Final Action	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Allan J. Oster, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0650

RIN: 3235–AG27

4507. DISTRIBUTION OF SHARES BY REGISTERED OPEN-END MANAGEMENT INVESTMENT COMPANY

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-12(b); 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.12b-1

Legal Deadline: None

Abstract: The Commission has proposed a technical amendment to rule 12b-1 to provide that a plan regarding payment of asset-based distribution charges adopted prior to an investment company's beginning to offer its shares to the public would not have to be approved by the company's shareholders. Such a plan is typically approved by the company's investment adviser in most cases. Shareholder approval of the plan under these circumstances is virtually automatic, mechanical, and offers no significant protection to the company's public shareholders. Thus, requiring shareholder approval of these plans before an investment company offers its shares to the public is unnecessary.

Timetable:

Action	Date	FR Cite
NPRM	01/19/96	61 FR 1313
NPRM Comment Period End	02/22/96	
Final Action	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Holly Hill-Little, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0978

RIN: 3235–AG59

4508. STATUS OF INVESTMENT ADVISORY PROGRAMS UNDER THE INVESTMENT COMPANY ACT OF 1940

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270; 17 CFR 274

Legal Deadline: None

Abstract: The Commission published for public comment revised proposed Rule 3a-4 under the Investment Company Act of 1940, which would provide a nonexclusive safe harbor from the definition of investment company for certain programs under which investment advisory services are provided to clients. The Commission also proposed Form N-3a4 under the Investment Company Act, which would be filed with the Commission by sponsors of programs relying on Rule 3a-4.

Timetable:

Action	Date	FR Cite
NPRM	07/27/95	60 FR 39574
NPRM Comment Period End	10/02/95	
Final Action	06/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marjorie Riegel, Office of the Chief Counsel, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0660

RIN: 3235–AG07

4509. PUHCA: SUBSIDIARIES PERFORMING SERVICES OR CONSTRUCTION OR SELLING GOODS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 79t

CFR Citation: 17 CFR 250.87

Legal Deadline: None

Abstract: The Commission proposed an amendment to rule 87 to require Commission approval before a registered holding company or its subsidiaries may render services to an associate exempt wholesale generator or a foreign utility company. Additionally, registered holding associate companies and their subsidiaries may not accept services from exempt wholesale generators or foreign utility companies without Commission approval.

Timetable:

Action	Date	FR Cite
NPRM	09/23/93	58 FR 51506
NPRM Comment Period End	11/30/93	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Markian Melnyk, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0592

RIN: 3235–AF87

4510. PUHCA: EXEMPTION FOR TRANSACTIONS WITH FOREIGN ASSOCIATES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 79m(b)

CFR Citation: 17 CFR 250.83(d)

Legal Deadline: None

Abstract: The proposal would extend an existing exemption from the standards of section 13(b) to transactions involving services, sales and construction contracts, with foreign associate companies. The proposal would also consider whether the rule would protect against a diversion of management and expertise away from the needs of the system's core utility operations in a companion rulemaking involving a proposed amendment to rule 87. This rulemaking was previously included in RIN No. 3235-AF68.

SEC—DIVISION OF INVESTMENT MANAGEMENT

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/16/92	57 FR 54025
NPRM Comment Period End	01/15/93	
Final Action	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Markian Melnyk, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0592

RIN: 3235–AG19

4511. EXEMPTION OF ISSUANCE AND SALE OF SECURITIES BY PUBLIC UTILITY AND NONUTILITY SUBSIDIARY COMPANIES OF REGISTERED PUBLIC UTILITY HOLDING COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 79c; 15 USC 79f(b); 15 USC 79i(c)(3); 15 USC 79t; 15 USC 79l

CFR Citation: 17 CFR 250.45; 17 CFR 250.52

Legal Deadline: None

Abstract: The proposed amendment to Rule 52 would broaden the scope of the rule to exempt all types of securities issued and sold by any subsidiary company of a registered holding company, subject to satisfying the other conditions of the rule. A conforming change to Rule 45 is also proposed to conditionally exempt from the requirement of prior Commission approval any guarantee by a subsidiary company of debt securities issued by any other subsidiary company.

Timetable:

Action	Date	FR Cite
NPRM	06/28/95	60 FR 33640
NPRM Comment Period End	09/26/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bonnie Wilkinson, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-7121
Fax: 202 942-9595

RIN: 3235–AG45

4512. EXEMPTION OF ACQUISITION BY REGISTERED PUBLIC UTILITY HOLDING COMPANIES OF SECURITIES OF NONUTILITY COMPANIES ENGAGED IN CERTAIN ENERGY RELATED AND GAS RELATED ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 79c; 15 USC 79f(b); 15 USC 79i(c)(3); 15 USC 79t; 15 USC 79l

CFR Citation: 17 CFR 250.45(b); 17 CFR 250.52(b); 17 CFR 250.58

Legal Deadline: None

Abstract: Proposed Rule 58 and related amendments to Rule 45(b) and Rule 52(b) would exempt from the requirement of prior Commission approval under the Public Utility Holding Company Act of 1935 the acquisition by a registered holding company, or any subsidiary company, of any securities of an energy-related company, subject to certain investment limitations and reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/28/95	60 FR 33642
NPRM Comment Period End	09/26/95	
Final Action	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Bonnie Wilkinson, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-7121
Fax: 202 942-9595

RIN: 3235–AG46

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF INVESTMENT MANAGEMENT

Long-Term Actions

4513. SUITABILITY OF INVESTMENT ADVISER ADVICE; QUARTERLY ACCOUNT STATEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80b-6; 15 USC 80b-4

CFR Citation: 17 CFR 275.204-2

Legal Deadline: None

Abstract: The Commission is considering whether to adopt proposed rules that would make explicit the duty that investment advisers make only suitable recommendations to their clients. The Division is also considering whether to recommend that the Commission require certain investment advisers that exercise investment discretion with respect to client accounts to have a reasonable belief that the custodians of these accounts are sending quarterly account statements to the clients.

Timetable:

Action	Date	FR Cite
NPRM	03/16/94	59 FR 13464
NPRM Comment Period End	05/23/94	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph E. Price, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AG06

4514. DISCLOSURE BY INVESTMENT ADVISERS REGARDING SOFT DOLLAR PRACTICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80b-4; 15 USC 80b-6(4); 15 USC 80b-11(a); 15 USC 78bb(e)(2)

CFR Citation: 17 CFR 275; 17 CFR 279

Legal Deadline: None

Abstract: The Commission has proposed to require investment advisers to provide an annual report to clients regarding their "soft dollar" practices. This action was previously included as part of 3235-AD21.

Timetable:

Action	Date	FR Cite
NPRM	02/14/95	60 FR 9750

SEC—DIVISION OF INVESTMENT MANAGEMENT

Long-Term Actions

Action	Date	FR Cite
NPRM Comment Period End	05/19/95	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joseph E. Price, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AG36

4515. MONEY MARKET FUND QUARTERLY REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78m; 15 USC 78o(d); 15 USC 78w(a); 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-30; 15 USC 80a-37; 15 USC 80a-44

CFR Citation: 17 CFR 270.30b3-1

Legal Deadline: None

Abstract: The Commission proposed a new rule under the Investment Company Act of 1940 that would require money market funds to file quarterly reports with the Commission identifying, describing and providing valuation information for each security in the portfolios. The reports would be filed electronically through the Commission's EDGAR system. This information would enhance the Commission's ability to monitor money market fund compliance with the Federal securities laws.

Timetable:

Action	Date	FR Cite
NPRM	07/26/95	60 FR 38454
NPRM Comment Period End	09/27/95	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Martha H. Platt, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0725

RIN: 3235–AG56

4516. OFF-THE-PAGE PROSPECTUSES FOR OPEN-END MANAGEMENT INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77j(b); 15 USC 77s(a)

CFR Citation: 17 CFR 230.482

Legal Deadline: None

Abstract: The Commission proposed for public comment amendments to rule 482 under the Securities Act containing requirements for the use of an advertisement that would allow investors the option of purchasing shares directly from an open-end investment company by completing an application form included with the advertisement. The advertisement would be a prospectus for purposes of liability under section 12(2) of the Securities Act, and would be required to contain core information about the investment company.

Timetable:

Action	Date	FR Cite
NPRM	03/19/93	58 FR 16141
NPRM Comment Period End	06/23/93	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth R. Krentzman, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0687

RIN: 3235–AF58

4517. • REPURCHASE OFFERS BY CLOSED-END MANAGEMENT INVESTMENT COMPANIES; DISCLOSURE OF SALES CHARGES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-23(c); 15 USC 80a-37

CFR Citation: 17 CFR 270.23c-3

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose amendments to rule 23c-3 under the Investment Company Act of 1940 to permit closed-end interval funds to impose deferred sales loads comparable to those charged by open-end management investment companies, provide interval funds with the flexibility to coordinate sales of new shares with the repurchase of outstanding shares, and make certain technical changes to the rule. The Division is also considering whether to recommend that the Commission propose amendments to the Form N-2 registration statement to reflect the rule amendments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Holly Hill-Little, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0978

RIN: 3235–AG74

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF INVESTMENT MANAGEMENT

Completed Actions

4518. TAX-EXEMPT MONEY MARKET FUND RULE PROPOSALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-2(a)(41); 15 USC 80a-6(c); 15 USC 80a-33(b)(1); 15 USC 80a-34(b); 15 USC 80a-38(a); 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77s; 15 USC 78m; 15 USC 78n; 15 USC 78w; 15 USC 80a-37

CFR Citation: 17 CFR 230.482; 17 CFR 239.15A; 17 CFR 270.34b-1; 17 CFR 274.11A; 17 CFR 274.11c; 17 CFR 270.2a-7; 17 CFR 210.12-12; 17 CFR 230.134; 17 CFR 274.101

Legal Deadline: None

Abstract: The Commission proposed for comment modifications to Rule 2a-7 which address issues raised by developments in the money markets.

Timetable:

Action	Date	FR Cite
NPRM	12/29/93	58 FR 68585

Action	Date	FR Cite
NPRM Comment Period End	04/06/94	
Final Action	03/28/96	61 FR 13956

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: Martha Platt, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0725

RIN: 3235–AE17

4519. AMENDMENTS TO PROXY RULES FOR REGISTERED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78n; 15 USC 78w; 15 USC 80a-20(a); 15 USC 80A-39(a)

CFR Citation: 17 CFR 240.14a-101; 17 CFR 274.11A; 17 CFR 274.11a-1; 17 CFR 274.11b

Legal Deadline: None

Abstract: The staff of the Division was considering recommending that the Commission propose for public comment amendments to the proxy rules specifically applicable to the proxy statements of management investment companies registered under the Investment Company Act of 1940 and the Securities Exchange Act of 1934. The proposed amendments were intended to clarify and to refine the proxy rules, which were substantially revised by amendments adopted in the fall of 1994. The staff has determined not to recommend action on these amendments at the current time. The Commission, therefore, is withdrawing this item from the Unified Agenda because the Commission does not expect to consider the item within the next 12 months, but the Commission may consider the item further at some point.

Timetable:

Action	Date	FR Cite
Withdrawn	04/01/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kathleen Clarke, Office of Disclosure and Investment Adviser Regulation-Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AG54

4520. EXPEDITED PROCEDURE FOR EXEMPTIVE ORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37; 15 USC 78d-1

CFR Citation: 17 CFR 270.0-5

Legal Deadline: None

Abstract: The Commission proposed for public comment amendments to rule 0-5 under the Investment Company Act. The amendments would establish an expedited review procedure for certain exemptive applications and would allow the Commission to declare certain inactive applications to be abandoned. The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider the item within the next 12 months, but the Commission may consider the item further at some point.

Timetable:

Action	Date	FR Cite
NPRM	03/31/93	58 FR 16799
Correction to NPRM	04/09/93	58 FR 18352
NPRM Comment Period End	06/29/93	
Withdrawn	04/01/96	

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David M. Goldenberg, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-4525

RIN: 3235–AF56

4521. ASSIGNMENTS OF ADVISORY CONTRACTS: TEMPORARY EXEMPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.15a-4

Legal Deadline: None

Abstract: The Division was considering whether to recommend that the Commission propose to amend rule 15a-4 to permit an adviser conditionally to serve at the prior contract's fee during a short interim period, prior to shareholder approval of the new contract and following an "unforeseeable" or "uncontrollable" assignment of the advisory contract, e.g., triggered by an acquisition of the parent company of the adviser where the fund and adviser are not informed sufficiently in advance to obtain shareholder approval. The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider the item within the next 12 months, but the Commission may consider the item further at some point.

Timetable:

Action	Date	FR Cite
Withdrawn	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Robin S. Gross, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0640

RIN: 3235–AF57

4522. CERTAIN RESEARCH AND DEVELOPMENT COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.3a-8

Legal Deadline: None

Abstract: The Commission proposed for public comment rule 3a-8 under the Investment Company Act which would provide a safe harbor from investment company status for a company engaged in research and development, under appropriate conditions. The rule would apply to certain companies, such as biotechnology companies, that are not primarily engaged in the investment company business. The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider the item within the next 12 months, but the Commission may consider the item further at some point.

Timetable:

Action	Date	FR Cite
NPRM	07/15/93	58 FR 38095
NPRM Comment Period End	10/13/93	
Withdrawn	04/01/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth R. Krentzman, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0687

RIN: 3235–AF69

4523. EXEMPTION FROM DISQUALIFICATION FOR CERTAIN AFFILIATED PERSONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: 17 CFR 270.9a-1

Legal Deadline: None

Abstract: Section 9(a)(3) of the Investment Company Act prohibits any company from serving as employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company or principal underwriter for any registered open-end company, registered unit investment trust, or registered face amount certificate company, if section 9(a)(1) or 9(a)(2) prohibits any affiliated person of that company from serving in any such capacity. The Commission has exempted several companies from section 9(a)(3) where the disqualified affiliated person does not perform or have any ability to affect the work the company does for the investment company, registered unit investment trust, or registered face amount certificate company. The Division of Investment Management was considering whether to recommend that the Commission propose a rule providing such an exemption. The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider the item within the next 12 months, but the Commission may consider the item further at some point.

Timetable:

Action	Date	FR Cite
Withdrawn	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elizabeth R. Krentzman, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0687

RIN: 3235–AF89

4524. EXEMPTION FROM CERTAIN FILING REQUIREMENTS FOR CERTAIN AFFILIATED PERSONS OF INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37; 15 USC 80a-29(f)

CFR Citation: 17 CFR 270.30f-1

Legal Deadline: None

Abstract: The Division of Investment Management was considering whether to recommend that the Commission propose amending Rule 30f-1 under the Investment Company Act to relieve certain affiliated persons of an investment adviser to a registered closed-end investment company from the filing requirements under Section 16 of the Exchange Act made applicable by Section 30(f) of the Investment Company Act. The amendment would have exempted certain affiliated persons of an investment adviser that are not in a position to obtain confidential information about the registered closed-end investment company or to influence or effect a change in the company's policies, consistent with the purposes of Section 30(f) and Section 16 of the Exchange Act. The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider the item within the next 12 months, but the Commission may consider the item further at some point.

Timetable:

Action	Date	FR Cite
Withdrawn	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Elizabeth R. Krentzman, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0687

RIN: 3235–AF81

4525. PUHCA: ANNUAL REPORT OF MUTUAL AND SUBSIDIARY SERVICE COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 79(m); 15 USC 79(n); 15 USC 79(o); 15 USC 79(t)(a)

CFR Citation: 17 CFR 259.313

Legal Deadline: None

Abstract: This item is withdrawn from the Unified Agenda. The staff takes the current position that the existing accounting requirements of 17 CFR Part 256 and sections 13 and 15 of the Public Utility Holding Company Act of 1935, applicable to mutual and subsidiary service companies, provides sufficient delegation and interpretive latitude to the Commission to require simplification of a service companies accounting system without a formalized rulemaking. It is for these reasons processing and proposed adoption of changes to the U-13-60 Annual Report for Mutual and Subsidiary Service Companies are no longer necessary.

Timetable:

Action	Date	FR Cite
NPRM	09/20/94	59 FR 48183
NPRM Comment Period End	11/21/94	
Withdrawn	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Richard Miller, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0549

RIN: 3235–AG05

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF MARKET REGULATION

Proposed Rule Stage

4526. STABILIZING TO FACILITATE A DISTRIBUTION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78i(a)(6); 15 USC 78j(b); 15 USC 78q(a); 15 USC 78w(a); 15 USC 78dd(a)

CFR Citation: 17 CFR 240.10b-7

Legal Deadline: None

Abstract: The Commission has proposed amendments to Exchange Act Rule 10b-7, which regulates stabilizing activities to facilitate distribution. The proposed amendments would permit the stabilizing price in a distribution of a foreign security to reflect the price of the security in the foreign market that is the principal market for such security, if the stabilizing activity otherwise complies with the rule. Adjustments of stabilizing bids based on exchange rate fluctuations between the currencies of the markets on which the security is being stabilized would also be permitted. The amendments would also deem foreign stabilizing transactions during a distribution of a foreign security in the United States made in compliance with comparable foreign regulations not to be in violation of Rule 10b-7.

Timetable:

Action	Date	FR Cite
ANPRM	01/09/91	56 FR 814
ANPRM Comment Period End	02/25/91	
NPRM	04/18/96	61 FR 17108
NPRM Comment Period End	06/17/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy J. Sanow, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission Phone: 202 942-0772

RIN: 3235–AE11

4527. DEFINITIONS PRINCIPALLY RELATING TO INTERNATIONAL TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78b; 15 USC 78c(b); 15 USC 78w(a)

CFR Citation: 17 CFR 240.3b-10

Legal Deadline: None

Abstract: The Commission has published for public comment Exchange Act Rule 3b-10, which would define certain terms relevant to the increasing internationalization of world securities markets. The Commission believes that it would be advisable and appropriate to adopt general definitions of terms rather than adopting identical definitions in the context of individual rulemaking proposals.

Timetable:

Action	Date	FR Cite
ANPRM	01/09/91	56 FR 820
ANPRM Comment Period End	02/25/91	
NPRM	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Nancy J. Sanow, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission Phone: 202 942-0772

RIN: 3235–AE15

4528. DISTRIBUTIONS OF SECURITIES: LIMITATIONS ON TRADING AND STABILIZING

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78i(a); 15 USC 78j(b); 15 USC 78m(e); 15 USC 78o(c)

CFR Citation: 17 CFR 240.10b-6; 17 CFR 240.10b-7; 17 CFR 240.10b-8; 17 CFR 240.10b-6A; 17 CFR 240.10b-21

Legal Deadline: None

Abstract: The Commission has issued a concept release regarding a review of Rules 10b-6, 10b-7, and 10b-8. Rule 10b-6 prohibits persons engaged in a distribution of securities from bidding for or purchasing, or inducing others to purchase, such securities, any security of the same class and series as those securities, or any right to purchase any such security, until they have completed their participation in the distribution. Rule 10b-6A permits "passive market making" of securities quoted on Nasdaq by a market maker participating in a distribution. Rule 10b-7 governs stabilizing activities to facilitate distributions of securities and Rule 10b-8 governs certain activities during distributions of securities through rights. Rule 10b-21 generally prohibits persons from covering short sales with offered securities obtained from an underwriter, broker, or dealer who is participating in a distribution of such securities. This review examines both the domestic application of those rules as well as the extraterritorial effect of their application on multinational securities distributions. This review also addresses such issues as distribution and stabilization practices in the U.S. and abroad, and the impact of the rules on activities in foreign jurisdictions.

Timetable:

Action	Date	FR Cite
ANPRM	04/26/94	59 FR 21681
ANPRM Comment Period End	08/12/94	
NPRM	04/18/96	
NPRM Comment Period End	06/17/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy J. Sanow, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission Phone: 202 942-0772

RIN: 3235–AF54

4529. • AMENDMENT TO FORM BDW AND AMENDMENT TO EXCHANGE ACT RULE 15B6-1

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78a; 15 USC 78c; 15 USC 78(s); 15 USC 78d; 15 USC 78l; 15 USC 78j; 15 USC 78l; 15 USC 78m; 15 USC 78n

CFR Citation: 17 CFR 240; 17 CFR 249; 17 CFR 249.501a

Legal Deadline: None

Abstract: The Division is considering recommending amendments to Form BDW, the uniform request for withdrawal from broker-dealer registration under the Securities Exchange Act of 1934. The proposed amendments are designed to implement recommended changes to the Central Registration Depository System, a computer system operated by the National Association of Securities Dealers, Inc. that maintains registration information regarding registered broker-dealers and their registered personnel for use by the Commission, the self-regulatory organizations, and state securities regulators. The amendments include certain clarifying amendments to Form BDW, including new instructions for filing Form BDW electronically with the Central Registration Depository. The Division also is considering proposed revisions to rules governing the withdrawal of broker-dealer registration under the Securities Exchange Act of 1934. Specifically, the revisions would permit broker-dealers that are withdrawing from registration to consent to an extension of the effective date of their withdrawal. The proposed revisions also would permit the Commission to extend the effective date for such periods as the Commission may determine. In addition, the Division is considering recommending revisions to rules governing the filing of Form BD and Form BDW to provide for electronic filing of these forms.

Timetable:

Action	Date	FR Cite
NPRM	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Terry R. Young, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission Phone: 202 942-0073

RIN: 3235–AG69

SEC—DIVISION OF MARKET REGULATION

Proposed Rule Stage

4530. NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Securities and Exchange Commission (Commission) has solicited recommendations on the Commission's role in using the ratings of nationally recognized statistical rating organizations (NRSROs). Because of the expanded use of credit ratings in the Commission's rules, the Commission believes that it is appropriate to examine the process employed by the Commission to designate rating agencies as NRSROs and the nature of the Commission's oversight role with respect to NRSROs.

Timetable:

Action	Date	FR Cite
ANPRM	08/31/94	59 FR 46314
ANPRM Comment Period End	12/05/94	
NPRM	08/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger G. Coffin, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission Phone: 202 942-0135

RIN: 3235–AG41

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF MARKET REGULATION

Final Rule Stage

4531. CUSTOMER PROTECTION RESERVES AND CUSTODY OF SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o(c)(3); 15 USC 78w

CFR Citation: 17 CFR 240.15c3-3

Legal Deadline: None

Abstract: The Commission has proposed an amendment to Exchange Act Rule 15c3-3, the customer protection rule, that would allow broker-dealers to provide, in addition to the instruments currently listed in the rule, certain other securities as the collateral in securities borrowings.

Timetable:

Action	Date	FR Cite
NPRM	03/15/89	54 FR 10680
NPRM Comment Period End	05/01/89	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Roger G. Coffin, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission Phone: 202 942-0135

RIN: 3235–AD60

4532. NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Commission has proposed amendments to Exchange Act Rule 15c3-1, the net capital rule, that could raise the minimum net capital requirement for certain introducing broker-dealers, for other classes of broker-dealers that never receive customer securities, and for broker-dealers that make markets in securities. These proposed increases to the minimum net capital requirements are in addition to final amendments to the net capital rule adopted December 2, 1992 that, among other things, raised the minimum net capital required of clearing broker-dealers, broker-dealers exempt from rule 15c-3 under paragraph (k)(2)(i) of that rule and certain introducing broker-dealers.

Timetable:

Action	Date	FR Cite
NPRM	12/02/92	57 FR 57027
Interim Final Rule	12/02/92	57 FR 56973
NPRM Comment Period End	02/05/93	
Final Action	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Roger G. Coffin, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission Phone: 202 942-0135

RIN: 3235–AD79

4533. THEORETICAL PRICING TO DETERMINE HAIRCUTS ON OPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Commission has proposed for comment amendments to Exchange Act Rule 15c3-1 that would allow broker-dealers to use a theoretical pricing model when calculating capital charges for listed options and related positions. Haircuts for options and related positions, when computed using this model, would more accurately reflect the risk inherent in broker-

dealers' option positions. The proposed amendments are intended to provide capital charges that better protect broker-dealers against market risk.

Timetable:

Action	Date	FR Cite
NPRM	03/21/94	59 FR 13275
NPRM Comment Period End	06/16/94	
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger G. Coffin, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0135

RIN: 3235–AG14

4534. MARKET RISK HAIRCUTS FOR INSTRUMENTS SUBJECT TO INTEREST RATE RISK

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Commission has proposed for comment amendments to Exchange Act Rule 15c3-1, the net capital rule, concerning the rule's market risk percentage deductions for certain interest rate related instruments. Under the proposal, haircuts on investment grade nonconvertible debt securities, certain mortgage-backed securities, interest rate swaps, and certain other interest rate-related derivative instruments would be determined by inclusion in an integrated grid, where offsetting would be permitted between the different types of instruments.

Timetable:

Action	Date	FR Cite
ANPRM	05/04/93	58 FR 27486
ANPRM Comment Period End	12/12/93	
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger G. Coffin, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0135

RIN: 3235–AG18

4535. FORM BD AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78e; 15 USC 78q; 15 USC 78w; 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78j; 15 USC 78m

CFR Citation: 17 CFR 249.501; 17 CFR 240

Legal Deadline: None

Abstract: The Commission has proposed amendments to Form BD, the uniform broker-dealer registration form under the Securities Exchange Act of 1934. The primary purpose of the amendments is to implement recommended changes to the Central Registration Depository System, a computer system operated by the National Association of Securities Dealers, Inc. that maintains registration information regarding broker-dealers and their registered personnel. Specifically, the amendments are intended to facilitate retrieval of broker-dealer registration and disciplinary information through the redesigned Central Registration Depository by eliciting more precise disclosure and by reorganizing disciplinary items into related categories. The changes to the disclosure section of Form BD are consistent with changes made by the North American Securities Administrators Association, Inc. to the analogous section in Form U-4, the uniform form for registration of associated persons of a broker-dealer. The Commission also proposed clarifying amendments to Form BD, including instructions for filing Form BD electronically with the Central Registration Depository.

Timetable:

Action	Date	FR Cite
NPRM	01/12/95	60 FR 4040
NPRM Comment Period End	02/18/95	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Legal Authority Continued.... 15 USC 78n; 15 USC 78o; 15 USC 78o-4; 15 USC 78o-5; 15 USC 78p; 15 USC 78s; 15 USC 78w; 15 USC 78x; 15 USC 78l(d); 15 USC 79q; 15 USC 79t; 15 USC 80a-20; 15 USC 80a-23; 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-11

Agency Contact: Terry R. Young, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0073

RIN: 3235–AG25

4536. PROHIBITION ON MARKET-MAKERS TRADING AHEAD OF CUSTOMER LIMIT ORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78j; 15 USC 78k

CFR Citation: 17 CFR 240.15c5-1

Legal Deadline: None

Abstract: The Securities and Exchange Commission has proposed a rule setting standards for market makers in handling customer limit orders in NASDAQ National Market System securities. The rule would prohibit a market maker from trading for its own account, directly, or indirectly, at a price at which the market maker could execute a customer limit order it is holding, without executing the customer's limit order at the limit price or a price more favorable to the customer, under the specific terms and conditions by which the order is accepted by the market maker. The NASD has adopted a rule imposing substantially identical requirements upon market makers as the proposed rule. The Commission is deferring action on the proposed rule pending its review of the operation of the NASD rule.

Timetable:

Action	Date	FR Cite
NPRM	09/29/94	59 FR 50866
NPRM Comment Period End	11/29/94	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Ethan Corey, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0172

RIN: 3235–AG21

4537. PROPOSED AMENDMENTS TO TRANSFER AGENT RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78q-1

CFR Citation: 17 CFR 240.17Ad-2(a); 17 CFR 240.17Ad-2(c); 17 CFR 240.17Ad-2(e)(1); 17 CFR 240.17Ad-2(e)(2); 17 CFR 240.17Ad-10; 17 CFR 240.17Ad-12

Legal Deadline: None

Abstract: The Securities and Exchange Commission has proposed amendments to certain transfer agent rules regarding turnaround time, recordkeeping, and safekeeping of funds. The proposed amendments to the transfer agent rules are designed to minimize disruptions, particularly in the National Clearance and Settlement System for securities, that may be caused by poor turnaround performance, substandard or inaccurate recordkeeping practices, and inadequate safekeeping procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 63662
NPRM Comment Period End	02/04/95	
Final Action	09/00/96	

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michele J. Bianco, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4187

RIN: 3235–AG24

4538. • AMENDMENTS TO RULE 11AC1-1 (QUOTE RULE), PROPOSED RULE 11AC1-4 LIMIT ORDER DISPLAY

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78f; 15 USC 78K(a)(2); 15 USC 78k-l; 15 USC 78k(b); 15 USC 78j(b); 15 USC 78o(c); 15 USC 78o-3; 15 USC 78w(a)(1)

CFR Citation: 17 CFR 240.11A(c)1-1; 17 CFR 240.11A(c)1-4; 17 CFR 240.11Ac 1-5

Legal Deadline: None

Abstract: The amendments to Rule 11Ac1-1, proposed pursuant to section 11A of the Exchange Act, would require broker-dealers or third market makers which account for more than 1 percent of the volume in a listed security to quote to the public any superior prices that they privately quote through electronic communications networks. Proposed rule 11Ac1-4 would require broker-dealers or third market makers to display customer limit orders that improve the best bid or offer for a particular security as well as the size of such orders and of certain limit orders priced at the national best bid or offer.

Timetable:

Action	Date	FR Cite
NPRM	09/29/95	60 FR 52792
NPRM Comment Period End	01/26/96	61 FR 1545
Final Action	05/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: None

Analysis: Regulatory Flexibility Analysis

Agency Contact: Elizabeth MacGregor, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0158

RIN: 3235–AG66

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF MARKET REGULATION

Long-Term Actions

4539. DISCLOSURE OF MARK-UPS: NEW RULE 15C2-13

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78j; 15 USC 78l

CFR Citation: 17 CFR 240.15c2-13

Legal Deadline: None

Abstract: The Commission has proposed Exchange Act Rule 15c2-13 which would require brokers, dealers, and municipal securities dealers to: (1) disclose their mark-ups and mark-downs in connection with riskless principal transactions in municipal securities; and (2) disclose that a particular municipal security is not rated by a nationally recognized statistical rating organization, if such is the case. The mark-up proposal has been deferred indefinitely. The proposal with respect to unrated municipal securities has been deferred until the MSRB amends its confirmation rule to include the requirement to disclose that a municipal security has not been rated by an NRSRO.

Timetable:

Action	Date	FR Cite
NPRM	03/17/94	59 FR 12767
Comment Period Extended	06/28/94	59 FR 33236
NPRM Comment Period End	07/15/94	
Next Action Undetermined		

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Janet Russell-Hunter, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0073

RIN: 3235–AG12

4540. LARGE TRADER REPORTING SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c to 77d; 15 USC 77s; 15 USC 77ttt; 15 USC 78c to 78d; 15 USC 78i to 78j; 15 USC 78l to 78p; 15 USC 78s; 15 USC 78w; 15 USC 78x; 15 USC 79q; 15 USC 79t; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: 17 CFR 240.13h-1

Legal Deadline: None

Abstract: The Commission has published for comment reproposed Exchange Act Rule 13h-1, which would require large traders to disclose accounts to the Commission, and would require broker-dealers to

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Long-Term Actions

maintain and report large trader transaction records to the Commission.

Timetable:

Action	Date	FR Cite
NPRM	02/17/94	59 FR 7917
NPRM Comment Period End	04/18/94	
Final Action	00/00/00	

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Alton Harvey, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4167

RIN: 3235–AE42

SECURITIES AND EXCHANGE COMMISSION (SEC)
DIVISION OF MARKET REGULATION

Completed Actions

4541. DEFINITION OF "SHORT SALE"

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78b; 15 USC 78j(a); 15 USC 78dd(a)

CFR Citation: 17 CFR 240.3b-3; 17 CFR 240.10a-1

Legal Deadline: None

Abstract: The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider the item within the next 12 months, but the Commission may consider the item further at some point.

Timetable:

Action	Date	FR Cite
NPRM	06/09/92	57 FR 24415
NPRM Comment Period End	08/10/92	
Withdrawn	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: M. Blair Corkran, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0772

RIN: 3235–AE41

4542. EXEMPTION FOR DESIGNATED FOREIGN GOVERNMENT SECURITIES FOR PURPOSES OF FUTURES TRADING

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c to 77d; 15 USC 77s; 15 USC 77ttt; 15 USC 78c; 15 USC 78i; 15 USC 78j; 15 USC 78l to 78q; 15 USC 78s; 15 USC 78w; 15 USC 78x; 15 USC 79q; 15 USC 79t; 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3; ...

CFR Citation: 17 CFR 240.3a12-8 (Revision)

Legal Deadline: None

Abstract: The Commission adopted an amendment to rule 3a12-8 that designates debt obligations issued by Mexico as exempted securities for the purpose of marketing and trading futures contracts on those securities in the United States.

Timetable:

Action	Date	FR Cite
NPRM	09/18/95	60 FR 48072
NPRM Comment Period End	10/18/95	
Final Action	12/06/95	60 FR 62323
Final Action Effective	12/06/95	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONT: 15 USC 77g; 15 USC 77j; 15 USC 77 eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 78d; 15 USC 78ff; 15 USC 80a-20; 15 USC 80a-23; 15 USC 80b-4; 15 USC 80b-11; 15 USC 78ll(d)

Agency Contact: James T. McHale, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0190
Fax: 202 942-9695

RIN: 3235–AG65

4543. • EXEMPTION FOR DESIGNATED FOREIGN GOVERNMENT SECURITIES FOR PURPOSES OF FUTURES TRADING

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c to 77d; 15 USC 77s; 15 USC 77ttt; 15 USC 78c; 15 USC 78i; 15 USC 78j; 15 USC 78l to 78q; 15 USC 78s; 15 USC 78w; 15 USC 78x; 15 USC 79q; 15 USC 79t; 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3

CFR Citation: 17 CFR 240.3a 12-8 (Revision)

Legal Deadline: None

Abstract: The Commission has proposed for comment an amendment to Rule 3a 12-8 under the Exchange Act that would designate debt obligations issued by Brazil, Argentina and Venezuela as exempted securities for the purpose of marketing and trading futures contracts on those securities in the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/20/95	60 FR 65607
NPRM Comment Period End	01/19/96	
Final Action	03/07/96	61 FR 10271

Small Entities Affected: None

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONT: 15 USC 77g; 15 USC 77j; 15 USC 77 eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 78d; 15 USC 78ff; 15 USC 80a-20; 15 USC 80a-23; 15 USC 80b-4; 15 USC 80b-1; 15 USC 78ll(d)

Agency Contact: James T. McHale, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-9643

RIN: 3235–AG68

4544. PROPOSED AMENDMENTS TO TENDER OFFER RULES: SOLICITING DEALER'S FEES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78m; 15 USC 78n

CFR Citation: 17 CFR 240.13e-4; 17 CFR 240.14d-10

Legal Deadline: None

Abstract: The Commission is withdrawing the item from the Unified

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Agenda because the Commission does not expect to consider the item within the next 12 months but the Commission may consider the item further at some point.

Timetable:

Action	Date	FR Cite
Withdrawn	04/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Carlene Kim, Office of Broker-Dealer Regulation, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4180

RIN: 3235–AG44

SECURITIES AND EXCHANGE COMMISSION (SEC)
OFFICES AND OTHER PROGRAMS

Proposed Rule Stage

4545. DISCLOSURE OF ACCOUNTING POLICIES FOR DERIVATIVE INSTRUMENTS AND DISCLOSURE OF QUALITATIVE AND QUANTITATIVE INFORMATION ABOUT MARKET RISK IN CERTAIN INSTRUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 229; 17 CFR 210

Legal Deadline: None

Abstract: The Commission is considering whether to require registrants to provide enhanced disclosures of accounting policies for derivative financial instruments and derivative commodity instruments, and disclosure of qualitative and quantitative information about market risk inherent in derivative financial instruments, other financial instruments, and derivative commodity instruments.

Timetable:

Action	Date	FR Cite
NPRM	01/08/96	61 FR 578
NPRM Comment Period End	05/07/96	
Final Action	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russell Mallett, Office of the Chief Accountant, Securities and Exchange Commission
Phone: 202 942-4400

RIN: 3235–AG42

SECURITIES AND EXCHANGE COMMISSION (SEC)
OFFICES AND OTHER PROGRAMS

Long-Term Actions

4546. • PROPOSED RULE TO IMPLEMENT SECTION 10A OF THE SECURITIES EXCHANGE ACT OF 1934

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa(25) to (26); 15 USC 78jA; 15 USC 78l; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79c(b); 15 USC 79n; 15 USC 79t(a); 15 USC 80a-8

CFR Citation: 17 CFR 210; 17 CFR 211

Legal Deadline: None

Abstract: Public Law No. 104-67, enacted on December 22, 1995, amended the Exchange Act to include Section 10A. The staff is considering whether to recommend that the Commission propose a rule that would implement the reporting requirements in that section.

Timetable: Next Action Undetermined

Small Entities Affected: None

Government Levels Affected: Undetermined

Agency Contact: Robert E. Burns, Chief Counsel, Office of the Chief Accountant, Securities and Exchange Commission
Phone: 202 942-4400
Fax: 202 942-9656

RIN: 3235–AG70

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May 13, 1996

Part LXIII

Surface Transportation Board

Semiannual Regulatory Agenda

SURFACE TRANSPORTATION BOARD (STB)

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Ch. X

[STB Ex Parte No. 536]

Semiannual Regulatory Agenda

AGENCY: Surface Transportation Board, DOT.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Surface Transportation Board, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of: (1) Current and projected rulemakings and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that, during the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

Accordingly, a list of proceedings appears below containing information about subject areas in which the Board is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda represents the Board's best estimate of rules which will be considered over the next 12 months. However, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Board is publishing its April 1996 regulatory flexibility agenda as part of the Unified Agenda of Federal Regulations. The Unified Agenda of Federal Regulations is coordinated by the Office of Management and Budget pursuant to Executive Order 12866. Notwithstanding any limitations concerning our authority to conduct rulemakings, the Board is participating in the program voluntarily to assist OMB.

Decided: March 14, 1996.
By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,
Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4547	Expedited Procedures for Processing Rail Rate Reasonableness, Exemption, and Revocation Proceedings, STB Ex Parte No. 527	2140-AA08
4548	Disclosure and Notice of Change of Rates and Other Service Terms for Pipeline Common Carriage, STB Ex Parte No. 538	2140-AA18
4549	Railroad Contracts, STB Ex Parte No. 541	2140-AA19

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4550	Disclosure, Publication, and Notice of Change of Rates and Other Service Terms for Rail Common Carriage, STB Ex Parte No. 528	2140-AA09
4551	Class Exemption for Acquisition or Operation of Rail Lines by Class III Rail Carriers Under 49 USC 10902, STB Ex Parte No. 529	2140-AA10
4552	Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 USC 10903, STB Ex Parte No. 537	2140-AA17

STB

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4553	Exemption of Demurrage From Regulation, Ex Parte No. 462	2140-AA00
4554	Rate Guidelines—Noncoal Proceedings, Ex Parte No. 347 (Sub-No. 2)	2140-AA01
4555	Class Exemption for the Construction of Connecting Tracks Under 49 USC 10901, Ex Parte No. 392 (Sub-No. 2)	2140-AA02
4556	Railroad Consolidation Procedures: Class Exemption for Transactions Subject to the Statutory Consolidation Provision, Ex Parte No. 282 (Sub-No. 15)	2140-AA03
4557	Rail General Exemption Authority—Exemption of Paints, Enamels, Lacquers, Shellacs, Etc., Ex Parte No. 346 (Sub-No. 33)	2140-AA05
4558	Rail General Exemption Authority—Exemption of Non-Ferrous Recyclables and Railroad Rates on Recyclable Commodities, Ex Parte No. 346 (Sub-No. 36)	2140-AA06
4559	Petition for Rulemaking—Invoiceless Billing Transactions, Ex Parte No. 55 (Sub-No. 95)	2140-AA07

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4560	Revision of Tariff Regulations—Indexes, Ex Parte No. MC-211	2140-AA04
4561	Removal of Obsolete Tariff Regulations, STB Ex Parte No. 530	2140-AA11
4562	Removal of Obsolete Recyclables Regulations, STB Ex Parte No. 531	2140-AA12
4563	Ex Parte No. 55 (Sub-No. 96), Passenger Operations by Mexican Motor Carriers—Implementation of North American Free Trade Agreement	2140-AA13
4564	Removal of Obsolete Regulations for Reasonably Expected Costs and Joint Rates Subject to Surcharge or Cancellation, STB Ex Parte No. 532	2140-AA14
4565	Removal of Obsolete Passenger Train or Ferry Discontinuance Regulations, STB Ex Parte No. 534	2140-AA15
4566	Removal of Obsolete Securities Regulations, STB Ex Parte No. 535	2140-AA16
4567	Removal of Obsolete Valuation Regulations, STB Ex Parte No. 539	2140-AA20

4547. • EXPEDITED PROCEDURES FOR PROCESSING RAIL RATE REASONABLENESS, EXEMPTION, AND REVOCATION PROCEEDINGS, STB EX PARTE NO. 527

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 10501; 49 USC 10502; 49 USC 10701; 49 USC 10704; 49 USC 701; 49 USC 721

CFR Citation: 49 CFR 1039; 49 CFR 1110 to 1149

Legal Deadline: Final, Statutory, October 1, 1996.

Abstract: The Board proposes to develop procedures to ensure expeditious handling of challenges to the reasonableness of railroad rates, railroad exemption requests, and petitions to revoke existing exemptions.

Timetable:

Action	Date	FR Cite
ANPRM	03/22/96	61 FR 1179
ANPRM Comment Period End	05/06/96	
Comment Under Review	05/00/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas J. Stilling, Attorney, Surface Transportation Board, 12th and Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-7312
TDD: 202 927-5721

RIN: 2140–AA08

4548. • DISCLOSURE AND NOTICE OF CHANGE OF RATES AND OTHER SERVICE TERMS FOR PIPELINE COMMON CARRIAGE, STB EX PARTE NO. 538

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 721(a); 49 USC 15701(e)

CFR Citation: 49 CFR 1305

Legal Deadline: Final, Statutory, June 29, 1996.

Abstract: The ICC Termination Act of 1995 (ICCTA) eliminated the tariff and tariff filing requirements formerly applicable to the transportation by pipeline of commodities other than oil, gas, or water. ICCTA imposed in lieu

STB — Prerule Stage

thereof certain obligations to disclose common carriage rates and service terms as well as a requirement for advance notice of an increase in such rates or change in service terms. The ICCTA requires the Board to promulgate regulations to administer these new obligations by June 29, 1996.

Timetable:

Action	Date	FR Cite
ANPRM	03/14/96	61 FR 10526
ANPRM Comment Period End	04/15/96	
Comment Under Review	04/16/96	
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th and Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5610
TDD: 202 927-5721

RIN: 2140–AA18

4549. • RAILROAD CONTRACTS, STB EX PARTE NO. 541

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 721(a); 49 USC 10709

CFR Citation: 49 CFR 1313

Legal Deadline: None

Abstract: The ICC Termination Act of 1995 (ICCTA) revised the law respecting transportation contracts entered into by rail carriers to provide specified rail services under specific rates and conditions. New regulations are needed for administering the regulatory provisions applicable to contracts for the transportation of agricultural products.

Timetable:

Action	Date	FR Cite
ANPRM	03/26/96	61 FR 13147
ANPRM Comment Period End	04/25/96	
Comments Under Review	05/02/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th & Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5610
TDD: 202 927-5721

RIN: 2140–AA19

SURFACE TRANSPORTATION BOARD (STB) — Proposed Rule Stage

4550. • DISCLOSURE, PUBLICATION, AND NOTICE OF CHANGE OF RATES AND OTHER SERVICE TERMS FOR RAIL COMMON CARRIAGE, STB EX PARTE NO. 528

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 721(a); 49 USC 11101(f)

CFR Citation: 49 CFR 1300

Legal Deadline: Final, Statutory, June 29, 1996.

Abstract: The ICC Termination Act of 1995 (ICCTA) eliminated the tariff and tariff filing requirements formerly applicable to rail carriers, but imposed in lieu thereof certain obligations to disclose common carriage rates and service terms as well as a requirement for advance notice of an increase in such rates or change in service terms. ICCTA requires the Board to promulgate regulations to administer these new obligations by June 29, 1996.

Timetable:

Action	Date	FR Cite
NPRM	03/08/96	61 FR 9413
NPRM Comment Period End	04/08/96	
Comments Under Review	04/00/96	
Final Action	06/00/96	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th & Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5610
TDD: 202 927-5721

RIN: 2140–AA09

4551. • CLASS EXEMPTION FOR ACQUISITION OR OPERATION OF RAIL LINES BY CLASS III RAIL CARRIERS UNDER 49 USC 10902, STB EX PARTE NO. 529

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 553; 49 USC 721; 49 USC 10502; 49 USC 10902

CFR Citation: 49 CFR 1002.2(f)(36); 49 CFR 1150 subpart (D); 49 CFR 1150 subpart (E)

Legal Deadline: None

Abstract: The ICC Termination Act of 1995 (ICCTA) enacted a new provision, at 49 USC 10902, for Class II and Class III rail carrier acquisitions or operations of rail lines. Pursuant to the request by the Regional Railroads of America and The American Short Line Railroad Association, the Surface Transportation Board is proposing to institute a new class exemption procedure to apply to transactions in which Class III rail carriers seek to acquire additional rail properties.

Timetable:

Action	Date	FR Cite
NPRM	03/22/96	61 FR 11802
NPRM Comment Period End	04/22/96	
Comments Under Review	04/00/96	

Small Entities Affected: None

Government Levels Affected: None

STB — Proposed Rule Stage

Agency Contact: Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th and Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-7312
TDD: 202 927-5721

RIN: 2140–AA10

4552. • ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 USC 10903, STB EX PARTE NO. 537

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 553; 5 USC 559; 11 USC 704; 16 USC 470f; 16 USC 1247(d); 16 USC 1248; 16 USC 1451; 16 USC 701; 49 USC 721; 49 USC 10502; 49 USC 10903; 49 USC 10904; 49 USC 10905; 49 USC 11161

CFR Citation: 49 CFR 1105; 49 CFR 1152

Legal Deadline: None

Abstract: The Board is proposing to revise regulations for processing applications and exemption requests by rail carriers seeking to abandon or discontinue rail service, and to make related revisions to procedures for implementation to environmental laws.

Timetable:

Action	Date	FR Cite
NPRM	03/19/96	
NPRM Comment Period End	05/06/96	
Comments Under Review	05/07/96	
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th and Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5660
TDD: 202 927-5721

RIN: 2140–AA17

SURFACE TRANSPORTATION BOARD (STB) — Long-Term Actions

4553. EXEMPTION OF DEMURRAGE FROM REGULATION, EX PARTE NO. 462

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10505; 49 USC 10750; 49 USC 11121 to 11122; 5 USC 553

CFR Citation: 49 CFR 1033

Legal Deadline: None

Abstract: The Board is considering whether to exempt rail carriers' demurrage from all regulation except for jurisdiction over the first 24 hours for loading and the first 48 hours for unloading.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/85	50 FR 51565
ANPRM Comment Period End	01/17/86	
NPRM	04/22/92	57 FR 14689
Extension of Public Comment Period to 07/21/92	05/13/92	57 FR 20442
NPRM Comment Period End	05/22/92	57 FR 14689
Extension of Public Comment Period to 09/21/92	07/27/92	57 FR 33166
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803, which became effective on January 1, 1996.

Agency Contact: Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, Room 2144, 12th & Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5660

RIN: 2140–AA00

4554. RATE GUIDELINES—NONCOAL PROCEEDINGS, EX PARTE NO. 347 (SUB-NO. 2)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10501; 49 USC 10701; 49 USC 10704; 49 USC 11701; 5 USC 553; 49 USC 721; 49 USC 701

CFR Citation: None

Legal Deadline: Final, Statutory, January 1, 1997.

Abstract: The Board proposes to adopt maximum rate reasonableness guidelines for captive noncoal commodities. Comments on alternative guidelines for small shippers including small coal shippers are under review.

Timetable:

Action	Date	FR Cite
Notice of Proposed Policy Statement	05/22/86	51 FR 18811
Notice of Intent To Participate Due	06/02/86	
Comments Due	07/21/86	
NPRM	12/01/95	60 FR 62256
NPRM Comment Period End	03/19/96	
Comments Under Review	00/00/00	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ellen D. Hanson, Deputy General Counsel, Surface Transportation Board, 12th & Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-7312

RIN: 2140–AA01

4555. CLASS EXEMPTION FOR THE CONSTRUCTION OF CONNECTING TRACKS UNDER 49 USC 10901, EX PARTE NO. 392 (SUB-NO. 2)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 49 USC 10321; 49 USC 10901; 49 USC 10505

CFR Citation: 49 CFR 1150

Legal Deadline: None

Abstract: The Board is considering whether to exempt, from the prior approval requirements of 49 USC 10901, the construction of rail-connecting tracks, except those

construction projects that would result in a major market extension as defined at 49 CFR 1180.3(c).

Timetable:

Action	Date	FR Cite
NPRM	07/24/86	51 FR 26563
NPRM Comment Period End	08/25/86	
NPRM	09/16/92	57 FR 42733
NPRM Comment Period End	10/16/92	
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which became effective on January 1, 1996.

Agency Contact: Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, Room 2144, 12th & Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5660

RIN: 2140–AA02

4556. RAILROAD CONSOLIDATION PROCEDURES: CLASS EXEMPTION FOR TRANSACTIONS SUBJECT TO THE STATUTORY CONSOLIDATION PROVISION, EX PARTE NO. 282 (SUB-NO. 15)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 11341; 49 USC 11343 to 11346; 11 USC 1172; 45 USC 904; 45 USC 915; 5 USC 553; 5 USC 559

CFR Citation: 49 CFR 1180

Legal Deadline: None

Abstract: The Board is considering whether to expand the "nonconnecting carrier" class exemption to embrace all transactions subject to the statutory consolidation provision, except (1) transactions involving the merger or control of at least two class I railroads; (2) transactions involving a reduction in the number of noncommonly controlled railroads serving any two points; (3) transactions involving a reduction from three to two in the number of noncommonly controlled railroads serving any interchange points.

Timetable:

Action	Date	FR Cite
NPRM	07/14/92	57 FR 31165
NPRM Comment Period End	08/30/92	
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803, which became effective on January 1, 1996.

Agency Contact: Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, Room 2144, 12th & Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5660

RIN: 2140–AA03

4557. RAIL GENERAL EXEMPTION AUTHORITY—EXEMPTION OF PAINTS, ENAMELS, LACQUERS, SHELLACS, ETC., EX PARTE NO. 346 (SUB-NO. 33)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10708; 49 USC 10762; 49 USC 11105; 5 USC 553

CFR Citation: 49 CFR 1039

Legal Deadline: None

Abstract: The Board is investigating whether to exempt from regulation the rail transportation of paints, enamels, lacquers, shellacs, and other commodities included within Standard Transportation Commodity Code (STCC) No. 285.

Timetable:

Action	Date	FR Cite
NPRM	10/21/93	58 FR 54318
NPRM Comment Period End	11/22/93	
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which became effective on January 1, 1996.

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th & Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5610

RIN: 2140–AA06

4558. RAIL GENERAL EXEMPTION AUTHORITY—EXEMPTION OF NON-FERROUS RECYCLABLES AND RAILROAD RATES ON RECYCLABLE COMMODITIES, EX PARTE NO. 346 (SUB-NO. 36)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10731; 49 USC 10707a; 5 USC 553

CFR Citation: 49 CFR 1039; 49 CFR 1145

Legal Deadline: None

Abstract: The Board is considering whether to exempt from regulation the rail transportation of non-ferrous recyclables subject to exemptions.

Timetable:

Action	Date	FR Cite
NPRM	08/24/94	59 FR 43529
Comment Period Extended to 10/24/94	09/15/94	59 FR 47292
NPRM Comment Period End	09/23/94	59 FR 43529
Comment Period Extended to 11/07/94	10/26/94	59 FR 53775
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which became effective on January 1, 1996.

Agency Contact: Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, Room 2144, 12th & Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5660

RIN: 2140–AA05

4559. PETITION FOR RULEMAKING—INVOICELESS BILLING TRANSACTIONS, EX PARTE NO. 55 (SUB-NO. 95)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 10321; 49 USC 11144; 5 USC 553

CFR Citation: 49 CFR 1051; 49 CFR 1220

Legal Deadline: None

Abstract: The Board is examining whether restrictions against invoiceless bills between shippers and carriers should be removed or modified. In this context, invoiceless billing means a system in which payments are made with no paper or electronic freight bill being issued by the carrier.

Timetable:

Action	Date	FR Cite
ANPRM	08/09/95	60 FR 40548
ANPRM Comment Period End	10/10/95	
Comments Under Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which became effective on January 1, 1996.

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th and Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5610
TDD: 202 927-5721
Fax: 202 927-6419

RIN: 2140–AA07

SURFACE TRANSPORTATION BOARD (STB) — Completed Actions

4560. REVISION OF TARIFF REGULATIONS—INDEXES, EX PARTE NO. MC-211

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10761(a); 49 USC 10762; 49 USC 10321; 5 USC 553

CFR Citation: 49 CFR 1312

Legal Deadline: None

Abstract: The proceeding involved a proposed rule to require tariffs to contain indexes, unless the information in the tariff is arranged in a pattern readily discernible to tariff users. After the Trucking Industry Regulatory Reform Act of 1994, most motor carriers were no longer required to file such tariffs. Because the tariffs that precipitated the proposal for indexing are no longer filed, the Board terminated the proceeding.

Timetable:

Action	Date	FR Cite
ANPRM	01/05/93	58 FR 3529
ANPRM Comment Period End	03/08/93	
NPRM	08/05/93	58 FR 42277
NPRM Comment Period End	09/08/93	
Withdrawn	03/08/96	61 FR 9419

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803, which became efective on January 1, 1996.

Agency Contact: Michael L. Martin, Office of General Counsel, Surface Transportation Board, 12th & Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5160

RIN: 2140–AA04

4561. • REMOVAL OF OBSOLETE TARIFF REGULATIONS, STB EX PARTE NO. 530

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 104-88, sec 204

CFR Citation: 49 CFR 1134

Legal Deadline: Final, Statutory. Pursuant to PL 104-88, section 204, the Board shall promptly rescind all regulations based on provisions of law repealed and not substantively reenacted.
Final, Statutory.

Abstract: The Surface Transportation Board is removing obsolete rail tariff regulations from the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/96	
Final Action	02/28/96	61 FR 7428

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th and Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5610
TDD: 202 927-5721

RIN: 2140–AA11

4562. • REMOVAL OF OBSOLETE RECYCLABLES REGULATIONS, STB EX PARTE NO. 531

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 104-88, sec 204

CFR Citation: 49 CFR 1039; 49 CFR 1134; 49 CFR 1135; 49 CFR 1145

Legal Deadline: Final, Statutory. Pursuant to PL 104-88, section 204, the Board shall promptly rescind all regulations based on provisions of law repealed and not substantively reenacted.
Final, Statutory.

Abstract: The Surface Transportation Board is removing obsolete recyclable commodities regulations from the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/96	
Final Action	02/28/96	61 FR 7426

STB — Completed Actions

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th and Constitution Avenue NW., Washington, DC 20423
Phone: 202 297-5610
TDD: 202 297-5721

RIN: 2140–AA12

4563. • EX PARTE NO. 55 (SUB-NO. 96), PASSENGER OPERATIONS BY MEXICAN MOTOR CARRIERS—IMPLEMENTATION OF NORTH AMERICAN FREE TRADE AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10922; 49 USC 10923; 49 USC 10927

CFR Citation: 49 CFR 1043.1; 49 CFR 1160.1(h); 49 CFR 1160.3(a); 49 CFR 1160.4; 49 CFR 1160.5(a)(6)

Legal Deadline: Final, Statutory, December 18, 1995.

Abstract: The Interstate Commerce Commission amended its regulations relating to motor carrier operating authority and insurance, in order to implement the second phase of the North American Free Trade Agreement (NAFTA) relating to land transportation. The amendments established procedures under which Mexican motor carriers could apply for operating authority to provide service across the United States-Mexican international boundary line to and from points in California, Arizona, New Mexico, and Texas. They also established procedures under which persons of Mexico who establish enterprises in the United States to distribute international cargo in this country could apply for operating authority.

Timetable:

Action	Date	FR Cite
Final Action	12/13/95	60 FR 63981

Small Entities Affected: None

Government Levels Affected: None

Additional Information: The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, abolished the Interstate Commerce Commission and transferred the functions that were the subject of this rulemaking proceeding to the Federal Highway Administration. Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act.

Agency Contact: Stanley M. Braverman, Attorney, Department of Transportation, Federal Highway Administration, 12th and Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5519

RIN: 2140–AA13

4564. • REMOVAL OF OBSOLETE REGULATIONS FOR REASONABLY EXPECTED COSTS AND JOINT RATES SUBJECT TO SURCHARGE OR CANCELLATION, STB EX PARTE NO. 532

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 104-88, sec 204; 49 USC 10705a(p)

CFR Citation: 49 CFR 1039; 49 CFR 1138; 49 CFR 1140

Legal Deadline: Final, Statutory. For 1138 and 1140, final action. Pursuant to PL 104-88, section 204, the Board shall promptly rescind all regulations based on provisions of law repealed and not substantively reenacted.
Final, Statutory, For 1039. 18, removal was required by 10705a(p).

Abstract: The Surface Transportation Board is removing obsolete reasonably expected costs and joint rate surcharges and cancellation regulations from the Code of Federal Regulations. For 103.18, removal was required by 10705a(p).

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/96	
Final Action	02/28/96	61 FR 7427

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th and Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5610
TDD: 202 927-5721

RIN: 2140–AA14

4565. • REMOVAL OF OBSOLETE PASSENGER TRAIN OR FERRY DISCONTINUANCE REGULATIONS, STB EX PARTE NO. 534

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 104-88, sec 204

CFR Citation: 49 CFR 1153

Legal Deadline: Final, Statutory. Pursuant to PL 104-88, section 204, the Board shall promptly rescind all regulations based on provisions of law repealed and not substantively reenacted.
Final, Statutory.

Abstract: The Surface Transportation Board is removing obsolete regulations concerning passenger train and ferry discontinuances.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/96	
Final Action	02/28/96	61 FR 7428

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th and Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5610
TDD: 202 927-5721

RIN: 2140–AA15

4566. • REMOVAL OF OBSOLETE SECURITIES REGULATIONS, STB EX PARTE NO. 535

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 104-88, sec 204

CFR Citation: 49 CFR 1175

Legal Deadline: Final, Statutory. Pursuant to PL 104-88, section 204, the Board shall promptly rescind all regulations based on provisions of law repealed and not substantively reenacted.
Final, Statutory.

Abstract: The Surface Transportation Board is removing obsolete securities regulations from the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/96	
Final Action	02/28/96	61 FR 7428

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th and Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5610
TDD: 202 927-5721

RIN: 2140–AA16

4567. • REMOVAL OF OBSOLETE VALUATION REGULATIONS, STB EX PARTE NO. 539

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-88 sec 204

CFR Citation: 49 CFR 1201; 49 CFR 1262

Legal Deadline: Final, Statutory. Pursuant to PL 104-88, section 204, the Board shall promptly rescind all regulations based on provisions of law repealed and not substantively reenacted.

Abstract: The Surface Transportation Board is removing obsolete regulations concerning rail valuation from the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/96	
Final Action	03/07/96	61 FR 9112

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th and Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5610
TDD: 202 927-5721

RIN: 2140–AA20

[FR Doc. 96-6958 Filed 05-10-96; 8:45 am]

BILLING CODE 4915-00-F

STB — Completed Actions

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Part LXIV

Thrift Depositor Protection Oversight Board

Semiannual Regulatory Agenda

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD (OB)

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

12 CFR Ch. XV

Unified Regulatory Agenda

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Thrift Depositor Protection Oversight Board, established pursuant to section 21A(a)(1) of the Federal Home Loan Bank Act, as amended, 12 U.S.C. 1441a(a)(1), is hereby publishing items for the April 1996 Unified Agenda of Federal Regulations.

ADDRESSES: Comments should be addressed to the Secretary, Thrift Depositor Protection Oversight Board, 808 17th Street NW., Washington, DC 20232.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated below.

Dated: February 23, 1996.
Thrift Depositor Protection Oversight Board.
Dietra L. Ford,
Executive Director.

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD (OB) — Final Rule Stage

4568. EMPLOYEE RESPONSIBILITIES AND CONDUCT

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1441a

CFR Citation: 12 CFR 1505

Legal Deadline: Final, Statutory, February 5, 1990.

Abstract: The final rule issued by the Office of Government Ethics establishing uniform standards of ethical conduct for officers and employees of the Government, effective February 3, 1993, superseded most of the Thrift Depositor Protection Oversight Board's interim final rule.

The remaining provisions either ceased to be meaningful no later than the termination of the Resolution Trust Corporation on December 31, 1995, or were superseded pursuant to the Uniform Standards on January 3, 1996.

Timetable:

Action	Date	FR Cite
NPRM	01/09/90	55 FR 820
NPRM Comment Period End	02/08/90	
Interim Final Rule	02/14/90	55 FR 5358
To Be Repealed	05/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence W. Hayes, Deputy General Counsel, Thrift Depositor Protection Oversight Board, 808 17th Street NW., Washington, DC 20232
Phone: 202 416-2606

RIN: 3203–AA03

4569. EXEMPTION OF SYSTEM OF RECORDS FROM PRIVACY ACT PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552a; 12 USC 1441a(a)(2); 12 USC 1441a(a)(13)

CFR Citation: 12 CFR 1503.13

Legal Deadline: None

Abstract: Addition to the Privacy Act rule of the Oversight Board of the specific exemption that may be promulgated pursuant to 5 USC 552a(k)(5).

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61342
NPRM Comment Period End	01/25/93	
Final Action	05/00/96	
Final Action Effective	06/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence W. Hayes, Deputy General Counsel, Thrift Depositor Protection Oversight Board, 808 17th Street NW., Washington, DC 20232
Phone: 202 416-2606

RIN: 3203–AA09

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD (OB) — Completed Actions

4570. SUPPLEMENTAL REGULATIONS ON EMPLOYEE STANDARDS OF CONDUCT

Priority: Substantive, Nonsignificant

Legal Authority: EO 12674; 12 USC 1441a(a)(13); 12 USC 1441a(n)(2)

CFR Citation: 5 CFR 4601

Legal Deadline: None

Abstract: The issuance by the Thrift Depositor Protection Oversight Board of regulations supplementing the uniform standards of ethical conduct issued by the Office of Government Ethics became unnecessary upon the termination of the Resolution Trust Corporation on December 31, 1995.

Timetable:

Action	Date	FR Cite
Withdrawn	12/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence W. Hayes, Deputy General Counsel, Thrift Depositor Protection Oversight Board, 808 17th Street NW., Washington, DC 20232
Phone: 202 416-2606

RIN: 3203–AA08

[FR Doc. 96-5661 Filed 05-10-96; 8:45 am]
BILLING CODE 2221-01-F

INDEX TO ENTRIES THAT MAY AFFECT SMALL ENTITIES

The Regulatory Flexibility Act (5 U.S.C. 601) requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities. Agencies meet that requirement by including the information in their submissions for the Unified Agenda.

The following index lists the regulatory actions that agencies believe may have effects on small businesses, small governmental jurisdictions, or small organizations. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition of the Agenda. For further information, see the Regulatory Information Service Center's Introduction to the Unified Agenda in Part II of this issue.

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	USDA
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14	Farmer Program Account Servicing Policies for Section 1816 and Other Related Sections for the "1990 FACT Act"
15	Implement Section 1818 (Borrower Training) of the Food, Agriculture, Conservation, and Trade Act of 1990 (FACT Act)
19	Acquisition and Management of Real and Chattel Property
21	Disaster Assistance
22	Revisions to the Direct Farm Ownership Loan Regulation (1943-A) Outreach Program for Members of Socially Disadvantaged Groups
24	Permit CFSA To Sell or Assign Farm Loan Mortgages and Notes
49	Implementation of Certified Lender Program
50	Loans to Indian Tribes and Tribal Corporations
52	The Agricultural Credit Improvement Act of 1992
54	Socially Disadvantaged Outreach Program
69	Removal of the Prohibition Against Charging Interest on Interest on Guaranteed Loans
78	Proposed Revision of the Federal Seed Act Regulations for Imported Seed
81	Importation of Animals and Animal Products
82	Humane Treatment of Dogs and Cats; Tethering and Temperature Requirements
84	Humane Treatment of Dogs and Cats; Wire Flooring
85	Humane Treatment of Dogs and Cats; Licensing and Consignment Requirements
88	Exotic Newcastle Disease in All Birds and Poultry; Psittacosis and Ornithosis in Poultry
89	User Fees–Commercial Aircraft and Vessels; Phytosanitary Certificates
109	Farm Labor Housing
121	Rural Rental and Rural Cooperative Housing Loan Policies, Procedures, and Authorizations — Point Score System To Prioritize Rural Rental Housing Loans
124	Denying Credit to Applicants Delinquent on Any Federal Debt
126	Offsets of Federal Payments to FmHA Borrowers
129	Planning and Performing Construction and Other Development and Related Construction Seismic Safety
130	Section 515 Nonprofit Set-Aside Funds
132	Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received — Multiple Family Housing
133	Section 502 Rural Housing Loan Policies, Procedures, and Authorizations
134	1927-B Real Estate Title Clearance and Loan Closing
190	Notice of New Privacy Act System of Records — Food Stamp Retailer Information
195	Food Distribution Programs — Paperwork Reduction
196	Food Distribution Programs — Implementation of 1990 Farm Bill
203	Food Stamp Program: Revisions in Retail Food Store Eligibility Criteria and in Eligibility Guidance and Program Authorization
204	Food Stamp Program: Retailer Application Processing
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254	Elimination of Prior Approval Requirements for Facilities Equipment and Certain Partial Quality Control Program
255	Performance Standards for Certain Meat Products and Poultry Products
257	Identification of the Origin of Sausage Casings
265	Pathogen Reduction; Hazard Analysis and Critical Control Points (HACCP) Systems
266	Sodium Citrate Buffered with Citric Acid Used as an Antimicrobial Agent in Cured and Noncured Meat and Poultry Products
267	Food Standards: Requirements for Processed Meat and Poultry Products Named by Use of an Expressed Nutrient Content Claim and a Standardized Term
272	Prior Labeling Approval System
277	Export Sales Reporting Requirements
279	Dairy Tariff Rate Import Quota Licensing
288	Reporting Requirements Related to Tobacco Exports
296	Solid Waste Disposal Policy
299	Species Surplus to Domestic Manufacturing Needs
300	Retention of Downpayment on Timber Sale Contracts
303	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations
305	Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands
311	Preference for Visitor Service; Alaska National Forest Conservation System Units
319	Ski Area Permit Fee System
335	Rural Business Enterprise Grants and Television Demonstration Grants
340	Rural Technology Development Grants
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411	Administration of State Log Exports Ban
443	Amendment 8 to the Pacific Coast Groundfish FMP To Implement Individual Quotas for the Fixed-Gear Sablefish Fishery (or Regulatory Amendment for Nontrawl Trip Limits)
445	Amendment 1 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic
455	Regulatory Amendment To Adjust Red Snapper Management Measures in the Gulf of Mexico for 1996 Season
473	Regulatory Adjustments to the FMP for Sharks of the Atlantic Ocean
474	Plan Amendment to FMP for Sharks of the Atlantic Ocean That Would Limit Entry
475	Regulatory Amendment Regarding Exercise of Rights of Northwest Treaty Indian Tribes to Harvest Groundfish
487	1996 Total Allowable Catch of Atlantic Swordfish
488	Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries
491	1996 Atlantic Tuna Fisheries Quotas and Effort Controls
492	Regulatory Amendment Requiring Longline Vessel Operators in the Western Pacific Pelagics Fisheries To Carry Observers at No Cost to U.S. Government
495	Amendment 14 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico
517	Pacific Whiting Allocation Among Non-Tribal Sectors
519	Amendment 12 to FMP for Salmon Fisheries off the Coasts of Washington, Oregon, and California
539	Regulatory Amendment To Implement Permit, Reporting, and Recordkeeping and Observer Requirements for Processing Vessels Over 125 Feet and Their Catcher Vessels; Pacific Coast Groundfish

Small Businesses—Cont.

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553	Fishermen's Protective Act, Fishing Vessel and Gear Damage Compensation Fund Claims Program
554	Fishing Vessel Obligation Guarantee Program, Reinvention of Regulations
556	Financial Aid Program Procedures, Conditional Fisheries
559	Final Rule To Amend Marine Mammal Regulations to Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238
570	Regulatory Amendment To Adjust Red Snapper Management Measures in the Gulf of Mexico for 1997 Season
576	Fishing Vessel Capital Construction Fund Procedures -- Eligibility for Safety Improvements
584	Sea Turtle Monitoring and Conservation Measures for Nonshrimp Fisheries
587	Proposed Rule To Require Certain Fish From Mexico To Retain Heads and Tails Intact in Order To Protect the Endangered Totoaba
592	Taking and Importing of Marine Mammals: Tuna Purse Seine Vessel Observer Expenses
593	Taking and Importing of Marine Mammals; Taking of Marine Mammals Under the ATA Permit After February 28, 1994
609	New Dealer Reporting Form for Large Pelagics
614	Amendment 38 to the FMP for the Groundfish Fishery of the BSAI and Amendment 40 to the FMP for the Groundfish Fishery of the GOA
616	Interim Final Rule To Make Certain Changes in the Limited Access Appeals Procedure
618	Amendment 7 to the Fishery Management Plan for the Northeast Multispecies Fisheries
622	Proposed Rule; Amendment 7 to the Summer Flounder Fishery Management Plan
635	Fisherman's Contingency Fund; Simplification of Regulations
636	Fisheries Obligation Guarantee Program, Reinvention of Regulations
639	Final Rule Establishing Leatherback Turtle Conservation Zone
640	Final Rule Establishing Leatherback Turtle Conservation Zone
642	Sea Turtle Conservation; Commercial Shrimp Vessel Permit
643	Sea Turtle Conservation; Restrictions Applicable to Fishery Activities; Summer Flounder Fishery-Sea Turtle Protection Area
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577	Collection From Third Party Payers of Reasonable Costs of Healthcare Services; Amendment
590	Commercial Activities Program Procedures (DoD Instruction 4100.33); Amendment
594	Drug-Free Workforce (DAR Case 88-083)
695	Incremental Funding, Fixed Price Contracts (DAR Case 90-037)
699	Institutions of Higher Education (DFARS Case 94-D310)
703	Quality Assurance -- Test
705	Revised North American Free Trade Agreement Thresholds (DFARS Case 95-D022)
708	Alternative to Miller Act Bonds (DFARS Case 95-D305)
710	Precontractual Contract Administration (DFARS Case 95-D015)
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Executive Order 12866 entitled "Regulatory Planning and Review" (October 4, 1993; 58 FR 51735) directs agencies to assess the effects of Federal regulations on State, local, and tribal governments. In addition, Executive Order 12875 entitled "Enhancing the Intergovernmental Partnership" (October 26, 1993; 58 FR 58093) directs agencies to reduce the imposition of unfunded mandates upon State, local, and tribal governments. In keeping with these efforts, agencies include in their submissions for the Unified Agenda information on whether their regulatory actions have an effect on various levels of government.

The following index lists the regulatory actions that agencies believe may have effects on State, local, tribal, or Federal levels of government. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition of the Agenda. For further information, see the Regulatory Information Service Center's Introduction to the Unified Agenda in Part II of this issue.

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Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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Rules and Regulations

Federal Register
Vol. 61, No. 94
Tuesday, May 14, 1996

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1485

Agreements for the Development of Foreign Markets for Agricultural Commodities

AGENCY: Commodity Credit Corporation (CCC).

ACTION: Final rule.

SUMMARY: The Commodity Credit Corporation (CCC) is adopting as a final rule the provisions of the proposed rule published January 10, 1996, (61 FR 704) regarding implementation of the Market Promotion Program (MPP) authorized by Section 203 of the Agricultural Trade Act of 1978, 7 U.S.C. 5623. Specifically, this rule extends the period of time following the expiration of the marketing year during which participants may pay for approved market development activities and still be entitled to receive reimbursement from CCC. This period of time is extended from 30 days to 4 months. This change eases administrative requirements by affording program participants additional time to obtain invoices and other documentation which supports the completion of overseas market development activities.

EFFECTIVE DATES: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon McClure or Denise Fetters at (202) 720–5521.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866. Based on information compiled by the Department, it has been determined that this rule:

(1) Would have an annual effect on the economy of less than $100 million;

(2) Would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(3) Would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(4) Would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and

(5) Would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

The Department of Agriculture is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest. Therefore, where legal discretion permits, the Department actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally burdensome and are easy for the public to understand, use of comply with. In short, the Department is committed to issuing regulations that maximize net benefits to society and minimize costs imposed by those regulations.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of rulemaking with respect to the subject matter of this rule.

Paperwork Reduction Act

The final rule does not impose any new reporting or record keeping requirements. The information collection requirements for participating in the MPP were approved for use by the Office of Management and Budget under OMB control number 0551–0027.

Executive Order 12372

This final rule is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 46 FR 29115 (June 24, 1983).

Executive Order 12778

This final rule has been reviewed under the Executive Order 12778, Civil Justice Reform. The rule would have pre-emptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The rule would not have retroactive effect. Administrative proceedings are not required before parties may seek judicial review.

Background

On February 1, 1995, the CCC published final rules at 60 FR 6352 governing the MPP. These new rules were applicable beginning with a participant's 1995 marketing year. Following publication, CCC participated with interested parties in five information sessions designed to familiarize participants with the new regulations and offer participants an additional opportunity to identify any problem areas. At these sessions, there was considerable discussion concerning the requirement that participants must completely pay for approved activities not later than 30 days following the end of a participant's activity plan year in order to receive reimbursement, 7 CFR § 1485.16(h)(3). As a result of these discussions, CCC published a proposed rule on January 10, 1996, to amend the current requirement in 7 CFR § 1485.16(h).

General Comments

The public was given 30 days to submit written comments on the proposed rule. During this period, CCC received 5 letters from nonprofit U.S. trade organizations. All commenters strongly supported the proposed rule which would allow participants to transfer funds to pay for activities not later than 4 months following the end of the activity plan year and still be entitled to receive reimbursement from CCC. The proposed rule is adopted as final. Since this final removes a restriction, it is being made effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1485

Agricultural commodities, Exports.

Accordingly, 7 CFR Part 1485 is amended to read as follows:

PART 1485—AGREEMENTS FOR THE DEVELOPMENT OF FOREIGN MARKETS FOR AGRICULTURAL COMMODITIES

1. The authority citation for Part 1485 continues to read as follows:

Authority: 7 U.S.C. 5623, 5662–5664 and sec. 1302, Pub. L. 103–66, 107 Stat. 330.

Subpart B—Market Promotion Program

2. In § 1485.16, paragraph (h) is revised to read as follows:

§ 1485.16 Reimbursement rules.

* * * * *

(h) CCC will reimburse for expenditures made after the conclusion of participant's activity plan year provided:

(1) The activity was approved prior to the end of the activity plan year;

(2) The activity was completed within 30 calendar days following the end of the activity plan year; and

(3) all funds were transferred to pay for the activity within 4 months following the end of the activity plan year.

Signed at Washington, D.C. on May 8, 1996.

Timothy J. Galvin,

Acting Administrator, Foreign Agricultural Service and Vice President, Commodity Credit Corporation.

[FR Doc. 96–12055 Filed 5–13–96; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–117–AD; Amendment 39–9613; AD 96–10–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–300, –400, and –500 series airplanes, that requires inspection to detect damage of a wire bundle and clamp that are located in the electronic/electrical (E/E) equipment bay, and repair of the damaged wire bundle. That action also requires replacement of the existing steel clamp with a nylon clamp, and rearrangement of the clamp installation. This amendment is prompted by a report of fire in the E/E equipment bay due to electrical arcing caused by chafing of a wire bundle. The actions specified by this AD are intended to prevent chafing of a wire bundle that could cause short circuiting of the wire bundle, and could result in smoke and fire in the E/E equipment bay.

DATES: Effective June 13, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 13, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket 95–NM–117–AD, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2793; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737–300, –400, and –500 series airplanes was published in the **Federal Register** on October 13, 1995 (60 FR 53307). That action proposed to require a visual inspection to detect damage of the wire bundle and clamp in the electronic/electrical (E/E) equipment bay, and repair, if necessary. Additionally, that action proposed to require replacement of the rubber cushioned steel clamp with a nylon clamp, and the installation of additional clamps to prevent contact between wire bundle W2132 (or W0132) and power feeder wire bundle W0142.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter supports the proposed rule.

Request to Withdraw the Rule: Basis May be an Isolated Incident

One commenter requests that the FAA first review the findings on airplanes inspected thus far and, if no incorrect routing exists on other airplanes, the proposed rule should be withdrawn. This commenter states that the Supplementary Information section of the preamble to the proposal only states that an unsafe condition is "likely to exist" on other airplanes, and asks that further explanation be given as to why the FAA believes other airplanes may be affected. This commenter has received no reports of similar conditions on other airplanes.

The FAA agrees that fleetwide corrective actions should not be mandated in response to incidents determined to be truly "isolated." In this case, however, AD action is warranted since the FAA has confirmed that the incident described in the notice was the result of a manufacturing error, and that this error was repeated on numerous airplanes. As part of its investigation, the FAA conducted inspections of 10 airplanes in the manufacturer's production facility. These inspections revealed that incorrect wire bundle clamps were installed in each of these airplanes. Furthermore, a review of manufacturing records indicates that this condition exists in approximately 620 previously delivered airplanes. In light of this evidence, the FAA has determined that the condition addressed by this AD is not the result of a single isolated incident, as the commenter suggests.

Request to Withdraw the Rule: No Essential Flight Circuits are Involved

One commenter requests that the AD be withdrawn because of the fact that no essential flight circuits were affected as a result of the damage to the wiring. The wire bundle involved in the damage is not associated with flight-critical systems.

The FAA agrees that loss of the systems associated with the damaged wire bundle would not significantly affect safe flight and landing of the airplane. The FAA's primary concern, however, is not the loss of system function, but the possibility of chafing of a wire bundle that could cause short circuiting of the wire bundles. Such short circuiting of the wire bundles could result in an undetected in-flight fire, since Electrical Equipment (E/E) bays of Model 737 airplanes are not equipped with fire detection systems.

Request to Withdraw the Proposal: No "Formal" Service Document Exists

One commenter contends that the FAA should not issue an AD that cites an "informal" service letter (Boeing Service Letter 737–SL–24–106, dated March 10, 1995) as the appropriate source of instructions for accomplishing the proposed actions. The commenter maintains that a "formal" service bulletin should be issued if the manufacturer finds the chafing problem to be more than an isolated incident.

The FAA does not concur with the commenter. The fact that the manufacturer chose to publish the service information in a form other than a "formal" service bulletin, is not a justifiable reason to withdraw the proposed AD. It is appropriate for the FAA to reference in AD's any document that is available to affected operators and contains procedural instructions necessary for conducting required actions. Further, the decision to mandate corrective actions via the AD process is based on the FAA's assessment of the potential hazardous condition, not the assessment by the manufacturer.

Request to Withdraw the Rule: Service Information Incomplete

Two commenters state that the service letter, cited in the proposed rule as the appropriate service information, contains an incomplete list of parts. The commenters assert that the service letter only indicates a "family" of hardware, and leaves the determination of the appropriate clamp diameters and screw lengths up to the operators. The commenters request that an AD not be issued unless the manufacturer finds it advisable to publish a formal service bulletin containing a complete and accurate list of parts.

The FAA acknowledges the commenters' observation that the service letter contains an incomplete list of parts; however, that list is not incomplete to the extent that the AD should be withdrawn. The FAA finds that clarification of these parts is necessary so that operators will have no difficulty performing the requirements of this AD. In those situations where part numbers are incomplete, the undefined parameters are limited to non-critical part dimensions or, in the case of the NAS42DD–6 spacer, a dimension and finish. The function of the subject parts is to establish a reasonable amount of separation from surrounding structure by providing positive mechanical support for the wire bundles. In these applications, a high degree of precision in the unspecified dimensions is not essential. It also is reasonable to assume that the modification will be accomplished by trained personnel, whose discretion in the selection of part sizes is appropriate. Such discretion will give operators the flexibility needed to deal with slight manufacturing variations in the wire bundle installation of the affected area. The FAA agrees that some guidance may prove useful to operators unfamiliar with the parts identified in the service letter; therefore, the FAA has revised paragraph (a) of the final rule to include descriptions for the installation of the screw size, spacer clearance, and specific finish requirements for the spacers.

Request to Extend Compliance Time

Two commenters request that the compliance time of the proposed rule be increased from the proposed 12 months to 18 months. The commenters state that extending the compliance period will allow operators to accomplish the inspection during a scheduled "C" check, when airplanes are brought to the main maintenance base for an extended hold. Adoption of a 12-month compliance time would require affected operators to special schedule airplanes so that the requirements of the rule can be accomplished; this would entail additional expenses over what the FAA estimated in its cost impact information.

The FAA concurs that the compliance time can be extended somewhat. The FAA's intent was that the inspections be conducted during a regularly scheduled maintenance visit for the majority of the affected fleet. The FAA now recognizes that 15 months corresponds more closely to the interval representative of the majority of affected operators' normal maintenance schedules. Extending the compliance time by three additional months will not adversely affect safety, and will allow the modification to be performed at a base during regularly scheduled maintenance. Paragraph (a) of the final rule has been revised to reflect a compliance time of 15 months.

Request to Revise Cost Impact Information

One commenter requests that the FAA's cost impact estimation be revised to specify that two work hours are required to accomplish the proposed modification, instead of one work hour. The commenter explains that the access to the work area is from under the cabin floor, and the personnel performing the modification are in an awkward position and are unable to fully view the work area. Because of these factors, the modification would take a longer time that the FAA's estimated one work hour.

The FAA does not concur. The cost impact information, below, describes only the "direct" costs of the specific actions required by this AD. The FAA's estimate of 1 work hours necessary to accomplish the required actions is based on the best data available to date, and represents the time necessary to perform only the actions actually required by this AD. The FAA recognizes, that in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs. The cost analysis in AD rulemaking actions, however, typically does not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. Because incidental costs may vary significantly from operator to operator, they are almost impossible to calculate.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 620 Model 737–300, –400, and –500 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 195 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $25 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $16,575, or $85 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT

Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–10–08 Boeing: Amendment 39–9613. Docket 95–NM–117–AD.

Applicability: Model 737–300, –400, and –500 series airplanes, as listed in Boeing Service Letter 737–SL–24–106, dated March 10, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent short circuiting of a wire bundle located in the electrical/electronics (E/E) equipment bay, which could result in smoke and fire, accomplish the following:

(a) Within 15 months after the effective date of this AD, accomplish the requirements of paragraphs (a)(1), (a)(2), and (a)(3), of this AD in accordance with Boeing Service Letter 737–SL–24–106, dated March 10, 1995.

Note 2: Screws having part number (P/N) NAS1801–3–( ) and spacers having P/N NAS42DD–6–( ), used to install the clamps as specified by this service letter, should be selected to provide a minimum of 0.25 inch clearance between wire bundles and surrounding structure and objects. Additionally, the spacers should have a part number having a chemical film finish code of "FC" or a gray anodize finish code of "N."

(1) Perform a visual inspection to detect damage of the wire bundle and clamps in the E/E compartment. If any damage is detected, prior to further flight, repair in accordance with the service letter.

(2) Reclamp wire bundle W2132 (or W0132) by removing the steel cushioned clamp and installing a nylon clamp on the aft side of the existing nut and bolt hole at body station (BS) 360, water line (WL) 203, left buttock line (LBL) 57, in accordance with the service letter.

(3) Install additional clamps to wire bundles W2132 (or W0132) and power feeder wire bundle WO142, in accordance with the service letter.

(b) Within 10 days after detecting any damage to the wire bundle or clamp as a result of the inspection required by paragraph (a) of this AD, submit a report of the damage findings to the FAA, Transport Airplane Directorate, Seattle Manufacturing Inspection District Office (MIDO), Attention: George Carter, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 237–6229; fax (206) 965–0264. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The actions shall be done in accordance with Boeing Service Letter 737–SL–24–106, dated March 10, 1995, including Attachments I and II. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 13, 1996.

Issued in Renton, Washington, on May 6, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–11824 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 25

[Docket No. NM–121, Special Conditions No. 25–ANM–113]

Special Conditions: Cessna Aircraft Model 750 Airplanes; Operation With Fly-by-Wire Rudder

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Cessna Aircraft Model 750 airplane. This airplane will have novel and unusual design features, relating to its electronic rudder flight control system, when compared to the state of technology envisioned in the airworthiness standards of part 25 of the Federal Aviation Regulations (FAR). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the airworthiness standards of part 25.

EFFECTIVE DATE: May 1, 1996.

FOR FURTHER INFORMATION CONTACT: Mark I. Quam, FAA, Standardization Branch, ANM–113, Transport Standards Staff, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2145, facsimile (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

On October 15, 1991, Cessna Aircraft Company (Cessna), 6030 Cessna Blvd., P.O. Box 7704, Wichita, KS 67277–7704, applied for a new type certificate in the transport airplane category for the Model 750 (Citation X) airplane. The Cessna 750 is a twin-engine, swept-wing business jet aircraft that is configured for approximately 8–12 passengers. The airplane has two Allison Engine Company AE 3007C turbofan engines rated at 6400 pounds of sea level, static takeoff thrust. The airplane has a maximum operating altitude of 51,000 feet and a range of approximately 3300 nautical miles.

The Cessna 750 has a yaw control system provided by a lower rudder and an upper rudder. Each rudder surface has an independent full-time control system, except that they share mechanical input at the rudder pedals. The lower surface is controlled by mechanical input to hydraulically-powered actuators. The upper surface is electronically controlled.

The lower rudder is positioned by two identical power control units (PCUs) installed one above the other, in parallel, in the vertical fin. The PCUs are each powered by an independent hydraulic system. Both the pilot and co-pilot rudder pedals are connected to the PCUs through conventional 1/8" diameter stainless steel cables, bellcranks, and PCU input bungees. Dual mechanical load paths are provided from the input sector to the PCUs to ensure that no single mechanical disconnect can result in loss of both rudder pedal and electric trim input to the PCUs. Rudder pedal travel of +/− 2.9 inches provides a maximum lower rudder deflection of +/− 30 degrees. The lower rudder system has dual rudder authority limiters designed to limit deflection, depending on the airplane's dynamic pressure. The purpose of the rudder limiter is to protect the airplane structure against overload. Both rudder authority limiters, each controlled by an independent rudder limit module, operate simultaneously so that a failure of one system will not allow the lower rudder to deflect to an unwanted position. Dual yaw damper actuators are linked in series to the lower rudder system to provide Dutch roll damping and turn coordination.

The upper rudder is driven electrically by the stand-alone yaw stability augmentation systems (YSAS) which consist of two identical systems. Each YSAS consists of a yaw stability augmentation computer (YSAC), two dual rotary variable transformer (RVT) sensors, and a servo motor which is a part of an electromechanical actuator (EMA). Either one of two YSASs continuously provides Dutch roll damping of the airplane, as well as tracking of the upper rudder to the mechanical command from the rudder pedals through electronic sensing of the rudder pedal torque tube position in the cockpit. The maximum upper rudder deflection is +/− 18 degrees. Upper surface position limiting is accomplished by electrical and mechanical stops at the surface.

In normal conditions, the manual yaw command from either the pilot or co-pilot rudder pedals is transmitted through the cable system and the PCU input bungees to the rudder PCUs. The PCUs then drive the lower rudder surface in proportion to the input command. At the same time, the rudder pedal command is electrically sensed at the rudder pedal torque tube and transmitted to the active YSAS for tracking the upper rudder. The position of each rudder surface may be displayed to the pilot along with the authority limiter position. In normal operation, both the lower and upper rudder systems provide yaw damper function at the same time. If the yaw damper function on either rudder system completely fails, the other system will provide adequate control to maintain the yaw stability of the airplane.

Type Certification Basis

Under the provisions of § 21.17 of the FAR, Cessna must show, except as provided in § 25.2, that the Model 750 (Citation X) meets the applicable provisions of part 25, effective February 1, 1965, as amended by Amendments 25–1 through 25–74. In addition, the certification basis for the Model 750 includes § 25.1316, System lightning protection, as amended by Amendment 25–80; part 34, effective September 10, 1990, plus any amendments in effect at the time of certification; and part 36, effective December 1, 1969, as amended by Amendment 36–1 through the amendment in effect at the time of certification. These special conditions form an additional part of the type certification basis. The certification basis also includes Special Conditions No. 25–ANM–99, dated 5/8/95, pertaining to protection from High Intensity radiated fields, and may include other special conditions that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Cessna Model 750 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special condition would also apply to the other model under the provisions of § 21.101(a)(1).

Discussion

The type design of the Cessna 750 contains novel or unusual design features not envisioned by the applicable part 25 airworthiness standards and therefore special conditions are considered necessary in the following areas:

1. *Upper Rudder Control System Operation Without Normal Electrical Power.* The Cessna Model 750 upper rudder control system is required in order to maintain safe flight. The Cessna design has four yaw dampers, including lower rudder dual yaw dampers that are hydraulically powered, and an upper rudder with dual YSASs that are electrically powered. If all hydraulic power is lost to the lower rudder (manual revision), then availability of the upper rudder yaw damper function becomes critical. Section 25.1351(d) of the FAR, Operation without normal electrical power, requires safe operation in VFR conditions for at least five minutes with inoperative normal power. This rule was structured around a traditional design utilizing mechanical control cables for flight control, while the crew took time to sort out the electrical failure, start engine(s) if necessary, and re-establish some of the electrical power generation capability.

Service experience with traditional two-engine airplane designs has shown that the loss of electrical power generated by the airplane's engines is not extremely improbable. The electrical power system of the Cessna 750 must therefore be designed with standby or emergency electrical sources of sufficient reliability and capacity to power the upper rudder control system in the event of the loss of normally generated electrical power. The need for electrical power for the Cessna Model 750 upper rudder control system was not envisioned by part 25 since, in traditional designs, cables and hydraulics are utilized for the flight control system. Therefore, Special Condition No. 1 is needed.

2. *Design Maneuver Requirements.* In a conventional airplane, pilot inputs directly affect control surface movement (both rate and displacement) for a given flight condition. In the Cessna Model 750, the pilot provides only a portion of the input to the upper rudder control surface, and it is possible that the pilot control displacements specified in § 25.351 of the FAR may not result in the maximum displacement and rates of displacement of the upper rudder. The intent of these noted rules may not be

satisfied if literally applied. Therefore, Special Condition No. 2 is needed.

3. *Interaction of Systems and Structures.* The Cessna Model 750 has a full-time electronic upper rudder flight control system affecting the yaw axis. The current rules are inadequate for considering the affects of this system, and its failures, on structural performance. Therefore, Special Condition No. 3 is needed.

As discussed above, these special conditions are applicable initially to the Cessna Model 750 (Citation X) airplane. Should Cessna apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Discussion of Comments

Notice of proposed special conditions No. SC–96–1–NM was published in the **Federal Register** on March 22, 1996 (61 FR 11779). No comments were received.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**. However, as the certification date for the Cessna Aircraft Model 750 airplane is imminent, the FAA finds that good cause exists for making these special conditions effective upon issuance.

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplanes.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Cessna Aircraft Model 750 airplanes.

1. *Upper Rudder Control System Operations Without Normal Electrical Power.* In lieu of compliance with § 25.1351(d), it must be demonstrated, by test or combination of test and analysis, that the upper rudder control system provides for safe flight and landing with inoperative normal engine electrical power (electrical power sources excluding the battery and any other standby electrical sources). The airplane operation should be considered at the critical phase of flight and include the ability to restart the engines and maintain flight for a minimum of 30 minutes in Instrument Meteorological Conditions (IMC).

Discussion: The Cessna Model 750 fly-by-wire upper rudder control system requires a continuous source of electrical power in order to maintain yaw control. Section § 25.1351(d), Operation without normal electrical power, requires safe operation in visual flight rules (VFR) conditions for at least five minutes with inoperative normal power. This rule was structured around a traditional design utilizing mechanical control cables for flight control while the crew took time to sort out the electrical failure and was able to re-establish some of the electrical power generation capability. In order to maintain the same level of safety associated with traditional designs, the Cessna 750 upper rudder control system design shall be demonstrated to operate for at least 30 minutes without the normal source of engine-generated electrical power. It should be noted that service experience has shown that the loss of all electrical power that is generated by the airplane's engines is not extremely improbable.

The emergency electrical power system must be designed to supply the upper rudder control system without the need for crew action following the loss of the normal electrical power system.

For compliance purposes:

1. A test demonstration of the loss of normal engine-generated power is to be established such that:

a. The failure condition should be assumed to occur during night instrument meteorological conditions (IMC), at the most critical phase of flight relative to the electrical power system design and distribution of equipment loads on the system.

b. The upper rudder control system can provide for continued safe flight and landing using emergency electrical power (batteries, etc.) for at least 30 minutes of operation in IMC. An engine restart should be included in this demonstration.

c. Availability of APU operation should not be considered in establishing emergency power system adequacy.

2. Since the availability of the emergency electrical power system operation is necessary for maintaining safe flight with the upper rudder, the emergency electrical power system must be available immediately prior to each flight.

3. The emergency electrical power system must be shown to be satisfactorily operational in all flight regimes.

2. *Design Yaw Maneuver Requirements.*

In lieu of compliance with § 25.351 of the FAR, the airplane must be designed for loads resulting from the yaw maneuver conditions specified in subparagraphs (a) through (d) of this paragraph, at speeds from V_{MC} to V_D. Unbalanced aerodynamic moments about the center of gravity must be reacted in a rational or conservative manner considering the airplane inertia forces. In computing the tail loads, the yawing velocity may be assumed to be zero:

(a) With the airplane in unaccelerated flight at zero yaw, it is assumed that the cockpit rudder control is suddenly displaced to achieve the resulting rudder deflection, as limited by:

(1) the control system or control surface stops; or

(2) a limit force of 300 pounds from V_{MC} to V_A and 200 pounds from V_C/M_C to V_D/M_D, with a linear variation between V_A and V_C/M_C.

(b) With the cockpit rudder control deflected so as always to maintain the maximum rudder deflection available within the limitations specified in subparagraph (a) of this paragraph, it is assumed that the airplane yaws to the overswing sideslip angle.

(c) With the airplane yawed to the static equilibrium sideslip angle, it is assumed that the cockpit rudder control is held so as to achieve the maximum rudder deflection available within the limitations specified in subparagraph (a) of this paragraph.

(d) With the airplane yawed to the static equilibrium sideslip angle of subparagraph (c) of this paragraph, it is assumed that the cockpit rudder control is suddenly returned to neutral.

3. *Interaction of Systems and Structures.*

Airplanes equipped with fly-by-wire control systems that affect structural performance, either directly or as a result of a failure or malfunction, must account for the influence of these systems and their failure conditions in showing compliance with the requirements of 14 CFR part 25, Subparts C and D.

(a) General. The following criteria will be used in determining the influence of the upper rudder control systems and their failure conditions on the airplane structure.

(b) System fully operative. With the system fully operative, the following apply:

(1) Limit loads must be derived in all normal operating configurations of the systems from all the limit conditions specified in 14 CFR part 25, Subpart C, taking into account any special behavior of such systems or associated functions or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant nonlinearity (rate of displacement of control surface, thresholds, or any other system nonlinearities) must be accounted for in a realistic or conservative way when deriving limit loads from limit conditions.

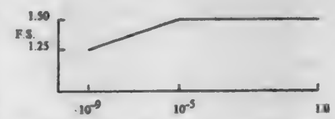
(2) The airplane must meet the strength requirements of 14 CFR part 25 (Static strength, residual strength), using the specified factors to derive ultimate loads from the limit loads defined above. The effect of non linearities must be investigated beyond limit conditions to ensure the behavior of the system present no anomaly compared to the behavior below limit conditions. However, conditions beyond limit conditions need not be considered when it can be shown that the airplane has design features that make it impossible to exceed those limit conditions.

(3) The airplane must meet the aeroelastic stability requirements of § 25.629.

(c) System in failure condition. For any failure condition in the system not shown to be extremely improbable, the following apply:

(1) At the time of occurrence. Starting from 1-g level flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after failure. The airplane must be able to withstand these loads multiplied by an appropriate factor of safety that is related to the probability of occurrence of the failure. The factor of safety (F.S.) is defined in Figure 1.

Figure 1
Factor of Safety at Time of Occurrence



P_j—Probability of occurrence of failure mode j (per hour)

(i) These loads must also be used in the damage tolerance evaluation required by § 25.571(b) if the failure condition is probable.

(ii) Freedom from flutter, divergence, and control reversal must be shown up to the speeds defined in § 25.629(b)(2). For failure conditions which result in speed increases beyond V_C/M_C, freedom from flutter, divergence, and control reversal must be shown to increased speeds, so that the margins intended by § 25.629(b)(2) are maintained.

(iii) Notwithstanding subparagraph (1) of this paragraph, failures of the system that result in forced structural vibrations (oscillatory failures) must not produce loads that could result in catastrophic fatigue failure or detrimental deformation of primary structure.

(2) For the continuation of the flight. For the airplane in the system failed state, and considering any appropriate reconfiguration and flight limitations, the following apply:

(i) Static and residual strength must be determined for loads derived from the following conditions at speeds up to V_C, or the speed limitation prescribed for the remainder of the flight:

(A) The limit symmetrical maneuvering conditions specified in §§ 25.331 and 25.325.

(B) The limit gust conditions specified in § 25.341 (but using the gust velocities for V_C) and in § 25.345.

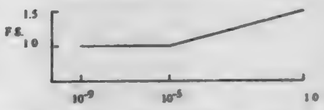
(C) The limit rolling conditions specified in § 25.349 and the limit unsymmetrical conditions specified in §§ 25.367 and 25.427(b) and (c).

(D) The limit yaw maneuvering conditions specified in Special Condition No. 2.

(E) The limit ground loading conditions specified in §§ 25.473 and 25.491.

(ii) For static strength substantiation, each part of the structure must be able to withstand the loads specified in subparagraph (2)(i) of this paragraph, multiplied by a factor of safety depending on the probability of being in this failure state. The factor of safety is defined in Figure 2.

Figure 2
Factor of Safety for Continuation of Flight



Q_j—Probability of being in failure condition j

$Q_j = (T_j)(P_j)$ where:

T_j=Average time spent in failure condition j (in hours)

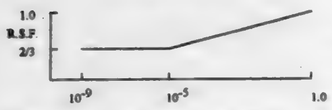
P_j=Probability of occurrence of failure mode j (per hour)

Note: If P_j is greater than 10^{-3} per flight hour, then a 1.5 factor of safety must be applied to all limit load conditions specified in Subpart C.

(iii) For residual strength substantiation as defined in § 25.571(b), structures affected by failure of the system and with damage in combination with the system failure, a reduced factor may be applied to the loads specified in

subparagraph (2)(i) of this paragraph. However, the residual strength level must not be less than the 1-g flight load, combined with the loads introduced by the failure condition, plus two-thirds of the load increments of the conditions specified in subparagraph (2)(i) of this paragraph, applied in both positive and negative directions (if appropriate). The residual strength factor (R.S.F.) is defined in Figure 3.

Figure 3
Residual Strength Factor



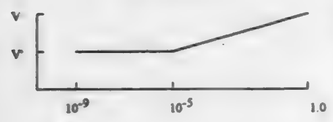
Q_j—Probability of being in failure condition j
$Q_j=(T_j)(P_j)$ where:
T_j=Average time spent in failure condition j (in hours)
P_j=Probability of occurrence of failure mode j (per hour)

Note: If P_j is greater than 10^{-3} per flight hour, then a residual strength factor of 1.0 must be used.

(iv) If the loads induced by the failure condition have a significant effect on fatigue or damage tolerance, then their effects must be taken into account.

(v) Freedom from flutter, divergence, and control reversal must be shown up to a speed determined from Figure 4. Flutter clearance speeds V' and V'' may be based on the speed limitation specified for the remainder of the flight, using the margins defined by § 25.629(b).

Figure 4
Clearance Speed



Q_j=Probability of being in failure condition j
V'=Clearance speed as defined by § 25.629(b)(2).
V''=Clearance speed as defined by § 25.629(b)(1).
$Q_j=(T_j)(P_j)$ where:
T_j=Average time spent in failure condition j (in hours)
P_j=Probability of occurrence of failure mode j (per hour)

Note: If P_j is greater than 10^{-3} per flight hour, then the flutter clearance speed must not be less than V''.

(vi) Freedom from flutter, divergence, and control reversal must also be shown up to V' in Figure 4 above, for any probable system failure condition combined with any damage required or selected for investigation by § 25.571(b).

(vii) If the mission analysis method is used to account for continuous turbulence, all the systems failure conditions associated with their probability must be accounted for in a rational or conservative manner in order to ensure that the probability of exceeding the limit load is not higher than the value prescribed in Appendix G of 14 CFR part 25.

(3) Consideration of certain failure conditions may be required by other sections of 14 CFR part 25, regardless of calculated system reliability. Where analysis shows the probability of these failure conditions to be less than 10^{-9}, criteria other than those specified in this paragraph may be used for structural substantiation to show continued safe flight and landing.

(d) Warning considerations. For upper rudder control system failure detection and warning, the following apply:

(1) The system must be checked for failure conditions, not extremely improbable, that degrade the structural capability below the level required by part 25 or significantly reduce the reliability of the remaining system. The crew must be made aware of these failures before flight. Certain elements of the control system, such as mechanical and hydraulic components, may use special periodic inspections, and electronic components may use daily checks, in lieu of warning systems, to achieve the objective of this requirement. These certification maintenance requirements must be limited to components that are not readily detectable by normal warning systems and where service history shows that inspections will provide an adequate level of safety.

(2) The existence of any failure condition, not extremely improbable, during flight that could significantly affect the structural capability of the airplane, and for which the associated reduction in airworthiness can be minimized by suitable flight limitations, must be signaled to the flight crew. For example, failure conditions which result in a factor of safety between the airplane strength and the loads of 14 CFR part 25, Subpart C, below 1.25, or flutter margins below V'', must be signaled to the crew during the flight.

(3) Dispatch with known failure conditions. If the airplane is to be dispatched in a known upper rudder control system failure condition that affects structural performance, or affects the reliability of the remaining system to maintain structural performance, then the provisions of this special condition must be met for the dispatched condition and for subsequent failures. Operational and flight limitations may be taken into account.

Issued in Renton, Washington, on May 1, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 96–2086 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR part 25

[Docket No. NM–124; Special Conditions No. 25–ANM–114]

Special Conditions: Dassault Aviation, Mystere Falcon 50 Airplane; High-Intensity Radiated Fields

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Dassault Aviation, Mystere Falcon 50 airplane modified by K–C Aviation of Appleton, Wisconsin. This airplane will be equipped with a Flight Visions FV–2000 Head-up Display System that provides critical data to the flightcrew. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is May 3, 1996. Comments must be received on or before June 28, 1996.

ADDRESSES: Comments on these final special conditions, request for comments, may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM–7), Docket No. NM–124, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM–124. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Dale Dunford, FAA, Flight Test and Systems Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (206) 227–2239; facsimile (206) 227–1100.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must be submitted with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM–124." The postcard will be date stamped and returned to the commenter.

Background

On June 27, 1995, K–C Aviation of Appleton, Wisconsin, applied for a supplemental type certificate to modify Dassault Aviation, Mystere Falcon 50 airplanes. The Dassault Aviation, Mystere Falcon 50 is a business jet with three aft mounted turbine engines. The airplane can carry three crew and 19 passengers depending on the configuration, and is capable of operating to an altitude of 49,000 feet. The proposed modification incorporates the installation of a digital avionics system that will present critical functions on the Head-up Display System (HUD), which are potentially vulnerable to a high-intensity radiated fields (HIRF) external to the airplane

Supplemental Type Certification Basis

Under the provisions of § 21.101 of the Federal Aviation Regulations (FAR), K–C Aviation must show that the altered Dassault Aviation, Mystere Falcon 50 airplane continues to meet the applicable provisions of § 21.29; and part 25, effective February 1, 1965, as amended by Amendments 25–1 through 25–34 and § 25.255 of Amendment 25–42; § 25.979 (d) and (e) of Amendment 25–38; § 25.1013(b)(1) of Amendment 25–36; § 25.1351(d) of Amendment 25–41; § 25.1353(c)(6) of Amendment 25–42; part 36 of the FAR effective December 1, 1969, as amended through Amendment 36–9; Special Federal Aviation Regulations (SFAR) 27 effective February 1, 1974, as amended through Amendment SFAR 27–1; and Special Conditions 25–86–EU–24. In addition, the certification basis may include other special conditions that are not relevant to these proposed special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Dassault Aviation, Mystere Falcon 50 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provision of § 21.101(a)(1).

Novel or Unusual Design Features

The Dassault Aviation, Mystere Falcon 50 airplane incorporates a Flight Visions FV–200 Head-up Display system that provides critical data to the flightcrew. These systems may be vulnerable to HIRF external to the airplane.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are proposed for the Dassault Aviation, Mystere Falcon 50, which would require that new technology electrical and electronic systems, such as the HUD, etc., be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical

digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz–100 KHz	50	50
100 KHz–500 KHz	50	50
500 KHz–2000 KHz	70	70
2 MHz–30 MHz	200	200
30 MHz–100 MHz	30	30
100 MHz–200 MHz	150	33
200 MHz–400 MHz	70	70
400 MHz–700 MHz	4,020	935
700 MHz–1000 MHz	1,700	170
1 GHz–2 GHz	5,000	990
2 GHz–4 GHz	6,680	840
4 GHz–6 GHz	6,850	310
6 GHz–8 GHz	3,600	670
8 GHz–12 GHz	3,500	1,270
12 GHz–18 GHz	3,500	360
18 GHz–40 GHz	2,100	750

As discussed above, the proposed special conditions would be applicable initially to the K–C Aviation modified Dassault Aviation, Mystere Falcon 50. Should K–C Aviation apply at a later date for a change to the supplemental type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain design features on the Dassault Aviation, Mystere Falcon 50 airplane. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions for this airplane has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. Therefore, these special conditions are being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citiation for these special conditions is as follows

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

According, the following special conditions are issued as part of the supplemental type certification basis for the K–C Aviation modified Dassault Aviation, Mystere Falcon 50 series airplanes.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies: *Critical Functions.* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on May 3, 1996.

Stewart R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 96–12085 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 95–NM–127–AD; Amendment 39–9614; AD 92–10–13 R1]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–80 Series Airplanes and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes, that currently requires a revision to the FAA-approved Airplane Flight Manual (AFM) to specify that the autothrottles must be disconnected if engine surge (stall) is detected during takeoff. That AD was prompted by results of an accident investigation, which revealed that the digital flight guidance computer (DFGC) on these airplanes can incorrectly identify an engine surge or stall as being an engine failure. This can cause the autothrottles to unclamp and automatically advance the thrust levers during takeoff. The actions specified by that AD are intended to prevent automatic advance of the thrust lever on a surging engine during takeoff, which could cause engine failure. This amendment provides for an optional terminating action for the AFM revision.

DATES: Effective June 13, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 13, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; telephone (310) 627–5245; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 92–10–13, amendment 39–8247 (57 FR 19249, May 5, 1992), which is applicable to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes, was published in the **Federal Register** on October 18, 1995 (60 FR 53888). That action proposed to require the installation of a modified digital flight guidance computer (DFGC), which, when accomplished, would terminate the requirement for the AFM revision.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

Three commenters support the proposed rule.

Requests To Withdraw the Proposal

Several commenters request that the FAA withdraw the proposed rule or retain the proposed installation as an optional terminating action for the AFM revision. The commenters contend that the requirements of the proposed AD provide no additional safety over existing AD 92–10–13; the safety of the affected airplanes is ensured by the currently installed hardware and the procedural changes that are required by the existing AD. One commenter, Honeywell, states that both AD 92–10–13 and the proposed AD achieve the same goal of preventing forward throttle movement in the event of an engine surge or stall. AD 92–10–13 achieves this goal by requiring the pilot to recognize the surge condition and to manually disconnect the autothrottles. The proposed AD accomplishes this in a different manner—by forcing the DFGC autothrottles to remain in the clamp mode. Because the engine surge condition is easily and unambiguously recognized in the cockpit and the resultant action required by AD 92–10–13 (disconnecting the autothrottle) is likewise clear and easily accomplished, the correct execution for the subject condition is assured. The commenters also state that accomplishment of the requirements of the proposed AD would pose an immense cost to some operators. The commenters contend that such expense is unnecessary when an equivalent, alternative means is available.

The FAA does not concur with the requests to withdraw the final rule. However, the FAA has determined that, based on the information provided by the commenters, the currently installed hardware and the procedural changes required by the existing AD do provide a long term and adequate level of safety. While the manufacturer has advised the FAA that the new DFGC (part number 4034241–972) was incorporated on all production Model DC–9–80 series airplanes as of July 1995, the FAA has determined that the installation should be provided in this AD as an optional terminating action for the AFM revision. Therefore, this action revises AD 92–10–13 to add a new paragraph (c) that provides for installation of the new DFGC's as an optional terminating action for the AFM revision.

Other Changes to the Final Rule

The FAA also has clarified the applicability of this rule to specify that only airplanes equipped with digital flight guidance computers (DFGC) having part numbers prior to 4034241–972 are subject to the requirements of the AD. This change will exclude airplanes on which the terminating installation has been accomplished previously or in production.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,117 McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 643 airplanes of U.S. registry will be affected by this AD.

The AFM revision that is currently required by AD 92–10–13 takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of this current requirement is estimated to be $38,580, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Should an operator elect to accomplish the optional terminating action that is provided by this AD action (the removal of DFGC's having part number 4034241–971 and installation of DFGC's having part number 4034241–972), it would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $2,000 per airplane (that is, $1,000 per DFGC, and 2 DFGC's per airplane). Based on these figures, the cost impact of the optional terminating action is estimated to be $2,060 per airplane.

Should an operator have an airplane equipped with DFGC's having part numbers other than (lower than) 4034241–971, additional actions may be necessary prior to accomplishing the optional terminating action. Those additional actions involve modification(s) of the DFGC's to bring them to the level of configuration of DFGC's having part number 4034241–971. Depending on the current configuration of the DFGC's installed on the airplane, the highest costs associated with modifying a DFGC to a part number 4034241–971 configuration (excluding subsequent modification to the part number 4034241–972 configuration) could be as much as $92,000 per airplane (that is, $46,000 per DFGC, and 2 DFGC's per airplane).

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8247 (57 FR 19249, May 5, 1992), and by adding a new airworthiness directive (AD), amendment 39–9614, to read as follows:

92–10–13 R1 McDonnell Douglas: Amendment 39–9614. Docket 95–NM–127–AD. Revises AD 92–10–13, Amendment 39–8247.

Applicability: Model DC–9–80 series airplanes and Model MD–88 airplanes equipped with digital flight guidance computers (DFGC) having part numbers prior to 4034241–972; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent automatic thrust lever advance on a surging engine during takeoff, which could cause engine failure, accomplish the following:

(a) Within 30 days after May 20, 1992 (the effective date of AD 92–10–13, amendment 39–8247), revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM.

"LIMITATIONS SECTION

Autothrottles must be disconnected if engine surge (stall) is detected during takeoff."

(b) Within 30 days after May 20, 1992 (the effective date of AD 92–10–13, amendment 39–8247), revise the Procedures Section of the FAA-approved AFM to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM.

"PROCEDURES SECTION

CAUTION

During takeoff, the Digital Flight Guidance Computer (DFGC) engine failure logic is armed if (1) the flight director pitch axis is in takeoff mode, (2) the aircraft is above 400 feet radio altitude, and (3) both engine pressure ratios (EPRs) are below the go-around EPR limit. If the DFGC detects an EPR drop greater than or equal to 0.25 EPR and 7% N_1 from the same engine, as compared to the other engine, the engine failure logic is satisfied and the DFGC will change the Thrust Rating Panel (or indicator) thrust limit to Go-Around (GA). This will cause the autothrottle system to unclamp and enter normal EPR limit (EPR LIM) mode where the throttles will maintain the higher engine EPR at the selected go-around thrust rating EPR LIM. Such an EPR and N_1 drop may also result from an engine surge (stall). Advancing thrust levers on a surging engine will hinder surge recovery and may result in eventual engine failure.

If an engine surge (stall) is detected during takeoff:

(1) Disconnect autothrottles.
(2) Reduce thrust on affected engine (idle if necessary).
(3) Shut down the affected engine if surging and popping continues.
(4) If affected engine surging or popping stops, accomplish the following:
A. Place ignition switch to GRD START & CONTIN.
B. Place ENG anti-ice switches to ON.
C. Place PNEU X-FEED VALVE lever OPEN on affected side.
D. Place AIR FOIL anti-ice switches ON.
E. Advance affected throttle slowly.
(5) If engine surging or popping returns, turn the ENG anti-ice switch OFF.
(6) After normal operation has been established, the autothrottles may be re-engaged.

Note: A NO MODE light may be annunciated due to abnormal bleed configuration."

(c) Replacement of both DFGC's having a part number prior to 4034241–972, with DFGC's having part number 4034241–972, in accordance with McDonnell Douglas Service Bulletin MD80–22–111, dated May 23, 1995, constitutes terminating action for the requirements of this AD. Once the replacements are accomplished, the AFM revisions required by paragraphs (a) and (b) of this AD may be removed.

Note 2: McDonnell Douglas Service Bulletin MD80–22–111, dated May 23, 1995, references Honeywell Service Bulletin 4034241–22–44, dated May 22, 1995, as an additional source of service information.

Note 3: Paragraph 1.B of McDonnell Douglas Service Bulletin MD80–22–111, dated May 23, 1995, specifies certain concurrent actions that affect airplanes equipped with DFGC's having part numbers prior to 4034241–971.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The replacement shall be done in accordance with McDonnell Douglas Service Bulletin MD80–22–111, dated May 23, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on June 13, 1996.

Issued in Renton, Washington, on May 6, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–11823 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–95–AD; Amendment 39–9617; AD 96–10–10]

RIN 2120–AA64

Airworthiness Directives; Jetstream Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Jetstream Model 4101 airplanes, that requires inspections of the handrail assembly at the main entrance door to detect loose or missing rivets, abnormal movement between the handrail pivot-tube and the spigot that attaches to the bearing assembly, and cracks on the handrail pivot-tube. It also requires repair or replacement of the assembly, if necessary, and provides for two optional terminating actions. This amendment is prompted by a report indicating that fatigue cracks and loose rivets were found on the handrail assembly of the main passenger entrance door on an in-service airplane. The actions specified by this AD are intended to prevent these conditions, which can lead to the failure of the door handrail assembly; such failure could allow the door to fall free and subsequently cause injury to people on the airplane or on the ground.

DATES: Effective June 18, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 13, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Jetstream Model 4101 airplanes was published in the **Federal Register** on November 24, 1995 (60 FR 58023). That action proposed to require inspections of the handrail assembly at the main entrance door to detect loose or missing rivets, abnormal movement between the handrail pivot-tube and the spigot that attaches to the bearing assembly, and cracks on the handrail pivot-tube. It also proposed to require repair or replacement of the assembly, if necessary. The proposal also provided for two optional terminating actions.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

Two commenters support the proposal.

Request to Withdraw the Proposal as Unnecessary

One commenter requests that the proposal be withdrawn. This commenter, the only U.S. operator affected by the requirements of the proposed rule, states that it is currently in the process of accomplishing the terminating actions on all of its affected airplanes. Its schedule calls for the terminating action to be accomplished on all of these airplanes by the time the final rule would become effective. In light of this, the commenter maintains that an AD is unnecessary and the proposal should be withdrawn.

The FAA does not concur. While the operator's fleet may be the only airplanes currently on the U.S. Register that would be affected by the AD, there is the possibility that other airplanes of this same type design may be imported in the future and placed on the Register. Without this AD, there would be no assurance that the unsafe condition was addressed on those airplanes. For this reason, the FAA finds that the issuance of the final rule is both necessary and warranted.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 4 airplanes of U.S. registry will be affected by this AD. To accomplish the inspections, it would take approximately 1 work hour per airplane, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $240, or $60 per airplane, per inspection.

This cost impact figure is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised that the terminating actions provided by this rule have been accomplished on all 4 affected U.S.-registered airplanes. Therefore, the promulgation of this AD will impose no new additional costs on U.S. operators.

Should an operator elect to accomplish one of the two terminating actions provided by this AD, the following costs would apply:

Installation of the interim reinforcement of the handrail assembly takes approximately 4.5 work hours to accomplish, at an average labor charge of $60 per work hour. Based on these figures, the cost impact of this optional action is $270 per airplane, plus the cost of necessary parts.

Installation of the structural improvements of the door and door support, and the completely redesigned door handrail assembly, takes approximately10 work hours to accomplish, at an average labor charge of $60 per work hour. Based on these figures, the cost impact of this optional action is $600 per airplane, plus the cost of necessary parts.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–10–10 Jetstream: Amendment 39–9617. Docket 95–NM–95–AD.

Applicability: Model 4101 airplanes; equipped with handrail assembly, Part No. 6020203 Issue C, with Modification No. JM41179 (reference Jetstream Alert Service Bulletin J41–A52–009); certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the entrance door handrail assembly, which subsequently could result in injury to passengers, flightcrew, or groundcrew, accomplish the following:

(a) Within 50 landings after the effective date of this AD, conduct a detailed visual inspection of the handrail assembly at the main entrance door to detect loose or missing rivets, abnormal movement between the handrail pivot-tube and the spigot that attaches to the bearing assembly, and cracks on the handrail pivot-tube, in accordance with Jetstream Alert Service Bulletin J41–A52–036, dated June 13, 1994.

(b) If no cracks or other discrepancies are detected during the inspection required by paragraph (a) of this AD, repeat the inspection thereafter at intervals not to exceed 300 hours time-in-service.

(c) If evidence of any loose or missing rivet is revealed, or if abnormal movement between the handrail pivot-tube and the spigot that attaches to the bearing assembly is detected, as a result of any of the inspections required by this AD, prior to further flight, accomplish the procedures specified in paragraph 2.B.(4) of Jetstream Alert Service Bulletin J41–A52–036, dated June 13, 1994. Thereafter, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 300 hours time-in-service.

(d) If evidence of cracking is revealed as a result of any of the inspections required by this AD, prior to further flight, accomplish the requirements of either paragraph (d)(1), (d)(2), or (d)(3) of this AD:

(1) Install a new handrail assembly, Part No. 6020203 Issue C standard, as specified in paragraph 2.B.(5)(d) of Jetstream Alert Service Bulletin J41–A52–036, dated June 13, 1994. After installation, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 300 hours time-in-service. Or

(2) Install the interim reinforcement of the handrail assembly (Customer Option Kit. No. Jk42619) in accordance with Jetstream Service Bulletin J41–52–041–42619, dated June 13, 1994. Such installation constitutes terminating action for the inspections required by this AD. Or

Note 2: Jetstream Service Bulletin J41–52–041–42619 refers to Flight Refuelling Service Bulletin 6020303–52–1 for additional installation information.

(3) Install the structural improvements of the door and door support, and the completely redesigned door handrail assembly, in accordance with Jetstream Service Bulletin J41–52–025, dated February 11, 1994. Such installation constitutes terminating action for the inspections required by this AD.

Note 3: Jetstream Service Bulletin J41–52–025 refers to Flight Refuelling Service Bulletin 6020303–52–2 for additional installation information.

(e) Terminating action for the inspections required by this AD consists of installation of the item(s) specified in either paragraph (e)(1) or (e)(2) of this AD:

(1) Installation of the interim reinforcement of the handrail assembly (Customer Option Kit. No. Jk42619) in accordance with Jetstream Service Bulletin J41–52–041–42619, dated June 13, 1994. Or

(2) Installation of the structural improvements of the door and door support, and the completely redesigned door handrail assembly, in accordance with Jetstream Service Bulletin J41–52–025, dated February 11, 1994.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(h) The inspections shall be done in accordance with Jetstream Alert Service Bulletin J41–A52–036, dated June 13, 1994. The interim reinforcement of the handrail assembly shall be done in accordance with Jetstream Service Bulletin J41–52–041–42619, dated June 13, 1994. The installation of the structural improvements of the door and door support, and the completely redesigned door handrail assembly, shall be done in accordance with Jetstream Service Bulletin J41–52–025, dated February 11, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on June 18, 1996.

Issued in Renton, Washington, on May 7, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–11882 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–SW–01–AD; Amendment 39–9616; AD 96–06–12]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 47B, 47B–3, 47D, 47D–1, 47G, 47G–2, 47G–2A, 47G–2A–1, 47G–3, 47G–3B, 47G–3B–1, 47G–3B–2, 47G–3B–2A, 47G–4, 47G–4A, 47G–5, 47G–5A, 47H–1, 47J, 47J–2, 47J–2A, and 47–K Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 96–06–12 which was sent previously to all known U.S. owners and operators of Bell Helicopter Textron, Inc. (Bell) Model 47B, 47B–3, 47D, 47D–1, 47G, 47G–2, 47G–2A, 47G–2A–1, 47G–3, 47G–3B, 47G–3B–1, 47G–3B–2, 47G–3B–2A, 47G–4, 47G–4A, 47G–5, 47G–5A, 47H–1, 47J, 47J–2, 47J–2A, and 47–K helicopters by individual letters. This AD requires a visual inspection of each tail rotor blade (blade) tip, abrasion strip, blade skin, and blade butt for corrosion or delamination. This amendment is prompted by reports that a number of Model 47 helicopter blades were manufactured using a clad aluminum alloy material instead of a bare aluminum alloy material. The actions specified by this AD are intended to prevent premature delamination or separation of the blade tip block or the abrasion strip, which could lead to failure of the blade and subsequent loss of control of the helicopter.

DATES: Effective May 29, 1996, to all persons except those persons to whom it was made immediately effective by priority letter AD 96–06–12, issued on March 13, 1996, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before July 15, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–SW–01–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Nguyen, Aerospace Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5177; fax (817) 222–5960.

SUPPLEMENTARY INFORMATION: On March 13, 1996, the FAA issued priority letter AD 96–06–12, applicable to Bell Model 47B, 47B–3, 47D, 47D–1, 47G, 47G–2, 47G–2A, 47G–2A–1, 47G–3, 47G–3B, 47G–3B–1, 47G–3B–2, 47G–3B–2A, 47G–4, 47G–4A, 47G–5, 47G–5A, 47H–1, 47J, 47J–2, 47J–2A, and 47–K helicopters, which requires, prior to the first flight of each day, and at intervals not to exceed 10 hours time-in-service (TIS) if the helicopter is operated for more than 10 hours in any one day, a visual inspection of each blade tip, abrasion strip, blade skin, and blade butt for corrosion or delamination. That action was prompted by reports that a number of Model 47 helicopter blades were manufactured using a clad aluminum alloy material instead of a bare aluminum alloy material. The shear and peel strength of bonded clad aluminum alloy is less than the shear and peel strength of bonded bare aluminum alloy. This condition, if not corrected, could result in premature delamination or separation of the blade tip block or the abrasion strip, which could lead to failure of the blade and subsequent loss of control of the helicopter.

Since the unsafe condition described is likely to exist or develop on other Bell Model 47B, 47B–3, 47D, 47D–1, 47G, 47G–2, 47G–2A, 47G–2A–1, 47G–3, 47G–3B, 47G–3B–1, 47G–3B–2, 47G–3B–2A, 47G–4, 47G–4A, 47G–5, 47G–5A, 47H–1, 47J, 47J–2, 47J–2A, and 47–K helicopters of the same type design, the FAA issued priority letter AD 96–06–12 to prevent premature delamination or separation of the blade tip block or the abrasion strip, which could lead to failure of the blade and subsequent loss of control of the helicopter. The AD requires, prior to the first flight of each day, and at intervals not to exceed 10 hours TIS, if the helicopter is operated for more than 10 hours in any one day, a visual inspection of each blade tip, abrasion strip, blade skin, and blade butt for corrosion or delamination. If any of the inspections reveal corrosion or delamination, removal of the blades and replacement with airworthy blades is required.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on March 13, 1996 to all known U.S. owners and operators of Bell Model 47B, 47B–3, 47D, 47D–1, 47G, 47G–2, 47G–2A, 47G–2A–1, 47G–3, 47G–3B, 47G–3B–1, 47G–3B–2, 47G–3B–2A, 47G–4, 47G–4A, 47G–5, 47G–5A, 47H–1, 47J, 47J–2, 47J–2A, and 47–K helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 96–SW–01–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

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§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 96–06–12 Bell Helicopter Textron, Inc.: Amendment 39–9616. Docket No. 96–SW–01–AD.

Applicability: Model 47B, 47B–3, 47D, 47D–1, 47G, 47G–2, 47G–2A, 47G–2A–1, 47G–3, 47G–3B, 47G–3B–1, 47G–3B–2, 47G–3B–2A, 47G–4, 47G–4A, 47G–5, 47G–5A, 47H–1, 47J, 47J–2, 47J–2A, and 47–K helicopters, with tail rotor blade assembly, part number (P/N) 047–642–117–105, serial numbers (S/N) A–1943 through A–2068, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent premature delamination or separation of the tail rotor blade (blade) tip block or the abrasion strip, which could lead to failure of the blade and subsequent loss of control of the helicopter, accomplish the following:

(a) Prior to the first flight of each day, visually inspect each blade tip, abrasion strip, blade skin and blade butt as follows:

(1) Inspect each blade tip for corrosion or delamination adjacent to the abrasion strip and tip block.

(2) Inspect each abrasion strip for corrosion or delamination, paying particular attention to the abrasion strip leading edge.

(3) Inspect each blade skin for corrosion, paying particular attention to any areas of paint cracking or damage. Inspect all bonded joints for corrosion or delamination.

(4) Inspect each blade butt around the bearings for corrosion or delamination.

(b) Thereafter, conduct the visual inspections specified in paragraph (a) of this AD at intervals not to exceed 10 hours time-in-service.

(c) If the inspections required by paragraphs (a) and (b) of this AD reveal any corrosion or delamination, replace the blade with an airworthy blade before further flight.

(d) Installation of any airworthy tail rotor blade assembly which has been FAA-approved for the particular Model 47 helicopter, except for P/N 047–642–117–105 with S/N A–1943 through A–2068, constitutes a terminating action for the requirements of this AD.

(e) Installation of tail rotor blade assembly, P/N 047–642–117–105M, including those with S/N A–1943 through A–2068, constitutes a terminating action for the requirements of this AD.

Note 2: Bell Helicopter Textron Alert Service Bulletin No. 47–96–21, dated January 29, 1996, pertains to this AD.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Certification Office, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Certification Office.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(h) This amendment becomes effective on May 29, 1996, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 96–06–12, issued March 13, 1996, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on May 3, 1996.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–11958 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–SW–02–AD; Amendment 39–9615; AD 96–10–09]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Helicopter Systems Model 369, 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, and 500N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to McDonnell Douglas Helicopter Systems (MDHS) Model 369, 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, and 500N helicopters. This action requires initial and repetitive inspections of each main rotor blade (blade) root for either cracks or paint and sealant cracking or separation between the lower surface root end fitting and the doubler. This amendment is prompted by one accident in which a blade separated from the helicopter, as well as eight other reports of cracked blades. The actions specified in this AD are intended to prevent failure of a blade resulting in separation of the blade and subsequent loss of control of the helicopter.

DATES: Effective May 29, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of 15 days after the date of publication in the **Federal Register**.

Comments for inclusion in the Rules Docket must be received on or before July 15, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–SW–02–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The service information referenced in this AD may be obtained from MDHS, Technical Publications, Bldg. 530/B111, 5000 E. McDowell Rd., Mesa, Arizona 85215–9797. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. John Cecil, Aerospace Engineer, ANM–120L, Los Angeles Aircraft Certification Office, Northwest Mountain Region, 3960 Paramount Blvd., Lakewood, California, telephone (310) 627–5322, fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: This amendment adopts a new AD that is applicable to MDHS Model 369, 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, and 500N helicopters. One accident occurred in August 1995 in which one blade separated from the rotor system while the helicopter was on the ground. Additionally, there were eight reports of blade cracking prior to the one accident, all of which were discovered during either routine inspections or inspections resulting from reported abnormal vibrations. Subsequent investigations revealed that bonding separation occurred between the lower surface root end fitting and the doubler. This condition, if not corrected, could result in failure of a blade resulting in separation of the blade and subsequent loss of control of the helicopter.

The FAA has reviewed McDonnell Douglas Helicopter Systems Service Information Notice No. HN–239, DN–188, EN–81, FN–67, and NN–008, dated October 27, 1995, which describes procedures for a one-time visual inspection of the blade root end for chordwise cracking and paint or sealant cracking between the lower surface root end fitting and the doubler, and then repetitive inspections at intervals of 100 hours time-in-service (TIS).

Since an unsafe condition has been identified that it is likely to exist or develop on other MDHS Model 369, 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, and 500N helicopters of the same type design, this AD is being issued to prevent failure of a blade at the root end due to fatigue cracking that initiates at the outboard bolt hole and usually travels in a chordwise direction. This AD requires, within 10 hours TIS after the effective date of this AD, a one-time visual inspection of each blade root end near the doubler paying particular attention to chordwise cracks and paint or sealant cracking or separation between the lower surface root end fitting and the doubler. Additionally, this AD requires repetitive visual inspections of each blade, at intervals not to exceed 100 hours TIS, for bond separation between the lower surface root end fitting and doubler paying particular attention to chordwise cracks. The actions are required to be accomplished in accordance with the service information notice described previously.

Due to the critical need to ensure the integrity of the main rotor system, and to comply with the requirements of this AD within 10 hours TIS, this rule must be issued immediately to correct an unsafe condition in the affected helicopters.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 96–SW–02–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety. Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 96–10–09 McDonnell Douglas Helicopter Systems: Amendment 39–9615. Docket No. 96–SW–02–AD.

Applicability: Model 369, 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, and 500N helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a main rotor blade (blade) resulting in separation of the blade and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 10 hours time-in-service (TIS) after the effective date of this AD, perform a visual inspection of each blade root end for cracking and paint or sealant cracking, paying particular attention to chordwise cracking, and for separation between the lower surface root end fitting and doubler, in accordance with Part I of the Accomplishment Instructions of McDonnell Douglas Helicopter Systems Service Information Notice (SIN) HN–239, DN–188, EN–81, FN–67, and NN–008, dated October 27, 1995. If any blade crack is noted, before further flight, remove the blade and replace it with an airworthy blade. If paint or sealant cracking or separation is noted, accomplish the inspection in paragraph 3E of Part II of the Accomplishment Instructions of SIN HN–239, DN–188, EN–81, FN–67, and NN–008, dated October 27, 1995, using a piece of Mylar/viewfoil that is no thicker than .004-inch and that is cut to a size between 0.9 inch

and 1.1 inches wide and between 3.9 inches and 4.1 inches long. If any corner of the Mylar can be inserted between the lower surface root end fitting and doubler surface to a depth of 0.1 inch or greater, remove the blade from service and replace it with an airworthy blade.

(b) Thereafter, at intervals not to exceed 100 hours TIS, remove the blades and inspect for cracking, paying particular attention to chordwise cracking, and separation between the lower surface root end fitting and doubler in accordance with Part II of the Accomplishment Instructions of McDonnell Douglas Helicopter Systems SIN HN–239, DN–188, EN–81, FN–67, and NN–008, dated October 27, 1995. If missing or cracked adhesive or paint is detected at the lower surface root end fitting to doubler bonding line, accomplish the inspection in paragraph 3E of Part II of the Accomplishment Instructions of SIN HN–239, DN–188, EN–81, FN–67, and NN–008, dated October 27, 1995 using a piece of Mylar/viewfoil that is no thicker than .004-inch that is cut to a size between 0.9 inch and 1.1 inches wide and between 3.9 inches and 4.1 inches long. If any corner of the Mylar can be inserted between the lower surface root end fitting and doubler surface to a depth of 0.1 inch or greater, remove the blade from service and replace it with an airworthy blade.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(d) Special flight permits will not be issued.

(e) The inspections shall be done in accordance with McDonnell Douglas Helicopter Systems Service Information Notice (SIN) HN–239, DN–188, EN–81, FN–67, and NN–008, dated October 27, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Helicopter Systems, Technical Publications, Bldg. 530/B111, 5000 E. McDowell Rd., Mesa, Arizona 85215–9797. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective May 29, 1996.

Issued in Fort Worth, Texas, on May 2, 1996.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–11959 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 96–AWP–6]

Amendment of Class E Airspace; Visalia, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace area at Visalia, CA. The abandonment of Ianni Strip, CA has made this action necessary. This action will remove reference of Ianni Strip, CA from the Class E airspace description for Visalia, CA.

EFFECTIVE DATE: 0901 UTC August 15, 1996.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

History

On March 11, 1996, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by revising the Class E airspace area at Visalia, CA. The abandonment of Ianni Strip, CA has made this action necessary.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class E airspace area a Visalia, CA. The abandonment of Ianni Strip, CA has made this action necessary. This action will remove the reference of Ianni Strip, CA from the Class E airspace description for Visalia, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Visalia, CA [Revised]

Visalia Municipal Airport, CA
(lat. 36°19'07" N, long. 119°23'34" W)
Visalia VOR/DME
(lat. 36°22'02" N, long. 119°28'56" W)
Swanson Ranch NR1 Airport, CA
(lat. 36°24'00" N, long 119°37'03" W)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Visalia Municipal Airport and within 1.8 miles each side of the Visalia VOR 302° radial, extending from the 5-mile radius to 7 miles northwest of the VOR and within 4 miles each side of the Visalia VOR 150° radial, extending from 1.7 mile southeast

17.4 miles southeast of the Visalia VOR and within 2.3 miles each side of the 245° bearing from the Visalia Municipal Airport, extending from the 5-mile radius to 8 miles southwest of the airport; excluding the airspace within 1-mile radius of the Swanson Ranch NR1 Airport.

* * * * *

Issued in Los Angeles, California, on April 29, 1996.

George D. Williams,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 96–12088 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 95–AWP–27]

Establishment of Class E Airspace; San Andreas, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class E airspace area at San Andreas, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 31 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Calaveras Co-Maury Rasmussen Field Airport, San Andreas, CA.

EFFECTIVE DATE: 0901 UTC August 15, 1996.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

History

On March 13, 1996, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing a Class E airspace area at San Andreas, CA (61 FR 10296). This action will provide adequate controlled airspace to accommodate a GPS SIAP to RWY 31 at Calaveras Co-Maury Rasmussen Field Airport, San Andreas, CA.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes a Class E airspace area at San Andreas, CA. The development of a GPS SIAP to RWY 31 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for aircraft executing the GPS RWY 31 SIAP at Calaveras Co-Maury Rasmussen Field Airport, San Andreas, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p.389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 San Andreas, CA [New]

Calaveras Co-Maury Rasmussen Field Airport, CA
(lat. 36°08'46" N, long. 120°38'53" W)

That airspace extending upward from 700 feet above the surface within a 7.3-mile radius of the Calaveras Co-Maury Rasmussen Filed Airport.

* * * * *

Issued in Los Angeles, California, on April 29, 1996.

George D. Williams,

Manager, Air Traffic Division, Western-Pacific Region

[FR Doc. 96–12089 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority to set forth the current organizational structure of the agency as well as the current addresses for headquarters and field offices. This action is necessary to ensure the continued accuracy of the regulations.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: The regulations are being amended in 21 CFR 5.100 and 5.115 to reflect the current organizational structure of the agency and to provide current addresses for headquarters and for field and district offices.

Notice and comment on these amendments are not necessary under the Administrative Procedure Act because this is a rule of agency organization (5 U.S.C. 553(b)).

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR Part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR Part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 138a U.S.C. 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467*f*, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354–360F, 361, 362, 1701–1706; 2101–2672 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b–263n, 264, 265, 300u–300u–5, 300aa–1–300ff); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591 secs. 312, 313, 314 of the National Childhood Vaccine Act of 1986, Pub. L. 99–660 (42 U.S.C. 300aa–1 note).

2. Section 5.100 is revised to read as follows:

§ 5.100 Headquarters.

The central organization of the Food and Drug Administration consists of the following:

Office of the Commissioner[1]

Immediate Office

Office of the Administrative Law Judge.
Office of Executive Operations.
Office of Equal Employment Opportunity and Civil Rights.
Office of Chief Counsel.
Office of Internal Affairs.

Office of External Affairs.

Office of AIDS and Special Health Issues.
Office of Consumer Affairs.
Office of Health Affairs.
Office of Legislative Affairs.
Office of Public Affairs.
Office of Women's Health.
Office of International Affairs.
Industry and Small Business Liaison Staff.

Office of Management and Systems

Office of Planning and Evaluation.
Office of Management.
Office of Information Resources Management.

Office of Policy

Regulations Policy and Management Staff.
Policy Development and Coordination Staff.
Policy Research Staff.
International Policy Staff.

Office of Operations

Office of Science

Office of Orphan Products Development

National Center for Toxicological Research[2]

Office of the Center Director

Environmental Health and Program Assurance Staff.
Equal Employment Opportunity Staff.
Technology Advancement Staff.

Office of Planning and Resource Management

Planning Staff.
Financial Management Staff.
Evaluation Staff.

Office of Research

Division of Reproductive and Developmental Toxicology.
Division of Genetic Toxicology.
Division of Biochemical Toxicology.
Division of Nutritional Toxicology.
Division of Biometry and Risk Assessment.
Division of Chemistry.
Division of Microbiology.
Division of Neurotoxicology.

Office of Research Support

Veterinary Services Staff.
Information Technology Staff.
Division of Administrative Services.
Division of Facilities Engineering and Maintenance.

Office of Regulatory Affairs

Office of the Associate Commissioner

Equal Employment Opportunity Staff.
Strategic Initiatives Staff.

Office of Resource Management

Division of Planning, Evaluation, and Management.
Division of Information Systems.
Division of Human Resource Development.
Division of Management Operations.

Office of Enforcement

Division of Compliance Management and Operations.
Division of Compliance Policy.
Division of Medical Products Quality Assurance.

Office of Regional Operations

Division of Federal-State Relations.
Division of Field Science.
Division of Emergency and Investigational Operations.
Division of Import Operations and Policy.

Office of Criminal Investigations[3]

Northeast Area Office.[4]
Mid-Atlantic Area Office.[5]
Southeast Area Office.[6]
Midwest Area Office.[7]
Southwest Area Office.[8]
Pacific Area Office.[9]

Center for Biologics Evaluation and Research[10]

Office of the Center Director

Equal Employment Opportunity Staff.
Congressional and Public Affairs Staff.
Scientific Advisors and Consultants Staff.

Office of Communication, Training, and Manufacturers Assistance

Division of Congressional and Public Affairs.

Office of Management

Division of Management Services.
Division of Applied Information Technology.
Division of Planning, Evaluation, and Budget.

Office of Compliance

Division of Case Management.
Division of Regulations and Policy.
Division of Inspections and Surveillance.

Office of Therapeutics Research and Review

Division of Cytokine Biology.
Division of Cellular and Gene Therapies.
Division of Hematologic Products.
Division of Monoclonal Antibodies.
Division of Clinical Trial Design and Analysis.
Division of Application Review and Policy.

Office of Vaccines Research and Review

Division of Allergenic Products and Parasitology.
Division of Bacterial Products.
Division of Viral Products.
Division of Vaccines and Related Products Applications.

[1] Mailing address: 5600 Fishers Lane, Rockville, MD 20857.

[2] Mailing address: Jefferson, AR 72079–9502.

[3] Mailing address: 7500 Standish Pl., rm. 250N, Rockville, MD 20855.

[4] Mailing address: 10 Exchange Pl., 18th Floor, Jersey City, NJ 07302.

[5] Mailing address: 7500 Standish Pl., rm. 250N, Rockville, MD 20855.

[6] Mailing address: 8525 North West 53d Terrace, suite 204, Miami, FL 33166.

[7] Mailing address: 801 Warrenville Rd., suite 500, Lisle, IL 60532.

[8] Mailing address: 10901 West 84th Terrace, suite 201, Lenexa, KS 66214–3338.

[9] Mailing address: 4365 Executive Dr., suite 230, San Diego, CA 92121.

[10] Mailing address: 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448.

Office of Establishment Licensing and Product Surveillance

Division of Product Quality Control.
Division of Veterinary Services.
Division of Biostatistics and Epidemiology.
Division of Establishment Licensing.

Office of Blood Research and Review

Division of Blood Applications.
Division of Transfusion Transmitted Diseases.
Division of Hematology.

Center for Drug Evaluation and Research[11]

Office of the Center Director

Associate Director for Policy.
Regulatory Policy Staff.
Associate Director for Medical Policy.
Division of Drug Marketing, Advertising and Communications.
Executive Operations Staff.
Equal Employment Opportunity Staff.

Office of Management

Division of Management and Budget.
Division of Management Services.
Division of Drug Information Resources.
Division of Information Systems Resources.

Office of Training and Communications

Freedom of Information Staff.
Division of Training and Development.
Division of Communications Management.
Medical Library.

Office of Compliance

Division of Labeling and Nonprescription Drug Compliance.
Division of Prescription Drug Compliance and Surveillance.
Division of Manufacturing and Product Quality.
Division of Scientific Investigations.

Office of Pharmaceutical Science

Office of New Drug Chemistry

Microbiology Team.
Division of New Drug Chemistry I.
Division of New Drug Chemistry II.
Division of New Drug Chemistry III.

Office of Generic Drugs[12]

Division of Chemistry I.
Division of Chemistry II.
Division of Bioequivalence.
Division of Labeling and Program Support.

Office of Clinical Pharmacology and Biopharmaceutics

Pharmacometrics Staff.
Division of Pharmaceutical Evaluation I.
Division of Pharmaceutical Evaluation II.
Division of Pharmaceutical Evaluation III.

Office of Testing and Research

Division of Research and Testing.
Division of Clinical Pharmacology Research.
Division of Drug Analysis.

Office of Review Management

Office of Drug Evaluation I

Division of Neuropharmacological Drug Products.
Division of Oncologic Drug Products.
Division of Cardio-Renal Drug Products.

Office of Drug Evaluation II

Division of Metabolic and Endocrine Drug Products.
Division of Pulmonary Drug Products.

Office of Drug Evaluation III

Division of Gastro-Intestinal and Coagulation Drug Products.
Division of Anesthetic, Critical Care, and Addiction Drug Products.
Division of Medical Imaging and Radiopharmaceutical Drug Products.

Office of Drug Evaluation IV

Division of Anti-Infective Drug Products.
Division of Anti-Viral Drug Products.

Office of Drug Evaluation V

Division of Anti-Inflammatory, Analgesic, and Dental Drug Products.
Division of Dermatologic and Ophthalmologic Drug Products.
Division of Over-The-Counter Drug Evaluation.

Office of Epidemiology and Biostatistics

Quantitative Methods Research Staff.
Division of Pharmacovigilance and Epidemiology.
Division of Biometrics I.
Division of Biometrics II.
Division of Biometrics III.
Division of Biometrics IV.

Center for Devices and Radiological Health[13]

Office of the Center Director

Office of Systems and Management

Division of Planning, Evaluation, and Information Services.
Division of Resource Management.
Division of Computer Services.
Division of Information Resources.

Office of Health and Industry Programs[14]

Office of Compliance[15]

Division of Program Operations.
Division of Bioresearch Monitoring.
Division of Enforcement 1.
Division of Enforcement 2.
Division of Enforcement 3.

Office of Device Evaluation[16]

Division of Cardiovascular, Respiratory and Neurological Devices.
Division of Reproductive, Abdominal, Ear, Nose, and Throat, and Radiological Devices.
Division of General and Restorative Devices.
Division of Clinical Laboratory Devices.[17]
Division of Ophthalmic Devices.
Division of Dental, Infection Control, and General Hospital Devices.

Office of Science and Technology[18]

Division of Mechanics and Materials Science.
Division of Life Sciences.
Division of Physical Sciences.
Division of Electronics and Computer Science.
Division of Management, Information, and Support Services.

Office of Health and Industry Programs[19]

Division of Device User Programs and Systems Analysis.
Division of Small Manufacturers Assistance.
Division of Mammography Quality and Radiation Programs.
Division of Communication Media.

Office of Surveillance and Biometrics[20]

Division of Biostatistics.
Division of Postmarket Surveillance.
Division of Surveillance Systems.

Center for Food Safety and Applied Nutrition[21]

Office of the Center Director

Office of Policy, Planning, and Strategic Initiatives.

[11] Mailing address: 5600 Fishers Lane, WOC II, rm. 6027, Rockville, MD 20857.

[12] Mailing address: 7500 Standish Pl., rm. 150, Rockville, MD 20855.

[13] Mailing address: 9200 Corporate Blvd., Rockville, MD 20850.

[14] Mailing address: 1350 Piccard Dr., Rockville, MD 20850.

[15] Mailing address: 2094 Gaither Rd., Oak Grove Center, Rockville, MD 20850.

[16] Mailing address: 9200 Corporate Blvd., Rockville, MD 20850.

[17] Mailing address: 2098 Gaither Rd., Rockville, MD 20850.

[18] Mailing address: 12720 Twinbrook Pkwy., Bldg. 1, Rockville, MD 20857.

[19] Mailing address: 1350 Piccard Dr., Rockville, MD 20850.

[20] Mailing address: 1350 Piccard Dr., Rockville, MD 20850.

[21] Mailing address: 200 C St. SW., Washington, DC 20204.

Office of Programs

Office of Cosmetics and Colors

Division of Programs and Enforcement Policy.
Division of Science and Applied Technology.

Office of Food Labeling

Division of Programs and Enforcement Policy.
Division of Technical Evaluation.
Division of Science and Applied Technology.

Office of Pre-Market Approval

Division of Product Policy.
Division of Petition Control.
Division of Health Effects Evaluation.
Division of Molecular Biological Research and Evaluation.
Division of Product Manufacture and Use.

Office of Plant and Dairy Foods and Beverages

Division of Programs and Enforcement Policy.
Division of Microanalytical Evaluations.
Division of Programs and Enforcement Policy.
Division of Virulence Assessment.
Division of Pesticides and Industrial Chemicals.
Division of Natural Products.
Division of Food Processing and Packaging.

Office of Seafood

Division of Special Programs.
Division of Programs and Enforcement Policy.
Division of Science and Applied Technology.

Office of Special Nutritionals

Division of Programs and Enforcement Policy.
Division of Science and Applied Technology.

Office of Special Research Skills

Division of Toxicological Research.
Division of Microbiological Studies.

Office of Systems and Support

Quality Assurance Staff.

Office of Constituent Operations

Consumer Education Staff.
Legislative Activities Staff.
Industry Activities Staff.
International Activities Staff.

Office of Field Programs

Division of Enforcement.
Division of HACCP Programs.
Division of Cooperative Programs.
Division of Field Program Planning and Evaluation.

Office of Management Systems

Division of Information Resources Management.
Division of Planning and Resources Management.

Office of Scientific Analysis and Support

Division of Mathematics.
Division of General Scientific Support.
Division of Market Studies.

Center for Veterinary Medicine[22]

Office of the Center Director

Office of Management

Division of Program and Information Systems.
Division of Program Communications and Administrative Management.

Office of Surveillance and Compliance

Division of Compliance.
Division of Animal Feeds.
Division of Surveillance.
Division of Voluntary Compliance and Hearings Development.

Office of New Animal Drug Evaluation

Division of Biometrics and Production Drugs.
Division of Chemistry.
Division of Therapeutic Drugs for Food Animals.
Division of Therapeutic Drugs for Non-Food Animals.
Division of Toxicology and Environmental Sciences.

Office of Science

Division of Residue Chemistry.
Division of Animal Research.

3. Section 5.115 is revised to read as follows:

§ 5.115 Field Structure.

NORTHEAST REGION

Regional Field Office: 850 Third Ave., Brooklyn, NY 11232.
Northeast Regional Laboratory: 850 Third Ave., Brooklyn, NY 11232.
New York District Office: 850 Third Ave., Brooklyn, NY 11232.
New England District Office: One Montvale Ave., Stoneham, MA 02180.
Buffalo District Office: 599 Delaware Ave., Buffalo, NY 14202.

MID-ATLANTIC REGION

Regional Field Office: 900 U.S. Customhouse, Second and Chestnut Sts., Philadelphia, PA 19106.
Philadelphia District Office: 900 U.S. Customhouse, Second and Chestnut Sts., Philadelphia, PA 19106.
Baltimore District Office: 900 Madison Ave., Baltimore, MD 21201.
Cincinnati District Office: 1141 Central Pkwy., Cincinnati, OH 45202–1097.
New Jersey District Office: Waterview Corporate Center, 10 Waterview Blvd., 3d Floor, Parsippany, NJ 07054.

SOUTHEAST REGION

Regional Field Office: 60 Eighth St. NE., Atlanta, GA 30309.
Southeast Regional Laboratory: 60 Eighth St. NE., Atlanta, GA 30309.
Atlanta District Office: 60 Eighth St. NE., Atlanta, GA 30309.
Nashville District Office: 297 Plus Park Blvd., Nashville, TN 37217.
New Orleans District Office: 4298 Elysian Fields Ave., New Orleans, LA 70122.
Florida District Office: 7200 Lake Ellenor Dr., suite 120, Orlando, FL 32809.
San Juan District Office: 466 Fernandez Juncos Ave., San Juan, PR 00901–3223.

MIDWEST REGION

Regional Field Office: 20 North Michigan Ave., rm. 550, Chicago, IL 60602.
Chicago District Office: 300 South Riverside Plaza, suite 500, South Chicago, IL 60606.
Detroit District Office: 1560 East Jefferson Ave., Detroit, MI 48207.
Minneapolis District Office: 240 Hennepin Ave., Minneapolis, MN 55401.

SOUTHWEST REGION

Regional Field Office: 7920 Elmbrook Dr., suite 102, Dallas, TX 75247–4982.
Dallas District Office: 3032 Bryan St., Dallas, TX 75204.
Denver District Office: Bldg. 20, Denver Federal Center, Sixth and Kipling Sts., P.O. Box 20587, Denver, CO 80255–0087.
Kansas City District Office: 11510 West 80th St., Lenexa, KS 66214–3340.
St. Louis Branch: 808 North Collins Alley, St. Louis, MO 63102.

PACIFIC REGION

Regional Field Office: Oakland Federal Office Bldg., suite 1180–N, 1301 Clay St., Oakland, CA 94512–5217.
San Francisco District Office: 1431 Harbor Bay Pkwy., Alameda, CA 94502–7070.
Los Angeles District Office: 19900 MacArthur Blvd., suite 300, Irvine, CA 92715–2445.
Seattle District Office: 22201 23d Dr. SE., Bothell, WA 98201–4421.

Dated: May 1, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–12091 Filed 5–13–96; 8:45 am]

BILLING CODE 4160–01–F

[22]Mailing Address: 7500 Standish Pl., MPN–2, Rockville, MD 20855.

21 CFR Parts 600 and 601

[Docket No. 95N–0411]

RIN 0910–AA71

Elimination of Establishment License Application for Specified Biotechnology and Specified Synthetic Biological Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologics regulations to eliminate the establishment license application (ELA) requirement for certain biotechnology and synthetic biological products subject to licensing under the Public Health Service Act (PHS Act). This final rule also exempts these biotechnology and synthetic biological products from certain biologics regulations and harmonizes the requirements applicable to these products with those applicable to similar drug products which are approved under the Federal Food, Drug, and Cosmetic Act (the act). This final rule is part of FDA's continuing effort to achieve the objectives of the President's "Reinventing Government" initiatives, and it is intended to reduce unnecessary burdens for industry without diminishing public health protection.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon A. Carayiannis, Center for Biologics Evaluation and Research (HFM–630), Food and Drug Administration, 1401 Rockville Pike, suite 400S, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 29, 1996, FDA proposed to amend the biologics regulations to eliminate the ELA requirement for well-characterized biotechnology products licensed under the PHS Act. In that document, FDA proposed to use the general phrase "well-characterized biotechnology product," to describe products that would be eligible for a single license application so that the regulatory language would accommodate categories of products that might later be considered to be well-characterized as scientific knowledge progresses. FDA requested specific comments on whether a definition of a well-characterized biotechnology product should be included in the regulations and, if so, what the scope of such a definition should be.

The agency noted that technical advances over the last 15 years have greatly increased the ability of manufacturers to control and analyze the manufacture of many biotechnology-derived biological products. After over a decade of experience with these products, the agency has found that it can review the safety, purity, potency, and effectiveness of most well-characterized biotechnology products without requiring submission of a separate ELA. Accordingly, FDA proposed procedures under which CBER would approve most well-characterized biotechnology products by requiring a single biologics license application. FDA noted that the proposed procedures would significantly reduce burdens without reducing the safety or effectiveness of these products.

In the **Federal Register** of December 8, 1995 (60 FR 63048), the agency first published an interim definition of a well-characterized therapeutic recombinant DNA-derived and monoclonal antibody biotechnology product and announced that, under § 610.2, the Director of CBER was no longer requiring that manufacturers of these products submit samples and protocols to CBER for lot-by-lot release. While the interim definition was intended to be used as a basis for determining which products would be exempted from CBER lot-by-lot release, FDA also used the interim definition to prepare draft guidance on reporting post-approval changes for biotechnology products (as published in the **Federal Register** of January 29, 1996 (61 FR 2739 at 2748), "Draft Guidance; Changes to An Approved Application for Well-Characterized Therapeutic Recombinant DNA-Derived and Monoclonal Antibody Biotechnology Products".)

In addition, FDA held a scientific workshop on December 11 through 13, 1995, to discuss the characterization of therapeutic recombinant DNA-derived and monoclonal antibody products, including whether FDA's interim definition should be changed or expanded to include other categories of products that would be considered well-characterized.

After considering the public comments received on the interim definition, the discussion at the workshop, and the many requests the agency has received for further clarification of the term "well-characterized," FDA has determined that it may not be possible to achieve a sufficiently clear and specific understanding of this term to adequately apprise potential applicants of the applicability of the new procedures. Accordingly, in this final rule, FDA is specifying, in lieu of the term "well characterized biotechnology product," the categories of products to which this final rule will be applicable (see comment Nos. 1 and 6).

FDA intends to evaluate the application of lot-by-lot release for additional products and to announce in the **Federal Register** a revised determination of which products will be exempted from lot-by-lot release. FDA also plans to issue guidance on the characterization of product categories specified in this rule. FDA anticipates that these documents will replace the notice published in the **Federal Register** of December 8, 1995 (60 FR 63048).

This final rule is part of FDA's continuing effort to achieve the objectives of the President's "Reinventing Government" initiatives. One goal of these initiatives is to harmonize regulations administered by FDA's Center for Biologics Evaluation and Research (CBER) and Center for Drug Evaluation and Research (CDER), to reduce unnecessary burdens for industry without diminishing public health protection.

II. Proposed Rule

In the January 29, 1996, proposed rule, FDA proposed to amend § 601.2(a) and to add a new paragraph (c) to create a licensing scheme for well-characterized biotechnology products that differs from the current licensing scheme for biological products in four fundamental ways. First, an applicant seeking marketing approval for a product that falls within the scope of the rule would submit a single biologics license application to CBER and would be issued a single license. Second, for these products, many of the establishment and product standards set forth in parts 600 through 680 (21 CFR parts 600 through 680) would not be applied. The current good manufacturing practice (CGMP) regulations found at parts 210 and 211 (21 CFR parts 210 and 211), in addition to the information included in a chemistry, manufacturing, and controls (CMC) section of the biologics license application, would constitute the bulk of the applicable establishment standards for these products. Third, in lieu of reviewing an ELA, FDA proposed to evaluate whether establishment standards had been met by reviewing information submitted in the biologics license application and by inspecting the facilities in which the product is manufactured for compliance with applicable requirements, including CGMP's. Fourth, FDA proposed to amend § 600.3(t) to broaden the term

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"manufacturer" as it is used in parts 600 through 680 to include an applicant for a license for a well-characterized biotechnology product who may or may not own the facilities engaged in significant manufacturing steps. This amendment would allow a single license applicant to take responsibility for compliance with the requirements in parts 600 through 680 applicable to manufacturers and would eliminate the requirement that each contract facility engaged in significant manufacturing obtain its own license. Instead, each well-characterized biotechnology product could be covered by a single biologics license application, which lists all manufacturing locations, regardless of how many separate companies are involved in its manufacture. In addition, FDA requested comments on whether the definition of "manufacturer"in § 600.3(t) should also be expanded to include license applicants for products other than well-characterized biotechnology products.

III. Responses to Letters of Comment

FDA allowed 30 days for comment on the proposal of January 29, 1996. Written comments received in response to the proposal are on file in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FDA received seven comments in response to the proposed rule. The comments, which addressed a number of issues, were received from manufacturers of biotechnology products, a blood establishment, and a biotechnology trade association. Comments received and FDA's responses to the comments are discussed below. All of the comments supported the proposal, although many comments contained suggestions or requests for clarification. All of the letters supported FDA's efforts to achieve the President's "Reinventing Government" initiatives and agreed that the proposed changes will contribute to the goal of reducing unnecessary burdens for industry and the agency without diminishing public health protection.

1. Two comments requested that FDA define well-characterized products in the final rule to clearly identify those entities subject to the rule and to allow for public comment and administrative review. However, one of these comments also suggested that FDA publish a companion guidance document, updated as necessary, to provide interpretation of this definition based on current technology and scientific knowledge. Two comments requested that a definition be included in a guideline rather than the regulation so that it can be readily revised as the technology advances. One comment stated that the proposal left uncertainty as to which products would be eligible for the single license application.

In response to comments received, FDA has revised its proposed administrative approach and is specifying, in § 601.2(a) and new paragraph (c), the categories of products subject to the rule. FDA has decided to list the product categories in the regulation in order to minimize uncertainty about which products are eligible for the new procedures.

2. Five comments suggested that products in addition to those identified in FDA's interim definition of a well-characterized therapeutic recombinant deoxyribonucleic acid (DNA) derived and monoclonal antibody biotechnology product could be considered well-characterized and requested that FDA broaden the scope of the proposed rule to include additional product categories. Particular categories suggested by one or more comments include: Proteins, including those isolated from natural sources; products (including vaccines and in vitro diagnostics) made using synthetic peptides, recombinant DNA technology and monoclonal antibody technology; products made using chemical synthesis; DNA plasmid products; highly purified and inactivated vaccines; polysaccharides; and any other biologic product for which the applicant submits data from studies that demonstrate that the manufactured product meets prescribed standards of safety, purity, and potency. One comment suggested that in vitro diagnostic products using biotechnology components should not be treated differently than well-characterized biotechnology drugs. One comment requested that FDA specify that blood, blood components (including plasma and stem cells), and plasma derivatives (where the raw material is human based) are products which should not be included.

FDA agrees that the elimination of the ELA requirement should apply to product categories beyond those originally identified in the agency's interim definition of a well-characterized therapeutic recombinant DNA-derived and monoclonal antibody biotechnology product. FDA is expanding the scope of this final rule to include additional products, based on the technology of the manufacturing process and the proposed use of the products. At this time, FDA has determined that it has sufficient experience in reviewing investigational and product applications to eliminate the ELA requirements for the following categories of products: Therapeutic DNA plasmid products; therapeutic synthetic peptide products of 40 or fewer amino acids; monoclonal antibody products for in vivo use; and therapeutic recombinant DNA-derived products. Methodologies are now available to characterize these products in a much more rigorous fashion, allowing the products to be more clearly evaluated by end product testing. FDA believes that eliminating the submission for the facility and establishment information will not adversely affect the public health.

FDA disagrees that vaccines and in vitro diagnostic (IVD) products should be included within the scope of this rule at this time because these products raise additional concerns in assessing safety, purity, and potency. For vaccines, safety is a critical concern due to the intended use in a healthy population. For IVD products, FDA believes that the product and establishment standards necessary to ensure continued safety, purity, and potency may differ from those applicable to products included in this rule.

FDA agrees that blood and blood components, including plasma, plasma derivatives, and stem cells, are products which should not fall within the scope of this rule. FDA believes that license applications for these and other naturally derived products should continue to include establishment information at this time. FDA believes that a license application that includes detailed information on the facilities and controls may be necessary to assess the continued safety, purity, and potency of these products. Because these products involve complex issues, such as a risk of contamination with infectious agents, their review requires special expertise and adequate time in order to assess the adequacy of controls in place at the facility. In addition, end product testing of naturally derived products may not be sufficient to detect contamination with infectious agents. FDA intends to continue to assess the need to expand the scope of the rule to include additional categories of products as science and technology advance and as the agency gains experience in regulating biological products under this new scheme.

3. One comment suggested that the use of a single biologics application be applied to all biologic products. Another comment suggested that IVD products be eligible for the single license application.

As outlined in the President's November, 1995, National Performance Review, "Reinventing the Regulation of Drugs Made From Biotechnology," FDA will use a standardized, single application form for all biological and drug product approvals, regardless of which Center regulates them. FDA will make the harmonized form available for public comment through a subsequent rulemaking and will develop guidance to assist applicants in completing the new application form when it is available.

4. One comment suggested that FDA develop a guideline delineating the responsibilities of center and field inspection personnel to avoid confusion. One comment suggested that FDA application reviewers participate in facility inspections to provide continuity.

FDA recognizes that close cooperation between center and field is essential to the success of this approach. CBER and the field offices intend to coordinate pre- and post-licensure inspections to provide consistency in program and policy approaches. In addition, FDA plans to develop guidance on facility standards for biotechnology manufacturing facilities to clarify regulatory requirements and FDA policy.

5. One comment requested that companies have the option to submit descriptions of systems design, equipment validation, etc., for FDA review and comment prior to the time of inspection because it would be advantageous to both industry and FDA.

FDA agrees that the submission of facility information, such as systems design, and early dialogue is advantageous to both industry and FDA. Accordingly, the agency intends to continue to review this information, when requested, and provide comments early in the development process, prior to and after the submission of the license application. Companies should contact the Division of Establishment Licensing, CBER, to arrange such reviews.

6. One comment stated that the use of an interim definition of products that would be eligible for single license application under § 601.2(c) creates the possibility that FDA might refuse to file a biologics license application for a product that the applicant believes is well-characterized, even though the application might include sufficient data to demonstrate that the product meets prescribed standards for safety, purity, and potency. Another comment suggested that the determination as to whether a product is well-characterized should be made during the Phase 2 clinical trials or as early in the process as is practical.

As discussed above in the response to comment No. 1 of this document, FDA has decided to clearly identify, by category, those products subject to the rule, and thereby reduce uncertainty as to whether a product falls within the scope of the rule. This clear identification of products should also eliminate the concerns regarding a refusal to file action and the need to provide sufficient data to support an applicant's claim that its product is "well-characterized." Applicants seeking licensure of a product that falls within a category listed in 601.2(c) will not be required to make an initial showing that the product is "well-characterized" to use the new procedures. Companies may seek guidance from FDA at any time on the type of application that should be submitted, and FDA encourages early communication.

7. One comment agreed with FDA's proposal to exempt well-characterized products from § 610.62, which sets out requirements for position and prominence of the proper name of the product on the package label. The comment suggested that this labeling change should be voluntary for currently licensed products, that companies should be allowed to phase in changes over a 24 month time period, and that preapproval should not be required.

The comment may have misunderstood the applicability of § 201.10(g) (21 CFR 201.10(g)). Section 201.10(g) applies to biological products licensed under section 351 of the PHS Act, as well as to drugs approved under the act. Accordingly, labels that comply with preexisting requirements should not require revisions to comply with the requirements in this final rule.

8. One comment suggested that manufacturers submitting a biologics license application should be permitted to cross-reference information already supplied in an approved ELA.

FDA agrees that avoiding unnecessary duplication of information in applications is desirable. FDA will permit a biologics license applicant to cross-reference information already submitted in an approved ELA at this time. However, the agency may reassess the viability of this approach in the future. Should the information in the approved ELA become outdated, cross-reference may no longer be appropriate.

9. One comment agreed with FDA's proposed revision of the definition of "manufacturer" in § 600.3(t). Three comments requested that FDA apply an expanded definition of "manufacturer" to all biologic license applicants and not limit application of this definition exclusively to well-characterized products. One of the comments favoring a broader definition suggested the following language for § 600.3(t): "Manufacturer" means any legal person or entity engaged in the manufacture of a product subject to license under the act; "Manufacturer" also includes an applicant for a license for a product, or a license holder, who is responsible for assuring that the product and establishment standards are met.

FDA agrees with the comments requesting the broader definition of "manufacturer" and is revising § 600.3(t) to include any license applicant who assumes responsibility for compliance with the applicable product and establishment standards in parts 600 through 680. FDA believes that this change will facilitate contract manufacturing arrangements for all biological products by allowing an applicant who does not own all the facilities where significant manufacturing is performed to apply for licensure. The revised § 600.3(t) will define "manufacturer" as the term is used in parts 600 through 680. Contract firms engaged in the manufacture, processing, packing, or holding of a biological drug will continue to be subject to applicable CGMP requirements and the amendment to § 600.3(t) will not affect other definitions of "manufacturer" contained in other applicable statutes and regulations. FDA intends to revise current guidance on contract manufacturing arrangements for applicants interested in pursuing such arrangements under the new definition.

10. One comment requested that § 610.63, which addresses package label and container label requirements for products manufactured under an arrangement involving two or more establishments, be exempted from applicability to well-characterized biotechnology products because such products would involve a single license holder. The comment suggested that it would be unnecessary to require that the labeling show the names of multiple participating manufacturers.

The agency does not agree that § 610.63 should be exempted from applicability to the products covered in this rule. Divided or shared manufacturing arrangements could still exist between holders of biologics licenses for products subject to this rule if this was an arrangement the companies desired, and in these cases § 610.63 would apply.

However, FDA agrees that it is unnecessary to identify contract

manufacturers on the package label and container label of a biological product subject to this final rule. FDA has applied § 610.63 to require label identification of licensed manufacturers only. As discussed below, FDA intends to consider the need for revisions to § 610.63 in separate rulemaking. FDA also intends to revise the November 25, 1992, Policy Statement Concerning Cooperative Manufacturing Arrangements for Licensed Biological Products to address contract, divided, and shared manufacturing arrangements under the new regulatory scheme.

11. One comment suggested that §§ 610.60, 610.61, 610.63, 610.64, and 610.65 be eliminated for all biologic products and be replaced by labeling requirements described in part 201 (21 CFR part 201), subpart A.

FDA agrees that harmonizing the labeling requirements for biologics and drugs approved under the act, where appropriate, is desirable. It is important to note that biologic products are already subject to most provisions in subpart A of part 201. FDA is considering revising the labeling requirements in §§ 610.60 through 610.65 as part of the agency's comprehensive review and rewrite of the general biologics regulations.

12. One comment stated that § 600.10(a), which describes the requirements for an establishments to designate a "responsible head," should not apply to well-characterized products as currently written.

FDA agrees that § 600.10(a), as currently written, imposes unnecessary burdens for many modern biological manufacturers and has made a commitment to publish a proposed rule to revise this regulation within 9 months of the publication of the President's November, 1995, National Performance Review, "Reinventing the Regulation of Drugs Made From Biotechnology." FDA intends to revise the requirements to allow more flexibility to assign control and oversight responsibility within a company.

13. One comment requested that § 600.22(g), which authorizes inspectors to inspect and copy, as circumstances may require, any records to be kept under to § 600.12, be amended because § 600.12 will not apply to well-characterized biotechnology products under this rule.

The agency believes that it is not necessary to amend § 600.22(g) because the CGMP requirements in parts 210 and 211 that apply to products subject to this rule include recordkeeping requirements and state that records are subject to photocopying as part of an FDA inspection (see § 211.180(b)).

14. One comment requested clarification of § 601.3(b), which describes the information required on the product license form. One comment requested that FDA eliminate the requirement for an establishment license number in the product license application (PLA) for well-characterized products because a contract manufacturing site engaged in multiproduct manufacture for different manufacturers may produce several licensed products. The comment stated that the establishment number would not be meaningful under such circumstances.

FDA believes that it is unnecessary to include an exemption for § 601.3(b)(4) in this rule. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of an interim form, FDA 3439, which contains a section in which all locations performing manufacturing or testing of the product are to be identified. If a location has a license number, that number should be included as part of that identification, as should the location's registration number. If there is no license number for the location, it cannot be included, as is currently the case for a new establishment filing its first PLA and ELA.

15. One comment requested that § 601.22, which permits initial and partial manufacturing of products in short supply at other than a licensed establishment, be amended to include a statement clarifying the relevant referenced regulations when § 601.22 is applied to well-characterized products.

FDA agrees and is making conforming amendments to § 601.22 to specify that persons conducting the initial and partial manufacturing of a product that is subject to this rule shall be subject to all regulations of subchapter F except §§ 601.1 to 601.6, 601.9, 601.10, 601.20, 601.21; 601.30 to 601.33; 610.60 to 610.65, 600.10(b) and (c), 600.11, 600.12, 600.13, 610.11, and 610.53.

16. One comment stated that § 601.45, which requires, for certain products, submission of promotional materials to the agency, should not apply to well-characterized biotechnology products. The comment suggested that the proposed rule under which promotional labeling materials would not have to be submitted for agency consideration within 120 days following marketing approval be applied to well-characterized products. The comment also suggested that submission of advertisements and promotional labeling be regulated under § 314.81(b)(3)(i) (21 CFR 314.81(b)(3)(i)).

The comment may have misunderstood the applicability of § 601.45. Section 601.45 applies solely to biological products subject to subpart E, Accelerated Approval of Biological Products for Serious or Life Threatening Illnesses. For biological products not subject to subpart E, FDA has proposed to revise requirements for submission of advertisements and promotional labeling to CBER to reflect procedures found in § 314.81(b)(3)(i), in the proposal of January 29, 1996 (61 FR 2733 at 2739).

17. One comment requested that § 610.9, which permits manufacturers, under certain conditions, to modify a particular test method or manufacturing process, be exempted from applicability to well-characterized biotechnology products. The comment also suggested that this regulation be eliminated as part of the proposed revisions to § 601.12, published in the **Federal Register** (61 FR 2739).

FDA disagrees with the comment. The comment may have misunderstood § 610.9. This regulation allows manufacturers the flexibility to modify methods or processes specified in regulations, if the modification can be shown to provide equivalent assurance of safety, purity, potency, and effectiveness. Because this regulation adds flexibility without compromising the safety, purity, potency, or effectiveness of biological products, FDA believes that it should apply to all biological products.

18. One comment suggested that a broad interpretation of § 610.15, which describes the requirements for use of constituent materials, may require development of sophisticated purification methods to reduce the level of "contaminating" immunoglobulins to the one part per million level if applied to cell culture products such as monoclonal antibodies. The comment suggested that § 610.15 be amended to be applicable only to vaccine products and products intended to be antigenic.

Section 610.15(b) applies by its terms to cell culture-produced vaccines intended for injection. For guidance on the use of a serum in the medium for production of monoclonal antibodies, consult the Draft "Points to Consider in the Manufacture and Testing of Monoclonal Antibody Products for Human Use," announced in the **Federal Register** of August 3, 1994 (59 FR 39571).

19. One comment suggested that § 600.81 (the comment references "§ 601.81," but the subject is consistent with § 600.81), which describes the requirements for product distribution reports, is duplicative, provides no value to the manufacturer or to FDA in ensuring the public health, and should be eliminated. The comment requested that distribution information for well-characterized biotechnology products be regulated under § 314.81(b)(2)(ii).

FDA disagrees with this comment. Section 600.81 differs from § 314.81(b)(2)(ii) in that § 600.81 requires submission of product distribution reports every 6 months; requires information on bulk lot number, fill lot number and label lot number; states that FDA may require more detailed information, as needed; and states that FDA may require, on written notice, submission of reports at times other than those stated in the regulation. FDA believes that the requirements in § 600.81 assist the agency in determining adverse reaction rates for vaccines and other biological products, and are of use in monitoring product safety. It should be noted that § 600.90 permits a licensed manufacturer to apply to FDA for a waiver from any of the requirements of § 600.81.

20. Several comments addressed issues beyond the scope of this rulemaking. Comments included issues related to reporting of errors and accidents (§ 600.14), lot release, methods for evaluating product characteristics, and establishing product specifications.

Revisions to § 600.14 *Reporting of errors* and other biologics regulations are currently under consideration and are outside the scope of this rulemaking. However, FDA will consider all comments received as a part of the agency's comprehensive rewrite of the general biologics regulations.

IV. Summary of Changes for the Final Rule

In response to comments received, FDA is making the following changes in this final rule:

In lieu of the term "well-characterized biotechnology product," FDA is specifying, in § 601.2(a) (21 CFR 601.2(a)) and new paragraph (c), the categories of products to which the rule will be applicable, including therapeutic DNA plasmid products; therapeutic synthetic peptide products of 40 or fewer amino acids; monoclonal antibody products for in vivo use; and therapeutic recombinant DNA-derived products. The definition of manufacturer has been modified to include an applicant for a license for any biological product where the applicant assumes responsibility for compliance with the applicable product and establishment standards. The final rule also sets forth an amendment to 21 CFR 601.22 clarifying that section's applicability to the categories of products specified in new § 601.2(c).

V. Implementation Issues

Any therapeutic DNA plasmid product, therapeutic synthetic peptide product of 40 or fewer amino acids, monoclonal antibody product for in vivo use, and therapeutic recombinant DNA-derived product for which a PLA and an ELA are pending on the effective date of these regulations, will be reviewed as submitted. No new submission will be necessary to implement this rule change for these products. If found acceptable for licensure, FDA will issue a biologics license in lieu of issuing both a product and establishment license.

Applicants already holding an approved ELA and PLA for a product within the scope of this rule will not be required to file supplements to comply with the new requirements. The approved PLA for the product, together with the limited portions of the approved ELA relevant to the new requirements for the biologics license application, will be deemed to constitute an approved biologics license application under the new regulations.

The agency recognizes that there are a variety of contractual arrangements that could be affected by this rule. For example, an innovator company may have contracted with another company to make a product. Under the previous regulatory scheme, a contract manufacturer could hold both the establishment license and the product license. Under the new regulatory scheme, an innovator company may wish to hold the license. FDA anticipates that firms desiring an arrangement where the innovator holds the license could surrender the original licenses to the agency and request reissuance of a new biological license to the innovator under the provisions of this final rule. FDA urges license holders or those wishing to change their licensing arrangements to contact the agency for additional guidance on how this can be accomplished.

VI. Effective Date

The final rule is effective May 24, 1996. As provided under 5 U.S.C. 553(d) and 21 CFR 10.40(c)(4), the effective date of a final rule may not be less than 30 days after publication, except for, among other things, "a regulation that grants an exemption or relieves a restriction" (§ 10.40(c)(4)(i)). Because, as described below, this rule will decrease the regulatory burdens for specified biotechnology and synthetic biological products, FDA believes that an immediate effective date is appropriate.

VII. Analysis of Impacts

A. Reduction in Burden

The harmonization of the requirements will reduce burden on industry because companies manufacturing specified biotechnology and synthetic products that are regulated by both CBER and CDER will be able to submit applications for products in a consistent format.

Companies developing and manufacturing products within the scope of this rule will no longer have to prepare an ELA to submit to the agency for approval. The amount of information that applicants will need to provide in a biologics license application will be less than that currently required in a PLA and ELA. These changes will enable companies to devote more resources to ensuring that manufacturing processes are properly validated and fewer resources to submitting documentation to the agency. These changes will especially benefit biotechnology companies that lack experience preparing ELA's and PLA's. According to the biotechnology industry, preparation and submission of an ELA may add substantially to the cost of obtaining approval of a biotechnology product.

The inclusion of parts 210 and 211 in this final rule as establishment standards will not impose any additional burden on industry. Human drugs, including products subject to this rule, are already subject to the CGMP's in parts 210 and 211.

B. Review Under Executive Order 12866 and the Regulatory Flexibility Act

FDA has examined the impact of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impact; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is a significant regulatory action as defined by the Executive Order and is subject to review under the Executive Order because it deals with a novel policy issue.

In accordance with the principles of Executive Order 12866, the overall result of the final rule will be a substantial reduction in burdens on

applicants filing for approval of a product subject to this rule. In addition, FDA anticipates that the final rule will facilitate applicants' ability to improve their licensed products and methods of manufacture by decreasing the burden and cost associated with filing an application.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because, as stated above, the overall result of the final rule will be a substantial reduction of the regulatory and reporting burdens, the agency certifies that the final rule will not have a significant negative economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

C. Review Under the Paperwork Reduction Act of 1995

This final rule contains information collection requirements that were submitted for review and approval to the Director of the Office of Management and Budget (OMB) as required by section 3504(b) of the Paperwork Reduction Act of 1995. As part of this review, FDA provided individuals and organizations an opportunity to comment to OMB on the information collection requirements in the proposed rule. All comments received agreed that FDA's proposal to eliminate the ELA requirements for certain biotechnology products would reduce the burden to industry without diminishing the public health protection. As a result of information provided, FDA has revised the number of estimated applicants yearly from 1 to 15. The estimate for completing the application has not changed, however. This number remains at 40. These information collection requirements were approved and assigned OMB control number OMB No. 0910–0316. The expiration date for this approval is December 31, 1997. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The title, description and respondent description of the information collection are shown below with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Elimination of Establishment License Application for Specified Biotechnology and Synthetic Biological Products.

Description: FDA is eliminating the requirement that an ELA be submitted and approved by FDA for specified biotechnology and synthetic biological products that are licensed by CBER. For these products, in place of the ELA, a company would be required to prepare and submit additional information for inclusion in a single biologics license application, which will be the same as the information included in the "Chemistry, manufacturing, and controls" (CMC) section of a new drug application. This regulation will harmonize the approval and other regulatory requirements applicable to specified biotechnology and synthetic biological products licensed under the PHS Act and drugs approved under the new drug provisions of the act.

Description of Respondents: All applicants for a biological product license to be approved under the Public Health Service Act.

Estimated Annual Reporting Burden

CFR Section	Number of Respondents	Frequency of Responses	Total Annual Responses	Hours per Response	Total Hours
601.2(c)	15	1	15	40	600

There are no capital costs or operating and maintenance costs associated with this information collection.

Reporting or Disclosure: These estimates are an approximation of the average time expected to be necessary for the collection of information. They are based on such information as is available to FDA.

D. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 600

Biologics, Reporting and recordkeeping requirements.

21 CFR Part 601

Administrative practice and procedure, Biologics, Confidential business information.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 600 and 601 are amended as follows:

PART 600—BIOLOGICAL PRODUCTS: GENERAL

1. The authority citation for 21 CFR part 600 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 519, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 360i, 371, 374); secs. 215, 351, 352, 353, 361, 2125 of the Public Health Service Act (42 U.S.C. 216, 262, 263, 263a, 264, 300aa–25).

2. Section 600.3 is amended by revising paragraph (t) to read as follows:

§ 600.3 Definitions.

* * * * *

(t) *Manufacturer* means any legal person or entity engaged in the manufacture of a product subject to license under the act; "Manufacturer" also includes any legal person or entity who is an applicant for a license where the applicant assumes responsibility for compliance with the applicable product and establishment standards.

* * * * *

PART 601—LICENSING

3. The authority citation for 21 CFR part 601 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 513–516, 518–520, 701, 704, 721, 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 360c–360f, 360h–360j, 371, 374, 379e, 381); secs. 215, 301, 351, 352 of the Public Health Service Act (42 U.S.C. 216, 241, 262, 263); secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461).

4. Section 601.2 is amended by designating the text of paragraph (a) as introductory text of (a) and by adding a clause at the end of the introductory text, new paragraphs (a)(1) through (a)(4), and (c) to read as follows:

§ 601.2 Applications for establishment, product, and biologics licenses; procedures for filing.

(a) * * * In lieu of the procedures described in this paragraph, applications for the following specified categories of products shall be handled as set forth in paragraph (c) of this section:

(1) Therapeutic DNA plasmid products;

(2) Therapeutic synthetic peptide products of 40 or fewer amino acids;

(3) Monoclonal antibody products for in vivo use; and

(4) Therapeutic recombinant DNA-derived products.

* * * * *

(c)(1) To obtain marketing approval for a therapeutic DNA plasmid product, therapeutic synthetic peptide product of 40 or fewer amino acids, monoclonal antibody product for in vivo use, or therapeutic recombinant DNA-derived product, an applicant shall submit to the Director, Center for Biologics Evaluation and Research, a biologics license application on a form prescribed by the Director, Center for Biologics Evaluation and Research. For such products, a separate establishment license application shall not be required. An application for a license for such a product shall include:

(i) Data derived from nonclinical laboratory and clinical studies that demonstrate that the manufactured product meets prescribed standards of safety, purity, and potency; with respect to each nonclinical laboratory study, either a statement that the study was conducted in compliance with the requirements set forth in part 58 of this chapter, or,

(ii) If the study was not conducted in compliance with such regulations, a brief statement of the reason for the noncompliance;

(iii) Statements regarding each clinical investigation involving human subjects contained in the application, that it either was conducted in compliance with the requirements for institutional review set forth in part 56 of this chapter or was not subject to such requirements in accordance with §§ 56.104 or 56.105 of this chapter, and was conducted in compliance with requirements for informed consent set forth in part 50 of this chapter;

(iv) A full description of manufacturing methods;

(v) Data establishing stability of the product through the dating period;

(vi) Sample(s) representative of the product to be sold, bartered, or exchanged or offered, sent, carried or brought for sale, barter, or exchange;

(vii) Summaries of results of tests performed on the lot(s) represented by the submitted samples; and

(viii) Specimens of the labels, enclosures, and containers proposed to be used for the product.

(2) An application for license shall not be considered as filed until all pertinent information and data have been received from the applicant by the Center for Biologics Evaluation and Research. The applicant shall also include either a claim for categorical exclusion under § 25.24 of this chapter or an environmental assessment under § 25.31 of this chapter.

(3) Approval of the biologics license application and issuance of the biologics license shall constitute a determination that the establishment and the product meet applicable standards established in this chapter to ensure the continued safety, purity, and potency of such products. Applicable standards for the maintenance of establishments for the manufacture of a product subject to this paragraph (c) shall include the good manufacturing practice requirements set forth in parts 210 and 211 of this chapter. The following sections in parts 600 through 680 of this chapter shall not be applicable to such products: §§ 600.10(b) and (c), 600.11, 600.12, 600.13, 601.1, 601.30, 601.31, 601.32, 610.11, 610.53, and 610.62 of this chapter.

(4) The term "product license application," as it is used in those sections of parts 600 through 680 of this chapter that are applicable to products subject to this paragraph (c) shall include a biologics license application for a therapeutic DNA plasmid product, therapeutic synthetic peptide product of 40 or fewer amino acids, monoclonal antibody product for in vivo use, or therapeutic recombinant DNA-derived product.

(5) To the extent that the requirements in this paragraph (c) conflict with other requirements in this subchapter, this paragraph (c) shall supersede such other requirements.

5. Section 601.22 is amended by adding a sentence after the second sentence to read as follows:

§ 601.22 Products in short supply; initial manufacturing at other than licensed establishment.

* * *For persons and places authorized under this section to conduct the initial and partial manufacturing of a product for shipment solely to a manufacturer of a product subject to licensure under § 601.2(c), the following additional regulations shall not be applicable: §§ 600.10(b) and (c), 600.11, 600.12, 600.13, 610.11, and 610.53 of this chapter * * *.

Dated: May 6, 1996.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 96–12144 Filed 5–10–96; 10:13 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Coast Guard

33 CFR Part 52

[OST Docket No. OST–95–878]

RIN 2105–AC31

Coast Guard Board for Correction of Military Records; Procedural Regulation

AGENCY: Office of the Secretary, Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: The Department is amending its regulation with respect to reconsideration of final decisions of the Board for Correction of Military Records of the Coast Guard (BCMR). This action is taken on the Department's initiative in order to streamline processing of these cases and to clarify the circumstances under which final decisions can be reconsidered. The amendment will make it possible for the BCMR to expedite the processing of reconsideration requests and it will increase the resources available to meet the requirement that all cases be decided within 10 months of the receipt of a completed application.

EFFECTIVE DATE: June 13, 1996.

FOR FURTHER INFORMATION CONTACT: Robert H. Joost, Chairman, Board for Correction of Military Records of the Coast Guard, C–60, Office of the General Counsel, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590–0001. Telephone: (202) 366–9335.

SUPPLEMENTARY INFORMATION:

Comments on Proposed Rulemaking

Proposed rulemaking was published on pages 63489–63491 of the **Federal Register** of December 11, 1995 [60 FR 63489], and invited comments for 60 days ending February 9, 1996. Comments were received from the following sources: (1) Eugene R. Fidell, Esq., an attorney in private practice; and (2) Michael J. Calabro, Esq., an attorney in private practice. The comments and the actions taken in response to the comments are summarized below.

Both attorneys expressed concern with respect to the amount of time that

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may be consumed in processing a reconsideration request. The BCMR appreciates this concern, but believes that delay, which is a problem in the current reconsideration process, would be significantly reduced under the proposed rule. The proposed rule, by eliminating duplicative review of a reconsideration application, as required by the current § 52.67(c), and by providing for an expedited process in handling facially defective reconsideration requests, will require less time per reconsideration request than the current rule.

One of the commenting attorneys questioned the authority given to the Chairman in proposed § 52.67(b) on the ground that the enabling statute (10 U.S.C. § 1552) requires BCMR decisions to be made by the Secretary acting through a board. That is true, but it is only true with respect to an original decision. Section 1552 of title 10 does not provide for, nor does it prohibit, the reconsideration of original decisions. Reconsideration authority has been added by the BCMR's regulations and its parameters can therefore be determined by those regulations.

Comments were also offered on other aspects of the correction board process for the Coast Guard. One attorney asked that the BCMR's basic time limit regulation be updated, even though that was not a subject addressed in the proposed rule. Both attorneys made suggestions with regard to administrative matters that do not bear on the proposed rule and do not require a rules change to implement: appropriate designations and numbering for docketed reconsideration requests; the formalization and publication of the Secretary's delegate's authority; improvement of the system for indexing and retrieval of redacted Coast Guard BCMR decisions; availability of redacted decisions to all who are interested by bulletin board, CD–ROM, or mailed to subscribers on a mailing list, in return for a reasonable fee. None of these comments bear on the reconsideration regulation that is being considered in this rulemaking process. Therefore, while these matters remain under consideration, they are not addressed at this time.

Final Rule

This final rule explicitly authorizes the Board to consider applications for reconsideration upon a showing that the Board committed legal or factual error in the original determination that could have resulted in a determination other than that made.

This final rule also authorizes the Chairman not to docket applications for reconsideration that do not meet the threshold requirements for reconsideration, i.e., applications that only (1) present evidence or information previously considered by the Board, (2) present new evidence or information that is clearly not material to the result in the case, (3) present new evidence or information that could have been submitted earlier with the exercise of reasonable diligence, or (4) make arguments as to legal or factual error that are clearly not material to the result. The phrase "otherwise comes to the attention of the Board" has been deleted, however, as unnecessary.

This final rule also provides that no Board member who considered an applicant's original application for correction would participate in the consideration of that person's application for reconsideration. There will, to the extent practicable, be a related prohibition on the staff member; the person who drafted the original decision would not draft the reconsideration decision. In light of these safeguards, it would not be necessary for the Secretary's designate to approve each denial of a reconsideration request, thus expediting the review process.

Section-by-Section Analysis

Section 52.67, Reconsideration, is rewritten to add the new requirements outlined above, and to simplify the procedure on reconsideration.

Paragraph (a) provides that reconsideration of an application may occur if the applicant meets at least one of two sets of criteria. The first of these, paragraph (a)(1), directs reconsideration if an applicant presents evidence or information that was not previously considered by the Board if that evidence or information could result in a different determination and if it "could not have been presented to the Board prior to its original determination if the applicant had exercised reasonable diligence." The second of these, paragraph (a)(2), directs reconsideration if an applicant presents evidence or information that the Board committed legal or factual error in the original determination that could have resulted in a different result.

Paragraph (b) directs the Chairman to docket a reconsideration request if it meets the requirements of paragraph (a)(1) or (a)(2). If neither of these requirements is met, the Chairman shall not docket the request, and shall return the application to the applicant with a statement that no action is being taken due to a failure to meet the threshold requirements for docketing.

Paragraph (c) provides that the Board shall consider each application for reconsideration that has been docketed under paragraph (b). This paragraph also provides that the final decision on reconsideration shall involve a different Board than the one that initially considered the application.

Paragraph (d) provides that the Board's final action on docketed application for reconsideration shall be the same as if they were original applications for correction.

Paragraph (e) provides that an applicant's request for reconsideration must be filed within two years after the issuance of a final decision, subject to other legal rules such as the Soldier's and Sailor's Civil Relief Act. The two-year statute of limitations parallels the time period allowed by Article 73 of the Uniform Code of Military Justice for petitioning for a new trial after the approval of a court-martial sentence on the grounds of newly discovered evidence or fraud on the court. If the Chairman dockets an applicant's request for reconsideration under paragraph (b), the two-year requirement may be waived if the Board finds that it would be in the interest of justice to consider the request despite its untimeliness.

Regulatory Process Matters

This is not a significant rule under Executive Order 12681 or the Department's Regulatory Policies and Procedures. The costs of a purely procedural change in the Board's rule would be negligible. The rule will not have a significant economic effect on a substantial number of small entities, as defined in the Regulatory Flexibility Act. There are no Federalism factors to warrant the preparation of a Federalism assessment.

List of Subjects in 33 CFR Part 52

Administrative practice and procedure, Archives and records, Military personnel, Military records.

Issued this 8th day of May 1996, at Washington, D.C.

Federico Peña,

Secretary of Transportation.

For the reasons set forth in the preamble, the Office of the Secretary of the U.S. Department of Transportation amends 33 CFR Part 52 as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 is revised to read as follows:

Authority: 10 U.S.C. 1552; 49 U.S.C. 108; Pub. L. 101–225, 103 Stat. 1908, 1914.

2. Section 52.67 is revised to read as follows:

§ 52.67 Reconsideration.

(a) Reconsideration of an application for correction of a military record shall occur if an applicant requests it and the request meets the requirements set forth in paragraph (a)(1) or (a)(2) of this section.

(1) An applicant presents evidence or information that was not previously considered by the Board that could result in a determination other than that originally made. Evidence or information may only be considered if it could not have been presented to the Board prior to its original determination if the applicant had exercised reasonable diligence; or

(2) An applicant presents evidence or information that the Board, or the Secretary as the case may be, committed legal or factual error in the original determination that could have resulted in a determination other than that originally made.

(b) The Chairman shall docket a request for reconsideration of a final decision if it meets the requirements of paragraph (a)(1) or (a)(2) of this section. If neither of these requirements is met, the Chairman shall not docket such request.

(c) The Board shall consider each application for reconsideration that has been docketed. None of the Board members who considered an applicant's original application for correction shall participate in the consideration of that applicant's application for reconsideration.

(d) Action by the Board on a docketed application for reconsideration is subject to § 52.64(b).

(e) An applicant's request for reconsideration must be filed within two years after the issuance of a final decision, except as otherwise required by law. If the Chairman dockets an applicant's request for reconsideration, the two-year requirement may be waived if the Board finds that it would be in the interest of justice to consider the request despite its untimeliness.

[FR Doc. 96–12030 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–62–P

Coast Guard

33 CFR Part 117

[CGD09–96–003]

RIN 2115–AE47

Drawbridge Operation Regulations; Saginaw River, MI

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule.

SUMMARY: By this direct final rule, the Coast Guard is revising the regulations governing the operations of the CSX (formerly the Chessie System) railroad bridge at mile 18.0 over the Saginaw River in Saginaw, Michigan. The owners have made a request to the Coast Guard to maintain the bridge as a fixed structure with the stipulation and understanding that the bridge may be placed back into operation within six months upon notification of the Coast Guard.

DATES: This rule is effective on August 12, 1996, unless the Coast Guard receives written adverse comments or written notice of intent to submit adverse comments on or before July 15, 1996. If such comments or notice are received, the Coast Guard will withdraw this direct final rule, and a timely notice of withdrawal will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Commander (obr), Ninth Coast Guard District, 1240 E. Ninth St., Cleveland, OH 44199–2060, or may be delivered to room 2083 at the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (216) 522–3993.

The District Commander maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the above address during the same time.

FOR FURTHER INFORMATION CONTACT: Mr. Scott M. Striffler, Project Manager, at (216) 522–3993.

SUPPLEMENTARY INFORMATION:

Request for Comments

Any comments must identify the name and address of the person submitting the comment, specify the rulemaking docket (CGD09–96–003) and the specific section of this rule to which each comment applies, and give the reason for each specific comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

Regulatory Information

The Coast Guard is publishing a direct final rule, the procedures of which are outlined in 33 CFR 1.05–55, because no adverse comments are anticipated. If no adverse comments or any written notices of intent to submit adverse comment are received within the specified comment period, this rule will become effective as stated in the **DATES** section. In that case, approximately 30 days prior to the effective date, the Coast Guard will publish a notice in the **Federal Register** stating that no adverse comment was received and confirming that this rule will become effective as scheduled. However, if the Coast Guard receives written adverse comment or written notice of intent to submit adverse comment, the Coast Guard will publish a notice in the final rule section of the **Federal Register** to announce withdrawal of all or part of this direct final rule. If adverse comments apply to only part of this rule, and it is possible to remove that part without defeating the purpose of this rule, the Coast Guard may adopt as final those parts of this rule on which no adverse comments were received. The part of this rule that was the subject of adverse comment will be withdrawn. If the Coast Guard decides to proceed with a rulemaking following receipt of adverse comments, a separate Notice of Proposed Rulemaking (NPRM) will be published and a new opportunity for comment provided.

A comment is considered "adverse" if the comment explains why this rule would be inappropriate, including a challenge to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change.

Background and Purpose

The placement of a movable bridge in a "fixed status" means that the bridge is essentially locked in the closed position and all the operating gear removed. This rule will allow the owners (CSX Railroad Corp.) of the CSX (formerly the Chessie System) railroad bridge, at mile 18.0 over the Saginaw River in Saginaw, Michigan, to maintain the bascule bridge in a "fixed status". The owners initiated this action due to the absence of any requests to open the bridge for commercial traffic since 1988. Furthermore, the bridge is unattended and subject to high maintenance costs from recurring vandalism. As part of the background for this rulemaking, the Coast Guard requested bridgetender logs for the previous five years, but CSX stated that it did not maintain records for this bridge during the period because no requests for openings were made. The Coast Guard asked for confirmation of the owner's claims from the local Coast Guard Station in Saginaw, Michigan. The Station verified that the bridge had not opened within the experience of the personnel assigned there. The Station also noted that they are not aware of any commercial traffic that has, or will have, a need to pass

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through the bridge. Additionally, there are currently no loading or unloading facilities for commercial vessels above the bridge. The Coast Guard queried the Lake Carriers Association (LCA), representatives of Great Lakes commercial shipping companies, to determine what the impact of allowing the bridge to be maintained as a fixed structure may have on current and anticipated commercial marine traffic. The LCA indicated that their members would not be adversely impacted by the conversion of the bridge from a bascule to a fixed span. The owners pointed out that the Grand Trunk and Western railroad bridge, further upriver at mile 19.2, was converted from a movable to a fixed span in previous years and does not impact marine traffic in this area of the river. The CSX bridge has a vertical clearance of 13 feet, which is one foot higher than the Grand Trunk and Western bridge. The Coast Guard has stipulated, and the owners have agreed, to restore this bridge to an operable status within six months of notification by the Coast Guard if there is future commercial marine activity in the area. The Coast Guard concludes that the placement of this bridge in a fixed status would not impact commercial marine interests and does not anticipate any adverse comments to this Direct Final Rule.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that there has been no active commerce upriver from this bridge for many years and this situation is not expected to change in the future. Additionally, no vessel has requested that the bridge be opened since 1988. While there is some recreational marine traffic active above this bridge, the placement of a similar railroad bridge in a fixed status 1.2 miles further upriver has not caused any adverse effects for any business, recreational, or commercial vessel.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. "Small entities" may include (1) Small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

Therefore, for the reasons discussed above, the Coast Guard finds that this rule will not have a significant economic impact on a substantial number of small entities. Any comments submitted in response to this finding will be evaluated under the criteria described earlier in the preamble for comments.

Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994), this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For reasons set out in the preamble, 33 CFR part 117 is revised as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section § 117.647 is amended by revising paragraphs (a) and (d) to read as follows:

§ 117.647 Saginaw River.

(a) The draws of the Detroit and Mackinac railroad bridge, mile 2.5 at Bay City, and the Conrail railroad bridge, mile 4.4 at Bay City, shall open on signal; except that, from December 16 through March 15, the draws shall open on signal if at least 12 hours notice is given.

* * * * *

(d) The draw of the CSX railroad bridge, mile 18.0, need not be opened for the passage of vessels. The owner shall return the draw to an operable condition within a reasonable time when directed by the District Commander to do so.

* * * * *

Dated: April 26, 1996.

G.F. Woolever,

Rear Admiral, U.S. Coast Guard Commander, Ninth Coast Guard District.

[FR Doc. 96–11895 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AH99

Medical; VA Health Professional Scholarship Program, Correction

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; correction.

SUMMARY: This document corrects a repayment formula for health care professionals who fail to comply with service obligation under the VA Health Professional Scholarship Program.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Meryl Bullard, Health Education Specialist (143), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; Telephone (202) 565–7122. (This is not a toll-free number.)

There is no Catalog of Federal Domestic Assistance number for the program affected by this proposal.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philipines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: May 7, 1996.

Thomas O. Gessel,

Director, Office of Regulations Management, Department of Veterans Affairs.

Accordingly, 38 CFR part 17 is corrected by making the following correcting amendment:

PART 17—MEDICAL

1. The authority citation for Part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 5705.

2. In § 17.610, the formula portion of paragraph (c) is amended by removing "A=3O" and adding, in its place, "A=3Φ".

[FR Doc. 96–11971 Filed 5–13–96; 8:45 am]

BILLING CODE 8320–01–P

38 CFR Part 21

RIN 2900–AH79

Veterans Education: Increase in Rates Payable Under the Montgomery GI Bill—Active Duty, 1995–96

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: By statute, the monthly rates of basic educational assistance payable to veterans and servicemembers under the Montgomery GI Bill—Active Duty must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill—Active Duty for fiscal year 1996 (October 1, 1995 through September 30, 1996) are changed to show a 2.9% increase in these rates.

EFFECTIVE DATE: October 1, 1995.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration (202) 273–7187.

SUPPLEMENTARY INFORMATION: Under the formula mandated by 38 U.S.C. 3015(g) for fiscal year 1996, the rates of basic educational assistance under the Montgomery GI Bill—Active Duty payable to students pursuing a program of education full time must be increased by the percentage that the total of the monthly Consumer Price Index-W for July 1, 1994, through June 30, 1995, exceeds the total of the monthly Consumer Price Index-W for July 1, 1993, through June 30, 1994. Under this formula, the changes to the regulations governing monthly rates reflect a 2.9% increase.

It should be noted that some veterans will receive an increase in monthly payments that will be less than 2.9%. The increase does not apply to additional amounts payable by the Secretary of Defense to individuals with skills or a specialty in which there is a critical shortage of personnel (so-called "kickers"). It does not apply to supplemental educational assistance. It also does not apply to amounts payable for dependents. Veterans who previously had eligibility under the Vietnam Era GI Bill receive monthly payments that are in part based upon basic educational assistance and in part based upon the rates payable under the Vietnam Era GI Bill. Only that portion attributable to basic educational assistance is increased by 2.9%.

Although 38 U.S.C. 3015(g) requires only that the full-time rates be increased, these revisions include increases for other training also. Monthly rates payable to veterans in apprenticeship or other on-job training or cooperative training are set by statute at a given percentage of the full-time rate. Hence, any rise in the full-time rate automatically requires an increase in the rates for these types of training.

38 U.S.C. 3015 (a) and (b) require that the Department of Veterans Affairs (VA) pay part-time students at appropriately reduced rates. Since the first student became eligible for assistance under the Montgomery GI Bill—Active Duty in 1985, VA has paid three-quarter-time students and one-half-time students at 75% and 50% of the full-time rate, respectively. Students pursuing a program of education at less than one half but more than one-quarter-time have had their payments limited to 50% or less of the full-time rate. Similarly, students pursuing a program of education at one-quarter-time or less have had their payments limited to 25% or less of the full-time rate. Changes are made consistent with the authority and formula described in this paragraph.

The changes set forth in this final rule are applied retroactively from the effective date of the statutory changes.

Substantive changes made by this final rule merely reflect statutory requirements and adjustments made based on previously established formulas. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals and does not directly affect small entities. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance number for the program affected by this final rule is 64.124.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Entitlement programs—education, Entitlement programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 1, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 21 (subpart K) is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart K—All Volunteer Force Educational Assistance Program (New GI Bill)

1. The authority citation for part 21, subpart K continues to read as follows:

Authority: 38 U.S.C. 501(a), chs. 30, 36, unless otherwise noted.

2. In § 21.7136, paragraph (b)(3) is amended by removing "$323.90" and adding, in its place, "$333.30" and by removing "1994, and before October 1, 1995" and adding, in its place, "1995, and before October 1, 1996"; paragraph (c)(3) is amended by removing "$263.18" and adding, in its place, "$270.81" and by removing "1994, and before October 1, 1995" and adding, in its place, "1995, and before October 1, 1996"; and paragraphs (b)(1), (b)(2), (c)(1), and (c)(2) are revised, to read as follows:

§ 21.7136 Rates of payment of basic educational assistance.

* * * * * *

(b) *Rates.* (1) Except as provided in paragraphs (b)(2), (b)(3), and (d) of this section, the monthly rate of basic educational assistance payable for training that occurs after September 30,

1995, and before October 1, 1996, to a veteran whose service is described in paragraph (a) of this section is the rate stated in the following table.

Training	Monthly rate
Full time	$416.62
¾ time	312.46
½ time	208.31
Less than ½ but more than ¼ time	208.31
¼ time or less	104.15

(Authority: 38 U.S.C. 3015)

(2) If a veteran's service is described in paragraph (a) of this section, the monthly rate payable to the veteran for pursuit of an apprenticeship or other on-job training that occurs after September 30, 1995, and before October 1, 1996, is the rate stated in the following table.

Training period	Monthly rate
First six months of pursuit of program	$312.46
Second six months of pursuit of program	229.14
Remaining pursuit of program	145.82

(Authority: 38 U.S.C. 3015, 3032(c))

* * * * *

(c) * * *

(1) Except as provided in paragraphs (c)(2), (c)(3), and (d) of this section, the monthly rate of basic educational assistance payable to a veteran for training that occurs after September 30, 1995, and before October 1, 1996, is the rate stated in the following table.

Training	Monthly rate
Full time	$338.51
¾ time	253.88
½ time	169.25
Less than ½ but more than ¼ time	169.25
¼ time or less	84.62

(Authority: 38 U.S.C. 3015, 3032(c))

(2) The monthly rate of educational assistance payable to a veteran for pursuit of an apprenticeship or other on-job training that occurs after September 30, 1995, and before October 1, 1996, is the rate stated in the following table.

Training period	Monthly rate
First six months of pursuit of program	$253.85
Second six months of pursuit of program	186.18
Remaining pursuit of program	118.48

(Authority: 38 U.S.C. 3015, 3032(c))

* * * * *

3. In § 21.7137, paragraph (c)(2) introductory text is amended by removing "1994, and before October 1, 1995" and adding, in its place, "1995, and before October 1, 1996"; paragraph (c)(2)(i) is amended by removing "$592.88" and adding, in its place, "$604.62"; paragraph (c)(2)(ii) is amended by removing "$445.16" and adding, in its place, "$453.96"; paragraph (c)(2)(iii) is amended by removing "$296.44" and adding, in its place, "$302.31"; paragraph (c)(2)(iv) is amended by removing "$148.22" and adding, in its place, "$151.15"; and paragraphs (a)(1) and (a)(2) are revised, to read as follows:

§ 21.7137 Rates of payment of basic educational assistance for individuals with remaining entitlement under 38 U.S.C. ch. 34.

(a) *Minimum rates.* * * *

(1) Except as provided in paragraphs (a)(2), (b), and (c) of this section, the monthly rate of basic educational assistance for training that occurs after September 30, 1995, and before October 1, 1996, is the rate stated in the following table.

Training	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
Full time	$604.62	$640.62	$671.62	$16.00
3/4 time	453.96	480.46	503.96	12.00
1/2 time	302.31	320.31	335.81	8.50
Less than 1/2 but more than 1/4 time		302.31		
1/4 time		151.15		
Cooperative	454.90	475.30	494.90	9.20

(Authority: 38 U.S.C. 3015(c), (f), (g))

(2) For veterans pursuing an apprenticeship or other on-job training, the monthly rate of basic educational assistance for training that occurs after September 30, 1995, and before October 1, 1996, is the rate stated in the following table.

Training period	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
1st 6 months of pursuit of program	$415.21	$427.59	$438.46	$5.25
2nd 6 months of pursuit of program	285.52	294.87	302.57	3.85
3rd 6 months of pursuit of program	169.62	175.74	180.47	2.45
Remaining pursuit of program	157.72	163.49	168.74	2.45

(Authority: 38 U.S.C. 3015(d), (f), (g))

* * * * *

[FR Doc. 96–11970 Filed 5–13–96; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE26–1–6940; FRL–5503–6]

Approval and Promulgation of Air Quality Implementation Plans; Delaware: Amendment of Final Rule Pertaining to Regulation 24—Control of Volatile Organic Compound Emissions, Section 47—Offset Lithographic Printing; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction to Amendment of direct final rule.

SUMMARY: This document contains corrections to an amendment of a direct final rule, which was published on Tuesday, March 26, 1996 (61 FR 13101) (96–7063). This amendment pertains to Delaware Regulation 24, Control of Volatile Organic Compound Emissions, section 47, Offset Lithographic Printing.

EFFECTIVE DATE: March 26, 1996.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 597–3164.

SUPPLEMENTARY INFORMATION:

Background

On January 26, 1996, EPA published a Direct Final Rule approving a State Implementation Plan (SIP) revision submitted by Delaware (61 FR 2419) pertaining to Delaware Regulation 24, Control of Volatile Organic Compound Emissions, sections 10, 11, 12, 44, 45, 47, 48, and 49, and Appendices I, K, L, and M, effective November 29, 1994. These sections of Regulation 24 establish additional emission standards that represent the application of reasonably available control technology (RACT) to categories of stationary sources of volatile organic compounds (VOCs). Because EPA received adverse comments on section 47, Offset Lithographic Printing, EPA published an amendment of the direct final rule on March 26, 1996 (61 FR 13101), withdrawing section 47 only.

Need for Correction

As published, the amendment of the direct final rule contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, at 61 FR 13101, Mar. 26, 1996 the publication of the amendment, is corrected to read as follows: The heading "§ 54.420 [Amended]" is corrected to read "§ 52.420 [Amended]". In amendatory instruction 2 the reference to "§ 54.420(c)(54)(i)(B)" is corrected to read "§ 52.420(c)(54)(i)(B)".

Dated: May 1, 1996.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 96–11855 Filed 5–13–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[CT23–1–7084; FRL–5443–6]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is responding to an adverse comment concerning EPA's proposal to redesignate Hartford, Connecticut as attainment for carbon monoxide. EPA is not changing its action to redesignate the area as attainment that took effect on January 2, 1996. EPA is also correcting an incorrect entry in the attainment status tables associated with this action.

EFFECTIVE DATE: January 2, 1996.

FOR FURTHER INFORMATION CONTACT: Wing H. Chau, Air Quality Planning Unit, Office of Ecosystem Protection, United States Environmental Protection Agency, Region I, Boston, Massachusetts 02203, (617) 565–3570.

SUPPLEMENTARY INFORMATION: On October 31, 1995, EPA published a direct final rule (60 FR 55316) which announced that this rule would take effect in 60 days, or January 2, 1996, unless EPA received adverse comment on the rule within 30 days in response to a notice of proposed rulemaking published on the same day (60 FR 55354). EPA also committed to withdraw the direct final rule in the event it received adverse comment, and to respond to any adverse comments in a subsequent final rulemaking action. EPA did receive a timely adverse comment on this rule. EPA failed, however, to withdraw the final rule within the 60 days given in the direct final rule, and the rule took effect on January 2, 1996.

In this notice, EPA is responding to the comment it received, but for the reasons stated below, EPA is not changing the final rule in response to that comment. Had EPA withdrawn the direct final rule prior to its going into effect, EPA would have taken final action based on the proposal to promulgate a rule identical to the direct final rule that went into effect. Rather than now take the action of withdrawing the direct final rule only to repromulgate simultaneously an identical rule, however, EPA in this action is deciding to maintain the rule unchanged. EPA believes that withdrawal and repromulgation are unnecessary since the results would be identical to that obtained simply by leaving the rule unchanged and responding to the comments in this notice. This notice provides interested parties an opportunity to review how EPA addressed the comment and to petition for judicial review of EPA's action in this final rulemaking within 60 days of publication of this notice, as provided in section 307(b)(1) of the Act.

Also, in the October 31, 1995 direct final rulemaking, the revised Code of Federal Regulations (CFR) § 81.307 designation table for carbon monoxide identified a number of towns in the Litchfield, Middlesex, and Tolland Counties as "Nonattainment * * * Moderate ≤12.7 ppm". The table should have shown these areas as attainment areas for CO. The revised § 81.307 designation table associated with this final rulemaking reflects the appropriate attainment status of the towns mentioned above. The USEPA regrets any inconvenience these errors may have caused.

I. Summary of Action and Responses to Comments

EPA did receive one comment from the New York Mercantile Exchange (NYMEX), dated November 29, 1995. NYMEX is the world's largest exchange of energy futures, and NYMEX is concerned that the redesignation of the Hartford area might affect gasoline formulation requirements and disrupt futures contracts entered into based on gasoline formulation requirements in effect prior to the redesignation. The comment questioned whether EPA had offered interested persons any meaningful opportunity to comment on this proposal, and asserted that EPA should have provided "far more than the limited period of notice afforded in these redesignation approvals" to avoid disruption in the petroleum industry and energy futures markets when changing environmental requirements.

As a legal matter, this SIP action is subject to the procedures of the Administrative Procedures Act ("APA")

for informal rulemaking. 5 U.S.C. § 553; *General Motors Corp.* v. *U.S.*, 110 S. Ct. 2528, 2533 (1990). It is well-settled that the APA "established the maximum procedural requirements which Congress was willing to have the courts impose upon agencies in conducting rulemaking procedures." *Vermont Yankee Nuclear Power* v. *NRDC*, 435 U.S. 519, 524 (1978). In this action EPA published a notice of proposed rulemaking to redesignate the Hartford area as attainment for carbon monoxide, and gave the public thirty days to comment on that proposal. 60 FR 55354 (October 31, 1995). In a simultaneous final rule EPA informed the public that if no comment had been received within thirty days of the accompanying proposal, the redesignation would take effect within sixty days of the final rule. 60 FR 55316 (October 31, 1995). EPA provided the public thirty days to comment, which is an adequate period for public review. Indeed, NYMEX availed itself of that opportunity to comment. Although it is unclear from the comment letter, NYMEX may have been complaining that EPA should delay the effective date this rule for more than thirty days following this final notice. The APA is clear that EPA must only wait thirty days to make a rule effective. 5 U.S.C. § 553(d). EPA has fully discharged its legal obligation to provide the public adequate notice of this action.

As a factual matter, the state of Connecticut had been developing this redesignation proposal for much longer than thirty days. The state published a notice concerning the redesignation on July 15, 1994, held a public hearing on August 17, 1994 and submitted it to EPA on September 30, 1994, fully 13 months before EPA published its notice proposing to approve the state's request for redesignation. NYMEX and its clients had ample opportunity to anticipate this change as a practical matter. NYMEX's comment suggests that its gasoline futures contracts trade ten months in advance. It would not be practical for EPA to give ten months' notice on all such SIP actions, nor is it legally required. For industries that are sensitive to changes in SIP requirements and need substantial lead-time to anticipate them, EPA encourages them to monitor SIP developments at the state level.

II. Final Rulemaking Action

The USEPA maintains the approvals associated with the October 31, 1995 direct final rulemaking (60 FR 55316) which included the redesignation of the Hartford/New Britain/Middletown CO area to attainment, Connecticut's 1990 base year CO emission inventory, and Connecticut's oxygenated fuel program as it applies to the Hartford/Britain/Middletown area.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

The CO SIP is designed to satisfy the requirements of part D of the CAA and to provide for attainment and maintenance of the CO NAAQS. This final redesignation should not be interpreted as authorizing the State to delete, alter, or rescind any of the CO emission limitations and restrictions contained in the approved CO SIP. Changes to CO SIP regulations rendering them less stringent than those contained in the EPA approved plan cannot be made unless a revised plan for attainment and maintenance is submitted to and approved by EPA. Unauthorized relaxations, deletions, and changes could result in both a finding of non-implementation (section 179(a) of the CAA) and in a SIP deficiency call made pursuant to sections 110(a)(2)(H) and 110(k)(2) of the CAA.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, it does not have any economic impact on any small entities. Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities.

Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Accordingly, I certify that the approval of the redesignation request will not have an impact on any small entities.

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 25, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A and section 187(a)(1) of the Clean Air Act. The rules and commitments approved in this action may bind State, local and tribal governments to perform certain actions and also may ultimately lead to the private sector being required to certain duties. To the extent that the imposition of any mandate upon the State, local or tribal governments either as the owner or operator of a source or as mandate upon the private sector, EPA's action will impose no new requirements under State law; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, results from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Opportunity for Judicial Review

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone, Reporting and record keeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Note: Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

Dated: February 29, 1996.

John P. DeVillars,

Regional Administrator, Region I.

Title 40 of the Code of Federal Regulations, Chapter I, Part 81 is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart C—Section 107 Attainment Status Designations

2. In § 81.307 by revising the table for "Connecticut—CarbonMonoxide" to read as follows:

§ 81.307 Connecticut.

* * * * *

CONNECTICUT—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Hartford-New Britain-Middletown Area:				
Hartford County (part)	1/2/96		1/2/96	
Bristol City, Burlington Town, Avon Town, Bloomfield Town, Canton Town, E. Granby Town, E. Hartford Town, E. Windsor Town, Enfield Town, Farmington Town, Glastonbury Town, Granby Town, Hartford City, Manchester Town, Marlborough Town, Newington Town, Rocky Hill Town, Simsbury Town, S. Windsor Town, Suffield Town, W. Hartford Town, Wethersfield Town, Windsor Town, Windsor Locks Town, Berlin Town, New Britain city; Plainville Town, and Southington Town.		Attainment		
Litchfield County (part):				
Plymouth Town				
Middlesex County (part):				
Cromwell Town, Durham Town, E. Hampton Town, Haddam Town, Middlefield Town, Middleton city, Portland Town, E. Haddam Town.		Attainment.		
Tolland County (part):		Attainment.		
Andover Town, Boton Town, Ellington Town, Hebron Town, Somers Town, Tolland Town, and Vernon Town				
New Haven—Meriden—Waterbury Area:				
Fairfield County (part):				
Shelton City		Attainment.		
Litchfield County (part):				
Bethlehem Town, Thomasion Town, Watertown, Woodbury Town		Attainment.		
New Haven County:				
New York—N. New Jersey—Long Island Area:				
Fairfield County (part):				
All cities and townships except Shelton City		Nonattainment.		Not classified
Litchfield County (part):		Nonattainment.		Not classified
Bridgewater Town, New Milford Town				
				Not classified
		Nonattainment.		Moderate > 12.7 ppm
		Nonattainment.		Moderate > 12.7 ppm
		Nonattainment.		
AQCR 041 Eastern Connecticut Intrastate:				
		Unclassifiable/Attainment.		
Middlesex County (part):				
All portions except cities and towns in Hartford Area.				
New London County:				
Tolland County (part):				
All portions except cities and towns in Hartford Area.				
Windham County:				
AQCR 044 Northwestern Connecticut Intrastate:				
		Unclassifiable/Attainment.		

CONNECTICUT—CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Hartford County (part): Hartland Township Litchfield County (part): All portions except cities and towns in Hartford, New Haven, and New York Areas.				

[1] This date is November 15, 1990, unless otherwise noted.

[FR Doc. 96–11963 Filed 5–13–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 81

[SD001–0001; FRL–5502–1]

Technical Amendment to Attainment Status Designation for PM–10; South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical amendment.

SUMMARY: On February 6, 1996, EPA published a direct final rule amending the attainment status designation for the "Rest of State" area in South Dakota (excluding Rapid City) from unclassifiable to attainment for PM–10 (see 61 FR 4357). As stated in that **Federal Register** document, if adverse or critical comments were received by March 7, 1996, the effective date would be delayed and notice would be published in the **Federal Register**. EPA subsequently received adverse comments on that direct final rule. However, EPA mistakenly did not withdraw the direct final rule in time before it became effective on April 8, 1996. Therefore, EPA is amending the South Dakota's PM–10 attainment status designation table to reflect the unclassifiable PM–10 designation for the "Rest of State" area which existed previous to the direct final rulemaking published on February 6, 1996. EPA will address the comments received in a subsequent final action in the near future. EPA will not institute a second comment period on this document.

EFFECTIVE DATE: This amendment becomes effective on May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, 8P2–A, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, (303) 312–6445.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule located in the final rules section of the February 6, 1996 **Federal Register**, and in the short informational document located in the proposed rule section of the February 6, 1996 **Federal Register**.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: April 26, 1996.

Jack W. McGraw,
Acting Regional Administrator.

40 CFR part 81, subpart B, is amended as follows:

PART 81—[AMENDED]

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 81.342 is amended by revising the table for "South Dakota—PM–10" to read as follows:

§ 81.342 South Dakota.

* * * * *

SOUTH DAKOTA—PM–10

Designated area	Designation		Classification	
	Date	Type	Date	Type
Rapid City Area	11/15/90	Unclassifiable		
Rest of State[1]	11/15/90	Unclassifiable		

[1] Denotes a single area designation for PSD baseline area purposes.

[FR Doc. 96–11945 Filed 5–13–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 421

Nonferrous Metals Manufacturing Point Source Category

CFR Correction

In title 40 of the Code of Federal Regulations, parts 400 to 424, revised as of July 1, 1995, page 468, the first § 421.35 is removed.

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 94–76; 94–77; RM–8470; RM–8477; RM–8523; RM–8524]

Radio Broadcasting Services; Chester, Shasta Lake City, Alturas, McCloud, Weaverville and Central Valley, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants allotment proposals in the above-captioned, interrelated proceedings at Chester, Shasta Lake City, Alturas, McCloud and Weaverville, CA, in response to petitions for rule making filed by m. JAYNE sawyer ("sawyer") (MM Docket No. 94–76; RM–8477), and Mark C. Allen ("Allen") (MM Docket No. 94–77; RM–8470), as well as mutually-exclusive counterproposals filed by Goldrush Broadcasting ("Goldrush") and by Corey J. McCaslin ("McCaslin"), as set forth *infra* (see Supplementary Information). *See* 59 FR 36735, and 59 FR 36736, published July 19, 1994. With this action, the proceeding is terminated.

DATES: Effective June 17, 1996. The window period for filing applications will open on June 17, 1996, and close on July 18, 1996.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, involving two consolidated, interrelated proceedings consisting of MM Docket No. 94–76 and MM Docket No. 94–77, adopted April 23, 1996, and released May 3, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, located at 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

The Commission, at the request of Goldrush allots Channel 259A to Chester, California, in lieu of Channel 296A, as requested by sawyer, as that community's second local FM service (MM Docket No. 94–76; RM–8477; RM–8523). In response to Goldrush's request, Channel 296C3 is allotted to Shasta Lake City, California, in lieu of Channel 276A, as requested by Allen. Also, in response to Goldrush's request, Channel 297C is allotted to Alturas, California, as that community's third local FM service, and Channel 238C3 is allotted to McCloud, California, as that community's first local commercial FM service (MM Docket No. 94–77; RM–8470; RM–8523). Additionally, in response to the counterproposal filed by Corey J. McCaslin, Channel 276C2 is allotted to Weaverville, California, as that community's first local FM service (MM Docket No. 94–77; RM–8470; RM–8524). Coordinates for Channel 259A at Chester, California, are 40–20–00 and 121–15–13; coordinates for Channel 296C3 at Shasta Lake City, California, are 40–43–58 and 122–21–59; coordinates for Channel 297C at Alturas, California, are 41–29–34 and 120–31–37; coordinates for Channel 238C3 at McCloud, California, are 41–15–18 and 122–08–24; and coordinates for Channel 276C2 at Weaverville, California, are 40–49–32 and 122–55–21. Additionally, as indicated in the *Notice* in MM Docket No. 94–77, 9 FCC Rcd 3318 (1994), we are also making an editorial amendment herein to the FM Table of Allotments to reflect that Channel 257C3 is deleted at Central Valley, California, and allotted at Shasta Lake City as a result of the former community's dissolution and incorporation into Shasta Lake City, pursuant to Resolution No. 93–02 of the Shasta County Local Agency Formation Commission.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 297C at Alturas;

3. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 259A at Chester;

4. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Central Valley, Channel 257C3;

5. Section 73.202(b), the Table of FM Allotments under California, is amended by adding McCloud, Channel 238C3;

6. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Shasta Lake City, Channel 257C3;

7. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 296C3 at Shasta Lake City;

8. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Weaverville, Channel 276C2.

Federal Communications Commission.

Andrew J. Rhodes,
Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–11814 Filed 5–13–96; 8:45 am]
BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–135; RM–8681]

Radio Broadcasting Services; Honor, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 264A to Honor, Michigan, in response to a petition filed by Jacqueline F. Bourgard. *See* 60 FR 45390, August 31, 1995. The coordinates for Channel 264A at Honor are 44–41–26 and 86–01–05. There is a site restriction 3 kilometers (1.8 miles) north of the community. Canadian concurrence has been obtained for this allotment. With this action, this proceeding is terminated.

DATES: Effective June 20, 1996. The window period for filing applications will open on June 20, 1996, and close on July 5, 1996.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, MM Docket No. 95–135, adopted April 24, 1996, and released May 6, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Honor, Channel 264A.

Federal Communications Commission.

Andrew J. Rhodes,
Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–12045 Filed 5–13–96; 8:45 am]
BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–180; RM–8730]

Radio Broadcasting Services; Ingalls, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Dana J. Puopolo, allots Channel 242C1 to Ingalls, Kansas, as the community's second local aural transmission service. *See* 61 FR 2469, January 26, 1996. Channel 242C1 can be allotted to Ingalls, Kansas, in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 242C1 at Ingalls are 37–49–48 and 100–27–06. With this action, this proceeding is terminated.

DATES: Effective June 21, 1996. The window period for filing applications will open on June 21, 1996, and close on July 22, 1996.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95–180, adopted April 24, 1996, and released May 7, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by adding Channel 242C1 at Ingalls.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–12043 Filed 5–13–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 91–58, RM–7419, RM–7797, RM–7798]

Radio Broadcasting Services; Caldwell, College Station and Gause, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document denies a Petition for Reconsideration filed by Roy E. Henderson directed to the *Report and Order* in this proceeding. *See* 60 FR 52914, published October 11, 1995. With this action, the proceeding is terminated.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 91–58, adopted April 26, 1996, and released May 9, 1996. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., Room 246, or 2100 M Street, NW., Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–12047 Filed 5–13–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

Petroleum Products and Low-Stress Pipelines

AGENCY: Research and Special Programs Administration, (RSPA), DOT.

ACTION: Interpretation and partial stay of enforcement of regulation.

SUMMARY: This document interprets the definition of "petroleum product" under RSPA's safety regulations for hazardous liquid [1] pipelines. The definition has been applied to petrochemical products that the regulations were not intended to cover. The interpretation should reduce confusion in deciding which low-stress pipelines [2] are subject to the regulations.

In addition, this document stays enforcement of the regulations against low-stress pipelines regulated by the U.S. Coast Guard, and against certain short low-stress pipelines that serve plants and transportation terminals. Application of the regulations to these lines would cause undue burdens for industry and government. The stay should ease difficulties in applying the regulations to low-stress pipelines.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: L. M. Furrow, (202) 366–4559.

SUPPLEMENTARY INFORMATION:

Background

In response to a Congressional directive,[3] RSPA extended its hazardous liquid pipeline safety regulations (49 CFR Part 195) to cover certain low-stress pipelines other than rural gathering lines and gravity-powered lines (59 FR 35465; July 12, 1994). That rulemaking action affected low-stress pipelines that transport highly volatile liquids, low-stress pipelines that are located onshore in non-rural areas, and low-stress pipelines that are located offshore or in waterways that are navigable in fact and currently used for commercial navigation (§ 195.1(b)(3)).

Transfer lines comprised the largest proportion of low-stress pipelines brought under Part 195 (about two-thirds of the pipelines and one-third of the mileage). The remainder included trunk lines and non-rural gathering lines. Transfer lines are used to transport hazardous liquid locally between facilities such as transportation terminals, manufacturing plants, petrochemical plants, and oil refineries, or to connect these facilities to associated storage or long-distance pipeline transportation. Because the rulemaking action affected the current operating practices of many companies unfamiliar with Part 195, we allowed operators to delay compliance of

[1] "Hazardous liquid" means petroleum, petroleum products, or anhydrous ammonia. (§ 195.2)

[2] Low-stress pipeline means a hazardous liquid pipeline that is operated in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe. (§ 195.2)

[3] The Secretary of Transportation may not provide an exception from regulation for a hazardous liquid pipeline facility only because the facility operates at low internal stress. (49 U.S.C. § 60102(k))

existing low-stress pipelines until July 12, 1996 (§ 195.1(c)).

Meaning of Petroleum Product

The impact of the rulemaking action intensified last fall, particularly for petrochemical companies, when RSPA interpreted the definition of "petroleum product." Part 195 defines "petroleum product" as "flammable, toxic, or corrosive products obtained from distilling and processing of crude oil, unfinished oils, natural gas liquids, blend stocks and other miscellaneous hydrocarbon compounds"[4] (§ 195.2). The Hoechst Celanese Corporation had asked us whether two of its products come under this definition. Focusing on the "miscellaneous hydrocarbon compounds" aspect of the definition, we said the products, ethylene glycol and formic acid, were petroleum products because they are, respectively, flammable and toxic, and are produced by processing hydrocarbon compounds. Upon further consideration, however, we now believe that interpretation was too broad in light of the historical context of Part 195.

Since its inception, Part 195 has applied to petroleum products transported in liquid form by pipeline (34 FR 15473; Oct. 4, 1969). Only recently, while trying to clarify Part 195 requirements and reduce the burden of government regulation, did we adopt the present definition of petroleum product (59 FR 33395; June 28, 1994). Previously, both RSPA and the hazardous liquid pipeline transportation industry identified petroleum products as hydrocarbon compounds derived from processing natural gas or petroleum. This processing typically occurs at oil refineries, gas processing plants, and gasoline plants.[5]

Petroleum products include butane, propane, gasoline, heating oil, aviation fuel, kerosine, and diesel fuel. Also included are hydrocarbon feedstocks, such as ethylene and propylene, that are the basis of hundreds of petrochemical products, including paints, plastics, synthetic fibers, and fertilizers. Prior to the definition, we did not consider the intermediate and finished products manufactured at petrochemical plants by further processing hydrocarbon feedstocks to be petroleum products. These petrochemical products are characterized by the addition of chemicals, such as chlorine, nitrogen, or oxygen, to the hydrocarbon feedstocks.

In adopting the definition of petroleum product, we did not seek to expand this prior understanding of the term, only to clarify it.[6] For this reason, the definition of petroleum product must be applied consistent with its regulatory background. Thus, petrochemical products that are made by chemical means using petroleum products as a raw material do not come under the definition. Ethylene glycol, which is used in car antifreeze and other finished products, is an example of a petrochemical product that does not come under the Part 195 regulations.

Stay of Enforcement of 49 CFR Part 195 Against Certain Low-stress Pipelines

As mentioned above, Part 195 applies to certain low-stress pipelines used to transfer hazardous liquids locally. These transfer lines link long-distance pipelines and truck, rail, and vessel transportation terminals with various industrial plants, including manufacturing plants, petrochemical plants, and oil refineries. Many of the lines interconnect the plants themselves. These local transfer lines are generally short, averaging about a mile in length. They are usually operated in association with transfer piping on the grounds of the plants and terminals. Some transfer lines that serve industrial plants or terminals may be operated by long-distance pipeline operators.

Transfer lines or segments of lines on the grounds of industrial plants and transportation terminals generally are excepted from Part 195 (§ 195.1(b) (6) and (7)).[7] However, this excepted piping is subject to Occupational Safety and Health Administration (OSHA) safety standards, including, when 10,000 pounds or more of flammable liquid are involved, the Process Safety Management regulations (29 CFR 1910.119) issued under the Clean Air Act Amendments of 1990. These regulations are designed to reduce the risk of fires and explosions caused by the escape of hazardous chemicals from facility processes. In addition, transfer lines between vessels and marine transportation-related facilities are subject to safety requirements of the U.S. Coast Guard (33 CFR Parts 154 and 156). These requirements apply to transfer lines from the dock loading arm or manifold up to the first valve after the line enters the Spill Prevention Control and Countermeasure (SPCC) containment or secondary containment if the facilities are not protected by SPCC plans.

RSPA is concerned that the impending imposition of the Part 195 regime on a multitude of short hazardous liquid transfer lines throughout the U.S. and Puerto Rico may create difficulties for both industry and government that are not counterbalanced by a reduction in risk. A significant difficulty for many operators of transfer lines is that the lines may be designed and operated according to standards and specifications that differ from Part 195 requirements. Some time and expense would be necessary for operating personnel to become familiar with Part 195 and the companion drug and alcohol rules in 49 CFR Part 199.

Another difficulty for industry is the separate federal regulatory regimes over transfer piping. Part 195 generally does not displace OSHA regulations over on-grounds transfer piping. So most plants and terminals would have to comply with OSHA's Process Safety Management regulations for some transfers and Part 195 for others.[8] For transfers between vessels and marine transportation-related facilities, the Coast Guard safety regulations would apply as well. Application of Part 195 to these marine terminal transfer lines duplicates agency efforts within DOT and creates uncertainty in the industry as to which DOT regulations apply to particular facilities. The upshot of these separate regulatory regimes of RSPA, OSHA, and the Coast Guard is that differing safety rules and enforcement policies could confuse operating personnel and increase administrative costs through separate operating plans and recordkeeping.

Carrying out adequate government inspections presents a further difficulty. The task of finding and educating the many new operators coming under Part 195 because of low-stress pipelines is

[4] Hydrocarbon compounds are chemical compounds composed solely of hydrogen and carbon.

[5] Part 195 was based largely on voluntary standards contained in the 1966 edition of "Code for Pressure Piping, Liquid Petroleum Transportation Piping Systems," (designated USAS B31.4–1966) prepared and published by the American Society of Mechanical Engineers. A diagram on page 2 of the code shows that the code applies to pipelines that run between production facilities, refineries, gasoline plants, gas processing plants, terminals, and bulk plants.

[6] In the **Federal Register** document concerning petroleum product and other terms that RSPA proposed to define, RSPA said "[t]he proposed new definitions and definition change would not compromise pipeline safety because they would not alter the intended application of the existing part 195 regulations." (57 FR 56306; Nov. 27, 1992)

[7] Part 195 applies to transfer piping on facility grounds if the piping is necessary to control the operating pressure of off-grounds lines covered by Part 195, or if the on-grounds piping serves a breakout storage tank.

[8] However, where Part 195 applies to facility transfer piping, OSHA regulations may be preempted, because OSHA is precluded from enforcing its regulations against employee working conditions over which another federal agency prescribes or enforces safety regulations. (29 U.S.C. § 653(b)(1)).

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likely to be a major, protracted effort that could swamp current inspection resources.

At the same time, the risk to the public from short low-stress transfer lines off plant or terminal grounds is generally low. A low operating stress is itself a safety factor against several accident causes. And the short length means the potential spill volume would be limited should an accident occur. Also, typically there is limited public exposure in the industrial areas where low-stress transfer lines are located. The risk of marine transfer lines is reduced even more by the U.S. Coast Guard regulations and inspection force.

Therefore, we are considering amending Part 195 to except short, low-stress transfer lines that traverse areas outside plant and terminal grounds. We are also considering excepting low-stress transfer lines of any length that are regulated by the U.S. Coast Guard. We intend to publish a notice of proposed rulemaking (NPRM) in the **Federal Register** to seek public comment on these proposals.

Meanwhile, effective May 14, 1996, I am staying enforcement of Part 195 against two categories of low-stress pipelines: (1) low-stress pipelines regulated by the U.S Coast Guard; and (2) low-stress pipelines that are less than 1 mile in length (measured outside plant or terminal grounds), except if the pipeline crosses offshore or any waterway currently used for commercial navigation. This stay will remain in effect until modified through another **Federal Register** document or until Part 195 is amended as a result of the NPRM, whichever happens first. RSPA will continue to enforce Part 195 over short lines that cross offshore or commercially navigable waterways but do not come under U.S. Coast Guard regulations because of the need to reduce the threat of environmental damage.

Authority: (49 U.S.C. § 60102 *et seq.*; 49 CFR 1.53)

Issued in Washington, DC on May 7, 1996.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 96–11886 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–60–P

Proposed Rules

Federal Register
Vol. 61, No. 94
Tuesday, May 14, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR PART 51

[Docket Number FV–95–306]

Fresh Fruits, Vegetables and Other Products (Inspection, Certification, and Standards)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document would revise the regulations governing inspection and certification for fresh fruits, vegetables and other products by increasing the fees charged for the inspection of these products at destination markets. These revisions are necessary in order to recover, as nearly as practicable, the costs of performing inspection services at destination markets under the Agricultural Marketing Act of 1946.

DATES: Comments must be postmarked or courier dated on or before July 15, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Office of the Branch Chief, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 2049 South Building, Washington, DC 20090–6456. Comments should note the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the office of the Branch Chief during regular business hours.

FOR FURTHER INFORMATION CONTACT: Robert J. Huttenlocker, at the above address or call, (202) 720–0297.

SUPPLEMENTARY INFORMATION: This proposed rule has been determined to be not significant for purposes of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The Agricultural Marketing Service (AMS), has certified that this action will not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, (5 U.S.C. 601). The proposed rule reflects certain fee increases needed to recover the costs of inspection services rendered in accordance with the Agricultural Marketing Act (AMA) of 1946.

The AMA authorizes official inspection, grading, and certification on a user-fee basis, of fresh fruits, vegetables, and other products such as raw nuts, Christmas trees, and flowers. The AMA provides that reasonable fees be collected from the user of the program services to cover, as nearly as practicable, the costs of services rendered. This proposal would amend the schedule for fees and charges for inspection services rendered to the fresh fruit and vegetable industry to reflect the costs currently associated with the program.

AMS regularly reviews these programs to determine if fees are adequate. Employee salaries and benefits are major program costs that account for approximately 86 percent of the total operating budget. A general and locality salary increase for Federal employees, ranging from 3.09 to 6.25 percent depending on locality, effective January 1995, has materially affected program costs. Another general and locality salary increase, ranging from 2.39 to 2.87 percent depending upon locality (amounting to approximately $253,000), was effective January 1996; further standardization program costs must be paid for by user fees.

While a concerted effort to cut costs resulted in overhead savings of $350,000 in FY 95 over FY 94, the last fee increase of June 1994 did not result in collection of enough revenue to cover all these increases and still maintain an adequate reserve balance (four months of costs) called for by Agency policy (AMS Directive 407.1) and prudent financial management. Currently the Fresh Products Branch (FPB) trust fund reserve balance for the market program is approximately $1 mil. under the desired level of $3.9 mil. Further action is necessary to meet rising costs and maintain adequate reserve balances. This action will assist in moving the FPB trust fund toward a more adequate level and will result in an estimated $614,000 in additional revenues. Projected FY96 revenues for market inspection are $12.555 mil with costs projected at $11.594 mil and a reserve of $3.093.

Based on the Agency's analysis of increased costs since 1994, AMS proposes to increase the fees for destination market inspection services. The following table compares current fees and charges with proposed fees and charges for fresh fruit and vegetable inspection as found in 7 CFR 51.38. Unless otherwise provided for by regulation or written agreement between the applicant and the Administrator, the charges in the schedule of fees as found in § 51.38 are:

Service	Current	Proposed
Quality and condition inspections of one to four products each in quantities of 51 or more packages and unloaded from the same land or air conveyance:		
Over a half carlot equivalent of each product	$74	$78.
Half carlot equivalent or less of each product	$62	$65.
For each additional lot of the same product	$12	$13.
Condition inspections of one to four products each in quantities of 51 or more packages and unloaded from the same land or air conveyance:		
Over a half carlot equivalent of each product	$62	$65.

Service	Current	Proposed
Half carlot equivalent or less of each product	$57	$60.
For each additional lot of the same product	$12	$13.
Inspections of five or more products each in quantities of 51 or more packages and unloaded from the same land or air conveyance:		
For the first five products	$264	$277.
For each additional product	$37	$39.
For each additional lot of any of the same product	$12	$13.
Inspections of products each in quantities of 50 or less packages unloaded from the same land or air conveyance:		
For each product	$37	$39.
For each additional lot of any of the same product	$12	$13.
Dock-side inspections of an individual product unloaded directly from the same ship:		
For each package weighing less than 15 pounds	1 cent	No change.
For each package weighing 15 to 29 pounds	2 cents	No change.
For each package weighing 30 or more pounds	3 cents	No change.
For each additional lot of any of the same product	$12	$13.
Minimum charge per individual product	$74	$78.
Inspections performed for other purposes during the grader's regularly scheduled work week	$37 per hour	$39 per hour.
Overtime or holiday premium rate for all inspections performed outside the hourgrader's regularly scheduled work week.	$18.50 per hour	$19.50 per hour.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Trees, Vegetables.

PART 51—[AMENDED]

For reasons set forth in the preamble, 7 CFR Part 51 is proposed to be amended as follows:

1. The authority citation for 7 CFR Part 51 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Section 51.38 is revised to read as follows:

§ 51.38 Basis for fees and rates.

(a) When performing inspections of product unloaded directly from land or air transportation, the charges shall be determined on the following basis:

(1) For products in quantities of 51 or more packages:

(i) Quality and condition inspection of 1 to 4 products unloaded from the same conveyance:

(A) $78 for over a half carlot equivalent of an individual product.

(B) $65 for a half carlot equivalent or less of an individual product.

(C) $13 for each additional lot of the same product.

(ii) Condition only inspection of 1 to 4 products unloaded from the same conveyance:

(A) $65 for over a half carlot equivalent of an individual product.

(B) $60 for a half carlot equivalent or less of an individual product.

(C) $13 for each additional lot of the same product.

(iii) Quality and condition inspection and/or condition only inspection of 5 or more products unloaded from the same conveyance:

(A) $277 for the first 5 products.

(B) $39 for each additional product.

(C) $13 for each additional lot of any of the same product.

(2) For quality and condition inspection and/or condition only inspection of products in quantities of 50 or less packages unloaded from the same conveyance:

(i) $39 for each individual product.

(ii) $13 for each additional lot of any of the same product.

(b) When performing inspections of palletized products unloaded directly from sea transportation or when palletized product is first offered for inspection before being transported from the dock-side facility, charges shall be determined on the following basis:

(1) For each package inspected according to the following rates:

(i) 1 cent per package weighing less than 15 pounds;

(ii) 2 cents per package weighing 15 to 29 pounds; and

(iii) 3 cents per package weighing 30 or more pounds.

(2) $13 for each additional lot of any of the same product.

(3) A minimum charge of $78 for each product inspected.

(c) When performing inspections of products from sea containers unloaded directly from sea transportation or when palletized products unloaded directly from sea transportation are not offered for inspection at dockside, the car-lot fees in § 51.38(a) shall apply.

(d) When performing inspections for Government agencies, or for purposes other than those prescribed in the preceding paragraphs, including weight-only and freezing-only inspections, fees for inspection shall be based on the time consumed by the grader in connection with such inspections, computed at a rate of $39 an hour: Provided, That:

(1) Charges for time shall be rounded to the nearest half hour;

(2) The minimum fee shall be two hours for weight-only inspections, and one- half hour for other inspections;

(3) When weight certification is provided in addition to quality and/or condition inspection, a one-hour charge shall be added to the carlot fee.

(4) When inspections are performed to certify product compliance for Defense Personnel Support Centers, the daily or weekly charge shall be determined by multiplying the total hours consumed to conduct inspections by the hourly rate. The daily or weekly charge shall be prorated among applicants by multiplying the daily or weekly charge by the percentage of product passed and/or failed for each applicant during that day or week. Waiting time and overtime charges shall be charged directly to the applicant responsible for their incurrence.

(e) When performing inspections at the request of the applicant during periods which are outside the grader—s regularly scheduled work week, a charge for overtime or holiday work shall be made at the rate of $19.50 per hour or portion thereof in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Overtime or holiday charges for time shall be rounded to the nearest half hour.

(f) When an inspection is delayed because product is not available or readily accessible, a charge for waiting time shall be made at the prevailing hourly rate in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Waiting time shall be rounded to the nearest half hour.

Dated: May 8, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–12057 Filed 5–13–96; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[Docket No. PRM–72–3]

Fawn Shillinglaw; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by Fawn Shillinglaw. The petition has been docketed by the Commission and has been assigned Docket No. PRM–72–3. The petitioner requests that the NRC amend its regulations which govern independent storage of spent nuclear fuel in dry storage casks to require that the safety analysis report for a cask design fully conforms with the associated NRC safety evaluation report and certificate of compliance before NRC certification of the cask design. The petitioner also requests that the revision date and number of a safety analysis report be specified whenever that report is referenced in documents. The petitioner believes that her proposal would eliminate confusion among licensees, vendors, fabricators, and others who often refer to only the safety analysis report as the relevant document when there may be revisions that must be included to ensure compliance with the NRC safety evaluation report and certificate of compliance. The petitioner also believes that the NRC must clarify the process for modification of a safety analysis report after a cask has been certified.

DATES: Submit comments by July 29, 1996. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S, Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

For a copy of the petition, write: Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For information regarding electronic submission of comments, see the language in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–415–7163 or Toll Free: 800–368–5642.

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission received a petition for rulemaking submitted by Fawn Shillinglaw in the form of two letters addressed to Chairman Jackson dated December 9 and December 29, 1995. A determination by the Office of the General Counsel on March 5, 1996, specified that the issues presented would be treated as a petition for rulemaking. The petition was docketed as PRM–72–3 on March 14, 1996. The petitioner requests that the NRC amend its regulations in 10 CFR Part 72 entitled, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste."

Specifically, the petitioner requests that 10 CFR Part 72 be amended to require that the safety analysis report (SAR) for a spent fuel dry storage cask design fully conforms with the associated NRC safety evaluation report (SER) and certificate of compliance (COC) before NRC certification of the cask design. The petitioner also requests that 10 CFR Part 72 be amended to require that the revision date and number of an SAR be specified whenever that report is referenced in documents. The petitioner believes there is confusion among licensees, vendors, fabricators, and others who often refer to only the safety analysis report as if it is the only relevant document when there may be revisions that must be included to prevent discrepancies between versions of the SAR and the NRC SER and COC for a specific cask design.

The petitioner cites the VSC–24 cask, designed by Sierra Nuclear Corporation, as an example where revisions to the SAR occurred after the NRC SER and COC were issued. The petitioner believes that no procedures are currently in place to permit a cask vendor to make changes to its SAR after issuance of the NRC SER and COC. The petitioner also believes that this situation creates confusion and the possibility that an SAR version is being used that directly contradicts SER and COC requirements. The petitioner asks for an explanation of the process that the NRC used for allowing changes to be made by the vendor to the VSC–24 cask after NRC certification, what were those changes, and how this was accomplished without rulemaking. The petitioner also recommends that the NRC make cask unloading procedures publicly available.

The NRC is soliciting public comment on the petition for rulemaking submitted by Fawn Shillinglaw that requests the changes to the regulations in 10 CFR Part 72 as discussed below.

Discussion of the Petition

The petitioner notes that the regulations in 10 CFR Part 72 establish requirements and criteria for the certification of spent fuel dry storage cask designs by the NRC. The petitioner is concerned that no process exists in the regulations for a cask vendor to make changes to a generically approved and certified dry storage cask design. The petitioner cites the VSC–24 cask as an example where NRC certification was issued for a design that was modified after the actual certification took place. The petitioner notes that NRC certified the design for the VSC–24 cask on May 7, 1993. The vendor of the VSC–24 cask, Sierra Nuclear Corporation (Sierra), agreed to submit a revision to its SAR (Rev. OA) for this cask in July 1993, about 3 months after NRC certification, because changes were necessary to meet requirements contained in the NRC SER and COC.

The petitioner states that this revision was never completed and cites an NRC letter to Sierra dated November 28, 1994, which indicated that the SAR still needed modification to eliminate contradictions and differences between the VSC–24 cask SAR and the NRC SER and COC. The petitioner cites a Sierra submittal dated June 5, 1995, as the first instance where a revision (Rev. 0AA) appears with the necessary changes. The petitioner also cites a letter from NRC to Sierra which states that Revs. O and OA insert material into the SAR that NRC asked Sierra to perform. However, the petitioner believes that the material appears in the licensing record but not in the SAR. The petitioner indicates that constant references to the SAR exist in various documents but is concerned that the references do not specify the revision number. The petitioner believes this creates confusion and the possibility that an SAR version is being

used that may even contradict or differ from SER and COC requirements.

The petitioner has concluded that a final SAR for a spent fuel dry storage cask design should be accepted which completely fulfills all NRC SER and COC requirements before the cask is certified. The petitioner also believes that the NRC must address how the final vendor SAR can be modified as needed after a cask design is certified. Currently, the only way an SAR can be amended is through rulemaking. The petitioner has also concluded that the SAR revision number and date should be required whenever that document is referenced to eliminate confusion and prevent a situation where an SAR does not meet NRC SER and COC requirements. Lastly, the petitioner is concerned that the NRC is withholding cask unloading procedures from the public and recommends that the NRC make these procedures publicly available. The petitioner cites an example of a faulty dry cask at the Palisades facility where the licensee has been waiting to have a final unloading procedure approved by the NRC. The petitioner has concluded that dry cask storage issues should be addressed and resolved by the NRC to set the proper precedent for the national nuclear waste disposal program.

Electronic Submission of Comments

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board (BBS) on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet. Background documents on this rulemaking are also available for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC rulemaking subsystem on FedWorld can be accessed directly by dialing the toll free number (800) 303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC rulemaking subsystem can then be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." Users will find the "FedWorld Online User's Guides" particularly helpful. Many NRC subsystems and data bases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, (703) 321–3339, or by using Telnet via Internet: fedworld.gov. If using (703) 321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the "Regulatory, Government Administration and State Systems," then selecting "Regulatory Information Mall." At that point, a menu will be displayed that has an option "U.S. Nuclear Regulatory Commission" that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing "/go nrc" at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the "Return to FedWorld" option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems, but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules Menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.

Although FedWorld also can be accessed through the World Wide Web, like FTP, that mode only provides access for downloading files and does not display the NRC Rules Menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, NRC, Washington, DC 20555, telephone (301) 415–5780; e-mail AXD3@nrc.gov.

Dated at Rockville, Maryland, this 8th day of May, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–12027 Filed 5–13–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–25–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, that currently requires inspections to detect cracking and corrosion of the aft trunnion of the outer cylinder of the main landing gear (MLG) and various follow-on actions. That action also provides for the optional termination of the inspections by repairing the outer cylinder and installing new aft trunnion bushings. That AD was prompted by reports of failure of several MLG due to fractures of the aft trunnion outer cylinders. The actions specified by that AD are intended to prevent the collapse of the MLG due to stress corrosion cracking of the aft trunnion of the outer cylinder. This proposed action would require operators to implement the previously optional terminating action.

DATES: Comments must be received by June 24, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–25–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: James G. Rehrl, Aerospace Engineer, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2783; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96–NM–25–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–25–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On February 22, 1996, the FAA issued AD 96–03–02 R1, amendment 39–9526 (61 FR 7694, February 29, 1996). [AD 96–03–02 R1 was issued as a correction to AD 96–03–02, amendment 39–9497 (61 FR 3652, February 1, 1996)]. That AD is applicable to certain Boeing Model 767 series airplanes, which requires various inspections to detect cracking and corrosion of the aft trunnion and various follow-on actions. That action was prompted by reports of failure of several main landing gears (MLG) due to fracture of the aft trunnion outer cylinder. The requirements of that AD are intended to prevent the collapse of the MLG due to stress corrosion cracking of the aft trunnion of the outer cylinder.

That AD also provided for an optional action which, if accomplished, would constitute terminating action for the required inspections. In the preamble of that AD, the FAA indicated that this optional action, consisting of repair of the outer cylinder and replacement of the existing bushings with new bushings, was considered "interim action" and that further rulemaking action to mandate the repair and replacement was being considered. The FAA also indicated that the proposed compliance time for the replacement was sufficiently long so that notice and public comment were practicable. As a follow-on action from that determination, the FAA is now proposing to mandate the previously optional repair and replacement.

Explanation of Relevant Service Information

The FAA has previously reviewed and approved Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, which describes procedures for repair of the outer cylinder and replacement of the existing bushings of the aft trunnion and crossbolt of the MLG with new bushings. Accomplishment of this repair and replacement eliminates the need for certain follow-on actions that are described in Boeing Service Bulletin 767–32A0151, dated November 30, 1995, which was referenced in AD 96–03–02 R1 as the appropriate source of service information.

FAA's Conclusions

The FAA has determined that accomplishment of the repair and replacement specified in Boeing Alert Service Bulletin 767–32A0148 will positively address the unsafe condition identified as the failure of the MLG due to stress corrosion cracking of the aft trunnion of the outer cylinder.

Explanation of the Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 96–03–02 R1. It would continue to require various inspections to detect cracking and corrosion of the aft trunnion of the outer cylinder of the MLG, and require various follow-on actions. The proposed AD also would require repair of the outer cylinder and replacement of the bushings in the aft trunnion and crossbolt of the MLG with new bushings. Accomplishment of the repair and replacement would constitute terminating action for the requirements of the AD.

Accomplishment of the repair and replacement also would terminate the requirements of the following AD's:

- AD 95–19–10, amendment 39–9372 (60 FR 47689, September 14, 1995), and
- AD 95–20–51, amendment 39–9398 (60 FR 53109, October 12, 1995). [The comment period for AD 95–20–51 was extended by an AD action that was issued on November 28, 1995 (60 FR 62321, December 6, 1995.)]

Differences Between the Proposed AD and Relevant Service Information

Operators should note that Boeing Alert Service Bulletin 767–32A0148 refers to Component Maintenance Manual (CMM) 32–11–40, which, in turn, provides instructions for plugging the aft trunnion lubrication fitting with a rivet. This proposed AD, however, does not require plugging that fitting to terminate the requirements of this proposed AD, AD 95–19–10, or AD 95–20–51.

Cost Impact

There are approximately 609 Boeing Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 204 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 96–03–02 R1, and retained in this AD, take approximately 34 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the actions currently required is estimated to be $416,160, or $2,040 per airplane.

The new actions that are proposed in this AD action would take approximately 218 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $9,510 per airplane. Based on these figures, the cost impact on U.S. operators of the proposed requirements of this AD is estimated to be $4,608,360 or $22,590 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this

proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9526 (61 FR 7694, February 29, 1996), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 96–NM–25–AD. Supersedes AD 96–03–02 R1, Amendment 39–9526.

Applicability: Model 767 series airplanes having line numbers 001 through 609, on which the terminating action described in paragraph (e) of this AD has not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the collapse of the main landing gear (MLG) due to stress corrosion cracking of the aft trunnion of the outer cylinder, accomplish the following:

(a) Perform the inspections described in paragraph III, Accomplishment Instructions, of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995, to detect cracking and corrosion of the aft trunnion of the outer cylinder of the MLG at the time specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable. These inspections are to be accomplished in accordance with Figure 1 of that alert service bulletin. Repeat these inspections thereafter at the intervals specified in that alert service bulletin. To determine the category in which an airplane falls, the age of the outer cylinder of the MLG is to be calculated as of February 16, 1996, (the effective date of AD 96–03–02 R1, amendment 39–9526). For airplanes on which the age of the right MLG differs from the age of the left MLG, an operator may place the airplane into a category that is the higher (numerically) of the two categories to ease its administrative burden, and to simplify the recordkeeping requirements imposed by this AD. Once the category into which an airplane falls is determined, operators must obtain approval from the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, to move that airplane into another category.

Note 2: The broken (dash) lines used in Figure 1 of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995, denote "go to" actions for findings of discrepancies detected during any of the inspections required by this AD.

Note 3: Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995, refers to Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, for procedures to repair the outer cylinder and replace the bushings in the outer cylinder of the MLG with new bushings.

(1) For airplanes identified as Category 3 in paragraph I.C. of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995: Perform the initial inspections within 30 days after February 16, 1996 (the effective date of AD 96–03–02 R1, amendment 39–9526).

(2) For airplanes identified as Category 2 in paragraph I.C. of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995: Perform the initial inspections within 90 days after February 16, 1996, (the effective date of AD 96–03–02 R1, amendment 39–9526).

(3) For airplanes identified as Category 1 in paragraph I.C. of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995: Perform the initial inspections prior to the accumulation of 2½ years since the MLG outer cylinder was new or last overhauled, or within 150 days after February 16, 1996, (the effective date of AD 96–03–02 R1, amendment 39–9526), whichever occurs later.

(b) If no cracking or corrosion is detected, accomplish the follow-on actions described in the Boeing Alert Service Bulletin 767–32A0151, November 30, 1995, at the time specified in the alert service bulletin. These follow-on actions are to be accomplished in accordance with that alert service bulletin.

(c) If any cracking is detected, prior to further flight, replace the outer cylinder with a new or serviceable outer cylinder in accordance with Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995.

(d) If any corrosion is detected, accomplish the follow-on actions at the time specified in the "Corrosion Flowchart," in Figure 1 of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995. The follow-on actions are to be accomplished in accordance with that alert service bulletin.

(e) Repair the outer cylinder and replace the bushings in the aft trunnion and crossbolt of the MLG with new bushings, in accordance with Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, at the time specified in either paragraph (e)(1) or (e)(2), as applicable. Accomplishment of this repair and replacement constitutes terminating action for this AD, and for the requirements of AD 95–19–10, amendment 39–9372; and AD 95–20–51, amendment 39–9398.

Note 4: Boeing Alert Service Bulletin 767–32A0148 refers to Component Maintenance Manual (CMM) 32–11–40 for certain procedures. Operators should note that, although the CMM specifies plugging the aft trunnion lubrication fitting with a rivet, this AD does not require this action to be accomplished in order to terminate the requirements of this AD, AD 95–19–10, or AD 95–20–51. Plugging the aft trunnion lubrication fitting with a rivet is the operator's prerogative.

(1) For airplanes identified as Category 3 in paragraph I.C. of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995: Accomplish the repair and replacement prior to the accumulation of 5 and years since the MLG outer cylinders were new or last overhauled, or within 18 months after the effective date of this AD, whichever occurs later.

(2) For airplanes identified as either Category 1 or Category 2 in paragraph I.C. of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995, accomplish the repair and replacement at the time specified in either paragraph (e)(2)(i) or (e)(2)(ii) of this AD:

(i) Prior to the accumulation of 5 and 1/2 years since the MLG outer cylinders were new or last overhauled, or within 18 months after the effective date of this AD, whichever occurs later. Or,

(ii) Prior to the accumulation of 7 years since the MLG outer cylinders were new or last overhauled, provided that accomplishment of visual and non-destructive testing (NDT) inspections at the times specified in Figure 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995, are repeated until the repair and replacement are accomplished.

(g) Accomplishment of the inspection requirements of this AD [in accordance with Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995] is considered acceptable for compliance with AD 95–19–10, amendment 39–9372; and AD 95–20–51, amendment 39–9398.

(h)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(2) Alternative methods of compliance, approved in accordance with AD 96–03–02, amendment 39–9497; or AD 93–03–02 R1, amendment 39–9526; are approved as alternative methods of compliance with this AD.

(i) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on May 8, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–12021 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 589

[Docket No. 96N–0135]

RIN 0910–AA91

Substances Prohibited From Use in Animal Food or Feed; Protein Derived From Ruminants Prohibited in Ruminant Feed

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is soliciting comments on the issue of using protein derived from ruminants (e.g., cattle, sheep, goats, mule deer, and elk) in ruminant feed. Animal feed containing protein derived from ruminants may contain the disease agent that causes transmissible spongiform encephalopathy (TSE) in animals. Epidemiological evidence gathered in the United Kingdom (U.K.) suggests a link between an outbreak of ruminant TSE, specifically bovine spongiform encephalopathy (BSE) and feeding animals protein derived from ruminants. In addition information from the U.K. also suggests that exposure to BSE may explain some of the recent cases of variant Creutzfeldt-Jakob disease (v-CJD) in the U.K. This action is being taken to protect the health of animals and to reduce any risk which might be faced by humans. FDA is requesting scientific and economic information and other comments relating to the prohibition of ruminant protein in ruminant feed.

DATES: Written comments by June 13, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: George Graber, Center For Veterinary Medicine (HFV–220), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1724.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 29, 1994 (59 FR 44584) FDA issued a proposed rule declaring that specified offal from adult (more than 12 months of age) sheep and goats is not generally recognized as safe for use in ruminant feed and is an unapproved food additive when added to ruminant feed. The proposed rule defined "specified offal" as any tissue from the brain, spinal cord, spleen, thymus, tonsil, lymph nodes, or intestines of sheep or goats, or any processed product that is reasonably expected to contain specified offal. Processed products that may contain specified offal include, but are not limited to, meat meal, meat and bone meal, animal byproduct meal, meat byproducts, glandular meal, and cooked bone meal. Accordingly, in the absence of an approved food additive regulation or investigational exemption, the use in ruminant feed of ingredients containing specified offal from adult sheep or goats would cause the feeds to be considered adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act (the act). FDA proposed the action because the specified offal may contain the agent that causes scrapie, a TSE of sheep and goats. Since the proposal was issued, the agency has been evaluating the comments submitted on the proposal, monitoring the scientific advances made in understanding the interrelationships among the animal TSE's, and participating in a number of national and international task force/symposia to better understand the BSE epidemic. The actions that would have been prohibited in the proposed rule are considered in this advance notice of proposed rulemaking. If it is determined that some action is necessary, the agency believes issuing an advance notice of proposed rulemaking (ANPRM) will hasten that process.

In the U. K., scrapie has been epidemiologically associated with the occurrence of BSE, another form of TSE. The initial cases of BSE may have been the result of feeding supplements to cattle that were contaminated with prions from scrapie-infected sheep offal. Prions are highly resistant to procedures that modify or destroy nucleic acids. (Refs. 1 and 2). Prions are believed by many scientists to be the agents responsible for TSE's, and they appear to be modified forms of normal proteins.

BSE has been diagnosed in over 155,600 head of cattle from almost 33,000 herds in the U.K. No cases of BSE have been diagnosed in the United States. BSE is postulated to have been spread in the U.K. among cattle by the feeding of processed ruminant protein to cattle. A July 1988 U.K. ban on this feeding practice has resulted in a steady reduction in the number of cases of BSE detected in cattle, with the new cases occurring mainly in animals born before the ban was fully implemented.

Ten cases of CJD have been identified in the U.K. in recent months with a new neuropathological profile. Other consistent features that are unusual include the young age of the cases (16 to 39 years old at onset of clinical signs), clinical findings, and the absence of the electroencephalogram features typical for CJD. Similar cases have not been identified in other countries in the European surveillance system. These 10 cases appear to represent a new variant of CJD (v-CJD), which may be unique to the U.K. The appearance of these 10 cases of v-CJD raises the possibility that they are causally linked to BSE. Although this may be the most plausible explanation for these cases, a link with BSE cannot be confirmed on the basis of this evidence alone. (Ref. 3). Sporadic occurrences of spongiform encephalopathy in humans are known to occur at a rate of 1 to 2 per million population worldwide. A group of international experts convened in April 1996 by the World Health Organization concluded that there is no definite link between BSE and v-CJD, but that circumstantial evidence suggests exposure to BSE may be the most likely explanation. Among other recommendations, the group recommended that all countries should

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ban the use of ruminant tissues in ruminant feed (Ref. 4).

II. Issues for Comment

No cases of BSE have been diagnosed in the United States. Despite the fact that there is no problem with BSE in the United States, the agency believes it would be prudent to solicit information and receive comments on this issue. Therefore, the agency is assessing whether to provide that protein derived from ruminants is not generally recognized as safe for use as a ruminant feed or prior sanctioned for such and is a food additive subject to section 409 of the act (21 U.S.C. 348). Absent a determination that it is safe for use as a food additive under section 409 of the act, the use in ruminant feed of ingredients containing protein derived from ruminants would cause the feed to be adulterated. Ruminant-derived protein could be defined as any feed ingredient that is reasonably expected to contain proteinaceous material that derives from ruminant species. Processed feed ingredients that may contain ruminant-derived protein include, but are not limited to, products meeting the following animal feed definitions: animal byproduct meal, blood meal, cooked bone meal, glandular meal, meat and bone meal, meat byproducts, and meat meal. The agency is prepared to consider the exclusion of specific ruminant products from the prohibition, such as milk products, blood products, fetal bovine serum, and gelatin based on appropriate and adequate scientific information which demonstrates no infectivity.

In addition, the agency is considering labeling requirements for ruminant-derived proteins for enforcement purposes.

III. Agency Request for Information

FDA is soliciting comments on all aspects of this ANPRM, and specifically requests comments on the following issues:

1. The occurrence in the United States of TSE's in animals.

2. Scientific information on how TSE's occur and are spread among animals and among humans and what vectors might be involved.

3. Scientific information on the ecology of TSE agents, and the epidemiology, etiology, and pathogenesis of TSE diseases.

4. Scientific information supporting the exclusion of any ruminant-derived proteins from the proposed prohibition.

5. Establishment of Hazard Analysis and Critical Control Points (HACCP) for the rearing of ruminants, and rendering or other processing of ruminant derived feed ingredients, that may reduce the need to prohibit the feeding of ruminant protein to ruminants.

6. Details of rendering or processing practices that may inactivate the TSE agents and information and evidence which shows that these practices are effective.

7. Data on the amount of material affected by this ruminant protein to ruminant feed prohibition, specifically: (a) The total volume of the processed feed ingredients that may contain ruminant-derived protein which were produced in the United States in recent years, (b) details of the total volume used for each of these ingredients in the rations of the various animals in the United States, (c) information on the percentage of the diet each ingredient

typically comprises for each species and what percentage of the total volume is fed to each species, and (d) other information.

8. Economic and environmental adverse consequences or benefits resulting from a ruminant protein to ruminant feed prohibition on: (a) The farmer/producer, (b) the slaughter operation, (c) the rendering industry, (d) the public, (e) the feed manufacturer, (f) other parties that may be affected.

9. Potential mitigating factors that would lessen the economic and environmental impact of the prohibition, specifically: (a) Identification of nonfeed uses of products containing ruminant-derived protein, (b) development of rendering or processing processes that would allow the safe feed use of a portion of the prohibited feed ingredient, (c) alternate disposal methods, and (d) other mitigating factors.

10. Descriptive and incremental cost data for incremental tasks required by the proposed change with respect to person-hours, type of labor (professional, technical, and clerical), type of equipment to be purchased, disposal costs, capital expenditures, loss of current markets, expansion of alternative markets, etc.

11. Estimates of the average total cost of compliance (including any expected reporting and recordkeeping costs) for both large and small businesses in each affected industry segment. Descriptions and numbers of small businesses affected in each sector.

12. Information which identifies and explains effective alternative policy actions which would minimize any negative economic effects on small businesses and the affected industry as a whole.

13. Estimates of the level of compliance with the voluntary ban on feeding ruminant protein to ruminants announced by the livestock industry on March 29, 1996.

14. Information on restrictions placed upon beef or sheep imports by foreign countries that would directly affect U.S. beef or sheep producers.

15. Identification of potential analytical methods that may be used in detecting ruminant proteins in feed.

16. Labeling requirements (i.e., declaring the source of the animal protein; a prohibition of use statement).

17. Development of antemortem tests to accurately determine if an animal has a TSE.

18. Alternate actions the agency could take to prevent the spread of TSE's among ruminants.

IV. Comments

Interested persons may, on or before June 13, 1996, submit to the Dockets Management Branch (address above), written comments regarding this ANPRM. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This ANPRM is issued under sections 201, 402, 409, and 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, and 371) and under the authority of the Commissioner of Food and Drugs.

VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Prusiner, S. B., "Novel Proteinaceous Infectious Particles Cause Scrapie," *Science*, 216:136–144, 1982.

2. Stahl, N. and S. B. Prusiner, "Prions and Prion Proteins," *FASEB Journal*, 5:2799–2807, 1991.

3. Will, R. G. et al., "A New Variant of Creutzfeldt-Jakob Disease in the UK," *Lancet*, 347, 921–925, 1996.

4. WHO press release, April 3, 1996, "International Experts Propose Measures to Limit Spread of BSE and Reduce Possible Human Risk from Disease."

Dated: May 8, 1996.

David A. Kessler,

Commissioner of Food and Drugs.

Donna E. Shalala,

Secretary of Health and Human Services.

[FR Doc. 96–12081 Filed 5–9–96; 2:16 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

Office of Justice Programs

28 CFR Part 90

[OJP No. 1019]

RIN 1121–AA35

Grants To Encourage Arrest Policies

AGENCY: U.S. Department of Justice, Office of Justice Programs.

ACTION: Proposed rule.

SUMMARY: This notice announces a proposed rule for the Grants to Encourage Arrest Policies authorized by the Violence Against Women Act, Title IV of the Violent Crime Control and Law Enforcement Act of 1994. For Fiscal Year 1996, Congress has appropriated $28 million to the United States Department of Justice, Office of Justice Programs, for Grants to Encourage Arrest Policies. This regulation is being published under the general statutory grant of authority to issue rules and regulations pursuant to the Omnibus Crime Control and Safe Streets Act of 1968. The purpose of this regulation is to provide a general outline of the program and its purposes as set forth in the statute.

DATES: All comments must be received by June 13, 1996. The length of the comment period has been limited to thirty days in order to provide States timely access to the available program funds. It would be contrary to the public interest to delay implementation of the program.

ADDRESSES: All comments should be addressed to Kathy Schwartz, Violence Against Women Grants Office, Office of Justice Programs, Room 446, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: The Department of Justice Response Center at 1–800–421–6770 or (202) 307–1480, or Catherine Pierce, Violence Against Women Grants Office, Office of Justice Programs at (202) 307–6026.

SUPPLEMENTARY INFORMATION:

Title IV Grants To Encourage Arrest Policies

For Fiscal Year (FY) 1996, Congress authorized a federal discretionary grant program under Title IV of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103–22, 108 Stat. 1796, 1902–55, codified as amended at 42 U.S.C. § 3796hh *et seq* (1994) [hereinafter the "Act"], for States, units of local government, and Indian tribal governments to encourage the treatment of domestic violence as a serious violation of criminal law. The Act gives the Attorney General and an authorized designee, in this case the Assistant Attorney General for the Office of Justice Programs, the authority to make grants to the above mentioned entities. Omnibus Crime Control and Safe Streets Act of 1968 § 805, codified as amended at 42 U.S.C. § 3768 (1994) [hereinafter the "Omnibus Act"]. Section 2104 of Title IV of the Act, codified as amended at 42 U.S.C. § 3796hh-3, requires that regulations be issued specifically to implement these policies and programs.

Statement of the Problem

In the past, police departments, and the criminal justice system as a whole, generally treated domestic violence as a private, family matter unlike any other violent crime. Many police departments maintained informal non-arrest policies for domestic violence, focusing instead on alternative responses such as family crisis intervention and counseling for domestic abusers.[1] In recent years, many departments have implemented new policies and practices that encourage or mandate arrest of a perpetrator of domestic violence for probable cause or for violating a protection order.[2] To ensure the effectiveness of these new policies, some departments have created special domestic violence units that train personnel; develop guidelines and protocols for enforcing laws related to domestic violence; create sophisticated tracking and communication systems; investigate both misdemeanor and felony domestic assaults; develop accountability measures which ensure enforcement of the law by all officers in the department; and coordinate with other criminal justice agencies and victim service providers. Despite these very significant accomplishments, many more police departments require the tools and resources necessary to implement similar innovations in their own communities.

For arrest to be an effective domestic violence intervention, it must be part of a coordinated and integrated response to the problem on the part of the entire criminal justice system.[3] That is, mandatory or proarrest policies will be effective only if police departments implement clear guidelines and protocols for the arrest of domestic violence perpetrators; if police and prosecutors alike conduct thorough and careful investigations of domestic violence cases; if judges impose appropriate sentences; if batterers remain in custody after they are arrested; if probation and parole departments devise ways to effectively supervise batterers; and if victims feel confident that all professionals in the system are committed to their safety and the safety of their children.

Policies that Mandate or Encourage Arrest

Laws and policies that encourage or mandate the arrest of a domestic violence perpetrator based on probable cause are not new. Currently, at least 27 States and the District of Columbia have adopted laws that mandate or encourage arrest of a person who assaults a family member, or of a person who violates a domestic violence protection order.[4] Federal law also requires all states honor certain protection orders issued by other jurisdictions. Act § 4022(a), 18

[1] Liebman, D.A., and Schwartz, J.A., Police Programs in Crisis Intervention: A Review, (J.R. Snibbe and H.M. Snibbe eds. 1973). See also Charles C. Thomas, The Urban Policeman in Transition: A Psychological and Sociological Review (1973).

[2] Garner, J., Fagan, J., and Maxwell, C., Published Findings from the Spouse Assault Replication Program: A Critical Review, Journal of Quantitative Criminology, 11[1], 3–28, 1995.

Fagan, J., The Criminalization of Domestic Violence: Promises and Limits, Presentation at the 1995 National Institute of Justice Conference on Criminal Justice Research and Evaluation, January, 1996, available through the National Criminal Justice Reference Service, 1–800–851–3420.

[3] Hart, B.J., Coordinated Community Approaches to Domestic Violence, presented at the Strategic Planning Workshop on Violence Against Women sponsored by the National Institute of Justice in Washington, D.C., March 31, 1995, available through the National Criminal Justice Reference Service, 1–800–851–3420.

[4] Layden, J., Domestic Violence, Headliners, 1994.

U.S.C. § 2265(a). Domestic violence incidents are among the most difficult and most sensitive calls requesting police assistance. For this reason, many police departments with mandatory or proarrest policies inform their officers that, when responding to a domestic violence call, they must anticipate the unexpected, be carefully impartial and be primarily concerned for the needs and safety of the victim or victims. Some mandatory or proarrest policies go a step further by directing responding officers to arrest the primary aggressor in a domestic violence incident. These policies warn that dual arrests may trivialize the seriousness of domestic violence and potentially increase danger to its victims. Most importantly, arrest of the batterer conveys a message to the victim, the family and the community that domestic violence is a serious crime that will not be tolerated. Mandatory or proarrest policies also offer the potential benefit of deterring future abuse if the offender is separated from the victim and held publicly accountable for his[5] actions. Arrest demonstrates to the offender that he has committed a serious crime and communicates to the victim that she does not have to endure the offender's abuse. Moreover, arrest of the offender sends a broader public message—that violent behavior, even between intimates, is criminal.

Orders of Protection

An order of protection is the legal instrument many victims of domestic violence initially seek to protect themselves from further abuse. For protection orders to be effective, the terms of the order must be strictly and consistently enforced, and abusers violating the terms of the order must be punished. To ensure a consistent response, departmental policies specifying the violations for which an abuser is subject to arrest must be communicated clearly to police officers who respond to domestic violence calls. Furthermore, there must be consistent enforcement between same-State jurisdictions (e.g., county to county or city to city) or between communities under the jurisdiction of the same tribal government. In addition to *intrastate* enforcement, States and tribal governments must also take steps to ensure the interstate (i.e., State to State) enforcement of protection orders as required by Section 40221(a) of the Act.

Prior to the enactment of the Violence Against Women Act, a woman who obtained a protection order in her home state often could not use that order as the basis for protection if she worked, traveled, or moved to most other states. Under the Violence Against Women Act, a victim does not have to wait for abuse to occur in the new state, nor does she have to meet the new jurisdictional requirements. A woman may now seek enforcement of the out-of-state order in the new state.

Although there is no universal approach to effective implementation of the full faith and credit provisions of the Act, State and tribal law enforcement agencies, courts, prosecutors, non-profit, non-governmental victim services agencies and private attorneys are encouraged to collaborate on efforts and strategies for bolstering and implementing enforcement of out-of-state protective orders. The state administrative office of the court and state law enforcement agencies, in consultation with victim advocates, should devise and publicize widely a state plan for according full faith and credit to protection orders.

Centralized Communication, Information and Tracking Systems

Regardless of whether there is a particular jurisdictional domestic violence arrest policy in place, police must have probable cause to make an arrest. Police often are dispatched, however, without any information regarding the domestic violence or criminal history of the people involved in an altercation. The officers frequently do not know if there is an outstanding order of protection against the offender, whether the offender has previously been arrested for assaulting the victim, or if charges are pending against the perpetrator for prior alleged domestic violence. Knowledge of this information clearly would help guide the discretion of an officer who is trying to determine whether to make an arrest, and help him or her ensure the safety of the victim and other family members.

Beyond providing information about the criminal history of the perpetrator, responding officers also would benefit greatly from communication and tracking systems that could inform them about the frequency of past calls to the same location, prior weapons use, the presence of children at the residence and past need for medical emergency services. These advanced information systems also could provide a description of the alleged perpetrator and places he historically has frequented if the offender is not found at the scene.

Just as police officers need more information to respond effectively, so do prosecutors, judges and other criminal justice professionals. Access to centralized information on prior incidents or convictions, prior issuance of protection orders, other matters involving the same family pending before the court, and the availability of community resources and services for the victim would be extremely beneficial to prosecutors seeking convictions, to judges who must impose a sentence and to probation and parole officials responsible for providing community supervision. Interstate and intrastate communication and tracking systems for use by police officers and criminal justice professionals throughout a state or region of the country also would contribute to enhancing the safety of victims.

The Role of Prosecutors, Judges, Victim Advocates and Other Criminal Justice Professionals

If arrest policies are to be effective, pre-trial service agents, prosecutors, judges, probation officers, and parole officers need to respond with effective supervision and prosecution strategies, safety plans for victims, and appropriate sentences for offenders. In addition, prosecutors, judges and other criminal justice professionals need tools and resources to respond to domestic violence as a serious crime. For example, in those jurisdictions where mandatory or proarrest policies have been instituted, individual prosecutors may be overwhelmed with domestic violence cases, resulting in a severe lack of resources and time needed to prosecute each case effectively. To help alleviate the backlog of domestic violence cases, many prosecutors have begun to work with victim advocates during both the pending prosecution and the sentencing phase of a case. In many jurisdictions, victim advocates are critical to domestic violence prosecution. In addition to being effective legal advocates, victim advocates assist in safety planning with the victim, providing the court with information needed to determine risk assessment and proposed conditions of probation or parole for the offender.

Prosecutors, judges, victim advocates and other criminal justice professionals need specialized education and training on the phenomenon of domestic

[5] Men can be the victims of abuse, and women can be perpetrators. However, the vast majority of victims of domestic violence are women. In addition, it is much less common for men to receive injuries as a result of their abuse and less likely for men to become entrapped in relationships where they cannot leave for fear of extreme bodily harm to themselves or their children. For these reasons, victims are referred to as women and perpetrators as men throughout these proposed regulations. See Stets, J.E. and Straus, M.A., Gender Differences in Reporting Marital Violence and its Medical and Psychological Consequences (Physical Violence in American Families: Risk Factors and Adaptations to Violence in 8,145 Families, Straus, M.A. and Gelles, R.J. eds. 1990).

violence and information on community resources available to assist the victim and respond appropriately to the batterer. Prosecutors need to understand the psychology of domestic violence victims (e.g., why they may be reluctant to prosecute and the risks to their safety if they decide to prosecute). Judges need to craft effective protection orders and they need the information and skills necessary to tailor the sentence to the individual perpetrator (e.g., ordering protective conditions for victim safety, incarceration, community service, restitution, intensive probation or parole, batterer intervention services, drug and alcohol treatment, or all of the above, as appropriate). Victim advocates and all criminal justice professionals need to work together to explore and develop coordinated approaches to reduce and prevent domestic violence.

Conclusion

While strong, clear arrest policies are needed to guide the actions of police officers, the rest of the criminal justice system also must be directed to respond similarly in ways that will break the cycle of violence. Without aggressive, system-wide coordination, arrest alone will not stop domestic violence. Most importantly, as a jurisdiction assesses its response to domestic violence, prioritizing victim safety within the policies and practices of the entire criminal justice system is essential. In conclusion:

- Police departments need to develop clear policies and procedures mandating or encouraging arrest for perpetrators of domestic violence and for the violation of protection orders.
- Police officers need specialized training on domestic violence, on implementing departmental arrest policies and related federal, state and local law.
- Police departments need resources to develop guidelines for arrest and investigation of domestic violence, specialized training programs, special investigation or detective units, and procedures to ensure coordination with other parts of the criminal justice system.
- Police departments need the resources to develop advanced communication, information and tracking systems to enable them to respond more effectively to domestic violence incidents and prevent future incidents that could result in aggravated assault and homicide.
- Jurisdictions need to develop methods and technologies that will promote improved communication and coordination between law enforcement, prosecution, the judiciary and other parts of the criminal justice and social service systems to improve the entire system's response to domestic violence. In addition, jurisdictions need to develop centralized, automated information systems that will track the domestic violence history of involved parties, including outstanding orders of protection, previous arrests and pending charges against perpetrators.
- Police and prosecutors need the tools and resources to investigate domestic violence cases aggressively and thoroughly.
- Specialized education and training programs for prosecutors, judges, victim advocates and other criminal justice professionals need to be developed or replicated and adapted from existing curricula.
- Procedures to expedite requests for protection orders need to be developed by police departments, prosecution units, and the courts.
- Judges need to convey clearly to batterers the gravity of their offenses by imposing appropriate sentences.
- Probation and parole departments need to establish protocols and procedures for the intensive supervision of batterers.
- Victims and their children need access to a full range of services including legal advocacy and assistance in planning for their long and short-term safety.
- Research needs to be conducted to assess the effectiveness of arrest and other legal sanctions for domestic violence in communities that have adopted a system-wide, coordinated response to domestic violence.

The Violence Against Women Act of 1994

The Violence Against Women Act reflects a firm commitment towards working to change the criminal justice system's response to violence that occurs when any woman is threatened or assaulted by someone with whom she has or has had an intimate relationship, with whom she was previously acquainted, or who is a stranger. By committing significant Federal resources and attention to restructuring and strengthening the criminal justice response to women who have been, or potentially could be, victimized by violence, the safety of all women can be more effectively ensured.

Fiscal Year 1996 Grants To Encourage Arrest Policies

For FY 1996, Congress has appropriated $28 million to the United States Department of Justice Office of Justice Programs for Grants to Encourage Arrest Policies. Additionally, Part U of the Violence Against Women Act of 1994 authorizes $33 million for FY 1997 and $59 million for FY 1998. States, Indian tribal governments, and units of local government are eligible to receive grants subject to the requirements of the statute and these regulations, as well as assurances and certifications specified in the final program guidelines and application materials that will be available in early FY 1996.

Section 2101 of the Violence Against Women Act, codified as amended at 42 U.S.C. § 3796hh (1994), enumerates the following six purposes for which Grants to Encourage Arrest Policies may be used:

(1) To implement mandatory arrest or proarrest programs and policies in police departments, including mandatory arrest programs and policies for protection order violations;

(2) To develop policies and training programs in police departments to improve tracking of cases involving domestic violence;

(3) To centralize and coordinate police enforcement, prosecution, or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, or judges;

(4) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts;

(5) To strengthen legal advocacy service programs for victims of domestic violence; and

(6) To educate judges in criminal and other courts about domestic violence and improve judicial handling of such cases.

A Coordinated and Integrated Approach to the Problem

By definition, a coordinated and integrated approach suggests a partnership among law enforcement, prosecution, the courts, victim advocates and service providers. The goal of this Program is to treat domestic violence as a serious violation of the criminal law. A consistent criminal justice system response to domestic violence requires that professionals in the various components of the system have a shared vision that prioritizes the safety and well-being of the victim. The creation and implementation of that vision necessitates collaboration among police, prosecutors, the courts, and victim service providers. Thus, the Program requires that jurisdictions incorporate the experience of nonprofit, nongovernmental domestic violence service providers into the project planning and implementation process as well as police, prosecutors, and the courts. Examples of innovative approaches include:

- Creating centralized units of police officers, prosecutors, judges and probation and parole officers to investigate and handle domestic violence cases.
- Implementing and testing the effectiveness of domestic violence arrest policies for violations of protection orders in the context of a coordinated criminal justice and community response to domestic violence that assigns priority to the safety of the victim and holds the offender accountable for his violent actions.
- Delivering comprehensive training programs for the police, prosecutors, probation and parole officers and the judiciary that address the technical issues associated with policies that encourage or mandate arrest for domestic violence; address the phenomenon of domestic violence; stress collaboration and shared responsibility for ensuring the safety of the victim; seek to change attitudes that have traditionally prevented professionals in the criminal justice system from responding to domestic violence as a serious violation of criminal law; and provide information on improved methods for tracking domestic violence cases.
- Developing information systems, automated registries, education and training programs and technical assistance efforts that facilitate enforcement of protection orders within a single jurisdiction; within a single State; and from State to State.
- Linking automated information and tracking systems to enhance communication among police, prosecutors, and criminal and family courts to ensure that all of the system components have access to consistent and complete information about an individual's domestic violence history.
- Establishing and expanding advocacy services for domestic violence victims from the time an abuse report is filed through the post-sentencing of the offender, including any time during which the offender is subject to probation or parole supervision.

Eligibility Requirements

To be eligible to receive grants under this Program, States, Indian tribal governments, and units of local government must certify that their laws or official policies (1) Encourage or mandate arrest of domestic violence offenders based on probable cause that an offense has been committed and (2) encourage or mandate arrest of domestic violence offenders who violate the terms of a valid outstanding protection order. Omnibus Act § 2101(c)(2), 42 U.S.C. § 3796hh(c)(2) (1994). Eligible applicants also must demonstrate that their laws, policies, or practices and their training programs discourage dual arrests of an offender and victim. Omnibus Act § 2101(c)(2), 42 U.S.C. § 3796hh(c)(2) (1994).

In addition, States, Indian tribal governments, and units of local governments seeking grant funds through this Program must certify that their laws, policies, or practices prohibit the issuance of mutual restraining orders of protection, except in cases in which both spouses file a claim and the court makes detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense. Omnibus Act § 2101(c)(3), 42 U.S.C. § 3796hh(c)(3) (1994).

Eligible applicants also must certify that their laws, policies, or practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the victim bear the costs associated with the filing of criminal charges or the service of such charges on an abuser, or costs associated with the issuance or service of a warrant, protection order, or witness subpoena. Omnibus Act § 2101(c)(4), 42 U.S.C. § 3796hh(c)(4) (1994).

If the laws, policies, or practices required by Section 2101(c) of the Violence Against Women Act are not currently in place, States, Indian tribal governments, and local units of government must provide assurances that they will be in compliance with these requirements by the date on which the next session of the State or Indian Tribal legislature ends, or September 13, 1996, whichever is later. Omnibus Act § 2102(a)(1) (A)–(B), 42 U.S.C. § 3796hh–1(a)(1) (A)–(B) (1994).

For the purposes of this Program, a jurisdiction need not have pre-existing policies encouraging or mandating arrest to meet the eligibility requirements listed above. However, a State, Indian tribal government, or unit of local government must specify the policy that it intends to enact by the statutory deadline in its application for funding through this Program.

Award Priority

The Office of Justice Programs is required by the Violence Against Women Act to give priority to applicants that (1) Do not currently provide for centralized handling of cases involving domestic violence by police, prosecutors, and courts; and (2) demonstrate a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence. Omnibus Act § 2102(b) (1)–(2), 42 U.S.C. § 3796hh–1(b) (1)–(2) (1994). Commitment may be demonstrated in a number of ways including: clear communication from top departmental management that domestic violence prevention is a priority; strict enforcement of arrest policies; innovative approaches to officer supervision in domestic violence matters; acknowledgment of officers who consistently enforce domestic violence arrest policies and sanctions for those who do not; education and training for all officers and supervisors on enforcement of domestic violence arrest policies and the phenomenon of domestic violence; and creation of special units to investigate and monitor spousal and partner abuse cases.

Technical Assistance and Training/ Evaluation

The Office of Justice Programs intends to assist States, Indian tribal governments, and units of local government in meeting the Program goal of treating domestic violence as a serious violation of criminal law. The Office of Justice Programs therefore hopes to set aside a small portion of the funds provided through this Program to provide specialized training and technical assistance to help grant recipients develop and implement effective arrest policies in the context of an integrated and coordinated criminal justice and community response to domestic violence.

In addition, the National Institute of Justice will conduct evaluations and studies of projects funded through this Program. Past research on the effectiveness of arrest policies for domestic violence has focused primarily on the police response and has not measured the response of victim service agencies and other parts of the criminal justice system, including pretrial services agencies, prosecution units, the courts, probation and parole. Additional research is needed to assess the effectiveness of arrest and other legal sanctions for domestic violence in communities that have adopted a system-wide, coordinated response to domestic violence. The Office of Justice Programs hopes to set aside a small portion of the overall funds authorized for the Program for this purpose. Recipients of funds for this Program must agree to cooperate with such federally-sponsored research and evaluation studies of their projects. In addition, grant recipients are required to report to the Attorney General on the effectiveness of their project(s). Omnibus Act § 2103, 42 U.S.C.

§ 3796hh–2 (1994). Recipients therefore are strongly encouraged to develop a local evaluation strategy to assess the impact and effectiveness of their programs. Applicants should consider entering into partnerships with research organizations that are submitting simultaneous grant applications to the National Institute of Justice for this purpose.

Request for Comments

The Office of Justice Programs seeks to fulfill Congressional intent by soliciting, encouraging and incorporating comments on all aspects of this program while ensuring that the statutory limitations are applied appropriately to all recipients. Comments are welcome on a broad range of issues, including but not limited to:

(1) Other priority areas that should be considered for funding in addition to the statutory award priorities identified in Section 90.66 of Subpart D;

(2) The special needs of Indian tribal governments, underserved populations and rural communities in implementing this Program;

(3) Effective strategies to ensure that local jurisdictions, States and tribal governments will accord full faith and credit to all valid protection orders pursuant to 18 U.S.C. § 2265; and

(4) Methods and approaches for conducting research on the effectiveness of arrest and other legal sanctions for domestic violence in communities that have adopted a system-wide coordinated response to the problem.

Administrative Requirements

This regulation has been drafted and reviewed in accordance with Executive Order 12866, § 1(b), Principles of Regulation. This rule is not a "significant regulatory action" under Executive Order 12866, § 3(f), Regulatory Planning and Review, and, accordingly, this rule has not been reviewed by the Office of Management and Budget.

The Assistant Attorney General for the Office of Justice Programs, in accordance with the Regulatory Flexibility Act, codified at 5 U.S.C. § 605(b), has reviewed this regulation and, by approving it, certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 90

Grant Programs, Judicial Administration.

For the reasons set out in the preamble, Title 28, Chapter 1, Part 90 of the Code of Federal Regulations is proposed to be amended as follows:

PART 90—VIOLENCE AGAINST WOMEN

1. The authority citation for part 90 continues to read as follows:

Authority: 42 U.S.C. § 3711 et seq (1994).

2. A new Subpart D, consisting of §§ 90.60–90.67 is proposed to be added to read as follows:

Subpart D—Arrest Policies in Domestic Violence Cases

Sec.

90.60 Scope
90.61 Definitions
90.62 Purposes
90.63 Eligibility
90.64 Application Content
90.65 Evaluation
90.66 Review of Applications
90.67 Grantee Reporting

§ 90.60 Scope.

This subpart sets forth the statutory framework of the Violence Against Women Act's sections seeking to encourage States, Indian tribal governments, and units of local government to treat domestic violence as a serious violation of criminal law.

§ 90.61 Definitions.

For purposes of this subpart, the following definitions apply.

(a) *Domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the eligible State, Indian tribal government, or unit of local government that receives a grant under this subchapter.

(b) *Protection order* includes any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

§ 90.62 Purposes.

The purposes of this program are:

(a) To implement mandatory arrest or proarrest programs and policies in police departments, including mandatory arrest programs and policies for protection order violations;

(b) To develop policies and training programs in police departments to improve tracking of cases involving domestic violence;

(c) To centralize and coordinate police enforcement, prosecution, or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, or judges;

(d) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts;

(e) To strengthen legal advocacy service programs for victims of domestic violence; and

(f) To educate judges in criminal and other courts about domestic violence and improve judicial handling of such cases.

§ 90.63 Eligibility.

(a) Eligible grantees are States, Indian tribal governments, or units of local government that:

(1) Certify that their laws or official policies—

(i) Encourage or mandate the arrest of domestic violence offenders based on probable cause that an offense has been committed; and

(ii) Encourage or mandate the arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;

(2) Demonstrate that their laws, policies, or practices and their training programs discourage dual arrests of offender and victim;

(3) Certify that their laws, policies, or practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense; and

(4) Certify that their laws, policies, or practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with filing criminal charges or the service of such charges on an abuser, or that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena.

(b) If these laws, policies, or practices are not currently in place, States, Indian tribal governments, and local units of government must provide assurances that they will be in compliance with these requirements by the date on which the next session of the State or Indian Tribal legislature ends, or September 13, 1996, whichever is later. Omnibus Act § 2102(a)(1), 42 U.S.C. 3796hh—1(a)(1).

(c) For the purposes of this Program, a jurisdiction need not have pre-existing policies encouraging or mandating arrest to meet the eligibility requirements listed in this section. However, a State, Indian tribal government, or unit of local government must specify the policy that it intends to enact by the statutory deadline in its application for funding through this Program.

§ 90.64 Application content.

(a) Format. Applications from States, Indian tribal governments and units of local government must be submitted on Standard Form 424, Application for Federal Assistance, at a time designated by the Office of Justice Programs. The Violence Against Women Grants Office of the Office of Justice Programs will develop and disseminate to States, Indian tribal governments, local governments and other interested parties a complete Application Kit which will include a Standard Form 424, a list of assurances to which applicants must agree, and additional guidance on how to prepare and submit an application for grants under this Subpart. To receive a complete Application Kit, please contact: The Violence Against Women Grants Office, Office of Justice Programs, Room 444, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Telephone: (202) 307–6026.

(b) Programs. Applications must set forth programs and projects that meet the purposes and criteria of the Grants to Encourage Arrest program set out in § § 90.62 and 90.63 of this part.

(c) Requirements. Applicants in their applications shall, at a minimum:

(1) Describe plans to further the purposes stated in § 90.62 of this part;

(2) Identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

(3) Include documentation from nonprofit, private sexual assault and domestic violence programs demonstrating their participation in developing the application, and explain how these groups will be involved in the development and implementation of the project.

(d) Certifications. (1) As required by Section 2101(c) of the Omnibus Act, codified as amended at 42 U.S.C. 3796hh–1(a), each State, Indian tribal government or unit of local government must certify in its application that it has met the eligibility requirements set out in § 90.63 of this subpart.

(2) Each State, Indian tribal government or unit of local government must certify that all the information contained in the application is correct. All submissions will be treated as a material representation of fact upon which reliance will be placed, and any false or incomplete representation may result in suspension or termination of funding, recovery of funds provided, and civil and/or criminal sanctions.

§ 90.65 Evaluation.

The National Institute of Justice will conduct evaluations and studies of programs funded through this Program. The Office of Justice Programs hopes to set aside a small portion of the overall funds authorized for the Program for this purpose. Recipients of funds must agree to cooperate with such federally-sponsored research and evaluation studies of their projects. In addition, grant recipients are required to report to the Attorney General on the effectiveness of their project(s). Omnibus Act § 2103, 42 U.S.C. 3796hh–2. Recipients of program funds are strongly encouraged to develop a local evaluation strategy to assess the impact and effectiveness of their programs. Applicants should consider entering into partnerships with research organizations that are submitting simultaneous grant applications to the National Institute of Justice for this purpose.

§ 90.66 Review of Applications.

(a) Review criteria. (1) The provisions of Part U of the Omnibus Act and of the regulations in this subpart provide the basis for review and approval or disapproval of applications and amendments in whole or in part. Priority will be given to applicants that

(i) Do not currently provide for centralized handling of cases involving domestic violence by police, prosecutors, and courts; and

(ii) Demonstrate a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence. Omnibus Act § 2102(b)(1)–(2), 42 U.S.C. 3796hh–1(b)(1)–(2) (1994).

(2) Commitment may be demonstrated in a number of ways including: clear communication from top departmental management that domestic violence prevention is a priority; strict enforcement of arrest policies; innovative approaches to officer supervision in domestic violence matters; acknowledgment of officers who consistently enforce domestic violence arrest policies and sanctions for those who do not; education and training for all officers and supervisors on enforcement of domestic violence arrest policies and the phenomenon of domestic violence; and creation of special units to investigate and monitor spousal and partner abuse cases.

(b) Intergovernmental review. This program is covered by Executive Order 12372 (Intergovernmental Review of Federal Programs) and implementing regulations at 28 CFR part 30. A copy of the application submitted to the Office of Justice Programs should also be submitted at the same time to the State's Single Point of Contact, if there is a Single Point of Contact.

§ 90.67 Grantee reporting.

Each grantee receiving funds under this subpart shall submit a report to the Attorney General evaluating the effectiveness of projects developed with funds provided under this subpart and containing such additional material as the Assistant Attorney General of the Office of Justice Programs may prescribe.

Laurie Robinson,

Assistant Attorney General, Office of Justice Programs.

[FR Doc. 96–11852 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–18–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5504–7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Extension of Public Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent for partial deletion of the RSR Corporation Superfund Site from the National Priorities List; notice of extension of the public comment period.

SUMMARY: As requested by some members of the public, the United States Environmental Protection Agency (EPA) Region 6 is extending the public comment period on the intent to delete the residential portions of the RSR Corporation Superfund Site (RSR Site) known as Operable Unit (OU) Nos. 1 and 2 from the National Priorities List (NPL). The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

EPA bases its proposal to delete OU Nos. 1 and 2 on the determination by EPA and the State of Texas, through the

Texas Natural Resource Conservation Commission (TNRCC), that all appropriate actions under CERCLA have been implemented to protect human health, welfare and the environment at OU Nos.1 and 2.

This partial deletion pertains only to OU Nos. 1 and 2 of the RSR Site and does not include OU Nos. 3, 4 and 5. OU Nos. 3, 4 and 5 will remain on the NPL, and response activities will continue at those OUs.

DATES: The EPA is extending the public comment period and will accept comments concerning its proposal for partial deletion for an additional thirty (30) days after publication of this notice in the **Federal Register** and a newspaper of record.

ADDRESSES: Comments may be mailed to: Ms. Olivia Rodriguez Balandran Community Relations Coordinator U.S. EPA, Region 6 (6SF–P) 1445 Ross Avenue Dallas, Texas 75202–2733 1–800–533–3508 or (214) 665–6484.

Information Repositories

Comprehensive information on the RSR Site as well as information specific to this proposed partial deletion is available for review at EPA's Region 6 office in Dallas, Texas. The Administrative Records for OU Nos. 1 and 2 and the Deletion Docket for this partial deletion are maintained at the following RSR Site document/ information repositories: U.S. EPA, Region 6 Library, 12th Floor (6MD–II) 1445 Ross Avenue Dallas, Texas 75202–2733 (214) 665–6424 or 665–6427 hours of operation: M–F 8:00 a.m. to 4:30 p.m.

Dallas Public Library, 2332 Singleton Blvd., Dallas, Texas 75212, (214) 670–6445, hours of operation: M and W 10 a.m.–6 p.m. T and Th 10 a.m.–8 p.m. Sat 10 a.m.–5 p.m.

Texas Natural Resource Conservation Commission, 12118 North IH 35, Technical Park Center, Room 190, Building D, Austin, Texas 78753, (512) 239–2920, hours of operation: M-F 8:00 a.m.–5:00 p.m.

FOR ADDITIONAL INFORMATION CONTACT: Mr. Carlos A. Sanchez, Project Manager, U.S. EPA, Region 6 (6SF–AT), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8507.

SUPPLEMENTARY INFORMATION: This partial deletion of the RSR site is proposed in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List. 60 FR 55466 (Nov. 1, 1995).

The proposal for partial deletion pertains to OU No. 1, which includes all privately owned residential properties and residential high risk areas, such as schools and day care centers, located in the RSR site. In addition, this proposal for partial deletion pertains to OU No. 2, which includes the public residential housing area located in RSR Site that is currently owned by the Dallas Housing Authority (DHA). EPA has issued no further action Records of Decision (RODs) for OU Nos. 1 and 2.

EPA, with concurrence from the State of Texas, has determined that all appropriate CERCLA response actions have been completed at OU Nos. 1 and 2 and protection of human health and the environment has been achieved in these areas. Therefore, EPA makes this proposal to delete only OU Nos. 1 and 2 of the RSR Corporation Superfund Site from the NPL.

Dated: May 7, 1996.
Approved By:

Myron O. Knudson,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region 6.

[FR Doc. 96–12076 Filed 5–13–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–105; RM–8793]

Radio Broadcasting Services; Ely, Hermantown and Pine City, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Harbor Broadcasting, Inc. requesting the substitution of Channel 221C3 for Channel 221A at Hermantown, Minnesota, and modification of its construction permit for Channel 221A to specify operation on Channel 221C3. The coordinates for Channel 221C3 are 46–49–30 and 92–17–00. To accommodate the upgrade at Hermantown, we shall also propose to substitute Channel 233A for Channel 221A at Ely, Minnesota, and modify the license for Station WELY-FM accordingly at coordinates 47–53–40 and 91–51–50 and substitute Channel 265A for Channel 221A at Pine City, Minnesota, and modify the license for Station WCMP-FM at coordinates 45–54–07 and 92–57–25. Since the communities of Ely, Hermantown and Pine City are all located within 320 kilometers (200 miles) of the U.S-Canadian border, Canadian concurrence will be requested for these allotments. We shall propose to modify the construction permit for Channel 221A at Hermantown, Minnesota, in accordance with Section 1.420(g) of the Commission's Rules and will not accept competing expressions of interest for the use of the channel or require petitioner to demonstrate the availaility of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before June 28, 1996, and reply comments on or before July 13, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Timothy E. Welch, Hill & Welch, 1330 New Hampshire Avenue, NW., Suite 113, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–105, adopted April 22, 1996, and released May 7, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–12046 Filed 5–13–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 96–106; RM–8797]

Radio Broadcasting Services; Hopkinsville, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Rockin' C Broadcasting proposing the allotment of Channel 248A at Hopkinsville, Kentucky, as the community's third local commercial FM transmission service. Channel 248A can be allotted to Hopkinsville in compliance with the Commission's minimum distance separation requirements with a site restriction of 10 kilometers (6.3 miles) south to avoid a short-spacing to the licensed site of Station WHRZ(FM), Channel 249A, Providence, Kentucky. The coordinates for Channel 248A at Hopkinsville are North Latitude 36–46–18 and West Longitude 87–28–28.

DATES: Comments must be filed on or before July 1, 1996 and reply comments on or before July 16, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Carol B. Ingram, President, Rockin' C Broadcasting, 212 Turtle Creek Drive, Batesville, Mississippi 38606 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96–106, adopted April 29, 1996, and released May 8, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–12044 Filed 5–13–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Elimination of Nonstatutory Certifications

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of public meeting.

SUMMARY: The Administrator for Federal Procurement Policy, in concert with the Federal Acquisition Regulations (fAR) Council, is sponsoring a meeting to solicit public comments on the implementation of Section 4301(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106) (the Act). The Act requires the Administrator for Federal Procurement Policy to issue for public comment a proposal to amend the FAR to remove certification requirements for contractors and offerors that are not specifically imposed by statute. The Act provides the Administrator with authority to retain, under certain circumstances, certification requirements that are not specifically imposed by statute. In an effort to get public input in the rulemaking process prior to publishing a proposed rule, the FAR Council is inviting interested parties to participate in a public meeting on implementation of the Act.

DATES: *Public Meeting:* A public meeting will be conducted at the address shown below from 1 p.m. to 5:30 p.m., eastern daylight time, on June 3, 1996.

ADDRESSES: *Public Meeting:* The location of the public meeting is the White House Conference Center, 726 Jackson Place, NW, Washington, DC 20503. An interactive meeting, consisting of open discussion among the FAR Council members, other government representatives (from the procurement, legal, and Inspector General communities), and industry is planned. Individuals who would like to participate or submit a formal statement shall, by May 28, 1996, notify: Defense Acquisition Regulations Council, Attn: Mr. Michael Mutty, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 2031–3062. If time permits, formal statements will be heard.

FOR FURTHER INFORMATION CONTACT: Michael Mutty, telephone (703) 602–0131. FAX (703) 602–0350.

Dated: May 8, 1996.

Edward Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 96–11957 Filed 5–13–96; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 88–06, Notice 25]

RIN 2127–AE49

Federal Motor Vehicle Safety Standards; Side Impact Protection—Light Trucks, Buses and Multipurpose Passenger Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition for reconsideration.

SUMMARY: This document denies a petition from Toyota Motor Corporate Services of North America ("Toyota") for reconsideration of the agency's final rule that extended Safety Standard 214's dynamic side impact testing requirements to light trucks, multipurpose passenger vehicles and buses with a gross vehicle weight rating (GVWR) of 6,000 (lb) or less. Toyota requested that instead of using GVWR as the attribute for identifying vehicles to be excluded from the new requirements, NHTSA should exclude vehicles based on the height of their seating reference point. The agency is denying the petition because NHTSA believes Toyota's approach would exclude some vehicles that are and should remain subject to the dynamic side impact requirements.

FOR FURTHER INFORMATION CONTACT: For nonlegal issues: Dr. William Fan, Office of Vehicle Safety Standards, NPS–14, telephone (202) 366–4922. For legal issues: Deirdre Fujita, Office of Chief Counsel, NCC–20, (202) 366–2992. Both may be reached at the National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C., 20590.

SUPPLEMENTARY INFORMATION:

Background

On July 28, 1995, NHTSA amended Federal Motor Vehicle Safety Standard No. 214, "Side Impact Protection" (49 CFR § 571.214), to extend the standard's dynamic testing requirements to light trucks, multipurpose passenger vehicles (hereinafter referred to as "MPVs"), and buses with a GVWR of 6,000 lb or less. (This group of vehicles is hereinafter referred to as "LTVs"). The rule resulted from a rulemaking on LTV side impact safety that the agency was required to commence pursuant to the NHTSA Authorization Act of 1991 (sections 2500–2509 of the Intermodal Surface Transportation Efficiency Act ("ISTEA")).

Under the rule, an LTV must provide protection to an occupant's thoracic and pelvic regions, as measured by the accelerations registered on an instrumented side impact dummy (SID), in a full-scale crash test. In the test, the LTV (known as the "target" LTV) is struck in the side by a moving deformable barrier (MDB) simulating a passenger car. The SID is instrumented to measure accelerations in the ribs and spine and in the pelvic cavity. The values measured in the ribs and spine are used in determining the "Thoracic Trauma Index (TTI(d))," an injury criterion that measures the risk of thoracic injury of an occupant in a side impact. The value measured in the pelvic cavity assesses the potential risk for pelvic injury. To meet Standard 214's side impact protection requirements, the TTI(d) and pelvis measurements must not exceed specified maximum values. For the thorax, TTI(d) must not exceed 85 g, and for the pelvis, peak lateral acceleration must not exceed 130 g's.

The rule extended to LTVs virtually all of the dynamic side impact provisions of Standard 214 that currently apply to passenger cars. LTVs will be dynamically tested with the same MDB used to test passenger cars to the side impact requirements of Standard 214, under the same test conditions and procedures. (One minor variation relates to the procedure for specifying where on the target LTV the MDB must first contact in the dynamic test. See 60 FR at 38758–38759.) The instrumented SIDs used in the passenger car test will be used to test LTVs, and used in the same manner, placed in the front and rear seats on the side of the vehicle struck by the MDB. Performance criteria for the TTI(d) and pelvic acceleration measured by the SID are the same as those specified for passenger cars, with one exception. Two-door LTVs have an 85 g limit for the TTI(d), while two-door passenger cars have a 90 g limit.

NHTSA determined that the passenger car provisions are appropriate for LTVs because both passenger cars and LTVs are driven in the same environment and thus have the same exposure to striking vehicles. However, NHTSA acknowledged that the extension of the passenger car requirements resulted in few estimated benefits since all current LTVs already meet the requirements. Nevertheless, the agency decided that the extension was warranted given that increasing numbers of LTVs are used as passenger vehicles and that the percentage of LTVs is likely to increase significantly in the future. Further, information indicates that small LTVs, which are potentially vulnerable in side crashes, will comprise much of the LTV fleet by the year 2000. The extension will prevent any future LTV from providing side impact safety performance that is inferior to that of passenger cars.

The decision to specify the barrier currently specified for passenger cars led the agency in turn to limit the extension of the rule to LTVs, thus excluding multipurpose passenger vehicles, trucks and buses with a GVWR over 6,000 lb. This limit was adopted because the barrier simulates side crashes in which occupants of the vehicles with higher GVWRs would be relatively unlikely to suffer death or serious injury. NHTSA also believed inclusion of vehicles with GVWRs over 6,000 lb would not result in any safety improvements since those vehicles would likely meet the adopted dynamic requirements without any modification. In the interest of avoiding unnecessarily requiring that those vehicles be certified to the dynamic side impact protection requirements, NHTSA did not extend the rule to larger vehicles. (60 FR at 38756.)

Petition for Reconsideration

Using a similar rationale of avoiding unnecessary regulatory and compliance test burdens and costs, Toyota petitioned to exclude LTVs "whose seating reference points (SgRP) are 700 mm or greater." (The agency assumes this refers to the SgRP for the driver's position, although the petitioner did not specify the position.) Toyota believed that those vehicles will meet the new requirements without any problem because, according to the petitioner, the MDB will not impact the dummies' rib cage, where accelerometers are positioned. Toyota stated that "NHTSA's own data indicates that the highest seating reference point of those vehicles (which did not meet the passenger car standard) was 655 mm." The petitioner said that it conducted tests of five of its current models. According to Toyota, all five passed the injury criteria. The only model that had a "marginal" TTI(d), as compared to the prescribed limit, was the vehicle that had an H-point height of less than 700 mm.

Agency Decision

The agency is denying Toyota's petition because NHTSA believes Toyota's approach would exclude some vehicles that are and should remain subject to the dynamic side impact requirements. The agency believes Toyota might not be correct in suggesting that all vehicles with a SgRP height of 700 mm or greater would readily pass the standard.[1]

It should be noted that during the development of the final rule extending Standard 214's dynamic requirements to LTVs, NHTSA considered excluding vehicles with an H-point height of 685 mm, which is approximately the height suggested by Toyota. After analyzing available data, the agency decided against this approach. Adjusted test data from a multiple linear regression model (developed during the 214 rulemaking to study the effects of barrier weight and height on SID responses) indicated that some LTVs whose H-point heights are greater than 700 mm might not be able to pass the new dynamic side impact requirements. (See pages IV–2, 3 and 4 of the agency's Preliminary Economic Assessment, June 1994, for the rulemaking proposal for the July 1995 rule. Docket 88–06–N23–001.) NHTSA tested seven LTVs that had an H-point height of 27 inches (686 mm) or greater, impacting them with barriers that were heavier and higher than the adopted one. Applying the regression model to these cases enabled NHTSA to estimate the TTI(d) and pelvic acceleration values that would have been obtained for the vehicles had they been tested with the barrier adopted by the final rule. The analysis indicates that, contrary to Toyota's assertion about widespread compliance of vehicles with SgRP are 700 mm or greater, three of the seven vehicles ('93 Plymouth Voyager, '89 Ford Ranger XLT, '89 Suzuki Sidekick) may require modifications to ensure compliance with the TTI(d) and pelvic g limits.

NHTSA also does not agree with Toyota's assertion that vehicles whose SgRP point is higher than 700 mm would necessarily pass Standard 214 due to the position of the SID's lower rib relative to the MDB in the crash test. The lower rib acceleration is not the only response used to determine the compliance of the vehicle. Accelerations of the upper spine, upper rib and pelvis also play an important role in determining compliance. Toyota did not address the effect that SgRP height might have on responses of those components. Further, the relative height between the MDB and the SgRP of the target vehicle is one of many factors that affect the vehicle performance during a side impact crash test. The vehicle weight, clearance between the side interior and the SID, side structure and/or padding properties are all important factors that could affect whether small LTVs, in particular, pass the performance criteria. Toyota did not address those factors either.

For the reasons discussed above, NHTSA denies Toyota's petition for reconsideration.

[1] NHTSA notes that while Toyota used SgRP in its petition, the agency used the H-point in assessing the merits of Toyota's request. "SgRP" is defined in 49 CFR § 571.3 as "the unique design H-point as defined in [the Society of Automotive Engineers] SAE J1100 (June 1984)," and which also conforms to other factors. "H-point" is defined in 571.3 as the hinged hip point described in SAE Recommended Practice J826. For the purposes of this action, these two terms are essentially the same.

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

Issued on: May 8, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–12034 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–59–P

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49 CFR Part 571

[Docket No. 96–46; Notice 01]

RIN 2127–AF91

Federal Motor Vehicle Safety Standards; Seat Belt Assembly Anchorages

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: In response to a petition from Volvo, this notice proposes to require manufacturers to certify the anchorages of a voluntarily installed Type 2 safety belt (lap/shoulder belt) to the anchorage requirements for a mandatorily installed Type 2 safety belt. Currently, if only a Type 1 safety belt (lap belt) is required for a particular seating position, a manufacturer must certify the anchorage(s) for the belt(s) it installs at that position to the anchorage requirements for a Type 1 belt, even if the manufacturer installs a Type 2 safety belt at that location.

DATES: Comments must be received by July 15, 1996.

ADDRESSES: Comments should refer to the docket and notice number.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590:

For non-legal issues: Clarke B. Harper, Office of Crashworthiness Standards, NPS–11, telephone (202) 366–2264, facsimile (202) 366–4329, electronic mail "charper@nhtsa.dot.gov".

For legal issues: Mary Versailles, Office of the Chief Counsel, NCC–20, telephone (202) 366–2992, facsimile (202) 366–3820, electronic mail "mversailles@nhtsa.dot.gov".

SUPPLEMENTARY INFORMATION:

Background

Federal Motor Vehicle Safety Standard No. 210,"Seat Belt Anchorages," requires the anchorages for mandatorily installed Type 2 safety belts to withstand the simultaneous application of a 3,000-pound load applied to the lap belt anchorages and a separate 3,000-pound load to the shoulder belt anchorages. When only a Type 1 safety belt is required, Standard No. 210 requires the anchorages for the lap belt to withstand a 5,000-pound load. If a manufacturer voluntarily installs a Type 2 safety belt at a seating position for which only a Type 1 safety belt is required, the lap belt portion is required to withstand a 5,000-pound load. but the shoulder belt portion is subject to no requirement.

Currently, manufacturers need only install a Type 1 safety belt at the following seating positions:

- The passenger seats in school buses with a gross vehicle weight rating (GVWR) of 10,000 pounds or less;
- All seats in vehicles, except passenger seats in buses, including school buses, with a GVWR of more than 10,000 pounds; and,
- All seats, except forward-facing outboard seats, in all other vehicles.

Volvo's Petition

On May 18, 1995, Volvo Cars of North America, Inc. (Volvo) petitioned NHTSA to amend Standard No. 210. Volvo stated that it subjects the anchorages of its voluntarily installed Type 2 safety belts to two different tests. Pursuant to Standard No. 210, it tests the anchorages of the lap belt portion of those belts for compliance with the anchorage requirements for a Type 1 safety belt. In addition, for quality control purposes, it tests the anchorages of its voluntarily installed Type 2 safety belts for compliance with the requirements for the anchorages of mandatorily installed Type 2 safety belts. To reduce the amount of testing, Volvo requests that the Standard be amended to give manufacturers a choice of certifying the anchorages of a voluntarily installed Type 2 safety belt either to the requirements for a Type 1 safety belt anchorage or to the requirements for a Type 2 safety belt anchorage. The adoption of its request would allow Volvo to cease the separate testing of the lap belt portion of its voluntarily installed Type 2 safety belts.

Agency Proposal

While Volvo asked NHTSA to allow manufacturers an option, NHTSA is proposing to require manufacturers that voluntarily install an integral Type 2 safety belt to certify the anchorages of that belt to the requirements for Type 2 safety belt anchorages.

First, there does not appear to be a reason for testing non-dynamically tested integral Type 2 safety belt anchorages differently based on whether the installation is mandatory or voluntary.

Second, the load applied by an occupant to the lap belt portion of a Type 2 safety belt would be lower than the load applied by the same occupant to a Type 1 safety belt, since part of the occupant's load would be borne by the shoulder belt. Thus, if the load requirements for the lap belt anchorages of a mandatory Type 2 safety belt are appropriate to meet the need for motor vehicle safety, it appears that the current requirements for the lap belt anchorages of a voluntarily installed Type 2 safety belt are excessive.

Finally, in the past, NHTSA has experienced difficulties in enforcing standards that give manufacturers the option of complying with any one of a set of alternative requirements. Generally, NHTSA will ask a manufacturer to specify which of the alternatives the agency should apply in a compliance test. In some instances when agency testing indicates that a

vehicle has an apparent non-compliance with the alternative specified by the manufacturer, the manufacturer has argued that the vehicle should nevertheless be regarded as being in compliance since it would comply with another alternative. NHTSA has then had to incur the expense of a second compliance test to determine whether it should continue with enforcement proceedings. This proposal would prevent such an enforcement problem with respect to anchorages for voluntarily installed Type 2 safety belts.

International Harmonization

This proposal would harmonize this aspect of Standard No. 210 with the counterpart regulation of the Economic Commission for Europe (ECE R14, "Safety-Belt Anchorages"). ECE14 specifies two options for seats equipped with lap and shoulder belt anchorages. The first option consists of two tests which apparently address the possibility that while such a seat might be initially equipped with only a Type 1 belt, it might at some later point be equipped with a Type 2 safety belt. Test 1 simultaneously subjects the anchorages for the lap and shoulder belt portions to loads similar to the 3,000 pound loads in Standard No. 210. Test 2 subjects the anchorages for the lap belt portion to a load similar to the 5,000 pound load in Standard No. 210. The second option consists of only the first of these tests. If a Type 2 safety belt is initially installed at the seating position, ECE R14 specifies compliance with the second option. Under those circumstances, NHTSA's proposal specifies essentially the same test.

Cost Savings and Safety Impacts

The adoption of this proposal could result in minor reductions in manufacturing costs and compliance costs. If a manufacturer voluntarily installed a Type 2 safety belt, it might decide to install lap belt anchorages capable of withstanding a 3,000 pound load, but not the 5,000 pound load currently required. NHTSA believes that the cost savings from such a design change would be less than $1 per vehicle. In addition, manufacturers which currently certify the anchorages of voluntarily installed Type 2 safety belts to the requirements of Standard No. 210 for Type 1 safety belts and also choose to test those anchorages to the requirements for Type 2 anchorages would save approximately $1,400 per vehicle model as a result of not having to conduct a test to certify to the Type 1 anchorage requirements. For Volvo, this could result in a total annual cost savings from both design and test changes of approximately $100,000.

Approximately 90 percent of all trucks with a GVWR of more than 10,000 pounds have Type 2 safety belts installed at the front outboard seats, even though the minimum requirement is for a Type 1 safety belt. For this vehicle population, the annual cost savings from design changes could be approximately $770,000. This figure does not include the $1,400 for each certification test. The number of voluntarily-installed lap/shoulder belts is increasing as other manufacturers are beginning to install lap/shoulder safety belts at seating positions that are only required to have a lap belt.

While manufacturers might be able to install less strong lap belt anchorages under the proposed change, NHTSA does not believe there will be any net loss of benefits. Standard No. 210 tests the lap belt anchorages of a voluntarily installed Type 2 safety belt as if the lap belt were the only belt present at the seating position and by itself would have to sustain the entire load of the occupant. However, the proposal would require the shoulder belt anchorage to help sustain the load. Further, lap/shoulder belts offer greater protection than lap only belts. In the 1989 final rule requiring lap/shoulder belts at all forward-facing outboard seating positions in passenger cars, NHTSA estimated that rear-seat lap-only belts are 32 percent effective in reducing the risk of death, while rear-seat lap/shoulder belts were 41 percent effective (54 FR 25275, 25276; June 14, 1989). Therefore, there should not be any net loss of strength or benefits even if manufacturers install less strong lap belt anchorages.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures. As explained above, this proposal could result in an annual savings of approximately one million dollars.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. The anticipated slight savings would not affect the purchase of new vehicles by small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), there are no requirements for information collection associated with this proposed rule.

National Environmental Policy Act

NHTSA has also analyzed this proposed rule under the National Environmental Policy Act and determined that it would not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this proposal in accordance with the principles and criteria contained in E.O. 12612, and has determined that this proposed rule would not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This proposed rule would not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Submission of Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that 49 CFR Part 571 be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 of Title 49 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. 571.210 would be amended by revising sections S4.2.1 and S4.2.2 to read as follows:

§ 571.210 Standard No. 210, Seat Belt Assembly Anchorages.

* * * * *

S4.2.1 Except as provided in S4.2.5, and except for side-facing seats, the anchorages, attachment hardware, and attachment bolts for any of the following seat belt assemblies shall withstand a 5,000 pound force when tested in accordance with S5.1 of this standard:

(a) Type 1 seat belt assembly; and

(b) Lap belt portion of either a Type 2 or automatic seat belt assembly that is equipped with a detachable upper torso belt.

S4.2.2 Except as provided in S4.2.5, the anchorages, attachment hardware, and attachment bolts for any of the following seat belt assemblies shall withstand a 3,000 pound force applied to the lap belt portion of the seat belt assembly simultaneously with a 3,000 pound force applied to the shoulder belt portion of the seat belt assembly, when tested in accordance with S5.2 of this standard:

(a) Type 2 and automatic seat belt assemblies that are installed to comply with Standard No. 208 (49 CFR 571.208); and

(b) Type 2 and automatic seat belt assemblies that are voluntarily installed at a seating position required to have a Type 1 seat belt assembly by Standard No. 208 (49 CFR 571.208).

* * * * *

Issued on May 8, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–12033 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

50 CFR Part 16

Review of Injurious Wildlife Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review of regulations.

SUMMARY: The Fish and Wildlife Service is reviewing 50 CFR Part 16 to determine to what extent it should be reinvented. 50 CFR Part 16 addresses the importation or shipment of injurious wildlife. Applicable legislation will be reviewed, the process for identifying and listing injurious wildlife will be examined, and import restrictions will be evaluated.

DATES: Comments must be submitted on or before July 15, 1996.

ADDRESSES: Comments may be mailed or sent by fax to the Chief, Division of Fish and Wildlife Management Assistance, U.S. Fish and Wildlife Service, 1849 C Street, N.W., Mail Stop 840 ARLSQ, Washington, D.C. 20240, or FAX (703) 358–2044.

FOR FURTHER INFORMATION CONTACT: Susan Mangin, Division of Fish and Wildlife Management Assistance at (703) 358–1718.

SUPPLEMENTARY INFORMATION: 50 CFR Part 16 implements provisions of the Lacey Act of 1900 (18 U.S.C. 42). The Lacey Act restricts importation of mammals, birds, fish, reptiles and amphibians that are deemed injurious to humans, agriculture, horticulture, forestry, wildlife, or wildlife resources of the United States. Interest has increased in preventing the introduction of harmful nonindigenous species. As 50 CFR is reinvented, alternatives to the current approach for implementing the Lacey Act will be considered. Specific comments from other Federal agencies, States, and the private sector are requested.

Dated: May 6, 1996.

Bruce Blanchard,

Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 96–11972 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[I.D. 050696A]

Reef Fish Fishery of the Gulf of Mexico; Amendment 13

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 13 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) for review, approval, and implementation by NMFS. Written comments are requested from the public.

DATES: Written comments must be received on or before July 8, 1996.

ADDRESSES: Comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of Amendment 13, which includes an environmental assessment and a regulatory impact review, should be sent to the Gulf of

Mexico Fishery Management Council, 5401 W. Kennedy Boulevard, Suite 331, Tampa, FL 33609-2486, fax: 813-225-7015.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813-570-5305.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that a Council-prepared amendment to a fishery management plan be submitted to NMFS for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that NMFS, upon receiving an amendment, immediately publish a notice announcing that the amendment is available for public review and comment.

Amendment 13 would extend the red snapper commercial fishery trip limit and vessel permit endorsement provisions, currently in effect under an emergency interim rule (61 FR 7751, February 29, 1996), until implementation of: (1) The red snapper individual transferrable quota (ITQ) system approved under FMP Amendment 8; or (2) an alternative system to control access to the commercial red snapper fishery. Under Amendment 13, the trip limit and endorsement provisions would terminate on December 31, 1997, unless replaced earlier by the ITQ system or another controlled access program. The red snapper vessel permit endorsement and trip limit provisions have been in effect since December 1992. Proposed regulations to implement the measures of Amendment 13 are scheduled for publication within 15 days.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 8, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–11091 Filed 5–9–96; 2:16 pm]

BILLING CODE 3510-22-F

Notices

Federal Register

Vol. 61, No. 94

Tuesday, May 14, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Request For Collection of Public Information With Use of a Survey

AGENCY: Rural Business-Cooperative Service.

ACTION: Proposed collection; comments request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's (RBS) intention to request clearance for a new information collection in order to render service to associations of producers of agricultural products and federations and subsidiaries thereof as authorized in the Cooperative Marketing Act of 1926.

DATES: Comments on this notice must be received by July 15, 1996 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Edgar L. Lewis, Agricultural Economist, RBS, U.S. Department of Agriculture, Ag Box 3252, Washington, DC 20250–3252, Telephone (202) 690–3407.

SUPPLEMENTARY INFORMATION:

Title: Cooperative Coordination of Production and Harvesting Decisions.

Type of Request: New information collection.

Abstract: The Rural Business-Cooperative Service (RBS) USDA, formerly the Agricultural Cooperative Service (ACS), conducts research on issues that are timely and important to cooperatives, including fruit and vegetable cooperatives. In order to carry out the Agency's mission, including research, RBS needs to collect information from the cooperative community.

The authority to carry out RBS mission is defined in the Cooperative Marketing Act of 1926 (44 Stat. 802–1926), and other regulations listed below.

Authority and Duties of Division (7 U.S.C. & 453)

(a) The division shall render service to associations of producers of agricultural products, and federations and subsidiaries thereof, engaged in the cooperative marketing of agricultural products, including processing, warehousing, manufacturing, storage, the cooperative purchasing of farm supplies, credit, financing, insurance, and other cooperative activities.

(b) The division is authorized:

(1) To acquire, analyze and disseminate economic, statistical, and historical information regarding the progress, organization, and business methods of cooperative association in the United States and foreign countries.

(2) To conduct studies of the economic, legal, financial, social, and other phases of cooperation, and publish the results thereof. Such studies shall include the analyses of the organization, operation, financial and merchandising problems of cooperative associations.

(3) To make surveys and analyses if deemed advisable of the accounts and business practices of representative cooperative associations upon their request; to report to the association so surveyed the results thereof; and with the consent of the association so surveyed to publish summaries of the results of such surveys, together with similar facts, for the guidance of cooperative associations and for the purpose of assisting cooperative associations in developing methods of business and market analysis.

Cooperatives account for approximately 20–25 percent of the total volume of fruit, vegetables, and specialty crops sold in the United States. A cooperative's ability to coordinate production practices and harvesting schedules from a central source has important implications for the operational efficiency and competitiveness in both fresh and processed produce markets. Structural changes in production and food marketing sectors have resulted in an increasingly competitive environment. The ability to regulate product flow to correspond to market conditions has evolved into an essential management tool. By definition or structure, many cooperatives are unable to access and respond to market information by adjusting their marketing activities. To compete and survive in this changing industry, fruit and vegetable cooperatives may benefit from more coordination of production and harvesting activities. This information collection is designed as input into a study that will provide a better understanding of cooperative coordination of production and harvesting decisions. The objectives of this research study are to determine the extent that fruit and vegetable cooperatives coordinate production and harvesting decisions, examine the effects these practices have on operating efficiency and competitiveness, and to identify conditions and situations where implementation of coordination practices will have their greatest economic impact.

In order to carry out the Agency's mission of research as authorized in the Cooperative Marketing Act of 1926 (44 Stat. 802–1926), RBS needs to collect information from the cooperative community. The data needed for this study is generally not available to the Agency unless provided by the cooperatives. This one-time information collection effort will be used for a research report designed to help prepare cooperatives to compete in a continually changing environment.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.0 hour per response.

Respondents: Fruit and vegetable cooperatives.

Estimated Number of Respondents: 300.

Estimated Number of Responses per Respondent: 1 (one time survey).

Estimated Total Annual Burden on Respondents: 300 hours.

Copies of this information collection can be obtained from Director, Regulations and Paperwork Management Division, at (202) 720–9725.

Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the function of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and

clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Director, Regulations and Paperwork Management Division, U.S. Department of Agriculture, Rural Development, Ag Box 0743, Washington, D.C. 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: May 6, 1996.

Dayton J. Watkins,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 96–11976 Filed 5–13–96; 8:45 am]

BILLING CODE 3410–07–U

Agricultural Marketing Service

[Docket No. TB–96–21]

Burley Tobacco Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.) announcement is made of the following committee meeting:

Name: Burley Tobacco Advisory Committee.

Dates: June 12, 1996.

Time: 10:00 a.m.

Place: Campbell House Inn, South Colonial Hall, 1375 Harrodsburg Road, Lexington, Kentucky 40504.

Purpose: To elect officers, recommend opening dates, review the 1996 policies and procedures and other related matters for the 1996 burley tobacco marketing season.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact John P. Duncan III, Director, Tobacco Division, AMS, U.S. Department of Agriculture, Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456, (202) 205–0567, prior to the meeting. Written statements may be submitted to the Committee before, at, or after the meeting.

Dated: May 8, 1996.

John P. Duncan III,

Director, Tobacco Division.

[FR Doc. 96–12067 Filed 5–13–96; 8:45 am]

BILLING CODE 3410–02–P

Food and Consumer Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Federal-State Special Supplemental Nutrition Program Agreement

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Consumer Service's (FCS) intention to request OMB review of the Federal-State Special Supplemental Nutrition Program Agreement.

DATES: Comments on this notice must be received by July 15, 1996.

ADDRESSES: Send comments and requests for copies of this information collection to: Stanley C. Garnett, Director, Supplemental Food Programs Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, (703) 305–2749.

SUPPLEMENTARY INFORMATION:

Title: Federal-State Special Supplemental Nutrition Program Agreement.

OMB Number: 0584–0332.

Expiration Date: 7–31–96.

Type of Request: Extension of a Currently Approved Collection.

Abstract: The Agreement is the contract between USDA and State agencies administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) and the WIC Farmers' Market Nutrition Program (FMNP). The agreement authorizes the Department to release funds to the State agencies for the administration of WIC and the FMNP in the jurisdiction of the State agency in accordance with the provisions of 7 CFR Parts 246 and 248.

The Agreement requires the signature of the State agency official and includes a certification/assurance regarding drug-free workplace, a certification regarding lobbying and a disclosure of lobbying activities.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: The Chief Health Officer of the State agency or Chief Executive Officer of the State.

Estimated Number of Respondents: 103 respondents.

Estimated Number of Responses Per Respondent: One.

Estimated Total Annual Burden on Respondents: 52 hours.

Dated: May 3, 1996.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 96–12056 Filed 5–13–96; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 817]

Grant of Authority for Subzone Status; Custom Manufacturing Services, Lucent Technologies Inc. (Telecommunications and Computer Equipment) Whitsett, North Carolina

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Triangle J Council of Governments, grantee of Foreign-Trade Zone 93, for authority to establish special-purpose subzone status at the telecommunications and computer equipment manufacturing facility of the Custom Manufacturing Services unit of Lucent Technologies Inc., in Whitsett, North Carolina, was filed by the Board on March 27, 1995, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 9–95, 60 FR 17052, 4–4–95); and,

Whereas, the Board adopts the findings and recommendations of the examiner's reports, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 93E) at the plant of Custom Manufacturing Services, Lucent Technologies Inc., in Whitsett, North Carolina, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 29th day of April 1996.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–11937 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 36–96]

Foreign-Trade Zone 7—Mayaguez, PR; Application for Subzone Status, Mani Can Corporation Facilities, (Steel Cans), Mayaguez, Puerto Rico

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Puerto Rico Industrial Development Company, grantee of FTZ 7, requesting special-purpose subzone status for the easy-open steel can processing facilities of Mani Can Corporation (MCC) (a wholly-owned affiliate of Star-Kist Foods, Inc., in turn wholly owned by the H. J. Heinz Company), located in Mayaguez, Puerto Rico. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 7, 1996.

The proposed subzone would consist of MCC's two steel can processing facilities located within the Industrial Port Urbanization area of the City of Mayaguez: Site 1 (120,000 sq.ft. on 10 acres)—located on Lots 9, 10, 11, and 12 at Street No. 3 and the Mani-Sabanetas Highway; and, Site 2 (104,000 sq.ft.) within a building located at Gonzalez Clemente Avenue and Street No. 3, some 475 meters east of Site 1. The facilities (150 employees) are used to fabricate cans and related can parts (sheets, easy-open ends, sanitary ends) used for food products (e.g., tuna fish, pet food). The production process involves cutting steel coils, pressing, enamel coating, and packaging. Some 70 percent of the steel coils would be purchased from abroad, including tin free steel (HTSUS #7210.50; duty rate-4.6%) and electro-tin plated steel (HTSUS #7210.11; 2.8%). The finished cans and parts are mostly sold to Heinz-affiliated canning plants in Puerto Rico, California, Kansas, and Pennsylvania.

Zone procedures would exempt MCC from Customs duty payments on the foreign steel used in the export production. On its domestic sales, the company would be able to choose the duty rates that apply to the finished cans (duty free) and can ends (4.7%) for the foreign steel inputs noted above. Zone procedures would also exempt certain foreign steel that becomes scrap during the production process (about 10%) from Customs duties. The application indicates that subzone status would help improve the international competitiveness of the MCC plant as well as other Heinz-affiliated domestic canning facilities. .

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 15, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 29, 1996).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, Federal Building, Room G–55, Chardon Avenue, Hato Rey, PR 00918

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue NW., Washington, DC 20230–0002.

Dated: May 7, 1996.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 96–11938 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–791–803]

Notice of Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe From South Africa

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Stagner or John Beck, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C. 20230; Telephone: (202) 482–1673 or (202) 482–3464, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Final Determination

As explained in the memoranda from the Assistant Secretary for Import Administration dated November 22, 1995, and January 11, 1996, the Department of Commerce (the Department) has exercised its discretion to toll all deadlines for the duration of the partial shutdowns of the Federal Government from November 15 through November 21, 1995, and December 16, 1995, through January 6, 1996. Thus, the deadline for the final determination in this investigation has been extended by 28 days, *i.e.*, one day for each full or partial day the Department was closed. As such, the deadline for this final

determination is no later than May 6, 1996.

We determine that circular welded non-alloy steel pipe from South Africa is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Act.

Case History

Since the preliminary determination on November 21, 1995 (60 FR 61533, November 30, 1995), the following events have occurred:

On December 6, 1995, the Department provided the respondent, RIH Group, Ltd., and its operating divisions Brollo Africa and Tosa, (collectively, RIH) with a supplemental questionnaire relating to sales to affiliated parties. On January 17, 1996, the respondent submitted its response.

On December 6, 1995, the respondent alleged clerical errors in the preliminary determination. We determined that there were clerical errors made; however, we did not amend the preliminary determination since the change in the margin was not significant (*see* the December 14, 1995, Memorandum from David L. Binder to Barbara R. Stafford).

In March 1996, we conducted verification of the sales questionnaire responses of the respondent in South Africa.

The respondent and the petitioners [1] submitted case briefs on April 17, 1996 and rebuttal briefs on April 22, 1996.

Scope of Investigation

The following scope language reflects certain modifications from the notice of the preliminary determination. We clarified the paragraph beginning "The scope specifically includes * * * *" for use and presumed use language.

For purpose of this investigation, circular welded non-alloy steel pipes (standard pipes) are all pipes and tubes, of circular cross-section, not more than 406.4 mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), end finish (plain end, beveled end, threaded, or threaded and coupled), or industry specification (ASTM, proprietary, or other) used in standard or structural pipe applications.

The scope specifically includes, but is not limited to, all pipe produced to the ASTM A–53, ASTM A–135, ASTM A–795, and BS–1387 specifications, regardless of use. It also includes any pipe multiple-stencilled or multiple-certified to one of the above-listed standard or structural pipe specifications and to any other specification, if used in a standard or structural pipe application. Pipe which meets the above physical parameters and which is produced to proprietary specifications, the API–5L, the API–5L X–42, or to any other non-listed specification is included within the scope of this investigation if used in a standard or structural pipe application, regardless of the Harmonized Tariff Schedule of the United States (HTSUS) category into which it was classified. If the pipe does not meet any of the above identified ASTM or BS specifications (i.e., ASTM A–53, ASTM A–120, ASTM A–135, ASTM A–795, and BS–1387) or is multiple-stencilled or multiple-certified to one of these specifications and to any other specification, although it is within the identified physical parameters described in the second paragraph of this section, our presumption is that it is not used in a standard pipe application.

Standard pipe uses include the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may carry liquids at elevated temperatures but may not be subject to the application of external heat. Standard pipe uses also include load-bearing applications in construction and residential and industrial fence systems. Standard pipe uses also include shells for the production of finished conduit and pipe used for the production of scaffolding.

Specifically excluded from this investigation are mechanical tubing, tube and pipe hollows for redrawing, and finished electrical conduit if such products are not certified to ASTM A–53, ASTM A–120, ASTM A–135, ASTM A–795, and BS–1387 specifications and are not used in standard pipe applications. Additionally, pipe meeting the specifications for oil country tubular goods is not covered by the scope of this investigation, unless also certified to a listed standard pipe specification or used in a standard pipe application.

The merchandise under investigation is currently classifiable under items 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Regarding implementation of the use provision of the scope of this investigation, and any order which may be issued in this investigation, we are well aware of the difficulty and burden associated with such certifications. Therefore, in order to maintain the effectiveness of any order that may be issued in light of actual substitution in the future (which the use criterion is meant to achieve), yet administer certification procedures in the least problematic manner, we have developed an approach which simplifies these procedures to the greatest extent possible.

First, we will not require use certification until such time as petitioner or other interested parties provide the Department with a reasonable basis to believe or suspect that substitution is occurring. Second, we will require use certification only for the product(s) (or specification(s)) for which evidence is provided that substitution is occurring. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that pipe produced to the API–5L specification is being used as standard pipe, we will require use certifications for imports of API–5L specification pipe. Third, normally we will require only the importer of record to certify to the use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

Period of Investigation

The period of investigation (POI) is April 1, 1994, through March 31, 1995.

Facts Available

At verification, we found the following inaccuracies in the information provided by RIH which render the response unusable for purposes of margin calculations: unreported home market and U.S. sales; errors in the quantity and value reconciliations; certain discounts and rebates reported that should not have been; certain U.S. prices reported incorrectly; and certain discrepancies found in the pre-selected and surprise sales [2]. In addition, we found errors in the calculations of the following: indirect selling expenses; average stock days; and variable/total costs. The deficiencies found are outlined in detail in the public version of our April 3, 1996, verification report.

We have determined that the questionnaire responses of the respondent are unverifiable. The misreporting and inaccuracies of the information were so material and pervasive as to make the responses unreliable within the meaning of section 782(e)(3) of the Act. Therefore, RIH's responses provide an inadequate basis for calculating dumping margins.

We note that the respondent has cooperated throughout the investigation. In July and August 1995, we received questionnaire responses from RIH. In addition, RIH responded to five supplemental questionnaires; we received those responses in September–October 1994, and January–February 1996. In addition, RIH went through the entire verification process in South Africa in March 1996. Therefore, because the respondent has fully cooperated in this investigation, we are not using an adverse inference in selecting from among the facts otherwise available (*see* "Interested Party Comment" section of this notice).

Section 776(a)(2)(D) states that the Department "shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title" if an interested party or any other person provides such information but the information cannot be verified. The statute also provides that the facts otherwise available may be based on secondary information.

Section 776(c) provides that where the Department relies on "secondary information," the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action (SAA), accompanying the URAA, clarifies that the petition is "secondary information." (See! H. Doc. 316, 103d Cong., 2d Sess. 870 (1996). The SAA also clarifies that "corroborate" means to determine that the information used has probative value. *Id.* However, where corroboration is not practicable, the Department may use uncorroborated information. Given that the facts available margin for the respondent involves information contained in the petition, we are required to corroborate this data, to the extent practicable, pursuant to section 776(c) of the Act, because the information submitted by RIH was not verifiable.

In the present case, the petition is the only information on the record which could form the basis for a dumping calculation. Accordingly, the Department has based the margin on information in the petition. In accordance with section 776(c) of the Act, we attempted to corroborate the data contained in the petition. Because the petitioners based export price and normal value on independent, public sources (U.S. import statistics and a price list from one of respondent's distributors, respectively), we find that this information has probative value. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Clad Steel Plate from Japan* (61 FR 7469, 7470, February 28, 1996). Regarding the discounts used for normal value, we are not aware of any practicable means of corroborating such information. For a further discussion, *see* the May 6, 1996, memorandum from the Team to Gary Taverman.

Accordingly, we have relied upon the information contained in the petition. We have assigned to all exporters a margin of 117.66 percent, the average margin calculated in the petition on merchandise which is within the scope of this investigation.

Fair Value Comparisons

This final determination has been made using the average margin calculated in the petition as the facts available. For a discussion of how export price and normal value were calculated in the petition, see the *Initiation of Antidumping Duty Investigations: Circular Welded Non-Alloy Steel Pipe from Romania and South Africa* (60 FR 27078, May 22, 1995).

Verification

As provided in section 782(i) of the Act, we attempted to verify the information submitted by the respondent. We used standard verification procedures, including examination of relevant accounting and sales records and original source documents provided by the respondent. However, as stated above, we found numerous errors at verification (*see* the April 3, 1996, verification report). Thus, we did not use the respondent's information for our final determination.

Interested Party Comment

Use of Facts Available

The petitioners assert that the Department should make its final determination based on an adverse assumption of the facts available (AFA). The petitioners argue that respondent failed verification because the Department found errors in the respondent's home market and U.S. sales data such that it would not be possible to accurately determine normal value, export price or difference in merchandise adjustments.

In addition, the petitioners argue that the respondent failed to accurately report certain home market sales of the foreign like product. They cite *Circular Welded Non-Alloy Steel Pipes from Brazil* (57 FR 42940, September 17, 1992) in which the Department based its final determination on the best information available (the statutory predecessor to facts available) in part because the respondent had not reported certain home market sales of subject pipe which it contended were not comparable to the products sold in the U.S. market.

The petitioners state that the respondent has met the statutory requirement (19 U.S.C. 1677e) for the application of facts available which stipulates that the Department may rely on an adverse assumption of the facts available when "an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information." They also argue that the pervasive nature of the deficiencies, despite numerous opportunities to correct the information, and unilateral decision making exhibited by the respondent, indicate a respondent who has not made its best effort to comply with the Department's information requests.

The respondent argues that the Department should not use AFA in its final determination because (1) it has cooperated with the Department throughout the investigation; and (2) the errors found at verification were inadvertent and due to RIH's inexperience with the Department's antidumping laws. It argues that the Department should resort to less drastic solutions than AFA if it finds gaps in the record; the respondent states that the Department has sufficient verified information on the record to fill such gaps. It notes that the statute states that the Department should not resort to adverse inferences unless an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information." (19 U.S.C. 1677e(b)).

Regarding the excluded products in the home market, the respondent argues that the costs of those products are significantly higher than the standard pipe products and that there were no sales of these products to the United States. Thus, they would not have been considered in the analysis.

DOC Position

We agree, in part, with the petitioners. Section 782(e)(3) of the Act states that, in reaching a determination, the

[1] Allied Tube & Conduit Corporation, Sawhill Tubular Division—Armco, Inc., LTV Steel Tubular Products Company, Sharon Tube Company, Laclede Steel Company, Wheatland Tube Company, and Century Tube Corporation.

[2] We chose certain sales to examine at verification in order to verify the specific sales data reported (*e.g.*, date of sale, date of payment, quantity, unit price, etc.).

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Department will not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the Department if the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination.

At verification, we discovered numerous errors in the respondent's reported information. For example, the vast majority of the pre-selected and surprise sales contained discrepancies. While many of these errors may be corrected, the number of errors discovered draw into question the completeness and accurateness of respondent's remaining sales (*i.e.*, the sales not specifically reviewed at verification). Additionally, we discovered that the respondent did not report certain home market and U.S. sales and incorrectly reported the sales price for certain U.S. sales. Based on these errors and others discussed in the verification report, we find that the respondent's response is so incomplete that it cannot serve as a reliable basis for this determination. Because the information cannot be verified, section 776(a) requires us to use the facts otherwise available.

As facts available, we are basing the respondent's margin on the average margin calculated in the petition. We are using the petition rates because this is the only information on the record which could form the basis for a dumping margin (*see* "Facts Available" section above).

The respondent has been fully cooperative in the investigation, as noted above. Also, the errors discovered at verification do not indicate that the respondent withheld or misreported information to "obtain a more favorable result." SAA at 870. Rather, some of the errors hurt the respondent while others helped it. Therefore, we have used the average margin contained in the petition, rather than the highest margin. The Department's practice has been to assign the highest margin contained in the petition only where the respondent was found to have been uncooperative. *See Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Italy* (60 FR 33558, 33559, June 28, 1995).

Because we are basing our final determination on the facts available, all other interested party comments are moot.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of circular welded non-alloy steel pipe from South Africa, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse for consumption, on or after November 30, 1995, the date of publication of our preliminary determination in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the export price, as shown below. In accordance with section 733(d) of the Act, the suspension of liquidation based on the Department's preliminary determination may not remain in effect for more than six months (including the statutorily permissible extension). In accordance with this provision, the suspension of liquidation will remain in effect until May 28, 1996.

The weighted-average dumping margin is as follows:

Exporter/manufacturer	Weighted-average margin percentage
All exporters	117.66

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: May 6, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–11940 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–485–804]

Notice of Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe From Romania

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or John Beck, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4162 or (202) 482–3464, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Final Determination

As explained in the memoranda from the Assistant Secretary for Import Administration dated November 22, 1995, and January 11, 1996, the Department of Commerce (the Department) has exercised its discretion to toll all deadlines for the duration of the partial shutdowns of the Federal Government from November 15 through November 21, 1995, and December 16, 1995, through January 6, 1996. Thus, the deadline for the final determination in this investigation has been extended by 28 days, *i.e.*, one day for each full or partial day the Department was closed. As such, the deadline for this final determination is no later than May 6, 1996.

We determine that circular welded non-alloy steel pipe (pipe) from Romania is being sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination of November 21, 1995 (60 FR 61529, November 30, 1995), the following events have occurred:

In February 23, 1996, the respondents, Tepro S.A. (Tepro) (the producer of the subject merchandise), Metagrimex S.A. (Metagrimex), Matalexportimport S.A. (Metalexportimport) and Metanef S.A. (Metanef) submitted additional publicly available published information (PAPI) pertaining to surrogate values. On March 1, 1996, the petitioners [1] commented on the respondents' PAPI.

In March 1996, we verified the questionnaire responses to Tepro, Metagrimex and Metalexportimport. The third exporter, Metanef, did not permit the Department to verify its questionnaire responses.

The petitioners and respondents submitted case and rebuttal briefs on April 12 and 17, 1996, respectively. Additional comments were requested by the Department and submitted by the petitioners and respondents on April 19 and 23, 1996, respectively.

Scope of Investigation

The following scope language reflects certain modifications from the notice of the preliminary determination. We clarified the paragraph beginning "The scope specifically includes * * *" for use and presumed use language.

For purpose of this investigation, circular welded non-alloy steel pipes (standard pipes) are all pipes and tubes, of circular cross-section, not more than 406.4 mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), end finish (plain end, bevelled end, threaded, or threaded and coupled), or industry specification (ASTM, proprietary, or other) used in standard or structural pipe applications.

The scope specifically includes, but is not limited to, all pipe produced to the ASTM A–53, ASTM A–120, ASTM A–135, ASTM A–795, and BS–1387 specifications, regardless of use. It also includes any pipe multiple-stencilled or multiple-certified to one of the above-listed standard or structural pipe specifications and to any other specification, if used in a standard or structural pipe application. Pipe which meets the above physical parameters and which is produced to proprietary specifications, the API–5L, the API–5L X–42, or to any other non-listed specification is included within the scope of this investigation if used in a standard or structural pipe applicaion, regardless of the *Harmonized Tariff Schedule of the United States* (*HTSUS*) category into which it was classified. If the pipe does not meet any of the above identified ASTM or BS specifications (i.e., ASTM A–53, ASTM A–120, ASTM A–135, ASTM A–795, and BS–1387) or is multiple-Stencilled or multiple-certified to one of these specifications and to any other specification, although it is within the identified physical parameters described in the second paragraph of this section, our presumption is that it is not used in a standard pipe application.

Standard pipe uses include the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may carry liquids at elevated temperatures but may not be subject to the application of external heat. Standard pipe uses also include load-bearing applications in construction and residential and industrial fence systems. Standard pipe uses also include shells for the production of finished conduit and pipe used for the production of scaffolding.

Specifically excluded from this investigation are mechanical tubing, tube and pipe hollows for redrawing, the finished electrical conduit if such products are not certified to ASTM A–53, ASTM A–120, ASTM A–135, ASTM A–795, and BS–1387 specifications and are not used in standard pipe applications. Additionally, pipe meeting the specifications for oil country tubular goods is not covered by the scope of this investigation, unless also certified to a listed standard pipe specification or used in a standard pipe application.

The merchandise under investigation is currently classifiable under items 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90 of the *HTSUS*. Although the *HTSUS* subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Regarding implementation of the use provision of the scope of this investigation, and any order which may be issued in this investigation, we are well aware of the difficulty and burden associated with such certifications. Therefore, in order to maintain the effectiveness of any order that may be issued in light of actual substitution in the future (which the use criterion is meant to achieve), yet administer certification procedures in the least problematic manner, we have developed an approach which simplifies these procedures to the greatest extent possible.

First, we will not require use certification until such time as petitioner or other interested parties provide the Department with a reasonable basis to believe or suspect that substitution is occurring. Second, we will require use certification only for the product(s) (or specification(s)) for which evidence is provided that substitution is occurring. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that pipe produced to the API–5L specification is being used as standard pipe, we will require use certifications for imports of API–5L specification pipe. Third, normally we will require only the importer of record to certify to the use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

Period of Investigation

The period of investigation (POI) is October 1, 1994, through March 31, 1995.

Facts Available

Pursuant to section 776 of the Act, the Department shall use the facts otherwise available if necessary information is not available on the record, or if an interested party or any other person withholds requested information, fails to provide such information by the deadlines for submission of the information or in the form and manner requested, significantly impedes a proceeding, or provides such information but the information cannot be verified.

In addition, section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of that party as the facts otherwise available. The statute also provides that such an adverse inference may be based on secondary information, including information drawn from the petition. In this case, Metanef refused the verification of its questionnaire responses. Therefore, since reliable information is not on the record, and Metanef has not acted to the best of its ability, the application of section 776(b) is warranted. As a result, we are basing adverse facts available for the Romania-wide rate, which covers Metanef, on the rate calculated for Metagrimex, which is

[1] Allied Tube & Conduit Corporation, Sawhill Tubular Division—Armco, Inc., LTV Steel Tubular Products Company, Sharon Tube Company, Laclede Steel Company, Wheatland Tube Company and Century Tube Corporation.

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highest margin calculated and is higher than the rate contained in the petition.[2]

Separate Rates

As stated in our preliminary determination, Romania is a non-market economy (NME) country. To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test articulated in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (56 FR 20588, May 6, 1991) and amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, 22586, May 2, 1994) (*Silicon Carbide*). Under the separate rates criteria, the Department assigns separate cash deposit rates in nonmarket economy cases only if a respondent demonstrates the absence of both *de jure* and *de facto* governmental control over export activities.

The Department typically considers three factors which support, though do not require, a finding of *de jure* absence of central control. These factors include: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; or (3) any other formal measures by the government decentralizing control of companies. The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses (*see Silicon Carbide*).

1. Absence of De Jure Control

The two cooperating exporters of the subject merchandise in this investigation, Metagrimex and Metalexportimport, have provided their business licenses issued by the Romanian Chamber of Commerce and Industry. These exporters have stated that these licenses do not require renewal, do not impose any limitations on or create any entitlements for their operations, and can only be revoked by the issuing authorities if the requirements of the license are not fulfilled. The exporters also provided copies of several trade laws which they claim provide for the elimination of the state monopoly in the economy and foreign trade. During the verification of Metagrimex and Metalexportimport, we examined these exporters' business licenses, as well as the relevant trade laws. These documents supported the absence of *de jure* control claimed by these two exporters.

2. Absence of De Facto Control

These two exporters also asserted absence of governmental control based on all the *de facto* criteria. Specifically, they stated that: (1) They establish their own export prices; (2) they negotiate contracts without guidance from any governmental entities or organizations; and (3) there are no restrictions on the use of their export revenues and they make independent decisions regarding disposition of profits or financing of losses. During our verification of these two companies, we examined sales documentation, including correspondence and contracts with the customer, as well as bank accounts and profit allocation. These documents confirmed the accuracy of the above-referenced statements.

Concerning the fourth criterion that the respondent in question has autonomy from the government in making decisions regarding the selection of management, both Metagrimex and Metalexportimport stated that they had this autonomy. During our verification of Metagrimex, we examined the membership of its Council of Administration, which selects the management and is similar to a board of directors. Our examination confirmed that this council was independent of the Romanian government or agencies thereof, and therefore, Metagrimex was able to make its own management personnel decisions.

During our verification of Metalexportimport, we also examined the membership of its Council of Administration, which also selects the management and is similar to a board of directors. We confirmed that this council, which is made up of five members, only included one member appointed by the state ownership fund (SOF) and one member appointed by the private ownership fund (POF). The SOF and the POF were created by the Romanian government to help privatize Romanian companies. We thus confirmed that this council was independent of the Romanian government or agencies thereof, and therefore, Metalexportimport was able to make its own management personnel decisions.

Consequently, we determine that the information provided by Metalexportimport and Metagrimex supports our finding that there is *de jure* and *de facto* absence of governmental control of export functions. Therefore, these two companies have met the criteria for the application of separate rates.

Respondent Metanef provided information regarding separate rates in this investigation. However, because it refused verification, we could not verify its separate rate claim.

Fair Value Comparisons

To determine whether sales of pipe from Romania to the United States by Metagrimex and Metalexportimport were made at less than fair value, we compared Export Price (EP) to the Normal Value (NV), as specified in the "Export Price" and "Normal Value" sections of this notice.

Export Price

For both exporters, we calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and because constructed export price under section 772(b) is not otherwise warranted on the basis of the facts of this investigation.

For Metagrimex and Metalexportimport, we calculated EP based on packed, FOB Romania port prices to unaffiliated purchasers in the United States, as appropriate, based on the same methodologies described in the preliminary determination.

Normal Value

As stated in our preliminary determination, when the Department is investigating imports from a NME, section 773(c)(1) of the Act directs us to base NV on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. Therefore, we calculated NV based on factors of production reported by Tepro, the sole producer of the subject merchandise. We made the following adjustments to the factors reported by Tepro based on our findings at verification.

[2] Because Metanef refused to have its questionnaire response verified, it is ineligible for consideration for a separate dumping margin. Accordingly, because Metanef is the only other exporter, the country-wide rate is being based on Metanef's rate (which is based on adverse facts available).

First, we used corrected wall thicknesses in matching steel coil to its surrogate value (*see* comment #5 in the "Interested Party Comments" section of this notice). Second, we adjusted lacquer, electricity, and thread protector factors for corrections found at verification. Third, since Tepro was unable to adequately support its claimed labor figures for pipe produced on production line 220, we disregarded the amount reported and used, as facts available, the highest verified direct labor input for the size of pipe on another verified line closest to the sizes produced on line 220 (as discussed below, indirect labor is included in the value for overhead) (*see* comment #9 in the "Interested Party Comments" section of this notice).

Valuation of Factors

For the final determination, we have calculated NV using Colombian and Thai prices to value Tepro's factors of production. We have multiplied the reported factor quantities by these values. Where we had information for Columbia, we used it as our primary surrogate. We have used data from Columbia because Colombia is the closest country to Romania in terms of economic development that is also a significant producer of the subject merchandise. Where we had no information for Colombia, we used Thailand as our secondary surrogate since Thailand is within the same per-capita income band of countries as Romania and Colombia and it is also a significant producer of the subject merchandise (*see* Comment #1 in the "Interested Party Comments" section of this notice). All values were adjusted for inflation, where appropriate.

To value hot rolled steel coil, the major material input, we again used the steel price list for sheet and coil sold to industrial users in Colombia published by Acerias Paz del Rio S.A., a Colombian producer of steel sheet and coil. To value saleable steel scrap, because we could find no Colombian PAPI, we used the percentage difference between steel coil and steel scrap from the 1994 Thai import statistics, contained in the *Foreign Trade Statistics of Thailand*, published by the Thai Customs Department (1994 Thai Import Statistics). For lacquer and marking paint, we used the basket category data for paints and varnishes for both of these factors reported in the 1994 Colombian import statistics, provided by the Instituto Colombiano de Comercia Exterior (1994 Colombian Import Statistics). For zinc, hydrochloric acid, zinc chloride and ammonium chloride, we used values in the 1994 Colombian Import Statistics. For saleable zinc scrap, because we could find no Colombian PAPI, we used the values in the 1994 Thailand Import Statistics.

To value unskilled and packing labor, we used the 1994 wage rate for the manufacturing sector published in the *Economic Guide for Investors* by the Colombian government. Since we cannot determine if the labor values in this case were for skilled or unskilled workers, we are following the method established in the *Final Determination of Sales at Less than Fair Value: Polyvinyl Alcohol from the PRC* (61 FR 14057, March 29, 1996). In that investigation, we found no basis to assume the skill level of the surrogate value, nor did we have agreement among the parties regarding the skill level. Thus, we applied a single wage rate to all reported labor factors. Since we have the same situation here, we applied a single wage rate to unskilled and packing labor factors. Further, because this value was exclusive of benefits, we increased the amount reported to include benefits. As explained above, the value for overhead includes an amount for indirect labor. Thus, we did not value the factor for indirect labor.

To value electricity, we used electricity rates for Colombian industrial users published quarterly by the Latin America Energy Organization (Organizacion Latinoamericana de Energia, or OLADE). For methane, because we were unable to find a Colombian value, we used the value of natural gas because, according to the petitioners, it has substantially the same end use as methane. We based the surrogate value for natural gas on 1992 Colombian prices shown in a 1993 OLADE publication.

For the packing materials of cold rolled strip, PVC foil and thread protectors, because we could find no Colombian PAPI, we used the values in the 1994 Thailand Import Statistics.

We were unable to locate Colombian PAPI for overhead, selling, general and administrative (SG&A) expenses, and profit. Therefore, we used the values from the *Final Results of the 1992–93 Antidumping Duty Administrative Review of Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand* (61 FR 1328, January 19, 1996) (*1992–93 Administrative Review*). The rate for overhead included an amount for indirect labor. Overhead was calculated as a factor of direct labor. SG&A expenses were calculated as a percentage of the sum of materials, labor and overhead.

We were also unable to locate Colombian PAPI for rail freight and foreign brokerage and handling. Thus, for rail freight, we used the rate contained in the *Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe from Romania* (57 FR 42957, September 17, 1992) (*Steel Pipe I*). This information was obtained from *The Investment Environment in Thailand* for 1991. For foreign brokerage and handling, we used the rate contained in the public version of a questionnaire response submitted in the 1994 antidumping duty investigation of *Carbon Steel Butt Weld Pipe Fittings from Thailand* (60 FR 10552, February 27, 1995). We used the rate contained in the 1994 investigation because this figure was more recent than the foreign brokerage and handling rate contained in *Steel Pipe I*, which was based on an earlier Carbon Steel Butt Weld Pipe Fittings from Thailand investigation. For a complete analysis of surrogate values used in the calculation of NV, see the May 3, 1996, memorandum from the Team to Gary Taverman, Acting Director, Office of Antidumping Investigations.

Romania-Wide Rate

As in all NME cases, the Department implements a policy whereby there is a rebuttable presumption that all exporters or producers comprise a single exporter under common government control, the "NME entity." The Department assigns a single NME rate to the NME entity, unless an exporter can demonstrate eligibility for a separate rate. As stated previously, Metanef has not established entitlement to a separate rate because of its refusal to have its questionnaire response verified. Therefore, it becomes the Romania-wide rate (for a further discussion of the NME rate, see the *Final Determination of Sales at Less than Fair Value: Bicycles from the People's Republic of China* (61 FR 19026, April 30, 1996).

Verification

As provided in section 782(i) of the Act, we verified all information submitted (except that of Metanef) used in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents.

Interested Party Comments

Comment 1: Selection of Surrogate Countries

The petitioners state that any surrogate country used in this investigation should be a significant

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producer of comparable merchandise. Since Colombia, Thailand and the United States are the only countries on the record which have been shown to be significant producers of the subject merchandise, the petitioners state that only surrogate data from these countries can be used in the final determination.

DOC Position

We agree with the petitioners. However, for the final determination, we have only used values from Colombia and Thailand because values were found for these two countries, making the use of U.S. values unnecessary.

Comment 2: Proposed Use of the Acerias Price List to Value Steel Coil

The respondents argue that the Department should not use the price list of Acerias Paz del Rio, S.A. (Acerias) to value steel in the final determination. The petitioners argue that respondents' assertions on this matter have, for the part, been rejected by the Department in its preliminary determination and that the Department should continue to use the price list to value steel in the final determination. The arguments presented by both sides have been classified into five main areas: (1) Whether the prices on the price list were aberrational; (2) whether the price list represents actual prices; (3) whether the Department's use of this list in the preliminary determination was predictable and fair; (4) whether the problems of Acerias have an impact on its prices; and (5) whether the Department's past practice allows for the use of the price list.

Regarding whether the price list was aberrational, the respondents argue that the Acerias prices are aberrational and conflict with the other values on the record and are, therefore, not reliable. The petitioners counter that the Acerias prices are not aberrational and fall squarely in the range of the prices: (1) Provided by the respondents when one increases these prices for the increase in world steel prices; and (2) from 12 countries provided by the petitioners.

Both parties then argue about whether the price list represents actual prices. The respondents argue that the Acerias price list does not represent actual prices. They then contend the following. First, the Department relied upon a vague affidavit provided by the petitioners to establish steel prices in the preliminary determination. In contract, the affidavit, provided by respondents shows that the price list does not represents actual prices. Second, Colombia pipe producers use imported steel. Therefore, the price list has no probative value. Third the petitioners have previously argued that a price list submitted by the respondents was inconsequential since "it is widely known that virtually all steel purchasers receive substantial discounts from price lists."

The petitioners counter that the Acerias price is publicly available published information which represents actual prices paid for steel coil in Colombia. The petitioners argue the following to support this contention. First, petitioners' affidavit was properly sworn and consularized and was not vague in any way. Second, the two affidavits submitted by the respondents to discredit the price list rely on broad generalizations and misdirection and are not proper affidavits. Third, the petitioner' previous statements regarding the applicability of steel price lists related to U.S. lists and therefore are of no relevance to the Acerias price list.

Both parties then argue whether the Department's use of this list in this investigation was predictable and fair. The respondents assert that the use of this price list violates the Department's own precepts that NME cases be accurate, fair and predictable. To support their assertion, they argue the following. First, during the last four years, the Department has developed a PAPI hierarchy that prefers import statistics. Second, in this case, the Romanians could not have anticipated that Colombia would be selected as the surrogate country. However, even if they would have relied on Colombia import statistics or world import statistics to help them predict probable surrogate values and establish a price structure for the U.S. market, not a price list dated seven months after the POI. Third, even the Departments *Notice of Proposed Rulemaking and Request for Public Comments* (16 FR 7308, February 27, 1996) states that prices observed in international markets may better serve the Department's goals of accuracy and fairness.

The petitioners counter that the selection of Colombia as a surrogate country was very predictable. First, the Department's policy has never required that the surrogate be a major exporter in the production of comparable merchandise. Second, the fact that the surrogate countries for Romania have changed over time is attributable to economic changes in Romania. Third, there is no fixed policy preference for import statistics over all other sources in NME cases. Fourth, the Department has been willing to use world prices only where the surrogate value that would have been selected under the traditional method is aberrational, which is not the case here.

Both parties then discussed whether the problems of Acerias have an impact on its prices. The respondents argue the following. First, Acerias is currently in bankruptcy and continues to suffer the effects of strikes which took place in 1994. The Department in a previous case refused to use the annual report of an Indian bearing producer for overhead because it too, was in bankruptcy (*Final Results of Antidumping Duty Administrative Review: Tapered Roller Bearings and Parts Thereof from the Peoples Republic of China (Tapered Roller Bearings)* (56 FR 67590, December 31, 1991)). Second, Acerias is not comparable to other world steel producers because it is not representative of modern steel companies.

The petitioners counter that the Acerias price list is not unreliable. unrepresentative or distortive. To support their position, the petitioners argue the following. First, respondents have failed to demonstrate any connection between Acerias financial difficulties and the notion that this caused Acerias to charge higher prices for its products. If any connection between financial problems and prices has been established, the record shows that Acerias had to charge lower prices for its products than it normally would have. Second, respondents' claim that Acerias' production is based on old technology is inconsequential because it does not refer to whether the technology relates to the production of hot-rolled coil and does not mention the fact that Acerias has made improvements to its infrastructure in the preceding years.

Finally, both parties discuss whether the Department's past practice allows for the use of the price list. The respondents contend that the Department's acceptance of an unverified price list contravenes the Department's policy on price lists. They argue that to use a price list, the Department requires that all sales be based on the price list, an accounting firm must certify that the company adheres to the price lists, and the price list must be contemporaneous, none of which is present here. The respondents then argue that the price list is not PAPI and should not be used.

The petitioners counter that respondent's characterization of the Department's practice with respect to price lists is incorrect. The further state that the documentation provided by the respondents relates only to the use of price lists as substitute for sale-by-sale reporting of actual transaction prices.

DOC Position

We agree with the petitioners, in part. We have used the Acerias price list to value steel coil but have not made an adjustment to this list for the price trend claimed by the petitioners (*see* also Comments #3 below). In this case we have used the Acerias price list because we feel that its is more appropriate to use actual prices of a producer of a material input in the primary surrogate country rather than import statistics. We believe that Acerias prices more closely represent prices a pipe producer in a comparable market economy country would pay for this input material. Furthermore, the use of the price list was found to be reasonable when analyzing the points (discussed below) raised by the interest parties. Therefore, it is our first choice for valuation purposes.

Regarding the issue of whether the prices on the price list are aberrational, we have compared the Acerias prices to (1) Colombian import statistics provided by the respondents; (2) Thailand import statistics; [3] and (3) Latin American export prices published in the *Metal Bulletin*. Where appropriate, prices were adjusted for inflation to make them POI prices. The results of this analysis showed that the prices on the Acerias price list were reasonably close in value to those comparators (for a complete discussion of this analysis, see the May 6, 1996, issues memorandum from the Team to Barbara R. Stafford, Deputy Assistant Secretary for Investigations).

Regarding the issue of whether the price list represents actual prices, we feel confident that the prices on Acerias' list are actual prices. The affidavit provided by the petitioners states that the price list (1) Is publicly available to any person who requests it; and (2) contains actual prices charged by Acerias to industrial users in Colombia. While these industrial users receive discounts for unfinished edges, quantity purchases, and prompt payment, these discounts are clearly identified on the price list and have been deducted from the prices used in our calculations. Thus, we have utilized actual prices paid by Acerias' customers in our margin calculations.

Regarding Tepro's affidavit, we believe that the price list describes adequately the type of steel. We agree with the petitioners that "commercial quality" adequately describes SAE 1010 grade or its equivalent which is used by pipe producers. Furthermore, it does not matter that Acerias may: (1) Not have sold the steel to Colombian pipe producers; (2) not have sold exclusively from the price list; or (3) have sold to large customers at discounts below those listed on the price list. None of these arguments explicitly disproves that Acerias sold steel coil using the prices on its price list to customers in Colombia. We have found no evidence that the prices in the price list are not actual prices; in contrast, we believe that petitioners' affidavit demonstrates that the list prices are, indeed, actual prices.

Regarding the issue of whether the Department's use of the Acerias list was predictable and fair, we note that Colombia was used in this investigation due to its per-capita GNP similarity with Romania and the fact that it is a significant producer of the subject merchandise. While the surrogate countries have changed over time because of the economic changes of Romania and other countries, the Department has utilized the same criteria for selecting surrogate countries. The Department selects surrogate countries based on the per-capita GNP rankings of all countries listed in the *World Development Report* published by the World Bank. Therefore, we believe the selection of Colombia as the surrogate country in this investigation was both predictable and fair. Furthermore, we disagree with the respondents that the Department has developed a PAPI hierarchy in which import statistics are preferred to surrogate values from a producer of the material input in the primary surrogate country. The Department does not have a hierarchy where import statistics are used. As explained above, in this case, publicly available surrogate values from a producer of the material input in the primary surrogate country have been found to be preferable over import statistics. Finally, the Department's *Notice of Proposed Rulemaking and Request for Public Comments* stated that international markets should only be used when data from a primary and/or secondary surrogate countries were not found to be appropriate, and not as the first choice.

Regarding the issue of whether the problems of Acerias have an impact on its prices, we do not believe that the respondents have adequately demonstrated any relationship between Acerias' financial difficulties and the steel coil prices charged by Acerias. There is nothing on the record which states that Acerias charged its customers higher prices than it normally would have due to its financial difficulties. In fact, one could argue that a cause of Acerias' negative financial state is a consequence of the lower than normal prices it charged its domestic customers. Furthermore, in *Tapered Roller Bearings*, the Department refused to use the Indian roller bearing producer's data because the auditor's report for this producer noted that the financial statements were not presented in accordance with the generally accepted accounting principles of India. In addition, there are conflicting arguments on the record regarding the age of the technology used by Acerias and its resultant level of efficiency. However, there is not information on the record which proves that the technology used by Acerias has had a marked impact on its prices.

Regarding the issue of whether the Department's past practice allows for the use of the price list, we disagree with the respondents. The conditions for using a price list described in the respondents' argument only apply when the price list is used as a substitute for sale-by-sale reporting of actual transaction prices in market economy cases.

Although we have used the Acerias price list to value steel coil in this investigation and have made an adjustment to the prices in this list for inflation, we have not made the additional adjustment to the prices for the price trend claimed by the petitioners. This additional adjustment was made in the preliminary determination. However, we have determined that, after a further review of the information on the record, this adjustment is not appropriate, as the information supplied by the petitioners to substantiate it was not specific to the Colombian domestic market, but was for Latin American export prices. We have determined that there is an insufficient link between domestic Colombian prices and average Latin American export prices and, therefore, we have denied this adjustment (for a further discussion of the Department's discussion of this issue, see the May 6, 1996, issues memorandum from the Team to Barbara R. Stafford, Deputy Assistant Secretary for Investigations).

Comment 3: Proposed Use of Colombian Import Statistics To Value Steel Coil

The respondents argue that the Colombian import statistics they provided are PAPI that should be used in the final determination. They also argue the following. First, the lowest import prices are the prices paid by large industrial users and should be used by the Department in this case to

[3] Thai import statistics are used for comparison purposes because: (1) Thailand is within the same per-capita income band of countries as Romania and Columbia; (2) Thailand is a large producer of the subject merchandise; and (3) steel import statistics were available from Thailand.

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value steel coil. Second, the rationale contained in the Department's November 21, 1995, steel valuation memorandum (regarding thickness and grade) is no longer relevant. Thus, the respondents argue that the Department should use the Colombian import statistics to value steel. The respondents than state that only limited adjustments need to be made if the Colombian import prices are used.

The respondents also state that petitioners' evidence showing an increase in the prices of steel during January 1994 to March 1995 is largely anecdotal or based on Metal Bulletin spot prices. The respondents argue that the U.S. import data shows no such increase in the prices of steel during this time. Furthermore, if there was such an increase, the petitioners should have been able to provide their own invoices to substantiate this. Finally, since most companies keep inventories of key raw materials, a monthly spike in prices will not necessarily affect a large user as much as a user which buys sporadically.

The petitioners counter respondents' arguments with the following. First, respondents' claim that the lowest Columbian import prices reflect the prices paid by large industrial users is sheer speculation. Furthermore, the Department had many other reasons for rejecting respondents' arguments in the steel valuation memorandum than just thickness and grade. However, the petitioners argue that if the Department chooses to use the Colombian import statistics submitted by the respondents, certain adjustments need to be made.

Finally, the petitioners argue that the evidence of the steel price surge is not anecdotal nor based on spot prices but information contained in the *Metal Bulletin*. They contend that respondent's U.S. import statistics are useless to the Department because they provide country-specific information for only a handful of exporting countries and the totals are skewed by the inclusion of cheap imports from non-market economies such as Russia. They further contend that the information on the record does not allow the Department to identify the quantity or value of NME imports so that they may be excluded. Finally, the petitioners argue that the limited information in these import statistics seems to support petitioners' information regarding steel price trends.

DOC Position

We disagree with the respondents and have not selected the Colombian import statistics to value the steel coil. As stated above in our response to Comment #2, in this case we believe that the Acerias price list is preferable to the Colombian import statistics. Accordingly, the issue about how to adjust the Colombian import statistics is therefore moot.

Comment 4: Discount for Secondary Steel

Tepro argues that the Department's rejection of a discount for the purchase of secondary steel in the preliminary determination was unreasonable and should be corrected for the final determination. To support its claim, Tepro argues the following. First, the information Tepro provided for the preliminary determination should be sufficient to warrant an adjustment. Second, the Department has now verified Tepro's gross consumption and scrap rates. These rates do not support rejection of the discount. Third, qualitative differences impact price and Tepro's supplier sold its steel at a significant discount because of qualitative differences. Fourth, the Department itself has differentiated between "first quality" and "second quality" merchandise in the *Steel Trigger Price Mechanism Procedures Manual*. Fifth, the reluctance of the Department to grant a discount for secondary steel may be based on the fear that the precedent in this case would make the Department vulnerable in other cases to similar requests for discounts based on qualitative differences in merchandise. The last argument notwithstanding, the Department has the obligation to select surrogate values which are "accurate and fair" and thus, the discount should be granted.

Tepro also states that the information gained at the verification proved that it was entitled to this discount. This information included: (1) The statement by an official of Tepro's supplier at verification that the quality standards for sale of hot-rolled coil to Romania in general and Tepro in particular are significantly lower than those for export and the discount to Tepro was because of differences in quality; and (2) invoices which show that Tepro bought steel during the POI at prices lower than Romanian exports to the European Union (EU). Tepro also stated that the reason the verifiers did not see physical defects in the steel in Tepro's inventory is that this steel was of Russian origin and Tepro does not purchase secondary steel from its Russian supplier. Finally, Tepro argued that the only information on the record that conflicted with Tepro's secondary steel claim is the statement from an employee of one of the petitioners who, to Tepro's knowledge, had never been to Romania, never visited Tepro or its supplier, and had no knowledge of the production process employed by Tepro. Thus, the Department's decision is not supported by evidence on the record.

The petitioners counter that Tepro's claim that the secondary steel discount should again be rejected for the final determination. To support this contention, the petitioner argues first, that nothing has been submitted to the Department since the preliminary determination to warrant a different conclusion. In particular, Tepro's reported scrap rates have not changed, nor has Tepro rebutted the results of the metallurgical tests to which the Department referred. Second, no new documents were produced at verification to substantiate the claim that Tepro uses only secondary steel. The statement on the invoices observed at verification was that the steel was "not designated for exports to the EU." Respondents' interpretation of this is not buttressed by any evidence on the record. Petitioners proffer that the restriction probably arises from export controls between the EU and eastern European countries or the desire of Romanian producers to avoid triggering an EU antidumping action. Furthermore, internal prices in an NME country are irrelevant to the Department's analysis because such prices are not established by market forces.

Third, respondents cannot state that the Department's reluctance to grant a discount is based on fear of the precedent that would set since they cannot speak for the Department, and the petitioners note that the Department has previously been receptive to adjustments for qualitative differences where they have been established by substantial evidence on the record. Fourth, the petitioners had more than one piece of evidence disputing respondents' claims; in fact, the metallurgical test not mentioned by the respondents was the piece of evidence most damaging to the respondents' argument. Finally, although the employee of one of the petitioners did not visit Tepro's plant, the Department verifiers did and found no evidence to support Tepro's claims.

DOC Position

We agree with the petitioners. Since the preliminary determination, the only additional information on the record regarding this issue is the discussion in the verification report and verification exhibits. Regarding the statement by Tepro's supplier at verification that it granted Tepro a discount because of differences in quality, we do not believe that it would be appropriate to grant a price adjustment based on statements that were not supported by physical evidence. As explained in the preliminary determination, Tepro did not provide adequate documentation to support its claimed adjustment. The only new documentation gained at the verification were invoices that state that the merchandise is not designated for exports to the EU. As noted by the petitioners, this could have been for a variety of reasons. No evidence was provided which conclusively demonstrated that Tepro received a discount for buying steel that was of a lower quality or grade than standard steel.

Regarding Tepro's other points, we note the following. First, the scrap rates of Tepro, although verified, have not changed since the preliminary determination. Furthermore, although we agree with Tepro that qualitative differences may affect price and that the Department has discussed prime versus secondary quality merchandise in the past, this is irrelevant since no such qualitative differences have been established here. In addition, Tepro's claim that "reluctance of the Department to grant a discount for secondary steel may be based on the fear that the precedent in this case would open up the Department in other cases to similar requests for discounts based on qualitative differences in merchandise" is not accurate. As stated above, the Department has rejected this adjustment to price because there has been no evidence placed on the record which demonstrates that Tepro received a discount for buying steel that was of a lower quality or grade than standard steel. Finally, the metallurgical test submitted by the petitioners showed that the grade of steel used by Tepro was identical to the grade of steel used by U.S. and other world producers of the subject merchandise. As noted by the petitioners, this test was not rebutted by Tepro.

Comment 5: Prices for Different Steel Sizes Matched to Proper Pipe Sizes

The petitioners contend that the Department in certain instances incorrectly matched prices for different thicknesses of steel with the wrong pipe sizes. They argue that the coil thicknesses reported by Tepro are inconsistent with the steel thicknesses specified by ASTM A–53 grade with which Tepro claims to comply. They also state that prices for 3–4mm thick coil may be applied only to pipe that is 2" diameter or smaller.

DOC Position

We agree with the petitioners and have corrected the wall thicknesses for those products that were incorrectly listed. Furthermore, we have used the corrected wall thicknesses in the matching to the surrogate value for steel coil.

Comment 6: Use of Steel Input Quantities Reported in the Questionnaire Response

The petitioners argue that since Tepro reported its theoretical steel weight figures instead of its actual steel weight figures, it should be subject to adverse facts available. They also state that, at a minimum, the Department should not adjust downward the reported amounts by the amount of the difference noted in the verification report.

DOC Position

Since the Department only had time at verification to examine the theoretical/actual weight difference for one pipe size, we do not believe that it would be appropriate to attempt to convert all weights from theoretical to actual for all pipe sizes based on the one size examined. Also, as noted in the verification report, the theoretical weight was greater than the actual weight for the one size examined. Therefore, we have made no adjustments to the theoretical weights listed and have accepted them for purposes of the final determination.

Comment 7: Steel Scrap

The petitioners argue that the steel scrap surrogate used in the preliminary determination is aberrational and must be reduced. To support its argument, the petitioners make the following points: (1) The tariff category used for scrap in 1991 was under- or over-inclusive; (2) the 1991 scrap/coil ratio in Thailand was completely unlike that of other markets; and (3) the scrap/coil ratio has changed dramatically since 1991. The petitioners state that the scrap value to coil value in other world markets was one-third to one-half the values used in the preliminary determination and argue that the Thai scrap/coil ratios are aberrational, as well as not being contemporaneous with the POI. Thus, the Department should instead use the average of three contemporaneous ratios calculated by the petitioners.

The respondents claim that if the Colombian import statistics are used to value steel, then they do not object to the use of a lower scrap price. The respondents state that, where possible, contemporaneous prices should be used.

DOC Position

We have obtained updated Thai import values for steel coil and steel scrap and are using these values to obtain a steel scrap ratio. These values are specific to the steel used in the production of steel pipe. These values are from the Thai Import Statistics, the same source that was used in the preliminary determination, but are based on the period from January to June, 1994, and thus, the resultant ratio from these figures is more contemporaneous with the POI than the ratio used in the preliminary determination. Therefore, any change in the scrap/coil ratio since 1991 has been incorporated into this new ratio. Regarding the argument that this ratio is aberrational, we found no other information on scrap ratios for Colombia, the primary surrogate country, or Thailand, the secondary surrogate country, which show that this rate is aberrational in the surrogate countries. Furthermore, we disagree with the petitioners that we should use an average of the three scrap ratios calculated by the petitioners as these ratios are from countries that are less appropriate surrogate countries than Thailand.

Comment 8: Other Raw Materials

In addition to hot-rolled coil, the respondents contend that the Department should use Colombian import statistics on the record to value zinc, zinc chloride, ammonium chloride, hydrochloric acid and paint.

DOC Position

We agree with the respondents that we should use Colombian import statistics now on the record to value these raw materials. Colombia is our first choice as a surrogate country and we have therefore used the import statistics to value these raw materials.

Comment 9: Direct and Indirect Labor Inputs for Line 220

The petitioners state that since Tepro could not substantiate its unit labor amounts reported for each size pipe produced on its production line 220, the Department should use facts available for direct and indirect labor inputs for all subject merchandise above three inches diameter. They argue that the methodology suggested at verification is untimely, unsubstantiated and unverified and that the statute and the Department's policies forbid the use of such information. They argue that the Department should use the higher of: (1) the highest reported direct and indirect labor input reported for pipe of other

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sizes; or (2) the factor used in the petition for 4" diameter pipe.

The respondents state that the Department should use the alternative methodology suggested by Tepro at verification in order to calculate labor factors for line 220.

DOC Position

We agree with the petitioners, in part. We do not believe that the methodology suggested by the respondents at verification is appropriate because it was calculated only for one month, and does not arrive at the actual labor hours on line 220 for that month. Thus, we believe that the use of facts available is appropriate. However, we do not agree with the petitioners on the selection of adverse facts available. Instead of using the highest reported labor input reported for pipe of other sizes, we believe that it is more appropriate to use the highest verified direct labor input for the size of pipe on another verified line closest to the sizes produced on line 220 and have done so. An amount for indirect labor was not added because indirect labor is included in the overhead amount.

Comment 10: Factory Overhead, SG&A Expenses and Profit

For SC&A expenses, the respondents state that the figure used in the preliminary determination is inappropriate because it is not contemporaneous with the POI. The respondents argue that the Department should use the SG&A figure from the *1994–95 Administrative Review of Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand* (*1994–95 Administrative Review*) rather than the SG&A figure from the *1987–88 Administrative Review of Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand* (*1987–88 Administrative Review*), which was used in the preliminary determination. The respondents also argued that the petitioners' proposed new SG&A figure, when one makes the proper adjustments, serves to underscore the unreasonableness of the data used in the preliminary determination.

For profit, the respondents argue the following. First, since the steel price selected by the Department is 30–40 percent higher than the steel price paid by Thai pipe producer Saha Thai Steel Pipe Co., Ltd. (Saha Thai) in the *1994–95 Administrative Review*, the Department cannot use such high raw material prices and then hypothesize that an eight percent profit could be obtained in Thailand, since U.S. import statistics confirm that Thai producers sell steel pipe at prices similar to that paid for Romanian pipe. Second, there are questions about how the profit was calculated in the *1992–93Administrative Review* and the profit amounts in the *1994–95 Administrative Review* contradict the profit figures proposed by the petitioners from the *1992–93 Administrative Review*. Third, the Department should rely upon what is knows about the Colombian steel industry to calculate profit. Information on the record suggests that all sectors of the Colombian steel industry are not profitable. Therefore, the Department should use a zero profit margin or petitioner's own profit margins.

The petitioners state that the values used in the preliminary determination for factory overhead, SG&A expenses and profit should also be used for the final determination. The petitioners argue that the information provided by respondents for these factors was submitted for the *1994–95 Administrative Review* which has not been completed. These factors are therefore based on questionnaire responses that may have been superseded by subsequent revisions and have not yet been determined to be reliable for the case in which they were originally filed. In addition,the excerpts themselves are also incomplete. The information used in the preliminary determination does not have these defects and should therefore be used in the final determination. Alternatively, the petitioner argue that the Department should use information from the *1992–93 Administrative Review*, the most recently completed administrative review. This record of this review contains publicly-ranged figures for SG&A expenses and profit for Saha Thai. The petitioners note that if the Department decides to use information from the *1994–95 Administrative Review*, it should use the most recent amendments or revisions to such data.

Regarding profit, the petitioners contend that respondents' suggestion that the Department use the Acerias profit should be rejected because although no objectionable connection has been established between Acerias' financial problems and its prices, there is definitely a connection between those problems and its profit.

DOC Position

We agree with the petitioners that the best information to use for overhead, SG&A expenses and profit for the final determination in this case are the futures from the most recently completed administrative review of *Circular Welded Carbon Steel Pipes and Tubes from Thailand*. In this case, the most recently completed review is the *1992–93 Administrative Review*. We believe that it is not appropriate to use figures from an uncompleted review since they may be altered as the case progresses. We are therefore using the public figures from the *1992–93 Administrative Review* for overhead and SG&A expenses.

For profit, since we are using actual public overhead and SG&A expense amounts, we believe that it is also appropriate to use the actual public profit figure listed in the *1992–93 Administrative Review*, not the eight percent figure used in the preliminary determination, and have done so.

Comment 11: Inland Freight

The petitioners argue that the Department should use in the final determination the costs incurred by Tepro in non-convertible currency for domestic inland freight. They state that where surrogate values are not available, the Department should use facts available based on data in the petition.

DOC Position

In asking that the Department use the costs incurred by Tepro in non-convertible currency for foreign inland freight, the petitioners failed to note that the Department applied a surrogate value for domestic inland freight in the preliminary determination. We have followed the same methodology for purposes of the final determination. The inland freight distance between Tepro and the Romanian port was reported by Tepro in its questionnaire response.

Comment 12: Brokerage

The respondents argue that the Department should use the brokerage figure for Saha Thai contained in the *1994–95 Administrative Review of Circular Welded Carbon Steel Pipes and Tubes from Thailand* for purposes of the final determination.

DOC Position

We disagree with the respondents. As mentioned above (*see* Issue #12), we believe that it is appropriate not to use the figures from an uncompleted review where possible since these figures may be altered as the case progresses. We are therefore using the same public values we used in the final determination from *Carbon Steel Butt Weld Pipe Fittings from Thailand* to value foreign brokerage and handling.

Continuation of Suspension of Liquiation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of circular welded non-alloy steel pipe from Romania, that are entered, or withdrawn from warehouse for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the export price as shown below. In accordance with section 733(d) of the Act, the suspension of liquidation based on the Department's preliminary determination may not remain in effect for more than six months (including the statutory permissible extension). In accordance with this provision, these suspension of liquidation instructions will remain in effect until May 28, 1996.

The weighted-average dumping margins are as follows:

Exporter	Weighted-average percentage margin
Metagrimex S.A	85.12
Metalexportimport S.A	77.61
Romanian-Wide Rate	85.12

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: May 6, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–11941 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–201–802]

Preliminary Results of Antidumping Duty Administrative Review; Gray Portland Cement and Clinker From Mexico

AGENCY: International Trade Administration/Import Administration/ Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. The review covers exports of this merchandise to the United States during the period August 1, 1993, through July 31, 1994, and one firm, CEMEX, S.A. The results of this review indicate the existence of dumping margins for the period.

We invite interested parties to comment on these preliminary results. Parties who submit arguments in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Nathan Bartholomew or Donna Kinsella, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Background

On August 3, 1994, the Department of Commerce (the Department) published in the **Federal Register** (58 FR 41239) a notice of "Opportunity to Request Administrative Review" for the August 1, 1993, through July 31, 1994, period of review (POR) of the antidumping duty order on gray portland cement and clinker from Mexico (55 FR 35371, August 29, 1990). In accordance with 19 CFR 353.22, CEMEX, S.A. (CEMEX) and the petitioners, the Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement and the National Cement Co. of California, Inc., requested a review for the afore-mentioned period. On September 16, 1994, the Department published a notice of "Initiation of Antidumping Review" (58 FR 51053). The Department is now conducting a review of this respondent pursuant to section 751(a) of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

The products covered by this review include gray portland cement and clinker. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material product produced when manufacturing cement, has no use other than of being ground into finished cement. Gray portland cement is currently classifiable under the Harmonized Tariff Schedule (HTS) item number 2523.29, and cement clinker is currently classifiable under number 2523.10. Gray portland cement has also been entered under number 2523.90 as "other hydraulic cements." The HTS subheadings are provided for convenience and U.S. Customs Service (the Customs Service) purposes only. The written description remains dispositive as to the scope of the product coverage.

Preliminary Results of Review

Section 773(a)(1)(A) of the Tariff Act and 19 CFR 353.46(a) provide that foreign market value (FMV) shall be based on the price at which "such or similar merchandise" is sold in the exporting country in the "ordinary course of trade for home consumption." Section 771(15) of the Tariff Act defines "ordinary course of trade" as "the conditions and practices which, for a reasonable time prior to the exportation of the merchandise which is the subject of an investigation, have been normal in the trade under consideration with respect to merchandise of the same class or kind" (*see also* 19 CFR 353.46(b)).

In the second administrative review of this order CEMEX reported home market sales of Type I, Type II, and Type V cement. Following their receipt of this information, petitioners alleged that CEMEX's home market sales of Type II and Type V cement were outside the ordinary course of trade. *See Gray Portland Cement and Clinker From Mexico: Final Results of Antidumping Duty Administrative Review*, 58 FR 47253, 47254 (Sept. 8, 1993). Pursuant to this allegation, we compared CEMEX's home market sales of Type II and Type V cement with sales of similar merchandise (namely, Type I cement) in order to analyze certain factors regarding the nature of the sales of the different types of cement, including freight expenses and profit levels. *Id.* at 47255–56. Based on this comparison, and on other factors explained in our

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final determination, we concluded in the second review that CEMEX's home market sales of Type II and Type V cement were not made in the ordinary course of trade. Thus, we did not use these sales in the calculation of FMV.

In the third administrative review, the Department again required CEMEX to report sales of subject merchandise in the home market, including Type I cement. We determined that it was necessary to compare Type II and Type V cement sales in the home market with Type I cement sales in the home market in order to make the ordinary-course-of-trade determination. We also determined that the Department needed the data on home market sales of Type I cement in the event CEMEX's home market sales of Type II and Type V cement were found to be outside the ordinary course of trade. As the Department explained in the final results of the third review:

> Even if the Department had been able, using the information supplied by CEMEX in this review, to determine that the Types II and V cement sales were outside the ordinary course of trade, we would still have needed the Type I data to conduct our antidumping duty analysis.

Gray Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review, 60 FR 26869 (May 19, 1995). When CEMEX failed to provide the information on Type I sales in the third review, the Department was required by the statute to base its determination upon the "best information available" (BIA). 19 U.S.C. 1677e(b); 19 CFR 353.37(a)(1). It should be noted that the factors relied upon by the Department in making the BIA determination in the second administrative review, and subsequently in the third review, were upheld by the CIT. Slip Op. 95–72 at 6–14.

In the present administrative review, the Department sent CEMEX a standard antidumping questionnaire on September 30, 1994. It instructed CEMEX to report all U.S. and home market sales of subject merchandise, which includes sales of Type I cement in Mexico. On November 22, 1994, CEMEX responded to the questionnaire. Similar to its response in the third review, CEMEX reported that it only sold Type II cement in the United States during the period covered by the review. CEMEX limited its reporting to Type II sales in the U.S. and home market, and failed to report sales of Type I cement in the home market. CEMEX claimed in its November 22, 1994 response that its home market sales of Type II cement were made in the ordinary course of trade, and that it was unnecessary for it to report home market sales of Type I cement.

On August 23, 1995, the Department issued a supplemental questionnaire which indicated that CEMEX must submit, *inter alia*, home market sales of Type I cement in bulk form. The questionnaire warned CEMEX that a failure to submit the requested information could result in the application of BIA. The Department also asked CEMEX to respond to the cost of production/constructed value (COP/CV) section of the questionnaire at this time. The due date for the supplemental information and the Type I sales data was September 14, 1995, and the COP/CV response was due September 30, 1995.

CEMEX requested, in a September 5, 1995 letter, an extension of two weeks for its response to the Department's August 23, 1995, supplemental questionnaire and an additional four-week extension for the submission of Type I sales data. In that letter CEMEX also requested a six-week extension for the submission of COP/CV data. The stated reason for the extension request was the "enormous" burden related to the collection and preparation of sales and cost data for Type I cement.

On September 6, 1995, the Department notified CEMEX that its request to extend the deadline for submitting the supplemental response (including the information on Type I cement) was denied, but that it was granted a three-week extension regarding the COP/CV submission.

CEMEX submitted its supplemental questionnaire response on September 14, 1995. In its response, CEMEX failed to include the required information pertaining to Type I sales. On October 5, 1995, CEMEX submitted its COP/CV questionnaire response, and again failed to include information pertaining to sales of Type I cement. In both cases, the explanation for the lack of information on home market sales of Type I cement was the size of the reporting burden and in both cases CEMEX claimed that the Type I information would be forthcoming as soon as possible.

Four months later, on February 8, 1996, CEMEX advised the Department that it was prepared to provide a listing of its home market sales of Type I cement in bulk form. In a letter dated February 15, 1996 the Department informed CEMEX that the administrative record was closed and that no new information would be accepted.

Given the Department's determination that CEMEX's sales of Type II and Type V cement in the home market were outside the ordinary course of trade during the second administrative review, we believe that it is necessary (was the case in the third administrative review) to address the same issue in the fourth administrative review. CEMEX, however, has not provided timely information regarding its Type I sales in the home market. Not having the home market Type I sales information prevents the Department from determining whether CEMEX's sales of Type II cement in the home market were made in the ordinary course of trade.

Best Information Available

CEMEX argues that it should not be required to provide Type I cement sales data. Its failure to provide this essential information in a timely manner has prevented the Department from determining whether home market sales of Type II cement were in the ordinary course of trade. In the instant review, we requested data on sales of such (Type II cement) and similar (Type I) merchandise in order to conduct the same type of analysis that we conducted in the prior review, and to determine whether CEMEX's home market sales of Type II cement during the instant period of review had been made in the ordinary course of trade. CEMEX did not comply with the Department's repeated requests for Type I sales data.

As in the previous review, where CEMEX also failed to provide data pertaining to sales of Type I cement in the home market, we are unable to ascertain conclusively whether or not CEMEX's sales of Type II and Type V cement were within the ordinary course of trade precisely because CEMEX denied us the requisite information regarding sales of Type I cement to arrive at such a decision. Therefore we must resort to the use of BIA in accordance with Section 776(c) of the Tariff Act. *See Gray Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review*, 60 FR 26865 (May 19, 1995).

In connection with our use of BIA, we note that we have established a "two-tier" system:

> 1. When a company refuses to cooperate with the Department or otherwise significantly impedes the proceedings, we use as BIA the higher of (a) the highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the less than fair value investigation (LTFV) or prior administrative review or (b) the highest rate found in this review for any firm for the same class or kind of merchandise in the same country of origin.
> 2. When a company substantially cooperates with our requests for information, but fails to provide the information requested in a timely manner or in the form required, we use as BIA the higher of (a) the highest rate (including the "all others" rate) ever applicable to the firm for the same class or kind of merchandise from either the LTFV investigation or a prior administrative review, or (b) the highest calculated rate in this review for any firm for the class or kind of merchandise from the same country of origin.

See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, 57 FR 28360, 28379 (June 24, 1992); *see also Allied-Signal Company* v. *United States, 996 F.2d 1185 (Fed. Cir. 1993)*. In this case, we are using first-tier BIA because CEMEX was uncooperative. The BIA rate is the highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the LTFV investigation, as amended, *i.e.*, CEMEX's rate of 61.85 percent. Thus, as a result of our review, we preliminarily determine the dumping margin for CEMEX for the period August 1, 1993, through July 31, 1994, to be 61.85 percent.

Case briefs and/or written comments from interested parties may be submitted no later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 37 days after the date of publication of this notice.

Within 10 days of the date of publication of this notice, interested parties to this proceeding may request a disclosure and/or a hearing. The hearing, if requested, will take place no later than 44 days after publication of this notice. Persons interested in attending the hearing should ascertain with the Department the date and time of the hearing.

The Department will subsequently publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments or a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be the rate determined in the final results of review; (2) for previously reviewed or investigated companies not mentioned above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 59.91 percent, as explained below.

On May 25, 1993, the CIT in *Floral Trade Council* v. *United States*, 822 F. Supp. 766 (CIT 1993), and *Federal-Mogul* v. *United States*, 839 F. Supp 864 (CIT 1993), determined that once an "all others" rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement these decisions, it is appropriate to reinstate the original "all others" rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders for the purposes of establishing cash deposits in all current and future administrative reviews.

Because this proceeding is governed by an antidumping duty order, the "all others" rate for this order will be 59.91 percent, which was the "all others" rate established in the final notice of the LTFV investigation by the Department (55 FR 29244, July 18, 1990).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 26, 1996.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 96–11939 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–803]

Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China; Amendment of Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment of final results of antidumping duty administrative review.

SUMMARY: We are amending our final results of administrative review of the antidumping duty order on heavy forged hand tools, finished or unfinished, with or without handles (HFHTs), from the People's Republic of China published on April 4, 1996, to reflect the correction of a ministerial error made in the margin calculation in those final results. We are publishing this amendment to the final results in accordance with 19 CFR 353.28(c)(1995).

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Tom Prosser or Maureen Flannery of the Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

The review covers two resellers of the subject merchandise to the United States, Fujian Machinery & Equipment Import & Export Corporation (FMEC) and Shandong Machinery Import & Export Corporation (SMC), and the period February 1, 1993 through January 31, 1994. The Department of Commerce (the Department) published the preliminary results on August 16, 1995 (60 FR 42516), and the final results on April 4, 1996 (61 FR 15028).

Scope of Review

Imports covered by this review are shipments of HFHTs from the PRC comprising the following classes or kinds of merchandise: (1) hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars

over 18 inches in length, track tools and wedges (bars and wedges); (3) picks/mattocks; and (4) axes/adzes.

HFHTs include heads for drilling, hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel woodsplitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot-blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently provided for under the following Harmonized Tariff System (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded are hammers and sledges with heads 1.5 kg (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under. This review covers two exporters of HFHTs from the PRC, FMEC and SMC. The review period is February 1, 1993 through January 31, 1994.

Amended Final Results

On April 4, 1996, the respondents alleged that the Department had committed a ministerial error in calculating the final antidumping duty margin. The respondents alleged that the Department had miscalculated the wholesale price index (WPI) for India for the period April 1993 through December 1993. We have reviewed this allegation, and agree with the respondents. We have therefore amended our final results for this ministerial error.

Final Results of Review

Upon review of the allegation submitted, the Department has determined that the following margins exist for the period February 1, 1993 through January 31, 1994:

Manufacturer/exporter	Time period	Margin (percent)
Fujian Machinery & Equipment Import & Export Corporation:		
Axes/Adzes	2/1/93–1/31/94	12.90
Bars/Wedges	2/1/93–1/31/94	30.36
Hammers/Sledges	2/1/93–1/31/94	18.61
Shandong Machinery Import & Export Corporation:		
Bars/Wedges	2/1/93–1/31/94	45.19
Hammers/Sledges	2/1/93–1/31/94	16.49
Picks/Mattocks	2/1/93–1/31/94	68.43

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of reviews for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies named above which have separate rates will be the rates for those firms as stated above for the classes or kinds of merchandise listed above; (2) for picks/mattocks from FMEC and axes/adzes from SMC, which are not covered by this review, the cash deposit rates will be the rates established in the most recent review of those classes or kinds of merchandise in which those companies received separate rates—that is, the February 1, 1992 through January 31, 1993 review; (3) for all other PRC exporters, the cash deposit rates will be the PRC rates established in the LTFV investigation; and (4) the cash deposit rates for non-PRC exporters of the subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. The PRC rates established in the LTFV investigations are 45.42 percent for hammers/sledges, 31.76 percent for bars/wedges, 50.81 percent for picks/mattocks, and 15.02 percent for axes/adzes. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under section 353.26 of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice is in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: May 6, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–11942 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–836, A–570–842, A–583–824]

Notice of Antidumping Orders: Polyvinyl Alcohol From Japan, the People's Republic of China, and Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Erik Warga, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–0922, respectively.

Scope of Order

The merchandise covered by these orders is polyvinyl alcohol. Polyvinyl alcohol is a dry, white to cream-colored, water-soluble synthetic polymer. This product consists of polyvinyl alcohols hydrolyzed in excess of 85 percent, whether or not mixed or diluted with defoamer or boric acid. Excluded from this investigation are polyvinyl alcohols covalently bonded with acetoacetylate, carboxylic acid, or sulfonic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, and polyvinyl alcohols covalently bonded with silane uniformly present on all polymer chains in a concentration equal to or greater than one-tenth of one mole percent. Polyvinyl alcohol in fiber form is not included in the scope of these orders.

The merchandise under these orders is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under these orders is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act), the Department of Commerce (the Department) made its final determination that polyvinyl alcohol from Japan, the People's Republic of China (PRC), and Taiwan is being sold at less than fair value (61 FR 14057–14063, March 29, 1996). On May 6, 1996, the International Trade Commission (ITC) notified the Department of its final determination, pursuant to section 735(b)(1)(A)(ii) of the Act, that an industry in the United States is threatened with material injury by reason of imports of the subject merchandise from Japan, the PRC, and Taiwan. The ITC did not determine, pursuant to section 735(b)(4)(B) of the Act, that, but for the suspension of liquidation of entries of the subject merchandise, the domestic industry would have been materially injured.

When the ITC finds threat of material injury, and makes a negative "but for" finding, the "Special Rule" provision of section 736(b)(2) applies. Therefore, only unliquidated entries of polyvinyl alcohol from Japan, the PRC, and Taiwan, except for imports from the PRC manufactured and sold to the United States by Sinopec Sichuan Vinylon Works, entered or withdrawn from warehouse, for consumption *on or after* the date on which the ITC published its notice of final determination of threat of material injury in the **Federal Register** are liable for the assessment of antidumping duties.

Accordingly, the Department will direct the Customs Service to terminate the suspension of liquidation for entries of polyvinyl alcohol imported from Japan, the PRC, and Taiwan, entered, or withdrawn from warehouse, for consumption *before the date* on which the ITC published its notice of final determination of threat of material injury in the **Federal Register**, and to release any bond or other security, and refund any cash deposit, posted to secure the payment of estimated antidumping duties with respect to these entries.

In accordance with section 736(a)(1) of the Act, the Department will direct Customs officers to assess, upon further advice by the administering authority, antidumping duties equal to the amount by which the foreign market exceeds the United States price for all relevant entries of polyvinyl alcohol from Japan, the PRC, and Taiwan, except for imports from the PRC manufactured and sold to the United States by Sinopec Sichuan Vinylon Works. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The "All Others" rate listed for each country applies to all exporters of polyvinyl alcohol not specifically listed below.

The ad valorem weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Japan:	
Kuraray Co. Ltd.	77.49
Nippon Synthetic Chemical	77.49
Industry Co. Ltd.	77.49
Shin-Etsu Chemical Co.	77.49
Unitika Ltd.	77.49
All Others	77.49
PRC:	
Guangxi GITIC Import/Export	116.75
Sinopec Sichuan Vinylon Works (also known as Sichuan Vinylon Works)	[1] 000.00
PRC-Wide rate	116.75
Taiwan:	
Chang Chun Petrochemical	19.21
All Others	19.21

[1] Excluded.

Allegations of ministerial errors were made with respect to the Department's final determinations for polyvinyl alcohol from the PRC and Taiwan. Upon review, the Department determined that certain corrections to these determinations were appropriate. However, these corrections did not alter the margin percentages; therefore, no amendments to the final determinations were necessary.

This notice constitutes the antidumping duty orders with respect to polyvinyl alcohol from Japan, the PRC, and Taiwan. The Department of Commerce is excluding from the application of the order products from the PRC that are manufactured *and* sold to the United States by Sinopec Sichuan Vinylon Works. However, the ad valorem weighted-average dumping margin applicable to polyvinyl alcohol manufactured by any other PRC manufacturer and exported by Sinopec Sichuan Vinylon Works is 116.75 percent (the PRC-wide rate).

Interested parties may contact the Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

These orders are published in accordance with section 736(a) of the Act.

Dated: May 9, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–12098 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–122–815]

Pure and Alloy Magnesium from Canada; Extension of Time Limit for Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for preliminary and final results of the third administrative review of the countervailing duty order on pure and alloy magnesium from Canada. This extension is made pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter, "the Act").

EFFECTIVE DATE: May 14, 1996

FOR FURTHER INFORMATION CONTACT: Cynthia Thirumalai or Kristie Strecker, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and

Constitution Avenue NW. Washington, D.C., 20230; telephone: (202) 482–4087 or 3174 respectively.

POSTPONEMENT: Under the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. The Department finds that it is not practicable to complete the third administrative review of pure and alloy magnesium from Canada within this time limit.

In accordance with section 751(a)(3)(A) of the Act, the Department will extend the time for completion of the preliminary results of this review from a 245-day period to no later than a 365-day period and for completion of the final results of this review from a 120-day period to no later than a 180-day period.

Dated: May 6, 1996.

Barbara R. Stafford,

Deputy Assistant Secretary for Investigations.

[FR Doc. 96–11936 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

National Institute of Standards and Technology Manufacturing Extension Partnership (MEP) Program Evaluation Survey

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 15, 1996.

ADDRESSEES: Direct written comments to Linda Engelmeier, Acting Departmental Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue NW., Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Elizabeth Bury, Manufacturing Extensions Partnership, Building 301, Room C–100, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, 301–975–3944 phone, and 301–926–3787 fax.

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a new submission by the U.S. Department of Commerce's National Institute of Standards and Technology (NIST). Previously, the information collection was administered by the U.S. Department of Commerce's Census Bureau. This collection activity is being conducted in partnership with the Census Bureau.

The Manufacturing Extension Partnership (MEP) is a growing nationwide system of services and support for smaller manufacturers giving them unprecedented access to new technologies, resources, and expertise. Sponsored by NIST, the MEP is comprised of a network of locally based Manufacturing Extension Centers.

Obtaining specific information from clients about the impact of MEP services is essential for NIST MEP officials to evaluate program strengths and weaknesses and plan improvements in program effectiveness and efficiency. This information is not available from existing programs or other sources.

II. Method of Collection

The survey will be administered using Computer Assisted Telephone Interviewing (CATI) technology.

III. Data

OMB Number: 0607–0016 currently approved for Census.

Form Number: None.

Type of Review: Regular submission for a new submission from NIST. This is a currently approved collection at Census.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 8,460.

Estimated Time Per Response: 12.5 minutes.

Estimated Total Annual Burden Hours: 1,800.

Estimated Total Annual Cost: The estimate of the total cost for this survey for fiscal year 1997 and future years is $228,500. The total cost is being paid by NIST. The annual costs include administration of the survey, and updating of the CATI system, and development of tabulations and analyses of the data from the survey results.

IV. Requests for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: May 8, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–11943 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–13–P

National Oceanic and Atmospheric Administration

[I.D. 050796C]

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Caribbean Fishery Management Council's Administrative Committee will hold a meeting.

DATES: The meeting will be held on May 29, 1996, from 10 a.m. until 4 p.m.

ADDRESSES: The meeting will be held at the Travelodge Hotel, in San Juan, PR.

Council Address: Caribbean Fishery Management Council, 8 Muñoz Rivera Avenue, Suite 1108, San Juan, PR 00918–2577.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council; telephone: (809) 766–5926.

SUPPLEMENTARY INFORMATION: The Administrative Committee will hold this meeting to discuss adjustments to the FY 96 budget and other administrative matters.

The meeting is open to the public, and will be conducted in English.

Special Accommodations

This meeting is physically accessible to people with disabilities. For more information or requests for sign language interpretation and/or other auxiliary aids please contact Mr. Miguel A. Rolón, Executive Director, (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: May 7, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–11961 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 050696B]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting.

DATES: This meeting will be held on June 10, 1996, from 8 a.m. to 5 p.m.

ADDRESSES: This meeting will be held at the Isle of Capri Casino Crowne Plaza Resort, 151 Beach Boulevard (Hwy. 90E), Biloxi, MS; telephone: 601–435–5400.

Council address: Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Richard Leard, Senior Fishery Biologist; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to review Draft Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, U.S. Waters with Supplemental Environmental Impact Statement, Regulatory Impact Review (RIR), Initial Regulatory Flexibility Analysis, and Social Impact Assessment (SIA). The amendment is intended to address the Council's commitment to reduce the bycatch mortality of red snapper, particularly juveniles, from shrimp trawls. The amendment includes a review of previous actions and their effects on bycatch as well as various alternatives.

The Shrimp Advisory Panel (AP) will review the draft amendment with various management alternatives for gear including: (1) Status Quo - no change to existing gear regulations; and (2) Requiring Bycatch Reduction Devices (BRDs) in all areas of the exclusive economic zone. They will also look at area specific usage of BRDs including requiring BRDs: (1) inside the 100 fathom contour; (2) inside the 100 fathom contour and west of Cape San Blas, Florida; and (3) between the 10 and 100 fathom contours. Other alternatives that will be discussed include: area closures, seasonal closures, BRD testing criteria, and a protocol for BRD certification. The Shrimp AP will also consider a RIR, which mainly reviews the economic ramifications of the proposed amendment; a SIA; and any environmental consequences. Also considered will be the effects of other Federal laws and regulations.

The AP is comprised of fisherman and other user groups who advise the Council on fishery issues.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by June 3, 1996.

Dated: May 7, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–11960 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 050796B]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Southern Habitat Panel will hold a public meeting.

DATES: The meeting will be held on May 29, 1996, beginning at 10 a.m.

ADDRESSES: The meeting will be held at the offices of the Gulf of Farallones National Marine Sanctuary, Building 991 located at Crissy Field (the old Coast Guard Station), The Presidio, San Francisco, CA 94129; telephone: (415) 556–3509.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: John Coon, Fishery Management Coordinator (Salmon); telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to discuss and develop recommendations for Council action on regional habitat issues which merit consideration at this time.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Eric Greene at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: May 8, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–11962 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 050496E]

Marine Mammals; Scientific Research Permit (P012)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Kimberlee Beckmen, Institute of Arctic Biology, University of Alaska, Fairbanks, P.O. Box 757000, Fairbanks, AK 99775–7000, has applied in due form for a permit to take Northern fur seals, (Callorhinus ursinus) for purposes of scientific research.

DATES: Written comments must be received on or before June 13, 1996.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668.

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal

Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*), and fur seal regulations at 50 CFR part 215.

The applicant requests to capture and release 100 fur seals. The fur seals will be capture, weighed and marked. Some animals will be sampled and tagged, and up to 50 will be recaptured at a later time. Up to 9,900 fur seals may be incidentally harassed in the course of the project.

Dated: May 7, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–12072 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–22–F

International Trade Administration

[A–122–605]

Color Picture Tubes From Canada; Notice of Termination of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Termination of Antidumping Duty Administrative Review.

SUMMARY: On February 20, 1996, the Department of Commerce (the Department) published in the **Federal Register** (61 FR 6347) a notice announcing the initiation of an administrative review of the antidumping duty order on color picture tubes from Canada covering the period January 1, 1995, through December 31, 1995, and one manufacturer/exporter of the subject merchandise, Mitsubishi Electronics Industries Canada, Inc. (Mitsubishi). This review has now been terminated as a result of the withdrawal of the request for administrative review by the interested parties.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Valerie Turoscy, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On January 31, 1996, we received a request from the petitioners in this case, the International Association of Machinists and Aerospace Workers, the International Brotherhood of Electrical Workers, the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers, the United Steelworkers of America, the AFL–CIO, and the Industrial Union Department, AFL–CIO (the Unions), to conduct an administrative review of Mitsubishi pursuant to section 19 CFR 353.22(a)(1994) of the Department's regulations. On February 20, 1996, we published in the **Federal Register** (61 FR 6347) the notice of initiation of administrative review.

Termination of Review

On April 26, 1996, we received a timely request for withdrawal of the request for administrative review from the Unions. Because there were no other requests for administrative review from any other interested party, in accordance with section 353.22(a)(5) of the Department's regulations, we have terminated this administrative review.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675) and 19 CFR 353.22(a)(5).

Dated: May 7, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary For Compliance.

[FR Doc. 96–12097 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in the United Arab Emirates

May 8, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: May 16, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being increased, variously, for carryforward and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 60 FR 65299, published on December 19, 1995). Also see 61 FR 9982, published on March 12, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 8, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 5, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in the United Arab Emirates and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on May 16, 1996, you are directed to amend the directive dated March 5, 1996 to increase the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
219	1,158,912 square meters.
226/313	1,981,770 square meters.
317	31,969,984 square meters.
326	1,870,794 square meters.
334/634	225,545 dozen.
335/635/835	154,955 dozen.
340/640	345,836 dozen.
341/641	317,116 dozen.
342/642	251,930 dozen.
347/348	433,948 dozen of which not more than 216,973 dozen shall be in Categories 347–T/348–T[2].
351/651	181,074 dozen.
352	333,806 dozen.
363	6,235,980 numbers.
369–S[3]	82,896 kilograms.
369–O[4]	596,189 kilograms.
638/639	233,874 dozen.
647/648	338,530 dozen.
847	212,565 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

[2] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.9020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.8010, 6112.11.0050, 6113.00.9038, 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.8030, 6104.22.0040, 6104.29.2034, 6104.62.2010, 6104.62.2025, 6104.69.8022, 6112.11.0060, 6113.00.9042, 6117.90.9060, 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.6010, 6304.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–12060 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

May 8, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 15, 1996.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6714. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 60 FR 65299, published on December 19, 1995). Also see 61 FR 62393, published on December 6, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 8, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on May 15, 1996, you are directed to amend the November 29, 1995 directive to adjust the limits for the following categories, as provided for under the terms of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	312,930 dozen.
239	1,287,405 kilograms.
331/631	2,192,586 dozen pairs.
338	4,591,310 dozen.
339	1,216,966 dozen.
359–C/659–C[2]	1,157,246 kilograms.
638/639	264,049 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–12061 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced of Manufactured in Korea

May 8, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: May 16, 1996.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of of each Customs port or call (202) 927–6707. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being reduced for carryforward used during 1995.

A description of the textile and apparel categories in terms of HTS

numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 60 FR 65299, published on December 19, 1995). Also see 60 FR 62408, published on December 6, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Korea and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on May 16, 1996, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Sublevel within Group I	
200	424,726 kilograms.
Sublevels within Group II	
338/339	1,146,047 dozen.
342/642	207,676 dozen.
435	33,823 dozeh.
444	53,372 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–12062 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits and Guaranteed Access Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

May 7, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing import limits and guaranteed access levels.

EFFECTIVE DATE: May 8, 1996.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

On the request of the Government of the Dominican Republic, the U.S. Government agreed to increase certain 1996 Guaranteed Access Levels. Also, the limits for certain categories are being increased for carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 60 FR 65299, published on December 19, 1995). Also see 61 FR 1359, published on January 19, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 7, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 11, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on May 8, 1996, you are directed to increase the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted import restraint limit [1]
339/639	974,394 dozen.
340/640	842,928 dozen.
347/348/647/648	2,017,807 dozen of which not more than 960,368 dozen shall be in Categories 647/648.
352/652	9,744,029 dozen.
433	22,763 dozen.
442	79,655 dozen.
443	143,720 numbers.
444	79,655 numbers.
448	41,034 dozen.
633	120,253 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

The 1996 Guaranteed Access Levels (GALs) for Categories 340/640, 347/348/647/648, 352/652, 442 and 448 remain unchanged. The GALs for textile products in the following categories shall be increased:

Category	Amended Guaranteed Access Level
338/638	1,650,000 dozen.
339/639	1,650,000 dozen.
433	61,000 dozen.
443	100,000 numbers.
444	130,000 numbers.
633	100,000 dozen.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–12064 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in the Slovak Republic

May 8, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 15, 1996.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port of call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for swing and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 60 FR 65299, published on December 6, 1995). Also see 60 FR 62409, published on December 6, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Dated: May 9, 1996.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 8, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool textile products, produced or manufactured in the Slovak Republic and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on May 15, 1996, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
410	379,110 square meters.
443	100,925 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–12065 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DR–M

Availability of the Correlation: Textile and Apparel Categories With the Harmonized Tariff Schedule of the United States for 1996

May 7, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

The Committee for the Implementation of Textile Agreements (CITA) announces that the 1996 Correlation, based on the Harmonized Tariff Schedule of the United States, is now available. Also, the 1996 Correlation is available on the Internet via the Wide World Web. The Office of Textiles and Apparel (OTEXA) Homepage address is http://ita.doc.gov/industry/textiles/.

Copies of the Correlation may be purchased from the U.S. Department of Commerce, Office of Textiles and Apparel, 14th and Constitution Avenue, NW., room H3100, Washington, DC 20230, ATTN: Correlation, at a cost of $30 per copy. Checks or money orders should be made payable to the U.S. Department of Commerce.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–12063 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of the Department of the Navy Draft Environmental Impact Statement for a Container System for the Management of Naval Spent Nuclear Fuel; and Announcement of Public Hearings

SUMMARY: The Department of the Navy (Navy) is giving notice of the availability of the Draft Environmental Impact Statement (EIS) for a Container System for the Management of Naval Spent Nuclear Fuel.

The draft EIS was prepared in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA); Council on Environmental Quality regulations implementing NEPA, 40 CFR Parts 1500–1508; and the Chief of Naval Operations Environmental and Natural Resources Program Manual, OPNAV Instruction 5090.1B. The Navy will conduct public hearings and receive comments on the draft EIS which addresses the need, alternatives, and environmental impacts of manufacturing containers; loading containers; handling, and storage of naval spent nuclear fuel at the Idaho National Engineering Laboratory (INEL); transportation of naval spent nuclear fuel loaded containers to a notional repository or centralized interim storage site; and the storage, handling, and transportation of certain radioactive waste associated with naval spent nuclear fuel management. The Department of Energy is a cooperating agency for this draft EIS.

General distribution of the document is complete and the Navy has filed the draft EIS with the Environmental

Protection Agency prior to publishing this Notice of Availability in the **Federal Register**. The draft EIS is available to the public in reading rooms and designated information locations which are identified in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: The Navy invites interested agencies, organizations, and the general public to provide comments on the draft EIS. The Navy is providing a 45 day public comment period and all comments on the draft EIS are due by July 3, 1996. Oral comments will be accepted at the public hearings to be held at the times and locations listed below.

ADDRESSES: Comments should be sent to: Mr. William Knoll of the Naval Nuclear Propulsion Program of the Department of the Navy, Code NAVSEA 08U, 2531 Jefferson Davis Highway, Arlington, VA 22242–5160, Telephone: 703–602–8229. Copies of the draft EIS may be obtained by following instructions given below in the **SUPPLEMENTARY INFORMATION** section.

Hearing Schedule and Locations: Six public hearings at three locations will be held during the 45 day comment period. The locations and dates of these public hearings are: (1) Fort Hall, Idaho, on Monday, June 3, 1996 from 1:00 p.m. to 5:00 p.m. and 7:00 p.m. to 11:00 p.m. at the Shoshone-Bannock Tribes' Tribal Business Center, Pima Drive; (2) Boise, Idaho, on Wednesday, June 5, 1996 from 1:00 p.m. to 5:00 p.m. and 7:00 p.m. to 11:00 p.m. at The Boise Centre on the Grove, 850 West Front Street; and (3) Salt Lake City, Utah, on Friday, June 7, 1996 from 1:00 p.m. to 5:00 p.m. and 7:00 p.m. to 11:00 p.m. at the Best Western Olympus Hotel, 161 West 600 South.

FOR FURTHER INFORMATION CONTACT: For further information on this draft EIS, please contact Mr. William Knoll of the Naval Nuclear Propulsion Program, Department of the Navy, Code NAVSEA 08U, 2531 Jefferson Davis Highway, Arlington, VA 22242–5160, Telephone: 703–602–8229.

SUPPLEMENTARY INFORMATION: On October 24, 1994, the DOE published in the **Federal Register** (59 FR 53442) a Notice of Intent to prepare an EIS for a multi-purpose canister system for the management of civilian spent nuclear fuel. Under the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10101 *et seq.*), DOE is responsible for disposal of civilian spent nuclear fuel and high-level radioactive waste in a geologic repository. DOE is also responsible for any monitored retrievable storage (centralized interim storage) prior to disposal, and transportation of civilian spent nuclear fuel in connection with disposal or storage. As part of carrying out these responsibilities, DOE was in the process of evaluating in an EIS the environmental impacts of fabricating and deploying a standardized container system to enable storage, transportation, and possible disposal of spent nuclear fuel.

During the scoping process for the multi-purpose canister EIS, the scope of the EIS was broadened, based on a comment by the Navy, to include naval spent nuclear fuel. The total amount of naval spent nuclear fuel projected to be in existence by the year 2035 is 65 metric tons heavy metal, which is less than 0.1% of the commercial spent nuclear fuel expected by that date (approximately 85,000 metric tons). In addition to its responsibility for civilian spent nuclear fuel, DOE is also responsible for the management of spent nuclear fuel derived from atomic energy defense activities, including that from the Naval Nuclear Propulsion Program (42 U.S.C. 2121(a)(3)). Since naval spent nuclear fuel is rugged, well characterized and compatible with standardized container system technology, DOE determined that naval spent fuel should be included in the EIS. This determination was announced in the Implementation Plan issued by DOE in August 1995 under DOE's NEPA regulations. The availability of the Implementation Plan was announced in the **Federal Register** on August 30, 1995 (60 FR 45147).

In October 1995, DOE advised the Navy that because of insufficient funding in Congress' fiscal year 1996 appropriation to the DOE Office of Civilian Radioactive Waste Management, DOE would withdraw its proposal to fabricate and deploy a multi-purpose canister based system. As a result, DOE ceased preparation of the Environmental Impact Statement for a Multi-Purpose Canister System for Management of Civilian and Naval Spent Nuclear Fuel.

The Navy decided to proceed with that part of the multi-purpose canister EIS covering naval spent nuclear fuel. The Navy announced it would assume lead responsibility for the EIS in the **Federal Register** on December 7, 1995 (60 FR 62828). DOE is participating as a cooperating agency since naval spent nuclear fuel is managed at DOE facilities. Unlike civilian spent nuclear fuel which is stored in plants throughout the country, all naval spent nuclear fuel, after removal from naval reactors, is shipped to one place, the INEL, for examination and temporary storage as set forth in the Department of Energy Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs Final Environmental Impact Statement and in the associated Record of Decision issued June 1, 1995 and amended Record of Decision issued March 8, 1996. Therefore, the container system EIS evaluations for the storage and transportation of naval spent nuclear fuel at INEL make use of information specific to that location.

The range of alternatives considered in the EIS did not change as a result of the reduction in scope covering naval spent fuel only. Thus, no additional scoping was needed as a result of the EIS being limited to naval spent nuclear fuel. The six container system alternatives considered are:

(1) *No-Action Alterative*—Use of existing technology to handle, store, and subsequently transport naval spent nuclear fuel to a geologic repository or a centralized interim storage site using the Navy M–140 transportation cask. Prior to shipment to a repository or centralized interim storage site, naval spent nuclear fuel would be managed at INEL in water pools or dry containers, then loaded into M–140 transportation casks. At the repository, the naval spent fuel would be unloaded from the M–140 transportation casks and placed in a geologic repository's surface facilities for loading into disposal containers. Following unloading, the M–140 transportation casks would be returned to INEL for reuse.

(2) *Multi-Purpose Canister Alternative*—Use of large multi-purpose canisters, such as those currently being designed under a DOE contract, for storage, transportation, and disposal of naval spent nuclear fuel, without repackaging or further handling of individual spent nuclear fuel assemblies. In addition to the sealed metal canisters, specialized casks or overpacks would be required for different stages of the process, such as on-site transfer, dry storage, transportation to a geologic repository or a centralized interim storage site, and disposal.

(3) *Current Technology/ Supplemented by High Capacity Rail Alternative*—Use of existing M–140 transportation casks, but with redesigned internal structures to accommodate a larger amount of naval spent nuclear fuel per cask, thus reducing the total number of shipments required.

(4) *Transportable Storage Cask Alternative*—Use of an existing, commercially available cask for storage at INEL and shipment of naval spent nuclear fuel to a geologic repository or centralized interim storage site. At a repository, the naval spent fuel would be unloaded from the casks and placed in a geologic repository's surface facilities for loading into disposal containers. The unloaded transportable storage casks could be returned to INEL for further storage and transport.

(5) *Dual-Purpose Canister Alternative*—Use of an existing, commercially available canister and overpack system for storage at INEL and shipment of naval spent nuclear fuel to a geologic repository or centralized interim storage site. At a repository, the naval spent fuel would be unloaded from the canisters and placed in a geologic repository's surface facilities for loading into disposal containers.

(6) *Small Multi-Purpose Canister Alternative*—Use of smaller multi-purpose canisters, such as those currently being designed under a DOE contract, rather than large multi-purpose canisters. The small multi-purpose canisters would be similar in design, operations, and function to the large multi-purpose canisters, but would offer a lower weight and size alternative for transportation and handling at a geologic repository or centralized interim storage site.

In addition, the environmental evaluations in this draft EIS include several actions which are related to the container system choice: manufacturing the container system; handling and transportation associated with the container system; modifications at INEL to support loading naval spent nuclear fuel into containers for dry storage; the location of the dry storage at INEL; and the storage, handling, and transportation of certain radioactive waste (called "special case waste") associated with naval spent nuclear fuel management.

The draft EIS does not contain a preferred alternative. Instead, the Navy will identify a preferred alternative in the Final EIS, and select an alternative in the Record of Decision, taking into consideration the following factors: (1) Public comments; (2) protection of human health and the environment; (3) cost; (4) technical feasibility; (5) operational efficiency; (6) regulatory impacts; and (7) storage or disposal criteria which may be established for a repository or centralized interim storage site outside the State of Idaho.

Availability of Copies of the Draft EIS

Copies of the draft EIS have been distributed to Federal, State, and local officials and agencies; and to organizations and individuals known to be interested in the EIS. Copies of the draft EIS are available for public review at the locations listed below. Copies of selected reference materials are also available in Reading Rooms and Other Information Locations listed below. Copies of the reference material may also be obtained upon request from Mr. Knoll at the address given above (see **FOR FURTHER INFORMATION CONTACT**).

Requests for copies of the draft EIS should be directed to: Argonne National Laboratory, EAD, Building 900, Mail Stop 1, 9700 South Cass Avenue, Argonne, IL 60439., ATTN: Naval Spent Fuel Container System EIS. The draft EIS, including appendices, is about 300 pages in length. Separately bound copies of the 20-page Executive Summary are available for review for those who do not wish to receive the entire draft EIS. When requesting copies of the draft EIS, please indicate whether you wish to receive only the Executive Summary, or the entire draft EIS.

Location of Reading Rooms

—Public Reading Room for U.S. DOE Headquarters; 1000 Independence Avenue, SW; Room 1E–190; Forestall Building; Washington, DC
—Public Reading Room for U.S. DOE—Idaho Operations Office; 1776 Science Center Drive; Idaho Falls, ID
—Public Reading Room for U.S. DOE—Nevada Operations Office; 3004 South Highland Drive; Las Vegas, NV
—Flagstaff Public Library; 300 West Aspen Street; Flagstaff, AZ
—Sacramento Library; Central Office; 828 I Street; Sacramento, CA
—Denver Public Library; 1357 Broadway; Denver, CO
—Boise Public Library; 715 South Capital Boulevard; Boise, ID
—Shoshone-Bannock Library; Bannock and Pima Streets; HRDC Building; Fort Hall, ID
—Idaho Falls Public Library; 457 Broadway; Idaho Falls, ID
—Pocatello Public Library; 812 East Clark Street; Pocatello, ID
—Albuquerque Bernalillo County Library; 501 Copper NW; Albuquerque, NM
—Deschutes County Library; 507 NW Wall Street; Bend, OR
—Salt Lake City Public Library; 209 East 500 South; Salt Lake City, UT
—Laramie County Library; 2800 Central Avenue; Cheyenne, WY

Other Information Locations

—Lost River Community Library; 126 South Front Street; Arco, ID
—Idaho State Library; 325 West State Street; Boise, ID
—City of Burley, Public Library; 1300 Miller Avenue; Burley, ID
—Coeur d'Alene Public Library; 201 Harrison Avenue; Coeur d'Alene, ID
—City of Emmett, Public Library; 275 South Hayes; Emmett, ID
—City of Gooding Public Library; 306 5th Avenue, West Gooding, ID
—Consolidated Free Library; 8385 North Government Way; Hayden Branch, Hayden Lake, ID
—City of Homedale, Public Library; 125 West Owyhee; Homedale, ID
—Idaho Falls Public Library; Reference Desk; 457 Broadway; Idaho Falls, ID
—Ketchum Public Library; 415 Bruce North; Ketchum, ID
—University of Idaho Library; Rayburn Street; Government Documents; Moscow, ID
—Moscow Public Library; 110 South Jefferson; Moscow, ID
—Ola District Library; 11475 Ola School Road; Ola, ID
—Clearwater Memorial Library; 402 Michigan Avenue; Orofino, ID
—Idaho State University; Documents Department; Pocatello, ID
—Salmon Public Library; 204 Main Street; Salmon, ID
—Shoshone Public Library; 211 South Rail Street; Shoshone, ID
—Twin Falls Public Library; 434 2nd Street, East; Reference Desk; Twin Falls, ID
—Caliente Public Library; 120 Depot Avenue; Caliente, NV
—Carson City Public Library; 900 North Roop Street; Carson City, NV
—Elko Public Library; 720 Court Street; Elko, NV
—Las Vegas Public Library; 833 Las Vegas Boulevard, North; Las Vegas, NV
—Brigham City Library; 20 North Main Street; Brigham City, UT
—Cedar City Library; 136 West Center; Cedar City, UT
—Delta City Library; 76 North 200 West; Delta, UT
—Logan City Library; 255 North Main; Logan, UT
—Marriott Library; University of Utah; Salt Lake City, UT

The final EIS is scheduled to be available no later than November 30, 1996.

Dated: May 3, 1996.

B. DeMars,

Admiral, USN, Director, Naval Nuclear Propulsion Program.

[FR Doc. 96–11948 Filed 5–13–96; 8:45 am]

BILLING CODE 3916–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 13, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: May 8, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Educational Research and Improvement

Type of Review: New.

Title: Quick Response Information System (QRIS).

Frequency: One-time.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs and LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 4,308.

Burden Hours: 3,228.

Abstract: This is a request for system clearance for the QRIS survey system which consists of the Fast Response Survey System (FRSS) and, as of Fall 96, the Postsecondary Education Quick Information System (PEQIS). FRSS primarily conducts surveys of the elementary/secondary sector and public libraries while PEQIS focuses on the postsecondary education sector. The FRSS and PEQIS were established (in 1975 and 1991 respectively) to meet quick turnaround data requests of the Department of Education and others with requirements for education data that are not available elsewhere and are needed to formulate policy; to make legislative, budgetary, and planning decisions for existing programs; and to develop new programs. The surveys are characterized by short survey forms with short response time and typical sample sizes of around 1,000. It is anticipated that about five surveys will be conducted under QRIS per year.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title: Forms clearance package for the Projects with Industry Program.

Frequency: Annually.

Affected Public: Business or other for-profit; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 101.

Burden Hours: 4,040.

Abstract: The purpose of collecting compliance indicator data on the Projects with Industry program is to comply with the Congressional mandate to assess project performances based on evaluation standards as established under the 1986 Rehabilitation Act Amendments.

[FR Doc. 96–11967 Filed 5–13–96; 8:45 am]

BILLING CODE 4000–01–P

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by May 29, 1996. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before July 15, 1996.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Petrick J. Sherrill, Department of Education, 7th & D Streets, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Written comments regarding the regular clearance and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronic mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506 (c)(2)(A) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 8, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Application for Grants Under the Innovative Programs Section of the Magnet Schools Assistance Program.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs and LEAs.

Annual Reporting and Recordkeeping Burden:

Responses: 150.

Burden Hours: 3,600.

Abstract: The application is used by local educational agencies to apply for funds to administer innovative programs under the Magnet Schools Program. The proposed projects must involve strategies other than magnet schools, be organized around a special emphasis, theme, or concept, and involve parent and community input.

[FR Doc. 96–11968 Filed 5–13–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Billy Shaw Dam and Reservoir

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of floodplain and wetlands involvement.

SUMMARY: This notice announces BPA's proposal to fund the construction of the Billy Shaw Dam and Reservoir in an area of floodplains and wetlands located in the Duck Valley Indian Reservation in Idaho and Nevada. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR Part 1022), BPA will prepare a floodplain and wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain and wetlands. The assessment will be included in the environmental assessment being prepared for the proposed project in accordance with the requirements of the National Environmental Policy Act. A floodplain statement of findings will be included in any finding of no significant impact that may be issued following the completion of the environmental assessment.

DATES: Comments are due to the address below no later than June 1, 1996

ADDRESSES: Submit comments to the Public Involvement and Information Manager, Bonneville Power Administration - CKP, P.O. Box 12999, Portland, Oregon 97212. Internet address: comment@bpa.gov.

FOR FURTHER INFORMATION, CONTACT: Kathy Fisher - ECN, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number 503–230–4375, fax number 503–230–5699.

SUPPLEMENTARY INFORMATION: The Billy Shaw Dam and Reservoir is proposed for construction in the Billy Shaw Slough, located west of the town of Owyhee, Nevada in Section 15, T. 47 N., R. 1 E. The Shoshone-Paiute Tribes of the Duck Valley Reservation are seeking BPA funding approval to develop the Billy Shaw Dam and Reservoir as a lake fishery. The new lake fishery would substitute resident fish for the tribal loss of the salmon and steelhead fishery caused by the Hells Canyon hydropower complex.

The lowlands areas of the Billy Shaw Slough are seasonally flooded ephemeral alluvial washes. The saturated zones or intermittent riverine areas are defined as waterways of the United States. These intermittent riverine waters are winding, trend south to northwest, and occupy approximately 3 acres of the site in the narrow winding bottom of the slough. The banks are steep, undercut, and eroded with an average height of one to two feet. The bottoms are sandy, for the most part barren of vegetation, and intermittently saturated during the fall and winter months.

Maps and further information are available from BPA at the address above.

Issued in Portland, Oregon, on May 2, 1996.

Thomas C. McKinney,

NEPA Compliance Officer.

[FR Doc. 96–12050 Filed 5–13–96; 8:45 am]

BILLING CODE 6450–01–P

Watershed Restoration Program Early Action Projects

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Floodplain and Wetlands Involvement.

SUMMARY: This notice announces BPA's proposal to fund watershed restoration projects to improve salmon habitat in floodplains and wetlands located throughout the Columbia River Basin in the states of Washington, Oregon, and Idaho. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR Part 1022), BPA will prepare a floodplain and wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplains and wetlands. After BPA issues the assessment, a floodplain statement of findings will be published in the **Federal Register**.

DATES: Comments are due to the address below no later than May 29, 1996.

ADDRESSES: Submit comments to the Public Involvement and Information Manager, Bonneville Power Administration—CKP, P.O. Box 12999, Portland, Oregon, 97212. Internet address: comment@bpa.gov.

FOR FURTHER INFORMATION CONTACT:

Nancy Weintraub—ECN, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208–3621, phone number 503–230–5373, fax number 503–230–5699.

SUPPLEMENTARY INFORMATION: BPA is proposing to provide watershed restoration funds to several entities, including the Yakama Indian Nation, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Indian Reservation, Nez Perce Tribe, Oregon Department of Fish and Wildlife, Umatilla County, the U.S. Bureau of Reclamation, Pendleton High School, the Umatilla Watershed Council; U.S. Forest Service, Walla Walla County Conservation District, Oregon Department of Transportation, Grande Ronde Model Watershed, Washington Model Watersheds, and Idaho Model Watersheds. Restoration projects are proposed for streams in the Deschutes, John Day, Hood, Fifteenmile, Umatilla, Walla Walla, Grande Ronde, Methow, Yakima, Clearwater, Salmon, and Imnaha watersheds. The types of projects proposed include: riparian fencing to keep cattle out of streams; suppression of noxious weeds and revegetation of denuded streambanks to provide cover and reduce erosion; removal of "push up" type diversion dams and installation of control structures to eliminate passage barriers; conversion of irrigation diversions from streams to groundwater and/or sprinkler systems; consolidation of irrigation ditches; woody debris placement; streambank bioengineering and stabilization; dredge tailing removal; channel restoration; erosion control and stabilization of road banks; construction of sediment traps and overwintering habitat; removal of coffer dams and debris for passage improvement; dam reconstructuring; and updating/ rehabilitation of fish screens.

Further information is available from BPA at the address above.

Issued in Portland, Oregon, on May 7, 1996.

Thomas C. McKinney,

NEPA Compliance Officer for Environment, Fish and Wildlife Group.

[FR Doc. 96–12051 Filed 5–13–96; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP96–386–000]

Columbia Gas Transmission Corporation; Notice of Application

May 8, 1996.

Take notice that on April 29, 1996, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25325–1273, filed in Docket No. CP96–386–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain certificated gathering facilities by spindown to Columbia Natural Resources, Inc. (CNR), a non-jurisdictional affiliate,[1] all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia proposes to transfer to CNR certain certificated and uncertificated gathering facilities at net book value estimated to be $28 million as of. December 31, 1996, pursuant to a purchase and sale agreement dated April 25, 1996. Columbia explains that it intends to credit the net sales proceeds to the Stranded Facilities Charge in accordance with the tariff provisions placed into effect in its current Section 4 general rate case in Docket No. RP95–408–000.[2] Columbia states that the facilities are located in Fayette and Somerset Counties, Pennsylvania; Dickenson, Tazewell and Buchanan Counties, Virginia; Pike, Knott, Breathitt, Magoffin, Floyd, Johnson, Lawrence, Letcher and Martin Counties, Kentucky; and Kanawha, Boone, Cabell, Logan, Putnam, Wyoming, Raleigh, Fayette, Mercer, McDowell, Mingo, Wayne and Lincoln Counties, West Virginia. It is further stated that the facilities involve eighteen gathering systems that contain 2,729 miles of low pressure, predominately small diameter pipeline, 4,475 horsepower of compression, meters, *etc,* (see the attached appendix). Columbia states that only twelve of the lines (totaling 51.4 miles of 2–12 inch pipeline) and one compressor station (900 horsepower),[3] and associated points of delivery and receipt and various appurtenant facilities,[4] have been certificated; and certain certificated facilities are currently functionalized as transmission facilities and others are recorded as gathering facilities.

Columbia states that its proposal is the result of unbundling under Order No. 636 and the subsequent elimination of its merchant function. Furthermore, the proposal is part of the transfer and sale of a larger group of gathering facilities to CNR, which will operate the facilities on an open access, nonjurisdictional basis. Columbia advises that CNR owns an interest in over 6,500 oil and gas wells; has total acreage holdings of more than 2.3 million acres; and approximately two-thirds of CNR's natural gas production flows through the gathering facilities proposed to be transferred to CNR.

Columbia advises that it would file to refunctionalize to transmission any of its gathering facilities located between the facilities sold to CNR and Columbia's transmission facilities. Such refunctionalization would eliminate the possibility that a shipper would pay gathering charges to both CNR and Columbia if, prior to the proposed abandonment, only one such gathering charge would have been paid.

As more fully set forth in its application, Columbia requests:

(1) Authorization to abandon by sale to CNR the certificated facilities as further identified in Exhibits T, Z, and Z1.

(2) Approval of the accounting treatment specified in Exhibit Y.

(3) Such other authorizations as the Commission deems necessary including, without limitation, authority to abandon, conditioned upon the receipt by Columbia of Section 4 authorization to abandon service, the Points of Delivery as identified in Exhibit T which are served from the certificated facilities and the non-certificated gathering facilities to be sold to CNR.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations

[1] CNR has filed a companion petition for declaratory order in Docket No. CP96–385–000 for a determination that the facilities will be non-jurisdictional gathering facilities upon transfer to CNR.

[2] See General Terms and Conditions Section 46, Stranded Facilities Charge, of Columbia's tariff. The sale of gathering facilities proposed by this filing is a significant first step in Columbia's exit from the gathering business and the mitigation of the associated stranded costs.

[3] The Conaway Compressor Station is certificated and functionalized as a gathering facility.

[4] Columbia identifies Columbia Gas of Kentucky, Inc., and Mountaineer Gas Company, as local distribution companies, and Columbia Gas of Pennsylvania, Inc., as being involved as mainline tap customers with certificated points of delivery located on the gathering facilities to be spundown to CNR.

under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

APPENDIX—COLUMBIA GAS TRANSMISSION CORPORATION SUMMARY OF CERTIFICATED AND UNCERTIFICATED FACILITIES TO BE SPUNDOWN BY TRANSFER AND SALE TO CNR

Gathering system	Pipeline			System pressure (psig)	Compressor (HP)
	Length (miles)	Diameter (inches)	Total No.		
1 Summit	9	2–6	8	90–200	0
2 Ohiopyle	17	2–12	5		0
3 Walbridge	143	2–8	267	40–80	0
4 Hubbell-Horse Creek-Nye		2–20	1,322	40–80	820
5 Buff Lick	212	(1)	286	2–100	Yes
6 Inez-Kermit	635	1–18	984	40–80	959
7 Beaver Creek	93	1–12	133	10–70	0
8 Boldman	288	1–18	364	50–180	0
9 Johns Creek	21	2–8	26	35–60	300
10 Canada (P–74)	95	2–10	151	100–120	300
11 Canada (P–28)	13	2–8	9	40–100	0
12 Conaway	121	2–20	149	70–120 250–400	900
13 Majestic Thacker	152	1–10	184	30–70	950
14 Briar Mountain	16	2–6	19	20–60	300
15 Stafford	32	1–6	49	45–75	Yes
16 Huff Creek (V–38)		2–10	17	75–125	Yes
17 McDowell–Tazewell	41	2–6	45	30–50	0
18 Egeria	20	2–6	37	30–50	Yes

[1] Various.

[FR Doc. 96–11983 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP–96–385–000]

Columbia Natural Resources, Inc.; Notice of Petition for Declaratory Order

Take notice that on April 29, 1996, Columbia Natural Resources, Inc. (CNR),[1] P.O. Box 6070, Charleston, West Virginia 25362–0070, filed in Docket No. CP96–385–000 a petition pursuant to Section 16 of the Natural Gas Act (NGA) and Rule 207(a)(2) of the Commission's Rules of Practice and Procedure (18 CFR 385.207(a)(2)), for a declaratory order disclaiming Commission jurisdiction over certain facilities, operations, rates and the services provided through the facilities, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

CNR seeks a declaratory order from the Commission finding that certain certificated and uncertificated natural gas gathering facilities, and the ownership and operation of those facilities, proposed to be acquired from Columbia Gas Transmission Corporation (Columbia) would not be subject to the jurisdiction of the Commission under the NGA upon transfer of the facilities.[2] CNR seeks a determination that the Commission's authority to regulate rates under Sections 4 and 5 of the NGA does not extend to CNR's gathering system as it is proposed to be operated.

CNR states that the facilities are located in Fayette and Somerset Counties, Pennsylvania; Dickenson, Tazewell and Buchanan Counties, Virginia; Pike, Knott, Breathitt, Magoffin, Floyd, Johnson, Lawrence, Letcher and Martin Counties, Kentucky; and Kanawha, Boone, Cabell, Logan, Putnam, Wyoming, Raleigh, Fayette, Mercer, McDowell, Mingo, Wayne and Lincoln Counties, West Virginia. CNR describes the facilities as eighteen gathering systems composed of "web-type" or "backbone" configurations of lines that are of a size and operated at pressures consistent with the gathering function, located in a production area, upstream of processing facilities, and gather gas from receipt points for subsequent delivery to Columbia's transmission lines or to other points of delivery on the gathering system.

CNR asserts that the individual elements of the "Modified Primary Function" Test, when applied to these

[1] CNR is a wholly-owned subsidiary of the Columbia Gas System, Inc.; headquartered in Charleston, West Virginia; and incorporated in Texas and licensed to do business in the States of Illinois, Indiana, Kentucky, Maryland, Michigan, New York, Ohio, Pennsylvania, Virginia and West Virginia. CNR performs all the oil and gas drilling and production operations of The Columbia Gas System, Inc., in the Eastern United States. CNR owns an interest in over 6,500 oil and gas wells and has total acreage holdings of more than 2.3 million acres. Approximately two-thirds of CNR's natural gas production flows through the facilities subject to CNR's petition.

[2] A companion application was filed by Columbia in Docket No. CP96–386–000 for authorization to abandon the certificated portion of the facilities by sale to CNR.

eighteen gathering systems, demonstrate that these Facilities would perform a gathering function in CNR's possession. The following statements are those of CNR.

(1) Length and Diameter of the Lines—Although it is difficult to generalize about so many lines, it is clear that the great majority of these lines are small diameter, short lines, consistent with the configuration of gathering area lines. While some lines are larger than the 2.375" to 8.625" lines which predominate, or greater than a mile in length, such lines do not exceed a size or a length appropriate for a gathering function in similar circumstances, *e.g.*, to transport gas gathered from other lines either directly or indirectly to transmission lines.

(2) Extension Beyond a Central Point in the Field—Unlike other production areas such as those in the Southwest, the "central point in the field test" is not generally applicable to those systems, given the unique geography and development of the Appalachian gathering area. Therefore, this test provides little guidance in determining the primary function of Appalachian gathering systems such as those under consideration here.

(3) Location of Compressors and Processing Plants—There are no processing plants upstream of these Facilities, and only twelve compressors on these eighteen gathering systems. Those twelve compressors are either field boosters which are necessary to move gas over these low pressure systems, or compress the gas for entry into transmission lines.

(4) Geographic Configuration—An examination of the maps contained in Exhibits Z and Z1 of Columbia's abandonment application shows that these Facilities form a "web-type" or "backbone" configuration and are located in a production area where they function as a production area gathering network.

(5) Location of Wells—Each of these eighteen gathering systems collects gas from wells at production area receipt points located along or throughout each system.

(6) Operating Pressure of the Lines—The operating pressure of the lines is low, typically less than 100 psig, and in all cases entirely consistent with a gathering facility characterization in these low pressure production areas.

(7) Purpose, Location and Operation of the Facilities—The facilities are located in a production area, and used to provide gathering service by their present owner and operator. Even the few facilities functionalized on Columbia's books of account as transmission either now perform a gathering function or would do so when owned and operated by CNR.

(8) The Owner's General Business Activity—CNR, the proposed owner of these Facilities, would be a gatherer, not an interstate transporter, of gas. It intends to have no jurisdictional transmission facilities. Therefore, these Facilities would be gathering facilities after the proposed transfer.

CNR states that it would operate the facilities as an independent gas gatherer to provide gas gathering and related services on an open access, nonjurisdictional, nondiscriminatory basis to all customers. CNR states that no existing shipper on any of these eighteen gathering systems would be faced with any reduction or loss of gathering service. CNR explains that it intends to provide substitute nonjurisdictional alternatives to the service provided by Columbia in connection with its transportation service under certain rate schedules in Columbia's Second Revised Volume No. 1 FERC Gas Tariff. Further, CNR would attempt to negotiate new gathering agreements with Columbia's shippers. However, if CNR is unable to reach agreement with an existing gathering shipper, CNR would offer such existing shippers a default contract under which they would continue to be able to receive gathering service for a two-year period, under rates, terms and conditions consistent with those under which Columbia currently provides these gathering services. Proposed default gathering contracts would be submitted if the parties were unable to negotiate mutually agreeable arrangements.

CNR advises that Columbia currently utilizes certain of the Facilities to deliver gas scheduled under Rate Schedules FTS, NTS,[3] and SST to Mountaineer Gas Company (Mountaineer) and Columbia Gas of Kentucky, Inc. (CKY), at Town Border Stations. CNR plans to provide nonjurisdictional direct delivery service to Mountaineer and CKY, after the proposed sale. Negotiations are progressing with these two local distribution companies for the development of agreements for such service by CNR.

CNR advises that, in addition to direct delivery service at Town Border Stations, Columbia utilizes many of the Facilities to also deliver gas to certain Mainline Tap Consumers served by these local distribution companies and by Columbia Gas of Pennsylvania, Inc. These Mainline Tap Consumers are attached directly to Columbia gathering lines and, typically, are found in areas which are remote from the nearest measured distribution system and may own land over which Columbia's gathering lines have been laid. Upon the transfer of the Facilities to CNR, deliveries to these Mainline Tap Consumers would be continued by CNR on a nonjurisdictional basis.

CNR further advises that, in the companion application filed in Docket No. CP96–386–000, Columbia proposes to abandon two Points of Delivery at exchange points on the Facilities with CNG Transmission Corporation under Columbia's Rate Schedule X–35 and X–84. However, the remaining exchange points under these rate schedules would not be affected by the proposed transfer of the Facilities to CNR and exchange services would continue to be provided under Rate Schedules X–35 and X–84.

CNR also advises that Ashland Exploration, Inc., delivers gas from its own production into Columbia's Canada (P–28) Gathering System. Some of that gas is delivered to approximately 170 customers of Ashland located on that system. CNR intends to work with Ashland to develop an appropriate replacement, if necessary, for the service currently provided by Columbia.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 20, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11986 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–M

[3] Only Mountaineer receives NTS service.

[Docket No. CP96–97–000]

Eastern Shore Natural Gas Company; Notice of Technical Conference

May 8, 1996.

Take notice that a technical conference will be convened in the above-docketed proceeding on Wednesday, May 22, 1996, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426. Any party, as defined in 18 CFR 385.102(c), any person seeking intervenor status pursuant to 18 CFR 385.214, and any participant, as defined in 18 CFR 385.102(b), is invited to participate.

For additional information, please contact Carolyn Van Der Jagt, 202–208–2246, or Tom Gooding, 202–208–1123, at the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11984 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP91–26–014 and RP91–162–005]

El Paso Natural Gas Company; Notice of Technical Conference

May 8, 1996.

In the Commission's order issued on April 1, 1996, in the above-captioned proceeding,[1] the Commission held that the filing raises issues for which a technical conference is to be convened.

The conference to address the issues has been scheduled for Thursday, May 30, 1996, at 10:00 a.m. in a room to be designated at the offices of the Federal Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested persons and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11978 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–02–M

[1] 75 FERC ¶ 61,007 (1996).

[Docket No. CP96–488–000]

El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

May 8, 1996.

Take notice that on May 3, 1996, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas, 79978, filed in Docket No. CP96–488–000 a request pursuant to Section 157.205, and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, and 157.216) for approval to abandon certain miscellaneous tap and meter facilities and the service rendered by means thereof, under the blanket certificate issued in Docket No. CP82–435–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso states that the certificate authorizations for the construction and operation of the miscellaneous tap and meter facilities for which El Paso now seeks abandonment authorization were issued in Docket Nos. G–2363, CP69–23, CP70–78, CP74–119, and CP84–243, or installation and service was permitted under Section 2.55(c) of the Commission's Rules of Practice and Procedure. El Paso indicates that these facilities were required to facilitate, generally, the delivery and/or measurement and sale of natural gas from its interstate transmission pipeline system to certain customers for resale.

The request for authorization further states that with respect to these miscellaneous tap and meter facilities, El Paso periodically reviews, inter alia, the operating status of such facilities located on its interstate pipeline system. El Paso indicates that such review has show that there are twelve miscellaneous tap and meter facilities located in various counties in Arizona, New Mexico, and Texas that are eligible for abandonment for which El Paso now seeks abandonment.

El Paso asserts that it proposes to abandon such facilities and to thereafter remove and place in stock the salvable materials and scrap the nonsalvable items, without material change in its average cost-of-service. It is further asserted that the proposed abandonments will not result in or case any interruption, reduction, or termination of natural gas service presently rendered El Paso to any of its customers.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.295), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11961 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–486–000]

El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

May 8, 1996.

Take notice that on May 3, 1996, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed a request with the Commission in Docket No. CP96–486–000, pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to operate two existing tap and valve assemblies located in Reeves County, Texas as jurisdictional delivery points for the delivery of natural gas, authorized in blanket certificates issued in Docket Nos. CP82–435–000 and CP88–433–000, all as more fully set forth in the request on file with the Commission and open to the public inspection.

El Paso proposes to utilize two existing tap and valve assemblies which El Paso states that it installed in connection with the construction and installation of their Lockridge and Hamon-Toro Line Field Compressor Stations to facilitate the delivery of its own pipeline quality gas supply for fuel to these compressors. The compressor stations are now owned by a different entity but still require pipeline quality gas for fuel. Therefore, El Paso now seeks authorization to utilize the two existing tap and valve assemblies as jurisdictional delivery points to provide El Paso Field Service Company (Field Services) natural gas deliveries, at Field Services' request. Field Services intends to supply El Paso Gas Marketing Company (Gas Marketing) with gas for fuel at the Lockridge and Hamon-Toro Line Field Compressor Stations. In turn, Gas Marketing has requested El Paso to provide interruptible transportation to the two existing tap and valve assemblies on El Paso's mainline transmission system in Reeves Country, Texas.

El Paso states that the operation of the proposed delivery points at the Lockridge and Hamon-Toro Line Field Compressor Stations is not prohibited by El Paso's existing Volume No. 1–A Tariff and that the volumes proposed to be delivered through the two existing tap and valve assemblies would be delivered pursuant to an effective transportation arrangement between El Paso and Gas Marketing. El Paso further states that it has sufficient capacity to accomplish the deliveries specified under the Transportation Service Agreement without detriment or

disadvantage to El Paso's other customers.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11982 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–147–000]

Equitrans, L.P.; Notice of Technical Conference

May 8, 1996.

In the Commission's order issued on march 22, 1996, in the above-captioned proceeding,[1] the Commission held that the filing raises issues for which a technical conference is to be convened.

The conference to address the issues has been scheduled for Tuesday, May 21, 1996, at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested persons and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11977 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 11574–000 CT]

City of Norwich, Department of Public Utilities; Notice Not Ready for Environmental Analysis, Notice Requesting Interventions and Protests, Notice Inviting Competing Applications, and Notice of Scoping Pursuant to the National Environmental Policy Act of 1969

May 8, 1996.

The Federal Energy Regulatory Commission (Commission) has issued a letter accepting the City of Norwich, Department of Public Utilities, application for the Occum Hydroelectric Project, located on the Shetucket River, near the City of Norwich, New London County, Connecticut.

The existing Occum Project's facilities consist of a 90-acre impoundment; a dam consisting of two adjacent spillway sections, earth embankments, and an intake structure; a 225-foot-long by 160-foot-wide forebay area; a 40-foot-long by 32-foot-wide powerhouse, housing one turbine with a total capacity of 800 kW; and appurtenant facilities. The project would have an average annual generation of about 3,750 megawatthours.

The application is not ready for environmental analysis at this time. A public notice will be issued in the future indicating its readiness for environmental analysis and soliciting comments, recommendations, terms and conditions, or prescriptions on the application, and the applicant's reply comments.

The purpose of this notice is to: (1) Invite interventions and protests; (2) advise all parties as to the proposed scope of the staff's environmental analysis, including cumulative effects, and to seek additional information pertinent to this analysis; (3) advise all parties of their opportunity for comment; and (4) to invite competing applications.

Competition

Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for this application, the competing development application or a notice of intent to file such an application. Submitting a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for a preliminary permit will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant named in this public notice.

Interventions and Protests

All filings must: (1) Bear in all capital letters the title "PROTEST." "MOTION TO INTERVENE," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," or "COMPETING APPLICATION;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

An additional copy must be sent to: Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

All filings for any protest or motion to intervene, competing application, or notice of intent must be received 60 days from the issuance date of this notice.

Scoping Process

The Commission's scoping objectives are to:

- Identify significant environmental issues;
- Determine the depth of analysis appropriate to each issue;
- Identify the resource issues not requiring detailed analysis; and
- Identify reasonable project alternatives.

The purpose of the scoping process is to identify significant issues related to the proposed action and to determine what issues should be covered in the environmental document pursuant to the National Environmental Policy Act of 1969. The document entitled "Scoping Document I" (SDI) will be circulated to enable appropriate federal, state, and local resource agencies, developers, Indian tribes, non-governmental organizations (NGOs), and other interested parties to effectively participate in and contribute to the scoping process. SDI provides a brief description of the proposed action, project alternatives, the geographic and temporal scope of a cumulative effects analysis, and a list of preliminary issues identified by staff.

The Commission will decide, based on the application, and agency and public comments to scoping, whether licensing the Occum Hydroelectric Project constitutes a major federal action significantly impacting the quality of the human environment. The Commission staff will not hold scoping meetings unless the Commission decides to prepare an environmental impact statement, or the response to SDI warrants holding such meetings.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to comment on SDI and assist the staff in defining and clarifying the issues to be addressed.

All filings should contain an original and 8 copies. Failure to file an original and 8 copies may result in appropriate staff not receiving the benefit of your comments in a timely manner. See 18 CFR 4.34(h). In addition, commentors *may* submit a copy of their comments on a 3½-inch diskette formatted for MS–DOS based computers. In light of our ability to translate MS–DOS based materials, the text need only be submitted in the format and version that it was generated (i.e., MS Word, WordPerfect 5.1/5.2, ASCII, etc.). It is not necessary to reformat word processor generated text to ASCII. For Macintosh users, it would be helpful to save the documents in Macintosh word processor format then write than to files on a diskette formatted for MS–DOS machines. All comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, and should show the following captions on the first page: Occum Hydroelectric Project, FERC No. 11574–000.

Further, interested persons are reminded of the Commission's Rules of Practice and Procedures, requiring parties or interceders (as defined in 18 CFR 385.2010) to file documents on each person whose name is on the official service list for this proceeding. See CFR 4.34(b).

The Commission staff will consider all written comments and may issue a Scoping Document II (SDII). SDII will include a revised list of issues, based on the scoping process.

For further information regarding the scoping process, please contact Michael Dees, Federal Energy Regulatory Commission, Office of Hydropower Licensing, 888 First Street, N.E., Washington, D.C. 20426, or at (202) 219–2807.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11979 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–M

[1] 74 FERC ¶ 61,309.

[Docket No. CP96–355–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

May 8, 1996.

Take notice that on April 26, 1996, as supplemented on May 1, 1996, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252–2511, filed in Docket No. CP96–355–000 a request pursuant to Sections 157.205 and 157.212(a)) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212(a)) for authorization to modify an existing receipt point interconnection located in LaFourche Parish, Louisiana, to also provide delivery point capabilities for Riverside Pipeline Company (Riverside), an intrastate pipeline company, under the blanket certificate issued in Docket No. CP82–413–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee states that Riverside requested modification of the existing receipt point to provide delivery point capabilities. Service will be provided pursuant to Riverside's interruptible transportation agreement with Tennessee. Tennessee proposes to replace the existing 2-inch 600# RF X RF check valve with a 2.375-inch O.D. spool pieced and install a 2-inch orifice restriction plate. Tennessee will continue to own, operate, and maintain the side valve assembly. Riverside will own, operate, and maintain the meter facility and will own the new installation of a 2-inch orifice tube. The estimated cost of this project is $20,705, 100% reimbursable to Tennessee.

Tennessee states that there is no proposed increase in the maximum contract quantity for Riverside. Tennessee notes that there will be no impact on peak day or annual deliveries. Tennessee states that once the proposed facilities are in place, it will deliver from 500–750 Dekatherms per day. Tennessee asserts that the end-user of the gas will be Riverside and LLOG Exploration. Tennessee asserts that the establishment of the new delivery point is not prohibited by its existing tariff. Tennessee states that it has sufficient capacity to accomplish deliveries at the requested point without detriment or disadvantage to any other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11985 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–692–004, et al.]

TransCanada Power Corporation, et al.; Electric Rate and Corporate Regulation Filings

May 8, 1996.

Take notice that the following filings have been made with the Commission:

1. TransCanada Power Corporation

[Docket No. ER95–692–004]

Take notice that on April 18, 1996, TransCanada Power Corporation tendered for filing a letter stating that TransCanada-Northridge Power Ltd.'s name has been changed to TransCanada Power Corporation.

Comment date: May 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Louis Dreyfus Energy, ACME Power Marketing, Inc., Calpine Power Services Company, ATG Trading Corporation, Aquila Power Corporation, Eastex Power Marketing, Inc., Energy West Power Co., LLC

[Docket Nos. ER92–850–016, ER94–1538–006, ER94–1545–006, ER94–1691–009, ER95–216–009, ER96–118–003, and ER96–392–002 (not consolidated)]

Take notice that the following informational filings have been filed with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On April 30, 1996 Louis Dreyfus Energy filed certain information as required by the Commission's December 2, 1992 order in Docket No. ER92–850–000.

On April 10, 1996 ACME Power Marketing, Inc. filed certain information as required by the Commission's October 18, 1994 order in Docket No. ER94–1538–000.

On April 30, 1996 Calpine Power Services Company filed certain information as required by the Commission's March 9, 1995 order in Docket No. ER94–1545–000.

On April 22, 1996 ATG Trading Corporation filed certain information as required by the Commission's January 19, 1995 order in Docket No. ER94–1691–000.

On April 30, 1996 Aquila Power Corporation filed certain information as required by the Commission's January 13, 1995 order in Docket No. ER95–216–000.

On April 30, 1996 Eastex Power Marketing, Inc. filed certain information as required by the Commission's November 28, 1995 order in Docket No. ER96–118–000.

On April 30, 1996 Energy West Power Co., LLC filed certain information as required by the Commission's December 28, 1995 order in Docket No. ER96–392–000.

3. Milford Power Limited Partnership, Electric Clearinghouse, Inc., MidCon Power Services Corp., National Power Management Company, Energy Services Inc., USGen Power Services, L.P., Wicor Energy Services, Inc.

[Docket Nos. ER93–493–004, ER94–968–013, ER94–1329–007, ER95–192–006, ER95–1021–003, ER95–1625–003, and ER96–34–002 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On May 6, 1996, Milford Power Limited Partnership filed certain information as required by the Commission's September 17, 1993 order in Docket No. ER93–493–000.

On May 2, 1996, Electric Clearinghouse, Inc. filed certain information as required by the Commission's April 7, 1994 order in Docket No. ER94–968–000.

On April 30, 1996, MidCon Power Services Corp. filed certain information as required by the Commission's August 11, 1994 order in Docket No. ER94–1329–000.

On May 6, 1996, National Power Management Company filed certain information as required by the Commission's January 4, 1995 order in Docket No. ER95–192–000.

On May 2, 1996, Energy Services Inc. filed certain information as required by the Commission's June 13, 1995 order in Docket No. ER95–1021–000.

On April 30, 1996, USGen Power Services, L.P. filed certain information as required by the Commission's December 13, 1995 order in Docket No. ER95–1625–000.

On April 30, 1996, Wicor Energy Services, Inc. filed certain information as required by the Commission's November 9, 1995 order in Docket No. ER96–34–000.

4. CRSS Power Marketing, Inc., JEB Corporation, CNG Power Services Corporation, Gulfstream Energy, L.L.C., Standard Energy Corporation, CNB Olympic Gas Corporation, Cogentrix Energy Power Marketing, Inc.

[Docket Nos. ER94–142–009, ER94–1432–007, ER94–1554–008, ER94–1597–006, ER95–362–005, ER95–964–004, and ER95–1739–002 (not consolidated)]

Take notice that the following informational filings have been filed with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On April 30, 1996, CRSS Power Marketing, Inc. filed certain information as required by the Commission's December 30, 1993 order in Docket No. ER94–142–000.

On April 30, 1996, JEB Corporation filed certain information as required by the Commission's September 8, 1994 order in Docket No. ER94–1432–000.

On April 30, 1996, CNG Power Services Corporation filed certain information as required by the Commission's October 25, 1994 order in Docket No. ER94–1554–000.

On April 30, 1996, Gulfstream Energy, L.L.C. filed certain information as required by the Commission's November 21, 1994 order in Docket No. ER94–1597–000.

On April 26, 1996, Standard Energy Corporation filed certain information as required by the Commission's February 24, 1995 order in Docket No. ER95–362–000.

On April 30, 1996, CNB/Olympic Gas Services filed certain information as required by the Commission's July 10, 1995 order in Docket No. ER95–964–000.

On April 30, 1996, Cogentrix Energy Power Marketing, Inc. filed certain information as required by the Commission's October 13, 1995 order in Docket No. ER95–1739–000.

5. EDC Power Marketing, Inc., Westcoast Power Marketing, Inc., Alliance Strategies, Proler Power Marketing, Inc., Greenwich Energy Partners, L.P., Seagull Power Services Inc., Heat Petra Resources, Inc.

[Docket Nos. ER94–1538–006, ER95–378–004, ER95–1381–002, ER95–1433–002, ER96–116–001, ER96–342–000, and ER96–381–002 (not consolidated)]

Take notice that the following informational filings have been filed with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On April 26, 1996, EDC Power Marketing, Inc. filed certain information as required by the Commission's September 14, 1994, order in Docket No. ER94–1538–000.

On April 26, 1996, Westcoast Power Marketing, Inc. filed certain information as required by the Commission's April 20, 1995, order in Docket No. ER95–378–000.

On April 26, 1996, Alliance Strategies filed certain information as required by the Commission's August 25, 1995, order in Docket No. ER95–1381–000.

On April 26, 1996, Proler Marketing, Inc. filed certain information as required by the Commission's October 16, 1995, order in Docket No. ER95–1433–000.

On April 18, 1996, Greenwich Energy Partners, L.P. filed certain information as required by the Commission's December 20, 1995, order in Docket No. ER96–116–000.

On April 29, 1996, Seagull Power Services Inc. filed certain information as required by the Commission's February 15, 1996, order in Docket No. ER96–342–000.

On April 26, 1996, Heath Petra Resources, Inc. filed certain information as required by the Commission's December 20, 1995, order in Docket No. ER96–381–000.

6. Citizens Lehman Power Sales, Koch Power Services, Inc., Hartford Power Sales L.L.C., Tenneco Energy Marketing, Company, TransCanada Power Corporation, Southern Energy Marketing, Inc., Paragon Gas Marketing

[Docket Nos. ER94–1685–007, ER95–218–005, ER95–393–008, ER95–428–005, ER95–692–004, ER95–976–004, and ER96–380–002 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On April 26, 1996, Citizens Lehman Power Sales filed certain information as required by the Commission's February 2, 1995 order in Docket No. ER94–1685–000.

On April 30, 1996, Koch Power Services, Inc. filed certain information as required by the Commission's January 4, 1995 order in Docket No. ER95–218–000.

On April 26, 1996, Hartford Power Sales L.L.C. filed certain information as required by the Commission's February 22, 1995 order in Docket No. ER95–393–000.

On April 30, 1996, Tenneco Energy Marketing Company filed certain information as required by the Commission's March 30, 1995 order in Docket No. ER95–428–000.

On April 30, 1996, TransCanada Power Corporation filed certain information as required by the Commission's June 9, 1995 order in Docket No. ER95–692–000.

On April 30, 1996, Southern Energy Marketing Inc. filed certain information as required by the Commission's September 29, 1995 order in Docket No. ER95–976–000.

On April 26, 1996, Paragon Gas Marketing filed certain information as required by the Commission's December 20, 1995 order in Docket No. ER96–380–000.

7. Public Service Electric & Gas Company

[Docket No. ER96–1070–000]

Take notice that on May 2, 1996, Public Service Electric & Gas Company tendered for filing an amendment in the above-referenced docket.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Southwestern Public Service Company

[Docket No. ER96–1449–000]

Take notice that on April 24, 1996, Southwestern Public Service Company tendered for filing an amendment in the above-referenced docket.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Kentucky Utilities Company

[Docket No. ER96–1668–000]

Take notice that on April 15, 1996, Kentucky Utilities Company tendered for filing information on transactions that occurred during March 16, 1996 through March 31, 1996, pursuant to the Power Services Tariff accepted by the Commission in docket No. ER95–854–000.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Florida Power & Light Company

[Docket No. ER96–1673–000]

Take notice that on April 29, 1996, Florida Power & Light Company (FPL), tendered for filing a document entitled Letter of Agreement Between Florida Power & Light Company (FPL) and Jacksonville Electric Authority (JEA) Regarding Operational Treatment of Jacksonville Electric Authority's Import and Export Capability at the Florida Southern Interface (JOP Letter Agreement).

FPL states that the JOP Letter Agreement establishes an efficient operational procedure with regards to JEA's use of its 500 Kv and 230 kV facilities connecting JEA's respective system to the Florida-Southern Interface and to FPL (Joint Tie-Line Facilities). For purposes of operational efficiency, FPL and JEA through the JOP Letter Agreement agree to an operational procedure that would be implemented in certain instances in which JEA's import or export capability is being used at the Joint Tie-Line Facilities.

FPL requests that waiver of 35.3 of the Commission's Regulations be granted and that the JOP Letter Agreement be made effective on May 14, 1996. FPL states that copies of the filing were served on JEA.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Arizona Public Service Company

[Docket No. ER96–1674–000]

Take notice that on April 29, 1996, Arizona Public Service Company (APS), tendered for filing the proposed Power Sale Agreement between APS and the City of Vernon (Vernon).

The agreement proposes that APS will make available to Vernon, 25 MW of firm capacity and associated energy during the months of October, November, December, January, February, March and April, commencing on October 1, 1996 and ending April 30, 2000.

A copy of this filing has been served on Vernon and the Arizona Corporation Commission.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. PECO Energy Company

[Docket No. ER96–1675–000]

Take notice that on April 29, 1996, PECO Energy Company (PECO), filed a Service Agreement dated April 19, 1996, with Taunton Municipal Lighting Plant (TAUNTON) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds TAUNTON as a customer under the Tariff.

PECO requests an effective date of April 19, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to TAUNTON and to the Pennsylvania Public Utility Commission.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Maine Public Service Company

[Docket No. ER96–1678–000]

Take notice that on April 29, 1996, Maine Public Service Company, submitted an agreement under its Umbrella Power Sales tariff.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. O'Brien (Parlin) Cogeneration, Inc.

[Docket No. ER96–1679–000]

Take notice that on April 29, 1996, O'Brien (Parlin) Cogeneration, Inc. (Parlin) filed an initial rate schedule with the Federal Energy Regulatory Commission. Pursuant to the initial rate schedule, Parlin proposes to sell power at wholesale in accordance with the terms of the Amended And Restated Agreement for Purchase And Sale of Electric Power Between O'Brien (Parlin) Cogeneration, Inc. And Jersey Central Power & Light Company.

Parlin requests waiver of the 60-day prior notice requirement. Parlin also requests waiver of the Commission's filing requirements contained in Parts B and C of 18 CFR Part 35 (except 35.12(a), 35.13 and 35.16). Finally, Parlin requests: (1) waiver of Parts 41, 101 and 141 of the Commission's regulations; (2) waiver of the full requirements of Part 45 of the Commission's regulations to permit abbreviated filings; and (3) blanket approval under Part 34 of the Commission's regulations of all future issuances of securities and assumptions of obligations or liabilities.

A copy of this filing was served upon Jersey Central Power & Light Company.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. O'Brien (Parlin) Cogeneration, Inc.

[Docket No. ER96–1680–000]

Take notice that on April 29, 1996, O'Brien (Parlin) Cogeneration, Inc. (Parlin) filed an initial rate schedule with the Federal Energy Regulatory Commission. Pursuant to the initial rate schedule, Parlin proposes to sell power at wholesale in accordance with the

terms of the Electricity Purchase Contract between O'Brien (Parlin) Cogeneration, Inc. and NRG Parlin, Inc.

Parlin requests waiver of the 60-day prior notice requirement. Parlin also requests waiver of the Commission's filing requirements contained in Parts B and C of the 18 CFR Part 35 (except 35.12(a), 35.13(b), 35.15 and 35.16). Finally, Parlin requests: (1) waiver of Parts 41, 101 and 141 of the Commission's regulations; (2) waiver of the full requirements of Part 45 of the Commission's regulations to permit abbreviated filings; and (3) blanket approval under Part 34 of the Commission's regulations of all future issuances of securities and assumptions of obligations of liabilities.

A copy of this filing was served upon NRG Parlin Inc.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Commonwealth Edison Company

[Docket No. ER96–1681–000]

Take notice that on April 30, 1996, Commonwealth Edison Company (ComEd), submitted for filing three Service Agreements, establishing Florida Power Corporation (FPC), dated March 1, 1996, KN Marketing, Inc., (KN Marketing), dated March 25, 1996 and South Carolina Public Service Authority, (Santee Cooper), dated March 26, 1996 as customers under the terms of ComEd's Power Sales Tariff PS–1 (PS–1 Tariff). ComEd also submitted for filing four Service Agreements, establishing National Gas & Electric L.P. (National), dated January 5, 1996; Florida Power Corporation (FPC) dated March 1, 1996; Western Power Services, Inc. (WPS), dated April 1, 1996; and KN Marketing, Inc. (KN Marketing), dated April 4, 1996, as customers under the terms of ComEd's Flexible Transmission Service Tariff (FTS–1 Tariff). The Commission has previously designated the FS–1 Tariff as FERC Electric Tariff, Original Volume No. 2, and the FTS–1 Tariff as FERC Electric Tariff, Second Revised Volume No. 3.

ComEd requests an effective date of March 31, 1996, for the three PS–1 Service Agreements, and an effective date of April 4, 1996, for the four FTS–1 Service Agreements, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon FPC, KN Marketing, Santee Cooper, National, WPS and the Illinois Commerce Commission.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Cinergy Services, Inc.

[Docket No. ER96–1682–000]

Take notice that on April 30, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Power Sales Standard Tariff (the Tariff) entered into between Cinergy and the Toledo Edison Company.

Cinergy and the Toledo Edison Company are requesting an effective date of May 6, 1996.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Cinergy Services, Inc.

[Docket No. ER96–1683–000]

Take notice that on April 30, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Power Sales Standard Tariff (the Tariff) entered into between Cinergy and The Cleveland Electric Illuminating Company.

Cinergy and The Cleveland Electric Illuminating Company are requesting an effective date of May 6, 1996.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11976 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 2000–008 New York]

New York Power Authority; Notice of Availability of Environmental Assessment

May 8, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47910), the Office of Hydropower Licensing (OHL) has reviewed the application for approval of change in land rights and removal of lands from the project boundary. New York Power Authority proposes to convey five land parcels totaling approximately 670 acres to the Town of Waddington, New York, for low-density residential and tourism-related commercial and recreational development.

The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, staff concludes that the licensee's proposal would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, Room 2A, of the Commission's Offices at 888 First Street, NE, Washington, D.C., 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11980 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5504–6]

Ozone, Particulate Matter and Regional Haze Implementation Program Subcommittee; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: On September 11, 1995 (60 FR 47172) the EPA announced the establishment of the Ozone, Particulate Matter and Regional Haze Implementation Programs Subcommittee under the Clean Air Act Advisory Committee (CAAAC). The CAAAC was established on November 8, 1990 (55 FR 46993) pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. app I). The purpose of the Subcommittee is to provide advice and recommendations on integrated approaches for implementing potentially new national ambient air quality standards (NAAQS) for ozone and particulate matter, as well as a regional haze program.

OPEN MEETING DATES: Notice is hereby given that the Subcommittee for Development of Ozone, Particulate Matter and Regional Haze Implementation Programs will hold its next open meeting on Thursday, May 30, 1996, from 8:00–5:00 p.m., at the Omni Durham Hotel, 201 Foster Street, Durham, North Carolina. Seating will be available on a first come, first served basis. To assist EPA in planning the public meeting, persons interested in attending should register with EPA by contacting Susan Cooke at Science Applications International Corporation by telephone at 919–544–2848 or by faxing your name and address to her attention at 919–544–4175.

The public is invited to submit written views and recommendations on new integrated approaches for implementing these programs. Such comments should be submitted (in duplicate) to docket A–95–38. The docket is open for public inspection and copying between 8:30 a.m. and 5:30 p.m., weekdays, at the Air and Radiation Docket and Information Center (6102), room M–1500, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. William F. Hamilton, Designated Federal Officer for the Subcommittee, at 919–541–5498, or by mail at U.S. EPA, Office of Air Quality Planning and Standards, MD–12, Research Triangle Park, North Carolina 27711. A copy of the draft meeting agenda can be downloaded from the Ozone/Particulate Matter/Regional Haze FACA Bulletin Board, which is located on the Office of Air Quality Planning and Standards Technology Transfer Network (OAQPS TTN) or by contacting Denise M. Gerth (919) 541–5550.

Dated: May 6, 1996.

John S. Seitz,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 96–12075 Filed 5–13–96; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2131]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

May 9, 1996.

A Petition for reconsideration has been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed by May 29, 1996. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Implementation of Sections 202(f), 202(i) and 301(i) of the Telecommunications Act of 1996; Cable Television Antitrafficking, Network and MMDS/SMATV Cross-ownership Rules (CS Docket No. 96–56)

Number of Petitions Filed: 1

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–12048 Filed 5–13–96; 8:45 am]

BILLING CODE 6712–01–M

[Correction to Report No. 2129]

Petitions for Reconsideration and Clarification of Actions in Rulemaking Proceedings

May 9, 1996.

Report No. 2129, released May 1, 1996 omitted the below Petition for Reconsideration, therefore this petition is hereby added and the opposition date remains the same.

Subject: Preemption of Local Zoning Regulation of Satellite Earth Stations (IB Docket No. 95–59)

Number of Petitions Filed: 9

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–12049 Filed 5–13–96; 8:45 am]

BILLING CODE 6712–01–M

NUCLEAR REGULATORY COMMISSION

Federal Emergency Management Agency

Draft Document: Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants (Criteria for Emergency Planning in an Early Site Permit Application)

The Nuclear Regulatory Commission (NRC) and the Federal Emergency Management Agency (FEMA) have jointly prepared guidance for the development, review, and approval of emergency information and plans to be submitted with an early site permit (ESP) application in a proposed Supplement 2 to NUREG–0654/FEMA–REP–1, Rev. 1, entitled, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants (Criteria for Emergency Planning in an Early Site Permit Application)." This document is available for public review and comment.

The NRC staff's views on how emergency planning will be addressed at each phase of nuclear power plant licensing under 10 CFR Part 52: ESPs, standard design certifications, and combined licenses, are discussed in a Commission paper, "Emergency Planning Under 10 CFR Part 52," SECY–95–090, issued on April 11, 1995. A draft of this paper was noticed for comment in the **Federal Register** on May 20, 1994 (59 FR 26530).

For ESP applications, Subpart A to 10 CFR Part 52 states requirements and procedures for issuing an ESP that approves a site for one or more nuclear power plants separate from the filing of an application for a construction permit or a combined license. The application for an ESP must, as a minimum, identify physical characteristics unique to the proposed site, such as limitations on egress from the area surrounding the site, that could pose a significant impediment to the development of emergency plans. In addition, the application must include a description of contacts and arrangements made with local, State, and Federal government agencies that have emergency planning responsibilities. The application *may also* propose major features of the emergency plans, such as the exact size of the emergency planning zones, that can be reviewed and approved by the NRC in consultation with FEMA, *or* may propose complete and integrated emergency plans for the site for review and approval by the NRC in consultation with FEMA.

Proposed Supplement 2 to NUREG–0654/FEMA–REP–1 provides guidance for meeting the mandatory emergency planning requirement and for addressing the two additional emergency planning options of the ESP rule. The proposed supplement recommends an approach for an ESP applicant to identify unique site physical characteristics that could be an impediment to the development of emergency plans. An ESP applicant that chooses the option of proposing major features of the emergency plans will be evaluated against selected and modified planning standards and evaluation criteria from NUREG–0654/FEMA–REP–1 which are given in proposed Supplement 2. An applicant for an ESP that chooses the option of submitting complete and integrated emergency plans for review and approval will be

evaluated against the applicable provisions of 10 CFR 50.47 and Appendix E to 10 CFR Part 50, and the full evaluation criteria of NUREG–0654/FEMA–REP–1.

The regulations in 10 CFR Part 52 do not include a requirement for updating emergency planning information and plans approved as part of an ESP. The NRC staff discussed this matter in the final Commission paper on 10 CFR Part 52 and indicated that it would be deferred until a review is conducted to determine any necessary revisions to Part 52 after the first standard design certification rulemakings are completed.

Comments on Draft Supplement 2 to NUREG–0654/FEMA–REP–1 may be submitted for consideration by the NRC and FEMA staffs. Comments should be submitted within 120 days of the date of this **Federal Register** notice to: Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Mail Stop T–6D59, Washington, DC 20555–0001.

Comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

For a copy of the Draft Supplement 2 to NUREG–0654/FEMA–REP–1, write: Distribution Services, Printing and Mail Services Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington DC 20555. A copy of Draft Supplement 2 to NUREG–0654/FEMA–REP–1 is available for inspection and copying for a fee in the NRC Public Document Room, Gelman Building, 2120 L Street NW., Washington, DC 20555.

For further information contact: Falk Kantor, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415–2907, or Nancy Goldstein, Preparedness, Training and Exercises Directorate, Federal Emergency Management Agency, Washington, DC 20472. Telephone: (202) 646–4285.

Dated at Rockville, Maryland, this 25th day of April 1996.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission.

For the Federal Emergency Management Agency

Kay C. Goss,

Associate Director for Preparedness, Training, and Exercises, Federal Emergency Management Agency.

[FR Doc. 96–12042 Filed 5–13–96; 8:45 am]

BILLING CODE 7530–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–006200–034.

Title: U.S. Atlantic & Gulf Australia-New Zealand Conference.

Parties: Blue Star (North America) Ltd., Hamburg-Sudamerikanische Dampfschifffahrts-Gesellaschaft Eggert & Amsinck (Columbus Line).

Synopsis: The proposed amendment adds foreign inland points to the geographic scope of the agreement.

Agreement No.: 232–011184–006.

Title: EMC/Italia/CGM Space Charter and Sailing Agreement.

Parties: Evergreen Marine Corporation (Taiwan) Ltd., Compagnie Generale Maritime, Italia di Navigazione SpA.

Synopsis: The proposed amendment (1) deletes Compagnie Generale Maritime as a party; (2) authorizes space to be chartered on vessels of a party to Agreement No. 203–011305 instead of Agreement No. 203–011171 and deletes the restriction applicable to U.S.-flag vessels; (3) deletes references to Agreements No. 203–011171 and 203–011217; (4) clarifies the authority to use other carriers for the carriage of containers in the trade and substitutes Agreement No. 203–011305 for Agreement No. 203–011171; (5) deletes the restriction for cargoes reserved to Spanish flag vessels; (6) deletes the withdrawal provision pertaining to CGM; (7) provides that the duration of the Agreement will be for a minimum of 2 years from the effective date of this Amendment No. 006; (8) deletes Article 14(B) as it applies to arbitration among more than two parties; (9) makes other non-substantive changes; and (10) restates the Agreement. The parties have requested a shortened review period.

Agreement No.: 232–011321–005.

Title: Maersk/Sea-Land Pacific Agreement.

Parties: A.P. Moller-Maersk Line, Sea-Land Service, Inc.

Synopsis: The proposed amendment (1) Changes the name of the Agreement to the Maersk/Sea-land U.S./Far East and Middle East Agreement; (2) revises the geographic scope to include the Middle East; (3) deletes any country with which persons subject to U.S. jurisdiction are prohibited to trade; (4) revises Article 5.7 to make agreement on conference membership optional; (5) revises Article 9.2 to provide for an initial period of four years beginning January 21, 1996; and (6) restates the Agreement.

Agreement No.: 207–011416–001.

Title: Med-Pacific Express Joint Service Agreement.

Parties: Italia di Navigazione S.p.A., d'Amico Societa di Navigazione per Azioni.

Synopsis: The proposed amendment revises the geographic scope of the Agreement to include all of South America.

Agreement No.: 203–011452–005.

Title: Trans-Pacific Policing Agreement.

Parties: American President Lines, Ltd., A.P. Moller-Maersk Line, Cho Yang Line, China Ocean Shipping Company, DSR-Senator Joint Service, Evergreen Marine Corp., Hyundai Merchant Marine Co., Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Nedlloyd Lijnen B.V., Neptune Orient Lines, Ltd., Nippon Yusen Kaisha Line, Orient Overseas Container Line, Inc., Sea-Land Service, Inc., Transportacion Maritima Mexicana, S.A. de C.V., Wilhelmsen Lines AS, Yang Ming Marine Transport Corp.

Synopsis: The proposed amendment extends the term of the Agreement with the Neutral Body through June 30, 1998.

Agreement No.: 224–200986.

Title: BCL/Tilbury Terminal Agreement.

Parties: Bermuda Container Line Ltd. ("BCLL"), Tilbury Toad Associates, Inc. ("Tilbury").

Synopsis: The proposed Agreement permits Tilbury to provide preferential berthing, stevedoring, and other terminal services to BCLL.

Dated: May 9, 1996.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 96–12035 Filed 5–13–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 28, 1996.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Gregory J. Dahlgren, Vergas, Minnesota; to retain a total of 30 percent of the voting shares of Vergas Bancorporation, Inc., Vergas, Minnesota, and thereby indirectly retain shares of Vergas State Bank, Vergas, Minnesota.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. James L. Truck, Kingwood, Texas; to acquire an additional 3.2 percent, for a total of 27.1 percent of the voting shares of Brazosport Corporation, Corpus Christi, Texas, and thereby indirectly acquire First Commerce Bank, Corpus Christi, Texas.

Board of Governors of the Federal Reserve System, May 8, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–11988 Filed 5-13-96; 8:45 am]

BILLING CODE 6210-01-F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 7, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Gulf Coast Holding Company, New Orleans, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Gulf Coast Bank & Trust Company, New Orleans, Louisiana.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. First United Bancshares, Inc., El Dorado, Arkansas; to merge with Carlisle Bancshares, Inc., Little Rock, Arkansas, and thereby indirectly acquire Citizens Bank & Trust Company, Carlisle, Arkansas; Firstbank of Arkansas, Brinkley, Arkansas; and Hazen First State Bank, Hazen, Arkansas.

2. Porter Bancorp, Inc., Shepherdsville, Kentucky; to merge with Green River Bancorp, Inc., Shepherdsville, Kentucky, and thereby indirectly acquire Green River Bank, Morgantown, Kentucky.

3. Porter Bancorp, Inc., Shepherdsville, Kentucky; to merge with Pioneer Bancshares, Inc., Shepherdsville, Kentucky; and thereby indirectly acquire Pioneer Bank, Canmer, Kentucky.

4. Porter Bancorp, Inc., Shepherdsville, Kentucky; to acquire a total of 66.4 percent of the voting shares of Mammoth Bancorp, Inc., Brownsville, Kentucky; and thereby indirectly acquire Brownville Deposit Bank, Brownsville, Kentucky.

5. Porter Bancorp, Inc., Shepherdsville, Kentucky; to acquire a total of 25.0 percent of the voting shares of BBA, Inc., Shepherdsville, Kentucky, and thereby indirecty acquire Bullitt County Bank, Shepherdsville, Kentucky.

6. Porter Bancorp, Inc., Shepherdsville, Kentucky; to acquire a total of 79.8 percent of the voting shares of Greensburg Bancorp, Inc., Shepherdsville, Kentucky, and thereby indirectly acquire Peoples Bank and Trust Company, Greensburg, Kentucky.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Duke Financial Group, Inc., St. Paul, Minnesota; to acquire a total of 65 percent of the voting shares of Inland Empire National Bank, Riverside, California.

Board of Governors of the Federal Reserve System, May 8, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–11989 Filed 5-13-96; 8:45 am]

BILLING CODE 6210-01-F

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely

related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 28, 1996.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. BankAmerica Corporation, San Francisco, California; to engage *de novo* through its subsidiary, BankAmerica Community Development Corporation, San Francisco, California, in community development activities, pursuant to § 225.25(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 8, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–11987 Filed 5–13–96; 8:45 am]

BILLING CODE 6210–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 noon, Monday, May 20, 1996.

PLACE: Marrier S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 10, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–12232 Filed 5–10–96; 3:15 pm]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Office of Policy, Planning, and Evaluation, FAR Secretariat; Stocking of Standard Form, SF 294, Subcontracting Report for Individual Contracts and SF 295, Summary Subcontract Report

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration/Office of Policy, Planning and Evaluation recently revised Standard Form, SF 294, Subcontracting Report for Individual Contracts and SF 295, Summary Subcontract Report. These forms are now authorized for local reproduction. You can obtain the camera copy in two ways:

On the internet. Address: http://www.gsa.gov/forms, or;

From CARM, Attn.: Barbara Williams, (202) 501–0581. You can request camera copy of both forms from General Services Administration (CARM), Attn.: Barbara Williams, (202) 501–0581.

FOR FURTHER INFORMATION CONTACT: Ms. Victoria Moss, General Services Administration, (202) 501–4764. This contact is for information on completing the form and interpreting the FAR only.

DATES: Effective May 14, 1996.

Dated: May 6, 1996.

Theodore D. Freed,

Chief, Forms Management Branch.

[FR Doc. 96–12000 Filed 5–13–96; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[R–193, R–44, R–194]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Existing collection in use without an OMB control number; *Title of Information Collection:* An Important Message from Medicare; *Form No.:* HCFA R–193; *Use:* Hospitals participating in the Medicare program have agreed to distribute "An Important message from Medicare" to each beneficiary for each admission. *Recordkeeping:* As needed; *Affected Public:* Individuals or Households, Business or other for-profit; Not-for-profit institutions, Federal Government, and State, Local or Tribal Government; *Number of Respondents:* 6,700; *Total Annual Responses:* 11,000,000; *Total Annual Hours Requested:* 183,333.

2. *Type of Information Collection Request:* Reinstatement, with change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Title Conditions of Participation for Rehabilitation Agencies and Conditions for Coverage for Physical Therapists in Independent Practice; *Form No.:* HCFA R–44; *Use:* This information is needed to determine if an agency or therapist is in compliance with published health and safety requirements. Respondents are outpatient clinics, rehabilitation agencies, public health agencies, and therapists in independent practice. *Frequency:* On occasion; *Affected Public:* Business or other for-profit; *Number of Respondents:* 9,634; *Total Annual Responses:* 9,634; *Total Annual Hours Requested:* 26,397.

3. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Medicare Disproportionate Share Adjustment Procedure and Criteria; *Form No.:* HCFA R–194; *Use:* Regulation sets up an alternative process for hospitals that choose to have their disproportionate share adjustment statistics calculated based on their cost reporting periods rather than the Federal fiscal year. *Frequency:* On occasion; *Affected Public:* Business or other for-profit, and Not-for-profit institutions; *Number of Respondents:* 100; *Total Annual Responses:* 100; *Total Annual Hours Requested:* 100.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Office designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 7, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 96–11997 Filed 5–13–96; 8:45 am]

BILLING CODE 4120–03–P

Office of the Secretary

Statement of Organization, Functions and Delegations of Authority

Part A (Office of the Secretary), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Chapter AA "Office of the Secretary" as last amended at 60 FR 52403, dated October 6, 1995; Chapter ABC "Office of the Deputy Under Secretary for Intergovernmental Affairs" as last amended at 46 FR 3284, dated January 14, 1981; and Chapter AD "Office of the Regional Director" as last amended at 55 FR 5072, dated February 13, 1990 is being revised. Also, Chapter HD "Public Health Service Regional Offices" as last amended at 60 FR 48164, dated September 18, 1995 is being deleted in its entirety.

Part A is being amended to reflect the role and responsibility of the Office for Intergovernmental Affairs and to place the Regional Health Administrators within the Office of the Regional Directors. The specific amendments are:

I. Make the following changes to Chapter AA "Office of the Secretary," paragraph AA.10 Organization: Delete the Office of the Deputy Under Secretary for Intergovernmental Affairs and insert the Office for Intergovernmental Affairs.

II. Delete Chapter ABC in its entirety and replace with the following:

ABC.00 Mission. The Director of the Office for Intergovernmental Affairs (IGA) serves as the principal advisor and Assistant to the Secretary and Deputy Secretary on intergovernmental affairs, with the responsibility for facilitating the coordination and implementation of Administration and Secretarial initiatives as they pertain to intergovernmental affairs at the headquarters, regional, State, tribal, local and community levels. The Director for Intergovernmental Affairs is the central point of reference in the Department for issues, problems and questions involving these matters. The Director for Intergovernmental Affairs provides leadership, coordination, evaluation, and administrative direction to the Regional Director; also provides general guidance and direction to the Office of Veterans Affairs and Military Liaison; and to special initiatives, such as, Human Service Transportation Coordination and the National Rural Development Partnership. As directed the Director provides coordination services for functions and activities of the Deputy Secretary.

ABC.10 Organization. the Office for Intergovernmental Affairs is under the direction and control of the Director for Intergovernmental Affairs, who reports directly to the Secretary and Deputy Secretary.

ABC.20 Functions. The Director for Intergovernmental Affairs undertakes a variety of assignments for the Secretary and Deputy Secretary on critical intergovernmental problems which are beyond the authority of the Regional Director or which cross program/agency/departmental lines.

Advises on State, tribal and local impact of proposed Departmental action whether in legislation, regulation, or administrative decision. Serves as the point of contact between the Regional Directors (RDs) and the Secretary and Deputy Secretary. Responds to Secretarial initiatives having regional, State and local implications by directing the RDs to take specific actions.

Ensures a full and timely opportunity for the RDs to contribute to the planning, development and implementation of Departmental policy. In consultation with OPDIV heads ensures the resolution of policy issues involving intergovernmental concerns of operating divisions and the regional offices. Resolves intergovernmental problems and situations that cut across the OPDIVs in headquarters and in the regions. Formulates and recommends Departmental policies on the delivery of services to States and communities. Serves as a focal point for coordinated HHS efforts to deal with community problems as a whole. Has primary responsibility to ensure consistency of approach, administration, and action of programs within HHS as they impact on state and local governments.

Represents the Secretary and Deputy Secretary with officials of other Federal agencies, officials of State, tribal and local governments, and non-governmental organizations including national associations which represent State and local general purpose governments and relevant subdivisions in functions which cut across program lines. Develops strategies to strengthen intergovernmental relationships and collaborates with Governors, their key officials, county and city officials, on national goals and programs in health and human services. Serves as liaison with the White House on intergovernmental matters and concerns through the Assistant to the President for Intergovernmental Affairs.

Under the Direction of the Director for Intergovernmental Affairs, the Office of Veterans Affairs and Military Liaison provides advice and counsel and appropriate information and liaison to the White House, the Secretary, and veteran's and military organizations and associations; develops initiatives within the Department to improve services to veterans and the military; and focuses health and human resources on the needs of all veterans and military families as part of a Health and Human Services/Department of Veterans Affairs/Department of Defense initiative to better serve their health and human service needs. Provides coordinative support relating to sick, disabled and disadvantaged veterans/military for research targeted toward specific areas.

As directed, the Director IGA coordinates program and management functions and activities that the Deputy

Secretary is responsible for. The Director IGA represents the Department in special initiatives, such as the Human Services Transportation Coordination and the National Rural Development Partnership initiatives.

III. Delete Chapter AD in its entirety and replace with the following:

AD.00 Mission. The Regional Director serves as the direct personal representative of the Secretary with the responsibility for carrying out the Secretary's policies in the Region. The Regional Director provides leadership for the Secretary's special initiatives and coordination of the complex activities of the Region.

AD.10 Organization. The Office of the Regional Director is under the direction and control of the Regional Director, who reports directly to the Secretary and Deputy Secretary through the Director for Intergovernmental Affairs, and consists of the following:

Regional Director AD(1–X)
Regional Health Administrator ADA(1–X)

AD.20 Function. A. The Regional Director serves as the Secretary's representative in direct official dealings with State, tribal and local government organizations, non-government officials and their respective representative organizations. Establishes and maintains effective relationships with Governors, mayors, county officials, and other key State and local officials; furnishes advice and assistance and strives to develop a mutually beneficial Federal-State-local partnership; provides guidance and coordination to the efforts of all regional staff members on the priorities, emphasis, and merits of various programs based on the expression of needs and analyses by Governors, mayors, and other key officials. In consultation with the Office of the Assistant Secretary for Legislation, provides a central focus in the Region for department relations with Congressional delegations and individual members of Congress. Promotes general public understanding of programs, policies, and objectives of the Department; participates in developing and carrying out a region-wide public information program; and provides regional clearance on official public communiques.

Assesses the effectiveness of Department activities and makes reports and recommendations to the Secretary, Deputy Secretary, Director of Intergovernmental Affairs, and other Departmental officials concerning the application or improvement of policies and service delivery systems. Serves as coordinator, facilitator, and expediter in solving cross-cutting issues to assure effective, efficient, and responsible actions in the interest of total service to the public. Advises the Secretary on the potential effect of proposed Department action, whether legislative, regulatory, or administrative decision. Provides input into policy decisions and strategy regarding the concerns and interests of State and local governments and non-government organizations as derived from their key officials. In conjunction with the Regional Health Administrators, develops plans for emergency preparedness and directs all Departmental activities necessary to ensure continuity of essential functions within the Region in case of an emergency due to enemy action or natural disaster.

B. The Regional Health Administrator ADA(1–X)—Reports to the Secretary's Regional Director, receives professional guidance from the Assistant Secretary for Health, Director, Office of Public Health and Science (OPHS) programs. The Regional Health Administrator and associated staff are a component of the U.S. Public Health Service, along with the OPHS and PHS Operating Divisions.

Participates in policy development and implementation; directs and coordinates regionally based programs of OPHS, including the offices of Emergency Preparedness, Minority Health, Women's Health, and Population Affairs. Develops regional goals and objectives consistent with the needs of the population and in conformity with national health priorities and objectives and Departmental plans and programs. Serves as the principal official in the assigned area of jurisdiction to provide oversight and coordination for Public Health Service programs. Solicits and provides input from regional, State, and local health, mental health and substance abuse professional organizations to assist the Regional Director, the Assistant Secretary for Health, Director, OPHS, Director IGA and PHS Operating Divisions (OPDIVs) in the formulation, development, analysis, and evaluation of PHS OPDIV field programs and cross cutting Departmental initiatives in public health.

IV. Under Part H, delete Chapter HD in its entirety.

Dated: April 11, 1996.

John J. Callahan,

Assistant Secretary for Management and Budget.

[FR Doc. 96–11947 Filed 5–13–96; 8:45 am]

BILLING CODE 4150–04–M

Agency for Health Care Policy and Research

Meeting of the National Advisory Council for Health Care Policy, Research, and Evaluation

AGENCY: Agency for Health Care Policy and Research.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the National Advisory Council for Health Care Policy, Research, and Evaluation.

DATES: The meeting will be open to the public on Thursday, May 30, 1996, from 9:00 a.m. to 3:45 p.m. A closed portion of the Council will meet from 4:00 p.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at the Omni Shoreham Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008.

FOR FURTHER INFORMATION CONTACT: Deborah L. Queenan, Executive Secretary of the Advisory Council at the Agency for Health Care Policy and Research, 2101 East Jefferson Street, Suite 603, Rockville, Maryland 20852, (301) 594–1459.

In addition, if sign language interpretation or other reasonable accommodation for a disability is needed, please contact Linda Reeves, the Assistant Administrator for Equal Opportunity, AHCPR, on (301) 594–6665 no later than May 23, 1996.

SUPPLEMENTARY INFORMATION:

I. Purpose

Section 921 of the Public Health Service Act (42 U.S.C. 299c) establishes the National Advisory Council for Health Care Policy, Research, and Evaluation. The Council provides advice to the Secretary and the Administrator, Agency for Health Care Policy and Research (AHCPR), on matters related to AHCPR activities to enhance the quality, appropriateness, and effectiveness of health care services and access to such services through scientific research and the promotion of improvements in clinical practice and in the organization, financing, and delivery of health care services.

The Council is composed of public members appointed by the Secretary. These members are: Robert A. Berenson, M.D.; F. Marian Bishop, Ph.D.; Linda Burnes Bolton, Dr. P.H.; John W. Danaher, M.D.; Helen Darling, M.A.; Nancy J. Kaufman, M.S.; William S. Kiser, M.D.; Robert M. Krughoff; Risa J. Lavizzo-Mourey, M.D.; W. David Leak, M.D.; Harold S. Luft, Ph.D.; Barbara J. McNeil, M.D.; Walter J. McNerney, M.H.A.; Edward B. Perrin, Ph.D; Louis F. Rossiter, Ph.D.; Albert L. Siu, M.D.; and Ellen B. White, M.B.A.

There also are Federal ex-officio members. These members are: Administrator, Substance Abuse and Mental Health Services Administration; Director, National Institutes of Health; Director, Centers for Disease Control and Prevention; Administrator, Health Care Financing Administration; Commissioner, Food and Drug Administration; Assistant Secretary of Defense (Health Affairs); and Chief Medical Director, Department of Veterans Affairs.

II. Agenda

On Thursday, May 30, 1996, the meeting will begin at 9:00 a.m. with the call to order by the Council Chairman. The Administrator, AHCPR, will update the status of current Agency issues and program initiatives. The Council will then discuss issues concerning the guideline program, public/private sector collaboration, and improvements to the large grant program. The Council will recess at 3:45 p.m. The Council will begin the closed portion of the meeting to review grant applications from 4:00 p.m. to 5:00 p.m.

The meeting will adjourn at 5:00 p.m. Agenda items are subject to change as priorities dictate.

Dated: May 8, 1996.

Clifton R. Gaus,

Administrator.

[FR Doc. 96–12066 Filed 5–13–96; 8:45 am]

BILLING CODE 4160–90–M

Administration for Children and Families

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

Title: Request for Emergency OMB Approval of Information Collection Under the Paperwork Reduction Act.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Tribal JOBS	76	1	5	380
State JOBS	54	1	5	270

Estimated Total Annual Burden Hours: 650.

Additional Information

ACF is requesting that OMB grant a 90 day approval for this information collection under procedures for emergency processing by May 9, 1996. A copy of this information collection, with applicable supporting documentation, may be obtained by calling the Administration for Children and Families, Reports Clearance Officer, Roberta Katson at (202) 401–5756.

Comments and questions about the information collection described above should be directed to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ACF, Office of Management and Budget, Paperwork Reduction Project, 725 17th Street NW., Washington, DC 20503, (202) 395–7316.

Dated: May 8, 1996.

Roberta Katson,

Director, Office of Information Resource Management Services.

[FR Doc. 96–11946 Filed 5–13–96; 8:45 am]

BILLING CODE 4184–01–M

OMB No.: New.

Description: The State and Tribal JOBS plans are statutorily mandated and serve as the agreement between the State or the Tribal grantee and the Federal government for how JOBS programs will operate. The State/Tribal plans provide assurances that the JOBS program will be administered and operated in conformity with titles IV–A and IV–F of the Social Security Act, pertinent Federal regulations, and other applicable instructions or guidelines issued by ACF. This new State and Tribal JOBS plan section is being added in response to the President's recent directive requiring States to address the needs of teen parents so that they stay in school and become self-sufficient.

Respondents: State, Local or Tribal Govt.

Food and Drug Administration

FDA Form 3439, Interim Form for Application to Market a New Drug, Biologic, or Antibiotic Drug for Human Use; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of FDA Form 3439 entitled, "Application to Market a New Drug, Biologic, or Antibiotic Drug for Human Use." This form is intended for use by applicants for licenses for specified biotechnology and specified synthetic biological products. FDA Form 3439 has received interim approval from the Office of Management and Budget (OMB) for use by applicants pending the availability of a harmonized form for use by applicants requesting approval of drugs, biological products, and antibiotics. The development of the harmonized form and this action are part of FDA's continuing effort to achieve the objectives of the President's "Reinventing Government" initiatives.

EFFECTIVE DATE: The FDA Form 3439 may be used May 24, 1996.

ADDRESSES: Submit written requests for single copies of FDA Form 3439 to Division of Congressional and Public Affairs (HFM–44), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. The form may also be obtained by FAX by calling the CBER Voice Information System at 1–800–835–4709. FDA Form 3439 is available for public examination in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Annette A. Ragosta, Center for Biologics Evaluation and Research (HFM–630), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION: FDA is making available FDA Form 3439, Application to Market a New Drug,

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Biologic, or Antibiotic Drug for Human Use, for use in accordance with part 601 (21 CFR part 601), by applicants for licenses for specified biotechnology and specified synthetic biological products. In the final rule, "Elimination of Establishment License Application for Specified Biotechnology and Specified Synthetic Biological Products," published elsewhere in this issue of the **Federal Register**, FDA is amending § 601.2 (a) and adding new § 601.2 (c) to create a licensing scheme for specified biotechnology and specified synthetic biological products. The final rule requires an applicant seeking marketing approval for specified biotechnology and specified synthetic biological products to submit a single biologics license application to CBER. FDA Form 3439 has received interim approval from OMB for use by applicants subject to the above-referenced final rule.

In the November 1995 report entitled, "Reinventing the Regulation of Drugs Made from Biotechnology" report, the President and Vice-President announced a series of regulatory reform initiatives, including FDA's intention to use a single harmonized application form for all licensed biological products and all drug products. The harmonized form will be made available for public comment and submitted to OMB for review and approval. FDA also intends to develop guidance to assist applicants in completing the harmonized application. Once it is approved for use by OMB, the harmonized form will supersede FDA Form 3439. Until that time, applicants for licenses for specified biotechnology and specified synthetic biological products may use the interim FDA Form 3439.

Under the Paperwork Reduction Act of 1995 (Pub. L. 104–13), all forms requesting a collection of information on identical items from 10 or more public respondents must be approved by OMB and must display a valid OMB control number and expiration date. FDA Form 3439 was approved under OMB control number 0910–0316. The expiration date for the form is December 31, 1997.

Dated: May 9, 1996.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 96–12145 Filed 5–10–96; 10:13 am]

BILLING CODE 4160–01–F

[Docket No. 95N–0227]

Direct-to-Consumer Promotion

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is publishing a notice making clear that the agency does not require preclearance of prescription product promotion (advertising and promotional labeling) of human or animal drugs, biologics, or restricted medical devices directed toward consumers. FDA is also requesting comments on its intent to consider certain FDA-approved patient labeling as adequate to fulfill the brief summary requirement in consumer-directed advertisements. Finally, FDA is soliciting comments concerning several issues related to consumer-directed promotion of prescription biologics, human and animal drugs, and restricted medical devices to help guide policy decisions.

DATES: Written comments by August 12, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy M. Ostrove, Division of Drug Marketing, Advertising and Communications (HFD–40), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, rm. 17–B04, Rockville, MD 20857, 301–827–2828, or via Internet at Ostrove@cder.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Federal Food, Drug, and Cosmetic Act (act) and the Public Health Service Act, the Food and Drug Administration (FDA) has responsibility for regulating the labeling and advertising of prescription drugs (animal and human), biologics, and restricted medical devices. Labeling and advertising must follow certain requirements, as defined by the Act and implementing regulations.

Under section 502(n)of the act (21 U.S.C. 352(n)), an advertisement for a prescription drug must contain, in addition to the product's established name and quantitative composition, "such other information in brief summary relating to side effects, contraindications, and effectiveness * * *." This requirement is further defined in prescription drug advertising regulations at § 202.1(e) (21 CFR 202.1(e)). Under section 502(r) of the act (21 U.S.C. 352(r)), an advertisement for a restricted medical device must contain, in addition to the established name, "a brief statement of the intended uses of the device and relevant warnings, precautions, side effects, and contraindications * * *."

The act and FDA's advertising regulations do not distinguish between targeted audiences. FDA recognizes, however, that there are differences between the information needs of health care professionals and consumers resulting from differences in medical and pharmaceutical expertise, and differences in roles as potential recipients of medications or prescribers of medications, that may affect their perceptions, comprehension, and interpretation of promotional claims. In light of these differences, FDA is continuing to evaluate its policies and regulations.

In the **Federal Register** of August 16, 1995 (60 FR 42581), FDA announced a part 15 (21 CFR part 15) hearing to be held on October 18 and 19, 1995. In that document, the agency solicited oral testimony and written responses to a series of questions concerning direct-to-consumer (DTC) promotion of prescription drugs. At the hearing, the agency heard testimony from representatives of consumer and patient groups, advertising associations, and foreign governments, as well as from individual academicians, attorneys, marketers, and pharmaceutical manufacturers. The agency accepted written comments until December 29, 1995. FDA is currently evaluating the testimony, comments, and issues raised by both the public hearing and citizen petitions submitted prior to the hearing.

While this evaluation proceeds, FDA is providing clarification of two of its policies and soliciting additional information to help in the development of overall policy. FDA views these efforts as part of a comprehensive process designed to encourage meaningful communication to consumers about prescription drugs, biologics, and restricted medical devices, while continuing to help ensure that consumers are adequately protected from false, misleading or otherwise violative promotion.

II. Preclearance

One issue raised in oral testimony, written comments, and citizen petitions was an objection to the perceived requirement for manufacturers to obtain prior clearance from the agency for all prescription drug and biological DTC promotion. There is, in fact, no such requirement. Given public and congressional concern since the early 1980's about prescription drug DTC promotion, together with the inexperience of the pharmaceutical industry in producing DTC advertising, FDA had informally requested manufacturers to submit, on a voluntary basis, proposed DTC promotional

labeling and advertising for review and comment prior to use. See § 202.1(j)(4), which provides that "any advertisement may be submitted to the Food and Drug Administration prior to publication for comment."

FDA wishes to clarify that it has never required preclearance of consumer-directed prescription drug promotion, or advertising for restricted devices. Under sections 502(n) and 502(r) of the act, FDA may require prior approval of prescription drug and medical device advertisements only in "extraordinary circumstances." (See, e.g., § 202.1(j)(1)—prior approval will be required when a sponsor or FDA receives information, not widely publicized in medical literature, that a drug may cause fatalities or serious injuries, and despite notification from FDA, the sponsor fails to publicize adequately such information.)

FDA believes that industry's desire for agency guidance on proposed DTC promotion and applicable regulatory requirements, and the cost of developing corrective materials or campaigns explains the high rate of submission of DTC promotional materials for prior review and comment. However, it appears that the agency's request that manufacturers voluntarily obtain advice on proposed DTC materials has been misinterpreted as a requirement. FDA reiterates that it does not now require, nor has it ever required, manufacturers to submit DTC promotional labeling and advertising for preclearance. [1]

III. Patient Labeling in Fulfillment of the "Brief Summary" Requirement

FDA recognizes that many consumers do not have the technical background to understand fully the information typically included in prescription drug and biological advertisements to fulfill the "brief summary" requirement. To meet the "brief summary" requirement, sponsors typically reprint, in small type, whole sections of the professional labeling, which is generally written in terms that are not easily understood by the average consumer.

Some prescription drugs and biological products have FDA-approved labeling, in addition to that written for health professionals, that contains information intended to be understandable to patients. This patient labeling contains information that comprehensively, although not exhaustively, describes the safety and efficacy of the product. Although it is less comprehensive than professional labeling, patient labeling is intended to provide patients prescribed the medication with information that will help them use their medication effectively and safely. It should also, therefore, provide potential users with appropriately written product information they may want to consider.

FDA believes that such FDA-approved patient labeling generally meets the brief summary requirements, and, because it is written for patients, is a more appropriate vehicle for communicating risk information to consumers than the technically-written brief summary. FDA is requesting comment on its intention to consider the reprinting of certain FDA-approved patient labeling as adequate to fulfill the brief summary requirement in consumer-directed advertisements for prescription drug and biological products. The following products offer prototypical examples of such comprehensive patient labeling: Oral contraceptives, estrogenic products, Cardura®, Fosamax®, Glucophage®, Hytrin®, Proscar®, Seldane®, and Ticlid®.

Not all FDA-approved patient labeling, however, generally meets the brief summary requirements. Some approved patient labeling primarily is intended to give instructions for use (e.g., directions on how to use medications delivered via inhalation, nasal spray, patch, or injection). Other patient labeling focuses primarily on a single warning (e.g., Accutane® , the class auxiliary warning labels on angiotensin-converting-enzyme (ACE) inhibitors and isoproterenol inhalers). In both of these instances, the patient labeling has a narrow focus that is not intended to offer comprehensive risk information to patients. Because of this narrow focus, such patient labeling would not generally meet the brief summary requirements and would not be considered acceptable consumer brief summaries.

FDA also notes that many manufacturers have voluntarily produced informational brochures and other product-specific materials for patients that are disseminated through various outlets. These materials are typically submitted to the agency either for prior review and comment, or through the postmarketing review process specified in 21 CFR 314.81(b)(3)(i). Such materials that have not been through the formal labeling review process should not be considered automatically acceptable as a consumer brief summary. Instead, they may be used as brief summaries only if they fulfill all of the applicable requirements in § 202.1(e).

IV. Requests for Comments on Other Issues

Many complex public health issues are raised by DTC promotion. In the August 16, 1995, **Federal Register** document, FDA solicited broad public comment on the major issues concerning DTC promotion and whether the agency's current regulatory approach should be modified. Some of these issues were specifically addressed in testimony and written comments. These raised additional questions, about which FDA is now soliciting public comment.

1. Currently, § 202.1(e) states that the brief summary shall include information relating to side effects, warnings, precautions, contraindications, and other risk information. In print advertising, this requirement is generally fulfilled by including the risk-related sections of the approved labeling in, or adjacent to, the advertisement. For advertisements broadcast through media such as radio, television, and telephone communications systems, § 202.1(e)(1) provides that the advertisement "shall include information relating to the major side effects and contraindications of the advertised drugs in the audio or audio and visual parts of the presentation and unless adequate provision is made for dissemination of the approved or permitted package labeling in connection with the broadcast presentation shall contain a brief summary of all necessary information related to side effects and contraindications."

In addition, section 502(r) of the act requires that advertisements for restricted devices contain a brief statement of the intended uses of the device and relevant warnings, precautions, side effects, and contraindications.

Much testimony, petitions, and comments questioned the usefulness, for consumers, of the existing "brief summary" of risk information that results from application of these requirements. Many comments contended that, for consumer advertising, a shorter, more focused presentation of user-friendly information could meet the statutory requirement and also provide appropriate risk-related information. Some comments suggested that a consumer brief summary should include "information relating to the major side effects and contraindications" of the product, as currently required in prescription drug and biological product

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[1] This does not apply to submissions required in a premarket notification submission or premarket approval application (PMA) under 21 CFR 807.87(e) and 814.20(b)(10) or submissions required in connection with accelerated approval under 21 CFR 314.550 and 601.45.

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broadcast advertising. (This information has colloquially been referred to as the "major statement.")

If FDA required or permitted more limited risk information in place of the current brief summary, what specific information should be included? What criteria should be used by manufacturers and the agency to identify the "major" risk information for any particular product? FDA is also interested in empirical research that specifically addresses the issues of how much and what kind of risk information can and should be communicated in DTC advertising of prescription drug and biological products.

2. Some comments suggested that risk information could be communicated to consumers through standardized general disclosures. This kind of disclosure would not reference particular characteristics of a product. Instead, such statements would reference one or more general risks, such as the fact that all prescription drug and biological products have side effects; that they are only available from a physician or other prescribing health care professional; that they have significant benefits, but may have significant risks; that patients should discuss product risks with a physician, etc.

Such disclosures, however, are susceptible to habituation or "wear-out," which results in the viewer quickly learning to ignore the message, thus lowering its effectiveness. In addition, such messages may not be perceived as risk messages at all, but instead interpreted as reassurances. If the latter is the case, these messages would not fulfill the purpose of the brief summary requirement, which helps ensure that advertising conveys a balanced impression about the product's benefits and risks.

FDA solicits comments on the effectiveness of such standardized general disclosures at transmitting risk information. FDA is especially interested in any research that addresses the issue of the effectiveness of general risk disclosures of the type described above.

3. Promotional materials appear in very different media that each have distinctive characteristics (e.g., print, broadcast, telephone communications, facsimile, Internet). Should FDA require or permit different disclosures for consumer-directed promotion of prescription drug and biological products that appears in different media, to reflect the capabilities of these varying media, or should the disclosure be the same regardless of medium? For example, should print media contain longer and more complete information than broadcast media because such information could be made readily available at minimal cost and because consumers of print media may be more willing, able, and/or desirous of obtaining more complete information?

4. Different products have different degrees of effectiveness. In some cases, a product that works for a relatively small percentage of the appropriate patient population is approved either because it is the only available therapy for a condition; because all other therapies for the condition also have only modest benefits; or because it has relatively few risks. Should FDA require the communication of the degree of product effectiveness in DTC promotion? How could this information be communicated most effectively?

5. It has been suggested that toll-free telephone numbers are one way that product sponsors could make required information available to audiences. FDA requests comments and information from consumers, health professionals, product sponsors and other interested individuals regarding: (a) How useful toll-free numbers are as a mechanism for obtaining or disseminating information about medical products, and (b) the costs to a sponsor of using toll-free numbers as a means of disseminating information.

FDA welcomes comments on all of the issues described above and especially invites the submission of relevant empirical research.

Dated: May 8, 1996.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 96–12022 Filed 5–13–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96E–0043]

Determination of Regulatory Review Period for Purposes of Patent Extension; EPIVIR™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for EPIVIR™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application of the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD-20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product EPIVIR™ (lamivudine). EPIVIR™ in combination with Retrovir® (zidovudine) is indicated for the treatment of human immunodeficiency virus infection when therapy is warranted based on clinical and/or immunological evidence of disease progression. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for EPIVIR™ (U.S. Patent No. 5,047,407) from Glaxo Wellcome, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 1, 1996, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period that the approval of EPIVIR™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for EPIVIR™ is 1,582 days. Of this time, 1,448 days occurred during the testing phase of the regulatory review period, while 134 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: July 21, 1991. The applicant claims July 24, 1991, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was July 21, 1991, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act*: July 7, 1995. The applicant claims June 29, 1995, as the date the new drug application (NDA's) for EPIVIR™ (NDA's 20–564 and 20–596) were initially submitted. However, FDA records indicate that NDA's 20–564 and 20–596 were submitted on July 7, 1995 (the date the User Fee checks were received by the agency). Both NDA's were originally received by the agency on June 30, 1995, unaccompanied by the appropriate User Fee checks. Review of a NDA does not begin until the correct amount of User Fee money has been received by the agency from the sponsor of the NDA.

3. *The date the application was approved*: November 17, 1995. FDA has verified the applicants's claim that NDA's 20–564 and 20–596 were approved on November 17, 1995.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 836 days of patent term extension..

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 15, 1996, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before November 12, 1996, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 26, 1996.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 96–12092 Filed 5–13–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95E–0408]

Determination of Regulatory Review Period for Purposes of Patent Extension; TRUSOPT®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for TRUSOPT® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product TRUSOPT® (dorzolamide hydrochloride). TRUSOPT® is indicated in the treatment for elevated intraocular pressure in patients with ocular hypertension or open-angle glaucoma. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for TRUSOPT® (U.S. Patent No. 4,797,413) from Merck & Co., Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated January 26, 1996, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of TRUSOPT® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for TRUSOPT® is 2,101 days. Of this time, 1,736 days occurred during the testing phase of the regulatory review period, while 365 days occurred during the approval phase. These periods of time were derived from the following dates:

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1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* March 11, 1989. FDA has verified the applicant's claim that the date that the investigational new drug application (IND) became effective was March 11, 1989.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* December 10, 1993. FDA has verified the applicant's claim that the new drug application (NDA) for TRUSOPT® (NDA 20–408) was initially submitted on December 10, 1993.

3. *The date the application was approved:* December 9, 1994. FDA has verified the applicant's claim that NDA 20–408 was approved on December 9, 1994.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,232 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 15, 1996, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before November 12, 1996, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 26, 1996.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 96–12093 Filed 5–13–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[ORD–006–N]

New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: February and March 1996

AGENCY: Health Care Financing Administration (HCFA).

ACTION: Notice.

SUMMARY: This notice lists new proposals for Medicaid demonstration projects submitted to the Department of Health and Human Services during the months of February and March 1996 under the authority of section 1115 of the Social Security Act. This notice also lists proposals that were approved, disapproved, pending, or withdrawn during this time period. (This notice can be accessed on the Internet at HTTP://WWW.HCFA.GOV/ORD/ORDHP1.HTML.)

COMMENTS: We will accept written comments on these proposals. We will, if feasible, acknowledge receipt of all comments, but we will not provide written responses to comments. We will, however, neither approve nor disapprove any new proposal for at least 30 days after the date of this notice to allow time to receive and consider comments. Direct comments as indicated below.

ADDRESSES: Mail correspondence to: Susan Anderson, Office of Research and Demonstrations, Health Care Financing Administration, Mail Stop C3–11–07, 7500 Security Boulevard, Baltimore, MD 21244–1850.

FOR FURTHER INFORMATION CONTACT: Susan Anderson, (410) 786–3996.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 1115 of the Social Security Act (the Act), the Department of Health and Human Services (HHS) may consider and approve research and demonstration proposals with a broad range of policy objectives. These demonstrations can lead to improvements in achieving the purposes of the Act.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. On September 27, 1994, we published a notice in the **Federal Register** (59 FR 49249) that specified (1) The principles that we ordinarily will consider when approving or disapproving demonstration projects under the authority in section 1115(a) of the Act; (2) the procedures we expect States to use in involving the public in the development of proposed demonstration projects under section 1115; and (3) the procedures we ordinarily will follow in reviewing demonstration proposals. We are committed to a thorough and expeditious review of State requests to conduct such demonstrations.

As part of our procedures, we publish a notice in the **Federal Register** with a monthly listing of all new submissions, pending proposals, approvals, disapprovals, and withdrawn proposals. Proposals submitted in response to a grant solicitation or other competitive process are reported as received during the month that such grant or bid is awarded, so as to prevent interference with the awards process.

II. Listing of New, Pending, Approved, and Withdrawn Proposals for the Months of February and March 1996

A. Comprehensive Health Reform Programs

1. New Proposals: The following comprehensive health reform proposal was received during the month of February.

Demonstration Title/State: Medicaid Demonstration Project for Los Angeles County—California.

Description: The State is pursuing a section 1115 demonstration designed to stabilize the Los Angeles County health care system, and to foster a restructuring process that is responsive to the needs of the community in the development of a more cost effective system.

Date Received: February 29, 1996.

State Contact: John Rodriguez, Deputy Director, Medical Care Services, Department of Health Services, 714/744 P Street, P.O. Box 942732, Sacramento, CA 94234–7320, (916) 654–0391.

Federal Project Officer: Gina Clemons, Health Care Financing Administration, Office of Research and Demonstrations, Office of State Health Reform Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

No new proposals were received during the month of March.

2. Pending, Approved, and Withdrawn Proposals: We did not approve or disapprove any proposals during February or March nor were any proposals withdrawn during those months. The one new pending proposal added to the month of March is: Medicaid Demonstration Project for Los Angeles County—California. See above II.A.1. for further description. Pending proposals for the month of November 1995 published in the **Federal Register** on January 23, 1996, 61 FR 1769, remain unchanged with the addition of above for the months of February and March.

B. Other Section 1115 Demonstration Proposals

1. New Proposals: The following new proposal was received during the month of February.

Demonstration Title/State: Wisconsin Partnership Program—Wisconsin.

Description: Wisconsin has submitted Medicare section 222 demonstration and Medicaid section 1115 waiver requests to implement the "Wisconsin Partnership Program" in specific counties of the State. This program will test two innovative models of care, one for frail elderly and one for persons with disabilities, utilizing a multi-disciplinary team to manage care. The team is to include the beneficiary, a nurse practitioner, the beneficiary's choice of primary care physician, and a social worker or independent living coordinator. Consumer choice of care, settings and the manner of service delivery is a key component of the program. The demonstration will test the use of consumer-defined quality indicators to measure and improve the quality of service provided to people who are elderly and people with disabilities.

Date Received: February 28, 1996.

State Contact: Mary Rowin, State of Wisconsin, Department of Health and Social Services, 1 West Wilson Street, P.O. Box 7850, Madison, WI 53707, (608) 261–6885.

Federal Contact: William Clark, Health Care Financing Administration, Office of Research and Demonstrations, Office of Beneficiary and Program Research and Demonstrations, Mail Stop C3–21–06, 7500 Security Boulevard, Baltimore, MD 21244–1850.

No new proposals were received in March.

2. Pending, Approved, and Withdrawn Proposals: We did not approve or disapprove any Comprehensive Health Reform Programs or Other Section 1115 Demonstration Proposals during February or March nor were any proposals withdrawn during those months. The one new pending proposal added to the month of March is: Wisconsin Partnership Program—Wisconsin. See above II.B.1. for further description. Pending proposals for the month of November 1995 published in the **Federal Register** on January 23, 1996, 61 FR 1769, remain unchanged with the addition of above for the months of February and March.

III. Requests for Copies of a Proposal

Requests for copies of a specific Medicaid proposal should be made to the State contact listed for the specific proposal. If further help or information is needed, inquiries should be directed to HCFA at the address above.

(Catalog of Federal Domestic Assistance Program, No. 93.779; Health Financing Research, Demonstrations, and Experiments.)

Dated: April 24, 1996.

Barbara Cooper,

Acting Director, Office of Research and Demonstrations.

[FR Doc. 96–12018 Filed 5–13–96; 8:45 am]

BILLING CODE 4120–01–P

Health Resources and Services Administration

Advisory Council; Notice of Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of June 1996.

Name: National Advisory Council on the National Health Service Corps.

Date and Time: June 6–9, 1996.

Place: Adams Mark Denver Hotel, 1550 Court Place, Denver, Colorado.

The meeting is open to the public.

Agenda: Agenda items include status of NHSC programs and budget, reports on the NHSC alumni study and the NHSC alumni and support network, meetings of NHSC workgroups on State activities, health systems liaison, and alliance development, and site visits to community health centers in the Denver area.

The meeting will begin on Thursday, June 6 at 4:00 p.m. and adjourn at 8:00 p.m. Site visits will occur on Friday morning followed by an afternoon business meeting which will conclude about 5:00 p.m. On Saturday, the meeting will begin at 8:00 a.m. and adjourn at 5:00 p.m. and Sunday's meeting will begin at 8:00 a.m. and adjourn at 12:00 noon.

The meeting is open to the public; however, no transportation will be provided for the site visits. For further information, call Ms. Jewel Davis at (301) 594–4144.

Anyone requiring information regarding the subject Council should contact Ms. Jewel Davis, National Advisory Council on the National Health Service Corps, 8th floor, 4350 East West Highway, Rockville, Maryland 20857, Telephone (301) 594–4144.

Name: Council on Graduate Medical Education.

Date and Time: June 12, 1996, 1:00 p.m.–5:00 p.m.; June 13, 1996, 8:30 a.m.–4:00 p.m.

Place: Omni Shoreham Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008.

This meeting is open to the Public.

Agenda: The agenda will include two plenary panels to discuss (1) Minorities in Medicine and (2) Medical Education Consortia. There will be reports and updates on the Work Groups: Minorities in Medicine; Geographic Distribution/Medical Education Consortia; Physician Competencies in a Managed Care World; and IMG entry and Participation in the physician workforce.

Anyone requiring information regarding the subject should contact F. Lawrence Clare, M.D., M.P.H., Deputy Executive Secretary, telephone (301) 443–6326, Council on Graduate Medical Education, Division of Medicine, Bureau of Health Professions, Health Resources and Service Administration, Room 9A–27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Agenda Items are subject to change as priorities dictate.

Dated: May 9, 1996.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 96–12094 Filed 5–13–96; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Notice is hereby given of the meeting of the National Cancer Institute Board of Scientific Advisors Cancer Centers Program Working Group, May 24, 1996 at the Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA.

This meeting will be closed to the public from 8:30 am to adjournment for discussion of confidential issues relating to the review, discussion and evaluation of individual programs and projects conducted by the Cancer Centers Extramural Program. These discussions will reveal confidential trade secrets or commercial property such as patentable material, and personal information including consideration of personnel qualifications and performance, the competence of individual investigators and similar matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Information pertaining to the meeting may be obtained from Dr. Paulette Gray, Executive Secretary, National Cancer Institute Board of Scientific Advisors, National Cancer Institute, 6130 Executive Blvd., EPN, Rm. 600, Bethesda, MD 20892, (301–496–4218).

Dated: May 8, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–12059 Filed 5–13–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of closed meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Behavioral and Neurosciences.

Date: May 24, 1996.

Time: 2:00 p.m.

Place: NIH, Rockledge 2, Room 5172, Telephone Conference.

Contact Person: Dr. Leonard Jakubczak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5172, Bethesda, Maryland 20892, (301) 435–1247.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Biological and Physiological Science.

Date: June 14, 1996.

Time: 9:00 a.m.

Place: DoubleTree Hotel-National Airport, Arlington, VA.

Contact Person: Dr. Mushtaq Khan, Scientific Review Administrator, 6701 Rockledge Drive, Room 4124, Bethesda, Maryland 20892, (301) 435–1778.

Name of SEP: Multidisciplinary Sciences.

Date: June 23–24, 1996.

Time: 7:00 p.m.

Place: Holiday Inn-Georgetown, Washington, DC.

Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171.

Name of SEP: Multidisciplinary Sciences.

Date: July 14–16, 1996.

Time: 7:00 p.m.

Place: Rime Garden Suites, Washington, DC.

Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171.

Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Behavioral and Neurosciences.

Date: May 13, 1996.

Time: 8:30 a.m.

Place: Holiday Inn, Chevy Chase, MD.

Contact Person: Dr. Leonard Jakubczak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5172, Bethesda, Maryland 20892, (301) 435–1247.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Microbiological and Immunological Sciences.

Date: June 4–5, 1996.

Time: 8:30 a.m.

Place: Holiday Inn, Gaithersburg, MD.

Contact Person: Dr. Garrett Keefer, Scientific Review Administrator, 6701 Rockledge Drive, Room 4190, Bethesda, Maryland 20892, (301) 435–1152.

Name of SEP: Biological and Physiological Sciences.

Date: July 1–3, 1996.

Time: 7:00 a.m.

Place: Bethesda Marriott, Bethesda, MD.

Contact Person: Dr. Nabeeh Mourad, Scientific Review Administrator, 6701 Rockledge Drive, Room 5110, Bethesda, Maryland 20892, (301) 435–1168.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 8, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–12058 Filed 5–13–96; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–0525.

Tobacco Regulation for Substance Abuse Prevention and Treatment—45 CFR 96—Reinstatement with change of a previously approved collection—This final rule will provide guidance to States regarding compliance with section 1926 of the Public Health Service Act related to sale and distribution of tobacco to minors. The final rule will implement section 1926 by specifying annual reporting requirements to be in compliance with this section. The reporting burden shown below represents the average total hours to assemble, format, and produce the new block grant provision on minors' access to tobacco, in accordance with the requirements of 45 CFR 96. Estimates for FY 1997 vary depending on which applicable year a State is in. These burden hours will be counted towards the total burden for the FY 1997 SAPT Block Grant Application Format for which separate approval will be requested. The average annual burden over the requested three year approval period is 1,798 hours.

	Number of respondents	Responses/respondent	Hours/response	Total hour burden
FY 1997				
Annual Report:				
96.122(f)	59	1	0	[1]0
96.130(e)(1–3)	52	1	15	[2]520
96.130(e)(1–3)	7	1	10	[2]70
State Plan:				
96.122(g)(21)	0	0	0	[3]0
96.130(e)(4,5)	59	1	14	[4]826
96.130(g)	52	1	0	[5]0
Total			25	1,416
FY 1998				
Annual Report:				

	Number of respondents	Responses/respondent	Hours/response	Total hour burden
96.122(f)	59	1	0	[1]0
96.130(e)(1–3)	59	1	15	885
State Plan:				
96.122(g)(21)	0	0	0	[3]0
96.130(e)(4,5)	59	1	14	[2]826
96.130(g)	7	1	0	[5]0
96.130(g)	52	1	5	[6]260
Total			34	1,971
FY 1999 and thereafter				
Annual Report:				
96.122(f)	59	1	0	[1]0
96.130(e)(1–3)	59	1	15	885
State Plan:				
96.122(g)(21)	0	0	0	[3]0
96.130(e)(4,5)	59	1	14	[4]826
96.130(g)	59	1	5	[6]295
Total			34	2,006

[1] This section describes requirements for the first applicable year. For seven States, FY 1995 is the first applicable year. States are required to provide a copy of the statute enacting the law and are asked to provide a description of the previous year's activities, if they so desire. For the second and subsequent fiscal years, States are to provide a copy of any amendments. No burden is associated with these requests.

[2] This is the burden associated with completing the annual report reflecting use of a probability sample of outlets. For seven States, FY 1997 is the second applicable year; therefore, they are not required to report on a probability sample inspection basis.

[3] This section duplicates the information collection language in section 96.130(e). The burden is shown for 96.130(e).

[4] This is the burden associated with completing the State Plan narrative.

[5] This section describes the submission of the interim performance target beginning with the fourth applicable year.

[6] This section describes evidence of progress toward achieving or surpassing a performance objective in the interim performance target objective.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Virginia Huth, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10236, Washington, D.C. 20503.

Dated: May 8, 1996.

Richard Kopanda,

Executive Officer SAMHSA.

[FR Doc. 96–11995 Filed 5–13–96; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Notice of Intent To Negotiate an Agreement Among the Central Utah Water Conservancy District, Wasatch County Water Service Area No. 1, Utah Reclamation Mitigation and Conservation Commission, and Department of the Interior for Implementation of the Wasatch County Water Efficiency Project/Daniels Replacement Project of the Central Utah Project, Utah

AGENCY: Office of the Assistant Secretary—Water and Science, Department of the Interior.

ACTION: Notice of intent to negotiate an agreement among the Central Utah Water Conservancy District (CUWCD), Wasatch County Water Service Area No. 1 (WCWSA1), Utah Reclamation Mitigation and Conservation Commission (URMCC), and Department of the Interior (DOI) for implementation of the Wasatch County Water Efficiency Project/Daniels Replacement Project (WCWEP/DRP) of the Central Utah Project, Utah.

SUMMARY: Public Law 102–575, Sections 202(a)(3), 207(e), and 303(b) authorize construction of WCWEP/DRP for the purposes of increasing irrigation efficiency in the Heber Valley, conserving water, and eliminating the diversion of water from the upper Strawberry tributaries to Heber Valley. A negotiated agreement among CUWCD, WCWSA1, URMCC, and DOI will allow for implementation of WCWEP/DRP.

DATES: Dates for public negotiation sessions will be announced in local newspapers.

FOR FURTHER INFORMATION CONTACT: Additional information on matters related to this **Federal Register** notice can be obtained at the address and telephone number set forth below: Mr. Reed Murray, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo UT 84606–6154, Telephone: (801) 379–1237, Internet: rmurray@uc.usbr.gov

Dated: May 8, 1996.

Ronald Johnston,

CUP Program Director, Department of the Interior.

[FR Doc. 96–12014 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–RK–P

Notice of Intent To Negotiate Contracts Among the Central Utah Water Conservancy District, Wasatch County Water Service Area No. 1, and Department of the Interior for Irrigation Water and Municipal and Industrial Water From the Bonneville Unit of the Central Utah Project, Utah

AGENCY: Office of the Assistant Secretary—Water and Science, Department of the Interior.

ACTION: Notice of intent to negotiate contracts among the Central Utah Water Conservancy District (CUWCD), Wasatch County Water Service Area No. 1 (WCWSA1), and Department of the Interior (DOI) for Irrigation Water and Municipal and Industrial Water from the Bonneville Unit of the Central Utah Project.

SUMMARY: Public Law 102–575 Section 202(a)(3)(E) stipulates that: "Amounts authorized to carry out subparagraph (B) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental

irrigation project water to be delivered from the features constructed under subparagraph (B) have been executed." Subparagraph B relates to construction of the Wasatch County Water Efficiency Project, Central Utah Project. A negotiated contract among CUWCD, WCWSA1, and DOI will meet the requirements of Section 202(a)(3)(E).

DATES: Dates for public negotiation sessions will be announced in local newspapers.

FOR FURTHER INFORMATION CONTACT: Additional information on matters related to this **Federal Register** notice can be obtained at the address and telephone number set forth below: Mr. Reed Murray, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo UT 84606–6154, Telephone: (801) 379–1237, Internet: rmurray@uc.usbr.gov

Dated: May 8, 1996.

Ronald Johnston,

CUP Program Director, Department of the Interior.

[FR Doc. 96–12013 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–RK–P

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice of receipt of applications.

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. 779910

Applicant: William E. Haas, San Diego, California.

The applicant requests an amendment to their permit to include taking (harass by survey, capture, band, color-band, withdraw blood, and release) the southwestern willow flycatcher (*Empidonax traillii extimus*) throughout the species' range in California to conduct presence or absence surveys, population monitoring, and genetic studies for the purpose of enhancing its survival.

Permit No. 778100

Applicant: Pacific Southwest Biological Services, San Diego, California.

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) to determine its presence or absence, and take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) to conduct population monitoring studies in Ventura, Los Angeles, San Bernardino, Riverside, Orange, Kern, and San Diego Counties, California for the purpose of enhancing their survival.

Permit No. 811615

Applicant: Cynthia A. Jones, Huntington Beach, California.

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) throughout the range of the species in the states of California, Arizona, Utah, New Mexico, and Nevada to determine its presence or absence for the purpose of enhancing its survival.

Permit No. 812206

Applicant: Robin Church, San Diego, California.

The applicant requests a permit to take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) to conduct population monitoring studies in Riverside, Orange, and San Diego Counties, California for the purpose of enhancing its survival.

Permit No. 797259

Applicant: Chris Wilcox, Davis, California.

The applicant requests an amendment of their permit to take (harass by survey, and collect and sacrifice voucher specimens) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), vernal pool tadpole shrimp (*Lepidurus packardi*), and vernal pool fairy shrimp (*Branchinecta lynchi*) to extend presence or absence surveys and population monitoring in vernal pools throughout the species' range in California, and to include taking (harass by survey, and collect and sacrifice voucher specimens) the Riverside fairy shrimp (*Streptocephalus woottoni*) for similar purposes throughout its range in California for the purpose of enhancing their survival.

Permit No. 780692

Applicant: Lisa Embree, San Diego, California.

The applicant requests an amendment of their permit to include taking (harass by survey, and locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) and least Bell's vireo (*Vireo bellii pusillus*) in San Diego, Riverside, Orange, San Bernardino, and Imperial Counties, California to conduct presence or absence surveys and population monitoring for the purpose of enhancing their survival.

Permit No. 814225

Applicant: Anthony A. Echelle, Stillwater, Oklahoma.

The applicant requests a permit to take (capture, handle, and sacrifice) the desert pupfish (*Cyprinodon macularius*) in Imperial and Riverside Counties, California, and the Owens pupfish (*Cyprinodon radiosus*) in Inyo County, California for genetic studies to enhance their survival.

Permit No. 787924

Applicant: Markus Spiegelberg, San Diego, California.

The applicant requests an amendment of their permit to include taking (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in Riverside and San Diego Counties, California to conduct presence or absence surveys for the purpose of enhancing its survival.

Permit No. 785564

Applicant: Harland Bartholomew & Associates.

The applicant requests an amendment of their permit to include taking (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) throughout the species' range in California to conduct presence or absence surveys for the purpose of enhancing its survival.

Permit No. 781545

Applicant: P & D Consultants, Orange, California.

The applicant requests an amendment of their permit to include taking (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) throughout the species' range in California, Nevada, Utah, Arizona, New Mexico, and Colorado to conduct presence or absence surveys for the purpose of enhancing its survival.

Permit No. 814222

Applicant: California Department of Parks and Recreation, San Diego, California.

The applicant requests a permit to take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) on State Park lands within southern California while conducting population management activities for the purpose of enhancing its survival.

Permit No. 799557

Applicant: Robert Hamilton, Trabuco Canyon, California.

The applicant requests an amendment of their permit to include taking (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in San Diego, Los Angeles, Riverside, San Bernardino, Orange, Ventura, Santa Barbara, San Luis Obispo, and Kern Counties, California to conduct presence or absence surveys for the purpose of enhancing its survival.

Permit No. 814220

Applicant: Sapphos Environmental, Pasadena, California.

The applicant requests a permit to take (capture, translocate, and release) the El Segundo blue butterfly [*Euphilotes* (=*Shijimiaeoides*) *battoides allyni*] in Los Angeles County, California for the purpose of conducting population management studies to enhance its survival.

Permit No. 814219

Applicant: Claude Edwards, San Diego, California.

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) to conduct presence or absence surveys, and to take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) while conducting population monitoring studies in Los Angeles, Riverside, San Bernardino, Orange, San Diego, and Imperial Counties, California for the purpose of enhancing their survival.

Permit No. 814219

Applicant: David Haupt, Monterey, California.

The applicant requests a permit to take (harass by survey, locate and monitor nests, capture, band, attach radio telemeters, and release) the least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus*), California least tern (*Sterna antillarum browni*), western snowy plover (*Charadrius alexandrinus nivosus*), light-footed clapper rail (*Rallus longirostris levipes*), and California clapper rail (*Rallus longirostris obsoletus*) throughout the species' range in California to conduct presence or absence surveys and population studies for the purpose of enhancing their survival.

Permit No 814216

Applicant: Mark Holmgren, Santa Barbara, California.

The applicant requests a permit to take (harass by survey, locate and monitor nests, capture, band, and release) the southwestern willow flycatcher (*Empidonax traillii extimus*), California least tern (*Sterna antillarum browni*), western snowy plover (*Charadrius alexandrinus nivosus*), and least Bell's vireo (*Vireo bellii pusillus*) in Monterey, San Luis Obisopo, Santa Barbara, Ventura, Kern, Los Angeles, Riverside, San Diego, San Bernardino, Imperial, and Orange Counties, California to conduct presence or absence surveys and population monitoring studies for the purpose of enhancing their survival.

Permit No. 677215

Applicant: Resource Management International, Inc., San Rafael, California.

The applicant requests an amendment of their permit to include taking (harass by survey, collect and sacrifice voucher specimens) the California freshwater shrimp (*Syncaris pacifica*) in Marin, Napa, and Sonoma Counties, California to conduct presence or absence surveys for the purpose of enhancing its survival.

Permit No. 812792

Applicant: Julie M. Vanderwier.

The applicant requests a permit to take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*), and take (harass by survey, collect and sacrifice voucher specimens) the Riverside fairy shrimp (*Streptocephalus woottoni*), Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), vernal pool tadpole shrimp (*Lepidurus packardi*), and vernal pool fairy shrimp (*Branchinecta lynchi*), and remove and reduce to possession the San Diego mesa mint (*Pogogyne abramsii*), Otay mesa mint (*Pogogyne nudiuscula*), California Orcutt grass (*Orcuttia californica*), and San Diego buttoncelery (*Eryngium aristulatum* var. *parishii*) throughout the species' range in California to conduct presence or absence surveys, and population monitoring and management for the purpose of enhancing their survival.

Permit No. 812739

Applicant: Zev Labinger, Goleta, California.

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*), California least tern (*Sterna antillarum browni*), and western snowy plover (*Charadrius alexandrinus nivosus*) in San Luis Obispo, Santa Barbara, Ventura, Los Angeles, and Kern Counties, California to conduct presence or absence surveys for the purpose of enhancing their survival.

Permit No. 780566

Applicant: Ruben S. Ramirez, Diamond Bar, California.

The applicant requests an amendment of their permit to include taking (capture, mark, and release) the arroyo toad (*Bufo microscaphus californicus*) within the Angeles National Forest in California to conduct abundance and distribution studies for the purpose of enhancing its survival.

Permit No. 800926

Applicant: California Department of Transportation, San Bernardino, California.

The applicant requests an amendment of their permit to include taking (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in San Diego, Los Angeles, Orange, San Bernardino, and Riverside Counties, California while conducting presence or absence surveys for the purpose of enhancing its survival.

Permit No. 802821

Applicant: Kern River Research Center, Weldon, California.

The applicant requests an amendment of their permit to include authorization to withdraw blood from the southwestern willow flycatcher (*Empidonax traillii extimus*) in Kern County, California for genetic research for the purpose of enhancing its survival.

Permit No. 813548

Applicant: Harold A. Wier, Encinitas, California.

The applicant requests a permit to take (harass by survey, locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) and least Bell's vireo (*Vireo bellii pusillus*) throughout the species' range in California to conduct presence or absence surveys and population monitoring for the purpose of enhancing their survival.

Permit No. 813545

Applicant: Brock Ortega, Encinitas, California.

The applicant requests a permit to take (harass by survey, locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) and least Bell's vireo (*Vireo bellii pusillus*) throughout the species' range in California to conduct presence or absence surveys and population monitoring for the purpose of enhancing their survival.

Permit No. 785108

Applicant: Tierra Madre Consultants, Inc., Riverside, California.

The applicant requests an amendment of their permit to include taking (harass by survey, capture, band, and release)

the southwestern willow flycatcher (*Empidonax traillii extimus*) in Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties, California to conduct presence or absence surveys and population management activities for the purpose of enhancing its survival.

Permit No. 769931

Applicant: James M. Greaves, Santa Barbara, California.

The applicant requests an amendment of their permit to include taking (harass by survey, locate and monitor nests, and capture, band, and release) the southwestern willow flycatcher (*Empidonax traillii extimus*), California least tern (*Sterna antillarum browni*), and western snowy plover (*Charadrius alexandrinus nivosus*) in San Luis Obispio, Santa Barbara, Ventura, Los Angeles, Riverside, Kern, Orange, San Diego, Monterey, and San Benito Counties, California for presence or absence surveys and population monitoring activities for the purpose of enhancing their survival.

Permit No. 793646

Applicant: Clifford M. Anderson, Bow, Washington.

The applicant requests an amendment of their permit to take (harass by survey, capture, band, and release) the peregrine falcon (*Falco peregrinus*) to include King, Snohomish, and Pierce Counties, Washington while conducting population monitoring activities for the purpose of enhancing its survival.

Permit No. 799558

Applicant: Idaho Power Company, Boise, Idaho.

The applicant requests an amendment of their permit to take (collect, release, sacrifice voucher specimens) the Snake River physa snail (*Physa natricina*), Idaho springsnail (*Fontelicella idahoensis*), Utah valvata snail (*Valvata utahensis*), and Banbury Springs Limpet (*Lanx* n. sp.) in the Snake River, Idaho, and its tributaries to extend the area of activities to (and including) river mile 525 (Clover Creek) while conducting presence or absence surveys and various life history and ecological studies for the purpose of enhancing their survival.

Permit No. 787644

Applicant: William J. Vanherweg, Bakersfield, California.

The applicant requests an amendment of their permit to include taking (capture and release) the Stephens' kangaroo rat (*Dipodomys stephensi*) and Pacific pocket mouse (*Perognathus longimembris pacificus*) throughout the species' range in California to conduct presence or absence surveys for the purpose of enhancing their survival.

Permit No. 813431

Applicant: Peter Famolaro, Spring Valley, California.

The applicant requests a permit to take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) and to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) throughout the species' range in California to conduct presence or absence surveys and population monitoring for the purpose of enhancing their survival.

Permit No. 811081

Applicant: Bureau of Land Management, Las Vegas, Nevada.

The applicant requests a permit to take (euthanize) desert tortoises (gopherus agassizii) that test positive for the Upper Respiratory Tract Disease (for the purpose of enhancing the survival of the species. These tortoises were previously captured, removed from the wild, and placed at the Desert Tortoise Conservation Center, Las Vegas, Nevada pursuant to permit numbers PRT–747182 and PRT–756360, and biological opinions 1–5–91–F–112 and 1–5–91–F–25.

Permit No. 812740

Applicant: Ingri S. Quon, Sand Diego, California.

The applicant requests a permit to take (harass by survey, and locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*), least Bell's vireo (*Vireo bellii pusillus*), and California least tern (*Sterna antillarum browni*) in San Diego, Orange, Riverside, and Imperial Counties, California to conduct presence or absence surveys and population monitoring for the purpose of enhancing their survival.

DATES: Written comments on the permit applications must be received by June 13, 1996.

ADDRESS: Written data or comments should be submitted to the Chief, Division of Consultation and Conservation Planning, Ecological Services, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181. Please refer to the respective permit number for each application when submitting comments. All comments, including names and addresses, received will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents, within 30 days of the date of publication of this notice, to the following office: U.S. Fish and Wildlife Service, Ecological Services, Division of Consultation and Conservation Planning, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181. Telephone: 503–231–2063; FAX: 503–231–6243. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: May 7, 1996.

Thomas Dwyer,

Deputy Regional Director, Region 1, Portland, Oregon.

[FR Doc. 96–11996 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–55–M

Availability of Draft Recovery Plan for the Maui Plant Cluster for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft Maui Plant Cluster Recovery Plan. This plan addresses 21 taxa of plants. Twelve of the taxa are or were endemic to the Hawaiian island of Maui. The plants that are not endemic to Maui are or were also found on the islands of Niihau, Kauai, Oahu, Molokai, Lanai and Hawaii.

DATES: Comments on the draft recovery plan must be received on or before July 15, 1996 to receive consideration by the Service.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following locations: U.S. Fish and Wildlife Service, room 6307, 300 Ala Moana Blvd., P.O. Box 50167, Honolulu, Hawaii 96850 (telephone (808) 541–2749); U.S. Fish and Wildlife Service, Regional Office, Ecological Services, 911 N.E. 11th Ave., Eastside Federal Complex, Portland, Oregon 97232–4181 (telephone (503) 231–6131); the Wailuku Public Library, 251 High Street, Wailuku, Maui 96793; the Kauai Public Library, 4344 Hardy Street, Lihue, Kauai 96766; and, the Kailua-Kona Public Library, 75–138 Hualalai Road, Kailua-Kona, Hawaii 96740. Requests for copies of the draft recovery plan and written comments and materials regarding this plan should be addressed to Brooks Harper, Field Supervisor, at the above Honolulu address.

FOR FURTHER INFORMATION CONTACT: Heather McSharry, Fish and Wildlife Biologist, at the above Honolulu address, telephone (808) 541–2749.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during the public comment period prior to approval of each new or revised Recovery Plan. Substantive technical comments will result in changes to the plans. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plans, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

The 21 taxa being considered in this recovery plan are: *Acaena exigua* (liliwai), *Alectryon macrococcus* (mahoe), *Argyroxiphium sandwicense* ssp. *macrocephalum* (Haleakala silversword, 'ahinahina), *Bidens micrantha* ssp. *kalealaha* (ko'oko'olau), *Clermontia oblongifolia* ssp. *mauiensis* ('oha wai), *Cyanea lobata* (haha), *Cyanea mceldowneyi* (haha), *Geranium arboreum* (nohoanu), *Geranium multiflorum* (nohoanu), *Hedyotis coriacea* (kio'ele), *Huperzia mannii* (wawae'iole), *Lipochaeta kamolensis* (nehe), *Lysimachia lydgatei* (no common name (NCN)), *Melicope adscendens* (alani), *Melicope balloui* (alani), *Melicope mucronulata* (alani), *Melicope ovalis* (alani), *Remya mauiensis* (NCN), *Scaevola coriacea* (Dwarf naupaka), *Schiedea haleakalensis* (NCN) and *Tetramolopium capillare* (NCN).

Twelve of the taxa are or were endemic to the Hawaiian island of Maui; the exceptions are or were found on the Hawaiian islands of Niihau, Kauai, Oahu, Molokai, Lanai and Hawaii as well as Maui. The 21 plant taxa and their habitats have been variously affected or are currently threatened by one or more of the following: habitat degradation by foral and domestic animals (e.g., goats, pigs, axis deer and cattle); competition for space, light, water, and nutrients by introduced vegetation; erosion of substrate produced by human- or animal-caused disturbance; recreational and agricultural activities; habitat loss from fires; disease; loss of pollinators; and predation by animals (goats, rats and mice). Due to the small number of existing individuals and their very narrow distributions, these taxa are subject to an increased likelihood of extinction and/or reduced reproductive vigor from stochastic events.

The taxa included in this plan were historically distributed throughout the island of Maui, and nine of the taxa also occur on one or more of the islands of Niihau, Kauai, Oahu, Molokai, Lanai and Hawaii. They grow in a variety of vegetation communities (grassland, shrubland, and forests), elevational zones (coastal to montane), and moisture regimes (dry to wet). Most of the taxa included in this plan persist on steep slopes, precipitous cliffs, valley headwalls, and other regions where unsuitable topography has prevented agricultural development or where inaccessibility has limited encroachment by alien animal and plant taxa.

The objective of this plan is to provide a framework for the recovery of these 21 taxa so that their protection by the Act is no longer necessary. Immediate actions necessary for the prevention of extinction of these taxa include fencing for exclusion of ungulates, alien plant control, protection from fire, population and plant community monitoring and management, *ex situ* propagation, and augmentation of populations, as appropriate. Long-term activities necessary for the perpetuation of these taxa in their natural habitats additionally include public education, maintenance of fenced areas, long-term monitoring and management of populations and communities, and reestablishment of populations within the historic ranges of some taxa. Further research on current range, growth requirements, reproduction and reproductive status, pollinators, life history, limiting factors, habitat requirements, and minimum viable population sizes is needed to facilitate appropriate management decisions regarding the long-term perpetuation of each of these taxa.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of these plans.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: May 8, 1996.

Thomas Dwyer,

Acting Regional Director, U.S. Fish and Wildlife Service, Region 1, Portland, Oregon.

[FR Doc. 96–11992 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–55–P

Geological Survey

Federal Geographic Data Committee (FGDC): Application Notice Establishing the Closing Date for Transmittal of Applications Under the FGDC National Spatial Data Infrastructure (NSDI) Framework Demonstration Projects Program for Fiscal Year (FY) 1996

AGENCY: Geological Survey, Interior.

ACTION: Notice inviting applications for competitive cooperative agreement awards for fiscal year 1996.

SUMMARY: The purpose of the FGDC National Spatial Data Infrastructure (NSDI) Framework Demonstration Projects Program task is to facilitate and provide resources for the development and implementation of the NSDI framework concept. Under this FY 1996 program announcement, applications are to be directed towards projects that test the framework concept. These projects will demonstrate the sustained ability, over a geographic area, to supply data to the greater geospatial data community from locally available data sources through the implementation of the framework process. These projects will provide practical examples in implementation, suggest innovative alternative approaches to accomplish the goals outlined in the framework report, and indicate topics for future research and development. Applicants are being sought who are establishing long-term organizational structures, and cooperative arrangements with other organizations in sustained efforts to

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build, maintain, and disseminate framework data resources.

Outcomes of these projects will include information that will provide guidance on policies and practices for the establishment of operational framework sites. The projects will also act as examples of applied framework for other implementers and as starting points for future framework research and development.

The deliverable will be a report from the project site describing the successes and failures in implementing the framework concept; alternatives that were developed; descriptions of institutional and technical practices; evaluations of user satisfaction; and suggestions for future efforts.

Authority for this program is contained in the 1996 Congressional Act entitled "Omnibus Consolidated Rescissions and Appropriation Act of 1996" that furnishes the appropriation for the Department of the Interior as well as other agencies. Applications may be submitted by State and local government agencies, educational institutions, private firms, private foundations, and Federally acknowledged or state-recognized Native American tribes or groups. Each project must involve two or more organizations.

DATES: The program announcement and application forms are expected to be available on or about May 29, 1996. Applications must be received on or before June 28, 1996.

ADDRESSES: Copies of Program Announcement 1434–HQ–96–PA–00003 may be obtained by writing to Patrick N. Robertson, U.S. Geological Survey, Office of Acquisition and Federal Assistance, Mail Stop 205A, 12201 Sunrise Valley Drive, Reston, Virginia 22092, facsimile telephone number (703) 648–7901.

FOR FURTHER INFORMATION CONTACT: Patrick N. Robertson, U.S. Geological Survey, Office of Acquisition and Federal Assistance, Mail Stop 205A, 12201 Sunrise Valley Drive, Reston, Virginia 22092, voice telephone number (703) 648–7368, facsimile telephone number (703) 648–7901.

SUPPLEMENTARY INFORMATION: Applications of digital geospatial data vary greatly, but users have a recurring need for a few common themes of data. The framework concept outlined in the report "Development of a National Digital Geospatial Data Framework" (April, 1995) proposes a means by which the geospatial data community can work together to produce and maintain commonly needed data for national, regional, state, and local analyses. The report and additional information about the framework are available from the FGDC Secretariat. The materials can be retrieved from the committee's World Wide Web page at http://www.fgdc.gov, or by contacting the committee by mail at the U.S. Geological Survey, 590 National Center, Reston, Virginia 22092; by Internet at gdc@usgs.gov; by facsimile at (703) 648–5755; or by voice telephone at (703) 648–5514. There will be up to 4 awards each not exceeding $125,000. The awards will be cooperative agreements and not contracts.

Within the geospatial data community, multi-agency, and multi-sector partnerships are being established in local and regional areas to collaboratively leverage resources and funding, and coordinate data collection, utilization, and access. The framework concept builds on these activities by identifying a basic information content, and the technical, operational, and business contexts by which a distributed, collaborative data collection and maintenance effort for the framework would operate. The information content proposed for framework consists of geodetic control, digital orthoimagery, elevation, transportation, hydrography, governmental units, and cadastral data categories.

While the framework concept has been well received by the geospatial data community, questions remain as to its practical implementation, and the modifications in approach that will be necessary as the concept is tested. This program is a means by which the FGDC facilitates, and provides resources, for the development and implementation of the NSDI Framework concept.

This program will fund the development and testing of institutions and technology needed for framework operations. Proposals should be from multiple parties in geographic areas that have data to share for at least a subset of the framework data content. Project activities may include establishment of the following institutional roles: evaluating, developing and implementing technical standards; coordinating data creation, maintenance, and dissemination for a geographic area; ensuring updates of framework data from local data contributions; developing data quality certification policies; and ensuring data integration among themes, and geographic areas. Technical development and applications may include the following: permanent feature-based identification; the support of multiple resolution data; mechanisms for maintaining the users' data investment when updating their data holding from the framework; processes for gathering and evaluating user satisfaction to the framework; and the evaluation of methods for implementing metadata (including data quality information) required for the framework data.

Dated: May 3, 1996.

Richard E. Witmer,

Acting Chief, National Mapping Division.

[FR Doc. 96–12015 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Land Management

[OR–130–1020–00; GP6–0154]

Notice of Meeting of the Eastern Washington Resource Advisory Council

AGENCY: Bureau of Land Management, Spokane District.

ACTION: Meeting of the Eastern Washington Resource Advisory Council; June 13 and 14, 1996, in Odessa, Washington, and Spokane, Washington.

SUMMARY: The Eastern Washington Resource Advisory Council will meet at 10:00 a.m., June 13, 1996 at the Odessa Community Center, 21 East First Avenue, Odessa, Washington 98823 for the purpose of a field trip to Bureau of Land Management public lands in the local area. If weather is inclement or if the Council wishes, the field trip may be canceled and the council will meet at the Odessa Community Center to discuss rangeland issues. The meeting and/or field trip will recess at approximately 4:00 p.m. on June 13, 1996 or upon completion of business. The meeting will reconvene at 9:00 a.m., June 14, 1996, at Cavanaughs Inn at the Park, 303 West North River Drive, Ballroom "D", Spokane, Washington 99201, 509–326–8000. Public comments will be received from 10:00 a.m. to 10:30 a.m., on June 14, 1996.

At an appropriate time, on June 14, 1996, the meeting will adjourn for approximately one hour for lunch. The meeting will conclude at 4:00 p.m. or upon conclusion of business. The topics to be discussed are Standards for Rangeland Health and Livestock Grazing Guidelines, and the Interior Columbia Basin Ecosystem Management Project.

FOR FURTHER INFORMATION CONTACT: Richard Hubbard, Bureau of Land Management, Spokane District Office, 1103 N. Fancher Road, Spokane, Washington 99212; or call 509–536–1200.

Dated: May 9, 1996.

Joseph K. Buesing,

District Manager.

[FR Doc. 96–12149 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–33–P

[OR–130–1020–00; GP6–0161]

Notice of Meeting of the Interior Columbia Basin Ecosystem Management Plan Subgroup of the Eastern Washington Resource Advisory Council

AGENCY: Bureau of Land Management, Spokane District, Interior.

ACTION: Meeting of the Interior Columbia Basin Ecosystem Management Plan Subgroup of the Eastern Washington Resource Advisory Council; June 12, 1996, in Spokane, Washington.

SUMMARY: A meeting of the Interior Columbia Basin Ecosystem Management Plan Subgroup of the Eastern Washington Resource Advisory Council will be held on June 12, 1996. The meeting will convene at 9:00 a.m., at the Bureau of Land Management, Spokane District Office, 1103 N. Fancher Road, Spokane, Washington, 99212–1275. The meeting will adjourn at approximately 4:00 p.m. or upon completion of business. At an appropriate time, the meeting will recess for approximately one hour for lunch. Public comments will be received from 10:00 a.m. to 10:30 a.m. The purpose of the meeting is to familiarize the Subgroup with the progress and status of the overall Interior Columbia Basin Ecosystem Management Plan effort.

FOR FURTHER INFORMATION CONTACT: Richard Hubbard, Bureau of Land Management, Spokane District Office, 1103 N. Fancher Road, Spokane, Washington, 99212; or call 509–536–1200.

Dated May 9, 1996.

Joseph K. Buesing,

District Manager.

[FR Doc. 96–12150 Filed 5–14–96; 8:45 am]

BILLING CODE 4310–33–P

CA–058–1020–00

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the next meeting of the of the Ukiah Resource Advisory Council will be held on Thursday, May 30, and Friday, May 31, 1996 in Ukiah, California.

DATES: The meeting is scheduled for Thursday, May 30 and Friday, May 31, 1996.

SUPPLEMENTARY INFORMATION: The meeting on Thursday will begin at 10:00 a.m. at the Clear Lake Resource Area Office conference room, 2550 North State Street, Ukiah, CA. It will begin with a four hour training session on the basics of rangeland health. The remainder of Thursday will be spent in a tour of the Scotts Creek Allotment in Lake County. Friday, May 31 will be spent on finalizing standards and guidelines for rangeland health for public lands administered by the Bureau of Land Management in northwestern California.

The meeting is open to the public with a public comment period scheduled for 1:00–2:00 p.m., Friday, May 31. Depending on the number of persons wishing to speak, a time limit may be imposed. Summary minutes of the meeting will be maintained at the Arcata, Clear Lake and Redding Resource Area Offices.

FOR MORE INFORMATION CONTACT: Renee Snyder, Bureau of Land Management, Clear Lake Resource Area, 2550 N. State St., Ukiah, CA 95482, 707–468–4000.

Valerie Parker,

Acting Clear Lake Resource Area Manager.

[FR Doc. 96–12024 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–40–P

[CA–010–1430–01; CACA 7620, CACAAA 160028]

Public Land Order No. 7196; Partial Revocation of Secretarial Orders Dated October 11, 1902, and April 22, 1922; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order insofar as it affects 10 acres of lands withdrawn for Power Site Classification No. 28, and another Secretarial Order insofar as it affects 640 acres of lands withdrawn for the purpose of determining the suitability of including those lands in a forest reserve. The lands are no longer needed for these purposes, and the revocation is necessary to permit completion of a land exchange under Section 206 of the Federal Land Policy and Management Act of 1976. The lands are temporarily segregated by a pending land exchange and will not be opened at this time. The lands have been and will remain open to mineral leasing. Both the Federal Energy Regulatory Commission and the Forest Service have concurred with this revocation.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Duane Marti, BLM California State Office (CA–931.4), 2800 Cottage Way, Sacramento, CA 95825, 916–979–2858.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Secretarial Order dated April 22, 1922, which withdrew public lands for Power Site Classification No. 28, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

T. 23 N., R. 3 E.,
Sec. 14, SE¼SW¼NW¼.

The area described contains 10 acres in Butte County.

2. The Secretarial Order dated October 11, 1902, which withdrew public lands for the purpose of determining the suitability of including those lands in a forest reserve, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

T. 44 N., R. 4 W.,
Sec. 26.

The area described contains 640 acres in Siskiyou County.

3. The lands described in paragraphs 1 and 2 are temporarily segregated by a pending land exchange and will not be opened by this order.

4. In regards to the land described in paragraph 1, the State of California has waived its right of selection in accordance with the provisions of Section 24 of the Act of June 10, 1920, as amended, 16 U.S.C. 818 (1988).

Dated: April 30, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–12016 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–40–P

[AK–050–06–1430–01; AA–77919]

Recreation and Public Purposes (R&PP) Act Classification in Slana, AK

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; Recreation and Public Purposes (R&PP) Act classification.

SUMMARY: Pending concurrence from the State of Alaska, pursuant to Sec. 906(k) of the Alaska National Interest Lands Conservation Act, the following public lands in Slana, Alaska have been

examined and found suitable for classification for lease to the Slana Community Corporation, under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.).

Copper River Meridian, Alaska

T. 11 N., R 8E., Sec. 34

SW¼ NE¼ SW¼ NE¼ SE¼, S½ NW¼ SW¼ NE¼ SE¼, SW¼ SW¼ NE¼ SE¼, W½ SE¼ SW¼ NE¼ SE¼, SE¼ NE¼ SE¼ NW¼ SE¼, E½ SE¼ SE¼ NW¼ SE¼, NE¼ NE¼ NE¼ SW¼ SE¼, N½ NW¼ NW¼ SE¼ SE¼, NW¼ NE¼ NW¼ SE¼ SE¼.

Containing 10 Acres, more or less.

DATES: Until June 28, 1996, interested persons may submit comments regarding the proposed lease or classification to the Glennallen District Management Team. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

ADDRESSES: Comments must be submitted to the Glennallen District Management Team, P.O. Box 147, Glennallen, AK 99588–0147.

FOR FURTHER INFORMATION CONTACT: David Mushovic, (907) 822–3217.

SUPPLEMENTARY INFORMATION: The purpose of the classification and lease of these lands is for the Slana Community Corporation to construct, operate, and maintain a corporate office, fire hall, medical clinic, and recreational facilities for the community.

When issued, the lease will be subject to the following terms:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. Rights-of-Way thereon for ditches and canals constructed by the authority of the United States Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

3. All minerals shall be reserved to the United States. Such resources will not be subject to exploration, prospecting, mining and removal.

The lands involved have been and remain closed to location and entry under the United States mining laws. Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of public land laws including the mineral leasing laws.

The proposed lease is consistent with Southcentral Management Framework Plan. The land is not needed for any Federal purposes.

Dated: May 6, 1996.

David Mushovic,

Realty Specialist.

[FR Doc. 96–12026 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–JA–M

National Park Service

Cooperative Management Plan/ Environmental Impact Statement for Lower St. Croix National Scenic Riverway, Minnesota and Wisconsin

JOINT LEAD AGENCIES: National Park Service, Minnesota Department of Natural Resources, Wisconsin Department of Natural Resources.

ACTION: Notice of Intent to prepare an environmental impact statement for the Cooperative Management Plan for the Lower St. Croix National Scenic Riverway, Minnesota and Wisconsin.

SUMMARY: The National Park Service, Minnesota Department of Natural Resources, and Wisconsin Department of Natural Resources will serve as joint lead agencies in the preparation of an environmental impact statement to assess the impacts of alternative management concepts for a cooperative management plan for the Lower St. Croix National Scenic Riverway. The purpose of a cooperative management plan is to set forth the basic management philosophy for the riverway and provide the strategies for addressing issues and achieving identified management objectives. The Cooperative Management Plan/ Environmental Impact Statement (CMP/ EIS) will evaluate the environmental impacts of a range of alternatives to address distinct management issues for the riverway, such as resource protection, riverway uses, and development. As a conceptual framework for formulating these alternatives, the riverway's purposes, significant resources, and the management goals will first be identified.

The first of a series of public meetings to develop the plan were conducted in February and April 1996. Additional scoping opportunities such as public meetings, newsletters, etc. will be provided. This Notice will also serve as an additional scoping method. Persons who may be interested in or affected by the proposed plan/EIS are invited to participate in the scoping process by responding to this Notice with written comments. The scoping process will help define issues or problems facing the riverway.

The draft plan and environmental impact statement are expected to be completed and available for public review by the fall of 1998. The final plan, environmental impact statement, and Record of Decision are expected to be completed within one year of the release of the draft document.

The responsible officials are Bill Schenk, Field Director, Midwest Field Area, National Park Service; Rod Sando, Commissioner, Minnesota Department of Natural resources, and George Meyer, Secretary Wisconsin Department of Natural Resources.

DATES: Written comments concerning the CMP/EIS should be received on or before July 15, 1996.

ADDRESSES: Written comments concerning the plan/environmental impact statement should be sent to the Planning Coordinator, Coordination Office, 117 Main street, Stillwater, Minnesota 55082.

FOR FURTHER INFORMATION CONTACT: Kate Hanson, Planning Coordinator, at the above address or at telephone number (612) 439–7122.

Dated: May, 3, 1996.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 96–12095 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–70–P

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 4, 1996. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by May 29, 1996.

Carol D. Shull,

Keeper of the National Register.

Alabama

Dale County, Dowling, Samuel Lawson, House, 311 Owens St., Ozark, 96000594
Jefferson County, Parham Apothecary Building, 401 60th St., Fairfield, 96000595
Lauderdale County, Florence Wagon Works Site, S of Dekalb Ave. between Main and Spurr Sts., Florence, 96000596
Madison County, Fowler's Department Store (Downtown Huntsville MPS), 116 Washington and 214 Holmes Sts., Huntsville, 96000597

Georgia

Richmond County, Lamar, Joseph Rucker, Boyhood Home, 415 7th St., Augusta, 96000598

Indiana

Dearborn County, Stevens, Levi, House, 122 5th St., Aurora, 96000599
Jay County, Portland Commercial Historic District, Roughly, Meridian St. from Arch St. to the S. Meridian St. Bridge, and Main and Walnut Sts. from Ship to Court Sts., Portland, 96000600
Marion County, Recker, Carlos and Anne, House, 59 N. Hawthorne Ln., Indianapolis, 96000601
Morgan County, Morgan County Sheriff's House and Jail, 110 W. Washington St., Martinsville, 96000602
Owen County, Secrest Ferry Bridge, Co. Rt. 450 E over the W. fork of the White River, Gosport vicinity, 96000603

Iowa

Wapello County, Eldon Carnegie Public Library, 608 W. Elm St., Eldon, 96000604

Louisiana

Caddo Parish, Mooringsport School, 602 Latimer St., Mooringsport, 96000605
Sabine Parish, McNeely Hotel, 690 San Antonio Ave., Many, 96000606
Terrebonne Parish, Polmer Store, 1849 LA 311, Schriever vicinity, 96000607

Maryland

Anne Arundel County, Annapolis National Cemetery (Civil War Era National Cemeteries MPS), 800 West St., Annapolis, 96000605

Massachusetts

Bristol County, Howland Mill Village Historic District, Roughly bounded by Bolton, Winspar, Hemlock Sts., and Rockdale Ave., New Bedford, 96000609
Moreland Terrace Historic District, Roughly bounded by Moreland Terrace, Ash, Bedford, and Page Sts., New Bedford, 96000610

Michigan

Benzie County, Benzie County Courthouse, 7157 Crystal Ave., Beulah, 96000611
Oakland County, Hubbard—Kesby House, 1965 W. Dawson Rd., Milford, 96000612

New Hampshire

Carroll County, Remick, Capt. Enoch, House, 4 Great Hill Rd., Tamworth, 96000616
Hillsborough County, Victory Park Historic District, 405 Pine, 148 Concord, 111 and 129 Amherst Sts., Manchester, 96000615

New York

Tompkins County, State Theater, 107—119 W. State St., Ithaca, 96000613

North Carolina

Buncombe County, Asheville School, Roughly bounded by Patton Ave., Southern RR line, US 40, Sand Hill Rd., and Malvern Hills subdivision, Asheville, 96000614

Oregon

Clackamas County, Molalla Union High School, 413 S. Molalla Ave., Molalla, 96000622
Douglas County, Winchester Dam, N. Umpqua River at Hwy. 99, Winchester, 96000627
Jackson County, Chavner Family House, 12162 Blackwell Rd., Gold Hill vicinity, 96000628
Hanscom Hall, 201 Talent Ave., Talent, 96000626
Medford Southern Pacific Railroad Passenger Depot, 147 N. Front St., Medford, 96000629
Jefferson County, Lueddemann, Max and Ollie, House, 96 SE 9th St., Madras, 96000620
Lane County, Baldwin Market, 765—781 Monroe St., Eugene, 96000619
Woodmen of the World Hall, 291 W. 8th Ave., Eugene, 96000618
Linn County, Baker, Hiram, House, 515 E. Grant St., Lebanon, 96000621
Multnomah County, Mackenzie, Dr. K. A. J. and Cora, House, 615 NW 20th Ave., Portland, 96000625
Olson, August, House, 2509 NE 18th St., Portland, 96000624
Union County, Roesch Building, 105 Fir St., La Grande, 96000623

Utah

Emery County, San Rafael Bridge, Co. Rd. 3–32 over the San Rafael River, approximately 23 mi. SE of Castle Dale, Castle Dale vicinity, 96000617
Salt Lake County, Veterans Administration Hospital, 401 E. 12th St., Salt Lake City, 96000630

A proposed move is being considered for the following property:

Kansas

Neosho County, Austin Bridge, SE of Chanute at the Neosho River, Chanute vicinity, 77000592.

[FR Doc. 96–12096 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Overseas Private Investment Corporation

Submission for OMB Review; Comment Request

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Request for Comments.

SUMMARY: This is a revised Notice which supersedes the Notice published May 1, 1996, in 61 FR 19319. The Notice has been revised to extend the public comment request period to 60 days. At OPIC's request, the Office of Management and Budget (OMB) is reviewing this information collection for emergency processing for 90 days, under OMB control number 3420–0011.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that the Agency is preparing an information collection request for OMB review and approval and to request public review and comment on the submission.

Comments are being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collection techniques and uses of other forms of technology.

The proposed form under review is summarized below.

DATES: Comments must be received within 60 calendar days of this Notice.

ADDRESSES: Copies of the subject form and the request for review prepared for submission to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: Lena Paulsen, Manager, Information Center, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527; 202/336–8565.

SUMMARY OF FORM UNDER REVIEW:

Type of Request: Revised form.
Title: Application for Political Risk Investment Insurance.
Form Number: OPIC–52.
Frequency of Use: Once per investor per project.
Type of Respondents: Business or other institutions (Except farms); individuals.
Standard Industrial Classification Codes: All.
Description of Affected Public: U.S. companies or citizens investing overseas.
Reporting Hours: 5 hours per project.
Number of Responses: 160 per year.
Federal Cost: $3,200 per year.
Authority for Information Collection: Sections 231, 234(a), 239(d), and 240A of the Foreign Assistance Act of 1961, as amended.
Abstract (Needs and Uses): The application is the principal document used by OPIC to determine the investor's and project's eligibility, assess the environmental impact and developmental effects of the project, measure the economic effects for the United States and the host country economy, and collect information for underwriting analysis.

Dated: May 8, 1996.

James R. Offutt,

Assistant General Counsel, Department of Legal Affairs.

[FR Doc. 96–11969 Filed 5–13–96; 8:45 am]

BILLING CODE 3210–01–M

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DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

AGENCY: Foreign Claims Settlement Commission; Justice.

ACTION: Notice of information collection under review; adjucation of claims of U.S. Survivors of the Holocaust.

Office of Management and Budget (OMB) approval is being sought for the information collection described below. This proposed information collection was previously published in the **Federal Register** and allowed 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments from the date of publication of this notice. This process is conducted in accordance with Title 5, § 1320.10, Code of Federal Regulations.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Information Management and Security Staff, Attention: Department Clearance Officer, 1001 G Street, NW, Washington, DC 20530. Via facsimile, comments may be sent to DOJ to 202–514–5134.

Written comments and suggestions from the public should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Foreign Claims Settlement Commission (FCSC), including whether the information will have practical utility;

2. Evaluate the accuracy of the FCSC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Suggest ways in which the quality, utility and clarity of information proposed to be collected might be enhanced; and

4. Suggest ways in which the FCSC could minimize the burden of the proposed collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical or other collection techniques or other forms of information technology, such as permitting electronic submission of responses.

The proposed collection is described below:

1. Type of information collection: New Collection.

2. Title of the form/collection: Statement of Claim for Filing of Claims by Holocaust Survivors Against the Government of the Federal Republic of Germany.

3. Agency Form number, and name of component of the Department of Justice sponsoring the collection: FCSC Form 2–96; Foreign Claims Settlement Commission on the United States.

4. Affected public will be asked to respond, as well as a brief abstract: Primary: Individuals. Other: none.

The information collected will be used to adjudicate the claims of U.S. survivors of the Holocaust and to negotiate a sum to be paid by the Federal Republic of Germany for reparations for Nazi persecution of U.S. nationals.

5. Estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 100 Responses at an average of 2 hours per response.

6. Estimate of the total public burden (in hours) associated with the collection: 200 annual burden hours at $10 per hour for a total burden cost of $2,000.

Public comment on this proposed information collection is strongly encouraged.

Dated: May 8, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–11975 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 as Amended

In accordance with Department of Justice policy, 28 CFR § 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Hargovind L. Govani, et al.*, Civil No. 94–5851 (SMO), was lodged on May 3, 1996 with the United States District Court for the District of New Jersey. The decree resolves claims of the Untied States against defendants A–1 Specialized Service & Supplies, Inc., Ag-Hog/Pittsburgh Co., Inc., AgHog/Detroit Co., Archive Management Services, Inc., Chesapeake X-Ray Corporation, E.I. du Pont de Nemours and Co., Konica Imaging U.S.A., Inc., Noble Silver Company, North Central X-Ray, Inc., Penn State Industries, Inc., RVS, Inc., Safety Kleen Corporation, Safetyloid Co., Inc., Silverion, Inc., Sloan Metal Co., Inc., Sogem Afrimet Inc., Springfield Silver Services, Inc., Standard Medical Imaging, Inc., Standish X-Ray Corporation, Sun Chemical Corporation, and Wallabout Metal, Inc. in the above-referenced action under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") for contamination at the Silsonix Superfund Site in the Irvington, New Jersey (the "Site"). The defendants have filed a counter-claim against the United States for contribution.

In the proposed consent decree, the settling defendants agree to pay the United States $426,03.83 in settlement of the United States' claims for past response costs incurred by the Environmental Protection Agency at the Site. Also in the consent decree, the United States on behalf of settling federal agencies will reimburse $11,467.17 to the Hazardous Substance Superfund.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to the *United States* v. *Hargovind L. Govani, et al.*, DOJ Ref. Number 90–11–2–1076.

The proposed consent decree may be examined at the Office of the United States Attorney, 970 Broad Street, Newark, NJ; the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, NY 10278; and the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W. 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $5.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–12012 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Center for Waste Reduction Technologies

Notice is hereby given that, on April 18, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Center for Waste Reduction Technologies ("CWRT") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ACS Industries, Inc., Woonsocket, RI, and B&V Waste Science and Technology Corp., Kansas City, MO have withdrawn from membership and AM-RE Services, Inc., Princeton, NJ; Argonne National Laboratory, Argonne, IL; Eastman Chemical Company, Kingsport, TN; GE Corporate Research and Development, Schenectady, NY; Los Alamos National Laboratory of the University of California, Los Alamos, NM; Merck & Company, Inc., Whitehouse Station, NJ; Rohm and Haas Company, Philadelphia, PA; and SmithKline Beecham, King of Prussia, PA have become members.

No other changes have been made in either the membership or planned activities of CWRT. Membership remains open, and CWRT intends to file additional written notification disclosing all changes in membership. Information regarding participation in this point venture may be obtained from Center for Waste Reduction Technologies, 345 East 47th Street, New York, NY 10017–2395.

On March 14, 1995, CWRT filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** on April 24, 1995 (60 FR 20119).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12010 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; FED Corporation Joint Venture

Notice is hereby given that, on April 18, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the FED Corporation Joint Venture ("FED") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: Analog Devices, Greensboro, NC has withdrawn from the venture.

On July 28, 1995, FED filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to § 6(b) of the Act on December 6, 1995 (60 FR 62477).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12007 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Financial Services Technology Consortium; Check Imaging Project

Notice is hereby given that, on July 19, 1995, pursuant to 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Financial Services Technology Consortium, Inc.; Check Imaging Project has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: Unisys Corporation, Plymouth, MI; International Business Machines Corporation, Charlotte, NC; Corestates Financial Corporation, Philadelphia, PA; New York Clearing House, New York, NY; and The Regents of the University of Southern California, Lawrence Livermore National Laboratories, Livermore, CA have been added to the venture.

On May 2, 1995, the Financial Services Technology Consortium, Inc.; Check Imaging Project filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to § 6(b) of the Act on June 20, 1995 (60 FR 32169–70).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12009 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; HDP User Group International, Inc.

Notice is hereby given that, on April 23, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), HDP User Group International, Inc., an Arizona non-profit corporation, filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change of membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Combitech, Jonkoping, SWEDEN; DSC Communications, Plano, TX; Hewlett Packard, Palo Alto, CA; SGS Thompson, Milan, Italy; and Siemens AG, Regensburg, Germany have become members of the HDP User Group International, Inc.

No other changes have been made in either the membership or planned activities of this joint venture.

On September 14, 1994, the HDP User Group filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** on March 23, 1995 (60 FR 15306–07). The last notification was filed on October 30, 1995. A notice was published in the **Federal Register** on December 18, 1995 (60 FR 65069).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12004 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—International Pharmaceutical Aerosol Consortium for Toxicology Testing of HFA–227 (IPACT–II) Supplemental Filing

Notice is hereby given that, on April 15, 1995, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the International Pharmaceutical Aerosol Consortium for Toxicology Testing of HFA–227 ("IPACT–II") has filed written

notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing the addition of a new member. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Astra AB, Sodertalje, Sweden, became a member of IPACT–II on February 2, 1996.

No other changes have been made in either the membership or planned activities of IPACT–II. Membership in this group research project remains open, and IPACT–II intends to file additional written notification disclosing all changes in membership.

On February 21, 1991, IPACT–II filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on April 2, 1991 (56 FR 13489).

The last notification was filed with the Department on May 25, 1995. A notice has been published in the **Federal Register** on April 29, 1996 (61 FR 18755).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12006 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Microelectronics and Computer Technology Corporation

Notice is hereby given that, on September 18, 1995, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), the Microelectronics and Computer Technology Corporation ("MCC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: Texas Instruments, Inc., Dallas, TX, has agreed to participate in MCC's Infoslueth Project; and G.K. Intelligent Systems, Houston, TX; Hughes Training, Inc., Arlington, TX; and Motorola, Inc., Schaumburg, IL, have agreed to participate in MCC's HyMPACT Project. American Express Company, Bellcore, E.M. Warburg, Pincus Ventures, Inc., Interval Research Corporation, Sandia National Laboratories, Unysis Corporation, Intelligent Machine Technology, ITAC Systems, Inc., Electronics Manufacturing Productivity Facility ("EMPF"); Institute for Micromanufacturing; Louisiana Tech University; and University of Dayton Research Institute have withdrawn from the venture.

On December 21, 1984, MCC filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to § 6(b) of the Act on January 17, 1985 (50 FR 2633). The last notification was filed on May 24, 1995. The Department of Justice published a notice in the **Federal Register** on June 28, 1995 (60 FR 33433).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12002 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; National Medical Practice Knowledge Bank

Notice is hereby given that, on December 19, 1995, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et. seq.* ("the Act"), the National Medical Practice Knowledge Bank has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in it's membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: InSoft, Inc., Mechanicsburg, PA has withdrawn from the venture.

On November 17, 1995, the National Medical Practice Knowledge Bank filed its original notification pursuant to § 6(b) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to § 6(b) of the Act on February 15, 1996 (61 FR 6038).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12001 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Portland Cement Association

Notice is hereby given that, on April 9, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act") the Portland Cement Association ("PCA") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Capitol Cement Corporation, Winchester, VA has resigned from PCA, and Fuel & Combustion Technology International, Buckinghamshire, England has become an associate member of PCA.

No other changes have been made in either the membership or planned activities of the PCA.

On January 7, 1985, PCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on February 5, 1985 (50 FR 5015). The last notification was filed with the Department on January 26, 1996. A notice was published in the **Federal Register** on April 10, 1996 (61 FR 15971–72)

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12003 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Spinal Implant Manufacturers Group "SIMG"

Notice is hereby given that, on April 26, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("The Act"), the Spinal Implant Manufacturers Group ("SIMG") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following nine members of the group have resigned: Ace Medical Company, Los Angeles, CA; Acufex Microsurgical, Inc., Mansfield, MA; Advanced Spine Fixation Systems, Inc., Cypress, CA; American Medical Electronics, Inc., Richardson, TX; Cross Medical Products, Inc., Columbus, OH; DePuy Motech, Warsaw, IN; Electro-Biology, Inc., Parsippany, NJ; Osteotech, Inc., Shewsbury, NJ; and Stryker/Osteonics, Allendale, NJ.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and SIMG intends to file additional written notification disclosing all changes in membership.

On December 8, 1993, SIMG filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 14, 1994 (59 FR 2439).

The last notification was filed with the Department on August 31, 1994. A notice was published in the **Federal Register** on October 27, 1994 (59 FR 54012).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12011 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Unixware Technology Group, Inc.

Notice is hereby given that, on November 1, 1995, pursuant to 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the UnixWare Technology Group, Inc., ("UnixWare") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: Micro Focus, Palo Alto, CA; SAS Institute Inc., Cary, NC; and Compaq, Houston, TX have been added to the venture.

On July 19, 1994, UnixWare filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to § 6(b) of the Act on March 23, 1995 (60 FR 15305). The last notification was filed on March 28, 1995. The Department of Justice published the notice in the **Federal Register** on May 24, 1995 (60 FR 27561).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12008 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; X Consortium

Notice is hereby given that, on February 28, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the X Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in it's membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: Insignia Solutions, Ltd., Bucks, ENGLAND; NetManage, Inc., Cupertino, CA; and Spectragraphics Corp., Marietta, GA have been added to the venture. AGE Logic, Inc., San Diego, CA; and Frame Technology Corp., San Jose, CA have withdrawn from the venture.

On September 15, 1993, the X Consortium filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 10, 1993 (58 FR 59737).

The last notification was filed on September 1, 1995. The Department of Justice published a notice in the **Federal Register** on December 18, 1995 (61 FR 65069).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12005 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 9, 1996.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5095). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment Standards Administration.

Title: Rehabilitation Plan and Award.

OMB Number: 1215–0067.

Agency Number: OWCP–16.

Frequency: On occasion.

Affected Public: Individuals or households; Business or other for-profit.

Number of Respondents: 7,000.

Estimated Time Per Respondent: 30 minutes.

Total Burden Hours: 3,500.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The OWCP–16 is a plan for rehabilitation services submitted by the injured worker and the rehabilitation counselor, and the Office of Worker's Compensation Program's award from funds provided for rehabilitation. The form summarizes the nature and cost of the rehabilitation program for a prompt decision on funding to expedite the completion of the rehabilitation process.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 96–12069 Filed 5–13–96; 8:45 am]

BILLING CODE 4510–27–M

Notice of Interim Assignment of Departmental Duties Retained Following Congressional Action With Respect to the Elimination of the Office of the American Workplace

By memorandum effective April 26, 1996, I have delegated authority and assigned responsibility to Charles L. Smith, Deputy Assistant Secretary, for performing all of the following duties prescribed under Secretary's Orders 2–93, 58 FR 42578, and 2–95, 60 FR 13602:

(1) The Labor-Management Reporting and Disclosure Act of 1959, as amended, 29 U.S.C. 401, *et seq.*;

(2) Section 701 (Standards of Conduct for Labor Organizations) of the Civil Service Reform Act of 1978, 5 U.S.C. 7120;

(3) Section 1017 of the Foreign Service Act of 1980, 22 U.S.C. 4117;

(4) Section 1209 of the Postal Reorganization Act of 1970, 39 U.S.C. 1209;

(5) the employee protection provisions of the Federal Transit law, as codified at 49 U.S.C. 5333(b) and related provisions';

(6) Section405 (a), (b), (c), and (e) of the Rail Passenger Service Act of 1970, 45 U.S.C. 565 (a), (b), (c), and (e);

(7) Section 43(d) of the Airline Deregulation Act of 1978, repealed and reenacted at 49 U.S.C. 42101–42103; and

(8) Executive Order 12954, March 8, 1995, 60 FR 13023 to the extent that the exercise of authority or responsibilities under this Order is consistent with applicable court decisions.

I currently anticipate that this delegation of authority will be superseded at the beginning of fiscal year 1997. Nonetheless, this delegation will remain in effect until a further delegation of these duties, or other notice, is executed by me. Any of the above duties may be redelegated, as appropriate, by him.

Signed at Washington, D.C. this 8th day of May 1996

Robert B. Reich,

Secretary of Labor.

[FR Doc. 96–12071 Filed 5–13–96; 8:45 am]

BILLING CODE 4510–23–M

Employment and Training Administration

Public Meeting; Federal Committee on Apprenticeship

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1), notice is hereby given that the Federal Committee on Apprenticeship (FCA) will conduct an open meeting on May 29–30, 1996 at the following location: The Washington Court Hotel, 525 New Jersey Avenue, N.W., Washington, D.C. 2001.

The agenda on May 29 will include:

8:30 a.m.—Orientation/Administrative Matters
CAll to Order, Barbara Green, Chair, FCA
Introduction of FCA Members, Committee DOL
BAT Director's Report, Anthony Swoope
BAT Priority Teams
12:00 noon—Lunch
Skill Standards Board Report
School-to-Work Report
National Apprenticeship Awards Program
3:00 p.m.—Meeting Recesses until 8:30 a.m., 5/30/96

The agenda on May 30 will include:

—Legislative Update Report
—National Association of State and Territorial Apprenticeship Directors' Report
—National Association of Governmental
—Labor Officials' Report
10:30 a.m.—Remarks: Assistant Secretary for Employment and Training
11:30 a.m.—Public Comment
11:30 a.m.—Adjournment

The agenda is subject to change due to time constraints and priority items which may come before the Committee between the time of this publication and the scheduled date of the FCA meeting.

Members of the public are invited to attend the proceedings. Individuals with disabilities should contact Marion M. Winters at (202) 219–5921 no later than May 17, if special accommodations are needed.

Any member of the public who wishes to file written data, views or arguments pertaining to the agenda may do so by furnishing it to the Designated Federal Official (DFO) at any time prior to the meeting. Such comments should be addressed to the DFO, Mr. Anthony Swoope, Director, Bureau of Apprenticeship and Training, ETA, U.S. Department of Labor, Room N4649, 200 Constitution Avenue NW., Washington, D.C. 20210. Fifteen duplicate copies are needed for the members and for inclusion in the minutes of the meeting.

Any member of the public who wishes to speak at this meeting should so indicate the nature of intended presentation and the amount of time needed by furnishing a written statement to the Designated Federal Official by May 24. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Signed at Washington, D.C., this 8th day of May 1996.

Timothy M. Barnicle,

Assistant Secretary of Labor for the Employment and Training Administration.

[FR Doc. 96–12070 Filed 5–13–96; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers; Meeting

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of advisory committee meeting.

SUMMARY: This notice announces the date, time, place, and agenda summary for the third meeting of the Mine Safety and Health Administration's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, room 631, Arlington, Virginia 22203; phone 703–235–1910.

SUPPLEMENTARY INFORMATION: A public meeting of the advisory committee will be held as follows:

(1) May 29, 1996, from 8:00 a.m. to 5:00 p.m.

(2) May 30, 1996, from 8:00 a.m. to 5:00 p.m.

The meeting will be held on both days at the Holiday Inn-Charleston House, 600 East Kanawha Blvd., Charleston, West Virginia 25301. Phone: 304–344–4092.

The Secretary of Labor established this advisory committee (60 FR 5947) to develop recommendations for improved standards or other appropriate actions addressing: permissible exposure limits to eliminate black lung disease and silicosis; the means to control respirable coal mine dust levels; improved monitoring of respirable coal dust levels and the role of the miner in that monitoring; and the adequacy of operator sampling programs to determine the actual levels of dust concentrations to which miners are exposed. The advisory committee is chartered through September 30, 1996 (60 FR 55284), but must complete its deliberations by August 19, 1996.

The agenda for the third meeting will include discussions on exposure monitoring and medical surveillance. Specific questions for discussion will include:

(1) Should there be changes in the medical surveillance program and the way the data from the program is utilized?

(2) In what ways can participation in the medical surveillance program be improved?

(3) Is the Part 90 program accomplishing its goal?

(4) Should there be changes in the methods and procedures for the evaluation of exposure to coal mine dust?

(5) What improvements are needed in: the collection of coal mine dust exposure samples; the maintenance of dust controls; and the factoring in of production levels?

(6) Under what circumstances is continuous monitoring of coal mine dust concentrations appropriate?

(7) Under what circumstances does area sampling of the coal mine environment provide dust concentration data useful for the protection of coal miner health?

(8) Should operator sampling results be used for evaluating compliance with the PEL?

(9) In what ways can miner participation in eradicating dust related diseases be improved?

There will also be a panel discussion by representatives of the National Black Lung Association followed by questions by members of the advisory committee.

The public is invited to attend. The chairperson will provide an hour near the end of each day's meeting to allow interested persons to make comments. Official records of the meeting will be available for public inspection at the above MSHA address.

Dated: May 9, 1996.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 96–12074 Filed 5–10–96; 9:39 am]

BILLING CODE 4510–43–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material."

3. The form number if applicable: Not applicable.

4. How often the collection is required: Required reports are collected and evaluated on a continuing basis as events occur. There is a one-time submittal of information to receive a license. Renewal applications are submitted every 5 years. Information submitted in previous applications may be referenced without being resubmitted. In addition, recordkeeping must be performed on an on-going basis.

5. Who will be required or asked to report: All persons applying or holding a license to manufacture, produce, transfer, receive, acquire, own, possess, or use radioactive byproduct material.

6. An estimate of the number of responses: Approximately 601 responses from NRC licensees and 1,112 responses from Agreement State licensees.

7. The estimated number of annual respondents: 6,089 NRC licensees and 12,178 Agreement State licensees.

8. An estimate of the total number of hours needed annually to complete the requirement or request: Approximately 8 hours annually per licensee or 48,897 hours for the NRC licensees and 98,376 hours for the Agreement State licensees.

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not applicable.

10. Abstract: 10 CFR Part 30 establishes requirements that are applicable to all persons in the United States governing domestic licensing of radioactive byproduct material. The application, reporting, and recordkeeping requirements are necessary to permit the NRC to make a determination whether the possession, use, and transfer of byproduct material is in conformance with the Commission's regulations for protection of the public health and safety.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access the submittal via modem on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library) NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at (202) 634–3273.

Comments and questions should be directed to the OMB reviewer by June 13, 1996: Peter Francis, Office of Information and Regulatory Affairs (3150–0017), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 8th day of May, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–12040 Filed 5–13–96; 8:45 am]

BILLING CODE 7590–01–P

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR Part 9, Public Records.

3. The form number if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Individuals requesting access to records under the Freedom of Information or Privacy Acts, or to records that are already publicly available in the NRC Public Document Room.

6. An estimate of the number of responses: 13,764.

7. The estimated number of annual respondents: 13,764.

8. An estimate of the total number of hours needed annually to complete the requirement or request: 3,519.

9. An indication of whether Section 3507(d), Pub.L. 104–13 applies: Not applicable.

10. Abstract: 10 CFR Part 9 establishes information collection requirements for individuals making requests for records under the Freedom of Information or Privacy Acts. It also contains requests to waive or reduce fees for searching for and reproducing records in response to FOIA requests. The information required from the public is necessary to identify the records they are requesting or to justify requests for waivers or reductions in searching or copying fees.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW, (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions should be directed to the OMB reviewer by June 13, 1996: Peter Francis, Office of Information and Regulatory Affairs (3150–00043), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 8th day of May, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–12041 Filed 5–13–96; 8:45 am]

BILLING CODE 7590–01–P

Freedom of Employees in the Nuclear Industry To Raise Safety Concerns Without Fear of Retaliation; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Statement of policy.

SUMMARY: The Nuclear Regulatory Commission (NRC) is issuing this policy statement to set forth its expectation that licensees and other employers subject to NRC authority will establish and maintain safety-conscious environments in which employees feel free to raise safety concerns, both to their management and to the NRC, without fear of retaliation. The responsibility for maintaining such an environment rests with each NRC licensee, as well as with contractors, subcontractors and employees in the nuclear industry. This policy statement is applicable to NRC regulated activities of all NRC licensees and their contractors and subcontractors.

DATES: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, (301) 415–2741.

SUPPLEMENTARY INFORMATION:

Background

NRC licensees have the primary responsibility to ensure the safety of nuclear operations. Identification and communication of potential safety concerns [1] and the freedom of employees to raise such concerns is an integral part of carrying out this responsibility.

In the past, employees have raised important issues and as a result, the public health and safety has benefited. Although the Commission recognizes that not every concern raised by employees is safety significant or, for that matter, is valid, the Commission concludes that it is important that licensees' management establish an environment in which safety issues are promptly identified and effectively resolved and in which employees feel free to raise concerns.

Although hundreds of concerns are raised and resolved daily in the nuclear industry, the Commission, on occasion, receives reports of individuals being retaliated against for raising concerns. This retaliation is unacceptable and unlawful. In addition to the hardship caused to the individual employee, the perception by fellow workers that raising concerns has resulted in retaliation can generate a chilling effect that may discourage other workers from raising concerns. A reluctance on the part of employees to raise concerns is detrimental to nuclear safety.

As a result of questions raised about NRC's efforts to address retaliation against individuals who raise health and safety concerns, the Commission established a review team in 1993 to reassess the NRC's program for protecting allegers against retaliation. In its report (NUREG–1499, "Reassessment of the NRC's Program for Protecting Allegers Against Retaliation," January 7, 1994) the review team made numerous recommendations, including several recommendations involving issuing a policy statement to address the need to encourage responsible licensee action with regard to fostering a quality-conscious environment in which employees are free to raise safety concerns without fear of retribution (recommendations II.A–1, II.A–2, and II.A–4). On February 8, 1995, the Commission after considering those recommendations and the bases for them published for comment a proposed policy statement, "Freedom of Employees in the Nuclear Industry to Raise Safety Concerns Without Fear of Retaliation," in the **Federal Register** (60 FR 7592, February 8, 1995).

The proposed policy statement generated comments from private citizens and representatives of the industry concerning both the policy statement and NRC and Department of Labor (DOL) performance. The more significant comments related to the contents of the policy statement included:

1. The policy statement would discourage employees from bringing their concerns to the NRC because it provided that employees should normally provide concerns to the licensee prior to or contemporaneously with coming to the NRC.

2. The use of a holding period should be at the discretion of the employer and not be considered by the NRC in evaluating the reasonableness of the licensee's action.

3. The policy statement is not needed to establish an environment to raise concerns if NRC uses its authority to enforce existing requirements by pursuing civil and criminal sanctions against those who discriminate.

4. The description of employee concerns programs and the oversight of contractors was too prescriptive; the expectations concerning oversight of contractors were perceived as the imposition of new requirements without adherence to the Administrative Procedure Act and the NRC's Backfit Rule, 10 CFR 50.109.

5. The need for employee concerns programs (ECPs) was questioned, including whether the ECPs fostered the development of a strong safety culture.

6. The suggestion for involvement of senior management in resolving discrimination complaints was too prescriptive and that decisions on senior management involvement should be decided by licensees.

In addition, two public meetings were held with representatives of the Nuclear Energy Institute (NEI) to discuss the proposed policy statement. Summaries of these meetings along with a revised policy statement proposed by NEI were included with the comments to the policy statement filed in the Public Document Room (PDR).

This policy statement is being issued after considering the public comments and coordination with the Department of Labor. The more significant changes included:

1. The policy statement was revised to clarify that senior management is expected to take responsibility for assuring that cases of alleged discrimination are appropriately investigated and resolved as opposed to being personally involved in the resolution of these matters.

2. References to maintenance of a "quality-conscious environment" have been changed to "safety-conscious environment" to put the focus on safety.

3. The policy statement has been revised to emphasize that while alternative programs for raising concerns may be helpful for a safety-conscious environment, the establishment of alternative programs is not a requirement.

4. The policy statement continues to emphasize licensees' responsibility for their contractors. This is not a new requirement. However, the policy statement was revised to provide that enforcement decisions against licensees for discriminatory conduct of their contractors would consider such things as the relationship between the licensee and contractor, the reasonableness of the licensee's oversight of the contractor's actions and its attempts to investigate and resolve the matter.

5. To avoid the possibility suggested by some commenters that the policy statement might discourage employees from raising concerns to the NRC if the employee is concerned about retaliation by the employer, the statement that reporting concerns to the Commission "except in limited fact-specific situations" would not absolve employees of the duty to inform the employer of matters that could bear on public, including worker, health and safety has been deleted. However, the policy statement expresses the Commission's expectation that employees, when coming to the NRC, should normally have provided the concern to the employer prior to or contemporaneously with coming to the NRC.

Statement of Policy

The purpose of this Statement of Policy is to set forth the Nuclear Regulatory Commission's expectation that licensees and other employers subject to NRC authority will establish and maintain a safety-conscious work environment in which employees feel free to raise concerns both to their own management and the NRC without fear of retaliation. A safety-conscious work environment is critical to a licensee's ability to safely carry out licensed activities.

This policy statement and the principles set forth in it are intended to apply to licensed activities of all NRC licensees and their contractors,[2] although it is recognized that some of the suggestions, programs, or steps that might be taken to improve the quality of the work environment (e.g., establishment of a method to raise concerns outside the normal management structure such as an employee concerns program) may not be practical for very small licensees that have only a few employees and a very simple management structure.

The Commission believes that the most effective improvements to the environment for raising concerns will come from within a licensee's organization (or the organization of the licensee's contractor) as communicated and demonstrated by licensee and contractor management. Management should recognize the value of effective processes for problem identification and resolution, understand the negative effect produced by the perception that employee concerns are unwelcome, and appreciate the importance of ensuring that multiple channels exist for raising concerns. As the Commission noted in its 1989 Policy Statement on the Conduct of Nuclear Power Plant Operations (54 FR 3424, January 24, 1989), management must provide the leadership that nurtures and maintains the safety environment.

In developing this policy statement, the Commission considered the need for:

(1) Licensees and their contractors to establish work environments, with effective processes for problem identification and resolution, where employees feel free to raise concerns, both to their management and to the NRC, without fear of retaliation;

(2) Improving contractors' awareness of their responsibilities in this area;

(3) Senior management of licensees and contractors to take the responsibility for assuring that cases of alleged discrimination are appropriately investigated and resolved; and

(4) Employees in the regulated industry to recognize their responsibility to raise safety concerns to licensees and their right to raise concerns to the NRC.

This policy statement is directed to all employers, including licensees and their contractors, subject to NRC authority, and their employees. It is intended to reinforce the principle to all licensees and other employers subject to NRC authority that an act of retaliation or discrimination against an employee for raising a potential safety concern is not only unlawful but may adversely impact safety. The Commission emphasizes that employees who raise concerns serve an important role in addressing potential safety issues. Thus, the NRC cannot and will not tolerate retaliation against employees who attempt to carry out their responsibility to identify potential safety issues.[3]

Under the Atomic Energy Act of 1954, as amended, the NRC has the authority to investigate allegations that employees of licensees or their contractors have been discriminated against for raising concerns and to take enforcement action if discrimination is substantiated. The Commission has promulgated regulations to prohibit discrimination (see, e.g., 10 CFR 30.7 and 50.7). Under Section 211 of the Energy Reorganization Act of 1974, as amended, the Department of Labor also has the authority to investigate complaints of discrimination and to

[1] Throughout this Policy Statement the terms "concerns," "safety concerns" and "safety problem" refer to potential or actual issues within the Commission's jurisdiction involving operations, radiological releases, safeguards, radiation protection, and other matters relating to NRC-regulated activities.

[2] Throughout this Notice, the term "licensee" includes licensees and applicants for licenses. It also refers to holders of certificates of compliance under 10 CFR Part 76. The term "contractor" includes contractors and subcontractors of NRC licensees and applicants defined as employers by section 211(a)(2) of the Energy Reorganization Act of 1974, as amended.

[3] An employee who believes he or she has been discriminated against for raising concerns may file a complaint with the Department of Labor if the employee seeks a personal remedy for the discrimination. The person may also file an allegation of discrimination with the NRC. The NRC will focus on licensee actions and does not obtain personal remedies for the individual. Instructions for filing complaints with the DOL and submitting allegations can be found on NRC Form 3 which licensees are required to post.

provide a personal remedy to the employee when discrimination is found to have occurred.

The NRC may initiate an investigation even though the matter is also being pursued within the DOL process. However, the NRC's determination of whether to do so is a function of the priority of the case which is based on its potential merits and its significance relative to other ongoing NRC investigations.[4]

Effective Processes for Problem Identification and Resolution

Licensees bear the primary responsibility for the safe use of nuclear materials in their various licensed activities. To carry out that responsibility, licensees need to receive prompt notification of concerns as effective problem identification and resolution processes are essential to ensuring safety. Thus, the Commission expects that each licensee will establish a safety-conscious environment where employees are encouraged to raise concerns and where such concerns are promptly reviewed, given the proper priority based on their potential safety significance, and appropriately resolved with timely feedback to employees.

A safety-conscious environment is reinforced by a management attitude that promotes employee confidence in raising and resolving concerns. Other attributes of a work place with this type of an environment may include well-developed systems or approaches for prioritizing problems and directing resources accordingly; effective communications among various departments or elements of the licensee's organization for openly sharing information and analyzing the root causes of identified problems; and employees and managers with an open and questioning attitude, a focus on safety, and a positive orientation toward admitting and correcting personnel errors.

Initial and periodic training (including contractor training) for both employees and supervisors may also be an important factor in achieving a work environment in which employees feel free to raise concerns. In addition to communicating management expectations, training can clarify for both supervisors and employees options for problem identification. This would include use of licensee's internal processes as well as providing concerns directly to the NRC.[5] Training of supervisors may also minimize the potential perception that efforts to reduce operating and maintenance costs may cause supervisors to be less receptive to employee concerns if identification and resolution of concerns involve significant costs or schedule delays.

Incentive programs may provide a highly visible method for demonstrating management's commitment to safety, by rewarding ideas not based solely on their cost savings but also on their contribution to safety. Credible self assessments of the environment for raising concerns can contribute to program effectiveness by evaluating the adequacy and timeliness of problem resolution. Self-assessments can also be used to determine whether employees believe their concerns have been adequately addressed and whether employees feel free to raise concerns. When problems are identified through self-assessment, prompt corrective action should be taken.

Licensees and their contractors should clearly identify the processes that employees may use to raise concerns and employees should be encouraged to use them. The NRC appreciates the value of employees using normal processes (e.g., raising issues to the employee supervisors or managers or filing deficiency reports) for problem identification and resolution. However, it is important to recognize that the fact that some employees do not desire to use the normal line management processes does not mean that these employees do not have legitimate concerns that should be captured by the licensee's resolution processes. Nor does it mean that the normal processes are not effective. Even in a generally good environment, some employees may not always be comfortable in raising concerns through the normal channels. From a safety perspective, no method of raising potential safety concerns should be discouraged. Thus, in the interest of having concerns raised, the Commission encourages each licensee to have a dual focus: (1) On achieving and maintaining an environment where employees feel free to raise their concerns directly to their supervisors and to licensee management, and (2) on ensuring that alternate means of raising and addressing concerns are accessible, credible, and effective.

NUREG–1499 may provide some helpful insights on various alternative approaches. The Commission recognizes that what works for one licensee may not be appropriate for another. Licensees have in the past used a variety of different approaches, such as:

(1) An "open-door" policy that allows the employee to bring the concern to a higher-level manager;

(2) A policy that permits employees to raise concerns to the licensee's quality assurance group;

(3) An ombudsman program; or

(4) Some form of an employee concerns program.

The success of a licensee alternative program for concerns may be influenced by how accessible the program is to employees, prioritization processes, independence, provisions to protect the identity of employees including the ability to allow for reporting issues with anonymity, and resources. However, the prime factors in the success of a given program appear to be demonstrated management support and how employees perceive the program. Therefore, timely feedback on the follow-up and resolution of concerns raised by employees may be a necessary element of these programs.

This Policy Statement should not be interpreted as a requirement that every licensee establish alternative programs for raising and addressing concerns. Licensees should determine the need for providing alternative methods for raising concerns that can serve as internal "escape valves" or "safety nets."[6] Considerations might include the number of employees, the complexity of operations, potential hazards, and the history of allegations made to the NRC or licensee. While effective alternative programs for identifying and resolving concerns may assist licensees in maintaining a safety-conscious environment, the Commission, by making the suggestion for establishing alternative programs, is not requiring licensees to have such programs. In the absence of a requirement imposed by the Commission, the establishment and framework of alternative programs are discretionary.

[4] The NRC and DOL have entered into a Memorandum of Understanding to facilitate cooperation between the agencies. (47 FR 54585; December 3, 1982).

[5] Training of supervisors in the value of raising concerns and the use of alternative internal processes may minimize the conflict that can be created when supervisors, especially first line supervisors, perceive employees as "problem employees" if the employees, in raising concerns, bypass the "chain of command."

[6] In developing these programs, it is important for reactor licensees to be able to capture all potential safety concerns, not just concerns related to "safety-related" activities covered by 10 CFR Part 50, Appendix B. For example, concerns relating to environmental, safeguards, and radiation protection issues should also be captured.

Improving Contractors' Awareness of Their Responsibilities

The Commission's long-standing policy has been and continues to be to hold its licensees responsible for compliance with NRC requirements, even if licensees use contractors for products or services related to licensed activities. Thus, licensees are responsible for having their contractors maintain an environment in which contractor employees are free to raise concerns without fear of retaliation.

Nevertheless, certain NRC requirements apply directly to contractors of licensees (see, for example, the rules on deliberate misconduct, such as 10 CFR 30.10 and 50.5 and the rules on reporting of defects and noncompliances in 10 CFR Part 21). In particular, the Commission's prohibition on discriminating against employees for raising safety concerns applies to the contractors of its licensees, as well as to licensees (see, for example, 10 CFR 30.7 and 50.7).

Accordingly, if a licensee contractor discriminates against one of its employees in violation of applicable Commission rules, the Commission intends to consider enforcement action against *both* the licensee, who remains responsible for the environment maintained by its contractors, and the employer who actually discriminated against the employee. In considering whether enforcement actions should be taken against licensees for contractor actions, and the nature of such actions, the NRC intends to consider, among other things, the relationship of the contractor to the particular licensee and its licensed activities; the reasonableness of the licensee's oversight of the contractor environment for raising concerns by methods such as licensee's reviews of contractor policies for raising and resolving concerns and audits of the effectiveness of contractor efforts in carrying out these policies, including procedures and training of employees and supervisors; the licensee's involvement in or opportunity to prevent the discrimination; and the licensee's efforts in responding to the particular allegation of discrimination, including whether the licensee reviewed the contractor's investigation, conducted its own investigation, or took reasonable action to achieve a remedy for any discriminatory action and to reduce potential chilling effects.

Contractors of licensees have been involved in a number of discrimination complaints that are made by employees. In the interest of ensuring that their contractors establish safety-conscious environments, licensees should consider taking action so that:

(1) Each contractor involved in licensed activities is aware of the applicable regulations that prohibit discrimination;

(2) Each contractor is aware of its responsibilities in fostering an environment in which employees feel free to raise concerns related to licensed activities;

(3) The licensee has the ability to oversee the contractor's efforts to encourage employees to raise concerns, prevent discrimination, and resolve allegations of discrimination by obtaining reports of alleged contractor discrimination and associated investigations conducted by or on behalf of its contractors; conducting its own investigations of such discrimination; and, if warranted, by directing that remedial action be undertaken; and

(4) Contractor employees and management are informed of (a) the importance of raising safety concerns and (b) how to raise concerns through normal processes, alternative internal processes, and directly to the NRC.

Adoption of contract provisions covering the matters discussed above may provide additional assurance that contractor employees will be able to raise concerns without fear of retaliation.

Involvement of Senior Management in Cases of Alleged Discrimination

The Commission reminds licensees of their obligation both to ensure that personnel actions against employees, including personnel actions by contractors, who have raised concerns have a well-founded, non-discriminatory basis and to make clear to all employees that any adverse action taken against an employee was for legitimate, non-discriminatory reasons. If employees allege retaliation for engaging in protected activities, senior licensee management should be advised of the matter and assure that the appropriate level of management is involved, reviewing the particular facts and evaluating or reconsidering the action.

The intent of this policy statement is to emphasize the importance of licensee management taking an active role to promptly resolve situations involving alleged discrimination. Because of the complex nature of labor-management relations, any externally-imposed resolution is not as desirable as one achieved internally. The Commission emphasizes that internal resolution is the licensee's responsibility, and that early resolution *without* government involvement is less likely to disrupt the work place and is in the best interests of both the licensee and the employee. For these reasons, the Commission's enforcement policy provides for consideration of the actions taken by licensees in addressing and resolving issues of discrimination when the Commission develops enforcement sanctions for violations involving discrimination. (59 FR 60697; November 28, 1994).

In some cases, management may find it desirable to use a holding period, that is, to maintain or restore the pay and benefits of the employee alleging retaliation, pending reconsideration or resolution of the matter or pending the outcome of an investigation by the Department of Labor (DOL). This holding period may calm feelings on-site and could be used to demonstrate management encouragement of an environment conducive to raising concerns. By this approach, management would be acknowledging that although a dispute exists as to whether discrimination occurred, in the interest of not discouraging other employees from raising concerns, the employee involved in the dispute will not lose pay and benefits while the action is being reconsidered or the dispute is being resolved. However, inclusion of the holding period approach in this policy statement is not intended to alter the existing rights of either the licensee or the employee, or be taken as a direction by, or an expectation of, the Commission, for licensees to adopt the holding period concept. For both the employee and the employer, participation in a holding period under the conditions of a specific case is entirely voluntary.

A licensee may conclude, after a full review, that an adverse action against an employee is warranted.[7] The Commission recognizes the need for licensees to take action when justified. Commission regulations do not render a person who engages in protected activity immune from discharge or discipline stemming from non-prohibited considerations (see, for example, 10 CFR 50.7(d)). The Commission expects licensees to make personnel decisions that are consistent with regulatory requirements and that

[7] When other employees know that the individual who was the recipient of an adverse action may have engaged in protected activities, it may be appropriate for the licensee to let the other employees know, consistent with privacy and legal considerations, that (1) management reviewed the matter and determined that its action was warranted, (2) the action was not in retaliation for engaging in protected activity and the reason why, and (3) licensee management continues to encourage them to raise issues. This may reduce any perception that retaliation occurred.

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will enhance the effectiveness and safety of the licensee's operations.

Responsibilities of Employers and Employees

As emphasized above, the responsibility for maintaining a safety-conscious environment rests with licensee management. However, employees in the nuclear industry also have responsibilities in this area. As a general principle, the Commission normally expects employees in the nuclear industry to raise safety and compliance concerns directly to licensees, or indirectly to licensees through contractors, because licensees, and not the Commission, bear the primary responsibility for safe operation of nuclear facilities and safe use of nuclear materials.[8] The licensee, and not the NRC, is usually in the best position and has the detailed knowledge of the specific operations and the resources to deal promptly and effectively with concerns raised by employees. This is another reason why the Commission expects licensees to establish an environment in which employees feel free to raise concerns to the licensees themselves.

Employers have a variety of means to express their expectations that employees raise concerns to them, such as employment contracts, employers' policies and procedures, and certain NRC requirements. In fact, many employees in the nuclear industry have been specifically hired to fulfill NRC requirements that licensees identify deficiencies, violations and safety issues. Examples of these include many employees who conduct surveillance, quality assurance, radiation protection, and security activities. In addition to individuals who specifically perform functions to meet monitoring requirements, the Commission encourages all employees to raise concerns to licensees if they identify safety issues[9] so that licensees can address them before an event with safety consequences occurs.

[8] The expectation that employees provide safety and compliance concerns to licensees is not applicable to concerns of possible wrongdoing by NRC employees or NRC contractors. Such concerns are subject to investigation by the NRC Office of Inspector General. Concerns related to fraud, waste or abuse in NRC operations or NRC programs including retaliation against a person for raising such issues should be reported directly to the NRC Office of the Inspector General. The Inspector General's toll-free hotline is 800–233–3497.

[9] Except for the reporting of defects under 10 CFR Part 21 and in the area of radiological working conditions, the Commission has not codified this expectation. Licensees are required by 10 CFR 19.12 to train certain employees in their responsibility to raise issues related to radiation safety.

The Commission's expectation that employees will normally raise safety concerns to their employers does not mean that employees may not come directly to the NRC. The Commission encourages employees to come to the NRC at any time they believe that the Commission should be aware of their concerns.[10] But, while not required, the Commission does expect that employees normally will have raised the issue with the licensee either prior to or contemporaneously with coming to the NRC. The Commission *cautions* licensees that complaints that adverse action was taken against an employee for not bringing a concern to his or her employer, when the employee brought the concern to the NRC, will be closely scrutinized by the NRC to determine if enforcement action is warranted for discrimination.

Retaliation against employees engaged in protected activities, whether they have raised concerns to their employers or to the NRC, will not be tolerated. If adverse action is found to have occurred because the employee raised a concern to either the NRC or the licensee, civil and criminal enforcement action may be taken against the licensee and the person responsible for the discrimination.

Summary

The Commission expects that NRC licensees will establish safety-conscious environments in which employees of licensees and licensee contractors are free, and feel free, to raise concerns to their management and to the NRC without fear of retaliation.

Licensees must ensure that employment actions against employees who have raised concerns have a well-founded, non-discriminatory basis. When allegations of discrimination arise in licensee, contractor, or subcontractor organizations, the Commission expects that senior licensee management will assure that the appropriate level of management is involved to review the particular facts, evaluate or reconsider the action, and, where warranted, remedy the matter.

Employees also have a role in contributing to a safety-conscious environment. Although employees are free to come to the NRC at any time, the Commission expects that employees will normally raise concerns with the involved licensee because the licensee has the primary responsibility for safety and is normally in the best position to promptly and effectively address the matter. The NRC should normally be viewed as a safety valve and not as a substitute forum for raising safety concerns.

This policy statement has been issued to highlight licensees' existing obligation to maintain an environment in which employees are free to raise concerns without retaliation. The expectations and suggestions contained in this policy statement do not establish new requirements. However, if a licensee has not established a safety-conscious environment, as evidenced by retaliation against an individual for engaging in a protected activity, whether the activity involves providing information to the licensee or the NRC, appropriate enforcement action may be taken against the licensee, its contractors, and the involved individual supervisors, for violations of NRC requirements.

The Commission recognizes that the actions discussed in this policy statement will not necessarily insulate an employee from retaliation, nor will they remove all personal cost should the employee seek a personal remedy. However, these measures, if adopted by licensees, should improve the environment for raising concerns.

Dated at Rockville, Maryland, this 8th day of May, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–12028 Filed 5–13–96; 8:45 am]

BILLING CODE 7590–01–P

[10] The Commission intends to protect the identity of individuals who come to the NRC to the greatest extent possible. See "Statement of Policy on Protecting the Identity of Allegers and Confidential Sources."

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of May 13, 20, 27, and June 3, 1996.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 13

Monday, May 13

2:00 p.m.
Briefing on Commonwealth Edison (Public Meeting)

Wednesday, May 15

2:00 p.m.
Briefing on Performance Assessment Program in HLW, LLW, and SDMP (Public Meeting)
(Contact: Norman Eisenberg, 301–415–7285)

3:30 p.m.
Affirmation Session (Public Meeting) (if needed)

Week of May 20—Tentative

Wednesday, May 22

10:00 a.m.
Affirmation Session (Public Meeting) (if needed)

2:00 p.m.
Briefing by International Programs (Closed—Ex. 1)

Friday, May 24

9:30 a.m.
Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)
(Contact: John Larkins, 301–415–7360)

Week of May 27—Tentative

Thursday, May 30

2:00 p.m.
Briefing on Status of Dry Cask Storage Issues (Public Meeting)
(Contact: William Travers, 301–415–8500)

Friday, May 31

10:00 a.m.
Briefing on NRC Inspection Activities (Public Meeting)
(Contact: Bill Borchardt, 301–415–1257)

11:30 a.m.
Affirmation Session (Public Meeting) (if needed)

Week of June 3—Tentative

Monday, June 3

10:00 a.m.
Briefing on Part 100 Final Rule on Reactor Site Criteria (Public Meeting)

Thursday, June 6

3:30 p.m.
Affirmation Session (Public Meeting) (if needed)

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)–(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

Dated: May 10, 1996.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–12214 Filed 5–10–96; 12:28 pm]

BILLING CODE 7590–01–M

POSTAL SERVICE

Sunshine Act Meeting; Notice of Vote To Close Meeting

At its meeting on May 6, 1996, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for June 3, 1996, in Philadelphia, Pennsylvania. The members will consider a filing with the Postal Rate Commission for classification reform of special services.

The meeting is expected to be attended by the following persons: Governors Alvarado, Daniels, del Junco, Dyhrkopp, Fineman, Mackie, McWherter, Rider and Winters; Postmaster General Runyon, Deputy Postmaster General Coughlin, Secretary to the Board Koerber, and General Counsel Elcano.

The Board determined that pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)] because it is likely to disclose information in connection with proceedings under Chapter 36 of title 39, United States Code (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code.

The Board has determined further that pursuant to section 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern participation of the Postal Service in a civil action or proceeding involving a determination on the record after opportunity for a hearing.

The Board further determined that the public interest does not require that the Board's discussion of these matters be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in her opinion the meeting may properly be closed to public observation pursuant to section 552b(c)(3) and (10) of title 5, United States Code; section 410(c)(4) of title 39, United States Code; and section 7.3 (c) and (j) of title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, Thomas J. Koerber, at (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 96–12201 Filed 5–10–96; 1:39 pm]

BILLING CODE 7710–12–M

POSTAL RATE COMMISSION

[Docket No. A96–14; Order No. 1109]

Forest Grove, Montana 59441 (May A. Charbonneau, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5); Correction

AGENCY: Postal Rate Commission.

ACTION: Correction.

SUMMARY: In notice document 96–10340 beginning on page 18632 in the **Federal Register** issue of Friday, April 26, 1996, make the following correction:

On page 18632 in the second column, the expiration date of the Commission's 120-day decision schedule was previously listed as August 20, 1996. This should be changed to read August 13, 1996.

Dated: May 9, 1996.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 96–12082 Filed 5–13–96; 8:45 am]

BILLING CODE 7715–FW–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 15g–2; SEC File No. 270–381; OMB Control No. 3235–0434.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission ("Commission") is publishing the following summary of collection for public comment.

Rule 15g–2 requires broker-dealers to provide their customers with a risk disclosure document, as set forth in Schedule 15G,[1] prior to their first non-

[1] Schedule 15G explains the risks of investing in penny stocks; important concepts associated with the penny stock market; the broker-dealer's duties to customers; a toll-free telephone number through which a customer may inquire about the disciplinary history of a broker-dealer; the

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exempt transaction in a "penny stock." The rule requires broker-dealers to obtain written acknowledgment from the customer that he or she has received the required risk disclosure document. The rule also requires broker-dealers to maintain a copy of the customer's written acknowledgment for at least three years following the date on which the risk disclosure document was provided to the customer, the first two years in an accessible place.

Approximately 270 broker-dealers are subject to Rule 15g–2, and each one of these firms will process an average of approximately 156 risk disclosure documents per year. The total ongoing respondent burden is approximately 4 minutes per response, or an aggregate total of 624 minutes per respondent. Since there are 270 respondents, the annual burden 2808 hours.

In addition, 270 broker-dealers will incur a recordkeeping burden of approximately one minute per response. Thus, respondents as a group will incur an aggregate annual recordkeeping burden of 702 hours. The total annual hour burden is 3510 hours.

The total cost of ongoing compliance for the respondents and recordkeepers is $70,200.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) way to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: May 3, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12036 Filed 5–13–96; 8:45 am]

BILLING CODE 8010–01–M

customer's rights and remedies in cases of fraud or abuse in connection with transactions in penny stocks; and certain other significant information.

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Horizon Mental Health Management, Inc., Common Stock, $.01 Par Value) File No. 1–13626

May 9, 1996.

The Horizon Mental Health Management, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, its Board of Directors unanimously approved resolutions on March 21, 1996 to withdraw the Security from listing and registration on the Amex and to list the Security on the Nasdaq/NMS. The decision of the Board was based upon the belief that listing of the Security on the Nasdaq/NMS will be beneficial to the stockholders of the Company by:

(a) increasing the liquidity of the Security;

(b) capitalizing on a screen based market offered by the Nasdaq/NMS as opposed to the more site specific auction type market afforded by Amex; and

(c) increasing the visibility of the Security.

Any interested person may, on or before June 3, 1996, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–12039 Filed 5–13–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21943; 811–8258]

Warburg, Pincus Managed Bond Trust; Notice of Application

May 8, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT. Warburg, Pincus Managed Bond Trust.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on March 18, 1996 and amended on May 1, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the applications will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 3, 1996, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 466 Lexington Avenue, New York, N.Y. 10017–3147.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 942–0581, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end investment company organized as a business trust under the laws of the Commonwealth of Massachusetts on December 23, 1993. On December 30, 1993, applicant filed a notification of registration on Form N–8A under section 9(a) of the Act. On the same day, applicant filed a registration statement on Form N–1A to register an indefinite number of share of beneficial interest under section 8(b) of the Act and the Securities Act of 1933. The registration statement was declared effective on September 30, 1994, and applicant's initial public offering commenced on October 3, 1994. Applicant consisted of one series, Warburg, Pincus Short-Term Tax-Advantage Bond Fund ("Fund"), which was composed of two separate classes of shares, Institutional shares and Gamma shares.

2. On February 8, 1996, applicant's board of trustees discussed whether to terminate applicant after being advised by its investment adviser, Warburg, Pincus Counsellors, Inc. ("Counsellors"), that applicant was no longer economically viable and that applicant's continuation was not in the best interests of its shareholders. Shortly thereafter, each of the Fund's existing shareholders was contacted by the Fund's distributor or another Fund agent to discuss with them their various options. By unanimous written consent dated February 27, 1996, the board approved a Plan of Dissolution, Liquidation, and Termination ("Plan") providing for the liquidation, on February 27, 1996 ("Closing Date"), of all of applicant's assets and the distribution of all of the proceeds of the liquidation, in cash form, less an amount provided for applicant's outstanding obligations, taxes and other accrued or contingent liabilities, to applicant's sole shareholder, Counsellors.

3. On the Closing Date, final monthly dividends of $.0260 per Institutional share and $.0242 per Gamma share were paid to all shareholders of record as of February 26, 1996, which, together with all previous such dividends, had the effect of distributing to applicant's shareholders all of its investment company taxable income for the taxable year ended on or prior to the Closing Date. In addition, applicant distributed on the Closing Date all of its net capital gain realized in the taxable period ended on or prior to the Closing Date, which amounted to $.0724 per share for both Institutional and Gamma shares. The proceeds of applicant's liquidation were distributed on the Closing Date to applicant's sole shareholder in accordance with the Plan. All of the applicant's other shareholders redeemed their shares at net asset value on or prior to the Closing Date. Net asset value was determined by dividing applicant's assets, less liabilities, by the total number of its outstanding shares.

4. On February 14, 1996, applicant had 2,740,987 shares of beneficial interest of the Fund outstanding (2,575,021 of which were Institutional shares and 165,966 of which were Gamma shares), having an aggregate net asset value of $27,557,387 and a per share net asset value of $10.05 for Institutional shares and $10.06 for Gamma shares. All portfolio securities sold in connection with the liquidation were publicly traded debt instruments for which fair market value was received. As of the Closing Date, there were no shares of beneficial interest outstanding.

5. Certain expenses were incurred in connection with the liquidation, consisting of auditing and legal expenses. The expenses totalled approximately $18,500 and were borne by the applicant's investment adviser. No brokerage commissions were incurred in connection with the liquidation. No redemption fee was imposed in connection with the Plan. At the time of its liquidation, applicant had amortized all but approximately $137,340.67 of its organization expenses, which amount was absorbed by the investment adviser.

6. As of the date of the application, applicant had no shareholders, assets, or liabilities, and was not a party to any litigation or administrative proceeding. Applicant is neither engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

7. Applicant intends to file a notice of termination with the Office of the Secretary of the Commonwealth of Massachusetts to effect its termination as a Massachusetts business trust.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12038 Filed 5–13–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37171; File No. SR–NSCC–96–04]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving a Proposed Rule Change To Establish the Daily Price and Rate File Phase of the Mutual Fund Profile Service

May 8, 1996.

On January 19, 1996, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–NSCC–96–04) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") to establish the daily price and rate file phase of the mutual fund profile service.[1] On February 27, 1996, NSCC filed an amendment to the proposed rule change.[2] Notice of the proposal was published in the **Federal Register** on March 15, 1996.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

Under the rule change, NSCC will establish a mutual fund profile service ("MFPS") for use by participating NSCC members and will implement the first phase of MFPS, the daily price and rate file. MFPS is intended to provide an automated method of transmitting and receiving information pertaining to mutual funds through a centralized and standardized facility.

NSCC members will join the MFPS either as MFPS data providers, MFPS data receivers, or both.[4] MFPS data providers will transmit electronically MFPS data to NSCC in a format developed by NSCC.[5] MFPS data providers will have the option as to the amount of data pertaining to them to include in MFPS. NSCC then will group and consolidate MFPS data to fit the format developed for distribution and will transmit the data to MFPS data receivers.[6] MFPS data will be transmitted between NSCC and MFPS users through mainframe and/or personal computer interfaces based on users' preferences, needs, and capabilities.

To ensure that MFPS users are capable of adequately using the service, NSCC proposes to limit initially the scope of the MFPS data to include only daily prices and dividend accrual rates

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Letter from Julie Beyers, Associate Counsel, NSCC, to Christine Sibille, Division of Market Regulation, Commission (February 23, 1996).

[3] Securities Exchange Act Release No. 36942 (March 7, 1996), 61 FR 10831.

[4] Mutual funds and fund complexes are likely to be MFPS data providers but in many cases also may participate as MFPS data receivers. MFPS data receivers most likely will consist of broker-dealers or service bureaus.

[5] NSCC will accept batch input files between 4:00 a.m. and 8:00 p.m. E.S.T. Interactive participants can input data between 4:00 a.m. and 9:00 p.m. E.S.T. The system will be available Monday through Friday.

[6] For single and multibatch participants, NSCC will make available MFPS output every two hours between 6:00 a.m. and 4:00 p.m. E.S.T. and hourly from 4:00 p.m. to 9:00 p.m. E.S.T. Between 5:00 p.m. and 8:00 p.m. E.S.T., MFPS output also will be made available every half hour. Interactive participants will receive output as soon as it has been processed by the system.

of funds.[7] After MFPS data providers deliver the daily price and rate data to NSCC, NSCC will consolidate all such information into a daily price and rate file and will distribute such file to MFPS data receivers.[8] This file also will report price and rate corrections as they are identified by data providers.

MFPS data receivers also may elect to receive a file containing prices received from the National Association of Securities Dealers ("NASD") for the current day. This file will include the net asset value for approximately 6,000 funds. NSCC will maintain historical data other than NASD price information within the database for a period of ninety days. NASD price information will be maintained for thirty days.

Other components of MFPS will be implemented in one or more phases after approval of the daily price and rate file.[9] These other components will include (i) the "member profile" which will maintain for each NSCC member participating in MFPS data such as personnel contacts, telephone numbers, addresses, commissions payment procedures, processing capabilities and information regarding NSCC members which act as agents for other NSCC members; (ii) the "security issue profile" which will maintain on each individual fund included in the profile information such as minimum purchase or maintenance requirements, fund features, and various fund processing characteristics; and (iii) the "distribution declaration information profile" which will include projected and/or actual record dates, ex-dates, reinvestment dates, and payable dates for fund dividend and capital gain payments and also may include Rule 12b–1 plan and other commission payout information. Member profile information and security issue profile information will be distributed only to specific NSCC members or to all NSCC members, depending on the instructions of the MFPS data provider. Due to the limited number of initial MFPS users and the limited value of the initial services, NSCC will not charge fees for MFPS at this time.[10]

II. Discussion

Section 17A(b)(3)(F)[11] of the Act requires that the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of transactions. Furthermore, Section 17A(a)(1)(C) of the Act[12] sets forth a Congressional finding that new data processing and communications techniques create the opportunity for more efficient, effective, and safe procedures for clearance and settlement. As discussed below, the Commission believes that NSCC's proposed rule change is consistent with NSCC's obligations under the Act.

Implementation of MFPS will allow NSCC participants to have access to up-to-date information on mutual fund daily prices and dividend accrual rates. This should assist NSCC participants in the timely processing of mutual fund transactions. The Commission believes that the use of MFPS should thus aid in the overall processing efficiency of mutual fund transactions and thereby should help remove impediments to and enhance the mechanism of a national market system for the clearance and settlement of securities transactions. Furthermore, automation and standardization of mutual fund information should help to reduce processing difficulties resulting from the use of inaccurate or incomplete mutual fund information. MFPS also should improve the flow of mutual fund information among participating NSCC members as the current methods of obtaining such information tend to be time consuming, labor intensive, and prone to error. This should assist in fostering cooperation and coordination among persons engaged in the clearance and settlement of securities transactions.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–96–04) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12037 Filed 5–13–96; 8:45 am]

BILLING CODE 8010–01–M

[7] Currently, NSCC members obtain fund price and rate information in a variety of ways including paper transmittals, facsimile, and telephone.

[8] Once submitted, price and rate information cannot be deleted but can be corrected.

[9] Pursuant to Section 19(b)(3)(A) of the Act, NSCC will be required to file with the Commission proposed rule changes regarding all future phases of MFPS prior to the implementation of each such phase, which will be effective upon filing, as long as implementation and use of subsequent MFPS phases will occur as described in this order. Any deviations in the manner of implementation or in the use of subsequent MFPS phases will require proposed rule changes to be filed in accordance with Section 19(b)(2) of the Act.

[10] NSCC will file with the Commission an appropriate rule change proposal to implement fees and charges for MFPS.

[11] 15 U.S.C. § 78q–1(b)(3)(F) (1988).

[12] 15 U.S.C. § 78q–1(a)(1)(C) (1988).

[13] 17 CFR 200.30–3(a)(12) (1995).

SMALL BUSINESS ADMINISTRATION

[License No. 03/73–0203]

Blue Rock Capital, L.P.; Notice of Issuance of a Small Business Investment Company License

On Wednesday, December 6, 1995, a notice was published in the **Federal Register** (Vol. 60, No. 234, FR 62525) stating that an application had been filed by Blue Rock Capital, L.P., at 511 Twaddell Mill Road, Wilmington, Delaware, 19807, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. 107.102 (1995)) for a license to operate as a small business investment company.

Interested parties were given until close of business Thursday, December 21, 1995 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 03/73–0203 on Friday, April 19, 1996, to Blue Rock Capital, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 8, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–11952 Filed 5–13–96; 8:45 am]

BILLING CODE 8025–01–U

[License No. 03/03–0204]

CoreStates Enterprise Capital, Inc.; Notice of Issuance of a Small Business Investment Company License

On Wednesday, December 6, 1995, a notice was published in the **Federal Register** (Vol. 60, No. 234, 60 FR 62525) stating that an application had been filed by CoreStates Enterprise Capital, Inc., at 1345 Chestnut Street, Philadelphia, Pennsylvania, 19107 with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. 107.102 (1995)) for a license to operate as a small business investment company.

Interested parties were given until close of business Thursday, December 22, 1995 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 03/03–0204 on Friday, April 19, 1996, to CoreStates Enterprise Capital, Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: May 8, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–11950 Filed 5–13–96; 8:45 am]

BILLING CODE 8025–01–P

[License No. 06/76–0310]

First Capital Group of Texas II, L.P.; Notice of Issuance of a Small Business Investment Company License

On Wednesday, February 7, 1996, a notice was published in the **Federal Register** (Vol. 61, No. 26, 61 FR 4704) stating that an application had been filed by First Capital Group of Texas II, L.P, at 750 East Mulberry, Suite 305, San Antonio, Texas 78212, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 C.F.R. 107.300 (1996)) for a license to operate as a small business investment company.

Interested parties were given until close of business Thursday, February 22, 1996 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 06/76–0310 on Friday, April 19, 1996, to First Capital Group of Texas II, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: Wednesday, May 8, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–11951 Filed 5–13–96; 8:45 am]

BILLING CODE 8025–01–P

[License No. 02/02–0565]

Societe Generale Capital Corporation; Notice of Issuance of a Small Business Investment Company License

On Wednesday, February 14, 1996, a notice was published in the **Federal Register** (Vol. 61, No. 31, FR 5829) stating that an application had been filed by Societe Generale Capital Corporation, at 1221 Avenue of the Americas, 8th Floor, New York, New York 10020, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 C.F.R. 107.300 (1996)) for a license to operate as a small business investment company.

Interested parties were given until close of business Thursday, February 29, 1996 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02–0565 on Friday, April 19, 1996, to Societe Generale Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 8, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–11953 Filed 5–13–96; 8:45 am]

BILLING CODE 8025–01–U

[Declaration of Disaster Loan Area #2849]

Arkansas; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on April 23, 1996, and an amendment thereto on April 24, I find that Crawford, Franklin, Madison, Marion, Sebastian, and Washington Counties in the State of Arkansas constitute a disaster area due to damages caused by severe storms and tornadoes which occurred April 21 and 22, 1996. Applications for loans for physical damages may be filed until the close of business on June 24, 1996, and for loans for economic injury until the close of business on January 23,1997 at the address listed below: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155, or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Baxter, Benton, Boone, Carroll, Johnson, Logan, Newton, Scott, and Searcy Counties in Arkansas; Adair, LeFlore, and Sequoyah Counties in Oklahoma; and Ozark and Taney Counties in Missouri.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	7.250
Homeowners Without Credit Available Elsewhere	3.625
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 284912. For economic injury the numbers are 883500 for Arkansas, 883600 for Oklahoma, and 883800 for Missouri.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 7, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–11955 Filed 5–13–96; 8:45 am]

BILLING CODE 8025–01–P

Houston District Advisory Council Public Meeting

The U.S. Small Business Administration, Houston District Advisory Council will hold a public meeting on Thursday, May 30, 1996 from 1:30 p.m. in the SBA Conference Room, at their offices at 9301 Southwest Freeway, Suite 550, Houston, Texas 77074–1591, to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Milton Wilson, Jr., District Director, U.S. Small Business Administration, 9301 Southwest Freeway, Suite 550, Houston, TX 77074–1591, (713) 773–6500.

Dated: May 7, 1996.

Bill Combs,

Associate Administrator for Office of Communication and Public Liaison.

[FR Doc. 96–11954 Filed 5–13–96; 8:45 am]

BILLING CODE 8025–01–U

[Declaration of Disaster Loan Area #2850]

Illinois; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on April 23, 1996, and an amendment thereto on April 30, I find that Champaign, Henry, Lake, Macon, and Marion Counties in the State of Illinois constitute a disaster area due to damages caused by severe storms and tornadoes which occurred April 18 and 19, 1996. Applications for loans for physical damages may be filed until the close of business on June 24, 1996, and for loans for economic injury until the close of business on January 23, 1997 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308, or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Bureau, Christian, Clay, Clinton, Cook, DeWitt, Douglas, Edgar, Fayette, Ford, Jefferson, Knox, Logan, McHenry, McLean, Mercer, Moultrie, Pliatt, Rock Island, Sangamon, Shelby, Stark, Vermilion, Washington, Wayne, and Whiteside Counties in Illinois; and Kenosha County, Wisconsin.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	7.250
Homeowners Without Credit Available Elsewhere	3.625
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 285012. For economic injury the numbers are 883700 for Illinois and 884000 for Wisconsin.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 7, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–11956 Filed 5–13–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 2380]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea and Associated Bodies; Working Group on Stability and Load Lines and on Fishing Vessels Safety; Notice of Meeting

The Working Group on Stability and Load Lines and on Fishing Vessels Safety of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 9 a.m. on Thursday, May 30, 1996, in Room 4315, at U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593–0001. This meeting will discuss the upcoming 40th Session of the Subcommittee on Stability and Load Lines and on Fishing Vessels Safety (SLF) and associated bodies of the International Maritime Organization (IMO) which will be held on September 2–6, 1996, at the IMO Headquarters in London, England.

Items of discussion will include the following:

a. The role of human factors in marine casualties;

b. Harmonization of probabilistic damage stability provisions for all ship types;

c. Technical revisions to the 1966 Load Line Convention;

d. Safety aspects of ballast water exchange;

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Paul Cojeen or Mr. Jaideep Sirkar, U.S. Coast Guard Headquarters, Commandant (G–MMS–2), Room 1308, 2100 Second Street, SW, Washington, DC 20593–0001 or by calling: (202) 267–2988.

Dated: May 2, 1996.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 96–11998 Filed 5–13–96; 8:45 am]

BILLING CODE 4710–70–M

[Public Notice No. 2381]

Shipping Coordinating Committee Council and Associated Bodies; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 10:00 a.m on Tuesday, June 11, 1996, in Room 6103, at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. The purpose of the meeting is to finalize preparations for the 76th session of the Council and the 42nd Session of the Technical Cooperation Committee of the International Maritime Organization (IMO), which is scheduled for June 17–21, 1996, at IMO Headquarters in London. At the meeting, discussions will focus on papers received and draft U.S. positions. Among other things, the items of particular interest are:

a. Reports of the IMO committees.

b. Review of the IMO technical cooperation activities.

c. Relations with the United Nations.

d. Reports for World Maritime University and International Maritime Law Institute.

e. Work program and budget for 1996–1997.

f. Administrative and financial matters.

Members of the public may attend the meeting up to the capacity of the room. Interested persons may seek information by writing: Mr. Gene F. Hammel, U.S. Coast Guard Headquarters (G–CI), 2100 Second Street, SW., Room 2114, Washington, DC 20593–0001, by calling: (202) 267–2280, or by faxing: (202) 267–4588.

Dated: May 2, 1996.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 96–11999 Filed 5–13–96; 8:45 am]

BILLING CODE 4710–70–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

Reports, Forms and Recordkeeping Requirements

AGENCY: Department of Transportation (DOT), United States Coast Guard.

ACTION: Notice and request for comments.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 USC Chapter 35).

DATES: Interested parties are invited to submit comments on or before July 8, 1996.

ADDRESSES: Written comments on the DOT information collection request should be forwarded, as quickly as possible, to Edward Clarke, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the DOT information collection requests submitted to OMB may be obtained from Barbara Davis, 2100 Second Street, S.W.; G–SII; Washington, D.C. 20593, Telephone number (202) 267–2326.

SUPPLEMENTARY INFORMATION: Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1995, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to OMB for approval or renewal under that Act. OMB reviews and approves agency submissions in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms and the reporting and recordkeeping requirements as required by 5 CFR 1320.8(d). This notice identifies a new information collection that the United States Coast Guard is submitting to OMB for approval. USCG will request a three term of approval for this information collection requirement when approved by OMB.

The following information collection roquest was submitted to OMB on May 8, 1996:

OMB No: 2115–New.

Administration: United States Coast Guard.

Title: Security for Passenger Vessels and Passenger Terminals.

Summary: The proposed collection-of-information requirements are under various provisions in parts 120.300; 120.305; 120.307; 128.300; 128.305; and 128.307. This information collection is needed to protect the public from injury, prevent damage to property, and avoid economic losses.

Frequency: Once for each covered vessel and terminal; then, on occasion of amendment of plan.

Burden Estimate: 18,684 hours.

Respondents: 173.

Form(s): None.

Average Burden Hours Per Respondent: 108 hours.

Issued in Washington, D.C. on May 8, 1996.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 96–12031 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–14–P

Federal Aviation Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration.

ACTION: Notice and request for comments.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 USC Chapter 35).

DATES: Interested persons are invited to submit comments on or before June 7, 1996.

ADDRESSES: Written comments on the DOT information collection requests should be forwarded, as quickly as possible, to Edward Clarke, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Judith Street, ABC–100; Federal Aviation Administration; 800 Independence Avenue, S.W.; Washington, DC 20591; Telephone number (202) 267–9895.

SUPPLEMENTARY INFORMATION: Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1995, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to OMB for approval or renewal under that Act. OMB reviews and approves agency submissions in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms and the reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Items Submitted to OMB for Review

The following information collection requests were submitted to OMB on May 8, 1996:

Title: Dealer's Aircraft Registration Certification Application.

OMB Control Number: 2120–0024.

Abstract: An application for dealer's certificate is filled out by any individual or company engaged in manufacturing, distributing or selling aircraft who want to fly those aircraft with a dealer's certificate instead of registering them permanently in his name.

Need: Title 49, United States Code, Subpart III, Chapter 441, Sections 44103–44106, provides for the issuance of dealer's aircraft registration certificates. The information is needed by the Civil Aviation Registry to determine eligibility of applicant to receive Dealer's Certificate and issue the same to the correct name and address.

Respondents: The respondents are an estimated 1283 individuals or companies engaged in manufacturing, distributing or selling aircraft who want to fly those aircraft with a dealer's certificate instead of registering them permanently in his/her name.

Frequency: On occasion.

Burden: 962 hours annually.

Title: Airport Operating Certificate.

OMB Control Number: 2120–0063.

Abstract: To operate an airport serving air carriers, a person must obtain and maintain an Airport Operating Certificate. The application initiates the certification process including airport inspection and documentation of safe airport operations and equipment. The certification remains valid if safety standards are maintained as verified by inspections, records, and reports.

Need: 49 USC 44706 makes unlawful the operation of an airport servicing air carrier aircraft designed for more than 30 passenger seats without or in violation of the terms of an Airport perating Certificate (AOC).

Respondents: Approximately 650 State, Local or Tribal Governments operating airports.

Frequency: On occasion.

Burden: Approximately 173,069 hours annually.

Comments on these collections should be submitted to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., Washington, DC 20503, Attention: Desk Officer for FAA.

Issued in Washington, D.C. on May 8, 1996.

Phillip A. Leach,

Information Clearance Officer, United States Department of Transportation.

[FR Doc. 96–12032 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–P

Establishment of the Office of Dispute Resolution for Acquisition (ODR)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of establishment.

SUMMARY: The Federal Aviation Administration (FAA) is announcing the establishment, within the FAA Office of the Chief Counsel, of the Office of Dispute Resolution for Acquisition (ODR). Protests and contract disputes related to FAA Screening Information Requests (SIRs), contract awards, and contracts, must be filed directly with this office.

ADDRESSES: The complete text of the FAA's new Acquisition Management System (including the section on Resolution of Protests and Disputes) is available on the Internet at http://www.faa.gov/asu/asu100/acq-reform/acq__home.htm. Use of the Internet World Web Site is strongly encouraged for access to copies of the FAA Acquisition Management System. If Internet service is not available, requests for copies may be made to the following address: FAA Acquisition Reform, ASU–100, Rm. 435, 800 Independence Ave. SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Jerome P. Jones, Jr., Acting Director, Office of Dispute Resolution, Federal Aviation Administration, 800 Independence Avenue SW.—Suite 900 East, Washington, DC 20591, (202) 267–3222. Please also use this address when filing protests or contract disputes with the FAA.

SUPPLEMENTARY INFORMATION: On October 31, 1995, Congress passed an act, Making Appropriations for the Department of Transportation and Related Agencies, for the Fiscal Year Ending September 30, 1996, and for Other Purposes (the 1996 DOT Appropriations Act). On November 15, 1995, the President signed this bill into law. In Section 348 of this law, Congress directed the Administrator of the FAA to develop and implement a new acquisition management system that addresses the unique needs of the agency. At a minimum, this system is to provide for more timely and cost-effective acquisitions. The FAA's new acquisition management system went into effect on April 1, 1996 [see Notice of availability at 61 FR 15155 (April 4, 1996)]. As part of this system, the FAA has developed an internal mechanism for resolving disputes, one that will help ensure that offerors and contractors are treated fairly and that disputes are resolved as quickly and inexpensively as possible for all parties. Protests concerning SIRs and award of contracts, as well as disputes pertaining to contract administration, will be resolved, within the agency, through the FAA Dispute Resolution System. The new system will rely heavily on Alternative Dispute Resolution (ADR) techniques.

The FAA Office of Dispute Resolution is established as an organization that is independent of agency organizations responsible for procurement actions and that reports to the FAA Chief Counsel. In addition to a Director, the office staff will, in time, include other Dispute Resolution Officers as warranted. The office is located at FAA Headquarters. On a case-by-case basis, the ODR staff may be augmented by Dispute Resolution Officers in the FAA's regional offices and centers or by third party neutrals, as deemed necessary by the FAA Chief Counsel. The FAA will promulgate rules of procedure governing the dispute resolution process. Until these rules are finalized, procedures and other provisions related to dispute resolution will be included or referenced in all FAA SIRs and contracts, made available to offerors and contractors upon request, or provided through briefings.

Issued in Washington, DC, on May 7, 1996.

Nicholas G. Garaufis,

Chief Counsel, AGC–1.

[FR Doc. 96–12084 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–M

Powered Parachute Design Standards for Acceptance Under Primary Category

AGENCY: Federal Aviation (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of design standards for powered parachutes achieving acceptance under primary category. Powered parachute design standards are applicable designs providing one-to-four seats, 2,700 pound maximum takeoff weight, and minimum level flight speed of 61 knots or less.

DISCUSSION: Sport aviation, essentially a fly-for-fun activity, is dependent upon simple, low performance, low cost airplanes. The FAA recognizes this in the creation of primary category (14 CFR part 21, § 21.17), which establishes a simpler process for certification, production control, and establishment of design standards for all types of aircraft. In view of the fully supportive comments, this notice makes available design standards for powered parachute airplanes. The value of this class of airplane is demonstrated by the number of 14 CFR part 103 ultralite and amateur-built designs currently active with over 500,000 flight hours accumulated.

ADDRESSES: Copies of Powered Parachute Design Standards can be obtained from the following: Small Airplane Directorate, Standards Office (ACE–110), Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106.

FOR FURTHER INFORMATION CONTACT: Terre Flynn, Standards Staff (ACE–110), telephone number (816) 426–6941.

Issued in Kansas City, Missouri, on May 8, 1996.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–12083 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Modesto City-County Harry Sham Field Airport, Modesto, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application to use revenue from a PFC at Modesto City-County Harry Sham Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508)) and 14 CFR Part 158.

DATES: Comments must be received on or before June 13, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Airports Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009 or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Howard Cook, Airport Manager of the Modesto City-County Airport at the following address: 617 Airport Way, Modesto, California 95354. Air carriers and foreign air carriers may submit copies of written comments previously provided to the city of Modesto under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (415) 876–2805. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Modesto City-County Harry Sham Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508)) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). On April 26, 1996, the FAA determined that the application to use the revenue from a PFC submitted by the city of Modesto was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 1, 1996.

The following is a brief overview of the application:

Level of proposed PFC: $3.00.

Proposed charge effective date: August 1, 1994.

Proposed charge expiration date: August 1, 2000.

Total Estimated PFC revenue to be used on this use project: $17,800.

Brief description of the use projects: Runway 10L/28R Aircraft Holding Bays.

Class or classes or air carriers which the public agency has requested not be required to collect PFCs: Air Taxi Operators.

This project was previously approved as an impose only project contained within an overall PFC package which was approved on May 23, 1994. Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the city of Modesto, CA.

Issued in Hawthorne, California, on April 26, 1996.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 96–12087 Filed 5–14–96; 8:45 am]

BILLING CODE 4910–13–M

Surface Transportation Board [1]

[Docket No. AB–454X]

The Bay Line Railroad, L.L.C.—Abandonment Exemption— in Jackson and Holmes Counties, FL

AGENCY: Surface Transportation Board.

ACTION: Notice of Exemption.

SUMMARY: The abandonment by The Bay Line Railroad, L.L.C. of its Graceville Branch, consisting of 9.19 miles of rail line between milepost 61.3, near Campbellton, and milepost 70.49, at Graceville, in Jackson and Holmes Counties, FL, is exempted from the prior approval requirements of 49 U.S.C. 10903-04, subject to standard employee protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 13, 1996. Formal expressions of intent to file an OFA [2] under 49 CFR 1152.27(c)(2) must be filed by May 24, 1996; petitions to stay must be filed by May 29, 1996; requests for a public use condition must be filed by June 3, 1996; and petitions to reopen must be filed by June 10, 1996.

ADDRESSES: Send pleadings referring to Docket No. AB-454X to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) Petitioner's representative Patricia E. Dietrich, Slover & Loftus, 1224 Seventeenth Street, N.W., Washington, DC 20036.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987)

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–7513. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., 1201 Constitution Avenue, N.W., Room 2229, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services at (202) 927–5721.]

Decided: April 29, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–12054 Filed 5–13–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board [1]

[Docket No. AB–6 (Sub-No. 367X)]

Burlington Northern Railroad Company—Abandonment Exemption—In Crawford County, KS

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: The Board exempts from the prior approval requirements of 49 U.S.C. 10903–04 the abandonment by Burlington Northern Railroad Company of its line of railroad from milepost 134.20 to milepost 135.18 and milepost 136.70 to milepost 139.10, a total distance of 3.38 miles in Pittsburg, Crawford County, KS, subject to standard labor protective and environmental conditions. Interim trail use and a public use condition are imposed for the line segment from milepost 136.70 to milepost 139.10.

DATES: Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 13, 1996. Formal expressions of intent to

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

file an OFA under 49 CFR 1152.27(c)(2)[2] must be filed by May 24, 1996; petitions to stay must be filed by May 29, 1996; requests for a public use condition conforming to 49 CFR 1152.28(a)(2) must be filed by June 3, 1996; and petitions to reopen must be filed by June 10, 1996.

ADDRESSES: Send pleadings referring to Docket No. AB–6 (Sub-No. 367X) to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423, and (2) Petitioner's representative: Sarah J. Whitley, 3800 Continental Plaza, 777 Main St., Fort Worth, TX 76102–5384.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–7513. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: May 1, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–12052 Filed 5–13–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board[1]

[Docket No. AB–289 (Sub-No. 3X), AB–290 (Sub-No. 168X)]

Central Railroad Company of Indianapolis—Discontinuance of Service Exemption—Between Kokomo and Argos in Howard, Miami, Fulton, and Marshall Counties, IN; Norfolk and Western Railway Company—Abandonment Exemption—Between Kokomo and Rochester in Howard, Miami, and Fulton Counties, IN

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption and interim trail use DOT.

SUMMARY: The Board exempts from the prior approval requirements of 49 U.S.C. 10903–04: (a) Norfolk and Western Railway Company's (N&W) abandonment of its line between milepost I–57.2 at or near Kokomo, IN, and milepost I–74.2, at Peru, IN; (b) N&W's discontinuance of service over the segment of the line between milepost I–74.2, at Peru, and milepost I–95.6, at or near Rochester, IN, and abandonment of this line segment, provided that the abandonment of this segment may not be consummated until Indiana Hi-Rail Corporation's discontinuance of its trackage rights over this segment has been authorized; and (c) Central Railroad Company of Indianapolis's discontinuance of service over 51.4 miles of rail line between milepost I–57.2, at or near Kokomo, and milepost I–108.6 at or near Argos, IN, in Howard, Miami, Fulton, and Marshall Counties, IN, subject to standard employee protective, environmental, trail use, and public use conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 13, 1996. Formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2)[2] and requests for interim trail use/rail banking under 49 CFR 1152.29 must be filed by May 24, 1996. Petitions to stay must be filed by May 29, 1996. Requests for a public use condition must be filed by June 3, 1996. Petitions for reopening must be filed by June 10, 1996.

ADDRESSES: Send pleadings, referring to Docket Nos. AB–289 (Sub-No. 3X) and AB–290 (Sub-No. 168X), to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423–0001; and (2) Petitioners' representatives: Thomas F. McFarland, Jr., Belnap, Spencer, McFarland and Herman, 20 North Wacker Drive, Suite 3118, Chicago, IL 60606–3101; and Robert J. Cooney, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–7513. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423–0001. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services at (202) 927–5721.]

Decided: April 26, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–12053 Filed 5–13–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1995 Rev., Supp. No. 13]

Surety Companies Acceptable on Federal Bonds: The Connecticut Surety Company

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1995 Revision, on page 34439 to reflect this addition:

The Connecticut Surety Company. BUSINESS ADDRESS: City Place II, 185 Asylum Street, Hartford, CT 06103–3403. PHONE: (860) 527–7806. UNDERWRITING LIMITATION *b/*: $942,000. SURETY LICENSES *c/*: AR, CA, CT, DE, DC, LA, NE, NY, ND, OH, PA, SC, TX. INCORPORATED IN: Connecticut.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed and downloaded through the Internet (http://www.ustreas.gov/treasury/bureaus/finman/c570.html) or through our computerized public bulletin board system (FMS Inside Line) at (202) 874–6817/6872/6953/7034/8608. A hard copy may be purchased from the Government Printing Office (GPO), Washington, DC, telephone (202) 512–0132. When ordering the Circular from GPO, use the following stock number: 048–000–00489–0.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782, telephone (202) 874–6765.

Dated: April 30, 1996.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc 96–12099 Filed 5–13–96; 8:45 am]

BILLING CODE 4815–35–M

[Dept. Circ. 570, 1995 Rev., Supp. No. 14]

Surety Companies Acceptable on Federal Bonds; Evergreen National Indemnity Company

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1995 Revision, on page 34440 to reflect this addition:

Evergreen National Indemnity Company. BUSINESS ADDRESS: P.O. Box 18295, Columbus, OH 43218. PHONE: (614) 893–1773. UNDERWRITING LIMITATION *b/*: $1,077,000. SURETY LICENSES *c/*: AL, AK, CO, DE, DC, GA, ID, IA, KY, MI, MN, MT, NJ, NM, ND, OH, OK, PA, SC, SD, TN, UT, WA, WI. INCORPORATED IN: Ohio.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed and downloaded through the Internet (http://www.ustreas.gov/treasury/bureaus/finman/c570.html) or through our computerized public bulletin board system (FMS Inside Line) at (202) 874–6817/6872/6953/7034/8608. A hard copy may be purchased from the Government Printing Office (GPO), Washington, DC, telephone (202) 512–0132. When ordering the Circular from GPO, use the following stock number: 048–000–00489–0.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782, telephone (202) 874–6765.

Dated: May 1, 1996.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 96–12100 Filed 5–13–96; 8:45 am]

BILLING CODE 4815–35–M

Internal Revenue Service

Announcement of Open Membership Application Period for the Information Reporting Program Advisory Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

SUMMARY: In 1991 the Internal Revenue Service (IRS) established the Information Reporting Program Advisory Committee (IRPAC). The primary purpose of IRPAC is to provide an organized public forum for discussion of relevant information reporting issues between the officials of the IRS and representatives of the payer community. IRPAC offers constructive observations about current or proposed policies, programs, and procedures, and when necessary, suggests ways to improve the operation of the Information Reporting Program. IRPAC is currently comprised of 20 representatives from various segments of the private sector payer community. Ten of these appointments to IRPAC will expire at the end of 1996. Additional members will be selected for two-year terms beginning in January 1997. National business, technical, and professional associations are encouraged to submit *multiple* nominees.

SUPPLEMENTARY INFORMATION: IRPAC reports to the National Director, Service Center Compliance, who is the executive responsible for information reporting and is charged with its system-wide planning and improvement. IRPAC is instrumental in providing advice to enhance the IRP Program. Increasing participation by external stakeholders in the planning and improvement of the tax system will help achieve the goals of increasing voluntary compliance and reduction of burden. IRPAC members are not paid for their time or services, but consistent with Federal regulations, they will be reimbursed for their travel and lodging expenses to attend two two-day public meetings each year. IRPAC members are expected to attend and pay their own way to four subcommittee meetings each year; these meetings are generally held in Washington, DC or New York, NY.

The IRS is interested in representation from different areas of the payer community (e.g., software developers, small business, real estate, forms developers, corporate compliance, property and casualty insurance, employee plans, etc.). Anyone wishing to be considered for membership on IRPAC should so advise the IRS. Please complete the following application questionnaire (or a facsimile thereof prepared on a word processor), and forward it to Ms. Kate LaBuda of the Office of Payer Compliance, at the address below.

ADDRESSES: Internal Revenue Service, CP:CO:SC:P, 1111 Constitution Avenue, N.W., Room 2013, Washington, DC 20224.

DATE: Completed questionnaires (or facsimiles) should be received by IRS no later than Friday, June 14, 1996. Questionnaires received after this date will not be considered. An acknowledgment letter will be sent upon receipt.

FOR FURTHER INFORMATION CONTACT: To have a copy of the application questionnaire mailed or faxed to you, please call Ms. Tommie Matthews at 202–622–4214 (not a toll-free number). For general information about the application process or IRPAC, call Kate LaBuda at 202–622–3404 (not a toll-free number).

Dated: May 6, 1996.

Approved:

Robert Longford,

Acting Director, Officer of Payer Compliance.

Attachment

Information Reporting Program Advisory Committee

Membership Application Questionnaire

The following questions must be answered by anyone interested in becoming a member of the Information Reporting Program Advisory Committee (IRPAC). Applications (or facsimiles produced on a word processor) must be received at the address listed below by June 14, 1996. Those received after this date will not be considered. All applications received will be acknowledged. Questions may be directed to Kate LaBuda at 202–622–3404.

Ms. Kate LaBuda, CP:CO:SC:P, Internal Revenue Service, Room 2013, 1111

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[2] *See Exempt. of Rail Line Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to proceedings that were pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction under 49 U.S.C. 10903. Therefore, citations are to former sections of the statute.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

Constitution Avenue, N.W.,
Washington, DC 20224

1. Name:
2. Title:
3. Company or Organization Name:
4. Business Address:
5. Business Phone:
6. Fax Number:
7. Home Address:
8. Home Phone:

9. If you are applying on behalf of an organization or association other than your employer, please state the name, and address of that organization. Also, provide a letter of reference from that organization stating that you are nominated on their behalf. This letter should contain the name of a contact and this contact's phone number.

10. List professional credentials (e.g., Ph.D., CPA, Enrolled Agent, Attorney, Accountant, etc.)

11. Check the one segment of the Information Reporting Program (IRP) payer community to which the organization that you represent, and your experience, most closely relate:

___ Real Estate
___ Transmitter/Forms Developer
___ Software Developer
___ Insurance: Property & Casualty
___ Insurance: Life
___ Securities
___ Mutual Funds
___ Payroll
___ State & Local Government
___ Corporate Compliance
___ Small Business Compliance
___ Public Accounting
___ Employee Plans
___ Trust Company
___ Corporate Transfer Agent/Utilities
___ Large Financial Institution
___ Small Financial Institution
___ Other (Please specify. ___)

12. List the number of years of IRP-related experience you have, and specific sources of this IRP experience. (Account for all years of IRP experience claimed.)

13. Identify organizations to which you belong and any relevant leadership positions you have held.

14. List any previous IRS employment (please state position/s, title/s, and length of time in each position):

15. Please propose two topic ideas that you feel would be appropriate for discussion by IRPAC. Include a short description (two sentences) of each topic.

16. Have you ever served on IRPAC or the Commissioner's Advisory Group (CAG)? If so, please explain. Do you currently have an application pending for CAG membership?

The Following Three Items Are Required for an FBI Name Check:

17. Date of Birth:
18. Place of Birth:
19. Other names ever used:

The Following Items Are Required for an IRS Tax Check (Please Note That a Tax Check Is Not a Tax Audit)

I hereby authorize the Internal Revenue Service to perform the standard Federal Advisory Committee member tax check, (pursuant to 26 U.S.C. 6103; 5 U.S.C. 1303; Executive Orders 9397, 11222, 10450; CFR 5.2; 31 CFR Part O, Treasury Department Order Nos. 82 (Revised) and 150–87) and to provide this information to the Assistant Secretary (Administration) of the Treasury Department.

I understand that the purpose of such tax check and income tax filing record check is to promote public confidence in the integrity of the Treasury Department and its administration of the Federal tax system. I have been advised that my Social Security Number is required to identify my tax records accurately. I also understand that this tax check must be completed prior to my appointment to this Federal Advisory Committee and I hereby voluntarily provide the following information:

20. Social Security Number (SSN):

21. Spouse's name and SSN (if married and filing jointly):

22. Name(s) and address(es) under which tax returns were filed for the past three years.

The Following Item Is Required Because of the Foreign Agents Registration Act (FARA), As Amended

23. I presently ____ am / ____ am not required to register as an agent of a foreign principal under FARA, as amended.

Note: Pursuant to 18 U.S.C. sec. 219, an individual who is required to register as an agent of a foreign principal under FARA is prohibited from serving on IRPAC. By executing this questionnaire, you agree that (1) if you are required to register as an agent of a foreign principal under the FARA before your term commences on IRPAC, you will terminate any and all such agencies prior to beginning your tenure and will provide appropriate verification therefor; and (2) you will immediately resign from IRPAC if you become such an agent at any time during your term.

Certification

24. I certify that, to the best of my knowledge and belief, all of my statements are true, correct, complete, and made in good faith. I also agree to the background checks set forth herein.

Signature

Date

[FR Doc. 96–12090 Filed 5–13–96; 8:45 am]
BILLING CODE 4830–01–U

federal register

Tuesday
May 14, 1996

Part II

Environmental Protection Agency

40 CFR Part 141

National Primary Drinking Water Regulations: Monitoring Requirements for Public Drinking Water Supplies; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[WH–FRL–5501–1]

RIN 2040–AC24

National Primary Drinking Water Regulations: Monitoring Requirements for Public Drinking Water Supplies: Cryptosporidium, Giardia, Viruses, Disinfection Byproducts, Water Treatment Plant Data and Other Information Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today, EPA is promulgating an information collection rule (ICR) which establishes monitoring and data reporting requirements for large public water systems (PWSs). This rule is intended to provide EPA with information on the occurrence in drinking water of (1) chemical byproducts that form when disinfectants used for microbial control react with chemicals already present in source water (disinfection byproducts (DBPs)) and (2) disease-causing microorganisms (pathogens), including Cryptosporidium. Also, EPA will collect engineering data on how PWSs currently control such contaminants. All data collected pursuant to this rule will be available to the public via the Internet.

This information is being collected because a Regulatory Negotiation on disinfectants and DBPs concluded that additional information is needed to assess the potential health problem created by the presence of DBPs and pathogens in drinking water and to assess the extent and severity of risk in order to make sound regulatory and public health decisions. These contaminants may have adverse human health effects, including cancer, liver and kidney damage, and may cause microbial disease such as cryptosporidiosis and hepatitis.

EPA will use information generated by this rule, along with concurrent research, to determine whether revisions need to be made to EPA's current drinking water filtration and disinfection rule and to determine the need for new regulations for disinfectants and DBPs.

EPA has determined that the rule's objectives can be satisfied, and sufficient information collected, by requiring only large PWSs to collect the data. Surface water systems serving at least 100,000 people and ground water systems serving at least 50,000 must monitor. EPA will supplement this information with EPA-funded surveys that target smaller PWSs. The specific information required is based on the number of people served, the source of water (i.e., surface water or ground water), and the type(s) of treatment used.

Although *Cryptosporidium* is an important drinking water pathogen, it poses difficult measurement challenges. To ensure quality of data, EPA has and will continue to take extraordinary steps. The first is to continue an extensive method analysis and possible improvements. The second is to establish stringent laboratory approval criteria to increase *Cryptosporidium* data quality for developing a national occurrence data base and conducting a national cost assessment of possible future rules. Finally, EPA will supplement the collection of *Cryptosporidium* data in this rule with a separate, EPA-funded survey. EPA believes this combination of data collection activities will produce the best data possible.

DATES: The effective date for this final rule is June 18, 1996. The incorporation by reference of certain publications listed in the rule is approved by the Director of the **Federal Register** as of June 18, 1996. This rule shall remain effective until December 31, 2000.

The information collection requirements contained in subpart M of part 141 have not been approved by the Office of Management and Budget (OMB) and are not effective until OMB has approved them. EPA will publish a final rule announcing the effective date when OMB approves the information collection requirements.

ADDRESSES: Copies of the public comments received, EPA responses, and all other supporting documents (including references included in this notice) are available for review at the U.S. Environmental Protection Agency (EPA) Drinking Water Docket (MC–4101), 401 M Street SW, Washington, DC 20460. For access to Docket materials, call (202) 260–3027 between 9 am and 3:30 pm (Eastern) for an appointment. Copies of major supporting documents cited in the reference section of this notice are available for inspection at EPA's regional offices, listed below. Copies of "ICR Sampling Manual", "DBP/ICR Analytical Methods Manual", "ICR Manual for Bench- and Pilot-scale Studies", "ICR Microbial Laboratory Manual", "Reprints of EPA Methods for Chemical Analyses under the Information Collection Rule", and "ICR Water Utility Database System Users' Guide" are available for a fee from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. The toll-free number is 800–336–4700, local 703–487–4650. Copies of "Standard Methods for the Examination of Water and Wastewater", 19th Ed., 1995, are available from the American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005. Copies of "Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources", Appendices C and O, 1991, are available from American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, Telephone (800) 426–4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding Federal holidays, from 9:00 am to 5:30 pm Eastern Time. Since this rule will be directly implemented by EPA rather than States, EPA recommends that inquiries be directed to EPA. For technical inquiries, contact Tom Grubbs or Paul S. Berger, Ph.D., Office of Ground Water and Drinking Water (4603), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, telephone (202) 260–7270 (Grubbs) or (202) 260–3039 (Berger). For implementation inquiries, contact Barbara Wysock, Technical Support Division, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268, telephone (513) 569–7906, or your EPA regional office.

SUPPLEMENTARY INFORMATION:

EPA Regional Office Points of Contact for the Information Collection Rule

I. Kevin Reilly, Water Supply Section, JFK Federal Bldg., Room 203, Boston, MA 02203, (617) 565–3619
II. Michael Lowy, Water Supply Section, 290 Broadway, 24th Floor, New York, NY 10007–1866, (212) 637–3830
III. Ghassan Khaled, Drinking Water Section (3WM41), 841 Chestnut Building ,Philadelphia, PA 19107, (215) 597–8992
IV. David Parker, Water Supply Section, 345 Courtland Street, Atlanta, GA 30365, (404) 347–2913 ext. 6493
V. Kimberly Harris, Water Supply Section, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–2650
VI. Blake L. Atkins, Team Leader, Water Supply Section, 1445 Ross Avenue, Dallas, TX 75202, (214) 665–2297
VII. Stan Calow, State Programs Section, 726 Minnesota Ave., Kansas City, KS 66101, (913) 551–7410
VIII. Bob Benson or Bob Clement, Public Water Supply Section (8WM–DW), 999 18th Street, Suite 500, Denver, CO 80202–2466, (303) 312–6243 (Benson), (303) 312–6079 (Clement)
IX. Barry Pollock, Water Supply Section, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1913
X. Wendy Marshall, Drinking Water Unit, 1200 Sixth Avenue (OW–136), Seattle, WA 98101, (206) 553–1890

Regulated Entities

Entities potentially regulated by this action are public water systems that treat surface water and serve at least 100,000 people and public water systems that treat ground water and serve at least 50,000 people. Regulated categories and entities include:

Category	Example of regulated entities
Public water systems	Public water systems that treat surface water and serve at least 100,000 people.
	Public water systems that treat ground water and serve at least 50,000 people.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in this table could also be regulated. To determine whether your public water system is regulated by this action, you should carefully examine the applicability criteria in § 141.141 of the rule. If you have questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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Abbreviations Used in This Notice

°C—degrees Celsius
CFR—Code of Federal Regulations
CT—product of disinfectant residual concentration (C (mg/l)) and contact time (T (minutes))
DBP—disinfection byproduct
D/DBPR—Disinfectants/Disinfection Byproducts Rule
DSE—distribution system equivalent
EPA—Environmental Protection Agency
ESWTR—Enhanced Surface Water Treatment Rule
eqn—equivalents
ft—foot or feet
ft²—square feet
ft³—cubic feet
FR—**Federal Register**
GAC—granular activated carbon
gpd—gallons per day
GWUDI—ground water under the direct influence of surface water
HAA5—haloacetic acids (five)
HAA6—haloacetic acids (six)
HAN—haloacetonitriles
HK—haloketones
ICR—Information Collection Rule
MGD—million gallons per day
mg/l—milligrams per liter
nm—nanometers
OMB—Office of Management and Budget
PE—performance evaluation
psi—pounds per square inch
PWS—public water system
PWSID—public water system identification
RSSCT—rapid small-scale column test
SCFM—standard cubic feet per minute
SDS—simulated distribution system
THM4—trihalomethanes (four)
TOC—total organic carbon
TOX—total organic halides
TTHM—total trihalomethanes
µm—micrometers
UFCTOX—Uniform formation conditions for total organic halides
U.S.C.—United States Code
WIDB—Water Industry Data Base

I. Summary of Regulation

Acting under the requirement of the Safe Drinking Water Act to regulate additional contaminants that may cause adverse health effects, EPA convened a regulatory negotiation in 1992 due to concerns over the health effects of chemical byproducts (known as disinfection byproducts (DBPs)). DBPs form in drinking water when disinfectants used for microbial control react with organic and inorganic chemicals already present in source water. The regulatory negotiation was convened to determine how the risk-risk issue of controlling the level of DBPs in drinking water on the one hand while controlling exposure to disease-causing microbes (pathogens) on the other hand is best addressed.

The Negotiating Committee, consisting of representatives of State and local regulatory and public health agencies, local elected officials, consumer groups, public water systems (PWSs), environmental groups, and EPA, met for more than six months to develop a plan to concurrently control DBPs and microorganisms. The Committee determined that an important component of their plan would be to develop additional information to better define the problem and better identify possible solutions. To develop this information, the Committee agreed that PWSs should be required to collect occurrence and treatment data to characterize disinfectants, DBPs, and microorganisms in drinking water. The Committee also decided that some PWSs should conduct treatment studies to evaluate the use of granular activated carbon or membranes to remove DBP precursors. The information collected, in addition to concurrently conducted health effects and technology research, will be used to evaluate the need for possible changes to the current Surface Water Treatment Rule (SWTR) and to evaluate the need for future regulations for disinfectants and DBPs. All data collected pursuant to this rule will be available to the public via the Internet. (See Section III below and the preamble to the proposed Information Collection Rule (ICR) [59 FR 6332, February 10, 1994] for a more detailed discussion of the regulatory negotiation process).

Today, EPA is promulgating an information collection rule (ICR) which requires large PWSs to generate and provide the Agency with specific monitoring data and other information characterizing their water systems. There are three classes of PWSs affected, each somewhat differently, by this rule. The three general classes are: (1) PWSs that serve at least 100,000 people and use surface water; (2) PWSs that serve at least 100,000 people, and use only ground water as the source; and (3) PWSs that serve at least 50,000, but less than 100,000, people and use ground water as the source. Throughout this rule and preamble, requirements for

PWSs or treatment plants that use ground water under the direct influence of surface water as a source are the same as those for surface water.

Table I–1 contains a summary of today's rule, which will appear in subpart M to 40 CFR Part 141.

TABLE I–1.—GENERAL SUBPART M REQUIREMENTS [1]

Type of PWS [2]	DBP and related monitoring [3]	Microbial Monitoring [4]	Treatment Studies [5]
PWS using surface water [6] serving ≥100,000	Yes—monthly for 18 months	Yes—monthly for 18 months	Yes.
PWS using ground water serving ≥100,000	Yes—monthly for 18 months	NA	Yes.
PWS using ground water serving 50,000 to <100,000	NA	NA	Yes.

[1] These are general requirements and do not include regulatory allowances for reduced monitoring and other specific provisions provided in the rule.

[2] Population served will include both retail and wholesale populations. Specific instructions for calculating population served are included in the rule.

[3] DBP and related monitoring includes monitoring for DBPs and other parameters at specified locations throughout the treatment plant. Also, PWSs will be required to characterize treatment processes in the treatment plant. Monitoring includes disinfectant residuals, trihalomethanes, haloacetic acids, haloacetonitriles, haloketones, chloral hydrate, chlorite, chlorate, bromide, bromate, total organic halides (TOX), total organic carbon (TOC), and general water quality parameters.

[4] Microbiological monitoring includes monitoring for specific pathogens and microbial indicators: total culturable viruses, total coliforms, fecal coliforms or E. coli, Giardia, and Cryptosporidium.

[5] PWSs must conduct treatment study applicability monitoring and, unless avoidance criteria are met, bench- or pilot-scale treatment studies to determine the effectiveness of granular activated carbon (GAC) or membranes in reducing the levels of precursors to the formation of disinfection byproducts.

[6] Includes PWSs using ground water under the direct influence of surface water.

A major issue with this rule is the adequacy of the protozoa analytical method to generate meaningful occurrence information for *Cryptosporidium*. The analytical method is relatively new and difficult to conduct. Even experienced laboratories have had widely varying results. EPA has worked over the last couple of years to improve the method and evaluate its performance under field conditions. The most recent round of testing showed laboratories recovering between 5% and 21% of the *Cryptosporidium* known to be present. However, despite its generally acknowledged limitations, this method is the best method either currently available or anticipated to be available in the near future and EPA is confident that data produced by approved laboratories will enable the Agency to develop a reliable national occurrence data base and national cost impact estimates for various scenarios of regulations.

In making its determination whether the protozoa analytical method is adequate to yield meaningful results, EPA focussed on how the data were to be used. Specifically, the data generated under this rule will be used to develop a national occurrence data base and national cost impact estimates for various scenarios of regulations which could be promulgated to reduce microbiological risk. Also, these data may be used in conjunction with results of dose-response health effects research to develop benefit estimates for regulatory options. ICR data would not be used, except at the option of the PWS, to make compliance determinations with future rules. At the national level, EPA will aggregate data from PWS samples analyzed at different laboratories so that the range of relative error is much smaller, nationally, than it would be for a single PWS. EPA developed statistically based data quality objectives which indicated that, even if *Cryptosporidium* recovery averaged only 8%, the range of uncertainty in cost estimates would be no greater than with previously issued drinking water rules. The reason the recovery rate can be this low is because of the large number of PWSs (over 300) which would be generating data. With a much smaller sample size, a higher range of recovery would be needed. With such a large data base, EPA's independently evaluated statistical analysis shows that an 8% recovery rate can provide a reliable adjustment factor from which to estimate national occurrence. EPA believes that, with the stringent laboratory approval requirements contained in this rule, recovery rates will meet this minimum requirement. As added insurance that the data will be useful, EPA intends to conduct a companion survey of 50 PWSs where the data are analyzed by a single laboratory meeting even more stringent requirements than those imposed in this rule. The results from this survey will augment the ICR-generated data and improve their statistical reliability.

II. Statutory Authority

The Safe Drinking Water Act (SDWA, or the Act), as amended in 1986, requires EPA to publish maximum contaminant level goals (MCLGs) for contaminants which may have an adverse effect on human health and are known or anticipated to occur in PWSs. For such contaminants, EPA must also promulgate national primary drinking water regulations (NPDWRs) which specify either maximum contaminant levels (MCLs) or treatment techniques (42 U.S.C. 300g–1). An MCL must be set as close to the MCLG as feasible.

Under the Act, PWSs can be required to "establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations, [or] * * * in evaluating the health risks of unregulated contaminants". 40 U.S.C. 300j–4. This provision authorizes EPA to require systems to monitor and provide the Agency with these data as well as other data characterizing the systems, including source and treated water quality.

In addition, the Act defines NPDWRs to include "criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures * * *". 40 U.S.C. 300f(1)(D). This provision authorizes EPA to require systems and laboratories to use Agency-approved methods and quality assurance criteria for collecting and analyzing water samples. EPA is using these information collection authorities as the basis for promulgating the ICR.

III. Regulatory Background

EPA has issued two regulations intended to control pathogens in public water supplies—the Total Coliform Rule (54 FR 27544, June 29, 1989) and the Surface Water Treatment Requirements (SWTR) (54 FR 27486, June 29, 1989). A third regulation, the Groundwater Disinfection Rule, is currently under development and will add further protection for systems using ground water.

In addition to these regulations, EPA concluded that it was necessary to address disinfectants and chemical byproducts that form when disinfectants used for microbial control in drinking water react with various organic and inorganic chemicals in the source water. Chronic exposure to various DBPs may cause cancer, liver and kidney damage, heart and neurological effects, and effects to unborn children. In 1992, EPA instituted a formal regulatory negotiation (reg-neg) process to develop the Disinfectants/Disinfection Byproducts Rule (D/DBPR) (57 FR 53866, November 13, 1992). This negotiation was discussed in the proposed rule.

In the course of the discussions, the Negotiating Committee determined that insufficient data were available on DBPs to make appropriate regulatory decisions. The Committee was concerned about the risk from DBPs, on one hand, and microbial risk on the other. As disinfectant use is decreased to decrease the formation of DBPs, the risk of microbial illness increases. Microbes cause many diseases, including giardiasis, cryptosporidiosis, dysentery, and hepatitis. For individuals with weakened immune systems, these diseases can be fatal.

The Committee recommended that additional data be developed on health effects, occurrence of and exposure to these contaminants, and on the capabilities of treatment technologies to reduce levels of these contaminants. Committee members were also concerned about limited data available on microbial contaminants in water. (See preamble of proposed ICR for a more detailed discussion of the need for additional data and rationale for the proposed monitoring and reporting requirements. 59 FR 6332 (February 10, 1994).) The Committee agreed to proceed with the proposal of regulatory actions but at the same time to initiate a process for developing additional data for future regulatory decisions. Accordingly, the Committee developed three proposed rules: (a) the Information Collection Rule (ICR) (59 FR 6332, February 10, 1994), (b) the "interim" Enhanced Surface Water Treatment Rule (ESWTR) (59 FR 38832, July 29, 1994), and (c) the D/DBPR (59 FR 38668, July 29, 1994). It is the ICR that is the subject of this final rulemaking.

The Negotiating Committee's development of the three proposed rules was based on: (1) the need to take prudent immediate steps by proposing a Stage 1 D/DBP rule and an interim ESWTR and (2) the need to develop additional data through monitoring and research for future regulatory decisions that would support refinements to the proposed interim ESWTR, and development of the long-term ESWTR and Stage 2 D/DBP rule.

The information collected under this rule will be used to determine the most effective regulatory option(s) to reduce exposure to pathogens, disinfectants, and DBPs. All can have adverse effects on human health. Over 200 million people will benefit from these rules once they are fully effective. Preliminary estimates of the annual benefits of the rules could be the avoidance of many cases of disease, including as many as several thousand cancer cases and 500,000 cases of giardiasis, and control of the parasite *Cryptosporidium*. Accordingly, today's final rule, which requires this additional information, meets the direction and objectives of the Negotiating Committee.

The ICR is designed to obtain both microbial and DBP occurrence, exposure, and treatment data for input into the ESWTR and Stage 2 D/DBP rule, as outlined below, and is expected to require the expenditure of an estimated $130 million over three years by a segment of PWSs. The commitment by the public water supply community to support this collection of additional data is linked to EPA's commitment to provide (1) adequate quality control procedures for collecting and managing the information obtained under the ICR and (2) additional funding, especially on health effects research, for properly interpreting ICR data.

The Negotiating Committee also agreed that more data, especially monitoring data, should be collected under the ICR to assess possible shortcomings of the SWTR and to develop appropriate remedies, if needed, to prevent increased risk from microbial disease as systems begin complying with the Stage 1 D/DBP Rule. It was also agreed that EPA would propose an interim ESWTR for systems serving at least 10,000 people that included a wide range of regulatory alternatives. Data gathered under the ICR will form the basis for developing the most appropriate criteria among the options presented in the proposed interim ESWTR. Eventually a long-term ESWTR would include possible refinements to the interim ESWTR and be applicable to all system sizes. The interim and long-term ESWTR rules would become effective concurrently with the requirements of the Stage 1 D/DBP rule for the respective different system sizes.

The Negotiating Committee also agreed that additional data on the occurrence of disinfectants, DBPs, and potential surrogates for DBPs; source water and within-treatment plant conditions affecting the formation of DBPs; and bench- and pilot-scale information on the removal of DBP precursors would be useful for developing Stage 2 D/DBP regulatory criteria beyond those currently being considered for proposal in Stage 1. Additional data will be developed on potential consumer exposures, acute short-term health effects, and chronic health effects through a concurrent EPA-sponsored research program. These data will support important decisionmaking that will be required when promulgating the Stage 2 D/DBPR.

IV. Description of Today's Action

This preamble briefly summarizes the background of the ICR, the major elements of the regulations, and the major changes from the proposal. The proposed ICR (59 FR 6332, February 10, 1994) includes a detailed discussion of the lengthy regulatory negotiation process that led to the development of the ICR and is an essential part of the record for the decisions made in this final action. While the discussions from the proposed ICR are not generally repeated here, this preamble occasionally cites the proposed rule where such references are useful.

The purpose of the ICR is to establish specific data collection requirements for PWSs and to identify the exact manner in which the data are to be collected and transmitted to the Agency. Most of the requirements are presented in the rule in tabular format, because of the diverse characteristics of the PWSs subject to the ICR. EPA also concluded that technical manuals would be the most efficient way of communicating the detailed requirements of the ICR to those who are actually responsible for implementing the regulations. These technical manuals are incorporated by reference into the ICR. These manuals will be sent by EPA to those PWSs subject to the requirements of the rule. These technical manuals can also be obtained through the National Technical Information Service.

A. New Terms (§ 141.140)

EPA has developed new definitions to address specific issues raised by the ICR and to respond to commenters' questions concerning applicability and monitoring requirements. The definitions in § 141.140 apply only to

the regulatory requirements of this rule (i.e., 40 CFR Part 141, subpart M).

B. General Applicability

1. Notice of Applicability (§§ 141.142(c)(2)(i) and 141.143(c)(3)(i))

In Appendix B of the proposed ICR, EPA included lists of PWSs that it expected would have to comply with at least some of the proposed ICR requirements, based on the Agency's own data system, on the Water Industry Data Base (WIDB), or both. EPA requested comment on the accuracy of these lists. Based on public comments and input from EPA regions and States, the Agency developed an updated list of PWSs that are expected to comply with subpart M requirements. Each of these PWSs will receive a Notice of Applicability. Upon receiving a Notice of Applicability, a PWS must reply within 35 days, specifically identifying the subpart M requirements that apply to each treatment plant operated by the PWS. A PWS that believes that it does not meet applicability criteria must so indicate in its response to EPA's Notice of Applicability.

Although EPA has expended considerable effort to identify all of the PWSs subject to subpart M, it is possible that an affected PWS may not have been identified. Failure to receive a Notice of Applicability does not relieve a PWS of its responsibility for compliance. A PWS that meets the applicability requirements, but does not receive an EPA Notice of Applicability, must contact the ICR Utilities Coordinator, TSD, USEPA, 26 West Martin Luther King Drive, Cincinnati, OH 45268, so the Agency can send the necessary materials.

2. Applicability Determinations

In order to account for both retail and wholesale populations served by treated water produced by a PWS, and to determine specific monitoring requirements for each treatment plant operated by the PWS, each PWS subject to this regulation must calculate the population served by its entire system and by each of its plants. To make these calculations, the PWS must complete Appendix A to § 141.141(a). A PWS that serves no retail population is required to use an EPA-developed equation to calculate the wholesale population that it serves and determine applicability (Cummins, 1987). This equation, included in Appendix A, was developed from hundreds of data points showing the relationship between flow and population served.

For the ICR, a treatment plant includes any site where a disinfectant or oxidant is added to the water prior to the water entering the distribution system (e.g., a chlorinator at a well). A PWS that uses multiple wells drawing from the same aquifer and has no central treatment plant is considered to have one treatment plant for those wells and must monitor accordingly.

C. Applicability of ICR Requirements to Specific Classes of PWSs

The following discussion identifies the ICR requirements that are applicable to each class of PWSs covered by this final rule. Sections D–G explain each of these requirements in greater detail.

1. PWSs Serving at Least 100,000 People and Using Surface Water, or Ground Water Under the Direct Influence of Surface Water, as a Source

a. Monitoring for DBPs and Related Parameters

All PWSs in this class must monitor for DBPs, DBP precursors, and other chemical parameters at specific locations throughout each treatment plant operated by the PWS on a monthly basis for a period of 18 months. Such PWSs also must characterize treatment processes (e.g., filtration or sedimentation) monthly for the 18 month period. The only exception to this requirement is that PWSs receiving all of their water from a supplier and not further disinfecting that water at the entrance to their distribution system are not required to conduct such monitoring.

In addition, for each treatment plant that uses chloramines, hypochlorite solution, ozone, or chlorine dioxide for treatment or disinfection residual maintenance, a PWS must conduct an analysis of parameters related to those disinfectants, such as cyanogen chloride for PWSs that use chloramines. This additional monitoring must also be conducted by PWSs that disinfect finished water at the entrance to their distribution system and receive that water from a PWS that treated the water with chloramines, hypochlorite solution, ozone, or chlorine dioxide.

b. Monitoring for Disease-causing Microorganisms and Microbial Indicators

Unless a PWS meets the requirements for reduced monitoring (as described in section E), all PWSs in this class must: (1) monitor their source water at the intake of each treatment plant that treats surface water for *Cryptosporidium*, *Giardia*, total culturable viruses, total coliforms, and fecal coliforms or *Escherichia coli* (*E. coli*); and (2) monitor their finished water for these microorganisms when *Cryptosporidium* and *Giardia* exceed 10 per liter in the source water, or when total culturable virus levels exceed one per liter in the source water.

c. Treatment Studies

i. Treatment Study Applicability (Total Organic Carbon (TOC)) Monitoring

All PWSs must monitor for TOC to determine at which treatment plants they must conduct treatment studies. PWSs must conduct TOC monitoring at the following locations:

—At the influent of each treatment plant that treats surface water and serves a population of 100,000 people or more.
—On finished water at each treatment plant serving a population of 100,000 people or more and using ground water as the source.
—For PWSs that serve at least 100,000 people but have no individual treatment plant serving 100,000 or more, PWSs must conduct TOC monitoring at the treatment plant serving the largest population. PWSs must monitor for TOC at the influent of the treatment plant if it treats surface water and must monitor finished water if it treats ground water.

ii. Bench- and Pilot-scale Treatment Studies

Unless a PWS qualifies for one of the exceptions discussed in section F of this preamble, PWSs in this class must conduct bench- and/or pilot-scale treatment studies to determine the effectiveness of granular activated carbon (GAC) or membranes in reducing the levels of DBP precursors.

2. PWSs Serving at Least 100,000 People, Using Only Ground Water as a Source

a. Monitoring for DBPs and Related Parameters

All PWSs in this class must monitor for DBPs, DBP precursors, and other chemical parameters at specific locations throughout each treatment plant operated by the PWS on a monthly basis for a period of 18 months. Such PWSs also must characterize treatment processes (e.g., aeration or ion exchange) monthly for the 18 month period. The only exception to this requirement is that PWSs receiving all of their water from a supplier and not further disinfecting that water at the entrance to their distribution system are not required to conduct such monitoring.

In addition, for each treatment plant that uses chloramines, hypochlorite solution, ozone, or chlorine dioxide for treatment or disinfection residual maintenance, a PWS must conduct an analysis of parameters related to those disinfectants. This additional monitoring must also be conducted by PWSs that disinfect finished water at the entrance to their distribution system and receive that water from a PWS that treated the water with chloramines, hypochlorite solution, ozone, or chlorine dioxide.

b. Treatment Studies

i. Treatment Study Applicability (TOC) Monitoring

All PWSs must monitor for TOC to determine at which treatment plants they must conduct treatment studies. PWSs must conduct TOC monitoring at the following locations:

—On finished water at each treatment plant serving a population of 100,000 people or more and using ground water as the only source.
—For PWSs that serve at least 100,000 people but have no individual treatment plant serving 100,000 or more, PWSs must conduct TOC monitoring on finished water at the treatment plant serving the largest population.

ii. Bench- and Pilot-scale Treatment Studies

Unless a PWS qualifies for one of the exceptions provided in section F of this preamble, PWSs in this class must conduct bench- and/or pilot-scale treatment studies to determine the effectiveness of granular activated carbon (GAC) or membranes in reducing the levels of DBP precursors.

3. PWSs Serving at Least 50,000 People, But Less Than 100,000, and Using Ground Water as a Source

PWSs serving at least 50,000, but less than 100,000, (with at least 50,000 served by ground water) are required to monitor for TOC in the finished water at the treatment plant serving the largest population. Subsequently, unless a PWS qualifies for one of the exceptions provided in section F, PWSs in this class must conduct bench- and/or pilot-scale treatment studies to determine the effectiveness of granular activated carbon (GAC) or membranes in reducing the levels of DBP precursors.

D. Disinfection Byproducts (DBPs) and Related Monitoring Requirements

1. General Monitoring (§§ 141.141(c) and 141.142(a))

PWSs affected by this requirement must conduct monthly monitoring for DBPs, DBP precursors, and other chemical parameters at each treatment plant and in the distribution system. These PWSs will also be required to characterize treatment processes (e.g., filtration and sedimentation) in the treatment plant on a monthly basis for 18 months. PWSs receiving all of their water from a supplier and not further disinfecting that water at the entrance to the distribution system are not required to conduct any monitoring under this rule.

2. Additional Monitoring Requirements for PWSs Using Chloramines, Hypochlorite Solution, Ozone, or Chlorine Dioxide (§§ 141.142(a) (2)–(5))

For each treatment plant that uses chloramines, hypochlorite solution, ozone, or chlorine dioxide for treatment or disinfection residual maintenance, a PWS must also conduct an analysis of such parameters as cyanogen chloride, chlorate, pH, temperature, free residual chlorine, bromide, bromate, ammonia, and aldehydes. For consecutive systems (i.e., PWSs receiving finished water from another PWS), the receiving PWS must consult with the provider to ensure that all such additional analyses are completed. For example, the rule requires a PWS covered by the ICR that receives finished water that has been treated with chlorine dioxide to conduct additional monitoring of parameters such as chlorite, chlorate, chlorine dioxide residual, and aldehydes. A PWS receiving finished water has the obligation to determine whether the water it receives has been treated with chloramines, chlorine dioxide, ozone, or hypochlorite solution and what additional monitoring, if any, is required, and to conduct the necessary monitoring.

3. Analytical Methods (§ 141.142(b))

For conducting the required analyses, PWSs are required to use the methods specifically approved for subpart M. With the exception of optional analyses for assimilable organic carbon (AOC) and biodegradable organic carbon (BDOC), only results from laboratories that have been approved by EPA to perform sample analyses for DBPs will be acceptable. Laboratories may apply for approval under the provisions of § 141.142(b)(2).

E. Microbiological Monitoring Requirements

1. Monitoring (§§ 141.141(d) and 141.143(a))

a. Source Water Monitoring

Microbiological monitoring requirements include monitoring for disease-causing microorganisms, such as *Cryptosporidium* and *Giardia*, total culturable viruses, and indicator organisms. To be eligible for reduced monitoring, a PWS must notify EPA in its response to the EPA Notice of Applicability of its plans to reduce monitoring, which is available under the following provisions:

—A PWS may avoid the requirement to conduct finished water monitoring of *Cryptosporidium* and *Giardia* (§ 141.143(a)(2)(iii)) by complying instead with alternative monitoring requirements, including particle counting at several locations within the treatment plant.
—A PWS may avoid virus monitoring (§ 141.143(a)(2)(iv)), if the PWS has monitored for total coliforms, fecal coliforms, or *E. coli* in the treatment plant influent for at least five days/week for any consecutive six month period beginning January 1, 1994, and 90 percent of all samples taken in that six-month period contain no greater than 100 total coliforms/100 milliliters (ml), or 20 fecal coliforms/100 ml, or 20 *E. coli*/100 ml. For purposes of making this determination, PWSs may use source water coliform data collected under the SWTR. EPA and the Negotiating Committee agreed that raw waters that contained densities of total coliforms, fecal coliforms, or E. coli lower than the specified density value were unlikely to contain measurable levels of viruses.

b. Finished Water Monitoring

PWSs must conduct finished water monitoring at any treatment plant at which it detects, during the first 12 months of monitoring, 10 or more *Giardia* cysts, or 10 or more *Cryptosporidium* oocysts, or one or more total culturable viruses, per liter of water. The PWS must analyze finished water samples for the same organisms analyzed for in source water until 18 months of source water microbial monitoring are completed.

c. Archiving

If either *i* or *ii* below occurs, PWSs must arrange to submit samples of treatment plant influent and finished water to EPA for virus archiving each month until the 18 months of microbial monitoring are complete.

i. After the PWS learns that viruses were detected in any previous sample of finished water.

ii. After the PWS learns that a density of at least 10 viruses per liter was detected in any previous treatment plant influent sample.

2. Analytical Methods (§ 141.143(b))

PWSs are required to use the analytical methods approved for subpart

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M for pathogens and indicator organisms. In addition, systems are required to use EPA-approved laboratories for analysis of *Giardia, Cryptosporidium,* and total culturable viruses. As proposed, a PWS must use laboratories certified for microbiology analyses under the EPA or State drinking water program for the analysis of total coliforms, fecal coliforms, and *E. coli*. Laboratory approval criteria for *Giardia, Cryptosporidium,* and total culturable viruses are found in the "ICR Microbial Laboratory Manual", EPA 600/R–95/178, April 1996. Periodically, the Agency will update the list of EPA-approved laboratories under this rule.

F. Disinfection Byproduct Precursor Removal Studies: Bench- and Pilot-Scale Treatment Studies and Treatment Study Applicability Monitoring

1. Determination of Treatment Study Requirements: Treatment Study Applicability (TOC) Monitoring (§ 141.141(e) (2)–(3)

To determine which treatment plants will be required to conduct bench- and/or pilot-scale testing, PWSs are required to conduct treatment study applicability monitoring. Treatment study applicability monitoring requires monitoring for TOC for 12 consecutive months. PWSs must monitor for TOC in the influent of each treatment plant that treats surface water and serves a population of 100,000 people or more. For treatment plants serving a population of 100,000 people or more and using ground water as the source, TOC monitoring must be conducted on finished water. For PWSs that serve at least 100,000 people but have no individual treatment plant serving 100,000 or more, TOC monitoring must be conducted at the treatment plant serving the largest population. PWSs serving at least 50,000, but fewer than 100,000 (with at least 50,000 served by ground water), are required to monitor finished water TOC at the treatment plant serving the largest population. A PWS operating multiple treatment plants using the same source is only required to conduct one treatment study for those treatment plants.

2. Treatment Study Requirements (§ 141.144(b))

Treatment studies will consist of bench- and/or pilot-scale testing systems for at least one of the two appropriate candidate technologies (granular activated carbon (GAC) or membrane processes) for the reduction of organic DBP precursors. The treatment studies must be designed to yield representative performance data and to allow the development of treatment cost estimates for different levels of organic DBP control. To simulate the most likely treatment scenario, treatment studies will need to be conducted with the effluent from the treatment processes that are already in place to remove DBP precursors and TOC. PWSs are required to conduct pilot-scale studies at treatment plants serving 500,000 people or more and may conduct either bench- or pilot-scale studies at those serving fewer than 500,000.

a. Bench-scale Testing (§ 141.144(b)(1))

Bench-scale tests are continuous flow tests using the rapid small scale column test (RSSCT) for GAC and either flat sheet or single-element bench test apparatus for membranes. Water to be used in bench-scale tests must be representative of water which would be applied to the advanced treatment full-scale technology. The testing will include the information specified in this rule and in the "Manual for Bench- and Pilot-scale Treatment Studies", EPA 814–B–96–003, April 1996. EPA has provided utilities flexibility to select a bench-scale protocol appropriate for its circumstances.

b. Pilot-scale Testing (§ 141.144(b)(2))

PWSs must conduct pilot-scale tests as continuous flow tests. For GAC, the PWS must use GAC of a particle size representative of that used in full-scale practice, a pilot GAC column with a minimum inner diameter of 2.0 inches, and hydraulic loading rate (volumetric flow rate/column cross-sectional area) representative of that used in full-scale practice. For membranes, the PWS must use a staged array to achieve a recovery of at least 75%. Pilot-scale testing must include the information specified in this rule and in the "Manual for Bench- and Pilot-scale Treatment Studies", EPA 814–B–96–003, April 1996.

3. Treatment Study Exceptions (§§ 141.141(e)(3) and 141.141(e)(7)(i))

PWSs that would otherwise be required to conduct a bench- and/or pilot-scale treatment study are exempt from treatment study requirements if they operate treatment plants that:

—Use chlorine as both the primary and residual disinfectant and have, as an annual average, levels less than 40 micrograms per liter (μg/l) for THM4 and less than 30 μg/l for HAA5. The quarterly average is calculated by averaging results from all individual distribution system samples taken during the quarter. The annual average is calculated by averaging the four quarterly averages.

—Use surface water that does not exceed a TOC level of 4.0 milligrams per liter (mg/l) in the treatment plant influent, when calculated by averaging the 12 monthly TOC samples.

—Use ground water not under the direct influence of surface water that does not exceed a TOC level of 2.0 mg/l in the finished water, when calculated by averaging the 12 monthly TOC samples.

—Already use full-scale GAC or membrane technology. These PWSs must submit full-scale plant data and data that show that the technology effectively removes DBP precursors and must monitor the full-scale process to comply with DBP and related monitoring requirements.

4. Joint Studies (§§ 141.141(e)(4) and 141.141(e)(7)(ii))

PWSs that use common water resources and similar treatment trains (e.g., conventional filtration treatment or softening) may conduct joint treatment studies with other PWSs. A PWS operating more than one treatment plant using similar treatment trains on the same source is not required to conduct multiple studies. PWSs wishing to conduct joint studies must submit a letter of intent to EPA signed by all PWSs planning to participate in the study, as well as the additional information specified in § 141.141(e)(7)(ii) of the rule. Once all applicability monitoring is complete, each PWS must formally apply for EPA approval of a joint study. The minimum number and type of treatment studies to be conducted in a joint study are specified in § 141.141(e)(4) of the rule.

5. Alternatives to Treatment Studies (§§ 141.141(e)(5) and 141.141(e)(7)(iii))

In lieu of conducting a treatment study, a PWS may apply to EPA to contribute funds to a cooperative research effort. The PWS must show in its application to EPA that the treatment plant for which the waiver of the treatment study is sought uses a common water resource which is being studied by another PWS or a cooperative of PWSs. If EPA approves the application, the PWS shall contribute funds for use in a dedicated cooperative research program related to disinfectants, DBPs, and enhanced surface water treatment. The mandatory contributions that must be made under this option are as follows: $300,000 for a treatment plant serving a population of 500,000 or more, and $100,000 for a treatment plant serving a population of fewer than 500,000.

6. Grandfathered Studies (§§ 141.141(e)(6) and 141.141(e)(7)(iv))

PWSs that have conducted studies of precursor removal using GAC or membrane technology and which meet specified criteria may use the results of those studies, if approved by EPA, in lieu of conducting another treatment study. PWSs using grandfathered studies must submit appropriate information on the earlier studies, such as data, study description, equipment used, protocol, analytical methods, and information to develop a full-scale cost estimate, and obtain EPA approval.

G. Dates, Schedules and Reporting Requirements

EPA intends to notify PWSs that they are subject to this rule. PWSs receiving a Notice of Applicability from EPA must respond within 35 days of receipt.

1. Sampling Plans (§ 141.141(f))

PWSs required to comply with subpart M requirements must submit sampling plans to EPA for review and approval no later than eight weeks after receiving sampling software and requirements from EPA. Once EPA notifies the PWS that the plan has been approved, the PWS must begin monitoring the following month.

2. Monitoring

PWSs must begin treatment study applicability monitoring (i.e., TOC monitoring) no later than three months from the date the rule is published in the **Federal Register**, regardless of whether the sampling plan has been approved. For other applicable monitoring requirements, a PWS must begin monitoring the month after receiving notice that the PWS's sampling plan has been approved by EPA. If the PWS must conduct both DBP and microbiological monitoring, the PWS must begin monitoring for both in the same month.

3. Data Reporting (§§ 141.142(c) and 141.143(c))

PWSs must submit monthly monitoring reports electronically on diskettes in the format that EPA has prescribed and will be providing to affected PWSs. This electronic reporting is necessary because of the need for EPA to evaluate and manipulate the data.

4. Treatment Studies (§ 141.141(f)(4))

A PWS must begin treatment studies not later than 23 months from the date that the ICR is published in the **Federal Register**. PWSs must submit a report of each completed treatment study not later than 38 months after the final rule appears in the **Federal Register**.

H. Summary

Table IV–1 below provides a listing of the requirements contained in today's rule cross-referenced to the section of the rule where each requirement appears.

TABLE IV–1.—SUMMARY OF SUBPART M REGULATORY REFERENCES

Subject	DBP and related monitoring	Microbiological monitoring	Treatment studies
Definitions	§ 141.140	§ 141.140	§ 141.140
PWS applicability	§ 141.141(b)	§ 141.141(b)	§ 141.141(b)
Treatment plant applicability	§ 141.141 (b), (c)	§ 141.141 (b), (d)	§ 141.141 (b), (e)
Schedule	§ 141.141(f)(2)	§ 141.141(f)(3)	§ 141.141(f)(4)
Monitoring requirements	§ 141.142(a)	§ 141.143(a)	§ 141.144 (a), (b)
Analytical methods	§ 141.142(b)	§ 141.143(b)	§ 141.144(c)
Reporting requirements	§ 141.142(c)	§ 141.143(c)	§ 141.144(d)

V. Significant Changes to the Proposed Rule

In response to comments received during the public comment period, EPA made many changes to the rule. All comments were evaluated, and EPA has prepared a comment-response document that contains EPA's responses to those public comments. That document, along with other documents that support the rule, is available in the Drinking Water Docket. The following sections provide a discussion of the most significant comments considered.

A. Rule Applicability

The most far-reaching change in rule applicability was removing PWSs serving 10,000 to 99,999 that use surface water from any ICR requirements. EPA decided to take this action because the analytical method for protozoan measurement had proven to be very complex and difficult, and EPA was concerned about whether an adequate number of laboratories would be able to meet the approval criteria, which include passing a performance evaluation sample.

Many commenters noted that the DBP and related monitoring and reporting required in the proposed rule were not applicable to their PWS. These commenters believed that many of the proposed requirements would not make sense based on the configuration or operational practices of their PWS. During development of the ICR data system, EPA held a number of public meetings with representatives of PWSs and others to evaluate the applicability of the proposed requirements for the universe of treatment plants. These meetings helped EPA to: (1) Clarify the categories of PWSs that would appropriately be required to meet the different requirements of the ICR and (2) clarify treatment plant monitoring and data collection requirements. For example, the Agency modified proposed rule language to include PWSs that sell or buy large amounts of water in the appropriate applicability category. Also, EPA has reorganized the rule to make it easier to find applicability and monitoring requirements.

EPA has coordinated with the American Water Works Association (AWWA) to form a group of technical experts that will be available to PWSs to answer questions about this rule concerning applicability, sampling plans, and monitoring. PWSs may contact these experts at 800–200–0984 or on the Internet at 103327.2057@compuserve.com.

B. Data Quality Objectives

Several commenters noted that EPA did not clearly identify data quality objectives for the large amount of data to be generated by this rule. In response, EPA participated in several public workshops that addressed this issue. During the workshops, statisticians, data managers, scientists, and engineers reviewed the proposed requirements to ensure that the data reporting is necessary and adequate to achieve the goals of the rule. Also, EPA has developed a quality control program to ensure that data used in modeling are appropriate for regulatory development.

C. Data System

Commenters noted that EPA's data system for PWSs at the time of proposal,

the Federal Reporting Data System (FRDS), was inadequate to handle and manipulate the large amount of data that will be reported under this rule. Commenters stated that the Agency needed to develop a new data system that is able to receive, store, retrieve, manipulate, and analyze data submitted by PWSs. Additionally, commenters noted that once such a data system became available, EPA would have to test the data system to ensure its smooth operation.

EPA used a contractor as the primary data systems developer for this project. The contractor worked closely with EPA personnel and a broad array of technical experts from drinking water suppliers and other interested parties to understand the regulatory requirements, develop data manipulation procedures and report capability, produce adequate user instructions, and ensure the data system could perform necessary data handling and manipulation.

The utility data system has undergone alpha, beta, and gamma testing and revision and has been found to meet EPA's needs. Other data systems, for laboratory quality assurance data and mainframe data storage and manipulation, are undergoing similar testing and revision. Testing and revision will be completed before data entry begins under the rule.

D. Data Base Development

Many commenters stated that EPA, not PWSs, should fund the development of a data base adequate to meet the objectives of the ICR (i.e., determine what regulatory requirements are necessary for the control of disinfectants, DBPs, and pathogens). Under section 1445(a)(1) of the Act, however, EPA is authorized to require PWSs to conduct monitoring and provide information necessary to establish drinking water regulations, including evaluating the health risks of unregulated contaminants.

The information collected under this rule will enable EPA to determine current occurrence levels and patterns for unregulated contaminants. Because the ICR will provide EPA with detailed information on what treatment PWSs already have in place and how well such treatment processes work, the rule will also allow the Agency to develop predictive models to evaluate the effect that various changes in treatment will cause. Participants in the regulatory negotiation process understood the importance of the data collection effort as it relates to the objectives of the SDWA and agreed, as part of the negotiation, to participate in the effort.

E. Protozoan Analytical Method

Many commenters expressed concern that EPA lacks an analytical method to provide adequate quality data for *Cryptosporidium*. Also, some commenters believed that the method that the Agency proposed was too complex and difficult for reliable use by most laboratories. EPA has taken several steps to address these concerns. The first was to establish stringent laboratory approval criteria to assure adequate quality analyses and ensure that data quality objectives are met. EPA developed data quality objectives after consultation with outside parties, including statisticians and microbiologists, to determine minimum percentage recoveries and precision to meet data analytical objectives (i.e., to characterize national occurrence of *Cryptosporidium* for the purpose of conducting a regulatory impact analysis). Based on performance evaluation testing of microbiological laboratories, EPA believes that only laboratories that maintain high standards will be able to comply with the EPA criteria.

In the ICR proposal, any PWS that treated surface water and served a population of at least 10,000 would have been required to sample at each treatment plant, with more sampling required for PWSs serving at least 100,000. However, because only a small number of laboratories would be available to analyze samples, EPA reduced the universe of PWSs that must collect and analyze *Cryptosporidium* samples. In the final rule, only PWSs that treat surface water and serve a population of at least 100,000 are required to sample for *Cryptosporidium*. A PWS serving fewer than 100,000 is not required to take any microbiological samples. By reducing both the number of PWSs that are required to sample and the number of samples that some of the remaining PWSs are required to take, EPA expects that the number of laboratories who will qualify to conduct testing will be able to handle the workload.

Since PWSs serving fewer than 100,000 people are no longer required to conduct microbiological monitoring, EPA intends to conduct two sample surveys to collect microbiological occurrence data at smaller PWSs to determine the correlation with the data collected at PWSs serving at least 100,000 people. These sample surveys will be conducted at PWSs using surface water serving (1) 10,000 to 100,000 people and (2) fewer than 10,000 people. A secondary purpose of these sample surveys will be to collect occurrence data for areas where no PWSs will be collecting microbiological occurrence data because there are no PWSs serving at least 100,000 people that use surface water (e.g., the upper Great Plains and Rocky Mountain area).

EPA has determined that the purposes of the ICR will not be adversely affected by reducing the number of PWSs required to provide data. In conjunction with requiring fewer samples, EPA has continued to refine the analytical method and validate its accuracy and precision in non-EPA laboratories. Results of field testing that used various source waters in multiple laboratories indicate that a well-operated laboratory will be able to exceed EPA's minimum recoveries. The field testing results also indicate that well-operated laboratories will be able to provide adequate data for deriving national occurrence data that will be used in national cost estimates for evaluating different ESWTR regulatory options. Depending on the criteria developed for the interim ESWTR, data collected under the ICR may also be useful for implementing the interim ESWTR. EPA further believes that analysis of these data may aid in the identification of target indicators that smaller PWSs using surface water can utilize for determining the level of treatment needed for compliance with the ESWTR.

EPA believes that meaningful national occurrence data and regulatory impact analyses for different ESWTR regulatory options can be derived from ICR data if laboratories achieve, on average, greater than an 8% recovery for protozoan cysts. EPA simulation studies indicated that if this laboratory performance is achieved, PWSs should be able to detect and enumerate protozoa at least twice (among 18 monthly ICR raw water samples) at most sites where protozoa are actually present. This level of occurrence, with use of a statistically-derived adjustment factor for estimating true protozoan concentrations from measured values, would enable EPA to estimate the number of systems, nationally, that require different levels of treatment to achieve a desired finished water concentration, as might be prescribed under the ESWTR. Such an analysis, together with treatment cost and performance information for various technologies, would allow EPA to estimate national costs for different ESWTR regulatory options. Also, samples in which *Cryptosporidium* are not detected will help EPA evaluate the extent to which analyzable sample volume and percent recovery affect the ability to quantify source water protozoan concentrations. Such information will help EPA evaluate the extent to which the protozoan method may need to be improved, or special monitoring provisions adopted, to enable appropriate treatment requirements to be prescribed for all systems under the ESWTR. For example, depending upon the extent which better methods can be developed for implementation of the ESWTR, utilities may be able to increase the number of raw water samples collected (beyond the minimum that may be required) to enable more sensitive quantification of source water concentrations, and more accurate level of treatment requirement estimates.

To provide for higher quality data to estimate national occurrence and conduct a national regulatory impact analysis, EPA is prescribing stringent laboratory approval criteria specific to the ICR. For a laboratory to qualify for conducting protozoan analysis, it must (a) conduct a comprehensive inventory to ensure the extensive equipment and personnel requirements are met, (b) employ at least one principal analyst (with previous experience of having analyzed at least 100 samples using the IFA procedure) to verify all microscopic counts, (c) pass an on-site inspection that includes observation of the analysis being performed by the laboratory, and (d) achieve sufficient recovery and precision on PE samples provided by EPA. EPA does not normally undertake the actions noted in (a) through (c) as part of laboratory approval and will require more frequent PE samples (in d)) than usual. EPA intends to provide technical assistance to laboratories during the laboratory approval process to enhance laboratory performance.

While performance by ICR approved laboratories should be adequate for conducting national regulatory impact analysis, EPA believes that better method performance, and knowledge of how that performance varies for specific water qualities, will be needed for individual PWSs to comply with future rules. To address this issue, EPA is conducting research to improve method performance. In the short term, EPA is evaluating the extent to which the IFA method can be improved, focusing mainly on the effects of different filters and smaller raw water sample volumes. In the long term, as part of its five year research plan, EPA is attempting to develop new methods that can achieve better recovery and precision, and distinguish whether the oocysts that are detected are alive or infectious to humans. Many researchers outside of EPA are also involved with these efforts.

One shortcoming of PE samples is that they do not reproduce the full range of sampling or water quality conditions of ICR monitoring. To augment the ICR, EPA will conduct a sample survey of 50 PWSs serving 100,000 to measure *Cryptosporidium* under tightly controlled laboratory conditions. Only those *Cryptosporidium* data from the ICR which meet data quality objectives will be used, with EPA survey data, in a cost analysis. EPA believes it appropriate to require *Cryptosporidium* data under the ICR because: (1) the incremental cost of its inclusion is low (since the same method and sample is used for *Giardia*), (2) a sufficient number of laboratories are expected to meet the data quality objectives, (3) the more experience laboratories have with the method, the better their performance should be, and (4) through subsequent testing, an adjustment factor can be generated to improve the utility of ICR-generated protozoan data.

F. Other Changes

Other changes to the rule include requiring all systems taking samples for microorganisms to also collect a full 18 months of virus samples (with no provisions for reduced monitoring), unless a system meets certain source water quality criteria. EPA is concerned about the possibly significant variability in the virus density over time. Therefore, the final rule eliminates the provision that allowed a PWS to avoid further virus sampling if no viruses were found during the first 12 months of sampling.

EPA decided not to include *Clostridium perfringens* and coliphage in the list of microbial parameters to evaluate their potential use as indicators. EPA was not confident that a valid laboratory approval and performance evaluation process could be implemented and believes that evaluation of indicators could be better accomplished under a separate research project. EPA will allow particle counting in lieu of finished water *Cryptosporidium* and *Giardia* monitoring, in order to develop data to evaluate the usefulness of particle counting as a surrogate for *Cryptosporidium* and *Giardia* removal.

The ICR also will require PWSs to submit treatment plant influent and finished water samples for virus archiving under certain conditions. EPA will use these samples to conduct research on occurrence and treatment for specific viruses.

EPA has also added an additional analytical method (Standard Method 4500–Cl B) for determining free chlorine concentration in hypochlorite stock solutions. A commenter pointed out that this method is able to determine concentrations at much higher levels than the proposed methods, reducing the need for large dilutions and their associated potential for error. Because this method is not sensitive at concentrations typically found in drinking water, its use is restricted to analyses of hypochlorite solutions. Other approved analytical methods may be used for any required free chlorine analyses, including hypochlorite solutions.

G. Other Changes Considered

EPA also received comments on several other requirements that, after evaluation, were not changed in the final ICR. One such comment addressed the provision in the proposed rule to limit analyses of cyanogen chloride and aldehyde to the EPA laboratory. Some commenters disagreed with EPA's decision to limit cyanogen chloride and aldehyde analyses to the EPA laboratory. Since EPA did not believe that it could have developed performance evaluation samples and implemented a laboratory approval program in the period of time that the Agency believed it had available between proposal and promulgation, EPA's laboratory will continue to be the only laboratory to analyze these samples under the final rule. EPA believed that the following issues could not be resolved in time: (1) the standard for cyanogen chloride may not be stable for more than a few weeks and (2) the methods are not simple (both require highly skilled analysts and must be analyzed within 48 hours; aldehyde analysis is subject to contamination). The EPA laboratory will provide sample containers and will not charge PWSs for these analyses.

VI. State Implementation

The February 10, 1994, notice proposed that EPA, rather than States, administer this rule. Many commenters believed that States should be involved in the ICR and should be given primary enforcement responsibility (primacy). Among their reasons were: States have more experience with local conditions; administration of drinking water rules by more than one party will cause confusion and contradictions and would be cumbersome; it sends a message that the public water system supervision program is not fully delegated; it would increase noncompliance; it would not allow systems to use State waivers; State administration would allow for local support and training and facilitate corrective action; and EPA is not authorized to confer partial primacy under the SDWA.

The rationale for proposing that EPA administer the ICR was that this rule,

unlike other drinking water rules, is an information-gathering effort of a limited duration, and the time constraints for implementing this rule would strain State resources. The Negotiating Committee, including the member representing State drinking water agencies, concurred on this point during the regulatory negotiation. Some commenters agreed, indicating that States should not administer the program. At least one commenter remarked that States do not have the time or resources to meet the ambitious ICR schedule.

EPA continues to believe that the short times involved with this rule make it imperative that the Agency administer the rule. While some States might be able to put all necessary mechanisms for rule implementation (including regulatory authority and laboratory approval) into place in the short-term (three months after promulgation), most would not. EPA also believes that data such as these, which are to be used for regulatory development (rather than for compliance) needs national standardization to maximize the data's usefulness. To ensure coordination with other implementation activities, EPA will be sharing data with the States and will inform the States about any enforcement actions the Agency intends to take to implement this rule.

VII. Cost of Rule

The ICR is estimated to result in national costs of $129 million, with a range of $117 to $148 million, to be expended over a three year period. Since this cost does not exceed $100 million per year, it does not qualify as a "major rule" for purposes of Executive Order 12866, or for the purposes of the Unfunded Mandate Reform Act of 1995. EPA has prepared an economic impact analysis which establishes that this action would not be a major rule within the meaning of the Executive Order. A copy of this analysis is available in the docket. This analysis has been submitted to the Office of Management and Budget for review. The following is a summary of the cost estimates for implementation of this rule.

A. Cost Estimates for Final ICR as Compared to the Proposed ICR

The range of the final total ICR cost estimates are exactly the same as the range of cost estimates in the proposed rule. Comparisons between the costs of the proposed rule and the costs of the final rule are not straightforward, however, due to a number of factors. Some of these factors resulted in higher cost estimates for some components of the final rule, while other factors resulted in lower cost estimates for various components of the final rule. The major factors which resulted in changes to the final cost analysis include the following items.

1. Decreases in the Final ICR Cost Estimates

The original cost estimates for DBP monitoring were found to have been over-estimated in the proposed ICR due to a flawed assumption regarding the number of treatment sites that systems using ground water would be required to monitor. The proposed rule assumed that DBP monitoring would be conducted at every treatment site within a ground water system. The cost estimate in the final rule, however, more realistically assumes that ground water systems will be required to conduct DBP sampling at two treatment sites representing different aquifers. This revised assumption reduced costs by $30 million. The cost estimate for the final ICR also reflects the elimination of microbial monitoring requirements for PWSs that serve fewer than 100,000 people.

2. Increases in the Final ICR Cost Estimates

The final rule cost estimates for DBP monitoring for surface water systems show an increase of $11 million. This increase reflects a number of revised assumptions including: changes regarding the number of samples actually required by the monitoring requirements; a deeper appreciation of the complexity of some treatment trains (an issue which was brought to light during the development of the ICR data management system); and the inclusion of some purchased water systems that re-disinfect.

In addition, numerous unit cost assumptions within the analysis were revised upwards to reflect public comments. Most notably, the startup costs, microbial monitoring costs, and data reporting costs were increased, taking into account information received from commenters on the analysis accompanying the proposed rule.

3. Uncertainty

These national cost estimates have an inescapable range of uncertainty associated with them. A sensitivity analysis performed in response to public comments as part of the revised economic impact analysis indicates that the greatest source of uncertainty is the cost of the pilot- and bench-scale treatment studies. These studies were estimated to cost $57 million in the proposed rule, with high and low bounds of $76 and $45 million. In the final rule, EPA has retained the original cost estimates and accompanying ranges for the cost of bench- and pilot-scale treatment studies. EPA has also finalized an option for utilities to contribute to a research fund in lieu of conducting pilot- and bench-scale testing to reduce any possible duplication of effort and possibly reduce costs to the PWS. The net effect of this option on total costs is unpredictable. It is clear, however, that the pilot- and bench-scale testing will remain the largest and most uncertain element of the total cost.

B. Total Cost and Burden Estimates for the Final ICR

The total estimated cost of $129 million for the final ICR is indicated in the third column of Table VII–1. The following five elements contribute to the total cost:

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Table VII - 1: Total Cost and Burden Estimates for the Information Collection Rule[1]

Respondents Affected	Costs ($K) All Respondents	Costs ($K) Per Respondent	Burden (hr.) All Respondents	Burden (hr.) Per Respondent	Responses All Respondents	Responses Per Respondent
Compliance Activities						
141.141 - Start-Up Activities						
233 Non-purchased Surface Water Systems > 100K	440 plants	5,280	12	132,000	300	1,320
165 Non-purchased Ground Water Systems > 50K	165 systems	1,980	12	49,500	300	495
22 Purchased Surface Water Systems > 100K	22 systems	264	12	6,600	300	66
2 Purchased Ground Water Systems > 100K	2 systems	24	12	600	300	6
Subtotal		*7,548*		*188,700*		*1,887*
141.143 - Microbiological Monitoring						
233 Non-purchased Surface Water Systems > 100K	440 plants	*17,196*	*39*	*175,923*	*400*	*55,440*
141.142 - DBP and Related Monitoring						
233 Non-purchased Surface Water Systems > 100K	440 plants	30,489	69	239,172	544	720,258
59 Non-purchased Ground Water Systems > 100K	118 treat sites	5,857	50	43,409	368	114,144
22 Purchased Surface Water Systems > 100K	22 treat sites	1,090	50	7,919	360	18,396
2 Purchased Ground Water Systems > 100K	2 treat sites	99	49	709	354	1,656
Subtotal		*37,535*		*291,209*		*854,454*
Data Reporting (141.142 - 143)						
233 Non-purchased Surface Water Systems > 100K	440 plants	8,103	18	268,693	611	8,213
165 Non-purchased Ground Water Systems > 50K	224 treat sites	1,142	5	36,528	163	3,396
22 Purchased Surface Water Systems > 100K	22 treat sites	99	5	3,168	144	396
2 Purchased Ground Water Systems > 100K	2 treat sites	9	5	288	144	36
Subtotal		*9,353*		*308,677*		*12,041*
141.144 - TOC Monitoring and Treatment Studies						
TOC Studies						
106 Ground Water Systems 50-100K	106 treat sites	70	0.66	636	6	1,272
Bench and Pilot Studies						
233 Surface Water Systems > 100K	178 plants[2]	48,300	271	322,000	1,809	178
165 Ground Water Systems > 50K	33 plants[2]	8,550	259	57,000	1,727	33
Subtotal		*56,920*		*379,636*		*1,683*
Total:		*128,553*		*1,344,146*		*925,368*

[1] Total costs and burden over 18 months, except for pilot studies which extend over two and one-half years

[2] Surface water treatment plants with influent TOC > 4 mg/l; ground water treatment plants with effluent TOC > 2 mg/l.

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1. Start-up Activities (§ 141.141)

Start-up activities are estimated to cost a total of $7.6 million. This estimate has been revised upward from the original cost estimate of $515,000 in the proposed ICR to reflect public comments. Start-up activities consist of reading and understanding the requirements of the rule, determining applicability and evaluating treatment plants to determine specific sampling requirements for each treatment plant, preparing sampling plans, and installing and learning to operate computer software to report monitoring results. Start-up costs will be spread across an estimated 422 community water systems, resulting in an average cost of $18,000 per system.

2. Microbiological Monitoring (§ 141.143)

Microbial monitoring, which is estimated to apply to 440 plants in 233 community surface water systems serving at least 100,000 people, is estimated to cost $17.2 million. The average cost per plant is estimated to be $39,000.

3. DBP and Related Monitoring (§ 141.142)

DBP monitoring is estimated to apply to 292 surface and ground water community water systems that purchase none, or only a portion, of their water and serve at least 100,000 people. DBP monitoring is also estimated to apply to an additional 24 community water systems that purchase all their finished water and disinfect that water prior to distribution, and serve at least 100,000 people. DBP monitoring is estimated to cost $37.5 million nationally, resulting in average costs of $50,000 per treatment site for ground water systems and $69,000 per treatment site for surface water systems.

This estimate is approximately $20 million less than the estimate presented in the preamble to the proposed rule due to a flawed assumption (discussed above) regarding the number of treatment sites that PWSs using ground water would be required to monitor. The analysis accompanying the proposed rule assumed that DBP monitoring would be conducted at every treatment site within a ground water system (a total of 1,295 sites in 59 ground water systems). The present analysis, however, more realistically assumes DBP sampling at two treatment sites per system (a total of 118).

4. Electronic Data Reporting (§§ 141.143 and 141.142)

The ICR requires monthly electronic reporting of microbial monitoring results and DBP monitoring results along with various process parameters of water treatment processes related to microbial treatment and DBP formation. The total cost is estimated to be $9.4 million nationally, with an average cost of $14,000 per treatment plant. This estimate compares to $3.9 million estimated in the proposed rule.

5. TOC Monitoring and Bench- and Pilot-Scale Treatment Studies (§ 141.144)

Required TOC monitoring and bench- and pilot-scale treatment studies are estimated to have a total national cost of $57 million, with a range of $45 million to $75 million. For each treatment study, costs are estimated to range from $150,000 to $750,000. This requirement applies, with some exceptions, to all surface water treatment plants serving at least 100,000 persons (or the largest treatmeñt plant in the PWS if no single treatment plant serves at least 100,000) that have an influent TOC concentration greater than 4 mg/l. It also applies to all ground water treatment plants serving at least 100,000 persons (or the largest treatment plant in the PWS if no single treatment plant serves at least 100,000) that have a finished water TOC concentration greater than 2 mg/l, or to the largest ground water treatment plant in PWSs serving 50,000 to 99,999 (with at least 50,000 served by ground water), if that treatment plant has a finished water TOC concentration greater than 2 mg/l.

VIII. Other Statutory Requirements

A. Executive order 12866

Under Executive Order 12866, (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact or entitlements, grants, user fees, or loan programs or the rights and obligations of the recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "significant regulatory action" within the meaning of the Executive Order. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the public record.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act requires EPA to explicitly consider the effect of proposed regulations on small entities. The Act requires EPA to consider regulatory alternatives if a rule has a significant economic impact on a substantial number of small entities. The Small Business Administration defines a small water utility as one which serves fewer than 3,300 people.

This Final Rule is consistent with the objectives of the Regulatory Flexibility Act because it will not have any economic impact on any small entities. The rule only applies to PWSs serving more than 50,000 people; thus, PWSs serving fewer than 50,000 people would not be affected. Therefore, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 et seq. An Information Collection Request document has been prepared by EPA (ICR No. 270.35) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136), 401 M Street SW., Washington, DC 20460 or by calling (202) 260–2740. The information requirements are not effective until OMB approves them.

Public burden for this collection of information is estimated to total 1,344,146 hours, about 200,794 more than estimated in the proposed rule, reflecting public comments on the previous analysis. There are five elements contributing to the total burden estimate, as detailed in Table VII–1. The total burden associated with start-up activities is estimated to be 188,700 hours. The total burden associated with microbial monitoring is estimated to be 175,923 hours (§ 141.143). Total burden for DBP monitoring is estimated to be 291,209 hours (§ 141.142). Total burden for the process data reporting requirement is estimated to be 308,677 hours (§§ 141.142 and 141.143). Total burden associated with the bench- and pilot-scale treatment study requirement is estimated to be 379,636 hours (§ 141.144).

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.42 hours per response and 1,062 hours per respondent. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR Part 9.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Director, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136), 401 M Street SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence.

D. Enhancing the Intergovernmental Partnership

As described in greater detail in the preamble to the proposed ICR, EPA used a negotiated rulemaking process to develop the regulatory approach to the problems associated with disinfection. The Negotiating Committee included representatives of:

—Local public health, drinking water supply, and elected officials; and
—State public health, regulated utilities commissioners, and drinking water program officials.

Committee members were supported by other program and financial officials and Washington-based association directors (e.g., Association of State Drinking Water Administrators, National League of Cities) both during meetings and between meetings of the Committee. Also, EPA made documents publicly available and associations distributed them to interested members.

During evaluation of public comments and development of the final requirements, EPA held several public meetings to discuss monitoring requirements, the data management system, applicability, and data quality objectives.

E. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, requires each agency, unless prohibited by law, to assess the effects of federal regulations on State, local, and tribal governments and the private sector. Under Section 202 of the Unfunded Mandates Act, EPA must prepare an unfunded mandate statement to accompany any proposed rule where the estimated costs to State, local, or tribal governments, or to the private sector, will be $100 million or more in any one year. Under Section 205, EPA must select the most cost-effective or least burdensome alternative that achieves the requirements for actions covered by Section 202, or explain why this was not possible. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly affected by the rule.

The unfunded mandate statement under Section 202 must include: (1) A citation of the statutory authority under which the rule is proposed, (2) an assessment of the costs and benefits of the rule and the federal resources available to defray the costs, (3) where feasible, estimates of future compliance costs and disproportionate impacts upon particular geographic or social segments of the nation or industry, (4) where relevant, an estimate of the effect on the national economy, and (5) a description of EPA's prior consultation with State, local, and tribal officials.

Since this rule is not estimated to impose annual costs of $100 million or more on either State, local, or tribal governments, or on the private sector, EPA is not required to prepare an unfunded mandate statement. Because the rule only applies to PWSs serving at least 50,000 persons, no small governments are affected.

F. Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

For the purposes of Congressional review, OMB has determined that this rule is not major under SBREFA. Therefore, this rule is effective 35 days after publication.

IX. References

APHA. 1995. American Public Health Association. "Standard methods for the examination of water and wastewater" (19th ed.). Washington, DC.

AWWA. 1991. "Guidance manual for compliance with the filtration and disinfection requirements for public water systems using surface water sources." American Water Works Association, Denver, CO.

Cummins, Michael D. Memorandum to Stephen Clark titled "Average Flow and Design Capacity for Technologies and Cost Documents." October 5, 1987.

EPA. U.S. Environmental Protection Agency. April 1996. "ICR Comment Response Document", EPA 811–R–96–001.

EPA. U.S. Environmental Protection Agency. April 1996. "ICR Sampling Manual", EPA 814–B–96–001.

EPA. U.S. Environmental Protection Agency. April 1996. "DBP/ICR Analytical Methods Manual", EPA 814–B–96–002.

EPA. U.S. Environmental Protection Agency. April 1996. "ICR Microbial Laboratory Manual", EPA 600/R–95/178.

EPA. U.S. Environmental Protection Agency. April 1996. "ICR Manual for Bench- and Pilot-scale Treatment Studies", EPA 814–B–96–003.

EPA. U.S. Environmental Protection Agency. April 1996. "Reprints of EPA Methods for Chemical Analyses under the Information Collection Rule", EPA 814–B–96–006.

EPA. U.S. Environmental Protection Agency. April 1996. "ICR Water Utility Database System Users' Guide", EPA 814–B–96–004.

List of Subjects in 40 CFR Part 141

Administrative practice and procedure, Analytical methods, Chemicals, Incorporation by reference, Intergovernmental relations, Microorganisms, Monitoring, National Primary Drinking Water Regulations, Reporting and recordkeeping requirements, Water supply.

Dated: May 1, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 141 of title 40 of the Code of Federal Regulations is amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9.

2. Section 141.2 is amended by adding "or PWS" to the definition for "Public water System" to read as follows:

§ 141.2 Definitions.

* * * * *

Public water system or PWS * * *

* * * * *

3. Section 141.6 is amended in paragraph (a) by revising the reference "(a) through (h)" to read "(a) through (i)" and by adding paragraph (i) to read as follows:

§ 141.6 Effective dates.

* * * * *

(i) Regulations for information collection requirements listed in Subpart M are effective August 14, 1996, and shall remain effective until December 31, 2000.

4. A new Subpart M is added consisting of §§ 141.140 through 141.144 to read as follows:

Subpart M—Information Collection Requirements (ICR) for Public Water Systems

Sec.

141.140 Definitions specific to subpart M.
141.141 General requirements, applicability, and schedule for information collection.
141.142 Disinfection byproduct and related monitoring.
141.143 Microbial monitoring.
141.144 Disinfection byproduct precursor removal studies.

Subpart M—Information Collection Requirements (ICR) for Public Water Systems

§ 141.140 Definitions specific to subpart M.

The following definitions apply only to the requirements of subpart M of this part and are arranged alphabetically.

Distribution system means the components of a PWS that are under the control of that PWS located after the point where the finished water sample is taken and that provide distribution, storage, and/or booster disinfection of finished water.

Distribution System Equivalent (DSE) sample means a sample collected from the distribution system for the purpose of comparing it with the "simulated distribution system (SDS) sample". The DSE sample shall be selected using the following criteria:

(1) No additional disinfectant added between the treatment plant and the site where the DSE sample is collected;

(2) Approximate detention time of water is available; and

(3) There is no blending with finished water from other treatment plants.

Entry point to distribution system means a location following one or more finished water sample points but prior to the beginning of the distribution system.

Finished water means water that does not undergo further treatment by a treatment plant other than maintenance of a disinfection residual.

Haloacetic acids (five) (HAA5) means the sum of the concentration in micrograms per liter of the haloacetic acids mono-, di-, and trichloroacetic acid; mono-, and di-, bromoacetic acid, rounded to two significant figures.

Haloacetic acids (six) (HAA6) means the concentration in micrograms per liter of the haloacetic acids mono-, di-, and trichloroacetic acid; mono-, and di- bromoacetic acid; and bromochloroacetic acid, rounded to two significant figures.

Haloacetonitriles (HAN) means the concentration in micrograms per liter of the haloacetonitriles dichloro-, trichloro-, bromochloro-, and dibromo-acetonitrile, rounded to two significant figures.

Haloketones (HK) means the concentration in micrograms per liter of the haloketones 1,1-dichloropropanone and 1,1,1- trichloropropanone, rounded to two significant figures.

Intake means the physical location at which the PWS takes water from a water resource. Thereafter, the water is under the control of that PWS.

Notice of applicability means a notice sent by EPA to a PWS that indicates that EPA believes that the PWS must comply with some or all requirements of subpart M. The PWS is required to reply to this notice by providing information specified in the notice (e.g., retail and wholesale population served, types of water sources used, volume of water treated) by the date provided in subpart M.

Process train means some number of unit processes connected in series starting from the treatment plant influent and ending with finished water. A particular unit process may be in more than one process train.

Purchased finished water means finished water purchased by one PWS from another PWS (the wholesaler). Purchased finished water includes both purchased finished water that is redisinfected and purchased finished water that is not.

Simulated distribution system (SDS) sample means a finished water sample incubated at the temperature and detention time of a "DSE sample" collected from the distribution system. Analytical results of the SDS sample will be compared with the DSE sample to determine how well the SDS sample predicts disinfection byproduct formation in the actual distribution system sample.

Total finished water means the flow (volume per unit of time) of finished water obtained from all treatment plants operated by a PWS and includes purchased finished water. This flow includes water entering the distribution system and water sold to another PWS.

Treatment plant means the PWS components that have as their exclusive source of water a shared treatment plant influent and that deliver finished water to a common point which is located prior to the point at which finished water enters a distribution system or is diverted for sale to another PWS. For these components of the PWS to be considered part of one treatment plant, the PWS must be able to collect one representative treatment plant influent sample, either at a single sample point or by a composite of multiple influent samples, and there must exist a single sampling point where a representative sample of finished water can be collected. For the purpose of subpart M, a treatment plant is considered to include any site where a disinfectant or oxidant is added to water prior to the water entering the distribution system. Facilities in which ground water is disinfected prior to entering a distribution system, and facilities in which purchased finished water has a disinfectant added prior to entering a distribution system, are considered treatment plants.

Treatment plant influent means water that represents the water quality challenge to a particular plant.

Treatment system means all treatment plants operated by one PWS.

Trihalomethanes (four) (THM4) means the sum of the concentration in micrograms per liter of the trihalomethanes chloroform, bromodichloromethane, dibromochloromethane, and bromoform, rounded to two significant figures.

Unit process means a component of a treatment process train which serves any treatment purpose such as mixing or sedimentation for which design and operating information is requested in § 141.142(a), Table 6c, of this subpart.

Water resource means a body of water before it passes through an intake structure. Examples of a water resource include a river, lake, or aquifer. For a PWS which purchases finished water, the water resource is the wholesale PWS which supplies the purchased finished water. Generally water resources are not under the direct control of a PWS.

Watershed control practice means protection of a water resource from microbiological contamination prior to the water entering an intake. These protective measures might include, but are not limited to, a watershed control program approved under § 141.71(b)(2) of this part, or land use restrictions.

§ 141.141 General requirements, applicability, and schedule for information collection.

(a) *General requirements.* (1) The purpose of subpart M is to collect specified information from certain PWSs for a limited period of time. Accordingly, subpart M is of limited duration and is effective for a defined period (see § 141.6 (i) and § 141.141(e) of this part). Since subpart M does not establish continuing obligations, a PWS that has completed all of its requirements at the required duration and frequency may discontinue its information collection efforts even if subpart M is still in effect.

(2) For the purpose of this subpart, a PWS shall make applicability determinations based on completion of data gathering, calculations, and treatment plant categorization specified in Appendix A to paragraph (a) of this section.

(3) For the purpose of this subpart, a PWS that uses multiple wells drawing from the same aquifer and has no central treatment plant is considered to have one treatment plant for those wells and shall conduct required monitoring under this specification. A PWS with multiple wells in one or more aquifers that are treated in the same treatment plant is considered to have one treatment plant for those wells and shall conduct required monitoring under this specification.

(i) To the extent possible, the PWS should sample at the well with the largest flow and at the same well each month for the duration of required monitoring.

(ii) A PWS must report information from § 141.142(a) Tables 6a through 6e of this subpart for each well that the PWS sampled.

(4) For the purpose of this subpart, a PWS shall treat ground water sources that have been classified by the State as under the direct influence of surface water by May 14, 1996, as surface water sources. A PWS shall treat ground water sources that either have not been classified by the State (as under the direct influence of surface water or not) or have been classified by the State as ground water, by May 14, 1996, as ground water sources.

Appendix A to 40 CFR 141.141(a)

Purpose. The purpose of this appendix is to enable the PWS to assign proportional amounts of its retail and wholesale population served to specific treatment plants. The PWS shall then use these values to determine which specific requirements in subpart M that it must comply with and on what schedule.

Period of applicability determination. For the purpose of this appendix, a PWS shall make applicability determinations based on population calculated as annual averages based on PWS records of treatment system or treatment plant operation during calendar year 1995.

—If a natural disaster made a treatment system or treatment plant inoperable for one or more calendar months in 1995, the applicability determination will be based on those months in 1995 during which the treatment system or treatment plant was in operation, plus the calendar months from 1994 that are representative of those months of 1995 during which the treatment system or treatment plant was inoperable. The total time period shall be 12 months.

—If the treatment system or treatment plant was not in operation during one or more calendar months during 1995 due to a seasonal reduction in demand for finished water, the months that the treatment system or treatment plant was not in operation are to be included in the 12 months of applicability determination with zero flow indicating no operation.

—If the treatment system or treatment plant was not in operation for one or more calendar months in 1995 due to construction and/or maintenance, the applicability determination will be based on those months in 1995 during which the treatment system or treatment plant was in operation, plus the calendar months from 1994 that correspond to those months of 1995 during which the treatment system or treatment plant was inoperable. The total time period shall be 12 months.

—Treatment systems or treatment plants whose total operational lifetime is fewer than 12 calendar months as of December 1995 are not required to comply with subpart M requirements.

—PWSs that purchase all their water from one or more other PWSs and do not further treat any of their water are not required to comply with subpart M requirements.

Applicability determination. To determine applicability, the PWS is required to collect certain operational data and perform specified mathematical operations. All operational data and calculated values will be expressed as either "F" (for flow) or "P" (for population), with a one or two character subscript. Table A–1 contains a more detailed explanation.

TABLE A–1.—: APPENDIX A SUBSCRIPT IDENTIFICATION PROTOCOL

General.

1. "F" indicates a flow value. The PWS must use million gallons per day (MGD) to express the flow throughout its calculations.
2. "P" indicates a population value, expressed as a number of people.

Subscripts.

1. "P_R" is retail population, "F_W" is wholesale flow, and "F_N" is purchased finished water that is not further treated.
2. Each "F" value (in Table A–2) or "P" value (in Table A–4) will have a two character designator.
   a. The first character in the subscript indicates the source type. Possible entries are "S" (for surface water or ground water under the direct influence of surface water), "G" (for ground water not under the direct influence of surface water), "P" (for finished water purchased from another PWS and further treated at the entrance to the distribution system, such as by redisinfection), and "C" (for combined, or the sum of all water treated by the PWS, including purchased water that is further treated at the entrance to the distribution system).
   b. The second character in the subscript indicates the specific identification of the treatment plant. This will be a number (e.g., 1, 2, 3, * *, with # being a non-specific designator) and "T" (for a Total).

Data from operational records. The PWS shall determine the following information based on operational records.

—P_R=Retail population served by the PWS =_____ (number of people)

—F_N=treated water bought from one or more other PWSs and not further treated at the entry point to the distribution system =_____ (MGD)

—F_W= finished water sold to one or more other PWSs, regardless of whether buying PWSs further treat the finished water =_____ (MGD)

—Flows from specific water resources to specific treatment plants. For each treatment plant operated by the PWS, the PWS must determine the flow from each water resource that provides water to the treatment plant. In the following table, the PWS must enter flow from each type of water resource into the appropriate block, using the subscript identification protocol in Table A–1.

—$F_{Sø}$=surface water treated at treatment plant "ø" =_____ (MGD) (enter into Table A–2)

—$F_{Gø}$=ground water treated at treatment plant "ø" =_____ (MGD) (enter into Table A–2)

—$F_{Pø}$=treated water bought from one or more other PWSs and further treated at treatment plant "ø" prior to the entry point to the distribution system =_____ (MGD) (enter into Table A–2)

TABLE A–2.—TREATED FLOW VALUES

Water resources (by type source)	Sources of treated water (FLOW)			
	Treatment plants			
	#1	#2	#3	#4
Surface water (S)	(F_{S1})	(F_{S2})	(F_{S3})	(F_{S4})
Ground water (G)	(F_{G1})	(F_{G2})	(F_{G3})	(F_{G4})
Purchased finished water that is further treated (P)	(F_{P1})	(F_{P2})	(F_{P3})	(F_{P4})
Combined (C)	(F_{C1})	(F_{C2})	(F_{C3})	(F_{C4})

NOTE: The $F_{Cø}$ value is calculated by adding the $F_{Sø}$, $F_{Gø}$, and $F_{Pø}$ values in the column above.

—F_{CT}=finished water produced in all of the PWS's treatment plants (calculated by adding the combined flows from each treatment plant (Σ ($F_{Cø}$)). =_____ (MGD)

Calculated values. The PWS must calculate the following values.

—Population equivalents. Divide the flow values in Table A–2 by the conversion factor K below (a PWS-specific per capita finished water usage rate) and enter in the corresponding box in Table A–3 below. For each treatment plant operated by the PWS, the PWS must determine the population served by each type of water resource that provides water to the treatment plant.

Conversion factor=K=(F_{CT}+F_N − F_W)/P_R=_____

For Table A–3, P=F/K, using F values from Table A–2 (e.g., P_{S1}=F_{S1}/K).

TABLE A–3: POPULATION SERVED VALUES

Water resources (by type source)	Population served by treated water (number of people)			
	Treatment plants			
	#1	#2	#3	#4
Surface water (S)	(P_{S1})	(P_{S2})	(P_{S3})	(P_{S4})
Ground water (G)	(P_{G1})	(P_{G2})	(P_{G3})	(P_{G4})
Purchased finished water that is further treated (P)	(P_{P1})	(P_{P2})	(P_{P3})	(P_{P4})
Combined (C)	(P_{C1})	(P_{C2})	(P_{C3})	(P_{C4})

Note: The $P_{Cø}$ value is calculated by adding the $P_{Sø}$, $P_{Gø}$, and $P_{Pø}$ values in the column above.

—P_{CT}=number of people served by finished water produced in all of the PWS's treatment plants (calculated by adding the combined populations served by each treatment plant (Σ ($P_{Cø}$))) =_____ (people)

Note: A PWS that sells all its finished water and thus has no retail population must calculate the population served by the PWS by raising the PWS's average treated flow (in MGD) to the 0.95 power and multiplying the result by 7,700. As an equation, this would appear as:

PWS population served=7,700 (PWS's average treated flow in MGD)$^{0.95}$

The PWS may then calculate the population served by each of its treatment plants by multiplying the PWS population served times the average treated flow from the treatment plant divided by the average treated flow for the PWS. As an equation, this would appear as:

$$\text{Treatment plant population served} = \frac{\text{PWS population served} \times \text{treatment plant flow}}{\text{PWS average treated flow}}$$

Treatment plant categorization. A PWS must categorize its treatment plants to determine its specific compliance requirements by reviewing Table A–4 below.

TABLE A–4.—TREATMENT PLANT CATEGORIES

Treatment plant category	P_{CT}	$P_{Cø}$	$P_{Sø}$	$P_{Gø}$
A	≥100,000	≥100,000	≥1	NA.
B	≥100,000	≥100,000	Zero	NA.
C	≥100,000	$P_{Cø}$ is <100,000 and is largest $P_{Cø}$ in PWS.	≥1	NA.
D	≥100,000	$P_{Cø}$ is <100,000 and is largest $P_{Cø}$ in PWS.	Zero	NA.
E	≥100,000	<100,000 and is not largest $P_{Cø}$ in PWS	≥1	NA.
F	≥100,000	<100,000 and is not largest $P_{Cø}$ in PWS	Zero	NA.
G	50,000–99,999 and P_{GT} ≥ 50,000.	NA	NA	Largest $P_{Gø}$.

NA—not applicable.

(b) Applicability.

(1) Table 1 of this paragraph is a summary of treatment plant categorization under the provisions of Appendix A to paragraph (a) of this section.

TABLE 1.—TREATMENT PLANT CATEGORIES

Treatment plant category	PWS combined population served	Treatment plant combined population served	Treatment plant surface water population served	Treatment plant ground water population served
A	≥100,000	≥100,000	≥1	NA.
B	≥100,000	≥100,000	zero	NA.
C	≥100,000	Plant serves <100,000 and is largest plant.	≥1	NA.
D	≥100,000	Plant serves <100,000 and is largest plant.	zero	<100,000.
E	≥100,000	Plant serves <100,000 and is not largest plant in PWS.	≥1	NA.
F	≥100,000	Plant serves <100,000 and is not largest plant in PWS.	zero	<100,000.
G	50,000–99,999 and ≥ 50,000 served by ground water.	NA	NA	Largest ground water plant.

NA–not applicable.

(2) Table 2 of this paragraph specifies applicability for requirements contained in §§ 141.142, 141.143, and 141.144 of this part, based on treatment plant categorization determined under the provisions of Appendix A to paragraph (a) of this section.

TABLE 2—SUBPART M APPLICABILITY

Subpart M Requirements	Categories of treatment plants[1]						
	A	B	C	D	E	F	G
§ 141.142.—DBP and Related Monitoring							
Table 1a and 1b	X	X	X	X	X	X	.....
Table 2[2]	X	X	X	X	X	X	.....
Table 3[2]	X	X	X	X	X	X	.....
Table 4a and 4b[2]	X	X	X	X	X	X	.....
Table 5a and 5b[2]	X	X	X	X	X	X	.....
Table 6	X	X	X	X	X	X	.....
§ 141.143—Microbiological Monitoring							
Treatment plant influent monitoring	X	.....	X	.....	X	.....	.....
Finished water monitoring[3]	X	.....	X	.....	X	.....	.....
§ 141.144—Applicability Monitoring and Treatment Studies							
Treatment study applicability monitoring	X	X	X	X	.....	.....	X
Pilot-scale treatment studies[4]	X	X	.....	.....	.....	.....	.....
Bench- or pilot-scale treatment studies[4]	X	X	X	X	.....	.....	X

[1] As determined by Appendix A to paragraph (a) of this section.

[2] Table 2 required only for treatment plants using chloramines. Table 3 required only for treatment plants using hypochlorite solution. Table 4a and 4b required only for treatment plants using ozone. Table 5a and 5b required only for treatment plants using chlorine dio xide.

[2] Only required for a PWS that, during any of the first twelve months of monitoring at the treatment plant influent, detects 10 or more *Giardia* cysts, or 10 or more *Cryptosporidium* oocysts, or one or more total culturable viruses in one liter of water; or calculates a numerical value of the *Giardia* or *Cryptosporidium* concentration equal to or greater than 1000 per 100 liters or virus concentration equal to or greater than 100 per 100 liters; or detects no pathogens in the sample and calculates a numerical value of the detection limit for *Giardia* or *Cryptosporidium* concentration equal to or greater than 1000 per 100 liters or virus concentration equal to or greater than 100 per 100 liters.

[4] Pilot-scale treatment studies are required for treatment plants that serve a population of 500,000 or greater. Bench- or pilot-scale treatment studies are required for treatment plants that serve a population of fewer than 500,000.

(c) *Disinfection Byproduct and Related Monitoring.* A PWS must comply with the monitoring requirements in § 141.142 of this subpart for treatment plants in treatment plant categories A, B, C, D, and E listed in Table 1 in paragraph (b)(1) of this section. The PWS shall monitor monthly for 18 consecutive months at each treatment plant, even if a treatment plant was not used for one or more calendar months. When the treatment plant is not operating, the PWS shall file the report required under § 141.142(c) of this subpart to indicate zero flow, and need only conduct treatment plant influent monitoring under the provisions of § 141.142 of this subpart. A PWS must comply with the monitoring requirements in § 141.142 of this subpart for treatment plants in treatment plant categories F listed in Table 1 in paragraph (b)(1) of this section monthly for 18 consecutive months at each treatment plant, except if a treatment plant was not used for one or more calendar months. When the treatment plant is not operating, the PWS shall file the report required under § 141.142(c) of this subpart to indicate zero flow, and is not required to conduct treatment plant influent monitoring under the provisions of § 141.142 of this subpart.

(d) *Microbiological Monitoring.* A PWS must comply with the monitoring requirements in § 141.143 of this subpart for treatment plants in treatment plant categories A, C, and E listed in Table 1 in paragraph (b)(1) of this section and Table 3 of this paragraph. The PWS shall conduct 18 consecutive months of microbiological monitoring at each treatment plant, even if it is not operated each calendar month.

TABLE 3.—MICROBIOLOGICAL MONITORING REQUIREMENTS FOR SUBPART M

Microbial sample	Treatment plant category	
	A, C and E	
	Treatment plant influent	Finished water [1]
Total culturable viruses	1/month [2]	1/month.
Total coliforms	1/month	1/month.
Fecal coliforms or *E. coli*	1/month	1/month.
Giardia	1/month	1/month.[3]
Cryptosporidium	1/month	1/month.[3]

[1] Only required for a PWS that, during any of the first twelve months of monitoring at the treatment plant influent, detects 10 or more *Giardia* cysts, or 10 or more *Cryptosporidium* oocysts, or one or more total culturable viruses in one liter of water; or calculates a numerical value of the *Giardia* or *Cryptosporidium* concentration equal to or greater than 1000 per 100 liters or virus concentration equal to or greater than 100 per 100 liters; or detects no pathogens in the sample and calculates a numerical value of the detection limit for *Giardia* or *Cryptosporidium* concentration equal to or greater than 1000 per 100 liters or virus concentration equal to or greater than 100 per 100 liters. The PWS shall collect one sample of finished water during each month that the treatment plant is operated at each such treatment plant beginning in the first calendar month after the PWS learns of such a result. A PWS shall continue finished water monitoring monthly until 18 months of treatment plant influent monitoring has been completed.

[2] A PWS may avoid virus monitoring if the PWS has monitored total coliforms, fecal coliforms, or *E. coli* in the source water for at least five days/week for any period of *x* consecutive months beginning after January 1, 1994, and 90% of all samples taken in that six-month period contained no greater than 100 total coliforms/100 ml, or 20 fecal coliforms/100 ml, or 20 *E. coli*/100 ml.

[3] A PWS may avoid the requirement for finished water monitoring of *Giardia* and *Cryptosporidium* if the PWS notifies EPA that it will comply with the alternative monitoring requirements in § 141.143(a)(2)(iii). The PWS must still conduct finished water monitoring for all other microorganisms, except that *Giardia* and *Cryptosporidium* monitoring in the finished water is not required.

(e) *Disinfection Byproduct Precursor Removal Studies (Treatment Studies).*

(1) A PWS shall comply with treatment study applicability monitoring in paragraph (e)(2) of this section at each treatment plant in treatment plant categories A, B, C, D, and G listed in Table 1 in paragraph (b)(1) of this section. A PWS shall comply with the treatment study requirements in § 141.144 of this subpart at each such treatment plant, except for those treatment plants:

(i) Meeting the source water quality, disinfection practice, or disinfection byproduct precursor removal practice criteria in paragraph (e)(3) of this section, for which no treatment study is required; or

(ii) Meeting the common water resource criteria in paragraph (e)(4) of this section, for which several PWSs may conduct treatment studies jointly, in lieu of separately; or

(iii) Meeting the common water resource criteria in paragraph (e)(5) of this section, for which a PWS may contribute funds towards research, in lieu of conducting a treatment study; or

(iv) At which a previous treatment study that meets the criteria in paragraph (e)(6) of this section has already been conducted, for which a PWS may use the results of this previous treatment study, in lieu of conducting another treatment study; or

(v) Operated by the PWS that use the same water resource, as classified by the procedure in paragraph (e)(4) of this section. The PWS is not required to conduct more than one treatment study for those treatment plants. If both pilot-scale and bench-scale treatment studies would otherwise be required for treatment plants on the same water resource, the PWS shall conduct a pilot-scale study. A PWS with multiple water resources shall conduct treatment studies for each treatment plant that uses different water resources.

(2) Treatment study applicability monitoring.

(i) PWSs shall monitor total organic carbon (TOC) monthly for 12 months. Treatment plants using surface water shall monitor treatment plant influent. Treatment plants using ground water shall monitor finished water.

(ii) Treatment study applicability monitoring for THM4 and HAA5 is only required by a PWS that intends to qualify for avoiding a treatment study under the provisions of paragraph (e)(3)(i) of this section.

(iii) Total organic halides formed under the uniform formation conditions (UFCTOX) monitoring is only required by a PWS that intends to qualify for a joint treatment study under the provisions of paragraph (e)(4)(i)(A)(*2*) of this section or for the alternative to conducting a treatment study under the provisions of paragraph (e)(5) of this section.

(3) *Criteria under which no treatment study is required.* A PWS identified in paragraph (e)(1) of this section is not required to conduct a treatment study at any treatment plant that satisfies any criteria in paragraphs (e)(3) (i) through (iv) of this section, provided that the PWS has also complied with the requirements in paragraph (e)(7)(i) of this section and EPA has approved the PWS's request to avoid the treatment study.

(i) Treatment plants that use chlorine as both the primary and residual disinfectant and have, as an annual average of four quarterly averages, levels of less than 40 µg/l for THM4 and less than 30 µg/l for HAA5. Quarterly averages are the arithmetic average of the four distribution system samples collected under the requirements of § 141.142(a)(1) of this subpart.

(ii) Treatment plants using surface water that do not exceed a TOC annual average of 4.0 mg/l in the treatment plant influent, measured in accordance with §§ 141.141(f)(4) and 141.144(a) of this subpart and calculated by averaging the initial 12 monthly TOC samples.

(iii) Treatment plants using only ground water not under the direct influence of surface water that do not exceed a TOC annual average of 2.0 mg/l in the finished water, measured in accordance with §§ 141.141(f)(4) and 141.144(a) of this subpart and calculated by averaging the initial 12 monthly TOC samples.

(iv) Treatment plants that already use full scale membrane or GAC technology. For a treatment plant that already uses full-scale GAC or membrane technology capable of achieving precursor removal, a PWS shall conduct monitoring and submit full-scale plant data required for disinfection byproduct and related monitoring by § 141.142(a) of this subpart, ensuring that the GAC or membrane processes are included in the process train being monitored. For a treatment plant to be considered to have membrane technology to achieve precursor removal, the PWS shall have used nanofiltration or reverse osmosis membranes. GAC capable of removing precursors is defined as GAC with an empty bed contact time (EBCT) of 15 minutes or greater, with a time between carbon reactivation or replacement of no more than nine months. PWSs that operate treatment plants that use GAC with either an EBCT of less than 15 minutes or a replacement or reactivation frequency for GAC longer than nine months may submit a request to avoid treatment studies under the provisions of paragraph (e)(7)(i) of this section by including data demonstrating effective DBP precursor removal.

(4) *Criteria under which joint treatment studies are allowed.* (i) PWSs that use common water resources and have similar treatment trains may conduct joint treatment studies. A common water resource for all types of surface water resources requires the mean treatment plant influent TOC or UFCTOX of each of the cooperating treatment plants to be within 10% of the average of the mean treatment plant influent TOCs or UFCTOX of all the cooperating treatment plants. A common water resource for all types of ground water resources requires the mean treatment plant finished water TOC or UFCTOX of each of the cooperating treatment plants to be within 10% of the average of the mean treatment plant finished water TOCs or UFCTOX of all the cooperating treatment plants. The mean is calculated from the monthly TOC or UFCTOX monitoring data for the initial twelve months of monitoring under § 141.144(a) of this subpart. Similar treatment trains means that, for example, softening plants may not conduct joint studies with conventional treatment plants. In addition, the applicable requirements in paragraphs (o)(4)(i) (A) through (C) of this section shall be met for the water resource to be considered a common water resource. If otherwise eligible, a PWS may choose to either perform a joint treatment study with other eligible systems or contribute funds to a cooperative research program, as described in paragraph (o)(5) of this section, as an alternative to conducting a treatment study.

(A) *River sources.* Treatment plants with river intakes are considered to have a common water resource if the PWS meets either criteria in paragraphs (o)(4)(i)(A) (*1*) or (*2*) of this section.

(*1*) The intakes are no more than 20 river miles apart and TOC at each treatment plant influent is within 10% of the mean TOC of all the treatment plant influents.

(*2*) The intakes are at least 20, but no more than 200, river miles apart and the PWS demonstrates that the mean water resource UFCTOX is within 10% of the mean UFCTOX of all the treatment plant influents, based on UFCTOX analytical results of the same 12 consecutive months for all cooperating treatment plants.

(B) *Lake/reservoir.* Treatment plants with lake or reservoir intakes are considered to have a common water resource if the same lake or reservoir serves all the cooperating treatment plants and TOC at each treatment plant influent is within 10% of the mean TOC of all the treatment plant influents.

(C) *Ground water not under the direct influence of surface water.* Treatment plants with intakes from a single aquifer are considered to have a common water resource if treatment plant finished water TOC at each treatment plant is within 10% of the mean finished water TOC of all the treatment plants.

(ii) PWSs that meet the requirements of paragraph (e)(4)(i) of this section shall conduct at least the number and type of joint studies noted in the following tables. Joint studies shall only be conducted among treatment plants in the same size category, i.e. a population served of either ≥500,000 or of <500,000. The maximum number of treatment plants with a population served ≥500,000 persons allowed to join together to conduct a study is three. The maximum number of treatment plants with a population served <500,000 persons allowed to join together to conduct a study is six.

JOINT STUDIES REQUIREMENT FOR TREATMENT PLANTS WITH A POPULATION SERVED OF <500,000

Number of plants	Minimum studies to be conducted
2	1 pilot (GAC or membrane).
3	1 pilot and 1 bench (GAC or membrane).
4	2 pilots (GAC and/or membrane).
5	2 pilots (GAC and/or membrane), 1 bench (GAC or membrane).

JOINT STUDIES REQUIREMENT FOR TREATMENT PLANTS WITH A POPULATION SERVED OF <500,000—Continued

Number of plants	Minimum studies to be conducted
6	2 pilots and 2 bench (GAC and/or membrane).

JOINT STUDIES REQUIREMENT FOR TREATMENT PLANTS WITH A POPULATION SERVED OF ≥500,000

Number of plants	Minimum studies to be conducted
2	1 pilot (GAC or membrane), 2 bench (GAC and/or membrane).
3	2 pilots (GAC and/or membrane).

(5) *Criteria under which an alternative to conducting a treatment study is allowed.* In lieu of conducting the required treatment study, a PWS may apply to EPA to contribute funds to a cooperative research effort. The PWS shall submit an application to EPA Technical Support Division, ICR Precursor Removal Studies Coordinator, 26 W. Martin Luther King Drive, Cincinnati, OH 45268. The application shall show that the treatment plant for which the waiver of the treatment study is sought uses a common water resource, as described in paragraph (e)(4) of this section, that is being studied by another PWS or cooperative of PWSs operating treatment plants in the same size category. A PWS operating treatment plants serving a population of fewer than 500,000 may also contribute to this fund if there is a common water resource (as defined in paragraph (e)(4) of this section) treatment plant serving 500,000 or more conducting a treatment study. If EPA approves the application, the PWS shall contribute funds in the amount specified in paragraph (e)(5)(i) of this section to the Disinfection Byproducts/Microbial Research Fund, to be administered by the American Water Works Association Research Foundation (AWWARF) under the direction of an independent research council, for use in a dedicated cooperative research program related to disinfectants, disinfection byproducts, and enhanced surface water treatment.

(i) The PWS shall contribute $300,000 for a treatment plant with a population served of 500,000 or more. The PWS shall contribute $100,000 for a treatment plant with a population served of fewer than 500,000.

(ii) The PWS shall send the contribution to the address specified in EPA's approval letter not later than 90 days after EPA approves the PWS application for waiver of the treatment study.

(6) *Criteria under which a previous treatment study is acceptable (grandfathered studies).* A PWS that has conducted studies of precursor removal that meet all the criteria in paragraphs (e)(6)(i) and (ii) of this section may use the results of that study in lieu of conducting another treatment study.

(i) The PWS used analytical methods specified in Table 7 of § 141.142(b)(1) of this subpart and used the analytical and quality control procedures described in "DBP/ICR Analytical Methods Manual", EPA 814–B–96–002.

(ii) The PWS followed a protocol similar to that specified and supplies the data specified in "ICR Bench- and Pilot-scale Treatment Study Manual" (EPA 814–B–96–003, April 1996).

(7) *Process for a PWS to obtain EPA approval of criteria applicability.* A PWS wanting to avoid the requirements for a treatment study under the provisions of paragraphs (e)(3) through (6) of this section shall submit the applicable information in paragraphs (e)(7)(i) through (iv) of this section and in "ICR Bench- and Pilot-scale Treatment Study Manual" (EPA 814–B–96–003, April 1996) and all monitoring data required under §§ 141.142(a) and 141.143(a) of this subpart to EPA, Technical Support Division, ICR Precursor Removal Studies Coordinator, 26 W. Martin Luther King Drive, Cincinnati, OH 45268.

(i) *Approval of request to avoid treatment studies.* A PWS that believes it qualifies to avoid the requirements for a treatment study under the provisions of paragraph (e)(3)(i) through (iii) of this section shall submit the information showing the applicable criterion for not conducting the study has been met not later than November 14, 1997. A PWS wanting to avoid the requirements for a treatment study under the provisions of paragraph (e)(3)(iv) of this section shall submit the supporting information, including any pilot- or full-scale data showing effective precursor removal, not later than November 14, 1997. A PWS that applies to avoid a treatment study under the provisions of paragraph (e)(4) through (6) of this section and subsequently qualifies to avoid a treatment study under the provisions of paragraph (e)(3)(i) through (iii) of this section may elect to avoid a treatment study under the provisions of paragraph (e)(3)(i) through (iii) of this section. If the PWS elects to avoid a treatment study under the provisions of paragraph (e)(3)(i) through (iii) of this section, the PWS shall notify all PWSs that were associated with the application to avoid a treatment study under the provisions of paragraph (e)(4) through (6) of this section.

(ii) *Approval of request to conduct joint studies.* A PWS that believes it qualifies to avoid the requirements for a treatment study under the joint study provisions of paragraph (e)(4) of this section shall submit a letter of intent to EPA with the information in paragraphs (e)(7)(ii)(A) through (F) of this section for all treatment plants to be included in the joint study not later than May 14, 1997. The letter shall be signed by all PWSs planning to participate in the joint study. All PWSs shall submit a combined application for joint studies approval to EPA (including 12 months of treatment plant influent TOC or finished water TOC results or UFCTOX results, as appropriate, for each treatment plant to be included in the joint study) not later than November 14, 1997.

(A) Data to support their common water resource designation.

(B) Information to demonstrate that treatment plants have similar treatment trains.

(C) Information that treatment plants are in the same size category.

(D) The treatment plant influent TOC or finished water TOC results, or UFCTOX results, as appropriate, from the first six months of monitoring.

(E) What studies will be conducted (i.e., combination of bench/pilot and GAC/membrane).

(F) Any additional supporting data.

(iii) *Approval of request for alternative to treatment studies.* A PWS that believes it qualifies to avoid the requirements for a treatment study under the provisions for an alternative in paragraph (e)(5) of this section shall submit a letter of intent expressing its intention to contribute funds to the cooperative research effort not later than May 14, 1997. The letter shall identify the other treatment plants using the same water resource which will be conducting studies. Each PWS shall submit an application for approval of alternative to treatment studies to EPA (including 12 months of treatment plant influent TOC or finished water TOC results or UFCTOX results, as appropriate) not later than November 14, 1997. EPA shall notify the PWS whether a treatment study is required (because there is no other appropriately sized treatment plant using the same water resource conducting a treatment study) or if the PWS can avoid the study by contributing funds to the cooperative research effort specified in paragraph (e)(5) of this section.

(iv) *Approval of request to use grandfathered studies.* A PWS that believes it qualifies to avoid the requirements for a treatment study under the grandfathered study provisions of paragraph (e)(6) of this section shall submit the following information not later than February 14, 1997: a description of the study, the equipment used, the experimental protocol, the analytical methods, the quality assurance plan, and any reports resulting from the study. EPA shall review the information and inform the PWS whether or not the prior study meets the ICR requirements. Not later than November 14, 1997, the PWS must submit study data in the format specified in "ICR Manual for Bench- and Pilot-scale Treatment Studies", EPA 814–B–96–003, April 1996. An approved grandfathered study can be justification for common water resource PWSs contributing to the cooperative research effort under the provisions of paragraph (e)(5) of this section, but may not be used as joint treatment studies unless it incorporates the requirements listed in § 141.141(e)(4) of this section and the PWS submits written concurrence of the PWS which conducted the study.

(f) *Effective dates.* (1) A PWS shall respond to the Notice of Applicability sent by EPA within 35 calendar days of receipt of that notice. The PWS's response to the Notice shall indicate what requirements in subpart M apply to each treatment plant operated by the PWS. If a PWS meets the applicability criteria in paragraph (b) of this section and has not received a Notice of Applicability from EPA by June 28, 1996, that PWS must request a Notice of Applicability from EPA by contacting the ICR Utilities Coordinator, TSD, USEPA, 26 West Martin Luther King Drive, Cincinnati, OH 45268, not later than July 15, 1996.

(2) A PWS required to monitor under both paragraphs (c) and (d) of this section shall begin monitoring to comply with the provisions of § 141.142 (Disinfection Byproduct and Related Monitoring) and § 141.143 (Microbiological Monitoring) of this subpart in the same month. The PWS must submit the sampling plans required by §§ 141.142(c)(2)(ii) and 141.143(c)(3)(ii) of this subpart at the same time.

(3) *Disinfection Byproduct and Related Monitoring.* A PWS operating a treatment plant required to comply with § 141.142 of this subpart shall begin monitoring in the calendar month following approval of the DBP and related monitoring sampling plan submitted under the provisions of § 141.142(c)(2)(ii) of this subpart. Once a PWS has begun monitoring, it shall continue to monitor for 18 consecutive months.

(4) *Microbiological Monitoring.* A PWS operating a treatment plant identified in paragraph (d) of this section shall begin monitoring under the provisions of § 141.143 of this subpart in the calendar month following approval of the sampling plan submitted under the provisions of § 141.143(c)(3)(ii) of this subpart. Once a PWS has begun monitoring, it shall continue to monitor for 18 consecutive months.

(5) DBP precursor removal studies. (i) *TOC, UFCTOX, THM4, and HAA5 monitoring.* A PWS required to comply with § 141.144 of this subpart shall begin TOC, UFCTOX, THM4, and HAA5 monitoring specified in paragraph (e)(2) of this section not later than August 14, 1996 and continue this monitoring for 12 consecutive months for TOC and UFCTOX and four consecutive quarters for THM4 and HAA5.

(ii) A PWS required to conduct a disinfection byproduct precursor removal study (treatment study) under the provisions of paragraph (e)(1) of this section shall begin conducting such treatment studies not later than April 14, 1998 and submit the report(s) of the completed study to EPA not later than July 14, 1999.

§ 141.142 Disinfection byproduct and related monitoring.

(a) *Monitoring requirements.* Samples taken under the provisions of this section shall be taken according to the procedures described in the "ICR Sampling Manual," EPA 814–B–96–001, April 1996. If a treatment plant configuration results in two required sampling points from any table in this section when in fact it is a single location, duplicate analyses are not required for the same location and time. A PWS that uses purchased finished water shall determine whether any monitoring of treatment plant influent is required under paragraphs (a)(2) through (5) of this section because of certain treatment (e.g., use of hypochlorite or chlorine dioxide) of the water provided by the selling PWS.

(1) A PWS shall obtain a complete set of samples at the frequency and location noted in Tables 1a and 1b of this section for treatment plants required to test under § 141.141(b) of this subpart. Samples shall be taken according to the sampling plan approved under the provisions of paragraph (c)(2)(ii) of this section.

(i) Samples of finished water shall be collected at a point after which all treatment processes for a particular treatment plant are complete (including the clearwell and final point of chlorination) and before the distribution system begins. A PWS that purchases finished water shall collect a sample before additional disinfectant is added to the purchased finished water. A PWS shall collect a sample of purchased finished water only if the PWS redisinfects the purchased finished water. A sample of finished water is a sample representing the final product water from a particular treatment plant.

(ii) A sample of treatment plant influent for a PWS that treats untreated water shall be taken at a location at the upstream end of a treatment plant where waters from all intakes are blended prior to any treatment or chemical addition. For treatment plants that have multiple intakes and add chemicals at the intake, the sample of treatment plant influent shall be a flow proportional composite of intake samples collected before chemical addition and before pretreatment. If the intakes are expected to have the same source water quality, one representative intake sample may be taken. If a disinfectant is added at or before the intake (e.g., for zebra mussel control), the sample shall be taken in the vicinity of the intake so that the sample is not contaminated by the disinfectant. A sample of treatment plant influent for a PWS that treats purchased finished water is taken at a location just before the purchased finished water is treated. An intake sample is collected after the intake but before blending with waters from other intakes and before addition of chemicals or any treatment.

TABLE 1A.—MONTHLY MONITORING REQUIREMENTS FOR TREATMENT PLANTS

Sampling point	Monthly analyses[1]
Treatment plant influent for non-finished water	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, UV_{254}, Bromide, Ammonia.
Treatment plant influent for purchased finished water[2].	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, UV_{254}, Disinfectant residual[3].
Before first point of oxidant addition	Chlorine demand test.
Washwater return between washwater treatment plant and point of addition to process train[4].	pH, Alkalinity, Turbidity, Temperature, Calcium and Total hardness, TOC, UV_{254}, Bromide, Ammonia, Disinfectant residual[3] if disinfectant is used.
Additional water sources added to process train after treatment plant influent. The sample point is before additional water is blended with the process train.	pH, Alkalinity, Turbidity, Temperature, Calcium and Total hardness, TOC, UV_{254}, Bromide, Ammonia, Disinfectant residual[3] if disinfectant is used.
Before Filtration	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, and UV_{254}.
After Filtration	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, and UV_{254}.
Before each Point of Disinfection[5]	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, and UV_{254}.
After every unit process that is downstream from the addition of chlorine or chloramines.	Disinfectant Residual[3].
Finished water sample point (Plant effluent)	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, UV_{254}, Disinfectant Residual[3].
Entry point to distribution system[6]	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, UV_{254}, Disinfectant Residual[3].

[1] TOC: total organic carbon. UV_{254}: absorbance of ultraviolet light at 254 nanometers.

[2] Samples of purchased finished water shall be taken prior to addition of any more disinfectant.

[3] Free chlorine residual and total chlorine residual shall be measured in treatment systems using free chlorine. Total chlorine residual, but not free chlorine residual, shall be measured in treatment systems using chloramines as the residual disinfectant.

[4] Washwater return shall be sampled prior to blending with the process train.

[5] For utilities using ozone or chlorine dioxide, Tables 4 and 5, respectively, of this section, show additional monitoring requirements at this sampling point. Addition of ammonia for the purpose of converting free chlorine to chloramines is considered a point of disinfectant addition. PWSs that disinfect just before filtration may use the "before filtration" sampling point analytical results to meet the monitoring requirement for this point.

[6] Entry point to distribution system only required for treatment plants that blend finished water with finished water from other treatment plant(s) prior to entry point of distribution system. For most treatment plants, the finished water sample point and the entry point to the distribution system are the same.

TABLE 1B.—QUARTERLY MONITORING REQUIREMENTS FOR TREATMENT PLANTS

Sampling point	Quarterly analyses[1]
Treatment plant influent for non-finished water	TOX.
Treatment plant influent for purchased finished water.	THM4, HAA6[7], HAN, CP, HK, CH, TOX.
Washwater Return between washwater treatment plant and point of addition to process train.	TOX.
After filtration if disinfectant is applied at any point in the treatment plant prior to filtration.	THM4, HAA6[7], HAN, CP, HK, CH, TOX.
Finished water sample point (Plant Effluent)	THM4, HAA6[7], HAN, CP, HK, CH, TOX.
Entry point to distribution system[2]	THM4, HAA6[7], HAN, CP, HK, CH, TOX.
SDS[3]	THM4, HAA6[7], HAN, CP, HK, CH, TOX, pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, Disinfectant Residual[5].

TABLE 1B.—QUARTERLY MONITORING REQUIREMENTS FOR TREATMENT PLANTS—Continued

Sampling point	Quarterly analyses[1]
Four monitoring points in distribution system[4,6]	THM4, HAA6[7], HAN, CP, HK, CH, TOX, pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, Disinfectant Residual[5].

[1] TOC: total organic carbon. THM4: trihalomethane (four). HAA6: haloacetic acids (six). HAN: Haloacetonitriles. CP: chloropicrin. HK: haloketones. CH: chloral hydrate. TOX: total organic halide. For THM4, HAA6, HAN, and HK, analytical results for individual analytes shall be reported.

[2] Entry point to distribution system only required for treatment plants that blend finished water with finished water from other treatment plant(s) prior to entry point of distribution system. For most treatment plants, the finished water sample point and the entry point to the distribution system are the same.

[3] Simulated Distribution System (SDS) sample shall be collected at the finished water sampling point (or entry point to distribution system if finished water from two or more plants are blended prior to entering the distribution system) and analyzed using the method specified in § 141.142. PWSs using purchased finished water are not required to take an SDS sample at treatment plants that use only purchased finished water.

[4] For each treatment plant, one distribution system equivalent sample location (known as DSE) shall be chosen to correspond to the SDS sample, one sample location shall be chosen to be representative of maximum residence time for the treatment plant, and the remaining two sample locations shall be representative of the average residence time in the distribution system for the treatment plant. PWSs using purchased finished water shall take three samples representing the average residence time in the distribution system for the treatment plant and one representing the maximum residence time for the treatment plant (no DSE sample required).

[5] Free chlorine residual and total chlorine residual shall be measured in treatment systems using free chlorine. Total chlorine residual, but not free chlorine residual, shall be measured in treatment systems using chloramines as the residual disinfectant.

[6] A PWS may use TTHM compliance monitoring locations and analytical results under § 141.30 of this part to the extent that such locations and analytical results are consistent with the requirements of this section.

[7] PWSs are encouraged to also analyze for the additional haloacetic acids bromodichloro-, chlorodibromo-, and tribromo-acetic acid, and report the results as part of the reports specified in paragraph (c)(1) of this section.

(2) *Additional requirements for PWSs using chloramines.* For each treatment plant that uses chloramines for treatment or disinfection residual maintenance, a PWS shall also conduct the additional sampling identified in Table 2 of this section. A PWS shall send samples of cyanogen chloride taken under the provisions of this paragraph for analysis to EPA, following the procedures contained in the "ICR Sampling Manual," EPA 814–B–96–001, April 1996.

TABLE 2.—ADDITIONAL QUARTERLY MONITORING FOR TREATMENT PLANTS USING CHLORAMINES

Sampling point	Quarterly analyses
Treatment plant influent for purchased finished water[1]	Cyanogen Chloride[2].
Finished water sample point (plant effluent)	Cyanogen Chloride[2].
Distribution system sample point representing a maximum residence time in distribution system relative to the treatment plant.	Cyanogen Chloride[2].

[1] Applicable only when wholesale water provider is using chloramines.

[2] EPA shall provide all analytical results to the PWS. The PWS shall report all results in its monthly report.

(3) *Additional requirements for PWSs using hypochlorite solutions.* For each treatment plant that uses hypochlorite solutions for treatment or disinfection residual maintenance, a PWS shall also conduct the additional sampling identified in Table 3 of this section.

TABLE 3.—ADDITIONAL QUARTERLY MONITORING FOR TREATMENT PLANTS USING HYPOCHLORITE SOLUTIONS

Sampling point	Quarterly analyses
Treatment plant influent for non-finished water	Chlorate.
Treatment plant influent for purchased finished water[1]	Chlorate.
Hypochlorite Stock Solution	pH, Temperature, Free Residual Chlorine, Chlorate.
Finished Water Sample Point (Plant Effluent)	Chlorate.

[1] Applicable only when wholesale water provider is using hypochlorite solutions.

(4) *Additional requirements for PWSs using ozone.* For each treatment plant that uses ozone for treatment, a PWS shall also conduct the additional sampling identified in Tables 4a and 4b of this section. A PWS shall collect samples for bromate taken under the provisions of this paragraph in duplicate, with the PWS analyzing one aliquot and submitting the other aliquot for analysis to EPA, following the procedures contained in the "ICR Sampling Manual," EPA 814–B–96–001, April 1996. A PWS shall submit samples for aldehydes taken under the provisions of this paragraph for analysis to EPA, following the procedures contained in the "ICR Sampling Manual," EPA 814–B–96–001, April 1996.

TABLE 4a.—ADDITIONAL MONTHLY MONITORING FOR TREATMENT PLANTS USING OZONE

Sampling point	Monthly analyses
Ozone Contactor Influent	Bromide, bromate[2,3], and ammonia.

TABLE 4a.—ADDITIONAL MONTHLY MONITORING FOR TREATMENT PLANTS USING OZONE—Continued

Sampling point	Monthly analyses
Each Ozone Contact Chamber Effluent[1]	Ozone residual.
Ozone Contactor Effluent	Bromate[2].
Finished Water Sample Point (Plant Effluent)	Bromate[2].

[1] Each ozone contactor can be subdivided into its contact chambers. Measure ozone residual in effluent of all contact chambers until <0.05 mg/l is measured in two consecutive chambers.

[2] EPA shall provide all analytical results to the PWS. The PWS shall report all results in its monthly report.

[3] PWSs are not required to analyze a bromate sample at this location. However, PWSs are still required to submit a sample to EPA for analysis.

Table 4B.—ADDITIONAL QUARTERLY MONITORING FOR TREATMENT PLANTS USING OZONE

Sampling point	Quarterly analyses
Ozone Contactor Influent	Aldehydes[1] and AOC/BDOC[2].
Ozone Contactor Effluent	Aldehydes[1] and AOC/BDOC[2].
Finished Water Sample Point (Plant Effluent)	Aldehydes[1] and AOC/BDOC[2].

[1] EPA shall measure the following aldehydes: formaldehyde, acetaldehyde, propanal, butanal, pentanal, glyoxal, and methyl glyoxal. EPA may analyze for other aldehydes. EPA shall provide all analytical results to the PWS. The PWS shall report all results in its monthly report.

[2] Analysis and submission of data for both assimilable organic carbon (AOC) and biodegradable organic carbon (BDOC) are optional. Analytical methods for AOC and BDOC are listed in "DBP/ICR Analytical Methods Manual," EPA 814–B–96–002, April 1996.

(5) *Additional sampling requirements for PWSs using chlorine dioxide.* For each treatment plant that uses chlorine dioxide for treatment or disinfection residual maintenance, a PWS shall also conduct the additional sampling identified in Tables 5a and 5b of this section. A PWS shall collect samples for bromate taken under the provisions of this paragraph in duplicate, with the PWS analyzing one aliquot and submitting the other aliquot for analysis to EPA, following the procedures contained in the "ICR Sampling Manual," EPA 814–B–96–001, April 1996. A PWS shall submit samples for aldehydes taken under the provisions of this paragraph for analysis to EPA, following the procedures contained in the "ICR Sampling Manual," EPA 814–B–96–001, April 1996.

TABLE 5A.—ADDITIONAL MONTHLY MONITORING FOR TREATMENT PLANTS USING CHLORINE DIOXIDE

Sampling point	Monthly analyses
Treatment plant influent for purchased finished water[1]	Chlorine Dioxide Residual, Chlorite, Chlorate.
Before first chlorine dioxide application	Chlorate, bromate[2,3].
Before application of ferrous salts, sulfur reducing agents, or GAC	Chlorine Dioxide Residual, Chlorite, Chlorate, pH.
Finished water sample point (plant effluent)	Chlorine Dioxide Residual, Chlorite, Chlorate, Bromate[2].
Three distribution system sampling points (1 near first customer, 1 in middle of distribution system, and 1 representative of maximum residence time in the distribution system).	Chlorine Dioxide Residual, Chlorite, Chlorate, pH, and Temperature.

[1] Applicable only when wholesale water provider is using chlorine dioxide.

[2] EPA shall provide all analytical results to the PWS. The PWS shall report all results in its monthly report.

[3] PWSs are not required to analyze a bromate sample at this location. However, PWSs are still required to submit a sample to EPA for analysis.

TABLE 5b.—ADDITIONAL QUARTERLY MONITORING FOR TREATMENT PLANTS USING CHLORINE DIOXIDE

Sampling point	Quarterly analyses
Before First Chlorine Dioxide Application	Aldehydes[1] and AOC/BDOC[2].
Before First Point of Downstream Chlorine/Chloramine Application After Chlorine Dioxide Addition.	Aldehydes[1] and AOC/BDOC[2].
Finished Water Sample Point (Plant Effluent)	Aldehydes[1] and AOC/BDOC[2].

[1] EPA shall measure the following aldehydes: formaldehyde, acetaldehyde, propanal, butanal, pentanal, glyoxal, and methyl glyoxal. EPA may analyze for other aldehydes. EPA shall provide all analytical results to the PWS. The PWS shall report all results in its monthly report.

[2] Analysis and submission of data for both assimilable organic carbon (AOC) and biodegradable organic carbon (BDOC) are optional. Analytical methods for AOC and BDOC are listed in "DBP/ICR Analytical Methods Manual," EPA 814–B–96–002, April 1996.

(6) *Additional requirements.* A PWS shall also report the applicable information in Tables 6a through 6e of this section. A PWS is required to provide the information in paragraphs (a)(6)(i) through (iii) of this section for each unit process listed in Table 6c. The PWS may provide the information in paragraphs (a)(6)(iv) and (v) of this section for each unit process listed in Table 6c. T_{10} and T_{50} tracer studies shall be conducted as specified in "Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources", Appendix C.

(i) Unit process flow (MGD) at time of sampling.

(ii) T_{10} (minutes). A PWS shall determine T_{10} based on a one-time tracer study in the clearwell of all treatment plants required to conduct

microbiological monitoring under the provisions of § 141.141(d) of this subpart. The PWS may use results of a tracer study conducted to meet the requirements of subpart H (Filtration and Disinfection) of this part to meet this requirement. For subsequent T_{10} determinations, the PWS shall use a flow-proportional interpolation of the clearwell tracer study. For unit processes other than a clearwell, a PWS shall either estimate T_{10} or use an interpolation of tracer study T_{10} using multiple flows for each unit process in which a disinfectant residual exists.

(iii) Chemicals in use at time of sampling. Report chemical name, chemical dose at time of sampling, and measurement formula. Measurement formulas (e.g., mg/l as Aluminum) shall be provided to determine the correct amount of the chemical compound being added.

(iv) Short circuiting factor (optional). The short circuiting factor is an assumed value for the ratio of T_{10} to nominal contact time (volume divided by flow).

(v) T_{50} (minutes) (optional). T_{50} should be reported only if based on a tracer study.

TABLE 6a.—PUBLIC WATER SYSTEM INFORMATION

Permanent data	Design data	Monthly data
Public Water System: Utility Name Public Water Supply Identification Number (PWSID) Water Industry Data Base (WIDB) Number [Optional] Official Contact Person: Name Mailing Address Phone Number [optional] FAX Number [optional] ICR Contact Person: Name Mailing Address Phone Number [optional] FAX Number [optional] E-Mail Address [optional]		Sampling Dates: From (date) To (date). Retail population on day of sampling. Wholesale population on day of sampling. Monthly average Retail flow (MGD). Monthly average Wholesale flow (MGD).
Treatment Plant: [1] Plant name ICR plant number assigned by EPA [2] PWSID number of treatment plant [3] State approved (permitted) plant capacity (MGD) Historical minimum water temperature (°C) Installed sludge handling capacity (lb/day) Process Train: Name	Plant type (e.g., Conventional Filtration, Direct Filtration, In-Line Filtration, Two Stage Softening, Disinfection Only/Groundwater, Other Groundwater treatment) Process Train Type (e.g., Conventional Filtration, Direct Filtration, In-Line Filtration, Two Stage Softening, Disinfection Only/Groundwater, Other Groundwater treatment)	Hours of operation (hours per day) Sludge solids production (lb/day) Percent solids in sludge (%)

[1] A PWS that operates more than one treatment plant shall report treatment plant information in this table for each treatment plant.
[2] EPA shall assign ICR plant number after the PWS submits sampling plan.
[3] PWSID of treatment plant if different from the PWSID reported in "Public Water System".

TABLE 6b.—PLANT INFLUENT INFORMATION

Permanent data	Monthly data
Water Resource [1]	
Name of resource: Type of resource (One of the following): 1 Flowing stream 2 Reservoir/Lake 3 Ground water classified as under the direct influence of surface water (GWUDI) 4 Ground water 5 Purchased finished water 6 Non-Fresh (such as salt water)	If Reservoir/Lake: Mean Residence Time (days).
Intake-Surface Water [2]	
Location of intake: [3] Latitude (deg/min/sec) Longitude (deg/min/sec) Hydrologic unit code (8 digit), if known [4] Stream Reach Code (3 digit) (if known) River mile number (mile) (if known) Is watershed control practiced? (yes/no)	Flow on day of sampling (MGD).

TABLE 6b.—PLANT INFLUENT INFORMATION—Continued

Permanent data	Monthly data
Intake-Ground Water [5 6]	
Location of intake: Latitude (deg/min/sec) Longitude (deg/min/sec) Hydrological unit code (8 digit), if known [4] Is wellhead protection practiced? (yes/no)	Flow on day of sampling (MGD).
Intake-Purchased Finished Water [7]	
Name of supplying utility PWSID of supplying utility	Flow on day of sampling (MGD).
Plant Influent [8]	
	Monthly average flow (MGD). Flow at time of sampling (MGD).

[1] Each treatment plant shall have at least one water resource. Each water resource shall have at least one intake. A treatment plant that uses more than one water resource shall report water resource information in this table for each water resource.
[2] Intake-Surface Water describes the physical location of an intake structure located in a river, lake, or other surface water resource or, for ground water under the direct influence of surface water, the physical location of a well.
[3] The location of the intake will allow cross referencing into other data bases containing information on possible contamination threats to the intake.
[4] The hydrologic unit code will allow cross referencing into other data bases containing information on possible contamination threats to the intake.
[5] An Intake-Ground Water describes the physical location of a well or well field (if multiple wells draw from a common aquifer.
[6] A PWS is not required to report information for ground water that is not treated.
[7] A PWS is required to report information for purchased finished water only if that water is further treated.
[8] Multiple "intakes" combine into one "Plant Influent." Each treatment plant has only one treatment plant influent. The treatment plant influent shall mark the point in the treatment plant where the "Plant Influent" sample shall be collected as described in Tables 1, 2, 3 and 5 of this section.

TABLE 6c.—UNIT PROCESS INFORMATION

Design data	Monthly data
Presedimentation Basin [1]	
Tube Settler Brand Name Plate Settler Brand Name Baffling type [2]	Liquid volume (gallons). Surface area (ft²). Projected Tube Settler Surface Area (ft²). Projected Plate Settler Surface Area (ft²).
Ozone Contact Basin	
Information for the complete ozone contact basin: Type of Ozone Contactor (One of the following) 1 Bubble Diffusion 2 Turbine Number of Chambers Information for each ozone contact chamber: Chamber sequence number Liquid volume (ft³) Surface area (ft²) Water/Ozone flow regime (one of the following) 1 Counter-current 2 Co-current	Information for the complete ozone contact basin: Ozone CT (mg min/l). [10] Ozone Giardia Inactivation (logs). Ozone Virus Inactivation (logs). Ozone concentration in feed gas (% by weight). Total Ozone Gas Flow Rate to Contactor (SCFM). [3] Type of feed gas used to generate ozone (one of the following). 1 Air. 2 Oxygen. Total Ozone Applied Dose (mg/l). Information for each ozone contact chamber: Percent ozone gas flow split to this chamber (%). Hydrogen peroxide dose (mg/l).
Washwater Return Point [1]	
Indicate which washwater treatment processes are being used on day of sampling Is there treatment (yes/no):	Flow of returned washwater at time of sampling (MGD). 24 hr average flow prior to sampling (MGD).

TABLE 6c.—UNIT PROCESS INFORMATION—Continued

Design data	Monthly data
If yes: Plain sedimentation (yes/no) Coagulation/sedimentation (yes/no) Filtration (yes/no) Disinfection (yes/no) Other Treatment (Text)	
Rapid Mix	
Type of mixer (one of the following): 1 Mechanical 2 Hydraulic 3 Static 4 Other Baffling type[2]	Mean velocity gradient "G" (sec^{-1}).[4] Liquid volume (gallons).
Flocculation Basin	
Type of mixer (one of the following): 1 Mechanical 2 Hydraulic Number of stages Baffling type[2]	Mean velocity gradient "G" (sec^{-1}) in each stage.[4] Liquid volume of each stage (gallons).
Sedimentation Basin	
Tube settler brand name Plate settler brand name Baffling type[2]	Liquid volume (gallons). Surface area (ft^2). Projected tube settler surface area (ft^2). Projected plate settler surface area (ft^2).
Solids Contact Clarifier	
Brand name: Type (check all that apply): Rectangular basin Upflow Reactor-clarifier Sludge blanket Tube settler brand name Plate settler brand name Baffling type[2]	Liquid volume (gallons). Surface area of settling zone (ft^2). Projected tube settler surface area (ft^2). Projected plate settler surface area (ft^2).
Adsorption Clarifier	
Brand Name Baffling type[2]	Liquid volume (gallons). Surface area (ft^2).
Dissolved Air Flotation	
Baffling type[2]	Liquid volume (gallons). Surface area (ft^2). Percent recycle rate (%). Recycle stream pressure (psi).
Recarbonation Basin	
Baffling type[2]	Liquid volume (gallons). Surface area (ft^2).

TABLE 6c.—UNIT PROCESS INFORMATION—Continued

Design data	Monthly data
Filtration	
Media Type (one of the following): 1 Dual media (Anthracite/Sand) 2 GAC over sand 3 Tri media (Anthracite/Sand/Garnet) 4 Sand 5 Deep bed monomedia anthracite 6 Deep bed monomedia GAC 7 Greensand 8 Other Design depth of GAC (inch) Type and manufacturer of activated carbon Design media depth (inch) Minimum water depth to top of media (ft) Depth from top of media to top of backwash trough (ft)	Liquid volume (gallons). Surface area (ft^2). Average filter run time (hr).
Slow Sand Filtration	
Media type Media depth Media size	Surface area (ft^2). Average filter run length. Cleaning method.
Diatomaceous Earth Filter	
	Effective DE filter surface (ft^2). Precoat (lb/ft^2). Bodyfeed (mg/l). Run length (hours).
Granular Activated Carbon—Post-Filter Adsorber	
Manufacturer of activated carbon Type of activated carbon	Liquid volume (gallons). Surface area (ft^2). Carbon volume (ft^3). Empty bed contact time (minutes). Operating reactivation frequency (days).
Membranes	
Model name: Type (one of the following): 1 Reverse osmosis 2 Nanofiltration 3 Ultrafiltration 4 Microfiltration 5 Electrodialysis Number of stages Molecular weight cutoff (daltons) Design flux (gpd/ft^2) Design pressure (psi)	Surface area (ft^2). Percent recovery (%). Operating pressure (psi). Operating flux (gpd/ft^2). Cleaning method (one of the following) Hydraulic. Chemical. Cleaning frequency (days).
Air Stripping	
Packing height (ft) Design air to water ratio (volume/volume) Type of packing (Name) Nominal size of packing (inch)	Horizontal cross-section area (ft^2). Air flow (SCFM).[3]
Ion Exchange	
Resin (Name) Resin manufacturer Design exchange capacity (equ/ft^3)[3] Bed depth (ft)	Liquid volume (gallons). Surface area (ft^2).

TABLE 6c.—UNIT PROCESS INFORMATION—Continued

Design data	Monthly data
Disinfection Contact Basin[5 6]	
Baffling type[2]	Liquid volume (gallons). Surface area (ft²).
Clearwell[7]	
Baffling type[2] Minimum liquid volume (gallons) Covered or Open	Liquid volume (gallons). Surface area (ft²).
Additional Water Sources[9]	
Type of water source: Purchased Finished water Untreated ground water Treated ground water Untreated surface water Treated surface water Other	Flow of additional source (MGD).[6]
Other Treatment	
Purpose	Surface area (ft²) [optional]. Liquid Volume (gallons) [optional].

[1] A reservoir to which oxidants, disinfectants, or coagulants are added is considered a presedimentation basin.
[2] Baffling type classified as one of the following: 1 (Unbaffled (mixed tank)), 2 (Poor (inlet/outlet only)), 3 (Average (Inlet/Outlet and intermediate)), 4 (Superior (Serpentine)), or 5 (Perfect (Plug flow)). Information on classifying baffling types can be found in "Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources", Appendix C.
[3] "SCFM" is standard cubic feet per minute. "Equ/ft³" is equivalents per cubic foot.
[4] The mean velocity gradient is typically computed as G=square root of (P/uV) where P=power expended, u=viscosity, and V=liquid volume.
[5] The disinfection contact basin shall have a stable liquid level.
[6] Disinfection Contact Basin can be used to represent a pipe with a long contact time.
[7] A clear well may have a variable liquid level.
[8] The "Washwater Return" shall mark the point in the process train where washwater joins the main flow.
[9] Additional water sources includes water that is added to the process train after the influent.
[10] Ozone CT calculated using the procedure contained in "Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources", Appendix O, 1991.

TABLE 6d.—ADDITIONAL PROCESS TRAIN INFORMATION

Design data	Monthly data
Disinfectant Addition	
	Disinfectants in use at time of sampling. Dose (mg/l). Chemical formula (e.g., mg/l as chlorine).
Finished Water Sample Point (Plant Effluent)[1 2]	
	Monthly average flow (MGD). Flow at time of sampling (MGD).

[1] This shall mark the end of a treatment plant.
[2] Unless the finished water of this treatment plant is blended with finished water from another treatment plant, this point is also the entry point to the distribution system.

TABLE 6e.—FINISHED WATER DISTRIBUTION INFORMATION

Design data	Monthly data
Entry Point to Distribution System[1]	
	Monthly average flow (MGD). Flow at time of sampling (MGD).

TABLE 6e.—FINISHED WATER DISTRIBUTION INFORMATION—Continued

Design data	Monthly data
Wholesale Information[2]	
Name of purchaser PWSID of purchaser	Flow at time of sampling (MGD).
Distribution System	
Typical maximum residence time (days) Average residence time (days) Design volume of distribution system storage (million gallon) Total surface area of open reservoirs in distribution system storage (ft²)	Maximum residence time (days). Average residence time (days). Number of disinfection booster stations in operation at time of sampling: Chlorine. Chloramine. Chlorine dioxide. Range of distribution system disinfectant dosages. Chlorine: High (mg/l) Low (mg/l). Chloramine: High (mg/l) Low (mg/l). Chlorine dioxide: High (mg/l) Low (mg/l).

[1] Multiple treatment plants can feed into one entry point to the distribution system. If there is only one treatment plant then "Finished Water Sample Point (Plant Effluent)" and "Entry Point to Distribution System" are the same.
[2] The supplying public water system shall report "Wholesale Information" for each public water system which purchases finished water.

(b) Analytical methods. (1) A PWS shall use the methods identified in Table 7 of this section for conducting analyses required by this subpart.

TABLE 7.—ANALYTICAL METHODS APPROVED FOR SUBPART M

Analyte	Methodology[1]		
	40 CFR reference[2]	EPA method	Standard method[3]
pH, alkalinity, calcium hardness, temperature.	§ 141.23(k)(1)		
Turbidity	§ 141.74(a)(1)		4500–Cl B[9]
Disinfectant residuals: free chlorine, total chlorine, chlorine dioxide, ozone.	§ 141.74(a)(2)		
Trihalomethanes: chloroform, bromodichloromethane, dibromochloromethane, tribromomethane, bromoform	§ 141.24(e)	551.1[4]	
Haloacetic acids: mono-, di-, and trichloroacetic acids; mono- and dibromoacetic acid; bromochloroacetic acid.		552.1,[5] 552.2[4]	6251 B
Chloral hydrate		551.1[4]	
Haloacetonitriles: dichloro- and trichloroacetonitrile; bromochloroacetonitrile; dibromoacetonitrile.		551.1[4]	
Haloketones: 1,1-Dichloropropanone; 1,1,1-trichloropropanone.		551.1[4]	
Chloropicrin		551.1[4]	
Chlorite		300.0[6]	
Chlorate		300.0[6]	
Bromide		300.0[6]	
Bromate			5320 B
Total Organic Halide (TOX)			5310 B, 5310 C, 5310 D
Total Organic Carbon			5910
UV absorbance at 254 nm			5710 C
Simulated Distribution System Test (SDS).			2340 B,[7] 2340 C
Total Hardness		350.1[6]	4500–NH_3 D, 4500–NH_3 G
Ammonia	§ 136.3, Table 1b[8]		2350 B
Chlorine Demand Test			

[1] Analyses shall be conducted by using mandatory analytical and quality control procedures contained in "DBP/ICR Analytical Methods Manual", EPA 814–B–96–002.
[2] Currently approved methodology for drinking water compliance monitoring is listed in Title 40 of the Code of Federal Regulations in the sections referenced in this column. The 18th and 19th editions of *Standard Methods for the Examination of Water and Wastewater*, American Public Health Association, 1015 Fifteenth Street NW, Washington, D.C. 20005, are equivalent for the methods cited in these sections. Therefore, either edition may be used.

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[3] Except where noted, all methods refer to the 19th edition of *Standard Methods for the Examination of Water and Wastewater*, American Public Health Association, 1015 Fifteenth Street NW, Washington, D.C. 20005.

[4] Analytical method reprinted in "Reprints of EPA Methods for Chemical Analyses Under the Information Collection Rule", EPA 814–B–96–006. Originally published in "Methods for the Determination of Organic Compounds in Drinking Water—Supplement III," EPA/600/R–95/131, August 1995, PB95–261616.

[5] Analytical method reprinted in "Reprints of EPA Methods for Chemical Analyses Under the Information Collection Rule", EPA 814–B–96–006. Originally published in "Methods for the Determination of Organic Compounds in Drinking Water—Supplement II," EPA/600/R–92/129, August 1992, PB92–207703.

[6] Analytical method reprinted in "Reprints of EPA Methods for Chemical Analyses Under the Information Collection Rule", EPA 814–B–96–006. Originally published in "Methods for the Determination of Inorganic Substances in Environmental Samples," EPA/600/R–93/100, August 1993, PB94–121811.

[7] The following methods, cited at §141.23(k)(1) of this part, can be used to determine calcium and magnesium concentrations for use in conjunction with Standard Method 2340 B: EPA Method 200.7, Standard Method 3111 B, Standard Method 3120 B, or ASTM Method D511–93 B.

[8] PWSs may use only the automated electrode method from §136.3, Table 1b.

[9] Standard Method 4500–Cl B is approved only for determining free chlorine residual concentrations in nypochlorite stock solutions. This method may not be used for any other disinfectant residual analyses.

(2) Analyses under this section shall be conducted by laboratories that have received approval from EPA to perform sample analysis for compliance with this rule. Laboratories that wish to become approved shall contact EPA in writing at USEPA, Technical Support Division, ICR Laboratory Coordinator, 26 W. Martin Luther King Drive, Cincinnati, OH 45268 not later than November 14, 1996. Requirements for approval are included in "DBP/ICR Analytical Methods Manual", EPA 814–B–96–002.

(c) *Reporting.* (1) A PWS shall report required data and information collected under the provisions of paragraph (a) of this section to EPA, using an EPA-specified computer readable format. A PWS shall submit a monthly report that indicates the analytical results of all samples collected, including quarterly samples taken in that same month, and all process train data. These reports shall be submitted on a diskette no later than the fourth month following sampling. In addition to the information in Tables 1 through 6 in paragraph (a) of this section, reports shall include PWSID, ICR plant identification, sample date, analysis date, laboratory identification numbers, analytical methods used, sample identification numbers, quality assurance code, internal standards, surrogate standards, and preserved sample pH, if appropriate.

(2) *Additional Requirements.* A PWS shall submit a DBP and related monitoring sampling plan for EPA approval, using software provided by EPA, for each treatment plant specified in § 141.141(b)(2) of this subpart that indicates sampling point locations and monitoring to be conducted at each point, and process treatment train information. This sampling plan shall be submitted to EPA at the same time and on the same diskette as the microbiological sampling plan required by § 141.143(c)(3) and no later than eight weeks after the PWS receives the Notice of ICR Final Applicability Determination from EPA, using the procedure specified in "ICR Sampling Manual", EPA 814–B–96–001, April 1996.

(3) All reports required by this section shall be submitted to USEPA (ICR4600), ICR Data Center, Room 1111 East Tower, 401 M Street SW., Washington, DC 20460.

(4) The PWS shall keep all data for at least three years following data submission to EPA.

(d) *Incorporation by reference.* The documents and methods listed in paragraphs (d) (1) and (2) of this section are incorporated by reference for purposes specified in this section. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be inspected at USEPA, Drinking Water Docket (4101), 401 M Street SW., Washington, DC 20460, or at Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(1) "Standard Methods for the Examination of Water and Wastewater," 19th edition, 1995. Available from the American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005.

(2) "Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources", Appendices C and O, 1991. Available from American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235.

§ 141.143 Microbial monitoring.

(a) Monitoring requirements. (1) *Parameters.* A PWS shall sample for the following parameters for the period specified in § 141.141(d) of this subpart and at the location specified and using the analytical methods specified in paragraphs (a)(2) and (b), respectively, of this section. For each sample, a PWS shall determine the densities of total coliforms, fecal coliforms or *Escherichia coli, Giardia, Cryptosporidium*, and total culturable viruses for each treatment plant required to monitor under the provisions of § 141.141(b) of this subpart.

(2) *Monitoring locations.* (i) A PWS shall collect one sample of the treatment plant influent at the frequency specified in § 141.141(d) of this subpart.

(A) A sample of treatment plant influent shall be taken at a location at the upstream end of a treatment plant where waters from all intakes are blended prior to any treatment or chemical addition.

(B) For treatment plants that have multiple intakes and add chemicals at the intake, the PWS shall take an intake sample of the water resource with the poorest microbiological quality (or, if that cannot be determined, the water resource with the highest flow) collected before chemical addition and before pretreatment. If the intakes are expected to have the same source water quality, one representative intake sample may be taken. If a disinfectant is added at or before the intake (e.g., for zebra mussel control), the sample shall be taken in the vicinity of the intake in such manner that the sample is not contaminated by the disinfectant.

(ii) A PWS that, during any of the first twelve months of monitoring at the treatment plant influent, detects 10 or more *Giardia* cysts, or 10 or more *Cryptosporidium* oocysts, or one or more total culturable viruses, in one liter of water; or calculates a numerical value of the *Giardia* or *Cryptosporidium* concentration equal to or greater than 1000 per 100 liters or virus concentration equal to or greater than 100 per 100 liters; or detects no pathogens in the sample and calculates a numerical value of the detection limit for *Giardia* or *Cryptosporidium* concentration equal to or greater than 1000 per 100 liters or virus concentration equal to or greater than 100 per 100 liters; shall also collect one sample of finished water per month at each such treatment plant, beginning in the first calendar month after the PWS learns of such a result. The sample of finished water shall be collected at a point after which all treatment processes for a particular treatment plant are complete (including the clearwell and final point of disinfection) and before the distribution system begins. For each sample of finished water, PWSs shall determine the density of total coliforms, fecal coliforms or *E. coli, Giardia, Cryptosporidium*, and total culturable viruses. A PWS shall continue finished water monitoring monthly until 18 months of treatment plant influent monitoring has been completed.

(iii) In lieu of conducting finished water monitoring of *Giardia* and *Cryptosporidium* specified in paragraph (a)(2)(ii) of this section, a PWS may notify EPA in its response to the notice of applicability required by paragraph (c)(3)(i) of this section that the PWS will comply with the alternative monitoring requirements in paragraphs (a)(2)(iii) (A) and (E) of this section. The PWS shall still conduct finished water monitoring for all other microorganisms, except for *Giardia* and *Cryptosporidium* monitoring in the finished water.

(A) The PWS measures the particle counts in the treatment plant influent, at points immediately prior to filtration and after filtration (but before the addition of post-filtration chemicals). Particle counting shall be conducted on the same treatment train as is sampled for monitoring conducted under the provisions of § 141.142(a) of this subpart. Such samples shall be collected monthly during the entire 18-month monitoring period, using the procedures contained in the "ICR Sampling Manual", EPA 814–B–96–001, April 1996. The PWS may use either grab or continuous particle counting. Particle counting shall be conducted during the same time as protozoa monitoring required by paragraph (a)(2)(iii)(B) of this section.

(*1*) If grab sampling is conducted, the PWS shall collect 12 samples per location at the treatment plant influent, filter influent, and filter effluent, over either a 24-hour period or the duration of the filter run, whichever is shorter.

(*2*) If continuous particle counting is conducted, the PWS shall collect 12 instrument readings per location, evenly spaced in time, at the treatment plant influent, filter influent, and filter effluent, over either a 24-hour period or the duration of the filter run, whichever is shorter.

(*3*) For each sample, the PWS shall measure particle counts per milliliter in the size ranges of 3μm-5μm, 5μm-7μm, 7μm-10μm, 10μm–15μm, and >15μm, and shall report to EPA the mean value in each size range of the 12 values collected over the sampling period.

(B) The PWS collects and analyzes at least four consecutive months of *Giardia* and *Cryptosporidium* samples at the same locations specified in paragraph (a)(2)(iii)(A) of this section, within the first 12 months of the 18 months of sampling. The PWS shall collect *Giardia* and *Cryptosporidium* samples during the same time period as it is conducting particle counting. The minimum sample volume for *Giardia* and *Cryptosporidium* analyses shall be 100 liters for treatment plant influent and 1,000 liters for water that has undergone any treatment. The PWS may use results of monitoring for *Giardia* and *Cryptosporidium* in the treatment plant influent specified in paragraph (a)(2) of this section to meet the requirements of this paragraph as long as such monitoring meets the requirements of both this paragraph and paragraph (a)(2) of this section.

(iv) If a PWS has monitored total coliforms, fecal coliforms, or *E. coli* in the treatment plant influent for at least five days/week for any period of six consecutive months beginning after January 1, 1994 and 90% of all samples taken in that six-month period contained no greater than 100 total coliforms/100 ml, or 20 fecal coliforms/100 ml, or 20 *E. coli*/100 ml, the PWS may request to not conduct virus monitoring for that treatment plant, for the duration of the requirement. Even if approved, the PWS may subsequently be required to monitor under the criteria in paragraph (a)(2)(iv)(A) of this section. This request shall be submitted as part of the response to the notice of applicability required by paragraph (c)(3)(i) of this section.

(A) If the PWS is subsequently required to monitor the finished water under the provisions of paragraph (a)(2)(ii) of this section, the PWS shall monitor, along with the other specified organisms, total culturable viruses, as specified in paragraph (a)(2)(i) of this section for treatment plant influent and as specified in paragraph (a)(2)(ii) of this section for finished water, until 18 months of microbial monitoring is completed.

(B) A PWS may use coliform data collected under § 141.71(a)(1) of this part for this purpose but, if this is done, the PWS shall submit two separate monitoring reports. One report, to meet the requirements of § 141.71(a)(1) of this part, shall continue to be submitted as required by subpart H of this part. The other report shall be submitted to meet the requirements of paragraph (c)(3) of this section.

(C) If a PWS does not provide EPA with six months of suitable coliform results as part of its response to the notice of applicability, the PWS shall begin virus monitoring and subsequently provides EPA with six months of coliform results that are at or below the indicated density limit, and EPA approves the request to not conduct virus monitoring, the PWS may avoid subsequent treatment plant virus monitoring.

(b) Analytical Methods. (1) A PWS shall use the methods listed in paragraphs (b)(1)(i) through (v) of this section for monitoring under this subpart.

(i) Fecal coliforms—specified at § 141.74(a)(1) of this part, except that whenever paired source water samples and finished water samples are to be collected, only the fecal coliform procedure (Standard Method 9221E), as specified in § 141.74(a)(1) of this part, using EC Medium, can be used. The time between sample collection and initiation of sample analysis shall not exceed eight hours. Samples shall be chilled, but not frozen, and shipped at a temperature of less than 10°C. Samples not processed immediately at the laboratory shall be refrigerated. The laboratory must invalidate samples that arrive frozen or at a temperature greater than 10°C.

(ii) Total coliforms—specified at § 141.74(a)(2) of this part. The time between sample collection and initiation of sample analysis shall not exceed eight hours. Samples shall be chilled, but not frozen, and shipped at a temperature of less than 10°C. Samples not processed immediately at the laboratory shall be refrigerated. The laboratory must invalidate samples that arrive frozen or at a temperature greater than 10°C.

(iii) *E. coli*—as specified by § 141.21(f)(6)(i) through (iii) of this part, except that the density shall be reported. PWSs using the EC+MUG and ONPG-MUG tests shall use either a 5-tube or 10-tube 10-ml configuration, with serial dilutions of the original sample as needed, and report the Most Probable Number. PWSs may also use a commercial multi-test system for *E. coli* enumeration, as long as they use M-Endo medium for the initial isolation of the organisms, pick every colony on the plate with the appearance of a total coliform, and streak it for purification before subjecting the colony to a multi-test system. The time between sample collection and initiation of sample analysis, regardless of method used, shall not exceed eight hours. Samples shall be chilled, but not frozen, and shipped at a temperature of less than 10°C. Samples not processed immediately at the laboratory shall be

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refrigerated. The laboratory must invalidate samples that arrive frozen or at a temperature greater than 10°C.

(iv) *Giardia* and *Cryptosporidium*—ICR Protozoan Method, as described in "ICR Microbial Laboratory Manual", EPA 600/R–95/178, April 1996.

(v) Total culturable viruses—Virus Monitoring Protocol, as described in "ICR Microbial Laboratory Manual", EPA 600/R–95/178, April 1996.

(2) *Laboratories.* A PWS shall use EPA-approved laboratories to analyze for *Giardia, Cryptosporidium,* and total culturable viruses. A PWS shall use laboratories certified for microbiology analyses by either EPA or a State under the EPA or State drinking water program for the analysis of total coliforms, fecal coliforms, and *E. coli.* Laboratories that wish to become approved shall contact EPA in writing at USEPA, Technical Support Division, ICR Laboratory Coordinator, 26 W. Martin Luther King Drive, Cincinnati, OH 45268 not later than August 14, 1996. Laboratory approval criteria for *Giardia, Cryptosporidium,* and total culturable viruses are found in the "ICR Microbial Laboratory Manual", EPA 600/R–95/178, April 1996.

(3) A PWS shall send EPA a virus archive sample prepared as described in Chapter VIII of "ICR Microbial Laboratory Manual", EPA 600/R–95/178, April 1996, for each water sample identified in paragraph (b)(3)(i) or (ii) of this section.

(i) Samples of treatment plant influent and finished water, for every month after the PWS learns that viruses were detected in any previous sample of finished water.

(ii) Samples of treatment plant influent and finished water, regardless of whether viruses are detected in the finished water, for every month after the PWS learns that a density of at least 10 viruses/L was detected in any previous treatment plant influent water sample.

(iii) A PWS may arrange to have virus samples shipped directly to EPA by its virus laboratory for archiving.

(iv) Samples shall be sent on dry ice to ICR Virus Archiving Coordinator following the procedures specified in "ICR Microbial Laboratory Manual", EPA 600/R–95/178, April 1996.

(c) *Reporting.* (1) A PWS shall report data and information required under paragraphs (a) and (b) of this section using an EPA-specified computer readable format. A PWS shall submit a monthly report on a diskette, no later than the fourth month following sampling, that indicates the analytical results of all samples collected. Reports shall include PWSID, ICR plant identification, sample date, analysis date, laboratory identification numbers, analytical methods used, sample identification numbers, analytical batch numbers, quality assurance code, and processing batch numbers, if appropriate.

(2)(i) For a PWS using the alternative to *Giardia* and *Cryptosporidium* monitoring in paragraph (a)(2)(iii) of this section, the PWS shall report to EPA the mean value in each size range of the 12 particle counting values collected over the sampling period. In addition, during the four consecutive months when the PWS collects *Giardia* and *Cryptosporidium* samples specified in paragraph (a)(2)(iii)(B) of this section, the PWS shall report to EPA, for each measured site, the densities of *Giardia* and *Cryptosporidium* at each measured site. This information shall be submitted at the same time as the report required by paragraph (c)(1) of this section.

(ii) A PWS that is not required to monitor for total culturable viruses under the provisions of paragraph (a)(2)(iv) of this section shall report to EPA the dates and results of all total coliform, fecal coliform, or *E. coli* monitoring used by the PWS to determine that additional virus monitoring is unnecessary. The report shall indicate all data collected during the six-month time period, and how the data were used to calculate compliance with this requirement.

(3) *Additional Requirements.* A PWS shall submit a microbiological sampling plan for EPA approval, using software provided by EPA, for each treatment plant specified in § 141.141(b) of this subpart that indicates sampling point locations and monitoring to be conducted at each point. This sampling plan shall be submitted to EPA at the same time and on the same diskette as the DBP and related monitoring sampling plan required by § 141.142(c)(2) and no later than eight weeks after the PWS receives the Notice of ICR Final Applicability Determination from EPA, using the procedure specified in "ICR Sampling Manual", EPA 814–B–96–001, April 1996.

(4) All reports required by this section shall be submitted to USEPA (ICR4600), ICR Data Center, Room 1111 East Tower, 401 M Street SW., Washington, DC 20460.

(5) The PWS shall keep all data for at least three years following data submission to EPA.

§ 141.144 Disinfection byproduct precursor removal studies.

(a) *TOC, UFCTOX, THM4, and HAA5 applicability monitoring.* A PWS required to comply with this section shall conduct TOC, UFCTOX, THM4, and HAA5 monitoring specified in § 141.141(e)(2) of this subpart. A PWS may use monitoring results from samples required by § 141.142(a) of this subpart to meet this requirement to the extent that all requirements in each section are met.

(b) *Treatment study requirements.* A PWS identified in § 141.141(b) of this subpart shall conduct disinfection byproduct precursor removal studies (treatment studies). The treatment study shall use bench-and/or pilot-scale systems for at least one of the two appropriate candidate technologies (GAC or membrane processes) for the reduction of organic DBP precursors. The treatment studies shall be designed to yield representative performance data and allow the development of national treatment cost estimates for different levels of organic disinfection byproduct control. The treatment objective of the studies is the achievement of levels of byproducts less than 40 μg/L TTHM and 30 μg/L HAA5, as an annual average. The treatment study shall be conducted with the effluent from treatment processes already in place that remove disinfection byproduct precursors and TOC, to simulate the most likely treatment scenario. PWSs are permitted to optimize these processes or pilot additional processes appropriate for pretreatment for treatment studies. In order to minimize the formation of DBPs, the test water for both the bench- and pilot-scale tests shall be obtained from a location before the first point at which oxidants or disinfectants that form halogenated disinfection byproducts are added. If the use of these oxidants or disinfectants precedes any full-scale treatment process that removes disinfection byproduct precursors, then bench- and pilot-scale treatment processes that represent these full-scale treatment processes are required prior to the GAC or membrane process. A PWS should exercise sound judgement in its selection of treatment process to study and the point at which to obtain water for study. Depending upon the type of treatment study, the study shall be conducted in accordance with the following criteria.

(1) Bench-scale tests are continuous flow tests using rapid small scale column test (RSSCT) for GAC and small scale membrane test apparatus as specified in "ICR Manual for Bench- and Pilot-scale Treatment Studies" (EPA 814–B–96–003, April 1996).

(i) GAC bench-scale testing shall include information on the experimental conditions and results necessary to adequately determine the scaled-up breakthrough curves under the conditions of each RSSCT. At least two empty bed contact times (EBCTs) shall be tested using the RSSCT. These RSSCT EBCTs shall be designed to represent a full-scale EBCT of 10 min and a full-scale EBCT of 20 min. Additional EBCTs may be tested. The RSSCT testing is described in the "ICR Bench- and Pilot-scale Treatment Study Manual" (EPA 814–B–96–003, April 1996). The RSSCT tests at each EBCT shall be run quarterly to ascertain the impact of seasonal variation. Thus a total of four RSSCTs at each EBCT should be run. When seasonal variation is not significant, as is the case in most ground waters, the quarterly tests should be run to investigate other variables, as described in the "ICR Bench- and Pilot-scale Treatment Study Manual" (EPA 814–B–96–003, April 1996). The RSSCT shall be run until the effluent TOC concentration is at least 70% of the average influent TOC concentration or the effluent TOC reaches a plateau at greater than 50% of the influent TOC (i.e., the effluent TOC does not increase over a two-month full-scale-equivalent time period by more than 10% of the average influent TOC concentration) or a RSSCT operation time that represents the equivalent of one year of full-scale operation, whichever is shorter. The average influent TOC is defined as the running average of the influent TOC at the time of effluent sampling. If, after completion of the first quarter RSSCTs, the PWS finds that the effluent TOC reaches 70% of the average influent TOC within 20 full-scale equivalent days on the EBCT=10 min test and within 30 full-scale equivalent days on the EBCT=20 min test, the last three quarterly tests shall be conducted using membrane bench-scale testing with only one membrane, as described in paragraph (b)(1)(ii) of this section.

(ii) Membrane bench-scale testing shall include information on the experimental conditions and results necessary to determine the water quality produced by the membrane treatment and a preliminary estimate of productivity. The testing procedures and monitoring and reporting requirements are described in the "ICR Bench- and Pilot-scale Treatment Study Manual" (EPA 814–B–96–003, April 1996). A minimum of two different membrane types with nominal molecular weight cutoffs of less than 1000 shall be investigated. Membrane tests shall be conducted quarterly over one year to determine the seasonal variation. Thus, a total of four bench-scale tests with each membrane shall be run. If seasonal variation is not significant, as is the case of most ground waters, the quarterly tests should be run to evaluate the impact of other variables, such as pretreatment, or additional membranes could be tested. Alternatively, a PWS may choose to conduct a long-term, single element study using a single membrane type in lieu of evaluating two membranes in four quarterly short-term tests, using the protocol in the "ICR Bench- and Pilot-scale Treatment Study Manual" (EPA 814–B–96–003, April 1996).

(2) A PWS shall conduct pilot-scale testing as continuous flow tests. For GAC, the PWS shall use GAC of particle size representative of that used in full-scale practice, a pilot GAC column with a minimum inner diameter of 2.0 inches, and hydraulic loading rate (volumetric flow rate/column cross-sectional area) representative of that used in full-scale practice. The PWS shall design a pilot-scale membrane system as a staged array of elements as described in "ICR Manual for Bench- and Pilot-scale Treatment Studies", EPA 814–B–96–003, April 1996.

(i) GAC pilot-scale testing. (A) The pilot testing procedures and monitoring and reporting requirements are prescribed in the "ICR Bench- and Pilot-scale Treatment Study Manual" (EPA 814–B–96–003, April 1996).

(B) At least two EBCTs shall be tested, EBCT=10 min and EBCT=20 min, using the pilot-scale plant. Additional EBCTs may be tested.

(C) The pilot tests at each EBCT shall continue until the effluent TOC concentration is at least 70% of the average influent TOC concentration on two consecutive TOC sample dates that are at least two weeks apart or the effluent TOC reaches a plateau at greater than 50% of the influent TOC (i.e., the effluent TOC does not increase over a two-month period by more than 10% of the average influent TOC concentration). If either of these criteria is met for the 20-minute EBCT prior to six months run time, a second pilot test at each EBCT shall be conducted following the same sampling requirements. In all cases the maximum length of the pilot study (one or two tests) is one year. The average influent TOC is defined as the running average of the influent TOC at the time of sampling. The pilot-scale testing shall be timed to capture seasonal variation. If seasonal variation is not significant, as is the case with most ground waters, the pilot-scale test runs shall be designed to evaluate the impact of other variables, such as pretreatment.

(ii) Membrane pilot-scale testing.

(A) The membrane pilot testing procedures and monitoring and reporting requirements are prescribed in the "ICR Bench- and Pilot-scale Treatment Study Manual" (EPA 814–B–96–003, April 1996).

(B) The membrane test system shall be designed to yield information on loss of productivity (fouling), pretreatment requirements, cleaning requirements, and permeate quality and operated at a recovery representative of full-scale operation.

(C) The pilot-scale testing shall be run for one year.

(3) Chlorination under simulated distribution system (SDS) conditions shall be used prior to the measurement of THM4, HAA6, TOX, and chlorine demand. These conditions are described in "ICR Manual for Bench- and Pilot-scale Treatment Studies" (EPA 814–B–96–003, April 1996) and represent the average conditions in the distribution system at that time with regard to holding time, temperature, pH, and chlorine residual. If chlorine is not used as the final disinfectant in practice, then a chlorine dose shall be set to yield a free chlorine residual of 1.0 to 0.5 mg/l after a holding time, temperature, and pH equal to those representative of the distribution system averages.

(c) *Analytical Methods.* All analyses required by paragraphs (a) and (b) of this section shall be conducted using the methods and the mandatory analytical and quality control procedures contained in either "DBP/ICR Analytical Methods Manual" (EPA 814–B–96–002, April 1996) or "ICR Manual for Bench- and Pilot-scale Treatment Studies" (EPA 814–B–96–003, April 1996). In addition, TOC analyses required by paragraph (a) of this section shall be conducted by a laboratory approved under the provisions of § 141.142(b)(2) of this subpart.

(d) *Reporting.* (1) TOC and UFCTOX reporting. A PWS shall submit the monthly results of 12 months of TOC or UFCTOX monitoring required by paragraph (a)(1) of this section and the annual average of those monthly results not later than October 14, 1997. This report is not required to be submitted electronically. Although a PWS may use monitoring results from samples required by § 141.142(a) of this subpart to meet this requirement, it shall submit separate reports to meet this reporting requirement and the reporting requirement in § 141.142(c)(1) of this subpart.

(2) A PWS shall report all data collected under the provisions of paragraph (b) of this section. In addition, a PWS shall report the information for water resource and full-scale and pilot- or bench-scale

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pretreatment processes that precede the bench/pilot systems. These data and information shall be reported in the format specified in "ICR Manual for Bench- and Pilot-scale Treatment Studies" (EPA 814–B–96–003, April 1996) not later than July 14, 1999.

(3) All reports required by this section shall be submitted to USEPA, Technical Support Division, ICR Precursor Removal Studies Coordinator, 26 West Martin Luther King Drive, Cincinnati, OH 45268.

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Part III

Department of Education

34 CFR Part 361
The State Vocational Rehabilitation Services Program; Final Rule

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DEPARTMENT OF EDUCATION

34 CFR Part 361

RIN 1820–AB13

The State Vocational Rehabilitation Services Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing The State Vocational Rehabilitation Services Program. These regulations are needed to implement section 12(d) of the Rehabilitation Act of 1973 (Act), as amended by the Rehabilitation Act Amendments of 1992 (1992 Amendments) and the Rehabilitation Act Amendments of 1993. Section 12(d) of the Act requires that the Secretary promulgate regulations establishing requirements for the implementation of an order of selection for the receipt of vocational rehabilitation services. An order of selection is required under section 101(a)(5)(A) of the Act if a designated State unit (DSU) determines that it is unable to provide services to all eligible individuals who apply for services. If a DSU establishes an order of selection, it must first provide services to individuals with the most severe disabilities before serving other eligible individuals. The regulations are necessary to ensure the proper administration of the order of selection requirements by DSUs.

EFFECTIVE DATE: These regulations take effect on June 13, 1996.

FOR FURTHER INFORMATION CONTACT: Suzanne Tillman, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3220, Mary E. Switzer Building, Washington, D.C. 20202–2735. Telephone: (202) 205–8303. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The State Vocational Rehabilitation Services Program is a State-administered program that provides individualized vocational rehabilitation (VR) services to eligible individuals with disabilities. The purpose of the program is to assist States in operating a comprehensive, coordinated, effective, efficient, and accountable program for vocational rehabilitation designed to assess, plan, develop, and provide VR services for individuals with disabilities so that they may prepare for and engage in gainful employment.

The program supports the National Education Goal that, by the year 2000, every adult American, including individuals with disabilities, will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

On July 16, 1993, the Secretary published a notice of proposed rulemaking (NPRM) in the **Federal Register** (58 FR 38482) to implement section 12(d) of the Act, as amended by the 1992 Amendments (Pub. L. 102–569) and the Rehabilitation Act Amendments of 1993 (Pub. L. 103–73), which requires that the Secretary issue regulations on the requirements for implementing an order of selection by a DSU.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 45 parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

Major issues are grouped according to subject under appropriate sections of the regulations. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed. The Secretary also has not addressed comments that relate to issues that are more appropriately dealt with in other program regulations being developed to implement the 1992 Amendments.

In addition, the proposed regulations have been reviewed and revised in accordance with the Department's principles for regulating, which were developed as part of the Administration's regulatory reinvention initiative under the National Performance Review II. The principles are designed to ensure that the Department regulates in the most flexible, most equitable, and least burdensome way possible. As a result of that review, several non-statutory paperwork requirements in the proposed regulations have been eliminated or modified. These changes are discussed in the following paragraphs and in the section-by-section summary.

Section 101(a)(5)(A) of the Act requires a DSU to explain how it will provide VR services to all eligible individuals or, if it cannot provide services to all these individuals, to describe and justify the order of selection the DSU will follow in serving eligible individuals, with first priority being given to individuals with the most severe disabilities. Accordingly, § 361.36(a)(1) of the final regulations requires DSUs that do not establish an order of selection to explain how, on the basis of its projected fiscal and personnel resources and its assessment of the rehabilitation needs of individuals with severe disabilities within the State, the DSU will continue to serve all individuals currently receiving services, provide assessment services to all applicants and VR services to all individuals determined to be eligible in the next fiscal year, and meet all other program requirements.

The proposed regulations would have required each DSU that does not establish an order of selection to provide detailed information to support that decision, including its projected number of applicants, eligible individuals, and qualified personnel, projected costs of services and administration, and projected revenues. The Secretary believes that requiring all DSUs to submit these projections is overly burdensome and unnecessary for those States that have not experienced problems in serving all eligible individuals in recent years. Thus, the requirements in the final regulations are more narrowly tailored to address the underlying problem of ensuring that DSUs do not improperly avoid establishing an order of selection.

The final regulations establish two different information requirements for DSUs that do not plan to establish an order of selection: one for DSUs that have demonstrated the ability to serve all eligible individuals and meet all program requirements and one for DSUs that have not demonstrated this ability. The first information requirement (§ 361.36(a)(2)) applies to DSUs whose past practice demonstrates their ability to serve all eligible individuals without an order of selection. DSUs will be subject to this requirement if they have provided assessment services to all applicants, provided the full range of services to all eligible individuals, made referral forms widely available, conducted outreach efforts to identify and serve those underserved in the past, and have not delayed the development of individualized written rehabilitation programs (IWRPs) or the provision of services for eligible individuals. This provision permits these DSUs to submit a narrative explanation of their ability in the next year to continue to serve everyone and meet all program requirements.

The second information requirement (§ 361.36(a)(3)) applies to DSUs that have not demonstrated their ability to serve all eligible individuals and meet all program requirements without an

order of selection. This more detailed information requirement would apply to DSUs that—(1) Said in their State plans for the current or past year that they could serve everyone, but, in fact, did not do so; (2) Served all eligible individuals in the current or past year by not meeting the requirements in § 361.36(a)(2); or (3) Provided services under an order of selection in the current or preceding fiscal year, but believe that they can serve all eligible individuals in the next fiscal year. These DSUs will be required to provide information, including projections, similar to the information that would have been required of all DSUs under the NPRM. Specifically, these DSUs must describe the changed circumstances that will enable them to serve all eligible individuals in the forthcoming fiscal year and must submit the projections required under § 361.36(a)(3) to support this determination, including projected numbers of applicants, eligible individuals, and qualified personnel, projected costs of services and administration, and projected revenues. In addition, § 361.36(a)(3) requires these DSUs to provide, as relevant, comparable data for the current or preceding fiscal year, or both years, of these projected costs and resources.

These changes in the final regulations are intended to reduce paperwork burdens on DSUs that have a demonstrated capacity to serve all eligible individuals and, at the same time, to ensure that if a DSU decides not to implement an order of selection, even though it has not been able to serve all eligible persons in the past, that the decision is supported in the State plan by sufficient data showing the DSU's projected costs and resources.

Section 361.36(a)—General Provisions

• *Assurance of ability to serve all eligible individuals.*

—Range of Services

Comments: Several commenters on § 361.36(a)(1)(i) of the proposed regulations requested that this provision specify that a DSU is able to provide the full range of services listed in section 103(a) of the Act. These commenters were concerned that a DSU could interpret the wording "able to provide services" to mean that it may avoid establishing an order of selection if it is able to provide some, but not all, of the services listed in section 103(a) of the Act.

Discussion: The Secretary agrees with these commenters. A DSU that assures that it is able to provide services to all eligible individuals must be able to provide all of the services listed in section 103(a) of the Act.

Changes: The Secretary has revised § 361.36(a)(1)(i) to provide that the State plan must contain an assurance that the DSU is able to provide the full range of services listed in section 103(a) of the Act, as appropriate, to all eligible individuals.

—Monitoring and review of assurances

Comments: Several commenters were concerned that the Secretary would not adequately monitor compliance with the assurances provided by a DSU. Several commenters recommended that the Secretary thoroughly examine a DSU's decision not to implement an order of selection and approve or disapprove that decision, as appropriate.

One commenter feared that, in order to avoid implementing an order of selection, DSUs may expand counselor caseload sizes beyond the capacity of counselors to serve eligible individuals in a meaningful way. Caseload sizes could continue to grow but might not trigger an order of selection.

One commenter suggested adding factors to measure a DSU's compliance with these regulations. This commenter also suggested that if a DSU is found in substantial noncompliance and fails to take corrective action, it should be subject to financial sanctions.

Several commenters stated that a DSU should be required to evaluate the impact of its order of selection to determine if there are any unintended consequences or exclusions of specific groups of individuals with disabilities.

Discussion: The Secretary ensures that a DSU is complying with its assurances through annual reviews and periodic on-site monitoring of State vocational rehabilitation programs required by sections 107(a)(3)(A) and 107(a)(4)(B) of the Act. Section 107(a)(3)(A) of the Act requires the Secretary, as part of the monitoring process, to conduct on-site visits, including on-site reviews of records, to verify that a DSU is following requirements regarding order of selection. Section 107(a)(4)(B) requires the Secretary to examine, in conducting the review and monitoring, a DSU's provision of services, including, if applicable, order of selection requirements.

Section 101(a)(7) of the Act requires a DSU to ensure, as part of its comprehensive system of personnel development, that it has an adequate supply of qualified personnel to provide vocational rehabilitation services. The regulations require DSUs that do not establish an order of selection to satisfy all VR program requirements, including those relating to the comprehensive system of personnel development. The Secretary also reviews and monitors compliance with section 101(a)(7) of the Act.

The Secretary does not believe it is necessary to add factors to measure a DSU's compliance with the order of selection requirements of the State plan. A DSU's compliance with the order of selection requirements will be monitored like any other State plan requirement, and a DSU's noncompliance with these requirements will be dealt with like any other finding of noncompliance with the State plan requirements.

The Secretary believes that a DSU (along with the State Rehabilitation Advisory Council (Council), if the DSU has a Council), should evaluate the impact of its order of selection as part of its administration of the program and would expect a discussion of this impact in its annual evaluation of the program.

Changes: None.

• *Explanation of how a DSU will serve all eligible individuals.*

—Detailed nature of explanation

Comments: Several commenters opposed the proposed requirement that a DSU provide a detailed explanation of the methods by which it will provide services to all eligible individuals because they believe it is overly burdensome. One commenter believed that the required projections in § 361.36(a)(1)(ii) of the proposed regulations might prevent closer cooperation between consumer groups and DSUs because consumer groups might believe that the incidence and prevalence of their disability is greater than indicated in the statistical data used by the DSU.

Several commenters believed that there is no practical way for a DSU to make the required projections because of the uncertainty of future funding levels and of the effect of the revised eligibility requirements under the Act.

One commenter stated that if projections are required, the Secretary should keep documentation to a minimum. This commenter requested that a DSU be able to use existing data, e.g., Federal census and population data, to make its projections.

Discussion: The legislative history accompanying the 1992 Amendments to the order of selection requirement indicates an expectation on the part of the Congress that the Secretary will promulgate regulations that will obligate States wishing to avoid establishing an order of selection to prove that they are indeed able to serve all eligible individuals. Nevertheless, the data

projections required in the proposed regulations have been significantly reduced in accordance with the Department's principles for regulating. Application of the remaining documentation requirements is limited to—(1) Those DSUs that were unable to serve all eligible individuals (including DSUs that established an order of selection) in the current or preceding fiscal year, but contend they will be able to do so in the next fiscal year; and (2) Those DSUs that were able to serve all eligible individuals in the current or preceding fiscal year only by not meeting the requirements in § 361.36(a)(2). The Secretary believes that the documentation requirements remaining in the regulations to support a DSU's conclusion that it is able to serve all eligible individuals, even though it has been unable to serve all eligible persons in the past, is fully consistent with congressional intent.

The Secretary believes that the required explanation will not impose any additional data collection burdens on a DSU. The Secretary believes that existing information in a DSU's required statewide studies and annual evaluations, comprehensive statewide assessments of the rehabilitation needs of individuals with severe disabilities, comprehensive system of personnel development, and budget data would enable a DSU to provide the required explanation without any need for additional data collection.

The Secretary believes that a DSU should be able to predict funding levels for the program during the upcoming fiscal year through use of State and Federal budget data.

The Secretary believes that Federal census and population data alone are not sufficient for a DSU to make the required projections. These data are not updated often enough for a DSU to rely solely on these sources in making its projections, but may be useful in conjunction with information from a DSU's statewide studies, comprehensive statewide assessments, comprehensive system of personnel development, and budget data.

Changes: The Secretary has revised § 361.36(a)(1)(ii) of the proposed regulations to reduce the data projections that a DSU must provide as part of its explanation of how it is able to serve all eligible individuals. This provision has been relocated to § 361.36(a)(3) of the final regulations and applies only to—(1) DSUs that were unable to serve all eligible individuals during the current or preceding fiscal year; and (2) DSUs that contend that they served all eligible individuals in the preceding and current fiscal years, but cannot attest to meeting the program requirements listed in § 361.36(a)(2) for both those years.

—Projections for serving all eligible individuals with disabilities

Comments: Several commenters suggested that the Secretary require a DSU to provide separate projections for serving individuals with non-severe, severe, and the most severe disabilities in providing the data in § 361.36(a)(1)(ii)(A) and (B) of the proposed regulations. These commenters believed that the approach taken in the proposed regulations would allow a DSU to average the costs of serving all populations, and the commenters recommended that a DSU be required to break out the costs of serving individuals with severe and the most severe disabilities. Commenters contended that the average projected cost of serving all individuals is substantially less than the cost of serving the subgroup of individuals with the most severe disabilities because of the variety of services and supports that individuals in this category require. One of these commenters also believed that providing specific data on each of these populations would help to determine the extent to which a DSU has engaged in aggressive outreach efforts to serve a greater number of individuals with the most severe disabilities.

One commenter requested that, in making its projections, a DSU be required to take into consideration the likelihood that more individuals will be applying for services as a result of the revised eligibility requirements established under the 1992 Amendments and that more of these individuals will be individuals with the most severe disabilities because of the expanded requirements to provide personal assistance and rehabilitation technology services.

Discussion: As discussed previously, the Secretary has significantly revised the proposed regulations to require DSUs to submit projections as part of their State plan only in limited circumstances. Specifically, § 361.36(a)(3) requires DSUs that were unable to serve all eligible individuals during the current or previous fiscal year, but believe that they do not need to establish an order of selection in the next fiscal year, to include in their State plans the projected numbers of eligible individuals, the projected costs of serving those individuals, the projected revenues, and the projected number of qualified personnel. (These State plan requirements also apply to DSUs that do not establish an order of selection but cannot provide the assurances in § 361.36(a)(2).) However, any DSU that does not establish an order of selection must still consider the rehabilitation needs of individuals with severe disabilities as part of its explanation under § 361.36(a)(1)(i), even though the final regulations do not require separate projections for individuals with non-severe, severe, and most severe disabilities under § 361.36(a)(3).

The Secretary agrees that averaging the costs of serving all eligible individuals would not provide an accurate estimate of the costs of serving individuals with severe and the most severe disabilities if a State relied solely on cost data for years prior to the enactment of the 1992 Amendments in making its projections. The Secretary believes that in making projections with respect to the cost of serving all eligible individuals, a DSU must consider the costs of serving individuals with severe disabilities.

The Secretary agrees that more individuals with severe disabilities and individuals with the most severe disabilities have become eligible to receive services under the revised eligibility requirements in the 1992 Amendments. However, the Secretary believes that any significant expansion in the number of eligible individuals that is attributable to the revised eligibility criteria has already taken place. Consequently, the Secretary believes there is no need to require DSUs under § 361.36(a)(3) to provide separate projections for serving individuals with non-severe, severe, and most severe disabilities as long as the projected number of all eligible individuals and the projected costs of serving those individuals is provided.

Changes: The Secretary has revised § 361.36(a)(1)(ii) of the proposed regulations to reduce the amount of data and related explanations that must be submitted as part of the State plan. In addition, the regulations require that this data be included as part of the State plan only if—(1) The DSU was unable to serve all eligible individuals in the current or preceding fiscal year; or (2) The DSUs did not meet the requirements in § 361.36(a)(2) in serving all eligible individuals in the current and preceding fiscal years. This provision has been relocated to § 361.36(a)(3) in the final regulations.

—Cost-containment

Comments: Several commenters suggested that a DSU be required to control costs before implementing an order of selection. One commenter suggested adding a new requirement to the regulations that a DSU, prior to implementing an order of selection, implement methods to control costs, including, but not limited to, rigorous administrative controls and oversight, aggressively pursuing comparable services and benefits, paying vendors based on performance outcomes, developing equitable financial need policies, and establishing collaborative program funding through interagency agreements that will enable the DSU to provide services to all eligible persons.

Another commenter requested that a DSU that is unable to secure its full Federal allotment for the program due to insufficient State match be required to demonstrate efforts to obtain the full match in order to be able to implement an order of selection. This commenter also requested that the Secretary question or not approve a DSU's decision to implement an order of selection if it is unable to fill vacant counselor positions due to a statewide freeze on hiring, since counselor salaries are primarily funded by Federal funds.

On the other hand, several commenters requested that a DSU be prohibited from establishing inappropriate, arbitrary, or groundless policy restrictions on the provision of services that are intended to avoid implementation of an order of selection. Some of these commenters recommended that the Secretary establish an appeal process to the Rehabilitation Services Administration (RSA) Regional Offices so that parties may challenge these types of restrictions.

Discussion: The Secretary agrees that a DSU should undertake all efforts to control costs before it opts to establish an order of selection. Some of the means suggested by commenters for controlling costs are already Federal requirements (e.g., program costs must be reasonable and necessary and DSUs must pursue comparable services and benefits before providing most services), while others are State options (e.g., paying vendors based on performance outcomes, developing equitable financial need policies, and establishing collaborative program funding through interagency agreements). The Secretary encourages DSUs to use these State options whenever possible to contain costs.

In conjunction with a DSU's determination of whether it needs to establish an order of selection, a DSU should consider whether the adoption of certain cost containment measures would enable the DSU to serve all eligible individuals. Adoption of cost containment measures, therefore, should be considered both at the time the DSU develops its State plan submission on order of selection prior to the beginning of the fiscal year and whenever changed circumstances during the fiscal year warrant reevaluation of the need to establish an order of selection in accordance with § 361.36(b). If a DSU undertakes cost containment strategies and is still unable to serve all eligible individuals, it is required to establish an order of selection for services.

The Secretary does not believe there is authority to establish a link between a DSU's ability to meet its full matching requirement—and therefore earn its entire allotment—and its right to implement an order of selection. In fact, the inability of a DSU to obtain its full matching contribution may be a factor in its need to establish an order of selection, since a DSU would have fewer program funds available because of insufficient State dollars and the loss of some Federal funds.

As previously noted, the Secretary agrees that DSUs need to proceed carefully in establishing an order of selection. Therefore, the Secretary requires, under § 361.36(e)(1), that a DSU consult with and seriously consider the advice of the Council regarding the need to establish an order of selection. The Secretary does not believe it is necessary or advisable to establish an appeal process that is specifically for order of selection compliance issues. Section 107(c) of the Act provides a general appeals process for substantial noncompliance with any State plan requirement under this program.

Changes: None.

—Assessment of rehabilitation needs of individuals with severe disabilities

Comments: One commenter requested that the provision in § 361.36(a)(1)(ii)(B)(1) of the proposed regulations requiring a DSU to assess the rehabilitation needs of "individuals with severe disabilities" within the State be changed to require a DSU to assess the needs of "individuals with the most severe disabilities." The commenter believed that this change would be consistent with section 101(a)(5)(A) of the Act.

Discussion: Section 101(a)(5)(A) of the Act provides that the State plan shall contain the plans, policies, and methods to be followed in carrying out the State plan and in its administration and supervision, including the results of a comprehensive, statewide assessment of the rehabilitation needs of "individuals with severe disabilities" residing within the State. Therefore, § 361.36(a)(1)(i) of the final regulations correctly tracks the language in section 101(a)(5)(A) of the Act. The Secretary notes, however, that the broad category of "individuals with severe disabilities" would include as a subcategory "individuals with the most severe disabilities."

Changes: None.

—Interagency cooperative agreements

Comments: One commenter requested that the provision in § 361.36(a)(1)(ii)(B)(4) of the proposed regulations, which highlighted or emphasized the consideration of cooperative agreements serving certain groups of individuals with disabilities, be changed to read "including individuals served by the Individuals with Disabilities Education Act, * * * and any other cooperative agreements" in order to ensure that equal weight is given to all cooperative arrangements.

One commenter recommended that the Secretary require a DSU to include in its projections estimates of the number of individuals with severe disabilities that will be provided services under the interagency cooperative arrangement with programs that rely on Javits-Wagner-O'Day Act (JWOD Act) set-asides.

Discussion: The Secretary believes that requiring in the State plan separate estimates of the number of individuals with disabilities to be served under interagency cooperative arrangements is overly burdensome. As long as the DSU considers these agreements when ascertaining the projected numbers of eligible individuals and the projected costs of administering its program, there is no need to provide a separate breakdown of the number of applicants or eligible individuals receiving services under each type of agreement.

Changes: In accordance with the Department's principles for regulating, the Secretary has revised the proposed regulations to eliminate the requirement that the DSU include estimates of the number of individuals to be served under interagency cooperative agreements as part of its projected costs of administering the program.

—Development of order of selection as a contingency plan

Comments: Several commenters requested that a DSU be required to develop an order of selection regardless of whether it needs to be implemented in the current fiscal year. These commenters believed it is important for each DSU to have an order of selection available as a contingency measure.

Discussion: There is no statutory authority to require a DSU to develop an order of selection if a DSU determines it is presently able to serve all eligible individuals and will be able to do so throughout the fiscal year. Section 101(a)(5)(A) of the Act requires a DSU

to establish an order of selection only if it is unable to serve all eligible individuals.

A DSU could, however, choose to develop the priority categories in an order of selection in anticipation of possible future need, but would still be required at the time of implementation of the order of selection to meet the public participation requirements of section 101(a)(23) of the Act, including consultation with the Council.

Changes: None.

• *Order of selection.*

—Applicability of order of selection to funds not included in State match or Federal allotment

Comments: One commenter requested that the order of selection requirement not apply to service funds that are not included in the State match or Federal allotment.

Discussion: The order of selection requirement applies to all expenditures under the State plan, including expenditures made with Federal funds and DSU expenditures made with non-Federal funds that are necessary to meet a DSU's matching and maintenance-of-effort requirements.

Changes: None.

—Outcome and service goals

Comments: One commenter suggested adding a paragraph to § 361.36(a)(2) of the proposed regulations requiring a DSU to show the outcome and service goals and the time in which they may be achieved for individuals. The commenter believed that this reporting requirement should be added to ensure that the Secretary will know with specificity the types of services and service outcomes being provided, either if a DSU elects to establish and implement an order of selection or if a DSU assures that it is able to serve all eligible individuals. According to the commenter, if a DSU establishes an order of selection for services, it will be very important for evaluation purposes to define the mix of services, goals, and timelines for providing services to individuals with the most severe disabilities.

Discussion: The Secretary agrees with the change suggested by the commenter. Section 101(a)(5)(A) of the Act requires a DSU to show the outcomes and service goals, and the time within which they may be achieved, for individuals provided services under an order of selection established by a DSU. Section 101(a)(10)(A) of the Act requires a DSU to include in its State plan the outcomes, service goals, and service costs for individuals under each priority category in a DSU's order of selection.

Changes: The Secretary has revised § 361.36(a)(2) of the proposed regulations to provide that a DSU's order of selection must include the order to be followed in selecting eligible individuals to be provided services, a justification of that order of selection, and a description of the outcome and service goals and service costs for individuals with disabilities in each priority category within the order and the time within which these goals may be achieved. This provision has been relocated to § 361.36(a)(1)(ii) of the final regulations.

Section 361.36(b)—Time for Determining Need for and Implementation of an Order of Selection

—Implementation of an order of selection and opening and closing of priority categories during the fiscal year

Comments: One commenter recommended requiring a DSU to periodically review whether it needs to establish an order of selection. This commenter also recommended requiring a DSU to periodically update its projections under § 361.36(a)(1) of the proposed regulations so that the DSU, with advice and input from the Council (if the DSU has a Council), can make decisions with current information.

One commenter recommended that the regulations require a DSU to reevaluate its decision not to establish an order of selection at some regular interval identified in the regulations, rather than permit the DSU to determine the timing of its reevaluation. Otherwise, the commenter feared that many DSUs would delay reevaluation and likely be forced to implement an order of selection on an emergency basis.

One commenter suggested that a DSU submit reports to the Secretary and to the Council comparing the actual costs and numbers of individuals served with its projections under § 361.36(a)(1) of the proposed regulations and any adjustments to the projections.

Other commenters suggested that a DSU be required, no later than 45 days after the end of each quarter, to submit a report on how service and expenditure levels for that quarter and cumulatively for the fiscal year compare to the projections made by the DSU under § 361.36(a)(1) of the proposed regulations. These commenters believed that this type of reporting would allow the Secretary to track the accuracy of a DSU's projections. Other commenters recommended requiring a DSU to submit quarterly reports to the Secretary on the accuracy of a DSU's projections and the need to establish an order of selection.

One commenter inquired whether a DSU may implement an order of selection during the fiscal year, rather than at the beginning of the fiscal year. This commenter believed that requiring a DSU to establish an order of selection at the beginning of each fiscal year might cause a DSU to be overly conservative and to close more priority categories than is necessary.

One commenter inquired whether a DSU may adjust, during the fiscal year, which priority categories are open and closed.

Discussion: The Secretary considers DSU reevaluation of the need to establish an order of selection necessary to the proper management of the program. However, the Secretary does not believe that requiring reevaluation at regular intervals during the course of each fiscal year is necessary. A requirement of this type would be overly burdensome and would apply an inflexible standard to determinations that are best governed by a DSU's individual circumstances. The regulations, therefore, require a DSU to reevaluate its decision not to implement an order of selection for services, in consultation with the Council, whenever changed circumstances, such as a decrease in its fiscal or personnel resources or an increase in program costs, indicate that it may no longer be able to provide the full range of services to all eligible individuals. In addition, documentation related to reevaluations is to be provided to the Council, as well as to the Department during RSA's monitoring and review of the order of selection requirement under sections 107(a)(3)(A) and 107(a)(4)(B) of the Act.

A DSU is required to determine the need for an order of selection prior to the beginning of the fiscal year and to reevaluate that need during the year under § 361.36(b) if circumstances change after the beginning of the fiscal year. If changed circumstances warrant establishing an order of selection during the fiscal year, a DSU may implement an order of selection at that time. The Secretary prefers, however, for a DSU to implement an order of selection at the beginning of the fiscal year if it foresees any circumstances that may affect its ability to serve all eligible individuals throughout the year. The preparations needed to establish and implement an order of selection take time. During this time, resources may be further strained. Thus, the Secretary believes that a conservative approach toward implementing an order of selection and opening priority categories is preferable so that sufficient resources are available throughout the year to serve all individuals with severe disabilities, including individuals with the most severe disabilities.

If a DSU implements an order of selection during the fiscal year, rather than at the outset, and thereafter cannot serve all individuals with severe and the most severe disabilities, it would be out of compliance with the order of selection requirement.

The Secretary believes that a DSU may use its discretion as to the timing for opening and closing priority categories as long as the order of categories is maintained. When considering whether to open a category, a DSU should evaluate not only current resources but also the impact that continuing to serve these eligible individuals under this category will have on resources expected to be available in the next fiscal year, or possibly beyond.

Changes: The Secretary has revised § 361.36(e)(1) to provide that the DSU shall consult with and seriously consider the advice of the Council regarding the need to establish an order of selection, including any reevaluation of the need to establish an order of selection under § 361.36(b)(2).

Section 361.36(c)—Establishing an Order of Selection.

—Further guidance on factors to be considered in establishing an order of selection

Comments: Several commenters recommended that the Secretary provide further guidance on what factors a DSU should use in establishing an order of selection. One of these commenters suggested adding five factors that a DSU should consider in establishing an order of selection: Lower levels of educational achievement; longer lengths of unemployment, underemployment, or lower level jobs; lower levels of self-esteem and self-worth; need for two or more services; and need for services for a longer length of time.

One commenter requested that a statement be added to § 361.36(c) indicating that the criteria for determining which individuals are individuals with the most severe disabilities must be equally applicable to, and not lead to the exclusion of, transitioning students. This commenter was concerned that a DSU may define an "individual with the most severe disability" by using factors, such as an employment history of repeated failures, that may exclude youth with severe disabilities.

Discussion: In establishing an order of selection a DSU can only consider severity of disability. The Secretary believes that an order of selection must be based on the factors or criteria contained in the definition of an "individual with a severe disability" in section 7(15)(A) of the Act. An "individual with a severe disability" is defined as an individual with a disability (1) who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of employment outcome; (2) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and (3) who has one or more physical or mental disabilities, as identified in section 7(15)(A) of the Act, or any other disability or disabilities that cause comparable substantial functional limitation.

In determining which individuals with severe disabilities are individuals with the most severe disabilities, for purposes of providing them with the highest priority in an order of selection, a DSU cannot merely apply the criteria in this definition. Because individuals with the most severe disabilities are a subgroup of individuals with severe disabilities, the Secretary believes that a DSU must refine these criteria to identify this subgroup.

A DSU may refine these factors, for example, by basing its order of selection on the number and degree of functional limitations, the amount of time vocational rehabilitation services would be needed, and the number of vocational rehabilitation services needed. When refining these factors, a DSU may choose to refine one factor or a combination of factors. The purpose of refining these factors is to link the nature and depth of the individual's functional limitations with the need for multiple and complex services that require an extended period of time for completion.

A DSU could refine the first criterion by requiring that an individual demonstrate limitations in three or more functional capacities, such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills. Alternatively, a DSU could specify the degree of functional limitations within one or more functional capacities by requiring that an individual demonstrate a minimum number of specific functional limitations, such as five specific functional limitations, within one or more functional capacities.

Possible examples of specific functional limitations within the functional capacity of self-direction include—(1) Purposeless shifting from one activity to another; (2) Inability to follow through with and complete assignments; (3) Problems related to time management; (4) Making decisions impulsively without consideration for previous plans or experience; (5) Limitations in gathering, organizing, and analyzing information; (6) Difficulties in adapting to changing work requirements; and (7) Inability to monitor work performance and to adjust behaviors and activities if the current performance is not adequate.

A DSU could refine the second criterion by specifying the minimum number of vocational rehabilitation services required by the individual or by specifying the extended period of time required for the provision of services. For example, in order to link the complexity or substantiality of the services provided to the severity of functional limitations, a DSU could establish a criterion that an individual require 2 or more major services that will be at least 12 months in duration. Major services could be defined as those services described in section 103(a) of the Act, excluding diagnostic services; supportive services, such as maintenance and transportation, that complement the provision of major services; and the counseling, guidance, and service coordination provided to every eligible individual.

A DSU could base the minimum time period required for the provision of multiple vocational rehabilitation services on a DSU's experience with the length of time necessary for individuals with severe disabilities to achieve an employment outcome. This extended period of time could be defined as the period of time at the upper end of the range required for individuals with severe disabilities to achieve an employment outcome, after eliminating any exceptional cases.

Socioeconomic factors, such as levels of educational achievement or length of unemployment or underemployment, and personal traits, such as levels of self-esteem, however, cannot be used in establishing an order of selection because these factors are not measures of severity of disability or even measures of disability. For example, using a factor such as low level of educational achievement would tend to include individuals whose disabilities were acquired at birth or during the developmental years while excluding individuals whose disabilities were acquired after having completed high levels of education, even though both groups of individuals might demonstrate equal substantial

functional limitations and have an equal need for multiple services over an extended period of time. Using a factor such as an employment history of repeated failures would have the effect of excluding youth who may have little or no employment history.

Changes: The Secretary has revised § 361.36(c) by adding a new paragraph (1) that states that an order of selection must be based on a refinement of the three criteria in the definition of "individual with a severe disability" in section 7(15)(A) of the Act.

• *Priority for individuals with the most severe disabilities.*

—Federal criteria for defining individuals with the most severe disabilities

Comments: Several commenters expressed concern about the potential for an individual to be denied services if the individual moves to a State in which the DSU uses different criteria for determining which individuals have the most severe disabilities. One commenter inquired as to whether there will be a consistent procedure for determining severity of disability, and other commenters requested that the regulations include appropriate criteria for defining "most severe."

Discussion: There is no statutory authority for the Secretary to establish Federal criteria to determine which individuals are individuals with the most severe disabilities. Section 101(a)(5) of the Act mandates that each DSU has the responsibility to develop its own criteria in this regard.

Changes: None.

—Functional limitations

Comments: One commenter requested that the Secretary clarify that a DSU may base an order of selection on limitations of functional capacities in addition to those listed in the statutory definition of "individual with a severe disability" in section 7(15)(A)(i) of the Act.

Another commenter suggested that the Secretary encourage DSUs to determine which individuals are the most severely disabled based on the types of functional limitations specified in the definition of "developmental disability" in section 6001(5) of the Developmental Disabilities and Bill of Rights Act (DD Act). "Developmental disability" is defined, in part, as a severe, chronic disability that results in substantial functional limitations in three or more of the following areas of major life activity: (1) Self-care. (2) Receptive and expressive language. (3) Learning. (4) Mobility. (5) Self-direction. (6) Capacity for independent living. (7) Economic self-sufficiency.

Discussion: A DSU may base an order of selection on limitations of functional capacities in addition to those functional capacities listed in section 7(15)(A)(i) of the Act. This listing is not all-inclusive because it is preceded by the words "such as." However, functional limitations under this program must affect the achievement of an employment outcome. The DD Act definition specifies functional limitations that affect major life activities. Under The State Vocational Rehabilitation Services Program, some of the functional areas specified in the DD Act, such as economic self-sufficiency and capacity for independent living, would not necessarily be considered a functional limitation that impedes the achievement of an employment outcome, but rather would be considered a potential outcome or benefit of the VR program. Therefore, they could not be used as a factor in determining severity of disability under the VR program. As part of a review of a DSU's criteria for identifying individuals with the most severe disabilities, the Secretary would assess the appropriateness of using particular different functional capacities.

Changes: None.

• *Factors that cannot be used in determining order of selection of eligible individuals.*

—Applying eligibility restrictions to order of selection decisions

Comments: Several commenters opposed applying eligibility restrictions to order of selection decisions. These commenters stated that the eligibility and order of selection requirements are intended to stand alone under the Act.

Discussion: The Secretary agrees that the eligibility requirements and the order of selection requirements are separate requirements. Eligibility determinations can be based only on the statutory eligibility criteria in section 102(a)(1) of the Act. Determinations of the order of serving eligible individuals can be based only on severity of disability in accordance with section 101(a)(5)(A) of the Act. Neither determination can be based on any of the factors in § 361.36(c)(2).

Changes: None.

—Residency prohibition

Comments: One commenter believed that the residency prohibition needed to be clarified because, as worded in the NPRM, it would encourage individuals who live in one State to apply for services in another State.

Discussion: The Secretary's intention was to prohibit an order of selection from being based on any particular durational residency requirement as long as the individual is present in the State and can complete a program of services. The Secretary did not intend to address the issue of the ability of residents of one State to receive VR services in another State.

Changes: The Secretary has revised § 361.36(c)(1)(i) of the proposed regulations to prohibit an order of selection from being based on any duration of residency requirement, provided the individual is present in the State. This provision has been relocated to § 361.36(c)(2)(i) of the final regulations.

—Type of disability prohibition

—Individuals who are blind or visually-impaired

Comments: One commenter urged the Secretary to ensure that State rehabilitation agencies that serve only individuals who are blind or visually impaired be permitted to continue to serve these individuals if those agencies are operating under an order of selection. In addition, this commenter recommended that State rehabilitation agencies that serve all individuals with disabilities be required to recognize blindness as a severe disability for purposes of order of selection.

Discussion: If a DSU that serves only individuals who are blind or visually impaired is unable to serve all eligible individuals, it must prioritize according to severity of disability.

An individual who is blind or visually impaired must be assessed like all other eligible individuals with disabilities according to the three criteria in the definition of an "individual with a severe disability" in section 7(15)(A) of the Act. A DSU may not determine that an individual who is blind or visually impaired automatically meets this definition, i.e., that every individual who is blind or visually impaired is an individual with a severe disability or an individual with a most severe disability. An individual who is blind, however, would automatically satisfy the third element in the definition because "blindness" is included among the listing of physical or mental disabilities that the Act recognizes as causing substantial functional limitation.

In addition, if an individual is determined blind pursuant to Title II or Title XVI of the Social Security Act, section 102(a)(2) of the Rehabilitation Act considers that individual to have a severe physical or mental impairment that seriously limits one or more functional capacities in terms of an employment outcome, thus satisfying the first criterion in the definition of an

"individual with a severe disability." There is no basis in the Act, however, for automatically determining that an individual who is blind or visually impaired would require multiple vocational rehabilitation services over an extended period of time.

Changes: None.

—Individuals with disabilities of alcoholism and other drug abuse

Comments: One commenter was concerned that individuals with disabilities of alcoholism and other drug abuse would not receive fair consideration under an order of selection. In order to ensure fair consideration for these individuals, the commenter requested that criteria be added that require a DSU to include among individuals with the most severe disabilities those individuals with chronic relapsing conditions.

Discussion: Section 105(a)(5)(A) requires a DSU, not the Secretary, to establish criteria for determining which individuals with severe disabilities are individuals with the most severe disabilities. Any criteria established by a DSU for identifying individuals with the most severe disabilities should apply equally to individuals with chronic and individuals with acute disabling conditions. Many individuals with chronic relapsing conditions, such as alcohol or drug abuse, may experience substantial functional limitations and require multiple vocational rehabilitation services over an extended period of time. However, an assessment of whether a particular individual with a disability meets these criteria, including an assessment of an individual who is disabled because of alcohol or drug abuse, must be done on a case-by-case basis.

Changes: None.

—Source of referral prohibition

Comments: One commenter inquired whether the emphasis on interagency cooperative arrangements in the Act allows a DSU to establish a priority under an order of selection for eligible individuals referred by school systems under the Individuals with Disabilities Education Act (IDEA) or the Carl D. Perkins Vocational and Applied Education Act (Perkins Act).

Discussion: A DSU may not establish a priority under an order of selection for eligible individuals referred by school systems under IDEA or the Perkins Act because the source of referral is not necessarily an indicator of severity of disability. While some of these individuals might be individuals with severe or the most severe disabilities, all individuals referred by schools under these programs may not necessarily meet these criteria. This determination must be made on an individual basis.

Changes: None.

—Prohibition against using type of expected employment outcome

Comments: Several commenters opposed this prohibition. Several commenters contended that the purpose of the Title I program is to assist individuals with disabilities to enter into gainful employment, and, therefore, the type of expected employment outcome should be used as a factor in establishing an order of selection. One commenter contended that one of the evaluation standards for the program to be developed by the Secretary under section 106(a)(2) of the Act may relate to the achievement of competitive employment outcomes and an increase in post-placement earnings. The commenter believed it is unfair to evaluate a DSU on the level of earnings of the individuals it places in employment if it cannot use type of employment and amount of earnings as a factor in establishing an order of selection.

Finally, one commenter inquired whether, given the increased emphasis in the Act on supported employment, a DSU should be permitted to establish a priority in its order of selection for eligible individuals whose employment outcome is in a supported employment setting.

Discussion: Individuals with multiple functional limitations and a need for multiple services over an extended period of time will have varying expected employment outcomes, including competitive employment, supported employment, and other types of employment. Thus, type of expected employment outcome and level of post-placement earnings are not indicative of severity of disability and cannot be used as criteria for determining the level of severity of disability.

Although an individual whose employment outcome is in a supported employment setting would be included in the group of individuals with the most severe disabilities because supported employment services under the Act can only be provided to individuals with the most severe disabilities, a DSU cannot give individuals whose employment outcome is in a supported employment setting priority over other individuals with the most severe disabilities who have different employment outcome goals.

Changes: None.

—Prohibition against considering the particular service needs of an individual or anticipated cost of services required by an individual

Comments: Several commenters opposed these prohibitions. Several commenters questioned the logic of prohibiting consideration of service needs when establishing an order of selection because the need for multiple services is part of the definition of "individual with a severe disability." One commenter also pointed out that this restriction is contrary to previous RSA sub-regulatory guidance that has allowed DSUs to use service needs and costs in establishing priority categories for individuals with non-severe disabilities. Finally, one commenter inquired whether it is consistent with the Act for a DSU to establish a priority in its order of selection for eligible individuals who require rehabilitation technology devices and services.

Several commenters believed that the Secretary should revise the regulations to allow a DSU to develop an IWRP for only non-purchased services if resources are not available to also provide purchased services. These commenters requested that a DSU that has established an order of selection for services be allowed to provide a priority to persons who do not have a severe or most severe disability and who need only non-purchased services as long as adequate resources are available to serve first those individuals who are the most severely disabled.

Discussion: The Secretary agrees that clarification is needed. This provision is intended to prohibit a DSU from giving priority to an individual who has one or more specific service needs over another individual who has different service needs. For example, a DSU is prohibited from giving priority to individuals who require physical restoration services over individuals who require vocational training. A DSU is also prohibited from giving priority to individuals who require rehabilitation technology devices and services, as raised by one commenter, over any other individual who requires a different service.

One of the examples provided in the preamble to the proposed regulations to illustrate this provision may have caused confusion. The example stated that a DSU is prohibited from establishing an order of selection that gives priority to individuals who require short-term services over individuals who require long-term services. Since a DSU is required to consider, in establishing its order of selection, an individual's need for vocational rehabilitation services over an extended period of time under the second factor of the definition of "individual with a

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severe disability," the use of the words "short-term" and "long-term" was inappropriate. The example was intended to illustrate the principle that the cost of services cannot be a factor in an order of selection and that DSUs cannot give priority to individuals who need short-term, less costly services over individuals who need longer term and more costly services.

The Secretary believes that there is no basis under the Act for exempting from the order of selection requirement the provision of non-purchased services. The Act does not draw any distinction between the provision of purchased and non-purchased vocational rehabilitation services with respect to a DSU's determination of the order in which it will provide services to eligible individuals if it cannot serve all eligible individuals. The order must be predicated, as section 101(a)(5)(A) requires, on severity of disability: Individuals with the most severe disabilities must be served first.

This means, for example, that if a DSU has established three service categories for serving eligible individuals (i.e., individuals with the most severe disabilities, individuals with severe disabilities, and individuals with non-severe disabilities), then it must be able to provide all needed services, whether purchased or not, to all individuals with the most severe disabilities before serving any individuals with severe disabilities. In addition, it must be able to provide all needed services to all individuals with severe disabilities before serving any individuals in the last category who have less than severe disabilities. An individual's need for only non-purchased services cannot override this order.

Thus, the Secretary believes that a DSU cannot establish a priority category anywhere in its order of selection that provides solely for the provision of non-purchased services, even among individuals with non-severe disabilities. This interpretation represents a policy reversal by RSA of its position in subregulatory guidance (RSA-MT-92-17, March 20, 1992), which permitted a DSU to give a service priority to non-severely disabled individuals whose rehabilitation needs do not require the expenditure of case service funds (i.e., individuals who need only counseling, guidance, and placement services that can be provided by DSU staff) over other non-severely disabled individuals.

To address the concern of some DSUs on this issue, the Secretary has proposed regulations for this program in 34 CFR 361.37(c) that were published in the **Federal Register** on December 15, 1995 (60 FR 64476) and that would provide a limited exception to this prohibition. These proposed regulations would authorize any DSU that has implemented an order of selection to establish an expanded information and referral program that includes the provision of job referral services to eligible individuals who are not being served under a DSU's order of selection, provided that certain State plan requirements are met. These requirements include a description in the State plan of the level of commitment of staff and other resources for this purpose and an assurance that funds to carry out this program will supplement and not supplant funds available for providing VR services to eligible individuals who are able to be served under the DSU's order of selection.

Changes: The Secretary has clarified § 361.36(c)(1)(vi) of the proposed regulations by providing that the need for specific services by an individual cannot be the basis for an order of selection. This provision has been relocated to § 361.36(c)(2)(vi) of the final regulations.

—Income level of the individual or the individual's family

Comments: Several commenters recommended that a DSU be permitted to give priority to persons on public assistance in its order of selection because these individuals have a greater need for services than those who have larger incomes.

Discussion: A DSU may not give priority to persons on public assistance under its order of selection because use of public assistance is a socioeconomic factor that may not necessarily be related to the presence of a disability or to the severity of that disability. Individuals who are on public assistance and who are included in a priority category currently being served by a DSU can receive services. As noted in the preamble to the NPRM, however, the income level of an individual or the individual's family can be a factor only in determining whether an individual is required by a DSU to pay part of the cost of a service. This is a State option permitted under current regulations in 34 CFR 361.47(a).

Changes: None.

—Transitioning students

Comments: One commenter believed the intent of section 101(a)(24)(A) (i), (ii), and (iii) of the Act is to ensure that all eligible students receive services in a timely manner and to ensure that there is no gap in services between the school system and the vocational rehabilitation system.

One commenter inquired how a DSU will handle transitioning special education students if an order of selection is implemented. Specifically, the commenter inquired whether a student who is receiving vocational rehabilitation services would continue to receive services if the student falls outside of the priority categories being served under an order of selection established by a DSU.

Another commenter was concerned that transitioning students would be placed on waiting lists for services. This commenter recommended requiring a DSU operating under an order of selection to include in its State plan the plans, policies, and procedures to identify how the DSU will work with education officials and others to meet the needs of transitioning youth and to otherwise fulfill their obligations under the Act concerning the provision of transition services.

Discussion: Even though section 101(a)(24)(A) (i), (ii), and (iii) of the Act strengthen the provisions for transition services to students with disabilities, a student who is determined eligible for services after a DSU implements an order of selection will be served only if the student is among those individuals included in a priority category that is currently being served under the DSU's order of selection.

Section 361.36(d)(3), however, provides that a DSU must ensure that it will continue to provide all needed services under an IWRP to any eligible individual who has begun to receive services prior to the effective date of the order of selection, irrespective of the severity of the individual's disability. Thus, for example, if a transitioning student with severe disabilities is receiving vocational rehabilitation services under an IWRP prior to the effective date of the order of selection, the student will continue to receive all needed services even if the DSU is able under its order of selection to initiate services only to individuals with the most severe disabilities.

Transitioning students who are not included in a priority category that is currently being served under a DSU's order of selection will be placed on a waiting list unless services were begun prior to the implementation of the order of selection.

Changes: None.

—Individuals with less severe disabilities

Comments: One commenter inquired whether individuals with less severe disabilities will be systematically left out of the process in those DSUs that implement an order of selection. This commenter feared that the proposed regulations permit a DSU to refuse services to an individual because his or her disability is not severe enough.

One commenter inquired whether a DSU may limit the number of individuals with non-severe disabilities who may be served under an order of selection so that there will be funds available to serve individuals with a severe disability who may apply for services.

Discussion: The order of selection requirement mandates that services be provided first to individuals with the most severe disabilities before serving other eligible individuals. This means that individuals with the most severe disabilities are served before individuals with severe disabilities and individuals with non-severe disabilities. A DSU that implements an order of selection may be unable to serve eligible individuals with non-severe disabilities.

The Secretary urges DSUs operating under an order of selection to be conservative in assessing their ability to serve individuals other than those with the most severe disabilities before opening additional priority categories. This approach is needed to ensure that sufficient resources are available throughout the year to serve individuals under higher priority categories (i.e., individuals with most severe disabilities and individuals with severe disabilities) who apply for services and become eligible after the beginning of the fiscal year. As stated previously, the Secretary prefers this conservative approach since a potential increase in the number of applicants with severe disabilities might affect the DSU's ability to comply with the order of selection requirements throughout the year.

Changes: None.

Section 361.36(d)—Administrative Requirements

—Identify the order of selection as a State-imposed requirement

Comments: One commenter recommended deleting this requirement. The commenter stated that the only legally permissible reason for implementing an order of selection policy is resource limitations. Since funding for the program is a shared responsibility of State and Federal governments, the commenter believed there was no reason to attribute resource shortfalls exclusively to a State.

Discussion: The Secretary believes that the commenter misinterpreted this provision of the proposed regulations. The intent of the provision was for a DSU to identify its particular order of selection policy as a State-imposed requirement (not the order of selection requirement itself, which is a Federal requirement) since this policy is a State rule or policy relating to the administration or operation of the program under section 17 of the Act. Nevertheless, the Secretary believes that there is no reason to particularly highlight this one State-imposed requirement in the regulations over other State-imposed requirements, such as a State's financial needs test. The Secretary intends to address State-imposed requirements in general in other regulations for this program.

Changes: The Secretary has deleted the requirement in § 361.36(d)(2) of the proposed regulations that a DSU identify its order of selection policy as a State-imposed requirement.

—Written policies

Comments: Several commenters suggested that written policies for an order of selection include requirements that the policies must provide that affected individuals are notified of the State's particular order of selection, the priority category to which they have been assigned, and their right to appeal assignment to a particular priority category.

One commenter suggested revising § 361.36(d)(3) of the proposed regulations to provide that a DSU must establish written policies related to the development, establishment, and administration of the order of selection that should include, but not be limited to, the following: (1) Consultation with the Council. (2) Staff orientation and training. (3) Notification to individuals applying for services, or in an appropriate case, the parent, family member, guardian, advocate, or authorized representative of such an individual. (4) Monitoring procedures. (5) Caseload management. (6) Evaluation of effectiveness of the order of selection. The commenter believed that these policies should be required since they include important accountability elements.

Discussion: The Secretary agrees that a DSU must ensure that each eligible individual is informed of the priority categories that have been established in a DSU's order of selection, of the particular priority category to which he or she has been assigned, and of his or her right to appeal assignment to a particular priority category under the State's procedures for reviewing rehabilitation counselor or coordinator determinations. The Secretary believes these are basic procedural rights that eligible individuals have under this program. These notification requirements are specified in § 361.36(d)(2).

In accordance with the Department's principles for regulating, however, the Secretary has eliminated the requirement in the proposed regulations that DSUs establish written policies related to the development, establishment, and administration of its order of selection. The Secretary believes that requiring DSUs to establish written policies covering all aspects of the implementation of an order of selection is overly burdensome. Nevertheless, the Secretary encourages a DSU to develop policies, as needed, to ensure proper administration of its order of selection, including policies in areas such as staff orientation and training, monitoring procedures, caseload management, and evaluation and management of the order of selection.

Changes: The Secretary has revised § 361.36(d)(3) of the proposed regulations to require a DSU to notify all eligible individuals of the priority categories in a DSU's order of selection, their assignment to a particular category, and their right to appeal assignment to a particular priority category. This provision has been relocated to § 361.36(d)(2) of the final regulations.

—Continuity of services

Comments: One commenter requested clarification of this provision. The commenter noted that a person could have a completed and signed IWRP, but not yet have begun to receive services under the IWRP. This commenter requested that the regulations be revised to provide that anyone with a completed and signed IWRP must continue to receive services in accordance with their approved IWRP, irrespective of the severity of their disability. Another commenter inquired whether the continuity of services requirement entitles an individual who is receiving services under one DSU's order of selection to receive services from a DSU in another State if that individual moves and falls outside of the priority categories being served by the DSU in the second State.

Discussion: The continuity of services requirement ensures that an eligible individual who has begun to receive services under an IWRP prior to the effective date of a DSU's order of selection will continue to receive all needed services, including services that may be necessary because of amendments to the IWRP, irrespective of the severity of that individual's disability.

An eligible individual who has a completed IWRP, but who has not begun to receive services under that

IWRP, would not be covered by this requirement. This means that the continuity of services requirement does not apply to any services provided in developing an eligible individual's IWRP. This requirement takes effect at the point in the rehabilitation process when services leading to an employment outcome have been initiated under an IWRP. Finally, the continuity of services requirement is DSU-specific and does not entitle an individual who is receiving services under one DSU's order of selection to receive services under another DSU's order of selection if the individual is not included among the individuals being served under the second DSU's order of selection.

Changes: The Secretary has revised § 361.36(d)(4) of the proposed regulations to ensure that a DSU continues to provide all services needed by any eligible individual who has begun to receive services "under an IWRP" prior to the effective date of the order of selection, irrespective of the severity of the individual's disability. This change is necessary to clarify that it is the receipt of services under an IWRP that triggers the continuity of services requirement. This provision has been relocated to § 361.36(d)(3) of the final regulations.

—Third-party funding arrangements

Comments: One commenter recommended that the Secretary permit third-party funding arrangements that conflict with a DSU's order of selection if these arrangements reflect priorities in national or State policy. Another commenter feared that requiring DSUs to renegotiate third-party arrangements will result in a considerable reduction in resources to serve individuals with disabilities.

One commenter recommended that the Secretary provide a further explanation of how a DSU can ensure that its third-party arrangements are "consistent" with its order of selection for services. This commenter also requested that the Secretary take into consideration the practical difficulties for a provider of renegotiating a contract midstream. Another commenter inquired whether cooperative arrangements, like third-party arrangements, must be consistent with a DSU's order of selection.

One commenter questioned whether a DSU may select a category of individuals for priority under its order of selection because that category is funded by targeted funds from another agency.

Discussion: The Secretary believes that a DSU's funding arrangements for providing services, such as third-party arrangements and cooperative arrangements, cannot override its order of selection if those funds are used under the State plan. For example, a DSU that receives third-party funding to serve individuals with mental illness may not serve individuals with mental illness who fall outside of the priority categories being served under the order of selection. This is necessary to ensure that an order of selection is applied fairly and evenly to all individuals regardless of whether funding arrangements are in place to serve individuals from particular disability groups. If a funding arrangement is inconsistent with a DSU's order of selection, a DSU must renegotiate these arrangements so that individuals are served in a manner consistent with the DSU's order of selection.

Changes: The phrase "under the State plan" has been added to § 361.36(d)(4) to clarify that any funding arrangements that are used by a DSU to provide services under the State plan must be consistent with a DSU's order of selection.

—Other requirements

Comments: Several commenters were concerned that there is an inadequate number of counselors qualified to properly evaluate severity of disability. These commenters suggested that the Secretary ensure that qualified counselors are available to evaluate individuals to determine whether they will receive services under an order of selection.

Discussion: Section 101(a)(7) of the Act requires a DSU to develop a comprehensive system of personnel development to ensure that an adequate supply of qualified State rehabilitation professional and paraprofessionals is available in the State. The Secretary believes that this provision mandates that staff in sufficient numbers be qualified to properly evaluate functional limitations for purposes of determining severity of disability. The Secretary believes that all DSUs operating under an order of selection must provide staff with appropriate training to be able to make these determinations.

Changes: None.

Section 361.36(e)—State Rehabilitation Advisory Council

Comments: One commenter recommended that the Secretary highlight the responsibility of the DSU to seek and seriously consider the advice of the Council on DSU criteria for determining which individuals are individuals with the most severe disabilities.

Several commenters suggested that a DSU that has implemented an order of selection be required to consult other advisory boards, service providers, advocacy organizations, consumers, family members, and rehabilitation vendors, in addition to the Council, regarding the content of the order of selection. One of these commenters stated that this consultation is necessary because the composition of the Council may not ensure sufficient or equal representation by persons of different disabilities, such as persons with mental illness.

Several commenters recommended that the Secretary add a new § 361.36(f) stating that the client assistance program and other parties must be consulted, under section 101(a)(23)(C) of the Act, before revisions are made to a DSU's order of selection.

Discussion: The Secretary does not believe that it is necessary to further highlight the responsibility of a DSU to seek and seriously consider the advice of the Council when developing the criteria for determining which individuals are the most severely disabled. The Secretary believes that § 361.36(e)(3) sufficiently highlights this responsibility.

The Secretary agrees with the commenters who suggest that advisory boards, other than the Council, service providers, advocacy organizations, consumers, family members, rehabilitation vendors, and the director of the client assistance program (CAP) are valuable sources of information and should be consulted by a DSU in determining the content of its order of selection. The Secretary believes that consultation with these and other groups as to the content of the DSU's order of selection is sufficiently addressed under sections 101(a)(18), 101(a)(23), and 105(b)(1) of the Act. These statutory provisions provide for broad public participation in the development of the State plan and of policies governing the provision of vocational rehabilitation services under the plan.

Changes: None.

Additional comment

—Development of IWRP

Comments: Several commenters requested that a DSU not be required to develop an IWRP for all individuals eligible for vocational rehabilitation services under the Act if the DSU cannot serve all eligible individuals and is providing services under an order of selection. These commenters stated that requiring a DSU that has implemented an order of selection to develop IWRPs for all eligible individuals, regardless of whether the individual could currently be served, would result in unnecessary work for vocational rehabilitation counselors and would give false hope to individuals who fall outside of the categories being served.

Discussion: The Secretary understands the concern expressed by these commenters and is addressing this issue in other vocational rehabilitation program regulations. The proposed regulations concerning development of an IWRP for this program published in the **Federal Register** on December 15, 1995 (60 FR 64476, proposed § 361.45(a)) would require a DSU that has implemented an order of selection to develop an IWRP only for each eligible individual that it is able to serve.

Changes: None.

Executive Order 12866

Assessment of Costs and Benefits

These final regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the final regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of these regulations, the Secretary has determined that the benefits of the regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Summary of Potential Benefits Relative to Potential Costs of the Regulatory Provisions Discussed Previously in This Preamble

The Secretary believes that the final regulations represent the least burdensome way to implement the statutory requirement that a DSU explain the methods by which it will serve all eligible individuals for VR services or, in the alternative, establish and justify the order of selection it shall follow in serving first those individuals with the most severe disabilities. In addition, the Secretary believes that the regulations present the most effective means of ensuring that DSUs do not improperly avoid establishing an order of selection (i.e., failing to establish an order of selection even though the DSU cannot serve all eligible individuals). Reduction of burden on DSUs and other benefits resulting from the final regulations are discussed in the following paragraphs of this section and throughout the analysis of comments and changes section of the preamble.

Reduction of Paperwork Burden on Grantees

As stated previously in this preamble, review of the final regulations in accordance with the Department's principles for regulating resulted in two major, burden-reducing changes from the proposed regulations. First, under the final regulations, DSUs that have successfully served all eligible individuals in the past are not required to include detailed projections (e.g., projected number of eligible individuals, projected program costs and revenues) as part of their explanation of how they will continue to serve everyone and meet all other program requirements in the next year. As long as a DSU can provide the assurances required in the regulations to confirm its past ability to serve all eligible individuals, the DSU's explanation under § 361.36(a)(1) is not subject to minimum content requirements. Second, the regulations reduce the number of data projections and related demonstrations that must be included as part of the explanation for DSUs that have been unable to serve all eligible individuals in the past. The remaining projections are needed to indicate whether a DSU that has been unable to serve all eligible individuals previously can serve everyone in the next year.

Evaluation of Need to Establish an Order of Selection

Once a DSU decides, prior to the beginning of the fiscal year, that it does not need to establish an order of selection, the final regulations require the DSU to reevaluate this decision whenever changed circumstances indicate that it may no longer be able to serve all eligible individuals. DSUs, therefore, are responsible for determining whether they need to implement an order of selection after the start of the year. The Secretary prefers this flexible approach rather than imposing in the regulations a specific time when all DSUs must reevaluate the need to establish an order of selection, as some commenters on the proposed regulations suggested.

Instructions for Establishing an Order of Selection

Section 361.36(c) provides, for DSUs unable to serve all eligible individuals, clear directives on how to establish an order of selection for providing services. In addition, this section includes specific factors that cannot be used in developing an order of selection. Many commenters on the proposed regulations had requested clarification as to whether these factors could be considered in formulating specific priority categories under an order of selection.

Additional Benefits

The final regulations include provisions intended to enhance the protection of individuals with disabilities by DSUs operating under an order of selection. For example, the regulations require DSUs to notify all eligible individuals of the priority categories in the State's order of selection, as well as their assignment to a particular category. Additionally, the regulations require DSUs to continue to serve any eligible individual who has begun to receive services under an IWRP prior to the effective date of the order of selection, irrespective of the severity of the individual's disability.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number assigned to the collection of information in these final regulations is displayed at the end of the affected section of the regulations.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Secretary's specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed regulations and on its own review, the Department has determined that the

regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 361

Administrative practice and procedures, Grant programs—education, Grant programs—social programs, Reporting and recordkeeping requirements, Vocational rehabilitation.

(Catalog of Federal Domestic Assistance Number 84.126—The State Vocational Rehabilitation Services Program)

Dated: March 4, 1996.

Richard W. Riley,

Secretary of Education.

The Secretary amends Part 361 of Title 34 of the Code of Federal Regulations as follows:

PART 361—THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM

1. The authority citation for Part 361 continues to read as follows:

Authority: 29 U.S.C. 711(c), unless otherwise noted.

2. Section 361.36 is revised to read as follows:

§ 361.36 Ability to serve all eligible individuals; order of selection for services.

(a) *General provisions.*

(1) The State plan must contain—

(i) An assurance that the designated State unit is able to provide the full range of services listed in section 103(a) of the Act, as appropriate, to all eligible individuals. The assurance must be supported by an explanation that satisfies the requirements of paragraph (a)(2) or (a)(3) of this section and describes how, on the basis of the designated State unit's projected fiscal and personnel resources and its assessment of the rehabilitation needs of individuals with severe disabilities within the State, it will—

(A) Continue to provide services to all individuals currently receiving services;

(B) Provide assessment services to all individuals expected to apply for services in the next fiscal year;

(C) Provide services to all individuals who are expected to be determined eligible in the next fiscal year; and

(D) Meet all program requirements; or

(ii) The order to be followed in selecting eligible individuals to be provided services, a justification of that order of selection, and a description of the outcome and service goals and service costs to be achieved for individuals with disabilities in each category within the order and the time within which these goals may be achieved.

(2) For those designated State units that provided assurances in their State plans for the current fiscal year and the preceding fiscal year that they are able to provide the full range of services, as appropriate, to all eligible individuals, the explanation required by paragraph (a)(1)(i) of this section must include a statement that, during the current fiscal year and the preceding fiscal year, the DSU has in fact—

(i) Provided assessment services to all applicants and the full range of services, as appropriate, to all eligible individuals;

(ii) Made referral forms widely available throughout the State;

(iii) Conducted outreach efforts to identify and serve individuals with disabilities who have been unserved or underserved by the vocational rehabilitation system; and

(iv) Not delayed, through waiting lists or other means, determinations of eligibility, the development of individualized written rehabilitation programs (IWRPs) for individuals determined eligible, or the provision of services for eligible individuals for whom IWRPs have been developed.

(3) For those designated State units unable to provide the full range of services to all eligible individuals during the current or preceding fiscal year, or unable to provide the statement required in paragraph (a)(2) of this section, the explanation required by paragraph (a)(1)(i) of this section must include—

(i) A description of the circumstances that have changed that will allow the DSU to meet the requirements of paragraph (a)(1)(i) of this section in the next fiscal year, including a description of—

(A) The estimated number of and projected costs of serving, in the next fiscal year, individuals with existing IWRPs;

(B) The projected number of individuals with disabilities who will apply for services and will be determined eligible in the next fiscal year and the projected costs of serving those individuals;

(C) The projected costs of administering the program in the next fiscal year, including, but not limited to, costs of staff salaries and benefits, outreach activities, and required statewide studies; and

(D) The projected revenues and projected number of qualified personnel for the program in the next fiscal year;

(ii) Comparable data, as relevant, for the current or preceding fiscal year, or for both years, of the costs listed in paragraphs (a)(3)(i) (A) through (C) of this section and the resources identified in paragraph (a)(3)(i)(D) of this section and an explanation of any projected increases or decreases in these costs and resources; and

(iii) A demonstration that the projected revenues and the projected number of qualified personnel for the program in the next fiscal year are adequate to cover the costs identified in paragraphs (a)(3)(i) (A) through (C) of this section so as to ensure the provision of the full range of services, as appropriate, to all eligible individuals.

(b) *Time for determining need for an order of selection.*

(1) The designated State unit shall determine, prior to the beginning of each fiscal year, whether to establish and implement an order of selection.

(2) If the designated State unit determines that it does not need to establish an order of selection, it shall reevaluate this determination whenever changed circumstances during the course of a fiscal year, such as a decrease in its fiscal or personnel resources or an increase in its program costs, indicate that it may no longer be able to provide the full range of services, as appropriate, to all eligible individuals.

(c) *Establishing an order of selection.*

(1) *Basis for order of selection.* An order of selection must be based on a refinement of the three criteria in the definition of "individual with a severe disability" in section 7(15)(A) of the Act.

(2) *Factors that cannot be used in determining order of selection of eligible individuals.* An order of selection may not be based on any other factors, including—

(i) Any duration of residency requirement, provided the individual is present in the State;

(ii) Type of disability;

(iii) Age, gender, race, color, creed, or national origin;

(iv) Source of referral;

(v) Type of expected employment outcome;

(vi) The need for specific services or anticipated cost of services required by an individual; or

(vii) The income level of an individual or an individual's family.

(3) *Priority for individuals with the most severe disabilities.* The State plan must assure that those individuals with the most severe disabilities are selected for service before other individuals with disabilities. The designated State unit shall establish criteria for determining which individuals are individuals with the most severe disabilities. The criteria must be consistent with the definition of "individual with a severe disability" in section 7(15)(A) of the Act and the requirements in paragraphs (c)(1) and (2) of this section.

(d) *Administrative requirements.* In administering the order of selection, the designated State unit shall—

(1) Implement the order of selection on a statewide basis;

(2) Notify all eligible individuals of the priority categories in a State's order of selection, their assignment to a particular category, and their right to appeal their category assignment;

(3) Continue to provide all needed services to any eligible individual who has begun to receive services under an IWRP prior to the effective date of the order of selection, irrespective of the severity of the individual's disability;

(4) Ensure that its funding arrangements for providing services under the State plan, including third-party arrangements and awards under the establishment authority, are consistent with the order of selection. If any funding arrangements are inconsistent with the order of selection, the designated State unit shall renegotiate these funding arrangements so that they are consistent with the order of selection.

(e) *State Rehabilitation Advisory Council.* The designated State unit shall consult with and seriously consider the advice of the State Rehabilitation Advisory Council regarding the—

(1) Need to establish an order of selection, including any reevaluation of the need under paragraph (b)(2) of this section;

(2) Priority categories of the particular order of selection;

(3) Criteria for determining individuals with the most severe disabilities; and

(4) Administration of the order of selection.

(Approved by the Office of Management and Budget under control number 1820–0500.)

(Authority: Secs. 7(15)(A); 12(d); 17; 101(a)(4); 101(a)(5)(A); 101(a)(7); 101(a)(11)(A); 101(a)(15)(D); 101(a)(24); 101(a)(30); 101(a)(36)(A)(ii); 107(a)(4)(B); and 504(a) of the Act; 29 U.S.C. 706(15)(A), 711(d), 716, 721(a)(4), 721(a)(5)(A), 721(a)(7), 721(a)(11)(A), 721(a)(15)(D), 721(a)(24), 721(a)(30), 721(a)(36)(A)(ii), 727(a)(4)(B), and 794(a))

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federal register

Tuesday
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Part IV

Department of Education

Grants and Cooperative Agreements; Availability, etc.; Library Services to Indian Tribes and Hawaiian Natives Program; Notices

DEPARTMENT OF EDUCATION

[CFDA No. 84.163B]

Office of Educational Research and Improvement—Library Services to Indian Tribes and Hawaiian Natives Program—Special Projects Grants (Library Services and Construction Act, Title IV); Notice Inviting Applications for New Awards for Fiscal Year 1996

Purpose of Program: Makes competitive awards to eligible Indian tribes to establish or improve public library services. All available funds for library services to Hawaiian natives are awarded through the Library Services to Indian Tribes and Hawaiian Natives Program—Basic Grants (CFDA No. 84.163A).

Eligible Applicants: Indian Tribes and Alaska Native villages or regional or village corporations that have met eligibility requirements for the Library Services to Indian Tribes Program—Basic Grants (CFDA No. 84.163A) and received such Basic Grants in the same fiscal year as the year of application.

Deadline for Transmittal of Applications: 7/15/96.

Applications Available: 6/3/96.

Estimated Available Funds: $950,000.

Estimated Range of Awards: $38,000–106,000.

Estimated Average Size of Awards: $68,000.

Estimated Number of Awards: 14.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 months.

Applicable Regulations: (a) The regulations for this program in 34 CFR Part 772; and (b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 75, 77, 80, 81, and 85.

Priorities: Under 34 CFR 75.105(c)(1), the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, an application that meets an invitational priority does not receive competitive or absolute preference over other applications.

Invitational Priority 1: To assess and plan for tribal library needs.

Invitational Priority 2: To train or retrain Indians as library personnel.

Invitational Priority 3: To utilize new information technologies to expand services to Indians in geographically isolated areas.

Invitational Priority 4: To conduct special library programs for Indians such as summer reading programs for children, outreach programs for elders, literacy tutoring, and training in computer use.

For Applications or Information Contact: Kathy Price, U.S. Department of Education, 555 New Jersey Avenue NW., Room 300, Washington, D.C. 20208–5571. Telephone (202) 219–1670.

For Users of TDD or FIRS: Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

For Electronic Access to Information: Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases) or the WWW server at http://www.ed.gov/ (under Money Matters, Funding Opportunities). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 351c(c)(2), 361(d), 364.

Dated: May 7, 1996.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 96–11830 Filed 5–13–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.163A]

Office of Educational Research and Improvement—Library Services to Indian Tribes and Hawaiian Natives Program—Basic Grants (Library Services and Construction Act, Title IV); Notice Inviting Applications for New Awards for Fiscal Year 1996

Purpose of Program: Provides noncompetitive basic grants to eligible Indian tribes and to eligible Hawaiian native organizations to establish or improve public library services for Indian tribes and Hawaiian natives.

Eligible Applicants: (a) Indian tribes recognized by the Secretary of the Interior to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians; (b) Alaska Native villages or regional or village corporations as defined in or established under the Alaska Native Claims Settlement Act; however, two or more Alaska Native villages, regional corporations, or village corporations may not receive basic grant allocations to serve the same population; and (c) Organizations primarily serving and representing Hawaiian natives and recognized by the Governor of Hawaii.

Deadline for Transmittal of Applications: 7/15/96.

Applications Available: 6/3/96.

Estimated Available Funds: $950,000.

Estimated Average Size of Awards: $4,524.

Estimated Number of Awards: 210.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 months.

Applicable Regulations: (a) The regulations for this program in 34 CFR Part 771; and (b) the Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74 and 82 (for grants to Hawaiian native organizations); 80 (for grants to Indian tribes); 75, 77, 81 and 85 (for grants to both Hawaiian natives and Indian tribes).

For Applications or Information Contact: Kathy Price, U.S. Department of Education, 555 New Jersey Ave. N.W., Room 300, Washington, DC 20208–5571. Telephone: (202) 219–1670.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases) or on the WWW server at http://www.ed.gov/ (under Money Matters, Funding Opportunities). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 351c(c)(2), 361(d), 364.

Dated: May 7, 1996.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 96–11829 Filed 5–13–96; 8:45 am]

BILLING CODE 4000–01–P

federal register

Tuesday
May 14, 1996

Part V

Department of Housing and Urban Development

Notice of Funding Availability for Lead-Based Paint Hazard Control in Housing, Fiscal Year 1996 and Proposed Collection of Information; Comment Request; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. FR–4049–N–01]

Office of Lead-Based Paint Abatement and Poisoning Prevention; NOFA for Lead-Based Paint Hazard Control in Housing, Fiscal Year 1996 and Proposed Collection of Information; Comment Request

AGENCY: Office of the Secretary—Office of Lead-Based Paint Abatement and Poisoning Prevention, HUD.

ACTION: Notice of funding availability and request for comments on information collection requirements.

SUMMARY: This notice announces the competition for two categories of grant funding: Category A for approximately $50 million for a grant program for State and local governments to undertake lead-based paint hazard control in eligible housing units; and Category B for approximately $4 million for grants to State and local governments for assistance in undertaking lead-based paint hazard control in eligible housing units on Superfund sites. The NOFA includes statutory changes made to the grant program, including in the definition of the housing for which the Secretary is authorized to provide grants, by the Omnibus Consolidated Rescissions and Appropriations Act of 1996.

Approximately 10–12 grants of $1 million-$6 million each will be awarded under Category A and a maximum of 8 grants of $500,000 to $2 million each will be awarded under Category B. The grant sum requested by applicants under either category must constitute the total request for the maximum thirty six (36) months for the expected duration of the proposed project. Proposals can be submitted by jurisdictions for both categories of assistance. As part of HUD's reinvention initiative, this Notice of Funding Availability (NOFA) includes changes that HUD believes will make the application for lead-based paint hazard control grant funds simpler and less time-consuming than in past competitions. This NOFA limits a Category A applicant's response to the Rating Factors to a maximum of 25 pages, has specific format instructions, and reduces the number of budget forms required. (There are no page limitations for Category B applicant's responses to the Rating Factors.) The application kit developed for this NOFA provide additional details to further guide and assist those eligible to apply.

This document includes information concerning the following:

(1) The purpose of the NOFA, eligibility, available amounts, and selection criteria;

(2) Application processing, including how to apply and how selections will be made; and

(3) A checklist of steps and exhibits involved in the application process.

Appendices to the NOFA identify relevant regulations and guidelines referenced throughout the NOFA, define "administrative costs", list HUD housing programs eligible to receive assistance under the program, and provide a relevant statutory provision.

DATES: An original and two copies of the completed application must be received by HUD no later than 3:00 p.m. (Eastern Time) on July 30, 1996. The application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after its deadline. Applicants should take this factor into account and make early submission of their materials to avoid loss of eligibility brought about by unanticipated delays or other delivery-related problems. Sections 5 and 7 of this NOFA provide further information on what constitutes proper submission of an application for Category A and B respectively.

The deadline for comments on the information collection requirements is July 15, 1996.

ADDRESSES: Application kits may be obtained from the Office of Lead-Based Paint Abatement and Poisoning Prevention, Department of Housing and Urban Development, Room B–133, 451 Seventh Street, S.W., Washington, D.C. 20410, or by calling Ms. Phyllis Horace at (202) 755–1785, extension 120 (this is not a toll-free number), or by making an e-mail request to: phyllis__d.__horace@hud.gov (use underscore characters). The Department is also planning to make the NOFA and application kit accessible via the Internet World Wide Web. Completed applications should be submitted to the mailing address, and may not be faxed or electronically transmitted.

Comments on the proposed information collection requirements must refer to the NOFA for Lead-Based Paint Hazard Control in Priority Housing, Fiscal Year 1996 (FR–4049), and must be sent to: Reports Liaison Officer, Office of Lead-Based Paint Abatement and Poisoning Prevention, Department of Housing & Urban Development, 451 7th Street, SW, Room B–133, Washington, DC 20410

FOR FURTHER INFORMATION CONTACT: For Category A applicants: Ellis G. Goldman, Director, Program Management Division, Office of Lead-Based Paint Abatement and Poisoning Prevention, Room B–133, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 755–1822, extension 112 (this is not a toll-free number). For Category B applicants: Melissa F. Shapiro, telephone (202) 755–1785, extension 153 (this is not a toll-free number). For hearing- and speech-impaired persons, the telephone number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339.

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Section 1. Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been submitted to the Office of Management and Budget (OMB) for a temporary extension of the control number, in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and 5 CFR 1320.13. A notice requesting public comment on this extension was published in the **Federal Register** on April 23, 1996 (61 FR 17906). When assigned, the OMB control number will be published by a separate notice in the **Federal Register**. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

In addition, in today's notice the Department is soliciting comments, as required under 5 CFR 1320.8(d), before submitting the information collection requirements contained in this NOFA to OMB for regular review in accordance with 5 CFR 1320.10. The Department is seeking comments from members of the public and affected agencies concerning the proposed collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Comments must be received within 60 days from the date of this proposal. Comments must refer to the proposal by name and docket number (FR–4049) and must be sent to: Reports Liaison Officer, Office of Lead-Based Paint Abatement and Poisoning Prevention, Department of Housing & Urban Development, 451 7th Street SW, Room 4244, Washington, DC 20410.

This Notice also lists the following information:

Title of Proposal: NOFA for Lead-Based Paint Hazard Control in Priority Housing, Fiscal Year 1996 (FR–4049)

Description of the Need for the Information and Proposed Use: This information collection is required in connection with the issuance of this NOFA, announcing the availability of $50 million for grants for lead-based paint hazard reduction in private priority housing.

Form Number: None

Members of Affected Public: State and local governments.

Estimation of the Total Number of Hours Needed to Prepare the Information Collection including Number of Respondents, Frequency of Response, and Hours of Response:

	Number of respondents	Frequency of responses	Hours per response	Burden hours
Application Development	75	1	120	9,000

Total Estimated Burden Hours: 9,000.

Status of the Proposed Information Collection: Emergency processing request pending.

Section 2. Definitions

The following definitions apply to this grant program:

Abatement—Any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards. For the purposes of this definition, permanent means at least 20 years effective life. Abatement includes:

(a) The removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil; and

(b) All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

Accredited Laboratory—A laboratory that is accredited by an EPA-approved lead laboratory accrediting organization and recognized by the National Lead Laboratory Accreditation Program (NLLAP), as being capable of performing lead analyses of samples of paint, dust wipes, and/or soil. (A list of recognized laboratories and EPA-approved lead laboratory accrediting organizations is available from the National Lead Information Center at (800–424–LEAD [5323]).

Administrative Costs—(See Appendix B of this NOFA for a detailed definition.)

Applicant—A State or a unit of general local government with a currently approved Comprehensive Housing Affordability Strategy (CHAS) or Consolidated Plan that applies for funding under this NOFA.

Certified Contractor—A contractor, inspector, risk assessor, supervisor or others required to have successfully completed a training program approved by the appropriate Federal agency and who has met any other requirements for certification or licensure established by such agency or who has been certified by any State through a program which has been found by such Federal agency to be at least as rigorous as the training and certification standards and requirements found in Appendix E of this NOFA. All lead-hazard identification or control work shall be performed by workers and supervisors who have passed a Federal training program or a State training program found by such Federal agency to be at least as rigorous as the Federal program.

Certified Inspector and Certified Risk Assessor—Included in the definition of "certified contractor," above.

Clearance Testing and Examination—A HUD-required visual examination and collection of environmental samples by a certified inspector or certified risk assessor, and laboratory analysis by an accredited laboratory upon completion of lead-hazard control work. The unit must undergo wipe testing showing that it has lead dust levels below HUD's interim standards. Current standards are: for bare and carpeted floors (100 μg/ft² [micrograms/square foot]); interior window sills (500 μg/ft²); and window troughs (wells), exterior concrete or other rough surfaces (800 μg/ft²). (These interim standards may be revised subject to EPA's issuance of regulations.)

Eligible Housing—Target housing that qualifies as eligible housing under section 1011(a) of the Residential Lead-

Based Paint Hazard Reduction Act of 1992, as amended by section 217 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104–134; 110 Stat. 1321, approved April 26, 1996) (See Appendix C of this NOFA for criteria for eligible housing units and Appendix D for a list of HUD's programs and their eligibility or ineligibility for receiving assistance under this grant program.) The term does not include any public housing (whether Federal or locally supported), any federally owned housing, or any federally assisted housing.

Encapsulation—The application of any covering or coating that acts as a barrier between the lead-based paint and the environment and that relies, for its durability, on adhesion between the encapsulant and the painted surface, and on the integrity of the existing bonds between paint layers, and between the paint and the substrate.

Enclosure—The use of rigid, durable construction materials that are mechanically fastened to the substrate to act as a barrier between the lead-based paint and the environment.

Federally Assisted Housing—Residential dwellings receiving project-based assistance under programs including:

(1) Section 221(d)(3) or section 236 of the National Housing Act;

(2) Section 1 of the Housing and Urban Development Act of 1965;

(3) Section 8 of the United States Housing Act of 1937; or

(4) Sections 502(a), 504, 514, 515, 516, and 533 of the Housing Act of 1949.

"Federally Assisted Housing" *is not eligible* for assistance under the HUD Lead-Based Paint Hazard Control Grant Program. (See Appendix D of this NOFA.)

Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (June 1995)—HUD's manual of lead hazard control practices (commonly referred to as the *Guidelines*) which provide detailed, comprehensive, technical information on how to identify lead-based paint hazards in housing and how to control such hazards safely and efficiently. (The *Guidelines* replace the HUD "Lead-Based Paint: Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing.")

Hazardous Waste—As defined in EPA regulations (40 CFR 261.3). Solid waste, or a combination of solid wastes, that because of its quantity; concentration; or physical, chemical, or infectious characteristics may:

(1) Cause, or significantly contribute to increases in mortality, serious and irreversible, or incapacitating but reversible illness; or

(2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed.

HEPA Vacuum—(High Efficiency Particulate Air)—A vacuum cleaner fitted with a filter capable of removing particles of 0.3 microns or larger at 99.97 percent or greater efficiency from the exhaust air stream.

Interim Controls—A set of measures designed to temporarily reduce human exposure or possible exposure to lead-based paint hazards. Such measures include specialized cleaning, repairs, maintenance, painting, temporary containment, and management and resident education programs. Interim controls include dust removal; paint film stabilization; treatment of friction and impact surfaces; installation of soil coverings, such as grass or sod; and land-use controls.

Laboratory Analysis—As used for paint, dust-wipes or soil, analysis for lead by an accredited laboratory in accordance with the requirements and limitations of its accreditation.

Lead-Based Paint—Any paint, varnish, shellac, or other coating that contains lead equal to or greater than 1.0 mg/cm^2 as measured by XRF or laboratory analysis, or 0.5 percent by weight (5,000 µg/g, 5,000 ppm, or 5,000 mg/kg) as measured by laboratory analysis. (Local definitions may vary.)

Lead-Based Paint Hazard—A condition in which exposure to lead from lead-contaminated dust, lead-contaminated soil, or deteriorated lead-based paint would have an adverse effect on human health (as established by the EPA Administrator under Title IV of the Toxic Substances Control Act). Lead-based paint hazards include for example, deteriorated lead-based paint, dust levels above applicable standards, and bare leaded soil above applicable standards.

Lead-Based Paint Hazard Control—Activities to control and eliminate lead-based hazards, including interim controls, abatement and complete abatement.

Lead-Contaminated Dust—Surface dust in residences that contains an area or mass concentration of lead in excess of the standard established by the EPA Administrator, pursuant to Title IV of the Toxic Substances Control Act. Until the EPA standards are established, the HUD-recommended clearance and risk assessment standards for leaded dust are 100 µg/ft^2 on floors, 500 µg/ft^2 on interior window sills, and 800 µg/ft^2 on window troughs (wells), exterior concrete or other rough surfaces; criteria for work under this grant shall be at least as stringent as these standards.

Lead-Contaminated Soil—Bare soil on residential property that contains lead in excess of the standard established by the EPA Administrator, pursuant to Title IV of the Toxic Substances Control Act. The HUD-recommended standard and interim EPA guidance is 400 µg/g for high-contact play areas and 2,000 µg/g in other bare areas of the yard; criteria for work under this grant shall be at least as stringent as these standards. Soil contaminated with lead at levels greater than or equal to 5,000 µg/g should be abated by removal or paving.

mg—milligram; 1/1,000 of a gram; equal to about 35/1,000,000 (35 millionths) of an ounce (an ounce is equal to about 28,400 mg).

Potentially Responsible Party (PRP)—Any individual or entity including owners, operators, transporters, or generators who may be liable under CERCLA section 107(a).

Replacement—A strategy of abatement that entails the removal of building components coated with lead-based paint (such as windows, doors, and trim) and the installation of new components free of lead-based paint.

Residential Dwelling—This term means either:

(1) A single-family dwelling, including attached structures, such as porches and stoops; or

(2) A single-family dwelling unit in a structure that contains more than one separate residential dwelling unit and in which each unit is, or is intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

Risk Assessment—An on-site investigation of a residential dwelling to discover any lead-based paint hazards. Risk assessments include an investigation of the age, history, management, maintenance of the dwelling, and the number of children under age 6 and women of child-bearing age who are residents; a visual assessment; limited environmental sampling (i.e., collection of dust wipe samples, soil samples, and deteriorated paint samples); and preparation of a report identifying acceptable abatement and interim control strategies based on specific conditions.

State Certification Program—(see Appendix E of this NOFA—Elements of a State Certification Program)

Substrate—A surface on which paint, varnish, or other coating has been applied or may be applied. Examples of substrates include wood, plaster, metal, and drywall.

Target Housing—Any residential unit constructed before 1978, except dwellings for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling.

Testing—The measurement of lead in painted surfaces by Federal- or State-certified personnel using a portable X-ray fluorescence analyzer (XRF) operated in accordance with its manufacturer's operating instructions and its Performance Characteristics Sheet (PCS), laboratory analysis by an accredited laboratory of paint samples, or other method(s) approved by HUD.

Title X—The Residential Lead-Based Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992, Pub. L. 102–550, approved October 28, 1992).

Trained Worker—For lead hazard control work, a worker who has successfully met all the requirements of a Federal or State-accredited lead-based paint training course in a particular discipline which meets, at a minimum, the requirements found in Appendix E of this NOFA.

µg *(or ug)*—Micrograms. The prefix micro means 1/1,000,000 (or one-millionth); a microgram is 1/1,000,000 of a gram and 1/1,000 of a milligram; equal to about 35/1,000,000,000 (35 billionths) of an ounce (an ounce is equal to 28,400,000 µg).

Wipe Sampling for Settled Lead-Contaminated Dust—The collection of settled dust samples from surfaces to measure for the presence of lead. Samples must be analyzed by an accredited laboratory. For clearance purposes, settled dust sampling shall be performed in accordance with the HUD *Guidelines*. Surfaces sampled must meet the current HUD standards for clearance. All surfaces shall have no more than the maximum allowable standards. (See "Clearance Testing and Examination".)

XRF Analyzer—An instrument that determines lead area concentration in painted surfaces in units of milligrams per square centimeter (mg/cm^2) using the principle of x-ray fluorescence (XRF). For purposes of the grant program, and as used in the *Guidelines*, the term XRF analyzer only refers to portable instruments manufactured to analyze paint, and does not refer to laboratory-grade units or portable instruments designed to analyze soil or dust. XRF analyzers are to be operated in accordance with their manufacturer's operating instructions and their Performance Characteristics Sheet (PCS).

Section 3. Purpose and Description

Section 3.1 Purpose and Authority

Hazard-control grants are to assist State and local governments in undertaking programs for the identification and control of lead-based paint hazards in eligible housing units for rental occupants and owner occupants. (Appendix D of this NOFA lists HUD-associated housing programs that may have dwellings that meet the definition of eligible housing.) Approximately fifty million dollars ($50 million) is being made available to fund approximately 10–12 Category A grants of $1 million to $6 million each to assist State and local governments in undertaking lead-based paint hazard control in eligible housing. A maximum of 20 percent of the funds under Category A of this NOFA shall be available to previous Lead-Based Paint Hazard Control grantees. This limitation is imposed to build capacity in those areas where no previous grant supported work has been done, but still retain the Department's ability to target some funds to areas of greatest need. Approximately four million dollars ($4 million) will be available to fund a maximum of eight (8) Category B grants of $500,000 to $2 million each. Funds available under Category B are intended to promote coordination between Superfund and the HUD Lead-Based Paint Hazard Control Grant Program, to maximize the benefits provided under each program, and to involve the private sector. These funds are to be used to control lead-based paint hazards at Superfund sites where Superfund dollars will be spent to control lead-contaminated soil, and probably housing exteriors, and HUD grant dollars will be used to control lead-based paint hazards in eligible housing units.

Proposals may be submitted under both categories of assistance. The amounts constitute the total request for the duration of the project. Grants are authorized under section 1011 (a)–(f) of Title X.

The purposes of this program include:

(a) Implementation of a national strategy, as defined in Title X, to build the infrastructure necessary to eliminate lead-based paint hazards in all housing, as widely and expeditiously as possible;

(b) Encouragement of effective action to prevent childhood lead poisoning by establishing a workable framework for lead-based paint hazard identification and control;

(c) Mobilization of public and private resources, involving cooperation among all levels of government and the private sector, to develop the most promising, cost-effective methods for identifying and controlling lead-based paint hazards; and

(d) To the greatest extent feasible, promoting job training, employment, and other economic lift opportunities for low-income residents and businesses which are owned by and/or employ low-income residents as defined in 24 CFR 135.5 (See 59 FR 33881, June 30, 1994).

Section 3.2 Background

Lead is a powerful toxicant that attacks the central nervous system and is particularly damaging to the neurological development of young children. Pregnant women can transfer lead through the placenta to the fetus. Lead-based paint (LBP) is one of the major sources of lead in the environment. In addition to paint, lead may be found in dust, soil, drinking water, food, emissions from leaded gasoline combustion, and industrial emissions. Human exposure to lead is found by measuring blood samples for the presence of lead.

Based upon additional analysis in 1995 of the data generated from the national housing survey conducted for HUD (*Report on the National Survey of Lead-Based Paint in Housing*, June 1995.), of all occupied housing units built before Congress banned the use of lead-based paint in 1978, approximately 83 percent or 64.4 million housing units are estimated to have lead-based paint somewhere on the exterior or interior of the building. Approximately 90 percent of the dwellings built prior to 1960 have lead-based paint. Older dwellings are more likely to have higher concentrations of lead on painted surfaces and greater surface area coverage. Although intact lead-based paint poses little immediate risk to occupants, non-intact paint which is chipping, peeling, or otherwise deteriorating may present an immediate risk to occupants. Therefore, of particular concern are the 14.4 million housing units that contain deteriorated lead-based paint and/or lead-contaminated dust and the 3.3 million units that are occupied by young children. Approximately half of these units are occupied by families with incomes lower than the national median.

HUD has been actively engaged in a number of activities relating to lead-based paint as a result of the Lead-Based Paint Poisoning Prevention Act (LBPPPA), 1971, as amended, 42 U.S.C. 4801–4846. Title X provides major initiatives and more detailed requirements for this NOFA. (Appendix A of this NOFA identifies relevant

Federal regulations and guidelines referred to in this NOFA.)

In June 1995, HUD published *Guidelines for the Evaluation and Control of Lead-Based Paint in Housing* (*Guidelines*) (See Appendix A of this NOFA). These *Guidelines* provide detailed, comprehensive, technical information on how to identify lead-based paint hazards in housing and how to control such hazards safely and efficiently. These *Guidelines* replace the Interim Guidelines developed in 1990.

In July 1995, the Task Force on Lead-Based Paint Hazard Reduction and Financing, which was established pursuant to Section 1015 of Title X, presented its final report to HUD and the Environmental Protection Agency (EPA). The Task Force Report, entitled *Putting the Pieces Together: Controlling Lead Hazards in the Nation's Housing*, (See Appendix A of this NOFA) recommended a number of actions which are needed to develop comprehensive, health-protective, cost-effective, and feasible approaches to solving the most significant environmental health hazard facing America's children. In dealing with the estimated 64.4 million housing units with lead-based paint, the Task Force, using the Title X framework for redefining the problem, moved beyond the mere presence of lead-based paint and focused on the conditions that can expose a child to lead hazards—deteriorating lead-based paint, lead-contaminated dust and bare lead-contaminated soil. The Task Force recommendations therefore focus on addressing lead hazards in the approximately 15 million housing units estimated to contain lead hazards, and preventing new lead hazards in the balance of the housing stock. This NOFA incorporates many of the recommendations outlined in the Task Force Report.

The Environmental Protection Agency (EPA), with assistance from HUD and the Centers for Disease Control and Prevention (CDC), operates the National Lead Information Center which includes an automated consumer information Hotline 1–800–LEADFYI (1–800–532–3394) and a Clearinghouse for lead-based paint resources and assistance 1–800–424–LEAD (1–800–424–5323).

In the **Federal Register** of September 2, 1994, the EPA published the proposed rule pursuant to sections 402 and 404 of the Toxic Substances Control Act (TSCA), as amended by Title X (see 40 CFR Part 745 *Lead; Requirements for Lead-Based Paint Activities*) for training and certification requirements for lead-based paint contractors, inspectors, risk assessors, designers and workers; and its requirements for a model state program. Until the proposed rule is final, and State Lead-Based Paint Contractor Certification and Accreditation Programs are authorized by EPA, State programs should be at least as protective as outlined in Appendix E of this NOFA. State Lead-Based Paint Contractor Certification and Accreditation Programs meeting the requirements under Appendix E of this NOFA are considered acceptable to HUD and EPA for purposes of the grant programs announced in this NOFA.

Section 3.2.1 Previous Lead-Based Paint Hazard Control Grant Awards

This NOFA is for a fourth round of grants. In Fiscal Years 1992, 1993, and 1994, HUD conducted competitions and approved a total of 64 Lead-Based Paint Hazard Control grants to 56 grantees for approximately $279 million dollars. There was no competition in FY 1995.

Section 3.3 Allocation Amounts

(a) *Amounts.* Approximately $50 million will be made available for the Category A grant program from the appropriations made for the lead-based paint hazard reduction program in the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104–134, 110 Stat. 1321, approved April 26, 1996).

(b) *Residual Funds.* In the selection process, once available funds have been allocated to meet the full requested and/or negotiated amounts of the top eligible applicants, HUD reserves the right, in successive order, to offer any residual amount as partial funding to the next eligible applicant. Such applicant(s) shall have not more than 7 calendar days to accept, or to decline and reapply in a future round, provided HUD, in its sole judgment, is satisfied that the residual amount is sufficient to support a viable, though reduced effort, by such applicant(s).

(c) *Goals.* Because lead-based paint is a national problem, these funds are awarded in a manner that:

- Maximizes the number of housing units in which lead-hazard control occurs;
- Stimulates cost-effective State and local approaches that can be replicated in as many settings as possible;
- Disperses the grants as widely as possible across the nation; and
- Builds local capacity.

HUD expects to award approximately 10–12 Category A grants of $1 million to $6 million each on a cost-reimbursable basis.

Section 3.4 Eligibility

Title X specifies the following eligibility requirements for grants to identify and control lead-based paint hazards in housing:

(a) *Eligible Applicants.* A State or unit of local government that has a currently approved Comprehensive Housing Affordability Strategy (CHAS) under section 105 (42 U.S.C. 12705) of the Cranston-Gonzalez National Affordable Housing Act (NAHA) or a currently approved Consolidated Plan is eligible to apply for a grant. However, applicants are advised that in selecting grantees under this NOFA, the Secretary or his designee is unlikely to select applicants that were previously funded under the FY 1994 NOFA (Round Three), issued April 21, 1994 (59 FR 19080). A maximum of 20 percent of the funds under Category A of this NOFA shall be available to previous Lead-Based Paint Hazard Control grantees. This selection decision will be pursuant to the Secretary's authority to ensure geographic distribution and to ensure that available funds are used effectively to promote the purposes of Title X. (See Section 4.3, *Rating Factors*, for additional discussion of this consideration for selection.)

(b) *Certified Performers.* Funds shall be available only for projects conducted by contractors, risk assessors, inspectors, workers and others engaged in lead-based paint activities who meet the requirements of a State Lead-Based Paint Contractor Certification and Accreditation Program that is at least as protective as the Federal certification program standards outlined in Appendix E to this NOFA or which meets the requirements of a State program authorized by EPA under the requirements of Section 404 of the Toxic Substances Control Act (TSCA).

(c) *Eligible Activities.* The following direct and support activities are eligible under this grant program:

(1) *Direct Project Elements* (whether activities of the grantee or sub-grantees or other sub-recipients):

- Performing risk assessments, inspections and testing of eligible housing constructed prior to 1978 to determine the presence of lead-based paint, lead dust, or leaded soil through the use of acceptable testing procedures.
- Conducting Lead Hazard Control which may include any combination of the following:
- Interim control of lead-based paint hazards in housing;
- Hazard abatement for programs that apply a differentiated set of resources to each unit, dependent upon conditions of the unit and the extent of hazards;
- Complete abatement of lead-based paint and lead-based paint hazards, including soil and dust, by means of removal, enclosure, encapsulation, or replacement methods.

(HUD encourages local innovation in performing work under this grant.)

- Carrying out temporary relocation of families and individuals during the period in which hazard control is conducted and until the time the affected unit receives clearance for reoccupancy.
- Conducting pre-hazard control blood lead testing of children under the age of six residing in units undergoing risk assessment, inspection or hazard control.
- Performing blood lead testing and air sampling to protect the health of the hazard-control workers, supervisors, and contractors.
- Undertaking other housing rehabilitation activities under this program that are specifically required to carry out effective hazard control, and without which, the hazard control could not be effected. Grant funds from this program may also be used for the lead-based paint hazard-control component in conjunction with other housing rehabilitation programs.
- Conducting pre- and post-hazard control dust-wipe testing and analysis.
- Carrying out engineering and architectural costs that are necessary to, and in direct support of, lead hazard control.
- Conducting general or targeted community awareness or education programs on lead hazard control and lead poisoning prevention.
- Securing liability insurance for lead-hazard control activities.
- Supporting data collection, analysis, and evaluation of grant program activities. This direct project activity includes compiling and delivering such data as may be required by HUD. For estimating purposes, an applicant should consider devoting 3 percent of the total grant sum for this purpose (This 3 percent does not include the blood lead and environmental testing costs.) Note that this activity is *not* included in administrative costs, for which there is a separate 10 percent limit.
- Preparing a final report at the conclusion of grant activities.

(2) *Support Elements:*

- Administrative costs of the grantee (maximum of 10 percent; (see Appendix B of this NOFA for definition).
- Program planning and management costs of sub-grantees and other sub-recipients.

(d) *Ineligible Activities.* Grant funds shall not be used:

(1) To purchase real property.

(2) To purchase capital equipment having a per unit cost in excess of $5,000, except for XRF analyzers. If purchased, capital equipment and the XRF analyzers shall remain the property of the grantee at the conclusion of the project. Funds may be used, however, to lease equipment specifically for the Lead-Based Paint Hazard Control Grant Program. If leased equipment, other than XRF analyzers, becomes the property of the grantee as the result of a lease arrangement, the leased equipment becomes the property of the grantee at the end of the grant period; and

(3) For chelation or other medical treatment costs related to children with elevated blood lead levels. Non-Federal funds used to cover these costs may be counted as part of the required matching contribution.

Section 3.5 Limitations on the use of Assistance.

(a) Pursuant to the Coastal Barrier Resources Act (16 U.S.C. 3501), grant funds may not be used for properties located in the Coastal Barrier Resources System.

(b) Under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128), grant funds may not be used for construction, reconstruction, repair or improvement or lead-based paint hazard control of a building or mobile home which is located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless:

(1) The community in which the area is situated is participating in the National Flood Insurance Program in accordance with the applicable regulations (44 CFR parts 59–79), or less than a year has passed since FEMA notification regarding these hazards; and

(2) Flood insurance on the property is obtained in accordance with section 102(a) of the Flood Disaster Protection Act (42 U.S.C. 4012a(a)). Applicants are responsible for assuring that flood insurance is obtained and maintained for the appropriate amount and term.

(c) The National Historic Preservation Act of 1966 (16 U.S.C. 470) (NHPA) and the regulations at 36 CFR part 800 apply to the lead-based paint hazard control activities that are undertaken pursuant to this NOFA. HUD and the Advisory Council for Historic Preservation have developed an optional Model Agreement for use by grantees and State Historic Preservation Officers in carrying out activities under this NOFA. (See Section 3.6, *Environmental Review* and Section 8, *Other Matters*, in this NOFA.)

(d) The applicant shall comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201–4655). These policies are described in HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition. No displacement (a permanent, involuntary move) is anticipated. However, to preclude avoidable claims for relocation assistance, all occupants (owner and tenants) shall, as soon as feasible, be notified in writing that they will not be displaced by the lead-based paint hazard-control program. In most cases, tenants and owner-occupants will be required to relocate *temporarily* to permit lead-based paint hazard-control activities to be carried out. All conditions of the temporary relocation must be reasonable. The policy regarding temporary relocation costs for owner-occupants who elect to participate in hazard-control is a matter of grantee discretion. With respect to tenants who will be required to relocate temporarily, at a minimum the tenant shall be provided:

(1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/utility costs at that housing; and

(2) Appropriate advisory services, including reasonable advance written notice of the date and approximate duration of the temporary relocation; the address of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period; the reimbursement provisions of paragraph (e) of this section; and information on a resident's rights under the Fair Housing Act.

(e) Abatement waste disposal will be handled according to the requirements of the appropriate State or Federal regulatory agency. (See HUD *Guidelines* for the disposal of hazard control waste that contains lead-based paint but is not classified as hazardous.)

(f) The applicant shall observe the procedures for worker protection established in the HUD *Guidelines*, as well as the requirements of the Occupational Safety and Health Administration (OSHA) (29 CFR 1926.62—*Lead Exposure in Construction*) (See Appendix A of this NOFA). If other OSHA requirements published prior to the start of actual abatement included as part of lead hazard control work at any individual project site are more stringent than the

Guidelines, those more stringent OSHA standards shall govern.

(g) Lead hazard control methods that will not be allowed are: open-flame burning, dry scraping (except immediately around electrical circuits and plumbing fixtures), uncontrolled abrasive blasting, machine sanding without HEPA attachments or use of chemicals containing methylene chloride. The applicant is cautioned that methods that generate high levels of lead dust, such as abrasive sanding, shall be undertaken only with requisite worker protection, containment of dust and debris, suitable clean-up, and clearance.

Section 3.6 Environmental Review

In accordance with the Multifamily Housing Property Disposition Reform Act of 1994, HUD regulations in 24 CFR Part 58 provide that recipients of lead-based paint hazard control grants will assume Federal environmental review responsibilities. Recipients of a grant under this NOFA will be given guidance in carrying out these responsibilities.

Section 3.7 Objectives and Requirements

(a) *Generally.* Grantees will be afforded considerable latitude in designing and implementing the methods of lead-based paint hazard control to be employed in their jurisdictions. HUD is interested in promoting lead hazard control approaches that result in the reduction of this health threat for the maximum number of low-income residents, and that demonstrate replicable techniques that are cost-effective and efficient. Flexibility will be allowed within the parameters established below. *It is critical that written policies and procedures for all phases of lead hazard control, including risk assessment, inspection, pre-hazard control blood lead testing, financing, relocation and clearance testing be clearly established in writing and adhered to by all applicants, subcontractors, sub-grantees, sub-recipients, and their contractors.* The Department has found that the establishment of written procedures clearly assigning duties to participating agencies and individuals helps to protect children, families, and workers during lead hazard control work.

Proposed methods requiring a variance from the standards or procedures cited below will be considered on their merits in a separate HUD review and approval process after the grant award is made and a specific justification has been presented. If a grant application is dependent on a variation from the procedures cited below, but otherwise is of award quality, it will be made as a conditional grant, subject to approval of the request for variation. When such a request is made, either in the application or during the planning phase, HUD intends to consult with experts from both the public and private sector as part of its final determinations and will document its findings in an environmental impact assessment. Approval of any proposed modifications will not involve a lowering of standards that would have a potential to adversely affect the health of residents, contractors or workers.

(b) *Data collection.* Grantees will be required to collect the data necessary to document the various lead hazard control methods employed in order to determine the relative cost and effectiveness of these methods in reducing or eliminating lead-based paint hazards. Pre- and post-lead hazard control environmental dust-wipe sampling is a requirement.

(c) *Lead Hazard Control Testing—Schedule.* In developing the application cost proposal, applicants shall include costs for the pre- and post-hazard control testing for each dwelling that will undergo either a lead-based paint risk assessment and/or inspection and hazard control according to HUD *Guidelines*, as follows:

(1) *XRF on-site (or supplementary laboratory) testing:* Conducted according to HUD Guidelines. Pretest every room or area in each dwelling unit planned for hazard control, using each XRF analyzer in accordance with its manufacturer's operating instructions and its Performance Characteristics Sheet (PCS);

(2) *Blood lead testing:* Before lead hazard control work begins, the testing of each occupant who is a child under six years old according to the recommendations contained in *Preventing Lead Poisoning in Young Children, 1991* Centers for Disease Control and Prevention (CDC). (See Appendix A of this NOFA.)

(3) *Dust testing:* Conducted according to the HUD *Guidelines.*

(A) Pretest before lead hazard control work begins;

(B) Clearance testing before reoccupying a unit or area; and

(C) Test at 12-months after the unit is reoccupied.

(d) *Testing—guidance.* (1) *Generally.* All testing and sampling shall conform to the HUD *Guidelines.* Note that it is particularly important to provide this full cycle of testing for hazard control, including interim controls, even though the testing itself may become a substantial part of the cost per unit.

(2) *Required Thresholds for Hazard control.* While the Department's *Guidelines* (see Appendix A of this NOFA) employ two hazard-control thresholds, one milligram per square centimeter (1.0 mg/cm²) or 0.5 percent by weight, applicants may utilize other thresholds, provided that the alternative threshold is justified adequately and is accepted by HUD. The justification must state why the applicant believes the proposed threshold will provide satisfactory health protection for occupants, and must discuss cost savings and benefits expected to result from using the proposed approach.

(3) *Surfaces which require lead hazard control.* HUD's *Guidelines* identify hazards considered to be of greatest immediate concern to young children and which require hazard control to be undertaken. Children are most frequently exposed to the following hazards: Lead-contaminated dust, deteriorated lead-based paint; and bare, accessible lead contaminated soil. Friction, chewable, and impact surfaces with intact lead-based paint are also of concern, but do not necessarily need to be treated, depending on dust testing results. Friction surfaces are subject to abrasion and may generate lead-contaminated dust in the dwelling; chewable surfaces are protruding surfaces that are easily chewed on by young children; and impact surfaces may become deteriorated through forceful contact. The applicant may choose to treat fewer surfaces or apply other hazard control techniques, provided that an adequate rationale, including periodic monitoring, is presented to and accepted by HUD. The rationale must state why the applicant believes the proposed approach will provide satisfactory health protection for occupants and at the same time, provide cost savings or other benefits.

(4) Grantees shall be required to meet the post-hazard control wipe-test clearance thresholds contained in the HUD *Guidelines* (See Appendix A of this NOFA). Wipe tests shall be conducted by a certified inspector who is independent of the lead hazard control contractor. Dust-wipe samples must be analyzed by an accredited laboratory (see Definitions). Units shall not be reoccupied until clearance levels are achieved.

Section 4. Grant Application Process for Category A

Section 4.1 Submitting Applications for Grants

To be considered for Category A funding, an original and two copies of the application must be physically

received in the Office of Lead-Based Paint Abatement and Poisoning Prevention (OLBPAPP), Department of Housing and Urban Development, Room B–133, 451 Seventh Street SW., Washington, D.C. 20410, no later than 3:00 P.M. (Eastern Time) on July 30, 1996. Electronic (FAX or equivalent) transmittal of the application is *not* an acceptable transmittal mode.

Separate proposals may be submitted by a jurisdiction for each category of assistance.

For Category A, the application must have clearly numbered pages, a complete table of contents and appendices. The applicant narrative response to the Rating Factors is limited to a maximum of 25 pages. Responses must be typewritten on one (1) side only on 8½" x 11" paper using a 12-point font.

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this factor into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays, equipment breakdown, or delivery-related problems.

HUD will review each application to determine whether it meets all of the threshold criteria established for Category A under Section 4.2 of this NOFA. Nonresponsive applications will be declared ineligible for further consideration. Applications that meet all of the threshold criteria will be eligible to be scored and ranked, based on the total number of points allocated for each of the rating factors for Category A in Section 4.3 of this NOFA.

HUD intends to fund the highest ranked applications within the limits of funding availability, but reserves the right to advance other eligible applicants in funding rank, if necessary, to assure geographic diversity, to promote the purposes of Title X, to broaden the range of hazard control alternatives to be tested, or to enhance data reliability.

Section 4.2 Threshold Requirements for Category A Grants

(a) *Purpose.* The application must be for funds to identify and control lead hazards in eligible housing (see Appendix D of this NOFA for program-by-program listing of eligible HUD-associated housing programs).

(b) *Eligible Applicants.* An applicant must be a State or unit of local government that has a currently approved Comprehensive Housing Affordability Strategy (CHAS) or a currently approved Consolidated Plan. Applicants under this NOFA are permitted to submit documentation that HUD approved their current program year CHAS or Consolidated Plan. Applicants are to submit, as an appendix, a copy of the lead-based paint element included in the approved CHAS or Consolidated Plan. Applicants that do not have a currently approved CHAS or Consolidated Plan, but are otherwise eligible for this grant program, must include their abbreviated Consolidated Plan which includes a lead-based paint hazard control strategy developed and submitted in accordance with 24 CFR 91.235.

(c) *Matching Contribution.* Each applicant shall provide a matching contribution of at least 10 percent of the requested grant sum. This may be in the form of a cash or in-kind contribution or a combination of both.

(d) *Contractor Certification Program Requirement.* Each applicant must carry out its hazard control program under an operational State program that is at least as protective as the training and certification program requirements cited in Appendix E of this NOFA. Applicants should indicate which of the following situations, (1) or (2) applies with respect to contractor certification.

(1) A State applicant shall furnish copies of the existing statutes, regulations or other appropriate documentation regarding the State's Lead-Based Paint Contractor Certification and Accreditation Program which meet the standards set forth in (d) above.

(2) Other applicants may be approved for a conditional grant with funding subject to the following provisions:

(A) A State applicant which has existing legislation acceptable to HUD, but which has not implemented an acceptable lead-based paint contractor certification program, shall furnish at the time of the application, written assurances from the Governor that an acceptable certification program will be implemented within 1 year from the date of the application deadline date and that the designated agency implementing the certification program shall offer training sessions leading to certification within six (6) months of the effective date of implementing regulations. If legislative approval of proposed regulations is also required, a similar written assurance must be provided by the chairs of committees having jurisdiction.

With the exception of costs incurred for planning purposes, HUD will not release any funds for the lead hazard control phase of the grant program until the State has implemented an acceptable lead-based paint contractor certification and accreditation program and has submitted and secured HUD approval of the grantee Request for Release of Funds (HUD Form 7015.15) which certifies that the grantee has fulfilled the environmental review requirements of the grant.

(B) Local government applicants in States which have not implemented an acceptable contractor certification program must provide assurances that only certified contractors and trained workers from other State certification programs acceptable to HUD will be used in conducting lead hazard control work.

Applicants are advised that if the commitment to implement a certification/training program or use certified contractors is not fulfilled within the stated time, the conditional grant agreement may be immediately terminated.

(e) *Continued Availability of Lead Safe Housing to Low-Income Families.* Units in which lead hazards have been controlled under this program shall be occupied by and/or continue to be available to low-income residents as required by the statute (see Appendix C of this NOFA). Grantees are encouraged to maintain a listing of units in which lead hazards have been controlled for distribution and marketing to agencies and families as suitable housing for children under six.

(f) *Cooperation With Related Research and Evaluation.* Applicants shall cooperate fully with any research or evaluation sponsored by HUD and associated with this grant program, including preservation of the data and records of the project and compiling requested information in formats provided by the researchers, evaluators or HUD. This cooperation may also include the compiling of certain relevant local demographic, dwelling unit, and participant data not contemplated in the applicant's original proposal. Participant data shall be subject to Privacy Act protection. For estimating purposes, an applicant shall devote three percent of the total grant sum for data collection and evaluation purposes, as discussed in Section 3.4, *Eligibility*, of this NOFA.

Section 4.3 Rating Factors

HUD will use the following technical and financial criteria to rate and rank applications received in response to Category A of this NOFA. The Request for Grant Applications (RFGA) will provide guidance in responding to all the Rating Factors. The technical quality

of an application will be rated, and then the strength, quality, and completeness of the financial and resources plan will be used to assess the likelihood that the technical plan can be carried out using the available resources. The maximum score possible under the rating factors is 100 points.

Applicants are advised, however, that in selecting grantees under this NOFA, the Secretary or his designee is unlikely to select applicants who were previously funded under the FY 1994 NOFA (Round Three), issued April 21, 1994 (59 FR 19080). A maximum of 20 percent of the funds under Category A of this NOFA shall be available to previous Lead-Based Paint Hazard Control grantees. This selection prerogative will be exercised under the Secretary's authority to ensure that available funds are used effectively and to promote the purposes of Title X. See section 1011(d)(5) of Title X (42 U.S.C. 4852(d)(5)).

(a) *Need. (10 Points)*— The scope and magnitude of the applicant's current lead-based paint problem for which grant program funds can be expected to have an impact. The applicant should document its unmet need for assistance. Examples should be the number and proportion of children with elevated blood lead levels; the number and proportion of housing units with deteriorating interior or exterior lead-based paint, lead-contaminated dust or bare lead-contaminated soil. The applicant should include:

(1) A description of the applicant's current level of effort to deal with lead hazards in housing and lead-related health problems; and

(2) Provide and/or summarize any available data from these previous efforts.

It is desirable to include:

(1) The age and condition of housing;

(2) The number and percentage of low income families whose incomes do not exceed 80 percent of the median income for the area as determined by HUD, with adjustments for smaller and larger families;

(3) The number and proportion of children at risk of lead poisoning; and

(4) Other socioeconomic or environmental factors that document a need to establish or continue lead hazard control work in the applicant's jurisdiction.

(These data may be available in the applicant jurisdiction's currently approved CHAS or Consolidated Plan, or derived from 1990 Census Data)

(b) *Work Plan and Budget (50 points)*—The quality and cost-effectiveness of the applicant's proposed lead-based paint hazard control program. The work plan and budget should include the following elements:

(1) *Program Management (10 points)*—A description of the way in which the project will be carried out during the period of performance (up to 36 months), including the participation of sub-grantees, contractors, sub-recipients, and others assisting in implementing the project. Specific, time phased and measurable objectives should be identified and described for carrying out the program plan.

(2) *Lead Hazard Control Strategy (35 Points)*—

- The total number of owner occupied and rental units in which lead hazard control interventions will be undertaken.
- The degree to which the work plan focuses on eligible housing units with children under the age of 6 years. Description of the planned approach to control lead hazards before children are poisoned and/or to control lead hazards in units where children have already been identified with an elevated blood lead level, including the referral of children with elevated blood lead levels for medical case management.
- The degree to which lead hazard control work will be done in conjunction with other housing rehabilitation, weatherization, code violation or other work.
- The process for the selection, prioritization, risk assessment and/or inspection, and enrollment of units of eligible housing in which lead hazard control will be undertaken. (Housing having a risk assessment or inspection performed in accordance with the HUD *Guidelines* within 12 months of a grant award and identified with lead-based paint may be included in the already inspected inventory.)
- The testing methods, schedule, and costs for performing blood lead testing, risk assessments and/or inspections. (Identify the lead-based paint threshold for undertaking lead hazard control—e.g. 0.5 percent, 1.0 mg/cm² or other threshold established by statute, regulation or local ordinance.)
- The lead hazard control methods to be undertaken and the number of units for each method (Interim Controls, hazard abatement, and complete abatement). Provide an estimate of the per unit costs for lead hazard control and the time frames to initiate and complete lead hazard control work in units selected. Efforts to incorporate cost-effective recommendations of the HUD Task Force Report: *Putting the Pieces Together: Controlling Lead Hazards in the Nation's Housing* (see Appendix A of this NOFA) should be included.
- A description of the financing mechanism to be employed in carrying out lead hazard control activities and the way in which these funds will be administered (e.g. use of grants, deferred loans, forgivable loans, other resources, private sector financing, etc.).
- The applicant's plan for *temporary* relocation of occupants of units selected for lead hazard control work. (Use of safe houses and other housing arrangements, storage of household goods, stipends, incentives, etc.)
- Proposed community awareness, education and outreach programs in support of the applicant's work plan and objectives. General and/or targeted efforts undertaken to assist the program in reducing lead poisoning. To the extent possible, programs should be culturally sensitive, developmentally appropriate, and linguistically specific.

(3) *Program Evaluation and Data Collection (5 points)*—The applicant must identify the specific methods to be used to measure progress and evaluate the program's effectiveness. The applicant should describe how the information will be obtained, documented and reported.

(4) *Budget (Not Scored)*—The applicant's proposed budget (for the maximum 36-month period of performance) will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of grant funds. HUD is not required to approve or fund all proposed activities. Applicants may devote up to 24 months for the planning and completion of lead hazard control activities and up to an additional 12 months for post-hazard control testing.

- All budget categories and costs (Part B of Standard Form 424A) and major tasks should be thoroughly documented and justified. Describe in detail the budgeted costs for each program element included in the overall plan (administrative costs, program management, lead hazard control strategy, community awareness, education and outreach, and program evaluation and data collection).

(c) *Community and Private Sector Participation (20 points)*—The extent to which the applicant has enlisted the broad participation of neighborhood, community, governmental and nongovernmental organizations and the private sector in the hazard control program through specific commitments of time, effort, and resources. In implementing a lead-based paint hazard control program, substantial efforts must be made to collaborate and coordinate activities with other housing, health and environmental agencies and organizations in the applicant's jurisdiction. Efforts to promote the formation of broad-based lead task forces, to expand public and private cooperation and coordination in the provision of lead hazard control program services, and to address environmental justice issues should be described. (10 points)

To the greatest extent feasible, the applicant should promote job training, employment, and other economic lift opportunities for target area low-income residents and businesses in the hazard control program. (10 points)

Evidence of commitments should include organization names, their proposed levels of effort, resources and responsibilities of these participants, including clearly proposed plans for the employment of low-income residents. The absence of commitments, memoranda of understanding or agreements, and letters of participation or discussion of levels of effort and responsibility will result in a reduced rating under this factor.

(d) *Applicant Capacity and Commitment to Hazard Control (15 points)*—The capacity of the applicant to initiate and carry out the lead-based paint testing and hazard-control program successfully within the period of performance established.

- Describe the applicant's administrative organization, including staff who will be responsible for carrying out the responsibilities of the program. (As an appendix, the applicant should include a clearly identified organizational chart, as well as resumes, position descriptions, and vacancy announcements, including salaries of key personnel identified to carry out the requirements of this grant program.) Indicate for key personnel, the percentage of time to be devoted to the project and any portion of salary to be paid by the grant. A full-time day-to-day program manager is recommended. Describe how other principal components of the applicant agency or other organizations will participate in or otherwise support the grant program. (5 points)
- Describe the knowledge and experience of the overall proposed project director and day-to-day program manager in planning and managing large and complex interdisciplinary programs, especially involving housing rehabilitation, public health, or environmental programs. The percentage of time devoted to the project as well as the knowledge and experience of the project director and day-to-day program manager are significant factors to be considered. (5 points)
- The institutional capacity of the applicant, as demonstrated by prior experience in initiating and implementing lead hazard control efforts and/or related environmental, health, or housing projects should be thoroughly described. The applicant should indicate how this prior experience will be used in carrying out its planned comprehensive Lead-Based Paint Hazard Control Grant Program. (2 points)
- At a minimum, the applicant shall provide a matching contribution of at least 10 percent of the requested grant sum. That contribution may be in cash, in-kind or a combination of both. In-kind contributions shall be given a monetary value. Community Development Block Grant funds are the only Federal funds which may be considered part of the 10 percent matching contribution and *only when they are specifically dedicated as an integral part of the project (e.g., CDBG rehabilitation funds used in conjunction with lead hazard control work in units).* Other resources committed to the program that exceed the minimum required 10 percent match will provide points for this rating factor. Each source of contributions, cash or in-kind, both for the required minimum and additional amounts, shall be supported by a letter of commitment from the contributing entity, whether a public or private source, which shall describe the contributed resources that will be used in the program. Staff in-kind contributions should be given a monetary value as discussed above. The absence of letters providing specific details and amount of the actual contributions will result in those contributions not being counted. (3 points)

(e) *Lead-Hazard Control Integration (5 Points)*—A description and/or specific plan of how the applicant will integrate lead hazard control activities with other housing, health, and environmental programs beyond the duration of the grant shall be included in the application. The applicant plans may include:

(1) Adopting cost-effective recommendations contained in the HUD Task Force Report: *Putting the Pieces Together: Controlling Lead Hazards in the Nation's Housing;*

(2) Incorporating lead hazard control with other housing rehabilitation, code violation or other work; and

(3) Other efforts designed to address lead hazards in the community, including identifying other local, State, and private sources of support for conducting lead hazard control work.

Section 5. Checklist of Application Submission Requirements—Category A

Section 5.1 Applicant Data

Applicants must complete and submit applications in accordance with the format and instructions contained in the application kit. The following is a checklist of the application contents that will be specified in the application kit:

(a) The name, mailing address, telephone number, and principal contact person of the applicant. If the applicant has consortium associates, subgrantees, partners, major subcontractors, joint venture participants, or others contributing resources to the project, similar information shall also be provided for each of them.

(b) For State applicants, copies of existing statutes, regulations or other appropriate documentation regarding the State's Lead-Based Paint Contractor Certification and Accreditation Program. A State applicant which has existing legislation acceptable to HUD, but which has not implemented an acceptable lead-based paint contractor certification program, shall furnish assurances from the Governor that an acceptable certification program will be implemented within 1 year from the date of the application deadline date and that the designated agency implementing the certification program shall offer training sessions leading to certification within 6 months of the effective date of implementing regulations. If legislative approval of proposed regulations is also required, a similar assurance must be provided by the chairs of committees having jurisdiction. Local government applicants in States which have not implemented an acceptable contractor certification program must provide assurances that only certified contractors and trained workers from State certification programs acceptable to HUD will be used in conducting lead hazard control work. (See Section 4.2(d) of this NOFA regarding this requirement).

(c) Evidence of the applicant's commitment to eliminating or reducing significant lead-based paint hazards in privately-owned eligible housing as detailed in the applicant's work plan for lead-based paint hazard control (See *Rating Factor, Work Plan and Budget*, in Section 4.3 of this NOFA).

(d) A detailed description of the funding mechanism, selection process, and other proposed activities that the applicant plans to use to assist any sub-grantees or sub-recipients under this grant.

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(e) A detailed total budget with supporting cost justification for all budget categories of the Federal grant request. There shall be a separate estimate for the overall grant management element, "Administrative Costs," which are more fully defined in Appendix B of this NOFA. The budget shall include not more than 10 percent for administrative costs and not less than 90 percent for direct project elements (See Section 3.4(c) *Eligible Activities* of this NOFA).

(f) Certification assuring that the applicant will conduct lead hazard control activities safely and effectively.

(g) An itemized breakout of the applicant's required matching contribution, including values placed on donated in-kind services; letters or other evidence of commitment from donors; and the amounts and sources of contributed resources.

(h) Memoranda of Understanding or Agreement, letters of commitment or other documentation describing the proposed roles of agencies, local broad-based task forces, participating community or neighborhood-based groups or organizations, local businesses, and others working with the program.

(i) Completed Forms HUD–2880, Applicant/Recipient Disclosure/Update Report, and SF–LLL, Disclosure of Lobbying Activities, where applicable (See Section 10. *Other Matters* in this NOFA).

(j) Standard Forms SF–424, 424A, 424B, and other certifications and assurances listed in section 5.3 of this NOFA.

(k) A copy of the applicant's approval notification for the current program year for its Comprehensive Housing Affordability Strategy (CHAS) or Consolidated Plan. A copy of the applicant's lead hazard control element included in the current program year CHAS or Consolidated Plan.

Section 5.2 Proposed Activities

(a) *Affected housing and population to be served.* The applicant shall describe the size and general characteristics of the target housing within its jurisdiction, including a description of the housing's location, condition, and occupants, and a current estimate of the number of children under the age of six in these units. Other characteristics described in Section 4.3 *Rating Factor* (a)—"*Need*" should be provided. If specific area(s) (neighborhoods, census tracts, etc.) within an applicant's jurisdiction are specifically targeted for lead hazard control activities, the applicant shall describe these same characteristics for the area. Maps may be included as an appendix. To the extent practical, preference shall be given to occupied eligible housing units with children under the age of 6. Vacant housing that subsequently will be occupied by low-income renters or owners should also be included in this description. In addition, as a measure of its ongoing commitment to lead-based paint programs, the applicant shall provide information on the magnitude and extent of the childhood lead poisoning problem within its jurisdiction and for any area(s) to be included in the lead hazard control program. Current efforts undertaken to provide health care services for children with elevated blood lead levels and efforts to address lead-based paint hazards shall be described.

(b) *Discussion of program activities. (See Section 4.3 Rating Factors)* The applicant shall provide a discussion of the overall proposed hazard control program, including, but not limited to, information on the following:

- Needs Assessment
- Program Work Plan and Budget to include:

—Program Management;
—Lead Hazard Control Strategy:
—Number of eligible housing units, hazard control methods, blood lead and environmental testing methods, costs, financing mechanisms, relocation plans, and community awareness and education;

- Program Evaluation and Data Collection;
- Budget Request;
- Community and Private Sector Participation;
- Ability to Implement the Lead Hazard Control Grant Program; and
- Future Integration and Coordination of Lead Hazard Control Activities With Other Programs.

Section 5.3 Certifications and Assurances

The following certifications and assurances are to be included in all Category A applications:

(a) Compliance with environmental laws and authorities (24 CFR Part 58).

(b) Compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. (Implementing Regulations at 49 CFR Part 24; and HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition.)

(c) Compliance with Federal civil rights laws and requirements.

(d) Compliance with the requirements of the Fair Housing Act (42 U.S.C. 3601–19); Executive Order 11063; Title VI of the Civil Rights Act of 1964, pertaining to equal opportunity and nondiscrimination in housing).

(e) Compliance with the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973.

(f) Compliance with Section 3 of the Housing and Urban Development Act of 1968. (Implementing regulations at 24 CFR Part 135.)

(g) Assurance that financial management system meets the standards for fund control and accountability (24 CFR 85.20).

(h) Assurance that pre-hazard control, clearance, and 12 month post-hazard control testing will be conducted by certified performers.

(i) Assurance, to the extent possible, that blood lead testing, blood lead level test results, and medical referral and followup are conducted for children under six years of age occupying affected units according to the recommendations of the Centers for Disease Control and Prevention (CDC). (See Appendix A of this NOFA-*Preventing Lead Poisoning in Young Children*, October, 1991.)

(j) Assurance that Lead-Based Paint Hazard Control Grant Program funds will not replace existing resources dedicated to any ongoing project.

(k) The application shall contain any other assurances that HUD includes in the application kit under this NOFA, including certification of compliance with the Drug-Free Workplace Act of 1988 in accordance with the requirements set forth at 24 CFR part 24, subpart F.

Section 6. Application Process for Category B

Section 6 Purpose and Description

Section 6.1 Purpose and Authority

Category B provides funds for two Federal government agencies to work cooperatively to reduce lead hazards to children. This category provides funds to control lead-based paint hazards at Superfund sites where Superfund dollars will be spent to control lead in soil hazards and HUD dollars will be spent to control lead-based paint hazards in residences.

Approximately 4 million dollars will be available in awards ranging from five-hundred thousand dollars ($500 thousand) to 2 million dollars ($2 million) available to each grantee. The amounts are for the total, multiyear work of a proposed project. Grants are authorized under section 1011(a)–(f) of Title X.

The purposes of this program include:

(a) To demonstrate that Potentially Responsible Parties (PRPs), State and local governments, and other affected parties such as low-income residents can work together to maximize benefits both from Superfund actions and other lead-based paint hazard control activities. (A Potentially Responsible Party (PRP) is defined by Superfund as any individual or entity including owners, operators, transporters or generators who may be liable under section 107(a) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA)).

(b) To the greatest extent feasible, promoting job training, employment, and other economic lift opportunities for low-income residents and businesses as defined in 24 CFR 135.5 (see 59 FR 33881, June 30, 1994, and Category A Section 3.1(d) of this NOFA).

Section 6.2 Background

This category brings together two Federal agencies, HUD and the Environmental Protection Agency (EPA), to address housing and environmental issues. These funds will be targeted to communities that have, within 18 months of the application submission deadline date undergone EPA Superfund cleanup activity. These funds will be used primarily for interior lead-based paint hazard control. Under this Category, HUD funds *may not* be used for soil cleanup.

A multiagency approach is needed to address deteriorating interior paint, exterior paint, and contaminated soil and dust simultaneously. HUD's lead-based paint hazard control grant program has typically been used to control primarily lead-based paint and dust both inside and outside homes. The HUD lead-based paint hazard control grant program may also be used to deal with lead in soil on an optional basis as determined by grantees. EPA Superfund normally cleans up residential soils that are contaminated with hazardous substances from local Superfund sites. EPA Superfund does not generally address the problem of deteriorating interior lead-based paint because exposures from interior paint are generally not within the jurisdiction of the Superfund program. Exterior lead-based paint hazard control may be considered an eligible activity by the Superfund program.

Category B targets communities with Superfund sites that may or may not have participated in previous HUD lead-based paint hazard control grant programs. This Category will create a means for communities with a Superfund site(s) to address both lead-based paint inside and outside houses as well as soil cleanup. HUD is developing a place-based strategy that empowers local communities to combine government programs to remedy specific problems, cutting across traditional program boundaries. This NOFA is an example of how HUD and EPA are working together to enable communities to determine how best to solve specific problems in their local area.

An important product of this grant program will be to demonstrate how to address lead-based paint abatement issues at sites with multiple sources of lead, thereby addressing housing and environmental problems simultaneously. HUD expects that additional experience in this area will reduce abatement costs and offer creative strategies for overall lead risk reduction.

Section 6.3 Allocation Amounts

(a) *Amounts.* Approximately $4 million will be available for the Category B grant program from the appropriations made for the lead-based paint hazard reduction program in the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104–134, 110 Stat. 1321, approved April 26, 1996).

(b) *Residual Funds.* In the selection process, once available funds have been allocated to meet the full requested amounts of the top eligible applicants, HUD reserves the right to offer any residual amount as partial funding to the next eligible applicant in successive order. Any such applicant shall have not more than 7 calendar days to accept or decline the grant. In addition, HUD reserves the right to award only one grant, should only one applicant be able to support a credible effort. Also, because this is the initial notice of funding availability under this Category, it is possible that no applicant will be able to demonstrate support of a program in which case all funds would revert to Category A.

Section 6.4 Eligibility

Title X specifies the following eligibility requirements for grants to identify and control lead-based paint hazards in housing:

(a) *Eligible Applicants.* A State or unit of local government that has a current year approved Comprehensive Housing Affordability Strategy (CHAS) under Section 105 (42 U.S.C. 12705) of the Cranston-Gonzalez National Affordable Housing Act (NAHA) or a current year approved consolidated plan is eligible to apply for a grant. Applicants that do not have a currently approved CHAS or Consolidated Plan, but are otherwise eligible for this grant program, must include their abbreviated Consolidated Plan which includes a lead-based paint hazard control strategy developed and submitted in accordance with 24 CFR 91.235.

Under Category B, all eligible applicants compete equally, regardless of previous awards under the HUD Lead-Based Paint Hazard Control grant program.

(b) *Certified Performers*—See Category A, Section 3.4(b).

(c) *Eligible Activities*—See Category A, Section 3.4(c).

(d) *Ineligible Activities*—See Category A, Section 3.4(d).

Section 6.5 Limitations on the Use of Assistance

See Category A, Section 3.5.

Section 6.6 Environmental Review

See Category A, Section 3.6.

Section 6.7 Objectives and Requirements

See Category A, Section 3.7.

Section 7 Grant Application Process

Section 7.1 Submitting Applications for Grants

See Category A, Section 4.1.

(There are no page restrictions or format requirements for Category B applications.)

Section 7.2 Threshold Requirements for Category B

(a) *Purpose.* The application must be for funds to identify and control lead hazards in housing at Superfund sites where lead has been identified as a major contaminant. (See Appendix D of this NOFA for program-by-program listing of eligible HUD-associated housing programs.)

See Category A (Section 4.2(b)–(f) for eligible applicants, matching contribution, contractor certification program requirement, and other threshold requirements.

(b) *Status of Superfund remediation.* Jurisdictions are eligible only if remediation activity was completed within 18 months of the application submission deadline date, or the jurisdiction has a Record of Decision with a completion date for the remediation work of no more than three years from the date of application submission deadline date, or the site is undergoing remedial action or will undergo removal action within 18 months after the application submission deadline date.

Section 7.3 Rating Factors

HUD will use the following technical and financial criteria to rate and rank applications received in response to this

NOFA. The Request for Grant Application (RFGA) kit will provide guidance in responding to all the Rating Factors. The technical quality of an application will be rated, and then the strength, quality, and completeness of the financial and resources plan will be used to assess the likelihood that the technical plan can be carried out using the available resources.

While HUD is very interested in applicants who have managed to involve PRPs, HUD explicitly recognizes that there are a number of sites where there is no PRP and it is unlikely one will ever be found. These sites often have environmental justice issues which reflect the cumulative effects from multiple sources of lead exposure. Under this Category, HUD seeks a balance between those sites who have active and willing PRPs and those that have no other means to accomplish lead-based paint hazard control. HUD believes that the best way to achieve this balance is to recognize PRP involvement and provide points for this involvement in one of the factors. PRP involvement is *not* a prerequisite threshold requirement for eligibility or selection of an award.

The maximum score possible under the rating factors is 100 points.

(a) Coordination (35 points).

(1) Describe the history of the working relationship of the applicant, EPA Superfund authorities, the residents, and each Potentially Responsible Party (PRP), if any. Describe Superfund's site-specific community relations plan including public meetings and other outreach activities that present a complete picture of the community's involvement in site cleanup and any likely issues that may be encountered during site remediation. (25 points)

(2) Discuss the financial, technical, and other resources contributed by the PRP. (10 points)

(b) Activities (25 points).

(1) Describe the extent of the remediation work on the soil; provide a comprehensive picture of cleanup activities, both planned and undertaken, including any relevant site information that demonstrates the applicant's need, and describe how coordinated efforts of the applicant, PRPs, residents, and Superfund activities will reduce overall lead risk. (15 points)

(2) Describe which non-HUD funding sources have been secured to abate exterior lead-based paint hazards. (10 points)

(c) Strategy (20 points).

(1) Discuss the quality and cost-effectiveness of the proposed lead-based paint hazard control strategy, especially as it relates to Superfund cleanup activities, HUD lead-based paint hazard control, and how they fit into an overall environmental lead risk reduction scenario. The overall plan must include: the selection of sub-grantees and other sub-recipients to assist in implementing the project; the total number of units to be tested and treated and the rationale for this total; the abatement/hazard control methods and levels of treatment proposed, and number of units by type of treatment; the amount of prior hazard control experience; financing mechanisms for hazard control activities and the process for recruiting property owners; temporary relocation plans, if needed; and the degree to which the strategy focuses on households in eligible housing with children under the age of 6 years; (8 points)

(2) The level of coordination between the applicant, HUD, and the Superfund program; the experience of the applicant with environmental issues; the experience of the applicant with environmental justice issues; the experience of the applicant in dealing with the private sector, especially with PRPs; (7 points)

(3) A program for education and outreach to the people residing on the Superfund site on the hazards of lead in paint, soil, and dust, including blood lead screening of young children and, if necessary, referral for medical treatment. Include roles and responsibilities and approaches undertaken by the groups and organizations involved in both education and outreach, and blood lead testing and medical follow-up. (5 points)

(d) Management and Budget Plan. (20 points)

The Management and Budget Plan shall include:

(1) A narrative describing how the process and tasks of the grant program will be coordinated and managed by the personnel discussed in the strategy rating factor. Provide a brief narrative for each major budget subtask and justification for each functional cost element, explaining its planned use. (8 points)

(2) A budget proposal for each major cost element of the HUD grant, a task by task spreadsheet for the HUD grant and Part B of Standard Form 424A, for the match and other resources contributed by the applicant and the budget for the Superfund part of the project. Describe specifically how Superfund dollars and HUD dollars will be allocated and tracked and whether or not Superfund dollars will be used to control exterior lead-based paint hazards as part of the soil remediation plan. (8 points)

(3) At a minimum, the applicant shall provide a 10 percent matching contribution of the requested grant sum. Points for this factor will be awarded only for the amount of the *net* contributions that *exceed* the 10 percent statutory minimum. Contributions may be cash or in-kind, or a combination of both. In-kind contributions must be given a monetary value. PRPs may contribute cash to meet this 10 percent matching contribution requirement. Community Development Block Grant funds are the only Federal funds which may be considered part of the 10 percent matching contribution, when they are specifically dedicated to this project. Additional resources committed to the program that exceed the minimum required 10 percent match will provide points for this rating factor. Each source of contributions, cash or in-kind, both for the required minimum and additional amounts, shall be made in a letter of commitment from the contributing entity, whether a public or private source, and shall describe the contributed resources that will be used in the program. The absence of letters providing specific details and amount of the actual contributions will result in that contribution not being counted. (4 points)

Section 7.4 Checklist of Application Submission Requirements

7.4.1 Applicant Data

See Category A, Section 5.1(a)–(k).

7.4.2 Proposed Activities

See Category A, Section 5.2(a)–(d).

7.4.3 Certifications and Assurances

See Category A, Section 5.3(a)-(k).

Section 8. Corrections to Deficient Applications

Shortly after the expiration of the NOFA submission deadline date, HUD will notify applicants in writing of any minor deficiencies in the applications that are not of a substantive nature, such as an omitted certification or illegible signature. The applicant shall submit corrections, which must be received at the Office of Lead-Based Paint Abatement and Poisoning Prevention within 21 calendar days from the date of HUD's letter notifying the applicant of any minor deficiencies. Electronic or FAX transmittal is not an acceptable transmittal mode. Corrections to minor deficiencies will be accepted within the 21-day time limit. Applicants that do not make timely response to requests for deficiency corrections shall be removed from further consideration for an award.

Applicants shall only be permitted to correct those deficiencies determined by HUD to be minor. Deficiencies determined by HUD to be substantive may not be corrected.

Section 9. Administrative Provisions

Section 9.1 Obligation of Funds

(a) *Provision of funds.* Funding shall be provided on a cost-reimbursable basis not to exceed the amount of the grant, except as otherwise provided in Sections 9.2 and 9.3 of this NOFA.

(b) *Availability of funds.* All payments will be made on a cost-reimbursable basis, except that a one (1) percent final payment shall be made upon completion of all tasks and delivery of an acceptable final report.

HUD will release funds for the inspection of units and for conducting the lead hazard control phase (interim controls, hazard abatement, or complete abatement) of the program after the grantee has submitted and secured HUD approval of HUD Form 7015.15 (Request for Release of Funds) which certifies that the grantee has fulfilled the environmental review requirements of the grant.

Section 9.2 Increases of Awards

After executing the grant agreement and initial obligation of funds, HUD will not increase the grant sum or the total amount to be obligated based upon the original scope of work. Amounts awarded may only be increased as provided in Section 9.3, Deobligation, of this NOFA.

Section 9.3 Deobligation

(a) *Reasons for deobligation.* HUD may deobligate amounts for the grant if proposed activities are not initiated or completed within the required time after the award effective date. The grant agreement will set forth in detail other circumstances under which funds may be deobligated and other sanctions imposed.

(b) *Treatment of deobligated funds.* HUD may undertake any combination of the following actions:

(1) Readvertise the availability of funds that have been deobligated under this section in a new NOFA;

(2) Reconsider applications that were submitted in response to the most recently published NOFA, and select additional applications for funding with deobligated funds. These selections will be made in accordance with the selection process described in the applicable NOFA;

(3) Fund supplemental requests from existing grantees for the performance of expanded scopes of work that may be of benefit to the overall program; and

(4) For deobligated funds that total less than a minimum grant amount ($1 million); issue a solicitation to provide technical assistance or other program support services to Lead-Based Paint Hazard Control grantees from previous rounds.

Section 9.4 Reports

The grantee shall submit the following types of reports:

(a) *Progress Reports.* The grantee shall submit quarterly progress reports in accordance with HUD requirements. These progress reports shall include expenditure reports and a narrative describing important events, milestones, work plan progress, and problems encountered during the period covered.

(b) *Final Report.* The grantee shall submit a final report in accordance with the procedures of HUD's Management Reporting System. The report shall summarize the applicant's plans, execution of the plans, achievements noted, and lessons learned. The report need not be lengthy, but should be of a quality and detail to provide a free-standing description to any outside reader of all of the applicant's work and achievements under the grant.

Section 10. Other Matters

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 10276, Washington, D.C. 20410.

Federalism Executive Order

The General Counsel, as the Designated Official under section 8(a) of Executive Order 12612, *Federalism*, has determined that the policies and procedures contained in this NOFA will not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or the distribution of power and responsibilities among the various levels of government. Under this NOFA, grants will be made for the control of lead-based paint and lead-dust hazards in low-income owner-occupied units and privately owned low-income rental units. Although the Department encourages States and local governments to initiate or expand lead-based paint certification, testing, abatement, and financing programs, any action by a State or local government in these areas is voluntary. Because action is not mandatory, the NOFA does not impinge upon the relationships between the Federal government and State and local governments, and the notice is not subject to review under the Order.

Family Executive Order

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this document will likely have a beneficial impact on family formation, maintenance and general well-being. This NOFA, insofar as it funds repairs to privately owned housing, will assist in preserving decent housing stock for low-income resident families. Accordingly, since the impact on the family is beneficial, no further review is considered necessary.

Section 102 of the HUD Reform Act—Documentation and Public Access Requirements—Applicant/Recipient Disclosures:

Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR part 12, Subpart C, and the notice published in

the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of Section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. Section 1352 (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995, P.L. 104–65 (December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR Part 87, prohibits applicants for and recipients and sub-recipients of Federal contracts, grants, loans, cooperative agreements, and loan insurance or guarantees from using appropriated funds to attempt to influence Federal Executive or Legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment or modification. In addition, applicants for and recipients and sub-recipients or Federal contracts, grants, loans, cooperative agreements, and loan insurance or guarantees above certain monetary amounts must file either a certification stating that they have not made and will not make any prohibited payments or a statement disclosing any prohibited payments or agreements to make such payments.

The Lobbying Disclosure Act of 1995, Pub. L. 104–65 (approved December 19, 1995), which repealed Section 112 of the HUD Reform Act and resulted in the elimination of the regulations at 24 CFR Part 86, requires all persons and entities who lobby covered Executive or Legislative Branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

Procurement Standards

All grantees are governed by and should consult 24 CFR parts 85.36 and 85.37, which implement OMB Circular A–102 and detail the procedures for subcontracts and sub-grants by States and local governments. Under § 85.36, which pertains to subcontracts, small purchase procedures can be used for contracts up to $100,000, and require price or rate quotations from several sources (three is acceptable); above that threshold, more formal procedures are required (note that § 85.36 treats States differently than local governments). Section 85.37 procedures apply to sub-grants, and are not as restrictive. If States have more restrictive standards for contracts and grants, the State standards can be applied. All grantees should consult and become familiar with §§ 85.36 and 85.37 before issuing subcontracts or sub-grants.

Davis-Bacon Act

The Davis-Bacon Act does not apply to this program. However, if grant funds are used in conjunction with other Federal programs in which Davis-Bacon prevailing wage rates apply, then Davis-Bacon provisions would apply to the extent required under the other Federal programs.

Prohibition Against Advance Information on Funding Decisions—Section 103 of the Reform Act

HUD's regulation implementing Section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a) (Reform Act), codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics-related questions should contact the HUD Office of Ethics (202) 708–3815 (this is not a toll-free number). Any HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact the appropriate Field Office Counsel or Headquarters Counsel for the program to which the question pertains.

Authority: 42 U.S.C. 4821–4846; 42 U.S.C. 3535(d).

Dated: April 15, 1996.

Ronald J. Morony

Deputy Director, Office of Lead-Based Paint Abatement and Poisoning Prevention.

Appendix A—Relevant Federal Regulations and Guidelines

To Secure Any Of The Documents Listed, Call The Listed Telephone Number (generally not toll-free).

Regulations

1. Worker Protection: OSHA publication—Telephone: 202–219–4667

OSHA Regulations (available for a charge)—Government Printing Office—Telephone: 202–512–1800

—General Industry Lead Standard, 29 CFR 1910.1025; (Document Number 869022001124)

—Lead Exposure in Construction, 29 CFR 1926.62, and appendices A, B, C, and D; published 58 FR 26590 (May 4, 1993). (Document Number 869022001141)

2. Waste Disposal: 40 CFR parts 260–268 (EPA regulations)—Telephone 1–800–424–9346.

3. Lead; Requirements for Lead-Based Paint Activities; Proposed Rule: 40 CFR Part 745 (EPA) (State Certification and Accreditation Program for those engaged in lead-based paint activities)—Telephone: 202–554–1404 (Toxic Substances Control Act Hotline)

Guidelines

1. Lead-Based Paint: Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing; HUD, June 1995 (available for a charge)—Telephone: 800–245–2691:

Post-Lead Hazard Control Clearance, No More Than:

100 Micrograms/Sq.Ft. (Bare and Carpeted Floors)

500 Micrograms/Sq.Ft. (Window Sills)

800 Micrograms/Sq.Ft. (Window Troughs (Wells), exterior concrete and other rough surfaces)

2. HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition; Telephone: 202–708–0336.

3. Preventing Lead Poisoning In Young Children; Centers for Disease Control, October 1991: Telephone: 770–488–7330.

Reports

1. Putting the Pieces Together: Controlling Lead Hazards in the Nation's Housing, HUD, (Summary and Full Report), July 1995, (available for a charge)—Telephone 800–245–2691:

2. Comprehensive and Workable Plan for the Abatement of Lead-Based Paint in Privately Owned Housing: Report to Congress (HUD, December 7, 1990) (available for a charge)—Telephone 800–245–2691.

CDC CLASSES OF BLOOD LEAD LEVELS IN CHILDREN

Class	Concentration (μg/dL)	Comment
I	<9	Child is not considered to be lead-poisoned.
IIA	10–14	Large number or proportion of children with blood lead levels in this range should trigger community-wide childhood lead poisoning prevention activities. Children in this range may need to be rescreened more frequently.
IIB	15–19	Child should receive nutritional and educational interventions and more frequent screening. If the blood lead level persists, environmental investigation and intervention should be done.
III	20–44	Child should receive environmental evaluation and remediation and a medical evaluation; may need pharmacologic treatment of lead poisoning.
IV	45–69	Child will need both medical and environmental interventions, including chelation therapy.
V	>70	Child is a medical emergency. Medical and environmental management must begin immediately.

Appendix B—"Administrative Costs"

I. Purpose

The intent of this HUD grant program is to allow the Grantee to be reimbursed for the reasonable direct and indirect costs, subject to a top limit, for overall management of the grant. In most circumstances the Grantee, whether a state or a local government, is expected to serve principally as a conduit to pass funding to sub-grantees, which are to be responsible for performance of the lead-hazard reduction work. Congress set a top limit of ten (10) percent of the total grant sum for the Grantee to perform the function of overall management of the grant program, including passing on funding to sub-grantees. The cost of that function, for the purpose of this grant, is defined as the "administrative cost" of the grant, and is limited to ten (10) percent of the total grant amount. The balance of ninety (90) percent or more of the total grant sum is reserved for the sub-grantee/direct-performers of the lead-hazard reduction work.

II. Administrative Costs: What They Are Not

For the purposes of this HUD grant program for States and local governments to provide support for the evaluation and reduction of lead-hazards in low and moderate-income, private target housing: the term "administrative costs" should not be confused with the terms "general and administrative cost", "indirect costs", "overhead", and "burden rate". These are accounting terms, usually represented by a government-accepted standard percentage rate. The percentage rate allocates a fair share of an organization's costs that cannot be attributed to a particular project or department (such as the chief executive's salary or the costs of the organization's headquarters building) to all projects and operating departments (such as the Fire Department; the Police Department; the Community Development Department, the Health Department or this program). Such allocated costs are added to those projects' or departments' direct costs to determine their total costs to the organization.

III. Administrative Costs: What They Are

For the purposes of this HUD grant program, "Administrative Costs" are the Grantee's allowable direct costs for the overall management of the grant program plus the allocable indirect costs. The allowable limit of such costs that can be reimbursed under this program is ten (10) percent of the total grant sum. Should the Grantee's actual costs for overall management of the grant program exceed ten (10) percent of the total grant sum, those excess costs shall be paid for by the Grantee. However, excess costs paid for by the Grantee may be shown as part of the requirement for cost-sharing funds to support the grant.

IV. Administrative Costs: Definition

A. General

Administrative costs, are the allowable, reasonable, and allocable direct and indirect costs related to the overall management of the HUD grant for lead-hazard reduction activities. Those costs shall be segregated in a separate cost center within the Grantee's accounting system, and they are eligible costs for reimbursement as part of the grant, subject to the ten (10) percent limit. Such administrative costs do not include any of the staff and overhead costs directly arising from specific sub-grantee program activities eligible under FY 1992 NOFA Section II.e.(5) (a) and (b) (ii) through (vi), because those costs are eligible for reimbursement under a separate cost center as a direct part of project activities.

The Grantee may elect to serve solely as a conduit to sub-grantees, who will in turn perform the direct program activities eligible under NOFA Section II.E.(5) (a) and (b) (ii) through (vi), or the grantee may elect to perform all or a part of the direct program activities in other parts of its own organization, which shall have their own segregated, cost centers for those direct program activities. In either case, not more than 10 percent of the total HUD grant sum may be devoted to administrative costs, and not less than 90% of the total grant sum shall be devoted to direct program activities. Grantee shall take care not to mix or attribute administrative costs to the direct project cost centers.

B. Specific

Reasonable costs for the Grantee's overall grant management, coordination, monitoring, and evaluation are eligible administrative costs. Subject to the (10) percent limit, such costs include, but are not limited to, necessary expenditures for the following, goods, activities and services:

(1) Salaries, wages, and related costs of the Grantee's staff, the staff of affiliated public agencies, or other staff engaged in Grantee's overall grant management activities. In charging costs to this category the recipient may either include the entire salary, wages, and related costs allocable to the program for each person *whose primary responsibilities* (more than 65% of their time) with regard to the grant program involve direct overall grant management assignments, or the pro rata share of the salary, wages, and related costs of each person whose job includes *any overall grant management assignments*. The Grantee may use only one of these two methods during this program. Overall grant management includes the following types of activities:

(a) Preparing grantee program budgets and schedules, and amendments thereto;

(b) Developing systems for the selection and award of funding to sub-grantees and other sub-recipients;

(c) Developing suitable agreements for use with sub-grantees and other sub-recipients to carry out grant activities;

(d) Developing systems for assuring compliance with program requirements;

(e) Monitoring sub-grantee and sub-recipient activities for progress and compliance with program requirements;

(f) Preparing presentations, reports, and other documents related to the program for submission to HUD;

(g) Evaluating program results against stated objectives; and

(h) Providing local officials and citizens with information about the overall grant program. (However, a more general education program, helping the public understand the nature of lead hazards, lead hazard reduction, blood-lead screening, and the health consequences of lead poisoning is a direct project support activity, under NOFA Section II.E. (5) (b), and should not be attributed to administrative costs, but to its own cost center.)

(i) Coordinating the resolution of overall grant audit and monitoring findings;

(j) Managing or supervising persons whose responsibilities with regard to the program include such assignments as those described in paragraphs (a) through (i).

(2) Travel costs incurred for official business in carrying out the overall grant management;

(3) Administrative services performed under third party contracts or agreements, for services directly allocable to overall grant management such as overall-grant legal services, overall-grant accounting services, and overall-grant audit services;

(4) Other costs for goods and services required for and directly related to the overall management of the grant program, including such goods and services as telephone, postage, rental of equipment, renter's insurance for the program management space, utilities, office supplies, and rental and maintenance (but not purchase) of office space for the program.

(5) The fair and allocable share of Grantee's general costs that are not directly attributable to specific projects or operating departments such as: The Mayor's and City Council's salaries and related costs; the costs of the City's General Council's office, not charged off to particular projects or operating departments; and the costs of the City's Accounting Department not charged back to specific projects or operating departments. (If Grantee has an established burden rate it should be used; if not Grantee shall be assigned a negotiated provisional burden rate, subject to final audit.) To repeat, all of the above activities goods and services: 1.a-j., 2., 3., 4., and 5. are subject to the ten (10) percent limit.

Appendix C

Section 217 of Public Law 104–134 (the Omnibus Consolidated Rescissions and Appropriations Act of 1996, 110 Stat. 1321, approved April 26, 1996) amended Section 1011(a) of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X) to read as follows:

Sec. 1011 Grants for Lead-Based Paint Hazard Reduction in Target Housing.

(a) General Authority. The Secretary is authorized to provide grants to eligible applicants to evaluate and reduce lead-based paint hazards in housing that is not federally assisted housing, federally owned housing, or public housing, in accordance with the provisions of this section. Grants shall only be made under this section to provide assistance for housing which meets the following criteria—

(1) for grants made to assist rental housing, at least 50 percent of the units must be occupied by or made available to families with incomes at or below 50 percent of the area median income level and the remaining units shall be occupied or made available to families with incomes at or below 80 percent of the area median income level, and in all cases the landlord shall give priority in renting units assisted under this section, for not less than 3 years following the completion of lead abatement activities, to families with a child under the age of six years, except that building with five or more units may have 20 percent of the units occupied by families with incomes above 80 percent of area median income level:

(2) for grants made to assist housing owned by owner-occupants, all units assisted with grants under this section shall be the principal residence of families with income at or below 80 percent of the area median income level, and not less than 90 percent of the units assisted with grants under this section shall be occupied by a child under the age of six years or shall be units where a child under the age of six years spends a significant amount of time visiting; and

(3) notwithstanding paragraphs (1) and (2), Round II grantees who receive assistance under this section may use such assistance for priority housing.

* * * * *

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APPENDIX D

ELIGIBILITY OF HUD-ASSOCIATED "ELIGIBLE" HOUSING UNITS TO PARTICIPATE UNDER HUD'S LEAD-HAZARD-CONTROL GRANTS PROGRAM

Program	NOFA IV Eligibility		NOFA IV Eligibility	
	Yes	No	Yes	No
Housing Components of Community Planning & Development Programs				
Community Development Block Grants (Entitlement)	X			
Community Development Block Grants (Non-Entitlement) for States and Small Cities	X			
Community Development Block Grants (Section 108 Loan Guarantee)	XX			
Special Purpose Grants	XX			
The **Home** Program: **HOME** Investment Partnerships	XX			
HOPE for Homeownership of Single Family Homes				
Shelter Plus Care (by component)				
Sponsor-based Rental Assistance	X			
Tenant-based Rental assistance				
Project-based Rental Assistance				
SRO Rental Assistance				
Single Family Property Disposition Homeless Initiative				
Emergency Shelter Grants	XX			
Housing Opportunities for Persons With Aids (HOPWA)	XX			
Surplus Properties (Title V)				
Supportive Housing Demonstration Program Transitional Housing Component	X			
Supportive Housing Demonstration Program Permanent Housing Component	X			
Supplemental Assistance for Facilities to Assist the Homeless (SAFAH)	XX			
Supportive Housing Program				
Section 8 SRO Mod Rehab for Homeless individuals	X			
Innovative Demonstration Program				
Housing				
Single Family Programs				
One- to Four-Family Home Mortgage Insurance (Section 203(b) and (i))	X			
Rehabilitation Mortgage Insurance (Section 203(k))	X			
Homeownership Assistance for Low- and Moderate-Income Families (Section 221(d)(2))				
Homes for Service Member (Section 222)	XX			
Housing in Declining Neighborhoods (Section 223(e))	XX			
Condominium Housing (Section 234)	XX			
Housing in Military Impacted Areas (Section 238)	XX			
Housing				
Multifamily Programs				
Rent Supplements (Section 101)		X		
Multifamily Rental Housing (Section 207)	XX			
Cooperative Housing (Section 213)				
Mortgage and Major Home Improvement Loan Insurance for Urban Renewal Areas (Section 220)	X			
Multifamily Rental Housing for Moderate-Income Families Section 221(d)(3)		X		
Section 221(d)(4)	XX			
Existing Multifamily Rental Housing (Section 223(f))	XX			
Supplemental Loans for Multifamily Projects (Section 241)				
Supportive Housing for Persons with Disabilities (Section 811)		XX		
HOPE 2: Homeownership of Multifamily Units (Title IV)				
Low-Income Housing Preservation and Resident Homeownership (Title VI)		XXX		
Emergency Low-Income Housing Preservation (Title II)				
Flexible Subsidy (Section 201)		X		
Public and Indian Housing				
Section 8 Project-Based Certificate Program		X		
Section 8 Tenant Based Certificate and Voucher Program	X			
Section 8 Moderate Rehabilitation Program		XXXX		
Public Housing Development				
Public Housing Operating Subsidy				
Public Housing Modernization (Comprehensive Grant Program)		X		
Public Housing Modernization (Comprehensive Improvement Assistance Program)		X		

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Appendix E—Elements of a State Certification Program

Congress has assigned Federal responsibility to the Environmental Protection Agency (EPA) for the definition, implementation, and oversight of State Certification Programs for workers, contractors, and inspectors engaged in the detection and reduction of lead-based paint hazards. The Department of Housing and Urban Development (HUD) has a strong interest in the strength and rigor of the EPA program, because HUD must rely on the effectiveness of the EPA program to assure the safe detection and reduction of those lead-based paint hazards.

In October 1992, Congress passed the Residential Lead-Based Paint Hazard Reduction Act (Title X of the Housing and Community Development Act of 1992). This legislation required EPA to promulgate regulations governing the accreditation of training programs, the certification of contractors and the training of workers engaged in lead-based paint activities. In addition, EPA was directed to issue work practice standards. Under the statute, lead-based paint activities are defined as:

(a) In the case of target housing: risk assessment, inspection, and abatement; and

(b) In the case of any public building constructed before 1978, commercial building, bridge, or other structure or superstructure: identification of lead-based paint and materials containing lead-based paint, deleading, removal of lead from bridges, and demolition.

EPA is preparing to promulgate these regulations under the authority of Title IV of the Toxic Substances Control Act (TSCA), Section 402 and Section 404. Section 402(a) of TSCA directs EPA to promulgate regulations governing lead-based paint activities. Section 404(a) of TSCA requires any State that seeks to administer and enforce the requirements established by the Agency under Section 402 of TSCA must submit to the Administrator of EPA, in such form as the Administrator shall require, a request for authorization of such a program.

States will have two years after final promulgation of TSCA Section 402/404 to establish and seek authorization of the State Program. State programs that reflect the minimum training, certification, accreditation, and standards that currently exist in EPA's proposed regulations are likely to be authorized by EPA. States that commit to develop appropriate accreditation and certification programs and to seek authorization by EPA are encouraged to enact broad enabling legislation.

While the regulations establishing an EPA State Authorized Program are not final, EPA can define a minimum set of basic elements that *must* be contained in enabling legislation. These minimum elements are outlined in #1 below. In addition, EPA believes that additional elements should be included in legislation and these are identified in #2 below.

Certification, worker training, and accreditation of training providers are three of the basic elements that must be contained in a State's enabling legislation. It is imperative that these three elements be included in a State's enacted legislation prior to applying for a HUD Lead-Based Paint-Hazard Control Grant.

1. The enabling statute, at a minimum, shall contain the following elements:

a. *Agency.* Establish an agency, or agencies, or designate an existing State agency, or agencies, to implement the State program.

b. *Certification.* Authorize and direct the agency, or agencies, to promulgate regulations requiring the certification of contractors that offer to perform lead-hazard detection or lead-hazard reduction services.

c. *Worker Training.* Authorize and direct the agency, or agencies to promulgate regulations setting training requirements for workers, inspectors, and other persons directly and substantially involved in the performance of lead-based paint activities. Such regulations shall establish minimum acceptable levels of training, and periodic refresher training for each class of workers, and require that training shall be provided by accredited training providers.

d. *Accreditation of Training Providers.* Authorize and direct the agency, or agencies, to promulgate regulations to establish the accreditation of training programs. The legislation shall require that the regulation cover the following: (i) minimum requirements for the accreditation of training providers; (ii) minimum training curriculum requirements; (iii) minimum training hour requirements; (iv) minimum hands-on training requirements; (v) minimum trainee competency and proficiency requirements; and (vi) minimum requirements for training program quality control.

e. *Standards.* Authorize and direct the agency, or agencies, to promulgate regulations establishing standards for performing lead-based paint activities, taking into account reliability, effectiveness, and safety.

f. *Compliance.* Authorize and direct the agency, or agencies, to promulgate regulations that will require any activity, involving lead-hazard detection or lead-hazard reduction procedures, to comply with agency regulations and to use certified and accredited personnel.

g. *Enforcement.* Authorize and direct the agency, or agencies, to promulgate regulations that provide for the enforcement of the State Certification Program, and that establish suitable sanctions, for those who fail to comply with program requirements. The regulations shall include provisions for the decertification and deaccreditation of programs and personnel.

h. *Federal Funding Eligibility.* Authorize and direct the agency, or agencies, to revise its regulations and procedures from time to time to assure that State lead-hazard activities continue to be eligible for Federal funding, by meeting the State Certification Program standards and other requirements that may from time to time be promulgated by EPA, HUD, and such other Federal agencies as may have jurisdiction over lead hazards;

i. *Reciprocity.* Authorize the agency, or agencies, to establish liaison with the other States having a State Certification Program to assure the maximum consistency of program requirements, in order to facilitate reciprocity of certification and accreditation among the several States;

2. In addition to the mandatory elements present in #1 above, HUD and EPA strongly recommend that the enabling legislation include:

a. *Staffing.* Authorize and direct the agency, or agencies to dedicate suitable staff and to acquire suitable space, equipment, supplies and other items necessary for the operations of the program.

b. *Fees.* Authorize the agency, or agencies, to collect such fees for certification, accreditation, and other reviews as State policy may determine to be necessary to help support the activities of the agency or agencies.

c. *Laboratory Oversight.* Authorize and direct the agency, or agencies, to cooperate with EPA in any joint oversight procedures EPA may propose for laboratories accredited under the EPA laboratory accreditation program for laboratories that offer to provide lead analysis services.

d. *Data Collection.* Authorize the agency, or agencies, to establish a unit for the collection and analysis of data on lead-hazard detection and lead-hazard reduction activities in the State, and on the certification, accreditation, and enforcement activities of the agency.

e. *Public Education.* Authorize the agency, or agencies, in cooperation with other relevant agencies of the State, to conduct programs of public education on the nature and consequences of lead hazards and on the need for lead-hazard reduction activities to be conducted under careful supervision and by certified and accredited personnel in order to assure the public safety.

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Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan; Final Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 27744; Special Federal Aviation Regulation (SFAR) No. 67]

RIN 2120–AG10

Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; extension of expiration date.

SUMMARY: This action amends Special Federal Aviation Regulation (SFAR) 67 to extend the prohibition on flight operations within the territory and airspace of Afghanistan by any United States air carrier and commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. This action is taken to prevent an undue hazard to persons and aircraft engaged in such flight operations as a result of the ongoing civil war in Afghanistan.

DATES: Effective Date: May 10, 1996. Expiration date: May 10, 1997.

FOR FURTHER INFORMATION CONTACT: Mark W. Bury, International Affairs and Legal Policy Staff, AGC–7, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Telephone: (202) 267–3515.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, Attention: ARM–1, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 267–9677. Communications must identify the number of this SFAR. Persons interested in being placed on a mailing list for future rules should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

Background

The Federal Aviation Administration (FAA) is responsible for the safety of flight in the United States and for the safety of U.S.-registered aircraft and U.S. operators throughout the world. Section 40101(d)(1) of Title 49, United States Code, declares, as a matter of policy, that the regulation of air commerce to promote safety is in the public interest. Section 44701(a) of Title 49, United States Code, provides the FAA with broad authority to carry out this policy by prescribing regulations governing the practices, methods, and procedures necessary to ensure safety in air commerce.

In the exercise of these statutory responsibilities, the FAA issued SFAR 67, prohibiting flight operations within the territory and airspace of Afghanistan by any United States air carrier or commercial operator, any person exercising the privileges of an airman certificate issued by the FAA, or any operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. Notice of SFAR 67 was published at 59 FR 25282 (May 13, 1994). The FAA issued SFAR 67 based upon a determination that the ongoing civil war in Afghanistan justified the imposition of certain measures to ensure the safety of U.S.-registered aircraft and operators that are conducting flight operations in the vicinity of Afghanistan's territory and airspace. SFAR 67 was originally scheduled to expire after one year. Notice of the extension of SFAR 67 for an additional year was published at 60 FR 25980 (May 15, 1995).

Fighting between government and opposition forces continues throughout Afghanistan at a level and intensity similar to that noted when SFAR 67 was originally issued. Opposing forces in this long-running civil war possess a wide range of sophisticated weapons that potentially could be used to attack civil aviation aircraft overflying Afghanistan at cruising altitudes. These weapons include Russian-made fighter and attack aircraft armed with cannons and air-to-air missiles, and surface-to-air missile (SAM) systems. Although aircraft primarily have been used for ground attacks against airfields and other key facilities, air-to-air encounters also have been observed. Press reports also suggest that a number of Afghan military and civilian aircraft have been shot down using SAMs. Large areas of the country continue to be the scene of factional fighting. Fluctuations in the level and intensity of combat create an unsafe environment for transiting civilian aircraft.

Advisories have been issued by the International Civil Aviation Organization (ICAO) urging civil air carriers to avoid Afghan airspace. In a letter dated April 8, 1994, Assad Kotaite, President of the ICAO Council, issued a notice urging air carriers to discontinue flights over Afghanistan. In a subsequent letter of November 14, 1994, President Kotaite warned of the continuing risks associated with flights over Afghanistan, including operations using certain routes developed by the Afghan Government or neighboring countries. On September 18, 1995, in yet another letter addressing flight safety over Afghanistan, Dr. Kotaite advised that "the safety of international civil flight operations through the Kabul FIR can not be assured." These advisories reflect the uncertain nature of the situation and underscore the danger to flights in Afghan airspace.

There also are indications that at least two rebel factions, in Afghanistan intend to deliberately target civil aircraft. In a statement released in September 1995, forces opposed to the Rabbani Government warned all international air carriers that they would force or shoot down any plane that ventured into airspace they controlled without first obtaining proper clearance from them. This follows a similar warning issued in 1994 by the Opposition Council. Air corridors over central and southern Afghanistan have been closed frequently as a result of these threats. Although it seems unlikely that any faction in the civil war would deliberately target a foreign-flagged commercial air carrier, their growing frustration with the airlift of arms, ammunition and other supplies to the Kabul regime creates a potentially hazardous environment whereby an airliner might be misidentified and inadvertently targeted. The FAA has received reports that scheduled passenger flights have been intercepted by opposition fighter aircraft. Other reports indicate that charter flights have been forced to land in Kandahar; one of these aircraft and its crew continue to be held there.

At the very least, central Afghan government control over installations critical to navigation and communication can not be assured. The use of combat aircraft and SAMs by all factions in the conflict calls into question the security/safety of Afghan airspace for civilian aircraft. An environment for long-term stability in this troubled region has yet to emerge.

Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan

On the basis of the above information, and in furtherance of my responsibilities to promote the safety of flight of civil aircraft in air commerce, I have determined that continued action by the FAA is required to prevent the injury to or loss of certain U.S.-registered aircraft and U.S. operators conducting flights in the vicinity of Afghanistan. I find that the current civil war in Afghanistan continues to present an immediate hazard to the operation of civil aircraft in the territory and airspace of Afghanistan. Accordingly, I am ordering the amendment of SFAR 67 to extend for an additional year the prohibition on flight operations (excluding those operations approved by the U.S. Government and certain emergency operations) within the territory and airspace of Afghanistan by any United States air carrier and commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. This action is necessary to prevent an undue hazard to aircraft and to protect persons and property on board those aircraft. Because the circumstances described in this notice warrant immediate action by the FAA to maintain the safety of flight, I also find that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further, I find that good cause exists for making this rule effective immediately upon issuance. I also find that this action is fully consistent with my obligations under 49 U.S.C. 40105(b)(1)(A) to exercise my duties consistently with the obligations of the United States under international agreements. The Department of State has been advised of, and has no objection to, the action taken herein.

The rule now contains an expiration date of May 10, 1997, but may be terminated sooner or extended through the publication of a corresponding notice if circumstances so warrant.

Regulatory Evaluation

Over the past 10 years, there have been a number of instances worldwide where civilian aircraft were either shot at or shot down. In some instances, the shooting was intentional, while in others the aircraft was misidentified as an enemy aircraft. One such reported incident, described earlier, involved Afghan government forces mistakenly shooting at a civilian aircraft. This incident highlights the risk that one side in the Afghan civil war will misidentify a U.S. civil aircraft overflying Afghanistan as a hostile aircraft. One faction involved in the fighting in Afghanistan has specifically stated that it would target the aircraft of an Afghan air carrier. This stated threat increases the risk of a U.S. aircraft being misidentified and shot down.

Navigating around Afghanistan will result in increased variable operating costs (i.e., maintenance, fuel, and crew) primarily for U.S. operators who conduct flights between Europe and India. The FAA estimates that the weighted-average variable operating cost for a wide-body aircraft is approximately $3,100 per hour. Based on data received from two U.S. carriers, the amount of additional time it takes to navigate around Afghanistan using alternate routes ranges from 10 minutes by flying over Iran to between one and four hours by flying over Saudi Arabia (depending on flight's origin and destination).

Some U.S. operators use the alternate route over Iran, thereby incurring little, if any, additional flying time and operating costs. Two U.S. operators use routes over Saudi Arabia, which result in additional costs of approximately $3,100 to $12,400 per flight.

Based on the potentially small costs of navigating around Afghanistan and the potentially devastating result of a U.S. air carrier being shot down, the FAA has determined that the SFAR is cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a proposed rule would have "significant economic impact on a substantial number of small entities." FAA Order 2100.14A outlines the FAA's procedures and criteria for implementing the RFA. The FAA has determined that none of the U.S. air carriers affected by the SFAR are "small entities" as defined by FAA Order 2100.14A Thus, the SFAR would not impose a "significant economic impact on a substantial number of small entities."

International Trade Impact Assessment

The SFAR could have an adverse affect on the international flights of U.S. air carriers and commercial operators primarily because it could increase their operating costs relative to foreign carriers who continue to overfly Afghanistan. However, because of the narrow scope of the SFAR and the small incremental cost of some of the alternate routes available to U.S. operators, the FAA has determined that the SFAR would have little effect on the sale of U.S. aviation products and services in foreign countries.

Paperwork Reduction Act

This rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3507 et seq.)

Federalism Determination

The SFAR set forth herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612 (52 FR 41685; October 30, 1987), it is determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons set forth above, FAA has determined that this action is not a "significant regulatory action" under Executive Order 12866. This action is considered a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because revenue flights to Afghanistan are not currently being conducted by U.S. air carriers or commercial operators, the FAA certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 91

Afghanistan, Aircraft, Airmen, Airports, Air traffic control, Aviation safety, Freight.

The Amendment

For the reasons set forth above, the Federal Aviation Administration is amending 14 CFR part 91 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

2. Section 5 of Special Federal Aviation Regulation (SFAR) No. 67 is revised to read as follows:

5. Expiration. This Special Federal Aviation Regulation expires May 10, 1997.

Issued in Washington, DC, on May 9, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–12132 Filed 5–9–96; 4:52 pm]

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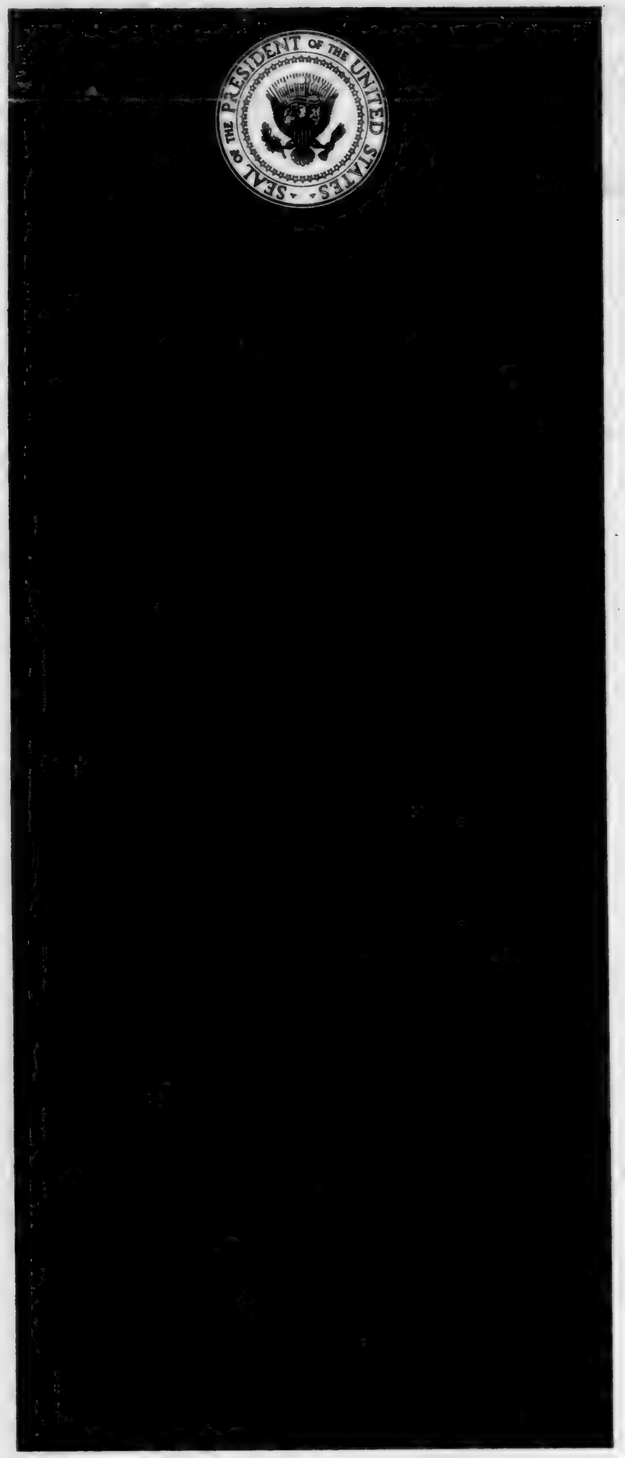
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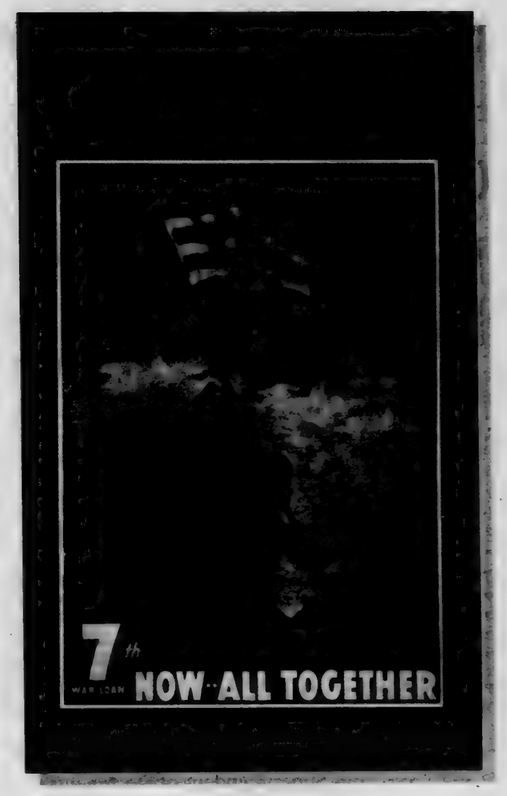
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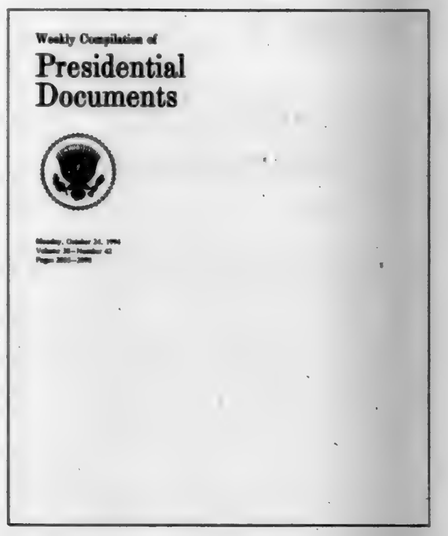
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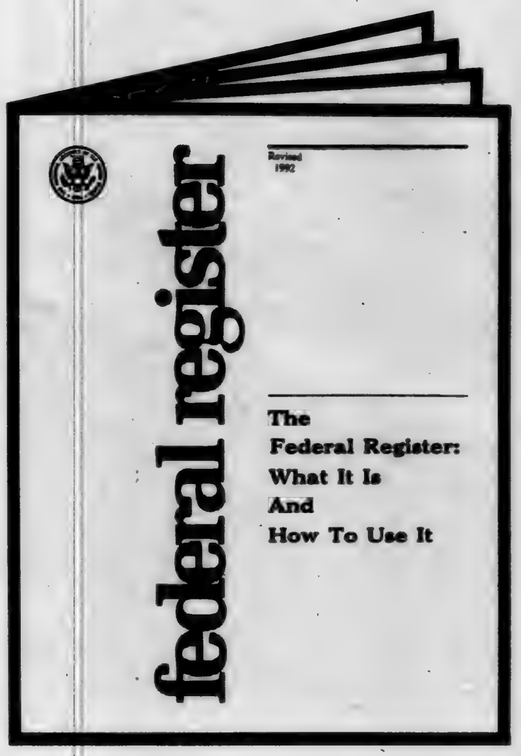
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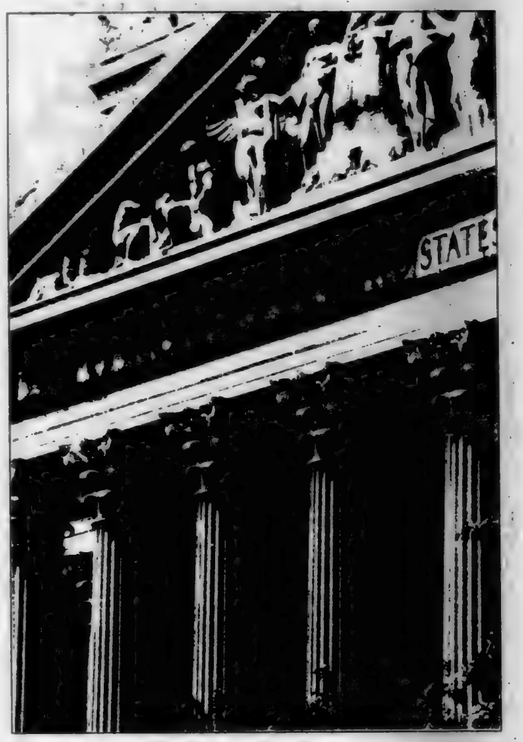
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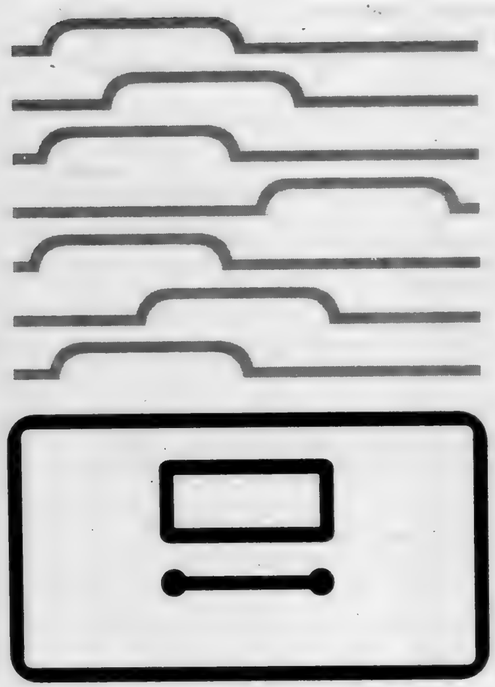
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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 95–088–1]

The Application of Irradiation to Phytosanitary Problems

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of policy.

SUMMARY: This document sets forth a policy statement that shares positions and policies of the Animal and Plant Health Inspection Service (APHIS) concerning the use of irradiation as a treatment for plant pests of quarantine significance.

In preparing this document, we have reviewed and evaluated pertinent and contemporary information concerning irradiation as a phytosanitary treatment or potential treatment. We have examined this information against the background of regulatory and operational parameters associated with APHIS, Plant Protection and Quarantine's (PPQ's) mission and authority. The objective of this effort has been to generate a reference document that describes policies, procedures, and regulations specifically related to irradiation as a phytosanitary treatment. This document is designed for review and comment.

ADDRESSES: There are several ways to comment on this document. Because we hope to develop a dialogue among persons interested in contributing to the improvement of these policies, the preferred method of commenting is to subscribe to an e-mail mailing list we are establishing for the discussion of the policy issues. After you subscribe, on an ongoing basis you will receive e-mail copies of all comments submitted to the mailing list. Those wishing to subscribe to this service should send an e-mail message to "majordomo@info.aphis.usda.gov"—without the quotation marks—and leave the subject area empty. In the body of the message, type "subscribe irrad"—again without the quotes—and then send the message.

You can also subscribe to this mailing list or file individual e-mail comments using a form contained in a World Wide Web site devoted to this document. The site also contains downloadable copies of this document and may also have additional background documents on irradiation, and links to other sites concerning radiation and the irradiation of products. The address (URL) of the World Wide Web site is: www.aphis.usda.gov/ppd/irrad.

You may also submit comments by postal mail. To do so, please send an original and three copies of your comments to Docket No. 95–088–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 95–046–1. Postal and e-mail comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Griffin, Senior Plant Pathologist, USDA, APHIS, PPD, 4700 River Road Unit 117, Riverdale, MD 20737–1228; (301) 734–3576; e-mail rgriffin@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Development of Policy Statement

The first draft of these positions and policies was introduced in October 1994 during the annual meeting of the North American Plant Protection Organization (NAPPO). Subsequent review has included NAPPO participants and a broadening circle of individual experts, organizations, and agencies interested in, involved in, or impacted by irradiation as a phytosanitary treatment. Numerous modifications have been made as additional information has been collected and reviewed. This document is not final or authoritative, and does not establish any agency requirements. Any requirements concerning irradiation that APHIS develops will be promulgated through rulemaking published in the **Federal Register**.

Since 1989, the only formally adopted regulatory policy for irradiation as a phytosanitary treatment in the United States has been based on Title 7 of the Code of Federal Regulations (7 CFR 318.13–4f, "Administrative instructions for approving an irradiation treatment as a condition for certification of papayas for movement from Hawaii"). This authorization is specific for a commodity, place of origin, and program, but is designed for a complex of fruit flies rather than a single pest. While routine commercial shipments were never realized under this regulation due to the lack of a treatment facility in Hawaii, the authorization has proven useful from the standpoint of beginning to establish policies for irradiation as a phytosanitary treatment in the United States.

Six years later, PPQ remains dedicated to using the most up-to-date, appropriate and least intrusive technology to provide quarantine security, and the need for alternative treatments and pest mitigation systems is greater than ever. Global trade pressures and the possible loss of methyl bromide as a fumigant for regulatory pest treatments make it imperative that practical treatment options be explored.

At the same time, irradiation treatment has matured significantly. Technological advances, greater experience, and an increasingly larger body of research indicate that irradiation has important potential as a treatment for quarantine pest problems.

It is in this light that PPQ now seeks to expand the regulatory framework addressing irradiation treatment and develop comprehensive policy statements that will facilitate the development and formalization of new treatments for phytosanitary applications. This policy statement provides a sketch from which final policies can be codified after broad review and input.

Position Summary

The regulations at 7 CFR 318.13–4f provide administrative instructions for an irradiation treatment as a condition for the certification of fresh papayas

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moving to the mainland States from Hawaii. These were the first regulations authorizing the use of irradiation as a quarantine treatment, and the regulations set a number of policy precedents. The regulations included the following five basic principles or policies for irradiation:

1. Requirement that irradiation facilities meet certain APHIS standards;
2. Monitoring based on inspection of treatment records and unannounced visits;
3. Policy that the Department is not responsible for damage resulting from intolerance to the prescribed dose;
4. Reliance on the authority and regulations of the United States Nuclear Regulatory Commission to ensure U.S. facilities are constructed and operated in a safe manner; and
5. Reliance on the authority and regulations of the United States Food and Drug Administration (FDA) to ensure irradiated foods are wholesome for human consumption.

The precedents described above remain valid to the extent that the same would apply to any new regulations developed by PPQ for the authorization of other treatments. However, additional clarity and completeness are necessary to address the range of commodity, pest, treatment, and operational issues potentially involved with the approval of irradiation treatments for phytosanitary problems. In addition, new information needs to be considered in adjusting existing policies, and program designs must be adapted to address the unique situations created by authorizing treatments conducted outside the United States. Therefore, in addition to the five policy precedents established by the existing regulations, APHIS has identified 28 additional policies, for a total of 33 policies relevant to irradiation.

The following are summary statements of the 28 additional policies and positions:

6. PPQ does not endorse the position that irradiation treatment should be the only replacement for methyl bromide. PPQ believes that there is adequate scientific evidence to show that irradiation provides an alternative treatment to be explored and developed, and PPQ recognizes that irradiation has potentially broad applications in the treatment of quarantine plant pests.

7. The highest priority for treatment approval is generally given to treatments deemed by PPQ to have the greatest potential immediate need, use, and benefit.

8. Treatment schedules approved by PPQ must have been demonstrated experimentally to achieve the level of efficacy required for a defined level of quarantine security.

9. To the extent possible, PPQ will ensure consistent requirements for both import and export authorizations, and align domestic requirements with foreign requirements as fairly as possible.

10. Specific authorizations for the use of irradiation as a phytosanitary treatment will initially be provided by PPQ on a case by case basis following a pest risk analysis, the evaluation of efficacy data, and the approval of operational protocols.

11. Irradiation may be used as a single treatment achieving quarantine security, or as part of a multiple treatment, or as a component in a pest mitigation system (systems approach).

12. Measures aimed at reducing pest presence prior to treatment are encouraged but will not be required for treatments achieving quarantine security. However, a very low initial infestation rate is important for enhancing the acceptance and use of irradiation as a treatment and for alleviating regulatory concerns arising from the detection of living pests in the irradiated product.

13. In those instances where pest organisms survive treatment, it is essential for quarantine purposes that the organism is unable to reproduce, and it is desirable for the organism to be unable to emerge from the commodity unless it can be easily distinguished from a non-irradiated pest of the same species.

14. Live stages of pest organisms, or their signs or symptoms, found in a commodity following a PPQ prescribed and approved irradiation treatment will be presumed by PPQ to have been effectively treated unless evidence exists to indicate that the integrity of the treatment was inadequate. PPQ may perform or require laboratory or other analyses on surviving pest organisms, or employ any available technology to verify efficacy. Authorizations may be suspended or modified and the requirements for system integrity may be adjusted based upon the results of such studies.

15. Ionizing energy (radiation) may be provided by radionuclides (gamma rays from cobalt-60 or cesium-137), electrons generated from machine sources, or by x-rays. PPQ is not concerned with specifically describing the requirements for equipment except to the extent that equipment used for plant quarantine treatments is capable of irradiating commodities to the specifications required for approved treatments.

16. Irradiation treatment must be carried out to ensure that the minimum absorbed dose (Dmin) required to assure quarantine security is fully attained throughout the commodity. The schedule process for Dmin must account for uncertainty associated with the dosimetry system employed.

17. Definition of the lower dose limit is essential to the approval of irradiation treatments for quarantine purposes. Definition of the upper dose limit is not critical to determining quarantine security, but is important from a quality standpoint and to identify potential problems with the FDA limit for the maximum dose for food (currently 1 kilogray - see 21 CFR 179.26). PPQ will not be concerned with defining the upper dose limit except to the extent that it is necessary to determine the feasibility of a particular treatment.

18. Treatments must be proven with adequate dosimetry in accordance with relevant internationally accepted standards, such as those published by the American Society for Testing and Materials (ASTM) or similar organizations. The dosimetry systems must be completely described, including records related to identifying specific suppliers, batches, processing dates, locations, and procedures as well as the means of calibration (reference dosimetry) used.

19. PPQ will confer with the Agricultural Research Service (ARS), United States Department of Agriculture (USDA) concerning the adequacy of treatment data, research protocols, and treatment design. ARS will identify or concur with the minimum dose for efficacy at the level defined by PPQ as providing quarantine security for a pest or complex of pests. Other experts may also be asked to provide input.

20. Dosages may be generic relative to a pest group or to a commodity.

21. PPQ may prescribe treatments with doses higher than what is indicated as effective by available data. This will be done to expedite the incorporation of new treatments while providing a measure of safety when PPQ and ARS judge the data to be inconclusive to the extent necessary for approving a less rigorous treatment. All treatments will be subject to amendment as new information is evaluated. PPQ expects that modifications to an existing treatment will be more easily and quickly accomplished than approval of a new treatment.

22. An irradiation program protocol, describing the details of a program surrounding a specific commodity treatment and facility processes (import or export, domestic or foreign), will be developed prior to the approval of a new facility or a new commodity for an existing facility.

23. Treatment facilities must be licensed by relevant national authorities. When not conflicting with national authority, compliance with the criteria of the International Inventory of Authorized Food Irradiation Facilities, established by the International Consultative Group on Food Irradiation (ICGFI), is also recommended for facilities treating food items.

24. Treatment facilities will be subject to the prior approval of PPQ and will be subject to periodic unannounced monitoring. Recertification by PPQ will be done on an annual basis or following repairs, modifications, or adjustments in equipment affecting the delivery of treatments. Source replenishment (in the case of radionuclide facilities) will require additional dose mapping.

25. Dose mapping of the product in every geometric packing configuration, arrangement, and product density that will be used during routine treatments will be required prior to PPQ approval of a facility. Dose mapping must be performed in accordance with relevant internationally accepted standards such as those published by ASTM or similar organizations.

26. The irradiation treatment can be applied as an integral part of packing operations, or it may be done at a central location such as the port of embarkation after packing or packaging. Treatment may also be performed at the port of arrival or a designated location in the destination country when safeguards are deemed by PPQ to be adequate and operationally feasible.

27. The irradiation treatment may be applied to bulk or continuous unpackaged commodities, or the commodities may be packaged at the time of treatment. If unpackaged or exposed in packaging,[1] commodities will require safeguarding immediately following treatment to ensure that they do not become reinfested or contaminated after treatment.

28. Treated and untreated commodities must be adequately segregated and handled under conditions that will safeguard against cross-infestation or mistaken identity. Appropriate procedures specific to each facility and commodity treatment program must be approved by PPQ in advance.

29. Direct PPQ supervision of treatment programs may not be necessary for programs deemed by PPQ to provide adequate system integrity. Minimum criteria include PPQ approval of the treatment facility, National Plant Protection Organization (NPPO) certification of treatments, and PPQ approval of a program protocol for system integrity. PPQ will directly and routinely verify the adequacy of treatment facilities. PPQ presence may also be necessary for the monitoring of related program activities and system integrity.

30. Requirements for program protocols and system integrity will be harmonized with FDA, the USDA Food Safety Inspection Service (FSIS), and other regulatory authorities to the extent possible.

31. Phytosanitary certificates issued in accordance with the International Plant Protection Convention (IPPC) may be used as official documentation verifying the successful completion of a treatment. Certificates must specifically identify the treated lot and record the prescribed minimum dose and the verified minimum dose. The maximum dose may also be required in order to comply with FDA requirements for some commodities.

32. PPQ is committed to harmonizing with other U.S. agencies, States, foreign counterparts, and regulatory bodies involved with the development, approval, and application of irradiation treatments for phytosanitary problems. PPQ will make every attempt to avoid overlap, conflict, and ambiguity associated with the relationship of PPQ regulations to those of other authorities.

33. PPQ is committed to increasing its own depth of understanding concerning irradiation as a treatment for phytosanitary problems and expanding its expertise for the approval of treatments and the certification of facilities.

[1] **Note:** Packaging materials may require FDA approval.

Research Protocols

General PPQ Requirements for the Acceptance of Irradiation as a Quarantine Treatment

Irradiation as a single treatment, part of a multiple treatment, or combined with other pest mitigation measures as a component of a systems approach, must have a scientifically demonstrated level of efficacy. The research necessary to demonstrate efficacy for PPQ begins with laboratory scale tests designed to provide results that can be analyzed statistically to hypothesize the parameters necessary to attain a defined level of quarantine security.

Unlike most other PPQ treatment approvals, irradiation treatments may not always require a second level of confirmatory testing to demonstrate that the treatment is efficacious under the conditions associated with the commercial treatment of the commodity. However, the equipment, processes, and dosimetry for any specific treatment facility must be approved and monitored by PPQ to ensure that commercial treatments comply with the parameters for approved treatments.

Judging the feasibility of treatments for commercial applications is outside the scope of PPQ's authority and responsibility. Likewise, concerns related to phytotoxicity and issues of quality are not the responsibility of PPQ. Therefore, primary responsibility falls upon the research and commercial sectors to ensure that treatments demonstrated to be efficacious against pests of quarantine concern are also practical for commercial use.

The efficacy of the treatment as demonstrated against naked pests in vitro is the primary criterion for approval in most cases,[2] but concurrent phytotoxicity studies are important and appropriate in order to determine the commercial feasibility of proposed treatments even though data of this nature will not normally be required by PPQ to demonstrate efficacy.

General Research Protocol

If Unknown, Determine the Pest or Pests That Are of Quarantine Significance and Would be Expected to be Found on or Within the Commodity at the Time of Export

Submit this information to PPQ for concurrence. PPQ will assess the risks associated with any quarantine significant pest or pests. Irradiation may serve as the means of mitigating the risks identified in the risk analysis process.

Determine the Most Tolerant Life-stage of the Pest(s) of Concern That Would be Encountered at the Time of Treatment

If not documented in the literature, this must be determined through research. Research to determine the most tolerant life-stage may be done with naked organisms outside the commodity. Submit this information to PPQ for concurrence.

Determine the Minimum Absorbed Dosage (Dmin) and the Type of Radiation Required to Maintain Quarantine Security

Experimental design must utilize sampling methods and sample sizes appropriate for statistical tests to be used. In some instances, efficacy may be

[2] The FDA establishes the maximum absorbed ionizing radiation dose for food (currently established at 1 kilogray for the disinfestation of food for arthropods—21 CFR 179.26). Irradiation treatments designed for the treatment of other than arthropods *in food* must receive FDA approval as well.

inferred from the literature for related species and commodities when complete laboratory investigations are not possible.[3] The means of calibration (reference dosimetry) must be described in detail and should be developed in accordance with relevant accepted standards, such as those published by ASTM or similar organizations. Submit the proposed experimental design to PPQ for concurrence.

Confirm That the Proposed Irradiation Dosage Will Provide Quarantine Security by Testing Large Numbers of Organisms

Submit the proposed experimental design to PPQ for concurrence. Analyze data statistically.

Analyze data statistically

Submit the proposed statistical methodology to PPQ for concurrence.

Describe Specific Conditions Necessary for Commercial Application of the Proposed Treatment Methodology. Specify Maximum and Minimum Absorbed Dose

Submit proposed treatment regime and conditions necessary for commercial-scale treatment to PPQ for review. This does not mean that commercial-scale testing is necessary, only that the conditions for commercial-scale treatments be described to PPQ prior to building a facility or configuring existing facilities for quarantine treatments. This provides PPQ the opportunity to address components of design, monitoring, safeguarding, and commodity handling that will be essential for the ultimate approval of a specific facility.

Specific Research Protocol: Quarantine Significant Fruit Flies

Quarantine security for a single treatment protocol will be defined as the prevention of adult emergence at the 99.9968 percent level with 95 percent confidence as demonstrated by a valid statistical method.

Specific Research Protocol: Quarantine Significant External Feeders, Hitchhikers, and Surface Contaminants

Quarantine security for a single treatment protocol will be defined as achieving 99.9968 percent sterility or mortality at the 95 percent confidence level, depending on the pest. Large scale or commercial confirmatory testing may be waived if satisfactory evidence can be presented showing that conditions in small scale testing are representative of commercial practices.

Specific Research Protocol: Quarantine Significant Systemic Organisms

Quarantine security for a single treatment protocol will be defined as achieving 99.9968 percent sterility or mortality[4] at the 95 percent confidence level, depending on the pest. Efficacy must be demonstrated with lab scale testing of organisms in host material.

System Integrity (Quality Assurance/ Quality Control)

Post-treatment safeguard methods are critical for irradiation treatments, as they are for many other commodity treatments, because the pest may continue to live and develop following treatment. As a result, confidence in the adequacy of irradiation treatment rests with the assurance that the treatment:

(a) Is efficacious against the pest under specific conditions, and

(b) Has been properly conducted and the commodity safeguarded.

To ensure condition (a) is met, strict research protocols and dosimetry requirements prevent lack of efficacy that would lead to treatment failure. Condition (b) is assured by well designed and closely monitored systems for treatment delivery and safeguards that assure system integrity.

This section addresses the policies being considered by PPQ for ensuring system integrity in the application of irradiation to phytosanitary problems. The focus of these policies is the achievement of quarantine security. Product quality is a commercial responsibility that must also be considered.

A. Pretreatment Conditions

Packers and treatment facility operators must keep complete records concerning sources (growers) supplying commodities for treatment. These records must be available for PPQ review in the event a trace-back is necessary. Trace-back capability is important when pests other than the target pests have been detected.

Untreated commodities and other agricultural products must be stored separately from treated commodities and appropriately marked. A fail-safe means of moving the commodity from receiving areas to treatment areas in a timely fashion and without mistaken identity or risk of cross-contamination is essential.

Packaging prior to irradiation is desirable to prevent reinfestation if irradiation is done at the export source, and to prevent the accidental escape of target pests at the destination if the treatment is applied at the destination.

B. Treatment Conditions

An accurate measure of absorbed dose is critical to determining and monitoring adequacy. The required number and frequency of these measurements will be prescribed by PPQ based on the specific equipment, processes, configurations, and commodities.

Approved, standardized dosimetry must demonstrate that the absorbed dose range, including areas of the minimum and maximum dose is well mapped, controlled, and recorded for specific pests, commodities, and equipment.

Dosimetry must consider variations due to density and composition of the material treated, variations in shape and size, variations in orientation of the product, stacking, volume, and packaging.

Absorbed dose must be measured using calibrated dosimeters approved in advance by PPQ. Dosimeters must be calibrated to a recognized national or international standard.

The number of dosimeters used shall be in accordance with relevant internationally accepted standards, such as those published by ASTM.

Complete dosimetry records must be kept by the treatment facility for at least 1 year after treatment. These records must be available to PPQ for review at any time.

Facilities and control procedures must have approval and licensing in conformance with local, national, and, where applicable, international regulatory bodies having authority over the particular situation or location. For non-U.S. locations, PPQ must judge these to be adequate and equivalent to U.S. standards.

Facilities must be certified by PPQ for use initially and at least annually. An increase or decrease in radioisotope or major modification to equipment that impacts the delivered dose must be reviewed by PPQ prior to recertification. Approval will be based on a common set of criteria plus those specific to the site and commodity programs. Significant variance in dose delivery (based on PPQ monitoring of dosimetry records) may provide the basis for requiring recertification.

Products not treated according to required schedules must be removed and discarded or otherwise eliminated from shipments for export. Retreatment is not allowed unless it can be demonstrated that there is a high degree of confidence that retreatment will not result in misidentification or cross-contamination, or conflict with other restrictions.

C. Post-treatment Conditions

Treated commodities must be protected from reinfestation by pest-proof packaging or other safeguards if treated outside the U.S.

Packages must be marked and labeled with treatment lot numbers and other identifying features allowing the identification of treatment lots and trace-back (packing and treatment facility identification and locations, dates of packing and treatment).

D. Documentation and Monitoring

A phytosanitary certificate will be accepted as certification of treatment. Minimum information to provide includes identification of the shipment by treatment lot and certification of the target minimum dose and the verified minimum absorbed dose.

The treatment operator must have reliable and probative evidence of correct treatment for each lot certified.

Regulatory Framework

Existing Regulations

Few PPQ treatments are specifically described within the Code of Federal Regulations (CFR). Most approved treatments are included in the PPQ Treatment Manual, which is incorporated into the CFR by reference.

An irradiation treatment for papayas from Hawaii is the only irradiation treatment currently approved by PPQ. This authorization is specific for a commodity, origin, and program but is designed for a complex of fruit flies rather than a single pest. The authorization has proven useful from the standpoint of beginning to establish policies for irradiation as a phytosanitary treatment in the United States.

Proposed Processes and Structure for New Regulations

The degree of sophisticated work and testing needed to develop and prove an irradiation treatment program make it essential that the criteria for approval be clearly understood in advance. A specific and comprehensive statement of policies combined with a pre-defined strategy for regulatory incorporation are essential to ensuring that the development and implementation of new treatments is not unduly stifled by regulatory requirements nor too liberal as to allow failures.

PPQ assumes that many additional requests for treatment approvals will be specific for pest-commodity-origin combinations and will include unique provisions for particular program parameters. Single pest treatments as well as broader targets, such as entire groups of pests, are likely to be explored. A number of individual authorizations corresponding to items within regulated commodity groups (such as fruits and vegetables or logs and lumber) will be necessary. There is also the potential for broad spectrum uses resulting in authorizations that cross the lines of existing regulated commodity groups. There is a need to provide general statements of policy and background requirements that pertain to all irradiation treatments. Any requirements concerning irradiation that APHIS develops will be promulgated through rulemaking published in the **Federal Register**.

The following is offered as a regulatory framework and policy communication strategy for irradiation treatment:

- Use draft position documents to solicit input in the development of policies and the collection of pertinent information.
- Use **Federal Register** publication and other methods to widely circulate policy statements.
- Use notice and comment rulemaking to propose and ultimately codify new treatments approved by PPQ.
- Commodity specific treatments may be incorporated through additions to the regulations specific to the commodity group (i.e., fruits and vegetables).
- Treatments with broader applications (either crossing the lines of regulated groups, or having broad spectrum pest effectiveness) may be incorporated into the CFR without being associated with an existing regulated group.

Needs and Unresolved Issues

There is a need to develop standards for conducting and reporting the findings of irradiation efficacy research for quarantine decision making, including:

—Confirmatory testing requirements with sufficient numbers to demonstrate quarantine security
—Standardized dosimetry and details concerning the methods used
—Information concerning the condition or viability of test organisms and survivors
—Information concerning the condition of the commodity before and after treatment
—Appropriate number of replications
—Appropriate methods of statistical analysis
—Criteria for combining data for different organisms or species
—Criteria for the substitution of organisms

There is a need for additional research on product tolerance, in order to:

—Establish tolerance ranges for more commodities
—Characterize treatment variables that affect phytotoxicity

There is a need for additional research on the efficacy of irradiation for other pests and diseases, including:

—Data supporting generic doses for commodity and pest groups
—Treatments for other arthropods, diseases, nematodes, noxious weeds
—Coordination with other quarantine and food safety concerns, i.e., animal products

Research is needed to develop methods to verify the adequacy of treatments, particularly a means for verifying that a live pest that has survived treatment has been adequately irradiated. This also requires development of dosimeters appropriate to the relatively low levels of irradiation used for quarantine treatments.

Research is needed to determine the conditions under which *in vitro* efficacy data can be considered acceptable in lieu of *in vivo* or *in situ* data.

There is a need to increase the number of facilities available for treatment research.

A coordinated system is needed for storing and accessing data associated with irradiation treatments for quarantine purposes.

There is a need for integration and coordination with food safety and other authorities involved in regulatory aspects of applying irradiation to agricultural commodities.

There is a need to identify critical control points for purposes of avoiding hazards (process failures) associated with treatment.

There is a need to determine the load required to have statistically meaningful results.

Finally, there is a need to develop estimates of the influence of climate or other environmental effects on the pest's susceptibility to irradiation treatment.

[3] Quarantine security may be defined in terms of mortality or in terms of other criteria that would ensure that survivors are not able to reproduce and are not confused with untreated pests encountered inside and outside the commodity. In the case of fruit flies, PPQ has established the criterion as "the non-emergence of adults," referring to interruption of the developmental sequence leading to an adult that can emerge from the commodity.

[4] **Note:** In general, sterility is more acceptable for organisms that remain in (or on) the host. Demonstrating the efficacy of treating organisms for sterility may be difficult to accomplish without full information on the factors favoring successful reproduction.

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Current Initiatives

1. Generic Doses for Fruit Flies

An exhaustive review of the scientific literature concerning the efficacy of irradiation treatments for fruit flies in fresh fruits and vegetables has been conducted by ARS with the goal of determining whether generic dosages could be recommended. An evaluation of the results by ARS and PPQ provided the basis for the commodity-generic dosages listed below.

Tephritid species	Common name	Min. absorbed dose (Gy)
Bactrocera dorsalis[5]	Oriental fruit fly	250
Ceratitis capitata	Mediterranean fruit fly	225
Bactrocera cucurbitae	Melon fly	210
Anastrepha suspensa	Caribbean fruit fly	150
Anastrepha ludens	Mexican fruit fly	150
Anastrepha obliqua	West Indian fruit fly	150
Anastrepha serpentina	Sapote fruit fly	150
Bactrocera tryoni	Queensland fruit fly	150
Bactrocera jarvisi	(No common name)	150

[5] Unless noted as *Bactrocera dorsalis* complex, *B. dorsalis* refers specifically to the species as described by R.A.I. Drew and D.L. Hancock (1994) "The *Bactrocera dorsalis* complex of fruit flies (Diptera: Tephritidae: Dacinae) in Asia." Bulletin of Entomological Research: Supplemental Series Number 2 in Supplement 2. CAB International, pp 68.

These dosages are generic in the sense that the prescribed dose is deemed appropriate regardless of the commodity. In cases where more than one of the listed species is of concern, the prescribed dose would be the dose for the most tolerant species. All doses are subject to adjustment based on the scientific evidence supporting a different dose.

2. Modification of 7 CFR 318.13–4f (Papaya From Hawaii)

The regulations at 7 CFR 318.13–4f have not been used for routine commercial shipments due to the lack of a treatment facility in Hawaii. Recently however, PPQ has been approached concerning the potential for modifying the existing regulations to allow for shipping to northern areas of the mainland U.S. for treatment, and to include tropical fruits such as lychee, rambutan, carambola, and cherimoya under a modification of the existing authorization for papaya.

Pest risk analyses have been done or are underway to determine if quarantine significant pests other than fruit flies are associated with other tropical fruits of interest. At the same time, PPQ has authorized a few experimental shipments from Hawaii to Chicago for treatment at the dose prescribed in the existing regulations.

Test shipments were authorized under strict safeguards and supervision. Each shipment was designed to provide PPQ with information and experience required to determine whether suitable program protocols could be developed and what conditions would be most appropriate. The results may provide sufficient basis for proposing modifications to the existing regulation.

3. Universal Treatment for Logs, Lumber and Unmanufactured Wood Products

Interest is high in exploring the potential to use irradiation as a means to address phytosanitary problems in raw wood products. Logs from Russia are the primary commercial focus at this time.

Russian researchers have conducted research and provided data in support of adopting a generic dose for treating raw logs. PPQ has formed a science panel consisting of scientists from APHIS, ARS, and the Forest Service to establish a research protocol, review data, and oversee the research effort toward a generic dose providing probit 9 mortality for all organisms of concern in logs from Russia. If approved, the treatment will be included among the universal treatment options in 7 CFR 319.40.

Definitions

Absorbed Dose

Quantity of radiation energy imparted per unit of mass of a specified material (D=de/dm). The mathematical relationship is the quotient of de by dm, where de is the mean energy imparted by ionizing radiation to matter of mass dm. The unit of absorbed dose is the gray (Gy) where 1 gray is equivalent to the absorption of 1 joule per kilogram (=100 rad).

Absorbed-Dose Mapping

Measurement of the absorbed-dose distribution within a process load through the use of dosimeters placed at specified locations.

Absorbed-Dose Rate

The absorbed dose in a material per incremental time interval, ie. the quotient of dD by dt (D=dD/dt). The unit for absorbed-dose rate is gray per second (Gy/s)

Dmax

The maximum absorbed dose within the process load.

Dmin

The minimum absorbed dose within the process load.

Dose Uniformity Ratio

Ratio of the maximum to the minimum absorbed dose within the process load. The concept is also referred to as the max/min dose ratio. U=Dmax/Dmin

Dosimeter

A device that, when irradiated, exhibits a quantifiable change in some property of the device which can be related to absorbed dose in a given material using appropriate analytical instrumentation and techniques.

Dosimetry System

A system used for determining absorbed dose, consisting of dosimeters, measurement instruments and their associated reference standards, and procedures for the system's use.

Efficacy (Treatment)

Capability of a treatment to produce a defined, measurable, and reproducible effect on pests.

Fruit Flies

Quarantine significant species of Tephritidae.

Gray (Gy)

Unit of absorbed dose where 1 Gy is equivalent to the absorption of 1 joule per kilogram.
1 Gy = 1 J/kg

Formerly, the special unit for absorbed dose was the rad 1 rad = .01 J/kg = .01 Gy*Ionizing radiation.*

Any type of radiation consisting of charged particles or uncharged particles, or both, that as a result of physical interaction, creates ions by either primary or secondary processes. Charged particles could be positive or negative electrons, protons, or other heavy ions, and uncharged particles could be X-rays, gamma rays, or neutrons. (Note: positive electrons, protons, heavy ions, or neutrons are not approved for food irradiation.)

Irradiation

The purposeful application of ionizing radiation (gamma rays, x-rays, or electrons) to a product (device or material) to achieve a desired benefit. Gamma rays in commercial irradiation come from radioactive cobalt-60 (^{60}Co) or cesium-137 (^{137}Cs). X-rays (technically referred to as bremsstrahlung) are obtained using high energy electrons from an electron accelerator striking a target. Electrons from an accelerator can also be used to penetrate the product directly.

Kilogray (kGy)

Measure of absorbed dose. 1kGy = 1,000 Gy

Label Dosimeter

A device that can be affixed to an article to be irradiated, and which exhibits a quantifiable change in property which can be related to absorbed dose. This change in property can be measured in situ. (Note: as of 1994, no such devices that have the properties of a dosimeter are commercially available for the levels appropriate to quarantine treatments.)

Measurement Traceability

The ability to demonstrate and document on a continuing basis that the measurement results from a particular measurement system are in agreement with comparable measurement results obtained with a national standard (or some identifiable and accepted standard) to a specified uncertainty.

Pest (Plant)

Any biotic agent capable of causing damage to plants or plant products.

Phytosanitary Treatment

Subjecting or exposing a plant or plant product to a process, action, chemical or a physical influence proved to have a measurable deleterious effect on pest organisms.

Probit 9 (Mortality)

A statistical estimation of 99.99683 percent mortality in a population of live organisms, corresponding to a survival rate of 32 individuals per million.

Process Load

A volume of material with a specified loading configuration irradiated as a single entity.

Quarantine Security

A management decision concerning the safety of a defined level of pest risk. Additional mitigation is not required when quarantine security is achieved.

Rad (rad or Radiation Absorbed Dose)

Special unit for absorbed dose that is being superseded by the gray (Gy)

1 rad = 0.01 J/kg = 0.01 Gy

1 kilorad (krad) = 10 J/kg = 10 Gy

1 megarad (Mrad) = 1,000 J/kg = 1,000 Gy = 10 kGy

1Gy = 100 rads

1 kilogray = 100,000 rads

Radiation-Sensitive Indicators

Materials such as coated or impregnated adhesive-backed substrates, inks, or coatings that may be affixed to, or printed on the irradiation container and that undergo a visual change when exposed to ionizing radiation. These indicators, sometimes referred to as go/no-go indicators, are not dosimeters and are not a substitute for proper dosimetry.

Systems Approach

A combination of multiple safeguards, treatments or other mitigation measures. At least two mitigation measures must act independently to reduce risk.

Validation

Establishing documented evidence that provides a high degree of assurance that a specific process will consistently produce a product (quarantine security) meeting its predetermined specifications and quality characteristics.

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, 371.2(c).

Done in Washington, DC, this 8th day of May 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–12185 Filed 5–14–96; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL RESERVE SYSTEM

12 CFR Part 211

[Regulation K; Docket No. R–0911]

International Banking Operations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This final rule amends the provisions of Regulation K regarding interstate banking operations of foreign banking organizations. The Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Interstate Act) removed geographic restrictions on interstate banking by foreign banks effective September 29, 1995, and requires certain foreign banks without U.S. deposit-taking offices to select a home state for the first time. The final rule requires these foreign banks to select a home state by June 30, 1996, and removes outdated restrictions on certain mergers by U.S. bank subsidiaries of foreign banks outside the home state of the foreign bank. Obsolete and superseded provisions of Regulation K concerning home state selection also are deleted.

EFFECTIVE DATE: May 9, 1996.

FOR FURTHER INFORMATION CONTACT: Ann E. Misback, Managing Senior Counsel (202/452–3788), Douglas M. Ely, Senior Attorney (202/452–5289), Andres L. Navarrete, Attorney (202/452–2300), Legal Division; Michael G. Martinson, Assistant Director (202/452–3640), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For users of Telecommunication Device for the Deaf [TDD] *only*, please contact Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

The Interstate Act amended section 5 of the International Banking Act of 1978 (IBA), which governs interstate banking and branching operations of foreign banks. The Interstate Act also amended the Bank Holding Company Act of 1956 (BHC Act), the Federal Deposit Insurance Act and several other statutes regarding interstate banking operations of bank holding companies, national banks and state banks. In order to implement certain of these changes, the final rule amends the provisions of Regulation K regarding interstate banking operations of foreign banking organizations (12 CFR 211.22).

On December 26, 1995, the Board of Governors of the Federal Reserve

System (the Board) requested public comment on a proposed rule (the Proposed Rule) that would require foreign banks with only agencies and subsidiary commercial lending companies in the United States to select a home state, or have a home state designated by the Board. 60 FR 67100. The Proposed Rule also would remove a restriction on the ability of foreign banks to effect major bank mergers through U.S. subsidiary banks located outside the foreign banks' home states, and would delete certain outdated rules governing home state selection.

The comment period ended on February 5, 1996. The Board received a single public comment on the Proposed Rule from a trade association. The Board has considered the comment and has made changes to address it in the final rule. Except as discussed below, the Board's final rule remains unchanged from the Proposed Rule. In addition, the Board requested and received comments on other aspects of the Interstate Act as it applies to foreign banks. The Board will consider these comments in connection with future review of the provisions of Regulation K concerning the interstate operation of foreign banks.

The commenter generally supported the provisions of the Proposed Rule, including its provisions requiring certain foreign banks to select a home state as contemplated by the Interstate Act. The commenter suggested, however, that the deadline for home state selection by these banks be 60 days from the publication of the final rule, rather than March 31, 1996, as proposed in the Proposed Rule. The commenter requested this extension in order to give these banks adequate time to assess the consequences of their decision.

Although the Interstate Act removed the geographic restrictions of the IBA on the interstate acquisition of banks by foreign banks, the home state of a foreign bank continues to affect its options for establishing additional branches in the United States under the IBA. In particular, the location of a foreign bank's home state is a factor determining the ability of the foreign bank to establish further interstate branches pursuant to section 5 (a)(1) and 5 (a)(2) of the IBA, as amended by the Interstate Act. 12 U.S.C. § 3103 (a)(1), (a)(2).

Accordingly, the final rule allows additional time for home state selection by establishing June 30, 1996, as the deadline for such selection. This extension affords foreign banks affected by the rule ample time in which to make an informed home state selection.

The proposed rule provided that, in the event a foreign bank required to select a home state fails to do so, the Board would exercise its authority to determine a foreign bank's home state. In such cases, the Board generally will designate as a foreign bank's home state the state in which the total assets of all its offices, net of claims on affiliates or other offices of the foreign bank, is the largest, as reflected in the foreign bank's most recent report of condition, unless other circumstances warrant designation of a different home state.

Paperwork Reduction Act

In accordance with section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the rule.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), the Board certifies that the final rule would not have a significant economic impact on a substantial number of small entities that are subject to its regulation.

List of Subjects in 12 CFR Part 211

Exports, Federal Reserve System, Foreign banking, Holding companies, Investments, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Board amends 12 CFR Part 211 as set forth below:

PART 211—INTERNATIONAL BANKING OPERATIONS (REGULATION K)

1. The authority citation for Part 211 continues to read as follows:

Authority: 12 U.S.C. 221 *et seq.*, 1818, 1841 *et seq.*, 3101 *et seq.*, 3901 *et seq.*

2. In § 211.22, paragraph (a) is revised; paragraph (c) is removed; and paragraph (d) is redesignated as paragraph (c) to read as follows:

§ 211.22 Interstate banking operations of foreign banking organizations.

(a) *Determination of home state.* (1) A foreign bank (except a foreign bank to which paragraph (a)(2) of this section applies) that has any combination of domestic agencies or subsidiary commercial lending companies that were established before September 29, 1994, in more than one state and have been continuously operated shall select its home state from those states in which such offices or subsidiaries are located. A foreign bank shall do so by filing with the Board a declaration of home state by June 30, 1996. In the absence of such selection, the Board shall designate the home state for such foreign banks.

(2) A foreign bank that, as of September 29, 1994, had declared a home state or had a home state determined pursuant to the law and regulations in effect prior to that date shall have that state as its home state.

(3) A foreign bank that has any branches, agencies, subsidiary commercial lending companies, or subsidiary banks in one state, and has no such offices or subsidiaries in any other states, shall have as its home state the state in which such offices or subsidiaries are located.

* * * * *

By order of the Board of Governors of the Federal Reserve System, May 9, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–12134 Filed 5–14–96; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 522, and 556

Animal Drugs, Feeds, and Related Products; Gentamicin Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the following actions on two new animal drug applications (NADA's) held by Schering-Plough Animal Health: The combination of two NADA's into one and the withdrawal of the other, the codification of a supplemental NADA approved by letter, the approval of a supplemental NADA that provides for the use of two higher product concentrations at the same dosage and for the same indications, and the addition of a tolerance for residues of gentamicin in chickens.

The approved, combined, and supplemented NADA provides for use of gentamicin sulfate injection for the prevention of early mortality of day-old chickens and 1- to 3-day-old turkeys due to certain infections susceptible to gentamicin.

EFFECTIVE DATE: May 15, 1996

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1644.

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health, Schering-Plough Corp., P.O. Box 529, Kenilworth, NJ 07033, has requested that NADA 47–486 Garasol® Injection (5 milligrams gentamicin per milliliter (mg/mL) for turkeys) be included in NADA 101–862 Garasol® Injection (50 and 100 mg/mL for chickens). The NADA's are combined as NADA 101–862. NADA 47–486 is withdrawn. Schering-Plough also filed supplemental NADA 101–862 providing for the use of 50 and 100 mg/mL gentamicin sulfate injection for turkeys at the same dosage and for the same indications as currently approved. The supplement is approved as of March 28, 1996. In addition, supplemental NADA 101–862 was approved on July 27, 1983, for the use of a 100 mg/mL injection in day-old chickens. However, this approval was not codified. At this time the regulation in § 522.1044 (21 CFR 522.1044) is amended to codify use of the 100 mg/mL injection in day-old chickens. Although the use was approved in chickens as well as turkeys, the regulations were not amended to provide for a tolerance for gentamicin residues in chickens. The regulations in 21 CFR 556.300 are amended to provide for tolerances for gentamicin residues in chickens as well as turkeys.

The approved, combined, and supplemented NADA 101-862 provides for use of Garasol® Injection (50 and 100 mg/mL gentamicin sulfate injection) in day-old chickens for the prevention of early mortality caused by *Escherichia coli, Salmonella typhimurium,* and *Pseudomonas aeruginosa* susceptible to gentamicin, and for use of Garasol® Injection (5, 50, and 100 mg/mL gentamicin sulfate injection) in 1- to 3-day-old turkeys for the prevention of early mortality due to *Arizona paracolon* infections susceptible to gentamicin.

In § 522.1044(d)(2)(i), the regulation is editorially amended to reflect the language used in § 522.1044(d)(3)(i).

Also, American Scientific Laboratories, A Division of Schering Corp., has been incorporated into Schering-Plough Animal Health, Schering-Plough Corp. Therefore, 21 CFR 510.600(c) is amended to remove the entries for American Scientific Laboratories, drug label code 000138.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 522, and 556 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for "American Scientific Laboratories" and in the table in paragraph (c)(2) by removing the entry for "000138".

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

4. Section 522.1044 is amended by revising paragraphs (b), (d)(2)(i), and (d)(3)(i) to read as follows:

§ 522.1044 Gentamicin sulfate injection.

(b) *Sponsors.* (1) See No. 000061 in § 510.600(c) of this chapter for use of: 5-milligrams-per-milliliter solution in swine as in paragraph (d)(4) of this section, 50-milligrams-per-milliliter solution in dogs and cats as in paragraph (d)(1) of this section, 50- and 100-milligrams-per-milliliter solution in chickens and turkeys as in paragraphs (d)(2) and (d)(3) of this section.

(2) [Reserved]

* * * * *

(d) * * *

(2) Turkeys—(i) *Amount.* One milligram of gentamicin per 0.2 milliliter dose, using the 50- or 100-milligrams-per-milliliter product diluted with sterile saline to a concentration of 5 milligrams-per-milliliter.

* * * * *

(3) Chickens—(i) *Amount.* 0.2 milligram of gentamicin per 0.2 milliliter dose, using the 50- or 100-milligrams-per-milliliter product diluted with sterile saline to a concentration of 1.0 milligram-per-milliliter.

* * * * *

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

5. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: Secs. 402, 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 360b, 371).

§ 556.300 [Amended]

6. Section 556.300 *Gentamicin sulfate* is amended in paragraph (a) by adding the phrase "chickens and" after "tissues of".

Dated: April 26, 1996.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 96–12154 Filed 5–14–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Parts 520 and 556

Animal Drugs, Feeds, and Related Products; Liquid Sul-Q-Nox (Sodium Sulfaquinoxaline Solution)

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by I. D. Russell Co. Laboratories. The supplemental NADA provides for safe and effective use of a sodium

sulfaquinoxaline solution in medicating the drinking water of chickens, turkeys, calves, and cattle for either control or control and treatment of certain coccidial or bacterial diseases susceptible to sulfaquinoxaline. The approval reflects compliance with results of the National Academy of Sciences/ National Research Council (NAS/NRC), Drug Efficacy Study Group's (DESI) evaluation of the drug's effectiveness and FDA's conclusions concerning that evaluation. FDA is also amending the regulations to codify a tolerance for sulfaquinoxaline residues in edible tissues of chickens, turkeys, calves, and cattle.

EFFECTIVE DATE: May 15, 1996.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1623.

SUPPLEMENTARY INFORMATION: I. D. Russell Co. Laboratories, 1301 Iowa Ave., Longmont, CO 80501, is the sponsor of NADA 6–891 which provides for the use of 34-percent Liquid Sul–Q–Nox (sodium sulfaquinoxaline solution). The drug product is used to medicate the drinking water of: (1) Chickens as an aid in the control of outbreaks of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima,* and *E. brunetti*; (2) turkeys as an aid in the control of outbreaks of coccidiosis caused by *E. meleagrimitis* and *E. adenoeides*; (3) chickens and turkeys as an aid in the control of acute fowl cholera caused by *Pasteurella multocida* susceptible to sulfaquinoxaline and fowl typhoid caused by *Salmonella gallinarum* susceptible to sulfaquinoxaline; and (4) calves and cattle for the control and treatment of outbreaks of coccidiosis caused by *E. bovis* or *E. zurnii*. The NADA was originally approved as safe on April 28, 1949.

In the **Federal Register** of July 9, 1970 (35 FR 11069), FDA published the results of a NAS/NRC DESI evaluation of several sulfaquinoxaline-containing veterinary drug products. The list of drug products included solutions which are similar to the subject solution. In that document, NAS/NRC evaluated the products as "Probably effective as an aid in prevention and control of outbreaks of coccidiosis in chickens, turkeys, pheasants (and other game birds), cattle, and sheep (provided the specie of coccidia for the respective hosts are shown) * * *." Additionally, although it was inadvertently omitted from that document, NAS/NRC also evaluated such products as effective for control of acute fowl cholera in chickens, turkeys, pheasants, and other game birds and as effective for the control of fowl typhoid in chickens and turkeys. FDA concurred with the NAS/NRC findings.

The NAS/NRC evaluation was concerned only with the drugs' effectiveness and safety to the treated animal. It did not take into account the safety for human food use of food derived from drug-treated animals.

Subsequently, in the **Federal Register** of January 28, 1983 (48 FR 3962 at 3964), FDA established several sections for sulfaquinoxaline-containing drugs, including § 520.2325a (21 CFR 520.2325a), which specify those conditions of use found to be effective by NAS/NRC and FDA.

I. D. Russell Co. Laboratories has submitted information to comply with the NAS/NRC and FDA findings and has revised its labeling to conform to the currently approved conditions of use in § 520.2325a. On that basis, the subject supplemental NADA was approved as of March 6, 1996, and § 520.2325a is now amended to reflect the approval. The basis for this approval is discussed in the freedom of information summary.

Also, the section is amended to remove reserved paragraphs (a) and (b), to add a "related tolerances" paragraph, and to add a warning against use of sulfaquinoxaline-medicated drinking water in veal calves. The latter is part of a general effort to distinguish between ruminating and preruminating calves based on information indicating that withdrawal periods established in ruminating calves may not be adequate for preruminating calves.

Furthermore, the regulation contains an outdated paragraph citing the NAS/NRC status of these products. The Generic Animal Drug and Patent Term Restoration Act of 1988 changed that status. Therefore, the NAS/NRC paragraph is removed at this time.

Finally, the animal drug regulations are amended because FDA has noted that a tolerance for sulfaquinoxaline residues in edible tissues has not been codified. The tolerance for sulfaquinoxaline residues in all edible tissues from chickens, turkeys, calves, and cattle is 0.1 part per million (ppm). When sulfaquinoxaline was approved, a negligible tolerance of 0.1 ppm in all edible tissues was applied to animal drug residues based on subchronic (90-day) toxicological studies. This "negligible tolerance" concept is based on two precepts: (1) The residues are present at a level of insignificance and (2) the safety of the residues is supported by limited toxicological data. The toxicological data available for sulfaquinoxaline (90-day dog study) permit a tolerance for sulfaquinoxaline residues in edible tissues of 0.1 ppm. Therefore, this tolerance is being codified in new § 556.685.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval for food-producing animals does not qualify for marketing exclusivity because the supplemental application does not contain reports of new clinical or field investigations (other than bioequivalence or residue studies) and new human food safety studies (other than bioequivalence or residue studies) essential to the approval and conducted or sponsored by the applicant.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 520

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520 and 556 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 520.2325a is amended by removing paragraph (d); by redesignating paragraphs (c), (e), and (f) as paragraphs (a), (c), and (d), respectively; by revising newly redesignated paragraph (a); by amending newly redesignated paragraph (d) by adding two new sentences after the fifth sentence; and by adding a new paragraph (b) to read as follows:

§ 520.2325a Sulfaquinoxaline drinking water.

(a) *Sponsor.* See § 510.600(c) of this chapter for identification of the sponsors.

(1) No. 050749 for use of a 25-percent soluble powder and a 20-percent solution as provided for in paragraph (c) of this section.

(2) No. 060594 for use of 3.44- and 12.85-percent solutions as provided for in paragraphs (c)(1), (c)(2), (c)(3), (c)(4)(i), and (c)(4)(ii) of this section.

(3) No. 017144 for use of a 34-percent solution as provided for in paragraphs (c)(1), (c)(2), (c)(3), (c)(4)(i), and (c)(4)(ii) of this section.

(b) *Related tolerances.* See § 556.685 of this chapter.

* * * * *

(d) *Limitations.* * * * A withdrawal period has not been established for sulfaquinoxaline in preruminating calves. Do not use in calves to be processed for veal. * * *

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

3. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: Secs. 402, 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 360b, 371).

4. New § 556.685 is added to subpart B read as follows:

§ 556.685 Sulfaquinoxaline.

A tolerance of 0.1 part per million is established for negligible residues of sulfaquinoxaline in the uncooked edible tissues of chickens, turkeys, calves, and cattle.

Dated: April 15, 1996.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 96–11927 Filed 5–14–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Parts 520 and 558

Animal Drugs, Feeds, and Related Products; Monensin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of supplemental new animal drug applications (NADA's) filed by Elanco Animal Health, Division of Eli Lilly and Co., Moorman Manufacturing Co., and Farmland Industries, Inc. Elanco's supplemental NADA provides for use of monensin Type C medicated feeds fed to pasture cattle weighing less than 400 pounds (lb) for increased rate of weight gain. Moorman's and Farmland's supplemental NADA's provide for use of monensin blocks for pasture cattle weighing less than 400 lb for increased rate of weight gain.

EFFECTIVE DATE: May 15, 1996.

FOR FURTHER INFORMATION CONTACT: Jack Caldwell, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1638.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, Division of Eli Lilly and Co., Lilly Corporate Center, Indianapolis, IN 46285, filed supplemental NADA 95–735, which provides for use of monensin Type A medicated articles to make monensin Type C medicated feeds containing 25 to 400 grams per ton monensin as monensin sodium to be fed at 50 to 200 milligrams per head per day to pasture cattle (slaughter, stocker, feeder, and dairy and beef replacement heifers) weighing less than 400 lb for increased rate of weight gain. Moorman Manufacturing Co., Quincy, IL 62301, filed supplemental NADA 115–581, and Farmland Industries, Inc., Kansas City, MO 64116, filed supplemental NADA 118–509, providing for free-choice feeding of monensin blocks, all to pasture cattle weighing less than 400 lb for increased rate of weight gain.

The supplemental NADA's provide for removal of the restriction concerning feeding of the products to animals weighing less than 400 lb body weight as currently approved. The supplemental NADA's are approved as of March 15, 1996, and the regulations are amended in 21 CFR 520.1448a(c) and 558.355(f)(3)(iii) and (f)(3)(v) to reflect the approvals. The basis for approval is discussed in the freedom of information summary for Elanco's supplemental NADA 95–735.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), approval of Elanco Animal Health's supplemental NADA 95–735 qualifies for 3 years of marketing exclusivity beginning March 15, 1996, because the supplement contains reports of new clinical or field investigations (other than bioequivalence or residue studies) essential to the approval and conducted or sponsored by the applicant. Marketing exclusivity applies only to the new use of the product.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), approval of Moorman's supplemental NADA 115–581 and Farmland's supplemental NADA 118–509 do not qualify for marketing exclusivity because the supplements do not contain reports of new clinical or field investigations (other than bioequivalence or residue studies) or new human food safety studies (other than bioequivalence or residue studies) essential to the approval and conducted or sponsored by the applicant.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The basis of approval of Moorman's and Farmland's supplemental NADA's are by authorization to reference data and information in Elanco's supplemental NADA 95–735. Therefore, a freedom of information summary of the data and information required for approval of these NADA's is available under Elanco's supplemental NADA 95–735.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 520

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520 and 558 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.1448a [Amended]

2. Section 520.1448a *Monensin blocks* is amended in paragraph (c)(4)(iii) by removing the phrase "weighing more than 400 pounds".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.355 [Amended]

4. Section 558.355 *Monensin* is amended in paragraph (f)(3)(iii)*(b)* and (f)(3)(v)*(b)* by removing the phrase "weighing more than 400 pounds".

Dated: April 4, 1996.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 96–12156 Filed 5–14–96; 8:45 am]

BILLING CODE 4160–01–F

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2619 and 2676

Valuation of Plan Benefits in Single-Employer Plans; Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Amendments Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal. The former regulation contains the interest assumptions that the PBGC uses to value benefits under terminating single-employer plans. The latter regulation contains the interest assumptions for valuations of multiemployer plans that have undergone mass withdrawal. The amendments set out in this final rule adopt the interest assumptions applicable to single-employer plans with termination dates in June 1996, and to multiemployer plans with valuation dates in June 1996. The effect of these amendments is to advise the public of the adoption of these assumptions.

EFFECTIVE DATE: June 1, 1996.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: This rule adopts the June 1996 interest assumptions to be used under the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619, the "single-employer regulation") and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676, the "multiemployer regulation").

Part 2619 sets forth the methods for valuing plan benefits of terminating single-employer plans covered under title IV of the Employee Retirement Income Security Act of 1974, as amended. Under ERISA section 4041(c), all single-employer plans wishing to terminate in a distress termination must value guaranteed benefits and "benefit liabilities," *i.e.*, all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619, subpart C. (Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required.) In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart C formulas to determine the amount of the plan's underfunding. Part 2676 prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of ERISA.

Appendix B to part 2619 sets forth the interest rates and factors under the single-employer regulation. Appendix B to part 2676 sets forth the interest rates and factors under the multiemployer regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The PBGC issues two sets of interest rates and factors, one set to be used for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. The same assumptions apply to terminating single-employer plans and to multiemployer plans that have undergone a mass withdrawal. This amendment adds to appendix B to parts 2619 and 2676 sets of interest rates and factors for valuing benefits in single-employer plans that have termination dates during June 1996 and multiemployer plans that have undergone mass withdrawal and have valuation dates during June 1996.

For annuity benefits, the interest rates will be 6.20% for the first 20 years following the valuation date and 4.75% thereafter. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 5.00% for the period during which benefits are in pay status, 4.25% during the seven-year period directly preceding the benefit's placement in pay status, and 4.0% during any other years preceding the benefit's placement in pay status. The above annuity interest assumptions represent an increase (from those in effect for May 1996) of .20 percent for the first 20 years following the valuation date and are otherwise unchanged. The lump sum interest assumptions are unchanged from those in effect for May 1996.

Generally, the interest rates and factors under these regulations are in effect for at least one month. However, the PBGC publishes its interest assumptions each month regardless of whether they represent a change from the previous month's assumptions. The assumptions normally will be published in the **Federal Register** by the 15th of the preceding month or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on these amendments are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates and factors can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in single-employer plans whose termination dates fall during June 1996, and in multiemployer plans that have undergone mass withdrawal and have valuation dates during June 1996, the PBGC finds that good cause exists for making the rates and factors set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, parts 2619 and 2676 of chapter XXVI, title 29, Code of Federal Regulations, are hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B, Rate Set 32 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2619—Interest Rates Used to Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interest factors of the form $v^{o:n}$ (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49 (b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums (including the return of accumulated employee contributions upon death), the PBGC shall employ the values of i_t set out in Table I hereof as follows:

TABLE I

[Lump sum valuations]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
32	06–1–96	07–1–96	5.00	4.25	4.00	4.00	7	8

Annuity Valuations

In determining the value of interest factors of the form $v^{o:n}$ (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49 (b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart, the plan administrator shall use the values of i_t, prescribed in Table II hereof.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE II

[Annuity valuations]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t=	i_t	for t=	i_t	for t=
June 1996	.0620	1–20	.0475	>20	N/A	N/A

PART 2676—[AMENDED]

3. The authority citation for part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), 1441(b)(1).

4. In appendix B, Rate Set 32 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2676—Interest Rates Used to Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interest factors of the form $v^{o:n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13 (b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums, the PBGC shall use the values of i_t prescribed in Table I hereof. The interest rates set forth in Table I shall be used by the PBGC to calculate benefits payable as lump sum benefits as follows:

(1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is y years (y is an integer and $0<y\leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (y is an integer and $n_1<y\leq n_1+n_2$), interest rate i_2 shall apply from the valuation date for a period of $y-n_1$ years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (y is an integer and $y>n_1+n_2$), interest rate i_3 shall apply from the valuation date for a period of $y-n_1-n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

n_1 years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

TABLE I

[Lump sum valuations]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	$2i_2$	i_3	n_1	n_2
32	06–1–96	07–1–96	5.00	4.25	4.00	4.00	7	8

Annuity Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13 (b) through (i) and in determining the value of any interest factor used in valuing annuity benefits under this subpart, the plan administrator shall use the values of i_t prescribed in the table below.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE II

[Annuity valuations]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
June 1996	.0620	1–20	.0475	>20	N/A	N/A

Issued in Washington, DC, on this 9th day of May 1996.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 96–12125 Filed 5–14–96; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF EDUCATION

34 CFR Part 685

RIN 1840–AC19

William D. Ford Federal Direct Loan Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the William D. Ford Federal Direct Loan Program regulations to add the Office of Management and Budget (OMB) control number to a section of the regulations. The section contains information collection requirements approved by OMB. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The Secretary takes this action to inform the public that these requirements have been approved and affected parties must comply with them.

EFFECTIVE DATE: These regulations are effective on July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Rachel Edelstein, Program Specialist, Direct Loan Policy Group, Policy Development Division, U.S. Department of Education, 600 Independence Avenue SW. (Room 3053, ROB–3), Washington, D.C. 20202. Telephone (202) 708–9406. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Final regulations for the William D. Ford Federal Direct Loan Program were published in the **Federal Register** on December 1, 1995 (60 FR 61820). Compliance with information collection requirements in a section of these regulations was delayed until those requirements were approved by OMB under the Paperwork Reduction Act of 1995. OMB approved the information collection requirements in the regulations on November 24, 1995. The information collection requirements in these regulations will therefore become effective with all of the other provisions of the regulations on July 1, 1996.

Waiver of Proposed Rulemaking

It is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined under 5 U.S.C. 553(b)(B), that public comment on the regulations is unnecessary and contrary to the public interest.

List of Subjects in 34 CFR Part 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: May 8, 1996.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

The Secretary amends Part 685 of Title 34 of the Code of Federal Regulations as follows:

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

1. The authority citation for Part 685 continues to read as follows:

Authority: 20 U.S.C. 1087a *et. seq*, unless otherwise noted.

§ 685.209 [Amended]

2. Section 685.209 is amended by revising the OMB control number following the section to read as follows: "(Approved by the Office of Management and Budget under control number 1840–0672)."

[FR Doc. 96–11944 Filed 5–14–96; 8:45 am]

BILLING CODE 4000–01–P

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM95–4; Order No. 1110]

Rules of Practice and Procedure

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: This final rule sets forth amendments to the Commission's rules of practice and procedure that provide for expedited consideration of requests of the United States Postal Service to: conduct market tests of new postal services in order to develop information necessary to support a permanent mail classification change; adopt, on a provisional basis, mail classification and associated rate changes that supplement, but do not alter, existing rates and mail classifications; and adopt permanent but narrowly focused mail classification changes that supplement, but do not alter, existing rates and mail classifications. In addition to these amendments, the final rule adopts provisions that allow the Postal Service to use a multi-year test period for the purpose of demonstrating the financial viability of potential new services that are the subject of a concurrent Postal Service request.

EFFECTIVE DATE: These rules are effective May 15, 1996 through May 15, 2001.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, Legal Advisor, Postal Rate Commission, 1333 H Street NW., Suite 300, Washington DC 20268–0001 (telephone: 202/789–6820).

SUPPLEMENTARY INFORMATION: On October 27, 1995, the Commission published a notice of proposed amendments to its rules of practice and procedure designed to facilitate expedited consideration of Postal Service requests to: (1) Conduct market tests of new postal services in order to develop information necessary to support a permanent mail classification change; (2) adopt, on a provisional basis, mail classification and associated rate changes that supplement, but do not alter, existing rates and mail classifications; and (3) adopt permanent but narrowly focused mail classification changes that supplement, but do not alter, existing rates and mail classifications. The proposed amendments also include provisions that would permit the Postal Service to request the Commission's use of a multi-year test period for the purpose of demonstrating the financial viability of potential new services that are the subject of a concurrent Postal Service request. 60 FR 54981–89 (October 27, 1995). The Commission's proposed rules pursue specific recommendations of the Joint Task Force on Postal Ratemaking,[1] and are responsive to a majority of the initiatives requested by the Postal Service in a petition submitted to the Commission on April 13, 1995. Id. at 54981.

The Commission received 17 sets of comments in response to the Notice of October 27.[2] The commenters present divergent views on both the substance of the Commission's proposed rules and the propriety of adopting them in the current proceeding. Additionally, several commenters suggest that the Commission pursue other initiatives in this proceeding that were originally recommended by the Joint Task Force Report and proposed in the Postal Service's petition. In view of these diverse statements of position, it is appropriate to begin with a discussion of the considerations bearing on the Commission's determination to adopt new rules at this time in four areas, on a five-year trial basis.

[1] See Postal Ratemaking in a Time of Change: A Report by the Joint Task Force on Postal Ratemaking (June 1, 1992).

[2] The American Bankers Association, American Business Press, Advertising Mail Marketing Association, Direct Marketing Association, Inc., Dow Jones & Company, Inc., Federal Express Corporation, McGraw-Hill Companies, Inc., Major Mailers Association, Mail Order Association of America, Magazine Publishers of America, Newspaper Association of America, National Newspaper Association, the Commission's Office of the Consumer Advocate, Parcel Shippers Association, Time Warner, Inc., United Parcel Service, and the United States Postal Service submitted comments in response to the Notice. Some of these comments were not timely filed, primarily owing to extraordinarily adverse weather conditions on the date they were due. In order to avoid prejudice to any party who wished to comment, the Commission has considered all comments received.

I. Considerations Bearing on Adoption of Proposed Rules

In the Notice of Proposed Rulemaking published on October 27, the Commission announced its determination to promulgate draft rules which would implement a majority, but not all, of the seven procedural initiatives contained in the Postal Service's Petition of April 13, 1995. 60 FR 54981. The Commission found that four of the initiatives offered the greatest promise for procedural improvement in the near term. Accordingly, the Commission published draft rules of procedure governing market tests, limited-duration provisional service changes, minor classifications changes, and multi-year test periods for new services. With regard to the remaining three Postal Service initiatives—rules for limited scope rate cases, rate bands for competitive services, and Negotiated Service Agreements—the Commission concluded that their consideration should be deferred for various reasons, but stated that each of the areas merits further study and deliberation in subsequent proceedings. Id. at 54981, 54985.

The Deferred Postal Service Proposals

Several commenters ask the Commission to take up one or more of the three remaining initiatives, either in this proceeding or by initiating another rulemaking in the near future. Time Warner urges the Commission to reconsider the determination to defer consideration of rules for establishing rate bands for competitive services and rules providing for contract rates; Parcel Shippers Association comments that adoption of procedures allowing rate bands and negotiated service contracts is crucial to the competitive posture of the Postal Service. Advertising Mail Marketing Association, Dow Jones & Company, Magazine Publishers of America, and Mail Order Association of America comment in favor of initiating a proceeding in the near future to consider one or more of the three deferred initiatives. The Postal Service states that it would have preferred that all its proposals be addressed in this proceeding, but urges the Commission to issue a further rulemaking on the remaining initiatives now that Docket No. MC95–1 has been concluded.

The Commission continues to believe that limited scope rate cases, rate bands, and Negotiated Service Agreements present issues that are qualitatively

different from, and more difficult than, those in the four areas for which rules have been proposed. For this reason they will not be considered in the current proceeding. In addition to the unresolved legal and other issues cited in the Notice of October 27, *see* 60 FR 54985, consideration of rules in these three areas would necessarily involve an exploration of technical and other substantive issues. For example, development of a rule providing for rate bands would require consideration of the technical resources available to support adoption of a range of rates for competitive mail categories and to gauge the impact of their adoption, and appropriate filing requirements to support such requests. With regard to Negotiated Service Agreements, adoption of rules applicable to such special classifications would involve consideration of the objective criteria that would be required of a mailer to qualify for reduced contract rates.[3] The Commission is prepared to take up the issues raised by limited scope rate cases, rate bands, and Negotiated Service Agreements in a forthcoming rulemaking proceeding.

The Commission's Proposed Rules

One commenter—the Newspaper Association of America (NAA)—opposes adoption of most of the Commission's proposed amendments as unsound from a regulatory perspective. NAA urges the Commission to abandon the proposed rules for market tests, provisional services, and multi-year test periods because their adoption would violate the regulatory structure of the Postal Reorganization Act, unjustifiably advancing competitive considerations at the ultimate expense of captive monopoly ratepayers.

A particular problem raised by the proposed rules, according to NAA, "is who bears any potential losses from market tests of new services, provisional services, or from multi-year test periods." NAA Comments at 4–5. Were the Postal Service a private regulated utility, NAA observes, the Service's losses would be disallowed from its rate base, or at least segregated from the costs of monopoly services, and ultimately absorbed by its shareholders. In contrast, when the Service loses money, that loss is cumulated in the Prior Years' Losses component of the revenue requirement, and adds to the institutional costs of the Postal Service. As a result, NAA argues, any financial losses stemming from ill-advised or underpriced new services approved under the proposed rules would ultimately be shifted in large measure to monopoly mailers, thereby creating a cross-subsidy in contravention of the intent of Congress. Unless and until Congress makes fundamental changes in the Reorganization Act that would grant the Commission power to police the rate effects of Postal Service forays into competitive service—especially enhanced authority over the revenue requirement—NAA states that the proposed rules should not be adopted.

NAA's comments raise legitimate concerns regarding the possible impact of non-compensatory services upon other postal ratepayers, particularly monopoly mailers. The Commission agrees that new services adopted to meet competitive or other perceived needs must be offered at compensatory rates, and cannot be allowed to become a revenue burden on other categories of mail. However, the possibility that the Commission's proposed rules could become a vehicle for producing such results does not compel the conclusion that they should not be adopted. Rather, it is a reason for fashioning and applying the rules in a manner that will avoid this potential harm. Each of the proposed rules for introducing new services includes provisions that will serve to limit the potential negative financial impact of its application. Market tests will be limited in duration and typically will occur in only a few areas. Provisional services also will be limited in duration. Minor classification changes will be recommended only if their anticipated impact on overall postal costs and revenues is minor. Furthermore, in applying the rules the Commission will be bound, as always, by the requirement in § 3622(b)(3) to recommend rates that recover estimated costs and contribute to the institutional costs of the Postal Service.

National Newspaper Association (NNA) and other commenters raise a different general concern regarding the proposed rules: potential problems of due process associated with the 90- to 120-day procedural schedules established in the rules. NNA comments that the speed made necessary by the foreshortened decisional deadlines equates to advantage for the Postal Service as proponent, to exclusion of potential parties, to expense borne by parties who do participate, and to harm of the Commission's decisional process by limiting the time in which to develop an evidentiary record. NNA Comments at 3–4. The Commission's Office of the Consumer Advocate also identifies due process and evidentiary problems that could result from the abbreviated procedural schedules as its primary concerns regarding the rules. OCA asks the Commission to state explicitly that any new rules adopted in this proceeding will not be used to shift the burden of proof from the Postal Service or limit discovery. OCA Comments at 7–10. Similar concerns regarding particular proposed rules were voiced by American Bankers Association, McGraw-Hill, Newspaper Association of America, and United Parcel Service.

Procedural schedules of 90 or 120 days admittedly may impose some extraordinary demands on participants, but they are by no means impossible to meet, as the prompt litigation and deliberations in Docket No. MC96–1 demonstrate. The Reorganization Act directs the Commission to consider rate and classification change requests "promptly," and authorizes it to adopt rules "[i]n order to conduct its proceedings with utmost expedition consistent with procedural fairness to the parties." 39 U.S.C. § 3624(a), (b). The Commission has designed the rules adopted in this proceeding with features—such as registration and expedited notice provisions—to increase the feasibility of the prescribed decisional schedules. However, the Commission wishes to assure all parties that it will not allow these rules to be used to alter the normally applicable standards of proof, curtail legitimate discovery and hearing practice, or otherwise deprive interested parties of their procedural rights. It should also be borne in mind that in any proceeding conducted under the new rules, an affected participant may lodge a motion for extension of the procedural schedule, which the Commission will grant if it finds that an extension is required to provide due process.

Additionally, in light of the various concerns expressed by commenters about the operation of the proposed rules and their consequences, the Commission is including a "sunset" provision in each of the four components of the final rule, which will cause them to be reviewed or terminated within a five-year period.

II. Market Tests of Potential New Services

Applicability of Rule

Several parties filed comments suggesting changes which would enlarge applicability of the Commission's proposed market test rule. Both the Postal Service and Time Warner express support for a rule that would go beyond the Joint Task Force's recommendations by encompassing market tests of rate changes as well as market tests of new services. Federal Express Corporation comments that the rule should extend to tests of new international mail services, as well as domestic services; the National Newspaper Association suggests that non-postal services contemplated by the Postal Service should also be included. Finally, American Bankers Association suggests that a Postal Service request for a permanent change in mail classification should not be a pre-requisite for procedures that would authorize market tests of potential new services.

The final rule adopted by the Commission preserves the terms of applicability recommended by the Joint Task Force Report and incorporated in the proposed market test rule. As the Commission observed in the Notice of October 27, tests of pure rate changes in the usual selective form of market testing would necessarily raise questions of fairness and equity under 39 U.S.C. § 3622(b)(1) and of undue discrimination or preference among mail users under § 403(c). Comments provided in response to the October 27 Notice do not provide persuasive countervailing considerations that would justify inclusion of rate tests in the rule.[4] Similarly, in the absence of clear statutory bases for including market tests of international postal services and non-postal services to—which types of service none of the Commission's current rules applies—the Commission declines to extend the final rule into these areas. The Commission also declines to broaden the rule beyond the context contemplated by the Joint Task Force recommendation, namely, in connection with the filing of a request for a permanent change in mail classification. In the Commission's view, a "free-standing" market test rule would require a different set of procedures, and possibly additional forms of evidentiary support by the Postal Service.

As the preamble states, the final rule includes a new § 3001.161(b), which establishes a five-year sunset provision for the effectiveness of the market test rule.

Evidentiary Requirements

Several parties commented on the appropriateness of the evidentiary requirements applicable to market test proposals proscribed in proposed § 3001.162. The Postal Service commented generally that the proposed section requires the preparation and provision of too much information, and more particularly that the required estimate of the number of customers who will participate in the market test could be difficult to produce. In contrast, other commenters—including American Bankers Association, Newspaper Association of America, and National Newspaper Association—suggested that the Postal Service should be required to produce additional information to support proposed market tests.

The Commission's final rule maintains the evidentiary requirements of the proposed rule, with minor alterations to accommodate the concerns of commenters. The Commission continues to believe that the general standard declared in proposed § 3001.162, namely, the provision of "such information and data . . . as are necessary and appropriate fully to inform the Commission and the parties of the nature, scope, significance and impact of the proposed market test," establishes the appropriate standard of evidentiary support. In response to the Postal Service's comments, § 3001.162(g) of the final rule requires the Service to provide an estimate of the number of customers who will participate in the test "to the extent that such an estimate is practicable." Also, in order to implement Federal Express Corporation's proposal of a mechanism that would provide an alternative to rendering a "yes or no" decision on proposed market tests, § 3001.162(f) of the final rule adds a requirement that the Postal Service state the goals and objectives of the market test, and subsection (g) requires the Service to identify "those features of the proposed market test that, [in its opinion,] cannot be modified without significantly impairing the value of the test."

Rule for Decision

Proposed § 3001.164 provides for the Commission's issuance of a "yes or no" decision either in favor of or against the Postal Service's proposed market test. Several commenters—Federal Express Corporation, the Commission's Office of the Consumer Advocate, and United Parcel Service—question the consistency of this decisional standard with the exercise of the Commission's best judgment in performing its statutory responsibilities. As noted above, Federal Express proposes an alternative to a "yes or no" decisional standard: allowing the Postal Service to designate those elements of its proposed market test which cannot be modified without negating its value, and adopting a decisional standard which would preclude the Commission only from modifying those designated elements. The Commission would thereby retain the option of making necessary modifications in less essential elements of a proposed market test.

Upon consideration, the Commission believes that the mechanism proposed by Federal Express is preferable to restricting the Commission's decision to a blanket approval or rejection of a proposed market test. As noted in the Notice of October 27, the Commission's preference and practice has been to cure any identified inconsistencies with statutory policies or factors by recommending modifications, if they are feasible. 60 FR 54982. Yet, the Commission also noted, a recommendation to modify a market test in a manner that would depart significantly from postal management's plan "could jeopardize the timeliness of the test and seriously impair its usefulness." Ibid. Because the mechanism proposed by Federal Express would better accommodate these competing considerations, § 3001.164 of the final rule provides for issuance of a decision in accordance with the policies of the Reorganization Act, but without "modification of any feature of the proposed market test which the Postal Service has identified in accordance with § 3001.162(f)" as one that cannot be modified without significantly impairing the value of the test.[5]

Data Collection and Reporting Requirements

Several parties submitted comments addressing the data collection and reporting requirements specified in proposed § 3001.165, and the exemption from providing market test data afforded by proposed § 3001.166(b). The Postal Service comments that the provision requiring it to submit all test data to the Commission no later than 60 days following the conclusion of the test could prove to be an obstacle. McGraw-Hill suggests that the rule should be modified to require the Postal Service to report all test data collected. Similarly, United Parcel Service states that the rule

[3] By way of analogy, the Postal Service's rules applicable to International Customized Mail (ICM) service impose two objective qualifications on potential international contract ratepayers: minimum-volume qualifying criteria, and a single-point-of-origin criterion. International Mail Manual § 292; *see* 58 FR 29782.

[4] The Postal Service is, of course, free to request expedited consideration under special rules of practice in connection with any rate change request it may wish to submit.

[5] Commenter McGraw-Hill suggests an alternative mechanism which would provide for preliminary Commission advice to the Postal Service to modify unacceptable features of the proposed market test prior to rendition of a decision. While this proposal also has merit, the Commission anticipates that its implementation could significantly extend the 90-day schedule proposed by the Commission and adopted in the final rule.

should require periodic public reporting of the test data without exception.

The Commission's final market test rule retains the data collection and reporting provisions of the proposed rule. The 60-day requirement in § 3001.165 is intended to establish a benchmark for the Service's production of market test data in the proceeding to consider recommendation of the proposed service as a permanent mail classification; if the Postal Service encounters difficulty in meeting this deadline in a particular case, the Commission will entertain a motion for a reasonable extension. The Commission also continues to believe that an inflexible rule requiring the Postal Service to report all market test data on a periodic basis, without exception, would be insufficiently flexible to accommodate the Service's legitimate needs, especially with regard to services tested in a competitive field. Accordingly, the final rule continues to require production of all test data only if the Postal Service elects to pursue recommendation of the tested new service as a permanent mail classification.

Suspension, Continuation or Termination of Proceeding

Section 3001.166 of the Commission's proposed rule provides for Postal Service motions to suspend the proceeding to consider its request for a permanent mail classification change, and states that the Commission shall grant the motion "if, in the Commission's opinion, it would be reasonable under the circumstances to defer consideration of the request" until data to be produced by the market test becomes available. In its comments on this provision, the Postal Service states that the suspension of its request should be automatic.

The Commission is concerned that the Postal Service may have misunderstood the intent of this provision. It is not designed to compel the Service to litigate its proposal while the market test is being conducted. Rather, it is designed to preserve the opportunity to move forward in the consideration of the requested permanent change in mail classification if meaningful progress can be made, for the sake of expedition. Automatic suspension of the proceeding would foreclose this option. If no progress appears likely until information produced in the market test is available, the Commission will order a suspension.

III. Requests for Provisional Service Changes of Limited Duration

Applicability of Rule

Commenters raised two issues regarding applicability of a rule for provisional service changes: (1) whether such a rule would serve any independent purpose, given adoption of a market test rule; and (2) what the proper scope of a provisional service change rule should be.

Several commenters—including American Business Press, the Newspaper Association of America, the Commission's Office of the Consumer Advocate, and United Parcel Service—take the position that a rule for considering provisional service changes would perform no separately identifiable function, or that the concept of a "provisional service change" is too nebulous to warrant adoption of a rule. Notwithstanding these comments, the Commission continues to believe, as the Joint Task Force concluded, that a separate rule may be useful for considering certain types of service changes for which market testing would not be appropriate or adequate. While it would be impossible to foresee the full spectrum of such changes, the Commission anticipates that certain types of systemwide, seasonal, or special service changes would be more appropriately considered as provisional service changes, rather than as the subjects of market tests. Therefore, the final rule contains separate provisions for the expeditious consideration of provisional service changes.

However, the Commission declines to expand the rule to include provisional changes in rates or in the terms of existing mail classifications, as the Postal Service and Time Warner suggest in their comments. The Joint Task Force recommended that an expedited procedure for introducing provisional service changes "should be available, *under more restrictive terms,* for use in appropriate circumstances." Report at 52. [Emphasis added.] The "restrictive terms" include a limitation to "innovations * * * which supplement existing rates and classifications without altering any of them, so that customers could either try the new service or stick with the existing service menu, or both." Ibid. American Business Press, Newspaper Association of America, and McGraw-Hill express concern in their comments that the provisional service change rule could be used to restructure existing services under the guise of introducing a "new" service, or otherwise alter pre-existing service options. In order to address these concerns, and to implement the concept envisioned by the Joint Task Force, the Commission's final rule retains the proposed rule's limitation of applicability to proposed provisional services that "will supplement, but will not alter, existing mail classifications and rates for a limited and fixed duration." § 3001.171(a).

As the preamble states, the final rule includes a new § 3001.171(b), which establishes a five-year sunset provision for the effectiveness of the provisional service change rule.

Evidentiary Requirements

The Postal Service comments that the filing requirements contained in proposed § 3001.172 would increase the complexity of seeking a provisional service change, and would be likely to impair the expedition with which such changes could be adopted. American Bankers Association takes the position that the rule should require the Service to provide the maximum cost and revenue information available, in order to prevent shifting the cost burden of providing the provisional service to captive users of First-Class Mail.

The final rule maintains the filing requirements of the proposed rule. The Commission continues to believe that requiring the Service to provide a description of the salient features of a proposed provisional service change, together with an estimate of the effects of implementing it and all other available information responsive to the requirements in current § 3001.64, imposes a reasonable standard of evidence. If the Postal Service experiences difficulty in developing the required information, it may file a motion for waiver, or an explanation of unavailability as provided in § 3001.172(b). On the other hand, if a participant believes that critical information has not been produced, it may seek to compel its production through discovery and motions practice.

As with the market test rule, in order to implement Federal Express Corporation's proposal of a mechanism that would provide an alternative to rendering a "yes or no" decision on proposed provisional service changes, § 3001.172(a)(2) of the final rule adds a requirement that the Postal Service state its goals and objectives in introducing the provisional service, and subsection (a)(3) requires the Service to identify "those features of the proposed provisional service that, [in its opinion,] cannot be modified without significantly reducing the benefits of introducing the proposed service."

Rule for Decision

Proposed § 3001.174 provides for the Commission's issuance of a "yes or no" decision either in favor of or against the Postal Service's proposed provisional service change. Several commenters—Federal Express Corporation, the Commission's Office of the Consumer Advocate, and United Parcel Service—challenge this mode of decision, as they did with respect to market tests. Once again, Federal Express proposes an alternative that would allow the Postal Service to designate those elements of its proposed provisional service change which cannot be modified without negating its value, together with a decisional standard which would preclude the Commission only from modifying those designated elements.

Because the same decisional considerations are mutually applicable to market tests and provisional service changes, the Commission has decided to modify proposed § 3001.174 to provide for issuance of a decision in accordance with the policies of the Reorganization Act, but without "modification of any feature of the proposed service which the Postal Service has identified in accordance with § 3001.172(a)(2)."[6]

Data Collection and Reporting Requirements

Section 3001.175 of the proposed rule directs the Postal Service to collect and report data pertaining to a recommended provisional service during the period in which it is in effect. The section would allow the Service to satisfy these requirements either through its regular data collection and reporting systems, in combination with the Service's regularly filed periodic reports under 39 CFR § 3001.102, or by conducting and reporting the results of special studies on a corresponding schedule "to the extent reasonably practicable."

In its comments, the Postal Service "strongly objects" to the requirements in proposed § 3001.175. Comments at 19. The Service asserts that it is "neither necessary nor practical" to require it to modify its regular data reporting systems to include a provisional service, and that it is "unreasonable" to expect it to conduct special studies on a quarterly basis. Ibid. In the Service's view, data pertaining to a provisional service will not be germane until a record is developed for the purpose of determining whether to recommend the service as a permanent mail classification, and "[d]ata issues will receive a full airing then." Ibid.

The Postal Service's resistance to periodic data collection and reporting for recommended provisional services is, quite frankly, difficult to fathom. Under § 3001.171(a) of the final rule, a provisional service may be recommended for a duration of up to two years. The Postal Service collects and publicly reports cost and revenue data for all services it offers on at least an annual basis; there is no apparent justification for exempting a recommended provisional service from this practice. Proposed § 3001.175 does not require the Service to perform quarterly special studies for provisional services; it only cites § 3001.102 reporting requirements as a standard, and directs the Service to observe them "to the extent reasonably practicable." The final rule retains this reasonable standard of data collection and reporting.

IV. Expedited Consideration of Requests for Minor Mail Classification Changes

Applicability of Rule

Proposed § 3001.69 states that a requested mail classification change may be considered to be "minor in character," and therefore eligible for expedited consideration, if it would not involve a change in any existing rate or fee and: (a) involves only changes in eligibility standards or requirements applicable to mail classes or services; or (b) would only affect categories of service with low aggregate costs and revenues. Several commenters suggested that the section's standard of applicability should be clarified, or replaced with an alternative definition of "minor in character."

The Postal Service comments that the proposed rule's applicability criteria require further explanation; Direct Marketing Association regards the Commission's standards as an improvement over those in the Service's proposed rule, but observes that application in specific instances will present difficulties. American Bankers Association, Newspaper Association of America, National Newspaper Association, and McGraw-Hill challenge the proposed rule's definition of eligibility changes as "minor," drawing on experience in recent dockets such as MC95–1 to illustrate that putative eligibility changes may produce major impacts on users of the affected mail classification. Other commenters question the appropriateness of the "low costs and revenues" standard. OCA comments that the standard is ambiguous, and may be over-inclusive in light of past mail classification controversies that arguably involved low costs and revenues but required more extensive scrutiny. United Parcel Service comments that imposition of the "low costs and revenues" standard would tend to reduce scrutiny of classification changes in almost all the competitive subclasses. Advertising Mail Marketing Association comments that neither of the proposed rule's standards will serve to include minor classification changes and exclude major ones, and proposes an alternative two-part test that would treat a proposed change as "minor" if it:

(a) Does not materially alter the conditions of eligibility for the entry of mail in a particular subclass, or for a particular rate element or work sharing discount; and (b) does not materially increase or decrease the estimated or projected institutional cost contribution of the affected subclass.

AMMA Comments at 5–6.

Upon consideration of the parties' comments, the Commission agrees that the definition of "minor" classification changes in proposed § 3001.69 should be amended. Therefore, the Commission has re-drafted the applicability provisions to include only those proposed mail classification changes that are likely to be moderate in their impact both on mailers and on the postal system as a whole. The substitute retains the introductory clause precluding any change in existing rates or fees, and models two additional clauses on AMMA's suggested language, with one alteration: the clause concerning changes in conditions of eligibility has been modified to preclude only requests for more restrictive eligibility terms. Thus, proposals to make existing mail classifications more inclusive could be considered under the minor classification change provisions.

As the preamble states, the final rule includes a new § 3001.69(b), which establishes a five-year sunset provision for the effectiveness of the minor classification change rule.

Expedition of Procedural Schedule—Expedited Notice

Commenter McGraw-Hill suggests that the expedited procedures specified in proposed § 3001.69b should be supplemented to include registration and expedited notice provisions similar to those contained in the proposed market test rule [§ 3001.163(b)-(d)] and proposed rule for provisional service changes [§ 3001.173(b)-(d)]. McGraw-Hill comments that the inclusion of such conforming provisions "are

[6] McGraw-Hill once again proposes an alternative providing for preliminary Commission advice to the Postal Service to modify unacceptable features of the proposal prior to a decision. The Commission declines to adopt this mechanism on the same bases cited with respect to the market test rule.

justified by the short timeframes contemplated for the proceedings in question." McGraw-Hill Comments at 5.

The Commission agrees that inclusion of such provisions in the minor classification change rule is justified, and would be beneficial. Expedited notice of the Postal Service's filing of a request can be expected to enable interested parties to intervene, and initiate discovery if they so desire, earlier in the proceeding. Consequently, the final rule has been amended to add three new subsections to proposed § 3001.69b. New subsection (b) provides for registration with the Secretary of the Commission by persons who are interested in participating in minor classification change proceedings. These registrants will automatically become parties to each such proceeding, but they may withdraw at any time. New subsection (c) requires service of the Postal Service's complete filing by hand delivery to registrants with addresses within the Washington metropolitan area, and by Priority Mail to all other registrants. New subsection (d) requires the Postal Service to give notice by First-Class Mail of the filing of its request to all participants in the most recent omnibus rate proceeding. Service by Priority Mail and First-Class Mail have been substituted for Express Mail, which is required in the market test and provisional service change rules, in view of the potentially longer procedural schedule available in minor classification change proceedings, and to reduce the resulting burden on the Postal Service. Also, in order to enable the Service to identify the last day for parties' intervention in the notice required by new subsection (d), § 3001.69b(e) of the final rule has been modified to provide that the Commission's notice of proceeding "shall afford all interested parties 26 days after filing of the Postal Service's request within which to intervene[.]"

V. Multi-Year Test Periods for Proposed New Services

Applicability of Rule.

Several commenters question the terms under which proposed § 3001.181 would allow the Postal Service to use multi-year test periods for proposed new services. Newspaper Association of America, United Parcel Service, and McGraw-Hill take the position that the rule should not extend to permit test periods as long as five years, in light of the Postal Service's demonstrated limitations in producing forecasts in prior Commission proceedings. In contrast, the Postal Service comments that a five-year period may not be sufficient for some proposed services, and that the appropriate length of a test period should be determined on a case-by-case basis.

The final rule retains the declaration of a Commission policy in favor of test periods of up to five fiscal years. The Joint Task Force Report recommended the adoption of "rules providing for a multi-year break-even period of at least four or five years[,]" Report at 51, and the Commission accordingly has used five years as a policy benchmark. The Commission is well aware that Postal Service projections have usually been limited to two- or three-year horizons in postal rate and classification proceedings. However, the Commission is prepared to provide the Service with the opportunity to submit longer-range forecasts, and to use those projections if they prove to be credible. Furthermore, the Postal Service is free in any given proceeding to ask the Commission to expand its policy declaration, if it can furnish even longer-range projections that it believes to be reliable.

The Postal Service, Advertising Mail Marketing Association, and Direct Marketing Association oppose another portion of the Commission's policy declaration in proposed § 3001.181, which refers to "convincing substantial evidence in support of the test period proposed." These commenters challenge the quoted language on the ground that it would subject the Postal Service's evidence in support of a multi-year test period to a higher standard of proof than the "substantial evidence" standard of evidentiary support commonly required of administrative decisions. The Postal Service suggests that this language "be eliminated as unjustified and unnecessary." Postal Service Comments at 25.

The proposed rule's use of the phrase "convincing substantial evidence" in the policy declaration was not intended to establish an extraordinary evidentiary standard for application to the Postal Service's test year projections; it was only intended to declare a policy in favor of departure from the normally-applicable test year rule when the Service's evidence persuades the Commission that such a departure is justified. In order to remove any ambiguity on this point, the final rule deletes the word "convincing."

As the preamble states, the final rule includes a new § 3001.181(b), which establishes a five-year sunset provision for the effectiveness of the multi-year test period rule.

Filing of Evidence in Support of Formal Request.

In its comments, the Postal Service opposes the filing requirements in proposed § 3001.182 (b)(2) and (b)(3) of the proposed rule, which direct the Service to produce Return on Investment projections and all other financial analyses prepared in connection with determining the cost and revenue impact of the proposed new service, and any other analyses by the Service that bear on the overall effects of introducing the new service during the requested test period. The Service claims these requirements are unnecessary, would introduce needless complexity and confusion into the proceeding, and call for material that is "likely to include pre-decisional material and/or material of commercial sensitivity that would not ordinarily be disclosed in Commission proceedings." Postal Service Comments at 26. Time Warner also comments on the "excessive data and documentation requirements" of the proposed rule, Comments at 4, and urges the Commission to "accommodate its information and documentation requirements to the inevitability that new services will be supported by scarcer, more attenuated data than established ones. . . ." Time Warner Comments at 5.

The Commission is well aware of the problems of information deficiency that can be associated with new services, and does not intend to apply unrealistic standards of proof to such services. However, the Commission is also aware from experience in prior proceedings that financial analyses and other information of the types responsive to proposed § 3001.182(b) (2) and (3) are likely to underlie the Postal Service's cost and revenue estimates for a proposed new service, or will at least bear significantly on the credibility and accuracy of those estimates. The relevance and probative value of these analyses are likely to be intensified when estimates are projected as much as five years into the future. Consequently, the final rule retains these filing requirements, to put the Postal Service on notice that all relevant supporting analyses will be scrutinized in the proceeding. If the Postal Service believes that special considerations of privilege and resulting harm should exempt certain responsive information in any given case, it may file a motion for waiver explaining why the requirement should not apply.

VI. Regulatory Evaluation

It has been determined pursuant to 5 U.S.C. 605(b) that these rules will apply exclusively to the United States Postal Service in proceedings conducted by the Postal Rate Commission, and to parties who choose to participate in those proceedings. Therefore, it is certified that these rules will not have a significant impact on a substantial number of small entities under the terms of the Regulatory Flexibility Act, 5 U.S.C. 501 et seq. Because these rules will only apply to the Postal Service and other participants in Commission proceedings, it has also been determined that these rules do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment pursuant to Executive Order 12612. Inasmuch as the rules impose information-gathering and reporting requirements exclusively upon the United States Postal Service for the purpose of conducting mail classification change proceedings, they do not contain any information collection requirements as defined in the Paperwork Reduction Act [44 U.S.C. 3502(4)], and consequently the review provisions of 44 U.S.C. 3507 and the implementing regulations in 5 CFR part 1320 do not apply.

List of Subjects in 39 CFR Part 3001

Administrative practices and procedure, Postal Service.

For the reasons set out in the preamble, 39 CFR part 3001 is amended as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for 39 CFR part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b), 3603, 3622–24, 3661, 3662.

2. Sections 3001.69 through 3001.69c are added to Subpart C to read as follows:

§ 3001.69 Expedited minor classification cases—applicability.

(a) This section and §§ 3001.69a through 3001.69c apply in cases where the Postal Service requests a recommended decision pursuant to section 3623 and seeks expedited review on the ground that the requested change in mail classification is minor in character. The requirements and procedures specified in these sections apply exclusively to the Commission's consideration of requested mail classification changes which the Postal Service denominates as, and the Commission finds to be, minor in character. A requested classification change may be considered to be minor in character if it:

(1) Would not involve a change in any existing rate or fee;

(2) Would not impose any restriction in addition to pre-existing conditions of eligibility for the entry of mail in an existing subclass or category of service, or for an existing rate element or work sharing discount; and

(3) Would not significantly increase or decrease the estimated institutional cost contribution of the affected subclass or category of service.

(b) This section and §§ 3001.69a through 69c are effective May 15, 1996 through May 15, 2001.

§ 3001.69a Expedited minor classification cases—filing of formal request and prepared direct evidence.

(a) Whenever the Postal Service determines to request that the Commission submit a decision recommending a mail classification change, and to seek expedited review on the ground that the requested change is minor in character, it shall file a request for a change in mail classification pursuant to section 3623 that comports with the requirements of this section and of subpart C of this part. Each such formal request shall include the following particular information:

(1) A description of the proposed classification change or changes, including proposed changes in the text of the Domestic Mail Classification Schedule and any pertinent rate schedules;

(2) A thorough explanation of the grounds on which the Postal Service submits that the requested change in mail classification is minor in character; and

(3) An estimate, prepared in the greatest level of detail practicable, of the overall impact of the requested change in mail classification on postal costs and revenues, mail users, and competitors of the Postal Service.

(b) If the Postal Service believes that data required to be filed under § 3001.64 are unavailable, it shall explain their unavailability, as required by § 3001.64(a)(2) (i), (ii), and (iv). If the Postal Service believes that any of the data or other information required to be filed under § 3001.64 should not be required in light of the minor character of the requested change in mail classification, it shall move for a waiver of that requirement, stating with particularity the reasons why the character of the request and its circumstances justify a waiver of the requirement. A satisfactory explanation of the unavailability of information required under § 3001.64, or of why it should not be required to support a particular request, will be grounds for excluding from the proceeding a contention that the absence of the information should form a basis for rejection of the request, unless the party desiring to make such contention:

(1) Demonstrates that, having regard to all the facts and circumstances of the case, it was clearly unreasonable for the Postal Service to propose the change in question without having first secured the information and submitted it in accordance with § 3001.64; or

(2) Demonstrates other compelling and exceptional circumstances requiring that the absence of the information in question be treated as bearing on the merits of the proposal.

§ 3001.69b Expedited minor classification cases—expedition of procedural schedule.

(a) The purpose of this section is to provide a schedule for expediting proceedings in which the Postal Service requests that the Commission recommend a change in mail classification and expedite consideration of that request on the ground that the change is minor in character.

(b) Persons who are interested in participating in proceedings to consider Postal Service requests for minor changes in mail classification may register at any time with the Secretary of the Postal Rate Commission, who shall maintain a publicly available list of the names and business addresses of all such registrants. Persons whose names appear on this list will automatically become parties to each proceeding in which the Postal Service requests a minor mail classification change pursuant to §§ 3001.69 through 3001.69c. Parties may withdraw from the register or a particular case by filing a notice with the Secretary of the Commission.

(c) When the Postal Service files a request under the provisions of §§ 3001.69 through 3001.69c, it shall on that same day effect service by hand delivery of the complete filing to each person registered pursuant to paragraph (b) of this section who maintains an address for service within the Washington metropolitan area and serve the complete filing by Priority Mail service on all other registrants. Each registrant is responsible for insuring that his or her address remains current.

(d) When the Postal Service files a request under the provisions of §§ 3001.69 through 3001.69c, it shall on that same day send by First-Class Mail to all participants in the most recent omnibus rate case a notice which briefly

describes its proposal. This notice shall indicate on its first page that it is a notice of a request for a minor change in mail classification to be considered under §§ 3001.69 through 3001.69c, and identify the last day for filing a notice of intervention with the Commission.

(e) Within 5 days after receipt of a Postal Service request invoking the operation of §§ 3001.69 through 3001.69c, the Commission shall issue a notice of proceeding and provide for intervention by interested parties pursuant to § 3001.20. The notice of proceeding shall state that the Postal Service has denominated the mail classification change it requests a minor change, and has requested expedited consideration pursuant to §§ 3001.69 through 3001.69c. The notice shall further state the grounds on which the Postal Service submits that the requested change in mail classification is minor in character, and shall afford all interested parties 26 days after filing of the Postal Service's request within which to intervene, submit responses to the Postal Service's request for consideration of its proposed mail classification change under the terms of §§ 3001.69 through 3001.69c, and request a hearing.

(f) Within 28 days after publication of the notice of proceeding pursuant to paragraph (e) of this section, the Commission shall decide whether to consider the request of the Postal Service as a minor classification change request under §§ 3001.69 through 3001.69c, and shall issue an order in the proceeding incorporating that ruling. The Commission shall order a request to be considered under §§ 3001.69 through 3001.69c if it finds that:

(1) The requested classification change is minor in character, and

(2) The effects of the requested change are likely to be appropriately limited in scope and overall impact.

(g) If the Commission determines that the request of the Postal Service is not appropriate for consideration as a minor classification change request, no further procedures under §§ 3001.69 through 3001.69c shall be ordered, and the request will be considered in accordance with other appropriate provisions of Subpart C of this part.

(h) If the Commission determines that the Postal Service request is appropriate for consideration under §§ 3001.69 through 3001.69c, those respondents who request a hearing shall be directed to state with specificity within 14 days after publication of the notice the issues of material fact that require a hearing for resolution. Respondents shall also identify the fact or facts set forth in the Postal Service's filing that the party disputes, and when possible, what the party believes to be the true fact or facts and the evidence it intends to provide in support of its position.

(i) The Commission will hold hearings on a Postal Service request which is considered under §§ 3001.69 through 3001.69c when it determines that there are genuine issues of material fact to be resolved, and that a hearing is needed to resolve those issues. Hearings on the Postal Service request will commence within 21 days after issuance of the Commission order pursuant to paragraph (f) of this section. Testimony responsive to the Postal Service request will be due 14 days after the conclusion of hearings on the Postal Service request.

§ 3001.69c Expedited minor classification cases—time limits.

The Commission will treat cases to which §§ 3001.69 through 3001.69c apply as subject to the maximum expedition consistent with procedural fairness. The schedule for adoption of a recommended decision will therefore be established, in each such case, to allow for issuance of such decision not more than 90 days after the filing of the request of the Postal Service if no hearing is held, and not more than 120 days after the filing of the request if a hearing is scheduled.

3. Sections 3001.161 through 3001.166 are added as Subpart I to read as follows:

Subpart I—Rules Applicable to Requests for Market Tests of Proposed Mail Classification Changes

Sec.

3001.161 Applicability.
3001.162 Filing of market test proposal and supporting direct evidence.
3001.163 Procedures—expedition of public notice and procedural schedule.
3001.164 Rule for decision.
3001.165 Data collection and reporting requirements.
3001.166 Suspension, continuation or termination of proceeding.

Subpart I—Rules Applicable to Requests for Market Tests of Proposed Classification Changes

§ 3001.161 Applicability.

(a) This section and §§ 3001.162 through 3001.166 apply in cases in which the Postal Service requests a recommended decision pursuant to section 3623 preceded by testing in the market in order to develop information necessary to support a permanent change. The requirements and procedures specified in these sections apply exclusively to the Commission's determination to recommend in favor of or against a market test proposed by the Postal Service, and do not supersede any other rules applicable to the Postal Service's request for recommendation of a permanent change in mail classification. In administering this subpart, it shall be the policy of the Commission to recommend market tests that are reasonably calculated to produce information needed to support a permanent change in mail classification, and that are reasonably limited in scope, scale, duration, and potential adverse impact. Except in extraordinary circumstances and for good cause shown, the Commission shall not recommend market tests of more than one year in duration; however, this limitation is not intended to bar the Postal Service from conducting more than one market test in support of a potential permanent change in mail classification in appropriate circumstances.

(b) This section and §§ 3001.162 through 3001.166 are effective May 15, 1996 through May 15, 2001.

§ 3001.162 Filing of market test proposal and supporting direct evidence.

Whenever the Postal Service determines to request that the Commission submit a recommended decision on a change in mail classification preceded by testing in the market, the Postal Service shall file with the Commission, in addition to its request for a permanent change in mail classification pursuant to section 3623, a request for a recommended decision in favor of its proposed market test of the requested change in mail classification. Each formal request filed under this subpart shall include such information and data and such statements of reasons and bases as are necessary and appropriate fully to inform the Commission and the parties of the nature, scope, significance and impact of the proposed market test, and to show that it is in the public interest and in accordance with the policies of the Act and the applicable criteria of the Act. Each formal request shall also include the following particular information:

(a) A description of the services to be provided in the market test, and the relationship between the services to be provided and the permanent change or changes in the mail classification schedule requested by the Postal Service;

(b) A statement of each rate or fee to be charged for each service to be provided during the market test, together with all information relied upon to establish consistency of those rates and fees with the factors specified in section 3622(b);

(c) A description of the number and extent of the service areas in which the market test will be conducted, including the number and type of postal facilities which will be used;

(d) A statement of the planned duration of the market test;

(e) Proposed Domestic Mail Classification Schedule provisions which incorporate the information required in paragraphs (a) through (d) of this section;

(f) A statement of the goals and objectives of the proposed market test, supported by quantitative projections of anticipated results to the extent practicable.

(g) A statement of those features of the proposed market test that, in the opinion of the Postal Service, cannot be modified without significantly impairing the value of the test;

(h) An estimate of the number of customers who will participate in the market test to the extent that such an estimate is practicable, together with a description of the means by which the Postal Service plans to provide equal access to all potential users in the test market service areas; and

(i) A plan for testing the proposed change or changes in the market, including a plan for gathering the data needed to support a permanent change in mail classification and for reporting the test data to the Commission. If periodic reporting of the test data would be harmful to the purposes of the test, such as by revealing information that might encourage competitors or mailers to take actions that would affect the test results, the plan may provide for presentation of the test data as part of the subsequent filing of data supporting a permanent mail classification change.

§ 3001.163 Procedures—expedition of public notice and procedural schedule.

(a) The purpose of this section is to provide a schedule for expediting proceedings in which the Postal Service proposes to conduct a market test of a requested change in mail classification it has submitted to the Commission pursuant to section 3623.

(b) Persons who are interested in participating in proceedings to consider Postal Service requests to conduct a market test may register at any time with the Secretary of the Postal Rate Commission, who shall maintain a publicly available list of the names and business addresses of all such registrants. Persons whose names appear on this list will automatically become parties to each proceeding in which the Postal Service requests to conduct a market test pursuant to this subpart. Other interested persons may intervene pursuant to § 3001.20 within 28 days after the filing of a formal request made under the provisions of this subpart. Parties may withdraw from the register or a particular case by filing a notice with the Secretary of the Commission.

(c) When the Postal Service files a request under the provisions of this subpart, it shall on that same day effect service by hand delivery of the complete filing to each person registered pursuant to paragraph (b) who maintains an address for service within the Washington metropolitan area and serve the complete filing by Express Mail service on all other registrants. Each registrant is responsible for insuring that his or her address remains current.

(d) When the Postal Service files a request under the provisions of this subpart, it shall on that same day send by Express Mail to all participants in the most recent omnibus rate case a notice which briefly describes its proposal. This notice shall indicate on its first page that it is a notice of a Market Test Request to be considered under §§ 3001.161 through 3001.166, and identify the last day for filing a notice of intervention with the Commission.

(e) Within 5 days after receipt of a Postal Service request under the provisions of this subpart, the Commission shall issue a notice of proceeding and provide for intervention by interested parties pursuant to § 3001.20. In the event that a party wishes to dispute a genuine issue of material fact to be resolved in the consideration of the Postal Service's request, that party shall file with the Commission a request for a hearing within the time allowed in the notice of proceeding. The request for a hearing shall state with specificity the fact or facts set forth in the Postal Service's filing that the party disputes, and when possible, what the party believes to be the true fact or facts and the evidence it intends to provide in support of its position. The Commission will hold hearings on a Postal Service request made pursuant to this subpart when it determines that there is a genuine issue of material fact to be resolved, and that a hearing is needed to resolve that issue.

§ 3001.164 Rule for decision.

The Commission will issue a decision on the Postal Service's proposed market test in accordance with the policies of the Postal Reorganization Act, but will not recommend modification of any feature of the proposed market test which the Postal Service has identified in accordance with § 3001.162(g). The purpose of this subpart is to allow for consideration of proposed market tests within 90 days, consistent with the procedural due process rights of interested persons.

§ 3001.165 Data collection and reporting requirements.

In any case in which the Commission has issued a recommended decision in favor of a market test requested by the Postal Service, and the Board of Governors has put the market test recommended by the Commission into effect, the Postal Service shall gather test data and report them to the Commission in accordance with the plan submitted pursuant to § 3001.162(h). If the Postal Service's plan for reporting test data does not provide for periodic reporting during the conduct of the test, the Postal Service shall submit all test data to the Commission no later than 60 days following the conclusion of the test.

§ 3001.166 Suspension, continuation or termination of proceeding.

(a) In any case in which the Commission has issued a recommended decision in favor of a market test requested by the Postal Service, and the Board of Governors has put the market test recommended by the Commission into effect, the Postal Service may move for suspension of the proceeding in which its request for a permanent change in mail classification is to be considered. The Commission shall grant the Postal Service's motion for suspension if, in the Commission's opinion, it would be reasonable under the circumstances to defer consideration of the request until the information to be produced in connection with the market test becomes available.

(b) At any time during the pendency of a market test recommended by the Commission pursuant to this subpart, or following the completion of such a market test, the Postal Service may move to revise or withdraw its request for a permanent change in mail classification. If the Postal Service moves to revise its request, it shall file with the Commission all data necessary to support its amended request. If the Postal Service moves to withdraw its request, it shall explain the circumstances leading to its motion, but need not produce the test data that would otherwise be submitted pursuant to § 3001.165.

4. Sections 3001.171 through 3001.176 are added as Subpart J, to read as follows:

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Subpart J—Rules Applicable to Requests for Provisional Service Changes of Limited Duration

Sec.

3001.171 Applicability.
3001.172 Filing of formal request and prepared direct evidence.
3001.173 Procedures-expedition of public notice and procedural schedule.
3001.174 Rule for decision.
3001.175 Data collection and reporting requirements.
3001.176 Continuation or termination of provisional service.

Subpart J—Rules Applicable to Requests for Provisional Service Changes of Limited Duration

§ 3001.171 Applicability.

(a) This section and §§ 3001.172 through 3001.176 apply in cases in which the Postal Service requests that the Commission recommend the establishment of a provisional service which will supplement, but will not alter, existing mail classifications and rates for a limited and fixed duration. The requirements and procedures specified in these sections apply exclusively to the Commission's determination to recommend in favor of or against a provisional service proposed by the Postal Service, and do not supersede the rules applicable to requests for permanent changes in rates, fees, mail classifications, and in the nature of postal services. In administering this subpart, it shall be the policy of the Commission to recommend the introduction of provisional services that enhance the range of postal services available to the public, without producing a material adverse effect overall on postal revenues or costs, and without causing unnecessary or unreasonable harm to competitors of the Postal Service. Except in extraordinary circumstances and for good cause shown, the Commission shall not recommend provisional services of more than two years in duration; however, the Commission may grant a request to extend a provisional service for an additional year if a Postal Service request to establish the provisional service as a permanent mail classification is pending before the Commission.

(b) This section and §§ 3001.172 through 3001.176 are effective May 15, 1996 through May 15, 2001.

§ 3001.172 Filing of formal request and prepared direct evidence.

(a) Whenever the Postal Service determines to request that the Commission submit a decision recommending the establishment of a provisional service of limited and fixed duration, it shall file a request for a change in mail classification pursuant to section 3623 that comports with the requirements of this subpart and of subpart C of this part. Each formal request shall include the following particular information:

(1) A description of the proposed classification, including proposed Domestic Mail Classification Schedule language and rate schedules;

(2) A statement of the goals and objectives of introducing the proposed provisional service, supported by quantitative projections of anticipated results to the extent practicable.

(3) A statement of those features of the proposed provisional service that, in the opinion of the Postal Service, cannot be modified without significantly reducing the benefits of introducing the proposed service;

(4) An explanation and complete documentation of the development of the rates proposed for the provisional service;

(5) A termination date on which the proposed provisional service will be discontinued;

(6) An estimate of the effect of implementing the proposed provisional service on overall Postal Service costs and revenues during the period in which it is in effect; and

(7) A plan for meeting the data collection and reporting requirements specified in § 3001.175.

(b) If the Postal Service believes that data required to be filed under § 3001.64 are unavailable, it shall explain their unavailability, as required by § 3001.64 (a)(2)(i), (ii), and (iv). In particular, if the provisional character of the request bears on the unavailability of the data in question, the Postal Service shall explain in detail the nexus between these circumstances. A satisfactory explanation of the unavailability of data will be grounds for excluding from the proceeding a contention that the absence of the data should form a basis for rejection of the request, unless the party desiring to make such contention:

(1) Demonstrates that, having regard to all the facts and circumstances of the case, it was clearly unreasonable for the Postal Service to propose the change in question without having first secured the data which are unavailable, or

(2) Demonstrates other compelling circumstances requiring that the absence of the data in question be treated as bearing on the merits of the proposal.

§ 3001.173 Procedures—expedition of public notice and procedural schedule.

(a) The purpose of this section is to provide a schedule for expediting proceedings in which the Postal Service requests that the Commission recommend the establishment of a provisional service which will supplement, but will not alter, existing mail classifications and rates for a limited and fixed duration.

(b) Persons who are interested in participating in proceedings to consider Postal Service requests to establish a provisional service may register at any time with the Secretary of the Postal Rate Commission, who shall maintain a publicly available list of the names and business addresses of all such registrants. Persons whose names appear on this list will automatically become parties to each proceeding in which the Postal Service requests establishment of a provisional service pursuant to this subpart. Other interested persons may intervene pursuant to § 3001.20 within 28 days after the filing of a formal request made under the provisions of this subpart. Parties may withdraw from the register or a particular case by filing a notice with the Secretary of the Commission.

(c) When the Postal Service files a request under the provisions of this subpart, it shall on that same day effect service by hand delivery of the complete filing to each person registered pursuant to paragraph (b) of this section who maintains an address for service within the Washington metropolitan area and serve the complete filing by Express Mail service on all other registrants. Each registrant is responsible for insuring that his or her address remains current.

(d) When the Postal Service files a request under the provisions of this subpart, it shall on that same day send by Express Mail service to all participants in the most recent omnibus rate case a notice which briefly describes its proposal. Such notice shall indicate on its first page that it is a notice of a Request for Establishment of a Provisional Service to be considered under §§ 3001.171 through 3001.176, and identify the last day for filing a notice of intervention with the Commission.

(e) Within 5 days after receipt of a Postal Service request under the provisions of this subpart, the Commission shall issue a notice of proceeding and provide for intervention by interested parties pursuant to § 3001.20. In the event that a party wishes to dispute a genuine issue of material fact to be resolved in the consideration of the Postal Service's request, that party shall file with the Commission a request for a hearing within the time allowed in the notice of proceeding. The request for a hearing shall state with specificity the fact or facts set forth in the Postal Service's filing that the party disputes, and when possible, what the party believes to be the true fact or facts and the evidence it intends to provide in support of its position. The Commission will hold hearings on a Postal Service request made pursuant to this subpart when it determines that there is a genuine issue of material fact to be resolved, and that a hearing is needed to resolve that issue.

§ 3001.174 Rule for decision.

The Commission will issue a decision on the Postal Service's proposed provisional service in accordance with the policies of the Postal Reorganization Act, but will not recommend modification of any feature of the proposed service which the Postal Service has identified in accordance with § 3001.172(a)(3). The purpose of this subpart is to allow for consideration of proposed provisional services within 90 days, consistent with the procedural due process rights of interested persons.

§ 3001.175 Data collection and reporting requirements.

In any case in which the Commission has issued a recommended decision in favor of a provisional service of limited duration requested by the Postal Service, and the Board of Governors has put the provisional service recommended by the Commission into effect, the Postal Service shall collect and report data pertaining to the provisional service during the period in which it is in effect in accordance with the periodic reporting requirements specified in § 3001.102. If the Postal Service's regular data reporting systems are not revised to include the provisional service during the period of its effectiveness, the Postal Service shall perform, and provide to the Commission on a schedule corresponding to § 3001.102 reports, special studies to provide equivalent information to the extent reasonably practicable.

§ 3001.176 Continuation or termination of provisional service.

At any time during the period in which a provisional service recommended by the Commission and implemented by the Board of Governors is in effect, the Postal Service may submit a formal request that the provisional service be terminated, or that it be established, either as originally recommended by the Commission or in modified form, as a permanent mail classification. Following the conclusion of the period in which the provisional service was effective, the Postal Service may submit a request to establish the service as a mail classification under any applicable subpart of the Commission's rules.

5. Sections 3001.181 and 3001.182 are added as Subpart K, to read as follows:

Subpart K—Rules for Use of Multi-Year Test Periods

Sec.

3001.181 Use of multi-year test period for proposed new services.
3001.182 Filing of formal request and prepared direct evidence.

Subpart K—Rules for Use of Multi-Year Test Periods

§ 3001.181 Use of multi-year test period for proposed new services.

(a) The rules in §§ 3001.181 and 3001.182 apply to Postal Service requests pursuant to section 3623 for the establishment of a new postal service, with attendant rates, which in the estimation of the Postal Service cannot generate sufficient volumes and revenues to recover all costs associated with the new service in the first full fiscal year of its operation. In administering these rules, it shall be the Commission's policy to adopt test periods of up to 5 fiscal years for the purpose of determining breakeven for newly introduced postal services where the Postal Service has presented substantial evidence in support of the test period proposed.

(b) This section and § 3001.182 are effective May 15, 1996 through May 15, 2001.

§ 3001.182 Filing of formal request and prepared direct evidence.

In filing a request for establishment of a new postal service pursuant to section 3623, the Postal Service may request that its proposal be considered for a test period of longer duration than the test period prescribed in § 3001.54(f)(2). Each such request shall be supported by the following information:

(a) The testimony of a witness on behalf of the Postal Service, who shall provide:

(1) A complete definition of the multi-year test period requested for the proposed new service;

(2) A detailed explanation of the Postal Service's preference of a multi-year test period, including the bases of the Service's determination that the test period prescribed in § 3001.54(f)(2) would be inappropriate; and

(3) A complete description of the Postal Service's plan for achieving an appropriate contribution to institutional costs from the new service by the end of the requested test period.

(b) Complete documentary support for, and detail underlying, the test period requested by the Postal Service, including:

(1) Estimated costs, revenues, and volumes of the proposed new service for the entire requested test period;

(2) Return on investment projections and all other financial analyses prepared in connection with determining the cost and revenue impact of the proposed new service; and

(3) Any other analyses prepared by the Postal Service that bear on the overall effects of introducing the proposed new service during the requested test period.

Issued by the Commission on May 7, 1996.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 96–12130 Filed 5–14–96; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH16–3–7264a; FRL–5439–4]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: On August 23, 1994, the United States Environmental Protection Agency (USEPA) granted conditional approval of revisions to the emission limitations, compliance methodologies, and compliance time schedules in Ohio's State Implementation Plan (SIP) for sulfur dioxide (SO_2) as it applies to Hamilton County. The outstanding condition has been addressed, and USEPA is now fully approving the Hamilton County, Ohio, SO_2 SIP. Submitted by Ohio in response to modeling analyses which predicted violations of the SO_2 National Ambient Air Quality Standards (NAAQS) due to Hamilton County sources, this SIP has been demonstrated to provide for attainment and maintenance of the SO_2 NAAQS in Hamilton County.

DATES: This action will be effective on July 15, 1996 unless adverse or critical comments not previously addressed by the State or USEPA are received by June 14, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: J. Elmer Bortzer, Chief,

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Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and USEPA's analysis (Technical Support Document) are available for inspection at the following location: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Mary Onischak at (312) 353–5954 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Mary Onischak at (312) 353–5954.

SUPPLEMENTARY INFORMATION:

I. Background

On October 16, 1991, Ohio submitted SO_2 SIP revisions to USEPA for Hamilton County, Ohio. The State submitted a package on March 17, 1993, which further amended these SIP revisions. The SIP revisions were intended to provide for attainment of the National Ambient Air Quality Standards (NAAQS) for SO_2, in response to a December 22, 1988, letter in which USEPA notified the Governor of Ohio that the SO_2 SIP was substantially inadequate to maintain the SO_2 NAAQS in Hamilton County. USEPA's notification was based on predicted violations of the SO_2 standards due to SO_2 sources located in Hamilton County, Ohio. Ohio's SIP package included revisions to Ohio Administrative Code (OAC) 3745–18–03 *Attainment Dates and Compliance Time Schedules*, OAC 3745–18–04 *Measurement Methods and Procedures*, and OAC 3745–18–37 *Hamilton County Emission Limits*, supplemented by an administrative order for Cincinnati Gas and Electric's Miami Fort facility. Ohio's submittal, including the background information, attainment demonstration, and compliance methodologies, is discussed in detail in the January 27, 1994, proposed conditional approval (59 FR 3809). Comments on the proposed conditional approval were addressed in the August 23, 1994, final conditional approval (59 FR 43287).

II. Conditional Approval Issue

The Hamilton County SO_2 SIP was conditionally approved by USEPA because of an issue related to the air dispersion modeling analysis submitted by Ohio to demonstrate that the revised SO_2 SIP limits would ensure attainment of the SO_2 NAAQS in the Hamilton County area. The State's modeled attainment demonstration is discussed in detail in USEPA's 1994 proposed and final rulemaking actions. The techniques used in the attainment demonstration were set forth in a modeling protocol approved by USEPA. Because Hamilton County borders Indiana and Kentucky, the attainment demonstration considered the air quality impacts of SO_2 sources in those States, as well as SO_2 sources in Ohio. During the development of the attainment demonstration, a modeled violation was predicted near the Joseph E. Seagram and Sons, Inc., (Seagram) facility in adjacent Dearborn County, Indiana. The Seagram facility was determined to be the main contributor to the modeled violation, but facilities located in Hamilton County also contributed to the violation. Since the Ohio sources were partially implicated in the Indiana violation, USEPA could not accept Ohio's attainment demonstration until the predicted violation had been addressed.

A solution to the attainment problem involved a restriction on the usage of sulfur-bearing fuels at the Seagram facility. Preliminary modeling showed that when Seagram's Boilers 5 and 6 were not simultaneously burning such sulfur-bearing fuels as coal or fuel oil, the SO_2 standards would not be violated. Seagram had, in fact, been operating in this manner for several years. Seagram agreed, in a September 1, 1992 letter to Ohio and Indiana, that it would not operate the two boilers simultaneously on sulfur-bearing fuels without written approval from both State Agencies (the Ohio Environmental Protection Agency and the Indiana Department of Environmental Management). However, because Seagram's letter did not create a federally enforceable limitation, USEPA required that the State of Indiana adopt the Seagram restriction and submit it to USEPA as a revision to the Indiana SO_2 SIP.

On the basis of Seagram's September 1, 1992 commitment, Ohio submitted supplementary modeling data to USEPA which demonstrated that if the Seagram facility did not operate the two boilers simultaneously on coal or fuel oil, the predicted SO_2 NAAQS violation in Dearborn County would be eliminated. USEPA has reviewed this modeling and determined that it is acceptable. Because USEPA had determined that the emission limits and control measures in the SO_2 SIP revision for Hamilton County would be enforceable and would provide for attainment of the SO_2 NAAQS, USEPA proposed to conditionally approve the Hamilton County SO_2 SIP while the State of Indiana proceeded with the Seagram rulemaking.

USEPA's proposal to conditionally approve the Hamilton County, Ohio SIP revisions was published on January 27, 1994 (59 FR 3809). USEPA finalized the conditional approval action on August 23, 1994 (59 FR 43287). USEPA indicated in the final conditional approval that the Hamilton County, Ohio SIP revisions would be approved in full if Indiana submitted a federally approvable SIP revision for Seagram by September 23, 1995. It was anticipated that an approvable Indiana limit would be formalized in the allotted time and as a result, the Ohio revised rules would remain a part of the SIP.

The USEPA notified the State of Indiana in a January 5, 1994, letter that the Seagram limits must be incorporated into the Indiana SO_2 SIP. On August 25, 1995, Indiana submitted to USEPA a site-specific SO_2 SIP revision request which provided that when Seagram's Boilers 5 and 6 were being operated simultaneously, only one boiler would use coal or fuel oil. USEPA published a direct final approval of Indiana's SIP revision for Seagram on February 9, 1996 (61 FR 4897). Therefore, USEPA is now able to fully accept Ohio's modeled attainment demonstration and finalize the Hamilton County SO_2 SIP approval. (Adverse or critical comments received on the Seagram SIP revision may affect the effective date of approval of the Hamilton County, Ohio SO_2 SIP.)

III. Final Rulemaking Action

The USEPA is approving Ohio's October 16, 1991, and March 17, 1993, Hamilton County SO_2 SIP revisions because the approval condition cited in the **Federal Register** on August 23, 1994 (59 FR 43287) has been satisfied. The State of Indiana submitted acceptable SO_2 SIP revisions, as required, and USEPA approved them in a direct final action on February 9, 1996 (61 FR 4897). As indicated in the August 23, 1994, conditional approval, the USEPA has determined that the Ohio SO_2 SIP revisions for Hamilton County satisfy section 110(A)(2) of the Clean Air Act and are fully approvable at this time. It is important to note that if USEPA receives adverse or critical comments on the SO_2 SIP revision for Seagram, the receipt of such comments may affect the effective date of USEPA's approval of the Hamilton County, Ohio SO_2 SIP.

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, the rulemaking will not be deemed final if timely unaddressed adverse or critical comments are filed. The "direct final" approval shall be effective on July 15, 1996, unless USEPA receives such adverse or critical comments by June 14, 1996. The USEPA is now soliciting public comments on this action. Any parties interested in commenting on this action should do so at this time. In the proposed rules section of this **Federal Register**, USEPA is publishing a separate document which constitutes a "proposed approval" of the requested SIP revision. If warranted by comments adverse to or critical of the approval discussed above, which have not been addressed by the State or USEPA, USEPA will publish a **Federal Register** document which withdraws the final action. The USEPA will then address public comments received in a subsequent rulemaking document based on the proposed approval.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. USEPA*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

This rule only approves the incorporation of existing state rules into the SIP. It imposes no additional requirements. Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less then $100 million in any one year, the USEPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the USEPA is not required to develop a plan with regard to small governments.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Sulfur oxides.

Note: Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1982.

Dated: February 14, 1996.

David A. Ullrich,

Acting Regional Administrator.

For the reasons set forth in the preamble 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart KK—Ohio

2. Section 52.1870 is amended by adding paragraph (c)(92) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(92) On October 16, 1991, and March 17, 1993, the Ohio Environmental Protection Agency (OEPA) submitted revisions to the State Implementation Plan for sulfur dioxide for sources in Hamilton County, Ohio.

(i) Incorporation by reference.

(A) Ohio Administrative Code (OAC) Rule 3745–18–03 Attainment dates and compliance time schedules, Sections (A)(2)(c); (B)(7)(a); (B)(7)(b); (C)(8)(a); (C)(8)(b); (C)(9)(a); (C)(9)(b); (D)(1); (D)(2); dated October 11, 1991, and effective on October 31, 1991.

(B) Ohio Administrative Code (OAC) Rule 3745–18–04 Measurement methods and procedures, Sections (D)(7); (D)(8)(a) to (D)(8)(e); (E)(5); (E)(6)(a); (E)(6)(b); (F); (G)(1) to (G)(4); (I); dated October 11, 1991, and effective on October 31, 1991.

(C) Ohio Administrative Code (OAC) Rule 3745–18–37, Hamilton county emission limits, dated February 22, 1993, and effective on March 10, 1993.

(D) Director's Final Findings and Order for Cincinnati Gas and Electric Company, Miami Fort Station, dated February 22, 1993.

* * * * *

3. Section 52.1919 is revised to read as follows.

§ 52.1919 Identification of plan-conditional approval.

(a) The plan commitments listed below were submitted on the dates specified.

(1) [Reserved]

(2) On April 20, 1994, Ohio submitted Rule 3745–35–07, entitled "Federally Enforceable Limitations on Potential to Emit," and requested authority to issue such limitations as conditions in State operating permits. On June 16, 1994, Ohio submitted a commitment to revise Rule 3745–35–07 to clarify that the rule provides for USEPA objection to permits after issuance. The revisions are approved provided Ohio fulfills this commitment by October 25, 1995.

(i) Incorporation by reference.

(A) Rule 3745–35–07, adopted April 4, 1994, effective April 20, 1994.

(b) (Reserved)

[FR Doc. 96–12119 Filed 5–14–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 70

[AD-FRL–5461–6]

Clean Air Act Interim Approval of Operating Permits Program; Delegation of Section 112 Standards; State of Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On February 2, 1996, the Environmental Protection Agency published a proposed and direct final rule promulgating interim approval of the Operating Permits Program submitted by the Commonwealth of Massachusetts for the purpose of complying with the Federal requirements of an approved program to issue operating permits to all major stationary sources, and to certain other sources, with the exception of Indian Lands. This submittal for the operating permits program was made by the Commonwealth of Massachusetts on April 28, 1995. The 30-day comment period for these documents concluded on March 4, 1996. Also in this document, EPA is correcting the date for the interim approval of the Operating Permits Program for the Commonwealth of Massachusetts.

EFFECTIVE DATE: This final rule is effective on May 15, 1996.

FOR FURTHER INFORMATION CONTACT: Ida E. Gagnon, Air Permits Program, CAP, U.S. Environmental Protection Agency, Region 1, JFK Federal Building, Boston, MA 02203–2211, (617) 565–3500.

SUPPLEMENTARY INFORMATION: On February 2, 1996, EPA published a direct final rule (61 FR 3827) which announced that this rule would take effect in 60 days, or April 2, 1996, unless EPA received adverse comment on the rule within 30 days of publication in response to a notice of proposed rulemaking published on the same day (61 FR 3893). EPA also committed to withdraw the direct final rule in the event it received adverse comment, and to respond to any adverse comments in a subsequent final rulemaking action. EPA did receive a timely adverse comment on this rule. EPA failed, however, to withdraw the final rule within the 60 days given in the direct final rule, and the rule took effect on April 2, 1996.

In this document, EPA is responding to the comment it received, but for the reasons stated below, EPA is not changing the final rule in response to that comment. For reasons unrelated to the comment, EPA is correcting a clerical error in the effective date of the rule, as explained below. Had EPA withdrawn the direct final rule prior to its going into effect, EPA would have taken final action based on the proposal to promulgate a rule identical to the direct final rule that went into effect. Rather than now take the action of withdrawing the direct final rule only to repromulgate simultaneously an identical rule, however, EPA in this action is deciding to maintain the rule unchanged. EPA believes that withdrawal and repromulgation are unnecessary since the results would be identical to that obtained simply by leaving the rule unchanged and responding to the comments in this document. This document provides interested parties an opportunity to review how EPA addressed the comment, and to petition for review of EPA's action in this final rulemaking within 60 days of publication of this document, as provided in section 307(b)(1) of the Act.

I. Summary of Comments and Responses

EPA received two comments from the National Environmental Development Association's Clean Air Regulatory Project (NEDA/CARP). First, NEDA/CARP disagrees with EPA's statement that "prompt reporting [of deviations] must be more frequent than the semi-annual reporting requirement, given this is a distinct reporting obligation under Section 70.6(a)(3)(iii)(A)." NEDA/CARP believes there is no legal basis for such a statement. Therefore, NEDA/CARP asserts EPA has no basis for expecting deviations to be reported more often than every 6 months.

EPA disagrees that there is no legal basis for this statement. Section 503(b)(2) of the Act requires a permittee "to promptly report any deviations from permit requirements to the permitting authority." This requirement to report deviations promptly is distinct from section 504(a) of the Act which requires the results of all monitoring to be submitted no less often than every six months. The Act clearly distinguishes between the routine semi-annual reporting of all monitoring, whether or not deviations have occurred, from the requirements to report deviations that may be violations of the Act and that at least provide an indication of potential compliance problems. It makes sense that Congress would expect permittees to report potential Act violations more quickly than routine monitoring that confirms compliance. Additionally, the statute has a clear requirement for prompt reporting of deviations and EPA believes that six months is not prompt when dealing with information that may document a violation of the Clean Air Act.

Second, in the February 2, 1996 rulemaking, EPA proposes interim approval of the program regulation unless the Commonwealth changes its rule to ensure that all "significant" monitoring changes, not just "relaxations" are processed as significant changes. NEDA/CARP points out that this change may not be required when the proposed changes to Part 70 are finalized and requests EPA take this issue into consideration before the state revises its procedures.

EPA understands the concerns of NEDA/CARP, but EPA is obligated to evaluate the Commonwealth's program based on Part 70 rules promulgated on July 21, 1992. Once the proposed changes to Part 70 are finalized, EPA and the Commonwealth will revisit this matter and address it consistent with the program transition provisions of the revised Part 70 regulations.

II. Final Rulemaking Action

Except for the effective date, as explained below, EPA is not modifying the interim approval to the operating permits program associated with the February 2, 1996 direct final rulemaking in response to the comments EPA received. The State must make the changes specified in the proposed rulemaking, under II.A.2., Regulations and Program Implementation, in order to be granted full approval.

This interim approval, which may not be renewed, extends for a period of up to 2 years. During the interim approval period, the Commonwealth is protected from sanctions for failure to have a program, and EPA is not obligated to promulgate a Federal permits program in the Commonwealth. Permits issued under a program with interim approval have full standing with respect to Part 70, and the 1-year time period under the Act for submittal of permit applications by subject sources begins upon interim approval, as does the 3-year time period for processing the initial permit applications.

The scope of the Commonwealth of Massachusetts' part 70 program applies to all part 70 sources (as defined in the approved program) within the Commonwealth of Massachusetts, except any sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.*, 59 FR 55813, 55815–18 (Nov. 9, 1994). The term "Indian Tribe" is defined under the Act as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." *See* section 302(r) of the CAA; *see also* 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

EPA is also not modifying its approval of DEP's authority to implement and enforce section 112 standards at Part 70 sources. Requirements for operating permit program approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to Part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under Part 70. Therefore, the EPA has also granted approval under section 112(l)(5) and 40 CFR 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the Part 70 program.

EPA is hereby correcting a mistaken effective date for our interim approval. The prior document indicated an effective date of March 4, 1996, 30 days from the date of publication of the document rather than the correct date of April 2, 1996, 60 days from the date of publication of the document. In light of the Small Business Regulatory Enforcement Act (SBREFA) which became effective on March 29, 1996 prior to the April 2, 1996 corrected date, the rule will take effect on the latter of the rule's submission to Congress or the date of publication. The rule has been submitted to Congress, therefore, this final rulemaking will be effective May 15, 1996.

III. Administrative Requirements

A. Docket

Copies of the Commonwealth's submittal and other information relied upon for the final interim approval, including public comments received and reviewed by EPA on the proposal, are maintained in a docket at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The docket is available for public inspection at the location under the **ADDRESSES** section of this document.

B. Opportunity for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

C. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

D. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR Part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

E. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: April 2, 1996.

John P. DeVillars,

Regional Administrator, Region I.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by revising the entry for Massachusetts to reflect the dates of the final rulemaking to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Massachusetts

(a) Department of Environmental Protection: submitted on April 28, 1995; interim approval effective on April 2, 1996; interim approval expires April 2, 1998.

(b) (Reserved)

* * * * *

[FR Doc. 96–12077 Filed 5–14–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 62

RIN 3067–AC47

National Flood Insurance Program; Allocated Loss Adjustment Expense

AGENCY: Federal Insurance Administration (FEMA).

ACTION: Interim Final Rule.

SUMMARY: This interim final rule modifies the existing allocated loss adjustment expense fee schedule of the National Flood Insurance Program (NFIP) 1994 Write Your Own (WYO) Program under the Financial Assistance/Subsidy Arrangement (the Arrangement). The rule changes the fee schedule to add new, refined loss ranges and to revise the fees for adjusting higher ranges of covered losses under the NFIP.

DATES: This interim final rule is effective on May 15, 1996. Please submit any comments in writing by July 1, 1996.

ADDRESSES: We request comments on this interim final rule. Please submit any comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, DC 20472, (facsimile) (202)646–4536.

FOR FURTHER INFORMATION CONTACT: Charles M. Plaxico, Jr., Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street SW., Washington, DC 20472, (202) 646–3422.

SUPPLEMENTARY INFORMATION: The Financial Assistance/Subsidy Arrangement ("the Arrangement") between the Federal Insurance Administrator and licensed property/casualty insurers participating in the WYO program was last modified effective October 1, 1994. The Arrangement specifies allowable costs and fees to be reimbursed to member WYO companies for adjusting losses under this segment of the National Flood Insurance Program (NFIP). For allocated loss adjustments, participating WYO companies are reimbursed pursuant to a fee schedule, which is Attachment A to Appendix A of the Arrangement. The current fee schedule provides for allowable fees for ranges of losses, the last range being "$200,000 to limits."

Since the publication of the Arrangement, however, the limits of flood insurance coverage available under the National Flood Insurance Program (NFIP) increased significantly under the National Flood Insurance Reform Act of 1994 (P.L. 103–325). The higher limits of coverage and correspondingly higher amounts of recovery for insured property owners became effective March 1, 1995. Also, a new condominium policy, effective October 1, 1994, has resulted in much higher limits of coverage for condominiums.

Recent analysis of loss experience during the last year, especially in connection with Hurricane Opal (October 1995), shows that there have been significantly more losses at higher damage thresholds, particularly for condominiums. The current fee schedule, which has not been revised for nearly five years, needs to be adjusted to reflect these factors as well as the increased workload to adjust claims for condominium losses and the increased costs of labor, overhead, materials, and transportation since the last fee schedule change.

In light of these factors and in anticipation of this year's hurricane season, there is an urgent need to revise the current adjuster fee schedule and make it effective upon publication of this interim final rule. FEMA finds that there is a compelling need and good cause to waive the 30-day effective date requirements of the Administrative Procedure Act, 5 U.S.C. 553(d). This interim final rule is effective on the date of publication in the **Federal Register**. Currently, the fee schedule under the Arrangement is as follows:

EXHIBIT A.—FEE SCHEDULE

Range (by covered loss)	Fee
Erroneous Assignment	$40.00
Closed Without Payment	125.00
Minimum for Upton-Jones Claims	800.00
$0.01 to $600.00	150.00
$600.01 to $1,000.00	175.00
$1,000.01 to $2,000.00	225.00
$2,000.01 to $3,500.00	275.00
$3,500.01 to $5,000.00	350.00
$5,000.01 to $7,000.00	425.00
$7,000.01 to $10,000.00	500.00
$10,000.01 to $15,000.00	550.00
$15,000.01 to $25,000.00	600.00
$25,000.01 to $35,000.00	675.00
$35,000.01 to $50,000.00	750.00
$50,000.01 to $100,000.00	1,000.00
$100,000.01 to $150,000.00	1,300.00
$150,000.01 to $200,000.00	1,600.00
$200,000.01 to limits	2,000.00

[Note: Allocated fee schedule entry value is covered loss under the policy asked on the standard deductibles ($500 and $500) and limited to the amount of insurance purchased.]

This interim final rule revises the adjuster fee schedule as follows to reflect the higher limits of coverage available for condominiums and the amount of technical effort required to adjust losses for condominiums:

EXHIBIT A.—FEE SCHEDULE

Range (by covered loss)	Fee
Erroneous Assignment	$40.00.
Closed Without Payment	125.00.
Minimum for Upton-Jones Claims	800.00.
$0.01 to $600.00	150.00.
$600.01 to $1,000.00	175.00.
$1,000.01 to $2,000.00	225.00.
$2,000.01 to $3,500.00	275.00.
$3,500.01 to $5,000.00	350.00.
$5,000.01 to $7,000.00	425.00.
$7,000.01 to $10,000.00	500.00.
$10,000.01 to $15,000.00	550.00.
$15,000.01 to $25,000.00	600.00.
$25,000.01 to $35,000.00	675.00.
$35,000.01 to $50,000.00	750.00.
$50,000.01 to $100,000.00	3.0%.
$100,000.01 to $250,000.00	2.3% but not less than $3,000.
$250,000.01 and up	2.1% but not less than $5,750.

Note: Based on Gross Loss.
(1) "Gross loss" shall mean the agreed cost to repair or replace before application of depreciation, deductible, or other limiting clauses or condition.
(2) For the purpose of this schedule, should the loss exceed the available coverage, "gross loss" shall mean the total amount of coverage.
(3) If the claim involves a salvage "buy-back," "gross loss" shall mean the amount of the claim before the salvage value is deducted.
(4) If the insured qualifies for replacement cost coverage, "gross loss" is determined on the basis of the entire replacement cost claim (including depreciation holdback).

National Environmental Policy Act

This interim final rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Executive Order 12866, Regulatory Planning and Review

This interim final rule is not a significant regulatory action as defined under Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735, October 4, 1993. To the extent possible, this interim final rule adheres to the principles of regulation set forth in Executive Order 12866. This interim final rule has not been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866.

Paperwork Reduction Act

This interim final rule does not contain a collection of information and is therefore not subject to the provisions of the Paperwork Reduction Act of 1995.

Executive Order 12612, Federalism

This interim final rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This interim final rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 62

Claims, Flood Insurance.

Accordingly, 44 CFR part 62, Exhibit A, is amended as follows:

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

2. Exhibit A of Appendix A to part 62 is revised to read as follows:

Appendix A to Part 62—Federal Emergency Management Agency, Federal Insurance Administration, Financial Assistance/Subsidy Arrangement

* * * * *

EXHIBIT A.—FEE SCHEDULE

Range (by covered loss)	Fee
Erroneous Assignment	$40.00.
Closed Without Payment	125.00.
Minimum for Upton-Jones Claims	800.00.
$0.01 to $600.00	150.00.
$600.01 to $1,000.00	175.00.
$1,000.01 to $2,000.00	225.00.
$2,000.01 to $3,500.00	275.00.
$3,500.01 to $5,000.00	350.00.
$5,000.01 to $7,000.00	425.00.
$7,000.01 to $10,000.00	500.00.
$10,000.01 to $15,000.00	550.00.
$15,000.01 to $25,000.00	600.00.
$25,000.01 to $35,000.00	675.00.
$35,000.01 to $50,000.00	750.00.
$50,000.01 to $100,000.00	3.0%.
$100,000.01 to $250,000.00	2.3% but not less than $3,000.

EXHIBIT A.—FEE SCHEDULE—Continued

Range (by covered loss)	Fee
$250,000.01 and up	2.1% but not less than $5,750.

Note: Based on Gross Loss.
(1) "Gross loss" shall mean the agreed cost to repair or replace before application of depreciation, deductible, or other limiting clauses or condition.
(2) For the purpose of this schedule, should the loss exceed the available coverage, "gross loss" shall mean the total amount of coverage.
(3) If the claim involves a salvage "buy-back," "gross loss" shall mean the amount of the claim before the salvage value is deducted.
(4) If the insured qualifies for replacement cost coverage, "gross loss" is determined on the basis of the entire replacement cost claim (including depreciation holdback).

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: May 8, 1996.

Elaine A. McReynolds,

Administrator.

[FR Doc. 96–12019 Filed 5–14–96; 8:45 am]

BILLING CODE 6718–03–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 170, 171 and 173 and Chapter I, Subchapter K and T

[CGD 85–080]

RIN 2115–AC22

Small Passenger Vessel Inspection and Certification; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction to interim final rule.

SUMMARY: This document contains corrections to the interim final rule in CGD 85–080, published on Wednesday, January 10, 1996, at 61 FR 864. The regulations relate to the inspection and certification of small passenger vessels (less than 100 gross tons).

EFFECTIVE DATE: These amendments are effective on May 15, 1996.

FOR FURTHER INFORMATION CONTACT: Lieutenant Eric P. Christensen Marine Safety and Environmental Protection Directorate (G–MOS–2), Room 1210, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, (202) 267–1181 or fax (202) 267–4570.

SUPPLEMENTARY INFORMATION: The interim final rule that is the subject of these corrections regulates small passenger vessels (less than 100 gross tons).

Need for Correction

As published, the IFR contains typographical errors and omissions that may prove to be misleading and that therefore need correction.

Correction of Publication

Accordingly, the IFR published on January 10, 1996 [CGD 85–080], which was the subject of FR Doc. 96–213, is corrected as follows:

§ 116.202 [Corrected]

1. Page 901, in the second column, in paragraph (b)(6)(x) of § 116.202, fourth line, remove "cognizant OCMI" and add, in its place, "Commanding Officer, Marine Safety Center".

2. Page 903, in footnote 1 of Table 116.415(b) BULKHEADS, remove ".025 kPa" and add, in its place, "2.5 kg/m^2".

3. On the same page, in footnote 1 of Table 116.415(c) DECKS, remove ".025 kPa" and add, in its place, "2.5 kg/m^2".

§ 117.15 [Corrected]

4. Page 912, at the top of the first column, § 117.15, paragraph (d) is corrected to read as follows:

* * * * *

(d) New installations of lifesaving equipment on an existing vessel, which are completed to the satisfaction of the cognizant Officer in Charge, Marine Inspection, (OCMI) on or after March 11, 1996, must comply with the regulations in this part. Replacement of existing lifesaving equipment installed before March 11, 1996, must meet the requirements of paragraph (a) of this section.

* * * * *

§ 118.320 [Corrected]

5. Page 918, at the top of the first column, in paragraph (c)(1) of § 118.320, "§ 160.027" is corrected to read "§ 162.027".

§ 122.115 [Corrected]

6. Page 936, in the second column, in paragraph (a) of § 122.115, "§ 122.602(b)" is corrected to read "§ 122.602(c)".

§ 175.540 [Corrected]

7. Page 951, in the second column, in paragraph (b) of § 175.540, remove the word "pending" before International Maritime Organization.

§ 177.410 [Corrected]

8. Page 963, in the third column, in paragraph (c)(3) of § 177.410, remove the word "of" after § 76.27.

9. Page 964, in the first column, in paragraph (d)(1) of § 177.410, add the words "for more than 12 persons" after the word "accommodations" and before the word "must".

§ 180.15 [Corrected]

10. Page 976, in the second column, in paragraph (e) of § 180.15, paragraph (e) is corrected to read as follows:

* * * * *

(e) New installations of lifesaving equipment on an existing vessel, which are completed to the satisfaction of the cognizant Officer in Charge, Marine Inspection, (OCMI) on or after March 11, 1996, must comply with the regulations in this part. Replacement of existing lifesaving equipment installed before March 11, 1996, must meet the requirements of paragraph (a) of this section.

* * * * *

§ 180.71 [Corrected]

11. Page 977, in the third column, in paragraph (d) of § 180.71, remove the words "of the interim rules" after the words "March 11, 1999," and before the word "provided".

§ 180.207 [Corrected]

12. Page 981, in the second column, in paragraph (b) of § 180.207, remove the words "buoyant apparatus" and add, in its place, "life floats".

§ 181.320 [Corrected]

13. Page 983, in the first column, in paragraph (d)(1) of § 181.320. "§ 160.027" is corrected to read "§ 162.027".

§ 181.500 [Corrected]

14. Page 986, in the first column, in paragraph (d) of § 181.500, "paragraph (d) " is corrected to read "paragraph (c)".

§ 182.430 [Corrected]

15. Page 989, in the third column, in paragraph (k) of § 182.430, remove "135 kPa (5 psig)" and add, in its place, "105 kPa (15 psig)".

§ 183.530 [Corrected]

16. Page 1002, in the second column, in paragraph (c) of § 183.530, "subchapter S of the chapter." is corrected to read "subchapter J of this chapter."

§ 185.115 [Corrected]

17. Page 1005, in the second column, in paragraph (a) of § 185.115, "§ 185.602(b)" is corrected to read "§ 185.602(c)".

§ 185.602 [Corrected]

18. Page 1010, in the first column, in paragraph (c) of § 185.602, add the word "or" after the word "chapter," and before the words "in accordance with".

§ 185.614 [Corrected]

19. Page 1011, at the bottom of the first column, the section designated "§ 122.614" is correctly designated "§ 185.614".

Dated: May 7, 1996.

Joseph J. Angelo,

Director for Standards, Marine Safety and Environmental Protection.

[FR Doc. 96–11898 Filed 5–14–96; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–126; RM–8671]

Radio Broadcasting Services; Denison-Sherman, Paris, Jacksboro, TX, and Madill, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Hunt Broadcasting, Inc., substitutes Channel 269C1 for Channel 269C3 at Denison-Sherman, Texas, and modifies the license of Station KDVE(FM) to specify operation on the higher powered channel. To accommodate the allotment of Channel 269C1 at Denison-Sherman, the Commission also substitutes Channel 282C2 for Channel 270C2 at Paris, Texas, and modifies Station KBUS(FM)'s license; substitutes Channel 273A for Channel 272A at Madill, Oklahoma, and modifies Station KMAD(FM)'s license; and substitutes Channel 252A for Channel 269A as well as, a change of transmitter site for Station KAIH(FM) at Jacksboro, Texas, and modifies Station KAIH(FM)'s construction permit accordingly. *See* 60 FR 40814, August 10, 1995. *See* Supplemental Information, *infra.* With this action, this proceeding is terminated.

EFFECTIVE DATE: June 21, 1996.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95–126, adopted April 29, 1996, and released May 7, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Channels 269C1, 282C2, 252A, and 273A can be allotted to Denison-Sherman, Paris, Jacksboro, Texas, and Madill, Oklahoma, in compliance with the Commission's minimum distance separation requirements. Channel 269C1 can be allotted to Denison-Sherman without the imposition of a site restriction. The coordinates for Channel 269C1 at Denison-Sherman are 33–41–39 and 96–34–38. Channel 252A can be allotted Jacksboro with a site restriction of 3.4 kilometers (2.1 miles) northwest. The coordinates for Channel 252A at Jacksboro are 33–14–26 and 98–11–16. Channel 282C2 and Channel 273A can be allotted Paris, Texas, and Madill, Oklahoma, respectively, at the transmitter sites specified in Station KBUS(FM) and Station KMAD(FM)'s authorizations. The coordinates for Channel 282C2 at Paris are 33–45–04 and 95–24–51. The coordinates for Channel 273A at Madill are 34–06–24 and 96–46–30.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 269C3 and adding Channel 269C1 at Denison-Sherman, and by removing Channel 270C2 and adding Channel 282C2 at Paris, and by removing Channel 269A and adding Channel 252A at Jacksboro.

3. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 272A and adding 273A at Madill.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–12163 Filed 5–14–96; 8:45 am]

BILLING CODE 6712–01–F

Proposed Rules

Federal Register
Vol. 61, No. 95
Wednesday, May 15, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

30 CFR Part 256

RIN 1010–AC18

Leasing of Sulphur or Oil and Gas in the Outer Continental Shelf

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: MMS proposes to modify regulations to allow the authorized officer to extend the time period within which we must accept or reject the high bids received on tracts offered for sale. Currently, the authorized officer must accept or reject high bids on most tracts within 90 days after the date on which the bids are opened.

DATES: MMS will consider all comments received by June 14, 1996. We will begin reviewing comments at that time and may not fully consider comments we receive after June 14, 1996.

ADDRESSES: Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; 381 Elden Street; Mail Stop 4700; Herndon, Virginia 22070–4817; Attention: Chief, Engineering and Standards Branch.

FOR FURTHER INFORMATION CONTACT: Dr. Marshall Rose, Chief, Economic Evaluation Branch, telephone (703) 787–1536.

SUPPLEMENTARY INFORMATION: We limited the comment period to 30 days to provide us with timely comments in the event that we need to extend the bid evaluation period for the lease sale held on April 24, 1996.

The time to accept or reject high bids for tracts offered at an Outer Continental Shelf (OCS) lease sale is established under the regulations at 30 CFR 256.47. The authorized officer must accept or reject the high bids within 90 days after the bid opening, except for tracts identified by the Secretary of the Interior as subject to:

(1) Another nation's claims of jurisdiction and control which conflict with the claims of the United States, or,

(2) Defense-related activities that may be incompatible with mineral exploration and/or development activities.

Any bid not accepted within that period is deemed rejected.

The 90-day period was established in 1982. Since then, we have held several sales, mainly areawide. The Outer Continental Shelf Deep Water Royalty Relief Act (Pub. L. 104–58, November 28, 1995) amended the Outer Continental Shelf Lands Act to define a new bidding system which provides for royalty suspensions. The deepwater incentive law did not amend the requirement that we obtain fair market value for tracts that are leased. Any lease sale held before November 28, 2000, must use the new bidding system for all tracts located in water depths of 200 meters or more in the Gulf of Mexico west of 87 degrees, 30 minutes west longitude. We believe that the increased workload resulting from compliance with the new statutory requirements and the potential for a large number of tracts to receive bids may exceed our ability to complete the bid review process for all tracts bid upon within 90 days as required by 30 CFR 256.47(e)(2).

We propose to remedy the situation by giving the authorized officer authority to extend the time period for 30 days or longer when circumstances warrant. Recent examples include floods and furloughs; however, other circumstances such as excessive workload may arise which could warrant a longer time for bid evaluation.

This rule addresses a housekeeping issue and will enable us to adjust the bid acceptance/rejection time period to meet changing conditions in the OCS lease market. Continuation of the 90-day review period would result in the rejection of the high bids which we fail to evaluate within 90 days. This would result in fewer leases being issued because of a failure to complete the bid review process within time and resource constraints. The Government may receive less bonus and rental monies.

Today, without authority to extend the bid review period, the 1982 90-day rule allows insufficient time and is arbitrarily rigid.

Comments to the 1982 rule objected to the proposal to extend the bid review process from 60 to 120 days because of economic losses to the bidders whose high bids were later rejected. (High bidders received no interest payments on bonus monies returned by the Government.) Today, regulations provide for the payment of interest on the bonus monies submitted with the high bids which are ultimately rejected. Thus, bidders will not suffer economic loss because of an extended time period to complete the evaluation process.

In Central Gulf of Mexico Sale 157, held April 24, 1996, we received 1,381 bids on 924 tracts—many in water depths of 200 or more. It is in the public interest to assure that adequate time is available to give all high bids a full and appropriate review, to ensure the receipt of fair market value, and ultimately to increase natural gas and oil supplies.

Author: This document was prepared by Mary Vavrina, Offshore Resource Evaluation Division, MMS.

Executive Order (E.O.) 12866

The proposed rule does not meet the criteria for a significant rule requiring review by the Office of Management and Budget under E.O. 12866.

Regulatory Flexibility Act

The Department of the Interior has determined that the proposed rule will not have a significant effect on a substantial number of small entities. In general, the entities that engage in offshore activities are not, by definition, small due to the technical complexities and financial resources and experience necessary to safely conduct such activities. The indirect effect of this rulemaking on small entities that provide support for offshore activities has also been determined to be small.

Paperwork Reduction Act

The proposed rule contains no new reporting and information collection requirements.

Takings Implication Assessment

The DOI certifies that the proposed rule does not represent a governmental action capable of interference with constitutionally protected property rights. A Takings Implication Assessment prepared under E.O. 12630, Government Action and Interference with Constitutionally Protected Property Rights, is not required.

E.O. 12988

The DOI has certified to the Office of Management and Budget that the proposed rule meets the applicable reform standards provided in Section 3(b)(2) of E.O. 12988.

National Environmental Policy Act

The DOI has determined that the proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment; therefore, an environmental impact statement is not required.

Unfunded Mandate Reform Act of 1995

This rule does not contain any unfunded mandates to State, local, or tribal governments or the private sector.

List of Subjects in 30 CFR Part 256

Administrative practices and procedures, Continental shelf, Government contracts, Incorporation by reference, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

Dated: May 2, 1996.

Sylvia V. Baca,

Assistant Secretary, Land and Minerals Management.

For the reasons set forth in the preamble, we propose to amend 30 CFR part 256 as follows:

PART 256—LEASING OF SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF

1. The Authority citation for part 256 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*

2. Section 256.47(e)(2) is revised to read as follows:

§ 256.47 Award of leases.

* * * * *

(e) * * *

(2) The authorized officer must accept or reject the bid within 90 days. The authorized officer may extend the time period for acceptance or rejection of a bid for 30 days or longer, if circumstances warrant. Any bid not accepted within the prescribed time period, including any extension thereof, shall be deemed rejected.

* * * * *

[FR Doc. 96–12167 Filed 5–14–96; 8:45 am]

BILLING CODE 4310–MR–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH16–3–7264b; FRL–5439–5]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve a State revision to the Ohio sulfur dioxide State Implementation Plan (SO_2 SIP), submitted on October 16, 1991, and supplemented on March 17, 1993. This revision revises the SO_2 emission limitations applicable to Hamilton County. The SIP revision was conditionally approved on August 23, 1994 (59 FR 43287), and the condition has been satisfied.

In the final rules section of this **Federal Register**, the USEPA is publishing a full approval of the State's SIP revision request as a direct final rule without prior proposal, because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to these actions, no further activity is contemplated in relation to this proposed rule.

If USEPA receives timely comments adverse to or critical of the approval, which have not been addressed by the State or USEPA, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received on or before June 14, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Air and Radiation Division, Air Programs Branch, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mary Onischak, Environmental Engineer, Air Programs Branch, (AR–18J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–5954.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule published in the rules section of this **Federal Register**.

Dated: February 14, 1996.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 96–12120 Filed 5–14–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1311

RIN 0970–AB56

Head Start Program

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Administration on Children, Youth and Families is issuing this Notice of Proposed Rulemaking to implement a new statutory provision authorizing the Secretary to create a Head Start Fellows Program for staff in local Head Start programs or other individuals working in the field of child development, child care, early childhood education, health, and family services.

DATES: In order to be considered, comments on this proposed rule must be received on or before July 15, 1996.

ADDRESSES: Please address comments to the Associate Commissioner, Head Start Bureau, Administration on Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013. Beginning 14 days after close of the comment period, comments will be available for public inspection in Room 2222, 330 C Street, S.W., Washington, D.C. 20201, Monday through Friday between the hours of 9:00 a.m. and 4:00 p.m.

Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. A copy of these comments may also be sent to the Department cited above.

FOR FURTHER INFORMATION CONTACT: Dennis Gray, Head Start Bureau,

Administration on Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013; (202) 205–8404.

SUPPLEMENTARY INFORMATION:

I. Program Purpose

Public Law 103–252, the Human Services Amendments of 1994, amended the Head Start Act to authorize the creation of a Head Start Fellows Program (HSFP), which will support professional development of individuals working in Head Start or related programs.

The Head Start Bureau is pleased with the opportunity to develop the HSFP. The Bureau anticipates that the HSFP will provide Head Start Fellows with a unique opportunity to be exposed to activities, issues, resources, and new approaches through placements that will include national and regional Head Start offices, academia, and other public or private nonprofit entities and organizations concerned with services to children and families. The Head Start Bureau will benefit from the valuable perspectives brought by the Fellows currently working in Head Start and other programs across America to the national policy making process.

II. Summary of the Proposed Regulation

The authority for this Notice of Proposed Rulemaking (NPRM) is section 1150 of Public Law 103–252, the Human Services Amendments of 1994 (the Act) which added section 648A(d) to the Head Start Act (42 U.S.C. 9843). Section 648A(d) authorizes the Secretary to establish a program of Head Start Fellowships. Section 648A(d)(6) authorizes the Secretary to make expenditures not to exceed $1,000,000 for any fiscal year for stipends and other reasonable expenses for the Fellows Program. Additional authority is found in section 648A(d)(8), which mandates that the Secretary promulgate regulations to carry out section 648A(d).

The Act specifies:

- To whom Fellowships may be competitively awarded;
- Placement locations for Head Start Fellows;
- The duration of Head Start Fellowships; and
- The status of Head Start Fellows.

III. Section by Section Discussion of the NPRM

The following is a section by section discussion of the provisions in the rule.

Section 1311.1 Head Start Fellows Program Purpose

This section describes the purpose of the HSFP which is to provide opportunities to expand the knowledge and experience of local Head Start program staff and others in the field of child development.

The Head Start Bureau regards the HSFP as part of an overall strategy to promote staff and career development. Through placements in national and regional Head Start offices, local Head Start programs, institutions of higher learning and other offices concerned with child and family services, Head Start Fellows will gain an understanding of the policy making process to complement their experience as practitioners in the field. Another important goal of the Program will be to bring the valuable perspective and experience of practitioners to the national policy making process.

Section 1311.2 Definitions

This section defines references to the Act, Associate Commissioner for the Head Start Bureau and the term Head Start Fellows.

Section 1311.3 Application Process

This section refers to the application process for individuals who wish to apply for the HSFP. An annual announcement of the availability and number of Fellowships will be published in the **Federal Register** and advertised widely to ensure a broad base of applicants.

Section 1311.4 Qualifications, Selection, and Placement

Paragraph (a) of this section sets forth the requirements in the Act which specifies that an applicant must be working, on the date of application, in a local Head Start program or in the field of child development and family services. For applicants not currently working in a local Head Start program, the HSFP will look for individuals working in programs or on projects that share the goals of Head Start and a common commitment to the support of families and children. The Head Start Bureau hopes to attract a highly talented and diverse group of people. The qualifications of the applicants for Head Start Fellowship positions will be competitively reviewed. The Associate Commissioner for Head Start will make the final selection of the Head Start Fellows.

The number of Head Start Fellows each year will largely be a function of the annual budget, Head Start priorities and the capacity of the various placement offices. The Act precludes Federal employees from participating in the HSFP.

Paragraph (b) of this section specifies that the placement positions for Head Start Fellows may be located in: (1) the national and regional offices administering Head Start within the Department of Health and Human Services; (2) local Head Start agencies and programs; (3) institutions of higher education; (4) public or private entities and organizations concerned with services to children and families; and (5) other appropriate settings.

In accordance with section 648A(d)(3)(B) of the Act, paragraph (c) provides that a Head Start Fellow who is not an employee of a local Head Start agency or program may only be placed in: (1) the national or regional offices within the Department of Health and Human Services that administer Head Start; or (2) local Head Start agencies. The Act also specifies that Head Start Fellows may not be placed in any agency whose primary purpose, or one of whose major purposes, is to influence Federal, State or local legislation. This provision is reflected in paragraph (d) of this section.

Section 1311.5 Duration of Fellowships and Status of Head Start Fellows

Paragraph (a) of this section specifies that Head Start Fellowships will last for a term of one year, and may be renewed for a term of one additional year. Paragraphs (b) and (c) include the requirement in Section 648A(d)(7) of the Act which states that, except where otherwise provided, Head Start Fellows shall not be considered to be employees, or otherwise in the service or employment, of the Federal Government. Head Start Fellows shall be considered to be employees of the Federal Government for the purposes of compensation for injuries under chapter 81 of title 5, United States Code. Head Start Fellows assigned to the national or regional offices within the Department of Health and Human Services shall be considered employees in the Executive Branch of the Federal Government for the purposes of chapter 11 of Title 18, United States Code, and for the purposes of any administrative standards of conduct applicable to the employees of the agency to which they are assigned.

IV. Impact Analysis

Executive Order 12866

This Notice of Proposed Rulemaking implements the statutory authority to create a HSFP. Congress authorized expenditures allotted under section 640(a)(2)(D), not to exceed $1 million. This section allows for expenditures at the Secretary's discretion and is a percentage of the annual existing appropriation.

Regulatory Flexibility Act of 1980

The Secretary certifies that this rule will not have a significant impact on substantial numbers of small entities.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval of any reporting or record-keeping requirement inherent in a proposed or final rule. This NPRM contains an information collection requirement in section 1311.3 with regard to the application process for individuals applying for the HSFP. The respondents are the applicants. The Department needs to require an application process in order to make determinations about the applicants' eligibility to participate in the HSFP. The frequency of responses from applicants (new) will be annual. The Administration for Children and Families will consider comments by the public on the proposed requirement for applications in evaluating the accuracy of our estimate of the burden hours. We estimate that it will take approximately two hours per applicant to supply the relevant information. Although we do not know how many individuals will complete the application process for this new program, we anticipate receiving approximately 200 applications per year (this figure may increase or decrease). The total burden estimate at this time is approximately 400 hours. This section will be submitted to OMB for review and approval in accordance with the Paperwork Reduction Act.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations. Written comments to OMB should be sent directly to the following address: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W. Washington D.C. 20503, Attn: Ms. Wendy Taylor.

List of Subjects in 45 CFR Part 1311

Head Start Fellows, Head Start.

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: April 1, 1996.

Mary Jo Bane,

Assistant Secretary for Children and Families.

For the reasons set forth in the Preamble, 45 CFR Chapter XIII is proposed to be amended by adding a new Part 1311 as follows:

PART 1311—HEAD START FELLOWS PROGRAM

Sec.

1311.1 Head Start Fellows Program purpose.
1311.2 Definitions.
1311.3 Application process.
1311.4 Qualifications, selection, and placement.
1311.5 Duration of Fellowships and status of Head Start Fellows.

Authority: 42 U.S.C. 9801 *et seq.*

§ 1311.1 Head Start Fellows Program purpose.

(a) This Part establishes regulations implementing section 648A(d) of the Head Start Act, as amended, 42 U.S.C. 9801 *et seq.*, applicable to the administration of the Head Start Fellows Program, including selection, placement, duration and status of the Head Start Fellows.

(b) As provided in section 648A(d) of the Act, the Head Start Fellows Program is designed to enhance the ability of Head Start Fellows to make significant contributions to Head Start and to other child development and family services programs.

§ 1311.2 Definitions.

As used in this part:

Act means the Head Start Act, as amended, 42 U.S.C. 9801 *et seq.*

Associate Commissioner means the Associate Commissioner of the Head Start Bureau in the Administration on Children, Youth and Families.

Head Start Fellows means individuals who participate in the Head Start Fellows Program, who may be staff in local Head Start programs or other individuals working in the field of child development and family services.

§ 1311.3 Application process.

An individual who wishes to obtain a Fellowship must submit an application to the Associate Commissioner. The Administration for Children and Families will publish an annual announcement of the availability and number of Fellowships in the **Federal Register**. Federal employees are not eligible to apply.

§ 1311.4 Qualifications, selection, and placement.

(a) The Act specifies that an applicant must be working on the date of application in a local Head Start program or otherwise working in the field of child development and family services. The qualifications of the applicants for Head Start Fellowship positions will be competitively reviewed. The Associate Commissioner will make the final selection of the Head Start Fellows.

(b) Head Start Fellows may be placed in:

(1) The Head Start national and regional Offices;

(2) Local Head Start agencies and programs;

(3) Institutions of higher education;

(4) Public or private entities and organizations concerned with services to children and families; and

(5) Other appropriate settings..

(c) A Head Start Fellow who is not an employee of a local Head Start agency or program may only be placed in the national or regional offices within the Department of Health and Human Services that administer Head Start or local Head Start agencies.

(d) Head Start Fellows shall not be placed in any agency whose primary purpose, or one of whose major purposes is to influence Federal, State or local legislation.

§ 1311.5 Duration of Fellowships and status of Head Start Fellows.

(a) Head Start Fellowships will be for terms of one year, and may be renewed for a term of one additional year.

(b) For the purposes of compensation for injuries under chapter 81 of title 5, United States Code, Head Start Fellows shall be considered to be employees, or otherwise in the service or employment, of the Federal Government.

(c) Head Start Fellows assigned to the national or regional Offices within the Department of Health and Human Services shall be considered employees in the Executive Branch of the Federal Government for the purposes of chapter 11 of Title 18, United States Code, and for the purposes of any administrative standards of conduct applicable to the employees of the agency to which they are assigned.

[FR Doc. 96–12124 Filed 5–14–96; 8:45 am]

BILLING CODE 4184–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15, 22, and 24

[WT Docket No. 95–157; RM–8643; FCC 96–196]

Microwave Relocation Rules; Comment Request for Blocks C Through F

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: By this *Further Notice of Proposed Rule Making*, the Commission seeks further comment on certain aspects of the microwave relocation rules for C, D, E, and F blocks. Specifically, the Commission seeks further comment on whether to adjust the negotiation periods by shortening the voluntary negotiation period and lengthening the mandatory negotiation period for the D, E, and F blocks, and whether the negotiation periods for the C block should be subject to the same adjustment. The Commission also seeks comment on whether microwave incumbents should be permitted to seek reimbursement from PCS licensees through participation in the cost-sharing plan. The Commission believes that the rules proposed herein, will expedite the clearing of the 2 GHz band in an equitable and efficient manner.

DATES: Comments must be filed on or before May 28, 1996 and reply comments on or before June 7, 1996.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Michael Hamra (202) 418–0620, Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Further Notice of Proposed Rule Making*, adopted April 24, 1996 and released April 30, 1996. The complete text of this *Further Notice of Proposed Rule Making* is available for inspection and copying during normal business hours in the FCC Reference Center, Room 230, 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

FURTHER NOTICE OF PROPOSED RULE MAKING

I. Background

1. In the *First Report and Order and Third Notice of Proposed Rule Making* in ET Docket No. 92–9, 57 FR 49020 (October 29, 1992) the Commission reallocated the 1850–1990, 2110–2150, and 2160–2200 MHz bands from private and common carrier fixed microwave services to emerging technology services. The Commission also established procedures for 2 GHz microwave incumbents to be relocated to available frequencies in higher bands or to other media, by encouraging incumbents to negotiate voluntary relocation agreements with emerging technology licensees or manufacturers of unlicensed devices when frequencies used by the incumbent are needed to implement the emerging technology. The *First Report and Order* stated that, should negotiations fail, the emerging technology licensee could request involuntary relocation of the incumbent, provided that the emerging technology service provider pays the cost of relocating the incumbent to a comparable facility.

2. In the Commission's *Third Report and Order* in ET Docket No. 92–9, 58 FR 46547 (September 2, 1993) as modified on reconsideration by the *Memorandum Opinion and Order*, 59 FR 19642 (April 25, 1994) the Commission established additional details of the transition plan to enable emerging technology providers to relocate incumbent facilities. The relocation process consists of two negotiation periods that must expire before an emerging technology licensee may request involuntary relocation. The first is a fixed two-year period for voluntary negotiations—three years for public safety incumbents, *e.g.*, police, fire, and emergency medical—commencing with the Commission's acceptance of applications for emerging technology services, during which the emerging technology providers and microwave licensees may negotiate any mutually acceptable relocation agreement. Negotiations are strictly voluntary. If no agreement is reached, the emerging technology licensee may initiate a one-year mandatory negotiation period—or two-year mandatory period if the incumbent is a public safety licensee—during which the parties are required to negotiate in good faith.

3. Should the parties fail to reach an agreement during the mandatory negotiation period, the emerging technology provider may request involuntary relocation of the existing facility. Involuntary relocation requires that the emerging technology provider (1) guarantee payment of all costs of relocating the incumbent to a comparable facility; (2) complete all activities necessary for placing the new facilities into operation, including engineering and frequency coordination; and (3) build and test the new microwave (or alternative) system. Once comparable facilities are made available to the incumbent microwave operator, the Commission will amend the 2 GHz license of the incumbent to secondary status. After relocation, the microwave incumbent is entitled to a one-year trial period to determine whether the facilities are indeed comparable, and if they are not, the emerging technology licensee must remedy the defects or pay to relocate the incumbent back to its former or an equivalent 2 GHz frequency.

4. Under these procedures, it is possible for a relocation agreement between a PCS licensee and a microwave incumbent to have spectrum-clearing benefits for other PCS licensees as well. First, some microwave spectrum blocks overlap with one or more PCS blocks, because the spectrum in the 1850–1990 MHz band was assigned differently in the two services. Second, incumbents' receivers may be susceptible to adjacent or co-channel interference from PCS licensees in more than one PCS spectrum block. For example, a microwave link located partially in Block A, partially in Block D, and adjacent to Block B, may cause interference to or receive interference from PCS licensees that are licensed in each of those blocks. Third, because most 2 GHz microwave licensees operate multi-link systems, PCS licensees may be asked to relocate links that do not directly encumber their own spectrum or service area in order to obtain the microwave incumbent's voluntary consent to relocate. Finally, the *Unlicensed PCS Ad Hoc Committee for 2 GHz Microwave Transition and Management Inc.* ("UTAM"), the frequency coordinator for the PCS spectrum designated for unlicensed devices, expects that some licensed PCS providers will have to relocate links in the unlicensed band that are paired with links in licensed PCS spectrum. The Commission has designated UTAM to coordinate relocation in the 1910–1930 MHz band, which has been reallocated for unlicensed PCS devices. Once the 1910–1930 MHz band is clear, or there is little risk of interference to the remaining incumbents, and UTAM has recovered its relocation costs, UTAM's role will end and it will be dissolved.

5. Because the Commission is licensing PCS providers at different times and multiple PCS licensees may benefit from the relocation of a microwave system or even a single link, the first PCS licensee in the market potentially bears a disproportionate share of relocation costs. Subsequent PCS licensees to enter the market may therefore obtain a windfall. As a result of this potential "free rider" problem, the first PCS licensee in the market might not relocate a link or might delay its deployment of PCS if it believes that another PCS licensee will relocate the link first, thus paying for some or all of the relocation costs. In addition, unless cost-sharing is adopted, PCS licensees might not engage in relocation that is cost-effective if viewed from an industry-wide perspective. For example, a link that encumbers two PCS blocks might not be moved if the cost is greater than the benefit to any single licensee, even though the joint benefit received by two or more licensees exceeds the cost of relocating the link.

6. In 1994, PCIA proposed a cost-sharing plan to alleviate the free rider problem, which the Commission found to be attractive in theory but dismissed as underdeveloped. On May 5, 1995, Pacific Bell ("PacBell") filed a Petition for Rulemaking. In its petition, PacBell proposed a detailed cost-sharing plan in which PCS licensees on all blocks, licensed and unlicensed, would share in the cost of relocating microwave stations. On May 16, 1995, the Commission requested comment on PacBell's proposal. Most parties that commented on PacBell's Petition for Rulemaking supported the cost-sharing concept, although the comments reflected some differences regarding the details of the proposal. On October 12, 1995, the Commission adopted a *Notice of Proposed Rule Making*, 60 FR 55529 (November 1, 1995) which sought comment on a modified version of the plan proposed by PacBell.

7. The Commission also adopted and released with this *Further Notice of Proposed Rule Making*, the *First Report and Order* changing and clarifying certain aspects of the microwave relocation rules adopted in the Commission's Emerging Technologies proceeding, ET Docket No. 92–9.

II. Further Notice of Proposed Rule Making

8. In this *Further Notice of Proposed Rule Making*, the Commission seeks comment on whether to shorten the voluntary negotiation period and lengthen the mandatory negotiation period for the D, E, and F blocks. The Commission also seeks comment on whether the negotiation periods for the C block should be subject to the same adjustment. Finally, the Commission proposes that microwave incumbents be permitted to relocate some of their own links and obtain reimbursement rights pursuant to the cost-sharing plan adopted in the *First Report and Order*.

A. Voluntary and Mandatory Negotiation Periods for C, D, E, and F Blocks

9. The Commission agrees with commenters, however, that changing the negotiation timetable for PCS blocks other than the A and B blocks may not raise the same concerns. In the case of the D, E, and F blocks, bidding has not commenced and there are no ongoing negotiations between PCS licensees and incumbents. Therefore, the Commission believes it is appropriate to consider whether the relocation process in these blocks would benefit from adjusting the negotiation periods. Specifically, the Commission seeks comment on whether to adjust the negotiation periods for the D, E, and F blocks by shortening the voluntary negotiation period by one year and lengthening the mandatory period by one year. Under this approach, non-public safety incumbents would have a one-year negotiation period instead of the two-year negotiation period provided under current rules, and the mandatory negotiation period would be lengthened from one to two years. Similarly, public safety incumbents would have a two-year voluntary negotiation period instead of a three-years period, and a three-year mandatory negotiation period instead of a two-year period.

10. This approach could potentially accelerate the development of PCS in the D, E, and F blocks by speeding up the negotiation process and creating additional incentives for incumbents to enter into early agreements. At the same time, while incumbents would be required to commence mandatory negotiations sooner than under the existing rules, they would have the same total amount of time for negotiations provided under the existing rules before they become subject to involuntary relocation. The Commission seeks comment on whether this adjustment would effectively balance the interests of PCS licensees in bringing service to the public quickly and the interest of microwave incumbents in making a smooth transition to relocated facilities.

11. Finally, the Commission seeks comment on whether to make the same changes discussed above to the voluntary and mandatory negotiation periods applicable to C block. The Commission notes that C block is in a different posture from the D, E, and F blocks because the C block auction is ongoing and possibly near conclusion, and bidding has been based on the current rules. At the same time, the voluntary negotiation period for C block has not yet commenced, so unlike A and B blocks, there are no ongoing negotiations currently taking place in reliance on the current rules. The Commission seeks comment on whether shortening the voluntary period and lengthening the mandatory negotiation period for C block would facilitate the development of PCS in this band and what effect it would have on negotiations between C block licensees and microwave incumbents.

B. Microwave Incumbent Participation in Cost-Sharing Plan

12. The Commission tentatively concludes that microwave incumbents that relocate themselves should be allowed to obtain reimbursement rights and collect reimbursement under the cost-sharing plan from later-entrant PCS licensees that would have interfered with the relocated link. The Commission agrees with incumbents that allowing incumbent participation might facilitate system-wide relocations and could potentially expedite the deployment of PCS. The Commission is concerned, however, about what the incentive would be for an incumbent to minimize costs, if the incumbent knows in advance that it may be able to recover some of its expenses from PCS licensees. The Commission seeks comment, therefore, on how subsequent PCS licensees could be protected from being required to pay a larger amount to an incumbent that relocates itself than to another PCS licensee who has an incentive to minimize expenses. In addition, the Commission also questions whether a large number of incumbents would avail themselves of such an option, given that the Commission's rules require PCS licensees to pay for the entire cost of providing incumbents with comparable facilities. Assuming the Commission allows incumbent participation, the Commission seeks comment on whether, for purposes of the cost-sharing formula, the Commission should treat incumbents as if they were the initial PCS relocator.

III. Conclusion

13. The Commission believes that the rules proposed in this *Further Notice of Proposed Rule Making* will promote the public policy goals set forth by Congress. The Commission believes that the proposals for negotiation and reimbursement will facilitate the rapid relocation of microwave facilities operating in the 2 GHz band, and will allow PCS licensees to offer service to the public in an expeditious manner.

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IV. Procedural Matters

A. Initial Regulatory Flexibility Act

As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the policies and rules proposed in this *Further NPRM (Further Notice).* Written public comments are requested on the IRFA.

Reason for Action: This rulemaking proceeding was initiated to secure comment on whether the negotiation period for the D, E, and F block PCS licensees should be adjusted by shortening the voluntary period by one year (*i.e.*, to one year for non-public safety incumbents and two years for public safety incumbents) and lengthening the mandatory negotiation period for these blocks by a corresponding year (*i.e.*, to two years for non-public safety incumbents and three years for public safety incumbents); whether the negotiation periods for the C block should be subject to the same readjustments as the negotiation periods for the D, E, and F blocks; and whether microwave incumbents should be permitted to seek reimbursement from PCS licensees through the cost-sharing plan. This proposal would facilitate negotiations between the parties and promote the efficient relocation of microwave licensees by encouraging microwave incumbents to relocate their own microwave systems, thus bringing PCS services to the public in an speedy manner.

Objectives: Our objective is to facilitate negotiations between PCS licensees and microwave incumbents. This proposal would also enable microwave incumbents who pay to relocate their own links to collect reimbursement from PCS licensees that benefit from the relocation. Cost-sharing is necessary to enhance the speed of relocation and provide an incentive to incumbents to move their own links. This action would result in faster deployment of PCS and delivery of service to the public.

Legal Basis: The proposed action is authorized under the Communications Act, Sections 4(i), 7, 303(c), 303(f), 303(g), 303(r), and 332, 47 U.S.C. 154(i), 303(c), 303(f), 303(g), 303(r), 332, as amended.

Reporting, Record keeping, and Other Compliance Requirements: Under the proposal contained in the *Further NPRM,* microwave incumbents who relocate their own links would be required to document the relocation costs paid and report them to a central clearinghouse. Later PCS market entrants would then be required to file a Prior Coordination Notification with the clearinghouse and, if necessary, reimburse the incumbent for relocation expenses.

Federal Rules Which Overlap, Duplicate or Conflict With These Rules: None.

Description, Potential Impact, and Number of Small Entities Involved: This proposal would benefit small PCS licensees by facilitating negotiations with microwave incumbents and allowing them to bring their services to market sooner. This proposal would also benefit small microwave incumbents by enabling them to relocate their entire system at once and collect reimbursement from PCS licensees who benefit from the resulting clearance of the spectrum. Such incumbents would therefore benefit from the reduced time and administrative inconvenience involved with relocating links at different times. The 2 GHz fixed microwave bands support a number of industries that provide vital services to the public. We are committed to ensuring that the incumbents' services are not disrupted and that the economic impact of this proceeding on the incumbents is minimal. We must further take into consideration that not all of the incumbent licensees are large businesses, particularly in the bands above 2 GHz, and that many of the licensees are local government entities that are not funded through rate regulation. We believe that this proceeding would further our policy of encouraging rapid deployment of PCS and system-wide relocations of microwave incumbents. After evaluating comments filed in response to the *Further NPRM,* the Commission will examine further the impact of all rule changes on small entities and set forth its findings in the Final Regulatory Flexibility Analysis.

Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives: We have reduced burdens wherever possible. The regulatory burdens we have retained are necessary in order to ensure that the public receives the benefits of innovative new services in a prompt and efficient manner. We will continue to examine alternatives in the future with the objectives of eliminating unnecessary regulations and minimizing any significant economic impact on small entities.

IRFA Comments: We request written public comment on the foregoing Initial Regulatory Flexibility Analysis. Comments must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the comment deadlines set forth in this *Further NPRM.*

B. Ex Parte Rules—Non-Restricted Proceeding

This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules.

C. Comment Period

Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before May 28, 1996, and reply comments on or before June 7, 1996. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Reference Center of the Federal Communications Commission, Room 239, 1919 M Street, N.W., Washington, D.C. 20554. A copy of all comments should also be filed with the Commission's copy contractor, ITS, Inc., 2100 M Street, N.W., Suite 140, (202) 857–3800.

D. Authority

Authority for issuance of this *Further Notice of Proposed Rule Making* is contained in the Communications Act, Sections 4(i), 7, 303(c), 303(f), 303(g), 303(r), and 332, 47 U.S.C. 154(i), 157, 303(c), 303(f), 303(g), 303(r), 332, as amended.

E. Ordering Clauses

It is ordered that the Initial Regulatory Flexibility Analysis, as required by Section 604 of the Regulatory Flexibility Act, and as set forth in Section VII(A) is Adopted.

It is further ordered that the Secretary shall send a copy of this *Further Notice of Proposed Rule Making* to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 22

Radio.

47 CFR Part 24

Personal communications services.

47 CFR Part 101

Fixed microwave services.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–12269 Filed 5–14–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

48 CFR Part 52

Federal Acquisition Regulation; Use and Charges Clause Class Deviation

AGENCY: Department of Defense (DoD).

ACTION: Notice of proposed class deviation.

SUMMARY: The Department of Defense (DoD) is proposing a class deviation from the Federal Acquisition Regulation (FAR) that simplifies the method of determining rental charges for government property. The proposed class deviation will allow defense contractors to propose rental charges for the commercial use of government property and real property while revisions to the FAR are being drafted.

DATES: Comments on the proposed class deviation should be submitted in writing to the address shown below on or before June 14, 1996 to be considered in the formulation of the final class deviation.

ADDRESSES: Interested parties should submit written comments to: Ms. Angelena Moy, MPI, Room 3E144, Pentagon, Washington, DC 20301–3000. FAX (703) 695–7596.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena Moy, telephone (703) 695–1098.

SUPPLEMENTARY INFORMATION:

A. Background.

A notice of proposed class deviation was published in the **Federal Register** on September 6, 1995 (60 FR 46259). DoD proposed to deviate from the clause at FAR 52.245–9 to expedite implementation of simplified government property rental procedures. After evaluating the public comments, DoD made substantive revisions to the proposed class deviation.

Therefore, DoD now proposes to deviate from the clause at FAR 52.245–9 as follows:

Part 52—Solicitation Provisions and Contract Clauses

52.245–9 Use and Charges

This deviation authorizes DoD to use the following clauses in lieu of the clause at 52.245–9. The clause requires contractors, for real property and associated fixtures, to obtain certified property appraisals that compute a monthly, daily, or hourly rental rate for comparable commercial property. Rental charges would be determined by multiplying the rental time by an appraisal rental rate expressed as a rate per hour. For other government property, rental charges are based upon the property's acquisition cost and the actual rental time. The clause permits contractors to request that the Government consider alternate rental charge methods for either real or other property if the contractor considers a time-based rental to be unreasonable or impracticable.

USE AND CHARGES (APR 1984) (DEVIATION)

(a) *Definitions.* As used in this clause—

Acquisition cost means the acquisition cost recorded in the Contractor's property control system or, in the absence of such record, the value attributed by the Government to a government property item for purposes of determining a reasonable rental charge.

Government property means property owned or leased by the Government.

Real property means land and rights in land, ground improvements, utility distribution systems, and buildings and other structures. It does not include foundations and other work necessary for installing special tooling, special test equipment, or equipment.

Rental period means the calendar period during which government property is made available for commercial purposes.

Rental time means the number of hours, to the nearest whole hour, rented property is actually used for commercial purposes. It includes time to set up the property for such purposes, perform required maintenance, and restore the property to its condition prior to rental.

(b) *General.* (1) Rental requests must be submitted to the administrative Contracting Officer, identify the property for which rental is requested, propose a rental period, and calculate an estimated rental charge by using the Contractor's best estimate of rental time in the formulae described in paragraph (c) of this clause.

(2) The Contractor shall not use government property for commercial purposes until a rental charge for real property, or estimated rental charge for other property, is agreed upon. Rented property shall be used only on a non-interference basis.

(c) *Rental charge.* (1) *Real property and associated fixtures.* (i) The Contractor shall obtain, at its expense, a property appraisal from an independent licensed, accredited, or certified appraiser that computes a monthly, daily, or hourly rental rate for comparable commercial property. The appraisal may be used to compute rentals under this clause throughout its effective period or, if an effective period is not stated in the appraisal, for one year following the date the appraisal was performed. The Contractor shall submit the appraisal to the administrative Contracting Officer at least 30 days prior to the date the property is needed for commercial use. Except as provided in paragraph (c)(1)(iii) of this clause, the administrative Contracting Officer shall use the appraisal rental rate to determine a reasonable rental charge.

(ii) Rental charges shall be determined by multiplying the rental time by the appraisal rental rate expressed as a rate per hour. Monthly or daily appraisal rental rates shall be divided by 720 or 24, respectively, to determine an hourly rental rate.

(iii) When the administrative Contracting Officer has reason to believe the appraisal rental rate is not reasonable, he or she shall promptly notify the Contractor and provide his or her rationale. The parties may agree on an alternate means for computing a reasonable rental charge.

(2) *Other government property.* The Contractor may elect to calculate the final rental charge using the appraisal method described in paragraph (c)(1) of this clause subject to the constraints therein or the following formula in which rental time shall be expressed in increments of not less than one hour with portions of hours rounded to the next higher hour—

$$\text{Rental charge} = \frac{\text{(Rental Time in hours) (.02 per month) (Acquisition Cost)}}{\text{720 hours per month}}$$

(3) *Alternate methodology.* The Contractor may request consideration of an alternate basis for computing the rental charge if it considers a time-based rental unreasonable or impractical.

(d) *Rental payments.* (1) Rent is due at the time and place specified by the Contracting Officer. If a time is not specified, the rental is due 60 days following completion of the rental period. The Contractor shall calculate the rental due, and furnish records or other supporting data in sufficient detail to permit the administrative Contracting Officer to verify the rental time and computation.

Payment shall be made by check payable to the Treasurer of the United States and sent to the payment office specified in this contract or by electronic funds transfer to that office.

(2) Interest will be charged if payment is not made by the specified payment date or,

in the absence of a specified date, the sixty-first day following completion of the rental period. Interest will accrue at the "Renegotiation Board Interest Rate" (published in the **Federal Register** semiannually on or about January 1st and July 1st) for the period in which the rent is due.

(3) The Government's acceptance of any rental payment under this clause, in whole or in part, shall not be construed as a waiver or relinquishment of any rights it may have against the Contractor stemming from the Contractor's unauthorized use of government property or any other failure to perform this contract according to its terms.

(e) *Use revocation.* At any time during the rental period, the Government may revoke commercial use authorization and require the Contractor, at the Contractor's expense, to return the property to the Government, restore the property to its pre-rental condition, or both.

(f) *Unauthorized use.* The unauthorized use of government property can subject a person to fines, imprisonment, or both, under 18 U.S.C. 641.

(End of clause)

List of Subjects in 48 CFR Part 52

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 96–12025 Filed 5–14–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1305

[STB Ex Parte No. 538]

Disclosure and Notice of Change of Rates and Other Service Terms for Pipeline Common Carriage

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The ICC Termination Act of 1995 (ICCTA) eliminated the tariff and tariff filing requirements formerly applicable to pipeline carriers, but imposed in lieu thereof certain obligations to disclose common carriage rates and service terms as well as a requirement for advance notice of increases in such rates or changes in service terms. ICCTA requires the Board to promulgate regulations to administer these new obligations by June 29, 1996. The Board proposes to add a new part 1305 to its regulations for that purpose as set forth below.

DATES: Comments are due on June 4, 1996.

ADDRESSES: Send comments (an original and 10 copies) referring to STB Ex Parte No. 538 to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–7513. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: The Board's decision discussing this proposal is available to all persons for a charge by phoning DC NEWS & DATA, INC., at (202) 289–4357.

The Board certifies that this rule, if adopted, would not have a significant economic effect on a substantial number of small entities. The proposed rules should result in easier access to pipeline rate and service information and to that extent our action should benefit small entities.

The Board seeks comment on whether there would be effects on small entities that should be considered. If comments provide information that there would be significant effects on small entities, the Board will prepare a regulatory flexibility analysis at the final rule stage.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1305

Disclosure requirement, Notice requirement, Pipeline carriers.

Decided: May 8, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, the Board proposes to add a new part 1305 to title 49, Chapter X, of the Code of Federal Regulations, to read as follows:

PART 1305—DISCLOSURE AND NOTICE OF CHANGE OF RATES AND OTHER SERVICE TERMS FOR PIPELINE COMMON CARRIAGE

Sec.

1305.1 Scope; definitions.
1305.2 Disclosure requirement for existing rates.
1305.3 Response to request for establishment of a new rate.
1305.4 Notice requirement.

Authority: 49 U.S.C. 721(a) and 15701(e).

§ 1305.1 Scope; definitions.

(a) The provisions of this part address the requirements imposed on pipeline carriers by 49 U.S.C. 15701(b) and 15701(c). Such requirements apply to pipeline carriers only with respect to the transportation of commodities other than water, gas, or oil.

(b) Except as otherwise provided in paragraph (c) of this section, the provisions of this part apply to any transportation or service provided by a pipeline carrier subject to the jurisdiction of the Surface Transportation Board under 49 U.S.C. 15301.

(c) The provisions of this part do not apply to any transportation or service provided by a pipeline carrier to the extent that such transportation or service is exempted from rate notice and disclosure requirements pursuant to 49 U.S.C. 15302.

(d) For the purposes of this part, service terms means all classifications, rules, and practices that affect the rates, charges, or level of service for pipeline transportation.

§ 1305.2 Disclosure requirement for existing rates.

(a) A pipeline carrier must disclose to any person, on request, the specific rate(s) requested (or the basis for calculating the specific rate(s)), as well as all charges and service terms that may be applicable to transportation covered by that rate(s).

(b) The information provided by a pipeline carrier under this section must be provided immediately. Such information may be provided either in writing or in electronic form as agreed to by the parties.

§ 1305.3 Response to request for establishment of a new rate.

Where a shipper or a prospective shipper requests that the carrier establish a rate in the absence of an appropriate applicable rate for particular transportation, the carrier must promptly establish and provide to the requester, in writing or in electronic form as agreed to by the parties, an appropriate rate and applicable service terms. The response should be provided as soon as reasonably possible, but no later than 10 business days from receipt of the request. If a carrier determines that additional information is required from the requester before a rate or term can be established, the carrier must so notify the requester as soon as possible, but no later than 10 business days after receipt of the request. Once the additional information is received, the carrier must set the rate and related service terms, and relay them to the requester, within 10 business days.

§ 1305.4 Notice Requirement.

(a) A pipeline carrier may not increase any rates or charges, or change any service terms (except for changes that are equivalent to rate reductions) unless 20 days have expired after written or electronic notice has been provided to all persons who, within the previous 12 months:

(1) Have requested under section 15701(b) the affected rates or service terms; or

(2) Have made a shipment that was subject to the affected rates or terms; or

(3) Have made arrangements with the carrier for a future shipment that would be subject to the affected rates or terms.

(b) The notice required by this section may be in writing or in electronic form, as agreed to by the parties.

(c) For purposes of this section, a mailed notice is deemed "provided" on the date such notice is postmarked.

(d) The notice required by this section must clearly identify the increase in rates or charges or the change in service terms.

[FR Doc. 96–12277 Filed 5–14–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672, 675, and 676

[Docket No. 960501122–6122–01; I.D. 042596A]

RIN 0648–AI46

Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Limited Access Management of Federal Fisheries Off of Alaska; Addition of the City of Akutan To the List of Communities Eligible to Participate in the Community Development Quota Programs (CDQ)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to add the city of Akutan to the list of western Alaska communities that are eligible to participate in the CDQ programs, to remove the authority to use scales to weigh total catch in the pollock CDQ fishery, and to prohibit processor vessels from filling fish holding bins above the level of the viewing port. These actions are necessary to further the objectives of the CDQ programs.

DATES: Comments must be received at the following address by June 13, 1996.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; Attn: Lori Gravel. The Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) may be obtained from the same address or by calling 907–586–7228.

FOR FURTHER INFORMATION CONTACT: David Ham, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The domestic groundfish fisheries in the exclusive economic zone of the Gulf of Alaska and the Bering Sea and Aleutian Islands management area (BSAI) are managed by NMFS in accordance with the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Island Area (BSAI FMP). The FMPs were prepared by the Council and approved by NMFS under the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMPs are implemented by regulations that appear at 50 CFR parts 672, 675, and 676. General regulations that also govern the groundfish fisheries appear at 50 CFR part 620.

Beginning with the 1995 fishing season, the Pacific halibut and sablefish fixed gear fisheries have been managed under the Individual Fishing Quota (IFQ) program. The IFQ program is a regulatory regime designed to promote the conservation and management of these fisheries and to further the objectives of the Magnuson Act and the Northern Pacific Halibut Act. Further information on the implementation of the IFQ program, and the rationale supporting it, are contained in the preamble to the final rule implementing the IFQ Program published in the **Federal Register**, November 9, 1993 (58 FR 59375), and revised in subsequent amendments to the program published in the **Federal Register**.

Information on the halibut and sablefish (H/S) CDQ program, and the rationale supporting it, are contained in the preamble to the proposed rule to implement the program that was published in the **Federal Register** on December 3, 1992 (57 FR 57130).

The pollock CDQ program originally was developed by the Council and submitted as part of Amendment 18 to the BSAI FMP. Amendment 18 was approved in part by NMFS (57 FR 23321, June 3, 1992). Initial Federal regulations implementing the pollock CDQ program became effective on November 18, 1992 (57 FR 54936, November 23, 1992), and expired on December 31, 1995. The Council proposed re-authorizing the pollock CDQ program for an additional 3 years as part of Amendment 38 to the FMP, and NMFS approved this amendment on November 28, 1995. Regulations implementing the pollock CDQ program for 1996, 1997, and 1998, were published on December 12, 1995 (60 FR 63654), and corrected on January 2, 1996 (61 FR 20).

The pollock and H/S CDQ programs apportion designated percentages of the annual total allowable catch for pollock, Pacific halibut, and fixed gear sablefish to a CDQ reserve that may be allocated to eligible western Alaska communities. The purpose of the CDQ program is to provide the CDQ communities with a means for starting or supporting commercial seafood activities that will result in ongoing, regionally based, commercial seafood or related businesses.

CDQ Eligibility for Akutan

The pollock CDQ regulations and the H/S CDQ regulations (§ 675.27(d)(2) and § 676.24(f)(2), respectively), list four criteria for determining the eligibility of western Alaska communities to participate in the CDQ programs. In 1992, NMFS determined that the city of Akutan met the first three criteria but did not meet the fourth criterion. The fourth criterion states that: "the community must not have previously developed harvesting or processing capability sufficient to support substantial groundfish fisheries participation in the BSAI, except if the community can show that benefits from an approved community development plan (CDP) would be the only way to realize a return from previous investments."

Akutan was excluded from CDQ participation because a large groundfish processing plant—the Trident plant—was located within Akutan's city limits.

Despite the presence of this processing plant, the city of Akutan apparently gains little benefit. The Council, at its September 1995, meeting, recommended to NMFS that Akutan be added to the list of CDQ-eligible communities. The Council took this action because the Aleutian Pribilof Island Community Development Association, a CDQ group, put forward evidence showing that Akutan should not be denied CDQ eligibility because of the fourth criterion. The evidence showed that the residents of Akutan have little economic interaction with the Trident processing plant in Akutan due to the nature of the processing plant's operations. The processing plant physically is detached from the city of

Akutan, and the plant uses its own catcher vessels to supply the plant with raw fish product. The processing plant was built to support the large capacity, heavily capitalized fleet. The plant cannot usually accept deliveries from the community's small skiff fleet because of the relatively small volume of groundfish produced by that fleet, and little or no local market exists for the local skiff fleet's fish. Hence, the city of Akutan does not have access to groundfish processing facilities that would support substantial groundfish fisheries participation in the BSAI.

In addition to a lack of groundfish processing capability, the city of Akutan has not developed harvesting capability. Vessels in the local skiff fleet are too small and unsafe to participate effectively and no small boat harbor is available for moorage. Allowing Akutan to participate in the CDQ programs could provide a basis for the community to develop the groundfish harvesting fleet and a boat harbor that would enable the community to make deliveries to the existing Trident groundfish processing plant or to develop alternative groundfish processing facilities.

Weighing Total Catch in the Pollock CDQ Fishery

Processor vessels in the pollock CDQ fishery are required to either provide measured, marked, and certified fish holding bins for volumetric estimates of catch weight or to provide scales to weigh total catch. This requirement at § 675.27(h)(2)(ii)(A) and (B) was published on May 16, 1994 (59 FR 25346), and effective August 15, 1994. NMFS proposes to terminate the option to use scales to weigh catch until NMFS issues regulations specifying a procedure to assure that accurate weights are obtained from the scales.

Under the current regulations, any scale used on a processor vessel to weigh groundfish harvested in the CDQ fisheries must measure catch weights to at least 95-percent accuracy. However, evaluation of two different models of flow scales during the 1995 pollock CDQ fishery and open access pollock non-roe season indicates that, although these scales are capable of weighing with a high degree of accuracy, consistently accurate weighing has not yet been achieved. Observers performed a series of scale tests by weighing approximately 800 kilograms of fish, first on a motion compensated platform scale (to establish the "known weight" of the fish) and then again on the flow scale. The accuracy of the scale, as measured by the difference between these two weights, varied between 0 percent and 97 percent in individual tests. This level of variability in scale performance would not be acceptable under the current CDQ regulations or any regulations anticipated for the BSAI pollock fishery. NMFS believes that requiring that the scale perform to a certain level of accuracy is not adequate to assure accurate weights. NMFS intends to implement a scale testing and certification program that would require a processor vessel to demonstrate that the scale was weighing accurately before the vessel would be allowed to process fish. An advance notice of proposed rulemaking, which outlines NMFS's proposed scale testing and certification program, was published in the **Federal Register** on February 20, 1996 (61 FR 6337). Once the scale testing and certification program is implemented, the use of scales to weigh total catch in the pollock CDQ fisheries may be allowed. Until such regulations are implemented, § 675.27(h)(2)(ii)(B) would be removed.

Prohibiting Vessels From Overfilling Bins

NMFS has become aware that the operators of some processor vessels in the pollock CDQ fishery have been filling fish holding bins above the level of the viewing port. When this happens, the NMFS-certified observer is not able to see the marked increments on the inside of the bins and to estimate total catch. Therefore, NMFS proposes to amend the pollock CDQ regulations at § 675.27(h)(2)(ii) to prohibit such activity.

Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

NMFS prepared an initial regulatory flexibility analysis as part of the regulatory impact review. The analysis describes the impact this proposed rule would have on small entities if it is adopted. The addition of Akutan to the list of eligible CDQ communities would affect a substantial number of small entities, that is, the other 5 communities currently participating in the CDQ program. Akutan would be expected to receive some CDQ support, and support would be reduced for one or more of the other communities accordingly. While it is possible that Akutan would receive only a very small allocation and the resulting reallocations would not have a significant impact, it is more likely that the reallocations would reduce the gross revenues of the other 5 communities by more than 5 percent, thus having a significant economic impact on these entities. It would be speculative to try to predict specific allocations or impacts. The economic impact on other communities is not a factor to be considered in determining whether a particular community is eligible under the CDQ program. Accordingly, there are no practical alternatives that would be available or that could be considered to reduce or minimize the economic impact on other communities if Akutan is added to the list of CDQ communities. Other aspects of this proposed rule are not expected to have a significant economic impact on a substantial number of small entities.

There are no reporting and recordkeeping requirements other than those already discussed in the Paperwork Reduction Act material that has been submitted to the Office of Management and Budget for approval.

There are no Federal rules that duplicate, overlap, or conflict with this proposed rule.

There are no significant alternatives to the proposed action that would accomplish the stated objectives.

A copy of the EA/RIR/IRFA analysis is available from NMFS (see **ADDRESSES**).

List of Subjects

50 CFR Parts 672 and 675

Fisheries; Reporting and recordkeeping requirements.

50 CFR Part 676

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: May 8, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR Parts 672, 675, and 676 are proposed to be amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Table 7 to 50 CFR part 672, is amended by removing the statement in brackets that follows the table heading and by revising the heading of the Table and the entries under "Aleutian Region" to read as follows:

Table 7 to Part 672—Communities Determined To Be Eligible To Apply for Community Development Quotas (Other Communities That Do Not Appear on This Table May Also Be Eligible)

Aleutian Region:
1. Atka
2. Akutan
3. False Pass
4. Nelson Lagoon
5. Nikolski
6. St. George
7. St. Paul

* * * * *

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

3. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. In § 675.27, the last sentence of paragraph (d)(2)(iv) and paragraph (h)(2)(ii) introductory text are revised, paragraph (h)(2)(ii)(A) heading and paragraph (h)(2)(ii)(B) are removed, and paragraphs (h)(2)(ii)(A)(*1*) through (h)(2)(ii)(A)(*5*) are redesignated as paragraphs (h)(2)(ii)(A) through (h)(2)(ii)(E), respectively, and paragraph (h)(2)(ii)(F) is added to read as follows:

§ 675.27 Western Alaska Community Development Quota Program.

(applicable through December 31, 1998)

* * * * *

(d) * * *

(2) * * *

(iv) * * * The community of Unalaska is excluded under this provision.

* * * * *

(h) * * *

(2) * * *

(ii) Each processor vessel participating in the CDQ fishery for pollock must estimate the total weight of its groundfish catch by the volumetric procedures specified in this paragraph.

* * * * *

(F) Fish must not be loaded into a bin used for volumetric measurements above the level of the viewing port in the bin.

PART 676—LIMITED ACCESS MANAGEMENT OF FEDERAL FISHERIES IN AND OFF OF ALASKA

5. The authority citation for part 676 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.* and 1801 *et seq.*

6. In § 676.24, the last sentence of paragraph (f)(2)(iv) is revised to read as follows:

§ 676.24 Western Alaska community Development Quota Program.

* * * * *

(f) * * *

(2) * * *

(iv) * * * The community of Unalaska is excluded under this provision;

* * * * *

7. Table 1 to § 676.24, is amended by revising the heading of the Table and the entries under "Aleutian Region" to read as follows:

Table 1 to § 676.24—Communities Determined To Be Eligible To Apply for Community Development Quotas (Other Communities That Do Not Appear on This Table May Also Be Eligible)

Aleutian Region:
1. Atka
2. Akutan
3. False Pass
4. Nelson Lagoon
5. Nikolski
6. St. George
7. St. Paul

* * * * *

[FR Doc. 96–12073 Filed 5–14–96; 8:45 am]
BILLING CODE 3510–22–W

Notices

Federal Register
Vol. 61, No. 95
Wednesday, May 15, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 10, 1996.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Department Clearance Officer, USDA, OIRM, Ag Box 7630, Washington, DC 20250–7630. Copies of the submission(s) may be obtained by calling (202) 720–6204 or (202) 720–6746.

Title: Biological Shipment Record—Beneficial Organisms.

Summary: This program provides needed scientific information on the introduction of exotic organisms into the United States.

Need and Use of the Information: Collection of this information contributes to the biological control and taxonomic research program in USDA by recording the introduction and release of non-indigenous biological control organisms in the United States by scientists and other practitioners of biological control of pests.

Description of Respondents: Federal Government; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 100.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 20.

Larry Roberson,
Deputy Departmental Clearance Officer.
[FR Doc. 96–12187 Filed 5–14–96; 8:45 am]
BILLING CODE 3410–01–M

Food and Consumer Service

Commodity Supplemental Food Program: Elderly Poverty Income Guidelines

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the adjusted poverty income guidelines to be used by State agencies in determining the income eligibility of elderly persons applying to participate in the Commodity Supplemental Food Program (CSFP). These poverty income guidelines are to be used in conjunction with the CSFP Regulations.

EFFECTIVE DATE: July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Lillie F. Ragan, Assistant Branch Chief, Household Programs Branch, Food Distribution Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302–1594, or telephone (703) 305–2661.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

Paperwork Reduction Act

This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.565 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112).

Description

On December 23, 1985 the President signed the Food Security Act of 1985 (Pub. L. 99–198). This legislation amended section 5(f) and (g) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) to require that the Secretary permit agencies administering the CSFP to serve elderly persons if such service can be provided without reducing service levels for women, infants, and children. The law also mandates establishment of income eligibility requirements for elderly participation. Prior to enactment of Pub. L. 99–198, elderly participation was restricted by law to three designated pilot projects which served the elderly in accordance with agreements with the Department.

In order to implement the CSFP mandates of Pub. L. 99–198, the Department published interim rules on September 17, 1986 at 51 FR 32895 and a final rule on February 18, 1988 at 58 FR 8287. These regulations defined "elderly persons" as those who are 60 years of age or older. The final rule further stipulated that elderly persons certified on or after September 17, 1986 must have "household income at or below 130 percent of the Federal Poverty Income Guidelines published annually by the Department of Health and Human Services" (7 CFR 247.7(a)(3)).

These poverty income guidelines are revised annually to reflect changes in the Consumer Price Index. The revision for 1996 was published by the Department of Health and Human Services (DHHS) in the **Federal Register** for March 4, 1996 at 61 FR 8286. At this time the Department is publishing the income limit of 130 percent of the poverty income guidelines by household size to be used for elderly certification in the CSFP for the period July 1, 1996–June 30, 1997.

The poverty income guidelines were multiplied by 1.30 and the results rounded up to the next whole dollar. The table in this notice contains the income limits by household size for the 48 contiguous States and the District of Columbia. The poverty income guidelines for areas outside of the 48 contiguous States have not been included in this notice because the CSFP does not operate in these areas. The revised income guidelines reflect an increase of 3.58 percent over the income guidelines for the previous period.

FCS POVERTY INCOME GUIDELINES FOR ELDERLY IN CSFP—48 STATES AND THE DISTRICT OF COLUMBIA

[Effective July 1, 1996–June 30, 1997; 130 Percent of Poverty Income Guidelines]

Family size	Annual	Month	Week
1	10,062	839	194
2	13,468	1,123	259
3	16,874	1,407	325
4	20,280	1,690	390
5	23,686	1,974	456
6	27,092	2,258	521
7	30,498	2,542	587
8	33,904	2,826	652
For each additional family member add	+3,406	+284	+66

Dated May 2, 1996.

William E Ludwig,
Administrator.
[FR Doc 96–12186 Filed 5–14–96; 8:45 am]
BILLING CODE 3410–30–P

Food Safety and Inspection Service

[Docket No. 96–019N]

Location of Proposed Technical Service Center; Opportunity To Present Alternative Sites for Consideration

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is considering creating a Technical Service Center to provide technical assistance, advice, and guidance for FSIS Field Operations personnel and the regulated meat, poultry, and egg products industries. FSIS is providing interested parties the opportunity to present recommended sites for its proposed Technical Service Center.

DATES: Requests to make a presentation to the Agency must be received by June 14, 1996.

ADDRESSES: Mr. O.V. Cummings, Director, Administrative Services Division, Food Safety and Inspection Service, 14th and Independence Ave., SW, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. O.V. Cummings or Mr. Glen Durst at the above address or at (202) 720–3551, Fax (202) 205–7392.

SUPPLEMENTARY INFORMATION: FSIS has submitted a proposed reorganization plan to the Secretary of Agriculture for approval. The plan establishes a Technical Service Center to provide technical assistance, advice, and guidance for FSIS Field Operations personnel and the regulated meat, poultry, and egg products industries. The Center would house approximately 100 FSIS employees to provide guidance on the enforcement and application of FSIS domestic and import regulations, policies, and systems.

Approximately half of the employees that would be assigned to the Center are currently located in the Washington, D.C. area, with the remainder of the employees in the five Regional Offices or other locations. Locating the Center in the Washington D.C. area would result in the lowest initial cost to the Agency because there would be no relocation costs for employees already assigned to the Washington D.C. area. In addition, locating the Center in the Washington, D.C. metropolitan area would enhance FSIS's ability to coordinate Agency functions with the Center.

However, locating the Center in a rural area could serve the Agency well in the long term. Experience shows that it is easier to recruit employees in areas where the cost of living is relatively low. In addition, locating the Center in the middle of the country would make it easier to serve field personnel and industry because the time difference between the Center and offices located on the east and west coast would not be so great.

FSIS invites recommendations regarding the location of the Technical Service Center. Persons interested in proposing sites for the Center should address issues of initial costs, other costs, and benefits associated with a particular, recommended location. The proposed locations should, at a minimum, meet the following criteria:

- Offer an adequate selection of moderate to middle income housing.
- Be within reasonable driving distance to a major airport because there will be occasional travel to and from the 18 proposed district offices and Washington, D.C.
- Have nearby hotel/motel accommodations.
- Have available office space to support the Center staff (approximately 20,000 square feet).

The presentations may be given in person, on videotape, or by conference call. Written recommendations should be sent to Mr. O.V. Cummings (See **ADDRESSES**).

The Agency will contact respondents to schedule the presentations to be given at FSIS headquarters. Presenters from outside the Washington D.C. area who wish to make presentations at FSIS headquarters must make their own travel arrangements and pay their own travel expenses.

Done at Washington, DC, on May 9, 1996.

Michael R. Taylor,
Acting Under Secretary for Food Safety.
[FR Doc. 96–12136 Filed 5–14–96; 8:45 am]
BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Patent and Trademark Office.
Title: Disclosure Document Program.
Form Number(s): PTO/SB/95.
Agency Approval Number: 0651–0030.
Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.
Burden: 5,400 hours.
Number of Respondents: 27,000.
Avg Hours Per Response: .2 hours.
Needs and Uses: The information collected includes the invention disclosure submitted by the inventor and a form which requests the name and address of the inventor. The name and address information is used to notify the inventor of the receipt of the invention disclosure and to inform the inventor of the deposit number which must be used if the applicant desires to reference the invention disclosure in a subsequent application for patent.
Affected Public: Individuals or households, businesses or other for–profit institutions, not–for–profit institutions, and Federal Government.
Frequency: On occasion.
Respondent's Obligation: Required to obtain or retain benefits.
OMB Desk Officer: Maya A. Bernstein, (202) 395–3785.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maya A. Bernstein, OMB Desk Officer, Room 10236, New Executive Office Building, Washington, DC 20503.

Dated: May 10, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–12179 Filed 5–14–96; 8:45 am]

BILLING CODE 3510–16–F

National Oceanic and Atmospheric Administration

Licensing of Private Remote-Sensing Space Systems

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of public hearing.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is considering revisions to its regulations for the licensing of private remote sensing space systems under Title II of the Land Remote Sensing Policy Act of 1992, 15 U.S.C. 5601 *et seq.* (1992 Act). To further this consideration, NOAA is sponsoring a public meeting to facilitate an exchange of ideas on significant issues between industry and government. The discussion will focus on those issues highlighted in NOAA's December 4, 1995, Notice of Inquiry (60 FR 62054) and the comments received in response.

DATES: The Public Meeting will be held on June 14, 1996 from 9:30 a.m. to 4:00 p.m., with a lunch break from 12:30 p.m. to 1:30 p.m.

ADDRESSES: The meeting will be held at the United States Department of Commerce, Herbert C. Hoover Building, Room 4830, 14th Street & Constitution Avenue, N.W., Washington, D.C. Parties interested in participating in the public meeting, particularly those that would like to present oral and/or written testimony, should contact Michael Mignono or Kira Alvarez (See **FOR FURTHER INFORMATION CONTACT**). Comments received in response to the December 4, 1995 Notice of Inquiry may be viewed and/or copied by appointment from 9:00 a.m. to 3:00 p.m. at NOAA, Federal Building 4, Room 3301, Suitland, MD. Copies of NOAA's Discussion Packages may be obtained by contacting Michael Mignogno.

FOR FURTHER INFORMATION CONTACT: Michael Mignogno, NOAA, National Environmental Satellite, Data, and Information Service, (301) 457–5210 or Kira Alvarez, NOAA, Office of General Counsel, (301) 713–0053.

SUPPLEMENTARY INFORMATION: NOAA is considering the need to revise its regulations for licensing operators of private remote-sensing space systems. It is holding a public meeting to promote the dialogue between the Government and industry which began with the publication of NOAA's December 4, 1995, Notice of Inquiry. NOAA will use the comments already received and the results of the meeting to determine whether new regulations are necessary and, if so, as a basis for NOAA to draft proposed regulations.

The December 4, 1995 Notice of Inquiry stated that NOAA was particularly interested in comment on issues in four general areas. The Notice also announced the availability of discussion packages concerning these areas. The areas and issues highlighted were as follows:

1. Review Procedures for License Applications.

A. How can the process be improved and modified to provide transparency and predictability?

B. What are the minimum informational requirements for a complete application?

NOAA proposed that the Government abide by more formal administrative time limits and more detailed record keeping in making these determinations on an application.

2. Should NOAA consider a different standard and/or procedures for restricting imaging to preserve national security/foreign policy interests than that established by PDD–23 and included in current licenses, i.e.:

> The Secretary of Commerce may, after consulting with the Secretary of Defense or State, as appropriate, require the licensee to stop imaging an area and/or stop distributing data from an area during any period when national security or foreign policy interests may be compromised.

3. Review of Foreign Agreements.

A. What agreements must be submitted for review? Is the existing focus appropriate, i.e. on agreements that give a foreign party some control over the operation of the system an important role in distributing data?What is the appropriate threshold for strictly financial arrangements.

B. What process should be in place to inform applicants when the Government has identified a concern with a potential foreign agreement?

Major comments received were as follows:

1. *General Issues:* Commentors noted that there is an overall need for clearer definitions and standards in the regulations. Also, several commentors discussed the issue of proprietary information: comments received from the commercial remote sensing industry noted that all proprietary information submitted to NOAA should be protected from disclosure to the public; however, comments received from the news media noted that NOAA license application files should be open to the public, similar to the Federal Communications Commission broadcast license application files.

2. *Review Procedures:* Comments received stated generally that the review period for license applications should be less than 120 days; several methods were proposed to help accomplish this, but most importantly the comments noted that NOAA should alert applicants as soon as possible about any defects that may delay processing the application.

3. *Standards for Restricting Imaging:* Comments received noted that the regulations should clarify the standards as to when the distribution of imagery will be cut-off or limited due to national security and/or foreign policy reasons. The news media indicated in their comments that they would like a "clear and present danger" standard incorporated into the regulations, as well as procedural safeguards.

4. *Review of Foreign Agreements:* Several comments suggested a tiered classification system whereby agreements with certain countries would receive less scrutiny than agreements with other countries. One comment suggested only the notification of the agreement to NOAA (but no forwarding of any documentation) for NOAA's certification that the agreement was in compliance with the license.

In an issue related to foreign agreements, industry commentors suggested that the 25 per cent cap on foreign ownership should be raised to 40 per cent.

All comments received on the December 4, 1995 Notice of Inquiry are available for public review by appointment from 9:00 a.m. to 3:00 p.m. at NOAA, Federal Building 4, Room 3301, Suitland, MD. They may be inspected and any comments may be copied in accordance with regulations published in part 4 of title 15, Code of Federal Regulations. Further information about inspection and copying of records at this facility may be obtained by contacting NOAA (See **FOR FURTHER INFORMATION CONTACT**).

The meeting will consist of panel discussions of the four topics listed above, as well as the issue of foreign investment agreements. Concerning the latter, NOAA would be interested in examples of regulation of foreign investment that have worked successfully in the context of other agencies.

Parties interested in participating in the public meeting, particularly those that would like to present oral and/or written testimony, should contact NOAA (see **ADDRESSES**) so that NOAA can effectively coordinate the meeting and ensure an orderly proceeding.

Dated: May 10, 1996.

Robert S. Winokur,

Assistant Administrator for Satellite and Information Services.

[FR Doc. 96–12171 Filed 5–14–96; 8:45 am]

BILLING CODE 3510–12–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

AmeriCorps*VISTA Pre-Application Inquiry Form Reinstatement

AGENCY: Corporation for National and Community Service.

SUMMARY: The Corporation for National and Community Service has asked for an emergency processing request to OMB for the AmeriCorps*VISTA Pre-Application Inquiry.

DATES: The effective date is May 20, 1996.

FOR FURTHER INFORMATION CONTACT: Diana B. London, Deputy Director, AmeriCorps*VISTA, (202) 606–5000, extension 228. For individuals with disabilities, information will be made available in alternative formats, upon request.

SUPPLEMENTARY INFORMATION: A request for emergency processing for reinstatement of OMB Approval #3001–0057, AmeriCorps*VISTA Pre-Application Inquiry form which expired on November 30, 1995, has been requested to OMB. This form is used for information collection on potential AmeriCorps*VISTA applicant organizations to determine their eligibility to become an AmeriCorps*VISTA sponsoring organization.

Dated: May 8, 1996.

Diana B. London,

*Deputy Director, AmeriCorps*VISTA.*

[FR Doc. 96–12161 Filed 5–14–96; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF DEFENSE

Department of the Army

Committee Meeting Notice (School of the Americas)

AGENCY: School of the Americas, Training and Doctrine Command.

ACTION: Notice of meeting.

SUMMARY: In accordance with 10 (a) (2) of the Federal Advisory Committee Act, Public Law (92–463), announcement is made of the following committee meeting:

Name of Committee: School of the Americas (SOA) Subcommittee of the Army Education Advisory Committee.

Dates of Meeting: 29 and 30 May 1996.

Time of Meeting: 0900–1600 on 29 May, and 0900–1130 on 30 May 1996.

Place of Meeting: School of the Americas, Building 35, Fort Benning, GA.

Proposed Agenda: Orientation and current School of the Americas issues.

FOR FURTHER INFORMATION CONTACT: All communications regarding this subcommittee should be addressed to Lieutenant Colonel Willie G. Story, U.S. Army School of the Americas, Attention: ATZB–SAD, Fort Benning, Georgia, 31905–6245, or telephone (706) 545–3491.

SUPPLEMENTARY INFORMATION:

1. *Purpose of Meeting:* The newly-constituted SOA subcommittee will receive an orientation and review and discuss current issues, particularly proposed legislation regarding SOA.

2. Meeting of the Advisory Committee is open to the public. Due to space limitations, attendance may be limited to those persons who have notified the Committee Management Office in writing at least 5 days prior to the meeting date of their intent to attend.

3. Any member of the public may file a written statement with the committee before, during, or after the meeting. To the extent that time permits, the subcommittee chairman may allow public presentations of oral statements at the meetings.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–12157 Filed 5–14–96; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers

Notice of Availability of Surplus Land and Buildings in Accordance With Public Law 103–421 Located at Charles E. Kelly Support Facility, Irwin Support Annex, Manor, PA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: This notice identifies the surplus real property located at the Irwin Support Annex, Manor, PA. The former Nike Missile Launcher site is located in Westmoreland County, on Nike Road, just off of Pleasant Valley Road, south of its intersection with Route 130, next to the Turnpike.

FOR FURTHER INFORMATION CONTACT: For more information regarding the particular property identified in this Notice (i.e., acreage, floor plans, existing sanitary facilities, exact location), contact Mr. Gerry Bresee, Real Estate Division, Army Corps of Engineers, P.O. Box 1715, Baltimore, MD 21203 (telephone 410–962–5173, fax 410–962–0866).

SUPPLEMENTARY INFORMATION: This surplus is available under the provisions of the Federal Property and Administrative Services Act of 1945 and the Base Closure Community Redevelopment and Homeless Assistance Act of 1994. Notices of interest should be forwarded to Mr. William E. Mitchell II, Redevelopment Director, Redevelopment Authority of the County of Westmoreland, 601 Courthouse Square, Greensburg, Pennsylvania 15601, (telephone 412–830–3050, fax 412–830–3611).

The surplus real property totals approximately 18.93 acres and contains 11 buildings totaling approximately 26,468 square feet of space. Current range of uses include storage and administrative. Future uses may include administrative, storage or residential.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–12158 Filed 5–14–96; 8:45 am]

BILLING CODE 3710–41–M

Department of the Navy

Chief of Naval Operations (CNO) Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel will meet on June 3, 1996 from 2:30 to 4:00 at the office of the Chief of Naval Operations, 2000 Navy Pentagon, Washington, DC 20350–2000. This session will be closed to the public.

The purpose of this meeting is to conduct the final briefing of the Naval Warfare Innovations Task Force to the Chief of Naval Operations. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of the national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b (c) (1) of title 5, United States Code.

For further information concerning this meeting, contact Janice Graham, Assistant for CNO Executive Panel

Management, 4401 Ford Avenue, Suite 601, Alexandria, Virginia 22302–0268, Telephone (703) 681–6205.

Dated: May 6, 1996.

M.A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–12117 Filed 5–14–96; 8:45 am]

BILLING CODE 3810–FF–P

Notice of Availability of Invention for Licensing; Combustion Chamber Drain System

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy.

Requests copies of the patent application cited should be directed to the Office of Naval Research, ONR OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660 and must include the application serial number.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research, ONR, OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Patent Application Serial No. 08/604,143: COMBUSTION CHAMBER DRAIN SYSTEM; filed February 20, 1996.

Dated: May 6, 1996.

M. A. Waters,

LCDR, JAGC, USN Federal Register Liaison Officer.

[FR Doc. 96–12116 Filed 5–14–96; 8:45 am]

BILLING CODE 3810–FF–P

Notice of Availability of Invention for Licensing; Liquid Crystal Composition and Alignment Layer

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy.

Requests copies of the patent application cited should be directed to the Office of Naval Research, ONR OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660 and must include the application serial number.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research, ONR, OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Patent Application Serial No. 08/559,318: LIQUID CRYSTAL COMPOSITION AND ALIGNMENT LAYER, filed November 15, 1995.

Dated: May 6, 1996.

M. A. Waters,

LCDR, JAGC, USN Federal Register Liaison Officer.

[FR Doc. 96–12115 Filed 5–14–96; 8:45 am]

BILLING CODE 3810–FF–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 22, 1996. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 1:00 p.m. in the First Floor Meeting Room of the Rachel Carson State Office Building at 400 Market Street, Harrisburg, Pennsylvania.

A briefing of the Delaware River Basin's Pennsylvania legislators will be held at 11:00 a.m. at the same location.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. *Holdover Project: Borough of Berlin D–95–24 CP.* An application for approval of a ground water withdrawal project to supply up to 27.5 million gallons (mg)/30 days of water to the applicant's distribution system from new Well No. 12, and to limit the withdrawal from all wells located within the Delaware River Basin to 27.5 mg/30 days. The project is located in Berlin Borough, Camden County, New Jersey. This hearing continues those of March 26, 1996 and April 24, 1996.

2. A request by C S Water & Sewer Associates to extend the deadline completion and operation date in Condition "g." of Docket No. D–76–21 (Revised) from May 1 to June 30, 1996. Delay in securing funding postponed the construction start until April 23, 1996. No other changes are requested.

3. *Birmingham Township Sewer Authority D–95–52 CP.* A project to expand a 40,000 gallons per day (gpd) sewage treatment plant (STP) to ultimately treat an average monthly flow of 80,000 gallons per day (gpd) which will serve the residential developments of the Ridings of Chadds Ford and the Ridings II, both located approximately one-half mile west of U.S. Route 202 in Birmingham Township, Delaware County, Pennsylvania. The STP will provide advanced secondary biological treatment utilizing the activated sludge process and tertiary filtration. After disinfection, treated effluent will be discharged to an unnamed tributary of Harvey Run.

4. *Borough of Fleetwood D–95–58 CP.* An application for approval of a ground water withdrawal project to supply up to 17.3 mg/30 days of water to the applicant's distribution system from new Well No. 13, and to limit the existing withdrawal limit from all sources to 27.5 mg/30 days. The project is located in Fleetwood Borough, Berks County, Pennsylvania.

5. *Lower Salford Township Authority D–95–63 CP.* A project to construct a 0.90 million gallons per day (mgd) average monthly capacity STP to serve the eastern drainage area of Lower Salford Township, Montgomery County, Pennsylvania. The STP will provide secondary biological treatment utilizing an orbal oxidation ditch and will also provide tertiary filtration and ultraviolet disinfection. The STP will treat excess hydraulic overload at a maximum monthly average of 1.976 mgd. The STP will be located approximately 1,000 feet north of State Route 63 and just west of Skippack Creek, to which it will discharge, in Lower Salford Township, Montgomery County, Pennsylvania.

6. *Pennsylvania-American Water Company D–96–12.* A project to treat up to 72,000 gpd of water captured from dewatering operations during construction of the applicant's new water treatment plant located in the Borough of Norristown, Montgomery County, Pennsylvania, and situated just downstream of the Danne Hower Bridge on the north bank of the Schuylkill River. The dewatering facilities will convey water contaminated with Diesel Range Organics (DROs) and oil and grease to the applicant's proposed treatment facilities including Particle Bay Filters and carbon adsorption units.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: May 7, 1996.

Susan M. Weisman,

Secretary.

[FR Doc. 96–12102 Filed 5–14–96; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–496–000]

El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

May 9, 1996.

Take notice that on May 6, 1996, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP96–496–000 a request pursuant to Sections 179.205, 157.212, and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212, 157.216) for authorization to abandon the existing meter located at the Texaco South Kermit Plant Receipt Point and the related service; and to operate a new meter to be constructed by Texaco Natural Gas Inc. (Texaco) as a delivery point under El Paso's blanket certificate issued in Docket No. CP82–435–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

El Paso states that Texaco converted its South Kermit Gas Plant to a field compressor station. Consequently, Texaco will no longer deliver gas to El Paso at the Texaco South Kermit Receipt Point. Texaco now requires deliveries of pipeline quality gas to its South Kermit Gas Plant for use as compressor fuel. Consequently, Texaco requested that El Paso convert the Texaco South Kermit Receipt Point to a delivery point to facilitate delivery of compressor fuel. On November 10, 1995, El Paso and Texaco entered into Transportation Service Agreement that provides for interruptible transportation service from any receipt point on El Paso's system to all available delivery points on El Paso's system.

El Paso states that operation of the Texaco South Kermit Meter Station as a delivery point is not prohibited by El Paso's existing tariff. El Paso further states that it has sufficient capacity to accomplish the transportation and delivery of the requested volumes without detriment or disadvantage to El Paso's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–12138 Filed 5–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–499–000]

Northwest Pipeline Corporation; Notice of Request Under Blanket Authorization

May 9, 1996.

Take notice that on May 6, 1996, Northwest Pipeline Corporation (Northwest), P.O. Box 58900, Salt Lake City, Utah 84158–0900, filed in Docket No. CP96–499–000 a request pursuant to Sections 157.205, and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, and 157.216) for approval to abandon by removal its William Austin Farm tap (Farm tap) located in Douglas County, Oregon, under the blanket certificate issued in Docket No. CP82–433–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest states that the certificate authorization for the construction and operation of the Farm tap for which Northwest now seeks abandonment authorization was issued in Docket No. CP65–128 for delivery of natural gas to The Washington Water Power Company's (Water Power) for service to a single customer. Northwest further states that there have been no deliveries to the Farm tap since September 1994. It is asserted that the distribution facilities served by this tap have been directly connected by Water Power to its Roseburg distribution system which is served by a different delivery point from Northwest.

Northwest indicates that by amendment dated February 1, 1995, the Farm tap was removed from Water Power's transportation service agreement with Northwest dated July 31, 1991. Northwest asserts that it currently has a contractual obligations to provide to the Farm tap.

Northwest states that the Farm tap was dismantled and removed from the site on May 25, 1995, at the landowner's request, although due to an administrative oversight, Northwest had not yet received abandonment approval. Therefore, Northwest now is requesting approval for abandonment by removal of the Farm tap. It is indicated that the actual cost of removing these facilities was $713.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–12140 Filed 5–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–497–000]

Valero Transmission Company and West Texas Gas, Inc.; Notice of Application for Authorization To Operate Border Facilities and for Presidential Permit

May 9, 1996.

Take notice that on May 6, 1996, Valero Transmission Company (Valero), General Partner of Valero Transmission, L.P., P.O. Box 500, San Antonio, Texas 78292 and West Texas Gas, Inc. (WTG), 211 North Colorado, Midland, Texas 79701, filed in Docket No. CP96–497–000, a joint application pursuant to Section 3 of the Natural Gas Act and Sections 153.10–153.12 of the Commission's Regulations and Executive Order 10485, as amended by Executive Order 12038 to: (1) terminate the Presidential Permit and Section 3 authorization previously issued to Valero to own, operate, and maintain border facilities near Eagle Pass, Texas; and (2) simultaneously issue a Presidential Permit and Section 3 authorization to WTG to own, operate, and maintain the Eagle Pass border facilities, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

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Applicants state that Valero was issued a Presidential Permit and Section 3 authorization in Docket Nos. CP84–361–000 and CP84–366–000, respectively, to construct or repair and operate on the international boundary between the U.S. and Mexico near Eagle Pass, Texas, two parallel eight-inch pipelines which connect with the facilities of Petroleos Mexicanos.

Applicants further state that on March 18, 1996, Valero Transmission, L.P. and WTG entered into an Asset Acquisition Proposal pursuant to which WTG has agreed to purchase certain intrastate pipeline facilities in Texas, including the Eagle Pass border facilities, which are the subject of this joint application. The sale occurred on April 30, 1996, with the sale of the Eagle Pass facilities conditioned upon (1) the termination of Valero's Presidential Permit and Section 3 authorization; and (2) the issuance of a Presidential Permit and Section 3 authorization to WTG to own, operate, and maintain the facilities. No new facilities or service are proposed by WTG in this application.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 30, 1996, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 3 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the authorization is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Valero and WTG to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–12139 Filed 5–14–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EC96–22–000, et al.]

Milford Power Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

May 9, 1996.

Take notice that the following filings have been made with the Commission:

1. Milford Power Limited Partnership

[Docket No. EC96–22–000]

Take notice that on May 3, 1996, Milford Power Limited Partnership (Applicant) submitted for filing an application under Section 203 of the Federal Power Act and Part 33 of the Commission's Regulations seeking authorization from the Commission for the transfer of partnership interests in Milford Power Limited Partnership to TEVCO Cogeneration Company and ANP Milford Power Company. Applicants have served copies of the filing on he Massachusetts Department of Public Utilities and New England Power Company.

Comment date: May 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. In the Matter of LG&E Power 21 L.P.

[Docket No. EG96–63–000]

On May 3, 1996, LG&E Power 21 L.P. ("LP21 LP"), a California limited partnership with its principal place of business at 12500 Fair Lakes Circle, Suite 350, Fairfax, Virginia 22033–3822, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

LP21 LP owns and operates directly, or indirectly through affiliates, wind-powered eligible facilities located near Buffalo Ridge, Minnesota and Palm Springs, California, of approximately 25 MW and 34.5 MW, respectively.

Comment date: May 30, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. In the Matter of LG&E Power 21 Incorporated

[Docket No. EG96–64–000]

On May 3, 1996, LG&E Power 21 Incorporated ("LP21"), a California corporation with its principal place of business at 12500 Fair Lakes Circle, Suite 350, Fairfax, Virginia 22033–3822, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

LP21 owns and operates directly, or indirectly through affiliates, wind-powered eligible facilities located near Buffalo Ridge, Minnesota and Palm Springs, California, of approximately 25 MW and 34.5 MW, respectively.

Comment date: May 30, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. In the Matter of LG&E Power 31 Incorporated

[Docket No. EG96–65–000]

On May 3, 1996, LG&E Power 31 Incorporated ("LP31"), a California corporation with its principal place of business at 12500 Fair Lakes Circle, Suite 350, Fairfax, Virginia 22033–3822, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

LP31 owns and operates directly, or indirectly through affiliates, a wind-powered eligible facility of approximately 35 MW located in Culberson County, Texas.

Comment date: May 30, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. In the Matter of LG&E Power 31 L.P.

[Docket No. EG96–66–000]

On May 3, 1996, LG&E Power 31 L.P. ("LP31 LP"), a California limited partnership with its principal place of business at 12500 Fair Lakes Circle, Suite 350, Fairfax, Virginia 22033–3822, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

LP31 LP owns and operates directly, or indirectly through affiliates, a wind-powered eligible facility of approximately 35 MW located in Culberson County, Texas.

Comment date: May 30, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Fauji Kabirwala Power Company Limited

[Docket No. EG96–67–000]

On May 6, 1996, Fauji Kabirwala Limited Partnership, a public limited company incorporated and existing under the laws of the Islamic Republic of Pakistan, having its registered office at c/o Fauji Foundation, Harley Street, P.O. Box 84, Rawalpindi, Pakistan (the "Applicant"), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator ("EWG") status pursuant to Part 365 of the Commission's Regulations.

The Applicant will be engaged directly in owning an eligible facility located near Kabirwala, Province of Punjab, Pakistan (the "Kabirwala Plant"). The Kabirwala Plant will consist of a 166 MW combined-cycle power plant, fueled by low Btu-gas.

Comment date: May 30, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

7. PECO Energy Company

[Docket No. EL96–50–000]

Take notice that on April 8, 1996, PECO Energy Company tendered for filing a letter requesting a declaratory order regarding changes to depreciation accruals and amortization of certain assets.

Comment date: May 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Burney Forest Products A Joint Venture

[Docket No. EL96–51–000]

Take notice that on April 30, 1996, Burney Forest Products A Joint Venture (Burney) filed a Petition for a Declaratory order or, in the alternative, an Initial Rate Schedule and Petition for Acceptance of Initial Rate Schedule and Request for Waivers and Blanket Approval.

Burney has contracted for the sale of up to 31 megawatts (net) of electricity from its biomass-fueled small power production facility to Pacific Gas and Electric Company (PG&E) pursuant to a Power Purchase Agreement entered into between the parties. Burney requests a determination by the Commission that its power sales to PG&E are not subject to the Commission's jurisdiction or, in the alternative, to accept the Power Purchase Agreement for filing as an initial rate schedule.

Comment date: May 30, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Citizens Power & Light Company, Eclipse Energy, Inc., Direct Electric Inc., R.J. Dahnke & Associates, Cenerprise, Inc., Electrade Corporation, Engelhard Power Marketing, Inc.

[Docket No. ER89–401–026, ER94–1099–008, ER94–1161–008, ER94–1352–007, ER94–1402–007, ER94–1478–007, ER94–1690–008 (not consolidated)

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On April 25, 1996, Citizens Power & Light Company filed certain information as required by the Commission's August 8, 1989 order in Docket No. ER89–401–000.

On April 24, 1996, Eclipse Energy, Inc. filed certain information as required by the Commission's June 15, 1994 order in Docket No. ER94–1099–000.

On May 6, 1996, Direct Electric Inc. filed certain information as required by the Commission's July 18, 1994 order in Docket No. ER94–1161–000.

On April 11, 1996, R.J. Dahnke & Associates filed certain information as required by the Commission's August 10, 1994 order in Docket No. ER94–1352–000.

On April 29, 1996, Cenerprise, Inc. filed certain information as required by the Commission's December 7, 1994 order in Docket No. ER94–1402–000.

On April 24, 1996, Electrade Corporation filed certain information as required by the Commission's August 25, 1994 order in Docket No. ER94–1478–000.

On April 24, 1996, Engelhard Power Marketing, Inc. filed certain information as required by the Commission's December 29, 1994 order in Docket No. ER94–1690–000.

10. Western Systems Power Pool

[Docket No. ER91–195–024]

Take notice that on April 30, 1996, the Western Systems Power Pool (WSPP) filed certain information as required by Ordering Paragraph (D) of the Commission's June 27, 1991, Order (55 FERC ¶ 61,495) and Ordering Paragraph (C) of the Commission's June 1, 1992, Order on Rehearing Denying Request Not To Submit Information, And Granting In Part And Denying in Part privileged treatment for some of the information filed consistent with the June 1, 1992 order. Copies of WSPP's informational filing are on file with the Commission, and the non-privileged portions are available for public inspection.

11. PanEnergy Power Services, Inc. IEP Power Marketing, LLC, PacifiCorp Power Marketing, U.S. Power & Light, Inc., Greenwich Energy Partners, Global Petroleum Corporation, Westar Electric Marketing, Inc.

[Docket No. ER95–7–009, ER95–802–004, ER95–1096–004, ER96–105–002, ER96–116–002, ER96–458–003, ER96–553–002 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On April 30, 1996, PanEnergy Power Services, Inc. filed certain information as required by the Commission's December 16, 1994 order in Docket No. ER95–7–000.

On May 6, 1996, IEP Power Marketing, LLC filed certain information as required by the Commission's May 11, 1995 order in Docket No. ER95–802–000.

On April 30, 1996, PacifiCorp Power Marketing filed certain information as required by the Commission's February 2, 1996 order in Docket No. ER95–1096–000.

On April 30, 1996, U.S. Power & Light, Inc. filed certain information as required by the Commission's December 6, 1995 order in Docket No. ER96–105–000.

On April 18, 1996, Greenwich Energy Partners filed certain information as required by the Commission's December 20, 1995 order in Docket No. ER96–116–000.

On April 29, 1996, Global Petroleum Corporation filed certain information as required by the Commission's December 20, 1995 order in Docket No. ER96–359–000.

On April 30, 1996, Westar Electric Marketing, Inc. filed certain information as required by the Commission's January 31, 1996, order in Docket No. ER96–458–000.

On April 22, 1996, QST Energy Trading, Inc. filed certain information as required by the Commission's March 14, 1996, order in Docket No. ER96–553–000.

12. Wisconsin Public Service Corp., WPS Energy Services, Inc. WPS Power Development, Inc.

[Docket No. ER96–1088–001]

Take notice that on May 1, 1996, Wisconsin Public Service Corporation (WPSC) tendered for filing a revised Tariff for selling power at market-based rates and a supplemental Code of Conduct, and WPS Energy Services, Inc. and WPS Power Development, Inc., tendered for filing a revised Rate Schedule No. 1 and revised Codes of Conduct with respect to the relationship between WPSC and its affiliates in compliance with the Commission's order of April 16, 1996 in the captioned docket.

Comment date: May 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. MidAmerican Energy Company

[Docket No. ER96–1549–000]

Take notice that on April 9, 1996, MidAmerican Energy Company tendered for filing revised tariff sheets to reflect an index of customers under its point to point transmission tariff.

Comment date: May 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Southern California Edison Company

[Docket No. ER96–1677–000]

Take notice that on April 29, 1996, Southern California Edison Company (Edison) tendered for filing the following Supplemental Agreement (Supplemental Agreement) to the 1990 Integrated Operations Agreement (1990 IOA) with the City of Riverside (Riverside), FERC Rate Schedule No. 250, and associated Firm Transmission Service Agreements (FTS Agreement):

Supplemental Agreement Between Southern California Edison Company and City of Riverside for the Integration of the Bonneville Power Administration-Riverside 1996 Diversity Exchange Agreement

Edison-Riverside 1996 BPA Firm Transmission Service Agreement Between Southern California Edison Company and City of Riverside

The Supplemental Agreement sets forth the terms and conditions by which Edison will integrate capacity and associated energy under Riverside's 1996 Diversity Exchange Agreement with Bonneville Power Administration (BPA Agreement). The FTS Agreement sets forth the terms and conditions by which Edison, among other things, will provide firm bi-directional transmission service for the BPA Agreement. Edison seeks waiver of the 60-day prior notice requirement and requests the Commission assign an effective date of April 30, 1996, to the Supplemental and FTS Agreement.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: May 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–12170 Filed 5–14–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00435; FRL–5368–9]

Renewal of Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that the following Information Collection Request (ICR) is coming up for renewal. This ICR, Compliance Requirements for Child Resistant Packaging, OMB No. 2070-0052, expires on October 31, 1996. Before submitting the renewal package to the Office of Management and Budget (OMB), EPA is soliciting comments on the specific aspects of the collection described below.

DATES: Comments must be submitted on or before July 15, 1996.

ADDRESSES: Submit written comments identified by the docket control number OPP–00435 and the ICR number by mail to: Public Response Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments directly to the OPP docket which is located in Rm. 1132 of Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as a ASCII file avoiding the use of special characters and any form or encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP–00435" and the ICR number. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit III. of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Ellen Kramer, Policy and Special Projects Staff, Office of Pesticide Programs, Environmental Protection Agency, Mail Code (7501C), 401 M St., SW., Washington, DC 20460, Telephone: (703) 305-6475, e-mail: kramer.ellen@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Copies of the complete ICR and accompanying appendices may be obtained from the OPP docket at the above address or by contacting the person whose name appears under FOR FURTHER INFORMATION CONTACT.

Electronic Availability: Electronic copies of each ICR are available from the EPA Public Access gopher (gopher.epa.gov) at the Environmental Sub-Set entry for this document under "Rules and Regulations."

I. Information Collection Requests

EPA is seeking comments on the following Information Collection Request (ICR) renewal.

Title: Compliance Requirement for the Child Resistant Packaging Act. ICR No. 0616.06. OMB No. 2070-0052. Expiration date: October 31, 1996.

Affected entities: This is a recertification of all registrants to ensure they are in compliance with the revised effectiveness standards and protocol test procedures by January 21, 1998. All registrants subject to child-resistant packaging (CRP) (unless exempted under 40 CFR 157.24), including those whose products are currently registered with certifications on file, must submit a new certification. After January 21, 1998, CRP certification will usually be conducted only when a registrant notifies EPA by application of their intention to either change packaging, enter the residential market, or otherwise become subject to CRP regulations.

Abstract: Section 25(c)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) establishes standards for the packaging of pesticides or devices to protect children and adults from serious illness or injury resulting from accidental ingestion or contact with these pesticides or devices. These standards are designed to be consistent with those under the Poison Prevention Packaging Act, administered by the Consumer Product Safety Commission (CPSC). The Poison Prevention Packaging Act previously included the packaging of pesticides, but was amended in 1976 to exclude them and that responsibility now rests with EPA.

EPA's CRP regulations reference the CPSC packaging standards and protocol testing procedures for CRP to avoid duplicative testing of packages for pesticidal and nonpesticidal purposes.

To ensure that all pesticide registrants are in compliance with the revised effectiveness standards and protocol test procedures, by January 21, 1998, all registrants subject to CRP (unless exempted under 40 CFR 157.24) must submit (1) a new certification and (2) a description of the type of package used and its designation using the American Society for Testing and Materials (ASTM) Standard D3475-95 "Standard Classification of Child-Resistant Packages." The ASTM Standard D3475-95 provides uniform terminology and universal descriptions of various types of CRPs. The statements "I certify that the packaging used for this product meets the standards of 40 CFR 157.32, including the revised effectiveness standards in 16 CFR 1700.15(b), when tested by the revised testing procedures in 16 CFR 1700.20, as published in 60 FR 37710 (July 21, 1995)," and "the type of package is a (describe closure) with (describe method of using closure), ASTM Type _____ with a (describe container)," will suffice for this purpose.

Burden statement: This is a recertification required for all pesticide products subject to CRP regulations or first time certification for products which are under CRP requirements. The annual respondent burden for this program is estimated to average 1.7 hours per response, including time for: reading instructions, planning activities, creating information, processing, compiling, and reviewing information for reliability and appropriateness, completing written compliance documents, and storing, filing, and maintaining the data.

The total number of registrants affected by this ICR is estimated to be 449 per year. Total cost per respondent to comply with the CRP, including capital costs, labor costs, and other operating and maintenance costs is estimated at approximately $109.90 per response.

The change in the Agency activities, which require 30 minutes maximum, relate to the screening of the CRP certifications to ensure they reference the new effectiveness standards and protocol testing procedures. Incomplete/incorrect certifications will be returned to registrants. Complete certifications including the description of the package used will be acknowledged, entered into the Office of Pesticide Programs Data Systems (OPUS), and filed in the pesticide product registration jacket. The self-certification will demonstrate to the Agency that the respondents are aware of the revised effectiveness standards and protocol testing procedures regarding CRP, and are in compliance with them. In turn, the Agency will know the type of CRP being used, and thus, be able to review CRP exemption requests more rapidly.

Any Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are contained in 40 CFR part 9.

II. Request for Comments

EPA solicits comments to:

(i) Evaluate whether the proposed collections of information described above are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(ii) Evaluate the accuracy of the agency's estimates of the burdens of the proposed collections of information.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

Send comments regarding these matters, or any other aspect of these information collections, including suggestions for reducing the burdens, to the docket under ADDRESSES listed above.

III. Public Record

A record has been established for this action under docket number "OPP–00435" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this action, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

List of Subjects

Environmental protection and Information collection requests.

Dated: May 8, 1996.

Susan H. Wayland,

Acting Assistant Administrator, Office of Prevention, Pesticides, and Toxic Substances.

[FR Doc. 96–12189 Filed 5–14–96; 8:45 am]

BILLING CODE 6560–40–F

[OPPTS–00184; FRL–5365–1]

Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collection as described below. The ICR is a continuing ICR entitled *Alternate Threshold for Low Annual Reportable Amounts*, EPA ICR No. 1704, OMB No. 2070-0143. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

DATES: Written comments must be submitted on or before July 15, 1996.

ADDRESSES: Submit three copies of all written comments to: TSCA Document Receipts (7407), Room NE-G99, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202-260-7099. All comments should reference administrative record number AR-156. This ICR is available for public review at, and copies may be requested from, the docket address and phone number listed above. Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the administrative record number AR-156" and ICR number 1704. No CBI should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit III. of this document.

FOR FURTHER INFORMATION CONTACT: For general information contact: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202-554-1404, TDD: 202-554-0551, e-mail: TSCA-Hotline@epamail.epa.gov. For technical information contact: Brian Symmes, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202-260-9121; Fax: 202-401-8142; e-mail: symmes.brian@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Entities potentially affected by this action are those chemical facilities that manufacture, process, or otherwise use certain toxic chemicals and which are required, under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), to report annually to EPA their environmental releases of such chemicals. For the collection of information addressed in this notice, EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

II. Information Collection

EPA is seeking comments on the following Information Collection Request.

Title: Alternate Threshold for Low Amounts in Waste, EPA ICR No. 1704, OMB No. 2070-0143, expires September 30, 1996.

Abstract: EPCRA section 313 requires certain facilities manufacturing, processing, or otherwise using certain toxic chemicals in excess of specified threshold quantities to report their environmental releases of such chemicals annually. Each such facility must file a separate report for each such chemical. EPA has authority to revise the threshold amounts.

EPA has established an alternate threshold for those facilities with low amounts of a listed toxic chemical in wastes. A facility that otherwise meets the current reporting thresholds but estimates that the total amount of the chemical in total waste does not exceed 500 pounds per year, and that the chemical was manufactured, processed, or otherwise used in an amount not exceeding 1 million pounds during the reporting year, can take advantage of reporting under the alternate threshold option for that chemical for that reporting year.

Each qualifying facility that chooses to apply the revised threshold must file an annual certification statement in lieu of a complete report form. The annual certification certifies that the sum of the amount of the EPCRA section 313 chemical in wastes did not exceed 500 pounds for the reporting year, and that the chemical was manufactured, processed, or otherwise used in an amount not exceeding 1 million pounds during the reporting year. Use of the certification, rather than submitting a complete reporting form, represents a substantial savings to respondents, both in burden hours and in labor costs.

The primary function served by the certification statement is to satisfy the statutory requirement to maintain reporting on a substantial majority of releases for all listed chemicals. Without the certification statement, users of TRI data would not have access to any information on these chemicals. The certification statement is also a de facto range report, which is useful to any party interested in amounts being handled at a particular facility or for broader statistical purposes. Additionally, the certification statement provides compliance monitoring and enforcement programs and other interested parties a means to track chemical management activities and verify overall compliance with the rule.

Responses to the collection of information are mandatory (see 40 CFR part 372). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

It should be noted that at the time of its last approval of this collection, OMB placed conditions on the subsequent clearance of the collection. OMB directed EPA to analyze TRI reports submitted for reporting year 1995, recalculate the number of respondents and the respondent burden resulting from this collection, and determine if the alternative threshold should be changed. Additionally, if EPA determined that changes in the regulation were warranted, OMB directed EPA to initiate rulemaking to make the necessary changes. However, time constraints specified by OMB in its conditions leave insufficient time for EPA to comply with the above requirements. Accordingly, EPA proposes to request renewed OMB approval for this collection without, at this time, attempting to meet the conditions outlined by OMB. EPA will, however, proceed in a timely fashion with the analysis and related actions and decisions to satisfy OMBs conditions, in expectation of being able to respond to those conditions upon the next following request for OMB approval of this collection.

Burden Statement: The burden to respondents for complying with this ICR is estimated to total 803,669 hours per year, with an annual cost of $43.7 million. These totals are based on an average burden of approximately 34.5 hours per response for an estimated 11,678 respondents, submitting an average of two reports of information annually. There are recordkeeping requirements associated with this collection. This estimate includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

III. Public Record

A record has been established for this action under docket number "OPPTS–00184" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE-B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this action, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

List of Subjects

Environmental protection and Information collection requests.

Dated: May 8, 1996.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 96–12193 Filed 5–14–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–34096; FRL 5366–7]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on August 13, 1996.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 216, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the five pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before August 13, 1996 to discuss withdrawal of the applications for amendment. This 90-day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
000239–02483	Ortho Methoxychlor 70	Methoxychlor	Ornamental & vegetable uses
000707–00203	Kelthane Technical Agricultural Miticide	Dicofol	Residential home lawns
007501–00054	Terraclor Super-X 20–5 Dust w/Graphite	Pentachloronitro-benzene	Sugar beets

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
047000–00026	Garden & Pet Dust	Rotenone; Cube resins other than rotenone	All home garden use
051036–00073	Dibrom 8EC	Naled	Soybeans, cucumbers, turnip greens, winter squash, rice, tobacco, pumpkins, tomatoes (field)

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
000239	The Solaris Group of Monsanto Co., P.O. Box 5006, San Ramon, CA 94583.
000707	Rohn & Haas Co., 100 Independence Mall West, Philadelphia, PA 19106.
007501	Gustafson Inc., P.O. Box 66065, Dallas, TX 75266.
047000	Chem-Tech Ltd., 4515 Fleur Dr., Suite #303, Des Moines, IA 50321.
051036	Micro Flo Company, P.O. Box 5948, Lakeland, FL 33807.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: April 30, 1996.

Frank Sanders,

Director, Program Management and Support Division, Office of Pesticide Programs.

[FR Doc. 96–12079 Filed 5–14–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–34093; FRL–5354–5]

Reregistration Eligibility Decision (RED) Development Schedule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's schedule for Reregistration Eligibility Decisions (REDs) during fiscal year 1996, and invites public comment to assist the Agency in prioritizing a list of candidate pesticides for completion of REDs in fiscal year 1997. A list of the 40 REDs completed by the Agency during fiscal year 1995 also is provided.

DATES: Written comments must be submitted by July 15, 1996.

ADDRESSES: Three copies of comments identified with the docket number "OPP–34093" and the case should be submitted to: By mail: OPP Pesticide Docket, Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person deliver comments to : OPP Pesticide Docket, Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (OPP–34093). No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in "SUPPLEMENTARY INFORMATION" at the end of this document.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket and docket index will be available for public inspection in Rm. 1132 at the address given above, from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Walter I. Waldrop, Reregistration Branch, Special Review and Reregistration Division (7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location: Crystal Station 1, WF33G5, 2800 Crystal Drive, Arlington, VA. By telephone, call, (703) 308–8062. E-mail: waldrop.walter@epamail.epa.gov.

To request a copy of a completed RED document listed below or of a RED Fact Sheet, contact the OPP Pesticide Docket, Public Response and Program Resources Branch, in Rm. 1132 at the address given above or call (703) 305–5805. RED documents and RED Fact Sheets can also be obtained from the National Center for Environmental Publications and Information (NCEPI), P. O. Box 42419, Cincinnati, OH 45242 - 0419. Tel: (513) 489–8190. Fax:(513) 489–8695.

Electronic copies of many completed REDs and RED fact sheets can be downloaded from the Pesticide Special Review and Reregistration Information System at 703–308–7224, and also can be reached on the Internet via fedworld.gov and EPA's public access gopher server (gopher.epa.gov).

SUPPLEMENTARY INFORMATION: EPA is required by law to reregister existing pesticides that originally were registered years ago when the standards for government approval were less stringent than they are today. This comprehensive reevaluation of pesticide safety is critical to protecting human health and the environment. In 1988, Congress amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to strengthen and accelerate EPA's reregistration program. The reregistration scheme mandated by "FIFRA '88" applies to each registered pesticide product containing an active ingredient initially registered before November 1, 1984.

In 1988 approximately 600 groups of related pesticide active ingredients, or "cases," representing 1,150 active ingredients in 45,000 formulated products, required reevaluation. Of those, over 200 cases and 20,000 products have been cancelled because the producers failed to support them or EPA has taken regulatory action to cancel them. Of the remaining 382 cases being supported, EPA has made reregistration eligibility decisions on 129 cases, to date.

In reviewing pesticides for reregistration, EPA gathers a substantially complete set of data on each chemical case, examines related health and environmental effects, and employs measures to most effectively mitigate risks. This evaluation and risk mitigation process is complete when EPA is satisfied that the pesticide(s), used in accordance with approved labeling, will not pose unreasonable risks to human health or the environment.

EPA's regulatory conclusion about each case is presented in a RED document. Later, once product-specific data and revised labeling are submitted to EPA and approved, the Agency reregisters products containing the eligible pesticide(s). A pesticide product is not reregistered, however, until all of its active ingredients are eligible for reregistration.

EPA completed 40 REDs in fiscal year 1995 (FY '95). (The federal government's fiscal year begins on October 1 and ends on September 30 of the named year.) Several of the FY '95 RED documents, while signed, still are undergoing in house processing including printing. Copies of most, but not all, of these REDs are available. The FY '95 REDs follow:

Agrobacterium Radiobacter
Aliphatic Alcohols
Alkyl Imidazolines
Amitraz
Ancymidol
Asulam
Benzocaine
BHAP
Bis(trichloromethyl) Sulfone
Bronopol
Chlorhexidine Diacetate
Chlorpropham
4-Chlorophenoxyacetic Acid (4-CPA)
Cyanazine
Cytokinin
DCPA
Dimethoxane
Diquat Dibromide
Dowicil 100
Ethalfluralin
Ethephon
Fenitrothion
Fosamine Ammonium
Linuron
Methyl Nonyl Ketone
Metolachlor
Nabam
Nuranone
O-Benzyl-Chlorophenol
Picloram
Polybutene
Prometryn
Propamocarb Hydrochloride
Sodium Fluoroacetate-1080
Sodium Omadine
Starlicide
Terbuthylazine
Tetrachlorvinphos
Trichlorfon
Trifluralin

During FY '96, EPA's goal is to complete 40 REDs from the following list of 50 candidate pesticide reregistration cases. The Agency believes it has a substantially complete data base regarding the human health and environmental effects of each of these pesticides. However, due to the complexities involved in refining risk mitigation measures, and available Agency resources, EPA's goal is to complete REDs for only 40 of these 50 candidates, this year.

Alachlor
Aldicarb
Amitrole
B. popilliae & B. lentimorb
Bromacil
Bromadiolone
Bromethalin
Captan
Chlorothalonil
Chlorpyrifos
Colletotrichum Gloesporioides Spores
Coumaphos
Cryolite
DEET
Desmedipham
Dibromodicyanobutane
Dichlobenil
Dicofol
Diflubenzuron
Dimethyloxazolidine
Ethion
Fenamiphos
Fenthion
Gibberellic Acid
Hydroprene
Hydroxyethyl Octyl Sulfide
Hydroxypropyl Methanethiosulfonate
Mepiquat Chloride
Methylene Bisthiocyanate
Methylisothiazoline
Metribuzin
MitinFF
Naled
4-Nitrophenol
Norflurazon
NPV (Nuclear Polyhedral Viruses)
Inclusion Bodies
Paraquat Dichloride
p-Chlor-*m*-cresol
Pendimethalin
Phorate
Profenofos
Propoxur
Strychnine
Tanol Derivatives
Terbufos
Tridecenyl Acetate
Troysan KK-108A
Vanicide
Vinclozolin
Virelure

EPA's goal is to complete an additional 40 REDs during FY '97. These most likely will consist of some FY '96 RED candidates from the list above, plus other RED candidates from the two lists below. The first list below contains 17 pesticide reregistration cases for which the Agency already has begun to develop scientific assessments.

Benomyl
Bromoxynil
Butralin
Cypermethrin
DEF
Dimethoate
Fluvalinate
Fonofos
Methidathion
Oxamyl
Oxyfluorfen
PCNB
Permethrin
Sulprofos
Thiobencarb
Thiodicarb
Triclopyr

EPA expects to have complete data sets in FY '97 for the following pesticide reregistration cases, but has not yet scheduled scientific assessments or REDs for these cases. Due to the limited Agency resources available to make reregistration eligibility decisions, EPA's goal is to complete a total of about 40 REDs during the next fiscal year. In addition to the cases listed above, science reviews will be completed for some of the cases listed below, in preparation for REDs in future years.

The public is invited to submit information to assist the Agency in prioritizing the following pesticides for reregistration eligibility decisions in FY '97. EPA is interested in knowing which of these pesticides are of the greatest interest or concern to the public from a human health or environmental perspective, and why, so that our

limited resources may be focused most effectively.

Of these pesticides, those that the Agency believes may pose high dietary, occupational, or residential exposure or risk are ones that the Agency would give priority to in its reregistration evaluation. Therefore, information of particular value to the Agency in prioritizing these FY '97 candidates should relate to exposure and risks from use of the chemicals.

2,4-D
2,4-DB
2,4-DP
Acrolein
Allethrin
Arsenal
Azadioxabicyclooctane
Azinphos-Methyl
Bendiocarb
Benfluralin
Bensulide
Benzisothiaszolin-3-one
Bioban P-1487
Bis(bromoacetoxy)-2-butene
Brodifacoum
Bromonitrostyrene
Cacodylic Acid
Calcium Polysulfide
Carbofuran
Chlorine Dioxide
Chloroneb
Chloropicrin
Chlorphacinone
Chlorsulfuron
Coal Tar/Creosote
Cycloate
Dazomet
Diiodomethyl *p*-Tolyl Sulfone
Dipropyl Isocinchomeronate
Dikegulac Sodium
Diphacinone
Diphenylamine
Diuron
EPTC
Endosulfan
Flumetralin
Fluometuron
Formaldehyde
Formetanate HCl
Grotan
Iprodione
Irgasan
Malathion
MCPB
Mefluidide and Salts
Methomyl
Methyl Esters of Fatty Acids
Napthalene
Octhilinone
Oil of Pennyroyal
Oxadiazon
Oxydemeton Methyl (ODM)
Oxythioquinox
Pentachlorophenol
Perbulate
Phenmedipham
Phenol
Phosmet
Pine Oil
Piperonyl Butoxide
Pirimiphos-Methyl
Prometon
Propanil
Propetamphos
Propylene Oxide
Pyrazon
Pyrethrin
Pyrimidinone (Amdro)
Sethoxydim
Siduron
Sodium Bisulfite and Sulfur Dioxide
Sodium Chlorate
Sulfonated Oleic Acid
Sumithrin
Telone
Terbacil
Terrazole
Tetramethrin
Thiabendazole
Triallate
Zinc Omadine
Zinc Phosphide

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

List of Subjects

Environmental protection.

Dated: May 6, 1996.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 96–12080 Filed 5–14–96; 8:45am]

BILLING CODE 6560–50–F

[PF–651; FRL–5365–7]

Dicamba; Notice of Filing of Pesticide Tolerance Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from Sandoz Agro, Inc., 1300 E. Touhy Avenue, Des Plaines, Il 60018, pesticide petition proposing to establish tolerances for the herbicide dicamba on various agricultural commodities.

DATES: Comments, identified by the document control number [PF–651], must be received on or before June 14, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF–651]. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–305–6800; e-mail: taylor.robert@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency has received pesticide petition (PP) 4F3041 proposing to amend 40 CFR 180.227 to establish tolerances for the use of the herbicide dicamba (3,6-dichloro-*o*-anisic acid) and its metabolite 3,6-dichloro-5-hydroxy-*o*-anisic acid and 3,6-dichloro-2-hydroxy benzoic acid in or on wheat grain at 0.5 parts per million (ppm), wheat straw at 50 ppm, barley grain at 0.5 ppm, barley straw at 50 ppm, soybean grain at 1.0 ppm, soybean hulls at 5.0 ppm, soybean forage at 0.5 ppm and soybean, aspirated grain fractions at 75 ppm. The petition was submitted by

Sandoz Agro, Inc. 1300 E. Touhy Avenue, Des Plaines, IL 60018.

A record has been established for this notice of filing under docket number [PF–651] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:
opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

List of subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 136a.

Dated: May 6, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–12194; Filed 5–14–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–181012; FRL 5368–5]

Carbofuran; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the Louisiana Department of Agriculture and Forestry, and from the Oklahoma Department of Agriculture (hereafter referred to as the "Applicants") to use the pesticide flowable Carbofuran (Furadan 4F Insecticide/Nematicide) (EPA Reg. No. 279–2876) to treat up to 750,000 acres of cotton in Louisiana, and up to 148,000 acres of cotton in Oklahoma, to control cotton aphids. The Applicants propose the use of a chemical which has been the subject of a Special Review within EPA's Office of Pesticide Programs, and the proposed use could pose a risk similar to the risk assessed by EPA under the Special Review of granular carbofuran. Therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before May 30, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–181012," should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–181012]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: David Deegan, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8327; e-mail: deegan.dave@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicants have requested that the Administrator issue specific exemptions for the use of carbofuran on cotton to control aphids.

Information in accordance with 40 CFR part 166 was submitted as part of these requests. As part of these requests, the Applicants assert that the states of Louisiana and Oklahoma are likely to experience nonroutine infestations of aphids during the 1996 cotton growing season. The applicants further claim that, without specific exemptions of FIFRA for the use of flowable carbofuran on cotton to control cotton aphids, cotton growers in much of these states will suffer significant economic losses. The applicants also detail use programs designed to minimize risks to pesticide handlers and applicators, non-target organisms (both Federally-listed endangered species, and non-listed species), and to reduce the possibility of drift and runoff.

The applicants propose to make no more than two applications at the rate of 0.25 lb. active ingredient [(a.i.)] (8 fluid oz.) in a minimum of 2 gallons of finished spray per acre by air, or 10 gallons of finished spray per acre by ground application. The total maximum proposed use during the 1996 growing season (Louisiana proposes a use season of June 01, 1996 until September 30, 1996; Oklahoma proposes a use season from July 10, 1996 until October 15, 1996) would be 0.5 lb. a.i. (16 fluid oz.) per acre. The applicants propose that the maximum acreage which could be treated under the requested exemptions would be 750,000 acres (Louisiana) and 148,000 acres (Oklahoma). If all acres

were treated at the maximum proposed rates, then 375,000 lbs. a.i. would be used in Louisiana, and 74,000 lbs. a.i. would be used in Oklahoma.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a chemical (i.e., an active ingredient) which has been the subject of a Special Review within EPA's Office of Pesticide Programs, and the proposed use could pose a risk similar the risk assessed by EPA under the previous Special Review. Such notice provides for opportunity for public comment on the application.

A record has been established for this notice under docket number [OPP–181012] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemptions requested by the Louisiana Department of Agriculture and Forestry, and from the Oklahoma Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: May 1, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–12078 Filed 5–14–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–181013; FRL 5369–1]

Puma 1EC; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the North Dakota State Department of Agriculture (hereafter referred to as the "Applicant") for use of the pesticide fenoxyprop-p-ethyl plus a new inert ingredient safener, 1-(2,4-dichlorophenyl)-4,5-dihydro-5-methyl-1*H*-pyrazole-3,5-dicarboxylic acid, diethyl ester to control green and yellow foxtail on up to 300,000 acres of durum wheat. The Applicant proposes the first food use of an inert ingredient; therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before May 30, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–181013," should be submitted by mail to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–181013]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Pat Cimino, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA (703) 308–8328; e-mail: cimino.pat@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a State agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicants have requested the Administrator to issue a specific exemption for the use of the herbicide Puma 1EC which contains the registered herbicide active ingredient, fenoxyprop-p-ethyl, plus an unregistered inert ingredient safener, to control green and yellow foxtail on up to 300,000 acres of durum wheat in North Dakota. Information in accordance with 40 CFR part 166 was submitted as part of this request.

The Applicant states that green and yellow foxtails, major weed pests in North Dakota durum wheat, have developed resistance to trifluralin herbicide. The applicant indicates that alternative, registered herbicides do not provide reliable control of these weed pests and that significant yield losses will occur if only currently available materials can be used.

This is the first year that the Applicant has requested this pesticide for any use. The Applicant indicates that North Dakota durum wheat acreage totals about 2.5 million acres. Not all durum wheat acres are infested with trifluralin resistant foxtails and the applicant requests that Puma 1EC treatments be permitted on up to 300,000 acres of durum wheat which are infested with trifluralin resistant foxtails. Applications of Puma 1EC would be made postemergent to wheat and foxtail emergence via ground or aerial application methods between May 15 and July 15, 1996 when foxtail weeds are susceptible to control by this product. Application rates range from 0.33 to 0.66 pints of Puma 1EC per acre depending on weed species controlled.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice of receipt in the **Federal Register** and solicit public comment on an application for a specific exemption if an emergency exemption proposes use of a new chemical (40 CFR 166.24).

A record has been established for this notice under docket number [OPP–181013] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document. Accordingly, interested persons may submit written views on this subject to the Filed Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the North Dakota State Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: May 7, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–12192 Filed 5–14–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–50818; FRL–5365–9]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location, telephone number, or e-mail address cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

45639–EUP–56. Extension. AgrEvo USA Company, Little Falls Centre One, 2711 Centerville Rd., Wilmington, DE 19808. This experimental use permit allows the use of 3,939 pounds of the herbicide butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-, monoammonium salt on 4,993 acres of corn and 400 acres of soybeans to evaluate the control of annual and perennial grass and broadleaf weeds. The program is authorized in the States of Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New York, North Carolina, North Dakota, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, and Wisconsin. The experimental use permit is effective from March 25, 1996 to March 15, 1997. Temporary tolerances for residues of the active ingredient in or on corn and soybeans have been established (Joanne Miller, PM 23, Rm. 237, CM #2, 703-305-6224, e-mail: miller.joanne@epamail.epa.gov.)

264–EUP–91. Extension. Rhone-Poulenc AG Company, P.O. Box 12014, Research Triangle Park, NC 27709. This experimental use permit allows the use of 1,632 pounds of the fungicides aluminum tris (O-ethyl phosphonate) and 3-(3,5-dichlorophenyl)-N-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide on 4,080 acres of cotton to evaluate the control of various cotton diseases. The program is authorized only in the States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The experimental use permit is effective from April 1, 1996 to January 1, 1997. A temporary tolerance for residues of the active ingredient in or on cotton has been established. (Terri Stowe, PM 22, Rm. 229, CM #2, 703-305-7740, e-mail: stowe.terri@epamail.epa.gov.)

264–EUP–101. Issuance. Rhone-Poulenc AG Company, P.O. Box 12014, Research Triangle Park, NC 27709. This experimental use permit allows the use of 31.46 pounds of the insecticide 5-amino-1-(2,6-dichloro-4-(trifluoromethyl)phenyl-4-((1,R,S)-(trifluoromethyl)sulfinyl)-1-H-pyrazole-carbonitrile on 242 acres of field corn to evaluate the control of corn rootworms. The program is authorized only in the States of Indiana, Illinois, Iowa, Minnesota, Nebraska, Ohio, and Wisconsin. The experimental use permit is effective from April 4, 1996 to March 28, 1997. A temporary tolerance for residues of the active ingredient in or on field corn grain has been established. (Rick Keigwin, PM 10, Rm. 210, CM #2, 703-305-6788, e-mail: keigwin.rick@epamail.epa.gov.)

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquires concerning these permits should be directed to the person cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Experimental use permits.

Dated: May 5, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–12190 Filed 5–14–96; 8:45 am]

BILLING CODE 6560–50–F

[PP 5G4513/T688; FRL 5369–2]

Ciba Plant Protection; Establishment of a Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the herbicide CGA-277476 (2-[[[[(4,6-dimethyl-2-pyrimidinyl)-amino]carbonyl]amino]-sulfonyl]benzoic acid, 3-oxetanyl ester in or on the raw agricultural commodity soybeans at 0.01 part per million (ppm). This temporary tolerance was requested by Ciba Plant Protection.

DATES: This temporary tolerance expires December 31, 1997.

FOR FURTHER INFORMATION CONTACT: By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703) 557–6800; e-mail: taylor.robert@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Ciba Plant Protection, P.O. Box 18300, Greensboro, NC 27419–8300, has requested in pesticide petition (PP) 5G4513 the establishment of a temporary tolerance for residues of the herbicide CGA-277476 (2-[[[[(4,6-dimethyl-2-pyrimidinyl)-amino]carbonyl]amino]-sulfonyl]benzoic acid, 3-oxetanyl ester in or on the raw agricultural commodity soybeans at 0.01 part per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit 100-EUP-101, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of a temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Ciba must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires December 31, 1997. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirement of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 6, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–12191 Filed 5–14–96; 8:45]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Renewal Application Designated for Hearing

1. The Assistant Chief, Audio Services Division, has before him the following application for renewal of broadcast license

Licensee	City/State	File No.	MM docket No.
Clarence E. Jones	Elloree, South Carolina	BR–950802YE	96–107

(seeking renewal of the license for WMNY(AM))

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above application has been designated for hearing in a proceeding upon the following issues:

(a) To determine whether Clarence E. Jones has the capability and intent to expeditiously resume the broadcast operations of WMNY(AM), consistent with the Commission's Rules.

(b) To determine whether Clarence E. Jones has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether grant of the subject renewal of license application would service the public interest, convenience and necessity.

A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the dockets section of the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (telephone 202–857–3800).

Federal Communications Commission.

Stuart B. Bedell,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 96–12218 Filed 5–14–96; 8:45 am]

BILLING CODE 6712–01–P

Renewal Application Designated for Hearing

1. The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him the following application for renewal of broadcast license:

Licensee	City/State	File No.	MM docket No.
JOTOCON COMMUNICATIONS, INC.	Windber, Pennsylvania	BR–910828YA	

(Seeking renewal of the license for WBEM(AM))

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above application has been designated for hearing in a proceeding upon the following issues:

(a) To determine whether JOTOCON COMMUNICATIONS, INC. has the capability and intent to expeditiously resume the broadcast operations of WBEM(AM), consistent with the Commission's Rules.

(b) To determine whether JOTOCON COMMUNICATIONS, INC. has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether grant of the subject renewal of license application would serve the public interest, convenience and necessity.

A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the dockets section of the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (telephone 202–857–3800).

Federal Communications Commission.

Stuart B. Bedell,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 96–12220 Filed 5–14–96; 8:45 am]

BILLING CODE 6712–01–P

Renewal Application Designated for Hearing

1. The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him the following application for renewal of broadcast license:

Licensee	City/State	File No.	MM docket No.
The University of Kansas	Lawrence, Kansas	BR–900208YC	96–109

(Seeking renewal of the license of KFKU(AM))

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above application has been designated for hearing in a proceeding upon the following issues:

(a) To determine whether The University of Kansas has the capability and intent to expeditiously resume the broadcast operations of KFKU(AM), consistent with the Commission's Rules.

(b) To determine whether The University of Kansas has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether grant of the subject renewal of license application would serve the public interest, convenience and necessity.

A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the dockets section of the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (telephone 202–857–3800).

Federal Communications Commission.

Stuart B. Bedell,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 96–12219 Filed 5–14–96; 8:45 am]

BILLING CODE 6712–01–P

Renewal Application Designated for Hearing

1. The Assistant Chief, Audio Services Division, has before him the following application for renewal of broadcast license

Licensee	City/State	File No.	MM docket No.
WKZF-FM, Inc.	Bayboro, North Carolina	BRED–950814UC	96–110

(seeking renewal of the license for WKZF(FM))

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above application has been designated for hearing in a proceeding upon the following issues:

(a) To determine whether WKZF–FM, Inc. has the capability and intent to expeditiously resume the broadcast operations of WKZF(FM), consistent with the Commission's Rules.

(b) To determine whether WKZF–FM, Inc. has violated §§ 73.1740 and/or 73.1750 of the Commission's Rules.

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether grant of the subject renewal of license application would service the public interest, convenience and necessity.

A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the dockets section of the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140,

Washington, D.C. 20037 (telephone 202–857–3800).

Federal Communications Commission.

Stuart B. Bedell,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 96–12221 Filed 5–14–96; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Agreement; Request for Additional Information

Agreement No.: 203–011279–004.

Title: Caribbean and Central America Discussion Agreement.

Parties: Central America Discussion Agreement Panam Discussion Agreement Southeastern Caribbean Discussion Agreement Hispaniola Discussion Agreement U.S./Jamaica Discussion Agreement Puerto Rico/ Caribbean Discussion Agreement Venezuela American Maritime Association Caribbean Shipowners Association Aruba Bonaire Curacao Line Association.

Synopis: Notice is hereby given that the Federal Maritime Commission pursuant to section 6(d) of the Shipping Act of 1984 (46 U.S.C. app. 1701–1720) has requested additional information from the parties to the Agreement in order to complete the statutory review of Agreement No. 203–011279–004 as required by the Act. This action extends the review period as provided in section 6(c) the Act.

By Order of the Federal Maritime Commission

Dated: May 9, 1996

Joseph C. Polking,

Secretary.

[FR Doc. 96–12151 Filed 5–14–96; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation

Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. § 817(e)) and the Federal Maritime Commission's implementing regulations at 46 C.F.R. Part 540, as amended:

Celebrity Cruises, Inc. and Seabrook Maritime, Inc., 5201 Blue Lagoon Drive, Miami, Florida 33126, Vessel: Mercury

Norwegian Cruise Line Limited (d/b/a Norwegian Cruise Line) 95 Merrick Way, Coral Gables, Florida 33134, Vessel: Royal Odyssey

Dated: May 9, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–12152 Filed 5–14–96; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages

Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. § 817(d)) and the Federal Maritime Commission's implementing regulations at 46 C.F.R. Part 540, as amended:

Norwegian Cruise Line Limited (d/b/a Norwegain Cruise Line) and F & A Corp., Ltd., 95 Merrick Way, Coral Gables, Florida 33134/ Vessel: Royal Odyssey Dated: May 9, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–12153 Filed 5–14–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 29, 1996.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. Community Bank System Inc., Dewitt, New York; to acquire Mayer Management, Inc. (d/b/a/ Benefit Plans Administrators), Utica, New York, and thereby engage in providing administrative services for defined benefit contribution plans, defined benefit plans, cafeteria plans, and non-qualified defined benefit plans and post-retirement life and health insurance plans, including: (i) the preparation of periodic reports, including daily valuation reports for defined contribution plans; (ii) actuarial valuations for defined benefit plans; (iii) reporting of plan assets, account balances, performance data, and financial information to plan participants and assistance with related communications to plan participants including provision of administrative services related to participant directed investment option savings and retirement plans; (iv) assistance with preparation and filing of IRS Form 5500, PBGC Form 1, and other regulatory forms for employee benefit plans; (v) assistance with preparation and filing of plan documents with the Internal Revenue Service; (vi) record keeping services for employee benefit plans; (vii) consulting on qualified and non-qualified defined benefit plans; and (viii) acting as liaison with outside auditors, including the Internal Revenue Service and the Department of Labor, in connection with providing plan administration services (*Norstar Bancorp, Inc.* 71 Fed. Res. Bull. 656 (1985), *BankVermont Corporation* 72 Fed. Res. Bull. 337 (1986), *Norstar Bancorp, Inc.* 72 Fed. Res. Bull. 729 (1986), *Centerre Bancorporation* 73 Fed. Res. Bull. 365 (1987)).

Board of Governors of the Federal Reserve System, May 9, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–12135 Filed 5–14–96; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Public Workshop on Consumer Privacy on the Global Information Infrastructure

AGENCY: Federal Trade Commission.

ACTION: Announcement of public workshop.

SUMMARY: The Bureau of Consumer Protection of the Federal Trade Commission announces it will host a one and one-half day public workshop on consumer privacy on the Global Information Infrastructure (GII). Online transactions, such as the purchase of goods, generated electronic data that are easily duplicated, stored, retrieved, analyzed and re-used. Advances in hardware, software, and communications technologies additionally allow previously impossible or impractical manipulation of information. The Bureau's purposes for conducting this workshop are to gather information on consumers' and industry's understanding of the privacy issues posed by the emerging online marketplace, and also to gather information on online protections for consumer privacy.

DATES: The workshop will be held on June 4, 1996 from 9:00 am to 5:00 pm (Room 432) and on June 5, 1996 from 9:00 am to 12:30 pm (Room 332), at the Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW, Washington, DC 20580. All interested parties are welcome to attend.

ADDRESSES: Requests to participate in the workshop should be mailed, on or before May 24, 1996, to Martha Landesberg, Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580. Written comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth Street and Pennsylvania Avenue, NW Washington, DC 20580. Comments should be identified as "Consumer Privacy—Comment."

FOR FURTHER INFORMATION CONTACT: Martha Landesberg, Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington DC 20850. Telephone: (202) 326–2825; electronic mail address: mlandesberg@ftc.gov.

SUPPLEMENTARY INFORMATION:

Public Workshop on Consumer Privacy on the Global Information Infrastructure

Agenda

June 4, 1996

Session 1—The Use of Consumer Information

Issues

How is personal information currently used by online businesses? What do consumers know about the use of consumer information in online marketing and commercial transactions? What kinds of disclosure and notice might be provided to consumers? What choices can or should consumers have in exercising control over uses of personal information? How can the security and accuracy of personal information used online be assured? Are voluntary standards useful in this area?

Session 2—Electronic Regimes for Protecting Consumer Privacy Online

Issues

Can technological standards such as the Platform for Internet Content Selection (PICS) system be used as models to facilitate automatic disclosure of privacy policies and the availability of consumer choice regarding the use of personal information?

Session 3—Consumer and Business Education in Online Privacy Issues

Issues

What are the various means of educating consumers and industry about the use of personal information in online transactions?

Session 4—The Use of Medical and Financial Information Online

Issues

What kinds of heightened protections might be afforded medical and financial information? What role, if any should such information play in online transactions?

Session 5—The Impact of the European Commission's Council Directive on the Protection of Personal Data

Issues

What does the Directive require of government and industry with respect to the free flow of personal information? Can industry satisfy the Directive's "adequacy" requirement through the use of interactive privacy regimes?

June 5, 1996

Session 6—The Collection and Use of Information about Children

Issues

What information is currently collected about children online and how is it being used? Is it appropriate to place limits on the online collection and/or use of information from and about children? What limits could be recommended? Who may consent and exercise choice in this context?

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–12017 Filed 5–13–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions and Delegation of Authority

Part A (Office of the Secretary), Chapter AE (Office of the Assistant Secretary for Planning and Evaluation (OASPE)), of the Statement of Organization, Functions and Delegation of Authority for the Department of Health and Human Services (most recently amended at 58 FR 68649 on December 28, 1993) is amended as follows:

I. Chapter AE, paragraph B. "The Office of Program Systems," delete in its entirety and replace with the following:

B. The Office of Program Systems—The Office of Program Systems is responsible for providing guidance and direction to the Department's strategic, policy, and support planning, conducting policy and economic analyses of crosscutting issues, developing planning and policy information and related support systems, and providing technical and policy support services.

1. The Division of Decision Systems is responsible for managing major planning systems for the Department and the OASPE, including strategic, legislative, policy and policy support planning. The Division manages the development and implementation of the Department's strategic plan, provides policy guidance and assistance to the Operating Divisions and Staff Divisions in the development of their components for the plan and coordinates the

development and maintenance of performance measurements and reporting under the plan. The Division coordinates these activities with other offices with implementation responsibilities and functions related to the Government Performance and Results Act. The Division manages the establishment of schedules and procedures to ensure the availability of supporting information. The Division also develops functional requirements for departmental policy support systems in the legislative and strategic planning areas; coordinates the planning of evaluation and social research agenda across the Department and coordinates the regulatory review process within the OASPE. Finally, the Division coordinates and conducts policy analysis in subjects and areas not covered by, or cutting across, the programmatic offices of the OASPE. In collaboration with the Assistant Secretary for Management and Budget, conducts policy reviews related to the Department's Continuous Improvement Program.

2. The Division of Data Policy serves as the HHS focal point for data policy analysis, planning and development, as well as for coordination of data and statistical policy within HHS. The Division provides an Executive Secretary, as well as leadership and staff support, to the HHS Data Council, the principal internal forum and advisory body to the Secretary on data policy issues, including data strategy, data standards, and privacy issues. The Division also provides direction and oversight and serves as the HHS Executive Director to the National Committee on Vital and Health Statistics, the statutory pubic advisory body to the Secretary on health data and statistics, and serves as the focal point within HHS for all matters relating to the Committee. The Division also provides staff support to the ASPE and OS leadership on a variety of Departmentwide data policy issues and initiatives, including statistical policy, privacy, data standards, and data planning issues, as well as data issues in support of performance measurement and performance partnership grants, and directs a portfolio of developmental projects in those areas. The Division also maintains liaison with other agencies and organizations on a variety of data and statistical policy issues.

3. The Division of State and Local Initiatives assists State, local and Tribal governments, as well as community-based programs, in developing, implementing and evaluating innovative approaches to improving programs and systems which cut across the programmatic offices of the ASPE. The Division coordinates with the Department's OPDIVS and STAFFDIVS to provide technical assistance. The Division also coordinates with other Federal Departments and agencies to identify opportunities to improve linkages, develop collaborative efforts, and/or to establish partnerships to improve the overall effectiveness of federally funded programs. The Division provides analytic support as well as policy guidance to Departmental OPDIVS and STAFFDIVS to improve services delivered by community-based organizations as well as State and local governments for crosscutting program areas. The Division collaborates with State and local governments, in cooperation with the Office of Intergovernmental Affairs, to develop mutually acceptable goals, objectives, and performance measures for achieving effective outcomes measures.

4. The Division of Modeling, Computer and Technical Systems is responsible for providing statistical, scientific programming, modeling, computer systems and other technical staff services to policy analyses, research and evaluation activities of the OASPE. It coordinates on departmental issues concerning income and poverty with the Bureau of the Census and annually revises and publishes the Poverty Income Guidelines. Finally, it provides technical assistance and advice to other policy offices within the Department on certain statistical and specialized scientific policy analyses, and administers a policy information center for identifying and retrieving evaluative and policy research studies.

Dated: May 8, 1996.

John J. Callahan,

Assistant Secretary for Management and Budget.

[FR Doc. 96–12068 Filed 5–14–96; 8:45 am]

BILLING CODE 4110–12–M

Agency for Health Care Policy and Research

Notice of Health Care Policy and Research; Special Emphasis Panel Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2) announcement is made of the following special emphasis panel scheduled to meet during the month of June 1996:

Name: Health Care Policy and Research Special Emphasis Panel.

Date and Time: June 5, 1996, 11:30 a.m.

Place: Agency for Health Care Policy and Research, 2101 E. Jefferson Street, Suite 400, Rockville, MD 20852

Open June 5, 1996, 11:30 a.m. to 11:45 a.m.

Closed for remainder of meeting.

Purpose: This Panel is charged with conducting the initial review of grant applications proposing conferences on issues relevant to health services research.

Agenda: The open session of the meeting on June 5, from 11:30 a.m. to 11:45 a.m., will be devoted to a business meeting covering administrative matters. During the closed session, the committee will be reviewing and discussing grant applications dealing with health services research issues. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), the Administrator, AHCPR, has made a formal determination that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members or other relevant information should contact Linda Blankenbaker, Agency for Health Care Policy and Research, Suite 400, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1438.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: May 6, 1996.

Clifton R. Gaus,

Administrator.

[FR Doc. 96–12207 Filed 5–14–96; 8:45 am]

BILLING CODE 4150–80–M

Food and Drug Administration

[Docket No. 95N–0013]

Benton County Ag Center, Inc.; Withdrawal of a Notice of Opportunity for Hearing Proposing To Withdraw Approval of Medicated Feed Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Center for Veterinary Medicine (CVM), Food and Drug Administration (FDA), is withdrawing a notice of opportunity for hearing (NOOH) on a proposal to withdraw approval of 11 medicated feed applications (MFA's) held by Benton County Ag Center, Inc. CVM has determined that the firm is in compliance with current good manufacturing practice (CGMP) regulations for medicated animal feeds and has instituted a system to maintain its compliance status.

EFFECTIVE DATE: May 15, 1996.

FOR FURTHER INFORMATION CONTACT: Karen A. Kandra, Center for Veterinary Medicine (HFV–246), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1765.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of April 26, 1995 (60 FR 20497), CVM provided an opportunity for hearing on a proposal to withdraw approval of 11 MFA's held by Benton County Ag Center, Inc., for the manufacture of animal feeds bearing or containing new animal drugs. CVM took this action based on the firm's apparent failure to comply with agency CGMP requirements for medicated animal feeds as evidenced by inspections conducted on December 22, 1992, and May 3, 4, 10, and 11, 1994.

In a letter that FDA received on May 23, 1995, in response to the notice, Benton County Ag Center, Inc., stated it had made the necessary corrections to bring its operations into compliance with CGMP requirements since the last inspection. The letter requested that FDA reinspect the feed mill to verify its compliance status, and to withdraw the NOOH.

On July 17 through 19, 1995, the Iowa Department of Agriculture, under contract with FDA pursuant to section 702(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 372(a)), reinspected the feed mill and found that the firm had corrected the previously noted CGMP deficiencies that had formed the basis for the NOOH. Additionally, FDA believes that the firm has taken measures to ensure that it will remain in compliance with CGMP's. Accordingly, CVM is withdrawing the April 26, 1995, NOOH on the proposal to withdraw approval of the firm's MFA's.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 512 (21 U.S.C. 360b)) and under authority delegated to the Director, Center for Veterinary Medicine (21 CFR 5.84).

Dated: April 2, 1996.

Michael J. Blackwell,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 96–12155 Filed 5–14–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 91F–0424]

Witco Corp.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 1B4282) proposing that the food additive regulations be amended to provide for the safe use of imidazolium compounds, 2-(C_{17} and C_{17} unsaturated alkyl)-1-[2-(C_{18} and C_{18} unsaturated amido)ethyl]-4,5-dihydro-1-methyl, methyl sulfates as a debonding agent in paper products intended to contact food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 29, 1991 (56 FR 61022), FDA announced that a food additive petition (1B4282) had been filed on behalf of Sherex Chemical Co., Inc., P.O. Box 6464, Dublin, OH 43017 (currently Witco Corp., Frantz Rd., P.O. Box 646, Dublin, OH 43017). The petition proposed to amend the food additive regulations to provide for the safe use of imidazolium compounds, 2-(C_{17} and C_{17}unsaturated alkyl)-1-[2-(C_{18} and C_{18} unsaturated amido)ethyl]-4,5-dihydro-1-methyl, methyl sulfates as a wet strength agent in paper products intended to contact food. Subsequently, upon a request from the petitioner, FDA published an amended notice in the **Federal Register** of April 15, 1992 (57 FR 13104), stating that the additive is intended for use as a debonding agent rather than as a wet strength agent as indicated in the previous filing notice. Witco Corp. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: April 30, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–12206 Filed 5–14–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[HCFA R–0107]

Submitted for Collection of Public Comment: Submission for OMB Review

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicaid—Determining Liability of Third Parties; *Form No.:* HCFA–R–0107; *Use:* The information collected from Medicaid applicants and recipients as well as from State and local agencies is necessary to determine the legal liability of third parties to pay for medical services in lieu of Medicaid payment; *Frequency:* On occasion; *Affected Public:* Federal Government and State, local, or tribal government; *Number of Respondents:* Varies; *Total Annual Responses:* Varies; *Total Annual Hours:* 171,165.

To request copies of the proposed paperwork collection referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Linda Mansfield, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Date: May 8, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–12106 Filed 5–14–96; 8:45 am]

BILLING CODE 4120–03–P

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Health Care Financing

Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Medicare and Medicaid Disclosure of Ownership and Control Interest Statement; *Form No.:* HCFA–1513; *Use:* The information provided on this form is used by State agencies and HCFA regional offices to determine whether providers meet the eligibility requirements for Titles 18 and 19 (Medicare and Medicaid) and for grants under Titles 5 and 20. Review of ownership and control is particularly necessary to prohibit ownership and control for individuals excluded under Federal Fraud statutes; *Frequency:* On Occasion; *Affected Public:* Business or other for profit, not-for-profit; *Number of Respondents:* 60,000; *Total Annual Hours: 30,000.*

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Evaluation of the Program of All-Inclusive Care for the Elderly (PACE) Demonstration; *Form No.:* HCFA–R–165; *Use:* This survey will collect data on functional status, service utility, and out-of-pocket costs, and satisfaction for a sample of applicants to the PACE program. This information will be analyze the decision to participate in PACE and the impact of the program; *Frequency:* Semi-annually; *Affected Public:* Individuals and households; *Number of Respondents:* 1,833; *Total Annual Hours:* 3,745.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.ssa.gov/hcfa/hcfahp2.html , or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: May 7, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–12104 Filed 5–14–96; 8:45 am]

BILLING CODE 4120–03–P

Office of Inspector General

Program Exclusions: April 1996

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of April 1996, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
Program-Related Convictions	
Broxmeyer, Lawrence, Bay Terrace, NY	04/25/96
Center for Mental Health SVCS, Leavenworth, KS	05/06/96
Christa Corporation, Uniontown, PA	05/02/96
Draper, Milo, Yerington, NV	05/02/96
Dupuis, Joseph, Lower Jug Bend Road, LA	04/23/96
Echols, Alton D, Germantown, TN	04/24/96
Gailey, Dennis Keith, Fallon, NV	05/02/96
Gilliam, Mary Ann, Ada, OK	04/23/96
Heard, Terrie, Homer, LA	04/23/96
Jewell, Eldin Carnell, Little Rock, AR	04/23/96
Kammerer, Chad M, Pittsburgh, PA	05/02/96
Lagundino, Flordelino C, State Farm, VA	05/02/96
Lucey, Cornelius J, Albany, NY	04/25/96
Martin, Agnes Antonette, Dayton, TX	04/23/96
McGhee, Harold L, Memphis, TN	04/24/96
Morris, Beatrice Conita, Dallas, TX	04/23/96
Paar, Steven V, Onalaska, WI	05/06/96
Pismenny, Alexander, Brooklyn, NY	04/25/96
Silver, Browley, Newport News, VA	05/02/96
Tucker, George Robert Jr, Fernley, NV	05/02/96

Subject, city, state	Effective date
Willis, Vincent J, Newport News, VA	05/02/96
Patient Abuse/Neglect Convictions	
Alterman, Marinika, Denver, CO	04/25/96
Bell, Catherine L, Picayune, MS	04/23/96
Boyd, John, Memphis, TN	04/23/96
Carr, David S, Orleans, MA	04/29/96
Coppedge, Shirley Pirleen, Robert Lee, TX	04/23/96
Crowder, Anthony E, Bogue Chitto, MS	04/23/96
Folse, Suzanne Marie, Baton Rouge, LA	04/23/96
Francis, Lesa Diann, Oak Grove, LA	04/23/96
Gordon, Robin Ann, Beeville, TX	04/23/96
Hutchinson, Theresa Ann, Buffalo, NY	04/25/96
Jenkins, Katherine E, Prichard, AL	04/24/96
Martinez, Cheryl Lynn, Denver, CO	04/25/96
McCoy, Kim Charlotte, Greenbriar, AR	04/23/96
McCullough, Verna Dean, Slidell, LA	04/23/96
Newton, George Allan, Cleveland, TN	04/24/96
Qualls, Pearline, Jonesboro, LA	04/23/96
Schultz, Paul, Bay City, MI	05/06/96
Smith, Inez, Waco, TX	04/23/96
Williams, Michelle L, Conway, AR	04/23/96
Conviction for Health Care Fraud	
Daniels, Sheila Jefferson, Houston, TX	04/23/96
Wallace, Denise, Westwego, LA	04/23/96
Controlled Substance Convictions	
Habenicht, James C, Oakdale, CA	05/06/96
License Revocation/Suspension	
Abdelmessih, Azmi L, Vestal, NY	04/25/96
Agbebiyi, Jonathan Adeshina, Corpus Christi, TX	04/23/96
Aguirre-Moran, Rafael, Winnie, TX	04/23/96
Atocha, Jose, Orange, CT	04/29/96
Bergeaux, Gary Herbert, New Orleans, LA	04/23/96
Black, Lydia Lou, Judsonia, AR	04/23/96
Black, Shirley Ellena, Longview, TX	04/23/96
Bushart, James Frederick, Ridgeland, MS	04/23/96
Cinsavich, Scott A, Salem, MA	04/29/96
Clay, Sandra, Stamford, CT	04/29/96
Cook, Burr L, Costa Mesa, CA	05/06/96
Fanous, Michael M, Dove Canyon, CA	05/06/96
Farber, Harold I, Reading, PA	05/02/96
Garza, David, Houston, TX	04/23/96
Girtanner, Robert Edward, Houston, TX	04/23/96
Golden, David Lee, New Orleans, LA	04/23/96
Gonzales, Alfred J, El Paso, TX	04/23/96
Greiner, Jay R, Harrisburg, PA	05/02/96
Guthrie, Tammy Lynn, Searcy, AR	04/23/96
Hamilton, Audra Ann, Lake Jackson, TX	04/23/96
Hoffman, Jane E, St Cloud, MN	05/06/96
Hoopes, Carolyn Jean, Marshall, TX	04/23/96
Ibarra, Theresa C, Pearsall, TX	04/23/96
Jenny, Samuel, Mount Vernon, IL	05/06/96
Key, Donna A, Dayton, TX	04/23/96
Konialian, Arthur R, Newtown Square, PA	05/02/96
Landry, Linda, Croton, CT	04/29/96
Layman, Greg O, La Verne, CA	05/06/96
Leblanc, John N, Cut Off, LA	04/23/96
Lehmiller, John Erich, Lafayette, LA	04/23/96
Lontine, Richard M, Denver, CO	04/25/96
Love, Jacqueline L, Corpus Christi, TX	04/23/96
Marchand, Jacqueline Bo, San Antonio, TX	04/23/96
Martin, Nina Marie, Payneway Station, AR	04/23/96
McCord, Sherry Lynn, Moore, OK	04/23/96
McGuire, Kathleen P, Bellvue, CO	04/25/96
Minutella, Jack, Philadelphia, PA	05/02/96

Subject, city, state	Effective date
Morris, Annette E, Houston, TX	04/23/96
Murray, Carol Ann, Dallas, TX	04/23/96
Nadal-Ginard, Bernardo, Boston, MA	04/29/96
Oparah, Victor O, Apapa-Lagos, Nigeria	04/23/96
Parsons, Lydia K, Odem, TX	04/23/96
Robertson, Charles A, Newport Beach, CA	05/06/96
Robinson, Mary, Windham, CA	04/29/96
Rose, David M, Brookline, MA	04/29/96
Ryan, Tamisha Kay, Temple, TX	04/23/96
Sands, Harold R, West Chester, PA	05/02/96
Schoolnik, Philip, West Hartford, CT	04/29/96
Schuyler, Lorraine, Greeley, CO	04/25/96
Shird, Shirley Kay, Woodville, TX	04/23/96
Sohl, Frederick, South Pasadena, CA	05/06/96
Srivastava, Krishna K, Alta Loma, CA	05/06/96
Super S Pharmacy, San Antonio, TX	04/23/96
Turner, Ruediger, Cogan Station, PA	05/02/96
Vinup, Joan Louise, New Park, PA	05/02/96
Winchester, John D, Clinton, CT	04/29/96
Woollams, Stanley J, Ann Arbor, MI	05/06/96
Wyble, Timothy J, Canyon, TX	04/23/96
Yates, Michele, Turtle Creek, PA	05/02/96
Federal/State Exclusion/Suspension	
Connell, David C Jr, Shreveport, LA	04/23/96
Gesch, Lyle A, Tacoma, WA	05/06/96
Hauman, Robert L, Toledo, OH	05/06/96
Lewis, Royston C, Cleveland, OH	05/06/96
Miller, Geraldine, Hazel Crest, IL	05/06/96
Sklass Drug Company, Chicago, IL	05/06/96
TDM Transportation, Hazel Crest, IL	05/06/96
Owned/Controlled by Convicted/Excluded	
Chiropractic Associates, Inc., Ludington, MI	05/06/96
Default on Heal Loan	
Barnhart, Jerome M, McClellandtown, PA	05/02/96
Budsock, Leonard A, Acworth, GA	04/24/96
Burton, Ann Y, Chicago, IL	05/06/96
Cafaro, Virginia I, San Francisco, CA	05/06/96
Costaras, Bill C, Parma, OH	05/06/96
Crislip, David F, Johnson City, TN	04/24/96
Diaz, Fred, Bronx, NY	04/25/96
Emmerson, Ronald Eugene, Merced, CA	05/06/96
Gomez, Mario Humbarto, Richmond, VA	05/02/96
Green, Judith G, Louisville, KY	04/24/96
Martin, David Z, Floydada, TX	04/23/96
Munoz, Luis R, Chicago, IL	05/06/96
Nelson, Robert A, Suisun City, CA	05/06/96
Oetzel, Stephen L, Wilmington, OH	05/06/96
Owens, Gregory A, Claremore, OK	04/23/96
Pikoris, Bernadette, Brooklyn, NY	04/25/96
Ramirez, Jesus R, El Paso, TX	04/23/96
Roberts-Dukes, Barbara T, Marlton, NJ	04/25/96
Schaeffer, Wally S, Coralville, IA	05/06/96
Scott, Dwight E, Cleveland Hgts, OH	05/06/96
Shear, David Steven, Staten Island, NY	04/25/96
Smith, Cecil P, Garland, TX	04/23/96
Sullivan, Joseph C, Burbank, CA	05/06/96
Swanson, Timothy D, Chicago, IL	05/06/96
Tracy, James M, Campbell, CA	05/06/96
Wasilko, Thomas J, White Oak, PA	05/02/96
Wies, David L, Westlake Village, CA	05/06/96

Dated: May 7, 1996.

William M. Libercci,

Director, Health Care Administrative Sanctions, Office of Civil Fraud and Administrative Adjudication.

[FR Doc. 96–12105 Filed 5–14–96; 8:45 am]

BILLING CODE 4150–04–P–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Office of Trust Funds Management National Tribal Consultation

AGENCY: Office of Trust Funds Management, Interior.

ACTION: Notice of Tribal Consultation Meeting—Financial Trust Services Improvement.

SUMMARY: Notice is hereby given that the Office of the Special Trustee (OST), Office of Trust Funds Management (OTFM), will conduct four (4) consultation meetings with any Indian tribe, band, nation, Individual Account holders or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat.688), which is recognized as eligible for the trust programs and services provided by the United States to Indians because of their status as Indians.

The purpose is to obtain oral and written comments regarding a number of options to improve Individual Indian Money (IIM) accounting and customer service with approximately 300,000 nationwide account holders. The options were developed by a Tribal/Federal Work Group which was established to assist OTFM in developing a number of recommendations to resolve technical and customer service problems. A number of General Accounting Office (GAO), Office of Management and Budget (OMB), and Department of Interior (DOI) audits of the IIM function have concluded that internal controls are inadequate for controlling receipts and disbursements for this function.

DATES (1996): Four (4) consultation sessions will be conducted:

June 25–27, Tulsa, OK, Adam's Mark Hotel, 100 East 2nd Street, Tulsa, OK 74103, 918–582–9000.

July 9–11, Phoenix, AZ, The Pointe at Squaw Peak, 7677 North 16th Street, Phoenix, AZ 85020, 602–997–2626.

July 30–August 1, Portland, OR, Red Lion Columbia River, 1401 N. Hayden Island Dr., Portland, OR 97217, 503–283–2111.

August 20–22, Bismarck, ND, Holiday Inn, 605 East Broadway, Bismarck, ND 58501, 701–255–6000.

All sessions will begin at 8:30 am and adjourn at 5:00 pm. Public attendance may be limited to the space available.

FOR FURTHER INFORMATION CONTACT: Patricia Gerard, Program Analyst, Office of Trust Funds Management, Department of the Interior 505 Marquette NW., Suite 700, Albuquerque, New Mexico 87102, telephone number 505–248–5751 and fax number 505–248–5782.

SUPPLEMENTARY INFORMATION: The purpose of the consultation meeting is to provide Indian tribes and individuals an opportunity for participation in the improvement of IIM customer service. The anticipated result of the consultation is to ensure that the Department adheres to the mandates of Pub. Law 103–412, the American Indian Trust Fund Management Reform Act. Specifically, the Department must ensure that: (1) IIM funds are deposited on a timely basis; (2) IIM interest is paid on a timely basis; (3) proper accounting for IIM daily and annual balances exists; and (4) periodic statements to IIM account holders will be provided.

All oral and written comments presented by tribes and individual account holders at the tribal consultation meetings will be recorded, transcribed and taken into consideration by the agency.

Summaries of the meetings will be available for public inspection and copying ten days following the meeting.

Dated: May 8, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–12142 Filed 5–14–96; 8:45 am]

BILLING CODE 4310–02–P

Bureau of Land Management

[NV–030–96–1020–00–24–1 A]

Sierra Front/Northwest Great Basin Resource Advisory Council—Notice of Meeting Locations and Times

AGENCY: Bureau of Land Management, Interior.

ACTION: Resource Advisory Council meeting locations and times.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), the Department of the Interior, Bureau of Land Management (BLM) Council meetings will be held as indicated below. The agenda includes discussion of laws and regulations that pertain to grazing, a statewide update of standards and guidelines, public comment period and determination of the subject matter for future meetings.

All meetings are open to the public. The public may present written comments to the council. Each formal council meeting will have a time allocated for hearing public comments. The public comment period for the council meeting is listed below. Depending on the number of persons wishing to comment, and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need further information about the meetings or need special assistance such as sign language interpretation or other reasonable accommodations, should contact Joan Sweetland at the Carson City District Office 1535 Hot Springs Road, Carson City, NV 899706, telephone (702) 885–6000.

DATES, TIMES: The council will meet on June 12th and 13th at the Bureau of Land Management, Nevada State Office, 850 Harvard Way, Reno, NV 89520–0006 on June 12 from 8:00 a.m.–5:00 p.m. Public comment period will be at 1:30 p.m. On June 13 council will meet from 8:00 a.m. to 3:00 p.m.

SUPPLEMENTARY INFORMATION: The purpose of the council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of the public lands.

FOR FURTHER INFORMATION CONTACT: Joan Sweetland, Public Affairs Specialist, Carson City District, telephone (702) 885–6000.

Dated: May 3, 1996.

John O. Singlaub,

District Manager.

[FR Doc. 96–12101 Filed 5–14–96; 8:45 am]

BILLING CODE 4310–HC–M

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–814542.

Applicant: Gary Parker, Columbus, NE.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygarcus dorcas*) culled from a captive herd

maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–812428.

Applicant: Dwanton Seals, Pointe Vedra Beach, FL.

The applicant requests a permit to import a sport-hunted trophy of a male bontebok (*Damalisus pygarus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–813403.

Applicant: Bruce Rendall, Kipling, NC.

The applicant requests a permit to purchase in interstate commerce snow leopards (*Panthera unica*), clouded leopards (*Neofelis nebulosa*) Ruffed lemur (*Varecia v. ruber*) from Nashville Zoo for the purpose of enhancement of the survival of the species through propagation.

PRT–813960.

Applicant: Duke University Primate Center, Durham, NC.

The applicant requests a permit to export tissues from Aye-aye (*Daubentonia madagascarensis*), Diademed sifaka (*Propithecus verreauxi coquereli*), lemur (*Eulemur coronatus*), Flat-tailed dwarf lemur (*Cheirogaleus medius*), Ring-tailed lemur (*Lemur catta*), Grey gentle lemur (*Hapalemur griseus*) for the purpose of the survival of the species through scientific research.

PRT–814414.

Applicant: San Diego Wild Animal Park, Escondido, CA.

The applicant requests a permit to import 200 vials of blood, serum and tissue samples from Sclater's Monal pheasant (*Lophophorus sclateri*) for the purpose of enhancement of the survival of the species through scientific research.

PRT–814585.

Applicant: Wildlife Conservation Society, Bronx, NY.

The applicant requests a permit to import biological samples of tiger (*Panthera tigris*), Swamp deer (*Cervus eldi*), Leopard cat (*Felis bengalensis bengalensis*), Clouded leopard (*Neofelis nebulosa*), Asian golden cat (*Felis temmincki*), Marble cat (*Pardofelis marmorata*), Malabar large sport civet (*Viverra civettina*) from Dusit Zoo and Khao Kheow Zoo, Thailand for the purpose of enhancement of the survival of the species through scientific research.

PRT–777744.

Applicant: The Hawthorn Corporation, Grayslake, IL.

The applicant requests a permit to export and import captive-born tigers (*Panthera tigris*) and progeny of the animals is currently held by the applicant and any animals acquired in the United States by the applicant to/from world wide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

PRT–814415.

Applicant: International Wildlife Veterinary Services, Fair Oaks, CA.

The applicant requests a permit to import sera and plasma samples and red and white cells from Black Rhino (*Diceros bicornis*) from Zimbabwe Parks and Wildlife Management for the purpose of enhancement of the survival of the species through scientific research.

PRT–814588.

Applicant: Brian McMillan, Canyon Country, CA.

The applicant requests a permit to export and import captive-born tigers (*Panthera tigris*) and leopards (*Panthera pardus*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from world wide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

PRT–814593.

Applicant: Duke University Primate Center, Durham, NC.

The applicant requests a permit to export one male and one female Gentle gray lemur (*Hapalemur griseus griseus*) and one male and female of the Red-bellied lemur (*Eulemur rubriventer*) to the Banham Zoo, United Kingdom for the purpose of enhancement of the survival of the species through propagation.

PRT–814589.

Applicant: Miami Metrozoo, Miami, FL.

The applicant requests a permit to import the carcass of a female Harpy eagle (*Harpia harpyja*) from Summit Gardens, Panama for the purpose of enhancement to the survival of the species through conservation education.

PRT–814586.

Applicant: Christine Fiorello, Worcester, MA.

The applicant requests a permit to import cheetah (*Acinonyx jubatus*) skulls from Cheetah Conservation Fund, Namibia for the purpose of enhancement of the survival of the species through scientific research.

PRT–814765.

Applicant: Jayne Gerson, Duke University, Durham, NC.

The applicant requests a permit to import blood samples from brown lemur (*Lemur fulvus rufus*) from Madagascar for the purpose of the enhancement of the survival of the species through scientific research.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application(s) for permits to conduct certain activities with marine mammals. The application(s) was/were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

PRT–814695.

Applicant: G.F. Cota, Old Dominion University, Norfolk, VA.
Type of Permit: Import for scientific research.
Name and Number of Animals: Polar Bear (*Ursus maritimus*) and walrus (*Odobenus rosmarus*), 1 each.
Summary of Activity to be Authorized: The applicant has requested a permit to import tissue samples from one polar bear and one walrus for the purposes of scientific research related to environmental contamination.
Source of Marine Mammals for Research/Public Display: Canada; samples to be obtained from legally harvested animals.
Period of Activity: Up to five years from issuance of a permit, if issued.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 430, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate.

The holding of such hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice at the above address.

Dated: May 10, 1996.

Mary Ellen P. Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 96–12196 Filed 5–14–96; 8:45 am]

BILLING CODE 4310–55–P

Issuance of Permit for Marine Mammals

On March 6, 1996, a notice was published in the **Federal Register**, vol. 61, no. 45, page 8969, that an application had been filed with the Fish and Wildlife Service by the Zoological Society of San Diego for a permit (PRT–811418) to import two orphaned polar bear cubs from Canada.

Notice is hereby given that on May 6, 1996, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: May 10, 1996.

Mary Ellen P. Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 96–12197 Filed 5–14–96; 8:45 am]

BILLING CODE 4310–55–P

Minerals Management Service

Outer Continental Shelf, Alaska Region, Beaufort Sea Lease Sale 144

AGENCY: Minerals Management Service.

ACTION: Notice of availability of the final environmental impact statement.

The Minerals Management Service (MMS) has prepared a final Environmental Impact Statement (EIS) relating to the proposed 1996 Outer Continental Shelf oil and gas lease sale of available unleased blocks in the Beaufort Sea. The proposed Beaufort Sea Sale 144 will offer for lease approximately 9.8 million acres. Single copies of the final EIS can be obtained from the Regional Director, Minerals Management Service, Alaska Region, 949 East 36th Avenue, Anchorage, Alaska 99503–4302, Attention: Public Information. Copies can be requested by telephone, (907) 271–6070.

Copies of the final EIS will also be available for inspection in the following public libraries:

Alaska Resource Library, U.S. Department of the Interior, Anchorage, AK
Alaska State Library, Juneau, AK
Army Corps of Engineers Library, U.S. Department of Defense, Anchorage, AK
Elmer E. Rasmuson Library, 310 Tanana Drive, Fairbanks, AK
Fairbanks North Star Borough Public Library (Noel Wien Library), 1215 Cowles Street, Fairbanks, AK
George Francis Memorial Library, Kotzebue, AK
Kaveolook School Library, Kaktovik, AK
Kegoayah Kozga Public Library, Nome, AK
Nellie Weyiouanna Ilisaavik Library, Shishmaref, AK
North Slope Borough School District Library/Media Center, Barrow, AK
Northern Alaska Environmental Center Library, 218 Driveway, Fairbanks, AK
Nuiqsut Library, Nuiqsut, AK
Tikigaq Library, Point Hope, AK
University of Alaska, Anchorage Consortium Library, 3211 Providence Dr., Anchorage, AK
University of Alaska, Fairbanks Institute of Arctic Biology, 311 Irving Bldg., Fairbanks, AK
University of Alaska-Juneau Library, 11120 Glacier Highway, Juneau, AK.

Dated: April 19, 1996.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 96–12168 Filed 5–14–96; 8:45 am]

BILLING CODE 4310–MR–P

Outer Continental Shelf, Gulf of Mexico Region, Proposed Central and Western Gulf Sales 166 and 168

AGENCY: Minerals Management Service (DOT).

ACTION: Notice of Availability of the Draft Environmental Impact Statement (EIS) and Intent to Hold Public Hearings Regarding Proposed Central and Western Gulf of Mexico Sales 166 and 168.

The Minerals Management Service has prepared a draft EIS relating to proposed 1997 Outer Continental Shelf (OCS) oil and gas lease sales in the Central and Western Gulf of Mexico. The proposed Central Gulf Sale 166 will offer for lease approximately 30.3 million unleased acres, and the proposed Western Gulf Sale 168 will offer approximately 28.2 million unleased acres. The EIS analyzes a range of potential resources and projected activities for each proposed lease sale. In an effort to make this EIS more focused and readable, the scenario has been simplified, redundancies have been eliminated, and the format has been streamlined. This allows decisionmakers and readers to focus on the information specific to each proposed action.

Single copies of the draft EIS can be obtained from the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Unit (MS–5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394 or call (800) 200–GULF.

Copies of the draft EIS will also be available for review by the public in the following libraries:

Texas

Alma M. Carpenter Public Library, 330 South Ann, Sourlake;
Aransas Pass Public Library, 110 North Lamont Street, Aransas Pass;
Austin Public Library, 402 West Ninth Street, Austin;
Bay City Public Library, 1900 Fifth Street, Bay City;
Brazoria County Library, 410 Brazoport Boulevard, Freeport;
Calhoun County Library, 301 South Ann, Port Lavaca;
Chambers County Library System, 202 Cummings Street, Anahuac;
Comfort Public Library, Seventh & High Streets, Comfort;
Corpus Christi Central Library, 805 Comanche Street, Corpus Christi;
Dallas Public Library, 1513 Young Street, Dallas;
Houston Public Library, 500 McKinney Street, Houston;
Jackson County Library, 411 North Wells Street, Edna;
Lamar University, Gray Library, Virginia Avenue, Beaumont;
LaRatama Library, 505 Mesquite Street, Corpus Christi;
Liberty Municipal Library, 1710 Sam Houston Avenue, Liberty;
Orange Public Library, 220 North Fifth Street, Orange;
Port Arthur Public Library, 3601 Cultural Center Drive, Port Arthur;
Port Isabel Public Llibrary, 213 Yturria Street, Port Isabel;
Reber Memorial Library 193 North Fourth, Raymondville;

Refugio County Public Library, 815 South Commerce Street, Refugio;
Rice University, Fondren Library, 6100 South Main Street, Houston;
R.J. Kleberg Public Library, Fourth and Henrietta, Kingsville;
Rockwall County Library, 108 South Fannin Street, Rockwall;
Rosenberg Library, 2310 Sealy Street, Galveston;
Sam Houston Regional Library & Research Center, FM 1011 Governors Road, Liberty;
Texas A&M University, Corpus Christi Library, 6300 Ocean Drive, Corpus Christi;
Texas A&M University, Evans Library, Spence and Lubbock Streets, College Station;
Texas Southmost College Library, 1825 May Street, Brownsville;
Texas State Library, 1200 Brazos Street, Austin;
University of Houston Library, 4800 Calhoun Boulevard, Houston;
University of Texas at Brownsville, Oliveria Memorial Library, 80 Fort Brown, Brownsville;
University of Texas Law School, Tarlton Law Library, 727 East 26th Street, Austin;
University of Texas, LBJ School of Public Affairs Library, 2313 Red River Street, Austin;
University of Texas Library, 21st and Speedway Streets, Austin;
Victoria Public Library, 320 North Main, Victoria.

Louisiana

Calcasieu Parish Library, 327 Broad Street, Lake Charles;
Cameron Parish Library, Marshall Street, Cameron;
Grand Isle Branch Library, Highway 1, Grand Isle;
Government Documents Library, Loyola University, 6363 St. Charles Avenue, New Orleans;
Iberville Parish Library, 24605 J. Gerald Berret Boulevard, Plaquemine;
Jefferson Parish Lobby Branch Library, 3410 North Causeway Boulevard, Metairie;
Jefferson Parish West Bank Outreach Branch Library, 2751 Manhattan Boulevard, Harvey;
Lafayette Public Library, 301 W. Congress Street, Lafayette;
Lafitte Branch Library, Route 1, Box 2, Lafitte;
Lafourche Parish Library, 303 West 5th Street, Thibodaux;
Louisiana State University Library, 760 Riverside Road, Baton Rouge;
Louisiana Tech University, Prescott Memorial Library, Everet Street, Ruston;
LUMCON, Library, Star Route 541, Chauvin;
McNeese State University, Luther E. Frazar Memorial Library, Ryan Street, Lake Charles;
New Orleans Public Library, 219 Loyola Avenue, New Orleans;
Nicholls State University, Nicholls State Library, Leighton Drive, Thibodaux;
Plaquemines Parish Library, 203 Highway 11, South, Buras;
St. Bernard Parish Library, 1125 East St. Bernard Highway, Chalmette;
St. Charles Parish Library, 105 Lakewood Drive, Luling;
St. John The Baptist Parish Library, 1334 West Airline Highway, Laplace;
St. Mary Parish Library, 206 Iberia Street, Franklin;
St. Tammany Parish Library, Covington Branch, 310 West 21st Street, Covington;
St. Tammany Parish Library, Slidell Branch, 555 Robert Boulevard, Slidell;
Terrebonne Parish Library, 424 Roussell Street, Houma;
Tulane University, Howard Tilton Memorial Library, 7001 Freret Street, New Orleans;
University of New Orleans Library, Lakeshore Drive, New Orleans;
University of Southwestern LA, Dupre Library, 302 East St. Mary Boulevard, Lafayette;
Vermilion Parish Library, Abbeville Branch, 200 North Street, Abbeville.

Mississippi

Gulf Coast Research Laboratory, Gunter Library, 703 East Beach Drive, Ocean Springs;
Hancock County Library System, 312 Highway 90, Bay Saint Louis;
Harrison County Library, 14th and 21st Avenues, Gulfport;
Jackson George Regional Library System, 3214 Pascagoula Street, Pascagoula.

Alabama

Dauphin Island Sea Lab, MESC Library, Bienville Boulevard, Dauphin Island;
Gulf Shores Public Library, Municipal Complex, Route 3, Gulf Shores;
Mobile Public Library, 701 Government Street, Mobile;
Montgomery Public Library, 445 South Lawrence Street, Montgomery;
Thomas B. Norton Public Library, 221 West 19th Avenue, Gulf Shores;
University of South Alabama, University Boulevard, Mobile.

Florida

Bay County Public Library, 25 West Government Street, Panama City;
Florida A&M University, Coleman Memorial Library, M.L. King Boulevard, Tallahassee
Florida Northwest Regional Library, 25 West Government Street, Panama City;
Florida State University, Strozier Library, Call Street and Copeland Avenue, Tallahassee;
Fort Walton Beach Public Library, 105 Miracle Strip Parkway, Fort Walton Beach;
Leon County Public Library, 200 West Park Avenue, Tallahassee;
University of Florida Library, University Avenue, Gainesville;
University of Florida, Holland Law Center Library, SW 25th and 2nd Ave., Gainesville;
West Florida Regional Library, 200 West Gregory Street, Pensacola.

Public hearings for proposed Central and Western Gulf of Mexico Sales 166 and 168: In accordance with 30 CFR 256.26, the Minerals Management Service will hold two public hearings (dates, times, and locations are listed below) soliciting comments on the draft EIS for proposed 1997 Gulf of Mexico Sales 166 and 168. The hearings will provide the Secretary of the Interior with information from interested parties that will help in the evaluation of the potential effects of proposed lease Sales 166 and 168:

Texas—Houston, on July 17, 1996; 1:00 to 3:00 p.m. at the Marriott International Airport Hotel, 18700 John F. Kennedy Boulevard, and

Louisiana—New Orleans, on July 18, 1996; 1:00 to 3:00 p.m. at the Minerals Management Service, 1201 Elmwood Park Boulevard, Conference Room 111, Jefferson, Louisiana.

These hearings will also serve as an early opportunity for determining the scope of significant issues related to the development of draft EIS's for Central and Western Gulf of Mexico Sales proposed in the 5–Year OCS Oil and Gas Leasing Program for 1997–2002. The MMS proposes to prepare separate EIS's for the Western Gulf and the Central Gulf. Each EIS will address all of the proposed sales in that planning area as scheduled in the 5-year program. The hearings will provide information for the development of appropriate alternatives and mitigating measures, as well as for the identification of significant issues.

Persons who wish to testify at these hearings may register the day of the hearing at the hearing sites beginning 1 hour prior to the meeting. Oral testimony should be limited to 10 minutes. Each hearing will begin at the specified time and will recess when all speakers have had an opportunity to testify. If there are no additional speakers, the hearing will adjourn immediately after the recess. Testimony may be supplemented by a written statement that, if submitted at a hearing, will be considered as part of the hearing record.

Those unable to attend the hearing may submit written statements until the close of the comment period. Written statements should be submitted to the Regional Director, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. The comment period closes August 10, 1996.

Dated: May 7, 1996.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 96–12169 Filed 5–14–96; 8:45 am]

BILLING CODE 4310–MR–P

National Park Service

Petroglyph National Monument; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Public Law 92–463, that a public meeting of the Petroglyph National Monument Advisory Commission will be held on Friday, June 21, 1996.

The Public meeting will be held from 9 a.m.–12 noon at the Indian Pueblo Cultural Center, 2401 12th Street N.W., Albuquerque, New Mexico.

Petroglyph National Monument Advisory Commission was chartered pursuant to Public Law 101–313, which established Petroglyph National Monument, to advise the Secretary of the Interior on the management and development of the monument and on the preparation of the monument's general management plan.

At the June 21, 1996 meeting, the status of the general management planning process will be discussed, Commission members will be introduced to the new Superintendent and an election of Commission officers will be conducted. Any member of the public may file a written statement concerning the matters to be discussed at the Commission meeting with the Superintendent, Petroglyph National Monument.

Persons who wish further information concerning the meeting may contact Judith Cordova, Superintendent, Petroglyph National Monument, 6001 Unser Blvd. N.W., Albuquerque, New Mexico, 87120, telephone 505/899–0205.

Minutes of the Commission will be available for public inspection six weeks after the meeting, at Petroglyph National Monument headquarters.

Dated: May 8, 1996.

Diane E. Souder,

Acting Superintendent, Petroglyph National Monument.

[FR Doc. 96–12118 Filed 5–14–96; 8:45 am]

BILLING CODE 4310–70–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

Proposed Collection: Comment Request

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Comments are requested concerning: (a) whether the proposed or continuing collections of information is necessary for the proper performance of the functions of the agency, including whether information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Send comments on or before June 28, 1996.

ADDRESS INFORMATION TO: Mary Ann Ball, Bureau of Management, Office of Administrative Services, Information Support Services Division, U.S. Agency for International Development, B930 N.S., Washington, D.C. (202) 736–4743 or via e-mail MABall@USAID.Gov.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 0412–0017.
Form Number: AID 1440–3.
Title: Contractor's Certificate and Agreement with the U.S. Agency for International Development/Contractor's Invoice and Contract Abstract.
Type of Submission: Renewal.
Purpose; USAID finances host country contracts, for technical and professional services and for the construction of physical facilities, between the contractors for such services and entities in the country receiving assistance under loan or grant agreements with the recipient country. USAID is not a party to these contracts, and the contracts are not subject to the FAR. In its role as the financing agency, USAID needs some means of collecting information directly from the contractors supplying such services so that it may take appropriate action in the event that the contractor does not comply with applicable USAID regulations. The information collection, recordkeeping, and reporting requirements are necessary to assure that USAID funds are expended in accordance with statutory requirements and USAID policies.
Annual Reporting Burden:
Respondents: 30, Annual responses: 12, Average hours per response: .50, Total annual responses: 360.

Dated: May 1, 1996.

Genease E. Pettigrew,

Chief, Information Support Services Division, Office of Administrative Services, Bureau of Management.

[FR Doc. 96–12126 Filed 5–14–96; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–746 (Preliminary)]

Beryllium Metal and High-Beryllium Alloys From Kazakhstan

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Kazakhstan of beryllium metal and high-beryllium alloys,[2] that are alleged to be sold in the United States at less than fair value (LTFV).[3]

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] The subject products are beryllium metal and high-beryllium alloys with a beryllium content equal to or greater than 30 percent by weight, whether in ingot, billet, powder, block, lump, chunk, blank, or other semifinished form. These are intermediate or semifinished products that require further machining, casting and/or fabricating into sheet, extrusions, forgings or other shapes in order to meet the specifications of the end user. Beryllium metal and high- beryllium alloys within the scope of this investigation are classifiable under subheadings 8112.11.60, 8112.11.30, 7601.20.90, and elsewhere in the Harmonized Tariff Schedule of the United States (HTS). Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the scope of this investigation is dispositive; e.g., subject cut-to-size blocks and drilled tubular blanks of beryllium metal may be provided for as wrought products in HTS subheading 8112.19.00.

[3] Commissioner Lynn M. Bragg finds that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from Kazakhstan of beryllium

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Background

On March 14, 1996, a petition was filed with the Commission and the Department of Commerce by Brush Wellman, Cleveland, OH, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of beryllium metal and high-beryllium alloys from Kazakhstan. Accordingly, effective March 14, 1996, the Commission instituted antidumping investigation No. 731–TA–746 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 26, 1996 (61 FR 13213). The conference was held in Washington, DC, on April 3, 1996, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on May 6, 1996. The views of the Commission are contained in USITC Publication 2959 (May 1996), entitled "Beryllium Metal and High-Beryllium Alloys from Kazakhstan: Investigation No. 731–TA–746 (Preliminary)."

By order of the Commission.

Issued: May 8, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–12183 Filed 5–14–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 332–367]

General Agreement on Trade in Services: Examination of South American Trading Partners' Schedules of Commitments

AGENCY: International Trade Commission, Department of Commerce.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: May 6, 1996.

SUMMARY: Following receipt on April 9, 1996, of a request from the Office of the United States Trade Representative (USTR), the Commission instituted Investigation No. 332–367, General Agreement on Trade in Services: Examination of South American Trading Partners' Schedules of Commitments, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

FOR FURTHER INFORMATION: Information on service industries may be obtained from Mr. Richard Brown, Office of Industries (202–205–3438) and Mr. Christopher Melly, Office of Industries (202–205–3461); economic aspects, from Mr. William Donnelly, Office of Economics (202–205–3223); and legal aspects, from Mr. William Gearhart, Office of the General Counsel (202–205–3091). The media should contact Ms. Margaret O'Laughlin, Office of Public Affairs (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

Background

As requested by the USTR in a letter dated April 5, 1996, the Commission, pursuant to section 332(g) of the Tariff Act of 1930, has instituted an investigation and will prepare a report that (1) examines the content of foreign schedules of commitments under the General Agreement on Trade in Services (GATS), explaining the commitments in non-technical language; and (2) seeks to identify the potential benefits and limitations of foreign commitments. Also as requested, the Commission will focus on sector-specific commitments scheduled by Argentina, Bolivia, Brazil, Chile, Colombia, Paraguay, Peru, Uruguay, and Venezuela with respect to the following industries:

- distribution services (defined as wholesaling, retailing, and franchising services);
- education services;
- communication services (defined as enhanced telecommunication, courier, and audiovisual services);
- health care services;
- professional services (defined as accounting, advertising, and legal services);
- architectural, engineering, and construction (AEC) services;
- land-based transport services (defined as rail and trucking services); and
- travel and tourism.

In addition, the Commission will examine horizontal commitments relevant to the specified industries, such as those regarding investment and temporary entry and stay of foreign workers. As requested by the USTR, the Commission plans to deliver its report to the USTR by December 13, 1996.

The investigation is a follow-on to Commission Investigation No. 332–358, General Agreement on Trade in Services: Examination of Major Trading Partners' Schedules of Commitments, requested by the USTR on December 28, 1994, also under section 332(g) of the Tariff Act of 1930. In that report, the Commission examined the commitments scheduled by the European Union (EU), Japan, Canada, and Mexico with respect to the industries delineated above. The initial report, USITC Publication 2940, was published in December 1995, and is available on the ITC Internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

Public Hearing

A public hearing in connection with the investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on July 18, 1996. All persons shall have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, no later than 5:15 p.m., July 5, 1996. Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m., July 5, 1996. The deadline for filing post-hearing briefs or statements is 5:15 p.m., August 1, 1996. In the event that, as of the close of business on July 5, 1996, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1816) after July 5, 1996, to determine whether the hearing will be held.

Written Submissions

In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 C.F.R. 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested parties. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on August 1, 1996. All submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

By order of the Commission.

Issued: May 7, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–12182 Filed 5–14–96; 8:45 am]

BILLING CODE 7020–02–P

metal and high-beryllium alloys that are alleged to be sold in the United States at LTFV.

[Investigations Nos. 731–TA–726, 727, and 729 (Final)]

Polyvinyl Alcohol from China, Japan, and Taiwan

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured or threatened with material injury by reason of imports from China, Japan, and Taiwan of polyvinyl alcohol (PVA),[3] provided for in subheading 3905.30.00 of the Harmonized Tariff Schedule of the United States,[4] that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).[5]

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Chairman Watson, Vice Chairman Nuzum, and Commissioner Rohr dissenting.

[3] The imported product subject to these investigations is PVA, which is a dry, white to cream-colored, water-soluble synthetic polymer. This product consists of PVA hydrolyzed in excess of 85 percent, whether or not mixed or diluted with defoamer or boric acid. Excluded from the scope of the investigations is PVA covalently bonded with acetoacetylate, carboxylic acid, or sulfonic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, and PVA covalently bonded with silane uniformly present on all polymer chains in a concentration equal to or greater than one-tenth of one mole percent. PVA in fiber form is not included in the scope of these investigations.

[4] Prior to Jan. 1996, PVA was provided for in subheading 3905.20.00 of the Harmonized Tariff Schedule of the United States.

[5] Commissioner Newquist and Commissioner Bragg, who find that an industry in the United States is threatened with material injury, further determine pursuant to 19 U.S.C. § 1673d(b)(4)(B), that they would not have found material injury but for the suspension of liquidation of entries of the merchandise under investigation.

Background

The Commission instituted these investigations effective October 5, 1995, following preliminary determinations by the Department of Commerce that imports of PVA from China, Japan, and Taiwan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of November 9, 1995 (60 FR 56614). The hearing was held in Washington, DC, on March 26, 1996, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on May 6, 1996. The views of the Commission are contained in USITC Publication 2960 (May 1996), entitled "Polyvinyl Alcohol from China, Japan, and Taiwan: Investigations Nos. 731–TA–726, 727, and 729 (Final)."

By order of the Commission.

Issued: May 9, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–12184 Filed 5–14–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigation 332–237]

Production Sharing: Use of U.S. Components and Materials in Foreign Assembly, 1992–95 (U.S. Imports Under Production Sharing Provisions of Harmonized Tariff Schedule Heading 9802)

AGENCY: United States International Trade Commission.

ACTION: Opportunity to submit written statements in connection with the 1996 report, and retitling of investigation.

EFFECTIVE DATE: May 6, 1996.

SUMMARY: The Commission has prepared and published annual reports on production sharing under this series since 1986. The Commission plans to publish the next report in December 1996, which will cover U.S. import data on production sharing for the years 1992–95.

FOR FURTHER INFORMATION CONTACT: Questions about the production sharing report may be directed to the project leader, Adam Topolansky, Office of Industries (202–205–3394) or the assistant project leader, Ms. Jennifer Rorke, Office of Industries (202–205–3489). For information on legal aspects, please contact Mr. William Gearhart, Office of General Counsel (202–205–3091). The media should contact Ms. Margaret O'Laughlin, Office of Public Affairs (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

Background

The initial notice of institution of this investigation was published in the **Federal Register** of September 4, 1986 (51 FR 31729). The report has been published in the current series under investigation No. 332–237 annually since December 1986. The report, originally entitled "Imports Under Items 806.30 and 807.00 of the Tariff Schedules of the United States, 1982–85," has undergone a number of changes in the title to reflect adoption of the Harmonized Tariff Schedule (HTS) and modification to the provisions in heading 9802 of that schedule. HTS provision 9802.00.60 involves tariff treatment for metal of U.S. origin processed in a foreign location and returned to the United States for further processing; provision 9802.00.80 involves tariff treatment for imported goods that contain U.S.-made components.

As in past years, the report will provide an analysis of developments in U.S. imports under the production sharing provisions of tariff heading 9802 focusing on shifts in trade and product mix, and trends by principal country sources and industry groups. The report will also assess U.S. production generated as a result of foreign assembly, the use of production sharing by foreign manufacturers, the effect of the North American Free-Trade Agreement (NAFTA) on U.S. parts producers, and developments in the global integration of specific industries. The report will also provide information on how companies involved in production sharing in Mexico have changed their operations in response to NAFTA.

Written Submissions

No public hearing is planned. However, interested persons are invited to submit written comments concerning the 1996 report. Commercial or financial information which a submitter desires the Commission to treat as confidential must be provided on separate sheets of paper, each clearly marked "Confidential Business Information" at

the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested persons. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on September 30, 1996. All submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000.

List of Subjects

Production sharing, Foreign assembly, Infrastructure, Globalization, Apparel, NAFTA.

Issued: May 9, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–12181 Filed 5–14–96; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Department policy, 28 C.F.R. 50.7, notice is hereby given that a proposed Settlement Agreement in *In re AM International, Inc., et al.*, Case No. 82–B–04922 (Bktcy. N.D. Ill.) and *In re AM International, Inc., et al.*, Case No. 93–582 (Bktcy. Del.), was lodged on April 29, 1996 with the United States Bankruptcy Court for the District of Delaware. The proofs of claim in these actions seek to recover, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9601 et seq., response costs incurred and to be incurred by U.S. Environmental Protection Agency ("EPA") at the Solvents Recovery Service of New England, Inc. Superfund Site located in the Town of Southington, Connecticut ("Site").

The proposed Settlement Agreement embodies as agreement with AM International, Inc. to reimburse EPA for a portion of its past and future response costs at the Site. Of the $450,555 generated by the settlement, $157,694 will be paid to the Hazardous Substances Superfund for reimbursement of EPA's past response costs at the Site, and $292,861 will be deposited into a trust account to be used for the partial funding of future remedial actions at the Site. The proposed Settlement Agreement also provides for AM International, Inc. to pay the U.S. Department of the Interior ("DOI") $10,000 to resolve potential claims for damages to natural resources under the trusteeship of DOI.

The proposed Settlement Agreement also provides AM International, Inc. with a release for civil liability for EPA's past and future CERCLA response costs and natural resource damages at the Site for resources under the trusteeship of the Secretary of the Interior and the Secretary of Commerce, through the National Oceanic and Atmospheric Administration.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Settlement Agreement. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044–7611, and should refer to *In re AM International, Inc., et al.*, DOJ Ref. No. 90–7–1–23D.

The proposed Settlement Agreement may be examined at the Office of the United States Attorney, Chemical Bank Plaza, 1201 Market Street, Suite 1100, Wilmington, Delaware 19899–2046; the New England Office of the Environmental Protection Agency, EPA–New England Records Center, 90 Canal Street, First Floor, Boston, MA 02203; and at the Consent Decree Library, 1120 G Street, N.W., Fourth Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Settlement Agreement may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, Fourth Floor, N.W., Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $2.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–12112 Filed 5–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 to 9675

Notice is hereby given that a proposed consent decree in *United States* v. *David B. Fisher, et al.*, Civil Action No. S92–00636M, was lodged on April 23, 1996 with the United States District Court for the Northern District of Indiana, South Bend Division. The proposed consent decree resolves the United States' claims against five of twelve defendants, as well as one third-party defendant, the U.S. Army, for unreimbursed past costs incurred in connection with the Fisher-Calo Superfund Site located in Kingsbury, Indiana in return for a payment of $345,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *David B. Fisher, et al.*, DOJ Ref. #90–11–2–549A.

The proposed consent decree may be examined at the office of the United States Attorney, 1000 Washington Street, 203 Federal Building, Bay City, Michigan 48707; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $7.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environment and Natural Resources Division.

[FR Doc. 96–12114 Filed 5–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Order Modification Pursuant to the Clean Air Act

In accordance with Departmental policy at 28 CFR § 50.7, notice is hereby given that on April 30, 1996 a proposed Second Consent Order Modification in *United States* v. *New Boston Coke Corporation*, Civil Action No. C–1–84–1427 was lodged with the United States District Court for the Southern District of Ohio, Western Division. This Second Consent Order Modification represents settlement of claims by the United States against the New Boston Coke Corporation ("New Boston") for violations of the Clean Air Act, 42 U.S.C. 7401, and certain terms and conditions of a Consent Order Modification entered on September 25, 1993.

Under this settlement, New Boston will implement and complete a program for construction of a wastewater treatment system to treat all direct contact process wastewaters from its coke recovery by-product plant, with the treated wastewaters to be discharged to the Ohio River pursuant to a modified National Pollution System Discharge Elimination System ("NPDES") permit. New Boston shall then achieve compliance with certain limitations for total dissolved solids in its quench water by using only river water or non-contact process cooling water as makeup water in its quenching operations.

New Boston shall also comply with certain emission limits in connection with activities at its coke battery. In addition, New Boston will pay an aggregate civil penalty of $295,000. Stipulated penalties may be imposed in the event New Boston does not comply with the requirements of the Second Consent Order Modification.

The Department of Justice will receive comments relating to the proposed Second Consent Order Modification for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *New Boston Coke Corporation*, D.J. # 90–5–2–1–710B.

The proposed Second Consent Order Modification may be examined at the Office of the United States Attorney, Southern District of Ohio, 220 U.S. Post Office and Courthouse, 100 East Fifth Street, Cincinnati, Ohio 45202, and at U.S. EPA Region 5, Office of Regional Counsel, 200 West Adams, Chicago, Illinois 60604, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Second Consent Order Modification may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please enclose a check in the amount of $6.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–12111 Filed 5–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on April 26, 1996, a proposed Consent Decree in *United States* v. *Raymond G. Regis, Paul Wasson, and Wasson and Regis, a Partnership*, Civil Action No. 94–CV–0319C(F), was lodged with the United States District Court for the Western District of New York resolving the matters alleged in the United States' complaint filed on April 28, 1994. The proposed Consent Decree represents a settlement of the United States' claims against Raymond G. Regis, Paul Wasson, and Wasson and Regis, a Partnership ("Defendants") under the Safe Drinking Water Act for Defendants' violations of the Safe Drinking Water Act by failing to comply with the Underground Injection Control ("UIC") regulations for Class II injection wells for the secondary recovery of oil, 40 CFR Part 144.28, promulgated under sections 300h and 300h–1 of the Safe Drinking Water Act, 42 U.S.C. 1421 and 1422, and for failure to comply with the terms of a final administrative order issued pursuant to section 300h-2(c), 42 U.S.C. 1423(c), requiring compliance with the Safe Drinking Water Act UIC program.

Under the proposed Consent Decree the Defendants shall comply with the UIC regulations, including the implementing regulations pertaining to Class II Injection Wells at 40 CFR 144.22 and 144.28, and the Safe Drinking Water Act. Under the consent decree, Defendants are also required to submit a plugging and abandonment schedule (the "Schedule") for the fifteen wells at the Stillman facility in Bolivar, New York, within thirty days from the date of lodging, which provides for the proper plugging and abandonment of at least three wells per year commencing no later than calendar year 1996 and to properly plug and abandon the fifteen secondary, enhanced recovery injection wells at the Stillman facility pursuant to the Schedule and a previously submitted and approved plugging and abandonment plan (the "Plan").

The Department of Justice will receive, for thirty (30) days from the date of publication of this notice, written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Raymond G. Regis, Paul Wasson, and Wasson and Regis, a Partnership*, D.O.J. Ref. No. 90–5–1–1–3937.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Western District of New York located at 68 Court Street, Buffalo, New York 14202; at the Region II Office of the Environmental Protection Agency located at 290 Broadway, New York, New York 10007; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor Washington, D.C., 20005, (202)–624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C., 20005. In requesting a copy, please enclose a check in the amount of $15.50 (25 cents per page reproduction charge) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–12113 Filed 5–14–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Process Control Framework Initiative Program

Notice is hereby given that, on April 15, 1996, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Advanced Process Control Framework Initiative Program ("APCFIP") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to § 6(b) of the Act, the identities of the parties are: Honeywell Inc., Minneapolis, MN; and

Advanced Micro Devices, Inc., Austin, TX.

APCFIP's area of planned activity is development of advanced process control required by the semiconductor manufacturing industry.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12110 Filed 5–14–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Consortium for Integrated Intelligent Manufacturing, Planning and Execution

Notice is hereby given that, on April 24, 1996, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Consortium for Integrated Intelligent Manufacturing, Planning and Execution ("CIIMPLEX") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specific circumstances. Pursuant to § 6(b) of the Act, the identities of the parties are: International Business Machines ("IBM") Corporation, Charlotte, NC; Berclain U.S.A., Schaumberg, IL; Ingersoll Rand, Woodcliff Lake, NJ; J.D. Edwards, Denver, CO; and QUD Inc., Mt. Laurel, NJ.

The CIIMPLEX Consortium's area of planned activity is the development of open industry software protocols that will integrate manufacturing, planning and execution computing environments across the U.S. manufacturing base.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12108 Filed 5–14–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—the Frame Relay Forum

Notice is hereby given that, on April 29, 1996, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Frame Relay Forum ("Forum"), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: Cellstream Networks, Inc., Sarasota, FL; Comsat Corporation, Clarksburg, MD; Digital Equipment Corporation, Berks, UNITED KINGDOM; Hekemian Laboratories, Inc., Rockville, MD; and InComA, Ltd, Moscow RUSSIA; have been added as members to the venture. Nortel DASA, Friedrichs Hafem, GERMANY has been added as an affiliate member. Loral Data Systems, Sarasota, FL; and Defense Research Agency, Malvern, Worcestershire, UNITED KINGDOM have been dropped as members of the venture.

On April 10, 1992, the Forum filed its original notification pursuant to § 6(b) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to § 6(b) of the Act on July 2, 1992 (57 FR 29537). The last notification was filed on December 27, 1995. A notice was published in the **Federal Register** on February 20, 1996 (61 FR 6389).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12109 Filed 5–14–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; the ATM Forum

Notice is hereby given that, on February 2, 1996, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the ATM Forum ("Forum") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: ABB, HAFO, Jarfalla, SWEDEN; Anixter, Inc., Skokie, IL; Anritsu Wiltron, Atsugi-Shi, Kanagawa, JAPAN; Belgacom, Brussels, BELGIUM; Diamond Lane Communications, Petaluma, CA; GN Nettest, Markham, Ontario, CANADA; Incite, Dallas, TX; Integrated Systems Technology, Lanham, MD; Litton-Fibercom, Roanoke, VA; Molex, Lisle, IL; Scope Communications, Northboro, MA; Southern New England Telephone, North Haven, CT; Super Highway Company, New York, NY; US Robotics, Westborough, MA; and Wandel & Goltermann, Eningen, GERMANY have been added to the venture. Telenex has changed its name to General Signal Networks. Chipcom has withdrawn from the venture.

On April 19, 1993, the Forum filed its original notification pursuant to section 6(b) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant section 6(b) of the Act on June 2, 1993 (58 FR 45532). The last notification was filed on August 8, 1995. A notice was published in the **Federal Register** on March 12, 1996 (61 FR 10011).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12107 Filed 5–14–96; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated February 2, 1996, and published in the **Federal Register** on February 13, 1996, (61 FR 5570), Isotec Inc., 3858 Benner Road, Miamisburg, Ohio 45342, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
Aminorex (1585)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxyamphetamine (7400)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (7405)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455)	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
Acetylmethadol (9601)	I
Alphacetylmethadol Except Levo-Alphacetylmethadol (9603)	I
Normethadone (9635)	I
3-Methylfentanyl (9813)	I

Drug	Schedule
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexane-carbonitrile (8603)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Levo-Alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Isotec Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR §§ 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: May 8, 1966.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–12123 Filed 5–14–96; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 27, 1996, Research Biochemicals, Limited Partnership, Attn: Richard Milius, One Strathmore Road, Natick, Massachusetts 01760, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Alpha-Ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315)	I
4-Bromo-2,5-dimethoxyamphetamine (7391)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxymeth- amphetamine (7405)	I
Dimethyltryptamine (7435)	I
1-[1-(2-Thienyl) cyclohexyl] piperidine (7470)	I
Heroin (9200)	I
Normorphine (9313)	I
Phencyclidine (7471)	II
Benzoylecgonine (9180)	II

The firm plans to manufacture the listed controlled substances for laboratory reference standards and neurochemicals.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 15, 1996.

Dated: May 6, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–12122 Filed 5–14–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Relate Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encourage to submit wage rate and

fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Modifications to General Wage Determination Decisions

[The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.]

Volume I

Massachusetts
MA960001 (MARCH 15, 1996)
MA960007 (MARCH 15, 1996)
MA960008 (MARCH 15, 1996)
MA960012 (MARCH 15, 1996)
MA960017 (MARCH 15, 1996)
MA960018 (MARCH 15, 1996)
MA960019 (MARCH 15, 1996)
MA960021 (MARCH 15, 1996)
New York
NY960007 (MARCH 15, 1996)
NY960008 (MARCH 15, 1996)
NY960012 (MARCH 15, 1996)
NY960067 (MARCH 15, 1996)

Volume II

Maryland
MD960002 (MARCH 15, 1996)
MD960015 (MARCH 15, 1996)
MD960019 (MARCH 15, 1996)
MD960031 (MARCH 15, 1996)
MD960046 (MARCH 15, 1996)
MD960055 (MARCH 15, 1996)
Pennsylvania
PA960007 (MARCH 15, 1996)
PA960009 (MARCH 15, 1996)
PA960012 (MARCH 15, 1996)
PA960019 (MARCH 15, 1996)
PA960020 (MARCH 15, 1996)
PA960023 (MARCH 15, 1996)
PA960028 (MARCH 15, 1996)
PA960033 (MARCH 15, 1996)
PA960041 (MARCH 15, 1996)
PA960051 (MARCH 15, 1996)
PA960052 (MARCH 15, 1996)
PA960054 (MARCH 15, 1996)
PA960062 (MARCH 15, 1996)
PA960063 (MARCH 15, 1996)

Volume III

None

Volume IV

Indiana
IN960001 (MARCH 15, 1996)
IN960006 (MARCH 15, 1996)

Volume V

Arkansas
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Missouri
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MO960060 (MARCH 15, 1996)
MO960062 (MARCH 15, 1996)
MO960063 (MARCH 15, 1996)
MO960064 (MARCH 15, 1996)
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New Mexico
NM960002 (MARCH 15, 1996)
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OK960013 (MARCH 15, 1996)
OK960014 (MARCH 15, 1996)
OK960017 (MARCH 15, 1996)

Volume VI

Colorado
CO960016 (MARCH 15, 1996)
Idaho
ID960001 (MARCH 15, 1996)
Oregon
OR960001 (MARCH 15, 1996)
OR960017 (MARCH 15, 1996)
Washington
WA960001 (MARCH 15, 1996)
WA960026 (MARCH 15, 1996)
Wyoming
WY960023 (MARCH 15, 1996)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GOP) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 10th day of May 1996.

Philip J. Gloss,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 96–12160 Filed 5–14–96; 8:45 am]

BILLING CODE 4510–27–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

WTO Dispute Settlement Proceedings Concerning U.S. Restrictions on Woven Wool Shirts and Blouses From India

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: Pursuant to section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), the Office of the United States Trade Representative (USTR) is providing notice that a dispute settlement panel convened under the Agreement Establishing the World Trade Organization (WTO) at the request of India will examine a U.S. transitional safeguard restriction on woven wool shirt and blouse imports from India (category 440) applied pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC). USTR also invites written comments from the public concerning the issues raised in the dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before June 12, 1996 in order to be assured of timely consideration by USTR in preparing its first written submission to the panel.

ADDRESSES: Comments may be submitted to the Office of the General Counsel, Attn: Wool Shirts and Blouses Dispute, Room 223, Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Alicia Greenidge, Special Counsel, at (202) 395–3026 or Demetri Boutris, Associate General Counsel, at (202) 395–3150, Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

SUPPLEMENTARY INFORMATION: At the request of India, a WTO dispute settlement panel will examine whether the United States application of a transitional safeguard on U.S. imports of woven wool shirts and blouses from India is consistent with U.S. obligations under the ATC. Effective July 17, 1995, the United States applied a restriction on imports of woven wool shirts and blouses from India (category 440) at a level of 76,698 dozen (60 FR 35899). The U.S. took this action because it determined that such imports were contributing to serious damage, or actual threat thereof, to the U.S. industry. The U.S. held consultations with India in April 1995 in accordance with Article 6.7 of the Uruguay Round Agreement on Textiles and Clothing (ATC). Because no mutually satisfactory solution was reached, the U.S. applied a safeguard restriction in accordance with Article 6.10 of the ATC. Article 6.10 provides that members taking unilateral action must do so within 30 days after a 60 day consultation period, which did not result in agreement. Also pursuant to Article 6.10 of the ATC, the WTO Textiles Monitoring Body (TMB) automatically reviewed the case. The TMB examined the matter on August 28–September 1, 1995. After its examination of the case, the TMB determined that there was no serious damage to U.S. industry. However, the TMB reached consensus that there was actual threat of serious damage to the U.S. industry and such threat was properly attributed to imports from India. On October 16, 1995, India informed the TMB that it could not conform with the TMB's recommendation. The TMB subsequently issued a report on December 8, 1995, affirming its original finding and noted that it could not make any additional recommendations concerning the conclusions it reached earlier. On March 14, 1996, pursuant to Article 8.10 of the ATC, India sent a letter to the Chairman of the WTO Dispute Settlement Body requesting that a panel review the matter.

Members of the panel are currently being selected. The panel will meet with the parties to the dispute twice at WTO headquarters in Geneva, Switzerland to examine the case. The panel is expected to issue a report detailing its findings and recommendations in six to nine months from the date the panel is established.

Major Issues Raised by India and Alleged Legal Basis of the Complaint

India has alleged that the U.S. safeguard restriction on woven shirts and blouses imported from India is inconsistent with Articles 6, 8 and 2 of the ATC; that the U.S. restriction nullifies or impairs benefits accruing to India under the Agreement Establishing the WTO, GATT 1994 and under the ATC in particular; and that the U.S. must withdraw the restraint. India also requested supplementary findings from the panel that the U.S. has to choose at the beginning of the process whether it will claim existence of serious damage or actual threat because they are not interchangeable (asserting that if serious damage is not found there can be no threat); and that the U.S. cannot impose a restraint with retrospective effective because there is no provision in the ATC addressing the matter.

Public Comment: Requirements for Submissions

Interested person are invited to submit written comments concerning the issues raised in the dispute. The provisions of 15 CFR § 2006.13 (a) and (c) (providing that comments received will be open to public inspection) and 2006.15 will apply to comments received. Comments must be in English and provided in fifteen copies. Pursuant to 15 CFR § 2006.15, confidential business information must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page.

Pursuant to § 127(e) of the URAA, USTR will maintain a public file on this dispute settlement proceeding, which will include a list of comments received, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, DC 20508. An appointment to review the docket (Docket WTO/D–5 "India-United States: U.S. Safeguard Restrictions on Woven Wool Shirts and Blouses") may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Irving Williamson,

Deputy General Counsel.

[FR Doc. 96–12121 Filed 5–14–96; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 21947; 812–9906; International Series Release No. 975]

Minorco S.A., Notice of Application

May 9, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Minorco S.A.

RELEVANT ACT SECTION: Order requested under section 3(b)(2) of the Act or, alternatively, under section 6(c) granting an exemption from all provisions of the Act.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities or, alternatively, granting it an exemption from all provisions of the Act and the rules and regulations thereunder.

FILING DATE: The application was filed on December 14, 1995, and amendment on May 7, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 3, 1996, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, c/o Minorco (U.S.A.) Inc., 30 Rockerfeller Plaza, Suite 4212, New York, New York, 10112.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Senior Attorney at (202) 942–0579, or David M. Goldenberg, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application

may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Luxembourg corporation, is a foreign private issuer whose ordinary shares are listed on the Luxembourg, London, Johannesburg, and Paris stock exchanges. Applicant has a market capitalization of over $6 billion and reported net earnings of $365 million for calendar year 1995. Applicant, together with its consolidated subsidiaries (the "Group"), has over 20,000 employees worldwide and is active in international natural resources with operations across a broad geographic and commodities spectrum. The Group operates five business segments: gold, base metals, industrial minerals, paper and packaging, and agribusiness.

2. Applicant is the successor to a line of companies that have been in existence since 1928 and that had their origin in the operation of copper mines. In 1987, the Group relocated its headquarters to Luxembourg and reorganized into a structure where applicant became the parent company of the Group. At that time, applicant held within the Group significant interests in operating companies involved in natural resources businesses. Applicant subsequently has focused on operating as a natural resources company by expanding its activities into the ownership and operation of, and direct participation in, resource-based assets, and deemphasizing passive investments. Since 1989, this strategy has resulted in approximately $5.1 billion being spent on acquisitions and other investments in operations (including capital expenditures on expansion of existing operations), and the disposition of approximately $1.9 billion of non-controlling interests. All of the acquisitions made by applicant since 1989 have been of controlling positions, or complete ownership, of operating companies, with the exception of two small strategic investments made in connection with larger transactions.

3. Applicant's natural resources business is operated worldwide through three major wholly-owned holding companies: Minorco (U.S.A.) Inc. ("Minorco USA"), AMSA Limited ("AMSA"), and Taurus Investments S.A. ("Taurus"). Applicant, either directly or through its wholly-owned subsidiaries, provides technical services, including experts in engineering, metallurgy, and geology, to its operating subsidiaries, maintains a human resources department to coordinate compensation and benefits among Group companies, and maintains a corporate finance department to provide financial analytical services to Group companies.

4. Applicant conducts its operations in the United States through Minorco USA and Taurus. Minorco USA wholly-owns Independence Mining Company Inc. ("IMC"), which operates various mines and processing facilities directly and indirectly through its wholly-owned subsidiary Pikes Peak Mining Company. IMC and its subsidiaries also conduct the Group's exploration programs in the United States and Mexico. Minorco USA and Taurus own 52.4% of Terra Industries Inc., a marketer of fertilizer and other agricultural products, and a producer of nitrogen products and methanol.

5. Through Taurus, applicant also owns 32% of Engelhard Corporation ("Engelhard"), a provider of specialty chemical products, engineered materials, and precious metal management services. Applicant is the largest shareholder of Engelhard's voting securities, with the next largest shareholder holding less than 7%. Applicant's directors hold four out of the ten seats on the board of directors of Engelhard and serve on several of its key board committees. Applicant states that its control position with respect to Engelhard has allowed it to actively participate in the selection of Engelhard's chief executive officer, and to regularly provide its views on strategic, policy, and management issues.

6. Applicant's European operations include the United Kingdom's only potash mine, as well as wholly-owned subsidiaries in Germany, Spain, and the United Kingdom that produce aggregates, burnt lime products, and ready-mixed concrete. The Group continues to look for growth in its European industrial minerals segment by acquisition. In 1995, the Group acquired a 100% interest in a German sand and gravel operation and a 100% interest in Tilcon Holdings Limited, the United Kingdom's seventh largest producer of aggregates. Applicant's paper and packaging business is held indirectly by Taurus and operated through Mondi European Holdings BV, incorporated in the Netherlands, and Mondi Paper (U.K.). The Group assumes management functions and provides operational advice to its subsidiaries in this segment, and participates in all important strategic decisions.

7. The Group has a 50% joint venture interest in the Lisheen Joint Venture, which owns a zinc/lead deposit in Ireland, and also owns 24.5% of Ivernia West PLC, the owner of the other 50% joint venture interest. The Group is the manager of the joint venture.

8. Applicant's gold, base metals, and industrial minerals operations in South America are conducted through AMSA, a South American mining business whose administration is centered in Brazil. AMSA owns and operates, either directly or in associations with local partners, a range of resource companies, and is developing projects in Argentina, Brazil, Chile, Peru, and Venezuela.

9. In Brazil, the operations of the Group are conducted through AMBRAS Participações Ltda. ("AMBRAS"), a wholly-owned subsidiary of AMSA, in association with Cia. Bozano Simonsen Comercio e Industria and its subsidiaries (the "Bozano Simonsen Group"). The operations consist of a gold mining complex, several base metal producers, and, in the industrial minerals sector, an integrated petrochemical plant and phosphate mining operation. The vehicle for the association in Brazil between the Group and the Bozano Simonsen Group is MMV Participações Minerais ("MMVPM"). The Bozano Simonsen Group owns an indirect minority interest in MMVPM and acts in conjunction with the Group in a joint venture so that the Group and the Bozano Simonsen Group jointly control companies within the MMVPM group in which the Group's shareholdings are non-voting. Joint control is established by an arrangement under which 50% of MMVPM's board of directors is composed by the Group's representatives, and decisions of the board require the favorable vote of a majority of directors. All officer positions of the operating companies within the MMVPM group are occupied by the Group's representatives, so that the Group ultimately is responsible for the management and conduct of the operations. The arrangements confer upon applicant, through its majority-owned subsidiaries, the ability to manage and control its natural resources business in Brazil.

10. Applicant holds its interests in Brazil through AMBRAS and through its association with the Bozano Simonsen Group in order to reduce the impact of restrictions (which are no longer in effect) upon remittance of capital and dividends, to obtain favorable tax treatment with respect to the Group's activities outside Brazil, and to accommodate the joint venture activities of applicant's majority-owned subsidiaries.

11. In Chile, AMSA holds a 74.9% interest in Empresa Minera de Mantos Blancos S.A. ("Mantos Blancos"), the only Chilean copper producer listed on the Santiago stock exchange. Mantos Blancos owns and operates copper mines and also owns controlling interests in important gold deposits in Chile. Applicant, through its majority-owned subsidiaries, appoints the majority of the board members of these mining operations and exercises exclusive management over their operations. The Group also currently holds a 50% interest in the Collahuasi copper project in Chile, a joint venture operation with Falconbridge Limited, which is expected to be one of the largest copper mines in the world. The Group jointly controls the management of the operations of the venture, and has three seats on the six member board.

12. In addition to the operations described above, various projects are in the course of development in South America. These include a gold and silver project in Argentina for which the Group is contributing substantial management of the project during production, and a nickel mining project in Venezuela in which the Group has an 85% equity interest and will exercise full control over the project. Applicant also holds indirectly, through wholly-owned subsidiaries and joint ventures, minority interests in certain companies and projects that are of strategic importance to the operating business of the Group.

13. Applicant states that the Group's hands-on involvement is consistent with the background, training, experience, and expertise of applicant's officers and directors in the various natural resources and related sectors. Applicant believes that the various joint ventures in which the Group has interests are characterized by the Group's economic influence and its management of the operations. Applicant asserts that the Group's complex holding company structure reflects, among other things, the manner in which natural resources companies tend to spread risk, as well as the laws and business customs of many of the countries where the Group carries on its businesses. To the extent that applicant has minority voting interests in intervening holding companies, those minority interests are in closely held companies where the majority interest is owned by applicant's joint venture partner in order to comply with former restrictions on foreign investment in Brazil. This structure, however, poses the issue of whether applicant would be considered an investment company within the meaning of the Act.

Applicant's Legal Analysis

1. Applicant seeks an order under section 3(b)(2) of the Act declaring that it is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities, and therefore, is not an investment company as defined in the Act, or in the alternative, an order under section 6(c) of the Act exempting it from all provisions of the Act.

2. Under section 3(a)(3), an issuer is an investment company if it "is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis." Section 3(a) defines "investment securities" to include all securities except Government securities, securities issued by employees' securities companies, and securities issued by majority-owned subsidiaries of the owner which are not investment companies.

3. Applicant states that it is not primarily engaged in the business of investing, reinvesting, or trading in securities. Certain of applicant's businesses, however, are conducted through a controlled company, and a significant portion of the Group's assets currently consist of highly liquid investment grade securities pending use in operations and for acquisitions. Thus, approximately 30% of applicant's total assets are held in investment securities within the meaning of section 3(a)(3). If applicant's South American joint venture interests were characterized as securities, however, applicant might be deemed to own investment securities equal to approximately 52% of the value of its assets on an unconsolidated basis. Applicant, therefore, may be deemed an investment company within the meaning of section 3(a)(3).

4. Section 3(b)(2) provides that notwithstanding section 3(a)(3), the Commission may issue an order declaring an issuer to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly, through majority-owned subsidiaries, or through controlled companies conducting similar types of businesses. Applicant believes that it meets the requirements of section 3(b)(2) exempting it from the definition of an investment company because it primarily engaged, through its wholly-owned or majority-owned subsidiaries, or through companies which it primarily controls, in the business of a natural resources group focused on gold, base metals, industrial minerals, paper and packaging, and agribusiness.

5. In determining whether a company is "primarily engaged" in a non-investment company business under section 3(b)(2), the Commission considers the following factors: (a) the issuer's historical development; (b) its public representations of policy; (c) the activities of its officers and directors; (d) the nature of its present assets; and (e) the sources of its present income.[1]

a. Historical Development. Applicant is the successor to a line of companies that have been in existence since 1928 and that had their origin in the operation of copper mines. Although applicant contends it always has maintained significant influence over its natural resources operating companies, applicant has not always held itself out as a holding company exercising direct control over the operating businesses of the Group. Applicant states that the process of becoming a "hands on" operating group began in 1987 with the relocation of applicant's headquarters to Luxembourg, a reorientation of its asset holdings into the ownership and operation of, and direct participation in, resource-based assets, and the disposition of non-controlling passive investments. At that time, applicant articulated a strategy to focus on direct participation in operating businesses, and, since 1989, has made a series of acquisitions of controlling interests in natural resources companies with the result that applicant believes it now has established itself as an operating group. Applicant asserts that the Group today exercises primary or joint control over virtually all of its constituent companies, either through direct voting control, management agreements, or cross directorships.

b. Public Representations of Policy. Applicant states that it does not hold itself out as an investment company within the meaning of the Act, and has never been a registered investment company (or subject to any analogous regulatory scheme). Applicant further states that it consistently represents itself to its shareholders and the public as an international natural resources group. This is supported by, among other things, statements in its annual reports, news articles, and analyst reports. Applicant's 1995 annual report, for example, discusses its operations and projects, and states that applicant is continuing to expand in its five operating business segments: gold, base metals, industrial minerals, paper and packaging, and agribusiness.

c. Activities of Officers and Directors. Applicant states that its management,

[1] *Tonopah Mining Company of Nevada*, 26 S.E.C. 426, 427 (1947).

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on the whole, spends substantially all of its time actively involved in the natural resources business of the Group. Of applicant's twenty-two directors, only one director, who serves as applicant's Finance Director, spends any meaningful amount of his time (approximately 5%) monitoring the Group's securities holdings and cash management activities, and that time is spent mostly on administrative and supervisory matters. Applicant's five executive directors have been with the Group for a significant amount of time and have substantial experience in applicant's natural resources operations. Of applicant's thirteen principal officers, only the Treasurer spends any time (approximately 60%) on cash management.[2] Applicant is represented by its directors and officers on many of the boards of directors of its subsidiaries and its controlled company. In many of those companies, applicant's directors and officers play a leading role in management's strategic decision making or in other essential operational functions.

d. Nature of Assets. As of December 31, 1995, applicant had total assets of $5,162 million.[3] For purpose of analysis under section 3(b)(2), 63% of applicant's total assets were operating assets attributed to its majority-owned subsidiaries (including wholly-owned subsidiaries), its controlled company, Engelhard, and applicant's interests in its joint ventures.

e. Sources of Income. As of December 31, 1995, applicant derived approximately 66% of its income from its operating businesses and approximately 34% from its investment activities. With respect to income earned by the Group's operations, applicant's majority-owned subsidiaries (including wholly-owned subsidiaries) accounted for approximately 26% of its income, Engelhard accounted for approximately 12% of its income, and its joint venture interests accounted for approximately 28% of its income.

6. In the alternative to exemptive relief under section 3(b)(2), applicant requests an order under section 6(c) exempting applicant from all provisions of the Act and the rules and regulations thereunder. Section 6(c) authorizes the Commission to issue a conditional or unconditional exemption from any provision of the Act or rule thereunder if the exemption is "necessary or appropriate in the public interest" and is "consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Act]." Applicant states that it was structured for valid economic and legal reasons and not with the Act in mind. Consequently, applicant believed that it would be inappropriate and detrimental to applicant and its shareholders to be treated as an investment company and made subject to the Act. Furthermore, applicant believes that it is not the type of company and does not engaged in the activities the Act was designed to regulate. Accordingly, applicant submits that the requested exemption is necessary and appropriate in the public interest, is consistent with the protection of investors, and is consistent with the purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12128 Filed 5–14–96; 8:45 am]

BILLING CODE 8010–01–M

[2] Approximately 40% of applicant's cash management activities are conducted through outside managers on a fully discretionary basis.

[3] The methods used in the valuation of applicant's assets were in accordance with section 2(a)(41) under the Act.

[Release No. 34–37179; File No. SR–Amex–96–11]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 to Proposed Rule Change by the American Stock Exchange, Inc., To Establish a Firm Facilitation Exemption

May 8, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 9, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.[3]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4 (1994).

[3] On May 2, 1996, the Amex filed Amendment No. 1 to the proposed rule change to include within the rule text the requirement that if the Exchange grants a facilitation exemption on the basis of oral representations, the member organization must file the appropriate forms and documentation substantiating the basis for the exemption within either two business days or a period of time to be designated by the Exchange ("Amendment No. 1"). *See* Letter from Claire P. McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, to Michael Walinskas, Branch Chief, Derivatives Regulation, Division of Market Regulation, Commission, dated May 2, 1996.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Exchange Rules 904, 905, 904C, and 906G to provide for an exemption from standardized equity and index and Flexible Exchange option position and exercise limits for member firms seeking to facilitate customer orders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Amex is proposing to establish a firm facilitation exemption[4] for all non-multiply-listed Exchange option classes. This exemption would be available to the Exchange's standardized equity and index and Flexible Exchange option classes. In addition, the firm facilitation exemption will be twice the standard limit.

Under the proposal, the procedures set forth in Exchange Rule 950(d) Commentary .02 for crossing a customer order with a firm facilitation order must be followed. In this regard, before a customer order can be crossed with a firm facilitation order, the trading crowd must be given a reasonable opportunity to participate. Moreover, only after it has been determined that the trading crowd will not fill the order, may the firm's customer order be crossed with the firm's facilitation order.

The Amex notes that the firm facilitation exemption will be in addition to and separate from the standard limit, as well as other exemptions available under the Exchange's position limit rules. For example, if a firm desires to facilitate customer orders in the XYZ option class, which is assumed not to be multiply-listed and also assumed to have a 25,000 contract standard position limit, the firm may qualify for a firm facilitation exemption of up to twice the standard limit (50,000 contracts), as well as an equity hedge exemption of up to twice the standard limit (50,000 contracts), in addition to the 25,000 contract standard limit. If both exemptions are allowed, the facilitation firm may hold or control a combined position of up to 125,000 XYZ contracts on the same-side of the market.

Initially, the Exchange intends to provide the facilitation exemption to member firms only for positions in equity options that are solely listed on the Exchange and not for multiply-listed equity options. The reason for this temporary limitation is to allow the options exchanges, working through the Intermarket Surveillance Group ("ISG"), to develop uniform procedures to assure that all market participants at each exchange are given an opportunity to participate in an order before a member firm is given an exemption from the position limit rules.

Under the proposal, member firms must receive approval from the Exchange prior to executing the facilitating order which would result in the firm exceeding position limits. Although permission may be obtained based on oral representations, the facilitation firm is required to furnish to the Exchange, within two business days or such other time period designated by the Exchange, forms and documentation substantiating the basis for the exemption. Further, to remain qualified for the exemption, the member firm must, within five business days after the execution of the exempted order, hedge all exempt option positions that have not previously been liquidated, and furnish to the Exchange documentation reflecting the resulting hedging position. In meeting this requirement, the facilitation firm must liquidate and establish its customer's and its own option and stock positions or their equivalent in an orderly fashion, and not in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes. In addition, a facilitation firm is not permitted to use the facilitation exemption for the purpose of engaging in index arbitrage. Moreover, the facilitation firm is required to promptly provide to the Exchange any information or documents requested concerning the exempted option positions and the positions hedging them, as well as to promptly notify the Exchange of any material change in the exempted option positions or the hedge.

[4] The Commission notes that a facilitation trade is defined as a transaction that involves crossing an order of a member firm's public customer with an order for the member firm's proprietary account.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers, and dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) was provided to the Commission for its review at least five business days prior to the filing date; and (4) does not become operative for 30 days from April 9, 1996, the date on which it was filed, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder. In particular, the Commission believes that the proposal qualifies as a "noncontroversial filing" in that the proposed amendments do not significantly affect the protection of investors or the public interest and do not impose any significant burden on competiton. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate for the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No SR–Amex–96–11 and should be submitted by June 5, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12174 Filed 5–14–96; 8:45 am]

BILLING CODE 8010–01–M

[5] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–37186; File No. SR–PSE–96–12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Financial Arrangements of Market Makers

May 9, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 5, 1996, the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested Persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to amend its rules on the trading restrictions that apply to Options Floor Members with "financial arrangements" as defined in PSE Rule 6.40.

[1] 15 U.S.C. 78s(b)(1) (1988).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

PSE Rule 6.40(a) currently provides that two Members have a "financial arrangement" with each other for purposes of Rule 6.40 if: (1) one Member directly finances the other Member's dealings on the Exchange and has a beneficial interest in the other Member's trading account such that the first Member is entitled to at least 10% of the second Member's trading profits; or (2) both Members are trading for the same joint account. Rule 6.40(b) provides that two Members with a financial arrangement may not bid, offer and/or trade in the same trading crowd without a written exemption from two floor officials.[2] Commentary .06 sets forth the circumstances under which the Options Floor Trading Committee ("OFTC") ordinarily may grant an exemption to those trading restrictions, *i.e.*, to provide liquidity in the trading crowd.

The Exchange proposes to redefine the term "financial arrangements" for purposes of Rule 6.40, so that two Members have a financial arrangement with each other if: (1) One Member directly finances the other Member's dealings on the Exchange, the amount financed is $5,000 or more, and the Member providing the financing is entitled to a share of the other Member's trading profits; or (2) both Members are registered with the Exchange as nominees of the same Member Organization; or (3) both Members are registered with the Exchange to trade on behalf of the same joint account; or (4) both Members' dealings on the Exchange are financed by the same source, the amount financed is $5,000 or more, and the Member providing the financing is entitled to a share of each of the other Members' trading profits. The proposal states that Members with "financial arrangements," as defined, may not bid, offer and/or trade in the same trading crowd at the same time in the absence of an exemption from the OFTC.

The proposal further provides for both long-term and short-term exemptions that can be provided by the OFTC or two Floor Officials, respectively. Proposed Rule 6.40(b)(4) states, more specifically, that the OFTC may grant long-term exemptions to Members on a case-by-case basis if it determines that a fair and orderly market would not be impaired by allowing such Members with financial arrangements to trade in the same trading crowd at the same time. It further states that in making such determinations, the Committee shall consider the following factors; (1) The nature of the financial arrangement; (2) the degree of independence to be maintained by the applicants in making trading decisions; (3) the impact on competition in the trading crowd if an exemption were granted; (4) the applicants' prior patterns of trading if they have traded previously in the same trading crowd at the same time; and (5) any other information relevant to whether the applicants would tend collectively to dominate the market in a particular trading crowd or a particular option series. The proposal further states that the Committee may revoke any long-term exemption granted pursuant to this subsection if it determines that a fair and orderly market otherwise would be impaired by a continuation of the exemption. The Exchange believes that the proposed criteria to be used by the OFTC in granting long-term exemptions will provide for even-handed treatment of Members who apply for a long-term exemption. With respect to short-term exemptions, the proposal states that two Floor Officials may grant short-term exemptions to Members on a case-by-case basis if such Floor Officials determine that a fair and orderly market would not be impaired and that the need for liquidity in the trading crowd warrants such action.

The Exchange believes that the proposed definition improves upon the current definition by expanding, to an appropriate extent, the scope of persons who are covered by its terms. Specifically, the current rule allows two or more Members who are backed financially by the same source (*i.e.*, Members with "indirect" financial arrangements), to trade in the same crowd or same series as long as they are not receiving trading profits from each other and are not trading for the same joint account. This however, allow for certain situations where the spirit (*i.e.*, to prevent one source from dominating the market in a particular option issue or dominating a particular trading crowd), but not the letter, of Rule 6.40 might be violated. The Exchange believes that the proposed rule would better assure that such situations do not occur and that competition will continue to be maintained in each trading crowd.[3]

The Exchange also proposed to remove a provision in the current rule that states that the primary appointment of a market maker may not include trading posts that constitute the primary appointment of any market maker with whom the first market maker has an existing financial arrangement.[4] The Exchange believes that that rule is superfluous in light of the trading restrictions set forth in Rule 6.40. Moreover, the Exchange believes that Members trading for joint accounts should be permitted to establish overlapping primary appointment zones to allow for coverage on the floor when members who trade for those accounts are temporarily absent from the floor. In this regard, the Exchange notes that the Commission recently approved a PSE rule change to increase from two to six the maximum number of trading posts that may be included within a market marker's primary appointment zone.[5]

Finally, the PSE proposes to add violations of Rule 6.40(b) to the Exchange's Minor Rule Plan[6] with recommended fines of $500, $1,000 and $1,500 for first-, second- and third-time violations, respectively. The Exchange believes that violations of Rule 6.40(b) are easily ascertainable and easily verifiable, and, therefore, are appropriate for inclusion in the Minor Rule Plan.

The Exchange believes that the proposal is consistent with Section 6(b) of the Act, in general, and Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, and to protect investors and the public interest.

[2] Under PSE Rule 6.40, Commentary .05, two or more Lead Market Makers ("LMMs") who are trading on behalf of the same Member organization may not trade in the same option series at the same time, but may trade in the same trading crowd at the same time.

[3] Current Commentary .04 to Rule 6.40 attempts to address the problem of market domination by multiple traders with "indirect" financial arrangements by expressly prohibiting unfair domination of markets. In this regard, the Exchange believes that the proposed rule improves upon the current rule by relying more on the nature of the financial arrangement and less on patterns of trading.

[4] *See* PSE Rule 6.35, Commentary .05.

[5] *See* Exchange Act Release No. 36370 (October 13, 1995), 60 FR 54273.

[6] PSE Rule 10.13.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Coinments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–PSE–96–12 and should be submitted by June 5, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12172 Filed 5–14–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37178; File No. SR–PSE–96–10]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Pacific Stock Exchange, Inc., To Establish a Firm Facilitation Exemption

May 8, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 4, 1996, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The PSE subsequently filed Amendment No. 1 to the proposed rule change on May 2, 1996.[3] The PSE has requested accelerated approval for the proposal. This order approves the PSE's proposal, as amended, on an accelerated basis and solicits comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE is proposing to amend its rules on option position limits in order to establish a firm facilitation exemption to such limits.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The PSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The PSE is proposing to establish a firm facilitation exemption[4] for all non-multiply-listed Exchange option issues by adding new Commentary .08 to Exchange Rule 6.8, the general options position limit rule.[5] The exemption would be available to equity, broad-based index, narrow-based index, Flexible Exchange ("FLEX"), interest rate, and government securities option issues to the extent and at the levels specified therein.

Under the proposal, the procedures in Exchange Rule 6.47(b) and Options Floor Procedure Advice A–6 for crossing a customer order with a firm facilitation order must be followed. In this regard, before a customer order can be crossed with a firm facilitation order, the trading crowd must be given a reasonable opportunity to participate. Moreover, only after it has been determined that the trading crowd will not fill the order, may the firm's customer order be crossed with the firm's facilitation order.

In addition, except for an interest rate firm facilitation exemption, which is set at a higher level, the firm facilitation exemption will be twice the standard limit.

The PSE notes that the firm facilitation exemption will be in addition to and separate from the standard limit, as well as other exemptions available under Exchange position limit rules. For example, if a firm desires to facilitate customer orders in the XYZ option issue, which is assumed not to be multiply-listed and also assumed to have a 25,000 contract standard position limit, the firm may qualify for a firm facilitation exemption of up to twice the standard limit (50,000 contracts), as well as an equity hedge exemption of up to twice the standard limit (50,000 contracts), in addition to

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] On May 2, 1996, the PSE filed Amendment No. 1 to the proposed rule change to include within the rule text the requirement that if the Exchange grants a facilitation exemption on the basis of oral representations, the member organization must file the appropriate forms and documentation substantiating the basis for the exemption within either two businesses days or a period of time to be designated by the Exchange ("Amendment No. 1"). *See* Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Matthew S. Morris, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, dated May 2, 1996.

[4] The Commission notes that a facilitation trade is defined as a transaction that involves crossing an order of a member firm's public customer with an order for the member firm's proprietary account.

[5] The PSE's exercise limit provisions will correspond to the increase in position limit levels permitted by the firm facilitation exemption.

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the 25,000 contract standard limit. If both exemptions are allowed, the facilitation firm may hold or control a combined position of up to 125,000 XYZ contracts on the same-side of the market.

The PSE notes, however, that the firm facilitation exemption will not presently extend to all option issues listed on the Exchange. Rather, until coordinated intermarket procedures are developed, the exemption will be extended only to non-multiply-listed option issues.[6]

Under the proposal, the facilitation firm must receive approval from the Exchange prior to executing facilitating trades. Although Exchange approval may be granted on the basis of verbal representations, the facilitation firm is required to furnish to the Exchange's Department of Options Surveillance, within two business days or such other time period designated by the Exchange, forms and documentation substantiating the basis for the exemption. Within five business days after the execution of a facilitation exemption order, a facilitation firm must hedge all exempt option positions that have not previously been liquidated, and furnish to the Exchange's Department of Options Surveillance documentation reflecting the resulting hedging positions. In meeting this requirement, the facilitation firm must liquidate and establish its customer's and its own option and stock positions or their equivalent in an orderly fashion, and not in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes. In addition, a facilitation firm is not permitted to use the facilitation exemption for the purpose of engaging in index arbitrage. Moreover, the facilitation firm is required to promptly provide to the Exchange any information or documents requested concerning the exempted option positions and the positions hedging them, as well as to promptly notify the Exchange of any material change in the exempted options position or the hedge.

Lastly, to aid in understanding the scope of the firm facilitation exemption, Commentary .08 will include both a table and an example showing how the exemption will be applied.

2. Statutory Basis

The PSE believes that the proposal is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to facilitate transactions in securities while continuing to further investor protection and the public interest, and will accommodate the needs of investors and other market participants without substantially increasing concerns regarding manipulation and other trading abuses.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PSE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings also will be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–96–10 and should be submitted by [insert date 21 days from date of publication].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5).[7] Specifically, the Commission believes that the PSE's proposal is reasonably designed to accommodate the needs of investors and other market participants without substantially increasing concerns regarding the potential for manipulation and other trading abuses. The Commission also believes that the proposed rule change has the potential to enhance the depth and liquidity of the options market by providing Exchange members greater flexibility in executing large customer orders. Accordingly, as discussed below, the Commission believes that the rule proposal is consistent with the requirements of Section 6(b)(5) that exchange rules facilitate transactions in securities while continuing to further investor protection and the public interest.

The PSE proposal contains several safeguards that will serve to minimize any potential disruption or manipulation concerns. First, the facilitation firm must receive approval from the Exchange prior to executing facilitating trades. Although Exchange approval may be granted on the basis of verbal representations, the Commission believes that trading abuses are unlikely because the facilitation firm is required to furnish to the Exchange's Department of Options Surveillance, within two business days or such other time period designated by the Exchange, forms and documentation substantiating the basis for the exemption.

Second, a facilitation firm must, within five business days after the execution of a facilitation exemption order, hedge all exempt options positions that have not previously been liquidated, and furnish to the Exchange's Department of Options Surveillance documentation reflecting the resulting hedging positions. In meeting this requirement, the facilitation firm must liquidate and establish its customer's and its own options and stock positions or their equivalent in an orderly fashion, and not in a manner calculated to cause unreasonable price fluctuations or unwarranted price changes. In addition, a facilitation firm is not permitted to use the facilitation exemption for the purpose of engaging in index arbitrage. The Commission believes that these requirements will help to ensure that the facilitation exemption will not have an undue market impact on the options or any underlying stock positions.

Third, the facilitation firm is required to promptly provide to the Exchange any information or documents requested concerning the exempted options positions and the positions hedging them, as well as to promptly notify the Exchange of any material change in the exempted options position or the hedge.

Fourth, neither the member's nor the customer's order may be contingent on "all or none" or "fill or kill" instructions, and the orders may not be executed until the procedures in Exchange Rule 6.47(b) and Options Floor Procedure Advice A–6 have been satisfied, and crowd members have been given a reasonable time to participate in the trade.

Fifth, in no event may the aggregate exempted position under Commentary .08 exceed the number of contracts specified in the exemption's table, *i.e.*, twice the applicable standard limit, excluding interest rate options which are set at three times the applicable standard limit.

Sixth, the facilitation firm may not increase the exempted options position once it is closed, unless approval from the Exchange is again received pursuant to a reapplication under Commentary .08.

In summary, the Commission believes that the safeguards built into the facilitation exemption process discussed above should serve to minimize the potential for disruption and manipulation, while at the same time benefitting market participants by allowing member firms greater flexibility to facilitate large customer orders. This structure substantially mirrors the firm facilitation exemption process that was recently approved for the Chicago Board Options Exchange, Inc. ("CBOE").[8] The PSE also has surveillance procedures to surveil for compliance with the rule's requirements. Accordingly, the Commission believes it is appropriate to extend the benefits of a firm facilitation exemption to non-multiply-listed PSE option issues.

The Commission finds good cause to approve the proposed rule change, including Amendment No. 1, prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, by accelerating the approval of the Exchange's rule proposal, as amended, the Commission is conforming the Exchange's firm facilitation exemption to the relief recently approved for the CBOE. Accelerated approval of the proposed rule change will thereby provide for the desired uniformity of the exchanges' position limit exemptions. Any other course of action could lead to unnecessary investor confusion. In addition, the CBOE's proposal was noticed for the entire twenty-one day comment period and generated no responses. Accordingly, the Commission believes that it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve the proposed rule change, as amended, on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2)[9] of the Act, that the proposed rule change (File No. SR–PSE–96–10), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12173 Filed 5–14–96; 8:45 am]

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[6] The PSE notes, however, that the Intermarket Surveillance Group ("ISG") is currently working on developing such procedures.

[7] 15 U.S.C. 78f(b)(5) (1988).

[8] *See* Securities Exchange Act Release No. 36964 (March 13, 1996), 61 FR 11453 (March 20, 1996) (File No. SR–CBOE–95–58).

[9] 15 U.S.C. 78s(b)(2) (1988).

[10] 17 CFR 200.30-3(a) (12) (1994).

[Release No. 34–37180; File No. SR–Phlx–96–04]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 Relating to Amendment of its By-Laws To Require That the Chairman of Each Standing Committee Must Be a Member of the Board of Governors

May 9, 1996.

I. Introduction

On January 22, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to require that the Chairman of each Standing Committee of the Exchange's Board of Governors must be a member of the Board of Governors.

The proposed rule change was published for comment in Securities Exchange Act Release No. 36832 (February 12, 1996), 61 FR 6280 (February 16, 1996). No comments were received on the proposal. On May 9, 1996, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.[3] This order approves the proposal, including Amendment No. 1 on an accelerated basis.

II. Description

The proposed rule change to Article X, Section 10–1(a) of the Exchange's By-Laws mandates that, effective March 26, 1997, the Chairman of each Standing Committee of the Phlx's Board of Governors shall be a member of the Board of Governors. The proposed rule change is intended to update the structural composition of the Standing Committees and make them more directly responsive to the Board of Governors.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[4] Specifically, the Commission believes that the proposed rule change is consistent with the Section 6(b)(1)[5] requirement that an exchange be organized to carry out the purposes of the Act and to enforce compliance by its members and persons associated with its members with the provisions of the Act and the rules and regulations thereunder.

By requiring that the Chairman of each Standing Committee of the Board of Governors[6] must be a member of the Board of Governors, the proposed rule change will enable the Board to more closely oversee the exercise of the authority it has delegated to the Standing Committees and increase the responsiveness of the Committees to the Board's concerns therewith. As a result, the proposed rule change may enhance the Board's ability to perform its responsibilities under the By-Laws and Rules of the Exchange and, in turn, the consensus to retain for the 1996–97 governance year recently appointed Chairmen of Standing Committees that are not members of the Board. Amendment No. 1 also contains representations by the Exchange as to the application of its conflict of interest policy to Standing Committees of the Board and the Chairmen thereof. *See infra* note 7 for a description of such representations.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Murray L. Ross, Secretary, Phlx, to Jon Kroeper, Attorney, SEC, dated May 8, 1996 ("Amendment No. 1"). Amendment No. 1 amends the text of the proposed rule change to delay the implementation of the proposed rule change until March 26, 1997, which is the organizational meeting of the Phlx Board of Governors after the next scheduled annual election of governors. In its April 17, 1996 meeting, the Board resolved by

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(1).

[6] Presently, the Standing Committees of the Phlx Board of Governors consist of the following: an Admissions Committee, an Allocation, Evaluation and Securities Committee, an Arbitration Committee, an Audit Committee, a Business Conduct Committee, an Elections Committee, an Executive Committee, a Finance Committee, a Foreign Currency Options Committee, a Marketing Committee, a Nominating Committee, and an Options Committee. *See* Phlx By-Laws, Art. X, § 10–1(a).

Exchange's performance of its obligations under the Act.[7]

The Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Amendment No. 1 merely delays the implementation of the rule until the 1997–98 governance year, and does not propose new substantive provisions to the proposed rule change. Accordingly, the Commission believes that consistent with Section 19(b)(2), good cause exists to accelerate approval of Amendment No. 1.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rules change that are filed with the Commission, and all written communications relating to Amendment No. 1 between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–96–04 and should be submitted by [insert date 21 days from date of publication].

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–Phlx–96–04), as amended, is approved.

[7] In Amendment No. 1 the Exchange has represented that Art. IV, § 4–8 of the Phlx By-Laws, which provides that "no person shall participate in the adjudication of a matter in which he is personally interested," specifically applies to members of the Board of Governors acting as such. The Exchange also has represented that it has applied this conflict of interest provision to the conduct of all Standing Committee, subcommittee, hearing panel and panel members. Moreover, in the context of the proposed rule change, the Exchange has represented that no Chairman of a Standing Committee may participate in the deliberation or voting on any matter in which such member or his or her affiliated firm may have an interest in the outcome. *See* Amendment No. 1, *supra* note 3.

[8] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12175 Filed 5–14–96; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–96–24]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 10, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No: 009SW
Petitioner: Kaman Aerospace Corporation
Sections of the FAR Affected: 14 CFR 27.1(a)
Description of Relief Sought: To allow an increase in the maximum gross weight of the Kaman Model K–1200 from 6,000 lbs. to 6,500 lbs. while maintaining the original normal category rotorcraft certification.
GRANT, April 25, 1996, Exemption No. 6433

Docket No: 25726
Petitioner: Valley Flying Service, Inc.
Sections of the FAR Affected: 14 CFR 21.197(c)(2)
Description of Relief Sought/ Disposition: To allow the issuance of a special flight permit with continuing authorization to the petitioner for aircraft that are operated and maintained in accordance with §§ 135.411(a)(1) and 135.419.
DENIAL, March 18, 1996, Exemption No. 6414

Docket No: 25738
Petitioner: CCAir, Inc.
Sections of the FAR Affected: 14 CFR 21.197(c)
Description of Relief Sought/ Disposition: To allow the issuance of a special flight permit with continuing authorization to the petitioner for aircraft that are operated and maintained in accordance with §§ 135.411(a)(1) and 135.419.
DENIAL, March 18, 1996, Exemption No. 6415

Docket No: 28269
Petitioner: Learjet, Inc.
Sections of the FAR Affected: 14 CFR 25.562(c)(5) and 25.785(a)
Description of Relief Sought/ Disposition: To allow exemption from the Head Injury Criterion (HIC) of §§ 25.562(c)(5) and 25.785(a) for passenger seating in Learjet Model 45 airplanes.
PARTIAL GRANT, April 9, 1996, Exemption No. 6420

Docket No: 28345
Petitioner: Air Vegas, Inc.
Sections of the FAR Affected: 14 CFR 135.180(a)
Description of Relief Sought/ Disposition: To permit Air Vegas, Inc., to operate 6 turbine-powered Beechcraft C99 (B–C99) airplanes that have a passenger seat configuration of 15 seats without those airplanes being equipped with an approved traffic alert and collision avoidance system (TCAS I).
DENIAL, April 4, 1996, Exemption No. 6419

Docket No: 28452
Petitioner: Boeing Commercial Airplane Group
Sections of the FAR Affected: 14 CFR 25.562(b)(2)
Description of Relief Sought/ Disposition: To permit exemption from the floor warpage testing requirement of § 25.562(b)(2), as amended by Amendment 25–64, for flight deck seats on Boeing Model 737–600, –700, and –800 airplanes.
GRANT, April 12, 1996, Exemption No. 6425

Docket No.: 28460
Petitioner: Mr. Robert W. Stamm
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought/ Disposition: To permit Mr. Stamm to act as a pilot in operations conducted under part 121 after reaching his 60th birthday.
DENIAL, April 12, 1996, Exemption No. 6421

Docket No.: 28464
Petitioner: Campbell Industries, Inc.
Sections of the FAR Affected: 14 CFR 135.143(c)(2)
Description of Relief Sought/ Disposition: To permit Campbell Industries, Inc., to operate a Beechcraft B–55 (Registration No. N8079R, Serial No. TC–1251) under part 135 without a TSO–C112 (Mode S) transponder installed.
GRANT, April 22, 1996, Exemption No. 6412

[FR Doc. 96–12213 Filed 5–14–96; 8:45 am]

BILLING CODE 4910–13–M

[9] 17 CFR 200.30–3(a)(12).

RTCA, Inc., Special Committee 185, Aeronautical Spectrum Planning Issues

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 185 meeting to be held on June 5–6, 1996, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC 20036.

The agenda will be as follows: (1) Administrative Remarks; (2) General Introductions; (3) Approval of the Agenda; (4) Review and Approval of the Summary of the Previous Meeting; (5) Review and Resolve Comments on Draft Version 8 of SC–185 Report; (6) Consider/Approve Version 8 with Corrections as Proposed Final Draft; (7) Other Business; (8) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 9, 1996.

Janice L. Peters,

Designated Official.

[FR Doc. 96–12209 Filed 5–14–96; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc., Special Committee 184; Minimum Performance and Installation Standards for Runway Guard Lights

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 184 meeting to be held June 4, 1996, starting at 9:30 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will be as follows: (1) Administrative Announcements; (2) Chairman's Introductory Remarks; (3) Review and Approval of Meeting Agenda; (4) Review and Approval of Minutes of the Previous Meeting; (5) Review Comments Received from Proposed Final Draft; (6) Complete Editorial and Comment Cleanup on Proposed Final Draft; (7) Other Business; (8) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 9, 1996.

Janice L. Peters,

Designated Official.

[FR Doc. 96–12210 Filed 5–14–96; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc., RTCA Special Committee 188; Minimum Aviation System Performance Standards for High Frequency Data Link (HFDL)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for an RTCA Special Committee 188 meeting to be held June 10–13, 1996, starting at 9:30 a.m. on June 10. (On subsequent days, meeting begins at 9:00 a.m.) (June 10 will address the Working Group 1 MASPS; June 11 will continue Working Group 1 discussion (a.m.) and begin discussion of Working Group 2 MOPS (p.m.); June 12 will continue working Group 2 MOPS; and June 13 will be the Plenary Session.) The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC 20036.

The agenda of the Plenary Session will be as follows: (1) Introductory Remarks; (2) Review and Approval of Meeting Agenda; (3) Approval of the Summary of the Previous Meeting; (4) Presentations; (5) Reports From Working Groups 1 and 2; (6) Other Business; (7) Set Agenda for Next Meeting; (8) Date and Place of Next Meeting.

Attendance is open to the interested pubic but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 9, 1996.

Janice L. Peters,

Designated Official.

[FR Doc. 96–12211 Filed 5–14–96; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc., Joint RTCA Special Committee 180 and Eurocae Working Group 46 Meeting; Design Assurance Guidance for Airborne Electronic Hardware

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a joint RTCA Special Committee 180 and EUROCAE Working Group 46 meeting to be held June 18–20, 1996, starting at 8:30 a.m. on June 18. (On subsequent days, meeting begins at 8:00 a.m.) The meeting will be held at RTCA, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will be as follows: (1) Chairman's Introductory Remarks; (2) Review and Approval of Meeting Agenda; (3) Review and Approval of Minutes of Previous Joint Meeting; (4) Leadership Team Meeting Report; (5) Consensus Items; (6) Review Action Items; (7) Review Issue Logs; (8) Issue Teams' Status, Meeting Plans, New Members; (9) Issue Team Working Sessions; (10) Issue Team Reports; (11) New Items for Consensus; (12) Other Business; (13) Establish Agenda for Next Meeting; (14) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 9, 1996.

Janice L. Peters,

Designated Official.

[FR Doc. 96–12212 Filed 5–14–96; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

Research and Development Programs Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice announces a public meeting at which NHTSA will describe and discuss specific research and development projects. Further, the notice requests suggestions for topics to be presented by the agency.

DATES AND TIMES: The National Highway Traffic Safety Administration will hold a public meeting devoted primarily to presentations of specific research and development projects on June 12, 1996, beginning at 1:30 p.m. and ending at approximately 5:00 p.m. The deadline for interested parties to suggest agenda topics is 4:15 p.m. on May 24, 1996. Questions may be submitted in advance regarding the agency's research and development projects. They must be submitted in writing by June 3, 1996, to the address given below. If sufficient time is available, questions received after the June 3 date will be answered at the meeting in the discussion period. The individual, group, or company asking a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by June 3 will be available at the meeting and will be mailed to requesters after the meeting.

ADDRESSES: The meeting will be held at the Royce Hotel-Detroit Metro Airport, 31500 Wick Road, Romulus, Michigan 48174. Suggestions for specific R&D topics as described below and questions for the June 12, 1996, meeting relating to the agency's research and development programs should be submitted to the Office of the Associate Administrator for Research and Development, NRD–01, National Highway Traffic Safety Administration, Room 6206, 400 Seventh St., SW., Washington, DC 20590. The fax number is 202–366–5930.

SUPPLEMENTARY INFORMATION: NHTSA intends to provide detailed presentations about its research and development programs in a series of public meetings. The series started in April 1993. The purpose is to make available more complete and timely information regarding the agency's research and development programs. This thirteenth meeting in the series will be held on June 12, 1996.

NHTSA requests suggestions from interested parties on the specific agenda topics to be presented. NHTSA will base its decisions about the agenda, in part, on the suggestions it receives by close of business at 4:15 p.m. on May 24, 1996. Before the meeting, it will publish a notice with an agenda listing the research and development topics to be discussed. The agenda can also be obtained by calling or faxing the information numbers listed elsewhere in this notice. NHTSA asks that the suggestions be limited to six, in priority order, so that the presentations at the June 12 R&D meeting can be most useful to the audience. Specific R&D topics are listed below. Many of these topics have been discussed at previous meetings. Suggestions for agenda topics are not restricted to this listing, and interested parties are invited to suggest other R&D topics of specific interest to their organizations.

Specific R&D topic is:

On-line tracking system for NHTSA's research projects.

Specific Crashworthiness R&D topics are:

Improved frontal crash protection (program status, problem identification, offset testing),
Advanced glazing research,
Vehicle aggressivity and fleet compatibility,
Upgrade side crash protection,
Upgrade seat and occupant restraint systems,
Child safety research (ISOFIX),
Child restraint/air bag interaction (CRABI) dummy testing,
Electric and alternate fuel vehicle safety,
Truck crashworthiness/occupant protection,
Highway traffic injury studies,
Head and neck injury research,
Lower extremity injury research,
Thorax injury research,
Human injury simulation and analysis,
Refinements to the Hybrid III dummy, and
Advanced frontal test dummy.

Specific Crash Avoidance R&D topics are:

Truck tire traction,
Portable data acquisition system for crash avoidance research (DASCAR),
Systems to enhance EMS response (automatic collision notification),
Vehicle motion environment data collection system,
Crash causal analysis,
Human factors guidelines for crash avoidance warning devices,
Longer combination vehicle safety,
Drowsy driver monitoring,
Driver workload assessment,
Pedestrian detection devices for school bus safety,
Performance guidelines for ITS systems (approach),
Variable dynamics test vehicle,
Engineering description of precrash events,
Preliminary rearend collision avoidance system guidelines,
Preliminary road departure collision avoidance system guidelines,
Preliminary intersection collision avoidance system guidelines, and
Preliminary lane change/merge collision avoidance system guidelines.

Separately, questions regarding research projects that have been submitted in writing not later than close of business on June 3, 1996, will be answered. A transcript of the meeting, copies of materials handed out at the meeting, and copies of the suggestions offered by commenters will be available for public inspection in the NHTSA's Technical Reference Division, Room 5108, 400 Seventh St., SW., Washington, DC 20590. Copies of the transcript will then be available at 10 cents a page, upon request to NHTSA's Technical Reference Division. The Technical Reference Division is open to the public from 9:30 a.m. to 4:00 p.m.

NHTSA will provide technical aids to participants as necessary, during the Research and Development Programs Meeting. Thus, any person desiring the assistance of "auxiliary aids" (e.g., sign-language interpreter, telecommunication devices for deaf persons (TTDs), readers, taped texts, braille materials, or large print materials and/or a magnifying device), please contact Rita Gibbons on 202–366–4862 by close of business June 5, 1996.

FOR FURTHER INFORMATION CONTACT: Rita Gibbons, Staff Assistant, Office of Research and Development, 400 Seventh Street, SW., Washington, DC 20590. Telephone: 202–366–4862. Fax number: 202–366–5930.

Issued: May 9, 1996.

William A. Boehly,

Associate Administrator for Research and Development.

[FR Doc. 96–12164 Filed 5–14–96; 8:45 am]

BILLING CODE 4910–59–P

Research and Special Programs Administration

[Notice No. 96–8]

Improving the Hazardous Materials Safety Program; Public Meetings Related to Regulatory Review and Customer Service

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces two public meetings, one to be held in St. Louis, Missouri, and the other in Atlanta, Georgia, to seek information from the public on regulatory reform and improved customer service for RSPA's hazardous materials safety program. These meetings are a continuation of the initial series of public outreach meetings held between April 19, 1995 and January 25, 1996.

ADDRESSES: See Supplementary Information for specific time, location, and agenda.

DATES: Public Meetings will be held as follows:

(1) June 26, 1996, in St. Louis, Missouri.

(2) September 12, 1996, in Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Edmund J. Richards, Interagency Hazardous Materials Program Coordinator, (202) 366–0656; or Suezett Edwards, Training and Information Specialist, (202) 366–4900; Hazardous Materials Safety, RSPA, Department of Transportation, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: On March 4, 1995, President Clinton issued a memorandum to heads of departments and agencies calling for a review of all agency regulations to eliminate or revise those regulations that are outdated or in need of reform. In addition, the President directed front line regulators to "* * * get out of Washington and create grassroots partnerships" with people affected by agency regulations.

In response to the President's directive, RSPA performed an extensive review of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) and associated procedural rules (49 CFR Parts 106, 107 and 110). In April and July 1995, RSPA published notices in the **Federal Register** (60 FR 17049 and 60 FR 38888, respectively) that announced public meetings and requested comments on ways to improve the HMR and the kind and quality of services RSPA's customers expect. RSPA held 12 public meetings and received over 50 written comments in response to the **Federal Register** notices.

Based on its review of the HMR and on written and oral comments received from the public, RSPA has initiated eight separate rulemakings to eliminate or revise those regulations that have been identified as being outdated or in need of reform (Dockets HM–200, HM–207C, HM–207E, HM–216, HM–220A, HM–220B, HM–222A, HM–222B). Except for Docket HM–200, RSPA expects all of these rulemakings to be issued as final rules by early June 1996. These rulemakings address areas of the HMR dealing with "materials of trade", training frequency, 24-hour emergency response telephone numbers, incident reporting, shipping papers, marketing, labeling, and placarding, elimination of over 100 sections of the HMR, restructuring of the Hazardous Materials Table and Hazardous Substance Table, restructuring of the cylinder specifications and cylinder requalification requirements, and rail and highway modal requirements. In addition, RSPA has initiated a two-year pilot ticketing program to streamline and simplify enforcement of certain violations which do not have a direct impact on the safe transportation of hazardous materials, such as failure to register, obtain renewed exemptions in a timely manner, retain training records, and file incident reports. In the international area, RSPA has incorporated requirements for the transportation of radioactive materials that are compatible with the regulations of the International Atomic Energy Agency, and continued to adopt regulations towards harmonization with the United Nations Recommendations and other international regulatory bodies.

Significant actions have also been taken to improve management practices and operations. In 1995, RSPA implemented a toll-free number for obtaining assistance on the HMR, reporting potential violations of the regulations, and obtaining copies of training materials. In response to comments to improve responses to inquiries, RSPA has made a commitment to respond to phone calls before the end of the next business day, and to mail training materials and publications in a timely manner.

Conduct of the Meetings

The meetings will be informal and are intended to produce a dialogue between agency personnel and persons affected by the hazardous materials safety programs. The meeting officer may find it necessary to limit the time allocated each speaker to ensure that all participants have an opportunity to speak. Conversely, the meeting may conclude before the time scheduled if all persons wishing to participate have been heard.

The meetings will have an open agenda and will be held as follows:

(1) June 26, 1996, from 9:00 a.m. to 4:00 p.m., at the Henry VIII Hotel, 4690 N. Lindbergh Boulevard, St. Louis, Missouri, 63044 (near the airport).

(2) September 12, 1996, from 9:00 a.m. to 4:00 p.m., at the Omni Hotel, 100 CNN Center, Atlanta, Georgia, 30335.

Issued in Washington, DC on May 10, 1996.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 96–12178 Filed 5–14–96; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–DIV

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–DIV, Dividends and Distributions.

DATES: Written comments should be received on or before July 15, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Dividends and Distributions.
OMB Number: 1545–0110.
Form Number: Form 1099–DIV.
Abstract: This form is used by the Service to insure that dividends are

properly reported as required by Internal Revenue Code section 6042, that liquidation distributions are correctly reported as required by Code section 6043, and to determine whether payees are correctly reporting their income.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 140,560.

Estimated Time per Respondent: 165 hr. 45 min.

Estimated Total Annual Burden Hours: 23,297,824.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Approved: May 1, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–12202 Filed 5–14–96; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Form CT–1

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form CT–1, Employer's Annual Railroad Retirement Tax Return.

DATES: Written comments should be received on or before July 15, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Employer's Annual Railroad Retirement Tax Return.

OMB Number: 1545–0001.

Form Number: Form CT–1.

Abstract: Railroad employers are required to file an annual return to report employer and employee Railroad Retirement Tax Act (RRTA) taxes. Form CT–1 is used for this purpose. IRS uses the information to insure that the employer has paid the correct tax.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and State, local or tribal governments.

Estimated Number of Respondents: 2,387.

Estimated Time per Respondent: 20hr. 23 min.

Estimated Total Annual Burden Hours: 48,646.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Approved: May 8, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–12203 Filed 5–14–96; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Form 941c and 941cPR

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 941c, Supporting Statement To Correct Information and Form 941cPR, Planilla Para La Correccion De Informacion.

DATES: Written comments should be received on or before July 15, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 941c, Supporting Statement To Correct Information and Form 941cPR, Planilla Para La Correccion De Information.

OMB Number: 1545–0256.

Form Number: Forms 941c and 941cPR.

Abstract: Form 941c (or Form 941cPR for use in Puerto Rico to correct FICA tax only) is used by employers to correct previously reported FICA or income tax data. The forms may be used to support a credit or adjustment claimed on a current return for an error in a prior return period. The information is used to reconcile wages and taxes previously reported or used to support a claim for refund credit or adjustment of FICA or income tax.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and State, local or tribal governments.

Estimated Number of Respondents: 958,050.

Estimated Time per Respondent: 8hr. 54 min.

Estimated Total Annual Burden Hours: 8,528,697.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Approved: May 8, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–12204 Filed 5–14–96; 8:45 am]

BILLING CODE 4830–01–U

Office of the Comptroller of the Currency

[Docket No. 96–12]

Order of Succession

By virtue of the authority contained in 12 U.S.C. 4, it is ordered as follows:

During a vacancy in the Office of the Comptroller of the Currency or during any period in which the Comptroller of the Currency is unable to perform the duties of such office due to absence or disability, the following officials—each of whom has received appointment under 12 U.S.C. 4 as a Deputy Comptroller of the Currency—shall possess the power and perform the duties attached by law to the Office of the Comptroller of the Currency in the order of succession enumerated:

1. Konrad S. Alt, Senior Deputy Comptroller for Economic Analysis and Public Affairs;
2. Julie L. Williams, Chief Counsel;
3. Susan F. Krause, Senior Deputy Comptroller for Bank Supervision Policy;
4. Leann G. Britton, Senior Deputy Comptroller for Bank Supervision Operations.

Dated: May 7, 1996.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 96–12208 Filed 5–14–96; 8:45 am]

BILLING CODE 4810–33–P

Office of Thrift Supervision

[AC–31; OTS Nos. H–2678 and 00423]

Kenwood Federal M.H.C., Cincinnati, Ohio; Approval of Conversion Application

Notice is hereby given that on April 30, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Kenwood Federal M.H.C., Cincinnati, Ohio, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: May 9, 1996.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–12127 Filed 5–14–96; 8:45 am]

BILLING CODE 6720–01–P

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Corrections

Federal Register
Vol. 61, No. 95
Wednesday, May 15, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Management and Budget

Unified Agenda of Federal Regulatory and Deregulatory Actions

Correction

In the Unified Agenda of Federal Regulatory and Deregulatory Actions published in the issue of Monday, May 13, 1996, Book 2, make the following corrections:

In proposed rule document 96–12159 appearing on the back of the inside cover page, the page number should be "22701" and the FR Doc. line and billing code were inadvertently omitted and should read as set forth below:

[FR Doc. 96-12159 Filed 5-10-96; 10:36 am]

BILLING CODE 3110-01-P

BILLING CODE 1505-01-D

FEDERAL ELECTION COMMISSION

11 CFR Part 110

[Notice 1996-11]

Candidate Debates and News Stories

Correction

In rule document 96–10038 beginning on page 18049, in the issue of Wednesday, April 24, 1996, make the following corrections:

1. On page 18050, in the 1st column, in the 1st full paragraph, in the 12th line, "express" should read "expressed".

§110.13 [Corrected]

2. On page 18051, in the third column, in §110.13 (a)(2), in the third line from the top, after the word "are" insert "not".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96-AGL-4]

Establishment of Class E Airspace; Menomonie, WI

Correction

In proposed rule document 96–10967 beginning on page 19592 in the issue of Thursday, May 2, 1996, make the following correction:

On page 19592, in the third column, in the **SUMMARY**, in the sixth line, "???" should read "approach".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 27284]

RIN 2120-AF96

The Age 60 Rule

Correction

In proposed rule document 96–9991 beginning on page 18099 in the issue of Wednesday, April 24, 1996, make the following correction:

On page 18099, in the third column, in the **SUPPLEMENTARY INFORMATION**, in the 2d paragraph, in the 14th line, "into" should read "not".

BILLING CODE 1505-01-D

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federal register

Wednesday
May 15, 1996

Part II

Department of State

Office of Protocol

Gifts to Federal Employees From Foreign Government Sources Reported to Employing Agencies in Fiscal Year 1995; Notice

DEPARTMENT OF STATE

Office of Protocol

[Public Notice 2365]

Gifts to Federal Employees From Foreign Government Sources Reported to Employing Agencies in Calendar Year 1995

The Department of State submits the following comprehensive listing of the statements which, as required by law, Federal employees filed with their employing agencies during calendar year 1995 concerning gifts received from foreign governments sources. The compilation includes reports of both tangible gifts and gifts of travel or travel expenses of more than minimal value, as defined by statute.

Publication of this listing in the **Federal Register** is required by Section 7342(f) of Title 5, United States Code, as added by Section 515(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95–105, August 17, 1977, 91 Stat. 865).

Dated: March 19, 1996.

Richard Moose,

Under Secretary for Management.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Family	25"×33" gold-framed portrait of an Asian woman in native dress. Recd—September 7, 1995. Est. Value—$300. Archive Foreign.	His Excellency Punsalmaagiin Ochirbat, President of Mongolia, and Mrs. Tsevelmaa.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	(1) Tyrone leaded crystal vase with an engraving of Belfast City Hall, on wooden base inscribed to the President. (2) Eight Tyrone leaded crystal napkin rings engraved "Belfast." (3) Eight Irish linen napkins. Recd—November 30, 1995. Est. Value—$1150. Archive Foreign.	The Right Honorable Councillor Eric Smyth, The Lord Mayor of Belfast.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Four dozen red roses. Recd—January 9, 1995. Est. Value—$300. Accepted by Another Government Agency.	His Excellency Dr. Muhammad Abdul Ghaffar Abdulla, Ambassador of the State of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Multicolored cloisonne plate with wooden stand. Recd—January 18, 1995. Est. Value—$250. Archive Foreign.	His Excellency Tomiichi Murayama, Prime Minister of Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Watercolor painting titled, "Sax-O-Ton." Recd—February 9, 1995. Est. Value—$1200. Archive Foreign.	His Excellency Dr. Helmut Kohl, Chancellor of the Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
		Petra Jercic (Private Citizen of the Federal Republic of Germany).	
President	(1) Framed poster that celebrates the 50th anniversary of the Battle of the Bulge. (2) Framed lithograph of the Hotel de Ville. Recd—February 11, 1995. Est. Value—$775. Archive Foreign.	His Excellency Jean-Luc Dehaene, Prime Minister of Belgium.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Book of photographs from 50th anniversary of D-Day celebrations. Recd—January 25, 1995. Est. Value—$500. Archive Foreign.	His Excellency Francois Mitterrand, President of the French Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	12" diameter silver display bowl mounted on a pedestal. Recd—February 13, 1995. Est. Value—$250. Archive Foreign.	His Excellency Dr. Zhelyu Zhelev, President of the Republic of Bulgaria.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	18k gold table clock and case with amethyst crystal panels and diamond and sapphire ornamentation. Recd—March 15, 1995. Est. Value—$26,000. Archive Foreign.	His Majesty Hassan, II, King of Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Waterford crystal bowl, signed by artist; approximately 9½" diameter. Recd—March 17, 1995. Est. Value—$650. Archive Foreign.	His Excellency John G. Bruton, Prime Minister of Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	Sterling silver bowl with etched pattern around its rim; approximately 8½" diameter. Recd—March 17, 1995. Est. Value—$1,000. Archive Foreign		
President	Gold replica of the funeral box that contained the bones of King Philip of Macedonia. Recd—March 27, 1995. Est. Value—$6,500. Archive Foreign.	His Excellency Konstandinos Triaridhis, Minister For Macedonia and Thrace of the Hellenic Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	Two gold bracelets with garnets and diamonds. Recd—April 11, 1995. Est. Value—$7,000. Archive Foreign.	Her Excellency Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	Marble coffee table. Approximately 32" x 60". Recd—March 31, 1995. Est. Value—$4,000. Archive Foreign.	His Excellency Jean-Bertrand Aristide, President of the Republic of Haiti.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	Two ceremonial robes in blue, purple and gold. Recd—July 21, 1995. Est. Value—$300. Archive Foreign.	His Excellency Nicephore Soglo, President of the Republic of Benin, and Mrs. Soglo.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	(1) Hardcover book. "Palau: Portrait of Paradise." (2) Ongall (a plate used to serve the members of high ranking clan in Palau. Recd—July 28, 1995. Est. Value—$250. Archive Foreign.	The Honorable Gloria Salii, The Bilung of the Palau Islands.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	(1) "Upper Canada Sketches" by Thomas Conant, dated 1898. (2) Eskimo greenstone carving of a musk ox. (3) "Roots" brand sports jacket Recd—February 23, 1995. Est. Value—$450. Archive Foreign.	The Right Honorable Jean Chretien, P.C., M.P., Prime Minister of Canada.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	Two shalwar kameez. Recd—March 26, 1995. Est. Value—$300. Archive Foreign.	Her Excellency Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	(1) Silver plate that reads "President of India." (2) Rosewood framed wood inlay of a mountain scene with a cottage. (3) Marble plate with inlay work and marble base. (4) Black silk and wool sari with grey paisley print. (5) Green suede belt embroidered with yellow thread. (6) Green suede two pocket handbag with border embroidery. (7) Red and gold bag that contains tea. (8) Blue velvet presentation case. Recd—March 29, 1995. Est. Value—$1560. Archive Foreign.	His Excellency Shankar Dayal Sharma, President of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Painting of three women. Recd—March 30, 1995. Est. Value—$700. Archive Foreign.	Coligny Chery, Departmental Surrogate, Departement of du Nord Est, Ministry of Foreign Affairs, Haiti.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Painting that features alcohol and cards. Recd—March 30, 1995. Est. Value—$400. Archive Foreign.	Eric Jean Jose, Departmental Surrogate, Departement du Nord Quest, Ministry of Foreign Affairs, Haiti.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Handcrafted silver bowl. Recd—April 11, 1995. Est. Value—$1200. Archive Foreign.	Her Excellency Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	18" vase with blue, gold and green checked pattern and Presidential Seal on its side. Recd—April 15, 1995. Est. Value—$1200. Archive Foreign.	The Honorable Pramual Sabhavasu, Member of Parliament, Thailand.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	Fabric covered presentation box. Recd—April 15, 1995. Est. Value—$10. Archive Foreign		
President	Painting on papyrus of the Temple of Hatshepsut. Recd—April 6, 1995. Est. Value—$750. Archive Foreign.	His Excellency Mohammad Hosni Murbarak, President of the Arab Republic of Egypt.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	(1) Painting. (2) Embroidered denim vest and dress. Recd—March 30, 1995. Est. Value—$1285. Archive Foreign.	Briere Nazaire, Departmental Surrogate, Departement de la Grande Anse, Ministry of Foreign Affairs, Haiti.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Wooden statue. Recd—March 30, 1995. Est. Value—$1000. Archive Foreign.	Reynold Eustache, Departmental Surrogate, Departement du Centre, Ministry of Foreign Affairs, Haiti.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Wooden diorama that spells "Jaomel." Recd—March 30, 1995. Est. Value—$450. Archive Foreign.	Ronald Pierre, Departmental Surrogate, Departement du Sud Est, Ministry of Foreign Affairs, Haiti.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Picture of Cape Haiti. Recd—March 30, 1995. Est. Value—$1000. Archive Foreign.	Bell Angelot, Departmental Surrogate, Departement du Nord Ministry of Foreign Affairs, Haiti.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	(1) Egg-shaped silver box with a section of a geode embedded in its lid. (2) 90-piece bar glass set. Recd—April 20, 1995. Est. Value—$2790. Archive Foreign.	His Excellency Fernando Henrique Cardoso, President of the Federative Republic of Brazil.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	(1) Pewter medal that refers to President Cardoso's visit with President Clinton, approximately 2" in diameter. (2) Letter signed by President Franklin D. Roosevelt, dated 1/3/40. Recd—April 20, 1995. Est. Value—$500. Archive Foreign.		
	Grey felt covered presentation box with the seal of Brazil. Recd—April 20, 1995. Est. Value—$20. Archive Foreign.		
President	Modern Birmingham inkwell, engraved "10 Downing Street" with British crest on lid and a glass insert. Recd—April 4, 1995. Est. Value—$325. Archive Foreign.	The Right Honorable John Major, M.P., Prime Minister, United Kingdom of Great Britain and Northern Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	Three umbrellas with wooden handles. Recd—April 4, 1995. Est. Value—$150. Archive Foreign		
President	Lead crystal compote bowl. Recd—May 5, 1995. Est. Value—$600. Archive Foreign.	His Excellency Vaclav Klaus, Prime Minister of the Czech Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Cast iron statue of Venus and Cupid; 20½" high. Recd—May 1, 1995. Est. Value—$600. Archive Foreign.	The Honorable Ivan Petrovich Rybkin, Chairman of the State Duma Federal Assembly of the Russian Federation.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Ukrainian art with an illuminated electrical frame. Recd—May 11, 1995. Est. Value—$300. Archive Foreign.	His Excellency Leonid Kuchma, President of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	Ukrainian vodka. Recd—May 11, 1995, Est. Value—$180, Accepted by Another Government Agency		
President	Two hardcover books in presentation cases. "The Russian-American Company and the Exploration of the Pacific North, 1799–1815." "Commander," inscribed by Valery Zubov. Recd—May 9, 1995. Est. Value—$300. Archive Foreign.	Mr. Igor L. Berezovsky (Private Citizen, President of the Russian-American Company).	Non-acceptance would cause embarrassment to donor and U.S. Government.
		The Honorable Valeriy Zubov, Governor of Krasnoyarsk Kray, Russian Federation	
President	Silver sword with dragon scales detailing. Recd—May 11, 1995. Est. Value—$750. Archive Foreign.	The Honorable Ruslan Sultanovich Aushev, President of the Republic of Ingushetiya, Russian Federation.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Large metal rhinoceros sculpture. Recd—May 18, 1995. Est. Value—$3000. Archive Foreign.	His Excellency Robert Gabriel Mugabe, President of the Republic of Zimbabwe.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	(1) Paperback. "From Columbus to Castro: The History of the Caribbean 1492—1969," by Eric Williams. (2) Hardcover. "The Book of Trinidad," by Gerrard Besson and Bridget Brereton. (3) Paperback. "Violence: Self and the Young Male," edited by Arthur L McShine. (4) 18"×21" framed painting titled "Good Lime Down the Islands," by Liz Gardner. Recd—May 30, 1995. Est. Value—$255. Archive Foreign.	The Right Honorable Patrick Manning, Prime Minister of the Republic of Trinidad and Tobago.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Large Hungarian etched and open-cut crystal bowl decorated with seven warrior profiles. Recd—June 6, 1995. Est. Value—$2800. Archive Foreign.	His Excellency Gyula Horn, Prime Minister of the Republic of Hungary.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Tall porcelain vase with floral and geometric motif and a cartouche of the Seal of the President of the United States, crafted by Mr. Prasart of Thailand. Height 18¾", Recd—June 30, 1995. Est. Value—$3000. Archive Foreign.	The Honorable Pramual Sabhavasu, Member of Parliament, Thailand.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	Blue fabric presentation box. Recd—June 30, 1995. Est. Value—$20. Archive Foreign.		

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	(1) Standing bronze of a native African woman with a basket on her head, mounted on a round wooden block that reads, "Benin." (2) Blue, white and purple native ceremonial robe with cap. (3) White plastic presentation box for coin. Recd—July 14, 1995. Est. Value—$1600. Archive Foreign. Republic of Benin gold presentation coin in lucite case. Recd—July 14, 1995. Est. Value—$500. Archive Foreign.	His Excellency, Nicephore Soglo, President of the Republic of Benin.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Vase made by Punchong Ware. Recd—July 26, 1995. Est. Value—$300. Archive Foreign.	His Excellency, Kim Young Sam, President of the Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	1992 gold coin encased in plastic that reads, "Republica De El Salvador." Red velvet presentation box. Recd—July 1, 1995. Est. Value—$250. Archive Foreign.	His Excellency Armando Calderon Sol, President of the Republic of El Salvador.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Large floral arrangement comprised of lilies, allum, delphinium, hydrangea, proteus and various greens. Recd—August 19, 1995. Est. Value—$400. Accepted by Another Government Agency. (1) Large woven basket. (2) Three Waterford crystal golf balls. (3) Waterford crystal golf club head paperweight. (4) Two Baccarat crystal golfing figures. (5) Hardcover book. "Golf Resorts of the World," by Brian McCallen. (6) Four handpainted Limoges miniature golf boxes. (7) Two cobalt ceramic plates with covers embellished with gold and silver designs. (8) Small gold-tone metal basket. Recd—August 19, 1995. Est. Value—$3,350. Archive Foreign Chocolates and truffles. Recd—August 19, 1995. Est. Value—$100. Accepted by Another Government Agency. Light blue goldfish bowl vase with oriental floral design. Recd—August 19, 1995. Est. Value—$200. Archive Foreign.	His Majesty Hassan, II, King of Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Sterling silver cigarette box, approximately 5" x 7". Recd—September 6, 1995. Est. Value—$300. Archive Foreign.	His Excellency Ernesto Perez Balladares, President of the Republic of Panama.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Antique gun with loading rod and gun powder holder. Recd—September 14, 1995. Est. Value—$300. Archive Foreign.	His Excellency Sali Berisha, President of the Republic of Albania.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Large vase, sculptured "Raku Pot," approximately 14" high. Recd—September 13, 1995. Est. Value—$300. Archive Foreign.	The Right Honorable P.J. Patterson, M.P., Prime Minister of Jamaica.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Framed bronze oval icon of Saint Peter and Saint Paul in bas-relief, framed and double matted on brown velvet; 25" x 30". Recd—October 4, 1995. Est. Value—$350. Archive Foreign.	His Holiness John Paul II	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Carved sterling silver pear-shaped box; approximately 8"×8". Recd—October 11, 1995. Est. Value—$1500. Archive Foreign.	His Excellency Ernesto Zedillo Ponce de Leon, President of the United Mexican States.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	(1) Gzhel porcelain decanter. (2) Stone and bronze clock. (3) Ceremonial sword. (4) Two pound silver coin made of fine silver that commemorates the 50th anniversary of the end of WW II. (5) Leather catalog case. (6) Russian military photo book. (7) Compact disc. Recd—May 9, 1995. Est. Value—$503. Archive Foreign.	His Excellency Boris Yeltsin, President of the Russian Federal.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Gold 10,000 Tehte coin issued by the National Bank of Kazakstan. Recd—October 25, 1995. Est. Value—$430. Archive Foreign. Three gold coins in denominations of 5000, 2500, and 1000 Tehte, issued by the National Bank of Kazakstan. Recd—October 25, 1995. Est. Value—$380. Archive Foreign.	His Excellency Nursultan Nazarbayev, President of the Republic of Kazakstan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Framed, woven portrait of the President, with gold background; 22"×27". Recd—October 25, 1995. Est. Value—$350. Archive Foreign.	His Excellency Islam Karimov, President of the Republic of Uzbekistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Two wooden cases. Recd—November 14, 1995. Est. Value—$75. Archive Foreign. (1) Two hardcover books. "Journey Through Maldives," by Mohamed Amin, Duncan, Willetts, and Peter Marshall. "Maldives," by Kurt Amsler. (2) 3' asaa (ornamental cane) made of mother-of-pearl. (3) 5'6"×2'6" woven straw mat interlaced with dried reed. Recd—November 14, 1995. Est. Value—$425. Archive Foreign. Canned tuna. Recd—November 14, 1995. Est. Value—$25. Accepted by another Government Agency.	His Excellency Maumoon Abdul Gayoom, President of the Republic of Maldives, And Mrs. Gayoom.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Multicolored wool rug. Recd—October 24, 1995. Est. Value—$600. Archive Foreign.	His Excellency Heydar Aliyev, President of the Republic of Azerbaijan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Three large photo books about Japan titled, "Four Seasons in Nara," "Todai Temple," and "Horiyu Temple." Recd—November 16, 1995. Est. Value—$425. Archive Foreign.	His Excellency Tomiichi Murayama, Prime Minister of Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	(1) Irish sculpted bog oak titled, "Rising Trout," by Kenagh Co. Longford. (2) Hand-printed certificate that confers a coat of arms upon the President. (3) Framed history of the Clinton surname. Recd—December 1, 1995. Est. Value—$950. Archive Foreign.	His Excellency John G. Bruton, Prime Minister of Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	(1) 15" tall Waterford crystal sculpture of a bald eagle on a harp. Sculpture sits on a wooden base that reads "Presented to President Clinton by Alderman Sean D. Dublin Bay—Rockall Loftus—Lord Mayor of Dublin." (2) Scroll that confers "Honorary freedom upon the President." Recd—December 1, 1995. Est. Value—$5050. Archive Foreign.	The Right Honorable Sean Dublin Bay Loftus, The Lord Mayor of Dublin Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	(1) Scroll. (2) Heavy wooden box that contains silver napkin rings. (3) Small pillbox. Recd—November 30, 1995. Est. Value—$300. Archive Foreign.	His Worship, The Mayor Councillor John Kerr, Mayor of Derry, United Kingdom of Great Britain and Northern Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Black leather Loewe rectangular suitcase with zipper and shoulder strap. Recd—December 2, 1995. Est. Value—$295. Archive Foreign. Leather Loewe briefcase with the monogram "WJC." Recd—December 2, 1995. Est. Value—$1200. Archive Foreign.	His Excellency Felipe Gonzalez Marquez, President of the Council of Ministers of Spain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Large black ebony statue titled "Thinker." Recd—December 8, 1995. Est. Value—$350. Archive Foreign.	His Excellency Jose Eduardo dos Santos, President of the Republic of Angola.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Sterling silver sculpture of the Jeanie Johnston, a 19th century Irish emigrant ship; 21" high. Recd—December 4, 1995. Est. Value—$5000. Archive Foreign. Wooden box. Recd—December 4, 1995. Est. Value—$25. Archive Foreign.	His Excellency Richard Spring, Deputy Prime Minister and Minister for Foreign Affairs of Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Assorted wine, champagne, and food products, all from Harrods. Recd—December 20, 1995. Est. Value—$2500. Accepted by Another Government Agency. (1) Two crystal liqueur glasses. (2) Aynsley China place setting, cottage garden pattern. (3) Scented candle. (4) 1996 teddy bear. All items are from Harrods Knightsbridge. Recd—December 20, 1995. Est. Value—$500. Archive Foreign.	His Majesty, Sultan Haji Hassanal Bolkiah, Mu'Izzaddin Waddaulah, Sultan and Yang Di-Pertuan of Brunei Darussalam.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	(1) Five bottles of Moskovskaya vodka. (2) Five small jars of Russian caviar. Recd—December 22, 1995. Est. Value—$188. Accepted by Another Government Agency.	His Excellency Yuli M. Vorontsov, Ambassador of the Russian Federation.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
	White and blue china teapot with lid. Recd—December 22, 1995. Est. Value—$50. Archive Foreign		
President	20"×23" framed photo reproduction of President Franklin Roosevelt meeting with Saudi Arabian King Abdul Aziz al Saud (King Fahd's father) aboard the USS Quincy on February 14, 1945. Recd—October 26, 1995. Est. Value—$250. Archive Foreign.	His Royal Highness, Sultan bin Abd a-Aziz al Saud, Second Deputy Prime Minister and Minister of Defense and Aviation of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Two white porcelain statues of angels playing instruments, each 9" high. Recd—February 9, 1995. Est. Value—$240. Archive Foreign.	His Excellency Dr. Helmut Kohl, Chancellor of the Federal Republic of Germany. Petra Jercic (Private Citizen of the Federal Republic of Germany)	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Silver tray with six small matching silver sherry glasses, all ornately decorated. Brown leather presentation case. Recd—February 13, 1995. Est. Value—$250. Archive Foreign.	Mrs. Maria Zheleva, Wife of the President of the Republic of Bulgaria.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	(1) Black velvet cape. (2) Small brown leather T. Anthony suitcase. Recd—March 15, 1995. Est. Value—$450. Archive Foreign. Two silk multicolored caftans. Recd—March 15, 1995. Est. Value—$350. Archive Foreign.	Her Royal Highness, The Princess Lalla Hasna, Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Wooden Empire style tabouret (table) and two chairs, all with silver metal detailing. Recd—March 26, 1995. Est. Value—$1000. Archive Foreign.	Her Excellency Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Four copies of the Holy Quran. Recd—March 26, 1995. Est. Value—$100. Archive Foreign. Gold and imitation pearl ring, necklace, bracelet, and earring set. Recd—March 26, 1995. Est. Value—$5000. Archive Foreign	Begum Nasreen Leghari, Wife of the President of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	(1) Twenty books by Zulfikar Bhutto. (2) Books about women in Pakistan and Pakistani literature. Recd—March 26, 1995. Est. Value—$200. Archive Foreign. Ten large art prints and ten small prints by various Pakistani artists. Recd—March 26, 1995. Est. Value—$50. Archive Foreign. Ornate copper and silver footstool. Recd—March 26, 1995. Est. Value—$250. Archive Foreign.	Mrs. Shahnaz Wazir Ali, Special Assistant to the Prime Minister on Social Sector, Prime Minister's Secretariat, Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Striped teal silk. Recd—April 4, 1995. Est. Value—$20. Archive Foreign.	Her Excellency Begum Khaleda Zia, Prime Minister of the People's Republic of Bangladesh.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
	Pearl and gold necklace and earrings. Recd—April 4, 1995. Est. Value—$1,500. Archive Foreign.		
First Lady	(1) Papier mache set. (2) Marble plate with green inlay in the shape of an octagon. (3) Marble vase. Recd—March 29, 1995. Est. Value—$650. Archive Foreign.	His Excellency Shankar Dayal Sharma, President of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	Small black and white handbag with flap and metalwork design. Recd—March 29, 1995. Est. Value—$25. Archive Foreign.		
	Rajastani table. Recd—March 29, 1995. Est. Value—$3,500. Archive Foreign.		
First Lady	Inlaid marble plate with flower design; 15" diameter. Recd—March 29, 1995. Est. Value—$300. Archive Foreign.	His Excellency P.V. Narasimha Rao, Prime Minister of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	Red velvet presentation case for the plate. Recd—March 29, 1995. Est. Value—$25. Archive Foreign.		
First Lady	Yellow gold floral brooch set with 19 round-cut sapphires, a pear-shaped sapphire, four rose-cut diamonds, a pear-shaped diamond, 16 baguette rubies, and a pear-shaped ruby. Recd—April 5, 1995. Est. Value—$3800. Archive Foreign.	Her Excellency Chandrika Bandaranaike Kumaratunga, President of the Democratic Socialist Republic of Sri Lanka.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	(1) Large wooden trunk with exterior brass detailing and red and gold cloth lining. (2) Box covered with black velvet and metal decorations and lined with striped cloth. (3) Heavy green silk dress with multicolored beaded neckline; matching floor-length cape. Recd—April 6, 1995. Est. Value—$1150. Archive Foreign.	His Royal Highness, Prince Saud bin Nayyif bin Abdul Aziz, Deputy Governor of the Eastern Province of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	(1) Silver colored necklace with large silver and red beads and silver pendant. (2) Silver colored metal bracelet with gold detailing. (3) Necklace with large silver pendant and bangles. Recd—April 6, 1995. Est. Value—$150. Archive Foreign		
First Lady	34" x 24" oil painting titled "Dera," by Khalid Igbal. Recd—March 27, 1995. Est. Value—$245. Archive Foreign.	The Honorable Chaudhary Muhammad Altaf Hussain, Governor of Punjab Province, Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	5" x 7" lacquer box, by I.V. Belovodov. Recd—May 9, 1995. Est. Value—$650. Archive Foreign.	His Excellency Boris Yeltsin, President of the Russian Federation.	Non-acceptance would cause embarrassment to donor and U.S. Government
First Lady	(1)Three black lacquer nesting boxes with flower design. (2) Six matching black lacquer trays. Recd—May 11, 1995. Est. Value—$300. Archive Foreign.	His Excellency Leonid Kuchma, President of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Lady	(1) Seven hardcover books. "Vimanmek: The World's Largest Golden Teakwood Mansion." "Verses for the Royal Barge Procession," in gold and black case. "Traditional Thai Ways References," in decorated case. "Her Majesty Queen Sirikit and the Environment." "Palaces of the Gods." "Support Foundation," in gold case. Yellow book in Thai. (2) Five large pieces of dyed and embroidered silk. (3) Multicolored string with pom-poms. (4) Three straw bags. (5) Gold three-part punch bowl with blue and silver inlay work and gold serving cup and in blue presentation case. Recd—May 24, 1995. Est. Value—$3110. Archive Foreign.	Her Majesty Queen Sirikit, Queen of Thailand.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	(1) Medium round Haida box made of silver with inlaid top. (2) Cobalt blue round vase with gilded design. Recd—June 15, 1995. Est. Value—$1000. Archive Foreign.	Mrs. Aline Chretien, Wife of the Prime Minister of Canada.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Two statues and a necklace. Recd—July 13, 1995. Est. Value—$1625. Archive Foreign.	Her Excellency Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Necklace, earrings, and pin in the Korean traditional style of the "maedup" knot. Recd—July 27, 1995. Est. Value—$400. Archive Foreign.	His Excellency Kim Young Sam, President of the Republic of Korea, and Mrs. Kim.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Arrangement of flowers including birds of paradise, roses, hydrangeas, asterlilies, lilies and delphinium. Recd—September 28, 1995. Est. Value—$400. Accepted by Another Government Agency.	His Royal Highness Prince Bandar Bin Sultan, Ambassador of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	White vase with blue flower and quail design and a matching plate. Recd—September 28, 1995. Est. Value—$100. Archive Foreign		
First Lady	Orrefors crystal compote with the seal of Sweden. Recd—October 5, 1995. Est. Value—$1200. Archive Foreign.	Her Majesty Queen Silvia, Queen of Sweden.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Ten painted terracotta figurines that depict the traditional "Cuasimodo" procession. Recd—October 13, 1995. Est. Value—$1200. Archive Foreign.	Mrs. Marta Larraechea de Frei, The First Lady of Chile.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	(1) A set of eight cloth placemats with a floral print and eight plain cloth napkins. (2) Square silver picture frame, 6"x6". Recd—October 17, 1995. Est. Value—$285. Archive Foreign.	Mrs. Janice Compton, Wife of the Prime Minister of St. Lucia.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Lady	(1) Silver letter opener with amethyst handle. (2) Silver cup for holding pens, pencils, and desk accessories. Recd—October 15, 1995. Est. Value—$550. Archive Foreign.	His Excellency Fernando Henrique Cardoso, President of the Federative Republic of Brazil And Mrs. Cardoso.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	(1) Lapis lazuli and silver picture frame; 6½″×½″. (2) Black and copper round plaque that reads, "I. Municipalidad de San Joaquin, Chile"; 10″ diameter. Recd—October 14, 1995. Est. Value—$300. Archive Foreign.	The Honorable Ramon Farias, Mayor of San Joaquin, Chile.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Colorful wall hanging that depicts a woman carrying a jug on her head, by a Bahia artist named Kennedy. Recd—October 15, 1995. Est. Value—$300. Archive Foreign.	The Honorable Lidice da Mata, Mayor of Salvador de Bahia, Federative Republic of Brazil.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	Six multicolored handsewn utility bags. Recd—October 15, 1995. Est. Value—$100. Archive Foreign		
First Lady	(1) Small lapis lazuli box. (2) Unframed limited edition lithograph of a blue house, signed by the artist, 86/190; 20″×26″. Recd—October 13, 1995. Est. Value—$300. Archive Foreign.	His Excellency Carlos Figueroa Serrano, Minister of Interior of the Republic of Chile, And Mrs. Sara Guzman de Figueroa.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Ornamental silver buckle with amulets and trinkets attached. Recd—October 15, 1995. Est. Value—$500. Archive Foreign.	The Honorable Paulo Ganem Souto, Governor of Bahia, Federative Republic of Brazil.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	(1) Blue ceramic model of a Nicaraguan house with tile roof. (2) Photo album of the First Lady's visit to Nicaragua. Recd—October 12, 1995. Est. Value—$75. Archive Foreign.	Her Excellency Violeta Barrios de Chamorro, President of the Republic of Nicaragua.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	Rusted AK–47 rifle, symbolizing the end of military rule in Nicaragua, on an inscribed plaque. Recd—October 12, 1995. Est. Value—$100. Archive Foreign		
	(1) Woven hammock with wood poles. (2) Embroidered ecrú linen tablecloth with scalloped design and four matching napkins. Recd—October 12, 1995. Est. Value—$175. Archive Foreign		
First Lady	Basket that contains 12 Llomoges boxes. Recd—October 25, 1995. Est. Value—$3,600. Archive Foreign.	His Majesty Hassan, II, King of Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	Floral arrangement in a white vase, including hybrid lilies, lisianthus, hydrangae, roses and orchids. Recd—October 25, 1995. Est. Value—$500. Accepted by Another Government Agency		
First Lady	Large arrangement of peach roses, gladiolas, and hybrid lilies. Recd—October 25, 1995. Est. Value—$325. Accepted by Another Government Agency	His Excellency Soeharto, President of the Republic of Indonesia, And Mrs. Soeharto.	Non-acceptance would cause embarrassment to donor and U.S. Government./

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Lady	(1) Bouquet of more than one hundred small pink roses. (2) Bouquet of many mixed color roses. Recd—October 26, 1995. Est. Value—$1,000. Accepted by Another Government Agency.	His Royal Highness Prince Bandar Bin Sultan, Ambassador of Saudi Arabia, Her Royal Highness Princess Haifa Al-Faisal.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Sterling silver strawberry dish. Recd—December 1, 1995. Est. Value—$250. Archive Foreign.	His Excellency Richard Spring, Deputy Prime Minister and Minister for Foreign Affairs of Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	(1) Hudson's Bay "Point" blanket coat. (2) Large Medallion quilt designed by Isabelle Watson. (3) Large blue presentation box with the seal of Canada on its lid. Recd—February 24, 1995. Est. Value—$1150. Archive Foreign.	His Excellency The Right Honorable Romeo LeBlanc, Governor General of Canada.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	Hudson's Bay "Point" blanket coat. Recd—February 24, 1995. Est. Value—$250. Archive Foreign		
President and First Lady	Leather case with five glass bottles of perfume. Recd—March 15, 1995. Est. Value—$350. Archive Foreign.	His Majesty Hassan, II, King of Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	(1) Two framed and matted Worlidge cameos (engraved prints). "A Woman's Head on Onyx" and "Apollo on Black Agate." (2) Sterling silver plate with filigreed edges and housed in a green case; 8½″ in diameter. Recd—March 17, 1995. Est. Value—$950. Archive Foreign.	His Excellency John G. Bruton, Prime Minister of Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	(1) Navy and gold silk tie. (2) Two large silk scarves. Recd—April 21, 1995. Est. Value—$300. Archive Foreign.	Her Excellency Tansu Ciller, Prime Minister of the Republic of Turkey.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	(1) Leather-bound book. "Solorzano Pereira De La Politica Indiana." (2) Brown Loewe leather handbag. Recd—May 24, 1995. Est. Value—$1000. Archive Foreign.	Their Majesties The King And Queen of Spain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	(1) Inuit sculpture in green stone. (2) Pair of black owl-shaped fire irons. Recd—June 15, 1995. Est. Value—$275. Archive Foreign.	The Right Honorable Jean Chretien, P.C., M.P., Prime Minister of Canada And Mrs. Chretien.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Four pieces of Baccarat crystal: two small decanters; perfume atomizer; small bowl with lid. Recd—June 15, 1995. Est. Value—$865. Archive Foreign.	His Excellency Jacques Chirac, President of the French Republic, And Mrs. Chirac.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Two Egyptian rugs, 5′8″ and 4′6″. Recd—September 28, 1995. Est. Value—$640. Archive Foreign.	His Excellency Mohammad Hosni Mubarak, President of the Arab Republic of Egypt.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	100 pink and white sweetheart roses in a glass vase. Recd—October 11, 1995. Est. Value—$500. Accepted by Another Government Agency.	His Royal Highness Prince Bandar Bin Sultan, Ambassador of Saudi Arabia, Her Royal Highness Princess Haifa Al-Faisal.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President and First Lady	(1) Rose colored sculpture of a long stemmed vase. (2) Book. "Living in Norway." Recd—October 30, 1995. Est. Value—$350. Archive Foreign.	Their Majesties The King and Queen of Norway.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	Copperplate engraving of a celestial chart, by Jan Berendt Elwe, circa 1750. Recd—November 8, 1995. Est. Value—$1500. Archive Foreign.	Her Majesty The Queen of the Netherlands, And His Royal Highness The Prince of the Netherlands.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	Autographed picture of donors, framed in green leather. Recd—November 8, 1995. Est. Value—$150. Archive Foreign		
President and First Lady	(1) Large intricate relief wood carving of birds and foliage. (2) Three books. "Indonesia, 1995, An Official Handbook." "Tanah Air [Indonesia's Biodiversity]." "Green Indonesia: Tropical Forest Encounters." (3) Silk sari with black background and yellow, blue, green, and white print. (4) Twenty piece 800 coin cast silver tea set. Recd—October 27, 1995. Est. Value—$5200. Archive Foreign.	His Excellency Soeharto, President of the Republic of Indonesia, And Mrs. Soeharto.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	(1) Two square ceramic plates that depict a crowned man and are titled, "Ri na Reann (King of the Stars)," by Cormac Boydell. (2) Irish damask tablecloth and napkins in a Celtic design, by Fingal. Recd—December 1, 1995. Est. Value—$1475. Archive Foreign.	Her Excellency Mary B. Robinson, President of Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	8½″×8½″ 9″ engraved Sperrin lead crystal bowl from donor and members of Strabane District Council. Presentation box. Recd—November 29, 1995. Est. Value—$450. Archive Foreign.	The Honorable Edward Turner, Chairman of Strabane District Council, United Kingdom of Great Britain and Northern Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President and First Lady	12″ 16″ sterling silver framed photograph of the King and Queen of Spain, inscribed by the donors. Recd—December 2, 1995. Est. Value—$300. Archive Foreign.	Their Majesties The King and Queen of Spain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	(1) Silk scarf with a pattern of women in a Spanish court . (2) 27″×23″ gold framed 1816 print of New York City Harbor. Recd—December 2, 1995. Est. Value—$320. Archive Foreign.		
President and First Lady	(1) Navy blue, red and white nylon golf bag with embroidered personalization. (2) Navy blue nylon carrying bag. (3) Cream chiffon tablecloth with pink and green flowered border and ten matching napkins. Recd—December 5, 1995. Est. Value—$575. Archive Foreign.	His Excellency Fidel Ramos, President of the Republic of the Philippines, and Mrs. Ramos.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President and First Lady	Box of Singapore orchids. Recd—December 21, 1995. Est. Value—$250. Accepted by Another Government Agency.	His Excellency S.R. Nathan, Ambassador of the Republic of Singapore.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Chelsea	Lapis lazuli mosaic of a bird. Recd—March 26, 1995. Est. Value—$300. Archive Foreign.	Her Excellency, Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Chelsea	Matching gold necklace, earrings and ring. Recd—March 26, 1995. Est. Value—$4000. Archive Foreign.	Begum Nasreen Leghari, Wife of the President of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Chelsea	(1) Rosewood elephant figure with silver overlay. (2) Necklace. (3) Carved walnut box. (4) Silk dress. Recd—March 29, 1995. Est. Value—$1475. Archive Foreign.	His Excellency Shankar Dayal Sharma, President of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	(1) Elephant figure. (2) Shalwar kameez. Recd—March 29, 1995. Est. Value—$155. Archive Foreign		
Chelsea	(1) Small wooden trunk with hand-hammered exterior brass detailing. (2) Two framed pieces of traditional art. (3) Matching vest and jacket made of dark and light blue cloth. (4) Embroidered black dress with multicolored stitching. (5) Maroon scarf with gold lame stitching. Recd—April 6, 1995. Est. Value—$800. Archive Foreign.	His Royal Highness Prince Saud bin Nayyif bin Abdul Aziz, Deputy Governor of the Eastern Province of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Chelsea	(1) Silver necklace. (2) Two silver cuff bracelets. Recd—March 27, 1995. Est. Value—$700. Archive Foreign.	The Honorable Chaudhary Muhammad Altaf Hussain, Governor of Punjab Province, Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Coit D. Blacker, Special Assistant to the President and Senior Director of Russian Affairs.	(1) Prismatic Russian binoculars in case. (2) Hardcover book. "The Art Treasures of the Moscow Kremlin." Recd—July 12, 1995. Est. Value—$375. General Services Administration.	Yuriy Glybin, First Deputy Chairman of the State Committee, Russian Federation for Defense Industry Branches, Russian Federation.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Ellen B. Laipson, Director, Near East & South Asian Affairs.	Silk/cotton woven rug, 3′×5′. Recd—January 9, 1995. Est. Value—$400. General Services Administration.	The Honorable Jalal Talabani, Iraqi National Congress.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Anthony Lake, Assistant to the President for National Security Affairs.	(1) 6×12 yard multicolored handwoven cotton kente blanket. (2) 2′ 6′ black, green, and yellow kente cloth. Recd—February 14, 1995. Est. Value—$900. Archives, Staff Gift.	His Excellency FLT. Lt. Jerry John Rawlings (Ret.), President of the Republic of Ghana.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Anthony Lake, Assistant to the President for National Security Affairs.	Black leather case with zippered compartments. Recd—February 9, 1995. Est. Value—$750. Archives, Staff Gift.	His Excellency Dr. Helmut Kohl, Chancellor of the Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Anthony Lake, Assistant to the President for National Security Affairs.	4′×6½′ Egyptian jacquard weave rug with Egyptian scene. Recd—October 25, 1995. Est. Value—$400. General Services Administration.	Hussein Tantawy, Field Marshal, Embassy of the Arab Republic of Egypt.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Leon E. Panetta, Chief of Staff to the President.	(1) Cressida briefcase. (2) Christian Dior watch. (3) Christian Dior pen. (4) Mahogany box. Recd—January 18, 1995. Est. Value—$660. General Services Administration.	His Highness Sheikh Jabir Al-Ahmad, Al-Sabah Amir of the State of Kuwait.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
George Stephanopoulos, Senior Adviser to the President for Policy and Strategy.	(1) Flag. (2) Paperweight. (3) Golf sweater and hat. (4) Necklace and pendant. (5) Video cassette. (6) Bowl. (7) Icon. (8) Replica of a statue. (9) Relic. (10) Plaque. (11) Medal. (12) Plate. (13) Sterling silver plaque. (14) Plaque depicting Cyprus. (15) Metal and stone artwork depicting a crucifix. (16) Glass plate. (17) Wooden icon. Recd—November 7, 1995. Est. Value—$1678. General Services Administration.	Various Government Officials, Greece.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Laura D'Andrea Tyson, Chairman of the Council of Economic Advisors.	(1) Black leather planning diary. (2) Hardcover book. "Frank Lloyd Wright: The Master Works." (3) Hardcover book. "Tricia Guild's Country Color." Recd—March 20, 1995. Est. Value—$180. General Services Administration.	The Honorable Giovanni Greco, Mayor, City of Sacco, Italy.	Non-acceptance would cause embarrassment to donor and U.S. Government.
	Silk scarf. Recd—March 20, 1995. Est. Value—$20. General Services Administration	.....	
	(1) Silk necktie. (2) Sterling silver wall plaque of Sacco. (3) Sterling silver fountain pen, made by Stipula. (4) Leather-bound scrapbook. (5) Two bookmarks made by Rizzoli. Recd—March 20, 1995. Est. Value—$384. General Services Administration		
Alexander Vershbow, Special Assistant to the President and Senior Director of European Affairs.	Black leather briefcase. Recd—February 1, 1995. Est. Value—$750. Archives, Staff Gift.	His Excellency Dr. Helmut Kohl, Chancellor of the Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE VICE PRESIDENT

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Vice President	Covered jar, Roman glass base with lid, sterling silver filigree, and pearl finial. Approx. 4" H. Recd—March 23, 1995. Est. Value—$300. Archives Foreign.	His Excellency Shimon Peres, former Minister of Foreign Affairs of Israel (Current Prime Minister of Israel).	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Vice President	Rug, wool on cotton, polychrome and blue medallion on ivory field with polychrome scrolling, six borders with dark blue main, Pakistani copy of Iranian design. Approx. 4'×8"×7' (late 20th century). Recd—April 11, 1995. Est. Value—$750. Residence: For Official Use.	Her Excellency Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE VICE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Vice President	Figure, gilt horse, sterling silver, polychrome enamel saddle blanket with green nephrite and carnelian cabochons, on wood and silver in-laid base. Approx. 10" H×13" L (Kazakhstan—late 20th century). Recd—April 12, 1995. Est. Value—$650. Archives Foreign.	His Excellency Nursultan Nazarbayev, President of the Republic of Kazakhstan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Vice President	Mantel clock, gilt metal case in the Luis XV style. Approx. 13½" H (late 20th century). Recd—May 1, 1995. Est. Value—$375. Residence: For Official Use.	His Excellency Ivan Rybkin, Chairman, State Duma of the Russian Federation.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Vice President	Vase, Herend porcelain, flowers and butterflies design. Approx. 6½"×3" (Queen Victoria pattern). Recd—June 22, 1995. Est. Value—$350. Archives Foreign.	His Excellency Gyula Horn, Prime Minister of the Republic of Hungary,	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Vice President	Casket, silver, lid mounted with a relief coat of arms, plaque engraved "Senado de la Republica Argentina," velvet lined (late 20th century). Recd—October 19, 1995. Est. Value—$850. Archives Foreign.	His Excellency Carlos Federico Ruckauf, Vice President of the Argentine Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Vice President	Book of photos of donor with other world leaders and four Kazak coins (10000, 5000, 2500, and 1000 tehte). Recd—October 25, 1995. Est. Value—$800 Archives Foreign.	His Excellency Nursultan Nazarbayev, President of the Republic of Kazakhstan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Vice President	(1) Letter opener with gold engraved handle, silver, on wooden pedestal. (2) Briefcase, black leather. (3) Books about the environment. (4) Videos. Recd—October 27, 1995. Est. Value—$500. The Vice President's Office: For Official Use.	His Royal Highness Abdallah bin Abd al-Aziz Al Saud, Crown Prince and Deputy Prime Minister of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Vice President	Omani coffee pot, silver, chased and repousse. Recd—October 30, 1995. Est. Value—$450. The Vice President's Senate Office: For Official Use.	His Majesty Sultan Qaboos bin Said, Sultan of Oman.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Vice President	(1) Vase, blue and white (Russia) Archives Foreign. (2) Five bottles of Stolichnaya vodka. Approx. 750 ml. ea. White House Mess: For Official Use. (3) Five jars of caviar. Approx. 2 oz. ea. White House Mess: For Official Use. Recd—December 12, 1995. Est. Value—$250.	His Excellency Yuli M. Vorontsov, Ambassador of the Russian Federation.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE VICE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Vice President and Mrs. Gore	(1) Two urns, white glazed ceramic with blue and gold luster decoration. Approx. 26"×21½" (late 20th century). Residence: For Official Use. (2) Two caftans, gold silk with goldtone braid, belt, with velvet shawl in T. Anthony suitcases, by Farah caftans. Archives Foreign. (3) Perfume bottles, faceted glass with spray tops, set in a mauve leather lidded box with gilt tooling, key, lock and perfumes, monogrammed lid (Morocco—late 20th century). Archives Foreign. Recd—March 16, 1995. Est. Value—$1,125.	His Majesty Hassan II, King of Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Vice President and Mrs. Gore	(1) Two Vases, "Silsal" ceramic, buff pottery with light green decoration. Approx. 12" H and 16" H. Mrs. Gore's Office: For Official use. (2) Vase, Swedish crystal, engraved with crown and the buildings of Petra, wood case. Approx. 9¾" H. Mrs. Gore's Office: For Official Use. (3) Dagger, repousse silver scabbard, horn handle (19th/20th century). Archives Foreign. (4) Frame, sterling silver with gilt crown and monogram. Approx. 14"×10½" (late 20th century). Archives Foreign. (5) Diplomatic orders, silvered and gilt metals, in fitted case, lapel rosette missing, by Huguenin (Swiss—late 20th century). Archives Foreign. (6) Diplomatic orders, 18 karat yellow and white gold with enamel set with approx. 238 round single cut diamonds, TW 4.75 carats, and one 25 point diamond, pendant set with 162 round diamonds. TW 3.2 carats. Archives Foreign. Recd—March 20, 1995. Est. Value—$7,525.	His Majesty Hussein I, King of the Hashemite, Kingdom of Jordan, and Queen Noor.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Vice President and Mrs. Gore	(1) Gold Dagger, high karat yellow gold repousse, filigree and granulation (Oman—20th century). (2) Pendant on chain, sterling silver with gilt highlights, plain silver drops (Oman—20th century). (3) Two bottles of lotion, pure rose and pure aloe. Recd—March 22, 1995. Est. Value—$2,150. Archives Foreign.	His Majesty Sultan Qaboos bin Said, Sultan of Oman.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Vice President and Mrs. Gore	Figural group, sterling silver with parcel gilding depicting an Arab on camelback, removable rifle, marble base with silver crown device, by Asprey of London. Approx. 6½" H×7" L (late 20th century). Recd—April 2, 1995. Est. Value—$2,000. Archives Foreign.	His Majesty Hussein I, King of the Hashemite, Kingdom of Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE VICE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Vice President and Mrs. Gore	(1) Two leather briefcases. (2) Silk dress, black. (3) Scarf and veil. (4) Books about Saudi Arabia. (5) Bangle bracelet, gold embossed. (6) Purse, gold and diamond, in black velvet box. (7) Watch, silver with black strap, "ROBERGE" around dial. (8) Gold coffee pot with six cups and two silver pieces. (9) Videotapes of camel races. Recd—May 30, 1995. Est. Value—$26,800. Archives Foreign.	His Majesty Fahd bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Vice President and Mrs. Gore	(1) Candleholder, double, green jasper base with two silver arms, each having a green nephrite jade bobeche, red jasper and amethyst geode back (Russia—late 20th century). (2) Tray, oval, black painted metal with polychrome flowers, gilt, and faux tortoiseshell border, by Abm. Boychkov. Approx. 30" L (Russia—late 20th century). Recd—June 30, 1995. Est. Value—$1,050. Archives Foreign.	His Excellency Viktor Chernomyrdin, Prime Minister of Russia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Vice President and Mrs. Gore	(1) Medal, matte proof. 100,000 francs CFA (Nigeria—Republique du benin). (2) Two native costumes. Recd—July 14, 1995. Est. Value—$600. Archives Foreign.	His Excellency Nicephore Soglo, President of the Republic of Benin.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Vice President and Mrs. Gore	(1) Vase, green and white, varigated turned marble, fitted box. Approx. 12½" H (Russia—late 20th century). Residence: For Official Use. (2) Casket, green jasper with a vertical band of polychrome agate, silver ball feet and escutcheon with an agate boss. Approx. 7½"×5"×4" (Russia—late 20th century). Archives Foreign. (3) Necklace, tumbled amesthestine quartz with gilt metal clasp. Approx. 18" L. Archives Foreign. Recd—October 7, 1995. Est. Value—$815.	His Excellency Viktor Chernomyrdin, Prime Minister of Russia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Vice President and Mrs. Gore	(1) Statute, beaded with cloth shawl Approx. 2' H. (2) Ostrich pocketbook, black with leather lining. (3) Dish, silver with raised figure of rhino on it. Recd—December 5, 1995. Est. Value—$1,230. Archives Foreign.	Nelson Mandela, President of the Republic of South Africa.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mrs. Gore	(1) Sculpture, green patinated bronze dancer, marble base, signed "E. Joseph." Approx. 18" H. (2) Framed painting of fruit on a vine (Haiti—late 20th century). Recd—October 15, 1995. Est. Value—$275. Archives Foreign.	His Excellency Jean-Bertrand Aristide, President of the Republic of Haiti.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE VICE PRESIDENT—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Mrs. Gore	Box with hinged cover, chased retangular silver, footed. Recd—December 19, 1995. Est. Value—$350. Archives Foreign.	Mrs. Suzanne Mubarak, wife of the President of Egypt.	Non-acceptance would cause embarrassment to donor and U.S. Government.

UNITED STATES SENATE

Report of Tangible Gifts—Calendar Year 1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Bill Bradley, U.S. Senator	18K gold and pearl cuff links. Recd—May 4, 1995. Est. value—over $100. Deposited with the Secretary of the Senate.	Kabun Muto, Chairman Liberal Democratic Party and Member of the House of Representations of Japan.	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.
Hank Brown, U.S. Senator	Basket of assorted fruits, cheeses, candies and cookies. Recd—December 29, 1995. Est. value—$150. Deposited with the Secretary of the Senate.	Prime Minister Benazir Bhutto of Pakistan.	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.
Hank Brown, U.S. Senator	Pakistani rug. Recd—August 28, 1995. Est. value—$125. Deposited with the Secretary of the Senate.	Prime Minister Benazir Bhutto of Pakistan.	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.
Shiela P. Burke, Secretary of the Senate.	Two decorated cups Recd—January 25, 1995. Est. value—$150. Display in the Senate office.	Deputy Chief of Staff, Victor A. Yolchev, Russian Federation.	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.
John Chafee, U.S. Senator	Silver box 7¾"x5½". Recd—March 30, 1995. Est. value—$120. Display in Senate office.	King Hussein of the Kingdom Jordan.	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.
Thad Cochran, U.S. Senator	Polyprogylen-Olefin rug, 4.5'x6.5'. Recd—October 28, 1995. Est. value—over $100. Deposited with the Secretary of the Senate.	Field Marshal Hussein Tantawi, Arab Republic of Egypt.	Non-acceptance would have caused embarrassment to the donor and the U.S.
Bob Dole, U.S. Senator	Six-piece set of hand-painted porcelain dishes. Recd—August 8, 1995. Est. value—$200. Deposited with the Secretary of the Senate.	Sr. Vice President of Advisory Council of Democratic and Peaceful Unification in the Republic of Korea.	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.
Bob Dole, U.S. Senator	Hand painted Ceramic bowl. Recd—May 1, 1995. Est. value—$120. Display in Senate office.	Portuguese Minister of trade and Tourism, F. Faria de Oliverira.	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.
Bob Dole, U.S. Senator	4'x6' carpet. Recd—May 1, 1995. Est. value—$120. Display in Senate Office.	Prime Minister of Pakistan, Benazir Bhutto.	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.
Bob Dole, U.S. Senator	Silver-plated ceremonial sword. Recd—September 15, 1995. Est. value—over $225. Deposited with the Secretary of the Senate.	His Excellency Sali Berisha, President of the Republic of Albania.	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.
Richard G. Lugar, U.S. Senator	Handcrafted Vase. Recd—July 18, 1995. Est. value—$1,000–$5,000. Deposited with the Secretary of the Senate.	Kim Sang-Hyun, M.P. of South Korea.	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.
Sam Nunn, U.S. Senator	Oil painting. Recd—February 2, 1995. Est. value—$150. Display in Senate office.	President Aristide of Haiti	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.

UNITED STATES SENATE—Continued

Report of Tangible Gifts—Calendar Year 1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Paul Simon, U.S. Senator	Landscape painting. Recd—December 7, 1995. Est. value—$150–$175. Display in Senate office.	Government of Mongolia	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.
Arlen Specter, U.S. Senator	Two Pakistani carpets 4x6'. Recd—August 28, 1995. Est. value—$125 each. Deposited with the Secretary of the Senate.	Prime Minister of Pakistan, Benazir Bhutto and Farooq Leghari, President of Pakistan.	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.
John D. Rockefeller IV, U.S. Senator.	Ceramic figurine—camel. Recd—February 1995. Est. value—$400. Displayed in the Senator's office.	George Yang, Vice Minister of Economics, Taiwan.	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.
John D. Rockefeller IV, U.S. Senator.	Ceramic figurine—horse. Recd—February 1995. Est. value—$800. Displayed in the Senator's office.	Jack Sun, Taiwan Aerospace, Peoples Republic of China on Taiwan.	Non-acceptance would have caused embarrassment to the donor and the U.S. Government.

UNITED STATES SENATE

Report of Travel or Expenses of Travel—Calendar Year 1995

Name and title of person accepting travel expenses consistent with the interests of the U.S. Government	Brief description of travel or expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Daniel Akaka, U.S. Senator	Transportation within Sweden, April 19, 1995.	Kingdom of Sweden	Official travel to view storage facility for nuclear fuel and test tunnel; no commercial transportation available.
Daniel Bob, Special Assistant for Asia and The Pacific Permanent Subcommittee on Investigations.	Transportation and meals within Thailand, September 6–11, 1995.	Royal Thai Government	Official travel to Executive Committee meeting of the Asia Pacific Parliamentary Forum.
Richard Bryan, U.S. Senator	Transportation within Sweden, April 19, 1995.	Kingdom of Sweden	Official travel to view storage facility for nuclear fuel and test tunnel; no commercial transportation available.
Conrad Burns, U.S. Senator	Transportation within Sweden, April 19, 1995.	Kingdom of Sweden	Official travel to view storage facility for nuclear fuel and test tunnel; no commercial transportation available.
David Fish, Communications Dir., Senate Committee on Energy & Natural Resources.	Transportation within Sweden, April 19, 1995.	Kingdom of Sweden	Official travel to view storage facility for nuclear fuel and test tunnel; no commercial transportation available.
David Garman, Prof. Staff Mbr. Senate Committee on Energy & Natural Resources.	Transportation within Sweden, April 19, 1995.	Kingdom of Sweden	Official travel to view storage facility for nuclear fuel and test tunnel; no commercial transportation available.
Arthur V. Grant, Deputy Staff Director for the Minority select committee on Intelligence.	Transportation within Republic of Turkey, August 31, 1995.	Republic of Turkey	Official travel at invitation of Turkish military; no commercial transportation available.
Karen Hunsicker, Counsel, Senate Committee on Energy & Natural Resources.	Transportation within Sweden, April 19, 1995.	Kingdom of Sweden	Official travel to view storage facility for nuclear fuel and test tunnel; no commercial transportation available.
J. Robert Kerrey, U.S. Senator	Transportation within Republic of Turkey, August 31, 1995.	Republic of Turkey	Official travel at invitation of Turkish military; no commercial transportation available.
Trent Lott, U.S. Senator	Transportation within Sweden, April 19, 1995.	Kingdom of Sweden	Official travel to view storage facility for nuclear fuel and test tunnel; no commercial transportation available.
Gregory McGinity, Legislative Assistant to Senator Cochran.	Transportation and meals within Taiwan, August 22–29, 1995.	Republic of China on Taiwan.	Official travel to meet with government officials.

UNITED STATES SENATE—Continued

Report of Travel or Expenses of Travel—Calendar Year 1995

Name and title of person accepting travel expenses consistent with the interests of the U.S. Government	Brief description of travel or expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Frank Murkowski, U.S. Senator	Transportation within Sweden, April 19, 1995.	Kingdom of Sweden	Official travel to view storage facility for nuclear fuel and test tunnel; no commercial transportation available.
Greg Renkes, Staff Director, Senate Committee on Energy & Natural Resources.	Transportation within Sweden, April 19, 1995.	Kingdom of Sweden.	Official travel to view storage facility for nuclear fuel and test tunnel; no commercial transportation available.
Dr. Bob Simon, Science Fellow, Senate Committee on Energy & Natural Resources.	Transportation within Sweden, April 19, 1995.	Kingdom of Sweden	Official travel to view storage facility for nuclear fuel and test tunnel; no commercial transportation available.
Alan Simpson, U.S. Senator	Transportation within Sweden, April 19, 1995.	Kingdom of Sweden	Official travel to view storage facility for nuclear fuel and test tunnel; no commercial transportation available.
Christopher C. Straub, Minority Staff Dir. Select Committee on Intelligence.	Transportation within Republic of Turkey, August 31, 1995.	Republic of Turkey	Official travel at invitation of Turkish military; no commercial transportation available.

AGENCY: U.S. HOUSE OF REPRESENTATIVES

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
James Kolbe, Member of Congress.	Three commemorative coins (Lebanon), commemorating the 30th Anniversary of the Central Bank. Boxed presentation set, in which each coin is sealed individually in plastic, and accompanied by certificates of authenticity #01944 and 02067, stating that one coin is gold 22K, 26 grams, the other silver, and the third bronze. Recd—August 31, 1995. Est. Value—$300. To be retained by the Clerk of the House for official display.	President of the Council of Ministers of Lebanon, Fafic Hariri.	Non-acceptance would have caused embarrassment to donor.
Ivan Eland	Food, lodging and ground transportation within Brussels, April 9–12, 1995.	North Atlantic Treaty Organization (NATO).	Authorized by 5 U.S.C. 7342(c)(1)(B)(ii).
Steven P. Gallop, Rep. David Bonior.	One way airfare from Bonn to Berlin, Germany, food, lodging and ground transportation, April 22–May 6, 1995.	Federal Republic of Germany	Authorized by 5 U.S.C. 7342(c)(1)(B)(ii).
Kenneth A. Kraft, Committee on Appropriations.	One way airfare from Bonn to Berlin, Germany, food, lodging and ground transportation, April 22–May 6, 1995.	Federal Republic of Germany	Authorized by 5 U.S.C. 7342(c)(1)(B)(ii).
Sandra E. Latta, Rep. Bill Hefner	Food lodging and ground transportation in Belgium, February 25–March 2, 1995.	North Atlantic Treaty Organization (NATO).	Authorized by 5 U.S.C. 7342(c)(1)(B)(ii).
Stacey L. Windham, Rep. Carlos J. Moorhead.	One way airfare from Bonn to Berlin, Germany, food, lodging and ground transportation, April 22–May 6, 1995.	Federal Republic of Germany	Authorized by 5 U.S.C. 7342(c)(1)(B)(ii).
Richard Burr, Member of Congress.	Food and lodging in Venezuela, for Member and Spouse, October 4–8, 1995.	Venezuela	Authorized by 5 U.S.C. 7342(c)(1)(B)(ii).
Gene Green, Member of Congress.	Food and lodging in Venezuela for Member and Spouse, October 4–8, 1995.	Venezuela	Authorized by 5 U.S.C. 7342(c)(1)(B)(ii).

AGENCY: U.S. HOUSE OF REPRESENTATIVES—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Jay Kim, Member of Congress	3 nights lodging in Tokyo, Japan, for Member and Spouse, August 8–11, 1995.	Japan	Authorized by 5 U.S.C. 7342(c)(1)(B)(ii).
Jay Kim, Member of Congress	7 nights lodging in Seoul, Korea, for Member and Spouse, August 11–17, 1995.	City of Seoul, Korea	Authorized by 5 U.S.C. 7342(c)(1)(B)(ii).
Ray LaHood, Member of Congress.	Food and lodging in Lebanon, for Member and Spouse, April 17–27, 1995.	Government of Lebanon	Authorized by 5 U.S.C. 7342(c)(1)(B)(ii).
Bill Richardson, Member of Congress.	Air transportation from Athens to Karageopgou, Yugoslavia to Athens, March 17–March 18, 1995.	Government of Yugoslavia	Authorized by 5 U.S.C. 7342(c)(1)(B)(ii).
Dan Schaefer, Member of Congress.	Food, lodging and ground transportation in Venezuela, for Member and Spouse, October 4–9, 1995.	Venezuela	Authorized by 5 U.S.C. 7342(c)(1)(B)(ii).

AGENCY: OFFICE OF THE SECRETARY

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Eugene Moos, Under Secretary for Farm and Foreign Services.	Handwrough Silver Box inscribed with "Samir El Shakankiri". Received: 7–18–95. Appraised value: $275. Delivered to GSA: Pending.	Abdel Wahab Herkal, Minister Economic and Commerce, Egypt.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Richard Rominger, Deputy Secretary.	Pair of 18K yellow gold cufflinks with approx. 5½ mm cultured pearls. Received: 10/12/95. Appraised Value: $250. Delivered to GSA: Pending.	Messrs. Kâlren Muto and Hisai Horenouchi, former Ministers of Agriculture, Japan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Dr. Donald Luchsinger, Acting Deputy Administrator, Veterinary Services, APHIS.	Man's Concord wristwatch of high quality with gold color spandex band. Received: 5–95. Est. Value: $700. Delivered to GSA: 6–27–95.	Dr. Ahmed Mustansir Billah, Veterinary Consultant, United Arab Emirates.	Gift delivered in person, non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF COMMERCE

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of Acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Ronald H. Brown, Secretary of Commerce.	Sterling Silver/Gold Plate Trimmed Carafe and (2) Stemmed Goblets. Recd.—January 16, 1995. Est. Value—$275. Reported to DOC January 31, 1995. Approved for official use.	H.E. N.K.P. Salve, Minister of Power, Republic of India.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF COMMERCE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of Acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Ronald H. Brown, Secretary of Commerce.	Hand-Carved Beechwood Sculptured Replica of a Chariot with "King and Mahot" Riding an Elephant. Recd.—January 18, 1995. Est. Value—$325. Reported to DOC February 3, 1995. Approved for official use.	H.E. Deve Gowda, Chief Minister of Karnataka, Republic of India.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Ronald H. Brown, Secretary of Commerce.	Bronze Sculpture of *Lady With Mirror*. Recd.—January 19, 1995. Est. Value—$325. Reported to DOC March 21, 1995. Approved for official use.	H.S. Sharad Pawar, Chief Minister of Marashtra State, Republic of India.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Ronald H. Brown, Secretary of Commerce.	Mother of Pearl Gift Box. Recd.—February 2, 1995. Est. Value—$275. Reported to DOC February 21, 1995. Approved for official use.	Chairman Yasser Arafat, Palestinian Authority, Gaza City.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Ronald H. Brown, Secretary of Commerce.	Royal Worcester Porcelain Tea Set (6) Demi-tasse Cups; Teapot and Lid Recd.—February 7, 1995. Est. Value—$400. Reported to DOC February 21, 1995. Approved for official use.	His Royal Highness Hamad Bin Khalifa Al-Thani, Heir Apparent of the State of Qatar.	Non-acceptance would have caused embarrassment to donor and U.S.Government.
Ronald H. Brown, Secretary of Commerce.	Sterling Silver Spurs-Pair. Recd. March 27, 1995. Est. Value—$275. Reported to DOC April 6, 1995. Approved for official use.	H.E. Narciso Irueta, Minister of Transportation and Communications, Republic of Chile.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Ronald H. Brown, Secretary of Commerce.	Afghan Silk Carpet—4'×6' from Karachi Pakistan. Recd. April 6, 1995. Est. Value—$2500. Reported to DOC April 10, 1995. Approved for official use.	H.E. Benazir Bhutto, Prime Minister, Islamic Republic of Pakistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Ronaldl H. Brown, Secretary of Commerce.	Mother of Pearl Gift Box. Recd. October 28, 1995. Est. Value—$275. Reported to DOC December 12, 1995. Approved for official use..	Chairman Yasser Arafat, Palestinian Authority, Gaza City.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Kenneth H. Bacon, Assistant to the Secretary of Defense (Public Affairs).	Pakistani carpet, approximately 7'×5', Black and green. Recd—January 8, 1995. Est. Value—$500. Approved for official display.	Field Marshall Mohamed Tantawi, Minister of Defense and Military Production of Egypt.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Kenneth H. Bacon, Assistant to the Secretary of Defense (Public Affairs).	Men's Eterna wristwatch, 18 ct. gold, in reddish-brown container. Recd—March 21, 1995. Est. Value—$7,500. Reported to GSA June 1, 1995.	Isa bin Salman Al Khalifa, Amir of Bahrain.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Ashton B. Carter, Assistant Secretary of Defense (International Security Policy).	100% wool handmade Turkish Kalin Rug, 4'9"×7'9". Shades of Red with Diamonds. Recd—November 3, 1955. Est. Value—$1,500. Pending transfer to GSA.	Lieutenant General Safer Abyiyev, Minister of Defense, Azerbaijan.	Non-acceptance would have caused embarrassment to donor & U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Lillian Gonzalez, Director, DoD Dependents Schools, DoD Education Activity.	Ladies 18 carat round gold face wrist watch with 18 carat gold wrist band (ID #16733 9 over 2199408). Recd—March 1, 1995. Est. Value—$7,500. Reported to GSA June 1, 1995.	Isa bin Salman Al Khalifa Amir of Bahrain.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Robert Hall, Special Assistant to the Secretary and Deputy Secretary of Defense.	Men's 18 carat gold watch and band by Eterna, in reddish-brown container. Recd—March 21, 1995. Est. Value—$7,500. Pending transfer to GSA.	Isa bin Salman Al Khalifa, Amir of Bahrain.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Paul G. Kaminski, Under Secretary of Defense (Acquisition and Technology).	Replica dueling pistol, wooden stock. Recd—February 24, 1995. Est. Value—$269. Approved for official display.	Deputy Minister of National Defense for Armament and Military Infrastructure Warsaw Jan Kuriata, Poland.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Paul J. Kern, Major General, USA Senior Military Assistant to Secretary of Defense.	Egyptian Rug, approximately 7'×5', black and green. Recd—January 7, 1995. Est. value—$500. Approved for official display.	Field Marshall Mohamed Tantawi, Minister of Defense and Military Production of Egypt.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Paul J. Kern, Major General, USA Senior Military Assistant to Secretary of Defense.	Pakastini Rug (Maroon background), approximately 6'×4½'. Recd—January 11, 1995. Est. Value—$1100. Approved for official display.	Chief of Staff General Abdul Waheed, Pakistan Army.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
David H. Labuhn, Acting Chief, Executive Services Division, Europe Region, DoD Education Agency.	Man's silver and gold Baume & Mercier Geneve, 18 carat gold wristwatch in a gray tri-fold box, Serial Number 1796. Recd—March 21, 1995. Est. Value—$2,025. Pending transfer to GSA.	Isa bin Salman Al Khalifa Amir of Bahrain.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Joseph S. Nye, Jr., Assistant Secretary of Defense, International Security Affairs.	Pakistani Rug, approximately 3'2"×5'5", silk brown/blue with cream center. Recd—January 11, 1995. Est. Value—$1,500. Approved for official display.	Chief of Staff General Abdul Waheed, Pakistan Army.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Joseph S. Nye, Jr., Assistant Secretary of Defense, International Security Affairs.	Man's 18 carat gold Eterna Swiss wristwatch (Serial Number 5001.68.60) in cherry lacquered wood box. Recd—March 17, 1995. Est. Value—$7,500. Pending transfer to GSA.	Isa bin Salman Al Khalifa, Amir of Bahrain.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Joseph S. Nye, Jr., Assistant Secretary of Defense, International Security Affairs.	Silver Box, approximately 5–½" x 8–½", Sterling 925 on back, in a green box. Recd—July 26, 1995. Est. Value—$500. Pending transfer to GSA.	Peru Minister of Defense, Maica	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Joseph S. Nye, Jr., Assistant Secretary of Defense, International Security Affairs.	Gold Egyptian Cuff Links in gray box. Recd—November 27, 1995. Est. Value—$450. Pending transfer to GSA.	Lt. General Salah Halaby, Chief of Staff Egyptian Armed Forces.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
ADM William A. Owens, Vice Chairman of the Joint Chiefs of Staff.	Turkish wool rug, 3' x 10" x 7', Gold ground with two repeated center surround by 7 borders, cream background. Recd—November 24, 1995. Est. Value—$1,500. Approved for official display.	General Cevik Bir, Deputy Chief of the Turkish General Staff, Ankara Turkey.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
William J. Perry, Secretary of Defense.	100% silk carpet, Cream center background with "Tree of Life", 3'3" x 4'11" in green velour case. Recd—January 7, 1995. Est. Value—$3,500. Approved for official display.	Field Marshal Mohamed Hussein Tantawi, Minister of Defense and Military Production of Egypt.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
William J. Perry, Secretary of Defense.	100% silk carpet, Cream center background with Tree of Life with bird design, 3'4" x 5' in same green velour case, as described above. Recd—January 7, 1995. Est. Value—$3,500. Approved for official display.	Field Marshal Mohamed Hussein Tantawi, Minister of Defense and Military Production of Egypt.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
William J. Perry, Secretary of Defense.	Bracelet, 22 carat cartouche in blue velour box, approximately 2½" x 9½". Recd—January 7, 1995. Est. Value—$350. Approved for official display.	Field Marshal Mohamed Hussein Tantawi, Minister of Defense and Military Production, Republic of Egypt.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
William J. Perry, Secretary of Defense and Mrs. Perry.	Three stranded ruby necklace with gold colored and single pearl with silver clasp, in a reddish-orange velour box, approximately 8" x 9½" x 1½". Recd—January 10, 1995. Est. Value—$950. Reported to GSA March 15, 1995.	Field Marshal Mohamed Hussein Tantawi, Minister of Defense and Military Production, Republic of Egypt.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
William J. Perry, Secretary of Defense.	Silver jewelry box, 5" x 7"x 1.5". Recd—January 10, 1995. Est. Value—$250. Approved for official display.	Prime Minister Benazir Bhutto, Islamic Republic of Pakistan and Mr. Asif Ali Zardari, MNA.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
William J. Perry, Secretary of Defense.	Perisan Rug, beige background, approximately 7½' x 4½'. Recd—January 12, 1995. Est. Value—$1,400. Approved for official display.	Air Chief Marshal Farooq F. Khan, CJCCS Committee, Pakistan.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
William J. Perry, Secretary of Defense.	Persian Rug, approximately 5½' x 3½' red, beige and green. Recd—January 12, 1995. Est. Value—$900. Approved for official display.	Air Chief Marshal Farooq F. Khan, CJCS Committee Pakistan.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
William J. Perry, Secretary of Defense.	Black 32 revolver with inscription "Presented to Dr. William J. Perry, Secretary of Defense, United States of America by Shri S.B. Chavan Home Minister Republic of India 12th January 1995 New Delhi" Serial Number A2056. Recd—January 12, 1995. Est. Value—$325. Approved for official display.	Shri S.B. Chavan, Home Minister, Republic of India.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
William J. Perry, Secretary of Defense.	Gold and silver dagger with Sheath. Sheath also gold and silver with carvings. Recd—March 19, 1995. Est. Value—$350. Approved for official display.	MajGen Abdulrahman M. Alkarni, Saudi Arabia.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
William J. Perry, Secretary of Defense.	Gold Rolex watch and Rolex notepad. Recd—March 21, 1995. Est. Value—$15,900. Approved for official display.	Isa bin Salman Al Khalifa, Amir of Bahrain.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
William J. Perry, Secretary of Defense.	Pearl Necklace. Recd—March 21, 1995. Est. Value—$5,000. Pending transfer to GSA.	The Gem and Pearl Testing, Laboratory of Bahrain.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
William J. Perry, Secretary of Defense.	Gold dagger with sheath. Sheath has diamond and rubies laid in carved settings. Recd—March 22, 1995. Est. Value—$10,000. Approved for official display.	Hamad Bin Khalifa Al-Thani, Heir Apparent and Minister of Defense of the State Qatar.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Mrs. William J. Perry, Wife of Secretary of Defense.	Gold plated brooch, 18 carat gold. Recd—July 25, 1995. Est. Value—$750. Approved for official display.	Mrs. Oscar Camilion, wife of Minister of Defense, Argentina.	Non-acceptance would have caused embarrassment to donor & U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
William J. Perry, Secretary of Defense.	Topaz Stones and Gold letter opener. Recd—August 4, 1995. Est. Value—$296. Approved for official display.	Ministerial Division of Brazil	Non-acceptance would have caused embarrassment to donor & U.S. Government.
William J. Perry, Secretary of Defense.	Green and gold glass table center piece with white flowers and six (6) matching bowls. Red and gold glass vase with white flowers. Recd—September 26, 1995. Est. Value—$285. Approved for official display.	Vilen Holan, Minister of Defense, Czech Republic.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
William J. Perry, Secretary of Defense.	Brown and golden prayer rug with Dr. Perry's face center, approximately 5' x 7'. Recd—October 13, 1995. Est. Value—$450. Approved for official display.	Major General Rustam Akhmedov, Minister of Defense, Uzbekistan.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
William J. Perry, Secretary of Defense.	Cherry wood box, with silver plate and Orrefors crystal bowl inside. Recd—October 16, 1995. Est. Value—$400. Approved for official display.	Thage G. Peterson, Minister of Defense, Sweden.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
William J. Perry, Secretary of Defense.	Gold Nefertiti key chain and cuff links in green jewelry box; black binoculars in a black leather case, inside red velvet box; two pots, one tall and one shorter. Recd—October 19, 1995. Est. Value—$1,350. Approved for official display.	Field Marshal Mohamed Tantawi, Minister of Defense and Military Production of Egypt.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. William Perry, Wife of Secretary of Defense.	Two black boxes with sets of Nefertiti earrings, 18 carat possibility; Gold Necklace with three charms inscribed with Egyptian writing in blue jewelry box. Recd—October 19, 1995. Est. Value—$870. Approved for official display.	Mrs. Hussein Tantawi, wife of Minister of Defense of Egypt.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
William J. Perry, Secretary of Defense.	MP–5 9mm gun in brown leather case; strap and clip contained inside case. Recd—October 25, 1995. Est. Value—$3,500. Approved for official display.	Prince Sultan of Saudi Arabia, Minister of Defense.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
William J. Perry, Secretary of Defense.	M1 Garand Rifle mounted on wood with gold plate. Recd—November 22, 1995. Est. Value—$1,300. Approved for official display.	Hans Haekkerup, Minister of Defense, Denmark.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. William J. Perry, Wife of Secretary of Defense.	Amber necklace, earring, bracelet and brooch set. Recd—November 22, 1995. Est. Value—$600. Approved for official display.	Mrs. Linkeviciene, wife of Minister of National Defense, Lithuania.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
LT GENERAL Thomas G. Rhame, Army, Director, Defense Security Assistance Agency.	Man's 18K Eterna wristwatch, Serial Number 5001.68, in reddish brown container. Recd—January 21, 1995. Est. Value—$7,500. Reported to GSA June 1, 1995.	Lieutenant General Khalifa bin Ahmad Al Khalifa, Defense Minister, Bahrain Defense Forces.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Alina Romanowski, Acting Director, Middle East Region, International Security Affairs.	Single-strand, ladies graduated pearl necklace with 18 carat gold clasp in a reddish-orange case. Recd—January 24, 1995. Est. Value—$1,000. Reported to GSA June 1, 1995.	Isa Bin Salman Al Khalifa, Amir of Bahrain.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
GENERAL John M. Shalikashvili, Chairman, Joint Chiefs of Staff.	9 mm Pistol. Recd—March 7, 1995. Est. Value—$450. Approved for official use.	Lieutenant General Mario Diaz, Chief of the General Staff, Argentina.	Non-acceptance would have caused embarrassment to donor & U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
GENERAL John M. Shalikashvili, Chairman, Joint Chiefs of Staff.	Rifle, 30 caliber, with scope, Serial Number: #100279. Recd—October 13, 1995. Est. Value—$675. Pending transfer to GSA.	Mr. Blagoja Handziski, Minister of Defense, Macedonia.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
GENERAL John M. Shalikashvili, Chairman, Joint Chiefs of Staff.	Pistol, 9 mm, Model #P94DC (Sturm Ruger & Co. INC), Serial Number 308–05953. Recd—October 14, 1995. Est. Value—$329.95. Pending transfer to GSA.	Federal Forces of Bosnia, Herzegovina Sarajevo, Bosnia.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Frederick C. Smith, Office of Under Secretary of Defense (Policy).	Single-strand graduated pearls with 18 carat gold clasp in a black velvet case; Men's 18 carat gold Eterna wristwatch, Serial Number 5001.68.60, and matching cuff links. Recd—February 1, 1995. Est. Value—$9,250. Reported to GSA, June 1, 1995.	Isa bin Salman Al Khalifa, Amir of Bahrain.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
COL Albert A. Washington, Country Director for Persian Gulf Affairs, Middle East and African Affairs, International Security Affairs.	Men's Eterna wristwatch, Serial Number 2001.20.60, with Bahrain Defense Force seal in blue container. Recd—January 23, 1995. Est. Value—$750. Pending transfer to GSA.	Lieutenant General Khalifa bin Ahmad Al Khalifa, Defense Minister, Bahrain Defense Forces.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Marilyn Witcher, Public Affairs Officer, Department of Defense, Office of Dependents Education, Education Agency.	Ladies watch, 18 carat gold and stainless wrist band with octagonal face outline in 18 carat gold, ID #5231 above 2207190. Recd—March 1, 1995. Est. Value $1,500. Reported to GSA June 1, 1995.	Ahmad Al Khalifa, Defense Minister, Bahrain Defense Forces.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Molly K. Williamson, Deputy Assistant Secretary of Defense for Middle East and African Affairs, International Security Affairs.	Women's wristwatch, 18 carat gold, Eterna, Serial Number 5601.68 in reddish-brown container. Recd—March 23, 1995. Est. Value—$4,500. Reported to GSA June 1, 1995.	Isa bin Salman Al Khalifa, Amir of Bahrain.	Non-acceptance would have caused embarrassment to donor & U.S. Government.

AGENCY: DEPARTMENT OF THE AIR FORCE

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Colonel Neil G. Kacena, USLO Doha, Qatar.	Three-piece tea set of gold, silver, and crystal. Recd—June 14, 1994. Est. Value—$771.00. On official display in USLO's office.	H.E. Brigadier Shaykh Mohammed bin Fahd al-Thain, Asst Chief of Staff for Operations, Planning, and Training Qatar Armed Forces.	Non-acceptance would have caused embarrassment to the U.S. Government.
Special Agent Joseph G. Lukowski, AFOSI Det 614/CC, Yongsan Army Garrison, Seoul, Korea.	Gift certificate in the amount of $250.00. Recd—December 22, 1994. Est. Value—$250.00. Donated to the Hye-Shim-Won Children's Orphanage, Seoul, Korea, January 10, 1995.	Senior Superintendent Yong-Che, Foreign Affairs Division II, Seoul Metropolitan Police.	Non-acceptance would have caused embarrassment to the U.S. Government.
General Ronald R. Fogleman, Chief of Staff, USAF.	Baccarat decanter with French Air Force Seal Engraved on front; decanter is 14 inches high with a triangular-cut lid. Recd—April 21, 1995. Est. Value—$587.00. On official permanent display at Air House.	General Douin, French Air Force Chief of Staff.	Non-acceptance would have caused embarrassment to donor & U.S. Government.

AGENCY: DEPARTMENT OF THE AIR FORCE—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
General Ronald R. Fogleman, Chief of Staff, USAF.	Gold chain and crown pendant. Recd—August 8, 1995. Est. Value—$500.00. On official display/use at Air House.	General Ababhneh, Chief of Staff, Jordanian Air Force.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
General Ronald R. Fogleman, Chief of Staff, USAF.	Pearl necklace with six strands of small pearls. Recd—October 2, 1995. Est. Value—$300.00. On official display/use at Air House.	Lieutenant General Ching-Ying, Chief of Staff, Taiwan Air Force.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
General Henry Viccellio, Jr., (then) Commander, Air Education and Training Command.	Cufflinks and tie bar set with official seal of the Air Force of Republic of Chile set in 18K gold on blue lapislazuli stone mounted and set in 18K gold. Recd—September 1993. Est. Value—$662.23. Turned in to GSA, October 25, 1995.	Lieutenant General Fernando Rojas-Vender, Chief of Staff, Air Force.	Non-acceptance would have caused embarrassment to the U.S. Government.
The Honorable Sheila Widnall, Secretary of the Air Force.	Engraved pitcher and six glasses. Recd—August 1, 1995. Est. Value—$250.00. On official display in the office of the Secretary of the Air Force.	Mr. Zigniew Obzony, Minister of Defense, Poland.	Non-acceptance would have caused embarrassment to the U.S. Government.

AGENCY: DEPARTMENT OF THE ARMY

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Gen J.H. Binford Peay, III, Commander in Chief, U.S. Central Command, MacDill AFB, Florida 33621.	18kt Eterna Watch. Recd—1995. Est. Value—$6,875.00. Reported to GSA July 20, 1995. Pending Transfer to GSA.	Isa Bin Salman Al Khalifa, Amir of Bahrain.	Non-acceptance would have caused embarrassment to the donor & U.S. Government.
Gen. J.H. Binford Peay, III, Commander in Chief, U.S. Central Command, MacDill AFB, Florida 33621.	One Oriental Rug (4'×6'). Recd—1995. Est. Value—$1,800.00. Reported to GSA July 20, 1995. Approved for official display.	GEN Abdul Waheed, Chief of Chief, Pakistan.	Non-acceptance would have caused embarrassment to the donor & U.S. Government.
GEN Barry R. McCaffrey, Commander in Chief, U.S. Southern Command, APO AA 34003.	Three-piece Sterling Silver Set (two silver roosters and a silver and mirror tray). Recd—November 3, 1994. Est. Value—Unknown. Reported to GSA July 20, 1995. Approved for official display.	GEN Hermosa Rios, Peruvian Army.	Non-acceptance would have caused embarrassment to the donor & U.S. Government.
GEN Barry R. McCaffrey, Commander in Chief, U.S. Southern Command, APO AA 34003.	L1.A1 (FAL type) 7.62mm Rifle (Serial #AD 6712029). Recd—January 18, 1995. Est. Value—Unknown. Reported to GSA July 20, 1995. Approved for official display.	COL McPherson, Chief of Staff of the Guyana Defense Force.	Non-acceptance would have caused embarrassment to the donor & U.S. Government.
MG William L. Nash, U.S. Army Program Manager, Saudi Arabian National Guard Modernization, APO AE 09803–1304.	Tag Heuer Series 4000 Men's Sports Watch. Recd—December 5, 1994. Est. Value—$895.00. Reported to GSA July 20, 1995. Approved for official use.	Prince Faisal bin Abdullah Mohammed, Deputy, Western Region, Saudi Arabian National Guard.	Non-acceptance would have caused embarrassment to the donor & U.S. Government.
GEN J.H. Binford Peay, III, Commander in Chief, U.S. Central Command, MacDill AFB, Florida 33621.	Sword in Presentation Case. Recd—December 1994. Est. Value—$1,369.86. Reported to GSA July 20, 1995. Approved for official display.	MG Hamad Bin Abdulla Al-Thani, State Minister for Defense, Qatar.	Non-acceptance would have caused embarrassment to the donor & U.S. Government.

AGENCY: DEPARTMENT OF THE ARMY—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
GEN J.H. Binford Peay, III, Commander in Chief, U.S. Central Command MacDill AFB, Florida 33621.	Inlaid jewelry box with inlaid Bible. Recd—March 29, 1995. Est. Value—$426.92. Reported to GSA July 20, 1995. Approved for official display.	MG Mohammed Khair Ababneh, Chief of Staff, Royal Jordanian Air Force.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
GEN J.H. Binford Peay, III, Commander in Chief, U.S. Central Command, MacDill AFB, Florida 33621.	One Oriental Rug (5'x8'). Recd—August 1995. Est. Value—$2,700.00. Pending a report to GSA. Approved for official display.	MG Abdul Waheed, Chief of Staff, Pakistan.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
MG Peter J. Schoomaker, Commander, JSOC, Fort Bragg, NC 28307.	Heckler & Koch USP 9mm Pistol (Serial # 24–16986). Recd—May 18, 1995. Est. Value—$585.00. Reported to GSA July 20, 1995. Approved for official display.	COL Swalomir Petelicki, Leader of the Polish National Special Forces.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
GEN J.H. Binford Peay, III, Commander in Chief, U.S. Central Command, MacDill AFB, Florida 33261.	One Oriental Rug (3'x5'). Recd—August 1995. Est. Value—$900.00. Pending a report to GSA. Approved for official display.	Admiral Haque, Chief of Navy Staff, Pakistan.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
GEN J.H. Binford Peay, III, Commander in Chief, U.S. Central Command, MacDill AFB, Florida 33261.	One Longines Watch (Men's). Recd—October 1995. Est. Value—$395.00. Pending transfer to GSA.	GEN Abdul Hafiz Marei, Chief of the Joint Staff, Jordan.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
MG David R.E. Hale, Deputy Commander, U.S. Army, Pacific, Fort Shafter, HI 96858.	Painting (depicts the posthumous presentation of the Victoria Cross to a member of the Rajputana Rifles Regiment). Recd—November 17, 1994. Est. Value—Unknown. Reported to GSA July 20, 1995. Approved for official display.	BG J.K. Verma, Commander of the Indian Army Rajputana Rifles Regiment.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
Mr. Gerard P. DeVeaux, Civilian, U.S. Central Command, MacDill AFB, Florida 33261.	Clipboard, set of cuff links, Sheaffer ball point pen set, two Longines wrist watches, coin with Saudi Infantry Corps logo, key holder with Saudi Corps logo, leather billfold with Saudi Infantry Corps logo, leather note pad, leather key holder, and leather attache case. Recd—January 1995. Est. Value—$1,365.15. Reported to GSA July 20, 1995. Pending sale to the recipient.	LTC Abdullah Shaman Al-Anzey, Royal Saudi Land Forces Infantry Corps.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
COL Geoffrey G. Prosch, U.S. Military Training Mission To Saudi Arabia, APO AE 09803–1300.	One Longines Wrist Watch. Recd—August 13, 1994. Est. Value—$644.00. Pending a report to GSA.	LTG Mahayya, Royal Saudi Land Forces.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
BG Lon E. Maggart, Commander, U.S. Army Armor Center and Fort Knox, Fort Knox, KY 40121–5000.	Stainless Steel Sword with gold-filled hilt and scabbard. Recd—June 19, 1995. Est. Value—$250.00. Reported to GSA September 21, 1995. Pending sale to the recipient.	COL Ahmed AL-Shahri, Saudi Arabian Liaison Officer.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
BG Robert R. Ivany, Assistant Division Commander, 2d Armored Division, Fort Hood, TX 76544.	Man's Jovial Watch (serial #7017) and Woman's Jovial Watch (serial #7017). Recd—July 1, 1995. Est. Value—Unknown. Reported to GSA September 21, 1995. Pending transfer to GSA.	Ahmed Al Mullah of Kuwait	Non-acceptance would have caused embarrassment to the donor and U.S. Government.

AGENCY: DEPARTMENT OF THE ARMY—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
BG Robert R. Ivany, Assistant Division Commander, 2d Armored Division, Fort Hood, TX 76544.	Man's Yves Saint Laurent stainless steel watch (serial #03–D–01859). Recd—July 1, 1995. Est. Value—Unknown. Reported to GSA September 21, 1995. Pending transfer to GSA.	Ali Al-Atesi, J–3, Kuwait Organizational Director.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
BG Robert R. Ivany, Assistant Division Commander, 2d Armored Division, Fort Hood, TX 76544.	Man's Christian Dior Watch with leather strap (serial #D45–154). Recd—January 18, 1995. Est. Value—Unknown. Reported to GSA September 21, 1995. Pending transfer to GSA.	BG Rashid, J–3, Kuwait Armed Forces.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
GEN Gordon Sullivan, Chief of Staff, Army, Pentagon, Washington, DC.	Silver Cups. Recd—January 1994. Est. Value—$530.00. Reported to GSA September 21, 1995. Pending transfer to GSA.	Chief of Staff, Greek Army	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
GEN Gordon Sullivan, Chief of Staff, Army, Pentagon, Washington, DC.	Chandelier and matching lamps. Recd—March 1992. Est. Value—$295.00. Reported to GSA September 21, 1995. Pending transfer to GSA.	Chief of Staff, Philippine Army	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
GEN Gordon Sullivan, Chief of Staff, Army, Pentagon, Washington, DC.	Presentation Set of Pesos. Recd—June 1993. Est. Value—Unknown. Reported to GSA September 21, 1995. Pending transfer to GSA.	GEN Sancito Caro-Brito, Dominican Republic Chief of Staff.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
GEN Dennis J. Reimer, Chief of Staff, Army, Pentagon, Washington, DC.	Japanese Samurai Hat. Recd—August 25, 1995. Est. Value—$650.00. Pending a report to GSA. Approved for official display.	GEN Tetsuya Nishimoto, Chairman, JSC, Japanese Defense Agency.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
GEN Dennis J. Reimer, Chief of Staff, Army, Pentagon, Washington, DC.	Mexican Silver Bowl and four Mexican Woven Baskets. Recd—September 15, 1995. Est. Value—$600.00. Pending a report to GSA. Approved for official display.	GEN Enrique Cervantes Aquirre, Secretary of Defense, Mexico.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
GEN Dennis J. Reimer, Chief of Staff, Army, Pentagon, Washington, DC.	German Binoculars, small plaque, crystal wine decanter, and crystal pitcher. Recd—October 31, 1995. Est. Value—$297.00. Pending a report to GSA. Approved for official display.	LTG Hartmut Bagger, Chief of Staff, German Army.	Non-acceptance would have caused embarrassment to the donor and U.S. Government
GEN Dennis J. Reimer, Chief of Staff, Army, Pentagon, Washington, DC.	9mm German Luger Pistol. Recd—August 25, 1995. Est. Value—$650.00. Pending a report to GSA. Approved for official display.	LTG Antonia Baiza, Chief of Staff, Argentine Army.	Non-acceptance would have caused embarrassment to the donor and U.S. Government
BG Philip R. Kensinger, Commander, SOCCENT, MacDill AFB, Florida 33621.	Longines Watch. Recd—December 1995. Est. Value—$795.00. Pending a report to GSA. Approved for official display.	COL Daig, Special Forces Commander, Bahrain.	Non-acceptance would have caused embarrassment to the donor and U.S. Government
COL Paul F. Barb, Chief, Security Assistance Div, U.S. Central Command, MacDill AFB, Florida 33621.	Maurice Lacroix Watch. Recd—November 1995. Est. Value—$750.00. Pending a report to GSA. Approved for official display.	BG Hayel Juma Al Hameli, Director, Operations, UAE Armed Forces.	Non-acceptance would have caused embarrassment to the donor and U.S. Government
Honorable Togo D. West, Jr., Secretary of the Army.	Marble/Quartz Chess and Checker Set. Recd—October 20, 1995. Est. Value—$350.00. Pending a report to GSA. Approved for official display.	General Zenildo de Lucena, Minister of the Army, Brazil.	Non-acceptance would have caused embarrassment to the donor and U.S. Government
LTG Robert L. Ord, Commander, U.S. Army, Pacific, Fort Shafter, Hawaii.	Recd.—November 6–9, 1995. Est. Value—$2,972.80. Expended for airfare, hotel and meals.	New Zealand Government	Meetings with New Zealand Army Chief of Defense Force, Chief of General Staff and Secretary of Defense

AGENCY: DEPARTMENT OF THE ARMY—Continued

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
COL Michael M. Hoen, Chairman of Logistics and U.S. Army Dental Education Program, Fort Bragg, NC 28307–5000.	Recd.—January 23–25, 1995. Est. Value—$715.00. Expended for airfare and meals.	Canadian Army Dentistry Programs.	Guest Lecturer for the Canadian Dental Officer's Clinical Course.

AGENCY: DEPARTMENT OF THE NAVY

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
John H. Dalton, Secretary of the Navy.	Man's watch. Recd—October 21, 1995. Est. Value—$2500. Being held in CNO (N09B33) pending transfer to GSA.	The Amir of Bahrain	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Margaret Dalton, Spouse of the Secretary of the Navy.	Woman's watch. Recd—October 21, 1995. Est. Value—$2500. Being held in CNO (N09B33) pending transfer to GSA.	The Amir of Bahrain	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Rear Admiral Walter F. Doran, USN, Chief of Naval Operations (N3/N5).	Man's & woman's watch. Recd—April 13, 1995. Est. Value—$7300. Being held in CNO (N09B33) pending transfer to GSA.	Saudi Arabian Government	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Rear Admiral John M. Luecke, USN, U.S. Central Command, MacDill AFB, FL Command.	Man's watch. Recd—March 31, 1995. Est. Value—$6875. Being held in CNO (N09B33) pending transfer to GSA.	The Amir of Bahrain	Non-acceptance would have cause embarrassment to donor and U.S. Government.
Vice Admiral John S. Redd, USN, Commander, U.S. Naval Forces Central Command.	Crystal falcon, vase and dagger. Recd—July 10, 1995. Est. Value—$3500. Being retained at COMUSNAVCENT.	The Amir of Bahrain	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Vice Admiral John S. Redd, USN, Commander, U.S. Naval Forces Central Command.	Persian carpet. Recd—September 18, 1995. Est. Value—$400. Being retained at COMUSNAVCENT.	The Amir of Bahrain	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Lieutenant Commander Steve Senteio, Personal Aide to Secretary of the Navy.	Man's watch. Recd—October 21, 1995. Est. Value—$2500. Being held in CNO (N09B33) pending transfer to GSA.	The Amir of Bahrain	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Rear Admiral George F.A. Wagner, Office of the Programs Executive Officer, Cruise Missiles and Joint Unmanned Aerial Vehicles.	Iron spear and plaque. Recd—March 22, 1995. Est. Value—$250. Being retained at PEO (CU).	Israel Government	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Admiral J.M. Boorda, USN Chief of Naval Operations.	Samuri helmet. Recd—September 1995. Est. Value—$400. Being retained at Office of the Chief of Naval Operations.	Japanese Chief of Naval Operations.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Colonel Robert Blackman, USMC	Man's watch. Recd—October 21, 1995. Est. Value—$2,500. Transferred to GSA.	The Amir of Bahrain	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Admiral J.M. Boorda, USN Chief of Naval Operations.	Gold dagger. Recd—April 11, 1995. Est. Value—$325. Being retained at Office of the Chief of Naval Operations.	Saudi Arabian Chief of Naval Operations.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Admiral J.M. Boorda, USN Chief of Naval Operations.	Silver dagger. Recd—May 15, 1995. Est. Value—$325. Being retained at Office of the Chief of Naval Operations.	UAE Chief of Naval Operations	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Admiral J.M. Boorda, USN Chief of Naval Operations.	Brass etching. Recd—July 13, 1995. Est. Value—$325. Being retained at Office of the Chief of Naval Operations.	Egyptian Chief of Naval Operations.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF EDUCATION

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
I. Office of the Deputy Secretary:			
Madeleine Kunin, Deputy Secretary.	In-kind—May 21–25, 1995. Est. Value—$1,100. For transportation, lodging and meals within Israel.	Government of Israel	To meet with Prof. Ammon Rubinstein, Minister of Education, Culture & Sport and with other Israeli officials.
II. Office of Special Education and Rehabilitative Services (OSERS) Rehabilitation Services Administration (RSA):			
Dr. Fredric K. Schroeder, RSA/OSERS.	Recd.—10/19/95. Est. Value—$818. In-kind 11/7/95—11/9/95. Expended for Airfare, meals, accommodations.	Canadian National Institute for the Blind.	Banquet Speaker and Panel Member at the 1995 Canadian Braille Conference.
III. Office of Special Education and Rehabilitative Services (OSERS):			
Scott Brown, ED Research Analyst (OSERS).	Recd.—Nov. 20, 1995. In-kind—Nov 17—Nov. 28. Est. Value—$2,000. Expended for airfare, hotel and meals.	World Health Organization Geneva, Switzerland.	To provide recommendations for revision of the World Health Organization's International Classification of Impairment Disabilities and Handicaps.
IV. Office of Vocational and Adult Education:			
Ronald Pugsley, Director, Acting Adult Literacy Initiative Staff, OVAE.	Brussels, 11/19/94 to 11/23/94. Est. Value $2,386. Airfare, lodging, meals etc.	European Union (EU), Brussels, Belgium.	To make a presentation to the European Union on the National Adult Literacy Survey (NALS).

AGENCY: UNITED STATES DEPARTMENT OF STATE

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Warren Christopher, Secretary of State.	Red Chopard ladies watch with floating diamonds. Recd—August 30, 1995. Est. Value—$4,000. Pending transfer to GSA.	His Majesty Sir Bolkiah Hassanal, Sultan of Brunei.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Warren Christopher, Secretary of State.	Ruby and diamond bracelet. Recd—August 30, 1995. Est. Value—$7,000. Pending transfer to GSA.	His Majesty Sir Bolkiah Hassanal, Sultan of Brunei.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Warren Christopher, Secretary of State.	4'x6' silk Afghan carpet. Recd—April 10, 1995. Est. Value—$2,000. Being retained at the U.S. Dept of State.	Her Excellency Benazir Bhutto. Prime Minister of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Warren Christopher, Secretary of State.	Carpet with maroon and blue and purple colors. Appx. 6'9'. Recd—April 5, 1995. Est Value—$1,000. Being retained at the U.S. Dept of State.	His Excellency Hosni Mubarak, President of the Arab Republic of Egypt.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Warren Christopher, Secretary of State.	Kabuki dancer doll in glass case. Recd—October 20, 1995. Est. Value—$1,500. Being retained at the Dept. of State.	Mr. Kabun Muto, Member of the House of Representatives, Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Warren Christopher, Secretary of State.	Silver plated mantle clock. Recd—December 15, 1995. Est. Value—$500. Pending transfer to GSA.	His Excellency Hamad Bin Jassim Bin Jabir-Al-Thani, Minister of Foreign Affairs of Qatar.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: UNITED STATES DEPARTMENT OF STATE—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Joan E. Spero, Under Secretary for Economic, Business and Agricultural Affairs.	18 karat gold watch with 12 diamonds and three rubies. Recd—August 8, 1995. Est. Value—$3000. Pending transfer to GSA.	His Excellency Pengiran Anak Hajjah Zariah, Brunei.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Joan E. Spero, Under Secretary for Economic, Business and Agricultural Affairs.	Silver cufflinks (one large pearl on each cufflink). Recd—October 8, 1995. Est. Value—$1,200. Pending transfer to GSA.	Mr. Kabun Muto, Member of the House of Representatives, Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Robert H. Pelletreau, NEA Assistant Secretary.	Silver clock on marble base. Recd—December 20, 1995. Est. Value—$1,200. Pending transfer to GSA.	His Excellency Hamad Bin Jassim Bin Jabir-Al-Thani, Minister of Foreign Affairs of Qatar.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Robin Raphe, Assistant Secretary of State for South Asian Affairs.	Large red and black Afghani rug, approximately 6'x9'. Recd—November 1994. Est. Value—$2,000. Being retained at the Dept of State.	His Excellency Hajiq Adir, Governor of Nangarhar Province, Jalabad, Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mark R. Parris, DAS, NEA Bureau	Replica of Kuwaiti boat, a dhow, mounted on a base. Recd—December 1994. Est. Value—$650. Being retained at the Dept. of State.	His Excellency Mohammed Sabah Al-Salim Al-Sabah, Kuwaiti Ambassador to the U.S.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Joseph LeBaron, Deputy Chief of Mission, American Embassy Manama, Bahrain.	Men's Oyster Perpetual watch. Women's Oyster Perpetual watch. Single strand of graduated Bahraini pearls. Rec'd—March 21, 1995. Est. Value—$30,800. Pending transfer to GSA.	His Majesty Shaikh Isa bin Sulman al Khalifa, Amir of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Joseph LeBaron, Deputy Chief of Mission, American Embassy Manama, Bahrain.	1. Baume and Mercier watch. 2. Three 22 kt gold bangle bracelets. Rec'd—March 22, 1995. Est. Value—$1,645. 2. $895. Pending transfer to GSA.	His Majesty Shaikh Isa bin Sulman al Khalifa, Amir of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable David Ransom, U.S. Ambassador to Bahrain.	1. Four 21k gold necklaces. 2. Baume & Mercier Ladies Watch. 3. Baume & Mercier Men's watch and cufflinks. 4. Diamond and onyx cufflinks. Rec'd—March 1, 1995. Est. Value—(1) $4,000 (2) $5,000 (3) $10,000 (4) $1,500. Pending transfer to GSA.	His Majesty Shaikh Isa bin Sulman al Khalifa, Amir of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable David Ransom, U.S. Ambassador to Bahrain.	1. Man's Eterna watch Model 202. 2. Women's Eterna watch model 210. Rec'd—March 1, 995. Est. Value—(1) $3,050. (2) $1,990. Pending transfer to GSA.	His Excellency Shaikh Isa bin Sulman Al Kalifa, Amir of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable David Ransom, U.S. Ambassador to Bahrain.	1. Bahraini graduated pearl necklace. 2. Rolex watch—Oyster Perpetual Datejust. 3. Four gold bangle bracelets. Rec'd—April 18, 1995. Est. Value—(1) $4,000. (2) $8,200. (3) $955. Pending transfer to GSA.	His Majesty Shaikh Isa bin Sulman Al Khalifa, Amir of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Gerald M. Feierstein, Dept. of State.	Man's gold Eterna watch. Rec'd—March 24, 1995. Est. Value—$500. Pending transfer to GSA.	His Majestry Sheikh Isa Bin Salman, Amir of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Frances Cook, Deputy Assistant Secretary.	Bahraini Coffee Pot. Rec'd—April 15, 1995. Est. Value—$300.00. Pending transfer to GSA.	Lt. General Khalifa Bin Ahmed Al-Khalifa, Minister of Defense.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Kenton Keith, U.S. Ambassador to Qatar.	2 Harry Winston watches, 2 watchband set. Rec'd—June 1995. Est. Value—$2,000. Pending transfer to GSA.	His Majesty Hamad bin Khalifa Al Thani, Amir of State of Qatar.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: UNITED STATES DEPARTMENT OF STATE—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Andrew Schofer, Political Officer/ Bahrain.	Man's Eterna gold with diamond chips watch. Rec'd—August 3, 1995. Est. Value—$3,050. Pending transfer to GSA.	H.E. Shaikh Isa Bin Salman Al Khalifa, Amir of the State of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Karen Enstrom, Vice Counsul/ Bahrain.	Woman's Eterna gold with diamond chips watch. Rec'd—August 3, 1995. Est. Value—$1,990. Pending transfer to GSA.	H.E. Shaikh Isa Bin Salman Al Khalifa, Amir of the State of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable David Ransom, U.S. Ambassador to Bahrain.	Gold Khanji (knife). Rec'd—August 3, 1995. Est. Value—$3000.00. Pending transfer to GSA.	H.E. Shaikh Isa Bin Salman Al Khalifa, Amir of the State of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Joseph E. LeBaron, Deputy Chief of Mission/Bahrain.	Gold Khaji (knife). Recd—August 3, 1995. Pending transfer to GSA.	H.E. Shaikh Isa Bin Salman Al Khalifa, Amir of the State of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Robin Raphel, Assistant Secretary of State for South Asian Affairs.	Set of dinnerware for six with serving pieces. Recd—September 6, 1995. Est. Value—$300. Pending transfer to GSA.	His Excellency A.S.M. Mustafizur Rahman, Lt. Col (Ret.), Minister of Foreign Affairs of People's Republic of Bangladesh.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Robert H. Pelletreau, Assistant Secretary of State for Near East Affairs.	Engraved silver box with blue velvet case. Recd—October 2, 1995. Est. Value—$250.00. Pending transfer to GSA.	His Majesty Hussein I, King of Hashemite Kingdom of Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
John B. Craig, Director of Near East Affairs/ARP.	Rolex Stainless steel watch. Recd—November 5, 1995. Est Value—$3,000. Pending transfer to GSA.	His Majesty Isa bin Salman Al Khalifa, Amir of State of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Theresa Tull, U.S. Ambassador to Brunei.	A Sarcar watch. Recd—October 6, 1995. Est. Value—$3–4,000. Pending transfer to GSA.	Her Majesty Raja Isteri Pengiran Anak Saleha, first wife of His Majesty, the Sultan of Brunei.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Richard Miles, Deputy Chief of Mission, Am. Embassy Moscow.	Painting, "Evening Intrigue". Recd—January 1995. Est. Value—$1,000. Being retained at the American Embassy in Moscow.	Valdimir Povalov, Russian painter	Non-acceptance would cause embarrassment to donor and U.S. Government.
Clarke N. Ellis, Consul General of Am. Embassy, Naples.	Small gold medallion issued in 1992 commemorating the centennial of the newspaper's foundation. Rec'd—May 11, 1995 Est. Value—$285.00. Being retained at Am.Embassy in Naples.	Dr. Paolo Graldi, Editor-In-Chief of "Il Mattino" southern Italy's major daily newspaper.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable David J. Dunford, U.S. Ambassador to Oman.	A pendant medal on a sash, a brooch-type medal and a smaller lapel-style medal of the same design. Omani Al-Numan Order. Rec'd—June 21, 1995. Est. Value—$14,300 USD. Being retained at AmEmbassy in Muscat.	His Majesty, Qaboos bin Said Al Said, Sultan of Oman.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Deputy Chief of Mission, Am. Embassy in Doha, Qatar.	(1) Decorated silver plated arab coffee pot and (2) gold plated incense burner, rosewater dispenser and arab coffee pot. Rec'd—July 1995. Est. Value—(1) $350 (2) $2,000. Being retained at AmEmbassy in Doha.	Unknown	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Kenton Keith, U.S. Ambassador to Qatar.	Silver incense burner. Rec'd—July 1995. Est. Value—$400. Being retained at AmEmbassy in Doha.	Government of Qatar	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Peter W. Galbraith, U.S. Ambassador to Croatia.	Gilbenti Brescia 1894 gun, in black leather case with initials PG. Rec'd—March 1995. Est. Value—$360.00. Being retained at Am. Embassy in Zagreb.	Mr. Darko Sacic of Varazdin City Culture Office, Zagreb.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: UNITED STATES DEPARTMENT OF STATE—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Charles L. Daris, Consul General, Am. Embassy Riyadh.	Sword, brass colored-metal in green velveteen covered gift box. Rec'd—6/21/94. Est. Value—$340.00. Being retained at Am Embassy in Riyadh.	Mohammed Al-Amoudi, Chairman of the Al-Amoudi group and advisor to the King.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Thomas Pickering, U.S. Ambassador to the Russian Federation.	(1) Watercolor art painting "Under water Words". (2) Photograph "Marble Head Door II". Rec'd—March 1995. Est. Value—(1) $3,500, (2) $800. Being retained at the American Embassy Moscow.	Eugenia Skarstrom for use in Spaso House.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
The Honorable Arthur Hughes, U.S. Ambassador to the Republic of Yemen.	Traditional Yemeni sword. Rec'd—November 2, 1994. Est. Value—$350.00. Being retained in the office Near Eastern Affairs, DOS.	His Excellency Yahya Hussein Al Arashi, Minister of Culture and Tourism, the Republic of Yemen.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
Ambassador and Political Economic Chief in American Embassy, Dushanbe, Afghanistan.	Two small Afghan carpets, 3' x 5', 4' x 5'. Rec'd—February 20, 1995. Est. Value—$400.00. Being retained at American Embassy Dushanbe.	Mr. Ashraf Shah, Special Emissary of President Burhannidin Rabbani, Kubul, Afghanistan.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
The Honorable Robert Pelletreau, Assistant Secretary for Near Eastern Affairs.	(1) One 18k Piaget men's gold watch, with cufflinks. (2) One 18k gold Piaget women's watch. (3) One graduated pearl necklace. Rec'd—May 10, 1994. Est. Value—(1) $2,000. (2) $2,000. (3) $10,000. Pending transfer to GSA.	His Majesty Isa bin Salman Al Khalifa, Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
Mr. J. Feierstein, NEA/ARP	(1) One Eterna men's gold watch with cufflinks. (2) One Eterna women's gold watch. Rec'd—May 10, 1994. Est. Value—(1) $2,000. (2) $2,000. Pending transfer to GSA.	His Majesty Isa bin Salman Al Khalifa, Amir of the State of Bahrain.	Non-acceptance would have caused embarrassment to the donor and U.S. Government.
Adm Katz, American Embassy, Manama.	(1) Double strand of pearls (2) Gold coin. Recd—November 8, 1994. Est. Value—(1) $5,000 (2) $1500. Pending transfer to GSA.	His Majesty Isa bin Salman Al Khalifa, Amir of the State of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mr. D. Robins, Deputy Chief of Mission, American Embassy of Manama.	(1) One 22k Piaget men's watch, diamond studded. (2) gold studded cufflinks. Recd—May 10, 1994. Est. Value—(1) $7,000. (2) $1,200. Pending transfer to GSA.	His Majesty Isa bin Salman Al Khalifa, Amir of the State of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable David Ransom, U.S. Ambassador to Bahrain.	(1) Three Eterna watches. (2) Five women's Eterna watches. (3) Five sets of gold bangle bracelets (3/set). Recd—December 21, 1994. Est. Value—(1) $3,050. (2) $1,999 each. (3) $760 each.	His Majesty Isa bin Salman Al Khalifa, Amir of the State of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Clarke N. Ellis, Consul General American Embassy, Naples.	Small gold medallion issued in 1992, commemorating the centennial of the "Il Mattino" newspaper. Recd—May 11, 1995. Est. Value—$285.00. Being retained for official use in American Embassy in Naples.	Dr. Paolo Graldi, Editor-in-Chief of "Il Mattino," southern Italy's major daily newspaper.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: TREASURY—DEPARTMENTAL OFFICES

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
James Fall, Deputy Assistant Secretary, Developing Nations.	Mont Blanc Pen. Recd—January 12, 1995. Est. Value—$285. Treasury Department.	Chong-Min Lee, Financial Attache, Republic of Korea.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Sylvia Mathews, Chief of Staff	Bronze Statue of Elephant Goddess. Recd—April 18, 1995. Est. value—$400. Treasury Department.	Dinesh Singh, Minister of External Affairs, India.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Robert Rubin, Secretary	Bronze Statue of Indian Woman. Recd—April 17, 1995. Est. value—$400. Treasury Department.	Manmohan Singh, Minister of Finance, India.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Robert Rubin, Secretary	White Gold Coin. Recd—April 17, 1995. Est. value—$3,510. Treasury Department.	Jefri Bolkiah, Minister of Finance, Brunei.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Robert Rubin, Secretary	Gold & Pearl Cufflinks. Recd—May 5, 1995. Est. value—$350. Treasury Department.	Kabun Muto, Chairman, General Council, Japanese Liberal Democratic Party.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Robert Rubin, Secretary	Sterling Silver Cup. Recd—October 10, 1995. Est. value—$350. Treasury Department.	President Zedillo, Mexico	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Jeffrey Shafer, Assistant Secretary for International Affairs.	Bronze Statue of Indian Goddess. Recd—April 18, 1995. Est. value—$400. Treasury Department.	Manmohan Singh, Minister of Finance, India.	Non-acceptance would have caused embarrassment to donor & U.S. Government.
Jeffrey Shafer, Assistant Secretary for International Affairs.	Green Quartz Cufflinks and Tie Tack. Recd—October 26, 1995. Est. Value—$350. Treasury Department.	Chen Rong-jye, Deputy Representative, Taipei Economic & Cultural Representative Office.	Non-acceptance would have caused embarrassment to donor & U.S. Government.

AGENCY: DEPARTMENTAL OFFICES—TREASURY

Report of Travel or Expenses of Travel—1995

Name and title of person accepting travel or travel expenses consistect with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Eliot Brenner, Public Affairs Specialist.	Recd—April 19–20, 1995. Est. Value—$306.. **New Delhi—Agra—Udaipur—Bombay, India	India Government	No direct flights from city to city, and other commercial flights could not accommodate either the number of individuals in the secretarial delegation or the official agendas schedule. Security Considerations.
Joyce Carrier, Deputy Executive Secretary for Public Liaison.	Recd—April 19–20, 1995. Est. Value—$306.. **New Delhi—Agra—Udaipur—Bombay, India.	.....do	Do.
Joseph Cope, Telecommunications Specialist.	Recd—April 20, 1995. Est. Value—$140.. **Udaipur—Bombay, India	.....do	Do.
David Dreyer, Senior Advisor for Planning.	Recd—April 19–20, 1995. Est. Value—$306.. **New Delhi—Agra—Udaipur—Bombay, India.	.....do	Do.
James Fall, III, International Economist.	Recd—April 19–20, 1995, Est. Value—$306.. **New Delhi—Agra—Udaipur—Bombay, India.	.....do	Do.

AGENCY: DEPARTMENTAL OFFICES—TREASURY—Continued

Report of Travel or Expenses of Travel—1995

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Bridget Hartigan, Staff Assistant to the Deputy Executive Secretary.	Recd—April 20, 1995. Est. Value—$140.. **Udaipur—Bombay, India	India Government	No direct flights from city to city, and other commercial flights could not accommodate either the number of individuals in the secretarial delegation or the official agendas schedule. Security considerations.
David Ickison, Special Assistant, Public Affairs.	Recd—April 19–20, 1995. Est. Value—$306.. **New Delhi—Agra—Udaipur—Bombay, India.	do	Do.
Nancy Lee, International Economist.	Recd—April 19–20, 1995. Est. Value—$306.. **New Delhi—Agra—Udaipur—Bombay, India.	do	Do.
Meg Lundsager, Director—Office of Asia & Near East.	Recd—April 19–20, 1995. Est. Value—$306.. **New Delhi—Agra—Udaipur—Bombay, India.	do	Do.
Sandra Mancini, Special Assistant to Chief of Staff.	Recd—April 20, 1995. Est. Value—$140.. **Udaipur—Bombay, India	do	Do.
Sylvia Mathews, Chief of Staff	Recd—April 19–20, 1995. Est. Value—$306.. **New Delhi—Agra—Udaipur—Bombay, India.	India Government	No direct flights from city to city, and other commercial flights could not accommodate either the number of individuals in the secretarial delegation or the official agendas schedule. Security considerations.
Annabella Mejia, Review Analyst	Recd—April 19–20, 1995. Est. Value—$306.. **New Delhi—Agra—Udaipur—Bombay, India.	do	Do.
J. Benjamin Nye, Executive Secretary.	Recd—April 19–20, 1995. Est. Value—$306.. **New Delhi—Agra—Udaipur—Bombay, India.	do	Do.
Lynn Parrish, Assistant Director, Travel and Special Event.	Recd—April, 1995. Est. Value—$140.. **Udaipur—Bombay, India	do	Do.
Judith Rubin, Spouse	Recd—April 19–20, 1995. Est. Value—$306.. **New Delhi—Agra—Udaipur—Bombay, India.	do	Do.
Robert E. Rubin, Secretary of the Treasury.	Recd—April 19–20, 1995. Est. Value—$306.. **New Delhi—Agra—Udaipur—Bombay, India.	India Government	No direct flights from city to city, and other commercial flights could not accommodate either the number of individuals in the secretarial delegation or the official agendas schedule. Security considerations.
Howard Schloss, Assistant Secretary, Public Affairs.	Recd—April 19–20, 1995. Est. Value—$306.. **New Delhi—Agra—Udaipur—Bombay, India.	do	Do.
Jeffrey Shafer, Assistant Secretary, International Affairs.	Recd—April 19–20, 1995. Est. Value—$306.. **New Delhi—Agra—Udaipur—Bombay, India.	do	Do.
Michelle Smith, Public Affairs Specialist.	Recd—April 19–20, 1995. Est. Value—$306.. **New Delhi—Agra—Udaipur—Bombay, India.	do	Do.

(India Government plane). ** No direct flights from Agra to Udaipur. Indirect flights would have delayed the trip 24 hours, which was impossible for the schedule.

AGENCY: SECRET SERVICE—TREASURY

Report of Travel or Expenses of Travel—1995

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identify of foreign donor and government	Circumstances justifying acceptance
Robert Agnew, ATSAIC—Secret Service.	Recd—April 19–20, 1995. Est. Value—$306. **New Delhi—Agra—Udaipur—Bombay, India.	India Government	No direct flights from city to city, and other commercial flights could not accommodate either the number of individuals in the secretarial delegation or the official agendas schedule. Security considerations.
Harry Geiglein, Special Agent—Secret Service.	Recd—April 19–20, 1995. Est. Value—$306. **New Delhi—Agra—Udaipur—Bombay, India.	do	Do.
Max Yao, Special Agent—Secret Service.	Recd—April 19–20, 1995. Est. Value—$306. **New Delhi—Agra—Udaipur—Bombay, India.	do	Do.
Frank Young, Special Agent—Secret Service.	Recd—April 19–20, 1995. Est. Value—$306. **New Delhi—Agra—Udaipur—Bombay, India.	do	Do.
Rick Zaino, ATSAIC—Secret Service.	Recd—April 19–20, 1995. Est. Value—$306. **New Delhi—Agra—Udaipur—Bombay, India.	do	Do.

(India Government plane). ** No direct flights from Agra to Udaipur. Indirect flights would have delayed the trip 24 hours, which was impossible for the schedule.

AGENCY: CENTRAL INTELLIGENCE AGENCY

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Agency Employee	Molded and frosted parcel gilt crystal sculpture on fruitwood base. H: 5 inches. Rec'd—17 January 1995. Est. value: $250.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
John M. Deutch, Director, Central Intelligence.	Terra-cotta ewer. Purported to be from the Iron Age, 930–586, B.C. With globular body and strap handle with narrow rim. On separate wrought iron stand. H: 8 inches. Rec'd—20 October 1995. Est. Value: $400.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
John M. Deutch, Director, Central Intelligence.	Venetian acqua-blue and clear glass tall vase 'Navona'. Classical form with ovoid body and flared rim with clear frosted glass scroll handles and base. H: 16 inches. Rec'd—25 July 1995. Est. value: $500.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
John M. Deutch, Director, Central Intelligence.	93 7.62 caliber customized automatic assault rifle. Serial number 300144. Carved walnut stock with gilt metal and steel mounts. L: of barrel 31 inches, encased. Rec'd—27 October 1995. Est. value: $1,000.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: CENTRAL INTELLIGENCE AGENCY—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
John M. Deutch, Director, Central Intelligence.	Limoges coffee set, consisting of coffee pot, six handless cups and round tray. Each with gilt and black trim. H: of coffee pot 6½; D: of tray 12½ inches. Rec'd—24 October 1995. Est. value: $300.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
John M. Deutch, Director, Central Intelligence.	Kilim rug. 6 x 3.6. Central blue ground with five joined step medallions in red-to-ivory-to-green-blue and gold, within gold shaded blue and beige border enclosing stylized wine cups and trellising vines. Rec'd—24 July 1995. Est. value: $500.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassemtn to donor and U.S. Government.
John M. Deutch, Director, Central Intelligence.	Parcel gilt silver plated and malachite mounted incense burner. Having a square tapered body cast in relief with flowing branches, on gilt ground; centering a malachite roundel enclosing shaped gallery with removable pierced lid and raised on malachite standard and plinth on parcel gilt silver malachite base. H: 12 inces. Rec'd—22 October 1995. Est. value: $1,500.00. To be retained for official display..	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
John M. Deutch, Director, Central Intelligence.	Turquoise faïence mounted silver five-piece ensemble. Consisting of necklace mounted with five cicadas, bracelet mounted with five cicadas, ring and pair of pierced type earrings, each mounted with cicada. Rec'd.—17 October 1995. Est. value: $750.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
John M. Deutch, Director, Central Intelligence.	925 parcel gilt silver relief plaque. Signed by the artist indistinctly and stamped 925. Mounted on gray velvet mat and ebonized wood frame. H: 5–½; W: 7 inches. Rec'd.—19 October 1995. Est. value: $500.00 To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
John M. Deutch, Director, Central Intelligence.	Italian colored engraved map of Judea, Sumeria and Galilee. Drawn by Broen, Utrecht, Holland, 18th Century, with later coloring. In simulated burlwood matted frame. 22–½x19–½ inches. Rec'd.—19 October 1995. Est. value: $600.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
John M. Deutch, Director, Central Intelligence.	Silver small plate. Inscribed with initials in reverse and dated 18–10–95. Engraved with central geometric star within scrolling vine and foliage. D:7–⅛ inches. Wt. 7.5 oz. Rec'd.—18 October 1995. Est. value: $250.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: CENTRAL INTELLIGENCE AGENCY—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
John M. Deutch, Director, Central Intelligence.	Pair of repoussé silver covered bottles. Each with globular body with flared neck and removable lid repoussèd and chased with foliage and trellising vines. H: 8⅞ inches. Total weight 20 oz. Rec'd—17 October 1995. Est. value: $800.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
John M. Deutch, Director, Central Intelligence.	Parcel gilt mounted silver plated plaque. Round with central gilt plaque of architectural dwelling. D: 11½ inches. Rec'd—16 October 1995. Est. value: $350.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
John M. Deutch, Director, Central Intelligence.	Parcel gilt silver plated and molded frosted crystal plaque of eagle perched in archway. Mounted on ebonized base. Rec'd—24 October 1995. Est. value: $1,200. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
John M. Deutch, Director, Central Intelligence.	Repoussé silver hanging mirror. Oblong foliate shaped with repoussé floral reserve and attached chain. L: 12 inches. Rec'd—24 July 1995. Est. value: $400.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
John M. Deutch, Director, Central Intelligence.	Smith & Wesson .357-magnum revolver. Apparently no serial number. Chrome plated with engraved foliate decoration with walnut grips. Rec'd—16 October 1995. Est. value: $400.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
John M. Deutch, Director, Central Intelligence.	White enameled 990-standard silver model of ship. In dust proof case. H: of ship 6 inches. Rec'd—11 September 1995. Est. value: $1,000.00 To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Agency Employee	*Cottage in Landscape.* Signed artist on lower right. Oil on canvas. 9⅝x7⅛ inches. Rec'd—29 October 1995. Est. value: $300.00 To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Agency Employee	Repoussé silver footed shallow bowl. Apparently unmarked. Having a round foliate shape with central repoussé domed cavetto within flared conforming repoussé border and raised on three cast feet. D: 9½ inches. Wt. 10 oz. Rec'd—18 October 1995. Est. Value: $400.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: CENTRAL INTELLIGENCE AGENCY—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Agency Employee	Repoussé silver vessel. The globular form with repoussé and chased floral banding with strap handle continuing to narrow bulbous rim. H: 4½ inches. Wt. 8½ oz. Rec'd—18 October 1995. Est. value: $300.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Agency Employee	Canon Elan EOS 100 35mm camera. With ultrasonic zoom lens 28–80mm. (No longer made). Rec'd—24 March 1995. Est. value. $650.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Agency Employee	Inlaid celadon glazed vase, modern. Inlaid with alternating white and rose floral trellising vines on green crackle glazed ground. H: 12 inches. Rec'd—20 September 1995. Est. value: $350.00. to be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Agency Employee	Swiss 18 karat yellow gold filled gentleman's wristwatch by Raymond Weil, Geneva. The Othello design with mirrored black dial and set with four faceted simulated diamonds. Rec'd—18 May 1994. Est. value: $500.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Agency Employee	Canon Elan EOS 100 35mm camera with ultrasonic zoom lens 28–80mm. (No longer made). Rec's—24 March 1995. Est. value: $650.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Agency Employee	Unmarked repoussé silver round footed shallow dish with floral repoussé cavetto within floral and swirl flared rim and raised on three cast feet. D: 9⅛ inches. Wt. 9½ oz. Rec'd—18 October 1995. Est. value: $350.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Agency Employee	Repoussé silver vessel. The globular form with repoussé and chased floral banding with strap handle continuing to narrow bulbous rim. H: 4½ inches. Wt. 8½ oz. Rec'd—18 October 1995. Est. value: $300.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Agency Employee	Turquoise enameled 990-standard silver covered bowl. The bulbous body and domed lid chased with foliage against turquoise ground. D: 5¼ inches. Total weight 13 oz. Rec'd—15 May 1995. Est. value: $550.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: CENTRAL INTELLIGENCE AGENCY—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Agency Employee	Shaded cloisonné enamel 990-standard silver jewelry casket. The rectangular domed top with bat-form lock polychrome enamel with blossoming leaves in multicolor on light green guillouche ground and silver frame, opening to view dark green velvet interior with removable ring tray. L:7¼ inches. Rec'd—15 May 1995. Est. value: $1,000.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Agency Employee	Pair of turquoise-blue enameled 990-standard silver boxes. Each bulbous body with removable lid and blossom finial; one in turquoise-blue guillouche enamel ground; the other, in light lavender guillouche ground. Each with enameled fruit-form finial. D: 3¾ inches. Total weight 20 oz. Rec'd—15 May 1995. Est. value: $750.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Admiral W.O. Studeman, USN, Former Deputy Director, Central Intelligence.	Silver three-light candelabrum, 20th Century. With palmette and leafage cast standard supporting scroll arms cresting in foliate nozzles and drip pans and raised on round domed base. H: 7¼ inches. Wt. 10½ oz. Rec'd—18 April 1995. Est. value: $500.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Admiral W.O. Studeman, USN, Former Deputy Director, Central Intelligence.	Respoussé and filigree silver mounted horn kris (dagger). The chrome plated steel shaped blade with silver mounted horn handle and fitted with repoussé foliate silver and silver filigree sheath with silver cord. L: overall 12 inches. Rec'd—18 April 1995. Est. value: $600.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Agency Employee	Omega stainless steel calendar wristwatch. With gilt Roman numeral dial and black enamel bezel, numbered 15103000/54197946/1438. Rec'd—20 July 1995. Est. value: $800.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
George J. Tenet, Deputy Director, Central Intelligence.	Cloisonné enamel 990-standard silver bottle vase. The bulbous body with elongated tapered neck polychrome enameled with blossoming flowers on shaded blue guillouche ground. H: 7¾ inches. Gross weight approximately 10 oz. Rec'd—11 September 1995. Est. value: $500.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: CENTRAL INTELLIGENCE AGENCY—Continued

Report of Tangible Gifts—1995

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
George J. Tenet, Deputy Director, Central Intelligence.	Perpedil rug. 4.11 3.4. Blue ground with ram's hook and floral field and rosette ram's hook guard border on ivory ground. Rec'd—12 September 1995. Est. value: $750.00. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
R. James Woolsey, Former Director, Central Intelligence..	Unmarked silver five-light candelabrum. In the Rococo style with lobed leafage capped standard supporting screw-off standard with four leafage capped scroll arms cresting in foliate drip pans and nozzles centering fifth nozzle and raised on four scroll feet. H: 21½ inches. Wt. 90 oz. Rec'd—14 February 1995. Est. Value: $3,500. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.
John M. Deutch, Director, Central Intelligence.	Bluish-green iridescent glass pendant. Purported to be ancient glass, circa 1st/2nd Century, A.D. With custom made 14 karat yellow gold bezel. With 14 karat yellow gold chain. Glass size ¾x¾ inches. L: of chain 20 inches. Rec'd—19 October 1995. Est. value: $500. To be retained for official display.	5 USC 7342(f)(4)	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: CORPORATION FOR NATIONAL SERVICE

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Michael Woo, Director, Pacific Cluster.	Recd. Nov. 17, 1995. Est. Value—$1,494. Expended for airfare, ground travel hotels and meals.	The French-American Foundation, France.	To participate in Young Leaders Conference and confer with French national service officials.

AGENCY: BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Alan Greenspan, Chairman	Gold and pearl cuff links. Received: May 5, 1995. Est. Value: $500. Retained for display.	Mr. Kabun Muto, Chairman, General Council, Liberal Democratic Party and Member of the House of Representatives, Japan.	To have refused would have caused offense or embarrassment.
Alan Greenspan, Chairman	Orrefors crystal bowl. Received: April 12, 1995. Est. Value: $715. Retained for display.	Bank of Sweden	To have refused would have caused offense or embarrassment.

AGENCY: LIBRARY OF CONGRESS

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Joseph C. Hickerson, Head, Acquisitions American Folklife Center, Library of Congress.	Recd.—July 15, 16, 23 and 24, 1995. Est. Value—$600. Train transportation, hotels, meals and taxis.	Ministry of Foreign Affairs, Finland	Visit to folklore archives, institutes, and festivals.
William H. Robinson, Director, Congressional Research Service, Task Force on Inter Parliamentary Cooperation.	Recd.—Oct. 25, 26, 27 and 28, 1995. Est. Value—$344. Round trip bus transportation between Frankfurt Airport in Germany and Strasbourg, France plus hotel and living expenses.	European Parliament	Attending European Center for Parliamentary Research and Documentation in Strasbourg, France to cooperate with and exchange information with CRS counterparts for the European Parliament.

AGENCY: SECURITIES & EXCHANGE COMMISSION

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Arthur Levitt, Chairman	Silver Chariot. October, 1995. Est. Value—$250. Pending transfer to GSA.	Setyanto P. Santosa, President Director Telkom Indonesia.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Arthur Levitt, Chairman	Painted Portrait of Chairman Levitt. December, 1995. Est. Value—$250. Pending transfer to GSA.	Setyanto P. Santosa, President Director Telkom Indonesia.	Gift delivered following departure. Non-acceptance would have caused embarrassment to donor.

AGENCY: UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

Report of Tangible Gifts

Name and title of person accepting gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Anthony J. Cauterucci, Director, USAID Mission to Guatemala.	Guatemala City Bicentennial commemorative coin, 21 carat gold, 1¼" diameter. Recd—August 16, 1990. Est. Value—$341.47 at time of receipt. Retained by Agency for official use.	Lizardo Sosa, President, Bank of Guatemala.	Non-acceptance would have caused embarrassment to donor and U.S. Government.

AGENCY: U.S. ARMS CONTROL AND DISARMAMENT AGENCY (ACDA)

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Michael Nacht, Assistant Director to the Strategic and Eurasian Affairs Bureau.	Recd.—1/16/95. Est. Value—$3,190.72. Expended for airfare, hotel, meals.	Swiss Government	To participate in Swiss Conference on European Security.

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AGENCY: US Nuclear Regulatory Commission

Report of travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel expenses accepted as consistent with the interests of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Monideep Dey, Sr. Reactor Systems Engineer, Office of Nuclear Regulatory Research.	Recd.—November 26, 1995. Est. value—$2,178. Expended for airfare and hotel accommodations.	Korea Atomic Energy Research Institute, Republic of Korea.	To attend International Conference on Probability Safety Assessment and present paper on "A General Guideline for Optimizing Costs for Nuclear Power Safety"
Ellis Merschoff[1], Director of Reactor Projects, RII.	Recd.—December 30, 1995. Est. value—$3,500. Expended for airfare, hotel and meals.	International Atomic Energy Agency (IAEA).	Job interview
Hugh Thompson, Deputy Executive Director for Nuclear Material Safety, Safeguards, and Operations Staff, Office of the Executive Director for Operations.	Recd.—September 28, 1995. Est. value—$3,000. Expended for airfare, hotels, ground transportation, typing expenses, long distance phone calls and express mail costs.	IAEA	To participate in IAEA mission to Slovenia

[1] Per advice from the Department of State Legal Advisor's Office, the IAEA paid for Mr. Merschoff's airfare from Atlanta, GA to Vienna, Austria, and return because the stands of conduct regulations allow payment of a Federal employee's travel expenses for the purpose of a job interview and because the Emoluments Clause of the U.S. Constitution does not apply to gifts from international organizations.

AGENCY: UNITED STATES OFFICE OF GOVERNMENT ETHICS (OGE)

Report of Travel or Expenses of Travel

Name and title of person accepting travel or travel expenses consistent with the interests of the U.S. Government	Brief description and estimated value of travel or travel expenses accepted as consistent with the interest of the U.S. Government and occurring outside the United States	Identity of foreign donor and government	Circumstances justifying acceptance
Jack Covaleski, Associate Director, Program Assistance and Review.	Recd.—November 26–December 4, 1995. Est. Value $458. Expended for in-country transportation (local, train and airfare) and incidental expenses in Egypt.	Administrative Control Authority—Egypt.	Lecture and consultation on anti-corruption measures.
Stuart C. Gilman, Special Assistant to the Director.	Recd.—November 26–December 4, 1995. Est. Value $458. Expended for in-country transportation (local, train and airfare) and incidental expenses in Egypt.	Administrative Control Authority—Egypt.	Lecture and consultation on anti-corruption measures.
Mrs. Stuart C. Gilman (accompanying wife of Special Assistant).	Recd.—November 26–December 4, 1995. Est. Value $938. Expended for room and board in government facility, in-country transportation (local, train and airfare) and incidental expenses in Egypt.	Administrative Control Authority—Egypt.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Stephen D. Potts (accompanying wife of OGE Director).	Recd.—November 27–December 1, 1995. Est. Value $394. Expended for room and board in government facility, in-country transportation (local and train) and incidental expenses in Egypt.	Administrative Control Authority—Egypt.	Non-acceptance would have caused embarrassment to donor and U.S. Government.
Stuart D. Rick, Associate General Counsel.	Recd.—November 26–December 4, 1995. Est. Value $458. Expended for in-country transportation (local, train and airfare) and incidental expenses in Egypt.	Administrative Control Authority—Egypt.	Lecture and consultation on anti-corruption measures.

[FR Doc. 96–11746 Filed 5–14–96; 8:45 am]
BILLING CODE 4710–20–M

federal register

Wednesday
May 15, 1996

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 91, et al.

Special Flight Rules in the Vicinity of the Rocky Mountain National Park; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 121, 127, and 135

RIN 2120–AG11

[Docket No. 28577; Notice No. 96–4]

Special Flight Rules in the Vicinity of the Rocky Mountain National Park

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The FAA is proposing to establish a Special Federal Aviation Regulation (SFAR) to preserve the natural quiet of Rocky Mountain National Park (RMNP) from any potential adverse impact from aircraft-based sightseeing overflights. This NPRM discusses alternative methods to achieve this goal, and commenters are invited to address the alternatives. The primary alternative would impose restrictions on commercial sightseeing flights operated in the airspace over RMNP. Other alternatives include restrictions on some flights or types of operations over RMNP and various forms of operating procedures based on the particular and specific requirements of the park.

DATE: Comments must be received on or before August 13, 1996.

ADDRESS: Comments on this NPRM should be mailed, in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 28577, 800 Independence Avenue SW., Washington, DC 20591. Comments may also be sent electronically to the Rules Docket by using the following Internet address: nprmcmts@mail.hq.faa.gov. Comments must be marked Docket No. 28577. Comments may be examined in the Rules Docket in Room 915G on weekdays between 8:30 a.m. and 5:00 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Neil Saunders, Airspace and Rules Division, ATA–400, Airspace Management Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; Telephone: 202–267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that may result from adopting the proposals in this notice are also invited. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Communications should identify the regulatory docket number and be submitted in triplicate to the above specified address. All communications and a report summarizing any substantive public contact with FAA personnel on this rulemaking will be filed in the docket. The docket is available for public inspection both before and after the closing date for receiving comments.

Before taking any final action on this proposal, the Administrator will consider all comments made on or before the closing date for comments, and the proposal may be changed in light of the comments received. The FAA would particularly welcome comments from any operator that is planning or contemplating air tour operations over RMNP.

The FAA will acknowledge receipt of a comment if the commenter includes a self-addressed stamped postcard with the comment. The postcard should be marked "Comments to Docket No. 28577." When the comment is received by the FAA, the postcard will be dated, time stamped, and returned to the commenter.

Availability of the NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling 202–267–9677. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future FAA NPRM's should request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes application procedures.

Background

National parks are unique natural resources that have been provided special protection by law. The National Park Service (NPS) and the Federal Aviation Administration (FAA) recognize that excessive noise from aircraft overflights can interfere with NPS efforts to achieve a natural park experience for visitors on the ground and to preserve other park values.

Ensuring access to national parks, while still maintaining the beauty and experience of the individual park, is one of the goals of the national park system. To this end, the Departments of the Interior and Transportation formed an interagency working group (IWG) on December 22, 1993, to explore ways to limit or reduce the impacts from overflights on national parks, including RMNP, while still ensuring access to the parks. The IWG's tasks include reviewing the environmental and safety concerns resulting from park overflights and working toward resolution of specific park impacts where they are found to exist. The FAA's role in the IWG has been to promote aviation and aviation safety, and to provide for the safe and efficient use of airspace. At the same time, the FAA recognizes the importance of preserving, protecting, and enhancing the environment and minimizing adverse effects of aviation. The Department of Interior's role in the IWG has been to protect public land resources in national parks, preserve environmental values of those areas, including wilderness areas, and provide for public enjoyment of those areas.

The secretaries of the two Departments see the formation of the working group and the commitment to addressing the effects of park overflights as the initial stage in a spirit of cooperation between the two departments to promote an effective balance of missions. This cooperation is also necessary to integrate the roles of the two departments: the FAA's authority to control the nation's airspace to ensure aviation safety and efficiency, and the Department of the Interior's responsibility for managing the nation's parks, such as RMNP.

The FAA, with the cooperation of the Department of the Interior through the IWG, is developing national standards that can be applied to air traffic over all national parks, not just RMNP. The FAA expects that any SFAR adopted in this rulemaking may be superseded by any national standards. This Notice is not a part of the discussion on national standards; it presents options that will be considered as means to minimize the adverse effects of overflights on RMNP, and it seeks comments and suggestions on voluntary and regulatory actions to deal with the issue of aircraft noise within the Park.

Rocky Mountain National Park

Rocky Mountain National Park receives approximately three million visitors a year, making it the sixth most visited national park in the United States, despite its relatively small size (for a major Western national park) of 265,727 acres. RMNP is located approximately 40 miles outside the city limits of Denver and approximately 50 miles from the Denver International Airport. The topography of the park is characterized by steep mountains, narrow valleys, and high elevations (8,000 to 14,250 ft). Seventy percent of park terrain is above 10,000 feet.

As with other similar mountainous areas, RMNP presents pilots with a challenging flying environment. It has high winds, often in excess of 100 mph. The park's high altitudes diminish engine output and propeller efficiency, making it more difficult for an aircraft to perform in high winds. The rugged terrain limits maneuverability, and rapidly changing weather can envelop an aircraft. Perhaps in part for these reasons, the use of the airspace over RMNP has so far not been extensive. Unlike many other national parks, there are currently no air tour operators overflying the park or operating in the surrounding airspace. Other aviation users do operate in the airspace above RMNP. Non-commercial, general aviation aircraft overfly the park following the routes established for safe passage through the topography. In addition, due to the Park's proximity to the Denver International Airport, aircraft operating to or from the airport overfly RMNP. Arrival and departure routes above the Park are necessary to ensure the safe and efficient handling of air traffic into the airport. Traffic into the airport operates at approximately 19,000 feet above mean sea level (MSL) for jets and 16,000 feet above MSL for turboprop aircraft.

The Park enjoys an extensive road system within its boundaries, which provides numerous opportunities for viewing the park's vistas. Park officials estimate that 54 percent of the park can be seen from one or more of the 149 miles of roads.

Ninety-two percent of the park is proposed for conclusion in the National Wilderness Preservation System and is required by law to be managed as a de facto wilderness until action is taken by Congress. This means that, among other things, most motorized vehicles must be contained within specific narrow corridors on the existing roadway system, and no future development is permitted. The natural quiet provided by the wilderness environment is valued by park users. In a survey of RMNP users conducted for the NPS, 93 percent of the respondents listed tranquillity as an "extremely" or "very" important value found in the park. And approximately 90 percent stated that the noise from helicopter tours would affect their enjoyment of the park. A copy of the study has been placed in the rulemaking docket.

Recently, the Department of Transportation has been requested by the Governor of Colorado, members of the Colorado Congressional delegation, and other officials to place a preemptive ban on air tour operations at RMNP. Even though there are no air tour operations at the Park currently, some operators apparently have expressed an interest in starting such tours to officials of Estes Park, Colorado. The government officials who have requested regulatory action are concerned that an influx of air tour operations at RMNP would undermine enjoyment of the Park by visitors on the ground.

The FAA wishes to be responsive to concerns about the effects of overflights on the national park system. Although, as noted, the FAA is still developing nationwide standards for overflights of national parks, a relatively unusual set of circumstances has occurred at RMNP. Judging from the requests received by the FAA, there is apparently broad support for limitations on overflights among local leaders, even in the absence of current overflights. There is also value in being able to take the initiative now, before any overflights occur. At this point, there has been no environmental loss from overflights and no economic loss to any incumbent operator. Accordingly, the Department is exploring the options and alternatives available. The IWG has examined both traditional regulatory solutions and alternatives to regulation during its review of the national overflight issue.

Following a review of the comments submitted in response to this Notice, the FAA could proceed immediately to implement a final rule that best balances the competing needs of different users of the park. Therefore, comment is requested on each alternative listed in the Proposal Section, as the FAA could adopt none, one, or a combination of the listed alternatives. Comments are also invited to recommend an approach different from those discussed here. Any such recommendation should fully discuss the associated costs and benefits of the recommended approach.

Environmental Documentation

This notice proposes a number of alternatives for addressing potential aviation noise issues over Rocky Mountain National Park. The FAA will select viable alternatives based on comments received and other pertinent information, identify a proposed alternative for final rulemaking, and if rulemaking is selected, publish a draft environmental assessment for comment. The draft assessment will evaluate all selected alternatives, at minimum assessing the current condition, the preferred alternative, and the worst case scenario. Comments on the draft environmental assessment will be evaluated and a final assessment prepared prior to issuing a final rule.

Regulatory Evaluation

Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this proposed rule is "a significant regulatory action" as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. This rule would not have a significant impact on a substantial number of small entities and would not constitute a barrier to international trade. Due to the minimal economic impact of this proposed rulemaking, further economic analysis is not necessary under the Department's Regulatory Policies and Procedures.

Some of the proposed alternative rules would not impose any costs on society. However, Alternative One would prevent air tour operators form overflying the RMNP for sightseeing purposes for the limited duration of the SFAR. Currently, there are no sightseeing air tour operators overflying RMNP, and no operator has taken formal action to begin such operations. However, some operators may be considering starting these types of operations over the park in the future. Alternative One would prevent these possible sightseeing air tour overflights, for a period to be specified, in order to give the FAA and the NPS time to study the situation and to develop a plan for controlling these overflights to minimize or eliminate their effect on park visitors on the ground.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily burdened by government regulations. The RFA requires agencies to review rules that may have a "significant economic impact on a substantial number of small entities."

There are no operators currently performing sightseeing air tour operations over RMNP. Therefore, the expected impact of this regulatory

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action is negligible, and the Agency determines that this proposed amendment would not have a significant impact on a substantial number of small entities. However, we have asked elsewhere for comment on whether any person intends to institute commercial sightseeing operations at RMNP. Any such person is also invited to discuss the impact of the proposed rule.

International Trade Impact Analysis

This action is not expected to have an adverse impact either on the trade opportunities for U.S. firms doing business abroad or on foreign firms doing business in the United States. This assessment is based on the fact that the segment of the aviation industry that may be affected by this Notice and subsequent rule do not compete with similar operators abroad. That is, their competitive environment would be limited to RMNP.

Federalism Implications

This action would not have substantial effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Indeed, State and local government representatives has been among the advocates for FAA regulatory action to protect RMNP from the noise created by overflights. Therefore, in accordance with Executive Order 12612, it is determined that this action will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with United States obligations under the convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization Standards and Recommended Practices (SARP) to the maximum extent practicable. For this action, the FAA has reviewed the SARP of Annex 10. The FAA has determined that the proposals in this Notice, if promulgated, will not present any differences.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13), there are no requirements for information collection associated with the proposed regulation.

Conclusion

For the reasons set forth above, the FAA has determined that this NPRM is a significant regulatory action under Executive Order 12866. The FAA certifies that this NPRM will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This NPRM is considered significant under DOT Regulatory Policies and Procedures.

The Proposal

As previously stated, the FAA wishes to be responsive to concerns about the effects of overflights on the national park system. For that reason, the FAA is considering the following alternatives in response to RMNP and the overflights issue. The FAA may proceed immediately to a final rule based on this proposal that would implement the best alternative or alternatives. Therefore, comment is required on each of these proposals. The FAA may adopt one or a combination of several of the listed proposals.

The following alternatives are listed in descending order of restrictiveness. Each alternative lists the specific implementing, regulatory language followed by an explanation of the alternative and possible variations on the alternative.

Alternative One: Ban on commercial Aviation Sightseeing Tours

"No person may operate an aircraft within the lateral boundaries of RMNP if the purpose of that operation is to carry passengers for hire for the purpose of sightseeing or air tours."

This alternative would prohibit flights within RMNP by commercial air tour operators. In the opinion of RMNP officials, air torus are the kind of operations that pose the greatest potential danger of creating adverse effects on the Park. The FAA's preliminary view is that air tour operations generally differ from other operations; e.g., in frequency and altitude above ground level. In addition, of course, air tour operations tend to visit points of interest within the park, where ground-based visitors are also likely to concentrate. General aviation would continue to operate over the Park under this variation. In discussions with the FAA, NPS officials have indicated that other forms of aviation activities within RMNP have not, to date, caused any serious noise problem. The FAA specifically seeks comment on whether the nature of air tour operations justify banning them while continuing to permit other commercial and private operations.

Alternative Two: Limits on Operations

"Any person operating an aircraft below 2,000 ft AGL for the purpose of carrying passengers for hire for sightseeing or air tours within the lateral boundaries of RMNP must operate along the following prescribed routes: [designate routes that follow the existing Park road system]"

This alternative would require aircraft that fly below 2,000 feet above ground level (AGL) within the Park to follow the road system. The purpose of this proposal would be to concentrate the noise of aircraft in the areas of the Park that are already exposed to a high concentration of noise from automobiles, buses, etc. On the other hand, the greatest percentage of ground-based visitors are also on or near the Park road system.

Variant A: "No person may operate an aircraft below 2,000 feet AGL for the purpose of carrying passengers for hire for sightseeing or air tours while within the lateral boundaries of RMNP."

Variant B: "No person may operate an aircraft below 2,000 feet AGL for the purpose of carrying passengers for hire for sightseeing or air tours within the lateral boundaries of RMNP before 10:00 a.m. or after 4:00 p.m."

Variant C: "No person may operate an aircraft below 2,000 ft AGL for the purpose of carrying passengers for hire for sightseeing or air tours within the lateral boundaries of RMNP from June through September."

These three variations on Alternative Two are examples of the types of restrictions that could be utilized to minimize the effect of overflights on the Park. Comments would be appreciated on these as well as other types of restrictions that could be possible, including different operating altitudes and times of day and season. Commenters are requested to pay particular attention to the following questions:

- Would limiting air operations to road corridors concentrate too much noise in high visitor use areas? Conversely, would limiting overflights to such areas further the goal of maximizing the areas within the Park where visitors can enjoy the Park's natural quiet?
- Would limiting operations by time of day or season of the year be economically feasible for potential tour operators?

Alternative Three: Voluntary Agreement

Voluntary agreements are non-regulatory but, due to their unique nature, are treated as binding by the signatories and are strictly self-policed, with monitoring by the NPS. Voluntary agreements have proven successful in a number of cases. For instance, a voluntary agreement between the NPS and the operators of air tours around the Statute of Liberty established air tour routes around the Statute and Ellis Island and stand-off distances for the air tour aircraft. This in turn created a safer environment and a more enjoyable experience for the visitors to the Statute. A similar arrangement can be found in the voluntary agreement concerning the Arch National Park in St. Louis, Missouri. Of course, voluntary agreements are easier to achieve when there is an identifiable base of air tour operators with which the NPS can enter into agreement.

This alternative would provide a non-regulatory approach to the situation at RMNP. Under this alternative, present and potential future commercial air tour operators (before they start operating) would voluntarily enter into an agreement that would prohibit or restrict operations within the boundaries of RMNP. Comments are requested on the following matters, among others:

- Areas that would be covered by a voluntary agreement, including the nature of the possible restrictions and the identities of the participants;
- How such an agreement would be enforced;
- How an agreement could be implemented within the necessary time frame for action to protect the Park;
- Suggestions with respect to penalties for violations;
- The circumstances under which an agreement could be terminated; and
- Whether a regulatory system should be imposed now to serve as a contingency back-up in the event that a voluntary agreement is not reached or is terminated. Perhaps most of all, the FAA is interested in comments from potential air tour operators on the circumstances under which they would be willing to enter into a voluntary agreement to prohibit or limit operations.

Of course, as with all the listed alternatives, the FAA could combine a voluntary agreement with any of the other alternatives. For example, the FAA could choose to seek a voluntary ban on operations during the summer, combined with route or time-of-day restrictions during other months. Other combinations could be considered, and the above examples are intended merely as illustrations.

Issued in Washington on May 9, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–12133 Filed 5–10–96; 3:08 pm]

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Part IV

Department of Housing and Urban Development

Office of General Counsel; Reports Lobbying Information Filed for 1995 Under Section 112 of the HUD Reform Act of 1989; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4008–N–02]

Office of General Counsel; Reports Lobbying Information Filed for 1995 Under Section 112 of the HUD Reform Act of 1989

AGENCY: Office of General Counsel, HUD.

ACTION: Notice.

SUMMARY: The Department of Housing and Urban Development is publishing a compilation of reports of lobbying information and registrations submitted to the Department for calendar year 1995, under Section 112 of the Department of Housing and Urban Development Reform Act of 1989, Public Law 101–235.

FOR FURTHER INFORMATION CONTACT: Aaron Santa Anna, Assistant General Counsel, Ethics Law Division, Department of Housing and Urban Development, 451 7th Street, SW., Room 2158, Washington, DC 20410. Telephone (202) 708–3815 (this is not toll-free number); a telecommunications device for hearing- and speech-impaired individuals (TTY) is available at 1–800–877–8339 (Federal Information Relay Service). Questions regarding this report should be submitted in writing to the above address.

SUPPLEMENTARY INFORMATION: Section 112 of the Department of Housing and Urban Development Reform Act of 1989, Public Law 101–235, approved December 15, 1989, added section 13 to the Department of Housing and Urban Development Act, (42 U.S.C. 3531 *et seq.*). Section 112 required the Department to, among other things, compile and publish expenditure and registration information filed with the Department during each calendar year. Section 112 was repealed, however, by Sections 11(b)(1) and 24(a) of the Lobbying Disclosure Act of 1995 (Pub. L. 104–65, approved December 19, 1995). Nevertheless, the Department has determined, consistent with the intent of the Department of Housing and Urban Development Reform Act and the Lobbying Disclosure Act, that public disclosure of the identity of paid lobbyists will increase public confidence in the integrity of the Government. As a result, the Department is making this information available to the public.

The information contained in Appendices A through D of this notice reflects registrations and reports submitted to the Department for calendar year 1995. This notice does not involve analysis or make inferences from the information provided.

Appendix A generally reflects the annual report of persons making expenditures for lobbying activities, this report, however, is negative.

Appendix B generally reflects the annual report of persons receiving payment for lobbying activities, this report, however, is negative.

Appendix C is a list of individuals who registered as lobbyists under Section 112.

Appendix D is a list of entities who registered as lobbyists under Section 112.

Dated: May 1, 1996.

Nelson A. Diaz,

General Counsel.

BILLING CODE 4210–01–M

Appendix A
Lobbyist & Consultatin Activity
Annual Report of "Persons" Making Expenditures for Lobbying Activities
Form HUD-2883 for Calendar Year 1995

Registrant Name & Address	To Whom Paid	Agreement Date Expenditure Date	Amount Amount
None	None	None	None

Appendix B
Lobbyist & Consultant Activity
Annual Report of "Persons" Receiving Payment for Lobbying Activities
Form HUD-2883-B For Calendar Year 1995

Registrant Name and Business Address	Report of Money or Other Thing of Value Received for Lobbying	Report of Money or Other Thing of Value Expended for Lobbying
	Amount	Person Making Payment / Amount
None		None

Appendix C
Lobbyist & Consultant Activity
Registration (Individual)
Form HUD-2881-A for Calendar Year 1995

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Registrant's Name and Business Address	Self-Employed	Registrant's Employer and Business Address	Person Registrant has been Retained by	Exempt From Annual Report
Carl S. Richie Mayor, Day, Caldwell & Keeton, L.L.P. 100 Congress Avenue, Suite 1500 Austin, TX 787-01-4042 Was Gov't Empl.: No	No	Mayor, Day, Caldwell & Keeton, L.L.P. 100 Congress Avenue, Suite 1500 Austin, TX 787-01-4042 Federal Action No.: HOSC940504000000	Charles Coyle Coyle's Pest Control, Inc. 5118 W. Orem Drive Houston, TX 77045	No
Philip C. Wallis 2745 S. Greeley Street Milwaukee, Wisconsin 53207	Yes	N/A Federal Action No.: HUD No. 075-44026-LDI	Milton B. Katz 600 East Mason Street, Suite 401 Milwaukee, WI 53202	No

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Appendix D
Lobbyist & Consultation Activity
Registration (Entity)
Form HUD-2881-B for Calendar Year 1995

Page 1

ID	Registrant's Name and Business Address	Person Who Has Retained Registrant for Lobbying	Registrant's Representative's Name	Was Govt Empl.	In What Capacity
1.	BALLARD SPAHR ANDREWS & INGERSOLL 555 13th Street, NW Suite 900 East Washington, DC 20004 Federal Action No.: PA-18-11	Borough of Tamaqua Attn: Hon. Jerome P. Knowles, Mayor of Tamaqua Municipal Building 320 East Broad Street Tamaqua, PA 18252	Casey, Paul K. George, Mary Jo Gibson, C. Vaughn Prior, H. David Weaver, S. Elizabeth Winn, Allen R. Wrone, Kelly M.	No No No No No No No	
2.	BALLARD SPAHR ANDREWS & INGERSOLL 555 13th Street, NW Suite 900 East Washington, DC 20004 Federal Action No.: 105-35080	Utah Housing Finance Agency Attn: William H. Erickson, Executive Director Grant S. Whitaker, Deputy Director 177 East 100 South Salt Lake City, Utah 84111	Prior, H. David Casey, Paul K. Olsen, Frederick H. Winn, Allen R.	No No No No	
3.	BALLARD SPAHR ANDREWS & INGERSOLL 555 13th Street, NW Suite 900 East Washington, DC 20004 Federal Action No.: 105-35077	Utah Housing Finance Agency Attn: William H. Erickson, Executive Director Grant S. Whitaker, Deputy Director 177 East 100 South Salt Lake City, Utah 84111	Prior, H. David Casey, Paul K. Olsen, Frederick H. Winn, Allen R.	No No No No	
4.	BALLARD SPAHR ANDREWS & INGERSOLL 555 13th Street, NW Suite 900 East Washington, DC 20004 Federal Action No.: 105-35078	Utah Housing Finance Agency Attn: William H. Erickson, Executive Director Grant S. Whitaker, Deputy Director 177 East 100 South Salt Lake City, Utah 84111	Prior, H. David Casey, Paul K. Olsen, Frederick H. Winn, Allen R.	No No No No	
5.	BALLARD SPAHR ANDREWS & INGERSOLL 555 13th Street, NW Suite 900 East Washington, DC 20004 Federal Action No.: 105-35070	Utah Housing Finance Agency Attn: William H. Erickson, Executive Director Grant S. Whitaker, Deputy Director 177 East 100 South Salt Lake City, Utah 84111	Prior, H. David Casey, Paul K. Olsen, Frederick H. Winn, Allen R.	No No No No	
6.	BALLARD SPAHR ANDREWS & INGERSOLL 555 13th Street, NW Suite 900 East Washington, DC 20004 Federal Action No.: 105-35059	Utah Housing Finance Agency Attn: William H. Erickson, Executive Director Grant S. Whitaker, Deputy Director 177 East 100 South Salt Lake City, Utah 84111	Prior, H. David Casey, Paul K. Olsen, Frederick H. Winn, Allen R.	No No No No	
7.	BALLARD SPAHR ANDREWS & INGERSOLL 555 13th Street, NW Suite 900 East Washington, DC 20004 Federal Action No.: 105-35056	Utah Housing Finance Agency Attn: William H. Erickson, Executive Director Grant S. Whitaker, Deputy Director 177 East 100 South Salt Lake City, Utah 84111	Prior, H. David Casey, Paul K. Olsen, Frederick H. Winn, Allen R.	No No No No	

Appendix D
Lobbyist & Consultation Activity
Registration (Entity)
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ID	Registrant's Name and Business Address	Person Who Has Retained Registrant for Lobbying	Registrant's Representative's Name	Was Govt Empl.	In What Capacity
8.	BALLARD SPAHR ANDREWS & INGERSOLL 555 13th Street, NW Suite 900 East Washington, DC 20004 Federal Action No.: Legal Services	The Patrician Mortgage Company 4800 Montgomery Lane, Suite 200 Bethesda, MD 20814-5341	Winn, Allen R. George, Mary Jo Gibson, C. Vaughn Prior, H. David Weaver, S. Elizabeth Wrone, Kelly M.	No No No No No No	
9.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #087-35124	Norris Gardens Apartments, Ltd. Attn: John H. Hughes 240 W. Central Avenue Lafollette, TN 37766	Roberts, William E. Goodman, David L. Adams, John W. Bancroft, James S. Baisley, Mark C. Blohm, Elizabeth B. Butler, Samuel J. Cinquini, Anthony D. Croft, James F. Ewing, Jr., Charles W. Glasser, Timothy G. Kollmorten, R. Barth King, James A. Lim, Y. Priscilla Mackay, Linda L. Martin, David C. McMullen, Carolyn A. Peters, Tracy W. Stockton, Christine A. Young, Sandra E.	No No No No No No No No No No No No No No No Yes No No No	Federal Reserve Bank of Chicago 23/90 to 3/93
10.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #087-35124	Amsterdam Senior Housing Associates c/o Daniel Regan Associates, Inc., as GP 28 Woodland Road New City, New York 10956	Roberts, William E. Goodman, David L. Adams, John W. Bancroft, James S. Baisley, Mark C. Blohm, Elizabeth B.	No No No No No No	

Appendix D
Lobbyist & Consultation Activity
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Form HUD-2881-B for Calendar Year 1995

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ID	Registrant's Name and Business Address	Person Who Has Retained Registrant for Lobbying	Registrant's Representative's Name	Was Govt Empl.	In What Capacity
10.	(continued) BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA#103-32005-LDA-L8	Amsterdam Senior Housing Associates c/o Daniel Regan Associates, Inc., as GP 20 Woodland Road New City, New York 10956	Boldon, Lisa J.	Yes	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93
			Butler, Samuel J.	No	
			Cinquini, Anthony D.	No	
			Croft, James F.	No	
			Ewing, Jr., Charles W.	No	
			Glasser, Timothy G.	No	
			Kallmerten, R. Barth	No	
			King, James A.	No	
			Leibold, Bradley L.	No	
			Lim, Y. Priscilla	No	
			Mackey, Linda L.	No	
			Martin, David C.	No	
			McMullen, Carolyn A.	Yes	Federal Reserve Bank of Chicago 12/90 to 3/93
			Peters, Tracy W.	No	
			Stockton, Christine A.	No	
			Young, Sandra E.	No	
11.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #043-35286-PM-L8	Athens Gardens, Ltd. c/o RLJ Management Company Bob Jarles 281 West Johnstown Road Gahanna, OH 43230	Roberts, William E.	No	
			Goodman, David L.	No	
			Adams, John W.	No	
			Bancroft, James S.	No	
			Beisler, Mark C.	No	
			Blohm, Elizabeth B.	No	
			Boldon, Lisa J.	Yes	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93
			Butler, Samuel J.	No	
			Cinquini, Anthony D.	No	
			Croft, James F.	No	
			Ewing, Jr., Charles W.	No	
			Glasser, Timothy G.	No	
			Kallmerten, R. Barth	No	
			King, James A.	No	
			Leibold, Bradley L.	No	
			Lim, Y. Priscilla	No	
			Mackey, Linda L.	No	
			Martin, David C.	No	
			McMullen, Carolyn A.	Yes	Federal Reserve Bank of Chicago 12/90 to 3/93
			Peters, Tracy W.	No	
			Stockton, Christine A.	No	
			Young, Sandra E.	No	

Appendix D
Lobbyist & Consultation Activity
Registration (Entity)
Form HUD-2881-B for Calendar Year 1995

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ID	Registrant's Name and Business Address	Person Who Has Retained Registrant for Lobbying	Registrant's Representative's Name	Was Govt Empl.	In What Capacity
12.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #042-35328 PM-L8	Bucyrus Estates, Ltd. Robert R. Ames, Jr., G.P. c/o Talamon Company P. O. Box 418 Sandusky, OH 44870	Roberts, William E.	No	
			Goodman, David L.	No	
			Adams, John W.	No	
			Bancroft, James S.	No	
			Beisler, Mark C.	No	
			Blohm, Elizabeth B.	No	
			Boldon, Lisa J.	Yes	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93
			Butler, Samuel J.	No	
			Cinquini, Anthony D.	No	
			Croft, James F.	No	
			Ewing, Jr., Charles W.	No	
			Glasser, Timothy G.	No	
			Kallmerten, R. Barth	No	
			King, James A.	No	
			Leibold, Bradley L.	No	
			Lim, Y. Priscilla	No	
			Mackey, Linda L.	No	
			Martin, David C.	No	
			McMullen, Carolyn A.	Yes	Federal Reserve Bank of Chicago 12/90 to 3/93
			Peters, Tracy W.	No	
			Stockton, Christine A.	No	
			Young, Sandra E.	No	
13.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #143-36810	Mr. George Chemi Investment Concepts, Inc. 777 S. Main Street Orange, CA 92868	Roberts, William E.	No	
			Goodman, David L.	No	
			Adams, John W.	No	
			Bancroft, James S.	No	
			Beisler, Mark C.	No	
			Blohm, Elizabeth B.	No	
			Boldon, Lisa J.	Yes	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93
			Butler, Samuel J.	No	
			Cinquini, Anthony D.	No	
			Croft, James F.	No	
			Ewing, Jr., Charles W.	No	
			Glasser, Timothy G.	No	
			Kallmerten, R. Barth	No	
			King, James A.	No	
			Leibold, Bradley L.	No	
			Lim, Y. Priscilla	No	

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13.	(continued) BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #143-38810	Mr. George Chami Investment Concepts, Inc. 777 S. Main Street Orange, CA 92868	Mackey, Linda L. Martin, David C. McMullen, Carolyn A. Peters, Tracy W. Stockton, Christine A. Young, Sandra E.	No No Yes No No No	Federal Reserve Bank of Chicago 12/90 to 3/93
14.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #046-35559-PM-SR-L8	Crescent Square Ltd. c/o Louis Bernard Le Cour Attorney at Law Suite B 30, 400 East Town St. Columbus, OH	Roberts, William E. Goodman, David L. Adams, John W. Bancroft, James S. Beisler, Mark C. Bluhm, Elizabeth B. Bolden, Lisa J. Butler, Samuel J. Cinquini, Anthony D. Croft, James F. Ewing, Jr., Charles W. Glasser, Timothy G. Kellmorten, R. Barth King, James A. Leibold, Bradley L. Lim, Y. Priscilla Mackey, Linda L. Martin, David C. McMullen, Carolyn A. Peters, Tracy W. Stockton, Christine A. Young, Sandra E.	No No No No No No Yes No No No No No No No No No No Yes No No No	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93 Federal Reserve Bank of Chicago 12/90 to 3/93
15.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: #081-35411-PM-SR	Crosland Group Charles Teal, Chief Financial Officer 135 Scaleybark Road Charlotte, NC 28209	Roberts, William E. Goodman, David L. Adams, John W. Bancroft, James S. Beisler, Mark C. Bluhm, Elizabeth B. Bolden, Lisa J. Butler, Samuel J. Cinquini, Anthony D. Croft, James F.	No No No No No No Yes No No No	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93

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ID	Registrant's Name and Business Address	Person Who Has Retained Registrant for Lobbying	Registrant's Representative's Name	Was Govt Empl.	In What Capacity
15.	(continued) BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: #081-35411-PM-SR	Crosland Group Charles Teal, Chief Financial Officer 135 Scaleybark Road Charlotte, NC 28209	Ewing, Jr., Charles W. Glasser, Timothy G. Kellmorten, R. Barth King, James A. Leibold, Bradley L. Lim, Y. Priscilla Mackey, Linda L. Martin, David C. McMullen, Carolyn A. Peters, Tracy W. Stockton, Christine A. Young, Sandra E.	No No No No No No No No Yes No No No	Federal Reserve Bank of Chicago 12/90 to 3/93
16.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #122-35560-PM	Mr. Don Foley Alpha Property Management 1755 East Martin Luther King Jr. Blvd. Los Angeles, CA 90058	Roberts, William E. Goodman, David L. Adams, John W. Bancroft, James S. Beisler, Mark C. Bluhm, Elizabeth B. Bolden, Lisa J. Butler, Samuel J. Cinquini, Anthony D. Croft, James F. Ewing, Jr., Charles W. Glasser, Timothy G. Kellmorten, R. Barth King, James A. Lim, Y. Priscilla Mackey, Linda L. Martin, David C. McMullen, Carolyn A. Peters, Tracy W. Stockton, Christine A. Young, Sandra E.	No No No No No No Yes No No No No No No No No No No Yes No No No	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93 Federal Reserve Bank of Chicago 12/90 to 3/93
17.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: #114-35313-PM-L8	Ms. Barbara Hayes Park Commercial Investments, Inc. 3501 Turtle Creek Drive Port Arthur, TX 77642	Roberts, William E. Goodman, David L. Adams, John W. Bancroft, James S. Beisler, Mark C. Bluhm, Elizabeth B. Bolden, Lisa J.	No No No No No No Yes	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93

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17.	(continued) BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: #114-35313-PM-LB	Ms. Barbara Hayes Park Commercial Investments, Inc. 3501 Turtle Creek Drive Port Arthur, TX 77642	Butler, Samuel J.	No	
			Cinquini, Anthony D.	No	
			Croft, James F.	No	
			Ewing, Jr., Charles W.	No	
			Glasser, Timothy G.	No	
			Kellmerten, R. Barth	No	
			King, James A.	No	
			Leibold, Bradley L.	No	
			Lim, Y. Priscilla	No	
			Mackey, Linda L.	No	
			Martin, David C.	No	
			McMullen, Carolyn A.	Yes	Federal Reserve Bank of Chicago 12/90 to 3/93
			Peters, Tracy W.	No	
			Stockton, Christine A.	No	
			Young, Sandra E.	No	
18.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: 114-35360-PM	Ms. Barbara Hayes Park Central Management 3501 Turtle Creek Drive Port Arthur, TX 77642	Roberts, William E.	No	
			Goodman, David L.	No	
			Adams, John W.	No	
			Bancroft, James S.	No	
			Beisler, Mark C.	No	
			Bluhm, Elizabeth B.	No	
			Belden, Lisa J.	Yes	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93
			Butler, Samuel J.	No	
			Cinquini, Anthony D.	No	
			Croft, James F.	No	
			Ewing, Jr., Charles W.	No	
			Glasser, Timothy G.	No	
			Kellmerten, R. Barth	No	
			King, James A.	No	
			Lim, Y. Priscilla	No	
			Mackey, Linda L.	No	
			Martin, David C.	No	
			McMullen, Carolyn A.	Yes	Federal Reserve Bank of Chicago 12/90 to 3/93
			Peters, Tracy W.	No	
			Stockton, Christine A.	No	
			Young, Sandra E.	No	
19.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: #114-35361-PM	Ms. Barbara Hayes Park Central Management 3501 Turtle Creek Drive Port Arthur, TX 77642	Roberts, William E.	No	
			Goodman, David L.	No	
			Adams, John W.	No	
			Bancroft, James S.	No	
			Beisler, Mark C.	No	
			Bluhm, Elizabeth B.	No	

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19.	(continued) BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: #114-35361-PM	Ms. Barbara Hayes Park Central Management 3501 Turtle Creek Drive Port Arthur, TX 77642	Belden, Lisa J.	Yes	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93
			Butler, Samuel J.	No	
			Cinquini, Anthony D.	No	
			Croft, James F.	No	
			Ewing, Jr., Charles W.	No	
			Glasser, Timothy G.	No	
			Kellmerten, R. Barth	No	
			King, James A.	No	
			Lim, Y. Priscilla	No	
			Mackey, Linda L.	No	
			Martin, David C.	No	
			McMullen, Carolyn A.	Yes	Federal Reserve Bank of Chicago 12/90 to 3/93
			Peters, Tracy W.	No	
			Stockton, Christine A.	No	
			Young, Sandra E.	No	
20.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: #054-35514-PM-WAH-LB	Heritage Court Associates George F. Marshall One Management Inc. 10 East Rowan Street, Suite 402 Raleigh, NC 27609	Roberts, William E.	No	
			Goodman, David L.	No	
			Adams, John W.	No	
			Bancroft, James S.	No	
			Beisler, Mark C.	No	
			Bluhm, Elizabeth B.	No	
			Belden, Lisa J.	Yes	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93
			Butler, Samuel J.	No	
			Cinquini, Anthony D.	No	
			Croft, James F.	No	
			Ewing, Jr., Charles W.	No	
			Glasser, Timothy G.	No	
			Kellmerten, R. Barth	No	
			King, James A.	No	
			Leibold, Bradley L.	No	
			Lim, Y. Priscilla	No	
			Mackey, Linda L.	No	
			Martin, David C.	No	
			McMullen, Carolyn A.	Yes	Federal Reserve Bank of Chicago 12/90 to 3/93
			Peters, Tracy W.	No	
			Stockton, Christine A.	No	
			Young, Sandra E.	No	

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21.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #000-38808-PM	Holladay Corporation Attn: Donald M. Wolf, VP 35 Idaho Avenue, NW, Suite 500 Washington, DC 20016	Roberts, William E.	No	
			Goodman, David L.	No	
			Adams, John W.	No	
			Bancroft, James S.	No	
			Boisler, Mark C.	No	
			Bluhm, Elizabeth B.	No	
			Bolden, Lisa J.	Yes	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93
			Butler, Samuel J.	No	
			Cinquini, Anthony D.	No	
			Croft, James F.	No	
			Ewing, Jr., Charles W.	No	
			Glasser, Timothy G.	No	
			Kallmerten, R. Barth	No	
			King, James A.	No	
			Lim, Y. Priscilla	No	
			Mackov, Linda L.	No	
			Martin, David C.	No	
			McMullen, Carolyn A.	Yes	Federal Reserve Bank of Chicago 12/90 to 3/93
			Peters, Tracy W.	No	
			Stockton, Christine A.	No	
			Young, Sandra E.	No	
22.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #114-35252-PM-L8	Mr. Edward Jagneandan Housing Authority of the City of Port Arthur, TX 920 Bequeen Street Port Arthur, TX 77643	Roberts, William E.	No	
			Goodman, David L.	No	
			Adams, John W.	No	
			Bancroft, James S.	No	
			Boisler, Mark C.	No	
			Bluhm, Elizabeth B.	No	
			Bolden, Lisa J.	Yes	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93
			Butler, Samuel J.	No	
			Cinquini, Anthony D.	No	
			Croft, James F.	No	
			Ewing, Jr., Charles W.	No	
			Glasser, Timothy G.	No	
			Kallmerten, R. Barth	No	
			King, James A.	No	
			Lim, Y. Priscilla	No	
			Mackov, Linda L.	No	
			Martin, David C.	No	
			McMullen, Carolyn A.	Yes	Federal Reserve Bank of Chicago 12/90 to 3/93

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22.	(continued) BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #114-35252-PM-L8	Mr. Edward Jagneandan Housing Authority of the City of Port Arthur, TX 920 Bequeen Street Port Arthur, TX 77643	Peters, Tracy W.	No	
			Stockton, Christine A.	No	
			Young, Sandra E.	No	
23.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #014-35080-PM-L8	Lakeside Village Associates Reynolds Metals Development Corp. John Noonan 6603 West Broad Street Richmond, VA 23261	Roberts, William E.	No	
			Goodman, David L.	No	
			Adams, John W.	No	
			Bancroft, James S.	No	
			Boisler, Mark C.	No	
			Bluhm, Elizabeth B.	No	
			Bolden, Lisa J.	Yes	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93
			Butler, Samuel J.	No	
			Cinquini, Anthony D.	No	
			Croft, James F.	No	
			Ewing, Jr., Charles W.	No	
			Glasser, Timothy G.	No	
			Kallmerten, R. Barth	No	
			King, James A.	No	
			Leibold, Bradley L.	No	
			Lim, Y. Priscilla	No	
			Mackov, Linda L.	No	
			Martin, David C.	No	
			McMullen, Carolyn A.	Yes	Federal Reserve Bank of Chicago 12/90 to 3/93
			Peters, Tracy W.	No	
			Stockton, Christine A.	No	
			Young, Sandra E.	No	
24.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #092-43039	Lutheran Memorial Home Attn: Dwight Fuglie, Executive Director Highway 32 N. Twin Valley, MN 56584	Roberts, William E.	No	
			Goodman, David L.	No	
			Adams, John W.	No	
			Bancroft, James S.	No	
			Boisler, Mark C.	No	
			Bluhm, Elizabeth B.	No	
			Butler, Samuel J.	No	
			Cinquini, Anthony D.	No	
			Croft, James F.	No	
			Ewing, Jr., Charles W.	No	
			Glasser, Timothy G.	No	
			Kallmerten, R. Barth	No	
			King, James A.	No	
			Lim, Y. Priscilla	No	

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ID	Registrant's Name and Business Address	Person Who Has Retained Registrant for Lobbying	Registrant's Representative's Name	Was Govt Empl.	In What Capacity
24.	(continued) BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #092-43036	Lutheran Memorial Home Attn: Dwight Fuglie, Executive Director Highway 32 N. Twin Valley, MN 56584	Mackey, Linda L. Martin, David C. McMullen, Carolyn A. Peters, Tracy W. Stockton, Christine A. Young, Sandra E.	No No Yes No No No	 Federal Reserve Bank of Chicago 2/96 to 3/96
25.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: #042-36801	Martin O. Levein Detroit Terrace, Ltd. 1501 Ohio Savings Plaza Cleveland, Ohio 44114	Roberts, William E. Goodman, David L. Adams, John W. Bancroft, James S. Beisler, Mark C. Bluhm, Elizabeth B. Belden, Lisa J. Butler, Samuel J. Cinquini, Anthony D. Croft, James F. Ewing, Jr., Charles W. Glasser, Timothy G. Kallmerten, R. Barth King, James A. Leibold, Bradley L. Lim, Y. Priscilla Mackey, Linda L. Martin, David C. McMullen, Carolyn A. Peters, Tracy W. Stockton, Christine A. Young, Sandra E.	No No No No No No Yes No No No No No No No No No No Yes No No	 Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93 Federal Reserve Bank of Chicago 12/90 to 3/93
26.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #043-35181-PM-L8	Lincoln Park Ltd. c/o RLJ Management Company Bob Jarles 261 West Johnstown Road Grahsana, OH 43230	Roberts, William E. Goodman, David L. Adams, John W. Bancroft, James S. Beisler, Mark C. Bluhm, Elizabeth B. Belden, Lisa J. Butler, Samuel J. Cinquini, Anthony D. Croft, James F. Ewing, Jr., Charles W. Glasser, Timothy G.	No No No No No No Yes No No No No No	

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26.	(continued) BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #043-35181-PM-L8	Lincoln Park Ltd. c/o RLJ Management Company Bob Jarles 261 West Johnstown Road Grahsana, OH 43230	Kallmerten, R. Barth King, James A. Leibold, Bradley L. Lim, Y. Priscilla Mackey, Linda L. Martin, David C. McMullen, Carolyn A. Peters, Tracy W. Stockton, Christine A. Young, Sandra E.	No No No No No No Yes No No No	 Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93 Federal Reserve Bank of Chicago 12/90 to 3/93
27.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: #083-35304-L8-PM-WAH	Ms. Martha Long Winchester Housing 400 Conewood Drive, P. O. Box 58 Winchester, KY 40391	Roberts, William E. Goodman, David L. Adams, John W. Bancroft, James S. Beisler, Mark C. Bluhm, Elizabeth B. Belden, Lisa J. Butler, Samuel J. Cinquini, Anthony D. Croft, James F. Ewing, Jr., Charles W. Glasser, Timothy G. Kallmerten, R. Barth King, James A. Lim, Y. Priscilla Mackey, Linda L. Martin, David C. McMullen, Carolyn A. Peters, Tracy W. Stockton, Christine A. Young, Sandra E.	No No No No No No Yes No No No No No No No No No No Yes No No No	 Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93 Federal Reserve Bank of Chicago 12/90 to 3/93

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28.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #054-35514-PM-WAH-L8	Mr. George F. Marshall One Management Inc. 18 East Rowan Street, Suite 402 Raleigh, NC 27608	Roberts, William E.	No	
			Goodmon, David L.	No	
			Adams, John W.	No	
			Bancroft, James S.	No	
			Beisler, Mark C.	No	
			Blohm, Elizabeth B.	No	
			Bolden, Lisa J.	Yes	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93
			Butler, Samuel J.	No	
			Cinquini, Anthony D.	No	
			Croft, James F.	No	
			Ewing, Jr., Charles W.	No	
			Glasser, Timothy G.	No	
			Kallmerten, R. Barth	No	
			King, James A.	No	
			Lim, Y. Priscilla	No	
			Mackey, Linda L.	No	
			Martin, David C.	No	
			McMullen, Carolyn A.	Yes	Federal Reserve Bank of Chicago 12/90 to 3/93
			Peters, Tracy W.	No	
			Stockton, Christine A.	No	
			Young, Sandra E.	No	
29.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #083-352-78-L8-PM	Martin County Courthouse Attn: Kelly Callahan P. O. Box 309 Inez, KY 41224	Roberts, William E.	No	
			Goodmon, David L.	No	
			Adams, John W.	No	
			Bancroft, James S.	No	
			Beisler, Mark C.	No	
			Blohm, Elizabeth B.	No	
			Bolden, Lisa J.	Yes	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93
			Butler, Samuel J.	No	
			Cinquini, Anthony D.	No	
			Croft, James F.	No	
			Ewing, Jr., Charles W.	No	
			Glasser, Timothy G.	No	
			Kallmerten, R. Barth	No	
			King, James A.	No	
			Lim, Y. Priscilla	No	
			Mackey, Linda L.	No	
			Martin, David C.	No	
			McMullen, Carolyn A.	Yes	Federal Reserve Bank of Chicago 12/90 to 3/93

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29.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #083-352-78-L8-PM	Martin County Courthouse Attn: Kelly Callahan P. O. Box 309 Inez, KY 41224	Peters, Tracy W.	No	
			Stockton, Christine A.	No	
			Young, Sandra E.	No	
30.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: Bradford Oaks	Savoy Health Care corporation Attn: Edilio Ursini 204 Monroe Street Rockville, MD 20850	Roberts, William E.	No	
			Goodmon, David L.	No	
			Adams, John W.	No	
			Bancroft, James S.	No	
			Beisler, Mark C.	No	
			Blohm, Elizabeth B.	No	
			Bolden, Lisa J.	Yes	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93
			Butler, Samuel J.	No	
			Cinquini, Anthony D.	No	
			Croft, James F.	No	
			Ewing, Jr., Charles W.	No	
			Glasser, Timothy G.	No	
			Kallmerten, R. Barth	No	
			King, James A.	No	
			Leibold, Bradley L.	No	
			Lim, Y. Priscilla	No	
			Mackey, Linda L.	No	
			Martin, David C.	No	
			McMullen, Carolyn A.	Yes	Federal Reserve Bank of Chicago 12/90 to 3/93
			Peters, Tracy W.	No	
			Stockton, Christine A.	No	
			Young, Sandra E.	No	
31.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #116-35218-PM-L8	Smithville Gardens Ltd c/o Eugene Burger Management Corporation Eugene J. Burger, President 481 Via Hidalgo Greenbrae, CA 94904	Roberts, William E.	No	
			Goodmon, David L.	No	
			Adams, John W.	No	
			Bancroft, James S.	No	
			Beisler, Mark C.	No	
			Blohm, Elizabeth B.	No	
			Bolden, Lisa J.	Yes	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93
			Butler, Samuel J.	No	
			Cinquini, Anthony D.	No	
			Croft, James F.	No	
			Ewing, Jr., Charles W.	No	
			Glasser, Timothy G.	No	
			Kallmerten, R. Barth	No	
			King, James A.	No	

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ID	Registrant's Name and Business Address	Person Who Has Retained Registrant for Lobbying	Registrant's Representative's Name	Was Govt Empl.	In What Capacity
31.	(continued) BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #115-36218-PM-L8	Smithville Gardens Ltd c/o Eugene Berger Management Corporation Eugene J. Berger, President 481 Via Hidalgo Greenbrae, CA 94904	Leibold, Bradley L. Lim, Y. Priscilla Mackey, Linda L. Martin, David C. McMullen, Carolyn A. Peters, Tracy W. Stockton, Christine A. Young, Sandra E.	No No No No Yes No No No	 Federal Reserve Bank of Chicago 12/90 to 3/93
32.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #043-35254-PM-L8	Sprucewood Commons Ltd. c/o Hickey Builders James W. Hickey 535 Windsor Park Drive Centerville, OH 45459	Roberts, William E. Goodman, David L. Adams, John W. Bancroft, James S. Beisler, Mark C. Bluhm, Elizabeth B. Belden, Lisa J. Butler, Samuel J. Cinquini, Anthony D. Croft, James F. Ewing, Jr., Charles W. Glosser, Timothy G. Kallmerten, R. Barth King, James A. Leibold, Bradley L. Lim, Y. Priscilla Mackey, Linda L. Martin, David C. McMullen, Carolyn A. Peters, Tracy W. Stockton, Christine A. Young, Sandra E.	No No No No No No Yes No No No No No No No No No No Yes No No No	 Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93 Federal Reserve Bank of Chicago 12/90 to 3/93
33.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #092-43046	Mr. Robert Stusberg Cambridge Nursing Home, Inc. c/o Health Dimensions 1805 E. Rum River Drive, South Cambridge, MN 55008	Roberts, William E. Goodman, David L. Adams, John W. Bancroft, James S. Beisler, Mark C. Bluhm, Elizabeth B. Belden, Lisa J. Butler, Samuel J. Cinquini, Anthony D. Croft, James F.	No No No No No No Yes No No No	 Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93

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33.	(continued) BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #092-43046	Mr. Robert Stusberg Cambridge Nursing Home, Inc. c/o Health Dimensions 1805 E. Rum River Drive, South Cambridge, MN 55008	Ewing, Jr., Charles W. Glosser, Timothy G. Kallmerten, R. Barth King, James A. Lim, Y. Priscilla Mackey, Linda L. Martin, David C. McMullen, Carolyn A. Peters, Tracy W. Stockton, Christine A. Young, Sandra E.	No No No No No No No No Yes No No	 Federal Reserve Bank of Chicago 12/90 to 3/93
34.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #092-43046	Robert D. Sundberg, President Cambridge Nursing Home, Inc. c/o Health Dimensions 1805 E. Rum River Drive, South Cambridge, MN 55008	Roberts, William E. Goodman, David L. Adams, John W. Bancroft, James S. Beisler, Mark C. Bluhm, Elizabeth B. Belden, Lisa J. Butler, Samuel J. Cinquini, Anthony D. Croft, James F. Ewing, Jr., Charles W. Glosser, Timothy G. Kallmerten, R. Barth King, James A. Leibold, Bradley L. Lim, Y. Priscilla Mackey, Linda L. Martin, David C. McMullen, Carolyn A. Peters, Tracy W. Stockton, Christine A. Young, Sandra E.	No No No No No No Yes No No No No No No No No No No Yes No No No	 Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93 Federal Reserve Bank of Chicago 12/90 to 3/93
35.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #073-35346-PM-L8	Willow Glen Terra Management Company Lloyd Delton 345 N. Market Street Wooster, OH 44691	Roberts, William E. Goodman, David L. Adams, John W. Bancroft, James S. Beisler, Mark C. Bluhm, Elizabeth B.	No No No No No No	

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35.	(continued) BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: FHA #073-35340-PM-L8	Willow Glen Terra Management Company Lloyd Dalton 345 N. Market Street Wooster, OH 44691	Bolden, Lisa J. Butler, Samuel J. Cinquini, Anthony D. Croft, James F. Ewing, Jr., Charles W. Glasser, Timothy G. Kallmerten, R. Barth King, James A. Leibold, Bradley L. Lim, Y. Priscilla Mackov, Linda L. Martin, David C. McMullen, Carolyn A. Peters, Tracy W. Stockton, Christine A. Young, Sandra E.	Yes No No No No No No No No Yes No No No	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93 Federal Reserve Bank of Chicago 12/90 to 3/93
36.	BANC ONE CAPITAL CORPORATION 10 West Broad Street, Suite 400 Columbus, OH 43215 Federal Action No.: #046-35535-PM-L8	Woodwinds Ltd. c/o Folkers Associates Winston Folkers 880 Walnut Street Cincinnati, OH 45202	Roberts, William E. Goodman, David L. Adams, John W. Bancroft, James S. Beisler, Mark C. Bluhm, Elizabeth B. Bolden, Lisa J. Butler, Samuel J. Cinquini, Anthony D. Croft, James F. Ewing, Jr., Charles W. Glasser, Timothy G. Kallmerten, R. Barth King, James A. Leibold, Bradley L. Lim, Y. Priscilla Mackov, Linda L. Martin, David C. McMullen, Carolyn A. Peters, Tracy W. Stockton, Christine A. Young, Sandra E.	No No No No No No Yes No No No No No No No No No Yes No No No	Department of Housing & Urban Development, Section 242 Hospital Mortgage Insurance Program, joined BANC ONE 4/1/93 Federal Reserve Bank of Chicago 12/90 to 3/93
37.	BOCC 1750 Presidents Street, Suite 200 Reston, VA 22090 Federal Action No.: Hillerbrand Nursing Ctr	EDA RAE Corp. 8300 Montgomery Road Cincinnati, OH 45242	Roberts, William E. Goodman, David L. Beisler, Mark C. Arenz, Suzane	No No No No	

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37.	(continued) BOCC 1750 Presidents Street, Suite 200 Reston, VA 22090 Federal Action No.: Hillerbrand Nursing Ctr	EDA RAE Corp. 8300 Montgomery Road Cincinnati, OH 45242	Adams, John W. Stockton, Christine A. Mackov, Linda L.	No No No	
38.	BOCC 1750 Presidents Street, Suite 200 Reston, VA 22090 Federal Action No.: Gladman Manial Healthcare Center	Gladman Psychiatric Healthcare Facility, Inc. 300 Pendleton Way Oakland, CA 94621	Roberts, William E. Goodman, David L. Beisler, Mark C. Arenz, Suzane Adams, John W. Stockton, Christine A. Mackov, Linda L.	No No No No No No No	
39.	BOCC 1750 Presidents Street, Suite 200 Reston, VA 22090 Federal Action No.: Highland Terrace Apartments	Highland Terrace Management corp. 7320 N. 11th Street Phoenix, AZ 85020	Roberts, William E. Goodman, David L. Beisler, Mark C. Arenz, Suzane Adams, John W. Stockton, Christine A. Mackov, Linda L.	No No No No No No No	
40.	BOCC 1750 Presidents Street, Suite 200 Reston, VA 22090 Federal Action No.: Charleston Square Apartments	Jacksonville-Charleston Square, Inc. c/o Harbor Group Real Estate 500 E. Main Street, Suite 820 Norfolk, VA 23510	Roberts, William E. Goodman, David L. Beisler, Mark C. Arenz, Suzane Adams, John W. Stockton, Christine A. Mackov, Linda L.	No No No No No No No	
41.	BOCC 1750 Presidents Street, Suite 200 Reston, VA 22090 Federal Action No.: Larchwood Inns at Castle Rock	Larchwood Inns 2845 North 15th Street Grand Junction, CO 81506	Roberts, William E. Goodman, David L. Beisler, Mark C. Arenz, Suzane Adams, John W. Stockton, Christine A. Mackov, Linda L.	No No No No No No No	
42.	BOCC 1750 Presidents Street, Suite 200 Reston, VA 22090 Federal Action No.: Granbury Care Center, Granbury, Texas	Lynnhaven I, L.L.C. 206 Southgate Drive Boone, NC 28607	Roberts, William E. Goodman, David L. Beisler, Mark C. Arenz, Suzane Adams, John W. Stockton, Christine A. Mackov, Linda L.	No No No No No No No	

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43.	BOCC 1750 Presidents Street, Suite 200 Reston, VA 22090 Federal Action No.: Severn Roads	Maricare Associates 337 Brightseat Road, Suite 100 Landover, MD 20785	Roberts, William E. Goodman, David L. Beisler, Mark C. Arenz, Susana Adams, John W. Stockton, Christine A. Mackey, Linda L.	No No No No No No No	
44.	BOCC 1750 Presidents Street, Suite 200 Reston, VA 22090 Federal Action No.: Snellville Personal Care	ManSerMar, Inc. 1800 Century Blvd., NE, Suite 1100 Atlanta, GA 30345	Roberts, William E. Goodman, David L. Beisler, Mark C. Arenz, Susana Adams, John W. Stockton, Christine A. Mackey, Linda L.	No No No No No No No	
45.	BOCC 1750 Presidents Street, Suite 200 Reston, VA 22090 Federal Action No.: Hunters Glen Apartments 123-11077	RLK Realty Enterprises, L.L.C. 2901 W. Claremont Phoenix, AZ 85017	Roberts, William E. Goodman, David L. Beisler, Mark C. Arenz, Susana Adams, John W. Stockton, Christine A. Mackey, Linda L.	No No No No No No No	
46.	BOCC 1750 Presidents Street, Suite 200 Reston, VA 22090 Federal Action No.: Riverside Treatment Center, DC	RKP, Inc. 3201 New Mexico Avenue, NW, Suite 240 Washington, DC VA 22090	Roberts, William E. Goodman, David L. Beisler, Mark C. Arenz, Susana Adams, John W. Stockton, Christine A. Mackey, Linda L.	No No No No No No No	
47.	BOCC 1750 Presidents Street, Suite 200 Reston, VA 22090 Federal Action No.: Tennis Towers Apts.	Richbuilt of Palm Beach, Inc. 2882 Tennis Club Drive West Palm Beach, FL 33417	Roberts, William E. Goodman, David L. Beisler, Mark C. Arenz, Susana Adams, John W. Stockton, Christine A. Mackey, Linda L.	No No No No No No No	
48.	BOCC 1750 Presidents Street, Suite 200 Reston, VA 22090 Federal Action No.: Villa Serena of Irvine, CA	Villa Serena of Irvine, Ltd. 12282 Lomica Drive San Diego, CA 92718	Roberts, William E. Goodman, David L. Beisler, Mark C. Arenz, Susana Adams, John W. Stockton, Christine A. Mackey, Linda L.	No No No No No No No	

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49.	Brownstein Zeidman and Lore, PC 1401 New York Avenue, NW, Suite 900 Washington, DC 20005 Federal Action No.: 012-167-NI	Goldman, Sachs & Co. 85 Broad Street New York, NY 10004	Lore, Kenneth G. Levy, Harold A.	No No	
50.	Brownstein Zeidman and Lore, PC 1401 New York Avenue, NW, Suite 900 Washington, DC 20005 Federal Action No.: 012-168-NI	Goldman, Sachs & Co. 85 Broad Street New York, NY 10004	Lore, Kenneth G. Levy, Harold A.	No No	
51.	Brownstein Zeidman and Lore, PC 1401 New York Avenue, NW, Suite 900 Washington, DC 20005 Federal Action No.: 012-169-NI	Goldman, Sachs & Co. 85 Broad Street New York, NY 10004	Lore, Kenneth G. Levy, Harold A.	No No	
52.	Brownstein Zeidman and Lore, PC 1401 New York Avenue, NW, Suite 900 Washington, DC 20005 Federal Action No.: 012-5-NI	Goldman, Sachs & Co. 85 Broad Street New York, NY 10004	Lore, Kenneth G. Levy, Harold A.	No No	
53.	Brownstein Zeidman and Lore, PC 1401 New York Avenue, NW, Suite 900 Washington, DC 20005 Federal Action No.: 012-120-NI	New York City Housing Development Corporation 75 Maiden Lane - 8th Floor New York, NY 10038	Lore, Kenneth G. Levy, Harold A.	No	
54.	Brownstein Zeidman and Lore, PC 1401 New York Avenue, NW, Suite 900 Washington, DC 20005 Federal Action No.: 012-57048-LP	Starrett Housing Corporation 909 Third Avenue New York, NY 10022	Lore, Kenneth G. Levy, Harold A.	No No	
55.	Brownstein Zeidman and Lore, PC 1401 New York Avenue, NW, Suite 900 Washington, DC 20005 Federal Action No.: 012-57038	Starrett Housing Corporation 909 Third Avenue New York, NY 10022	Lore, Kenneth G. Levy, Harold A.	No No	
56.	Brownstein Zeidman and Lore, PC 1401 New York Avenue, NW, Suite 900 Washington, DC 20005 Federal Action No.: 031-44801/2	Summit Plaza c/o Starrett Housing Corporation 909 Third Avenue New York, NY 10022	Lore, Kenneth G. Levy, Harold A.	No No	
57.	Coen & Lyons 1100 Connecticut Avenue, NW, Suite 1000 Washington, DC 20036 Federal Action No.: OH 18-8023-001	Akron Tower Housing Partnership c/o Anthony M. Rodriguez, General Partner 841 West Market Street Akron, OH 44303	Coen, Jr., Carl A. S. James, Raymond K.	No No	

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58.	Robert S. Solomon III DFG Group, Inc. 7201 Wisconsin Avenue, Suite 620 Bethesda, MD 20814 Federal Action No.: 062-35231	C. R. Noll, Director Decatur Housing Development Corp. 100 Wilson Street, NE Decatur, AL 35602	Solomon III, Robert S.	No	
59.	Foley & Lardner One South Pinckney Street, Suite 701 P. O. Box 1497 Madison, Wisconsin 53702 Federal Action No.: 075-35010-LDP/M8	Assisi Homes-Saxony, Inc. 5018 West Burleigh Street Milwaukee, Wisconsin 53210	Radoist, Timothy J. Cropsey, Douglas J. Lawrence, Waymen C.	No No No	
60.	Franciscan Ministries, Inc. P. O. Box 867 28 West 171 Roosevelt Road Wheton, ILL 60189 Federal Action No.: 075-35092-LDI/SUP	Assisi Homes-Mebane Manor, Inc. 5325 West Burleigh Street Milwaukee, Wisconsin 53210	Cisek, Robert J. Jasenski, Paul M. Schultz, Philip J.	No No No	
61.	Franciscan Ministries, Inc. P. O. Box 867 28 West 171 Roosevelt Road Wheton, ILL 60189 Federal Action No.: 075-35010-LDP/M8	Assisi Homes-Saxony, Inc. 5018 West Burleigh Street Milwaukee, Wisconsin 53210	Cisek, Robert J. Jasenski, Paul Carlotos, Lynnell Nordberg, Christine M. Schultz, Philip J.	No No No No No	
62.	Hessel and Alsina, P.C. Suite 900, 1050 17th Street, NW Washington, DC 20036 Federal Action No.: 000-EH007	The Lewisville Retirement Residence, Inc. 1515 Great Falls Street McLean, VA 22101	Hessel, Arthur R. Alsina, Timothy J. Schamer, Marton W. Sturmon, Susan M. Gurkin, Joanne Shah, Ragini N. Farkas, Laurie A. Kurz, Annie R.	No No No Yes No Yes No Yes	Housing & Urban Development Staff Attorney VISTA Volunteer Intern/Office of Congressman Frank (D-Mass)
63.	Holland & Knight 2100 Pennsylvania Avenue, NW, Suite 400 Washington, DC Federal Action No.: FHA #063-35233	Boardwalk Apartments	Brothers, H, Henry J. Dunsolls, C. Richard Sterling, Scott A. Nesbitt, La Fonte Niles, Stephen D. Parmet, Suzanne H.	No No No No No No	
63.	(continued) Holland & Knight 2100 Pennsylvania Avenue, NW, Suite 400 Washington, DC Federal Action No.: FHA #063-35233	Boardwalk Apartments	Felter, Carolyn P. Levine, Jerry	No No	

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64.	Holland & Knight 2100 Pennsylvania Avenue, NW, Suite 400 Washington, DC Federal Action No.: Marina View	Wilshire Investments Corporation 12100 Wilshire blvd., Suite 1400 Los Angeles, CA 90025	Felter, Carolyn P. Dunsolls, C. Richard Sterling, Scott A. Nesbitt, La Fonte Niles, Stephen D. Parmet, Suzanne H. Levine, Jerry	No No No No No No No	
65.	Honigman Miller Schwartz and Cohn 2290 First National Building Detroit, Michigan 48226 Federal Action No.: 044-92010-PM	All State Management Company, Inc. 1650 Kendale Boulevard Suite 200 East Lansing, Michigan 48823	Whitbeck, William C.	No	
66.	Law Office of Bruce Johnsen 655 15th Street, NW, Suite 300 Washington, DC 20005 Federal Action No.: 06604027	EMC Holdings, Inc. 800 Laurel Oak Drive Suite 303 Naples, FL 33963	Johnsen, Bruce	No	
67.	Law Office of Bruce Johnsen 655 15th Street, NW, Suite 300 Washington, DC 20005 Federal Action No.: 05435541	EMC Holdings, Inc. 800 Laurel Oak Drive Suite 303 Naples, FL 33963	Johnsen, Bruce	No	
68.	Law Office of Bruce Johnsen 655 15th Street, NW, Suite 300 Washington, DC 20005 Federal Action No.: 06635188	Lake Forest Park, Inc. 6228 SW 131 Place Miami, FL 33183	Johnsen, Bruce	No	
69.	Krooth & Altman 1850 M Street, NW, Suite 400 Washington, DC 20036-5803 Federal Action No.: FHA # 123-11098	Reilly Mortgage Group, Inc. 2000 Corporate Ridge, Suite 925 McLean, VA 22102	Altman, Norman S. Altman, Victor A. Barsky, David A. Clancy, Patrick J. Cole, D. Randolph Delaney, William J. George, Mary Jo Grazzo, Mario Vihstadt, John E. Kijewski, Joseph A. Libretto, Donald F. Mazer, Michael E. Tennant, William S.	No No No No No No No No No No No No No	

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69.	(continued) Kroath & Altman 1650 M Street, NW, Suite 400 Washington, DC 20036-5803 Federal Action No.: FHA # 123-11696	Reilly Mortgage Group, Inc. 2000 Corporate Ridge, Suite 925 McLean, VA 22102	Opert, Jan I. Purse, James F. Selden, Robert C. Smith, Harrison C. Knell, E. Joseph Groner, Felicia M.	No No No No No No	
70.	Gene B. Glick Company, Inc. d/b/a Gene Glick Management Corp. 8330 Woodfield Crossing Blvd., #200 Indianapolis, IN 46240 Federal Action No.: 083-35334-LB-PM	Woodbridge of Louisville I Associates, A Limited Partnership 8330 Woodfield Crossing Blvd., #200 Indianapolis, IN 46240	Thurston, Max A. Wolfe, Christine Regan, Terri Roberts, Pamela J. Basile, Frank M. Donaldson, Dean Vallnet, Stephen L. Jackson, Beverly J. Bissell, James T. Cottrell, L. John Edmonds, Donnie Hancock, John Akin, Bob Jones, Stephanie Skinner, Michelle	No No No No No No No No No No No No No No No	
71.	Landman & Beatty 1150 Market Square Center 151 N. Delaware Street Indianapolis, IN 46204-2518 Federal Action No.: 083-35334-LB-PM	B. Glick Company, Inc. d/b/a Gene Glick Management Corp. on behalf of Woodbridge Apartments of Louisville Associates I, a limited partnership	Dill McCarty, Virginia Beatty, James W. Gullick, Robert H. Beatty, J. F.	No No No No	
72.	Latham & Watkins 1001 Pennsylvania Avenue, NW, Suite 1300S Washington, DC 20004 Federal Action No.: Southeast Region Auction	GE Capital Corporation 292 Long Ridge Road Stamford, Connecticut 06927	Zax, Leonard A. Hooyenga, Judy Stein, Joshua	No No No	
73.	Latham & Watkins 1001 Pennsylvania Avenue, NW, Suite 1300S Washington, DC 20004 Federal Action No.:	Los Angeles Community Development Fund c/o Office of the Mayor, City Hall 200 North Spring Street Los Angeles, CA 90012	Kelly, Jr., William C. Mikkelsen, George Park, Francis Pizzarello, Annalisa	No No No Yes	Law Clerk, US District Court for the District of Hawaii
74.	Latham & Watkins 1001 Pennsylvania Avenue, NW, Suite 1300S Washington, DC 20004 Federal Action No.: Hermont Terrace, Sec 108 Financing	The Related Companies of California 18201 Von Karmann Avenue, Suite 460 Irvine, CA 92715	Kelly, Jr., William C.	No	

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75.	Latham & Watkins 1001 Pennsylvania Avenue, NW, Suite 1300S Washington, DC 20004 Federal Action No.: Refinancing & Repurchase of Angelus Plaza	The RHF Bunker Hill Corporation 5150 East Pacific Coast Highway Long Beach, CA 90804	Kelly, Jr., William C.	No	
76.	Latham & Watkins 1001 Pennsylvania Avenue, NW, Suite 1300S Washington, DC 20004 Federal Action No.: West & Southeast Regions Auction	Condor One, Inc. 292 Long Ridge Road Stamford, Connecticut 06927	Zax, Leonard A. Hooyenga, Judy Stein, Joshua	No No No	
77.	Leonard, Street and Deinard Professional Association 150 South Fifth Street, Suite 2300 Minneapolis, MD 55402-4201 Federal Action No.: 082-14001	Seward Redvaign, Inc. Norwest Bank Building 2800 East Franklin Minneapolis, MN 55406	McElhatton, Shaun C. Van Dellen, Alan W.	No No	
78.	Linowes and Blocher 1010 Wayne Avenue, Suite 1000 Silver Spring, MD 20910 Federal Action No.: 000-10806	The Patrician Mortgage Company 4600 Montgomery Lane, #200 Bethesda, MD 20814	Orrick, Jr., John R. Smith, Scott R.	No No	
79.	The Loga Group 4201 Lake Cook Road Northbrook, IL 60062 Federal Action No.: 352-255106	Norwest Mortgage, Inc. 300 Galleria Officentre, Suite 401 Southfield, MI 48034-8460	Keppeler, Alan J.	No	
80.	Mayer, Day, Caldwell & Keaton, L.L.P. 700 Louisiana Street Houston, TX 77002 Federal Action No.: H08R9305170000	Charles G. Coyle 5110 W. Orem Drive Houston, TX 77045	Richie, II, Carl S.	No	
81.	Patton Boggs, L.L.P. 2550 M Street, NW Washington, DC 20037 Federal Action No.: 101-44100	Highland Management Company 28771 Northwestern Highway, Suite 100 Southfield, MI 48034	Murray, Nancy A.	No	
82.	Peabody & Brown 1255 23rd Street, NW, Suite 800 Washington, DC 20037 Federal Action No.: R143K-007-001	Phoenix-Griffin Group II, Ltd. 602 Broad Street Providence, RI 02907	Lane, Bruce S. Price, Richard M.	No No	
83.	Peabody & Brown 1255 23rd Street, NW, Suite 800 Washington, DC 20037 Federal Action No.: R143K-004-004	Phoenix-Griffin Group II, Ltd. 602 Broad Street Providence, RI 02907	Lane, Bruce S. Price, Richard M.	No No	

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84.	Peabody & Brown 1255 23rd Street, NW, Suite 800 Washington, DC 20037 Federal Action No.:	Jacques McEntee Clint Van Necker MERV Development 4425 Corporate Lane, Suite 160 Virginia Beach, VA 23462-3178	Edson, Charles L. Price, Richard M.	No No	
85.	Pepper, Hamilton & Scheetz 3000 Two Logan Streets 18th & Arch Streets Philadelphia, PA 19103-2799 Federal Action No.:	Harold R. Bark, Esq. Pepper, Hamilton & Scheetz 3000 Two Logan Square 18th & Arch Streets Philadelphia, PA 19103-2799	Bark, Harold M.	No	
86.	Powell, Goldstein, Frazer & Murphy 1001 Pennsylvania Avenue, NW, Suite 600 Washington, DC 20004 Federal Action No.: NY-36-H108-057	Starrett City Associates 787 Fifth Avenue, 50th Floor New York, NY 10053	Knapp, John J. Freedman, Anthony S.	No No	
87.	Powell, Goldstein, Frazer & Murphy 1001 Pennsylvania Avenue, NW, Suite 600 Washington, DC 20004 Federal Action No.: 112-35304	First Winthrop Corporation One International Place Boston, MA 02110	Knapp, John J.	No	
88.	Powell, Goldstein, Frazer & Murphy 1001 Pennsylvania Avenue, NW, Suite 600 Washington, DC 20004 Federal Action No.: 071-3587	Sheridan Plaza Apartments, II 900 S. Milwaukee Avenue Libertyville, IL 60048	Knapp, John J. McIlwain, John K.	No No	
89.	Powell, Goldstein, Frazer & Murphy 1001 Pennsylvania Avenue, NW, Suite 600 Washington, DC 20004 Federal Action No.: GA06 URD006 183	The Integral Partnership of Atlanta c/o McCormack Baron & Associates, Inc. 1101 Lucas Avenue St. Louis, MO 63101-1178	Knapp, John J. Freedman, Anthony S.	No No	
90.	Powell, Goldstein, Frazer & Murphy 1001 Pennsylvania Avenue, NW, Suite 600 Washington, DC 20004 Federal Action No.: MO 36-P001-0044	McCormack Baron & Associates, Inc. 1101 Lucas Avenue St. Louis, MO 63101-1179	Knapp, John J. Freedman, Anthony S.	No No	
91.	Robert E. Simmons DBA The Simmons Network 900 Howard Avenue Biloxi, MS 39530 Federal Action No.: 095-35378	George Silman, ETL 1710 Beach Blvd., Suite 403 Biloxi, MS 39531	Simmons, Robert E.	No	

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92.	Robert E. Simmons DBA The Simmons Network 900 Howard Avenue Biloxi, MS 39530 Federal Action No.: 095-35378	George Silman, ETL 1710 Beach Blvd., Suite 403 Biloxi, MS 39531	Simmons, Robert E.	No	
93.	Robert E. Simmons DBA The Simmons Network 900 Howard Avenue Biloxi, MS 39530 Federal Action No.: 095-35385	George Silman, ETL 1710 Beach Blvd., Suite 403 Biloxi, MS 39531	Simmons, Robert E.	No	
94.	Robert E. Simmons DBA The Simmons Network 900 Howard Avenue Biloxi, MS 39530 Federal Action No.: 095-94001	George Silman, ETL 1710 Beach Blvd., Suite 403 Biloxi, MS 39531	Simmons, Robert E.	No	
95.	Swidler & Berlin Chartered 3000 K Street, NW, Suite 300 Washington, DC 20007 Federal Action No.: 112-35285	Ownermobile Mortgage, Inc. Attn: Nancy Ham 1501 Woodfield Road Schaumburg, IL 60173	Lore, Kenneth G.	No	
96.	Swidler & Berlin Chartered 3000 K Street, NW, Suite 300 Washington, DC 20007 Federal Action No.: 122-14001	Forest City Residential Development 10800 Brookpark Road Cleveland, OH 44130	Lore, Kenneth G. Levy, Harold A.	No Yes	Housing & Urban Development, Loan Management & Property Disposition, Chief Attorney
97.	Swidler & Berlin Chartered 3000 K Street, NW, Suite 300 Washington, DC 20007 Federal Action No.: 000-94003	Hilltop Gardens c/o The Shelter Group Suite 600 Park Charles 210 North Charles Street Baltimore, MD 21201	Lore, Kenneth G. Levy, Harold A.	No Yes	Housing & Urban Development, Loan Management & Property Disposition, Chief Attorney
98.	Swidler & Berlin Chartered 3000 K Street, NW, Suite 300 Washington, DC 20007 Federal Action No.: 044-36004	McDonnell III Limited Dividend Housing Association Limited Partnership 10800 Brookpark Road Cleveland, OH 44130	Lore, Kenneth G. Levy, Harold A.	No Yes	Housing & Urban Development, Loan Management & Property Disposition, Chief Attorney
99.	Swidler & Berlin Chartered 3000 K Street, NW, Suite 300 Washington, DC 20007 Federal Action No.: 126-3580	Naimisha Group 4243 Northlake Boulevard Palm Beach Gardens, FL 33410	Lore, Kenneth G. Levy, Harold A.	No Yes	Housing & Urban Development, Loan Management & Property Disposition, Chief Attorney

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ID	Registrant's Name and Business Address	Person Who Has Retained Registrant for Lobbying	Registrant's Representative's Name	Was Govt Empl.	In What Capacity
100.	Swidler & Berlin Chartered 3000 K Street, NW, Suite 300 Washington, DC 20007 Federal Action No.: 052-32035	Park Charles c/o The Shelter Group Suite 500 Park Charles 218 North Charles Street Baltimore, MD 21201	Love, Kenneth G. Levy, Harold A.	No Yes	Housing & Urban Development, Loan Management & Property Disposition, Chief Attorney
101.	Swidler & Berlin Chartered 3000 K Street, NW, Suite 300 Washington, DC 20007 Federal Action No.: 012-1108	Starrett Housing Corporation 909 Third Avenue New York, NY 10022	Love, Kenneth G. Levy, Harold A.	No Yes	Housing & Urban Development, Loan Management & Property Disposition, Chief Attorney
102.	Van Cott, Bagley, Cornwall & McCarthy 50 South Main Street, Suite 1600 Salt Lake City, Utah 84144 Federal Action No.: 105-35060	Utah Housing Finance Agency 177 East 100 South Salt Lake City, Utah 84111	Berggren, Thomas Marshall, R. Stephen	No No	
103.	Van Cott, Bagley, Cornwall & McCarthy 50 South Main Street, Suite 1600 Salt Lake City, Utah 84144 Federal Action No.: 105-35077	Utah Housing Finance Agency 177 East 100 South Salt Lake City, Utah 84111	Berggren, Thomas Marshall, R. Stephen	No No	
104.	Van Cott, Bagley, Cornwall & McCarthy 50 South Main Street, Suite 1600 Salt Lake City, Utah 84144 Federal Action No.: 105-35078	Utah Housing Finance Agency 177 East 100 South Salt Lake City, Utah 84111	Berggren, Thomas Marshall, R. Stephen	No No	
105.	Van Cott, Bagley, Cornwall & McCarthy 50 South Main Street, Suite 1600 Salt Lake City, Utah 84144 Federal Action No.: 105-35070	Utah Housing Finance Agency 177 East 100 South Salt Lake City, Utah 84111	Berggren, Thomas Marshall, R. Stephen	No No	
106.	Van Cott, Bagley, Cornwall & McCarthy 50 South Main Street, Suite 1600 Salt Lake City, Utah 84144 Federal Action No.: 105-35056	Utah Housing Finance Agency 177 East 100 South Salt Lake City, Utah 84111	Berggren, Thomas Marshall, R. Stephen	No No	
107.	Van Cott, Bagley, Cornwall & McCarthy 50 South Main Street, Suite 1600 Salt Lake City, Utah 84144 Federal Action No.: 105-35058	Utah Housing Finance Agency 177 East 100 South Salt Lake City, Utah 84111	Berggren, Thomas Marshall, R. Stephen	No No	
108.	Weinraub & Ostroff Inc. 12 Sheridan Avenue Albany, NY 12207 Federal Action No.: FR 3874-N-01.	Day's Centennial Plaza Ltd Partnership c/o Kevin McAuliffe, Esq. Green & Seifter, Attorneys P.C. 900 One Lincoln Center Syracuse, NY 13202-1387	Weinraub, David N. Ostroff, Richard L.	No No	

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109.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.:	Accubanc Mortgage Corporation 12377 Merit Drive Dallas, EX 75251	Weiner, Harvey E.	No	
110.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.:	America's Funding Source, Inc. 18400 Lark Avenue, Suite 100 Los Gatos, CA 95032	Brodsky, James A. Weiner, Harvey E. Kider, Mitchel H. Melnick, Richard J. Andreano, Jr., Richard J. Halpern, Dan J. Ladner, Sherri L. Shearer, Ann B. Neal, Lisa M. Jones, Thomas P.	No No No No No No No No No No	
111.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.:	America's Funding Source 18400 Lark Avenue Suite 100 Los Gatos, CA	Weiner, Harvey E. Brodsky, James A.	No No	
112.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.: 04056-0900-8	American City Mortgage Corporation 20501 S. Avalon Boulevard Carson, CA 90746	Kider, Mitchel H.	No	
113.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.: MH-94-04	BanneVille Homes, a division of Chief Industries P. O. Box 127 111 Grant Street Aurora, NE 68818	Weiner, Harvey E.	No	
114.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.:	CompuLoan Origination, Inc. 1935 E. Vine Street Suite 400 Salt Lake City, UT 84121	Weiner, Harvey E.	No	
115.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.: 3857	First Nationwide Mortgage Corporation 135 Main Street San Francisco, CA 94105	Weiner, Harvey E.	No	
116.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.: 04730	First Franklin Financial Corporation 3160 North First Street San Jose, CA 95131	Weiner, Harvey E.	No	

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ID	Registrant's Name and Business Address	Person Who Has Retained Registrant for Lobbying	Registrant's Representative's Name	Was Govt Empl.	In What Capacity
117.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.: 78135-0000-2	First Republic Mortgage Co. 13200 Squires Court North Potomac, MD 20878	Kider, Mitchel H.	No	
118.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.: 78135	First Republic Mortgage Corp. 12300 Twinbrook Parkway Rockville, MD 20852	Weiner, Harvey E. Brodsky, James A. Kider, Mitchel H. Andreano, Jr., Richard J. Silver, Rugenia Halpern, Don J. Ladner, Sherri L. Shearer, Ann B. Neal, Lisa M.	No No No No No No No No No	
119.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.: 2737	GE Capital Mortgage Services, Inc. Three Executive Campus Cherry Hill, NJ 08034	Brodsky, James A. Weiner, Harvey E. Kider, Mitchel H. Andreano, Jr., Richard J. Silver, Rugenia Halpern, Don J. Ladner, Sherri L. Shearer, Ann B. Neal, Lisa M.	No No No No No No No No No	
120.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.:	Greenpoint Mortgage Corporation 41-60 Main Street Flushing, NY 11355	Kider, Mitchel H.	No	
121.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.: 3524	Leader Financial Corporation 1015 Euclid Avenue Cleveland, OH	Weiner, Harvey E.	No	
122.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.:	Lender's Choice 801 California Street San Francisco, CA 94108	Weiner, Harvey E.	No	
123	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.:	Leaders Choice 210 West 10th Street Kansas City, MO 64105	Weiner, Harvey E. Brodsky, James A. Kider, Mitchel H. Andreano, Jr., Richard J. Silver, Rugenia Halpern, Don J.	No No No No No No	

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123.	(continued) Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.:	Leaders Choice 210 West 10th Street Kansas City, MO 64105	Ladner, Sherri L. Shearer, Ann B. Neal, Lisa M.	No No No	
124.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.: 96-5071-DSB(LDF)	Midwest Funding Corporation 1030 31st Street, Suite 401 Downers Grove, IL 60515	Weiner, Harvey E. Brodsky, James A.	No No	
125.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.: 21804	Marathon Mortgage Corporation 28999 Central Park Boulevard Suite 275 N Southfield, MI 48037	Weiner, Harvey E.	No	
126.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.: 3255	Norwest Mortgage, Inc. 405 S.W. 9th Street Des Moines, IA 50309-4626	Kider, Mitchel H.	No	
127.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.: 22NP5	Norwest Mortgage, Inc. 405 S.W. 9th Street Des Moines, IA 50308	Kider, Mitchel H. Weiner, Harvey E. Brodsky, James A. Andreano, Jr., Richard J. Silver, Rugenia Halpern, Don J. Ladner, Sherri L. Shearer, Ann B. Neal, Lisa M.	No No No No No No No No No	
128.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.:30275-0000-0	PHH Mortgage Services Corporation 9000 Atrium Way Mount Laurel, NJ 08054	Weiner, Harvey E. Brodsky, James A.	No No	
129.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.: 72557-0000-4	Platte Valley Funding, L.P. 2530 S. Parker Road Suite 600 Aurora, CO 80014	Weiner, Harvey E.	No	
130.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.:	Real Estate Mortgage Acceptance Co. 220 South Beverly Drive Suite 200 Beverly Hills, CA 90212	Weiner, Harvey E.	No	

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131.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.: 24075-0988-1	Roosevelt Bank 221 West Cherry Street Nevada, MO 64772	No	Kider, Mitchel H.	
132.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.:	St. John's Mortgage & Investment Corp. 3020 Hartley Road, Suite 330 Jacksonville, FL 32257	No	Kider, Mitchel H.	
133.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.: 70469-0000-2	Smart Mortgage Access, Inc. 835 Sterling Avenue Palatine, IL 60067	No No No No No No No No No No No No No No	Brodsky, James A. Weiner, Harvey E. Kider, Mitchel H. Anderson, Jr., Richard J. Dove, Regenia Halpern, Dan J. Lasher, Sherri L. Shearer, Ann B. Nied, Lisa M.	
134.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.: 21460-00001	Universal American Mortgage Company 730 NW 107 Avenue Miami, FL 33172	No No No No No No No No No No No No No No	Kider, Mitchel H. Brodsky, James A. Weiner, Harvey E. Nickels, Richard J. Anderson, Jr., Richard J. Halpern, Dan J. Lasher, Sherri L. Shearer, Ann B. Nied, Lisa M. Jones, Thomas P. Kosmowski, Chris Priddy, Bruce E.	
135.	Weiner, Brodsky, Sidman & Kider, P.C. 1350 New York Avenue, NW, Suite 800 Washington, DC 20005 Federal Action No.:	United Companies Financial Corporation 4041 Essen Lane P. O. box 1581 Baton Rouge, LA 70821	No No	Weiner, Harvey E. Brodsky, James A.	

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BILLING CODE 4210–01–C

federal register

Wednesday
May 15, 1996

Part V

Office of Personnel Management

Proposed Laboratory Personnel Management Demonstration Project; Department of the Air Force; Notice

OFFICE OF PERSONNEL MANAGEMENT

Proposed Laboratory Personnel Management Demonstration Project; Department of the Air Force

AGENCY: Office of Personnel Management.

ACTION: Notice of intent to implement demonstration project.

SUMMARY: Title VI of the Civil Service Reform Act, 5 U.S.C. 4703, authorizes the Office of Personnel Management (OPM) to conduct demonstration projects that experiment with new and different personnel management concepts to determine whether such changes in personnel policy or procedures would result in improved Federal personnel management.

Public Law 103–337, October 5, 1994, permits the Department of Defense (DoD), with the approval of the OPM, to carry out personnel demonstration projects generally similar to the China Lake demonstration project at DoD Science and Technology (S&T) reinvention laboratories. The Air Force is proposing one demonstration project to cover its four S&T reinvention laboratories: Armstrong, Phillips, Rome, and Wright.

DATES: To be considered, written comments must be submitted on or before July 15, 1996; public hearings will be scheduled as follows:

1. Tuesday, June 18, 1996, 10:00 a.m. in Rome, New York,
2. Friday, June 21, 1996, 10:00 a.m. in Dayton, Ohio,
3. Wednesday, June 26, 1996, 10:00 a.m. in San Antonio, Texas, and
4. Thursday, June 27, 1996, 10:00 a.m. in Albuquerque, New Mexico. At the time of the hearings, interested persons or organizations may present their written or oral comments on the proposed demonstration project. The hearings will be informal. However, anyone wishing to testify should contact the person listed under **FOR FURTHER INFORMATION CONTACT**, and state the hearing location, so that OPM can plan the hearings and provide sufficient time for all interested persons and organizations to be heard. Priority will be given to those on the schedule, with others speaking in any remaining available time. Each speaker's presentation will be limited to ten minutes. Written comments may be submitted to supplement oral testimony during the public comment period.

ADDRESSES: Comments may be mailed to Fidelma A. Donahue, U.S. Office of Personnel Management, 1900 E Street, NW., Room 7460, Washington, DC 20415; public hearings will be held at the following locations:

1. Rome—Griffiss Business and Technology Park Theater, Building 439, Kirtland Drive, Rome, New York,
2. Dayton—Wright-Patterson Air Force Base Theater, 1239 Chestnut Street, Kittyhawk Area, Wright-Patterson Air Force Base, Ohio,
3. San Antonio—Building 578, Room 218–221, 7909 Lindbergh Drive, Brooks Air Force Base, Texas,
4. Albuquerque—Phillips Laboratory Conference Center, Building 201, Conference Room 7a, 1750 Kirtland Drive, SE, Kirtland Air Force Base, New Mexico.

FOR FURTHER INFORMATION CONTACT: (1) On proposed demonstration project: Wendy B. Campbell, HQ AFMC/ST, 4375 Chidlaw Road, Suite 6, Wright-Patterson Air Force Base, OH 45433–5006, 513–257–1910; (2) On proposed demonstration project and public hearings: Fidelma A. Donahue, U.S. Office of Personnel Management, 1900 E Street, NW, Room 7460, Washington, DC 20415, 202–606–1138.

SUPPLEMENTARY INFORMATION: Since 1966, at least 19 studies of Department of Defense (DoD) laboratories have been conducted on laboratory quality and personnel. Almost all of these studies have recommended improvements in civilian personnel policy, organization, and management. The proposed project involves simplified job classifications, pay banding, a contribution-based compensation system, streamlined hiring processes, and modified Reduction-in-Force (RIF) procedures.

Dated: May 7, 1996.

Office of Personnel Management.

James B. King,

Director.

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  E. Contribution-based Reduction in Pay or Removal Actions
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  G. Revised Reduction-In-Force (RIF) Procedures
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I. Executive Summary

The project was designed by the Department of the Air Force, with participation of and review by the Department of Defense (DoD) and the Office of Personnel Management (OPM). The purpose of the project is to achieve the best workforce for the laboratory mission, adjust the workforce for change, and improve workforce quality. The project framework addresses all aspects of the human resources life cycle model. There are three major areas of change: (a) laboratory-controlled rapid hiring; (b) a contribution- based compensation system; and (c) a streamlined removal process.

Initially, the project will cover only Scientists and Engineers (S&Es) assigned to the laboratories. A decision point has been programmed for the end of the second year of the demonstration to determine whether or not to expand coverage to other occupational groups within the laboratory. In the event of expansion to non-S&E employees, full approval of the expansion plan will be obtained by AF, DoD, and OPM.

Cost neutrality is a basic requirement of the project. Extensive evaluation of the project will be performed by both the OPM and Air Force. The Air Force has programmed a decision point 5 years into the project for continuance, modification, or rejection of the demonstration initiatives.

II. Introduction

A. Purpose

The purpose of the project is to demonstrate that the effectiveness of Department of Defense (DoD) laboratories can be enhanced by allowing greater managerial control over personnel functions and, at the same time, expanding the opportunities available to employees through a more responsive and flexible personnel system. The quality of DoD laboratories, their people, and products has been under intense scrutiny in recent years. The perceived deterioration of quality is believed to be due, in substantial part, to the erosion of control which line managers have over their human resources. This demonstration, in its entirety, attempts to provide managers, at the lowest practical level, the authority, control, and flexibility needed to achieve quality laboratories and quality products.

B. Problems With the Present System

Air Force laboratory products contribute to the readiness of U.S. forces. To do this, laboratories must

acquire enthusiastic, innovative, highly educated scientists and engineers to meet their mission. They must be able to compete with the private sector for the best talent and be able to make job offers in a timely manner with the attendant bonuses and incentives to attract topnotch researchers. Today, industry laboratories can make an offer of employment and two counteroffers to a promising new hire before the government can get the first offer on the table. When filling vacancies internally, managers are forced into employee choices based not on research expertise, but on career program membership or special placement programs. Currently, jobs are described using a cumbersome classification system that is overly complex and specialized. This hampers a manager's ability to shape the workforce and match the positions while making best use of the employees. Managers must be given local control of positions and their classification to move both their employees and vacancies freely within their organization to other lines of research when business or technology demands. These issues work together to hamper supervisors in all areas of human resource management. Hiring restrictions and overly complex job classifications, coupled with poor tools for rewarding and motivating employees and a system that does not assist managers in removing poor performers builds stagnation in the workforce and wastes valuable time.

C. Changes Required/Expected Benefits

This project is expected to demonstrate that a human resource system tailored to the mission and need of the laboratory will result in: (a) increased quality in the science and engineering workforce and the laboratory products they produce; (b) increased timeliness of key personnel processes; (c) trended workforce data that reveals increased retention of "excellent contributors" and separation rates of "poor contributors"; and (d) increased customer satisfaction with the laboratory and its products by those Air Force and DoD customers they service.

The Air Force demonstration program builds on the successful features of demonstration projects at China Lake and the National Institute of Standards and Technology (NIST). These demonstration projects have produced impressive statistics on the job satisfaction for their employees versus that for the federal workforce in general. Therefore, in addition to the expected benefits mentioned above, the AF demonstration expects to find more satisfied employees on many aspects of the demonstration including pay equity, classification accuracy, and fairness of performance management A full range of measures will be collected during project evaluation (section VII).

D. Participating Organizations

The four Air Force Materiel Command (AFMC) laboratory directors/commanders are located as follows:

Armstrong Laboratory—Brooks AFB, Texas
Phillips Laboratory—Kirtland AFB, New Mexico
Rome Laboratory—Rome, New York
Wright Laboratory—Wright-Patterson AFB, Ohio

Scientists and Engineers (S&Es) assigned to the laboratories work at the locations shown in Table 1.

TABLE 1.—S&E DUTY LOCATIONS BY LABORATORY (AS OF 31 DEC. 95)

Laboratory	Duty location	S&Es
Armstrong	Aberdeen Proving Ground, MD.	3
	Brooks AFB, TX	167
	San Diego, CA	1
	Tyndall AFB, FL	27
	Williams AFB, AZ	14
	Wright-Patterson AFB, OH.	97
Phillips	Edwards AFB, CA	120
	Hanscom AFB, MA	188
	Kirtland AFB, NM	246
	Malabar, FL	1
	Maui Island, HI	1
	Sunspot, NM	5
Rome	Rome, NY	424
	Hanscom AFB, MA	82
Wright	Eglin AFB, FL	177
	Kelly AFB, TX	5
	McClellan AFB, CA	10
	Robins AFB, GA	4
	Tyndall AFB, FL	12
	Wright-Patterson AFB, OH.	1207

E. Participating Employees

In determining the scope of the demonstration project, primary considerations were given to the number and diversity of occupations within the laboratories and the need for adequate development and testing of the Contribution-based Compensation System (CCS). Additionally, current DoD human resource management design goals and priorities for the entire civilian workforce were considered. While the intent of this project is to provide the laboratory directors/commanders with increased control and accountability for their total workforce, the decision was made to initially restrict development efforts to General Schedule (GS/GM) positions within the scientific and engineering specialties. Research Medical Officers (GS–0602) have been excluded from the project because of special pay provisions for their occupation which exceed the upper limits of the proposed broadbanding. The series to be included in the project are identified in Table 2.

TABLE 2.—SERIES INCLUDED IN THE AIR FORCE DEMONSTRATION PROPOSAL (AS OF 31 DEC. 95)

0180	Psychology
0190	General Anthropology
0401	General Biological Science
0403	Microbiology
0413	Physiology
0414	Entomology
0415	Toxicology
0665	Speech Pathology & Audiology
0701	Veterinary Medical Science
0801	General Engineering
0803	Safety Engineering
0804	Fire Protection Engineering
0806	Materials Engineering
0807	Landscape Architecture
0808	Architecture
0810	Civil Engineering
0819	Environmental Engineering
0830	Mechanical Engineering
0840	Nuclear Engineering
0850	Electrical Engineering
0854	Computer Engineering
0855	Electronics Engineering
0858	Biomedical Engineering
0861	Aerospace Engineering
0892	Ceramic Engineering
0893	Chemical Engineering
0896	Industrial Engineering
1301	General Physical Science
1306	Health Physics
1310	Physics
1313	Geophysics
1320	Chemistry
1321	Metallurgy
1330	Astronomy & Space Science
1340	Meteorology
1370	Cartography
1515	Operations Research
1520	Mathematics
1529	Mathematical Statistician
1530	Statistician
1550	Computer Science

Other non-S&E positions may be phased in during the course of the project. A decision point for expanded employee coverage has been programmed for the end of the second year of the demonstration project. In the event of expansion to non-S&E employees, full approval of the expansion plan will be obtained by AF, DoD, and OPM.

Current demographics and union representation for the S&E positions are shown in Table 3.

TABLE 3.—S&E DEMOGRAPHICS AND UNION REPRESENTATION (AS OF 31 DEC. 95)

GS/GM 13 and Above	1965

TABLE 3.—S&E DEMOGRAPHICS AND UNION REPRESENTATION (AS OF 31 DEC. 95)—Continued

GS–12 and below	826
Total	2791
Occupational series	41
Duty location	17
Veterans	[1] 19.78
Union Representation:	
NFFE:	
Eglin AFB, Florida	145
Hanscom AFB, Massachusetts	233
Tyndall AFB, Florida	33
IFPTE:	
McClellan AFB, California	9

[1] Percent.

Of the 2,791 scientists and engineers assigned to the laboratories, 420 are represented by labor unions. Employees at Hanscom AFB, Massachusetts, are represented by the National Federation of Federal Employees (NFFE) Local 1384. Employees at Eglin AFB, Florida, are represented by NFFE Local 1940. Employees at Tyndall AFB, Florida, are represented by NFFE Local 1113. Employees at McClellan AFB, California, are represented by the International Federation of Professional and Technical Engineers (IFPTE) Local 330. Union representatives have been separately notified about the project. The Air Force is proceeding to fulfill its obligation to consult or negotiate with the unions, as appropriate, in accordance with 5 U.S.C. 4703(f).

F. Project Design

In August 1994, a special action "tiger team" was formed by the Director of Science and Technology for Air Force Materiel Command in response to the proposed DoD legislation allowing reinvention laboratories to conduct personnel demonstrations. The team was chartered to take full opportunity of this legislation and try to develop solutions that would solve many of the laboratory personnel issues that have been so prevalent and well documented. The team composition included current managers from the four Air Force laboratories, retired and current laboratory directors, and subject matter experts from civilian personnel and manpower. This team developed 27 initiatives which together represented sweeping changes in the entire spectrum of human resource management for the laboratories. Several initiatives were designed to assist the laboratories in hiring and placing the best people to fulfill mission requirements. Others focused on developing, motivating, and equitably compensating employees based on their contribution to the mission. Initiatives to effectively manage workforce turnover and maintain organizational excellence were also developed. These 27 initiatives were endorsed and accepted in total by the laboratory directors/commanders.

After the authorizing legislation passed, a project office with four employees was established in September 1994. Under the guidance of the Director of Science and Technology, the office was charged with further developing the demonstration concept and bringing it to implementation. As a first task, the project office asked the four laboratories and the civilian personnel offices that service them for volunteers to staff six Integrated Product Teams (IPTs). Sixty civilian managers and employees from all laboratories in most geographic locations and from appropriate base level personnel offices came together and have worked for 9 months to develop the detailed concept and implementation for each initiative.

After thorough study, the original 27 initiatives were reduced to 20. Seven of the original initiatives appear herein. The remainder are under either DoD or Air Force regulation, and waivers are being sought at those levels.

III. Personnel System Changes

A. Hiring and Appointment Authorities

1. Hiring Authority

A candidate's basic eligibility will be determined using OPM's "Qualification Standards Handbook For General Schedule Positions." Broadband level I minimum eligibility requirements will be the GS–07 qualifications. Broadband level II minimum eligibility requirements will be the GS–12 qualifications. Broadband levels III and IV are single-grade broadband levels and will mirror the minimum qualifications for the respective General Schedule grades of 14 and 15. Selective placement factors may be established in accordance with the OPM Qualification Handbook when judged to be critical to successful job performance. These factors will be communicated to all candidates for particular position vacancies and must be met for basic eligibility.

The demonstration project will include an Advanced Degree Employment Program which provides a vehicle for rapid employment of individuals with master's and/or doctoral degrees in science and engineering fields into positions for which there is a positive education requirement in those fields. The Air Force will identify some measure of academic excellence that candidates with advanced degrees must have attained to be eligible for this employment program. The project will also include an Outstanding Scholar in Science and Engineering employment program which will allow noncompetitive appointment at the equivalent of the GS–7 level. This will allow rapid hiring of those who receive an undergraduate degree in a qualifying scientific or engineering curriculum with an overall grade point average of 3.5 or better on a 4.0 scale, or who are in the top 10% of their graduating class. This program is patterned after the Outstanding Scholar authority for appointing to non-S&E entry-level professional and administrative occupations. The Outstanding Scholar authority was provided by a court-approved consent decree in *Luevano* v. *Newman*.

These hiring authorities are necessary because S&E positions in Air Force laboratories will continue to be shortage occupations as they are involved in highly specialized areas of technology that require job-specific skills in short supply. The Advanced Degree Employment Program applies to both initial appointment and in-service placement actions. The program is used to determine eligibility for applicable broadband level I and II positions of persons who have completed (or expect to complete within 9 months) all the requirements for a master's or doctoral degree from an accredited college or university in a curriculum that is qualifying for the position to be filled. The use of the Superior Academic Achievement and Advanced Degree Employment Programs will allow the selecting supervisor to accomplish Equal Employment Opportunity objectives while ensuring a high quality workforce.

In the proposed system, as with the current system, the individual manager will decide whether to fill a position from among internal candidates or to recruit from outside the Air Force. If the decision is made to recruit new appointments from outside the Federal government, candidates will be evaluated using the following method.

The selecting supervisor will develop written job-related ranking criteria. Candidates who meet the basic eligibility will be separated into two groups based on the appropriateness of their experience or education relating to the position being filled. Candidates with superior qualifications will be placed in Group A, all others will be placed in Group B. Within each group, veterans preference will be applied by placing all preference eligibles ahead of non-preference eligibles. Numerical scores will not be assigned. Selection will be made from among candidates in Group A. Candidates in Group B may only be selected when there are no candidates in Group A.

Preference in employment will be given to qualified applicants who meet one of the veterans preference eligibility criteria in 5 U.S.C. 2108, provided they are equally qualified for the vacant position.

2. Appointment Authority

Under the demonstration project, there will be two appointment options: regular career and contingent. The career-conditional appointment authority will not be used under the demonstration project. Regular career appointments will continue to use existing authorities and entitlements, and employees will serve a probationary period. Contingent appointments will use the existing term appointment authority which includes a limit of 4 years and most benefits. This contingent appointment is designed to attract high quality new scientists and post-doctoral students who may wish to choose an Air Force laboratory experience for a few years, accruing some portable retirement and receiving benefits during this tenure.

3. Extended Probationary Period

A new employee needs to demonstrate adequate contribution during all cycles of a research effort for a laboratory manager to render a thorough evaluation. The current 1 year probationary period will be extended to 3 years for all newly hired regular career employees. The purpose of extending the probationary period is to allow supervisors an adequate period of time to fully evaluate an employee's contribution and conduct.

Aside from extending the time period, all other features of the current probationary period are retained including the potential to remove an employee without providing the full substantive and procedural rights afforded a non-probationary employee. Any employee appointed prior to the implementation date will not be affected. The 3 year probation will apply to non-status hires. That is, it will apply only to new hires or those who do not have reemployment or reinstatement rights. Air Force Palace Knight and Senior Knight appointments must complete 3 years of directly supervised employment in the laboratory to complete the probationary period (i.e., time spent at school does not count towards fulfilling the probationary period requirement).

Probationary employees will be terminated when the employee fails to demonstrate proper conduct, technical competency, and/or adequate contribution for continued employment. When a laboratory decides to terminate an employee serving a probationary period because their work contribution or conduct during this period fails to demonstrate their fitness or qualifications for continued employment, it shall terminate their services by written notification of the reasons for separation and the effective date of the action. The information in the notice as to why the employee is being terminated shall, as a minimum, consist of the laboratory's conclusions as to the inadequacies of their contribution or conduct.

B. Broadbanding

The proposed broadbanding system will replace the current General Schedule (GS) structure. Currently, the 15 grades of the General Schedule are used to classify positions and, therefore, to set pay. The General Schedule covers all white collar work—administrative, technical, clerical, and professional. This system will initially cover only scientific and engineering (S&E) positions in the Air Force laboratories. Scientific and Professional (ST) and Senior Executive Service (SES) employees are not covered.

The broadband levels are designed to enhance pay progression and to allow for more competitive recruitment of quality candidates at differing rates within the appropriate broadband level(s). Competitive promotions will be less frequent and movement through the broadband levels will be a more seamless process than today's procedure. Like the previous broadband systems used at China Lake and the National Institute of Science and Technology (NIST), advancement within the system is contingent on merit.

There will be four broadband levels in the proposed system, labeled I, II, III, and IV. They will include the current grades of GS–7 through GS/GM–15. These are the grades in which the S&E employees in the Air Force laboratories are found. Broadband level I includes the current GS–7 through GS–11; level II, GS–12 and GS/GM–13; level III, GS/GM–14; and level IV, GS/GM–15. Comparison to the GS grades was useful in setting the upper and lower dollar limits of the broadband levels; however, once the employees are moved into the demonstration project, General Schedule grades will no longer apply.

The titles associated with each broadband level are as follows:

Level/Title(s)

I Associate—(Electronics Engineer, Chemist, etc.)
II Title of Appropriate Series (Physicist, Biologist, etc.) or Supervisory—(Nuclear Engineer, etc.)
III Senior—(Mathematician, Computer Scientist, etc.) or Supervisory Senior—(Physical Scientist, etc.)
IV Principal—(Microbiologist, Psychologist, etc.) or Supervisory Principal—(Aerospace Engineer, etc.)

Generally, employees will be converted into the broadband level which includes their current GS/GM grade. Each employee is assured an initial place in the system without loss of pay. As the rates of the General Schedule are increased due to general pay increases, the minimum and maximum rates of the four broadband levels will also move up. Individual employees receive pay increases based on their assessments under the Contribution-based Compensation System. Since pay progression through the levels depends on merit, there will be no scheduled Within-Grade Increases (WGIs) for employees once the broadbanding system is in place. Special Salary Rates will no longer be applicable to demonstration project employees. All employees will be eligible for the future locality pay increases of their geographical area.

Newly hired personnel entering the system will be employed at a level consistent with the expected contribution of the position and individual basic qualifications for the level, as determined by rating against qualification standards. Salaries of individual candidates will be based on academic qualifications and experience. In addition to the flexibilities available under the broadbanding system, the authorities for retention, recruitment, and relocation payments granted under the Federal Employees' Pay Comparability Act of 1990 (FEPCA) can also be used.

Employees who leave the Air Force broadbanding system to accept federal employment in the traditional Civil Service system will have their pay set by the gaining activity. Where a broadband level includes a single GS grade, the employees are considered to have attained the grade commensurate with the broadband level they are leaving. Where broadband levels include multiple grades, employees are considered to have progressed to the next higher grade within that broadband level when they have been in the level for 1 year and their salary equals or exceeds the minimum salary of the higher grade. For employees who are

entitled to a special rate upon return to the General Schedule, the demonstration project locality rate must equal or exceed the minimum special rate of the higher grade. Refer to section V for information concerning conversion to and from the demonstration project.

The use of broadbanding provides a stronger link between pay and contribution to the mission of the laboratory. It is simpler, less time consuming, and less costly to maintain. In addition, such a system is more easily understood by managers and employees, is easily delegated to managers, coincides with recognized career paths, and complements the other personnel management aspects of the demonstration project.

C. Classification

1. Occupational Series

The present General Schedule classification system has 434 occupational series which are divided into 22 groups. The Air Force laboratories currently have scientific and engineering (S&E) positions in 41 series which fall into 7 groups. The occupational series, which frequently provide well-recognized disciplines with which employees wish to be identified, will be maintained. This will facilitate movement of personnel into and out of the proposed demonstration. Other scientific and engineering series may be added to the project as the need for new professional skills emerges within the laboratory environment.

2. Classification Standards

The present system of OPM classification standards will be used for the identification of proper series and occupational titles of positions within the demonstration project. References in the position classification standards to grade criteria will not be used as part of the demonstration project. Rather, the CCS broadband level descriptors will be used for the purpose of broadband level determination. Under the proposed system, each broadband level is represented by a set of level descriptors. Based on a yearly assessment of the employee's level of contribution to the organization in relation to these descriptors, the broadband level and salary are reviewed and appropriately adjusted. This eliminates the need for the use of grading criteria in the OPM classification standards.

The broadband level descriptors are:

Level I Descriptors

Technical Problem Solving: Conducts in-house technical activities and/or may provide contract technical direction with guidance from supervisor or higher level scientist or engineer. Works closely with peers in collectively solving problems of moderate complexity, involving limited variables, precedents established in related projects, and minor adaptations to well-established methods and techniques. Recognized within own organization for technical ability in assigned areas.

Communications/Reporting: Provides data and written analysis for input to scientific papers, journal articles, and reports and/or assists in preparing contractual documents and/or reviews technical reports; work is acknowledged in team publications. Effectively presents technical results of own studies, tasks, or contract results. Material is presented either orally or in writing, within own organization or to limited external contacts. Conducts these activities under guidance of supervisor and/or team leader.

Corporate Resource Management: May coordinate elements of in-house work units or assist in managing a scientific or support contract. Uses personal and assigned resources efficiently under guidance of supervisor or team leader. As an understanding of organizational activities, policies, and objectives is gained, participates in team planning.

Technology Transition/Technology Transfer: Participates as a team member in demonstrating technology and in interacting with internal/external customers. With guidance, contributes to technical content of partnerships for technology transition and/or transfer (Advanced Technology Demonstrations, Memorandums of Understanding, Joint Director of Labs/Project Reliance, Cooperative Research and Development Agreements, and other dual-use vehicles). Seeks out and uses relevant outside technologies in assigned projects.

R&D Business Development: As a team member communicates with customers to understand customer requirements. By maintaining currency in area of expertise, contributes as a team member to new program development. May technically participate in writing proposals to establish new business opportunities.

Cooperation and Supervision: Contributes to all aspects of teams' responsibilities. May technically guide or mentor less experienced personnel on limited aspects of scientific or engineering efforts. Receives close guidance from supervisor and/or higher level scientist or engineer. Performs duties in a professional, responsive, and cooperative manner in accordance with established policies and procedures.

Level II Descriptors

Technical Problem Solving: Conducts in-house technical activities and/or provides contract technical direction to programs of moderate size and complexity with minimal oversight. Contributes technical ideas and conceives and defines solutions to technical problems of moderate size or complexity. Recognized internally and externally by peers, both in governmental and industrial activities, for technical expertise.

Communications/Reporting: Writes or is major contributing author on scientific papers, journal articles, or reports and/or prepares contract documents and reviews reports pertaining to area of technical expertise. May assist in filing innovation disclosures, inventions, and patents. Effectively prepares and presents own and/or team technical results. Communicates work to varied laboratory, scientific, industry, and other government audiences. May prepare and present presentations on critical program for use at higher levels with some guidance.

Corporate Resource Management: Manages all aspects of technically complex in-house work units or one or more contractual efforts in assigned program area. Effectively plans and controls all assigned resources. Makes and meets time and budget estimates on assigned projects or takes appropriate corrective action. Participates in organizational or strategic planning at team level, taking cognizance of complementary projects elsewhere to ensure optimal use of resources.

Technology Transition/Technology Transfer: Develops demonstrations and interacts independently with internal/external customers. As a team member, implements partnerships for transition and/or transfer of technology (Advanced Technology Demonstrations, Memorandums of Understanding, Joint Director of Labs/Project Reliance, Cooperative Research and Development Agreements, and other dual-use vehicles). Evaluates and incorporates appropriate outside technology in individual or team activities.

R&D Business Development: Initiates meetings and interactions with customers to understand customer needs. Generates key ideas for program development based on understanding of technology and customer needs. Demonstrates expertise to internal/external customers. Contributes technically to proposal preparation and marketing to establish new business opportunities.

Cooperation and Supervision: Contributes as a technical task or team leader; is sought out for expertise by peers; and participates in mentoring of team members. May guide on a daily basis, technical, programmatic, and administrative efforts of individuals or team members. May recommend selection or may select staff and/or team members. Assists in the development and training of individuals or team members. May participate in position and performance management. Receives general guidance in terms of policies, program objectives, and/or funding issues from supervisor and/or higher level scientist or engineer. Discusses novel concepts and significant departures from previous practices with supervisor or team leader.

Level III Descriptors

Technical Problem Solving: Conducts and/or directs technical activities and/or assists higher levels on challenging and innovative projects or technical program development with only broad guidance. Develops solutions to diverse, complex problems involving various functional areas and disciplines. Conducts and/or directs large programs in technically complex areas. Recognized within the laboratory, service, DoD, industry, and academia for technical expertise and has established professional reputation in national technical community.

Communications/Reporting: Lead author on major scientific papers, refereed journal articles, and reports and/or prepares and reviews contract documents and reviews reports of others pertaining to overall program. May document or file inventions, patents, and innovation disclosures relevant to subject area. Prepares and presents technical and/or financial and programmatic briefings and documentation for team, organization, or technical area. Prepares and delivers presentations for major projects and technology areas to scientific and/or government audiences. Reviews oral presentation of others. Communication and reporting functions conducted with minimal higher level oversight.

Corporate Resource Management: Defines program strategy and resource allocations for in- house and/or contractual programs. For assigned technical areas, conducts program planning, coordination, and/or documentation (master plans, roadmaps, Joint Director of Lab/Reliance, etc.). Advocates to laboratory and/or higher headquarters on budgetary and programmatic issues for resources. Based on knowledge of analytical and evaluative methods and techniques, participates in strategic planning at branch and/or division level. Considers and consults on technical programs of other organizations working in the field to ensure optimal use of resources.

Technology Transition/Technology Transfer: Develops customer base and expands opportunities for technology transition and transfer. Leads or serves as key technical member of teams implementing partnerships for transition or transfer of technology (Advanced Technology Demonstrations, Memorandums of Understanding, Joint Director of Labs/Project Reliance, Cooperative Research and Development Agreements, and other dual-use vehicles). Ensures incorporation of outside technology within laboratory programs.

R&D Business Development: Works to establish customer alliances and translates customer needs to programs in a particular technical area. Develops feasible research strategies and/or business strategies for new technical activities. Seeks joint program coalitions with other agencies and funding opportunities from outside organizations. Pursues near-term business opportunities through proposals.

Cooperation and Supervision: Is sought out for consultation and mentors team members. Guides the research, technical and/or programmatic, and administrative efforts of individuals or teams with accountability for focus and quality. Recommends selection or selects staff and/or team members. Supports development and training of subordinates and/or team members. Participates in position and performance management. Receives only broad policy and administrative guidance from supervisor, such as initiation and curtailment of programs.

Level IV Descriptors

Technical Problem Solving: Independently defines, leads, and manages the most challenging and innovative complex technical activities/programs consistent with general guidance or independently directs overall R&D program. Conceives and develops creative solutions to the most complex problems requiring highly specialized areas of technical expertise. Recognized within the laboratory, service, DoD, and other agencies for broad technical area expertise and has established professional reputation in the national and international technical community.

Communications/Reporting: Lead or sole author on scientific papers, refereed journal articles, reports, or review articles which are recognized as major advances or resolutions in the technical area and/or reviews and approves reporting of all technical products of mission area. May exploit innovations which normally lead to inventions, disclosures, and patents. Prepares and presents technical and/or financial and programmatic briefings and documentation for breadth of programs at or above own level. As subject matter expert, prepares and delivers invited or contributed presentations, papers at national or international conferences on technical area, or gives policy level briefings. Singularly responsible for overall quality and timeliness of technical/scientific/ programmatic reports and presentations of group and self.

Corporate Resource Management: Defines technology area strategy and resource allocations for in-house and contractual programs. For multiple technical areas, conducts overall program planning and coordination, and/or program documentation (master plans, roadmaps, Joint Director of Labs/Project Reliance, etc.). Advocates to command, service, and agency levels on budgetary and programmatic issues for resources. Utilizing advanced analytical and evaluative methods and techniques, leads strategic planning and prioritization processes. Develops strategy to leverage resources from other agencies and ensures equitable distribution and appropriate use of internal resources.

Technology Transition/Technology Transfer: Organizes, leads, and markets overall technology transition and transfer activities for organization at senior management levels. Leads in formulation and oversight of Advanced Technology Demonstrations, Memorandums of Understanding, Joint Director of Labs/Project Reliance, Cooperative Research and Development Agreements, and other dual-use vehicles. Creates an environment that encourages widespread exploitation of both national and international technologies.

R&D Business Development: Works with the senior management level to stimulate development of customer alliances for several technical areas. Generates strategic research and/or business objectives for core technical areas. Recognizes warfighting trends, relates business opportunities, and convinces laboratory management to develop and/or acquire expertise and commit funds. Secures business opportunities supporting long-term mission relevancy through targeted proposals and processes.

Cooperation and Supervision: Establishes team charters and develops future team leaders and supervisors. Leads and manages all aspects of subordinates' or team members' efforts with complete accountability for mission and programmatic success. Recommends selection or selects staff, team leaders, and team members; fosters development and training of supervisory and non-supervisory individuals. Directs or recommends position and performance management. Works within the framework of agency policies, mission objectives, and time and funding limitations.

3. Classification Authority

Laboratory directors/commanders will have delegated classification authority and may, in turn, redelegate this authority no lower than two management levels below the director/commander. Classification approval, however, must be exercised at least one management level above the first level supervisor of the employee or position under review. Supervisors at the lower levels will provide classification recommendations. Personnel specialists will provide on-going consultation and guidance to managers and supervisors throughout the classification process.

4. Statement of Duties and Experience (SDE)

Under the proposed classification system, the automated Statement of Duties and Experience (SDE) will replace the current AF Form 1378, Civilian Personnel Position Description. The SDE will include a description of job-specific information, reference the CCS broadband level descriptors for the assigned broadband level, and provide data element information pertinent to the job. Laboratory supervisors will follow a computer assisted process to produce the SDE. The objectives in developing the new SDE are to: (a) simplify the descriptions and the preparation process through automation, (b) make the SDE specific to the employee, and (c) make the SDE a more useful tool for other functions of personnel management, e.g., recruiting, reduction-in-force, assessment of contribution, and employee development.

5. Skill Codes

The Air Force uses skill code sets within the Defense Civilian Personnel Data System (DCPDS) as a means to reflect duties of current positions and employees' previous experiences. Each code represents a specialization within the occupation. Specializations are those described in classification or qualification standards and those agreed upon by functional managers and personnel specialists to be important to staffing patterns and career paths. These codes are used to refer candidates for employment with the Air Force, placement of current employees into

other positions, and selection for training under competitive procedures. To facilitate the movement of personnel into and out of the demonstration project, the current Air Force system of skills coding will continue to be used. Laboratory supervisors will select appropriate skill code sets to describe the work of each employee through the automated SDE process.

6. Classification Process

The SDE is accomplished by completion of the following steps utilizing an automated system:

(a) The supervisor enters, by typing free-form, the organizational location, SDE number, and the employee's name. From the menu, the supervisor selects the appropriate occupational series and title, the level descriptors corresponding to the broadband level that is most commensurate with an employee's anticipated level of contribution, the CCS job category, the functional classification code, and the supervisory level. The supervisor then fills in the blanks in a standard statement relating to the level of certification and functional area for the Acquisition Professional Development Program (APDP).

(b) The supervisor creates a brief description of job-specific information by typing free-form at the appropriate point. From a menu, the supervisor will choose statements pertaining to physical requirements; knowledges, skills, and abilities required to perform the work; and special licenses or certifications needed (other than APDP). Based on the supervisory level code selected above, the system will produce mandatory statements pertaining to affirmative employment, safety, and security programs. The system will also produce a statement pertaining to positive education requirements, or their equivalencies, based on the occupational series selected.

(c) The supervisor selects up to three skill code sets from the listing provided which are appropriate to the job. From the menu, the supervisor also selects the position sensitivity; Fair Labor Standards Act (FLSA) status; drug testing requirements; emergency essential and key position information; the career program to which the position belongs; the bargaining unit status code; and the contribution factor weights which apply to the job category previously selected. This information, along with the supervisory level and the competitive level code, constitutes the SDE addendum. These data elements will be maintained as a separate page of the SDE (i.e., an addendum) as this information can change frequently. By maintaining this information as an addendum, the need to create and classify a new SDE each time one of these elements must be updated is alleviated.

(d) The supervisor accomplishes the SDE with a recommended classification, then signs and dates the document. The SDE is sent to the individual in the organization with delegated classification authority for approval and classification, which is indicated by that person signing and dating the SDE.

The computer assisted system will incorporate definitions for the CCS job categories, supervisory levels, all S&E occupational series, as well as their corresponding skill code sets and the functional classification codes. The functional classification codes are those currently found in the OPM "Introduction to the Classification Standards" which define certain kinds of activities, e.g., research, development, test and evaluation, etc. The FLSA status selection must be in accordance with OPM guidance. Throughout the above process, manpower analysts and personnel specialists will be available to advise laboratory management.

D. Contribution-based Compensation System

1. Overview

The purpose of the Contribution-based Compensation System (CCS) is to provide an effective, efficient, and flexible method for assessing, compensating, and managing the laboratory S&E workforce. It is essential for the development of a highly productive workforce and to provide management, at the lowest practical level, the authority, control, and flexibility needed to achieve quality laboratories and quality products. CCS allows for more employee involvement in the assessment process, increases communication between supervisor and employee, promotes a clear accountability of contribution, facilitates employee career progression, provides an understandable basis for salary changes, and delinks awards from the annual assessment process. Funds previously allocated for performance-based awards will be reserved for distribution under a separate laboratory awards program.

CCS is a contribution-based assessment system that goes beyond a performance-based rating system. That is, it measures the employee's contribution to the organization rather than how well the employee performed a job as defined by a performance plan; one which may represent a lower level of responsibility and expectation based on the employee's previous performance. CCS promotes proactive salary adjustment decisions to be made on the basis of an individual's overall contribution to the organization.

Contribution is measured by factors, each of which is relevant to the success of an Research and Development (R&D) laboratory. Six factors have been developed for evaluating the yearly contribution of S&E personnel covered by this initiative: Technical Problem Solving, Communications/Reporting, Corporate Resource Management, Technology Transition/Technology Transfer, R&D Business Development, and Cooperation and Supervision.

Each factor has four levels of increasing contribution corresponding to the four broadband levels. These factors use the same descriptors as those presented under classification (section III C). Under classification, for example, only level I descriptors are applied for each of the six factors for a level I employee. For the CCS assessment process, the six factors are presented with all four levels of contribution to better assist supervisor assessment. Therefore, for classification, the factors are sorted first by level and then by factor as shown in section III C 2. For the CCS assessment process, the level descriptors are sorted first by factor and then by level as shown below.

Level	Descriptor	Key elements
	FACTOR 1: TECHNICAL PROBLEM SOLVING	
I	Conducts in-house technical activities and/or may provide contract technical direction with guidance from supervisor or higher level scientist or engineer.	Scope of Project/Level of Impact.
	Works closely with peers in collectively solving problems of moderate complexity, involving limited variables, precedents established in related projects, and minor adaptations to well-established methods and techniques.	Technical Complexity/Creativity.
	Recognized within own organization for technical ability in assigned areas	Recognition

Level	Descriptor	Key elements
II	Conducts in-house technical activities and/or provides contract technical direction to programs of moderate size and complexity with minimal oversight.	Scope of Project/Level of Impact.
	Contributes technical ideas and conceives and defines solutions to technical problems of moderate size or complexity.	Technical Complexity/Creativity.
	Recognized internally and externally by peers, both in governmental and industrial activities, for technical expertise.	Recognition
III	Conducts and/or directs technical activities and/or assists higher levels on challenging and innovative projects or technical program development with only broad guidance.	Scope of Project/Level of Impact.
	Develops solutions to diverse, complex problems involving various functional areas and disciplines. Conducts and/or directs large programs in technically complex areas.	Technical Complexity/Creativity.
	Recognized within the laboratory, service, DoD, industry, and academia for technical expertise and has established professional reputation in national technical community.	Recognition
IV	Independently defines, leads, and manages the most challenging and innovative complex technical activities/programs consistent with general guidance or independently directs overall R&D program.	Scope of Project/Level of Impact.
	Conceives and develops creative solutions to the most complex problems requiring highly specialized areas of technical expertise.	Technical Complexity/Creativity.
	Recognized within the laboratory, service, DoD, and other agencies for broad technical area expertise and has established professional reputation in the national and international technical community.	Recognition
	FACTOR 2: COMMUNICATIONS/REPORTING	
I	Provides data and written analysis for input to scientific papers, journal articles, and reports and/or assists in preparing contractural documents and/or reviews technical reports; work is acknowledged in team publications.	Written and Oral.
	Effectively presents technical results of own studies, tasks, or contract results	Breadth of Responsibility.
	Material is presented either orally or in writing, within own organization or to limited external contacts.	Level/Diversity of Audiences.
	Conducts these activities under guidance of supervisor and/or team leader	Oversight Required.
II	Writes or is major contributing author on scientific papers, journal articles, or reports and/or prepares contract documents and reviews reports pertaining to area of technical expertise. May assist in filing innovation disclosures, inventions, and patents.	Written and Oral.
	Effectively prepares and presents own and/or team technical results	Breadth of Responsibility.
	Communicates work to varied laboratory, scientific, industry, and other government audiences.	Level/Diversity of Audiences.
	May prepare and present presentations on critical program for use at higher levels with some guidance.	Oversight Required.
III	Lead author on major scientific papers, refereed journal articles, and raports and/or prepares and reviews contract documents and reviews reports of others pertaining to overall program. May document or file inventions, patents, and innovation disclosures relevant to subject area.	Written and Oral.
	Prepares and presents technical and/or financial and programmatic briefings and documentation for team, organization, or technical area.	Breadth of Responsibility.
	Prepares and delivers presentations for major projects and technology areas to scientific and/or government audiences.	Level/Diversity of Audiences.
	Reviews oral presentation of others. Communication and reporting functions conducted with minimal higher level oversight.	Oversight Required.
IV	Lead or sole author on scientific papers, refereed journal articles, or review articles which are recognized as major advances or resolutions in the technical area and/or reviews and approves reporting of all technical products of mission area. May exploit innovations which normally lead to inventions, disclosures, and patents.	Written and Oral.
	Prepares and presents technical and/or financial and programmatic briefings and documentation for breadth of programs at or above own level.	Breadth of Responsibility.
	As subject matter expert, prepares and delivers invited or contributed presentations, papers at national or international conferences on technical area, or gives policy level briefings.	Level/Diversity of Audiences.
	Singularly responsible for overall quality and timeliness of technical/scientific/programmatic reports and presentations of group and self.	Oversight Required.
	FACTOR 3: CORPORATE RESOURCE MANAGEMENT	
I	May coordinate elements of in-house work units or assist in managing a scientific or support contract.	In-House/Contract Managing.
	Uses personal and assigned resources efficiently under guidance of supervisor or team leader.	Size & Complexity.
	As an understanding of organizational activities, policies, and objectives is gained, participates in team planning.	Make/Buy/Rely.
II	Manages all aspects of technically complex in-house work units or one or more contractual efforts in assigned program area.	In-House/Contract Managing.
	Effectively plans and controls all assigned resources. Makes and meets time and budget estimates on assigned projects or takes appropriate corrective action.	Size & Complexity.
	Participates in organizational or strategic planning at team level, taking cognizance of complementary projects elsewhere to ensure optimal use of resources.	Make/Buy/Rely.

Level	Descriptor	Key elements
III	Defines program strategy and resource allocations for in-house and/or contractual programs.	In-House/Contract Managing.
	For assigned technical areas, conducts program planning, coordination, and/or documentation (master plans, roadmaps, Joint Director of Lab/Reliance, etc.). Advocates to laboratory and/or higher headquarters on budgetary and programmatic issues for resources.	Size & Complexity.
	Based on knowledge of analytical and evaluative methods and techniques, participates in strategic planning at branch and/or division level. Considers and consults on technical programs of other organizations working in the field to ensure optimal use of resources.	Make/Buy/Rely.
IV	Defines technology area strategy and resource allocations for in-house and contractual programs.	In-House/Contract Managing.
	For multiple technical areas, conducts overall program planning and coordination, and/or program documentation (master plans, roadmaps, Joint Director of Labs/Project Reliance, etc.). Advocates to command, service, and agency levels on budgetary and programmatic issues for resources.	Size & Complexity.
	Utilizing advanced analytical and evaluative methods and techniques, leads strategic planning and prioritization processes. Develops strategy to leverage resources from other agencies and ensures equitable distribution and appropriate use of internal resources.	Make/Buy/Rely.
	FACTOR 4: TECHNOLOGY TRANSITION/TECHNOLOGY TRANSFER	
I	Participates as a team member in demonstrating technology and in interacting with internal/external customers.	Customer Interaction Level.
	With guidance, contributes to technical content of partnerships for technology transition and/or transfer (Advanced Technology Demonstrations, Memorandums of Understanding, Joint Director of Labs/Project Reliance, Cooperative Research and Development Agreements, and other dual-use vehicles).	Partnership/Level of Independence.
	Seeks out and uses relevant outside technologies in assigned projects	Leveraging Outside Technology.
II	Develops demonstrations and interacts independently with internal/external customers	Customer Interaction Level.
	As a team member, implements partnerships for transition and/or transfer of technology (Advanced Technology Demonstrations, Memorandums of Understanding, Joint Director of Labs/Project Reliance, Cooperative Research and Development Agreements, and other dual-use vehicles).	Partnership/Level of Independence.
	Evaluates and incorporates appropriate outside technology in individual or team activities..	Leveraging Outside Technology.
III	Develops customer base and expands opportunities for technology transition and transfer.	Customer Interaction Level.
	Leads or serves as key technical member of teams implementing partnerships for transition or transfer of technology (Advanced Technology Demonstrations, Memorandums of Understanding, Joint Director of Labs/Project Reliance, Cooperative Research and Development Agreements, and other dual-use vehicles).	Partnership/Level of Independence.
	Ensures incorporation of outside technology within laboratory programs	Leveraging Outside Technology.
IV	Organizes, leads, and markets overall technology transition and transfer activities for organization at senior management levels.	Customer Interaction Level.
	Leads in formulation and oversight of Advanced Technology Demonstrations, Memorandums of Understanding, Joint Director of Labs/Project Reliance, Cooperative Research and Development Agreements, and other dual-use vehicles.	Partnership/Level of Independence.
	Creates an environment that encourages widespread exploitation of both national and international technologies.	Leveraging Outside Technology.
	FACTOR 5: R&D BUSINESS DEVELOPMENT	
I	As a team member communicates with customers to understand customer requirements.	Customer Interaction level.
	By maintaining currency in area of expertise, contributes as a team member to new program development.	Knowledge and Level of Planning.
	May technically participate in writing proposals to establish new business opportunities	Knowledge of Market & Success in Getting Funds.
II	Initiates meetings and interactions with customers to understand customer needs	Customer Interaction Level.
	Generates key ideas for program development based on understanding of technology and customer needs. Demonstrates expertise to internal/external customers.	Knowledge and Level of Planning.
	Contributes technically to proposal preparation and marketing to establish new business opportunities.	Knowledge of Market & Success in Getting Funds.
III	Works to establish customer alliances and translates customer needs to programs in a particular technical area.	Customer Interaction Level.
	Develops feasible research strategies and/or business strategies for new technical activities.	Knowledge and Level of Planning.
	Seeks joint program coalitions with other agencies and funding opportunities from outside organizations. Pursues near-term business opportunities through proposals.	Knowledge of Market & Success in Getting Funds.
IV	Works with the senior management level to stimulate development of customer alliances for several technical areas.	Customer Interaction Level.

Level	Descriptor	Key elements
	Generates strategic research and/or business objectives for core technical areas. Recognizes war-fighting trends, relates business opportunities, and convinces laboratory management to develop and/or acquire expertise and commit funds.	Knowledge and Level of Planning.
	Secures business opportunities supporting long-term mission relevancy through targeted proposals and processes..	Knowledge of Market & Success in Getting Funds.
	FACTOR 6: COOPERATION AND SUPERVISION	
I	Contributes to all aspects of teams' responsibilities	Team Role.
	May technically guide or mentor less experienced personnel on limited aspects of scientific or engineering efforts.	Breadth of Influence.
	Receives close guidance from supervisor and/or higher level scientist or engineer. Performs duties in a professional, responsive, and cooperative manner in accordance with established policies and procedures.	Supervision & Guidance Received.
II	Contributes as a technical task or team leader; is sought out for expertise by peers; and participates in mentoring of team members.	Team Role.
	May guide on a daily basis, technical, programmatic, and administrative efforts of individuals or team members.	Breadth of Influence.
	May recommend selection or may select staff and/or team members. Assists in the development and training of individuals or team members. May participate in position and performance management.	Supervision & Subordinate Development.
	Receives general guidance in terms of policies, program objectives, and/or funding issues from supervisor and/or higher level scientist or engineer. Discusses novel concepts and significant departures from previous practices with supervisor or team leader.	Supervision & Guidance Received.
III	Is sought out for consultation and mentors team members	Team Role.
	Guides the research, technical and/or programmatic, and administrative efforts of individuals or teams with accountability for focus and quality.	Breadth of Influence.
	Recommends selection or selects staff and/or team members. Supports development and training of subordinates and/or team members. Participates in position and performance management.	Supervision & Subordinate Development.
	Receives only broad policy and administrative guidance from supervisor, such as initiation and curtailment of programs.	Supervision & Guidance Received.
IV	Establishes team charters and develops future team leaders and supervisors	Team Role.
	Leads and manages all aspects of subordinates' or team members' efforts with complete accountability for mission and programmatic success.	Breadth of Influence.
	Recommdends selection or selects staff, team leaders, and team members; fosters development and training of supervisory and non-supervisory individuals. Directs or recommends position and performance management.	Supervision & Subordinate Development.
	Works within the framework of agency policies, mission objectives, and time and funding limitations.	Supervision & Guidance Received.

The assessment process (section III D 3) begins with employee input which provides an opportunity to state the accomplishments and level of contribution perceived. To determine the employee's yearly contribution, the six factors will then be assessed by the immediate supervisor. For each factor, the supervisor places the employee's contribution at a particular level. If the contribution level for a factor is at the lowest level of level I, a score of 1.0 is assigned. Higher levels of contribution are assigned scores increasing in 0.1 increments up to 4.9. A factor score of 0.0 can be assigned if the employee's contribution does not demonstrate a minimum level I contribution. Under CCS, immediate supervisors will work with other supervisors in a group setting to render final scores. Weights may be applied to the six factors for different job categories of S&Es (section III D 7). CCS will also incorporate a midyear feedback session.

Employees within organizations are placed into pay pools (section III D 4). Salary adjustments, i.e., decisions to give or withhold salary increases, (section III D 5) are based on the relationship between contribution scores and present salaries. The maximum available pay rate under this demonstration will be the rate for GS–15/Step-10. Decisions for broadband movement (section III D 6) are also based on this relationship.

Cost neutrality is assured within each pay pool by limiting the total of salary increases to the funds available to the pay pool, based on what would have been available in the General Schedule system from general pay increases, step increases, and promotions. No changes will be made to locality pay under the demonstration project.

2. The "Standard Pay Line" (SPL)

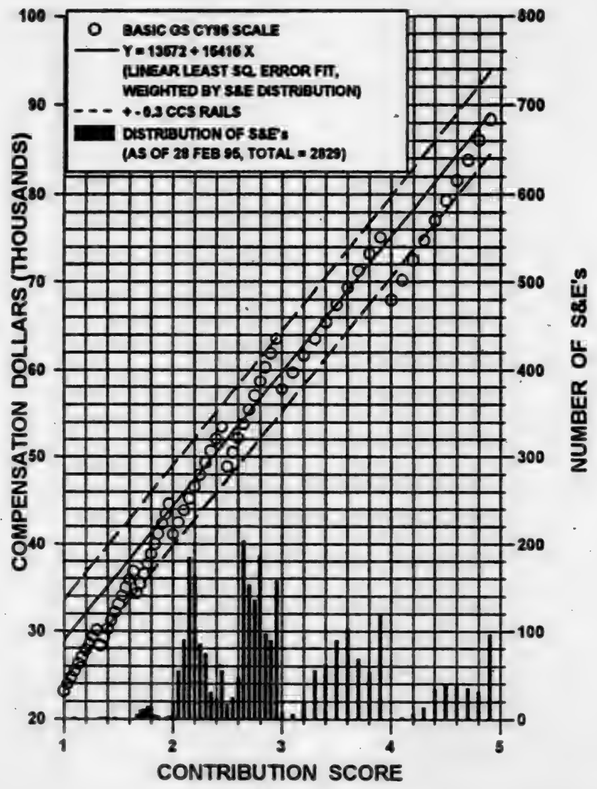
The relationship between each CCS score and the appropriate salary rate is expressed mathematically as a line. All S&Es entering the system will initially have their salary lie close to this "standard pay line" (SPL). Because employees enter the demonstration from a grade and step system, an initial correlation generally exists between their former GS/GM grade and step and the CCS scores appropriate for that broadband level. For example, level II consists of GS–12s and GS/GM–13s; GS–12/Step- 1 closely aligns to a CCS score of 2.0, GS–12/Step-2 correlates with a CCS score of 2.05,..., GS/GM–13/Step-1 relates to a CCS score of 2.5,..., and GS/GM–13/Step-10 to a CCS score of 2.95. This is shown in Figure 1 for the four-level broadband system where the salary of each GS grade/step is plotted on the Y-axis. Although the data are not continuous, there is a linear trend. Each of these data points was weighted by the actual calendar year 1995 (CY95) population data for the demonstration laboratories. Using a least squares error

analysis, the best straight line fit to this weighted data was determined and is shown in Figure 1.

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FIGURE 1—CCS RELATIONSHIP

FIGURE 1 - CCS RELATIONSHIP



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Equation of the Standard Pay Line (without locality) for CY95

COMPENSATION =

$13,572+$15,415×CCS SCORE

The SPL defined in Figure 1 is tied to the basic GS pay scale for CY95. The SPL for CY96 was calculated from the SPL for CY95 and the general increase (G) given to GS employees in January 1996. The equation for the CY96 SPL is: COMPENSATION = $13,843 + $15,723 × CCS SCORE. The CY97 SPL will be the CY96 SPL increased by the "G" for CY97. Continuing this calculation of SPL will maintain the same relationships between the basic GS pay-scale and the SPL in the demonstration project. Locality salary adjustments are not included in the SPL.

Rails were constructed at + and - 0.3 CCS around the SPL. These rails create an area in which nearly 100% of employees initially entering the demonstration will be included. A few may fall below the lower rail, but no employee will enter the demonstration above the upper rail. The area encompassed by the rails denotes the acceptable contribution and compensation relationship. Future CCS assessments will likely alter an employee's position relative to these rails.

3. The CCS Assessment Process

The annual assessment cycle begins on 1 October and ends on 30 September of the following year. At the beginning of the annual assessment period, the broadband level descriptors and weights (section III D 7) will be provided to employees so that they know the basis on which their contribution will be assessed. A midyear review, in the March to April time frame, will discuss the employee's contributions to-date and the employee's professional development. At the end of the assessment period, employees will summarize their contributions in each factor for their immediate supervisor.

The supervisor will determine initial CCS scores using the employee input and the supervisor's assessment of the overall contribution to the laboratory mission. For each factor, the supervisor places the employee's contribution at a particular level (I, II, III, or IV). If the contribution for a factor is at the lowest end of a level, a score of 1.0, 2.0, 3.0, or 4.0 is assigned. Greater contributions in each level are assigned scores increasing in 0.1 increments up to 1.9, 2.9, 3.9, or 4.9. A factor score of 0.0 can be assigned if the employee does not demonstrate a minimum level I contribution. Factor scores are then averaged to give a total CCS score.

The immediate supervisors (for instance, branch chiefs) and the next level supervisors (for instance, division chiefs) for a pay pool then meet as a group to review and discuss all proposed employee assessments and adjust individual CCS scores, if necessary. Giving authority to the group of managers to make minor score adjustments ensures contributions will have been assessed and measured similarly for all employees. Once the scores have been finalized, the results and any training and/or career development needs will be discussed with the individual employees. Pay adjustments will be made on the basis of this CCS assessment and the employee's current salary. Pay adjustments are subject to a few payout rules discussed in section III D 5. Final pay determinations will be made at a management level above the group of supervisors who rendered final CCS assessments. CCS scores, however, cannot be changed by managerial levels above the original group of supervisors. Decisions for any broadband level changes (section III D 6) will be submitted to at least one level of management higher than the group of supervisors (for instance, directorate chief) for approval. Pay adjustments and broadband level changes will then be documented by SF–50, Notification of Personnel Action.

4. Pay Pools

Pay pool structure is under the authority of the laboratory directors/commanders. The following minimal guidelines, however, will apply: (a) a pay pool is based on the organizational structure and should include a range of S&E salaries and contribution levels; (b) a pay pool must be large enough to constitute a reasonable statistical sample, i.e., 35 or more; (c) a pay pool must be large enough to encompass a second level of supervision since the CCS process uses a group of supervisors in the pay pool to determine assessments and recommend salary adjustments; and (d) the pay pool manager (for instance, a division chief or directorate chief) holds yearly pay adjustment authority. Pay pool managers' pay determinations, however, may still be subject to higher management review.

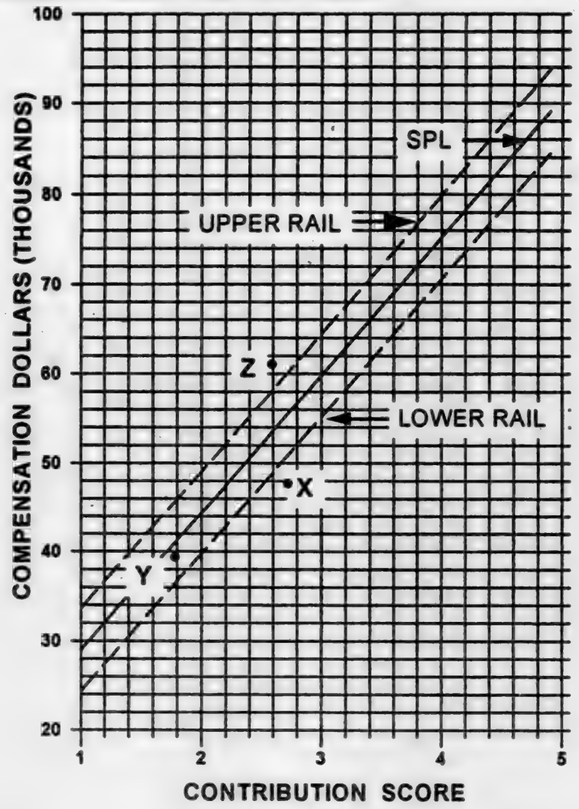
The amount of money available for salary increases within a pay pool is determined by the general increase (G) and money that would have been available for step increases and promotions (I). The latter will be set at 2.4% upon implementing the demonstration and is considered adjustable to ensure cost neutrality over the life of the demonstration. The amount of "I" to be included in the pay pool will be computed based on the salaries of employees in the pay pool as of 30 September each year.

5. Salary Adjustment Guidelines

After the initial assignment into the CCS system, employees' yearly contributions will be determined by the CCS process described above, and their CCS scores versus their current salaries will be plotted on a graph along with the SPL (see Figure 2). The position of those points relative to the SPL gives a relative measure (δY/Y) of the degree of over- or under-compensation for the employees. This permits all employees within a pay pool to be rank-ordered by δY/Y, from the most under-compensated employee to most over-compensated.

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FIGURE 2 - EMPLOYEE POSITIONING



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In general, those employees who fall below the SPL (indicating under-compensation, for example, employee X in Figure 2) should expect to receive greater salary increases than those who fall above the line (indicating over-compensation, for example, employee Z). Over time, people will migrate closer to the standard pay line and receive a salary appropriate to their level of contribution. The following are more specific guidelines: (a) Those who fall above the upper rail (for example, employee Z) will be given an increase ranging from zero to a maximum of "G"; (b) Those who fall within the rails (for example, employee Y) will be given a minimum of "G"; and (c) Those who fall below the lower rail (for example, employee X) will be given at least their base pay times "G" plus the percentage of funds set aside for step increases and promotions which will no longer take place (I). Should an employee's CCS assessment fall on either rail, it will be considered to be within the rails.

Initially, the value of "I" will be 2.4%; the percentage, however, may be changed to ensure cost neutrality. Each pay pool manager will set the necessary guidelines for the gradation of pay adjustments in the pay pool within these general rules. Decisions made will be standard and consistent within the pay pool, be fair and equitable to all stakeholders, maintain cost neutrality, and be subject to review. The maximum available pay rate under this demonstration will be the rate for GS–15/Step-10.

6. Movement Between Broadband Levels

It is the intent of the demonstration project to have S&E career growth be accomplished through unrestricted movement through the broadband levels based on contribution and salary. Movement through the broadband levels will be determined by contribution and salary following the CCS payout calculation. Resulting changes in broadband levels are not accompanied by tradition promotion dollars, but rather, they will be documented as a change in title, change in broadband level, and reaccomplishment of a Statement of Duties and Experiences (SDE) (section III C 6). The terms Promotion and Demotion will not be used in connection with the CCS process. Rather, these terms will be reserved for competitive placement and adverse actions.

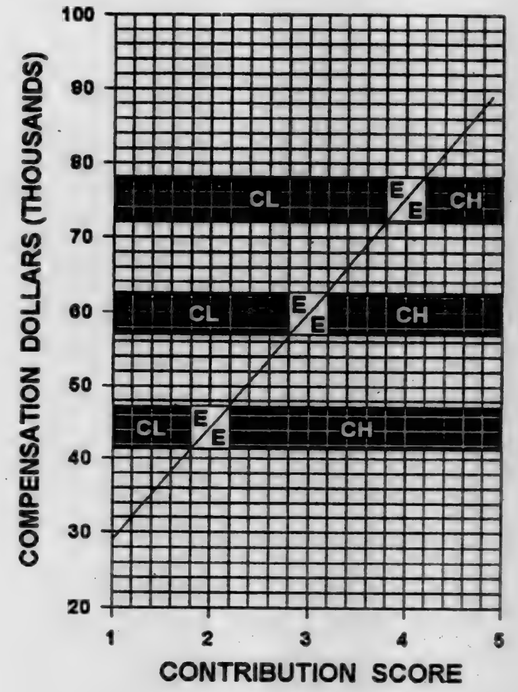
Broadband levels are derived from an initial grouping of one or more GS grades. Salary overlap between adjacent levels is desirable for broadband level

movement. It is more convenient, however, to redefine these overlaps (that is, the top and bottom salary ranges of the broadband levels which produce the overlaps) in terms of the SPL. Specifically, the salary overlap between two levels is defined by the salaries at − to + 0.2 CCS around the whole number score defining the boundary between the contribution levels. For example, the maximum salary for level II would be that salary from the SPL corresponding to a CCS score of 3.2. Likewise, the minimum salary for level III would be the salary from the SPL corresponding to a CCS score of 2.8. This definition provides a salary overlap between broadband levels that is consistent and similar to salary overlaps in the GS schedule.

Figure 3 shows the salary overlap areas between broadband contribution levels. These salary overlap areas are divided into three zones designated as CL (consideration for change to lower level), CH (consideration for change to higher level), and E (eligible for change to higher or lower level). All the E zones have the same width, 0.4 CCS, and height. The E zone is described as the box formed by the intersection of the integer + and - 0.2 CCS lines and the SPL.

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FIGURE 3 - OVERLAP AREAS



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The E zones serve to stabilize the movement between adjacent broadband levels. This allows for annual fluctuations in contribution scores for people near the top or bottom of a level, without creating the need for repeated changes of their titles. An employee whose contribution score falls within an E zone is eligible for a change in broadband level (with the associated title change), but one should not be given unless the supervisor has a compelling reason to advance or reduce the employee's level. Under normal circumstances, pay adjustments under CCS will follow contribution scores. Those who consistently achieve increased contribution assessments will progress through their broadband level and will find their salary climbing into the corresponding CH zone. Once the employee's CCS score is demonstrated to be consistently within the CH zone, the employee should be moved to the higher broadband level unless the supervisor has a compelling reason not to request the change. Conversely, regression through the broadband levels works the same way in the opposite direction. Those who consistently receive decreasing contribution assessments will regress through their broadband level and would not have been receiving any salary adjustments greater than "G." They will find that the CL zone at the bottom of their current broadband level will catch up with their current salary. Once the employee's CCS score is demonstrated to be consistently within the CL zone, the employee should be moved to the lower

broadband level unless the supervisor has a compelling reason not to request the change. Compelling reasons for retaining broadband levels in the presence of a consistent assessment in the CH or CL range must be documented in writing and provided to the employee. If an employee moves totally above the CH zone or below the CL zone, the employee will be changed in broadband level without supervisory action.

At the present time, high-grade controls within the agency restrict movement between broadband level II and broadband level III. A separate tri-service initiative to replace these controls with other management measures is currently under review by the Department of Defense. Until the high-grade controls are lifted, demonstration project employees will not be able to advance from broadband level II to broadband level III unless a high-grade authorization is available. To accommodate this, level II employees whose salary adjustment would place them above the CH zone for level II in organizations where high-grade authorizations are unavailable will receive permanent adjustments to basic salary up to an amount equivalent to the top of broadband level II. Any additional amount granted under CCS will be paid as a one-time bonus payment from pay pool funds. This pattern of payout will continue until high-grade authorizations become available.

Movement under CCS happens once a year. Under the demonstration project, managers are provided greater flexibility in assigning duties by moving employees between positions within their broadband level. If, throughout the year, there are vacancies at higher levels (typically supervisory positions), employees may be considered for promotion to those positions according to the demonstration project competitive promotion procedures approved by the Air Force. Demonstration employees selected for positions at a higher broadband level will receive the minimum of the new broadband level or their existing salary, whichever is greater. Under the approved competitive promotion procedures, the selecting official may consider candidates from any source based on viable and supportable job related merit-based methodology. Similarly, if there is sufficient cause, an employee may be demoted to a lower level position according to the contribution-based reduction in pay or removal procedures discussed in section III E or the existing procedures related to disciplinary actions.

7. Weights

Employees under the demonstration will be assigned to one of five job categories:

(a) Supervisor, primary function is to supervise other employees;

(b) Plans & Programs S&E, primary function is to formulate plans and policies to further the organizational mission;

(c) Program Manager, primary function is to run/direct research and development (R&D) programs;

(d) Support S&E, primary function is to support the research efforts of the laboratory; and

(e) Bench-Level S&E, primary function is to perform R&D within the mission focus of the laboratory. Laboratory directors/commanders will have the authority to determine if varying weights should be applied to the six CCS factors based on these job categories. As an example, Technical Problem Solving may be more heavily weighted for Bench-Level S&Es than the factor of Technology Transition/ Technology Transfer.

The authority to use weights and the authority to set weights may be delegated below the laboratory director/ commander. But, weights must be the same for all employees in a particular job category in a pay pool. This ensures that a fair comparison of employees is made, without having the weights tailored to specific individuals. The overall CCS score is determined by multiplying the score for each factor by the weight, adding the results, and then dividing by the sum of the weights.

This demonstration project, in part, is predicated on the belief that the continued success and viability of the laboratories depends on all employees seeking to contribute in each of the areas defined by the six factors. Making all employees accountable for all factors shifts organizational values in new directions. For this reason, no factor can be given a weight of zero. Laboratory directors/commanders should annually review the weightings for the various job categories to see if they can be increased toward a weighting of 1.0 to encourage and allow employees to raise their CCS contribution assessment by contributing in a broader range of activities. Contribution in all six factors is important to ensure both the overall success of DoD laboratories and individual S&E career growth. Hence, the weights should be reviewed frequently, and an effort made to move away from them in later years of the demonstration.

Other guidelines for setting weights for the six factors are: (a) Weights may be assigned any value, in increments of 0.1, from 0.1 to 1.0; (b) At least three factors must have a weight of 1.0; and (c) No more than one factor can have a weight of less than 0.5. For all six factors, therefore, the weights must sum from 4.1 to 6.0.

8. Voluntary Pay Reduction and Pay Raise Declination

A provision exists today for an employee to request a change to lower grade. If that request is totally the employee's choice, then the employee's salary is lowered accordingly. Although the rationale behind such a voluntary request varies, under CCS a voluntary request for a pay reduction or a voluntary declination of a pay raise would effectively put an over-compensated employee's pay closer to or below the standard pay line. Since an objective of CCS is to properly compensate employees for their contribution, the granting of such requests is consistent with this goal. Under normal circumstances, all employees should be encouraged to advance their careers through increasing contribution rather than trying to be under-compensated at a fixed level of contribution.

To handle these special circumstances, employees must submit a request for voluntary pay reduction or pay raise declination during the 30-day period immediately following the annual payout, and show reasons for the request. All actions will be appropriately documented.

9. Implementation Schedule

The 1996 employee annual appraisal will be done according to Air Force performance plan rules in effect at the time of the 1996 close-out. The 1997 appraisal cycle will also begin but is not anticipated to be completed due to the implementation schedule of this demonstration project. The first assessment cycle under CCS will commence the day the demonstration is implemented and run through 30 September 1997. The first CCS payout will be given in the traditional first full pay period in calendar year 1998.

10. CCS Grievance Procedures

An employee may grieve the assessment received under CCS. Nonbargaining unit employees, and bargaining unit employees covered by a negotiated grievance procedure which does not permit grievances over performance ratings, must file assessment grievances under administrative grievance procedures. Bargaining unit employees, whose negotiated grievance procedures cover performance rating grievances, must file assessment grievances under those negotiated procedures.

E. Contribution-based Reduction in Pay or Removal Actions

This section applies to reduction in pay or removal of demonstration project employees based solely on inadequate contribution. Adverse actions procedures under 5 CFR 752 remain unchanged.

When an employee's contribution plots in the area above the upper rail of the SPL (section III D 3) the employee is considered to be in the Automatic Attention Zone (AAZ). In this case, the supervisor has two options. The first is to take no action but to document this decision in a memorandum for record. A copy of this memorandum will be provided to the employee and to higher levels of management. The second option is to inform the employee, in writing, that unless the contribution increases to, and is sustained at, a higher level, the employee may be reduced in pay or removed.

These provisions also apply to an employee whose contribution deteriorates during the year. In such instances, the group of supervisors who meet during the CCS assessment process may reconvene any time during the year to review the circumstances warranting the recommendation to take further action on the employee.

The supervisor will afford the employee a reasonable opportunity (a minimum of 60 days) to demonstrate increased contribution commensurate with the duties and responsibilities of the employee's position. As part of the employee's opportunity to demonstrate increased contribution, the laboratory will offer assistance to the employee.

Once an employee has been afforded a reasonable opportunity to demonstrate increased contribution, the laboratory may propose a reduction in pay or removal action. If the employee's contribution increases to a higher level and is again determined to deteriorate in any area within 2 years from the beginning of the opportunity period, the laboratory may initiate reduction in pay or removal with no additional opportunity to improve. If an employee has contributed appropriately for 2 years from the beginning of an opportunity period and the employee's overall contribution once again declines, the laboratory will afford the employee an additional opportunity to demonstrate increased contribution before determining whether or not to propose a reduction in pay or removal.

An employee whose reduction in pay or removal is proposed is entitled to a 30 day advance notice of the proposed action that identifies specific instances of inadequate contribution by the employee on which the action is based. The laboratory may extend this advance notice for a period not to exceed an additional 30 days. The laboratory will afford the employee a reasonable time to answer the laboratory's notice of proposed action orally and/or in writing.

A decision to reduce in pay or remove an employee for inadequate contribution may be based only on those instances of inadequate contribution that occurred during the 2 year period ending on the date of issuance of the advance notice of proposed action. The laboratory will issue written notice of its decision to the employee at or before the time the action will be effective. Such notice will specify the instances of inadequate contribution by the employee on which the action is based and will inform the employee of any applicable appeal or grievance rights.

The laboratory will preserve all relevant documentation concerning a reduction in pay or removal which is based on inadequate contribution and make it available for review by the affected employee or designated representative. At a minimum, the laboratory's records will consist of a copy of the notice of proposed action; the written answer of the employee or a summary thereof when the employee makes an oral reply; and the written notice of decision and the reasons therefore, along with any supporting material including documentation regarding the opportunity afforded the employee to demonstrate increased contribution.

When the action is not taken because of contribution improvement by the employee during the notice period, the employee is not reduced in pay or removed, and the employee's contribution continues to be deemed adequate for 2 years from the date of the advanced written notice, any entry or other notation of the proposed action will be removed from all laboratory records relating to the employee.

F. Voluntary Emeritus Corps

Under the demonstration project, laboratory directors/commanders will have the authority to offer retired or separated employees voluntary assignments in the laboratories. This authority will include employees who have retired or separated from Federal service, including those who have accepted a buy-out. The voluntary emeritus corps will ensure continued quality research while reducing the overall salary line by allowing higher paid employees to accept retirement incentives with the opportunity to retain a presence in the scientific community. The program will be of most benefit during manpower reductions as senior S&Es could accept retirement and return to provide valuable on-the-job training or mentoring to less experienced employees.

To be accepted into the emeritus corps, a volunteer must be recommended by laboratory managers to the laboratory director/commander. Everyone who applies is not entitled to a volunatry assignment. The laboratory director/commander must clearly document the decision process for each applicant (whether accepted or rejected) and retain the documentation throughout the assignment. Documentation of rejections will be maintained for 2 years.

To encourage participation, the volunteer's federal retirement pay (whether military or civilian) will not be affected while serving in a voluntary capacity.

Volunteers will not be permitted to monitor contracts on behalf of the government or to participate on any contracts where a conflict of interest exists.

An agreement will be established between the volunteer, the laboratory director/commander, and the Civilian Personnel Flight. The agreement must be finalized in advance and shall include as a minimum:

(a) a statement that the voluntary assignment does not constitute an appointment in the civil service and is without compensation,

(b) the volunteer waives any and all claims against the Government because of the voluntary assignment except for purposes of on-the-job injury compensation as provided in 5 U.S.C. 8101(1)(B),

(c) volunteer's work schedule,

(d) length of agreement (defined by length of project or time defined by weeks, months, or years),

(e) support provided by the laboratory (travel, administrative, office space, supplies),

(f) a one page SDE,

(g) a provision that states no additional time will be added to a volunteer's retirement credit as a result of being a member of the voluntary emeritus corps,

(h) a provision allowing either party to void the agreement with 10 working days written notice, and

(i) the level of security access required (any security clearance required by the assignment will be managed by the

laboratory while the volunteer is a member of the emeritus corps).

G. Revised Reduction-In-Force (RIF) Procedures

Reduction-in-force is not the vehicle for addressing contribution/disciplinary problems properly addressed under section III E or 5 U.S.C. 75, Adverse Actions. When there is a requirement to reduce the size of the laboratory workforce due to a lack of funds, lack of work, or other reason specified in 5 CFR 351.201, demonstration project employees will be identified for reduction using the following procedures.

A separate competitive area will be established by geographic location for all laboratory personnel included in the demonstration project. The revised RIF procedures apply to all regular career S&Es (including those who have not completed their probationary period).

Each laboratory shall establish competitive levels consisting of all positions in a competitive area which are in the same broadband level and occupational family and which are similar enough that the incumbent of one position could succeed in the new position without any loss of productivity beyond that normally expected in the orientation of any new, but fully qualified, employee. The laboratory directors/commanders, or their designee, will observe and participate with the appropriate Civilian Personnel representative in all placement actions.

Competing employees shall be ranked on a retention register on the basis of their annual CCS assessment (ΔX), veterans preference, and length of service. The ΔX is determined by plotting an individual's annual CCS score and present salary as a point on a graph and computing the difference between the position of that point and the contribution point on the SPL for the employee's salary rate. This is computed by actual CCS score minus expected SPL point for that salary rate and may result in positive, zero, or negative ΔX. This ΔX replaces the annual performance rating in the RIF definition and is the primary factor in determining an employee's retention standing.

The retention order will be as follows:

(a) All regular career employees, including those employees who have not completed a probationary period, will be listed on the retention register based on an individual's ΔX consisting of an average of the three most recent CCS assessments of record. The employees will then be divided into three categories: (1) above the upper rail (a ΔX less than −0.30), (2) within the two rails (a ΔX equal to or greater than −0.30 and less than or equal to +0.30), and (3) below the lower rail (a ΔX greater than +0.30).

(b) All employees within each of these three categories will tie for the purposes of RIF. Ties will be broken by using an employee's veterans preference for RIF (i.e., 30 percent disabled veterans will be listed first, followed by other veterans, and all non-veterans will be listed last).

(c) Ties within this latter category will be broken based on Service Computation Date (SCD). No additional credit will be added to the SCD based on the CCS annual assessments.

Until the first CCS assessment is given under the demonstration project, traditional RIF rules will be followed. Should a RIF occur between the first and second CCS assessment dates, employees will have their SCD adjusted based on the employee's two most recent annual performance ratings of record received during the 3-year period prior to implementation of the demonstration project. Effective with the second CCS assessment date, no credit will be given for ratings received outside the demonstration project.

One objective of the demonstration project is to ensure lower ranked contributors are the first to be RIFed while continuing to preserve Veterans Preference. After 3 years of evaluating CCS and the revised RIF process, a decision will be made whether or not to continue the RIF process described above or to consider alternatives.

Employees serving under a contingent appointment will not have a right to compete for retention in RIF. Accordingly, these employees will be listed at the bottom of the appropriate retention register and must be separated before any regular career employees can be released from the competitive level.

To provide adequate time to determine employee retention standing, the laboratory will establish a cutoff date—a minimum of 30 calendar days prior to the issuance of RIF notices—after which no new CCS assessments will be put on record and used for purposes of RIF. When a cutoff date is used, employees will receive their ΔX for the three most recent CCS assessments received during the 4 year period prior to the cutoff date.

To be creditable for purposes of RIF, an assessment must have been issued to the employee, with all appropriate reviews and signatures, and must be on record (e.g., the assessment is available for use by the office responsible for establishing retention registers).

An employee who has received fewer than three annual CCS assessments of record shall be ranked based on any actual assessment(s) received and the required number of assumed assessment(s) of 0.0 ΔX (the contribution factor for their current salary as defined by the SPL).

An employee who has received a written decision under the contribution-based actions provision of the demonstration described in section III E competes under RIF from the position to which the employee will be or has been demoted.

Assignment rights for employees identified for release from a competitive level will be determined in the following order: (a) Vacant positions—assignment may be made to any available vacant position in the competitive area; then (b) Trumping—an employee with a higher retention standing displaces another employee in another competitive level in the same broadband level. Trumping replaces the bumping and retreat action under the traditional RIF system.

Each competing employee is entitled to a specific written notice at least 60 full calendar days before the effective date of release when a significant number of employees will be separated. An employee is entitled to a second written notice, as appropriate, at least 60 full calendar days if the agency decides to take an action more severe than first specified.

IV. Training

An extensive training program is planned for support personnel and every employee in the demonstration project including managers, supervisors, and S&Es. Training will be tailored to fit the requirements of every employee included and will fully address employee concerns to ensure everyone has a comprehensive understanding of the program and to emphasize the benefits to employees. In addition, leadership training will be provided to all managers and supervisors as the new system places more responsibility and decision making authority on their shoulders.

Using an existing task order contract through Armstrong Laboratory, the training packages will be developed to encompass all aspects of the project and validated prior to training the workforce. Specifically, training is being developed for the following groups of employees:

(a) lab S&Es included in the demonstration,

(b) civilian and military supervisors and managers, and

(c) administrative support personnel, civilian personnel offices, civilian pay offices, and HQ AFMC and center personnel who must understand laboratory operations under the demonstration.

Training requirements will vary from an overview of the new system; to a more detailed package for laboratory S&Es; to very specific instructions for both civilian and military supervisors, managers, and others who provide personnel and payroll support.

Base level training personnel will provide local training management, facilities, and support to laboratory directors/commanders. Contract training personnel will be utilized where organic capabilities are not available or not economically feasible. The training will begin, and be completed, within the 90 days prior to implementation.

V. Conversion

A. Conversion to the Demonstration Project

Initial entry into the demonstration project for covered employees will be accomplished through a full employee protection approach that ensures each employee an initial place in the appropriate broadband level without loss of pay. An automatic conversion from current GS/GM grade and step into the new broadband system will be accomplished. Special Salary Rates will no longer be applicable to demonstration project employees. All employees will be eligible for the future locality pay increases of their geographical area. Employees on Special Salary Rates at the time of conversion will receive a new basic pay rate computed by dividing their highest adjusted basic pay (i.e., special pay rate or, if higher, the locality rate) by the locality pay factor for their area. A full locality adjustment will then be added to the new basic pay rate. Adverse action and pay retention provisions will not apply to the conversion process as there will be no change in total salary. Employees who enter the demonstration project later by lateral reassignment or transfer will be subject to parallel pay conversion rules.

B. Conversion Back to the Former System

In the event the project ends, a conversion back to the former (regular) Federal civil service system will be required. All employees in a broadband level corresponding to a single General Schedule (GS) grade will be converted to that grade. Employees in a multiple grade broadband level will be considered to have attained the next higher grade when they have been in the level at least 1 year and their salary equals or exceeds the minimum salary of the higher grade. For employees who are entitled to a special rate upon return to the General Schedule, the demonstration project locality rate must equal or exceed the minimum special rate of the higher grade. To set GS pay upon conversion, an employee's demonstration project locality rate would be converted (prior to leaving the project) to the highest General Schedule rate range (i.e., locality rate range or special rate range) applicable to the employee. If the employee's rate falls between the fixed rates for the applicable range, it will be raised to the next higher rate. The employee's GS basic rate (excluding special rates or locality payments) would then be derived based on the grade and step associated with this converted rate. Employees who leave the demonstration project and return to the General Schedule pay system via reassignment, promotion, demotion, or transfer are subject to parallel pay conversion rules to determine the converted GS rates under the demonstration project to be used in applying GS pay administration rules (e.g., promotion rule or maximum payable rate rule) in setting pay at the gaining agency.

VI. Project Duration

Public Law 103–337 removed any mandatory expiration date for this demonstration. The project evaluation plan adequately addresses how each intervention will be comprehensively evaluated for at least the first 5 years of the demonstration. Major changes and modifications to the interventions can be made through announcement in the **Federal Register** and would be made if formative evaluation data warranted. At the 5 year point, the entire demonstration will be reexamined for either: (a) permanent implementation, (b) change and another 3–5 year test period, or (c) expiration.

VII. Evaluation Plan

Authorizing legislation mandates evaluation of the demonstration project to assess the merits of project outcomes and to evaluate the feasibility of applications to other federal organizations. A comprehensive and methodologically rigorous evaluation of the personnel system changes will be carried out. The overall evaluation consists of two components—external and internal evaluation. Both components will be overseen by the Office of Personnel Management (OPM) to benefit from their extensive experience evaluating demonstration projects. Further, OPM will serve in the role of external evaluator to ensure the integrity of the evaluation process, outcomes, and interpretation of results. Their external evaluation will be supplemented by an internal evaluation to be accomplished by the staff of the USAF laboratories. Selected parts of the evaluation will be completed using contractor support; the contractor(s) will be well qualified and experienced with demonstrated expertise in performing relevant support functions.

Essential elements of the evaluation plan are set forth below. The demonstration project is a complex experiment to be conducted in a dynamic environment over several years. Modifications and refinements to the evaluation plan will be made as required by mid-course project changes. All additions, deletions, and refinements to the current plan will be fully documented and explained as part of the evaluation reporting process.

The main purpose of the evaluation is to determine the effectiveness of the personnel system changes described by the individual interventions. Every effort will be made to establish direct cause-and-effect relationships between the interventions and effectiveness criteria. An ancillary objective is to assess the effects of the interventions on improved organizational performance. An indirect causal link is hypothesized between the personnel system changes and improved organizational effectiveness, e.g., improved laboratory performance, mission accomplishment, and customer satisfaction. The current personnel management system with its many rigid rules and regulations often is perceived as a barrier to mission accomplishment. Together, the demonstration project initiatives are intended to remove some of those barriers, and, therefore, are expected to contribute to improved laboratory performance.

The evaluation effort will be accomplished in four distinct phases:

(a) Design phase—includes development of the evaluation model; selection of experimental and comparison sites, and collection of baseline data prior to implementation;

(b) Implementation phase—includes actual project implementation and monitoring of the degree and support of implementation to assure that each of the project interventions has been operationalized as originally conceived;

(c) Formative evaluation phase—includes data collection and analysis for 5 years for purposes of evaluating the effects of the interventions. Periodic reports and annual summaries will be prepared to document the findings; and

(d) Summative evaluation phase—focuses on summary evaluation and overall assessment of the project's

impact, including presentation of conclusions and final recommendations upon completion of the project.

A quasi-experimental design with pre- and post-implementation comparisons will be employed. Baseline measures will be taken prior to project implementation. Then, repeated measurements will be taken post-implementation, throughout the formative evaluation phase, to allow longitudinal comparisons.

Scientific and engineering personnel at all USAF laboratory sites constitute the experimental group, leaving no laboratory site that can be used to form a permanent, equivalent "no treatment" control group. A control group is defined as consisting of employees managed under the traditional Civil Service system.

Provisions are being made to address the lack of a control group by collecting data from other non-equivalent sites for comparison purposes. Options being explored are:

(a) Use Army and Navy laboratories as temporary control groups. These laboratories are eligible to conduct personnel demonstration projects under the authorizing legislation, and most, if not all, are planning their own projects. Until their projects are approved, the employees could serve as short-term controls.

(b) Construct a composite comparison group from laboratories in civilian federal agencies, with occupational and other workforce demographics comparable to those of the USAF laboratories.

An additional feature of the design calls for comparisons of trends relative to those for prior demonstration projects now operating under non-traditional personnel systems, including the National Institutes for Standards and Technology (NIST) and Naval laboratories (Naval Warfare Center and Naval Ocean Systems Center). A retrospective analysis will be conducted to compare historic data from prior projects with that obtained from the USAF laboratories on common measures collected at equivalent points during the implementation and formative evaluation phases.

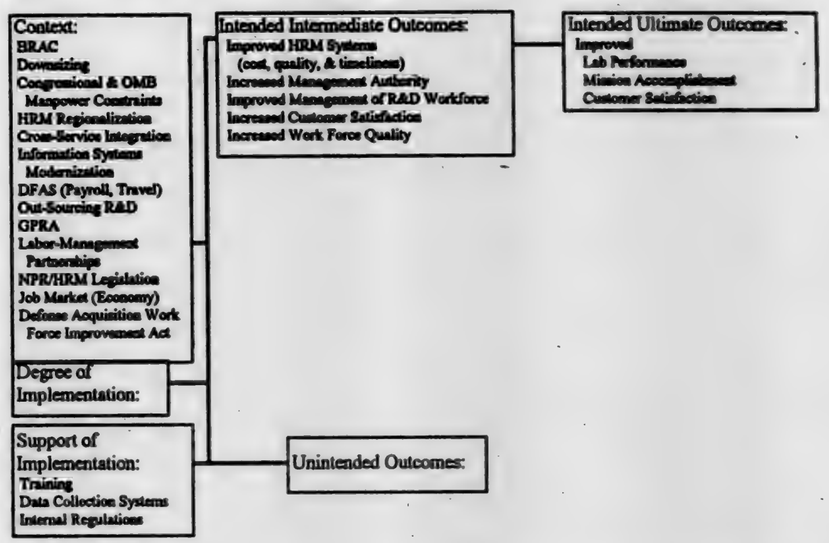
As shown in Figure 4, a general evaluation model has been developed which postulates: (a) specific intermediate effects of each individual intervention, and (b) ultimate effects of the combined interventions on organizational performance. Intermediate, intended outcomes are those changes, as a result of the experimental interventions, which contribute to achieving the ultimate goals. Further, efforts will be made to assess unintended effects, that is, unanticipated impacts that may be positive or negative in nature. Any changes can have unintended outcomes, and those proposed for the demonstration project are no exception. The evaluation methods and measures will be comprehensive in design in order to capture unintended results. Moreover, as the results of the intervention evaluation are being interpreted and conclusions are being drawn, consideration will be given to the context in which the demonstration project is occurring. Much of the context cannot be controlled, but contextual events will be identified and considered in the evaluation as potential intervening variables.

The effectiveness of each intervention and the project as a whole in meeting stated objectives will be addressed using a multi-method approach. Some methods will be unobtrusive in that they do not require reactions or inputs from employees or managers. These methods include analysis of archival workforce data and personnel office data, review of logs maintained by site historians documenting contextual events, and organizational records of scientific and engineering products and research study progress reports. Other methods such as structured interviews, focus groups, and attitude surveys will be used to collect the perceptions of laboratory managers and supervisors, as well as customers.

The specific measures to be collected using the different methods will be deduced from the goals and objectives stated for each intervention. Both quantitative and qualitative measures will be obtained. Most of the potential measures can be grouped around three major effectiveness criteria: speed, cost, and quality. Collectively, the intermediate outcomes of the interventions are hypothesized to lead to human resource management improvements, as reflected by timeliness, cost-effectiveness, and quality. The same three criteria apply to ultimate outcomes indicating organizational performance.

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FIGURE 4 - GENERAL EVALUATION MODEL



VIII. Demonstration Project Costs

A. Step Buy-Ins

Under the current pay structure, employees progress through their assigned grade in step increments. Since this system is being replaced under the demonstration project, employees will be awarded that portion of the next higher step they have completed up until the effective date of implementation. As under the current system, supervisors will be able to withhold these partial step increases if the employee's performance falls below fully successful.

The 1996 annual appraisal will be closed on the normal close-out date of June 30, 1996. The first formal CCS assessment cycle will begin on the effective date of implementation of the demonstration and will end on September 30, 1997. The general increase to employee's base pay in January 1997 will be handled under existing procedures. The first CCS pay adjustments will be made during the first full pay period of CY98. Future CCS pay adjustments will be effective the beginning of the first full pay period of subsequent calendar years.

Rules governing Within-Grade Increases (WGI) under the current Air Force performance plan will continue in effect until the implementation date. Adjustments to the employees base salary for WGI equity will be computed effective the date of implementation to coincide with the beginning of the first formal CCS assessment cycle. WGI equity will be acknowledged by increasing base salaries by a prorated share based upon the number of days an employee has completed towards the next higher step. Employees at step 10 on the date of implementation will not be eligible for WGI equity adjustments since they are already at the top of the step scale.

B. Cost Neutrality

The demonstration project is required to be cost neutral. A baseline will be established at the start of the project and salary expenditures will be tracked yearly. Implementation costs, including the step buy-in costs detailed above, will not be included in the cost neutrality evaluations.

Special Salary Rates will no longer be applicable to demonstration project employees. The only factor in the pay equation which varies from the current system is the allowance for step increases and promotions, denoted by "I." The 15 year demonstration project at China Lake has demonstrated this number to average 2.4% per year. This figure has been further validated by OPM. By limiting annual CCS based pay increases to the general increases (G) plus 2.4% should, by definition, maintain cost neutrality under CCS. If through the project evaluation process it is determined that cost neutrality is not being maintained, the "I" rate will be adjusted to a rate which will provide for cost neutrality within 3 years.

C. Personnel Policy Boards

It is being recommended that each laboratory establish a Personnel Policy Board that would consist of the senior civilian in each directorate within the laboratory and be chaired by the laboratory executive director. The board would be tasked with the following:

(a) Overseeing the civilian pay budget,

(b) Addressing issues associated with two separate pay systems (CCS and GS) during the first phase of the demonstration project,

(c) Determining the composition of the CCS pay pools in accordance with the established guidelines,

(d) Reviewing operation of the laboratory CCS pay pools,

(e) Providing guidance to pay pool managers,

(f) Administering funds to CCS pay pool managers,

(g) Integrating CCS with the free-market model,

(h) Reviewing hiring and promotion salaries,

(i) Addressing Manage to Budget (MTB) issues to include the tracking of average salaries, and

(j) Monitoring award pool distribution by organization and by S&E versus non-S&E.

Should the laboratory elect not to establish a Personnel Policy Board, the charter of an existing group within each laboratory must be modified to include the duties detailed above.

D. Developmental Costs

Costs associated with the development of the demonstration system include software automation, training, and project evaluation. All funding will be provided through the Air Force Science and Technology budget. The projected annual expenses for each area is summarized in Table 4. Project evaluation costs will continue for at least the first 5 years and may continue beyond.

TABLE 4.—PROJECTED DEVELOPMENTAL COSTS

[Then year dollars in thousands]

	FY95	FY96	FY97	FY98	FY99
Training	$170	$100	$50		
Project Eval	20	200	150	$150	$150
Automation	.....	150	100	.....	.....
Data Systems	.....	260	.....	.....	.....
Totals	190	710	300	150	150

IX. Required Waivers to Law and Regulation [10]

A. Waivers to Title 5, United States Code

Chapter 31, Section 3111: Acceptance of volunteer service.

Chapter 33: Examination; selection; placement.

Chapter 35, Sections 3501–3502: Related to retention preference.

Chapter 43, Sections 4301–4305: Related to performance appraisal.

Chapter 51, Sections 5101–5102 and Sections 5104–5107: Related to classification standards and grading.

Chapter 53, Sections 5301; 5302 (8) and (9); 5303; 5304 (only to the extent necessary to allow demonstration project employees to be treated as General Schedule employees and to allow basic rates of pay under the demonstration to be treated as scheduled rates of basic pay); 5305; 5331–5336; and 5361–5366: Related to special pay; pay rates and systems; grade and pay retention.

Chapter 55, Section 5545 (d): Related to hazardous duty premium pay (only to the extent necessary to allow demonstration project employees to be treated as General Schedule employees).

Chapter 57, Sections 5753, 5754, and 5755: Related to recruitment, relocation, and retention payments; supervisory differential (only to the extent necessary to allow employees and positions under the demonstration project to be treated as employees and positions under the General Schedule).

Chapter 75, Sections 7512 (3): Related to adverse action (but only to the extent necessary to exclude reductions in broadband level not accompanied by a reduction in pay) and 7512 (4): Related to adverse action (but only to the extent necessary to exclude conversions from a General Schedule special rate to demonstration project pay that do not result in a reduction in the employee's total rate of pay).

B. Waivers to Title 5, Code of Federal Regulations

Part 300, Sections 300.601 through 300.605: Time-in-grade restrictions.

Part 308, Sections 308.101 through 308.103: Volunteer service.

Part 315, Sections 315.801 and 315.802: Probationary period.

Part 334, Section 334.102 : Temporary assignment of employees outside agency.

Part 340: Other than full-time career employment.

Part 351, Sections 351.203; 351.403; 351.501; 351.504; 351.701; 351.801; and 351.805: Related to retention preference.

Part 430, Subpart A and Subpart B: Performance management; performance appraisal.

Part 432, Sections 432.103 through 432.105: Performance-based reduction-in-grade and removal actions.

Part 511, Subpart A, Subpart B, and Subpart F, sections 511.601 through 511.612: Classification within the General Schedule.

Part 530, Subpart C: Special salary rates.

Part 531, Subpart B, Subpart D, Subpart E, and Subpart F: Determining rate of pay; within-grade increases; quality step increases; locality payments (only to the extent necessary to allow demonstration project employees to be treated as General Schedule employees and to allow basic rates of pay under the demonstration project to be treated as scheduled rates of basic pay).

Part 536, Subpart A, Subpart B, and Subpart C: Grade and pay retention.

Part 550, Sections 550.902: Hazard Pay, definition of "employee" (only to the extent necessary to allow demonstration project employees to be treated as General Schedule employees).

Part 575, Sections 575.102 (a)(1), 575.202 (a)(1), 575.302 (a)(1), and Subpart D: Recruitment and relocation bonuses; retention allowances; supervisory differentials (only to the extent necessary to allow employees and positions under the demonstration project to be treated as employees and positions under the General Schedule positions).

Part 752, Sections 752.401 (a)(3): Reduction in grade and pay (but only to the extent necessary to exclude reductions in broadband level not accompanied by a reduction in pay) and 752.401 (a)(4) (but only to the extent necessary to exclude conversions from a General Schedule special rate to demonstration project pay that do not result in a reduction in the employee's total rate of pay).

[FR Doc. 96–12131 Filed 5–14–96; 8:45 am]

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[10] Waiver required only to the extent that the project conflicts with pertinent provision of law and regulation.

Federal Register

Wednesday
May 15, 1996

Part VI

Securities and Exchange Commission

17 CFR Part 231, et al.

Use of Electronic Media by Broker-Dealers, Transfer Agents, and Investment Advisers for Delivery of Information; Final Rules

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 231, 241, 271, and 276

[Release No. 33–7288; 34–37182; IC–21945; IA–1562; File No. S7–13–96]

Use of Electronic Media by Broker-Dealers, Transfer Agents, and Investment Advisers for Delivery of Information; Additional Examples Under the Securities Act of 1933, Securities Exchange Act of 1934, and Investment Company Act of 1940

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation; solicitation of comments.

SUMMARY: The Securities and Exchange Commission ("Commission") is publishing its views with respect to the use of electronic media by broker-dealers, transfer agents, and investment advisers to deliver information as required under the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940. This interpretation is intended to provide guidance in using electronic media to fulfill broker-dealers' obligations to deliver information to customers, transfer agents' obligations to deliver information upon written request, and investment advisers' disclosure delivery obligations. The Commission also is supplementing its interpretive release published on October 6, 1995, with seven additional examples illustrating the application of that earlier release to information delivery under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940. Finally, the Commission is seeking comment on the issues discussed in this release.

DATES: This interpretation is effective on May 15, 1996.

Comments must be received on or before July 1, 1996.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Mail Stop 6–9, Washington, DC 20549. Comments also may be submitted electronically at the following electronic mail address: rule-comments@sec.gov. All comment letters should refer to File Number S7–13–96. This file number should be included on the subject line if comments are submitted using electronic mail. Comment letters will be available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549. Electronically submitted comment letters will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Catherine McGuire, Chief Counsel, or Elizabeth King, Special Counsel, or Jack Drogin, Special Counsel (concerning Rules 10b–10, 10b–16, 15c1–5, 15c1–6, 15c2–12, and 15g–2 through 15g–9 under the Securities Exchange Act of 1934, and the release generally), 202/942–0073, Office of Chief Counsel, Mail Stop 5–10; Sheila Slevin, Assistant Director (concerning information about technology generally), 202/942–0796, Mail Stop 5–1; Michael Walinskas, Special Counsel (concerning Rule 9b–1 under the Securities Exchange Act of 1934), 202/942–0188, Mail Stop 5–1; Elizabeth MacGregor, Special Counsel (concerning Rule 11Ac1–3 under the Securities Exchange Act of 1934), 202/942–0158, Mail Stop 5–1; Alan Reed, Attorney (concerning Rules 15c2–8 and 15c2–11 under the Securities Exchange Act of 1934), 202/942–0772, Mail Stop 5–1; Michael A. Macchiaroli, Associate Director (concerning Exchange Act Rules 8c–1, 15c2–5, 15c3–2, 15c3–3, and 17a–5), 202/942–0132, Mail Stop 5–1; Jerry Carpenter, Assistant Director (concerning Exchange Act Rule 17Ad–5), 202/942–4187, Mail Stop 5–1, Division of Market Regulation; Jack W. Murphy, Chief Counsel or Amy Doberman, Assistant Chief Counsel (concerning the Investment Advisers Act of 1940 and the examples illustrating application of electronic delivery to mutual funds), 202/942–0660, Mail Stop 10–6, Division of Investment Management; Joseph Babits, Special Counsel (concerning the examples regarding application of electronic delivery to issuers other than mutual funds), 202/942–2910, Mail Stop 3–7, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

On October 6, 1995, the Commission published an interpretive release expressing its views on the electronic delivery of documents, such as prospectuses, annual reports to shareholders, and proxy solicitation materials under the Securities Act of 1933 ("Securities Act"), the Securities Exchange Act of 1934 ("Exchange Act"), and the Investment Company Act of 1940 ("October Interpretive Release").[1] In the October Interpretive Release, the Commission directed the Division of Market Regulation ("Division") to review Rule 10b-10 and other rules it administers under the Exchange Act to determine if and under what conditions electronic delivery of information required by those rules is feasible.[2] Accordingly, the Division conducted a review of the rules it administers under the Exchange Act. Based on that review, the Commission is issuing this release, which expresses its views with respect to the delivery of information through electronic media in satisfaction of broker-dealer and transfer agent requirements to deliver information under the Exchange Act and the rules thereunder. In conjunction with the results of that review, the Commission is publishing its views on the use of electronic media with respect to the disclosure delivery obligations of investment advisers and persons acting on their behalf[3] under the Investment Advisers Act of 1940 ("Advisers Act").

This release addresses only the procedural aspects under the federal securities laws of the delivery of information by broker-dealers, transfer agents, and investment advisers. It does not affect the rights and responsibilities of any party under the federal securities laws.[4] This release also does not address or affect the applicability of any self-regulatory organization ("SRO") rules,[5] or of any state laws. Broker-dealers, transfer agents, and investment advisers, therefore, are reminded to consider the applicability of SRO rules and state laws in connection with delivering information electronically.[6] The release further does not affect any rules promulgated under the Exchange Act by agencies other than the Commission.[7]

Finally, this interpretation does not address the existing paper filing requirements with the Commission,[8] or other regulatory authorities,[9] and other third parties.[10]

II. Use of Electronic Media

In the October Interpretive Release, the Commission noted that the electronic distribution of information provides numerous benefits and that the use of this type of medium is growing among all participants in the securities industry. The Commission concluded that issuers, third parties (such as persons making tender offers or soliciting proxies), and persons acting on behalf of such third parties may use electronic media, in accordance with the guidance provided in the October Interpretive Release, to deliver information. In addition, the Commission believes that broker-dealers, transfer agents, and investment advisers may satisfy their delivery obligations under the Exchange Act and the Advisers Act by using electronic media as an alternative to paper-based media.[11]

This interpretation is intended to provide broker-dealers, transfer agents, and investment advisers with guidance in using electronic media to satisfy delivery requirements under the federal securities laws. This release generally covers those requirements that obligate broker-dealers to deliver information to customers, obligate transfer agents to deliver information upon written request, and obligate investment advisers to deliver information to their clients or prospective clients. Broker-dealers and investment advisers also may rely on this interpretation in obtaining customers' and clients' consents as required under certain provisions of the Exchange and Advisers Acts and the rules

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[1] Securities Act Release No. 7233 (Oct. 6, 1995), 60 FR 53458 (Oct. 13, 1995) (hereinafter "October Interpretive Release"). In a companion release, the Commission proposed technical amendments to certain of its rules that currently are premised on the distribution of paper documents. Securities Act Release No. 7234 (Oct. 6, 1995), 60 FR 53467 (Oct. 13, 1995). Today the Commission is adopting these technical amendments substantially as proposed. Securities Act Release No. 7289 (May 9, 1996).

[2] October Interpretive Release, *supra* note 1, at 53459, n.12.

[3] The term investment adviser is used in the rest of this release to refer to both investment advisers and persons acting on their behalf (including any solicitor receiving cash compensation from an adviser in accordance with Advisers Act Rule 206(4)-3, 17 CFR 275.206(4)-3).

[4] The substantive requirements and liability provisions of the federal securities laws apply equally to electronic and paper-based media. For example, the antifraud provisions of the Exchange Act and Rule 10b-5 thereunder, as well as section 206 of the Advisers Act and the rules thereunder, apply to information delivered and communications transmitted electronically, to the same extent as they apply to information delivered in paper form. *See* October Interpretive Release, *supra* note 1, at 53459, n.11. In addition, broker-dealers, transfer agents, and investment advisers continue to be subject to their respective recordkeeping requirements under Exchange Act Rules 17a-3 and 17a-4, 17 CFR 240.17a-3 and 240.17a-4, Exchange Act Rules 17Ad-6 and 16Ad-7, 17 CFR 240.17Ad-6 and 240.17Ad-7, and Advisers Act Rule 204–2, 17 CFR 275.204–2.

The Commission proposed for comment amendments to the broker-dealer record preservation rule, which would permit broker-dealers to employ, under certain conditions, optical storage technology to maintain required records. *See* Exchange Act Release No. 32609 (July 9, 1993), 58 FR 38092 (July 15, 1993) ("Proposing Release").

At the time these amendments were proposed, concerns were expressed that optical disk images would make it difficult, from an examination and discovery perspective, to detect alterations made to handwritten records and to records containing handwritten text. To address these concerns, the Proposing Release solicited comments on the adequacy of optical disk technology to preserve handwritten records or records that contain handwritten text.

Simultaneous with the issuance of the Proposing Release, the Division of Market Regulation, with the Commission's concurrence, issued a no-action letter permitting broker-dealers to use optical disk technology immediately. *See* Letter from Michael A. Macchiaroli, Associate Director, Division of Market Regulation, SEC to Mr. Michael D. Udoff, Chairman, *Ad Hoc* Record Retention Committee, Securities Industry Association, Inc., (June 18, 1993). The no-action letter permits the optical storage of all paper records, including handwritten records, except those records required to be made under paragraphs (a)(6) and (a)(7) of Rule 17a-3 (proprietary and customer order tickets).

The Commission's request for comment in the Proposing Release regarding handwritten records was in no way intended to limit reliance on the no-action letter. In addition, the Commission notes that paperless order tickets (*i.e.*, those generated by computers) may, under the no-action letter, be stored on optical disks. The Commission understands that most of the large firms generate paperless order tickets rather than handwritten order tickets.

Finally, the Commission is aware that questions have been raised regarding the application of the optical storage no-action letter. The staff of the Division of Market Regulation is prepared to discuss with interested persons any issues in connection with this letter, as well as with the Proposing Release.

[5] *See, e.g.*, National Association of Securities Dealers, Inc. ("NASD") Notice to Members 95–80 (Sept. 26, 1995), NASD Rules of Fair Practice § 35; and New York Stock Exchange, Inc. ("NYSE") Rule 472, which govern member firm responsibilities relating to communications with the public, including electronic communications.

In order to determine whether new guidelines are needed for the use of electronic communications, on January 12, 1996, the NYSE sent a survey to its members and member organizations regarding the use of electronic systems to communicate with customers. The NYSE asked its members to return the survey by February 15, 1996. NYSE Information Memorandum (Jan. 12, 1996). The Commission understands that the NASD intends to send a similar survey to its members.

The Commission strongly encourages the SROs to continue to work with broker-dealers to adapt SRO supervisory review requirements governing communications with customers to accommodate the use of electronic communications by broker-dealers. Because electronic delivery systems allow broker-dealers and their associated persons to freely contact the general public, as well as their clients, firms should maintain effective supervision and records of associated persons' communications to avoid potential sales practice problems. The Commission believes, however, that the SROs' rules concerning the supervisory requirements for electronic communications should be based on the content and audience of the message, and not merely the electronic form of the communication. For example, the SROs should consider whether electronic mail communications, that, as a practical matter, replace or substitute for telephone conversations, in many cases would not require advance authorization or prior supervisory review.

The Commission also recognizes that broker-dealers are concerned about the costs of maintaining electronic communications as records on a long term basis, and it intends to discuss these concerns further with the securities industry.

[6] Article 8 of the UCC was revised substantially in 1994, and the revisions were endorsed by both the American Law Institute and the National Conference of Commissioners on Uniform State Laws. This revised version has been adopted by 13 states. Under Revised Article 8 Section 8–102(6), parties in a transaction may "transmit information by any mechanism agreed upon by the persons transmitting and receiving the information." Revised Article 8 eliminates the current Section 8–319 requirement for a signed writing evidencing the terms of a securities transaction.

In states that have not yet codified the 1994 amendments, a confirmation bearing the broker-dealer's letterhead or some other identifying marking, generally, fulfills that requirement. *See e.g., Kohlmeyer and Co. v. Bowen*, 192 S.E.2d 400, 126 Ga. App. 700 (Ga. Ct. App. 1972); *See also Bains v. Piper, Jaffray & Hopwood*, 497 N.W.2d 263 (Minn. Ct. App. 1993) (computer generated confirmation held to satisfy the UCC requirement for a writing).

[7] *See, e.g.*, Treas. Reg. §§ 404.4(e) and 403.5(d) (rules regarding hold in custody repurchase agreements applicable to government securities brokers and dealers that are financial institutions).

[8] For example, this interpretation does not apply to any requirements to file information with the Commission in connection with registering under sections 15, 15A, 15B, or 15C of the Exchange Act as a broker-dealer, national securities association, municipal securities dealer, or government securities broker-dealer. Broker-dealers currently register with the Commission, the SROs, and the states through the Central Registration Depository ("CRD") system operated by the NASD. A redesign of the CRD system will allow broker-dealers to file uniform registration forms electronically. In connection with the CRD redesign the Commission intends to adopt amendments to Form BD, the uniform application for broker-dealer registration under the Exchange Act. *See* Exchange Act Release No. 35224 (Jan. 12, 1995), 60 FR 4040 (Jan. 19, 1995) (proposing amendments to Form BD).

Because, at the present time, the Commission does not have the technological capacity to receive electronic transmissions of information from broker-dealers, transfer agents, or investment advisers, this interpretation also does not apply to other requirements to file information with the Commission under the Exchange and Advisers Acts. *See, e.g.*, Exchange Act Rule 9b-1, 17 CFR 240.9b-1 (options markets' obligation to file with the Commission any revisions to an options disclosure document); Advisers Act Form ADV, 17 CFR 279.1 (application for registration of investment advisers). The Commission, nevertheless, recognizes the desirability of electronic filing and is examining the feasibility of establishing systems capable of receiving information electronically.

[9] For example, the notice requirements to the National Association of Securities Dealers, Inc. under Exchange Act Rule 10b-17, also are not within the scope of this interpretation. 17 CFR 240.10b-17.

[10] For example, Rule 15a–6 requires U.S. registered broker-dealers, under certain circumstances, to obtain certain foreign persons' consent to service of process. 17 CFR 240.15a–6(a)(3)(iii)(D). The Commission has never taken a position as to the specific means by which the U.S. broker-dealer may meet this obligation, but believes that a consent to service of process may be obtained through the use of a facsimile.

[11] The exact nature of the broker-dealer's, transfer agent's, and investment adviser's delivery obligations is defined broadly and includes such terms as "give," "furnish," "send," and "deliver." The Commission believes that, in general, these terms are sufficiently broad to accommodate the contemplated electronic transmission of documents by or on behalf of the broker-dealer, transfer agent, or investment adviser and, when called for, from a customer to a broker-dealer, transfer agent, or investment adviser. *But see infra* notes 12 and 50.

thereunder.[12] A discussion of the information delivery requirements covered by this interpretation is provided in section III of this release ("Covered Delivery Requirements"). Unless the Commission indicates otherwise, this interpretive release also is intended to apply to all rules promulgated under the Exchange and Advisers Acts, including rules promulgated subsequent to the issuance of this release, requiring broker-dealers or investment advisers to deliver information to customers or clients, and to rules requiring transfer agents to deliver information in response to written requests.

A. General

This discussion is intended to complement the discussion in the October Interpretive Release and to provide general guidance concerning issues under the Exchange and Advisers Acts. The Commission believes that broker-dealers, transfer agents, and investment advisers should be able to satisfy their obligations under the federal securities laws to deliver information required under the Covered Delivery Requirements by electronic distribution. The framework set forth in the October Interpretive Release is applicable to such electronic distribution.

In the October Interpretive Release, the Commission stated that it would view information distributed through electronic means as satisfying the delivery or transmission requirements of the federal securities laws if such distribution results in the delivery to the intended recipients of substantially equivalent information as such recipients would have if the required information were delivered to them in paper form.[13] The Commission is not specifying the electronic medium or source that broker-dealers, transfer agents, and investment advisers may use.

Like paper documents, electronically delivered documents must be prepared and delivered in a manner consistent with the federal securities laws. Regardless of whether information is delivered in paper form or by electronic means, it should convey all material and required information. If a paper document is required to present information in a certain order, for instance, then the information delivered electronically should be in substantially the same order.[14]

Moreover, regardless of whether information is delivered in paper or electronic form, broker-dealers and investment advisers must reasonably supervise firm personnel with a view to preventing violations.[15] Thus, broker-dealers and investment advisers should consider the need for systems and procedures to deter or detect misconduct by firm personnel in connection with the delivery of information, whether by electronic or paper means.[16]

The Commission believes that, as a matter of policy, a person who has a right to receive a document under the federal securities laws and chooses to receive it electronically, should be provided with the information in paper form whenever specifically requesting paper.[17]

In the October Interpretive Release, the Commission discussed issues of notice and access that should be considered in determining whether the legal requirements pertaining to delivery or transmission of documents have been satisfied,[18] and stated that persons using electronic delivery of information should have reason to believe that any electronic means so selected will result in the satisfaction of the delivery requirements.[19] The Commission believes that broker-dealers, transfer agents, and investment advisers should apply the same considerations in using electronic media to satisfy their delivery obligations under the Covered Delivery Requirements.

1. Notice

Broker-dealers, transfer agents, and investment advisers providing information electronically should consider the extent to which electronic communication provides timely and adequate notice that such information is available electronically.[20] When information is delivered on paper through the postal mail, recipients most likely will be made aware that they have received information that they may wish to review and, therefore, separate notice is not necessary. Information transmitted through electronic media, however, may not always provide a similar likelihood of notice that information has been sent that the recipient may wish to review.[21] Broker-dealers, transfer agents, and investment advisers, therefore, should consider whether it is necessary to supplement the electronic communication with another communication that would provide notice similar to that provided by delivery in paper through the postal mail.

2. Access

The Commission believes that customers, securities holders, and clients who are provided information through electronic delivery from broker-dealers, transfer agents, and investment advisers should have access to that information comparable to that which would be provided if the information were delivered in paper form. Thus, the use of a particular medium should not be so burdensome that intended recipients cannot effectively access the information provided. Also, persons to whom information is sent electronically should have an opportunity to retain the information through the selected medium or have ongoing access equivalent to personal retention.[22]

3. Evidence to Show Delivery

Providing information through postal mail provides reasonable assurance that the delivery requirements of the federal securities laws have been satisfied. The Commission believes that broker-dealers, transfer agents, and investment advisers similarly should have reason to believe that electronically delivered information will result in the satisfaction of the delivery requirements under the federal securities laws. Thus, whether using paper or electronic media, broker-dealers, transfer agents, and investment advisers should consider the need to establish procedures to ensure that applicable delivery obligations are met.

Broker-dealers, transfer agents, and investment advisers may be able to evidence satisfaction of delivery obligations, for example, by: (1) obtaining the intended recipient's informed consent[23] to delivery through a specified electronic medium, and ensuring that the recipient has appropriate notice and access, as discussed above; (2) obtaining evidence that the intended recipient actually received the information, such as by an electronic mail return-receipt or by confirmation that the information was accessed, downloaded, or printed;[24] or (3) disseminating information through certain facsimile methods. In order to ensure that information is delivered as intended, broker-dealers, transfer agents, and investment advisers delivering information using either electronic or paper-media should take reasonable precautions to ensure the integrity and security of that information.[25]

B. Personal Financial Information

Certain information that broker-dealers, transfer agents, and investment advisers deliver is specific to a particular person's personal financial matters ("Personal Financial Information"). For example, the information reported to customers under Exchange Act Rule 10b–10 relates to specific securities transactions and includes the identity and number of shares bought or sold and the net dollar price for the shares. Under Exchange Act Rule 10b–16, a broker-dealer that imposes finance charges on a customer's account during a quarterly period must deliver a quarterly statement disclosing, among other things, the account's beginning and closing balances, debits and credits entered during the period, the interest charged, and the rate or rates of interest. Similarly, under Advisers Act Rule 206(3)–2, investment advisers engaging in agency cross transactions involving clients are required to send the clients disclosure about those transactions.[26]

1. Confidentiality and Security

Broker-dealers, transfer agents, and investment advisers sending Personal Financial Information should take reasonable precautions to ensure the integrity, confidentiality, and security of that information, regardless of whether it is delivered through electronic means or in paper form. The Commission believes that broker-dealers, transfer agents, and investment advisers transmitting Personal Financial Information electronically must tailor those precautions to the medium used in order to ensure that the information is reasonably secure from tampering or alteration.

2. Consent

Because of the need to maintain the confidentiality and security of Personal Financial Information, it is important that the intended recipient is willing to accept the delivery of such information through electronic media and has actual notice that the Personal Financial Information will be delivered electronically. Therefore, in order to ensure that Personal Financial Information can be delivered in a manner that maintains the information's confidentiality, unless a broker-dealer, transfer agent, or investment adviser is responding to a request for information that is made through electronic media or the person making the request specifies delivery through a particular electronic medium, the broker-dealer, transfer agent, or investment adviser should obtain the intended recipient's informed consent prior to delivering Personal Financial Information electronically.[27] This consent will ensure that the intended recipient is willing to accept the delivery of Personal Financial Information through electronic media and has actual notice that the Personal Financial Information will be delivered electronically. The Commission believes that such consent by the customer or client to the delivery of Personal Financial Information may be made either by a manual signature or by electronic means.

C. Communications From Broker-Dealers' Customers and Investment Advisers' Clients

In addition to requirements to deliver information, the Exchange Act and the Advisers Act provide for broker-dealers and investment advisers to "receive" or "obtain" responses from their customers or clients. For example, Exchange Act Rules 8c–1 and 15c2–1 require, under certain circumstances, broker-dealers to obtain a customer's written consent in order to hypothecate securities. Similarly, under the Advisers Act, certain provisions call for clients to consent to a transaction or acknowledge receipt of certain disclosures.[28] The Commission generally views an electronic communication from a customer to a broker-dealer or from a client to an investment adviser as

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[12] In connection with transactions in penny stocks, however, the Commission believes that in order to fulfill the purposes of the Securities Enforcement Remedies and Penny Stock Reform Act of 1990, broker-dealers should continue to have customers manually sign and return in paper form any documents that require a customer's signature or written agreement. *See infra* note 50.

[13] October Interpretive Release, *supra* note 1, at 53460. *See also supra* example 7.

[14] For a discussion of how requirements to present information in a certain order may be applied to documents containing hyperlinks, see example 51 in the October Interpretive Release. *Id.* 53466.

[15] *See* Exchange Act § 15(b)(4)(E); Advisers Act § 203(e)(5). *See also* NASD Rules of Fair Practice § 27; NYSE Rule 342.

[16] *See, e.g., In re: Bryant*, Securities Exchange Act Release No. 32357 (May 24, 1993), (Commission upheld a finding of the National Association of Securities Dealers, Inc. that, among other things, the failure to develop procedures to supervise a registered representative, who sent a false confirmation statement on behalf of the broker-dealer, and to enforce existing procedures constituted a failure to supervise on the part of the president of the firm).

[17] For example if a person revokes consent to receiving information electronically, even following delivery of the information, a paper copy should be delivered upon request. Revocation, however, is not a prerequisite to requesting a paper copy.

The Commission understands that it can be very costly for broker-dealers to maintain records for long periods of time. This is particularly true with respect to information that is specific to a customer's account or to a transaction, such as the type of information defined below as Personal Financial Information. *See infra* section II.B. For this reason, the Commission has limited the time period that broker-dealers must preserve records required to be made under Exchange Act Rules 17a–3. 17 CFR 240.17a–3. Specifically, Exchange Act Rule 17a–4 requires broker-dealers to preserve records for a period of six years (3 years in the case of certain types of information), the first two years in an easily accessible place. 17 CFR 240.17a–4. For these same reasons, the Commission believes it is reasonable to expect that broker-dealers would provide customers with information in paper form upon request for a period of two years. Transfer agents and investment advisers are subject to similar recordkeeping requirements. 17 CFR 250.17Ad–6 and 240.17Ad–7; 17 CFR 275.204–2.

[18] October Interpretive Release, *supra* note 1, at 53460–61.

[19] *Id.* at 53461.

[20] *See id.* at 53460. *See also infra* section II.B.2. regarding additional requirements when broker-dealers, transfer agents, and investment advisers send certain types of information (defined as Personal Financial Information) to customers.

[21] For example, if information is provided by physically delivered material (such as a computer diskette or CD-ROM) or by electronic mail, that communication itself generally should be sufficient notice. If information is made available electronically through a passive delivery system, such as an Internet Web Site, however, separate notice would be necessary to satisfy the delivery requirements unless the broker-dealer, transfer agent, or investment adviser can otherwise evidence that delivery to the customer or client has been satisfied.

[22] For example, the intended recipient's ability to download or print information delivered electronically would enable a recipient to retain a permanent record. See October Interpretive Release, *supra* note 1, at 53460.

[23] *See id.* at 53460. If a consent is used, the consent should be an informed consent. An informed consent should specify the electronic medium or source through which the information will be delivered and the period during which the consent will be effective, and should describe the information that will be delivered using such means. The broker-dealer, transfer agent, or investment adviser also should inform the customer that there may be potential costs associated with electronic delivery, such as on-line charges. Except where a manual signature is required under the penny stock rules, *see infra* note 50, broker-dealers may obtain consents either manually or electronically. In most cases in which a request for information is made through an electronic medium, consent to receive the requested information by means of electronic delivery may be presumed.

In addition, if the broker-dealer, transfer agent, or investment adviser is relying on the consent to ensure effective delivery and the intended recipient revokes the consent, future documents should be delivered in paper.

[24] For example, depending on the circumstances and the procedures used, customers' and clients' written consent or acknowledgement, as required under certain Exchange and Advisers Acts rules and discussed *infra* notes 28–29 and accompanying text, may serve as sufficient evidence to show delivery.

[25] October Interpretive Release, *supra* note 1, at 53460, n.22.

[26] 17 CFR 275.206(3)–2(a)(2) (written confirmation of each transaction "at or before the completion of each such transaction"); 17 CFR 275.206(3)–2(a)(3) (annual written disclosure statement identifying transactions). In addition, investment advisers having custody of client assets are required to send an itemized statement to each client at least quarterly showing assets in custody of the adviser. 17 CFR 275.206(4)–2(a)(4).

[27] *See* discussion *supra* note 23 regarding informed consent.

[28] *See, e.g.* Advisers Act §§ 205(a)(2) and 206(3); 17 CFR 275.206(3)–2(a)(1); 17 CFR 275.206(4)–3(a)(2)(iii).

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satisfying the requirements for such written consent or acknowledgement.[29]

D. Electronic Transmission of Non-Required Disclosure

The guidance provided above is intended to permit broker-dealers, transfer agents, and investment advisers to comply with their delivery obligations under the federal securities laws when using electronic media. This interpretation does not apply to the electronic delivery of non-required information that in some cases is being provided voluntarily to customers, securities holders, and clients[30] in that it is not necessary (although it is, of course, permitted) to conform the electronic delivery of such information to the guidance in this release. Nevertheless, the Commission urges broker-dealers, transfer agents, and investment advisers to take into consideration the need to implement security measures when using electronic media to provide personal financial information.

The staff also has received inquiries about the permissibility of using various electronic media to disseminate advertisements for an investment adviser's services or other information that is not subject to a delivery requirement. Such communications are permissible, subject to the same requirements and restrictions that apply to such communications in paper. For example, electronically disseminated advertisements are subject to the same prohibitions against misleading disclosure as advertisements in paper.[31] Materials concerning an adviser that are potentially available to ten or more persons through an electronic system would be considered subject to the recordkeeping requirements applicable to such communications.[32] Similarly, if an adviser uses a publicly available electronic medium such as a World Wide Web site to provide information about its services, the adviser would not qualify for the exemption from registration in section 203(b)(3) of the Advisers Act. That exemption is available only if, among other things, an adviser does not hold itself out generally to the public as an investment adviser.

III. Covered Delivery Requirements

For clarity, below is a list of current rules under the Exchange Act and requirements under the Advisers Act to which broker-dealers, transfer agents, and investment advisers may apply the guidance provided in this interpretation. The Commission believes that the list sets forth all of the rules that require or permit communications between broker-dealers, transfer agents, investment advisers and customers, securities holders, and clients under the Exchange and Advisers Acts.[33] The interpretation in this release is intended to cover all optional and required communications under the Exchange and Advisers Acts between broker-dealers, transfer agents, and investment advisers, and customers, securities holders, and clients.[34]

A. Exchange Act

Subject to the guidelines in this release, broker-dealers and transfer agents may fulfill their requirements to deliver information to customers and securities holders under the following Exchange Act rules:[35]

- Rule 8c–1, which requires broker-dealers to obtain customers' written consent in order to hypothecate securities under circumstances that would permit the commingling of customers' securities and to give written notice to a pledgee that, among other things, a security pledged is carried for the account of a customer.[36]
- Rule 9b–1, which, among other things, requires a broker-dealer to furnish to each customer, and keep current, an options disclosure document, prior to accepting an order to purchase or sell an option on behalf of that customer.[37]
- Rule 10b–10, which requires a broker-dealer to give or send confirmation information to customers.[38] In addition, broker-dealers must furnish to customers upon written request information such as the factors that affect the yield calculation related to asset-based securities.[39]
- Rule 10b–16, which requires both initial and periodic written disclosure of the credit terms of margin loans.[40]
- Rule 11Ac1–3, which requires a broker-dealer to deliver to each customer, upon opening a new account and on an annual basis thereafter, an account statement disclosing the broker-dealer's policies relating to payment for order flow and its order routing policies.[41]
- Rule 15c1–5, which requires, under specified circumstances, written disclosure of control if a broker-dealer or municipal securities dealer is controlled by, controlling, or under common control with the issuer of a security.[42]
- Rule 15c1–6, which requires a broker-dealer or municipal securities dealer receiving advisory fees to disclose any participation or financial interest in the distribution of a security at or before the completion of a transaction in such security for the account of a customer.[43]
- Rule 15c2–1, which requires broker-dealers to obtain customers' written consent in order to hypothecate securities under circumstances that would permit the commingling of customers' securities.[44]
- Rule 15c2–5, which requires a written statement making disclosures prior to effecting transactions in special insurance premium funding accounts that would involve an extension or arrangement of credit, as well as retaining for its files, a written statement setting forth the basis for making a determination that the arrangement is suitable for the customer.[45]
- Rule 15c2–11, with regard to the requirement that broker-dealers make certain information enumerated in the rule reasonably available upon request.[46]
- Rule 15c2–12, with regard to the requirements that municipal securities underwriters provide, upon request, a preliminary official statement (if one exists) and a final official statement.[47]
- Rule 15c3–2, which requires a broker-dealer to give or send to its customers a written notification of a free credit balance, that the broker-dealer may use that free credit balance in its business operations, and that the funds are payable upon demand of the customer.[48]
- Rule 15c3–3, which requires that broker-dealers obtain repurchase agreements in writing and confirm in writing the specific securities that are the subject of hold in custody repurchase agreements.[49]
- Rules 15g–3 through 15g–8, which require a broker-dealer, among other things, to disclose to its customers, both prior to effecting a transaction in a penny stock and on the written confirmation, bid and ask quotations and broker-dealer and associated person compensation.[50]
- Rule 17a-5, which requires a broker-dealer to send to its customers audited and unaudited financial statements.[51]
- Rule 17Ad–5, which requires a transfer agent to respond within certain time frames to written requests for the status of items presented for transfer, for acknowledgement of transfer instructions, for confirmation of a transfer agent's possession of a certificate, for a transcript of a person's account, or for dividend and interest payments.[52]

B. Advisers Act

- Section 205(a)(2) of the Advisers Act, which requires an investment adviser to obtain its client's consent to the assignment of an advisory contract.[53]
- Section 205(a)(3) of the Advisers Act, which requires an investment adviser to notify its clients, if the adviser is organized as a partnership and there is a change in members of partnership.[54]
- Section 206(3) of the Advisers Act, which prohibits certain principal and agency transactions with a client without prior written disclosure about the transaction and consent of the client.[55]
- Rule 204–3, which requires investment advisers to deliver a written disclosure statement, or "brochure," to clients at least 48 hours before entering into an advisory contract, unless the client has the right to terminate the contract without penalty within five business days.[56] In addition, investment advisers are required, except in certain cases, to make available "without charge" updates to its brochure.[57]
- Rule 205–3(d), which requires disclosure regarding advisory arrangements involving performance fees.[58]
- Rule 206(3)–2, which permits agency cross transactions, provided that the investment adviser provides general written disclosure about its role in the transactions, receives from clients consent to agency cross transactions, and sends both written confirmation of each transaction and an annual written disclosure statement.[59]
- Rule 206(4)–2, which requires certain disclosure relating to adviser custody of client assets.[60]
- Rule 206(4)–3, which requires certain disclosures to be made by solicitors who receive cash solicitation fees from advisers and a signed and dated acknowledgement from clients of the receipt of the investment advisers and solicitors written disclosure statements.[61]

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[29] Of course, broker-dealers and investment advisers should be cognizant of their responsibilities to prevent, and the potential liability associated with, unauthorized transactions. *See, e.g., supra* note 16. In this regard, the Commission believes that broker-dealers and investment advisers should have reasonable assurance that the response received from a customer or client is authentic.

In addition, for policy reason discussed *infra* note 50, the Commission will continue to require broker-dealers to obtain the manual signature of customers on certain disclosure documents required under Exchange Act Rules 15g–2 and 15g–9.

[30] *See, e.g., Kimberly Weisul, Calvert Becomes First Fund to Offer Info On-Line; Mutual Fund Company Dodges the Security Issue,* Investment Dealers' Digest, Jan. 22, 1996, at 9; Jon Birger, *Prudential Web Site to Let Clients Track Their Accounts Daily,* Bond Buyer, Oct. 18, 1995, at 10.

[31] *See* 17 CFR 275.206(4)–1. Broker-dealers' advertisements and sales literature are subject to NASD rules, which have recently been amended specifically to include electronic communications. NASD, Notice to Members 95–74 (Sept. 1995); NASD, Notice to Members 95–80 (Sept. 26, 1995).

[32] 17 CFR 275.204–2(a)(11). Broker-dealers also are subject to recordkeeping requirements that would be applicable to all electronic communications received and sent by the firm relating to its business. 17 CFR 17a-4(a)(4).

[33] The summary provided of the delivery obligations under the Covered Delivery Requirements is intended for ease of reference only. It is not intended to be a statement of all the requirements under the rules and provisions listed, and has no legal force or effect. Reference should be made to the full text of the rules, which is published in the Code of Federal Regulations, as well as to relevant releases, interpretations, and no-action letters, and to the full text of the Exchange and Advisers Acts, 15 U.S.C. §§ 77 and 78, et seq.

[34] *But see supra* notes 4–10 and accompanying text. *See also infra* notes 35 and 50.

[35] This release does not address the prospectus delivery requirements under Exchange Act Rule 15c2–8. 17 CFR 240.15c2–8. Broker-dealer requirements to deliver a preliminary prospectus in connection with the issuance of securities by an issuer that has not previously been required to file reports pursuant to Exchange Act Section 13(a), 15 U.S.C. 78m(a), or 15(d), 15 U.S.C. 78o(d), were addressed in the October Interpretive Release. *See* October Interpretive Release, *supra* note 1, at 53462, n. 31.

[36] 17 CFR 240.8c–1(a)(1) and (f).

[37] 17 CFR 240.9b–1(d).

[38] 17 CFR 240.10b–10. This release, therefore, resolves the issues in the October Interpretive Release with respect to Exchange Act Rule 10b–10, which requires broker-dealers to send confirmations at or before completion of the transaction by permitting electronic delivery of the confirmation. 17 CFR 240.10b–10. *See* October Interpretive Release, *supra* note 1, at 53459, n.12.

In a release adopting certain amendments to Rule 10b-10, the Commission recognized the use of a facsimile machine to send customer confirmation statements. At that time, however, the Commission believed that the use of other electronic means to send confirmations should be viewed on a case-by-case basis. *See* Exchange Act Release No. 34962 (Nov. 10, 1994); 59 FR 59612 (Nov. 17, 1994). This interpretation supersedes the view expressed in the 1994 release.

Broker-dealers are reminded that, when a prospectus is required to be delivered, it should be delivered prior to, or concurrent with, delivery of the confirmation. Thus, if a confirmation is sent by facsimile, the prospectus also should be sent by facsimile or equally prompt means.

[39] 17 CFR 240.10b–10(a)(7).

[40] 17 CFR 240.10b–16.

[41] 17 CFR 240.11Ac1–3.

[42] 17 CFR 240.15c1–5.

[43] 17 CFR 240.15c1–6.

[44] 17 CFR 240.15c2–1(a)(1).

[45] 17 CFR 240.15c2–5.

[46] 17 CFR 240.15c2–11(a)(4) and (a)(5).

[47] 17 CFR 240.15c2–12.

[48] 17 CFR 240.15c3–2.

[49] 17 CFR 240.15c3–3(b)(4).

[50] 17 CFR 240.15g–3 through 15g–8.

The Commission believes that the requirements under Exchange Act Rules 15g–2 and 15g–9, which require broker-dealers to obtain from a customer prior to effecting transactions in penny stocks (1) a manually signed acknowledgement of the receipt of a risk disclosure document, (2) a written agreement to transactions involving penny stocks, and (3) a manually signed and dated copy of a written suitability statement, should not be met by means of electronic media. In adopting these provisions pursuant to the Securities Enforcement Remedies and Penny Stock Reform Act of 1990, the Commission intended to provide customers with an opportunity to make an informed, deliberate decision without the high pressure sales practices that sometimes are characteristic of transactions in these securities. For similar reasons, a facsimile copy of a customer's signature has not been sufficient to satisfy the requirements under Rules 15g–2 and 15g–9 that certain documents be manually signed and dated. *See* Exchange Act Release No. 32576 (July 2, 1993); NASD Notice to Members 90–65 (Oct. 1990); NASD Notice to Members 90–18 (Mar. 1990).

While broker-dealers may not meet the signature requirement under Rule 15g–9 by electronic means, the Commission believes that, consistent with the guidance set forth in this interpretation, they may meet their delivery obligations to their customers under this rule by electronic means. The "risk disclosure document" that broker-dealers are required to furnish to their customers under Rule 15g–2 is subject to strict formatting and typefacing restrictions. In order to comply with the requirements set forth in the instructions to Schedule 15G, a risk disclosure document delivered electronically, when printed, would have to result in a document that meets the requirements and contains the exact text of Schedule 15G.

When the Commission next reviews the penny stock rules, it may be willing to consider a "cooling-off" period as an alternative to the requirement of a manual signature under Rules 15g–2 and 15g–9. The Commission requests comment on this approach.

[51] 17 CFR 240.17a–5(c).

[52] 17 CFR 17Ad–5. Under certain circumstances, transfer agents currently are permitted to respond to requests by telephone.

[53] 15 U.S.C. 80b–5(a)(2).

[54] 15 U.S.C. 80b–5(a)(3).

[55] 15 U.S.C. 80b–6(3).

[56] 17 CFR 275.204–3(b). To the extent an adviser relies on 48-hour advance delivery rather than the five-day cancellation period, the 48-hour period would be measured from the time at which notice is given to the client that the statement is available through a specified electronic medium or source. Investment advisers should have reason to believe that the nature of the system or any limitations on the client's access to that system will not result in any material delay in the client's access to the information following receipt of the notice.

[57] 17 CFR 275.204–3(c). If a client has elected to receive the disclosure statement electronically, and neither the adviser nor any system used by the adviser to disseminate updates electronically imposes a charge upon the client specifically for the receipt of this information, the Commission would consider this requirement satisfied, even though a system selected by a client to gain access to the adviser's system may impose charges for access, printing or downloading. Alternatively, the Commission would consider the requirement satisfied so long as a paper version of the update is available without charge, notwithstanding any charges that may be imposed upon a client for access, printing or downloading by the system used by an adviser to disseminate updates electronically.

[58] 17 CFR 275.205–3(d).

[59] 17 CFR 275.206(3)–2.

[60] 17 CFR 275.206(4)–2.

[61] 17 CFR 275.206(4)–3. *Cf.* Investment Company Act Release No. 21260 at n. 38 (July 27, 1995), 60 FR 39574 (contemplating that notification required under proposed Investment Company Act Rule 3a–4 could be provided electronically by investment advisers and other sponsors of investment advisory programs).

IV. Additional Securities Act, Exchange Act, and Investment Company Act Examples

The October Interpretive Release included a series of examples illustrating the general concepts set forth earlier in that release in order to provide guidance in applying those concepts to specific facts and circumstances. The Commission is publishing here the following, additional examples to provide further guidance and illustration. These examples are based on questions that have been raised with the staff by industry representatives since the publication of the October Interpretive Release. Any party (whether or not a registered investment company) may look to these examples for guidance.

(1) Company XYZ places a prospectus for any securities offering on its electronic mail system. Company XYZ also uses its electronic mail system to disseminate documents required under the Exchange Act. Employees use the company's electronic mail in the ordinary course of performing their duties as employees and ordinarily are expected to log-on to electronic mail routinely to receive mail and communications. Those employees who do not log-on have alternative means of receiving electronic mail messages, such as having them sent to secretaries or co-workers who then deliver them to the employee. The electronic mail either includes the actual document or announces the availability of the document and provides information as to how to access the document through the local area network. The electronic mail also prominently states that a paper version of the document is available upon request.

This would satisfy delivery obligations with respect to employees who use the company's electronic mail system in the course of performing their duties or who are expected to have alternative means made available to receive electronic mail messages.

(2) Company XYZ places a notice announcing its unregistered Dividend Reinvestment Plan [62] on its Internet Web site under a menu heading "Dividend Reinvestment Plan." The announcement also contains the phone number of the Company's agent (which is independent from the Company) from whom additional information regarding the operation of the Dividend Reinvestment Plan can be obtained. Additionally, the Company's Internet Web site contains a hypertext link to the independent agent's Internet Web site where a brochure describing the operation of the Dividend Reinvestment Plan and an enrollment card can be obtained.

This would be permissible, so long as the information on the Company's Internet Web site is limited to the announcement of the unregistered Dividend Reinvestment Plan and the name and address of the independent agent from whom additional information can be obtained. (This would be analogous to the communications that an issuer of an unregistered plan could make in paper format.) As with communications in paper format, the Company may not use its Internet Web site to advertise the Dividend Reinvestment Plan or its benefits. Further, the use of a hypertext link to the home page of the independent agent would be permitted; however, the Company could not provide a hypertext link directly to the Dividend Reinvestment Plan materials.

(3) Brokerage firm ABC, a recordholder of Company XYZ's common stock, received consents from beneficial holders of Company XYZ's common stock for electronic delivery of Company XYZ's annual report and proxy materials and for electronic processing of voting instructions. These customers are provided with the Internet Web site address where Company XYZ's annual report and proxy materials are located and the Internet Web site address where they can provide their voting instructions electronically to the brokerage firm.

The electronic processing of voting instructions from beneficial holders and the electronic voting of proxies would be consistent with the proxy rules. Issuers and others are reminded to consider any applicable state laws or self-regulatory organization rules.

(4) A fund makes supplemental sales literature and its prospectus available through a commercial on-line service. Under section 5(b) of the Securities Act, sales literature, whether in paper or electronic form is required to be preceded or accompanied by a final prospectus meeting the requirements of section 10(a) of the Securities Act. By contrast, an advertisement satisfying the requirements of Securities Act Rule 134 or 482 need not be preceded or accompanied by a prospectus. Users could click on a box in the supplemental sales literature to have the prospectus downloaded or to request that a prospectus be mailed. While the system permits the sales literature to be viewed on-line, it does not allow users to view the prospectus. Unlike the system in example 36 in the October Interpretive Release, this system would not require that a user have downloaded or printed the prospectus before viewing the supplemental sales literature. Users accessing the supplemental sales literature would give specific consent to electronic delivery of the prospectus.

This would not satisfy the prospectus delivery requirement because there would not be sufficient access to the prospectus. Because the system does not give users the opportunity to view the prospectus, it would lack the sort of reasonably comparable access to the prospectus and the sales literature present in examples 14, 15, and 35 in the October Interpretive Release. The opportunity to request that a prospectus be mailed or downloaded would not, under current technology, be considered to give investors sufficient access to the prospectus. Instead, it would be analogous to giving investors sales literature in paper with a toll-free telephone number for requesting the prospectus: under those circumstances the prospectus would be received later and would not be considered to have preceded or accompanied the sales literature.[63]

(5) A fund places its prospectus on its site on the World Wide Web or some other electronic system. Shareholders provide a written, revocable consent to receive prospectuses electronically through the system. The consent informs shareholders that the current version of each prospectus will be available continuously on the system and that the fund will use the quarterly account statement or quarterly newsletter as the means of notification of prospectus amendments. It also states that another means of notification may be used, but only after shareholders have been notified of the change by the then current means of notification.[64] The fund replaces its prospectus with an annual amendment updating the fund's financial information and making other changes.[65] The fund has provided notification that the prospectus will be updated by including notification in the preceding account statement or shareholder newsletter; the notification provides the approximate date on which the amendment will be available. A subsequent amendment to the fund's prospectus reflects the addition of a redemption fee. Notification of the prospectus amendment has been included in the preceding statement or newsletter.[66]

Just as the use of a newsletter or statement in example 46 in the October Interpretive Release constituted sufficient notice for effective delivery of the semi-annual reports required under the Investment Company Act of 1940, the use of a newsletter or statement here would constitute sufficient notice for effective delivery with respect to the scheduled prospectus update.

(6) A fund's on-line prospectus has the same text as the paper version, but the text appears in a different format. For example, text that appears as a block in the margin of a page in the paper prospectus appears in a box in the flow of the text in the electronic version. The fund does not make a separate filing under Securities Act Rule 497 with respect to the electronic version.

The mere difference in format without any difference in text would not qualify the electronic version as a different "form of prospectus" for which filing is required.

(7) An investment company produces both an electronic version (such as a CD-ROM) and a paper version of its prospectus. Each version contains all information required by, and otherwise complies with, the applicable form and all other applicable provisions of the federal securities laws. The electronic version contains a movie that does not appear in the paper version. Each version of the prospectus indicates that there may be other versions of the prospectus and, if the issuer determines to make such other versions available, provides information on how to obtain such other versions.[67] The paper version does not include a summary or transcript of the movie in the electronic version. Both versions of the prospectus are filed with the Commission as part of the company's registration statement, or separately pursuant to Rule 497.[68]

The use of either version of the prospectus to satisfy delivery requirements would be permissible.[69] The issuer (or other party to whom the law assigns the responsibility) remains responsible for ensuring that each version satisfies applicable statutory requirements.[70]

V. Solicitation of Comments

Any interested person wishing to submit written comments relating to the views expressed in this release are invited to do so by submitting them in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 6–9, Washington, D.C. 20549. Comments also may be submitted electronically at the following electronic mail address: rule-comments@sec.gov. All comment letters should refer to File Number S7–13–96. This file number should be included on the subject line if comments are submitted using electronic mail. Comment is requested not only on the specific issues discussed in detail in the release, but on any other issues that should be considered in connection with facilitating the use of electronic media by broker-dealers, transfer agents, and investment advisers. Comment is sought from both the point of view of the sender and the intended recipient. The Commission further requests comment on any competitive burdens that may result from this interpretation. Comments must be received on or before July 1, 1996. Comments received will be available for public inspection and copying in the Commission's public reading room, 450 Fifth Street, N.W., Washington, D.C. 20549. Electronically submitted comment letters will be posted on the Commission's Internet web site (http://www.sec.gov).

List of Subjects

17 CFR Parts 231 and 241

Securities.

17 CFR Parts 271 and 276

Investment companies, Securities.

Amendment to the Code of Federal Regulations

The Commission is amending Title 17, Chapter II of the Code of Federal Regulations in the manner set forth below:

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

Part 231 is amended by adding Release No. 33–7288 and the release date of May 9, 1996 to the list of interpretive releases.

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Part 241 is amended by adding Release No. 34–37182 and the release date of May 9, 1996 to the list of interpretive releases.

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

Part 271 is amended by adding Release No. IC–21945 and the release date of May 9, 1996 to the list of interpretive releases.

PART 276—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT ADVISERS ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

Part 276 is amended by adding Release No. IA–1562 and the release date of May 9, 1996 to the list of interpretive releases.

By the Commission.

Dated: May 9, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12176 Filed 5–14–96; 8:45 am]

BILLING CODE 8010–01–P

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[62] A company need not register its dividend reinvestment plan under the Securities Act where its involvement in the plan is limited to administrative or ministerial functions. For additional information, including a listing of permitted functions, see Securities Act Release No. 4790 (July 13, 1965), 30 FR 9059 (July 20, 1965); Securities Act Release No. 5515 (July 22, 1974), 39 FR 28520 (August 8, 1974); Securities Act Release No. 6188 (February 1, 1980), 45 FR 8960 (February 11, 1980).

[63] As technology develops, some users may have the capacity to download and view a prospectus in no more time than it takes to jump via hyperlink from the sales literature to the prospectus. Under those circumstances, the capacity to download would be considered to give those users reasonably comparable access to the prospectus that would provide sufficient access.

[64] A change in means of notification under such circumstances would also be effective in the case of notification of the availability of shareholder reports discussed in example 46 in the October Interpretive Release. October Interpretive Release, *supra* note 1.

[65] Under section 10(a)(3) of the Securities Act, a fund that continuously offers its shares would have to amend its prospectus no less frequently than every 16 months in order to include updated financial statements.

[66] With *unscheduled* material prospectus amendments for which such advance notice would not be feasible, the fund would need to use other forms of notification such as a postcard or e-mail message. *See* October Interpretive Release, *supra* note 1, example 43.

[67] The facts of this example should not be read as imposing any obligation on the issuer to make such other versions of its prospectus available to any person.

[68] Alternatively, the company may file with the Commission as an appendix to the prospectus the script of the movie and a fair and accurate narrative description of the graphic or image material. *See* October Interpretive Release, *supra* note 1, example 13.

[69] Of course, the general principles concerning electronic delivery, as described in the October Interpretive Release, *supra* note 1, would apply.

[70] *See id.* at 53460.

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 228, 229, 230, 232, 239, 240, 270, and 274

[Release No. 33–7289, 34–37183, IC–21946; File No. S7–31–95]

RIN 3235–AG67

Use of Electronic Media for Delivery Purposes

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission ("Commission") today is adopting technical amendments to its rules that are premised on the distribution of paper documents. These amendments are intended to clarify certain rules in light of the interpretations set forth in the Commission's October 6, 1995 release (Release No. 33–7233 [60 FR 53458]) regarding the use of electronic media for the dissemination of issuer-related information under the federal securities laws ("October Interpretive Release") and the availability of electronic filings on the Commission's World Wide Web site.

EFFECTIVE DATE: The amendments will become effective June 14, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph P. Babits or James R. Budge, (202) 942–2910, Division of Corporation Finance; and, with regard to questions concerning investment companies and investment advisers, Kathleen K. Clarke, (202) 942–0721, Division of Investment Management, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: To clarify certain rules in light of the interpretations relating to electronic distribution of securities-related information as set forth in the October Interpretive Release, the Commission is adopting technical amendments to the following rules and forms: Rule 200.80,[1] Item 502 of Regulation S-B;[2] Item 502 of Regulation S–K;[3] Rule 120[4] of the Securities Act of 1933 ("Securities Act");[5] Rule 253 of Regulation A;[6] Rule 420 of Regulation C;[7] Rules 481 and 482 of Regulation C;[8] Rule 605 of Regulation E;[9] Rule 304 of Regulation S–T;[10] Forms F–7,[11] F–8,[12] F–9,[13] F–10[14] and F–80;[15] Rule 12b–12;[16] Rule 13e–3;[17] Rule 13e–4;[18] Schedule 13E–4F;[19] Rule 14a–3;[20] Rule 14a–5;[21] Rule 14a–7;[22] Rule 14c–4;[23] Rule 14c–7;[24] Rule 14d–5;[25] Schedule 14D–1F;[26] Schedule 14D–9F;[27] under the Securities Exchange Act of 1934 ("Exchange Act");[28] and Rule 8b–12;[29] Rule 30d–1;[30] Rule 30d–2;[31] Form N–1A;[32] Form N–2;[33] Form N–3;[34] and Form N–4[35] under the Investment Company Act of 1940 ("Investment Company Act").[36]

I. Introduction

In its October Interpretive Release, the Commission recognized the promise of electronic distribution of information in enhancing investors' ability to access, research, and analyze information, and in facilitating the provision of information by issuers and others.[37] Acknowledging the wide spectrum of media available to issuers and others who distribute securities-related information, as well as the fact that strict compliance with requirements applicable to printed material may not be possible in all electronic media, in a companion release, the Commission proposed for comment technical amendments to rules that were premised on the distribution of paper documents ("Proposing Release").[38]

The Commission received 12 letters of comment on various issues raised in its October Interpretive Release and Proposing Release; the majority of commenters focused on the October Interpretive Release rather than the Proposing Release.[39] Except as noted, the Commission is adopting the amendments as proposed,[40] and certain other technical rule changes are being made that did not require proposal.[41] The amendments are designed to maintain the intent of the original requirements while allowing flexibility to issuers and others in the choice of distribution medium.

A. General Formatting Requirements

As proposed, Commission rules that prescribe the physical appearance of a paper document, such as type size and font requirements, are being amended to provide that the issuer, when delivering an electronic version of a document, may comply with the requirements by presenting the information in a format readily communicated to investors. Where legends are required to be printed in red ink or bold-face type, or in a different font size, the amended rules will allow issuers to satisfy such requirements by presenting the legends in any manner reasonably calculated to draw attention to them.

[1] 17 CFR 200.80.

[2] 17 CFR 228.502.

[3] 17 CFR 229.502. Two unrelated technical corrections to Item 601(c) of Regulations S-B and S-K [17 CFR 228.601(c) and 229.601(c), respectively] also are included in this release.

[4] 17 CFR 230.120.

[5] 15 U.S.C. 77a *et seq.*

[6] 17 CFR 230.253.

[7] 17 CFR 230.420.

[8] 17 CFR 230.481 and 230.482.

[9] 17 CFR 230.605.

[10] 17 CFR 232.304.

[11] 17 CFR 239.37.

[12] 17 CFR 239.38.

[13] 17 CFR 239.39.

[14] 17 CFR 239.40.

[15] 17 CFR 239.41.

[16] 17 CFR 240.12b–12.

[17] 17 CFR 240.13e–3.

[18] 17 CFR 240.13e–4.

[19] 17 CFR 240.13e–102.

[20] 17 CFR 240.14a–3.

[21] 17 CFR 240.14a–5.

[22] 17 CFR 240.14a–7.

[23] 17 CFR 240.14c–4.

[24] 17 CFR 240.14c–7.

[25] 17 CFR 240.14d–5.

[26] 17 CFR 240.14d–102.

[27] 17 CFR 240.14d–103.

[28] 15 U.S.C. 78a *et seq.*

[29] 17 CFR 270.8b–12.

[30] 17 CFR 270.30d–1.

[31] 17 CFR 270.30d–2.

[32] 17 CFR 274.11A.

[33] 17 CFR 274.11a–1.

[34] 17 CFR 274.11b.

[35] 17 CFR 274.11c.

[36] 15 U.S.C. 80a–1 *et seq.*

[37] The Commission has issued a second interpretive release dealing with electronic communication issues relating to broker-dealers, transfer agents, and investment advisers. Several additional examples also were included. See Release No. 33–7288 (May 9, 1996).

[38] Release No. 33–7234 (October 6, 1995) [60 FR 53468].

[39] These letters are available for inspection and copying in the Commission's public reference room located at 450 Fifth Street, N.W., Washington, D.C. (File No. S7–31–95).

[40] Certain clarifying modifications have been made to the proposed language of Rule 304(c) of Regulation S–T and the note to Rule 14d–5.

[41] See technical changes to Rule 200.80 of the Commission's rules relating to organization, conduct and ethics and information and requests, Securities Act Rule 120, Item 502 of Regulations S–K and S–B, and Item 601(c) of Regulations S–K and S–B, and to the following Investment Company Act registration statement forms: Form N–1A for open-end investment companies; Form N–2 for closed-end companies; Form N–3 for separate accounts offering variable annuity contracts that are registered under the Investment Company Act as management investment companies; and Form N–4 for separate accounts offering variable annuity contracts that are registered under the Investment Company Act as unit investment trusts. The amendments to Rules 200.80 and 120 relate to agency organization, procedure or practice; therefore, publication for notice and comment is not required under the Administrative Procedure Act. 5 U.S.C. 553(b). With respect to the amendments to Regulations S–K and S–B, and to the Investment Company Act registration statement forms, the Commission for good cause finds that publication of these amendments for notice and comment is unnecessary because they are minor, technical changes. 5 U.S.C. 553(b).

B. Graphic, Image and Audio Information

1. Documents Delivered to Investors

With respect to documents delivered to investors, the proposed rules provided that if material graphic, image and audio information is included in one version of a disclosure document, but not in other versions, the issuer must include in the other versions a fair and accurate description or transcript of the omitted information. The Commission has determined that this language is not necessary to ensure compliance with the federal securities laws; consequently, the adopted rules do not include it. Where more than one version of a document is delivered to investors, each version must contain all information required by, and otherwise comply with, the requirements of the applicable form and other provisions of the federal securities laws.[42] The issuer (or other party to whom the law assigns the responsibility) remains responsible for ensuring that each version satisfies applicable statutory and regulatory requirements.[43]

2. Documents Filed With the Commission

Documents containing video, audio and graphic presentations currently cannot be filed on the EDGAR system. Where these presentations are used in documents delivered to investors, Rule 304 of Regulation S-T has always required electronic filers to provide fair and accurate descriptions of omitted materials in their EDGAR filings. Rule 304 initially was phrased in terms of graphic and image material included in "the paper format version" of an EDGAR filing. To reflect the possibility of the delivery of an electronic version that differs from the EDGAR filing, the Commission is amending Rule 304 to provide that wherever the "document delivered to investors or others" includes graphic, image or audio information that cannot be reproduced in an electronic filing on EDGAR, the EDGAR filing must include a fair and accurate narrative description, tabular presentation or transcript of the omitted material.[44]

C. Rules Where Mailing Is Identified as a Delivery Method

Certain Commission rules provide that information may be distributed to investors by mail. While some indicate that reasonably prompt alternative delivery methods may be used,[45] others specifically require "mailing." These rules should be read consistently to allow the use of alternative methods of distribution that are reasonably prompt. These rules are being amended where necessary to reflect this view.[46]

D. Identification of Where Filings Are Available for Inspection

Rule 200.80 identifies the public reference rooms located in Washington, D.C. and other designated Regional Offices as the primary locations where documents filed with the Commission may be inspected and copied; in addition, Securities Act Rule 120 states that registration statements are available for public inspection during business hours at Commission headquarters. Other rules require a registrant that is a reporting company to include on the inside front cover of a prospectus a statement to the effect that reports and other information filed by the registrant may be inspected and copied at the Commission's public reference rooms.[47] The Commission now also makes electronic filings publicly available on the Internet within 24 hours of acceptance.[48] Consequently, the Commission believes it is appropriate, as a reflection of this agency's current dissemination procedures and practices, to amend Rules 200.80(c) and 120 to include a statement that electronic filings are publicly available on the Commission's Web site.[49] The prospectus requirements also have been amended to provide for the inclusion of a statement that the Commission maintains a Web site that contains reports, proxy and information statements and other information regarding registrants that file electronically with the Commission.[50]

The Commission also is amending certain investment company registration statement forms to provide for inclusion of a statement on the cover page of prospectuses that the Commission maintains a Web site that contains the Statement of Additional Information, material incorporated by reference, and other information regarding registrants that file electronically with the Commission.[51] This new requirement is limited to prospectuses disseminated electronically by investment companies that are electronic filers because it should not impose any significant additional burden on such registrants to include the disclosure in those prospectuses. The Commission intends to propose expanding this requirement to apply to all investment company prospectuses as part of future amendments to investment company registration forms.

II. Cost-Benefit Analysis

Quick and broad access to material information was one of the fundamental premises upon which the federal securities laws were adopted, and electronic distribution no doubt will benefit issuers and investors through cheaper and faster communication of information. While the Commission expects the increased use of electronic media to benefit securities markets and investors by making disclosure available faster and more cheaply, it does not anticipate that the amendments will, in and of themselves, result in substantial economic costs or benefits. Those benefits will be derived from advances in technology, and not from the minor technical amendments that are the subject of this rulemaking.

[42] *See* Release No. 33–7288 (May 9, 1996), Part IV, example (7).

[43] Differing versions of a document may need to be filed with the Commission. For example, differing prospectuses should be filed with the Commission pursuant to Rule 424 [17 CFR 230.424] or Rule 497 [17 CFR 230.497]. Alternatively, the company may file with the Commission as an appendix to the prospectus a fair and accurate description of any omitted material. As discussed below, graphic, image and audio material should be described in EDGAR filings pursuant to Rule 304 of Regulation S–T.

[44] Of course, immaterial differences would not need to be described. The rule retains the provisions that all such omitted material is deemed filed as part of the electronic filing and that copies of the document as distributed should be retained by the issuer for a period of five years. One commenter suggested that rather than require descriptions, the Commission should allow the filing of documents in formats that currently are not compatible with EDGAR. This suggestion fundamentally relates to the design of the EDGAR system, which currently is being reevaluated by the staff; any necessary rulemaking related to electronic filing will be undertaken as modifications to the EDGAR system are developed and implemented in the future.

[45] *See e.g.*, Rule 14d–4(a)(2)(ii) [17 CFR 240.14d–4(a)(2)(ii)].

[46] Where the costs of distribution are to be calculated under the rules, the amendments provide that methods analogous to those applicable to mailing should be used where alternative delivery methods are chosen. In that regard, the proposed change to Rule 14d-5 has been modified to provide greater guidance with respect to cost calculation under that rule.

[47] Item 502(a) of Regulations S–K and S–B [17 CFR 229.502(a) and 228.502(a), respectively].

[48] *See* Commission News Release No. 95–195 (September 26, 1995).

[49] A correction to the cross reference to confidential treatment rules in Rule 120 also is being adopted.

[50] Item 502(a) of Regulations S–K and S–B. The Commission's Internet address is http://www.sec.gov.

[51] *See* amendments to Item 1(a)(iii)(C) of Form N–1A; Item 1.1.d(C) of Form N–2; Item 1(a)(vi)(C) of Form N–3; and Item 1(a)(v)(C) of Form N–4. This new requirement would apply to any prospectus that is disseminated electronically by an investment company that is an electronic filer after the effective date of these rules, but the new disclosure would not necessitate filing a prospectus supplement or "stickering" the prospectus.

III. Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the amendments will not have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, was attached to the Proposing Release as Appendix A.

IV. Statutory Bases

The amendments to the Commission's rules under the Securities Act and amendments to the Commission's rules under the Exchange Act are being made pursuant to Sections 6, 7, 8, 10 and 19(a) of the Securities Act and Sections 3, 4, 10, 12, 13, 14, 15, 16 and 23 of the Exchange Act. The amendments to the Commission's rules under the Investment Company Act are being made pursuant to Sections 8(b) and 38(a) under the Investment Company Act, as amended.

List of Subjects

17 CFR Parts 200, 228, 229, 230, 232, 239, 240, 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of the Amendments

In accordance with the foregoing, Title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for Part 200 continues to read in part as follows:

Authority: 15 U.S.C. 77s, 78d–1, 78d–2, 78w, 78*ll*(d), 79t, 77sss, 80a–37, 80b–11, unless otherwise noted.

* * * * *

2. By amending § 200.80 by adding paragraph (c)(3), to read as follows:

§ 200.80 Commission records and information.

* * * * *

(c)(1) * * *

(3) Electronic filings made through the Electronic Data Gathering, Analysis, and Retrieval system are publicly available through the Commission's Web site (http://www.sec.gov).

* * * * *

PART 228—INTEGRATED DISCLOSURE SYSTEM FOR SMALL BUSINESS ISSUERS

3. The authority citation for Part 228 continues to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77jjj, 77nnn, 77sss, 78*l*, 78m, 78n, 78o, 78w, 78*ll*, 80a–8, 80a–29, 80a–30, 80a–37, 80b–11, unless otherwise noted.

4. By amending § 228.502 by revising paragraph (a)(2) to read as follows:

§ 228.502 (Item 502) Inside front and outside back cover pages of prospectus.

* * * * *

(a)(1) * * *

(2) If the small business issuer is a reporting company, state that the reports and other information filed by the small business issuer may be inspected and copied at the public reference facilities of the Commission in Washington D.C., and at some of its Regional Offices (include addresses), and that copies of such material can be obtained from the Public Reference Section of the Commission, 450 Fifth Street, N.W., Washington D.C. 20549, at prescribed rates. If the small business issuer is an electronic filer, state that the Commission maintains a Web site that contains reports, proxy and information statements and other information regarding issuers that file electronically with the Commission and state the address of such site (http://www.sec.gov); and

* * * * *

§ 228.601 [Amended]

5. By amending § 228.601(c) by revising the headings "Note 1 to paragraph (c)(1)(vi)" to read "*Note 1 to paragraph (c)(1)*" and "Note 2 to paragraph (c)(1)(vi)" to read "*Note 2 to paragraph (c)(1)*".

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

6. The authority citation for Part 229 continues to read in part as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78*i*, 78*j*, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 79e, 79n, 79t, 80a–8, 80a–29, 80a–30, 80a–37, 80b–11, unless otherwise noted.

* * * * *

7. By amending § 229.502 by revising paragraph (a)(2) to read as follows:

§ 229.502 (Item 502) Inside front and outside back cover pages of prospectus.

* * * * *

(a) * * *

(2) State that reports (and where the registrant is subject to sections 14(a) and 14(c) of the Exchange Act, proxy and information statements) and other information filed by the registrant can be inspected and copied at the public reference facilities maintained by the Commission in Washington, D.C., and at certain of its Regional Offices, and state the current address of each such facility (see §§ 200.11(b) and 200.80(c) of this chapter), and that copies of such material can be obtained from the Public Reference Section of the Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 at prescribed rates. If the registrant is an electronic filer, state that the Commission maintains a Web site that contains reports, proxy and information statements and other information regarding registrants that file electronically with the Commission and state the address of such site (http://www.sec.gov); and

* * * * *

§ 229.601 [Amended]

8. By amending § 229.601(c) by revising the heading "Note 1 to paragraph (c)(1)(vi)" to read "*Note 1 to paragraph (c)(1)*" and "Note 2 to paragraph (c)(1)(vi)" to read "*Note 2 to paragraph (c)(1)*".

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

9. The authority citation for Part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78d, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 79t, 80a–8, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

10. By revising § 230.120 to read as follows:

§ 230.120 Inspection of registration statements.

Except for material contracts or portions thereof accorded confidential treatment pursuant to § 230.406, all registration statements are available for public inspection, during business hours, at the principal office of the Commission in Washington, D.C. Electronic registration statements made through the Electronic Data Gathering, Analysis, and Retrieval system are publicly available through the Commission's Web site (http://www.sec.gov).

11. By amending § 230.253 by designating the text of paragraph (b) after the heading as paragraph (b)(1) and by adding paragraph (b)(2), to read as follows:

§ 230.253 Offering circular.

* * * * *

(b) Presentation of information.

(1) * * *

(2) Where an offering circular is distributed through an electronic medium, issuers may satisfy legibility requirements applicable to printed documents by presenting all required information in a format readily communicated to investors.

* * * * *

12. By amending § 230.420 by designating the text as paragraph (a) and by adding paragraph (b), to read as follows:

§ 230.420 Legibility of prospectus.

(a) * * *

(b) Where a prospectus is distributed through an electronic medium, issuers may satisfy legibility requirements applicable to printed documents, such as paper size, type size and font, boldface type, italics and red ink, by presenting all required information in a format readily communicated to investors, and where indicated, in a manner reasonably calculated to draw investor attention to specific information.

13. By amending § 230.481 to add paragraph (h) to read as follows:

§ 230.481 Information required in prospectus.

* * * * *

(h) Where a prospectus is distributed through an electronic medium, issuers may satisfy legibility requirements applicable to printed documents, such as paper size, type size and font, boldface type, italics and red ink, by presenting all required information in a format readily communicated to investors, and where indicated, in a manner reasonably calculated to draw investor attention to specific information.

14. By amending § 230.482 by removing the note following paragraph (a)(7) and adding a note to paragraph (a)(6), to read as follows:

§ 230.482 Advertising by an investment company as satisfying requirements of section 10.

(a) * * *

(6) * * *

Note to paragraph (a)(6). All advertisements made pursuant to this rule are subject to Rule 420 [17 CFR 230.420].

* * * * *

15. By amending § 230.605 by designating the text of paragraph (c) as paragraph (c)(1) and by adding paragraph (c)(2) to read as follows:

§ 230.605 Filing and use of the offering circular.

* * * * *

(c)(1) * * *

(2) Where an offering circular is distributed through an electronic medium, issuers may satisfy legibility requirements applicable to printed documents by presenting all required information in a format readily communicated to investors.

* * * * *

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

16. The authority citation for Part 232 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79t(a), 80a–8, 80a–29, 80a–30 and 80a–37.

17. By amending § 232.304 by revising the section heading, paragraphs (a), (b)(1), and (c) to read as follows:

§ 232.304 Graphic, image and audio material.

(a) If a filer includes graphic, image or audio material in a document delivered to investors and others that cannot be reproduced in an electronic filing, the electronically filed version of that document shall include a fair and accurate narrative description, tabular representation or transcript of the omitted material. Such descriptions, representations or transcripts may be included in the text of the electronic filing at the point where the graphic, image or audio material is presented in the delivered version, or they may be listed in an appendix to the electronic filing. Immaterial differences between the delivered and electronically filed versions, such as pagination, color, type size or style, or corporate logo need not be described.

(b)(1) The graphic, image and audio material in the version of a document delivered to investors and others shall be deemed part of the electronic filing and subject to the liability and antifraud provisions of the federal securities laws.

(2) * * *

(c) An electronic filer shall retain for a period of five years a copy of each publicly distributed document, in the format used, that contains graphic, image or audio material where such material is not included in the version filed with the Commission. The five-year period shall commence as of the filing date, or the date that appears on the document, whichever is later. Upon request, an electronic filer shall furnish to the Commission or its staff a copy of any or all of the documents contained in the file.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

18. The authority citation for Part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a–8, 80a–29, 80a–30 and 80a–37, unless otherwise noted.

* * * * *

19. By amending Form F–7 (referenced in § 239.37) by adding a note to Part I, Item 2, to read as follows:

Note.—The text of Form F–7 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form F–7

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

PART I

INFORMATION REQUIRED TO BE SENT TO SHAREHOLDERS

* * * * *

Item 2. Information Legends

* * * * *

Note to Item 2. If the home-jurisdiction document(s) are delivered through an electronic medium, the issuer may satisfy the legibility requirements for the required legends relating to type size and font by presenting the legends in any manner reasonably calculated to draw investor attention to it.

* * * * *

20. By amending Form F–8 (referenced in § 239.38) by adding a note to Part I, Item 2, to read as follows:

Note.—The text of Form F–8 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form F–8

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

PART I

INFORMATION REQUIRED TO BE DELIVERED TO OFFEREES OR PURCHASERS

* * * * *

Item 2. Informational Legends

* * * * *

Note to Item 2. If the home-jurisdiction document(s) are delivered through an electronic medium, the issuer may satisfy the legibility requirements for the required legends relating to type size and font by presenting the legends in any manner reasonably calculated to draw investor attention to it.

* * * * *

21. By amending Form F–9 (referenced in § 239.39) by adding a note to Part I, Item 2, to read as follows:

Note.—The text of Form F–9 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form F–9

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

PART I

INFORMATION REQUIRED TO BE DELIVERED TO OFFEREES OR PURCHASERS

* * * * *

Item 2. Informational Legends

* * * * *

Note to Item 2. If the home-jurisdiction document(s) are delivered through an electronic medium, the issuer may satisfy the legibility requirements for the required legends relating to type size and font by presenting the legends in any manner reasonably calculated to draw investor attention to it.

* * * * *

22. By amending Form F–10 (referenced in § 239.40) by adding a note to Part I, Item 3, to read as follows:

Note.—The text of Form F–10 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form F–10

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

PART I

INFORMATION REQUIRED TO BE DELIVERED TO OFFEREES OR PURCHASERS

* * * * *

Item 3. Informational Legends

* * * * *

Note to Item 3. If the home-jurisdiction document(s) are delivered through an electronic medium, the issuer may satisfy the legibility requirements for the required legends relating to type size and font by presenting the legends in any manner reasonably calculated to draw investor attention to it.

* * * * *

23. By amending Form F–80 (referenced in § 239.41) by adding a note to Part I, Item 2, to read as follows:

Note. The text of Form F–80 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form F–80

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

PART I

INFORMATION REQUIRED TO BE DELIVERED TO OFFEREES OR PURCHASERS

* * * * *

Item 2. Informational Legends

* * * * *

Note to Item 2. If the home-jurisdiction document(s) are delivered through an electronic medium, the issuer may satisfy the legibility requirements for the required legends relating to type size and font by presenting the legends in any manner reasonably calculated to draw investor attention to it.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

24. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78w, 78x, 78ll(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

25. The authority citation following § 240.14d–5 is removed.

26. By amending § 240.12b–12 by adding paragraph (e) to read as follows:

§ 240.12b–12 Requirements as to paper, printing and language.

* * * * *

(e) Where a statement or report is distributed to investors through an electronic medium, issuers may satisfy legibility requirements applicable to printed documents, such as paper size and type size and font, by presenting all required information in a format readily communicated to investors.

27. By amending § 240.13e–3 by designating the instructions to paragraph (e)(3) immediately following paragraph (e)(3)(ii)(B) as *"Instructions to paragraph (e)(3)"* and by adding instruction 3 thereto, to read as follows:

§ 240.13e–3 Going private transactions by certain issuers or their affiliates.

* * * * *

(e) * * *

(3) * * *

Instructions to paragraph (e)(3).

1. * * *

2. * * *

3. If the information delivered to security holders is distributed through an electronic medium and the legend required by paragraph (e)(3)(ii) is included, issuers may satisfy the legibility requirement relating to type size and font by presenting the legend in any manner reasonably calculated to draw security holder attention to it.

* * * * *

28. By amending § 240.13e–4 by revising paragraph (e)(1)(ii)(A), to read as follows:

§ 240.13e–4 Tender offers by issuers.

* * * * *

(e) * * *

(1) * * *

(ii) * * *

(A) By mailing or otherwise furnishing promptly the statement required by paragraph (d)(1) of this section to each security holder whose name appears on the most recent shareholder list of the issuer;

* * * * *

29. By amending Schedule 13E–4F (§ 240.13e–102) by adding a note to Item 2 of Part I, to read as follows:

§ 240.13e–102 Schedule 13E–4F. Tender offer statement pursuant to section 13(e)(1) of the Securities Exchange Act of 1934 and § 240.13e–4 thereunder.

* * * * *

Part I—Information Required To Be Sent to Shareholders

* * * * *

Item 2. * * *

Note to Item 2. If the home jurisdiction document(s) are delivered through an electronic medium, the issuer may satisfy the legibility requirements for the required legends relating to type size and fonts by presenting the legend in any manner reasonably calculated to draw security holder attention to it.

* * * * *

30. By amending § 240.14a–3 by designating the text of paragraph (b)(2) as (b)(2)(i) and by adding paragraph (b)(2)(ii), to read as follows:

§ 240.14a–3 Information to be furnished to security holders.

* * * * *

(b) * * *

(2)(i) * * *

(ii) Where the annual report to security holders is delivered through an electronic medium, issuers may satisfy legibility requirements applicable to printed documents, such as type size and font, by presenting all required information in a format readily communicated to investors.

* * * * *

31. By amending § 240.14a–5 by designating the text of paragraph (d) as paragraph (d)(1) and by adding paragraph (d)(2), to read as follows:

§ 240.14a–5 Presentation of information in proxy statement.

* * * * *

(d)(1) * * *

(2) Where a proxy statement is delivered through an electronic medium, issuers may satisfy legibility requirements applicable to printed documents, such as type size and font, by presenting all required information in a format readily communicated to investors.

* * * * *

32. By amending § 240.14a–7 by adding a note at the end of the section, to read as follows:

§ 240.14a–7 Obligations of registrants to provide a list of, or mail soliciting material to, security holders.

* * * * *

Note to § 240.14a–7. Reasonably prompt methods of distribution to security holders may be used instead of mailing. If an alternative distribution method is chosen, the costs of that method should be considered where necessary rather than the costs of mailing.

33. By amending § 240.14c–4 by adding paragraph (d), to read as follows:

§ 240.14c–4 Presentation of information in information statement.

* * * * *

(d) Where an information statement is delivered through an electronic medium, issuers may satisfy legibility requirements applicable to printed documents, such as type size and font, by presenting all required information in a format readily communicated to investors.

34. By amending § 240.14c–7 by revising paragraph (c), to read as follows:

§ 240.14c–7 Providing copies of material for certain beneficial owners.

* * * * *

(c) A registrant, at its option, may send by mail or other equally prompt means, its annual report to security holders to the beneficial owners whose identifying information is provided by record holders and respondent banks, pursuant to § 240.14b–1(b)(3) and § 240.14b–2(b)(4) (ii) and (iii), provided that such registrant notifies the record holders and respondent banks at the time it makes the inquiry required by paragraph (a) of this section that the registrant will send the annual report to security holders to the beneficial owners so identified.

* * * * *

35. By amending § 240.14d–5 by adding a note at the end of the section, to read as follows:

§ 240.14d–5 Dissemination of certain tender offers by the use of stockholder lists and security position listings.

* * * * *

Note to § 240.14d–5. Reasonably prompt methods of distribution to security holders may be used instead of mailing. If alternative methods are chosen, the approximate direct costs of distribution shall be computed by adding the estimated direct costs of preparing the document for distribution through the chosen medium (including updating of shareholder lists) plus the estimated reasonable cost of distribution through that medium. Direct costs incidental to the distribution of tender offer materials and amendments thereto may include all reasonable charges paid by the subject company to third parties for supplies or services, including costs attendant to preparing shareholder lists, handling the bidder's materials, and contacting participants named on security position listings, but shall not include indirect costs, such as employee time which is devoted to either contesting or supporting the tender offer on behalf of the subject company.

36. By amending Schedule 14D–1F (§ 240.14d–102) by adding a note to Item 2 of Part I, to read as follows:

§ 240.14d–102 Schedule 14D–1F. Tender offer statement pursuant to rule 14d–1(b) under the Securities Exchange Act of 1934.

* * * * *

PART I—INFORMATION REQUIRED TO BE SENT TO SHAREHOLDERS

* * * * *

Item 2. Informational Legends

* * * * *

Note to Item 2. If the home-jurisdiction document(s) are delivered through an electronic medium, the issuer may satisfy the legibility requirements for the required legends relating to type size and font by presenting the legend in any manner reasonably calculated to draw security holder attention to it.

* * * * *

37. By amending Schedule 14D–9F (§ 240.14d–103) by adding a note to Item 2 of Part I, to read as follows:

§ 240.14d–103 Schedule 14D–9F. Solicitation/recommendation statement pursuant to section 14(d)(4) of the Securities Exchange Act of 1934 and rules 14d–1(b) and 14e–2(c) thereunder.

* * * * *

Part I—Information Required To Be Sent to Shareholders

* * * * *

Item 2. Informational Legends

* * * * *

Note to Item 2. If the home jurisdiction document(s) are delivered through an electronic medium, the issuer may satisfy the legibility requirements for the required legends relating to type size and font by presenting the legend in any manner reasonably calculated to draw security holder attention to it.

* * * * *

PART 270—GENERAL RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

38. The authority citation for Part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–37, 80a–39, unless other otherwise noted;

* * * * *

39. The authority citations following § 270.8b–12 are removed.

40. By amending § 270.8b–12 by adding paragraph (f) to read as follows:

§ 270.8b–12 Requirements as to paper, printing and language.

* * * * *

(f) Where a registration statement or report is distributed through an electronic medium, issuers may satisfy legibility requirements applicable to printed documents, such as paper size, type size and font, bold–face type, italics and red ink, by presenting all required information in a format readily communicated to investors, and where indicated, in a manner reasonably calculated to draw investor attention to specific information.

§ 270.30d–1 [Amended]

41. By amending § 270.30d–1 by revising the word "mailed" in paragraph (c) to read "transmitted", revising the word "mailed" in the last sentence of paragraph (d)(2) to read "transmitted", and revising the word "mailed" in paragraph (e) to read "transmitted".

§ 270.30d–2 [Amended]

42. By amending § 270.30d–2 by removing from the first sentence the phrase "by mail, postage prepaid,"; and in the second sentence, by revising the word "mailed" to read "transmitted" and by revising the word "mailing" to read "transmitting".

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

43. The authority citation for Part 274 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78l, 78m, 78n, 78o(d), 80a–8, 80a–24, and 80a–29, unless otherwise noted.

44. By amending Part A, Information Required in a Prospectus, Item 1(a)(iii) of Form N–1A (referenced in §§ 239.15A and 274.11A) by adding a sentence to the end of the parenthetical following paragraph (C) to read as follows:

[**Note:** The text of Form N–1A does not and these amendments will not appear in the Code of Federal Regulations.]

Form N–1A

* * * * *

PART A

INFORMATION REQUIRED IN A PROSPECTUS

Item 1. Cover Page

(a) * * *

(iii) * * *

(C) * * * (* * * If the Registrant intends to disseminate its prospectus electronically and is an electronic filer, also include the information that the Commission maintains a Web site (http://www.sec.gov) that contains the Statement of Additional Information, material incorporated by reference, and other information regarding registrants that file electronically with the Commission.);

* * * * * *

45. By amending Part A, Information Required in a Prospectus, Item 1.1.d of Form N–2 (referenced in §§ 239.14 and 274.11a–1) by adding a sentence at the end of the parenthetical following paragraph (C) to read as follows:

[Note: The text of Form N–2 does not and these amendments will not appear in the Code of Federal Regulations.]

Form N–2

* * * * * *

PART A–INFORMATION REQUIRED IN A PROSPECTUS

Item 1. Outside Front Cover

1. * * *

d. * * *

(C) * * * (* * * If the Registrant intends to disseminate its prospectus electronically and is an electronic filer, also include the information that the Commission maintains a Web site (http://www.sec.gov) that contains the Statement of Additional Information, material incorporated by reference, and other information regarding registrants that file electronically with the Commission.);

* * * * * *

46. By amending Part A, Information Required in a Prospectus, Item 1(a)(vi) of Form N–3 (referenced in §§ 239.17a and 274.11b) by adding a sentence at the end of the parenthetical following paragraph (C) to read as follows:

[Note: The text of Form N–3 does not and these amendments will not appear in the Code of Federal Regulations.]

Form N–3

* * * * * *

Part A

INFORMATION REQUIRED IN A PROSPECTUS

Item 1. Cover Page

(a) * * *

(vi) * * *

(C) * * * (* * * If the Registrant intends to disseminate its prospectus electronically and is an electronic filer, also include the information that the Commission maintains a Web site (http://www.sec.gov) that contains the Statement of Additional Information, material incorporated by reference, and other information regarding registrants that file electronically with the Commission.);

* * * * * *

47. By amending Part A, Information Required in a Prospectus, Item 1(a)(v) of Form N–4 (referenced in §§ 239.17b and 274.11c) by adding a sentence at the end of the parenthetical following paragraph (C) to read as follows:

[Note: The text of Form N–4 does not and these amendments will not appear in the Code of Federal Regulations.]

Form N–4

* * * * * *

Part A

INFORMATION REQUIRED IN A PROSPECTUS

Item 1. Cover Page

(a) * * *

(v) * * *

(C) * * * (* * * If the Registrant intends to disseminate its prospectus electronically and is an electronic filer, also include the information that the Commission maintains a Web site (http://www.sec.gov) that contains the Statement of Additional Information, material incorporated by reference, and other information regarding registrants that file electronically with the Commission.);

* * * * * *

By the Commission.

Dated: May 9, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12177 Filed 5–14–96; 8:45 am]

BILLING CODE 8010–01–P

federal register

Wednesday
May 15, 1996

Part VII

The President

Proclamation 6894—Older American Month, 1996

Proclamation 6895—Peace Officers Memorial Day and Police Week, 1996

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Federal Register
Vol. 61, No. 95
Wednesday, May 15, 1996

Presidential Documents

Title 3—

The President

Proclamation 6894 of May 13, 1996

Older Americans Month, 1996

By the President of the United States of America

A Proclamation

America's high standard of living, advanced health care system, and commitment to better nutrition and physical fitness have allowed millions of our citizens the luxury of long and fulfilling lives. Because current estimates indicate that one in six Americans will be 65 or older by the year 2020, our Nation faces new challenges as we seek to address the needs of this growing population of seniors.

Fortunately, many of our older Americans—who have already led the way in setting a sound course for our country's future—are helping us to meet these new challenges as well. Having lived through times of depression and war, peace and prosperity, they have shaped our progress with their achievements. The safety net they created—including Social Security, Medicare, Medicaid, and the provisions of the Older Americans Act—helps us to honor our debt to senior citizens and ensures that Americans who have worked hard throughout their lives can look forward to a secure retirement.

Each year, we set aside the month of May as a special time to pay tribute to older Americans and to affirm our obligation to sustain and improve their quality of life. The theme of this year's observance, "Aging: A Lifetime Opportunity," underscores the gifts that older people offer to our country every day. Thanks to senior citizens, our communities are stronger, our Nation is more diverse, and we are better prepared to meet the challenges of the next century.

As we celebrate the contributions of all those in their golden years, let us recognize that long life is a gift we must cherish and a responsibility for which we must prepare. With an eye toward the future and with the example of today's seniors firmly before us, we can prepare for a better tomorrow for ourselves and for the generations of Americans to come.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 1996, as Older Americans Month. I call upon Government officials, businesses, communities, volunteers, educators, and all the people of the United States to acknowledge the contributions made by older Americans this month and throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of May, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.

William J. Clinton

[FR Doc. 96-12418
Filed 5-14-96; 11:55 am]
Billing code 3195-01-P

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Presidential Documents

Proclamation 6895 of May 13, 1996

Peace Officers Memorial Day and Police Week, 1996

By the President of the United States of America

A Proclamation

Despite the dangers they face while patrolling our Nation's cities, neighborhoods, and highways, America's law enforcement officers continue to serve with commitment and distinction every day. They put themselves in harm's way to safeguard our fellow citizens, and their dedication to the rule of law is essential to maintaining a just and orderly society. Each year, Police Week is a welcome opportunity to recognize the brave men and women of the law enforcement professions, and on Peace Officers Memorial Day we pause to honor those who have given their lives while protecting others.

According to recent figures, 161 law enforcement officers were killed in the line of duty during 1995. And let us not forget the law enforcement personnel who died in the bombing of the Alfred P. Murrah Federal Building in Oklahoma City on April 19—the single deadliest day in law enforcement history. Since police deaths were first recorded in this country, in 1794, more than 14,000 officers have lost their lives working to keep the peace in our communities. On average, more than 66,000 are assaulted every year, and some 24,000 are injured.

To pay tribute to the law enforcement officers who have made the ultimate sacrifice for our country and to voice our appreciation for all those who currently serve on the front lines of the battle against crime, the Congress, by joint resolution approved October 1, 1962 (76 Stat. 676), has authorized and requested the President to designate May 15 of each year as "Peace Officers Memorial Day," and the week in which it falls as "Police Week," and by Public Law 103–322 (36 U.S.C. 175) has directed that the flag be flown at half-staff on Peace Officers Memorial Day.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 15, 1996, as Peace Officers Memorial Day, and May 12 through May 18, 1996, as Police Week. I call upon the people of the United States to observe these occasions with appropriate ceremonies, activities, and programs. I also request the Governors of the United States and the Commonwealth of Puerto Rico, and the appropriate officials of all units of government, to direct that the flag be flown at half-staff on Peace Officers Memorial Day on all buildings, grounds, and naval vessels throughout the United States and all areas under its jurisdiction and control. In addition, I invite all Americans to display the flag at half-staff from their homes on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of May, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.

William J. Clinton

[FR Doc. 96–12419
Filed 5–14–96; 11:54 am]
Billing code 3195–01–P

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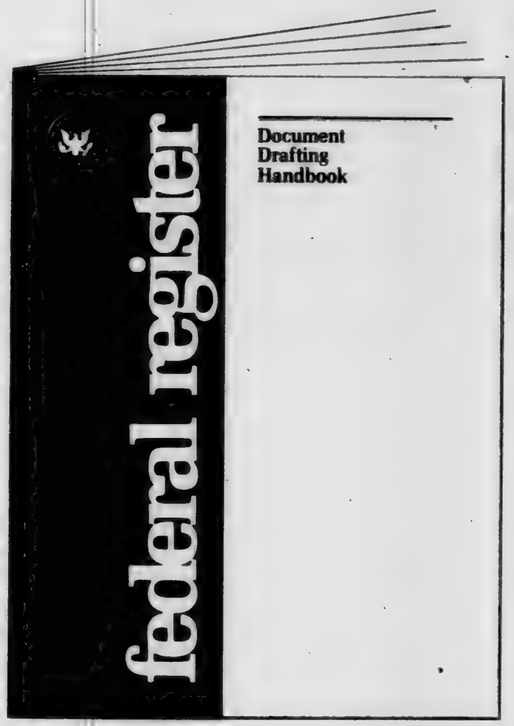
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Presidential Documents

Title 3—

The President

Executive Order 13002 of May 13, 1996

Termination of Combat Zone Designation in Vietnam and Waters Adjacent Thereto

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 112(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 112(c)(3)), June 30, 1996, as of midnight thereof, is hereby designated as the date of termination of combatant activities in the zone comprised of the area described in Executive Order No. 11216 of April 24, 1965.

William J. Clinton

THE WHITE HOUSE,
May 13, 1996.

[FR Doc. 96–12535
Filed 5–15–96; 8:45 am]
Billing code 3195–01–P

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Presidential Documents

Memorandum of April 26, 1996

Suspension of the Proviso Limiting Implementation of Subsections (a), (b), (c), (e), (g), or (i) of the Endangered Species Act of 1973 (16 U.S.C. 1533) Contained in the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (H.R. 3019)

Memorandum for the Secretary of the Interior [and] the Secretary of Commerce

By the authority vested in me by the final proviso under the heading of United States Fish and Wildlife Service, Resource Management, of title I of the Department of the Interior and Related Agencies Appropriations Act, 1996 (authorizing the suspension of the preceding proviso limiting implementation of subsections (a), (b), (c), (e), (g), or (i) of section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) ("limitation proviso")), and section 301 of title 3, United States Code, I hereby suspend that limitation proviso because I have determined that such suspension is appropriate based upon the public interest in sound environmental management, sustainable resource use, protection of national or locally-affected interests, and protection of cultural, biological, or historic resources.

This suspension is effective immediately and shall continue until the limitation proviso expires.

The Secretary of the Interior is authorized to report this suspension to the Congress and to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, April 26, 1996.

[FR Doc. 96–12242
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Parts 800 and 810

RIN 0580–AA14

United States Standards for Barley

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule; postponement of effective date.

SUMMARY: This document postpones the effective date of the final rule (61 FR 18486) to revise the United States Standards for Barley from June 1, 1996, until June 1, 1997. This action is being taken to postpone the implementation of the United States Standards for Barley from the beginning of the 1996 marketing season to the beginning of the 1997 marketing season. The extension of the effective date is being taken to prevent disruption in the marketing of Barley on the domestic and international markets. Postponing the effective date to the beginning of the 1997 marketing session will allow adequate time for the market to make adjustments to the changes being made in the standards.

EFFECTIVE DATE: The effective date of the final rule is postponed from June 1, 1996, to June 1, 1997.

FOR FURTHER INFORMATION CONTACT: George Wollam, USDA, GIPSA, Room 0623, South Building, P.O. Box 96454, Washington, D.C. 20090–6454; Telephone (202) 720–0292; FAX (202) 720–4628.

SUPPLEMENTARY INFORMATION: On March 22, 1995, the Grain Inspection, Packers and Stockyards Administration (GIPSA), U.S. Department of Agriculture, under authority of the United States Grain Standards Act, as amended published a proposed rule (60 FR 15075) to revise the United States Standards for Barley. The proposed rule was adopted, with changes, and a final rule was published on April 26, 1996, (61 FR 18486), with an effective date of June 1, 1996.

Since the publication of the final rule, GIPSA has determined it is in the best interest of the barley market to postpone the effective date. Immediate implementation may not generate anticipated benefits to the market but may adversely affect merchandisers of grain, especially because of contracting concerns. After consultation with the trade and taking into account trade views both for and against a change in the effective date, GIPSA determined that it would be less disruptive if the effective date for implementing the revisions to the United States Standards for Barley were changed from June 1, 1996 to June 1, 1997. Also providing a one year delay in implementing the standards would allow for seasonal adjustment of markets.

Background

On page 18490, in the third column, second paragraph, the second and third sentences "Pursuant to that section of the Act, it has been determined that in the public interest the revision becomes effective June 1, 1996. This effective date will coincide with the beginning of the 1996 crop year and facilitate domestic and export marketing of barley" are revised to read "It has been determined that in the public interest the revision becomes effective June 1, 1997. This effective date will coincide with the beginning of the 1997 crop year and facilitate domestic and export marketing of barley".

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 et seq.).

Dated: May 8, 1996.

David Orr,

Acting Administrator.

[FR Doc. 96–11974 Filed 5–15–96; 8:45 am]
BILLING CODE 3410–EN–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 30, 40, 61, 70, and 72

RIN 3150–AF17

Termination or Transfer of Licensed Activities: Recordkeeping Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations pertaining to the disposition of certain records when a licensee terminates licensed activities or licensed activities are transferred to another licensee. The final rule requires a licensee to transfer records pertaining to decommissioning, and certain records pertaining to offsite releases and waste disposal, to the new licensee if licensed activities will continue at the same site, and it requires the new licensee to forward these same records to the NRC before the license is terminated.

EFFECTIVE DATE: June 17, 1996.

FOR FURTHER INFORMATION CONTACT: Mary L. Thomas, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, telephone (301) 415–6230, e-mail MLT1@NRC.GOV.

SUPPLEMENTARY INFORMATION:

I. Background

While evaluating an incident involving some offsite contamination, the NRC identified a deficiency in the current recordkeeping requirements. The NRC was unable to determine how much radioactive material was released to a sanitary sewerage system because records of previous releases by the original holder of the license were not available. In addition, the regulations were unclear with regard to the final disposition of these records when licensed activities have ceased and the license is terminated. A proposed rule requiring licensees to forward certain records to the NRC once licensed activities ceased, or to a new owner if they would be taking over licensed activities, was published for comment in the **Federal Register** on December 28, 1994 (59 FR 66814).

II. Discussion of Comments and Summary of Requirements in the Final Rule

This section includes a discussion of the significant issues raised by public comment and how they were addressed. Six comment letters were received on the proposed rule, 3 from Agreement States, 1 from a licensee, and two from public interest groups. Three supported the proposed rule, and three (from Agreement States) questioned the benefit in adopting these requirements.

Public Comments

1. Need for the Rule and Expected Benefit

Comments. Two commenters stated that the NRC has not demonstrated the need for the rule on the basis of one incident. They also stated that the NRC did not demonstrate how the proposed regulations and their commensurate costs would assist licensees, the NRC, and the Agreement States in the analysis of the environmental impact from the site. They requested that the NRC provide data that permits evaluation of the actual impact of these regulations.

These same commenters stated that the usefulness of the records in the decisionmaking process should also be demonstrated in each case. They referred to the Objective Section of the Draft Regulatory Analysis, which stated that these records "* * * will provide the NRC with the information needed to assess possible risks associated with licensed activities once a licensee has terminated its license." They believed that this assumption is generally false, and that even if sewer release records were available, an independent evaluation of the environment would still be required.

Response. The intent of the proposed rule was to ensure that records that are required by current regulations to be retained by licensees during licensed operations are available in the event that safety concerns arise after license termination regarding any offsite consequences found to have resulted from licensed operations. Since the NRC may not be able to determine what problems will arise in the future, the best course of action is to have the records available after the license is terminated. The proposed rule specified that the records used by the licensee to demonstrate compliance with the public dose limits and limits on waste disposals were to be forwarded to the NRC prior to license termination or to the new owner if licensed operations were to continue at the site under a new or amended license. In addition, the proposed rule specified that records important for decommissioning be provided to the new licensee prior to license reassignment or transfer. As discussed below, in addition to decommissioning records, the records included in the final rule are: results of offsite release measurements and calculations under § 20.2103(b)(4); and waste disposals authorized under §§ 20.2202, 20.2203, 20.2204, and 20.2205.

In order for the NRC to determine that a licensee has effectively decommissioned its facility, and to authorize license termination, the NRC will review the licensee's evaluation of previous releases to the environment and waste disposals to determine whether there is a need for the licensee to remediate significant offsite contamination as a result of past licensed activities prior to license termination. Licensees are already required to keep these records until license termination.

When transfer of a license to a new entity is approved by the Commission, certain records related to offsite releases of material, including waste disposals, would be needed by the new licensee prior to decommissioning to determine areas where remediation may be needed. In addition, there may be circumstances where it will be necessary for the NRC or other government agencies to evaluate the effects of licensed operations on the environment. Although other information would also be needed to perform an environmental analysis, access to these records would be useful in evaluating potential sources of contamination.

The NRC has re-evaluated the impact of this regulation in the Regulatory Analysis. The records required to be transferred are the records that the licensee is already required to retain until license termination. The burden associated with this rulemaking relates to transfer and subsequent storage of records, and as discussed in the Regulatory Analysis, is not found to be significant.

The final rule has been modified to specify that only decommissioning records and records of offsite releases and waste disposals need to be forwarded to the new licensee in the event of license transfer or re-assignment and that these are the only records that need to be provided to the NRC at license termination. In addition, only licensees authorized to possess unsealed source material or unsealed byproduct material with half-lives greater than 120 days (i.e., licensees that have a potential for significant contamination) will be required to provide records to the new licensee in the event of re-assignment or transfer and to the NRC at license termination. The use of a 120 day half-life for byproduct material was chosen because radioactive material with half-lives less than 120 days would be completely decayed in a few years, and corresponds to the value currently used to determine which licensees must have a decommissioning funding plan. This change in the final rule was made to reduce the burden on a number of licensees that routinely use only sealed sources and, in the case of byproduct material, short-lived isotopes (less than 120 days). Licensees authorized to possess only sealed sources would still be required to retain records of spills involving source ruptures, under current decommissioning recordkeeping requirements. The final rule will require all licensees to forward decommissioning records to the NRC at license termination. Using this criteria the number of licensees affected annually by this rulemaking has decreased from approximately 1700 in the proposed rule to 960 in the final rule.

2. Agreement State Compatibility

Comment. One commenter stated (1) that there was no basis for a Division 2 level of compatibility and (2) that an Agreement State could use other methods, such as actual surveys, to confirm that there was no offsite contamination. In addition, the commenter stated that other costs associated with the proposed rule have not been considered, such as costs associated with inspections, and while the NRC may be able to absorb these costs in "non-core portions of the inspection program," Agreement States do not have this luxury.

Response. The Commission still believes that this rule should be assigned a Division 2 compatibility level for most of the new requirements. The final rule assigns a Division 3 compatibility level for the requirement that records be provided to the regulatory agency prior to license termination. While the NRC believes that it would be prudent for Agreement States to adopt a similar requirement, the final rule assignment of a Division 3 compatibility level for this requirement provides the flexibility for each State to determine which records should be provided to the regulatory agency and retained by it at license termination.

The NRC believes retention of these records will aid in the resolution of potential safety concerns that may be identified after license termination, and also recognizes that an Agreement State without an equivalent requirement for record retention has the ability to resolve potential future safety concerns. However, this can be achieved by conducting radiological surveys at the formerly licensed site. Without the records, these surveys may need to be greater in number and may be more costly, but the absence of retained records will not preclude an Agreement State from adequately assessing future safety concerns.

Because the Commission has reduced the burden of this rule by limiting the number of licensees affected by this rule, the inspection burden on the Agreement States should not be significantly increased. It is unlikely that any State will have more than 2–3 transfers per year. With respect to other costs, the reporting burden reflects that the time required to index, review, and store the required records has been re-calculated to be an average of 5 hours per license termination or transfer.

3. Regulatory Alternatives

Comment. Two commenters stated that the NRC failed to identify regulatory alternatives that would be as effective as the proposed rule while placing less burden on licensees, the NRC, and Agreement States. As noted in the discussion of Issues 1 and 2, the commenters concluded that any benefit from the proposed rule is questionable. They stated that specific regulatory alternatives that should be considered include, but are not limited to:

a. Perform separate evaluations for the utility of requiring records for offsite releases and for waste disposal, and making independent judgments.

b. Consider limiting the scope of the rules to address only those facilities that possess unsealed sources with long half-lives.

c. Consider all records being provided to the NRC, rather than requiring Agreement States to maintain the records.

d. Eliminate transferring 10 CFR 20.2005 type records (disposal of specific wastes, in quantities less than or equal to 1.85 kilobecquerels per gram of tritium or carbon-14 in scintillation fluids or animal tissue).

Response. The Commission considered possible alternatives to rulemaking. These are addressed in the Regulatory Analysis prepared for this rule. The following information is provided with respect to the specific recommendations of the commenters:

(a) The NRC reconsidered the scope of the proposed rule and decided to limit the records required to those needed to support decommissioning. The Commission has already evaluated the impact and need for decommissioning records in promulgating a final rule addressing recordkeeping requirements for decommissioning (58 FR 39628).

The records included in the final rule are decommissioning records, records of waste disposals that would be permitted under §§ 20.2002 (including any burials authorized before January 28, 1981), 20.2003, 20.2004, 20.2005, and results of measurements and calculations used to evaluate offsite releases (§ 20.2103(b)(4)). These records would be helpful in evaluating the impact of a licensee's past activities. This information can be used by the new licensee receiving the records in developing decommissioning plans and by the regulatory agency to evaluate the adequacy of the licensee's decommissioning activities. With this change, the NRC concluded that for most licensees the overall number of records that would be required to be transferred to the new licensee should not exceed the capacity of several file drawers, even for a license that has been in effect for some time and, therefore, the overall burden associated with the transfer should be small. In addition, the rule permits storage of this information electronically. The final rule also requires that decommissioning records and certain records pertaining to offsite releases and waste disposal be forwarded to the NRC or the appropriate Agreement State prior to license termination.

(b) The NRC has evaluated the suggestion to limit the scope of licensees covered by the rule and has revised the final rule and the Regulatory Analysis to reflect that, for licenses authorized under Parts 30 or 40, the rule only affects those licensees authorized to possess unsealed byproduct material with half-lives greater than 120 days or unsealed source material. Licensees that use and possess sealed sources, or unsealed byproduct material with short half-lives, are no longer affected by this rule. As a result of this change, most medical licensees will not need to transfer records in the event of license transfer, or re-assignment. Final records disposition for these licensees and others excluded by this rule will still be determined on a case-by-case basis by the NRC at the time of license termination.

(c) The purpose of this rulemaking is to assure that adequate records are available to provide historical information on previous licensed operations in the event significant offsite contamination is detected after a licensee has ceased operation of their facility. To provide flexibility to the Agreement States, the sections of the final rule requiring transmittal of records to the NRC at license termination have been designated Division 3 compatibility level. Because the NRC has discontinued its regulatory authority in the Agreement States for this material, it is appropriate that the Agreement States, rather than the NRC, both determine which Agreement State licensee records should be retained at license termination, and maintain those records.

(d) Records of waste disposals allowed by § 20.2005 currently are required by § 20.2108(b) to be retained until the Commission terminates each pertinent license requiring the record. The Commission is currently evaluating a petition for rulemaking that requests a revision to § 20.2005 pertaining to waste disposal. This petition is currently on hold until finalization of the rulemaking addressing radiological criteria for decommissioning. In light of this, we will consider this comment in resolving this petition.

4. Public Access To Information

Comment. One commenter was concerned that the Commission overlooked the benefits which could result from simple, inexpensive-to-implement requirements enhancing public access to information. This commenter noted that enhanced public access to information is an important (though not the only) reason for recordkeeping, in part because informed members of the public can play a significant role in ensuring that regulatory actions are appropriate and timely. This commenter urged the Commission to consider enhanced public access to information as part of a coherent policy to protect important documentary information from loss.

Response. This rule requires that records pertaining to decommissioning and certain records pertaining to offsite releases and waste disposals be transferred to a licensee that takes over a previous licensee's business and that these records be forwarded to the cognizant regulatory body prior to license termination, thereby protecting these records for future access. Once these records are forwarded to the NRC, they will be available through the Freedom of Information Act process, exclusive of any proprietary information.

5. Independent Spent Fuel Storage Installations and 10 CFR 72.30(d) Requirements

Comment. One commenter stated that 10 CFR 72.30(d) addresses recordkeeping requirements for

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decommissioning for independent spent fuel storage installations and that the NRC has proposed changes to this paragraph to address the transfer of licensed activities. This commenter questions why 10 CFR 50.75(g), which contains the same type of recordkeeping requirements for decommissioning for production and utilization facilities, was not changed. The commenter believes this to be inconsistent and possibly an inadvertent omission by the NRC.

Response. This rule only addresses materials licensees. The Commission is currently evaluating the need for additional rulemaking to address the broad issue of transfers of reactor licenses. Any such rulemaking would also consider recordkeeping requirements.

Summary of Requirements of the Final Rule

The final rule requires transfer of certain records pertaining to decommissioning, offsite releases, and waste disposal to a licensee that takes over operation of licensed activities. These records include: those waste disposals that would be permitted under §§ 20.2002 (including any burials authorized before January 28, 1981), 20.2003, 20.2004, 20.2005, and results of measurements and calculations used to evaluate offsite releases (§ 20.2103(b)(4)). The new licensee will need these records in order to perform an adequate site characterization prior to decommissioning. Once the new entity is granted a license and accepts these records, they become subject to all regulations concerning termination and transfer. The final rule also requires that these records be forwarded to the NRC prior to license termination. In selecting records to include in this rulemaking, the NRC focused attention on information that would be needed by licensees to conduct decommissioning effectively and for the NRC to evaluate offsite consequences from a licensee's operation. In addition, for certain records of offsite releases and waste disposals, the final rule has also been modified to apply to licensees only authorized to possess source and byproduct material with half-lives greater than 120 days, in an unsealed form.

Paragraph 20.2108(b) has been amended to state that there are additional requirements for disposition of records in 10 CFR Parts 30, 40, 70, and 72. Paragraphs 30.35(g) and 40.36(f) specify records that the Commission considers important to decommissioning. The NRC has revised these paragraphs to require the transfer of records pertaining to decommissioning to the new licensee. Paragraphs have been added to §§ 30.51, 40.61, 70.51, and 72.80 to clarify that records pertaining to decommissioning, offsite releases, and certain records pertaining to waste disposal be forwarded to the new licensee prior to license transfer or re-assignment, or to the NRC prior to license termination. Also, paragraphs have been added to §§ 61.30(a)(3) and 61.31(c)(1) to clarify that records required by §§ 61.80 (e) and (f) are to be transferred to the disposal site owner, or to the party responsible for institutional control of the disposal site, respectively.

Finally, a new paragraph has been added to §§ 30.36, 40.42, 70.38, and 72.54 to state that a license will not be terminated until the NRC receives the records required by revised §§ 30.51, 40.61, 70.51, and 72.80.

III. Agreement State Compatibility

This rulemaking will be a matter of compatibility between the NRC and the Agreement States, thereby providing consistency of State and Federal safety requirements. The NRC has determined that a Division 2 level of compatibility should be assigned to the changes to §§ 30.35, 40.36, and 61.31 because the records required by these sections are important to assure protection of public health and safety, and are important to ensure that facilities in Agreement States are effectively decommissioned. Under this level of compatibility the Agreement States will be expected to adopt recordkeeping requirements that are as stringent as NRC's, but they will be permitted flexibility in their requirements based on their radiation protection experience, professional judgments, and community values.

Revisions to §§ 30.51, 40.61, 70.51, and 72.80 that require records to be forwarded to the new licensee whenever a license is transferred or re-assigned will also be assigned a Division 2 level of compatibility for the reasons cited above. Other revisions to these sections addressing forwarding of records to the NRC prior to license termination will be assigned a Division 3 compatibility level. Under this level of compatibility the Agreement States will have the option to adopt similar requirements regarding final disposition of the records, but will not be required to adopt such requirements. While NRC believes retention of these records will aid in the resolution of potential safety concerns that may be identified after license termination, it also recognizes that an Agreement State without an equivalent requirement for record retention has the ability to resolve potential future safety concerns. This can be achieved by conducting radiological surveys at the formerly licensed site. Without the records, these surveys may need to be greater in number and may be more costly, but the absence of retained records will not preclude an Agreement State from adequately assessing future safety concerns.

IV. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(3)(ii), recordkeeping requirements. Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

V. Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget, approval number 3150–0014, –0017, –0020, –0009, –0132, and –0135.

The public reporting burden for this collection of information is estimated to average 5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments on any aspect of this collection of information, including suggestions for reducing burden, to the Information and Records Management Branch (T–6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail at BJS1@NRC.GOV; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0014, –0017, –0020, –0009, –0132, and –0135), Office of Management and Budget, Washington, DC 20503.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

VI. Regulatory Analysis

The NRC has prepared a regulatory analysis on this final rule. The analysis examines the costs and benefits of the alternatives considered by the NRC. The regulatory analysis is available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained from Mary L. Thomas, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–6230; email: MLT1@NRC.GOV

VII. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this final rule does not have a significant economic impact on a substantial number of small entities. The rulemaking imposes requirements on those licensees who are required to have decommissioning funding assurance and on licensees who are transferring their license to a new licensee. These changes require the transfer of records pertaining to decommissioning, and certain records of waste disposals and offsite releases, to the new licensee. In addition, the rule requires forwarding these records to the NRC at license termination. These records are already required to be maintained until the license is terminated by the Commission, and are needed to provide historical information of the impact of a previous licensee activities on the environment and decommissioning.

VIII. Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996 the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

IX. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and, therefore, that a backfit analysis is not required for this rule because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, Waste treatment and disposal.

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 61

Criminal penalties, Low-level waste, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 20, 30, 40, 61, 70, and 72.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for Part 20 continues to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236, 2297f), secs. 201, as amended 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

2. In § 20.2108, paragraph (b) is revised to read as follows:

§ 20.2108 Records of waste disposal.

* * * * *

(b) The licensee shall retain the records required by paragraph (a) of this section until the Commission terminates each pertinent license requiring the record. Requirements for disposition of these records, prior to license termination, are located in §§ 30.51, 40.61, 70.51, and 72.80 for activities licensed under these parts.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

3. The authority citation for Part 30 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

4. In § 30.35, the introductory text of paragraph (g) is revised to read as follows:

§ 30.35 Financial assurance and recordkeeping for decommissioning.

* * * * *

(g) Each person licensed under this part or parts 32 through 36 and 39 of this chapter shall keep records of information important to the decommissioning of a facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with § 30.34(b), licensees shall transfer all records described in this paragraph to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the Commission considers important to decommissioning consists of—

* * * * *

5. In § 30.36, paragraph (k)(4) is added to read as follows:

§ 30.36 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.

* * * * *

(k) * * *

(4) Records required by § 30.51 (d) and (f) have been received.

6. In § 30.51, paragraphs (d), (e), and (f) are added to read as follows:

§ 30.51 Records.

* * * * *

(d) Prior to license termination, each licensee authorized to possess radioactive material with a half-life greater than 120 days, in an unsealed form, shall forward the following records to the appropriate NRC Regional Office:

(1) Records of disposal of licensed material made under §§ 20.2002 (including burials authorized before January 28, 1981 [1]), 20.2003, 20.2004, 20.2005; and

(2) Records required by § 20.2103(b)(4).

(e) If licensed activities are transferred or assigned in accordance with § 30.34(b), each licensee authorized to possess radioactive material, with a half-life greater than 120 days, in an unsealed form, shall transfer the following records to the new licensee and the new licensee will be responsible for maintaining these records until the license is terminated:

(1) Records of disposal of licensed material made under §§ 20.2002 (including burials authorized before January 28, 1981 [1]), 20.2003, 20.2004, 20.2005; and

(2) Records required by § 20.2103(b)(4).

(f) Prior to license termination, each licensee shall forward the records required by § 30.35(g) to the appropriate NRC Regional Office.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

7. The authority citation for Part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

8. In § 40.36, the introductory text of paragraph (f) is revised to read as follows:

§ 40.36 Financial assurance and recordkeeping for decommissioning.

* * * * *

(f) Each person licensed under this part shall keep records of information important to the decommissioning of a facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with § 40.41(b) licensees shall transfer all records described in this paragraph to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the Commission considers important to decommissioning consists of—

* * * * *

9. In § 40.42, paragraph (k)(4) is added to read as follows:

§ 40.42 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.

* * * * *

(k) * * *

(4) Records required by § 40.61(d) and (f) have been received.

* * * * *

10. In § 40.61, paragraphs (d), (e), and (f) are added to read as follows:

§ 40.61 Records.

* * * * *

(d) Prior to license termination, each licensee authorized to possess source material, in an unsealed form, shall forward the following records to the appropriate NRC Regional Office:

(1) Records of disposal of licensed material made under § 20.2002 (including burials authorized before January 28, 1981 [1]), 20.2003, 20.2004, 20.2005; and

(2) Records required by § 20.2103(b)(4).

(e) If licensed activities are transferred or assigned in accordance with § 40.41(b), each licensee authorized to possess source material, in an unsealed form, shall transfer the following records to the new licensee and the new licensee will be responsible for maintaining these records until the license is terminated:

(1) Records of disposal of licensed material made under § 20.2002 (including burials authorized before January 28, 1981 [1]), 20.2003, 20.2004, 20.2005; and

(2) Records required by § 20.2103(b)(4).

(f) Prior to license termination, each licensee shall forward the records required by § 40.36(f) to the appropriate NRC Regional Office.

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

11. The authority citation for Part 61 continues to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246, (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851) and Pub. L. 102–486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851).

12. In § 61.30, paragraph (a)(3) is revised to read as follows:

§ 61.30 Transfer of license.

(a) * * *

(3) That any funds for care and records required by §§ 61.80 (e) and (f) have been transferred to the disposal site owner;

13. In § 61.31, paragraph (c)(3) is added to read as follows:

§ 61.31 Termination of license.

* * * * *

(c) * * *

(3) That the records required by §§ 61.80(e) and (f) have been sent to the party responsible for institutional control of the disposal site and a copy has been sent to the Commission immediately prior to license termination.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

14. The authority citation for Part 70 continues to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

15. In § 70.25, the introductory text of paragraph (g) is revised to read as follows:

§ 70.25 Financial assurance and recordkeeping for decommissioning.

* * * * *

(g) Each person licensed under this part shall keep records of information important to the decommissioning of a facility in an identified location until the site is released for unrestricted use. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the Commission considers important to decommissioning consists of—

* * * * *

16. In § 70.38, paragraph (k)(4) is added to read as follows:

§ 70.38 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.

* * * * *

(k) * * *

(4) Records required by § 70.51(b)(6) have been received.

17. In § 70.51, footnotes 2 and 3 are re-designated as footnotes 3 and 4, paragraph (b)(6) is revised, and a new paragraph (b)(7) is added to read as follows:

§ 70.51 Material balance, inventory, and records requirements.

* * * * *

(b) * * *

(6) Prior to license termination, licensees shall forward the following records to the appropriate NRC Regional Office:

(i) Records of disposal of licensed material made under § 20.2002 (including burials authorized before January 28, 1981 [2]), 20.2003, 20.2004, 20.2005;

(ii) Records required by § 20.2103(b)(4); and

(iii) Records required by § 70.25(g).

(7) If licensed activities are transferred or assigned in accordance with § 70.32(a)(3), the licensee shall transfer the following records to the new licensee and the new licensee will be responsible for maintaining these records until the license is terminated:

(i) Records of disposal of licensed material made under § 20.2002 (including burials authorized before January 28, 1981 [2]), 20.2003, 20.2004, 20.2005;

(ii) Records required by § 20.2103(b)(4); and

(iii) Records required by § 70.25(g).

* * * * *

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

18. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102 Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); Secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and Sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

19. In § 72.30, the introductory text of paragraph (d) is revised to read as follows:

§ 72.30 Financial assurance and recordkeeping for decommissioning.

* * * * *

(d) Each person licensed under this part shall keep records of information important to the decommissioning of a facility in an identified location until the site is released for unrestricted use. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the Commission considers important to decommissioning consists of—

* * * * *

20. In § 72.54, paragraph (m)(3) is added to read as follows:

§ 72.54 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.

* * * * *

(m) * * *

(3) Records required by § 72.80(e) have been received.

21. In § 72.80, paragraphs (e) and (f) are added to read as follows:

§ 72.80 Other records and reports.

* * * * *

(e) Prior to license termination, the licensee shall forward records required by §§ 20.2103(b)(4) and 72.30(d) to the appropriate NRC Regional Office.

(f) If licensed activities are transferred or assigned in accordance with § 72.44(b)(1), the licensee shall transfer the records required by §§ 20.2103(b)(4) and 72.30(d) to the new licensee and the new licensee will be responsible for maintaining these records until the license is terminated.

Dated at Rockville, Maryland, this 1st day of February 1996.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 96–12166 Filed 5–15–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–92–AD; Amendment 39–9618; AD 96–10–11]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9 and DC–9–80 Series Airplanes, Model MD–88 Airplanes, and C–9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to McDonnell Douglas Model DC–9 and DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes, that currently requires certain inspections and structural modifications. This

[1] A previous § 20.304 permitted burial of small quantities of licensed materials in soil before January 28, 1981, without specific Commission authorization. See § 20.304 contained in the 10 CFR, parts 0 to 199, edition revised as of January 1, 1981.

[2] A previous § 20.304 permitted burial of small quantities of licensed materials in soil before January 28, 1981, without specific Commission authorization. See § 20.304 contained in the 10 CFR, parts 0 to 199, edition revised as of January 1, 1981.

amendment requires additional inspections and structural modifications. This amendment is prompted by an evaluation conducted by the Airworthiness Assurance Working Group, which identified additional inspections and structural modifications for mandatory action. The actions specified by this AD are intended to prevent degradation in the structural capabilities of the affected airplanes.

DATES: Effective June 20, 1996.

The incorporation by reference of "DC–9/MD–80 aging Aircraft Service Action Requirements Document," McDonnell Douglas Report No. MDC K1572, Revision B, dated January 15, 1993, as listed in the regulations, is approved by the Director of the Federal Register as of June 20, 1996.

The incorporation by reference of "DC–9/MD–80 Aging Aircraft Service Action Requirements Document," McDonnell Douglas Report No. MDC K1572, Revision A, dated June 1, 1990, as listed in the regulations, was approved previously by the Director of the Federal Register as of September 24, 1990 (55 FR 34704, August 24, 1990).

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: David Y. J. Hsu, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (310) 627–5323; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) was published in the **Federal Register** on November 10, 1994 (59 FR 56011). The action proposed to supersede AD 90–18–03, amendment 39–6701 (55 FR 34704, August 24, 1990), which is applicable to McDonnell Douglas Model DC–9 and DC–9–80 series airplanes, and Model MD–83 airplanes, and C–9 (military) series airplanes. That action proposed to require certain additional structural modifications and inspections.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

Several commenters support the proposed rule.

Request for FAA to Review Future Revisions of the Service Action Requirements Document (SARD)

One commenter requests that the FAA review all subsequent revisions of service bulletins that are referenced in McDonnell Douglas Report No. MDC K1572, "DC–9/MD–80 Aging Aircraft Service Action Requirements Document," Revision B, dated January 15, 1993 (hereafter referred to as "SARD, Revision B"), to determine acceptability for compliance with the requirements of the proposal. The FAA concurs. Whenever the FAA reviews and approves a service document, that document will indicate that it has been approved by the FAA, and that if is considered an acceptable alternative method of compliance for any existing AD's. For example, two sources of service information referenced in the final rule bear such a statement. (See page ii, "Alternative Means of Compliance," of SARD, Revision B; and page 22, paragraph 1.E. "Approval," of McDonnell Douglas DC–9 Service Bulletin 53–230, Revision 1, dated January 12, 1993.)

Request to Permit Operators to Join in FAA's Review of Future Revisions to the SARD

The same commenter also requests that the FAA, as part of the review process, obtain input from affected operators prior to approving any McDonnell Douglas service bulletin. The commenter states that this would reduce the number of errors in service bulletins, which would eliminate the need for revisions of service bulletins to correct any errors in them.

The FAA does not concur. While the FAA recognizes the value of operators' review of service bulletins, it considers their participation to be more timely and appropriate during the development of the service bulletin by the manufacturer, rather than after it has been submitted to the FAA for approval. After the FAA has identified an unsafe condition, the FAA relies upon the manufacturer to provide the method to correct that unsafe condition. When that method of correction of the unsafe condition results in the issuance of a service bulletin, the FAA must review and approve that service bulletin based upon whether that service bulletin positively addresses the identified unsafe condition and whether that method of correction meets the airworthiness requirements for the type design of the affected aircraft. Further, operators may not be able to provide in-depth engineering analysis, such as that performed by the FAA, since type design data are proprietary and may not be available to all operators.

However, the Air Transport Association (ATA) of America has in place a system whereby member operators are afforded the opportunity to provide input to airworthiness concerns. The FAA encourages operators to take advantage of this ATA system to effect changes to manufacturer's service bulletins. Additionally, operators have the option of contacting the manufacturer directly to resolve such difficulties.

Request that Manufacturer Provide Alternative Rework Drawings to Operators

The same commenter requests that, when an earlier version of a rework drawing is referenced in any rulemaking action, the FAA ensure that the manufacturer provide operators with the most recent revision of that rework drawing if it has been approved by the FAA as an alternative method of compliance for the requirements of that rulemaking action.

The FAA does not concur. Section 21.99(b), of the Federal Aviation Regulations [14 CFR 21.99(b)], "Required design changes," requires that the manufacturer make information on design changes that contribute to the safety of the product available to all operators of the affected product. However, the revised rework drawings may not necessarily contribute to the safety of the product. The FAA encourages operators to contact the manufacturer directly to obtain revisions of rework drawings. However, in the event any operator finds it impossible to accomplish the requirements of this AD due to the inability to obtain necessary rework drawings, those operators are reminded of the provisions of paragraph (h) of the final rule, which permit any operator to apply for approval of an alternative method of compliance with the requirements of the final rule.

Request for Removal of Certain Service Bulletins from Requirements of the Rule

The same commenter requests that the proposed rule be revised by removing McDonnell Douglas DC–9 Service Bulletins 53–174 and 53–147 from the requirements. These service bulletins are referenced in SARD, Revision B, which is referenced in the proposal as the appropriate source of service information. The commenter contends that these two service bulletins do not fit within the parameters of the proposal since they specify continual repetitive inspections after accomplishment of the proposed modification. The commenter asserts that this contradicts the stated purpose of the proposal, which is to "reflect the FAA's decision that long term continued operational safety should be assured by actual modification of the airframe."

The FAA does not concur. The FAA finds that the commenter has restated only a portion of the purpose of this rulemaking action; the commenter omitted two key words from the Summary section of this rulemaking action. The FAA's intent is to require "modification of the airframe, *where feasible.*" Service Bulletin 53–174 specifies replacement of a limited number of rivets with bolts and hi-lok fasteners and installation of doublers in the non-ventral bulkhead web and tee. Service Bulletin 53–147 specifies installation of an external doubler and internal finger doublers between longerons (LN) 14L and 14R in the aft pressure bulkhead skin splice doubler. Since fatigue testing and service history have demonstrated that the location of the modifications addressed in these two service bulletins is susceptible to fatigue cracking, the FAA has determined that modification alone cannot ensure safety of the fleet; therefore, repetitive inspections must continue to be performed to prevent degradation in the structural capabilities of the affected airplanes.

Along this same line, the same commenter states that it cannot accomplish the inspections that are required to be performed following accomplishment of the modification specified in McDonnell Douglas DC–9 Service Bulletin 53–174. The commenter notes that although the service bulletin provides a method for accomplishing the modification, it does not provide a method for accomplishing the inspections of the modified structure. From this comment, the FAA infers that the commenter is requesting a delay in issuance of the final rule until such time that the manufacturer has developed an acceptable inspection method of the modified structure. The FAA does not concur. The FAA does not consider that delaying this action until that time is warranted since sufficient technology currently exists to accomplish the follow-on inspections within the compliance time. However, the FAA points out that for airplanes on which modifications affect performing the required inspections, operators must use the provisions of paragraph (h) of the final rule to request, from the FAA, approval for an alternative method of compliance.

Request to Reference Latest Revision of Service Bulletins

The same commenter requests a revision to the proposal to reference two service bulletins that have been revised since issuance of the notice. The commenter states that McDonnell Douglas DC–9 Service Bulletin 57–129, Revision 3, dated November 6, 1987, has been re-issued as two separate service bulletins: McDonnell Douglas DC–9 Service Bulletin 57–129, Revision 5, dated November 10, 1994; and McDonnell Douglas DC–9 Service Bulletin 57–200, dated November 10, 1994. The FAA concurs. Three new notes have been added to the final rule: NOTE 4, NOTE 11, and NOTE 12. These notes state that accomplishment of both of these service bulletins is acceptable for compliance with the requirement to accomplish Service Bulletin 57–129, Revision 3.

Request to Convert Compliance Time from Flight Hours to Flight Cycles

The same commenter requests a revision to the proposal that would provide further guidance for converting flight hours to an equivalent number of flight cycles. The commenter notes that most operators track rotatable components in terms of flight hours, rather than flight cycles, as expressed in the service bulletins referenced in SARD, Revision B. Further, the commenter contends that repairable components are tracked neither by serial number nor by flight cycles/hours. The commenter states that ten of the service bulletins listed in SARD, Revision B, express thresholds in terms of flight cycles accumulated on the affected component.

The FAA does not concur. In re-evaluating expressions of thresholds in terms of flight cycles, the FAA has verified with several affected operators (including the commenter) and has found that repairable and rotatable components have been tracked by flight cycles, as well as flight hours. Since this commenter did not submit utilization data for each of its airplanes, the FAA could not provide an appropriate method to convert flight hours to an equivalent number of flight cycles. However, the FAA would address these unique circumstances, including conversion of flight hours to flight cycles, under the alternative method of compliance provisions of paragraph (h) of the final rule.

Request to Revise Compliance Threshold for One Service Bulletin

This same commenter requests a revision of the threshold specified in McDonnell Douglas DC–9 Service Bulletin 53–60, Revision 1 (referenced in Table 2.3 of SARD, Revision B). The commenter states that a more appropriate threshold would be "prior to the accumulation of 89,000 total landings," which would coincide with the threshold specified in McDonnell Douglas DC–9 Service Bulletin 53–166 (referenced in Table 2.1 of SARD, Revision B). The commenter notes that Service Bulletin 53–166 recommends accomplishment of the modification described in that service bulletin prior to the accumulation of 89,000 total landings, while Service Bulletin 53–60 recommends accomplishment of the modification described in that service bulletin prior to January 15, 1997. The commenter further states that Service Bulletin 53–60 must be accomplished prior to the accomplishment of Service Bulletin 53–166.

The FAA does not concur. Service Bulletin 53–166 states that it "assumes that Service Bulletins * * * 53–60 have been accomplished;" it does not state that Service Bulletin 53–60 *must* be accomplished prior to Service Bulletin 53–166. In fact, Service Bulletin 53–166 goes on to state that "if these service bulletins have not been accomplished on applicable aircraft, contact the Douglas Aircraft Company for special instructions." Further, the FAA points out that the final rule does not require accomplishment of Service Bulletin 53–60 prior to the accomplishment of Service Bulletin 53–166, but it would permit such accomplishment. Therefore, no change to the final rule is necessary.

Request to Revise Repair Approval Process

This same commenter questions why structural repairs accomplished in accordance with the DC–9 Structural Repair Manual (SRM), which is an FAA-approved document; and Douglas Service Rework Drawings, which, for the most part, are FAA-approved documents, must be again approved by the FAA for the purpose of this AD. The commenter notes that paragraph (c) of

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the proposal requires FAA-approval of structural repairs, including those that are accomplished in accordance with either of these documents, despite the fact that they are FAA-approved documents.

The FAA infers that the commenter is requesting that proposed paragraph (c) be revised to allow repairs in accordance with the SRM and Service Rework Drawings, without further approval by the ACO. The FAA does not concur. The repairs required by paragraph (c) were not intended to terminate the requirements for inspection contained in paragraphs (a) and (b) of the AD. However, the inspection procedures referenced in those paragraphs may not be appropriate for structure repaired as required by paragraph (c). Therefore, it is necessary to obtain ACO approval of such repairs in order to ensure that the approval is conditioned upon identification of appropriate inspection methods that will continue to meet the intent of paragraphs (a) and (b). For example, if a crack identified as a result of an inspection under paragraph (a) is within the limits specified for an appropriate repair in the SRM, an operator would be required to obtain the ACO's approval for that repair. The approval would be conditioned either on the ACO's determination that the inspection required by paragraph (a) continues to be appropriate, or on the operator's identification of an acceptable alternative inspection method.

Request to Clarify Effect of Requirements on Supplemental Inspection Document (SID) Program

The same commenter asks what effect the proposed requirement to modify Principal Structural Elements (PSE) will have on AD 94–03–01, amendment 39–8807 (59 FR 6538, February 11, 1994), which requires implementation of a SID sampling program of structural inspections to detect fatigue cracking. The commenter notes that, in many cases, accomplishment of the terminating modifications required by the proposal will affect the fleet-leader operator sampling (FLOS) program of AD 94–03–01.

The FAA acknowledges that certain repair and modification requirements of the final rule may affect the FLOS program of AD 94–03–01. For this reason, standardization and continuity of repairs are especially important in light of the complexity of the DC–9 SID program. The FAA has determined that standardization and continuity of repairs can best be maintained by having one single point of approval [i.e., the Manager of the Los Angeles Aircraft Certification Office (ACO)] for all repairs of cracks in Principal Structural Element (PSE), including those required by this final rule.

Further, every repair of PSE structure requires a Damage Tolerance Assessment (DTA) to be performed (of each repair) to establish its effect on the original inspection requirements of the repaired structure. The FAA considers that any repair of any cracked PSE without the required DTA can only be considered temporary, and will eventually need to be coordinated with the Manager of the Los Angeles ACO. A PSE structure on which repairs are made without the required DTA and not coordinated with the manufacturer and the Los Angeles ACO, becomes a "discrepant PSE" when the time arrives for that PSE to be re-inspected. In these cases, the repair may need to be removed or reworked at a later time. In either case, the Manager of the Los Angeles ACO must ensure that all repairs of cracked PSE's comply with the requirements of AD 94–03–01, as well as with the requirements of this final rule.

Most methods of repair specified in the DC–9 SRM or in relevant service bulletins, or Designated Engineering Representative (DER)-designed repairs, do not include a continuing inspection program to ensure that the repair is inspected at the same level of safety as the original PSE structure. A DTA can be done most easily at the time of repair, rather than at a later date when the details of the repair may be hard to obtain and, undoubtedly, would be more costly. Currently, the Manager and staff of the Los Angeles ACO are working very closely with the manufacturer to expedite interim repair approval requests. Such requests may be made under the provisions of paragraph (h) of the final rule.

Request to Include Corrosion Inspections

Another commenter requests a revision to proposed paragraphs (a) and (b) to include inspections to detect corrosion. The commenter states that proposed paragraphs (a) and (b), as well as AD 90–18–03 only require inspections to detect cracking.

The FAA does not concur that revision is necessary. NOTE 4 of the final rule (which was designated NOTE 2 in the proposal) and the Note following paragraph A.1. of AD 90–18–03 state that corrective action is required for discrepancies other than cracking. Additionally, on May 24, 1993, the FAA issued AD 92–22–08 R1, amendment 39–8591 (58 FR 32281, June 9, 1993), which requires the implementation of a corrosion prevention and control program. Therefore, the FAA finds that it is unnecessary to include in this final rule any additional inspections to detect corrosion.

Request for Clarification of Requirements of Service Bulletin 55–31

The same commenter requests a revision to the proposal to clarify the requirements specified in McDonnell Douglas DC–9 Service Bulletin 55–31, which is referenced in SARD, Revision B. The commenter notes that confusion may arise because Service Bulletin 55–31 is listed in various sections of SARD, Revision B.

The FAA concurs. Service Bulletin 55–31 is listed in Table 2.3 and Table 2.4 of SARD, Revision B. Paragraph (b) of the final rule requires inspections of aircraft structure specified in Table 2.3 or 2.4 of SARD, Revision B, while paragraph (e) of the final rule requires modifications of aircraft structure specified in Table 2.3 or 2.4 of SARD, Revision B. A new NOTE 7 has been added to the final rule to clarify that the revisions of the service bulletins that are listed under "Recommended Modification" are acceptable for inspections performed prior to the effective date of the final rule. Additionally, NOTE 8 of the final rule (which was designated NOTE 5 in the proposal) provides additional clarification by stating that only those revision levels of the service bulletins listed in Tables 2.3 and 2.4 are acceptable for compliance with the modification requirements of the final rule. Therefore, the inspections described in Service Bulletin 55–31 are required to be performed in accordance with Revision 4, and the modifications are required to be accomplished in accordance with Revision 3 or Revision 4 of Service Bulletin 55–31.

Request to Delete FAA-Approval of Repair Methods

One commenter requests a revision to paragraph (c) of the proposal, which requires repair of cracks prior to further flight in accordance with a method approved by the Manager of the Los Angeles ACO. The commenter states that this proposed requirement would impose a severe hardship on operators since most operators work 365 days a year, whereas, the Los Angeles ACO operates on a standard 5-day work week. The commenter notes that this difference in hours of operation creates a problem for operators to obtain FAA approvals for repair methods. As an alternative to staffing the Los Angeles ACO offices 24 hours a day, 7 days a week, the commenter suggests that the FAA provide its engineers and managers in the Los Angeles ACO with pagers.

The FAA does not concur. Since repairs are only required when cracks are found during the inspections required by this final rule, the FAA anticipates that operators will accomplish those inspections and repairs at a maintenance base during regularly scheduled "heavy" maintenance visits. Therefore, the FAA anticipates that operators will have ample time to obtain approvals from the Los Angeles ACO without adversely affecting their operations.

Further, the FAA recognizes that the required modifications will necessitate a large number of work hours to accomplish. However, the thresholds specified in the service bulletins referenced in SARD, Revision B, were developed only after extensive and detailed consultations between a large number of operators of Model DC–9 series airplanes and the manufacturer. Among other things, these consultations were conducted in order to establish timeframes (for accomplishing necessary actions) that would minimize the economic impacts on operators to the maximum extent possible, while still maintaining safety objectives. Consequently, where safety considerations allow, the FAA attempts to impose thresholds that generally coincide with operators' maintenance schedules.

Request for Clarification of When To Repair vs. When To Modify

The same commenter also requests clarification of the relationship between proposed paragraph (c) and proposed paragraph (f). The commenter points out that:

1. Paragraph (c) would require that, if any crack is found during an inspection, it must either be repaired or the applicable terminating modification must be installed; and

2. Paragraph (f) would require that the terminating modifications be installed by the time the airplane accumulates a certain number of landings.

The FAA concurs that clarification is warranted. Paragraph (c) of the final rule is applicable to all airplanes, while paragraph (f) of the final rule is applicable only to Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 (military) series airplanes.

Further, the repair or modification specified in paragraph (c) is an "on condition" requirement; as such, the terminating modifications required by paragraph (c) of the final rule are required to be accomplished, prior to further flight, on the condition that cracking is found. Paragraph (f) of the final rule, on the other hand, requires the eventual modification of all applicable airplanes (prior to the accumulation of 100,000 total landings), regardless of whether or not cracking has been found.

Request for Clarification of the Rule's Relationship to Modification Requirements of Other Related AD's

The same commenter points to an inconsistency that may exist between several existing AD's that reference various service bulletins (that are referenced in SARD, Revision B) and NOTE 6 of the proposal. The commenter states that a majority of the service bulletins referenced in SARD, Revision B, that describe procedures for inspections, are required currently by various other existing AD's. However, those AD's do not provide for termination of those inspections by accomplishing the modifications described in those service bulletins. Therefore, the commenter questions the intent of NOTE 6 of the proposal, which states that the modifications required by paragraphs (d) and (e) of the proposal do not terminate the inspection requirement of other related AD's unless those other related AD's specifically state so.

The FAA does not find any inconsistencies between proposed NOTE 6, which is now designated as NOTE 14 in the final rule, and the requirements of other related AD's. The NOTE clearly specifies that a modification required by this final rule does not automatically terminate inspections required by another AD, unless that other AD specifically states that the modification does constitute terminating action for that AD's inspection requirements (or unless this final rule specifically states that the modification constitutes terminating action for another AD).

Request for Alternatives to Modifications

Further, the same commenter supports the proposed modifications specified in paragraph (e) of the proposal, but only in cases where:

1. A superior inspection technique is not subsequently developed;

2. There is no record, worldwide, of subsequent cracking of aircraft structure that has had terminating action modification incorporated;

3. Test data and service experience support that the terminating action modification is, without a doubt, effective; and

4. The accomplishment of the modification would not pose the threat of rework included damage/error, as evidenced by historical catastrophic failures.

When these conditions do not exist, the commenter requests that the FAA consider alternatives to the proposed modifications.

Since the commenter did not provide the specifics for any kind of alternative, the FAA infers that the commenter is requesting that the proposed inspections of paragraph (b) be continued repetitively, without terminating modifications. In that case, the FAA does not concur. The FAA has determined that the degree of assurance necessary as to the adequacy of inspections needed to maintain the safety of the aging transport airplane fleet, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has caused the FAA to place less emphasis on repetitive inspections and more emphasis on design improvements and material replacement. Thus, in lieu of its previous position of allowing continual inspection, and repair or modification on condition if cracking is found, the FAA has decided to require, whenever practicable, airplane modifications that remove the source of the particular aging phenomena.

Request to Supersede AD 88–24–08 R2

One commenter requests that the proposal be revised by deleting the requirements of proposed paragraph (f), and including those requirements in AD 88–24–08 R2, amendment 39–6469 (55 FR 1002, January 11, 1990). The commenter notes that proposed paragraph (f) refers to McDonnell Douglas DC–9 Service Bulletin 53–230, Revision 1, dated January 12, 1993; while AD 88–24–08 R2 refers to McDonnell Douglas DC–9 Alert Service Bulletin A53–230, Revision 3, dated September 28, 1989. The commenter states that superseding AD 88–24–08 R2 would ease the administrative burden on operators, in lieu of superseding the proposal whenever the manufacturer issues new revisions of any of the service bulletins that are referenced in the SARD.

The FAA does not concur. The modifications (specified in Service Bulletin 53–230 and) required by paragraph (f) of the final rule terminate the inspections (specified in Alert Service Bulletin A53–230 and) required by AD 88–24–08 R2. Alert Service Bulletin A53–230 does not specify procedures for termination of the inspections described in that service bulletin. Whereas, Service Bulletin 53–

230 describes procedures for modifications of the fuselage frames between LN's 10L and 10R at various overwing stations between Y=484.000 and Y=851.000. As explained in paragraph (f) of the final rule, accomplishment of the modifications specified in Service Bulletin 53–230 terminates the inspection requirements of AD 88–24–08 R2. Further, as stated in the Discussion section of the preamble to the notice, although Service Bulletin 53–230 was not included in SARD, Revision B, the FAA concurs with the recommendations of the Airworthiness Assurance Working Group (AAWG), which recommended that modifications described in it be made mandatory in order to prevent structural degradation of the fleet. Therefore, the FAA finds it appropriate to include Service Bulletin 53–230 in the modification requirements of the final rule.

However, the FAA will consider issuing separate rulemaking actions, including supersedure of existing AD's, whenever the manufacturer issues new revisions to the service bulletins referenced in those AD's.

Request To Delete Redundant Language Concerning Terminating Modifications

One commenter asserts that proposed paragraph (g) is redundant to proposed paragraphs (a) and (b), which state that the modifications in the service bulletins terminate the inspection requirements. From this comment, the FAA infers that the commenter is requesting the deletion of proposed paragraph (g), which states that accomplishment of certain modifications terminates certain inspection requirements. The FAA concurs. Proposed paragraph (g) has been deleted from the final rule.

Request for Explanation for the Exclusion of Certain Service Bulletins

This same commenter requests that proposed rule be revised to include an explanation as to why MD–80 Service Bulletins 53–186 (which is referenced in Tables 2.1 and 2.2 of SARD, Revision B) and 53–216 (which is referenced in Table 2.2 of SARD, Revision B) are excluded from the proposed requirements. The FAA concurs and acknowledges that the reason for excluding these service bulletins from the requirements of the final rule was omitted unintentionally. AD 94–08–04, amendment 39–8875 (59 FR 18952, April 21, 1994) requires inspections to detect cracking in the skin and doublers around the upper anticollision light cutout, and repair, if necessary; and stress coining the plate nut clearance holes; which are specified in those service bulletins. Therefore, paragraph (g) of the final rule (which was designated paragraph (h) in the proposal) has been revised to state that AD 94–08–04 addresses the actions specified in Service Bulletins 53–186 and 53–216; it is for this reason that the actions specified in those service bulletins are excluded from the requirements of the final rule.

Along this same line, the FAA finds that the actions specified in DC–9 Service Bulletin 54–30 are excluded from the requirements of the final rule since AD 77–14–19, amendment 39–2971 (42 FR 36811, July 18, 1977), already addresses the actions specified in that service bulletin. AD 77–14–19 requires repetitive inspections to detect fatigue cracking of the engine pylon front spar attachments and upper cap; and modification of cracked structure. Procedures for these actions are described in DC–9 Service Bulletin 54–30. Paragraph (g) of the final rule has been revised to reflect this change.

The FAA also finds that the actions specified in DC–9 Service Bulletins 27–196 and 27–250 are excluded from the requirements of the final rule since AD 92–11–10, amendment 39–8260 (57 FR 27149, June 18, 1992), already addresses the actions specified in these service bulletins. AD 92–11–10 requires repetitive inspections to detect cracking of the forward slat drive drums' bellcrank shafts, and replacement, as applicable. Procedures for these actions are described in DC–9 Service Bulletins 27–196 and 27–50. Paragraph (g) of the final rule has been revised accordingly.

The FAA also finds that the actions specified in DC–9 Service Bulletins 57–125 and 57–148 are excluded from the requirements of the final rule since AD 96–01–05, amendment 39–9481 (61 FR 2403, January 26, 1996), already addresses the actions specified in those service bulletins. DC–9 Service Bulletin 57–125 describes procedures for replacement of the attach fittings of the main landing gear (MLG); and DC–9 Service Bulletin 57–148 describes procedures for inspection and modification of the attach fittings of the MLG. Since these actions currently are required by AD 96–01–05, paragraph (g) of the final rule has been revised to exclude these actions.

Additionally, paragraphs (a), (b), (d), (e) of the final rule have been revised to note the exclusion provision of paragraph (g) of the final rule.

Clarification of Provisions for Obtaining Alternative Methods of Compliance (AMOC)

One commenter requests further guidance to determine exactly when FAA-approval of an AMOC is necessary. The FAA acknowledges that additional guidance may be warranted, and has added a new NOTE 1 to provide this. The new note specifies that, when performance of the requirements of the AD is "affected," an operator should apply for approval of an AMOC in order to show compliance with the AD. The meaning of the term "affected" can be understood by applying it to typical scenarios:

One scenario is when performance of the requirements of the AD is "affected" in such a way that the operator is unable to perform those requirements in the manner described in the AD. An example of this is when an AD requires a visual inspection in accordance with a certain service bulletin, but the operator cannot perform that inspection because of the placement of a repair doubler over the structure to be inspected; in this case, "performance of the AD is affected."

Another scenario is when it is physically possible to perform the requirements of an AD, but the results achieved are different from those specified in the AD. An example of this is when an AD requires a non-destructive test (NDT) inspection in accordance with a certain service bulletin, and the operator is able to move the NDT probe over the specified area in the specified manner, but the results are either meaningless or inaccurate because of a repair doubler placed over that area; in this case, "performance of the AD is affected."

While it is not possible to address every possible situation, "affected" is normally an easy standard to apply: either it is possible to perform the requirements as specified in the AD and achieve the specified results, or it is not possible. Therefore, if the requirements of this AD cannot be performed, then operators must submit a request for an approval of an AMOC from the FAA, in accordance with the provision of paragraph (h) of the final rule.

Any requirement of an AD, such as a modification or repair doesn't "affect performance of the AD;" it is performance of the AD. Accordingly, every AD includes a provision that states, "Compliance required as indicated, unless previously accomplished." If an operator performs such a requirement before the AD is issued, the FAA is confident that the operator will recognize that it has already complied with the AD and no further action (including obtaining approval of an AMOC) is required.

Request That FAA Publish Its Policies on Granting AMOC's for Aging Aircraft AD's

One commenter requests a revision of the proposed rule to include all FAA policies pertinent to granting approvals of alternative methods of compliance for aging aircraft AD's. The commenter made specific reference to an FAA memo, dated June 9, 1994, which outlined the criteria that the Aircraft Certification Offices (ACO) would be using to grant approvals for alternative methods of compliance with the aging aircraft AD's. (The subject of the memo was "Denial of Requests for Extended Compliance Times with the Aging Aircraft Modification Airworthiness Directives.") The commenter notes that the FAA has been inconsistent in granting approvals of alternative methods of compliance for aging aircraft AD's.

The FAA does not concur. Part 39 of the Federal Aviation Regulations (14 CFR part 39), "Airworthiness Directives," is for the purpose of correcting unsafe conditions that may exist or develop in aircraft, not for the purpose of publishing FAA policy decisions. The FAA points out that it will continue to use the criteria outlined in the memo referenced by the commenter to review data substantiating requests for alternative methods of compliance to the aging aircraft AD's on a case-by-case basis. Since the commenter did not provide any specific examples of inconsistencies in the approval of alternative methods of compliance that have been granted by the FAA, the FAA cannot address those inconsistencies. However, the FAA attempts, to the maximum extent possible, to accommodate each operators' specific operating conditions, aircraft configurations, maintenance practices, and other variables, provided they do not adversely impact safety.

Requests to Clarify Validity of Previously Approved AMOC's

This same commenter requests a revision to the proposal to indicate that alternative methods of compliance that were previously approved by the FAA for the modification requirements of other related AD's continue to be considered acceptable for compliance with the requirements of the proposal. The commenter states that the proposal is too limiting in that only those AMOC's that were previously approved for the requirements of AD 90–18–03 are to be considered acceptable for compliance with the requirements of the proposal. The commenter contends that revising proposed rule to accept previously approved AMOC's would preclude operators from needlessly resubmitting additional requests for AMOC's for the inspections and modifications that are required by proposed paragraphs (a), (b), (d), and (f).

The FAA does not concur. The intent of paragraph (i) of the final rule (which was designated paragraph (j) in the proposal) is to have approvals for alternative methods of compliance to AD 90–18–03 remain in effect for this AD. The inspection requirements of paragraph (a) of the final rule (contained in Table 2.1 and Table 2.2 of SARD, Revision A and) is a restatement of paragraph A. of AD 90–18–03, and the modification requirements of paragraph (d) of the final rule is a restatement of paragraph B. of AD 90–18–03. However, other modifications (contained in Table 2.3, Table 2.4, and Table 3.1 of SARD, Revision B) that are required by this final rule provide for a higher level of safety than that provided by other modifications required by other related AD's. Therefore, alternative methods of compliance that were previously approved by the FAA for those other related AD's may not provide for an adequate level of safety as that provided by the modifications required by the final rule; therefore, they must be reviewed individually to determine their acceptability, as provided in paragraph (i) of the final rule.

Request that Necessary Parts Be Available

This commenter further requests FAA's intervention to ensure that the manufacturer take no longer than 15 days to provide required parts to operators. This commenter states that it has taken up to 18 months to obtain necessary parts for modifications required by AD's. The FAA cannot concur with this commenter's request, since the FAA has no regulatory requirement to ensure that manufacturers of aircraft produce spare parts in a timely manner. Part 39 of the Federal Aviation Regulations (14 CFR part 39), "Airworthiness Directives," limits the FAA's authority to correct findings of unsafe conditions that may exist or develop in aircraft.

Regardless, the FAA has verified with the manufacturer that parts necessary for the modifications required by the final rule will be available to operators upon submission of a purchase order to the manufacturer. Additionally, under the provisions of paragraph (h) of the final rule, operators may apply for the approval of an alternative method of compliance or adjustment of the compliance time if sufficient parts are unavailable to operators to accomplish the requirements of the final rule.

Request for Revision of Cost Estimate Figures

One commenter requests that the cost impact information of the proposal be revised to reflect the "true cost" over the entire "modification period." The commenter notes that, in the proposal, the costs estimated "over the initial 4-year time period," depicts an inaccurately low figure, since only 33 percent of the service bulletins referenced in SARD, Revision B, recommend a threshold of 4 years.

The FAA does not concur that revision is necessary. The economic impact information, below, was developed with data provided by the manufacturer. In this case, the cost estimate in the final rule was developed by the McDonnell Douglas Corporation only after extensive and detailed consultations with large numbers of operators of Model DC–9 and DC–9–80 series airplanes. The FAA acknowledges that only 33 percent of the service bulletins referenced in the SARD recommend a threshold of 4 years; the remaining 67 percent of the service bulletins recommend a threshold based on the number of flight cycles the airplane has accumulated or on the age of the airplane. Given the significant differences in operators' usage of these airplanes, an accurate assessment of when each airplane would reach that flight cycle threshold would be nearly impossible to calculate accurately. Additionally, there is no way of knowing how many airplanes will be "phased" out of service as they approach or exceed the original economic life goal of these airplanes. Therefore, the FAA considers the 4-year time period as an appropriate baseline to calculate the estimated costs for all of the actions required by the final rule.

Additionally, subsequent to the issuance of the notice, the FAA reviewed the figures it used in calculating the cost of labor relevant to accomplishing AD activity. In order to account for various inflationary costs in the airline industry, the FAA finds it appropriate to increase the labor rate used in these calculations from $55 per work hour to $60 per work hour. The economic impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

Editorial Changes to the Final Rule

For purposes of readability, the FAA has revised paragraphs (a), (b), (d), and (e); NOTE 10 [which was designated

NOTE 4 in the proposal] and NOTE 13 [which was designated NOTE 5 in the proposal] of the final rule to remove the parenthetical phrase that describes the airplanes applicable to each Table in the SARD . A new NOTE 2 has been added to the final rule to explain that Tables 2.1, 2.3, and 3.1 of the SARD are applicable to Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 (military) series airplanes; and Tables 2.2 and 2.4 of the SARD are applicable to Model DC–9–81, –82, –83, and –87 (MD–81, –82, –83, and –87) series airplanes, and Model MD–88 airplanes.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 892 Model DC–9 and C–9 (military) series airplanes of the affected design in the worldwide fleet.

The FAA estimates that 568 Model DC–9 and C–9 (military) series airplanes of U.S. registry were originally affected by AD 90–18–03. The requirements of that AD were estimated to take approximately 946 work hours to accomplish, at a current average labor rate of $60 per work hour. The cost for required modification kits was estimated to be $15,140 per airplane. Based on these figures, the FAA estimated that the cost impact of AD 90–18–03 on U.S. operators of Model DC–9 and C–9 (military) series airplanes will be $40,839,200, or $71,900 per airplane, over the initial 4-year time period. (These figures do not include the cost of downtime, planning, set-up, familiarization, or tool acquisition.)

The FAA estimates that 511 Model DC–9 and C–9 (military) series airplanes of U.S. registry will be affected by the new requirements specified in this AD. The new additional requirements of this AD action will take approximately 638 additional work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $37,027 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $38,481,877, or $75,307 per airplane, over a 4-year time period. (These figures do not include the cost of downtime, planning, set-up, familiarization, and tool acquisition.)

There are approximately 1,090 Model DC–9–80 series airplanes and Model MD–88 airplanes of the affected design in the worldwide fleet.

The FAA estimates that 173 Model DC–9–80 series airplanes and Model MD–88 airplanes of U.S. registry were originally affected by AD 90–18–03. The requirements of that AD were estimated to take approximately 47 work hours to accomplish, at a current average labor rate of $60 per work hour. The cost for required modification kits was estimated to be $752 per airplane. Based on these figures, the FAA estimated that the cost impact of AD 90–18–03 on U.S. operators of Model DC–9–80 series airplanes and Model MD–88 airplanes will be $617,956, or $3,572 per airplane, over the initial 4-year time period. (These figures do not include the cost of downtime, planning, set-up, familiarization, or tool acquisition.)

The FAA estimates that a total of 615 Model DC–9–80 series airplanes and Model MD–88 airplanes of U.S. registry will be affected by the new requirements specified in this AD. This increase in the number of affected airplanes is due to various reasons, including transfer of ownership and the fact that additional airplanes have accumulated time-in-service since the issuance of AD 90–18–03 and have reached the threshold for modification/inspection. The new additional requirements of this AD action will take approximately 13 additional work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost an additional $943 per airplane. Based on these figures, the additional cost impact of this AD on U.S. operators is estimated to be $1,059,645, or $1,723 per airplane, over a 4-year time period. (These figures do not include the cost of downtime, planning, set-up, familiarization, or tool acquisition.)

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished the currently required or the newly required actions of this AD; however, it can reasonably be assumed that a majority of affected operators have already initiated the inspections and structural modifications required by AD 90–18–03 [retained in paragraphs (a) and (d) of this AD] and many may have already initiated the additional inspections and structural modifications in this new AD action.

The number of required work hours, as indicated above, is presented as if the accomplishment of the actions proposed in this AD were to be conducted as "stand alone" actions. However, in actual practice, these actions for the most part would be accomplished coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary additional work hours would be minimal in many instances. Additionally, any costs associated with special airplane scheduling would be minimal.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6701 (55 FR 34704, August 24, 1990), and by adding

a new airworthiness directive (AD), amendment 39–9618, to read as follows:

96–10–11 McDonnell Douglas: Amendment 39–9618. Docket 94–NM–92–AD. Supersedes AD 90–18–03, Amendment 39–6701.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes; Model DC–9–81 (MD–81), –82 (MD–82), –83 (MD–83), and –87 (MD–87) series airplanes; Model MD–88 airplanes; and C–9 (military) series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Note 2: For purposes of this AD, references to Tables 2.1, 2.3, and 3.1 of the Service Action Requirements Document (SARD) are applicable to Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 (military) series airplanes; and Tables 2.2 and 2.4 of the SARD are applicable to Model DC–9–81, –82, –83, and –87 (MD–81, –82, –83, and –87) series airplanes, and Model MD–88 airplanes.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural failure, accomplish the following:

Note 3: Paragraph (a) of this AD restates the requirements for an initial inspection and the repetitive inspections contained in paragraph A. of AD 90–18–03. Therefore, for operators who have previously accomplished at least the initial inspection in accordance with AD 90–18–03, paragraph (a) of this AD requires that the next scheduled inspection be performed within the specified repetitive inspection interval after the last inspection performed in accordance with paragraph A. of AD 90–18–03.

(a) Except as provided by paragraph (g) of this AD, within the threshold for inspections specified in the service bulletins listed in either Table 2.1 or Table 2.2 , as applicable, of "DC–9/MD–80 Aging Aircraft Service Action Requirements Document," McDonnell Douglas Report No. MDC K1572, Revision A, dated June 1, 1990 (hereinafter referred to as "SARD, Revision A"), or within one repetitive inspection period specified in those service bulletins after September 24, 1990 (the effective date of AD 90–18–03, Amendment 39–6701); whichever occurs later: Inspect to detect cracks in accordance with those service bulletins. Repeat these inspections thereafter at the intervals specified in the service bulletins listed in either Table 2.1, or Table 2.2, as applicable, of SARD, Revision A, until the applicable terminating modification required by paragraph (d) of this AD is accomplished.

Note 4: Table 2.1 of SARD, Revision A, includes the inspections specified in DC–9 Service Bulletin 57–129, Revision 3, dated November 6, 1987. Since issuance of the SARD, Revision A, that service bulletin has been re-issued as two separate service bulletins: DC–9 Service Bulletin 57–129, Revision 5, and DC–9 Service Bulletin 57–200; both dated November 10, 1994. Therefore, accomplishment of both DC–9 Service Bulletins 57–129, Revision 5, and 57–200 is considered acceptable for compliance with the inspections specified in DC–9 Service Bulletin 57–129, Revision 3.

Note 5: The service bulletin revision levels list under "Recommended Modification" in either Table 2.1 or Table 2.2, as applicable, of SARD, Revision A, are acceptable revisions for inspections performed prior to September 24, 1994.

(b) Except as provided by paragraph (g) of this AD, within the threshold for inspections specified in the service bulletins listed in Tables 2.3 and 3.1, or Table 2.4, as applicable, of "DC–9/MD–80 Aging Aircraft Service Action Requirements Document," McDonnell Douglas Report No. MDC K1572, Revision B, dated January 15, 1993 (hereinafter referred to as "SARD, Revision B"), or within one repetitive inspection period specified in those service bulletins after the effective date of this AD, whichever occurs later: Inspect to detect cracks in accordance with those service bulletins. Repeat these inspections thereafter at the intervals specified in the service bulletins listed in either paragraph (b)(1) or (b)(2) of this AD, as applicable, until the applicable terminating modification required by paragraph (e) of this AD is accomplished.

Note 6: Accomplishment of the inspections in accordance with McDonnell Douglas DC–9 Service Bulletin 57–129, Revision 5, dated November 10, 1994; and McDonnell Douglas DC–9 Service Bulletin 57–200, dated November 10, 1994; is acceptable for compliance with the inspections described in McDonnell Douglas DC–9 Service Bulletin 57–129, Revision 3, which is referenced in SARD, Revision B.

(1) For Model DC–9–10, –20, –30, –40, –50, and C–9 (military) series airplanes: The service bulletins listed in Tables 2.3 and 3.1 of SARD, Revision B. Or

(2) For Model DC–9–81, –82, –83, –87 (MD–81, –82, –83, –87), and Model MD–88 airplanes: The service bulletins listed in Table 2.4 of SARD, Revision B.

Note 7: The service bulletin revision levels list under "Recommended Modification" or "Recommended Inspection" in Tables 2.3 and 3.1, or Table 2.4, as applicable, of SARD, Revision B, are acceptable revisions for inspections performed prior to the effective date of this AD.

(c) If any crack is found during any inspection required by this AD, prior to further flight, either accomplish the applicable terminating modification in accordance with paragraph (d) or (e) of this AD, or repair in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note 8: Detection of any discrepancy, other than cracking, necessitates appropriate corrective action in accordance with the provisions of part 43 of the Federal Aviation Regulations (14 CFR part 43).

(d) Except as provided by paragraph (g) of this AD, prior to reaching the incorporation thresholds listed in either Table 2.1, or Table 2.2, as applicable, of SARD, Revision A or Revision B; or within 4 years after September 24, 1990 (the effective date of AD 90–18–03); whichever occurs later: Accomplish the structural modifications specified in the service bulletins listed in either Table 2.1, or Table 2.2, as applicable, of SARD, Revision A or Revision B. Accomplishment of these modifications constitutes terminating action for the applicable inspections required by paragraph (a) of this AD.

Note 9: Paragraph (d) of this AD restates the modification requirements of paragraph B. of AD 90–18–03. As allowed by the phrase, "unless accomplished previously," if the requirements of paragraph B. of AD 90–18–03 have been accomplished previously, paragraph (d) of this AD does not require that they be repeated.

Note 10: The service bulletin revision levels listed under "Recommended Modification" in either Table 2.1, or Table 2.2, as applicable, of SARD, Revision A, are acceptable revisions for modifications accomplished prior to September 24, 1994.

Note 11: Accomplishment of the modification in accordance with McDonnell Douglas DC–9 Service Bulletin 57–129, Revision 5, dated November 10, 1994; and McDonnell Douglas DC–9 Service Bulletin 57–200, dated November 10, 1994; is acceptable for compliance with the modifications described in McDonnell Douglas DC–9 Service Bulletin 57–129, Revision 3, which is referenced in SARD, Revision A.

(e) Except as provided by paragraph (g) of this AD, prior to reaching the incorporation thresholds listed in either Table 2.3, or Table 2.4, as applicable, of SARD, Revision B, or within 4 years after the effective date of this AD, whichever occurs later: Accomplish the structural modifications specified in the service bulletins listed in either Table 2.3, or Table 2.4, as applicable, of SARD, Revision B. Accomplishment of this modification constitutes terminating action for the applicable inspections required by paragraph (b) of this AD.

Note 12: Accomplishment of the modifications in accordance with McDonnell Douglas DC–9 Service Bulletin 57–129, Revision 5, dated November 10, 1994, and McDonnell Douglas DC–9 Service Bulletin 57–200, dated November 10, 1994; is acceptable for compliance with the modifications described in McDonnell Douglas DC–9 Service Bulletin 57–129, Revision 3, which is referenced in SARD, Revision B.

Note 13: The service bulletin revision levels listed under "Recommended Modification" in either Table 2.3, or Table 2.4 of SARD, Revision B, are acceptable revisions for modifications accomplished prior to the effective date of this AD.

Note 14: The modifications required by paragraphs (d) and (e) of this AD do not terminate the inspection requirements of any other AD unless that AD specifies that any such modification constitutes terminating action for those specified inspection requirements.

(f) For Model DC–9–10, –20, –30, –40, –50, and C–9 (military) series airplanes: Prior to the accumulation of 100,000 total landings, accomplish the modifications specified in McDonnell Douglas DC–9 Service Bulletin 53–230, Revision 1, dated January 12, 1993. Accomplishment of these modifications constitute terminating action for the inspections required by AD 88–24–08 R2, amendment 39–6469.

(g) The McDonnell Douglas service bulletins that are listed below, are addressed in the following separate rulemaking actions. Therefore, the actions specified in these service bulletins that are referenced in the following tables of SARD, Revision A or Revision B, are excluded from the requirements of this AD.

Table(s)	McDonnell Douglas Service Bulletin	AD No.	Amendment No.
3.1	DC–9 Service Bulletin 54–30	77–14–19	39–2971
2.1	DC–9 Service Bulletin 27–196	92–11–10	39–8260
2.1	DC–9 Service Bulletin 27–250	92–11–10	39–8260
2.1 and 2.2	MD–80 Service Bulletin 53–186	94–08–04	39–8875
2.2	MD–80 Service Bulletin 53–216	94–08–04	39–8875
2.1	DC–9 Service Bulletin 57–125	96–01–05	39–9481
2.3	DC–9 Service Bulletin 57–148	96–01–05	39–9481

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 15: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(i) Alternative methods of compliance previously granted for AD 90–18–03, amendment 39–6701, continue to be considered as acceptable alternative methods of compliance for the relevant provisions of this amendment.

(j) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(k) The inspections and modifications shall be done in accordance with "DC–9/MD–80 Aging Aircraft Service Action Requirements Document," McDonnell Douglas Report No. MDC K1572, Revision A, dated June 1, 1990; and in accordance with "DC–9/MD–80 Aging Aircraft Service Action Requirements Document," McDonnell Douglas Report No. MDC K1572, Revision B, dated January 15, 1993, which contains the following list of effective pages:

Page No.	Revision letter shown on page	Date shown on page
List of Effective Pages. Pages xi and xii.	B	January 15, 1993.

The incorporation by reference of "DC–9/MD–80 Aging Aircraft Service Action Requirements Document," McDonnell Douglas Report No. MDC K1572, Revision A, dated June 1, 1990, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of September 24, 1990 (55 FR 34704, August 24, 1990). The incorporation by reference of "DC–9/MD–80 Aging Aircraft Service Action Requirements Document," McDonnell Douglas Report No. MDC K1572, Revision B, dated January 15, 1993, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51.(2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(l) This amendment becomes effective on June 20, 1996.

Issued in Renton, Washington, on May 8, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–12020 Filed 5–15–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–CE–20–AD; Amendment 39–9619; AD 96–10–12]

RIN 2120–AA64

Airworthiness Directives; Aviat Aircraft, Inc. Models S–1S, S–1T, S–2, S–2A, S–2S, and S–2B Airplanes (Formerly Known as Pitts Models S–1S, S–1T, S–2, S–2A, S–2S, and S–2B Airplanes)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Aviat Aircraft, Inc. (Aviat) Models S–1S,'S–1T, S–2, S–2A, S–2S, and S–2B airplanes that are equipped with a flight control stick with a wall thickness of .035 inch. This action requires repetitively inspecting the flight control stick for cracks, and replacing any cracked flight control stick with one with a wall thickness of .058 inch. An incident on an Aviat Model S–2A airplane where the flight control stick fractured in flight prompted this action. The actions specified by this AD are intended to prevent the inability to maneuver the airplane because of a cracked flight control stick, which, if not detected and corrected, could result in loss of control of the airplane.

DATES: Effective June 7, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 7, 1996.

Comments for inclusion in the Rules Docket must be received on or before July 19, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 96–CE–20–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from Aviat Aircraft, Inc., The Airport-Box 1240, South Washington Street, Afton, Wyoming 83110. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 96–CE–20–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Caldwell, Aerospace Engineer, FAA, Denver Aircraft Certification Office, 5440 Roslyn Street, suite 133, Denver, Colorado 80216; telephone (303) 286–5683; facsimile (303) 286–5689.

SUPPLEMENTARY INFORMATION:

Events Leading to This Action

The FAA has received a report of the flight control stick fracturing in flight on an Aviat Model S–2A airplane. Analysis of the fractured flight control stick revealed fatigue cracking at the upper weld above the pivot bearing. The flight control stick in the referenced incident had a wall thickness of .035-inch. If not detected and corrected, a cracked flight control stick could result in the inability to maneuver the airplane with subsequent loss of control of the airplane.

Aviat has issued Service Bulletin (SB) No. 23, dated March 29, 1996, which specifies procedures for (1) Inspecting, using dye penetrant methods, the .035-inch wall thickness flight control stick; and (2) installing a flight control stick with a wall thickness of .058 inch.

The affected airplane had accumulated 2,015 hours time-in-service (TIS) when the incident occurred. The FAA has determined that cracking in this area can develop after 1,000 hours TIS accumulated on a .035-inch wall thickness flight control stick. All Model S–2A airplanes and some Model S–2S airplanes were equipped with a .035-inch wall thickness flight control stick at manufacture. Models S–1S, S–1T, S–2, S–2B and certain Model S–2S airplanes were manufactured with control sticks with a wall thickness greater than .035 inch, but could have .035-inch flight control sticks installed through FAA-approved field modification.

After examining the circumstances and reviewing all available information related to the incident described above, the FAA has determined that (1) flight control sticks with a wall thickness of .035 inch should be repetitively inspected for cracking after 1,000 hours TIS; and (2) AD action should be taken to prevent the inability to maneuver the airplane because of a cracked flight control stick, which, if not detected and corrected, could result in loss of control of the airplane.

Explanation of the Provisions of the AD

Since an unsafe condition has been identified that is likely to exist or develop in other Aviat S–1S, S–1T, S–2, S–2A, S–2S, and S–2B airplanes of the same type design that are equipped with a .035-inch wall thickness flight control stick, this AD requires repetitively inspecting the affected flight control stick for cracks, and replacing any cracked flight control stick with one with a wall thickness of .058 inch. This action also allows the option of installing a .058-inch wall thickness flight control stick as terminating action for the repetitive inspection requirement if cracks were not found. Accomplishment of the required actions are in accordance with Aviat SB No. 23, dated March 29, 1996.

Since a situation exists (possible inability to maneuver the airplane with subsequent loss of control of the airplane) that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 96–CE–20–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

96–10–12 Aviat Aircraft, Inc.: Amendment 39–9619; Docket No. 96–CE–20–AD.

Applicability: Models S–1S, S–1T, S–2, S–2A, S–2S, and S–2B airplanes (formerly known as Pitts Models S–1S, S–1T, S–2, S–2A, S–2S, and S–2B airplanes), all serial numbers, certificated in any category, that are

equipped with a flight control stick with a wall thickness of .035 inch.

Note 1: All Model S–2A airplanes and some Model S–2S airplanes were equipped with a .035-inch wall thickness flight control stick at manufacture. Models S–1S, S–1T, S–2, S–2B and certain Model S–2S airplanes were manufactured with control sticks with a wall thickness greater than .035 inch, but could have .035-inch flight control sticks installed through FAA-approved field modification.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required initially upon accumulating 1,000 hours time-in-service (TIS) or within the next 25 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished, and thereafter as indicated in the body of this AD.

To prevent the inability to maneuver the airplane because of a cracked control stick, which, if not detected and corrected, could result in loss of control of the airplane, accomplish the following:

(a) Inspect, using dye penetrant methods, the .035-inch wall thickness flight control stick for cracking in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Aviat Service Bulletin (SB) No. 23, dated March 29, 1996.

Note 3: Aviat SB No. 23, dated March 29, 1996, only references the Model S–2A airplanes. The procedures included in this service bulletin should be utilized for all of the airplanes affected by this AD.

(1) If cracking is found, prior to further flight, replace the .035-inch wall thickness flight control stick with one with a .058 inch wall thickness in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Aviat SB No. 23, dated March 29, 1996.

(2) If no cracks are found, reinspect at intervals not to exceed 50 hours TIS. If cracking is found during any repetitive inspection, prior to further flight, accomplish the replacement specified in paragraph (a)(1) of this AD.

(b) Replacing the .035-inch wall thickness flight control stick with one with a .058-inch wall thickness in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Aviat SB No. 23, dated March 29, 1996, is considered terminating action for the repetitive inspection requirement of this AD. This replacement may be accomplished at any time, and must be accomplished prior to further flight if cracking is found as required by paragraph (a)(1) of this AD.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Denver Aircraft Certification Office, 5440 Roslyn Street, suite 133, Denver, Colorado 80216. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Denver ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Denver ACO.

(e) The inspection and replacement (if necessary) required by this AD shall be done in accordance with Aviat Service Bulletin No. 23, dated March 29, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Aviat Aircraft, Inc., The Airport-Box 1240, South Washington Street, Afton, Wyoming 83110. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39–9619) becomes effective on June 7, 1996.

Issued in Kansas City, Missouri, on May 8, 1996.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–12137 Filed 5–15–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–191–AD; Amendment 39–9623; AD 96–10–16]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas MD–11 Series Airplane

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 series airplanes, that requires inspections to detect damage of the sidewall vent box diaphragms, and repair, if necessary. This amendment also requires the eventual installation of stops on the vent box diaphragm, which terminates the inspection requirements of the AD. This amendment is prompted by reports of damage to sidewall vent box diaphragms, which can result in non-functional diaphragms during a rapid decompression. The actions specified by this AD are intended to prevent buckling of the floor beams due to insufficient air flow of the cabin sidewall vent box diaphragms during rapid decompression, and consequent reduction in the controllability of the airplane.

DATES: Effective June 20, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 20, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Andrew Gfrerer, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5338; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes was published in the **Federal Register** on February 21, 1996 (61 FR 6581). That action proposed to require repetitive inspections to detect damage of the sidewall vent box assemblies. Initially, that action proposed to permit continued flight if only a certain number of assembleis are found to be damaged. However, once that number is exceeded, the damaged assemblies would be required to be modified, prior to further flight, until the remaining number of damaged assemblies does not exceed a certain number. That amendment also proposed to require the eventual installation of stop pads for all vent box diaphragms and reidentification of the assemblies, which, when accomplished, terminates the requirement for the repetitive inspections.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

Both commenters support the proposed rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 123 Model MD–11 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 39 airplanes of U.S. registry will be affected by this AD.

To accomplish the required inspections will take approximately 2 work hours per airplane, per inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required inspections on U.S. operators is estimated to be $4,680, or $120 per airplane, per inspection cycle.

To accomplish the requried installation and reidentification will take a total of approximately 270 work hours per airplane. This figure represents 3 work hours per vent box, and up to a maximum of 90 vent boxes on an airplane. The average labor rate is $60 per work hour. The cost of requried parts will be negligible; the parts may be fabricated locally. Based on these figures, the cost impact of the required installation on U.S. operators is estimated to be $631,800, or $16,200 per airplane.

The cost impact figures discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–10–16 McDonnell Douglas: Amendment 39–9623. Docket 95–NM–191–AD.

Applicability: Model MD–11 series airplane, as listed in McDonnell Douglas Alert Service Bulletin MD11–25A181, dated September 28, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent buckling of the floor beams due to insufficient air flow of the cabin sidewalk vent box diaphragms during rapid decompression, and subsequent loss of airplane control capabilities, accomplish the following:

(a) Within 90 days after the effective date of this AD, perform an inspection to detect damage of the sidewalk vent box diaphragms, in accordance with McDonnell Douglas Alert Service Bulletin MD11–25A181, dated September 28, 1995. Based on the findings of the initial inspection, or any repetitive inspection, accomplish the requirements of paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable:

(1) Condition 1. If no damage is detected: Repeat the inspection at intervals not to exceed 90 days.

(2) Condition 2. If damage is detected, but the number of damaged sidewall vent box assemblies does not exceed the applicable allowable number specified in Table 1 of the alert service bulletin: Repeat the inspection at intervals not to exceed 90 days.

(3) Condition 3. If damage is detected, and the number of damaged vent box assemblies exceeds the applicable number specified in Table 1 of the alert service bulletin: Prior to further flight, install stops on and re-identify as many damaged sidewall vent box assemblies as necessary so that the total number of damaged vent box assemblies does not exceed the applicable allowable number specified in Table 1 of the alert service bulletin. Accomplish the installation of the stops and reidentification of the assemblies in accordance with the alert service bulletin. The installation of stops on and reidentification of an assembly constitutes terminating action for the repetitive inspections of that assembly only. All other assemblies must continue to be inspected thereafter at intervals not to exceed 90 days.

(b) Within 30 months after the effective date of this AD, install stops on and reidentify all sidewalk vent box assemblies that do not already have stops installed and have not been reidentified in accordance with McDonnell Douglas Alert Service Bulletin MD11–25A181, dated September 28, 1995. Accomplishment of this action constitutes terminating action for the inspection requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO). FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspectors, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The inspections and installations shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–25A181, dated September 28, 1995. This incorporation by reference was approved by

the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 20, 1996.

Issued in Renton, Washington, on May 9, 1996.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–12148 Filed 5–15–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 95–NM–108–AD; Amendment 39–9624; AD 96–10–17]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –15, and, –30 Series Airplanes and KC–10 (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–10–10, –15, and –30 series airplanes and KC–10A (military) airplanes, that requires inspections to detect cracks of the upper aft mating bolt hole of the wing pylon truss fittings, and various follow-on actions. This amendment is prompted by reports of cracks found in the upper aft mating bolt hole of the wing pylon truss fitting located near the engine forward mount on Model DC–10–30 series airplanes, which were caused by fatigue-related stress. The actions specified by this AD are intended to prevent fatigue-related cracking, which could lead to failure of the fitting, separation of a portion of the engine forward mount truss from the pylon, and consequent separation of the engine from the airplane.

DATES: Effective June 20, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 20, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Maureen Moreland, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5238; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10, –15, and –30 series airplanes and KC–10A (military) airplanes was published in the **Federal Register** on September 27, 1995 (60 FR 49809). That action proposed to require repetitive ultrasonic or eddy current inspections to detect cracks of the upper aft mating bolt hole of the wing pylon truss fittings, and various follow-on actions.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

Two commenters support the proposed rule.

Request for Extension of Compliance Time for Initial Inspection

One commenter requests that the compliance time for the initial inspection be extended from the proposed 1,000 landings to 1,200 landings for Model DC–10–30 series airplanes. The commenter states such a compliance time would follow the recommendations of McDonnell Douglas DC–10 Service Bulletin 54–108, dated February 9, 1995. The commenter also questions what data or analysis the FAA used to justify shortening the threshold to 1,000 landings.

The FAA does not agree with the commenter's request to extend the compliance time. The FAA points out that 1,000 landings is not the inspection "threshold," but a "grace period" that was established to preclude unnecessarily grounding airplanes that have exceeded the 10,000-landing threshold or will exceed it within 1,000 landings. In determining the appropriate "grace period" for this action, the FAA not only considered the degree of urgency associated with addressing the unsafe condition, but the amount of time necessary for operators to accomplish the required inspection and other factors affecting the ability of the operators to comply. In light of all these factors, the FAA finds the 1,000 landing "grace period" for initiating the required inspections to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Clarification of Requirements for Type of Inspection

One commenter points out that proposed paragraphs (a) and (b) indicate that operators are to perform either ultrasonic or eddy current inspections to detect the subject cracking. However, the commenter states that the initial and repetitive eddy current inspections are not an option if the upper aft and/or middle mating bolt hole(s) have bushings installed from previous rework, in accordance with McDonnell Douglas DC–10 Service Bulletin 54–108, dated February 9, 1995.

The FAA finds that clarification of this point is necessary. As paragraphs (a) and (b) of the proposed rule were worded, operators could incorrectly interpret the requirements as meaning that they have a choice between performing an ultrasonic inspection or an eddy current inspection for all configurations of the bolt holes. However, the intent of those requirements was to require operators to perform either an ultrasonic inspection or an eddy current inspection, as appropriate, depending upon the configuration of the subject area and as specified in the service bulletin. Therefore, the commenter is correct in noting that, for airplanes on which the upper aft and middle mating bolt holes have bushings installed from previous rework (Condition 2), operators must accomplish the inspection by using only the ultrasonic method. In light of this, the FAA has revised the wording of paragraphs (a) and (b) of the final rule to clarify this.

Clarification of Requirements for Repetitive Inspections

The same commenter asks if the repetitive ultrasonic inspection intervals are the same for bolt hole(s) that have bushings installed from previous rework as well as for bolt hole(s) that do not have bushings installed.

The FAA finds that clarification of this point is necessary. The FAA points out that, for certain Model DC–10–15, and –30 series airplanes, and KC–10A (military) airplanes, Service Bulletin 54–108 recommends that the compliance time for the repetitive ultrasonic inspections be accomplished at intervals of 4,000 landings if the bolts holes have bushings installed, and at intervals of 5,000 landings if the bolt holes do not have bushings installed. However, for those airplanes, paragraph (b)(1)(i) of the final rule differs from the recommendations of the service bulletin in that it requires a compliance time interval of 5,000 landings, whether or not the bolt holes have bushings installed. In developing an appropriate compliance time for that action, the FAA, along with McDonnell Douglas, reviewed the damage tolerance analysis of the bolt hole, and determined that the compliance time of 5,000 landings will not adversely affect safety. McDonnell Douglas is planning to revise Service Bulletin 54–108 in the future to be consistent with this AD

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 376 McDonnell Douglas Model DC–10–10, –15, and –30 series airplanes and KC–10 (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 228 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $68,400, or $300 per airplane, per inspection.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–10–17 McDonnell Douglass: Amendment 39–9624, Docket 95–NM–108–AD.

Applicability: Model DC–10–10, –15, and –30 series airplanes and KC–10A (military) airplanes; as listed in McDonnell Douglas DC–10 Service Bulletin 54–108, dated February 9, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modfication, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Requried as indicated, unless accomplished previously.

To prevent fatigue-related cracking, which could lead to failure of the pylon truss fitting, separation of a portion of the engine from the airplane, accomplish the following:

(a) For Model DC–10–15, and –30 series airplanes and KC–10A (military) airplanes: Prior to the accumulation of 10,000 total landings on the pylon truss fitting or within 1,000 landings on the pylon truss fitting after the effective date of this AD, whichever occurs later, perform either an ultrasonic inspection or an eddy current inspection, as applicable, to detect cracks of the upper aft mating bolt hole of the wing pylon truss fittings, in accordance with McDonnell Douglas DC–10 Service Bulletin 54–108, dated February 9, 1995.

(1) If no cracks are detected, repeat the inspections in accordance with paragraph (a)(1)(i) or (a)(1)(ii), as applicable:

(i) If inspecting using ultrasonic techniques repeat inspection at intervals not to exceed 5,000 landings.

(ii) If inspection using eddy current techniques, repeat inspection at intervals not to exceed 8,000 landings.

(2) Accomplishment of the actions specified in paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii) constitutes terminating action for the repetitive inspections required by paragraph (a)(1) of this AD:

(i) Accomplish the preventative modification in accordance with Condition 1 (bushing not installed), Option III. or Condition 2 (bushing installed), Option II, of the service bulletin, as applicable. And

(ii) Prior to the accumulation of 10,000 total landings on the pylon truss fitting following accomplishment of the modification, perform an ultrasonic inspection to detect cracks of the upper aft mating bolt hole of the wing pylon truss fittings, in accordance with the service bulletin. And

(iii) Thereafter, repeat the ultrasonic inspection at intervals not to exceed 5,000 landings on the pylon truss fitting.

(3) If any crack is found in the pylon truss fitting during any inspection required by this paragraph, prior to further flight, repair it in accordance with the service bulletin. At the times specified in the service bulletin, perform follow-on actions in accordance with the service bulletin. In all cases, where the service bulletin indicates "contact Douglas for disposition," the repair must be accomplished in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(b) For Model DC–10–10 series airplanes: Prior to the accumulation of 17,000 total landings on the pylon truss fitting or within 1,500 landings on the pylon truss fitting after

the effective date of this AD, whichever occurs later, perform either an ultrasonic inspection or an eddy current inspection, as applicable, to detect cracks of the upper aft mating bolt hole of the wing pylon truss fittings, in accordance with McDonnell Douglas DC–10 Service Bulletin 54–108, dated February 9, 1995.

(1) If no cracks are detected, repeat the inspections in accordance with paragraph (b)(1)(i) or (b)(1)(ii), as applicable:

(i) If inspecting using ultrasonic techniques, repeat the inspection at intervals not to exceed 10,000 landings.

(ii) If inspecting using eddy current techniques, repeat the inspection at intervals not to exceed 15,000 landings.

(2) Accomplishment of the actions specified in paragraphs (b)(2)(i), (b)(2)(ii), and (b)(2)(iii) constitutes terminating action for the repetitive inspections required by paragraph (b)(1) of this AD:

(i) Accomplish the preventative modification in accordance with Condition 1 (bushing not installed), Option III, or Condition 2 (bushing installed), Option II, of the service bulletin, as applicable. And

(ii) Prior to the accumulation of 18,000 total landings on the pylon truss fitting following accomplishment of the modification, perform an ultrasonic inspection to detect cracks of the upper aft mating bolt hole of the wing pylon truss fittings, in accordance with the service bulletin. And

(iii) Thereafter, repeat the ultrasonic inspection at intervals not to exceed 10,000 landings on the pylon truss fitting.

(3) If any crack is found in the pylon truss fitting during any inspection required by this paragraph, prior to further flight, repair it in accordance with the service bulletin. At the times specified in the service bulletin, perform follow-on actions in accordance with the service bulletin. In all cases, where the service bulletin indicates "contact Douglas for disposition," the repair must be accomplished in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The actions shall be done in accordance with McDonnell Douglas DC–10 Service Bulletin 54–108, dated February 9, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 20, 1996.

Issued in Renton, Washington, on May 9, 1996.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–12147 Filed 5–15–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 95–NM–198–AD; Amendment 39–9625; AD 96–10–18]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320–111, –211, –212, and –231 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A320–111, –211, –212, and –231 series airplanes, that requires removing the existing forward pintle nut and cross bolt on the main landing gear (MLG), and installing a new nylon spacer and cross bolt and nut. This amendment is prompted by results of fatigue testing which revealed that the cross bolt and nut in the forward pintle pin of the MLG were damaged due to fatigue cracking. The actions specified by this AD are intended to prevent such fatigue cracking, which could result in collapse of the MLG.

DATES: Effective June 20, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 20, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the **Federal Register**, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A320 series airplanes was published in the **Federal Register** on March 6, 1996 (61 FR 8896). That action proposed to require removing the existing forward pintle nut and cross bolt on the MLG; and installing a new nylon spacer and cross bolt and nut.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

Both commenters support the proposed rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 90 Airbus Model A320–111, –211, –212, and –231 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be supplied by the parts manufacturer at no cost to the operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $5,400, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–10–18 Airbus: Amendment 39–9625. Docket 95–NM–198–AD.

Applicability: Model A320–111, –211, –212, and –231 series airplanes, on which Airbus Modification 23573 (Airbus Service Bulletin A320–32–1119, Revision 1, dated June 13, 1994), has not been installed; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent collapse of the main landing gear (MLG) during landing, due to failure of the forward pintle pin cross bolt, accomplish the following:

(a) Remove the existing forward pintle nut and cross bolt; and install a new nylon spacer and post-mod cross bolt and nut of the MLG, in accordance with Airbus Service Bulletin A320–32–1119, Revision 1, dated June 13, 1994, at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Prior to the accumulation of 20,000 total landings, or at the next main landing gear overhaul, whichever occurs first.

(2) Within 500 landings after the effective date of this AD.

Note 2: The Airbus service bulletin references Dowty Aerospace Service Bulletin 200–32–194, Revision 1, dated October 4, 1993, as an additional source of service information for accomplishment of these procedures.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The removal and installation shall be done in accordance with Airbus Service Bulletin A320–32–1119, Revision 1, dated June 13, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(e) This amendment becomes effective on June 20, 1996.

Issued in Renton, Washington, on May 9, 1996.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–12146 Filed 5–15–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 90–CE–61–AD; Amendment 39–9620; AD 96–10–13]

RIN 2120–AA64

Airworthiness Directives; the New Piper Aircraft, Inc. (Formerly Piper Aircraft Corporation) Models PA31T, PA31T1, PA31T2, and PA31T3 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 84–08–06, which currently requires the following on certain The New Piper Aircraft, Inc. (Piper) Models PA31T, PA31T1, PA31T2, and PA31T3 airplanes: repetitively inspecting the fuselage station (FS) 332 bulkhead for cracks, and reinforcing or replacing the FS 332 bulkhead if cracks are found. The Federal Aviation Administration's policy on aging commuter-class aircraft is to eliminate or, in certain instances, reduce the number of certain repetitive short-interval inspections when improved parts or modifications are available. This action retains the current repetitive inspections contained in AD 84–08–06, and requires incorporating a stabilizer forward spar attachment bulkhead reinforcement kit or installing a reinforced bulkhead assembly as terminating action for the repetitive inspection requirement. The actions specified in this AD are intended to prevent structural failure of the horizontal stabilizer and the aft fuselage attachment caused by cracks in the FS 332 bulkhead, which, if not detected and corrected, could result in loss of control of the airplane.

DATES: Effective June 27, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 27, 1996.

ADDRESSES: Service information that applies to this AD may be obtained from The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 90–CE–61–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW.; suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Christina Marsh, Aerospace Engineer,

FAA, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, suite 2–160, College Park, Georgia 30337–2748; telephone (404) 305–7362; facsimile (404) 305–7348.

SUPPLEMENTARY INFORMATION:

Events Leading to the AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Piper Models PA31T, PA31T1, PA31T2, and PA31T3 airplanes was published in the **Federal Register** on January 19, 1996 (61 FR 1303). The action proposed to supersede AD 84–08–06 with a new AD that would (1) retain the requirement of repetitively inspecting the FS 332 bulkhead for cracks, reinforcing the FS 332 bulkhead (Piper Kit 764–983) if any crack is found that does not exceed certain limits, and replacing the bulkhead assembly with a reinforced bulkhead assembly (part number 45583–16 or 45583–17) if any crack is found that exceeds certain limits; and (2) require incorporating a stabilizer forward spar attachment bulkhead reinforcement (Piper Kit 764–983) or a reinforced bulkhead assembly (part number 45583–16 or 45583–17) as terminating action for the repetitive inspection requirement. Accomplishment of the proposed inspections would be in accordance with Piper Service Bulletin No. 773A, dated May 3, 1984. The incorporation of Piper Kit 764–983 would be accomplished in accordance with the instructions to this kit (Revised June 18, 1990), and the reinforced bulkhead installations would be accomplished in accordance with the applicable maintenance manual.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 736 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 60 workhours per airplane to accomplish the required replacement, and that the average labor rate is approximately $60 an hour. Parts cost approximately $782 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $3,225,152 or $4,382 per airplane. This figure is based on the assumption that no affected airplane owner/operator has accomplished the required replacement.

Piper has informed the FAA that parts have been distributed to enough owners/operators to equip 348 of the affected airplanes. Assuming that each set of parts has been installed on an affected airplane, the cost impact of this AD upon U.S. owners operators of the affected airplanes is reduced by $1,524,936 from $3,225,152 to $1,700,216.

The FAA's Aging Commuter Class Aircraft Policy

This AD is part of the FAA's aging commuter class airplane policy, which briefly states that, when a modification exists that could eliminate or reduce the number of required critical inspections, the modification should be incorporated.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. The FAA believes that a large number of the remaining 388 affected airplanes (736 affected airplanes—348 sets of parts distributed) that will be affected by the required modification AD are operated in various types of air transportation. This includes scheduled passenger service, air cargo, and air taxi.

This AD allows 600 hours time-in-service (TIS) after the effective date of this AD before mandatory accomplishment of the design modification. The average utilization of the fleet for those airplanes in air transportation is between 25 to 40 hours TIS per week. Based on these figures, operators of commuter-class airplanes involved in commercial operation will have to accomplish the required modification within four to six months after this AD becomes effective. For private owners, who typically operate between 100 to 200 hours TIS per year, this will allow three to six years before the required modification will be mandatory.

The FAA established the 600 hours TIS replacement compliance time based on its engineering evaluation of the problem. Among the issues examined in this engineering evaluation were analysis of service difficulty reports, the difficulty level of the inspection, and how critical the situation would be if cracks occurred in the subject area despite accomplishment of the repetitive inspections.

Usually, the FAA establishes the mandatory design modification compliance time on AD's affecting aging commuter-class airplanes upon the accumulation of a certain number of hours TIS on the airplane. For this action, the FAA is mandating the modification for all operators "within the next 600 hours TIS after the effective date of this AD." The total TIS levels of the airplane fleet vary from under 1,000 hours TIS to over 5,000 hours TIS, and annual accumulation rates vary from 50 hours TIS to over 1,000 hours TIS. Establishing a long-term set compliance time of hours TIS accumulated on Piper Models PA31T, PA31T1, PA31T2, and PA31T3 airplanes (such as 5,000 hours TIS) imposes an undue burden on the manufacturer of having to maintain a supply of replacement parts for the entire fleet when many airplanes in the fleet may never reach this compliance time.

Instead, the FAA believes that Piper should maintain parts for several years; in this case about six years to allow low-usage airplanes time to accumulate the 600 hours after the effective date of the AD. The FAA has determined that the compliance time of this rule provides the level of safety required for commuter air service while still minimizing the impact on the private airplane owners of Piper Models PA31T, PA31T1, PA31T2, and PA31T3 airplanes.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 84–08–06, Amendment 39–4851, and by adding a new AD to read as follows:

96–10–13 The New Piper Aircraft, Inc. (formerly Piper Aircraft Corporation): Amendment 39–9620; Docket No. 90–CE–61–AD. Supersedes AD 84–08–06, Amendment 39–4851.

Applicability: The following model and serial number airplanes, certificated in any category, that do not have either Piper Kit 764–983 (stabilizer forward spar attachment bulkhead reinforcement) incorporated at Fuselage Station (FS) 332 or have a part number (P/N) 45583–16 or P/N 45583–17 bulkhead assembly installed:

Models	Serial No.
PA31T	31T–7400002 through 31T–8120104.
PA31T1	31T–7804001 through 31T–8104101, 31T–8304003, and 31T–1104004 through 31T–1104007.
PA31T2	31T–8166001 through 31T–8166032, 31T–8166034 through 31T–8166065, 31T–8166067 through 31T–8166071, and 31T–8166073 through 31T–8166075.
PA31T3	31T–8275001, 31T–8275003 through 31T–8275012, 31T–8275014 through 31T–8275017, 31T–8275025, and 31T–8375001 through 31T–8375005.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent structural failure of the horizontal stabilizer and the aft fuselage attachment caused by cracks in the FS 332 bulkhead, which, if not detected and corrected, could result in loss of control of the airplane, accomplish the following:

(a) Within the next 200 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished (compliance with AD 84–08–06), and thereafter at intervals not to exceed 200 hours TIS until the modification required by paragraph (c), (d), or (e) of this AD is incorporated, inspect (using dye penetrant methods) the FS 332 bulkhead for cracks. Accomplish the inspections in accordance with the INSTRUCTIONS section of Piper Service Bulletin (SB) No. 773A, dated May 3, 1984.

(b) The initial dye penetrant inspection type must be utilized for all future repetitive inspections. Dye penetrant inspection types consist of Type I: fluorescent; Type II: non-fluorescent or visible dye; and Type III: dual sensitivity.

(c) If cracks are found during any of the inspections required in paragraph (a) of this AD and no crack exceeds the limitations specified in Piper SB No. 773A, dated May 3, 1984, prior to further flight, repair the cracks in accordance with Piper SB No. 773A, dated May 3, 1984, and reinforce the FS 332 bulkhead by incorporating Piper Kit 764–983 in accordance with the instructions to Piper Kit 764–983, Revised June 18, 1990.

(d) If cracks are found during any of the inspections required in paragraph (a) of this AD and any crack exceeds the limitations specified in Piper SB No. 773A, dated May 3, 1984, prior to further flight, replace the bulkhead assembly with a reinforced bulkhead assembly, P/N 45583–16 or P/N 45583–17. Accomplish this replacement in accordance with the applicable maintenance manual.

(e) Upon the accomplishment of the third repetitive inspection required by this AD (600 hours TIS after the effective date of this AD), unless already accomplished as required by paragraph (c) or (d) of this AD, accomplish one of the following, as applicable:

(1) If cracks are found and no crack exceeds the limitations specified in Piper SB No. 773A, dated May 3, 1984, repair the cracks in accordance with Piper SB No. 773A, dated May 3, 1984, and reinforce the FS 332 bulkhead by incorporating Piper Kit 764–983 in accordance with the instructions to Piper Kit 764–983, Revised June 18, 1990;

(2) If cracks are found and any crack exceeds the limitations specified in Piper SB No. 773A, dated May 3, 1984, replace the bulkhead assembly with a reinforced bulkhead assembly, P/N 45583–16 or P/N 45583–17, in accordance with the applicable maintenance manual; or

(3) If no cracks are found, either reinforce the FS 332 bulkhead by incorporating Piper Kit 764–983 in accordance with the instructions to Piper Kit 764–983, Revised June 18, 1990; or replace the bulkhead assembly with a reinforced bulkhead assembly, P/N 45583–16 or P/N 45583–17, in accordance with the applicable maintenance manual.

(f) Incorporating Piper Kit 764–983 or installing reinforced bulkhead assembly, P/N 45583–16 or P/N 45583–17, as required by paragraphs (c) and (d) or (e) of this AD is considered terminating action for the repetitive inspection requirement of this AD.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(h) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), Campus Building, 1701 Columbia Avenue, suite 2–160, College Park, Georgia 30337–2748. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Note 3: Alternative methods of compliance approved in accordance with AD 84–08–06 (superseded by this action) are not considered approved as alternative methods of compliance with this AD.

(i) The inspections and possible repair required by this AD shall be done in accordance with Piper Service Bulletin No. 773A, dated May 3, 1984. The reinforcement required by this AD shall be done in accordance with the instructions to Piper Kit 764–983, Revised June 18, 1990. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from The New Piper Aircraft, Inc., 2926 Piper Drive, Vero Beach, Florida 32960. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(j) This amendment (39–9620) supersedes AD 84–08–06, Amendment 39–4851.

(k) This amendment (39–9620) becomes effective on June 27, 1996.

Issued in Kansas City, Missouri, on May 8, 1996.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–12141 Filed 5–15–96; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use In Animal Feed; Halofuginone Hydrobromide and Bambermycins

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Hoechst-Roussel Agri-Vet Co. The NADA provides for using approved single ingredient Type A medicated articles to make Type C medicated turkey feeds containing halofuginone hydrobromide and bambermycins.

EFFECTIVE DATE: May 16, 1996.

FOR FURTHER INFORMATION CONTACT: James F. McCormack, Center For Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1607.

SUPPLEMENTARY INFORMATION: Hoechst-Roussel Agri-Vet Co., P.O. Box 2500, Route 202–206, Somerville, NJ 08876–1258, filed NADA 140–918 which provides for use of approved Stenorol® (2.72 grams (g) of halofuginone hydrobromide activity per pound) and approved Flavomycin® (4 and 10 g of bambermycins activity per pound) Type A medicated articles to make Type C medicated turkey feeds containing 1.36 to 2.72 g of halofuginone hydrobromide and 2 g of bambermycins per ton. The Type C medicated turkey feed is used for prevention of coccidiosis caused by *Eimeria adenoides, E. meleagrimitis,* and *E. gallopavonis,* and for increased rate of weight gain in growing turkeys. The NADA is approved as of May 16, 1996, and the regulations are amended in 21 CFR 558.265 by adding new paragraph (c)(2)(iii) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

This approval is for use of single ingredient Type A medicated articles to make Type C medicated feeds. Halofuginone hydrobromide is a Catagory II drug which, as provided in 21 CFR 558.4, requires an approved form FDA 1900 for making a Type C medicated feed. Therefore, use of halofuginone hydrobromide and bambermycins Type A articles to make Type C medicated turkey feeds as in NADA 140–918 requires an approved form FDA 1900.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), approval of this application qualifies for 3 years of marketing exclusivity beginning May 16, 1996, because the application contains reports of new clinical or field investigations (other than bioequivalence or residue studies) or human food safety studies (other than bioequivalence or residue studies) essential to the approval and conducted or sponsored by the applicant.

The agency has determined under 21 CFR 25.24 (d)(1)(ii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.265 is amended by adding new paragraph (c)(2)(iii) to read as follows:

§ 558.265 Halofuginone hydrobromide.

* * * * *

(c) * * *

(2) * * *

(iii) *Amount per ton.* 1.36 to 2.72 grams of halofuginone hydrobromide plus 2 grams of bambermycins.

(A) *Indications for use.* For the prevention of coccidiosis caused by *Eimeria adenoides, E. meleagrimitis,* and *E. gallopavonis,* and for increased rate of weight gain in growing turkeys.

(B) *Limitations.* Feed continuously as sole ration. Withdraw 7 days before slaughter. Do not feed to laying chickens or waterfowl. Halofuginone hydrobromide is toxic to fish and other aquatic life. Keep out of lakes, ponds, and streams. Halofuginone hydrobromide is an eye and skin irritant. Avoid contact with skin, eyes, and clothing.

* * * * *

Dated: May 1, 1996.

Michael J. Blackwell,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 96–12262 Filed 5–15–96; 8:45 am]

BILLING CODE 4160–01–F

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2627

RIN 1212–AA77

Disclosure to Participants

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This document amends the PBGC's regulation on disclosure to participants (29 CFR part 2627) to describe changes in the way participants can obtain the booklet "Your Guaranteed Pension."

EFFECTIVE DATE: May 16, 1996.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Catherine B. Klion, Attorney, Office of the General Counsel, PBGC, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: The PBGC's regulation on disclosure to participants (29 CFR Part 2627) implements section 4011 of ERISA. Section 4011 requires certain underfunded plans to provide notice to plan participants and beneficiaries of the plan's funding status and the limits on the PBGC's guarantee. Plans with more than 100 participants were first subject to the notice requirement for the 1995 plan year; plans with 100 or fewer participants will first be subject to the requirement for the 1996 plan year.

The PBGC is amending the regulation to reflect the fact that the booklet "Your Guaranteed Pension" can now be obtained without charge by writing to the Consumer Information Center. (Previously, the booklet cost $1.25.) The PBGC also is amending the regulation to allow plan administrators to include a statement in the Participant Notice that the booklet can be obtained on the PBGC's new Homepage on the World Wide Web.

This rule also makes corresponding changes to the Model Participant Notice (Appendix A to Part 2627). The PBGC is republishing the Model Participant Notice and the Table of Maximum Guaranteed Benefits (Appendix B to Part 2617) in their entireties. (Information on 1996 maximum guaranteed benefit amounts was added to this table on December 15, 1995 (60 FR 64324).)

In light of the minor nature of the changes, and plan administrators' current need for a regulation that includes correct information, the PBGC has for good cause found that notice and public procedure are unnecessary and contrary to the public interest. The PBGC also has determined for these reasons that good cause exists for making these amendments effective immediately. For a reasonable time period, the PBGC will treat a plan administrator that uses the existing regulation (including the existing Model Participant Notice) as satisfying the Participant Notice requirements.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 2627

Pension insurance, Pensions.

Accordingly, 29 CFR Part 2627 is amended as follows:

PART 2627—DISCLOSURE TO PARTICIPANTS

1. The authority citation for part 2627 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1311.

2. § 2627.10, paragraph (h) introductory text is republished and paragraph (b)(9) is revised to read as follows:

§ 2627.10 Form of notice.

* * * * *

(b) *Content.* The Participant Notice for a plan year shall include—

* * * * *

(9) A statement that further information about the PBGC's guarantee may be obtained by requesting a free copy of the booklet "Your Guaranteed Pension" from Consumer Information Center, Dept. YGP, Pueblo, Colorado 81009. The Participant Notice may include a statement that the booklet may be obtained through electronic access via the World Wide Web from the PBGC Homepage at http://www.pbgc.gov/ygp.htm.

* * * * *

3. Appendix A to Part 2627 is amended to read as follows (and Appendix B is republished for the convenience of the public):

Appendix A to Part 2627—Model Participant Notice

The following is an example of a Participant Notice that satisfies the requirements of § 2627.10 when the required information is filled in (subject to §§ 2627.10(d)-(e), where applicable).

NOTICE TO PARTICIPANTS OF [PLAN NAME]

The law requires that you receive information on the funding level of your defined benefit pension plan and the benefits guaranteed by the Pension Benefit Guaranty Corporation (PBGC), a federal insurance agency.

YOUR PLAN'S FUNDING

As of [DATE], your plan had [INSERT NOTICE FUNDING PERCENTAGE (DETERMINED IN ACCORDANCE WITH § 2627.10(c))] percent of the money needed to pay benefits promised to employees and retirees.

To pay pension benefits, your employer is required to contribute money to the pension plan over a period of years. A plan's funding percentage does not take into consideration the financial strength of the employer. Your employer, by law, must pay for all pension benefits, but your benefits may be at risk if your employer faces a severe financial crisis or is in bankruptcy.

[INCLUDE THE FOLLOWING PARAGRAPH ONLY IF, FOR ANY OF THE PREVIOUS FIVE PLAN YEARS, THE PLAN HAS BEEN GRANTED AND HAS NOT FULLY REPAID A FUNDING WAIVER.]

Your plan received a funding waiver for [LIST ANY OF THE FIVE PREVIOUS PLAN YEARS FOR WHICH A FUNDING WAIVER WAS GRANTED AND HAS NOT BEEN FULLY REPAID]. If a company is experiencing temporary financial hardship, the Internal Revenue Service may grant a funding waiver that permits the company to delay contributions that fund the pension plan.

[INCLUDE THE FOLLOWING WITH RESPECT TO ANY UNPAID OR LATE PAYMENT THAT MUST BE DISCLOSED UNDER § 2627.10(b)(6):]

Your plan was required to receive a payment from the employer on [LIST APPLICABLE DUE DATE(S)]. That payment [has not been made] [was made on [LIST APPLICABLE PAYMENT DATE(S)]].

PBGC GUARANTEES

When a pension plan ends without enough money to pay all benefits, the PBGC steps in to pay pension benefits. The PBGC pays most people all pension benefits, but some people may lose certain benefits that are not guaranteed.

The PBGC pays pension benefits up to certain maximum limits.

- The maximum guaranteed benefit is [INSERT FROM TABLE IN APPENDIX B] per month or [INSERT FROM TABLE IN APPENDIX B] per year for a 65-year-old person in a plan that terminates in [INSERT APPLICABLE YEAR].
- The maximum benefit may be reduced for an individual who is younger than age 65. For example, it is [INSERT FROM TABLE IN APPENDIX B] per month or [INSERT FROM TABLE IN APPENDIX B] per year for an individual who starts receiving benefits at age 55. [IN LIEU OF AGE 55, YOU MAY ADD OR SUBSTITUTE ANY AGE(S) RELEVANT UNDER THE PLAN. FOR EXAMPLE, YOU MAY ADD OR SUBSTITUTE THE MAXIMUM BENEFIT FOR AGES 62 OR 60 FROM THE TABLE IN APPENDIX B. IF THE PLAN PROVIDES FOR NORMAL RETIREMENT BEFORE AGE 65, YOU MUST INCLUDE THE NORMAL RETIREMENT AGE.]

[IF THE PLAN DOES NOT PROVIDE FOR COMMENCEMENT OF BENEFITS BEFORE AGE 65, YOU MAY OMIT THIS PARAGRAPH.]

- The maximum benefit will also be reduced when a benefit is provided for a survivor.

The PBGC does not guarantee certain types of benefits.

[INCLUDE THE FOLLOWING GUARANTEE LIMITS THAT APPLY TO THE BENEFITS AVAILABLE UNDER YOUR PLAN.]

- The PBGC does not guarantee benefits for which you do not have a vested right when a plan ends, usually because you have not worked enough years for the company.
- The PBGC does not guarantee benefits for which you have not met all age, service, or other requirements at the time the plan ends.
- Benefit increases and new benefits that have been in place for less than a year are not guaranteed. Those that have been in place for less than 5 years are only partly guaranteed.
- Early retirement payments that are greater than payments at normal retirement age may not be guaranteed. For example, a supplemental benefit that stops when you become eligible for Social Security may not be guaranteed.
- Benefits other than pension benefits, such as health insurance, life insurance, death benefits, vacation pay, or severance pay, are not guaranteed.
- The PBGC does not pay lump sums exceeding $3,500.

WHERE TO GET MORE INFORMATION

Your plan, [EIN-PN], is sponsored by [CONTRIBUTING SPONSOR(S)]. If you would like more information about the funding of your plan, contact [INSERT NAME, TITLE, BUSINESS ADDRESS AND PHONE NUMBER OF INDIVIDUAL OR ENTITY].

For more information about the PBGC and the benefits it guarantees, you may request a free copy of "Your Guaranteed Pension" by

writing to Consumer Information Center, Dept. YGP, Pueblo, Colorado 81009.

[THE FOLLOWING SENTENCE MAY BE INCLUDED:]

"Your Guaranteed Pension" is also available from the PBGC Homepage on the World Wide Web at http://www.pbgc.gov/ygp.htm.

Issued: [INSERT AT LEAST MONTH AND YEAR]

Appendix B to Part 2627—Table of Maximum Guaranteed Benefits

If a plan terminates in—	The maximum guaranteed benefit for an individual starting to receive benefits at the age listed below is the amount (monthly or annual) listed below:							
	Age 65		Age 62		Age 60		Age 55	
	Monthly	Annual	Monthly	Annual	Monthly	Annual	Monthly	Annual
1995	$2,573.86	$30,886.32	$2,033.35	$24,400.20	$1,673.01	$20,076.12	$1,158.24	$13,898.88
1996	2,642.05	31,704.60	2,087.22	25,046.64	1,717.33	20,607.96	1,188.92	14,267.04

The maximum guaranteed benefit for an individual starting to receive benefits at ages other than those listed above can be determined by applying the PBGC's regulation on computation of maximum guaranteeable benefits (29 CFR § 2621.4).

Issued in Washington, DC, this 13th day of May, 1996.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 96–12335 Filed 5–15–96; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 585

Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb–Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations; Suspension of Sanctions Against the Bosnian Serbs

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: This rule amends the Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb–Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations to authorize prospectively all transactions with respect to property and interests in property of the Bosnian Serb forces and authorities and any dealing by U.S. persons relating to trade with or in, and the exportation of services to, the areas of the Republic of Bosnia and Herzegovina that the Bosnian Serb forces control.

EFFECTIVE DATE: May 10, 1996.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing, tel.: 202/622–2480, Dennis P. Wood, Chief of Compliance Programs, tel.: 202/622–2490, or William B. Hoffman, Chief Counsel, tel.: 202/622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the **Federal Register**. By modem, dial 202/512–1387 and type "/GO FAC," or call 202/512–1530 for disk or paper copies. This file is available for downloading without charge in WordPerfect 5.1, ASCII, and Adobe Acrobat™ readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web (Home Page), Telnet, or FTP protocol is: fedbbs.access.gpo.gov. The document is also accessible for downloading in ASCII format without charge from Treasury's Electronic Library ("TEL") in the "Business, Trade and Labor Mall" of the FedWorld bulletin board. By modem, dial 703/321–3339, and select the appropriate self–expanding file in TEL. For Internet access, use one of the following protocols: Telnet = fedworld.gov (192.239.93.3); World Wide Web (Home Page) = http://www.fedworld.gov; FTP = ftp.fedworld.gov (192.239.92.205). Additional information concerning the programs of the Office of Foreign Assets Control is available for downloading from the Office's Internet Home Page: http://www.ustreas.gov/treasury/services/fac/fac.html, or in fax form through the Office's 24–hour fax–on–demand service: call 202/622–0077 using a fax machine, fax modem, or touch tone telephone.

Background

On January 16, 1996, the Treasury Department suspended prospectively sanctions imposed against the Federal Republic of Yugoslavia (Serbia and Montenegro) (the "FRY (S&M)"). Sanctions against the Bosnian Serb forces and authorities and the areas of the Republic of Bosnia and Herzegovina that they control were to remain in effect until their troop withdrawal to agreed borders, consistent with the General Framework Agreement for Peace in Bosnia and Herzegovina and the Annexes thereto (collectively the "Peace Agreement"), which was initialled on November 21, 1995, and signed on December 4, 1995, and with paragraph 2 of United Nations Security Council Resolution 1022 of November 22, 1995 (the "Resolution").

On February 26, in keeping with paragraph 2 of the Resolution, the United Nations Secretary–General transmitted to the Security Council the report of the commander of the international force deployed in accordance with the Peace Agreement stating that all Bosnian Serb forces had withdrawn behind the zones of separation established by that Agreement. Accordingly, the Office of Foreign Assets Control is amending the Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb–Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations, 31 CFR part 585 (the "Regulations"), by adding § 585.527 to the Regulations to authorize prospectively those transactions previously prohibited with respect to the Bosnian Serb forces and authorities and entities organized or located in those areas of the Republic of Bosnia and Herzegovina under their control; entities owned or controlled directly or indirectly by any person in, or resident in, those areas; and any person acting for or on behalf of any of the foregoing. U.S. persons are also authorized to engage in transactions involving the areas of the Republic of Bosnia and Herzegovina under the control of the Bosnian Serb forces, and services may be exported either from the United States or by U.S. persons to those areas. Property and interests in property previously blocked due to an interest of any person described in § 585.201 remain blocked.

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601–612, does not apply.

List of Subjects in 31 CFR Part 585

Administrative practice and procedure, Banks, banking, Blocking of assets, Bosnia and Herzegovina, Foreign investments in United States, Foreign trade, Penalties, Reporting and recordkeeping requirements, Securities, Specially designated nationals, Transportation, Yugoslavia.

For the reasons set forth in the preamble, 31 CFR part 585 is amended as set forth below:

1. The authority citation for part 585 continues to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 287c; 49 U.S.C. App. 1514; 50 U.S.C. 1601–1651; 50 U.S.C. 1701–1706; E.O. 12808, 57 FR 23299, 3 CFR, 1992 Comp., p. 305; E.O. 12810, 57 FR 24347, 3 CFR, 1992 Comp., p. 307; E.O. 12831, 58 FR 5253, 3 CFR, 1993 Comp., p. 576; E.O. 12846, 58 FR 25771, 3 CFR, 1993 Comp., p. 599; E.O. 12934, 59 FR 54117, 3 CFR, 1994 Comp., p. 930.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

2. Section 585.527 is added to subpart E to read as follows:

§ 585.527 Authorization of certain new transactions with respect to the Bosnian Serbs.

(a) Notwithstanding the provisions of subpart B of this part, transactions and activities otherwise prohibited by §§ 585.201(c) (blocked property), 585.217(b) (entry of U.S. vessels into riverine ports), 585.218(a) (insofar as that paragraph relates to trade in Bosnian Serb–controlled areas of Bosnia and Herzegovina), and 585.218(b) (services to Bosnian Serb–controlled areas), are hereby authorized on or after May 10, 1996, provided that no such transaction results in a debit to an account blocked prior to May 10, 1996, or a transfer of property blocked prior to May 10, 1996, unless such debit or transfer is independently authorized by or pursuant to this part.

(b) The authorizations contained in this section do not eliminate the need to comply with regulatory requirements not administered by the Office of Foreign Assets Control, including aviation, financial and trade requirements administered by other federal agencies.

Dated: April 23, 1996.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: May 2, 1996.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff & Law Enforcement).

[FR Doc. 96–12227 Filed 5–10–96; 3:39 pm]

BILLING CODE 4810–25–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–96–021]

RIN 2115–AA97

Safety Zone: USS JOHN F. KENNEDY, Fleet Week 1996, Port of NY and NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone on May 22, 1996, and May 29, 1996, and May 29, 1996, for the arrival and departure of the USS JOHN F. KENNEDY during Fleet Week 1996. This moving safety zone includes all waters 500 yards fore and aft, and 200 yards on each side of the USS JOHN F. KENNEDY as the vessel enters and departs the Port of New York and New Jersey.

EFFECTIVE DATE: This rule is effective on May 22, 1996, from 7 a.m. until 1 p.m., and on May 29, 1996, from 7:30 a.m. until 12:01 p.m., unless extended or terminated sooner by the Coast Guard Captain of the Port, New York.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander R. Trabocchi, Chief, Coordination and Analysis Branch, Waterways Management Division, Coast Guard Activities New York, (212) 668–7906.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM, and for making this regulation effective less than 30 days after **Federal Register** publication. Due to the date that specific, detailed information on the arrival and departure plans of the USS JOHN F. KENNEDY's visit to New York City was made available to the Coast Guard, there was insufficient time to draft and publish an NPRM. Immediate action is needed to protect the maritime public from the hazards associated with a large vessel with limited manueverability transisting the Port of New York and New Jersey.

Background and Purpose

The Intrepid Museum Foundation is sponsoring the Fleet Week 1996 Parade of Ships. The USS JOHN F. KENNEDY has been designated as the Fleet Week Flagship and will be entering the Port of New York and New Jersey on May 22, 1996, to participate in the parade. USS JOHN F. KENNEDY intends to depart the Port of New York and New Jersey following the completion of Fleet Week 1996 on May 29, 1996. This regulation will be effective during the arrival and departure of the USS JOHN F. KENNEDY on May 22, 1996, from 7 a.m. until 1 p.m., and on May 29, 1996, from 7:30 a.m. until 12:01 p.m. unless extended or terminated sooner by the Coast Guard Captain of the Port, New York. This regulation establishes a moving safety zone within 500 yards fore and aft and 200 yards on each side of the USS JOHN F. KENNEDY as it transits the Port of New York and New Jersey between Ambrose Channel Lighted Whistle Buoy "A", at or near 40°28.8′ N latitude, 73°53.7′ W longitude (NAD 1983), and Pier 88, Manhattan, New York, exclusive of the time it is transiting as part of the Fleet Week 1996 Parade of Ships on May 22, 1996. This moving safety zone is maintained while the vessel is at anchor in Federal Anchorage 23A on May 22, 1996; however, while at anchor the moving safety zone is reduced to a radius of 300 yards around the vessel. No vessels will be permitted to enter or move within this moving safety zone unless authorized by the Captain of the Port, New York.

This regulation is needed to protect the maritime public from possible hazards to navigation associated with a large naval vessel transiting the Port of New York and New Jersey with limited maneuverability in restricted waters. It provides a clear traffic lane in order for the USS JOHN F. KENNEDY to safely navigate to and from its berth.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that

a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This moving safety zone will prevent vessels from transiting portions of Upper New York Bay and the Hudson River in the Port of New York and New Jersey on Wednesday, May 22, 1996, and Wednesday, May 29, 1996. Although there is a regular flow of traffic through this area, there is not likely to be a significant impact on recreational or commercial traffic for several reasons: due to the moving nature of the safety zone, no single location will be affected for a prolonged period of time; the safety zone distances are less than the typical safe passage distances normally required for large vessels and aircraft carriers; vessels can transit on either side of the safety zone; and alternate routes are available to commercial and recreational vessels that can safely transit the Harlem and East Rivers, Kill Van Kull, Arthur Kill, and Buttermilk Channel. Similar safety zones have been established in the past for the arrival and departure of large naval vessels with minimal or no disruption to vessel traffic or other interests in the port. In addition extensive, advance advisories will be made to the maritime community so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of this rule. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For reasons set forth in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq).*

Federalism

The Coast Guard analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of the rule and concluded that, under 2.B.2.e. (34)(g) of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29, 1994), this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

For reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 2.46.

2. A temporary section, 165.T01/021, is added to read as follows:

§ 165.T01–021 Safety Zone: USS JOHN F. KENNEDY, Fleet Week 1996, Port of New York and New Jersey.

(a) *Location:* (1) This moving safety zone includes all waters within 500 yards fore and aft and 200 yards on each side of the USS JOHN F. KENNEDY as it transits the Port of New York and New Jersey between Ambrose Channel Lighted Whistle Buoy "A", at or near 40°28.8′N latitude, 73°53.7′W longitude (NAD 1983), and Pier 88, Manhattan, New York, exclusive of the time it is transiting as part of the Fleet Week 2996 Parade of Ships.

(2) This moving safety zone is reduced to a radius of 300 yards around the vessel while the vessel is at anchor in Federal Anchorage 23A on May 22, 1996.

(b) *Effective period.* This section is effective on May 22, 1996, from 7 a.m. until 1 p.m., and on May 29, 1996, from 7:30 a.m. until 12:01 p.m., unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply to this safety zone.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 6, 1996.

T.H. Gilmour,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 96–12257 Filed 5–15–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD01–96–028]

RIN 2115–AA97

Safety Zone: National Ethnic Coalition of Organizations Fireworks, Upper New York Bay, NY and NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the National Ethnic Coalition of Organizations' fireworks program located in Upper New York Bay, New York and New Jersey. The safety zone is in effect from 10:15 p.m. until 11:30 p.m. on Sunday, May 19, 1996. The safety zone temporarily closes all waters of Upper New York Bay within a 300 yard radius of a fireworks barge anchored approximately 300 yards east of Liberty Island, New York.

EFFECTIVE DATE: This rule is effective from 10:15 p.m. until 11:30 p.m. on Sunday, May 19, 1996, unless extended or terminated sooner by the Captain of the Port, New York.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) C. Stevens, Coordination and Analysis Branch, Coast Guard Activities New York, at (212) 668–7906.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Due to the date the application for this event was received, there was insufficient time to draft and published an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to protect the maritime public from the hazards associated with fireworks exploding from a barge in the waters of Upper New York Bay.

Background and Purpose

On April 16, 1996, Fireworks by Grucci, Inc., submitted an Application for Approval of Marine Event to hold a fireworks program on the waters of Upper New York Bay in Federal Anchorage 20C. The fireworks program is being sponsored by the National Ethnic Coalition of Organizations. This regulation establishes a temporary safety zone in all waters of Upper New York Bay within a 300 yard radius of the fireworks barge anchored approximately 300 yards east Liberty Island, New York, at approximately 40°41′18″ N latitude, 074°02′25″ W longitude (NAD 1983). The safety zone is in effect fro 10:15 p.m. until 11:30 p.m. on May 19, 1996, unless extended or terminated sooner by the Captain of the Port, New York. The safety zone prevents vessels from transiting this portion of the Upper New York Bay, adjacent to the eastern shoreline of Liberty Island, and is needed to project mariners from the hazards associated with fireworks exploding from a barge in the area.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This regulation closes a portion of Upper New York Bay off of Liberty Island, New York, in Federal Anchorage 20C, to vessel traffic from 10:15 p.m. until 11:30 p.m. on May 19, 1996, unless extended or terminated sooner by the Captain of the Port, New York. Federal Anchorage 20C is mainly used by commercial sightseeing vessels and recreational vessels. Although the regulation prevents traffic from transiting this area, the effect of the regulation will not be significant for several reasons: the duration of the event is limited; the event is at a late hour; the zone is located within a Federal Anchorage and does not impact a navigable channel; vessel traffic may safely pass to the east of this area; and the extensive, advance advisories which will be made. Accordingly, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are not independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For reasons set forth in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. (34)(g) of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29, 1994), the promulgation of this regulation is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

For reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary section 165.T01–028, is added to read as follows:

§ 165.T01–028 Safety Zone: National Ethnic Coalition of Organizations Fireworks, Upper New York Bay, New York and New Jersey.

(a) *Location.* The waters of Upper New York Bay within a 300 yard radius of the fireworks barge anchored approximately 300 yards east of Liberty Island, New York, in Federal Anchorage 20C, at approximately 40°41′18″ N latitude, 074°02′25″ W longitude (NAD 1983).

(b) *Effective period.* This section is effective from 10:15 p.m. until 11:30 p.m. on May 19, 1996, unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 6, 1996.

T. H. Gilmour,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 96–12258 Filed 5–15–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD01–96–013]

RIN 2115–AA97

Safety Zone: Fleet Week 1996 Parade of Ships, Port of New York and New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone on May 22, 1996, for the Fleet Week 1996 Parade of Ships. This moving safety zone includes all waters 500 yards fore and aft, and 200 yards on each side of the designated column of parade vessels as it transits the Port of New York and New Jersey.

EFFECTIVE DATE: This rule is effective from 9:45 a.m. to 4:30 p.m. on Wednesday, May 22, 1996, unless extended or terminated sooner by the Coast Guard Captain of the Port, New York.

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FOR FURTHER INFORMATION CONTACT: Lieutenant Commander R. Trabocchi, Chief, Coordination and Analysis Branch, Waterways Management Division, Coast Guard Activities, New York, (212) 668–7906.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM, and for making this regulation effective less than 30 days after **Federal Register** publication. Due to the date that specific, detailed information on the arrival and departure plans of the naval vessels visiting New York City was made available to the Coast Guard, there was insufficient time to draft and publish an NPRM. Immediate action is needed to protect the maritime public from the hazards associated with large naval vessels transiting the Port of New York and New Jersey in close proximity.

Background and Purpose

The Intrepid Museum Foundation is sponsoring a parade of U.S. Coast Guard, U.S. Navy, and foreign naval ships through the Port of New York and New Jersey on May 22, 1996. This regulation establishes a moving safety zone to include all waters 500 yards forward of the lead parade vessel, 500 yards aft of the last parade vessel, and 200 yards on each side of the designated column of parade vessels as it transits the Port of New York and New Jersey between the Verrazano Narrows Bridge and the waters of the Hudson River west of Riverbank State Bank, between West 137th and West 144th Streets, Manhattan, New York. As the vessels turn in the waters west of Riverbank State Park and proceed southbound in the Hudson River, the moving safety zone will expand to include all waters within a 200 yard radius of each vessel from its turning point until it is safety berthed at various locations within the Port of New York and New Jersey. The safety zone will also expand briefly to include the waters of the Hudson River between Piers 84 and 88, Manhattan, New York, from the parade vessel column east to the Manhattan shoreline as the column passes in front of Piers 84 through 88. The purposes of this expansion is to allow the public an obstructed view of the parade from the pierside reviewing stand. This regulation is effective from 9:45 a.m. to 4:30 p.m. on May 22, 1996, unless extended or terminated sooner by the Coast Guard Captain of the Port, New York. No vessel will be permitted to enter or move within this safety zone unless authorized by the Captain of the Port, New York.

This regulation is needed to protect the maritime public from possible hazards to navigation associated with a parade of naval vessels transiting the waters of New York harbor in close proximity. These vessels have limited maneuverability and require a clear traffic lane to safety navigate.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) for the regulatory policies and procedures of DOT is unnecessary. This moving safety zone prevents vessels from transiting portions of Upper New York Bay and the Hudson River in the Port of New York and New Jersey on Wednesday, May 22, 1996. Although there is a regular flow or traffic through this area, there is not likely to be a significant impact on recreational or commercial vessel traffic for several reasons: Due to the moving nature of the safety zone, no single location will be affected for a prolonged period of time; commercial and recreational vessels could transit on either side of the moving safety zone except along the Manhattan side between Piers 84 and 88 as the parade passes in front of these Piers; and alternate routes are available for commercial and recreational vessels that can safety navigate the Harlem and East Rivers, Kill Van Kull, Arthur Kill, and Buttermilk Channel. Similar safety zones have been established for several past Fleet Week parades of ships and minimal or no disruption to vessel traffic or other interests in the port. In addition, extensive, advance notifications will be made to the maritime community so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of this rule. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For reasons set forth in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have significant impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of the rule and concluded that, under 2.B.2.e.(34)(g) of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29, 1994), this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

For reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary section, 165.T01–013, is added to read as follows:

§ 165.T01–013 Safety Zone: Fleet Week 1996 Parade of Ships, Port of New York and New Jersey.

(a) Location.

(1) This moving safety zone includes all waters within 500 yards forward of the lead parade vessel, 500 yards aft of the last parade vessel, and 200 yards on each side of the designated column of parade vessels as it transits between the Verrazano Narrows Bridge and the waters of the Hudson River west of Riverbank State Park, between West 137th and West 144th Streets, Manhattan, New York.

(2) The moving safety zone includes all waters within a 200 yard radius of each parade vessel from its turning point near Riverbank State Park until the vessel is safely berthed at various locations in the Port of New York and New Jersey.

(3) The safety zone includes all waters of the Hudson River Piers 84 and 88, Manhattan, New York, from the parade vessel column east to the Manhattan shoreline as the column passes in front of Piers 84 through 88.

(b) *Effective period.* This section is effective from 9:45 a.m. to 4:30 p.m. on May 22, 1996, unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply to this safety zone.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 6, 1996.

T.H. Gilmour,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 96–12259 Filed 5–15–96; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[CGD01–96–020]

RIN 2115–AA97

Safety Zone: Greenwood Lake Powerboat Race, Greenwood Lake, NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for a powerboat race located on Greenwood Lake, New Jersey. This safety zone is in effect from 10 a.m. until 7 p.m. on Saturday, May 18, and Sunday, May 19, 1996. The safety zone temporarily closes a southern portion of Greenwood Lake to protect racing participants and spectator craft from the hazards associated with high speed powerboat racing.

EFFECTIVE DATE: This rule is effective from 10 a.m. until 7 p.m. on May 18, and May 19, 1996 unless extended or terminated sooner by the Captain of the Port, New York.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander R. Trabocchi, Chief, Coordination and Analysis Branch, Waterways Management Division, Coast Guard Activities New York (212) 668–7906.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Due to the date the application for the event was received, there was insufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to close this waterway and protect the maritime public from the hazards associated with high speed power boats racing in confined waters.

Background and Purpose

The Greenwood Lake Powerboat Association and the West Milford Chamber of Commerce submitted an Application For Approval of Marine Event to hold a powerboat race on the waters of Greenwood Lake. This safety zone encompasses a southern portion of Greenwood Lake, New Jersey, shore to shore, south of latitude 41°09′ N, and north of latitude 41°08′ N (NAD 1983). The safety zone is rectangular in shape with the northern and southern boundaries marked by four temporary buoys. The safety zone is in effect from 10 a.m. until 7 p.m. on May 18, and May 19, 1996, unless extended or terminated sooner by the Captain of the Port, New York. This safety zone precludes all vessels not participating in the event from transiting this portion of Greenwood Lake and is needed to protect mariners from the hazards associated with high speed powerboats racing in confined waters. Participating vessels include race participants and race committee craft. All other vessels, swimmers, and personal watercraft of any nature are precluded from entering or moving within the safety zone.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This safety zone closes a one mile segment in the southern portion of Greenwood Lake to all vessel traffic from 10 a.m. until 7 p.m. on May 18, and May 19, 1996, unless extended or terminated sooner by the Captain of the Port, New York. Although this regulation prevents traffic from transiting this area, the effect of this regulation will not be significant for several reasons: the limited duration of the race, the event is taking place on an inland lake which has no commercial traffic, this is annual event with local support, and the notifications that will be made to the maritime community via local notices to mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) government jurisdictions with populations less than 50,000.

For the reasons given in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under section

2.B.2.e.(34)(g) of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994), the promulgation of this regulation is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

For reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary section 165.T01–020, is added to read as follows:

§ 165.T01–020 Safety Zone: Greenwood Lake Powerboat Race, Greenwood Lake, New Jersey.

(a) *Location.* The waters of Greenwood Lake, New Jersey, shore to shore, south of latitude 41°09′N, and north of latitude 41°08′N (NAD 1983).

(b) *Effective period.* This section is effective from 10 a.m. until 7 p.m. on May 18, and May 19, 1996, unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations.*

(1) The general regulations contained in 33 C.F.R. 165.23 apply to this safety zone.

(2) Vessels not participating in this event, swimmers, and personal watercraft or any nature are precluded from entering or moving within the safety zone.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 6, 1996.

T.H. Gilmour,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 96–12260 Filed 5–15–96; 8:45 am]

BILLING CODE 4910–14–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1228

RIN 3095–AA65

Disposition of Federal Records; Correction

AGENCY: National Archives and Records Administration (NARA).

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final rule published on Thursday, May 2, 1996. The regulation requires agencies to reimburse NARA for certain records maintained in Federal records centers that have exceeded the authorized disposal date. The corrections are technical in nature and do not substantively change the provisions of the rule.

EFFECTIVE DATE: June 3, 1996.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at 301–713–6730, extension 226.

SUPPLEMENTARY INFORMATION: As published, the final rule contains an error in the numbering of paragraphs in § 1228.54 and omits in several places an article or punctuation that adds clarity to the sentences.

Accordingly, the publication on May 2, 1996 (61 FR 19552) of the final rule which was the subject of FR Doc. 96–10888 is corrected as follows:

§ 1228.32 [Corrected]

On page 19554, in the second column, in the fifth line of paragraph (a) of § 1228.32, the word "an" is inserted after the word "in" so that the line reads "in an approved SF 115 are automatically".

§ 1228.54 [Corrected]

1. On page 19554, in the third column, in the eleventh line of paragraph (g) of § 1228.54, a comma is inserted after the first word so that the line reads "reason, the agency wishes to retain."

2. On page 19554, in the third column, in § 1228.54(h) the second paragraph designated as "(2)" and the paragraph designated as "(3)" are corrected to be designated "(3)" and "(4)", respectively.

3. In the second line of corrected paragraph (h)(3), the word "a" is inserted before the word "temporary" so that the line reads "agree that a temporary extension is".

Dated: May 9, 1996.

Nancy Y. Allard,

Alternate Federal Register Liaison.

[FR Doc. 96–12249 Filed 5–15–96; 8:45 am]

BILLING CODE 7515–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH90–1–7255a; FRL–5500–5]

Approval and Promulgation of Implementation Plan; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: This document conditionally approves a revision to the Ohio State Implementation Plan (SIP) to meet the requirements of the USEPA transportation conformity rule. The transportation conformity SIP revisions enable the State of Ohio to implement and enforce the Federal transportation conformity requirements at the State or local level. The Federal transportation conformity rule has been amended twice since the original 1993 publication, and the Ohio SIP will need to be amended to accommodate the changes. The purpose of transportation conformity is to assure that transportation plans, programs and projects, approved by the United States Department of Transportation conform to the purpose of the SIP to attain and maintain the public health based air quality standards. The rationale for this conditional approval and other information are provided in this document.

DATES: This "direct final" rule is effective on July 15, 1996, unless USEPA receives adverse or critical comments by June 17, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the SIP revision are available for inspection at the following address: (It is recommended that you telephone Patricia Morris at (312) 353–8656 before visiting the Region 5 Office.)

United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 353–8656.

SUPPLEMENTARY INFORMATION:

I. Background

Conformity provisions first appeared in the Clean Air Act (CAA) amendments of 1977 (Public Law 95–95). Although these provisions did not specifically define conformity, they provided that no Federal department could engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which did not conform to a SIP which has been approved or promulgated.

The CAA Amendments of 1990 expanded the scope and content of the conformity provisions by defining conformity to an implementation plan. Conformity is defined in section 176(c) of the CAA as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards and achieving expeditious attainment of such standards, and that such activities will not: (1) cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The CAA requires USEPA to promulgate criteria and procedures for determining conformity of all Federal actions (transportation and general) to a SIP (42 U.S.C. 7506(c)). The USEPA published the final transportation conformity rules in the **Federal Register** on November 24, 1993, and codified them at 40 CFR part 51, subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. The conformity rules require the States and local agencies to adopt and submit a transportation conformity SIP revision to the USEPA not later than November 24, 1994 (40 CFR 51.396). This document does not address the conformity requirements of general Federal actions as required pursuant to 40 CFR part 51, subpart W. USEPA intends to take action on these requirements in a separate document.

The federal transportation conformity rule was subsequently amended on August 8, 1995, and again on November 14, 1995. The November 14, 1995, amendments allow 12 months from November 14, 1995, or until November 14, 1996 for States to submit a transportation conformity SIP revision consistent with these amendments. The submittal approved in this document is not consistent with these November 14, 1995, federal conformity amendments. However, Ohio has committed to submit another transportation conformity SIP revision consistent with these recent amendments by November 14, 1996. The OEPA has formalized their commitment in a letter dated April 1, 1996, incorporated herein by reference.

II. Evaluation of State Submittal

Pursuant to the requirements under section 176(c)(4)(C) of the Clean Air Act, the Ohio Environmental Protection Agency (OEPA) submitted a SIP revision to the USEPA on August 17, 1995. This submittal was found to be complete on October 5, 1995. In its submittal, the State adopted State rules to meet the requirements of 40 CFR part 51, subpart T, as published on November 24, 1993. Transportation conformity is required for all nonattainment or maintenance areas for any transportation related criteria pollutants (40 CFR 51.394 (b)).

The State of Ohio currently has 28 counties which are ozone nonattainment or ozone maintenance areas. The areas are identified as follows: Toledo area (Lucas and Wood Counties), Cleveland/Akron area (Lorain, Cuyahoga, Medina, Summit, Portage, Geauga, Lake, and Ashtabula Counties), Youngstown area (Trumbull and Mahoning Counties), Canton (Stark County), Columbus (Franklin, Delaware and Licking Counties), Cincinnati (Hamilton, Butler, Clermont, and Warren Counties), Dayton (Preble, Montgomery, and Greene Counties), Springfield (Miami and Clark Counties), and Clinton County, and Columbiana County, and Jefferson County. In addition to the ozone nonattainment and maintenance areas, Cuyahoga County is also maintenance for carbon monoxide.

Section 51.396 of the final transportation conformity rule requires that the majority of the Federal rules be incorporated in verbatim form, with only a few exceptions. In addition, the rule states that the State rules can not be more stringent than the Federal rules unless the conformity provisions "apply equally to non-Federal as well as Federal entities" (40 CFR 51.396(a)).

The OEPA held a public hearing on the transportation conformity submittal on May 25, 1995. One comment was received by the OEPA and was addressed in the submittal.

Consultation

The Federal rules require the SIPs to include processes and procedures for interagency consultation among the Federal, State, and local agencies and resolution of conflicts in accordance with the criteria set forth in 40 CFR 51.402. Specifically, to implement the requirements of § 51.402, the SIP revisions must include processes and procedures to be undertaken by Metropolitan Planning Organizations (MPOs), State Department of Transportation (DOT), and the United States Department of Transportation (USDOT) with State and local air quality agencies and USEPA before making conformity determinations, and by State and local air quality agencies and USEPA with MPOs, State Department of transportation, and USDOT in developing applicable SIPs.

The consultation portion of the SIP is among the exceptions which are not required to be incorporated in verbatim form. The consultation section requires State and local (where applicable) air quality agencies to develop their own consultation rules.

In order to satisfy these consultation requirements, the OEPA developed consultation procedures by using the requirements of 40 CFR 51.402 and 23 CFR 450 (the metropolitan planning regulations), and by integrating the local procedures and processes into the final consultation rule. The consultation procedures outline the roles and responsibilities of each of the responsible agencies for the process for determining conformity. The consultation procedures further document the process of conflict resolution in the transportation conformity process, implementing the public participation process, and the documentation to be submitted in a conformity determination. The conformity SIP revision submitted has adequately addressed all provisions of 40 CFR 51.402 and has met the USEPA SIP requirements.

Verbatim Sections and Amendments to the Federal Rule

Section 51.396 of transportation conformity rule states that to be approved by the USEPA, the SIP revision submitted to USEPA must "address all requirements of this subpart in a manner which gives them full legal effect". In particular, the revision shall incorporate the provisions of the following sections in verbatim form, except insofar as needed to give

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effect to a stated intent in the revision to establish criteria and procedure more stringent than the requirements stated in these sections: 51.392, 51.394, 51.398, 51.400, 51.404, 51.410, 51.412, 51.414, 51.416, 51.418, 51.420, 51.422, 51.424, 51.426, 51.428, 51.430, 51.432, 51.434, 51.436, 51.438, 51.440, 51.442, 51.444, 51.446, 51.448, 51.450, 51.460, and 51.462." The State of Ohio submittal incorporated all of the above sections in verbatim form following the November 24, 1993, version of the Federal rules, with only clarifying changes.

It should be noted, however, that on February 8, 1995, USEPA promulgated an interim final rule that amended certain provisions of 40 CFR 51.448 in the Federal transportation conformity rules. The rule was made permanent with an August 7, 1995, final rule (60 FR 40098) after the USEPA took public comment on the interim final rule. On November 14, 1995, the USEPA finalized a second set of amendments to the conformity rule. It has not been USEPA's policy to approve sections into the SIP where major inconsistencies exist between the submittal and the final transportation conformity rule in terms of the portions that are required to be verbatim. In some cases where the difference is minor and has no weakening effect, the USEPA can approve the State rule. However, in cases where the State rule is more stringent, § 51.396 requires that the "State's conformity provisions apply equally to non-Federal as well as Federal entities." The second set of amendments allows States until November 14, 1996, to revise the State conformity SIP to comply with the Federal changes.

The USEPA believes that the OEPA has complied with the SIP requirements and has adopted the Federal rules which were in effect at the time that the transportation conformity SIP was due to the USEPA. The OEPA in no way intentionally adopted rules that were not in verbatim form or more stringent than the Federal rule. Therefore, it would be unreasonable to discredit the agency's good faith effort in submitting the transportation conformity SIP and disapprove the State's SIP. The OEPA will be required to submit a SIP revision in the near future to incorporate the amended portions of the Federal transportation conformity rules and has committed to do so in its April 1, 1996, letter.

The first set of amendments (60 FR 40098–60 FR 40101) significantly revises § 51.448, to align the timing of the transportation improvement program (TIP) lapsing provisions in cases of state air quality planning failures with the imposition of Clean Air Act highway sanctions. In the case of a conformity lapse, transportation projects could not be approved or funded by the USDOT unless they were listed as exempt. A conformity lapse is similar to a highway sanction in that it can stop highway projects from being funded. The Ohio rule has not yet incorporated this change and therefore is different and in this case, more stringent than the current Federal transportation conformity rule.

The second set of amendments in 60 FR 57179, make the following changes to the Federal conformity rule:

(1) transportation control measures (TCMs) from an approved SIP can proceed during a conformity lapse;

(2) further amends § 51.448 to align conformity lapses with the date of application of CAA highway sanctions for any failure to submit or submission of an incomplete control strategy SIP;

(3) extends the duration of the grace period for areas which must determine conformity to a submitted control strategy implementation plan;

(4) establishes a grace period before which transportation plan and program conformity must be determined in newly designated nonattainment areas; and

(5) corrects (or clarifies) the nitrogen oxides provisions of the transportation conformity rule consistent with the CAA so that a NO_X budget test is required in areas which have been granted a NO_X waiver (60 FR 57179).

These changes result in the Federal rule and the Ohio rule being different in sections that are required to be in verbatim form. However, the USEPA believes that conditional approval is appropriate in this situation. Although these changes may appear extensive, the difference from the Ohio rules should have little effect during the time period before the State amends the State conformity rules. Each of the changes are discussed individually below:

(1) TCM's in the approved SIPs: Ohio does not currently have TCMs in the approved SIP for the Ohio nonattainment and maintenance areas. Therefore, this change to the Federal rule will have no effect on the Ohio areas. However, any future selected contingency measures which may include TCMs would not be able to proceed in the case of a conformity lapse. If Ohio changes its rules by November 14, 1996, there should be very little effect on the Ohio areas.

(2) Lapsing Provisions: The extensive changes to the Federal rule in 40 CFR 51.448 make the Ohio rule more stringent than the Federal rule, as amended. Section 51.448 deals with the time period before a nonattainment area has an approved maintenance plan (the transition from the "interim period" to the "control strategy period"). Most of the Ohio areas have approved maintenance plans and are now in the control strategy period, and thus, are not affected by this section. The only area which is still in the interim period is the Cincinnati ozone nonattainment area. The Cincinnati area currently has a complete 15 percent rate of progress plan. Thus, this section would apply to the Cincinnati area only if the 15 percent plan or other control strategy plan were disapproved. Section 51.448(g)(2) applies to moderate ozone nonattainment areas using photochemical dispersion modeling to demonstrate reductions "even if the area has submitted the 15 percent emission reduction demonstration". However, the USEPA has not started any sanctions clocks due to a State's failure to submit as stated in § 51.448(b)(1) and therefore, the Cincinnati area is not a candidate for a conformity lapse under this section, nor under OAC 3745–101–13, at least not within the next 12 months.

The Federal conformity rule allows the State rule to be more stringent when the State rule applies equally to non-Federal projects. However, the Ohio rules do not extend to non-Federal projects. In the case of a conformity lapse, transportation plans, programs and projects could not be approved by USDOT. In some cases, non-Federal projects which are regionally significant and need a Federal action such as a National Environmental Protection Act (NEPA) decision would also be unapproved because of the need for a Federal action. In other cases, the non-Federal project could possibly proceed in the event of a lapse. In the case of Texas (60 FR 56244) and New Mexico (60 FR 56241), the Federal approval of State rules did not include the section corresponding to the Federal § 51.448. If USEPA were to approve this State provision, Ohio would have a transportation conformity rule more stringent than other areas of the nation. However, OEPA has committed to submit a SIP revision to address this issue by November 14, 1996.

(3) Extending the grace period for conformity to a submitted control strategy SIP: Extending the grace period for areas to determine conformity to a control strategy SIP is not expected to significantly affect the Ohio nonattainment and maintenance areas. Through excellent consultation procedures, the Ohio areas have participated in the control strategy mobile source budget development and it is USEPA's evaluation that the areas are aware of the need to show conformity to the budget where appropriate.

(4) Conformity for newly designated nonattainment areas: This change establishes a grace period for newly designated nonattainment areas. There are no newly designated nonattainment areas in the State of Ohio, nor does the USEPA anticipate newly designated nonattainment areas in the near future.

(5) Conformity to a NO_X budget in areas with a NO_x waiver: The correction (or clarification) of the need to show conformity to the NO_X mobile source budget in areas which have NO_X waivers is important to the many areas in Ohio which have been granted NO_X waivers. The Ohio conformity consultation process has already confirmed that the correct interpretation of the rule is to require a NO_X budget test in these areas. Therefore, although this clarification is important, the clarification in Ohio has been accomplished through the consultation process.

Therefore, the USEPA believes that the Ohio rules can be conditionally approved based on the State's commitment letter dated April 1, 1996, and the above analysis.

III. USEPA Action

The USEPA conditionally approves the Ohio transportation conformity SIP revision. This conditional approval is based, in part, on the State's commitment, submitted in a letter on April 1, 1996, to submit revised transportation conformity rules to incorporate the two amendments to the federal transportation conformity regulations. The State of Ohio committed to revise its transportation conformity rules by November 14, 1996. If the State ultimately fails to meet its commitment to meet these requirements within one year of final conditional approval, then USEPA's action for the State's requested SIP revision will automatically convert to a final disapproval. This conditional approval is consistent with USEPA's authority under section 110(k)(4) of the Act.

Because USEPA considers this action noncontroversial and routine, we are approving it without prior proposal. This action will become effective on July 15, 1996. However, if we receive adverse comments by June 17, 1996, EPA will publish a document that withdraws this action.

IV. Miscellaneous

A. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

B. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976).

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the USEPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, the USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

D. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Transportation conformity, Transportation-air quality planning, Volatile organic compounds.

Dated: April 19, 1996.

Valdas V. Adamkus,

Regional Administrator.

40 CFR part 52, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C 7401–7671q.

Subpart KK—Ohio

2. Section 52.1919 is amended by adding and reserving paragraph (a)(2) and by adding paragraph (a)(3) to read as follows:

§ 52.1919 Identification of plan-conditional Approval.

(a)* * *

(3) Conditional Approval—On August 17, 1995, the Ohio Environmental Protection Agency submitted a revision to the State Implementation Plan. The

submittal pertained to a plan for the implementation of the federal transportation conformity requirements at the State or local level in accordance with 40 CFR part 51, subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. This conditional approval is based, in part, on the State's commitment, submitted in a letter on April 1, 1996, to submit revised transportation conformity rules to incorporate the two amendments to the federal transportation conformity regulations. The State of Ohio committed to revise its transportation conformity rules by November 14, 1996. If the State ultimately fails to meet its commitment to meet these requirements within one year of final conditional approval, then USEPA's action for the State's requested SIP revision will automatically convert to a final disapproval.

(i) Incorporation by reference. August 1, 1995, Ohio Administrative Code Chapter 3745–101, effective August 21, 1995.

* * * * *

[FR Doc. 96–12357 Filed 5–15–96; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[PA 078–4019a; FRL–5467–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Source-Specific VOC and NO_X RACT and Synthetic Minor Permit Conditions, and 1990 Baseyear Emissions for one Source

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes and requires reasonably available control technology (RACT) on eleven major sources, establishes permit conditions to limit three sources' emissions to below major source levels, and establishes 1990 baseyear VOC and NO_X emissions for one source. This action affects a total of 14 sources. The intended effect of this action is to approve source-specific plan approvals, operating permits, and compliance permit and emission inventory figures for emission units at one source, which establish the above-mentioned requirements in accordance with the Clean Air Act. This action is being taken under section 110 of the Clean Air Act.

DATES: This action is effective July 1, 1996, unless notice is received on or before June 17, 1996, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Cynthia H. Stahl, (215) 597–9337, at the EPA Region III office or via e-mail at stahl.cynthia@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: On January 6, 1995, July 5, 1995 (as amended on November 22, 1995), August 1, 1995, and September 20, 1995, the Commonwealth of Pennsylvania submitted formal revisions to its State Implementation Plan (SIP). The SIP revisions that are the subject of this rulemaking consist of plan approvals, operating permits and a compliance permit for ten individual sources of volatile organic compounds (VOCs) and/or nitrogen oxides (NO_X) located in Pennsylvania. This rulemaking addresses the compliance permit and those plan approvals and operating permits pertaining to the following sources: (1) U.G.I. Utilities, Inc. (Luzerne Co.)—utility, (2) Solar Turbines (York Co.)—cogeneration facility, (3) Columbia Gas Transmission—Renovo Compressor Station (Clinton Co.)—natural gas compressor station, (4) National Fuel Gas Supply Corporation—East Fork Compressor Station (Potter Co.)—natural gas compressor station, (5) York Resource Energy Systems, Inc. (York Co.)—municipal waste combustion facility, (6) W.R. Grace & Co.—Formpac Division (Berks Co.)—expandable polystyrene blowing facility, (7) CNG Transmission—Cherry Tree Station (Indiana Co.)—natural gas transmission station, (8) EPC Power Corporation of Bethlehem—Crozer Chester Cogeneration plant (Delaware Co.)—cogeneration plant, (9) C–P Converters, Inc. (York Co.)—flexographic printing operation, (10) Fisher Scientific Co. International—Instrument Manufacturing Division (Indiana Co.). In addition, the permits containing provisions limiting source emissions to synthetic minor source levels (below RACT threshold level of 100 tons per year of potential NO_X emissions) are being approved for five sources: a) Adelphi Kitchens, Inc.—Robesonia factory (Berks Co.)—wood furniture coating operation, b) Birchcraft Kitchens, Inc. (Berks Co.)—wood furniture coating operation, and c) Glasgow, Inc.—Bridgeport asphalt plant (Montgomery Co.)—asphalt plant. In addition, on July 5, 1995 (as amended on November 22, 1995) and March 18, 1996, Pennsylvania submitted a RACT determination and 1990 baseyear emission inventory figures for General Glass—Jeannette Plant (Westmoreland Co.) for EPA approval into the Pennsylvania SIP. Therefore, this rulemaking will also address the approval of the RACT determination for the emission units at General Glass—Jeannette plant and the establishment of 1990 baseyear emissions for these emission units. The other plan approvals and operating permits submitted together with these being approved today will be addressed in another rulemaking notice.

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), Pennsylvania is required to implement RACT for all major VOC and NO_X sources by no later than May 31, 1995. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR), which is established by the CAA. The Pennsylvania portion of the Philadelphia ozone nonattainment area consists of Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties and is classified as severe. The remaining counties in Pennsylvania are classified as either moderate or marginal nonattainment areas or are designated attainment for ozone. However, under section 184 of the CAA, at a minimum, moderate ozone nonattainment area requirements (including RACT as specified in sections 182(b)(2) and 182(f)) apply throughout the OTR.

Therefore, RACT is applicable statewide in Pennsylvania.

The January 6, 1995, July 5, 1995 (as amended on November 22, 1995), August 1, 1995, and September 20, 1995 Pennsylvania submittals that are the subject of this notice, are meant to satisfy the RACT requirements for 11 sources in Pennsylvania and to limit the potential VOC emissions at three sources to below the major source size threshold in order to avoid the RACT requirement.

Summary of SIP Revision

The details of the RACT requirements for the source-specific plan approvals and operating permits can be found in the docket and accompanying technical support document and will not be reiterated in this document. Briefly, EPA is approving eight plan approvals, six operating permits and one compliance permit as RACT and three operating permits as revisions to the Pennsylvania SIP to limit three sources' emissions to below the major source threshold. Several of the plan approvals and operating permits contain conditions irrelevant to the determination of VOC or NO_X RACT. Consequently, these provisions are not being included in this approval for VOC or NO_X RACT. In addition, a correction to the Pittsburgh area 1990 baseyear emissions inventory for one source is being made through this rulemaking document.

RACT

EPA is approving the plan approval (PA 40–0005A) and operating permit (OP 40–0005) for U.G.I. Utilities, Inc., located in Luzerne County. U.G.I. Utilities, Inc. is a utility and is considered a major source of NO_X emissions. EPA is approving the plan approval (PA 67–2009) and compliance permit (CP 67–2009) for Solar Turbines. Inc., located in York County. Solar Turbines, Inc. is a cogeneration plant and is considered a major source of NO_X emissions. Included in Solar Turbines—RACT determination is a compliance date extension until December 31, 1997 for the installation of dual fuel dry low NO_X combustors on six natural gas turbines. EPA is approving the plan approval (PA 18–0001) and operating permit (OP 18–0001) for Columbia Gas Transmission Corporation—Renovo Compressor Station, located in Clinton County. Columbia Gas Transmission Corporation—Renovo Compressor Station is a natural gas compressor station and is considered a major source of NO_X emissions. EPA is approving the plan approval (PA 53–0007A) and operating permit (OP 53–0007) for National Fuel Gas Supply Corporation—East Fork Compressor Station, located in Potter County. National Fuel Gas Supply Corporation—East Fork Compressor Station is a natural gas compressor station and is considered a major source of NO_X emissions. EPA is approving the plan approval (PA 67–2006) for York Resource Enery Systems, Inc., located in York County. York Resource Enery Systems, Inc. is a municipal waste combustion facility and is considered a major source of NO_X emissions. EPA is approving the plan approvals (PA 06–1036 and PA 06–315–001) for W.R. Grace & Co.—Formpac Division, located in Berks County. W.R. Grace & Co.—Formpac Division is an expandable polystyrene foam product manufacturer and is considered a major source of VOC emissions. EPA is approving the plan approval (PA 32–000–303) for CNG Transmission Corporation—Cherry Tree Station, located in Indiana County. CNG Transmission Corporation—Cherry Tree Station is a natural gas compressor station and is considered a major source of NO_X emissions. EPA is approving the operating permit (OP 23–0007) for EPC Power Corporation of Bethlehem—Crozer-Chester Cogeneration plant, located in Delaware County. EPC Power Corporation of Bethlehem—Crozer-Chester Cogeneration plant is a cogeneration plant and is considered a major source of NO_X emissions. EPA is approving the operating permit (OP 67–2030) for C–P Converters, Inc., located in York County. C–P Converters, Inc. is a flexographic printing operation and is considered a major source of VOC emissions. EPA is approving the operating permit (OP 32–000–100) for Fisher Scientific Co. International—Instrument Manufacturing Division, located in Indiana County. Fisher Scientific Co. International—Instrument Manufacturing Division is a coater of laboratory instruments and is considered a major source of VOC emissions.

The specific emission limitations and other RACT requirements for these sources are summarized in the accompanying technical support document, which is available from the EPA Region III office.

Several of the plan approvals/operating permits contain a provision that allows for future changes to the emission limitations based on CEM or other monitoring data. Since EPA cannot approve emission limitations that are not currently before it, any changes to the emission limitations as submitted on January 6, 1995, July 5, 1995, August 1, 1995, and September 20, 1995 to EPA must be resubmitted to and approved by EPA in order for these changes to be incorporated into the Pennsylvania SIP. Consequently, the source-specific RACT emission limitations that are being approved into the Pennsylvania SIP are those that were submitted on the above-mentioned dates and are the subject of this rulemaking document. These emission limitations will remain part of the SIP unless and until a revised limitation is approved by EPA pursuant to 40 CFR part 51 and approved by the U.S. EPA. In addition, several of the plan approvals and operating permits contain a general provision that would allow compliance date extensions at the request of the source and approval by Pennsylvania without EPA approval. While EPA does not automatically rule out the possibility of compliance date extensions, EPA cannot pre-approve compliance date extensions that have not been submitted to it for review through such general provision.

In addition, EPA is establishing RACT for the glass furnace (No. 2) and kilns (#1 through 4) at the now shutdown General Glass—Jeannette plant. These sources represent the only NO_X emitting sources at the plant at the time of its shutdown on July 8, 1993. All of these sources ceased operation and had their permits revoked on July 8, 1993. RACT for these sources is determined to be no additional controls. The total post-RACT NO_X emissions (based on a three year average of operating conditions) for these sources is 518 tons per year. The 1990 baseyear VOC and NO_X emissions for the above-named sources are also being approved. The NO_X 1990 emissions from the glass melting furnace are 508.2 TPY. The NO_X 1990 emissions from the four kilns are 11.8 TPY. EPA is also using this document to recognize the 518 tons of NO_X per year emission reduction credits created by the shutdown of this plant.

Synthetic Minor Permits

EPA is approving the operating permit (OP 06–1001) for Adelphi Kitchens, Inc.—Robesonia factory, located in Berks County. Adelphi Kitchens, Inc.—Robesonia factory is a wood furniture manufacturing facility and had potential VOC emissions greater than 50 TPY. EPA is approving the operating permit (OP 06–1005) for Birchcraft Kitchens, Inc.—Reading factory, located in Berks County. Birchcraft Kitchens, Inc.—Reading factory is a wood furniture manufacturing facility and had potential VOC emissions greater than 50 TPY. The approval of the conditions in each of these facilities' respective permits will limit the emissions at those facilities to less than 50 TPY and would

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allow them to avoid being considered major VOC sources, subject to the major source RACT requirements of the Clean Air Act and the Pennsylvania regulation. EPA is also approving the operating permit (OP 46–0044) for Glasgow, Inc.—Bridgeport Asphalt Plant, located in Montgomery County. Glasgow, Inc.—Bridgeport Asphalt Plant is an asphalt plant and had potential VOC and NO_X emissions greater than 25 TPY. Montgomery County is part of the Philadelphia severe ozone nonattainment area, to which the more stringent 25 TPY major source threshold applies.

The technical support document contains the details of each of the RACT determinations, synthetic minor permit conditions, and 1990 baseyear emissions calculations. It is available at the EPA Region III office listed in the Addresses section of this document.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective July 1, 1996, unless, by June 17, 1996, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on July 1, 1996. If adverse comments are received that do not pertain to all documents subject to this rulemaking action, those documents not affected by the adverse comments will be finalized in the manner described here. Only those documents that receive adverse comments will be withdrawn in the manner described here.

Final Action

EPA is approving eight plan approvals, six operating permits, and one compliance permit as RACT for ten individual sources, three operating permits to limit emissions at three facilities to below major source levels, and the RACT determination and the 1990 baseyear emissions for the glass melting furnace and four kilns at General Glass—Jeannette plant.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, pertaining to the approval of eleven source-specific VOC and NO_X RACT determinations, three synthetic minor permits, and correction to the 1990 baseyear emissions inventory in Pennsylvania, must be filed in the United States Court of Appeals for the appropriate circuit by July 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: April 19, 1996.

W.T. Wisniewski,

Acing Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(108) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(108) Revisions to the Pennsylvania Regulations, Chapter 129.91 pertaining to VOC and NO_X RACT, submitted on January 6, 1995, July 5, 1995, July 31, 1995, August 1, 1995, September 20, 1995, November 22, 1995, and March 18, 1996 by the Pennsylvania Department of Environmental Resources (now known as the Pennsylvania Department of Environmental Protection):

(i) Incorporation by reference.

(A) Seven letters, dated January 6, 1995, July 5, 1995, July 31, 1995, August 1, 1995, September 20, 1995, November 22, 1995, and March 18, 1996 from the Pennsylvania Department of Environmental Resources (now known as the Pennsylvania Department of Environmental Protection) transmitting source specific VOC and/or NO_X RACT determinations in the form of plan approvals or operating permits for the following sources: U.G.I. Utilities, Inc. (Luzerne Co.)—utility, Solar Turbines (York Co.)—cogeneration facility, Columbia Gas Transmission—Renovo Compressor Station (Clinton Co.)—natural gas compressor station, National Fuel Gas Supply Corporation—East Fork Compressor Station (Potter Co.)—natural gas compressor station, York Resource Energy Systems, Inc. (York Co.)—municipal waste combustion facility, W.R. Grace & Co.—Formpac Division (Berks Co.)—expandable polystyrene blowing facility, CNG Transmission—Cherry Tree Station (Indiana Co.)—natural gas transmission station, EPC Power Corporation of Bethlehem (Delaware Co.)—Crozer Chester Cogeneration Plant, C-P Converters, Inc. (York Co.)—flexographic printing operation, Fisher Scientific Co. International—Instrument Manufacturing Division (Indiana Co.). In addition, the permits containing provisions limiting source emissions to synthetic minor sources levels (below RACT threshold level of 100 tons per year or 25 TPY of potential NO_X emissions and 50 TPY or 25 TPY for potential VOC emissions) are being approved for three sources: Adelphi Kitchens, Inc.—Robesonia factory (Berks Co.)—wood furniture coating operation, Birchcraft Kitchens, Inc.—Reading factory (Berks Co.)—wood furniture coating operation, and Glasgow, Inc.—Bridgeport Asphalt Plant (Montgomery Co.)—asphalt plant.

(B) Plan approvals (PA), Operating permits (OP), Compliance permit (CP):

(*1*) U.G.I. Utilities, Inc.—OP 40–0005, effective December 20, 1994 and PA 40–0005A, effective December 20, 1994, except the expiration date of the plan approval and conditions # 18, 19, and 20 pertaining to non-VOC or NO_X emissions and ash and waste oil requirements.

(*2*) Solar Turbines—PA 67–2009, effective August 17, 1995, except the expiration date of the plan approval and CP 67–2009, effective August 17, 1995, except the expiration date of the compliance permit.

(*3*) Columbia Gas Transmission—Renovo Compressor Station—OP 18–0001, effective July 18, 1995, except the expiration date of the operating permit and condition #8, pertaining to compliance date extensions and PA 18–0001, effective July 18, 1995, except the expiration date of the plan approval and condition #14, pertaining to compliance date extensions.

(*4*) National Fuel Gas Supply Corporation—East Fork Compressor Station—OP 53–0007, effective July 17, 1995, except the expiration date of the operating permit, including the corrections to condition #6 and 13 (from a letter dated July 31, 1995) and PA 53–0007A, effective July 17, 1995, except the expiration date of the plan approval.

(*5*) York Resource Energy Systems, Inc.—PA 67–2006, effective August 25, 1995, except the expiration date of the plan approval and the non-VOC or non-NO_X elements in conditions #4, 8, 9, 10 12, 18, and 19.

(*6*) W.R. Grace & Co.—Formpac Division—PA 06–1036, effective May 12, 1995, except the expiration date of the plan approval and condition #10 (d) and (e) pertaining to compliance date extensions and PA 06–315–001, effective June 4, 1992, except the expiration date of the plan approval.

(*7*) CNG Transmission Corporation—Cherry Tree Station—PA 32–000–303, effective July 5, 1995, except the expiration date of the plan approval, the elements in condition #6 pertaining to carbon monoxide, and condition #16 D. and E. pertaining to compliance date extensions.

(*8*) EPC Power Corporation of Bethlehem—Crozer Chester Cogeneration plant—OP 23–0007, effective June 8, 1995, except the expiration date of the operating permit.

(*9*) C–P Converters, Inc.—OP 67–2030, effective August 30, 1995, except the expiration date of the operating permit.

(*10*) Fisher Scientific—Instrument Manufacturing Division—OP 32–000–100, effective July 18, 1995, except the expiration date of the operating permit.

(*11*) Adelphi Kitchens, Inc.—Robesonia factory—OP 06–1001, effective April 4, 1995, except the expiration date of the operating permit.

(*12*) Birchcraft Kitchens, Inc.—Reading factory—OP 06–1005, effective April 4, 1995, except the expiration date of the operating permit.

(*13*) Glasgow, Inc.—Bridgeport Asphalt Plant—OP 46–0044, effective June 7, 1995, except the expiration date of the operating permit.

(ii) Additional material.

(A) Remainder of January 6, 1995, July 5, 1995, August 1, 1995, September 20, 1995, State submittals.

(B) Revision to the Pennsylvania SIP dated March 18, 1996, submitted by the Pennsylvania Department of Environmental Protection, pertaining to the 1990 emission inventory for General Glass—Jeannette, Westmoreland County.

3. Section 52.2037 is amended by adding paragraph (d) to read as follows:

§ 52.2037 Control Strategy: Carbon monoxide and ozone (hydrocarbons).

* * * * *

(d) NO_X RACT determination for the no. 2 glass melting furnace and the four kilns at the General Glass—Jeannette plant, which manufactured flat glass, is the current operation, consisting of no additional controls.

4. Section 52.2036 is amended by adding paragraph (c) to read as follows:

§ 52.2036 1990 Baseyear Emission Inventory.

* * * * *

(c) The 1990 NO_X emissions for the no. 2 glass melting furnace at the General Glass—Jeannette plant, located in Westmoreland County, Pennsylvania is 508.2 tons per year. Westmoreland County is part of the Pittsburgh moderate ozone nonattainment area. The 1990 NO_X emissions for the four kilns (no. 1 through 4) is 11.8 tons per year. This facility does not contain any other NO_X emitting units.

[FR Doc. 96–12355 Filed 5–15–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[OR47–11–7052a; FRL–5504–8]

Approval and Promulgation of Implementation Plans: Oregon

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Environmental Protection Agency (EPA) approves Oregon's Transportation conformity rules received on April 17, 1995, from the Oregon Department of Environmental Quality (ODEQ). The Clean Air Act (CAA or Act) requires the states to promulgate conformity rules to ensure that Federal actions conform to the appropriate State Implementation Plan (SIP). Conformity to a SIP is defined in the CAA, as amended in 1990, as meaning conformity to a SIP's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards (NAAQS) and achieving expeditious attainment of such standards. The Federal agency responsible for the action is required to determine if its actions conform to the applicable SIP.

DATES: This action is effective on July 15, 1996 unless adverse or critical comments are received by June 17, 1996. If the effective date is delayed,

timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, EPA Region 10, Office of Air Quality (OAQ–107), OR47–11–7052, 1200 Sixth Avenue, Seattle, WA 98101. Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA Region 10, Office of Air Quality, 1200 Sixth Avenue (OAQ–107), Seattle, WA 98101, and the Oregon Department of Environmental Quality, 811 S.W. 6th Avenue, Portland, OR 97204.

FOR FURTHER INFORMATION CONTACT: Wayne Elson, EPA Region 10, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–1463.

SUPPLEMENTARY INFORMATION:

I. Background

The CAA section 176(c), as amended (42 U.S.C. 7401 et seq.), requires states to submit to EPA revisions to their implementation plans establishing transportation and general conformity criteria and procedures. EPA regulation requires the states to submit SIP revisions by November 25, 1994, and November 30, 1994. These conformity rules are to ensure that all Federal actions conform to the appropriate SIP developed pursuant to section 110 and part D of the CAA. Conformity to a SIP is defined in the CAA, as amended in 1990, as meaning conformity to a SIP's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards (NAAQS) and achieving expeditious attainment of such standards, and that such activities will not:

1. Cause or contribute to any new violation of any standard in any area,
2. Increase the frequency or severity of any existing violation of any standard in any area, or
3. Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The CAA ties conformity to attainment and maintenance of the NAAQS. Thus, Federal actions must not adversely affect the timely attainment and maintenance of the NAAQS or emission reduction progress plans leading to attainment. The Federal agency responsible for the action is required to determine if its actions conform to the applicable SIP. The Oregon transportation conformity rule establishes the criteria and procedures governing the determination of conformity for all Federal actions in nonattainment or maintenance areas in the State of Oregon for Federal highway and transit actions. Therefore, the criteria and procedures established in this rule apply only in areas that are nonattainment or maintenance with respect to any of the criteria pollutants under the CAA: carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO_2), ozone (O_3), particulate matter (PM_{10}), and sulfur dioxide (SO_2). The rule covers direct and indirect emissions of criteria pollutants or their precursors that are reasonably foreseeable and caused by a Federal action.

The Oregon submittal contains transportation conformity regulations that are consistent with the CAA requirements. These regulations are at least as stringent as the Federal regulations and in some cases are more stringent. Oregon's regulations establish procedural requirements including interagency consultation procedures. They also require the responsible agency to make their conformity determinations available for public review. Notice of draft and final conformity determinations must be provided directly to air quality regulatory agencies and to the public by publication in a local newspaper. The conformity determination examines the impacts of the direct and indirect emissions from the Federal action. The regulations require the Federal action to also meet any applicable SIP requirements and emission milestones. Each Federal agency must determine that any actions covered by the rule conform to the applicable SIP before the action is taken.

The Oregon rule includes interagency consultation procedures which will occur during the development of transportation plans, transportation improvement programs, and State Implementation Plans, and before findings of conformity.

The rule includes a provision that "regionally significant" transportation projects meet the criteria of the rule regardless of the funding source (OAR 340–20–720 (42) and OAR 340–20–760). The determination of "regionally significant" projects will be made through interagency consultation with affected parties.

The rule includes reduced time frames for compliance with mobile source emissions budget once a maintenance SIP has been approved by the Oregon Environmental Quality Commission (EQC). The rule also includes reduced time frames for demonstrating timely implementation of transportation control measures (TCMs) once the EQC adopts a SIP revision which adds TCMs. The rule requires timely implementation of all TCMs identified as necessary to where attainment or maintenance of and air quality standard is jeopardized, regardless of their eligibility for Federal funding.

II. This Action

This Action approves Oregon Administrative Rule (OAR) Sections 340–2–700 to 1080 as an amendment to the Oregon SIP. Specifically these rules are as follows:

340–20–700 Title.
340–20–710 Purpose.
340–20–720 Definitions.
340–20–730 Applicability.
340–20–740 Priority.
340–20–750 Frequency of conformity determinations.
340–20–760 Consultation.
340–20–770 Content of transportation plans.
340–20–780 Relationship of transportation plan and TIP conformity with the NEPA process.
340–20–790 Fiscal constraints for transportation plans.
340–20–800 Criteria and procedures for determining conformity of transportation plans.
340–20–810 Criteria and procedures: Latest planning assumptions.
340–20–820 Criteria and procedures: Latest emissions model.
340–20–830 Criteria and procedures: Consultation.
340–20–840 Criteria and procedures: Timely implementation of TCMs.
340–20–850 Criteria and procedures: Currently conforming transportation plan and TIP.
340–20–860 Criteria and procedures: Projects from a plan and TIP.
340–20–870 Criteria and procedures: Localized CO and PM–10 violations (hot spots).
340–20–880 Criteria and procedures: Compliance with PM–10 control measures.
340–20–890 Motor vehicle emissions budget (transportation plan).
340–20–900 Criteria and procedures: Motor vehicle emissions budget (TIP).
340–20–910 Criteria and procedures: Motor vehicle emissions budget (project not from a plan and TIP).
340–20–920 Criteria and procedures: Localized CO violations (hot spots) in the interim period.
340–20–930 Criteria and procedures: Interim period reductions in ozone and CO areas (transportation plan).
340–20–940 Criteria and procedures: Interim period reductions in ozone and CO areas (TIP).
340–20–950 Criteria and procedures: Interim period reductions for ozone and CO areas (project not from a plan and TIP).
340–20–960 Criteria and procedures: Interim period reductions for PM–10 and NO2 areas (transportation plan).
340–20–970 Criteria and procedures: Interim period reductions for PM–10 and NO2 areas (TIP).
340–20–980 Criteria and procedures: Interim period reductions for PM–10 and NO2 areas (project not from a plan and TIP).
340–20–990 Transition from the interim period to the control strategy period.
340–20–1000 Requirements for the adoption or approval of projects by recipients of funds designated under title 23 U.S.C. or the Federal Transit Act.
340–20–1010 Procedures for determining regional transportation-related emissions.
340–20–1020 Procedures for determining localized CO and PM–10 concentrations (hot-spot analysis).
340–20–1030 Using the motor vehicle emissions budget in the applicable implementation plan (or implementation plan submission).
340–20–1040 Enforceability of design concept and scope and project-level mitigation and control measures.
340–20–1050 Exempt projects.
340–20–1060 Projects exempt from regional emissions analyses.
340–20–1070 Special provisions for nonattainment areas which are not required to demonstrate reasonable further progress and attainment.
340–20–1080 Savings provisions.

III. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs of $100 million or more to State, local, or Tribal governments in the aggregate; or to the private sector. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or Tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or Tribal governments, or to the private sector, result from this action.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective July 15, 1996 unless, by June 17, 1996 adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective July 15, 1996.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2).

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Note: Incorporation by reference of the Implementation Plan for the State of Oregon was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: May 2, 1996.

Chuck Clarke,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c) (113) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(113) On April 14, 1995, the Oregon Department of Environmental Quality submitted a revision to its SIP for the State of Oregon to include the Transportation Conformity: OAR 340–20–710 through 340–20–1080.

(i) Incorporation by reference.

(A) April 14, 1995 letter from ODEQ director Lydia Taylor to EPA Regional Administrator Chuck Clarke submitting a revision to the Oregon SIP to include the Transportation Conformity: OAR 340–20–710 through 340–20–1080; Division 20, Air Pollution Control, Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, effective March 29, 1995.

[FR Doc. 96–12353 Filed 5–15–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[AK6–1–6587; FRL–5465–2]

Approval and Promulgation of State Implementation Plans: Alaska

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a State Implementation Plan (SIP) revision submitted by the State of Alaska on March 24, 1994 which implements an oxygenated gasoline program in the Municipality of Anchorage. This SIP revision satisfies certain Federal requirements for carbon monoxide (CO) nonattainment areas with a design value of 9.5 parts per million (ppm) or greater to implement an oxygenated gasoline program. Motor vehicles are significant contributors of CO emissions. An important measure for reducing these emissions is the use of cleaner burning oxygenated gasoline.

EFFECTIVE DATE: This final rule is effective on June 17, 1996.

ADDRESSES: Copies of the State's request and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality, 1200 Sixth Avenue, Seattle, Washington 98101, and the Alaska Department of Environmental Conservation, 410 Willoughby, Suite 105, Juneau, Alaska 99801–1795.

FOR FURTHER INFORMATION CONTACT: Ms. Montel Livingston, EPA, Office of Air Quality, Seattle, Washington, (206) 553–0180.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 211(m) of the Clean Air Act, as amended (the "Act"), Alaska was required to submit a revised SIP under section 110 and part D of title I that includes an oxygenated gasoline program for its CO nonattainment areas (those areas with a design value of 9.5 ppm or greater). The CO standard is 9 ppm and was established based on criteria which allows for an adequate margin of safety to protect human health. The 9 ppm standard is intended to keep carboxyhemoglobin levels below 2.1% in order to protect the most sensitive members of the general population (i.e. individuals with heart disease and other physiological weaknesses).

Motor vehicles are significant contributors of CO emissions. An important measure for reducing these emissions is the use of cleaner burning oxygenated gasoline. Extra oxygen enhances fuel combustion and helps to offset fuel-rich operating conditions, particularly during vehicle starting which are more prevalent in the winter.

To comply with the Act, Alaska implemented an oxygenated gasoline program containing methyl tertiary butyl ether (MTBE) as the oxygenate in the early winter of 1992. Shortly thereafter, the State received numerous health and driveability complaints from the public regarding exposure to and use of MTBE blended gasoline. In December 1992 the Governor of Alaska temporarily suspended the oxygenated fuel program, and the suspension continued the following winter.

During this suspension, a series of studies began which examined issues including health and driveability at cold temperatures using oxygenated gasoline in climate fluctuations such as the Municipalities of Anchorage and Fairbanks experience. These studies were initiated in part by the Alaska Department of Environmental Conservation (ADEC) and in part by State health officials in Alaska who invited the Centers for Disease Control and Prevention and others to assist in investigation of possible health effects. Studies concluded that pumping the ethanol blend does not appear to increase the prevalence of acute adverse health effects or unusual exposures when compared to pumping regular gasoline. Data also showed there were no adverse driveability effects utilizing ethanol in Anchorage during the study period.

In response to the public's concerns about MTBE, Anchorage, through ADEC and the industry providers, agreed to implement an oxygenated fuel program using ethanol as the oxygenate rather than MTBE by diluting regular unleaded gasoline with ethanol to 10 percent ethanol by volume. This oxygenated fuel program began in Anchorage in January 1995 and lasted for about three months. This initial control period for Anchorage using an ethanol blend was successful with the general public and for air quality—there were no exceedances of the CO National Air Ambient Quality Standards (NAAQS) during that period. The program resumed again in the winter of 1995–96, November 1, 1995 through February 29, 1996.

The State of Alaska submitted the Oxygenated Gasoline Requirements (18 AAC 53.005–18 AAC 53.190) with amendments adopted through March 19, 1994, to EPA on March 24, 1994, as a revision to the Alaska SIP. EPA reviewed the submittal and concluded that the revision met the applicable requirements of the Act. In a direct final rule published October 24, 1995, EPA approved the revision to be effective on December 26, 1995, unless EPA received adverse or critical comments by November 24, 1995 (see 60 FR 54435). In the same **Federal Register**, EPA also published an accompanying proposed rule (see 60 FR 54465), explaining that if EPA received adverse comments on the direct final rule approving ADEC's submittal re the oxygenated gasoline program, then EPA would withdraw the direct final rule and would respond to all comments on the proposal in a subsequent final rule. The proposed action also indicated that anyone wishing to comment should do so by November 24, 1995.

EPA received an adverse comment on November 22, 1995, pertaining to its approval of Alaska's SIP submittal. The direct final rule was withdrawn on December 14, 1995. See 60 FR 64135. EPA has thoroughly considered the comment to determine the appropriate action on the oxygenated gasoline program for Anchorage, Alaska and responds below in the "Response to Comments."

In conclusion, EPA is approving the oxygenated gasoline requirements submitted by the State of Alaska as described in the October 24, 1995 **Federal Register** notice at 60 FR 54436 and proposed in the October 24, 1995 **Federal Register** notice at 60 FR 54465.

II. Response to Comments

A. General Legal Authority

In objecting to several specific provisions in Alaska's regulations, the commenter raised issues regarding approval into a SIP of state provisions not required by section 211(m). EPA may approve into a SIP any lawful provision concerning control of a criteria pollutant that is submitted by a state and that otherwise meets the requirements of section 110. As a general matter, apart from the exceptions cited in section 116, the Clean Air Act (CAA) does not restrict a state's authority to impose air pollution controls in addition to those required under the Act. See CAA section 116. Section 211(m) establishes certain minimum requirements regarding oxygen content, but does not itself prohibit states from adopting additional requirements. While federal regulation of fuels under section 211(c)(1) preempts certain state regulations regarding fuels, where there is no federal "control or prohibition applicable to [a] characteristic or component of a fuel or fuel additive," a state is not preempted from regulating such characteristic or component, such as oxygen content. See section 211(c)(4). Under EPA's current interpretation of section 211(c)(4), there is no federal requirement applicable to oxygen content in gasoline in the Anchorage area because the only federal regulation applicable to oxygen content is for reformulated gasoline, which is not required in the Anchorage area. Thus, EPA may approve as a SIP revision a requirement by Alaska that goes beyond the requirements of section 211(m) in regulating oxygen content.

B. Temporary Suspension of the Regulation's Applicability to Fairbanks

The commenter stated that the provisions of section 211(m) "Oxygenated Fuels" of the Federal 1990 Clean Air Act applies to both the Fairbanks and Anchorage CO nonattainment areas, that the former Governor unilaterally suspended the regulation's applicability to the Fairbanks' area, and there are no provisions in this regulation for this action.

As explained in the "Background" section of this rulemaking, there have been congressional actions in the past which did temporarily exempt Fairbanks and Anchorage from the oxygenated programs requirement while ongoing health and driveability studies were conducted. However, in this action today, EPA is determining that Alaska's current submittal of March 24, 1994, *Fuel Requirements for Motor Vehicles*, as applied to the Anchorage area, meets the requirements of 211(m) "Oxygenated Fuels" and is fully approvable for inclusion into the SIP. The fact that this submission does not encompass the Fairbanks area does not affect EPA's authority to approve it for Anchorage, and hence is not relevant to this rulemaking.

C. Oxygen Content

The commenter stated that fuel providers for Anchorage were under no regulation to meet a blend with an oxygen content of 3.5 percent, and this is correct. ADEC's regulation under *Fuel Requirements for Motor Vehicles, 18 AAC 53.020, Average Oxygen Content Standard*, submitted to EPA on March 24, 1994, states, "All gasoline sold, offered for sale, distributed, or dispensed by a CAR or blender CAR for use in a control area during a control period must be oxygenated so that each blend of gasoline has an average oxygen content of not less than 2.7 percent by weight." EPA is approving this average oxygen content of not less than 2.7 percent by weight as meeting the requirements of 211(m) of the Act and is incorporating this revision into the federally enforceable SIP.

D. Legal Authority—Expansion of Control Area

The commenter stated there are provisions in ADEC's 18 AAC 53 *Fuel Requirements for Motor Vehicles* that go beyond the authority of Section 211(m), are unnecessary to satisfy the nonattainment plan provisions of the Act, or go beyond the authority granted to ADEC under State law, and therefore conflict with EPA's requirements that SIP amendments comply with applicable State laws.

For example, the commenter does not believe ADEC has the authority to expand the oxygenated gasoline program to areas other than the officially designated CO nonattainment area. The commenter stated it is not provided for in the Act and, therefore, is not required to be in the SIP, and should not be part of the SIP.

As discussed above, the CAA does not restrict Alaska's authority to regulate oxygen content in gasoline beyond what is required in section 211(m). In addition, EPA has determined that ADEC will satisfy certain requirements of the Act by including in this SIP revision contingency measures which provide for expansion of the control area. The Act (section 172(c)(9)) requires a State to undertake specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the national primary ambient air quality standard by the (applicable) attainment date. ADEC has met this requirement by specifying a contingency measure for Anchorage which provides for expansion of its control area, if necessary. Expansion of the control area may help a nonattainment area come into attainment by ensuring that vehicles refueling outside the nonattainment area but driving inside the area are also controlling emissions through use of oxygenated gasoline. Oxygen-blended fuels have been shown to be a cost-effective method for reducing CO emissions.

Alaska has also used expansion of the oxygenated fuels control area as a contingency measure to satisfy another requirement of the Act. Because Anchorage is a nonattainment area with a design value above 12.7 ppm, the Act (section 187(a)(3)) further requires implementation of contingency measures if annual updates of the forecasted Vehicle Miles Travelled (VMT), or annual estimates of actual VMT, exceed the number predicted in the most recent prior forecast; or if the area fails to attain the NAAQS by the (applicable) attainment date. ADEC met this requirement through its VMT SIP revision, adopted on January 10, 1994, and approved by EPA on June 29, 1995 (60 FR 33727). The contingency measure contained in the VMT revision, and approved by EPA, is the expansion of the oxygenated fuels control area. This contingency measure became effective and federally enforceable on August 28, 1995.

E. Oxygen Content Averaging and Associated Provisions

The commenter stated the averaging provisions and associated requirements of ADEC's regulation are superfluous and can be replaced with a more straightforward per-gallon oxygen content provision. The commenter added that the provisions for averaging oxygen content method of compliance, oxygen credits and debits, and

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minimum oxygen content are all unnecessary and should not be approved.

As described in the October 24, 1995 **Federal Register** notice at 60 54436, EPA has determined that ADEC met the requirements of 211(m) of the Act and was consistent with EPA guidance (57 FR 47769, October 20, 1992) by offering oxygen content averaging provisions as an option to fuel providers. Fuel providers need only use these provisions if they so choose. The commenter provides no legal or practical reason why EPA should not approve these optional provisions, which are intended only to give fuel providers greater compliance flexibility. Even if fuel providers are not currently using this approach, including these provisions allows for future flexibility in the program, which EPA finds is appropriate here.

F. State Authority

The commenter stated there are no provisions under Alaska State law authorizing ADEC to assess the "CAR and Blender CAR Fees" provided under 18 AAC 53.080. Therefore, the commenter stated the fees provisions do not belong in the SIP and are unnecessary to satisfy the requirements of the Act.

EPA has determined that ADEC has fee authority to collect fees to cover costs associated with permits, under AS 44.46.025. Revenues generated from industry enable the program to be self-sufficient in the future. EPA also notes that 18 AAC 53.080(c) requires ADEC to "refund fees in excess of those required to cover the costs for implementing the requirements of this chapter." As an integral part of Alaska's oxygenated gasoline program, which the State has authority to implement, it is appropriate for EPA to approve these provisions into the SIP.

G. Reporting; Product Transfer Document/Attest Engagements

The commenter stated that 18 AAC 53.1000 "Reporting; Product Transfer Document" paragraph (b) requires a CAR or blender CAR to "* * * have an attest engagement conducted in accordance with 18 AAC 53.170, "Attest Engagements," and that neither of these provisions is necessary when compliance is demonstrated on a per-gallon basis. The commenter stated they were superfluous.

As repeated above and described in the October 24, 1995 **Federal Register** notice at 60 54436, EPA has determined that ADEC is following EPA guidance published on October 20, 1992, by offering these provisions as an option to fuel providers, and EPA finds this is an appropriate option to offer fuel providers in this instance.

H. State Authority—"Dispenser Labeling"

The commenter stated that ADEC's label saying "Caution: This fuel may not be suitable for use in aircraft," goes beyond the authority granted by EPA in its labeling requirements. The commenter also questioned the State of Alaska's authority to require that the label on fuel dispensers contain this cautionary statement. In response, the State Attorney General's office has provided an opinion to EPA explaining the legal basis for this provision.

Specifically, the Attorney General opinion cites to Title 46, Chapter 3, entitled Environmental Conservation, which includes a declaration of policy stating that it is the State's policy to control air pollution to enhance the "health, safety, and welfare" of its citizens (emphasis added). See AS 46.03.010(a). The opinion also cites to AS 46.03.020(8), (9), and (10) which give ADEC the authority to advise and cooperate with local and other state agencies to carry out the pollution laws, to act as the official agency in all matters affecting the purposes of ADEC under federal laws, and to adopt regulations to effectuate the purposes of Chapter 3, including control of air pollution and "other purposes as may be required for the implementation" of Chapter 3's declaration of policy. In addition, AS 44.62.030 states that a regulation is effective if it is "consistent with and reasonably necessary" to the purposes of State law.

Given ADEC's broad statutory authorities, and the opinion of the Attorney General's office that these provisions give ADEC the authority to promulgate the labeling requirement regarding aviation use of oxygenated fuel, EPA is approving this requirement along with the State's other labelling requirements. A more detailed discussion of ADEC's authorities is contained in the State Attorney General's letter, included in the record for this rulemaking.

EPA has determined that ADEC has complied with EPA regulations and guidance for labeling requirements (57 FR 47770, October 20, 1992) and as described in the October 24, 1995 **Federal Register** notice. As EPA stated in the preamble to the labelling regulations, those regulations are not meant to restrict states from imposing additional information requirements, and there is no language in the regulations that would impose such a restriction (See 57 FR 47771).

I. Suspension of Requirements

The commenter stated that section 211(m) provides only that the oxygenated gasoline program be imposed in areas exceeding 9.5 ppm and are adversely affected by vehicular emissions. The commenter stated that 18 AAC 53.190, "Suspension of Requirements" provides that oxygenated gasoline may be reimposed, after the program has been suspended upon attainment, if the area exceeds an 8.5 ppm 8 hour average concentration of CO. The commenter concluded that section 211(m) does not authorize a federally-enforceable oxygenated gasoline program in an attainment area, as this provision of 18 AAC 53.190 would require; therefore, this provision should not be part of the SIP.

Section 211(m) does not require an oxygenated gasoline program in an area in attainment for CO, except as is necessary to maintain the standard. However, as discussed above, there is also no Federal restraint on Alaska imposing additional requirements on oxygen content beyond what is required under section 211(m).

Moreover, EPA has determined that ADEC is complying with the requirement under section 211(m)(6) of the Act that the program remain in effect "to the extent such program is necessary" to maintain the standard. The State has selected exceedance of 8.5 ppm in an 8 hour average as the trigger point for reimplementation of the program. EPA believes this is an appropriate trigger point. The CO NAAQS is 9 ppm; and pursuant to EPA guidance, values from 8.5 ppm and up are rounded up to 9. At 8.5 ppm, the area's air quality is considered to be just meeting the standard. The purpose of the trigger point is to protect the health and welfare of citizens by ensuring that the area maintains compliance with the CO standard. The trigger point chosen by Alaska provides for reimplementing oxygenated gasoline promptly upon a strong indication that the area is in danger of violation of the standard, rather than waiting for CO levels to violate the NAAQS before instituting measures to bring the area back into attainment.

III. Significance of Today's Action

EPA is approving this plan revision submitted to EPA by the State of Alaska on March 24, 1994 which implements an oxygenated gasoline program in the Municipality of Anchorage. This SIP revision was submitted by the State to satisfy certain Federal requirements for CO nonattainment areas with a design value of 9.5 ppm or greater to implement an oxygenated gasoline program.

IV. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2)).

List of subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the Implementation Plan for the State of Alaska was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: April 23, 1996.

Chuck Clarke,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart C—Alaska

2. Section 52.70 is amended by adding paragraph (c) (25) to read as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *

(25) On March 24, 1994, ADEC submitted a revision to its SIP for the State of Alaska addressing the attainment and maintenance of the NAAQS for CO in the Anchorage CO nonattainment area.

(i) Incorporation by reference.

(A) March 24, 1994 letter from the Alaska Governor to the EPA Regional Administrator including as a revision to the SIP the State of Alaska, Department of Environmental Conservation, 18 AAC 53, "Fuel Requirements for Motor Vehicles," (Article 1, 18 AAC 53.005—18 AAC 53.190 and Article 9, 18 AAC 53.990, with the exception of 18 AAC 53.010(c)(2)), filed March 24, 1994 and effective on April 23, 1994.

* * * * *

[FR Doc. 96–12352 Filed 5–15–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[NJ001; FRL–5505–7]

Clean Air Act Final Interim Approval Of Operating Permit Program; New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: The EPA is promulgating final interim approval of the operating permit program which the State of New Jersey had submitted in accordance with Title V of the Clean Air Act (the Act) and its implementing regulations codified at Part 70 of Title 40 of the Code of Federal Regulations (40 CFR Part 70). This approved interim program allows New Jersey to issue federally enforceable operating permits to all major stationary sources and to certain other sources for a period of two years, at which time it must be replaced by a fully approved program.

EFFECTIVE DATE: This interim program will be effective June 17, 1996.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the final interim approval as well as the Technical Support Document are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 2, 290 Broadway, 21st Floor,

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New York, New York 10007–1866; Attention: Steven C. Riva.

FOR FURTHER INFORMATION CONTACT: Suilin Chan, Permitting and Toxics Support Section, at the above EPA office in New York or at telephone number (212) 637–4019.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

The Act and its implementing regulations at 40 CFR Part 70 require that states develop and submit operating permit programs to the EPA by November 15, 1993, and that the EPA act to approve or disapprove each program within one year after receiving the complete submittal. The EPA reviews state programs pursuant to Section 502 of the Act and the Part 70 regulations, which together outline the criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of Part 70, EPA may grant the program interim approval for a period of up to two years. Additionally, where a state can demonstrate to the satisfaction of EPA that reasons exist to justify the granting of a source category-limited interim approval, EPA may so exercise its authority. A source category-limited interim program is one that substantially meets the requirements of Part 70 and applies to at least 60% of all affected sources which account for 80% of the total emissions within the state. If a state does not have an approved program by the end of an interim program, EPA must establish and implement a federal operating permit program for that state.

On January 30, 1996, EPA proposed to approve the source category-limited operating permit program submitted by New Jersey (see 61 FR 2983). During the 30-day public comment period which ended on February 29, 1996, six comment letters were received on the Proposed Approval Notice. Five of the comments regarded the list of deficiencies that NJ has to correct in order to receive full program approval. These commenters opined that the NJ program is not deficient in those areas and therefore should not be required to address them in the full program submittal. One commenter argued that NJ has no authority to collect emissions-based Title V fees from two Title IV-affected Phase I units. A response to all of the comments received is included in Section II.B. of this notice. Based upon EPA's review, none of the comments received changes EPA's decision to approve NJ's source category-limited interim program. Therefore, in this notice, the EPA is taking final action to promulgate interim approval of the New Jersey Operating Permit Program.

II. Final Action and Implications

A. Analysis of State Submission

On January 30, 1996, the EPA proposed interim approval of NJDEP's Title V Operating Permit Program. The program elements discussed in the proposed notice are unchanged from the analysis in the Interim Approval Notice and continue to substantially meet the requirements of 40 CFR Part 70.

B. Response to Public Comments

1. *Deferral of Non-major Sources.* Two comments were received on this issue, from the Industrial Operating Permit Legislative/Regulatory Workgroup (IOPLRW) and NJDEP.

IOPLRW argues that non-major sources subject to NJ's NSR program should not be required to go through the "formalities" of obtaining an operating permit because (1) it is inconsistent with EPA's "White Paper" policies and (2) NJDEP already imposes substantial requirements to control emissions of pollutants from such sources. The NJDEP, however, acknowledges that its current rule is deficient in not requiring non-deferred non-major sources subject to Section 111 of the Act to obtain operating permits and agrees to amend its rule in the next revision. NJDEP asserts that this deficiency, however, does not exist for non-deferred non-major sources subject to Section 112 of the Act since its rule (N.J.A.C. 7:27–22.26(b), (c), and (d)) contains the necessary requirements.

Response. EPA agrees with NJDEP that its rule is adequate in addressing the requirements for non-deferred non-major sources subject to Section 112 of the Act. Therefore, in the final approval of NJ's interim program, EPA is only requiring NJDEP to revise its rule to address non-major sources subject to Section 111 of the Act. With respect to the comments submitted by the IOPLRW, EPA disagrees with the commenter that no rule revision was necessary. This comment conflicts with the provision of 40 CFR § 70.3(b)(2) which is not affected by guidance established in EPA's "White Paper".

2. *Definition of Prompt Reporting.* Four comments were received on this issue, from IOPLRW, Bayway Refining Company, National Environmental Development Association (NEDA), and Du Pont Chemicals.

All four commenters echoed the same arguments; therefore, their comments will be grouped together and responded to as a single comment. The commenters argued that 40 CFR § 70.6 provides the permitting authority the flexibility to "define prompt in relation to the degree and type of deviation likely to occur and the applicable requirements". As such, the commenters questioned EPA's basis and authority for requiring a 10-day reporting of deviations where the air contaminants are released in a quantity or concentration that pose no potential threat to the public health, welfare, or the environment and the permittee does not intend to assert affirmative defense for the deviation. All commenters felt that NJ's current requirement of immediate reporting for deviation resulting in air contaminants released in a quantity or concentration which poses a potential threat to public health, welfare or the environment or which might reasonably result in citizen complaints is adequate. Further, a two-day reporting requirement was asserted to be adequate where the quantity or concentration of the releases poses no potential threat to the public health, welfare or environment and which will not likely result in citizen complaints but that the permittee intends to assert an affirmative defense. The ten-day reporting requirement is unilaterally considered an unnecessary administrative burden to both NJDEP and the regulated community resulting in no commensurate improvement to the environment.

Response. EPA reconsidered its initial proposal to require a 10-day reporting on deviations that do not pose a potential threat to the public health, welfare, or the environment and for which the permittee does not intend to assert an affirmative defense. Although EPA acknowledges that NJ's reporting rules have worked fairly well in the past, EPA does not find that to be grounds for ruling out the ten-day reporting requirement altogether. There may be circumstances where such reporting timeframe is warranted. Therefore, after considering the concerns brought forth by the commenters, EPA has decided not to require NJ to incorporate the 10-day reporting provision in its operating permit rule. Rather, EPA will determine the appropriateness of imposing this requirement on an as-needed basis.

3. *Affirmative Defense.* Five comments were received on this issue, from IOPLRW, Bayway Refining Company, NEDA, NJDEP, and Du Pont Chemicals.

Since all five commenters voiced the same concerns on this issue, their comments are grouped together and treated as one. While EPA cited the affirmative defense provisions found in N.J.S.A.26:2C–19.1 through 19.5 to be in conflict with the provisions of 40 CFR

§ 70.6(g), all five commenters asserted that the NJ provisions have worked well in the past by allowing reasonable excursions during startups, shutdowns, malfunctions, and equipment maintenance without compromising protection to the environment and public health and welfare. All commenters maintained that the NJ Law could be interpreted to be in conformance with Part 70. In its proposed approval notice, EPA stated that the NJ Law was deficient in (1) not restricting the use of an affirmative defense to violations of technology-based emission limitations which potentially allows the use of an affirmative defense for violations of health-based emission limitations and (2) allowing an affirmative defense for startups, shutdowns, malfunctions, and equipment maintenance. The commenters argued that although the NJ Law does not restrict the affirmative defense to technology-based emission limitations, it nevertheless provides the same degree of protection for health-based emission limitations by ensuring that the violations do not potentially threaten the environment or public health or welfare. For this same reason, the commenters argued that allowing an affirmative defense for startups, shutdowns, malfunctions, and equipment maintenance does not pose more of a threat to the environment than what Part 70 provides.

Response. EPA has thoroughly reviewed the arguments presented by the commenters and maintains that the inconsistencies between the NJ Law and Part 70 must still be resolved in order for EPA to grant full program approval on this provision. In promulgating the Part 70 regulations, EPA intended to restrict the emergency affirmative defense to actions brought for noncompliance with a technology-based emission limitation to ensure greater protection for health-based emission standards (such as the National Ambient Air Quality Standards (NAAQS), National Emissions Standards for Hazardous Air Pollutants (NESHAP), etc.). The NJ Law, however, does not contain similar restrictions. After reviewing the arguments presented by the commenters on this particular issue, however, EPA agrees with the commenters that the NJ Law may be interpreted to provide the same degree of protection for the health-based emission limitations. Therefore, in lieu of making changes to the NJ operating permit rule, EPA will accept an opinion from the Attorney General which affirms that any violation resulting in a "potential threat to public health" as used in N.J.S.A. 26:2C–19.1 through 19.5 equates to a violation of a health-based emission standard, such that the affirmative defense created in New Jersey's legislation is not available for violations of health-based emission limits. The Attorney General's opinion should point to either court decisions or legislative history interpreting the "potential threat to public health" language. With respect to the issue of restricting the affirmative defense to emergency situations arising from sudden and reasonably unforeseeable events that are beyond the control of the source including the acts of God, NJ's Law is clearly inconsistent with 40 CFR 70.6(g). Although NJ's criteria for asserting an affirmative defense in N.J.S.A. 26:2C–19.2 are similar to the criteria established in 40 CFR § 70.6(g), NJ's affirmative defense in N.J.S.A 26:2C–19.1 and 19.2 goes beyond sudden and unforeseeable events. As stated in the proposed approval, 40 CFR § 70.6(g) only allows an affirmative defense for Title V purposes for sudden and unforeseeable events. NJ's law not only applies to unforeseeable malfunctions, but also to equipment start-up or shut-down and equipment maintenance, activities of which are usually pre-scheduled. Therefore, EPA sees no grounds for finding the NJ approach substantially equivalent to that in 40 CFR § 70.6(g). This is beyond the scope of 40 CFR § 70.6(g) and must be changed before full approval can be granted for this provision. NJ may either change its legislation or its operating permit rule to address this deficiency. As to the comments that Part 70 should be changed to provide more flexibility on this issue, we appreciate the commenters' desire for more flexibility, but program approval is judged on the existing requirements of 40 CFR Part 70, not on any possible future changes to Part 70. EPA is treating this issue consistently nationally by only granting interim approval to states with similar inconsistencies to 40 CFR § 70.6(g). EPA is not aware of any other state programs being treated differently on this issue.

4. *R&D Support Facility Test.* Two comments were received on this issue, from NEDA and IOPLRW.

Both commenters argued that the issue of whether an R&D operation is eligible for separate treatment under the operating permit program should not depend on where the products and processes developed in the R&D operation are used. Rather, eligibility for separate treatment should simply depend on whether the R&D operation produces more than a *de minimis* quantity of products for commercial use.

Response. In its proposal to approve NJ's program, EPA did not identify the application of the support facility test in determining the major source status of a stationary source with an R&D operation to be a condition for full program approval. The support facility test will ensure that only true R&D facilities are properly separated from the source. Under the support facility test, even where neighboring, commonly controlled sources have different 2-digit SIC codes, they should be aggregated to determine whether a major source is present if the output of one is more than 50 percent devoted to the support of the other. However, EPA believes that R&D operations should not generally be considered support facilities, since the "support" provided is directed towards development of new processes or products and not to current production. EPA acknowledges that the product of an R&D operation is information potentially useful to create a new industrial process or to improve the process ongoing at the facility, but not to directly support the process in which the industrial activity is currently engaged or capable of engaging in any significant commercial fashion. To the extent an activity bears some resemblance to R&D but in fact contributes to the ongoing product produced or service rendered at a facility in a more than *de minimis* manner, those activities should be considered part of the source. Pilot plants often present instances of activities that are conducted on a trial basis, but which are nevertheless dedicated to producing a product for commerce to a more than *de minimis* extent, and so would not be considered R&D. Whether or not an R&D facility meets the support facility test is a case-by-case determination. As provided in the Preamble of Part 70, R&D operations are not exempt from Title V requirements, but the state is given the flexibility to treat the R&D facility separate from the manufacturing facility with which it is co-located. The definition of R&D in N.J.A.C. 7:27–22–1 establishes the criteria for determining whether or not an operation will be given separate treatment as an R&D facility and is reflective of the federal definition as discussed in the foregoing. Under N.J.A.C. 7:27–22.1, an R&D facility cannot be engaged in the "manufacture of products for commercial sale, except in a *de minimis* manner." This is a close approximation of the support facility test. EPA is not adding any further burden of proof upon the facility in the event of alleged noncompliance with 40 CFR Part 70,

than what is already established by the state in N.J.A.C. 7:27–22.1 and 7:27–22.2(d).

5. *Administrative Amendment.* Two comments were received on this issue, from IOPLRW and NJDEP.

IOPLRW asserted that the administrative amendment section of NJ's rule meets the requirements of Part 70. NJDEP clarified that the interpretation EPA read into the language at N.J.A.C. 7:27–22.20(b)(7) as explained in the proposed interim approval was not intended. NJDEP agreed to revise its rule to address EPA's comments.

Response. EPA appreciates the comment from IOPLRW; however, a revision to NJ's rule is nonetheless necessary.

6. *Title IV Fees.* One comment was received on this issue from Atlantic Electric (AE).

AE argued that NJ should not be allowed to assess Title V emissions-based fees during 1995 to 1999 from any Title IV-affected Phase I units even if the emissions occurred outside of the 5-year grace period (prior to 1/1/95).

Response. EPA agrees with the commenter and consequently hereby corrects a statement made in the notice of proposed interim approval. The language in the register incorrectly alluded to allowing a state to collect during 1995 to 1999 Title V fees from Title IV-affected Phase I units based on emissions that occurred prior to January 1, 1995. The correct reading and the actual meaning of Section 408(c)(4) should be a state is allowed to use emissions-based fees for Title V purposes during 1995 and 1999 if such fees were already collected from the Phase I units prior to January 1, 1995 for program ramp-up or the like. Alternatively, the state may collect Title V emissions-based fees after December 31, 1999 from the Phase I units. Finally, the state can collect non-emissions based Title V fees from any Phase I units during the 5-year period. Along with its comments, AE also urged EPA to require NJDEP to submit adequate documentation confirming that the NJ operating permit program will be sufficiently funded without accounting fee revenues from the Phase I units in NJ. EPA appreciates AE's concerns over the funding aspect of the NJ program. As EPA has discussed in details in the proposed approval, NJ is required to re-submit a more refined fee demonstration to assure sufficient funding for the operating permit program before EPA would consider granting full approval. EPA acknowledges that the Title V program is a new program with many uncertainties and variables in the area of cost assessment, in particular. Therefore, EPA finds it appropriate to allow a state to put the program into practice for a short duration (during an interim approval) so that the state may accurately determine the amount of funding needed for successful program implementation provided the state has collected sufficient fee revenues to start the program. EPA's initial proposal to require a more refined fee demonstration in the full program submittal remains unchanged.

C. Final Action

The EPA is promulgating interim approval of the Operating Permit Program submitted by the NJDEP on November 15, 1993, as revised on August 10, 1995, and supplemented on August 28, 1995, November 15, 1995, December 4, 1995, and December 6, 1995. Among other things, the NJDEP has demonstrated that the program substantially meets the minimum requirements for a state operating permit program as specified in 40 CFR Part 70 and the criteria for a source category-limited interim program as discussed in EPA's Guidance entitled "Interim Title V Program Approvals" issued by John S. Seitz, Director, Office of Air Quality Planning and Standards on August 2, 1993. This interim approval which may not be renewed, extends until June 16, 1998. Under the approved interim operating permit program, New Jersey is allowed to issue federally enforceable operating permits to all major stationary sources and to certain other sources for the duration of this approval. During this interim approval period, the State of New Jersey is protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a federal operating permit program in New Jersey. Permits issued under a program with interim approval have full standing with respect to Part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the 3-year time period for processing the initial permit applications. In order to ensure that a fully approved program will be in place by the expiration date of the interim approval, New Jersey must submit a modified program to EPA by December 16, 1997 that addresses the following deficiencies:

1. Deferral of Non-Major Sources

New Jersey must revise its operating permit rule to require non-major sources subject to Section 111 standards promulgated after July 21, 1992 to apply for an operating permit unless EPA exempts such sources in future rulemaking or promulgation of future requirements. Applications from these sources should be submitted in accordance with the schedule found under N.J.A.C. 7:27–22.5(i).

2. Affirmative Defense

The New Jersey legislation as stated in N.J.S.A. 26:2C–19.1 through 19.5 and the New Jersey rule provisions on affirmative defenses as stated in N.J.A.C. 7:27–22.3(nn) and 22.16(l) must be revised or clarified to ensure conformance with 40 CFR § 70.6(g). Specifically, New Jersey needs to limit the use of affirmative defense to 1) violations of technology-based emission limitations, not health-based emission limitations and 2) to sudden and unforeseeable events. To address the first deficiency, New Jersey has the option of either changing its legislation at N.J.S.A.26:2C–19.1 through 19.5 to specify that the affirmative defense can only be used in emergency situation resulting in violations of technology-based emission limitations or submitting an opinion from the State Attorney General (AG). The AG's opinion must demonstrate how the State Law has clearly equated the term "potential harm to public health" to violations of health-based emission limitations. The AG's opinion must also clarify that the NJ Law prohibits the use of an affirmative defense for violations of health-based emission limitations and must be supported by court decisions or legislative history interpreting the "potential threat to public health" language. To address the second deficiency, the NJ Law at N.J.S.A.26:2C–19.1 through 19.5 and the NJ rule at N.J.A.C. 7:27–22.3(nn) and 22.16(l) must be changed to limit the use of an affirmative defense, for Title V purposes, to sudden and unforeseeable events that are beyond the control of the source.

3. Administrative Amendments

New Jersey must revise its operating permit rule to ensure that the administrative amendment procedure is properly used for incorporating preconstruction permits into the operating permit. Specifically, New Jersey must either:

i. specify in § 7:27–22.20(b)(7) the procedures under which preconstruction permits must have been issued (40 CFR § 70.7 and 40 CFR § 70.8) and permit content requirements the permit must meet (40 CFR § 70.6) in order to be eligible for incorporation by administrative amendment, or

ii. codify those procedural and permit content requirements into the preconstruction review regulations and obtain EPA's approval of those regulations.

4. Permit Fees

In order to receive full program approval, New Jersey must submit a revised fee demonstration showing that $9.51 million is adequate to administer the operating permit program during the initial four years of full program implementation. Should the cap of $9.51 million fall short of the actual program costs, New Jersey must take all necessary corrective actions (including legislative changes) prior to submitting the corrected program.

If NJ fails to submit a complete corrective program for full approval by December 16, 1997, EPA will start an 18-month clock for mandatory sanctions. If NJ then fails to submit a complete corrective program before the expiration of that 18-month period, EPA will apply sanctions as required by Section 502(d)(2) of the Act, which will remain in effect until EPA determines that NJ has corrected the deficiencies by submitting a complete corrective program.

If EPA disapproves NJ's complete corrected program, EPA will apply sanctions as required by Section 502(d)(2) on the date 18 months after the effective date of the disapproval, unless prior to that date, NJ has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if NJ has not timely submitted a complete corrective program or EPA has disapproved its submitted corrective program. Moreover, if EPA has not granted full approval to the NJ program by the expiration of this interim approval, EPA must promulgate, administer and enforce a federal operating permit program for the State of New Jersey upon interim approval expiration.

It should be noted that this interim approval is granted based on the information submitted by the NJDEP on August 10, 1995 and supplements subsequently received. Should the program approvability status of NJ's program change in the future for any reasons including changes in state laws or regulations or procedures which limit the NJDEP's enforcement authority or program administration and enforcement, EPA will revisit this approval and exercise its authority as provided under 40 CFR § 70.10 (b) or (c) to afford NJ an opportunity to correct its program deficiencies or withdraw program approval.

Requirements for approval, specified in 40 CFR § 70.4(b), encompass Section 112(l)(5) requirements for approval of a program for delegation of Section 112 standards as promulgated by the EPA as they apply to Part 70 sources. Section 112(l)(5) requires that the state's program contain adequate authorities, adequate resources for implementation, an expeditious compliance schedule, and adequate enforcement ability, which are also requirements under Part 70. In a letter dated November 15, 1995, NJDEP requested delegation through 112(l) of all existing 112 standards for Part 70 sources and infrastructure programs. With respect to future 112 standards, NJDEP intends to accept delegation of most, if not all, of the standards. NJDEP will review each standard within 45 days of receiving notice from EPA prior to accepting delegation. In the letter, NJDEP demonstrated that they have sufficient legal authorities, adequate resources, the capability for automatic delegation of future standards, and adequate enforcement ability for implementation of Section 112 of the Act for all Part 70 sources. Therefore, the EPA is also promulgating interim approval under Section 112(l)(5) and 40 CFR Part 63.91 to grant New Jersey approval for its program mechanism for receiving delegation of all existing and future Section 112(d) standards for all Part 70 sources, and Section 112 infrastructure programs that are unchanged from federal rules as promulgated.

III. Administrative Requirements

A. Docket

Copies of the NJ submittal and other information relied upon for the final interim approval, including the public comments received and reviewed by EPA on the proposal, are contained in the docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under Section 502 of the Act do not create any new requirements, but simply address operating permit programs submitted to satisfy 40 CFR Part 70. Since these operating permit programs were already adopted at the state level and today's action does not introduce any additional requirements that are new to the state program already in effect, no significant impact on a substantial number of small entities is expected to occur as a result of today's action.

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 of the Unfunded Mandates Act requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: May 5, 1996.

Jeanne M. Fox,

Regional Administrator.

Part 70, Title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

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2. Appendix A to Part 70 is amended by adding the entry for New Jersey in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permit Programs

* * * * *

New Jersey

(a) The New Jersey Department of Environmental Protection submitted an operating permit program on November 15, 1993, revised on August 10, 1995, with supplements on August 28, 1995, November 15, 1995, December 4, 1995, and December 6, 1995; interim approval effective on June 17, 1996; interim approval expires June 16, 1998.

(b) (Reserved)

* * * * *

[FR Doc. 96–12347 Filed 5–15–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5505–2]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of Deletion of the Washington County Landfill Superfund Site from the National Priorities List (NPL).

SUMMARY: The U.S. Environmental Protection Agency (U.S. EPA) announces the deletion of the Washington County Landfill site in Minnesota from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR Part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. This action is being taken by EPA and the State of Minnesota, because it has been determined that Responsible Parties have implemented all appropriate response actions required. Moreover, EPA and the State of Minnesota have determined that remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: May 16, 1996.

FOR FURTHER INFORMATION CONTACT: Lawrence Schmitt (312) 353–6565 (SR–6J), Remedial Project Manager or Gladys Beard at (312) 886–7253, Associate Remedial Project Manager, Superfund Division, U.S. EPA—Region V, 77 West Jackson Blvd., Chicago, IL 60604. Information on the site is available at the local information repository located at: Minnesota Pollution Control Agency Public Library, 520 Lafayette Rd., St. Paul, MN 55155–4194 and Lake Elmo Branch of the Washington County Public Library, 3459 Lake Elmo Avenue, Lake Elmo, MN. Requests for comprehensive copies of documents should be directed formally to the Regional Docket Office. The contact for the Regional Docket Office is Jan Pfundheller (H–7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Washington County Landfill Site located in Washington County, Minnesota. A Notice of Intent to Delete for this site was published April 1, 1996 (61 FR 14280). The closing date for comments on the Notice of Intent to Delete was May 1, 1996. EPA received no comments and therefore no Responsiveness Summary was prepared.

The U.S. EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL in the unlikely event that conditions at the site warrant such action. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous Waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: May 7, 1996.

Valdas V. Adamkus,

Regional Administrator, U.S. EPA, Region V.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the Site "Washington County Landfill Site, Lake Elmo County, Minnesota".

[FR Doc. 96–12348 Filed 5–15–96; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

48 CFR Part 570

[APD 2800.12A, CHGE 71]

RIN 3090–AF92

General Services Administration Acquisition Regulation; Acquisition of Leasehold Interests in Real Property

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Interim rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to revise sections 570.106 and 570.303 to authorize the use of design-build selection procedures in section 303M of the Federal Property and Administrative Services Act of 1949, as amended by Pub. L. 104–106, February 10, 1996, for lease construction projects when the statutory criteria for use are met.

DATES: Effective Date: May 16, 1996.

Comment Date: Comments should be submitted in writing to the address shown below on or before July 15, 1996 to be considered in formulating the final rule.

ADDRESSES: Interested parties should submit written comments to the Office of Acquisition Policy (MV), General Services Administration, Room 4010, 18th & F Streets, NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Tom Wisnowski, GSA Acquisition Policy Division, (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Determination To Issue an Interim Rule

A determination has been made under the authority of the Administrator of General Services that urgent and compelling reasons exist to publish an interim rule prior to affording the public opportunity for comment.

Section 4105 of Public Law 104–106 amended the Federal Property and Administrative Services Act of 1949 to add a new section 303M on design-build selection procedures. The law authorizes use of two-phase selection procedures for entering into a contract for the design and construction of a public building, facility or work when certain criteria for use are met. GSA has made a determination that the new authority may be used for a contract for the design and construction of a building, facility or work for lease to the Government.

The new two-phase selection process substantially reduces the cost and time involved in such procurements for offerors and for the Government. In the current environment of downsizing, it is critical for both industry and Government to enhance the efficiency of the contracting process.

Urgent and compelling reasons exist to make this rule effective prior to full consideration of public comments. Proceeding with this interim rule is required to permit GSA to take advantage of the opportunity to use a more efficient contracting process for space requirements that are currently pending and cannot be delayed, and to cope with the continued downsizing of GSA and its customer agencies. This interim rule only applies to the use of the new two-phase selection process in the context of leases of real property. The Federal Acquisition Regulation (FAR) will address the use of the authority for direct Federal construction.

All public comments received in response to this interim rule will be fully considered in formulating the final rule.

B. Executive Order 12866

This rule is not a significant rule as defined in Executive Order 12866.

This rule was submitted to the Office of Management and Budget under Executive Order 12866, Regulatory Planning and Review.

C. Regulatory Flexibility Act

This interim rule is not expected to have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the rule will apply to a very small number of leases per year (less than 25) and the rule simplifies procedures and reduces the cost of competing in the initial phases of a procurement. Therefore, the rule should have a positive impact.

An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and may be obtained from the address stated above. A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. Comments from small entities will be considered in accordance with Section 610 of the Act.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the GSAR do not impose recordkeeping or information collection requirements, or otherwise collect information from offerors, contractors or members of the public that require approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

E. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule under 5 U.S.C. 804. This rule was submitted to Congress and GAO under 5 U.S.C. 804.

List of Subjects in 48 CFR Part 570

Government procurement.

Accordingly, 48 CFR 570 is amended as follows:

PART 570—ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY

1. The authority citation for 48 CFR 570 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Section 570.106 is amended by adding paragraph (c) to read as follows:

570.106 Methods of contracting.

* * * * *

(c) The design-build selection procedures in section 303M of the Federal Property and Administrative Services Act of 1949, as amended, may be used for lease construction projects, including lease construction projects with options to purchase the real property leased. The design-build selection procedures may be used when the lease involves the design and construction of a public building, facility or work for lease to the Government if the contracting officer makes a determination that:

(1) Three or more offers are likely to be received,

(2) Design work must be performed before an offeror can develop a price or cost proposal, and

(3) The offeror will incur a substantial amount of expense in preparing the offer.

3. Section 570.303 is amended by revising paragraph (a)(7), by deleting paragraph (a)(8) and redesignating paragaphs (a)(9) and (a)(10) as (a)(8) and (a)(9) to read as follows:

570.303 Solicitation for offers (SFO).

(a) * * *

(7) Describe the source selection procedures to be used.

(i) Unless the design-build selection procedures are being used as authorized by 570.106(c), the solicitation must either:

(A) State that award will be made to the offeror that meets the SFO's minimum requirements at the lowest cost or price, or

(B) Identify all factors, including price or cost, and any significant subfactors that will be considered in awarding the lease and state the relative importance the Government places on those evaluation factors and subfactors. In describing the evaluation factors to be considered, the SFO shall clearly disclose whether all evaluation factors other than cost or price when combined, are significantly more important than cost or price, approximately equal in importance to cost or price, or significantly less important than cost or price. Numerical weights, which may be employed in the evaluation of proposals, need not be disclosed in the solicitation. The SFO must inform offerors of minimum requirements that apply to the procurement. The other factors that will be considered in evaluating proposals should be tailored to each acquisition and include only those factors that will have an impact on the award decision. The evaluation factors that apply to an acquisition and the relative importance of those factors are within the broad discretion of the contracting officer. However, price or cost to the Government must be included as an evaluation factor in every case.

(ii) When the design-build selection procedures are being used as authorized by 570.106(c), the solicitation must

(A) Identify the evaluation factors and subfactors to be used in evaluating phase-one proposals and indicate their relative importance,

(B) State the maximum number of offerors that are to be selected to submit competitive proposals in phase-two, and

(C) Identify the evaluation factors and subfactors, including cost or price, to be used in evaluating phase-two proposals and selecting the successful offeror. Evaluation factors to be used in evaluating phase-one proposals must be stated in the solicitation. Phase-one factors include specialized experience and technical competence, capability to perform, past performance of the offeror's team (including the architect-engineer and construction members of the team) and other appropriate factors, such as site or location. In phase-one, offerors will not be required to submit detailed design information or cost or price information and use of cost related or price related evaluation factors is not permitted. The maximum number of

offerors to be selected for phase-two must not exceed 5 unless the contracting officer determines that specifying a number greater than 5 is in the Government's interest and is consistent with the purpose and objectives of the two-phase selection process. For phase-two the solicitation should identify all factors, including price or cost, and any significant subfactors that will be considered in awarding the lease and state the relative importance the Government places on those evaluation factors and subfactors and otherwise comply with paragraph (a)(7)(i) of this section.

* * * * *

Dated: May 10, 1996.

Ida M. Ustad,

Deputy Associate Administrator for Acquisition Policy.

[FR Doc. 96–12198 Filed 5–15–96; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1330

[STB Ex Parte No. 547]

Removal of Obsolete Regulations Concerning Filing Quotations for Government Shipments

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (the Board) is removing from the Code of Federal Regulations obsolete regulations concerning the filing of rate quotations for government shipments.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–7513. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (ICCTA) abolished the Interstate Commerce Commission (ICC) and established the Board within the Department of Transportation. Section 204(a) of ICCTA provides that "[t]he Board shall promptly rescind all regulations established by the [ICC] that are based on provisions of law repealed and not substantively reenacted by this Act."

Former 49 U.S.C. 10721(b)(1) expressly provided that a common carrier could provide transportation for the United States government without charge or at a reduced rate.[1] That provision is retained in new 49 U.S.C. 10721 (rail transportation), 15712 (transportation by motor or water carriage and freight forwarders), and 15504 (pipeline transportation). However, the ICCTA removed the requirement of former 49 U.S.C. 10721(b)(2) that common carriers generally file copies of rate quotations or tenders with both the ICC and the department, agency or instrumentality of the United States government for which they were made. Therefore, the ICC regulations to implement the quotation filing requirement, which were codified in part 1330 at 43 FR 59844 (December 22, 1978),[2] have been rendered obsolete. Because the statutory basis for the part 1330 regulations has been removed, we are eliminating those rules.

Because this action merely reflects, and is required by, the enactment of the ICCTA and will not have an adverse effect on the interests of any person, this action will be deemed to be effective as of January 1, 1996.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1330

Freight, Government procurement, Motor carriers, Moving of household goods, Pipelines, Railroads.

Decided: May 2, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

PART 1330—[REMOVED]

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is amended by removing part 1330.

[FR Doc. 96–12280 Filed 5–15–96; 8:45 am]

BILLING CODE 4915–00–P

[1] Former section 10721 recodified section 22 of the Interstate Commerce Act. Section 22 allowed common carriers to depart from their tariffs in providing service to the government.

[2] The regulations were later modified to exempt nonagricultural rail rate quotations from the filing requirements. *Railroad Exempt.—Filing Quotations—Section 10721*, 7 I.C.C.2d 325 (1991).

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Restarting the Listing Program and Final Listing Priority Guidance

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of listing priority guidance.

SUMMARY: On March 11, 1996, the Fish and Wildlife Service (Service) published a notice in the **Federal Register** describing interim guidance for setting priorities in the listing program and solicited public comments. The Service took this action in anticipation of receiving a limited amount of funds to resume listing activities. Having received a limited appropriation of listing funds for the remainder of fiscal year 1996, the Service announces final listing priorities that will govern the expenditure of the available funds for the remainder of the fiscal year.

DATES: This guidance takes effect May 16, 1996 and will remain in effect until September 30, 1996, unless extended by further notice.

ADDRESSES: Questions about this guidance should be directed to the Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 1849 C Street, N.W., Mailstop ARLSQ–452, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: E. LaVerne Smith, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 703–358–2171 (see **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

Background

Moratorium and Funding Constraints

Over the past thirteen months, the Service's Endangered Species listing program, which operates under the authority of section 4 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), has been sharply curtailed by a variety of legislative and funding restrictions. Public Law 104–6, which took effect April 10, 1995, rescinded $1.5 million from the Service's then-current listing appropriation of $7.999 million and also stipulated that the remaining listing funds could not be used to make final listing or critical habitat designations. The net effect of Pub. L. 104–6 has been that no new species have been added to the lists of endangered and threatened wildlife and plants in more than a year and as a result, a backlog of 243 proposed listings has accrued.

From October 1, 1995, until April 26, 1996, the Department of the Interior operated without a regularly enacted, full-year appropriations bill. Instead, funding for most of the Department's programs, including the endangered species listing program, was governed by the terms of a series of thirteen "continuing resolutions" (CRs). The details of these are complex, and are summarized in what follows. Their net effect was essentially to shut down the listing program.

The CR for the period October 1, 1995, through November 13, 1995, continued the moratorium on final listings and critical habitat designations from the April 10, 1995, enactment. The listing program was funded at a level equal to 95% of the average of the funding for these activities provided in the appropriate appropriations bills then pending before the House and Senate. For listing activities, the House bill provided zero funds. The Senate bill provided only a token amount ($750,000) for the entire fiscal year. Averaging these two, and apportioning 95% of the average across the six weeks the CR was in effect meant that only $43,000 was available during this time period.

The Acting Director of the Service issued guidance on October 13, 1995, describing the activities on which these funds could be spent—(1) completion of any comment periods and public hearings for pending proposals; (2) completion of pending petition findings; and (3) processing of any delistings or reclassifications that were in the Washington Office awaiting approval. In the same memorandum the Director also ordered each Regional Director to begin the orderly transfer of listing personnel into other activities that were likely to be funded during fiscal year 1996. This step was necessary because all indications were that Congress would further restrict the listing budget, which could have resulted in reductions-in-force. The resulting loss of institutional and scientific expertise would have crippled the listing program.

The listing program had to be shut down completely upon expiration of the first continuing resolution. The CR in effect from mid-November through December 15 provided no funds to the listing program and also continued the moratorium provisions of Pub. L. 104–6. Therefore, on November 22, 1995, the Director ordered the reassignment of all listing staff to other duties until funds for these activities were restored. Similar constraints applied during the governmental shutdown and the CRs in effect from December 16, 1995, through January 26, 1996.

The CR that governed the period January 27 through March 15, 1996, provided that funds would be available for the listing program based on the rate established in the House-Senate conference report the Department of the Interior's fiscal year 1996 Appropriations Act (Section 126 of Pub. L. 104–99). This report included an annual rate of $750,000 for listing activities and continued the moratorium. At an annual rate of $750,000, about $100,000 were available for listing activities during the period of this CR.

Short-term CRs covered the periods March 16–22, March 23–29, March 30–April 24, and April 24–26, 1996. These CRs continued the moratorium on final listings and critical habitat designations, and altogether provided the Service with very limited funding ($90,000) during this period.

These very limited funds were quickly expended in paying for **Federal Register** publication charges for a variety of listing documents that were in the Washington Office awaiting publication (e.g., Vertebrate Population Policy, miscellaneous petition findings, and delistings or reclassifications) and providing biological information to the district courts.

On April 26, 1996, the appropriation for the Department of the Interior for the remainder of fiscal year 1996 was finally enacted into law. It provides approximately $4 million for the Service's listing program over the entire fiscal year. The Service had already expended $233,000 of the appropriation, leaving $3,767,000 for the remainder of fiscal year 1996. This act also extends the moratorium on expenditure of funds for final decisions on listings and critical habitat designations, but it also empowered the President to waive the moratorium provisions. The President issued a waiver of these provisions on April 26, 1996, shortly after signing the Omnibus Budget Reconciliation law.

Significant obstacles remain as the Service restarts its listing program. The available funds fall far short of what is needed to clear away the backlog that has built up. Currently the Service faces a backlog of 243 proposed species, a far larger backlog than has existed in recent times. This poses a particularly difficult problem for the Service in light of the other Section 4 activities that require attention such as resolving the conservation status of 182 candidate species (see 61 FR 7596; February 28, 1996); addressing pending court orders; and resolving petitions for 57 species. This highly irregular situation demands that the Service establish biologically defensible work priorities to guide expenditures of the limited listing appropriations in a manner that best serves the purposes of the Act.

The Service is aware that the Department of Commerce and the National Marine Fisheries Service (NMFS) have also faced a highly irregular funding situation in fiscal year 1996 and may have different priorities with respect to restarting their section 4 listing program. This guidance and its priorities are not intended in any way to affect the interpretation of the Act, the Secretary of Commerce's and NMFS' decisions regarding implementation of the Act, Commerce's and NMFS' budget priorities or Commerce's and NMFS' administration of its section 4 listing program. This guidance is intended only to reflect the implementation difficulties faced by the Department of the Interior and the Service, and not those of other agencies or Departments.

Principles for Restarting the Listing Program

The primary purposes of the Endangered Species Act are "to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of this section."

16 U.S.C. 1531(b). It is long-standing Service policy that highest priority be given to those species believed to face the greatest threat of extinction. It is especially important to continue this policy with the current financial constraints. In carrying out that policy, four basic principles will govern the Service's implementation of the listing process as the listing program is restarted:

(1) Highest priority will be given to protecting species most in need, based on the priorities established by the listing priority guidance finalized in this notice and the 1983 Listing Priority Guidelines (48 FR 43098–43103; September 21, 1983);

(2) Biological need, not the preferences of litigants, should drive the listing process. The Service will work closely with the Department of Justice to defend its priority system in those cases where plaintiffs, in pending or new cases, request actions that would cause the Service to diverge from the principles discussed here, and therefore,

in the judgment of the Service, would divert resources from providing prompt protection to those species the Service believes to be in greatest need of the protections of the Endangered Species Act;

(3) Sound science, including peer review, will form the foundation of each and every listing action; and

(4) Public comment and participation in the petition and rulemaking processes will be enhanced to ensure that the States, other Federal agencies, and the affected public are provided with complete explanations of the action and are provided every opportunity to provide comments or information. All comments received will be carefully evaluated and responded to.

Actions Required To Restart the Listing Program

The resumption of an effective listing program will require a variety of actions. First, the budget interruptions described above required the Service to reassign all personnel funded through the listing program to other activities from mid-November 1995 through April 26, 1996. Many of the listing biologists are in the process of being returned to their regular duties. The tasks that these biologists have been working on during the listing shutdown will require a period of orderly shutdown or transfer. The Service estimates that it may require as much as 45 days to fully reengage all listing personnel. Where vacancies exist, steps are being taken to fill them.

As staff come back to the program, all listing packages will be reviewed as quickly as possible to determine their priority placement according to the listing priority guidance reconfirmed here.

Upon completion of this initial stage, the next step will be determined by the facts involved in each package. The packages are in various states of completeness, both as to substance and to process. Some merely require a final review to ensure that they accurately reflect the current situation, while others will require extensive revision because the biological situation may have changed since the proposal was issued. Still other proposals were issued shortly before the funding interruption, so that requests for public hearings or to extend the comment periods could not be acted upon. As a result of this variety, final determinations on the pending proposed listings will move through the system at very different rates. Those that still require addressing public comments will take considerably more time to bring to the stage of final decision.

The $4 million currently appropriated is substantially less than what is needed to eliminate the current backlog of 243 proposed species. Because the facts involved in each final listing determination can vary widely, it is impossible to generate meaningful "average" costs for each listing activity. Processing a proposed final listing may take only a few thousand dollars if basically all steps except final approval and **Federal Register** publication are completed. But processing may take many thousands of dollars if additional comment and responses or public hearings are required. The economic analyses required for critical habitat designations, for example, may require substantial dollars as well as time.

Following completion of work by the Field Office, draft recommendations on each package will be sent to the Regional Office for policy review and, if appropriate, concurrence. Depending on the remaining steps that must be completed, the above described steps may take from 30–120 days.

Following approval by the Regional Office, the draft recommendations will be sent to the Washington Office for technical and policy review and approval by the Director. Including a brief review by the Department's Office of Regulatory Affairs, review time in the Washington Office may require 30 to 60 days, especially if changes are necessary. Rules with critical habitat also require review by the Office of Management and Budget and will take additional time to complete.

Pending Litigation

The Service is presently involved in numerous cases in federal court that involve proposed and final listings, petition findings, and critical habitat designations. As of April 1, 1996, approximately 60 separate civil suits directed at the process of listing species under the Act were pending against Federal officials or agencies. As of April 1, 1996, the Secretary of the Interior had received approximately 300 Notices of Intent to Sue (required under the Act before suit may be filed (see 16 U.S.C. § 1540(g))), on which litigation has not yet been, but could be filed at any time. Many of these Notices of Intent deal with the listing process.

During the moratorium on final listings and critical habitat designation that was in effect for nearly thirteen months, the courts generally agreed with the Service that it could not legally act to meet deadlines without a lawful source of funds. *See, e.g., Environmental Defense Center v. Babbitt*, 73 F.3d 867 (9th Cir. 1995). Now that the moratorium is no longer in effect, and funds, albeit limited, are available for this task, the Service must decide how to best spend these funds to carry out the purposes of the Act. The press of pending and threatened new litigation could complicate this task immensely.

This pending and threatened litigation presents many competing and conflicting claims, and in the current budgetary situation translates into expensive demands on inadequate resources. Actions requested by plaintiffs cover the entire spectrum of listing activities, from petitions to add species to the list to requests to overturn existing listings. Taken collectively, these pending and potential cases seek different and sometimes diametrically opposed results.

Defending existing and any new lawsuits can divert considerable resources away from the Service's efforts to conserve endangered species. When the Service undertakes one listing activity, it inevitably forgoes another. In some cases courts have ordered the Service to complete activities that are simply not, in the Service's expert judgment, among the highest biological priorities.

Development and Publication of Interim Listing Priority Guidance and Its Relationship to the 1983 Priority Guidance

In 1983 the Service adopted guidelines to govern the assignment of priorities to species under consideration for listing as endangered or threatened under section 4 of the Endangered Species Act (48 FR 43098–43105; September 21, 1983) The purpose of those guidelines was to establish a rational system for allocating available appropriations to the highest priority species when adding species to the lists of endangered or threatened wildlife and plants or reclassifying threatened species to endangered status. The system places greatest importance on the immediacy and magnitude of threats, but also factors in the level of taxonomic distinctiveness by assigning priority in descending order to monotypic genera, full species, and subspecies (or equivalently, distinct population segments of vertebrates).

The 1983 guidelines do not establish priorities among different types of listing activities, which include processing pending proposed listings, new proposed listings, delistings or reclassifications, petition findings, and critical habitat determinations. The backlog of proposed species created by the moratorium and the recent funding constraints prompted the Service to establish priorities among the various listing activities.

Accordingly, earlier this spring, in anticipation of facing a possible lifting of the moratorium on final listings and critical habitat designations but with only limited funds available to clear away the large backlog of proposed species that had built up in the interim, the Service published interim listing priority guidance in the March 11, 1996 edition of the **Federal Register** (61 FR 9651–9653) and solicited public comment on that guidance. Summaries of the interim guidance and all comments received, and responses to the comments, are included in the following sections.

The 1983 guidelines properly set priorities for the Service, under a fully-funded Section 4 program, for making expeditious progress in adding species to the Lists of Endangered and Threatened Wildlife and Plants. They are not, however, sufficient to deal with the present backlog of proposed species. The Service developed the Interim Listing Priority Guidance, which in a slightly modified form is now republished as final guidance, to provide a means to reconcile these competing and conflicting demands in a biologically effective and efficient way to best carry out the purposes of the Act. Specifically, after careful deliberation, the Service has decided that, in order to focus conservation benefits on those species in greatest need, processing final determinations relative to the pending proposed listings should receive higher priority than other actions required by section 4 (such as petition findings, new proposed listings, reclassifications or delistings, and critical habitat determinations). Publication of the priority guidance is intended to explain to the public (including litigants and reviewing courts) precisely how the Service believes it should use its limited listing appropriations to maximum effect to carry out the purposes of the Act.

The Department of Justice and the Department of the Interior Solicitor's Office will generally ask litigants and the courts to defer to this listing priority system. Near the end of fiscal year 1996, the Service will review the extent of the remaining listing backlog and the fiscal year 1997 budget situation to determine if an extension of this guidance is necessary. For the reasons set out in the preamble of the notice, the Service finds that good cause exists under 5 U.S.C. 553(d) to make this guidance effective upon the date of publication in the **Federal Register**.

Summary of Interim Listing Priority Guidance

The main principle underlying the listing priority guidance is to focus the limited listing resources on those actions that will result in the greatest conservation benefit for the species in most urgent need of the Act's protections. Because only listed species receive the full conservation benefits and substantive protections of the Act, and because the vast majority of the proposed species face high-magnitude threats to their continued survival, the Service decided to give highest priority to handling emergency situations and resolving the listing status of the 243 outstanding proposed listings. Highest priority actions were assigned to Tier 1, lowest priority to Tier 5.

Tier 1—Emergency listings. Under section 4(b)(7) of the Act, the Secretary may list a species on an emergency basis (without the usual public notice and comment procedure) if an emergency exists that poses "a significant risk to the well-being of any species of fish or wildlife or plants. * * *" Generally, an emergency listing rule remains in effect for 240 days, during which time the Service typically issues a proposed listing and makes a final determination as to whether final listing is appropriate.

Tier 2—Preparation and processing of final decisions on outstanding proposed listings. Within Tier 2, highest priority will be given to species facing the highest magnitude and most imminent threats. For species with equal listing priority assignments, the following types of actions will receive subsequent priority—listing packages that cover multiple species; listing packages that can be quickly cleared (e.g., those with few public comments or factual questions presented); and proposals that have been pending the longest.

Tier 3—Preparing and processing new proposed listings for species facing high-magnitude threats; and screening petitions for emergency situations.

Tier 4—Preparing and processing proposed listings for species facing moderate- or low-magnitude threats; processing final decisions on pending proposed reclassifications and delistings; preparing and processing administrative findings for petitions.

Tier 5—Preparing and processing critical habitat determinations and preparing or processing new proposed delistings or reclassifications.

Summary of, and Responses to, Comments and Recommendations on the Interim Listing Priority Guidance

Comments on the interim listing priority guidance were received from the following organizations—BMI Marketing and Marine Services Corp.; Arizona Game & Fish Department; the Marine Industries Association of Florida, Inc.; and Messrs. Eric Glitzenstein, Michael Sherwood, and William Snape, counsel for the plaintiffs in the *Fund for Animals v. Lujan*, Civ. No. 92–800, D.D.C.

The comments from the Arizona Department of Game & Fish expressed general support for the interim priority guidance, but recommended that reclassifications and delistings should receive higher priority, perhaps in Tier 2 of the interim guidance. The Service recognizes the useful regulatory relief that delistings or reclassifications can provide. The priority guidance provides that to the extent such actions have been processed and approved through the Regional offices, these actions will proceed while the subject guidance is in effect. However, generation of new proposed delistings or reclassifications cannot be justified in a time of extreme budget constraints and while there is an extensive backlog of proposed species awaiting final determinations. The Service regrets that the limited appropriations made available, coupled with the backlog of new listings built up by the moratorium, have delayed delistings and reclassifications. The Service has decided to combine all activities that were assigned to Tiers 3, 4, and 5 and place them collectively in a single Tier 3 for reasons explained below.

The Marine Industries Association of Florida, Inc. (MIA) expressed a similar concern about the lower priority of delisting or reclassification actions, responded to above. The MIA also commented that the proposed guidance should not be used to "rush new listings thru" for species that are highly scientifically controversial. In the interim listing priority guidance, the Service noted that additional public comment periods might be necessary before rules can be finalized if there are unresolved questions or new information that must be evaluated. (See 61 Fed. Reg. at 9653, section entitled "Setting Priorities Within Tier 2"). The Service will ensure that sound science, including peer review, forms the foundation for all listing decisions.

Comments submitted by BMI Marketing & Marine Services Corp., cautioned that final decisions on proposed listings should not be rushed, advising the Service to take the same care and procedure as if no time had been lost. The Service agrees with this comment. Each pending proposal will be reviewed to ensure it contains current and accurate information.

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Where necessary, public comment periods will be reopened.

The attorneys representing the Fund For Animals (FFA) expressed concern that they were not consulted prior to release of the interim guidance, since it will substantially affect the Service's implementation of a court-ordered settlement agreement with FFA dealing with the processing of species regarded as candidates for listing under the Act. The FFA attorneys also expressed concern that the Service violated section 4(h) of the Act by failing to provide opportunity for public comment prior to enactment of the priority guidance. The FFA attorneys asserted that requiring completion of all final listings before beginning new proposals is contrary to the settlement agreement and inconsistent with sound administration of the Act. The FFA also expressed concern that the Service has erected a series of administrative hurdles that unnecessarily slow the speed at which species can be added to the list.

On the objection to making the interim guidance effective immediately, the Service believes it acted reasonably and responsibly in so doing. More importantly, although the Service found, as stated in the interim guidance (see 61 FR 9651), that good cause existed to make the guidance effective immediately, it nonetheless solicited and received comments from the public, and has taken them into account and responded to them now in confirming the guidance. There was no opportunity to implement the interim guidance anyway, because the listing program was essentially unfunded and the moratorium was not lifted until President Clinton approved a waiver of the moratorium on April 26, 1996.

As discussed above, the limited appropriated funds for listing activities now available are simply not sufficient to allow the Service to meet all of its immediate responsibilities under Section 4 of the Act. Thus the Service must make difficult decisions about how best to allocate the limited funds. In anticipation of this situation, the Service made the interim listing priority guidance effective immediately upon publication on March 11, 1996 since it had no idea when a full year appropriation might be enacted (Congress having enacted several short-term Crs during this period) and the Service wanted to have a plan for dealing with the situation it knew it would face when the moratorium was lifted. Comments received in response to the interim guidance were considered and are addressed in this notice.

Unless extended, the guidance is effective until the end of this fiscal year on September 30, 1996. Given the magnitude of the backlog and the limited funds available, however, it is highly unlikely that the Service will complete processing of all of the pending proposed listings within that time. Most of the outstanding proposed listings are for species determined to face high-magnitude threats (priority 1–6 under the 1983 listing priority guidelines). Once the backlog of proposed species that face high-magnitude threats has been brought under control, the Service will rescind this guidance and return to a more typical implementation of section 4 that also includes preparation of proposed listings, delistings, and processing of petitions.

The court-approved Settlement Agreement in *Fund for Animals v. Lujan*, Civ. No. 92–800 (GAG) (D.D.C., Dec. 15, 1992) discussed by Glitzenstein *et al.* in their comments illustrates the problem posed by competing resource demands. That agreement requires the Service to resolve the conservation status of 443 candidate species (either by the publication of a proposed listing rule or the publication of a notice stating reasons why listing is not warranted) by September 30, 1996. Resolution of their status would require, for each species, publication of either a proposed listing rule or a notice stating reasons why listing is not warranted. The agreement does not, of its own terms, require final decisions on listings. Therefore, while it in a sense advances the process of formally protecting species, full compliance with the agreement will not bring the full protections of the Act to any species.

Up to the time the funding for the listing program became severely constrained, the Service was on track to achieve full compliance with this agreement. The Service has published, during the period covered by the agreement, proposed listing rules for 359 candidate species.

Despite this progress, the Service is now left with the following dilemma. If it were to continue to expend money on moving candidate species forward to the proposed listing state in order to comply with the settlement agreement, it would deplete the entire $4 million listing appropriation for fiscal year 1996. Processing of proposed listing rules requires the investment of considerable time and resources. It involves substantial research, status review, coordination with State and local governments and other interested parties, and conducting public hearings and peer review.

If the Service were to devote its entire budget for the remainder of fiscal year 1996 to complying with the *Fund for Animals* Settlement Agreement, the available funds would be insufficient. More important, if the Service were to follow this course, it would be devoting no resources to final listing decisions on the 243 species that have already been proposed for listing. Being so close to receiving the full protection of the Act, these species would remain unprotected under this course of action, while all the Service's efforts in the listing process would be bent toward deciding whether to move candidate species closer to proposed listing, where they receive some limited procedural protection (the section 7 conference requirement, see 16 U.S.C. 1536(a)(4)), but not the full substantive and procedural protections offered by final listing. This course of action would also result in a still larger backlog of proposed species awaiting final action.

Put a little differently, this one court-approved settlement agreement, absent modification, would defeat a primary purpose of lifting the listing moratorium. The Service is recommending, therefore, that the Department of Justice seek appropriate relief from the courts to allow the highest priority proposed species to be processed and, if appropriate, added to the lists of endangered and threatened wildlife and plants, consistent with the provisions of this listing priority guidance.

The FFA also expressed concern that the Service has erected a series of administrative hurdles that unnecessarily slow the speed at which species can be added to the list. This comment does not pertain to the subject matter of this notice, which deals with the relative priority of various listing activities undertaken by the Service, rather than the procedures used to accomplish those activities. Nevertheless, the Service reaffirms it will process decisions on proposed species as expeditiously as possible, consistent with the substantive and procedural requirements of Section 4 of the Act.

The administrative "hurdles" noted by the FFA consist of joint policy statements issued by the National Marine Fisheries Service and the Fish and Wildlife Service on July 1, 1994 (59 FR 34270–34275). Those joint policies are aimed at ensuring that the Act's requirement to use the "best available scientific and commercial data" in the decision-making process on petitions and proposed listing rules, *see* 16 U.S.C. 1533(b), is met and that appropriate coordination occurs with State conservation agencies and the public.

Final Listing Priority Guidance

The Service has considered all comments and believes that some revision of the interim guidance is appropriate. The Service has decided to assign all activities other than emergency listings and final review of pending proposals to Tier 3. This decision is based on the reality that the fiscal year 1996 appropriation is insufficient to fully dispense with the entire backlog of proposed species, such that the Service is unlikely to undertake any actions below Tier 2 prior to September 30, 1996. The Service adopts the revised listing priority guidance as final guidance for assigning relative priorities to listing actions conducted under section 4 of the Endangered Species Act, to remain in effect until September 30, 1996, unless extended. This guidance supplements, but does not replace, the current listing priority guidelines (48 FR 43098; September 21, 1983), which are silent on the matter of prioritizing among different types of listing activities. The terms of this guidance are effective only on the listing priorities of the Service. Listing actions under the jurisdiction of the Department of Commerce, National Marine Fisheries Service will be processed according to priorities established by that agency.

Section 4(b)(1) of the Act requires the Service to use the "best available scientific and commercial information" to determine those species in need of the Act's protections. It has been long-standing Service policy that the order in which species should be processed for listing is based primarily on the immediacy and magnitude of the threats they face. Given the large backlog of proposed species, the backlog of pending petitions, and the list of candidate species awaiting proposal, it will be extremely important for the Service to focus its efforts on actions that will provide the greatest conservation benefits to imperiled species in the most expeditious manner.

The Service will base decisions regarding the order in which species will be proposed or listed on the 1983 listing priority guidelines and the priority guidance in this notice. These decisions will be implemented by the Regional Office designated with lead responsibility for the particular species. The Service allocates its listing appropriation among the Regional Offices based primarily on the number of proposed and candidate species for which the Region has lead responsibility. This ensures that those areas of the country with the largest percentage of known imperiled biota will receive a correspondingly high level of listing resources. The 1983 listing priority guidelines and this guidance will be applied at the National, Regional, and local levels. Given the workload-based allocation, and the fact that the $4 million is not sufficient to complete final determinations on all pending proposed listings, the Service does not anticipate undertaking any actions in Tier 3 prior to September 30, 1996.

To address the biological, budgetary, and administrative issues noted above, the Service therefore adopts the following listing priority guidance.

The following sections describe a multi-tiered approach that assigns relative priorities, on a descending basis, to actions to be carried out under section 4 of the Act. The various types of actions within each tier (such as new proposed listings, administrative petition findings, etc.) will be accorded roughly equal priority, but the 1983 listing priority guidelines will be used as applicable. The Service emphasizes that this guidance is effective until September 30, 1996 (unless extended by future notice) and the agency looks forward to returning to a more typical implementation of the Act's listing responsibilities, to concurrently process petition findings; proposed and final listings, reclassifications, or delistings; and critical habitat determinations, after the backlogs have been reduced.

Tier 1—Emergency Listing Actions

The Service will immediately process emergency listings for species that face an imminent risk of extinction under the emergency listing provisions of section 4(b)(7) of the Act and will prepare a proposed listing immediately upon learning of the need to emergency list. The Service will screen all petitions and other status information it receives to determine if an emergency situation exists.

Tier 2—Processing Final Decisions on Proposed Listings

In issuing the pending proposed listings, the Service found that the vast majority of the proposed species faced high-magnitude threats. The Service believes that focusing efforts on making final decisions relative to these proposed species will provide maximum conservation benefits to those species that are in greatest need of the Act's protections. Since only emergency or final listings provide substantive protection, the Service is of the strong belief that this activity should take precedence over new proposed listings, reclassifications or delistings, petition findings, and critical habitat designations, which in comparison to listing, provide limited conservation benefits.

Setting Priorities Within Tier 2

Most of the pending proposed listings deal with species that face high-magnitude threats, such that additional guidance is needed to clarify the relative priorities within Tier 2. Proposed rules dealing with taxa deemed to face imminent, high-magnitude threats will have the highest priority within Tier 2. The Service will promptly review the backlog of 243 proposed species and each Region will reevaluate the immediacy and magnitude of threats facing all species that have been proposed for listing and revise the species' listing priority assignments accordingly. Those with the highest listing priority will be processed first.

To further prioritize among the Tier 2 actions, proposed listings that cover multiple species will be processed based on the most urgent listing priority of the component species and multi-species packages will have priority over single-species proposed rules with equal priority unless the Service has reason to believe that the single-species proposal should be processed to avoid possible extinction. Furthermore, in those cases where a proposed listing for a high-priority species also includes other species with lower listing priorities, the listing package will not be disassembled to deal only with the high priority species.

Due to unresolved questions or to the length of time since proposal, the Service may determine that additional public comment or hearings are necessary before issuing a final decision for some Tier 2 actions. If the listing priorities are equal, proposed listings that can be quickly completed (based on factors such as few public comments to address or final decisions that were almost complete prior to the moratorium) will have higher priority than proposed rules for species with equivalent listing priorities that still require extensive work to complete.

Given species with equivalent listing priorities and the factors previously discussed being equal, proposed listings with the oldest dates of issue should be processed first.

Tier 3—All Other Listing Actions, Including Processing Reclassifications and Delistings, New Proposed Listings, Petition Findings, and Critical Habitat Designations

While the backlog of candidate species has been reduced substantially since 1992, the Service has determined that 182 species warrant issuance of proposed listings. The Act directs the

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Service to make "expeditious progress" in adding new species to the lists and thereby necessitates steady work in reducing the number of outstanding candidate species. Issuance of new proposed listings is the first formal step in the regulatory process for listing a species. However, this step provides only limited conservation benefits and the Service believes that issuance of new proposed listings, even for species facing imminent, high-magnitude threats, should therefore be afforded lower priority so long as a large backlog exists of proposed listings for species facing high-magnitude threats.

The Service will conduct a preliminary review of any petition to list a species or change a threatened species to endangered status to determine if an emergency situation exists or if the species would probably be assigned a high listing priority upon completion of a status review. If the initial screening indicates an emergency situation the action will be elevated to Tier 1. The historical record on listing petitions reveals that fewer than 25 percent of all petitions are found to warrant listing.

Processing reclassifications and delistings can provide welcome regulatory relief. The Service regrets that such activities must be accorded Tier 3 priority due to the limited appropriations provided by Congress and the need to devote scarce funds to carry out the overall protective purposes of the Act.

Designation of critical habitat consumes large amounts of the Service's listing appropriation and generally provides only limited conservation benefits beyond those achieved when a species is listed as endangered or threatened. Because critical habitat protections apply only to Federal actions, situations where designating critical habitat provides additional protection beyond that provided by the jeopardy prohibition of section 7 are rare. It is critical during this period to maximize the conservation benefit of every dollar spent in the listing activity. The relatively small amount of additional protection that is gained by designating critical habitat for species that are already listed is greatly outweighed by providing the protections included in sections 7 and 9 to newly-listed species. Therefore, the Service will place higher priority on addressing species that presently have no protection under the Act rather than devoting limited resources to the expensive process of designating critical habitat for species already protected by the Act.

Rules and Findings Currently Near Completion

The Headquarters Office will promptly process any draft final rules to add species to or remove species from the lists, draft proposed listings or delistings, draft petition findings, draft proposed or final critical habitat determinations, and draft withdrawal notices that were in the Washington Office prior to the date of this notice but could not be processed because of the funding constraints or the moratorium. These actions will require little additional work to complete and the Service believes it to be cost-effective to finish up these actions that were inadvertently delayed by the funding constraints. The anticipated number of such actions is fewer than ten.

Notifying the Courts on Matters in Litigation

The Service will assess the relative priority of all section 4 petition and rule-making activities that are the subject of active litigation using this guidance and the 1983 listing priority guidelines. In many cases, simply identifying the tier in which an activity falls will suffice to determine whether the Service will undertake that action during the time this priority guidance is in effect. The Service, through the Office of the Solicitor, will then notify the Justice Department of its priority determination and request that appropriate relief be requested from each district court to allow those species with the highest biological priority to be addressed first. To the extent that the courts do not defer to the Service's priority guidance and the 1983 listing priority guidelines, the Service will of course comply with court orders despite any conservation disruption that may result.

The Service will not elevate the priority of proposed listings for species simply because they are subjects of active litigation. To do so would let litigants, rather than expert biological judgments, control the setting of listing priorities. The Regional Office with responsibility for processing such packages will need to determine the relative priority of such cases based upon this guidance and the 1983 listing priority guidelines and furnish supporting documentation that can be submitted to the relevant Court to indicate where such species fall in the overall priority scheme.

Authority

The authority for this notice is the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

Dated: May 10, 1996.

Mollie Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 96–12243 Filed 5–15–96; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

[I.D. 050896B]

Shrimp Fishery of the Gulf of Mexico; Texas Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Adjustment of the beginning date of the Texas closure.

SUMMARY: NMFS announces an adjustment of the beginning date of the annual closure of the shrimp fishery in the exclusive economic zone (EEZ) off Texas. The closure is normally from May 15 to July 15 each year. This year the closure will begin on June 1, 1996. The Texas closure is intended to prohibit the harvest of brown shrimp during the major period of emigration from Texas estuaries to the Gulf of Mexico so the shrimp may reach a larger, more valuable size and to prevent the waste of brown shrimp that would be discarded in fishing operations because of their small size.

EFFECTIVE DATE: The EEZ off Texas is closed to trawl fishing from 30 minutes after sunset, June 1, 1996, to 30 minutes after sunset, July 15, 1996, unless the latter date is changed through notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813–570–5305.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico shrimp fishery is managed under the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented by regulations at 50 CFR part 658 under the authority of the Magnuson Fishery Conservation and Management Act. The FMP implementing regulations at 50 CFR 658.26 describe the Texas closure and provide for adjustments to the beginning and ending dates by the Director, Southeast Region, NMFS, under specified criteria.

Biological data collected by the Texas Parks and Wildlife Department indicate that brown shrimp will be leaving the Texas estuaries later than normal. This information and other data meeting the FMP's criteria indicate that beginning the closure on June 1, 1996, is necessary to provide adequate protection of small brown shrimp emigrating from the Texas estuaries.

Accordingly, the time and date as provided at 50 CFR 658.26(a) for beginning the Texas closure is changed from 30 minutes after sunset May 15, 1996, to 30 minutes after sunset on June 1, 1996. During the closure, the area described at 50 CFR 658.26(a) is closed to all trawl fishing, except that a vessel may trawl for royal red shrimp beyond the 100–fathom (183–m) depth contour. The waters of Texas will also be closed commencing at 30 minutes after sunset on June 1, 1996.

The termination date of the Texas closure may be adjusted to conform to the termination date of the closure in the waters of Texas. If adjusted, notification of the revised termination date will be published in the **Federal Register**.

Classification

This action is authorized by 50 CFR 658.26(b) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 10, 1996.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–12346 Filed 5–15–96; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 672

[Docket No. 950727194–6118–03; I.D. 062795C]

Groundfish of the Gulf of Alaska; Recordkeeping and Reporting Requirements; General Limitations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues a technical amendment to the final rule implementing regulations for recordkeeping and reporting under the authority of the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA) and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI). This action corrects the definition for "fishing trip."

EFFECTIVE DATE: May 16, 1996.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7228.

SUPPLEMENTARY INFORMATION: The final rule implementing recordkeeping and reporting requirements for the GOA and BSAI was published in the **Federal Register** on February 13, 1996 (61 FR 5608). The rule consolidated and revised recordkeeping and reporting requirements for the GOA and BSAI groundfish fisheries, including revisions to various definitions for the term, "fishing trip." Several very similar definitions for the term had existed previously and were to be reconciled and consolidated into one definition for the term in the final rule. The definition for "fishing trip" used to calculate maximum retainable bycatch amounts and retention of pollock roe in the GOA were found at § 672.20(h)(2) and (i)(4). Similar but slightly different definitions for this term as it applied to the BSAI also were found at § 675.20(i)(2) and (j)(4). Inadvertently, the reconciled definition in the final rule did not include some of the language of the original definitions.

The final rule implementing the recordkeeping and reporting requirements specified that an operator of a vessel is engaged in a fishing trip from the time the harvesting, receiving, or processing is begun or resumed until the transfer or offloading of all groundfish product, the vessel leaves the area where fishing activity commenced, or the end of a weekly reporting period, whichever occurs first. NMFS is amending the regulation to correct that definition to specify that a single fishing trip in an area continues until the offload or transfer of all groundfish or groundfish product, the vessel enters or leaves an area to which a directed fishing prohibition applies, or the end of a weekly reporting period, whichever occurs first. This change is based on language from earlier definitions and is designed to add additional precision and clarity concerning when a fishing trip begins and ends.

Classification

Because this technical amendment makes only minor, non-substantive corrections to an existing rule, notice and public procedure thereon and a delay in effective date would serve no purpose. Accordingly, under 5 U.S.C. 553(b)(B) and (d), notice and public procedure thereon and a delay in effective date are unnecessary.

Because this rule is being issued without prior comment, it is not subject to the Regulatory Flexibility Act requirement for a regulatory flexibility analysis and none has been prepared.

This rule makes minor technical changes to a rule that has been determined to be not significant under E.O. 12866. No changes in the regulatory impact previously reviewed and analyzed will result from implementation of this technical amendment.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements

Dated: May 9, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For reasons set out in the preamble 50 CFR part 672 is amended to read as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 672.20, paragraph (h)(2) is revised to read as follows:

§ 672.20 General limitations.

* * * * *

(h) * * *

(2) *Fishing trip.* For purposes of this section, an operator of a vessel is engaged in a single fishing trip in an area from the time the harvesting, receiving, or processing of groundfish is begun or resumed until:

(i) The offload or transfer of all groundfish or groundfish product from that vessel;

(ii) The vessel enters or leaves an area to which a directed fishing prohibition applies; or

(iii) The end of a weekly reporting period, whichever comes first.

* * * * *

[FR Doc. 96–12240 Filed 5–15–96; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 672

[Docket No. 960129018–6018–01; I.D. 051096D]

Groundfish of the Gulf of Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA), except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. This action is necessary because the second seasonal bycatch allowance of Pacific halibut apportioned to the shallow-water species fishery in the GOA has been caught.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), May 13, 1996, until 12 noon, A.l.t., July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486–6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(f)(1)(i) the shallow-water species fishery, which is defined at § 672.20(f)(1)(i)(B)(1) was apportioned 100 mt of Pacific halibut prohibited species catch for the second season, the period April 1, 1996, through June 30, 1996 (61 FR 4304, February 5, 1996).

The Director, Alaska Region, NMFS, has determined, in accordance with § 672.20(f)(3)(i), that vessels participating in the trawl shallow-water species fishery in the GOA have caught the first seasonal bycatch allowance of Pacific halibut apportioned to that fishery. Therefore, NMFS is prohibiting directed fishing for each species and species group that comprise the shallow-water species fishery by vessels using trawl gear in the GOA, except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. The species and species groups that comprise the shallow-water species fishery are: pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and "other species."

After the effective date of this closure the maximum retainable bycatch amounts, calculated using the retainable percentages at § 672.20(g), apply at any time during a trip.

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 13, 1996.

Donald J. Leedy,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–12338 Filed 5–13–96; 3:38 pm]

BILLING CODE 3510–22–F

50 CFR Part 675

[Docket No. 960129019–6019–01, I.D. 051396A]

Groundfish of the Bering Sea and Aleutian Islands Area; Pacific Cod by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific cod by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first seasonal bycatch allowance of Pacific halibut apportioned to the trawl Pacific cod fishery in the BSAI.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), May 14, 1996, until 12 noon, A.l.t., October 25, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The first seasonal bycatch allowance of Pacific halibut for the BSAI trawl Pacific cod fishery category, which is defined at § 675.21(b)(1)(iii)(E), was established by the Final 1996 Harvest Specifications of Groundfish (61 FR 4311, February 5, 1996) as 1,585 metric tons.

The Director, Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iii), that the first seasonal bycatch allowance of Pacific halibut apportioned to the trawl Pacific cod fishery in the BSAI has been caught. Therefore, NMFS is prohibiting directed fishing for Pacific cod by vessels using trawl gear in the BSAI.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under 50 CFR 675.21 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 13, 1996.

Donald J. Leedy,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–12339 Filed 5–13–96; 3:38 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 96
Thursday, May 16, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 26

RIN 3150–AF12

Meeting on Proposed Changes to the Fitness-for-Duty Rule

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) will conduct a meeting to discuss the proposed changes to the fitness-for-duty rule, 10 CFR Part 26, which were published in the **Federal Register** on May 9, 1996 (61 FR 21105). The purpose of the meeting is to ensure potential commenters understand the proposed changes and can make informed comments. The discussions will be transcribed and verbal comments may be made during the meeting. The comment period closes on August 7, 1996.

DATES: The meeting will be held on June 12, 1996, from 8:00 a.m. to 5:00 p.m.

ADDRESSES: Plaza Ballroom I and II of the Doubletree Hotel Rockville, 1750 Rockville Pike, Rockville, Maryland 20852. Reservations for overnight accommodations at the Doubletree Hotel may be made at 1–800–222–Tree or (301) 468–1100.

FOR FURTHER INFORMATION CONTACT: Loren L. Bush, U.S. Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, telephone (301) 415–2944.

Dated at Rockville, Maryland, this 10th day of May 1996.

Loren L. Bush, Jr.,

Senior Program Manager, Safeguards Branch, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 96–12265 Filed 5–15–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 144

RIN 1076–AD 28

The American Indian Trust Fund Management Reform Act of 1994

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule with request for comments.

SUMMARY: The Bureau of Indian Affairs proposes to establish a regulation to implement Title II of Pub. L. 103–412, the American Indian Trust Fund Management Reform Act of 1994 (the Act), which for the first time, permits American Indian Tribes to take restricted tribal funds out of trust status with the Department of the Interior (DOI). The purpose of the Act is to enable Tribes to manage the funds by themselves, or with the help of capable commercial fund managers. The regulation affects tribal funds only, not Individual Indian Money (IIM) funds.

DATES: Comments on this Proposed Rule must be received on or before July 15, 1996.

ADDRESSES: Mail comments to Donna Erwin, Director, Office of Trust Funds Management (OTFM), Department of the Interior, 505 Marquette Ave. NW, Suite 1000, Albuquerque, NM, 87102, OR hand deliver them to Suite 1000 at the above address. Comments will be available for inspection at this address from 9:00 a.m. to 4:00 p.m. (MDT), Monday through Friday beginning approximately 30 days after publication of this document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Joe Weller, Office of Trust Funds Management, at the above address. Telephone (505) 248–5723, fax 248–5782.

REQUEST FOR COMMENTS: It is the policy of the Department of the Interior, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this rule to the location identified in the Address section of this document. To ensure that public comments have maximum effect in developing the final regulations, the Department urges that each comment clearly identify the specific section or sections of the regulations that the comment addresses and that comments be in the same order as the regulations. Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. A copy of these comments may also be sent to the Department representative named in the preceding paragraph.

SUPPLEMENTARY INFORMATION: 25 CFR Part 144 contains provisions which affect 240 tribes with trust funds. These tribes currently have approximately $1.5 billion dollars in judgments, settlements, awards and associated earnings held in trust status by the Department of the Interior. Key concepts of the regulation are as follows: (1) Tribes wishing to withdraw some or all of their restricted tribal funds under the Act (not IIM funds) must present a tribal resolution acknowledging that when funds leave the U.S. Treasury, the federal government has no further liability relating to those funds; (2) tribes must also present a management plan for Secretarial approval, detailing how the funds will be managed once they are out of trust, including a protection against a significant loss of principal; (3) if the funds are not managed by the tribes, they are to be managed by capable investment managers or investment firms with proof of liability insurance; (4) tribes must provide notification to tribal members regarding their intent to withdraw funds from trust; (5) tribes may return any or all of their funds withdrawn under this act, including any earnings, to trust status; (6) tribes may request technical assistance and/or grants from the Department in order to develop the management plan. The ability to take funds from trust creates new tribal opportunities for investment of funds and for economic development; therefore, establishment of the regulation has a high priority in Indian Country.

Development of the Regulation

In accordance with the Act, this regulation was developed with the active participation of tribal representatives. A Regulatory Workgroup was established by OTFM, which had tribal representation, as well

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as representation from the InterTribal Monitoring Association (ITMA), Departmental Office of the Solicitor (SOL), and Bureau of Indian Affairs (BIA). Also in furtherance of tribal participation, draft regulations were sent to all tribes with trust funds in August, 1995; a formal presentation was made by OTFM at a National Tribal Consultation in September, 1995. Comments which were incorporated from this consultation are as follows: (a) A specific provision for notifying the tribal membership of an intent to remove funds was included based on comments by the Delaware Tribe of Oklahoma; (b) the "certification" by tribe's legal counsel of authority of tribal government to withdraw funds was changed to a requirement for a "legal opinion" to be included in the application package based on comments from both the Hopi and Cheyenne River Tribes; (c) a requirement to provide a copy of audit or investment report when requesting to withdraw additional funds was included based on comments from the First Nations Development Institute; (d) a requirement for liability insurance of tribal officials was added based on a suggestion from the Skokomish Tribe of Washington State. Other changes were made, such as changing the approving official to the Secretary, Department of the Interior, from the Commissioner of Indian Affairs, Bureau of Indian Affairs, removing duplicative language from the policy statement; adding clarifying language regarding applicability of these regulations to "proceeds of labor" funds; and requiring tribes to submit copies of applicable distribution plans or settlement acts when making application to withdraw funds. The regulation has also been rewritten into a "user-friendly" format.

Statutory Authority

Title II of Pub. L. 103–412, the American Indian Trust Fund Management Reform Act of 1994, governs the withdrawal of tribal funds from trust status within the Department of the Interior. Specifically, the Secretary is authorized to approve withdrawals of funds based on a Tribal Management Plan. The law states that regulations do not need to be in place for funds to be withdrawn.

Procedural Determinations

The Regulatory Flexibility Act

The Department has determined that this rulemaking will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Executive Order 12630

The Department certifies that the rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment need not be prepared under Executive Order 12630, "Government Action and Interference with Constitutionally Protected Property Rights."

Executive Order 12778

The Department has certified to the Office of Management and Budget that this rule meets the applicable standards provided in Sections 2 (a) and 2 (b) (2) of Executive Order 12778.

Executive Order 12866

This document has been reviewed under Executive Order 12866 and is not a significant regulatory action.

Paperwork Reduction Act of 1995

Section 144.7 contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 (d)), the Department of Interior has submitted a copy of this section to the Office of Management and Budget (OMB) for its review. These regulations affect any tribe for whom the Office of Special Trustee manages funds in tribal trust.

Information in Subpart B (Application to Withdraw Tribal Funds from Trust Status) is being collected to determine the eligibility of applicants, and the capability of tribes or their contractors to manage and invest large blocks of funds. This is in accordance with statutory authority which requires that a tribal Management Plan be approved by the Secretary prior to release of funds from trust. This information will be collected once only from each applicant. Annual reporting and recordkeeping burden for this collection of information is estimated to average 342 hours for each response for 12 tribal respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, the total annual reporting and recordkeeping burden for this collection is estimated to be 4,104 hours.

Information in Subpart D (Application for Federal Assistance and Budget Information—Non-Construction Programs) is being collected to determine the eligibility of applicants, as well as the level of need for technical assistance in order for tribes to develop the Management Plans and to complete the application for withdrawal process. This is in accordance with statutory authority which requires the Secretary to provide technical assistance for tribes to complete the required Management Plan. This information will be collected once only from each applicant. Annual reporting and recordkeeping burden for this collection of information is estimated to average 52 hours for each response for 12 tribal respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, the total annual reporting and recordkeeping burden for this collection is estimated to be 624 hours.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, D.C. 20503; Attention: Desk Officer for U.S. Department of the Interior.

The Department considers comments by the public on these proposed collections of information in:

Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;

Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used; and

Enhancing the quality, usefulness, and clarity of the information to be collected.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

National Environmental Policy Act of 1969

We have determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment, and a detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

List of Subjects in 25 CFR Part 144

Indians, Indian tribal trust funds, Indian trust responsibility.

For the reasons set out in the preamble, Part 144 of Title 25, Chapter 1, of the Code of Federal Regulations is proposed to be added as set forth below.

PART 144—AMERICAN INDIAN TRUST FUND REFORM ACT

Subpart A—General Provisions

Sec.
144.1 Purpose of this regulation.
144.2 Definitions.
144.3 What is the Department's policy on tribal management of trust funds?
144.4 May tribes exercise increased direction over their trust funds and retain the protections of Federal trust status?
144.5 What are the advantages and disadvantages of managing trust funds?
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Subpart B—Withdrawing Tribal Funds From Trust

144.10 Who is eligible to withdraw their tribal funds from trust?
144.11 What funds may be withdrawn?
144.12 What limitations and restrictions apply to withdrawn funds?
144.13 How does a tribe apply to withdraw funds?
144.14 What must the Tribal Management Plan contain?
144.15 What is the approval process for management plans?
144.16 What criteria will be used in evaluating the management plan?
144.17 What special criteria will be used to evaluate management plans for judgment or settlement funds?
144.18 When does the Department's trust responsibility end?
144.19 How can the plan be revised?
144.20 How can a tribe withdraw additional funds?
144.21 How may a tribe appeal denials under this part?

Subpart C—Returning Tribal Funds to Trust

144.30 How does a tribe notify the Department if it wishes to return withdrawn funds to Federal trust status?
144.31 What part of withdrawn funds can be returned to trust?
144.32 How often can funds be returned?
144.33 How can funds be returned?
144.34 Can a tribe withdraw redeposited funds?

Subpart D—Technical Assistance

144.40 How will the Department provide technical assistance for tribes?
144.41 What types of technical assistance are available?
144.42 Who can provide technical assistance?
144.43 How can a tribe apply for technical assistance?
144.44 What action will the Department take on requests for technical assistance?

Authority: 25 U.S.C. 4001.

Subpart A—General Provisions

§ 144.1 Purpose of this regulation.

This part describes the processes by which Indian tribes can manage tribal funds currently held in trust by the United States. It defines how tribes may withdraw their funds from trust status; how they may return funds to trust; and how they may request technical assistance or grants to help prepare plans to manage funds or to ensure the capability to manage those funds.

§ 144.2 Definitions.

As used in this part:

Act means the American Indian Trust Fund Management Reform Act of 1994 (Pub. L. 103–412, 108 Stat. 4239, 25 U.S.C. 4001).

Agency Superintendent means the official in charge of a Bureau of Indian Affairs Agency.

Area Director means the official in charge of a Bureau of Indian Affairs area office.

Bureau or *BIA* means the Bureau of Indian Affairs within the Department of the Interior.

Department or *DOI* means the Department of the Interior.

General Counsel means the attorney for the tribe.

OTFM means the Office of Trust Funds Management, Department of the Interior.

Resolution means the formal manner in which a tribal government expresses its legislative will.

Secretary means the Secretary of the Interior or his designee.

Solicitor means the Office of the Solicitor, Department of the Interior.

Special Trustee means the Special Trustee for American Indians appointed under Title III of the Act.

Tribal Council means the elected or appointed governing officials of any Tribe which is recognized by the Secretary.

Tribe means any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony or Community, including any Alaska Native village or regional or village corporation as defined or established pursuant to the Alaska Native Claims Settlement Act which is federally recognized by the U.S. Government for special programs and services provided by the Secretary to Indians because of their status as Indians. For this purpose, it also means two or more tribes joined for any purpose, the joint assets of which include funds held in trust by the Secretary. An example of this would be the KCA (consisting of the Kiowa, Comanche and Apache Tribes).

Us means the Department of the Interior, i.e., the Secretary of the Interior or his/her designee.

We means the Department of the Interior, i.e., the Secretary of the Interior or his/her designee.

§ 144.3 What is the Department's policy on tribal management of trust funds?

(a) We will give tribes as much responsibility as they desire for the management of their tribal funds that we currently hold in trust.

(b) Title II of the American Indian Trust Fund Management Reform Act, implemented by these regulations, offers tribes one approach for assuming increased management of their funds that we now hold in trust and administer. Under Title II, a tribe may completely remove its funds from Federal trust status and manage them as it wishes, subject to the requirements and conditions in this part. When a tribe withdraws its funds under this part, it may invest those funds in equities or other investment vehicles that are statutorily unavailable to us.

§ 144.4 May tribes exercise increased direction over their trust funds and retain the protections of Federal trust status?

Yes. The Tribal Self-Governance Act (25 U.S.C. 458) and the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 *et seq.*) provide other options for trust funds management. A tribe may choose to manage its trust funds under the provisions of these Acts if it wishes. These options are covered in these regulations: "Indian Self-Determination and Education Assistance Act Program" (25 CFR Part 271, *et seq.*) and the "Self-Governance Program" (25 CFR Part 1001).

§ 144.5 What are the advantages and disadvantages of managing trust funds?

Under these other options, the funds remain in Federal trust status and the tribe can exercise a range of control over their management. However, the tribe has fewer investment options than it has when it withdraws its funds completely from Trust status. If a tribe chooses to keep its funds in trust status, the tribe is subject to the same statutory investment restrictions that bind us. That means that the tribe's investments are limited to bank deposits and securities guaranteed by the United States. (See 25 U.S.C. 162a for specific statutory investment restrictions).

§ 144.6 Do these regulations tell tribes how to receive future income directly rather than having the government continue to collect it?

No. These regulations apply only to the withdrawal of funds which are in trust. Some of these funds come from the sale or lease of trust resources. Even if a tribe withdraws its funds, we will collect and manage future income. If a tribe wishes to receive future income directly, it should contact its agency or area office to find out how to do this.

§ 144.7 Information collection.

Information collection requirements contained in Subpart B of this part, Withdrawal of Tribal Funds from Trust, and Subpart D of this part, Technical Assistance, have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 *et seq.* Information collected in § 144.13, (How does a tribe apply to withdraw funds?) will be used to determine the eligibility of applicants, and the capability of tribes or their contractors to manage and invest large blocks of funds. Information collected in § 144.43, (How can a tribe apply for technical assistance?) will be used to determine the eligibility of applicants, as well as the level of need for technical assistance, in order for tribes to develop Management Plans and to complete the application for withdrawal process. The collections of information for Subpart B and Subpart D of this part will not be required until approved by the Office of Management and Budget.

Subpart B—Withdrawing Tribal Funds From Trust

§ 144.10 Who is eligible to withdraw their tribal funds from trust?

Any tribe for whom we manage funds in trust.

§ 144.11 What funds may be withdrawn?

A tribe may withdraw some or all funds that we hold in trust if we approve a plan that it submits under this part.

§ 144.12 What limitations and restrictions apply to withdrawn funds?

(a) A tribe may withdraw funds appropriated to satisfy judgments of the Indian Claims Commission (ICC) and the Court of Federal Claims and that we hold under the Indian Judgment Funds Use and Distributions Act (25 U.S.C. 1401) or another act of Congress if:

(1) The tribe uses the funds as specified in the previously approved judgment fund plan, and;

(2) The tribe withdraws only funds held for Indian tribes and does not include any funds held for individual tribal members.

(b) A tribe may withdraw funds appropriated to satisfy settlement agreements relating to certain tribal claims and that we hold and manage for the tribe pursuant to an act of Congress if:

(1) The tribe uses the funds as specified in the previously approved settlement act plan;

(2) The tribe withdraws only funds held for Indian tribes and does not include any funds held for individual tribal members; and

(3) It is determined that there is no provision in the act or settlement agreement requiring that the funds remain in trust to implement the act or agreement that cannot be waived.

(c) Tribal funds commonly known as "Proceeds of Labor" funds, usually income to trust resources, are generally withdrawn under normal tribal budgeting procedures, but may also be withdrawn from trust under this part. These funds may be returned to trust under the provisions of Subpart C of this part.

§ 144.13 How does a tribe apply to withdraw funds?

The tribe must submit four copies of its application and the attachments listed below to: Director, Office of Trust Funds Management, Department of the Interior, 505 Marquette NW, Suite 1000, Albuquerque, NM 87102. We will notify the tribe if the application is incomplete and will help the tribe complete the application if requested. When we determine that the application is complete, we will send copies to the appropriate agency superintendent and area director, the Special Trustee and the Solicitor. Each application package must contain the items listed below.

(a) Proof that the tribe has notified its members of its intent to remove funds from trust and that, when the request is approved, the tribe and not the United States Government will be liable for funds management. Notification must be by the method(s) that the tribe customarily uses to notify its members of significant tribal actions. The notification must identify the specific funds to be withdrawn.

(b) A tribal resolution that:

(1) Expressly authorizes the withdrawal of the funds and indicates the (approximate) dollar amount of the funds to be withdrawn;

(2) Expressly acknowledges that the funds, once withdrawn in accordance with the Act, will no longer be held in trust status by the United States, and that we have no further liability or responsibility for the funds; and

(3) Acknowledges that:

(i) Neither we nor the tribe necessarily accept the account balances at the time of withdrawal as accurate; and

(ii) Neither we nor the tribe have waived any rights regarding the balances, including the right to seek compensation for incorrect balances.

(c) A copy of a formal agreement between the tribe and the manager of the funds to be withdrawn, in which the manager agrees to:

(1) Comply with the terms of the plan we approve under § 144.15 and make only those changes that conform to revision procedures in the approved plan and the requirements of § 144.19; and

(2) Transfer funds to the tribe or another manager only after receiving a valid tribal resolution calling for this transfer and proof that the tribe has notified its members of intent to transfer the funds. The resolution must clearly state that:

(i) The funds are being withdrawn to be reinvested by the tribe in a manner consistent with the goals and strategies of the approved plan; and

(ii) The fund managers will continue to follow any previously approved distribution plan conditions.

(d) A legal opinion by the tribe's attorney or its general counsel that:

(1) The resolution referred to in paragraph (b) of this section was enacted under procedures established by the tribe's organic documents or oral tradition;

(2) The tribal governing body has the legal authority to withdraw funds from trust status and that the withdrawal does not require a referendum vote or other procedure beyond a tribal council resolution; and

(3) If the funds to be withdrawn are judgment or settlement funds, that the tribe's plan for managing the funds meets the requirements of any applicable judgment fund use and distribution plan or settlement act.

(e) The results of a tribal referendum, if one was held.

(f) If the funds to be withdrawn are judgment or settlement funds, a copy of the act and/or plan that sets out the conditions for the uses of the funds or income from them.

(g) A management plan as provided for in § 144.14.

§ 144.14 What must the Tribal Management Plan contain?

The Tribal Management Plan required by § 144.13 must include each of the following.

(a) Tribal investment goals and the strategy for achieving them.

(b) A description of the protection against the substantial loss of principal, as set forth in § 144.16.

(c) A copy of the tribe's ordinances and procedures for managing or overseeing the management of the funds to be withdrawn. These must include adequate protections against fraud, abuse, and violations of the management plan.

(d) A description of the tribe's previous experience managing or overseeing the management of invested funds. This should include factual data of past performance of tribally-managed funds (i.e., audited reports) and the identity and qualifications of the tribe's investment officer.

(e) A description of the capability of all of the individuals or investment institutions that will be involved in managing and investing the funds for the tribe. Provide copies of state or federal security applications for account executive(s).

(1) Investment entities named must submit:

(i) Ownership information (including Central Registry Depository (CRD) numbers);

(ii) Asset size and capitalization;

(iii) Assets under management;

(iv) Performance statistics on managed accounts for the past 5 years; and

(v) Any adverse actions by licensing and/or regulatory bodies within the past 5 years.

(2) In addition, we may ask about:

(i) Soft dollar arrangements;

(ii) Affiliation with broker dealers, banks, insurance and/or investment companies;

(iii) Research done in house;

(iv) Recent changes in active portfolio managers; and

(v) Any other information necessary to make an adequate evaluation of the proposed plan.

(f) A description of how the plan will ensure that the fund manager will comply with any conditions established in judgment fund plans or settlement acts.

(g) Proof of liability insurance of the investment firm.

(h) Proof of liability insurance that protects against fraud for those Tribal Council members with authority to disburse funds. In many tribes the chairperson, and the comptroller and/or the tribal treasurer, for example, would be the positions having this authority.

(i) A plan for custodianship of investment securities that includes:

(1) Name of persons in the tribe who can direct the custodian;

(2) Name of the custodian;

(3) Copy of intended custodian agreement;

(4) Size of custodian operation;

(5) Disclosure of any security lending provisions; and

(6) Insurance coverage.

(j) A tribal council agreement to provide an annual audit and report on performance of withdrawn funds to the tribal membership, with a copy to: Office of the Special Trustee for American Indians, Department of the Interior, MS–5140, 1849 C Street NW, Washington, DC 20240. This agreement must include:

(1) A statement that the copy to the Special Trustee is for information only, and infers no liability on our part regarding the audit results, nor does it infer a requirement for us to take any action whatsoever; and

(2) A description of the steps (including audit performance and reporting) the tribe will take to ensure its membership that the tribe is continuing to comply with the terms of the plan submitted and approved pursuant to judgment fund limitations (if any) and/or the terms of the Act.

(k) The proposed date for transfer of funds.

(l) A statement as to whether the tribe chooses to receive the withdrawal as a cash balance transfer, as a transfer of marketable investments that we own for the tribe, or as a combination of the two.

(1) A cash balance transfer may require us to sell bonds, notes, or other investments that we purchased when investing the tribe's monies.

(2) We cannot transfer non-marketable securities to a tribe. We can only purchase and hold them and must sell them back to the U.S. Treasury.

(3) If we sell a tribe's security at a loss (i.e., when market value is less than book value or carrying value) we will first notify the tribe. The tribe must instruct us to proceed with the sale and must agree not to hold us responsible for the loss before we will make the sale.

(4) If the tribe asks us to transfer marketable securities, upon proper instructions from the new tribal custodian, we will order our custodian to physically transfer the proper security to the new custodian on the agreed upon date.

(m) Agreement that judgment award funds will have segregated accounts.

(n) A description of the procedures for amending or revising the plan.

§ 144.15 What is the approval process for management plans?

The Secretary will approve or disapprove each management plan, based in part upon our recommendation.

(a) We will determine the completeness of the application, provide for adequate professional review of the application and the management plan, and provide technical assistance as necessary to make an application complete.

(b) We will coordinate with area directors in confirming authority of tribal governments to make requests, and in providing technical assistance.

(c) We will approve or disapprove a request within 90 calendar days of receiving a completed application. This 90-day period does not include time that we spend awaiting a response from the tribe for additional information that we have requested. All determinations will be in writing, and all responses will be by certified mail.

(d) If we find that a plan does not meet the criteria in § 144.16, we will notify the tribe of shortcomings of the request, and allow the tribe to respond before recommending formal disapproval.

(e) Before final approval, we will reach agreement with the tribe on how many days after final approval we will transfer the funds. We will transfer the funds as soon after final approval as the tribe or manager is ready to receive them, unless we need additional time to sell existing instruments.

§ 144.16 What criteria will be used in evaluating the management plan?

Each plan must be approved by the appropriate tribal governing body, and must be accompanied by a resolution approving the plan. The plan must be reasonable in light of the trust responsibility and the principles of Indian self-determination, and other appropriate factors, including, but not limited to, the factors listed below:

(a) We will evaluate the individuals or entities that will manage the funds to be withdrawn, or that will advise the tribe on investing the funds to be withdrawn in order to determine if they have the capability and experience to manage the funds. Among the elements we will evaluate are: the number of years in business, the performance record for funds management, and the ability to compensate the tribe if the entity is found liable for failing to comply with the tribe's management plan (i.e., its assets, bonding, and insurance).

(b) We will review the tribe's experience in managing investments. We will compare this experience to the complexity of the proposed management plan to determine whether the tribe has the experience to manage its proposed plan or whether it should begin with a less complex approach.

(c) We will evaluate the tribe's internal audit and control systems for

overseeing or monitoring its investment activity.

(d) We will evaluate the adequacy of protection against substantial loss of principal. Our determination will include a thorough evaluation of the tribe's investment plan including:

(1) The goals and objectives;

(2) The proposed uses of the fund in order to meet business objectives;

(3) The size and diversity of the investment portfolio (for example, the class of stocks and the mixture of types of investments);

(4) The financial condition of the tribe;

(5) The inherent riskiness of the proposed investments; and

(6) The tribe's projected need and proposed timeframes to draw down the funds being invested or the income from them.

(e) We will determine the likelihood that the plan will be followed. We will base this determination on the contents of the agreement between the tribe and the fund manager and other appropriate factors.

§ 144.17 What special criteria will be used to evaluate management plans for judgment or settlement funds?

For judgment or settlement funds, in addition to the criteria in § 144.16, we will determine if the plan adequately provides for compliance with any conditions, uses of funds, or other requirements established by the appropriate judgment fund plan or settlement act.

§ 144.18 When does the Department's trust responsibility end?

Our trust responsibility for funds withdrawn under this part ends on the date that the funds are withdrawn. However at the time of withdrawal neither we nor the tribe may be deemed to have accepted the account balance at the time of withdrawal as accurate, or waived any rights regarding the balance and our ability to seek compensation.

§ 144.19 How can the plan be revised?

Once a tribe has withdrawn its funds, the tribe may revise its plan without our approval. All revisions should conform to the procedures outlined in the approved management plan. The tribe should inform its members of all revisions to a plan through normal tribal procedures before the revisions are implemented.

§ 144.20 How can a tribe withdraw additional funds?

(a) If a tribe has withdrawn funds under an approved tribal management plan and wishes to withdraw additional funds that will be managed under the same plan, it need not submit a complete new application. The tribe must:

(1) notify us of the additional amount it intends to withdraw and whether the funds to be withdrawn are in kind or cash. (Written notification should be provided to our address in Section 144.13);

(2) send us a tribal resolution approving the new withdrawal and certifying that the funds are being withdrawn subject to the same conditions and that they will be managed under the plan in the original approved application;

(3) send us a copy of the most recent compliance audit or investment report.

(b) After we finish our review we will release the additional funds, unless the compliance audit or investment report indicates that the tribe is not complying with its management plan. In this case, we will not release the additional funds until the tribe demonstrates that it is complying with the management plan.

§ 144.21 How may a tribe appeal denials under this part?

If we deny a request or do not approve an application within 90 days of a request, the tribe may address any problems that we identify and resubmit a revised request, seek technical assistance, or appeal the denial under 43 CFR Part 4.

Subpart C—Returning Tribal Funds to Trust

§ 144.30 How does a tribe notify the department if it wishes to return withdrawn funds to Federal trust status?

If a tribe elects to return some or all of the funds it has withdrawn from Federal trust status pursuant to this Act, it must first notify us in writing at our address in Section 144.13. This notification must provide a proposed date for the return of the funds, as well as the amount of funds to be returned, or actual securities to be delivered to the appropriate custodian.

§ 144.31 What part of withdrawn funds can be returned to trust?

A tribe may return all or a portion of the principal which was removed from trust under this Act along with earnings and profits. We will verify the amount declared for earnings before we accept a return. We will accept any amount less than the original principal amount as a principal amount.

§ 144.32 How often can funds be returned?

Tribes may return all or part of withdrawn funds no more than twice a year, beginning no sooner than 6 months after date of withdrawal, except with approval of the Secretary.

§ 144.33 How can funds be returned?

Funds may be returned either as cash or securities which meet the requirements for investments in 25 U.S.C. 162(a). Cash can be transferred to the US Treasury by Electronic Funds Transfers (EFT), or the Automated Clearing House (ACH) process. Tribes must coordinate transfer of ownership in securities with us to ensure proper credit to the tribe. The securities must meet investment restrictions contained in 25 U.S.C. 162(a).

§ 144.34 Can a tribe withdraw redeposited funds?

Yes, if a tribe wishes to withdraw redeposited funds from Federal trust status, it must submit a written request to do so, accompanied by a new resolution and any revisions it wishes to make in its original management plan.

Subpart D—Technical Assistance

§ 144.40 How will the Department provide technical assistance for tribes?

(a) We will provide direct or contract technical assistance, in accordance with appropriations availability, to tribes for developing, implementing, and managing Indian trust fund investment plans. We will ensure that our legal, financial and other expertise is made fully available to advise tribes in developing, implementing, and managing investment plans.

(b) We may award grants to tribes for developing and implementing plans for investing Indian tribal trust funds.

(c) Tribes may also obtain technical assistance on their own.

§ 144.41 What types of technical assistance are available?

The types of technical assistance include: investment planning; accounting; selection of investment managers; monitoring of investments; asset management; or other assistance appropriate to support funds withdrawal.

§ 144.42 Who can provide technical assistance?

A sample of competent providers includes any of the following entities with the appropriate skills and capabilities: available DOI or BIA staff; intertribal organizations; public agencies; and contracted private investment firms.

§ 144.43 How can a tribe apply for technical assistance?

(a) Tribes wishing technical assistance may request it by sending us a letter along with a tribal resolution outlining the technical assistance required, tribal resources which may be applied to the need, and suggested provider, if known. The resolution must state clearly that the assistance is needed for developing, implementing, or managing an investment plan under the provisions of this authority.

(b) Tribes requesting funds for technical assistance must send a completed SF–424, APPLICATION FOR FEDERAL ASSISTANCE, and SF–424A, BUDGET INFORMATION, along with a tribal resolution, detailing the assistance specifically requested, and the suggested provider to our address in Section 144.13.

(c) We will make grants subject to funds availability. We will publish a notice in the **Federal Register** concerning the availability of funding, deadlines for grants, the application process, and approval criteria. If funding is limited, grants will be awarded based on criteria that we feel will best meet the intent of the Act. We will consult with tribes in determining annual criteria. Unsolicited grant requests will not be accepted.

§ 144.44 What action will the Department take on requests for technical assistance?

We will respond in writing to all requests for technical assistance and grants, advising of decision, availability of appropriate expertise and funding, and anticipated delivery of the service.

Dated: May 8, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–12143 Filed 5–15–96; 8:45 am]

BILLING CODE 4310–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH90–1–7255b; FRL–5500–6]

Approval and Promulgation of Implementation Plan; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to conditionally approve a revision to the Ohio State Implementation Plan (SIP) to meet the requirements of the USEPA transportation conformity rule. The Transportation conformity SIP revisions enable the State of Ohio to implement and enforce the Federal transportation conformity requirements at the State or local level.

DATES: Comments on this proposed action must be received by June 17, 1996.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Patricia Morris at (312) 353–8656.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final notice which is located in the Rules section of this **Federal Register**. Copies of the request are available for inspection at the following address: (Please telephone Patricia Morris at (312) 353–8656 before visiting the Region 5 office.) EPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

Dated: April 19, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–12358 Filed 5–15–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[PA 078–4019b; FRL–5467–7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Source-Specific VOC and NO_X RACT and Synthetic Minor Permit Conditions, and 1990 Baseyear Emissions for One Source

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of establishing VOC and NO_X RACT for eleven sources, federally enforceable conditions on three sources to make them synthetic minor sources, and approving the 1990 emissions for one source in the Pittsburgh 1990 baseyear emission inventory. This action affects a total of 14 sources. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and the accompanying technical support document. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If adverse comments are received that do not pertain to all documents subject to this rulemaking action, those documents not affected by the adverse comments will be finalized in the manner described here. Only those documents that receive adverse comments will be withdrawn in the manner described here.

DATES: Comments must be received in writing by June 17, 1996.

ADDRESSES: Written comments on this action should be addressed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Cynthia H. Stahl, (215) 597–9337, at the EPA Region III office or via e-mail at stahl.cynthia@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: See the information, pertaining to this action (VOC and NO_X RACT approval, synthetic minor approval, and approval of 1990 emissions for one source in the Pittsburgh 1990 baseyear emissions inventory) affecting 14 sources in Pennsylvania, provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 19, 1996.

W.T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. 96–12356 Filed 5–15–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[OR47–11–7052b; FRL–5504–9]

Approval and Promulgation of State Implementation Plans: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Oregon for the establishment of transportation conformity rules to ensure that Federal actions conform to the appropriate SIP. The SIP revision was submitted by the State to satisfy certain Federal Clean Air Act requirements. In the Final Rules Section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action.

DATES: Comments on this proposed rule must be received in writing by June 17, 1996.

ADDRESSES: Written comments should be addressed to Montel Livingston, Environmental Protection Specialist (OAQ–107), Office of Air Quality, at the EPA Regional Office listed below. Copies of the documents relevent to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. The addresses are: EPA, Region 10, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, WA 98101; State of Oregon, Department of Environmental Quality, 811 S.W. 6th Avenue, Portland, OR 97204.

FOR FURTHER INFORMATION CONTACT: Wayne Elson, EPA, Region 10, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–1463.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Dated: May 2, 1996.

Chuck Clarke,

Regional Administrator.

[FR Doc. 96–12354 Filed 5–15–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[PP–5E04568/P653; FRL–5365–3]

RIN 2070–AB18

2-Propene-1-Sulfonic Acid, Sodium Salt, Polymer With Ethenol and Ethenyl Acetate; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to establish an exemption from the requirement of a tolerance for residues of 2-propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate (CAS Reg. No. 107568-10-5) when used as an inert ingredient (binding agent) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest, under 40 CFR 180.1001(c) and applied to animals under 40 CFR 180.1001(e). This proposed regulation was requested by Japan Technical Information Center on behalf of Nippon Goshei (U.S.A.) Co., Ltd.

DATES: Written comments, identified by the document control number [PP–5E04568/P653], must be received on or before June 17, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132 CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number PP-5E04568/P653. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in the SUPPLEMENTARY INFORMATION section of this document.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Dr. Bipin Gandhi, Registration Support Branch, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, 6th Floor, Arlington, VA 22202, (703) 308–8380, e-mail: gandhi.bipin@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Japan Technical Information Center, 775 South 23rd Street, Arlington, VA 22202, submitted pesticide petition (PP) 5E04568 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 346 a(e)), propose to amend 40 CFR part 180.1001(c) and (e) by establishing an exemption from the requirement of tolerance for residues of 2-propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate when used as an inert ingredient (binding agent) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest and applied to animals. Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageonan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents;

and emulsifiers. The term "inert" is not to imply nontoxicity; the ingredient may or may not be chemically active. The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without that data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient. The Agency has decided that no data, in addition to that described below, for 2-propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate will need to be submitted. The rationale for this decision is described below.

In the case of certain chemical substances that are defined as "polymers," the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. 2-Propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low risk polymers:

1. 2-Propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate is not a cationic polymer, nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. 2-Propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate contains as an integral part of its composition the atomic elements carbon, hydrogen, oxygen, sulfur and sodium.

3. 2-Propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(2)(ii).

4. 2-Propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate is not designed, nor is it reasonably anticipated to substantially degrade, decompose or depolymerize.

5. 2-Propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate is not manufactured or imported from monomers and/or other reactants that are not already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. 2-Propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate is not a water absorbing polymer.

7. The minimum number-average molecular weight of 2-propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate is listed as 6,000 to 12,000 daltons. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the intact gastrointestinal (GI) track. Chemicals not absorbed through the skin or GI tract generally are incapable of eliciting a toxic response.

8. 2-Propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate has a number average molecular weight of 6,000 to 12,000 daltons and contains an oligomer content of less than 2 percent below, molecular weight (MW) 500 and less than 5 percent MW 1000.

Based on the above information and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, that contains any of the ingredients listed herein, may request within 30 days after the publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the docket number, [PP–5E04568/P653]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

A record has been established for this rulemaking under docket number [PP–5E04568/P653] (including comments and data submitted electronically as described below). A public version of this record, including printed paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:
opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will be placed in the paper copies of the official rulemaking record which also will include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in the "ADDRESSES" at the beginning of this document.

The Office of Management and Budget has exempted this rule from the requirements of section 2 of Executive Order 12866.

Pursuant to the requirement of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have an economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Food additives, Pesticides and pests, Processed foods, Reporting and recordkeeping requirements.

Dated: May 7, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.1001 the tables in paragraphs (c) and (e) are amended by adding alphabetically the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert Ingredient	Limits	Uses
. . . . .		
2-Propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate, number average molecular weight (in amu) 6,000 - 12,000.		Binding Agent
. . . . .		

(e) * * *

Inert Ingredient	Limits	Uses
. . . . .		
2-Propene-1-sulfonic acid, sodium salt, polymer with ethenol and ethenyl acetate, number average molecular weight (in amu) 6,000 - 12,000.		Binding Agent
. . . . .		

[FR Doc. 96–12195 Filed 5–15–96; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

42 CFR Part 84

National Institute for Occupational Safety and Health (NIOSH); Meeting

AGENCY: National Institute for Occupational Safety and Health, CDC, HHS.

ACTION: Public meetings and request for comments.

SUMMARY: This document is to request public comments in preparation of rulemaking to revise current NIOSH procedures for certifying respiratory devices used to protect workers in hazardous environments. NIOSH is seeking public comments on issues of privatization and fees related to possible changes in its administration of respirator certification, and comments on establishing priorities for future rulemaking. NIOSH will hold three public meetings in June 1996 to discuss these issues and will consider all comments provided in response to this notice.

DATES: The meetings are scheduled as follows:

1. June 6, 1996, 9:00 a.m. to 5:00 p.m., Washington, D.C.
2. June 7, 1996, 9:00 a.m. to 5:00 p.m., Washington, D.C.
3. June 8, 1996, 9:00 a.m. to 5:00 p.m., Northglenn, Colorado

ADDRESSES: The meetings will be held at the following locations:

1. Washington—Holiday Inn Capitol (Columbia Room), 550 C Street SW., Washington, DC 20024
2. Washington—Holiday Inn Capitol (Columbia Room), 550 C Street SW., Washington, DC 20024

[Open to the public, limited only by the space available.

The meeting room accomodates approximately 150 people.]

3. Northglenn—Holiday Inn Denver Northglenn (Pikes Peak Room), 10 East 120th Avenue, Northglenn, Colorado 80233

[Open to the public, limited only by the space available.

The meeting room accommodates approximately 200 people.]

Comments should be mailed to the NIOSH Docket Office, Robert A. Taft Laboratories, M/S C34, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone 513/533–8450, fax 513/533–8285. Comments may also be submitted by e-mail to: DMM2@NIOSDT1.EM.CDC.GOV. E-mail attachments should be formatted as WordPerfect 4.2, 5.0, 5.1/5.2, 6.0/6.1, or ASCII files. Requests to participate in the public meeting should be mailed to the NIOSH Docket Officer, at the same address.

FOR FURTHER INFORMATION CONTACT: Richard W. Metzler or Roland Berry Ann, NIOSH, 1095 Willowdale Road, Morgantown, West Virginia 26505–2888, telephone 304/285–5907.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Federal Mine Safety and Health Act of 1977 (Pub. L. 91–173, as amended by Pub. L. 95–164), NIOSH and the Mine Safety and Health Administration are mandated to approve respirators used for worker protection. In June 1995, NIOSH published a final rule (42 CFR part 84), beginning a stepwise or "modular" approach to updating the respirator certification process and requirements. The 1995 final rule transferred the existing standards for respirator certification from the labor section to the health section of federal regulations to expedite NIOSH rulemaking to improve these standards. Concurrently, the final rule revised existing standards for certifying the most commonly used respirators, air-purifying respirators used to filter out toxic particulates. NIOSH had identified these revisions as the highest priority for improving the protection of workers using respirators.

II. Public Meetings

NIOSH will convene two public meetings to obtain comments from interested parties on priorities for updating respirator certification standards and other issues addressed in this notice.

The tentative agenda of the meetings includes a brief summary by NIOSH of plans for rulemaking and a review of the issues outlined in this notice. This will be followed by presentations by the public. Participants will be given fifteen minutes to present comments. Participants may comment on the issues addressed by this notice as well as other concerns related to respirator certification.

Any interested person may, consistent with the orderly conduct of the meeting, record or otherwise make a transcript of the meeting. Each participant may submit relevant written information, data, or views for inclusion in the record of the meeting. Any person who desires to submit an advance written statement may file it with the NIOSH Docket Office. A participant may be accompanied by a reasonable number of additional persons, space permitting.

All interested persons are encouraged to submit written comments to assure receipt on or before the close of business August 16, 1996, and to advise the NIOSH Docket Office by close of business May 24, 1996, of their intent to participate in the informal public meeting. All requests to present at the informal public meeting should contain the name, address, and telephone number, relevant business affiliations of the presenter, a brief summary of the presentation, and the approximate time requested for the presentation. NIOSH requests that oral presentations be limited to 15 minutes.

After reviewing the requests for presentations, NIOSH will notify each presenter by mail or telephone of the approximate time that their oral presentation is scheduled to begin. If a participant is not present when his or her presentation is scheduled to begin, the remaining participants will be heard in order. At the conclusion of the meeting, an attempt will be made to allow presentations by any scheduled participants who missed their assigned times. Attendees who wish to speak but did not submit a request for the opportunity to make presentations may be given this opportunity at the conclusion of the meeting, at the discretion of the presiding officer.

The record of the informal public meetings will consist of the meeting schedule and any written comments submitted at the meetings or in response to the meetings. The meetings will be video taped for the record. In addition, an administrative record will be established including a record of the informal public meetings and all comments received in response to this notice. The administrative record will be made available for viewing and copying in the NIOSH Docket Office. All requests for any portion of the administrative record must be submitted in writing.

III. Matters To Be Discussed

A. Priority of Technical Modules

1. Background

On May 24, 1994, NIOSH published a Notice of Proposed Rulemaking (50 FR 26580) which led to promulgation of the current respirator certification standards at 42 CFR Part 84. This proposal introduced the modular approach to rulemaking NIOSH has adopted and listed anticipated subjects and a sequence for future rulemaking. These subjects (in proposed priority order) were: assigned protection factors, administrative program (application submittal and processing, fee structure, etc.), quality assurance requirements, gas and vapor requirements (including maximum use concentrations), positive pressure self contained breathing apparatus requirements, and simulated workplace protection factor test. In response to that notice, NIOSH received numerous suggestions for additional module subjects, such as powered air-purifying respirators, smoke masks, fit testing, supplied air respirators, gas masks, and combination respirators. Many commenters also recommended a priority order for the sequence of rulemaking. However, opinions on priorities were diverse and few commenters included a rationale to support their suggested priorities.

None of the commenters indicated specific changes needed to improve current standards. One commonality among suggestions was that they all referred to the need to improve individual respirator classes (e.g., gas and vapor, powered air purifying, self contained, etc.). However, component specific upgrades that are applicable across respirator classes (e.g., head harness, facepiece, breathing hose, etc.) are also possible in the modular approach.

2. Issues for Comment

Specifically, NIOSH is seeking comments on the following issues for prioritizing the development of modules:

Issue 1. Diverse criteria may be considered to establish priorities for improving respirator certification standards.

These include standard public health criteria such as the number of persons (workers) affected, the seriousness of hazards or problems that would be addressed, and the extent to which changes would improve protection. Other criteria that also may have an important influence on worker protection include, opportunity for cost savings (reducing costs for manufacturers and purchasers of respirators) and the expediency by which a change can be implemented (e.g., the existence of adoptable consensus standards).

(1) What criteria should be used to rank the priority of each module?

Issue 2. NIOSH will be developing a complete, ranked listing of priorities for rulemaking, including justification for the ranking.

(1) In general terms, what changes to current respirator certification requirements are needed in the modules identified in this notice?

(2) Are there any subject areas for improving current certification requirements that are not identified in this notice that should be considered in the prioritizing process? If so, please include an explanation of the importance of the subject and describe in general terms the changes needed in current requirements.

(3) How should the modules be ranked, and why? Please provide criteria and data or reasoning used to determine ranking.

(2) Are there existing national or international standards that could be adopted by NIOSH to replace current certification requirements pertaining to a given module? Please provide a rationale and indicate any inadequacies of the suggested standard.

(3) How would potential changes to current requirements achieved through a proposed module affect public health?

(4) Which industries and how many workers would be affected by potential changes achieved through a proposed module?

(5) What would be the technical feasibility of suggested changes?

(6) What would be the economic impact to respirator manufacturers, purchasers, and users resulting from the suggested changes?

(7) What other factors relate to the priority ranking of the proposed module?

Issue 3. NIOSH will inform the respirator community of regulatory priorities to allow research and planning to be coordinated with the

development of new standards. However, these priorities may change as new needs are identified. NIOSH can readily notify respirator manufacturers directly about these changes.

(1) How should NIOSH notify respirator purchasers and users of revised priorities?

B. Administrative/Quality Assurance Module

1. Background

NIOSH certification requirements (42 CFR Part 84) contain application procedures and technical requirements for respirators. NIOSH currently tests and evaluates a product for a fee paid by the applicant. Pretesting is required by the manufacturers. Drawings and specifications submitted with the application are evaluated to ensure that applicable technical requirements of 42 CFR Part 84 are met. This includes evaluation of the manufacturer's quality control plan.

Manufacturers must assure that approved respirators continue to conform to the specifications and design approved by NIOSH. Any proposed change to the documentation must be submitted prior to implementation of the change. If NIOSH approves the change, it issues an extension of certification for the modified product. Manufacturers are authorized to mark the product to identify its certification status. The introduction of new performance standards for particulate filters in the NIOSH certification requirements promulgated in June 1995 increased competition, caused the development of new technologies, and resulted in new uses for respirators. All of these factors have resulted in a dramatic increase in the volume of respirator certification applications submitted to NIOSH. This increased volume of application continues unabated eight months later and is overwhelming NIOSH resources to process applications. The number of applications awaiting processing (the working inventory), and the length of processing time are both increasing, despite an accelerated rate of processing.

All of the manufacturers who hold NIOSH certifications under Part 11 will apply for certification under Part 84. To date, approximately one-third of these manufacturers have applied for certification under Part 84. In addition, many manufacturers that have already received certifications under Part 84 have informed NIOSH that their volume of applications will continue at an increased level for the next 18 to 24 months. NIOSH anticipates similar increases in the volume of applications with the promulgation of additional modules to improve certification requirements.

The long-term prospect of high demand for processing applications is leading NIOSH to investigate alternatives to expedite certification. The current application process, which is largely based on practices established in the early 1900's by the U.S. Bureau of Mines, cannot expeditiously respond to the volume of applications associated with periodic improvements to the standards.

In response to this situation, NIOSH is considering adopting new administrative and quality assurance procedures that will enable the Institute to use private sector resources. A primary concern in investigating this option is safeguarding the integrity and public credibility of the certification process. NIOSH may consider adopting national and international standards (e.g., ISO–9000, Nationally Recognized Testing Laboratories (NRTL), etc.) where feasible, to provide oversight for the certification process.

2. Issues for Comment

Specifically, NIOSH is seeking comments on the following issues for the development of this module:

Issue 1. Independent laboratories should be capable of performing routine testing required for respirator certification. Transferring this testing to private laboratories would enable NIOSH to focus on aspects of the certification program other than pre-certification evaluation. Newly available resources could be used for investigation of complaints about certified respirators and development of testing procedures and new standards for improving the certification standards. However, NIOSH must ultimately be able to ensure the integrity of the program.

(1) Are private sector testing laboratories capable of conducting the respirator testing currently performed by NIOSH?

(2) What qualification requirements (e.g., certification by National Voluntary Lab Accreditation Program (NVLAP), American National Standards Institute (ANSI), NRTL, etc.) should NIOSH require of private laboratories who perform certification and product audit testing under NIOSH guidance?

(3) Should NIOSH assign the testing of a manufacturer's respirators to laboratories approved by NIOSH or should the manufacturer be permitted to use the laboratory of choice among approved laboratories?

(4) What type of monitoring should NIOSH perform to assure that private sector laboratories continue to provide quality service?

Issue 2. Quality auditors with international certification are authorized to conduct audits for International Organization of Standardization (ISO) certification. The auditors could conduct audits of manufacturers for NIOSH concurrently with audits required for ISO. Combining these audits could result in fewer interruptions for the manufacturer and lower inspector costs. NIOSH oversight of these auditors can ensure that audit quality is comparable to that which has been provided by NIOSH employees.

By primarily examining auditors, rather than manufacturing sites and processes, NIOSH would be able to enhance worker protection. Use of private sector quality auditors to perform routine manufacturing site audits would allow manufacturing sites to be audited more frequently; NIOSH audits each manufacturer on the average of once every four years, while ISO audits are conducted twice a year. Use of ISO auditors would also free up NIOSH resources to evaluate a potential certification holder's quality control system prior to the production of any certified respirators. This type of audit could be advantageous to both the manufacturer and respirator users, reducing the potential for manufacture and distribution of deficient respirators.

(1) What qualification requirements (e.g., certification by ANSI-Registrar Accreditation Board, United Kingdom Accreditation Service, International Auditor and Training Certification Association, etc.) should NIOSH require for the acceptance of independent quality auditors to perform manufacturing site audits under NIOSH guidance?

(2) What measures should NIOSH use to ensure the integrity of the program using private quality auditors?

(3) What frequency of audits would be considered a minimum to provide assurance that only quality products are distributed?

(4) Should manufacturing sites be audited prior to the issuance of a NIOSH certification?

Issue 3. The fees and free structure for activities conducted in the certification program are based on the fee schedule contained in 42 CFR Part 84. This fee schedule has not been updated since 1972, and applies to only one of the five primary functions of the NIOSH certification program. The fees are assessed only for pre-certification technical evaluations and tests. The costs of conducting a certification program have risen over the years, but these increased costs have not been reflected in certification charges. The fees charged for NIOSH services do not recover the costs to maintain the program. NIOSH will be updating the fee schedule to reflect the actual costs to maintain the program.

(1) How should certification fees be structured and calculated to recoup the cost of the certification process?

(2) Should manufacturers be required to pay for manufacturing site and product audits?

(3) Should fees be collected by NIOSH for respirator complaint investigations?

Issue 4. The certifications standards currently limit NIOSH to certify only complete respirators. Standards are not provided to evaluate component parts independently. There are not provisions in the current addressing standardization and interchangeability of components. Any change to a component part, or a replacement part that differs from the original, can change the effectiveness of a respirator, and decreased effectiveness normally cannot be detected by the user. To ensure that respirators perform effectively, they must be maintained as approved. Replacement parts are limited to those specified in the certification for the manufacturer's assembly of the respirator. These are the only components that have been evaluated for effectiveness. As a result, a respirator user must obtain replacement parts and service from the respirator's original manufacturer.

(1) Should NIOSH allow replacement parts for respirators by manufacturers other than the original manufacturer of the respirator?

(2) How should the effectiveness of replacement parts be assured?

(3) Would NIOSH need to adopt or develop component-specific certification requirements to allow alternate suppliers for replacement parts?

(4) Should NIOSH consider certifying respirator components in addition to, or instead of, complete respirator?

(5) Do other certifying agencies or standards organizations allow suppliers other than the original manufacturer to provide replacement parts for certified units?

(6) If suppliers other than the original manufacturer were permitted to provide replacement parts, how should NIOSH monitor these alternate suppliers?

(7) If suppliers other than the original manufacturer were permitted to provide replacement parts, how should NIOSH monitor those parts?

(8) Would NIOSH need to adopt design specifications to ensure that interchangeability of parts is safe?

Issue 5. Products auditing is an ongoing NIOSH activity involving the acquisition of respirators to assure compliance with NIOSH certification requirements. These products are purchased from distributors, inspected, and tested to verify they continue to meet the NIOSH certification criteria. This activity provides a "snapshot" of the results of quality control, quality assurance, and manufacturing processes used to produce the certified respirator.

NIOSH currently procures approximately 64 respirators a year to perform product audits. With increasing budget constraints and the very small number of respirators that NIOSH can purchase each year, NIOSH may require manufacturers to supply respirators upon request for product audits.

(1) What would be the maximum number of respirator per year, aside from problem investigations, that NIOSH should request from a manufacturer, at no charge to NIOSH?

(2) How should NIOSH acquire products for audit (i.e., by voucher, reimbursement, random selection by NIOSH at the manufacturer or distributor)?

(3) Should manufacturer be charged for these product audits, since they are a condition of certification?

Issue 6. The NIOSH certification is issued for an unlimited number of units, without an expiration date. In the past, some certified respirators have been removed from production for a period of time, then returned to production. Some certification holders have even gone out of business. There is currently no provision for notification to be given to NIOSH of these events. Typically, NIOSH becomes aware of these events only when attempting to purchase the affected respirator for audit, or as a result of a field complaint. Consequently, NIOSH has no information for most certified respirators on the number sold, or whether or not they are still in production.

The NIOSH certification is only removed in the event a certification rescission proceeding is invoked. Since 1919, only a couple of rescission proceedings have occurred. These proceedings are costly and time consuming to NIOSH, the manufacturers and users.

NIOSH is considering provisions that will inform the Institute on the production of respirators under a certification. These provisions could limit the time that a certification would be valid or require notification of production status.

(1) Should the NIOSH certification be valid for a limited time?

(2) What conditions should be met for a time-limited NIOSH certification to be renewable?

(3) What time limits should be used for a NIOSH certification and renewal?

(4) Should certification holders be required to notify NIOSH of changes in production status and the number of produced units when production is halted?

(5) How would purchasers and users be affected if the certification of their respirator expires?

(6) Would an expired certification benefit purchasers and users by informing them that their respirator is no longer produced?

(7) Could information on the number of respirators produced under a certification be used to benefit purchasers and users?

Availability and Access of Copies: Additional copies of this document can be obtained by calling the NIOSH toll-free information number (1–800–35–NIOSH, option 5, 9 a.m.–4 p.m. ET); the electronic bulletin board of the Government Printing Office, 202/512–1387; and the NIOSH Home Page on the World-Wide Web (http://www.cdc.gov/niosh/homepage.html).

Dated: May 7, 1996.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–11859 Filed 5–15–96; 8:45 am]

BILLING CODE 4160–19–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[GC Docket No. 96–101, FCC 96–192]

In the Matter of Implementation of Section 34(a)(1) of the Public Utility Holding Company Act of 1935, as Added by the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking (NPRM) seeks comment on proposed regulations which implement new section 34(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA), as added by section 103 of the Telecommunications Act of 1996. Under new section 34, registered public utility

holding companies may now enter the telecommunications industry without prior Securities and Exchange Commission ("SEC") approval by acquiring or maintaining an interest in an "exempt telecommunications company" ("ETC"). Moreover, exempt public utility holding companies, by owning or acquiring an interest in an ETC, may now acquire a "safe harbor" from potential SEC regulation under PUHCA section 3(a). Section 34(a)(1) requires the Commission to promulgate rules implementing the procedure of determining ETC status within one year of the date of enactment of the Telecommunications Act of 1996.

DATES: Interested parties may file comments on or before June 17, 1996 and reply comments on or before July 5, 1996. Written comments by the public on the proposed and/or modified information collections are due June 17, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before July 15, 1996.

ADDRESSES: Comments and reply comments should be sent to the office of the Secretary, Federal Communications Commission, 1919 M Street NW., Washington, DC 20554, with a copy to Lawrence J. Spiwak, Competition Division, Office of General Counsel, Federal Communications Commission, 1919 M Street NW., Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street NW., Suite 140, Washington, DC 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street NW., Room 239, Washington, DC 20554.

In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street NW., Washington, DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street NW., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Spiwak, Competition Division, Office of General Counsel. (202) 418–1870. For additional information concerning the information collections contained in this NPRM contact Dorothy Conway at 202–418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This NPRM contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

Paperwork Reduction Act

This NPRM contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB notification of action is due 60 days from date of publication of this NPRM in the **Federal Register**. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: None.

Title: In the Matter of Implementation of Section 34(a)(1) of the Public Utility Holding Company Act of 1935, as amended by the Telecommunications Act of 1996, Notice of Proposed Rulemaking.

Type of Review: New collection.

Respondents: 15. There are fifteen registered public utility holding companies.

Number of Respondents: 15. We anticipate that each registered public utility holding company will make at least one application annually.

Estimated Time Per Response: We estimate that each application will take 16 hours to prepare. However, the Commission estimates that respondents will hire attorneys to prepare information. The time for coordinating the submission is ten hours per respondent.

Total Annual Burden: 150 hours.

Estimated costs per respondent: We estimate that the cost to each respondent will be approximately $3,200, assuming 16 hours at $200/hour for outside counsel.

Needs and Uses: The information will be used by the Commission to determine whether persons satisfy the statutory criteria for "exempt telecommunications company" status. Without such information, the Commission could not determine whether persons satisfied the requisite statutory criteria and therefore fulfill its responsibility under section 34(a)(1) of PUHCA, as amended.

I. Introduction

1. This notice of proposed rulemaking (NPRM) seeks comment on proposed regulations which implement new section 34(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA), 15 U.S.C. 79 *et seq.*, as added by section 103 of the Telecommunications Act of 1996, Pub. L. No. 104–104, 110 Stat. 56 (1996).[1] Under new section 34, registered public utility holding companies may now enter the telecommunications industry without prior Securities and Exchange Commission ("SEC") approval by acquiring or maintaining an interest in an "exempt telecommunications company" ("ETC").[2] Moreover, exempt public utility holding companies, by owning or acquiring an interest in an ETC, may now acquire a "safe harbor" from potential SEC regulation under PUHCA section 3(a).[3] The new law vests the Commission with jurisdiction to determine whether a company warrants ETC status based on specific statutory criteria.

2. As explained below, we propose to implement section 34(a)(1) by providing for a simple procedure for ETC determination, under which applicants briefly describe their planned activities and certify that they satisfy the specific statutory requirements and any applicable Commission regulations. The Commission believes that its responsibilities under section 34(a)(1) are limited to whether the applicant meets the express statutory criteria for ETC status. Thus, we believe that an ETC determination should not involve an inquiry into the public interest merits of entry by the applicant. Nor would the public interest or the intent of Congress be served if this process became a regulatory barrier to

[1] The Telecommunications Act was enacted on February 8, 1996.

[2] *See* PUHCA section 34(d).

[3] *See* PUHCA section 34(c).

significant new entry into the telecommunications industry. Accordingly, the proposed rules are limited to the filing requirements and procedures for persons seeking exempt telecommunications company status.[4] We believe that this approach is the best mechanism to expedite Congress's policy to allow holding companies to become vigorous competitors in the telecommunications industry in order to promote the public interest.[5]

3. The Commission invites interested parties to comment on the matters raised in the proposed rules.

II. Background

4. PUHCA was designed to prevent financial abuse among public utility holding companies and their affiliates.[6] PUHCA accomplished this goal by, among other things, restricting the activities and investments that holding companies are permitted to make outside of their core public utility businesses. Prior to the Telecommunications Act of 1996, the provisions of PUHCA strongly deterred entry by registered public utility holding companies into the telecommunications industry.[7] Somewhat anomalously, however, utilities that are not public utility holding companies have always been free to enter the telecommunications industry without prior SEC approval, regardless of their size or scope.

5. Section 103 of the Telecommunications Act of 1996, which adds new PUHCA section 34(a)(1), ends this disparate treatment by allowing previously restricted holding companies to enter telecommunications industries without prior SEC permission by acquiring or maintaining an interest in an "exempt telecommunications company." Under section 34(a)(1), an ETC is any person determined by the Commission to be engaged directly or indirectly, wherever located, through one or more affiliates (as defined in section 2(a)(11)(B) of PUHCA [8]), and exclusively in the business of providing: (A) telecommunications services [9]; (B) information services [10]; (C) other services or products subject to the jurisdiction of the Commission; or (D) products or services that are related or incidental to the provision of a product or service described in (A), (B), or (C).

6. Section 34(a)(1) provides that an applicant who has applied in good faith for a determination of ETC status is deemed an ETC until the Commission makes such a determination. Section 34(a)(1) requires the Commission to render its determination of whether a person is an ETC within 60 days of the receipt of an application. Section 34(a)(1) also requires the Commission to notify the Securities and Exchange Commission (SEC) whenever it determines that a person is an ETC. Finally, Section 34(a)(1) requires the Commission to promulgate rules implementing the procedure of determining ETC status within one year of the date of enactment of the Telecommunications Act of 1996.

7. By obtaining ETC status, holding companies can now be vigorous competitors in the telecommunications industry, and, with such competition, bring more benefits to consumers.[11] Indeed, Congress recognized that utilities in general have experience in telecommunications operations, as these companies already operate telecommunications systems for the operation and monitoring of electric generation, transmission and distribution for reliability purposes.[12] Moreover, Congress recognized that holding companies have sufficient size and capital to be effective competitors to incumbent telecommunications companies.[13] Finally, Congress also found that electric utilities, by entering into telecommunications, can provide more efficient and more ecologically-sound energy service in the form of "peak-shaving" and real-time energy management.[14]

III. Discussion

A. Commission Responsibilities

8. We have previously held that the Commission's responsibilities under section 34(a)(1) do not appear to extend beyond a determination of whether an applicant complies with the relatively narrow certification criteria enumerated above.[15] This is evident not only from the unambiguous language of section 34(a)(1), but from other provisions of section 34, which preserve other statutory provisions where the merits of ETC entry can be evaluated. For example, section 34(n) preserves this Commission's and applicable states' authority to regulate the activities of an ETC under provisions of the Communications Act of 1934 and any applicable state laws. In addition, section 34(j) retains the jurisdiction of the Federal Energy Regulatory Commission (FERC) and state commissions to determine whether a public utility company may recover in its rates the costs of products or services purchased from or sold to an associate or affiliate company that is an ETC, regardless of whether such costs are incurred through the direct or indirect purchase or sale of products or services from the affiliate or associate company. Finally, section 34(m) provides state commissions the authority to conduct independent audits of public utility holding companies and their affiliates. We request comment on whether our existing interpretation of the scope of our inquiry under section 34(a)(1) is correct.

B. Filing Requirements

9. We note that PUHCA section 34(a)(1) is similar to the "exempt wholesale generator" paradigm of PUHCA section 32 which permits, inter alia, public utility holding companies to enter into the independent power production business.[16] FERC, the agency responsible for implementing PUHCA section 32, interpreted that statute as intended to give it only narrowly circumscribed authority, and therefore implemented a procedure whereby an applicant need only briefly describe its planned activities and certify that it satisfies the requisite statutory criteria.[17]

[4] The proposed rules would create a new subpart S, part 1 under title 47, chapter I of the Code of Federal Regulations.

[5] See Report of the Committee on Commerce, Science and Transportation on S. 652, S. Rep. No. 104–23, 104th Cong., 1st Sess. at 8 (1995) ("Senate Report").

[6] *See* Arcadia, Ohio v. Ohio Power, 498 U.S. 73, 87, 111 S.Ct. 415, 423 (1990) (Stevens, J. concurring) (citations omitted).

[7] *See* PUHCA sections 3(a), 11(b)(1).

[8] PUHCA section 2(a)(11)(B) defines "affiliate" as "any company 5 per centum or more of whose outstanding voting securities are owned, controlled, or held with power to vote, directly or indirectly, by such specified company."

[9] *See* Communications Act of 1934 section (3)(51), as added by the Telecommunications Act of 1996, which provides that the term "telecommunications service" means the "offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used to transmit the telecommunications service."

[10] *See* Communications Act of 1934 section (3)(41), as added by the Telecommunications Act of 1996, which provides that the term "information service" means the "offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telephone system or the management of a telecommunications service."

[11] See Senate Report at 7–8.

[12] Id.

[13] Id.

[14] Id.

[15] See Entergy Technology Company, (FCC 96–163, released April 12, 1996) (Entergy Technology).

[16] See PUHCA section 32, as added by section 711 of the Energy Policy Act of 1992. 15 U.S.C. 79z-5a.

[17] See Filing and Ministerial Procedures for Persons Seeking Exempt Wholesale Generator

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We believe that similar filing requirements should be required under section 34(a)(1).

10. Accordingly, for the company or companies which are eligible companies owned and/or operated by the applicant, the proposed rules would first require the applicant to provide a brief description of the planned activities of the company or companies which are eligible companies owned and/or operated by the applicant. Second, the proposed rules would require a person seeking ETC status (applicant) to file a sworn statement, by a representative legally authorized to bind the applicant, attesting to any facts or representations presented to demonstrate eligibility for ETC status, including a representation that the applicant is engaged directly, or indirectly, wherever located, through one or more affiliates (as defined in section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935), and exclusively in the business of providing: (A) telecommunications services; (B) information services; (C) other services or products subject to the jurisdiction of the Commission; or (D) products or services that are related or incidental to the provision of a product or service described in (A), (B), or (C). Finally, the proposed rules would require an applicant to provide a sworn statement, by a representative legally authorized to bind the applicant, certifying that the applicant satisfies Part 1, Subpart P, of the Commission's regulations, 47 CFR 1.2001 through 1.2003r, regarding the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862. The application would then be placed on public notice for comment on the adequacy or accuracy of the representations contained therein.[18] The Commission would review the application and any comments to determine whether the application meets the statutory requirements for ETC status. This analysis would be the extent of the Commission's inquiry. To the extent parties believe that our inquiry should either be more expansive or narrow, we invite them to comment on this issue.

11. We also seek comment on whether we should adopt rules governing applications seeking ETC status filed by different entities that are affiliates of a common holding company parent. While the Act apparently contemplates that every entity seeking ETC status must apply to the Commission,[19] we see no reason why this should require separate entities affiliated with the same holding company parent to seek ETC status through separate applications and proceedings. Such a process seems administratively wasteful and duplicative.[20] Accordingly we propose to allow multiple entities seeking ETC status, which are affiliated with the same public utility holding company parent, to seek a determination for all such entities through a single consolidated application. In such a case, the application should contain for each affiliate sufficient information as required by our rules to make a separate ETC determination for that affiliate. We seek comment on this proposal.

12. The proposed rules also require applicants to serve a copy of the ETC application on the SEC and affected State commissions. An affected State commission is defined as the State commission of each state in which the ETC will be located or doing business. Although service of applications on the SEC and State commissions is not required by law, section 34 of PUHCA specifically contemplates a role for the SEC and State commissions insofar as certain eligible companies are concerned. It also contemplates that the SEC be aware of ETC determinations. The Commission sees no reason not to inform these agencies of pending ETC applications at an early stage, particularly since the copying and mailing costs associated with serving filings on the SEC and affected State commissions will be minimal. We note that FERC took a similar approach in its analogous rules.[21] We invite parties to comment on this proposal.

C. Notice and Comment

13. As of April 25, 1995, the Commission has received 11 applications for ETC status, three of which have been granted.[22] While staff placed these applications on public notice for comment, there is no requirement in the Telecommunications Act that the Commission do so. On the other hand, neither is there any prohibition on the Commission's discretion to do so. The proposed rules would provide for public notice and comment on ETC applications, but would limit consideration of any submissions that might be made in response to such public notices to the narrow purpose of determining the adequacy or accuracy of the certification made to satisfy the statutory criteria. Given the limited focus of the Commission's inquiry under section 34(a)(1), we do not believe that it would be appropriate to allow persons to raise issues that fall outside the purview of the statutorily fixed determination, and that go to the public interest merits of an applicant's proposed entry. Accordingly, the proposed rules specify that parties may file comments on a proposed application, but that any comments must be limited to the adequacy and accuracy of the representations contained therein. Comments on the adequacy of the representations may include whether the application is within the scope of the ETC criteria, e.g., the extent to which applicant's services constitute telecommunications, information or related services. Applicants would then have the opportunity to respond to any comments filed. The Commission requests comments on the tentative conclusion to allow comments, but to limit such comments to the accuracy and adequacy of the representations contained in the applications. We also request comments on the length of the time period which should be set for such comments.

D. Implementation

14. The proposed rules specify that the Commission must act within 60 days of receipt of an application. Applications that do not meet the requirements of the proposed rule set forth in proposed 1.4002 will be rejected. Under the proposed rules, if the Commission does not act within 60 days, the application is deemed to have been granted.

15. Proposed § 1.4005 requires the Secretary of the Commission to notify the SEC whenever an application for ETC status is granted, as explicitly required by section 34(a)(1) of PUHCA.

E. Change in Circumstances

16. An ETC determination is based on the facts that are presented to the Commission. Any material variation from those facts may render an ETC determination invalid. Accordingly, proposed section 1.4006 requires ETCs, within 30 days of any material change in facts that may affect an ETC's eligibility for ETC status under section 34(a)(1) of the Public Utility Holding Company Act of 1935, to either: (a) apply to the Commission for a new determination of ETC status; (b) file a written explanation with the Commission of why the material change in facts does not affect the ETC's status; or (c) notify the Commission that it no longer seeks to maintain ETC status. To the extent persons other than the ETC applicant inform the Commission of a material change of circumstances, the ETC will be given the opportunity to respond and the Commission will take further action as appropriate. The Commission requests comments on this proposed rule.

[18] See Section III.C.

[19] Section 34(a) provides that "No person shall be deemed to be an exempt telecommunications company under this section unless such person has applied to the [Commission] for a determination under this paragraph."

[20] For example, six affiliates of a single public utility holding company recently filed six separate applications for determination of ETC status.

[21] See 18 CFR § 365.3.

[22] See CSW Communications, Inc., (FCC 96–152, released April 4, 1996); Entergy Technology, supra n. 15; Entergy Technology Holding Company, (FCC 96–162, released April 12, 1996).

Status, Order No. 550, 58 FR 8897 (February 18, 1993); order on reh'g, Order No. 550–A, 58 FR 21250 (April 20, 1993); see also 18 CFR 365.1 through 365.7.

IV. Procedural Matters

A. Regulatory Flexibility Act

17. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in the document. The IRFA is set forth below. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the NPRM, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of the NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act.[23]

B. Ex Parte Rules—Non-Restricted Proceeding

18. This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules.[24]

C. Comment Dates

19. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before June 17, 1996, and reply comments on or before July 5, 1996.[25] To file formally in this proceeding, parties must file an original and four copies of all comments, reply comments, and supporting comments. If parties want each Commissioner to receive a personal copy of their comments, parties must file an original plus nine copies. Parties should send comments and reply comments to Office of the Secretary, Federal Communications Commission, 1919 M Street NW. Washington, D.C., 20554. Comments and reply comments will be available for public inspection during regular business hours in the Reference Center of the Federal Communications Commission, Room 239, 1919 M Street NW., Washington, D.C. 20554.

D. Paperwork Reduction Act

20. This NPRM contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB comments are due 60 days from date of publication of this NPRM in the **Federal Register**. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

21. Written comments by the public on the proposed and/or modified information collection are due on or before June 17, 1996 and reply comments on or before July 5, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before 60 days after date of publication in the **Federal Register**. In addition to filing comments with the Secretary, a copy of any comments on the information collection contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street NW., Washington, DC 20554, or via the Internet to dconway@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 - 17th Street NW., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

E. Legal Authority

22. Authority for issuance of this NPRM is contained in section 34(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA), as amended by section 103 of the Telecommunications Act of 1996, Pub. L. No. 104–104, 110 Stat. 56 (1996), and sections 4(i), 4(j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 303(r).

F. Further Information

23. For further information concerning this proceeding, contact Lawrence J. Spiwak, Competition Division, Office of General Counsel at (202) 418–1870.

Initial Regulatory Flexibility Analysis

As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the policies and rules proposed in this Notice of Proposed Rule Making (NPRM). Written public comments are requested on the IRFA.

Reason for Action: This rulemaking proceeding was initiated to secure comment on proposals for establishing filing requirements and procedures for implementing section 34(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA), as amended by section 103 of the Telecommunications Act of 1996, Pub. L. No. 104–104, 110 Stat. 56 (1996), and sections 4(i), 4(j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r).

Objectives: The proposed rules, if adopted, would provide filing requirements and procedures to expedite public utility holding company entry into the telecommunications industry. To achieve this goal, the proposed regulations require persons seeking a determination of ETC status to file in good faith for a determination by the Commission. Applicants would be required to file with the Commission a brief description of their planned activities, and a sworn statement attesting to any facts presented to demonstrate eligibility for ETC status and attesting to any representation otherwise offered to demonstrate eligibility for ETC status. Applicants would also be required to submit sworn statements certifying that they complied with part 1, subpart P, of the Commission's regulations, 47 CFR 1.2001 through 1.2003, regarding implementation of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862. Finally, applicants would be required to serve copies of their application with the SEC and affected state commissions.

Legal Basis: The proposed action is authorized by section 34(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA), as amended by section

[23] Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

[24] See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

[25] See 47 CFR 1.415 and 1.419.

103 of the Telecommunications Act of 1996, Pub. L. No. 104–104, 110 Stat. 56 (1996), and sections 4(i), 4(j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) and 303(r).

Reporting, Recordkeeping, and Other Compliance Requirements: Under the proposal contained in the NPRM, within thirty days of any change in material fact that may affect ETC status, persons who received ETC status have an affirmative duty to either: (a) apply to the Commission for a new determination of ETC status; (b) file a written explanation with the Commission of why the material change in facts does not affect the ETC's status; or (c) notify the Commission that it no longer seeks to maintain ETC status.

Federal Rules Which Overlap, Duplicate or Conflict With These Rules: None.

Description, Potential Impact, and Number of Small Entities Involved: The proposed rules are designed to provide an expedited procedural process as contemplated in the Section 34(a)(1) of PUHCA. The proposed rules should therefore increase the flexibility of small businesses with minimal administrative burden. After evaluating comments filed in response to the NPRM, the Commission will examine further the impact of all rule changes on small entities and set forth its findings in the Final Regulatory Flexibility Analysis.

Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives: This NPRM solicits comment on a variety of alternatives. Any additional significant alternatives presented in the comments will also be considered.

IRFA Comments: We request written public comment on the foregoing Initial Regulatory Flexibility Analysis. Comments must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the comment deadlines set forth in this NPRM.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Telecommunications.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 1 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1—PRACTICE AND PROCEDURE

The authority citation for part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154, 303, and 309(j) unless otherwise noted.

2. A new subpart S is added to part 1 to read as follows:

Subpart S—Exempt Telecomunications Companies

Sec.

1.4000 Purpose.
1.4001 Definitions.
1.4002 Contents of application and procedure for filing.
1.4003 Effect of filing.
1.4004 Commission action.
1.4005 Notification of Commission action to the Securities and Exchange Commission.
1.4006 Procedure for notifying Commission of material change in facts.
1.4007 Comments.

Subparts—Exempt Telecommunications Companies

§ 1.4000 Purpose.

The purpose of part 1, subpart S, is to implement section 34(a) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79 through 79z–56 as added by section 103 of the Telecommunications Act of 1996, Public Law No. 104–104, 110 Stat. 56.

§ 1.4001 Definitions.

(a) For the purpose of this part, the terms *telecommunications services* and *information services* shall have the same meanings as provided in the Communications Act of 1934, as amended;

(b) Commission shall be defined as the Federal Communications Commission; and

(c) ETC shall be defined as an exempt telecommunications company.

§ 1.4002 Contents of application and procedure for filing.

A person seeking status as an exempt telecommunications company (applicant) must file with the Commission with respect to the company or companies which are eligible companies owned and/or operated by the applicant, and serve on the Securities and Exchange Commission and any affected State commission, the following:

(a) A brief description of the planned activities of the company or companies which are or will be eligible companies owned and/or operated by the applicant;

(b) A sworn statement, by a representative legally authorized to bind the applicant, attesting to any facts or representations presented to demonstrate eligibility for ETC status, including a representation that the applicant is engaged directly, or indirectly, wherever located, through one or more affiliates (as defined in section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935), and exclusively in the business of providing:

(1) Telecommunications services;

(2) Information services;

(3) Other services or products subject to the jurisdiction of the Commission; or

(4) Products or services that are related or incidental to the provision of a product or service described in paragraphs (b)(1), (2), or (3) of this section; and

(c) A sworn statement, by a representative legally authorized to bind the applicant, certifying that the applicant satisfies part 1, subpart P, of the Commission's regulations, 47 CFR 1.2001 through 1.2003, regarding implementation of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862.

§ 1.4003 Effect of filing.

A person applying in good faith for a Commission determination of exempt telecommunications company status will be deemed to be an exempt telecommunications company from the date of receipt of the application until the date of Commission action pursuant to § 1.4004.

§ 1.4004 Commission action.

If the Commission has not issued an order granting or denying an application within 60 days of receipt of the application, the application will be deemed to have been granted as a matter of law.

§ 1.4005 Notification of Commission action to the Securities and Exchange Commission.

The Secretary of the Commission will notify the Securities and Exchange Commission whenever a person is determined to be an exempt telecommunications company.

§ 1.4006 Procedure for notifying commission of material change in facts.

If there is any material change in facts that may affect an ETC's eligibility for ETC status under section 34(a)(1) of the Public Utility Holding Company Act of 1935, the ETC must, within 30 days of the change in fact, either:

(a) Apply to the Commission for a new determination of ETC status;

(b) File a written explanation with the Commission of why the material change in facts does not affect the ETC's status; or

(c) Notify the Commission that it no longer seeks to maintain ETC status.

§ 1.4007 Comments.

(a) Any person wishing to be heard concerning an application for ETC status may file comments with the Commission within fifteen (15) days from the release date of a public notice regarding the application, or such other period of time set by the Commission. Any comments must be limited to the adequacy or accuracy of the application.

(b) Any person who files comments with the Commission must also serve copies of all comments on the applicant.

(c) An applicant has seven (7) days to reply to any comments filed regarding the adequacy and accuracy of its application, or such other period of time as set by the Commission. Such reply shall be served on the commenters.

[FR Doc. 96–11964 Filed 5–15–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 15

[ET Docket No. 96–102; FCC 96–193]

Unlicensed NII/SUPERNet Operations in the 5 GHz Frequency Range

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: By this *Notice of Proposed Rule Making* (*"NPRM"*), the Commission proposes to make available 350 megahertz of spectrum at 5.15—5.35 GHz and 5.725—5.875 GHz for use by a new category of unlicensed equipment, called NII/SUPERNet devices. These devices would provide short-range, high speed wireless digital communications on an unlicensed basis. The Commission anticipates that these NII/SUPERNet devices will support the creation of new wireless local area networks ("LANs") and will facilitate wireless access to the National Information Infrastructure ("NII"). This action is in response to petitions for rule making filed by the Wireless Information Networks Forum (WINForum) and Apple Computer, Inc.

DATES: Comments must be filed on or before July 15, 1996 and reply comments must be filed on or before August 14, 1996.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Tom Derenge, Office of Engineering and Technology (OET), (202) 418–2451, or Fred Thomas, OET, (202) 418–2449.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, ET Docket No. 96–102, FCC 96–193, adopted April 25, 1996 and released May 6, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, N.W., Room 246, or 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Additionally, an electronic version of the text may be obtained from the World Wide Web at the URL:"http://www.fcc.gov/Bureaus/Engineerin_Technology/Notices/".

Summary of the Notice of Proposed Rule Making

1. The Commission proposes to amend Part 15 of its rules and to make available 350 megahertz of spectrum at 5.15—5.35 GHz and 5.725—5.875 GHz for use by a new category of unlicensed equipment, called NII/SUPERNet devices. This amount of spectrum should be sufficient to provide for a number of high-speed, wide-bandwidth, unlicensed operations in each geographical area to meet growing demand for data LANs. These devices may offer new opportunities for providing advanced telecommunications services to educational institutions, health care providers, libraries, businesses, and other users. These devices may thereby significantly assist in meeting the universal service goals and encouraging the provision of advanced telecommunications capabilities to all Americans as set forth in the Telecommunications Act of 1996. This action should also foster the development of a broad range of new devices and services that will stimulate economic development and the growth of new industries. The Commission feels that additional studies of spectrum sharing between the proposed unlicensed operations and existing and other proposed operations in the 5 GHz range would be useful and requests that interested parties address this matter in their comments.

2. In order to permit maximum technical flexibility in the design and operation of NII/SUPERNet devices, the Commission proposes that such devices be subject to the minimum technical standards necessary to prevent interference to other services and to ensure that the spectrum is used efficiently. Specifically, the *NPRM* proposes to limit the peak equivalent isotropically radiated power (EIRP) for NII/SUPERNet devices to −10 dBW (0.1 watt), which would provide for typical communications distances of 50 to 100 meters. The Commission, however, does not propose at this time to accommodate the higher power, longer range (approximately 10–15 kilometer) communications links sought by the petitioners due to concerns that such higher power operations would pose unacceptable interference risks to other services, such as the fixed satellite service in the 5.10–5.25 GHz band, and would greatly limit the number of unlicensed operations within a local area. Nonetheless, comment is solicited on whether to permit such higher power operation at up to 1 watt of transmitter output power within the 5.725–5.875 GHz band; whether to limit the maximum antenna gain; and whether higher power operations would be better accommodated on a licensed basis in this band or in other bands presently (or soon to be) available for licensed use (*e.g.*, 2 GHz, 28 GHz, 38 GHz, or above 40 GHz ranges).

3. Furthermore, the *NPRM* proposes that all emissions occurring from NII/SUPERNet devices outside of the 5.15–5.35 GHz and 5.725–5.875 GHz bands be attenuated by at least 50 dB or to the radiated emission limits set forth in 47 CFR § 15.209, whichever is the lesser attenuation. In addition, the *NPRM* proposes that any emissions occurring in the restricted bands (*see* 47 CFR § 15.205) comply with the radiated emission limits set forth in 47 CFR § 15.209. The Commission believes that these out-of-band emission limits will provide sufficient protection against harmful interference to adjacent band and harmonically related radio operations. Additionally, the *NPRM* proposes to amend Section 15.205 to delete the listing of 5.15–5.25 GHz as a restricted band. Further, to ensure that the emissions from digital circuitry employed with the NII/SUPERNet equipment do not cause harmful interference to lower frequency radio operations, the *NPRM* proposes to require that any such emissions below 1000 MHz comply with the general field strength limits set forth in Section 15.209.

4. The *NPRM* does not at this time propose a channeling plan, in order to provide flexibility for equipment designers to develop devices and systems that will meet a wide variety of user needs. However, comment is solicited on whether a channel bandwidth (*e.g.*, 25 MHz) should be established to ensure that the spectrum will be used efficiently and will be

accessible to users of NII/SUPERNet devices.

5. The *NPRM* proposes a basic "listen-before-talk" interim etiquette similar to that established for unlicensed Data-PCS devices in order to expedite the development and introduction of NII/SUPERNet devices. However, the Commission encourages industry to develop any additional etiquette protocols that would increase spectrum efficiency and facilitate equal access to the spectrum by a variety of devices. Specifically, the proposed interim etiquette would require unlicensed devices: to monitor the frequencies they will occupy to determine if the frequencies are unused and available; to limit the maximum time unlicensed devices may transmit to 10 milliseconds; and to require unlicensed devices to wait after ceasing transmission 50 microseconds before beginning to monitor again. Comment is sought on whether these interim standards would be appropriate, and interested parties are invited to submit alternatives.

6. The *NPRM* also proposes to establish sharing criteria between unlicensed NII/SUPERNet devices and incumbent and proposed licensed operations in the 5 GHz range. Specifically, the *NPRM* proposes that NII/SUPERNet devices not be deemed to cause interference to licensed services, provided that they operate in accordance with the Commission's technical rules and they are located indoors or employ an outdoor antenna that is mounted 15 meters or less above the ground. NII/SUPERNet devices with outdoor antennas higher than 15 meters would be required to cease operation or make some accommodation, such as limiting power, to eliminate any harmful interference caused to a licensed operation. Finally, consistent with unlicensed part 15 operation, NII/SUPERNet devices must accept any interference caused by licensed services.

Initial Regulatory Flexibility Analysis

1. *Reason For Action:* The Commission finds that there is a need for additional unlicensed spectrum for intentional radiators. This rule making proceeding is initiated to obtain comment regarding proposals to make spectrum in the 5 GHz band available for such purposes and to amend the part 15 rules to add the technical requirements necessary to permit sharing between the proposed new unlicensed devices and incumbent operations.

2. *Objective:* The objective of this proposal is to provide adequate unlicensed spectrum for wideband applications, and to provide for the technical rules necessary for spectrum sharing and efficiency.

3. *Legal Basis:* The proposed action is authorized by sections 4(i), 303(c), 303(f), 303(g) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 303(c), 303(f), 303(g) and 303(r). These provisions authorize the Commission to make such rules and regulations as may be necessary to encourage more effective use of radio as is in the public interest.

4. *Description, Potential Impact, and Number of Small Entities Affected:* This proposal may provide new opportunities for radio manufacturers and suppliers of radio equipment, some of which may be small businesses, to develop and sell new equipment. The Commission is unable to quantify other potential effects on small entities. The *NPRM* invites specific comments on this point by interested parties.

5. *Reporting, Record Keeping, and Other Compliance Requirements:* None.

6. *Federal Rules That Overlap, Duplicate, or Conflict With This Rule:* None.

7. *Significant Alternatives:* If promulgated, this proposal will provide additional unlicensed spectrum. The Commission is unaware of other alternatives which could provide sufficient spectrum in the immediate future. The NPRM solicits comment on this point.

List of Subjects in 47 CFR Part 15

Radio,
Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–12216 Filed 5–15–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675

[Docket No. 960503125–6125–01; I.D. 040996A]

RIN 0648–AH03

Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands; Salmon Donation Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 26 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and Amendment 29 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). This rule would authorize a voluntary Salmon Donation Program (SDP) for distribution of Pacific salmon taken as bycatch in the groundfish trawl fisheries off Alaska to economically disadvantaged individuals by tax-exempt organizations through a NMFS-authorized distributor. This action would support industry initiatives to reduce waste from discard in the groundfish fisheries by processing salmon bycatch for human consumption. This action is intended to promote the goals and objectives of the FMPs that govern the commercial groundfish fisheries off Alaska.

DATES: Comments must be received by July 1, 1996.

ADDRESSES: Comments should be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of Amendments 26 and 29 and the Environmental Assessment/Regulatory Impact Review (EA/RIR) prepared for the amendments may be obtained from the North Pacific Fishery Management Council, 605 West 4th Ave., Suite 306, Anchorage AK 99510–2252; telephone: 907–271–2809. Send comments regarding burden estimates or any other aspect of the data requirements, including suggestions for reducing the burdens, to NMFS and to the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503, Attn: NOAA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, 907–586–7228.

SUPPLEMENTARY INFORMATION: Fishing for groundfish by U.S. vessels in the exclusive economic zone of the Gulf of Alaska (GOA) and Bering Sea and Aleutian Islands management area (BSAI) is managed by NMFS according to the respective FMPs for the groundfish fisheries of the GOA and BSAI. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801, *et seq.*) (Magnuson Act) and are implemented by regulations governing the U.S. groundfish fisheries at 50 CFR parts 672, 675, and 676. General regulations that also pertain to U.S. fisheries are codified at 50 CFR part 620.

This action proposes regulations to implement Amendment 26 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and Amendment 29 to the Fishery Management Plan for Groundfish of the Gulf of Alaska. If approved by NMFS, these amendments would authorize the distribution of Pacific salmon taken as bycatch in the groundfish trawl fisheries off Alaska to economically disadvantaged individuals by tax-exempt organizations through a NMFS authorized distributor. A description of, and reasons for, the proposed measure are presented below.

Background

The Alaska groundfish trawl fisheries result in incidental fishing mortality of non-groundfish species. Often these species could be fully utilized in other fisheries but must be discarded in the groundfish fisheries. Of particular concern is the incidental fishing mortality of Pacific salmon. During 1993, 1994, and 1995 respectively, 289,284, 141,037, and 45,934 Pacific salmon were estimated to have been caught in the BSAI groundfish fishery; 105,348, 54,613, and 79,617 salmon were estimated to have been caught in the GOA groundfish fishery. Actions have been taken to address various aspects of the salmon bycatch problem. NMFS implemented regulations to require the discard of salmon taken in the BSAI groundfish fisheries to be counted by a NMFS-certified observer (59 FR 18757, April 20, 1994). The intent of this requirement is to collect more data on salmon bycatch. In addition, NMFS issued three experimental fishing permits (EFPs) under regulations at § 675.6 to test the feasibility of distributing salmon bycatch as food to economically disadvantaged individuals for purposes of reducing both salmon bycatch and protein discard in the groundfish trawl fisheries.

The first EFP was issued on August 12, 1993 (58 FR 42947), and was designed to test the feasibility of mandatory retention of all salmon caught incidentally by permitted vessels in three specified trawl fisheries. The objective of this EFP was to reduce both the bycatch and discard of salmon in the groundfish trawl fisheries by requiring participants to incur the costs of processing salmon for distribution to economically disadvantaged individuals by tax-exempt organizations.

The second EFP issued by NMFS authorized voluntary retention and processing of salmon bycatch for donation to charitable organizations (59 FR 39326, August 2, 1994). The purpose of the second EFP was to develop standards and criteria for the voluntary retention of salmon under an SDP that was being considered by the Council. The first voluntary retention EFP expired at the end of the 1995 pollock roe season and the 1995 directed trawl fishery for Pacific cod. The third EFP issued by NMFS (60 FR 43587, August 22, 1995) extended the second EFP for an additional year. The second voluntary retention EFP expires after the closure of the 1996 pollock roe season and the 1996 directed trawl fishery for Pacific cod.

An Interim and a Final Report from the first EFP concluded that a mandatory salmon retention requirement and associated SDP could be effective at reducing salmon bycatch and discards. Results presented in the Final Report from the second EFP indicated that a voluntary retention and processing system and associated SDP would be equally successful at reducing salmon discard amounts but that incentives to reduce salmon bycatch would be negated when the permit was approved on a voluntary basis. A summary of these reports can be found in the EA/RIR (see **ADDRESSES**). Results from the third EFP are due in May 1996.

At its September 1994 meeting, the Council approved Amendments 26 and 29 that would authorize the implementation of an SDP, pending the availability of data from the voluntary EFP that would be used to develop regulatory standards and criteria for the SDP. The success of these EFPs prompted the Council and NMFS to propose regulations to authorize an SDP to reduce salmon discard in the groundfish fisheries off Alaska.

Description of the Salmon Donation Program

The SDP's objective is to distribute salmon taken as bycatch in the groundfish trawl fisheries off Alaska to economically disadvantaged individuals by tax-exempt organizations, thereby reducing waste from discards in the groundfish trawl fisheries. Participants in the SDP would retain and process salmon bycatch for delivery to an authorized distributor selected by NMFS. Participation in the SDP would be voluntary. Vessels and processors would incur the costs of handling, processing, storing, and delivering donated salmon to tax-exempt organizations.

Selection Process for Authorized Distributors

The Director, Alaska Region, NMFS, (Regional Director) would select an authorized distributor(s) from qualified applicants, announce the NMFS-authorized distributor(s) in the **Federal Register**, and issue an SDP permit to each selected applicant. An SDP permit would be effective for a period of 3 years after announcement of the authorized distributor(s) in the **Federal Register**.

Factors that would be considered by the Regional Director when selecting an authorized distributor are listed in this proposed rule at § 672.28(b)(2). The number of authorized distributors selected by the Regional Director would be based on the criteria listed in this proposed rule at § 672.28(b)(2).

Responsibilities of an Authorized Distributor

An authorized distributor would be responsible for monitoring the retention and processing of salmon donated by vessels and processors. An authorized distributor also would coordinate the processing, storage, transportation, and distribution of salmon to hunger relief agencies, food bank networks, and food bank distributors.

Prior to retaining any salmon under the SDP, the authorized distributor would provide the Regional Director with a list of all participants in the SDP, including a list of all vessels and processors, a list of hunger relief agencies, food bank networks, and food distributors participating in the SDP, and a list of locations where salmon must be delivered by the vessels and processors. The list of vessels and processors provided by the authorized distributor would include the following information: (1) A Federal fisheries permit number or Federal processor permit number, (2) the name of the owner or responsible operator, and (3) a telephone number fax number. If an authorized distributor modifies the list of vessels or processors participating in the SDP or changes delivery locations, the authorized distributor would be required to submit a revised list of vessels and processors or delivery locations to the Regional Director before salmon bycatch could be retained by any additional vessel or processor or delivered to any new delivery location.

Reporting Requirements—Documentation and Labeling

Participants in the SDP would have to comply with new documentation and labeling requirements. All packages would be required to be labeled with the date of processing, the name of the processing facility, the contents and the weight of the salmon contained in the package, and the words, "NMFS SALMON DONATION PROGRAM—

FOR SALE—PERISHABLE PRODUCT—KEEP FROZEN".

A processor retaining or receiving salmon under the SDP and an authorized distributor would keep on file and make available for inspection by an authorized officer all documentation including receipt and cargo manifests setting forth the origin, weight, and destination of all salmon. Such documentation would be retained until 1 year after the effective period of the SDP permit.

Responsibilities of Participating Vessels and Processors

All donated salmon would be required to be processed so that it is fit for human consumption. All BSAI participants would be required to comply with regulations at §§ 675.7(p) and 675.20(c) that would provide for the collection of biological samples and scientific data by an NMFS-certified observer prior to processing salmon under the SDP. Participation in the SDP would not relieve any vessel or processor from existing reporting requirements.

Delegation of Authority

Under NOAA Administrative Order 205–11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated, to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

Classification

Section 304(a)(1)(D) of the Magnuson Act requires NMFS to publish regulations proposed by a Council within 15 days of receipt of an FMP amendment and regulations. At this time, NMFS has not determined that the FMP amendments these rules would implement are consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Any vessel or processor may participate in a voluntary salmon donation program if an NMFS distributor is selected by the Regional Director, and the authorized distributor includes the vessel or processor on the list of participants under the SDP that is submitted to the Regional Director. NMFS does not anticipate that any vessel or processor that qualifies as a small entity would elect to participate in the voluntary program if the cost of doing so reduces gross annual receipts by 5 percent or more. As a result, a regulatory flexibility analysis was not prepared.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

This proposed rule contains a new collection-of-information requirement subject to the Paperwork Reduction Act. This collection-of-information requirement has been submitted to the Office of Management and Budget (OMB) for approval. The new information requirements include an application to participate as an authorized distributor in the SDP, documentation requirements for the authorized distributor(s) and processors participating in the SDP, and packaging requirements for vessels and processors. Public reporting burden for these collections of information are estimated to average 40 and 0.1 hours respectively for the permit and packaging requirements, and 40 and 0.25 hours per year for the documentation requirements and identification information. Send comments regarding burden estimates or any other aspect of the data requirements, including suggestions for reducing the burdens, to NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Dated: May 7, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service

For the reasons set out in the preamble, 50 CFR parts 672 and 675 are proposed to be amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 672.7, paragraph (r) is added to read as follows:

§ 672.7 Prohibitions.

* * * * *

(r) Retain or possess salmon, except as permitted under the Salmon Donation Program as provided by § 672.28 of this part, or as authorized by other applicable law.

3. In § 672.20, paragraph (e)(2) is revised to read as follows:

§ 672.20 General limitations.

* * * * *

(e) * * *

(2) A vessel must sort its catch as soon as possible after retrieval of the catch and except to allow for sampling by an observer (if any) and except as permitted to do so under the Salmon Donation Program as provided by § 672.28, and must return any catch of prohibited species, or parts thereof, to the sea immediately after sorting regardless of its condition. A vessel must handle prohibited species to be discarded in a manner that minimizes additional injury.

* * * * *

4. Section § 672.28 is added to read as follows:

§ 672.28 Salmon Donation Program.

(a) *Definitions.* For purposes of this section:

Authorized distributor means a tax-exempt organization authorized by NMFS to coordinate the processing, storage, transportation, and distribution of salmon taken as bycatch in the groundfish trawl fisheries to tax-exempt hunger relief agencies, food bank networks, and food bank distributors.

Food bank distributor means a tax-exempt organization with the primary purpose of distributing food resources to hunger relief agencies.

Food bank network means a tax-exempt organization with the primary purpose of coordinating receipt and delivery of food resources to its member food bank distributors or hunger relief agencies.

Hunger relief agency means a tax-exempt organization with the primary purpose of feeding economically disadvantaged individuals free of charge.

SDP means the Salmon Donation Program established under this section.

SDP permit means a permit issued by NMFS to an applicant who qualifies as an authorized distributor for purposes of the SDP.

Tax-exempt Organization means an organization that received a determination letter from the Internal Revenue Service recognizing tax exemption under 26 CFR part 1 (§§ 1.501 to 1.640).

(b) *Authorized distributors*—(1) *Application.* An applicant seeking to become an authorized distributor must provide the Regional Director with following information:

(i) Proof of the applicant's tax-exempt status.

(ii) A description of the arrangements for processing, shipping, storing, and transporting donated salmon and an estimate of the associated costs.

(iii) A statement describing the applicant's expertise in providing for the distribution of food product from remote Alaskan locations to hunger relief agencies, food bank networks, or food bank distributors, including arrangements for transportation, distribution costs, and product quality control.

(iv) Documentation of support from cold storage and transportation facilities.

(v) A proposed operating budget that is adequate to ensure that salmon donated under this program will be distributed to hunger relief agencies, food bank networks, or food bank distributors and that the salmon will be maintained in a manner fit for human consumption.

(vi) Proof of the applicant's ability to obtain and maintain adequate funding for the distribution of salmon under the SDP.

(vii) A copy of the applicant's articles of incorporation and bylaws showing that the purpose of the applicant includes providing food resources to hunger relief agencies, food bank networks, or food bank distributors.

(viii) Proof of the applicant's ability to take full responsibility for the documentation and disposition of salmon received under the SDP, including sufficient liability insurance to cover public interests relating to the quality of salmon distributed for human consumption.

(ix) Quality control criteria to be followed by vessels, processors, hunger relief agencies, food bank networks, and food bank distributors.

(x) The number of vessels and processors that the applicant is capable of administering effectively.

(xi) A list of all vessels and processors, food bank networks and food bank distributors participating in the SDP. The list of vessels and processors must include:

(A) The vessel's or processor's Federal fisheries permit number or Federal processor permit number.

(B) the name of the vessel owner or responsible operator or the name of the owner or plant manager of the processor.

(C) the vessel's or processor's telephone number and fax number.

(D) the signature of the vessel owner or responsible operator or the owner or plant manager of the processor.

(xii) A signed statement from the applicant and all persons listed under paragraph (b)(1)(xi) of this section who would conduct activities pursuant to the SDP permit waiving any and all claims against the United States and its agents and employees for any liability for personal injury, death, sickness, damage to property directly or indirectly due to activities conducted under the SDP.

(xiii) A list of locations where salmon must be delivered by participating vessels and processors.

(2) *Selection.* The Regional Director may select one or more authorized distributors under the SDP based on the information submitted by applicants under paragraph (b)(1) of this section. The number of authorized distributors selected by the Regional Director will be based on the following criteria:

(i) The number and qualifications of applicants for SDP permits.

(ii) The number of harvesters and the quantity of salmon that applicants can effectively administer.

(iii) The anticipated level of salmon bycatch based on the salmon bycatch from previous years.

(iv) The potential number of vessels and processors participating in the groundfish trawl fisheries.

(3) *SDP Permit.* (i) After review of qualified applicants, the Regional Director will announce the selection of authorized distributor(s) in the **Federal Register** and will issue SDP permit(s).

(ii) The Regional Director may impose additional terms and conditions on an SDP permit consistent with the objectives of the SDP.

(iii) An SDP permit may be suspended, modified, or revoked for noncompliance with terms and conditions specified in the permit or for a violation of this section or other regulations in this part or part 675.

(iv) An SDP permit remains in effect for a 3-year period after the selection notice is published in the **Federal Register** unless suspended or revoked. An SDP may not be transferred. An SDP permit issued to an authorized distributor may be renewed following the application procedures in this section.

(v) If the authorized distributor modifies any information on the SDP permit application submitted under (b)(1)(x) or (b)(1)(xii) of this section, the authorized distributor must submit a modified list of participants or a modified list of delivery locations to the Regional Director.

(c) *Reporting and Recordkeeping Requirements.* (1) A vessel or processor retaining salmon under the SDP must comply with all applicable recordkeeping and reporting requirements. A vessel or processor participating in the SDP must comply with applicable regulations at §§ 672.7(o), 675.7(p), and 675.20(c) that allow for the collection of data and biological sampling by an NMFS-certified observer prior to processing any salmon under the SDP.

(2) Salmon retained under the SDP must be packaged, and all packages must be labeled with the date of processing, the name of the processing facility, the contents and the weight of the salmon contained in the package and the words, "NMFS SALMON DONATION PROGRAM—NOT FOR SALE—PERISHABLE PRODUCT—KEEP FROZEN".

(3) A processor retaining or receiving salmon under the SDP and an authorized distributor must keep on file and make available for inspection by an authorized officer all documentation including receipt and cargo manifests setting forth the origin, weight, and destination of all salmon. Such documentation must be retained until 1 year after the effective period of the SDP permit.

(d) *Processing, handling, and distribution.* (1) Processing and reprocessing of all salmon retained under the SDP must be carried out under the direction of the authorized distributor. A processor retaining or receiving salmon under the SDP, at a minimum, must head, gut and freeze the salmon in a manner that makes it fit for human consumption.

(2) Salmon that are determined to be unfit for human consumption prior to delivery to an authorized distributor must be discarded under § 672.20(e) or § 675.20(c). Salmon that are determined to be unfit for human consumption after delivery to the authorized distributor must be destroyed in accordance with applicable sanitation laws and regulations.

(3) Authorized distributors and persons conducting activities supervised by authorized distributors may retain salmon only for the purpose of processing and delivering the salmon to hunger relief agencies, food networks or food distributors as provided by this section. Such persons may not consume or retain salmon for personal use and may not sell, trade or barter, or attempt to sell, trade or barter any salmon that is retained under the SDP.

(4) No salmon bycatch may be retained by a vessel or processor, or delivered to a delivery location under this section, unless the vessel or processor and delivery location is

included on the list provided to the Regional Director under paragraphs (b)(1)(x), (b)(1)(xii), or (b)(3)(v) of this section.

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

5. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

6. In § 675.7, paragraph (p) is revised and paragraph (s) is added to read as follows:

§ 675.7 Prohibitions.

* * * * *

(p) Discard any salmon taken incidental to a directed fishery for groundfish by vessels using trawl gear until notified by an NMFS-certified observer that the number of salmon taken has been determined and the collection of any scientific data or biological samples has been completed as provided at § 675.20(c)(6) or retain salmon except as permitted to do so under the Salmon Donation Program as provided by § 672.28 of this chapter.

* * * * *

(s) Retain or possess salmon, except as permitted to do so under the Salmon Donation Program as provided by § 672.28 of this chapter, or as authorized by other applicable law.

7. In § 675.20, paragraph (c)(6)(i) introductory text is revised to read as follows:

§ 675.20 General limitations.

* * * * *

(c) * * *

(6) * * * (i) Except as provided in paragraph (c)(6)(ii) of this section, the operator of a vessel and the manager of a shoreside processing operation may not discard any salmon or transfer or process any salmon under the Salmon Donation Program at § 672.28 of this chapter if the salmon were taken incidentally to a directed fishery for groundfish by vessels using trawl gear until the number of salmon taken has been determined by an NMFS-certified observer and the collection of any scientific data or biological samples from the salmon has been completed.

* * * * *

8. Section 675.28 is added to read as follows:

§ 675.28 Salmon Donation Program.

The Salmon Donation Program is governed by provisions set forth in § 672.28 of this chapter.

[FR Doc. 96–12200 Filed 5–15–96; 8:45 am]
BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 96
Thursday, May 16, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 96–028–1]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of a currently approved information collection in support of regulations under the Horse Protection Act.

DATES: Comments on this notice must be received by July 15, 1996, to be assured of consideration.

ADDRESSES: Send comments regarding the accuracy of burden estimate, ways to minimize the burden (such as the use of automated collection techniques or other forms of information technology), or any other aspect of this collection of information to: Docket No. 96–028–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please send an original and three copies, and state that your comments refer to Docket 96–028–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments and notices are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION: For information on the Horse Protection Act and regulations, contact Dr. John V. Zisk, Senior Staff Veterinarian, Regulatory Enforcement and Animal Care, APHIS, 4700 River Road, Unit 84, Riverdale, MD 20737–1234, (301) 734–7833; or e-mail: JZisk@aphis.usda.gov. For copies of the proposed collection of information, contact Ms. Cheryl Jenkins, APHIS' Information Collection Coordinator, at (301) 734–5360.

SUPPLEMENTARY INFORMATION:

Title: The Horse Protection Regulations.

OMB Number: 0579–0056.

Expiration Date of Approval: October 31, 1996.

Type of Request: Extension of a currently approved information collection.

Abstract: The Horse Protection Act (the Act) and regulations have been promulgated to eliminate the inhumane practice of soring horses. Horses which are shown, offered for sale, auction, exhibition, or transported cannot be sored for these purposes. Enforcement of the Act and regulations as written require the inspection of horses by industry representatives (referred to as Designated Qualified Person's) as well as agency veterinarians. Documentation of specific enforcement information concerning the prevalence of soring practices is required under the regulations.

The Horse Protection Act and regulations in title 9, part 11, are applicable to all breeds of horses. However, enforcement emphasis has been directed to specific gaited breeds due to the prevalence of soring in this branch of the equine industry. Sections 11.7 and 11.21 specify minimum qualification requirements for industry inspectors and their responsibilities. Reporting and recording requirements are necessary for the enforcement of the Horse Protection Act and regulations by certified horse industry organizations and by the management of a show or sale in order to assure the humane treatment of these animals.

The above reporting and recordkeeping requirements do not mandate the use of any official government form.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. We need this outside input to help us:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .177 hours per response.

Respondents: Horse industry organizations.

Estimated Number of Respondents: 650.

Estimated Number of Responses per Respondent: 11.07.

Estimated Total Annual Burden on Respondents: 7,195 hours.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection.

Done in Washington, DC, this 10th day of May 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–12334 Filed 5–15–96; 8:45 am]
BILLING CODE 3410–34–P

[Docket No. 95–090–2]

Monsanto Company; Availability of Determination of Nonregulated Status for Potato Lines Genetically Engineered for Insect Resistance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that certain potato lines developed by the Monsanto Company that have been genetically engineered for resistance to the Colorado potato beetle are no longer considered regulated articles under our regulations governing the introduction

of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by the Monsanto Company in its petition for a determination of nonregulated status, an analysis of other scientific data, and our review of comments received from the public in response to a previous notice announcing our receipt of the Monsanto Company's petition. This notice also announces the availability of our written determination document and its associated environmental assessment and finding of no significant impact.

EFFECTIVE DATE: May 3, 1996.

ADDRESSES: The determination, an environmental assessment and finding of no significant impact, the petition, and all written comments received regarding the petition may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are asked to call in advance of visiting at (202) 690–2817.

FOR FURTHER INFORMATION CONTACT: Dr. James Lackey, Biotechnology Permits, BBEP, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1237; (301) 734–7612. To obtain a copy of the determination or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734–7612; e-mail: mkpeterson@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On December 4, 1995, the Animal and Plant Health Inspection Service (APHIS) received a petition (APHIS Petition No. 95–338–01p) from the Monsanto Company (Monsanto) of St. Louis, MO, seeking a determination that two Superior potato lines (SPBT02–5 and SPBT02–7) that have been genetically engineered for resistance to the Colorado potato beetle (CPB) do not present a plant pest risk and, therefore, are not regulated articles under APHIS' regulations in 7 CFR part 340. On December 15, 1995, APHIS received Monsanto's amendment to APHIS Petition No. 95–338–01p to include five additional genetically engineered, CPB-resistant Atlantic potato lines (ATBT04–6, ATBT04–27, ATBT04–30, ATBT04–31, and ATBT04–36).

On January 22, 1996, APHIS published a notice in the **Federal Register** (61 FR 1557–1558, Docket No. 95–090–1) announcing that the Monsanto petition had been received and was available for public review. The notice also discussed the role of APHIS, the Environmental Protection Agency, and the Food and Drug Administration in regulating the subject potato lines and food products derived from them. In the notice, APHIS solicited written comments from the public as to whether these potato lines posed a plant pest risk. The comments were to have been received by APHIS on or before March 22, 1996. During the designated 60-day comment period, APHIS received three comments on the subject petition, all of which were from potato growers, and all of which were favorable to the petition.

Analysis

Monsanto's two Superior potato lines and five Atlantic potato lines have been genetically engineered to contain the *cryIIIA* gene from the common soil bacterium *Bacillus thuringiensis* subsp. *tenebrionis* (Btt), which encodes a delta-endotoxin insect control protein that is effective against CPB. The subject potato lines also contain the *nptII* gene from the prokaryotic transposon Tn5, which encodes the enzyme neomycin phosphotransferase II and is used as a selectable marker for transformation. Expression of the added genes is controlled in part by 35S promoters from the plant pathogen cauliflower mosaic virus and the 3′ region of the nopaline synthase gene from the plant pathogen *Agrobacterium tumefaciens*. The genes used to develop the subject potato lines were stably transferred into the genome of potato plants through the use of the *A. tumefaciens* transformation system. The parental Superior and Atlantic potato varieties are male fertile, as are the subject potato lines.

The subject Superior and Atlantic potato lines have been considered regulated articles under APHIS' regulations in 7 CFR part 340 because they contain regulatory gene sequences derived from plant pathogens. However, evaluation of field data reports from field tests of the subject potato lines conducted under APHIS permits or notifications since 1992 indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the release of these potato lines into the environment.

Determination

Based on its analysis of the data submitted by Monsanto and a review of other scientific data, comments received, and field tests of the subject potato lines, APHIS has determined that these potato lines: (1) Exhibit no plant pathogenic properties; (2) are no more likely to become weeds than potatoes developed by traditional breeding techniques; (3) are unlikely to increase the weediness potential for any other cultivated or wild species with which they can interbreed; (4) will not cause damage to raw or processed agricultural commodities; and (5) will not harm threatened or endangered species or other organisms, such as bees, that are beneficial to agriculture. Therefore, APHIS has concluded that the subject Superior and Atlantic potato lines and any progeny derived from hybrid crosses with other nontransformed potato varieties will be as safe to grow as potatoes in traditional breeding programs that are not subject to regulation under 7 CFR part 340.

The effect of this determination is that Monsanto's Superior potato lines SPBT02–5 and SPBT02–7 and Atlantic potato lines ATBT04–6, ATBT04–27, ATBT04–30, ATBT04–31, and ATBT04–36 are no longer considered regulated articles under APHIS' regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate movement of the subject potato lines or their progeny. However, importation of the subject potato lines or seeds capable of propagation are still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that Monsanto's Superior potato lines SPBT02–5 and SPBT02–7 and Atlantic potato lines ATBT04–6, ATBT04–27, ATBT04–30, ATBT04–31, and ATBT04–36, and lines developed from them are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 9th day of May 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–12332 Filed 5–15–96; 8:45 am]

BILLING CODE 3410–34–P

[Docket No. 96–023–1]

General Conference Committee of the National Poultry Improvement Plan (NPIP) and the NPIP Biennial Conference; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of meeting.

SUMMARY: We are giving notice of a meeting of the General Conference Committee of the National Poultry Improvement Plan (NPIP) and of the NPIP Biennial Conference.

PLACE, DATES, AND TIME OF MEETING: The meeting and conference will be held at the Nashville Airport Marriott, 600 Marriott Drive, Nashville, Tennessee; (615) 889–9300. The General Conference Committee will meet on June 30, from 8 a.m to 5 p.m. The Biennial Conference will meet on July 1, from 8 a.m. to 5 p.m. and on July 2, from 8 a.m. to noon.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Rhorer, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, 1500 Klondike Road, Suite A 102, Conyers, GA, 30207, (770) 922–3496.

SUPPLEMENTARY INFORMATION: The General Conference Committee (the Committee) of the National Poultry Improvement Plan (NPIP), representing cooperating State agencies and poultry industry members, serves an essential function by acting as liaison between the poultry industry and the Department in matters pertaining to poultry health. In addition, this Committee assists the Department in planning, organizing, and conducting the NPIP Conference.

Tentative topics for discussion at the upcoming meeting include:

1. Creation of a U.S. Salmonella Control classification for primary breeding chickens.
2. Creation of a U.S. Mycoplasma Synoviae Clean classification for waterfowl, exhibition poultry and game birds.
3. Creation of a U.S. Salmonella Enteritidis Clean classification for waterfowl, exhibition poultry and game birds.
4. Creation of a U.S. Mycoplasma Gallisepticum Monitored program for multiplier meat-type chicken breeding flocks.
5. Creation of a new subpart F for the Ostrich within the NPIP.
6. Creation of a U.S. Salmonella Enteritidis Monitored, Started Poultry, program for the commercial egg-type pullet industry.

The meetings will be open to the public. The sessions held on July 1 and 2, 1996, will include the delegates to the Biennial NPIP Conference, representing State officials and poultry industry personnel from the 48 cooperating States. However, due to time constraints, the public will not be allowed to participate in the Committee's discussions. Written statements on meeting topics may be filed with the Committee before or after the meeting by sending them to the person listed under **FOR FURTHER INFORMATION CONTACT.** Written statements may also be filed at the meeting. Please refer to Docket No. 96–023–1 when submitting your statements.

This notice of meeting is given pursuant to section 10 of the Federal Advisory Committee Act.

Done in Washington, DC, this 10th day of May 1996.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–12333 Filed 5–15–96; 8:45 am]

BILLING CODE 3410–34–P

Forest Service

Rocky Mountain Region: Colorado, Kansas, Nebraska, South Dakota, Eastern Wyoming; Legal Notice of the Opportunity to Comment on Certain Proposed Actions and of Decisions Subject to Notice and Comment

AGENCY: Forest Service, USDA.

ACTION: Notice; newspapers for legal notices.

SUMMARY: This is a list of those newspapers that will be used to publish notice of all decisions which are subject to appeal under 36 CFR 217, notice of the opportunity to comment on certain proposed actions pursuant to 36 CFR 215.5, and notice of decisions subject to appeal under the general provisions of 36 CFR part 215. As required at 36 CFR 215.5 and 215.9, such notice shall constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to public notice and comment and administrative appeal. Newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested in or affected by a specific decision.

EFFECTIVE DATE: Use of these newspapers for purposes of publishing the notices required under the provisions of 36 CFR 215 shall begin May 28, 1996.

FOR FURTHER INFORMATION CONTACT: John P. Halligan, Regional Appeals and Litigation Coordinator, Rocky Mountain Region, Box 25127, Lakewood, Colorado 80225, Area Code 303–275–5148.

SUPPLEMENTARY INFORMATION: Responsible Officials in the Rocky Mountain Region shall give notice of the opportunity to comment on certain proposed actions and of decisions subject to appeal pursuant to 36 CFR Part 215 in the following newspapers which are listed by Forest Service unit. Where more than one newspaper is listed for any unit, the first newspaper listed is the primary newspaper which shall be used to constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to administrative appeal. The day after the publication of the public notice in the primary newspaper shall be the first day of the appeal filing period.

Decisions by the Regional Forester: *The Denver Post*, published daily in Denver, Denver County, Colorado, for decisions affecting National Forest System lands in the States of Colorado, Nebraska, Kansas, and Eastern Wyoming and for any decision of Region-wide impact. In addition, notice of decisions made by the Regional Foresters will also be published in the *Rocky Mountain News*, Published daily in Denver, Denver County, Colorado. Notice of decisions affecting National Forest System lands in the State of South Dakota will also be published in the *The Rapid City Journal*, published daily in Rapid City, Pennington County, South Dakota. For those decisions affecting a particular unit, the newspaper specific to that unit will be used.

Arapaho and Roosevelt National Forests, Colorado

Forest Supervisor Decisions

The Denver Post, published daily in Denver, Denver County, Colorado.

District Ranger Decisions

Redfeather and Estes-Poudre Districts: *Coloradoan*, published daily in Fort Collins, Larimer County, Colorado.

Pawnee District: *Greeley Tribune*, published daily in Greeley, Weld County, Colorado.

Boulder District: *Boulder Daily Camera*, published daily in Boulder, Boulder County, Colorado.

Clear Creek District: *Clear Creek Courant*, published weekly in Idaho Springs, Clear Creek County, Colorado.
Sulphur District: *Granby Sky High News*, published weekly in Granby, Grand County, Colorado.

Grand Mesa, Uncompahgre and Gunnison National Forests, Colorado

Forest Supervisor Decisions

Grand Junction Daily Sentinel, published daily in Grand Junction, Mesa County, Colorado.

District Ranger Decisions

Collbran and Grand Junction Districts: *Grand Junction Daily Sentinel*, published daily in Grand Junction, Mesa County, Colorado.
Paonia District: *Delta County Independent*, published weekly in Delta, Delta County, Colorado.
Cebolla and Taylor River Districts: *Gunnison Country Times*, published weekly in Gunnison, Gunnison County, Colorado.
Norwood District: *Telluride Times-Journal*, published weekly in Telluride, San Miguel County, Colorado.
Ouray District: *Montrose Daily Press*, published daily in Montrose, Montrose County, Colorado.

Pike and San Isabel National Forests

Forest Supervisor Decisions

Pueblo Chieftain, published daily in Pueblo, Pueblo County, Colorado.

District Ranger Decisions

San Carlos District: *Public Chieftain*, published daily in Pueblo, Pueblo County, Colorado.
Comanche District: *Plainsman Herald*, published weekly in Springfield, Baca County, Colorado. In addition, notice of decisions made by the District Ranger will also be published in the *La Junta Tribune Democrat*, published daily in La Junta, Otero County, Colorado, and in the *Ark Valley Journal*, published weekly in La Junta, Otero County, Colorado.
Cimarron District: *Tri-State News*, published weekly in Elkhart, Morton County, Kansas.
South Platte District: *Daily News Press*, published daily in Castle Rock, Douglas County, Colorado. In addition, notice of decisions made by the District Ranger will also be published in the *High Timber Times*, published weekly in Conifer, Jefferson County, Colorado, and in the *Fairplay Flume*, published weekly in Fairplay, Park County, Colorado.
Leadville District: *Herald Democrat*, published weekly in Leadville, Lake County, Colorado.
Salida District: *The Mountain Mail*, published daily in Salida, Chaffee County, Colorado.
South Park District: *Fairplay Flume*, published weekly in Fairplay, Park County, Colorado.
Pikes Peak District: *Gazette Telegraph*, published daily in Colorado Springs, El Paso County, Colorado.

Rio Grande National Forest, Colorado

Forest Supervisor Decisions

Valley Courier, published daily in Alamosa, Alamosa County, Colorado.

District Ranger Decisions

Valley Courier, published daily in Alamosa, Alamosa County, Colorado.

Routt National Forest, Colorado

Forest Supervisor Decisions

Laramie Daily Boomerang, published daily in Laramie, Albany County, Wyoming. In addition, for decisions affecting an individual district(s), the local district(s) newspaper will also be used.

District Ranger Decision

Bears Ears District: *Northwest Colorado Daily Press*, published daily in Craig, Moffat County, Colorado. In addition, notice of decisions by the District Ranger will also be published in the *Hayden Valley Press*, published weekly in Hayden, Routt County, Colorado, and in the *Steamboat Pilot*, published weekly in Steamboat Springs, Routt County, Colorado.
Yampa and Hahns Peak Districts: *Steamboat Pilot*, published weekly in Steamboat Springs, Routt County, Colorado.
Middle Park District: *Middle Park Times*, published weekly in Kremmling, Grand County, Colorado.
North Park District: *Jackson County Star*, published weekly in Walden, Jackson County, Colorado.

San Juan National Forest, Colorado

Forest Supervisor Decisions

Durango Herald, published daily in Durango, La Plata County, Colorado.

District Ranger Decisions

Durango Herald, published daily in Durango, La Plata County, Colorado.

White River National Forest, Colorado

Forest Supervisor Decisions

The Glenwood Post, published Monday through Friday in Glenwood Springs, Garfield County, Colorado.

District Ranger Decisions

Aspen District: *Aspen Times*, published weekly in Aspen, Pitkin County, Colorado.
Blanco District: *Meeker Herald*, published weekly in Meeker, Rio Blanco County, Colorado.
Dillon District: *Summit Daily News*, published Monday thru Saturday in Dillon, Summit County, Colorado.
Eagle District: *Eagle Valley Enterprise*, published weekly in Eagle, Eagle County, Colorado.
Holy Cross District: *Vail Trail*, published weekly in Minturn, Eagle County, Colorado.
Rifle District: *Rifle Telegram*, published weekly in Rifle, Garfield County, Colorado.
Sopris District: *Valley Journal*, published weekly in Carbondale, Garfield County, Colorado.

Nebraska National Forest, Nebraska

Forest Supervisor Decisions

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota for decisions affecting National Forest System lands in the State of South Dakota.
The Omaha World Herald, published daily in Omaha, Douglas County, Nebraska for decisions affecting National Forest System lands in the State of Nebraska.

District Ranger Decisions

Bessey District: *The North Platte Telegraph*, published daily in North Platte, Lincoln County, Nebraska.
Samuel R. McKelvie National Forest: *The Valentine Newspaper*, published weekly in Valentine, Cherry County, Nebraska.
Fall River and Wall Districts: *The Rapid City Journal*, published daily in Rapid City, Pennington County, South Dakota.
Pine Ridge District: *The Chadron Record*, published weekly in Chadron, Dawes County, Nebraska.

Black Hills National Forest, South Dakota and Eastern Wyoming

Forest Supervisor Decisions

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota.

District Ranger Decisions

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota.

Bighorn National Forest, Wyoming

Forest Supervisor Decisions

Sheridan Press, published daily in Sheridan, Sheridan County, Wyoming.

In addition, for decisions affecting an individual district(s), the local district(s) newspaper will be used (see listing below).

District Ranger Decisions

Tongue District: *Sheridan Press*, published daily in Sheridan, Sheridan County, Wyoming.
Buffalo District: *Buffalo Bulletin*, published weekly in Buffalo, Johnson County, Wyoming.
Medicine Wheel District: *Lovell Chronicle*, published weekly in Lovell, Big Horn County, Wyoming.
Tensleep District: *Northern Wyoming Daily News*, published daily in Worland, Washakie County, Wyoming.
Paintrock District: *Greybull Standard*, published weekly in Greybull, Big Horn County, Wyoming.

Medicine Bow National Forest, Wyoming

Forest Supervisor Decisions

Laramie Daily Boomerang, published daily in Laramie, Albany County, Wyoming.

District Ranger Decisions

Laramie District: *Laramie Daily Boomerang*, published daily in Laramie, Albany County, Wyoming.
Douglas District: *Casper Star-Tribune*, published daily in Casper, Natrona County, Wyoming.
Brush Creek and Hayden Districts: *Rawlins Daily Times*, published daily in Rawlins, Carbon County, Wyoming.

Shoshone National Forest, Wyoming

Forest Supervisor Decisions

Cody Enterprise, published twice weekly in Cody, Park County, Wyoming.

District Ranger Decisions

Clarks Fork District: *Powell Tribune*, published twice weekly in Powell, Park County, Wyoming.
Wapiti and Greybull Districts: *Cody Enterprise*, published twice weekly in Cody, Park County, Wyoming.
Wind River District: *The Dubois Frontier*, published weekly in Dubois, Teton County, Wyoming.
Lander District: *Wyoming State Journal*, published twice weekly in Lander, Fremont County, Wyoming.

Dated: May 9, 1996.
Elizabeth Estill,
Regional Forester.
[FR Doc. 96–12252 Filed 5–15–96; 8:45 am]
BILLING CODE 3410–11–M

Rusty Timber Sale and Other Products, Rogue River National Forest, Jackson and Josephine Counties, OR

AGENCY: Forest Service, USDA.
ACTION: Cancellation of an environmental impact statement.

SUMMARY: On September 30, 1991, a notice of intent to prepare an environmental impact statement (EIS) for the Rusty Timber Sale and Other Projects on the Applegate Ranger District of the Rogue River National Forest was published in the **Federal Register** (56 FR 49453). Forest Service has decided to cancel the preparation of an EIS for this proposed action. The Notice of Intent is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this cancellation to John Fertig, Resource Planner, Applegate Ranger District, 6941 Upper Applegate Road, Jacksonville, Oregon 97530 or telephone 541–899–1812.

Dated: May 7, 1996.
James T. Gladen,
Forest Supervisor.
[FR Doc. 96–12327 Filed 5–15–96; 8:45 am]
BILLING CODE 3410–11–M

Intergovernmental Advisory Committee Meeting

AGENCY: Forest Service, USDA.
ACTION: Notice of meeting.

SUMMARY: The Intergovernmental Advisory Committee (IAC) will meet on May 30, 1996, at the Red Lion Inn Yakima Valley, 1507 North First Street, Yakima, Washington 98901. The purpose of the meeting is to continue discussions on the implementation of the Northwest Forest Plan. The meeting will begin at 9:00 a.m. on May 30 and continue until 4:00 p.m. Agenda items to be discussed include, but are not limited to: (1) government-to-government relationships and consultation, (2) IRICC vegetation data standards, (3) implementation and effectiveness monitoring, and (4) IRICC fish/hydro data standards. The IAC meeting will be open to the public. Written comments may be submitted for the record at the meeting. Time will also be scheduled for oral public comments. Interested persons are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Questions regarding this meeting may be directed to Don Knowles, Executive Director, Regional Ecosystem Office, 333 SW 1st Avenue, P.O. Box 3623, Portland, OR 97208 (Phone: 503–326–6265).

Dated: May 7, 1996.
Donald R. Knowles,
Designated Federal Official.
[FR Doc. 96–12239 Filed 5–15–96; 8:45 am]
BILLING CODE 3410–11–M

National Agricultural Statistics Service

Notice of Intent To Seek Approval To Conduct an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.
ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the National Agricultural Statistics Service's (NASS) intention to request approval for a new information collection, the Fruit, Vegetable and Specialty Crop Marketing Order Handlers Survey.

DATES: Comments on this notice must be received by July 22, 1996 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 14th and Independence Avenue, SW, Washington, D.C. 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Fruit, Vegetable and Specialty Crop Marketing Order Handlers Survey.
Type of Request: Intent to seek approval to conduct an information collection.
Abstract: To improve its compliance under the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has contracted with the National Agricultural Statistics Service to conduct a Fruit, Vegetable and Specialty Crop Marketing Order Handlers Survey. Marketing Agreements and orders are authorized under the Agriculture Marketing Agreement Act of 1937 (AMAA) (7 U.S.C. 601 et seq.). The AMAA permits regulation of certain agricultural commodities for the purpose of providing orderly marketing conditions in interstate commerce and improving returns to producers. AMS is charged with the oversight responsibilities for these programs.
Marketing agreement and order programs have a unique characteristic in government regulatory programs; they are the result of the joint effort of government and industry representatives to improve the

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marketing of agricultural commodities. An administrative committee, comprised of growers and handlers appointed by the Secretary of Agriculture, locally administers each order. A major function of these administrative committees is to recommend to the Secretary administrative rules and order amendments. AMS reviews administrative committee recommendations for regulatory action and accompanying justifications for consistency with the regulatory authorities provided in the marketing order, as well as Department policy and the potential impact on small businesses. Issuance of marketing order regulations follows procedures prescribed by the Administrative Procedure Act. In addition, the AMS must adhere to a number of other statutes in issuing rulemaking, including the RFA.

The purpose of the RFA is to fit regulatory and informational requirements to the size and scale of business entities in a manner that is consistent with the objectives of the rule and applicable statutes. The RFA requires agencies to identify regulatory situations in which there is (or will be) a significant economic impact, as measured by costs and other factors, on a substantial number of small entities. The survey results will provide information on handler costs, revenues, and other related factors which will allow AMS to evaluate impacts of proposed rulemaking recommendations on handlers who may be classified as small entities under the RFA.

These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 30 minutes per response.

Respondents: Handlers (e.g., shippers and others as defined under the respective programs) regulated under marketing orders.

Estimated Number of Respondents: 1,650.

Estimated Total Annual Burden on Respondents: 825 hours.

Copies of this information collection and related instructions can be obtained without charge from Larry Gambrell, the Agency OMB Clearance Officer, at (202) 720–5778.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Larry Gambrell, Agency OMB Clearance Officer, U.S. Department of Agriculture, 14th and Independence Ave., SW, Room 4162 South Building, Washington, DC 20250–2000. All response to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC, May 8, 1996.

Donald M. Bay,

Administrator, National Agricultural Statistics Service.

[FR Doc. 96–12326 Filed 5–15–96; 8:45 am]

BILLING CODE 3410–20–M

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Automotive Parts Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Closed meeting of U.S. Automotive Parts Advisory Committee.

SUMMARY: The U.S. Automotive Parts Advisory Committee (the "Committee") advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Auto Parts Act of 1988. The Committee: (1) reports annually to the Secretary of Commerce on barriers to sales of U.S.-made auto parts and accessories in Japanese markets; (2) assists the Secretary in reporting to the Congress on the progress of sales of U.S.-made auto parts in Japanese markets, including the formation of long-term supplier relationships; (3) reviews and considers data collected on sales of U.S.-made auto parts to Japanese markets; (4) advises the Secretary during consultations with the Government of Japan on these issues; and 5) assists in establishing priorities for the Department's initiatives to increase U.S.-made auto parts sales to Japanese markets, and otherwise provide assistance and direction to the Secretary in carrying out these initiatives. At the meeting, committee members will discuss specific trade and sales expansion programs related to U.S.-Japan automotive parts policy.

DATE AND LOCATION: The meeting will be held on June 5, 1996 from 10:00 a.m. to 3:00 p.m. at the U.S. Department of Commerce in Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, Office of Automotive Affairs, Trade Development, Room 4036, Washington, D.C. 20230, telephone: (202) 482–1418.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on July 5, 1994, pursuant to Section 10(d) of the Federal Advisory Act, as amended, that the series of meetings or portions of meetings of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b(c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: May 7, 1996.

Henry P. Misisco,

Director, Office of Automotive Affairs.

[FR Doc. 96–12244 Filed 5–15–96; 8:45 am]

BILLING CODE 3510–DR–F

National Oceanic and Atmospheric Administration

[I.D. 050996A]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of application for a scientific research permit (P521C).

SUMMARY: Notice is hereby given that Drs. James Spotila and Pamela Plotkin of Drexel University in PA have applied in due form for a permit to take listed sea turtles for the purpose of scientific research.

DATES: Written comments or requests for a public hearing on this application must be received on or before June 17, 1996.

ADDRESSES: The application and related documents are available for review by appointment in the following offices:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Hwy., Room 13307, Silver Spring, MD 20910–3226 (301–713–1401); Director, Southeast Region, NMFS, NOAA, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813–893–3141).

Written comments, or requests for a public hearing on this application should be submitted to the Chief, Endangered Species Division, Office of Protected Resources.

SUPPLEMENTARY INFORMATION:

Application (P521C) requests a permit under the authority of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227). The applicants request authorization to capture 75 loggerhead (*Caretta caretta*), 75 Kemp's ridley (*Lepidochelys kempii*), 10 green (*Chelonia mydas*) 5 leatherback (*Dermochelys coriacea*), and 1 hawksbill (*Eretmochelys imbricata*) sea turtles annually in Delaware Bay from June 1996 to October 1997. The turtles will be examined, measured, photographed, passive integrated transponder-tagged, and have blood and fecal samples taken. Six turtles will be attached with radio-transmitters and tracked. One incidental sea turtle mortality is requested. The purpose of the research is to assess distribution and population dynamics of sea turtles in Delaware Bay, information helpful to manage impacts to sea turtles from human activities.

Those individuals requesting a hearing should set out the specific reasons why a hearing on this particular application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in this application summary are those of the applicants and do not necessarily reflect the views of NMFS.

Dated: May 10, 1996.

Eric H. Ostrovsky,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–12241 Filed 5–15–96; 8:45 am]

BILLING CODE 3510–22–F

Technology Administration

[Docket No. 960508127–6127–01]

RIN 0693–XX18

Federal Agency Guidance for the Acquisition of Modular Metric Construction Products

AGENCY: Technology Administration, Department of Commerce.

ACTION: Publication of Federal Agency Guidance.

SUMMARY: These guidelines provide information and a policy statement for Federal agency implementation of metric-usage requirements in the acquisition of modular construction products. After a review process starting on April 12, 1996, the guidelines were approved by the Interagency Council on Metric Policy on May 3, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Richter, Metric Program, U.S. Department of Commerce, National Institute of Standards and Technology, Building 820, Room 306, Gaithersburg, MD 20899. Phone (301) 975–3690.

SUPPLEMENTARY INFORMATION:

Background

The Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418, section 5164) amended the Metric Conversion Act of 1975 to, among other things, require that each Federal agency use metric measurements to the maximum extent feasible in its procurements and business-related activities. To fully implement this legislation within the Federal agencies, Executive Order 12770, "Metric Usage in Federal Government Programs," was signed by President Bush in 1991. The Federal agencies are required to encourage and support an environment that facilitates the U.S. transition to the metric system of measurement.

Using the Executive Order and the 1988 amendments as guidance, the agencies involved in the construction of federal buildings and facilities have made substantial progress in the adoption of metric measurements. During this metrication process, the Government's construction agencies have worked closely with the private sector to reach a consensus among all of the interested parties: building material manufacturers, trade associations, design firms, and construction contractors.

Dimensions for the vast majority of construction products need only be "soft-converted" for use in metric construction projects. A soft metric conversion means that the physical dimensions of the product remain unchanged while the measurement units used to describe and specify the product are changed to metric units. To make metric construction succeed, however, a small percentage of products need their physical dimensions "hard-converted" to fit the product into the internationally recognized building module of 100 millimeters. These products are frequently referred to as modular products.

Just as it is logical and cost effective for inch-pound construction projects to use modular products that fit into the 4-inch module, it is logical and cost effective for metric construction projects to employ modular products that fit into the 100 mm module.

Modular construction products are brick, concrete block, suspended ceiling systems—including recessed lighting fixtures and air diffusers, raised access flooring, wallboard, plywood, particle board, and rigid insulation.

Before a modular construction product in a hard metric size is specified in a federal construction project, the product's application must require it to fit together with other modular metric components, and the product must be found to be available at a reasonable cost.

The statutory language in the 1988 legislation provides the necessary flexibility for appropriate implementation of this policy on modular construction products—the Federal agencies are required to forego metric conversion when it is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms. The intent of the law is to pursue metrication for increased cost-effectiveness and productivity in U.S. business and greater access to international markets while avoiding any undue burden on American firms.

General Policy

(a) As construction metrication efforts continue, the Government's construction agencies shall continue to work closely with all interested private sector parties: building material manufacturers, trade association, design firms, and construction contractors. Consensus, efficiency, and cost-effectiveness shall be the goal.

(b) The Federal agencies shall conduct market research to determine the availability of modular metric construction products before developing new procurement specifications. Procurement officials in each agency, to the maximum extent practicable, shall specify commercial items or nondevelopmental items other than

commercial items to meet the needs of the agency.

(c) Throughout the acquisition process, the Federal agencies shall ensure that they give due consideration to the known effects of their actions on State and local governments and the private sector, paying particular attention to effects and possible cost burdens on small business.

(d) Modular construction products in a hard metric size shall only be specified in a federal construction project for situations in which the following criteria are met: (1) the product's application requires it to coordinate dimensionally into the 100 millimeter building module, (2) market research demonstrates the product's availability, sufficient to ensure competitive process, and (3) the product's total installed cost is reasonable.

Guidelines for Specific Modular Construction Products

A large portion of the language in this section is credited to the Guide for Specifying Metric Modular Products, a recently-developed draft document available from the Construction Metrication Council of the National Institute of Building Sciences. The Institute is a private, nonprofit organization created by Congress to serve as an authoritative source on issues of building science and . technology.

Both the public and private sectors are working together to resolve building product metrication issues through the Construction Metrication Council. With broad support and participation of the private sector, the Council develops guidelines and recommends procedures to adopt the metric system of measurement as a means of increasing the international competitiveness, productivity, and quality of the U.S. construction industry. The Council works closely with the Interagency Council on Metric Policy to disseminate this information to the Federal agencies.

Steel Reinforcing Bar

Steel reinforcing bar is not considered to be a modular construction product because it is buried in concrete and is not required to coordinate dimensionally into the 100 mm building module.

Specifications for steel reinforcing bar are issued by the American Society for Testing and Materials (ASTM), a private sector standards-making organization. In 1979, ASTM first issued its Inter p p its International System of Units (SI) "hard metric" specification for steel reinforcing bar, ASTM A 615M. After receiving assurances from the steel industry that reinforcing bar conforming to ASTM A 615M would be supplied when it was specified and ordered, Federal agencies adopted this standard for their metric construction projects.

Starting in May 1995, the Concrete Reinforcing Steel Institute (CRSI) and the Steel Manufacturers Association (SMA) mounted a campaign to endorse, instead of ASTM A 615M, a soft metric conversion of the current inch-pound specification, ASTM A 615. Most steel companies support the position that a soft metric conversion of ASTM A 615 should be adopted as the steel reinforcing bar standard for metric construction projects. Since the summer of 1995, it has been recommended that the Federal agencies specify bar conforming to a soft metric conversion of ASTM A 615 for projects still in design and that they allow soft-converted substitutions for work ready to bid.

The American Society for Testing and Materials is in the process of revising its standard for steel reinforcing bar to reflect the steel industry's support for a soft metric conversion of this product. The industry has pledged to provide complete metric design information, data, and specifications to both public and commercial users of steel reinforcing bar that conforms to a soft metric conversion of ASTM A 615.

Brick

The American Society for Testing and Materials' Standard Guide for Modular Coordination of Clay and Concrete Masonry Units, ASTM E 835/E 835M, sets forth metric dimensions for brick based on a module of 100 mm. Many common brick sizes are within a millimeter or two of metric modular sizes and nearly all can fit within the 100 mm module vertically be slightly varying mortar joint widths. The Brick Institute of America supports metrication.

A table that can be used to specify common brick sizes in metric units is available from the Construction Metrication Council of the National Institute of Building Sciences.

Concrete Block

Concrete block is usually considered a modular product. The Government's construction agencies, however, are aware of the costliness to the concrete masonry industry of buying the molds needed to produce concrete block in hard metric sizes and are attempting to minimize this expense. Inch-pound (soft-converted) block substitutions are recommended in all cases in which concrete block is used as a backup or infill material and in which architectural considerations otherwise permit.

Concrete block in a hard metric size will only be specified in a federal construction project in cases in which the block will be located in an architecturally exposed area or will be required to fit together with other modular metric components. The concrete block must also be found to be available at a reasonable cost. The Corps of Engineers has stated that approximately 60 percent of the cost of a concrete block wall is labor, 25 percent is the concrete block, and 15 percent is for other materials such as mortar and reinforcement. In projects for which concrete block in a hard metric size is needed, allowing inch-pound (soft-converted) block may save on the cost of the block, but would substantially increase the amount of cutting and trimming and would unreasonably increase labor costs. Therefore, in certain circumstances, it is logical and cost effective for the Government to specify concrete block in a hard metric size.

Total installed cost should be the determining factor in the selection of concrete block. Most often, concrete block is used as a back-up or infill material; when this is the case, inch-pound block substitutions are recommended. Where concrete block in a hard metric size is considered for use as an architectural material or as a primary structural system, cost and availability should be determined in advance to judge the appropriateness of such use.

Suspended Ceiling Systems

Components for suspended ceiling systems are T-bars, hangers, ceiling tile, recessed lighting fixtures, and recessed air diffusers. All components are available in modular metric sizes from a variety of manufacturers. With the exception of recessed lighting fixtures, all components are priced competitively with their inch-pound counterparts. A few large lighting manufacturers with highly automated production processes oppose metrication, and the product may carry a slight cost premium. Even so, quality modular metric lighting fixtures continue to be procured without difficulty when specified in federal projects.

Cost and availability shall be determined when components for suspended ceiling systems are specified in modular metric sizes.

Raised Access Flooring

Raised access flooring is a specialty item used primarily in computer rooms and other areas where provision for under floor cabling is desirable. A number of manufacturers make raised access flooring to fit the 100 mm module, but there may be a cost premium for small orders and longer delivery times for all orders. The Federal agencies shall specify metric raised access flooring if costs are generally comparable to inch-pound access flooring and procurement lead times are acceptable.

Wallboard

Wallboard is formed in continuous sheets of variable widths and cut to specified lengths. A variety of manufacturers make wallboard to fit the 100 mm module (1200 mm wide and 2400 and 3000 mm long), but there may be a cost premium for small orders and longer delivery times for all orders since metric wallboard is not yet a stock product. While the use of metric wallboard is desirable in metric construction projects, its use is not mandatory on small projects if project length or cost will increase.

Where framing spacing is specified to fit modular metric construction, the Federal agencies shall specify wallboard sheet type and thickness without specifying length and width. The construction contractor shall make the decision whether metric wallboard sheets or trimmed inch-pound sheets offer the most efficient and cost-effective solution in each situation.

Plywood and Particleboard

Like wallboard, wood-based sheet products such as plywood, particleboard, and oriented-strand-board (OSB) can be produced in a 1200 mm width and 2400 and 3000 mm lengths. There may be a premium for small orders and longer delivery times for all orders since metric plywood, particleboard, and oriented-strand-board are not yet stock products. With the exception of military family housing, however, wood products are rarely used in Government facilities.

Where framing spacing is specified to fit modular metric construction, the Federal agencies shall specify sheet type and thickness without specifying length and width. The construction contractor shall make the decision whether metric sheets or trimmed inch-pound sheets offer the most efficient and cost-effective solution in each situation.

Rigid Insulation

Rigid insulation is used on exterior walls and as a roof underlayment. Currently this metrical is available only in inch-pound sizes and must be cut to fit 400 or 600 mm framing spacing. On roofs, the product is usually laid over a rigid substrate that allows any sheet size to be used. The Federal agencies shall specify sheet type and thickness without specifying length and width. Where the sheets are applied directly to 400 or 600 mm framing spacing, the width must be trimmed by the contractor.

Further Guidance

Further guidance on the federal acquisition of modular metric construction products is available from the Construction Metrication Council of the National Institute of Building Sciences. Guidance is also available from the General Services Administration and its Metric Design Guide.

Dated: May 9, 1996.

Mary L. Good,

Under Secretary for Technology.

[FR Doc. 96–12180 Filed 5–15–96; 8:45 am]

BILLING CODE 3510–BP–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Wyoming Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 1:00 p.m. on June 15, 1996, at the Best Western Hitching Post Inn, 1700 W. Lincolnway, Cheyenne, Wyoming 82001. The purpose of the meeting is to brief the Committee on Commission and regional activities, discuss current civil rights issues in the State, provide orientation for new members, and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Oralia G. Mercado, 307–472–2105, or John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1400 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 8, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–12250 Filed 5–15–96; 8:45 am]

BILLING CODE 6335–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: Tuesday, May 21, 1996.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. CPSC Vice Chairman

The Commission will elect a Vice Chairman.

2. Fireworks Fuse Burn Time Petition HP 96–1

The staff will brief the Commission on Petition HP 96–1 from the American Fireworks Standards Laboratory to amend the allowable range of fuse burn times for fireworks devices from 3–6 to 3–9 seconds.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: May 14, 1996.

Sadye E. Dunn,

Secretary.

[FR Doc. 96–12523 Filed 5–14–96; 2:55 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

National Defense University Board of Visitors

AGENCY: Department of Defense, National Defense University.

ACTION: Notice.

SUMMARY: The President, National Defense University has scheduled a meeting of the Board of Visitors. The meeting will be held between 0800–1200 and 1330–1530 on May 24, 1996. The meeting will be held in Room 155B, Marshall Hall, Building 62, Fort Lesley J. McNair. For further information contact the Director, University Operations, National Defense University, Fort Lesley J. McNair, Washington, DC 20319–6000. To reserve space, interested persons should phone (202) 685–3937. The agenda will

include present and future educational and research plans for the National Defense University and its components. The meeting is open to the public, but the limited space available for observers will be allocated on a first come, first served basis.

Dated: May 10, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–12224 Filed 5–15–96; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Draft Environmental Impact Statement (DEIS) for the Western Army National Guard Aviation Training Site (WAATS) Proposed Expansion

LEAD AGENCIES: National Guard Bureau, Department of the Army, and the Department of the Air Force, Department of Defense.

COOPERATING AGENCY: Federal Bureau of Land Management, Department of the Interior.

ACTION: Notice of Availability.

SUMMARY: Expansions to existing training areas and facilities at the WAATS are for the purpose of enhancing readiness and training of National Guard aviation units, improving training safety, constructing facilities to meet training demands, and complying with environmental requirements.

This document addresses the environmental impacts of the proposed actions, reasonable alternatives and the impact upon Guard readiness of taking no action. The proposed action and each alternative action consist of three essential components: (1) increase the size of the original Tactical Flight Training Area (TFTA) to improve training, enhance training safety through reduced training congestion, allowing limited ground training support activities, and to reduce noise and environmental impacts through closing some parts of the existing TFTA; (2) increase the number of helicopter gunnery training operations through construction of new ranges or modification to existing ranges and; (3) construct new facilities for housing, training, maintenance and to comply with changing environmental requirements.

The DEIS will be available for public review for 45 days from the date the Notice of Availability is published in the **Federal Register**. The Arizona National Guard WAATS will conduct public hearings to discuss concerns and comments on the DEIS. Public hearings will be held in several locations throughout the project area. Specific locations, dates and times will be announced through letters to those on the project mailing list and to others through Notices, Display Advertisements and Legal Notices in general circulation newspapers.

ADDRESSES: Copies of the DEIS Executive Summary will be mailed to individuals who participated in the public scoping process. Copies of the entire DEIS may be requested from the Project Officer. Copies will also be sent to Federal, state, regional, and local agencies; interested organizations and agencies; and public libraries. Individuals not currently on the mailing list may obtain a copy on request.

FOR FURTHER INFORMATION CONTACT: The DEIS Project Officer, Lieutenant Colonel Richard Murphy, Deputy Commander, Western Army National Guard Aviation Training Site, Building 145–500, Pinal Air Park, Marana, Arizona 85653–9598, (520) 682—4590.

Dated: May 10, 1996.

Raymond J. Fatz,

Acting Deputy Assistant Secretary of the Army (Environment, Safety, and Occupational Health) OASA (IL&E).

[FR Doc. 96–12229 Filed 5–15–96; 8:45 am]

BILLING CODE 3710–08–M

Defense Mapping Agency

Proposed Collection; Comment Request

AGENCY: Defense Mapping Agency, DOD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Defense Mapping Agency announces the proposed extension of a currently approved public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques for other forms of information.

DATES: Consideration will be given to all comments received by July 15, 1996.

ADDRESSES: Written comments and recommendations on the proposed extension should be sent to the Chief of Staff Administrative Policy (CSA), Defense Mapping Agency, mail stop A–25, 8613 Lee Highway, Fairfax, VA 22031–2137.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call CSA, (703) 275–8456.

Title, Associated Form, and OMB Control Number: Notice to Mariners Marine Information Report and Suggestion Sheet, DMA Form 8260–3, OMB control number 0704–0211.

Needs and Uses: The information collection requirement is necessary to keep marine information products and services up-to-date for navigation safety.

Affected Public: Businesses or other for-profit; Federal agencies or employees.

Annual Burden Hours: 130.

Number of Respondents: 520.

Responses Per Respondent: 1.

Average Burden Per Response: 0.25 hour.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are mariners. Respondents identify inconsistencies, discrepancies or inadequacies of the nautical products. Data is analyzed and stored by personnel in the Navigation Information and Services Department. If the information was not collected, it could mean lack of data for accurate navigational charts, publications, and services and could jeopardize maritime safety.

Dated: May 10, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–12225 Filed 5–15–96; 8:45 am]

BILLING CODE 5000–04–M

Proposed Collection; Comment Request

AGENCY: Defense Mapping Agency, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Defense Mapping Agency announces the proposed extension of a currently approved public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques for other forms of information.

DATES: Consideration will be given to all comments received by July 15, 1996.

ADDRESSES: Written comments and recommendations on the proposed extension should be sent to the Chief of Staff Administrative Policy (CSA), Defense Mapping Agency, mail stop A–25, 8613 Lee Highway, Fairfax, VA 22031–2137.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call CSA, (703) 275–8456.

Title, Associated Form, and OMB Control Number: Port Information Report, DMA Form 8330–1, OMB control number 0704–0210.

Needs and Uses: The information collection requirement is necessary to evaluate and provide updated material to DMA for navigational safety.

Affected Public: Businesses or other for-profit; Federal agencies or employees.

Annual Burden Hours: 100.

Number of Respondents: 100.

Responses Per Respondent: 2.

Average Burden Per Response: 0.5 hour.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents include navigators of military vessels and merchant ships. Respondents provide navigational data and information. Data is analyzed and stored by personnel in the Navigation Information and Services Department. If the information was not collected it could mean lack of data for quality charts and publications to DMA customers and for preventing potential maritime disasters.

Dated: May 10, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–12226 Filed 5–15–96; 8:45 am]

BILLING CODE 5000–04–M

Proposed Collection; Comment Request

AGENCY: Defense Mapping Agency, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Defense Mapping Agency announces the proposed extension of a currently approved public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques for other forms of information.

DATES: Consideration will be given to all comments received by July 15, 1996.

ADDRESSES: Written comments and recommendations on the proposed extension should be sent to the Chief of Staff Administrative Policy (CSA), Defense Mapping Agency, mail stop A–25, 8613 Lee Highway, Fairfax, VA 22031–2137.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call CSA, (703) 275–8456.

Title, Associated Form, and OMB Control Number: Oceanic Sounding Report, DMA Form 8053–1, OMB control number 0704–0208.

Needs and Uses: The information collection requirement is necessary to solicit bathymetric data to be used in the construction and correction of safe nautical charts.

Affectd Public: Businesses or other for-profit; Federal agencies or employees.

Annual Burden Hours: 90.

Number of Respondents: 30.

Responses Per Respondent: 1.

Average Burden Per Response: 3 hours.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents include U.S. Naval vessels, U.S. Coast Guard vessels, NOAA vessels, and merchant ships. Respondents provide navigational data and information pertinent to that particular vessel. Data is analyzed and stored by personnel in the Source Analysis and Information Services Department. Non-collection of this information could mean lack of data for accurate chart construction and could jeopardize maritime safety.

Dated: May 10, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–12228 Filed 5–15–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Opportunity for Comment

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of public meetings and request for comments.

SUMMARY: The National Assessment Governing Board announces the opportunity for public review and comment on a proposed policy for the redesign of the National Assessment of Educational Progress. Comments may be provided orally by participating in one of two public meetings described below or in writing. The Governing Board, in accordance with its statutory responsibility to "take appropriate actions needed to improve the form and use of the National Assessment," has developed the proposed policy following an 18-month period of deliberation, involving review of commissioned papers, meetings with interested groups, and advice from experts. The proposed policy follows below.

The period for submitting comments in writing begins with the publication of this notice; only comments received by June 28, 1996 will be considered. Comments should be mailed to Ray Fields, Assistant Director for Policy and Research, 800 North Capitol Street NW., Suite 825, Washington, DC, 20002–4233.

The purpose of the two public meetings is to give individuals and groups an opportunity to discuss the

proposed policy with representatives of the Governing Board and to present their views. The Governing Board will consider the information obtained through these discussions and through written comments before taking action on a final policy statement to guide the redesign of the National Assessment.

The two public meetings are secheduled as follows:

Date: June 14, 1996.
Time: 9:30 am to 12:00 noon.
Place: The Madison Hotel, 15th and M Streets NW., Washington, DC (202) 862–1600.

Date: June 17, 1996.
Time: 9:30 am to 12:00 noon.
Place: Park Hyatt Hotel, 800 North Michigan Ave., Chicago, IL (312) 280–2222. Persons who wish to participate in these public meetings must register by 4:30 pm (Eastern Time), June 7, 1996. Persons who register may be assigned a specific time to appear. To register for the meeting, call 1–800–638–2784, extension 8623.

FOR FURTHER INFORMATION CONTACT: Ray Fields, Assistant Director for Policy and Reserch, 800 North Capitol Street, N.W., Suite 825, Washington, DC, 20002–4233. Telephone: (202) 357–0395.

SUPPLEMENTARY INFORMATION: The National Assessment of Educational Progress is the primary means by which the public is able to know how students in grades 4, 8 and 12 are achieving nationally and state-by-state. The National Assessment Governing Board is established to formulate policy guidelines for the National Assessment. The National Assessment and its Governing Board are authorized under sections 411 and 412, respectively, of the Improving America's Schools Act of 1994, (Pub. L. 103–382).

At its May 10 meeting, the Governing Board gave approval to disseminate the proposed policy of public comment, to be obtained both through submitted written comments and through the conduct of public meetings to discuss the proposed policy. The public comment period closes on June 28, 1996. Only comments received by June 28, 1996 will be considered. The Governing Board intends to take action on a final policy at its meeting scheduled for August 2–3, 1996, in Washington, DC.

Records are kept of all Board proceedings, and are available for public inspection at the National Assessment Governing Board, 800 North Capitol Street NW., Suite 825, Washington, DC, from 8:30 a. to 5:00 pm, Monday through Friday. Proposed Policy Statement for the National Assessment of Educational Progress

Redesigning the National Assessment of Educational Progress

A Better Way To Measure Educational Progress in America

An effective democracy and a strong economy require well-educated citizens. A good education lays a foundation for getting a good job, leading a fulfilling life, and participating constructively in society.

But is the education provided in your State and in America good enough? How do our 12th graders compare with students in other nations in mathematics and science? Do our 8th grade students have an adequate understanding of the working of our constitutional democracy? How well do our 4th grade students read, write, and compute? The National Assessment of Educational Progress is the only way for the public to know with accuracy how American students are achieving nationally and state-by-state.

The National Assessment tests at grades 4, 8 and 12. By law, it covers ten subjects, including reading, writing, math and science. The National Assessment has performance standards that indicate whether student achievement is "good enough." The National Assessment is not a national exam taken by all students. In fact, only several thousand students are tested per grade, comprising carefully drawn samples that represent the nation and the participating states. Since its first test in 1969, the National Assessment has earned a trusted reputation for its quality and credibility. That reputation must be maintained.

The National Assessment is unique because of its national, state-by-state, and 12th grade results. State and local test results cannot be used to provide a national picture of student achievement. States and local schools use different tests that vary in many ways. The results cannot simply be "added up" to get a national score nor can state scores on their different tests be compared. Virtually no state tests 12th graders, so the only source of information about 12th grade achievement is the National Assessment. Colleage entrace tests such as the ACT and the SAT are taken only by students planning on higher education; the results do not represent the achievement of the total 12th grade class. Twelfth grade achievement is important to monitor because it marks the end of elementary and secondary education, the transition point for most students from school to work, to college, or to technical training.

While there is much about the National Assessment that is working well, there is a problem. Under its current design, the National Assessment tests too few subjects, too infrequently, and reports achievement results too late—as much as 18 to 24 months after testing. Testing occurs every other year. During the 1990's, only reading and mathematics will be tested more than once using up-to-date tests and performance standards. Six subjects will be tested only once and two subjects not at all during the 1990's.

Why is the National Assessment testing so few subjects and fewer subjects now than years ago? Over the years, the National Assessment has become increasingly complex. Its quality and integrity have led to a multitude of demands and expectations beyond its central purpose. Meeting those expectations was done with good intentions and seemed right for the situation at the time. However, additions to the National Assessment have been "tacked on" without changing the basic design, reducing the number of subjects that can be tested and driving up costs.

For example, where a single 120 page mathematics report once sufficed, mathematics reporting in 1992 consisted of seven volumes totalling almost 1,800 pages, not including individual state reports. Also, there are now two separate testing programs for reading, writing, math and science. One monitors trends using tests developed during the 1970's; the other reflects current views on instruction and uses performance standards to report whether achievement is good enough. In addition, there are separate samples for reporting national and state results, even when the state samples may be adequate for some national reports.

The current National Assessment design is overburdened, inefficient and redundant. It is unable to provide the frequent, timely reports on student achievement the American public needs. The challenge is to supply more information, more quickly, with the funding available.

To meet this challenge, the National Assessment design must be changed, building on its strengths while making it more efficient. The design of the National Assessment must be simplified. The purpose of the National Assessment must be sharply focused and its principal audience clearly defined. Because the National Assessment cannot do all that some would have it do, trade-offs must be made among desirable activities. Useful but less important activities may have to be reduced, eliminated, or carried out by others. The National Assessment must "stick to its knitting" in order to be more cost-effective, reach more of the public, provide more information more promptly, and maintain its integrity. (Following below are preliminary proposals for new policies for the National Assessment being offered for public comment by the National Assessment Governing Board. The intent of these proposals is to specify purposes, audiences, and changes that will make the National Assessment a more effective monitor of student achievement)

Purpose of the National Assessment of Educational Progress

The purpose of the National Assessment is stated in its legislation: to provide a fair and accurate presentation of educational achievement in reading, writing, and the other subjects included in the third National Education Goal, regarding student achievement and citizenship.

Thus, the central concern of the National Assessment is to inform the nation on the status of student achievement. The National Assessment Governing Board believes that this should be accomplished through the following objectives:

(1) To measure national and state progress toward the third National Education Goal and provide timely, fair and accurate data about student achievement at the national level, among the states, and in comparison with other nations;

(2) To develop, through a national consensus, sound assessments to measure what students know and can do as well what students *should* know and be able to do; and

(3) To help states and other link their assessments with the National Assessment and use National Assessment data to improve education performance.

The Audience for the National Assessment

The primary audience for National Assessment results is the American public, including the general public in states that receive their own results from the National Assessment. Reports should be written for this audience. Results should be released within 6 months of testing. Reports should be understandable, jargon free, easy to use, and widely disseminated.

Principal users of National Assessment data are state policymakers and educators concerned with student achievement, curricular, testing and standards. National Assessment data should be available to these users in forms that support their efforts to interpret results to the public and to improve education performance.

What the National Assessment Is Not

The National Assessment is intended to describe how well students are performing, but not to explain why. The National Assessment only provides group results; it is not an individual student test. The National Assessment tests academic subjects and does not collect information on individual students' personal values or attitudes. Each National Assessment test is developed through a national consensus process. This national consensus process takes into account education practices, the results of education research, and changes in the curricula. However, the National Assessment is independent of any particular curriculum and does not promote specific ideas, ideologies, or teaching techniques. Nor is the National Assessment an appropriate means, by itself, for improving instruction in individual classrooms, evaluating the effects of specific teaching practices, or determining whether particular approaches to curricula are working.

Recommended Changes to the National Assessment

To provide the American public with more frequent information in more subjects about the progress of student achievement, changes must be made in the way that the National Assessment is designed and the results are reported. Many current policies should continue. Reliability, validity, and quality of data will remain a hallmark of the National Assessment. The sample of tested students will be as representative as possible, keeping to a minimum the number of students excluded because of disability or limited English proficiency. Tests and test frameworks will be kept stable to measure progress in student achievement over time.

The recommended changes relate to the three objectives outlined above. Current contracts for conducting the National Assessment extend through 1998. Changes can be incorporated in assessments in the year 1999 and thereafter. Where feasible, these recommendations should be used to guide decisions under current contracts.

Objective 1: To measure national and state progress toward the third National Education Goal and provide timely, fair and accurate data about student achievement at the national level, among the states, and in comparison with other nations.

Test all subjects specified by Congress: reading, writing, mathematics, science, history, geography, civics, the arts, foreign language, and economics.

The gap must be closed between the number of subjects the National Assessment is required to test and the number of subjects it *can* test under the current design. By law, the National Assessment is required to test ten subjects and report results and trends. In order to chart progress and report trends, subjects must be tested more than once. However, during the 1990's only reading and mathematics will have been tested more than once using up-to-date tests and performance standards to report how well students are doing.

Recommendations:

- The National Assessment should be conducted annually;
- Reading, writing, mathematics and science should be given priority, with testing in these subjects conducted according to a publicly released 10-year schedule adopted by the National Assessment Governing Board;
- History, geography, the arts, civics, foreign language, and economics also should be tested on a reliable basis according to a publicly released schedule adopted by the National Assessment Governing Board.

Vary the amount of detail in testing and in reporting.

More subjects can be tested if different strategies are used. But each time the National Assessment is conducted, it uses a similar approach, regardless of the nature of the subject or the number of times a subject has been tested. This approach is locked-in through 1998 under current contracts. Under this approach, a larger number of students is tested in order to provide not just overall results, but fine-grained details as well (e.g., the achievement scores of 4th grade students whose teachers that year had five hours or more of in-service training). The National Assessment also collects "background" information through questionnaires completed by students, teachers, and principals. The questionnaires ask about teaching practices, school policies, and television watching, to name a few. Data analyses are elaborate. Reports are detailed and exhaustive, involving as many as seven separate reports per subject. Although the National Assessment has been praised for this thoroughness, it comes at the cost of testing more subjects, more frequently, with more timely reporting.

The different strategies needed might include several approaches to testing and reporting. For example, these approaches could take the form of "standard report cards," "comprehensive reports," and special, focused assessments. A standard report card would provide overall results in a subject with performance standards and average scores. Results for standard report cards would be reported by sex,

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race/ethnicity, socio-economic status, and for public and private schools, but would not be broken down further. This may reduce the number of students needed for testing and may reduce associated costs. Student, teacher and principal survey questionnaires, if collected at all, would be limited and selective, with reports of results focused on only the most essential issues. Generally, subcategories within a subject (e.g., algebra, measurement and geometry within mathematics) would not be reported. However, data from the National Assessment would continue to be available to state and local educators and policymakers for additional analysis. Most National Assessment reports would use this strategy.

Comprehensive reports, like the current approach, would be an in-depth look at a subject, perhaps using a newly adopted test framework, many students, many test questions, and ample background information. In addition to overall results using performance standards and average scores, subcategories within a subject could be reported. Results would be reported by sex, race/ethnicity, socio-economic status, and for public and private schools, and might be broken down further as well. In some cases, more than one report may be issued in a subject. However, comprehensive reporting would occur infrequently, perhaps once in ten years in any one subject.

Special, focused assessments in a subject would be scheduled as needed. They would explore a particular question or issue and may be limited to particular grades. Generally, the cost would be less than the cost of a standard report card. Examples of these smaller-scale, focused assessments include: (1) assessing subjects using targeted approaches (e.g., 8th grade arts), (2) testing special populations (e.g., in-school 12th graders vs. out-of-school youth), and (3) examining skills and knowledge across several subjects (e.g. readiness for work).

Recommendations:

- National Assessment testing and reporting should vary, using standard report cards most frequently, comprehensive reporting in selected subjects about once every ten years, and special, focused assessments as needed;
- National Assessment results should be timely, with the goal being to release results within 6 months of the completion of testing.

Simplify the National Assessment Design

The current design of the National Assessment is very complex. No student takes the complete set of test questions in a subject and as many as twenty-six different test booklets are used within each grade. Students, teachers, and principals complete separate questionnaires and may submit them for scoring at different times. Scores are not calculated directly from the test booklets, but are estimated using statistical procedures known as "conditioning," "drawing plausible values," and "imputation." The estimates are calculated in part by using the questionnaire data collected from the students, teachers, and principals, in addition to the student answers to the test questions. Although using these procedures helps make the data accurate, it also increases the possibility of mistakes. Under these procedures, each time a problem arises in analyzing the data, everything must be redone. It is not unusual for data to be re-calculated hundreds of times. The current complex design of the National Assessment lengthens the time from testing to reporting and adds significantly to its cost.

Recommendation

- Options should be identified to simplify the design of the National Assessment and reduce reliance on conditioning, plausible values, and imputation to estimate group scores.

Simplify the Way the National Assessment Reports Trends in Student Achievement

From its beginning in 1969, monitoring achievement trends has been a central mission of the National Assessment of Educational Progress. Since 1990, the National Assessment has reported achievement trends using two unconnected testing programs. The tests, criteria for selecting students, and reporting are all different. The first program, "the main National Assessment," tests at grades 4, 8 and 12 and covers ten subjects. The tests are based on a national consensus representing current views of each subject. Performance standards are used to report whether student achievement on the National Assessment is "good enough." The schedule of subjects to be tested in the main National Assessment is unrelated to the schedule of subjects tested under the second testing program.

The second testing program reports long-term trends that go as far back as 1970. Only four subjects are covered: reading, writing, mathematics and science. The tests are based on views of the curricula prevalent during the 1970's and have not been changed. Testing is at ages 9, 13 and 17 except for writing, which tests at grades 4, 8 and 11. Trends are reported by average score; performance standards are not used. The long-term trend program has been valuable for documenting declines and increases in student achievement over time and a decrease in the achievement gap between minority and non-minority students.

It may be impractical and unnecessary to operate two separate testing programs. However, it also is likely that curricula will continue to change and that current test frameworks may be less relevant in the future. The tension between the need for stable measures of student achievement and changing curricula must be addressed carefully.

Recommendations

- A carefully planned transition should be developed to enable "the main National Assessment" to become the primary way to measure trends in reading, writing, mathematics and science in the National Assessment program;
- As a part of the transition, the National Assessment Governing Board will review the tests now used to monitor long-term trends in reading, writing, mathematics and science to determine how they might be used now that new tests and performance standards have been developed during the 1990's for "the main National Assessment." The Governing Board will decide how to continue the present long-term trend assessments, how often they would be used, and how the results would be reported.

Use Performance Standards To Report Whether Student Achievement is "Good Enough"

In reporting on "educational progress," the National Assessment has, until recently, only considered current student performance compared to student achievement in previous years. Under this approach, the only standard was how well students had done previously, not how well they should be doing on what is measured by the National Assessment. Although this approach has been useful, it began to change in 1988 from a sole focus on "where we have been" to include "where we want to be" as well.

In 1988, Congress created a non-partisan citizen's group—the National Assessment Governing Board—and authorized it to set explicit performance standards, called achievement levels, for reporting National Assessment results.

The achievement levels describe "how good is good enough" on the various tests that make up the National Assessment. Previously, it might have been reported that the average math score of 4th graders went up (or down) four points on a five-hundred-point scale. There was no way of knowing whether the previous score represented strong or weak performance and whether the amount of change should give cause for concern or celebration. In contrast, the National Assessment now also reports the percentage of students who are performing at or above "basic," "proficient," and "advanced" levels of achievement. Proficient, the central level, represents "competency over challenging subject matter," as demonstrated by how well students perform on the questions on each National Assessment test. Basic denotes partial mastery and advanced signifies superior performance on the National Assessment. Using achievement levels to report results and track changes allows readers to make judgments about whether performance is adequate, whether "progress" is sufficient, and how the National Assessment standards and results compare to those of other tests, such as state and local tests.

Recommendation

- The National Assessment should continue to report student achievement results based on performance standards.

Use International Comparisons

Looking at student performance and curriculum expectations in other nations is yet another way to consider the adequacy of U.S. student performance. The National Assessment is, and should be, a domestic assessment. However, decisions on the content of National Assessment tests, the achievement standards, and the interpretation of test results, where feasible, should be *informed*, in part, by the expectations for education set by other countries, such as Japan, Germany, and England. This, in turn, should take into account problems in making international comparisons truly comparable. In addition, the National Assessment should promote "linking" studies with international assessments, as has been done with the Third International Mathematics and Science Study, so that states that participate in the National Assessment can have state, national and international comparisons.

Recommendations

- National Assessment test frameworks, test specifications, achievement levels and data interpretations should take into account, where feasible, curricula, standards, and student performance in other nations;
- The National Assessment should promote "linking" studies with international assessments.

Emphasize Reporting for Grades 4, 8 and 12

An aspect of the National Assessment design that needs reconsideration is age versus grade-based reporting. At its inception, the National Assessment tested only by age. Current law requires testing both by age (ages 9, 13 and 17) and by grade (grades 4, 8 and 12). Grade-based results are generally more useful than age-based results. Schools and curricula are organized by grade, not by age. Grades 4, 8 and 12 mark key transition points in American education. Grade 12 performance is particularly important as an "exit" measure from the K–12 education system. Grades 4, 8 and 12 are specified for monitoring in National Education Goal 3. Age-based samples may be more appropriate with respect to international comparisons and, given high school drop-out rates, would be more inclusive for age 17 than for grade 12 samples, which are limited to youth enrolled in school. However, assessing the knowledge and skills of out-of-school youth may properly fall under the purpose of another program, such as the National Adult Literacy Survey.

Although grade-based reporting is generally preferable, there is a problem about the accuracy of grade 12 National Assessment results. At grade 12, a smaller percentage of schools and students that are invited actually participate in testing than is the case with 4th and 8th graders. Also, more 12th graders fail to complete their tests than do 4th and 8th graders. In addition, when asked "How hard did you try on this test?" and "How important is doing well on this test?" many more 12th graders, than 4th or 8th graders, say that they didn't try hard and that the test wasn't important. Low participation rates, low completion rates, and indicators of low motivation suggest that the National Assessment may be underestimating what 12th graders know and can do.

One possible reason for low response and low motivation is that schools and students receive very little in return for their participation in the National Assessment beyond the knowledge that they are performing a public service. They do not receive test scores nor do they receive other information from the National Assessment that teachers and principals might wish to use as a part of the instructional program. This should be changed. The National Assessment design should use meaningful, practical incentives that will give school principals and teachers a greater reason to participate and students more of a reason to try harder. The underlying idea is clear: if principals and teachers see direct benefits, they are more likely to agree to participate in the National Assessment. Students may be more likely to take the assessment seriously if they see that their teachers and principals are enthusiastic about participating.

Recommendations

- The National Assessment should continue to test in and report results for grades 4, 8 and 12; however, in selected subjects, one or more of these grades may not be tested;
- Age-based testing and reporting should continue only to the extent necessary for international comparisons and for long-term trends, should the Governing Board decide to continue long-term trends in their current form;
- Grade 12 results should be accompanied by clear, highlighted statements about school and student participation, student motivation, and cautions, where appropriate, about interpreting 12th grade achievement results;
- The National Assessment design should seek to improve school and student participation rates and student motivation at grade 12.

National Assessment Results for States

In 1988, testing at the state level was added to the National Assessment. Previously, the National Assessment reported only national and regional results. For the first time, the information was relevant to individuals in states who make decision about education funding, governance and policy. As a result, states now are major users of National Assessment data.

Participation was strong in the first state-level assessment in 1990 and has grown to include even more states. In 1996, 44 states and 3 jurisdictions participated in the math assessments at grade 4 and 8 and the science assessment at grade 8.

Currently, the National Assessment draws a separate sample to obtain national results in addition to the samples drawn for individual state reports. Testing separate national samples increases costs and creates additional burdens on states, particularly small states. If this practice can be discounted, savings should be possible.

States participate in the National Assessment for many reasons, including to have an unbiased, external benchmark to help them make judgments about their own tests and standards. National Assessment data are used to make comparisons to other states, to help determine if curriculum

and standards are rigorous enough, to develop questions about curricular strengths and weaknesses, to make state to international comparisons, and to provide a general indicator of achievement.

There is a strong interest among states to use the National Assessment to get state level information in reading, writing, science and mathematics. The level of interest in using the National Assessment varies with respect to the other subjects. State education officials are most interested in the National Assessment testing at grades 4 and 8. They say that obtaining cooperation from high schools and 12th grade students is difficult. Also, from their perspective, 12th grade testing comes at the end of compulsory schooling, after which remediation is not feasible within the elementary and secondary system.

States are active partners in the National Assessment program. States help develop National Assessment test frameworks, review test items, and assist in conducting the tests. The National Assessment program is effective, to a great degree, because of the involvement of the states.

Because it is useful of them, and because they invest time and resources in it, states want a dependable schedule for National Assessment testing. With a dependable schedule, states that want to will be better able to coordinate the National Assessment with their own state testing program and make better use of the National Assessment as an external reference point.

Recommendations

- National Assessment state-level assessments should be conducted on a reliable, predictable schedule according to a 10-year plan adopted by the Governing Board;
- Reading, writing, mathematics, and science at grades 4 and 8 should be given priority for National Assessment state-level testing;
- Testing in other subjects and at grade 12 should be permitted at state option and cost;
- Where possible, national results should be estimated from state samples in order to reduce burden on states, increase efficiency and save costs.

Use Innovations in Measurement and Reporting

The National Assessment has a record of innovations in large-scale testing. These include the early use of performance items, sampling both students and test questions, using standards describing what students should know and be able to do, and employing computers for such things as inventory control, scoring, data analysis and reporting. The National Assessment should continue to incorporate promising innovative approaches to test administration and improved methods for measuring and reporting student achievement.

Technology can help improve National Assessment reporting and testing. For example, reports could be put on computer disc, transmitted electronically, and made available through the World-Wide Web. Test questions could be catalogued and made available on-line for use by state assessment personnel and classroom teachers. Also, the National Assessment could be administered by computer, eliminating the need for costly test booklet systems and reducing steps related to data entry of student responses. Students could answer "performance items" in cost-effective, computerized formats. The increasing use of computers in schools may make it feasible to administer some parts of the National Assessment by computer under the next contract for the National Assessment, beginning around the year 2000.

Other examples of promising methods for measuring and reporting student achievement include adaptive testing and domain-score reporting. In adaptive testing, each student is given a short "pre-test" to estimate that student's level of achievement. On the basis of the pre-test, higher achieving students are given tougher questions; students who know and can do less are given easier questions. Since the test is "adapted" to the individual, it is more precise and can be markedly more efficient than regular test administration. In domain-score reporting, a subject (or "domain") is well-defined, a goodly number of test questions are developed that encompass the subject, and student results are reported as a percentage of the "domain" that students "know and can do." This is in contrast to reporting results using an arbitrary scale, such as the 0–500 scale in the National Assessment.

Recommendations

- The National Assessment should assess the merits of advances related to technology and the measurement and reporting of student achievement;
- Where warranted, the National Assessment should implement such advances in order to reduce costs and/or improve test administration, measurement and reporting;
- The next competition for National Assessment contracts, for assessments beginning around the year 2000, should ask bidders to provide a plan for (1) conducting testing by computer in at least one subject at one grade, and (2) making use of technology to improve test administration, measurement, and reporting.

Objective 2: To develop, through a national consensus, sound assessments to measure what students know and can do as well as what students *should* know and be able to do.

Keep Test Frameworks and Specifications Stable

Test frameworks spell out in general terms how a test will be put together. The test frameworks also determine what will be reported and influence how expensive an assessment will be. Should 8th grade mathematics include algebra questions? Should there be both multiple choice questions and questions in which students show their work? What is the best mix of such types of questions for each grade? Which grades are appropriate for testing in a subject area? Test specifications provide detailed instructions to the test writers about the specific content to be tested at each grade, how test questions will be scored, and the format for each test question (e.g. multiple choice, essay, etc.).

Test frameworks and specifications are developed through a national consensus process conducted by the Governing Board. The national consensus process involves hundreds of teachers, curriculum experts, directors of state and local testing programs, administrators, and members of the public. The national consensus process helps determine *what* is important for the National Assessment to test, *how* it should be measured, and *how much* of what is measured by the National Assessment students should know and be able to do in each subject.

Through the national consensus process, both current classroom teaching practices and important developments in each subject area are considered for inclusion in the National Assessment. In order to ensure that National Assessment data fairly represent student achievement, the test frameworks and specifications are subjected to wide public review before adoption and all test questions developed for the National Assessment are reviewed for relevance and quality by representatives from each participating state.

An important role of the National Assessment is to report on trends in student achievement over time. For the National Assessment to be able to measure trends, the frameworks (and hence the tests) must remain stable. However, as new knowledge is gained in subject areas and as teaching practices change and evolve, pressures arise to change the test frameworks and tests to keep them current. But, if frameworks, specifications and tests change too frequently, trends may be lost, costs go up, and reporting time may increase.

Recommendations

- Test frameworks and test specifications developed for the National Assessment generally should remain stable for at least ten years;
- To ensure that trend results can be reported, the pool of test questions developed in each subject for the National Assessment should provide a stable measure of student performance for at least ten years;
- In rare circumstances, such as where significant changes in curricula have occurred, the Governing Board may consider making changes to test frameworks and specifications before ten years have elapsed;
- In developing new test frameworks and specifications, or in making major alterations to approved frameworks and specifications, the cost of the resulting assessment should be estimated. The Governing Board will consider the effect of that cost on the ability to test other subjects before approving a proposed test framework and/or specifications.

Use an Appropriate Mix of Multiple-Choice and "Performance" Questions

To provide information about "what students know and can do," the National Assessment uses both multiple-choice questions and questions in which students are asked to provide their own answers, such as writing a response to an essay question or explaining how they solved a math problem. Questions of the latter type are sometimes called "performance items." The two types of questions may require students to demonstrate different kinds of skills and knowledge.

Performance items are desired because they provide direct evidence of what students can do. Individuals confronted with problems in the real world are seldom handed four possible answers, one of which is correct. Although they may be desirable, performance items are more expensive than multiple-choice to develop, administer, and score.

Multiple-choice questions are desired because conclusions are more practical to obtain about the kinds of skills and knowledge assessed by these items, given the time available for testing. However, multiple-choice questions are more subject to guessing than are performance items.

Currently, all students tested by the National Assessment are given both types of questions. Generally, about half the testing time is devoted to each type of question, but the amount of time for each differs based on the skills and knowledge to be assessed, as established in the National Assessment test framework. For example, in a writing assessment, all students are asked to write their responses to specific "prompts." In other subjects, the appropriate mix of multiple-choice and performance items varies.

Recommendations

- Both multiple-choice and performance items should continue to be used in the National Assessment;
- In developing new test frameworks, specifications, and questions, decisions about the appropriate mix of multiple-choice and performance items should take into account the nature of the subject, the range of skills to be assessed, and cost.

Objective 3: To help states and others link their assessments with National Assessment and use National Assessment data to improve education performance.

The primary job of the National Assessment is to report frequently and promptly to the American public on student achievement. The resources of the National Assessment must be focused on this central purpose if it is to be achieved. However, the products of the National Assessment—test questions, test data, frameworks and specifications, are widely regarded as being of high quality. They are developed with public funds and, therefore, should be available for public use as long as such uses do not threaten the integrity of the National Assessment or its ability to report regularly on student achievement.

The National Assessment should be designed in a way that permits its use by others while protecting the privacy of students, teachers, and principals who have participated in the National Assessment. This should include making National Assessment test questions and data easy to assess and use, and providing related technical assistance upon request. Generally, the costs of a project should be borne by the individual or group making the proposal, not by the National Assessment. Examples of areas in which particular interest has been expressed for using the National Assessment include linking state and local tests with the National Assessment and performing in-depth analysis on National Assessment data. States that link their tests to the National Assessment would have an unbiased external benchmark to help make judgments about their own tests and standards and would also have a means for comparing their tests and standards with those of other states.

Recommendations

- The National Assessment should develop policies, practices and procedures that enable states, school districts and others who want to do so at their own cost, to conduct studies to link their test results to the National Assessment;
- The National Assessment should be designed so that others may access and use National Assessment test questions, test data and background information;
- The National Assessment should employ safeguards to protect the integrity of the National Assessment program, prevent misuse of data, and ensure the privacy of individual test takers.

Dated: May 13, 1996.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 96–12264 Filed 5–15–96; 8:45 am]

BILLING CODE 4000-01-M

National Educational Research Policy and Priorities Board; Meeting

AGENCY: National Educational Research Policy and Priorities Board; Education.

ACTION: Notice of cancellation and rescheduled closed committee meeting.

SUMMARY: This notice amends a notice originally published in Vol. 61, No. 67, April 5, 1996, p. 15232 of a closed meeting of the Search Committee of the National Educational Research Policy and Priorities Board. The meeting has been rescheduled.

DATES: June 5 and 6, 1996.

TIME: June 5, 1 to 6 p.m.; June 6, 8:30 a.m. to 2 p.m.

LOCATION: First Floor Conference Room, 80 F Street NW., Washington, D.C. 20208.

FOR FURTHER INFORMATION CONTACT: Charles E. Hansen, Designated Federal Official, Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Washington, D.C. 20208–7579, Telephone: (202) 219–2050.

Sharon P. Robinson,

Assistant Secretary.

[FR Doc. 96–12337 Filed 5–15–96; 8:45 am]

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DEPARTMENT OF ENERGY

Office of Civilian Radioactive Waste Management; Safe Transportation and Emergency Response Training; Technical Assistance and Funding

AGENCY: Office of Civilian Radioactive Waste Management, Department of Energy.

ACTION: Notice of proposed policy and procedures.

SUMMARY: The Department of Energy (the Department) publishes for public comment a proposed policy statement setting forth its plans for implementing a program of technical and financial assistance to states for training public safety officials of appropriate units of local government and to Indian tribes through whose jurisdiction the Department plans to transport spent nuclear fuel or high-level radioactive waste. The training would cover both safe routine transportation procedures and emergency response procedures.

DATES: Written comments should be sent to the Department and must be received on or before August 15, 1996.

ADDRESSES: Written comments should be directed to: Corinne Macaluso, U.S. Department of Energy, c/o Lois Smith, TRW Environmental Safety Systems, Inc., 600 Maryland Avenue, S.W., Suite 695, Washington, D.C. 20024, Attn.: Section 180(c) Comments.

Persons submitting comments should include their names and addresses. Receipt of comments in response to this Notice will be acknowledged if a stamped, self-addressed postal card or envelope is enclosed.

FOR FURTHER INFORMATION: For further information on the transportation of spent nuclear fuel and high-level radioactive waste under the Nuclear Waste Policy Act, please contact: Ms. Corinne Macaluso, Environmental and Operational Activities, Office of Civilian Radioactive Waste Management, (RW–45), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: 202–586–2837.

Information packets are available for interested persons who want background information about the Office of Civilian Radioactive Waste Management transportation program and the Section 180(c) program prior to providing comments. To receive an information packet, please call 1–800–225–NWPA (or call 202–488–6720 in Washington, D.C.) or write to the OCRWM Information Center, Post Office Box 44375, Washington, D.C. 20026 or the Yucca Mountain Science Center, 4101B Meadows Lane, Las Vegas, Nevada 89107.

Copies of comments received will be available for examination and may be photocopied at the Department's Public Reading Room at 1000 Independence Avenue, S.W., Room 1E–190, Washington, D.C.

SUPPLEMENTARY INFORMATION:

I. Purpose and Need for Agency Action

Under the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10101 et seq.) (NWPA or "the Act"), the Department of Energy (Department) is responsible for the disposal of high-level radioactive waste and civilian spent nuclear fuel in a deep geologic repository. The Department is also responsible for the possible monitored retrievable storage (MRS) of spent nuclear fuel prior to disposal. Additionally, the Department is responsible for transportation of spent nuclear fuel and high-level nuclear waste to the Department's disposal or storage sites. To carry out these responsibilities, the Department is required to implement Section 180(c) of the Act. Section 180(c) of the Act requires the Department to provide technical assistance and funds to States for training for public safety officials of appropriate units of local government and Indian tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high-level radioactive waste. Section 180(c) further provides that training cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations. Section 180(c) identifies the Nuclear Waste Fund under the Act as the source of funds for work carried out under this subsection. [42 U.S.C. 10175]

II. Section 180(c) History

The Department issued a Notice of Inquiry in the **Federal Register** on January 3, 1995, (60 FR 99) which briefly described various options to delineate Section 180(c) of the Nuclear Waste Policy Act policy and procedures. Members of the public were invited to submit comments on the Notice of Inquiry. In the March 14, 1995, **Federal Register** (60 FR 13715) the Department extended the deadline for comments to May 18, 1995. In response to requests for additional information, the Department issued another, more detailed Notice of Inquiry in the **Federal Register** on July 18, 1995 (60 FR 36793). Members of the public were again invited to submit comments on the Notice of Inquiry. In a continuing effort to include stakeholders in predecisional discussions, the Department has developed the proposed Section 180(c) policy and procedures, presented below, that comprise the Department's proposed approach to implementing Section 180(c) of the Nuclear Waste Policy Act. Included in this Notice is a summary of the comments received from the two prior Notices of Inquiry and the Department's response to those comments. The Department welcomes comments in response to this **Federal Register** notice on the proposed Section 180(c) policy and procedures.

The Department plans to publish, in 1997, a Notice of Final Policy and Procedures that the Department intends to follow in implementing the Section 180(c) program. The Section 180(c) program encompasses the shipment of spent nuclear fuel and high-level radioactive waste to a geologic repository or a monitored retrievable storage facility pursuant to the NWPA.

The Department's work to date on the Section 180(c) policy and implementation procedures has been discussed primarily in Transportation Coordination Group meetings and Transportation External Coordination (TEC) Working Group meetings. The Transportation External Working Group will continue to meet periodically to identify and discuss issues related to the transport of radioactive materials. In addition, the Department has ten cooperative agreements with national and regional organizations representing state, local and tribal constituencies to provide information and solicit input regarding the transportation aspects of the Office of Civilian Radioactive Waste Management program.

The Department has also released two documents that discuss Section 180(c) policy and implementation. These two documents are the Strategy for OCRWM to Provide Training Assistance to State, Tribal, and Local Governments (November 1992, DOE/RW–0374P) (the Strategy document), and the Preliminary Draft Options for Providing Technical Assistance and Funding Under Section 180(c) of the Nuclear Waste Policy Act, as Amended (November 1992) (the Options paper). These documents are available by requesting the information packet from the OCRWM National Information Center or the Yucca Mountain Science Center.

III. Proposed Section 180(c) Policy and Procedures

Introduction

This section is divided into four subject areas. It includes a discussion of the proposed funding mechanism, definitions of key terms, eligibility and timing of the grants, and allowable activities. This proposal is based on information gained by studying industry regulations, legal requirements, and stakeholder comments. Funding Mechanism describes the method by which funds would be disbursed to states and tribes, hereafter referred to as jurisdictions. Definition of Key Terms describes the definition of safe routine transportation and technical assistance for the purposes of the Section 180(c) program. Eligibility and Timing of the Grants Program describes when jurisdictions are eligible and the timing of the grants process. Allowable Activities describes the types of activities the funding could be used for as well as some activities that would be disallowed. The final policy and procedures may differ based on comments received on this proposal, any new legislation, and any program and policy changes caused by new Congressional direction.

The Appendix to this Notice provides the cost basis for this proposed Section 180(c) program.

Funding Mechanism

The Department intends to implement Section 180(c) through an OCRWM grants program. Funding would be provided every year beginning approximately three years prior to the first shipment through a state or tribal land. The Department would administer the grants but the grants would be specific to the Section 180(c) program and would not be combined with any other Department-sponsored transportation preparedness or training programs, although coordination by jurisdictions would be encouraged.

The grant program would be administered in accordance with the DOE Financial Assistance rules (10 CFR 600), which implement OMB Circular A–87, Cost Principles for Grants, Contracts and Other Agreements with Local Governments, OMB Circular A–102, Grants and Cooperative Agreements with State and Local Governments, and OMB Circular A–128, Audits of State and Local Governments. In order to preserve flexibility, the Department does not presently plan to codify the policy and procedures in this notice as substantive regulations.

Definitions of Key Terms

The definition of safe routine transportation for the purposes of determining eligibility or allowable activities under the Section 180(c) program would be as follows:

- Safe routine transportation means the enforcement of standards and inspection of shipments of spent nuclear fuel and high-level radioactive waste to a repository or an MRS pursuant to the NWPA through state, tribal, and local jurisdictions in a manner compliant with applicable Federal, state, tribal, and local laws and regulations. Safe routine highway transportation is characterized by adequate vehicle, driver, and package inspection and enforcement of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations. Safe routine transportation is also characterized by compliance with rail and barge transportation regulations including Federal Railroad Administration (FRA) and Coast Guard regulations.

The definition of technical assistance for the purposes of the Section 180(c) program would be as follows:

- Technical assistance means assistance, other than financial assistance, that the Secretary of Energy can provide that is unique to the Department to aid training that will cover procedures for the safe, routine transportation and emergency response situations during the transport of spent nuclear fuel and high-level radioactive waste to a repository or MRS pursuant to the NWPA, including, but not be limited to, the provision of training materials, the provision of public information materials, and access to individuals involved in the shipments.

Technical assistance, as defined, would include access to the Department's regional and headquarters representatives involved in the planning and operation of NWPA transportation or emergency preparedness, provision of information packets that include information about the OCRWM program and shipments, and attendance and support from OCRWM program representatives for public meetings upon request and consistent with the OCRWM budget. It would not include the provision of equipment, although recipients would be able to budget up to ten percent of their allocated funds to purchase equipment if they chose to do so.

Eligibility and Timing of the Grants and Technical Assistance Program

The Department intends to provide grants and technical assistance under the Section 180(c) program for the safe routine transportation of NWPA shipments as these terms are defined above. The Department intends that the application process for grants and technical assistance begin approximately four years prior to transportation (about one year for the application process, about three years to implement the program) through a jurisdiction. The Department intends to notify the governor or tribal leader of the jurisdiction with a letter and information packet, including an application. The Department intends to calculate the base amount and variable amount available to each jurisdiction and include that information in the application package. The governor or tribal leader would be requested to select one agency or representative within the jurisdiction to apply for and administer the Section 180(c) grant and technical assistance. The administering agency or representative would indicate in the application how it intends to use its budget. If funding needs to be passed on to other agencies (for example, from the emergency services agency to the highway patrol to pay for inspector training) then that would be the responsibility of the recipient state or tribe. That information should be identified in the application.

Eligible jurisdictions would submit an application to the Department beginning approximately four years prior to the first shipment through a jurisdiction. The application would include a three-year plan detailing how the funds would be spent each year. Funding would be disbursed annually based on the applicant's three-year plan. Each jurisdiction would receive a base amount of funding for each year of eligibility. A variable amount of funding, based on route miles, would be available after the first year of eligibility for those jurisdictions that qualify pursuant to the plan discussed in the Appendix.

Local governments would not apply for Section 180(c) grants or technical assistance directly. Local participation would be coordinated through the state or tribe, if they have subjurisdictions. However, the applicant would be required to demonstrate in its plan how the local jurisdictions are benefiting from the program. Each jurisdiction would be requested to submit a description of the coordination procedure as part of its grant application. This approach builds flexibility into the use of the funds and responds to commenters' concerns that assistance may not reach the local level.

The Department anticipates knowing three to four years prior to shipment which states or tribal land the shipments will travel through, even if routes have not been selected. Using this information, the Department would notify these jurisdictions about their potential eligibility for the Section 180(c) program. The Department would include in the information to the jurisdiction the total amount of budget

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it would be eligible for as determined by the cost estimates described in the Appendix to this Notice. Two years prior to the shipments going through a jurisdiction, the Department would announce proposed routes.

Within the first year of eligibility to receive funding (Transportation Year [defined as the year that shipments will commence] minus 3 or TY–3), a base grant would be available.

Within the second year of eligibility (Transportation Year minus 2 or TY–2), a base grant and a variable amount of money for those jurisdictions that qualify would be available. Proposed routes would be announced during the second year of eligibility.

Within the third year of eligibility (Transportation Year minus 1 or TY–1), a base grant and a variable amount of money for those jurisdictions that qualify would be available.

A state or tribe would continue to be eligible for and receive Transportation Year grants as long as NWPA shipments go through its jurisdiction each year. If there is a lapse of NWPA shipments for three or more years, the state or tribe would receive no funds for those years and would only regain eligibility three years prior to another NWPA shipment through its jurisdiction. Three years prior to the resumption of shipments through its borders, a state or tribe may again apply for TY–1 grants. If the lapse is of two years or less between shipments, the Transportation Year grants would continue as if shipments had been traversing that jurisdiction during the lapse.

A significant route change made later than two years prior to the expected start of NWPA shipments through a jurisdiction could generate some difficulty in administering Section 180(c). The Section 180(c) program would include contingencies for changes in schedule and route. In general, jurisdictions may receive an additional amount of funding and technical assistance if asked to complete activities in shorter amounts of time, i.e., a state may receive TY–1 and TY–2 funding in the same year. If the route change is made too close to the time of shipment to allow for Section 180(c) preparations, OCRWM may use escorts with more training and equipment than those currently used for the purpose of safeguards until a reasonable time period for training has expired.

Allowable Activities for Funding

This section describes the types of activities that would be allowed under this proposal and some of the specific activities that would be disallowed. This is not meant to be a comprehensive list, but merely a guide to the types of activities an applicant jurisdiction might consider and some of the activities that would be considered outside the scope of the program and therefore not eligible for Section 180(c) funding.

For the most part, it would be the applicant's decision as to who gets trained, the level of training obtained, and the organization that administers the training. Applicants would be encouraged to describe in their three-year plans how the budget would be integrated with other available training such as that offered through the Hazardous Materials Transportation Act, the Federal Emergency Management Agency, the Conference on Hazardous Materials Enforcement Development, the state, or regional organizations. The application package would request information on how the applicant would use the budget as part of a larger effort to augment their current infrastructure for safe routine transportation procedures and emergency response as well as how the applicant anticipates using technical assistance.

Specifically, an applicant would be able to budget up to ten percent of each year's 180(c) funds to purchase appropriate (i.e., training-related) equipment provided the equipment is identified in its application and approved in the grant.

Funding may be used for refresher training and to train new public safety personnel. During the years NWPA transportation is occurring in a jurisdiction (Transportation Year), two-thirds of the budget provided in TY–1 would help offset the costs of refresher and new personnel training. The two-thirds multiplier is a conservative estimate based on the assumption that after the initial training in TY–1 and TY–2, each jurisdiction would experience a personnel turnover rate of approximately two-thirds of its staff each year. The turnover of personnel, particularly in the emergency response area, means that new people will need training if shipments continue through a jurisdiction over an extended period of time. It would be the jurisdiction's choice, within the limits of their Section 180(c) annual budget, to determine who receives refresher training and with what frequency. It would also be the jurisdiction's choice, within the limits of its annual Section 180(c) budget, which new personnel receive training and the type and location of the training.

Section 180(c) funds would not be available for the conduct of drills and exercises. The Department anticipates that it will conduct drills and exercises which will be conducted in conjunction with states, tribes and local governments in preparation for NWPA shipments. However, drills and exercises are generally considered a means to measure preparedness, an activity the Department views as beyond the scope of the 180(c) program which is limited by statute to provision of funds and technical assistance for training.

IV. Discussion of Comments Received on the NOIs

The Department received 38 comments in response to the January 3, 1995, Notice of Inquiry and an additional 13 comments in response to the July 18, 1995, Notice of Inquiry: Supplemental Information. Comments were received from the Council of State Governments—Midwestern Office, Council of State Governments/Eastern Regional Conference, Southern States Energy Board, Western Interstate Energy Board, two private citizens, Ohio Division of Emergency Medical Services, State of California Department of Transportation, White Pine County Nuclear Waste Project Office, Commercial Vehicle Safety Alliance, International Association of Fire Fighters, Texas Department of Public Safety, Lander County Commission, Yakima Indian Nation, Nevada Agency for Nuclear Projects, Association of American Railroads, Nye County Nuclear Waste Repository Project Office, Oregon Department of Energy, State of Kansas, Eureka County Yucca Mountain Information Office, New Mexico Energy, Minerals and Natural Resources Department, National Conference of State Legislatures, County of Inyo Planning Department, Nuclear Waste Repository Oversight Program, National Congress of American Indians, Conference of Radiation Control Program Directors, Federal Emergency Management Agency, Lincoln County Nuclear Waste Project, Nuclear Energy Institute, Vermont Department of Public Service, Commonwealth Edison Company, Ohio Emergency Management Agency, Clark County Department of Comprehensive Planning, Public Utilities Commission of Ohio, Northern States Power Company, Ohio Emergency Management Agency, Virginia Power, State of Nebraska Civil Defense Agency and the State of Colorado. The commenters held very diverse opinions; no single theme for implementing Section 180(c) was apparent.

The following section discusses general categories and summarizes major points of the comments and the Department's response.

Major Issues

A. Section 180(c) Policy

The commenters raised many topics related to defining a Section 180(c) policy. Although the Department recognizes that these topics are closely related and overlap each other, this section divides those topics into the following subsections: general themes for a Section 180(c) program, safe routine transportation, emergency response procedures, eligibility criteria, funding allocation formula, allowable use of funds, technical assistance and equipment, and concerns of rural and tribal governments.

General Themes

A number of commenters offered ideas about the philosophy and general structure of the 180(c) program. These ranged from developing a needs-based type of program to one that offers assistance for an additional incremental level of training in existing hazardous materials transportation training to cover NWPA shipments. An example of comments related to a needs-based program is the Colorado Emergency Planning Commission recommendation to conduct a risk assessment that balances the likelihood of an accident, the response capability of the jurisdiction to react, and the likely affected population, then, from that assessment, identify the preparedness, response, and recovery needs of each jurisdiction. Similarly, the Western Governors' Association (WGA), through the Western Interstate Energy Board, submitted straw man regulations for a program that assesses the current capabilities of jurisdictions, assesses the needed level of readiness for NWPA shipments, and then provides Section 180(c) assistance to make up the difference. WGA suggested that planning grants could be used to fund jurisdictions to complete the capabilities assessment while implementation grants could be used to carry out the identified activities. They recommended the Department fund one national and several regional training advisory committees to help states and tribes coordinate their training activities. Most of the comments supporting a needs-based program either implied or stated the belief that Section 180(c) assistance should cover all costs associated with the Federal government's transportation of spent nuclear fuel.

In contrast, other comments urged the Department to only provide training and assistance as an increment above what currently exists. These comments urged the Department to take into account the low level of risk presented by spent nuclear fuel and high-level radioactive waste shipments and proportion the assistance and training among recipients accordingly. These commenters maintained that current hazardous materials transportation training for safe routine and emergency response procedures is sufficient to handle any transportation radiological accident that may occur. Creating a Section 180(c) program that goes beyond current hazardous materials transportation training would send a message that the NWPA shipments are more hazardous than they really are. Still other commenters stated that nuclear utilities will, in effect, pay twice for emergency response and safe routine practices through contributions to the Nuclear Waste Fund, the Hazardous Materials Transportation Uniform Safety Act fees for transporters of hazardous material, and through various state and local fee assessments and programs.

Other recurring comments urged the Department to either not ship or to limit the number of shipments until a Section 180(c) program is in place. This comment was frequently presented in conjunction with the belief that the Department has an obligation to accept waste in 1998, and if Congress identifies a storage facility, shipping may well begin in 1998 or shortly thereafter. In addition, these commenters urged the Department to accelerate Section 180(c) implementation and to ask for a Section 180(c) budget allocation in the 1996 budget request to Congress.

Several commenters encouraged the Department to begin as soon as possible the process of route selection, in cooperation with the states, to give jurisdictions sufficient time to assess their training needs. They argued that jurisdictions need to know what routes will be used so that they may begin planning immediately for shipments and be prepared if shipping occurs within the next few years.

Response

It is the Department's position that the purpose of a Section 180(c) program is to provide jurisdictions assistance in an increment above their current level of preparedness rather than to supply complete emergency response or safe routine transportation capabilities along NWPA transportation routes. Other Federal agencies such as FEMA and the Department of Transportation, as part of their respective missions, assist states and tribes in the creation of more comprehensive emergency response and safe routine transportation capabilities. Therefore, this proposal is designed to provide incremental assistance, above what currently exists, to help jurisdictions prepare for NWPA shipments. This program, in combination with the Department's emergency response capabilities, will help jurisdictions train for these shipments and increase their preparedness level.

While the Department has not adopted the Western Governor's Association straw man regulations specifically, the Department's proposal would allow states and tribes the flexibility to implement many provisions of the straw man regulations as they choose. The Department's proposed technical assistance would help provide the planning and coordination called for in the straw man regulations at a reasonable cost to the program. In addition, the proposed training advisory groups could drain financial assistance away from recipient jurisdictions. Training up to two years prior to shipments will provide inspectors and emergency responders with current information about the NWPA shipments.

Regarding the concern that shipments will occur with less than three years' preparation, this proposed policy includes a contingency plan should the Department have to ship spent fuel through a jurisdiction with less than three years notice. In addition, the Department will work with jurisdictions on a case-by-case basis to meet the intent of Section 180(c) prior to any shipments through a jurisdiction.

Regarding the comments that the Department should request Section 180(c) funding in fiscal year 1996 and announce routes as soon as possible, funding requests for Section 180(c) and a determination of routes cannot be completed until a destination and initial shipping date have been identified.

Safe Routine Transportation

Commenters offered several suggestions concerning the definition of safe routine transportation as used in 180(c). Four commenters specifically supported the Transportation External Coordination Working Group definition while other commenters wrote more expansive definitions to include combinations of alternate route analysis, inspection and enforcement training, en route contingency plans, transportation infrastructure improvements, shipment notification and tracking, escorts, public information, and development and distribution of training curricula and course materials. The Western Governor's Association straw man

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regulations would add record-keeping audits, operating protocols, and improving confidence in the shipping package to the definition.

A number of viewpoints were expressed on inspections as part of safe routine transportation activities. For example, the Public Utility Commission of Ohio stated that safe routine transportation includes more than inspections and should include detailed carrier and shipper compliance reviews pursuant to 49 CFR 100–177 requirements. The Department was also encouraged to develop inspection standards for rail transport serving the same purpose as the Commercial Vehicle Safety Alliance's enhanced inspection standards for truck shipments.

Regarding the relative emphasis and scope of safe routine transportation activities, the Council of State Governments—Midwestern Office and the Public Utility Commission of Ohio recommended placing equal emphasis on safe routine transportation activities as on emergency response activities. In contrast, the Ohio Emergency Management Agency recommended placing more emphasis on emergency response activities. One commenter said Section 180(c) assistance should fully fund state costs for state inspections and escorts related to NWPA shipments.

The need for and training of escorts was also a topic. The Conference of Radiation Control Program Directors questioned the need for escorts as an expensive option considering the actual level of risk compared to other hazardous material shipments. Two commenters called for the Department to examine the possibility of either state or Federal response teams traveling with the shipments to reduce the need for local first-responder training.

A global positioning system for shipment tracking was encouraged as a way to build trust in the safety of the shipments and work more closely with the corridor jurisdictions.

Response

The definition of safe routine transportation proposed in this notice combines part of the TEC definition and the Strategy document definition. The complete TEC definition was not used because it is very broad and does not indicate specifically what training for safe routine transportation activities would be covered by Section 180(c) assistance. Many activities suggested in the comments are already required of the shipper or carrier such as developing operating protocols and using escorts. This negates the need to include the activities in the definition of safe routine transportation for the purposes of providing Section 180(c) assistance. Some other requested activities, such as alternate route analysis and record-keeping audits, are outside the realm of training for safe transport of NWPA shipments, and therefore not included in the definition.

Regarding the comments that the Department should develop rail inspection standards, the Department representatives will work cooperatively with the railroad companies and the Federal Railroad Administration (FRA) on inspection and enforcement matters. Both the rail companies and the FRA have stringent standards for the transportation of spent nuclear fuel and high-level nuclear waste. The Department has no plans to develop rail inspection criteria.

The proposed policy permits enough flexibility that a recipient jurisdiction may distribute the money between training for emergency response procedures and safe routine transportation procedures as they choose. Again, this proposal is intended to assist jurisdictions to incrementally increase their level of preparedness for NWPA shipments. However, the Department maintains the position that to pay for all costs associated with state inspections and escorts is beyond the scope of the Section 180(c) program and is not necessary for shipment safety.

These shipments will be made in accordance with NRC safeguards and security requirements. The issue of whether escorts must be used is partially answered by NRC regulations, which require escorts (10 CFR 73.37).

Emergency Response Procedures

The comments on providing assistance for emergency response training procedures were particularly varied. In keeping with the needs-based approach to assistance, a number of commenters recommended funding planning activities to determine the type and amount of training. These suggestions include Departmental delineation of the roles and responsibilities of each jurisdiction in an emergency response situation and assistance to each jurisdiction in carrying out that role; funding to jurisdictions to conduct route and risk assessments prior to deciding whom to train and to what standards; or using the State Emergency Response Commissions and the Local Emergency Planning Committees as points of contact to decide who should receive assistance and to determine the needed level of training.

Various training standards for different levels of responders were also suggested. These included awareness training for local first-responders and higher-level training for more specialized responders, refresher training for first-responders, maintenance of on-call systems for radiological responders, and periodic exercises for personnel responding to accidents. The Western Governor's Association straw man regulations recommended the above activities plus accident notification, safe parking procedures, equipping personnel responding to NWPA accidents, development and/or revision of courses and course materials, and assessing opportunities to coordinate training, emergency response, and exercises. One commenter praised the emergency response training at the Department's Nevada Test Site and asked that it be used for Section 180(c) funded training.

A frequent comment supported integration of emergency response training for local public safety officials into existing hazardous materials training because the response requirements for radiological incidents fall within the requirements for other hazardous materials shipments.

The Council of State Governments—Midwestern Office asserted that current capabilities at the state, tribal and local level are inadequate in most jurisdictions to handle the number and frequency of planned OCRWM shipments. In contrast, two other commenters recommended only incremental assistance to first-responders because current Departmental resources can support any incident that may occur during transport.

Comments on training for hospital personnel ranged from the need to provide awareness training to specialized decontamination equipment and training. Two commenters argued that training for hospital personnel was not necessary at all. The Council of State Governments/Eastern Regional Conference said assistance was not necessary for hospitals because the Joint Commission on Accreditation of Health Care Organizations requires hospitals to be able to treat patients exposed to radioactive contamination before receiving their accreditation.

Response

This proposed policy is flexible enough that a recipient jurisdiction could conduct many of the suggested activities. The Department recognizes the need for clear lines of responsibility and communication during a transportation emergency and anticipates working with recipient jurisdictions on these matters through the provision of technical assistance and, as budget allows, by conducting exercises and drills. While exercises and drills, will be conducted separately from the Section 180(c) program, the assistance may be used to support participation in, or observation of, exercises and drills if the recipient jurisdiction desires. Similarly, reliance on the State Emergency and Response Commissions and Local Emergency Planning Committees infrastructure will be left to the applicant jurisdiction's discretion. This proposal does not allow Section 180(c) assistance to be used to conduct route and risk assessments because these activities are outside the scope of training for emergency response and safe routine transportation activities.

Regarding the specific activities allowed under this proposal, each jurisdiction will be allowed to choose the training they wish and to train the public safety personnel of their choosing. The funding provided is intended to defray the costs of attending advanced courses such as those offered by the Department. In many cases, the applicants will have their own less expensive training programs (FEMA and the Department do not charge tuition, although this proposal uses the cost of tuition as a basis of the estimate for the cost of each trainee) and may use the remaining assistance for other activities related to training for safe routine and emergency response transportation procedures.

The Department will provide awareness training materials for local responders and public information material to the recipient jurisdictions. For more advanced training courses, it is expected the recipient jurisdictions will either use their own training courses, if available, or attend existing hazardous materials or radiological emergency response classes. Equipment will not be provided for directly, but up to ten percent of a recipient's funds may be used to purchase equipment of the recipient's choosing. Again, the basis of estimate in the proposal does not explicitly provide for training hospital personnel, but recipient jurisdictions may use their funds for this purpose if they choose. The Department's awareness materials will include information about Oak Ridge National Laboratory's Radiological Emergency Assistance Center and Training Site and its 24-hour on-call assistance.

Regarding the preparedness level of state and tribal jurisdictions, the Department understands that there are greatly varying levels of preparedness. The financial and technical assistance provided through this proposed program, in combination with the Department's resources, will assist recipient jurisdictions to incrementally increase their level of preparedness for NWPA shipments. The Department will work with a jurisdiction to provide information about the shipments, the safety precautions taken, and the Department's resources to assist the jurisdiction in case of an accident or incident.

Eligibility Criteria

Comments on eligibility criteria focused on which jurisdictional level should be eligible to apply for funds. Some argued that if local governments were eligible to receive funds directly, then this would reduce administrative costs and give local governments more control over the assistance. Several counties simply requested that they be guaranteed an amount of budget and given some discretion in using the assistance. Other commenters said only state and tribal agencies are eligible to apply for assistance. Some commenters made suggestions regarding how the timing of NWPA shipments through a jurisdiction impacts eligibility. The WGA straw man regulations defined an eligible state or tribe as "a host(s) and corridor states or Indian tribes through which shipments under the NWPA are planned within six years." Others said training should begin from one to three years prior to shipment.

One commenter said that eligibility should not be restricted by waste type or destination, but rather should help local governments prepare for all types of hazardous materials transportation emergencies.

The point was also raised that tribes and states near, but not on, transportation routes should be eligible for assistance, since their lands and people would be at risk in case of a transportation accident or incident. Another commenter disagreed, saying that only jurisdictions traversed by NWPA shipments should be eligible for assistance.

Response

The Department based its proposed requirements for eligibility on the wording in the NWPA and the Department's prior discussions with stakeholders about beginning assistance three to five years prior to commencement of shipping through a jurisdiction. The statute provides that state governments determine how best to allocate the assistance to local jurisdictions. The Department plans to assist tribal governments directly unless requested otherwise by the tribal government. Recipients will be required to encourage local government participation in planning and training and to provide awareness training materials and public information supplied by the Department to local public safety officials along the shipment routes.

The Department does not propose to use the Western Governor's Association straw man regulations indicating that eligible jurisdictions should receive assistance six years prior to transportation. Since states and tribes have primary responsibility to plan for hazardous materials transportation through their jurisdictions regardless of Federal shipments, and given the high rate of turnover among emergency response personnel, the Department believes that assistance provided so far in advance of shipments would not be effective.

In response to the request to provide assistance regardless of destination or type of waste, Section 180(c) provides that assistance is only available for those jurisdictions through whom the Secretary [of Energy] plans to ship spent nuclear fuel and high-level nuclear waste to a repository or MRS under the NWPA. Assistance will not be provided to jurisdictions that do not have NWPA shipments through their borders, nor will assistance be provided for other types of wastes.

Funding Allocation Formula

Once eligibility criteria are determined, the total assistance available will have to be allocated among the eligible parties. Commenters were explicit in their views of how funds should be allocated. A frequent comment was that funds should be allocated according to the shipment miles through a jurisdiction. The Western Governor's Association defined shipment miles as the product of the expected number of shipments multiplied by the distance of such shipments. The Western Governor's Association straw man regulations recommended annual implementation grants of 75% of the funds allocated according to shipment miles and 25% allocated to ensure minimum funding levels and program capabilities. The Nuclear Energy Institute countered that the number of shipment miles through a jurisdiction does not automatically result in greater impact to a jurisdiction and therefore should not qualify them for additional assistance.

Other commenters suggested funding be allocated to each eligible jurisdiction based on a formula that includes both the number of route miles in the jurisdiction and the population at risk along the shipment route(s), with

consideration given to existing capabilities, and to the number of shipments. Population was frequently mentioned as a valid determinant of funding allocations. Several commenters stated that there should be a base level of funding for each jurisdiction.

The Council of State Governments—Midwestern Office and Commonwealth Edison Company recommended that the Department consult with recipients to determine their funding level based on the impact of the shipments to that jurisdiction. The Council of State Governments/Eastern Regional Conference said the funds for first-responders should be proportional to the number of responders along a route and the funding available for inspectors should be a function of the number of shipments.

The Texas Department of Public Safety recommended using the Hazardous Materials Transportation Act Training and Planning Grants approach to allocating funds.

Response

The Department agrees with many commenters that a base level of assistance should be available to all jurisdictions to be crossed by NWPA shipments. Number of shipments was not used as a determinant of funding level because training of safety officials is required no matter how many shipments cross their jurisdiction. A jurisdiction may need additional inspectors as the number of shipments increases. Population was not used to determine funding levels because the same level of effort is required in responding to an emergency no matter how many people may be affected.

The Department does not foresee working with each eligible jurisdiction to determine assistance levels because the number of eligible jurisdictions in a given year would make such an interactive process prohibitively costly, lengthy and administratively burdensome. It would require significant resources from both the Department and the applicant with little or no increased level of safety. Jurisdictions will be able to obtain guidance from Department representatives to determine how best to allocate the funds and what type of training to obtain.

The Hazardous Materials Transportation Act model for fund allocation has merit but the Department believes the allocation method proposed in this Notice is more appropriate to a Section 180(c) program. The Hazardous Materials Transportation Act program has virtually the same number of eligible jurisdictions from year to year whereas the Section 180(c) program may have large annual variations in the number of eligible jurisdictions. The funding allocation method proposed in the appendix of this Notice would allow the Department to prepare its draft annual budget request based on anticipated needs for each year of shipment. Finally, both the Department and some commenters maintain that the reimbursement aspect of the Hazardous Materials Transportation Act is not appropriate for a Section 180(c) program.

Allowable Use of Funds

Elements of this discussion overlap with the discussion of program scope and the definitions of key terms. Several state agencies and organizations said that states and tribes should prioritize their own training needs. They argued that the Department must balance accountability with an applicant's need for latitude in deciding how to spend funds because of the varying levels of preparedness, divisions of responsibility, and other differences. Commenters suggested the Department could help recipient jurisdictions by supplying information and expertise to help beneficiaries determine how best to use the funds.

Many commenters, however, said that the final allocation of funding should guarantee a specific portion of the funding for local governments to use as they see best. Other suggestions were to give local governments explicit standing on any planning, training or advisory groups formed as a result of Section 180(c), to reserve a certain percentage of the funds for distribution to local governments, and to require recipients to notify local governments of the program and to encourage their participation. One commenter objected to exclusively funding training for local governments and excluding training for state personnel and recommended the Department check the intent of Congress in this regard.

Other commenters argued that the Hazardous Materials Transportation Act grant program provides a good model for allowable activities. These regulations require recipient jurisdictions to describe existing programs and explain how the requested funds supply necessary improvements to the existing capabilities. They also provide for monitoring of the program's effectiveness. The Department's Waste Isolation Pilot Plant (WIPP) assistance program was also mentioned as a successful model to help determine allowable activities.

Two states said that Section 180(c) assistance should pay for infrastructure improvements along routes. Another frequently mentioned point was that the Section 180(c) program should not require any matching funds from the jurisdiction in order to receive assistance. The Western Governor's Association straw man regulations provide that the funds be distributed for training along specific shipment routes, unlike FEMA programs that work to enhance overall preparedness. Several comments recommended that exercises and drills be funded by Section 180(c) assistance, either to test the adequacy of the training or to determine the training needed.

Response

The Department's proposal would allow states and tribes to determine their own training needs as long as it is in accordance with their current public safety infrastructure. The Department took this approach because it allows maximum flexibility for applicants to tailor the assistance to their priorities. Because of the need for flexibility, the proposal does not require applicants to provide a guaranteed percentage of funds to local public safety officials. The Department's existing grants process under 10 CFR Part 600 would provide for accountability with 10 CFR Part 600 without being too cumbersome for the Department or the applicants and would allow Department representatives to provide advice and answer questions. We do not intend to request matching funds because most commenters and the Department found no basis for such a requirement and there is no legal requirement for matching funds.

The Hazardous Materials Transportation Act and WIPP examples for allowable use of funds both have merit. If a jurisdiction wishes to follow the Hazardous Materials Transportation Act or WIPP example in prioritizing use of their grant monies, that would be described in the grant application. Similarly, recipients may decide to provide funds only along a route or throughout their jurisdiction as they choose. Recipients would not be prevented from using the assistance to participate in, or observe, exercises and drills but they are not included in the Department's proposed basis for estimating funding levels.

Section 180(c) authorizes assistance only for training. Therefore, the Department does not intend to allow the use of 180(c) funds for infrastructure improvements.

Technical Assistance and Equipment

Almost every comment that addressed the issue of technical assistance identified the need for equipment. Some commenters suggested that the Department use the Transportation External Coordination Working Group definition of technical assistance. Another suggested using the Department's 1992 Draft Options Paper definition. The Council of State Governments—Midwestern Office offered the following definition, "The term 'technical assistance' as it is used in Section 180(c) of the Nuclear Waste Policy Act means a variety of activities designed to ensure that state, tribal and local governments are trained for safe routine transportation practices as well as responding to transportation emergencies within their jurisdictions, including but not limited to planning guidance, training support, practical support, funding of pre-identified equipment, and expertise." They also believe the Department should supply funding for equipment, its maintenance and calibration, and that states should have funding to purchase computer software and hardware to assist with monitoring and response activities.

New Mexico specifically stated it preferred the TEC definition's greater specificity and clarity over the definition offered by the Council of State Governments—Midwestern Office. "However, [it] recommend[ed] two revisions to the definition: (1) The first sentence should read '* * * to ensure that States and tribal governments are trained for safe routine transportation practices as well as capable of responding safely and effectively to spent nuclear fuel and high-level waste transportation emergencies with their jurisdictions.' (2) The second sentence should read '* * * and for public information, outreach, and participation efforts.'"

Other suggestions were broader in their application, encompassing such things as emergency response equipment, inspection equipment, assistance in route planning, emergency response plan development, course development and exercises, tracking capability, equipment and training for hospital personnel, 24-hour access to Federal radiological safety personnel, carrier qualifications, and funding, among others.

The Conference of Radiation Control Program Directors questioned the need for equipment, especially for local responders. They argued that the low risk of these shipments does not justify a response capability beyond what currently exists. FEMA, on the other hand, offered its assistance to the Department in providing technical assistance and equipment to responders through its role as provider of emergency and disaster preparedness for state, tribal, and local governments.

Response

The definition of technical assistance proposed in this Notice combines parts of the Strategy definition and the Transportation External Coordination Working Group definition. The bulk of the Transportation External Coordination Working Group definition was not included because many of the activities listed, such as assistance in route planning, maintaining equipment, providing on-site emergency response assistance, and remediation assistance are outside the scope of training and therefore not covered by Section 180(c). The Department has resources already available, upon request of the state or tribe, to provide monitoring and recovery advice if there has been an accident or incident. In addition, the shipper and carrier can provide shipment-specific assistance.

The definition in this proposal allows for Department representatives to provide technical support on training needs and response strategies as budget constraints allow. As explained in the proposal, conduct of drills and exercises are not included under the definition of technical assistance although it is anticipated that the NWPA transportation staff, or DOE representatives, may, as budget allows, conduct exercises and drills with state, local, and tribal jurisdictions along the transportation routes.

Concerns of Rural and Tribal Governments

Few additional comments that dealt specifically with the concerns of rural and tribal governments were received in response to the July 18, Notice of Inquiry. Both New Mexico and the Council of State Governments—Midwestern Office reiterated the Department's responsibility to work with tribes on a government-to-government basis. Other comments stressed the Department's Trust responsibility towards tribal governments. One comment encouraged the Department to begin direct communications with tribal governments near reactor locations to address their particular concerns. The Department was also encouraged to contact tribal governments who may not know they could have NWPA shipments crossing their lands.

Commenters encouraged the Department to take extra steps to address the lack of infrastructure and resources on many of the tribal lands that will be crossed by NWPA shipments. Recommendations included providing resources to allow tribes to participate in the OCRWM program and beginning early to build an emergency response infrastructure for those tribes lacking basic infrastructure. One comment urged expansion of the cooperative agreement with the National Congress of American Indians to help facilitate communication with tribal governments.

Other commenters suggested how a Section 180(c) program could address the concerns specific to rural areas. Rural jurisdictions often rely heavily on volunteer public safety personnel with high turnover rates, serve large areas with few staff, have few resources for training, with little or no ability to travel to obtain training. The commenters encouraged the Department to offer training in the communities where the local responders reside and to guarantee that certain levels of training and equipment would be supplied.

Response

The Department recognizes that there is a lack of infrastructure and trained personnel on many tribal lands and in many rural counties across the nation. Typically, these areas may rely more heavily on technical assistance than other recipient jurisdictions. As stated earlier, the Department believes that a jurisdiction's lack of emergency response infrastructure does not compromise shipment safety when a jurisdiction is aware of the steps taken to ensure safety and the Department's readiness to provide on-site assistance. The basic awareness training modules will be provided to jurisdictions to distribute to responders along each shipping route and will not require public safety officials to travel outside their jurisdiction. These training modules will inform local public safety officials of what steps to take in case of a transportation emergency in their jurisdiction and what staff will be traveling with the shipments that can be a source of information and assistance.

The Department has agreed to work directly with tribal governments unless requested otherwise by the applicant. As far as working with tribes located near reactors sites, the Department will continue to work through the mechanism of its cooperative agreement with the National Congress of American Indians to reach out to tribes across the nation and encourage their participation in the program.

B. Section 180(c) Procedures

The comments received from both Notices showed a preference among the commenters for an OCRWM grants program. While twelve commenters recommended a Department or OCRWM grants program, eight commenters supported the next most popular option, the use of existing Federal programs. Of these, four recommended using FEMA, two recommended the Department of Transportation's Hazardous Materials Transportation Act program, and two recommended other Federal programs. At the same time, eight commenters specifically criticized the use of existing Federal programs. Three commenters either requested a combination of options or expressed moderate support for a combination of options; one commenter said this was not viable. Three commenters were opposed to disbursing the funds through cooperative agreements, whereas eight commenters said cooperative agreements were either a very good idea or gave conditional support for the idea. Several commenters identified a preferred option but also listed other options as acceptable.

The most common theme among the comments on procedural options was the importance of minimizing the administrative burden on all parties. Another common theme was to limit the layers of bureaucracy and administration through which funding must pass.

The following describes more detailed comments provided about each option.

Use Established Federal Agency Programs Other Than the Department's

The Council of State Governments/ Eastern Regional Conference, the Ohio Emergency Management Agency, the Texas Department of Public Safety, Division of Emergency Management and FEMA all commented that receiving additional assistance through FEMA's Comprehensive Cooperative Agreement program (to be replaced with the Performance Partnership Agreements beginning in FY96) would be the least administratively burdensome since they already participate in this FEMA program. The Council of State Governments—Midwestern Office commented that FEMA should be a vehicle for assistance only after the Department and the recipient have agreed to use FEMA for that recipient. The Hazardous Materials Transportation Act grant program was mentioned by the Nuclear Energy Institute and Northern States Power Company as a desirable option to reduce multiple Federal programs and the chance that utilities would pay twice for emergency response through hazardous materials transportation fees and the Nuclear Waste Fund.

FEMA provided descriptions of their current regulatory authority to monitor and assess emergency management plans and preparedness, and a proposal for how they could administer the Section 180(c) program. FEMA discussed its current training programs and expertise in the emergency management field and stressed its all-hazards approach to preparedness that includes radioactive materials shipments within the larger scope of emergency preparedness.

The most common concern from the state and county perspective was that other Federal programs would add administrative layers and reduce the funds available for the recipients. The Western Interstate Energy Board, in particular, felt that FEMA was not an appropriate avenue because "FEMA's Comprehensive Cooperative Agreement program has been the subject of substantial disagreement with several western states and is viewed by experts in our region as ineffective and inappropriate for dealing with spent nuclear fuel or high-level radioactive waste." In fact, one commenter criticized FEMA for placing emphasis on preparations for nuclear attacks rather than transportation incidents. The Hazardous Materials Transportation Act and FRA programs were seen as too narrowly focused to work well as a vehicle to implement a Section 180(c) program.

From the tribal perspective, the most common critique of other Federal programs was that none of the options discussed in the Notices has an effective mechanism in place to work with tribes. Commenters advocated exploration of other funding mechanisms that tribes use more frequently, such as the Department of Housing and Urban Development Community Development and Block Grant Program, and suggested establishing a separate funding mechanism for tribal governments.

Other commenters were concerned that using other Federal programs would diminish focus on NWPA shipment safety and increase impacts from government downsizing. The Commercial Vehicle Safety Association also pointed out that it may put expertise and training further away from the intended delivery point.

Establish Agreements With State, Local, Tribal, and Other Organizations

This option prompted a variety of interpretations. Agreements or Memoranda of Understanding among recipients, agreements between the Department and recipients, or agreements between the Department and regional or national coordinating organizations were all discussed. Some identified the potential improvements in regional cooperation and efficiency as the biggest benefit to establishing agreements with regional or national organizations. One commenter suggested cooperative agreements would allow negotiations each year between recipients and the Department that would permit adjustment among recipients' with dissimilar training goals. The Colorado Emergency Planning Commission said consideration should be given to working through the WGA or a similar organization to promote coordination. The Commission suggested that WIPP's cooperative agreement with WGA could be a useful mechanism to mimic.

Expanding the cooperative agreement with the National Congress of American Indians was recommended as a possible way to ensure up front consultation with tribal recipients. Such expansion of cooperative agreements with tribes could balance the differences between tribes and other recipients governments.

Many commenters, however, saw the development of cooperative agreements as a lengthy, involved process that could take too long to implement effectively. Two commenters specifically noted the WIPP cooperative agreements worked well because there was a smaller group of participants and it was developed over several years. NWPA requirements may not be compatible with this experience. This option was criticized for creating an unnecessary administrative layer that would take away from total funding to be spent on training.

Other comments encouraged cooperative agreements with organizations that could, in turn, train state, local and tribal public safety officials. The Association of American Railroads' Technical Training Center in Pueblo, Colorado and the Commercial Vehicle Safety Alliance were both identified as organizations with the capability to train recipients for emergency response for rail incidents and for truck inspections, respectively.

Establish a Department-Wide Grant Program

Response to this option was mixed. Some called a Department-wide program inappropriate, citing the difficulty of co-mingling Nuclear Waste Fund money with other Department transportation activities. Commenters expressed concern over coordinating the diverse shipping campaigns of the Department in a timely manner. Supporting this option, one commenter noted that the fewer points-of-contact between the Department and stakeholders would be beneficial.

Establish an OCRWM Grant Program

Many commenters saw this as the best option, listing such benefits as minimizing bureaucracy and administration and increasing flexibility. Some commented on the benefit of distributing Section 180(c) assistance without involving other programs as would happen through a Department-wide grant program. Others noted that an OCRWM grant program would more easily adjust to the diversity and number of recipient jurisdictions and thus, Department control and accountability would be easier.

The Western Interstate Energy Board commented on this option favorably, provided that such a grant program incorporates flexibility to allow states to coordinate the training and funding. The Southern States Energy Board and the National Conference of State Legislatures both identified this option as favorable if additional national or regional coordination efforts were also supported.

Many county commenters interpreted this option as similar to the direct payments made to local governments through Yucca Mountain oversight programs. They were generally in favor of options that assist local governments as directly as possible.

Use Elements From the Previous Four Groups

Three commenters agreed that a combination of options would be best because it could provide the proper degree of direct contact between the Department and recipient governments while encouraging national or regional planning, coordination, and uniformity. The Council of State Governments—Midwestern Office said the Department should negotiate with the recipients to provide assistance through a variety of mechanisms "to accommodate the needs of as many states and tribes as possible." Commonwealth Edison Company concurred with the Council of State Government's opinion. The Southern States Energy Board recommended using a combination of direct grants to states and tribes with cooperative agreements to regional organizations to provide coordination and consultation.

Response

This proposal recommends distributing funds through an OCRWM grants program because the Department believes this is the most flexible, least administratively burdensome and least costly method of all the procedural options investigated. This mechanism will allow the greatest amount of appropriated funds to be distributed directly to the recipients rather than diverted to cover administrative costs. Distributing the funds through a grant program rather than a cooperative agreement program lowers the cost of administration for both recipients and the Department, and gives the recipients more discretion in use of the funds. Under the proposed policy, recipients would have a great deal of flexibility in use of the grants and could account for varying levels of preparedness.

The Department did not choose to implement Section 180(c) through another Federal program for many of the same reasons commenters were critical of this option. While the FEMA option may have been flexible enough to meet the requirements of a Section 180(c) program, the time and effort to set up a program at another agency would have increased administrative cost, decreased the program's flexibility and reduced the funds available for recipients. Since the Department can perform the same function, there is no reason to involve another agency. The Department of Transportation programs were not similar enough to the requirements for a Section 180(c) program and would have required significant effort to meld the programs together.

A Department-wide grants program would require overcoming difficult legal and logistical problems. The logistical problems of creating one Department-wide emergency response and safe routine transportation grants program for all eligible recipients would require extensive administrative work. It would also likely create legal and procedural paperwork tangles to keep from mingling the appropriations for various programs within the Department. As long as the various Department offices cooperate on an informal basis, there appears to be little benefit to formally combining programs.

Combining elements of each option was not selected because it would create logistic difficulties and would not be very efficient or cost effective. For example, if the Department sent some recipients' assistance through the Hazardous Materials Transportation Act program, some through FEMA, and some directly from the Department, it would significantly increase the administrative costs, increase oversight and accountability problems and create a very confusing and disjointed program for both the Department and the recipients.

C. Applicability of Section 180(c) to Private Shipments

Many states, counties, and regional groups urged that the Section 180(c) program should apply to all commercial spent nuclear fuel or defense high-level radioactive waste shipments ultimately destined for an NWPA facility, whether or not those shipments are transported to and stored on an interim basis at a private facility. Commenters cited that any large-scale shipping campaign of such materials will have virtually the same impact on states and tribes as that envisioned in the NWPA.

Response

The Department is currently authorized to implement the Section 180(c) program of financial and technical assistance only for shipments to a repository or MRS constructed under the NWPA. However, the many comments on this issue have been noted.

D. Policy Development Process

A few commenters questioned the Department's plans to issue a Notice of Policy and Procedures rather than establish the program in regulations. They voiced concern that implementation of Section 180(c) through regulations is necessary to ensure stability through changes of leadership within the Department and that an interpretation of policy and procedures is "less robust." An expedited rulemaking process was suggested to accommodate time constraints.

Response

The Department is developing the Policy and Procedures after receipt and consideration of extensive public comments. At some future date, the Department may decide to promulgate regulations. At this time, however, it is the Department's intent to remain flexible in order to work through unforeseen problems without committing to binding regulations.

V. Conclusion and Request for Submission

This paper has presented the Department's proposal for a policy and procedures for the Section 180(c) program. It has also presented the Department's summarization of and response to comments received on prior Notices of Inquiry about Section 180(c) policy and procedures. Comments on this proposal will be included in the Notice of Final Policy and Procedures,

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which the Department intends to publish in 1997. The purpose of this document has been to share with stakeholders the progress to date on developing Section 180(c) policy and procedures and to request additional comments from interested parties. The final policy and procedures may reflect changes as a result of comments, new Congressional direction, and any policy changes caused by the new Congressional direction.

The Department solicits comments from the public on this proposal to issue Section 180(c) policy and procedures.

Issued in Washington, D.C., on May 10, 1996.

Daniel A. Dreyfus,

Director, Office of Civilian Radioactive Waste Management.

Appendix—Basis for Cost of Program

To determine the cost of the program and a feasible approach to allocate funding among eligible participants, the Department intends to estimate reasonable activities that could be achieved each year to use, not as prescribed activities for the applicants, but to determine the dollar amount of the grant each recipient should receive. Since the Department has found no industry or regulatory standards on what constitutes a sufficient emergency response to a spent fuel transportation accident, it expects to rely on training standards and regulations (discussed below) to reach conclusions about what type of training would be reasonable. To reach conclusions with regard to which and how many people should be trained and to what levels, the Department intends to look at industry regulations, the Department's own capabilities to support state and tribal governments, and the comments provided by stakeholders. Based on the information from these sources, the Department intends to determine the activities on which it would base its grant allocations and then estimate the costs for these activities.

The training standards the Department intends to use for emergency response are consistent with the level of training recommended by the International Atomic Energy Agency (IAEA) (Safety Series No. 87, 1988), the Occupational Safety and Health Administration (OSHA) (29 CFR 1910.120) and the National Fire Protection Association (NFPA) (NFPA 471 and 472). The training standards we intend to use for safe routine transportation are consistent with current practices and the regulatory limitations placed on states and tribes for safe routine transportation activities. Recognizing that not everyone will agree with this application of the standards to the training goals, there would be few limitations on how the recipient actually spends its budget, as long as they are used for training related to safe routine transportation of spent nuclear fuel and high-level radioactive waste and emergency response procedures.

The training goals for both safe routine transportation and emergency response procedures that the Department intends to use as a basis for determining a grant allocation are as follows:

Emergency Response

- First-on-scene and first responder personnel: Self-directed awareness training material would be supplied by the Department. The Department-provided awareness material would include information for medical personnel. Up to two people from each state or tribe would be funded to attend train-the-trainer classes of the jurisdiction's choice to teach the classroom awareness training to first-responders. Section 180(c) funding would partially offset the cost of in-state training.
- State/tribal hazardous materials or radiological response: Up to three people would receive funding to attend more specialized training, selected by the jurisdiction. Additional personnel may be trained, depending on route miles.
- Transportation Public Information: Another one person from each state or tribe would be funded to attend public information training (such as that offered at the Nevada Test Site [NTS]).

Safe Routine Transportation

- State/tribal inspectors for highway and rail: In addition to the funding for emergency response activities, up to three inspectors from each state or tribe may be funded to attend training of their choice in either rail or highway inspection procedures. Jurisdictions without an inspection program may use the funds to coordinate observation of another jurisdiction's inspection. Rail inspections may be limited because of legal restrictions on inspecting rail shipments for both states and tribes. Funding may be used to coordinate observation of other agencies' inspection of the shipments, including the Department of Transportation's Federal Railroad Administration's (FRA), the Nuclear Regulatory Commission's (NRC), the Department of Energy's or the state of origin's inspections of both highway and rail shipments and to coordinate with rail and trucking companies on safety and inspection issues.

Along with the training activities described above, the Department intends to provide funding to cover some planning and coordination costs, as estimated below.

If an eligible jurisdiction takes the training activities described above and the method of estimating the costs for these activities (the Department did not actually attach dollar figures to these activities in this proposal), it could estimate how much assistance it would be eligible for each year. However, the Department is proposing some time restrictions on the funding. These would be as follows:

Within the first year of eligibility to receive funding (Transportation Year [defined as the year that shipments will commence] minus 3 or TY–3): A base grant would be available to help offset planning and coordination costs.

Within the second year of eligibility (Transportation Year minus 2 or TY–2): A base grant would be available to help offset estimated travel and tuition costs to send personnel to train-the trainer training, emergency response training, and planning and coordination activities. A variable amount of budget would be available, for those jurisdictions that qualify, to train additional emergency response personnel. Proposed routes would be announced during the second year of eligibility.

Within the third year of eligibility (Transportation Year minus 1or TY–1): The base grant would be available to offset estimated travel and tuition costs to train transportation public information staff, inspectors, three trips for the awareness trainers to train local responders, and planning and coordination activities. A variable amount of money, if a jurisdiction qualifies, would be available to help offset estimated travel and tuition costs to train additional emergency response personnel, if necessary. The Department would send out self-taught awareness packages to states and tribes to distribute to first-on-scene and first responder personnel.

Within the Transportation Year (TY): Two-thirds of the budget provided in TY–1 would help offset refresher and new personnel training. The two-thirds multiplier is derived from a conservative estimate that after the initial training in TY–1 and TY–2, each jurisdiction would experience a personnel turnover rate of approximately two-thirds of their staff each year.

The information below describes the assumptions that the Department intends to use to form cost estimates for the Department's annual allocations to recipients.

The Base Amount

Planning and Coordination Costs—The Department intends to make these estimates by taking the estimated salary of a health physicist employed full-time by a state government and providing a percentage of that salary. The salary estimate can be made either by using a Conference of Radiation Control Program Directors' salary quote or by sampling health physicist salaries in various states and taking the average of the sample. One planning and coordination trip would also be estimated in this cost (see travel costs for the cost estimate of this trip).

Travel Costs—Planning and coordination trips would be estimated to last three days. Travel for hazardous materials responder, inspector, train-the-trainer, and public communications training would be estimated to last five days. In-state awareness training would be estimated to last five days and include planning and coordination costs. Air travel cost would be estimated by calculating the average airfare from several locations around the country to the NTS and Federal Emergency Management Agency (FEMA) training conters. Per diem costs would be estimated by using the Federal government's per diem costs for the NTS and FEMA training locations.

Tuition Costs—Tuition costs would be estimated by taking the estimated cost to the DOE of an NTS Radiological Emergency Operations course and dividing it by 25 students per class. This tuition cost would be applied to each trainee in a hazardous materials emergency response, inspector and train-the-trainer class.

The base amount of money would be determined from these cost estimates of the training activities described above.

The Variable Amount

To determine the variable amount of money, each eligible jurisdiction would receive funds to train three additional hazardous materials personnel for every 160 miles along a route. If routes through a jurisdiction intersect, or are less than 80 miles apart, the route miles could not be double-counted if they fall within an 80 mile radius of another route.

The Department intends to provide a variable amount of funding based on route miles because it believes that it is the best measure to capture any variation in impact on a jurisdiction's ability to prepare for NWPA shipments. The 160 mile estimate was used because other emergency response organizations have used a two-hour response time as the limit to how frequently hazardous materials response teams should be placed. From the two-hour measure, one can conservatively say it would take an emergency response vehicle an hour to travel 80 miles in either direction.

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Alaska Power Administration

Proposed Rate Adjustment for Eklutna Project

AGENCY: Alaska Power Administration, DOE.

ACTION: Notice of public forum, review and comment.

SUMMARY: Alaska Power Administration (APA) is proposing to adjust the rates for the Eklutna Project. Rates of 18.7 mills per kilowatt-hour for firm energy, 10 mills per kilowatt-hour for non-firm energy and .3 mills per kilowatt-hour for wheeling expire September 30, 1999. Due to a decrease in combined projected overhead and O&M costs, APA proposes to lower the rate for firm and nom-firm energy to 8.8 mills per kilowatt-hour beginning September 1, 1996 for a period of up to five years. The rate for wheeling would remain the same. APA will finalize the proposal giving full consideration to comments received. The final proposal may differ from the present. The proposed rates will be submitted to the Deputy Secretary of Energy for interim approval and to the Federal Energy Regulatory Commission for review and final approval.

DATES: Written comments will be considered until August 14, 1996.

ADDRESSES: Written comments should be submitted to Mr. Nicki J. French, Alaska Power Administration, 2770 Sherwood Lane, Suite 2B, Juneau, Alaska 99801.

FOR FURTHER INFORMATION CONTACT: Mr. Nicki J. French, Assistant Administrator, Alaska Power Administration, 2770 Sherwood Lane, Suite 2B, Juneau, AK 99801, (907) 586–7405.

SUPPLEMENTARY INFORMATION: The proposed rates apply for power sold from the Eklutna Hydroelectric Project to three electric utilities serving the Anchorage and Matanuska Valley areas of Alaska. Details of the proposed rates, including supporting studies, are available for inspection at Alaska Power Administration, 2770 Sherwood Lane, Suite 2B, Juneau, Alaska; and the Eklutna Project Office, Mile 4.0, Old Glenn Highway, Palmer, Alaska. A public information and comment forum is scheduled to be held June 24, 1996, at 6:00 PM, in the public conference room of the Loussac Library, 3600 Denali, Anchorage, Alaska. APA is requesting that the parties interested in attending the public information and comment forum notify APA of this intent in writing by June 17, 1996. If APA has not received any written notices of intent to attend the forum the APA Administrator will cancel the forum, as allowed in 10 CFR 903.15(c) and 10 CFR 903.16(c). Authorities for the proposed rate action are the Eklutna Project Act of July 31, 1950 (64 Stat. 382, as amended) and the Department of Energy Organization Act (Public Law 95–91). Alaska Power Administration is developing these rates in accordance with DOE financial reporting policies, procedures and methodology (DOE Policy RA 6120.2 [September 20, 1979]), and the procedures for public participation in rate adjustments found in 10 CFR Part 903 (1987) as amended.

The present rates went into effect in October, 1994. APA has repaid over 82% of the project investment. The proposed rate results in an 53% rate decrease. APA has notified its customers that a new rate would be developed based on decreased overhead costs and elimination of Eklutna O&M costs. APA will continue its rate evaluation based on projected staffing and include the results in the final rate proposal. Alaska Power Administration Asset Sale and Termination Act was signed by the President on November, 1995. As part of the transition to new ownership, APA is entering an O&M agreement with the purchasing utilities. With the new O&M agreement between APA and the purchasing utilities, APA expects the utilities to incur all O&M and replacement costs throughout the term of the agreement. The reduction in costs to APA have been included in the repayment study supporting the proposed rates. APA will continue formulating and executing transition plans based on the existing purchase agreements and signed legislation for the sale of the Eklutna project to the Anchorage utilities. This proposed rate action continues present rate policies under existing law.

ENVIRONMENTAL IMPACT: The proposed rate action will have no significant environmental impact within the meaning of the National Environmental Policy Act of 1969. The proposed action meets the requirements of a categorical exclusion as defined in 40 CFR 1508.4 and is listed as a categorical exclusion for DOE in 10 CFR 1021, Appendix B4.3. An Environmental Assessment and an Environmental Impact Statement is not required.

Issued at Juneau, Alaska, May 6, 1996.

Lloyd A. Linke,

Administrator.

[FR Doc. 96–12282 Filed 5–15–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP96–235–000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 10, 1996.

Take notice that on May 8, 1996, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Ninth Revised Sheet No. 1100. The proposed effective date of the tariff sheet is June 8, 1996.

Algonquin states that the purpose of this filing is to indicate the removal of the Index of Customers from Algonquin's FERC Gas Tariff, Fourth Revised Volume No. 1.

Algonquin states that the removal of the removal of the Index of Customer's from the Tariff is in compliance with the Commission's revised regulations in Sections 284.106 and 284.223. Algonquin requests that the Commission grant any waiver that may be necessary to place this tariff sheet into effect on the date requested.

Algonquin states that copies of this filing were mailed to all customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and

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Regulations. All such motions or protests must be filed as provided in Section 154.10 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12315 Filed 5–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–234–000]

ANR Pipeline Company; Notice of Petition for Declaratory Order

[Docket No. RP96–234–000]

May 10, 1996.

Take notice that, on May 7, 1996, ANR Pipeline Company (ANR) filed, pursuant to Rule 207(a)(2) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 207(a)(2), a petition for a declaratory order that ANR is authorized to bill its customers for its actual Account No. 858 costs for the period November 1, 1993 to April 30, 1994.

ANR states that, pursuant to a settlement approved at ANR Pipeline Company, Docket Nos. RP89–161–000, et al., 60 FERC (CCH) ¶61,145 (1992), ANR was given the right to "track" its Account No. 858 expenses underlying the settled rates, through and until those settled rates were superseded in a new general rate proceeding under Section 4 of the Natural Gas Act (NGA), at which time the parties would be free to challenge ANR's continued tracking authority. Because the settlement was approved for a one-year interim period ending November 1, 1993, certain or ANR's customers believe there is uncertainty surrounding the time period during which the Account No. 858 tracker applies. ANR's petition has been submitted at the request of those customers in order to verify ANR's legal authority to bill such costs.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commissions Rules and Regulations. All such motions or protests must be filed on or before June 10, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12314 Filed 5–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–511–000]

Colorado Interstate Gas Company; Notice of Application

May 10, 1996.

Take notice that on May 7, 1996, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP96–511–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a sale, exchange and transportation of natural gas involving Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application on file with the Commission and open to public inspection.

CIG proposes to abandon the services which were carried out under agreements on file with the Commission as CIG's Rate Schedules X–7, X–17, and X–36. It is stated that under Rate Schedule X–7 Natural was receiving from CIG up to 10,000 Mcf of gas per day on a firm basis (plus additional volumes on a best efforts basis, if available) from CIG's reserves in Lea County, New Mexico, and delivering equivalent volumes to CIG at interconnections in Texas and Oklahoma. It is further stated that Natural had the option to purchase 25 percent of the volumes from CIG. It is stated that under Rate Schedule X–17 CIG was receiving up to 2,000 Mcf of gas per day from Natural and delivering equivalent volumes to Natural at interconnections in Beaver County, Oklahoma. It is stated that under Rate Schedule X–36 CIG and Natural were transporting and exchanging gas in Colorado, Oklahoma and Texas.

It is asserted that CIG and Natural are working to resolve an existing imbalance resulting from the various exchanges. CIG states that it will cancel the 3 rate schedules on receipt of abandonment authorization. CIG explains that the facilities used for these services will continue to be used for open access transportation. It is asserted that no customers will lose service as a result of the proposed abandonments.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the Appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CIG to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12304 Filed 5–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–229–001]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

May 10, 1996.

Take notice that on May 7, 1996, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets to be effective June 1, 1996:

Fifth Revised Volume No. 1
Title Page

Koch states that the tariff sheet listed above is being filed to make minor correction to the May 2, 1996 filing in the above referenced docket. Koch's May 2, 1996, filing included tariff changes to format the title page, and the changes required by Commission's Order No. 582. The instant filing only formats the title page to reflect the same information as the electronic copy.

Koch also states that the revised tariff sheets are being served upon all its customers, State Commissions, and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12311 Filed 5–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–228–001]

Mobile Bay Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

May 10, 1996.

Take notice that on May 7, 1996, Mobile Bay Pipeline Company (MBPC) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective June 1, 1996:

Title Page
First Revised Sheet No. 272

MBPC states that the tariff sheets listed above are being filed to make minor correction to the May 2, 1996 filing in the above referenced docket. MBPC's May 2, 1996, filing included tariff changes to format the title page and delete references to Mcfs, in accordance with the Commission's Order No. 582. The corrections in the instant filing revise the title page to reflect the same information as the electronic version. Moreover, as part of deleting references to Mcfs in its tariff, MBPC deleted an additional Mcf reference on Tariff Sheet No. 272.

MBPC also states that the revised tariff sheets are being served upon all its customers, States Commissions, and other interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12310 Filed 5–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–498–000]

Natural Gas Pipeline Company of America, Columbia Gulf Transmission Company, Koch Gateway Pipeline Company, Southern Natural Gas Company; Notice of Application

May 10, 1996.

Take notice that on May 6, 1996, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 1273, Charleston, West Virginia, 25325, Koch Gateway Pipeline Company (Koch), P. O. Box 1478, Houston, Texas, 77252–1478, and Southern Natural Gas Company (Southern) (jointly referred to as Applicants), P. O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP96–498–000 an abbreviated application pursuant to Section 7(b) of the Natural Gas Act (NGA), as amended, and Sections 157.7 and 157.18 of the Federal Energy Regulatory Commission's (Commission) Regulations thereunder, for permission and approval to abandon a natural gas exchange service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they propose to abandon an exchange service by and between themselves initiated pursuant to an agreement dated June 14, 1977. Applicants indicate that they provide service under Natural's Rate Schedule X–88, Columbia Gulf's Rate Schedule X–39, Koch's Rate Schedule X–89, and Southern's Rate Schedule X–35. Applicants further state that the service was authorized in Docket No. CP77–489, as amended. Applicants assert that under the terms of the agreement, Southern purchased up to 33,000 Mcf of natural gas per day at or near the tailgate of Texaco, Inc.'s Henry Plant (Henry Plant) located in Vermilion Parish, Louisiana, and that Koch instructed and authorized Natural to take delivery of Southern's gas at or near the Henry Plant. It is further asserted that Natural then delivered equivalent quantities of gas to Columbia Gulf at the Henry Plant. It is indicated that Columbia Gulf then redelivered equivalent volumes of gas to Southern at the tailgate of Gulf Oil Corporation's Venice Plant located in Plaquemines Parish, Louisiana.

Applicants indicate that by letter agreements dated August 20, 1993, January 20, 1995, and by a notice of Columbia Gulf to Natural dated July 20, 1995 the parties agreed to terminate the agreement.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under The Natural Gas (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in an subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, and if the commission on its own review of the matter finds that the abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provide for, unless otherwise advised, it will be

unnecessary for Applicants to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12301 Filed 5–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–184–001]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

May 10, 1996.

Take notice that on May 6, 1996, Natural Gas Pipeline Company of America (Natural) tendered for filing proposed changes in its FERC Gas Tariff, Sixth Revised Volume No. 1, to become effective April 22, 1996.

Natural states that the purpose of this filing is to comply with the Commission's letter order issued April 19, 1996 in Docket No. RP96–184–000.

Natural requests whatever waivers may be necessary to permit the tariff sheets submitted to become effective on April 22, 1996.

Natural states that copies of the filing are being mailed to all parties on the official service list in Docket No. RP96–184–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12309 Filed 5–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–232–000]

Northern Border Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

May 10, 1996.

Take notice that on May 6, 1996, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border Pipeline Company's FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to become effective June 5, 1996:

Second Revised Sheet Number 162

Northern Border states that the purpose of this filing is to allow Northern Border to substantiate a prospective IT–1 Shipper's unaudited year-end financial statements by analysis of the audited financial statements of the Shipper's parent or affiliate. As proposed if a Shipper with unaudited year-end financial statements has an acceptable credit and financial history and the Shipper's financial statements can be substantiated by its parent's or affiliate's audited financial statements, Northern Border would be able to accept the Shipper's financials as credit support. Without this change, no matter what is provided in support for the Shipper's credit, without audited financial statements of Shipper, Shipper cannot meet Northern Border's credit standard.

The herein proposed change does not result in a change in Northern Border's total revenue requirement.

Northern Border states that copies of this filing have been sent to all of Northern Border's contracted shippers.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.214 and Section 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12312 Filed 5–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–233–000]

Northern Border Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

May 10, 1996.

Take notice that on May 6, 1996, Northern Border Pipeline Company (Northern Border) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective June 5, 1996:

Cover Page

Second Revised Sheet Number 236
Sixth Revised Sheet Number 500
Ninth Revised Sheet Number 501

Northern Border states that the purpose of this filing is to conform Northern Border's tariff to the requirements of Order Nos. 581 and 582. In accordance with Order No. 581, Northern Border is in compliance with the Commission's EBB posting requirements. In accordance with Order No. 582, Northern Border has modified the title page of its tariff as required by 18 CFR 154.102(d) and updated references to Part 154 of the Commission's Regulations.

Northern Border states that copies of this filing have been sent to all of Northern Border's contracted shippers.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.214 and Section 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12313 Filed 5–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–506–000]

Trailblazer Pipeline Company; Notice of Application

May 10, 1996.

Take notice that on May 6, 1996, Trailblazer Pipeline Company (Trailblazer), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP96–506–000 an application pursuant to Section (c) of the Natural Gas Act requesting a certificate of public convenience and necessity, authorizing Trailblazer to construct and operate a 5,200 horsepower compressor in Lincoln County, Nebraska, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that in Opinion No. 138, dated March 12, 1982, the Commission issued a certificate of public

convenience and necessity, requested in Docket No. CP79–80–000, for initial construction to 3 pipelines: Trailblazer, Overthrust Pipeline Company and Wyoming Interstate Gas Company, Ltd. (WIC). It is explained that among the facilities authorized in that certificate was a 4,500 horsepower compressor to be located at Trailblazer's Compressor Station No. 602, in Lincoln County, Nebraska. It is asserted that Trailblazer never utilized its authority to install the 4,500 horsepower compressor and now wishes to install a compressor with increased capacity in order to satisfy current market demand. It is stated that the proposed compressor would increase Trailblazer's firm design day capacity by approximately 104,528 Mcf of natural gas per day to a total of 492,000 Mcf per day. It is estimated that the cost of construction would be $11,663,000.

Trailblazer states that it would use the compression for firm transportation services under its Rate Schedule FTS and that it has 10-year contracts with shippers for all the additional capacity. Trailblazer asserts that its proposal is related to certificate applications filed in Docket No. CP96–289–000 by Colorado Interstate Gas Company and CP96–288–000 by WIC, both requesting authorization to increase capacity on their systems. It is explained that Trailblazer's proposed facilities are required to provide downstream capacity for some of the increased flow on the other 2 systems.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Trailblazer to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12302 Filed 5–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–164–012]

Trunkline Gas Company; Notice of Refund Report

May 10, 1996.

Take notice that on April 26, 1996, Trunkline Gas Company (Trunkline) filed its Report of Distribution of Refunds for Docket No. RP94–164 for the period September 1, 1994, through January 31, 1996.

Trunkline states that the refund was made in compliance with Article 4, Section 5 of the Stipulation and Agreement (Settlement) filed on January 20, 1995, in the above-referenced proceeding and was approved by Commission orders issued July 6, 1995, and December 15, 1995. On March 29, 1996, Trunkline paid its jurisdictional customers the refunds owed to them, including interest through the date of payment. Trunkline submits the refund report which consists of Appendices A through F.

Trunkline states that copies of Appendices A through F were sent to each of Trunkline's affected customers and their state regulatory commissions at the time the refunds were distributed. In addition, each customer also received the applicable portion of Appendix G at the time the refund was distributed. A copy of the transmittal letter and the summary of settlement refund amounts as set forth in Appendix A is being served on all affected customers, their counsel of record and respective state regulatory commissions.

Any person desiring to be protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 17, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12308 Filed 5–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–510–000]

Williams Natural Gas Company; Notice of Request Under Blanket Authorization

May 10, 1996.

Take notice that on May 7, 1996, Williams Natural Gas Company (WNG) Post Office Box 3288, Tulsa, Oklahoma 74101, filed a request with the Commission in Docket No. CP96–510–000, pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to utilize facilities originally installed for the delivery of NGPA Section 311 transportation gas to Public Service Company of Colorado (PSCo) in Weld County, Colorado, for any purpose authorized in blanket certificate issued in Docket No. CP82–479–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG proposes to utilize existing NGPA Section 311 transportation facilities for other deliveries of gas to PSCo. The facilities were originally installed for the delivery of transportation gas to Western Gas Supply Company (WGS), an intrastate pipeline. WGS was subsequently acquired by PSCo. Until recently, NGPA Section 311 authority has been sufficient for gas deliveries to PSCo; however, PSCo and WNG agree that it would offer PSCo more flexibility to have the additional delivery authority.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after

the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12303 Filed 5–15–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 8221–045]

Alaska Energy Authority; Notice of Availability of Environmental Assessment

May 10, 1996.

An environmental assessment (EA) is available for public review. The EA was prepared for an application to amend the license for the Bradley Lake Hydroelectric Project. The application would allow the Alaska Energy Authority (licensee) to reactivate its use of the Martin River airstrip located about two miles from the project. The licensee would use the Martin River airstrip as an alternative landing site to the project's permanent airstrip. Reactivating the Martin River airstrip would require reconstructing about 4,000 feet of the airstrip's access road. The EA finds that approving the application to reactivate the airstrip would not constitute a major federal action significantly affecting the quality of the human environment. The Bradley Lake Hydroelectric Project is located on the Kenai Peninsula, at the northeast end of Kachemak Bay, about 27 miles from Homer, Alaska.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA can be obtained by calling the Commission's Public Reference Room at (202) 208–1371.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12306 Filed 5–15–96; 8:45 am]

BILLING CODE 6717–01–M

Notice of Amendment of License

May 10, 1996.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. Type of Application: Amendment of license.

b. Project No: 1494–123.

c. Date Filed: April 23, 1996.

d. Applicant: Grand River Dam Authority.

e. Name of Project: Pensacola Project.

f. Location: On the Grand (Neosho) River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Robert W. Sullivan, Assistant General Manager, Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301–0409, (918) 256–5545.

i. FERC Contact: Paul Shannon, (202) 219–2866.

j. Comment Date: June 27, 1996.

k. Description of Filing: Grand River Dam Authority (GRDA) requests authorization to modify the rule curve for the Pensacola Project's reservoir as set forth in article 401 of the existing license by:

(1) Delaying the spring rise from 742 feet Pensacola datum (PD) by two weeks from April 16 to May 1 to better accommodate runoff from spring flows.

(2) Setting the rule curve's maximum water surface elevation at 744 feet PD instead of 745 feet PD to give a greater hedge against flooding.

(3) Delaying the drawdown from 744 feet PD by about three weeks from July 10 to August 1 and the drawdown from elevation 743 PD by about two weeks from August 1 to August 16 to better coincide with the recreational boating season.

The revised rule curve would appear as:

Period	Reservoir elevation, feet PD
May 01–May 31	Raise elevation from 742 to 744.
Jun 01–July 31	Maintain elevation at 744.
Aug 01–Aug 15	Lower elevation from 744 to 743.
Aug 16–Aug 31	Lower elevation from 743 to 741.
Sep 01–Oct 15	Maintain elevation at 741.
Oct 16–Oct 31	Raise elevation from 741 to 742
Nov 01–Apr 30	Maintain elevation at 742.

GRDA requests the modifications based on recommendations from the Grand/Neosho River Committee's February 1996 Final Report. The committee was formed in 1993 by congressional leaders concerned with the management of the Grand/Neosho River System. The committee provides a forum to make recommendations concerning issues about the Grand/Neosho River Basin to GRDA and the U.S. Army Crops of Engineers, who are authorized and responsible by public law to operate the Pensacola Project in accordance with authorizing legislation. GRDA included a copy of the Grand/Neosho River Committee's February 1996 Final Report with its application to discuss the effects on resources from operating the Pensacola Project according to the existing and revised rule curves.

The Commission's staff will request additional information from GRDA concerning the operational and environmental effects of the propose change to the rule curve. We welcome all parties to submit written comments that may be helpful in our analysis of the proposed changes. We will use any comments we receive as a basis for the additional information we request from GRDA. All parties can request a copy of the application for amendment of license by calling the applicant contact from item (h) of this notice.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12305 Filed 5–15–96; 8:45 am]

BILLING CODE 6717–01–M

Notice Application is Ready for Environmental Analysis

May 10, 1996.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Major license.

b. Project No.: 10819–002.

c. Date Filed: June 23, 1994.

d. Applicant: Idaho Water Resource Board.

e. Name of Project: Dworshak Small Hydro.

f. Location: On the existing water conveyance system providing water from the Corps of Engineers' Dworshak dam to Clearwater Fish Hatchery and Dworshak National Fish Hatchery, on land owned by the Corps of Engineers and the Bureau of Land Management within the boundary of the Nez Perce Indian Reservation. North Fork Clearwater River, Clearwater County, Idaho. Section 34, Township 37 North, Range 1 East, Boise Meridian.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Ralph Mellin, Idaho Department of Water Resources, 1301 North Orchard, Boise, ID 83706–2237, (208) 327–7991.

i. FERC Contact: Surender Yepuri, P.E., (202) 219–2839.

j. Deadline Date: See attached paragraph D10.

k. Status of Environmental Analysis: The application is ready for environmental analysis at this time—see attached paragraph D10.

l. Description of Project: The proposed project would utilize releases from Dworshak dam that are conveyed by pipelines to the fish hatcheries and would consist of: (1) connections to the existing 36-inch and 18-inch water supply lines; (2) a 58.25-foot-long, 25-foot-wide powerhouse on top of the existing water distribution structure, containing two generating units with installed capacities of 2.0 and 0.5 megawatts that would discharge flows directly into the distribution tank; (3) a substation adjacent to the powerhouse; and (4) an underground 14.4–KV, 1.6-mile-long transmission line connecting to an existing Clearwater Power Company distribution line.

m. Purpose of Project: Power generated at the project will be sold to Bonneville Power Administration.

n. This notice also consists of the following standard paragraphs: A4 and D10.

o. Available Locations of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, NE., Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the applicant's office (see item (h) above).

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) Bear in all capital letters the title "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Lois D. Cashell,

Secretary.

[FR Doc. 96–12307 Filed 5–15–96; 8:45 am]

BILLING CODE 6717–01–M

Western Area Power Administration

Extension of Comment Period on Concept for Purchase of Non-Hydropower Renewable Resources and Solicitation of Interest

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of extension.

SUMMARY: Western Area Power Administration is extending the comment period fifteen(15) days on its Concept for Purchase of Non-hydropower Renewable Resources and Solicitation of Interest published in the **Federal Register** on April 15, 1996 (61FR16480). The April 15, 1996, **Federal Register** notice requested comments on Western adopting a policy to purchase a portion of its expected purchase power requirements, on a project-by-project basis and in a competitive manner, from non-hydropower renewable resource producers.

DATES: To be considered, comments and other input in response to the **Federal Register** notice published on April 15, 1996, need to be received by Western by close of business on May 31, 1996. Comments should be addressed to: Michael S. Cowan, Acting Chief Program Officer, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401.

Issued at Golden, Colorado, May 7, 1996.

J. M. Shafer,

Administrator.

[FR Doc. 96–12281 Filed 5–15–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5506–1]

National Emission Standards for Hazardous Air Pollutants, Benzene Emissions From Benzene Storage Vessels, and Coke Byproduct Recovery Plants; Subparts Y and L, OMB No. 2060–0185; Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before June 17, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer, United States Environmental Protection Agency, 202–260–2740, and refer to EPA ICR No. 1080.09.

SUPPLEMENTARY INFORMATION:

Title: National Emission Standards for Hazardous Air Pollutants, Benzene Emissions from Benzene Storage Vessels, and Coke Byproduct Recovery Plants—40 CFR Part 61, Subparts Y and L, OMB No. 2060–0185. This is request for a revision of a currently approved collection.

Abstract:

Subpart L: Coke By-Product Recovery Plants

The standards require initial notification reports with respect to construction, emissions tests, and startup; one-time reports on initial performance tests; and periodic reports of emissions tests results.

Notifications inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check that pollution control devices are properly installed and operated and the standards are being met. Performance test reports are the Agency's record of a source's initial capability to comply with the emission standard, and note the operating conditions under which compliance was achieved. The regular reports are used for problem identification, as a check on source operation and maintenance, and for compliance determinations.

The Agency uses the information generated by the monitoring, recordkeeping and reporting requirements to ensure that facilities continue to operate the control equipment used to achieve compliance. The information collected from recordkeeping and reporting requirements is also used for targeting inspections, and is of sufficient quality to be used as evidence in court. Based on reported information, EPA decides how many plant inspections are needed, which plants to inspect, and what records or processes to inspect at the plant. In the absence of such information enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

Reporting requirements specific to benzene coke by-product recovery plants, Subpart L, include a semiannual report by affected facilities. The semiannual reports include results of leak monitoring and performance tests. Respondents also are required to submit semiannual reports of measurements for sources subject to a no detectable emissions limit and semiannual reports summarizing the results of the leak detection and repair program implemented at the plant. One report would incorporate information for both process equipment and fugitive sources. Exhausters are subject to quarterly monitoring requirements unless the exhauster is equipped with a seal system that has a barrier fluid, the exhauster seal is loaded and vented to a control device, or a leakless exhauster is used.

The owner or operator choosing to use one of the alternative control technologies (i.e., a carbon absorber or a vapor incinerator) must record for the life of the control device, the design of the control device, the sources which it is intended to control, and a plan for the operation, maintenance and action needed to correct problems. Such a record would assist the owner or operator to operate the device properly throughout its life and would also assist the enforcement personnel in determining whether the device had been properly maintained and appropriate corrective action had been taken. The owner or operator is required to record the results of each test for determining compliance with the standard and any data that provide reference values for parameters that are important to monitoring, such as temperature of the firebox in a vapor incinerator and the benzene concentration at the inlet to a carbon adsorber. Some of these data are gathered during the compliance test, others separately (e.g., the demonstrated bed life of a carbon adsorber).

The alternative control options also require reporting in accordance with the General Provisions. These are submitted each time a compliance test is performed. In addition, the rule requires reporting of exceedances of the monitored parameters, with a brief description of the corrective action taken.

Any owner or operator subject to the provisions of this part shall maintain an up-to-date file of monitoring and recordings, and retain them for at least two years following. Records of equipment and process design are kept permanently.

Subpart Y: Benzene Storage Vessels

Respondents are all owners or operators of benzene storage vessels. It is estimated that 126 existing plants are subject to the standard. All owners and operators of new or reconstructed plants would also have to respond.

In the General Provisions of 40 CFR Part 61 applicable to storage vessels, require up to four separate one time-only reports for each owner or operator: notification of construction or reconstruction, initial source report, notification of physical/operational changes, notification of anticipated and actual startup. The initial source report is the only one of these reports that would be required from existing sources under the standard.

Certain records and reports are necessary to assist EPA and State agencies to which enforcement has been delegated in determining compliance with the standard.

The standard is an equipment standard and owners or operators of vessels equipped with the specified controls are required to submit, along with the notifications required by the General Provisions, a report that describes the control equipment used to comply with the regulation. Thereafter, an annual visual inspection is required of the primary seal of internal floating roof vessels (IFR's) (in cases where no secondary seal is present, (An annual seal gap measurement of the secondary seal system on external floating roof vessels (EFR's).) The following inspections are required every five years: (1) internal inspection to seal system on IFR's equipped with primary and secondary seals in situations where the owner to operator has decided to forego the annual visual inspection; and (2) measurement of gaps between the tank wall and primary seal on EFR's. An internal inspection in which the tank is emptied and degassed is required at least every 10 years for IFR's.

Another control option allowed is for owners or operators to equip vessels with closed-vent systems and 95-percent efficient control devices. It is expected that very few, if any, vessels will be equipped with these systems; however, owners or operators of vessels with such systems are required to submit, for the Administrator's approval, an operating plan describing system design specifications and an operation, maintenance, and inspection plan for the system. In the event the owner or operator has installed a flare, a report showing compliance with visible emission provisions shall be furnished to the Administrator. For closed-vent systems with control devices, quarterly reports are required informing the Administrator of each occurrence that results in excess emissions. Annual reports of the results of these inspections and seal gap measurements are required. These reports shall identify each storage vessel that is determined to be out of compliance with the standard, the nature of the defects, and the date the vessel was emptied or the repair was made. The owner or operator must keep copies of all reports and records for two years.

The owner or operator of each benzine storage vessel shall, for the life of the source, keep readily accessible records showing the dimension of the vessel and an analysis showing the capacity of the storage vessel. For each vessel with a closed vent system and 95-percent efficient control device, records of the operating plan shall be kept for the life of the control device. Records of monitored parameters and maintenance shall be kept for two years.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Charter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on September 28, 1995.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 11.85 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 162.

Estimated Number of Respondents: 162.

Frequency of Collection: Quarterly and Semi-annual.

Estimated Total Annual Burden on Respondents: 8,628 Hours.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1080.09 and OMB Control No. 2060–0185 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW., Washington, DC 20460

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

Dated: May 9, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–12343 Filed 5–15–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5506–2]

Committee Meetings of the Grand Canyon Visibility Transport Commission

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) is announcing a meeting of the Grand Canyon Visibility Transport Commission (Commission).

The Commission will meet from 10:00 am–12:00 pm, Monday, June 10, 1996 at the Shrine of the Ages next to the Main Visitors Center in Grand Canyon National Park. At the meeting the Commission will finalize its recommendations to the U.S. EPA. The recommendations will address what actions are deemed necessary to protect visibility in sixteen National Parks and Wilderness areas on the Colorado Plateau.

The Commission was established by U.S. EPA on November 13, 1991 (see 56 FR 57522, November 12, 1991). All meetings are open to the public. These meetings are not subject to the provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended.

FOR FURTHER INFORMATION CONTACT: Mr. John Leary, Project Manager for the Grand Canyon Visibility Transport Commission, Western Governors' Association, 600 17th Street, Suite 1705, South Tower, Denver, Colorado 80202; telephone number (303) 623–9378; facsimile machine number (303) 534–7309.

Dated: May 9, 1996.

Felicia Marcus,

Regional Administrator, U.S. Environmental Protection Agency, Region 9.

[FR Doc. 96–12340 Filed 5–15–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5505–8]

Science Advisory Board; Notification of Public Advisory Committee Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that two committees of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted are Eastern Time. All meetings are open to the public. Due to limited space, seating at meetings will be on a first-come basis. For further information concerning specific meetings, please contact the individuals listed below. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are *not* available from the SAB Office.

1. Human Exposure and Health Subcommittee (HEHS)

The Human Exposure and Health Subcommittee (HEHS) of the Science Advisory Board's (SAB) Integrated Risk Project will meet on June 13–14, 1996,

at the Environmental Protection Agency's Waterside Mall Complex, 401 M Street SW., Washington, DC 20460 in Room M2103. For convenient access, members of the public should use the EPA entrance next to the Safeway store. The meeting will begin at 9:00 a.m. and end no later than 5:00 p.m. on each day.

Purpose of the Meeting—The main purpose of the meeting is to discuss human exposure (and their consequences) to various pollutants and to consider the potential for risk reduction. The Subcommittee's activities are part of an SAB project to update the 1990 SAB report, Reducing Risk: Setting Priorities and Strategies for Environmental Protection. In a letter dated October 25, 1995, to Dr. Matanoski, Chair of the SAB Executive Committee, Deputy Administrator Fred Hansen charged the SAB to: (a) develop an updated ranking of the relative risk of different environmental problems based upon explicit scientific criteria; (b) provide an assessment of techniques and criteria that could be used to discriminate among emerging environmental risks and identify those that merit serious, near-term Agency attention; (c) assess the potential for risk reduction and propose alternative technical risk reduction strategies for the environmental problems identified; and (d) identify the uncertainties and data quality issues associated with the relative rankings. The project will be conducted by several SAB panels, including HEHS, working at the direction of an ad hoc Steering Committee established by the Executive Committee.

For Further Information—Single copies of Reducing Risk can be obtained by contacting the SAB's Committee Evaluation and Support Staff (1400), 401 M Street SW., Washington, DC 20460, telephone (202) 260–8414, or fax (202) 260–1889, or by sending a request by Internet to Gross.LORI@EPAMAIL.EPA.GOV. Members of the public desiring additional information about the meeting, including a draft agenda, should contact Ms. Mary Winston, Staff Secretary, Science Advisory Board (1400F), US EPA, 401 M Street SW., Washington DC 20460, telephone (202) 260–6552, fax (202) 260–7118, or Internet at: WINSTON. MARY@ EPAMAIL.EPA. GOV. Anyone wishing to make an oral presentation at the meeting must contact Mr. Samuel Rondberg, Designated Federal Official for the HEHS, in *writing* (at the above address) no later than 4:00 p.m., June 5, 1996 via fax (202) 260–7118 or by Internet at:

The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Mr. Rondberg no later than the time of the presentation for distribution to the Committee and the interested public. See below for additional information on providing comments to the SAB. To discuss technical aspects of the meeting, please contact Mr. Rondberg on telephone (202) 260–2559.

2. Environmental Engineering Committee (EEC)

The Environmental Engineering Committee (EEC) of the Science Advisory Board (SAB) will meet Tuesday through Thursday, June 11–13, 1996, at the National Risk Management Research Laboratory, Room G–51, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268, tel. (513) 569–7418. The meeting will begin at 8:30 am June 11th and end no later than 3:00 pm on June 13th.

Purpose of the Meeting—At this meeting, the Committee will review the technical aspects of how EPA's Superfund Innovative Technology Evaluation (SITE) program is carried out, including: (a) Establish to what extent the stated program objectives have been met; (b) Review the scientific and technical aspects of the SITE program and its implementation on all levels (bench, pilot, and full), including the preparation of test, quality assurance and quality control plans, sample collections, and field activities, and procedures for evaluation and interpretation of results leading to conclusions and recommendations; (c) Identify impacts and provide recommendations for potential improvements; and (d) Determine how well the approach taken has supported technology commercialization.

Availability of Review Materials—The following materials will be used in the review: (a) The Superfund Innovative Technology Evaluation Program, Annual Report to Congress, 1994 (Provides an overview of most recent program activities); (b) Superfund Innovative Technology Evaluation Program, Technology Profiles, Seventh Edition. (This is for all intents and purposes the "product" the Program produces); (c) EPA's Process for Technology Demonstration (This unpublished document provides a fairly concise explanation of what SITE is about.); (d) January 10, 1995 Ltr re: RFP SITE–010 (This and the following RFP provide additional information as to what SITE is about and how it functions); and (e) RFP SITE–EO9. Copies of these materials can be obtained by contacting Don Sanning by phone at (513) 569–7861, or Fax at (513) 569–7620.

For Further Information—A draft meeting agenda and a Committee roster can be obtained from Mrs. Dorothy Clark, Secretary, Environmental Engineering Committee, Science Advisory Board, Tel. (202) 260–6552, Fax (202) 260–7118, or via the Internet at CLARK.DOROTHY@ EPAMAIL.EPA. GOV. Single copies of the Science Advisory Board's 1986 report on the draft strategy and program plan for the SITE review can be obtained from the SAB Publications Staff. The Publications Staff can be reached at (202) 260–8414, fax: (202) 260–1889, or INTERNET: GROSS.LORI@EPAMAIL.EPA.GOV. Please ask for SAB report number: EPA-SAB–EEC–86–017 and the Agency's response to that report. Members of the public desiring additional information about the meeting should contact Mrs. Kathleen Conway, Designated Federal Official, Environmental Engineering Committee, Science Advisory Board (1400F), US EPA, 401 M Street, SW, Washington, DC 20460; telephone/voice mail: (202) 260–2558; fax: (202) 260–7118; or via the Internet at CONWAY.KATHLEEN@ EPAMAIL.EPA.GOV. Members of the public who wish to make a brief oral presentation to the Committee must contact Mrs. Conway in writing (by letter or by fax—see previously stated information) no later than 12 noon Eastern Time, Thursday, June 6, 1996 in order to be included on the Agenda. Public comments will be limited to five minutes per speaker or organization. The request should identify the name of the individual who will make the presentation, the organization (if any) they will represent, any requirements for audio visual equipment (e.g., overhead projector, 35mm projector, chalkboard, etc), and at least 35 copies of an outline of the issues to be addressed or the presentation itself.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. For conference call meetings, opportunities for oral comment will be limited to no more than five minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Dated: May 7, 1996.

John R. Fowle, III,

Acting Staff Director, Science Advisory Board.

[FR Doc. 96–12345 Filed 5–15–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5504–6]

Notice of Proposed Assessment of Clean Water Act Class II Administrative Penalty to Ameron, Inc. and Opportunity to Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposal of a Clean Water Act Class II administrative penalty and notice of public comment period.

SUMMARY: Pursuant to 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g)(4)(a).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR part 22. The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a Respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty days after publication of this notice.

On the date identified below, EPA commenced the following Class II proceeding for the assessment of penalties:

In the Matter of Ameron, Inc. (Concrete Pipe Manufacturing Facility) Phoenix, AZ 85036, Docket No. CWA-IX-FY95–17; filed on May 1, 1996 with Steven Armsey, Regional Hearing Clerk, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1389; proposed penalty of $30,000, for discharges of pollutants in violation of an NPDES permit.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information.

Dated: April 25, 1996.

Ken Greenberg,

Acting Director, Water Management Division.

[FR Doc. 96–12349 Filed 5–15–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Submitted to OMB for Review and Approval

May 9, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 17, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, NW., Washington, DC 20503 or fain_t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060-0096.

Title: Application for Ship Radio Station License.

Form No.: FCC 506.

Type of Review: Revision to an existing collection.

Respondents: Individuals or households; Businesses or other for-profit; State, Local or Tribal Government; Non-profit institutions.

Number of Respondents: 106,192.

Estimated Time Per Response: 22 minutes.

Total Annual Burden: 38,653 hours.

Estimated Cost Per Respondent: There is a combined filing and regulatory fee of $75 for a new or renewed license and a $45 filing fee for an application requesting modification.

Needs and Uses: FCC Rules require that applicants file the FCC 506 to apply for a new or modified ship radio station license. The form can also be used to renew a station license. The FCC 506A is used by the applicant as a temporary operating authority until the ship radio station license is received.

This form is required by the Communications Act of 1934, as amended; International Treaties and FCC Rules 47 CFR Parts 1.922, 1.925 and 80.19.

Editorial changes will be made to the instructions to include the mailing location for feeable applications and the addition of the toll free 800 number for the Consumer Assistance Branch in Gettysburg, PA. Item 24 of FCC 506 will be revised to collect the length of ship in meters in lieu of feet. Item 27 will be deleted and the drug certification made part of the certification text. These revisions will not increase the burden time for application completion.

OMB Approval Number: 3060–0564.

Title: 47 CFR 76.924 Cost accounting and cost allocation requirements.

Type of Review: Revision to an existing collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 13,500.

Total Annual Burden: 4–40 hours. 72,000 total annual hours. We estimate that an additional 500 community units each year will be obligated to meet the 76.924 requirements for the first time. We estimate the one-time average burden for these respondents to rearrange accounting records is 40 hours. 500 community units x 40 hours each = 20,000 hours. The Commission estimates the burden to the existing population of regulated community units to comply with the modified requirements set forth in 76.924 will be an average of 4 hours per community unit. Currently, we estimate cable operators provide service in approximately 13,000 community units that are subject to rate regulation. 13,000 existing community units x 4 hours per community units = 52,000 hours.

Costs to Respondents: None. Generally, cable operators use computers and accounting records and software as part of customary and usual business practices. This information collection does not require the purchase of anything additional. It only rearranges records that already exist.

Needs and Uses: Section 623 of the Communications Act of 1934, as amended by the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"), requires the Commission to prescribe rules and regulations for determining reasonable rates for basic tier cable service and to establish criteria for identifying unreasonable rates for cable programming services and associated equipment. Subsequently, on April 1, 1993, the Commission adopted a Report and Order and Further Notice of Proposed Rulemaking, FCC 93–177, MM Docket 92–266, in which cost accounting and cost allocation requirements for regulated cable operators were specified. These requirements were set forth in 47 CFR 76.924 and were adopted on an interim basis. Then, on December 15, 1995, the Commission adopted a Second Report and Order, First Report on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 95–502, MM Docket 93–215 and CS Docket 94–28, in which requirements for cable operators for allocating to service cost categories, as set forth in 76.924(e), were modified and adopted on a permanent basis. 76.924(e) now permits cable operators to allocate service costs to three service cost categories, instead of up to seven service cost categories. The third service cost category will simply serve as an "all other" service costs category that captures what operators previously had to allocate to multiple categories.Cost accounting and cost allocation requirements standardize the methodology in which cable operators report financial data. The Commission's system of cable rate regulation imposes a price cap on cable service rates with certain categories of costs defined as external to the cap. The cost accounting and cost allocation requirements are necessary in order to assure that costs that are intended to receive external treatment are in fact accorded such treatment. Cost accounting and cost allocation requirements are used by cable operators wishing to justify rates higher than their capped levels via a cost-of-service filing; and the requirements are necessary to permit accurate identification of such costs that will justify rates above the cap.

Federal Communications Commission

William F. Caton,

Acting. Secretary

[FR Doc. 96–12364 Filed 5–15–96; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

"FEDERAL REGISTER" NUMBER: 95–11807.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, May 16, 1996, 10 a.m.

Meeting Open to the Public.

This meeting has been rescheduled to begin at 1 p.m. instead of 10 a.m. as originally announced.

THE FOLLOWING ITEMS WERE ADDED TO THE AGENDA:

Advisory Opinion 1996–8: Pamela Rochester on behalf of the Jefferson County Democratic Executive Committee (continued from meeting of May 9, 1996).

Advisory Opinion 1996–11: James Bopp, Jr. on behalf of the National Right to Life Conventions, Inc. (continued from meeting of May 9, 1996).

DATE AND TIME: Tuesday, May 21, 1996 at 10 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration

Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Thursday, May 23, 1996 at 10 a.m.

PLACE: 999 E Street, N.W. Washington, D.C. (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes

Advisory Opinion 1996–14: The Honorable E (Kika) de la Garza

Advisory Opinion 1996–16: Matthew R. Schneider on behalf of Bloomberg, L.P.

Advisory Opinion 1996–17: Robert F. Bauer on behalf of General Motors Corporation

Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 96–12528 Filed 5–14–96; 3:13 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Winston International Inc., 327 Filmore Drive, Jacksonville, FL 32225
Officers: Yee Wah Fong, Director; Raymond Francis Chan, Offficer

Clarandon Freight Forwarders, 10650 SW 186 Lane, Miami, FL 33157
Officers: Gerard M. Thompson, President; Gloria Golson, Vice President

ABACO International Shippers, Inc., 4201 W. Wrightwood Avenue, Chicago, IL 60639
Officers: Marshall Berkenbilt, President; Beverly Berkenbilt, Vice President

Mid-Atlantic Freight Forwarding and Customs Brokerage, Inc., 898 Airport Park Road, Suite 205, Glen Burnie, MD 21061
Officers: Deborah E. Weiman, President; Robin L. Truitt, Secretary

Cargo Services, Inc., 5760 Dividend Drive, Indianapolis, IN 46241
Officers: John Rowe, President; William Batton, Vice President

Coda International Inc., 880 Bergen Avenue, Suite 604, Jersey City, NJ 07306
Officers: David Zong Wen Chen, President; Wai Ling C. Loke, Exec. Vice President

5 H Corporation d/b/a/ International Shipping, Inc., 6303 Little River Turnpike, Suite 310, Alexandria, VA 22312
Officers: Moses Housien, President; Ali Campos, Vice President

Team Air Express, Inc. d/b/a Team International Logistics, 639 West Broadway (P.O. Box 668), Winnsboro, TX 75494
Officers: Joe Earl Brunson, President; Bobby Joe Brunson, Vice President

Lilly & Associates—International Freight Forwarders, Inc., 14525 S.W. 152nd Terrace, Miami, FL 33177
Officers: Nelson R. Cabrera, President; Vilma L. Cabrera, Secretary

Dated: May 13, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–12268 Filed 5–15–96; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 96–10]

Seair Cargo Agency Inc. d/b/a Seair International Line; Possible Violations of Section 10(b)(1) of the Shipping Act of 1984; Order of Investigation

Seair Cargo Agency Ltd. d/b/a Seair International Line ("Seair") is a non-vessel-operating common carrier located in Hong Kong. Seair maintains a tariff on file with the Commission which provides for service between World Ports and the United States.

A review of Seair's tariff by the Commission's Bureau of Enforcement showed that the tariff contained only Cargo, N.O.S. rates. A review of shipping documents for shipments moving under Seair bills of lading from February 4, 1994 through January 28, 1995, and from December, 1995 through January, 1996, indicated that Seair was not charging its customers the Cargo N.O.S. rates contained in its tariff. To date, Seair has not populated its tariff with commodity rates.

Section 10(b)(1) of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1709, provides that no common carrier may charge, demand, collect, or receive greater, less, or different compensation for the transportation of property or for any service in connection therewith than the rates and charges in its tariffs.

Evidence provided by the Bureau of Enforcement with regard to the activities of Seair indicates that Seair charged rates different from those contained in its applicable tariff for the transportation of at least 14 shipments between February 4, 1994 and January 28, 1995, and at least twelve additional shipments during the period December, 1995 through January, 1996.

Now therefore it is ordered, That pursuant to sections 10, 11, and 13 of the 1984 Act, 46 U.S.C. app. 1709, 1710, and 1712, an investigation is hereby instituted to determine:

1. Whether Seair violated section 10(b)(1) of the 1984 Act by charging, demanding, collecting, or receiving greater, less, or different compensation for the transportation of property or for any service in connection therewith than the rates and charges that are shown in its tariffs;

2. Whether, in the event Seair violated the 1984 Act, civil penalties should be assessed against Seair and, if so, the amount of such penalties;

3. Whether, in the event violations are found, an appropriate cease and desist order should be issued; and

4. Whether, in the event violations are found, Seair's tariff should be suspended for a period of time not to exceed 12 months.

It is further ordered, That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge ("Presiding Officer") of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Officer in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61. The Hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only after consideration has been given by the parties and the Presiding Officer to the use of alternative forms of dispute resolution, and upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It is further ordered, That Seair Cargo Agency Ltd. d/b/a Seair International Line is named Respondent in this proceeding;

It is further ordered, That the Commission's Bureau of Enforcement is designated a party to this proceeding;

It is further ordered, That notice of this Order be published in the **Federal Register**, and a copy be served on parties of record;

It is further ordered, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72;

It is further ordered, That all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on parties of record;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, and comply with Subpart H of the Commission's Rules of Practice and Procedure, 46 CFR 502.111–119, and shall be served on parties of record; and

It is further ordered, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61, the initial decision of the Administrative Law Judge shall be issued by January 10, 1997, and the final decision of the Commission shall be issued by May 12, 1997.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 96–12230 Filed 5–15–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in

writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 10, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. TIB Financial Corp., Key Largo, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of TIB Bank of the Keys, Key Largo, Florida.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. XIT Bancshares, Inc., Littlefield, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of XIT Delaware, Inc., Dover, Delaware, and thereby indirectly acquire Security State Bank, Littlefield, Texas.

In connection with this application, XIT Delaware, Inc., Dover, Delaware, also has applied to become a bank holding company by acquiring 100 percent of the voting shares of Security State Bank, Littlefield, Texas.

Board of Governors of the Federal Reserve System, May 10, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–12254 Filed 5–15–96; 8:45 am]

BILLING CODE 6210–01–F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 30, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. TB&C Bancshares, Inc. and Synovus Financial Corp., both of Columbus, Georgia; to acquire Canterbury Trust Company, Birmingham, Alabama, and thereby engage in trust services, pursuant to § 225.25(b)(3) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Friendship Bancorp, Friendship, Indiana; to acquire Independent Bankers Life Insurance Company of Indiana, Phoenix, Arizona, and thereby engage in underwriting credit life, accident and health insurance directly related to extensions of credit by the banks and bank holding companies owning stock in the insurance agency, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 10, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–12255 Filed 5–15–96; 8:45 am]

BILLING CODE 6210–01–F

OFFICE OF GOVERNMENT ETHICS

Submission for OMB Review; Comment Request for the Proposed Modified Form for Requesting Access to Executive Branch Public Financial Disclosure Reports and Other Covered Records

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice.

SUMMARY: The Office of Government Ethics has submitted to the Office of Management and Budget (OMB) a slightly modified OGE Form 201 used by persons for requesting access to executive branch public financial disclosure reports and other covered records for three-year approval under the Paperwork Reduction Act. This modified form will replace the existing one.

DATES: Comments on this proposal should be received by June 17, 1996.

ADDRESSES: Comments should be sent to Joseph F. Lackey, Jr., Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; telephone: 202–395–7316.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Office of General Counsel and Legal Policy, Office of Government Ethics, 1201 New York Avenue, NW., Washington, DC 20005–3917; telephone: 202–208–8000 (ext. 1110), FAX: 202–208–8037 (please note the new OGE telephone and FAX numbers which became effective May 6, 1996). A copy of OGE's draft form, as well as the rest of OGE's paperwork submission package to OMB, may be obtained, without charge, by contacting Mr. Gressman.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics has submitted to OMB, for three-year approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), a proposed modified OGE Form 201 "Request to Inspect or Receive Copies of SF 278 Executive Branch Personnel Public Financial Disclosure Report or Other Covered Record" (OMB control # 3209–0002). On January 4, 1996, OGE published an advance paperwork notice of the proposed modified OGE Form 201 (see 61 FR 357–358). No public comments were received on that advance notice, though OGE did receive three requests by persons outside OGE for copies of the proposed new form, which were provided. Therefore, OGE has determined to proceed with submission of the proposed modified form, with one revision noted below, to OMB for approval. Once finally approved by OMB and adopted by OGE, the modified version of OGE Form 201 will replace the existing version (whose paperwork clearance is scheduled to expire at the end of this coming July).

As noted in the advance FR notice, OGE, as the supervising ethics office for the executive branch of the Federal Government under the Ethics in Government Act (the "Ethics Act"), is proposing to slightly modify and update the existing access form. That form, the OGE Form 201, collects information from, and provides certain information to, persons who seek access to SF 278 reports and other covered records. The other covered records are certificates of divestiture, section 208 waiver determinations (after removal of any information exempt from disclosure under the Freedom of Information Act), other access requests and, as being expressly added in the proposed modified form, certain publicly available qualified trust documents. See sections 102 (f)(5)(D) & (f)(7)(B) and 105 (b) & (c) of the Ethics in Government Act of 1978 as amended (the "Ethics Act"), 5 U.S.C. app., secs. 102 (f)(5)(D) & (f)(7)(B) and 105 (b) & (c), 18 U.S.C. 208(d)(1), and OGE's implementing financial disclosure regulations at 5 CFR 2634.408(d), 2634.603(c), (f) & (g)(2), and 2634.1004 as well as appendixes A, B and C to part 2634.

The form reflects the requirements of the Ethics Act and OGE's implementing regulations that must be met by a person before access can be granted. These requirements relate to information about the identity of the requester, as well as any other person on whose behalf a record is sought, and a notification of prohibited uses of SF 278 reports. See section 105 (b) and (c) of the Ethics Act and 5 CFR 2634.603 (c) and (f). For many years, OGE has disseminated to executive branch departments and agencies a locally reproducible uniform form to serve as the statutorily required written application to inspect or receive copies of SF 278 reports and other covered records. Departments and agencies are encouraged to utilize the OGE Form 201, but they can, if they choose, continue to use or develop their own forms (see the discussion below).

As noted, this proposed modified version of the OGE Form 201 will add express mention (in part III of the form) to another category of materials subject to public access under the Ethics Act—Ethics Act-qualified blind trust and qualified diversified trust instruments, the list of assets transferred to such trusts (& of assets sold in the case of a qualified blind trust), and the certificates of independence and compliance with respect to such trusts. The Office of Government Ethics has determined, since the advance notice was issued, to make one further change to include reference to the certificates in the listing of publicly available trust documents. See section 102 (f)(5)(D) & (f)(7)(B) of the Ethics Act and 5 CFR 2634.408(d) and 2634.603(g)(2), as well as appendixes A, B and C to part 2634. The other modification to the form would add to the part II.C public burden information block a statement required under the 1995 amendments to the paperwork law to the effect that "an agency may not conduct or sponsor, and no person is required to respond to, a collection of information unless it displays a currently valid OMB control number," together with a parenthetical mention that such number is displayed in the upper right-hand corner of the front page of the OGE Form 201.

In light of OGE's experience over the past three years (1993–1995), the estimate of the total number of access forms expected to be filed annually at OGE by members of the public (primarily by news media, public interest groups and private citizens) is proposed to be adjusted up somewhat from 250 to 275 (access requests by other Federal agencies or Federal employees are not included). The estimated average amount of time to complete the form, including review of the instructions, remains at ten minutes. Thus, the overall estimated annual public burden for the OGE Form 201 for forms filed at the Office of Government Ethics will increase from 42 hours in the current OMB paperwork inventory listing (250 forms × 10 minutes per form—number rounded off) to 46 hours (275 forms × 10 minutes per form—number rounded off). Moreover, OGE estimates, based on the agency ethics program questionnaire responses for the past couple of years, that some 1,500 access request forms (mostly from the news media, public interest groups and other members of the public) will be filed each year at the other executive branch departments and agencies.

The Office of Government Ethics expects that the new form should be ready, after OMB clearance, for dissemination to executive branch departments and agencies this summer. The Office of Government Ethics will provide appropriate guidance and phase-in time to departments and agencies once the new form is available. The new form will be made available free-of-charge to departments and agencies on paper, on electronic disk and on OGE's electronic bulletin board entitled "The Ethics Bulletin Board System" (TEBBS). In addition, if there is sufficient interest, OGE will consider making available in the future an electronic version of the form, to allow persons the option of preparing it on a computer. The Office of Government Ethics will also permit departments and agencies to photocopy or have copies printed of the form as well as to develop or utilize, on their own, electronic versions of the form provided that they precisely duplicate the paper original to the extent possible (following the strict duplication standards set forth in the General Services Administration Federal Information Resources Management Regulation Bulletin B–3, which applies to standard and optional forms). Finally, as noted, agencies can also develop their own access forms, provided all the information required by the Ethics Act and OGE regulations is placed on the form, along with appropriate Privacy Act and paperwork notices with the attendant clearances being obtained therefor.

Public comment is again invited on each aspect of the proposed modified OGE Form 201 as set forth in this notice, including specifically views on the need for and practical utility of this proposed modified collection of information, the accuracy of OGE's burden estimate, the enhancement of quality, utility and clarity of the information collected, and the minimization of burden (including the use of information technology). The Office of Government Ethics, in consultation with OMB, will consider all comments received, which will become a matter of public record.

Approved: May 10, 1996.

Stephen D. Potts,

Director, Office of Government Ethics.

[FR Doc. 96–12222 Filed 5–15–96; 8:45 am]

BILLING CODE 6345–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Commission on Dietary Supplement Labels: Meeting No. 4; Opportunity To Provide Comments

AGENCY: Office of Disease Prevention and Health Promotion.

ACTION: Commission on Dietary Supplement Labels: Notice of meeting #4; Opportunity to provide comments.

SUMMARY: The Department of Health and Human Services (HHS) is (a) providing notice of the fourth meeting of the Commission on Dietary Supplement Labels, and (b) soliciting oral and written comments.

DATES: (1) The Commission will meet June 6, 1996, from 8:30 a.m. to 4:30 p.m. Eastern Daylight Time at the Clarion Plaza Hotel, 9700 International Drive, Orlando, Florida 32819–8114; (2) Written comments on the scope and intent of the Commission's objectives may be submitted by 5:00 p.m. E.D.T. on June 30, 1996 to the address noted below.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Fisher, Ph.D., Executive Director, Commission on Dietary Supplement Labels, Office of Disease Prevention and Health Promotion, Room 738G, Hubert Humphrey Building, 200 Independence Ave. S.W., Washington, D.C. 20201, (202) 690–7102.

SUPPLEMENTARY INFORMATION:

Commission's Task

Public Law 103–417, Section 12, authorized the establishment of a Commission on Dietary Supplement Labels whose seven members have been appointed by the President. The appointments to the Commission by the President and the establishment of the Commission by the Secretary of Health and Human Services reflect the commitment of the President and the Secretary to the development of a sound and consistent regulatory policy on labeling of dietary supplements.

The Commission is charged with conducting a study and providing recommendations for regulation of label claims and statements for dietary supplements, including the use of supplemental literature in connection with their sale and, in addition, procedures for evaluation of label claims. The Commission is expected to evaluate how best to provide truthful, scientifically valid, and nonmisleading information to consumers in order that they may make informed health care choices for themselves and their families. The Commission's study report may include recommendations on legislation, if appropriate and necessary.

Announcement of Meeting

The Commission's fourth meeting will be June 6, 1996, 8:30 a.m. to 4:30 p.m. Eastern Daylight Time. The meeting will be held in the Salon Room at the Clarion Plaza Hotel, 9700 International Drive, Orlando, Florida 32819–8114. The agenda will include (a) oral comments from interested parties and the general public, (b) identification of additional information needs, and (c) discussion of dietary supplement label information.

Public Participation at Meeting

The meeting is open to the public. However, space is limited. Both oral and written comments from the public will be accepted, but oral comments at the meeting will be limited to a maximum of five minutes per presenter; thus, organizations and persons wishing to make their views known to the Commission should use the time for oral presentation to summarize their written comments. Persons and organizations that have not made presentations or submitted statements previously will be given preference on the agenda. Members of the Commission may wish to question the presenters following each oral presentation. Please request the opportunity to present oral comments in writing and provide fifteen (15) copies of the written comments from which the oral presentation is abstracted to the address above by May 29, 1996. If you will require a sign language interpreter, please call Sandra Saunders (202) 690–7102 by 4:30 p.m. E.D.T. on May 29, 1996.

Written Comments

By this notice, the Commission is soliciting submissions of written comments, views, information, and data pertinent to the Commission's task. Comments should be sent to Kenneth D. Fisher, Ph.D., Executive Director of the Commission at the Office of Disease Prevention and Health Promotion, Room 738G, Hubert Humphrey Building, 200 Independence Ave. S.W., Washington, D.C. 20201, by 5:00 p.m. E.D.T. on June 30, 1996.

Dated: May 8, 1996.

Claude Earl Fox,

Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion), Department of Health and Human Services.

[FR Doc. 96–12223 Filed 5–15–96; 8:45 am]

BILLING CODE 4160–17–M

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made final findings of scientific misconduct in the following case:

Michael W. Washabaugh, Ph.D., Johns Hopkins University: Based on an investigation conducted by the institution as well as information obtained by ORI during its oversight review, ORI found that Michael W. Washabaugh, Ph.D., Associate Professor of Biochemistry, Department of Biochemistry, Johns Hopkins University School of Hygiene and Public Health, committed scientific misconduct by reporting falsified and/or fabricated research data in two grant applications submitted to the National Institutes of Health.

Specifically, Dr. Washabaugh (1) reported falsified results of experiments concerning the number of DTNB (5,5′-dithiobis [2-nitrobenzoate]) reactive thiols in native thiamin binding protein in a grant application entitled "Mechanism of a periplasmic permease," and (2) reported falsified and/or fabricated portions of data presented in two separate figures to support his hypothesis of thiamin binding to thiamin binding protein in grant applications entitled "Mechanism of a periplasmic permease" and "Mechanisms of enzymic and non-enzymic thiamin reactions."

Dr. Washabaugh has entered into a Voluntary Exclusion Agreement with ORI in which he has voluntarily agreed, for the four (4) year period beginning May 7, 1996, to exclude himself from:

(1) Any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in, nonprocurement transactions (e.g., grants and cooperative agreements) of the United States Government as defined in 45 C.F.R. Part 76 (Debarment Regulations), and

(2) Serving in any advisory capacity to the Public Health Service (PHS), including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

No scientific publications were required to be corrected as part of this Agreement.

FOR FURTHER INFORMATION CONTACT: Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852.

Chris B. Pascal, J.D.,

Acting Director, Office of Research Integrity.

[FR Doc. 96–12263 Filed 5–15–96; 8:45 am]

BILLING CODE 4160–17–P

Agency for Health Care Policy and Research

Notice of Advisory Committee Meetings

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2) announcement is made of the following advisory committees scheduled to meet during the month of June 1996:

Name: Health Services Research Review Subcommittee.

Date and Time: June 6–7, 1996, 8:30 a.m.

Place: Ramada Inn, 1775 Rockville Pike, Conference Room TBA, Rockville, Maryland 20852. Open June 6, 1996, 8:30 a.m. to 9:00 a.m. Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing analytical and theoretical research on costs, quality, access, and efficiency of the delivery of health services for the research grant program administered by the Agency for Health Care Policy and Research (AHCPR).

Agenda: The open session of the meeting on June 6, from 8:30 a.m. to 9:00 a.m., will be devoted to a business meeting covering administrative matters and reports. During the closed session, the Subcommittee will be reviewing and discussing grant applications dealing with health services research issues. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), the Administrator, AHCPR, has made a formal determination that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact Patricia G. Thompson, Ph.D., Scientific Review Administrator, Office of Scientific Affairs, Agency for Health Care Policy and Research, Suite 400, Executive Office Center, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1437x1607.

Name: Health Services Research Dissemination Study Section.

Date and Time: June 27, 1996, 7:30 a.m.

Place: Doubletree Hotel, 1750 Rockville Pike, Conference Room TBA, Rockville, Maryland 20852. Open June 27, 1996, 7:30 a.m. to 8:00 a.m. Closed for remainder of meeting.

Purpose: The Study Section is charged with the review of and making recommendations on grant applications for Federal support of conferences, workshops, meetings, or projects related to dissemination and utilization of research findings, and AHCPR liaison with health care policy makers, providers, and consumers.

Agenda: The open session of the meeting on June 27, from 7:30 a.m. to 8:00 a.m., will be devoted to a business meeting covering administrative matters and reports. During the closed session, the Subcommittee will be reviewing and discussing grant applications dealing with health services research issues. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), the Administrator, AHCPR, has made a formal determination that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact Linda Blankenbaker, Scientific Review Administrator, Office of Scientific Affairs, Agency for Health Care Policy and Research, Suite 400, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1437x1603.

Agenda items for all meetings are subject to change as priorities dictate.

Dated: May 8, 1996.

Clifton R. Gaus,

Administrator.

[FR Doc. 96–12361 Filed 5–15–96; 8:45 am]

BILLING CODE 4160–90–M

Centers for Disease Control and Prevention

[30 DAY–11]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639–7090.

The following requests have been submitted for review since the last publication date on May 9, 1996.

Proposed Project

1. Intensive-Care Antimicrobial Resistance Epidemiology (Project ICARE), Phase II—NEW—Antibiotic resistance is estimated to cost as much as 4 billion dollars a year to the health care system in the United States and the number of resistant microorganisms is increasing. For example, data reported to the National Nosocomial Infections Surveillance (NNIS) system demonstrated a 20-fold increase, between January 1989 and March 1993, in the percentage of enterococci associated with nosocomial infections that are resistant to vancomycin (VRE). Additional analysis of NNIS data has demonstrated that other antibiotic resistant nosocomial pathogens have also increased in recent years. One of the major factors limiting the understanding of antibiotic resistance among nosocomial pathogens is the lack of information on the relationship between the amount and kind of antibiotic used in hospitals and the emergence of resistance.

This proposed one year study, called Project ICARE, will collect data on the amount of antibiotics used in 50 NNIS hospitals and the antibiotic susceptibility patterns found in certain bacterial pathogens isolated in these hospitals' microbiology laboratories between June 1996 and June 1997. Further, new mechanisms of resistance will be studied on specific antibiotic-resistant isolates that will be sent to CDC from these laboratories. A successful pilot study involving eight NNIS hospitals was conducted between August 1994 and January 1995 to study the feasibility of collecting such information.

After initially setting up the project with information on the different intensive care units (ICUs) and wards, the hospital will provide three different types of data each month: (1) Summary of the amount of parenteral and oral antibiotics, by generic group, reported by the pharmacy, (2) summary of the number of isolates, by species, susceptible, intermediate or resistant to various antibiotics reported by the microbiology laboratory, and (3) actual isolates of resistant pathogens to be sent to by the microbiology laboratory to CDC. For antibiotics used and number of isolates in each of the susceptibility categories, separate data are to be reported for each ICU, all other inpatients, and outpatients (antibiotic use among outpatients is not collected). Data collection forms for summary data from the microbiology laboratory and pharmacy have been created to assist in recording the data; however, the data will be entered into a computer software created by CDC specifically for Project ICARE. The software will be provided to the hospitals at no cost. Data will be transmitted to CDC by floppy disk or by electronic transfer when it become available in the NNIS system in 1996.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs)
Primary Contact	50	12	1
Pharmacist	50	60	1.8
Microbiologist	50	60	0.35
Total			

The total burden hours is 7050. Send comments to Desk Officer, CDC; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503.

4. National Nosocomial Infections Surveillance (NNIS) System—(0920–0012)—Extension—The National Nosocomial Infections Surveillance (NNIS) system is currently the only source for national data on nosocomial (hospital-associated) infections in the United States. It first began collecting data in 1970. It is a collaborative project between the Hospital Infections Program of the Centers for Disease Control and Prevention (CDC) and voluntarily participating hospitals in the United States. The goals of the system are to: (1) develop comparative nosocomial infection rates that can be used by hospitals to assess quality of care, (2) describe the scope and magnitude, including trends, of the nosocomial infection problem in the U.S., (3) identify risk factors associated with these infections, (4) assist hospitals in the effective use of surveillance data to improve the quality of patient care, and (5) conduct collaborative research studies. Data are collected using protocols developed by CDC that define the specific populations of patients at risk, risk factors, and outcomes. The decision about which component(s) to use is made by each hospital depending on its own needs for surveillance data. The data are collected by trained surveillance personnel, assisted by hospital personnel, and are entered into IDEAS, a surveillance software which makes the data available for analysis at the hospital's convenience. The data are currently transmitted to CDC by floppy disk, then aggregated into a national database. During 1996, it will become possible for some hospitals to transmit the data to CDC through the NNIS telecommunications system. This system is expected to be used by all participating hospitals by 1997, resulting in reduced response time. NNIS methodology, which has been published, is the standard nosocomial infection surveillance methodology and is used at least in part by most U.S. hospitals.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
Hospitals	251	12	0.16

The total burden hours is 481. Send comments to Desk Officer, CDC; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503.

Dated: May 10, 1996.

[FR Doc. 96–12329 Filed 5–15–96; 8:45 am]
BILLING CODE 4163–18–P

[Announcement Number 631]

National Institute for Occupational Safety and Health; Research and Demonstration Grants

Introduction

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) is soliciting grant applications for research and demonstration projects related to occupational safety and health (see the section "Availability of Funds").

CDC is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2000," a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering a copy of "Healthy People 2000," see the section "Where to Obtain Additional Information".)

Authority

This program is authorized under the Public Health Service Act, as amended, Section 301 (42 U.S.C. 241); the Occupational Safety and Health Act of 1970, Section 20(a) (29 U.S.C. 669); and the Federal Mine Safety and Health Amendments Act of 1977, as amended, Section 501 (30 U.S.C. 951). The applicable program regulations are in 42 CFR Part 52.

Eligible Applicants

Eligible applicants include domestic and foreign non-profit and for-profit organizations, universities, colleges, research institutions, and other public and private organizations, including State and local governments and small, minority and/or woman-owned businesses. Exceptions: Applicants for the Special Emphasis Research Career Award (SERCA) Grant and Small Grant programs must be citizens or persons lawfully admitted to the United States for permanent residence (resident alien) at the time of application and must be employed by a domestic institution.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive federal funds and in which education, library, day care, health care, and early childhood development services are provided to children.

Availability of Funds

For fiscal year (FY) 1996, the budget is projected to be $10,000,000. Of that amount, $7,000,000 is committed to support 47 non-competing continuing awards. Therefore, $3,000,000 is available for new and competing renewal awards. The overall budget includes $400,000 for Small Business Innovation Research grant awards, of which $237,000 is already committed to a non-competing continuation award. In addition, this overall budget includes funds for a special emphasis on construction health and safety research.

Grant applications should be focused on the research priorities described in the section "Funding Priorities" that includes new research priorities developed in a process which resulted in defining a National Occupational Research Agenda. Grant proposals in these areas will compete for the available funds as noted in the previous paragraph, as well as for funds announced through Requests for Applications that are anticipated in FY 1996 and FY 1997.

Purpose

The purpose of this grant program is to develop knowledge that can be used in preventing occupational diseases and injuries. Thus, NIOSH will support the following types of applied research projects: Causal research to identify and investigate the relationships between hazardous working conditions and associated occupational diseases and injuries; methods research to develop more sensitive means of evaluating hazards at work sites, as well as methods for measuring early markers of adverse health effects and injuries; control research to develop new protective equipment, engineering control technology, and work practices to reduce the risks of occupational hazards; and demonstrations to evaluate the technical feasibility or application of a new or improved occupational safety and health procedure, method, technique, or system.

Mechanisms of Support

Applications responding to this announcement will be reviewed by staff for their responsiveness to the following program requirements. Grants are funded for 12- month budget periods in project periods up to five years for research project grants and demonstration project grants; three years for SERCA grants; and two years for small grants. Continuation awards within the project period are made on the basis of satisfactory progress and on the availability of funds. The types of grants NIOSH supports are as follow:

1. Research Project Grants (R01)

A research project grant application should be designed to establish, discover, develop, elucidate, or confirm information relating to occupational safety and health, including innovative methods, techniques, and approaches for dealing with problems. These studies may generate information that is readily available to solve problems or contribute to a better understanding of the causes of work-related diseases and injuries.

2. Demonstration Project Grants (R18)

A demonstration project grant application should address, either on a pilot or full-scale basis, the technical or economic feasibility of implementing a new/improved innovative procedure, method, technique, or system for preventing occupational safety or health problems. The project should be conducted in an actual workplace where a baseline measure of the problem will be defined, the new/improved approach will be implemented, a follow-up measure of the problem will be documented, and an evaluation of the benefits will be conducted.

3. Special Emphasis Research Career Award (SERCA) Grants (K01)

The SERCA grant is intended to provide opportunities for individuals to acquire experience and skills essential to the study of work-related hazards, and in so doing, create a pool of highly qualified investigators who can make future contributions to research in the area of occupational safety and health. SERCA grants are not intended for individuals without research experience, or for productive, independent investigators with a significant number of publications and of senior academic rank. Moreover, the award is not intended to substitute one source of salary support for another for an individual who is already conducting full-time research; nor is it intended to be a mechanism for providing institutional support.

Candidates must: (1) Hold a doctoral degree; (2) have research experience at or above the doctoral level; (3) not be above the rank of associate professor; (4) be employed at a domestic institution; and (5) be citizens or persons lawfully admitted to the United States for permanent residence (resident alien) at the time of application.

This non-renewable award provides support for a three-year period for individuals engaged in full-time research and related activities. Awards will not exceed $50,000 per year in direct costs for salary support (plus fringe benefits), technical assistance, equipment, supplies, consultant costs, domestic travel, publications, and other costs. The indirect cost rate applied is limited to 8 percent of the direct costs, excluding tuition and related fees and equipment expenses, or to the actual indirect cost rate, whichever results in the lesser amount.

A minimum of 60 percent time must be committed to the proposed research project, although full-time is desirable. Other work in the area of occupational safety and health will enhance the candidate's qualifications but is not a substitute for this requirement. Related activities may include research career development activities as well as involvement in patient care to the extent that it will strengthen research skills. Fundamental/basic research will not be supported unless the project will make an original contribution for applied technical knowledge in the identification, evaluation, or control of occupational safety and health hazards (e.g., development of a diagnostic technique for early detection of an occupational disease). Research project proposals must be of the applicants' own design and of such scope that independent investigative capability will be evident within three years. At the completion of this three-year award, it is intended that awardees should be better able to compete for individual research project grants awarded by NIOSH.

SERCA grant applications should be identified as such on the application form. Section 2 of the application (the Research Plan) should include a statement regarding the applicant's career plans and how the proposed research will contribute to a career in occupational safety and health research. This section should also include a letter of recommendation from the proposed advisor(s).

4. Small Grants (R03)

The small grant program is intended to stimulate proposals from individuals who are considering a research career in occupational safety and health; as such, the minimum time commitment is 10%. It is expected that a recipient would subsequently compete for a career development grant (K01) or for a traditional research project grant (R01) related to occupational safety and health. The award is not intended to supplement ongoing or other proposed research; nor is it intended to be a mechanism for providing institutional support. Please note that fundamental/basic research is generally not supported.

The small grant investigators must be United States citizens or persons lawfully admitted to the United States for permanent residence (resident alien) at the time of application who are predoctoral students, post-doctoral researchers (within 3 years following completion of doctoral degree or completion of residency or public health training), or junior faculty members (no higher than assistant professor). If university policy requires that a more senior person be listed as principal investigator, it should be clear in the application which person is the

small grant investigator. Except for applicants who are assistant professors, there must be one or more named mentors to assist with the project. A biographical sketch is required for the small grant investigator, as well as for the supervisor and other key consultants, as appropriate.

This non-renewable award provides support for project periods of up to two years to carry out exploratory or pilot studies, to develop or test new techniques or methods, or to analyze data previously collected. Awards will not exceed $25,000 per year in direct costs for salary support (plus fringe benefits), technical assistance, equipment, supplies, consultant costs, domestic travel, publications, and other costs. The indirect costs will be based upon the negotiated indirect cost rate of the applicant organization. An individual may not receive more than two small grant awards, and then, only if the awards are at different stages of development (e.g., doctoral student, post-doctoral researcher, or junior faculty member).

Funding Priorities

The NIOSH program priorities, listed below, are applicable to all of the above types of grants listed under the section "Mechanisms of Support." These priority areas were developed by NIOSH and its partners in the public and private sectors to provide a framework to guide occupational safety and health research in the next decade—not only for NIOSH but also for the entire occupational safety and health community. Approximately 500 organizations and individuals outside NIOSH provided input into the development of the National Occupational Research Agenda (NORA). This attempt to guide and coordinate research nationally is responsive to a broadly perceived need to address systematically those topics that are most pressing and most likely to yield gains to the worker and the nation. Fiscal constraints on occupational safety and health research are increasing, making even more compelling the need for a coordinated and focused research agenda. NIOSH intends to support projects that facilitate progress in understanding and preventing adverse effects among workers. The conditions or examples listed under each category are selected examples, not comprehensive definitions of the category. Investigators may also apply in other areas related to occupational safety and health, but the rationale for the significance of the research to the field of occupational safety and health must be presented in the grant application.

The Agenda identifies 21 research priorities. These priorities reflect a remarkable degree of concurrence among a large number of stakeholders. The NORA priority research areas are grouped into three categories: Disease and Injury, Work Environment and Workforce, and Research Tools and Approaches. The NORA document is available through the NIOSH Home Page; http://www.cdc.gov/niosh/nora.html.

NORA Priority Research Areas

Disease and Injury
Allergic and Irritant Dermatitis
Asthma and Chronic Obstructive Pulmonary Disease
Fertility and Pregnancy Abnormalities
Hearing Loss
Infectious Diseases
Low Back Disorders
Musculoskeletal Disorders of the Upper Extremities
Traumatic Injuries

Work Environment and Workforce

Emerging Technologies
Indoor Environment
Mixed Exposures
Organization of Work
Special Populations at Risk

Research Tools and Approaches

Cancer Research Methods
Control Technology and Personal Protective Equipment
Exposure Assessment Methods
Health Services Research
Intervention Effectiveness Research
Risk Assessment Methods
Social and Economic Consequences of Workplace Illness and Injury
Surveillance Research Methods

Potential applicants with questions concerning the acceptability of their proposed work are strongly encouraged to contact the "Technical Information Contact," Dr. Roy M. Fleming, listed in this announcement under the section "Where to Obtain Additional Information."

Applications Submission and Deadlines and Review Dates

The research grant application Form PHS–398 (OMB Number 0925–0001) is to be used in applying for these grants. These forms are available at most institutional offices of sponsored research; from the Extramural Outreach and Information Resources Office, Office of Extramural Research, 6701 Rockledge Drive, MS–C7910, Bethesda, MD 20892–7910, telephone (301) 435–0714; fax (301) 480–8443; Internet girg@drgpo.drg.nih.gov; and from the contacts listed under the section "Where to Obtain Additional Information."

The original and five copies of the PHS–398 must be submitted to Division of Research Grants, National Institutes of Health, Suite 1040, 6701 Rockledge Drive, MS–C7710, Bethesda, MD 20892–7710, on or before the specified receipt dates provided below. A mailing label is provided in the Form PHS–398 application package.

The timetable for receiving applications and awarding grants is given below. This is a continuous announcement, consequently, these receipt dates will be on-going until further notice.

RESEARCH AND DEMONSTRATION PROJECT GRANTS

Receipt date*	Initial review	Secondary review	Earliest possible date
February 1.	June/July	September.	December 1.
June 1 ...	Oct/Nov	January	April 1.
October 1	Feb/Mar	May	August 1.

*Deadlines for competing continuation applications or revised applications are 1 month later.

SERCA AND SMALL GRANTS

Receipt date	Initial review	Secondary review	Earliest possible date
March 1	June/July	August ...	November 1.
July 1	Oct/Nov	December.	March 1.
November 1.	Feb/Mar	April	July 1.

Applications must be received by the above receipt dates. To prevent problems caused by carrier delays, retain a legible proof-of-mailing receipt from the carrier, dated no later than one week prior to the receipt date. If the receipt date falls on a weekend, it will be extended to Monday; if the date falls on a holiday, it will be extended to the following work day. The receipt date will be waived only in extenuating circumstances. To request such a waiver, include an explanatory letter with the signed, completed application. No request for a waiver will be considered prior to receipt of the application.

Evaluation Criteria

Applications will be assigned on the basis of established referral guidelines. Applications will be reviewed for scientific and technical merit by study sections of the Division of Research Grants, NIH, in accordance with the standard NIH peer review procedures. Following scientific technical review, the applications will receive a second-level programmatic review by NIOSH. Notification of the review recommendations will be sent to the applicants after the initial review. Awards will be made based on results of the initial and secondary reviews, as well as availability of funds.

Applications that are complete and responsive to the program announcement will be evaluated for scientific merit by an appropriate peer review group. As part of the initial merit review, all applications will receive a written critique and undergo a process in which only those applications deemed to have the highest scientific merit, generally the top half of applications under review, will be discussed, assigned a priority score, and receive a second level review by the Institute programmatic review committee.

1. The initial (peer) review is based on scientific merit and significance of the project, competence of the proposed staff in relation to the type of research involved, feasibility of the project, likelihood of its producing meaningful results, appropriateness of the proposed project period, adequacy of the applicant's resources available for the project, and appropriateness of the budget request.

Demonstration grant applications will be reviewed additionally on the basis of the following criteria:

- Degree to which project objectives are clearly established, obtainable, and for which progress toward attainment can and will be measured.
- Availability, adequacy, and competence of personnel, facilities, and other resources needed to carry out the project.
- Degree to which the project can be expected to yield or demonstrate results that will be useful and desirable on a national or regional basis.
- Documentation of cooperation from industry, unions, or other participants in the project, where applicable.

SERCA grant applications will be reviewed additionally on the basis of the following criteria:

- The review process will consider the applicant's scientific achievements, the applicant's research career plan in occupational safety and health, and the degree to which the applicant's institution offers a superior research environment (supportive nature, including letter(s) of reference from advisor(s) which should accompany the application).

Consideration will be given to the fact that the applicants for small grants do not have extensive experience with the grants process.

2. In the secondary review, the following factors will be considered:

- The results of the initial review.
- The significance of the proposed study to the mission of NIOSH.

(1) Relevance to occupational safety and health by contributing to achievement of research objectives specified in Section 20(a) of the Occupational Safety and Health Act of 1970 and Section 501 of the Federal Mine Safety and Health Amendments Act of 1977,

(2) Magnitude of the problem in terms of numbers of workers affected,

(3) Severity of the disease or injury in the worker population,

(4) Potential contribution to applied technical knowledge in the identification, evaluation, or control of occupational safety and health hazards,

(5) Program balance, and

(6) Policy and budgetary considerations.

Questions regarding the above criteria should be addressed to the Programmatic Technical Information Contact listed under "Where to Obtain Additional Information."

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.262.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Other Requirements

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations (45 CFR Part 46) regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and forms provided in the application kit.

Women and Racial and Ethnic Minorities

It is the policy of the Centers for Disease Control and Prevention (CDC) to ensure that women and racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian, Alaska Native, Asian, Pacific Islander, Black and Hispanic. Applicants shall ensure that women and racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. In conducting review for scientific merit, review groups will evaluate proposed plans for inclusion of minorities and both sexes as part of the scientific assessment and scoring. This policy does not apply to research studies when the investigator cannot control the race, ethnicity and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, pages 47947–47951, and dated Friday, September 15, 1995.

Where To Obtain Additional Information

To receive additional written information, call (404) 332–4561. You will be asked your name, address, and phone number and will need to refer to Announcement 631. In addition, this announcement is also available through the CDC Home Page on the Internet. The address for the CDC Home Page is http://www.cdc.gov. You will receive a complete program description, information on application procedures, and application forms. If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Georgia Jang, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., MS–E13, Atlanta, GA 30305, telephone (404) 842–6796; fax 404–842–6513; Internet glj2@opspgo1.em.cdc.gov. Programmatic technical assistance may be obtained from Roy M. Fleming, Sc.D., Associate Director for Grants, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Building 1, Room 3053, MS-D30, Atlanta, GA 30333, telephone (404) 639–3343; fax (404) 639–4616; Internet rmf2@niood1.em.cdc.gov.

Please Refer to Announcement Number 631 When Requesting

Information and Submitting an Application.

Potential applicants may obtain a copy of "Healthy People 2000" (Full Report, Stock No. 017–001–00474–0) or "Healthy People 2000" (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: May 8, 1996.

Diane D. Porter,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–12253 Filed 5–15–96; 8:45 am]

BILLING CODE 4163–19–P

Advisory Committee on Immunization Practices: Announcement of Meeting and Request for Comments on Draft Poliomyelitis Statement

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee on Immunization Practices (ACIP).

Times and Dates: 8:30 a.m.–6 p.m., June 19, 1996. 8:30 a.m.–2:45 p.m., June 20, 1996.

Place: CDC, Auditorium B, Building 2, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents.

Matters to be Discussed: The Committee will discuss, among other items, the revision of the ACIP recommendation on poliomyelitis. Because of the considerable interest in the revised ACIP recommendation on poliomyelitis, there will be a public comment period on the morning of June 19, not to exceed three hours, during which members of the public will be able to address the ACIP members and executive staff of the CDC on the draft ACIP poliomyelitis prevention statement. This statement introduces a sequential schedule of inactivated poliovirus vaccine (IPV) followed by oral poliovirus vaccine (OPV) and includes the options of using any of three schedules: OPV alone, IPV alone or the sequential IPV—OPV schedule.

Other topics to be discussed at the meeting include: measles, mumps, rubella (MMR) policy statement; MMR vaccination of HIV-infected persons; a draft statement on acellular pertussis vaccine; the use of single antigen tetanus toxoid; a draft statement for rabies post-exposure treatment; an immunization update on varicella vaccine; a draft statement on reminder/recall systems; and achieving consistency among policy statements and vaccine package inserts.

Other matters of relevance among the Committee's objectives may be discussed.

Agenda items are subject to change as priorities dictate.

Copies of the revised draft ACIP recommendation, "Poliomyelitis Prevention in the United States: Introduction of A Sequential Schedule of Inactivated Poliovirus Vaccine (IPV) Followed by Oral Poliovirus Vaccine (OPV)," are available to the public by notifying the contact person. Copies may be sent electronically upon request.

Anyone wishing to make an oral presentation should submit their request, in writing, to the contact person by close of business June 3, 1996. The request should include the name, address, and telephone number of the participant; the approximate time needed; and a copy of the presentation or a brief summary of the topic to be presented. Depending on the number of requests, up to six minutes will be allowed for each oral presentation. Anyone wishing to submit for consideration written comments regarding the revised ACIP recommendation on poliomyelitis prevention should submit the written comments to the contact person by June 13, 1996.

Contact Person for More Information: Gloria A. Kovach, Committee Management Specialist, CDC (16–4346), 1600 Clifton Road, NE, M/S D50, Atlanta, Georgia 30333, Telephone 404/639–7250.

Dated: May 10, 1996.

Nacny C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–12256 Filed 5–15–96; 8:45 am]

BILLING CODE 4163–18–M

Health Care Financing Administration

[HCFA–287]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Home Office Cost Statement; *Form No.:* HCFA 287; *Use:* Medicare law permits components of chain organizations to be reimbursed for certain costs incurred by the chain home offices. The Home Office Cost Statement is required by the fiscal intermediary to verify Home Office Costs claimed by the components. *Frequency:* Annually; *Affected Public:* Business or other for-profit, and Not-for-profit institutions; *Number of Respondents:* 1,231; *Total Annual Responses:* 1,231; *Total Annual Hours Requested:* 573,646.

To request copies of the proposed paperwork collections referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: May 9, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–12318 Filed 5–15–96; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–01]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1004–0153), Washington, DC 20503, telephone 202–395–7340.

Title Conveyance of Federally Owned Mineral Interests, 43 CFR 2720.

OMB Approval Number: 1004–0153.

Abstract: Respondents supply identifying information to be used by the agency to process applications to determine an applicant's eligibility for benefits and whether all statutory requirements have been met.

Bureau form number: None.

Frequency: Once.

Description of respondents: Individuals whose land surface ownership overlie federally owned mineral interests.

Estimated completion time: 8 hours.

Annual responses: 20.

Annual burden hours: 232.

Bureau clearance officer: Wendy Spencer, 303–236–6642.

H. James Fox,

Group Administrator, Realty Use.

[FR Doc. 96–12246 Filed 5–15–96; 8:45 am]

BILLING CODE 4310–84–M

[AK–962–1410–00–P; AA–8104–01]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(e) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(e), will be issued to Ahtna, Inc., for 1,361.87 acres. The lands involved are located within T. 1 S., R. 1 E., Copper River Meridian, Alaska, in the vicinity of Copper Center, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the ANCHORAGE DAILY NEWS. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until June 17, 1996 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Gary L. Cunningham,

Land Law Examiner ANCSA Team Branch of 962 Adjudication.

[FR Doc. 96–12328 Filed 5–15–96; 8:45 am]

BILLING CODE 4310–84–P

[UT–054–1220–00–24–1A]

Notice of Closure and Restriction on Public Land

AGENCY: Bureau of Land Management.

SUMMARY: Notice is hereby given that, effective May 1, 1996 and until further notice, all public lands administered by the Bureau of Land Management within the Yuba Reservoir Special Recreation Management Area (SRMA) are closed to camping and to day use. The SRMA contains approximately 15,940 acres of which 13,900 lie within Juab County and 2,040 in Sanpete County.

Personnel that are exempt from the closure include any federal, state, or local officer, or member of any organized rescue or fire fighting force in the performance of an official duty, or any person authorized by the Bureau.

The purpose of the closure is to protect the health and safety of the using public and the downstream water users. This closure will not affect the Yuba State Park facilities, located at the reservoir, nor the water surface.

This action coincides with Juab County Ordinance No. 178 passed April 18, 1996. The authority for this closure is the Code of Federal Regulations, Title 43 Subpart 8364.1.

FOR FURTHER INFORMATION CONTACT: Rex Rowley, House Range Resource Area Manager. P.O. Box 778 Fillmore, UT 84631 or Phone 801–743–6811.

Dated: May 7, 1996.

David R. Henderson,

Associate District Manager.

[FR Doc. 96–12247 Filed 5–15–96; 8:45 am]

BILLING CODE 4310–DQ–P

[UT–020–06–1020]

Utah; Management Framework Plans for Park City

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management, Salt Lake District, Bear River Resource Area, has completed an Environmental Analysis/Finding of No Significant Impact of the Proposed Plan Amendment to the Park City Management Framework Plan. The Proposed Amendment involves the addition of land tenure adjustments, specifically land exchange opportunities.

DATES: The protest period for this Proposed Plan Amendment will commence with the date of publication of this notice and last for 30 days. Protests must be received on or before June 17, 1996.

ADDRESSES: Protests must be addressed to the Director (480), Bureau of Land Management, Resource Planning Team, 1849 C Street N.W., Washington, DC 20240, within 30 days after the date of publication of this Notice of Availability.

FOR FURTHER INFORMATION CONTACT: Leon Berggren, Bear Resource Area Manager, Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah, 84119, (801) 977–4350. Copies of the Environmental Assessment and Proposed Plan Amendment are available for review at the Salt Lake District Office.

SUPPLEMENTARY INFORMATION: This action is announced pursuant to section 202(a) of the Federal Land Policy and Management Act of 1976 and 43 CFR part 1610. The Proposed Amendment is subject to protest from any party who has participated in the planning process. Protests must be specific and contain the following information:

—The name, mailing address, phone number, and interest of the person filing the protest.

—A statement of the issue(s) being protested.

—A statement of the part(s) of the proposed amendment being protested and citing pages, paragraphs, maps etc., of the Proposed Plan Amendment.

—A copy of all documents addressing the issue(s) submitted by the protester during the planning process or a reference to the date when the protester discussed the issue(s) for the record.

—A concise statement as to why the protester believes the BLM State Director is incorrect.

David E. Little,

Acting State Director, Utah.

[FR Doc. 96–12316 Filed 5–15–96; 8:45 am]

BILLING CODE 4310–DQ–M

(CA–060–1430–01; CACA 7236)

Public Land Order No. 7194; Partial Revocation of Secretarial Order Dated October 19, 1920; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a Secretarial Order dated October 19, 1920, insofar as it affects 160 acres of public land withdrawn for the Bureau of Reclamation's Yuma Project. The land is no longer needed for the purpose for which it was withdrawn. The revocation is needed to permit completion of a land exchange as part of the Bureau of Land Management's land tenure adjustment program in Riverside and San Diego Counties. This action will open the land to surface entry and mining unless closed by overlapping withdrawals or temporary segregations of record. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: June 17, 1996.

FOR FURTHER INFORMATION CONTACT: Duane Marti, BLM California State Office (CA–931.4), 2800 Cottage Way, Sacramento, California 95825, 916–979–2858.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Secretarial Order dated October 19, 1920, which withdrew public lands for the Bureau of Reclamation's Yuma Reclamation Project, is hereby revoked insofar as it affects the following described land:

San Bernardino Meridian

T. 6 S., R. 7 E.,
Sec. 20, W½W½.

The area described contains 160 acres in Riverside County.

2. At 10 a.m. on June 17, 1996, the land will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 17, 1996, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on June 17, 1996, the land will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

Dated: April 30, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–12245 Filed 5–15–96; 8:45 am]

BILLING CODE 4310–40–P

[CO–050–1430–01; COC–54878]

Public Land Order No. 7195; Withdrawal of National Forest System Land for the Hoosier Ridge Research Natural Area; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws approximately 684 acres of National Forest System land from mining for 50 years to protect the unique alpine ecosystem and associated plant life within the Hoosier Ridge Research Natural Area (RNA), which was designated on December 12, 1995. This land has been and remains open to such forms of disposition as may by law be made of National Forest System land and to mineral leasing.

EFFECTIVE DATE: May 16, 1996.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System land is hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), for the Forest Service to protect the alpine ecosystem in the Hoosier Ridge RNA.

Sixth Principal Meridian

Arapaho and Pike National Forests

T. 8 S., R. 77 W.,

The Hoosier Ridge RNA is an irregular-shaped area within secs. 7, 8, 17, and 18 of T. 8 S., R. 77 W., and contains approximately 684 acres and the following metes and bounds description reflects the intent of the 1991 Establishment Record from a "quasi-legal" interpretation of said record. The area is described as follows:

Beginning at the cor. of secs. 7, 12, 13, and 18, in T. 8 S., Rgs. 77 and 78 W., 6th P.M., monumented with a granite stone, mkd. as described in the official record of the 1882 survey of the West Boundary of T. 8 S., R. 77 W., by Frank Koons.

From this cor., the centerline of State Highway 9 crossing Hoosier Pass, bears Westerly for approximately 3200 ft. distance.

Thence approximately N. 20° E., 719 ft. +–, to a steel post located just above the Forest edge.

Thence approximately N. 81° E., 4566 ft. +–, to a steel pipe and cairn located on a rocky ridge.

Thence approximately S. 56° E., 2454 ft. +–, to a cairn located on a high point on the Continental Divide (approx. County line).

Thence approximately N. 78° E., 1638 ft. +–, to the highest point located on an E–W portion of the Continental Divide (at the 12953 ft. level mkd. on the Alma 7.5′ USGS quadrangle 1970).

Thence approximately S. 4° E., 3234 ft. +–, to "United States Locating Monument No. 541, Mineral Survey District No. 3." monument & cairn, as described in the Field Notes of Mineral Survey No. 541.

Thence approximately S. 82° W., 2843 ft. +–, to a steel pipe and cairn located on a broad grassy ridge separating Beaver Creek from Platte River drainages.

Thence approximately N. 79° W., 4459 ft. +–, to a rocky point on a ridge.

Thence approximately N. 42° W., 1716 ft. +–, to a cairn located on the Continental Divide ridge.

Thence approximately N. 9° W., 1168 ft. +–, to the cor. of secs. 7, 12, 13, and 18, and place of beginning.

This RNA contains approximately 684 acres of which about half is within the Dillon Ranger District of the Arapaho National Forest, managed by the White River National Forest; and about half within the South Park Ranger District in the Pike and San Isabel National Forest, in Summit and Park Counties, Colorado. Maps of the area are available at the address shown above.

2. The withdrawal make by this order does not alter the applicability of those public land laws governing the use of National Forest System lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review

conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: April 30, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–12322 Filed 5–15–96; 8:45 am]

BILLING CODE 4310–JB–P

[OR–957–00–1420–00: G6–0146]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 18 S., R. 1 W., accepted April 30, 1996
T. 40 S., R. 2 W., accepted March 6, 1996
T. 19 S., R. 6 W., accepted April 30, 1996
T. 28 S., R. 9 W., accepted April 23, 1996
T. 30 S., R. 13 W., accepted April 15, 1996
T. 31 S., R. 15 W., accepted April 15, 1996

Washington

T. 6 N., R. 15 E., accepted April 30, 1996
T. 23 N., R. 9 W., accepted March 6, 1996

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1515 S.W. 5th Avenue, Portland, Oregon 97201, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, (1515 S.W. 5th Avenue) P.O. Box 2965, Portland, Oregon 97208.

Dated: May 6, 1996.

Robert D. DeViney, Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 96–12317 Filed 5–15–96; 8:45 am]

BILLING CODE 4310–33–M

National Park Service

Royal Production Company, Big Thicket National Preserve, Hardin County, Texas; Availability of Plan of Operations and Environmental Assessment Drilling an Exploratory Oil Well

Notice is hereby given in accordance with Section 9.52(b) of Title 36 of the Code of Federal Regulations, Part 9, Subpart B, that the National Park Service has received from Royal Production Company a Plan of Operations to drill an exploratory oil well in Big Thicket National Preserve, located within Hardin County, Texas.

The Plan of Operations and Environmental Assessment are available for public review and comment for a period of 30 days from the publication date of this notice. The documents can be viewed during normal business hours at the Office of the Superintendent, Big Thicket National Preserve, 3785 Milam Street, Beaumont, Texas. Copies can be requested from the Superintendent, Big Thicket National Preserve, 3785 Milam, Beaumont, TX 77701.

Dated: April 30, 1996.

Richard R. Peterson,

Superintendent, Big Thicket National Preserve.

[FR Doc. 96–12162 Filed 5–15–96; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States of America* v. *Ritschard Brothers, Inc. Carmelo Ritschard, and Donald Ritschard, No.* 3:96–CV–310AS (N.D. Ind.), was lodged with the United States District Court for the Northern District of Indiana on May 9, 1996.

The proposed consent decree concerns alleged violations of the Clean Water Act, 33 U.S.C. § 1311, as a result of the discharge of fill material onto portions of property located in St. Joseph County, Indiana, which are alleged to constitute "waters of the United States." The consent decree requires Ritschard Brothers, Inc., Carmelo Ritschard, and Donald Ritschard to (1) refrain from further discharges at the wetland; (2) perform partial restoration at the wetland; (3) monoitor the fill material for three years, to ensure that no hazardous substances are leaching into the wetland; (4) place a conservation easement on the portion of the wetland and surrounding uplands which the Ritschard own; (5) pay a portion of the purchase price of a 120–acre farmland parcel, and perform all necessary design and construction necessary to create a mitigation wetland; and (6) pay a penalty of $20,000 to the United States Treasury.

The Department of Justice will accept written comments relating to the proposed consent decree for thirty (30) days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Attention: Daniel R. Dertke, 10th & Pennsylvania Avenue, N.W., Room 7215—Main Building, Washington, D.C. 20530 and should refer to *United States* v. *Ritschard Brothers, Inc.*, DJ Reference No. 90–5–1–6–555.

The consent decree may be examined at the Clerk's Office, United States District Court, Room 102, Robert A. Grant Federal Building and U.S. Courthouse, 204 South Main Street, South Bend, Indiana, 46601.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 96–12324 Filed 5–15–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petrotechnical Open Software Corporation

Notice is hereby given that, on April 22, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Petrotechnical Open Software Corporation ("POSC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its

membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following additional parties have become new non-voting members of POSC: Information Dimensions (France), Puteaux, FRANCE; Codd and Date Ltd., Cheshan, Bucks, UNITED KINGDOM; Pt. ELNUSA Geosains, Jakarta, INDONESIA.

No other changes have been made in either the membership or planned activity of POSC.

On January 14, 1991, POSC filed its original notifications pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 7, 1991, (56 FR 5021).

The last notification was filed with the Department on January 24, 1996. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 3, 1996, (61 FR 14817).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12323 Filed 5–15–96; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 94–59]

Robert M. Golden, M.D.; Revocation of Registration

On May 25, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Robert M. Golden, M.D., (Respondent) of Roswell, Georgia, notifying him of an opportunity to show cause as to why DEA should not revoke his Certification of Registration, AG6243125, under 21 U.S.C. 824(a), and deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f), for the reason that his continued registration would be inconsistent with the public interest.

On July 18, 1994, the Respondent, through counsel, filed a timely request for a hearing, and following prehearing procedures, a hearing was held in Atlanta, Georgia, on April 4–6, 1995, before Administrative Law Judge Paul A. Tenney. At the hearing, both parties called witnesses to testify and introduced documentary evidence, and after the hearing, counsel for both sides submitted proposed findings of fact, conclusions of law and argument. On August 4, 1995, Judge Tenney issued his Findings of Fact, Conclusions of Law, and Recommended Ruling, recommending that the Respondent's registration be suspended for one year, and after the one-year period of suspension, that the registration be limited to prescribing Schedules IV and V controlled substances only, "perhaps in an institutional setting." Both parties filed exceptions to his decision, and on September 13, 1995, the record of these proceedings and Judge Tenney's opinion were transmitted to the Deputy Administrator. On February 26, 1996, the Respondent filed with the Deputy Administrator a Motion to Reopen Evidence. By letter dated February 27, 1996, the Deputy Administrator afforded the Government an opportunity to respond to the Respondent's motion, and on March 27, 1996, the Government filed a response to the motion.

The Deputy Administrator has fully considered the record, to include the Respondent's Motion to Reopen, in its entirety, and pursuant to 21 C.F.R. 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts the Findings of Fact, Conclusions of Law, and Recommended Ruling of the Administrative Law Judge, with specifically noted exceptions, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that on September 6, 1990, the Respondent was issued a DEA Certificate of Registration, number AG6243125, authorizing him to handle controlled substances in Schedules IV and V as a practitioner. This registration was due to expire on September 30, 1993, and on August 17, 1993, the Respondent filed an application to renew his registration. In block 2b of that application, the Respondent wrote that in 1986 his Georgia license had been acted upon concerning his handling of Schedules II and III controlled substances, but that he was "currently off probation."

Further investigation disclosed that disciplinary action was taken against the Respondent by the Georgia State Board of Medical Examiners (Board) pursuant to a Consent Order dated April 1, 1987. Although the order noted that "[t]his agreement is not an admission of wrongdoing for any purpose other than resolving the matters pending before the Board," and noted that the "Respondent waives any further findings of fact," the matters resolved included, among other things, allegations of recordkeeping violations, the prescribing or dispensing of controlled substances while not acting in the usual course of professional practice, and the prescribing or ordering of controlled substances for an illegitimate medical purpose. As a result of the consent order, the Respondent's medical license was placed on probation for a period totalling four years, with terms and conditions of probation to include: (1) That the Respondent would not prescribe, administer, or dispense, in the course of his office practice, any Schedule II, IIN, III, or IIIN controlled substances; (2) that the Respondent would personally maintain a daily log of all Schedule IV controlled substances prescribed, administered, or dispensed in his office for at least one year; (3) that the Respondent participate in a program of continuing education with at least 100 hours focusing on drug abuse and/or pharmacology; (4) that the Respondent abide by all State and Federal laws relating to drugs with the Respondent's license subject to revocation; and (5) that the Respondent pay a fine of $5,000.00.

Before Judge Tenney, the Respondent testified that his state probation ended in 1990 or 1991, but that he had never requested reinstatement of his authorization to handle Schedule II or III controlled substances. No evidence to the contrary was presented by the Government. Therefore, the Deputy Administrator finds that the Respondent is currently authorized by the State of Georgia to handle only controlled substances in Schedules IV and V.

A Special Agent (Agent) for the DEA testified before Judge Tenney concerning an undercover operation he conducted involving the Respondent in 1985. Specifically, the Agent described three visits he made to the Respondent's office between April 9, 1985, and May 7, 1985. The parties do not dispute that the Respondent refused to prescribe Percodan for the Agent during the first visit. However, during the second visit the Respondent prescribed Halcion 0.5 mg, and during the third visit the Respondent prescribed Valium, 10 mg, with one refill. Both Halcion and Valium are Schedule IV controlled substances. The Government asserted that the Respondent issued these prescriptions to the Agent without a legitimate medical purpose.

In the Fall of 1992, a Roswell Police Department Detective contacted a DEA Division Investigator (Investigator) and requested assistance in investigating the Respondent's prescribing activities. The Investigator testified before Judge Tenney that he was asked to interview a cooperating individual (CI), and he participated in a telephone conversation

with this individual on November 3, 1992. The CI told the Investigator that she was obtaining Xanax prescriptions from the Respondent, but that he would write these prescriptions in the names of other people "so he wouldn't create suspicion as to over prescribing." The parties stipulated that Xanax is a Schedule IV controlled substance. In a subsequent conversation with the CI, she told the Investigator that the prescriptions were issued in the names of two individuals, DT and AP.

Subsequently, a search warrant was obtained, and the patient records of, among others, the CI, AP, DT, and a Roswell Police Officer (Officer), who also participated in the investigation, were obtained from the Responsdent's office. Also, the Investigator visited local pharmacies and obtained prescriptions from them. Specifically, the Investigator testified that he did not locate any prescriptions for Xanax written in the CI's name during the relevant time period. However, he did obtain prescriptions in the name of AP dated in May of 1992, June 2, 1992, June 15, 1992, and September 17, 1992, (this date was stipulated to by the parties before Judge Tenney, for the prescription in question appears to be dated 7–17–92), for 2 mg Xanax, in an amount totalling 180 dosage units. The Investigator also retrieved prescriptions in the name of DT, one dated April 27, 1992, for 30 dosage units of Xanax 1 mg, and three others dated July 21, 1992, July 31, 1992, and August 20, 1992, for a total of 150 dosage units of Xanax, 2 mg.

The Investigator also testified that in March of 1993, he telephonically interviewed DT. DT told the Investigator that he had visited the Respondent one time in April of 1992, and that the CI was with him during that visit. DT stated that his purpose in seeing the Respondent in April of 1992 was to receive a prescription for the CI written in DT's name. He further stated that he had not seen the Respondent since that April 1992 visit to this office. DT told the Investigator that the Respondent "delivered, hand delivered, [subsequent prescriptions] in his name to [the CI] down at Kroger parking lot." DT then told Investigator that the CI would pick him up, "and they would go get the prescription filled for the [Xanax]." However, the Investigator testified that he did not ask DT what happened to the pills after the prescriptions were filled, although the Investigator testified that since DT told him the purpose of his visit with the Respondent was to obtain prescriptions for the CI, he assumed the pills were also for the CI. The Investigator was also aware that DT worked for the CI's husband.

The CI testified consistently with DT's testimony concerning this practice. Furthermore, a Roswell Police Officer (Officer) also testified before Judge Tenney, stating that in November of 1992, she had interviewed DT. DT had told her that, after his initial visit, accompanied by the CI, with the Respondent, the CI would hen "just have to call [the Respondent,] and he would write a prescription in [DT's] name and [the CI] would meet [DT] and they would get the prescriptions filled together." DT also told the Officer that after the prescriptions were filled, he "would take a portion of the prescription, 8 to 10 tablets, and then [the CI] would get the rest of them."

Further, DT's patient chart obtained from the Respondent's office consisted of a medical history form dated April 27, 1992, on which was noted that the reason for the visit was "anxiety." Attached to the medical history form was a medical evaluation form, also dated April 27, 1992, which noted a medical treatment plan of prescribing Xanax, 1 mg, without refill. The third page of DT's chart contains annotations dated August 20, 1992, and September 23, 1992, noting "recurrent anxiety." On August 20, 1992, a prescription for 30 dosage units of Xanax, 2 mg with one refill was authorized, and on September 23, 1992, the chart notes that a prescription for 30 dosage units of Xanax, 2 mg with one refill was also issued. The August entry also contains a notation of "130/80." However, there are no chart entries dated July 21 or 31, 1992. When asked if he saw DT on those dates, the Respondent answered, "if I wrote the prescriptions, handwritten, then I did see him." However, Judge Tenney noted that "[t]he testimony of the Respondent concerning [DT's] anxiety is sketchy, and his statement was said with little sincerity." The Deputy Administrator agrees that the record supports Judge Tenney's credibility finding on this point. Finally, the Deputy Administrator notes that DT was present and available at the hearing before Judge Tenney, but that neither party called him to be a witness.

The CI testified before Judge Tenney, stating that she had been a patient of the Respondent's since approximately 1986 or 1987. Sometime prior to 1992, she entered a drug rehabilitation program, and she testified that her husband had informed the Respondent that she "was a drug addict and told him not to ever see [her] again." However, the CI testified that she resumed seeing the Respondent, and in April of 1992, she asked the Respondent to write prescriptions for her in the name of other people in order to avoid problems with her husband. Specifically, she asked him to write Xanax prescriptions in DT's name, and later, in AP's name. The CI testified that the Respondent did not maintain a patient chart for her during this time, and he did not do any medical examinations or tests. The CI's patient chart obtained from the Respondent's office contains no entries dated later than July 2, 1991. However she stated that she was present when the Respondent gave her prescriptions in the name of other people, and that the Respondent had written her prescriptions in the name of DT approximately four or five times.

Further, the CI testified about contacts she had made with the Respondent under surveillance by the police on October 1, 1992, and on October 20, 1992. As to the visit on October 20, 1992, the CI testified that she accompanied AP into the Respondent's office, that she wore a concealed transmitter, that a tape and transcript were made of the meeting, and that the transcript offered into evidence was an accurate version of the transaction. The Respondent had no objection to the admission into evidence of the transcript.

Further, a detective with the Roswell Police Department (Detective) testified before Judge Tenney that on October 20, 1992, he monitored through the concealed transmitter AP and the CI enter the Respondent's office. During the course of this visit, the CI remained in the treatment room with AP and the Respondent, and the CI told the Respondent "I brought [AP] so *we* could get a script." The Respondent asked " * * * uh, so you need like Xanax?" Then AP stated "[t]hat would be cool," and the CI added "[y]ea." During the course of the conversation AP informed the Respondent, "I don't have any cash on me today," and the CI told the Respondent, "Umm, well I'm pay'in ya. * * *." The CI stated, "[n]ow you won't have to see [AP] again if you want to give another refill?" The Respondent replied, "Well I put a refill on it so you['re] all good with that," to which the CI replied, "OK OK but, alright how much is that[?]". The Respondent replied, "uh, thirty." The CI asked again, "[s]o what do I owe you?" The Respondent then said "Uh, one hundred even." The transaction took approximately 15 minutes, and a prescription for 30 dosage units of Xanax, 2 mg, with one refill authorized, was written in AP's name. The prescription was recorded in AP's patient chart with a notation of "recurrent anxiety." However, the

Detective testified that, after the CI and AP left the Respondent's office, the CI actually gave the Xanax prescription to the police. The CI's testimony concerning these events was consistent with the Detective's testimony. The CI also testified that the Respondent had handed the prescription to her.

On cross-examination, the CI reviewed prescription survey materials presented by the Respondent, including a summary of prescriptions which the CI had received from other physicians or dentists between January of 1991 and October 28, 1992. The CI testified that she had filled these prescriptions and had consumed the medications, denying that she had sold any of the substances. The CI also stated that the prescribing physicians had conducted physical examinations prior to issuing the listed prescriptions, and that the dentists had prescribed the medication because of numerous root canal procedures she had undergone. Finally, she testified that "[t]he only doctor I ever used was [the Respondent] because he made it easy."

As to the October 1, 1992 incident, the Detective testified that the CI, wearing a transmitter, met with the Respondent in the parking lot of a Dunkin' Dounuts, as had been prearranged. Although a tape recording was made of this visit, the Detective testified that the tape recording was misplaced. However, the Detective testified that the CI was trying to obtain a prescription for Xanax from the Respondent, and that he had refused to give her such a prescription. The CI's testimony agreed with the Detective's version of these events.

However, the Detective also testified that on that date the CI did obtain a bottle of a non-controlled substance, Fioricet, which she turned over to the Detective's assistant just after the meeting with the Respondent. However, this bottle of pills was also misplaced by the Roswell Police Department. Further, the Respondent testified concerning the Fioricet, denying that he had given the CI this bottle of pills. Unlike Judge Tenney's finding on this point, the Deputy Administrator finds the evidence concerning the Fioricet inconclusive.

The Detective also testified that he had interviewed AP, and that she had agreed to assist the Roswell Police with their investigation. The Detective testified that he was aware that AP was a "drug dealer" or "drug user," or "drug abuser," prior to using her in an undercover capacity in this investigation. The Detective also testified that he was aware that AP "had a previous criminal history."

The record revealed that AP prepared a patient history form for the Respondent dated May 19, 1992, and that she had received prescriptions for Xanax from the Respondent during the course of her treatment in May, June, and September of 1992. AP's patient chart contains an entry dated September 17, 1992, noting a Xanax prescription and "anxiety recurrent," and an entry dated October 20, 1992, noting a Xanax prescription, and also noting "recurrent anxiety."

Further, a Roswell Police Officer (Officer) testified before Judge Tenney, stating that on September 23, 1992, she accompanied AP into the Respondent's office for the purpose of obtaining a prescription for Xanax. AP wore a transmitter during this visit. The Officer testified, and the Respondent's counsel stipulated to, the accuracy of the transcription made of the tape recording of this visit.

Further, although the Officer did not wear a transmitter, she testified concerning her transaction with the Respondent, stating that the Respondent did not ask her questions about her medical condition or history, although this was her first visit to the Respondent's office. The Officer testified that she had told the Respondent that she was "adjusting to moving back in with [her] parents," but that she did not discuss any psychological problems. The Officer also testified that she did not exhibit any behavior such as trembling or shaking, restlessness, or shortness of breath, but rather maintained a calm demeanor. Her blood pressure was taken, and the Respondent told her "it was good." The entire transaction took "no more than five to ten minutes." The Respondent gave the Officer a prescription for Xanax. 1 mg, 30 dosage units, without a refill. The Officer also testified that she paid forty dollars for this visit.

Next, the Officer testified that on October 15, 1992, she returned to the Respondent's office wearing a transmitter. Her transaction with the Respondent was recorded, and a transcription of the recording was entered into the record without objection and stipulated to by the Respondent's counsel. The Officer testified that during this transaction, in which she spent five to seven minutes with the Respondent, she was not exhibiting any signs of nervousness, but rather maintained a calm and relaxed demeanor. The Officer told the Respondent that she was feeling fine. However, she asked that the Xanax dosage be increased to the 2 milligram strength. Without conducting any form of medical examination or test, or without discussing the medical basis for the Officer's request for a stronger dosage (i.e. change in physical or psychological condition that might justify the new dosage), the Respondent gave her a prescription for 30 Xanax, 2 mg. However, when he was asked to put a refill on the prescription, he stated "um, on this type of drug I generally don't like to because it's a controlled drug. * * * And because you're getting the two, that's like double strength. * * * If you got the one, I would probably refill it. * * * What you could do is just split them in half (inaudible)." The Officer paid the Respondent forty dollars at the conclusion of this transaction.

The Officer's medical chart retrieved from the Respondent's office showed an entry dated September 23, 1992, noting that the Officer had a history of personal problems, and the Xanax prescription was entered. Further, a second entry for October 15, 1992, noted that she was "doing well on meds.", and the Xanax prescription was noted.

The Respondent testified before Judge Tenney. First, as to his treatment of AP, he stated that he had diagnosed AP as being moderately obese and with "generalized anxiety disorder." He also stated that he had no information, when he began treating her, that she might be deceiving him. Rather, he testified that he prescribed Xanax for AP for "[i]t is clearly the drug of choice for any anxiety." He also testified that the prescriptions he gave AP for Xanax were medically necessary, and he denied having any arrangements to give her prescriptions for substances "without any medical necessity." For example, he testified that during the September 23, 1992 visit, AP had described herself as "a nervous wreck," consistent with previous expressions of her condition. Based upon his observation of her behavior and her comments, he prescribed Xanax for her, for it was medically necessary. He also recalled that on one occasion AP came into his office with the CI, but that on that visit, he had given the Xanax prescription to AP, and that that prescription was also medically necessary based on her condition. He denied having any idea that AP was going to give that prescription to the CI or divide the medications with her.

Concerning the visit of October 20, 1992, the Respondent testified that, at the time, he did not question the CI's statement "I brought [AP] so *we* could get a script," and even though the CI paid for AP and herself, the Respondent interpreted that as "she was paying for her friend also * * * which is not unusual. I have people paying for other people all the time." The Respondent testified that he thought AP was truthful and genuine.

The Respondent also testified about his treatment of DT. He stated that DT had the classic symptoms for generalized anxiety disorder, which was consistent with DT's complaint recorded on his patient intake form. The Respondent also stated that he did not have any knowledge that DT "was faking his condition," or that he was dividing pills with the CI. Rather, the Respondent found DT to be truthful and genuine. The Respondent opined that the prescriptions he had given to DT were medically necessary. However, the Respondent acknowledged that the prescriptions written to DT on July 21, 1992, and July 31, 1992, do not appear in his patient chart. Further, when Government counsel asked him if he could tell whether he actually saw DT on July 21 and July 31, the Respondent replied, "[i]f I wrote the prescriptions, handwritten, then I did see him."

The Respondent testified that he had reviewed all of the taped transactions between himself and AP, DT, the CI, and the Officer. He testified that the taped transactions showed that he had not discussed using drugs for recreational purposes with any of these individuals.

Next, the Respondent testified about his treatment of the CI, noting that the CI first became his patient in approximately 1985, that he became aware that the CI had undergone treatment for drug addiction, and that from 1991 to the date of the hearing, he had not written prescriptions for controlled substances for the CI. He denied having any arrangement with the CI or providing her with prescriptions for controlled substances either directly or indirectly.

The Respondent also offered into evidence a prescription profile pertaining to the CI. After he collected the survey from local pharmacies, he contacted two of the doctors concerning their prescribing practices to the CI. The Respondent testified that he wanted to determine whether the doctors were aware that the CI was obtaining controlled substances from various other doctors during this time period. He testified that, prior to 1993, he had assumed the CI was not seeing other doctors. However, other than these two doctors, the Respondent testified he did not contact any of the other doctors listed on the prescription profile.

The Respondent also testified about treating the Officer. He stated that when the Officer presented herself as a patient, he was unaware that she was not telling him the truth. Rather, she appeared to be truthful and genuine. After taking her history and observing her, he diagnosed her with general anxiety disorder. Also, he recalled that she had told him, "that she either was unemployed or had lost her job. She had a lot of stress at home, a lot of family stress, a lot of job stress. That she was going to be forced to * * * move back home because of her lack of employment. She was very upset, very nervous."

Further, the Respondent testified that during the visit on October 15, he had no idea that he was giving the Officer a prescription for a drug for other than medical use. The Respondent also opined that, when the Officer told him she was feeling fine, she meant that she was feeling fine on the medication. He denied that the Officer was exhibiting drug seeking behavior, and he opined that her request for a stronger dosage of Xanax, despite "feeling fine" on the previous prescription, was not suspect behavior.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke the Respondent's DEA Certificate of Registration, and deny any pending applications, if he determines that the continued registration would be inconsistent with the public interest. Section 823(f) provides the following relevant factors for consideration in determining the public interest:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

In this case, all five factors are relevant. As to factor one, "recommendation of the appropriate State licensing board," in 1987, the Board took disciplinary action in response to allegations of wrongdoing by the Respondent related to controlled substances. However, under the terms of the consent order between the Respondent and the Board, the agreement was not an admission of wrongdoing, and further fact finding was waived. The probation period ordered by the Board expired in approximately 1991. Further, the Deputy Administrator notes that there is no evidence of any recommendation by the Board responsive to the matters raised in this proceeding.

As to factor two, the Respondent's "experience in dispensing * * * controlled substances," and factor four, the Respondent's "[c]ompliance with applicable State, Federal, or local laws relating to controlled substances," it is significant that, to be effective, a prescription for a controlled substance "must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice." 21 CFR 1306.04(4). Also, a prescription for a controlled substance "shall bear the full name and address of the patient. * * *" 21 CFR 1306.05.

Despite the Respondent's testimony and arguments to the contrary, Judge Tenney found that the "evidence proves that the Respondent prescribed Xanax in [AP's] name on October 20, 1992, with full knowledge that [the CI] was an intended recipient of that controlled substance." Judge Tenney found, and the Deputy Administrator agrees, that the transcript of that transaction revealed the following: (1) That the CI stated, "I brought April so *we* could get a script"; (2) that both the CI and AP affirmatively responded to the Respondent's question, "so you need like Xanax. (unintell)?"; (3) that the CI paid for the Xanax prescription; and (4) that the CI inquired as to whether AP would have to be seen again in order for the Xanax prescription to be refilled, with the Respondent explaining that he had put a refill on the prescription "so you['re] all good with that." Further, both the CI and the Detective testified that, after the CI and AP left the Respondent's office, it was the CI who handed the Xanax prescription to the police. Therefore, the Deputy Administrator agrees with Judge Tenney's conclusion that "[a]ll of these excerpts indicate knowledge on the part of the Respondent that [the CI] was to receive the Xanax," not the patient actually named on the prescription. The Deputy Administrator also agrees with Judge Tenney, that such a prescribing practice violates DEA regulations.

However, the Deputy Administrator also finds relevant the Respondent's prescribing practices pertaining to DT and the Officer. The Respondent

testified that his prescribing to DT and the Officer were for legitimate medical purposes responsive to their medical conditions. Assuming, arguendo, that the Respondent prescribed Xanax for DT's use and not the CI's, then the Deputy Administrator makes the following findings. First, after the initial office visit of DT and the Officer, the Respondent prescribed 30 dosage units of Xanax, 1 mg strength, without refill. However, in subsequent instances involving both individuals, the Respondent increased the Xanax strength to the 2 mg strength without providing a medical purpose other than the fact that the patient asked for an increased dosage. Neither patient's chart reflects a contemporaneous entry of a medical indication which would justify the increased strength of the medication, either from medical tests performed, or from a change in medical history provided by the patient. Also, DT testified that the Respondent increased his dosage strength without DT actually seeing him.

When questioned before Judge Tenney, the Respondent failed to provide any medical justification for such prescribing. Although DT's medical chart fails to note any entries on July 21, 1992, or July 31, 1992, the Respondent issued prescriptions to DT on July 21, 1992, July 31, 1992, and August 20, 1992, which, including authorized refills, totalled 150 dosage units of Xanax, 2 mg. Further, the record contains the following dosage information about Xanax from the Physicians' Desk Reference at page 2370:

> Treatment for patients with anxiety should be initiated with a dose of 0.25 to 0.5 mg given three times daily. The dose may be increased to achieve a maximum therapeutic effect, at intervals of 3 to 4 days, to a maximum daily dose of 4 mg, given in divided doses. The lowest possible effective dose should be employed and the need for continued treatment reassessed frequently. The risk of dependence may increase with dose and duration of treatment.

Yet in this 30 day period of time, the Respondent provided DT with prescriptions for 150 dosage units of Xanax 2 mg., which, if consumed in "divided doses", would equal 10 mg a day, over twice that recommended.

Although no expert medical evidence was presented to assist the Deputy Administrator in reaching a conclusion concerning the legitimate medical purpose for such prescribing in either the case of DT or the Officer, the Deputy Administrator finds significant that the Respondent has failed to provide any medical purpose for increasing the dosage strength. Thus, the evidence merely demonstrates that the increase is a result of his patients' requests, rather than the result of the application of the physician's medical judgment. Under these circumstances, the Deputy Administrator previously has found that such a prescribing practice, when a patient's demands replace the physician's judgment, equated to issuing prescriptions without a legitimate medical purpose. See Robert L. Dougherty, Jr., M.D., 60 FR 55047 (1995); Harland J. Borcherding, D.O., 60 FR 28796 (1995).

As to factor three, the Respondent's "conviction record under Federal or State laws relating to the * * * dispensing of controlled substances," the Deputy Administrator notes that there is no evidence of any "conviction record" pertaining to the Respondent.

Finally, as to factor five, "[s]uch other conduct which may threaten the public health or safety," the Deputy Administrator finds it relevant that the Respondent, knowing that the CI had been treated for drug abuse, facilitated her access to controlled substances. Further, he did not investigate whether the CI had received other prescriptions for controlled substances at the same time that he was providing her access to such medications until 1993, and arguably then only out of his own self-interest. Therefore, the Deputy Administrator agrees with Judge Tenney in concluding that the Government has provided preponderating evidence that a basis exists to find the Respondent's continued registration inconsistent with the "public interest."

Yet Judge Tenney found that the Respondent's violations concerning the CI involved isolated misconduct, and he found that the "limited nature of the Respondent's conduct mitigates in his favor." However, the Deputy Administrator disagrees with this conclusion. The Respondent's conduct relating to the CI, a known drug abuser, coupled with his prescribing practices for DT and the Officer, demonstrate cavalier behavior regarding controlled substances. Further, throughout the proceedings before Judge Tenney, the Respondent did not acknowledge any possibility of questionable conduct in his prescribing practices, to include his treatment of the CI, DT, or the Officer. The Deputy Administrator was provided no basis to conclude that the Respondent would lawfully handle controlled substances in the future. Revocation is the appropriate remedy under such circumstances. See Leo R. Miller, M.D., 53 FR 21932 (1988) (noting that the revocation of a DEA Certificate of Registration "is a remedial measure, based upon the public interest and the necessity to protect the public from those individuals who have misused * * * their DEA Certificate of Registration and who have not presented sufficient mitigating evidence to assure the Administrator that they can be trusted with the responsibility carried by such a registration"); see also *Konstantin* v. *DEA*, 1955 U.S. App. Lexis 3005 (9th Cir. 1995) (holding that the Administrator did not abuse his discretion in increasing the sanction imposed on Dr. Konstantin); *River Forest Pharmacy, Inc.* v. *DEA*, 501 F.2d 1202 (7th Cir. 1974), (holding that the Acting Administrator's increase of sanction over that recommended by the Administrative Law Judge was not an abuse of discretion).

Further, the Deputy Administrator notes that he has discretionary authority to request that the Administrative Law Judge reopen the record to receive newly discovered evidence on the basis that a final order must be issued based upon a full and fair record. See 5 U.S.C. 556; 21 U.S.C. 824(c); 21 CFR 1316.67. However, to prevail on such a motion, the moving party must show that the evidence sought to be introduced (1) was previously unavailable and (2) would be material and relevant to the matters in dispute. See, e.g., *I.N.S.* v. *Abudu*, 485 U.S. 94, 108 S.Ct. 904, 99 L.Ed. 2d 90 (1988) (finding that a motion to reopen an administrative record is analogous to "a motion for a new trial in a criminal case on the basis of newly discovered evidence, as to which courts have uniformly held that the moving party bears a heavy burden"); see generally, Charles H. Koch, Jr., Administrative Law and Practice, 6.74 (1995 & Supp. 1996) and cases cited therein.

Here, the Respondent has requested to reopen the record so that he can submit enumerated items of evidence. Yet he does not assert whether or not any of this evidence was unavailable to him prior to the closing of the record, and he does not provide any assertions as to the relevancy of the proposed evidence. However, the Deputy Administrator has considered these issues and makes the following findings.

As for the request to reopen the record so that the Respondent can explore the credibility of DT and AP, the Deputy Administrator finds that the Respondent had adequate notice and opportunity prehearing to explore their credibility. DT was even available at the hearing, but the Respondent did not call him. As to AP's criminal record, the Detective testified that AP had such a record. Also, the Respondent was notified prehearing that AP could be contacted through her probation officer. Given the Respondent's prehearing opportunities, the Deputy Administrator finds that the Respondent has failed to satisfy the burden necessary to reopen the record on this basis.

Next, the Respondent seeks to reopen the evidence in order to cross examine a witness, HH, concerning her drug dealing activities during her association with the Respondent in the summer of 1992. However, the facts concerning her involvement, and subissues involving other employees of the Respondent, were not relied upon by Judge Tenney nor by the Deputy Administrator in reaching a determination of this case. Further, the Respondent does not provide a basis for asserting that HH's credibility would be material in resolving this matter. Therefore, the Deputy Administrator concludes that such impeachment evidence would not be relevant so as to provide a basis to reopen the record.

Next, the Respondent seeks to reopen the evidence in order to present testimony from other physicians, whom he claims will testify about being deceived by the CI when they prescribed controlled substances to her during the relevant period of 1992. The Deputy Administrator notes that the Respondent had access to this information prehearing, for he introduced into the record the prescription survey which identified the prescribing physicians, and he testified concerning his interview of some of these physicians. Further, the Respondent did not assert that the testimony of these physicians was previously unavailable. Therefore, the Respondent has failed to meet the requirements to reopen the record on this basis.

The Respondent also asserted that the Roswell police intentionally destroyed or disposed of exculpatory evidence, to include a tape recording of the CI's and the Respondent's telephone conversations on September 17, 1992, and on October 1, 1992, and the transcript of the transaction that occurred on October 1, 1992, when the Respondent refused to provide the CI with a prescription for Xanax. Yet the Deputy Administrator notes that there is no dispute that the Respondent refused to provide the CI with a Xanax prescription on October 1, 1992. Further, the Respondent presented no evidentiary basis for his belief of intentional destruction of evidence. He also failed to demonstrate how the evidence he now proposes to introduce into the record on this point would be material. Therefore, the Respondent failed to meet his burden in reopening the record on this basis.

Finally, the Respondent asserts that the transcripts of the tape recordings from the September 23, 1992, transaction were not accurate. Yet the Respondent had access to the tape recordings and the transcripts well before the hearing in this matter. Again, the Respondent failed to establish the requisite basis for reopening the record. Accordingly, the Deputy Administrator denies the Respondent's motion to reopen the record.

Both the Respondent and the Government filed exceptions to Judge Tenney's opinion, and the Deputy Administrator has considered these exceptions. The exceptions were extensive, are a part of the record, and accordingly shall not be restated at length herein.

However, the Deputy Administrator finds no merit in the Respondent's exceptions, for the Respondent merely reargued his case and his interpretation of the credibility and sufficiency of the evidence of record. For example, as to the incident on October 20, 1992, involving the Respondent, AP, and CI, the Respondent takes exception to Judge Tenney's conclusion that the Respondent provided a prescription in the name of AP for the CI's use. The Respondent argues that it is significant that the transcript reflects that all of the statements relied upon by Judge Tenney originated from the CI, not the Respondent. What is significant is the Respondent's actions in light of the CI's statements, not his dialogue. Specifically, despite the CI's language indicating her intent regarding the prescription, the Respondent issued the prescription in AP's name, thus providing the CI with the means to facilitate her intention. As previously written, the Deputy Administrator has considered the Respondent's arguments and found that they were not persuasive.

Likewise, the Deputy Administrator finds that the Government's exception to Judge Tenney's finding concerning the Agent in 1985 also lacked merit. The Deputy Administrator notes that the conversations between the Agent and the Respondent, and the interpretation of the meaning of those conversations, were strongly contested issues. Since the transactions occurred over ten years prior to the hearing in this matter, the Record demonstrates that the Agent's recollection and resulting testimony before Judge Tenney understandably lacked precision. Although tape recordings and transcripts were made at the time, the DEA destroyed them in the normal course of business. Therefore, the Deputy Administrator agrees with Judge Tenney, that "[a] tape or transcript of the undercover visits, revealing the precise language used by [the Agent] and the Respondent would be critical in determining whether the medication was legitimately prescribed." Given the state of the record, Judge Tenney concluded, and the Deputy Administrator concurs, that "a preponderance of the evidence does not support a finding that the medication was prescribed to the Agent for an illegitimate purpose."

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823, and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, AG6243125, previously issued to Robert M. Golden, M.D. be, and it hereby is, revoked, and any pending applications are hereby denied. This order is effective June 17, 1996.

Dated: May 10, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–12231 Filed 5–15–96; 8:45 am]

BILLING CODE 4410–09–M

[DEA # 147F]

Controlled Substances: 1996 Aggregate Production Quotas

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of final revised 1996 aggregate production quotas.

SUMMARY: The interim notice (61 FR 14336, April 1, 1996) which established revised 1996 aggregate production quotas for amobarbital and hydromorphone, Schedule II controlled substances, as required under the Controlled Substances Act (CSA) (21 U.S.C. 826), is adopted without change.

DATES: This order is effective on May 16, 1996.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act, (21 U.S.C. 826), requires the Attorney General to establish aggregate production quotas for controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the DEA pursuant to Section 0.100 of Title 28 of the Code of Federal Regulations. The Administrator in turn, has redelegated this function to the Deputy Administrator of the DEA pursuant to

Section 0.104 of Title 28 of the Code of Federal Regulations.

On April 1, 1996, an interim notice establishing revised 1996 aggregate production quotas for amobarbital and hydromorphone was published in the **Federal Register** (61 FR 11063). All interested persons were invited to comment on or object to these proposed aggregate production quotas on or before May 1, 1996. Since no comments or objections were received, the interim notice is adopted without change.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international treaty obligations. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826), delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations, and redelegated to the Deputy Administrator, pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations, the Deputy Administrator hereby orders that the revised 1996 aggregate production quotas for the listed controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

Basic class	Established revised 1996 quota
Amobarbital	301,000
Hydromorphone	718,000

Dated: May 9, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–12272 Filed 5–15–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of April, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–32,058; Keystone Brewers, Inc., DBA Pittsburgh Brewing Co., Pittsburgh, PA

TA–W–31,991; General Railway Signal Corp., SADIB Div., Rochester, NY

TA–W–31,932; Hines Oregon Millwork Enterprises, Hines, OR

TA–W–31,936; Boise Cascade Corp., Vancouver, WA

TA–W–32,145; Tampella Power Corp., Williamsport, PA

TA–W–31,929; Hollander Home Fashions Corp., Rogers, AR

TA–W–32,020; Holliston-Mills, Inc., Kingsport, TN

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–32,053; General Mirror Corp., Flifton, NJ

TA–W–31,994; Silgan Containers Corp., Hillsboro, OR

TA–W–32,098; OshKosh B'Gosh, Columbia Cutting, Columbia, KY

TA–W–32,049; Lifeline Manufacturing, Inc., Swainsboro, GA

TA–W–32,033; 3M Company, Data Storage Products, Wahpeton, ND

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–32,229; Fashion Development Center, Inc., El Paso, TX

TA–W–31,986; Alemeda Equipment Co., Inc., Master Equipment Center, Amherst, NY

TA–W–31,924; Marine Transport Lines, Inc., Weehawken, NJ

TA–W–32,069; Turnkey Services, El Paso, TX, Workers Leasted to And Working At Thompson Consumer Electronics, El Paso, TX

TA–W–32,031; Brown Group, Inc., Cloth World Div., Clayton, MO

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–31,945; FMC/Crosby Valve & Gage Co., Wretham, MA

The investigation revealed that criterion (2) and criterion (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

TA–W–32,030; Allied Signal Aerospace Government Electronics Systems, South Montrose, PA: February 28, 1995.

TA–W–31,928; McAllen Separation Co., Mt. Gilead, NC: January 29, 1995.

TA–W–32,047; Laceyfair Mills Corp., Ratcliff, AR: February 23, 1995.

TA–W–32,228; Quintana Petroleum Products, Houston, TX: March 15, 1995.

TA–W–32,203; Tetile Networks, Inc., Knoxville, TN: February 6, 1995.

TA–W–32,217; C.R. Bard, Inc., Medical Div., Nogales, AZ: April 3, 1995.

TA–W–32,136; Softwear, Doniphan, MO: March 14, 1995.

TA–W–32,150; Wavetek Corp., San Diego, CA: March 15, 1995.

TA–W–32,064; Turbotville Dress, Inc., Turbotville, PA: March 1, 1995.

TA–W–32,072; BR Holding Ltd, Racine Steel, PA: March 12, 1995.

TA–W–32,037; Century Place, Inc., Cutting Div., Salisbury, NC: February 22, 1995.

TA–W–31,950; Raintree Buckles & Jewelry, Inc., North Hollywood, CA: February 6, 1995.

TA–W–32,077; SPX Corp., Kent-Moore Div., Jackson, MI: March 5, 1995.

TA–W–32,078; SPX Corp., Kent Moore Distribution Center, Roseville, MI: March 5, 1995.

TA–W–31,969; Hasbro Manufacturing Service, El Paso, TX: March 16, 1996.

TA–W–32,032; Oregon Cedar Products Co., Springfield, OR: February 15, 1995.

TA–W–32,035; Price Pfister, Racoima, CA: February 19, 1995.

TA–W–32,041; Manhattan Fashions, Inc., Union City, NJ: February 27, 1995.

TA–W–32,147; Terminal Fabrication, Inc., Freeport, IL: February 28, 1995.

TA–W–32,169; Diversified Apparel Resources, Inc., Pulaski, VA: March 21, 1995.

TA–W–32,204; Cenex, Inc., Bakersfield, CA: March 25, 1995.

TA–W–31,913; The Florsheim Shoe Co., Cape Girardeau, MO: May 17, 1995.

TA–W–32,174; Suzette Fashion, Jersey City, NJ: March 19, 1995.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of April, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) that a significant number or proportion of the workers in the workers; firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) that imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–00898; Oshkosh B'Gosh, Columbia Cutting, Columbia, KY

NAFTA–TAA–00845; Holliston Mills, Inc., Kingsport, TN

NAFTA–TAA–00874; 3M Company, Data Storage Products, Wahpeton, ND

NAFTA–TAA–00894; BR Holdings, Ltd., Racine Steel Castings, Racine, WI

NAFTA–TAA–00872; Western Interlock, Inc., Dallas, OR

NAFTA–TAA–00917 & A; SPX Corp., Kent-Moore Div., Jackson, MI, SPX Corp., Kent-Moore Distribution Center, Roseville, MI

NAFTA–TAA–00883; Tampella Power Corp., Williamsport, PA

NAFTA–TAA–00828; Raintree, Buckles & Jewelry, Inc., North Hollywood, CA

NAFTA–TAA–00863; Silgan Containers Corp., Hillsboro, OR

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–00862; Worldcrisa Corp., Wallingford, CT

NAFTA–TAA–00893; Panhandle Eastern Corp., d/b/a Panenergy Corp., Panhandle Eastern Pipe Line Div., Pan Service Co. Div., Trunkline Gas Co. Div., Houston, TX & Operating in Other States

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

NAFTA–TAA–00848; Pal Plastics Corp., Rochester, NY: February 21, 1995.

NAFTA–TAA–00878; Oregon Cedar Products Co., Springfield, OR: February 15, 1995.

NAFTA–TAA–00865; Century Place, Inc., Cutting Div., Salisbury, NC: February 22, 1995.

NAFTA–TAA–00884; Price Pfister, Pacoima, CA: February 29, 1995.

NAFTA–TAA–00888; W.R. Grace & Co.—Conn., Grace Construction Products, New Castle, PA: March 6, 1995.

NAFTA–TAA–00889; Sun Belt Fixtures, Inc., El Paso, TX: March 6, 1995.

NAFTA–TAA–00900; Reynolds Metal Co., Louisville, KY: March 13, 1995.

NAFTA–TAA–00823; Hasbro Manufacturing Services, El Paso, TX: February 1, 1995.

NAFTA–TAA–00928; United Technologies Automotive Wiring Systems Div., Plymouth, IN: March 22, 1995.

NAFTA–TAA–00880; Weyerhauser Co., Green Mountain Longview Lumber Unit, Longview, WA: March 1, 1995.

NAFTA–TAA–00956; Lindal Cedar Homes, Inc., Kent, WA: March 5, 1995.

NAFTA–TAA–00882; Elco Corp., Huntingdon, PA: March 4, 1995.

NAFTA–TAA–00897; Stapleton Garment Co., (Knight Industries), Stapleton, GA: March 11, 1995.

NAFTA–TAA–00903; United Technologies Automotive, Input Controls Div., St. Matthews, SC: March 14, 1995.

NAFTA–TAA–00908; UGG Holdings, Inc., Original American UHGS Co., Portland, OR: February 27, 1995.

I hereby certify that the aforementioned determinations were issued during the month of April 1996. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: April 26, 1996.

Russell Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–12295 Filed 5–15–96; 8:45 am]

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[TA–W–31, 500 & 500B]

Andover Togs, Incorporated, South Boston, Virginia and New York, New York; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 18, 1995, applicable to all workers of Andover Togs, Incorporated located in South Boston, Virginia. The notice was published in the **Federal Register** on November 9, 1995 (60 FR 56619).

At the request of petitioners, the Department reviewed the certification for workers of the subject firm. New information provided by the company shows that worker separations have occurred at the subject firms' New York City location. The workers provide administrative and support services for the Andover Togs children's apparel production facilities.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of apparel. Accordingly, the Department is amending the certification to cover the workers of Andover Togs, Incorporated, New York, New York.

The amended notice applicable to TA–W–31,500 is hereby issued as follows:

All workers of Andover Togs, Incorporated, South Boston, Virginia (TA–W–31,500), and New York, New York (TA–W–31,500B) engaged in employment related to the production of children's apparel who became totally or partially separated from employment on or after September 15, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 1st day of May 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–12294 Filed 5–15–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,844]

The Ertl Company, Dyersville, Iowa, Including Leased Workers of Employee Dynamics Inc., Dubuque, Iowa; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 26, 1996, applicable to all workers at The Ertl Company located in Dyersville, Iowa. The notice was published in the **Federal Register** on March 19, 1996 (61 FR 11224).

At the request of petitioners, the Department reviewed the certification for workers of the subject firm. Based on new findings, the Department is amending the certification to include leased workers from Employee Dynamics Inc., Dubuque, Iowa engaged in the production of toy products for the subject firm.

The intent of the Department's certification is to include all workers of The Ertl Company adversely affected by imports.

The amended notice applicable to TA–W–31,844 is hereby issued as follows:

All workers of the Ertl Company, Dyersville, Iowa, and workers of Employee Dynamics Inc., Dubuque, Iowa, engaged in the production of toy products for The Ertl Company, who became totally or partially separated from employment on or after January 12, 1995 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 1st day of May 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–12293 Filed 5–15–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–29,743 & 743G]

IBM Corporation, Enterprise Systems, Large Scale Computing Systems Division and its Successors, Poughkeepsie, New York and Integrated Systems Solutions Corporation (ISSC), Division #07 (Formerly Division #26), Wappingers Falls, New York; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

On March 23, 1995, the Department of Labor issued a Notice of Revised Determination on Reconsideration, applicable to all workers at IBM Corporation, Poughkeepsie, New York. The notice was published in the **Federal Register** on April 5, 1995 (60 FR 17371). The certification was subsequently amended to include other locations and divisions of the subject firm. The amended notices were published in the **Federal Register** on June 29, 1995 (60 FR 33850), and December 15, 1995 (60 FR 64454).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. New findings show that workers of the Wappingers Falls, New York location of Integrated Systems Solutions Corporation (ISSC), Division #07 (formerly Division #26), provided support services to IBM Corporation, Enterprise Systems, Large Scale Computing Systems Division. ISSC is a separate corporate entity wholly owned by IBM.

The intent of the Department's certification is to include all workers of the subject firm who are adversely affected by increased imports. Accordingly, the Department is again amending the certification to include the workers of ISSC, Division #07 (formerly Division #26), who provided support services to IBM.

The amended notice applicable to TA–W–29,743 is hereby issued as follows:

All workers of Enterprise Systems, Large Scale Computing Systems Division, and its successors, of IBM Corporation located in Poughkeepsie, New York (TA–W–29,743), and workers of Integrated Systems Solutions Corporation (ISSC), Division #07 (formerly Division #26), Wappingers Falls, New York providing support services to IBM Corporation, the Enterprise Systems, Large Scale Computing Systems Division, and its successors who became totally or partially separated from employment on or after March 23, 1993, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of April 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–12286 Filed 5–15–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31, 796]

Miller Brewing Company, Milwaukee Brewery, Milwaukee, Wisconsin; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of March 28, 1996, the petitioners, Brewery Workers Local 9, UAW (Amalgamated) AFL–CIO, requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers of the subject firm. The denial notice was signed on February 27, 1996, and published in the **Federal Register** on March 19, 1996 (61 FR 11224).

The petitioner presents evidence that the Department's analysis of U.S. imports of beer was incomplete.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 29th day of April 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–12287 Filed 5–15–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,799]

Pabst Brewing Company, Milwaukee, Wisconsin; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of March 28, 1996, the petitioners, Brewery Workers Local 9, UAW (Amalgamated) AFL–CIO, requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers of the subject firm. The denial notice was signed on February 27, 1996, and published in the **Federal Register** on March 19, 1996 (61 FR 11224).

The Union presents evidence that the Department's analysis of U.S. imports of beer was incomplete.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 29th day of April 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–12288 Filed 5–15–96; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than May 28, 1996.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than May 28, 1996.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of April, 1996.

Russell Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX—PETITIONS INSTITUTED ON 04/22/96

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
32,238	Vishau-Sprague, Inc (Wkrs)	Sanford, ME	04/03/96	Capacitors.
32,239	American Apparel, Inc (Wkrs)	Knoxville, TN	04/05/96	Various Styles of T-Shirts.
32,240	Connie Rose Mfg (UNITE)	Philadelphia, PA	04/08/96	Bathing Suits.
32,241	HIP Industries (UNITE)	Hatboro, PA	04/08/96	Children's Clothing.
32,242	Jeff Richards, Inc (UNITE)	Philadelphia, PA	04/04/96	Children's Clothes.
32,243	Pepe International, Inc (Wkrs)	Houston, TX	03/25/96	Package Various Turn-Key.
32,244	Style Sportswear (UNITE)	Paterson, NJ	04/04/96	Ladies' Coats.
32,245	Super Craft (UNITE)	Garfield, NJ	04/11/96	Ladies' Coats.
32,246	P.A.M. Coat, Inc (UNITE)	West New York, NJ	04/11/96	Ladies Coats.
32,247	Miss Quality (UNITE)	Philadelphia, PA	04/09/96	Children's Clothing.
32,248	Capital Management (Wkrs)	Tulsa, OK	03/13/96	Oil and Gas.
32,249	J & W Garment Factory (Comp)	Scotts Hill, TN	04/03/96	Pants, Shorts.
32,250	R & N (UNITE)	Hatboro, PA	04/12/96	Children's Clothing.
32,251	Trout Creek Lumber (Wkrs)	Trout Creek, MT	03/26/96	Softwood Lumber.
32,252	Penn Virginia Oil & Gas (Wkrs)	Kingsport, TN	04/09/96	Oil & Gas.
32,253	Pioneer Mfg., Inc (Comp)	Salisbury, NC	04/09/96	Boy's Dress Clothing, Suit Coats & Pants.
32,254	CHF Industries (UNITE)	New Bedford, MA	03/18/96	Curtains & Draperies.
32,255	General Electric Co (IUE)	Hickory, NC	03/20/96	Residential Electrical Transformers.
32,256	Colgate Palmolive (ICWU)	Jefferson, IN	04/04/96	Dishwashing Detergents.
32,257	Salem Screen South (Wkrs)	Florence, AL	03/15/96	T-Shirt Screenprinting.
32,258	National Refurbishing Cnt (Wkrs).	Carol Stream, IL	04/03/96	Repair Consumer Electronics.
32,259	Ronnie Mfg Co., Inc (Wkrs)	New Bedford, MA	04/08/96	Ladies' Sportswear.
32,260	Buster Brown Apparel (Comp)	Chattanooga, TN	04/15/96	Children's Apparel.
32,261	United Technologies Auto (Wkrs).	Plymouth, IN	04/09/96	Wire Harnesses.
32,262	Zena Enterprises (Wkrs)	New York, NY	04/09/96	Jeans, Pants, Dresses, Jackets, Skirts.

APPENDIX—PETITIONS INSTITUTED ON 04/22/96—Continued

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
32,263	CTS Corp (Wkrs)	Brownsville, TX	04/03/96	Speakers, Variable Resistors & Switches.
32,264	United Technologies (Comp)	Morganfield, KY	02/21/96	Auto Interior Plastic Consoles.

[FR Doc. 96–12296 Filed 5–15–96; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–31,627 and 627A]

Willits Footwear Worldwide, Newville Division, Newville, Pennsylvania and Halifax, Pennsylvania; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 18, 1996, applicable to all workers of Willits Footwear Worldwide, Newville Division, Newville, Pennsylvania. The notice was published in the **Federal Register** on February 6, 1996 (61 FR 4486).

At the request of petitioners, the Department reviewed the certification for workers of the subject firm. New information provided by the company shows that worker separations have occurred at the subject firms, Halifax, Pennsylvania location. The workers are engaged in the production of shoes and provide administrative and support services for Willits Footwear Worldwide manufacturing facilities.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of shoes. Accordingly, the Department is amending the certification to cover the workers of Willits Footwear Worldwide, Halifax, Pennsylvania.

The amended notice applicable to TA–W–31,627 is hereby issued as follows:

All workers of Willits Footwear Worldwide, Newville Division, Newville, Pennsylvania (TA–W–31,627), and Halifax, Pennsylvania (TA–W–31,627A) engaged in employment related to the production of shoes who became totally or partially separated from employment on or after November 1, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 2nd day of May 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–12292 Filed 5–15–96; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–32,025]

Winona Knitting Mills, Inc., Berwick Knitwear (Formerly Komar & Sons Berwick Knitwear) Berwick, Pennsylvania; Notice of Affirmation Determination Regarding Application for Reconsideration

By letter of April 16, 1996, the company official requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers of the subject firm. The denial notice was signed on April 9, 1996 and will soon be published in the **Federal Register**.

The company official presents evidence that the Department's survey of the subject firm's customers was incomplete.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore granted.

Signed at Washington, DC, this 27th day of April 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–12289 Filed 5–15–96; 8:45 am]
BILLING CODE 4510–30–M

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Alternative Schools Random Assignment Evaluation

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed revision of the information collection of the Alternative Schools Random Assignment Evaluation. A copy of the proposed information collection request can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before July 15, 1996. Written comments should:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions use;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

ADDRESSES: David Lah, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5637, Washington, DC 20210, 202–219–5782.

SUPPLEMENTARY INFORMATION:

I. Background

The Alternative Schools Random Assignment Evaluation is an attempt on the part of the Department of Labor to find new ways of serving highly at-risk youth. In this demonstration, funds were provided to seven cities to replicate High School Redirection—a highly successful alternative school operating in Brooklyn, New York. Schools created under this demonstration are operated and staffed by local districts, but provide more personal attention and more remediation than typical public high schools. Under this evaluation, students applying to these schools were randomly assigned to attend or not attend the schools. The students are then to be followed up to determine whether the schools reduced dropout rates, increased rates of college enrollment, and decreased teen parenthood rates.

II. Current Actions

The Department of Labor is requesting a revision of the collection of information under the alternative schools demonstration. Five of the initial seven schools continue to exist in a form similar to High School Redirection. Random assignment has been completed in three of these schools, and follow-up surveys have been conducted in two of these three schools under OMB approval of this data collection. The Department is now seeking approval to conduct follow-up surveys in the third school in which random assignment has taken place. This is the Clark Academy in Cincinnati, Ohio.

Type of Review: Revision.
Agency: Employment and Training Administration.
Title: Alternative Schools Random Assignment Evaluation.
OMB Number: 1205–0331.
Affected Public: Individuals and households.
Total Respondents: 800.
Frequency: One follow-up survey and collection of school records at the Cincinnati school.
Total Responses: 1,600.
Average Time Per Response: One-half hour for the follow-up survey, and one-half hour in collecting school records.
Estimated Total Burden Hours: 800.
Estimated Total Burden Cost: $240,000.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 10, 1996.

Robert J. Litman,

Deputy Administrator, Office of Policy and Research.

[FR Doc. 96–12284 Filed 5–15–96; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education

School-to-Work Opportunities Act; Indian Program Grants; Application Procedures

AGENCIES: Employment and Training Administration, Labor. Office of Vocational and Adult Education, Education.

ACTION: Notice of availability of funds and solicitation for Indian Program Grant Applications (SGA).

SUMMARY: This Notice contains all of the necessary information and forms needed to apply for grant funding. This notice announces a competition for Indian Program Grants to enable local partnerships to begin development or implementation of School-to-Work Opportunities initiatives that serve Indian youth and involve schools funded by the Bureau of Indian Affairs (BIA). The School-to-Work Opportunities initiatives funded under this competition will offer Indian youth access to School-to-Work Opportunities programs that will prepare them for first jobs in high-skill, high-wage careers and further postsecondary education and training.

DATES: Applications for grant awards will be accepted commencing May 16, 1996. The closing date for receipt of applications is July 15, 1996, at 2 p.m. (Eastern Time) at the address below. Telefacsimile (FAX) applications Will Not be Honored.

ADDRESSES: Applications shall be mailed to: U.S. Department of Labor, Employment and Training Administration, Division of Acquisition and Assistance, Attention: Ms. Laura Cesario, Reference: SGA/DAA 96–007, 200 Constitution Avenue NW., Room S–4203, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Laura Cesario, Division of Acquisition and Assistance, telephone: (202) 219–7300 (this is not a toll-free number).

Part I: Supplementary Information

Section A. Purpose

The Departments of Education and Labor are reserving funds appropriated for FY95 under the School-to-Work Opportunities Act (the Act) (Public Law 103–239) for a competition for Indian Program Grants authorized under Title II, Subtitle C of the Act. Grants under this competition will be awarded to local partnerships that serve Indian youth and involve Bureau of Indian Affairs (BIA) funded schools. Successful partnerships under this competition must demonstrate the capacity to either develop or implement local School-to-Work Opportunities initiatives serving Indian youth. Approximately $650,000 is available for awards under this notice. The Departments expect to award approximately 7 development grants of about $30,000 each and up to 5 implementation grants ranging in amounts between $75,000 and $100,000 each under this notice.

Local Partnerships may apply for either a development grant, an implementation grant, or both. The competitions have been structured to allow those partnerships that have been engaged in planning and development activities, including those funded under last year's solicitation, to apply for an implementation grant without jeopardizing their opportunities for receiving a development grant. However, local partnerships who intend to be considered for either a development or implementation grant competition must submit separate applications for each competition. The amount of any award will be based on a number of factors, including the scope, quality, and comprehensiveness of the proposed initiative and the size of the population to be served.

The Departments intend to conduct future competitions for Indian Program Grants, on an annual basis, under the School-to-Work Opportunities Act of 1994. A local partnership may receive only one (1) development or implementation grant under this notice, with grant renewals for up to five years (award plus four option years) to be awarded based on availability of funds and the demonstrated progress of the grantee.

Section B. Application Process

1. Eligible Applicants

The definitions for "Local Partnership" and "Bureau-funded School" are included in this solicitation due to their critical nature and their overall application in the eligibility determination. All other terms defined

in the Act are hereby incorporated and applied to this solicitation.

(A) Local Partnership Definition

An entity that meets the definition of "local partnership," as defined below, proposes to serve Indian youth, and involves Bureau-funded schools, is eligible to apply for an Indian Program Grant for either development or implementation of School-to-Work Opportunities initiatives.

Local Partnership is defined in the Act to mean an entity responsible for School-to-Work Opportunities programs funded under this competition and that—

(a) Consists of tribal organizations responsible for economic development, employment, job training, and education (such as tribal business councils, local chapters of tribal business councils, tribal departments of education), employers (including tribal businesses or school-based enterprises where applicable), representatives of Bureau-funded schools and local postsecondary educational institutions (including representatives of area vocational education schools and tribal colleges where applicable), local educators (such as teachers, counselors, or administrators), representatives of labor organizations or nonmanagerial employee representatives, students and parents; and

(b) May include other entities, such as—

(1) Employer organizations;
(2) Community-based organizations;
(3) National trade associations working at the local level;
(4) Industrial extension centers;
(5) Rehabilitation agencies and organizations;
(6) Registered apprenticeship agencies;
(7) Local vocational education entities;
(8) Proprietary institutions of higher education (as defined in section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) that meet the eligibility and certification requirements under Title IV of such Act (20 U.S.C. 1070 et seq.);
(9) Local government agencies;
(10) Parent organizations;
(11) Teacher organizations;
(12) Vocational student organizations;
(13) Private industry councils established under sections 402 of the Job Training Partnership Act (29 U.S.C. 1512);

(B) Involvement of Bureau of Indian Affairs' (BIA) Funded Schools

In addition to meeting the definition of a "local partnership", applicants seeking funding under this notice must demonstrate that any funds awarded under this competition will be used to develop and implement initiatives serving Indian youth, and involving schools funded by the Bureau of Indian Affairs.

• Partnerships may demonstrate service to Indian youth and involvement by Bureau-funded schools by demonstrating that their proposed School-to-Work initiatives will provide direct services to students enrolled in Bureau-funded schools.

Bureau-funded school as defined in Section 1139(3) of the "Education Amendments of 1978" means:

(a) A Bureau school—a Bureau of Indian Affairs-operated elementary or secondary day or boarding school or a BIA-operated dormitory for students attending a school other than a Bureau school.

(b) A contract school—an elementary or secondary school or a dormitory that receives financial assistance for its operation under a contract or agreement with the BIA under Section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act.

(c) A school for which assistance is provided under the Tribally Controlled Schools Act of 1988.

• However, the Departments recognize that there are several geographic areas throughout the country which contain high concentrations of Indian youth that are not served by the school systems supported by the Bureau of Indian Affairs. Partnerships that include non-Bureau-funded schools serving Indian youth may be eligible to apply for funding under certain circumstances. For example, involvement by a Bureau-funded school in a partnership may consist of a single Bureau-funded school being included within a partnership while other non-Bureau-funded schools serving Indian youth participate in those partnerships as well. Therefore, a partnership may be eligible to apply for funding even where included in the partnership are one or more non-Bureau-funded schools and the involvement of Bureau-funded schools consists of a collaborative, consultative, or close advisory relationship. In such a case, services are not necessarily provided directly to the Bureau-funded school's students, but there remains a measurable benefit to both the partnership and the Bureau-funded school or schools. Thus, a partnership meeting all other eligibility requirements, including that of serving Indian youth, but located in a geographical area or State in which there are few, if any, Bureau-funded schools, may nonetheless be eligible for funding under this solicitation.

Applicants must provide convincing evidence that strategies devised and initiatives mounted will, in fact, meet the intent of establishing the collaborative, consultative or close advisory relationship which results in measurable benefits to the Bureau-funded school as stipulated by the Departments. Applicants establishing collaborative, consultative or advisory relationships with Bureau-funded school(s) within their partnerships are advised to develop mutually beneficial initiatives, activities and endeavors which are consistent with the parameters discussed in Title II of the Act and further illustrated in Part II, Section C of this solicitation.

In accordance with section 221 of the Act, only those applicants that provide sufficient information determining their eligibility against the criteria as stated above will be considered for funding under this solicitation. The Departments intend to pre-screen all applications against the aforementioned eligibility criteria prior to the panelists' review and will not consider any applications that do not contain the required assurances and determining information. Applicants will not have the opportunity to submit additional or revised information should a determination be made that the partnership does not meet the eligibility criteria.

2. Submission of Application

Applicants must submit an original and three (3) copies of the application. The application shall consist of five distinct parts: detachable description addressing the eligibility criteria, budget, abstract, program narrative and appendices. To ensure a comprehensive and expedient review, applicants must submit an application formatted as seen below:

Table of Contents

I. Eligibility Requirements

Part I must contain detailed information as described in Part I, Section B(1) of this notice and, for prescreening purposes, should be separate and easily detachable from the remainder of the application.

II. Budget

Part II shall contain the Standard Form (SF) 424, "Application for Federal Assistance," (Appendix A) and SF 424A, "Budget" (Appendix B). All copies of the 424 Form must have original signatures of the designated fiscal agent and must indicate in item 11 whether the application is to be considered for development or implementation funding. In addition, the budget shall include—on a separate page(s)—a detailed cost break-out of each line item on Budget Form 424A. Further, the Departments recommend that applicants break out line item costs illustrating those items charged under the administrative costs cap discussed in Part III of this notice.

III. Abstract

Part III shall consist of a one page abstract summarizing the essential components and key features of the partnership's plan.

IV. Program Narrative

Part IV shall contain the program narrative that demonstrates the applicant's plan and capabilities in accordance with the evaluation criteria contained in this notice. Applicants must describe their plan in light of each of the Evaluation Criteria in Part III, Section B of this notice. No cost data or reference to price shall be included in this part of the application. Applicants must limit the program narrative section to no more than 40 double-spaced pages, on one side only.

V. Appendices

All applicable appendices including letters of support, resumes and organizational charts should be included in this section. The safeguard assurance, as required under Part II, Section D, "Safeguards", of this notice, should be included in all applications as Appendix A. The Departments recommend that all appendix entries be cross-referenced back to applicable sections in the program narrative.

3. Late Applications

Any application received after the exact date and time specified for receipt at the office designated in this notice will not be considered, unless it is received before awards are made and it—

(a) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of applications (e.g., an application submitted in response to a solicitation requiring receipt of applications by the 20th of the month must have been mailed/post marked by the 15th of that month); or

(b) Was sent by the U.S. Postal Service Express Mail Next Day Service to addressee not later than 5:00 P.M. at the place of mailing two working days prior to the date specified for receipt of applications. The term "working days" excludes weekends and Federal holidays.

The term "post marked" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable, without further action, as having been supplied or affixed on the date of mailing by an employee of the U.S. Postal Service.

4. Hand-Delivered Applications

It is preferred that applications be mailed at least five days prior to the closing date. To be considered for funding, hand-delivered applications must be received by 2:00 p.m., Eastern Time, on the closing date. Telegraphed and/or Faxed Applications Will Not be Honored. Failure to adhere to the above instructions will be a basis for a determination of nonresponsiveness. Overnight express mail from carriers other than the U.S. Postal Service will be considered hand-delivered applications and must be received by the above specified date and time.

5. Period of Performance

The period of performance will be twelve (12) months from the date of award by the Department of Labor. Since all awards must be made by September 30, 1996 under this competition, the Departments recommend that all applicants use September 1, 1996—August 31, 1996 as both budgetary and project award periods.

6. Option To Extend

These Indian Program Grants may be extended for up to four additional years at the discretion of the Federal Government, based upon the availability of funds and the demonstrated progress of the grantee under this School-to-Work Opportunities initiative. While the Departments encourage grantees funded for developmental initiatives during last year's competition to apply for Implementation funding, it remains the Departments' desire to continue the developmental investment until a partnership is ready to successfully compete and receive Implementation funding under this initiative.

Consistent with the School-to-Work Opportunities Act, the Departments expect that over time, Federal funds, added to this grant, will decrease. Funds awarded under this notice are considered "venture capital" for the establishment of School-to-Work Opportunities systems serving Indian youth. Likewise, local partnerships will eventually assume responsibility for maintaining School-to-Work Opportunities systems with other Federal, State and local resources.

7. Reporting Requirements/Deliverables

If awarded a grant, the local partnership will be required to provide the following:

1. Quarterly and Final Reports

• Quarterly financial reports as required by the grant award documents;

• Quarterly narrative reports on progress made and problems encountered in implementing the proposed plan and that indicate, where relevant, the corrective action(s) proposed to address developmental or implementation problems; and

• Annual reports at year-end on the activities and accomplishments of the local partnership's School-to-Work Opportunities initiative.

2. Deliverables

• At a minimum, preparing an assessment of accomplishments and results at each program year-end suitable for dissemination to other Indian communities and partnerships.

• Acting as a host to outside visitors from other Indian communities or local partnerships interested in developing and implementing School-to-Work Opportunities initiatives in settings with similar characteristics.

Part II. Program Description

Section A. Background

The United States is the only industrialized nation that lacks a comprehensive and coherent system to help its youth acquire the knowledge, skills, abilities, and information about the labor market necessary to make an effective transition from school to career-oriented work. Three-fourths of America's high school students do not attain four-year college degrees. Many of them do not possess the basic academic and occupational skills necessary for entry into high-skill, high-wage careers in the changing workplace or to pursue further education. The School-to-Work Opportunities Act of 1994 created a "national framework for high-quality, statewide school-to-work transition systems that enable young Americans to identify and navigate paths to productive and progressively more rewarding roles in the workplace.

Partnerships serving Indian youth face particular challenges in implementing School-to-Work Opportunities initiatives:

1. High unemployment and relatively few high-skill, high-wage employment opportunities often characterize the areas to be served, making it more difficult to secure employer participation, work-based learning opportunities, and career-track jobs for Indian youth who complete a School-to-Work Opportunities program. Therefore, creative strategies must be developed to make full use of the capacity of local institutions to include a variety of alternative work-based learning environments (ie. tribal businesses, school-based enterprises and

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entrepreneurial training) and to support intensive efforts to enhance diverse employer involvement. Partnerships should strive to engage employers by offering them a range of opportunities for participating in the design and implementation of School-to-Work Opportunities systems, including membership on councils and partnerships; assistance in setting standards, designing curriculum and determining outcomes; providing worksite experience for teachers; helping to recruit other employers; and providing worksite experience for students, such as mentoring, job shadowing, unpaid work experiences, supported work experiences, and paid work experiences.

2. High dropout rates, unequal access to quality educational experiences and the lack of relevant information regarding career options often plague such high challenge, remote service areas. School-to-Work Opportunities initiatives can offer alternative learning environments, creative approaches to academic and technical subjects and relevant and engaging school-based and work-based activities that can encourage Indian youth to remain in school until completion. To achieve such objectives, School-to-Work systems need to engage youth as early as possible. Career awareness and exploration activities allow Indian youth exposure to a range of high-skill, high-wage careers, the level of skills and abilities necessary in such occupations, and insight into the relevance of classroom education and the overall value of learning. Further, professional development and stakeholder education remains a critical piece towards the building of School-to-Work systems. In service training programs and outreach initiatives are essential towards developing relevant and engaging curriculum, teaching methodologies and assessments which let students make the critical connections between the classroom environment and the world of work.

3. Economic and geographic factors may create uneven educational and employment opportunities among Indian youth, thus requiring that careful consideration be given to enhancing both the access and availability of opportunities. Therefore, partnerships are encouraged to link School-to-Work initiatives with existing educational reform strategies, workforce development initiatives and economic development plans. By doing so, partnerships will initiate School-to-Work systems capable of equipping tribal youth with the skills and abilities to take high-skill, high-wage positions within tribal government, targeted tribal industries, or outside of the tribe in the larger labor market. Further, communities with highly skilled, highly trained youth will aid the success of tribal economic development initiatives through the encouragement of entrepreneurial ventures and the recruitment of targeted industries and employers interested in developmental ventures on tribal lands.

Under this competition, federal funds will be used as "venture capital" to establish School-to-Work Opportunities systems serving Indian youth. Local partnerships applying for development grants should be ready to use funds to involve Bureau-funded schools in establishing cooperative linkages and planning innovative methods of providing School-to-Work services for Indian youth. Local partnerships applying for implementation grants should be ready to implement School-to-Work initiatives involving Bureau-funded schools by building on and enriching existing promising programs such as tech-prep education, career academies, youth apprenticeship, school-based enterprises, job training and previous related efforts funded by the BIA. However, the purpose of funding under the School-to-Work Opportunities initiative is not simply to augment existing programs, but rather to build systems that provide opportunities for all students to achieve the benefits and outcomes of the School-to-Work Opportunities initiative. Building comprehensive systems will likely involve a combination of enhancing existing programs, establishing linkages among them, and developing an effective framework that connects both existing and new programs in a meaningful way. Through involvement in the School-to-Work Indian Program Grants, tribal organizations are expected to build over time the kind of School-to-Work Opportunities Systems that best meet their needs.

Section B. Objectives

The School-to-Work Opportunities initiative provides for a substantial degree of State and local flexibility and experimentation, but all State systems, individual local initiatives and Indian Program initiatives will share several common features and basic program components as required by the School-to-Work Opportunities Act of 1994. A School-to-Work Opportunities initiative under this competition must include the following common features and basic program components:

1. The basis of the School-to-Work Opportunities system is—

(a) The integration of school-based learning and work-based learning;

(b) The integration of academic and occupational learning; and

(c) The establishment of effective linkages between secondary and postsecondary education.

2. School-to-Work Opportunities programs will—

(a) Provide participating students with the opportunity to complete career majors;

(b) Incorporate the program components described below (school-based learning, work-based learning, and connecting activities);

(c) Provide participating students, to the extent practicable, with strong experience in and understanding of all aspects of the industry the students are preparing to enter; and

(d) Provide all students with equal access to the full range of such program components (including both school-based and work-based learning components) and related activities, such as recruitment, enrollment, and placement activities, except that nothing in this notice shall be construed to provide any individual with an entitlement to services.

3. School-to-Work Opportunities initiatives must incorporate three basic program components:

(a) School-Based Learning, that includes—

- Career awareness and career exploration and counseling (beginning at the earliest possible age, but not later than the 7th grade) in order to help students who may be interested to identify, and select or reconsider, their interests, goals, and career majors, including those options that may not be traditional for their gender, race, or ethnicity;
- Initial selection by interested students of a career major not later than the beginning of the 11th grade;
- A program of study designed to meet the same academic content standards established for all students, including, where applicable, standards established under the Goals 2000: Educate America Act, and to meet the requirements necessary to prepare a student for postsecondary education and the requirements necessary to earn a skill certificate;
- A program of instruction and curriculum that integrates academic and vocational learning (including applied methodologies and team-teaching strategies), and incorporates instruction, to the extent practicable, in all aspects of an industry, appropriately tied to the career of a participant;
- Regularly scheduled evaluations involving ongoing consultation and problem solving with students and school dropouts to identify their academic strengths and weaknesses, academic progress, workplace knowledge, goals, and the need for additional learning opportunities to master core academic and vocational skills; and
- Procedures to facilitate the entry of students participating in a School-to-Work Opportunities initiative into additional training or postsecondary education programs, as well as to facilitate the transfer of the students between education and training programs.

(b) Work-based learning, that includes—

(1) Mandatory activities—

- Work experience;
- A planned program of job training and work experiences (including training related to pre-employment and employment skills to be mastered at progressively higher levels) that are coordinated with learning in the school-based learning component described above and are relevant to the career majors of students and lead to the award of skill certificates;
- Workplace mentoring;
- Instruction in general workplace competencies, including instruction and activities related to developing positive work attitudes, and employability and participative skills; and
- Broad instruction, to the extent practicable, in all aspects of the industry.

(2) Permissible activities—Such component may include such activities as paid work experience, job shadowing, school-sponsored enterprises, or on-the-job training.

(c) Connecting Activities, that include—

- Matching students with the work-based learning opportunities of employers;
- Providing, with respect to each student, a school site mentor to act as a liaison among the student and the employer, school, teacher, school administrator, and parent of the student, and, if appropriate, other community partners;
- Providing technical assistance and services to employers, including small- and medium-sized businesses, and other parties in—

(A) designing school-based learning components as described above, work-based learning components as described above, and counseling and case management services; and

(B) training teachers, workplace mentors, school site mentors, and counselors;

- Providing assistance to schools and employers to integrate school-based and work-based learning and integrate academic and occupational learning into the program;
- Encouraging the active participation of employers, in cooperation with local education officials, in the implementation of local activities described in this Part as school-based learning, work-based learning, or connecting activities;

(A) Providing assistance to participants who have completed the program in finding an appropriate job, continuing their education, or entering into an additional training program; or

(B) Linking the participants with other community services that may be necessary to assure a successful transition from school to work;

- Collecting and analyzing information regarding post-program outcomes of participants in the School-to-Work Opportunities initiative, to the extent practicable and appropriate for Indian programs, on the basis of socioeconomic status, gender, and disability, and on the basis of whether the participants are students with limited-English proficiency, school dropouts, disadvantaged students, or academically talented students; and
- Linking youth development activities under the School-to-Work Opportunities initiative with employer and industry strategies for upgrading the skills of their workers.

Section C. Examples of Allowable Activities

Funds awarded under this competition to a partnership serving Indian youth and involving Bureau-funded schools may be used only for activities undertaken to develop or implement the local partnership's plan that will provide opportunities for Indian youth to participate successfully in a School-to-Work Opportunities initiative.

1. Development Grants

Eligible partnerships that have not fully developed a plan for the implementation of a School-to-Work Opportunities system may apply for development grants. These funds may support a wide range of planning and development activities. These grants are designed for situations in which an eligible partnership may not be ready to move forward with implementation of a School-to-Work Opportunities initiative, but intends to compete for implementation grants in future rounds of competition. Eligible partnerships seeking development grants must describe the planning and development activities for the School-to-Work Opportunities initiative that the partnership proposes to undertake during the 12-month grant period. The plan should include activities funded from this grant as well as from other sources. Examples of development activities that may be conducted with funds awarded under an Indian Program Grant are similar to those stipulated under section 205 of the Act and as illustrated below—

1. Initiating a planning process aimed at building a School-to-Work Opportunities initiative;
2. Identifying or establishing an appropriate structure to administer a School-to-Work Opportunities initiative;
3. Further expanding eligible partnerships as defined in this notice to participate in the design, development and administration of the School-to-Work Opportunities initiative;
4. Building consensus among local stakeholders and supporting planning and development activities to provide guidance in creating the School-to-Work Opportunities plan;
5. Initiating pilot projects to test key components of program design such as designing and testing common intake systems for students participating in School-to-Work Opportunities initiatives, and determining methods to integrate program data bases;
6. Analyzing current statutory, regulatory and administrative impediments to the creation of a School-to-Work Opportunities initiative;
7. Assessing staff training and development needs for participation in a School-to-Work Opportunities initiative;
8. Preparing the strategic plan required for submission of a proposal for an implementation grant. The plan should describe the progress expected to be achieved in the planning and development process by the end of the 12-month grant period. This should include expected "next steps."

2. Implementation Grants

Eligible partnerships that have developed and are ready to implement a plan for a School-to-Work Opportunities initiative may apply for implementation grants. These funds may be used to support a wide range of activities providing School-to-Work Opportunities for Indian youth. Examples of implementation activities that may be conducted with funds awarded under an Indian Program Grant are similar to those stipulated in section 215 of the Act and as illustrated below:

1. Recruiting and providing assistance to employers, including small-and medium-sized businesses, tribal businesses and school-based enterprises, to provide the work-based

learning components in the School-to-Work Opportunities initiative;

2. Establishing consortia of employers, including tribal businesses and school-based enterprises, to support the School-to-Work Opportunities initiative and provide access to jobs related to the career majors of students;

3. Supporting or establishing intermediaries (selected from among the members of the local partnership) to perform the connecting activities described above in Part II. B., "Objectives," and to provide assistance to Indian youth in obtaining jobs and further education and training;

4. Designing or adapting innovative school curricula that can be used to integrate academic, vocational, and occupational learning, school-based and work-based learning, and secondary and postsecondary education for all students in the area served;

5. Providing training to work-based and school-based staff on new curricula, student assessments, student guidance, and feedback to the school regarding student performance in connection with the School-to-Work Opportunities Initiative;

6. Establishing, in schools participating in a School-to-Work Opportunities initiative, a graduation assistance program to assist at-risk students, low-achieving students, and students with disabilities, in graduating from high school, enrolling in postsecondary education or training, and finding or advancing in jobs;

7. Providing career exploration and awareness services, counseling and mentoring services, college awareness and preparation services, and other services (beginning at the earliest possible age, but not later than the 7th grade) to prepare students for the transition from school to work;

8. Providing supplementary and support services, including child care and transportation, when such services are necessary for participation in a local School-to-Work Opportunities initiative;

9. Conducting or obtaining an in-depth analysis of the local labor market and the generic and specific skill needs of employers to identify high-demand, high-wage careers to target;

10. Integrating school-based and work-based learning into existing job training programs for school dropouts;

11. Establishing or expanding school-to-apprenticeship programs in cooperation with registered apprenticeship agencies and apprenticeship sponsors;

12. Assisting participating employers, including small- and medium-sized businesses, tribal businesses and school-based enterprises, to identify and train workplace mentors and to develop work-based learning components;

13. Promoting the formation of partnerships between Bureau-funded schools and other elementary and secondary schools (including middle schools) and local businesses as an investment in future workplace productivity and competitiveness;

14. Designing local strategies to provide adequate planning time and staff development activities for teachers, school counselors, related services personnel, and school site mentors, including opportunities outside the classroom that are at the worksite;

15. Enhancing linkages between after-school, weekend, and summer jobs, career exploration, and school-based learning;

16. Obtaining the assistance of organizations and institutions that have a history of success in working with school dropouts and at-risk and disadvantaged youths in recruiting such Indian youth who are at-risk or school dropouts to participate in a local School-to-Work Opportunities initiative;

17. Conducting outreach to all students in a language and manner that most appropriately and effectively meets their needs and responds to the needs of their community;

18. Experimenting with providing work-based learning opportunities both inside and outside the Indian community;

19. Developing, in conjunction with Title I of the Elementary and Secondary Schools Act or other funds, improvements in the Bureau-funded and other elementary and middle schools that serve the Indian community in order to reduce the long-term dropout rate of Indian youth;

20. Developing and implementing techniques that will increase the college enrollment of Indian youth in the targeted area;

21. Utilizing complementary initiatives within the targeted area such as comprehensive sports and recreation programs, after-school programs, and community development activities;

22. Encouraging Indian youth to design and initiate innovative work-based learning activities operated within a school setting; and

23. Developing and implementing school-based and work-based learning and connecting activities that are related to the tribal organization's economic development plan.

Section D. Safeguards

The Departments apply the following safeguards to School-to-Work Opportunities programs funded under this competition:

1. No student in a School-to-Work Opportunities program shall displace any currently employed worker (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits).

2. No School-to-Work Opportunities program shall impair existing contracts for services or collective bargaining agreements, and no program under this competition that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

3. No student participating in a School-to-Work Opportunities program shall be employed or fill a job—

a. When any other individual is on temporary layoff, with the clear possibility of recall, from the same or any substantially equivalent job with the participating employer; or

b. When the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created with a student.

4. Students shall be provided with adequate and safe equipment and safe and healthful workplaces in conformity with all health and safety requirements of Federal, State, and local law.

5. Nothing in this notice shall be construed so as to modify or affect any Federal or State law prohibiting discrimination on the basis of religion, gender, age, or disability.

6. Funds awarded under this competition shall not be expended for wages of students or workplace mentors participating in School-to-Work Opportunities programs.

7. The grantee shall implement and maintain such other safeguards as the Departments may deem appropriate in order to ensure that School-to-Work Opportunities participants are afforded adequate supervision by skilled adult workers, or to otherwise further the purposes of this program.

An applicant must provide an assurance, as appendix A, that the foregoing safeguards will be implemented and maintained throughout all program activities.

Section E. Waivers

Under Title V of the Act, the Secretaries may waive certain Federal requirements that impede the ability of a State or local partnership to carry out the purposes of the Act. Only local partnerships in States with approved School-to-Work Opportunities plans may apply for waivers. A local partnership that seeks a waiver should contact its State School-to-Work Contact to determine what documentation is required and to whom it should be sent. In May, 1995, the National School-to-Work Opportunities Office issued a document entitled "School-to-Work Opportunities Waiver and Plan Approval Process Questions and Answers." This document contains answers to many of the questions that localities may have when preparing their waiver requests. Local Partnerships interested in applying for waivers should contact the National School-to-Work Opportunities Office or their State School-to-Work Contact for a copy of the waiver document.

Section F. Bidders' Conference

A Bidders' Conference for interested School-to-Work Indian Program applicants is scheduled from 12:30 p.m. to 4:30 p.m. on the following date and location:

• May 23, 1996, Mesa Community College, Navajo Room, Kirk Student Center, 1833 West Southern Avenue, Mesa, Arizona 85202–4867.

Participants at the Conference will receive a detailed description of the School-to-Work Opportunities Act, the evaluation and eligibility criteria, and will have the opportunity to ask questions of Federal School-to-Work officials.

All partnerships should pre-register by faxing the names and addresses of up to three members of the local partnership planning to attend, the name of the local partnership, and a phone number to: Kevin Shelton, Training and Technical Assistance Corporation, 2409 18th Street, NW, Washington, DC; FAX#: (202) 408–8308.

Questions regarding the solicitation may be submitted in advance. If you are unable to attend the Bidders' Conference but would like the conference materials and a conference transcript, submit your request via fax to the fax number listed above. All information must be submitted no later than May 20, 1996. You will be sent a confirmation along with hotel accommodation information once your registration has been received; walk-in registration will also be permitted but is not recommended.

Part III. Indian Program Grants Competition Requirements

Section A. Administrative Cost Cap

The Departments are applying the 10 percent cap on administrative costs contained in section 215(b)(6) of the Act to local partnerships receiving grants directly under this competition. Section 215(b)(6) of the Act applies the 10 percent administrative cap to subgrants received by local partnerships from a State. The Departments have concluded that applying the 10 percent cap to local partnerships under this competition is consistent with the Act's intent and its broader limitations on administrative costs.

Definition

All definitions in the Act apply to local School-to-Work Opportunities systems funded under this and future Indian Program Grant competitions. Since the Act does not contain a definition of the term "administrative costs" as used in section 217 of the Act, the Departments will apply the following definition to this and future competitions for Indian Program Grants.

The term "administrative costs" means the activities of a local partnership that are necessary for the proper and efficient performance of its duties under the Indian Program Grant pursuant to the School-to-Work Opportunities Act and that are not directly related to the provision of services to participants or otherwise allocable to the program's allowable activities listed in Title II of the Act. Administrative costs may be either personnel or non-personnel costs, and may be either direct or indirect. Costs of administration include those costs that are related to this grant in such categories as—

A. Costs of salaries, wages, and related costs of the grantee's staff engaged in—

—Overall system management, system coordination, and general administrative functions;

—Preparing program plans, budgets, and schedules, as well as applicable amendments;

—Monitoring of local initiatives, pilot projects, subrecipients, and related systems and processes;

—Procurement activities, including the award of specific subgrants, contracts, and purchase orders;

—Developing systems and procedures, including management information systems, for ensuring compliance with the requirements under the Act;

—Preparing reports and other documents related to the Act;

—Coordinating the resolution of audit findings;

B. Costs for goods and services required for administration of the School-to-Work Opportunities system;

C. Costs of system-wide management functions; and

D. Travel costs incurred for official business in carrying out grants management or administrative activities.

Section B. Evaluation Criteria

Under the School-to-Work Opportunities Indian Program Grants competition announced in this notice, a careful evaluation of applications will be made by a technical review panel. Each panelist will evaluate the applications against the criteria listed below. The panel results are advisory in nature and not binding on the Grants Officer. Final funding decisions will consider such factors as: geographic balance, diversity of programmatic approaches, replicability, sustainability, and innovation.

Evaluation Criteria: Development Grants

The Government will use the following evaluation criteria and associated point values in evaluating applications for development grants:

Evaluation Criterion 1: Vision of a local School-to-Work Opportunities initiative incorporating the elements described in Part II of this notice.

Points: 30.

Considerations: In applying this criterion, reviewers will consider:

• How well does the vision of an integrated delivery system for School-to-Work Opportunities incorporate the common features and basic program components described in Part II of this notice?

• How clearly are the problems and/or inefficiencies of current programs and approaches understood and articulated?

• How clearly does the partnership articulate how it envisions integrating promising existing programs into a comprehensive School-to-Work Opportunities system?

• How well does this vision incorporate realistic strategies to ensure that "all students" have opportunities to participate in School-to-Work initiatives?

• How well does the vision address the needs of the tribal economic development plan and the local labor market within which the targeted area is located,

• How well does the vision convey the partnership's connection between the proposed School-to-Work Opportunities system and overall education reform?

Evaluation Criterion 2: Approach to collaboration, planning and development.

Points: 30.

Considerations: In applying this criterion, reviewers will consider:

• Whether the eligible partnership includes all of the required representatives as defined in Part I, section B.1 of this notice?

- Whether other appropriate officials and organizations necessary to achieve the objectives of the application are also represented?
- To what extent will employers and representatives of workers participate in the development of the plan?
- Are the roles and responsibilities of each partner well articulated and substantive?
- Is the plan likely to lead to a broad consensus about the design of the School-to-Work Opportunities system?
- Is the proposal clear on who will have the day to day responsibilities for the grant and how major decisions will be made?

Evaluation Criterion 3: Feasibility and soundness of the development plan.

Points: 25.

Considerations: In applying this criterion, reviewers will consider:

- Are the planned activities likely to prepare the eligible partnership to implement a School-to-Work Opportunities initiative?
- To what extent has progress already been made?
- Are staff development and training needs fully considered?
- To what extent has the partnership envisioned pilot testing of key components toward the establishment of a comprehensive framework for implementation.
- Does the development process fully take advantage of technology?
- Whether the approach to identifying and overcoming anticipated barriers to the development of the partnership's School-to-Work plan is feasible?
- Whether the management plan and related timeline of activities included in the application are appropriate to the goals and outcomes to be achieved?
- Are key personnel to be used on the project qualified to undertake proposed activities?

Evaluation Criterion 4: Commitment to the planning and development effort.

Points: 15.

Considerations: In applying this criterion, reviewers will consider:

- To what extent are Federal or other local resources being utilized to finance planning and development activities towards the development of a comprehensive School-to-Work system?
- To what extent will the partnership provide in-kind support and resources towards the development of the system?
- Whether resources available are adequate to support the activities proposed?

Evaluation Criteria: Implementation Grants

The Government will use the following evaluation criteria and associated point values in evaluating applications for implementation grants.

Evaluation Criterion 1: Comprehensive Local School-to-Work Opportunities System.

Points: 40.

Considerations: In applying this criterion, reviewers will consider:

A. 20 points—The extent to which the partnership has designed a comprehensive local School-to-Work Opportunities plan that—

Includes effective strategies serving Indian youth and involving Bureau-funded schools that integrates school-based and work-based learning, integrates academic and vocational education, and establishes linkages between secondary and postsecondary education;

Is likely to produce systematic change that will have substantial impact on the preparation of all tribal area students for a first job in a high-skill, high-wage career and in increasing their opportunities for further learning;

Ensures that all tribal youth will have a full range of options, including options for higher education, additional training and employment in high-skill, high-wage jobs;

Ensures coordination and integration with existing school-to-work programs, and with related programs financed from State and private sources, with funds available from Federal education and training programs (such as the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act); and where applicable, communities designated as Empowerment Zones or Enterprise Communities (EZ/EC);

Serves a geographic area that reflects the needs of the local labor market and targets occupational clusters that represent growing industries in the partnership's geographic area and specified in the tribal economic development plan.

Includes an effective strategy for assessing and addressing the academic and human service needs of students and dropouts within the tribal community, making improvements or adjustments as necessary, with particular emphasis on the coordination of various human services provided within the tribal community.

B. 20 Points—The extent to which the partnership's plan demonstrates its capability to achieve the statutory requirements and to effectively put in place the system components in Title I of the School-to-Work Opportunities Act, including—

A work-based learning component that includes the statutory "mandatory activities" and that contributes to the transformation of workplaces into active learning components of the education system through an array of sequentially enriching permissible learning activities such as job shadowing, school-sponsored enterprises, entrepreneurial initiatives, and paid work experiences.

A school-based learning component that provides students with high-level academic and technical skills consistent with academic standards that the State or Bureau establishes for all students, including, where applicable, standards established under the Goals 2000 Educate America Act;

A connecting activities component to provide a functional link between students' school and work activities, and between workplace partners, educators, community organizations, and other appropriate entities;

Effective processes for assessing skills and knowledge required in career majors, and issuing portable skill certificates that are benchmarked to high-quality standards such as those States will establish under the Goals 2000: Educate America Act, and for periodically assessing and collecting information on student outcomes, as well as a realistic strategy and timetable for implementing the process;

- A flexible School-to-Work Opportunities system that allows students participating in the local system to develop new career goals over time, and to change career majors and;
- Effective strategies for: providing staff development for teachers, worksite mentors and other key personnel; developing model curricula and innovative instructional methodologies, including processes for infusing culturally sensitive issues, values and beliefs, expanding career and academic counseling in elementary and secondary schools; and utilizing innovative technology-based instructional techniques.

Evaluation Criterion 2: Quality and effectiveness of the local partnership.

Points: 25.

Considerations: In applying this criterion, reviewers will consider—

- Whether the partnership's plan demonstrates an effective and convincing strategy for continuing the commitment of required partners and other interested parties in the local School-to-Work Opportunities system. As defined in this solicitation, partners must include tribal organizations (such as tribal business councils or local chapters of tribal business councils, tribal departments of educations), employers (both within and surrounding the targeted area where applicable and including tribal businesses and school-based enterprises), representatives of Bureau of Indian Affairs' funded schools, local educational agencies and local postsecondary educational institutions (including representatives of area vocational education schools and tribal colleges, where applicable), local educators (such as teachers, counselors, or administrators), representatives of labor organizations or nonmanagerial employee representatives, parents, and students;
- Whether the partnership's plan demonstrates an effective and convincing strategy for continuing the commitment of workplace partners and other interested parties such as community based organizations and others experienced and focused on dealing with the distinctive needs of Indian youth in the local School-to-Work Opportunities system;
- The effectiveness of the partnership's plan to include private sector representatives and tribal business leaders as joint partners with tribal educators in both the design and implementation of the local School-to-Work Opportunities system;
- The extent to which the local partnership has developed strategies to provide a range of opportunities for workplace partners to participate in the design and implementation of the local School-to-Work Opportunities system, including membership on councils and partnerships; assistance in setting standards, designing curricula, and determining outcomes; providing worksite experiences for teachers; helping to recruit other employers; and providing worksite learning activities for students such as mentoring, job shadowing, unpaid work experiences, and paid work experiences;
- The extent to which the roles and responsibilities of the key parties and any other relevant stakeholders are clearly defined and are likely to produce the desired changes in the way students are prepared for the future;
- The extent to which the partnership demonstrates the capacity to build a quality local School-to-Work Opportunities system; and
- Whether the partnership has included methods for sustaining and expanding the partnership, as the program expands in scope and size.

Evaluation Criterion 3: Participation of all students.

Points: 20.

Considerations: In applying this criterion, reviewers will refer to the definition of the term "all students" as applicable in Title I, section 4(2) of the Act, and consider—

- The extent to which the partnership will implement effective strategies and systems to provide all students with equal access to the full range of program components specified in sections 102 through 104 of the Act and related activities such as recruitment, enrollment, and placement activities, and to ensure that all tribal youth have opportunities to participate in School-to-Work Opportunities programs;
- Δ *Whether the partnership has identified potential barriers to the participation of any students, and the degree to which it proposes effective ways of overcoming these barriers;*
- The degree to which the partnership has developed realistic goals and methods for assisting young women to participate in School-to-Work Opportunities programs leading to employment in high-performance, high-paying jobs, including non-traditional jobs;
- The partnership's methods for ensuring safe and healthy work environments for students, including strategies for encouraging tribal schools to provide students with general awareness training in occupational safety and health as part of the school-based learning component, and for encouraging workplace partners to provide risk-specific training as part of the work-based learning component, as well as the extent to which the partnership has developed realistic goals to ensure environments free from racial and sexual harassment; and
- The extent to which the partnership's plan provides for the participation of a significant number or percentage of Indian youth within the system, including Indian youth located in particularly remote areas in School-to-Work Opportunities activities listed under Title I of the Act.

Evaluation Criterion 4: Management plan.

Points: 15.

Considerations: In applying this criterion, reviewers will consider—

- The feasibility and effectiveness of the partnership's strategy for using other resources, including private sector or Tribal resources, to maintain the system when Federal resources under the School-to-Work Opportunities Act are no longer available;
- The extent to which the partnership's management plan anticipates barriers to implementation and proposes effective methods for addressing barriers as they arise;
- Whether the plan includes feasible, measurable goals for the School-to-Work Opportunities system, based on performance outcomes established under section 402 of the Act, and an effective method for collecting information relevant to the local partnership's progress in meeting its goals;
- Whether the plan includes a regularly scheduled process for improving or redesigning the School-to-Work Opportunities system based on performance outcomes established under section 402 of the Act;
- The extent to which the resources requested will be used to develop information, products, and ideas that will assist other local partnerships as they design and implement local systems; and
- The extent to which the partnership will limit equipment and other purchases in order to maximize the amounts spent on delivery of services to students.
- Are key personnel under the plan qualified to perform the required activities, including maintaining the essential partnership.

Signed at Washington, D.C., this 10th day of May 1996.

Timothy Barnicle,

Assistant Secretary for Employment and Training, Department of Labor.

Patricia McNeil,

Assistant Secretary for Vocational and Adult Education, Department of Education.

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Appendix A

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State H. Independent School Dist.
B. County I. State Controlled Institution of Higher Learning
C. Municipal J. Private University
D. Township K. Indian Tribe
E. Interstate L. Individual
F. Intermunicipal M. Profit Organization
G. Special District N. Other (Specify): _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐☐ ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. Federal	$ .00	a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE _____
b. Applicant	$ .00	b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
c. State	$ .00	
d. Local	$ .00	
e. Other	$ .00	
f. Program Income	$ .00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes," attach an explanation. ☐ No
g. TOTAL	$ .00	

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

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Standard Form 424 (REV 3-88)
Prescribed by OMB Circular A-102

BILLING CODE 4610-30-C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
—"New" means a new assistance award.
—"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
—"Revision" means any change in the Federal Government's financial obligation or contingent liability for an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State integovernmental review process.

17. This question to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

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Appendix B

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	(A)	(B)	(C)
1. Personnel	$		
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)	$		

SECTION B - Cost Sharing/ Match Summary (if appropriate)

	(A)	(B)	(C)
1. Cash Contribution	$		
2. In-Kind Contribution			
3. TOTAL Cost Sharing / Match (Rate %)	$		

NOTE: Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).

(INSTRUCTIONS ON BACK OF FORM)

BILLING CODE 4510-30-C

Instructions for Part II—Budget Information

Section A—Budget Summary by Categories

1. *Personnel:* Show salaries to be paid for project personnel.
2. *Fringe Benefits:* Indicate the rate and amount of fringe benefits.
3. *Travel:* Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.
4. *Equipment:* Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of $5,000 or more.
5. *Supplies:* Include the cost of consumable supplies and materials to be used during the project period.
6. *Contractual:* Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.
7. *Other:* Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.
8. *Total, Direct Costs:* Add lines 1 through 7.
9. *Indirect Costs:* Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.
10. *Training/Stipend Cost:* (If allowable).
11. *Total Federal funds Requested:* Show total of lines 8 through 10.

Section B—Cost Sharing/Matching Summary

Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.

Note: Please include a detailed cost analysis of each line item.

Appendix C—Goals 2000: Educate America Act, Legislative Summary

Overview

- The Goals 2000 Act provides resources to states and communities to develop and implement comprehensive education reforms aimed at helping students reach challenging academic and occupational skill standards.

Legislative Review

- On March 23, the House of Representatives approved the final Goals 2000 bill by a bipartisan vote of 306–121. On March 26, the Senate approved Goals 2000 by a bipartisan vote of 63–22.
- The President signed the bill into law March 31, 1994. (Public Law 103–227)

Timetable and Funding

- In 1994, $105 million was appropriated for Goals 2000. First-year funds became available to the states on july 1, 1994. Congress has appropriated $403 million in 1995.
- Funding will be formula-based. For first-year funding, states have been asked to submit an application that will describe how a broad-based citizen panel will develop an action plan to improve their schools. The application will also describe how subgrants will be made for local education improvement and better teacher preservice professional development programs.
- During the first year, states will use at least 60 percent of their allotted funds to award subgrants to local school districts for the development or implementation of local and individual school improvement efforts, and for better teacher education programs and professional development activities.
- In succeeding years, at least 90 percent of each state's funds will be used to make subgrants for the implementation of the state, local and individual school improvement plans and to support teacher education and professional development.
- During the first year, local districts will use at least 75 percent of the funds they receive to support individual school improvement initiatives. After the first year, districts will pass through at least 85 percent of the funds to schools.

Components of the Goals 2000: Educate America Act

Title I: Setting High Expectations for Our Nation: the National Education Goals

- Formalizes in law the original six National Education Goals. These goals concern: readiness for school; increased school graduation rates; student academic achievement and citizenship; mathematics and science performance; adult literacy; and safe, disciplined, and drug-free schools. The Act adds two new goals that encourage parental participation and better professional development for teachers and principals.

Title II: Public Accountability for Progress Toward the Goals and Development of Challenging Voluntary, Academic Standards

- Establishes in law the bipartisan National Education Goals Panel, which will; report on the nation's progress toward meeting the goals; build public support for taking actions to meet the goals; and review the voluntarily-submitted national standards and the criteria for certification of these standards developed by the National Education Standards and Improvement Council.
- Creates the National Education Standards and Improvement Council, made up of a bipartisan, broad base of citizens and educators, to examine and certify voluntary national and state standards submitted on a voluntary basis by states and by organizations working on particular academic subjects.
- Authorizes grants to support the development of voluntary assessment systems aligned to state standards, and for the development of *model* opportunity-to-learn standards.

Title III: Supporting Community and State Efforts to Improve Education

- The central purpose of the Goals 2000 Act is to support, accelerate, and sustain state and local improvement efforts aimed at helping students reach challenging academic and occupational standards.
- Section 318 of the Act specifically prohibits federal mandates, direction and control of education.

Broad-Based Citizen Involvement in State Improvement Efforts

- The Governor and the Chief State School Officer will each appoint half the members of a broad-based panel. This panel will be comprised of teachers, principals, administrators, parents, representatives of business, labor, and higher education, and members of the public, as well as the chair of the state board of education and the chairs of the appropriate authorizing committees of the state legislature.
- States that already have a broad-based panel in place that has made substantial progress in developing a reform plan may request that the Secretary of Education recognize the existing panel.

Comprehensive Improvement Plan Geared to High Standards of Achievement

- The State Planning Panel is responsible for developing a comprehensive reform plan.
- States with reform plan already in place that meet the Act's requirements will not have to develop new plans for Goals 2000. The U.S. Secretary of Education may approve plans, or portions of plans, already adopted by the state.
- In order the receive Goals 2000 funds after the first year, a state has to have an approved plan or have made substantial progress in developing it.
- A peer review process will be used to review the state plans and offer guidance to the State Planning Panel. The U.S. Department of Education also will offer other technical assistance and support by drawing on the expertise of successful educators and leaders from around the nation.

In general, the plans are to address:

- Strategies for the development or adoption of content standards, student performance standards, student assessments, and plans for improving teacher training.
- Strategies to involve parents and the community in helping all students meet challenging state standards and to promote grass-roots, bottom-up involvement in reform.
- Strategies for ensuring that all local educational agencies and schools in the state are involved in developing and implementing needed improvements.
- Strategies for improved management and governance, and for promoting accountability for results, flexibility, site-based management, and other principles of high-performance management.
- Strategies for providing all students an opportunity to learn at higher academic levels.
- Strategies for assisting local education agencies and schools to meet the needs of school-age students who have dropped out of school.
- Strategies for bringing technology into the classroom to increase learning.

Funds are also available to states to support the development of a state technology plan, to be integrated with the overall reform plan.

Broad-Based Involvement in Local Education Improvement Efforts

- Each local school districts that applies for Goals 2000 funds will be asked to develop

a broad consensus regarding a local improvement plan.

• Local districts will encourage and assist school in developing and implementing reforms that best meet the particular needs of the schools. The local plan would include strategies for ensuring that students meet higher academic standards.

Waivers and Flexibility

• State educational agencies may apply to the U.S. Secretary of Education for waivers of certain requirements of Department of Education programs that impede the implementation of the state or local plans. States may also submit waiver requests on behalf of local school districts and schools.

• The Secretary may select up to six states for participation in an education flexibility demonstration program, which allows the Secretary to delegate his waiver authority to State education agencies.

• The Act specifies certain statutory and regulatory programmatic requirements that may not be waived, including parental involvement and civil rights laws.

Title IV. Support for Increased Parental Involvement

• This title creates parental information and resource centers to increase parents knowledge and confidence in child-rearing activities and to strengthen partnerships between parents and professionals in meeting the educational needs of children. Parent resource centers will be funded by the U.S. Department of Education beginning in fiscal year 1995.

Title V. National Skill Standards Board

• This title creates a National Skill Standards Board to stimulate the development and adoption of a voluntary national system of occupational skill standards and certification. This Board will serve as a cornerstone of the national strategy to enhance workforce skills. The Board will be responsible for identifying broad clusters of major occupations in the U.S. and facilitating the establishment of voluntary partnership to develop skill standards for each cluster. The Board will endorse those skill standards submitted by the partnerships that meet certain statutorily prescribed criteria.

Relationship of Goals 2000 to Other Federal Education Programs

• State participation in all aspects of the Goals 2000 Act is voluntary, and is not a precondition for participation in other Federal programs.

• The Goals 2000 Act is a step toward making the Federal government a better partner a supportive partner in local and state comprehensive improvement efforts aimed at helping all children reach higher standards. The proliferation of many sets of rules and regulations for different federal education programs has often interfered with local school, community or state efforts to improve schools. The Goals 2000 Act is designed to be flexible and supportive of community-based improvements in education.

• Other new and existing education and training programs will fit within the Goals 2000 framework of challenging academic and occupations standards, comprehensive reform, and flexibility at the state and local levels. The aim is to give schools; communities and states the option of coordinating, promoting, and building greater coherence among Federal programs and between Federal programs and state and local education reforms.

• For example, the School-to-Work Opportunities Act will support state and local efforts to build a school-to-work transition system that will help youth acquire the knowledge, skills, abilities, and labor-market information they need to make a smooth transition from school to career-oriented work and to further education and training. Students in these programs could be expected to meet the same academic standards established in states under Goals 2000 and will earn portable, industry-recognized skill certificates that are benchmarked to high-quality standards.

• Similarly, the reauthorization of the Elementary and Secondary Education Act (ESEA) allows states that have developed their own standards and assessments under Goals 2000 to use them for students participating in ESEA programs, thereby providing one set of standards and assessments for states and schools to use for their own reform needs and, at the same time, to meet Federal requirements.

For more information, contact 1–800–USA–Learn.

Appendix D—Questions and Answers About School-to-Work Indian Program Grants

What is the purpose of the SGA?

The Solicitation for Grant Award (SGA) announces a competition for Indian Program Grants to enable eligible partnerships to begin development or implementation of School-to-Work Opportunities initiatives serving Indian youth and involving schools funded by the Bureau of Indian Affairs.

Are public comments being sought?

No. The SGA was developed in concert with key organizations including the Bureau of Indian Affairs, the National Advisory Council on Indian Education, and Indian programs within the Departments of Education and Labor. This work group provided input into the development of the SGA. In accordance with DOL procurement policy and the desire to get funds to the field as soon as possible, the SGA was published in the final format.

Why School-to-Work Opportunities?

The United States is the only industrialized nation that lacks a comprehensive and coherent system to help its youth acquire the knowledge, skills, abilities, and information about the labor market necessary to make an effective transition from school to career-oriented work. The School-to-Work Opportunities Act of 1994 created a national framework for high-quality, school-to-work transition systems that enable young Americans to identify and navigate paths to productive and progressively more rewarding roles in the workplace. School-to-Work Opportunities initiatives funded under this competition will offer Indian youth access to School-to-Work Opportunity programs that will prepare them for first jobs in high-skill, high-wage careers and further post-secondary education and training.

When are applications due?

Applications are due 60 days after the publication of the SGA.

When will awards be made?

All awards must be made by September 30, 1996.

How should I format my application?

The Departments recommend that applications be formatted as suggested in Section I, Part B(2) of the SGA. Applications should include: an abstract, budget, program narrative and appendices. Applicants are strongly urged to submit applications that comprehensively address the evaluation criteria as described in Section III Part B. of the SGA.

Who will review my application?

Under this competition, a technical review panels consisting of peer reviewers and specialists within the Departments of Labor, Education and Interior will review applications for both development and implementation grants.

What will the review of my application be based on?

a. Inclusion of required elements.

All applications must include:

1. Evidence that the applicant meets the definition of an eligible applicant.

2. An assurance that the grantee will abide by the safeguards as stated in the legislation.

b. Quality and comprehensiveness of the program narrative.

Panelists will evaluate all applications against the criteria listed in Part III, Section B of the SGA for the development and implementation grant competitions. Emphasis will be placed on the scope and quality of the proposed plan and with careful consideration of the effectiveness, rather than the presence, of each program component. Final funding decisions will be made based on the results of both the panel review process and other factors as: geographic balance, diversity of programmatic approaches, replicability, sustainability, and innovation.

Who is eligible to apply for these grants?

A. A partnership which proposes to serve Indian youth and involves Bureau of Indian Affairs funded schools is qualified under this competition to apply for either a development or implementation grant. To be eligible to apply, a partnership must include:

1. tribal organizations responsible for economic development, employment and job training, and education (such as tribal business councils, local chapters of tribal business councils, tribal departments of education and tribal school boards).

2. employers (including tribal businesses or school-based enterprises where applicable).

3. representatives of Bureau-funded schools and local postsecondary educational institutions (including representatives of area vocational education schools and tribal colleges where applicable).

4. local educators (such as teachers, counselors or administrators).

5. representatives of labor organizations or nonmanagerial employee representatives.

6. students and parents.

and may include other appropriate entities. Examples of these entities are contained in Part I, Section B(1)(A) of the SGA.

B. The Department recognize that there are several geographic areas within the country which contain high concentrations of Indian youth that are not served by school systems supported by the Bureau of Indian Affairs. partnerships may be eligible to apply for funding even where included in the partnership are one or more non-Bureau-funded schools that serve Indian youth and the involvement of Bureau-funded schools consists of a collaborative, consultative, or close advisory relationship within the partnership in which services are not necessarily provided directly to the Bureau-funded school's students, but which results in measurable benefit to both the partnership and the Bureau-funded school or schools. For more information on eligibility see Part I, Section B(1)(B) of this solicitation.

The Department intend to prescreen all applications against the aforementioned eligibility criteria prior to the panelists' review and will not consider any applications that do not contain the required assurances and determining information.

What funding is available?

This SGA offers approximately $625,000 in FY 95 funds authorized under the School-to-Work Opportunities Act. The statute states that ½ of 1% of all future appropriations shall be set aside for STWO Indian Program Grants.

How many grants are anticipated?

The Departments anticipate awarding:

• Approximately 7 development grants of $30,000 each; and

• Up to 5 implementation grants ranging in amount between $75,000 and $100,000.

The final amount of each award will be based on a number of factors, including the scope, quality, and comprehensiveness of the proposed initiative and the size of the population to be served.

How long is the project period?

The award period for this competition will be 12 months. However, grants may be continued for up to five years based on satisfactory progress and the availability of federal funds.

Can I apply for both a development and implementation grant?

Eligible partnerships may apply for either a development grant, an implementation grant or both. The rationale is to allow those partnerships which have been engaged in planning and development activities to apply for an implementation grant without jeopardizing their opportunities for receiving a development grant. However, partnerships that intend to apply for consideration under both the development and implementation grant competitions must submit separate applications for each competition. A local partnership may receive only one (1) grant under this competition, either a development grant or an implementation grant.

What are the reporting requirements?

Reporting requirements include quarterly financial and narrative reports and an annual report on project accomplishments.

How can I find out more information about the solicitation?

The National School-to-Work Office in cooperation with Region IX School-to-Work staff will be sponsoring a Bidder's Conference for parties interested in applying for School-to-Work Indian Program Grants. The Bidders Conference will be held on May 23, 1996 at Mesa Community College in Mesa, Arizona. Partnerships that are interested in attending need to pre-register participants with Technical Assistance and Training Corporation. Information pertaining to this activity can be found in Part II, Section F of this solicitation.

What other grant programs have been implemented under the STWO Act?

The U.S. Department of Labor and Education are jointly conducting separate competitions for grants to *States* that are prepared to implement statewide School-to-Work Opportunities systems, to *local partnerships* that are prepared to implement local School-to-Work Opportunities initiatives, and to *local partnerships that serve high poverty areas of Urban and Rural constituencies* and that are also prepared to develop and implement local School-to-Work Opportunities initiatives. Planning and development grants have been awarded to all States, Puerto Rico and the U.S. Territories.

[FR Doc. 96–12199 Filed 5–15–96; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (P.L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(a)-of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Program Manager of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes actions pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment of after December 8, 1993 (date of enactment of P.L. 103–182 are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Program Manager of OTAA at the U.S. Department of Labor (DOL) in Washington, D.C. provided such request is filed in writing with the Program Manager of OTAA not later than May 28, 1996.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Program Manager of OTAA at the address shown below not later than May 28, 1996.

Petitions filed with the Governors are available for inspection at the Office of the Program Manager, OTAA, ETA, DOL, Room C–4318, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 30th day of April 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received at Governor's office	Petition No.	Articles produced
Fashion Development Center, Inc. (Co.)	El Paso, TX	04/5/96	NAFTA–00961	Technical Assistance to Garment Industry.
Airguide Instruments Company; Johnson Worldwide Associates.	Sturtevant, WI	04/5/96	NAFTA–00962	Compasses.
Dolphin International, Ltd. (Co.)	The Dallas, OR	04/8/96	NAFTA–00963	Window/Door Components and Furniture Panels/Components.
Blue Mountain Forest Products, Inc.; Rieth Oregon Sawmill (Wkrs).	Pendleton, OR	04/9/96	NAFTA–00964	Finished Lumber.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received at Governor's office	Petition No.	Articles produced
Sony Electronics; National Refurbishing Center (Wkrs).	Carol Stream, IL	04/8/96	NAFTA–00965	Refurbishing of consumer electronics.
Connie Rose Manufacturing, Inc. (UNITE)	Philadelphia, PA	04/10/96	NAFTA–00966	Bathing Suits.
CTS Corporation (Wkrs)	Brownsville, TX	04/10/96	NAFTA–00967	Speakers, variable resistors and switches.
Hummingbird Communication (Wkrs)	Raleigh, NC	04/11/96	NAFTA–00968	Software diskette, packaging, shipping and technical support.
El Paso Natural Gas Company (Wkrs)	El Paso, TX	04/10/96	NAFTA–00969	Natural Gas Transmission.
Lightolier West (Wkrs)	Compton, CA	03/27/96	NAFTA–00970	Lighting Fixtures.
Ronnie Manufacturing Co., Inc. (Wkrs)	New Bedford, MA	04/11/96	NAFTA–00971	Ladies sportswear, blouses and fully lined jackets.
Sarah Lee Knit Products; Lumberton Sewing Plant (Co.).	Winston-Salem, NC	04/12/96	NAFTA–00972	T-Shirt sewing plant.
Siecor Corporation (Wkrs)	San Diego, CA	04/11/96	NAFTA–00973	Telephone modules.
JTW Garment Factory (Wkrs)	Scotts Hill, TN	04/12/96	NAFTA–00974	Pants, shorts.
American Apparel, Inc. (Wkrs)	Knoxville, TN	04/12/96	NAFTA–00975	Various styles of T-shirts.
A and C Enterprises, Inc. (Wkrs)	Carthage, TN	04/12/96	NAFTA–00976	Ladies house robes.
Whirlpool Corporation; Evansville Division (IUE).	Evansville, IN	04/12/96	NAFTA–00977	Refrigerators.
ECM Motor Co. (Co.)	Clearfield, UT	04/12/96	NAFTA–00978	Gearmotors.
Hagger Clothing Company; Wesico Sewing, Inc. (Wkrs).	Waslaco, TX	04/15/96	NAFTA–00979	Clothing.
HIP Industries, Inc.; Hotboro Industrial Park (UNITE).	Hatboro, PA	04/15/96	NAFTA–00980	Children's wear.
American Stud Company	Olney, MT	04/17/96	NAFTA–00981	Stud Lumber.
Cambridge Industries Inc. (IUE)	Ionia, MI	04/11/96	NAFTA–00982	Reinforced plastic automotive struck body panels.
C and D Charter Power Systems; Ratelco Electronics (Wkrs).	Seattle, WA	04/17/96	NAFTA–00983	Modular Power rectifiers, power supply systems testing & engineering support for product line.
O.I. Brockway, Inc.; Glass Containers	Brockway, PA	04/19/96	NAFTA–00984	Glass Containers.
Georgia Girl Manufacturing (Wkrs)	Smithsville, TN	04/9/96	NAFTA–00985	Ladies Clothing.
Border Apparel (Wkrs)	El Paso, TX	04/24/96	NAFTA–00986	Pants, Jackets and Shorts.
American Olean Tile (Wkrs)	Jackson, TN	04/29/96	NAFTA–00987	Glaze wall tile.
KN Energy (Wkrs)	Lakewood, CO	04/19/96	NAFTA–00988	Natural Gas.
United Technologies Corp.; United Technologies Automotive at El Pas (Wkrs).	El Paso, TX	04/22/95	NAFTA–00989	Electrical harness.
Morplex Industries (Wkrs)	Gwinn, MI	01/19/96	NAFTA–00991	Parts for trucks.
Crown Pacific; Albeni Falls Unit	Oldtown, ID	04/22/96	NAFTA–00992	Lumber and lumber by-products.
Manhattan Shirt Company (Wkrs)	Americus, GA	04/22/96	NAFTA–00993	Shirts.
North American Communications (Wkrs)	Duneansville, PA	04/24/96	NAFTA–00994	Direct Mail Service.
Earley Manufacturing Company (Co.)	Blakely, GA	04/22/96	NAFTA–00995	Sportcoats.
Williamson Dickie Manufacturing (Wkrs)	Eagle Pass, TX	04/25/96	NAFTA–00996	Parts of pants.
Thomas and Betts; Amerace Electronic Components (Co.).	Punta Gorda, FL	04/16/96	NAFTA–00997	Electronic components and terminal blocks.

[FR Doc. 96–12298 Filed 5–15–96; 8:45 am]
BILLING CODE 4510–30–M

[NAFTA–00444B]

Haggar Clothing Company; Weslaco Manufacturing Company, A/K/A Bowie Manufacturing Company, A/K/A Weslaco Sewing, Weslaco, Texas; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Notice of Amended Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on April 19, 1996, applicable to all workers of Weslaco Manufacturing Company, a/k/a Bowie Manufacturing Company, Weslaco, Texas. The notice will soon be published in the **Federal Register**.

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The workers produce men's pants and coats. The State Agency reports that some of the workers separated from the subject firm had their unemployment insurance (UI) taxes paid to Weslaco Sewing. Accordingly, the Department is again amending the certification to include Weslaco Sewing.

The intent of the Department's certification is to include all workers of the Haggar Clothing Company who were adversely affected by increased imports from Mexico or Canada.

The amended notice applicable to NAFTA–00444 is hereby issued as follows:

All workers of workers of Haggar Clothing Company, Weslaco Manufacturing Company, a/k/a Bowie Manufacturing Company, a/k/a Weslaco Sewing, Weslaco, Texas (NAFTA–00444B) who became totally or partially separated from employment on or after April 27, 1994 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of April 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–12300 Filed 5–15–96; 8:45 am]
BILLING CODE 4510–30–M

[NAFTA–00684]

Mead Office Products, Salem, Oregon; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Program Manager of the Office of Trade Adjustment Assistance for workers at Mead Office Products, Salem, Oregon. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

NAFTA–00684; Mead Office Products, Salem, Oregon (April 26, 1996)

Signed at Washington, D.C. this 26th day of April, 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–12297 Filed 5–15–96; 8:45 am]
BILLING CODE 4510–30–M

[NAFTA–00950]

Mid-Columbia Lumber & Box Co., Inc., Madras, Oregon; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on April 1, 1996 in response to a petition filed on behalf of workers at Mid-Columbia Lumber and Box Company, Incorporated located in Madras, Oregon.

In a letter dated April 24, 1996, the sole petitioner requested that this petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 30th day of April 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–12299 Filed 5–15–96; 8:45 am]
BILLING CODE 4510–30–M

[NAFTA–00739]

Miller Brewing Company, Milwaukee Brewery, Milwaukee, Wisconsin; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of March 28, 1996, the petitioners, Brewery Workers Local 9, UAW (Amalgamated) AFL–CIO, requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for NAFTA-Transitional Adjustment Assistance for workers of the subject firm. The denial notice was signed on February 27, 1996, and published in the **Federal Register** on March 19, 1996 (61 FR 11225).

The petitioner presents evidence that the Department's analysis of U.S. imports of beer was incomplete.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 29th day of April 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–12291 Filed 5–15–96; 8:45 am]
BILLING CODE 4510–30–M

[NAFTA–00838]

Winona Knitting Mills, Inc., Berwick Knitwear (Formerly Komar & Sons Berwick Knitwear) Berwick, Pennsylvania; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of April 16, 1996, the company official requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for NAFTA–Transitional Adjustment Assistance for workers of the subject firm. The denial notice was signed on April 8, 1996 and will soon be published in the **Federal Register**.

The company official presents evidence that the Department's survey of the subject firm's customers was incomplete.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. the application is, therefore, granted.

Signed at Washington, D.C., this 27th day of April 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–12290 Filed 5–15–96; 8:45 am]
BILLING CODE 4510–30–M

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed new collection of: Housing Terms and Conditions (WH–521); and the proposed extension collection of: Carrier's or Self-Insurers' Report to the Deputy Commissioner (LS–222); and Representative Payee Report (CM–623), Representative Payee Report—Short Form (CM–623S), Physician's/Medical Officer's Report (CM–787).

A copy of the proposed information collection requests can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before July 17, 1996. The Department of Labor

is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Mr. Rich Elman, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 219–6375 (this is not a toll-free number), fax 202–219–6592.

SUPPLEMENTARY INFORMATION:

Housing Terms and Conditions

I. Background

Section 201(c) of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) requires that any farm labor contractor, agricultural employer or agricultural association that provides housing to any seasonal agricultural worker post in a conspicuous place or present to such worker a statement of the terms and conditions of such housing. In addition, section 201(g) of MSPA requires that such information be provided in English, or as necessary and reasonable, in a language common to the workers and that the Department of Labor make forms available to provide such information. This information collection is a third party notification and was previously not considered subject to the Paperwork Reduction Act.

II. Current Actions

The Department of Labor seeks the extension of approval to collect this information in order to carry out its responsibility to monitor an employer's compliance with MSPA requirements concerning the terms of occupancy of housing for seasonal agricultural workers.

Type of Review: New collection.
Agency: Employment Standards Administration.
Title: Housing Terms and Conditions.
OMB Number: None.
Agency Number: WH–521.
Affected Public: Farms; Businesses or other for-profit; Individuals or households.
Total Respondents: 1,200.
Frequency: Third party disclosure; On occasion.
Total Responses: 1,200.
Average Time per Response: 30 minutes.
Estimated Total Burden Hours: 600.
Total Burden Cost (capital/startup): $0.
Total Burden Cost (operating/maintenance): $0.

Carrier's or Self-Insurer's Report to the Deputy Commissioner

I. Background

Section 39(c)(1) of the Longshore Act requires that disabled workers be assisted in obtaining the best rehabilitation services available. Injured workers traditionally have been referred late for vocational services, which results in excessive compensation costs for employers and difficulty in rehabilitating injured workers. This form is used for the early identification of injured workers who may need vocational rehabilitation services to assist them in a swift return to employment.

II. Current Actions

The Department of Labor seeks the extension of approval to collect this information in order that insurance carriers and self-insurers can identify disabled workers who may need vocational services to return to work as quickly as possible.

Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Carrier's or Self-Insurer's Report to the Deputy Commissioner.
OMB Number: 1215–0051.
Agency Number: LS–222.
Affected Public: Businesses or other for-profit.
Total Respondents: 16.
Frequency: On occasion.
Total Responses: 162.
Average Time per Response: 15 minutes.
Estimated Total Burden Hours: 41.
Total Burden Cost (capital/startup): $0.
Total Burden Cost (operating/maintenance): $0.

Representative Payee Report, Representative Payee Report-Short Form, Physician's/Medical Officer's Report

I. Background

Benefits due a black lung beneficiary may be paid to a representative payee on behalf of the beneficiary when the beneficiary is unable to manage his/her benefits due to incapability, incompetence or minority. The Representative Payee Report and the Representative Payee Report-Short Form, are used to collect expenditure data regarding the disbursement of the beneficiary's benefits by the payee to assure that the beneficiary's needs are being met. The Physician's/Medical Officer's Report is used to determine the incapability or incompetency of a beneficiary to manage his/her benefits.

II. Current Actions

The Department of Labor seeks the extension of approval to collect this information in order to carry out its responsibility to determine if a beneficiary is capable and/or competent to manage his/her benefits, and to assure that the representative payee is using the benefits to meet the beneficiary's needs.

Type of Review: Extension.
Agency: Employment Standards Administration.
Title: Representative Payee Report, Representative Payee Report-Short Form, Physician's/Medical Officer's Statement.
OMB Number: 1215–0173.
Agency Number: CM–623, CM–623S, CM–787.
Affected Public: Businesses or other for-profit.

Form	Total respondents	Frequency	Total responses	Average response time	Burden
CM–623	1,335	Annually	1,335	1½ hr	2,003
CM–623S	890	Annually	890	10 min	148
CM–787	223	On occasion	223	15 min	56
Totals	2,448		2,448		2,207

Total Burden Cost (capital/startup): $0.
Total Burden Cost (operating/maintenance): $779.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 13, 1996.

Cecily A. Rayburn,

Director, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 96–12285 Filed 5–15–96; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Wednesday, May 22, 1996.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

BOARD BRIEFING:

1. Insurance Fund Report.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. charter Application from the Proposed Wendell Phillips Community Development Federal Credit Union, Minneapolis, Minnesota.
3. Appeal of Regional Director's Denial of a Field of Membership Expansion Request from Insurance Employee Federal Credit Union.
4. Proposed Rule: Part 704, NCUA's rules and Regulations, Corporate Credit Unions.

RECESS: 10:45 a.m..

TIME AND DATE: 11:00 a.m., Wednesday, May 22, 1996.

PLACE: Board Room, 7th Floor, Room 4047, 1775 Duke St., Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meetings.
2. Appeal from a Credit Union of a Federal Credit Union's Field of Membership Expansion. Closed pursuant to exemption (8).
3. Request from A Federal Credit Union for a Low-Income Community Area Charter Expansion. Closed pursuant to exemption (8).
4. Request from a Credit Union to Convert to a Federal Community Charter. Closed pursuant to exemption (8).
5. Request from a Federal Credit Union to Convert to a Community Charter. Closed pursuant to exemptions (8) and (9) (B).

FOR FURTHER INFORMATION CONTACT: Hattie Ulan, Acting Secretary of the Board, Telephone (703) 518–6300.

Hattie Ulan,

Acting Secretary of the Board.

[FR Doc. 96–12474 Filed 5–14–96; 2:02 pm]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–263, 50–282, 50–306 and 72–10]

Northern States Power Company; Notice of Transfer of Control of License

Notice is hereby given that the United States Nuclear Regulatory Commission (Commission) is considering approval under 10 CFR 50.80 and 10 CFR 72.50 of the transfer of control of the licenses for the Monticello Nuclear Generating Plant, the Prairie Island Units 1 and 2 Nuclear Generating Plants, and the Prairie Island Independent Spent Fuel Storage Installation facility, held by Northern States Power Company (NSP). Following a series of transactions, NSP will become a wholly owned subsidiary of Wisconsin Energy Corporation (WEC), the parent company of Wisconsin Electric Power Company (WEPCO). WEC will be renamed Primergy Corporation (Primergy) and will own two operating utility subsidiaries: (1) Northern States Power Company, which will be reincorporated in Wisconsin and merged with a newly formed WEC/Primergy subsidiary, and (2) WEPCO, which will be named Wisconsin Energy Company. The merged NSP will continue to operate the same facilities above in the same locations.

Pursuant to 10 CFR 50.80 and 10 CFR 72.50 the Commission may approve the transfer of control of a license, after notice to interested persons, upon the Commission's determination that the holder of the license following the transfer of control is qualified to hold the license and the transfer of the control is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission.

For further details with respect to this action, see the October 20, 1995, submittal from NSP, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the local public document room located at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Maryland this 9th day of May 1996.

For the Nuclear Regulatory Commission.

Kevin A. Connaughton,

Acting Director, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–12266 Filed 5–15–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Cancellation of Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the meeting of the Federal Prevailing Rate Advisory Committee scheduled for Thursday, May 16, 1996, has been canceled.

Information on other meetings can be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5559, 1900 E Street, NW., Washington, DC 20415, (202) 606–1500.

Dated: May 8, 1996.

Phyllis G. Foley,

Chief, Federal Prevailing Rate Advisory Committee.

[FR Doc. 96–12493 Filed 5–14–96; 2:46 pm]

BILLING CODE 6325–01–M

POSTAL SERVICE

Privacy Act of 1974, System of Records

AGENCY: Postal Service.

ACTION: Notice of new system of records.

SUMMARY: This document publishes notice of a new Privacy Act system of records, USPS 050.050, Finance Records—International Money Transfer Transaction and Inquiry Records. The new system contains the names and addresses of purchasers and payees of international money transfer services and transaction information such as identifying numbers and amounts.

DATES: Any interested party may submit written comments on the proposed new system of records. This proposal will

become effective without further notice on June 17, 1996, unless comments received on or before that date result in a contrary determination.

ADDRESSES: Written comments on this proposal should be mailed or delivered to Payroll Accounting and Records, United States Postal Service, 475 L'Enfant Plaza SW, Room 8650, Washington, DC 20260–5243. Copies of all written comments will be available at the above address for public inspection and photocopying between 8 a.m. and 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Betty E. Sheriff, (202) 268–2608.

SUPPLEMENTARY INFORMATION: The Postal Service enters into agreements with some Foreign Postal Administrations to exchange postal money orders. Money orders are transmitted under these reciprocal agreements through payment lists, money order authorizations, or both, on behalf of the purchaser in the country of origin. A list number and international number are assigned to and used to track each money order. Because those numbers are used for internal tracking, they are generally not known by a customer (either the purchaser or the payee inquiring about the status of a money order). However, by cross-referencing a transaction dataset or reference number with a customer name dataset, the Postal Service is able to retrieve status information. For that reason, the Postal Service is establishing this grouping of records as a system of records subject to the Privacy Act.

The Postal Service also maintains purchaser, payee, and transaction information relating to international money transfers. The transfer is completed through payment to the payee in the foreign country. As with money order inquiries, information about a transaction may be retrieved in response to a status inquiry. Consequently, the Postal Service deems it appropriate to include money transfer records in this system of records.

Maintenance of these records is not expected to have a significant effect on individual privacy rights. Information kept is limited to the name and address of the purchaser and/or payee and information about the transaction, such as amount, money order serial number or other identifying number, and payment status. The information will be kept in a secured environment, with automated data processing (ADP) physical and administrative security and technical software applied to information on computer media. Computers and hard copy records are maintained in a secured computer complex with access granted by guards. Access to areas within the complex is restricted with card keys. Access within the area is further restricted to authorized personnel with an official need. To the extent information is exchanged with a foreign administration or institution, it is exchanged under the terms of an agreement that requires confidentiality and limitations on use. Security controls are applied to information electronically transmitted.

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views, or arguments on this proposal. A report of the following proposed system has been sent to Congress and to the Office of Management and Budget for their evaluation.

USPS 050.050

SYSTEM NAME:

Finance Records—International Money Transfer Transaction and Inquiry Records, USPS 050.050.

SYSTEM LOCATIONS:

Accounting service centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Purchasers and payees of postal money order and money transfer services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of purchaser, name and address of money order/money transfer payee, amount, country code, date of issue, place of issue, and identifying numbers such as list number, authorization number, serial number, and/or reference number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401 and 404.

PURPOSE(S):

Information within this system is used to issue and track international postal money order and money transfer transactions and to respond to inquiries concerning the status of those transactions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General routine use statements a, b, c, d, e, f, g, h, and j listed in the prefatory statement at the beginning of the Postal Service's published system notices apply to this system. Other routine uses follow:

1. Information from this system may be disclosed to a Foreign Postal Administration or postal or financial institution which has entered into a reciprocal agreement with the Postal Service to exchange postal money orders.

2. Information from this system may be disclosed to a foreign entity under agreement with the Postal Service to distribute money order and transfer funds.

3. Information from this system may be disclosed to the purchaser or payee of a money order or money transfer in order to respond to an inquiry concerning the transaction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and computer storage media.

RETRIEVABILITY:

Name of purchaser, name of payee, authorization number, money order serial number, and reference number.

SAFEGUARDS:

Hard copy records and computers containing information within this system of records are located in a building with controlled access. To gain access to the building and access to controlled areas within the building, individuals must have authorized badges and/or card keys. Computer systems are protected with an installed security software package, the use of computer log-on IDs, and operating system controls. Access is limited by those means to persons whose duties require such access.

RETENTION AND DISPOSAL:

a. *Money Order Inquiry Records.* Cut off this file each calendar year and destroy three years from date of cutoff.

b. *Money Transfer Transaction Records.* Maintain for three years. Destroy by shredding (paper) or degaussing or electronic erasure (computer).

SYSTEM MANAGER(S) AND ADDRESSES:

Vice President, Controller United States Postal Service 475 L'Enfant Plaza SW., Washington DC 20260–5200.

NOTIFICATION PROCEDURE:

Individuals wanting to know whether information about them is maintained in this system of records must address inquiries in writing to the system manager. Inquiries must contain the authorization number for money orders and the reference number for money transfers.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and the Postal Service Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.6.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Purchasers and payees of money order and money transfer transactions and Foreign Postal Administrations and entities.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 96–12336 Filed 5–15–96; 8:45 am]

BILLING CODE 7710–12–P

PRESIDENT'S COUNCIL ON SUSTAINABLE DEVELOPMENT

The Eleventh Meeting of the President's Council on Sustainable Development (PCSD) in Washington, DC

Summary: The President's Council on Sustainable Development, a partnership of industry, government, and environmental, labor, and Native American organizations, will convene its eleventh meeting in Washington, DC. The Council transmitted its report, entitled Sustainable America: A New Consensus for Prosperity, Opportunity, and a Healthy Environment for the Future, to President Clinton on March 7, 1996. The text of the Council's report can be found on the internet at http://www1.whitehouse.gov/pcsd.

During the upcoming meeting, the President's Council on Sustainable Development will discuss the implementation of the recommendations contained in its report. The discussion will be guided by the following agenda:

Agenda

I. Update since transmittal of Council report to the President
II. Presentations on implementation activities already underway
III. Discussion of Next Steps for Implementation
IV. Public Comment Period

In particular, the Council would like public comment on the following questions:

What two or three recommendations contained in the Council's report should receive priority attention by the Council in the implementation phase?

Are activities underway that contribute to the implementation of the Council's recommendations that merit the attention of the Council?

Dates/Times: Thursday, May 30, 1996, 2:00–4:00 p.m.

Place: The Renaissance Mayflower Hotel, Grand Ballroom (Lobby Level), 1127 Connecticut Avenue, NW., Washington, DC 20036, phone: (202) 347–3000.

Status: Open to the Public. Public comments are welcome. Comments may be submitted orally on May 30 or in writing any time prior to or during the May 30, 1996 meeting. Please submit written comments prior to the meeting to: PCSD, Public Comments, 730 Jackson Pl., NW., Washington, DC 20503, or fax to: (202) 408–6839.

Contact: Acting Implementation Coordinator, Martin A. Spitzer at (202) 408–5331

Sign Language interpreter: Please call the contact if you will need a sign language interpreter.

Martin A. Spitzer,

Acting Implementation Coordinator, President's Council on Sustainable Development.

[FR Doc. 96–12276 Filed 5–14–96; 10:54 am]

BILLING CODE 3125–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Continuing Disability Report.

(2) *Form(s) submitted:* G–254.

(3) *OMB Number:* 3220–0187.

(4) *Expiration date of current OMB clearance:* June 30, 1996.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households, Business or other for-profit.

(7) *Estimated annual number of respondents:* 2,100.

(8) *Total annual responses:* 2,100.

(8) *Total annual reporting hours:* 877.

(10) *Collection description:* Under the Railroad Retirement Act, a disability annuity can be reduced or not paid, depending on the amount of earnings and type of work performed. The report obtains information about a disabled annuitant's employment and earnings.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–12320 Filed 5–15–96; 8:45 am]

BILLING CODE 7905–01–M

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Aged Monitoring Questionnaire.

(2) *Form(s) submitted:* G–19c.

(3) *OMB Number:* 3220–0178.

(4) *Expiration date of current OMB clearance:* June 30, 1996.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 5,000.

(8) *Total annual responses:* 5,000.

(9) *Total annual reporting hours:* 500.

(10) *Collection description:* The collection obtains information about aged annuitants between 75 and 104 years of age. These annuitants may no longer be competent or their death may not have been reported. Under the Railroad Retirement Act, the Railroad Retirement Board (RRB) may pay benefits to someone other than the annuitant if it is in the annuitant's interest. The RRB must terminate payments to a deceased annuitant.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive

Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–12321 Filed 5–15–96; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–21948; File No. 812–10046]

Connecticut General Life Insurance Company, et al.

May 9, 1996.

AGENCY: Securities and Exchange Commission ("SEC" or the "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Connecticut General Life Insurance Company ("CG Life"), CG Variable Annuity Separate Account II (the "Variable Account"), and Cigna Financial Advisors, Inc. ("CFA").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act for exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting CG Life to deduct a mortality and expense risk charge from: (i) the assets of the Variable Account, in connection with the offer and sale of certain flexible premium deferred annuity contracts (the "Existing Contracts") and any contracts ("Future Contracts") offered in the future by CG Life which are substantially similar in all material respects to the Existing Contracts; and (ii) the assets of any separate account ("Future Account") established in the future by CG Life, in connection with the offer and sale of Future Contracts. Applicants propose that the order extend to any broker-dealer ("Other Broker-Dealers") which may serve in the future as principal underwriter with respect to the Contracts or Future Contracts, and which is or will be registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 (the "1934 Act"), and a member of the National Association of Securities Dealers (the "NASD").

FILING DATE: The application was filed March 15, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on June 3, 1996, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, by certificate of service. Hearing requests should state the nature of the interest, the reason for the request, and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants: Robert A. Picarello, Esq., S–321, Connecticut General Life Insurance Company, 900 Cottage Grove Road, Hartford, CT 06152, with copies to George N. Gingold, Esq., 197 King Phillip Drive, West Hartford, CT 06117–1409 and Michael Berenson, Esq., Jorden Burt Berenson & Johnson LLP, 1025 Thomas Jefferson Street NW., Suite 400 East, Washington, DC 20007–0805.

FOR FURTHER INFORMATION CONTACT: Peter R. Marcin, Law Clerk, or Patrice M. Pitts, Special Counsel, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. CG Life, a stock life insurance company domiciled in Connecticut, is a wholly-owned subsidiary of CIGNA Holdings, Inc., which is wholly owned by CIGNA Corporation.

2. CG Life established the Variable Account under Connecticut law on January 25, 1994. The Variable Account is a unit investment trust registered under the 1940 Act. The Variable Account will fund the Existing Contracts.[1]

3. CFA will serve as the distributor of and the principal underwriter for the Existing Contracts, and is expected to serve as the distributor of and the principal underwriter for Future Contracts. CFA is a wholly-owned subsidiary of Connecticut General Corporation, which is wholly owned by CIGNA Corporation. CFA is a broker-dealer registered under the 1934 Act, an investment adviser registered under the Investment Advisers Act of 1940, and a member of the NASD. Broker-dealers other than CFA may serve as distributors of, and principal underwriters for, the Existing Contracts and Future Contracts. Such Other Broker-Dealers shall be registered under the 1934 Act, and members of the NASD.

4. The Variable Account consists of subaccounts (the "Subaccounts"). The assets of each Subaccount will be invested in a corresponding portfolio of one of five investment companies (the "Funds"). Each of the Funds is a registered, diversified, open-end management investment company consisting of one or more investment portfolios which pursue different investment objectives and policies. Currently, seventeen investment portfolios of the Funds are available as investment options under the Existing Contracts; the number and identity of available Funds and investment portfolios may change.

5. The Existing Contracts are combination fixed and variable annuity contracts issued on a group basis in the State of New York.[2] The Existing Contracts may be purchased on a non-tax qualified basis or with the proceeds from certain plans qualifying for favorable tax treatment under the Internal Revenue Code of 1986, as amended (the "Code"). The minimum initial premium for a Contract used in connection with a non-tax qualified plan is $2,500; a minimum initial premium of $2,000 will be permitted for an individual retirement annuity under Section 408 of the Code. Subsequent premium payments must equal at least $100.

6. The Existing Contracts also provide for a guaranteed death benefit. If the Existing Contract owner dies before the annuity date, CG Life will pay a death benefit to the beneficiary, upon receipt of due proof of death and a payment election. The death benefit will be the greatest of: (a) the sum of all premium payments made, minus the sum of all partial withdrawals; (b) the annuity account value as of the time the death benefit election is effective or deemed to become effective; or (c) the annuity account value on the seven-year anniversary of the Existing Contract (and each succeeding contract anniversary occurring at any seven-year interval thereafter) immediately preceding the date the death benefit election is effective or is deemed to become effective, adjusted for any subsequent premium payments, partial withdrawals and charges. If the death benefit becomes payable after the Existing Contract owner's 85th birthday (or the annuitant's 85th birthday, if the Existing Contract owner is not a natural person), the amount payable will be the greater of (a) or (b) above. If the beneficiary designated in the Existing Contract has predeceased the Existing Contract owner, CG Life will pay the death benefit in one lump sum to the estate of the beneficiary, upon receipt of due proof of death of the Existing Contract owner and beneficiary.

7. CG Life will deduct an annual administrative fee of $35 on Existing Contracts having a contract value of less than $100,000. Until the earlier of the annuity date or surrender of the Contract, this fee will be deducted pro rata from all of the Subaccounts in which the Contract owner invests. If a variable payout has been selected after the annuity date, the fee will be deducted proportionately and in installments from the annuity payments. The annual administrative fee partially compensates CG Life for administrative services associated with the Existing Contracts and the Variable Account. CG Life also proposes to deduct a daily administrative expense charge equal annually to 0.15% of the average daily net asset value of the Variable Account.

8. CG Life will rely upon and comply with Rule 26a–1 under the 1940 Act in deducting both the annual administrative fee and the daily administrative charge. CG Life does not anticipate a profit from either administrative charge. These administrative charges are guaranteed not to increase for a Contract once that Contract has been issued.

9. Upon partial withdrawal or full surrender of Contract value, a contingent deferred sales charge (the "CDSC") may be deducted from purchase payments which have been credited to a Contract for fewer than seven years. Each Contract year, however, a Contract owner may withdraw up to 15% of the premium payments paid to date without imposition of a CDSC. CG Life guarantees that the aggregate CDSC under a Contract will not exceed 8.5% of total premiums paid by a Contract owner.

10. CG Life proposes to impose a daily charge equal to an annual effective rate of 1.25% of the value of the net assets of the Variable Account to compensate CG Life for assuming certain mortality and expense risks in connection with the Existing Contracts. Applicants state that approximately 0.75% of the 1.25% charge is attributable to mortality risk, and approximately 0.50% is attributable to expense risk. The mortality and expense risk charge is guaranteed not to increase for a group contract (i.e., each of the Existing Contracts) once that group contract has been issued.

11. If the mortality and expense risk charge is insufficient to cover the actual costs of the risks assumed, CG Life will bear the loss. If the charge exceeds actual costs, this excess will be profit to CG Life and will be available for any corporate purpose, including payment of expenses relating to the distribution of the Existing Contracts. CG Life expects a reasonable profit from the mortality and expense risk charge.

12. The mortality risk borne by CG Life arises from the contractual obligation of CG Life to make annuity payments regardless of how long all annuitants or any individual annuitant may live, and the guarantee of a death benefit. The expense risk assumed by CG Life under the Existing Contracts is that the administrative charges assessed under the Existing Contracts may be insufficient to cover actual administrative expenses incurred by CG Life.

13. CG Life may incur premium taxes relating to the Existing Contracts, and will deduct these taxes upon withdrawal, annuitization or payment of the death benefit. CG Life reserves the right to deduct charges made for federal, state and local taxes incurred by CG Life in the future.

Applicants' Legal Analysis and Conditions

1. Section 6(c) of the 1940 Act authorizes the commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from the provisions of the 1940 Act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in pertinent part, prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (other than sales load) are deposited with a qualified bank as trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the bank itself.

3. Applicants request an order of the Commission under Section 6(c) of the 1940 Act granting exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of a mortality and expense risk charge from: (i) the assets of the Variable Account in connection with the offer and sale of Existing Contracts and Future Contracts; and (ii) the assets of any Future Account, in connection with the offer and sale of Future Contracts. Applicants propose that the order extend to Other Broker-Dealers which may serve in the future as principal underwriter for the Existing Contracts or Future Contracts. Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

4. Applicants assert that the relief would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing efficient use of resources. Applicants submit that the delay and expense involved in having to seek exemptive relief repeatedly would impair the ability of CG Life to take advantage effectively of business opportunities as those opportunities arise, and would not provide any additional benefit or protection to Contract owners. Indeed, Contract owners may be disadvantaged as a result of additional overhead costs incurred by the Applicants, any Future Account, or Other Broker-Dealers.

5. Applicants assert that the 1.25% mortality and expense risks charge to be assessed under the Existing Contracts and Future Contracts is/will be reasonable in relation to the risks assumed by CG Life under the Existing Contracts and the Future Contracts, and that assessment of the charge is/will be consistent with the protection of investors because it is a reasonable and proper insurance charge for the risks

[1] The Commission issued an order pursuant to Section 6(c) of the 1940 Act granting exemptions from the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to permit CG Life to impose on Existing Contracts issued through the Variable Account a mortality and expense risk charge at an annual rate of 1.20 percent. Investment Company Act Release Nos. 21096 (May 25, 1995) (order) and 21035 (Apr. 28, 1995) (notice). CG Life will waive the collection of the additional 0.05% mortality and expense risk charge on Existing Contracts issued on or after May 1, 1996, until the Commission issues an order approving the 1.25% mortality and expense risk charge proposed herein. A 1.20% mortality and expense risk charge will continue to apply to all Existing Contracts issued before May 1, 1996, even if the requested relief is granted.

[2] As used herein, the term "Contract owner" refers to a certificate owner under a group contract (i.e., each of the Existing Contracts) having all ownership rights regarding his or her participation in that Existing Contract. The term "Contract," when used in the singular, shall refer to the certificate evidencing participation in an Existing Contract.

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assumed and the costs incurred by CG Life.

6. Applicants assert that the 1.25% mortality and expense risk charge to be assessed under the Existing Contracts and Future Contracts is/will be within the range of industry practice with respect to comparable annuity products. Applicants represent that this determination is based upon Applicants' analysis of publicly available information about similar industry products, taking into consideration such factors as: current charge levels; benefits provided; charge level guarantees; and guaranteed annuity rates. Applicants represent that CG Life will maintain at its home office, and make available to the Commission upon request, a memorandum detailing the methodology used in, and the results of, the Applicants' comparative survey.

7. Applicants acknowledge that the CDSC will likely be insufficient to cover all costs relating to the distribution of the Existing Contracts. To the extent distribution costs are not covered by the CDSC, CG Life will recover its distribution costs from the assets of the general account. Those assets may include that portion of the mortality and expense risk charge which is profit to CG Life. Applicants represent that CG Life has concluded that there is a reasonable likelihood that the distribution financing arrangement proposed under the Existing Contracts and Future Contracts will benefit the Variable Account, the Future Accounts, Contract owners, and Future Contract owners. The basis for this conclusion is set forth in a memorandum which will be maintained by CG Life at its home office and will be made available to the Commission upon request.

8. CG Life represents that the Variable Account and any Future Account will invest only in open-end management investment companies which undertake, in the event such companies should adopt a plan for financing distribution expenses pursuant to Rule 12b–1 of the 1940 Act, to have such plan formulated and approved by the company's board of directors/trustees, a majority of whom are not interested persons of any such company.

Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12238 Filed 5–15–96; 8:45 am]

BILLING CODE 8015–01–M

[Release No. 34–37191; File No. SR–CTA/CQ–96–1]

Consolidated Tape Association; Order Granting Approval of Proposed Restatements and Amendments to the Restated Consolidated Tape Association Plan and the Consolidated Quotation Plan

May 9, 1996.

I. Introduction

On December 26, 1995, the Consolidated Tape Association ("CTA") and Consolidated Quotation ("CQ") Plan Participants filed with the Securities and Exchange Commission ("Commission" or "SEC") amendments to the Restated CTA Plan and CQ Plan pursuant to Rule 11Aa3–2 of the Securities Exchange Act of 1934 ("Act"). Notice of the filing appeared in the **Federal Register** on January 25, 1996.[1] No comment letters were received in response to the Notice. For the reasons stated below, the Commission has determined to approve the filing.

II. Description

A. Overview of the Changes

The changes to the CQ and CTA Plans broaden "concurrent uses" of the CTA and CQ facilities, incorporate a number of housekeeping changes, and consolidate and reorganize the "Financial Matters" provisions of both plans. In an attempt to make the plans less legalistic, and therefore easier to read, the filing expands the use of definitions used throughout the plans, and deletes certain language that is almost two decades old and outdated. Furthermore, the amendments provide the Participants with greater flexibility in prescribing contract and other requirements for vendor and subscriber services, including the use of the Subscriber Addendum or such alternate requirements as the Participants may prescribe.

B. Second Restatement of the CTA Plan

The filing restates and amends the Restated CTA Plan.[2] The restatement (the "Second Restatement of the CTA Plan") incorporates into the Restated CTA Plan the 17 substantive amendments, and 16 charges amendments, to the Restated CTA Plan that the Commission has previously approved and incorporates the additional amendments submitted to the Commission.[3]

The amendments (1) revise the form of agreement[4] into which the Participants require vendors and certain end users to enter (the "Consolidated Vendor Form") and (2) introduce a form of addendum (the "Subscriber Addendum") that the Participants, under appropriate circumstances, will allow vendors to attach to, or to incorporate into, agreements with certain subscribers as a surrogate for the form of agreement that the participants currently require subscribers to execute.

C. Restated CQ Plan

The filing restates and amends the CQ Plan.[5] The restatement (the "Restated CQ Plan") incorporates into the CQ Plan the 21 substantive amendments, and 6 changes amendments, to the CQ Plan that the Commission has previously approved and incorporates the additional amendments submitted to the Commission.[6]

The Participants are also proposing to use the revised Consolidated Vendor Form and the Subscriber Addendum in connection with the Restated CQ Plan, in the same manner as in the proposed Second Restatement of the CTA Plan.

III. Discussion

The Commission has determined that the Second Restatement of the CTA Plan and the Restated CQ Plan are consistent with the Act. Rule 11Aa3–2(c)(2) under

[1] Securities Exchange Act Release No. 36725 (January 17, 1996), 61 FR 2321.

[2] The Commission declared the CTA Plan effective as of May 17, 1974. *See* Securities Exchange Act Release No. 10787 (May 10, 1974), 39 FR 17799. The Participants filed a restatement and amendment of that Plan (the "Restated CTA Plan") with the Commission on May 12, 1980. The Commission approved the Restated CTA Plan on July 16, 1980. *See* Securities Exchange Act Release No. 16983 (July 16, 1980) 45 FR 49414.

[3] A description of the amendments and a listing of the attachments were included in the Notice of Filing of Amendment (*see*, note 1 *supra*), and are incorporated by reference herein.

[4] The Participants submitted the version of the Consolidated Vendor Form currently in use to the Commission on October 12, 1989. The Commission published a notice of the effectiveness of the Consolidated Vendor Form on September 6, 1990. *See* Securities Exchange Act Release No. 28407 (September 6, 1990) 55 FR 37276.

[5] AMEX and NYSE submitted the version of the CQ Plan currently in effect to the Commission on July 25, 1978. The Commission granted permanent approval of that plan effective as of January 22, 1980. *See* Securities Exchange Act Release No. 16518 (January 22, 1980), 45 FR 6521.

[6] A description of the amendments and a listing of the attachments were included in the Notice of Filing of Amendment (*see*, note 1, *supra*), and are incorporated by reference herein.

the Act provides, *inter alia*, that the Commission approve an amendment to an effective National Market System plan if it finds that the amendment is necessary or appropriate in the public interest, for the protection of investors and maintenance of fair and orderly markets, to remove impediments to and perfect the mechanisms of a National Market System, or otherwise in furtherance of the purposes of the Act. In making such a determination, the Commission must examine Section 11A of the Act and rules promulgated thereunder. Rule 11Aa3–2(b) lists the requirements for filing or amending a national market system plan. The Commission has determined that the detailed description of the amendments, the rationale for the amendments, and plans for operation meet the requirements of Rule 11Aa3–2(b).

Furthermore, the amendments will remove impediments to and perfect the mechanisms of a National Market System by affording greater flexibility that changing technology is likely to require. Participants will retain greater flexibility in determining which vendors and subscribers need to enter into contracts to receive and use information and which terms and conditions apply.[7] The Commission expects that vendors and users of information will benefit from a more flexible agreement with the Participants, and in some instances will be relieved of additional contractual documents that today's practice requires.

The public's interest in availability of information will be met by the broadening of the scope of concurrent use information to include virtually all Participant securities (including bonds) and index information. Amending the language and format of the two plans to make them more closely comport with each other will result in drafting economies, and a more easily readable document.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed amendments to the CTA and CQ Plans are consistent with the Act, and the Rules thereunder.

[7] The Commission notes that Section 11A of the Act establishes special fairness conditions for the dissemination of market information by exclusive securities information processors ("SIPs") such as CTA and CQ. Limitations on access to services of exclusive SIPs must be consistent with the Act, must not discriminate unfairly, and must not place an inappropriate burden on competition. Section 11A requires any SIP that directly or indirectly prohibits or limits access to services offered by the SIP to immediately file notice thereof with the Commission. Such prohibition or limitation on access is subject to review by the Commission.

It is therefore ordered, pursuant to Section 11A of the Act, that the amendments to the CTA and CQ Plans be, and hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12237 Filed 5–15–96; 8:45 am]

BILLING CODE 8010–01–M

[File No. 500–1]

Comparator Systems Corp; Order of Suspension of Trading

It appears to the Securities and Exchange Commission that questions that have been raised about the adequacy and accuracy of publicly-disseminated information about Comparator Systems Corp. concerning, among other things, the assets recorded on its financial statements.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above listed company is suspended for the period from 9:30 a.m. EDT, May 14, 1996 through 11:59 p.m. EDT, on May 28, 1996.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12468 Filed 5–14–96; 2:46 pm]

BILLING CODE 8010–01–M

[Release No. 34–37187; File No. SR–CBOE–96–25]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Members' Use of Blanket or Standing Assurances as to Stock Availability To Satisfy Their Affirmative Determination Requirements Under the Prompt Receipt and Delivery of Securities Interpretation When Effecting Short Sales

May 9, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 17, 1996, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the CBOE. This Order approves the proposed rule change on an accelerated basis and also solicits comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make certain changes to its rules relating to the requirement to make prior arrangements to borrow stock or to obtain other assurances that delivery can be made on settlement date before a member or person associated with a member may sell short. The text of the proposed rule change is available at the Office of the Secretary of the CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of the basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this rule proposal is to amend an interpretation regarding the need to make prior arrangements to borrow stock, warrants, or other securities that trade subject to Chapter 30 of the Exchange's rules, or to otherwise ensure availability of the subject securities before engaging in short sales. Specifically, the Exchange proposes to amend the interpretation to provide that under certain circumstances members may rely on "blanket" or standing assurances (*e.g.*, daily fax sheets) as to stock availability to satisfy their affirmative determination requirements under the Interpretation.

On November 27, 1995, the Commission published a notice of filing an immediate effectiveness of a proposed rule change by the Exchange which adopted Interpretation .04 to Rule 30.20 ("Interpretation"), "Long"

[8] 17 CFR 200.30–3(a)(27).

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and "Short" Sales.[1] The Interpretation is similar to rules of other securities exchanges and requires that member organizations who effect short sales for their own account or for the accounts of customers make an affirmative determination that delivery of the subject securities can be made on settlement date. The purpose for this interpretation is to ensure that borrowings and short sales do not outpace the supply of deliverable stock, thus, leading to potential systemic problems.

The Interpretation also describes the type of "affirmative determinations" that must be obtained by the member or person associated with the member to ensure that the securities will be available. The member or person associated with the member is obligated to keep a written record of each "affirmative determination." If a customer assures delivery, the written affirmative determination must record the present location of the securities in question, whether they are in good deliverable form and the customer's ability to deliver them to the member within three business days. If the member or person associated with a member locates the stock, the affirmative determination must record the identity of the individual and firm contacted who offered assurance that the shares would be delivered or that were available for borrowing by settlement date and the number of shares needed to cover the short sale.

The Interpretation also provides that the manner by which a member or person associated with a member annotates compliance with this "affirmative determination" requirements (*e.g.*, marking the order tickets, recording inquiries in a log) is left for each individual firm to decide. In addition, the Interpretation required that an affirmative determination and annotation of that affirmative determination be made for each and every transaction since a "blanket" or standing assurance that securities are available for borrowing is not acceptable to satisfy the affirmative determination requirement ("standing assurance provision").

On March 29, 1996, the Exchange filed a proposed rule with the Commission to delay the effectiveness of the standing assurance provision until May 10, 1996.[2] CBOE delayed effectiveness of this provision because its rule was based on a similar rule of the NASD, which had also delayed effectiveness of its standing assurance provision. The NASD re-examined the standing assurance provision and subsequently replaced it with a provision that allows members to rely on blanket assurances under some circumstances.[3]

The Exchange has decided, for the sake of regulatory compatibility, to adopt the same provision. Specifically, under the proposal, a CBOE member could rely on a "blanket" or standing assurance that securities will be available for borrowing on settlement date to satisfy its affirmative determination requirement under the Interpretation provided that: (1) the information used to generate the "blanket" or standing assurance is not more than 24-hours old; and (2) the member delivers the security on settlement date. The proposal also provides that, should a member relying on a blanket or standing assurance fail to deliver the security on settlement date, the Exchange will deem such conduct inconsistent with the terms of the Interpretation, absent mitigating circumstances adequately documented by the member.

The Exchange believes the new proposal strikes the appropriate balance between the need to prevent potentially abusive short selling activity and the desire to avoid the imposition of unnecessarily burdensome regulatory requirements. Under the new proposal, members would have the flexibility to exercise their judgment as to whether it would or would not be appropriate to rely on a fax sheet. On the other hand, the proposal allows the Exchange to consider the firm to have violated the rule if the firm uses a fax sheet but then fails to deliver the stock. In order to permit the rule to be reasonably employed by firms who with good intention are unable to deliver, the rule does permit the Exchange to consider mitigating circumstances in failure to deliver situations.

Because this rule proposal helps prevent a shortage of deliverable stock and fails to deliver without imposing any unnecessarily burdensome regulatory requirements, and conforms the CBOE rule to the rules of the NASD and the New York Stock Exchange, the Exchange believes the proposal is consistent with Section 6(b) of the act in general and Section 6(b)(5) in particular by providing rules that facilitate transactions in securities, remove impediments to a free and open market and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments.

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[4] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade and not to permit unfair discrimination between customers, issuers, brokers, and dealers.

As in the NASD Approval Order, the Commission has determined to allow CBOE to permit firms to utilize standing assurances in satisfying their affirmative determination requirements, thereby providing members with the flexibility to determine whether it is appropriate to rely on a standing assurance in a given situation. The proposal, however, also puts members on notice that reliance on standing assurances may be deemed conduct inconsistent with the Interpretation under certain circumstances. The Commission believes that this flexible approach will act not only to ease compliance burdens where appropriate, but also to protect against conduct inconsistent with the purposes of the Interpretation.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** because the CBOE's proposal conforms the Interpretation to the NYSE's interpretation of its own affirmative determination rule[5] and is also identical to the recently approved NASD proposal. The Commission believes that consistent application of CBOE, NASD, and NYSE rules will result in more efficient compliance with such rules. Accordingly, the proposal does not raise any new or unique regulatory issues. For these reasons, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act, to approve the proposed rule change on an accelerated basis.

[1] Securities Exchange Act Release No. 36513 (November 27, 1996).

[2] *See* Securities Exchange Act Release No. 37052 (March 29, 1996).

[3] *See* Securities Exchange Act Release No. 36859 (February 20, 1996) ("NASD Approval Order").

[4] 15 U.S.C. § 78f(b)(5) (1982).

[5] *See* NYSE Rule 440C; NYSE Information Memo 91–41 (October 18, 1991).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rules change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 6, 1996.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (SR–CBOE–96–25) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12236 Filed 5–15–96; 8:45 am]

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[6] 15 U.S.C. § 78s(b)(2) (1988).

[7] 17 CFR § 200.30–3(a)(12).

[Release No. 34–37190; File No. SR–NASD–96–11]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Amendments to the Primary Maker Standards

May 9, 1996.

On March 27, 1996, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder.[2] The rule change amends the Primary Market Maker ("PMM") Standards rule be deleting a provision of the rule that allows a market maker to qualify as a PMM in a security by registering in that security and refraining from quoting that security for five days.[3]

Notice of the proposed rule change, together with the substance of the proposal, was provided by issuance of a Commission release (Securities Exchange Act Release No. 37062, April 2, 1996) and by publication in the **Federal Register** (61 FR 15885, April 9, 1996). No comment letters were received. This order approves the proposed rule change.

On June 29, 1994, the Commission approved on a pilot basis the NASD's short sale rule governing short sales in Nasdaq National Market ("NNM") securities ("Short Sale Rule").[4]

The Short Sale Rule prohibits member firms from effecting short sales[5] at or below the current inside bid as disseminated by the Nasdaq system whenever that bid is lower than the previous inside bid.[6]

The short sale rule provides an exemption to so-called "qualified" Nasdaq market makers ("market maker exemption") to ensure that the rule does not constrain market making activities that provide liquidity and continuity to the market.[7] The market maker exemption is limited to transactions made in connection with bona fide market making activity. A market maker that does not satisfy the requirements for a qualified market maker can remain a market maker but cannot rely upon the market maker exemption when effecting short sales of a NNM security.

A "qualified" Nasdaq market maker is currently defined to be a market maker that satisfies the criteria for a PMM found in Section 49 of the NASD Rules of Fair Practice.[8] A market maker may qualify as a PMM if it satisfies at least two of the following four criteria: (1) the market maker must be at the best bid or best offer as shown on the Nasdaq system no less than 35 percent of the time; (2) the market maker must maintain a spread no greater than 102 percent of the average dealer spread; (3) no more than 50 percent of the market maker's quotation updates may occur without being accompanied by a trade execution of at least one unit of trading; or (4) the market maker executes 1½ times its "proportionate" volume in the stock.[9] A market maker also may qualify as a PMM in a security by registering in the security and refraining from quoting the security for five days ("five-day quotation delay rule"). A "P" indicator is displayed next to the market maker identification of a market maker that qualifies as a PMM.

Market makers are reviewed each month to determine whether they have satisfied the PMM performance standards. If a PMM has not satisfied the threshold standards after a particular review period, its PMM designation is removed commencing on the next business day following notice of failure to comply with the standards. A market maker that loses its PMM designation may requalify for PMM designation by satisfying the threshold standards for the next review period.

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *NASD Manual*, Rules of Fair Practice, Art. III, Sec. 49 (CCH) ¶ 2200I.

[4] *See* Securities Exchange Act Release No. 34277 (June 29, 1994), 59 FR 34885 (July 7, 1994) (approving, *inter alia*, Article III, Section 48 to the NASD Rules of Fair Practice). The pilot has been approved to continue through August 3, 1996. *See* Securities Exchange Act Release No. 36532 (Nov. 30, 1995), 60 FR 62519 (Dec. 6, 1995).

[5] A short sale is a sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller. To determine whether a sale is a short sale members must adhere to the definition of a "short sale" contained in SEC Rule 3b–3, which rule is incorporated into Nasdaq's short sale rule by Article III, Section 48(l)(1) of the NASD Rules of Fair Practice.

[6] Nasdaq calculates the inside bid and the best bid from all market makers in the security (including bids on behalf of exchanges trading Nasdaq securities on an unlisted trading privileges basis), and disseminates symbols to denote whether the current inside bid is an "up bid" or a "down bid." Specifically, an "up bid" is denoted by a green "up" arrow symbol and a "down bid" is denoted by a red "down" arrow. Accordingly, absent an exemption from the rule, a member can not effect a short sale at or below the inside bid in a security in its proprietary account or an account of a customer if there is a red arrow next to the security's symbol on the screen. In order to effect a "legal" short sale on a down bid, the short sale must be executed at a price at least a 1/16th of a point above the current inside bid. Conversely, if the security's symbol has a green "up" arrow next to it, members can effect short sales in the security without any restrictions. The rule is in effect during normal domestic market hours (9:30 a.m. to 4:00 p.m.; Eastern Time).

[7] Article III, Section 48(c)(1).

[8] Before the PMM standards went into effect, a "qualified market maker" was defined to be a market maker that had entered quotations in the relevant security on an uninterrupted basis for the preceding 20 business days, the so-called "20-day test."

[9] For example, if there are 10 market makers in a stock, each dealer's proportionate share volume would be 10 percent; therefore, 1½ times proportionate share volume would mean 15 percent of overall volume.

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A market maker may register as a market maker in a NNM security and become a PMM immediately if it is a PMM in at least 80% of the securities in which it makes a market. If a market maker does not meet the 80% threshold, it can either comply with the five-day quotation delay rule or it can register in the security as a regular Nasdaq market maker, enter quotes immediately, and satisfy the qualification criteria for the next review period.

The NASD stated in its filing that the five-day quotation delay rule originally was intended to ensure that market makers were not registering in a security to take advantage of momentary short-selling opportunities. However, the NASD expressed concern in its filing that market making affiliates of the same firm are able to use the five-day quotation delay rule to circumvent the application of the PMM standards by "swapping" lists of stocks in which they make a market and alternatively receive PMM designation without ever meeting the quantitative PMM standards. The NASD also expressed concern in its filing that market makers are able to use the five-day quotation delay rule to inflate the percentage of stocks in which they are a PMM above the 80 percent level, thereby entitling them to PMM status for all NNM securities in which they register during the next month. In both instances, the five-day quotation delay rule would allow a market maker to become a PMM for reasons wholly unrelated to the quality of its market-making.[10] Therefore, the NASD has proposed to amend the Primary Market Maker ("PMM") Standards rule by deleting the five-day quotation delay rule.

The Commission finds that the rule change is consistent with the provisions of section 15A(b)(6) of the Act. The rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest by ensuring that market makers qualify for PMM status only if they have met certain performance standards. The rule change also is reasonably designed to ensure that a market maker's short sale transactions are made in connection with bona fide market making activity.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR–NASD–96–11 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12234 Filed 5–15–96; 8:45 am]

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[10] The NASD stated in its filing that few market makers have utilized the five-day quotation delay rule to become PMMs.

[11] 17 CFR 200.30–3(a)(12).

[Release No. 34–37188; International Series Release No. 976; File No. SR–NYSE–96–08]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Commodity Indexed Preferred Securities

May 9, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 8, 1996, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the NYSE. This Order approves the proposed rule change on an accelerated basis and also solicits comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list under Paragraph 703.19 of the Listed Company Manual ("Manual") Commodity Futures Index Preferred Securities ("Securities"). The Securities are intermediate term securities whose value will be linked, in part, to changes in the 11 individual commodities (or the futures contracts overlying such commodities) that comprise the J.P. Morgan Commodity Index or its subindices.

The Securities either will be linked: (1) directly to the price of a futures contract on the commodity, (2) to an "Excess Return Index" of the commodity, or (3) to a "Total Return Index" of the commodity. An Excess Return Index represents the cumulative returns of investing in unleveraged positions in nearby commodity futures contracts and constantly rolling the position forward to the next designated contract as the contract nears expiration. The Total Return Index consists of the Excess Return Index plus the return on three-month Treasury Bills.

[1] The underwriter of the Securities has advised the NYSE that the Securities will comply with the "hybrid exemption" of the Commodity Futures Trading Commission ("CFTC"), 17 CFR part 34. The underwriter has further advised the Exchange that it has presented a description of the structure and sample term sheet of the Securities to the staff of the CFTC, who have not raised any objections.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NYSE has prepared summaries, set forth in Sections (A),(B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange proposes to list the Securities pursuant to Para. 703.19 of the Manual. Under Para. 703.19, the issuer will be either a listed company, an affiliate of a listed company or a company that meets NYSE listing criteria. It currently is anticipated that the issuer will be a financing subsidiary of a listed company.

The Securities. The Securities will be preferred securities or debt securities with a term of two to ten years listed pursuant to Para. 703.19 of the Manual. The redemption price of the Securities will be based, in part, on the 10-day average level of the value of the underlying individual commodity (or futures contract) during the 20 days prior to maturity of the Securities. At redemption, holders will receive par value times a percentage calculated by dividing the ending value of the underlying commodity (or futures contract) by the beginning value of the underlying commodity (or futures contract). Such percentage may be greater or less than 100 percent and, therefore, at redemption, the holder could receive less than the original issue amount of the Securities.[1] The following chart describes the linked contracts:

No.	Official commodity name and units	Exchange	Units per contract	Contract used
1	Aluminum $/MT (Metric Tons)	LME	25 tons	Third Wednesday of Mar, Jun, Sep and Dec.
2	Copper $/MT	LME	25 tons	Third Wednesday of Mar, Jun, Sep and Dec.
3	Nickel $/MT	LME	6 tons	Third Wednesday of Mar, Jun, Sep and Dec.
4	Zinc $/MT	LME	25 tons	Third Wednesday of Mar, Jun, Sep and Dec.
5	Heating Oil #2 $/gal	NYMEX	42,000 gal	Every month.
6	Natural Gas $/MM BTU	NYMEX	10,000 MM BTU.	Every month.
7	Unleaded Gas $/gal	NYMEX	42,000 gal	Every month.
8	WTI Light Sweet Crude $/BBL	NYMEX	1,000 bbl	Every month.
9	Platinum $/troy oz	NYMEX	50 troy oz	Jan, Apr, Jul, Oct.
10	Gold	COMEX	100 troy oz	Feb, Apr, Jun, Aug and Dec.
11	Silver	COMEX	5,000 troy oz.	Mar, May, Jul, Sep and Dec.

The Securities will meet the listing criteria of Para. 703.19. Thus, if the Securities are listed and traded as equity securities: there will be at least one million Securities outstanding; the Securities will have a market value of at least $4 million; and there will be at least 400 holders of the Securities. If the Securities are listed and traded as debt securities, there will be a minimum public market value of at least $4 million. Equity margin will apply to all Securities, whether listed as debt or equity.

The Indices. Securities linked to an Excess Return Index will pay dividends or interest (collectively, "Distributions") at a specified rate. The value of the Securities will be calculated with reference to the prices of nearby futures contracts on the applicable commodity. An independent calculation agent will calculate and disseminate the value of the Securities every 60 seconds during the trading day. The daily change in value is derived exclusively from the daily profit or loss on such futures positions. Over time, the elements of this change can be described as having two components: the change in price in the nearby contract ("price return") and the cost of carry imbedded in the futures contract forward curve ("roll return").[2]

The price return is the change in price on the nearby futures contracts. The roll return is the yield that is potentially available as a result of the difference between the prices for shorter-term futures positions and longer-term futures positions. These prices could differ depending on a variety of factors, including market expectation of price trends and general supply and demand. Historically, many commodity markets have been in "backwardation" for extended periods. That creates an opportunity to increase return by creating longer-dated positions and "rolling" positions forward as they expire. However, there is no guarantee that such a strategy will produce a positive return. If prices for shorter-dated positions are less than the prices for longer-dated positions (a situation known as "contango"), there would be a negative return to the roll over time.

If the Securities are linked to a Total Return Index, in addition to price return and roll return, the concept of "collateral return" will be included when determining the value of the Securities. Collateral Return incorporates the component of returns on U.S. Treasury Bills that would arise if the face amount of the investment is fully collateralized by Treasury Bills. While commodities investors are not obligated to collateralize their positions fully, this return is included to facilitate accurate comparison of the performance of an investment in commodities relative to an investment in financial assets such as a stock or bond portfolio. Under the Total Return methodology, the Securities would either not have a separate Distribution or the Distribution would be substantially less than if the Excess Return methodology were used.

If the Securities are linked directly to the price of the commodity, there will be no element of roll return, collateral return or total return in the pricing. Rather, the holders of the Securities will receive Distributions on the face value of their Securities. The frequency and rates of such Distributions will vary from issue to issue depending upon prevailing interest rates and other factors, including the price of the linked commodity.

The design, composition and calculation of a Total Return or Excess Return Index is expected to remain unchanged during the term of the Securities. If market developments require changes to these aspects of the product, decisions regarding such changes will be made by the JPMCI Policy Committee, a neutral business committee. This committee consists of senior employees in the commodities and research areas of J.P. Morgan, as well as independent industry and academic experts. Personnel from J.P. Morgan's commodities group serve only in an advisory, non-voting role on the committee. J.P. Morgan immediately will notify the Exchange and vendors of financial information if there is a change in the design, composition or calculation of the Securities.

If it becomes necessary to choose a replacement price source for the Securities, the new price source will meet the following criteria: (i) it will be priced in U.S. dollars, or if priced in a non-U.S. currency, the exchange on which the contract is traded must publish an official exchange rate for conversion of the price into U.S. dollars and such currency must be freely convertible into U.S. currency; (ii) it will be traded on a regulated futures exchange in an OECD country[3] or in Singapore; and (iii) it will have a minimum annual volume of 300,000 contracts or US $500 million. The issuer will notify the Exchange and vendors of financial information immediately if there is a change to the Securities.[4]

Members of the JPMCI Policy Committee and employees of the calculation agent that are involved in the calculation of, or data collection for, the Securities are prohibited from trading the underlying futures positions or the Securities. In addition, the calculation agent has adopted such reasonable and appropriate procedures to ensure that it, its agents, affiliates and

[2] These are accounting terms used to describe the elements comprising the return associated with the Index. Changes in the value of the Securities actually result solely from the cumulative profit and loss on the futures position overlying the applicable commodity.

[3] The OECD—the Organization of Economic Cooperation and Development—consists of the United States, Japan, Germany, France, Italy, the United Kingdom, Canada, Australia, Austria, Belgium, Denmark, Finland, Greece, Iceland, Ireland, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland and Turkey.

[4] *See* Memorandum from David Seaman, JPMorgan, to Vincent Patten, NYSE, dated May 6, 1996.

employees do not take advantage of, or communicate to any other person, any knowledge concerning changes in the value of an Index.

Surveillance. The Exchange will be able to obtain market surveillance information, including customer identity information, with respect to transactions occurring on the applicable futures exchange pursuant to its information sharing agreement with such exchange. The Exchange will not trade any security unless it has a surveillance agreement with the market trading the underlying futures contract. In the extremely unlikely event that the securities are no longer based on an exchange-traded futures contract (if, for example, that exchange no longer trades a particular futures contract), the J.P. Morgan Policy Committee will seek to substitute a similar futures contract. In that situation, in addition to the conditions listed above, the Exchange would continue to trade the Securities only if the new futures contract underlying the Securities trade on an exchange that has a comprehensive information sharing agreement with the NYSE or if the Commission staff otherwise concurs in the continuation of such trading.[5]

Sales Practices. Because there is an element of derivative pricing regarding the Securities, the Exchange will require members, member organizations and their employees to make a determination with respect to customers whose accounts have not previously been approved to trade futures or options that a transaction in the Securities is suitable for such customer. In addition, members, member organizations and their employees recommending a transaction in the Securities will be required: (i) to determine that the recommend transaction is suitable for the customer; and (ii) to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, the recommended transaction.

The Exchange also will distribute a circular to its membership prior to the commencement of trading in the Securities. That circular will provide guidance with respect to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the Securities and highlighting the special risks and characteristics thereof.

Basis—The basis under the Securities Exchange Act of 1934 ("1934 Act") for this propose rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5). In particular, the Commission believes that the availability of exchange-traded Securities will provide an instrument for investors to achieve desired investment objectives (*e.g.*, commodity exposure and portfolio diversification) through the purchase of an exchange-traded securities product linked to one of the single commodities noted above.[6] For the reasons discussed below, the Commission has concluded that the NYSE listing standards applicable to Securities are consistent with the Act.

The Securities are similar in structure to a previous American Stock Exchange ("Amex") product, Commodity Indexed Preferred Securities ("ComPS"), which the Commission approved in February 1996.[7] ComPS were listed pursuant to Section 107 of the Amex Company Guide, Other Securities, and, like the NYSE Securities, the principal value of ComPS is derived from the performance of futures contracts overlying certain selected physical commodities.

The value of the Securities will be affected partially by certain risks that are associate with the purchase and sale of exchange-traded futures contracts. Furthermore, the Commission notes that the prices of commodities, including the eleven individual commodities which may underlie a particular Securities issuance, may be subject to volatile price movements caused by numerous factors.[8] Accordingly, an investment in Securities may also be subject to volatile price movements due to price changes in the underlying commodities and related futures contracts. In addition, Securities possess many complex features, such as the incorporation of roll return and collateral return into their pricing methodologies.

In order to address the complex and risky nature of Securities, the NYSE has proposed special suitability, disclosure, and compliance requirements. First, the Exchange will require members to make a determination with respect to customers whose accounts have not previously been approved to trade futures or options that a transaction in the proposed securities is suitable for such customer.[9] This is important given the embedded derivative component of Securities. Second, the NYSE will require that members who make recommendations in Securities determine that the transaction recommended is suitable for the customer and have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, the recommended transaction. Third, because Securities are cash-settled, holders will not receive, nor be required to liquidate, the underlying physical commodities or overlying futures contracts. The Commission notes that this provision will effectively terminate a Securities investor's exposure to commodity market risk at the security's maturity and limit an investor's loss to the amount of his initial investment. Finally, the Exchange plans to distribute a circular to its membership calling attention to the specific risks associated with Securities.[10] This will assist members in determining the customers eligible to trade Securities, formulating recommendations in Securities, and in monitoring customer and firm transactions in Securities.

The Commission also believes that several factors significantly minimize the potential for manipulation of Securities. First, each of the futures contracts overlying the commodities is relatively actively traded, and has considerable open interest. Second, the majority of futures contracts overlying the component commodities trade on exchanges that impose position limits on speculative trading activity, which are designed, and serve, to minimize potential manipulation and other market impact concerns. Third, as discussed below, the NYSE has entered into certain surveillance sharing agreements with each of the futures exchanges upon which the underlying designated futures contracts trade. These agreements should help to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making Securities less readily susceptible to manipulation. Fourth, the price of Securities (with respect to those commodities traded in the U.S.) will be calculated every 60 seconds and disseminated to vendors of electronic financial information. Fifth, adequate procedures are in place to prevent the misuse of information by members of the policy committee responsible for replacements with respect to the underlying contract.[11] Accordingly, for the reasons discussed above, the Commission believes that Securities are not readily susceptible to manipulation and that in any event, the surveillance procedures in place are sufficient to detect and deter potential manipulation.

The Commission notes that Securities, unlike standardized options, do not contain a clearinghouse guarantee but are instead dependent upon the individual credit of the issuer. This heightens the possibility that a purchaser of Securities may not be able to receive any cash payment due upon maturity. To some extent this credit risk is minimized by the Exchange's listing guidelines requiring Securities issuers to comply with the listing requirements of Para. 703.19(1).[12] In addition, financial information regarding the issuer will be disclosed or incorporated in the prospectus accompanying the offering of Securities.

Based on the above, the Commission finds that the proposal to trade the Securities is consistent with the Act, and, in particular, the requirements of Section 6(b)(5).[13]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** in order to allow NYSE to list the Securities without delay. The proposal will provide the Exchange with increased flexibility in the listing of commodity linked products without compromising investor protection concerns. In addition, the NYSE proposal is nearly identical to the Amex ComPS proposal, with the securities being based on the same commodities underlying the futures contracts, and subject to the same valuation methods used for ComPS. The Amex proposal was subject to the full notice and comment period and the Commission notes that no comment letters were received. Accordingly, the Commission does not believe the NYSE proposal raises any new or unique regulatory issues. For these reasons, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act, to approve the proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 6, 1996.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–NYSE–96–08) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12235 Filed 5–15–96; 8:45 am]

BILLING CODE 8010–01–M

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[5] The NYSE has comprehensive surveillance sharing agreements with all of the exchanges upon which the futures contracts relating to a particular Securities trade. Specifically, NYSE is able to obtain market surveillance information, including customer identity information, for transactions occurring on NYMEX and Comex. Furthermore, under the ISG information sharing agreement, SFA will be able to provide, upon NYSE request, surveillance information with respect to trades effected on the LME, including client identity information. Finally, if the underlying commodity for an issuance of Securities changes or if a different market is utilized for purposes of calculating the value of a designated futures contract, the NYSE will ensure that it has entered into a surveillance sharing agreement with respect to the new relevant market.

[6] Pursuant to Section 6(b)(5) of the Act the Commission must predicate approval of exchange trading for new products upon a finding that the introduction of the product is in the public interest. Such a finding would be difficult with respect to a product that served no investment, hedging or other economic function, because any benefits that might be derived by market participants would likely be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[7] *See* Securities Exchange Act Release No. 36885 (February 26, 1996).

[8] Such factors include, but are not limited to, international economic, social and political conditions and levels of supply and demand for the individual commodities.

[9] Such a requirement is more than the duty to know and approve customers, and entails an obligation to make a determination that the transaction is suitable for the customer.

[10] The NYSE circular will be submitted to the Commission for its review and should include, among other things, a discussion of those risks which may cause commodities to experience volatile price movements in addition to details on the pricing methodology to be used for that particular issuance.

[11] As discussed above, members of the policy committee are expressly prohibited from trading Securities and from communicating any knowledge concerning changes in the value of the underlying commodities. The NYSE has advised that it has surveillance procedures in place to periodically review activity in the Securities, including the ability to monitor any activity in the Securities by members of the JPMCI. Telephone conversation between Vincent Patten, NYSE, and Stephen M. Youhn, SEC, on May 7, 1996.

[12] Paragraph 703.19(1) of the Manual states that if the issuer is a NYSE-listed company, the issuer must be a company in good standing (*i.e.*, above Continued Listing Criteria): if an affiliate of an NYSE-listed company, the NYSE-listed company must be a company in good standing; if not listed, the issuer must meet NYSE specific original listing standards. These standards, among other things, set forth minimum requirements for net tangible assets, net income, and aggregate market value of publicly held shares.

[13] The Commission notes that a Rule 19b–4 filing might be required in order to list any other derivative product based upon a commodity interest that differs from the proposed Securities.

[14] 15U.S.C. 78s(b)(2) (1988).

[15] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Request for Comments

The U.S. Small Business Administration's (SBA) Office of Government Contracting requests comments on a possible Agency initiative to develop a concept for the provision of Value Added Services (VAS) to small businesses seeking Federal procurement opportunities through electronic commerce and electronic data interchange (EC/EDI). It is envisioned that these services would be priced using a fee schedule determined through negotiations with the SBA. It is important to note that the Agency does not intend to compete with existing value-added-network (VAN) service providers. Rather, the SBA seeks to increase substantially the exposure of

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small businesses to the various processes associated with participating in EC/EDI. The SBA is exploring the possibility of soliciting proposals from interested offerors at a later date. However, at this time, no decision has been made on proceeding with a procurement action.

Background

The mission of the SBA's Office of Government Contracting is to advocate, facilitate and create an environment conducive to the maximum practicable participation by small, small disadvantaged, and women-owned businesses in Federal procurement. This includes awards made by the U.S. Government and subcontracts awarded by its large prime contractors. The direction of Federal procurement policy was substantially altered by a 1993 memorandum from the President directing the heads of departments and agencies to re-engineer the procurement process by developing and implementing a system for Federal EC/EDI. The Federal Acquisition Streamlining Act (FASA) of 1994 dubbed the resulting systems architecture as FACNET, and established the initial statutory framework necessary to transition Federal purchasing activities to EC/EDI. Consistent with the provisions of the President's memorandum, electronic purchasing initially focused on the millions of requirements filled using simplified acquisition procedures, the ceiling for which was raised by FASA to a maximum of $100K for FACNET-certified purchasing activities. Simplified acquisitions, which are reserved primarily for small businesses, have been conducted increasingly via FACNET.

A major component of the current FACNET systems architecture is its Centralized Contractor Registration (CCR) data base. The purposes of the FACNET CCR include: (1) Eliminating redundancy by standardizing the contractor registration procedure across the Government; and (2) providing a common data base for compiling and sharing trading partner information. The concept for which the SBA is seeking comments is rooted in the critical need for increased contractor participation in EC/EDI. The concept is centered around the identification, pricing and delivery of value added services (VAS) to small businesses by a single provider.

Purpose

The purpose of this request for comments is to solicit information, observations and suggestions on the feasibility and nature of establishing and supporting a VAS provider with a vehicle that would:

1. Offer lower introductory VAS prices to small businesses for a period not to exceed one year so that small businesses would be encouraged to participate in EC/EDI, and, based on that exposure, make informed decisions about continued participation.

2. Provide those SBA offices who are actively involved in EC/EDI outreach and counseling, with an established source of affordable VAS to which small businesses could be directed.

3. Dramatically increase the population of firms centrally registered for FACNET.

General Specifications: Any Value Added Network (VAN) services provided by the established source would be provided through a VAN certified by the Defense Information Services Agency Contracting Office (DITCO), and such VAN services would be provided in accordance with the VAN licensing agreement signed by the VAN and DITCO. Additionally, the established VAS provider would ensure that each small business recruited pursuant to any agreement is successfully registered on the CCR and certified for FACNET transactions.

SBA's Role in Outreach: SBA would distribute information on the services and pricing of the established VAS to the Agency's Regional and District Offices, Business Information Centers (BICs), Government Contracting Area Directors, Procurement Center Representatives, Women's Demonstration Project Sites, Small Business Development Centers, Management and Technical Assistance Providers, One-Stop Capital Shops, Small Business Utilization Staffs, and other entities involved in promoting or assisting in small business development.

The following individual is designated as the point of contact for responses which must be submitted in writing before the close of business on June 21, 1996. Submission of comments by mail, FAX or INTERNET E-mail is acceptable: Oliver H. Snyder III, 409 3rd Street SW, Office Code-6254, Washington, D.C. 20416. Phone Number: 202–205–7650.FAX Number: 202–205–7324. Internet Address: ohs@pa.sba.gov.

Judith A. Roussel

Associate Administrator, for Government Contracting.

[FR Doc. 96–12331 Filed 5–15–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 2385]

Advisory Committee on International Law; Notice of Meeting

A meeting of the Advisory Committee on International Law will take place on Tuesday, June 11, 1996, from 2:00 to approximately 5:00 p.m., as necessary in Room 1406 of the U.S. Department of State, 2201 C Street, NW., Washington, DC. The meeting will be chaired by the Legal Adviser of the Department of State, Conrad K. Harper, and will be open to the public up to the capacity of the meeting room. The meeting will focus on a review of current International Court of Justice litigation, International Court of Justice and International Law Commission elections during 1996, and other current developments.

Entry to the building is controlled and will be facilitated by advance arrangements. Members of the public desiring access to the session should, by Friday, June 7, 1996 notify the Office of the Assistant Legal Adviser for United Nations Affairs (telephone (202) 647–2767) of their name, Social Security number, date of birth, professional affiliation, address and telephone number in order to arrange admittance. The above includes government and non-government attendees. All attendees must use the "C" Street entrance. One of the following valid IDs will be required for admittance: Any U.S. driver's license with photo, a passport, or a U.S. Government agency ID.

Dated: May 6, 1996.

John R. Crook,

Assistant Legal Adviser for United Nations Affairs; Executive Director, Advisory Committee on International Law.

[FR Doc. 96–12248 Filed 5–15–96; 8:45 am]

BILLING CODE 4710–08–M

[Public Notice No. 2387]

Shipping Coordinating Committee; Subcommittee for the Prevention of Marine Pollution; Notice of Meeting

The Subcommittee for the Prevention of Marine Pollution (SPMP), a subcommittee of the Shipping Coordinating Committee, will conduct an open meeting on Tuesday, June 25, 1996, at 9:30 am in Room 2415 of the U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

The purpose of this meeting will be to review the agenda items to be considered at the thirty-eighth session of the Marine Environment Protection Committee (MEPC 38) of the International Maritime Organization (IMO) to be held from July 1–10, 1996. Proposed U.S. position on the agenda items for MEPC 38 will be discussed.

The major items for discussion will be the following:

1. Development of a draft International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78), Annex VI (Air Pollution) regulations.
2. Work relating to the Human Element.
3. Unwanted aquatic organisms in ballast water.
4. Implementation of the International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC).
5. Follow-up action to the United Nations Conference on Environment and Development (UNCED).
6. Harmful effects of the use of antifouling paints for ships.
7. Development of a "Manual on Disposal of Ships Waste".

Members of the public may attend these meetings up to the seating capacity of the room.

For further information or documentation pertaining to the SPMP meeting, contact Lieutenant Commander Ray Perry, U.S. Coast Guard Headquarters (G–MOS–4), 2100 Second Street, SW., Washington, DC 20593–0001, Telephone: (202) 267–2714.

Dated: May 8, 1996.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 96–12325 Filed 5–15–96; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

Reports, Forms and Recordkeeping Requirements

AGENCY: Department of Transportation (DOT), United States Coast Guard.

ACTION: Notice and request for comments.

SUMMARY: This notice announces five Information Collections Requests (ICR) are coming up for renewal. These ICRs are: Collection of Marine Casualty Information (Forms CG–2692/2692A), Chemical Drug and Alcohol Testing Information (Form CG–2692B), and Management Information System Reports [ICR No. 2115–0003], Application and Permit to Handle Hazardous Materials [ICR No. 2115–0013], Welding and Hot Work Permit [2115–0054], Plan Review for Facilities With Vapor Control System [ICR No. 2115–0581], Ships' Stores Certification for Hazardous Materials Aboard Ships [ICR No. 2115–0139]. Before submitting renewal packages to the Office of Management and Budget (OMB), USCG is soliciting comments on specific aspects of the collections as described below.

DATES: Interested parties are invited to submit comments on or before July 11, 1996.

ADDRESSES: Submit written comments identified by ICR No. by mail to Barbara Davis, 2100 Second Street, SW.; G–SII; Washington, DC 20593, Telephone number (202) 267–2326. Requests for a copy of the information collection should be directed to Barbara Davis, 2100 Second Street, SW.; G–SII; Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, 2100 Second Street, SW.; G–SII; Washington, DC 20593, Telephone number (202) 267–2326.

SUPPLEMENTARY INFORMATION: Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1995, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests for approval or renewal under that Act. OMB reviews and approves agency submissions in accordance with criteria set forth in that Act. This notice identifies five information collections of the United States Coast Guard that are coming up for renewal for a term of three years.

The following information is provided for each information collection: (1) Title of information collection; (2) OMB Control Number; (3) Affected Entities, (4) Abstract of the information collection activity, including the need for and use of the collection; (5) estimate of total annual reporting and recordkeeping burden; and frequency of collection.

Title: Collection of Marine Casualty Information (Forms CG–2692/2692A), Chemical Drug and Alcohol Testing Information (Form CG–2692B), and Management Information System Reports.

OMB No: 2115–0003.

Affected Entities: Commercial Marine Industry.

Abstract: Marine casualty information is necessary for informing Coast Guard of commercial vessel casualties involving death, vessel damage, etc., as mandated by Congress. Chemical retesting information is necessary to improve Coast Guard detection/reduction of drug use by mariners. Relative test result information must be sent to Coast Guard to evaluate program effectiveness.

Under Title 46 U.S.C. 7503, Coast Guard has authority to deny the issuance of licenses, certificates of registry and merchant Mariner's documents to users of dangerous drugs.

Coast Guard will use this information to: (a) Determine if certain applicants are qualified to be issued seaman's papers, (b) initiate administrative action against a commercial mariner's right to continue holding seaman's papers, initiate civil or criminal penalty action when an individual has been found to be operating a vessel while intoxicated, and (d) to asses the impact of drug or alcohol use in serious marine accidents.

Burden Estimate and Frequency: The current total annual respondent burden estimate is 33,878 hours. The average burden hour per response is 54 minutes reporting and 24 minutes recordkeeping. The frequency of reporting and recordkeeping will be on occasion.

Title: Application and Permit to Handle Hazardous Materials.

OMB No: 2115–0013.

Affected Entities: Shipping agents and terminal operators.

Abstract: This requirement ensures the safe handling of explosives and other hazardous materials in port areas and on board vessels. Shipping agents and terminal operators who handle the above commodities must comply.

This information is a requirement stated under the Ports and Waterways Safety Act, 33 U.S.C. 1225, the Coast Guard has authority to establish procedures and standards for handling of hazardous material on vessels and waterfront facilities.

This information will be used to determine if safe practices are being followed in the stowage and handling of explosives and hazardous materials.

Burden Estimate and Frequency: The current total annual respondent burden estimate is 814 hours. The average burden hour per response is 1 hour reporting. The frequency of recordkeeping will be annually.

Title: Welding and Hot Work Permit.

OMB No: 2115–0054.

Affected Entities: Owners/operators of vessels and waterfront facilities.

Abstract: This information is used by the Coast Guard to ensure compliance with safety regulations. This allows the use of welding or other "hot-work" equipment on a designated waterfront facility.

Under Title 33 CFR 126.15(c), 33 CFR 127.617, 33 CFR 154.735(k)(1) and 49 CFR 176, Coast Guard has the authority

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to grant waterfront facilities and vessels permits to conduct Hot Works and welding activities.

Coast Guard proposed use of this information is to ensure that waterfront facilities and vessels are in compliance with safety standards.

Burden Estimate and Frequency: The current total annual respondent burden estimate is 2,190 hours. The average burden hour per response is 5 minutes reporting. The frequency of recordkeeping will be occasionally.

Title: Plan Review for Facilities With Vapor Control Systems.

OMB No: 2115–0581.

Affected Entities: Owners/operators of vessels and facilities with vapor control systems.

Abstract: This information is used by the Coast Guard to ensure compliance with safety regulations. This allows the use of welding or other "hot-work" equipment on a designated waterfront facility.

Under Title 33 CFR 126.15(c), 33 CFR 127.617, 33 CFR 154.735(k)(1) and 49 CFR 176, Coast Guard has the authority to grant waterfront facilities and vessels permits to conduct Hot Works and welding activities.

The Coast Guard proposed use of this information is to ensure that waterfront facilities and vessels are in compliance with-safety standards.

Burden Estimate and Frequency: The current total annual respondent burden estimate is 2,190 hours. The average burden hour per response is 5 minutes reporting. The frequency of recordkeeping will be occasionally.

Title: Ships' Stores Certification for Hazardous Materials Aboard Ships.

OMB No: 2115–0139.

Affected Entities: Suppliers and manufacturers of hazardous products used on ships.

Abstract: Ships' Stores Certification—Title 46, CFR, Part 147 requires proper identification and labeling of dangers presented by hazardous ships' stores. The regulation provides manufacturers the opportunity to request waivers for products in special DOT hazard classes to be used aboard ships.

Title 46 U.S.C. 3303 authorizes the Coast Guard to regulate the transportation, stowage and use of ships' stores and supplies of a dangerous nature.

Coast Guard will use this information to ensure personnel aboard vessels are made aware of the proper usage and stowage instructions to protect them from bodily injury.

Burden Estimate and Frequency: The current total annual respondent burden estimate is 6 hours. The average burden hour per response is 3 hours reporting. The frequency of reporting will be occasionally.

Issued in Washington, D.C. on May 10, 1996.

Phillip A. Leach

Clearance Officer, United States Department of Transportation.

[FR Doc. 96–12267 Filed 5–15–96; 8:45 am]

BILLING CODE 4910–14–P

Federal Highway Administration

Environmental Impact Statement: Cleveland County, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice of intent to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Cleveland County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Roy Shelton, Operations Engineer, Federal Highway Administration, 310 New Bern Avenue, Suite 410, Raleigh, North Carolina 27601, Telephone (919) 856–4350.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to provide improved traffic flow along US 74 in the vicinity of Shelby. The proposed project would consist of construction of US 74 to a multi-land freeway on new location or upgrading existing US 74. The proposed highway is considered necessary to handle existing and projected traffic demand; and to provide a more direct link with full control of access between Charlotte and Asheville than that currently available via I–85 and I–26.

Alternatives under consideration include: (1) taking no action (No Build); (2) improvement of existing route (Upgrade); and (3) Northern and Southern Build alternatives and five crossovers, which combine to form 24 possible project-wide alternatives.

Letters describing the proposed action and soliciting comments have been sent to the appropriate Federal, State, and local agencies and to private organizations who have previously expressed interest in this project. A series of public meeting have been held for this projects: additional public meetings and a public hearing will also be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be made available for public and agency review and comment.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal progress and activities apply to this program.)

Issued on: May 2, 1996.

Roy C. Shelton,

Operations Engineer, Raleigh, North Carolina.

[FR Doc. 96–12319 Filed 5–15–96; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; Isuzu

AGENCY: National Highway Traffic Safety Administration (NHTSA) Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This notice grants in full the petition of Isuzu Motors America, Inc., (Isuzu) for an exemption of a high-theft line, the Honda Acura SLX, from the parts-marking requirements of the Federal Motor Vehicle Theft Prevention Standard. This petition is granted because the agency has determined that the antitheft device placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, S.W., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–1740. Her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: In a letter dated February 12, 1996, Isuzu Motors America, Inc., (Isuzu), on behalf of Isuzu Motors Limited, Tokyo, Japan requested exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the Isuzu Trooper and Honda Acura SLX vehicle lines. The petition is pursuant to 49 CFR Part 543, Exemption From Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for the entire line.

Review of Isuzu's petition disclosed that certain information was not provided in its original petition. Consequently, by letter dated March 7, 1996, Isuzu was informed of its areas of deficiency. Additionally, the March 7 letter informed Isuzu that it must decide which of the two lines it would request to petition for exemption from the parts-marking requirements for the 1997 model year. Section 543.5(a) specifically states that "for each of model years 1997 through 2000, a manufacturer may petition NHTSA to grant an exemption for one additional line of its passenger motor vehicles from the requirements of Part 541 of this chapter." By letter dated March 27, 1996, Isuzu chose to request exemption from the parts-marking requirements of the theft prevention standard for the Honda Acura SLX vehicle line.

Isuzu's February 12 letter and supplemental letter of March 27, together constitute a complete petition, as required by 49 CFR Part 543.7, in that it met the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

In its petition, Isuzu provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new line. Isuzu will install its antitheft device as standard equipment on the MY 1997 Honda Acura SLX vehicle line. This antitheft device includes an audible alarm system, a visual alarm, a starter-disconnecting device, and a locking device for the doors, tailgate and hood. Isuzu stated that the proposed antitheft device is automatically activated by the normal locking of the vehicle doors. In order to arm the device, the key must be removed from the ignition switch, all of the doors and engine hood must be closed and the driver's or front passenger's door must be locked with the ignition key. Locking either the driver's door or passenger door simultaneously locks all other doors. An indicator light within the vehicle informs the vehicle operator whether the device is armed, disarmed or alarmed.

Once armed, switches in the vehicle's doors, key cylinders and hood monitor the vehicle for unauthorized entry. Isuzu stated that all system components have been placed in inaccessible locations. If the device is armed and unauthorized entry is attempted by opening any of the doors or tailgate, or any attempt is made to gain access to the hood compartment, the antitheft device will be triggered.

Isuzu stated that triggering the antitheft device will cause the headlights to flash and the alarm to sound. Once the alarm has been activated, the starter circuit is interrupted and the alarm horn will continue to sound for approximately three minutes. The alarm horn will shut off automatically, while the starter circuit will remain interrupted until the device is properly deactivated.

The antitheft device is deactivated by unlocking either the driver's or front passenger's door with the ignition key. Using the correct ignition key to start the vehicle will terminate the starter-interrupt mechanism and allow operation of the vehicle.

In order to ensure the reliability and durability of the device, Isuzu stated that it conducted tests based on its own specific standards. Isuzu provided a detailed list of the tests it conducted. Isuzu stated its belief that the device is reliable and durable since the device complied with Isuzu's specified requirements for each test.

Isuzu compared the antitheft device proposed for the Acura SLX with devices which NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the partsmarking requirements. Isuzu has concluded that the antitheft device proposed for the Acura SLX line is no less effective than those antitheft devices in the lines for which NHTSA has already granted exemptions from the parts-marking requirements. Isuzu stated that the proposed device is similar to the device installed on its MYs 1987 through 1989 Impulse car line. The agency granted Isuzu a full exemption from the parts-marking requirements of the theft prevention standard for the Impulse car line on July 9, 1986 (51 FR 24778). Since the Isuzu Impulse car line is equipped with a similar system to that proposed for installation on the Acura SLX line, Isuzu believes that the proposed device will also be as effective in reducing and deterring theft. Isuzu stated that the antitheft device has been used as optional equipment on the Isuzu Trooper since MY 1992. According to Isuzu, the Trooper vehicle line was fully restyled and redesigned in MY 1992. Isuzu stated that 1990/1991 theft rate for the Trooper was 3.9889, and dropped to 1.4121 in MY 1992, which it believes suggests lower theft rates for later model years. Additionally, Isuzu stated that its antitheft device is similar in operation to those installed on the Mazda RX–7 and Toyota Supra car lines. Isuzu also contends that theft data have shown a decrease in theft rates for other manufacturers' car lines when antitheft devices have been installed as standard equipment. In support of its contention, Isuzu stated that the theft rate for the Mazda RX–7 dropped from 12.11 (thefts per thousand vehicles produced) in MY 1984 to a theft rate of 6.09 in MY 1989. Theft rates for the Toyota Supra dropped from 16.3 in 1983 to 5.6 in 1987. Theft rates for the Audi 5000 fell from 2.51 in 1985 to 1.26 in 1988.

Based on evidence submitted by Isuzu, the agency believes that the antitheft device for the Honda Acura SLX vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541).

The agency believes that the device will provide the types of performance listed in 49 CFR Part 543.6(a)(3): Promoting activation, attracting attention to the efforts of an unauthorized person to enter or move the vehicle by means other than a key, preventing defeat or circumvention of the device by unauthorized persons, preventing operation of the vehicle by unauthorized entrants, and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR Part 543.6(a) (4) and (5), the agency finds that Isuzu has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Isuzu provided about its antitheft device. For the foregoing reasons, the agency hereby grants in full Isuzu's petition for exemption for the Honda Acura SLX vehicle line from the parts-marking requirements of 49 CFR Part 541.

If Isuzu decides not to use the exemption for this line, it must formally notify the agency, and, thereafter, mark the line according to the requirements of 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Isuzu wishes to modify the device on which the exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption." The

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agency wishes to minimize the administrative burden with § 543.9(c)(2) could place on exempted vehicle manufacturers and itself.

The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be de minimis. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as de minimis, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: May 13, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–12342 Filed 5–15–96; 8:45 am]

BILLING CODE 4910–59–P

Research and Special Programs Administration

[Docket PS–149]

Notice of Request for Reinstatement of an Expired Information Collection

AGENCY: Research and Special Programs Administration, DOT.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Research and Special Programs Administration's (RSPA) intention to request reinstatement of an information collection in support of the Office of Pipeline Safety (OPS) for Response Plans for Onshore Oil Pipelines.

DATES: Comments on this notice must be received by July 15, 1996 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Marvin Fell, Office of Pipeline Safety, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20950,(202) 366–1640.

SUPPLEMENTARY INFORMATION:

Title: Response Plans for Onshore Oil Pipelines.

OMB Number: 2137–0589.

Type of Request: Reinstatement of an information collection. Abstract: The Oil Pollution Act of 1990 (OPA 90) requires that certain pipelines that transport oil must develop a response plan to minimize the impact of an oil discharge in the case of an accident. These response plans enhance the spill response capability of pipeline operators.

Estimate of Burden: The average burden hours per response is 120.

Respondents: Oil Pipeline operators.

Estimated Number of Respondents: 1,215.

Estimated Total Annual Burden on Respondents: 140,300 hours.

Frequency: Every three years.

Use: To enhance response capability in the event of an oil spill.

Copies of this information collection can be reviewed at the Dockets Unit, Room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590.

Comments are invited on: (a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques. Send comments to Marvin Fell, OPS, RSPA, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also be a matter of public record.

Issued in Washington, DC on May 8, 1996.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 96–12233 Filed 5–15–96; 8:45 am]

BILLING CODE 4910–60–P

Surface Transportation Board[1]

[STB Finance Docket No. 32940]

Buffalo & Pittsburgh Railroad, Inc.—Trackage Rights Exemption—Pittsburg & Shawmut Railroad, Inc. [19490]

Pittsburg & Shawmut Railroad, Inc. has agreed to grant local trackage rights to Buffalo & Pittsburgh Railroad, Inc. over approximately 1.5 miles of railroad located in Pennsylvania between milepost 1.5 near Dellwood Junction and milepost 0.00 at Brockway Yard. The trackage rights were to become effective on or after May 10, 1996.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32940, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW., Washington, DC 20423 and served on: James B. Gray, Jr., Harter, Secrest & Emery, 700 Midtown Tower, Rochester, NY 14604–2070.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

Decided: May 10, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–12278 Filed 5–15–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board[1]

[STB Finance Docket No. 32939]

Pittsburg & Shawmut Railroad, Inc.—Trackage Rights Exemption—Buffalo & Pittsburgh Railroad, Inc. [19489]

Buffalo & Pittsburgh Railroad, Inc. has agreed to grant overhead trackage rights to Pittsburg & Shawmut Railroad, Inc. over approximately 13 miles of railroad located in Pennsylvania between milepost 204.0 near Falls Creek Junction and milepost 191.0 at Forest. The trackage rights were to become effect on or after May 10, 1996.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32939, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW., Washington, DC 20423 and served on: Eric M. Hocky, Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

Decided: May 10, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–12279 Filed 5–15–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323–24.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323–24.

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Rings: Five Passions in World Art" (See list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at The High Museum of Art, in Atlanta, Georgia, from on or about July 4, 1996 to on or about September 29, 1996, is in the national interest. Public Notice of this determination is ordered to be published in the **Federal Register.**

Dated: May 10, 1996.

Les Jin,

General Counsel.

[FR Doc. 96–12359 Filed 5–15–96; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Mrs. Jacqueline H. Caldwell, Assistant General Counsel, at 202/619–6982, and the address is Room 700, U.S. Information Agency, 301 Fourth Street, S.W., Washington, D.C. 20547–0001.

Training Programs in Bosnia; Amendment—Request for Proposals

This is an amendment to the request for proposals (RFP) published on May 2, 1996, beginning on page 19655 and ending on page 19658, concerning media and parliamentary training programs for Bosnia (Announcement Number E/P–96–35). On page 19656, column 1, under Deadline for Proposals the sentence "Faxed documents will not be accepted, nor will documents postmarked June 7, 1996, but received at a later date," is replaced by "Faxed documents will not be accepted, nor will documents postmarked June 14, 1996, but received at a later date."

For further information, contact: Christina Miner, Office of Citizen Exchanges, European Division, Room 224, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547, telephone (202) 619–5319, fax (202) 619–4350, Internet address cminer@usia.gov.

Dated: May 9, 1996.

John P. Loiello,

Associate Director for Educational and Cultural Affairs.

[FR Doc. 96–12360 Filed 5–15–96; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Medical Research Service Merit Review Committee; Amended Notice of Meeting

The Department of Veterans Affairs gives notice under the Federal Advisory Committee Act, 5 U.S.C. App., that the Medical Research Service Merit Review Committee, formerly scheduled to meet June 5, 1996, has been rescheduled to meet June 4, 1996, from 8 a.m. to 5 p.m. at the Holiday Inn Central, 1501 Rhode Island Avenue, NW., Washington, DC.

The meeting will be for the purpose of evaluating the scientific merit of research conducted in each specialty by Department of Veterans Affairs (VA) investigators working in VA Medical Centers and Clinics.

This meeting will be open to the public up to the seating capacity of the room at the start of the meeting to discuss the general status of the program. The meeting will be closed to the public after approximately one hour from the start for the review, discussion, and evaluation of initial and renewal projects.

The closed portion of the meeting involves: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols and similar documents. During this portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing portions of this meeting is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B). Because of the limited seating capacity of the room, those who plan to attend should contact Dr. LeRoy Frey, Chief, Program Review Division, Medical Research Service, Department of Veterans Affairs, Washington, DC, (202) 565–5942, at least five days prior to each meeting. Minutes of the meeting and a roster of the members may be obtained from this source.

Dated: May 8, 1996.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 96–12251 Filed 5–15–96; 8:45 am]

BILLING CODE 8320–01–M

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federal register

Thursday
May 16, 1996

Part II

Department of Labor

Employment Standards Administration
Wage and Hour Division

29 CFR Part 500
Migrant and Seasonal Agricultural Worker Protection Act; Final Rule

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division

29 CFR Part 500

RIN 1215–AA93

Migrant and Seasonal Agricultural Worker Protection Act

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document amends the regulations under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) to implement statutory changes to MSPA concerning the relationship between workers' compensation benefits and the benefits available under the MSPA. The statutory amendments to MSPA specifically require changes in the MSPA regulations concerning disclosure of workers' compensation information and additionally require reconsideration of the MSPA-required transportation liability insurance. This document also amends existing regulations to provide for expedited proceedings before an Administrative Law Judge (ALJ) on actions initiated by the Administrator of the Wage and Hour Division to revoke, suspend, or refuse to issue or renew a Farm Labor Contractor Certificate of Registration, and for expedited review by the Secretary of Labor in such cases. Lastly, this document amends the regulations to indicate that the Certificate of Registration issued to farm labor contractors will reflect the maximum number of farm workers authorized to be transported.

EFFECTIVE DATES: The amendments to the authority citation for part 500 and to §§ 500.48, 500.121, and 500.122 are effective on May 16, 1996. *See: Dates of Applicability* below. The amendments to §§ 500.224, 500.262, and 500.268 are effective on July 15, 1996. The amendments to §§ 500.75 and 500.76 are effective on August 14, 1996.

FOR FURTHER INFORMATION CONTACT: Michael Hancock, Office of Enforcement Policy, Farm Labor Team, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3510, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 219–7605. This is not a toll-free number. Copies of this Final Rule in alternative formats may be obtained by calling (202) 219–7605, (202) 219–4634 (TDD). The alternative formats available are large print, electronic file on computer disk and audio-tape.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act of 1995

The paperwork requirements contained in the proposed regulations were submitted for review to the Office of Management and Budget pursuant to section 3507(d) of the Paperwork Reduction Act of 1995. OMB has approved these requirements under OMB No. 1215–0187 through April 30, 1999.

Title: Worker Information, Form WH–516.

Summary: This Final Rule amends sections 500.75 and 500.76 of Regulations, 29 CFR Part 500, to require disclosure to migrant and seasonal agricultural workers of certain information regarding the availability of workers' compensation insurance.

Need: Various sections of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), 29 U.S.C. 1801 et seq., require that each farm labor contractor, agricultural employer and agricultural association disclose in writing the terms and conditions of employment to: (a) migrant agricultural workers at the time of recruitment (section 201(a)(1)); (b) seasonal agricultural workers, upon request, at the time of employment (section 301(a)(1)); and (c) seasonal agricultural workers employed through a day-haul operation at the place of recruitment (section 301(a)(2)). Sections 201(b) and 301(b), which relate to posting in a conspicuous place at the place of employment a poster provided by the Secretary setting forth the rights and protections afforded covered workers under MSPA, also require that each such employer provide to each worker (upon request in the case of seasonal agricultural workers) a written statement of the terms and conditions of employment. In addition, sections 201(g) and 301(f) require that such information be provided in English, or as necessary and reasonable, in a language common to the workers, and that the U.S. Department of Labor (DOL) make forms available to provide such information. Optional Form WH–516, Worker Information, is made available by DOL for these purposes. As an alternative to use of the Form WH–516, employers may disclose the terms and conditions of employment in writing to migrant workers (or upon request to seasonal workers), using any other format provided the required information is contained within the disclosure.

Pub. L. 104–49 provides in section 4 for the disclosure to the employee of certain additional information regarding workers' compensation insurance, i.e., whether workers' compensation is provided and if so, the name of the workers' compensation insurance carrier, the name of the policyholder of such insurance, the name and the telephone number of each person who must be notified of an injury or death, and the time period within which this notice must be given. Optional Form WH–516 has been revised to include this new statutorily-required information. The workers' compensation disclosure requirement can alternatively be met by the employer furnishing the worker with a photocopy of any notice regarding workers' compensation insurance required by law of the State in which such worker is employed. It is important to note that the information on the terms and conditions of employment required to be disclosed (including the workers' compensation information) is to be disclosed to prospective employees. Outside of an investigation context in which the employer is specifically requested to provide a copy of any written disclosure made to workers, this information is not to be forwarded to, nor will it be maintained by, the Federal government.

The public was invited to provide comments regarding estimates of the burden of the collection of information, the information collection requirements, and the disclosure requirements during the comment period for the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on Monday, March 18, 1996 (see 61 **Federal Register** No. 53, Pg. 10911–10918). The comment period for the NPRM ended on Wednesday, April 17, 1996. Comments were received concerning meeting the workers' compensation disclosure requirement by providing a copy of any State-mandated disclosure only if it included all the information required by the optional DOL form. In response to these comments, this limitation has been deleted from the final rule as discussed below in connection with §§ 570.75 and 570.76. The change does not, however, affect the burden estimates.

II. Background

Public Law 104–49 amends the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) provisions dealing with the private right of action, the regulatory process for setting minimum transportation liability insurance requirements, and disclosure obligations to agricultural workers. The

Act requires the Secretary to reexamine the current MSPA transportation insurance regulations and to amend the regulations governing disclosure. The insurance rulemaking must be completed and a final rule published within 180 days of enactment, or no later than May 13, 1996. The disclosure regulations, while under no statutory deadline, provide important new information to agricultural workers and require regulations before they become effective. In addition, the Department has determined that it is necessary to modify Form WH–511 (Farm Labor Contractor Certificate of Registration) to reflect the seating capacity of any vehicle(s) authorized for use in transporting covered workers (this modification will result in no additional burden or data collection as the information is already collected on Form WH–510—the Application for a Farm Labor Contractor Certificate of Registration).

The final regulation gives adjudication priority to administrative actions denying, revoking, or suspending a farm labor contractor (FLC) certificate. Currently, some FLCs continue to lawfully operate for extended periods awaiting an administrative hearing and final order on a certification action. This amended regulation establishes deadlines for Administrative Law Judge and Secretarial review proceedings in MSPA certificate actions.

The Department of Labor published a Notice of Proposed Rulemaking in the **Federal Register** on March 18, 1996 (61 FR 10911–10918). The public comment period on the proposed regulatory changes closed on April 17, 1996.

III. Analysis of Comments

A. Comments to the Proposed Rule

Comments to the Notice of Proposed Rulemaking (NPRM) were received from 27 organizations and individuals, representing the views of 69 organizations, public officials and individuals. Comments were received from five growers, 12 agricultural associations (with three organizations endorsing other's comments as well), two Congressional letters on behalf of five Members of the U.S. House of Representatives, four farmworker organizations (on behalf of 39 organizations and individuals), two attorneys who have represented farmworkers injured in traffic accidents, one individual, one insurance trade association, and one State government agency.

The comments were primarily focused on three subjects: disclosure of the terms and conditions of workers' compensation by providing farmworkers with a photocopy of the State-mandated notice; the minimum amount of vehicle liability insurance required under MSPA; and further elaboration on the meaning of "actual costs" in determining whether or not a "carpool" is subject to MSPA transportation and/or registration obligations.

B. Summary of Comments

The comments submitted by two growers expressed displeasure with any insurance obligation under MSPA. Three expressed the view that insurance should be lowered from the current levels.

The comments submitted by most of the agricultural employer associations raised certain common issues. First, these commenters asserted that requiring the State-mandated workers' compensation notice to contain all the information required in the MSPA disclosure was not required by Pub. L. 104–49 and that the proposed regulations should be changed to delete this provision. Second, these commenters contended that DOL should retain the current MSPA insurance regulatory structure of two classes of vehicles, those with seating capacities of 15 and fewer and sixteen and more, and merely lower the minimum insurance required for each vehicle category. The insurance trade association echoed these views. Finally, most of the agricultural employer associations and organizations suggested that the Department should further explain the circumstances under which "carpool" arrangements will be considered legitimate (therefore, outside the scope of MSPA regulations) and when such arrangements will be considered not to be carpools (therefore, within the scope of MSPA regulations).

In addition to these broad themes running through many of the agricultural employer associations' comments, several commenters raised insurance issues and suggested other changes. Florida Citrus Mutual suggested a $10,000 to $25,000 per seat requirement because it would more closely approximate insurance levels for privately-owned noncommercial vehicles required under State laws. The California Grape and Tree Fruit League recommended insurance minimums of either $100,000 per person/$300,000 per accident or $250,000 per person/$500,000 per accident. The Nisei Farmers League recommended $300,000 to $500,000 for vehicles transporting fewer than 14 workers and $500,000 to $1 million for those transporting 15 or more workers. The New England Apple Council recommended insurance coverage based on 6 different seating capacity categories: $500,000 for up to 10 passengers; $600,000 for 11–20; $700,000 for 21–30; $800,000 for 31–40; $900,000 for 41–50; and $1 million for 50 and above. The Florida Fruit and Vegetable Association recommended $300,000 for vehicles transporting 12 or fewer, and $500,000 for vehicles transporting more than 12.

Comments were submitted by four farmworker advocacy organizations on behalf of a number of individuals and organizations, including labor unions, State and county elected officials, religious service organizations serving farmworkers, a college professor, a trial lawyer organization, community organizations, and farmworker legal services providers. These commenters were concerned that the disclosure of workers' compensation information should be complete, timely and in a language the workers can understand and that the minimum amount of insurance necessary remain at the proposed $100,000 per seat in order to insure against reasonably foreseeable risk. One farmworker advocate sought clarification that transportation advances provided to a farmworker would not subject the farm labor contractor, agricultural employer or association providing the advance to the MSPA transportation requirements. Two attorneys with experience representing farmworkers involved in transportation accidents also commented in favor of the Department's proposed insurance provisions.

Comments were also submitted by five Members of the U.S. House of Representatives and one State agency, addressing three issues. Regarding the Proposed Rule's provision that the state-mandated workers' compensation poster would not satisfy MSPA disclosure requirements if the poster lacked information specified in Pub. L. 104–49, all five Members expressed the view that the proposal was contrary to the statutory directive. Regarding the levels of vehicle liability insurance prescribed in the Proposed Rule, two Members (the Honorable Bill Goodling and Cass Ballenger) suggested that the Department should either devise a different regulatory formula or set lower minimum levels, and three Members (the Honorable Calvin M. Dooley, Gary A. Condit and Vic Fazio) noted "concerns that ICC insurance levels are unnecessarily high for those in agriculture transporting workers" and urged that the MSPA regulation assure a balance between protection of farmworkers and affordable insurance for transportation providers. All five

Members requested further clarification regarding "carpooling". The State agency (Virginia Department of Labor and Industry) expressed the same views as the Members regarding the use of the state-mandated workers' compensation poster and the desire for further "carpooling" guidance, and suggested a modification of the Proposed Rule's formula for liability insurance levels.

As further explained below, the Final Rule has been revised to incorporate some of the suggestions received from the comments. First, the Rule on workers' compensation disclosure will make it clear that the State-mandated notice used by the employer does not have to include all the MSPA-specified information; the Rule will further provide that if the state workers' compensation law mandates that supplemental information be provided to the worker in the event of an injury, the disclosure of such information is required for the employer's continued compliance with the MSPA regulation. Second, the liability insurance regulation will cap insurance requirements at $5 million regardless of the seating capacity of the insured vehicle. Therefore, no transporter will be required to purchase more insurance than under the current regulation and most will be required to purchase less.

C. Workers' Compensation Disclosure Requirements

The MSPA was amended by Pub. L. 104–49 to require farm labor contractors, agricultural employers and agricultural associations who recruit or hire agricultural workers subject to the requirements of the Act to provide the workers certain additional information about the terms and conditions of workers' compensation coverage, if such coverage is provided by the employer. This information must be in written form, and that disclosure document must be given to each agricultural worker to be retained in the event that the information contained therein becomes useful or necessary.

Under current regulations, the information to be disclosed to agricultural workers includes the place of employment, the period of employment, wage rate(s), crops and activities, whether transportation or other benefits are provided, housing and its cost (if provided), information about any strike, work stoppage, slowdown, or interruption in operations, and information about any employer charges for goods or services provided by the employer. The disclosures required by MSPA, including the new workers' compensation disclosure requirements under Pub. L. 104–49, must be given to each migrant agricultural worker at the time of recruitment. If the workers' compensation information required to be disclosed is unavailable at the time of recruitment, it must be disclosed to each worker at the earliest possible time that the information becomes available - but in no event later than the commencement of employment. Seasonal agricultural workers are entitled to the same information in the same form upon request.

It is important to note that Pub. L. 104–49 does not alter the requirement under MSPA that all other terms and conditions of employment be disclosed to covered workers at the time of recruitment. The provision added by Pub. L. 104–49 allowing an employer to delay full disclosure of the required workers' compensation information until it is available (but in no event later than the commencement of employment), applies only to the disclosure of required workers' compensation information.

Pub. L. 104–49 provides that migrant agricultural workers are entitled to receive, in writing, the name of the workers' compensation insurance carrier, the name of the policy holder of such insurance, the name and telephone number of each person who must be notified of an injury or death, and the time period within which such notice must be given. Seasonal agricultural workers must also receive the same workers' compensation information in writing if so requested by the worker(s). This Final Rule amends §§ 500.75 and 500.76 to include these new statutorily-required disclosure items.

Pub. L. 104–49 provides that information concerning workers' compensation may be given to the worker in one of two ways. The farm labor contractor, agricultural employer, or agricultural association may provide the specified information in writing. The March 18 NPRM provided that this disclosure could be accomplished via the optional written disclosure form (Optional Form WH–516) made available by the Department. In the alternative, the farm labor contractor, agricultural employer or agricultural association may communicate the necessary workers' compensation information by giving the agricultural worker a photocopy of any notice regarding workers' compensation insurance required by the law of the State in which the worker is employed. To remain consistent with the underlying intent for the disclosure requirement, the Department included in its March 18 NPRM a proviso that giving a copy of a State-required workers' compensation form (or notice) to covered workers would be deemed to satisfy the disclosure requirement so long as the copy contains all of the workers' compensation information that must be disclosed.

During the comment period for the NPRM, five Members of Congress (the Honorable Bill Goodling, Cass Ballenger, Calvin Dooley, Gary Condit, and Vic Fazio), the Chairman of the Commonwealth of Virginia's Interagency Migrant Worker Policy Committee (Theron J. Bell), the American Insurance Association, and eleven grower associations expressed concerns about the proposed regulation which would recognize compliance with the workers' compensation disclosure requirement by providing the worker a copy of a State-mandated workers' compensation poster only if the poster contains the same workers' compensation information specified in Pub. L. 104–49. These commenters took the position that the proposed regulation was too restrictive, that it was contrary to the language of Pub. L. 104–49 regarding the use of State-mandated posters, and that it should provide employers more flexibility relative to the disclosure of workers' compensation information.

Four worker advocacy groups writing on their own and on behalf of thirty-five other worker assistance and advocacy groups, supported the Department's proposal in the NPRM regarding the workers' compensation information disclosure requirements.

After careful consideration of the comments received on the NPRM, the Department has determined that the plain language of the statute (Pub. L. 104–49) does not require that a State-mandated workers' compensation notice must contain information not already required by the State workers' compensation law. Accordingly, the NPRM proposal that would have allowed the State-mandated notice to be used only if it contained all of the information specified in Pub. L. 104–49 has been deleted in the Final Rule. However, it should be noted that although initial compliance with MSPA disclosure requirements can be met by providing the State-mandated notice, many State workers' compensation laws require additional disclosures to the worker if an injury occurs. If an employer chooses to comply with the MSPA workers' compensation disclosure obligations by providing the State-mandated notice but these state-mandated supplemental disclosures are not made to a worker, the failure to do so would constitute a failure to meet the workers' compensation disclosure requirements. In such cases, in order to remain in compliance with the MSPA disclosure requirements in the event of an accident or some other event that would trigger the applicability of workers' compensation, the State-mandated additional disclosures must be made by the employer. It is the Department's view that this interpretation imposes no new Federal requirements—rather, it provides employers subject to the State's workers' compensation law(s) with an added incentive to make full and accurate disclosures of the information necessary in order for the worker to properly file a claim for workers' compensation in the event of a covered injury or illness.

D. Transportation Insurance Under MSPA

Under the MSPA, agricultural employers, agricultural associations, and farm labor contractors who use or cause to be used a vehicle to transport agricultural workers subject to the Act must comply with certain minimum transportation safety requirements and provide a minimum level of financial security to insure against liability for damage to persons or property of workers or third parties. Pub. L. 104–49 amended the MSPA provision regarding the determination of the level of financial security to be required.

MSPA provides three means by which farm labor contractors, agricultural employers, or agricultural associations may insure against liability for damage to persons or property arising from the ownership, operation or causing to be operated a vehicle used to transport agricultural workers. The security may be in the form of (1) a vehicle liability insurance policy that insures employees and nonemployees; (2) a workers' compensation policy along with a certificate of liability insurance covering transportation whenever nonemployees and employees may be transported under circumstances not covered by workers' compensation; or (3) the posting of a $500,000 liability bond. Pub. L. 104–49 required the Secretary to re-examine the previous minimum liability insurance requirement and make any changes indicated by May 13, 1996.

While the Final Rule modifies only the minimum liability insurance levels per occurrence for such transportation, this discussion responds to commenters' concerns for clarification regarding the obligations under MSPA if a farm labor contractor, agricultural employer, or agricultural association chooses workers' compensation as the primary transportation insurance coverage for the agricultural workers being transported. Further, in response to commenters and to the legislative history of Pub. L. 104–49, which indicates a need to reaffirm and further explain the circumstances under which carpooling arrangements among workers fall outside of the scope of MSPA (Joint Statement of Legislative Intention, Rep. William F. Goodling, E1943, Cong. Rec., Oct. 13, 1995), this discussion provides needed clarification on these issues.

1. Workers' Compensation as Primary Transportation Insurance

Workers' compensation coverage is a partial alternative to meeting transportation liability obligations under MSPA and the Department's regulations. However, workers' compensation coverage alone does not completely satisfy the legal obligations under MSPA. The regulations also require that if an employer chooses workers' compensation as the primary coverage, additional liability insurance in a specified minimum amount must also be provided to compensate employees and nonemployees for property damage and bodily injuries not covered by workers' compensation benefits whenever there is a possibility that workers may be transported under circumstances not covered by workers' compensation insurance. Employers who are certain that the transportation will occur only under circumstances covered by workers' compensation are not obligated to secure additional bodily injury coverage but they do so at their own risk. In such circumstances, the employer would be in violation of the MSPA insurance obligations if they transport workers outside the scope of workers' compensation coverage, and would be exposed to suits for actual damages. The regulation at 29 CFR 500.122(c)(2) has required this supplemental coverage since MSPA was enacted and nothing in this Final Rule is intended to alter this obligation.

2. Transportation Under MSPA and Carpools

As stated previously, the legislative history of Pub. L. 104–49 indicated a need to reaffirm and clarify what constitutes a legitimate *carpool* arrangement among workers, which would be beyond the scope of the MSPA transportation requirements (including minimum insurance obligations).

Carpooling is described in the regulation at § 500.100(c). The NPRM proposed no amendment to this regulation, and it remains unchanged in this Final Rule. However, in the Preamble to the NPRM and in this discussion, the Department has provided further guidance and clarification.

Under the regulation, carpooling is a voluntary arrangement among workers for transportation to and from work using a worker's own vehicle. The workers may contribute to offset the costs of the transportation to reasonably reflect the actual costs of the transportation. Any compensation or other valuable consideration in excess of the actual costs means the transportation provider is considered a farm labor contractor and thereby subject to the registration and transportation requirements of the Act and the regulations. Likewise, any arrangement in which a farm labor contractor participates will not be considered a carpool. If any agricultural employer or association directs or requests such transportation arrangements or provides money or other valuable consideration (other than the travel advances discussed below) for the transportation service, such an arrangement is not a carpooling arrangement among workers.

Several commenters responding to the NPRM Preamble sought further clarification of the circumstances under which a transportation arrangement will be considered to be a "carpool" beyond the scope of MSPA regulations or, on the other hand, when transportation will be deemed not to be a "carpool" and therefore subject to MSPA regulation.

A number of commenters raised questions about the scope of "actual costs" for purposes of determining whether or not the transportation arrangement is "for any money or other valuable consideration paid or promised to be paid," and therefore potentially subject to the farm labor contractor provisions of the Act and regulations.

Some of the agricultural employer advocacy organizations expressed the view that a transportation-providing worker operating the vehicle should be entitled to receive remuneration from the passengers to offset the cost of the transportation. Some stated that the worker should be able to receive compensation for such transportation related expenses as gas, oil, insurance, vehicle depreciation, wear on tires, etc. and still be deemed to be a carpool. Others contended that if the driver received no money from the farm labor contractor, agricultural employer or agricultural association, the amount that was received from the passengers should be of no legal consequence. One commenter suggested that the driver should be able to accept from each passenger whatever amount the passenger would pay for public transportation, if public transportation were available.

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Based in the language of MSPA itself, by definition, a farm labor contractor is "any person—other than an agricultural employer, an agricultural association, or an employee of an agricultural employer or agricultural association—who, for any money or other valuable consideration paid or promised to be paid, performs any farm labor contracting activity." 29 U.S.C.1802(7); 29 CFR 500.20(j). Transporting any migrant or seasonal agricultural worker "for any money or other valuable consideration paid or promised to be paid" thus constitutes performing a farm labor contracting activity. 29 U.S.C. 1802(6); 29 CFR 500.20(i). As stated above, the Department's regulations recognize bona fide carpool arrangements among workers, and exempt such arrangements from passengers, the driver must be able to show how the charges were calculated and that the charges are reasonable and directly related to the transportation provided to the carpool. Guidance regarding making such showing may be found in the regulations for the Fair Labor Standards Act provision allowing the employer to claim wage credit for the "reasonable cost" of meals or lodging furnished to employees, 29 CFR 531.3.

Another reasonable measure of actual costs is the reimbursement rate for federal employees who use private automobiles for official business. The federal government reimburses those employees at a rate of 30 cents per mile to compensate for gas, wear and tear, and other costs associated with the operation of the vehicle. If the operator of a carpool multiplies the miles to and from the worksite by 30 cents and charges each occupant of the vehicle a pro rata share of those costs, those charges would be considered a sufficient approximation of "actual costs" to satisfy the carpooling regulations. (See 41 CFR 301–4; 59 FR 66626, Dec. 27, 1994. Transporters should note that the amount of reimbursement changes periodically to reflect changes in costs.)

Another issue raised by the commenters concerns employer involvement in carpooling arrangements. A bona fide carpool is strictly voluntary and is done for the convenience of the workers involved, *not* at the direction of an FLC, agricultural employer or agricultural association. An FLC, agricultural employer or agricultural association may indicate to workers that there is no prohibition against carpooling if any workers wish to make such arrangements, and may even encourage workers to do so.

It was suggested by one agricultural association that encouraging carpools is consistent with and perhaps even required by certain pollution abatement laws and regulations. Nothing in the current regulations nor in this discussion is intended to prevent agricultural employers or associations from encouraging agricultural workers to carpool in order to serve the laudable public policy goal of reducing pollution. However, where the FLC, agricultural employer or agricultural association organizes or helps to organize the carpool(s), or makes carpooling a condition of employment, the activity is deemed to be "causing to be transported" and requires compliance with MSPA.

All the commenters agreed with the Department's analysis of the "raitero" practice but some requested further clarification of the employer's obligation, if any, when raiteros provide transportation. Nothing in the carpool regulation nor in the discussion of raiteros in the Preamble to the NPRM alters the test of employer responsibility for transportation by third parties. Unless the agricultural employer or association "caused" the transportation by the raiteros to occur, the agricultural employer or association is not responsible for the transportation.

Finally, a farmworker advocacy organization identified another transportation-related practice that should be clarified. Where a farm labor contractor, agricultural employer, or association provides the worker a travel advance to cover travel expenses to the worksite, and the worker is free to choose how to use that travel advance, the farm labor contractor, agricultural employer, or agricultural association will not be deemed to have "caused" the transportation used by the worker and will not be subject to MSPA with regard to such transportation.

3. Proposed Revision to the MSPA Minimum Transportation Liability Insurance Regulation

Public Law 104–49 eliminated the MSPA requirement that the liability insurance required by the Secretary in regulations must be at least the amount required for the carriers of passengers under the Interstate Commerce Act (hereinafter referred to as ICA). Instead, Pub. L. 104–49 requires that the liability insurance amount is to be determined by the Secretary through consideration of "at least the factors set out in [MSPA Sec. 401(b)(2)(B) regarding vehicle safety] and similar farmworker transportation requirements under State law." Pub. L. 104–49 further requires the Secretary to establish insurance levels under this law within 180 days of enactment (*i.e.*, no later than May 13, 1996).

The NPRM proposed to implement the insurance provisions of Pub. L. 104–49 by amending the MSPA minimum liability insurance regulations to depart from the current ICA-based structure in favor of a more flexible regulatory scheme. As explained in the Preamble to the NPRM, the proposed amendment would eliminate the current vehicle capacity categorization found in the ICA regulations (which may well relate to general interstate passenger transportation patterns) while at the same time ensuring adequate insurance levels to protect injured persons and property when accidents occur. The proposal linked the required insurance amount to the actual capacity of each vehicle, rather than mandating one of two levels of insurance tied to vehicle capacity categories of 15 and below or 16 and above. The proposal required that the insurance be at least equal to $100,000 for each seat in a vehicle, instead of the current flat requirement of $1.5 million and $5 million for each vehicle category, respectively.

In developing the NPRM and this Final Rule, the Department adhered to the requirements of Pub. L. 104–49. The Department carefully considered the factors set out in MSPA Sec. 401(b)(2)(B). Additionally, the Department searched for, but was unable to find, any similar farmworker transportation requirements under State law; none were identified by the commenters.

The overriding concern, as stated in Sec. 401(b)(2)(B) of MSPA, is the protection of the health and safety of migrant and seasonal agricultural workers. The legislative history of MSPA makes clear that the requirements to provide safe vehicles and adequate levels of vehicle insurance are key worker protections in the Act (Report of the House Committee on Education and Labor, Rept. No. 97–885, 97th Cong., 2d Sess.; 1982 U.S. Code Cong. and Ad. News 4547 (hereinafter referred to as Report), at 4565). The House Education and Labor Committee Report accompanying the original MSPA enactment noted that "[t]he overriding concern of the Secretary shall be the protection of the health and safety of the workers." *Id* at 4565. The Committee also noted the "* * * often dangerous conditions under which agricultural workers are transported." *Id* at 4566.

The statute directs that the Secretary should consider a number of factors, including type and capacity of the vehicle and the extent to which the regulation will create an undue burden on the regulated community, in determining both the substantive vehicle safety standards and the required minimum insurance amounts. In the NPRM, the Department sought ways to lessen the burden on the regulated community while still maintaining adequate protection for workers. By departing from the ICA's 15 and fewer and 16 and more seating capacity categories in favor of a more flexible regulatory scheme, the proposal enables the regulated community to structure its transportation practices without regard to the arbitrary vehicle capacity distinction in the current regulation, obtain insurance based on actual practices and transportation needs, and in most cases, to realize a per vehicle reduction in the minimum insurance required.

4. Data and Other Information Considered in NPRM and Final Rule

In developing the NPRM, the Department considered the reasonably foreseeable risks to farmworkers from transportation accidents. As the Preamble explained, the Department gathered information concerning the incidence of fatalities and injuries, the damages resulting from such injuries, and the likelihood that farmworkers would be made whole in the absence of adequate insurance coverage. The Department also considered whether or not the insurance could be made more flexible and, consistent with the obligation to protect farmworkers, reduce the level of required insurance.

The NPRM Preamble expressly requested information from the commenters concerning certain factual matters that bear on the issues of adequate insurance, transportation injuries to farmworkers, and undue burden on the regulated community. Among the information requested was specific information, with documentation, evidencing the financial burden created by the insurance requirement; a comparison of costs between the 1983 and 1992 insurance requirements; information about individual accidents and the resulting damages; the extent to which the 1992 minimum insurance requirement increases resulted in transporters being unable to secure and/or afford insurance coverage; and any similar State laws governing farmworker transportation. While some commenters provided anecdotal information, and some commenters gave general or conclusory information without the underlying supporting data, most of the Department's requests for detailed information received no response.

In commenting on the NPRM, the American Insurance Association (hereinafter referred to as AIA) provided limited information about average claims paid for accident years 1990 through April 1994. AIA stated that the average claim paid for the 65 bodily injury claims included in its data compilation for that period was $17,430. The AIA comment did not disclose any underlying data, such as the range of claims paid, the geographic scope of the data, whether or not the 65 referenced claims were the entirety of the accidents involving agricultural workers, the circumstances of the accidents, and whether or not the claims paid include all the damages in each incident or merely the amount paid by an insurance carrier. The AIA summary statement does suggest that the damages suffered by farmworkers in accidents are extremely high when compared to average losses for other occupational groups. Based on information which AIA provided to the Department during the development of the Proposed Rule, the average $17,430 claim for agricultural workers is approximately four times higher than average claims paid for the next highest occupational group, truck drivers, at $4,300 per claim paid.

AIA also provided summary information for "a large group of risks with severity characteristics similar to transporters of migrant workers." AIA stated that its data show that, for the group surveyed, the risk of loss greater than $500,000 is less than 0.3%. AIA did not provide the underlying data which was summarized in this statement, and did not describe or identify the "large group" or the "severity characteristics." It is therefore difficult to discern what is being measured and whether or how the survey is relevant to the MSPA liability insurance analysis. The Department made an informal request to AIA for clarification of this information; apparently the survey group are employees riding in van pools or other employer-provided vehicles.

Farmworker advocates' comments also provided information concerning risk of injury to farmworkers in transportation accidents and the extent of damages when accidents occur. The comment from the Migrant Farmworker Justice Project of Florida Legal Services included a chart prepared by the Florida Department of Labor and Employment Security listing accidents involving farm labor contractors from January 1, 1990, through March 1996. This chart shows that 59 accidents resulted in 48 fatalities and 352 non-fatal injuries during this period. Also included were media reports on farmworker accidents and an analysis of agricultural accidents in Florida during 1990 by Prof. William J. Becker of the University of Florida. According to that study, 38% of the 39 agricultural work-related fatalities were the result of motor vehicle accidents on public roads.

Finally, Florida Rural Legal Services also provided information about specific recoveries for farmworkers represented by FRLS, and excerpts from a data base showing settlements and verdicts awarded to farmers in motor vehicle accidents. It is not clear to what extent the information concerning farmers is comprehensive or selective. The settlements/verdicts ranged from $843 to $6,000,000. The 59 cases reported in the documents resulted in average settlements/verdicts of $381,903.62.

The Department has carefully and fully considered the information provided by the commenters in response to the requests in the NPRM. The information concerning recoveries in specific cases involving farmworkers and farmers, confirms the data previously compiled by the Department concerning the extent of loss suffered in vehicular accidents. The information provided by AIA was helpful but lacked the detail or specificity to MSPA-regulated transportation practices to persuade the Department to substantially change the insurance proposal.

5. Regulatory Structure and Minimum Level of Insurance

a. Delinking from the ICA vehicle capacity structure. A number of commenters representing agricultural employers and one representing insurance interests suggested that the Department erred in proposing to delink the MSPA transportation insurance regulation from the ICA structure that divides vehicles into two categories according to seating capacity of 15 and fewer or 16 and more. It was suggested by these commenters that the Department retain the ICA division and simply lower the required minimum insurance amount for each vehicle class. The American Insurance Association supported this position and further asserted that abandoning the ICA structure would require the insurance industry to change the process by which insurance companies write these policies.

The farmworkers advocacy organizations, the two attorneys who have represented farmworkers in transportation accident cases, and the Pennsylvania Farm Bureau all commented favorably on the proposal to delink from the ICA two-level structure

in favor of a structure based on individual vehicle seating capacity. The farmworker advocacy organizations and the attorneys expressed the view that the proposal struck an appropriate balance between creating additional flexibility for the regulated community, reducing the required minimum insurance amounts and associated costs, and ensuring adequate levels of protection in the event of an accident.

The Pennsylvania Farm Bureau commented that the proposal was a positive step in the ability of farmers and farm labor contractors to control vehicle insurance cost, even if the savings may be modest. The Bureau also requested clarification regarding the insurance requirements for a transportation provider who operates a fleet of vehicles. In response, the Department emphasizes that the Final Rule establishes a minimum insurance requirement for *each vehicle* used to transport farmworkers under MSPA. Therefore, each vehicle in a fleet would have a separate requirement for minimum liability insurance depending on the vehicle's seating capacity. For example, a six passenger vehicle must be insured for $600,000, a 10 passenger vehicle for $1 million, and a 25 passenger vehicle for $2.5 million. Even though the aggregate requirement is $4.1 million, each vehicle is insured individually, not at the $4.1 million aggregate amount. Under the current two-level regulatory scheme, the same fleet of vehicles would be required to be insured at an aggregate of $8 million.

After having carefully considered the comments, the Department has concluded that the approach taken in the Proposed Rule delinking the MSPA regulation from the ICA two-level structure is appropriate. The legislation authorized the Department to reexamine this issue and to depart from the ICA structure but did not change the fundamental purpose of the MSPA transportation insurance requirement: to protect the health and safety of agricultural workers. The Final Rule, which sets the minimum liability amounts according to the actual seating capacity of the vehicle being used, as was proposed, provides the regulated community with additional flexibility to structure its transportation practices according to its actual needs and lowers insurance costs by eliminating the current regulation's mandate that transporters purchase insurance above the level necessary to insure against reasonable risk of harm. The Final Rule achieves the statutory purpose of assuring the protection of health and safety of agricultural workers by establishing levels of insurance on a per-seat standard which would afford recovery for reasonably foreseeable risks.

It was suggested by AIA that changing from the ICA two-class structure to a new structure, such as contained in the Proposed Rule, will require insurance companies to change their underwriting and information systems, thereby adding costs. AIA did not provide information to support this assertion or to establish what the additional costs would be. The Department therefore does not find this to be a sufficient reason to reconsider the Proposed Rule.

b. The Minimum Level of Insurance. Agricultural employers, agricultural employer advocates and the AIA suggested that the Proposed Rule's minimum insurance requirement per seat be abandoned in favor of a flat amount according to the class of vehicle, 15 passengers and below or 16 and above. The overwhelming majority of these commenters proposed $500,000 for the former and $1,000,000 for the latter. The commenters asserted that these amounts of insurance are sufficient to insure for damages suffered by farmworkers in transportation accidents and would result in lower premiums for transportation providers.

The AIA asserted that Congress intended that the costs of insurance be reduced. Other commenters echoed this assertion. However, neither the legislative history nor Pub. L. 104–49 requires the Department to issue a rule based on the sole consideration of the cost of insurance to the regulated community. In fact, the legislation directs the Department to consider the factors set out in MSPA Sec. 401(b)(2)(B) concerning vehicle safety. That section of the Act makes clear that the overriding purpose of MSPA transportation standards is the health and safety of migrant and seasonal farmworkers, and further directs that, in determining appropriate safety and insurance requirements, the Department is to weigh any "undue burden" on transportation providers as only one among several factors. In addition, it should be recognized that, regardless of the regulatory structure adopted, it is not within the Department's power to ensure the reduction of insurance premiums, short of eliminating the insurance requirement entirely.

After thorough consideration of the comments, the Department has concluded that the approach taken in the Proposed Rule is appropriate, in that it provides adequate protection for agricultural workers while lowering the minimum insurance levels (and presumably premium costs) for most transportation providers. The Final Rule sets the minimum amount of insurance not by arbitrary vehicle capacity divisions but by the actual capacity (thus, actual risk of loss) of each insured vehicle. A transporter using a six passenger vehicle would not be required to purchase insurance in excess of its seating capacity. Instead of the current regulation's $1.5 million (for vehicles with capacities up to 15), only $600,000 in insurance would be required. The operator of a 15 passenger vehicle has a risk exposure over twice that of the 6 passenger vehicle, and would be required to have proportionately higher insurance ($1,500,000). The insurance requirements (and presumably the premium costs) reflect the difference in risk exposure.

In light of available data as well as program experience regarding the types of vehicles commonly used to transport agricultural workers, the Department believes that the Final Rule will likely result in a lower level of required insurance for the majority of transportation providers. By way of illustration, under the current regulation, a seven passenger vehicle would require $1.5 million in insurance; under the Final Rule that same vehicle would require only $700,000 in insurance. A 16 passenger bus currently must be insured at $5 million; under the Proposed Rule, insurance would be lowered to $1.6 million. By any reckoning, these examples show a significant reduction in required insurance. It is beyond the scope of these regulations to mandate that premiums for such insurance be reduced, but it would be logical to expect that there would be a reduction in premiums as the amount of insurance purchased is reduced.

Several commenters noted that the Proposed Rule would yield higher insurance requirements for one class of vehicle, those with more than 50 seats. While vehicles with seating capacity in excess of 50 are not common, it is not the Department's intention to increase the insurance requirement in this rulemaking but rather to find reasonable, prudent, and protective ways to reduce minimum requirements where possible. Therefore, the Final Rule provides a cap of $5 million for required insurance for any one vehicle. Thus, no vehicle will be required to have increased levels of insurance and most vehicles could be insured for less than under the current regulations.

In summary, therefore, the Department has concluded that the available information—taken in its entirety and on balance—confirms the proposal that $100,000 per seat is a reasonable measure of adequate insurance in MSPA transportation cases. For the reasons stated above and for the reasons previously discussed in the NPRM, the Department is promulgating a Final Rule which is the same as the Proposed Rule except for the addition of the $5 million cap on insurance.

E. Administrative Hearings on Denials, Suspensions, and Revocations of Farm Labor Contractor Certificates

The NPRM proposed to establish expedited hearing and review procedures for denial, suspension or revocation of farm labor contractor certificates. All those who commented on this proposal, including agricultural and farmworker advocacy organizations, favored the proposal. The proposal will be adopted as a Final Rule without change.

Executive Order 12866/Section 202 of the Unfunded Mandates Reform Act of 1995

This Final Rule is not "economically significant" within the meaning of Executive Order 12866, nor does it require a § 202 statement under the Unfunded Mandates Reform Act of 1995. However, because the rule provides initial regulations required to implement provisions of Public Law 104–49 and may raise novel legal or policy issues arising out of legal mandates, it was determined to be a "significant regulatory action" within the meaning of § 3(f)(4) of Executive Order 12866. The Final Rule addresses insurance and disclosure obligations required under MSPA, as amended by Public Law 104–49. In addition, the rule revises the administrative proceedings involving decisions to revoke, suspend, or refuse to issue or renew Certificates of Registration under MSPA. No economic analysis is required because the rule will not have a significant economic impact. For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L.104–4), as well as Executive Order 12875, this rule does not include any Federal mandate that may result in increased expenditures of $100 million in any one year by State, local, and tribal governments, or by the private sector.

Regulatory Flexibility Analysis

This Final Rule will not have a significant economic impact on a substantial number of small entities. The rule amends current regulations at 29 CFR Part 500 to bring the regulations into conformity with the statutory changes made to MSPA by the enactment of Pub. L. 104–49. Additionally, the Final Rule amends §§ 500.224, 500.262, and 500.268 of the current rule to provide for expedited administrative proceedings in matters where the Administrator has initiated action to revoke, suspend, or refuse to issue or renew a farm labor contractor's Certificate of Registration (including Farm Labor Contractor Employee Certificates).

The proposed rule is likely to result in reduced insurance premiums for some and will not result in increases for any transporter covered by MSPA. Further, the Department anticipates that the portion of the regulated community which provides transportation, and thus would be affected by the minimum insurance requirements, is not substantial in number in any event. According to the Department's farm labor contractor registration data, only 975 of all registered contractors (less than 9% of the total), provide transportation to agricultural workers. It is believed that a similarly small percentage of agricultural employers and agricultural associations provide MSPA-covered transportation. Furthermore, the MSPA exempts from its coverage small agricultural employers and associations which do not use more than 500 man-days of agricultural labor in a calendar quarter during the preceding year. Therefore, many small agricultural employers are exempt from MSPA coverage and will be unaffected by these regulations.

Therefore, this Final Rule is not expected to have a "significant economic impact on a substantial number of small entities" within the meaning of the Regulatory Flexibility Act, and the Department has certified to this effect to the Chief Counsel for Advocacy of the Small Business Administration. Accordingly, a regulatory flexibility analysis is not required.

Dates of Applicability

The Secretary has determined that the public interest requires an immediate effective date for the regulations on liability insurance, in order to comply with the requirement of Public Law 104–49 directing that regulations establishing insurance levels under § 401(b)(3) of the MSPA (29 U.S.C. 1841(b)(3)) be promulgated within 180 days of the date of enactment of Public Law 104–49. Accordingly, the Secretary for good cause finds pursuant 5 U.S.C. § 553(d)(3), that this rule amending §§ 500.48, 500.121 and 500.122 of the regulation must be effective upon publication rather than thirty days thereafter.

Document Preparation

This document was prepared under the direction and control of Maria Echaveste, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 500

Administrative practice and procedure, Agricultural associations, Agricultural worker, Aliens, Carpooling, Day-Haul, Farmer, Farm labor contractor, Health, Housing, Housing standards, Immigration, Insurance, Investigation, Migrant agricultural workers, Migrant labor, Motor carriers, Motor vehicle safety, Occupational safety and health, Penalties, Reporting requirements, Seasonal agricultural workers, Transportation, Wages, Manpower training programs, Labor, Safety.

Signed at Washington, D.C., on this 13th day of May, 1996.

John R. Fraser

Deputy Administrator, Wage and Hour Division.

For the reasons set forth above, 29 CFR part 500 is amended as set forth below:

PART 500—MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION

1. The authority citation for Part 500 is revised to read as follows:

Authority: Pub. L. 97–470, 96 Stat. 2583 (29 U.S.C. 1801–1872); Secretary's Order No. 6–84, 49 FR 32473; Sec. 210A(f), Pub. L. 99–603, 100 Stat. 3359 (8 U.S.C. 1161(f)); and Pub. L. No. 104–49, 109 Stat. 432 (29 U.S.C. 1821, 1831 and 1841).

2. Section 500.48 is amended by revising paragraph (d) to read as follows:

§ 500.48 Issuance of certificate.

* * * * * *

(d) Authorize the activity of transporting a migrant or seasonal agricultural worker, subject to the maximum number of workers authorized to be transported under the vehicle liability policy and as indicated on the face of the Certificate of Registration, only upon receipt of:

(1) A statement in the manner prescribed by the Secretary identifying each vehicle to be used, or caused to be used, by the applicant for the transportation of any migrant or seasonal agricultural worker during the period for which registration is sought;

(2) written proof that every such vehicle which is under the applicant's ownership or control, is in compliance

with the vehicle safety requirements of the Act and these regulations; and

(3) written proof that every such vehicle is in compliance with the insurance requirements of the Act and these regulations;

* * * * *

3. In § 500.75, paragraph (b)(6) is revised to read as follows:

§ 500.75 Disclosure of information.

(b) * * *

(6) Whether state workers' compensation or state unemployment insurance is provided:

(i) If workers' compensation is provided, the required disclosure must include the name of the workers' compensation insurance carrier, the name(s) of the policyholder(s), the name and telephone number of each person who must be notified of an injury or death, and the time period within which such notice must be given.

(ii) The information requirement in paragraph (b)(6)(i) of this section may be satisfied by giving the worker a photocopy of any workers' compensation notice required by State law;.

* * * * *

4. In § 500.76, paragraph (b)(6) is revised to read as follows:

§ 500.76 Disclosure of information.

* * * * *

(b) * * *

(6) Whether state workers' compensation or state unemployment insurance is provided:

(i) If workers' compensation is provided, the required disclosure must include the name of the workers' compensation insurance carrier, the name(s) of the policyholder(s), the name and telephone number of each person who must be notified of an injury or death, and the time period within which such notice must be given.

(ii) The information requirement in paragraph (b)(6)(i) of this section may satisfied giving the worker a photocopy of any workers' compensation notice required by State law;

* * * * *

5. Section 500.121 is amended by revising paragraphs (a) and (b) to read as follows:

§ 500.121 Coverage and level of insurance required.

(a) Except where a liability bond pursuant to § 500.124 of this part has been approved by the Secretary, a farm labor contractor, agricultural employer or agricultural association shall, in order to meet the insurance requirements in § 500.120, obtain a policy of vehicle liability insurance.

(b) The amount of vehicle liability insurance shall not be less than $100,000 for each seat in the vehicle, but in no event is the total insurance required to be more than $5,000,000 for any one vehicle. The number of seats in the vehicle shall be determined by reference to § 500.105(b)(3)(vi). See § 500.122 regarding insurance requirements where State workers' compensation coverage is provided.

* * * * *

§ 500.122 [Amended]

6. Section 500.122 is amended by removing and reserving paragraph (b), and revising paragraph (c) to read as follows:

* * * * *

(b) [Removed and Reserved]

(c) A farm labor contractor, agricultural employer or agricultural association who is the employer of a migrant or seasonal agricultural worker may evidence the issuance of workers' compensation insurance and passenger insurance under paragraph (a) of this section by obtaining and making available upon request to the Department of Labor:

(1) A workers' compensation coverage policy of insurance; and

(2) A certificate of liability insurance covering transportation of all passengers who are not employees and of workers whose transportation by the employer is not covered by workers' compensation insurance. See § 500.121.

* * * * *

7. Section 500.224 is amended by redesignating paragraph (b) as paragraph (c), revising paragraph (c), and adding a new paragraph (b) to read as follows:

§ 500.224 Referral to Administrative Law Judge.

* * * * *

(b) In cases involving a denial, suspension, or revocation of a Certificate of Registration (Farm Labor Contractor Certificate; Farm Labor Contractor Employee Certificate) or "certificate action," including those cases where the farm labor contractor has requested a hearing on civil money penalty(ies) as well as on the certificate action, the date of the hearing shall be not more than sixty (60) days from the date on which the Order of Reference is filed. No request for postponement shall be granted except for compelling reasons.

(c) A copy of the Order of Reference, together with a copy of these regulations, shall be served by counsel for the Secretary upon the person requesting the hearing, in the manner provided in 29 CFR 18.3.

8. Section 500.262 is amended by redesignating paragraphs (b), (c), (d), (e), (f), and (g) as (c), (d), (e), (f), (g), and (h) respectively, and adding a new paragraph (b) to read as follows:

§ 500.262 Decision and order of Administrative Law Judge.

* * * * *

(b) In cases involving certificate actions as described in § 500.224(b), the Administrative Law Judge shall issue a decision within ninety (90) calendar days after the close of the hearing.

* * * * *

9. Section 500.268 is amended by revising paragraph (a) to read as follows:

§ 500.268 Final decision of the Secretary.

(a) The Secretary's final Decision and Order shall be issued within 120 days from the notice of intent granting the petition, except that in cases involving the review of an Administrative Law Judge decision in a certificate action as described in § 500.224(b), the Secretary's final decision shall be issued within ninety (90) days from the date such notice. The Secretary's Decision and Order shall be served upon all parties and the Chief Administrative Law Judge, in person or by certified mail.

* * * * *

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May 16, 1996

Part III

Department of Housing and Urban Development

Notice of Funding Availability for Community Outreach Partnership Centers (COPC); Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4056-N-01]

Office of the Assistant Secretary for Policy Development and Research, NOFA for Community Outreach Partnership Centers (COPC)

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year 1996.

SUMMARY: This NOFA announces the availability of approximately $7.4 million to implement the third year of a demonstration program to make grants to public and private nonprofit institutions of higher education to assist in establishing or carrying out research and outreach activities addressing the problems of urban areas. These funds shall be used to establish and operate Community Outreach Partnership Centers (COPC).

The NOFA contains information concerning:

(1) The principal objectives of the competition, the funding available, eligible applicants and activities and factors for award;

(2) The application process, including how to apply and how selections will be made; and

(3) A checklist of application submission requirements.

DATES: Application kits may be requested on or after May 21, 1996.

Applications must be physically received by the Office of University Partnerships, in care of the Division of Budget, Contracts, and Program Control, in Room 8230 by 4:30 p.m. Eastern Daylight Savings Time on July 25, 1996. The above-stated application deadline is *firm* as to *date, hour* and *place.* In the interest of fairness to all competing applicants, the Department will treat as *ineligible for consideration* any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. Applicants hand-delivering applications are advised that considerable delays may occur in attempting to enter the building because of security procedures.

ADDRESSES: To obtain a copy of the application kit, contact: HUD USER, ATTN: COPC, P.O. Box 6091, Rockville, Maryland 20850. Requests for application kits must be in writing, but requests may be faxed to: 301–251–5747 (this is not a toll-free number). Requests for application kits must include the applicant's name, mailing address (including zip code), telephone number (including area code) and must refer to "Document FR–4056." The application kit is also available on the Internet from the Office of University Partnerships Clearinghouse. The Clearinghouse can be accessed from the World Wide Web at: http://oup.aspensys.com:89; or from a Gopher Server at: gopher://oup.aspensys.com:77.

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of University Partnerships in the Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh street, S.W., Room 8110 Washington, DC 20410, telephone (202) 708–1537. Hearing or speech-impaired individuals may call HUD's TTY number (202) 708–0770, or 1–800–877–8399 (Federal Information Relay service TTY). Other than the "800" number, these are not toll-free numbers. Ms. Karadbil can also be contacted via the Internet at Jane__R.__Karadbil@hud.gov.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. The OMB control number, when assigned, will be announced by a separate notice in the **Federal Register**.

I. Purpose and Substantive Description

A. Authority

This competition is authorized under the Community Outreach Partnership Act of 1992 (42 U.S.C. 5307 note; hereafter referred to as the "COPC Act"). The COPC Act is contained in section 851 of the Housing and Community Development Act of 1992 (P.L. 102–550, approved October 28, 1992) (HCD Act of 1992). Section 801(c) of the HCD Act of 1992 authorizes $7.5 million for each year of the 5-year demonstration to create Community Outreach Partnership Centers as authorized in the COPC Act. The COPC Act also required HUD to establish a national clearinghouse to disseminate information resulting from research and outreach conducted at the centers.

COPC is administered by the Office of University Partnerships (OUP) in the Office of Policy Development and Research. OUP is responsible for four of the Department's grant programs for institutions of higher education—Community Outreach Partnership Centers program, Joint Community Development program, Community Development Work Study program, and the Doctoral Dissertation Grant program. In addition, OUP is responsible for a variety of new outreach initiatives to involve these institutions in local community development, public housing, and revitalization partnerships.

B. Allocation and Form of Award

The competition in this NOFA is for $7.4 million to fund the third year of the COPC program authorized as indicated above.

HUD has decided that it is important to ensure the institutionalization of the work of the current COPC grantees as an integral part of the teaching, service, and research missions of their colleges and universities as well as to fund new grantees. Institutionalization was not an emphasis of the program in the last two funding rounds and current COPC grantees did not necessarily focus their programs on it. HUD has decided to set aside part of the FY 1996 allocation to promote institutionalization among current grantees. Therefore, there will be two separate competitions within this year's funding. To institutionalize their COPC functions, $1.1 million will be set-aside for a competition among the grantees awarded two-year grants in FY 1994. The remaining $6.3 million will be used to fund new COPC grantees. FY 1994 grantees are only eligible for Institutionalization Grants, not for New Grants. (FY 1995 COPC grantees are not eligible for either kind of grant.) If any funds set-aside for Institutionalization Grants are not awarded, they will be used instead as part of the funding for New Grantees. (Program requirements for Institutionalization Grants are the same as for New Grants, except as noted in Section V. below.) It is estimated that approximately 15 COPC awards to new grantees can be made with the $6.3 million available.

This year, each New Grant made under the COPC program will be for a maximum three-year period of performance. The grants in previous funding rounds were for two years. However, HUD has decided that a longer grant period is needed to institutionalize local programs and has extended the grant period for one year. The maximum size of any New Grant will be $400,000, while the minimum will be $250,000. Applicants must submit an application within this range or they will be disqualified.

C. Description of Competition

The Congress has mandated that the Department carry out "a 5-year demonstration to determine the feasibility of facilitating partnerships between institutions of higher education and communities to solve urban problems through research, outreach and the exchange of information."

The COPC Act stipulates that grants are to go to public and private institutions of higher education to establish and operate COPCs. These COPCs shall: "(A) Conduct competent and qualified research and investigation on theoretical or practical problems in large and small cities; and (B) Facilitate partnerships and outreach activities between institutions of higher education, local communities, and local governments to address urban problems."

Grants under the COPC program must focus on the following specific problems: "problems associated with housing, economic development, neighborhood revitalization, infrastructure, health care, job training, education, crime prevention, planning, community organizing, and other areas deemed appropriate by the Secretary."

Furthermore, the COPC Act states: "The Secretary shall give preference to institutions of higher education that undertake research and outreach activities by bringing together knowledge and expertise in the various social science and technical disciplines that relate to urban problems."

COPC programs must combine research with outreach, work with communities and local governments and address the multi-dimensional problems that beset urban areas. Single purpose applications are not eligible. Applications must be multifaceted and address three or more urban problems, as described in selection factor #1. The scope of applications for Institutionalization Grants is covered elsewhere below.

To be most effective during the term of the demonstration, the funded research must have a clear near-term potential for solving specific, significant urban problems. The selected institutions must have the capacity to apply their research results and to work with communities and local institutions, including neighborhood groups, in applying these results to specific real-life urban problems.

The five key concepts of the COPC program are: (1) the program should provide outreach, technical assistance, applied research, and empowerment to neighborhoods and neighborhood-based organizations based on what the residents decide is needed, not based on what the institution thinks is appropriate for that neighborhood; (2) community-based organizations should be partners with the institutions throughout the life of the project, from planning to implementation; (3) the applied research should be related to the outreach activities and be usable in these activities within the grant period or shortly after it ends, rather than research without practical application; (4) the assistance to neighborhoods should be provided primarily by the faculty, students, or to a limited extent, by neighborhood residents or community-based organizations funded by the university; and (5) the program should be part of the institution's broader effort to meet its urban mission, and be supported by senior officials, rather than just the work of a few faculty members. Proposed activities should not duplicate those of other entities in the community and should be appropriate for an institution of higher education to undertake in light of its teaching, research, and service missions.

D. Eligible Applicants

Applicants for this competition must be public or private nonprofit institutions of higher education granting two- or four-year degrees and accredited by a national or regional accrediting agency recognized by the U.S. Department of Education. Applicants must submit proposals that address the problems of urban areas.

Different campuses of the same university system are eligible to apply, even if one campus has already received COPC funding. Such campuses are eligible as separate applicants only if they have administrative and budgeting structures independent of other campuses in the system.

In previous funding rounds, the Department decided that community colleges would not be separately eligible but would have to apply as part of a consortium with eligible institutions. The Department now believes that many community colleges not only can implement the kind of comprehensive projects funded under COPC, but also have a growing capacity to conduct applied research. For these reasons, the Department has changed its earlier position and will allow community colleges to apply on their own. However, consortia of institutions are still eligible to apply. The selection criterion on consortia has been deleted because its primary purpose was to encourage community colleges to apply. That selection criterion created a specific definition of a consortium. As long as the consortium is composed of eligible applicants, its specific composition is now left to the applicant. If the application is submitted on behalf of a consortium of institutions, one institution must be designated as the legal applicant. Each institution may be part of only one consortium or submit only one application. Several institutions were disqualified last year because they were part of more than one application. HUD will hold an institution responsible for ensuring that neither it nor any part of the institution, including specific faculty, participates in more than one application.

Universities awarded Joint Community Development (JCD) grants will not be eligible to apply for New Grants, nor are FY 1994 or FY 1995 COPC grantees.

E. Program Requirements

Grantees must meet the following program requirements:

1. *Responsibilities.* In accordance with section 851(h) of the HCD Act of 1992, each COPC shall:

"(a) Employ the research and outreach resources of its sponsoring institution of higher education to solve specific urban problems identified by communities served by the Center;

(b) Establish outreach activities in areas identified in the grant application as the communities to be served;

(c) Establish a community advisory committee comprised of representatives of local institutions and residents of the communities to be served to assist in identifying local needs and advise on the development and implementation of strategies to address those issues;

(d) Coordinate outreach activities in communities to be served by the Center;

(e) Facilitate public service projects in the communities served by the Center;

(f) Act as a clearinghouse for dissemination of information;

(g) Develop instructional programs, convene conferences, and provide training for local community leaders, when appropriate; and

(h) Exchange information with other Centers."

The clearinghouse function in (f) above refers to a local or regional clearinghouse for dissemination of information and is separate and distinct from the functions in (h) above, which relate to the provision of information to the National Clearinghouse.

2. *Match.* Grantees must meet the following match requirements:

(a) *Research Activities.* 50 percent of the total project costs of establishing and operating research activities.

(b) *Outreach Activities.* 25 percent of the total project costs of establishing and operating outreach activities.

This non-Federal share may include cash or the value of non-cash contributions, equipment and other allowable in-kind contributions as detailed in Attachment E of OMB Circular No. A–110, Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit organizations.

In order to avoid confusion about the calculation of the match, an example is provided.

Assume that the total project cost for a COPC was $500,000, with $125,000 for research and $375,000 for outreach. Note that this project meets the requirement that no more than 25 percent of the total project costs be for research. The total amount of the required match would be $156,250. The research match would be $62,500 ($125,000 X 50 percent) and the outreach match would be $93,750 ($375,000 X 25 percent). The Federal grant requested would be $343,750 ($500,000 minus the match of $156,250). In calculating the match, administrative costs should be applied to the appropriate attributable outreach or research component.

3. *Administrative.* The grant will be governed by the provision of OMB Circulars A–110 (Grants and Agreements with Institutions of Higher Education, Hospitals and other Nonprofit Organizations), A–122 (Cost Principles for Nonprofit Organizations), and A–133 (Audits of Institutions of Higher Education and other Nonprofit Institutions), as implemented at 24 CFR part 45. No more than 20% of the Federal grant funds may be used for planning and program administrative costs. Overhead costs directly related to carrying out activities under research and outreach need not be considered planning and program administrative costs, since those costs are eligible under that section. Moreover, the 20% limitation imposed under this program applies only to Federal funds received through this grant, not to matching funds.

F. Eligible Activities

Eligible activities include:

1. Research activities which have practical application for solving specific problems in designated communities and neighborhoods, including evaluation of the effectiveness of the outreach activities. Such activities may not total more than one-quarter of the total project costs contained in any grant made under this NOFA (including the required 50 percent match).

2. Outreach, technical assistance and information exchange activities which are designed to address specific problems in designated communities and neighborhoods. Such activities must total no less than three-quarters of the total project costs contained in any grant made under this NOFA (including the required 25 percent match).

Examples of outreach activities include, but are not limited to:

(a) Job training and other training projects, such as workshops, seminars and one-on-one and on-the-job training;

(b) Design of community strategies to resolve urban problems of communities and neighborhoods;

(c) Innovative use of funds to provide direct technical expertise and assistance to local community groups and residents to assist them resolve local problems such as homelessness, housing discrimination, and impediments to fair housing choice;

(d) Assistance in business start-up activities for low-and moderate-income individuals and organizations, including business start-up training and technical expertise and assistance, mentor programs, assistance in developing small loan funds, business incubators, etc;

(e) Work with local public housing authorities, welfare-to-work initiatives, and physical transformations of public or assisted housing;

(f) Assistance to communities to improve consolidated housing and community development plans and remove impediments to design and implementation of such plans; and

(g) Assistance to communities to improve the fair housing planning process.

3. Funds for faculty development including paying for course time or summer support to enable faculty members to work on the COPC.

4. Funds for stipends for students (which cannot cover tuition and fees) when they are working on the COPC.

5. Activities to carry out the "Responsibilities" listed under Section I.E.1.

G. Ineligible Activities

Ineligible activities are:

1. Research activities which have no clear and immediate practical application for solving urban problems or do not address specific problems in designated communities and neighborhoods.

2. Any type of construction, rehabilitation, or other physical development costs.

3. Costs used for routine operations and day-to-day administration of regular programs of institutions of higher education, local governments or neighborhood groups.

II. Rating Factors/Selection Process for New Grantees

A. Rating Factors

HUD will use the following criteria to rate and rank applications for New Grants received in response to this NOFA. Selection factors for Institutionalization Grants are described below in Section V.

The Department has made several changes to the selection criteria, as described below. The factors and maximum points for each factor are provided below. The maximum number of points is 100.

Rating of the "applicant" or the "applicant's organization and staff", unless otherwise specified, will include any sub-contractors, consultants and sub-recipients which are firmly committed to the project.

(1) (5 points) The demonstrated research and outreach resources available to the applicant for carrying out the purposes of the COPC Act. In rating this factor, HUD will consider the extent to which the applicant's organization and staff have recent, relevant and successful experience in:

(a) Undertaking research activities in specific communities which have clear near-term potential for practical application to significant urban problems associated with affordable housing, fair housing, economic development, neighborhood revitalization, infrastructure, health care, job training, education, crime prevention, planning and community organizing, and

(b) Undertaking outreach activities in specific communities to solve or ameliorate significant urban problems. Under this factor, HUD will also evaluate the capability of the applicant to provide leadership in solving community problems and in making national contributions to solving long-term and immediate urban problems. In the FY 1994 competition, research and outreach resources and local and national prominence were three separate selection factors.

(2) (5 points) The demonstrated commitment of the applicant to supporting research and outreach programs by providing matching contributions for the Federal assistance received. In rating this factor, HUD will provide an increasing number of points for increasing amounts of contributions beyond the statutory 50 percent for research and 25 percent for outreach. Maximum points will be awarded for applications that secure 50 percent more than the amount of match required. Points for this factor have been reduced, with the additional points being added to Factor 7 on institutionalization. The latter factor is being increased because the test of the institution's commitment is not only how much in-kind contribution it is willing to make, but also the many other ways it chooses to institutionalize community partnerships.

(3) (10 points) The extent of need in the communities to be served by the applicant. The applicant must demonstrate that it is serving areas with substantial low-income populations, low standards of living, and large numbers of empty or abandoned dwellings. HUD will consider the extent to which the proposal clearly delineates a need or needs in the specific communities or neighborhoods, that can be resolved through the activities of a COPC. The applicant must demonstrate how these needs were determined and how the COPC will help resolve these needs. The applicant should demonstrate a strong familiarity (based on sufficient investigation) with the existing and planned efforts of government agencies, community-based organizations, faith-based institutions, for-profit firms and any other entities to address such needs in the communities to be served, and should demonstrate that the applicant can cost-effectively complement any such efforts to attain measurable impacts.

(4) (10 points) The demonstrated ability of the applicant to disseminate results of research and successful strategies developed through outreach activities to other COPCs and communities served through this demonstration program. In rating this factor, HUD will evaluate the past experience of the applicant's staff and the scope and the quality of the applicant's proposal to disseminate information on COPC research results and strategies to: (a) local communities in its area and (b) other communities and COPCs through the OUP Clearinghouse.

(5) (35 points) The projects and activities that the applicant proposes to carry out under the grant. This factor has three sub-factors: (a) effectiveness of the research strategy (10 points); (b) effectiveness of the outreach strategy (15 points); and (c) work on specific HUD priority activities (10 points).

(a) In rating the effectiveness of the research strategy, HUD will consider:

(i) The extent to which the applicant's proposal outlines a clear research agenda, based on a thorough familiarity with existing research on the subject, that can be successfully carried out within the grant period. (The applicant should demonstrate that the proposed research builds on existing research in the field and does not duplicate research previously completed, or currently underway, by others.); and

(ii) The extent to which the applicant demonstrates how the research to be undertaken will fit into the outreach strategy and activities. Although the proposed outreach activities should be supported by a reasonably strong *existing* knowledge base, an application is strengthened to the extent that the proposed research will further inform—and be strengthened by knowledge gained through—the outreach activities.

(b) In rating the effectiveness of the outreach strategy factor, HUD will consider the extent to which:

(i) The application identifies a clear outreach agenda related to locally-identified needs that can be successfully carried out within the period of this grant;

(ii) The outreach agenda includes design or strengthening and implementation of a community strategy to resolve community and neighborhood problems. Applicants will be expected to have involved the community in designing the strategy and to identify an agenda that they have already worked with the community to design;

(iii) There is a plan for involving the university in the execution of the outreach strategy; and

(iv) The outreach program provides for on-site or a frequent presence in the communities and neighborhoods to be assisted through outreach activities.

(c) If all of the applicant's work is to be in an Empowerment Zone or Enterprise Community, five (5) points will be awarded. If some of an applicant's work is related to public housing transformation, distressed assisting housing, or Campus of Learners/Neighborhood Networks, five (5) points will be awarded.

(6) (10 points) The extent of neighborhood and neighborhood based organization participation in the planning and implementation of the COPC. In rating this factor, HUD will consider whether:

(a) One or more effective community advisory committees comprised of representatives of local institutions and a balance of the race, ethnic, disability status, gender and income of residents of the communities to be served has been or will be formed to participate in identifying local needs to be addressed by the COPC and to form a partnership with the COPC to develop and implement strategies to address those needs. Applicants will be expected to demonstrate that they have already formed such a committee(s) or secured the commitment of the appropriate persons to serve on the committee(s), rather than just describing generally the types of persons whose involvement they will seek.

(b) There is a plan for involving the community advisory committee(s) in the execution of the research and outreach agenda; and

(c) The outreach agenda includes training projects for local community leaders, when appropriate.

(7) (25 points) The extent to which the proposed COPC will result in the institutionalization of the COPC function and activities as part of the urban mission of the institution. In reviewing this factor, HUD will consider the extent to which the COPC activities are part of, and will enhance, a broader set of existing or planned activities and a climate that rewards faculty and student work on these activities, and the extent to which these activities are supported at the highest levels of institutional leadership. This factor has been substituted for the factor on the interrelatedness of the project's components because HUD believes that only through institutionalization of these activities will institutions be able to truly meet their urban mission. The points related to the eliminated consortium factor have been merged into this factor, to underscore its importance to HUD.

B. Selection Process for New Grantees

Applications for funding under this NOFA will be evaluated competitively and points will be awarded as specified in the Rating Factors section described above. After assigning points based upon the factors all applications will be listed in rank order. Applications will then be funded in rank order until all available funds have been expended. However, in order to be funded, an applicant must receive a minimum score of 70. HUD reserves the right to fund all or portions of the proposed activities identified in each application, based upon the eligibility of the proposed activities.

If two or more applications have the same number of points, the application with the most points for rating factor (7) shall be selected. If there is still a tie, the application with the most points for rating factor (6) shall be selected.

If the amount remaining after funding as many of the highest ranking applications as possible is insufficient for the next highest ranking application, HUD shall determine (based upon the proposed activities) if it is feasible to fund part of the application and offer a smaller grant to the applicant. If HUD determines that given the proposed activities a smaller grant amount would render the activities infeasible, or if the

applicant turns down the reduced grant amount, HUD shall make the same determination for the next highest ranking application until all applications with scores of at least 70 points or available funds have been exhausted.

C. Geographic Distribution

HUD reserves the right to make selections out of rank order to provide for a geographic distribution of funded COPCs. The approach HUD will use, if it decides to implement this option, will be based on combining two adjacent standard HUD regions (e.g., Southwest and Southeast Regions, Great Plains and Midwest Regions, etc.) If the rank order does not yield at least one fundable COPC within each combined region, then HUD may select the highest ranking application from such a combination, as long as the minimum score of 70 is achieved.

It is HUD's intent to fund at least one eligible applicant (see Section I.D.) that serves the colonias, as defined by Section 916(d) of the Cranston-Gonzalez National Affordable Housing Act, as long as the applicant receives a minimum score of 70.

III. Application Process

A. Obtaining Applications

To obtain a copy of the application kit, contact: HUD USER, ATTN: COPC, P.O. Box 6091, Rockville, Maryland 20850. Requests for application kits must be in writing, but requests may be faxed to: 301–251–5747 (this is not a toll-free number). Requests for application kits must include the applicant's name, mailing address (including zip code), telephone number (including area code) and must refer to "Document FR–4056." HUD strongly recommends the use of the fax transmission option to promote accuracy and expedite HUD response time. The application kit is also available on the Internet from the Office of University Partnerships Clearinghouse. The Clearinghouse can be accessed from the World Wide Web at: http://oup.aspensys.com:89; or from a Gopher Server at: gopher://oup.aspensys.com:77.

B. Application Deadline

To be considered for funding, the application package must be physically received by the Office of University Partnerships, Office of Policy Development and Research, Department of Housing and Urban Development, in care of the Division of Budget, Contracts, and Program Control, Room 8230, 451 Seventh Street, SW., Washington, DC 20410 by 4:30 p.m. Eastern Daylight Savings Time on July 25, 1996. The application deadline is firm as to date, hour and place. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. Applicants hand-delivering applications are advised that considerable delays may occur in attempting to enter the building because of security procedures.

IV. Checklist of Application Submission Requirements

A. Application Content

The application kit contains instructions which must be followed in submitting an application. The following is a checklist of the application contents that will be specified in the Request for Grant Applications (the technical term for the application kit).

(1) Transmittal letter signed by the Chief Executive Officer of the institution;

(2) OMB Standard Forms 424 (Application for Federal Assistance), Form 424B (Non-Construction Assurances) and Budget;

(3) One- to two-page executive summary of the proposed COPC;

(4) Narrative Project Management Work Plan;

(5) Narrative statement addressing each of the rating factors in Section II of this NOFA;

(6) Certifications and Exhibits—Applications must also include the following:

(a) Drug-Free Workplace Certification.

(b) Form SF–LLL, Disclosure of Lobbying Activities, if applicable.

(7) Financial management and audit information.

V. Program and Application Requirements for Institutionalization Grants

(a) General Requirements. All requirements of Parts I, III and IV of this NOFA apply also to this part unless otherwise herein noted. The maximum size of any Institutionalization Grant will be $100,000, and grant requests shall not exceed this amount. The term of the grant will be for one year. If the grantee proposes entirely new activities, it may conduct activities under both grants, until funds from both are fully expended. If the applicant proposes continuation of current activities, it must expend all the funds under the current grant before expending any new funds under an Institutionalization Grant. Current grantees may request a no-cost extension from HUD if necessary to finish expending all their FY 1994 grant funds.

(b) Eligible Applicants. Only institutions awarded COPC grants in FY 1994 are eligible for Institutionalization Grants. These grantees are not eligible for New Grants. Institutionalization Grants to current grantees will be for a one-year period. Universities that received Joint Community Development Grants (JCD) are not eligible to compete for Institutionalization Grants because they have already demonstrated, through winning a JCD Grant, that they have institutionalized COPC-type activities. Current COPC grantees that received grants as consortia must apply again as consortia, with all current member institutions participating in the proposed Institutionalization Grant, and with the same lead applicant as in their current COPC.

(c) Eligible Activities. Instead of proposing a range of activities to be undertaken, applicants should propose activities that will bring their COPC projects to a successful conclusion or could result in securing continuation funding from other sources.

(d) Rating Factors/Selection Process

(i) Rating Factors. The selection factors contained in Section II.A. have been modified. Applicants will be required to meet three selection factors (which are simply consolidations of the factors used for new grantees), summarized as "Past Performance," "Proposed Activities," and "Potential for Institutionalization." Each factor and the maximum points assigned to it are described below:

((a)) (30 points) The demonstrated past performance of the applicant, as measured by: the research and outreach resources made available to the applicant under the current COPC grant; the ability of the applicant to provide local leadership and disseminate results of the grant; and the effectiveness of the activities undertaken in the grant.

((b)) (30 points) The effectiveness of the proposed research and outreach activities, as measured by: need for the activities; involvement of the community in these activities; demonstrated commitment of the application by providing a matching contribution; and likelihood that these activities can be successfully carried out within the grant period.

((c)) (40 points) The potential of the proposed outreach strategy to ensure institutionalization of the COPC functions at the college or university, as measured by the extent to which the proposed COPC functions will become an integral part of the teaching, research and urban service mission of the institution and the extent to which the COPC activities are supported by the highest levels of institutional leadership. In reviewing this factor, HUD will consider the extent to which the COPC activities are part of and will enhance a broader set of existing or planned activities and will foster a culture that rewards faculty and student work on these activities.

(ii) Selection Process. An applicant must receive a score of at least 70 points in order to be funded. Applications will be rated but not ranked. There is sufficient funding for all eligible applications. Applications requesting over $100,000 will be ineligible.

VI. Corrections to Deficient Applications

After the submission deadline date, HUD will screen each application to determine whether it is complete. If an application lacks certain technical items or contains a technical error, such as an incorrect signatory, HUD will notify the applicant in writing that it has 14 calendar days from the date of HUD's written notification to cure the technical deficiency. If the applicant fails to submit the missing material within the 14-day cure period, HUD may disqualify the application.

This 14-day cure period applies only to non-substantive deficiencies or errors. Any deficiency capable of cure will involve only items not necessary for HUD to assess the merits of an application against the factors specified in this NOFA.

VI. Other Matters

Environmental Review

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(b) of the HUD regulations, the policies and procedures in this document relate only to the provision of research, training and technical assistance which do not result in physical change and therefore are categorically excluded from the requirements of the National Environmental Policy Act.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies and procedures contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. Specifically, the notice solicits participation in an effort to provide assistance to institutions of higher education for establishing and carrying out research and outreach activities addressing the problems of urban areas. The COPCs established under this notice will work with local communities to help resolve urban problems. The notice does not impinge upon the relationships between the Federal government and State or local governments.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this notice will likely have a beneficial impact on family formation, maintenance, and general well-being. The assistance to be provided by the funding under this NOFA is expected to help local residents to become self-sufficient by improving living conditions and standards. Accordingly, since the impact on the family is beneficial, no further review is considered necessary.

Documentation and Public Access Requirements: HUD Reform Act

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

Prohibition Against Advance Information on Funding Decisions

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

Protection of Human Subjects

45 CFR part 46, Subtitle A on the protection of human subjects does not apply to the COPC program because the research activities to be conducted under the program are only incidentally regulated by the Department solely as part of its broader responsibility to regulate certain types of activities whether research or non-research in nature.

Authority: 42 U.S.C. 5307 note.

Dated: May 8, 1996.

Michael A. Stegman,

Assistant Secretary for Policy Development and Research.

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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